

BOARD OF ADJUSTMENT & APPEALS

Council Chambers

December 14, 2016

Present: Charles Block, Donna Amandus, Tim Wondra

Absent:

Staff: Doug Krogmeier

Visitors: Jack Williams

**Charles Block called the meeting to order at 6:33.** A quorum was declared with three members.

**Minutes from the October 12, 2016 meeting were approved as written on a motion by Wondra; seconded by Amandus. Approval was unanimous.**

**NON-AGENDA ITEMS: none**

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**Case File 16-10: Variance to reduce required rear yard setback at 23 Green Oak Court.**

**Staff reviewed case report.**

Amandus asked if the deck would have been okay if the house was smaller and Krogmeier explained that the house does take up all the buildable space on the lot. He continued to say he had explained to the developer that patios would be allowed and a 4x7' landing for entrance to the back door, but the buyer may not have known that.

**Block opened public hearing at 6:37 pm.**

Jack Williams, 23 Green Oak Court, explained that he had asked neighbors who told him he could build the deck and didn't need anything to do so. Taking their advice he did not realize he needed a building permit and did not know the setbacks. Block asked if the contractor said anything about needing a permit and Williams said no. Amandus asked if contractors typically take out the permits and Krogmeier said the ones who do a lot of work in city limits do typically come in to get permits, but this contractor is more known for building fences which do not require permits so they are not in often. Amandus then asked if the developer said anything about the setbacks and Williams said the developer did not know they were building the deck until after Krogmeier stopped construction on it.

**Block closed the public hearing at 6:39 pm.**

Block admitted the deck looks nice, but explained that he was reluctant to deny or pass the variance. Amandus asked if they passed this one would every house in the subdivision need one to do the same thing. Krogmeier said that until the code is updated to accommodate the new lot size/shape every house would need a variance to build any deck. Block asked if the issue could be put on hold while Planning and Zoning Commission (P&Z) works on code changes. Krogmeier explained that P&Z had discussed possibly updating the code, but it would take time for research and discussion before a code change would be presented to City Council. He continued to say that the P&Z did recommend approval of this variance so the property owner could finish construction without waiting for the code change process. Wondra asked if the deck was already completed and Williams said the parabola was not complete as they stopped construction when Krogmeier said to. Wondra then commented that putting the issue on hold would leave him in limbo and asked if there was a way to allow him to finish without approving the variance. Krogmeier said Williams could finish construction if he chooses to but will have to tear the structure down if the code is not changed and the variance is not approved so he would have to do it at his own discretion with the possibility of denial. Block pointed out that allowing it will send the message to surrounding properties that it's okay to disregard the setbacks. Krogmeier then said it's not likely to see any more decks built during the winter and there will be a few months before there is much more construction like this in the spring. Amandus said that is not very reassuring and if Williams had gotten a building permit he would have known the setbacks before beginning construction. Block added that it looks nice but he does not want to just keep approving variances all the time when

the code clearly needs updated. Wondra asked the size of this deck, 12x16', and expressed concern that allowing it may cause other people to think they could build theirs even bigger so P&Z should address the size limitations and requirements before a decision is made here. Amandus also pointed out the concern that the deck could be enclosed later then asked if it will create a problem leaving it unfinished for now. Williams said he still owes the contractor for the pergola so it is creating an issue for them. Krogmeier explained again that the code will be reviewed by P&Z and added that they are also working on taking the extra step out for variances so P&Z will no longer have to review them and will have more time to focus on the necessary code changes but it would still take several months to get a code change done.

**Block moved, seconded by Amandus, to table the variance to reduce required rear yard setback at #23 Green Oak Court until the city code is updated appropriately.**

**Vote: 3-yes, 0-no. Motion passed.**

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**Old Business:** None

**Other/New Business:** None

**Wondra moved, seconded by Block, to adjourn the meeting.**

**Vote: 3-yes, 0-no.**

**Meeting adjourned at 6:53PM.**

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**Charles Block**