CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT
MEETING SUMMARY
Thursday, December 6, 2018

The Board of Adjustment meeting was called to order at 6:00 p.m. on Thursday, December 6, 2018 by Ms. Katherine Hipp, Chair of the Board of Adjustment.

I. Introduction of Board and City Staff

The following individuals were in attendance:

Ms. Katherine Hipp, Chair
Ms. Jeannie Rader
Mr. Gerald Schwalbe
Ms. Barb Whitman

Ms. Jessica Henry, Assistant City Planner, City of Chesterfield
Mr. Mike Knight, Planner, City of Chesterfield
Ms. Kathy Reiter, Recording Secretary, City of Chesterfield
Court Reporter, Alaris Litigation Services

Also in attendance was Councilmember Mary Ann Mastorakos, Ward II.

II. Approval of November 1, 2018 Meeting Summary

Jeannie Rader made a motion to approve the Meeting Summary. The motion was seconded by Barb Whitman and **passed** by a voice vote of 4 to 0.

III. Request for Affidavit of Publication

The Chair noted that the Affidavit of Publication and exhibits for the Petition had been placed on the dais.

IV. Public Hearing Items:

The Chair read the Opening Comments for the Public Hearing.

A. **B.A. 01-2018 323 Willow Weald Path (David and Amber Rogan):** A request for a variance from the City of Chesterfield Ordinance 2021 for Lot 105 of The Reserve at Chesterfield Village to maintain a rear yard setback of 10 feet in lieu of the 15 foot setback requirement for a tract of land zoned as a Planned Environment Unit "PEU" and "R-5" Residence District. (18T610669)

Staff Presentation:
Ms. Jessica Henry, Assistant City Planner for the City of Chesterfield, was sworn in by the Court Reporter.

Ms. Henry stated the following:

- The petition is a request to maintain a 10 ft. rear yard setback in lieu of the 15 ft. setback requirement to accommodate construction of a new swimming pool.
- In July of 2018, a Municipal Zoning Approval Application was submitted requesting to construct a new pool. The proposed construction showed an encroachment into the required rear yard setback and the request was therefore denied.
- The applicant has submitted a statement of hardship along with position letters indicating support from adjoining property owners. Those items were included in the meeting packet for the Board's consideration.
- Five factors to be considered by the Board when reviewing the statement of hardship are presented in the Staff Report.

Petitioner's Presentation
Mr. David Rogan, 323 Willow Weald Path, Chesterfield, MO 63005, was sworn in by the Court Reporter.

Mr. Rogan stated that they are requesting a variance to allow a 10 ft. rear yard setback and then made the following points:

- He and his wife bought their house in 2015 from the builder, and they would now like to add a swimming pool in the backyard.
- Their home is on a corner lot and was built as a market home. They feel the builder pushed the foundation far back on the lot so they could increase the front yard depth, minimizing the rear yard. Before construction was completed, the builder assured them that there was enough room for a pool to be built.
- Because of the layout of the house, a pool will not fit with a 15 ft. setback when also considering the distance needed from the home foundation to maintain its integrity.
- They feel the drainage will not be impacted and there will be no interference with the rear neighbor's enjoyment of their yard as the Rogan's home sits at the bottom of a hill in the rear of the neighbor's yards.

Discussion:

Ms. Hipp asked Mr. Rogan if he was not aware of his property boundaries when he bought the lot. Mr. Rogan answered that at that time, there were no fences or indications as to where the plot ended. The final plot was different from what was originally presented with the sales documentation.

Mr. Schwalbe asked if the original plot plan was available. Mr. Rogan replied that he did not have a copy of that document. Mr. Schwalbe added that the key factor is that the petitioner was assured by the builder that a pool could be constructed on the property, and the original plot plan would have shown the hardship.

Ms. Hipp inquired again about the builder being the one to assure the Rogan's that there would be room to build the size pool they wanted, and noted that the City had previously approved a permit for a pool. Ms. Henry then explained that in May there was a permit approved for a much smaller pool within the required setbacks.

The Board then discussed the issue of drainage and how construction could potentially alter its access to the sewer. Ms. Henry clarified that the applicant is aware that the existing drainage patterns must be maintained and that if the variance is approved, any application for a permit to install a structure will be evaluated by the City's engineering staff for compliance with approved drainage patterns.

Ms. Rader inquired about the neighbors' approval and Mr. Rogan clarified that the letters in the packet showing approval were from the three neighbors behind the property and next door to the property.

No Speakers were present to speak **in support** of the variance request.

No Speakers were present to speak **in opposition** of the variance request.

CONCLUSION

Gerald Schwalbe made a motion to approve the variance request to maintain a rear yard setback of 10 feet in lieu of the 15 foot required setback. The motion was seconded by Katherine Hipp. Upon roll call, the vote was as follows:

Katherine Hipp	**Yes**
Gerald Schwalbe	**Yes**
Barbara Whitman	**Yes**
Jeannie Rader	**Yes**

The motion passed 4 to 0. The application was approved.

B. **B.A. 04-2018 826 Wellesley Place (Chesterfield Fence and Deck):** A request for a variance from City of Chesterfield Ordinance 616 for Lot 35 of the Wellesley Place subdivision to maintain a rear yard setback of 13 feet in lieu of the 15 foot setback requirement. (18S630712)

Staff Presentation:
Ms. Jessica Henry, Assistant City Planner for the City of Chesterfield, was sworn in by the Court Reporter.

Ms. Henry stated the following:

- Chesterfield Fence and Deck, on behalf of Gerald Nettler, is requesting a variance to maintain a 13 ft. rear yard setback in lieu of the 15 ft. setback requirement in order to replace the existing deck steps. The existing deck was constructed at the same time as the home in 1992, and the footprint has not been altered since that time. While the deck itself does not encroach into the setback, the two steps down to grade do.
- In September of 2018, a Municipal Zoning Application was submitted requesting to reconstruct the existing deck and steps on the subject site. The proposed construction showed an encroachment and the request was denied.
- The existing deck, which needs repairs due to its age, meets the required setback; only the deck steps currently encroach in the setback. No changes are proposed to the deck footprint.
- The applicant has submitted a statement of hardship along with position letters indicating support from adjoining property owners. Those items were included in the meeting packet for the Board's consideration.
- Five factors to be considered by the Board when reviewing the statement of hardship are presented in the Staff Report.

Discussion:

Ms. Rader asked if there is an alternate way of building the steps. Ms. Henry replied that a review of the plot plan shows there is room to extend the steps to the side; however there is a small drainage wall that would have to change so the applicant is requesting a variance so as not to make that change.

Ms. Whitman inquired if the current steps already encroached two feet in the setback. Ms. Henry confirmed that they do. The original builder installed the deck when the home was built in the early nineties. There was not a variance requested or granted for this encroachment. An Occupancy Permit was granted without realizing the two steps encroached in the setback.

Petitioner's Presentation
Mr. Eric Dauernheim, Project Designer, Chesterfield Fence & Deck Company, 620 Spirit Valley East Dr., Chesterfield, MO 63005, representing the Homeowner, was sworn in by the Court Reporter.

Mr. Dauernheim, stated that they are requesting a variance to allow a 13 ft. rear yard setback. He then explained that the steps are at a right angle from the body of the deck and can't extend straight in line with the deck due to a small retaining wall. The request is to keep the same footprint.

Discussion: There were no questions or comments for the Petitioner

Speakers – In Favor:
Mr. Gerald Nettler, Homeowner,826 Wellesley Place Drive, Chesterfield, MO 63017, was sworn in by the Court Reporter.

Mr. Nettler stated that the deck was built at the time the house was constructed. Their request is only to repair/replace the rotted posts; there is no plan to change the footprint of the deck.

No Speakers were present to speak **in opposition** of the variance request.

CONCLUSION
Barb Whitman made a motion to approve the variance request to maintain a rear yard setback of 13 feet in lieu of the 15 foot required setback. The motion was seconded by Katherine Hipp. Upon roll call, the vote was as follows:

Katherine Hipp	**Yes**
Jeannie Rader	**Yes**
Gerald Schwalbe	**Yes**
Barbara Whitman	**Yes**

The motion passed 4 to 0. The application was approved

V. Adjournment

The meeting adjourned at 6:30 p.m.