Chair Townsend called the meeting to order at approximately 7:00 p.m. Those members attending included Fred Carroz, Dennis Hazelrigg, Martha John, David Townsend and Phil Clithero. Also attending were the City Clerk, Sheela Amin, Building Regulations Supervisor, Phil Teeple, and Assistant City Counselor, Rose Wibbenmeyer.

The minutes from the regular meeting of June 11, 2013 were approved as submitted on a motion by Mr. Hazelrigg and a second by Ms. John.

The following case, properly advertised, was considered. All persons testifying were duly sworn by the City Clerk.

Case Number 1866 was a request by Phebe La Mar, attorney for Matthew McGrath and Frances Dickey, for a variance to side yard setback requirement by allowing the accessory structure (tree house) to remain in its existing location on property located at 601 W. Stewart Road.

Chair Townsend opened the public hearing.

Ms. Amin explained letters had been received from Bruce and Kathryn Gordon and Hank Ottinger stating their support for the granting of the variance.

Phebe LaMar, an attorney with offices at 111 S. Ninth Street, provided a handout and explained she represented Matthew McGrath and Frances Dickey, who owned the home located at 601 W. Stewart Road, which was at the corner of Stewart and Westwood. She noted they had a heavily wooded back yard with lots of mature trees. One of the trees in the back yard had died, and as a result, it had to be cut down. It was a large tree with a large stump, so they decided to build a tree house on the stump. She showed the Board photos of the tree house and stated it was a well constructed and attractive addition to the property and neighborhood. It was less than 200 square feet, and therefore, was not subject to the City’s permitting requirements. Her clients had been unaware of the side yard setback requirement, and as a result, did not know there was a violation until they were notified by the City. Due to the location of the trees in the yard, the tree house could not be relocated. She pointed out the tree house was located behind a fence and did not create visibility issues. After receiving the letter from the City, her clients contacted neighbors within a one block radius of their home, and the handout showed the result of those contacts. No one opposed the tree house remaining in its current location. The neighbor that owned the property immediately behind the subject property did not live in Columbia and did not want to express an opinion. Of the 57 residences in the area her clients had attempted to contact, only six did not express unconditional support, and five of those did not respond or did not have an opinion. She commented that this was not a self-imposed situation as they had a lot of old and large trees in the back yard and no other location for the tree house.

Tim Materer, 502 W. Stewart, explained he lived on Stewart Road, a couple houses down from the subject property, and liked the tree house. He noted he had been in it with his three year old grandson and did not think anyone wanted to have to tear down a child’s play house. He pointed
out it was well designed and enhanced the neighborhood and stated he was in support of the Board granting the variance.

John Evelev, 202 S. Glenwood, commented that he lived about a block and one-half away from the subject property and their children were acquaintances, who had played in the tree house. It was a nice space and the family had been generous in allowing others to use it. He stated his support for it to remain.

Justin Howe, 606 W. Stewart, noted he lived across the street from the subject property and agreed with the previous comments. It was a beautiful structure and did not impede anything in terms of visibility.

Dan Cass, 605 W. Broadway, explained the tree house was built by him with the input of the two boys residing at the subject property. He stated the tree house was constructed on top of a platform, and noted he had been unaware of the setback ordinance.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Teeple explained that since this was a corner lot, the front yard was on Stewart and the side yard was on Westwood. The ordinance required any accessory structure to be set back the same distance as the front yard setback of the side street, which was Westwood. In this case, the properties to the north did not have a platted setback so the median setback would be used as the rule, and that was about 30-40 feet. He pointed out the City had received a complaint from a citizen, so the review was based upon a citizen complaint. He commented that if the variance was granted as written, it would not restrict the variance to the tree house. The variance would apply to any future structure built on the property, such as house, garage, etc.

Chair Townsend understood the request was to allow the accessory structure to remain in its existing location and that staff had indicated it would apply to a garage as well. Mr. Teeple stated that was correct as he understood the variance ran with the land and was permanent with the land. Chair Townsend understood they would need to be specific in their motion by granting the variance specifically to the existing tree house structure.

Ms. Wibbenmeyer noted the standard was one of practical difficulties or unnecessary hardship and agreed the motion needed to be specific if the Board wanted it specific to the tree house.

Ms. Wibbenmeyer understood there was a question as to what the setback would become. Ms. Amin stated that was correct and explained she could not tell from the application or the testimony how many feet the structure was from the property line as that distance was typically included in the certificate of decision. Ms. John asked if that was necessary if the variance was specific to this tree house. Chair Townsend wondered if they could say “as it sat currently,” and thought they could limit it so that if it was ever removed, it could not be replaced. Chair Townsend asked where the setback started. Ms. John replied it was likely the back side of the sidewalk, but she was unsure. Chair Townsend thought the tree house was about 18 inches from the back of the sidewalk. Mr. Hazelrigg noted that was the location of the stump, but the attached structure all of the way to fence side. Ms. Lamar agreed it was approximately 18 inches from the sidewalk. Chair Townsend asked for the width. Mr. Cass replied there were no right angles in the design, so the furthest point from the sidewalk was roughly 14-15 feet.
Chair Townsend suggested they just say current location, and restrict its ability to be replaced if it was ever disassembled.

Ms. John made a motion to approve the variance to allow the existing tree house to remain in its current location in its current state with the stipulation that it could be repaired but not added onto or replaced. The motion was seconded by Mr. Hazelrigg.

CASE NO. 1866 VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, HAZELRIGG, JOHN, TOWNSEND, CLITHERO. VOTING NO: NO ONE. The variance was approved.

Ms. John made a motion to re-elect Mr. Townsend as Chair and to elect Ms. John as Vice Chair. The motion was seconded by Ms. John and approved unanimously by voice vote.

There being no further business, the meeting adjourned at 7:21 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk