



WILDWOOD

Determination of Issues and Findings of Facts

regarding

**Board of Adjustment Case B. A. #05-16
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. 5-16 Diane E. McCuaig, Family Gift Trust, 1128 Breton Woods Court, Wildwood, Missouri 63005 and Miceli Development, 1171 Breton Woods Court, Wildwood, Missouri 63005 - request an exception to the City of Wildwood's Natural Resource Protection Standards for the purpose of constructing an addition to an existing single-family dwelling located at 1128 Breton Woods Court (Locator Number 20V140046; Breton Woods Subdivision, Lot 2), which would thereby authorize the relocation of a portion of the Natural Resource Protection Area, and accompanying twenty-five (25) foot foundation setback, to another lot that is not contiguous to the subject property (Locator Number 20V420083, 1171 Breton Woods Court, Breton Woods Subdivision, Lot 5), while maintaining an equal amount of preservation area within the overall subdivision. These requirements and conditions regarding protected areas of the lot and related disturbance setbacks are specified by Chapter 420.200 Natural Resource Protection Standards and Procedures of the City of Wildwood Subdivision and Development Regulations, Chapter 415.090 NU Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance, and the Planned Residential Development Overlay District Regulations, per Ordinance #1025, approved by the Wildwood City Council on December 8, 2003. (**Ward Two**)

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. 05-16**, the issues relating to the variance's reasonableness and appropriateness are as follows:

Area and Site Characteristics

1. The sites of this subject request are two (2) legal lots of record located within the Breton Woods Subdivision, on Breton Woods Court, which intersects with Orrville Road. One (1) of these two

- (2) lots is the site of the requested construction of a building addition (Lot 2), while the other is the location where the intended additional preservation area would be placed (Lot 5).
2. The subject lot for construction purposes is 3.53 acres in size and zoned NU Non-Urban Residence District, while the other property is 2.15 acres and also designated NU Non-Urban Residence District. Both were part of a Planned Residential Development Overlay District (PRD) that was approved by the City of Wildwood in 2009. This overlay district allows the lot sizes to range from a minimum of one (1) acre to over three (3) acres in size.
 3. The dwelling was constructed in 2014 and is 4,548 square feet in size. Associated with the dwelling are a driveway, parking pad, and deck. All combined, the existing improvements have a footprint of approximately six thousand (6,000) square feet. These improvements must be placed within an overall area of the site that is designated for use, which is approximately 46,200 square feet in total area of it.
 4. The lot has limited areas of woodlands, while the majority of it is lawn, with new landscaping that was installed when the dwelling was completed on the lot.
 5. The property, based upon the Natural Resource Protection Standards, has some steep slopes and shallow soils, which led to the dwelling being placed upon a location of the lot orientated more toward its eastern side yard area.
 6. 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.
 7. 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.
 8. 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.
 9. The City of Wildwood requires the regulations relating to the Natural Resource Protection Standards be included on the Record Plat, and 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.

Current Request

10. The intent of this request is to allow for an addition onto the existing dwelling, which is orientated on its east side. The addition has a size of approximately 2,450 square feet and will meet all other structure and building setback requirement of its zoning district designation.

11. The reason for the request relates to the impact of the protected area of the lot on its overall buildable square footage. The addition's size, in conjunction with a new driveway area requires it to extend into an area protected by the Natural Resource Protection Standards requirements by 3,580 square feet.
12. The application submitted by the petitioner indicates the need for the addition and associated variance is premised on the need for a guest in-law suite and additional garage space. With the additional garage space, a motor court area will also be placed on the property.
13. The unique character of this request relates to the placement of the addition on the east side of the house and related improvements, which do not allow enough space for it, without encroaching into its protected area. Since no available area as suitable exists on the lot to trade, the developer of the subdivision is willing to increase the protected area of another lot located therein, so as the total protection amount for the total twelve (12) lots remains the same. This application and the nature of it is the first the City has ever been asked to consider.

Correspondences and Previous Actions

14. 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.
15. The Department of Planning has not received any letters and/or comments at the time this report was written and completed for distribution in this regard.
16. The review of the City's files indicates the City of Wildwood's Board of Adjustment has not granted any variances in this subdivision or 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 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 this addition is for a guest-in-law suite and additional parking. In fact, the requested encroachment associated with this request is for the new driveway/parking area.
2. The addition to the existing dwelling appears to be accommodated without the need for a variance and granting such for the driveway encroachment is not justified, given the high standard for allowing variances to City land use codes that must be applied.
3. The petitioner notes in the application for the requested variance the slope of the lot as a primary physical characteristic necessitating the request, but the area of the lot chosen for this building addition is very similar as other locations that are already intended to be disturbed, but are situated on the wrong side of the dwelling to complement the existing garage area and

driveway for their combined use.

4. The Department remains concerned the potential buyer of Lot 5 will also then need a variance at some point in the future, given an area of that lot would now be eliminated from use. Therefore, a favorable action by the Board of Adjustment on Lot 2 appears to be setting into place a poor precedence for the future.
5. The impact of granting this request is associated with the use of the side yard setback area to accommodate the requested construction. The City's Grading Code protects the side yard areas, even without the Natural Resource Protection Standard requirements being applied to the subject lot.

Recommendation:

Based upon the above-listed Findings of Fact, the Department recommends the requested variance not be approved due to the fact the necessary practical difficulty or unique circumstance has not been established relative to this request.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning