



BOARD OF ZONING APPEALS MEETING SUMMARY

Tuesday, January 5, 2021, at 6 PM

Virtual Meeting via Zoom and broadcasted live on the City Facebook Page
Westminster, Maryland 21157

A meeting of the Westminster Board of Zoning Appeals was held virtually via Zoom and broadcasted live on the City Facebook Page, on January 5, 2021, at 6 PM.

Chair Ed Cramer, Vice-Chair Larry Berent, and Board Member Brenda Frazier were present. Also, in attendance were Board Attorney Eric Blitz, and City staff members Mark Depo and Andrew Gray. Cindy Young and Steve Gamber were also present.

At 6:00 PM, Chair Cramer called the meeting to order.

Chair Cramer requested a motion to approve the meeting summary of December 1, 2020. Vice-Chair Berent moved to approve the meeting summary of December 1, 2020. Board Member Frazier seconded the motion. The motion passed 3-0.

Chair Cramer opened the public hearing for Case No. 21-01. The Chair stated the purpose of the hearing and read the following case title into the record:

The Applicant is requesting a variance approval to the required minimum least side yard setback of eight feet, in order to allow a new deck to be 3 feet from the property line, pursuant to Zoning Ordinance Section 164-37 C.(1), at 35 Westmoreland Street, Westminster, Maryland 21157.

Chair Cramer asked why the Board did not receive a pre-hearing statement. Ms. Young stated that she was unable to get the pre-hearing statement completed prior to the meeting date. The Board agreed to move forward with hearing the case without a pre-hearing statement.

Mr. Depo questioned if it would create a problem if information required by the Rules of Order and Procedure was not included and an appeal was made of the Board's ruling.

Mr. Blitz stated that the obligations of the applicant are mandatory requirements. A rule can be waived if no party is prejudiced, including City staff. The staff report notes a lack of pre-hearing statement; therefore, they may not have been able to do a complete review prior to the case coming before the Board. However, since the obligations of the applicant are enforced by the Board, it is up to City staff to alert the Board of any prejudice which would constitute a postponement or continuation of the hearing.

Vice-Chair Berent stated that the Board always has the right to decide later during the hearing whether to continue the Case or postpone the Case to ask for additional information.

Mr. Depo stated that without a pre-hearing statement, staff could not determine if all of the relevant information was provided. If more information had been provided by the applicant, staff may have offered other options instead of coming before the Board. However, timing of the necessary advertisements determined that the applicant come before the Board at its January meeting.

Chair Cramer asked Ms. Young if she had received the staff report prior to the meeting. Ms. Young affirmed she did receive it. Chair Cramer asked if she had responded to staff about the report. Ms. Young stated that she did not respond to staff.

Vice-Chair Berent asked Ms. Young if postponing the case would have negative ramifications on the project. Ms. Young replied that they were hoping the weather would hold for construction completion and the applicant was eager to have the project finished as soon as possible.

Mr. Gray summarized the main points in the staff memo dated January 5, 2021.

Pursuant to Zoning Ordinance Section 164-169, Criteria for determination, "In the exercise of its responsibilities under this chapter, the Board shall study the specific property involved, as well as the neighborhood, shall consider all testimony and data submitted and shall hear any person desiring to speak for or against the appeal or petition."

Additionally, Pursuant to Section 164-161 A.(3), the Board of Zoning Appeals is empowered "to authorize upon appeal in specific cases such variances from the terms of this chapter as are necessary to avoid arbitrariness and so that the spirit of this chapter shall be observed and substantial justice done."

Zoning Administration recommends that the Board of Zoning Appeals vote to continue the hearing for BZA Case No. 21-01 to Tuesday, February 2, 2021, at 6 PM, in order for the applicant to provide a pre-hearing statement pursuant to the Board of Zoning Appeals Rules of Order and Procedure.

Mr. Gray requested to submit into record the Application as Exhibit #1 and the Staff Report as Exhibit #2.

Chair Cramer asked about the setback labeled on the application. Mr. Gray replied it was "3 feet +/-" and added that the sliding glass door was not original to the home and should not dictate where a structure should be outside of the home.

The Chair then swore in all parties who wished to testify.

Mr. Blitz asked for clarification on the applicant's representative and if they were acting as the applicant or have legal interest in the case. Mr. Depo replied that Ms. Young is representing the applicant as the builder of the deck. Ms. Young added that Creager Construction lists itself as the applicant on all permits they file as a service to the customer.

Mr. Blitz asked for clarification for the Board as to how the applicant was listed on the Notice that was sent to adjacent homeowners. Mr. Gray replied that the applicant was listed as Creager Construction on behalf of Paul A and Megan E McDonald; therefore, staff felt that the Notice was sufficient for legal purposes.

Mr. Blitz asked the Board to rule if the Notice was sufficient. All Board members agreed the Notice was sufficient.

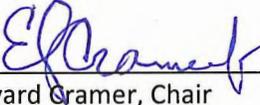
Mr. Blitz asked staff to clarify if there was prejudice based on the lack of information provided. Mr. Depo stated that without the necessary information to make a different recommendation, the Board could still vote to hold a continuance.

Ms. Young stated that the proposed construction was not going to be any closer to the property line than the existing structure. The application was to extend the existing structure further into the yard.

Chair Cramer asked Ms. Young if she was prepared with all of the information required to continue the hearing. Ms. Young stated that she was not.

Chair Cramer moved to continue the hearing on February 2, 2021 at 6pm to allow the applicant more time to provide additional information to City staff. Vice-Chair Berent seconded the motion. The motion passed 3-0.

Chair Cramer made a motion to adjourn the meeting. The Board adjourned at 6:47 PM.



Edward Cramer, Chair
Westminster Board of Zoning Appeals