



Scott County Board of Adjustment

July 23, 2014

1st Floor Board Room
Scott County Administrative Center

MEETING MINUTES

Members Present: Dittmer, Gallin, Madden, Winborn

Members Absent: Scheibe

Staff Present: Timothy Huey, Brian McDonough, Gabriel Martin (planning intern)

Others Present: Approximately six (6) members of the public, including applicants, applicant family members, and neighbors of applicants

1. **Call to order.** Vice Chair Dittmer served as Chairman in the absence of Chairman Scheibe, and called the meeting to order at 4:00 P.M.
2. **Minutes** – Gallin made a motion to approve the June 25, 2014 minutes. Winborn seconded the motion. **All Ayes (4-0)**
3. **Public Hearing – Variance** – Kenneth Cooper of 215 Blackhawk Drive, Lot 35 of Park View 6th Addition, Butler Township.

Huey presented the case background and showed aerial and site photos of the property. The applicant lives on a corner lot in Park View and therefore must observe two (2) front yard setbacks of 25 feet for the principal structure. The applicant would like to build an addition onto the south side of the existing house that would encroach into one of the front yard setbacks. Site photos of the applicant's property show the dimensions of the proposed addition via stakes placed at the current corners of the south side of the house extended. **Huey** noted that, although the proposed addition would impact the easterly view enjoyed by the adjacent neighbors to the west (312 Cherokee Drive), a similar addition could be built in a way that would conform to zoning setbacks and still impact the view, due to the curvilinear shape of Cherokee Drive. **Huey** also explained that the site distances for the intersection had been brought up by a resident of Park View, but that the County Engineer expressed no concerns. The Health Department was also informed of the variance request and had no concerns.

Chairman Dittmer opened the meeting to public comments.

Kenneth Cooper (applicant) asked for a clarification about how far back the proposed addition would be from the road easement once constructed.

Huey responded that it would be setback approximately eight (8) to thirteen (13) feet, but is unable to know for sure without having the property surveyed.

Kenneth Cooper spoke in favor of the request. He stated that he and his wife wanted to add onto the south portion of the house because of the split-level layout; adding onto the north portion would require more stairs. He explained that he and his wife want to retire and age in their existing house, and because several visiting family members have health problems, they want to limit the number of stairs in their home. Mr. Cooper further explained that they currently have to climb stairs in order to get to a restroom from the southern portion of the house, so they plan to build a bathroom in the proposed addition.

Adam Panther (312 Cherokee Drive), a neighbor directly adjacent and to the west of the Coopers, asked for clarification about the intersection's site triangle.

Huey responded that intersections within rural subdivisions, such as Park View, require a site triangle with sides that run 100 feet along the road centerlines and including the resulting hypotenuse. County intersections on rural roads not inside established subdivisions, however, require a site triangle with 150 foot long sides. Huey explained that the reduced site distance for interior subdivision roads is due to the fact that established subdivisions have smaller setbacks and more density.

Adam Panther explained that he had several concerns with regards to this variance. He stated that one of his objections is due to the fact that the proposed addition would affect the view from their house to the east, therefore limiting their ability to watch their kids and observe traffic at the intersection of Blackhawk Drive and Cherokee Drive. Furthermore, Mr. Panther expressed a concern that his property value would be harmed by the proposed addition while the Cooper's property value would increase. Mr. Panther also mentioned that there already exists water drainage problems along the property line shared by the Panthers and Coopers, near the proposed addition, and that this issue may be exacerbated by the proposed construction.

With no other public comments, Chairman Dittmer asked for staff's recommendation.

Huey stated that staff recommends denial of the request due to the fact that corner lot setbacks do not constitute a hardship, and granting of this variance would serve merely as a convenience to the applicant.

Kenneth Cooper asked for clarification on what constitutes a hardship.

Huey responded that the definition of hardship in Iowa law would suggest there are very few situations that would constitute a hardship. **Huey** explained that the Board has historically granted more variances for side and rear yard setbacks than for front yard setbacks, and that the Board has the discretion to determine hardship on a case-by-case basis.

Chairman Dittmer closed the public hearing, and a brief discussion by the Board took place.

Winborn and **Gallin** asked for clarifications with regard to lot dimensions and setbacks.

Huey clarified that the addition would likely not encroach into the side yard setback along the western property line, but that it would encroach into the 25 foot front yard setback along the southern property line.

Winborn made a motion to deny the request in accordance with staff's recommendation. Madden seconded the motion.

Vote: All Ayes (4-0)

4. Public Hearing – Variance Rehearing – Stephen Allison of 26545 285th Avenue, Section 35 of Princeton Township

Huey presented the case background and showed aerial and site photos of the property. He explained that this is a rehearing of a variance request. Three (3) of the five (5) members of the Board were present at the June 25th meeting, representing a quorum of the Board membership. However, the Board voted 2-1 on an affirmative motion to deny this variance request. The Board's By Laws state that because fewer than five members were present, and fewer than three votes were cast on the motion, the applicant may request a rehearing at the next regular meeting. Mr. Allison has exercised this right, and the facts of the case remain unchanged. **Huey** explained the applicant's request for a variance to place a portable shed in the rear yard of the property, and less than the required ten (10) feet from the rear property line. He explained that the property is triangular shaped and has a rear yard formed by a railroad easement, and is directly adjacent to the Princeton Wildlife Preserve. **Huey** displayed floodplain maps of the property showing that it was within the 500-year floodplain prior to 2011, but is entirely within the 100-year floodplain since 2011. He explained that the applicant's house and immediate surrounding land are elevated slightly compared to the rest of the property, and therefore are not prone to flooding. Topographic maps showed that the house and immediate surrounding land are elevated approximately two (2) feet higher than the rest of the property. The site is isolated, with no other nearby residences. No comments were received from notified property owners.

Chairman Dittmer opened the meeting to public comments.

Stephen Allison (applicant) spoke in favor of the request and emphasized that the topography of his property, and the size of that portion of the property that is elevated, limits where he can place the portable shed. He explained that the lower portions of his property have been flooded for the past few weeks. He also stated that the shed would only be on the property for three (3) or four (4) years at most.

With no other public comments, Chairman Dittmer asked for staff's recommendation.

Huey stated that staff recommends denial of the request due to a lack of hardship. The shed can be placed elsewhere on the property that conforms to setback requirements, and therefore granting of this variance would serve merely as a convenience.

Chairman Dittmer asked if the applicant wished to respond to the staff recommendation.

Stephen Allison had no further comments.

Gallin asked the applicant if there was room for the portable shed on the elevated portion of the property next to the house.

Stephen Allison explained that he got the permit to locate the shed next to the house, but later realized there was not enough space without having a portion of the shed in the front yard.

Madden asked if the shed needs to be 24' x 12'.

Stephen Allison stated that he already has the shed.

Dittmer asked for clarification on how it would look if located next to the house.

Huey explained that Mr. Allison has stated that it could not fit on the elevated portion with the 24 foot side perpendicular to 285th Avenue. He then expressed that the shed may fit next to the house if placed so that the 24 foot side runs parallel to 285th Avenue.

Stephen Allison stated that the shed would not all fit on the elevated portion of the property if placed with the 24 foot side parallel to 285th Avenue. He also explained that placing it there would cause snow to pile up in the driveway in the winter.

Chairman Dittmer closed the public hearing, and a discussion by the Board took place.

Winborn expressed that due to the topography of the applicant's property, and the fact that the low areas of the property occasionally flood, he believes there exists a hardship warranting the granting of a variance.

Dittmer stated that he agrees that there may be a hardship due to topography, and added that the railroad right-of-way that designates the property's rear yard lot line further adds to such a hardship.

Gallin stated that she was not convinced that there is a hardship. She also expressed that the Board needs to be credible and follow the zoning ordinance in order to be consistent.

Huey expressed appreciation of the Board's awareness of precedent and their efforts to be consistent, but added that every situation is unique. He also stated that variances have been granted in the past for rear yard setbacks.

Dittmer stated that the Board has previously granted variances for reasons related to topography.

The Board members discussed amending the variance request to allow locating the portable shed five (5) feet from the rear yard lot line in lieu of the required ten (10) foot setback.

Gallin made a motion to approve an amended request for a five (5) foot rear yard variance, allowing the portable shed to be located no closer than five (5) feet from the rear lot line. Dittmer seconded the motion.

Vote: 3-1 (with Madden voting Nay)

**Gallin made a motion to adjourn, seconded by Winborn.
The meeting adjourned at 5:22 P.M.**