

**PUBLIC HEARING FOR VARIANCE CASES #310 & 311
OF THE BOARD OF ZONING ADJUSTMENT
OF THE CITY OF OSAGE BEACH, MISSOURI**

September 21, 2011

The Board of Zoning Adjustment of the City of Osage Beach, Missouri, met to conduct a hearing on Variance Case #310 and Variance Case #311 on September 21, 2011 at 4:00 p.m., at City Hall in said City. The following were present: Chairman Louis Mayer, Vice Chairman Don Hall, Edward Manzer, Larry Jones, and Don Sturn. Also present were City Attorney Edward Rucker, City Planner Cary Patterson, Compliance Officer Bob Chatham, and Planning Department Secretary Kimberly Willey, who kept a journal of the proceedings.

The meeting was called to order at 4:01 p.m. by Chairman Louis Mayer.

MINUTES:

The minutes of the August 17, 2011 meeting were unanimously approved as submitted.

Chairman Mayer presided and read the criteria for granting a variance. He also read RSMo. 1986 §89 regarding the legal authority for the creation of the Board of Zoning Adjustment.

The file containing Variance Case #310 was entered into the record as Exhibit 1 and the Code of Ordinances of the City of Osage Beach was entered into the record as Exhibit 2 by Planner Patterson.

NEW BUSINESS:

Case Number: 310

Applicant: Beverly Jones

Location: 1465 Dogwood Lane

Petition: Variance from minimum setback requirements

Purpose: Residential Addition

Existing Use: Single-family home

Zoning: R-1b

Tract Size: Approximately 10,800 square feet

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	None
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property has frontage on Dogwood Lane

Analysis:

1. The applicant is the owner of the property in question. The property is known as Lot 55 of Dogwood Park Estates.
2. The applicant is requesting the addition of a 9' x 19' deck addition on the front side of the subject property that encroaches into the required front setback to within 12 feet of the front property line. The requested addition is in order to make the home more handicap accessible for the applicant.
3. Because the water and sewer mains in the area are located in the street in the front of the property and the room addition falls well outside of the sewer line easement on the east side of the property the requested additions should not cause any problems with the lines themselves or any easements that are established for the line locations.
4. The minimum required setback in the front yard is twenty five (25') feet.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony, and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the additions and all other zoning codes be adhered to.

Planner Patterson further added that this particular home was built before the current Codes were adopted. Planner Patterson explained that the City looks at the deck addition as safety and access for a disabled person confined to a wheelchair. Chairman Mayer confirmed with Planner Patterson that the footprint of the deck would cover over the existing concrete patio that is currently in place at the residence.

Chairman Mayer asked if there were any further questions or if the Applicant wanted to amend or clarify the report presented by Planner Patterson, and if there were any written responses in favor of or in opposition to Variance Case #310. Planner Patterson stated that all legal notices had been sent, and there were no written responses in support or against Case #310 Beverly Jones.

Chris Conner of DC Contracting, the Applicant's Contractor, was sworn in. Chairman Mayer asked Chris Conner if he would like to amend or clarify the report presented by Planner Patterson. Chris Conner indicated there was no amendment or clarification needed. Chris Conner stated that Mrs. Jones has a daughter that is a quadriplegic and her bedroom is in the corner of the house where the deck is being considered and the deck would create safer accessibility including a much safer access in the event of a fire or other emergency.

Chairman Mayer noted that there was no one present in the audience to speak in opposition to Variance Case #310 and the Board had no questions of staff or Applicant's contractor. Planner Patterson clarified to the Board that their motion to approve should also include the conditions in the report submitted by staff. Attorney Rucker advised the Board that Variance Case #310 is ready for their decision. Planner Patterson represented that there was nothing further.

There were no other staff comments. Chairman Mayer asked if there was a motion for Variance Case #310 Beverly Jones. Ed Manzer made a motion to approve Variance Case #310 Beverly Jones as submitted. Don Hall seconded the motion which was voted on and unanimously approved as submitted.

Case Number: 311

Applicant: Rick McFarland

Location: 5270 Melody Lane

Petition: Variance from minimum setback requirements

Purpose: Residential Addition

Existing Use: Single-family home

Zoning: R-1b

Tract Size: 1.417 acres

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	None
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property has frontage on Melody Lane

Analysis:

1. The applicant is the owner of the property in question. The property is known as 5270 Melody Lane and is an unsubdivided tract of land.
2. The applicant is requesting the addition of a deck on the front side yard of the subject property that encroaches into the required front setback to within 5.5 feet of the front property line at its closest point. The requested addition is a reconstruction of a deck that was previously removed for safety purposes. The deck is required for access purposes for exterior doors that currently exist on the home. The City recently vacated a portion of the hammer head right of way that actually encroached to within the footprint of the existing home. That right of way was acquired by the City well after the construction of the existing home so that the road could be reconstructed. The vacation of that portion of the right of way allows for the proposed addition to take place on the applicant's private property.
3. Because the water and sewer mains in the area are located in the street in the front of the property and the room addition falls well outside of the sewer line easement on the east side of the property the requested additions should not cause any problems with the lines themselves or any easements that are established for the line locations.
4. The minimum required setback in the front yard is twenty five (25') feet.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony, and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the additions and all other zoning codes be adhered to.

The file containing Variance Case #311 was entered into the record as Exhibit 1 and the Code of Ordinances of the City of Osage Beach was entered into the record as Exhibit 2 by Planner Patterson.

Planner Patterson further reported that the Applicant removed the prior unsafe deck assuming that a new one could be re-constructed and then was informed by staff that a variance would have to be considered. Planner Patterson indicated that the deck would have to be constructed in order to obtain a Certificate of Occupancy from the City's Building Department due to the doors that currently exist for ingress and egress to the home which would be a fire and safety issue. Planner Patterson also stressed that the deck to be constructed will replace an old deck that did not meet setback requirements and that the site plan was prepared by Allen Surveying.

Chairman Mayer asked if all legal notices had been sent, and if there were any written responses in favor of or in opposition to Variance Case #311. Planner Patterson stated that all legal notices had been sent, and there were no written responses in support or against Variance Case #311 Rick McFarland.

Applicant Rick McFarland was sworn in and stated that he would appreciate the Board's approval and would hate not to have the deck because it spoils the house. Planner Patterson emphasized that there would be no Certificate of Occupancy without the deck. Don Hall asked Rick McFarland how long he owned the home. Rick McFarland responded that he purchased the home in September of last year and gutted the home down to the studs and replaced new electric, plumbing, geo-thermal, drywall, flooring, cabinets, and countertops.

Don Hall asked Rick McFarland if this was going to be his permanent residence and Rick McFarland stated that he sold his Kapilana Condominium and is currently residing with his mother and father who are in their 80's and is ready to move into his home as soon as possible.

Chairman Mayer confirmed there was no one present in the audience to speak in opposition to or in support of Variance Case #311. Attorney Rucker advised the Board that Variance Case #311 is ready for their decision.

Ed Manzer commented and suggested to the Applicant that he add flashing to prevent water damage. Planner Patterson confirmed that the deck improvements would have to

meet building code. Planner Patterson clarified to the Board that their motion to approve should also include the conditions in the report submitted by staff.

There were no other staff comments. Chairman Mayer asked if there was a motion for Variance Case #311. Don Hall made a motion to approve Variance Case #311 Rick McFarland as submitted. Ed Manzer seconded the motion which was voted on and unanimously approved as submitted.

REPORTS:

There being no further business to come before the Board of Zoning Adjustment, the meeting adjourned at 4:21 p.m., on a motion made by Don Hall and seconded by Edward Manzer.

I, Kimberly Willey, Planning Department Secretary for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Zoning Adjustment of the City of Osage Beach, Missouri, held on September 21, 2011.



Kimberly Willey
Planning Department Secretary



Louis Mayer
Chairman