CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT
MEETING SUMMARY
Thursday, March 7, 2019

The Board of Adjustment meeting was called to order at 6:10 p.m. on Thursday, March 7, 2019 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
Mr. Stuart Lindley
Mr. Gerald Schwalbe

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

II. Approval of December 6, 2018 Meeting Summary

Gerald Schwalbe made a motion to approve the Meeting Summary. The motion was seconded by Melissa Heberle 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. 01-2019 1928 Mistflower Glen Court (Paul and Elenore Eggers): A request for a variance from Plat One for Lot 6 of the Forest Meadows subdivision to maintain a rear yard setback of 10 feet in lieu of the 25-foot setback requirement. (19T320424)

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 25 ft. setback requirement to accommodate construction of a new screened in porch.
- Forest Meadows Plat One, was zoned in 1983, the Record Plat was approved in 1984 and the existing home was constructed in 1985. Lot 6 has a 25-foot rear setback as well as a 70' wide reserve strip within the parcel limits. The rear property line of the site runs parallel to Clarkson Road. A privacy fence extends along Clarkson Road.
- In January of 2019, a Municipal Zoning Approval Application was submitted requesting to construct a screened in porch. 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 and photos. Those items were included in the meeting packet for the Board's consideration.

Discussion:
Ms. Heberle questioned the purpose of the 70' wide reserve strip. Ms. Henry replied that the reserve strip provides a separation between the roadway and the houses to allow for any future roadway expansion and to provide appropriate buffering.

Petitioner's Presentation
Ms. Elenore Eggers, 1928 Mistflower Glen Court, Chesterfield, MO 63005, the Homeowner, was sworn in by the Court Reporter.

Mr. David Williams, Lakeside Exteriors, 139 Chesterfield Ind. Blvd., Chesterfield, MO 63005,was sworn in by the Court Reporter.

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

- The old deck, which was removed in September of 2018, was 20' by 40'.
- A portion of the proposed porch is 20' by 20' and just outside the rear yard setback; it will be half the size of the deck it is replacing. Because the screened in porch will be in the middle of the property, it will not be seen from the front of the house, and because of a privacy fence on the Clarkson side of the house, it will not be visible from Clarkson.
- The screened in porch is being requested because of health reasons as it would offer a better quality of life.

Discussion:

Ms. Hipp asked Ms. Eggers why the deck was removed. Ms. Eggers replied that it was rotting and needed to be replaced. She added that they had no idea that the deck was not in compliance as it had been built before they purchased the house.

Mr. Schwalbe asked if the City of Chesterfield had asked them to remove the deck. Ms. Eggers replied no, they did not.

Ms. Hipp inquired again about the deck being in the setback and as to when it was built. Ms. Henry replied that the date of the construction of the deck is unknown, but it was there when the house was purchased in 2001. The old deck was on the site survey when Mr. Eggers purchased the home.

Mr. Lindley inquired about the neighbors' approval. Ms. Eggers stated that the neighbors were in full support of the new deck. She also clarified that the request is not related to a financial matter, but rather a health issue.

Ms. Hipp asked if the new deck could be smaller and inside the required setback area. Ms. Eggers replied that both she and her husband have very large families and in order to entertain or have a dinner on the deck, they need the extra space.

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

Melissa Heberle made a motion to approve the variance request to maintain a rear yard setback of 10 feet in lieu of the 25 foot required setback. The motion was seconded by Stuart Lindley. Upon roll call, the vote was as follows:

Katherine Hipp	**Yes**
Melissa Heberle	**Yes**
Stuart Lindley	**Yes**
Gerald Schwalbe	**Yes**

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

B. **B.A. 02-2019 10 Baxter Lane (Jeffrey and Erika Kokal):** A request for a variance from City of Chesterfield "NU" Non-Urban District regulations for Lot 24 of the Baxter Lane subdivision to maintain a side yard setback of 9 feet two inches (9'2") in lieu of the 20-foot setback requirement. (19S51021)

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 property owners are requesting a 9-foot two-inch (9'2") side setback in lieu of the required 20-foot side setback along their western property line in order to construct an addition on to their existing home. The Baxter Lane subdivision was zoned "NU" Non-Urban District by St. Louis County prior to the incorporation of the City of Chesterfield. The Record Plat was recorded in September of 1954 and the original homes were constructed in the 1950's.
- In January of 2019, a Municipal Zoning Application was submitted requesting to construct an addition on the subject site. The proposed construction showed an encroachment into the western side yard setback and the request was denied.
- The addition is proposed to be constructed onto the western portion of the existing home, so the variance request is for the western side yard setback only. The eastern side yard setback, along with the front and rear setbacks, will not be modified or impacted by the request.
- 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.

Discussion: There were no questions or comments for Staff.

Petitioner's Presentation
Mr. Jeffrey Kokal, 10 Baxter Lane Chesterfield, MO 63017, Homeowner, was sworn in by the Court Reporter.
Mr. Nathan Dirnberger, 3450 Missouri Ave. St. Louis, MO 63118, Architect, was sworn in by the Court Reporter.
Ms. Erika Kokal, 10 Baxter Lane Chesterfield, MO 63017, Homeowner, was sworn in by the Court Reporter.

Mr. Kokal stated that they are requesting a variance to allow a side yard setback of 9 feet two inches and then made the following points:

- The existing home is 60+ years old and the 1970's addition located behind the existing garage is not suitable for rehabilitation. The flat nature of the roof constantly has problems with leaking and the garage is not large enough to park even one car and hold lawn equipment, trash cans, etc.

- The desire is to remove the existing garage and 1970's addition, which was done prior to the incorporation of the City of Chesterfield. After removal, the intent is to construct an addition consisting of two bedrooms, laundry room, study area, full walk-out basement, covered deck, and 3 car garage with a standard 16' wide double door and 9' wide single door. The existing double garage door is 15' wide.
- The reason for the variance request of a 9'2" side yard setback along the western property line is based on the original core structure of the house remaining in place and needed dimensions to achieve a functional 3 car garage with standard width doors.

Discussion:

At this time, Ms. Hipp wanted to clarify that the City of Chesterfield "NU" setback requirement is 20 feet, which is the legal setback; the 10 feet mentioned in the subdivision indentures should not be considered. She then questioned how many others from the subdivision have requested variances. Ms. Henry stated that she did not have that information at this time but that there have been other side setback variances granted by the Board of Adjustment. She also stated that each petition should be considered individually.

Ms. Hipp asked Mr. Kokal to summarize his practical difficulty or unnecessary hardship. He responded that the house was getting almost too small to live in with three growing boys. The family is rooted in the community and their Church. They enjoy the Chesterfield area and would rather add on to their present house than move. There are construction needs that must be met and it would just be practical to increase the size of the garage and take care of needed updates. Functionality of the home is the hardship.

Mr. Kokal had mentioned in the application that the home was functionally obsolete. Ms. Hipp asked what was meant by that. Mr. Kokal responded that they don't have the space to entertain their sons' friends, the Master Bedroom ceiling leaks and has been repaired numerous times, there is a crawl space under the Master Bedroom making it cold in the winter and very warm in the summer, and they have had to upgrade the HVAC system. Consequently, they feel it is time to add on a newer addition and upgrade.

Mr. Schwalbe suggested that the City of Chesterfield address the neighborhood's side yard setback issue by changing all the side setbacks to 10 feet. Ms. Henry advised that setback changes could only be achieved through a rezoning, but the City does not proactively rezone private property. Each property owner has the option to request a change in zoning to a smaller district with smaller lot sizes and smaller district regulations**.**

Mr. Schwalbe felt that a 10-foot setback should be maintained vs. the requested 9'2" setback. Mr. Dirnberger stated that there is a concrete block wall on the west edge of the existing home that begins the garage, which is why the extra few inches are needed.

Ms. Hipp then asked if there were other design possibilities that could be used in order to stay within a 10 foot setback. Mr. Dirnberger explained that the wall going into the garage is a concrete block wall, which must be maintained in order to maintain the structure of the roof over that particular area. If moved, the floor slab would have to be changed also. He noted that the concrete wall is another practical difficulty of the site.

Ms. Heberle asked if there was an ordinance pertaining to off street parking. Ms. Henry said there is no ordinance preventing residential vehicles from off-street parking; only commercial vehicles are prohibited from overnight parking in the driveway or on the street.

Ms. Hipp again asked for the significant hardship in this case. Mr. Kokal answered that they need the space to accommodate three growing boys all of whom will soon be driving. It is also anticipated that they may need extra room to care for his older mother down the line. They would also like to be able to entertain their out of town relatives and their sons' friends.

Mr. Schwalbe asked if the trustees were in favor of the addition. Ms. Kokal replied that she herself is one of the subdivision trustees and has spoken to others who have approved of the plans. Ms. Henry added that she sent notification to all subdivision trustees and none of them responded. Public Hearing notification was also sent to neighboring trustees and none chose to attend.

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

Melissa Heberle made a motion to approve the variance request to maintain a side yard setback of 9 feet 2 inches in lieu of the 20 foot required setback. The motion was seconded by Katherine Hipp. Upon roll call, the vote was as follows:

Katherine Hipp	**Yes**
Melissa Heberle	**Yes**
Stuart Lindley	**Yes**
Gerald Schwalbe	**Yes**

The motion passed 4 to 0. The application was approved

V. Adjournment

The meeting adjourned at 7:10 p.m.