

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
JULY 27, 2021**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Tuesday, June 21, 2021 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 – 06/21/21

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

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 reported that the Board would begin taking up annual business like elections, zoning updates, etc. over the course of the next few meetings.

She also stated that she would keep everyone apprised of any orders or restrictions that would change the format of the meeting. She added that the Board adapted admirably and continued business when the pandemic was at its height so there were solid plans if the need to adjust future meetings arose.

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 Alaris Litigation Services was present to record the public hearings.

1. Case No. 21-09

On the request of Grant and Tiffany Dino, owners, for a variance from Section 405.420.B.4. of the Zoning Regulations regarding the minimum side yard setback requirement. The variance is necessary in order to construct a sport court, as shown on the submitted plans, at 18 Brookwood Drive, located in the Estate (E) Zoning District.

Attorney Garrett entered the following exhibits:

- A. Application for Appeal, received by the City of Town and Country on June 17, 2021.
- B. Narrative for Appeal, dated June 16, 2021, 1-page.
- C. Letter of support from adjacent neighbors with lot layout attached, 2-pages.
- D. Letter from Ryan Spencer, City Planner, to Paul Mertz, Poehlman & Prost, dated May 25, 2021, 2-pages.
- E. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated July 27, 2021, 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 9, 2021, 1-page.
- H. Site Plan, sealed and dated June 16, 2021, 1-page.

Ryan Spencer, City Planner, was sworn and testified. He stated that he was familiar with the subject property and it is zoned Estate, with a minimum lot size of three acres. He described the project to be for a permanent outdoor game court that is proposed to be located 34.33 ft. from the lot line. Mr. Spencer explained that Section 405.420.B.4 of the Code requires a calculated side yard setback of 87.6 ft. for this property so a variance of 53.27 ft. would be required to construct the sport court as shown on the plans. In response to Chairman Crowley, Mr. Spencer noted that the lot has a standard configuration. Ms. Huether inquired about the previously approved variance and Mr. Spencer described the similar setback variance that was granted in 2017 in order to construct the home.

Grant Dino, owner, was sworn and testified. He explained that the sport court was contemplated when the home was initially built but that changes to setback requirements necessitated a variance. He described his hardship to be the considerable cost associated with moving retaining walls and other features that are in place. Mr. Dino noted that the adjacent neighbors approved the plan and added that he recently purchased the lot to the immediate rear of the property.

Mr. Meyer inquired about lot elevation. Mr. Dino stated that the east side of the property dips down into an existing rain garden.

Mr. Dino restated his hardship to be the design fees that would result from relocating existing features on the lot.

In response to Mr. Adam, Mr. Spencer explained that the location originally proposed for the sport court when the home was built was permissible by Code, however, the one currently requested would not have been allowed by Code at any time.

Chairman Crowley called for public comments. He noted for the record that it was 6:14 PM and no members of the public were in attendance.

Chairman Crowley declared Case No. 21-09 fully presented at 6:14 PM.

Mr. Spencer confirmed that the request was for a minimum side yard setback variance of 53.27 ft. from the calculated 87.6 ft. requirement in Section 405.420.B.4. of the Code.

Mr. Dino stated that he relied on Sport Court of St. Louis to apply for permits and was unaware until very recently that the location was noncompliant.

A member of Mr. Dino's project team entered the meeting and it was apparent that he may wish to speak on behalf of the request.

Chairman Crowley noted that without objection, Case No. 21-09 would be reopened for possible further testimony following a brief recess.

A recess was held at 6:16 PM in deference to the applicant. The meeting reconvened at 6:19 PM with all members present.

Mr. Crowley notified Mr. Dino that hardships of a financial nature are not permissible and encouraged him to ensure he described any additional hardships for the record.

Mr. Dino explained that another hardship is that the lot's topography begins to change in the area of the proposed sport court and that moving the court east would interfere with stormwater detention. He added that many construction changes would need to be made to accommodate a new location.

In response to Mr. Meyer, Mr. Spencer stated that the sport court would be approximately 100 ft. from the closest existing structure on a neighboring property.

Mr. Dino explained that additional landscaping will be installed to buffer sight lines to the sport court. He added that the nearest neighbor, Mr. Sidener, walked the property to discuss the project and was supportive.

Chairman Crowley declared Case No. 21-09 fully presented again at 6:22 PM.

Mr. Spencer confirmed that the request was for a minimum side yard setback variance of 53.27 ft. from the calculated 87.6 ft. requirement in Section 405.420.B.4. of the Code.

Chairman Crowley called for unanimous consent in favor of the requested variance 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 |

The variance was unanimously approved.

A brief recess was held at 6:22 PM. The meeting reconvened at 6:23 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. 21-09**, filed with and made a part of these minutes.

OTHER

ADJOURN

There being no further business, the meeting adjourned at 6:24 PM.

Respectfully submitted,


Ashley McNamara, City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 21-09
Appellants: Grant and Tiffany Dino, owners
Location: 18 Brookwood Road
Hearing Date: July 27, 2021

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. 21-09

Appellants: Grant and Tiffany Dino, owners

Subject Property: 18 Brookwood Road

Zoning District: Estate (E)

Proposal: Appellants request a variance from Section 405.420.B.4. of the Zoning Regulations, regarding the minimum side yard setback requirements to allow for the construction of a sport court on the property.

Hearing Date: July 27, 2021

1. Chairman Crowley called for unanimous consent in favor of granting a minimum side yard setback variance of 53.27 feet from Section 405.420.B.4. of the Town and Country Zoning Regulations which would allow for the construction of a sport court on the property.

Hearing no objection, the vote was as follows:

| | |
|-----------|-----|
| Crowley- | YES |
| Adam- | YES |
| Meyer- | YES |
| Hawatmeh- | YES |
| Huether- | YES |

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 21-09**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject property located at **18 Brookwood Road** is within the city limits of the City of Town and Country, and is in the **Estate (E)** Zoning District; and

WHEREAS, **Grant and Tiffany Dino, owners**, (the "Appellants"), have submitted a request for a side yard setback variance to allow for the construction of sport court on the property; and

WHEREAS, the Appellant's were previously granted a side yard setback variance of 37.6 feet in order to construct a new home on the lot, via Decision D17-12; and

WHEREAS, Section 405.420.B.4. of the Zoning Regulations requires that residential lots in the Estate (E) 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 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 parameters of Section 405.420.B.4 above, the calculated side yard setback requirement for this property is 87.6 feet; and

WHEREAS, plans show the proposed sport court is located 34.33 feet from the west property line; and

WHEREAS, a variance of 53.27 feet from Section 405.420.B.4. is required to allow the sport court 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** 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

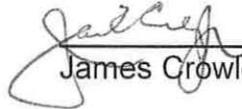
**BOARD OF ADJUSTMENT
CASE NO. 21-09**

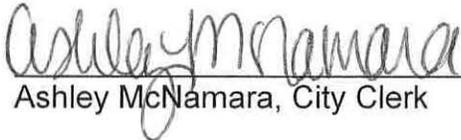
WHEREAS, this Board does further find and determine that practical difficulties and unnecessary hardships **have** been demonstrated.

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**.

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