
**Board of Adjustment
November 18, 2025
Staff Report**

Application Summary –

A request of Phebe LaMar (attorney), on behalf of Envy Builders, LLC (owner), seeking approval of a variance to allow a maximum of 75 square feet of covered structure (i.e. a deck) to extend into the required rear yard setback of 5700 Camden Circle such that approval of the suspended rough-in inspections may occur and construction activity to complete the home upon the site may recommence as required by Section 29-4.1, Table 4.1-5 of the Unified Development Code.

Site Characteristics

The subject site is located at southeast corner of Port Way and Camden Circle and is presently being improved with a new single-family one-story detached dwelling with a walkout lower level and covered deck extending from the approximate middle of the structure above a concrete patio. The home is located within the R-1 (One-family Dwelling) zoning district and surrounded by other similar dwellings also located in the R-1 zoning district. The subject lot and adjoining lots meet the R-1 district dimensional standards for lot area and property line setbacks applicable to the primary dwelling.

The subject lot is accessed from and addressed to Camden Circle with its rear property line being shared by a dwelling accessed from and addressed to Aswago Circle to the south. The subject lot and others along Camden Circle are topographically elevated above those to the south allowing them to be improved with similar single-family dwellings that contain walkout lower levels and decks extending over concrete patios; however, none have covered decks extending beyond into the required 25-foot rear yard setback line.

Relief Sought and Purpose

The applicant is seeking relief from the UDC provision that limits the amount of canopy or covered porch roof area that can extend into the required front or rear setback of a property. Sec. 29-4.1, Table 4.1-5 of the UDC specifically limits encroachment of canopies and covered porches to no more than 6-feet into the required front or rear setback of a property and further stipulates that such features cannot have greater than 60 sq. ft. of covered roof area. The applicant has constructed a covered deck containing 75 sq. ft. of roof area that extends 5-feet into the required rear yard setback. While the encroachment of the deck into the rear yard is not a violation of the UDC, the amount of roof area covering the deck is given it exceeds the maximum allowed by 15 sq. ft.

This violation was discovered during a routine rough-in framing inspection. According to statements contained within the variance application no prior notification or warnings were provided by city staff regarding the impact that proceeding with construction consistent with what was shown on the attached and approved plot plan would create. Further inspection approvals have been suspended awaiting the outcome of the Board's action on this request.

Proceeding forward with further framing work within the existing dwelling is contingent upon the Board's action related to this request. If approved, a final rough-in inspection can be performed and construction associated with completing the dwelling commenced. If denied, the applicant would be required to take effective action to reduce the amount of covered roof area over the deck to bring all site improvements into compliance with the UDC.

Variance Analysis –

Summary and Impacts –

The applicant is seeking a variance from the following regulatory requirements of the Unified Development Code:

Exceptions and Encroachments - Section 29-4.1(c), Table 4.1-5 [Yard Areas]

The applicant is seeking relief from the UDC provision that limits the amount of covered roof area allowed to extend into the required front or rear yard setback of a property. The applicant has constructed a 10-foot by 15-foot deck on the rear of the home under construction at 5700 Camden Circle. The deck has been covered by a roof that is integrated into the main roof structure of the dwelling that extends 5-feet from the rear wall of the home. The deck extends 5-feet into the required 25-foot rear yard setback which is permissible per the UDC; however, the covered area of the deck is 15 sq. ft. greater than the 60 sq. ft. maximum allowed.

As such, the applicant has submitted this application and seeks relief to allow the excess roof area to remain such that final rough-in inspections on the dwelling may be approved and construction to complete the home can recommence. The proposed installation of a covered deck was illustrated on the approved plot plan (attached) that was submitted to the City prior to issuance of a building permit. The plot plan did not clearly dimension the extent of the covered roof area which has led to the current need for relief.

The subject dwelling is the last to be constructed along Camden Circle. The majority of adjacent homes along Camden Circle have a deck attached to the home; however, none of the decks have roofs and all decks appear to be fully compliant with the rear yard setback and any exception thereto. Approval of the requested relief would grant this applicant a special privilege to have a non-compliant site feature while all other similarly situated homes in the neighborhood have been constructed within regulatory compliance. The applicant has stated that it will cost approximately \$34,000 to achieve regulatory compliance, if this request is denied.

If the requested relief were to be granted, it would “run with the land” in perpetuity and permit a covered deck containing 15 sq. ft. more area than allowed by the UDC within the rear yard setback. This improvement would not be allowed to be expanded; however, it could be maintained indefinitely.

Compliance with Variance Criteria -

Staff has reviewed the “General Criteria” for the approval of a variance as articulated in sec. 29-6.4(d)(3)(i)(A-E) of the UDC. In relation to these criteria, staff finds that:

- A. The stated purpose of this requested variance is to address practical difficulties and unnecessary hardships that have resulted from the city’s failure to inform the applicant that the installed covered deck attached to the single-family dwelling under construction on the subject property, following multiple site inspections, is non-compliant with the standards of the UDC notwithstanding such improvement was built per the reviewed and approved plot plan. The applicant’s submitted correspondence also indicates that it would cost \$34,000 to resolve the identified non-compliance.

While the submitted plot plan associated with the construction on this site clearly illustrated a covered deck, the plot plan did not include sufficient detailed dimensions associated with that portion of the deck that would be covered. Notwithstanding this omission, the plot plan was approved given the deck was not observed as violating any encroachment into the required rear yard setback.

The subsequent inspections and approvals referenced in the applicant's correspondence were approved based on this initial assessment and were related to the necessary structural elements associated with the support structures for the deck and did not involve inspection of any roof framing. The applicant proceeded to frame the roof and call for the necessary inspection at which time the non-compliance with the UDC provisions was identified.

While informing applicants of possible regulatory compliance conflicts is something that staff strives for in all instances it is not their primary duty to seek additional clarification when general details of a request appear to meet the minimum regulatory standards. Attempting to provide such a level of service, given the volume of permits issued and inspections conducted annually, is beyond the scope of what can be effectively provided given current staffing levels. Furthermore, the permits associated with single- and two-family dwellings are considered "over-the-counter" and have an expedited review with the expectation that the contractor to whom the permit is issued has basic knowledge of the code and its multiply layers of regulation. Unfortunately, in this instance, this assumption was incorrect and the applicant's error was identified as a part of the inspections process following installation of the non-compliant covering over the deck.

The city's staff would welcome the ability to administrative address this matter; however, the process to resolve these types of infractions are not vested with the staff but rather the Board. Based on the documentation offered by the applicant, the hardship proposed to justify the non-compliance is viewed as a "financial hardship". This type of hardship is not considered a valid justification for granting the relief requested.

The applicant's attached correspondence seeks to correlate the need for this variance based on the city inaction to inform the applicant of the UDC's requirements based on a future improvement that had not been requested to be inspected while they were inspecting otherwise fully compliant construction authorized per the approved plot plan which lacked specific enough details relating to proposed roof that would cover the deck. As stated above, the issued permit for the type of construction that has been occurred assumes the individual performing the work is aware of the city's regulatory provisions.

As such there is a level of personal responsibility that must be accepted with respect to the error that has occurred and the lack of becoming fully apprised of the UDC's regulatory requirements. The applicant's correspondence fails to point to any hardship associated with the site resulting in the non-compliance and seeks to shift the applicant's responsibility in becoming knowledgeable of the applicable UDC provisions to the city's inspection staff. Choosing to understand or seek guidance on the relevant regulations full rests with the applicant and any hardships or difficulties created by not seeking such understanding or guidance is due to the applicant actions.

- B. A single-family dwelling and an associated covered deck extending a maximum of 6-feet into the required front or rear yard setback that is covered no more than 60 sq. ft. is a permissible use within the R-1 zoning district. Approval of the requested variance would allow 15 sq. ft. of additional covered area to be placed over the constructed deck. Approval of the variance would not modify a standard that operates as part of any defined use within the R-1 district.
- C. The Comprehensive Plan does not specifically address the issue of setbacks within residential development; however, does address the issue of creating "Livable and Sustainable Neighborhoods". Canopies and covered porches within the required rear yard of lot is permitted provided the covered area does not exceed 60 sq. ft.. This application seeks relief to allow a 75 sq. ft. covered deck within the setback. The submitted variance application indicates that the applicant has verbal approval from the adjacent property owners that they are not opposed to allowing the constructed improvements to remain "as-is".

It is worth noting that the deck itself is not exceeding the regulatory requirements for encroachment into the rear yard – just the amount of covering over the deck. It is further worth noting that the subject lot is the final lot in the subdivision to be improved with a structure meaning there is likely less opportunity for similar errors to be made as existing decks are repaired and/or replaced.

- D. Granting the variance would be the least change necessary to accommodate the applicant's current non-compliance; however, it would also grant the applicant a privilege not extended to other properties within the neighborhood that have been improved with similar structures and accessory features as the subject site. The only regulatory option available to the applicant would be to seek rezoning to PD (Planned Development) and ask for a "design exception" with regard to the rear yard setback. This option is viewed as being more significant than necessary given the time to process a PD request and its inability to meet several of the criterion necessary to justify such an action.

The variance process is intended to address regulatory non-compliance matters such as those presented in this application. However, given that no evidence other than a financial hardship has been presented as justification for why compliance cannot be achieved it is difficult to conclude that underlying criterion to support a variance have been met.

- E. Approval of the requested variance is not likely going to not harm the public health, safety, or welfare. In fact, the applicant states that verbal support of the requested relief has been provided from adjacent property owners; however, no correspondence or inquiries related to this matter have been submitted by which staff can verify this assertion. As for approval of the variance being injurious to adjacent property or improvements within area, the variance would permit a covered deck with 15 sq. ft. more roof than otherwise allowed. Considering this dwelling and its improvements are the last to be constructed in the neighborhood and the location of the deck on the lot being otherwise fully regulatorily compliant, the impacts of allowing such minimal increase in covered roof area is unlikely to create discernable impacts to other dwellings.

Recommendation Action –

If the Board finds that compelling testimony has been given, a recommendation supportive of the requested relief would be appropriate. Conversely, if the Board does not believe compelling testimony has been provided a recommendation of denial would be appropriate.

In either instance, **for the purposes of establishing a "complete" public record**, Board justification supporting the variance or denial of the variance in accordance with the criteria defined in sec. 29-6.4(d)(3)(i)(A-E) shall be stated within the public record prior to a final decision being rendered.