

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
JUNE 19, 2023**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Monday, June 19, 2023 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, Dr. Sam Hawatmeh, and Carolynne Huether to be present. Alternate member Skip Dufour was also present.

Chairman James Crowley presided.

City Attorney Ed Sluys represented the City.

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

APPROVAL OF MINUTES – 04/26/23

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

Chairman Crowley called for any amendments or corrections.

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

CITY CLERK'S REPORT

None.

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(S)

A court reporter with Catlett Reporting was present to record the public hearing.

1. Case No. 23-06

On the request of Kevin and Jennifer Baker, owners, for a variance from Section 405.430.B.6 of the Zoning Regulations regarding minimum green space requirements. The variance is necessary in order to construct a new home, as shown on the submitted plans, on the property located at 2238 Mueller Lane, 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 May 9, 2023.
- B. Narrative for Appeal, dated May 17, 2023, 1-page.
- C. Email of support from immediately adjacent neighbor Jeff Crump, dated May 31, 2023, 1-page.

- D. Letter from Ryan Spencer, City Planner, to Kevin Baker, owner, dated May 23, 2023, 1-page.
- E. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated June 19, 2023, 3-pages.
- F. Ordinance No. 4572 approving a Boundary Adjustment Plat for 2212 and 2238 Mueller Lane, passed by the Board of Aldermen on May 22, 2023, including Plat, 2-pages.
- G. 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.
- H. Affidavit of Publication of notice of hearing published in The St. Louis Countian on June 1, 2023, 1-page.
- I. Site Plan, sealed and dated March 4, 2023, 6-pages.

Public Exhibit #1: Sheet submitted by Kathleen Wood, dated 06/19/23, 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. Mr. Spencer noted the project was for the construction of a new home on a recently consolidated plat that combined three lots into two and increased the size of the remaining parcels on May 22, 2023. He explained that Section 405.430.B.6 of the Zoning Regulations requires 75% minimum greenspace and the proposed home will reduce the greenspace to 72.6%, resulting in the need for a variance of 2.4%. He further described the property to be bounded on one side by Kropp Lane which is not in the right-of-way but rather an easement, meaning the entirety of the street counts against the site's greenspace calculations.

In response to Ms. Huether, Mr. Spencer noted that it was unknown if the property was included within a homeowner's association, nor who maintains Mueller Lane. He further added that Kropp Lane was included in the plat made in 1918 and it is not maintained by the City.

Eric Vietmeyer, Volz Engineering, was sworn and testified on behalf of the appellant. He provided background information about the consolidation of several lots, noting that the property in question would be built for the owner, and the second lot would be sold. He noted that the property would be in compliance with the greenspace regulations if Kropp Lane were not used in the calculations. He stated the hardship to be that no other property has a street running through the site, especially one that is publicly utilized but only penalizes the property owner.

In response to Mr. Adam, Mr. Vietmeyer explained that Lot 1 could have been made larger to account for the Kropp Lane impervious area, however it would have significantly reduced the size of Lot 2.

Discussion was held about the specific hardscape to be removed as shown on Exhibit I.

Mr. Vietmeyer stated that multiple iterations of the plan were considered to minimize the variance request, however, even removal of the pool did not negate Kropp Lane's impact.

Referring to Exhibit B, Mr. Dufour asked for clarification of the final paragraph. Mr. Vietmeyer explained that alternative options would not allow a circle drive without providing access to the site from both Mueller Lane and Kropp Lane. Mr. Vietmeyer also clarified that the circle driveway would not be double-width but rather the arc of the circle was designed in such a way as to allow for an adequate turning radius.

Anthony Soukenik, attorney for the owner, was sworn but deferred his time until needed.

James Nienhaus, builder, was sworn and spoke on behalf of the appellant. He explained that the consolidation and ultimate plan for this property is in keeping with the character of the surrounding homes. He noted that the existence of Kropp Lane as a publicly traversed roadway within the property lines of the Baker's property is a hardship placed solely on the subject lot, and could only be mitigated by the removal of the street. He explained that the property owner did not want to inconvenience the neighbors or general public by disturbing Kropp Lane, which he clarified was 15 ft. wide and runs the length of the property. He added that the hardship also includes the need to consolidate the lots in a manner that kept acreage and shape even and within the City's regulations.

In response to Chairman Crowley, Mr. Neinhaus stated that the proposed home will front Mueller Lane and needs access for the mailing address and postal delivery.

Chairman Crowley called for public comments.

Kathleen Wood, 22 Country Life Acres, was sworn and spoke in opposition of the request for various concerns relating to Mueller Lane. It was clarified that concerns not germane to the variance request would need to be forwarded to the appropriate bodies and/or administrative departments.

Amar Vakamudi, 2206 Mueller Lane, was sworn and spoke in opposition of the request for concerns relating to Mueller Lane and potential stormwater issues resulting from increased pavement. It was noted for the record that Mr. Vakamudi was provided all documents relating to this project via email upon request.

Mr. Vietmeyer explained that stormwater runoff is regulated by the City and has been approved by the appropriate parties.

Mr. Soukenik stated that no road association for Mueller Lane was found, nor were other documents relating to either Mueller Lane or Kropp Lane outside of the 1918 easement. He noted that Kropp could be vacated but the owner was attempting to be neighborly and allow continued public use.

Ms. Wood debated the width of Kropp Lane and its inclusion on the lot.

Kumar Vakamudi, 2206 Mueller Lane, was sworn and spoke in opposition of the request. He reiterated previously noted concerns about stormwater issues and the use of Mueller Lane. Mr. K. Vakamudi attempted to speak on behalf of Mr. A. Vakamudi but the exchange was largely unintelligible due to a language barrier and outbursts from members of the public.

Hearing no further, Chairman Crowley declared Case No. 23-06 fully presented at 6:55 PM.

Mr. Spencer restated the request to be for a greenspace variance of 2.4% from the minimum 75% required by Section 405.430.B.6 of the Municipal Code, which would allow the site to be built as proposed with a greenspace total of 72.6%.

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-	NAY
Mrs. Huether-	NAY
Mr. Dufour-	AYE

The variance request was denied (3-2) for failing to achieve four affirmative votes.

A brief recess was held at 6:57 PM. The meeting reconvened at 6:58 PM with all members present.

Chairman Crowley read the Resolution findings aloud and called for unanimous consent to approve it as written.

Chairman Crowley- AYE
Mr. Adam- AYE
Dr. Hawatmeh- AYE
Mrs. Huether- AYE
Mr. Dufour- AYE

The Resolution was adopted.

The decision of the Board of Adjustment to **deny** the requested variance is as contained in the **Decision and Resolution, Case No. 23-06**, filed with and made a part of these minutes.

ELECTION OF OFFICERS

- Election of Chairman

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

The motion carried 4-0, with one abstention.

- Election of Vice Chairman

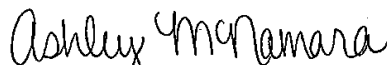
Chairman Crowley nominated David Adam to serve as vice chairman, seconded by Mr. Dufour. Hearing no additional nominations, the roll call vote was: AYE, Chairman Crowley, Dr. Hawatmeh, Ms. Huether, and Mr. Dufour; NAY, none; ABSTAIN: Mr. Adam.

The motion carried 4-0, with one abstention.

ADJOURN

On motion of Dr. Hawatmeh and second by Mr. Adam to adjourn, a unanimous voice vote was held and carried at 7:02 PM.

Respectfully submitted,


Ashley McNamara
City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 23-06
Appellants: Kevin and Jennifer Baker, owners
Location: 2238 Mueller Lane
Hearing Date: June 19, 2023

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. 23-06

Appellants: Kevin and Jennifer Baker, owners

Subject Property: 2238 Mueller Lane

Zoning District: Suburban Estate (SE)

Proposal: Appellant requests a variance from Section 405.430.B.6. of the Zoning Regulations regarding green space requirements in order to construct a new home on the property.

Hearing Date: June 19, 2023

1. Chairman Crowley called for unanimous consent in favor of granting a green space variance of 2.4% from Section 405.430.B.6. of the Town and Country Zoning Regulations which would allow for the construction of a new home as shown on the plans.

Hearing no objection, the vote was as follows:

Crowley-	AYE
Adam-	AYE
Hawatmeh-	NAY
Huether-	AYE
Dufour-	NAY

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 23-06**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **2238 Mueller Lane** is within the city limits of the City of Town and Country, and is in the **Suburban Estate (SE)** Zoning District; and

WHEREAS, **Kevin and Jennifer Baker, owners**, (the "Appellants"), have submitted a request for a green space variance in order to construct 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 proposed home would reduce the property's overall greenspace percentage to 72.6%; and

WHEREAS, a total variance of 2.4% from Section 405.430.B.6. is required to allow the new 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

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

- **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

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

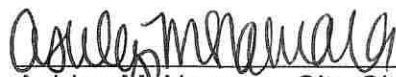
**BOARD OF ADJUSTMENT
CASE NO. 23-06**

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 **denied**.

The following is the vote taken on the foregoing resolution:

Crowley- AYE
Adam- AYE
Hawatmeh- AYE
Huether- AYE
Dufour- AYE


James Crowley, Chairman


Ashley McNamara, City Clerk