

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT MEETING SUMMARY
Thursday, July 10, 2008**

The Board of Adjustment meeting was called to order at 7:03 p.m. on Thursday, July 10, 2008 by Mr. Leon Kravetz, Acting Chair of the Board of Adjustment.

I. Introduction of Board and City Staff

The following individuals were in attendance:

Mr. Leon Kravetz, Acting Chair
Mr. Bruce DeGroot
Ms. Laura Lueking
Mr. Richard Morris
Mr. Robert Tucker
Mr. Gerald Schwalbe, Alternate

Councilmember Bob Nation, Ward IV
Mr. Rob Heggie, City Attorney, City of Chesterfield
Ms. Annissa McCaskill-Clay, Lead Senior Planner, City of Chesterfield
Ms. Mary Ann Madden, Planning Assistant, City of Chesterfield
Court Reporter, Midwest Litigation Services

II. Request for Affidavit of Publication

The Chair noted that the Affidavits of Publication and exhibits for all Petitions had been placed on the dais.

III. Public Hearing Items:

The Chair read the Opening Comments for the Public Hearings.

- A. B.A. 03-2008 911 Wellesley Place (Jim and Sandy McKeever):** A request for variance from City of Chesterfield Ordinance 616 to allow an existing residence located at the referenced address in the Wellesley Place Subdivision to maintain an 11 ft. rear yard setback in lieu of the required 15 ft. rear yard setback. (18S630460)

Staff Presentation:

Ms. Annissa McCaskill-Clay, Lead Senior Planner for the City of Chesterfield, noted that the Wellesley Place Subdivision is zoned "R3/R4/R6" Residence District with a Planned Environment Unit Procedure. Ordinance 616 establishes the Planned Environment Unit Procedure for the development and provides a 15-foot rear yard setback to be established. On April 24, 2008, the City of

Chesterfield rejected a Municipal Zoning Approval for a screened porch addition to the rear of the McKeever residence because it extended beyond the established rear yard setback.

Ms. McCaskill-Clay then presented exhibits supporting the petition requesting variances permitting the petitioner to maintain an 11-foot rear yard setback in lieu of the required 15-foot rear yard setback.

[The Chair then noted that since there are five Board members present, Mr. Schwalbe is excused from this meeting in his position as an Alternate Member. Mr. Schwalbe left the meeting at this time.]

Ms. Lueking asked about the liens and fines certification page as referenced. Ms. McCaskill-Clay stated that there are no liens against the subject property.

Petitioner's Presentation:

Mr. Fred Bueller of Bueller Incorporated, Contractor representing the Petitioner, stated that the request is for an 11.6-foot setback rather than an 11-foot setback as presented by Staff. Ms. McCaskill-Clay clarified that Staff does not measure in half-foot increments because the scale does not allow for that detail of measuring. In such cases, Staff will go to the next foot down.

Mr. Bueller stated that the McKeever's would like to construct a screened-in porch off the back of their house in order to enjoy the outdoors more than they have been able to do in the recent past. He noted that the commercial property behind the McKeever's' house has ponding problems up against the McKeever's' property line. This ponding has caused a problem with mosquitoes.

Neighbors on both sides of the McKeever's, as well as the Wellesley Place Subdivision Trustees, have submitted their approvals for this request, which are part of the Petitioner's submission material. Mr. Bueller pointed out that there is a retaining wall and six-foot privacy fence, which screen the McKeever's' property from the commercial property. Because of the retaining wall and privacy fence, Mr. Bueller stated that the requested screened-in porch would not infringe upon the commercial property behind the McKeever's.

Because of the mosquito issue, the McKeever's would like to enclose their existing concrete patio.

Mrs. Sandra McKeever, Petitioner, was sworn in at this time to answer questions from the Board.

Mr. Bueller and Mrs. McKeever responded to questions from the Board noting that (1) the level of the proposed screen porch would be at the same level as the addition constructed in 1997; (2) there is a hardship of not being able to enjoy the outdoors because of the mosquito problem that exists from a ditch on the commercial property, which accumulates water after a rainstorm; (3) the existing

patio would not be extended and that the screened-in area would not be as wide as the existing patio; and (4) the Subdivision Trustees have been in contact with the City regarding the mosquito issue.

Ms. McCaskill-Clay advised that an Engineer from the City's Development Services Division has been working with the commercial property in an attempt to get the ponding/mosquito problem abated. Until the problem is abated, the City will not issue any more Occupancy Permits for the commercial property. City Attorney Heggie added that if the problem is not corrected in a timely manner, the property owner will be taken to Municipal Court.

Mrs. McKeever was asked whether her patio would be sufficient for use if the mosquito problem is corrected. Mrs. McKeever replied that she guessed the patio would be sufficient but that she would really prefer a screened-in porch.

Ms. Lueking noted that the patio is already over the setback line, which is permitted - but a structure is not permitted over the setback line.

Ms. Lueking asked if all the questions had been answered from the Trustee letter. Mr. Bueller replied that the questions would be answered if the petition is approved noting that the McKeever's did not want to invest money in the final development of the plans not knowing if the dimensions are acceptable. City Attorney Heggie stated that if the Board grants the variance, the Trustees would have to give final approval with respect to designs and matching the roof line before construction could begin.

Speakers in Favor:

Mr. Wei Wang, 907 Wellesley Place Drive - neighbor to the McKeever's, stated that he has no objection to the variance request and supports their application.

Speaker in Opposition:

There were no speakers present in opposition to the variance request.

CONCLUSION:

Richard Morris made a motion to approve B.A. 03-2008 911 Wellesley Place (Jim and Sandy McKeever) allowing the variance from City of Chesterfield Ordinance 616 to allow an existing residence located at the referenced address in the Wellesley Place Subdivision to maintain an 11 ft. rear yard setback in lieu of the required 15 ft. rear yard setback subject to the Trustees' final approval of the plans. The motion was seconded by Richard Tucker.

Upon roll call, the vote was as follows:

Laura Lueking	No
Richard Tucker	Yes
Richard Morris	Yes
Bruce DeGroot	No
Leon Kravetz	Yes

Noting that 4 affirmative votes are necessary for approval, the motion **failed** 3 to 2.

- B. B.A. 04-2008 2309 Callender Ct. (Erma Simmons):** A request for variance from City of Chesterfield Zoning Ordinance Section 1003.113(3)(a) to allow an existing residence located at the referenced address in the Kehrs Mill Farm Subdivision to maintain a 22 ft. front yard setback in lieu of the required 25 ft. front yard setback. (21T610199)

Staff Presentation:

Ms. McCaskill-Clay presented exhibits supporting the petition requesting variances permitting the petitioner to maintain a 22-foot front yard setback in lieu of the required 25-foot front yard setback.

Ms. McCaskill-Clay then stated that Kehrs Mill Farm Subdivision was established via Ordinance 6157, which provides that the setbacks for the established subdivision come from the Zoning Ordinance, specifically the section for the “R2” District regulations. The setback as established by the “R2” criteria requires a 25-foot front yard setback. On May 29, 2008, the City of Chesterfield rejected an Application for Municipal Zoning Approval for a new front porch and a roof overhang for the porch because they extended beyond the required setback. The Petitioners are requesting a 22-foot front yard setback in lieu of the required 25-foot front yard setback.

Mr. Morris noted that the Application indicates that the Trustees and neighbors were advised of the proposed work. He asked if anything has been received to confirm this. Ms. McCaskill-Clay replied that Staff has not received anything in writing noting that the Application does not require a signature on the plans from the Trustees. The Application only requires a signature from the Petitioners certifying that they have advised the Subdivision Trustees of the proposed work, which has been provided.

Petitioner’s Presentation:

Mr. Dennis May, Division Manager with Chesterfield Fence & Deck, Contractor for the project and representing the Petitioner, stated that the encroachment on the 25-foot building setback from the proposed work is less than 20% of the project on the front elevation. Mr. May stated that the hardship relates to balance

with respect to the 7-foot projection on the concrete foundation and the proposed 8-foot overhang projection, which is elevated at the second level. They want to maintain the proposed projections for reasons of balance with the overall project. Because of the arrangement of the windows on the second level, they are not able to construct a cover for the porch structure that would enhance the value of the home. As a result, they need to go to the second level. He noted that a basic architectural rule of thumb is that for every foot in height on a column, there should be an inch in diameter on the column. In order to maintain balance between columns, cover, and home, they feel they need to have the 8-foot projection in the roof structure and the 7-foot projection in the foundation structure. They also plan to update all the vinyl siding, soffits, fascia, and gutters to give the home a completely updated look.

Mr. May then distributed copies of the plot plan and several photos to the Board. City Attorney Heggie marked the submission as Exhibit #6.

Mr. May responded to questions from the Board noting that (1) the proposed porch extends along the entire length of the habitable portion of the house – it does not extend over to the garage area; (2) the front porch is currently a small pad projecting approximately 36 inches from the front with a “very humble” cover; (3) the front elevation of the house is a southeastern exposure, which requires a larger cover in order to get benefits from the cover when the sun starts to reach the apex - if there is an 8-foot projection on the cover, the homeowner will get some benefit from the cover over the windows and door; (4) there is an existing deck in the rear of the property. Ms. McCaskill-Clay added that the existing deck does go into the easement, which is permitted with the proper letters. She added that the deck is not part of this request.

Speakers:

No Speakers were present to speak in favor of, or in opposition to, the variance request.

Speakers – Neutral:

Mr. Roger Sirota, President of the Trustees of the Kehrs Mill Farm Subdivision, stated that he just became aware of this meeting two days ago and was totally unaware of the proposed project. Generally, the Trustees receive some notification when a project is being done in the subdivision. When the sun porch was proposed at the rear of the property, the Trustees received information on the project before any construction began. The Trustees are looking for continuity throughout the entire neighborhood – particularly on the front of the homes.

Mr. Sirota added that he is delighted that the subject resident is willing to improve her home but the Trustees need to be advised of the plans to insure that continuity is being maintained throughout the entire development.

Mr. Sirota responded to questions from the Board noting that (1) he has not seen the proposed plans and could not say whether they meet with continuity of the subdivision; and (2) all three of the Trustees should review the plans as a group.

CONCLUSION:

Chair Kravetz asked the Petitioner to come forward. The Chair then advised Mr. May that since the property owner has not informed the Trustees, the Petition would be tabled until the next Board of Adjustment meeting scheduled for August 7, 2008. This will allow the Trustees an opportunity to review the plans and to determine if they are in continuity with the rest of the subdivision.

Ms. Laura Lueking made a motion to hold B.A. 04-2008 2309 Callender Ct. (Erma Simmons) until the August 7th Board of Adjustment meeting. The motion was seconded by Chair Kravetz.

Mr. May asked if the setback issue could be reviewed at tonight's meeting making any motion to approve contingent upon the Trustees' approval. The Chair stated that the Board will not vote on the variance request until the Trustees have approved it.

The Board questioned who certified on the application that the Trustees had been notified. It was noted that the applicant provided certification. Mr. May stated that the homeowner did not have contact information for the Trustees and the applicant certified the application based on the understanding that the Trustees had been notified.

Question was raised as to how long Mrs. Simmons has lived in the neighborhood. Mr. Sirota replied that she has lived in the neighborhood for about twenty years and that Trustee information has been passed on to her.

Upon roll call, the vote to hold was as follows:

Laura Lueking	Yes
Richard Morris	Yes
Richard Tucker	Yes
Bruce DeGroot	Yes
Leon Kravetz	Yes

The motion **passed** 5 to 0.

- C. **B.A. 05-2008 16292 Upper Chesterfield Ridge Drive (Dennis and Franca Wibbenmeyer):** A request for variance from City of Chesterfield Ordinance 2239, Section E to allow an existing residence located at the referenced address in the Chesterfield Ridge Subdivision to maintain a 20 ft. rear yard setback in lieu of the required 25 ft. rear yard setback. (19T320875)

Staff Report:

Ms. Annissa McCaskill-Clay stated that the subject residence is located in Phase II of the Chesterfield Ridge Subdivision, which is zoned "R5" Residence District with a Planned Environment Unit Procedure. City of Chesterfield Ordinance 2239 provides the governing regulations for the established Planned Environment Unit Procedure. Ordinance 2239 establishes minimum yard requirements of 15 feet. On May 16, 2008, the City rejected an Application for Municipal Zoning Approval for a deck because it extended beyond the established rear yard setback.

Ms. McCaskill-Clay then noted corrections to the Petitioner's request as follows:

B.A. 05-2008 16292 Upper Chesterfield Ridge Drive (Dennis and Franca Wibbenmeyer): A request for variance from City of Chesterfield Ordinance 2239, Section E to allow an existing residence located at the referenced address in the Chesterfield Ridge Subdivision to maintain a ~~20-ft.~~ **10 ft.** rear yard setback in lieu of the required ~~25-ft.~~ **15 ft.** rear yard setback. (19T320875)

It was noted that the correct rear yard setbacks were advertised.

Petitioner's Report:

Mr. Dennis Wibbenmeyer, owner of the subject property, stated that when the home was built in 2006, he had the roof constructed for a future sun room addition. The request includes an outside deck, 8' deep by 8'6" wide, adjacent to the sun room. The deck would be used as a barbeque area. The depth of the deck would exceed the 15-foot setback line by approximately 4 feet. The sun room does not go over the setback line.

The lot is one of the largest lots in the developments with a large front yard but very small rear yard, which falls down into a dry retention basin. The yard is comprised of only 19 feet so a 15-foot setback takes up most of the yard.

The hardship expressed is that the only option to barbequing would be on the home's patio. This would be difficult for Mr. Wibbenmeyer and probably impossible for his wife, who suffers from cancer and a very low energy level. She is unable to go up and down steps so they are requesting a small barbeque area on the main living area.

City Attorney Heggie asked for clarification on where the setback line is in relationship to the proposed deck and sun room. Mr. Wibbenmeyer submitted a plan showing the sunroom and deck, which City Attorney Heggie marked as Exhibit #7. The plan was reviewed by the Board, City Attorney and Ms. McCaskill-Clay to clearly identify the setback line.

Mr. Wibbenmeyer stated that there is Trustee approval, along with approval of the Phase II neighbors.

Speakers:

No Speakers were present to speak in favor of, or in opposition to, the variance request.

CONCLUSION:

Richard Morris made a motion to approve **B.A. 05-2008 16292 Upper Chesterfield Ridge Drive (Dennis and Franca Wibbenmeyer)** to allow an existing residence located at the referenced address in the Chesterfield Ridge Subdivision to maintain a 10 ft. rear yard setback in lieu of the required 15 ft. rear yard setback. The motion was seconded by **Bruce DeGroot**.

Ms. Lueking asked if there is anything in writing confirming that the Trustees have been notified of the proposed plans. **Ms. McCaskill-Clay** stated that she was not provided with anything in writing. **Mr. Wibbenmeyer** stated that the Trustees signed off on the front page of the plans and it is his understanding that this signed plan was submitted to Chesterfield. The Contractor indicated that a copy of this documentation is filed with his office and that he could provide another copy. It was noted that Ms. McCaskill-Clay would check to see whether the plan had been submitted with the original Municipal Zoning Application.

The motion was then amended that approval is subject to Staff confirming that the proposed plans have been signed by the Trustees.

Upon roll call, the vote was as follows:

Bruce DeGroot	Yes
Laura Lueking	Yes
Richard Morris	Yes
Richard Tucker	No
Leon Kravetz	Yes

The motion passed 4 to 1.

IV. Adjournment

The meeting adjourned at 8:00 p.m.