



**AGENDA
CITY OF CREVE COEUR
BOARD OF ADJUSTMENT
CITY COUNCIL CHAMBER
OCTOBER 20, 2022
4:00 PM**

CALL TO ORDER

ROLL CALL

Mr. Glen Wilen (Chair)
Mr. James Kostelc
Mr. Robert Mooney
Mr. Martin Satz
Mr. Arnold Mayersohn (Alternate)
Ms. Dana Cannon (Alternate)

Mr. Carl Lumley, City Attorney
Mr. Jason Jaggi, AICP, Director of Community Development
Ms. Bethany L. Moore, City Planner
Ms. Megan Waller, Administrative Supervisor/Recording Secretary

APPROVAL OF MINUTES

- 1. May 19, 2022 Board of Adjustment Draft Meeting Minutes**

ACCEPTANCE OF THE AGENDA

UNFINISHED BUSINESS

NEW BUSINESS

- 2. PUBLIC HEARING #22-12472 Variance Request For The Property At 12472 Meadow Green Place To Reconstruct an Existing Rear Deck Encroaching 27 feet into the Required Rear Yard Setback of 30 feet**

Summary: Monica Roe, of Maris Home Improvements on behalf of David Brandt, Sr., homeowner, has submitted an application for a variance to replace an existing deck that encroaches 27 feet into the required 30-foot rear yard setback at 12472 Meadow Green Place in the "B-RDD" Single-Family Residential zoning district. Section 405.610(D)(1) states that no structure shall be constructed, reconstructed or structurally altered in such a manner as to project into the area prescribed as a setback from a public or approved private street or as established by this Chapter. Decks are allowed to encroach 5 feet into the required rear yard leaving 22 feet of encroachment requested for the variance. The proposed deck would be the same size and in the same location as the existing non-conforming deck.



**AGENDA
CITY OF CREVE COEUR
BOARD OF ADJUSTMENT
CITY COUNCIL CHAMBER
OCTOBER 20, 2022
4:00 PM**

3. PUBLIC HEARING #22-871: Variance Request For The Subdivision At 871 North Mason Road To Disturb 2,930 Square Feet, or 1%, of the Required Undisturbed Stream Buffer in Order to Remove Existing Structures and Regrade the Stream Buffer

Summary: David Volz, of Volz Incorporated on behalf of McKelvey Homes, has submitted an application for a variance request to disturb 2,930 square feet, or 1%, of the 28,363 square foot stream buffer required per Section 430.050 (A) in order to remove an existing barn and fill in an existing pond located in the stream buffer at 871 North Mason Road in the "D" Single-Family Residential Zoning District.

BUSINESS FROM STAFF

4. Training Session

Summary: A training session with Staff and City Attorney

ADJOURNMENT

Pursuant to Section 610.022 RSMO, the Board of Adjustment could, at any time during the meeting, vote to close the public meeting and move to closed session to discuss matters relating to litigation, legal actions and/or confidential or privileged communications with the City Attorney as provided under Section 610.021(1) RSMO or other matters as permitted by Chapter 610.

Posted by: _____

Date/Time posted: _____

If you need special accommodations to attend a meeting, services may be arranged by contacting the Office of the City Administrator in advance.



Board of Adjustment
Meeting Draft Minutes
City of Creve Coeur Government Center
300 North New Ballas Rd

May 19, 2022

4:00 PM

City Council Chamber

I. CALL TO ORDER

Robert Mooney	Board Member
Martin Satz	Board Member
Glenn Wilen	Chair
James Kostelc	Board Member
Arnold Mayersohn	Board Member
Dana Connon	Board Member

The following staff were also present:

Carl Lumley, City Attorney
Jason Jaggi, Director of Community Development
Bethany Moore, City Planner
Megan Waller, Administrative Supervisor/Recording Secretary

II. ADDITIONS TO-ACCEPTANCE OF THE AGENDA

Mr. Wilen made a motion to approve the agenda with the addition of discussion regarding the 863 Deaver Ln application to other business. Mr. Satz seconded. All in Favor. Alternate Ms. Connon did not vote.

III. APPROVAL OF MINUTES

1. April 21, 2022 Board of Adjustment DRAFT Meeting Minutes

Mr. Kostelc made a motion to approve the April 21, 2022 meeting minutes. Mr. Mayersohn seconded. All in Favor. Alternate Ms. Connon did not vote.

IV. NEW BUSINESS

1. Application #22-602: Variance Request for the Corner Property at 602 Rue De Fleur Drive to Allow a New Single-Family Residence to Encroach 19 Feet, 7 Inches into the Required 50 Foot Front Yard Setback Along Rue De Fleur Drive and 16 Feet, 6 Inches into the Required 50 Foot Front Yard Setback Along Mason Manor Road

Alex Bartelsmeyer, of McKelvey Homes, LLC, has submitted an application for two front yard setback variances for a corner lot at 602 Rue de Fleur Drive in the "A" Single Family Residential Zoning District in order to build a new single-family residence. The proposed new single-family residence would be built approximately 19 feet, 7 inches into the required 50-foot front yard setback on the west side of the property bounded by Rue de Fleur Drive and approximately 16 feet, 6 inches into the required 50-foot front yard setback on the south side of the property bounded by Mason Manor Road. Section 405.250 of the Zoning Code establishes the required setbacks for all permitted uses in the "A" district.

Mr. Kostelc recused himself due to personal acquaintance with the applicants. Ms. Cannon took his place.

Those speaking on the request were sworn in.

Mr. Alex Bartelsmeyer, McKelvey Homes, presented that McKelvey Homes is requesting a variance due to hardship based on the zoning of the lot and its small size.

Mr. Bartelsmeyer stated that the property faces Rue De Fleur and showed photos of the lot and the zoning district layout.

Mr. Bartelsmeyer stated that when developed in 1969, the property was a part of Maison Manor subdivision which is currently zoned A-RDD. The subject property is zoned A.

Mr. Bartelsmeyer stated that the subject property does not meet any of the requirements for A zoning, as the lot is one-third the minimum size requirement. He also stated that the house does not meet the current setback requirements as it stands.

Mr. Wilen asked if the house was built out of compliance. Mr. Bartelsmeyer stated that at the time the home was built, it was in St. Louis County jurisdiction and was not zoned by Creve Coeur until the 1990's. He explained that the home was built in compliance with the setbacks on the original plat from 1969.

Mr. Bartelsmeyer stated that the goal of the proposed home is to match the look of the neighborhood and match the setbacks of the other homes in the neighborhood.

Mr. Mayersohn asked the square footage of the floorplan for the proposed home. Mr. Bartels stated that the new house will be larger, as the existing is home is a ranch and they are proposing a story and a half. Mr. Bartelsmeyer did not know the exact square footage proposed.

Mr. Bartelsmeyer stated that the previous home had a structural fire and will need to be demolished.

Mr. Charlie Brennan, McKelvey Homes, stated that due to the structural fire, a rebuild of the property is required. He stated that they hope to keep with the aesthetic of the subdivision while offering a desirable property to buyers.

Mr. Mooney asked if rebuilding the same home would require a variance to meet current zoning standards. Mr. Brennan confirmed that the existing home could not be rebuilt without getting a variance due to the change in zoning that occurred when Creve Coeur annexed the area.

Andy Speller, 12909 Lampadaire Dr. Trustee of the subdivision, confirmed that due to the mixed zoning, meeting the requirements of A zoning would not be aesthetically pleasing for the neighborhood. He explained that the trustees are in favor of the variance.

Ms. Bethany Moore, City Planner, stated that the request is for a variance for two encroachments into the front yard setbacks, as the subject property is a corner lot.

Ms. Moore stated that the lot is one-third smaller than the minimum required for the A zoning district.

Ms. Moore confirmed that the subdivision was platted as part of St. Louis County in 1969 with different zoning. It was annexed into Creve Coeur in the 1990s.

Ms. Moore explained that portions of Maison Manor are zoned A-RDD, some are zoned D, and only two are zoned A.

Ms. Moore stated that the proposed home would not encroach into the 20ft setbacks that the subdivision was platted with, but it would encroach into the 50ft setbacks required for A zoning. She confirmed that the proposed home would be in line with the homes currently in the subdivision.

Ms. Moore stated that the variance request is for a 19ft 7in and a 16ft 6in encroachments into the front yard setbacks.

Ms. Moore stated that the change in zoning does create a hardship, as it is one of only two properties zoned A in this subdivision. She explained that the City does not know why the two lots were left out of the A-RDD Zoning and this is not the fault of the applicant.

Ms. Moore stated that the request is to put the home within the setbacks that were originally platted; Therefore, it does not adversely affect the surrounding property owners.

Ms. Moore stated that subject property is one-third the minimum lot size of properties in the A zoning district. This makes the buildable area significantly smaller creating a hardship.

Ms. Moore stated that it will not adversely affect the general public, nor will it violate the general spirit of the zoning code.

Ms. Moore stated that this variance will not result in diversion of storm water.

Mr. Wilen asked if the City recommends approval. Ms. Moore stated that the applicant has provided evidence of hardship.

Mr. Carl Lumley, City Attorney, entered the exhibits into the record.

Mr. Wilen moved to approve the variance. Mr. Mooney seconded. All in favor.

RESULT:	APPROVED [5 TO 0]
MOVER:	Glenn Wilen, Chair
AYES:	Mooney, Satz, Wilen, Mayersohn, Connon
RECUSED:	Kostelc

V. OTHER BUSINESS

Mr. Kostelc returned to the dais.

Mr. Wilen asked for an update on 863 Deaver Ln and how the board could have handled this case differently.

Mr. Lumley stated that the City has secured outside representation and the case has been filed. Mr. Lumley stated that he would expect a decision sometime near mid-summer, but timing can vary.

Mr. Wilen asked if the applicant is aware and responded. Mr. Lumley stated that they are aware and will be involved in the process.

Mr. Wilen asked what specifically about this case was flawed. Mr. Lumley stated that the pleading states the City's position. He explained that from the City's perspective, the applicant could build a very nice home without the need for a variance and so there was no hardship.

Mr. Wilen asked if the City's perception is that the board has set a precedent. Mr. Lumley confirmed that this could be a concern for future cases.

Mr. Wilen asked if the City should make recommendations on future cases. Mr. Jaggi stated that the City historically has presented the analysis without a formal recommendation. He stated that in this application City staff believed it was clear that they were not in favor of granting the variance. Mr. Jaggi stated that each application is reviewed on a case-by-case basis, and the board is not bound to vote in favor of the City.

Ms. Cannon asked if the Board members can speak on behalf of the case. Mr. Lumley stated that typically not, the board does not take part in the appeal of their decision.

Mr. Mayersohn asked next steps if the court denies the variance. He also wondered if the applicant could come before the board again. Mr. Lumley stated that the applicant could possibly submit a different application for a different variance.

Mr. Kostelc asked if the property zoning should be considered by the board at all. Mr. Jaggi answered that zoning districts and zoning regulations are reviewed by the Planning and Zoning Commission and the City Council and is not a consideration of the Board of Adjustment. Mr. Lumley stated that the Board of Adjustment could choose to send a letter to the Planning and Zoning Commission asking them to review the zoning of a lot.

Mr. Wilen stated that there are no new applications for the June meeting.

Mr. Jaggi asked the board to consider additional training opportunities for discussion at a future meeting.

VI. ADJOURNMENT

Mr. Kostelc moved to adjourn. Mr. Mayersohn seconded. All in favor.



city
of

CREVE COEUR

File # 22-12472

300 North New Ballas Road • Creve Coeur, Missouri 63141
(314) 872-2500/872-2501 • Fax (314) 872-2505 • Relay MO 1-800-735-2966
www.creve-coeur.org

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SEP 14 2022

BUILDING DEPT.

BOARD OF ADJUSTMENT APPLICATION NON-USE VARIANCE

Applicant:	Applicant's Representative (if applicable):
Name <u>David Brandt, SR.</u>	Name <u>Monica Roe</u>
Company (If Applicable) <u>FLUX</u>	Company (If Applicable) <u>Maris Home Improvements</u>
Address <u>12472 Meadow Green Place</u> <u>St. Louis, Mo. 63141</u>	Address <u>208 Chesterfield Ind. Blvd</u> <u>Chesterfield, Mo. 63005</u>
Telephone # <u>314-576-5490</u>	Telephone # <u>636-778-4343</u>
Fax # <u>afbsr@charter.net</u>	Fax # <u>Monica@marishomeimprovements.com</u>
	Email: <u></u>

APPLICANT: Architect ☐ Engineer ☐ Contractor ☒ Agent ☐ Owner ☐

The undersigned hereby requests to be placed on the Agenda for the Board of Adjustment meeting at 4:00 P.M. on Thursday, 9/14/22, 2022.

Monica Roe
Applicant's Signature

Applicant's Representative's Signature

9/14/22
Date

Date

Submittal Checklist

- Two (2) checks, \$50.00 filing fee & \$250.00 non-refundable escrow
- Four (4) sets of signed and sealed plans (Folded to a size no larger than 11"x14") for the improvements necessary for the proposed use
- Written Justification
- Electronic copy of all submitted documents

Jason Jaggi, AICP, Director of Community Development
Whitney Kelly, AICP, City Planner
Jessica Stutte, Administrative Assistant (872-2501)

Updated 12/2020

INSTRUCTIONS: Complete all of the following sections to the best of your ability. Provide additional materials as needed such as supplemental pages, diagrams, plans, or photographs. Please consult with Planning Division staff (314-872-2501) if you have any questions.

1. I request a variance so that the following may be built or installed on the property (attach building plans, landscape plans, surveys, etc. showing before and after conditions on the property):

Replace Existing Deck same size and location
+ encroach 22 ft into the required rear yard
setback. 27 ft total encroachment 5 ft allowed. 22 remaining

2. In support of my request, I offer the following:

- Unique physical characteristics of the property (creek, steep slope, lot shape, etc.):

The way lot shape and Set Back
Requirements of Country Forest

- Unique non-physical characteristics of the property (location, access, history, etc.):

Set Backs limited the ability to Replace Existing
Deck

- Any other differences between the Subject Property and other properties in the surrounding area which would warrant different treatment of the Subject Property:

None in Country Forest Subdivision
A common issue. No difference in the
subdivision

- Current uses and structures on the property:

Single Family Dwelling & Attached Deck

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SEP 14 2022²

3. Explain why the zoning laws unfairly burden the property compared to the other properties around it:

THEY WHY THE RDP WAS RECORDED THE
WHOLE NEIGHBORHOOD HAVE THE SAME ISSUE.

4. Do you believe the problems described above hurt the market value of the property compared to similar properties in the area and, if so, what can you offer as evidence that this is true?

5. Assuming the variance is approved, describe the potential effects or impacts on neighboring properties:

THERE WOULD NOT BE ANY JUST REPLACE
EXISTING DECK 12'X16'

6. Assuming the variance is approved, describe any utilities or City and emergency services that will have to be added to or upgraded as a result?

NONE

7. Assuming the variance is approved, describe how much additional traffic will be created on the property and in the surrounding area as a result:

NONE

8. Assuming the variance is approved, describe any additional street access or parking that will be needed:

None

9. Zoning district in which the property is located: *BRDD*

10. Size of the lot (total square feet or acres):

11. Please provide any other information in support of this request (on a separate sheet if needed):

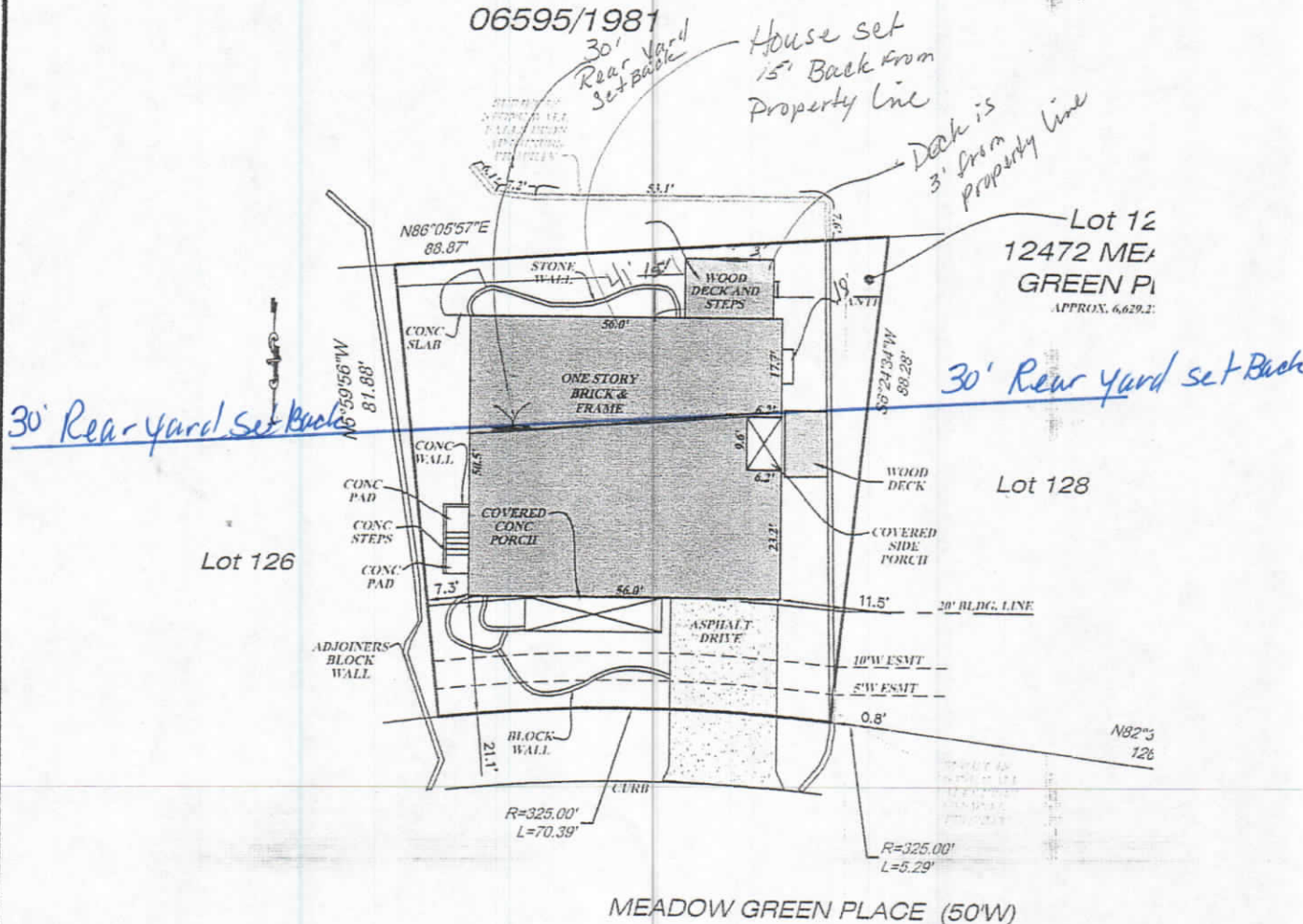
The House is 20' into the Required Set Back

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SEP 14 2022⁴

BUILDING DEPT.

N/F
COUNTRY FOREST TRUSTEES
06595/1981



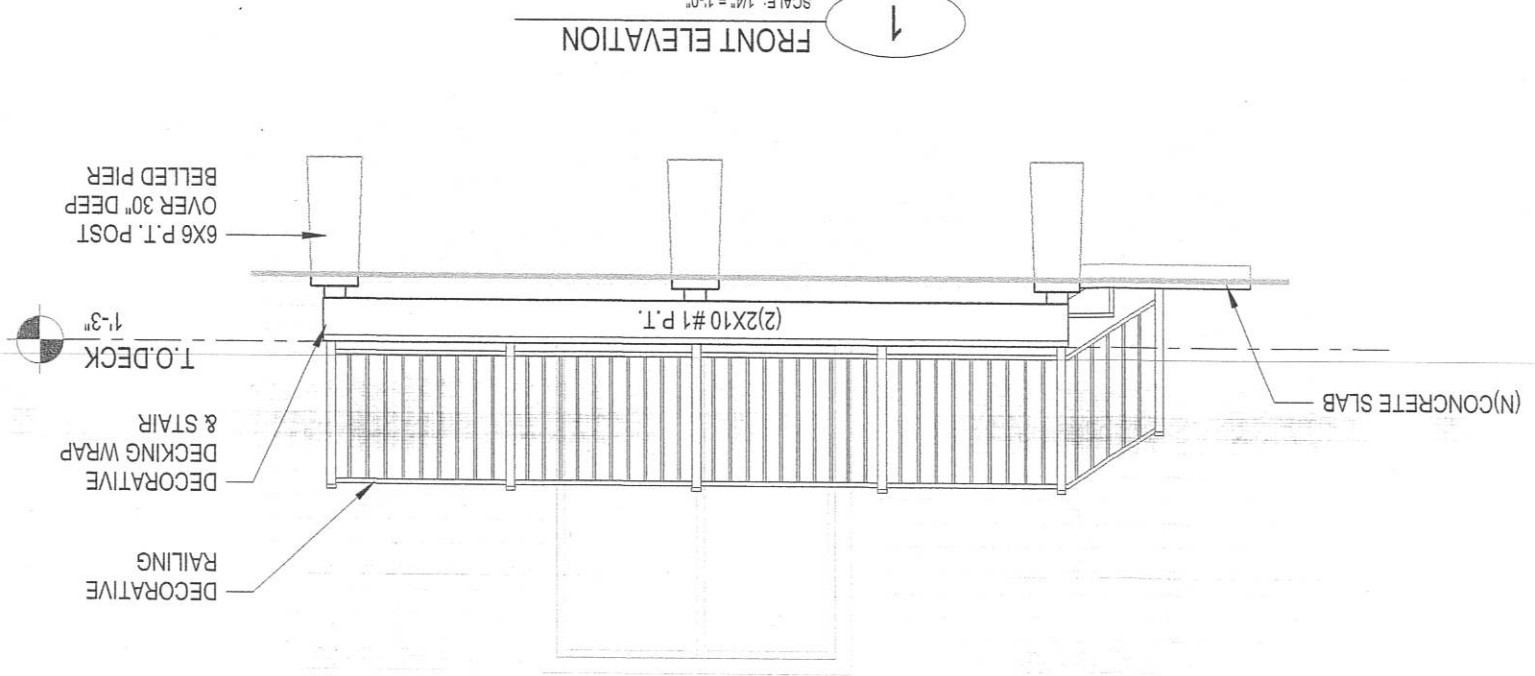
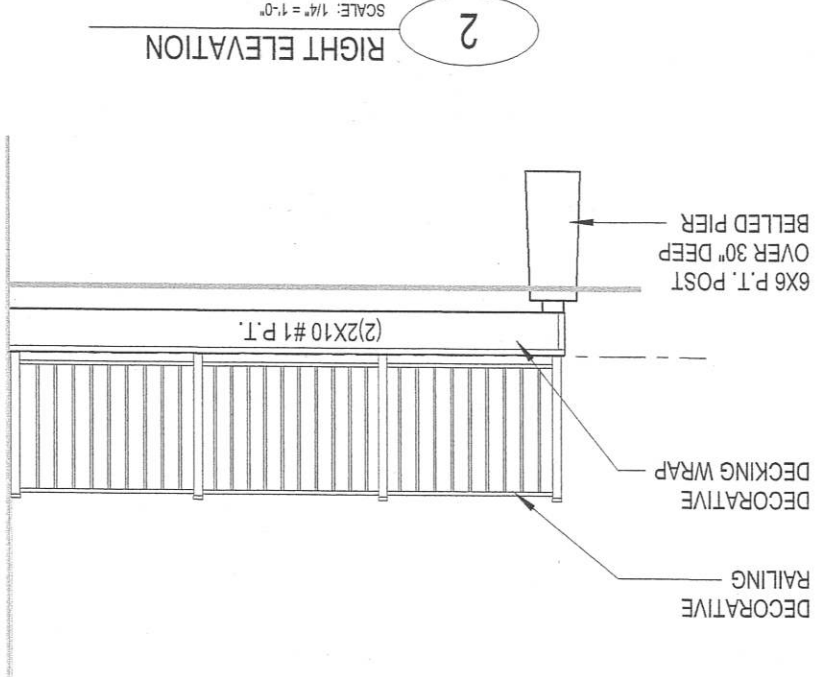
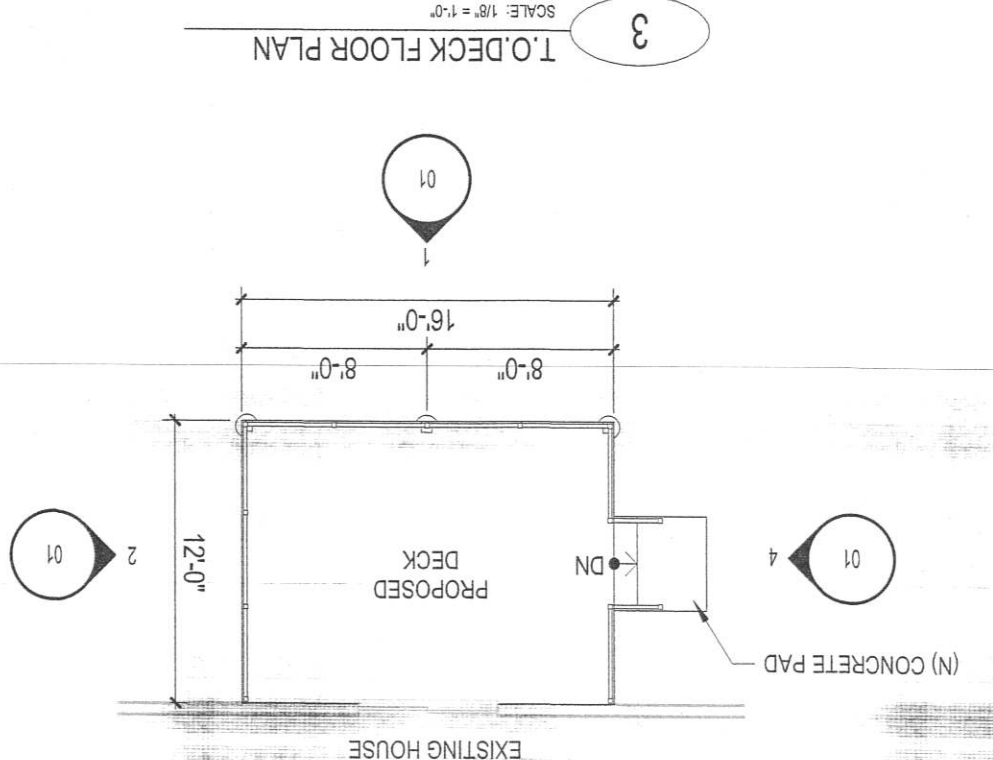
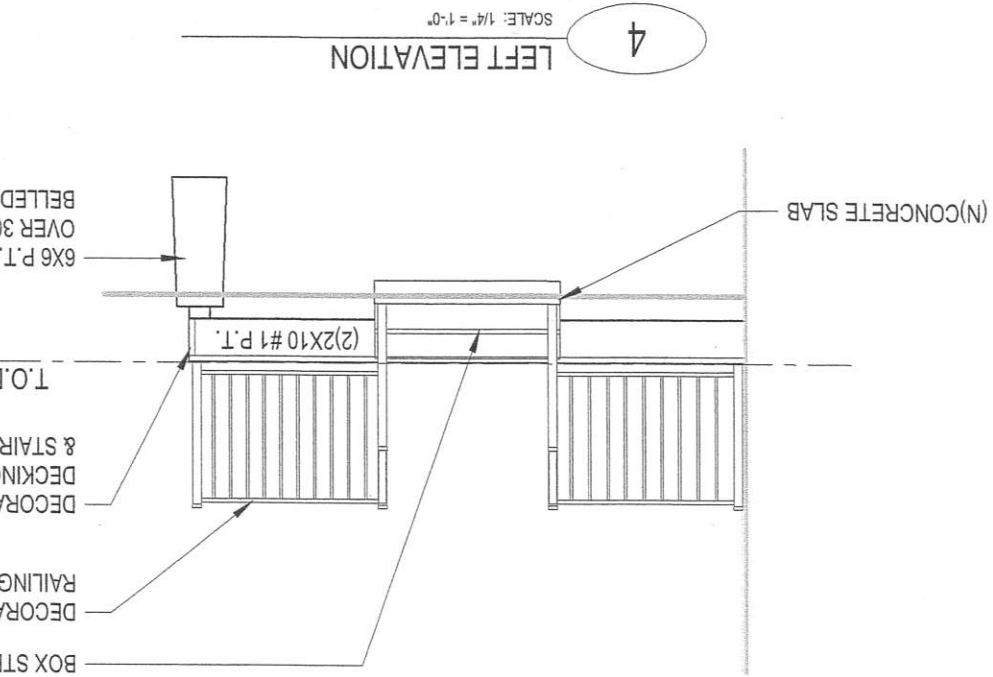
NOTE:
The structural drawings are not a set of stand-alone construction documents. These structural drawings must only be used in conjunction with architectural, structural and other related discipline drawings. Contractor to verify existing conditions and coordinate with the Architect and Engineer's attention for resolution prior to fabrication and construction of that portion of the structure.

NOTE:
The structural Engineer of record is not responsible for means and methods of construction including techniques of fabrication and safety at the construction site. The contractor is responsible for design and installation of all the temporary shoring, bolting, welding, lugs, seal angles, etc. to safely construct the project. The contractor is to coordinate between Architectural, Structural and other disciplines' drawings and to bring any discrepancy to the attention of the Architect and Engineer prior to going ahead with fabrication and construction of that section.

NOTE:
Where engineering is required for any work not shown or defined on structural drawings or specifications, the service shall be provided by an engineer registered in the state where the project is to be constructed employed by the contractor. Contractors to comply with all governing regulations and requirements including OSHA regulations 29CFR part 1926 for construction industry.

NOTE:
Reproduction of this drawing for shop drawings is not permitted.

The Professional seal affixed to this sheet indicates that the named Engineer has prepared or directed the preparation of the structural design shown only on this sheet. Other drawings and documents not exhibiting this seal shall be considered prepared by or the responsibility of the undersigned. Copyright ©2017 Engineered Solutions LLC



DESIGNED BY: MJB
DRAWN BY: APD
PAPER SIZE: B - 11 X 17
SCALE: As indicated
SHEET NUMBER: 01 OF 02

SHEET TITLE: DECK ELEVATION
REVISION NUMBER
DATE



PROJECT: C2210128
BRANDT DECK DRAWINGS
ADDRESS:
12472 Meadow Green Place
St. Louis 63141

MATTHEW JOSEPH BOYCE
STRUCTURAL ENGINEER
MO License # 2017000273
exp 12-31-2023

3368 Carriage Xing
St Charles, MO 63301
314-660-9650





city of CREVE COEUR

300 North New Ballas Road • Creve Coeur, Missouri 63141
(314) 432-6000 • Fax (314) 872-2539
www.crevecoeurmo.gov

APPLICATION TO THE BOARD OF ADJUSTMENT
#22-12472 VARIANCE REQUEST FOR THE PROPERTY AT 12472 MEADOW
GREEN PLACE TO RECONSTRUCT AN EXISTING REAR DECK
ENCROACHING 27 FEET INTO THE REQUIRED REAR YARD SETBACK OF 30
FEET

FOR THE MEETING OF: Thursday, October 20, 2022

SUBJECT PROPERTY LOCATION: 12472 Meadow Green Place, Zoned "B-RDD"
Single Family Residential District.

REQUEST: Monica Roe, of Maris Home Improvements on behalf of David Brandt, Sr., homeowner, has submitted an application for a variance to replace an existing deck that encroaches 27 feet into the required 30-foot rear yard setback at 12472 Meadow Green Place in the "B-RDD" Single-Family Residential zoning district. Section 405.610(D)(1) states that no structure shall be constructed, reconstructed or structurally altered in such a manner as to project into the area prescribed as a setback from a public or approved private street or as established by this Chapter. Decks are allowed to encroach 5 feet into the required rear yard leaving 22 feet of encroachment requested for the variance. The proposed deck would be the same size and in the same location as the existing non-conforming deck.

ADDITIONAL INFORMATION: The subject property is within the Country Forest Subdivision, zoned B-RDD, where unless otherwise noted on the subdivision plat the standards fall back to the underlying B zoning district, per Section 405.450(D)(1)(c) of the Residential Designed Development Procedure. The subdivision plat does not indicate a reduced rear yard and B Zoning District has a rear yard setback of thirty (30) feet, per Section 405.260(E)(4)(e). Additionally, Section 405.630(A)(5) provides that a deck, whether elevated or at ground level, may project up to five (5) feet into a required rear yard. Therefore, the variance request is for the remaining 22 feet of encroachment.

OWNER: David Brandt, Sr.
12472 Meadow Green Place
Creve Coeur, MO 63141

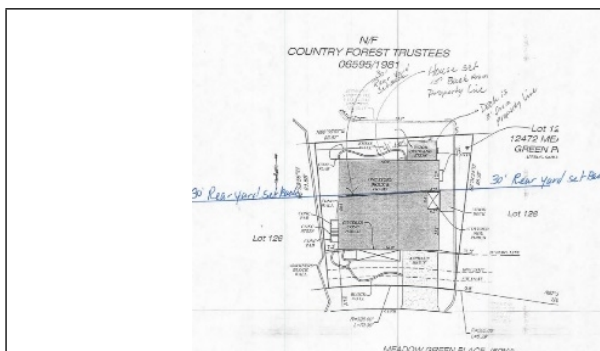
Applicant: Monica Roe-Maris Home Improvements
208 Chesterfield Industrial Boulevard
Chesterfield, MO 63005

Key Issues:

- Impact to neighborhood
- Property versus owner hardship

Zoning Code References

- Section 405.260 "B" Single-Family Residential
- Section 405.450(D) Residential Designed Development Procedure.
- Section 405.630: Yard Regulations
- Section 405.1040: Board of Adjustment
- Section 405.1110 Variances and Appeals

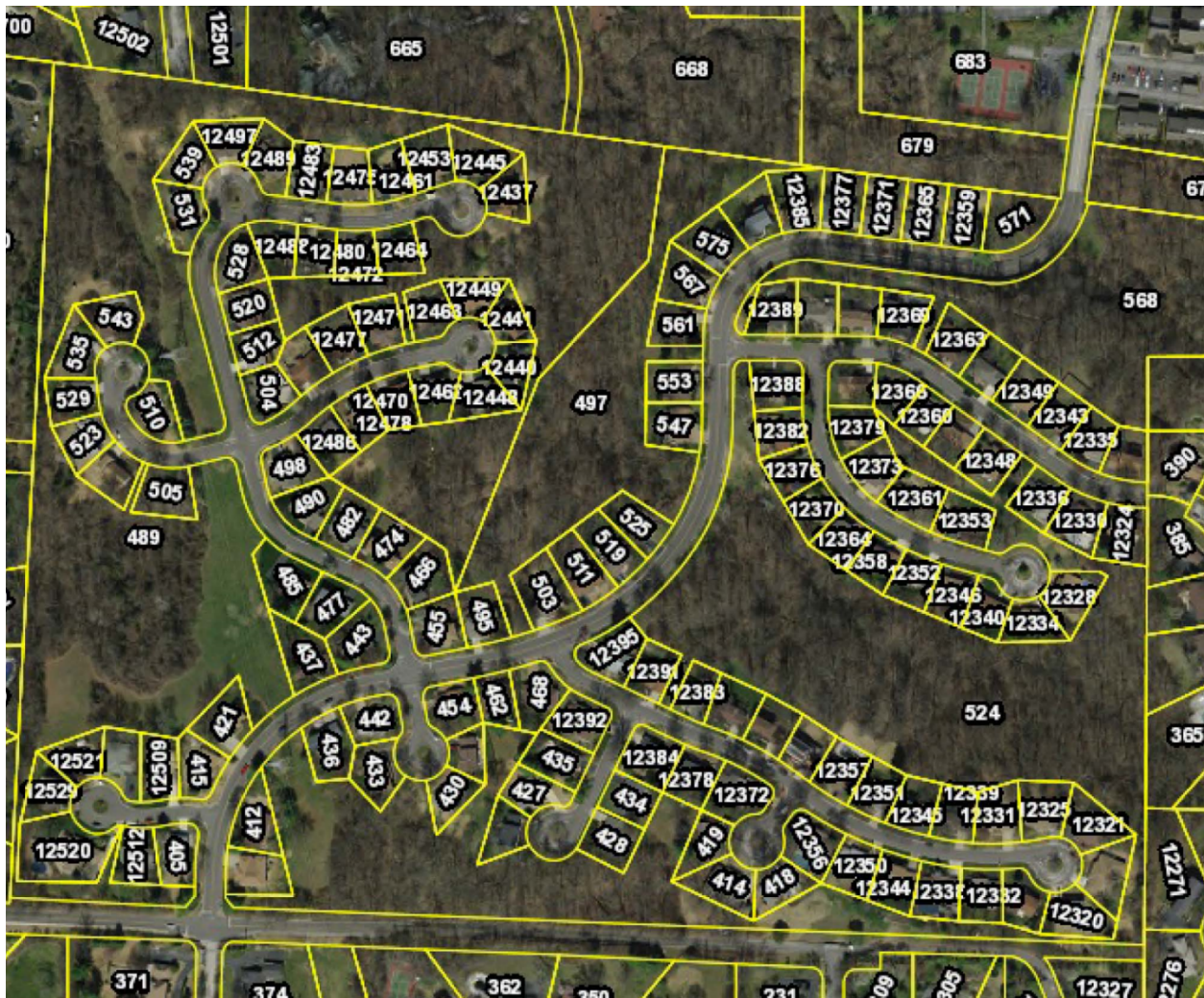


REPORT PREPARED BY: Bethany L. Moore, City Planner
DATE: 10/11/2022
ATTACHMENTS: Applicant's Materials submitted

BASIS FOR APPEAL AND STATED HARDSHIP

The subject property is located in the Country Forest Subdivision which was established in 1972, and was zoned B Single Family Residential, with Residential Designed Development (RDD) Designation. Section 405.450(D) Residential Designed Development Procedure provides a permissive, voluntary and alternate zoning procedure in the "A", "B", "C" and "D" single-family residential and "AR" attached residential zoning districts in order to permit greater flexibility in the size and configuration of lots without altering the allowable residential density in these districts and to provide for desirable and proper common open space, tree cover, recreation areas, parks or scenic vistas and the preservation of the natural beauty of the City.

Subsection (1)(c) Yards of the Residential Designed Development requires that the minimum front yard and side yard requirements for each lot as set out in the regulations for the single-family residential zoning district where such site is located may be reduced by the City Council and, if so reduced, shall be set out on the preliminary subdivision plan to be submitted in accordance with Chapter 410, Subdivision and Development of Land. Otherwise, any regulation falls back to the underlying zoning district. In this case that means that the rear yard setback falls back to the requirements for the B District because the rear yard setback is not specified outside of the indentures, which are not enforced by the City.



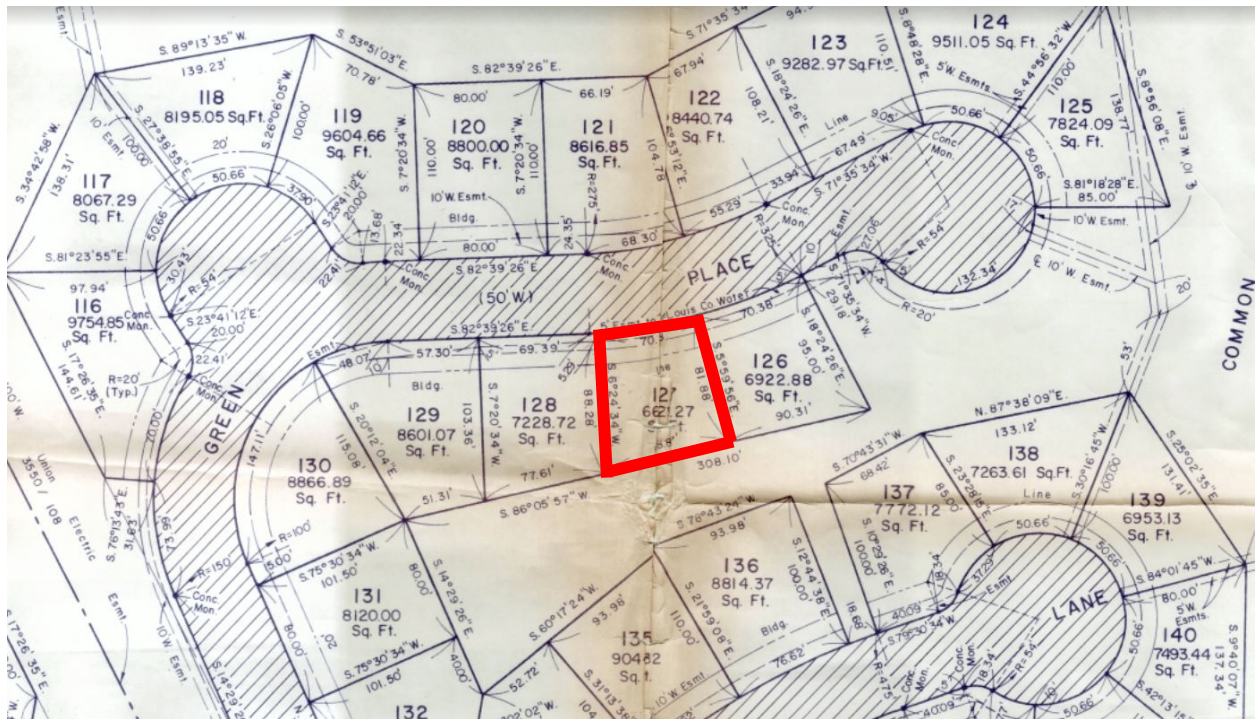


Figure 2: Close-up of the Country Forest Subdivision Plat 2. The Subject property is Lot 127.



Figure 3: GIS Image of the property

The B Zoning District has a 45-foot front yard, and a side yard of 15 feet or 15% of the lot width, whichever is less, provided that a minimum side yard of seven and one-half (7 1/2) feet must be provided for any non-conforming lot, per Section 405.260(E)(4)(c) and a rear yard of 30 feet, with lot size greater than twenty thousand (20,000) square feet and less than one (1) acre.

The Subdivision Plat only shows a 20-foot front yard for this property. Common ground is located behind the property. The subdivision indentures state: "a minimum six (6) foot of unobstructed side yard or a minimum of fifteen (15) feet of common ground or pedestrian easement. In the latter case there may be less than a six-foot side yard line." The rear yard is not addressed in either case. Additionally, the City does not enforce subdivision indentures. Therefore, any rear-yard regulations fall to the underlying zoning district regulation. In this case, the B Zoning district rear yard setback is 30 feet. Due to the lack of documentation for the entire subdivision and inconsistencies with administering regulations in the area, building permits for such projects as the subject deck were issued in the past. The Applicant is seeking to tear down and replace with a new deck in the same configuration and footprint.

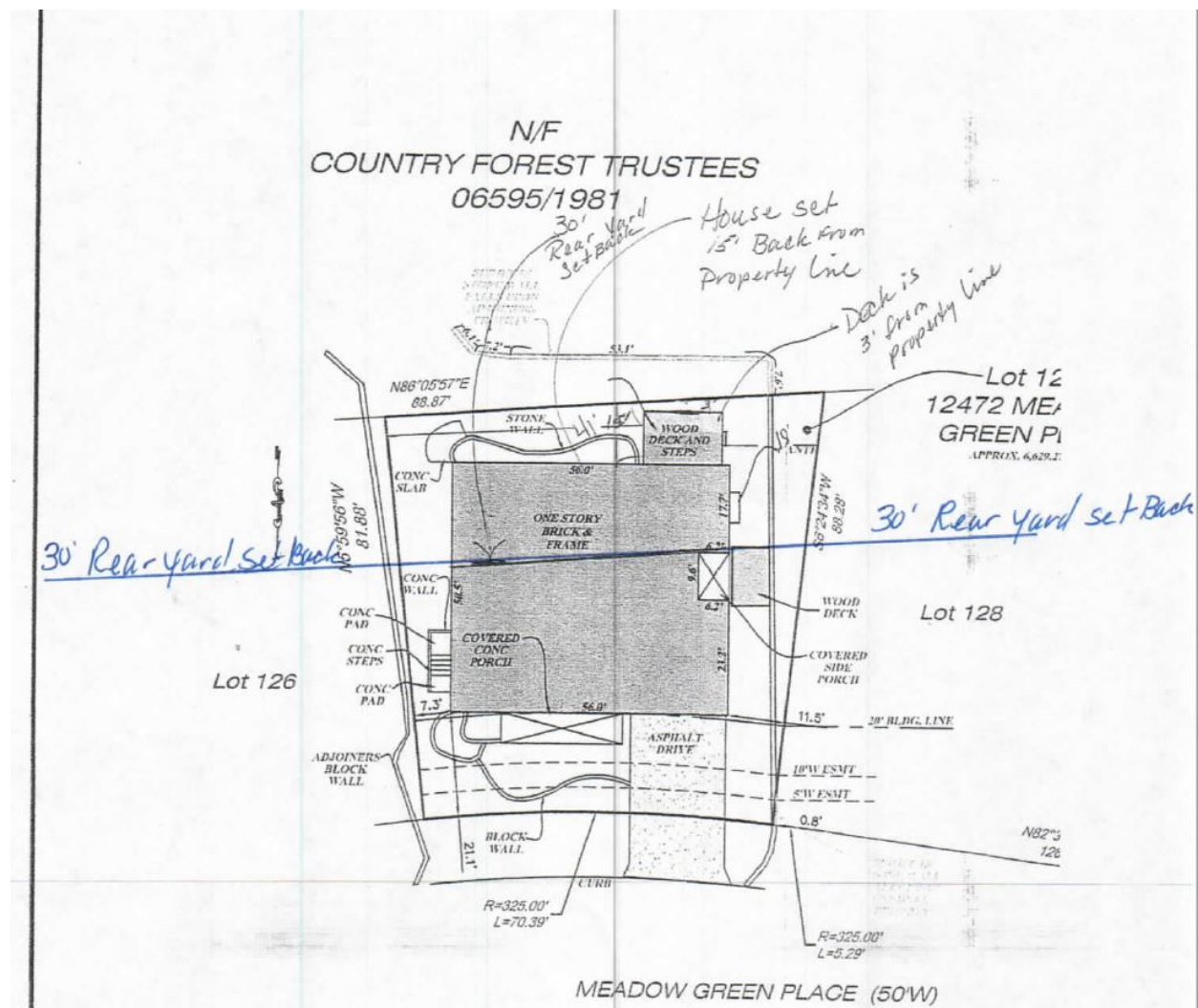


Figure 2: Close-up of the Applicants Site Plan showing the deck.

Due to the prevailing condition throughout the neighborhood, a long-range effort to amend the ordinance for the subdivision to provide modified setback for all properties could be considered. Staff is currently working with the trustees to petition the City to modify the original ordinance to address the setback and site coverage issues throughout the subdivision, instead of relying on homeowners to seek out individual variances. Recent variances for decks in the subdivision include 12334 Oak Hollow Drive in April 2022, 433 Meadow Green in May 2021 and 12381 Country Glen Lane and 404 Falaise Drive in August 2021. This Application will be the sixth request in 3 years, which suggests the setback requirements are a common issue for many properties within the Subdivision.

The subject lot is approximately 6,629 square feet and the adjacent lots are similarly sized. The existing house was built in 1976. Due to the lack of documentation regarding the approval of the subdivision, many of the homes in Country Forest have similar issues where the existing decks encroach into the rear yard setback. This home sits approximately 13-15 feet from the rear property line at its closest point with the rear 1/3 portion of the house within the 30-foot rear yard setback. The existing 12-foot-deep deck sits 3 feet from the rear property line at its closest point which means it extends into the 30-foot rear yard setback by 27 feet. Decks are allowed to encroach 5 feet into the rear yard setback but that still leaves 22 feet of encroachment. To comply with the regulations for rear-yard setback, the deck would need to be placed no closer than 25-feet from the rear property line which would be the existing location of the middle of the house. However, the applicant is requesting approval for the replacement deck to be in the same location as existing, which has been in place for many years.

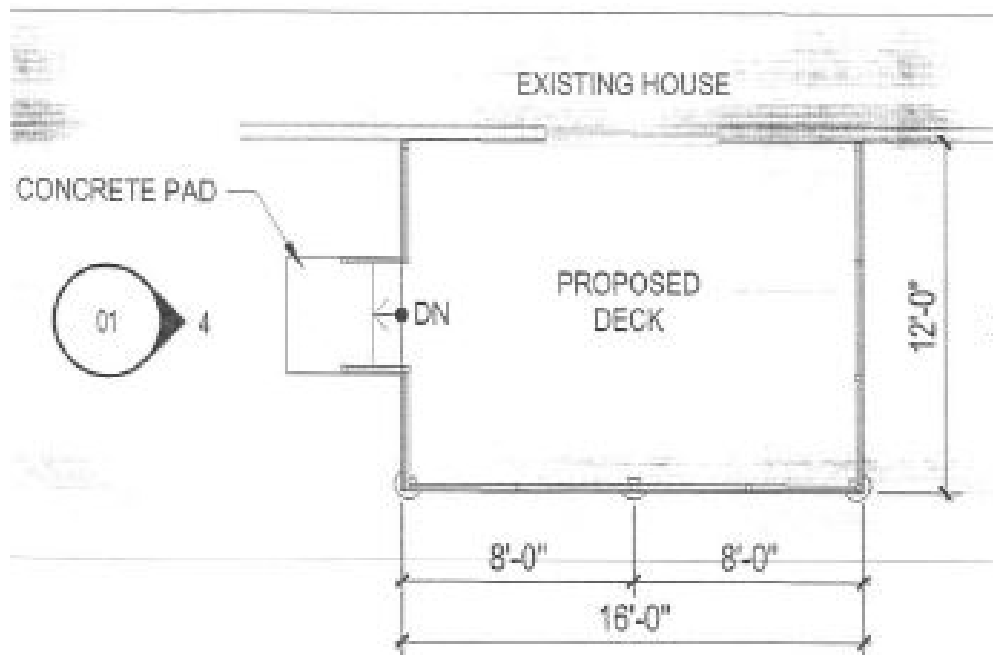


Figure 3: Close-up of the proposed overhead view of the deck.

Section 405.630(A)(5) of Yard Regulations provides that a deck, whether elevated or at ground level, may project up to five (5) feet into a required rear yard. Additionally, Section 405.610(E) Non-Conformities within Setback Lines states that:

Section 405.610 Non-Conformities

D. Non-Conformities Within Setback Lines. In addition to the provisions of Section 405.240 regulating setbacks, the following regulations shall apply to those non-conformities located within prescribed setback lines from the rights-of-way of public or approved private streets and highways.

1. Projection of existing structures into required setbacks. No structure shall be constructed, reconstructed or structurally altered in such a manner as to project into the area prescribed as a setback from a public or approved private street or as established by this Chapter.

The Applicant is seeking a variance to allow for a new deck within the rear yard setback with the same dimensions as the existing deck. This puts the deck 3 feet from the rear property line, where a deck may only project up to 5 feet into the 30-foot setback, thus the deck must be a minimum of 25 feet from the rear property line. The variance request is for the remaining 22 feet of encroachment into the rear yard setback.

LAND USE AND ZONING OF SURROUNDING PROPERTIES

The adjacent zoning and land uses are as follows:

DIRECTION	USE	ZONED	SEPARATED BY
North	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	Meadow Green Place
South	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	Common Ground
East	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	NA
West	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	NA

STAFF ANALYSIS

Performing an analysis of a variance appeal primarily requires a six-part examination of the facts, as required by *Section 405.1100, Criteria for Variances, Generally*, of the Zoning Ordinance. To wit:

1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district;

As discussed above, the house and lot in question are not unique in size or configuration for this subdivision, as many of the homes in the Country Forest Subdivision were built at the same time. However, the lack of documentation on the setbacks within the Country Forest Subdivision approval and the reliance on the subdivision indentures has resulted in a number of homes in the area with existing decks as non-conforming, and where any structural alteration or reconstruction have required variances in recent years. This property is less than half the B District Standards at 6,629 square feet and the existing home was built at the standard for the subdivision. The lack of documentation for the rear yard setback in this subdivision causes the rear yard setback to revert back to the underlying B zoning district setback of 30 feet. This causes any deck construction to require a variance and is not a unique problem in this subdivision. This specific need for a variance is not ordinarily found in the B Zoning District outside of the Country Forest Subdivision. The Applicant is seeking to replace the existing deck with a new deck with the same dimensions and footprint as existing.

2. The variance requested is because of a unique hardship not created by the applicant nor the owner of the property;

The Applicant had no say in the placement of the home on the lot. However, it is the Applicant's decision to pursue a new deck that does not meet the setback requirements. It should be noted that the home itself encroaches into the rear yard setback roughly 18 feet making the construction of any deck that meets the setback requirements impossible. The placement of the deck appears to be consistent with other similar structures in the Country Forest Subdivision, and as noted previously, the lack of documentation for the subdivision has created a unique hardship for many in the area compared to homeowners in other RDD subdivisions that have their unique setbacks correctly recorded with the city.

3. The granting of the variance shall not adversely affect adjacent property owners or residents;

Given that the request does not extend the depth of the existing rear deck, it is unlikely that the average viewer will perceive a negative impact arising from a sense that the deck is too close to the public common ground compared to those around it. The homeowner has enjoyed the construction of the deck in the same footprint for many years without any adverse effect to adjacent property owners or residents. Further, if the members of the Board believe that the aesthetic qualities of the deck are in keeping with the rest of the house, and the neighborhood in general, it is likely that allowing the deck will not have an adverse effect on the adjacent properties, as many of the homes have decks that are so similarly situated as can be seen in the GIS image as shown on the last page of this report.

4. The strict application of the provisions of the Zoning Ordinance from which a variance is requested, will cause severe practical difficulty or extreme hardship for the property owner represented in the application;

The question before the Board, under this criterion, is whether or not the inability to update and replace a feature of one's house, without a variance, represents severe practical difficulty. The strict application of the required rear yard setback of 30 feet would completely eliminate the property owner's ability to have any deck, let alone replace the deck in the existing footprint, causing severe practical difficulty when the property owner needs to replace the aging deck members.

5. The variance desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community, and

Nothing in the request will affect the public health, safety, order, convenience, or general welfare of the community.

6. Granting the variance desired will not violate the general spirit and intent of this Chapter.

The home was built in 1976 as allowed by the City with the approval of the subdivision in 1972. However, with the approval, no documentation was provided determining a rear yard setback. The side yard was provided within the subdivision indentures, but the City does not enforce such documents, as they are private agreements, and not approved by the City's legislative body. The rules applied to the Residential Designed Development standards more clearly provide the requirements for such standards and where they must be placed on the subdivision plat. As with many homes in the Country Forest Subdivision, any meaningful improvement is likely to require a variance until the Subdivision Trustees are willing to modify the ordinance for the subdivision and codify the side-yard and rear-yard setback. This request does not violate the general spirit or intent of the chapter as the chapter was not intended to be applied this way to a subdivision that was designed under a different set of requirements that are not accounted for under "B" zoning district requirements.

Additional Criteria for Non-Use Variances

In addition to the above, Section 405.1110.E. *Criteria for Area Variances*, states that an applicant for an area variance must meet the following criteria:

- 1. By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the zoning district in which it is located.**

As established above, the lot and subdivision were approved in 1972 with reduced size in consideration of maintenance of the large common ground areas. While the subject property meets with the rear-yard setback, the home was placed according to setbacks other than those required of lots in the B zoning district in consideration of the Residential Designed Development, similar to many of the homes in the area, and as such are not easily improved without a variance since the rear yard and side yard setbacks are not recorded on the plat. Given the history of the subdivision, and lack of documented standards regarding the rear yard setback, this could represent an “exceptional circumstance” for this property.

- 2. Granting the variance would not result in the diversion of additional stormwater that would adversely affect adjacent property.**

The proposed deck is remaining within the same footprint as the existing deck and therefore will not result in the diversion of additional stormwater that would adversely affect adjacent property.

ACTION

Following its deliberation, the Board of Adjustment may vote in favor or against a motion to approve the request. Pursuant to Section 405.1110 of the Zoning Code, approval of a variance requires written findings of fact supporting the specified variance criteria. In order to make the vote on the application clear, an affirmative motion should be made and members can vote to approve or disapprove that motion. An example motion for the requested variance to the rear-yard setback would be:

“I move to approve a variance allowing for a new low deck at 12472 Meadow Green Place to encroach into the rear yard 27 feet from the rear property line, where the required rear yard setback is 30 feet, and where a deck may project up to five (5) feet into the rear yard, for the B-RDD Single Family Residential, based upon a positive finding that:

1. The variance requested arises from condition which is unique to the property in question and which is not ordinarily found elsewhere in the same zoning district;
2. The variance requested is because of a unique hardship not created by the Applicant nor the owner of the property;
3. The granting of the variance will not adversely affect adjacent property owners or residents;
4. The strict application of the rear-yard setback will cause severe practical difficulty and extreme hardship for the property owner represented in the application;
5. The proposed addition will not adversely affect the public health, safety, order, convenience or general welfare of the community;
6. Granting the setback variance will not violate the general spirit and intent of this Chapter;
7. By reason of the lot size within the B-RDD Single-Family Residential zoning district, the strict application of the setback requirements actually creates a hardship to the property in a manner dissimilar to that of other similarly situated property in the zoning district; and,

8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.”

If the Board wishes to modify the application or add specific conditions of approval, they should do so by separate motion, prior to voting on the overall approval for each variance.

After the Board reaches a final decision regarding the request, a follow-up motion directing Staff to prepare and authorizing the Chair to execute the Findings of Fact and Conclusions of Law should be made. An example of such motion is:

“I move to direct Staff to prepare and authorize the Chair of the Board of Adjustment to execute Findings of Fact and Conclusions of Law regarding the variance requested for 12472 Meadow Green Place based upon the testimony received and the deliberations of the Board on this application, as decided on October 20, 2022.”

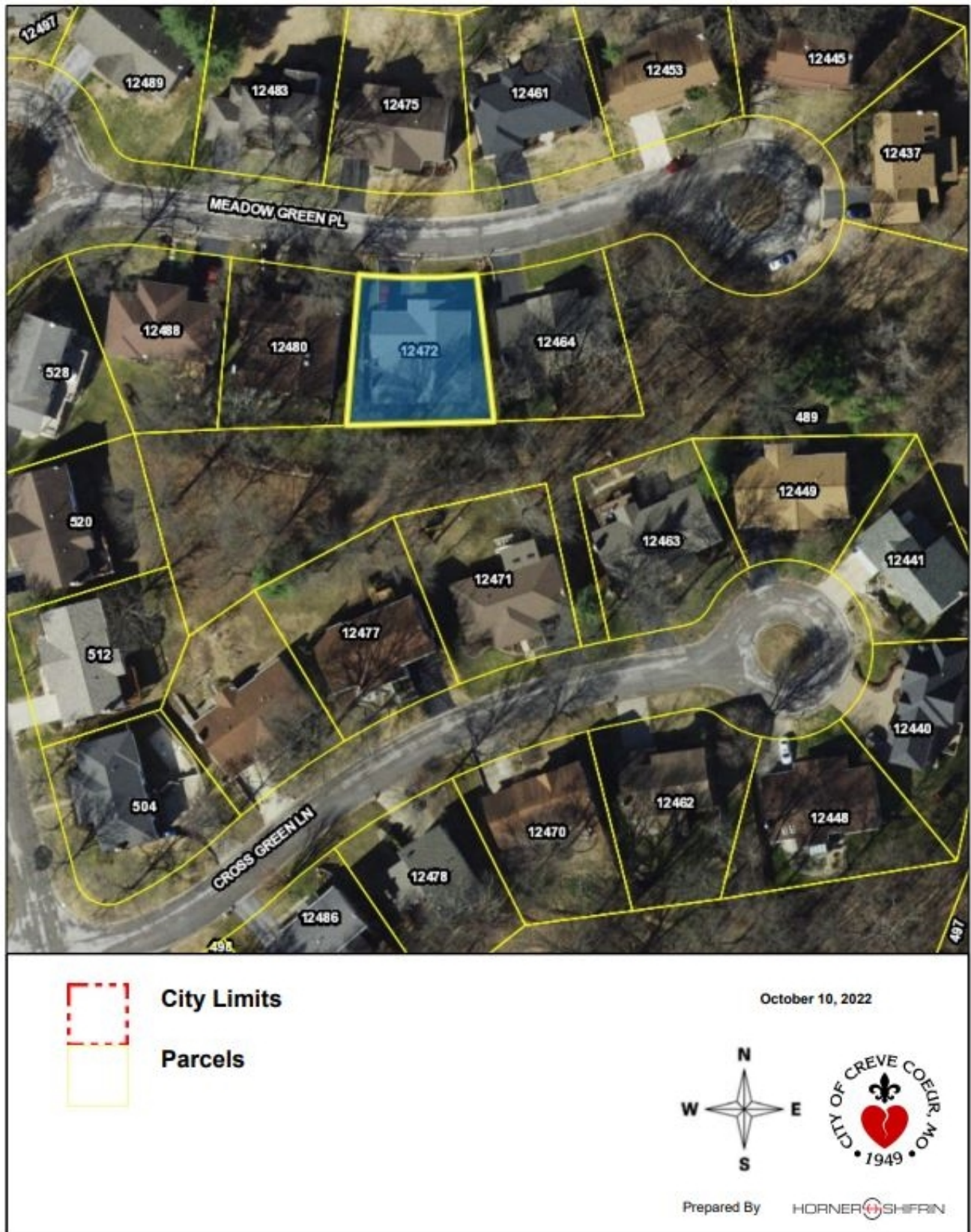
APPENDIX 1: COMPREHENSIVE PLAN

Included and attached by reference. See body of report for specific excerpts.

APPENDIX 2: ZONING CODE

Included and attached by reference. See body of report for specific excerpts.

APPENDIX 3: AERIAL PHOTO



APPENDIX 4: SITE PHOTOGRAPHS



Description:
Front view of
the house
along
Meadow
Green Place.



Description:
View of the
existing rear
deck.



Description:
Existing Rear
Deck.



NOTICE OF PUBLIC HEARING

APPLICATION TO THE BOARD OF ADJUSTMENT

#22-871: VARIANCE REQUEST FOR THE SUBDIVISION AT 871 NORTH MASON ROAD TO DISTURB 2,930 SQUARE FEET, OR 1%, OF THE REQUIRED UNDISTURBED STREAM BUFFER IN ORDER TO REMOVE EXISTING STRUCTURES AND REGRADE THE STREAM BUFFER

FOR THE BOARD OF ADJUSTMENT MEETING OF: Thursday, October 20, 2022, 4:00 PM

SUBJECT PROPERTY LOCATION: 871 North Mason Road, Zoned "D" Single Family Residential District.

REQUEST: David Volz, of Volz Incorporated on behalf of McKelvey Homes, has submitted an application for a variance request to disturb 2,930 square feet, or 1%, of the 28,363 square foot stream buffer required per Section 430.050 (A) in order to remove an existing barn and fill in an existing pond located in the stream buffer at 871 North Mason Road in the "D" Single-Family Residential Zoning District. Per Section 430.050 (A), streams shall have an undisturbed natural vegetative buffer for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. Upon clearing of the existing barn, pond and house outside the stream buffer McKelvey Homes plans to build 12 new single-family homes.

ADDITIONAL INFORMATION: The Board of Adjustment is scheduled to review and take action on this request at its meeting on Thursday, October 20, 2022 at 4:00 p.m. All meetings are held in person in the Council Chambers of the Creve Coeur Government Center located at 300 North New Ballas Road.

You can submit written or e-mailed comments to Planning staff in advance of the meeting. Additional information regarding this proposal is available at the Government Center, Planning Division offices or on the City's website at www.crevecoeurmo.gov/447/Current-Planning-Projects. You may also call (314) 872-2501 or e-mail blmoore@crevecoeurmo.gov.

Key Issues:

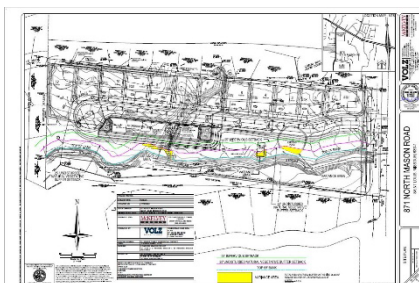
- Impact to Stream Buffer

Zoning Code References

- Section 405.280: "D" Single-Family Residential
- Section 405.1040: Board of Adjustment
- Section 405.1110 Variances and Appeals
- Section 430.050 Land Development Requirement

OWNER: Joseph and Mary Duever Trustees
871 N. Mason Road
Creve Coeur, MO 63141

APPLICANT: David Volz
Volz Incorporated
10849 Indian Head Industrial Boulevard
St. Louis, MO 63132



STAFF CONTACT: Bethany Moore, City Planner
CC: Joe Martinich and Dan Tierney, Ward IV

AERIAL PHOTO:





city
of

CREVE COEUR

File # _____

300 North New Ballas Road • Creve Coeur, Missouri 63141
(314) 872-2500/872-2501 • Fax (314) 872-2505 • Relay MO 1-800-735-2966
www.creve-coeur.org

BOARD OF ADJUSTMENT APPLICATION NON-USE VARIANCE

Applicant:	Applicant's Representative (if applicable):
Name <u>David Volz</u>	Name _____
Company (If Applicable) <u>Volz Incorporated</u>	Company (If Applicable) _____
Address <u>10849 Indian Head Ind Blvd</u>	Address _____
Address <u>St Louis MO 63132</u>	Address _____
Telephone # <u>314-426-6212</u>	Telephone # _____
Fax # _____	Fax # _____
Email: <u>dvolz@volzinc.com</u>	Email: _____

APPLICANT: Architect _____ Engineer X Contractor _____ Agent _____ Owner _____

The undersigned hereby requests to be placed on the Agenda for the Board of Adjustment meeting at 4:00 P.M. on Thursday, Aug 18, 2022.


Applicant's Signature
7-13-22
Date

Applicant's Representative's Signature

Date

Submittal Checklist

- Two (2) checks, \$50.00 filing fee & \$250.00 non-refundable escrow
- Four (4) sets of signed and sealed plans (Folded to a size no larger than 11"x14") for the improvements necessary for the proposed use
- Written Justification
- Electronic copy of all submitted documents

Jason Jaggi, AICP, Director of Community Development
Whitney Kelly, AICP, City Planner
Jessica Stutte, Administrative Assistant (872-2501)

Updated 12/2020

INSTRUCTIONS: Complete all of the following sections to the best of your ability. Provide additional materials as needed such as supplemental pages, diagrams, plans, or photographs. Please consult with Planning Division staff (314-872-2501) if you have any questions.

1. I request a variance so that the following may be built or installed on the property (attach building plans, landscape plans, surveys, etc. showing before and after conditions on the property):

We are requesting a Variance to Chapter 430.050-A "Stream Buffer Protection Regulations" (25' from top of stream bank) in order to provide access and stormwater management for a new single-family residential community in the existing "D" Residential zoning district. The total area of Stream Buffer on the site is 28,363 square feet and we are requesting to disturb 2,930 square feet or 1.0%.

2. In support of my request, I offer the following:

- Unique physical characteristics of the property (creek, steep slope, lot shape, etc.):

The unique shape and topography of the property along with the meandering creek make a variance necessary in order to provide access the site. There is a small pond and old barn already within the 25' Stream Bank Buffer that need to be removed, filled, and regraded in order to construct an access road to the community. In addition, the stormwater basin needs to be located at the lowest part of the site near the creek in order to treat the onsite water.

- Unique non-physical characteristics of the property (location, access, history, etc.):

As mentioned above, there is a small manmade pond and old barn that are both already within the stream bank buffer that need to removed, graded, and restored in order to build the access road. To a lesser degree, the existing bridge and guard rail along North Mason Road dictates the location of the access road as well.

- Any other differences between the Subject Property and other properties in the surrounding area which would warrant different treatment of the Subject Property:

The unique differences on this property are the existing creek, pond, old barn, North Mason Road bridge, and topography that dictate the location of both the access road and stormwater management basin.

- Current uses and structures on the property:

Current uses and structures on the property include one single-family home built in the early 1960's, an old barn and pond, and various green houses with plastic covers.

-
-
3. Explain why the zoning laws unfairly burden the property compared to the other properties around it:

The site is unique because of the old pond, barn, and creek; and therefore, needs a minor variance from the zoning code. The pond and barn are already within the stream bank buffer setback and need to be removed and the area regraded in order to provide access to the site. In addition, the stormwater management basin has to be located at the lowest part of the property near the creek in order to treat the onsite stormwater.

4. Do you believe the problems described above hurt the market value of the property compared to similar properties in the area and, if so, what can you offer as evidence that this is true?

Yes, the unique physical and non-physical conditions hurt the market value of the property. In order to develop the property in a manner similar to the surrounding communities this minor variance is needed to provide viable access and treat the stormwater in accordance with MSD and City regulations. Even with this variance we are proposing a single loaded street with 1/3 the density allowed in the "D" residential zoning district.

5. Assuming the variance is approved, describe the potential effects or impacts on neighboring properties:

McKelvey Homes is proposing a high-end residential community building their premium "Designer Series" homes. We believe these new homes and homeowners will be an asset to the neighboring properties and have a positive impact on the City at large.

6. Assuming the variance is approved, describe any utilities or City and emergency services that will have to be added to or upgraded as a result?

None

7. Assuming the variance is approved, describe how much additional traffic will be created on the property and in the surrounding area as a result:

Typically, a residential community of this type generates one vehicular trip per home in both the AM and PM peak traffic hours. We are proposing 12 new single-family homes which will generate 12 trips per hour at the peak traffic times, or one trip every five minutes.

This community will also provide pavement tapers at the entrance to enhance traffic flow both in and out onto North Mason Road.

8. Assuming the variance is approved, describe any additional street access or parking that will be needed:

As previously mentioned, this variance is needed in order to build the street and stormwater management basin for this community. No additional parking is proposed.

9. Zoning district in which the property is located: "D" Residential

10. Size of the lot (total square feet or acres): 8.45 Acres

11. Please provide any other information in support of this request (on a separate sheet if needed):

In order to provide access to this property and provide stormwater management, a minor variance is needed to the stream bank setback to allow us to remove, regrade and restore an old barn and small and that already lie within the setback area.

The total area of Stream Buffer on the site is 28,363 square feet and we are requesting to disturb 2,930 square feet or 1.0%.

Section 43.040-C "Exceptions" anticipates the difficulties with both access and stormwater management when a community is proposed near a stream and allows exception when there are:

" Intrusions necessary to provide access to a property;

"Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.





APPLICATION TO THE BOARD OF ADJUSTMENT
#22-871: VARIANCE REQUEST FOR THE SUBDIVISION AT 871 NORTH
MASON ROAD TO DISTURB 2,930 SQUARE FEET, OR 1%, OF THE
REQUIRED UNDISTURBED STREAM BUFFER IN ORDER TO REMOVE
EXISTING STRUCTURES AND REGRADE THE STREAM BUFFER

FOR THE MEETING OF: Thursday, October 20, 2022

SUBJECT PROPERTY LOCATION: 871 North Mason Road, Zoned "D"
Single Family Residential District.

REQUEST: David Volz, of Volz Incorporated on behalf of McKelvey Homes, has submitted an application for a variance request to disturb 2,930 square feet, or 1%, of the 28,363 square foot stream buffer required per Section 430.050 (A) in order to remove an existing barn and fill in an existing pond located in the stream buffer at 871 North Mason Road in the "D" Single-Family Residential Zoning District.

ADDITIONAL INFORMATION: Per Section 430.050 (A), streams shall have an undisturbed natural vegetative buffer for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. Upon clearing of the existing barn, pond and house outside the stream buffer McKelvey Homes plans to build 12 new single-family homes.

Key Issues:

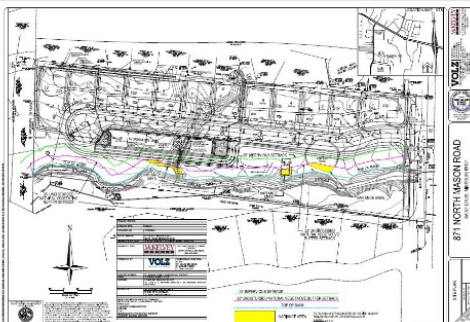
- Impact to Stream Buffer

Zoning Code References

- Section 405.280: "D" Single-Family Residential
- Section 405.1040: Board of Adjustment
- Section 405.1110 Variances and Appeals
- Section 430.050 Land Development Requirement

OWNER: Joseph and Mary Duever Trustees
871 N. Mason Road
Creve Coeur, MO 63141

Applicant: David Volz
Volz Incorporated
10849 Indian Head Industrial Blvd
St. Louis, MO 63132



REPORT PREPARED BY: Bethany L. Moore, City Planner

DATE: 10/11/2022

ATTACHMENTS: Applicant's Materials submitted

BASIS FOR APPEAL AND STATED HARDSHIP

The subject property is a just under 8.5 acres in the “D” Single-family Residential Zoning District. The property sits between Mason Meadows subdivision to the north and the Creekside at Mason Subdivision to the south on North Mason Road. McKelvey Homes has proposed to subdivide the property for the construction of 12-single family homes along the north side of a new cul-de-sac. Fernridge Creek runs along the southern portion of the property. Due to the location of the creek, additional houses will not be built on the southern side of the proposed cul-de-sac. There is an existing house, barn and pond on the property that are planned for demolition before construction can begin on the site. There is also an existing bridge on N. Mason Road over Fernridge Creek that extends along the majority of the southern portion of the property line with N. Mason Road that limits access to the site to only the north east corner.

This request involves a variance to the Stream Buffer Protection Regulations found in Chapter 430 of the City’s code of ordinances. Specifically, Section 430.050(A)(1) *Buffer and Setback Requirements* states that for all streams, “an undisturbed natural vegetative buffer shall be maintained for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.” Within this required undisturbed buffer is an existing pond and barn that need to be demolished, along with the existing house not in the buffer, in order to prepare the site for the development. The applicant proposes to disturb 2,930 square feet, or 1%, of the required undisturbed vegetative buffer in order to demolish the pond and barn, regrade the area, and install the necessary storm water basin in order to address the onsite stormwater. After the demolition and installation of the stormwater basin, the buffer will remain a natural, undisturbed vegetative buffer 25 feet from the top of the stream bank. Section 430.050(A)(2) also requires an additional setback of 25 feet be maintained “beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.” No impervious cover is proposed in the additional 25-foot buffer and it will only be minimally disturbed in order to demolish the pond and barn and to install the required stormwater basin to address the on-site stormwater.



Figure 1: St. Louis County GIS Image of 871 N. Mason Road. Property in red.

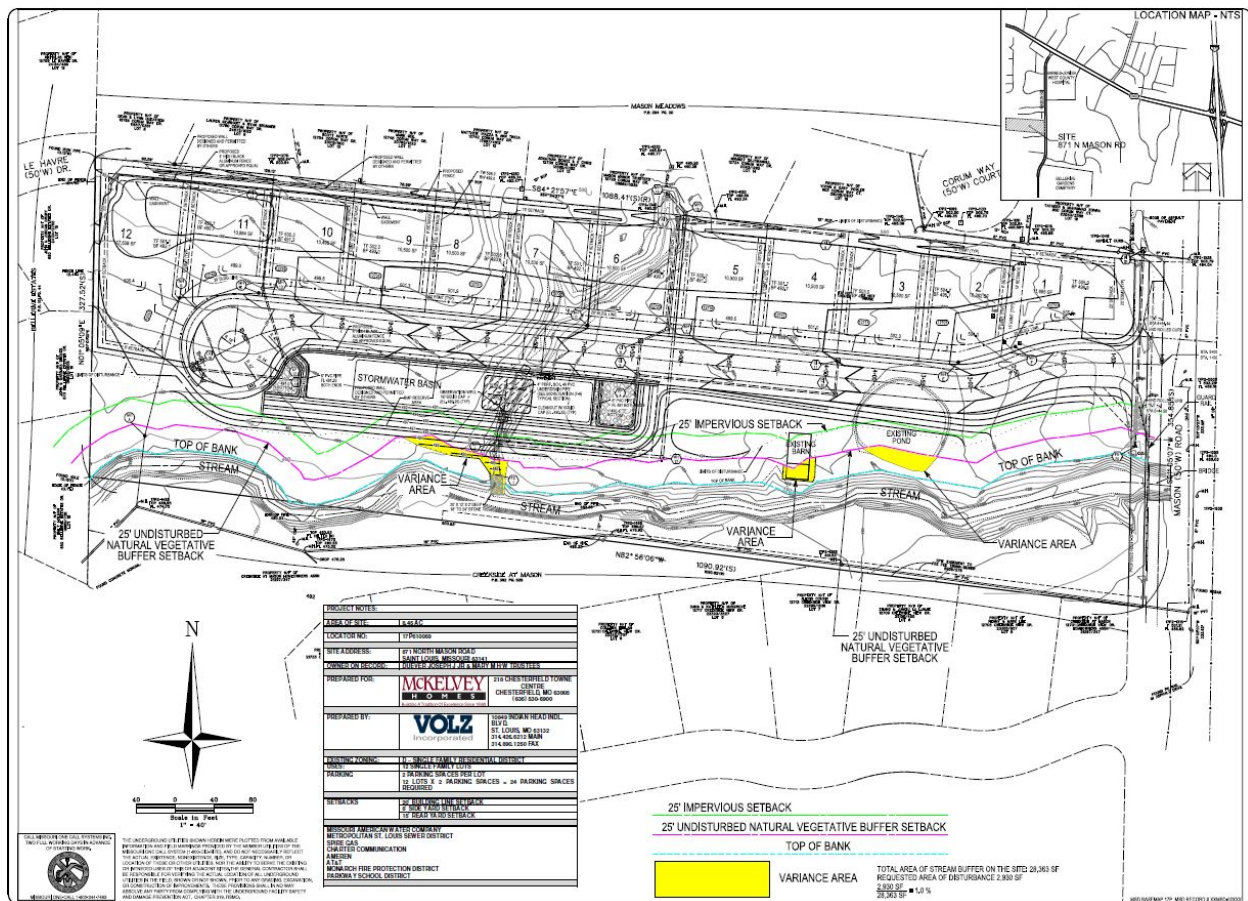


Figure 2: Site Plan with storm buffer disturbance areas highlighted in yellow.

The applicant received preliminary plat approval at the September 6, 2022 Planning and Zoning Commission meeting. A condition of approval before the final plat and/or the improvement plans can be submitted was to receive an approved variance from the Board of Adjustment for this request. The 12 single family lots will comprise the north half of the property along with the cul-de-sac. The remaining land not subdivided, containing the cul-de-sac or the on-site storm water basin will be conserved as common ground for the subdivision which will be known as Duever Estates. The conservation of the common ground serves to fulfil the requirements for the two 25-foot buffers around the creek running through the southern portion of the property.

A part of the property is located in the 100-year floodplain. The source of flooding would be the Fernridge Creek extending east-west along the southern property boundary, as well as its back-up waters from approximately halfway across the southern property boundary to north. The applicant has been working with Staff from the Public Works Department, as well as Planning Staff, in order to document the previously unstudied floodplain for both the Federal Emergency Management Agency (FEMA) and the Missouri State Emergency Management Agency (SEMA). The applicant is also going through the process with FEMA in order to receive a CLOMR-F, a letter from DHS-FEMA stating that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. This is an extensive process that could take 6 months or more. This is an issue that is separate from the stream buffer variance request and Public Works Staff is satisfied with the progress and conclusions of the process at this stage.

Public Works Staff have reviewed the variance request to disturb the stream buffer and are in support of the request. The removal of the pond and barn from the stream buffer will positively impact the stream bank. The construction of the storm water basin at the lowest point of the property and the outlet into the stream are the most logical areas for the stormwater management systems to be located. The proposed minor disturbance of the stream buffer for the installation of this system will not negatively impact the stream buffer or existing creek as it will be returned to a natural buffer after construction. The stormwater management system established with this development would be maintained by the new subdivision. This applies to the variance location for the stream buffer requirement.

A variance request for relief from Section 430.050 for the stream buffer requirement is a separate and different process than a variance request for relief from the Zoning Code. The variance procedures are laid out in Section 430.050(B) *Variance Procedures* which states:

1. Where a parcel was platted prior to the effective date of this Chapter, and its shape, topography or other existing physical condition prevents land development consistent with this Chapter, and the Department of Public Works finds and determines that the requirements of this Chapter prohibit the otherwise lawful use of the property by the owner, the Board of Adjustment of the City of Creve Coeur may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

2. Except as provided above, the Board of Adjustment of the City of Creve Coeur shall grant no variance from any provision of this Chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of four (4) members of the Board of Adjustment, according to the requirements and procedures in Section 405.1110, Variances and Appeals, of the Zoning Code.

Variances will be considered only in the following cases:

a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this Chapter prevents land development unless a buffer variance is granted.

b. Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

Variances will not be considered when, following adoption of this Chapter, actions of any property owner of a given property have created conditions of a hardship on that property.

Due to the location of the existing creek, the Applicant is seeking a variance to allow for a 1% area of disturbance within the “inner” 25-foot undisturbed natural vegetative buffer in order to demolish the existing pond and barn and install the onsite stormwater basin. The disturbed areas will then be regraded and returned to the undisturbed natural vegetative buffer. The “outer” 25-foot buffer without impervious cover and minimal grading, filling and earthmoving will be observed.

LAND USE AND ZONING OF SURROUNDING PROPERTIES

The adjacent zoning and land uses are as follows:

DIRECTION	USE	ZONED	SEPARATED BY
North	Single Family Residences	D-Single Family Residential	N/A
South	Single Family Residences	B-RDD, B Single Family Residential, with Residential Designed Development Designation	N/A
East	Andrews Academy	C-Single Family Residential	North Mason Road
West	Residence, Country Forest Subdivision	D-Single Family Residential	N/A

STAFF ANALYSIS

Section 430.050(B)(4) requires the following factors be considered in determining whether to issue a variance:

- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;*
- b. The locations of all streams on the property including along property boundaries;*
- c. The location and extent of the proposed buffer or setback intrusion;*
- d. Whether alternative designs are possible which require less intrusion or no intrusion;*
- e. The long-term and construction water-quality impacts of the proposed variance; and*
- f. Whether issuance of the variance is at least as protective of natural resources and the environment.*

The shape of the property, although deep, is narrower at the eastern property line that borders North Mason Road. This limits access to the entire property due to its long, narrow shape horizontally. The three additional sides of the property border previously developed subdivisions and offer no access to any roads. The entire southern portion of the property is heavily affected by Fernridge Creek running through it. The location of the N. Mason bridge over the creek and the creek itself limits access to the property to the northeast corner.

The stream buffer requirements restrict the use of the land 50 feet on either side of it which significantly limits the use of the property. The provided site plan shows that 2,930 square feet, or 1%, of the 28,363 square foot stream buffer will be disturbed for the demolition of the pond and barn and installation of the on-site stormwater basin before being returned to a natural vegetative buffer area. The location of the pond limits the location of the cul-de-sac access road, which has to reach all the way to the western portion of the lot. Moving the cul-de-sac to avoid the pond all together would eliminate 3-4 of the proposed lots. With the proposed variance, the applicant is already proposing a single loaded street with 1/3 the allowed density for the "D" Zoning District and, according to the applicant, the elimination of additional lots would create a project that is not economically feasible.

The stormwater basin has to be located at the lowest portion of the site near the creek in order to treat the onsite water. The submitted plan shows that once the demolition of the barn is complete, the pond is filled in and the stormwater basin is constructed, the 50-foot stream buffer will be returned to a natural buffer without impervious area or additional grading. After reviewing the proposed variance request and submitted site plan, Public Works Staff is not concerned that the variance request will have a negative

impact on the water quality and believes that the removal of the barn and pond from the stream buffer will positively impact the water-quality. Once the barn and pond are removed and the installation of the stormwater basin is complete, the natural vegetative buffer of 25 feet will be maintained, as will the additional 25 foot non-impervious buffer which will serve the goals of the stream buffer in Section 430.050.

ACTION

Following its deliberation, the Board of Adjustment may vote in favor or against a motion to approve the request. Pursuant to Section 405.1110 of the Zoning Code, approval of a variance requires written findings of fact supporting the specified variance criteria. In order to make the vote on the application clear, an affirmative motion should be made and members can vote to approve or disapprove that motion. An example motion for the requested variance to the storm water buffer would be:

“I move to approve a variance allowing for the disturbance of 2,930 square feet, or 1%, of the required 25-foot storm buffer, subject to post-construction restoration of the storm buffer ground, in order to construct a 12-lot subdivision with access road and on-site storm water basin at 871 N. Mason Road in the “D” residential zoning district as shown on the submitted site plan prepared by Volz Incorporated on September 12, 2022, based upon a positive finding that factors a-f of Section 430.050(B)(4) have been considered.”

If the Board wishes to modify the application or add specific conditions of approval, they should do so by separate motion, prior to voting on the overall approval for the variance.

After the Board reaches a final decision regarding the request, a follow-up motion directing Staff to prepare and authorizing the Chair to execute the Findings of Fact and Conclusions of Law should be made. An example of such motion is:

“I move to direct Staff to prepare and authorize the Chair of the Board of Adjustment to execute Findings of Fact and Conclusions of Law regarding the variance requested for 871 North Mason Road based upon the testimony received and the deliberations of the Board on this application, as decided on October 20, 2022.”

APPENDIX 1: COMPREHENSIVE PLAN

Included and attached by reference. See body of report for specific excerpts.

APPENDIX 2: ZONING CODE

Included and attached by reference. See body of report for specific excerpts.

APPENDIX 3: AERIAL PHOTO



APPENDIX 4: SITE PHOTOGRAPHS

Photo Dates:



Description: N. Mason Road Bridge on the southeastern portion of the subject property.



Description: Aerial photo of the property showing the existing structures.