

Planning Department
City of Aurora, Colorado

SUMMARY OF BOARD OF ADJUSTMENT AND APPEALS ACTIONS

BOA Hearing Date: June 20, 2023
Hearing Location: Hybrid Public Hearing, held via WebEx and in person
Case Manager: Stephen Gubrud

Board Members Present: Lynn Bittel
Kari Gallo
Richard Palestro
Andris Berzins
Ron Swope

City Staff Present: Brandon Cammarata
Daniel Money
Rachel Allen
Stephen Gubrud
Diane Webb

Case Number: 06-23 – 828 S Naples Way

Description:

Request by the property owner, Lance Martin, for the following Single-Family Dwelling Variance: An adjustment to the requirement of Section 146-4.2.2, Table 4.2-2 which requires that the interior side setbacks be a minimum of 5 feet within the R-1 zone district.

Recommendation from staff to approve the variance as requested.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would reduce the required interior side setback from five feet to two to allow for an attached carport/cover structure.

Mr. Bittel stated he had visited the site, then he asked which Board members visited the site.

Mr. Berzins and Mr. Palestro replied that they had. Ms. Gallo and Mr. Swope replied that they had not.

Mr. Berzins asked the staff if an approved variance is concurrent with the land. He questioned how a variance could expire. Since the variance was previously approved in 2016, why does the applicant have to appear before the Board for the same request? Mr. Berzins asked if the current application is the same as the application from 2016.

Daniel Money, City Attorney, clarified that a lapsing of approval has occurred with this case. He cited the ordinance in Section 5.3.14, Table 5.3-1 stating that approved variance requests must be completed within one year or they will be forfeited. Mr. Money provided further clarification of the ordinance.

Mr. Berzins asked if the current application is the same as the one from 2016.

Stephen Gubrud, Case Manager, explained that the setback request is the same, but the variance approved in 2016 was for an enclosed garage. The current variance request is for a carport in the same location.

The applicant, Lance Martin, 828 S Naples Way, Aurora, CO 80017, was available in person for questions. He stated he is building a carport instead of a garage because it is easier to meet the code. The carport will allow him to store his boat and prevent wildlife in the area from destroying it. Mr. Martin stated his neighbor supports building the carport.

General discussion ensued regarding the open structure carport, setbacks, and drainage.

Mr. Bittel noted that the neighbor next to Mr. Martin has the exact same structure on his property. Mr. Bittel also asked Mr. Martin if he would be prepared to build this time if the variance was approved.

Mr. Martin replied that he would, and he explained the reasons he could not complete the work the last time the variance was approved in 2016.

Mr. Berzins recommended that the applicant be held to the same layout as the previous 2016 application.

Mr. Martin clarified the dimensions are the same, just the open style has changed.

General discussion ensued regarding the location and dimensions of the carport and ensuring the project is the same as the one previously approved in 2016.

Ms. Gallo noted there were no schematics in the current report.

Mr. Swope noted the original variance request was for a garage and not a carport. He asked if there were blueprints of the carport. Since the variance approved to build a garage in 2016 expired, and the applicant is now requesting to build a carport, this would be a new request. Anything prior should be disregarded.

Mr. Gubrud provided the schematics and building permit for the carport.

Brandon Cammarata, Planning Department Manager, clarified the setback variance is being granted for the north side yard adjacent to the house.

There was no further discussion of the case and no further questions from members of the Board.

Public Comment Given at the Hearing:

No members of the public gave comment at the virtual hearing.

Board of Adjustment and Appeals Results

A motion was made by Mr. Berzins and seconded by Mr. Palestro.

Move to approve the variance request because the proposal complies with the required findings of Code Section 146, and:

- Does not have an adverse impact on adjacent properties;
- Is consistent with the neighborhood character;
- Is compatible with adjacent development;
- Will not have a negative impact on existing city infrastructure or public improvements; and
- Will achieve an internal efficiency of design.

Action Taken: Approved

Votes for the Waiver: 5
Votes against the Waiver: 0
Absent: None
Abstaining: None

Case Number: 07-23 – 14886 E Crestridge Place

Description:

Request on behalf of the property owner, Stephen Wickham, by Jake Ostigaard of Deck Escapes, LLC for the following Single-Family Dwelling Variance: An adjustment to the requirement of Section 146-4.2.4, Table 4.2-10 which requires that decks above 30 inches in grade not extend into within 10 feet of the rear property line.

Recommendation from staff to approve the variance as requested.

Case Presentation Given at the Hearing:

Staff gave a presentation describing the applicant's request, the context of the neighborhood and the subject property, and an analysis of the request with respect to the Code Criteria of Approval. The applicant's request would allow a deck greater than 30 inches in height above grade within one foot of the rear property line.

Mr. Berzins asked where the property line is.

Stephen Gubrud, Case Manager, replied that this setback would be smaller than the neighbor's and closer to the property line.

Mr. Berzins asked about utility easements.

Mr. Gubrud responded that there are no easements running through the property in the back that would be inaccessible.

Further discussion ensued regarding the property line and utility easements.

Ms. Gallo asked for clarification of the pictures in the staff report.

Mr. Gubrud displayed pictures to give an example of the intended deck to be built and where the property line lies.

The applicant, Jake Ostigaard of Deck Escapes, LLC, was available online for questions and provided further information about the proposed deck. He stated that one of the pictures in the presentation showed a deck that he built for a neighbor which extends farther from the home than the current deck variance being requested. He added that his building plans have been approved.

Mr. Berzins asked if the variance being requested is for the deck's proximity to the property line.

Mr. Gubrud replied that is correct. He provided building plans to demonstrate the existing deck and the proposed deck.

Mr. Berzins asked how much farther the new deck would extend to the property line.

Mr. Gubrud responded four feet.

Ms. Gallo asked if the HOA was fine with the proposed deck.

Mr. Gubrud replied yes. The plans have been seen and approved by the HOA.

Mr. Berzins asked who owns the greenbelt that the property abuts.

Mr. Palestro stated it is probably county property.

General discussion ensued regarding the setbacks and easements.

Ms. Gallo moved to close the discussion.

The motion was seconded, and the discussion was closed.

There was no further discussion of the case and no further questions from members of the Board.

Public Comment Given at the Hearing:

No members of the public gave comment at the virtual hearing.

Board of Adjustment and Appeals Results

A motion was made by Ms. Gallo and seconded by Mr. Berzins.

Move to approve the variance request because the proposal complies with the required findings of Code Section 146, and:

- Does not have an adverse impact on adjacent properties;
- Is consistent with the neighborhood character;
- Is compatible with adjacent development;
- Will not have a negative impact on existing city infrastructure or public improvements; and
- Will achieve an internal efficiency of design.

Action Taken: Approved

Votes for the Waiver: 5

Votes against the Waiver: 0

Absent: None

Abstaining: None

Other Topics Discussed at the Hearing:

Draft Board of Adjustment and Appeals minutes from May 16, 2023, were approved unanimously by those present.

Mr. Berzins presented an item for discussion regarding improvements to the BOA process, including what should be required in an application and the timeliness and consistency of staff reports. There was a general discussion, and it was concluded that staff and Board members would review the document and discuss it in further detail at next month's meeting.

Mr. Bittel proposed changing the BOA meeting time as a topic for further discussion next month.

Daniel Money, City Attorney, provided context for the proposed changes and explained the bylaws.

SUMMARY OF PROCEEDINGS PREPARED AND SUBMITTED BY: Stephen Gubrud



Lynn Bittel, Chairman

Stephen Gubrud

Stephen Gubrud, City of Aurora