

**RESOLUTION NO. 15-40**

**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;

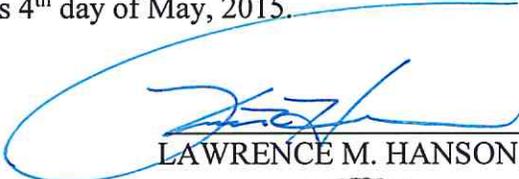
**SECTION FOUR.** This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

YEAS: 6: Macek, Poulos, Jozwiak, Dominiak, Pierce and Johnson.

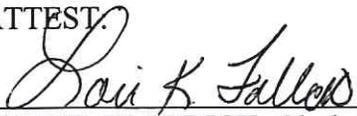
NAYS: 0.

ABSENT: 0.

PASSED and APPROVED this 4<sup>th</sup> day of May, 2015.

  
LAWRENCE M. HANSON, Mayor

ATTEST.

  
LORI K. FOLBRICK, Clerk, Village of Antioch



**RESOLUTION NO. 15-40**

**Exhibit "A"**

**Legal Description of Property**

Lot 165 in Heron Harbor Unit 7; being a subdivision of part of the Northeast Quarter of Section 13; and part of Lot 2 of the Northwest Quarter of Section 18, all in Township 46 North Range 10, East of the Third Principal Meridian according to the plat thereof recorded October 2<sup>nd</sup>, 2003 as Document 5350802 in Lake County Illinois. PIN 01-132-06-004



on the property described herein. Specifically, the details of the requested variation(s) is as follows:

Title 10- <u>5G</u> - <u>3</u>	Requirement	Requested Variation
lot area requirement	25 feet	5 foot approachment

**REASONS FOR REQUESTED VARIATION**

What characteristics of the property-in-question prevent its being used for any of the uses permitted in your zoning district?

Narrow lot width \_\_\_\_\_

Slope or Elevation \_\_\_\_\_

Small lot area \_\_\_\_\_

Lot Shape X \_\_\_\_\_

Shallow lot depth \_\_\_\_\_

Wet Soil or Flood Plain \_\_\_\_\_

Other (specify) Odd shaped lot. Does not have a straight line in the back.

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Describe the condition(s) identified in item #1, above, giving dimensions where appropriate.

On the back side of lot it is not square, We have a ranch with a walk-out basement. Ground level to main level is 10 foot 6 inches.

There are 2 sliding doors were deck is going. \_\_\_\_\_

Specifically, how do the above site conditions prevent any reasonable use of your land under the terms of the Zoning Ordinance?

At northwest corner of my house, the set back line is 4 feet from the house. \_\_\_\_\_

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To the best of your knowledge, can you affirm that the hardship or practical difficulty described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance, or applicable part thereof, became law?

Yes  No  If "no" explain why the hardship should not be regarded

as self-imposed:

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Are the conditions on your property the result of other man-made changes, (such as the relocation of a road)?

Yes  No  If "yes" please describe:

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Are the conditions of hardship or practical difficulty for which you request a variation true only of your property?

Yes  No  If "no" how many other properties are similarly affected, and where are they located?

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Elaborate on how the requested variation will result in a physical improvement that will be in harmony with the neighborhood and the purpose and intent of the Zoning Ordinance.

Without a variation the deck will be on an angle starting at 4 feet wide at the northwest corner to 12 feet wide at the northeast corner.

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I (we) have read the NOTICE TO APPLICANTS REQUESTING ZONING VARIATIONS and Title 10 of the Antioch Zoning Ordinance. Specifically, I (we) understand that if a variation is approved through an Ordinance by the Village Board, that the use allowed by the variation must be established within 24 months from the date of the Ordinance.

I (we) acknowledge that any and all drawings, submitted herewith, of buildings and structures are preliminary or conceptual in nature; Final details regarding the construction of such structures shall be in full compliance with the technical codes adopted within the Antioch Village Code, and in force and effect at the time of the specific and complete permit application, (unless specifically authorized in writing under the terms of the approved variation).

I (we) consent to the entry in or upon the premises described in this application by any authorized official of the Village of Antioch, Illinois, during normal working hours, for the purposes of : viewing that part of the site and/or structures related to this request; and for the posting, maintaining, and removing such notices as may be required by law.

Attorney for the Petitioner:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant address: \_1131 Oak Point Court\_\_\_\_\_  
\_Antioch, IL 60002\_\_\_\_\_  
\_\_\_\_\_

Day phone: ( 847-275-5708 ) \_\_\_\_\_  
Evening Phone: ( 847-275-5708 ) \_\_\_\_\_  
Fax: ( ) \_\_\_\_\_

3-19-2015 Russell Thibault Jeanne M. Bethley  
Date Applicant Signature

\_\_\_\_\_  
Date Attorney Signature

Our request for a zoning variance is based on our lot dimensions not being square.

It would only allow for a 4 foot deck at the northwest corner extending on an angle to the northeast to 12 feet. We would like to maintain a 12 foot wide deck across the back of the house.

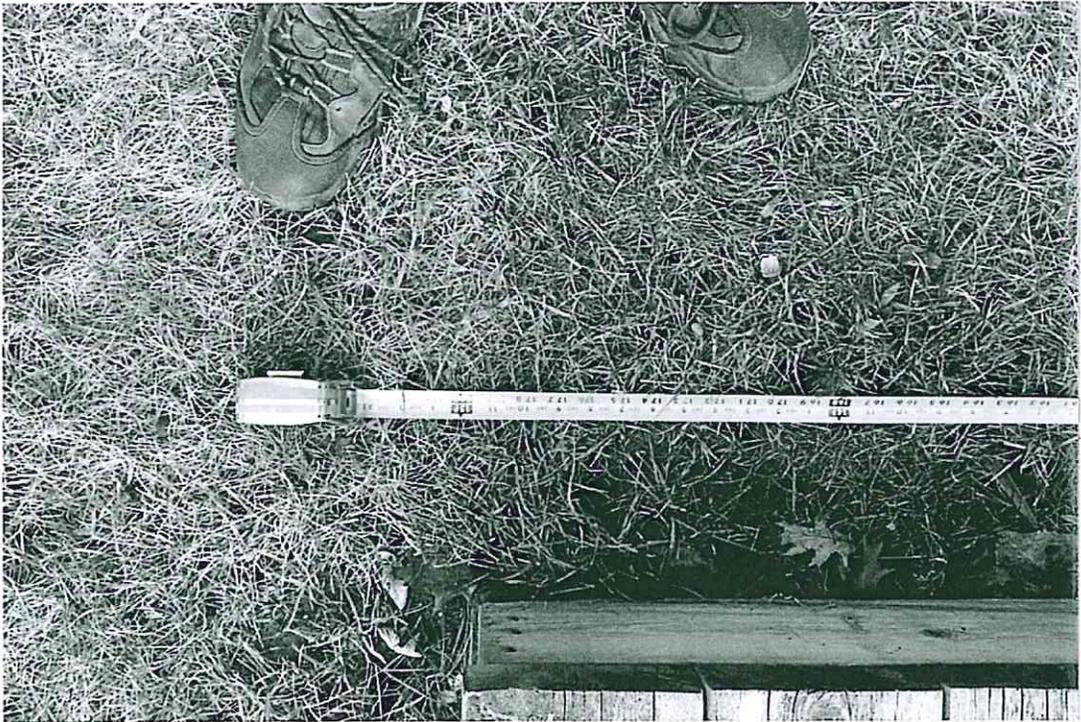
Our house is a ranch with a walk-out basement. The main floor is 10 foot 6 inches off ground level, therefore not allowing for a deck 2 foot off ground level.

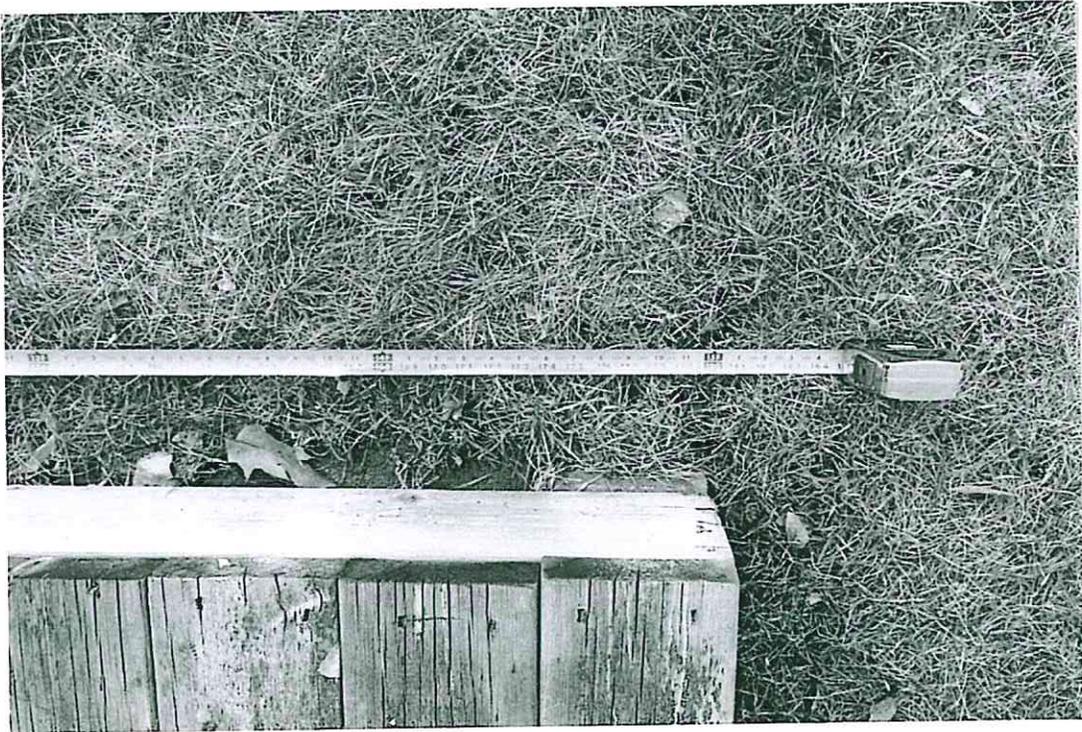
Also, when built, 2 sliding doors were installed. One in the kitchen and one off the master bedroom for deck access.

There are 2 existing stairs at the sliding doors extending 15 feet from the building. We are proposing 12 feet from the building with the new deck.

It would be greatly appreciated if a variation would be granted so we can enjoy and beautify our backyard.







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