BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
JANUARY 24, 2017

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Monday, January 24, 2017 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, Dr. Sam Hawatmeh, and Chris Barclay to be present.

Chairman James Crowley presided.

City Attorney Steve Garrett Attorney represented the City.

Also present were City Clerk Ashley McNamara and Planning & Public Works Director Craig Wilde.

APPROVAL OF MINUTES – 09/27/16

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.

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.

PUBLIC HEARING

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

1. Case No. 17-01
On the request of Kyla Scheuermann, owner's representative, on behalf of Kari and Greg Yates, owners, for a variance from Section 405.365.B.2. of the Zoning Regulations regarding the location of a gazebo from any lot line. The variance is necessary in order to construct a gazebo, as shown on the submitted plans, on the property located at 12074 Carberry Place, in the Suburban Estate (SE) Zoning District.

Attorney Garrett entered the following exhibits into the record:

A. Application for Appeal, received by the City of Town and Country on December 12, 2016

B. Narrative for Appeal, 1-page.

C. Photos and site survey of existing conditions, 2-pages.

D. Letter from Craig Wilde, Planning & Public Works Director, to Kyla Scheuermann, dated December 7, 2016, 1-page.

E. City of Town and Country Memorandum from Craig Wilde, Planning & Public Works Director, dated January 24, 2017, 1-page.

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 January 6, 2017, 1-page.

H. Site Plan, landscape plans, and elevations sealed and dated 12/8/16, 5-pages.

Attorney Garrett also labeled and entered Appellant's Exhibit #1, consisting of a PowerPoint presentation, and Appellant's Exhibit #2, consisting of Sheet 2.2 labeled Construction Details, into the record.

Craig Wilde, Planning & Public Works Director, was sworn and testified. He stated that he is familiar with the subject property and that is it zoned Suburban Estate. He explained that he is not aware of any existing nonconformities or variances on the property. He described the proposed project to be a request for a Conditional Use Permit for the installation of a gazebo. He added that gazebos are required by Code to be located thirty feet (30 ft.) from any property line and as the proposed gazebo is shown at twenty four feet seven and three quarter inches (24' 7¾", a variance of five feet four and one quarter inches (5' 4¼") is necessary to proceed. Mr. Wilde confirmed that the request for a CUP is considered by the Planning & Zoning Commission and Board of Aldermen but that process had not yet begun.

In response to Chairman Crowley, Mr. Wilde stated that the lot is made somewhat irregular with existing easements.

Bob Wilhem, Poynter Landscape Architecture and Construction, was sworn and testified on behalf of the applicant. Utilizing a PowerPoint Presentation (Appellant's Exhibit #1) Mr. Wilhelm displayed a site plan and pointed out the existing easement that is throughout the property. He stated the hardship to be that the easement prohibited the owner's from choosing a different location for the gazebo as well of the irregularity of the lot's shape. He added that the gazebo itself is needed for additional space and for a covered area that will provide protection from the elements.

In response to Mr. Adam, Mr. Wilhelm stated that the easement appears to be a "recreation easement" that also passes through several neighboring properties but additional details are unknown. Mr. Wilhem also confirmed that the HOA and neighbors have provided their approval of the proposed project.

Chairman Crowley confirmed with the City Clerk that the public notice for Case 17-01 was posted as required, as well as mailed to the surrounding properties.

Karen Yess, owner, was sworn and testified. She stated that she believes the easement could be for a runoff drain as there is a manhole in the back corner of the property. She added that it is for this reason the pool is situated oddly on the lot as well.

Chairman Crowley called for public comments. He noted for the record that no other individuals were in attendance.

Chairman Crowley declared Case No. 17-01 fully presented at 6:15 PM.

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
Mr. Barclay- AYE

A brief recess was held at 6:17. The meeting reconvened at 6:19 with all members present.

The decision of the Board of Adjustment to **grant** the requested variance is as contained in the **Decision** and **Resolution, Case No. 17-01**, filed with and made a part of these minutes.

Chairman Crowley requested unanimous consent to suspend the agenda rules to take up a Special Resolution for former member Joseph Brinker. Noting no objections, the rules were suspended at 6:20 PM.

SPECIAL RESOLUTION

Chairman Crowley read aloud a draft Special Resolution recognizing the contributions of former member Joseph Brinker. Chairman Crowley called for a vote on the Special Resolution as presented. Hearing no objection or amendment, the vote was as follows:

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

The Special Resolution was unanimously approved and will be presented to Mr. Brinker at a later time.

ADJOURN

There being no further business, the meeting adjourned at 6:23 PM.

Respectfully submitted,

Ashley McNamara

Ashley McNamara, City Clerk

BOARD OF ADJUSTMENT
CITY'S EXHIBITS

Case No.: 17-01

Appellant: Kyla Scheuermann, owner's representative on behalf of Kari and Greg Yess, owners

Location: 12074 Carberry Place

Hearing Date: January 24, 2017

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, 2016

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E. City of Town and Country Memorandum from Craig Wilde, Planning & Public Works Director, dated January 24, 2017, 1-page.

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 January 6, 2017, 1-page.

H. Site Plan, landscape plans, and elevations sealed and dated 12/8/16, 5-pages.

DECISION OF THE BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
CASE NO. 17-01

Appellant: Kyla Scheuermann, owner's representative on behalf of Kari and Greg Yess, owners

Subject Property: 12074 Carberry Place

Zoning District: Suburban Estate (SE)

Proposal: Appellants request a variance from Section 405.365.B.2. of the Zoning Regulations, regarding the location of a gazebo in relation to the property's side lot line.

Hearing Date: January 24, 2017

1. Chairman Crowley called for unanimous consent in favor of granting a variance of five feet, four and a one quarter inches (5'4-1/4") from Section 405.365.B.2. of the Town and Country Zoning Regulations regarding the location of a gazebo in relation to any lot line, which would allow for the construction of a gazebo in the rear yard of 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. 17-01

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **12074 Carberry Place** is within the city limits of the City of Town and Country, and is in the **Suburban Estate (SE)** Zoning District; and

WHEREAS, Kyla Scheuermann, owner's representative, on behalf of **Kari and Greg Yess**, owners, (the "Appellants"), has submitted a request for a variance for the location of a gazebo in relation to the side lot line; and

WHEREAS, the current proposal is to construct a gazebo in the rear yard of the property; and

WHEREAS, Section 405.365.B.2. of the Zoning Regulations requires that a gazebo is a permitted use, provided it is not located within thirty (30) feet of any lot line; and

WHEREAS, plans show the proposed gazebo to be located twenty four feet, seven and three quarter inches (24'7-3/4") from the side property line; and

WHEREAS, a variance of five feet, four and a one quarter inches (5'4-1/4") is required from Section 405.365.B.2. to allow for construction 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 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.

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.**

CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 17-01

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