

**CAMPBELL COUNTY & MUNICIPAL BOARD OF ADJUSTMENT
MINUTES OF THE JUNE 21, 2011 MEETING**

MEMBERS PRESENT:

Mr. Scott Bachmann
Mr. Paul Johnson
Ms. Connie Schweitzer
Mr. Roger Mason, TPO
Mr. Justin Verst, Chair

MEMBERS ABSENT:

Ms. Fran Reitman
Mr. Dave Schaber

STAFF PRESENT:

Mr. Michael Duncan, Legal Counsel
Mr. Peter Klear, AICP, Director
Mr. Ryan Hutchinson, Planner
Ms. Stephanie Turner, Recording Secretary

Mr. Verst called the meeting to order at 7:00 PM. Mr. Verst asked for a roll call. Following roll call, a quorum was found to be present. Mr. Verst asked if everyone had read the May 17, 2011 meeting minutes and if there were any questions or corrections. There being none, Mr. Verst called for a motion. Mr. Johnson made a motion to approve the minutes as submitted. Mr. Bachmann seconded the motion. A roll call vote found Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Ms. Schweitzer and Mr. Verst abstained. Motion passed.

Mr. Verst introduced case #BA-05-11, Robert Bell, who is asking for a variance to replace an existing deck and build an addition to the deck within the minimum front yard setback. Mr. Hutchinson presented the staff report as follows:

CASE:	BA-05-11
APPLICANT:	Robert Bell
LOCATION:	3881 Dead Timber Road, Unincorporated Campbell County.
REQUEST:	A variance to replace an existing deck and build an addition to the deck within the minimum front yard setback. Specifically the deck will encroach 18.79' feet into the minimum 50' foot front yard setback.

Staff has reviewed the request and finds as follows:

DESCRIPTION OF REQUEST:

The applicant is asking for a variance to replace an existing deck and build an addition to the deck within the minimum front yard setback. The existing deck encroaches 31.21' feet into the front yard setback. The proposed deck will encroach 17.89' into the front yard setback.

CONSIDERATIONS:

1. This site and surrounding land is occupied by single-family residential and vacant land.
2. The Recommended Land Use Map of the 2008 Campbell County Comprehensive Plan identifies the site and surrounding areas for agricultural.

3. The property is currently zoned Agricultural One (A-1). The minimum front yard setback for the A-1 Zone is 50' feet.
4. A review of the public records indicates there have been no previous conditional use or variances granted by the Board of Adjustment for this site. A review of public records also indicates no deck permit was ever submitted for review and approval.
5. The submitted drawings indicate the following:
 - a. The site plan shows the existing house sits 15.16' feet from the edge of right-of-way (ROW). The house is encroaching 34.84' feet into the front yard setback.
 - b. The applicant is going to replace the existing deck that currently sits 18.79' feet from the edge of ROW and encroaches 31.21' feet into the front yard setback.
 - c. The applicant proposes to expand the deck east 10' feet. This portion of the deck will sit 32.11' feet from the edge of ROW and encroach 17.89' feet into the front yard setback.
 - d. The applicant proposes to expand the deck south 44' feet.
 - e. The applicant proposes to build stairs from the back of the top deck down to the ground level.

ALL REQUESTS:

1. The applicant shall submit and/or present factual evidence demonstrating:
 - a. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.

"The proposed deck will create a much safer place for the Starks and their family and friends to enjoy their beautiful river view."
 - b. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

"The proposed deck will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity."
 - c. That such use will comply with any regulations and conditions in this ordinance for such use.

"The proposed deck will comply with any regulations and conditions in this ordinance."
2. Per Section 18.6 Variances: Change from one nonconforming use to another, conditions governing applications: procedures.

DIMENSIONAL VARIANCES: Before any dimensional variance is granted, the Board of Adjustment must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance. Such dimensional variance shall not be granted by the Board of Adjustment unless and until:

 - a. That the requested variance arises from special circumstances exist which do not generally apply to land in the general vicinity, or in the same zone.

The applicant stated "The house and deck currently exist."

- b. That the manner in which the strict application of the provisions of this Ordinance would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant.

The applicant stated "To be permitted to replace that which exists and add approximately 10' feet to the existing decked area will not change the looks or overall usage of the existing site. It will just make the usage much safer for the owner and any guests."

- c. That the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The applicant states "The deck is existing."

- d. Reasons that the variance will not allow unreasonable circumstance of the requirements of the zoning regulations and will not alter the essential character of the neighborhood.

The applicant states "To be permitted to replace that which exists and add approximately 10' feet to the existing decked area will not change the looks or overall usage of the existing site."

- e. That granting the variance requested will not confer on the applicant any special privilege that is not conferred by this ordinance to other lands, structures or buildings in the same zone. No nonconforming use of neighboring lands and structures in the same zone shall be considered grounds for the issuance of a variance.

The applicant states "The re-building of the entry walkway and construction of the new 16' x 30' foot east deck will not encroach on the required 50' foot setback as much as does the existing addition built back in 1992."

- f. That the variance requested will not adversely affect the public health, safety, or welfare, will not adversely alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public.

The applicant states "To be permitted to replace that which exists and add approximately 10' feet to the existing decked area will not change the looks or overall usage of the existing site."

- g. That the variance will be in harmony with the general purpose and intent of the Zoning Ordinance as well as the Adopted Comprehensive Plan for the County.

The applicant states "The usage of the site will remain the same as has been since 1992, with the exception that the new decks will be much safer for use by all. A proper landing will be constricted along with a new structural support system for both the new deck, as well as for the side walkway."

- 3. Per Section 18.6, A., 2., Notice: Notice of public hearing was given in accordance with Section 18.2 of the Campbell County Zoning Ordinance.

4. According to Section 18.6, A., 4., the Board of Adjustment must find that the granting of the variance will be in harmony with the general purpose and intent of the Ordinance as well as the adopted Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

STAFF RECOMMENDATIONS:

To approve the requested variance allowing the deck to encroach 31.21' feet into the front yard setback and 18.79' feet from the edge of ROW subject to the following conditions:

1. That the applicant complies with the Campbell County Zoning Ordinance and building codes.
2. That the applicant submits a building plan to the Campbell County Building Department for review and approval.

BASES FOR STAFF RECOMMENDATION:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.
The reconstruction and expansion of the deck will enhance the value of the home and the neighborhood.
2. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
3. That such use will comply with any regulations and conditions in this Ordinance for such use.

Mr. Hutchinson asked the Board if they had any questions he could answer for them. Mr. Verst asked if Mr. Hutchinson knew how old the house was. Mr. Verst noted Mr. Hutchinson's report stated the addition was built in 1992, but that there was no mention of the original structure. Mr. Hutchinson stated there were no records for the original structure in the files, just the addition, but again the deck was not included in the permit application, nor was a variance applied for the addition or the deck to encroach in the front yard setback.

Mr. Verst asked if the Board had any other questions for Mr. Hutchinson. There being none, Mr. Verst asked the applicant to come forward, state his name and address for the record. Mr. Greg Starks, Owner, 3881 Dead Timber Road, California, KY came forward. Mr. Starks stated he and his wife purchased the home in the fall of 2004. From the pictures, you might be able to see there is a rotunda between the garage and the house. The short deck was built when the original home was built in 1989. They constructed the addition and upper deck in 1992. Right now the only access to the rear deck is by traveling through the master bedroom. Mr. Stark's intention is to provide access by some other means than his bedroom. Mr. Stark assured the Board they intended to construct the deck to Code. Mr. Starks apologized for Mr. Bell who had an emergency with flooding in his basement due to the heavy rains today and could not be present tonight. Mr. Stark asked if there were any questions he could answer.

Mr. Verst asked if the Board had any questions for Mr. Stark. There being none, Mr. Verst opened the floor for discussion among the Board. There were no comments. Mr. Johnson stated it was a very straight forward request. Mr. Verst called for a motion. Mr. Mason made a motion to approve case #BA-05-11 to allow a front yard variance for the purpose to replace the existing deck and allow the new deck to encroach 18.79' feet into the minimum 50' foot front yard setback with the conditions as stated in staff report. Mr. Mason stated his finding of facts were that the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of

the neighborhood or the community; and that such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and finally that such use will comply with any regulations and conditions in this Ordinance for such use. Mr. Verst asked if there were any questions or discussion on that motion of if anyone wanted to second the motion. Mr. Johnson seconded the motion. A roll call vote found Ms. Schweitzer, Mr. Bachmann, Mr. Johnson, and Mr. Mason in favor. Mr. Verst abstained. Motion passed.

There being no other items of action before the Board, Mr. Verst recognized Mr. Klear to present the Director's Report. Mr. Klear stated that, due to the foul weather, there would be no Director's Report this evening.

Mr. Verst asked if the Board had any other matters to discuss. There being none, Mr. Verst called for a motion to adjourn. Mr. Mason made a motion to adjourn the meeting. Mr. Johnson seconded the motion. An oral vote found all in favor and none opposed. Motion passed. Meeting adjourned at 7:20 PM.

Prepared by:

Approved:

Peter J. Klear, AICP
Director

Justin Verst
Chair