



**ZONING BOARD OF ADJUSTMENT**

**Date of Hearing:** March 12, 2026  
**Date of Decision:** April 25, 2026  
**Zone Case:** 3 of 2026  
**Address:** East Jefferson Street  
**Lot and Block:** 23-F-131  
**Zoning Districts:** R1A-VH  
**Ward:** 1  
**Neighborhood:** Central Northside  
**Request:** House  
**Application:** BDA-2025-01446

Variance	Section 903.03.E	15' rear setback required; 8' requested for the primary structure
Protest Appeal	Sections 923.02.B and D	Appeal of Administrator Exception approving a deck in interior side setback pursuant to Sections 922.08.C and 925.06.G

**Appearances:**

Applicant: Jeff Dewey

Appellant: Dylan Trombetta

**Findings of Fact:**

1. The Subject Property is Parcel No. 23-F-131 on East Jefferson Street in an R1A-VH (Residential One Unit Attached Very High Density) District in the Central Northside neighborhood.
2. The grade of the Subject Property has a downward slope from East Jefferson Street towards the rear property line of the site and properties on Carrington Street, at a lower elevation.
3. The parcel is currently vacant. A 1910 Sanborn Fire Insurance map depicts a structure on the Subject Property with limited setbacks.

4. The Subject Property has a slightly irregular shape. It has 30' of frontage on East Jefferson Street but the half of the parcel that is adjacent to the parcel at 229 East Jefferson Street has a length of 42', and the half that is adjacent to the vacant Parcel No. 23-F-130 has a length of 40'.

5. The 229 East Jefferson Street parcel has a panhandle shape and the 6'-8"-wide panhandle strip extends between the irregular rear property line of the Subject Property and the rear property lines of parcels on Carrington Street. Parcel No. 23-F-130 extends from Carrington Street to East Jefferson Street.

6. Jeff Dewey, the owner of the Subject Property and the Applicant here, proposes to construct a 3-story house on the Subject Property. As proposed, the primary structure would extend to the front property line on Jefferson Street with a 0' setback, and would be set back 3' from both interior side property lines. Because of the irregular rear property line, the setback from the rear property line, along the panhandle strip, would range from 8' to 10'.

7. The plans for the house on the Subject Property include accessory decks on the second and third floors and on the rooftop. The 6' by 8' (48 sf) deck on the second floor and the 11' by 8' (88 sf) deck on the third floor would be substantially within the rear corner of the primary structure, on the Parcel No. 23-F-130 side, with 3' setbacks on that interior side, in line with the house. Both the second and third floor decks would extend only 2' from the primary structure, with 6' rear setbacks. Both the second floor deck and the third floor deck would be set back 19' from the interior side of the 229 East Jefferson Street property.

8. As proposed, the 17' by 15' (255 sf) rooftop deck would be set back 3' from the interior side shared with the 229 East Jefferson Street property line and 12' from the Parcel No. 23-F-130 property line. Like the primary structure, the rear setback for the rooftop deck would be at least 8'.

9. Because all of the decks would be set back more than 5' from the rear property line, as shared with the panhandle portion of the 229 East Jefferson Street parcel, the decks would comply with the rear setback requirement for accessory structures.

10. On January 29, 2026, the Zoning Administrator approved an Administrator's Exception to allow all three decks within the interior side setbacks. The second and third floor decks would have 3' setbacks, instead of 5' setbacks, on the Parcel No. 23-F-130 side; and the rooftop deck would have a 3' setback, instead of a 5' setback, on the 229 East Jefferson Street side.

11. Dylan and Nolan Trombetta, the owners of the 229 East Jefferson Street parcel, appealed the approval of the Administrator's Exception for the reduced setbacks for the decks. Benjamin Perez, the owner of Parcel No. 23-F-130, joined the appeal.

12. Mr. Dewey seeks a variance to allow an 8' rear setback for the primary structure and supports the approval of the Administrator's Exception for the decks.

13. Mr. Dewey asserted that the panhandle strip at the rear, the sloping topography and the shape of the property are unique conditions which create a hardship that prevents strict compliance with the setback requirement for a residential structure on the site. He also provided evidence that the rear of the proposed structure would be in line with the rear of the house on the

229 East Jefferson Street parcel and that the reduced rear setback would be consistent with other houses on East Jefferson Street.

14. With respect to the decks, Mr. Dewey maintained that the decks would not have a significant impact on surrounding properties because, for all three decks, the 3' interior side setback on one side of each deck, which the Zoning Administrator approved, would be the same as the setbacks for the primary structure and would have no greater impact on the adjacent parcels than the primary structure.

15. Dylan Trombetta appeared at the hearing for the Appellants and opposed the request for a variance from the rear setback requirement and the approval of the Administrator's Exception. He asserted generally that the proposed development of the Subject Property would have detrimental impacts on his property. The Appellants also asserted that the proposed reduction in the setbacks for the accessory structures should have been evaluated under the variance standards and not as an Administrator's Exception.

### **Conclusions of Law:**

1. Section 903.03.E sets forth the site development standards for primary structures in R1A-VH Districts, including minimum 15' rear and 5' interior side setback requirements. Pursuant to the contextual side setback provisions in Section 925.06.C, the interior side setbacks for primary structures can be reduced to 3', by right and without a variance.

2. Pursuant to Section 912.04, accessory structures are required to comply with the setback requirements that apply to primary structures. The contextual reduction that the Code permits for primary structures does not apply to accessory structures.

3. Accessory structures are not subject to the rear setback requirement for primary structures. Pursuant to Section 912.04.B, the minimum rear setback required for an accessory structure is 5'.

4. Pursuant to Section 925.06.G, a variety of accessory structures, including decks, swimming pools, garages, storage sheds, HVAC units and dumpsters, may be permitted within a required side yard as an Administrator's Exception. Section 925.06.G.2 sets forth the standards that the Zoning Administrator is to consider with respect to a request to allow an accessory structure within a side setback, including whether the proposed construction would place an accessory structure closer to a neighboring property line than the permitted building line of a primary structure and whether the location of the accessory structure would have detrimental impacts on the adjacent properties.

5. The Code delineates which deviations from the setback requirements are within the Board's discretion and authority to consider under the variance standards; and which are within the Zoning Administrator's discretion and authority to consider under the standards set forth in the Code. Because the impacts of accessory structures are more limited than those of primary structures, the Code entrusts the Zoning Administrator to review the location of accessory structures within interior side setbacks, under the standards in Section 925.06.G.

6. Under Code Sections 923.02.B and 923.02.D, the Board is authorized to approve variances and to hear and decide appeals where it is alleged that a zoning approval was issued in error. The Board may reverse or modify a challenged zoning approval as appropriate.

7. The variance standards in Section 922.09.E require the Board to consider any unique features or conditions of the property that prevent strict compliance with the Code's requirements. Any variance requested is to be the minimum that would afford relief and is not to have any significant impacts on the surrounding area. See *Marshall v. City of Philadelphia and Zoning Bd. of Adj.*, 97 A.3d 323, 329 (Pa. 2014); *Hertzberg v. Zoning Board of Adj. of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), citing *Allegheny West Civic Council v. Zoning Bd. of Adj. of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

8. In *Hertzberg*, the Pennsylvania Supreme Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only for a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48.

9. The Applicant seeks a dimensional variance to allow a reduced rear setback for the primary structure. As proposed, the rear setback from the panhandle strip of the 229 East Jefferson Street parcel would range from 8' to 10'. The proposed decks would all comply with the 5' rear setback requirement for accessory structures in Section 912.04.B.

10. The Applicant supports the January 29, 2026 Administrator's Exception, which would allow each of the three decks to extend into one of the 5' interior side setbacks, as required for accessory structures under Sections 903.03.E and 912.04. All of the 3' interior side setbacks proposed would be in line with the permitted 3' interior side setbacks of the primary structure.

11. The Appellants oppose the Applicant's request for a variance from the rear setback requirement for the primary structure and asks the Board to determine that the January 29, 2026 Administrator's Exception to allow the decks in the interior side setbacks was issued in error. The Appellants maintain that the Administrator's Exception process did not allow for sufficient review of the proposed interior side setbacks for the accessory decks.

12. The Applicant offered sufficient credible evidence of the unique conditions of the Subject Property, including the panhandle strip at the rear, the sloping topography and the shape of the property and the hardship associated with those conditions. The reduced rear setback proposed for the primary structure would allow the new structure to be in line with the structure on the 229 East Jefferson Street property. Because of the width of the panhandle strip and the change in grade, the reduced rear setback would not have any significant impact on the Carrington Street parcels. The Board thus concludes that the approval of a dimensional variance to allow a reduced rear setback for the primary structure is appropriate.

13. The Appellants ask the Board to determine that the Zoning Administrator erred in approving an Administrator's Exception to allow each of the three decks to be set back 3' from an interior side property line, in line with the 3' setbacks for the primary structure, and thus to extend, by 2', into the 5' setback that the Code requires for accessory structures. The Appellants seem to argue that the impact of the decks would be so significant as to warrant the Board's review as variances, instead of the Zoning Administrator's review as the Code requires. The appeal effectively requires the Board to review the same concerns that the Zoning Administrator would have considered with regard to the potential impact of the decks on the adjacent parcels.

14. For the second and third floor decks, on the Parcel No. 23-F-130 side, the decks would essentially be tucked into the rear corner of the primary structure. If designed as an indoor part of the primary structure and not as open accessory decks, the 3' setbacks proposed would be permitted by right. For the rooftop deck, the 3' setback on the 229 East Jefferson Street side would be in line with the primary structure and the 2' incursion into the setback would have no greater impact on the adjacent parcel than the primary structure.

15. Under these circumstances and the standards in Code Section 925.06.G that the Zoning Administrator considered, the accessory decks would not place the accessory decks closer to a neighboring property line than the permitted building line of the primary structure and would not have any detrimental impacts on the adjacent properties. The Board agrees that the Zoning Administrator properly and reasonably approved the Administrator's Exception for all of the decks.

16. Were the Board to review the setbacks of the proposed decks under the standards and law relating to dimensional variances, it would reach the same conclusion and would grant dimensional variances for the decks.

**Decision: The Applicant's request for a variance from Section 903.03.E to allow the construction of a house with a reduced rear setback is hereby APPROVED. The Appellants' appeal of the Administrator's Exception to reduce the required interior side setback for the three decks is hereby DENIED.**

s/Alice B. Mitinger  
**Alice B. Mitinger, Chair**

s/Lashawn Burton-Faulk  
**LaShawn Burton-Faulk**

s/ John J. Richardson  
**John J. Richardson**

Note: Decision issued with electronic signatures, with the Board members' review and approval.