

Request For Board Action

REFERRED TO BOARD: May 4th, 2015

AGENDA ITEM NO: 2

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Approval of a Resolution Approving a Variance for the Construction Of A Deck Within a Residential Rear Yard Setback Located At 1131 Oak Point Court (File No. Pzb 15-03)

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Combined Planning Commission and Zoning Board conducted a public hearing on Thursday, April 9th, 2015; 7:30 PM following notification, as required by State Law and Village Ordinances, to consider a rear yard setback variance to allow for the construction of a raised deck. Upon closure of the hearing the Planning and Zoning Board recommended approval of the petition requests pursuant to Title 10-15 of the Village Code.

Jean and Russell Bethley, petitioners, provided the background presentation regarding the request and the history of her home. As part of a deck remodel, they expressed her desire to rebuild and expand her existing deck and relocate her staircase which currently encroaches into the rear setback. The current footprint and irregular lot configuration does not allow for the deck to be built without an encroachment into the rear yard setback of 25 feet. As required by Code 10-5G-3 all structures within an R-1 zone district shall maintain a 25 foot setback.

Staff made an overview of the variance process and approval criteria in context to the petition. Based on the petition review, staff stated that the petition met a number of the standards and recommended that in its findings, the Board acknowledge the codified standards and unique circumstance of the case in their recommendation, so as not to create or imply some precedent for similar variances.

Based upon the review of the petition, testimony provided at the hearing, and relevant code criteria of Title 10 of the Village Code the Planning and Zoning Board unanimously recommended the approval of the variance. With the agenda packet is a draft letter of recommendation from the Planning and Zoning Chairman.

FINANCIAL IMPACT: None

DOCUMENTS ATTACHED:

1. Resolution
2. Draft Letter of Recommendation from the Planning and Zoning Chairman
3. Staff report to the Planning and Zoning Board
4. Petition

RECOMMENDED MOTION:

Motion to approve a Resolution Approving a Variance for the Construction Of A Deck Within a Residential Rear Yard Setback Located At 1131 Oak Point Court (File No. Pzb 15-03).

RESOLUTION NO. 15-xx

**A RESOLUTION APPROVING A VARIANCE FOR THE
CONSTRUCTION OF A DECK WITHIN A RESIDENTIAL REAR
YARD SETBACK LOCATED AT 1131 OAK POINT COURT
(FILE NO. PZB 15-03)**

WHEREAS, Russell and Jean Bethley are the record owner of certain residential property located at 1131 Oak Point Court within the Village of Antioch, PIN 01-13-206-004, which property is legally described as set forth on Exhibit A hereto, and which property is hereafter described as the “Subject Property”, and

WHEREAS, Russell and Jean Bethley (hereinafter described as the “Petitioners”), has petitioned the Village for a variance to the rear yard setback prescribed in Section 10-5G-3 of the Antioch Municipal Code on the said property which would allow her to construct a deck therein, and

WHEREAS, the said Petition, including all plans, drawing and specifications is attached hereto as Exhibit B, and

WHEREAS, the Combined Planning Commission and Zoning Board (“PZB”) conducted a public hearing, following notification as required by law, on April 9th, 2015, and

WHEREAS, following testimony from the petitioner, Staff and the public, the PZB concluded with a positive recommendation, and

WHEREAS, the recommendation of the PZB is attached hereto and incorporated herein as Exhibit C, and

WHEREAS, the Village Board has received the recommendations of the PZB, and has duly deliberated upon the issues and it thereupon makes the following factual findings:

1. The proposed rear-yard encroachment is located on a property which backs up to open space where it will not adversely affect adjoining properties consistent with the Village’s Zoning Code, and in particular, it will not:
 - a. Impair adequate supply of light and air to adjacent property;
 - b. Unreasonably increase the congestion in public streets;
 - c. Increase the danger of fire or endanger public safety;
 - d. Unreasonably diminish or impair established property values within the surrounding area; or
 - e. Merely serve as a convenience to the applicant.
2. There is a demonstrated practical design difficulty involved in the Subject Property in that it consists of an irregular shaped lot, a ranch style house basement, and it currently has a wooden staircase leading from the upstairs living area which extends down into the rear yard, and actually reaches farther into the rear-yard than is proposed; further

the wooden staircase is both narrow and in a condition that requires replacement for safety reasons;

3. The existing site conditions set forth hereinabove are not generally applicable within the zoning district;
4. The Petitioner has demonstrated that allowing the removal of the existing, encroaching staircase and replacing it with a less-encroaching deck consistent with the drawings and plans set forth in her application will materially benefit her property and enhance those surrounding it;
5. The proposed variance is in keeping with the overall intent of the building and zoning codes, particularly in view of the insignificant impact the variance could possibly have on adjoining properties since the Subject Property backs up to a large parcel of deed-restricted open space.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS, AS FOLLOWS:

SECTION ONE. The Mayor and Board of Trustees of the Village of Antioch hereby find the facts as stated in the preamble hereof are true and correct and said findings are made a part of this Resolution.

SECTION TWO. A variance from Section 10-5G-3 of the Antioch Municipal Code is hereby granted to Russ and Jean Bethley to construct and maintain a rear-yard deck in substantial conformance with the plans and specifications set forth in her Exhibit B petition;

SECTION THREE: Staff is directed to issue a building permit in the ordinary course to the petitioners consistent with the provisions of this Resolution;

SECTION FOUR. This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

YEAS: _____

NAYS: _____

ABSENT: _____

PASSED and APPROVED this ___ day of _____, 2012.

LAWRENCE M. HANSON, Mayor

ATTEST:

LORI K. FOLBRICK, Clerk, Village of Antioch

DRAFT

April 17, 2015

To: The Honorable Larry Hanson, Mayor; and
Members of the Village Board of Trustees

From: Ken Karasek, Chairman
Combined Planning and Zoning Commission

RE: Bethley Rear Yard Setback Variation, Commonly Known as 1131 Oak Point Court, PIN Number 01-13-206-004, in
Lake County, Lot 165 Heron Harbor Subdivision Unit 7, Antioch Illinois 60002; PZB 15-03;

The Combined Planning Commission and Zoning Board conducted a public hearing on Thursday, April 9th, 2015; 7:30 PM following notification, as required by State Law and Village Ordinances, to consider a rear yard setback variance to allow for the construction of a raised deck. Upon closure of the hearing the Planning and Zoning Board recommended approval of the petition requests pursuant to Title 10-15 of the Village Code.

Jean and Russell Bethley, petitioners, provided the background presentation regarding the request and the history of her home. As part of a deck remodel, they expressed her desire to rebuild and expand her existing deck and relocate her staircase which currently encroaches into the rear setback. The current footprint and irregular lot configuration does not allow for the deck to be built without an encroachment into the rear yard setback of 25 feet. As required by Code 10-5G-3 all structures within an R-1 zone district shall maintain a 25 foot setback.

Staff made an overview of the variance process and approval criteria in context to the petition. Based on the petition review, staff stated that the petition met a number of the standards and recommended that in its findings, the Board acknowledge the codified standards and unique circumstance of the case in their recommendation, so as not to create or imply some precedent for similar variances.

Based on the petition review, the applicant meets a number of the standards listed below. In its review, staff recommends the Board acknowledge these findings.

- a. The applicant must present evidence that the proposed variation will not:
 - i. Impair adequate supply of light and air to adjacent property;
 - ii. Unreasonably increase the congestion in public streets;
 - iii. Increase the danger of fire or endanger public safety;
 - iv. Unreasonably diminish or impair established property values within the surrounding area; and
 - v. Merely serve as a convenience to the applicant; there is a demonstrated practical design difficulty involved in this project.

The irregular shaped lot creates a design difficulty that can be addressed with minimum relief. A key element to meeting this variance criterion is the orientation of the structure in comparison to the adjacent open space, homes, and vistas. Expanding the deck to the northwest does not appear to cause interference of views along designated lakes, parks, protected or regulated opens spaces or their buffers, does not encroach closer to any neighboring home, or established views in a manner that may be considered injurious to the neighboring properties.

- b. The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located. The proposed improvement does not constitute a new or unique use that expands or conflicts with any considered illegal or non-conforming.

c. The conditions or circumstances upon which the request is based apply to the land for which the variation is sought, and is not generally applicable in the zoning district.

Generally speaking, a vast majority of the existing homes and lots do not have the raised ranch foot print, abut to privately-held open space that is not programmed for activity space, or have small irregularities in there lot configurations that result in encroachments.

g. The granting of the requested variation is in harmony with the general purposes and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Village's Comprehensive Plan.

This proposal does not appear to be in conflict with the goals, spirit, or intent of the comprehensive plan or contrary to the public welfare.

Therefore based upon the review of the standards of 10-15-6 of the Village Code, and the current facts of the case, staff recommended the variance be granted.

Based upon the review of the petition, testimony provided at the hearing, and relevant code criteria of Title 10 of the Village Code the Planning and Zoning Board unanimously recommends the approval of the variance incorporating the staff findings into the recommendation.

Respectfully submitted,

Ken Karasek, Chairman
Combined Planning Commission and Zoning Board

VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS 60002
DEPARTMENT OF PLANNING, ZONING & BUILDING
874 MAIN STREET
WEEKDAY HOURS: 8:00 AM to 5:00 PM
PHONE: (847) 395-1000 FAX: (847) 395-1920

MEMO

TO: Ken Karasek, Chairman; and Members of the
Combined Planning Commission and Zoning Board

FROM: Dustin Nilsen, Community Development Director

DATE: April 09th, 2015

RE: Bethley Rear Yard Setback Variation, Commonly Known as 1131 Oak Point Court,
PIN Number 01-13-206-004, in Lake County, Lot 165 Heron Harbor Subdivision
Unit 7, Antioch Illinois 60002; **PZB 15-03**;

This memo is in preparation of the public hearing scheduled for Thursday, April 9th, 2015; 7:30 PM.

PETITIONER: **Russell and Jean Bethley**
1131 Oak Point Court
Antioch, IL 60002

OWNER: **Same**

EXISTING ZONING: R-1, PUD Single Family Detached Residential

RECENT SITE VISIT: Wednesday, March 25th, 2015 approx. 5:00 PM.

VARIATION:

To allow a maximum 5 foot encroachment into portions of the 25 foot rear yard setback for the purposes of installing a 12 foot deck as shown the packet prepared by the petitioner.

BACKGROUND:

The petitioner and owner/occupant of the structure, Russell and Jean Bethley propose the construction of a 12 foot deck to the north and western portions of their single family detached home. This deck and external staircase will provide rear yard access to the main floor of the existing home. The structure has a walkout basement which elevates the main floor above grade at the rear of the

house, which is not atypical in the raised ranch style models developed in the Heron Harbor. The current home has a 32.11 foot setback from the rear property line, which is bordered to the west by open space and wetland areas associated with Lake Marie.

In order to build a 12 foot deck, as shown in the provided exhibit, the petitioner will require the approval of a variance to encroach approximately 5 feet into the setback.

In staff's review of the proposal, it appears that the irregular lot shape results in the setback shifting toward the rear of the structure and creates a jog in the rear setback line. This is the limited area where the rear yard encroachment occurs, leaving the balance of the deck remain outside the rear yard setback as would be allowed by code.

STANDARDS FOR VARIATIONS:

The standards for a variation approval are listed under Title 10, Chapter 15, Section 6 of the Village Code. In its findings the Planning and Zoning Board should make reference to the standards in its recommendation to the Village Board.

SUMMARY AND RECOMMENDATION

Based on the petition review, the applicant meets a number of the standards listed below. In its review, staff recommends the Board acknowledge these findings.

- a. The applicant must present evidence that the proposed variation will not:
 - i. Impair adequate supply of light and air to adjacent property;
 - ii. Unreasonably increase the congestion in public streets;
 - iii. Increase the danger of fire or endanger public safety;
 - iv. Unreasonably diminish or impair established property values within the surrounding area; and
 - v. Merely serve as a convenience to the applicant; there is a demonstrated practical design difficulty involved in this project.

The irregular shaped lot creates a design difficulty that can be addressed with minimum relief. A key element to meeting this variance criterion is the orientation of the structure in comparison to the adjacent open space, homes, and vistas. Expanding the deck to the northwest does not appear to cause interference of views along designated lakes, parks, protected or regulated opens spaces or their buffers, does not encroach closer to any neighboring home, or established views in a manner that may be considered injurious to the neighboring properties.

b. The requested variation does not permit a use otherwise excluded from the zoning district in which the property is located.

The proposed improvement does not constitute a new or unique use that expands or conflicts with any considered illegal or non-conforming.

c. The conditions or circumstances upon which the request is based apply to the land for which the variation is sought, and is not generally applicable in the zoning district.

Generally speaking, a vast majority of the existing homes and lots do not have the raised ranch foot print, abut to privately-held open space that is not programmed for activity space, or have small irregularities in there lot configurations that result in encroachments.

g. The granting of the requested variation is in harmony with the general purposes and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the Village's Comprehensive Plan.

This proposal does not appear to be in conflict with the goals, spirit, or intent of the comprehensive plan or contrary to the public welfare.

Therefore based upon the review of the standards of 10-15-6 of the Village Code, and the current facts of the case, staff recommends the variance be granted.

Respectfully submitted,



Dustin Nilsen, AICP
Director of Community Development

**COMBINED PLANNING COMMISSION & ZONING BOARD
NOTICE OF PUBLIC HEARING**

FILE NUMBER: PZB 15-03

PETITIONER: Russell and Jean Bethley
1131 Oak Point Court
Antioch, IL 60002
(847)395-8383

PROPERTY: 1131 Oak Point Court
Antioch, IL 60002

Lot 165 in Heron Harbor Unit 7
PIN 01-132-06-004

REQUEST: Variance to allow the encroachment into the rear yard setback for a deck

PROPOSAL: Install a twelve foot deck off the rear of an existing house

DATE: April 9, 2015

TIME: 7:30 PM or immediately following a previously scheduled hearing.

PLACE: Board Room, Village Hall
874 Main Street, Antioch, IL 60002

All persons desiring to appear and be heard thereon for or against said petition may appear at said hearing and be heard. Interested persons unable to attend may submit written comments prior to the hearing addressed to the Village Clerk at the Village Hall, FAX (847) 395-1920, or e-mail: lfolbrick@antioch.il.gov.

Ken Karasek
Planning & Zoning Board