

**STAFF REPORT**

**CASE:** BZA04-2014

**APPLICANT:** David Powell / Powell Custom Homes

**LOCATION:** 1295 Park Terrace  
Parcel L32000200160047600

**ZONED:** R-PUCD (Residential Planned Unit Conservation  
Development) District

**REQUEST:** Area/dimensional variance from to reduce the required  
rear yard setback in a PUD to accommodate the  
construction of a proposed deck

**DATE:** May 22, 2014

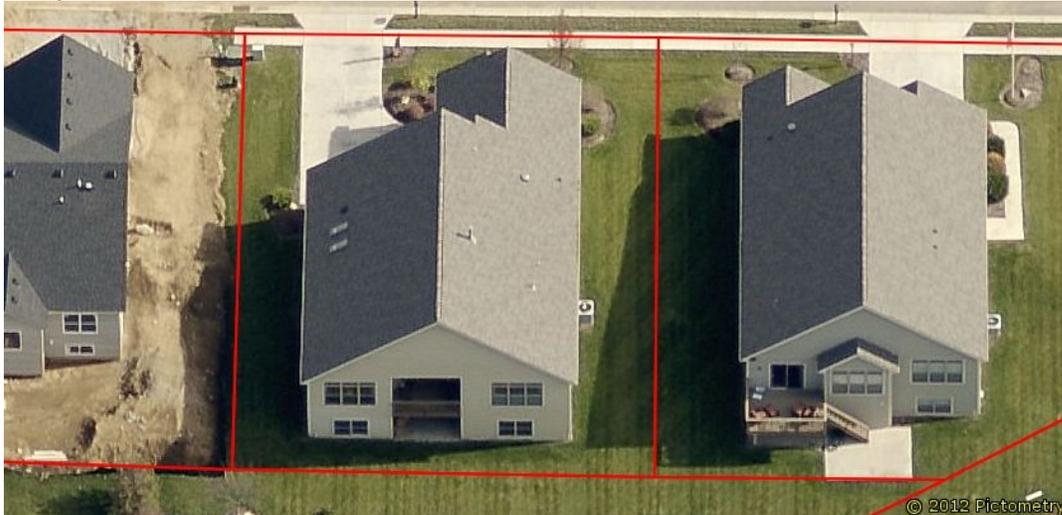
**DESCRIPTION OF REQUEST**

**Property Location:** The subject property is 1295 Park Terrace located in the R-PUCD (Residential Planned Unit Conservation Development) District. The subject parcel is lot 33 in the Sugar Ridge subdivision. The subject property contains a 2,058 SF single-family dwelling constructed in 2008.

**Applicant Proposal:** The applicant is requesting an area/dimensional variance to reduce the required minimum rear yard setback (established when the PUD was approved) to accommodate the construction of a proposed 5' x 6' deck.

**Zoning of Adjacent Parcels:** The parcels to the north, south, and east contain residential uses, located in the Sugar Ridge subdivision. There is an open space area directly behind the subject parcel to the west.

**Subject Lot (view from the rear) -**



**Applicable Articles and Findings of Fact:**

- *The rear yard setback established for this lot per the approval of the Sugar Ridge development plan was 10’.*  
 The applicant is requesting a variance to allow for the construction of a proposed deck at a rear yard setback of roughly 5’, a 50% reduction in the required 10’ rear yard setback.
- Section 3.07 D. differentiates between area/dimensional variances and use variances. Per Section 3.07 D. *“Area/dimensional variances are where an applicant requests a variance of a dimensional or quantitative standard in this Resolution (i.e. setbacks, height, landscaping requirements, etc.). Use variances are where an applicant requests that the BZA approve the use of a property, structure, or building that is not otherwise permitted in the applicable zoning district.”*  
 The applicant’s request is for an area/dimensional variance.
- Area/dimensional variances are subject to the standards established below pursuant to Section 3.07 D. 1.:

  - 1. Area/Dimensional Variances*

    - a. The following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify an area/dimensional variance:*

- 1) *Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;*
  - 2) *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*
  - 3) *Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;*
  - 4) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*
  - 5) *Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;*
  - 6) *Whether special conditions or circumstances exist as a result of actions of the owner;*
  - 7) *Whether the property owner's predicament can feasibly be obviated through some method other than a variance;*
  - 8) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and*
  - 9) *Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.*
- The applicant has submitted statements relative to the foregoing standards.
    - b. *Decisions should take into consideration all applicable factors, however, not all factors may necessarily apply to a particular case. No single factor shall control.*

**Staff Comments:**

Staff notes that there is a 10' storm easement running the length of the rear property line. Staff has conferred with the Soil and Water Conservation District and as long as the proposed deck does not interfere or restrict the surface flow of stormwater, then construction within the easement is acceptable. Staff recommends, should the BZA approve the requested variance, that the applicant be required to meet with the Soil and Water Conservation District prior to beginning construction as a condition of approval. Staff notes that there is a covered porch area off the first floor of the subject structure that

does not provide access to the rear yard area. The applicant has stated that the property owner is concerned about egress in case of an emergency. The BZA will need to determine if, owing to special conditions, a literal interpretation of the Zoning Resolution will result in practical difficulty with respect to the applicant's request using the standards outlined in Section 3.07 D. 1. as a guide.

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Cara K. Tilford, AICP  
Director of Planning and Zoning