

1 Depoe Bay Planning Commission
2 Regular Meeting
3 Wednesday, January 8, 2014 – 6:00 P.M. Depoe Bay City Hall
4

5 PRESENT: G. Steinke, B. Blessinger, P. Leoni, R. Hageman, J. Hayes, M. Kiefer
6 B. Taunton (arrived 6:10 p.m.)
7 STAFF: City Planner L. Lewis, Recording Secretary C. Duering
8

9 I. CALL MEETING TO ORDER

10 Hageman called the Meeting to order and established a Quorum at 6:00 P.M.
11

12 II. APPROVAL OF MINUTES: November 14, 2013 Regular Meeting.
13

14 Motion: Blessinger moved to approve the Minutes of the November 14, 2013 Regular Meeting as written. Hayes
15 seconded.
16

17 Vote: Motion passed.

18 Ayes: Steinke, Blessinger, Leoni, Hayes, Kiefer

19 Abstain: Hageman
20

21 III. ELECTION OF PRESIDENT AND VICE-PRESIDENT
22

23 Motion: Blessinger moved to keep the President and Vice-President as they are (Hageman President, Leoni Vice-
24 President). Hayes seconded. There was no discussion.
25

26 Vote: Motion passed.

27 Ayes: Blessinger, Leoni, Hageman, Hayes, Kiefer, Steinke
28

29 III. ITEMS FROM THE AUDIENCE

30 Russ Hunter, 36 Combs Street, stated he was at the Planning Commission Meeting because the Granat Family has
31 offered to donate a Parking Lot next to his Property to the City and the Mayor recommended that he come talk to
32 the Planning Commission. He explained that he accesses his Property through the east corner of the Subject
33 Parking Lot (to his knowledge there is no Recorded Easement but assumes it is Grandfathered In) in exchange for
34 maintaining the South Corner Storm Water Catch Basin and wants to protect his Ingress/Egress Rights. After
35 brief discussion the City Planner/Hageman recommended he: (1) Provide the City with a copy of his Written
36 Agreement with the present Owners for City Council's review and consideration; (2) Attach a Cover letter
37 requesting that the City grant him the same Access Rights; (3) Plan on attending the City Council Meeting when
38 the Agenda Item is being discussed.
39

40 IV. PUBLIC HEARING ITEMS
41

42 A. Case File: #1-VAR-PC-13

43 Applicant: Harry and Colleen Schmidt

44 Application: Variance to Setback Standard

45 Zone, Map and Tax Lot: Residential R-4, 09-11-08-AB #03000

46 Location: 125 S.E. Bay Avenue
47

48 Hageman said Testimony and evidence given must be directed toward Criteria described by the City Planner, or
49 other Criteria in the Code that the Testifier believes apply to the request. Failure to raise an issue, accompanied
50 by statements or evidence sufficient to afford the Commission and the parties an opportunity to respond to the

1 issue precludes appeal to the State Land Use Board of Appeals on that issue. Application materials or other
2 evidence relied upon by the Applicant had been provided to the City and made available to the Public.
3

4 Hageman explained the Public Hearing procedure: The City Planner will review the Staff Report. Applicants
5 will have the opportunity to present information relevant to their Application, followed by Testimony in support
6 of the Application, then Testimony in opposition, with the Applicant having the opportunity for rebuttal. Unless
7 there is a request to hold the Record Open, Testimony will be closed and the Commission will enter into
8 Deliberations on the Application.
9

10 Hageman informed the Planning Commission/Audience that their decision will be based on the Depoe Bay
11 Zoning Ordinance Five Circumstances for Granting a Variance (Section 8. Variances Section 8.020). Hageman
12 asked if any Commissioner had ex-parte contact, conflict of interest, or bias to declare. Leoni declared she has
13 passed the Subject Site many times when driving on Bay Street. Hageman declared he drove to the location of the
14 Subject Site specifically in preparation of the Public Hearing. Taunton said she looked out the window this
15 evening towards the Subject Site. There was no objection to any Planning Commissioner hearing the Case.
16

17 Lewis summarized the Staff Report (copy attached to original of these Minutes). Lewis specifically noted a
18 unique circumstance: Subject Property is elevated 8½ feet above Bay Street and the second level Deck (Deck in
19 question) is elevated 15½ ft. above Bay Street. Written Testimony was received in opposition to the Application
20 from Clayton Strack (copy attached to original of these Minutes.)
21

22 Hageman asked the Commissioners if they had any questions. Brief discussion ensued regarding the following:
23 (1) Deck history (i.e. date the original Decks were built and their configuration; the re-construction of the existing
24 Decks, etc.); (2) Licensed Contractor should be aware of Lincoln County Building Code and Depoe Bay Zoning
25 Ordinance Standards; (3) DBZO Article 7. Non-Conforming Uses Section 7.050 Extension, Expansion,
26 Enlargement, or Renovation of Non-Conforming Structures; (4) the southwest corner of the 2nd Level Deck
27 extends approximately 1 ft. 6 in. into the Public Right-of-Way and is approximately 2 ft. 6 in. from the existing
28 Retaining Wall; (4) Mr. Strack owns Property on Davenport (1 block to the east and a few lots to the north of the
29 Subject Lot).
30

31 The Applicant was given an opportunity to testify and answer questions from Commissioners. Harry Schmidt
32 introduced his wife, Colleen Schmidt, and testified: (1) They absolutely love Depoe Bay and have been visiting
33 Depoe Bay for 35 plus years and acquiring property for the last 18 years in preparation of retirement; (2) not a
34 Licensed Contractor and had no intention of deceiving anyone; (3) numerous people love/appreciate the
35 renovations/improvements to the home; (4) brief synopsis of the previous Decking (configuration, condition, etc.)
36 and reasons why they re-constructed the Decks.
37

38 The Applicants and Planning Commission further discussed (1) Subject Structure is a 3-plex - Schmidts have
39 been living on 2½ floors for 3 years and have an open rental in the Basement; (2) the 8 ft. Decks became a
40 hardship when the rotten Decking was removed and they replaced it with an appealing, practical sq. footage Deck
41 useful for entertaining friends and family; (3) Planning Commissioners expressed their appreciation for the
42 improvements the Applicants have made to the house.
43

44 Hageman called for Testimony in support of the Application.
45

46 Pete Cameron, 60 S.E. Cook Avenue, testified (1) Original 8 ft. Decks and reconstructed Decks have not
47 impacted/blocked his Bridge/Harbor Views; (2) referenced Strack's Written Testimony and disagreed – the House
48 was an eyesore prior to the purchase by the Applicants (3) Previous Decking was rotten and needed to be removed
49 causing a hardship; (4) In his opinion it would be a financial hardship to the Property Owners to have to remove
50 and reconstruct the Decks.
51

1 Mike Eggleston, Shoreline Design, explained the two Drawings submitted with the Application illustrating the
2 same visual impact to the Street by the previous 8 ft. Deck and the reconstructed Decks.
3

4 There was no Testimony in opposition to the Application. There was no request to keep the Record Open. The
5 Public Hearing was closed and Deliberations began.
6

7 The Planning Commission discussed the following: (1) City Planner and Hageman received inquiries regarding
8 whether or not the Deck was constructed in accordance with City Standards approximately two years ago; (2)
9 Aesthetics and View Protection are not applicable to DBZO criteria for granting a Variance; (3) Non-Conforming
10 original 8 ft. Deck; (4) Financial hardship to Applicant if Variance Request is denied; (5) Cited and discussed
11 Application fails to satisfy - Section 8.020 Circumstances for Granting a Variance Item 5. *The Hardship asserted*
12 *as a basis for the Variances does not arise from a violation of the Zoning Ordinance; Item 2. The Variance is*
13 *necessary for the preservation of a Property Right of the Applicant substantially the same as Owners of other*
14 *Property in the same Zone or vicinity possess; (6) Reconstructed Deck's Encroachment onto City Property; (7)*
15 *Instability of Bay Street; the Harbor Hillside; and the cracking Retaining Wall (photograph submitted by*
16 *Applicant); (8) Concern regarding setting a negative precedent. Hageman called for further comments. There*
17 *was none. Hageman called for a Motion.*
18

19 Motion: Leoni moved to deny the Variance Request (Case File #1-VAR-PC-13). Kiefer seconded.
20

21 There was no discussion.
22

23 Vote: Motion passed.

24 Ayes: Taunton, Leoni, Hageman, Hayes, Kiefer, Steinke

25 Noes: Blessinger
26

27 There was lengthy conversation between the Applicant and the Planning Commission.
28

29 It was the consensus of the Commission to direct Lewis to prepare the Findings, Conclusion and Final Order for
30 review and approval at the next Meeting.
31

32 V. UNFINISHED BUSINESS 33

34 A. Ordinance No. 259 Section 2. Organization of the Commission: (e.) 35

36 The Planning Commission continued their discussion of Ordinance No. 259 (copy attached to original of these
37 Minutes) specifically (e) *The Commission shall meet at least once each month, and the regular meeting place of*
38 *the Commission shall be at City Hall; and the City Council shall assign an office in City Hall for transaction of*
39 *the business of the Commission and the keeping of its records. (f) The Commission may make, establish, and*
40 *alter rules and regulations for its government and procedures consistent with the laws of the State of Oregon and*
41 *with the Charter and Ordinances of the City of Depoe Bay.*
42

43 The Planning Commission discussed the following: (1) Reiterated matters discussed at the November 14, 2013
44 Meeting; (2) Amending (e) *The Commission shall may meet at least once each month, and the regular meeting*
45 *place of the Commission shall be at City Hall* (3) Replacing *shall* with *may* does not solve the issue (i.e. if there is
46 work to be done we just won't meet); (4) Amending (e) *The Commission shall meet at least once each month, or*
47 *as needed, or no less than once a year and the regular meeting place of the Commission shall be at City Hall.*
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49 After lengthy discussion they agreed to delay making a recommendation to City Council to amend Ordinance No.
50 259 and tasked Steinke with writing a recommendation and Lewis with making a notation for future
51 consideration.

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VI. NEW BUSINESS

There was none.

VII. CITY COUNCIL LIAISON SCHEDULE AND REPORT

Hageman reminded the Commissioners: If anyone has a conflict to make arrangements with another Member to attend the City Council Meeting on their behalf and if attending notify Staff and request a copy of the Meeting Packet.

Leoni reported on the following items: (1) Without City Attorney’s legal review/advice Councilor Skip Hoitink was removed from City Council because he is temporarily living in Newport; (2) Planning Commissioners Hageman, Hayes and Taunton, were reappointed to the Planning Commission; (3) Harbor Commissioner Lars Robison was not reappointed.

Hageman reported: (1) League of Oregon Cities Small Cities North Coast - Region 1 February 7, 2014 Meeting Budget is not to exceed \$950; (2) all City Commission/Committee Applicants were reappointed except for Lars Robison.

VIII. PLANNER'S REPORT

Lewis reviewed the Planners Report – Land Use Activity November 7th thru December 31st (copy attached to the original of these Minutes).

IX. PLANNING COMMISSION CONCERNS

Taunton expressed her continued concern regarding City of Depoe Bay Sign Regulations and Permit Procedures. Hageman thanked Taunton for her continued participation on the Planning Commission.

X. ADJOURN

There being no further business, the Meeting was adjourned at 7:20 p.m.

Roy Hageman, President

Carla Duering, Recording Secretary