



WILDWOOD

Determination of Issues and Findings of Facts

regarding

Board of Adjustment Case B. A. #12-16
City of Wildwood's Board of Adjustment
Public Hearing of July 21, 2016
City Hall Council Chambers
16860 Main Street

Nature of Request:

B.A. 12-16 Scott And Regina Bailey, 18542 Great Meadow Road, Wildwood, Missouri 63038 request an exception to the Minimum Yard Requirements (General) for the purpose of maintaining a raised garden and flower bed that is located at 18542 Great Meadow Road (Locator Number 25X130093, The Estates At August Tavern Creek - Plat Two, Lot 13), which would thereby authorize a minimum front yard setback distance of zero (0) feet in lieu of the required fifty (50) foot standard. This request is necessary due to the construction of the raised bed within the private roadway easement, but on the petitioners' property. This request is contrary to the requirements of Chapter 415.090 NU Non-Urban Residence District Regulations of the City of Wildwood Zoning Ordinance and the Record Plat, per Ordinance #633, which was approved by the Wildwood City Council on August 28, 2000. **(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. 12-16**, 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 three (3) acre lot of record that is part of the Estates at August Tavern Creek Subdivision - Plat 2. This lot is one (1) of twenty-six (26) that form the overall subdivision, which was approved by the City of Wildwood in 2000 (Ordinance #633).
2. The property has frontage onto Great Meadow Road and Gustave Hollow Court, each of which are private streets that are located within forty (40) foot private roadway and utility easements. The pavement areas of these roadways are less than the width of the provided rights-of-way. At

petitioner's lot, one (1) of the two (2) roadways also forms a cul-de-sac (Gustave Hollow Court) and provides access to three (3) other properties, one (1) of them is vacant at this time.

3. The single family dwelling that is located on the subject site was constructed in 2001 and somewhat situated in the center of the lot, facing Great Meadow Road. Access to the side entry garage in association with the dwelling is from Gustave Hollow Court.
4. The tract of land is zoned NU Non-Urban Residence District. This zoning district designation authorizes the use of properties for primarily single family dwellings on large lots, generally three (3) acres or greater in area.
5. The property has a diverse set of physical characteristics associated with it, principally defined by the ephemeral drainageway that exists in the eastern half of it. The slope of the lot is in that general direction and at least sixty (60) percent of the site is heavily wooded, including within the vicinity of this drainageway. The area of the lot with the least amount of slope is around the two (2) roadways that define two (2) sides of the subject site and where the dwelling has been located.
6. The surrounding land use pattern is all residential, consisting of the other lots that are part of this same subdivision. Several of these lots are occupied with single family dwellings, while a few are still vacant.

Current Request

7. The intent of this request is to maintain a raised garden and flower bed, which would thereby authorize a minimum front yard setback distance of zero (0) feet in lieu of the required fifty (50) foot standard. The location of the raised garden and flowerbed is within the roadway and utility easement and well beyond the required fifty (50) foot setback distance.
8. The raised garden and flowerbed is approximately four hundred ninety (490) square feet in size.
9. The Zoning Ordinance of the City defines a structure as follows: "any assembly of material forming a construction for occupancy or use, excepting, however, public utility poles of less than forty-five (45) feet in height and appurtenances thereto, provided that such utility poles shall not be deemed structures for the purposes of setback regulations, underground distribution or collection pipes or cables and underground or ground level appurtenances thereto, provided that the location of such poles or facilities have been authorized by a conditional use permit, special use permit or other express approval by the City."
10. The petitioners note on the application provided to the Board of Adjustment the location that has been chosen for this structure is most suitable on the lot due to its topography and difficult slope and otherwise avoiding the removal of any other trees to accommodate it.
11. The petitioners also have provided Homeowners Association approval of the location relative to its placement in a common easement used for roadway and utility purposes.

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 of opposition at the time this report

was written and completed for distribution in this regard (see Current Request Item #10).

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. One (1) variance was granted in this subdivision, which occurred in September 2001. This variance allowed an encroachment into the Final Natural Resource Protection Area of the 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 authorization of a variance for an accessory structure of this nature is not necessary for the full utilization of the lot for its primary purpose of a single family dwelling. Therefore, the application does not meet the minimum standard for favorable consideration.
2. The placement of this structure into the roadway and utility easement is inappropriate and impactful, particularly if it is needed for future use.
3. The petitioners have defined the physical characteristics of the site as the reason for the needed variance for its current location, but the Department believes that, given the size of the structure, other locations on the lot do exist that would remove it from the easement area and lessen the needed setback reduction, i.e. approximately five hundred (500) square feet on a 130,680 square foot lot.
4. The granting of the zero (0) foot setback distance does not even allow for the structure to meet City requirements, since it is located within the easement area itself. The magnitude of the requested reduction is significant and not justified for a structure of this nature.

Recommendation:

Based upon the above-listed Findings of Fact, the Department recommends the requested variance not be approved.

Respectfully submitted,
CITY OF WILDWOOD
Department of Planning