

Minutes
Decatur Zoning Board of Appeals
Decatur City Hall
509 North McDonough Street
August 10, 2009
7:30 p.m.

Present: Mark Burnette, Neil Dobbs, David Goldberg, Neil Norton, Kyle Williams

Mr. Burnette called the meeting to order and explained the procedures that would be followed at the meeting. He announced the first item on the agenda:

On a motion by Mr. Dobbs, second by Mr. Williams and all voting "aye," the Board of Appeals amended and approved the June 2009 & July 2009 minutes.

He announced the next item on the agenda:

1. Mark Klopper has requested a variance from the minimum front yard setback and minimum stream buffer requirements at 428 Drexel Avenue.

Mark Klopper stated that he wanted to renovate his home and add an addition on the rear of the house that would encroach in the 75 foot stream buffer. He stated that the addition would be built on piers and would not have a poured foundation. He stated that as part of this project he would be removing over 900 square feet of an existing driveway that was in the stream buffer. He stated that he was also renovating his front entryway and it would require a minimum front yard variance. He stated that he had letters of support from all his adjacent neighbors.

In response to a question from Mr. Burnette, Mr. Klopper stated that the 25 foot buffer would not be disturbed and that only a small portion of the deck and stairs would extend into the 50 foot buffer.

In response to a question from Mr. Williams, Mr. Klopper stated that the current driveway was located in the 25 foot stream buffer.

In response to a question from Mr. Norton, Mr. Klopper stated that the new addition was similar in size to the existing deck on the rear of the property. He stated that it was a 23 foot addition with a deck attached to the addition. He stated that the property had a slight slope and drained towards the stream. He stated that half a block south of his property the stream was a concrete channel.

In response to a question from Mr. Burnette, Mr. Klopper stated that he was willing to move the deck out of the 50 foot buffer. He stated that he was not covering the new stoop with a roof.

In response to a question from Mr. Dobbs, Mr. Klopper stated that all of the existing driveway located in the stream buffer would be removed.

Mr. Williams stated that the applicant was removing a larger amount of driveway than he was adding onto the house, 837 square feet of floor area addition versus over 900 square feet of driveway.

Mr. Madajewski, Senior Engineer, stated that he had visited the site and reviewed the application and found that the applicant needed a variance. He stated that he would not be able renovate his existing house without a variance. He stated that he recommended that the applicant submit an alternative design that moved the deck out of the 50 foot stream buffer. He stated that the method of construction for the addition would allow for a water quality measures to be implemented underneath it. He stated that he also recommended a vegetative mitigation plan, an erosion control plan and removal of kudzu in the rear yard.

In response to a question from Mr. Burnette, Mr. Madajewski stated that a structural engineer would have to determine how many columns would be needed to support the addition. He stated that he did not believe any type of vegetation would grow under the addition or the deck because it would be too shady.

Mr. Norton stated that Decatur was the top of four watersheds and that streams deserved protection. He stated that he would like to see the city augment the list of mitigation plantings and best management practices from the Georgia Stormwater Manual with the list of plants used by Ecological Solutions in the streambank restoration at Glenlake Park and from the publication "Life at the Water's Edge: A guide to stream care in Georgia" published by the Georgia Environmental Protection Division. He stated that if the owner chose to remove the kudzu he should do it in stages and plant some type material that would stabilize the streambank.

Ms. Thompson and Mr. Madajewski agreed to update the city's recommendations.

In response to a question from Mr. Goldberg, Mr. Madajewski stated that the proposed gravel under the addition and the plantings were designed to clean the water and slow the rate of run-off before it would reach the stream.

No one spoke in favor of or in opposition to the request.

The board discussed the appropriate mitigation measures.

Mr. Dobbs stated that the applicant could redesign the project to be entirely out of the 50 foot buffer.

Mr. Norton stated that a rain garden would be an effective mitigation measure in the area where the driveway was being removed.

Mr. Williams stated that the applicant's plan would result in less lot coverage than what existed today.

In response to a question from Mr. Goldberg, Mr. Madajewski stated that his recommendations did not address the entire area where the driveway would be removed.

In response to a question from Mr. Goldberg, Mr. Klopper stated that he was willing to enlarge the proposed gravel area under the new addition. He stated that he would like to put gravel or pavers under the new deck. He stated that he had an herb garden and a concrete slab under the existing deck.

The board discussed at length the implementation and effectiveness of rain gardens as a stormwater best management practice. They agreed to use the guidelines in the "Life at the Water's Edge: A guide to stream care in Georgia" publication.

Mr. Goldberg, Mr. Burnette and Mr. Williams stated that the front yard setback variance was reasonable and in keeping with the rest of the street.

On a motion by Mr. Dobbs, second by Mr. Goldberg and all voting "aye," the Board of Appeals approved a variance from the minimum front yard requirements at 428 Drexel Avenue subject to the condition that the variance shall be limited to and conditioned by plans substantially similar to those submitted with the application.

On a motion by Mr. Dobbs, second by Mr. Norton and all voting "aye," the Board of Appeals approved a variance from the minimum stream buffer requirements at 428 Drexel Avenue subject to the following conditions:

- *the variance shall be limited to and conditioned by plans substantially similar to those submitted with the application;*
- *there shall be no encroachment into the 50 foot stream buffer;*
- *the applicant shall install a gravel bed beneath the addition and deck OR shall plant a rain garden following the guidelines in "Life at the Water's Edge: A guide to stream care in Georgia" ;*
- *the applicant shall submit a landscape mitigation plan to the Senior Engineer for the area where the driveway will be removed;*
- *the applicant shall incorporate the Senior Engineer's recommendations outlined in the memorandum dated July 17, 2009 as amended by the board August 10, 2009;*
- *if the kudzu in the 25 foot buffer is removed, it must be placed with a non-invasive, stabilizing groundcover and the kudzu must be removed in phases: and,*
- *All planting plans shall use plants from the city's "Streambank Restoration and Rain Garden Plant List" (attached).*

Mr. Burnette announced the next item on the agenda:

2. Mark & Suzanne Whatley have requested a variance from the front yard setback requirements for 306 Kathryn Avenue.

Richard Stevens, architect, stated that the Whatley's wished to build a new front porch as part of a larger renovation. He stated that the house sat on a curve and there was no way to change the front of the house without extending past the fronts of the adjacent houses. He stated that he had letters of support from the surrounding property owners.

In response to a question from Mr. Williams, Mr. Stevens stated that there would be no change to the existing entry height or finished floor elevation. He stated that the footprint of the house would remain the same.

No one spoke in favor of or in opposition to the request.

On a motion by Mr. Goldberg, second by Mr. Dobbs and all voting "aye," the Board of Appeals approved a variance from the minimum front yard setback requirements at 306 Kathryn Avenue subject to the condition that the variance shall be limited to and conditioned by plans substantially similar to those submitted with the application.

Mr. Burnette announced the next item on the agenda:

3. Michele Surprenant has requested a variance from the prohibition against front yard parking at 625 Third Avenue.

Ms. Surprenant stated that she had purchased the house and needed to widen the existing driveway to have room for a handicap ramp for her daughter. She stated that the house was a duplex with a tenant upstairs and her family downstairs. She stated that she needed to provide parking for the tenant and she could not park on the street because of her daughter's disability.

Mr. Williams stated that since a duplex was a non-conforming use and the applicant was also enclosing a front porch she needed to return for an additional variance.

In response to a question from Mr. Goldberg, Ms. Surprenant stated that she would not impact the existing driveway apron or sidewalk.

In response to a question from Mr. Norton, Ms. Surprenant stated that she could not use gravel for the driveway because her daughter would always be in a wheelchair and it would not work well on gravel.

No one spoke in favor of or in opposition to the variance.

Mr. Williams stated that the city code did not allow for accommodating disabilities except through the variance process.

On a motion by Mr. Williams, second by Mr. Dobbs and all voting “aye,” the Board of Appeals approved a variance from the prohibition against front yard parking at 625 Third Avenue subject to the condition that the variance shall be limited to and conditioned by plans substantially similar to those submitted with the application and the new portion of the driveway shall not extend past the existing sidewalk.

Mr. Burnette announced the last item on the agenda:

4. The City of Decatur has requested a variance from the minimum stream buffer requirements at 0 Third Avenue (Sugar Creek Detention Basin).

David Junger, Assistant City Manager for Public Works, stated that the city had developed conceptual plans to create a garden in a detention basin located between Second and Third Avenue. He stated that there was a concrete stream channel in the basin. He stated that the closest point disturbance would be 17 feet from the top of the concrete channel. He stated that there would be about four planting beds and straw bales would be placed between the planting beds and the stream. He stated that the garden was a project designed to meet the city’s goals of creating an active living community and providing local food.

In response to a question from Mr. Burnette, Mr. Junger stated that the city would hold a community meeting about the project if the variance was approved. He stated that there was a lot of interest in providing additional community gardens for residents to work in. He stated that the location of the garden was in a flatter portion of the basin, near the Oakhurst Presbyterian Church where there was a good amount of sun.

In response to a question from Mr. Williams, Mr. Junger stated that he had not met with the church to discuss parking and access issues.

Mr. Williams stated that including the church in this project was critical because they already were burdened by users of the dog park, parking in their lot. He stated that he saw access to this site as a critical issue.

Mr. Junger stated that he intended to speak with the church and that access could also be provided to the site from Third Avenue and the Spring Pointe apartments.

Julie Gyuricza, Stormwater Engineer, stated that she had reviewed the plan and provided recommendations for protection of the stream. She stated that the land disturbance and gardening activities would not have a harmful impact on the stream. She stated that since there was no rested vegetation in the stream channel now, this project would not require review from the state or Soil and Water Conservation commission. She stated that a silt fence and straw bales would provide good protection for the water.

Mr. Burnette asked if anyone would like to speak in favor of the variance.

Lindsey Mann, 238 Second Avenue, stated that she was in full support of the project. She stated that she had a petition of support from residents on Second and Third Avenue.

Caroline Leech, pastor of Oakhurst Presbyterian Church, state that she was in support of the project. She stated that she would like the city's assistance with enforcing the parking regulations and better parking signage for the dog park across the street from the church. She stated that she would like to work out an agreement with the city that worked for the church and would allow for the garden.

Patti Garrett, 117 Jefferson Place, stated that she served on the board of the Oakhurst Community Garden and was in support of this project.

No one spoke in opposition to the variance.

Mr. Norton stated that straw bales, a silt fence or a planting strip were all acceptable mitigation measures.

Mr. Williams and Mr. Goldberg stated that neighborhood support and an access and parking agreement with the church were critical to approval of this variance.

On a motion by Mr. Williams, second by Mr. Goldberg and all voting "aye," the Board of Appeals approved a variance from the minimum stream buffer requirements at 0 Third Avenue (Sugar Creek Detention Basin) subject to the following conditions:

- *that the variance shall be limited to and conditioned by plans substantially similar to those submitted with the application;*
- *The city must obtain a parking and access agreement with Oakhurst Presbyterian Church if they use their parking lot to access the site and,*
- *the applicant shall incorporate the Stormwater Engineer's recommendations outlined in the memorandum dated July 31, 2009 as amended by the board August 10, 2009.*

There being no further business, the meeting was adjourned.