

**GREENWOOD PLANNING COMMISSION
WEDNESDAY, OCTOBER 18, 2017
7:00 P.M.**

1. CALL TO ORDER/ROLL CALL

Commissioner Reeder called the meeting to order at 7:00 p.m.

Members Present: Commissioners Lake Bechtell, Jennifer Gallagher, Doug Reeder, and David Steingas

Others Present: City Attorney Mark Kelly and Zoning Administrator Dale Cooney

Absent: Chairman Pat Lucking, Commissioner Fiona Sayer, and Council Liaison Kristi Conrad

2. MINUTES – May 17, 2017

Commissioner Steingas moved to approve the minutes of April 18, 2017 as written.

Commissioner Reeder seconded the motion. Motion carried 5-0.

3. PUBLIC HEARINGS

3a. Consider variance request of Laura and Lloyd Ness to expand a deck and build a screened porch that would encroach into the north and south side yard setbacks and exceed the maximum allowable impervious area at 5500 Maple Heights Road

Commissioner Reeder introduced the agenda item.

Cooney presented the staff report. He said that Laura and Lloyd Ness, property owners at 5500 Maple Heights Road, are requesting a variance to expand a deck and build an enclosed porch that would encroach into the side yard setbacks. He said that the property has two small existing decks that encroach into the side yard setbacks. Cooney said that the applicant is proposing to build a wrap-around deck for the main level that would tie in the existing non-conforming decks to a larger deck area. Cooney noted that the applicants are also proposing to enclose one of the existing non-conforming decks to make an enclosed porch area.

Cooney said that construction work had already begun on the enclosed porch. He said he discussed the need for a variance for the deck with the contractors via phone. In that conversation, he suggested that the interior remodel portion of the project could move forward while the variance request was heard. Cooney said that a building permit for the enclosed porch area was submitted and mistakenly issued, and construction on this area was started. Cooney said that he discussed the issue with the contractor and the property owner, and that a Stop Work Order had been issued for this portion of the project.

Cooney said that the applicant had provided letters of support of the project from both adjacent neighbors. He said that the applicant had also submitted an updated survey.

Reeder said that the house was given a variance in 2002 to exceed the impervious area and encroach into the setbacks. Bechtell said that is was a typical Greenwood property in that it is very unique.

Commissioner Reeder opened the public hearing.

Laura Ness, applicant, said that it is an odd shaped lot and they already have the issue of the side yard variance. She said that the decks are angled inward to have as little impact on the setbacks as possible. She said that the roofline for the porch is inset from the side yard. She said that the mosquitos are horrible and that the screening and the windows will help minimize impacts for the neighbors. Ness stated that there is hardscape that encroaches on their property. She said the small decks are necessary for the wrap around deck since they would have to cut a hole in

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the sunken living room otherwise. She said that the north deck goes through the master bedroom, and the south deck has access through the living room. She said that the neighbors are supportive of the request. She said that she is investing in the house and that this is her forever house.

Reeder asked if the porch could go over the lakeside portion of the deck. Cooney said yes they could. Ness said that this would ruin the view since this side of the house is all windows on that side.

Reeder asked about construction starting on the porch. Ness said that the contractor didn't think that the porch was off limits since the deck already existed and would not expand hardscape. Ness said that, since the deck was being converted to interior space, the contractor interpreted it as part of the interior remodel.

Bechtell said that the city made a mistake and that because of the circumstances he is supportive.

Gallagher said that it is important to be aware of precedent for future owners.

Steingas said that he visited the site and that he has worked in construction. He said that his biggest concern is hardcover, since the property is already over hardcover. He said that he has no problem with the enclosed porch since it is already over a deck and the property is under volume. Steingas asked about lowering the deck to have access directly through the living room without adding the wrap around.

Cooney asked about the removal of 512 square feet of plastic to offset some of this impervious expansion. Steingas said that this kind of landscaping tends to return on a property and it is not as permanent as removing a structure.

Reeder said that he has a serious issue with the porch and has less of an issue with the deck. He said that the screened porch is an expansion of the house, which requires more of a variance than the deck received in the first place. He said the porch has windows and it is essentially part of the house. He said that he has less of an issue with the deck encroachments in order to allow reasonable access to the front portion of the deck.

Steingas said that there is not a hardship and that houses get bigger and bigger. He said that there has to be some give and take for the expansion.

Cooney asked if Reeder would be more supportive of a more basic screened porch. Reeder said that it would be too easy to further enclose that area.

Cooney asked if Steingas would be supportive if driveway area were removed. Steingas said that he would rather see a portion of the deck removed.

Reeder said that he thinks this house has gotten all of the variances it should get.

Several different design scenarios were proposed by the planning commissioners with input from the applicant to provide access but also to reduce areas of deck encroachment.

City Attorney Kelly said that while there was miscommunication on the building permit, an error or omission by a city official cannot change the law. He said that the city should not grant variances based on mistakes by staff. He said that walking through the statutory test for a variance is the best way to come to a decision on a matter.

Ness said that she appreciates the input on the various design scenarios. She said that she does not want to knock down walls since the construction is already costing more than she expected.

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Cooney suggested that, instead of proposing a specific design solution, a recommendation could be made to approve the request for the deck encroachments with the condition that there be no increase in the structural impervious area on the property. Cooney said that the applicants could make the design trade-offs that most suited their needs.

Motion by Bechtell to recommend approval of the deck portion of the variance request to encroach into the side yard setbacks as proposed, conditioned that there be no increase in structural impervious area for the property. Motion is based on the findings that the plight of the landowner-applicant is due to circumstances unique to the property and not created by the landowner because the property bows inward toward the house, greatly reducing the side yard setback on the north side, and that the south side deck expansion is the only practical way to provide access on to the lakeside portion of the deck. Motion was seconded by Steingas. Motion carried 4-0.

Bechtell said that he was supportive of the enclosed porch proposal as is. Gallagher said that the enclosed porch requires a bigger setback than the previously approved deck.

Motion by Reeder to deny the enclosed porch portion of the variance request to encroach into the side yard setbacks. Motion is based on the findings that the plight of the landowner-applicant is NOT due to circumstances unique to the property and are created by the landowner since the enclosure of a screened porch is a design choice made by the applicant where other less intrusive options exist, and that the side yard encroachment is not reasonable since it would be an addition to the footprint of the house. Motion was seconded by Steingas. Motion carried 3-1 with Bechtell voting against.

3b. Public Hearing of Ord 272, Amending Code Sections 630, 510, 1120, 1205, and 1130 Regarding Right-of-Ways and Small Wireless Facilities

Commissioner Reeder introduced the agenda item and opened the public hearing. Hearing no public comments, Commissioner Reeder closed the public hearing.

Motion by Steingas to recommend approval of Ordinance 272 as written. Motion was seconded by Bechtell. Motion carried 4-0.

4. OTHER BUSINESS

5. LIAISON REPORT

No liaison report was presented.

6. ADJOURN

Motion by Bechtell to adjourn the meeting. Steingas seconded the motion. Motion carried 4-0. The meeting was adjourned at 8:18 p.m.

Respectively Submitted,
Dale Cooney - Zoning Administrator