

AGENDA

City of Crystal Lake Park Board of Adjustment Meeting

Thursday, June 24, 2010, 7:00 pm in the Dogwood Room at The Lodge 1050
Des Peres Road, Des Peres, MO 63131

- I. Pledge of Allegiance
- II. Call to order, Roll Call & Announcement of a Quorum
- III. Approve Agenda
- IV. Approve minutes from the March 25, 2010 meeting
- V. Old Business
- VI. New Business
 - A. Variance Request to add a deck in the rear yard at the Willing residence
2168 Oak Drive in District D.
- VII. Board of Adjustment Decisions
 - A. Deck Variance Request.
- VIII. Vote to Adjourn the Meeting

Please Note:

- Next meeting will be held at when a Variance Request has been submitted. The meeting time, location, and other details will be posted on the community Bulletin Board and on the City's web site.
- The Board of Adjustment may adjourn to closed session to discuss legal, confidential or privileged attorney-client matters pursuant to Section 610.021(1), RSMo. 2000, real estate matters pursuant to Section 610.021(2), RSMo. 2000, personnel matters pursuant to Section 610.021(3), RSMo. 2000, audit matters pursuant to Section 610.021(17), RSMo. 2000, or for any other reason allowed by Missouri law.

MINUTES
of the City of Crystal Lake Park
Meeting of the Board of Adjustment
Thursday, June 24, 2010 -- 7:00 pm
The Lodge, 1050 Des Peres Road, Des Peres MO 63131

Pledge of Allegiance

Call to Order/Roll Call: Chairperson Susan Kusama called the meeting to order at 7:00 pm to discuss the variance request made by Marcia Willing, owner of 2168 Drive in District D.

Board Members: Present: Susan Kusama, Chair; Jonathan Carey-Voris, Vice-Chair; and Members Mary Elbert, and Nancy Brooks. Absent: Amin Haider

City Officials: Present: City Planner Ada Hood, Recording Secretary Kitty Strubert for Cathryn Terrell and Court Reporter Karen Russo. Absent: Attorney Paul Martin, Backup Attorney Howard Paperner, Building Inspector Neil Cantwell

Others Present: Rita Brinkmann, Brian Maguire, Jane Southard, Marianne Stuart, and Marcia Willing

Preliminary Instructions Made by CLP City Planner Ada Hood:

Ms. Hood gave a thumbnail sketch of Missouri State Law as it applies to the granting of variance requests. She defined setbacks and structures and made reference to the municipal code for Burden of Proof. She emphasized that "hardship" is based on the conditions that are unique to the property and not personal to the owner. Something in the lay of the property must merit the granting of the Board's approval without changing the character of the street or compromising the comprehensive plan and existing building codes. Ms. Hood advised that a motion may be made to approve the variance as requested or to grant it with conditions. If four of the members vote in the affirmative, then the motion passes. Since four of the five Board members were present constituting a quorum, the hearing begin.

City Planner Ada Hood read these exhibits into the record:

1. Certified copy of the Land Use regulations
2. CLP's Comprehensive Plan dated April 5, 2007
3. CLP's Zoning Map
4. Notice published in the *St. Louis Countian* 6-10-2010 consistent with Missouri statutory criteria
5. Notice provided to property owners at least 24 hours prior to meeting date
6. City Planner's Memo to the Board of Adjustment dated June 24, 2010
7. Missouri Minimum Standards Survey for 2168 Oak Drive dated May 18, 2005
8. Application for Board of Adjustment submitted by Marcia Willing, owner of the property at 2168 Oak Drive, dated May 18, 2010

Approve the Agenda

Board of Adjustment member Carey-Voris moved and member Brooks seconded the motion to approve the agenda for the March 25, 2010 meeting. The Board unanimously approved it.

Approve March 25, 2010 Meeting Minutes:

Board member Elbert moved and Carey-Voris seconded the motion to approve the March 28, 2009 Minutes. The Board unanimously approved them.

Old Business: It was noted that the foundation for the new residence at 11910 Crystal Drive has been poured. This was the subject of the previous Board of Adjustment meeting on March 25, 2010.

Swearing in of Witnesses

Chair Kusama asked court reporter Karen Russo to swear in witnesses. She swore in:

Ada Hood, CLP City Planner
Owner Marcia Willing 2168 Oak Drive
Contractor Brian Maguire

New Business: Variance Request for 11910 Crystal Drive within Residence District D

City Planner Ada Hood's memo of June 24, 2010 summarizes the parts of the code that are applicable to the variance request within the context of CLP's comprehensive plan. It was provided to Board members prior to the meeting. The purpose of the zoning code is to make certain that all residents and properties are in compliance with it; however, some properties present difficult conditions for building and so, the code cannot always be applied uniformly to each lot. Therefore, in submitting a request for variance, a resident may make the case for conditions that present hardship.

Ms. Hood cautioned that variances adhere to the land and not to the property owner, because any changes the owner may make as a result of the granting of the variance are irreversible. Since the criteria for building applies to all residents, it is the responsibility of the Board to determine whether the building complies and, if there is a request for variance, the variance is justified using the burden of proof ordinance. The criteria for decision-making is based on 1) how substantial the variance is in relation to the requirement, 2) the potential effect of the increased population density produced on the available government facilities, 3) the potential to produce a substantial change in the character of the neighborhood or a substantial detriment to adjoining property owners, 4) the ability to obviate the difficulty by some method, feasible for the applicants to pursue, other than the variance, and 5) in view of the manner in which the difficulty arose and considering all of the above factors, whether the interest of justice would be served by granting the variance. The ordinance goes on to say: In presenting any application for a variance, the burden of proof shall rest with the applicant to prove that the harm complained of is not self inflicted. Hood recommended that the evidence be examined to determine if the burden of proof had been met. There were no questions at this point in the meeting, so Brian Maguire proceeded with the presentation of the plans for replacing the deck in the rear yard at 2168 Oak Drive as well as the specifics for the variance request with discussion and decisions to follow.

Variance Request for 2168 Oak Drive:

Contractor Brian Maguire introduced his presentation with a description of the deck planned at this property. The current deck is made of cheap wood that will need to be replaced in the near future and they will build the new deck with Brazilian tiger wood which is of a better grade. They plan to extend the deck an additional two (2) feet east into the rear yard and an additional five (5) feet south along the back of the house. The current deck is twelve (12) feet by nineteen (19) feet and the proposed structure would be fourteen (14) feet by twenty-four (24) feet.

Mr. Maguire brought a sample of the wood to be used and showed Board Members several color photos of the current deck taken from different viewpoints.

Mrs. Willing said the deck is her main outside space and she would like to have space for flowers and furniture. She noted that she has planted trees along the south side of her lot that will screen the deck from the neighbors at 2162 Oak Drive.

Our request is for a fourteen (14) foot Variance from the twenty-five (25) foot rear yard setback requirement and a twenty and six-tenths (20.6) foot Variance from the fifty (50) foot aggregate front and rear yard setback requirement.

Comments / Questions by Board of Adjustment members

During the discussion, it was noted that the residence was in violation of the set-backs when it was built in 2005. Ms. Willing stated that she was unaware of any nonconforming conditions when she purchased the property in August 2009. Ms. Hood noted that there is no variance on record for this deck when the home was built.

Comments / Questions by Crystal Lake Park Residents

Resident Jane Southard (2155 East Drive) asked why a deck which doesn't have walls is considered the same as a structure such as a garage or shed. Ms. Hood noted that other municipalities grant exceptions for decks. If Crystal Lake Park were to do this, it would have to be a decision by the Board of Alderpersons and would result in an Ordinance amending the City Code. Ms. Southard also asked if the CLP Building Code has been developed specifically for CLP or if it is "boiler plate" code. Resident Rita Brinkmann (2104 Oak Drive) and current chair of the Planning and Zoning Commission and Architectural Review Board explained that the code has been created specifically for Crystal Lake Park and that decks are treated the same as other structures because our lots are so small.

City Planner Hood asked the Board if it felt ready to make a motion.

Vote on Rear Yard Setback Allowance:

Board Member Carey-Voris moved to approve the request for a rear yard setback allowance of fourteen (14) feet, and member Elbert seconded. A roll call was taken and the members voted as follows:

Kusama-nay, Carey-Voris- aye, Elbert-nay, and Brooks-nay. The motion failed.

Board Member Carey-Voris moved to approve the rear yard setback allowance of twelve (12) feet, and member Elbert seconded. A roll call was taken and the members voted as follows:

Kusama-aye, Carey-Voris-aye, Elbert-aye, and Brooks-aye. A variance of 12 feet from the rear yard setback was granted.

Vote on Aggregate Setback Allowance:

Chair Kusama moved to approve the aggregate setback allowance of twenty and six-tenths (20.6) feet, and member Brooks seconded. A roll call was taken and the members voted as follows:

Kusama-aye, Carey-Voris-/aye, Elbert-aye, and Brooks-aye. A variance of twenty and six-tenths (20.6) feet from the aggregate setback was granted.

VOTE TO ADJOURN MEETING

There being no further business, a Motion was made by Board Member Elbert and seconded by member Carey-Voris to adjourn the meeting. The motion to close the meeting was unanimously approved. The meeting adjourned at 8:20 pm.

Next Meeting: Next meeting will be held when a Variance Request has been submitted. The meeting time, location, and other details will be published in the *St. Louis Countian* and posted on the community Bulletin Board and on the City's web site.

MINUTES RECORDED BY _____
Kitty & MaryAnn Strubert sitting in for City Clerk Cathryn Terrell

ATTEST: _____
Susan Kusama, Chair, Board of Adjustment/Presiding Officer