

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
AUGUST 25, 2020**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Tuesday, August 25, 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 alternate member Carolynne Huether 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 – 02/18/20

Mr. Adam 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 appreciation for the Board members, applicant, and other participants for adapting as needed to ensure business could move forward in the midst of the public health crisis. She requested that masks remain on or people stay socially distanced for the duration of the meeting for everyone's safety, and that any exhibits be handed directly to her for display.

She added, for the record, that public comments were solicited via the public notice and agenda for those not able or willing to attend the meeting in-person.

She explained that Case No. 20-03 requests multiple variances that staff believe are not mutually bound, meaning one could be granted without impacting the other, and as such the Board could choose to consider the variances separately or together.

Finally, she referenced Exhibits B and C that would be entered into the record for Case No. 20-03 that each contain information that is medically related. She noted that the appellants have confirmed they are amenable to these documents being in the public domain. She issued a brief reminder that all testimony is captured for the public record and to be cognizant of disclosing medical or otherwise private information.

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. 20-03

On the request of Kirill and Hope Abramov, owners, for variances from Section 405.530.B.6. of the Zoning Regulations regarding the minimum rear yard setback requirement. The variances are necessary in order to construct a pool with associated decking and a pergola on the property, as shown on the submitted plans, located at 14353 Manderleigh Woods Drive in the Suburban Medium (SM) Zoning District.

Attorney Garrett entered the following exhibits:

- A. Application for Appeal, received by the City of Town and Country on July 20, 2020.
- B. Narrative for Appeal dated July 17, 2020, 4-pages
- C. Letter of support from Dr. Laquita Graham, dated July 12, 2020, 1-page.
- D. Letter of support from adjacent neighbors, Vikram and Vasavi Rao, dated July 16, 2020, 1-page.
- E. Trustee approval of plans, dated August 16, 2020, 1-page.
- F. Letter from Ryan Spencer, City Planner, to Kirill Abramov, dated June 26, 2020, 1- page.
- G. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated August 25, 2020, 2-pages.
- H. 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.
- I. Affidavit of Publication of notice of hearing published in The St. Louis Countian on August 7, 2020, 1-page.
- J. Site Plan, including pool and pergola plans, sealed and dated July 16, 2020, 15-pages.

Ryan Spencer, City Planner, was sworn and testified. He stated that he was familiar with the subject property, it is zoned Suburban Medium, and has no known variances of nonconformities. He noted that the property is located within Manderleigh Subdivision, a Planned Residential Community Development, which allows for higher density residential regulations. Mr. Spencer explained that two variances are requested from the 20 ft. rear yard setback requirement in Section 405.530.B.6. to allow for a pool with associated decking and a pergola to be constructed. He specified that the pool and decking is proposed at 3 ft. 7.5 in. from the lot line necessitating a 16 ft. 4.5 in. variance, and the pergola is proposed at 4 ft. 0.25 in. which requires a 15 ft. 11.75 in. variance.

In response to Chairman Crowley, Mr. Spencer noted that the appellant's lot is trapezoidal and thus not standard in shape.

Kirill Abramov, owner, was sworn and testified on behalf of the request. Mr. Abramov noted that the pool company was also present for technical questions, if needed. He provided brief background information and noted that the trustees, including the City's

former Planning Director, had unanimously approved the plans. He stated the hardship to include his daughter Elyse's medical condition that makes it very difficult to receive and process sensory information. He explained that the recommended treatment for her condition is regular aquatic therapy, which has been particularly burdensome during the pandemic and will likely continue to be difficult the future. Mr. Abramov made reference to Exhibit C, a letter from Elyse's pediatrician outlining the need for frequent access to pool therapy.

Mr. Abramov noted the lot's size and shape to be additional hardships, given the higher density in the Suburban Medium Zoning District, that make his yard unbuildable and un-enjoyable without variances. He further explained that the pergola is of modest size and will allow variable sunshade during use and therapy sessions. He also described the harmonious nature of the proposal that is neither injurious nor negatively impactful to neighbors or the surrounding area.

In response to Mr. Meyer, Mr. Abramov confirmed for the record that the trustee's stated contingency regarding stormwater mitigation will be met by installation of additional drains, if needed.

In response to Mr. Adam, Mr. Abramov described the base materials and landscaping that will be utilized to dampen both sound and visual impacts on the neighbors.

Chairman Crowley called for public comments.

The City Clerk noted for the record that no public comments were submitted to her office for inclusion in the proceedings.

Vasavi Rao, immediately adjacent neighbor, was sworn and testified in support of the request. She noted that the Abramov's have been particularly transparent and communicative about the project.

Chairman Crowley declared Case No. 20-03 fully presented at 6:28 PM.

Mr. Spencer confirmed that the requested variances from Section 405.530.B.6. regarding rear yard setback requirements are for 1) a variance of 16 ft. 4.5 in. for the pool and associated decking and 2) a variance of 15 ft. 11.75 in. for the pergola.

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
Ms. Huether-	AYE

A brief recess was held at 6:29 PM. The meeting reconvened at 6:30 PM with all members present.

The decision of the Board of Adjustment to **approve** the requested variances is as contained in the **Decision and Resolution, Case No. 20-03**, filed with and made a part of these minutes.

A brief recess was held at 6:31 PM. The meeting reconvened at 6:32 PM with all members present.

ELECTION OF CHAIRMAN

Dr. Hawatmeh nominated James Crowley to serve as chairman, seconded by Mr. Adam. Hearing no additional nominations, the roll call vote was: AYE, Mr. Adam, Dr. Hawatmeh, Mr. Meyer and Ms. Huether; NAY, none; ABSTAIN: Chairman Crowley.

The motion carried 4-0, with one abstention.

ELECTION OF VICE CHAIRMAN

Dr. Hawatmeh nominated David Adam to serve as vice chairman, seconded by Mr. Meyer. Hearing no additional nominations, the roll call vote was: AYE, Chairman Crowley, Ms. Huether, Dr. Hawatmeh and Mr. Meyer; NAY, none; ABSTAIN: Mr. Adam.

The motion carried 4-0, with one abstention.

ADOPTION OF REVISED PROCEDURES

Chairman Crowley provided brief background information about the Board of Adjustment's rules and procedures, as well as noting the legal updates, training, and security information that has been recently undertaken by the body.

Dr. Hawatmeh moved to adopt the revised Board of Adjustment rules, seconded by Mr. Adam.

Hearing no further the discussion, the roll call vote was: AYE, Chairman Crowley, Mr. Adam, Dr. Hawatmeh, Mr. Meyer, and Ms. Huether; NAY, none; ABSTAIN: none.

The revised procedures were unanimously adopted and are attached hereto as part of these minutes.

STAFF UPDATE

The City Clerk provided an update on the status of pending reappointments.

She also referenced the "Primer on Legal Issues with Religious Institutions" that was distributed to each Board member and asked the City Attorney to provide an overview. Mr. Garrett highlighted various case law examples and legal considerations for dealing with requests from religious institutions. Discussion was held and the Board was invited to submit any feedback or related questions to Mr. Garrett.

ADJOURN

There being no further business, the meeting adjourned at 7:12 PM.

Respectfully submitted,



Ashley McNamara, City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 20-03
Appellants: Kirill and Hope Abramov, owners
Location: 14353 Manderleigh Woods Drive
Hearing Date: August 25, 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. 20-03

Appellants: Kirill and Hope Abramov, owners

Subject Property: 14353 Manderleigh Woods Drive

Zoning District: Suburban Medium (SM)

Proposal: Appellants request variances from Section 405.530.B.6. of the Zoning Regulations, regarding rear yard setback requirements in order to construct a pool with associated decking and a pergola on the property.

Hearing Date: August 25, 2020

1. Chairman Crowley called for unanimous consent in favor of granting two rear yard setback variances from Section 405.50.B.6 of the Town and Country Zoning Regulations of (1) 16 feet 4.5 inches for the pool and associated decking, and (2) of 15 feet 11.75 inches for the pergola which would allow for the construction as shown on the plans.

Hearing no objection, the vote was as follows:

Crowley-	AYE
Adam-	AYE
Meyer-	AYE
Hawatmeh-	AYE
Huether-	AYE

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 20-03**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **14353 Manderleigh Woods Drive** is within the city limits of the City of Town and Country, and is in the **Suburban Medium (SM)** Zoning District; and

WHEREAS, **Kirill and Hope Abramov, owners**, (the "Appellants"), have submitted a request for two rear yard setback variances to construct a pool with associated decking and a pergola on the property; and

WHEREAS, Section 405.530.B.6. of the Zoning Regulations requires that the minimum rear yard setback for this property is 20 feet; and

WHEREAS, plans show the proposed pool and the associated decking to be located 3 feet 7.5 inches from the rear property line; and

WHEREAS, a variance of 16 feet 4.5 inches is required from Section 405.530.B.6. to allow for construction of the pool and associated decking as shown on the plans; and

WHEREAS, plans also show the proposed pergola to be located 4 feet 0.25 inches from the rear property line; and

WHEREAS, a variance of 15 feet 11.75 inches is required from Section 405.530.B.6. to allow for construction of the pergola 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

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

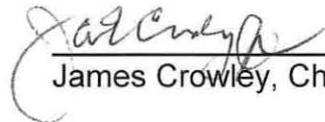
WHEREAS, this Board does further find and determine that practical difficulties and unnecessary hardships **have** been demonstrated.

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 20-03**

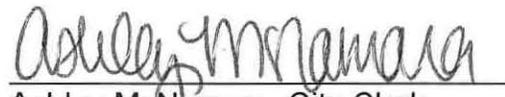
NOW, THEREFORE, BE IT RESOLVED, that the requested variances from the strict application of the Zoning Regulations of the City of Town and Country are hereby **approved**.

The following is the vote taken on the foregoing resolution:

Crowley- AYE
Adam- AYE
Meyer- AYE
Hawatmeh- AYE
Huether- AYE



James Crowley, Chairman



Ashley McNamara, City Clerk