

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
JANUARY 23, 2019**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Wednesday, January 23, 2019 at the Municipal Center, 1011 Municipal Center Drive, Town and Country, Missouri, 63131.

ROLL CALL

The 6:00 PM roll call indicated Chairman James Crowley, regular members David Adam, Matt Meyer and Dr. Sam Hawatmeh, and alternate member Meg Eveland to be present.

Chairman James Crowley presided.

City Attorney Steve Garrett represented the City.

Also present were City Clerk Ashley McNamara and City Planner Ryan Spencer.

APPROVAL OF MINUTES – 11/28/18

Dr. Hawatmeh moved for approval, seconded by Mr. Meyer.

Chairman Crowley called for any amendments or corrections.

Hearing none, the minutes were unanimously approved by voice vote.

CITY CLERK'S REPORT

The City Clerk noted for the record that the February meeting would be cancelled for lack of agenda items.

SAFETY AND SECURITY

Chairman Crowley reminded everyone that for the security and safety of everyone in attendance, the Board of Adjustment has a zero tolerance policy when it comes to any outbursts, etc.

PROCEDURE REVIEW

Chairman Crowley reviewed the hearing procedure. He stated that if at any time an applicant has questions or needs further explanation, they are encouraged to interrupt for clarification.

PUBLIC HEARING

A court reporter with Alaris Litigation Services was present to record the public hearings.

1. Case No. 19-01

On the request of James Engelhard, owner, for a variance from Section 405.430.B.6. of the Zoning Regulations regarding the minimum greenspace requirement. The variance is necessary in order to construct a patio addition in the rear property, as shown on the submitted plans, at 13541 Weston Park Drive, located in the Suburban Estate (SE) Zoning District.

Attorney Garrett entered the following exhibits:

- A. Application for Appeal, received by the City of Town and Country on December 12, 2018.

- B. Narrative for Appeal, dated December 7, 2018, 1-page.
- C. Letter from Ryan Spencer, City Planner, to Deck and Patio Living, dated December 6, 2018, 1-page.
- D. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated January 23, 2019, 2-pages.
- E. Typewritten notice of hearing posted at the Municipal Center and on the subject property and mailed to property owners within 300 feet with a list of property owners attached, 2-pages.
- F. Affidavit of Publication of notice of hearing published in The St. Louis Countian on January 4, 2019, 1-page.
- G. Letters of support from 17 neighboring properties, 18-pages
- H. Architectural renderings, landscape plan, and floor plan, 3-pages
- I. Site Plan, including greenspace calculations, sealed and dated November 28, 2018, 4-pages.

Ryan Spencer, City Planner, was sworn and testified. He stated he was familiar with the subject property and it was zoned Suburban Estate. He noted no existing variances for the property but two existing nonconformities, one for greenspace and the other for actual lot size. He described the related project to be for an outdoor living addition. Mr. Spencer explained that the greenspace requirement is 75% and the proposed construction would bring the lot's total to 69.18%, thus necessitating a 5.82% variance.

In response to Mrs. Eveland, Mr. Spencer stated that permits were requested but work was started by the contractor before approval, thus a stop work order was issued until the plan is brought into compliance or granted a variance.

Jim Engelhard, owner, was sworn and testified. He explained that the home was purchased in November of 2017 with the intent to enhance the outdoor living space for use with family and friends. He noted he was unaware of the existing greenspace nonconformity during purchase of the property and subsequent discussions about the proposed project with the contractor. He added that it was only upon notice by the City that he was made aware of the contractor's failure to follow permitting rules. Mr. Engelhard stated that the lot is an irregular shape and the outdoor living addition will increase the greenspace nonconformity by about 2%. He also referred to the seventeen letters of support that were submitted by neighbors.

Mr. Engelhard stated his hardship to include the irregular lot shape and the preexisting greenspace nonconformity, in addition to the very long driveway and corner lot configuration.

Lisa Engelhard, owner, was sworn and testified.

Discussion was held about a fire pit that was shown on the plans but not included in the greenspace calculations.

A brief recess was held at 6:25 PM to allow the appellants time to discuss their desire to continue with or without the fire pit included. The meeting resumed at 6:27 PM with all members present.

Mr. Engelhard stated for the record that the fire pit would be excluded from the proposal and no longer planned for this project. It was noted that consideration of the greenspace variance would continue and be based on the calculations as submitted, which did not include the fire pit.

In response to Mr. Meyer, Mr. Engelhard submitted an additional letter of support from an immediately adjacent neighbor.

City Attorney Steve Garrett labeled and entered the additional letter of support from the Stratmanns as Appellant's Exhibit #1.

Mr. Engelhard again confirmed for the record that the variance request was only for the outdoor living addition and did not include the fire pit.

Chairman Crowley called for public comments.

Hearing no comments, Chairman Crowley declared Case No. 19-01 fully presented at 6:30 PM

Mr. Spencer confirmed the request was for a greenspace variance of 5.82% from the 75% requirement in Section 405.430.B.6. of the Municipal Code.

Chairman Crowley called for unanimous consent in favor of granting the variance as stated. Hearing no objection, the vote was as follows:

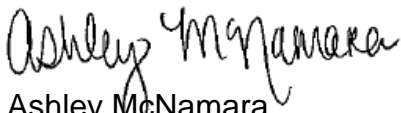
Chairman Crowley-	AYE
Mr. Adam-	AYE
Dr. Hawatmeh-	AYE
Mr. Meyer-	AYE
Mrs. Eveland-	AYE

The decision of the Board of Adjustment to **grant** the requested variance is as contained in the **Decision and Resolution, Case No. 19-01**, filed with and made a part of these minutes.

ADJOURN

There being no further business, the meeting adjourned at 6:32 PM.

Respectfully submitted,



Ashley McNamara
City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 19-01
Appellant: James G. Englehard, owner
Location: 13541 Weston Park Drive
Hearing Date: January 23, 2019

Section 405.300 of the Municipal Code provides that the Municipal Code, including the Zoning Code, the Comprehensive Plan and land use map shall be part of each hearing before the Board of Adjustment to the extent applicable, without being specifically introduced at the hearing.

CITY EXHIBITS

- A. Application for Appeal, received by the City of Town and Country on December 12, 2018.
- B. Narrative for Appeal, dated December 7, 2018, 1-page.
- C. Letter from Ryan Spencer, City Planner, to Deck and Patio Living, dated December 6, 2018, 1-page.
- D. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated January 23, 2019, 2-pages.
- E. Typewritten notice of hearing posted at the Municipal Center and on the subject property and mailed to property owners within 300 feet with a list of property owners attached, 2-pages.
- F. Affidavit of Publication of notice of hearing published in The St. Louis Countian on January 4, 2019, 1-page.
- G. Letters of support from 17 neighboring properties, 18-pages
- H. Architectural renderings, landscape plan, and floor plan, 3-pages
- I. Site Plan, including greenspace calculations, sealed and dated November 28, 2018, 4-pages.

DECISION OF THE BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
CASE NO. 19-01

Appellant: James G. Englehard, owner

Subject Property: 13541 Weston Park Drive

Zoning District: Suburban Estate (SE)

Proposal: Appellant request a variance from Section 405.430.B.6. of the Zoning Regulations, regarding minimum greenspace requirements, to allow for the construction of an outdoor patio in the rear yard of the property.

Hearing Date: January 23, 2019

1. Chairman Crowley called for unanimous consent in favor of granting a minimum green space variance of 5.82% from Section 405.430.B.6. of the Town and Country Zoning Regulations which would allow for the construction of an outdoor patio in the rear yard of the property.

Hearing no objection, the vote was as follows:

Crowley	AYE
Adam	AYE
Hawatmeh	AYE
Meyer	AYE
Eveland	AYE

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 19-01**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **13541 Weston Park Drive** is within the city limits of the City of Town and Country, and is in the **Suburban Estate (SE)** Zoning District; and

WHEREAS, **James G. Engelhard, owner**, (the "Appellant"), has submitted a request for a greenspace variance to allow for the construction of an outdoor patio in the rear yard of the property; and

WHEREAS, Section 405.430.B.6. of the Zoning Regulations requires that the minimum greenspace percentage per lot for residential uses in the Suburban Estate (SE) Zoning District is 75%; and

WHEREAS, the property, as presently configured, is nonconforming as the greenspace is only 71.36%; and

WHEREAS, plans show that construction of the outdoor patio would further reduce the overall greenspace, bringing the property's total greenspace percentage to 69.18%; and

WHEREAS, a variance of 5.82% from Section 405.430.B.6. is required to allow the outdoor patio to be constructed as shown on the plans and bring the property into compliance; and

WHEREAS, the Appellant has requested that the Board of Adjustment find that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Regulations; and

WHEREAS, the Board of Adjustment does find that to grant the requested variance

- would** be in harmony with the general purpose and intent of the Zoning Ordinance
- would not** be detrimental to the public welfare
- would not** constitute a change in the district map
- would not** impair an adequate supply of light and air to adjacent property
- would not** increase congestion in public streets
- would not** increase the danger of fire; and


WHEREAS, this Board does further find and determine that practical difficulties and unnecessary hardships **have** been demonstrated.

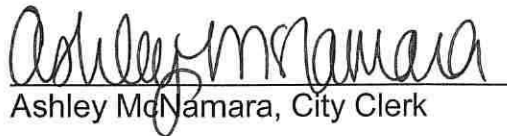
**BOARD OF ADJUSTMENT
CASE NO. 19-01**

NOW, THEREFORE, BE IT RESOLVED, that the requested variance from the strict application of the Zoning Regulations of the City of Town and Country is hereby **approved/denied**.

The following is the vote taken on the foregoing resolution:

Crowley **AYE**
Adam **AYE**
Hawatmeh **AYE**
Meyer **AYE**
Eveland **AYE**


James Crowley, Chairman


Ashley McNamara, City Clerk