



city
of **CREVE COEUR**

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**BOARD OF ADJUSTMENT OF
THE CITY OF CREVE COEUR**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

APPLICANT: David Volz, Volz Engineering
SUBJECT PROPERTY: 871 North Mason Road, Creve Coeur, MO 63141
ZONING DISTRICT: "D" Single Family Residential
APPEAL: Stream Buffer Protection Regulations, to wit,

VARIANCE REQUEST FOR THE SUBDIVISION AT 871 NORTH MASON ROAD TO DISTURB 2,930 SQUARE FEET, or 3.3%, OF THE REQUIRED UNDISTURBED STREAM BUFFER IN ORDER TO REMOVE EXISTING STRUCTURES AND REGRADE THE STREAM BUFFER

HEARING DATE: OCTOBER 20, 2022

FINDINGS OF FACT

1. The Applicant is the engineer for the proposed subdivision who represented themselves on behalf of the property owner. Bethany Moore testified on behalf of the City.
2. The City submitted the following exhibits which were admitted into evidence:
 1. City of Creve Coeur Charter.
 2. Code of Ordinances of the City of Creve Coeur.
 3. The Creve Coeur Comprehensive Plan.
 4. The PowerPoint presentation by Staff regarding the Request
 5. The Applicant's presentation.
 6. Staff's report to the Board, with The Board of Adjustment application and all attachments thereto.
 7. A collective Exhibit of materials received from the Applicant.
 8. Proof of public notice
3. The Applicant, on behalf of McKelvey Homes, applied for a variance to disturb 2,930 square feet of the stream buffer required per Section 430.050 (A) in order to remove an existing barn, connect a detention basin to the creek, and fill in an existing pond located in the stream buffer at 871 North Mason Road in the "D" Single-Family Residential Zoning District. Per Section 430.050 (A), streams shall have an undisturbed natural vegetative buffer for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. Upon clearing of the existing barn, pond and house outside the stream buffer McKelvey Homes plans to build 12 new single-family homes.
4. The shape of the property, although deep, is narrower at the eastern property line that borders North Mason Road. This limits access to the entire property due to its long, narrow

shape horizontally and existing road bridge. The three additional sides of the property border previously developed subdivisions and offer no access to any roads. The entire southern portion of the property is heavily affected by Fernridge Creek running through it. The location of the N. Mason bridge over the creek and the creek itself limits access to the northeast corner of the property.

5. The stream buffer requirements restrict the use of the land 50 feet on either side of the stream bank which significantly limits the use of the property. The provided site plan shows that 2,930 square feet, or 3.3%, of the stream buffer will be disturbed for the demolition of the pond and barn and installation of the on-site stormwater basin before being returned to a natural vegetative buffer area. The location of the pond limits the location of the cul-de-sac access road, which has to reach all the way to the western portion of the lot. Moving the cul-de-sac to avoid the pond all together would eliminate 3-4 of the proposed lots. With the proposed variance, the applicant is already proposing a single loaded street with 1/3 the allowed density for the "D" Zoning District and, according to the applicant, the elimination of additional lots would create a project that is not economically feasible.
6. The stormwater basin has to be located at the lowest portion of the site near the creek in order to manage the onsite water. The submitted plan shows that once the demolition of the barn is complete, the pond is filled in and the stormwater basin is constructed, the 50-foot stream buffer will be returned to a natural buffer without impervious area or additional grading. After reviewing the proposed variance request and submitted site plan, Public Works Staff is not concerned that the variance request will have a negative impact on the water quality and believes that the removal of the barn and pond from the stream buffer will positively impact the water-quality. Once the barn and pond are removed and the installation of the stormwater basin is complete, the natural vegetative buffer of 25 feet will be maintained, as will the additional 25-foot non-impervious buffer which will serve the goals of the stream buffer in Section 430.050.

CONCLUSIONS OF LAW

7. Pursuant to Section 89.090.1 R.S.Mo. and Chapter 430 of the City Code of Ordinances, the Board of Adjustment has jurisdiction to hear this appeal.
8. The Board of Adjustment is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made in the enforcement or interpretation of the Code, or where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinances.
9. Appropriate notices were authorized and published by the City Clerk and mailed to residents and property owners in compliance with the City Code and the documents supporting those actions are on file with the City Clerk's office.

REPORT OF DECISION

10. The variance application is approved.
11. The Board approved the 2,930 square foot, or 3.3%, stream buffer variance due to

evidence supporting hardship related to the strict application of the Zoning Code on the property, after considering all required factors under Chapter 430.

12. The ayes and nays cast on the motion to grant the variance were as follows:

5 AYE 0 NAY

<u>Name:</u>	Mr. Glenn Wilen (Chair)	- Aye
	Mr. Robert Mooney	- Aye
	Mr. James Kostelc	- Aye
	Mr. Arnold Mayersohn (Alternate)	- Aye
	Ms. Dana Connan (Alternate)	- Aye

ADOPTED AND APPROVED AS OF THIS 20th DAY OF OCTOBER, 2022.

Glenn Wilen
Chairman

Date of signature:

Attest:

Bethany L. Moore
City Planner