



CITY OF MANCHESTER Board of Adjustment

May 12, 2022

A meeting of the Board of Adjustment of the City of Manchester, Missouri was held at 6:30 p.m. on the 12th day of May 2022, on the video conference application, Zoom, for the transaction of such business that came before the Board.

Present:

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| Chairman | Kent Goddard |
| Board Member | Anne Altepeter |
| Board Member | Dan Miller |
| Board Member | Alan Nissenbaum |
| Board Member | Mandy Meininger |

Also Present:

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| P&Z Director | Todd Streiler |
| City Attorney | Joseph Bond |
| Deputy City Clerk | Cinnamon Mullins |

Call to Order

Chairman Goddard called the meeting to order at 6:41 p.m.

Roll Call

Deputy City Clerk Mullins commenced with the roll call. A quorum was present for the transaction of city business.

Approval of Minutes

Chairman Goddard introduced the minutes from the February 10, 2022 Training Work Session for consideration by the Board. Member Nissenbaum made a motion to approve the minutes as submitted; Member Altepeter seconded the motion. The motion passed unanimously by voice vote.

Chairman Goddard introduced the minutes from the February 10, 2022 Board of Adjustment meeting for consideration by the Board. Member Altepeter and Member Nissenbaum noted changes to the minutes on page three regarding the voting of case 22-V-001. Member Miller made a motion to approve the minutes as amended; Member Nissenbaum seconded the motion. The motion passed unanimously by voice vote.

Approval of the Agenda

Chairman Goddard introduced the items on the May 12, 2022 Board of Adjustment Agenda for consideration by the Board. Member Altepeter made the motion to approve the agenda as submitted; Member Miller seconded the motion. The motion passed unanimously by voice vote.

Old Business

None

New Business

22-V-005

Chairman Goddard introduced Case No 22-V-005 and stated that Brad & Sarah Zimmerman, owners, are seeking a variance from Section 405.200.E.1, Section 405.610.A., & Section 405.630.A.2 pertaining to the location of fences, in order to replace a fence located at 970 Kinsale Drive and zoned R-3 Single-Family Residential District.

Chairman Goddard requested that individuals who intend to testify in the case be sworn in. Thereupon, Director Todd Streiler, Mr. Brad Zimmerman, and Mr. Greg Smith were duly sworn in or affirmed to testify to Case No. 22-V-005.

Chairman Goddard instructed City Attorney Bond to commence with the proceedings of Case No. 22-V-005. City Attorney Bond introduced the City's evidence regarding the property and lot and the applicable zoning code requirements, including the City's Zoning Code, staff report, the application for a variance as filed by the applicant, images and site plans of the work and property. Additionally, City Attorney Bond called on the City's witness, Director Todd Streiler and asked Director Streiler to explain the reason for the denial of the permit and to explain the variance request. Director Streiler explained that the applicant is requesting a variance from the setback requirements regarding the location of a proposed fence as required by Section 405.200.E.1, 405.610.A, and 405.630.A.2 to replace the existing fence built prior to the property's annexation by the City of Manchester. Director Streiler reported that the proposed fence encroaches in the 20-foot setback by approximately 20 feet since it is on the property line.

Mr. Zimmerman testified to his request for a variance from the 20-foot setback line. He explained that the current fence was in the proposed location, and they were looking to replace it. He continued that the fence is necessary to utilize the yard with small children since the property abuts a major road. Mr. Zimmerman explained that the 6ft fence proposed would not seem as tall along the property line due to an elevation change. He furthered that the City had previously written them up for the state of the current fence, so they are trying to comply with the City's standards.

Mr. Smith, subdivision trustee, explained that the fence had been in that location for at least 25 years and this is a like-for-like replacement of the existing fence. He continued that the subdivision was brought into the case because a portion of the fence is on the subdivision property. The trustees agreed that their position is that it is in the subdivision and residents' best interest to rebuild the fence in the current location as it lines up with other properties and has not adversely affected the subdivision before.

City Attorney Bond entered into the record Exhibit G, an email from Debra Leahey, owner of 967 Kinsale Dr, in support of the change of fence height and material allowed by the subdivision to allow for the proposed fence to be installed.

After discussion, Member Nissenbaum made a motion to approve the variance to reduce the twenty-foot front yard setback line required by Section 405.200.E.1, Section 405.610.A., & Section 405.630.A.2 of the City’s Code of Ordinances by 20 feet to allow for the construction of a fence in the front yard of a corner lot along the property line on Dougherty Ferry Road as shown on the submitted plans as presented by the applicant at this hearing due to the practical difficulties as demonstrated by the applicant. Member Altepeter seconded the motion. Upon a roll call vote, the motion passed unanimously as follows:

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| Board Member Alan Nissenbaum | AYE |
| Board Member Dan Miller | AYE |
| Board Member Mandy Meininger | AYE |
| Board Member Anne Altepeter | AYE |
| Chairman Kent Goddard | AYE |

The motion to grant the requested variance was announced passed and the variance was granted.

22-V-006

Chairman Goddard introduced Case No 22-V-006 and stated that Greg Smith, Trustee on behalf of the Seven Oaks Subdivision, owners, are seeking a variance from Section 405.200.E.1 and Section 405.630.A.2 pertaining to the location of a fence, in order to replace an existing a fence located on subdivision common ground at 950 Kinsale Drive in the R-3 Single-Family Residential District. The property has frontage along Kinsale Drive to the west, Dougherty Ferry to the east, and abuts properties zoned R-3 Single-Family Residential to the north and south.

Chairman Goddard instructed City Attorney Bond to commence with the proceedings of Case No. 22-V-006. City Attorney Bond introduced the City’s evidence regarding the property and lot and the applicable zoning code requirements, including the City’s Zoning Code, staff report, the application for a variance as filed by the applicant, images and site plans of the work and property and email from neighbor Debra Leahey. Additionally, City Attorney Bond called on the City’s witness, Director Todd Streiler and asked Director Streiler to explain the reason for the denial of the permit and to explain the variance request. Director Streiler explained that the applicant is requesting a variance from the setback requirements regarding the location of a proposed fence as required by Section 405.200.E.1 and 405.630.A.2 to replace an existing fence. Director Streiler reported that the proposed fence encroaches in the 20-foot setback by approximately 20 feet since it is on the property line.

Mr. Smith testified to his request for a variance from the 20-foot setback line. He explained that he represented the Homeowners Association and that there is no residence on 950 Kinsale, just subdivision common ground. He continued that the proposed fence is replacing an existing fence that was partially on this property. He explained that the trustees of the subdivision met and discussed what was best for this fence and it was decided to keep the proposed fence in the same location as the previous fence to keep continuity with neighboring fences.

Board members raised questions on whether the other properties whose fences are potentially encroaching on common ground are aware that the subdivision can remove portions of the fence if necessary. Mr. Smith responded that there was no utility line or

easement so he did not foresee an issue that would cause the subdivision to need to do this. He continued that they are not positive if these fences are on the common ground as surveys have not been done on the properties.

Board members asked clarification on what parties are involved in issues of encroachment. Director Streiler explained that the encroachment was a civil issue, not an issue with the City.

After discussion, Member Miller made a motion to approve the variance to reduce the twenty-foot front yard setback line required by Section 405.200.E.1 and 405.630.A.2 of the City's Code of Ordinances by 20 feet to allow for the construction of a fence in the front yard of a corner lot at its closest on the property line on Dougherty Ferry Road as shown on the submitted plans as presented by the applicant at this hearing due to the practical difficulties as demonstrated by the applicant. Member Nissenbaum seconded the motion. Upon a roll call vote, the motion passed unanimously as follows:

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| Board Member Alan Nissenbaum | AYE |
| Board Member Dan Miller | AYE |
| Board Member Mandy Meininger | AYE |
| Board Member Anne Altepeter | AYE |
| Chairman Kent Goddard | AYE |

The motion to grant the requested variance was announced passed and the variance was granted.

Adjournment

There being no further business, Member Altepeter made a motion to adjourn the meeting. Member Miller seconded the motion. The motion passed unanimously by voice vote at 7:25 p.m.

Respectfully submitted,

Cinnamon Mullins
Deputy City Clerk