

**Minutes
City of Monona
Zoning Board of Appeals
Thursday July 9, 2020**

Chair Thomas called the meeting of the Monona Zoning Board of Appeals to order at 5:45 pm.

Present: Alder Thomas (Chair), Ms. Steele, Mr. Schweiger, Ms. Piliouras & Mr. Davies (1st Alternate)

Excused: Mr. Conrad & Ms. Bernstein (2nd Alternate)

Also Present: City Planner Douglas Plowman

Approval of Minutes:

A motion by Mr. Schweiger, seconded by Ms. Piliouras, to approve the minutes of April 30, 2020 carried with no corrections.

Appearances:

Ms. Toi Pedrick and Mr. Rob Hardie – 4705 Tonyawatha Trail (Spoke on Z-003-2020)
Mr. Tobias Kinsler – 6303 Southern Circle (Spoke in favor of Z-004-2020)

New Business:

Public Hearing: James Gallegos, 4707 Tonyawatha Trail is requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(d) Shore Yard Setbacks for the purpose of constructing a screened in deck. (Case No. Z-003-2020)

Mr. James Gallegos of 4707 Tonyawatha Trail presented his application to the ZBA. A variance was approved in 2018 for a deck to the south of the property as it encroached on the shore yard setbacks. The new proposal includes two decks, one on the north and one on the south, both of which are proposed to be screened in. The northern deck is within setbacks, and permitted by right, the southern deck requires a variance. Previous approvals only showed a deck, whereas the applicant's current proposal includes screened in porches, with decks on both levels. As it is unclear if this was in the originally approved variance from 2018, it was recommended that the applicant come back for an additional variance should this be the design he chooses to proceed with. There is also a stairway in between the decks, which was included in the 2018 application. The direction of the stairs has been changed from being perpendicular to parallel to the home, although it remains within the originally approved footprint.

Mr. Gallegos clarified that the proposed decks would have limited impacts on adjacent neighbor's views of the lake. Further, the distance into the setbacks was clarified at the request of the ZBA. Mr. Mike Lawton representing the applicant clarified, that the footprint was not increasing versus what was approved in 2018. Mr. Gallegos addressed the question of hardship. He is trying to evaluate if he builds onto the front of the home, to the rear, or rebuilds a new structure. The size of the home is rather small, and he is trying to add value and living space to the property.

Mr. Luedtke, the applicant's contractor discussed the project scope. It was clarified that the northern deck would remain within City setbacks for both side and shore yards. The walkway between the two decks includes a walkway parallel to the home, rather than the previous perpendicular plans. The southern deck would have two levels, with a screened porch on the lower of the two levels, and a balcony on the upper level. The decking would be Trex decking, the screened area would have beam to floor windows with a high level of transparency, and clear view railings on the upper level. Mr. Luedtke invited the City inspectors to confirm property setbacks prior to construction.

Mr. Lawton, the Attorney for the applicant, reviewed the application. The dimensions are not changing within the setbacks. Mr. Lawton, the City Attorney and City Staff met prior to the meeting to discuss the need for another application. The applicant is requesting the updated variance for a new design and additional deck. It is his opinion that the changes are compatible and in keeping with what was previously approved. He highlighted the shape of the lot create practical difficulties for the owner. Mr. Lawton added that the public interest and consistency with Zoning Ordinances is being preserved with this application. It was also shared in his opinion, that because the ZBA has already once ruled in favor of the application, and because the setbacks are not changing, there would be difficulty in overturning that decision.

Mr. Hardie and Ms. Pedrick (4705 Tonyawatha Trail) spoke on the project. They wanted the accompanying letter to be corrected relative to the north and south construction. They also asked the Board consider the scope creep of the project, and to review the request with the same level of scrutiny and care as any other. The original variance was modified just before the first hearing, and there was an agreement for a deck, not a structure. They want to ensure the decision making process is followed, and the hardship request is thoroughly evaluated and scrutinized. The setback ordinance does not seem to be a hardship in itself. They ask the Board to consider the precedent that could be set here, and that somebody can overdesign something over and above what was initially approved. There were no other appearances and the public hearing was declared closed.

Consideration of Action: James Gallegos, 4707 Tonyawatha Trail is requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(d) Shore Yard Setbacks for the purpose of constructing a screened in deck. (Case No. Z-003-2020)

Planner Plowman shared Staff Comments, and guidance from the City Attorney. If there is a motion or decision outlined by the Board, then it should be very specific in both the decision and the distances. A copy of the original application from 2018 was shared with all members of the Board.

Mr. Davies asked about the true intention of the build and the variance. He asked if the build changed, and if the application needs to be revised to specifically call out the screened porch. Planner Plowman responded that the discrepancy between 2018 and present is that it was assumed a deck in 2018, and the application in 2020 shows two decks and a screened porch. It is a question of building volume rather than footprint. Mr. Schweiger asked for the hardship to be clarified by the applicant. Chair Thomas responded that Mr. Lawton's letter in the application suggests the Ordinance is the hardship. Mr. Schweiger asked if the orientation of the house or the building envelope is the hardship. He was also mindful of the issue of scope creep. Mr. Gallegos responded that his options are to sell the house or rebuild another. If granted the variance, the applicant will keep the original house and structure. Chair Thomas reiterated that there needs to be a true finding of hardship. Mr. Lawton responded that the current tenants are in need of additional recreational space, something which can be offered by the proposed addition.

Ms. Piliouras asked how the 2020 decision impacts the 2018 determination. It was clarified that a deck could still be built, as proposed in 2018, but a screened in porch would not be permitted. Mr. Schweiger sought clarification of the hardship from the 2018 request. Mr. Gallegos shared that he gave the same reasoning in 2018 and 2020. Planner Plowman referenced the June 21, 2018 meeting minutes, and shared the opinion that was given when approved in 2018. Mr. Gallegos added that the rear yard is steep, and the angle of the house makes any addition towards the lake challenging.

Mr. Davies asked Mr. Schweiger for clarification of his issue of scope creep. He responded that he was primarily concerned of a domino effect of inching closer to the lake and the long-term cumulative effects of granting these types of requests. Chair Thomas asked the applicant why they were planning to enclose the decks. Mr. Gallegos responded that it would add more usable space to

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the home, which is currently limited. Mr. Schweiger added that the intent from the 2018 discussion had been to maintain homes with original character rather than a teardown and rebuild. Chair Thomas reiterated the need to state a legitimate hardship, with the argument of tearing the house down being invalid in her opinion. Mr. Luedtke shared that the buildable space of the deck would render the deck almost unusable without the variance.

Mr. Davies asked for clarification between the plans submitted and what were shown on Mr. Luedtke's screen. He asked for existing conditions to be shown on the plans, as well as a better definition of what is being requested. The plans shown did not show what was requested to be built, and how the entire structure would look. Mr. Luedtke stated that small changes were made the day before the meeting, and that they differ with the packet received by the Board. For that reason, Mr. Davies stated that he was unable to make his decision. Ms. Steele missed some of the discussion because of the connectivity issues and was unsure of the extent of what was being requested. Mr. Davies clarified that he would like to see a true definition of all the elevations of the request, including the entire build, the materials, an actual 1:20 scale site plan in its true scale. Chair Thomas suggested the Board visit the site to get a better idea of the request. Ms. Steele added that she would like to have heard what she missed from the neighbors.

A motion was made by Mr. Davies, seconded by Mr. Schweiger to table the shore yard setback variance request for the purpose of constructing a screened in porch until the next meeting (August 20th). It was agreed that there was not enough information provided before a decision could be made.

The motion carried unanimously.

Public Hearing: Phil and Sue McDade, 6301 Southern Circle are requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(c) Rear Yard Setbacks for the purpose of constructing a screened in deck. (Case No. Z-004-2020)

Ms. Sue McDade provided background on the application and why they are asking for a variance. There was an existing two level deck on the property, which was in need of complete replacement. Rather than replace the 340 square foot deck, the applicant's decided a smaller screened in porch would provide greater utility. It does include electricity for lighting and a ceiling fan, but no heating is proposed. The footprint follows the smaller section of the original deck, closest to the house, with the rear edge following the back line of the house. After submitting building plans, they learnt that this would not be permissible given current zoning. The variance ranges from 9.3' to 10.8' on the other end, but the edge follows the line of the back of the house and the original deck. The total improved area would be reduced by more than 50%. The applicant did explore other options that may work for them instead. Moving the porch towards the front of the house is not an option given grade changes and a retaining wall. The buildable space would be less than 5' were the applicant to try to avoid a variance. The unusual shape and slope of the lot makes compliance with the rear yard setback provide an unnecessary hardship. The applicant also provided a sheet of signatures from neighbors on all sides of the property. Mr. Tobias Kinsler of 6303 Southern Circle appeared to ensure there is no objection to the request. Planner Plowman shared 3 letters received by email from 6303, 6302 and 6306 Southern Circle adding their support of the application. There were no other appearances and the public hearing was declared closed.

Consideration of Action: Phil and Sue McDade, 6301 Southern Circle are requesting a variance from Monona Municipal Code of Ordinances Sec. 480-24(d)(4)(c) Rear Yard Setbacks for the purpose of constructing a screened in deck. (Case No. Z-004-2020)

Mr. Schweiger shared that the application was thorough, the statutory factors were well laid out and it's clear that there are a lot of signatures and support from neighbors. There's a clear hardship in that the entire house is not in compliance with the Code, the replacement deck wouldn't be allowed

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under current Ordinance, the building envelope and the slope have unique property limitations. The proposal meets the intent of the Ordinance.

A motion was made by Mr. Schweiger, seconded by Ms. Piliouras to approve the rear yard setback variance for the purpose of constructing a screened in deck to the property. The unnecessary hardship is present through the slope present on the property, as well as the difficult building envelope and that a replacement deck would not be allowed under the current Zoning Ordinance. The application is not contrary to the public interest, it will not negatively impact the neighborhood and it is in the spirit of the Zoning Ordinance.

The motion carried unanimously.

Upcoming Meetings:

The Gallegos application is tentatively scheduled to be heard at the August 20 meeting.

Adjournment:

A motion by Ms. Steele, seconded by Ms. Piliouras, to adjourn carried. (8:00 pm.)

Respectfully submitted by:

Douglas Plowman, City Planner / Zoning Administrator