

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT
MEETING SUMMARY
Thursday, February 6, 2020**

The Board of Adjustment meeting was called to order at 6:00 p.m. on Thursday, February 6, 2020 by Ms. Katherine Hipp, Chair of the Board of Adjustment.

I. Introduction of Board and City Staff

The following individuals were in attendance:

Ms. Katherine Hipp, Chair
Ms. Melissa Heberle, Vice-Chair
Mr. Stanley Proctor
Ms. Jeannie Rader
Ms. Barb Whitman

Mr. Chris Graville, City Attorney, City of Chesterfield
Mr. Mike Knight, Assistant City Planner, City of Chesterfield
Ms. Kathy Reiter, Recording Secretary, City of Chesterfield
Court Reporter, Alaris Litigation Services

II. Approval of March 7, 2019 Meeting Summary

Barb Whitman made a motion to approve the Meeting Summary. The motion was seconded by Melissa Heberle and **passed** by a voice vote of 5 to 0.

III. Request for Affidavit of Publication

The Chair noted that the Affidavit of Publication and exhibits for the Petition had been placed on the dais.

IV. Public Hearing Items:

The Chair read the Opening Comments for the Public Hearing.

- A. B.A. 03-2019 541 Oak Creek Meadows Ct. (Arch City Group):** A request for a variance from the City of Chesterfield "R2" Residential District regulations to create a lot less than 15,000 square feet in area. (16R220293)

Staff Presentation:

Mr. Mike Knight, Assistant City Planner for the City of Chesterfield, was sworn in by the Court Reporter.

Mr. Knight stated the following:

- The applicant is requesting a variance from the minimum R-2 lot size requirement of 15,000 square feet so that he may subdivide the 28,389 square foot property into one 15,000 square foot lot and one 13,389 square foot lot. The property and all surrounding properties south of Olive Boulevard have the same zoning designation of the R-2 Residence District.
- 541 and 549 Oak Creek Meadows Court formerly was a single 43,389 square foot lot upon which a single family residence was constructed. The intent of the applicant is to build 3 homes on the site. However the site is not large enough to create three 15,000 square foot lots.
- The applicant has stated that they are unable to acquire land from adjacent land owners to create two 15,000 square foot lots.
- The applicant has submitted a statement of hardship along with position letters indicating support from adjoining property owners . Those items were included in the meeting packet for the Board's consideration.

Petitioner's Presentation:

Mr. Dan Manning, Doster, Ullom & Boyle, LLC, 16090 Swingley Ridge Rd, Ste 620, Chesterfield, MO 63017, was sworn in by the Court Reporter.

Mr. Manning stated that they are requesting a variance from the minimum R-2 lot size requirement of 15,000 square feet to 13,389 square feet, and then made the following points:

- The Variance Lot would be 1,611 square feet smaller than the minimum lot size required in R-2 zoning districts, or about a 10% decrease.
- Granting the variance will allow for the construction of one additional single family dwelling which will not negatively impact the provision of public services.
- The subdivision and adjoining property owners support the granting of the variance.
- The Applicant is unable to acquire additional adjacent property. The landlocked nature prevents the development of standard conforming lots which creates the practical difficulty. Applicant and the City had discussed the City vacating five feet of the Oak Creek Meadows Court right-of-way so that the Applicant could acquire fee simple title to the underlying land and incorporate that land into the Subject Property. A title search showed the land is still owned by Herzog Homes, the

original developer which has since dissolved in 2008. The former director, Robert Herzog has moved out of the St. Louis area and cannot be reached.

- They do not feel that changing to a more dense zoning, such as R-3, is appropriate. Why not just change the zoning to a more dense zoning, the R-3 category? The property is in the middle of a vast R-2 zoning district that includes the Oak Creek Meadows homes. The Applicant feels it is important to preserve the character of the neighborhood rather than zoning to R-3. Because of the R-3 minimum lot size of 10,000 square feet, the site could be developed into four lots, instead of the proposed three,
- Granting the variance would allow for the property to be put to its most productive use. It will also permit the Oak Creek Meadows subdivision to install a subdivision monument sign which benefits the subdivision. Finally, the Applicant has made substantial effort to remedy the difficulty before requesting the variance.

Discussion:

Ms. Whitman asked Mr. Manning whether the petitioner knew both the lot size and City code before he bought the property, to which Mr. Manning answered yes to both questions. Ms. Whitman then stressed that this was a problem of his own making. He bought the property knowing that it was R-2 and not big enough for three 15,000 square foot lots.

Mr. Proctor inquired as to whether the Applicant considered making two larger lots. Mr. Manning replied that there really isn't a market for larger lot sizes. People generally are looking for smaller lots, smaller yards.

Mr. Graville asked Mr. Manning if the two homes already built were sold, and if they were already subject to the HOA covenants. Mr. Manning replied they were not. Part of the process was to make the properties subject to those covenants and be part of the subdivision if there were to be three lots. Mr. Graville clarified that the two existing lots are not part of the subdivision. Mr. Manning agreed they are not but said they will bring them into the covenants.

Ms. Heberle asked if the current terrain could be described.

At this time, Mr. Kumara Vadivelu, Arch City Group, LLC, 305 Avanti Court, O'Fallon, MO 63368, the Petitioner, was sworn in by the Court Reporter.

Mr. Vadivelu explained that the terrain slopes downhill towards the south. The third house will be a couple of feet lower than the second house which is a couple of feet lower than the first house. There are two inlets at the neck of the cul-de-sac that water will flow into and the cul-de-sac slopes the other way. The area behind the apartments are all wooded areas and the south end of the subject property is all trees and shrubs growing wild. By building the third home, that will all be cleaned up. The trees will be maintained according to the City of Chesterfield's Tree Preservation regulations, which require thirty percent of

the existing trees be preserved. It was noted that the site will actually preserve closer to fifty percent of the trees. This will benefit the subdivision, along with the installation of a subdivision monument sign paid for by the Applicant. The sign could not be constructed at this location without the three lots becoming part of the subdivision, and without being subject to the subdivision indentures because it would be considered an off site sign according to City code. Being part of the subdivision also gives the HOA certain rights.

No Speakers were present to speak **in support** of the variance request.

No Speakers were present to speak **in opposition** of the variance request.

The Board members had a discussion amongst themselves.

CONCLUSION

Melissa Heberle made a motion to approve the variance request to create a lot less than 15,000 square feet in area. The motion was seconded by Jeannie Rader. Upon roll call, the vote was as follows:

Katherine Hipp	Yes
Melissa Heberle	Yes
Stanley Proctor	Yes
Jeannie Rader	Yes
Barb Whitman	No

The motion passed 4 to 1. The application was approved.

V. Election of Officers

- A. Chair**
- B. Vice Chair**

Chair Hipp asked for nominations for the Chair of the Board of Adjustment. Melissa Heberle nominated Katherine Hipp. The motion was seconded by Jeannie Rader.

The motion to nominate Katherine Hipp as Chair of the Board of Adjustment passed by a vote of 5-0.

Katherine Hipp accepted the position as Chair of the Board of Adjustment.

Chair Hipp asked for nominations for Vice-Chair of the Board of Adjustment. Chair Hipp nominated Melissa Heberle. The nomination was seconded by Jeannie Rader.

The motion to nominate Melissa Heberle as Vice-Chair of the Board of Adjustment passed by a vote of 5-0.

Melissa Heberle accepted the position as Vice-Chair of the Board of Adjustment.

VI. Adjournment

The meeting adjourned at 6:52 p.m.