

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT
MEETING SUMMARY
Thursday, August 1, 2013**

The Board of Adjustment meeting was called to order at 6:00 p.m. on Thursday, August 1, 2013 by Ms. Marilyn Ainsworth, Chair of the Board of Adjustment.

I. Introduction of Board and City Staff

The following individuals were in attendance:

Ms. Marilyn Ainsworth, Chair
Ms. Melissa Heberle
Mr. Leon Kravetz, Vice Chair
Ms. Barb Whitman
Mr. Gerald Schwalbe

Mr. Harry O'Rourke, representing City Attorney, City of Chesterfield
Ms. Aimee Nassif, Planning & Development Services Director, City of Chesterfield
Mr. John Boyer, Senior Planner, City of Chesterfield
Ms. Kathy Reiter, Administrative Secretary, City of Chesterfield
Court Reporter, Midwest Litigation Services

II. Approval of July 12, 2012 Meeting Summary

Leon Kravetz made a motion to approve the Meeting Summary. The motion was seconded by Melissa Heberle. Upon roll call, the vote was as follows:

Marilyn Ainsworth	Yes
Melissa Heberle	Yes
Leon Kravetz	Yes
Barb Whitman	Abstain
Gerald Schwalbe	Yes

The motion passed by a vote of 4-0, with 1 abstention.

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. 02-2013 14826 Pleasant Ridge Court (Mazen & Randa):** A request for a variance from Ordinance 10,968 to maintain an 8 ft. rear setback in lieu of the 12 ft. setback requirement for a tract of land zoned as a Planned Environment Unit "PEU" and "R-1A" Residence district. (19R410673)

Staff Presentation:

Ms. Aimee Nassif, Planning & Development Services Director for the City of Chesterfield, outlined the exhibits supporting the request for a variance to permit an existing residence to maintain an 8 ft. rear yard setback in lieu of the required 12 ft. rear yard setback.

Ms. Nassif stated the following:

- The petition tonight is a request to maintain an 8 ft. rear yard setback in lieu of the 12 ft. setback requirement to accommodate a room addition. The original request was submitted to the City in April of 2012, at which time the addition was approximately 465 square feet. This request was rejected because it encroached into the setback.
- The subject property is located in Westchester Place, which was zoned by St. Louis County in 1983 and is governed by Ordinance 10,968. At the time this Planned Environment Unit was approved, the rear yard setbacks required were 15 ft., however perimeter lots had a 12 ft. rear yard setback to maintain. 14826 Pleasant Ridge Court is a perimeter lot.
- The request before this Board is to maintain an 8 ft. rear yard setback for the room addition, which has been reduced in size to approximately 327 square feet.
- When the Board is considering a variance request, they must find that a hardship exists with the property. A hardship cannot be created by the applicant and the hardship must be proven by the applicant.
- The applicant has submitted letters of support with his petition and states that his hardship is an irregular shaped lot. While this lot is an unusual shape, it is one of the largest lots in the development and the residential structure at 3,022 square feet is the second largest in the subdivision. In reviewing this application and all their documents, Staff feels the applicant has not proven the burden that he is required to prove for a variance.

A new exhibit, Exhibit 10, which is a letter from Mr. Gao who lives at 1484 Schoettler Road and who wishes to rescind his approval of the variance request was admitted into the Exhibits by the City.

Exhibit numbers 1-7 were then admitted. The applicant then identified Exhibits numbered 8 and 9. Exhibit 8 is an aerial of the house at 14286 Pleasant Ridge Court. Exhibits 8A and 8B show the outline of the room addition. Exhibit 9 is a blueprint of the room addition and the existing structure. Exhibits 1-10 were then admitted.

Petitioner's Presentation

Mr. John King, Lathrop & Gage, 7701 Forsyth Blvd, Suite 500, Clayton, MO 63105, who is representing the Petitioner was sworn in by the Court Reporter.

- Mr. King, stated that they are requesting a variance to allow an 8.5 ft. rear yard setback and then made the following points.
- Although it may be one of the largest lots, it has less usable square feet as a result of its odd shape. Mazen Hajii, the owner/petitioner wants to add the addition to modernize the house and make it a more livable space for his family and in-laws.
- The house is a two story house built in 1984 and was bought by the petitioner in 2000. Because of the lot's unusual shape and location on a cul-de-sac, it makes it more difficult to do the work.
- The original request for a variance has been reduced to 8.5 feet, which allows the structure to be built 3.5 ft. into the rear yard setback.

James Bellistri, 2424 Northline Industrial Drive, Maryland Heights, MO, was sworn in by the court reporter.

Mr. Bellistri explained that Exhibit 8 is an aerial photo of the home showing the area wanted for the addition. He pointed out that almost 1/3 of the lot is unusable as it approaches Schoettler.

Mr. King asked him to explain what this room addition does for the house. Mr. Bellestri explained that there is an existing addition originally built as a 3-season room, which makes it limited in its use. Also, the fireplace protrudes into the room and takes away living space. After the first request for a room of about 12 ft. was rejected, new plans were submitted at the current size.

Mr. Bellstri said that in speaking with Ms. Nassif, she asked why the addition could not go on the side of the house. He explained that adding the addition to the side of the house would be useless because the 3 season room is there now, and to the right is the master bath, walk in closet and master bedroom. It would be impossible to relay out all the bathrooms, master bedroom and closet to add living space.

In closing, Mr. King added that the addition to the room is 234 square feet. He referred to Exhibit 8B, which shows how much of the proposed addition would be in the setback and indicated that if they are unable to build within the setback, the addition wouldn't be a large enough living space.

Referring to Mr. Gao's letter opposing the variance request, Mr. King stated that there is a heavy tree stand all along Mr. Gao's property line which provides a screen between the two properties. They are agreeable to providing any additional landscaping that the Board feels may be necessary to protect the neighbor from ever seeing the proposed addition.

Mr. King summarized that the request is for a 3.5 ft. variance. The hardship is the size and the shape of the lot which doesn't allow the owners to modernize their home.

Discussion

Mr. Leon Kravetz noted the following points:

- The lot was odd shaped at the time of purchase so it is no surprise; and
- The 3-seasons room can be redone to get an extra few feet thereby eliminating the need for a variance request.

Mr. King stated they could redo and add to the 3-season room but it wouldn't give enough room to make it useable. Mr. Kravetz also inquired about the location of the fireplace in the 3-season room and the size of the room. Mr. Bellestri stated that the location of the fireplace is in the middle of the room, which is the reason the room cannot be used. When Mr. Kravetz suggested removing the fireplace, Mr. King noted that the front of the fireplace is in the great room, which is a room that the homeowners use; the back of the fireplace is in the middle of the 3 seasons room but the fire is not seen from this room nor does it provide any warmth in that room.

Mr. Bellestri then showed the Board members Exhibit 9, which shows the location of the fireplace. After looking at the plans, Mr. Kravetz asked if the petitioners are willing to give up their fireplace in a compromise for more space. The petitioner answered no. The idea of relocating the fireplace was brought up to which Mr. King stated that it would be virtually impossible to do, as it is a concrete foundation fireplace with cinderblock and brick construction.

Ms. Barb Whitman then inquired as to when the swimming pool was put in. Mr. King stated that it was put in when the house was built.

Mr. Schwalbe then referred to Exhibit 9 and asked for clarification as to whether the addition extends off to the left and extends to the stairs. Ms. Nassif stated that the petitioner is proposing two areas for the addition – one piece being 10'x7' and the other piece being 19.5'x10', which is the addition piece that encroaches into the setback.

Mr. Schwalbe referred to the addition off to the left of the house and suggested that they go out to the two corners, put corners on the extension, and get it within the boundaries. Mr. Bellestri pointed out that if this was done, the homeowner wouldn't have a safe passage between the corner of the pool and the home.

Deric Madej, Civil Engineer, Sterling Engineering, 5055 New Baumgartner Road, St. Louis, MO. was sworn in by the Court Reporter.

Mr. Kravetz inquired whether there would be any run off water from the extension affecting the neighbor's yard. Mr. Madej responded that there would be some additional flow from the roof, but not a significant amount. Ms. Nassif agreed.

Mr. King then pointed out that he feels the subject property's backyard is that portion of the yard that abuts Schoettler Road. If this area is considered the backyard, then the side yard meets the side yard setback of 8'. However, the City considers the area abutting Schoettler Road as the side yard.

Ms. Marilyn Ainsworth inquired about the owner possibly purchasing that part of the property from his neighbor which is needed to meet the required setback. Ms. Nassif responded that this would not be possible since it would reduce the size of the lot at 1484 Schoettler Road, making it non-conformant with the minimum lot size requirements for the residence district.

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

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

Final discussion included Mr. Kravetz and Mr. Schwalbe reiterating the points they made earlier. Before taking a vote, Mr. Kravetz suggested giving the petitioner the opportunity to come back with revised plans for the Board to consider.

Mr. Bellistri explained other options that were reviewed for the addition, but these removed a large portion of the addition. He feels that the 36-foot portion of the addition that encroaches into the setback allows the homeowner a greater enjoyment of his home, adds value to the subdivision, and adds to the resale value of the house.

Mr. O'Rourke then again asked if there was anyone present that wished to speak for or against the application. There were none.

CONCLUSION

Barb Whitman made a motion to approve the variance request to maintain a rear yard setback of 8 feet in lieu of the 12 foot required setback. The motion was seconded by Gerald Schwalbe. Upon roll call, the vote was as follows:

Marilyn Ainsworth	No
Melissa Heberle	No
Leon Kravetz	No
Barbara Whitman	No
Gerald Schwalbe	No

The motion failed 0 to 5. The application was denied. All exhibits will stay with the City.

V. Election of Officers

- A. Chair**
- B. Vice Chair**

Chair Ainsworth asked for nominations for the Chair of the Board of Adjustment. Leon Kravetz nominated Marilyn Ainsworth. The motion was seconded by Gerald Schwalbe.

The motion to nominate Marilyn Ainsworth as Chair of the Board of Adjustment passed by a voice vote of 5-0.

Marilyn Ainsworth accepted the position as Chair of the Board of Adjustment.

Chair Ainsworth asked for nominations for Vice-Chair of the Board of Adjustment. Mr. Schwalbe nominated Leon Kravetz. The nomination was seconded by Melissa Heberle.

The motion to nominate Leon Kravetz as Vice-Chair of the Board of Adjustment passed by a voice vote of 5-0.

Leon Kravetz accepted the position as Vice-Chair of the Board of Adjustment.

VI. 2014 Proposed Meeting Schedule

Barb Whitman made a motion to accept the 2014 Meeting Schedule. The motion was seconded by Melissa Heberle and **passed by a voice vote of 5-0.**

VII. Adjournment

The meeting adjourned at 7:01 p.m.