



## WILDWOOD

### Determination of Issues and Findings of Facts regarding

**Board of Adjustment Case B. A. #04-16**  
**City of Wildwood's Board of Adjustment**  
**Public Hearing of April 21, 2016**  
**City Hall Council Chambers**  
**16860 Main Street**

#### ***Nature of Request:***

**B.A. 4-16 Terrence E. McDermott, 1620 Ashford Oaks Court, Wildwood, Missouri 63038** requests an exception to the Minimum Yard Requirements (General) for the purpose of constructing an in-ground swimming pool at 1620 Ashford Oaks Court (Locator Number 22V410383, Ashford Oaks Subdivision, Lot 3), which would thereby authorize a rear yard setback distance of fifteen (15) feet in lieu of the required thirty-five (35) foot standard, being set forth in the site-specific ordinance. This request is contrary to the requirements of Chapter 415.120 R-1A Residence District Regulations of the City of Wildwood Zoning Ordinance and St. Louis County Planned Environment Unit (PEU) Ordinance #16151. (**Ward One**)

#### ***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. 04-16**, 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 0.53 acre lot that is part of the Ashford Oaks Subdivision, which was platted by St. Louis County in 1993. This lot is located on Ashford Oaks Court, which is a City-maintained street, with eventual access to Old Eatherton Road.
2. The Ashford Oaks Subdivision consists of forty-four (44) lots that are zoned a combination of the R-1 One Acre Residence District and the R1A 22,000 square foot Residence District, with a Planned Environment Unit (PEU). The Planned Environment Unit (PEU) sets forth the requirements of how the project would be developed and the placement of all improvements on the lots themselves.
3. The lot that is the subject of the request is zoned R-1A 22,000 square foot Residence District, with the aforementioned Planned Environment Unit (PEU). This zoning designation and overlay district component set forth the parameters for the structure and building setback distances. The setback distances for this lot are as follows: twenty feet (20) for the front yard area; six (6) feet for the side yard areas; and thirty-five (35) feet for the rear yard area. Given this lot adjoins Old Eatherton Road, it has double frontage. This setback distance is greater than normal for a rear yard area of a lot, but set by the overlay district's site-specific ordinance for those lots adjoining this roadway location only.
4. The imposition of this special setback for the lots abutting Eatherton Road was intended to address the impact of the new development on this rural roadway.

5. The lot has an existing dwelling located upon it that was constructed in 1997 and is 3,570 square feet in size.
6. The lot is relatively flat, but with a steep rise from the rear of the dwelling toward the abutting roadway (Old Eatherton Road), while draining toward the north side of the lot, into an area inlet that is now impacted by the construction of a retaining wall in advance of the pool's consideration by the Board of Adjustment.
7. The lot is lawn area and has extensive landscaping associated with it. As noted above, a multiple-tiered retaining wall was recently installed on the lot to accommodate the planned pool. This wall received authorization from the City, given its height is less than six (6) feet. Retaining walls that are six (6) feet or less in height are permitted in the setback areas by the City's Zoning Ordinance.
8. The area around the subject lot is developed with other single family dwellings on individual parcels of ground that are associated with the Ashford Oaks Subdivision. Of the seven (7) lots located on the same side of the street as the subject site, four (4) of them have in-ground swimming pools.

### **Current Request**

9. The intent of this request is to allow the petitioner to construct an in-ground swimming pool, with decking, into the rear yard setback area of the subject lot. This installation will require the rear yard setback distance to be reduced from thirty-five (35) feet, as required by the site-specific ordinance governing this subdivision, to fifteen (15) feet.
10. The petitioner notes in the submitted application this reduction is needed due to the Homeowners Association's requirements that no portion of a pool be visible from the side yard areas of the property, which requires the pool to be shaped to fit behind the dwelling in its entirety.
11. The size of the pool is sixteen (16) feet by thirty-two (32) feet for a total size of 512 square feet. The decking, which is required to be installed in conjunction with the pool structure is twenty-eight (28) feet by forty-eight (48) feet and is inclusive of the pool area as well. In total, the pool and decking require approximately one thousand fifty (1,050) square feet of the rear yard area to be dedicated to this use.

### **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 received two (2) letters and/or comments in support of this request at the time this report was written and completed for distribution in this regard.
14. The review of the City's files indicates the City of Wildwood's Board of Adjustment has acted upon these following requests in the Ashford Oaks Subdivision - B.A. 21-96 Maynes Construction Company – subdivision promotion sign 120 sq. ft. in lieu of 50 sq. ft. – Recommendation for denial – Board denied; and B.A. 37-08 Jeff & Pamela Panchot (1624 Ashford Oaks Court) – front yard setback of 20' in lieu of 35' – pool and decking – Recommendation for denial – Board approved (**see attached report**).

### ***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. This position is premised upon a number of site-specific characteristics. These factors are as follows:

1. The request is not necessary to allow for the principle use of the property to be established upon it, since the single family dwelling has already been constructed and occupied there. Variances to ensure the principle use of the property are generally reasonable, but accessory structures, like in-ground swimming pools, typically do not meet the high standard necessary for granting a variance to a zoning requirement.
2. The installation of this pool, now preceded by the retaining wall system, is being accomplished with a known impact on stormwater drainage, which has already been altered. This alteration, without the benefit of an engineering study, creates concerns about impacts associated with this improvement.
3. The granting of a variance is premised on a unique hardship or practical difficulty relating to the physical characteristics of the property. None of these items are noted in petitioner's application for this variance.
4. The petitioner has proceeded forward with multiple alterations to the property making an assessment of its prior physical characteristics difficult.

**Recommendation:**

Based upon the above-listed Findings of Fact, the Department recommends the requested variance be denied, given the extent of impact and no hardship or practical difficulty relating to the characteristics of the land have been developed in petitioner's application.

Respectfully submitted,  
CITY OF WILDWOOD  
Department of Planning