



Meeting Date: June 1, 2023

AGENDA MEMORANDUM

To: Board of Adjustment

From: Tammy King
Zoning Manager

Title: Request for Approval of Variance from the Minimum Rear Yard Setback
PD (Planned Development)

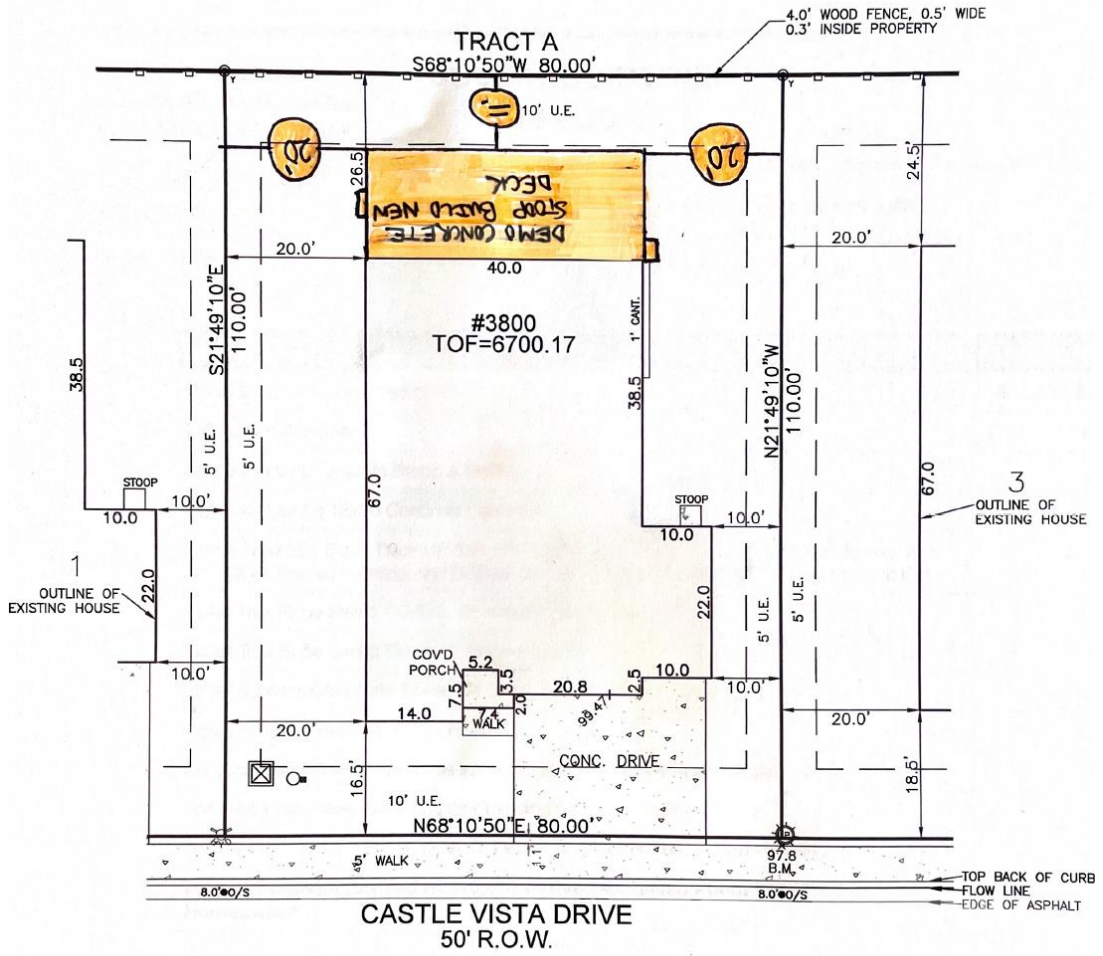
Subject Property: 3800 Castle Vista Drive

Summary

The purpose of this staff memorandum is to seek action by the Board of Adjustment on a request by Thomas G & Judith L. Snoich for variance from the minimum required rear yard setback of twenty feet (20') to build a deck on a single-family lot in the Oaks at Castle Rock PD Zone (Planned Development). The subject property is addressed as 3800 Castle Vista Drive, Zoned PD, and is also described as Lot 2 Block 6, Oaks Of Castle Rock 3rd Flg.

The applicant has submitted a site plan, which will constitute a nine foot (9') rear yard variance to the minimum required twenty foot (20') rear yard setback in the PD zone district, if approved by the Board. Patios and decks below 30 inches in height may encroach into the required setback, but in no instance may be closer than 5 feet to any lot line. This variance, if approved, would allow a rear yard setback of eleven feet (11') for the new deck on a single family lot.







Discussion

The applicant is requesting consideration by the Board for approval of a variance from strict enforcement of the zoning regulations for the minimum setback from the rear property line to build a deck on a single family lot that encroaches nine feet (9') into the required twenty feet (20') rear setback. Patios and decks below 30 inches in height may encroach into the required setback, but in no instance may be closer than 5 feet to any lot line.

- Home is a ranch without a walkout basement
- The yard slopes 4' from the rear of the home to the rear property line, which then makes the deck more than 30' in height, therefore needing to meet 20' setback
- Proposed deck will not encroach into any easements
- HOA has approved the request

- Support from neighbors
- The home backs to Town Owned 11.04 acre Tract (Tract A Oaks of Castle Rock)

Town of Castle Rock Municipal Code 17.06.020 Powers and Duties

B. Variances

1. Following proper notice; the Board shall hear and decide an appeal on specific cases for a variance to the following: *Minimum REAR yard.*
2. In making its decision on a variance application, the Board shall consider the following and find:
 - a. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
 - b. The practical difficulties or unnecessary hardship were not created by the applicant;
 - c. Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
 - d. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
 - e. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
 - f. The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.
3. The Board may impose reasonable conditions on the grant of a variance. In addition, upon approval of a variance, the Board shall determine whether the variance is limited to the condition existing on the property at the time of approval, or whether the variance runs with the land regardless of whether the conditions on the property change.
4. The decision of the Board shall be final, subject to judicial review.

Staff Findings

- A. The strict enforcement of the provisions of this Code will result in practical difficulties or un-necessary hardship to the applicant, inconsistent with the intent and purpose of this Code:

Staff finds that strict enforcement of the Code will result in practical difficulties contrary to the intent and purpose of the Code due to the topography of the lot.

- B. The practical difficulties or unnecessary hardship **were not** created by the applicant:

Staff finds the practical difficulties or unnecessary hardship was created by the small lot and topography of the lot.

- C. Unique physical conditions or exceptional topography exist on the subject property and similar, unique conditions do not exist on neighboring properties:

Staff finds that unique physical conditions or exceptional topography exist on the property.

- D. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography:

Staff finds that unique physical conditions would prevent the property from being developed in conformity with the provisions of the current Town code due to topography;

- E. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property:

Staff finds that the variance, if granted, will not substantially alter the character of the surrounding neighborhood; and the construction of the deck and pergola will generally be harmonious with other surrounding neighboring properties

- F. The variance, if granted, will not create an adverse effect on public health, safety and welfare, or cause harm to adjacent properties:

Staff finds that the variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent property if the proposed new construction meets all current building code requirements.

Staff Recommendation

Staff recommends APPROVAL based on the following:

- The grade difference in the rear yard is approximately 4' from the rear of the home to the rear property line, which then makes a portion of the deck more than 30' in height, therefore needing to meet 20' setback
- Proposed deck will not encroach into any easements
- HOA has approved the request
- Support from neighbors
- The home backs to Town owned 11.04 acres tract (Tract A Oaks of Castle Rock)

Motion Options

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1

I MOVE TO APPROVE a variance for 3800 Castle Vista Drive from the minimum required rear yard setback to construct a deck on a single-family lot in the PD zone; based on the request meeting the approval criteria in Title 17.06.020, as presented.

Option 2

I MOVE TO DENY the request for a variance for 3800 Castle Vista Drive from the minimum required rear yard setback to construct a deck on a single-family lot in the PD zone; based upon the fact that the required hardship has not been demonstrated.

Option 3

I MOVE TO CONTINUE THE PUBLIC HEARING TO THE NEXT REGULAR MEETING ON JULY 6, 2023.

Attachments:

Attachment A: BOA Application Packet – BOA23-0004 – 3800 Castle Vista Drive