



TOWN OF BEAUX ARTS VILLAGE

BOARD OF ADJUSTMENT

MINUTES

April 6, 2005

Murray

PRESENT: Acting Board Chairman Steve Hauck, Boardmembers Peggy Bates and Kathryn Murray

GUESTS: Town Planner Mona Green; Applicants Judee Wells and Joann Bromberg; Elizabeth Westburg

DEPUTY TOWN CLERK: Betsy Donworth

Acting Board Chairman Steve Hauck called the meeting to order.

MINUTES: The Board agreed to approve the minutes from the June 2, 2004, the September 28, 2004 and October 6, 2004 meetings.

PUBLIC HEARING ON VARIANCE NO. 05-1 – Judee Wells and Chuck Thulin; 2725 106th Place SE, Beaux Arts, WA.

Acting Board Chairman Steve Hauck opened the public hearing.

Chairman Hauck stated that the applicants are Judee Wells and Chuck Thulin, who are requesting a variance (relief from Section 8.A and 8.B of the Town of Beaux Arts Village Zoning Code Ordinance (No. 289) in order to allow an intrusion of 11 feet into the required 20 foot front yard setback and 5 feet into the required 10 foot side yard setback for replacement, alteration, modification and repair to an existing roof structure. Section 17 of the Ordinance allows the Board of Adjustment to vary the provision of Section 8 provided that the board finds that all five variance criteria are met.

As required in Ordinance No. 258, notice for a public hearing at 10515 SE 28th Street was posted on March 23, 2005 and published on March 22, 2005. Notices were sent to property owners within 300 feet of the property on March 23, 2005.

The following exhibits were submitted:

- Exhibit A - Application (2/16/05)
- Exhibit B - Set of Plans w/photos (3 pages)
- Exhibit C - Staff Analysis (3/28/05)
- Exhibit D - Public Hearing Notices
- Exhibit E - Public Hearing Affidavits

Acting Chairman Hauck asked the Boardmembers present if they had participated in any ex parte conversation regarding this application. No Boardmember has had any ex parte conversations.

Acting Chairman Hauck asked if any Boardmember had a conflict of interest in hearing the variance. No conflict of interest was noted. There were no challenges from the applicant or public as to appearance of fairness of any Boardmember to hear the variance.

Staff Report: Planner Green stated that Judee Wells and Chuck Thulin are attempting to resolve a long-standing problem created by the present flat roofing system. Leaks into the home have continued for the family's 16 years of residency and have resulted in damage. Previous replacement of the existing roof in its current configuration and other remedial actions has been unsuccessful in solving the problem. The solution presented for the review of the Board of Adjustment involves design of a sloped roof. The reworked carport roof incorporates the same angles as that of the new roof over the residence. An additional component of the project is the relocation of the front steps, approximately 6' to the north, with a 17 square foot addition to the entryway. The new entryway is within the front setback area, but is within the envelope created by the existing and proposed roof.

The roof and entryway are part of a larger remodeling project. Other aspects of the remodel are not subject to variance review.

The Board of Adjustment may grant a setback variance from Section 8.B of Zoning Code Ordinance provided the Board finds that all five of the variance criteria listed in Section 17 of the Ordinance have been met. Planner Green concluded the following:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon used of other properties in the town.

Applicants satisfy this criterion for the variance request. Reroofing the residence and carport, and construction of a modest entryway addition within the existing building envelope are not a grant of special privilege.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

Applicants satisfy this criterion. The project subject to this variance request will not be detrimental to the public or injurious to other properties or improvements in the Town, provided the roof incorporated proper drainage design to convey runoff from the roof to the ground through downspouts and connection to available stormwater systems. Residential construction in consistent with the Comprehensive Plan.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and special features of the subject property.

Applicants satisfy this criterion. The Wells-Thulin lot is irregularly shaped (trapezoid) and below the 10,000 square foot lot requirement. The residence and carport are currently located in the setback areas. A dense vegetative buffer exists between the carport and the property to the north. While there may be space within the building area to the south of the house to completely relocate the carport, construction of a new carport in that location would require the removal of mature vegetation within the Town's right-of-way.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

Applicants satisfy this criterion. The residence was purchased in 1988 with the current roof design. The applicants have attempted to repair the roof, but their efforts have not been successful. They have not contributed to the home's non-conforming status.

5. It is the minimum necessary to permit the owner reasonable use of the property.
Applicants satisfy this criterion. The envelope of encroachment into the side (north) and front (east) setbacks will not increase. The increase in roof height, from 10.5' at its lowest existing elevation to a maximum of 15' is below the 30' height limit imposed by the Town.

Planners Green's conclusion is that applicants satisfy the five variance criteria. She advised that the Board grant Variance 05-1, conditioned upon a roof design that adequately transports runoff from the roof to a stormwater drainage system and retention of the vegetative buffer between the carport and the property to the north.

APPLICANT PRESENTATION:

Judee Wells gave a description of the proposed project. She explained that a variance is necessary to allow the redesign and replacement of the roofs on the front room and entryway of her house and carport. The proposed changes will not increase current intrusions into the front or north side setbacks; however, they will increase the height of the roofs in these setback areas. She explained that over the years a variety of repairs had been attempted on the roof, yet none have been entirely successful. They have concluded that the roof design is faulty and that the chimney needs to be removed (metal flue pipes will be used instead), and the existing flat roof will be replaced with roofs that slope to the sides. The proposed roof and eaves will not extend further than the current roof into the front setback. The proposed carport roof will not extend further than the current roof into the front or north side setback; however, the roof height will be increased.

She explained why the proposed project satisfies the five variance criteria.

Criterion 1: The variance does not constitute a grant of special privilege because a remodel to replace roofs of a residence to eliminate leaking and water damage is not a grant of special privilege.

Criterion 2: The variance will not be materially detrimental to the public welfare or injurious to other properties or improvements within the Town and it will be consistent with the Town's Comprehensive Plan. The proposed improvements do not increase the

encroachment into the setbacks and will not adversely affect or encroach upon the neighbors' properties. The visual impact of the house will be reduced with the elimination of the significant chimney structure.

Criterion 3: The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings and special features of the subject property because the lot is a small lot and is an oddly shaped lot.

Criterion 4: The need for a variance has not arisen from actions previously taken by the current owner. The house was purchased with its current roofs.

Criterion 5: The proposed variance would be the minimum necessary to permit the owner reasonable use of the property. The owners have attempted to correct the roof problems by repairing the existing roofs and making other changes to the roof and chimney, but none of these have been successful. The front room is essentially unusable because of the leaks and the deterioration of the roofs. This continuing deterioration could affect the house structure. The extension of the entryway and the increase in roof height is the minimum necessary to correct the roof design flaws and stop the water damage. The increase in the height of the carport roof to meet the main house roof is the minimum necessary to stop the water run off from the carport roof on to the side of the house and prevent further water damage to the house.

PUBLIC TESTIMONY:

There were no members of the public present at the hearing.

The Board members have reviewed the application submittal for Variance 05-1 against the five variance criteria of Ordinance No. 3133, Section 1.

From the foregoing findings the board made the following CONCLUSIONS:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town.

The Board is unanimous that Criterion 1 is satisfied.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

The Board is unanimous that Criterion 2 is satisfied.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, and special features of the subject property.

The Board is unanimous that Criterion 3 is satisfied.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

The Board is unanimous that Criterion 4 is satisfied.

5. It is the minimum necessary to permit the owner reasonable use of the property.
The Board is unanimous that Criterion 5 is satisfied.

Variance No. 05-1 satisfies all of the variance criteria.

DECISION: MOTION: Based on the foregoing findings and conclusions **Variance No. 05-1** satisfies the 5 variance criteria and is hereby granted, conditioned upon a roof design that adequately transports runoff from the roof to a stormwater drainage system and retention of the vegetative buffer between the carport and the property to the north.

VARIANCE NO. 06-01

The applicants are Steve & Teresa Tegeler. The property subject to this variance request is located at 2711 104 Avenue SE, Beaux Arts, WA. The property is legally described as Lot 7 Block 5 of the Town of Beaux Arts Village recorded map. The Parcel No. is 062900-0195-0.

PRESENT: Acting Board Chairman Steve Hauck, Boardmembers Steve Peggy Bates and Kathryn Murray.

GUESTS: Town Planner Mona Green; Applicant Steve Tegeler, Helen Lewis and Nancy Vanderhorn.

DEPUTY TOWN CLERK: Betsy Donworth

FINDINGS:

Applicants Steve and Teresa Tegeler seek relief from Section 8.B of the Town of Beaux Arts Village Zoning Code Ordinance (No.333) in order to allow an intrusion of 2' into the required 10' side yard setback for installation of a heat pump. Section 17 of the Ordinance allows the Board of Adjustment to vary the provision of Section 8 provided that the board finds that all five variance criteria are met.

As required in Ordinance No. 258, notice for a public hearing at 10606 SE 29th St. was posted on March 22, 2006 and published on March 22, 2006. Notices were sent to property owners within 300 feet of the property on March 22, 2006.

The following exhibits were submitted:

- Exhibit A - Application (3/12/06)
- Exhibit B - Staff Analysis (3/27/06)
- Exhibit C - Public Hearing Notices
- Exhibit D - Public Hearing Affidavits
- Exhibit E - Letter from Sylvia Hobbs (4/5/06)
- Exhibit F - Letter from Helen Lewis (4/5/06)
- Exhibit G - Letter from Scott Harpster (3/30/06)
- Exhibit H - Applicant's Supporting Documents/Photos

Acting Chairman Hauck asked the Boardmembers present if they had participated in any ex parte conversation regarding this application. No Boardmember has had any ex parte conversations.

Letters from Sylvia Hobbs and Helen Lewis were entered into the record asking that the Board deny the Tegeler variance. A letter from Scott Harpster asking that the Board approve the variance was read into the record. Acting Chairman Hauck asked if any Boardmember had a conflict of interest in hearing the variance. No conflict of interest was noted. There were no challenges from the applicant or public as to appearance of fairness of any Boardmember to hear the variance.

Staff Report: Planner Green stated that the Tegegers propose to place a heat pump unit on a 3 x 3 concrete pad within their side yard setback area. The concrete pad would be located 1' from the side of the house. Heat pump units are metal appliances and are typically 3' x 3' x 3'. The Tegegers state that they were not aware at the time they designed their house that the heat pump could not be located within the setback area.

The Board of Adjustment may grant a setback variance from Section 8.B of Zoning Code Ordinance provided the Board finds that all five of the variance criteria listed in Section 17 of the Ordinance have been met. Planner Green concluded the following:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town.

Applicants do not satisfy this criterion. The Beaux Arts Zoning Code prohibits the use of setback areas for structures other than fences, retaining walls, and driveways. Allowing a side setback area for placement of a noise-generating heat pump would be a grant of special privilege.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

Applicants do not satisfy this criterion. Heat pumps generate noise, and it could be a problem to the neighboring property. Applicants have not supplied any data regarding the unit.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and special features of the subject property.

Applicants satisfy this criterion. The Tegeler lot is 5,400 square feet, smaller than the minimum 10,000 square foot lot size required in Beaux Arts.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

Applicants do not satisfy this criterion. This is a self-created problem. The applicants designed and constructed the home without consideration of proper placement of the desired heat pump unit.

5. It is the minimum necessary to permit the owner reasonable use of the property.

Applicants do not satisfy this criterion. Reasonable use of the property is attained without the placement of a heat pump unit within the setback area. In addition, applicants have indicated that a conforming location is available on the property.

Planner Green's conclusion was that the Applicants do not satisfy four of the five variance criteria and recommends denial of Variance 06-01.

APPLICANT PRESENTATION:

Steve Tegeler gave a description of the proposed project. He explained that it had been his intent from the design phase forward to not get a variance, preferring to conform to Beaux Arts zoning requirements. It was not until a HVAC walk-thru that he found out that installation of a heat pump would require placing a 3' x 3' concrete slab in his property setback. The slab would be placed 1' from the house and intrude 1'8" into the side setback, to the south.

He explained why the proposed project satisfies the five variance criteria.

Criterion 1: The variance does not constitute a grant of special privilege because a two foot variance is minor and is a better alternative than installing the heat pump on the roof.

Criterion 2: The variance will not be materially detrimental to the public welfare or injurious to other properties or improvements within the town. The proposed heat pump will be screened by a fence, which will also mitigate noise from the pump. If the variance is not granted, the heat pump will need to be installed on the roof. This is a much worse choice for the community and the Tegeler's direct neighbors because it may be visible from the street.

Criterion 3: The variance is necessary based on the fact that the applicants have a very difficult building situation, given the size of their lot. At the time of the design, applicants were not aware the heat pump couldn't be located in the setback. This was only realized during the HVAC walk-through.

Criterion 4: The need for a variance has not arisen from actions previously taken by the current owner in that the owners were faced with a difficult building situation due to the small size of their lot.

Criterion 5: The proposed variance has the least amount of impact on the setbacks and the neighborhood based on the footprint of the house. Applicants have spoken to neighbor Scott Harpster and he is OK with the location of the unit. The unit will not be visible to the Harpsters.

Due to ever-increasing costs of electricity and gas, a heat pump is the most energy efficient way to heat the applicant's new home.

Steve presented information on his proposed fence that would both screen the heat pump and reduce the noise heard by neighbors. He explained that his primary motivation for installing the heat pump is for cost-effective heating, with air conditioning a side benefit.

PUBLIC TESTIMONY:

Nancy Vanderhorn stated that she and her husband Bob are concerned about the sound of the heat pump if it is placed in the rear of the Tegeler's home, and that it would be better placed on the side, as proposed. She added that she would like to see the Tegeler's in their home, indicating that it has been a drawn out project.

The Board members have reviewed the application submittal for Variance 06-01 against the five variance criteria of Ordinance No.313, Section 1.

From the foregoing findings the board makes the following CONCLUSIONS:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town

The Board is unanimous that Criterion 1 is not satisfied.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

The Board is unanimous that Criterion 2 is not satisfied.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, and special features of the subject property.

The Board is unanimous that Criterion 3 is satisfied.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

The Board is unanimous that Criterion 4 is not satisfied.

5. It is the minimum necessary to permit the owner reasonable use of the property.

The Board is unanimous that Criterion 5 is not satisfied.

Variance No. 06-01 does not satisfy all five of the variance criteria.

DECISION: MOTION: Based on the foregoing findings and conclusions Variance No. 06-01 does not satisfy the 5 variance criteria and is hereby denied.

The Findings, Conclusions and Decision of Variance No. 06-01 are approved by:

PUBLIC HEARING ON VARIANCE NO. 05-2; – Joann Bromberg 10124 SE 28th Street, Beaux Arts, WA.

Acting Board Chairman Steve Hauck opened the public hearing.

Chairman Hauck stated that Applicant Joann Bromberg is requesting a variance (relief from Section 8.A and 8.B of the Town of Beaux Arts Village Zoning Code Ordinance (No. 289) in order to allow an intrusion of 3' into the required 20' front yard setback for construction of a roof overhang. The total intrusion would not exceed 6 square feet. Section 17 of the Ordinance allows the Board of Adjustment to vary the provision of Section 8 provided that the board finds that all five variance criteria are met.

As required in Ordinance No. 258, notice for a public hearing at 10515 SE 28th Street was posted on March 23, 2005 and published on March 22, 2005. Notices were sent to property owners within 300 feet of the property on March 23, 2005.

The following exhibits were submitted:

- Exhibit A - Application (3/8/05)
- Exhibit B - Staff Analysis (3/28/05)
- Exhibit C - Public Hearing Notices
- Exhibit D - Public Hearing Affidavits

Acting Chairman Hauck asked the Boardmembers present if they had participated in any ex parte conversation regarding this application. No Boardmember has had any ex parte conversations.

Acting Chairman Hauck asked if any Boardmember had a conflict of interest in hearing the variance. No conflict of interest was noted. There were no challenges from the applicant or public as to appearance of fairness of any Boardmember to hear the variance.

Staff Report: Planner Green stated that Joann Bromberg is proposing to relocate the front entryway to her residence. The current "front door" is located at the rear of the property, confusing to guests. The new entryway will provide an obvious access, and will eliminate the need for visitors to enter the residence through a narrow doorway into the kitchen. The majority of the entryway overhang is located within the allowable building area; the southwest corner would protrude into the setback.

The existing residence is nonconforming on the 13,984 square foot lot. It is sited within the southeast corner, with portions of the garage and guesthouse already intruding into the front (south), side(east)and rear(north) setbacks.

The Board of Adjustment may grant a setback variance from Section 8.B of Zoning Code Ordinance provided the Board finds that all five of the variance criteria listed in Section 17 of the Ordinance have been met. Planner Green concluded the following:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon used of other properties in the town.

Applicants satisfy this criterion for the variance request. Residential construction, including a roof overhang, is not a grant of special privilege.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

Applicants satisfy this criterion. Six square feet of roof overhang will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. Vegetation will not be disturbed. Residential construction in consistent with the Comprehensive Plan.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings, and special features of the subject property.

Applicants satisfy this criterion. The current location of the residence, with its plethora of intrusions into the front, side, and rear setbacks, does not offer opportunity for a covered entrance within the allowable building area.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

Applicants satisfy this criterion. Ms. Bromberg states that the home was constructed in 1942, prior to her ownership.

5. It is the minimum necessary to permit the owner reasonable use of the property.

Applicants satisfy this criterion. The minimum roof overhang intrusion offers a solution to the access problem experienced by the property owner.

Planners Green's conclusion is that applicants satisfy the five variance criteria. She advised that the Board grant Variance 05-2.

APPLICANT PRESENTATION:

Joann Bromberg gave a description of the proposed project. She explained that the current front door is located at the rear of the property, confusing to guests. Currently guests enter the house through a narrow kitchen door (also out of view) located inside a breezeway between the garage and the house. The proposed entry door with an architecturally welcoming entry roof porch will clearly be visible from the front gate, eliminating confusion and permit visitors to enter the house and living area without having to snake through the kitchen. Only part of the proposed entry porch (6 square feet) overhang will intrude into the front yard setback. She explained why the proposed project satisfies the five variance criteria:

Criterion 1: The variance does not constitute a grant of special privilege because most Village houses have a front door fully visible from the driveway or gate. Only a small part of the roof overhang will intrude into the required 20' front yard setback.

Criterion 2: The variance will not be materially detrimental to the public welfare or injurious to other properties or improvements within the Town and it will be consistent with the Town's Comprehensive Plan. The proposed doorway is designed to create a welcoming "front" to the house while making minor alternations to the structure of the house. The goal is to preserve the original home, while making necessary changes to bring it up to code. The encroachment into the setback is minor and is not a visual detriment as viewed from the neighbor's properties.

Criterion 3: The variance is necessary because of special circumstances relating to the size, shape, topography, location, surroundings and special features of the subject property because the house was build above and directly parallel to Lake Washington on a piece of property that is not rectangular. Therefore, while much of the existing house is within the setbacks, the existing southwest corner is not. One and one-half square feet of that corner intrude up to 13" into the front yard setback. Current setback ordinances were adopted after the house was built.

Criterion 4: The need for a variance has not arisen from actions previously taken by the current owner.

Criterion 5: The proposed variance would be the minimum necessary to permit the owner reasonable use of the property. For security reasons, and to eliminate confusion for visitors, the owner needs a front door with a protective entry porch that is visible from her front gate and the driveway beyond. She wants guests to be able to enter the house without having to go through the kitchen. She also wants a standard width front door, rather than the narrow kitchen door currently in use.

PUBLIC TESTIMONY:

Elizabeth Westburg stated that she is fully supportive of Joann Bromberg's variance request. .

The Board members have reviewed the application submittal for Variance 05-2 against the five variance criteria of Ordinance No. 313, Section 1.

From the foregoing findings the Board makes the following CONCLUSIONS:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the Town.
The Board is unanimous that Criterion 1 is satisfied.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to other properties or improvements in the Town. It will be consistent with the Town's Comprehensive Plan.

The Board is unanimous that Criterion 2 is satisfied.

3. The variance is necessary because of special circumstances relating to the size, shape, topography, location, and special features of the subject property.

The Board is unanimous that Criterion 3 is satisfied.

4. The need for a variance has not arisen from actions previously taken by the applicant (owner).

The Board is unanimous that Criterion 4 is satisfied.

5. It is the minimum necessary to permit the owner reasonable use of the property.

The Board is unanimous that Criterion 5 is satisfied.

Variance No. 05-2 satisfies all of the variance criteria.

DECISION: MOTION: Based on the foregoing findings and conclusions Variance No. 05-2 satisfies the 5 variance criteria and is hereby granted.

The Board approved the motion to adjourn the meeting.

Respectfully submitted,

Betsy Donworth
Deputy Town Clerk