

Red Lion Borough Planning Commission
Meeting Minutes
Monday, July 19th, 2021

Members present

Cindy Barley
Beth Nidam
Joyce Seabolt
Muriel Slenker
Ian Montgomery
Wade Elfner

Others present

Dan Shaw, Codes/Zoning
Mike Craley, Solicitor
Stacy Myers, Recording Sec'y

Visitors

Keith & Tammy Hetrick

1. The meeting was called to order @ 7:02p.m. followed by the pledge to the flag.
2. Ms. Nidam made a motion to approve the June 21st, 2021 Meeting Minutes; Mrs. Barley seconded. All were in favor; motion carried.
3. **A Zoning Hearing application was submitted by Keith & Tammy Hetrick for a Variance** to allow a rear setback reduction from 40' to 30' to build a deck on the back of their house, located at 118 Keener Avenue in the Residential Town zone. There is an existing small wooden deck in their rear yard, coming off the kitchen. That is not getting replaced but will be added on to with the 10'x10' composite deck, replacement railings & steps to access the rear yard.
Dan Shaw said the rear setback in the Residential Town zone is 40' and it's approx. 40' from the house to the rear of the Hetrick property, so the proposed deck will encroach into that setback by 10-feet, requiring the Variance. They will still have 30-feet of yard left to enjoy. The Hetrick's live in the 2nd unit (from the end) of a 5-unit rowhome that is constructed as 1 building & considered 1 building per the Zoning Ordinance. All the yards are divided by fences and the Hetrick's said their neighbors are all amenable to the proposed deck. If the Planning Commission recommends approval & this Variance request goes to the Zoning Hearing Board, all property owners within 200' of the Hetrick's will be notified of the Zoning Hearing date/time.
The existing deck comes off the ground (first) floor of the home from the kitchen & the proposed deck will extend from that. The yard slopes, so there will be a few steps built from the existing deck down to the new deck for easier access. Other steps will come from the new deck to access the rear yard, but Dan said steps are allowed in a rear setback.
Mr. Montgomery had thought a Variance should only be approved if the resident can't use their property in it's current state & Mr. Craley said that is the case with a traditional hardship Variance, and the Hetrick's property doesn't meet the legal requirements for a traditional hardship Variance.
Could the Variance be approved using the de minimis doctrine to say this deviation is minor enough to constitute the de minimis variance? The Hetrick's want to take a ¼ of the setback for the deck, so only 25%. Mr. Craley said rear setbacks are put in place partly for fire safety, to keep adjoining properties safe in the event of a fire. In this case, behind the Hetrick's property is Cypress Lane & on the other side of Cypress is a building (up against the setback) & the Keener building, also against the setback, so there are 2 non-conformities behind the Hetrick property. Will it ruin the public policy objectives of the rear setback requirements to allow the Hetrick's 10-feet for their deck? Mr. Craley said, in his opinion, it will not. If the Committee wishes to recommend approval, he suggests it be on the grounds of the de minimis doctrine because it doesn't meet the legal requirements of a traditional hardship Variance.
Mrs. Barley made a motion to recommend approval of the Hetrick's Variance under the de minimis variance; Mrs. Slenker seconded. Motion carried with Mr. Montgomery opposing.

4. **Other Business**—

- The Zoning Hearing for the above application will be held on Tuesday, August 10th @ 6pm. Mr. Craley suggested the Hetrick's bring pictures to the Zoning Hearing that show their rear yard, the current deck & the area for the proposed deck. And if any of their neighbors want to attend to show support, Mr. Elfner said that always helps too.
- Dan asked all Committee members to sign the Rexroth plans (401 E. Broadway & Redco Avenue) after the meeting.

5. **Adjournment**—With no further business, Mrs. Barley made a motion to adjourn the meeting @ 7:22p.m. Mrs. Slenker seconded. Motion carried; meeting adjourned.

Respectfully submitted by:

Stacy Myers, Recording Secretary