



WILDWOOD

Determination of Issues and Findings of Facts
regarding
Board of Adjustment Case B. A. #22-23
City of Wildwood's Board of Adjustment
Public Hearing of September 21, 2023
City Hall Council Chambers
16860 Main Street

Nature of Request:

B.A. 22-23 Karen And Steven Bressler, 3124 Woods Road, Wildwood, Missouri 63038 – request an exception to the Minimum Lot Area Requirements for the purpose of maintaining the presence of fowl, upon the property located at 3124 Woods Road (Locator Number 25V140041, McGinnis Acres – Lot 2), which would authorize a three (3)-acre minimum lot area for a permitted farm use in lieu of the five (5)-acre minimum lot area requirement (*note: the petitioner owns two (2) contiguous lots, which together are greater than six (6) acres in area*). Accompanying this request is an application for reduction in the front yard setback distance for a swing set and fence enclosure from the fifty (50) foot required distance to no less than ten (10) feet from Woods Road right-of-way. 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. 22-23**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

1. The site of this subject request is a legal lot of record that is located on Woods Road. This lot is three (3) acres in size and part of a three (3) lot subdivision that completed in 1979.
2. The lot is part of the Non-Urban Residential Area of the City's Conceptual Land Use Categories Map of the Master Plan, which limits activities to those permitted by right in the NU Non-Urban Residence

District, which is the zoning district designation of this lot. This zoning district designation primarily allows single family dwellings on three (3) acre lots, plus any allowable accessory uses.

3. The subject lot adjoins another parcel of ground that is owned by this same petitioner that is also three (3) acres in size. Therefore, the petitioner owns a total of six (6) acres, but in the form of two (2) separate lots. This six (6) acre area is part of the need for the requested variance, given farming, as a permitted use in the NU Non-Urban Residence District, requires a minimum lot area of five (5) acres.
4. The property has an existing single family dwelling located on it, along with several outbuildings, including a swing set and enclosure that is composed of sections of chain-link fence. The dwelling was constructed in 1973 and has approximately 1,700 square feet of total living area.
5. The lot retains extensive areas of woodlands, which defines the almost seventy-five (75) percent of it. The area of the lot that is not woodlands is along Woods Road and turf. This area floods at times, given a major drainage feature is located in this same portion of the lot and trends in an east to west direction toward State Route 109.
6. The property does slope to the from south to north, toward a drainage area, which is located near the right-of-way of Woods Road. The slope exhibits the greatest level of severity on the southern side of it, behind the existing single family dwelling.
7. The surrounding land use pattern is all residential, excepting the major recreational facility that is also situated here – Rockwoods Reservation. Lot sizes in this area are generally over five (5) acres within overall area.

Current Request

8. The intent of this request is to authorize a three (3) acre lot for a permitted farm use in lieu of the minimum five (5) acre area requirement. Accompanying this request is an application for reduction in the front yard setback distance for a swing set and fence enclosure from the fifty (50) foot required distance to no less than ten (10) feet from the Woods Road right-of-way .
9. The request is contrary to the requirements of Chapter 415.090 NU Non-Urban Residence District, which establishes the minimum lot area for a range of land uses in this zoning designation.
10. The information submitted by the applicant notes the desired variance relative the minimum lot area is to allow for the property owner to retain a number of chickens that are located on the subject site. To have chickens in this location, a five (5) acre minimum lot area is required, not three (3) acres, as is the current situation. Also, the two (2), contiguous lots under the same ownership must be combined to accommodate the five (5) acre minimum for the same, which would require a formal consolidation of the properties via a plat and City Council approval.

Correspondences and Previous Actions

11. 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.
12. The Department of Planning met with a nearby neighbor, after the site was posted with a sign and required mailing completed, and that property owner did not support the variance request. Two (2) other comments were submitted via the City's website. One (1) of these comments was supportive of the request, while the other took no position, but had a number of questions about the conditions of the property, if fowl were to be allowed.
13. The review of the City's files indicates the City of Wildwood's Board of Adjustment has not granted any variances to this specific lot.

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 Department would note that, if not for the past division of the two (2) lots, the variance would not be needed to create a five (5) acre minimum lot. For all intents and purposes, the boundary line that separates the properties is only distinguishable on paper, but not on the site itself, so impacts are very limited to none.
2. The six (6) acres that forms the overall property area of the applicant can accommodate a certain number of chickens, but no roosters (due to noise at odd hours). The number of chickens, based upon conversations with the applicant, should be no more than eight (8) in total and, again, limit impacts.
3. The rural areas of Wildwood, inclusive of this area and lot, do allow and are used for, in many instances, domestic animals, which includes chickens. This type of accessory activity can be considered reasonable on lots of this size and character.
4. The requested reductions to the setbacks for the two (2) structures should not be granted, given both of them, i.e., a playground set and fence enclosure, are portable in nature and can be moved easier than a permanent structure, such as an improvement with footings and foundations. Accordingly, the Department does not believe a hardship exists in this case to allow a reduction in the required front yard setback area.

Recommendation:

Considering the above-listed Findings of Fact, the Department recommends the Board of Adjustment approve the portion of requested variance, as submitted by the petitioner, which would allow a limited number of chickens on the site, but no roosters. The number of chickens should not exceed more than eight (8) in total.

The requested relief to the setback requirements for certain structures should not be approved.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning