

CITY OF PULLMAN

Public Works and Planning Departments

325 S.E. Paradise Street, Pullman, WA 99163
(509) 338-3220 or (509) 338-3213 Fax (509) 338-3282
www.pullman-wa.gov

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director
Jason Radtke, Assistant Planner *JR*

FOR: Meeting of October 17, 2011

SUBJECT: Zoning Code Variance No. V-11-2
Mifflin Lot Coverage Variance

DATE: October 13, 2011

Staff Report No. 11-8

BACKGROUND DATA

Applicant: Ingrid Mifflin

Property Location: 775 SE Ridgeview Court (See Attachment A, Location and Zoning Map).

Applicant's Request: Obtain a variance to construct a deck, thereby increasing the lot coverage on the subject property to 42.7 percent, as opposed to the 40 percent maximum coverage prescribed in the zoning code (See Attachment B, Application V-11-2; and Attachment C, Site Plan).

Property Zoning: R2 Low Density Multi-Family Residential.

Applicable Zoning Code Regulations: Subsection 17.75.080(5) states that the maximum allowable lot coverage in the R2 district is 40 percent.

Property Features: Current Land Use: Single family house.
Lot Area: 7,335 square feet.

Utilities: The property is served by city water and sanitary sewer lines.

Topography: The property is graded for existing residential development to the south with some moderate slopes at the north of the property.

Vegetation: There are no significant trees in the area proposed for the deck.

Adjacent Zoning
and Land Use:

North: R2 district; single family homes and duplexes.

South: R1 Single Family Residential district; single family homes.

West: R1 and R2 districts; single family homes and duplexes.

East: R2 and C3 General Commercial districts; single family homes and Koppel Farm.

Access:

SE Ridgeview Court, designated as a local access street in the Pullman Comprehensive Plan Arterial Street Plan Map.

Hearing
Notification:

Notice of Public Hearing mailed 10/4/11; Notice of Public Hearing published 10/6/11; Notice of Public Hearing posted at subject property 10/5/11.

Comments of Affected
Departments/Agencies:

Notification of the applicant's request was distributed to affected governmental entities. These entities, and a summary of their responses to the notification, are presented below.

- a. Department of Public Works: No concerns.
- b. Protective Inspections Division: *No response.*
- c. Department of Public Services: *No response.*
- d. Fire Department: No concerns.
- e. Police Department: No concerns.
- f. Pullman School District: *No response.*

PERTINENT PLANNING PROVISIONS

There are a number of provisions contained within the Comprehensive Plan and zoning code that relate to this variance request. These provisions, which are available for review at the city's web site (www.pullman-wa.gov), are referenced below.

Comprehensive Plan Goal LU4 and its respective policies.
Zoning Code Sections 17.01.050, 17.75.010, 17.75.080 and 17.130.020

ZONING CODE VARIANCE REVIEW CRITERIA

According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required by this section can be made.

- (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.
 - (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.
 - (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
- (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
- (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
- (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
- (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

STAFF ANALYSIS AND RECOMMENDATION

After careful review of this application, planning staff believes the proposal should be denied. The applicant wishes to construct a deck on the rear of her house. In order to accomplish this objective, the applicant has asked that the allowable amount of lot coverage be increased to 42.7 percent. Without a variance, she would not be permitted to exceed the 40 percent lot coverage normally provided for in the R2 zoning district. As noted earlier in this report, the property itself has already been developed with a single family residence. In 1999, an administrative variance was granted by planning staff to enable the construction of a deck that brought lot coverage on the subject property up to 42%, the maximum allowed through the administrative variance process in this zoning district. For an administrative variance, by code, the planning department need not make the stringent findings that the Board of Adjustment must make for a full variance such as the instant proposal. In staff's view, there does not appear to be a necessity to approve a secondary deck structure that would further encumber this property.

Zoning Code Subsection 17.130.020(1)(a) states that a variance may be granted by the Board based on special circumstances pertaining to the parcel under consideration. This subsection indicates that special circumstances include such considerations as the size and/or shape of the lot, topography, and vegetation. Staff believes that the applicant has not provided evidence of special circumstances that would justify the proposed variance. The applicant states that the residence of one of their neighbors extends further into the rear yard than the proposed deck, and that, while other neighbors have built a retaining wall to level out their yard, a retaining wall would not be a feasible alternative in the case of the applicant, and would have a greater environmental impact. However, neither of these arguments would appear to actually concern the issue of lot coverage. Neither the rear yard setback nor the environmental impact of the proposal is in question here. The photos provided by the applicant showing the area of the proposed deck do not seem to indicate that any of the previously listed special circumstances would apply directly to said deck location (See Attachment D). The applicant also states that neighboring properties have similar decks. However, these structures presumably conform to the design standards for the R2 zone. Given that no special circumstances have been made evident, the request for an increase in allowable lot coverage from 40 to 42.7 percent would be considered a grant of special privilege compared to other properties in the vicinity.

Since the proposal to build a deck without sufficient lot size does not appear to be warranted in this case, staff believes that the applicant's proposal would not advance the objectives of Comprehensive Plan Goal LU4 to "preserve opportunities for high quality, diversified life styles within the community's residential neighborhoods" and Zoning Code Subsection 17.01.050(1) to "promote the public health, safety, order, convenience, and general welfare." Based on the preceding information, planning staff recommends denial of the requested variance.

FINDINGS OF FACT AND CONCLUSIONS

The applicant has provided proposed findings of fact for this case (See Attachment E). Planning staff has also prepared findings of fact and conclusions for consideration at the public hearing. Staff's findings and conclusions are incorporated in draft Resolution No. BA-2011-4 (See Attachment F).

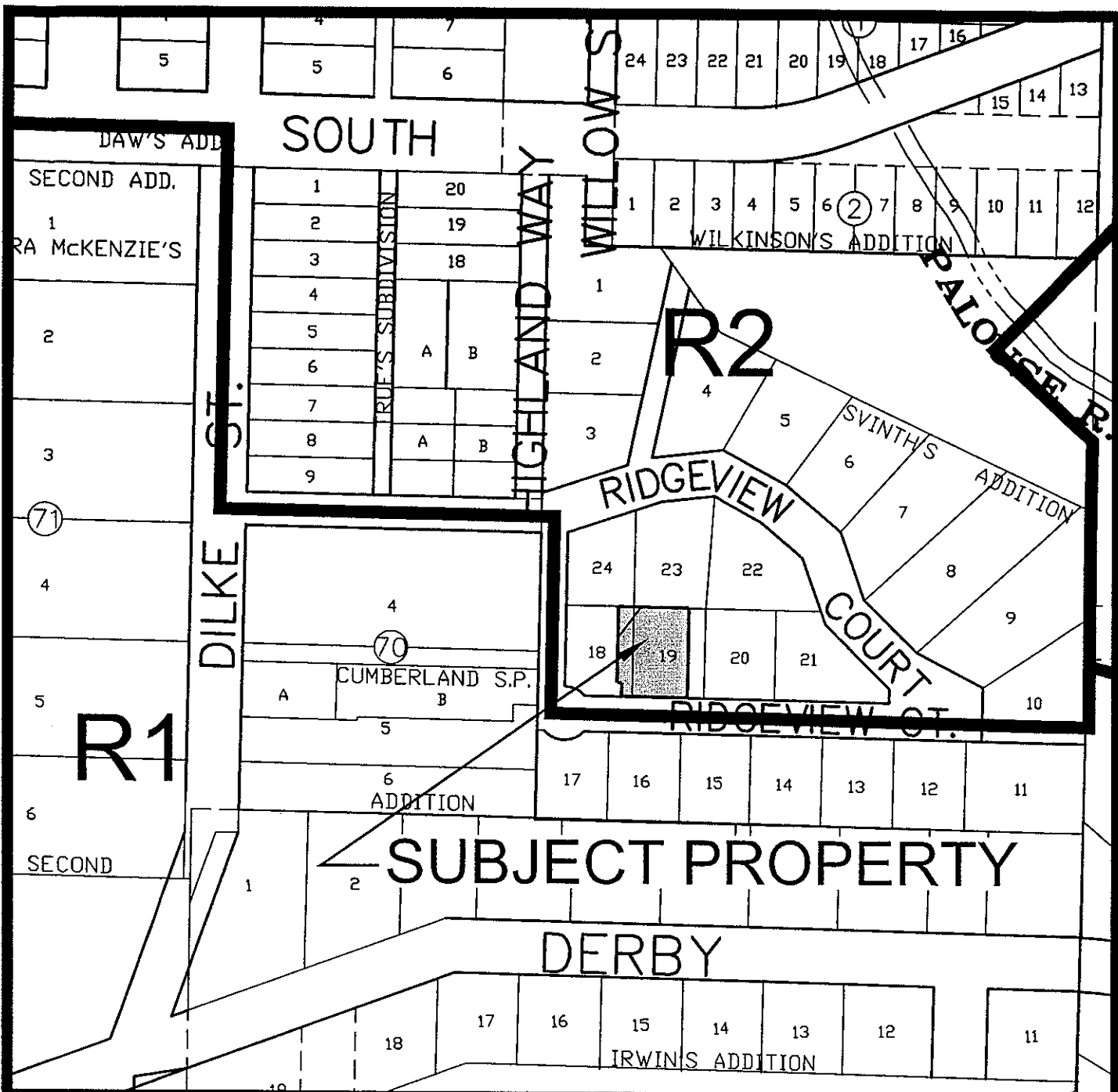
Prior to making a decision to approve or deny a zoning code variance, the Board must adopt findings of fact and conclusions which specify the basis for its decision. The Board may abstract findings and conclusions from the applicant, staff, public, or Board of Adjustment members.

ACTION REQUESTED

- A. Establish rules of procedure and ask Appearance of Fairness questions.
- B. Accept staff report.
- C. Take testimony on the request for a zoning code variance.
- D. Adopt, by motion, Findings of Fact.
- E. Adopt, by motion, Conclusions.
- F. Move to approve or deny the granting of the zoning code variance. If the motion is to approve, the same motion should include any conditions the Board wishes to apply.

ATTACHMENTS

- "A" Location and Zoning Map
- "B" Variance Application
- "C" Site Plan
- "D" Photographs of Existing Yard
- "E" Applicant's Proposed Findings of Fact
- "F" Draft Resolution No. BA-2011-4



SUBJECT PROPERTY



ZONE DIVIDING LINES

3

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LOCATION AND ZONING MAP

CASE NUMBER
V-11-2

ATTACHMENT "A"

RECEIPT NO.: 41733
DATE APPLICATION RECEIVED: 8-29-11
DATE APPLICATION ACCEPTED AS COMPLETE: _____

CITY OF PULLMAN
ZONING CODE VARIANCE APPLICATION
Pullman City Code 17.130

APPLICANT:

NAME: Ingrid Mifflin
ADDRESS: SE 775 Ridgeway, Pullman, WA 99163
TELEPHONE: 509 334-4954
STATUS (property owner, lessee, agent, purchaser, etc.): owner

PROPERTY OWNER (if different than applicant):

NAME: _____
ADDRESS: _____
TELEPHONE: _____

PROPERTY LOCATION (general or common address):

SE 775 Ridgeway
Pullman, WA 99163

VARIANCE REQUESTED:

State Pullman City Code section(s) involved, and give description of and reason for request.

Please see attached sheets

All information provided in this application is said to be true under penalty of perjury by the laws of the State of Washington.

Ingrid Mifflin
Applicant's Signature

9/26/2011
Date

Residence

SE 775 Ridgeview,

Pullman, WA 99163

In reference to "Application Proposed Findings of Fact. 1. Special Circumstances b."

We would like a minor administrative variance to code 17.75.080.5 stating that maximum lot coverage in an R2 zone shall not be greater than 40%. A previous administrative variance has already been granted and used to cover the lot up to 42%. This new request would cover 42.7% of the lot or another 54sqft. We want to add a deck to the back of our house, similar to the east-side neighbor's deck, but smaller and less visible. The ground behind the house ranges from 15 to 30 feet below the main floor of the house. We would like to build this deck off one of the bedrooms on the lower level of the house.

We have lived at this residence for the last 32 + years and the back yard has stayed in its natural state with the exception of planting trees when we first moved in to maintain the soil on the steep slope. I have tried to indicate this in the pictures I have attached. The vegetation in the back yard is enjoyed by a variety of birds such as quail, pheasants, crows, hummingbirds, and other wild animals. We would like to build the deck in such a manner that we can share the space with wildlife and wild vegetation and minimize the impact on nature. We think this can best be accomplished by building a deck that will blend in well with the terrain and leave space for the yard to stay as undisturbed as possible. The back yard footage is unfortunately measured horizontally and therefore does not take into account the steep slope. Taking into account the steep slope the lot area is 8289 square feet making the current house coverage less than 37.3%. We also have ingress and egress easement over 838 square feet of adjacent land to the west which will not be built on. If this were included in our land we would have another additional 335 square feet of building area.

In reference to "Application Proposed Findings of Fact. 2. Special Privilege."

We have neighbors on both sides of the residence. The residence on the west side, 785 Ridgeview lot 18, sticks out even further into the back yard than this planned deck. The residence on the east side, 773 Ridgeview lot 20, has built a large retaining wall to get a back yard. The steepness of the slope in our backyard would make a retaining wall very difficult if not impossible and have a much greater environmental impact than building a deck. The Plat area is 6010 square feet and the resulting coverage is 45%.

In reference to "Application Proposed Findings of Fact. 5. Not Detrimental."

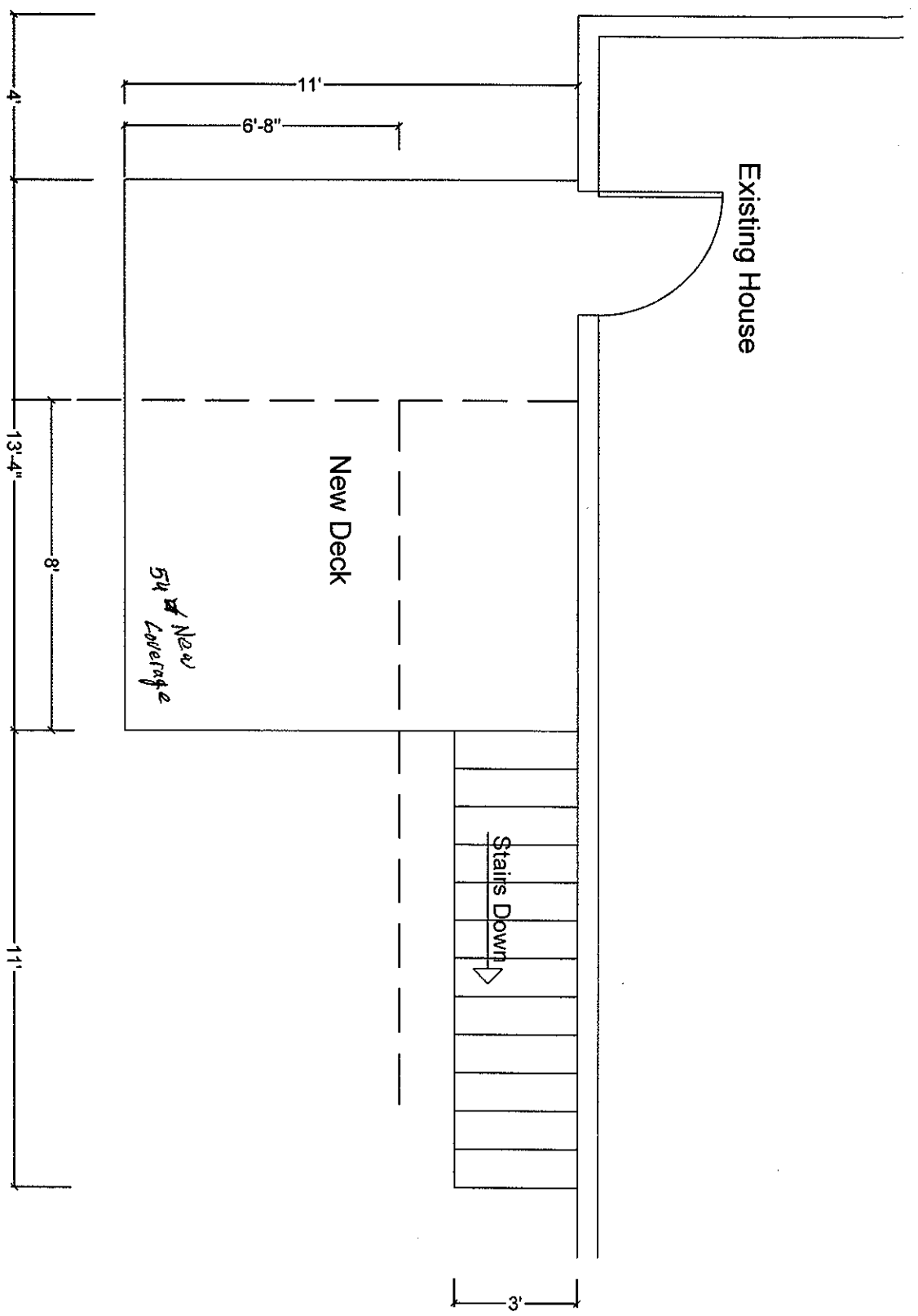
This deck will make it possible to utilize our back yard with minimal impact on the environment and the neighbors, as it is surrounded by mature trees. As stated above, options such as building a retaining wall would have a much greater detrimental impact both on the environment and the neighbors.

Existing House

New Deck

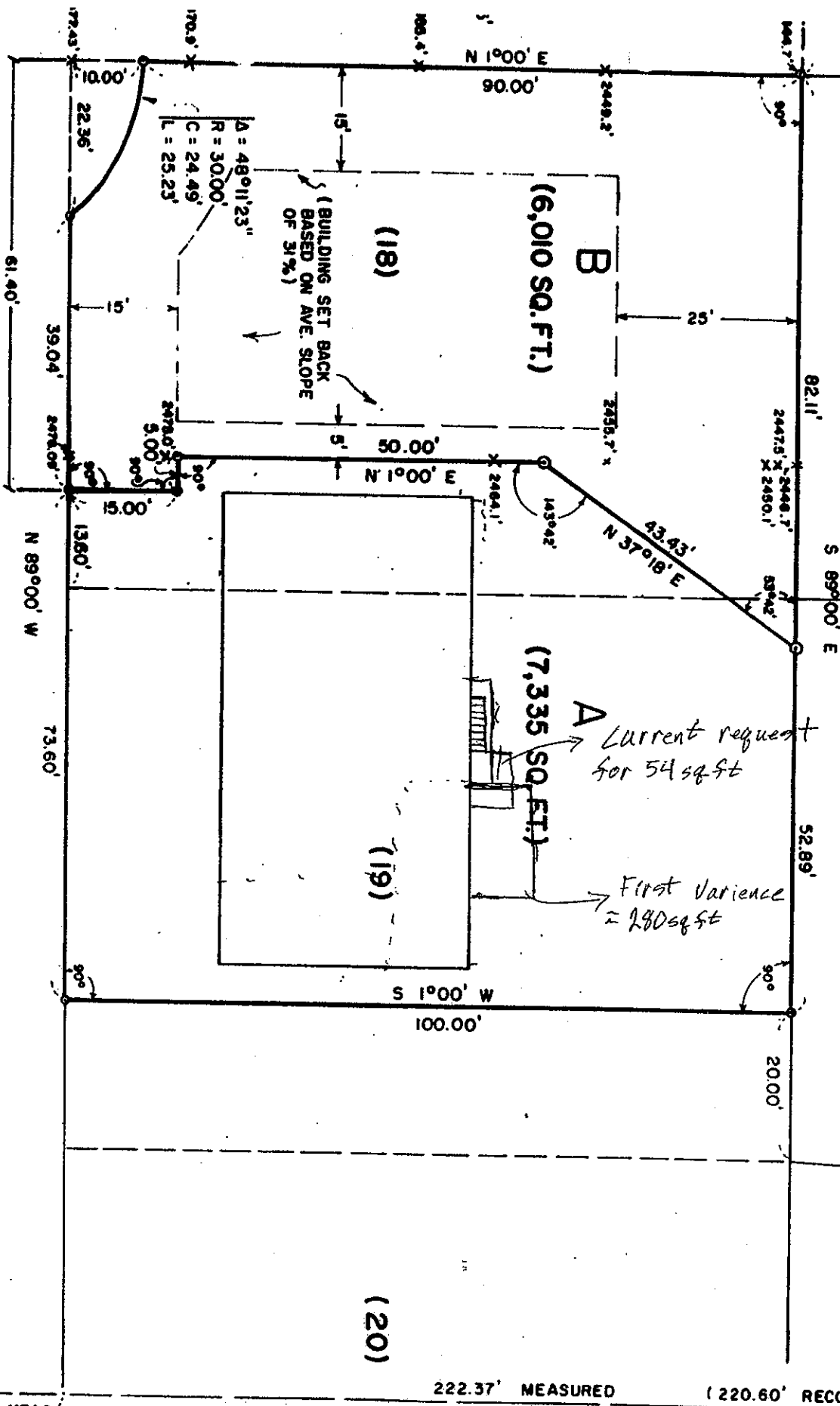
54' New
Coverage

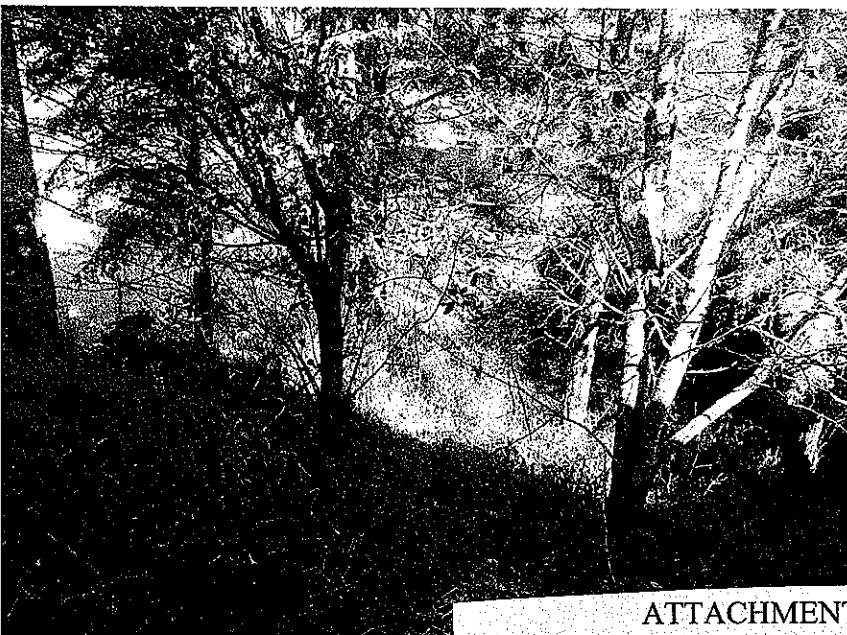
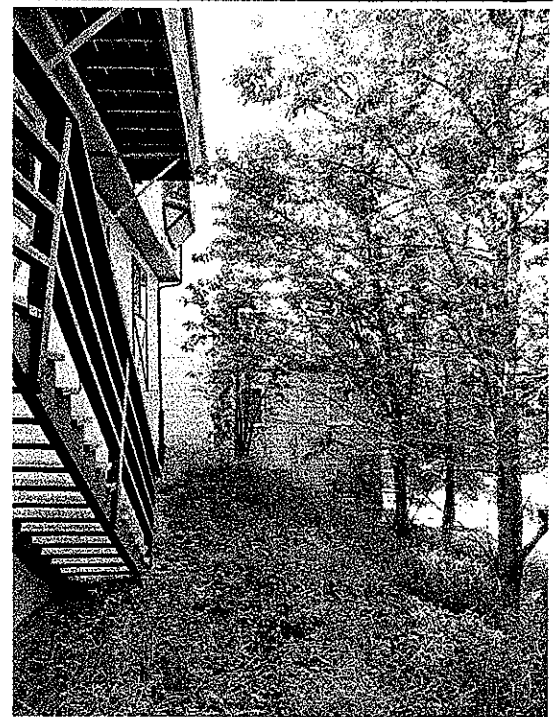
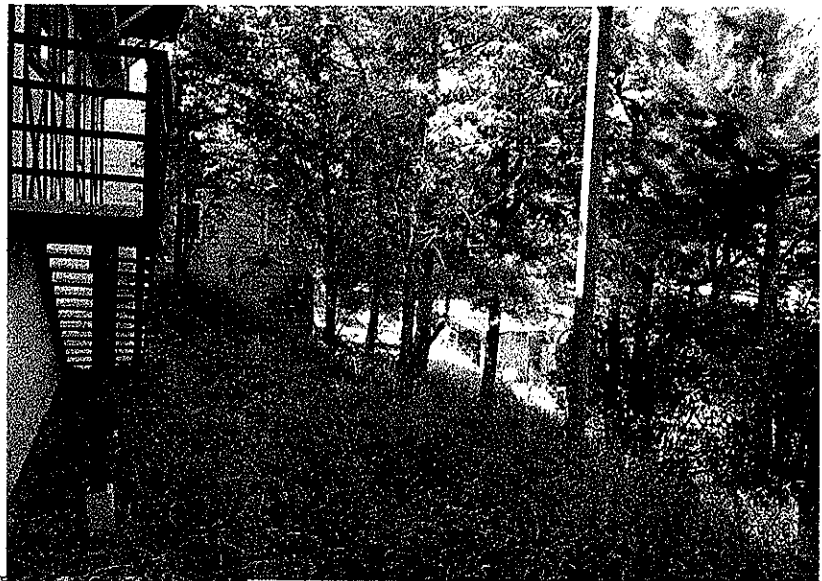
Stairs Down



24

23





ATTACHMENT "D"

Residence

SE 775 Ridgeview,

Pullman, WA 99163

In reference to "Application Proposed Findings of Fact. 1. Special Circumstances b."

We would like a minor administrative variance to code 17.75.080.5 stating that maximum lot coverage in an R2 zone shall not be greater than 40%. A previous administrative variance has already been granted and used to cover the lot up to 42%. This new request would cover 42.7% of the lot or another 54sqft. We want to add a deck to the back of our house, similar to the east-side neighbor's deck, but smaller and less visible. The ground behind the house ranges from 15 to 30 feet below the main floor of the house. We would like to build this deck off one of the bedrooms on the lower level of the house.

We have lived at this residence for the last 32 + years and the back yard has stayed in its natural state with the exception of planting trees when we first moved in to maintain the soil on the steep slope. I have tried to indicate this in the pictures I have attached. The vegetation in the back yard is enjoyed by a variety of birds such as quail, pheasants, crows, hummingbirds, and other wild animals. We would like to build the deck in such a manner that we can share the space with wildlife and wild vegetation and minimize the impact on nature. We think this can best be accomplished by building a deck that will blend in well with the terrain and leave space for the yard to stay as undisturbed as possible. The back yard footage is unfortunately measured horizontally and therefore does not take into account the steep slope. Taking into account the steep slope the lot area is 8289 square feet making the current house coverage less than 37.3%. We also have ingress and egress easement over 838 square feet of adjacent land to the west which will not be built on. If this were included in our land we would have another additional 335 square feet of building area.

In reference to "Application Proposed Findings of Fact. 2. Special Privilege."

We have neighbors on both sides of the residence. The residence on the west side, 785 Ridgeview lot 18, sticks out even further into the back yard than this planned deck. The residence on the east side, 773 Ridgeview lot 20, has built a large retaining wall to get a back yard. The steepness of the slope in our backyard would make a retaining wall very difficult if not impossible and have a much greater environmental impact than building a deck. The Plat area is 6010 square feet and the resulting coverage is 45%.

In reference to "Application Proposed Findings of Fact. 5. Not Detrimental."

This deck will make it possible to utilize our back yard with minimal impact on the environment and the neighbors, as it is surrounded by mature trees. As stated above, options such as building a retaining wall would have a much greater detrimental impact both on the environment and the neighbors.

**BEFORE THE BOARD OF ADJUSTMENT
FOR THE CITY OF PULLMAN**

In the Matter of Zoning
Zoning Code Variance
Application No. V-11-2

) Resolution No. BA-2011-4
)
) A Resolution Adopting Findings of Fact and
) Conclusions Representing the Official
) Determination of the City of Pullman
) Board of Adjustment

WHEREAS, a zoning code variance application was duly filed by Ingrid Mifflin for a variance to increase the allowable lot coverage to accommodate the construction of a deck at the property described in Exhibit "A," attached hereto and by this reference made a part hereof as though set forth in full herein; and,

WHEREAS, a notice of the Board of Adjustment public hearing on this matter was mailed to the applicant and property owners within 300 feet of the subject property on October 4, 2011, said notice was posted at the subject property on October 5, 2011, and said notice was published in the Daily News on October 6, 2011; and,

WHEREAS, a public hearing was held before the Board of Adjustment on October 17, 2011, in the Council Chambers at City Hall, 325 SE Paradise Street, Pullman, Washington, at which time public comment from persons favoring and opposing this zoning code variance application was solicited, and after hearing public comment thereon, Board members deliberated over the matter in open session; and,

WHEREAS, this Board now considering it appropriate to enter its formal written decision, makes and enters the following

Findings of Fact

1. On August 29, 2011, Ingrid Mifflin filed a zoning code variance application with the planning department to construct a deck that would increase the lot coverage on her property to 42.7 percent instead of the 40 percent prescribed in the zoning code at 775 SE Ridgeview Court; said application was labeled by planning staff as No. V-11-2.
2. The subject property is located within an R2 Low Density Multi-Family Residential zoning district.
3. Subsection 17.75.080(5) states that the maximum allowable lot coverage in the R2 Low Density Multi-Family Residential district is 40 percent.
4. The subject property is approximately 7,335 square feet in size and is occupied by a single family house.

5. The subject property is graded for existing residential development to the south with some moderate slopes in the northern portion of the parcel.
6. The subject property is served by city water and sanitary sewer lines.
7. At the subject property, there are no significant trees in the area of the proposed deck.
8. The area to the north is zoned R2 and is occupied by single family homes and duplexes; the area to the south is zoned R1 Single Family Residential and is occupied by single family homes; the area to the west is zoned R1 and R2 and is occupied by single family homes and duplexes; the area to the east is zoned R2 and C3 General Commercial and is occupied by single family homes and Koppel Farm.
9. Access to the subject property is gained by way of SE Ridgeview Court, designated as a local access street in the Pullman Comprehensive Plan.
10. Staff Report No. 11-8, dated October 13, 2011, includes the following description of responses from agencies to which a notice of the subject application was transmitted:

Department of Public Works: No concerns.

Protective Inspections Division: *No response.*

Department of Public Services: *No response.*

Fire Department: No concerns.

Police Department: No concerns.

Pullman School District: *No response.*

11. Staff Report No. 11-8 states that the following Pullman Comprehensive Plan and zoning code provisions pertain to the subject application:

Comprehensive Plan Goals LU4 and their respective policies.

Zoning Code Sections 17.01.050, 17.75.010, 17.75.080 and 17.130.020.

12. According to Zoning Code Section 17.130.020, a variance may be approved when all of the following findings required can be made:

- (1) Special Circumstances. That because of special circumstances relating to the property, the strict enforcement of the Zoning Code would deprive the owner of development rights and privileges permitted to other properties in the vicinity with the same zoning.

- (a) Special circumstances include the size, shape, topography, location of the property and surrounding property, and environmental factors such as vegetation, streams, ponds, and wildlife habitats.

- (b) Special circumstances should not be predicated upon any factor personal to the owner/applicant such as age or disability, extra expense which may be necessary to comply with the Zoning Code, the ability to secure a scenic view, the ability to make more profitable use of the property, or any factor resulting from the action of the owner/applicant.
- (2) Special Privilege. That approval of the variance is not a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
- (3) Comprehensive Plan. That approval of the variance is consistent with the Comprehensive Plan.
- (4) Zoning Ordinance. That approval of the variance is consistent with the purposes of the zoning code and the zone district in which the property is located.
- (5) Not Detrimental. That the variance as approved or conditionally approved will not be significantly detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
- (6) Minimum Variance. That the approved variance is the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

13. Staff Report No. 11-8 states the following:

After careful review of this application, planning staff believes the proposal should be denied. The applicant wishes to construct a deck on the rear of her house. In order to accomplish this objective, the applicant has asked that the allowable amount of lot coverage be increased to 42.7 percent. Without a variance, she would not be permitted to exceed the 40 percent lot coverage normally provided for in the R2 zoning district. As noted earlier in this report, the property itself has already been developed with a single family residence. In 1999, an administrative variance was granted by planning staff to enable the construction of a deck that brought lot coverage on the subject property up to 42%, the maximum allowed through the administrative variance process in this zoning district. For an administrative variance, by code, the planning department need not make the stringent findings that the Board of Adjustment must make for a full variance such as the instant proposal. In staff's view, there does not appear to be a necessity to approve a secondary deck structure that would further encumber this property.

14. Staff Report No. 11-8 includes the following paragraph:

Zoning Code Subsection 17.130.020(1)(a) states that a variance may be granted by the Board based on special circumstances pertaining to the parcel under consideration. This subsection indicates that special circumstances include such considerations as the size and/or shape of the lot, topography, and vegetation. Staff believes that the applicant has not

provided evidence of special circumstances that would justify the proposed variance. The applicant states that the residence of one of their neighbors extends further into the rear yard than the proposed deck, and that, while other neighbors have built a retaining wall to level out their yard, a retaining wall would not be a feasible alternative in the case of the applicant, and would have a greater environmental impact. However, neither of these arguments would appear to actually concern the issue of lot coverage. Neither the rear yard setback nor the environmental impact of the proposal is in question here. The photos provided by the applicant showing the area of the proposed deck do not seem to indicate that any of the previously listed special circumstances would apply directly to said deck location. The applicant also states that neighboring properties have similar decks. However, these structures presumably conform to the design standards for the R2 zone. Given that no special circumstances have been made evident, the request for an increase in allowable lot coverage from 40 to 42.7 percent would be considered a grant of special privilege compared to other properties in the vicinity.

15. Staff Report No. 11-8 states the following:

Since the proposal to build a deck without sufficient lot size does not appear to be warranted in this case, staff believes that the applicant's proposal would not advance the objectives of Comprehensive Plan Goal LU4 to "preserve opportunities for high quality, diversified life styles within the community's residential neighborhoods" and Zoning Code Subsection 17.01.050(1) to "promote the public health, safety, order, convenience, and general welfare." Based on the preceding information, planning staff recommends denial of the requested variance.

From the foregoing Findings of Fact, this Board now makes the following

Conclusions

1. The strict enforcement of the zoning code in this instance would not deprive the applicant of development rights and privileges permitted to other property owners because there do not appear to be special circumstances associated with this proposal.
2. Approval of this variance request would appear to be a grant of a special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning.
3. Based on the above conclusions, the proposed variance does not appear to be consistent with the applicable goals and policies of the Comprehensive Plan.
4. Based on the above conclusions, the proposed variance does not appear to be consistent with the general purposes of the zoning code and the purposes of the zone district in which the property is located.

5. The granting of this variance would not be detrimental to the public health, safety, and welfare, or injurious to the property or improvements in the vicinity and same zone.
6. The approval of this variance would constitute more than the minimum necessary to allow the owner the rights enjoyed by other properties in the vicinity with the same zoning.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Adjustment for the city of Pullman that, based upon the foregoing Findings of Fact and Conclusions, this Board now makes and enters its formal

Decision

Zoning Code Variance Application No. V-11-2 is hereby denied.

DATED this ____ day of _____, 2011.

Mark Yrazabal, Vice Chairperson
Pullman Board of Adjustment

ATTEST:

Pete Dickinson, Planning Director

LEGAL DESCRIPTION

Mifflin Variance

A parcel of land situate in the south half of Section 31, T15N, R45E, WM, located within the city of Pullman, county of Whitman, Washington, said parcel being further described as follows:

Commencing at the northeast corner of Lot 19, Svinth's Addition to the City of Pullman, according to the plat thereof recorded under AFN 246898, records of said county, then running westerly along the north line of said Lot 19 20 feet to the TRUE POINT OF BEGINNING;

Thence continuing westerly along said north line of Lot 19 52.89 feet;

Thence S37°18'W 43.43 feet;

Thence S1°00'W 50.00 feet;

Thence S89°00'E 5.00 feet;

Thence S1°00'W 15.00 feet to the south line of said Lot 19, Svinth's Addition to the City of Pullman;

Thence S89°00'E 73.60 feet;

Thence N1°00'E 100 feet to the true point of beginning,

said parcel also being known as Tract A of the Survey of Lots 18 and 19, Svinth's Addition to the City of Pullman according to the survey thereof filed under AFN 454731, records of said county.

Approved for Form:



Engineering Technician

10-3-2011

Date