

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
FEBRUARY 18, 2020**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Tuesday, February 18, 2020 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 and regular members David Adam, Matt Meyer, Dr. Sam Hawatmeh, and Chris Barclay 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 – 01/14/20

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 Case No. 20-02 requests multiple variances that staff believes to be mutually bound and as such, the Board may wish to consider the variances together.

She also reported that a draft redline of the Board's rules have been distributed for review. She solicited feedback and informed the Board that the updated rules would be formally readopted at a future meeting.

Finally, she announced that legal counsel will provide an update and case law review at the next meeting with relevant materials to be circulated in advance.

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 the applicant or attendees have questions or need 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. 20-02

On the request of Wiley and Karie Lyn Angell, owners under contract, for variances from Section 405.430.B.3. of the Zoning Regulations regarding the minimum setback from street (front yard) requirement and Section 405.430.B.4. regarding the side yard setback requirement. The variances are necessary in order to construct a new home on the property, as shown on the submitted plans, located at 1610 Kriste Court 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 January 21, 2020.
- B. Narrative for Appeal dated January 16, 2020, 1-page.
- C. Letter from Ryan Spencer, City Planner, to "Current Owner", dated January 8, 2020, 2-pages.
- D. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated February 18, 2020, 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 31, 2020, 1-page.
- G. Site Plan sealed and dated January 22, 2020, 1-page.

Ryan Spencer, City Planner, was sworn and testified. He stated that he was familiar with the subject property and it is zoned Suburban Estate. He noted that no variances exist for the property but that it was nonconforming because the double frontage lot does not meet the Code's 65,000 sq. ft. size requirement. He explained that the project consists of a tear down and construction of a new home on the lot that would require two setback variances. He described the first variance to be from Section 405.430.B.3. of the Code regarding the 50 ft. front setback requirement which necessitates a 27.8 ft. variance for the home to be located 22.2 feet from the lot line. The second variance described was from Section 405.430.B.4. regarding the 33.88 ft. calculated side yard setback which necessitates an 11.68 ft. variance for the home to be located 22.2 from the side lot line.

Brief discussion was held regarding the preexisting nonconforming lot and the determination of the various setbacks given the lot's double frontage.

Clay Vance, Vance Engineering, was sworn and testified on behalf of the request. He noted that the existing home is over both setback lines and that the nonconforming lot is not large enough to support a home within the required setbacks. He added that the lot configuration has quite a bit of nonusable area that is included in the setback calculations but not buildable. He stated the hardship to be the lot configuration, double frontage, and nonconforming size.

Kevin Angell, owner, was sworn and testified on behalf of the request. He explained that the lot is unbuildable and even the existing home to be torn down is noncompliant. He added that the lot's topography would hinder relocating the home elsewhere on the lot and reported the slope to include about a 30 ft. rise from the street, followed by a 65 ft. drop off in the north east corner.

Chairman Crowley called for public comments.

Fred Leicht, 12914 Woodlark Lane, was sworn and spoke in general about the request. He noted that a portion of his property abuts the applicant's lot and he is very satisfied that the proposed plan will be an improvement to the existing conditions. He expressed concern about stormwater issues and noted that contact has been initiated with the City and applicant regarding his concerns.

Chairman Crowley declared Case No. 20-02 fully presented at 6:22 PM

Mr. Spencer confirmed that the requested variances are for 1) a front setback variance of 27.8 ft. from Section 405.430.B.3. and 2) a side yard setback variance of 11.68 ft. from Section 405.430.B.4. to allow the new home to be constructed as shown on the plans.

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

Chairman Crowley- AYE
Mr. Adam- AYE
Dr. Hawatmeh- AYE
Mr. Meyer- AYE
Mr. Barclay- AYE

The decision of the Board of Adjustment to **approve** the requested variances is as contained in the **Decision and Resolution, Case No. 20-02**, filed with and made a part of these minutes.

STAFF UPDATE

City Planner Ryan Spencer briefed the Board on various major Zoning Code amendments that have been made in recent years including outside dining, outdoor game courts, residential gates, natural resources and landscaping, and medical marijuana. Mr. Spencer's memo to the Board regarding the updates is attached hereto and made a part of these minutes.

ADJOURN

There being no further business, the meeting adjourned at 6:45 PM.

Respectfully submitted,


Ashley McNamara, City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 20-02
Appellant: Wiley and Karie Lyn Angell, owners under contract
Location: 1610 Kriste Court
Hearing Date: February 18, 2020

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

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DECISION OF THE BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
CASE NO. 20-02

Appellant: Wiley and Karie Lyn Angell, owners under contract

Subject Property: 1610 Kriste Court

Zoning District: Suburban Estate (SE)

Proposal: Appellants request variances from Section 405.430.B.3. and 405.430.B.4. of the Zoning Regulations, regarding minimum setback from street and minimum side yard setback requirements in order to construct a new home on the property.

Hearing Date: February 18, 2020

1. Chairman Crowley called for unanimous consent in favor of granting a minimum setback from street variance of 27.8 ft. from Section 405.430.B.3. of the Town and Country Zoning Regulations which would allow for the construction of a new home on the property.

Hearing no objection, the vote was as follows:

Crowley	AYE
Adam	AYE
Meyer	AYE
Hawatmeh	AYE
Barclay	AYE

2. Chairman Crowley called for unanimous consent in favor of granting a minimum side yard setback variance of 11.68 ft. from Section 405.430.B.4. of the Town and Country Zoning Regulations which would allow for the construction of a new home on the property.

Hearing no objection, the vote was as follows:

Crowley	AYE
Adam	AYE
Meyer	AYE
Hawatmeh	AYE
Barclay	AYE

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 20-02**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **1610 Kriste Court** is within the city limits of the City of Town and Country, and is in the **Suburban Estate (SE)** Zoning District; and

WHEREAS, **Wiley and Karie Lyn Angell, owners under contract**, (the "Appellants"), have submitted a request for a minimum setback from street variance and a minimum side yard setback variance; and

WHEREAS, the current proposal is to construct a new home on the property, which is an existing double frontage lot; and

WHEREAS, Section 405.430.B.3. of the Zoning Regulations requires that the minimum setback from street at this location is fifty (50) feet; and

WHEREAS, plans show the proposed home to be located 22.2 feet from the street, or the front (south) property line; and

WHEREAS, a variance of 27.8 feet is required from Section 405.430.B.3. to allow for construction as shown on the plans; and

WHEREAS, Section 405.430.B.4. of the Zoning Regulations requires that residential lots in the Suburban Estate (SE) Zoning District have a minimum side yard setback that is the most restrictive of the following calculations:

- a. Fifty (50) feet from each side lot line, or fifteen percent (15%) of the width of the lot from each side lot line, whichever is the lesser.
- b. Equal to the height of the tallest adjacent exterior building face measured from the elevation of the natural adjacent grade to the elevation of the top of the inhabitable space, excepting for any portion of the exterior wall that encloses uninhabitable attic space.
- c. The floor area divided by two hundred (200) feet; and

WHEREAS, based on the above parameters, the calculated side yard setback requirement for this property is 33.88 feet; and

WHEREAS, plans show that the home is to be located 22.2 feet from the side yard (north) property line, requiring a variance of 11.68 feet to allow the home to be constructed as shown on the plans; and

WHEREAS, the Appellants have 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

CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 20-02

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

- **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.

NOW, THEREFORE, BE IT RESOLVED, that the requested variances from the strict application of the Zoning Regulations of the City of Town and Country are hereby **approved**.

The following is the vote taken on the foregoing resolution:

Crowley	AYE
Adam	AYE
Meyer	AYE
Hawatmeh	AYE
Barclay	AYE



James Crowley, Chairman



Ashley McNamara, City Clerk



MEMO

TO: Board of Adjustment

FROM: Ryan Spencer, AICP, City Planner

DATE: February 18, 2020

RE: Major Zoning Code Amendments

The following is a brief summary of various major amendments to the Zoning Code in the past few years. The adopted ordinances for each of these major amendments can be made readily available if desired and can also be found in our eCode online.

Outside Dining: The City initiated the revision of outside dining regulations in 2017 in an effort to modernize the regulations in the wake of Katie's Pizza opening.

1. Outside dining as a use was separated into two separate categories; accessory use and conditional use. Outdoor dining as an accessory use is limited in scope; a small number of seats, no music, limited lighting and a lack of permanent structures. Outside dining as an accessory use can be approved by city staff via an administrative permit. Outside dining, as a conditional use allows for a more intensive area; a larger number of seats, live music and lighting may be permissible and permanent structures could be installed.
2. Outside dining is now available to all restaurants, not just exclusively to restaurants that offer waiter service.
3. Alcoholic beverages are permitted to be served in outside dining areas. The serving of alcohol shall be in compliance with Missouri Liquor Control regulations.
4. Enclosed trash receptacles are permitted in outside dining areas, but food/beverage service equipment, which includes food trays or carts, dirty dish receptacles and cooking appliances, are not be permitted.
5. Existing language was updated to better define the type of furniture that would be permitted in an outside dining area.

Outdoor Game Courts: The City initiated the revision of outdoor game courts in 2017 following a controversial batting cage installation.

1. A specific definition was created for both permanent and temporary Outdoor Game Courts.
2. Outdoor Game Courts that require the installation of a permanent surface or structure for their use are now categorized as conditional uses.
3. Outdoor Game Courts that do not require the installation of a permanent surface or structure are now categorized as permitted uses. A size and height limitation is associated with a permitted outdoor game court, as well as a prohibition on exterior lighting.
4. The side and rear yards have been established as the permitted location for Outdoor Game Courts, with an exception for corner/double frontage lots.

Residential Gates: The City initiated the revision of residential gate regulations following the installation of a residential gate for a property located within a subdivision.

1. Limited gates for individual residential lots to properties located on specifically enumerated streets. (*Ballas Road, Bopp Road, Clayton Road, Conway Road, Des Peres Road, Ladue Road, Mason Road, Municipal Center Drive, North 40 Drive, South Forty Drive, Topping Road, Weidman Road*) or on properties with a private stable.
2. Specifically prohibited residential gates on all other streets.
3. Established additional design criteria for the construction and operation of residential gates.

Natural Resources and Landscaping: The City initiated a comprehensive review of how natural resources are preserved and protected following the review and approval of a subdivision on South Mason Rd that required the amending of permanent open space area boundaries. The proposed amendments impact five specific areas of the Zoning Code in an attempt to support the preservation, protection and expansion of Town and Country's woodlands and urban forest.

1. Section 405.080 Definitions
 - a. Creation of 18 new definitions, revision of 1 existing definition, and elimination of two existing definitions to clarify and support the imposition of stronger tree protection standards.
2. Section 405.140 Tree Removal Permit For Removal of Trees
 - a. Elimination of permit requirement for the removal of any trees 3" caliper or greater on lots 3 acres or greater.

3. Section 405.335 Natural Resource Protection Standards
 - a. Elimination of young and mature woodland categories. Replaced with a new "woodland" category that is defined by 5,000 square feet of woody plant material consisting of 50% 6" caliper trees.
 - b. Stronger developer requirements in terms of tree protection methods, verification that protected trees have survived, and permanent open space delineation.
 - c. Creation of a "Grand Tree" category that protects and preserves trees 20" in caliper or greater by requiring their protection or, if in the case of removal, the payment of a fee based on size of the tree or the planting of new trees equal to 50% of the total caliper inches of the grand tree.
 - d. Establishment of management regulations for permanent open space that details permitted activities that may take place within that space.

4. Section 405.336 Residential Tree Protection and Removal Standards
 - a. Applies to any project for a new home on an existing lot or addition that increases impervious area by 50%.
 - b. A tree protection plan is required that delineates preserved/removed trees and tree protection zones sealed by an expert.
 - c. The removal of any trees over 6" in caliper in preparation of lot development is prohibited.
 - d. A minimum of 50% of existing trees (6" caliper+) by volume are to be preserved.
 - e. Specific requirements as to the level of protection required for existing trees that are to be preserved. Explicit signage, stronger fencing standards.
 - f. Requirement of a tree escrow deposit based on the value of the trees to be preserved.
 - g. Creation of a recommended tree list to promote the preservation and planting of desirable native species.

5. Section 405.395/500 Landscaping Standards on Lot
 - a. This amendment creates minimum planting requirements, based on lot size, for new homes in the Estate, Suburban Estate, Suburban Low, and Suburban Medium zoning districts. Existing trees can be substituted to help meet these minimum requirements.

Medical Marijuana: Voters approved Amendment 2 on November 6, 2018 making Missouri the 32nd state in the country to allow for the use of marijuana as a treatment for certain, specified medical conditions. This amendment, now codified as Article XVI of the Missouri Constitution, allows for the cultivation, production, transportation, sale, purchase and administration of medical marijuana. The City established a 1,000ft buffer from schools, daycares and churches as well as established regulatory criteria for hours of operation, on-site usage and storage:

The four facilities types are listed as uses within the Zoning Code as follows:

Medical Marijuana Cultivation Facility (indoor only) a Conditional Use in:

- Office
- Campus Office
- Planned Office Park

Medical Marijuana Infused Products Manufacturing Facility a Conditional Use in:

- Office
- Campus Office
- Planned Office Park

Medical Marijuana Testing Facility a Conditional Use in:

- Office
- Campus Office
- Planned Office Park

Medical Marijuana Dispensary Facility a Conditional Use in:

- Commercial
- Hospital
- Planned Medical Office