



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JUNE 20, 2018
6:00 P.M.**

CALL TO ORDER

Chairman Bill Jaggi called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Tom Fann; Mr. Brian Stiens; Mr. Bill Jaggi, Mr. Nick Trupiano; Mr. Bill Kendall; Mr. Ken Braunfeld, Planning Coordinator; and Ms. Melissa Vollmer, Recording Secretary.

MINUTES

Mr. Jaggi asked the Board for any comments or questions regarding the minutes of the April 18, 2018 meeting. Mr. Fann made a motion and Mr. Kendall seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

Mr. Jaggi asked for any reports or communications from the Officers or Staff. Mr. Braunfeld indicated that there were none.

PETITION 18-I

Mr. Jaggi stated that the purpose of the meeting was to consider Petition 18-I. William and Alissa Juelich request a variance to permit a structure (egress window well) in a utility easement. The property is located on Lot 157 of Huntleigh Estates Plat Two as recorded in Book 31 Pages 21-214 at the St. Charles County Recorder's Office, more commonly known as 539 Wyatt Drive.

Mr. Jaggi declared the public hearing open for consideration of Petition 18-I. The petitioner or their agent was requested to step forward to present their petition. Mr. William Juelich, homeowner, was sworn in as the petitioner. Mr. Juelich explained that a portion of his basement is finished and to bring his home in to compliance with current building codes and for safety purposes, he has decided to install an egress window in his basement. In order to fulfill the building code requirements, the window well will encroach into the easement in his side yard, therefore, he is requesting a variance to permit a structure (egress window well) in a utility easement

Mr. Braunfeld was sworn in to present the City's position on Petition 18-I. Mr. Braunfeld explained that William and Alissa Juelich would like to install an emergency egress window well approximately one foot into the five foot general utility easement along the side property line at 539 Wyatt Drive. As noted by the applicant, emergency egress window wells were not installed when the home was constructed. It is noted that in 1994 when the home was constructed, the building code did not require the installation of emergency egress window wells unless a bedroom was installed in the basement. Subsequent to the construction of this subdivision, the City adopted a new building code which requires all basements with or without bedrooms to have an emergency egress window well to allow people to exit the basement during an emergency. The applicant has indicated they would like to more safely use their basement and meet the new code requirements.

Based on this, William and Alissa Juelich request a variance to permit a structure (egress window well) in a utility easement. The property is located on Lot 15 7 of Huntleigh Estates Plat Two as recorded in Book 31 Pages 213-214 more commonly known as 539 Wyatt Drive.

Mr. Braunfeld noted that the variance requested by the applicant is from the Zoning and Subdivision Regulations (Title IV land Use Chapter 405 as amended) state:

Section 405.270 Accessory Buildings or Structures, Alterations and Additions:

4. No principal building or structure or accessory building or structure shall be located within or partially within a designated utility easement.

Mr. Braunfeld explained that general utility easements are established around the perimeter of most lots in the City during the record plat process. The typical easement is five (5) feet on each side of the lot line thus creating a ten (10) foot wide easement. The layout and design of the subdivision and this home were completed many years before the emergency egress window well building code requirement. The current owner would like to install an emergency egress window well to meet the best management practices of the code for the safety of his family, which will place approximately one foot of the window well within the five foot general utility easement.

In general it is important to protect easements and prohibit structures from being built in an easement. In this case the encroachment into the easement is to permit emergency egress from the basement. As noted, the original design of this home and subdivision pre-date the current code requirements. In addition, all the lots have perimeter utility easements which provide the utility companies many alternative utility locations should some future need arise.

Ideally, staff would suggest the property owner obtain easement vacations from the various utility companies including the City. However, the length of time and processing fees from utility companies can be hundreds of dollars and take many months. All these items combined lead to what staff believes creates an undue hardship for the applicant.

Therefore, the best solution to this problem is for the City to grant a variance from the Code requirement that prohibits the placement of a structure in an easement. The granting of the variance will not relinquish the property owner from any easement rights that have been granted to the utility companies. In essence, the property owner will proceed at their own risk and are free to deal with the utility companies on the encroachment.

Mr. Braunfeld stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

The applicant would not be able to install an emergency egress window well within a small portion of an easement that does not contain any public utilities. Therefore, this would reduce the safety of the home and compliance with current building codes. Together this would be a burden to the homeowner with no benefit to the public.

2. Does the hardship result from the strict application of these regulations?

The proposed variance allows the installation of an emergency egress window well which will improve the safety of the home and compliance with the current building codes. The strict application of the easement regulations would prevent a safety improvement to the home resulting in a hardship.

3. Is the hardship suffered by the property in question?

The current building code requirements requiring an emergency egress window well will require a small encroachment into the existing easement, creating a hardship on the subject property.

4. Is the hardship the result of the applicant's own actions?

While the applicant is responsible for the placement of the emergency egress window well, it is being done to improve safety and compliance towards current building codes.

5. Is the requested variance in harmony with general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance were approved it would be in harmony with the general purpose and intent of the zoning regulations since the emergency egress window well will improve safety and compliance towards current building codes. In addition, approximately three to four feet of the five foot utility easement will still be available for the utility companies to use, plus the additional five feet of utility easement on the other side of the property line.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will have been assured and substantial justice will have been done because the applicant will have been able to use their property to the fullest extent and will have no ill effects on surrounding properties or the City as a whole.

Based on this analysis, staff recommends the approval of a variance to allow a window well encroachment in a utility easement located on Lot 157 of Huntleigh Estates Plat Two as recorded in Book 31 Pages 213-214 more commonly known as 539 Wyatt Drive, with the following contingencies:

1. The granting of this variance is for an egress window well and associated accessories only.
2. The window well and associated accessories may not extend more than two (2) feet into the easement.
3. The granting of this variance does not relinquish the utility companies' rights to the use of the easement as granted by Huntleigh Estates Plat Two as recorded in book 31, pages 213-214 at the St. Charles County Recorder of Deeds Office.
4. The use of the easement is at the property owner's sole risk which may require partial or full removal or relocation of the window well at the property owner expense at the request of a utility company for use of the easement.

Mr. Jaggi asked if any of the board members had questions for Mr. Braunfeld. Mr. Jaggi asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition 18-I. Seeing no one present to comment, Mr. Jaggi closed the public hearing. Mr. Jaggi also noted that the City cannot enforce subdivision indentures and that it is up to the Homeowners Association to enforce them.

Mr. Fann made a motion and Mr. Trupiano seconded to approve Petition 18-I.

Mr. Jaggi requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Stiens	Yes
Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Trupiano	Yes

There being 5 yes, 0 no vote, Mr. Jaggi declared that Petition 18-I was approved.

Mr. Fann presented the Findings of Fact as follows:

1. The property is located on Lot 157 of Huntleigh Estates Plat Two as recorded in Book 31, Pages 213-214 more commonly known as 539 Wyatt Drive.
2. The lot is presently zoned R-1 Residential District.
3. The adjacent zoning is R-1 Residential District.

Mr. Stiens a motion and Mr. Trupiano seconded to approve the findings of fact. The motion carried unanimously.

Mr. Trupiano presented the Conclusions of Law for Petition 18-I as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

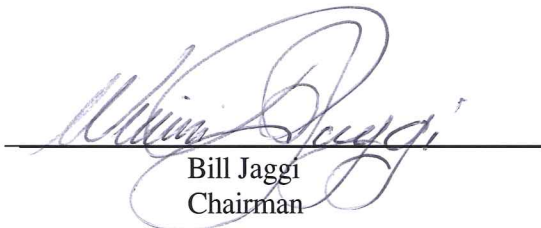
Mr. Trupiano made a motion and Mr. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Kendall made a motion and Mr. Trupiano seconded to adjourn the meeting at 6:18 p.m. The motion carried unanimously.

Respectfully submitted:



Melissa Vollmer
Recording Secretary



Bill Jaggi
Chairman