

9/08/2020 (Tuesday) City of Hood River Planning Commission Meeting Notes
Meeting held via Zoom Webinar

Commissioners Present: Arthur Babitz (AB), Sue Powers (SP), Erika Price (EP), Megan Ramey (MR), Tina Lassen (TL), Mark Frost (MF), Bill Irving (BI)

Staff: Planning Director Dustin Nilsen (DN), Associate Planner Jennifer Kaden (JBK), Senior Planner Kevin Liburdy (KL)

Meeting went live: 5:31pm

AB gave participants time to get connected

I. Call to Order

AB call to order: 5:33pm, with explanation of meeting via Zoom video conference based on Governor's order for COVID-19.

II. Planning Director's Update

DN noted that today is the last day for submittal of rebuttal by the applicant for the Adams Creek Cohousing development, and the next hearing will be held on September 21. A hearing also has been scheduled for October 5 for a zone change and subdivision.

III. Public Hearing

AB read the procedural script.

AB asked if there are any questions about procedures before we begin – if so, click on “participants” button at bottom of screen and “raise hand.”

Hand raised by Kristen Campbell.

Kristen Campbell asked if her client can be heard by phone.

Lisa Irwin asked if she can be heard.

AB confirmed both were heard.

A. FILE NO. 2020-14 – Irwin Variance

PROPOSAL: The applicant requests a Variance to the maximum allowed building height to construct a roof over an existing 3rd story deck.

AB requested conflict, bias or ex parte communications.

MR none; TL none; SP none; MF none

Bill I may have experience as a developer and homeowner with roof deck living area. No bias or conflict.

AB asked Bill what he learned from his experience.

BI developed townhouses on Sherman behind court house. Six units had outdoor decks, two different treatments were used including a painted surface and a roof membrane. Have similar system in my home and it does not leak.

EP none

AB have bias and will recuse. Asked PC for a vote to chair meeting.

TL moved to have Sue Powers act as chair for tonight's hearing.

MF second.

AB discussion? None.

PC 6-0 (AB abstained), motion passed.

SP said she is not officially the vice chair.

AB as a reminder we've heard disclosures but not challenges to disclosures.

SP read from procedural script and asked if audience would like to question or challenge commissioners.

No hands raised.

SP asked if commissions would like to challenge. None. SP asked for staff report.

Staff report: JBK explained that proposal initially came in as a building permit and at that time it was determined the roof exceeded the maximum height standard. Existing non-conforming structure. No provision in code allowed ministerial approval by staff. Applicant ultimately applied for the variance. JBK explained applicable code provisions including R-3 standards, non-conforming structure provisions in 17.05 and variance provisions in 17.18, as a quasi-judicial review per 17.09.

JBK explained structure was built when standards allowed maximum height of 35 feet. Because height of roof exceeds current 28-foot maximum, expansion can't be approved as a change to non-conforming structure.

JBK explained the four criteria for a variance.

JBK noted that sun, wind and rain exposure is not unique to this property as indicated by applicant.

JBK addressed second criterion and applicant's response that the proposed roof is lower than the existing roof. Testimony was received from neighboring property owners concerned about the height.

JBK explained the third criterion and agreed with applicant that the change to the height standard was not purposefully self-imposed.

JBK explained the fourth criterion and the applicants' efforts to repair the problem. If a roof is the only solution, the proposal is the minimum necessary. However, spoke with the Building Official who believes there may be alternatives to constructing a roof that would not require a variance, for example, removal of deck structure and reinsulate the area below the deck, reconstruct it with new plywood and roof material to drain with use of non-combustible materials due to location in the wildland urban interface though this may be more expensive. Another alternative would be to remove the deck and repair roof.

JBK explained that the commission is being asked to consider the four criteria for a variance. Questions?

Questions of Staff: MF asked about Exhibit H and the original house not complying with the height standard. Is there merit in Exhibit H?

JBK is unsure what is being referred to. It is unclear in the building permit records where height was measured from, and JBK explained how height currently is measured. At time of permit issuance, staff may have measured from finished grade but not sure.

SP asked about applicant's comment of a maximum height of 32'10".

JBK explained that the planning department's review did not specify such a height but stated instead that the allowed height was 35 feet as on the second page of Attachment C. JBK didn't know what that is referring to.

BI asked if there were other approval options considered.

JBK responded that the non-conforming structure provisions allow certain actions but not to make a non-conforming feature less conforming.

MF asked if the City had not reduced the height standard, would this be an issue today?

JBK responded probably not but, again, the methodology of measuring height has changed too. Current proposal may be slightly above the 35 feet if measured using the current methodology.

SP asked for any other questions.

TL asked if top roof elevation is 166'.

JBK confirmed it is approximately 166.15'.

TL asked if the proposed cover is approximately two feet below that.

JBK confirmed and noted that she included a diagram in Attachment 2.C with elevation notes.

SP any other questions? None.

SP asked for applicant's testimony.

DN promoted Kristen Campbell to a panelist position to speak.

Applicant Presentation/Testimony: Kristen Campbell appreciated the thorough staff report. Provided detailed account of expenses and efforts made to resolve the issue caused by intense sun exposure. Proposed cover will be two to two and half feet lower than the existing roof and those of neighbors. DN promoted Lisa Irwin to a panelist position to speak.

Kristen asked Lisa if she would like to correct or address anything she's heard.

Lisa Irwin was uncertain about the measurement point which likely was finished grade. Housing construction started in 2004, completed in August of 2006.

SP asked if there are any other speakers.

DN confirmed there are none.

SP asked if there are questions for the applicant.

MF asked if Art Larsen was the architect and his background.

Lisa confirmed Art Larsen's background, long time Hood River resident recently relocated.

SP asked for other questions. There were none.

Staff Recap: SP staff recap?

JBK none but noted that staff report does not include a recommendation. Left decision open to the commission to determine with findings for the four criteria.

SP closed hearing 6:16pm, and commission will now deliberate and encouraged commission to address all four criteria.

Planning Commission Deliberation: EP as an architect and resident of the northwest familiar with decks, agree there are alternates to roofs over decks.

MR nothing to add at this time.

MF also an architect and also agree that by keeping heat off membrane with pavers. Regardless, in cases where roof decks are covered, materials perform well. If at the time of design the architect would have designed with a roof if it was expected to be needed. Have heard stories from owners who were surprised by the heat. So, probably not unique circumstances but lack of foresight in design. Benefits of making building perform outweigh cons. Owner not at fault because City changed regulations. Struggling with whether there are other ways to address this. Good way to mitigate issue.

MR agrees with Mark. Environmental benefit of allowing owners to protect the problem.

TL struggling because height restrictions are an issue to keep buildings in scale with surroundings. But, it became a problem after City changed zoning. I see both sides but not sure this is the only or best solution. Torn over height.

SP asked if Tina agrees with Mark and Megan that all four criteria are met.

TL not sure it's a unique circumstance.

BI noted that all four criteria need to be met. Haven't seen a case made that this is a unique or unusual circumstance. We all live in same environment, no on criterion 1. Neighbor comments expressed concern but not expecting significant neighbors so yes on criterion two. Not self-imposed, yes on criterion 3. Leaky deck could be addressed without a variance with other materials, so no on criterion 4, and no overall.

SP code change created unique circumstance. Sun exposure not unique but there are unique circumstances. Benefits greater than negative impacts. Not self-imposed. Last criterion is most difficult but this might be the minimum that has the greatest long term impact based on comments from contractors.

EP agree with Bill, no to approval.

TL on fence. What do we do with a tie?

JBK explained a tie fails, need a majority to approval.

DN also need to ask if there is anything that would lead one to change their position.

BI do we have a tie? If there is a tie, can a recused person be brought back?

TL I don't see it as unique or unusual, so no to approval.

SP asked about procedure – need a vote?

DN yes, and must exhaust discussion before using “rule of necessity” to bring back a recused commissioner.

MF not sure this roof will accomplish goal and could continue to fail. There are other decks on the building that are performing.

SP contractors said this is the best long-term solution.

MF understood.

BI agree with Mark. There are other technologies that can be used. It may be that the contractors who looked at it weren't familiar with options. Don't see a way to get to approval.

SP motion?

MF move to approve the variance subject to conditions in staff report.

MR second.

SP all in favor? MF, MR and SP, yes.

EP no.

BI no.

TL no.

SP 3-3, motion does not pass.

SP other comments or motions?

DN still in deliberation, or alternative motions.

BI for those who voted to approve, it's not clear to me that staff's findings support approval. So will need to update findings too.

MF makes sense. Seems like we're all questioning south facing deck as a unique circumstance. But, if City hadn't changed height standards, the owners would have been able to remedy problem so that's unique.

TL does this apply to every house that was constructed before the height standard changed?

MF understand concern.

BI asked staff for direction on the unusual circumstances criterion.

DN confirmed it is the applicant's argument to make. There are numerous potential characteristics. Has the applicant moved you to make a finding that this is a unique circumstance?

SP I see this as a unique location and exposure. But, not sure this is the minimum that could be done to alleviate the problem. I extended my thought that this is the best long-term solution but maybe that's incorrect. Does anyone have any thoughts on that?

BI If this is truly a problem and you want to waterproof this portion of the house, they could also enclose the space so that's another potential solution. We're trying to address a problem – how, put a roof on it or a membrane.

MF first question as an architect is whether it's designed with slope and if membrane is turned up at edge. But understand we're all trying to find the least imposing solution.

SP getting rid of deck increases negative impact to the owner.

TL I think we all sympathize but not sure it's our job to correct the original architect's design. We need to stick to criteria. Is it unique, and is it the minimum necessary?

BI there is no proof that the solution will alleviate the hardship, after three previous efforts.

MF like TL concerned about precedent.

MR why try change votes, if it's a tie and it fails?

BI cleaner if not a tie.

SP is a tie a problem?

DN the motion failed, but that's different than a vote to deny.

BI move to deny variance based up the fact that it does not meet all four variance criteria.

EP second.

SP all in favor? BI, TL, EP yes.

MF yes, based on whether it's the minimum needed. I think there are other ways to solve this.

MR no.

SP no.

SP passes 4-2 to deny variance.

JBK will write up final order to follow up with commission chair and applicant. Decision is appealable.

SP other matters?

DN cohousing application will be reviewed September 21, and subdivision application on October 5.

This decision will be final after notices are mailed and appeal period expires.

IV. Adjourn

SP meeting adjourned at 6:52 pm.



Oct, 21, 2021

Mark Frost, Chair

Date



October 21, 2021

Dustin Nilsen, Planning Director

Date (Approved)