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: **Lynne Koestner, Homeowner**
SUBJECT PROPERTY: **512 Meadow Green Place, Creve Coeur, MO 63141**
ZONING DISTRICT: **"B-RDD" Single Family Residential**
APPEAL: **Rear Yard Setback, to wit,**

VARIANCE REQUEST FOR THE PROPERTY AT 512 MEADOW GREEN PLACE TO REPLACE A DECK THAT ENCROACHES 26 FEET INTO THE REAR YARD SETBACK WHERE THE REQUIRED REAR YARD SETBACK IS 30 FEET.

HEARING DATE: **NOVEMBER 17, 2022**

FINDINGS OF FACT

1. The Applicant represented themselves. 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. Staff's report to the Board, with The Board of Adjustment application and all attachments thereto.
    6. A collective Exhibit of materials received from the Applicant including her PowerPoint presentation.
    7. Proof of public notice

3. The Applicant submitted a rear yard variance request of 21 feet in order to reconstruct an existing rear deck 4 feet from the rear property line in the same footprint as the existing deck at 512 Meadow Green Drive. The subject property is within the Country Forest Subdivision, zoned B-RDD, where unless otherwise noted on the subdivision plat the standards fall back to the underlying B zoning district, per Section 405.450(D)(1)(c) of the Residential Designed Development Procedure. The subdivision plat does not indicate a reduced rear yard and B Zoning District has a rear yard setback of thirty (30) feet, per Section 405.260(E)(4)(e). Additionally, Section 405.630(A)(5) provides that a deck, whether elevated or at ground level, may project up to five (5) feet into a required rear yard. Therefore, the variance request is for the remaining 21 feet of encroachment.

4. The variance requested arises due to the lack of documentation on the approved Country Forest subdivision plat for the rear yard setback. The lack of documentation causes the

rear setback to revert back to the underlying B zoning district setback of 30 feet, causing any deck construction to require a variance. This issue is common to this subdivision but is not ordinarily found in the B Zoning District outside of the Country Forest subdivision. The variance requested is not due to a hardship created by the owner of the property.

5. The granting of the variance would not adversely affect adjacent property owners or residents, due to the location of the rear deck and the rear property line's proximity to the common ground beyond. Allowing the deck will not have an adverse effect on the adjacent properties, as many of the homes have decks that are so similarly situated.

6. Strict application of the provisions of the Zoning Ordinance would cause severe practical difficulty to the property owner because the required rear yard setback of 30 feet would completely eliminate the property owner's ability to have any deck, let alone replace the deck in the existing footprint, causing severe practical difficulty when the property owner needs to replace the aging deck members.

7. Granting the 21-foot rear yard variance will not adversely affect the public health, safety, order, convenience, or general welfare of the community.

8. Granting the 21-foot rear yard setback variance would not violate the general spirit and intent of Section 405.630 *Yard Regulations* as the reduced rear and side yard setbacks for the approved Residential Designed Development were not recorded on the plat, causing the setbacks to revert back to the underlying "B" zoning which applies to larger lots not in consideration of maintenance of commons ground. The rules applied to the Residential Designed Development more clearly provide the requirements for such standards and where they must be placed on the subdivision plat. As with many homes in the Country Forest Subdivision, any meaningful improvement is likely to require a variance until the subdivision ordinance is modified to codify the side-yard and rear-yard setback.

9. The lot and subdivision were approved with reduced size in consideration of maintenance of the large common ground areas. The home was placed according to setbacks other than those required of lots in the B zoning district in consideration of the Residential Designed Development, similar to many of the homes in the area, and as such are not easily improved without a variance since the rear yard and side yard setbacks are not recorded on the plat. Given the history of the subdivision, and lack of documented standards regarding the rear yard setback, this represents an "exceptional circumstance" for this property.

10. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property, given that the proposed deck is remaining within the same footprint as the existing deck and therefore will not result in the diversion of additional stormwater that would adversely affect adjacent property.

CONCLUSIONS OF LAW

11. Pursuant to Section 89.090.1 R.S.Mo. and City Ordinance, the Board of Adjustment has jurisdiction to hear this appeal.

12. 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.

13. 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

14. The variance application is approved.

15. The Board approved the 21-foot rear yard variance due to evidence supporting hardship related to the strict application of the Zoning Code on the property.

16. The ayes and nays cast on the motion to grant the variance based on all applicable criteria were as follows:

5 AYE 0 NAY 1 ABSENT

Name:		
	Mr. Glenn Wilen (Chair)	- Aye
	Mr. Robert Mooney	- Absent
	Mr. James Kostelc	- Aye
	Ms. Martin Satz	- Aye
	Mr. Arnold Mayersohn	- Aye
	Ms. Dana Connan	- Aye

ADOPTED AND APPROVED AS OF THIS 17th DAY OF NOVEMBER, 2022.

Glenn Wilen

Digitally signed by Glenn Wilen
Date: 2022.11.21 09:33:24 -06'00'

Glenn Wilen
Chairman

Date of signature:

Attest:

Bethany L. Moore
City Planner