

**BOARD OF ZONING APPEALS  
MUNICIPAL CENTER COUNCIL CHAMBERS**

**June 9, 2009**

**6:00 p.m.**

Chairman Boyd called the meeting to order at 6:00 p.m. The secretary called the roll to establish a quorum.

**COMMISSION PRESENT:**

Chairman Elizabeth Boyd; Mr. Henry Evans; Alderman Carole Hinely; Ms. Patricia Sherman; Mr. David Klevan; Mr. Ron Poe

**DEVELOPMENT STAFF PRESENT:**

Mr. Josh Whitehead, Director of Planning; Mr. Alan Strain, Attorney; Mr. Wade Morgan, Chief Planner; Ms. Carmen Richardson, Secretary.

**Interested Individual(s) present:**

Ms. Suzanne Newman – 6464 May Creek Cove, Memphis, TN 38119

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Chairman Boyd called the meeting to order and established a quorum.

**ROLL CALL:** – Mr. Evans – present; Mr. Henwood – absent; Ms. Sherman – present; Mr. Klevan – present; Alderman Hinely – present; Mr. Poe – present; Chairman Boyd – present

Chairman Boyd reminded those in attendance that the Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. She also reminded those appearing before the Board that the meeting is recorded and they would need to identify themselves, give their address and be sworn in for the record. She then swore in the staff.

Chairman Boyd stated that she would like to make note that the motions made in all meetings are of an affirmative nature. She stated this does not necessarily mean that the motion will be approved, but that the language will be in an affirmative nature when the motion is made.

**Approval of May 12, 2009, Minutes**

Chairman Boyd advised that because of an administrative error, approval of May 12, 2009 minutes would be deferred until next month's meeting.

**SUBJECT:** 7283 Oakville Drive – Request a Variance to Allow the Principal Structure to Encroach into the Required Rear Yard

**BACKGROUND:**

DATE PRINCIPLE STRUCTURE APPROVED/BUILT: 1999

PREVIOUS VARIANCES: This same request was originally considered by the BZA at its May 12, 2009, meeting. After some discussion, the applicant withdrew the request in order to provide additional information on the plan of the screen porch and to discuss it further with the homeowners' association.

**DISCUSSION:**

NATURE OF VARIANCES REQUESTED: The homeowner proposes to construct a 12 foot by 20 foot screen porch over their existing brick patio in the rear yard, which will extend the principal structure into the rear yard. The Vineyards PUD requires a 25 foot rear yard setback for the subject and surrounding

lots. The existing house is 31.6 feet from the rear property line, and the proposed screen porch addition will encroach 5.4 feet into the required rear yard. The principal structure will then be 19.6 feet from the rear property line.

**SPECIFIC SECTION OF ZONING ORDINANCE:**

Sec. 23-567(b)(1) – Except as modified by the approved outline plan, a planned development shall be governed by the regulations of the district or districts in which the planned development is located.

The Vineyards PUD plat sets 25 feet as the rear yard setback for the subject lot.

**APPLICANT’S JUSTIFICATION:** The applicant bases the variance request on the **other extraordinary and exceptional situation or condition of the piece of property**, resulting in **undue hardship upon the owner**. The applicant states “the natural area to the south provides a 150 ft. buffer between the rear of the property and adjacent property owners.” The applicant has also submitted additional justification, which is attached.

*The BZA requested the applicant to provide more detailed, additional information on the proposed screen porch. She has responded with the attached addendum to her application. She indicates that the screen porch will have a wood frame, a shingled hip roof and paint to match the existing home. The Vineyards HOA also provided a new letter of approval that refers to specific materials and design.*

**STAFF COMMENTS:**

1. The Vineyards Homeowner’s Association has approved the proposed addition.
2. The applicant notes that the rear of the property faces south and there is no buffer from the west to offer protection from the sun. The proposed porch would provide relief from the heat and glare of the sun.

**Ms. Suzanne Newman  
6464 May Creek Cove  
Memphis, TN 38119**

Ms. Newman started out by stating that there were questions at the last meeting, specifically about the roofline. Per Ms. Newman, they [she and applicants] have talked with three general contractors and secured three separate bids since the last meeting. The bids are based on the same specifications -- shingle tipped roof, 12x20 wood frame, one set of double doors, one single door, recess lighting, ceiling fans and matching shingles of the existing roof.

Mr. Evans asked if the addition will come out as far as the existing rear patio. Ms. Newman replied by saying that it will come to the edge of the patio that is the closest to the house thereby allowing the footings from the sides to be properly done. Chairman Boyd asked how deep the porch section of the patio is. Ms. Newman responded by saying that it will be 12 feet deep.

Alderman Hinely asked the applicants how long they had lived here. Applicants said a little over two years. Chairman Boyd asked what the major reason was for the addition. Ms. Newman advised that the back yard has a natural glare making it very difficult to sit on the patio and enjoy the rear yard because of the heat and glare.

Alderman Hinely inquired as to whether the addition would be parallel with the porch next door. Ms. Newman said that she does not have the measurements and does not know if their screened porch will extend past the neighbor’s porch; a comparison was never made between the two.

Mr. Evans said in that in this particular case, we are talking about PUD that requires the 25 feet rear yard setback. He further stated that also in this case, the homeowner's association has agreed to this addition and has not changed the footprint of the house in any way.

**PROPOSED MOTION:** To approve a variance to allow the principal structure to encroach into the required rear yard.

Mr. Evans moved to approve a variance to allow the principal structure to encroach into the required rear yard. Mr. Klevan seconded the motion.

**ROLL CALL:** -- Mr. Henwood – absent; Ms. Sherman – yes; Mr. Klevan – yes; Alderman Hinely – yes; Mr. Evans – yes; Mr. Poe – yes; Chairman Boyd – yes

**MOTION PASSED**

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**Meeting Adjourned at 6:18 p.m.**