City of Stevenson

Phone (509) 427-5970
Fax (509) 427-8202

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

Board of Adjustment - Variance Request

Monday, March 20, 2023

6:00 PM

A. Preliminary Matters

1. **Establish Meeting Chair:** Board members are asked to assent to a single member serving as chair for the meeting's proceedings.

2. **Public Comment Expectations:**

In Person: Attendees at City Hall should follow current CDC and State guidance regarding use of masks, social distancing, and attendance.

Webinar: https://us02web.zoom.us/s/85637388112 Conference Call: +1 253 215 8782 or +1 346 248 7799 ID #: 856 3738 8112

Commenters must raise their hand and be acknowledged by the Chair. Individual comments may be cut off after 3 mins. Disruptive individuals may be required to leave the meeting. Persistent disruptions may result in the meeting being recessed and continued at a later date.

Tools: *6 to mute/unmute & *9 to raise hand

3. **Public Comment Period:** (For items not located elsewhere on the agenda)

C. Old Business

4. **Variance Request:** (VAR2023-01 Girtle Wall Height)

a. Appearance of Fairness Disclosures

b. Presentation by Staff

c. Presentation by Applicant

d. Continuation of Public Hearing

1. Comments in Favor
2. Comments in Opposition
3. Comments Neither in Favor nor Opposition
4. Close Public Hearing

e. Board Deliberation

f. Decision

E. Adjournment

City of Stevenson
Planning Department

(509)427-5970

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

TO: **Planning Commission**
FROM: **Ben Shumaker**
DATE: **March 20th, 2023**
SUBJECT: **Girtle Wall Height Variance (VAR2023-01)**

Introduction

The Stevenson Board of Adjustment is asked to grant a variance to the dimensional standard of SMC 17.38.060 controlling the height of walls located within front yards. The standard is 48" above the sidewalk. The requested variance would allow a wall as tall as 80" above the sidewalk. This report is provided as a supplement to the report of March 1st.

Staff Recommendation

The Board of Adjustment should grant this variance based on the findings and conclusions in Attachment 2.

Background

The Board of Adjustment began this public hearing on March 1st. After understanding public notice was not correctly provided, the Board continued the hearing until tonight's meeting to allow for appropriate public notice to occur. The minutes of the March 1st meeting are attached as Attachment 5. A photograph was added to the record at that meeting. It is attached as Attachment 6.

Departmental Coordination

The project is being reviewed by both the Building Department and the Public Works Department. The Public Works Department's review requires City Council approval for portions of the wall within the public right-of-way. Their reviews/approvals are independent of the Board of Adjustment's review and no coordination is necessary.

Community Input

Notice was mailed to nearby property owners and posted near the project site on March 6th and published in *Skamania County Pioneer* on March 8th and 15th. At the time of this writing, 4:55pm on March 15th, the City has not received any new written comments on this proposal.

Alternatives

1. Approve the first request subject to the findings, conditions, and conclusions in Attachment 2.
2. Deny the request based on its inability to meet the criteria of SMC 2.14.010(B)(2) (Attachment 3).
3. Delay a decision until procedural due process concerns are addressed.
4. Take some other course of action as a Board.

Prepared by,

Ben Shumaker
Community Development Director

Attachment

- Original Report with attachments 1-4 (26 pages)

5. March 1st, 2023 Meeting Minutes (3 pages)
6. Photo from Applicant (1 page)

City of Stevenson
Planning Department

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Stevenson, Washington 98648

TO: **Planning Commission**
FROM: **Ben Shumaker**
DATE: **March 1st, 2023**
SUBJECT: **Girtle Wall Height Variance (VAR2023-01)**

Introduction

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Staff Recommendation

The Board of Adjustment should grant this variance based on the findings and conclusions in Attachment 2.

Standard

SMC 17.38.060 – Front Setback-Projections Restricted. "Eaves, cornices, chimneys, platforms, porches and similar projections may extend into the required front setback for a distance of not more than two feet. Stairs and steps may be located anywhere within a front setback. Fences and *walls may be placed anywhere within a front setback, but shall be limited to a maximum height of forty-eight inches above the adjacent sidewalk elevation* (or edge of right-of-way if no sidewalk exists)." [*emphasis* added]

Controlling Policies

SMC 17.46.020 – Board of Adjustment—Powers and Duties. "Consistent with Chapter 2.14 of the Stevenson Municipal Code, the Board of Adjustment shall have the following powers and duties as they relate to this title:…

2. To hear and decide upon applications for variances from the terms of this title;…"

SMC 2.14.010 – Created—Powers and Duties. "There shall be a board of adjustment for the City, known as the "City of Stevenson Board of Adjustment"…

A. The Board of Adjustment shall be empowered to hear and decide:…
    2. Variances. Applications for variances from the terms and provisions of the land use regulatory codes of the City when such power has been assigned by ordinance of the City Council, provided that any variance granted shall be subject to such conditions as the Board of adjustment deems necessary and that no variance shall be granted unless the Board of Adjustments [sic] finds that:
        a. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated;
        b. The strict application of the land use regulation is found to deprive subject property of rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications, because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings;
        c. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;
        d. The granting of the variance will not be detrimental to the purposes of the land use regulatory code from which the variance is requested, and will not conflict with the goals and policies of the comprehensive plan;

e. The hardship creating the need for a variance is not self-imposed and that the variance requested is the minimum variance which will alleviate the hardship.

B. In deciding any of the matters delegated by the City Council, the Board of Adjustment shall prepare a written record of the case findings of fact upon which the action is based."

Guiding City Policies

SMC 17.08.020 – General Intent. It is the intent of the City Council to provide uniform, equitable and reasonable standards to govern the usage of land and structures in the interest of public health, safety and the general welfare.

SMC 17.12.030 – Administration Commensurate with the Comprehensive Plan. It shall be the duty of the Planning Commission, Board of Adjustment, City Council and Zoning Administrator to interpret and/or administer the provisions of this title in such a way as to carry out the intent and purpose of the comprehensive plan. Where zoning regulations are not clear, or where there are inconsistencies within this title, the comprehensive plan shall be referred to for interpretation and guidance.

SMC 17.15.020(E) – SR Suburban Residential District. The Suburban Residential District (SR) is intended to provide minimum development standards for a variety of uses and provide a transition area where service levels are less than urban and where low-density residential uses coexist with uses otherwise characteristic of more rural areas.

2013 Stevenson Comprehensive Plan

The following provisions of the Comprehensive Plan provide context for the Planning Commission determination.

Community & Schools

1.17 Provide a clean, visually attractive community

Urban Development

2.12 Facilitate and encourage the use off innovative building types and land development patterns that encourage conservation of energy and other resources.

2.14 Ensure development review processes are prompt, predictable, open, and uncomplicated.

2.15 Minimize the impacts of abutting conflicting land uses by subjecting the more intensive land use or the site being developed to special site development standards.

Housing

3.6 Review and carefully consider the immediate and long term effects of fees, charges, regulations, and standards on dwelling costs.

3.8 Review all development proposals for compatibility with surrounding established residential areas. Policies related to land use, transportation, public facilities, and utilities should seek to maintain and enhance the quality of these areas.

Site Characteristics

Owner/Applicant: Derek &Glenna Girtle/Thomas Owens (Design Consultant)

Purpose: To allow a retaining wall within the front yard setback which exceeds 48" in height above the adjacent sidewalk.

Location: 725 NW Angel Heights Road (Tax Lot 03-07-36-3-3-0119-00)

Lot size: 56,982 sq ft

	Zoning	**Land Use**
Subject Property	SR Suburban Residential	Single-Family Residential (under construction)
North	SR Suburban Residential	Single-Family Residential
South	SR Suburban Residential	Vacant Property
East	County Residential 1 (R1)	Vacant Property
West	SR Suburban Residential	Single-Family Residential

Background

The proponent requests the city allow the continued existence of a retaining wall built without the benefit of a permit. The wall was constructed in association with the construction of a new home and provides a more level area in the home's front yard. Ranging from 28" to 80" (6'8"), the wall exceeds the 48" maximum height-above-sidewalk standard of SMC 17.38.060. The wall was not identified in the permit request for the home and a neighborhood complaint brought it to the City's attention. When informed of the need, the proponents promptly submitted all permit applications, including this variance, a building permit, and a right-of-way use permit. Based on the proponents' swift action, no punitive measures have been initiated by the City.

Departmental Coordination

The project is being reviewed by both the Building Department and the Public Works Department. The Public Works Department's review requires City Council approval for portions of the wall within the public right-of-way. Their reviews/approvals are independent of the Board of Adjustment's review and no coordination is necessary.

Homeowners' Association Coordination

The project is proposed within a subdivision having covenants, codes, and restrictions (AFN 2005-158875 and AFN 2005-159551). City legal counsel concludes, based in part on *Viking Properties, Inc., v. Holm,* 155 Wn.2d 112, 120 (2005) that cities in Washington state have no authority to enforce private covenants. As a result, no coordination with the homeowners' association has been initiated.

Community Input

Notice was mailed to nearby property owners on February 16th, posted on the City website and facebook page February 21st, and published in the *Skamania County Pioneer* on February 22nd. In response to the notices, the City received the written comments included in Attachment 4.

NOTE: Two errors/omissions related to the notice: 1) the project description was inaccurate, referencing a previous variance request to a rear yard setback and 2) on-site notices were not posted. If the Board of Adjustment has procedural due process concerns, it may continue the public hearing and delay a decision until accurate notices are provided.

Alternatives

1. Approve the first request subject to the findings, conditions, and conclusions in Attachment 2.
2. Deny the request based on its inability to meet the criteria of SMC 2.14.010(B)(2) (Attachment 3).
3. Delay a decision until procedural due process concerns are addressed.
4. Take some other course of action as a Board.

Prepared by,

Ben Shumaker
Community Development Director

Attachment

- Application (18 pages)
- Draft Approval (2 pages)
- Draft Denial (2 pages)
- Community Input (1 page)

Tracking Number: VAR2023-01

VARIANCE APPLICATION

Mail: PO Box 371, Stevenson, Washington 98648 Email: planning@ci.stevenson.wa.us Phone: (509)427-5970

Applicant/Contact: THOMAS OWENS (Design Consultant)

Mailing Address: P.O. BOX 221 Cascade Locks OR 97014

Phone: 503-740-0840 E-Mail Address: tomo@gorge.net

Property Owner: Derek & Glenna Girtle

Mailing Address: 5637 SW 87th Avenue

Phone: 503-781-1574 E-Mail Address: derekgirtle@gmail.com

If There are Additional Property Owners, Please Attach Additional Pages and Signatures as Necessary

Submittal Requirements

Applicants must provide the following information for all Variance Applications.
The City will not accept applications without the required information.

- ☑ **Application Fee** ($600.0)
- ☑ **Agreement to Pay Outside Consulting Fees** (When applicable)
- ☑ **Completed Application Signed by the Applicant and Requesting Property Owners or their Representatives**
- ☐ **Descriptions of Any Existing Restrictive Covenants or Conditions**
- ☑ **Two (2) Copies of a Site Plan, Clearly Showing the Following**
  - ☑ YES Location and Dimensions of all Existing and Proposed Structures
  - ☑ YES Floor Plan fo any Structure Involved with a Variance Request
  - ☑ YES North Arrow and Scale
  - ☑ YES Location and Dimensions of any Drainfiels, Public Utilities, Easements, Rights-of Way or Streets within or adjacent to any Affected Lot
  - ☑ YES Location and Dimensions of all Parking Areas
- ☑ **Narrative Discussing How the Proposal Meets the 5 Criteria Listed Below**
- ☐ **A List of the Names and Mailing Addresses of All Property Owners Within 300 Feet of the Subject Property** (Obtainable Through the Skamania County Assessor's Office) — NEED
- ☐ **Any Other Information Requested by the Planning Director to Aid the Planning Commission in Evaluating the Variance Request**

A Variance is an authorization from the Board of Adjustment to a property owner to depart from the literal requirements of the provisions of SMC 17-Zoning or SMC 16.02-Short Plat & Short Subdivisions because the strict enforcement of their provisions would cause the owner undue hardship in view of the facts and conditions applying to the specific parcel of property. A Variance will be granted by the Board of Adjustment when it finds that:

1. *The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;*
2. *The strict application of the land use regulation is found to deprive the subject property of rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications, because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings;*
3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which the subject property is located.*
4. *The granting of the variance will not be detrimental to the purposes of the land use regulatory code from which the variance is requested, and will not conflict with the goals and policies of the comprehensive plan;*
5. *The hardship creating the need for a variance is not self-imposed and that the variance requested is the minimum variance which will alleviate the hardship.*

The following information is required for all Variance Applications. Applications without the required information will not be accepted. Site plans are to be submitted on 8½"x11" or 11"x17" paper, and drawn to a standard engineering scale (e.g. 1"=10', 1"=20', ⅛"=1', etc.).

Property Information

Property Address (Or Nearest Intersection)**: 725 Angel Heights Road Stevenson WA 98648**

Tax Parcel.Number 03073633011900 **Zoning: Residential Lot Area: 4,050 SQFT**

Water Supply Source: ☒ X City **Sewage Disposal Method:** ☒ X City

Use of Lot: ☒ X Single-Family

Brief Narrative of Request; The original Design of the home called for a circle driveway. Once the lot was cleared and grades set the slope of the street proved to be extremely steep for the circle drive concept. The circle drive was abandoned. The existing curb cut was used at a slope of 8" of rise from street to the garage floor this approach made a safer street access as well. Using a natural stone wall to prevent erosion. the wall is compliant with up to 4ft tall (292 sq ft) of surface area. Note the taller area with slope is behind the actual setback the total surface area 25 ft long X 0"to 32"tall=35sq' (positive comments)

As the property owners of the real property described in this proposal, our signatures indicate our approval of this proposal, with the understanding that the proposal is subject to review, approval, and/or denial under SMC Title 2.

I/we hereby provide written authorization for the City to reasonably access to the subject property to examine the proposal and carry out the administrative duties of the Stevenson Municipal Code.

Incomplete applications will not be accepted. • Ensure all required submittals are included.

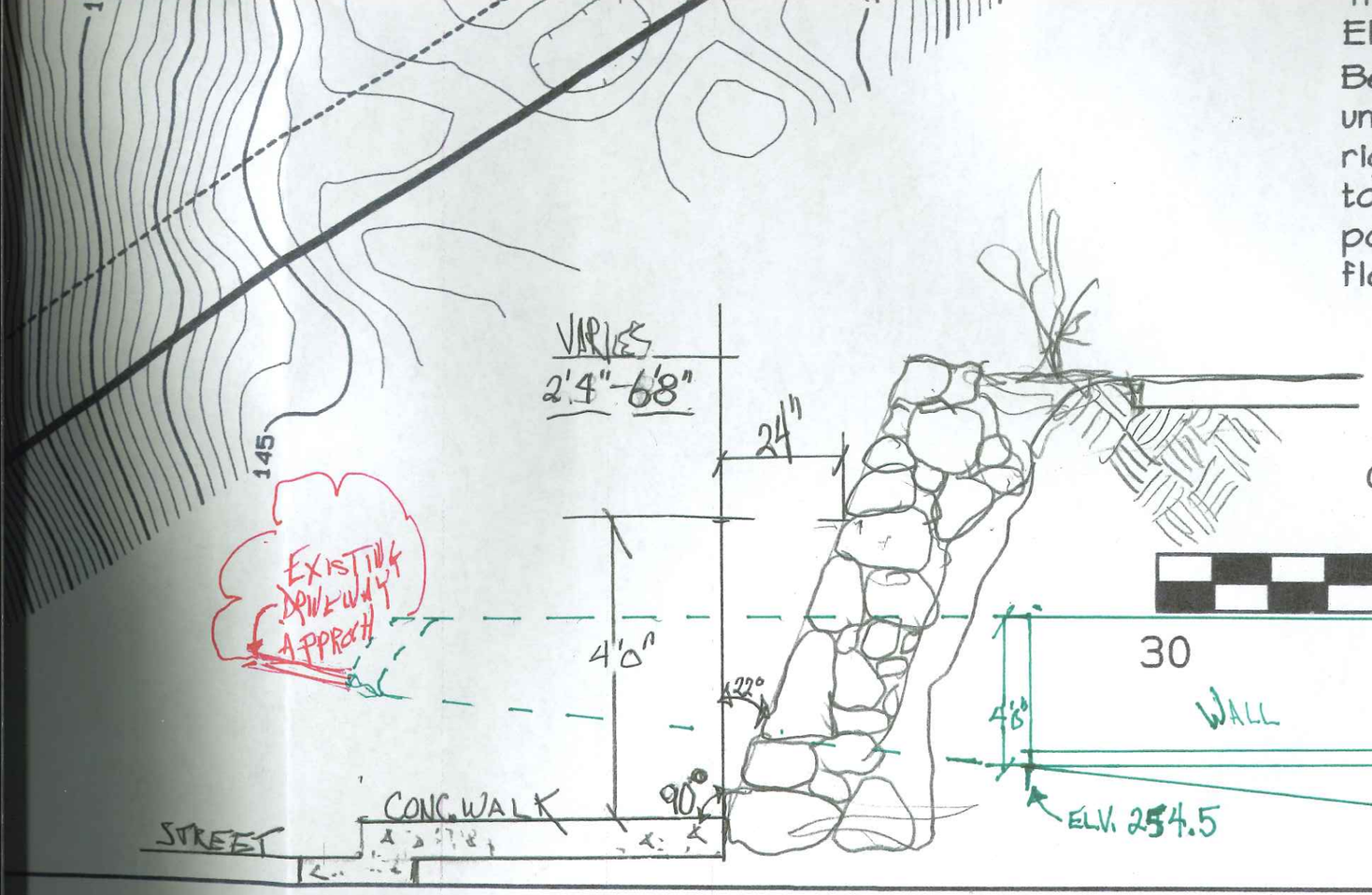
Signature of Applicant: Thomas Owens **Date:** 29/12/22

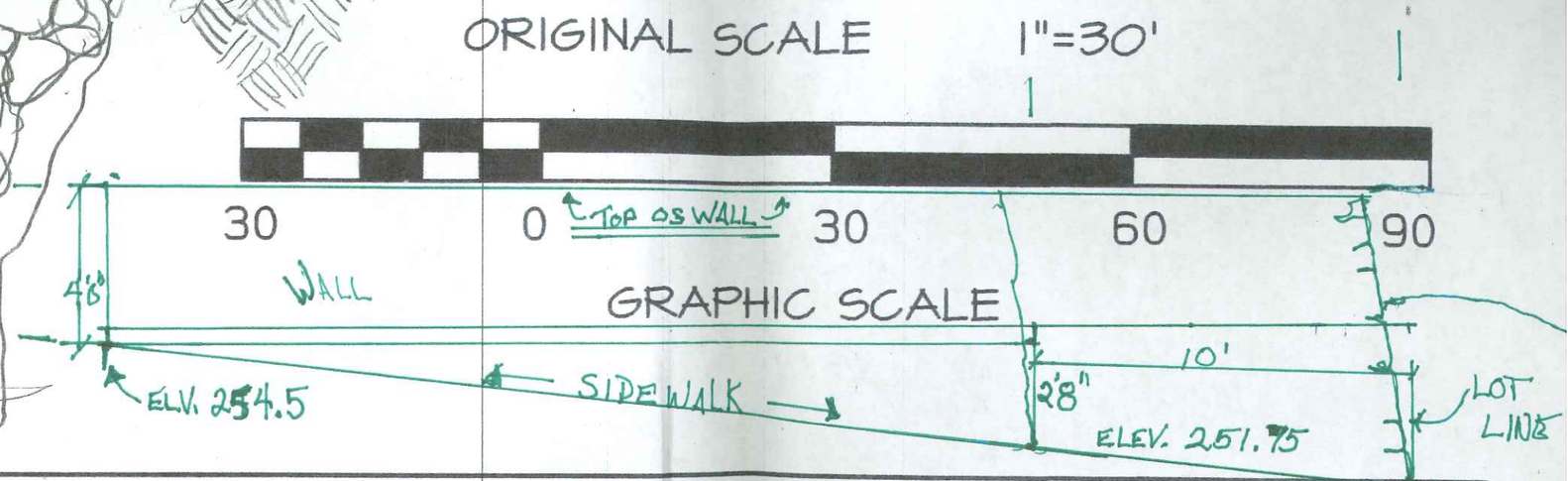
Signature of Property Owner: Debra Coker **Date:** 30 Dec 2022

For Official Use Only:
Date Application Received:_____ Date Application Complete:_____

Elevations assumed.

Bell Design Co. makes no warranty as to matters of unwritten title such as adverse possesion, prescriptive rights, easements, estoppel, acquiescence, etc. or to environmental concerns such as hazardous waste, pollution, wet land delineation, riparian changes, flood zones, etc.





DESIGN
MPANY
LAND SURVEYING

DATE	DESCRIPTION	BY
7/98	DRAFT	ARB
7/98	CHECKED	RWB

SETBACK EXHIBIT

FOR DEREK & GLENNA GIRTLE

STEVENSON, WASHINGTON

SHEET: 1 OF 2

PROJECT: 21B296

DATE: Nov 2021

O:\2021\B296\T02 - SURVEY STAKING\2

952°27'50"W
499.89'
280
270
265
15'
PORCH
PATIO
CAUTION
SETBACK
SAFETY
SETBACK
S27°06'35"W
145.56'
145
LOT 16
N34°50'40"E
100.45'
15'
20'
15'
PATIO
265
GARAGE FLOOR
258.0"
25.78"
15'
260
255
WATER
GAS
EXISTING
CURB CUT
252.0
256
255
254
253
252
251
250
ANGEL
HEIGHTS
ROAD
SIDEWALK
10'0"
5'
ELECTRIC
SEWER
REVISED DRIVEWAY PLAN
VARIES
2'4"-6
4'0"
EXISTING
DRIVEWAY
APPROACH
CONC. WALK
STREET

BELL DESIGN COMPANY
P.O.B. 309, BINGEN, WA. 98605
CIVIL ENGINEERING LAND SURVEYING

DATE	DESCRIPTION	BY
7/98	DRAFT	ARB
7/98	CHECKED	RMB

Mary Corey <mary@ci.stevenson.wa.us>

725 NW Angel Heights Road

4 messages

Ben Shumaker <ben@ci.stevenson.wa.us> Wed, Nov 23, 2022 at 10:43 AM
To: derekgirtle@icloud.com, teamevol.llc@gmail.com
Cc: carolyn@ci.stevenson.wa.us, Sarah Kellie <kellie@co.skamania.wa.us>, complaints@ci.stevenson.wa.us

Hello-

Please see the attached letter concerning a retaining wall constructed without a permit at the above address.

Thank you,

Ben Shumaker

Community Development Director

City of Stevenson, Washington

(509) 427-5970

WorkingOutsidePermit_RetainingWall(CS22-025).pdf
85K

'Derek Girtle' via complaints <complaints@ci.stevenson.wa.us> Wed, Nov 23, 2022 at 3:41 PM
Reply-To: Derek Girtle <derekgirtle@icloud.com>
To: Ben Shumaker <ben@ci.stevenson.wa.us>
Cc: teamevol.llc@gmail.com, carolyn@ci.stevenson.wa.us, Sarah Kellie <kellie@co.skamania.wa.us>, complaints@ci.stevenson.wa.us

Hi Ben
Thank you for your email and we apologize for not understanding what needed to be done for this issue. Tom is actively working on this and we will submit our response next week.

Thank you for your consideration and appreciate you working with us on this.
Best
Derek

Sent from my iPad

> On Nov 23, 2022, at 10:43 AM, Ben Shumaker <ben@ci.stevenson.wa.us> wrote:
>
> [Quoted text hidden]

WorkingOutsidePermit_RetainingWall(CS22-025).pdf
85K

Team Evolution <teamevol.llc@gmail.com> Mon, Jan 9, 2023 at 3:50 PM
To: mary@ci.stevenson.wa.us

Sent from my iPhone

Begin forwarded message:

> **From:** Derek Girtle <derekgirtle@icloud.com>
> **Date:** November 23, 2022 at 3:41:58 PM PST
> **To:** Ben Shumaker <ben@ci.stevenson.wa.us>
> **Cc:** teamevol.llc@gmail.com, carolyn@ci.stevenson.wa.us, Sarah Kellie <kellie@co.skamania.wa.us>, complaints@ci.stevenson.wa.us
> **Subject: Re: 725 NW Angel Heights Road**
>
> Hi Ben
> [Quoted text hidden]

WorkingOutsidePermit_RetainingWall(CS22-025).pdf
85K

Mary Corey <mary@ci.stevenson.wa.us> Mon, Jan 9, 2023 at 3:56 PM
To: Team Evolution <teamevol.llc@gmail.com>

Got it.
[Quoted text hidden]
--
Mary Corey, CMC
City of Stevenson
Deputy Clerk/Treasurer I
(509) 427-5970 Ext 201

Mary Corey <mary@ci.stevenson.wa.us>

Fwd: 725 NW Angel Heights Road - Girtle

2 messages

Team Evolution <teamevol.llc@gmail.com> Mon, Jan 9, 2023 at 3:50 PM
To: mary@ci.stevenson.wa.us

Sent from my iPhone

Begin forwarded message:

From: Dev Bell <devbell@belldesigncompany.com>
Date: December 23, 2022 at 9:25:40 AM PST
To: Ben Shumaker <ben@ci.stevenson.wa.us>
Cc: Heather Scannell <heather@transform-design-group.com>, Team Evolution <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Thanks Ben

I appreciate the clarity. I think now the property owners can better understand the situation and determine their best course of forward action. Variance or re-construction – either option is viable.

BTW – what on earth or you doing working today??? Its Christmas this weekend. Have a merry one!!

Warm regards

BELL DESIGN CO.
25 YEARS
Civil Engineering & Land Surveying

DEV BELL, PE

Vice President

P: 509-493-3886

E: *devbell@belldesigncompany.com*

W: *www.belldesigncompany.com*

A: 900 W Steuben St, Box 308 Bingen, WA 98605

From: Ben Shumaker [mailto:ben@ci.stevenson.wa.us]
Sent: Friday, December 23, 2022 8:47 AM
To: Dev Bell <devbell@belldesigncompany.com>
Cc: Heather Scannell <heather@transform-design-group.com>; Team Evolution <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Hi Dev-

The wall, as-constructed, is not permissible based on the 48" limitation.

Your clients have a decision to make whether they modify the project to meet that limitation or request a variance.

It is my understanding that that the proponent believes it is impossible to remove the top 32" to meet that limitation.

If this understanding is correct, then yes, the remaining pathway for approval is to obtain permission from the Board of Adjustment to vary the dimensional standard of SMC 17.38.060.

Apologies also, I failed to put in my last email that your submittal satisfied the City's previous request for information by 12/25.

We now ask the applicants to indicate their intended path forward (plan revision or variance request) by 12/31 and submit related follow-up documents by 1/15.

Thank you,

Ben Shumaker

(509) 427-5970

From: Dev Bell <devbell@belldesigncompany.com>
Sent: Thursday, December 22, 2022 2:07 PM
To: 'Ben Shumaker' <ben@ci.stevenson.wa.us>
Cc: 'Heather Scannell' <heather@transform-design-group.com>; 'Team Evolution' <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Thanks Ben.

In order to clarify my understanding of the City's position on the situation – Is it the City's official position that the wall needs to go through a variance process because of SMC 17.38.060?

Warm regards

BELL DESIGN CO.
25 YEARS
Civil Engineering & Land Surveying

DEV BELL, PE

Vice President

P: 509-493-3886

E: *devbell@belldesigncompany.com*

W: *www.belldesigncompany.com*

A: 900 W Steuben St, Box 308 Bingen, WA 98605

From: Ben Shumaker [mailto:ben@ci.stevenson.wa.us]
Sent: Thursday, December 22, 2022 1:46 PM
To: Dev Bell <devbell@belldesigncompany.com>
Cc: Heather Scannell <heather@transform-design-group.com>; Team Evolution <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Thanks, Dev.

Tom, as discussed, I am unable to administratively approve the portions of the wall that exceed 48" above the sidewalk. City permission will need to come from the 5-member Board of Adjustments as a Variance. The application form is attached and includes the 5 findings the Board must make.

Typically, the biggest struggle applicants have is convincing the board of the 2nd and 5th criteria. When that struggle looks too great, I recommend they redesign to comply with the regulation. With this application, I'm not making that recommendation to you. I think your narrative can rely on what you were saying about the bedrock creating a special circumstance preventing bringing the grade down. That is clearly not self-imposed and the conversation should quickly move toward a description of why your request is the minimum necessary to alleviate the hardship.

The site plan and wall elevations are adequate to present the request.

If you have questions as you prepare the narrative, feel free to run them past me.

Thank you,

Ben Shumaker

(509) 427-5970

From: Dev Bell <devbell@belldesigncompany.com>
Sent: Wednesday, December 21, 2022 4:54 PM
To: 'Ben Shumaker' <ben@ci.stevenson.wa.us>
Cc: 'Heather Scannell' <heather@transform-design-group.com>; 'Team Evolution' <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Ben

Here are the revised site plans as prepared by Tom Owens of Team Evolution. Tom and I discussed the issue regarding the 24-inch setback from the back of the side walk. Here is what I found; along the frontage of the cul-de-sac the ROW is 2' behind the back edge of the sidewalk. The attached plan shows that the portions of retaining wall located inside the ROW is in no place higher than 48-inches.

Let us know if you have any additional questions.

Warm regards

BELL DESIGN CO.
25 YEARS
Civil Engineering & Land Surveying

DEV BELL, PE

Vice President

P: 509-493-3886

E: *devbell@belldesigncompany.com*

W: *www.belldesigncompany.com*

A: 900 W Steuben St, Box 308 Bingen, WA 98605

From: Dev Bell [mailto:devbell@belldesigncompany.com]
Sent: Tuesday, December 20, 2022 9:39 AM
To: 'Ben Shumaker' <ben@ci.stevenson.wa.us>
Cc: 'Heather Scannell' <heather@transform-design-group.com>; 'Team Evolution' <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Ben

I stand corrected. Tom mentioned that it was his understanding that a wall or fence located within 2' from the back edge of the sidewalk could not be taller than 48-inches. I re-read SMC 17.38.060 and now I see that the only reference to 2-ft regards encroachment into the ROW for decks, porches, etc. Retaining walls can be located anywhere in the ROW as long as they are not over 48" tall. Tom will need to clarify his understanding of the 2-ft setback from the back edge of the sidewalk since I now see that I was not able to find an actual reference to this statement. Please forgive me for the misquote.

Warm regards

BELL DESIGN CO.
25 YEARS
Civil Engineering & Land Surveying

DEV BELL, PE

Vice President

P: 509-493-3886

E: *devbell@belldesigncompany.com*

W: *www.belldesigncompany.com*

A: 900 W Steuben St, Box 308 Bingen, WA 98605

From: Ben Shumaker [mailto:ben@ci.stevenson.wa.us]
Sent: Tuesday, December 20, 2022 8:41 AM
To: Dev Bell <devbell@belldesigncompany.com>
Cc: Heather Scannell <heather@transform-design-group.com>; Team Evolution <teamevol.llc@gmail.com>
Subject: RE: 725 NW Angel Heights Road - Girtle

Thanks, Dev.

I will await the submittal. As I prepare for the review, can you please tell me what relevance you place on the 24" proximity. That distance doesn't immediately pop anything in my memory, and I want to be prepared to review as quickly as possible.

From: Dev Bell <devbell@belldesigncompany.com>
Sent: Tuesday, December 20, 2022 7:45 AM
To: ben@ci.stevenson.wa.us
Cc: 'Heather Scannell' <heather@transform-design-group.com>; 'Team Evolution' <teamevol.llc@gmail.com>
Subject: 725 NW Angel Heights Road - Girtle

Ben

Tom Owens of Team Elevation has been briefing me on the situation regarding the rock wall along the back edge of the sidewalk on Angel Height along the frontage of Derek and Glenna Girtle's residence. I've reviewed the ordinance cited in the attached action notice. This email is to let you know that I will be working with the home owner to resolve this situation. At first glance I do not believe that it will be necessary to change the rock wall location or height in order to meet the City's requirements. However, Tom Owens will be submitting a revised site plan that shows the situation in more detail. I've observed photos of a large crane situated atop the wall during construction of the new home providing evidence of the wall's structural capability. So my concern for the wall's structural integrity is very minimal. Tom feels that in no location is the wall over 48-inches tall when it is located within 24-inches from the back edge of the sidewalk. If this is the case the requirements of SMC 17.38.060 may not be violated. Regardless, I'll be providing engineering oversight, as required, to help resolve any significant issues that are present.

Merry Christmas and Happy Holidays

Warm regards

BELL DESIGN CO.
25 YEARS
Civil Engineering & Land Surveying

DEV BELL, PE

Vice President

P: 509-493-3886

E: *devbell@belldesigncompany.com*

W: *www.belldesigncompany.com*

A: 900 W Steuben St, Box 308 Bingen, WA 98605

From: Team Evolution [mailto:teamevol.llc@gmail.com]
Sent: Wednesday, December 14, 2022 6:39 PM
To: DEV BELL <devbell@belldesigncompany.com>
Cc: Heather Scannell <heather@transform-design-group.com>; Team Evolution <teamevol.llc@gmail.com>
Subject: Fwd: 725 NW Angel Heights Road

Hi, Dev--here's the letter we received from Skamania County about Girtle's retaining wall. Thanks!

---------- Forwarded message ---------
From: **Ben Shumaker** <ben@ci.stevenson.wa.us>
Date: Wed, Nov 23, 2022 at 10:43 AM
Subject: 725 NW Angel Heights Road
To: <derekgirtle@icloud.com>, <teamevol.llc@gmail.com>
Cc: <carolyn@ci.stevenson.wa.us>, Sarah Kellie <kellie@co.skamania.wa.us>, <complaints@ci.stevenson.wa.us>

Hello-

Please see the attached letter concerning a retaining wall constructed without a permit at the above address.

Thank you,

Ben Shumaker

Community Development Director

City of Stevenson, Washington

(509) 427-5970

3 attachments

BELL DESIGN CO. 25 YEARS Civil Engineering & Land Surveying

image004.jpg
7K

BELL DESIGN CO. 25 YEARS Civil Engineering & Land Surveying

image004.jpg
7K

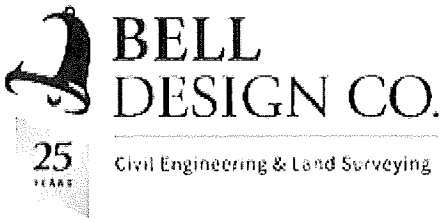


image004.jpg
7K

Mary Corey <mary@ci.stevenson.wa.us> Mon, Jan 9, 2023 at 3:54 PM
To: Team Evolution <teamevol.llc@gmail.com>

Got them!
[Quoted text hidden]
--
Mary Corey, CMC
City of Stevenson
Deputy Clerk/Treasurer I
(509) 427-5970 Ext 201

Fwd: Rock Wall

1 message

Tom Owens <tomo@gorge.net> Mon, Jan 9, 2023 at 3:51 PM
To: mary@ci.stevenson.wa.us

Sent from my iPhone

Begin forwarded message:

From: Tom Owens <tomo@gorge.net>
Date: November 18, 2022 at 1:02:42 PM PST
To: Heather Scannell <heather@transform-design-group.com>
Subject: Rock Wall

Sent from my iPhone

Begin forwarded message:

From: Ben Shumaker <ben@ci.stevenson.wa.us>
Date: November 17, 2022 at 1:27:26 PM PST
To: tomo@gorge.net
Cc: Mary Corey <mary@ci.stevenson.wa.us>
Subject: FW: Rock Wall

Hi Tom-

See below.

I am following up with the other City departments with jurisdiction over this issue.

Minimally, I will be asking for an updated site plan showing retaining walls and other aspects of your proposal that may have been excluded from the original site plan.

I will send out a more complete list when I hear back from others.

Thank you,

Ben Shumaker

(509) 427-5970

From: Mary Corey <mary@ci.stevenson.wa.us>
Sent: Thursday, November 17, 2022 10:21 AM
To: Ben Shumaker <Ben@ci.stevenson.wa.us>
Subject: Fwd: Rock Wall

Can you take this?

---------- Forwarded message ---------
From: **Leonard Damian** <leonard.damian@gmail.com>
Date: Thu, Nov 17, 2022 at 10:19 AM
Subject: Rock Wall
To: <complaints@ci.stevenson.wa.us>

I would like to know the rock wall installed across the street from my address at the new SFD being built at 725 NW Angel Heights Road.

Specifically, the following Ordinance:

- **17.38.060 - Front setback-Projections restricted.**

  SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONSEMAIL SECTION

  Eaves, cornices, chimneys, platforms, porches and similar projections may extend into the required front setback for a distance of not more than two feet. Stairs and steps may be located anywhere within a front setback. Fences and walls may be placed anywhere within a front setback, but shall be limited to a maximum height of forty-eight inches above the adjacent sidewalk elevation (or edge of right-of-way elevation if no sidewalk exists).

  (Ord. 894 (part), 1994).

Additionally, I understand that any wall greater than 4 feet in height requires additional engineering. The wall along the sidewalk exceeds 4' within this setback.

I am curious how this is allowed.

Thank you,

Leonard Damian

--

Mary Corey, CMC

City of Stevenson

Deputy Clerk/Treasurer I

(509) 427-5970 Ext 201

City of Stevenson
PO Box 371
Stevenson, WA 98648
(509) 427-5970

Girtle Derek & Glenna
5637 SW 87th Ave
Portland, OR, 97225

Account Information			
Cust #:	1501		
Date:	01/10/2023	Due:	02/09/2023
Invoice #:	871		
For:	Building Permits		
Permit:	VAR2023-01		

Item	Taxed	Quantity	Amount	Total
Variance - Planning Fees - 01/10/2023	N	1.0000	600.00	600.00

VAR2023-01 Girtle

Non Taxed:		600.00
Taxed:		0.00
Tax @	0.00%:	0.00
Payments:		0.00
Total:		**600.00**

Receipt: 12338 01/10/2023
Acct #: 1501
City Of Stevenson
7121 E. Loop Rd.
PO Box 371
Stevenson, WA 98648
(509) 427-5970

Girtle Derek & Glenna
5637 SW 87th Ave
Portland, OR 97225

Building Permits
Memo: VAR2023-01 Girtle
Inv#: 871 Amt Paid: 600.00
VAR2023-01 Girtle

Non Taxed Amt:	600.00
Total:	600.00
Chk: 1040	600.00
Ttl Tendered:	600.00
Change:	0.00

Issued By: Mary C.
01/10/2023 11:56:45

City of Stevenson Board of Adjustment

Girtle, Tax Lot 03-07-3-3-0119-00
Granting of Variance (VAR2023-01)
3-1-2023

Proposal

The Stevenson Board of Adjustment held a public hearing on March 1st, 2023 to consider a request from Derek and Glenna Girtle to vary the 48" maximum height standard for walls located in the front setback (SMC 1738.060). The wall is located on Tax Lot 03-07-36-3-3-0119-00, 725 NW Angel Heights Road. The proposal asks for approval of a wall with a maximum height of 80".

Findings of Fact:

1. The Board of Adjustment reviewed this application for a Variance after a public hearing on March 1st, 2022.
2. The geological history of this property creates the following special circumstances:
   a. Bedrock is shallow on this property and was encountered at an elevation higher above the adjacent sidewalk than at similar lots elsewhere in the district and vicinity.
   b. The property is not flat along its width. The slope of the adjacent sidewalk along the front property line is greater than that of similar lots elsewhere in the district and vicinity.
3. The proposal allows for a consistent front-yard elevation across the front property line and a manageable slope between the retaining wall and the home's foundation.

Conditions of Approval

1. Prior to final inspection of the project, the proponent shall record this variance approval with the Skamania County Auditor. A copy of the recorded document shall be provided to the City for its records.

Conclusions of Law

Based on these findings and conditions, the Board of Adjustment finds this proposal consistent with all relevant criteria and grants this variance to SMC 17.38.060.:

a. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated;

b. The strict application of the land use regulation is found to deprive subject property of rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications, because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings;
c. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;
d. The granting of the variance will not be detrimental to the purposes of the land use regulatory code from which the variance is requested, and will not conflict with the goals and policies of the comprehensive plan;
e. The hardship creating the need for a variance is not self-imposed and that the variance requested is the minimum variance which will alleviate the hardship.

City of Stevenson Board of Adjustment

Girtle, Tax Lot 03-07-3-3-0119-00
Denying Variance (VAR2023-01)
3-1-2023

Proposal

The Stevenson Board of Adjustment held a public hearing on March 1st, 2023 to consider a request from Derek and Glenna Girtle to vary the 48" maximum height standard for walls located in the front setback. The wall is located on Tax Lot 03-07-36-3-3-0119-00, 725 NW Angel Heights Road. The proposal asks for approval of a wall with a maximum height of 80".

Findings of Fact:

1. The Board of Adjustment reviewed this application for a Variance after a public hearing on March 1st, 2022.
2. The geological history of this property results in the following special circumstances:
   a. Bedrock is shallow on this property and was encountered at an elevation higher above the adjacent sidewalk than at similar lots elsewhere in the district and vicinity.
   b. The property is not flat along its width. The slope of the adjacent sidewalk along the front property line is greater than that of similar lots elsewhere in the district and vicinity.
3. The presence of these circumstances were self-imposed by the subdivider of the Angel Heights Subdivision when the site's development neglected to provide for lots where development would result in consistent front-yard elevations across the front property line and a manageable slopes between the retaining wall and the home's foundation.

Conclusions of Law

Based on these findings and conditions, the Board of Adjustment denies this variance request because it unable to find consistency between the proposal and this criteria:

e. The hardship creating the need for a variance is not self-imposed and that the variance requested is the minimum variance which will alleviate the hardship.

Ben Shumaker <ben@ci.stevenson.wa.us>

Concerning: Variance Request: at 725 NW Angel Heights Road

kniestes@gmail.com <kniestes@gmail.com> Wed, Feb 22, 2023 at 1:10 PM
To: planning@ci.stevenson.wa.us

I cannot attend the scheduled meeting but want to voice my concerns.

Please let me know if there is a more appropriate method to provide input.

Opposed to requested variances for lot 725 NW Angel Heights Rd

Offering my opposition to the granting of any variances for the indicated property.

The neighborhood has generous sized lots that have been built on without requiring special considerations.

As the neighborhood buildout nears completion it is not appropriate to start making exceptions to rules & regulations that other property owners have not had issues following.

Current neighborhood is a collection of homes nicely spaced with lots of open area surrounding each house.

Providing a feeling of nature and that allows wild animals to roam through the area unhindered.

Why risk messing up a neighborhood now?

It is my hope you will deny any variance.

Thank you,

Sam Kniesteadt

747 NW Angel Heights Rd

Stevenson, WA 98648

503-778-0773

Board of Adjustment Meeting
Variance Request
Variance (VAR2023-01)

March 1, 2023

In Attendance:

Board Members: Present: Dan McGill, Brian Riffel, Mary Repar, Marilyn Butler. Absent: Ed Feeley

City Staff: Ben Shumaker and Tiffany Andersen

Applicant: Derek Girtle (Owner), Tom Owens (Designer and Project Coordinator)

Public Members in Attendance: Erik Casto, Sam Kniesteadt, Michael Perry, Tony Lawson

A. Preliminary Matters:

1. **Establish Meeting Chair:** **Riffel** nominated McGill to be Chair for the meeting. **Repar** seconded motion. No vote or dissent occurred and **McGill** called the meeting to order as Chair at 6:00 PM.
2. **Public Comment Expectations:** **Shumaker** read and explained expectations written on the agenda.
3. **Public Comment Period:** None.

B. New Business:

4. **VAR2023-01 – Girtle Retaining Wall**

Appearance of Fairness Disclosures: Shumaker explained the state's *Appearance of Fairness Doctrine* and asked Board members to disclose if anyone has any financial interest in the outcome of the decision, whether they have had *ex parte* communications about the proposal, or if there was any other matter that could impact their ability to be fair or impartial in the decision-making process.
Butler disclosed she is a nearby landowner and had been approached by Owens, Project Coordinator, and neighbor Leonard Damien about the addition of the retaining wall. At the time she did not know it was an application that would be brought before the Board. She believed she could remain fair and impartial in the decision making-process.
No other board members disclosed issues.
The applicant did not challenge the Board's appearance of fairness. **McGill** requested Butler's recusal in the interest of avoiding legal pitfalls and preserving the Board's impartiality in appearance as well as fact.
Butler recused herself and joined the public.

Presentation by Staff: Shumaker summarized the written staff report, explaining request allow a wall to a height of 80", in places. The standard is 48" above the sidewalk. **Shumaker** recommended the Board of Adjustment grant the Variance.

Presentation by Applicant: Owens presented on behalf of Derek Girtle, owner. **Owens** explained how they came about creating the retaining wall and why there was a need. Due to the approach from the street, which has a downward grade, up to the garage was a need to create an approach more gentle than the steep grade it would have been had the driveway been built with retaining wall. Mr. Owens sent a picture of the project to Shumaker so everyone could see the project in question. He indicated there was about a 25 foot 'triangle' of height difference that is in question. He indicated they completed the project without a permit, as they were not aware of the need.

Public Hearing Call to Order: 6:28 PM

Comments in Favor:

Tony Lawson, Stevenson, WA –**Lawson** lives across the street from the project, as well as owns the parcel next door to it. He has no issues with the wall and likes the appearance of it. He pointed out the bare ground on the neighboring lot already has a similar height. He stated he is fine with the wall solution they came up with and likes the outcome. He is not against the wall/matters at hand.

Comments in Opposition:

Sam Kniesteadt, Stevenson, WA –**Kniesteadt** lives next door to the build. He indicated his displeasure with the fact the issues are being addressed at this stage of the build, as the "whole" neighborhood has been built without exceptions or variances. He is concerned for the future owner of the neighboring lot, as this new build's design differs from the aesthetic of the neighborhood currently. He is opposed to the Variance.

Eric Casto, Stevenson, WA –**Casto** wished to express his opposition to the lack of pulling required permits prior to the building of the wall. He is not in favor of variances and does not believe it fits the neighborhood. He is extremely unhappy with the way the Notice was sent out, without information pertinent to this issue and because the Notice added confusion by not addressing the retaining wall, but inaccurately stated the Variance is being requested for a rear/backyard setback.

Mike Perry, Stevenson, WA –**Perry** is neither opposed nor supportive of the wall. This is not his concern. He is concerned that the City/County has inspectors who did not catch the issues with the erection of the wall while it was being built. He believes designers and builders should understand the codes and need for permits prior to building. He would like to have builders and City employees make advisory visits and recommends obtaining permits prior to breaking ground and hopes future processes will be "fixed".

Recess Called by McGill: 6:41PM

Back in Order Called by McGill: 6:44PM

Board Deliberation: Chair advised the decision to be placed on hold until the Notices have been cured. He moved to push the Final Decision to Monday, March 20, 2023 in order to cure said defects.

Mary Repar seconded the Motion. All in favor of extending deliberation to date in order to cure notice. There will be an update to Notice to reflect the actual issue the Variance request addresses, as well as a Notice will be posted at the site of build, per requirements.

Time of Adjournment: 7:05PM

Minutes by Tiffany Andersen.