



WILDWOOD

PUBLIC HEARING

BOARD OF ADJUSTMENT OF THE CITY OF WILDWOOD, MISSOURI

Thursday, June 20, 2019
Council Chambers | 7:00 pm

This meeting will be 'Livestreamed'

The Board of Adjustment of the City of Wildwood will hold a public hearing at **7:00 p.m. on Thursday, June 20, 2019** in the City Hall Council Chambers, 16860 Main Street, Wildwood, Missouri 63040. The purpose of this hearing is to consider requests for variances to certain Zoning Ordinance regulations or interpretations of their intent made by the Director of Planning relating to the individual properties identified below. Please review the individual notice of publication pertaining to your petition of interest for information relating to it. To report any inaccuracies in the text or seek further information about these requests, please contact the Department of Planning and Parks at (636) 458-0440, prior to the hearing date. At this hearing, the following requests will be considered by the Board of Adjustment for action:

If you would like to submit a comment regarding an item on this meeting agenda, please visit the [Form Center](#).

I. B.A. 10-19 Matthew & Kelly Godi, 278 Bountiful Pointe Circle, Wildwood, Missouri 63040

request an exception to the Natural Resource Protection Standards for the purpose of completing the installation of a fence, which will encroach into a portion of the 100% protected area upon the subject property, which is located at 278 Bountiful Pointe Circle (Locator Number 24U410531, Enclaves at Cherry Hills Subdivision, Plat 4, Lot 45), with the lot currently being zoned 'R-1A' 22,000 square foot Residence District, with a Planned Residential Development Overlay District [PRD]. This request is contrary to the requirements of Chapter 415.120 'R-1A' Residence District Regulations of the City of Wildwood's Zoning Ordinance, Chapter 420.200 Natural Resource Protection Standards of the City of Wildwood's Subdivision and Development Regulations, and Planned Residential Development Overlay District Ordinance #865. (Ward Eight) This item was postponed at the May 16, 2019 Meeting and no action was taken.

Documents:

[B.A. 10-19 MATTHEW AND KELLY GODI - RECOMMENDATION REPORT.PDF](#)

II. B.A. 12-19 Glen & Brenda Keely, 1412 Bald Eagle Road, Wildwood, Missouri 63038

request an exception to the Minimum Yard Requirements (General) for the purpose of constructing an accessory structure, i.e. 12'x16' storage shed, upon the property located at 1412 Bald Eagle Road (Locator Number 26U510037; Old State Farms Addition – Plat 1, Lot 30), thereby authorizing a side-yard setback distance of twenty-six (26) feet, in lieu

of the thirty (30) foot standard, from the lot's southern boundary line. This request is contrary to the requirements of Chapter 415.090 'NU' Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance. (Ward Six)

Documents:

[B. A. 12-19 GLEN AND BRENDA KEELY - RECOMMENDATION REPORT.PDF](#)

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The City of Wildwood will provide reasonable accommodations for persons attending Board of Adjustment meetings. Requests for reasonable accommodations should be made by contacting Amanda Foster, City Clerk at 636-458-0440 or email at afoster@cityofwildwood.com at least 48 hours prior to the start of the meeting.



WILDWOOD

Determination of Issues and Findings of Facts

Board of Adjustment Case **B.A. #10-19**

City of Wildwood's Board of Adjustment

Public Hearing of June 20, 2019

City Hall Council Chambers

16860 Main Street, Wildwood, Missouri

Nature of Request:

B.A. 10-19 Matthew and Kelly Godi, 278 Bountiful Pointe Circle, Wildwood, Missouri 63040 - request an exception to the Natural Resource Protection Standards for the purpose of completing the installation of a fence, which will encroach into a portion of the **100% protected area** upon the subject property, which is located at 278 Bountiful Pointe Circle (Locator Number 24U410531, Enclaves at Cherry Hills Subdivision, Plat 4, Lot 45), with the lot currently being zoned 'R-1A' 22,000 square foot Residence District, with a Planned Residential Development Overlay District [PRD]. This request is contrary to the requirements of Chapter 415.120 'R-1A' Residence District Regulations of the City of Wildwood's Zoning Ordinance, Chapter 420.200 Natural Resource Protection Standards of the City of Wildwood's *Subdivision and Development Regulations*, and Planned Residential Development Overlay District Ordinance #865. **This item was postponed at the May 16, 2019 Meeting and no action was taken. (Ward Eight)**

Determination of Issues:

Principle to this request is the identification of its issues. This identification process is intended to determine whether the variance is reasonable and appropriate under the criteria that the property's site specific characteristics create a unique hardship or practical difficulty with the application of individual ordinance requirements and, if granted, its impacts are contained to the tract of land under consideration or negligible enough upon adjoining properties to be considered acceptable. In the instance of **B.A.#10-19**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

1. The subject site of this request is a 0.32-acre lot that is located within the Enclaves at Cherry Hills Subdivision. This lot is part of Plat 4 and was established in June 2004 (one (1) of eight (8) plats for this large residential subdivision that began in 2003). This subdivision is located on the former Cherry Hills Golf Course site and consists of one hundred eighty-five (185) lots on a one hundred forty-two (142) acre site.
2. The zoning of this property is the R-1A 22,000 square foot Residence District, with a Planned Residential Development Overlay District (PRD). This zoning district designation and special procedures permit sets forth requirements for the development of the overall site, as well as the regulations for the individual lots themselves. All of the lots must meet the City of Wildwood's Zoning Ordinance and Subdivision and Development Regulation requirements, including the Natural Resource Protection Standards.

3. The lot is rectangular in shape, with frontage onto Bountiful Pointe Circle, and backs to an area of the subdivision's common ground and Old Fairway Drive. Both of the aforementioned streets are maintained by the City.
4. The property is used for single-family residential purposes and has a dwelling located upon it that was constructed in 2004. The location of the dwelling and original accessory improvement [i.e. 168-square-foot patio] were all in compliance with the required zoning regulations established by the site-specific ordinance approved for this development at the time of initial occupancy. This compliance included the Natural Resource Protection Standards.
5. The City of Wildwood requires the regulations relating to the Natural Resource Protection Standards be defined upon the Record Plat and incorporated within the Trust Indentures, before any lot can be sold. Additionally, the City's Department of Planning provided a letter to the developers of this residential subdivision, with the intent that potential buyers would receive it, and be advised of the regulations governing the use of lots, relative to the Natural Resource Protection Standards.
6. The site-specific ordinance governing this residential subdivision required the preservation of forty-seven (47) acres of this site, with ninety-four (94) acres authorized to be disturbed for the placement of the roads, utilities, sidewalks, buildings, and structures. Along with the designation of acreage for preservation and disturbance, a fifteen (15) foot foundation setback was required from the edge of the "preservation limits" to ensure no grading activity would occur beyond the limits established on the Record Plat for these lots.
7. The regulations associated with the Natural Resource Protection Standards have been formulated to determine locations on a site that are most suitable for land disturbance and use, while setting aside other portions of it for preservation due to soil/slope considerations. Where soil/slope conditions are most problematic, land disturbance is not authorized.
8. The development of the useable and protected areas of a site are set forth by the developer of a subdivision at the time of its approval, and is premised on a number of rules relating to the desire of the City to create the largest contiguous areas of useable and protected zones as possible, while not allowing disturbance of sensitive site features that are designated under the standards as one hundred (100) percent protected. Therefore, the placement of protected zones may be in areas of a property that appear to be acceptable for land disturbance or use.
9. The standards were developed by a professor of soil science at the University of Missouri-Columbia and structured to address the past development practices of St. Louis County that had led to environmental degradation and loss of mature woodlands. These practices were identified as major problems that had to be addressed to avoid costs to the taxpayers to repair and replace damaged infrastructure.

Current Request

10. The petitioners are seeking authorization to install a fence upon their property, which is within the Natural Resource Protection Area of it.
11. The application indicates the property owners are concerned with safety of their young children, given the proximity of Old Fairway Drive, located beyond their backyard and the common ground area, which has a City multiple-use trail located within it, thereby allowing for public use as well.
12. The Department's site investigation, conducted with respect to this request, noted that all of the fence posts and a portion of the fencing had already been installed, as well as a lengthy berm filled with evergreen trees, a majority of which is within common ground and located between the fence posts and the City's trail.

Correspondences and Previous Actions

13. The site has been duly posted for the two (2) hearings in accordance with City code requirements, including the placement of a sign on the property, an advertisement in a newspaper, and a posting at City Hall. Along with these notifications, a direct mailing was sent to surrounding properties advertising the request.
14. The Department of Planning has received one (1) Public Hearing Comment Form, in opposition of this request, as of the writing and distribution of this report.
15. The President of the Enclaves at Cherry Hills Subdivision spoke at the May 2019 Public Hearing on this request and noted the trustees were in support of the allowance for the fence in the protected area of this lot.
16. The Department of Planning's review of City records indicates the Board of Adjustment has heard a total of twenty (20) requests [several being submitted twice] within this overall subdivision, including the addition of Plat 9, between 2005 and 2018. The following list summarizes the requests and actions taken for each case, in no particular date order, yet grouped by similarities:
 - **BA6-14** was approved for a setback distance reduction from the rear property line for an inground swimming pool and associated tiered retaining wall.
 - **BA12-05** was denied for grading in the NRPA to construct a landscape berm.
 - **BA43-07** was approved for installation of a french-drain for stormwater control and using excavated material for the previously requested landscape berm.
 - **BA25-15**, specifically, by the current petitioner for the subject property, was conditionally approved by the Board for a poured-in-place, stamped concrete, retaining wall, exceeding a thirty-six-inch (36") height, as well as a 925-square-foot extension to the original patio. While the original patio was code-compliant, as part of the construction of the new home by the developer, none of the other improvements were permitted, prior to commencing work by the homeowner. Furthermore, a sizeable portion of these improvements encroached into the 100%-protected area of the property, being in violation of the Natural Resource Protection Standards, but could have been avoided, if the proper permit procedure had been followed. Conditional approval of the above was based upon a restoration plan and removal of the irrigation lines that exist in the NRPA.

The following requests [19] were all relative to the Natural Resource Protection Area [NRPA]: Of the remaining sixteen (16) cases, and similar to the current request, all involved fences - again, within in the 'Final Natural Resource Protection Area' - with the following actions taken:

- Eleven (11) cases were ultimately approved due to trespass issues (**7 - BA14-06, BA36-07, BA25-08, BA13-09, BA15-10, BA23-12, BA17-15**); to be retained, given fence was installed by prior owner [**2 - BA33-11 & BA33-18**]; or required as part of another compliant accessory use, i.e. inground swimming pools [**2 - BA13-11 & BA19-17**].
- Four (4) requests were denied that could not prove a hardship [**BA6-06, BA17-09, BA29-13, & BA21-16**].
- **BA26-16** was withdrawn.

Findings of Fact:

The Department of Planning has reviewed this request with regard to the criteria established for its approval or denial, i.e. site characteristics, which render a unique hardship or a practical difficulty and impacts on adjoining properties, and believes it **does meet** the strict standards set forth to be considered reasonable and appropriate. This position is premised upon a number of site-specific findings. These findings are as follows:

1. The site of this request was the subject of a May 2019 Public Hearing where the property owners noted they had contacted the City to ensure the fence could be installed in the selected location within their rear yard area of the site. Thereafter, there appears to be some confusion about the exact nature of the conversations that were held between the Department of Planning and the petitioners. This confusion was discussed at the May 2019 Public Hearing at length, although much on the Department's position on this matter was missing due to the absence of one (1) of the planners, who had direct knowledge of the conversation.
2. This situation that is noted above certainly complicated the decision-making process for the Board of Adjustment the night of the hearing before the members. Such a situation could certainly influence the outcome of the Department's recommendation, i.e. address the confusion, by supporting the variance. Such would not be an appropriate approach. The merits of the variance need to be considered on the characteristics of the property and the application of the City's regulations onto it. This approach is always more sound and ensures consistency with past decisions of a similar nature, along with any future actions on like, but new, requests.
3. The physical characteristics of this lot are not unique to this site, in that, a number of properties have similar, if not, identical characteristics of the same nature. However, as was developed at the May 2019 hearing, a trespass issue does appear to exist that was not fully developed in the petitioners' application. Trespass issues, such as those noted by the petitioners, often are due to a lot's location relative to the surrounding street or nearby land use patterns, and can be more susceptible to problems. In these unique instances, these problems have been addressed by the Board of Adjustment.
4. The issue of trespass has been limited within the subdivision, but where identified, very problematic from a number of perspectives. These perspectives include property damages, liability considerations, and safety concerns. These concerns do lend to an acknowledgement by the Department of Planning that a practical difficulty does exist relative to this lot, the regulations, as they applied to it, and the reasons why individuals trespass across and/or through it.
5. The extent of disturbance attributable to the installation of the fencing is minimal in many regards and offset, to a degree, by the installation of numerous trees, shrubs, and other vegetation in the similar location of the lot, i.e. abutting the fencing that is planned to be completed, if a variance is granted for such.

Recommendation:

Based upon the above-listed Findings of Fact, the Department recommends the Board of Adjustment approve the requested variance, as submitted.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning



WILDWOOD

Determination of Issues and Findings of Facts
regarding
Board of Adjustment Case B. A. #12-19
City of Wildwood's Board of Adjustment
Public Hearing of June 20, 2019
City Hall Council Chambers
16860 Main Street

Nature of Request:

B.A. 12-19 Glen & Brenda Keely, 1412 Bald Eagle Road, Wildwood, Missouri 63038 - request an exception to the Minimum Yard Requirements (General) for the purpose of constructing an accessory structure, i.e. 12'x16' storage shed, upon the property located at 1412 Bald Eagle Road (Locator Number 26U510037; Old State Farms Addition – Plat 1, Lot 30), thereby authorizing a side-yard setback distance of twenty-six (26) feet, in lieu of the thirty (30) foot standard, from the lot's southern boundary line. This request is contrary to the requirements of Chapter 415.090 'NU' Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance. (**Ward Six**)

Determination of Issues:

Principle to this request is the identification of its issues. This identification process is intended to determine whether the variance is reasonable and appropriate under the criteria that the property's site specific characteristics create a unique hardship or practical difficulty with the application of individual ordinance requirements and, if granted, its impacts are contained to the tract of land under consideration or negligible enough upon adjoining properties to be considered acceptable. In the instance of **B.A. 12-19**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

- 1) The location of this request is a 4.57-acre residential lot that is located on the east side of Bald Eagle Road, a privately-maintained, rural roadway easement, which is situated to the southeast of the State Route 109/Old State Road intersection, both being publicly-maintained roadways by the State and County, respectively.
- 2) The subject property, being Lot 30 of the 53 that form the Old State Farms Subdivision [circa. 1976], is irregular in shape, with a width of three hundred eighty-two (382) feet along its curved frontage at Bald Eagle Road and a depth of seven hundred forty-three (743) feet.
- 3) The subject lot is zoned NU Non-Urban Residence District, which establishes a number of regulations regarding the types of allowed uses, as well as, building and structure placements and

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heights. Along with these regulations, other requirements exist relating to accessory structures with regard to their respective sizes and placements, those items being no larger than 1.5% of the square-footage of the property, as well as, meeting the structure setback distances of fifty (50) feet along its frontage and thirty (30) feet along the side and rear property lines.

- 4) The subject property contains a ranch-style dwelling, built in 1979, with a large deck and attached 2-car garage, totaling 2,905 square-feet of living space.
- 5) The driveway, providing access to the side-entry garage, enters the property near its southwest corner, angling across the front yard area, then turns eastward just south of the dwelling. A long retaining wall protects this asphalt driveway from the slope beyond it.
- 6) The subject property exhibits very limited areas of manicured lawn in the immediate vicinity of the dwelling, while the remainder of it is entirely mature woodlands.
- 7) The property slopes dramatically from the roadway eastward, with an overall relief of one hundred sixty-four (164) feet.
- 8) The surrounding land use is all residential, similar to the subject property, all of which is flanked to the east, south, and west by City-owned/leased parklands, those being the 245-acre Rock Hollow Recreational Area, the Al Foster Memorial Trail, and Bluff View Park and Trail, respectively, with the Meramec River further to the south.

Current Request

- 9) The current request is to allow a reduction in the sideyard setback area along the southern boundary of the lot, from the required thirty (30) foot distance to twenty-six (26) feet, to accommodate an accessory structure, i.e. 12'x16' storage shed. This small building will accommodate the storage space for waste receptacles, maintenance tools, and lawn equipment.
- 10) The application filed by the petitioner noted the need for this variance is premised on the angle of the existing retaining wall, the severe slope, and the desire to retain a large oak tree.
- 11) The petitioners have also identified in their filed application this location will require minimal grading, if any, and no trees will be removed to accommodate the structure's construction.

Correspondences and Previous Actions

- 12) The site was duly posted in accordance with City code requirements, including the placement of a sign on the property, an advertisement in a newspaper, and a posting at City Hall. Along with these notifications, a direct mailing was sent to surrounding properties advertising the request.
- 13) The Department of Planning received one (1) comment, in support of the request, at the time this report was written and completed for distribution.
- 14) The review of the City's files indicates the City of Wildwood's Board of Adjustment has not granted any variances to this property, while several have been approved within the overall subdivision, by both the City and the former jurisdiction, St. Louis County, which occurred prior to 1995.

Findings of Fact:

The Department of Planning has reviewed this request with regard to the criteria established for its

approval or denial; i.e. site's characteristics, which render a unique hardship or a practical difficulty and impacts on adjoining properties, and believes it **does meet** the requirements set forth to be considered reasonable and appropriate. This position is premised upon a number of site-specific characteristics. These factors are as follows:

1. The petitioner has established a practical difficulty relating to the physical characteristics of the site, specifically the severe slope of the terrain and not wanting to remove any trees.
2. The placement of the proposed accessory structure is intended to allow for unencumbered use of the existing driveway for access purposes, which minimizes impacts caused by further land disturbance.
3. The current layout of existing improvements dictates the placement for this 200-square-foot accessory structure, a storage shed; thus, it is best suited to be positioned within proximity of the garage.
4. The impact of this request appears to be minimal and, if any, effecting only the abutting property on the south side of the subject site. However, this impact is substantially mitigated, given both properties are heavily wooded, which will screen the small structure from visibility.

Recommendation:

Based upon the above-listed Findings of Fact, the Department recommends the variance be approved, as requested.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning