

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT
MEETING SUMMARY
Thursday, July 6, 2017**

The Board of Adjustment meeting was called to order at 6:00 p.m. on Thursday, July 6, 2017 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. Melissa Heberle, Vice Chair
Mr. Leon Kravetz
Ms. Jeannie Rader
Ms. Barb Whitman

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

II. Approval of June 15, 2017 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:

Katherine Hipp	Yes
Melissa Heberle	Yes
Leon Kravetz	Yes
Barb Whitman	Yes
Jeannie Rader	Yes

The motion passed by a vote of 5-0.

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. 02-2017 1391 Sandburg Court (Ron and Roberta Gipson):** A request for a variance from the Walden Pond Record Plat for Lot 15 of Walden Pond to maintain a rear yard setback of 42 feet in lieu of the 50 foot setback requirement. (19T310492)

Staff Presentation:

Ms. Jessica Henry, Senior Planner for the City of Chesterfield, was sworn in by the Court Reporter.

- Ms. Henry stated that the petition is a request to maintain a 42 ft. rear yard setback in lieu of the 50 ft. setback requirement to accommodate construction of a new deck within the same footprint of the existing deck, which encroaches in the rear setback. The original request was submitted to the City in May of 2017. This request was rejected because it encroached into the rear yard setback.
- The subject property is located in the Walden Pond subdivision, which was zoned “R1A” and “R2” with a Planned Environment Unit (PEU) by St. Louis County in 1985. The Record Plat, which was approved and recorded in 1986, established a 50 foot rear setback for Lot 15 and other lots located along the perimeter of the Walden Pond subdivision.
- The request before this Board is to maintain a 42 ft. rear yard setback for the construction of a new deck, which would replace the existing one. The current deck on the property encroaches into the rear yard setback; it is assumed that St. Louis County approved this encroachment prior to the incorporation of the City of Chesterfield as the City records do not indicate that any permits for construction or alteration to the deck have been approved since the City’s incorporation.
- 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 applicants have submitted letters of support with their petition and state that the hardship is due to the lot’s shallow, angular back property line. The variance would permit the applicant to construct a new deck that meets current building codes within the same footprint as the existing deck.

Petitioner’s Presentation

Mr. Ron Gipson and Mrs. Roberta Gipson, 1931 Sandburg Court, Chesterfield, MO 63005, the Petitioners, were sworn in by the Court Reporter.

Mr. Gipson stated that they are requesting a variance to allow a 42 ft. rear yard setback and then made the following points.

- He and his wife bought the house in 1991. Because the existing deck has reached the end of its usable (safe) life, they would like to upgrade it and bring it up to current City of Chesterfield building codes.

- The deck is the original size as when they moved into the house in 1991 and they have no desire to change the basic footprint. There is only one small corner of the deck that encroaches into the setback, and they were not aware of this encroachment until they applied for the permit to replace the deck.
- Without the requested variance, they would have to build a much smaller deck, or build a deck that would require them to destroy parts, or do extensive remodeling, of their paver stone patio. Because of the layout of the house and placement of the windows and doors on the back of the house, redesigning the deck to be smaller would make it nearly impossible to use for dining or entertainment. It is not possible to move the stairs to the other side of the deck because the stairs would then cross the windows and back egress, which is against code. .
- The neighbors have given approval for the deck and there is a tree line behind them so they are not right on their property. The new deck will be up to all current codes.

Discussion:

Ms. Hipp referred to the brick patio and inquired about the difficulty of rearranging the pavers. Mrs. Gipson explained there were stone pavers on the patio below the deck, as shown in Exhibit 6b. To rearrange them would entail a lot of work involving digging everything up and starting over. Ms. Hipp asked the Gipsons to describe their lot. Mr. Gipson answered that they are the last house on the right of the street, which is an angled property and that the 50 foot building line is angled across their property. There are no neighbors to the right.

Ms. Whitman referred to Mr. Gipson's remark about "just one corner" of the deck encroaching the setback and asked for clarification as to its location. Mrs. Gipson then showed the Board Exhibit 6b, which shows the corner of the deck and the stairs encroaching the setback, as delineated by the line drawn through the photograph.

It was then explained that the rejected Municipal Zoning Approval Application (Exhibit 6d.) was the first indication of their deck encroaching in the rear yard setback after living there 26 years. Because they were not aware of this encroachment, they built their patio and shrubbery around the deck. Mrs. Gipson then stated that there was actually a recall on the decking material so the deck needs to be replaced for safety standards.

Mr. Kravetz stated that the deck itself is beautiful and was made to complement their residence. The addition of the patio and landscaping makes it attractive for both their property and their neighbors' properties. He also noted that St. Louis County originally approved the deck. In his opinion, they would just be replacing lumber on an existing footprint for neighborhood value and safety sake.

Ms. Heberle inquired about the neighbors' approval and Mrs. Gipson stated that there were three letters of support in the packet, as shown in Exhibit 6c. It was clarified that there were letters from the two adjoining neighbors, along with a letter from the Walden Pond Trustees.

Speakers – In Favor:

Ms. Janice Basler, 16151 Walden Pond Lane, Chesterfield, MO 63005, was sworn in by the Court Reporter.

Ms. Basler stated she was a neighbor from across the street and was in full support of rebuilding the deck.

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

CONCLUSION

Leon Kravetz made a motion to approve the variance request to maintain a rear yard setback of 42 feet in lieu of the 50 foot required setback. The motion was seconded by Melissa Heberle. Upon roll call, the vote was as follows:

Katherine Hipp	Yes
Melissa Heberle	Yes
Leon Kravetz	Yes
Barbara Whitman	Yes
Jeannie Rader	Yes

The motion passed 5 to 0.

Ms. Hipp at this time asked that Exhibits 1-8 be accepted into evidence. There was no objection to the request.

V. Adjournment

The meeting adjourned at 6:25 p.m.