

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
July 17, 2014**

Chairman Weipert called the meeting to order at 7:00 p.m.

PRESENT: Chairman Phil Weipert and Commissioners Frank Fogarty, Joe Rzyzi, Steve Mosier, Ron Morelli, Mike Joseph and Brian Dunn. Also present Dennis Smith, Building Inspector.

Chairman Weipert – Roll call shows all present.

Commissioners Bill Rodman and T.J. Connolly have resigned from the ZBA board.

Commissioners Mike Joseph and Brian Dunn were welcomed to the ZBA board.

**APPROVAL OF MINUTES:**

**ZBA 07-17-14 APPROVAL OF MINUTES – January 16, 2014**

Motion by Morelli, supported by Fogarty

To approve the minutes of January 16, 2014.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

None

**NEW BUSINESS**

**ZBA Case #2014-001 – 1264 Buckboard Circle**

***The request is for a variance to Section 102-108, to allow construction of a deck with a reduced rear yard setback of 28 ft. (37.5 required) on an existing lot. The variance requested is for 9.5 ft. nonconforming residence.***

Chairman Weipert announced that the applicant is Brandon Campbell, Case #2014-001.

Chairman Weipert asked the applicant to come up and state his name and address for the record and to tell the board about your request. You need to state a practical difficulty for the variance and tell the board what is unique about your property.

Mr. Campbell introduced self and stated his address in the Carriage Trace Subdivision. I am building a deck, covered porch type of structure off the back of my house. Where my house sits on the lot it does not allow me to go (Dennis Smith can help me out here) approximately 12' off the back of my house. The set-back is detrimental to what I am able to do relative to what everyone else is allowed to do or has done in my subdivision. I have pulled out similar types of styles that I want to do. Everyone in the subdivision has at least the same size deck that I am requesting or larger and more of a set-back than I am asking for. The other thing that is different about my house (I guess the spirit of this is so that you are not building a deck right up against your neighbor's back property). I put a picture in there too where I am backing up to a five (5) acre open field as well. It is not an overly large size deck that I am requesting. I looked at the site plan and it looked like this might be current issue with either my whole street or if it's the whole sub since other people have told me that they were not able to build a deck and had to get a variance too.

Commissioner Mosier clarified what the issue is; there is a building envelope and the builder built the largest houses in the building envelopes. They left no room for a deck.

Mr. Campbell added that basically the deck I am allowed to build under code is less than 12' wide which does not allow you to get a table on it. So, here I am.

Commissioner Morelli – Looking at these plans, you do have a 50' rear yard set-back and your house currently fits into the building envelope correct? If the measurements are correct then that bump out where your door wall is should be in the building envelope and if it is in the building envelope you're allowed 14'. If you are going out 14' and you are allowed 12.5' I see where you need a 1.5' variance, not a 9.5' variance.

Inspector Smith agreed and stated that the 9' was an error. I figured 1.5'. If you did the true 22' that is where the line comes in.

Chairman Weipert noted that the request was written poorly. It does state the variance request is for 9.5' not 1.5'

Commissioner Joseph questioned the location of the stairs.

Mr. Campbell stated that the way this is probably going to go now and we are still receiving bids; we may do away with the smaller deck on the right side. The stairs would

come out where that door is at and then these stairs (shows photo) we are probably going to move more towards the center of the wall on the west side of the house. This will be eventually, hopefully depending upon money. Like this one (shows photo) Mr. Duncan whose lives next door is building his with a roof and then maybe screens or something like that. Ideally, for the future.

Commissioner Morelli – I will tell you that is a whole different ball game. Once you put a roof over it, the 25% goes away. The 25% is for only for decks. Once you cover it or screen it in, it is now a three season room. If it is attached to the house, now you need a variance for the entire thing.

Mr. Campbell questioned if he could do this all at the same time now?

Commissioner Morelli stated that unfortunately, the only thing in front of us is for your deck. That is a much bigger deal. To give a 1.5' variance on an octagon shape is a small amount of space, to give a variance for 14' and it is widen and covered; that is a whole different animal in front of us.

Mr. Campbell clarified what the board would do; let me go into the 1.5' and eventually if I cover it or not cover it then it would be okay since I got the variance.

Commissioner Mosier responded with no, you can't cover it without another variance.

Mr. Campbell acknowledged he would need another variance in order to cover the deck.

Commissioner Morelli agreed absolutely and I will tell you that will be a much bigger issue at the time since you are putting in footings to hold up the deck and now it is going to have to hold up the roof. If you were to come back it would be a lot rougher road. Just so you know.

Mr. Campbell asked if he has to work with Dennis on this or bring it back to the ZBA board.

Commissioner Morelli responded that you will work with Dennis first and he will deny it and then you have to come to the ZBA board.

Mr. Campbell questioned what the board would require?

Commissioner Morelli replied a lot more as far as to what your hardship or practical difficulty is.

Inspector Smith explained that the applicant does not **have** to roof the deck that is the issue. You just **want** to roof it. The practical difficulty is not necessarily there just because you **want** to roof it.

Mr. Campbell asked if the "spirit" of the ordinance is to not build up next to someone or what is the ordinance for?

Commissioner Morelli responded that originally you have a building envelope and it is for lot coverage and that is part of it. Part of it is that you only have so much property that you can cover. This zoning district for Carriage Trace is R-1 (the only R-1 zoning in the City) and it has the largest building envelope. Builders all want to put 20 lbs. in a 10 lb. bag. They build a house that maxes out that building envelope and you cannot build outside of it. The 25% came in when Trotter's Point sub was developed and there are 350 homes in there and it is zoned R-2 and every single house is maxed out on this building envelope and there was no 25% rule. We actually changed the ordinance through the Planning Commission through the City since every single person had to come in for a variance so the City was getting their money but you had a ZBA meeting every single month and there would be 10 deck requests at each meeting. The rule was changed to 25% which is more than adequate.

You are building a reasonable deck and you need only 1.5' but to build anything past that it would be a bigger issue. Even though you have nothing behind you **today** that does not mean 10 years from now there won't be.

Chairman Weipert noted that what is in front of us is 1.5'. Do you want to table it and come back?

Mr. Campbell responded that the eventual plan was to build a deck. If I were to do something different I don't know what I would put in it that would be different. It is the south side of my house that is really sunny and I can eventually see that we will want to put a roof on to cover it like the neighbors did so we can enjoy it. I know it is a big difference to you guys but.....

Chairman Weipert noted that it has to be republished and then all the neighbors may show up. You're applying for a deck only currently.

Mr. Campbell offered that this is like a deck too right (photo) if you were to say, what is that, that is a deck.

Inspector Smith replied not by definition. It's in the ordinance. The other problem now is that you end up with a 14' variance and you are completely outside the building envelope. It has to be republished.

Mr. Campbell asked if all these people got variances for the same thing.

Commissioner Morelli noted that they should have, whether they did I can't say.

Inspector Smith noted he did not do a survey on how many variances are in the subdivision, but I know there are several. If the previous inspectors here issued a variance they were diligent about making sure it was taken care of. If something was built without a permit, I don't have an answer for you.

Mr. Campbell added that he submitted a plan that has a defined hip roof on top of it. I spent a ton of time trying to find the code I am breaking.

Inspector Smith noted that this is more a zoning ordinance issue which is on the City's web-site. A construction issue would be on the bureaus web-site that we talked about.

Commissioner Joseph suggested that Mr. Campbell could get approval to build a deck as he is showing it here for the 1.5'. Build it with a foundation that would support a roof but just build the deck right now and in the future come back to us.

Inspector Smith agreed he could do that with no roof on.

Commissioner Rzyzi stated that the applicant would have to come in with a brand new plan and new approval. At this point it is not guaranteed that you would get that approval for that.

Commissioner Morelli explained that this is a legal board. We can't just say you are a nice guy, or that my house faces south or that your neighbor has it. Just because your neighbor has it does not mean you get it. You need to come in here and prove practical difficulty. It is not the sun shining and my daughter might get sunburned. That is not a practical difficulty. You have to prove real practical difficulty on why that needs to be covered for us to approve it. We can't say because the neighbor may have done it so we will let you do it. There are laws we have to follow. Do your homework and come in with what your hardship is.

Mr. Campbell responded that these are all personal problems. Practical difficulty on a deck is.... I don't understand.

Commissioner Morelli added that is why we are saying a 1.5' variance would probably pass here tonight. You have not said anything about a practical difficulty for what is in front of us right now. Just because you put footings in that will hold it, does not mean it is a shoe-in when you come back to the ZBA board. There is a pretty good chance it will be shot down.

Mr. Campbell stated that he is baffled that by adding a roof on it would change the game that much and what would I need to do to show practical difficulty? It eludes me.

Commissioner Dunn explained that architecturally speaking the difference is a deck is off the back and a roof over it is making the house bigger.

Commissioner Mosier noted that it would add square footage.

Inspector Smith added that someone might try to make it a livable space eventually. The only other way is the ordinance gets changed so your set-back is changed.

Commissioner Ryzyi acknowledged that we like to work with the residents as much as possible. Sometimes I don't agree with the ordinances, but we have to follow them.

Mr. Campbell noted that he is trying to abide by the rules. I am willing to follow the next rule too but to show practical difficulty why I need a roof? I don't understand other than to say I want my deck to be shady.

(Commissioner Mosier left meeting to fill-in for Planning Commission meeting.)

Commissioner Ryzyi offered to give some examples what the board is looking for. Let's say your lot is weird shaped compared to other lots or if the home is built in a hodge-podge neighborhood and you have a different lot compared to everyone else. Finding the difficulty and being able to explain and how it applies to the ordinance is kind of what you normally give variances for.

Commissioner Morelli added that there are a lot of examples around town where we have given variances. If your neighbor did not get a variance, he may have to tear it down. If he did not get a permit, believe me that thing is coming down and he has to come before us and begging for forgiveness is no easier than asking for permission. They think that's the case and a lot of people have tore things down.

Chairman Weipert noted it will have to be checked out.

Commissioner Morelli offered another example, the Dollar Store. In that plaza corner there was a pie shaped building and the actual store front is only from here to here. They needed a variance to put a sign up. They had no front of the building and that is a practical difficulty and that variance was granted to them.

Another example, we had a non-conforming house downtown it has an upstairs flat and outside stairs are not allowed in the City anymore and the outside stairway rotted and fell down. They needed a permit to build a new stairway. Well, our ordinance will not allow that. There are practical difficulties. You can't get there unless you build a new stairway, so we approved it. How the sun comes in the windows is not a practical difficulty, nor is mosquitoes.

Would you like to do? Go through with the deck or do you want to table it or withdraw and come back with the whole thing.

Chairman Weipert questioned if we tabled it, would the applicant need another application and \$200?

Inspector Smith stated the charge would apply since we have to republish. If he changes his variance request, we have to republish.

Mr. Campbell agreed that he could build the deck now and go forward.

Chairman Weipert inquired about any further questions.

**ZBA 07-17-14 – CASE # 2014-001 –1264 Buckboard Circle**

Motion by Fogarty, supported by Rzyzi

Motion to approve the variance of 1.5' based on the fact that it enhances the property without infringing on the neighbors, it is similar to the neighbor's decks. For this variance only and not for a roof.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Chairman Weipert reminded the applicant to get his permit.

**STAFF REPORTS:**

Nothing is scheduled yet for next month.

**ZBA 07-17-14 – ADJOURNMENT**

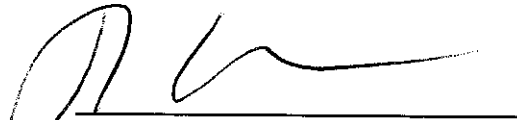
Motion by Morelli, supported by Fogarty


To adjourn the meeting at 7:28 pm

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,

  
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Phil Weipert, Chairman

  
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Marianne Jamison, Recording Secretary