



**AGENDA
CITY OF CREVE COEUR
BOARD OF ADJUSTMENT
CITY COUNCIL CHAMBER
NOVEMBER 17, 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

October 20, 2022 Board of Adjustment Draft Meeting Minutes

ACCEPTANCE OF THE AGENDA

UNFINISHED BUSINESS

NEW BUSINESS

1. **#22-512 Variance Request For The Property At 512 Meadow Green Place To Reconstruct an Existing Rear Deck Encroaching 26 feet into the Required Rear Yard Setback of 30 feet**

Summary: Lynne Koestner, homeowner, has submitted an application for a variance request to replace an existing deck that encroaches 26 feet into the required 30 foot rear yard setback at 512 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 21 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.



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BUSINESS FROM STAFF

2. Training

Summary: City Attorney and Staff will guide Members through a training session.

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.



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CALL TO ORDER

The meeting was called to order at 4:00 PM.

ROLL CALL

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

The following staff were also present:

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

Mr. Kostelc made a motion to approve the May 19th, 2022 meeting minutes. Mr. Mayersohn seconded. All in favor.

ACCEPTANCE OF THE AGENDA

Mr. Mooney made a motion to approve the agenda. Mr. Kostelc seconded. All in favor.

UNFINISHED BUSINESS

None



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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

Those speaking to the request were sworn in.

Ms. Bethany Moore, City Planner, stated that the applicant hopes to reconstruct an existing deck that encroaches 27 feet into the rear yard setback of 30 feet.

Ms. Moore stated that the zoning code allows decks to encroach 5 feet into the rear yard setback, and the variance request is for the additional 22 feet of encroachment into the rear yard setback.

Ms. Moore stated that only the front yard setback was recorded when Country Forrest was platted; and not the other adjusted setbacks under RDD. Therefore, it defaults to the B zoning requirements. She explained that this is the 6th variance request in the past three years in this subdivision.

Ms. Moore stated that due to the B zoning requirements, the applicant could not build a deck at all without a variance.

Ms. Moore stated that the request arises from a unique condition in that the rear and side yard setbacks are not noted on the plat.

Ms. Moore stated that the unique hardship was not created by the applicant or property owner.

Ms. Moore stated that the variance would not create an adverse effect on the neighboring property owners.

Ms. Moore stated that strict application of the zoning code would eliminate the ability of the property owner to have a deck at all.

Ms. Moore stated that the need for the variance comes from the lack of side and rear yard setbacks recorded when the subdivision was platted.

Ms. Moore stated that granting of the variance would not create stormwater concerns.



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Mr. Mooney asked if the home itself sits in the B district rear yard setback. Ms. Moore confirmed that it does.

Mr. Kostelc asked what zoning should apply to the lot. Ms. Moore stated that RDD districts typically have their own setbacks on the plats due to smaller lots with common ground.

Mr. Mayersohn asked if the proposed deck would be the same height as the existing. Ms. Moore confirmed that it would.

Mr. Carl Lumley offered the exhibits to the record.

Mr. Wilen made a motion to approve the variance. Mr. Mooney seconded. All in favor.

RESULT: Passed
MOVER: Glenn Wilen
SECONDER: Robert Mooney
AYES: Arnold Mayersohn, Glenn Wilen, Robert Mooney, Dana Connon, James Kostelc,
NAYS: None

Mr. Wilen made a motion 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. Mr. Kostelc seconded. All in favor.

RESULT:
MOVER: Glenn Wilen
SECONDER: James Kostelc
AYES: Glenn Wilen, Robert Mooney, James Kostelc, Arnold Mayersohn, Dana Connon
NAYS: None



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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

Those speaking to the request were sworn in.

Mr. David Volz, Volz Engineering, 10849 Indian Head Industrial Blvd, St. Louis, MO 63132, stated that the application is for a variance under chapter 430.050.A which is the stream buffer protection regulations.

Mr. Volz stated that the site is 8.45 acres, and the creek is at the southern end of the site and presented photos of the barn, stream, and pond.

Mr. Volz stated that the detention basin for the proposed subdivision must be next to the creek at the lowest point of the site.

Mr. Kostelc asked about the flow of the creek. Mr. Volz stated that it flows towards the west.

Mr. Volz stated that the code requires a 25 foot setback with no disturbance and an additional 25ft with no hard surface.

Mr. Volz stated that the hardship comes from the shape and topography of the property as well as the meandering creek. He explained that this prevents building an access road and from being able to discharge the detention basin into the creek.

Mr. Volz stated that in order to build a road at the entrance, a portion of the stream buffer must be disturbed.

Mr. Volz stated that in order to remove the barn, the stream buffer must be disturbed.

Mr. Wilen asked if a variance would be necessary to tear down the barn if nothing else were being done to the site. Mr. Volz confirmed that it would still be disturbing the stream buffer.

Mr. Mooney asked if the greenery cutting through the property is a drainage ditch or creek bed. Mr. Volz confirmed it is a drainage ditch that empties a detention basin from a neighboring subdivision.



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Mr. Mayersohn asked what will happen to the drainage when the proposed homes are built. Mr. Volz stated that the water would be piped underground into the creek.

Mr. Kostelc had concerns about the amount of water anticipated, as the creek could flood the neighbors to the west. Mr. Volz stated that they will be required to prevent any increase.

Mr. Volz stated that there was an error in the math of the request. He clarified that 3.3% is the correct amount of disturbance.

Mr. Volz stated that the flood plain does not require a variance.

Mr. Volz stated that SEMA did a flood plain study as well as an independent study by his company. He explained that recently the findings were approved by MSD and the City and submitted to FEMA for approval.

Mr. Kostelc asked how MSD is involved. Mr. Volz stated that MSD requires proof that there is no rise either up or down stream. He stated that the study has already been done and approved. Mr. Kostelc asked if this study was for during construction as well as after. Mr. Volz confirmed that it is.

Mr. Wilen asked about the rate of flow of the creek and capacity. Mr. Volz stated that he did not know.

Mr. Kostelc asked if water runoff from the houses and the street into the creek would increase the volume of the creek. Mr. Volz stated that the water on the site will be directed to the detention basin to be pumped into the creek at a metered rate to avoid creek rise.

Mr. Kostelc asked about the depth of the detention basin. Mr. Volz stated 6-8 feet and water is metered into the creek.

Mr. Mayersohn asked about extreme storms. Mr. Volz stated that the basin is designed for 100-year storm events.

Mr. Mayersohn asked to confirm that the flow of the creek does not change. Mr. Volz confirmed this is correct.



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Mr. James Piper, McKelvey Homes, stated that MSD has added criteria to modify the existing older basin from Mason Meadows to avoid flooding.

Mr. Piper stated that at completion, there will be zero rise in the creek. Mr. Mayersohn asked about during construction. Mr. Volz stated that there will be stormwater mitigation.

Mr. Mooney asked about the plans for the other side of the creek. Mr. Volz was unsure of the plans for this area.

Ms. Bethany Moore, City Planner, stated that the variance request is for the disturbance of the undisturbed stream buffer in order to remove an existing structure and regrade the stream buffer at the pond, and attach the detention basin.

Ms. Moore stated that the property is zoned D Single Family Residential on 8.5 Acres.

Ms. Moore stated that the applicant plans to have 12 lots on a single stacked cul-de-sac with an onsite detention basin.

Ms. Moore stated that the applicant has already received approval from the Planning and Zoning Commission of the preliminary plat. She explained that approval of the variance must be granted before the final plat can be considered.

Mr. Mayersohn asked if the City would require a FEMA permit to be issued before approval of the site plan for the development. Mr. Jaggi stated the City would require approval of the CLOMR before recording.

Mr. Kostelc asked if the board's approval should come after the permits have been applied for. Mr. Jaggi stated that this request is for a variance to a specific section of the code for the disturbance of the stream buffer.

Ms. Moore stated that Public Works staff were satisfied with the progress of the flood plain at this time.

Mr. Mayersohn asked to confirm that the other matters are not under consideration of the Board of Adjustment. Mr. Jaggi confirmed.

Ms. Moore stated that the stream only requires 25ft of undisturbed natural vegetation



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on either side of the stream. She explained that an additional 25ft should not have an impervious surface. Ms. Moore stated that the variance request is only for the limited disturbance.

Ms. Moore clarified that the request is for 3.3% of disturbance.

Ms. Moore stated that the barn is an impervious structure that will be removed from the natural buffer and the impervious buffer.

Ms. Moore stated that removing the existing pond and restoring the area to stream buffer will help to improve the flow of the creek.

Mr. Wilen asked if the 3.3% disturbance is the inner 25ft of the stream. Ms. Moore confirmed that this is correct.

Ms. Moore stated that the location of the bridge on North Mason creates a hardship for the entrance as the bridge cannot be moved.

Ms. Moore stated the requirements to consider for approval of the variance.

Mr. Wilen asked if the public has had an opportunity to hear the request. Mr. Jaggi stated that the preliminary plat did allow for a public hearing. Mr. Piper confirmed that McKelvey Homes has had neighborhood meetings.

Mr. Mayersohn referred to the public comment emailed by Mr. Allister Pringle, 12712 Creekside View Dr, and stated that the issue discussed therein is with the floodplain, not the stream buffer variance.

Mr. Clarence Brownley, 12713 Creekside View Dr, stated that he has concerns regarding the impact of the project on the floodplain.

Mr. Kostelc asked Mr. Piper if McKelvey Homes has met with all the surrounding trustees and neighbors. Mr. Piper stated just Mason Meadows at a second meeting as to landscaping. Mr. Kostelc asked to confirm if the Bellerive Estates neighbors were met with. Mr. Piper stated they were not at the second meeting but could have been at the initial one.

Mr. Dave Schneider, 13109 Bellerive Farm Dr, asked to be assured that the likelihood of flooding would stay the same or decrease with the development. He also asked if the



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flood maps are available to the public and wondered if the FEMA flood maps have been redone.

Mr. Volz stated that the base flood elevation is for a 100-year event. Mr. Volz stated that FEMA did amend the maps with the new topography maps to follow the contours. He explained that this was based on newer contour maps. Mr. Volz stated that the study is publicly available.

Mr. Lumley offered the exhibits to the record.

Mr. Wilen made a motion to approve the variance as outlined in the staff report with modification to allow 3.3% of disturbance and subject to post-construction restoration of the storm buffer ground. Mr. Mayersohn seconded. All in favor.

RESULT: Passed MOVER: Glenn Wilen SECONDER: Arnold Mayersohn AYES: Glenn Wilen, Robert Mooney, James Kostelc, Arnold Mayersohn, Dana Connon NAYS: None
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Mr. Wilen made a motion 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. Mr. Kostelc seconded. All in favor.

RESULT: Passed MOVER: Glenn Wilen SECONDER: James Kostelc AYES: Glenn Wilen, Robert Mooney, James Kostelc, Arnold Mayersohn, Dana Connon NAYS: None



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BUSINESS FROM STAFF

Mr. Jaggi suggested deferring the training to the November meeting. The Board agreed.

Mr. Wilen asked for an update on the Deaver Court Case. Mr. Lumley stated that the hearing was postponed and was rescheduled for Tuesday as the property owner has decided to get involved in the case at the last minute. He explained that this may be postponed again as the homeowner does not currently have legal representation.

Mr. Lumley stated that the Quik Trip case would be argued at the Missouri Supreme Court on Wednesday, audio available live or recording.

Ms. Moore stated that the next meeting agenda will have a variance for a deck in Country Forest.

ADJOURNMENT

Mr. Wilen made a motion to adjourn. Mr. Kostelc seconded. All in favor. The meeting adjourned at 5:12 PM.

Submitted by:

Recording Secretary

Chair



APPLICATION TO THE BOARD OF ADJUSTMENT
#22-512 VARIANCE REQUEST FOR THE PROPERTY AT 512 MEADOW
GREEN PLACE TO RECONSTRUCT AN EXISTING REAR DECK
ENCROACHING 26 FEET INTO THE REQUIRED REAR YARD SETBACK OF 30
FEET

FOR THE MEETING OF: Thursday, November 17, 2022

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

REQUEST: Lynne Koestner, homeowner, has submitted an application for a variance request to replace an existing deck that encroaches 26 feet into the required 30 foot rear yard setback at 512 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 21 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 21 feet of encroachment.

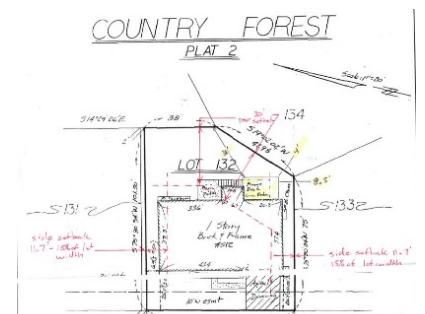
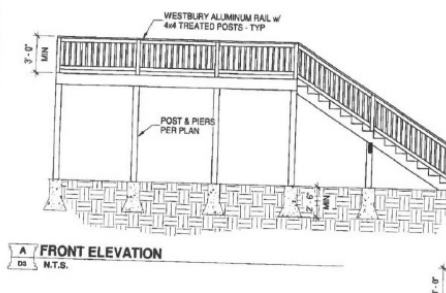
OWNER/APPLICANT: Mark and Lynne Koestner
512 Meadow Green Place
Creve Coeur, MO 63141

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: 11/8/2022
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.

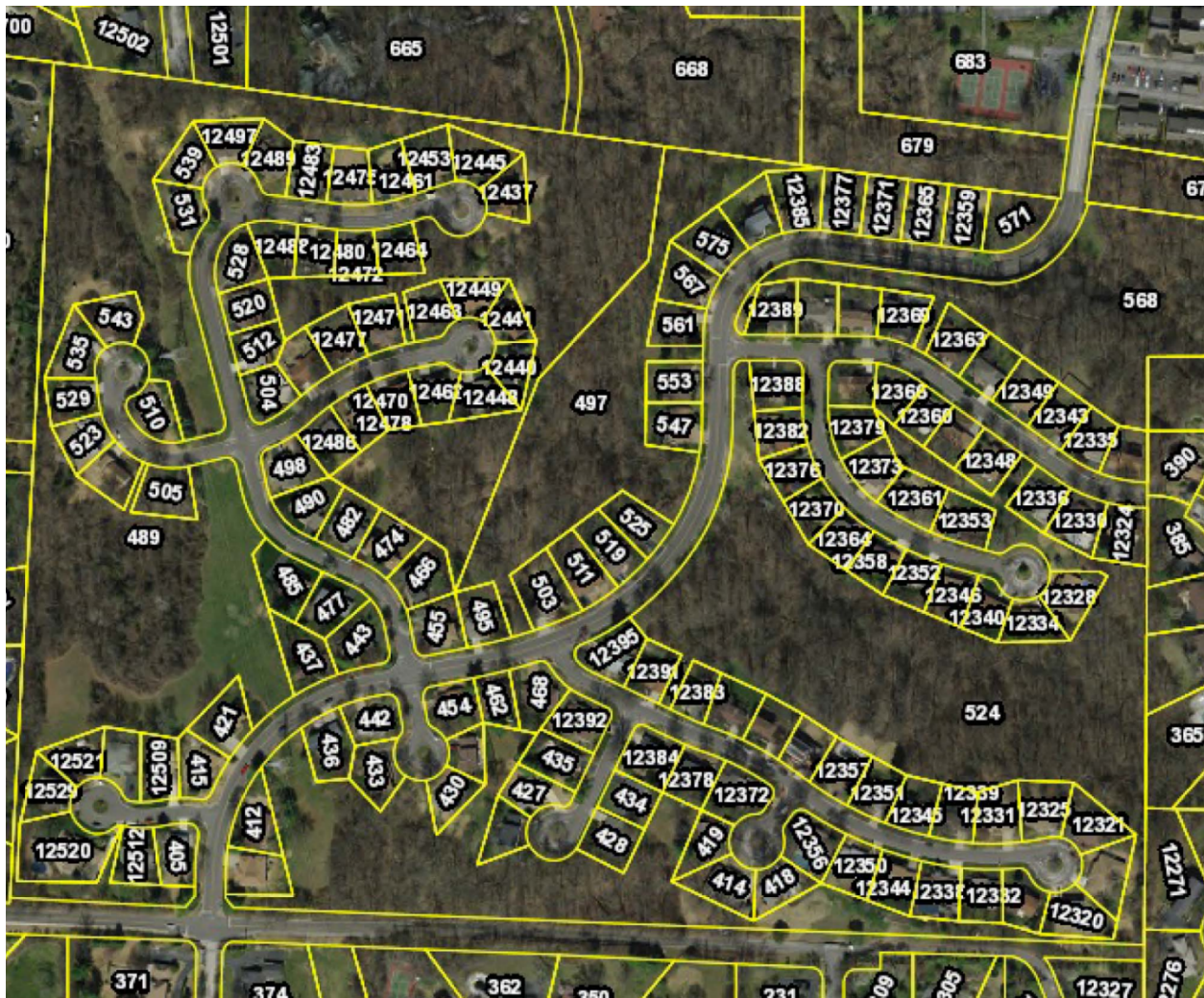


Figure 1: City's GIS Image of the Country Forest Subdivision

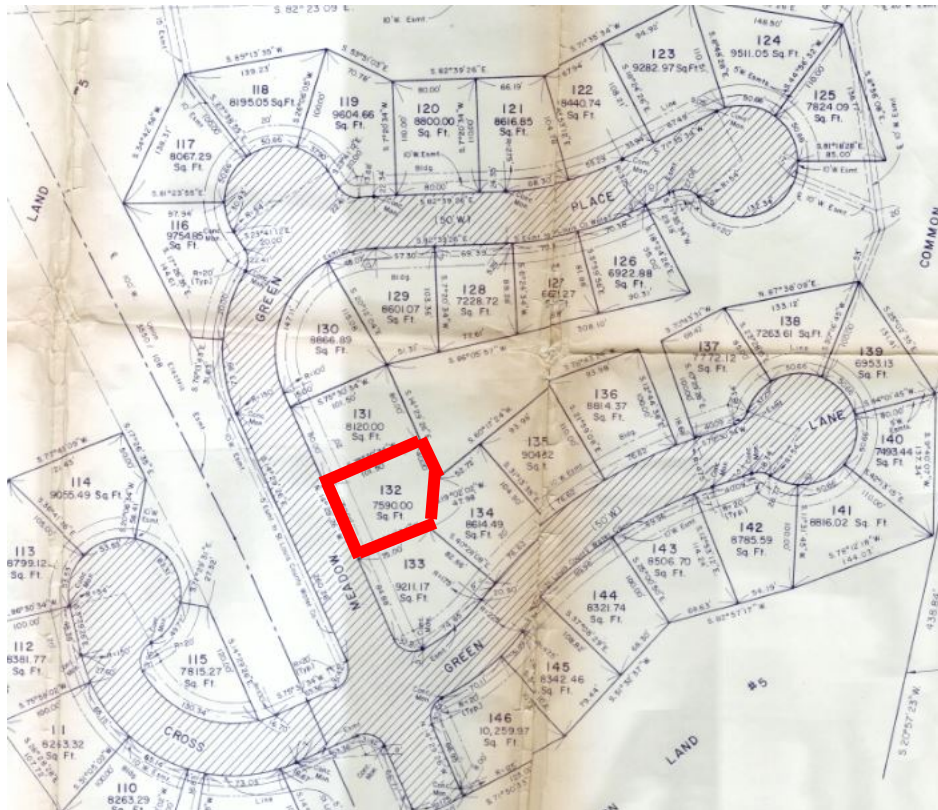


Figure 2: Close-up of the Country Forest Subdivision Plat 2. The Subject property is Lot 132.



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.

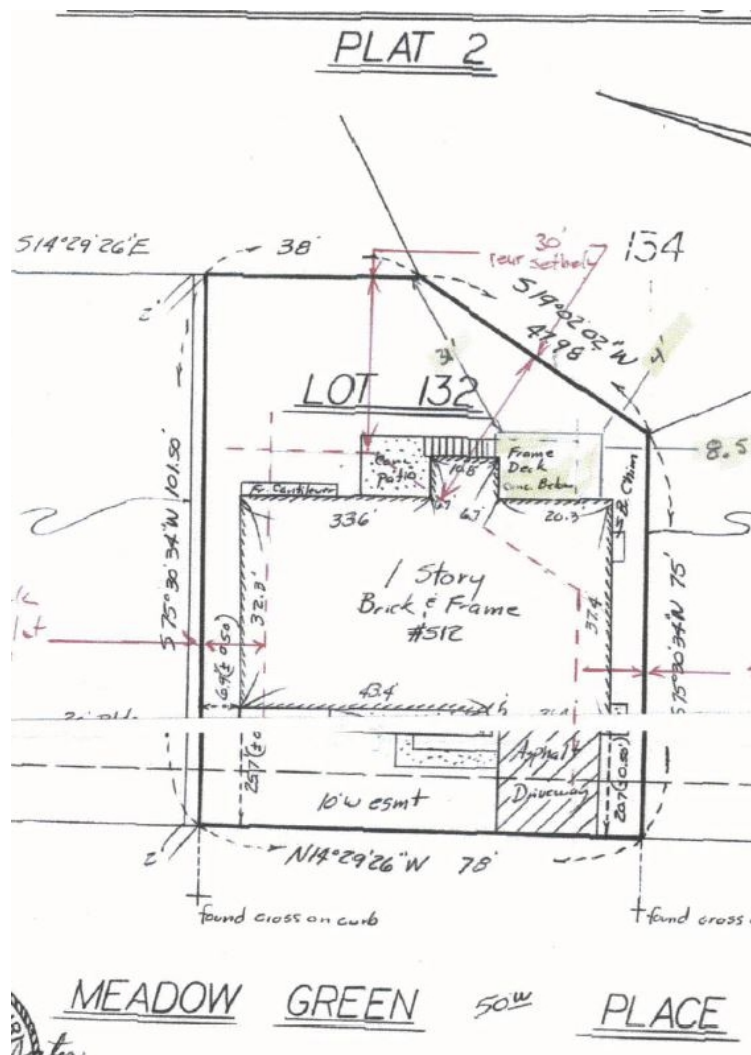


Figure 4: Close-up of the Applicants Site Plan showing the deck.

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 12472 Meadow Green Place in October 2022, 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 seventh 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 20 feet from the rear property line at its closest point with the rear corner portion of the house within the 30-foot rear yard setback. The existing 12-foot-deep deck sits 4 feet from the rear property line at its closest point which means it extends into the 30-foot rear yard setback by 26 feet. Decks are allowed to encroach 5 feet into the rear yard setback but that still leaves 21 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. 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.

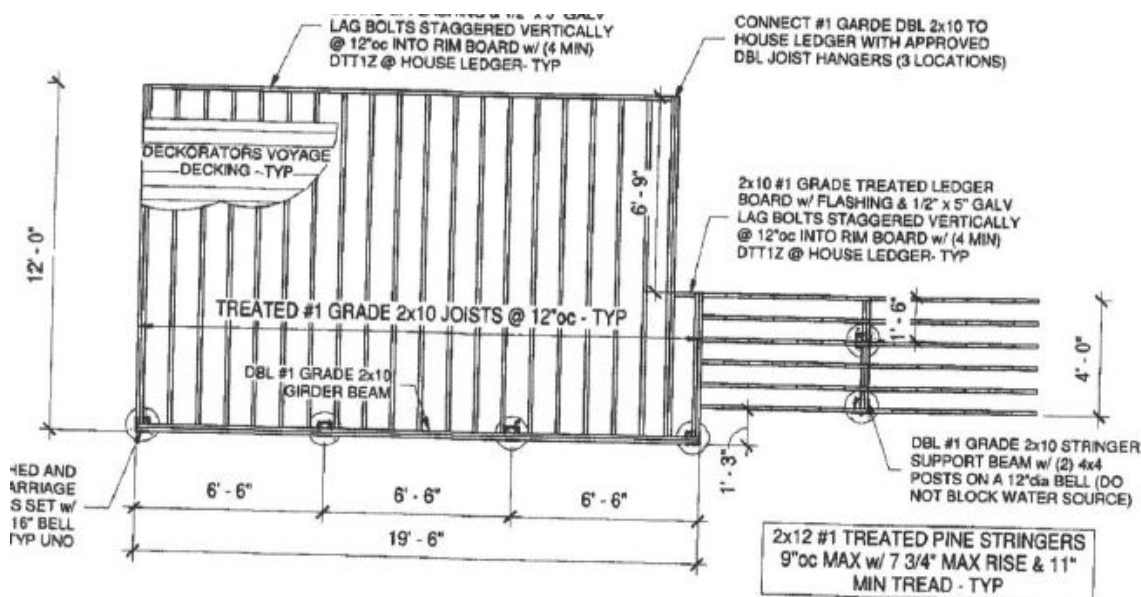


Figure 5: Close-up of the proposed overhead view of the deck.

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 21 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	N/A
South	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	N/A
East	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	Common Ground
West	Residence, Country Forest Subdivision	B-RDD, B Single Family Residential, with Residential Designed Development Designation	Meadow Green Place

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 7,778 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 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 deck at 512 Meadow Green Place to encroach into the rear yard 26 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 outside of the Country Forest neighborhood;
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 deck 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 outside of the Country Forest neighborhood; 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 512 Meadow Green Place based upon the testimony received and the deliberations of the Board on this application, as decided on November 17th, 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.
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city of CREVE COEUR

300 North New Ballas Road • Creve Coeur, Missouri 63141

(314) 432-6000 • Fax (314) 872-2539

NOTICE OF PUBLIC HEARING

APPLICATION TO THE BOARD OF ADJUSTMENT

#22-512 VARIANCE REQUEST FOR THE PROPERTY AT 512 MEADOW GREEN PLACE TO RECONSTRUCT AN EXISTING REAR DECK ENCROACHING 26 FEET INTO THE REQUIRED REAR YARD SETBACK OF 30 FEET

FOR THE BOARD OF ADJUSTMENT MEETING OF: Thursday, November 17, 2022, 4:00 PM

SUBJECT PROPERTY LOCATION: 512 Meadow Green Place, Zoned "B-RDD" Single Family Residential District.

REQUEST: Lynne Koestner, homeowner, has submitted an application for a variance request to replace an existing deck that encroaches 26 feet into the required 30 foot rear yard setback at 512 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 21 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 Board of Adjustment is scheduled to review and take action on this request at its meeting on Thursday, November 17, 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.

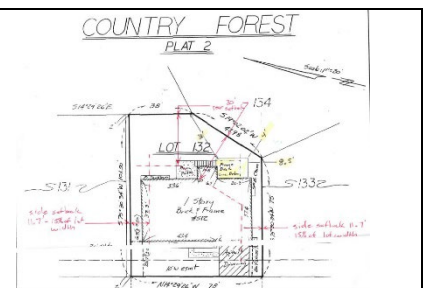
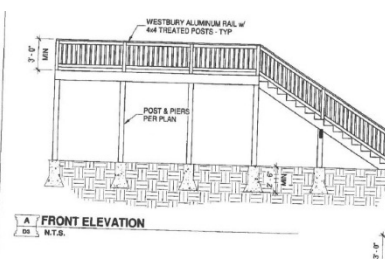
OWNER/APPLICANT: Mark and Lynne Koestner
12472 Meadow Green Place
Creve Coeur, MO 63141

Key Issues:

- Impact to neighborhood
- Property versus owner hardship

Zoning Code References

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



STAFF CONTACT: Bethany Moore, City Planner
CC: David Hoffman and Sari Neudorf, Ward III

AERIAL PHOTO:



City Limits

Parcels

November 4, 2022



Prepared By

HORNER SHIFRIN



city
of

CREVE COEUR

File #

RECEIVED

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

OCT 13 2022

BUILDING DEPT.

BOARD OF ADJUSTMENT APPLICATION
NON-USE VARIANCE

Name Hynne & Mark Koestner	Name
Company (If Applicable) 912 meadow Green Pl	Company (If Applicable)
Address Creve Coeur, MO 63141	Address
Address 	Address
Telephone # 314-434-6589	Telephone # _____
Fax # _____	Fax # _____
Email: mal.koestner2451@gmail.com	Email: _____

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, 11/17, 2022

Hynne Koestner
Mark Koestner
Applicant's Signature

Applicant's Representative's Signature

October 11, 2022
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):

We request a variance to replace the deck in the back of the house. The deck will be the same size and in the same location as the existing deck. The present deck needs to be replaced due to rotting wood and other safety issues.

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

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

Unique to our property is the unusual size of the property. We want to replace the existing deck that was built in 1998. It now has rotting boards and other safety issues. The subdivision built 1480 homes on 78.6 acres. Country Forest has a current RDD zoning designation of "B" for lots of 20,000 sq. ft. or larger. Our lot is 7,590 sq. ft.

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

We are Lot 132 in the Country Forest subdivision with a zoning of "B"-RDD. As we understand, the original plan approved in 1972 set requirements for side yards. The current "B" setback of 7 1/2 ft. is hard to determine as the side angles in to the back. The house was built in 1976. We bought the house in 1993 and replaced the original deck in 1998 with the same dimensions, better materials, and safer.

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

Although lots in Country Forest appear large due to the proximity of the common ground, they are actually small with many lots being odd-sized. This is a common issue throughout the neighborhood where variances are needed to build new decks or replace existing decks in rear yards.

- Current uses and structures on the property:

This is a single family dwelling built in 1976. We bought the property in 1993. As the property is 46 years old, we are trying to maintain the property for aesthetic appearances while keeping it safe. The deck is attached to the single family dwelling.

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

Without consideration of the common ground, the designation of "B" for zoning does not fit the subdivision. In speaking with the former trustees, who, as we understand, have had discussions concerning planning and zoning of this area. Changes were to be made but, so far, these changes have not come. Therefore, we are asking for a variance as the rear yard for this neighborhood was not

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?

Replacing the deck with newer materials and making it more stable and safe will provide a useable outdoor space plus enhance the aesthetic value. This should help maintain the marketability of the property.

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

The property backs up to the common ground and replacing the deck will not impact the rear neighbors.

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?

As the proposed deck will replace what is rotting, unstable, and not safe, utilities or emergency services will not be affected.

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: B-RDD

10. Size of the lot (total square feet or acres): Our lot is 7590 sqft.

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

Besides the variance application in this binder please view:

- the proposal plan for the deck replacement
- the 1998 plan of the present deck with the permits
- the plat plan showing adjacent lots and common ground
- letters from neighbors
- trustee approval























[THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY]

PLAT 2



MEADOW GREEN ^{50^W} PLACE

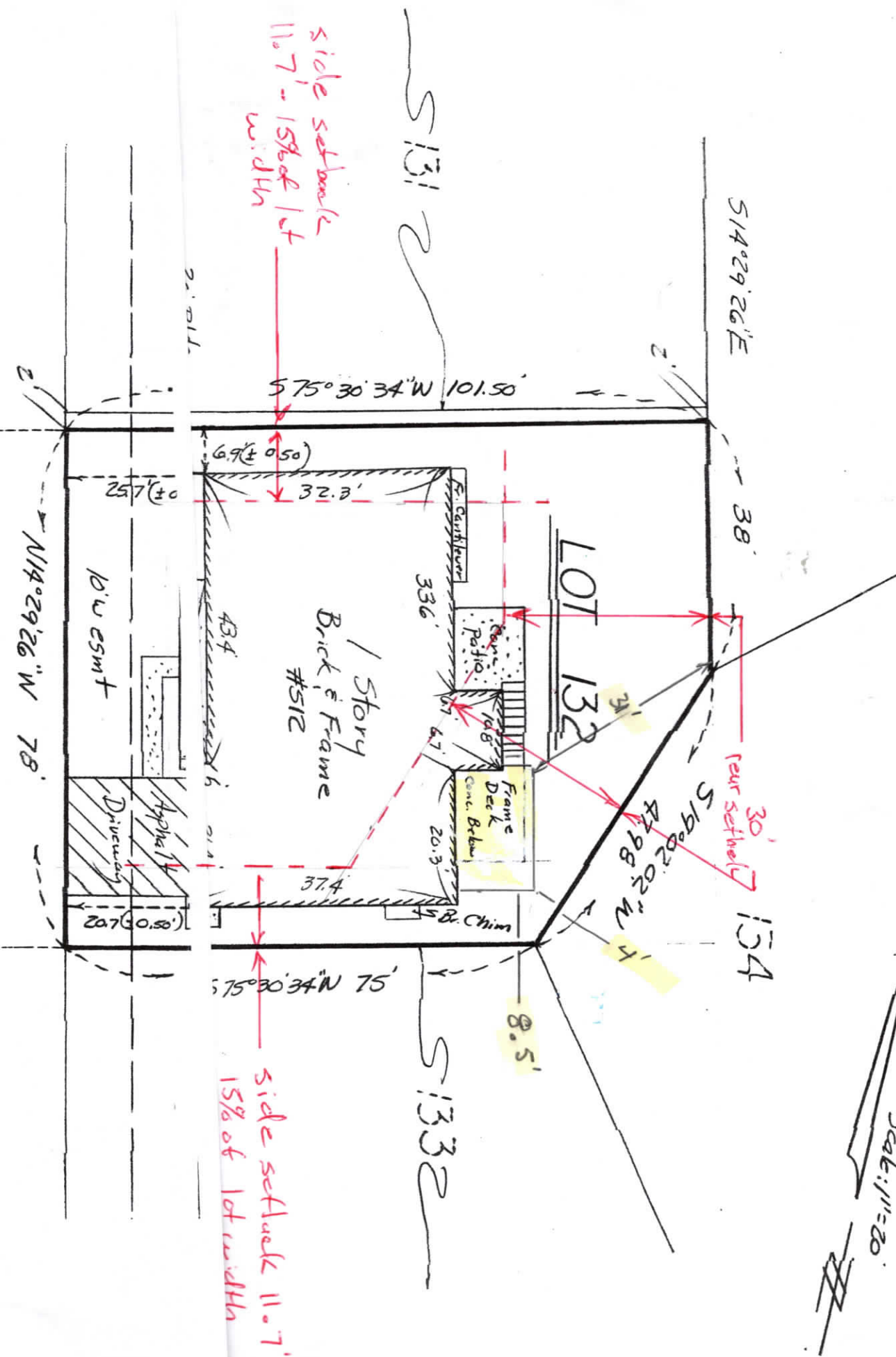
David Morton Surveying, Inc.
16625 Green Pines Drive
Ellisville, Missouri 63011
Phone: (314)458-0422

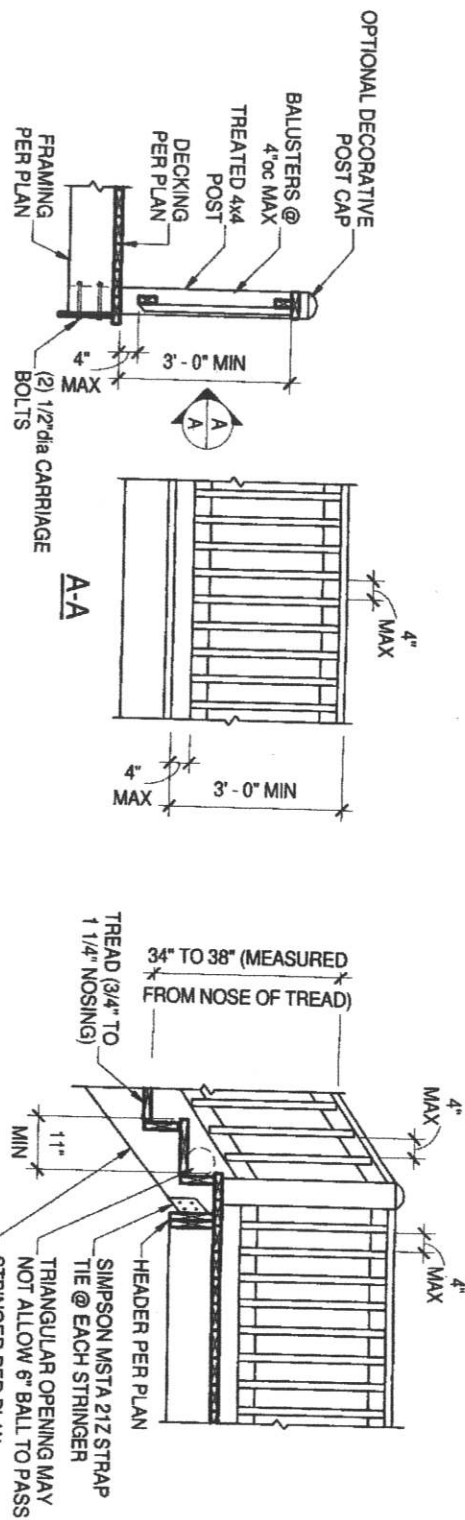
This is to certify that at the request of U.S. Title Company a MORTGAGE INSPECTION was executed by me or under my direct supervision, on the 29th day of August, 1993 on lot 132 (excepting the North 2 feet therefrom) of lot 132 of Country Forest Plat 2, a subdivision as recorded in Record Plat 1 of Book 155 pages 72773 of the St. Louis County records in St. Louis Co., Missouri and that this document is a true and correct copy of the original as the same appears in the records of the County of St. Louis and the State of Missouri.

COUNTRY FOREST

PLAT 2

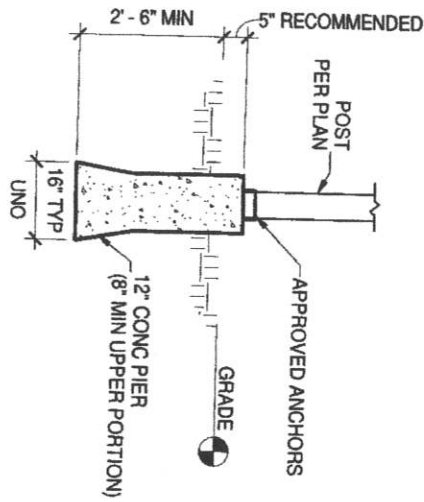
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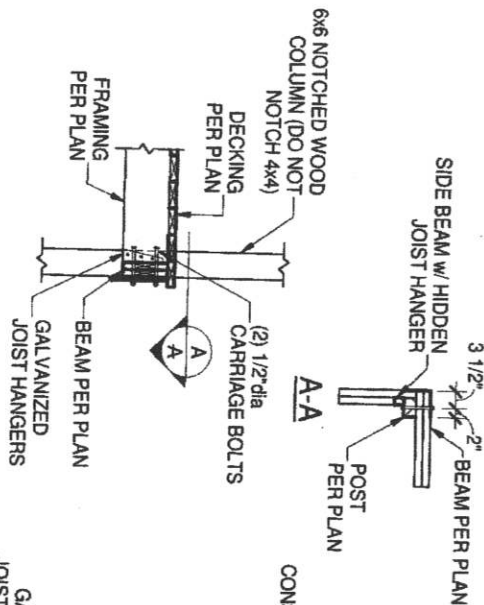


A TYPICAL POST TO DECK DETAIL
D1 N.T.S.

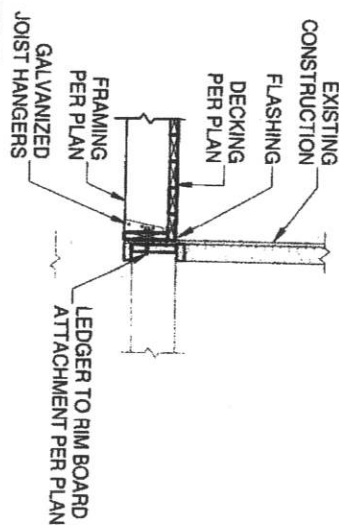
B TYPICAL STAIR DETAIL (GRASPABLE RAIL)
D1 N.T.S.



C TYPICAL POST @ PIER DETAIL
D1 N.T.S.



D TYPICAL BEAM TO POST DETAIL
D1 N.T.S.



E TYPICAL LEDGER DETAILS
D1 N.T.S.

KOESTNER
512 MEADOW GREEN PL
CREVE COEUR, MO 63141

R&R.
REMODELING

1234 CONTINENTAL DR.
WENTZVILLE, MO 63385

REVISIONS

No.	Description	Date

D1

TYPICAL DETAILS

No.	Description	Date

KOESTNER

512 MEADOW GREEN PL
CREVE COEUR, MO 63141

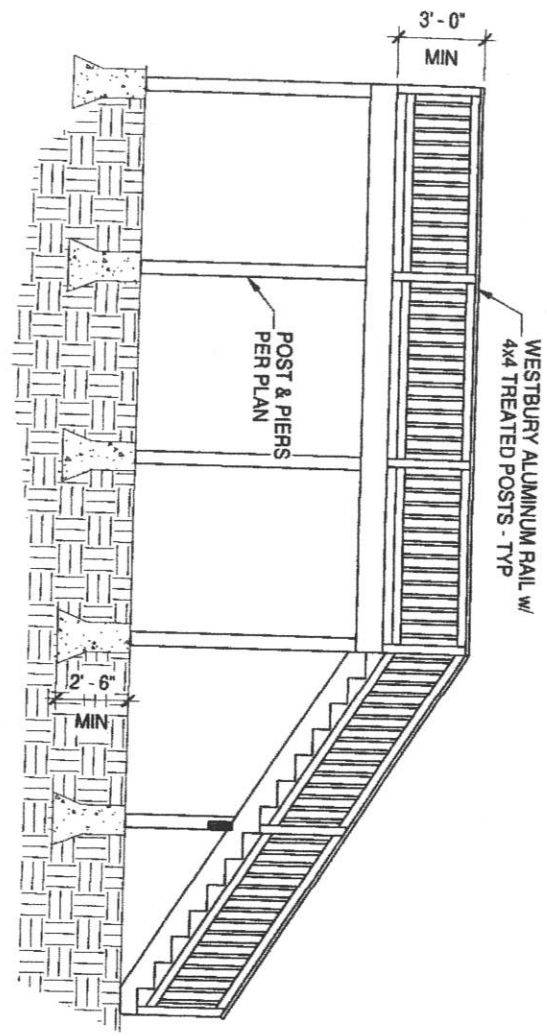
R&R. REMODELING

1234 CONTINENTAL DR.
WENTZVILLE, MO 63385

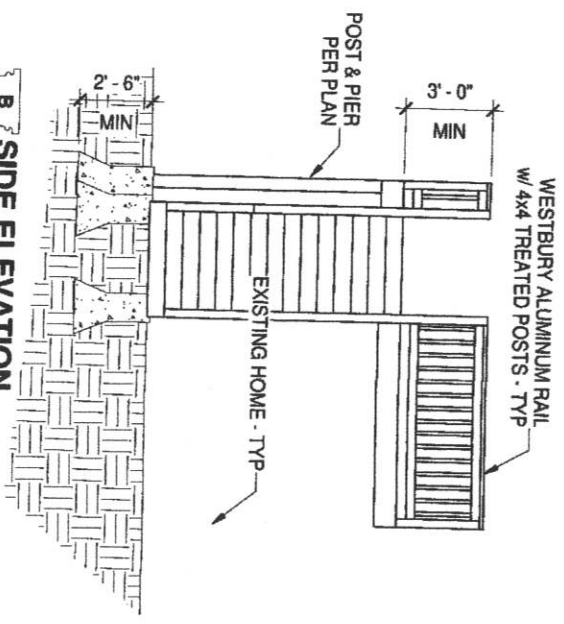
D2

FRAMING PLAN

A
D3
N.T.S.
FRONT ELEVATION



B
D3
N.T.S.
SIDE ELEVATION



REVISIONS		
No.	Description	Date

D3
ELEVATIONS

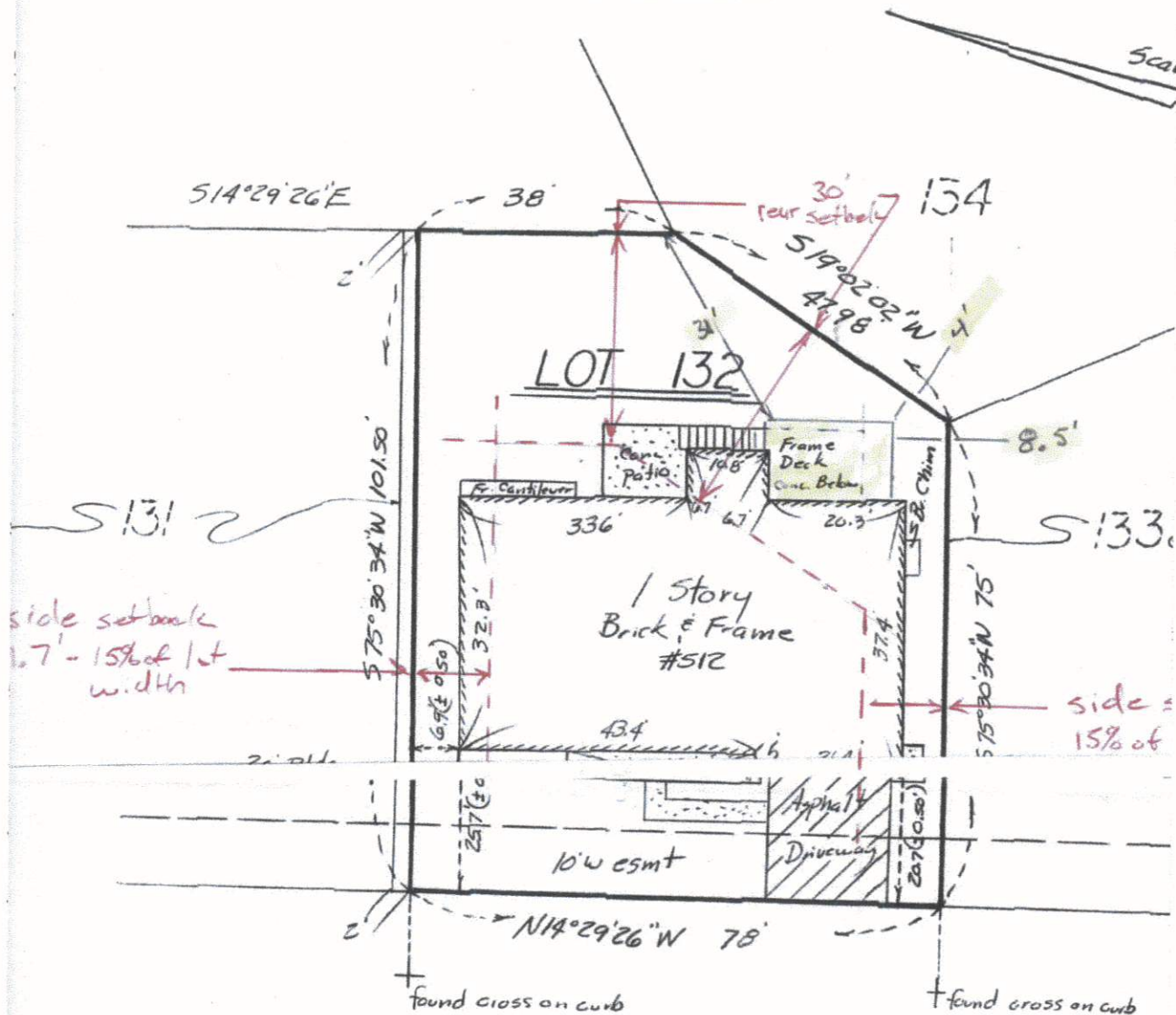
KOESTNER
512 MEADOW GREEN PL
CREVE COEUR, MO 63141

R&R.
REMODELING
1234 CONTINENTAL DR.
WENTZVILLE, MO 63385

(THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY)

COUNTRY FOREST

PLAT 2



MEADOW GREEN 50^W PLACE

David Morton Surveying, Inc.
16625 Green Pines Drive
Ellisville, Missouri 63011
Phone: (314)458-0422

This is to certify that at the request of US Title Company a MORTGAGE INSPECTION was executed by me or under my direct supervision, on the 29th day of August, 1993 on lot 132 (excepting the North 2 feet therefrom) of lot 132 of Country Forest Plat 2 a subdivision as recorded in Record Plat Book 155 and 7772

Barbara Gusdorf
531 Meadow Green Pl
Creve Coeur, MO 63141

September 26, 2022

City of Creve Coeur
300 N. New Ballas Rd
Creve Coeur, MO 63141

Subject: Variance for 512 Meadow Green Pl

Too whom it may concern,

We are asking you to grant the variance for the property located at 512 Meadow Green Pl. They need to replace an existing deck for safety reasons. The couple have lived in the subdivision for the past 30 years with this existing deck, which need repairs. This is causing unnecessary stress, for a deck that has been in existence since 1998.

Sincerely,



Barbara Gusdorf
314-724-9243

Mrs. Rochelle Karty
12488 Meadow Green Pl
Creve Coeur, MO 63141

September 26, 2022

City of Creve Coeur
300 N. New Ballas Rd
Creve Coeur, MO 63141

Subject: Variance for 512 Meadow Green Pl

Too whom it may concern,

I would ask you to consider granting the variance for the property located at 512 Meadow Green Pl, I have a view of this deck from my patio. I feel it adds to the appeal of the home, the structure of the deck is in step with the existing neighborhood.

Thank you for your consideration.

Respectfully submitted,


Mrs, Rochelle Karty

September 28 2022

To: City of Creve Coeur,

Our neighbors, Lyn and Mark Koestner, 512 Meadow Green Place in Country Forest subdivision want to replace their current deck, which is in poor condition, with a new deck of the same style and dimensions

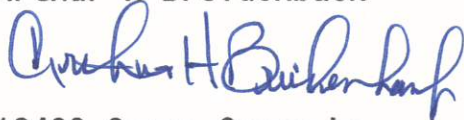
We understand there is a slight variance issue about distance between their deck and our property. This is something that does not bother us at all. The original deck was built in 1976 when the house was built. It was replaced in 1998 with the same size as the original. This new replacement deck would be the same size again. This is not a problem for us at all. The Koestner's always keep their deck and all their property in excellent condition. It's a pleasure being their neighbor and we hope their permit will be granted.

Sincerely,

Mary A Breidenbach



Arthur H Breidenbach



12483 Cross Green Ln.

To Whom It May Concern:

We are neighbors of Lynne and Mark Koestner. We support them replacing their deck that has rotten wood. They are good citizens and responsible people. We trust that they have selected good contractors.

Mary and Jake Fischer, residents of Country Forest Subdivision

511 Cross Green Lane
Creve Coeur, MO 63141
October 1, 2022

City of Creve Coeur
300 N. New Ballas Rd.
Creve Coeur, MO 63141

To whom it may concern:

I come forth to ask that you grant the variance for the property located at 512 Meadow Green Pl. The deck needs to be replaced for safety concerns. This is not only a hazard when it comes to safety but also devalues the neighborhood and the community. Please allow my neighbors the ability to replace the deck back to its functional state.

Sincerely,


Keri Dewey

October 4, 2022

To Whom It May Concern,

This is Dr. + Mrs. Charles Mallin at 12480 Meadow Green Place. We have lived here since 1976.

It is our understanding that Lynne and Mark Koester at 512 Meadow Green Place want to replace their existing and unsafe deck with a new deck using the same footprint. Our backyards are common. We have never witnessed any alteration to the existing deck.

We have no objections to the Koesters replacing their deck, especially because it is unsafe.

Thank you,

Cheryl A Mallin
Charles B Mallin, DDS

October 5, 2022

To Whom It May Concern:

I'm writing on behalf of Mark and Lynne Koestner. As you know, the Koestner's would like to replace their aging and unstable deck with a new one located in the **exact same footprint** of their current deck.

As a neighbor who has a clear view of their deck and backyard, it is my hope that the City of Creve Coeur would allow the deck to be re-built in the same location/design as it is now. The deck has been in this location since 1998 and should remain there.

The Koestner's have a beautiful home that is meticulously maintained, both inside and out. It is my hope that you would approve their request regarding their deck replacement.

Respectfully,

A handwritten signature in cursive script that reads "Teri Haxel".

Teri Haxel

To Whom It May Concern,

Mark and Lynn Koestner have been our neighbors for years and we have appreciated them as an asset to our neighborhood. They have always been friendly and law-abiding neighbors who conscientiously keep their house in good repair and clean up while walking their dog. It has been brought to my attention that they have requested a permit to replace their existing deck which apparently runs slightly over the easement boundary. They were unaware of this situation created by the builder and were only trying to do their due diligence by applying for a permit as required. It does not seem fair to prohibit the replacement of their existing porch and I imagine they are not the only residents that have had this issue. I humbly request that you grant them a permit to replace their porch as it is currently and not to impede their desire to beautify their home and our neighborhood.

Sincerely,
Daria Redel
12437 Meadow Green Pl.
Creve Coeur, MO 63141
314-956-7319