

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

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Monday, July 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 and regular members Matt Meyer and Dr. Sam Hawatmeh, and Chris Barclay, as well as alternate member Carolynne Huether to be present.

Chairman James Crowley presided.

In City Attorney Steve Garrett's absence, Ed Sluys represented the City.

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

APPROVAL OF MINUTES – 05/20/19

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. 19-04 requests multiple variances that are not mutually bound and as such, should be considered separately.

She also reported that the appellant for Case No. 17-03 on Park Place has completed demolition of all noncompliant structures so no further adjudication is necessary.

Finally, she stated that the August 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.

Attorney Sluys clarified for the record that if medical diagnoses are mentioned they will be retained in the public record.

PUBLIC HEARING

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

1. Case No. 19-04

On the request of Daniel Barnes, owner, for variances from Section 405.430.B.6. of the Zoning Regulations regarding the minimum green space requirement and Section

405.430.B.10. regarding the maximum floor area per lot (FAP) requirement. The variances are necessary in order to construct a new home, as shown on the submitted plans, on the property located at 2 Fordyce Manor in the Suburban Estate (SE) Zoning District.

Attorney Sluys entered the following exhibits:

- A. Application for Appeal, received by the City of Town and Country on June 14, 2019.
- B. Narrative for Appeal, 2-pages.
- C. Area resident approvals with map, 5-pages.
- D. Letter from Ryan Spencer, City Planner, to Daniel Barnes, dated June 14, 2019, 2-pages.
- E. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated July 23, 2019, 2-pages.
- F. 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.
- G. Affidavit of Publication of notice of hearing published in The St. Louis Countian on July 5, 2019, 1-page.
- H. Decision paperwork and minutes for former case numbers 17-08, 17-13, 18-03, 20-pages.
- I. "Colored Site Plan" and specification chart dated July 1, 2019, 2-pages.
- J. Site Plan and floor plan sealed and dated June 14, 2019, 3-pages.
- K. Letter of opposition from Fordyce Manor Subdivision Trustees, Fordyce Manor Trust Indentures, and informational findings from Bob Watson submitted by Tom Merker, trustee, received on July 15, 2019, 10-pages.
- L. Letter of opposition from Tom Merker, 8 Fordyce Manor Drive, dated July 16, 2019, 2-pages.
- M. Letter of opposition from Dan and Katie Sullivan, 4 Fordyce Manor, dated July 15, 2019, 1-page.

Ryan Spencer, City Planner, was sworn and testified. He stated that he was familiar with the subject property and it was zoned Suburban Estate. He described the related project to be for a new home and noted no existing variances for the property. He reported that there was an existing nonconformity as the corner lot should be a minimum of 54,000 sq. ft. per the Municipal Code but measures one acre at 43,560 sq. ft. Mr. Spencer explained that the green space requirement is 75% and the proposed construction would bring the lot's total to 72.12%, thus necessitating a 2.88% variance. He added that the floor area per lot maximum is 13% but the plan shows it will be 16.06%, thus requiring a variance of 3.06% to allow for construction as proposed.

Dennis Hayden, DH Custom Homes, was sworn and testified on behalf of the owner. He explained that the home is designed to include a long term solution for the extended family which includes a main house and auxiliary living quarters. He noted the hardship to be the lot's existing nonconformity as it is a corner lot that does not meet the square

footage requirement. Utilizing Exhibit I, Mr. Hayden pointed out various aspects of the property. He stated that decreasing the driveway could mitigate greenspace issues but the street is narrow and might be hazardous given the property's proximity to Bopp Road.

Daniel Barnes, owner was sworn and testified. Mr. Barnes stated that he was unaware the lot was nonconforming upon purchase. He added that the hardship includes his mother-in-law's medical condition which precludes her from using stairs and referred to previous medical hardship cases.

In response to comments by Mr. Barnes, Attorney Sluys confirmed for the record that cases previously granted do not set legally binding precedent.

Discussion was held about the consideration of alternative design solutions that would comply with the Municipal Code.

In response to Chairman Crowley, Mr. Spencer stated that the two individual dwellings are attached by one roof and thus considered one housekeeping unit. He further clarified that the secondary dwelling could not be rented out.

Louis Bielicke, DL Design, was sworn and testified. He noted that the 6,998 sq. ft. home is larger to provide quality of life for the family.

In response to Mr. Barclay, Mr. Barnes stated that he purchased the property with the intent to tear down the existing home but was unaware of the related zoning regulations.

Chairman Crowley called for public comments.

Tom Merker, 8 Fordyce Manor and subdivision trustee, was sworn and spoke in opposition of the request. He noted that the proposed home is much larger than others and is out of character with the surroundings.

Dominic Mendonsa, 11 Fordyce Manor, was sworn and spoke in opposition of the request because of the unharmonious character of the proposal and lack of hardship. He stated that the majority of the homeowners on the street have signed a letter in opposition to the project, provided as Exhibit K.

Bob Watson, 5 Fordyce Manor, was sworn and spoke in opposition of the request. Referring to Exhibit K, he pointed out several statistics and noted that the proposed home is 24% larger than the existing home on the property.

In response to Mr. Meyer, Mr. Watson explained that all but one property on the street have similarly sized lots and living areas.

Pam Merker, 8 Fordyce Manor, was sworn and spoke in opposition of the request. She noted concern with the additional living quarters on the property as well as potential stormwater runoff issues.

During rebuttal, Mr. Barnes expressed his opinion about the future of the homes in the subdivision, as well as changing generational ideals about caregiving.

Sarah Barnes, owner, was sworn and testified. She provided information about her mother's medical diagnosis. She also explained that she would like to be able to host her family for visits now and have a permanent living situation for her mother in the future if needed.

Mary Mendonsa, 11 Fordyce Manor, was sworn and spoke in opposition of the request. She expressed concern with potential stormwater issues and the claim that the existing

homes on the street are tear downs. She added that the original plan depicted the additional living quarters as a billiards room, not a mother-in-law suite.

Tom Merker, 8 Fordyce Manor, having been previously sworn, stated that it is desirable to have new construction homes in an established subdivision be complimentary and proportional to the neighborhood. He added that all three trustees and eight individual residences voted in opposition of this project.

Dennis Hayden, owner's representative, having been previously sworn, stated for the record that stormwater detention will be completed on the property.

Hearing no further comments, Chairman Crowley declared Case No. 19-04 fully presented at 7:05 PM

Mr. Spencer confirmed that the first request was for a green space variance of 2.88% 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 green space variance as stated. Hearing no objection, the vote was as follows:

Chairman Crowley-	NAY
Dr. Hawatmeh-	AYE
Mr. Meyer-	AYE
Mr. Barclay-	NAY
Ms. Huether-	NAY

The green space variance request failed 3-2.

Mr. Spencer confirmed that the second request was for a floor area per lot variance of 3.06% over the maximum 13% allowable in Section 405.430.B.10. 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-	NAY
Mr. Adam-	NAY
Dr. Hawatmeh-	NAY
Mr. Meyer-	NAY
Mr. Barclay-	NAY

The floor area per lot variance request failed 5-0.

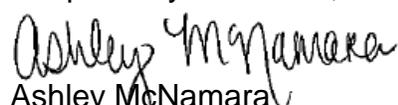
A brief recess was held at 7:06 PM. The meeting reconvened at 7:08 PM with all members present.

The decision of the Board of Adjustment to **deny** the requested variances is as contained in the **Decision and Resolution, Case No. 19-04**, filed with and made a part of these minutes.

ADJOURN

There being no further business, the meeting adjourned at 7:11 PM.

Respectfully submitted,


Ashley McNamara
City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 19-04
Appellant: Daniel Barnes, owner
Location: 2 Fordyce Manor Drive
Hearing Date: July 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

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DECISION OF THE BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
CASE NO. 19-04

Appellant: Daniel Barnes, owner

Subject Property: 2 Fordyce Manor Drive

Zoning District: Suburban Estate (SE)

Proposal: Appellant requests variances from Section 405.430.B.6. of the Zoning Regulations regarding minimum green space requirements and Section 405.430.B.10. regarding the maximum floor area per lot (FAP) requirement, to allow for the construction of a new home on the property.

Hearing Date: July 23, 2019

1. Chairman Crowley called for unanimous consent in favor of granting a minimum green space variance of 2.88% from Section 405.430.B.6. 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	NAY
Hawatmeh	AYE
Meyer	AYE
Barclay	NAY
Huether	NAY

2. Chairman Crowley called for unanimous consent in favor of granting a maximum floor area per lot variance of 3.06% from Section 405.430.B.10. 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	NAY
Hawatmeh	NAY
Meyer	NAY
Barclay	NAY
Huether	NAY

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 19-04**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **2 Fordyce Manor Drive** is within the city limits of the City of Town and Country, and is in the **Suburban Estate (SE)** Zoning District; and

WHEREAS, **Daniel Barnes, owner**, (the "Appellant"), has submitted a request for a greenspace variance and a floor area per lot variance to allow for the construction of a new home on 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, plans show that construction of the new home would result in the property's overall greenspace percentage to be 72.12%; and

WHEREAS, a variance of 2.88% from Section 405.430.B.6. is required to allow the new home to be constructed as shown on the plans; and

WHEREAS, Section 405.430.B.10. of the Zoning Regulations requires that the maximum floor area per lot in the Suburban Estate (SE) Zoning District is 13%; and

WHEREAS, plans show that construction of the new home would result in a floor area per lot percentage of 16.06%; and

WHEREAS, a variance of 3.06% from Section 405.430.B.10. is required to allow the new home to be constructed as shown on the plans; 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 variances

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

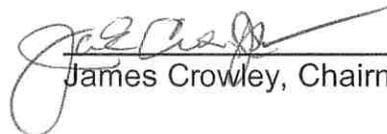
**BOARD OF ADJUSTMENT
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WHEREAS, this Board does further find and determine that practical difficulties and unnecessary hardships **have not** been demonstrated.

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

The following is the vote taken on the foregoing resolution:

Crowley	AYE
Hawatmeh	AYE
Meyer	AYE
Barclay	AYE
Huether	AYE


James Crowley, Chairman


Ashley McNamara, City Clerk