

**PUBLIC HEARING FOR VARIANCE CASE #338 & #340
OF THE BOARD OF ADJUSTMENT
FOR THE CITY OF OSAGE BEACH, MISSOURI**

January 20, 2021

Call to Order

Chairman Randy Gross called the Board of Adjustment Commission of the City of Osage Beach, Missouri, to order at the regular meeting on January 20, 2021 at 4:00 p.m.

Chairman Randy Gross asked that everyone stand for the Pledge of Allegiance.

Roll Call

The following Board Members were present: Chairman Randy Gross, Karen Bowman, Fred Catcott, Gloria O'Keefe and Louis Mayer. Also, present City Planner Cary Patterson, City Attorney Ed Rucker and Planning Department Secretary Pam Campbell. Capital City Court Reporting Court Reporter Shelly Stewart was also present.

Minutes – 11/18/2020

Chairman Randy Gross asked if there were any corrections or comments regarding the November 18, 2020 minutes. There were none. *Board member Gloria O'Keefe made a motion to approve the November 18, 2020 minutes and Board member Fred Catcott seconded the motion which passes unanimously.*

New Business

Chairman Randy Gross presided, read the Statutes of Missouri and read the criteria for granting a variance, went over the rules that special circumstances must exist and established that a quorum had been met.

B) Variance Case No. 339 David and Annemarie Stein

Chairman Randy Gross called Case No. 339 and asked Planner Patterson if all legal requirements have been met.

Planner Patterson replied yes.

Chairman Randy Gross asked if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson replied yes sir.

Chairman Randy Gross asked if there were any written responses from the affected property owners.

Planner Patterson required there were none.

The Code Book and file containing Variance Case No. 339 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Chairman Randy Gross asked Planner Patterson to please describe the Variance request.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: January 20, 2021 **Case Number:** 339

Applicant: David and Annmarie Stein

Location: 5202 Dempsey Drive

Petition: Variance from minimum setback requirements

Purpose: Construction of a living room addition

Existing Use: Single-family home

Zoning: R-1b (Single Family)

Tract Size: Approximately 11,900 sq ft

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Dempsey Drive

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 2 of Paradise Cove First Addition" and is designated with the physical address 5202 Dempsey Drive.
2. The applicant is requesting a variance to build a living space addition on the side of the existing home that will be 23 feet from the front property line. The minimum required front yard setback in the R-1b zone is ten (25') feet from the side property line. According to the letter submitted by the applicant, the request is being made to provide so that their kitchen can be expanded. As you can see on the submitted site plan, the existing structure is already non-conforming with the deck encroaching well within the required front setback. Board of Zoning Adjustment approval is required to do any expansion to a non-conforming structure. Approval of the requested variance will allow the city to issue a legal building permit to construct the requested addition as per the submitted site plan.
3. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

Planner Patterson further explained that this property is topographically challenged and the homes were built before zoning codes and are non-conforming now.

Chairman Randy Gross as if there were any questions for Cary or the applicant.

The applicant, David Stein, stepped up to address the Board and was sworn in.

Chairman Randy Gross asked the applicant if he wanted to amend, add to or clarify anything on the application.

David Stein replied that the application is in order and good.

Chairman Randy Gross asked if there were any comments in favor, there were none. He then asked if there were any comments in opposition, there were none. He asked if there were any questions from the Board, there were none.

Ed Rucker, City Attorney, stated the file is in order and ready for the Board's decision.

Board member Fred Catcott made a motion to approve Variance Case No. 339 and Board member Lou Mayer seconded the motion. A roll call vote was taken, and Variance Case No. 339 was unanimously passed.

Chairman Randy Gross then called the next case

B) Variance Case No. 340 Joseph Valis

Chairman Randy Gross called Case No. 340 and asked Planner Patterson if all legal requirements have been met.

Planner Patterson replied yes.

Chairman Randy Gross asked if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson replied yes sir.

Chairman Randy Gross asked if there were any written responses from the affected property owners.

Planner Patterson required there were none.

The Code Book and file containing Variance Case No. 340 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Chairman Randy Gross asked Planner Patterson to please describe the Variance request.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: January 20, 2021 **Case Number:** 340

Applicant: Joseph Valis

Location: 1319 Phillips Lane

Petition: Variance from minimum setback requirements

Purpose: Construction of a 24'x21' shop

Existing Use: Single-family home

Zoning: R-1a (Single Family)

Tract Size: Approximately 14,355 sq ft

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Phillips Lane

Analysis:

1. The applicant is the owner of the property in question. The property is an un-platted lot and is designated with the physical address 1319 Phillips Lane.
2. The applicant is requesting a variance to build a 24'x21' shop on the upper portion of the property, that will be 2 feet from both the North and East property lines and 20' from the private drive easement known as Phillips Lane. The subject property is atypical as it does not have actual road frontage. This makes the lot and the required setbacks more difficult to define as there is no road to establish the front yard setback from. Typically, anything in the front yard would be required to be 25' front the road right of way and 10' from the side property line. This is a large lot that the requested shop would be able to be built in conformance in the front yard if it weren't bisected by the ingress/egress easement that serves the four homes adjacent to the applicant's property. It is important to maintain visual clearance from both requested structure and Phillips Lane, to assure the safety of those traveling on the easement and to those who may be exiting the structure. The applicant

has done that by placing it 20' off of the driving surface on Phillips Lane. I am concerned about the 2' setbacks from the North and East property lines. This does not give much relief between the structure and the neighbors property. If possible, I would like to see if the applicant would be willing to increase those setbacks from 2' to 5' and maintain a minimum of 15' from the driving surface of Phillips Lane. This will maintain visual clearance necessary from Phillips Lane and establish a setback that is customary to accessory structures in the residential zones. If the applicant is willing to do so, the request can be approved with an amended site plan to be submitted for the file and the building permit application. The variance approval and building permit will be tied to the amended site plan with approval being final after its submittal.

3. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the approved site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

Chairman Randy Gross said he agrees with this after physically inspecting the property.

Planner Patterson stated from 2-5 feet, changes to the firewall as well could be made.

Board member Fred Catcott stated for weed eating purposes around a chain link fence, that 5 feet would be plenty of room for that.

Planner Patterson asked the applicant if he'd be willing to do that, amend his request 5 feet.

The applicant, Joseph Valis said he had no problem with it and was then sworn in.

Chairman Randy Gross asked the applicant would agree to the modified application.

Joseph Valis replied yes.

Chairman Randy Gross asked if anyone was in favor or opposed to this request.

Board member Gloria O'Keefe asked about the garage/shop.

Planner Patterson stated it would be a two car garage but our residential requirement doesn't control the use.

Chairman Randy Gross asked for Council's opinion.

City Attorney, Ed Rucker replied the file is complete and the Board has the power to make the decision. He further stated to safeguard the subject matter, the motion should be framed as articulated for the change.

Planner Patterson stated the motion should be as follows: Amend the original request and submit a site plan to illustrate a 5' setback from the North and East of the property line, and a minimum of 15' from the road surface of Phillips Lane.

Planner Patterson asked if this made sense. City Attorney Ed Rucker replied yes.

Chairman Randy Gross asked about the legality of this since the property was owned by the applicant and his wife, but the wife wasn't listed on the application.

City Attorney Ed Rucker replied that in the state of Missouri, as a married couple, each person can act as the agent for the other.

Board member Karen Bowman made a motion to approve Variance Case No. 340 and Board member Gloria O'Keefe seconded the motion. A roll call vote was taken, and Variance Case No. 340 was unanimously passed as amended as follows: Amend the original request and submit a site plan to illustrate a 5' setback from the North and East of the property line, and a minimum of 15' from the road surface of Phillips Lane.

Chairman Randy Gross asked if there was any further business.

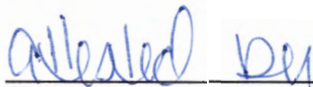
Planner Patterson stated he had nothing, unless you all do.

Adjourn

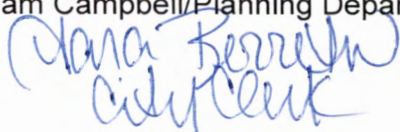
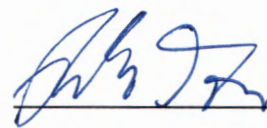
Board member Fred Catcott made a motion to adjourn the meeting and Board member Karen Bowman seconded the motion.

There being no further business to come before the Board of Adjustment, Chairman Randy Gross adjourned the meeting at 4:35 p.m.

I, Pam Campbell, Planning Department Secretary, for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Zoning Adjustment of the City of Osage Beach, Missouri, held on January 20, 2021.



Pam Campbell/Planning Department Secretary


Dana Berresheim
City Clerk

Randy Gross, Chairman