

**CITY OF LAKE SAINT LOUIS
BOARD OF ADJUSTMENT
MEETING AND PUBLIC HEARING
APRIL 28, 2020
JOURNAL AND MINUTES**

The Board of Adjustment for the City of Lake Saint Louis, Missouri met in regular session and for a public hearing on Tuesday, April 28, 2020, at 5:00 p.m. in City Hall, 200 Civic Center Drive, Lake Saint Louis, Missouri.

ROLL CALL:

Mark Peterson, Chairman, presided over the meeting. The members present were: Benjamin Borengasser, Thomas Bach, Robert Carrothers, and Diane Mispagel. Also present were: Louis Clayton, Director of Community Development; Patricia Beckerle, Board Attorney; Brenda Cueller, Community Development Assistant; and Laura Lynn Murphy, Certified Court Reporter.

APPROVAL OF AGENDA: April 28, 2020

Benjamin Borengasser made a motion to approve the Board of Adjustment agenda as submitted. The motion was seconded by Robert Carrothers and passed unanimously.

THE AGENDA FOR THE APRIL 28, 2020 BOARD OF ADJUSTMENT HEARING STANDS APPROVED AS SUBMITTED.

MINUTES FROM: September 19, 2019 Board of Adjustment Hearing

Rob Carrothers made a motion to waive the reading of the minutes from the September 19, 2019 hearing and approve same as submitted. The motion was seconded by Diane Mispagel and passed unanimously.

THE MINUTES FROM THE SEPTEMBER 19, 2019 BOARD OF ADJUSTMENT HEARING STAND APPROVED AS SUBMITTED.

PUBLIC HEARING:

Consideration of an appeal for the following variances associated with the construction of a fence at 16 Harbor Point Court which will enclose a 2,545-square-foot rear yard area:

1. A variance to retain portions of an existing rear-yard fence (Section 430.470.I.1); and
2. A 565-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5).

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Application submitted by Steve Baker, owner.

Mr. Baker testified he purchased the home in 2016, which was built in 1977. He is proposing the construction of a retaining wall, a 495-square-foot pool, and fence that will enclose 2,545-square-feet of the rear yard area. Mr. Baker is requesting a variance to retain a portion of the existing fence built in 2017. He noted in February 2017, he obtained a permit to replace an existing retaining wall near the lake, concrete patio and steps near the home. The new retaining wall, concrete patio and steps were completed and inspected by the City on April 14, 2017. Mr. Baker testified that after the inspection by the City, the Lake Saint Louis Community Association gave their approval for him to install a fence along the edge of the upper retaining wall, which encloses 1,629 square feet of the rear yard, on July 20, 2017. Mr. Baker stated he was unaware that a permit was required to install the fence and the City made him aware that a variance will be required for the fence. Mr. Baker testified he installed the fence because he has an adult daughter with special needs and needed the fence for safety purposes. Mr. Baker discussed the plans for the proposed pool and installation of a new fence along the entire perimeter of the new retaining wall which will enclose the pool area, patio and living space. He stated enclosing the pool, patio and living space is for safety and aesthetic reasons. Mr. Baker testified he would prefer to have the fence placed to the edge of the retaining wall so there would be no open space between the pool fence and the edge of the retaining wall. He stated his concerns regarding safety and liability if someone were to get on the other side of the fence. Mr. Baker testified that an alternate pool design was submitted for a building permit; it did conform to the maximum pool fence area allowed by Code but could not place the fence along the top of the retaining wall all around.

Louis Clayton, Director of Community Development, was sworn in and testified that the alternate pool design did conform to the maximum size for a fence around the pool but it would not be allowed to be installed along the top of the retaining wall all around. Mr. Clayton testified that the pool house shown in the alternate pool design did conform to Code requirements for maximum pool area and had been approved for construction.

The Staff Report prepared by Louis Clayton, Director of Community Development, states Mr. Baker's variance requests.

1. A variance to retain portions of an existing rear-yard fence (Section 430.470.I.1 of the Code); and

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2. A 565-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5 of the Municipal Code).

The Board questioned Mr. Baker regarding the new retaining wall, fence, and if other designs had been considered, i.e. smaller size pool or different living area around the pool.

Patricia Beckerle, Board Attorney, presented the following items to be entered into the record. The items accepted, marked, and entered into evidence were:

- Exhibit 1 – Request for the Existing Fence Variance to Board of Adjustment, City of Lake Saint Louis, Missouri submitted by the Applicant.
- Exhibit 2 – Request for the Pool Fence Variance to Board of Adjustment, City of Lake Saint Louis, Missouri submitted by the Applicant.
- Exhibit 3 – Plans for the Baker Residence prepared by Blue Haven Pools dated December 5, 2019 (Sheets P1 and P2) depicting the existing fence and proposed pool, retaining wall, and fence area.
- Exhibit 4 – Quitclaim Deed to the Property
- Exhibit 5 – Fence and Gate Detail Sheet and Echelon Aluminum Ornamental Fencing specifications (Pages 4-1 and 4-6).
- Exhibit 6 – Staff Report
- Exhibit 7 – Lake Saint Louis City Municipal Code

Public hearing closed.

NEW BUSINESS:

Consideration of an appeal for the following variances associated with the construction of a fence at 16 Harbor Point Court which will enclose a 2,545-square-foot rear yard area:

1. A variance to retain portions of an existing rear-yard fence (Section 430.470.I.1); and
2. A 565-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier (Section 430.470.J.5).

Application submitted by Steve Baker, owner.

GENERAL DISCUSSION:

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The Board discussed the testimony given to retain portions of an existing rear-yard fence variance and a 565-square-foot variance from the 1,980-square-foot maximum area permitted to be contained with a pool barrier.

The Board reviewed the evidence.

MOTION TO APPROVE VARIANCE: (16 Harbor Point Court)

Diane Mispagel made a motion to grant a variance to retain portions of an existing rear-yard fence as presented. The motion was seconded by Thomas Bach. The poll of the Board being ayes: Robert Carrothers, Diane Mispagel, Thomas Bach, Benjamin Borengasser and Mark Peterson; nays: none. The vote was 5 to 0 in favor and the request was granted.

Benjamin Borengasser made a motion to grant a variance to allow a 565-square-foot variance from the 1,980-square-foot maximum area permitted to be contained within a pool barrier as presented. The motion was seconded by Robert Carrothers. The poll of the Board being ayes: Mark Peterson; nays: Thomas Bach, Robert Carrothers, Diane Mispagel, and Benjamin Borengasser. The vote was 1 to 4 not in favor and the request was denied.

PUBLIC HEARING:

Consideration of an appeal for the following variances associated with the construction of a 168-square-foot detached pavilion at 2 Lake Shore Circle:

1. A 1-foot variance from the required 8-foot side yard setback for accessory structures (Section 410.230.B).
2. A 7-foot variance from the required 25-foot rear yard setback for accessory structures (Section 410.230.B).
3. A 1.5-foot variance from the required 6.5-foot side yard setback for chimneys (Section 410.230.B and 410.110.A)

Application submitted by Kevin Keenoy, property owner.

Kevin Keenoy and Kathy Keenoy were sworn in. Mr. Keenoy testified he and his wife purchased the property on September 28, 2016; the home was built in 1987. Mr. Keenoy testified that improvements have been made to the property by replacing an existing retaining wall along with constructing a new patio area. Mrs. Keenoy testified that they are seeking to construct a pavilion in their back yard which would face the lake to add shade to the yard. Mr. Keenoy testified that the

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pavilion structure encroaches into the rear- and side-yard setbacks. He stated that his neighbors along Lake Shore Circle are in support of the structure. Mr. Keenoy also received support from his neighbor to the south (Bonnie and Wayne Walkenhorst) and the neighbors directly across the channel from the property (Reva and Don Sneedhammer; Phil and Marilyn Law).

The Board questioned the Keenoys regarding the size of the proposed pavilion and if moving the fireplace would eliminate the need for a variance.

Mr. Keenoy stated the size of the proposed pavilion is to be large enough to not be cramped with a table and seating. He stated the fireplace shown on the plans is part of the proposed pavilion. Mr. Keenoy testified if the fireplace were relocated, the proposed pavilion would still encroach into the setbacks.

Ben Dolan was sworn in and testified that he builds structures of this type and the size of this pavilion is modest being large enough to place a table and chairs. Mr. Dolan testified that the size of the fireplace had been modified so as not to encroach on a 5-foot utility easement on the side of the property. Mr. Dolan testified placing the pavilion in the proposed location is the only area open so as to encroach as little as possible in the setbacks while not crowding the residence. He noted that a variance would be required for almost any design.

Patricia Beckerle, Board Attorney, presented the following items to be entered into the record. The items accepted, marked, and entered into evidence were:

- Exhibit A – Request for Variances to Board of Adjustment, City of Lake Saint Louis, Missouri submitted by the Applicant.
- Exhibit B – Staff Report.
- Exhibit C – Plans for Pavilion Addition for Keenoy Residence prepared by Sharp Custom Home Designs dated December 10, 2019.
- Exhibit D – Enlarged image of the Site Plan shown on the Plans showing the Southeast corner of the Property.
- Exhibit E – General Warranty Deed (Individual) to the Property.
- Exhibit F – Lake Saint Louis City Municipal Code
- Exhibit G – (1) Letters in support of the Application from Bonnie and Wayne Walkenhorst, Reva and Don Sneedhammer, and Phil and Marilyn Law, and (2) signatures of eight neighboring property owners verifying that they “will not experience any adverse effects” from the granting of the Variances.

Public hearing closed.

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NEW BUSINESS:

Consideration of an appeal for the following variances associated with the construction of a 168-square-foot detached pavilion at 2 Lake Shore Circle:

1. A 1-foot variance from the required 8-foot side yard setback for accessory structures (Section 410.230.B).
2. A 7-foot variance from the required 25-foot rear yard setback for accessory structures (Section 410.230.B).
3. A 1.5-foot variance from the required 6.5-foot side yard setback for chimneys (Section 410.230.B and 410.110.A)

Application submitted by Kevin Keenoy, property owner.

GENERAL DISCUSSION:

The Board discussed the testimony given for variances associated with the construction of a 168-square-foot detached pavilion.

The Board reviewed the evidence.

MOTION TO APPROVE VARIANCE: (2 Lake Shore Circle)

Robert Carrothers made a motion to grant a 1-foot variance from the required 8-foot side-yard setback for accessory structures; a 7-foot variance from the required 25-foot rear-yard setback for accessory structures; and a 1.5-foot variance from the required 6.5-foot side-yard setback for chimneys. The motion was seconded by Thomas Bach and passed unanimously. The variances are granted.

ADJOURNMENT:

There being no further business to come before the Board of Adjustment, the hearing was, on motion duly made, seconded and unanimously voted on, adjourned.

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THE HEARING ADJOURNED.

The hearing adjourned at approximately 6:35 p.m.

Approved

Brenda Cueller, acting as recording secretary