PUBLIC HEARING
BOARD OF ADJUSTMENT OF THE CITY OF WILDWOOD, MISSOURI
Thursday, September 15th, 2016

The Board of Adjustment of the City of Wildwood will hold a public hearing at **7:00 p.m. on Thursday, September 15th, 2016** 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:

I. **B.A. 18-16 Scott Fieser, 10 Whitsetts Fork Ridge Road, Wildwood, Missouri 63038**

requests exceptions to the *Minimum Yard Requirements (General)* and the *Outdoor Game Court Standards* for the purpose of maintaining an outdoor game court, with lighting, at 10 Whitsetts Fork Ridge Road (Locator Number 26V430121; Whitsetts Fork Subdivision - Plat 4, Lot 1), which would thereby authorize the following: (1.) a side yard setback distance of zero (0) feet in lieu of the required thirty (30) foot standard; and (2.) a light standard height of twenty (20) feet in lieu of the required sixteen (16) foot standard. 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:

BA 18-16 SCOTT FIESER - RECOMMENDATION REPORT.PDF

II. **B.A. 19-16 Covert-Corsair Homes, Inc., Profit Sharing Plan, P.O. Box 280, Wildwood, Missouri 63040**

requests an exception to the *Failure to Commence Construction (General)* and the *General Development Conditions (Particular)* for the purpose of extending the deadline for the commencement of substantial construction at 16815 Manchester Road (Locator Number 24V630286), which would thereby authorize the deadline for substantial construction to begin on this project no later than January 25, 2018 in lieu of the required July 25, 2016. This request is contrary to the requirements of Chapter 415.190 C-8 Planned Commercial District Regulations of the City of Wildwood Zoning Ordinance and C-8 Planned Commercial District Ordinance #1953,

which was approved by the City of Wildwood in 2013, and governs this property. The City of Wildwood Planning and Zoning Commission did not extend this timeline, when presented to it. **(Ward Eight)**

Documents:

BA 19-16 COVERT-CORSAIR - RECOMMENDATION REPORT.PDF

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

The City of Wildwood Is Working to Comply with the Americans with Disabilities Act Mandates. Individuals Who Require an Accommodation to Attend a Meeting Should Contact City Hall, 636-458-0440 at Least 48 Hours in Advance.

WILDWOOD

Determination of Issues and Findings of Facts (Re-Issued)

regarding

Board of Adjustment Case B. A. #18-16
City of Wildwood's Board of Adjustment
Public Hearing of September 15, 2016

City Hall Council Chambers
16860 Main Street

Nature of Request:

B.A. 18-16 Scott Fieser, 10 Whitsetts Fork Ridge Road, Wildwood, Missouri 63038 - requests exceptions to the Minimum Yard Requirements (General) and the Outdoor Game Court Standards for the purpose of maintaining an outdoor game court, with lighting, at 10 Whitsetts Fork Ridge Road (Locator Number 26V430121; Whitsetts Fork Subdivision - Plat 4, Lot 1), which would thereby authorize the following: (1.) a side yard setback distance of zero (0) feet in lieu of the required thirty (30) foot standard; and (2.) a light standard height of twenty (20) feet in lieu of the required sixteen (16) foot standard. 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. 18-16**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

1. The site of this requested variance is a 3.18 acre tract of land that is located on Whitsetts Fork Ridge Drive, in the Whitsetts Fork Subdivision. The Roadway Maintenance Association of the subdivision maintains this private roadway. The roadway surface has been constructed in an easement that is fifty (50) feet in width.
2. The property is zoned NU Non-Urban Residence District, which provides certain regulations and requirements for the use and development of property. These regulations and requirements include the placement of any structure or building on the lot, the lighting of

active use areas, the installation of outdoor game courts, and the process for permitting all of the above.

3. The structure and building setback requirements for this site are fifty (50) feet for any front yard area, as defined by the Zoning Ordinance, and thirty (30) feet for any side or rear yard area of the lot.
4. The City of Wildwood Zoning Ordinance has a set of specific regulations relating to the installations of outdoor game courts, which were adopted in 2013, in response to complaints about these special structures and the impacts associated with their use (see Current request Section of this report for them).
5. The property is shaped like a rectangle, with a north/south direction, or perpendicular to the private roadway.
6. The majority of the site is wooded, particularly from the rear of the dwelling to the south boundary line of the lot. The slope of this lot is from north to south, with a relief of approximately seventy-five (75) feet.
7. The property has two (2) defined ephemeral drainageways that exist upon it, which lends to its slope, drainage, and relief characteristics, while the level area of the lot is near the private roadway and the front of the dwelling.
8. The property owners utilize this lot for single family residential purposes and had a dwelling constructed upon it in 1984. Along with this dwelling, the property is also utilized for a detached garage (1,088 square feet in size), an in-ground swimming pool, and an outdoor game court, which is the subject of this application.
9. The surrounding pattern of development is residential, being of a similar nature as the petitioner's property. This pattern consists of three (3) acre or greater sized lots, with dwellings and accessory buildings located upon them as well. Many of these accessory buildings in this area are private stables for horses.

Current Request

10. The intent of the current request the petitioner is seeking is to retain the already installed outdoor game court, with lighting, at the following: (1.) a side yard setback distance of zero (0) feet in lieu of the required thirty (30) foot standard (petitioner is considering purchasing property from the neighbor to create a minimum distance of separation); and (2.) a light standard height of twenty (20) feet in lieu of the required sixteen (16) foot standard.
11. The outdoor game court, which is the subject of this request, was installed without the benefit of any authorization by the City or permits from St. Louis County. A complaint about this outdoor game court was made and the City discovered its construction at that time.
12. The outdoor game court is located to the rear, and west, of the existing single family dwelling and on the western side of the lot. The structure has a total size of 4,200 square feet and three (3) light standards in association with it. The outdoor game court also encroaches onto the neighboring property to the east by approximately five (5) feet, whose owners have been notified of this situation by the petitioner.
13. The petitioner has noted in the application submitted to the City in conjunction with this request the installation of the outdoor game court was accomplished without the knowledge of the need for an authorization from the City and permits from St. Louis County,

while recognizing the only buildable location on the remainder of the lot not in current use was the place that now has the structure upon it.

14. The regulations governing Outdoor Game Courts are as follows: An outdoor game court shall not be authorized by the City without the proper netting, fencing, and/or boarding, as set forth by the manufacturers' specifications for said facility, as a minimum, to control the flight of projectiles from it onto neighboring properties. This netting, fencing, or boarding shall not be placed in the structure setback areas of the lot, nor exceed ten (10) feet in height, unless otherwise prohibited by private subdivision restrictions in place, and be of a color to minimize its visibility (along with being designed to be collapsible or removable, when the court is not in use). This netting, fencing, or boarding requirement shall be indicated on submitted plans to the City and no authorization shall be granted by the Department of Planning until this component of the court is satisfactorily met and the officers of the applicable homeowners' association have approved it as well. While it is expected this netting, fencing, or boarding will be used in conjunction with landscaping, which is required in Subsection (a.) below, in unique or hardship circumstances, landscaping may be used as a substitute to this required netting, fencing, or boarding, but said substitution is at the discretion of the Department of Planning, and must comply with the City's landscape manual for types, quantities, and locations. Additionally, said structure shall comply with the following: (i.) Outdoor game courts shall require landscaping and be in accordance with the requirements of the City's Tree Manual and Sustainable Plantings Guide. The design of this landscaping plan shall be part of the property owner's submittal for authorization and be reviewed at that time. The planting pattern to create a screen must be designed by a landscape architect and submitted to the City for review and action, as part of the overall permitting process; (ii.) All plans submitted for the authorization of outdoor game courts shall indicate all in place stormwater improvements and any easements that exist on the lot; (iii.) No portion of an outdoor game court area shall be situated in the front yard of a lot, as defined by the application of the corresponding setback(s) required of the zoning district designation in place upon said parcel of ground; (iv.) Lighting of these facilities may be authorized upon "NU" Non-Urban Residence District zoned properties, but must comply with the City's outdoor lighting requirements. Light standards in association with these facilities shall not exceed sixteen (16) feet in height, but shall always be at the least height necessary to accommodate the safe and functional use of the facility; and (v.) As defined herein, any outdoor game court shall be required to receive approval of its location on the subject lot by the City of Wildwood Planning and Zoning Commission. This review shall be conducted upon a plan submitted by the petitioner to the Planning and Zoning Commission, which can alter the outdoor game court's location and/or orientation, based upon site and area characteristics, which would include, but not be limited to, the expected flight of projectiles from the structure, but, in no circumstance, authorize its encroachment into the lot's established setback areas.

Correspondences and Previous Actions

15. 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.

16. The Department of Planning has received two (2) communications from surrounding property owners in opposition to it (at the time of this report's completion and distribution).
17. 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, while the following variances have been considered for the overall subdivision:

    a. 2003 - Front Yard Setback of 48 feet in lieu of 50 feet for a deck – approved.
    b. 2004 - Side Yard Setback of 30 feet in lieu of 100 feet for a private stable - approved.
    c. 2007 – Front Yard Setback of 60 feet in lieu of 75 feet for a new single family dwelling – approved.
    d. 2007 - Front Yard Setback of 50 feet in lieu of 75 feet for a propone tank – approved.
    e. 2011 – Front Yard Setback of 30 feet in lieu of 100 feet for a private stable – approved.
    f. 2014 – Front Yard Setback of 40 feet in lieu of 50 feet for an addition to an existing single family dwelling – approved.
    g. 2014 Floodplain Setback of zero (0) feet in lieu of 50 feet for a private stable – denied.

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 not meet** the requirements set forth to be considered reasonable and appropriate for the placement of the light standards in the required setback area of the western property line. This position is premised upon a number of site-specific characteristics. These factors are as follows:

1. The petitioner has installed the outdoor game court, with lighting, without the benefit of City authorization, which would have identified these issues and ensured compliance. By not following permit procedures, the petitioner has created the hardship now necessitating the needed variance. Therefore, the request is based upon a self-imposed hardship.
2. The impacts caused by this petition are two-fold and relate to the following: (a.) the light standards and the luminance that they will cause in this dark environment; and (b.) the encroachment of the outdoor game court structure onto the adjoining property, **along with its proximity to this neighbor's property that is located immediately to the west**. Both of these impacts are significant and reflective of the requirements that were adopted by the City relative to these types of structures. **However, in meeting with the property owners prior to tonight's hearing on the matter, the Department was advised by them of their intent to remove the portion of the outdoor game court that encroaches onto the neighbor's property.**

3. **The Department believes the proximity of the game court to the common boundary line between the two (2) properties could be offset, if lighting were not associated with its use. However, with lighting, the impact is too great of this outdoor game court onto the abutting property.**
4. The denial of this variance will not preclude the use of the property for its primary use, which is the single family dwelling.
5. The site **does not appear** to have other locations that can accommodate this outdoor game court, at **its current** ~~a lesser~~ size, ~~which do not necessitate the placement of the structure in close proximity to the property line of the adjoining lot owner~~. **If the outdoor game court were reduced in size, the extent of the needed variance would be correspondingly lessened as well.**

Recommendation:

Based upon the above-listed Findings of Fact, **and despite the noted changes**, the Department recommends the Board of Adjustment not approve the requested variance.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning

Editor's Note: Changes to the Department's August report on this matter are indicated by bolded, blue type, while a single strike-through line reflects deletions.

WILDWOOD

Determination of Issues and Findings of Facts

regarding

Board of Adjustment Case B. A. #19-16
City of Wildwood's Board of Adjustment
Public Hearing of September 15, 2016

City Hall Council Chambers
16860 Main Street

Nature of Request:

B.A. 19-16 Covert-Corsair Homes, Inc., Profit Sharing Plan, P.O. Box 280, Wildwood, Missouri 63040 requests an exception to the *Failure to Commence Construction (General)* and the *General Development Conditions (Particular)* for the purpose of extending the deadline for the commencement of substantial construction at 16815 Manchester Road (Locator Number 24V630286), which would thereby authorize the deadline for substantial construction to begin on this project no later than January 25, 2018 in lieu of the required July 25, 2016. This request is contrary to the requirements of Chapter 415.190 C-8 Planned Commercial District Regulations of the City of Wildwood Zoning Ordinance and C-8 Planned Commercial District Ordinance #1953, which was approved by the City of Wildwood in 2013, and governs this property. The City of Wildwood Planning and Zoning Commission did not extend this timeline, when presented to it. **(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. 19-16**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

1. The site of this requested variance is an approximately 11.5 acre tract of land that is located on the north side of Manchester Road, west of the Taylor Road roundabout. This property has approximately 425 feet of frontage along Manchester Road and has substantial visibility along its length at this location.

2. The site generally reflects a rectangle in its shape, but with greater width than depth. The property is abutted on three (3) sides by other parcels of ground that are used for commercial, residential, and institutional uses, which is somewhat typical of the Manchester Road Corridor and its long history of existence and use. This pattern is why the property has had zoning district designations that have accommodated greater use and activities associated with it starting with St. Louis County in the middle part of the 1980's.

3. The property is currently zoned C-8 Planned Commercial District and has been since 2007. This zoning district designation was approved by the City of Wildwood and authorized up to 165 multiple-family units on this site, with common areas and public space. The City's Planning and Zoning Commission approved the Site Development Plan for this development on July 6, 2010.

4. The C-8 Planned Commercial District contains regulations that require certain timelines be met relative to the approval of the Site Development Plan, which did occur, and then the commencement of construction on the site, which is the subject of this request. Commencement of construction was to be met under the requirements of the underlying regulations of the Zoning Ordinance within eighteen (18) months of the plan's approval by the City. The original date, based upon the approval of the Site Development Plan, was December 6, 2011. This date has been extended multiple times by the Planning and Zoning Commission and City Council.

5. The property is currently vacant and has been in excess of twenty (20) years.

6. The site has a major drainageway that extends from its western boundary to its eastern boundary, which is defined by mature woodlands, while the remainder of it is lawn area that is regularly maintained.

7. The Department would note that it supported the current request for an extension of time, when presented to the Planning and Zoning Commission at its meeting on July 5, 2016. The Department noted in its support that another extension of time was reasonable, given that no changes to the regulations had occurred by the City that would alter the project's components.

Current Request

8. The current request relates to the timeline for commencement of construction on this site and the delay associated with this required activity. Twice the Planning and Zoning Commission, and its membership, reviewed this matter and denied any further extensions to the current deadline. This action was also reviewed by the City Council, which is the reason the Planning and Zoning Commission acted upon the matter on two (2) occasions. The City Council had requested this second review, given its inclination to allow an additional extension of time for the commencement construction at the project site.

9. The number of previous extensions that have been granted for this project, prior to the current request, was three (3), which first started on July 8, 2013. Given the language of the site-specific ordinance, the extension can only be granted by the Planning and Zoning Commission, which again denied it twice. With these denials, the Board of Adjustment can hear the matter. The petitioner is seeking at least another eighteen (18) month extension of time for the allowance of commencement of construction to begin on the site.

10. The petitioner has noted the reasons for the delay in commencement of construction relate to the Great Recession, which began about the same timeframe as the approval of this project, limited interest thereafter, and the complexity of the Town Center standards and guidelines, when reviewed by potential developers of the project.

11. The petitioner has also noted a growth in the amount of recent interest by potential developers of the site and is trying to retain the right in this regard, so as to offer any buyer a savings in time in regards to the zoning process thereafter.

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 has not received any communications from surrounding property owners in opposition or favor of it (at the time of this report's completion and 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 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 for the extension of time for commencement of construction on the site. This position is premised upon a number of site-specific characteristics. These factors are as follows:

1. The Department would note that it supported the current request for an extension of time, when presented to the Planning and Zoning Commission at its meeting on July 5, 2016. The Department noted in its support of another extension of time that no changes to the regulations had occurred by the City that would alter the project's components.

2. The impact of such an action does not preclude further review by the City, once a proposal is submitted to the City for the use and development of property in the future. The City's multiple-tiered review processes does ensure that any project will meet the requirements of this community's land use codes and limit any potential impacts that might be associated with it.

Recommendation:

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

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning