



AGENDA
Board of Zoning Adjustment

Regular Meeting
March 18, 2020
4:00 p.m.
City Hall
1000 City Parkway
Osage Beach, Missouri

REGULAR MEETING AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES FROM THE February 19, 2020 MEETING**
- 4. NEW BUSINESS**
 - A) Election of Officers**
 - B) Variance Case No. 333 Samuel and Colleen Brayfield**
- 5. ADJOURN MEETING**

**PUBLIC HEARING FOR VARIANCE CASE #331
AND VARIANCE CASE #332
OF THE BOARD OF ZONING ADJUSTMENT
FOR THE CITY OF OSAGE BEACH, MISSOURI**

February 19, 2020

Call to Order

Chairman Louis Mayer called the Board of Zoning Adjustment Commission of the City of Osage Beach, Missouri, to order at the regular meeting on February 19, 2020 at 4:00 p.m.

Roll Call

The following Board Members were present: Louis Mayer, Chairman, Karen Bowman, Randy Gross, Gloria O'Keefe and Fred Catcott. Board members not in attendance: Larry Jones. Also, present City Attorney Edward Rucker, City Planner Cary Patterson and Planning Secretary Pam Campbell. Capital City Court Reporter, Shelly Stewart, was also present.

Minutes – 11/21/2018

Chairman Mayer asked if there were any corrections or comments regarding the November 21, 2019 minutes. There were none. *Board member Gloria O'Keefe made a motion to approve the November 21, 2019 minutes and Board member Karen Bowman seconded the motion which passes unanimously.*

New Business

Chairman Mayer presided 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.

Chairman Mayer called Case #331 and asked if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson replied yes and all those notified were in support.

Chairman Mayer asked Planner Patterson to please describe the Variance request.

The Code Book and file containing Variance Case #331 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: February 19, 2020

Case Number:

331

Applicant: Ancilla Sapp
Location: 4605 Lakehurst Circle
Petition: Variance from minimum setback requirements
Purpose: Construction of a deck
Existing Use: Single-family home
Zoning: R-1a (Single Family)
Tract Size: Approximately 10,800 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 Osage Beach Road and Lakehurst Circle

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Park and Parking Area of Lakehurst Estates" and is designated with the physical address 4605 Lakehurst Circle.
2. The applicant is requesting a variance to build a deck on the side of the existing home that will be 2.83 feet from the side property line. According to the letter submitted the applicant the request is being made to provide access to a secondary ingress and egress to the home. As you can see on the submitted site plan, the existing home touches the property line at its closest point. With that being the case, a variance is required to enlarge a legal non-conforming structure as is being requested in this case. Approval of the requested variance will allow the city to issue a legal building permit to construct the deck as per the submitted site plan. The minimum required side yard setback in the R-1a zone is ten (10') feet from the side property line.

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.

Chairman Mayer asked the applicant to please step forward to be sworn in.

Jeanne Beal was sworn in and spoke on behalf of her mother. She stated the requested variance is much needed to provide safe ingress and egress for the existing non-conforming residence that was built in 1977. The previous owner obtained a permit for a door and a deck but the deck was never constructed. Mrs. Beal stated that because the deck hasn't been added, it has been difficult to insure the home. She added that all the neighbors are in favor of the deck addition, except for one who is opposed.

Fred Catcott asked Planner Patterson if he had a copy of the previous building permit.

Planner Patterson stated for the previous building permit was approved based on an incorrect site plan and once the deficiency was found, it rendered the permit void.

Chairman Mayer asked those in favor of the Variance request to please step forward.

Mark Dickey was sworn in. He expressed his thanks and said he's a neighbor to the south and explained that he was in favor of the applicant being given a variance for the proposed deck addition.

Mark Olson was sworn in. He is a neighbor to the west and the closest to the backyard. Mr. Olson stated he was also in favor of the Board granting the requested Variance. Mr. Olson explained that the change in siding has made the home look 100 times better and the deck addition will add aesthetic value to both the home and the neighborhood.

Betty Merli was sworn in. She stated that she has lived in the subdivision for 39 years and said everyone sees this home first when coming into the subdivision. She explained that she believes the deck addition will enhance the property.

Chairman Mayer asked if anyone would like to speak in opposition of the Variance.

Gregory Williams was sworn in. He stated he represents Kimberly Bauer in this matter. He stated he doesn't believe that the applicant has met the necessary hardship requirement and that this request should not be approved.

Karen Bowman stated she has been in the real estate business for 34 years and said this does

cause a hardship regarding the insurance carrier and potential to be dropped and they can't afford the excess insurance and just the difficulty to obtain insurance.

Gregory Williams replied this doesn't meet the necessary hardship requirement.

Karen Bowman said the applicant's age is an issue regarding disabilities accommodations for ADA and a safe egress is needed.

Chairman Mayer asked if anyone else had questions.

Fred Catcott asked what the City Attorney thought about this case.

Ed Rucker replied that he can't tell the Board how to vote but the Board members have the ability to make their own determination and decision.

Chairman Mayer asked for motion on Variance Case 331. *Karen Bowman moved to approve Variance Case 331, Gloria O'Keefe seconded the motion. A roll call vote was taken and Variance Case 331 was unanimously passed.*

Chairman Mayer asked Planner Patterson for the next Variance case 332.

The Code Book and file containing Variance Case 332 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: February 19, 2020 **Case Number:** 332

Applicant: Jeffrey Goris
Location: 1058 Rachel Road
Petition: Variance from minimum setback requirements
Purpose: Home addition
Existing Use: Single-family home
Zoning: R-1b (Single Family)
Tract Size: Approximately 6,700 sq ft

Case History Case # **Date**

None

Utilities

Water: City **Gas:** Summit
Electricity: Ameren **Sewer:** City

Access: The subject property derives access from Rachel Road

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 1 of Goris Subdivision" and is designated with the physical address 1058 Rachel Road.
2. The applicant is requesting a variance to build an addition on the side of the existing home that will be 11.70 feet from the front property line and 6.77 feet from the side property line. In the R-1b zone the minimum required front yard setback is twenty five (25') feet and ten (10') feet from the side property line.
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.

Chairman Mayer asked Planner Patterson is all legal requirements have been met.

Planner Patterson replied affirmative.

Chairman Mayer asked the applicant to please step forward to be sworn in.

Jeff Goris was sworn in. He stated Planner Patterson covered this very well and he has a good relationship with the neighbors. This is on a very steep hill and he is looking for consideration and approval for this Variance.

Discussion followed regarding the existing retaining wall and drainage

Chairman Mayer asked if anyone in attendance was opposed to this Variance.

No one stepped forward.

Chairman Mayer asked for motion on Variance Case 332. *Fred Catcott moved to approve Variance Case 332 and Randy Gross seconded the motion. A roll call vote was taken and Variance Case 332 was unanimously passed.*

REPORTS:

Chairman Mayer asked if there were any reports or comments from the staff.

Planner Patterson said the next scheduled meeting will be March 18, 2020.

Adjourn

There being no further business to come before the Board of Zoning Adjustment, Chairman Mayer adjourned the meeting at 4:50 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 February 19, 2020.

Pam Campbell/Planning Department Secretary

Louis Mayer/Chairman

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: March 18, 2020

Case Number: 333

Applicant: Samuel and Colleen Brayfield

Location: Lot 38 next to 5835 Pheasant Place

Petition: Variance from minimum setback requirements

Purpose: New Home

Existing Use: Single-family home

Zoning: R-1a (Single Family)

Tract Size: Approximately 11,250 sq ft

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

None

Utilities

Water: City
Electricity: Ameren

Gas: Summit
Sewer: City

Access: The subject property derives access from Pheasant Place

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 38 of Bellwood Estates Subdivision" and has yet to be designated with the physical address.
2. The applicant is requesting a variance to build a new home on the subject lot that will be 9.5 feet from the front property line. In the R-1a zone the minimum required front yard setback is twenty-five (25') feet.
3. The applicant contends that severe topographical issues do not allow the lot to be developed within the confines of the required setbacks.
4. 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.

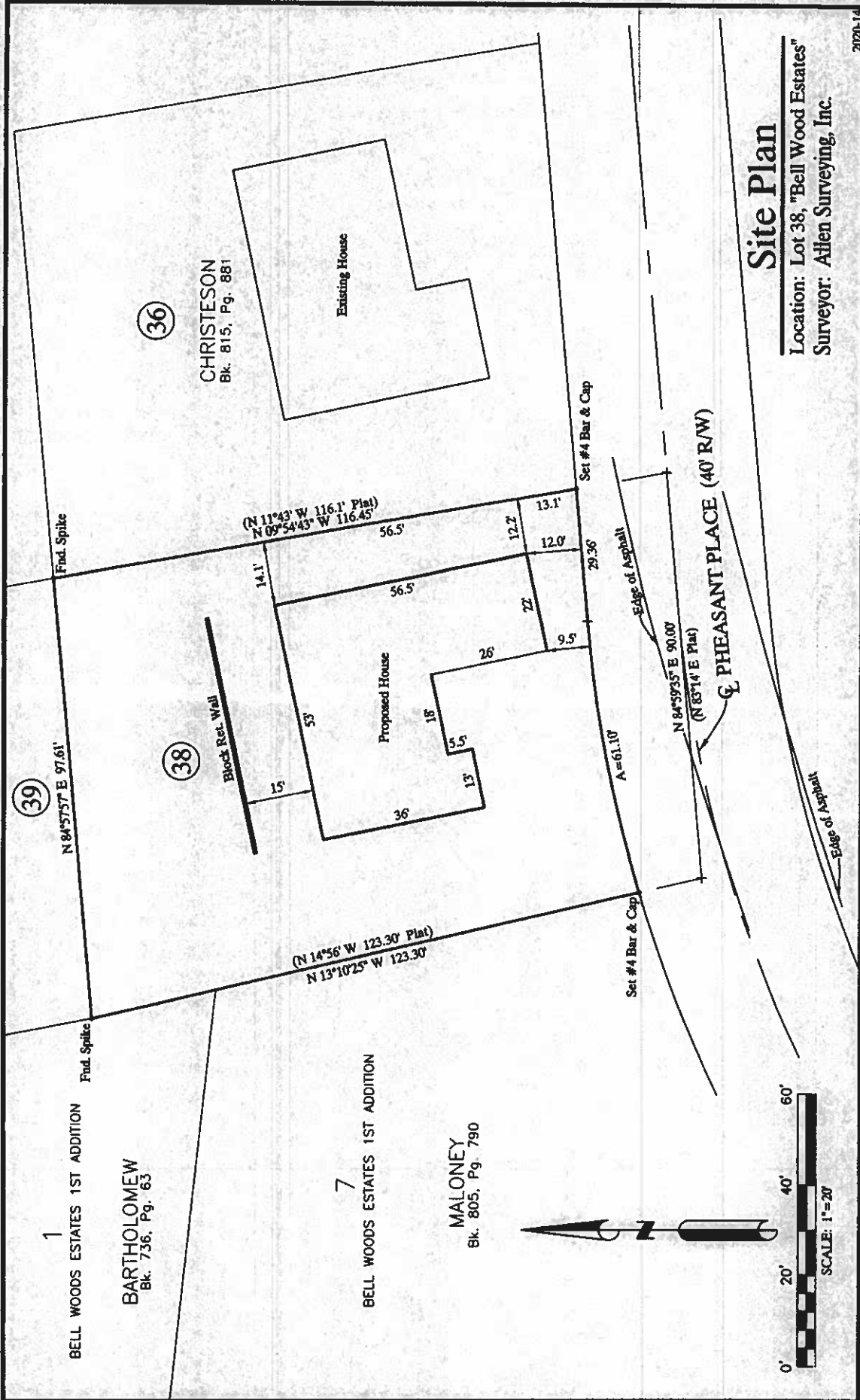
If this request is approved, the following conditions shall apply:

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.



Variance Case
333 Location Map





Site Plan

Location: Lot 38, "Bell Wood Estates"
 Surveyor: Allen Surveying, Inc.

2020-14



1
 BELL WOODS ESTATES 1ST ADDITION

BARTHOLOMEW
 Bk. 736, Pg. 63

7
 BELL WOODS ESTATES 1ST ADDITION

MALONEY
 Bk. 805, Pg. 790

36
 CHRISTESON
 Bk. 815, Pg. 881

38

39

CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
QUESTIONNAIRE

Set
573-216-2332

1. SIZE OF PROPERTY: *Sett*

2. SOURCE OF UTILITIES: WATER: *City* GAS: ? *Steam*
SEWER: *City* ELECTRIC: *American*

3. PRESENT USE OF PROPERTY: *VACANT*

4. PRESENT ZONING OF PROPERTY: *R-1*

5. HAVE YOU PREVIOUSLY APPLIED FOR A VARIANCE ON THIS PROPERTY? *No*
IF SO, WHEN? *N/A*

6. HOW LONG HAVE YOU OWNED THE SUBJECT PROPERTY? *10 years plus*

7. PLEASE LIST ANY EXISTING STRUCTURES ON THE PROPERTY AND THE YEAR BUILT. *N/A*

8. DO YOU OWN ANY PROPERTY ADJACENT TO THE SUBJECT PROPERTY? *Did 10 years ago*

9. WHY, IN YOUR OPINION IS YOUR CURRENT SITUATION, AND OR THE EXISTING
SIZE /EXTENT OF THE USE NOT ACCEPTABLE? *Home next door is built on the set back line
ie 10' off the property line. Top of site is very, very steep from front of lot a street to rear of lot 4
Major cost hardship if required to set home 25' off front line (property) high*

10. IS THERE ANY PARTICULAR HARDSHIP RELATED TO YOU OR YOUR PROPERTY OF
WHICH THE BOARD SHOULD BE AWARE? *yes* *Excavation, rock removal and
stability of site if required to be 48' from street. 23' from existing street to property line
and 25' set back per code.*

11. LIST SPECIAL CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND STRUCTURE
OR BUILDING IN QUESTION AND DO NOT GENERALLY APPLY TO THE NEIGHBORING
LANDS, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT OR VICINITY. *Because of the topo
of the site is the reason the lot has not been built on prior.*

12. LIST REASONS WHY STRICT APPLICATION OF THE PROVISIONS OF THE ZONING ORDINANCE WOULD DEPRIVE YOU OF REASONABLE USE OF THE LAND, STRUCTURE OR BUILDING IN A MANNER EQUIVALENT TO THE USE PERMITTED TO BE MADE BY OTHER OWNERS OF NEIGHBORING LANDS, STRUCTURES OR BUILDINGS IN THE SME

DISTRICT. owner, occupant next door is built upon the 10' set back line. We ask to do the same. The top of street to rear of lot rises 40'±. The street is paved close, within 8' of the across the street property line leaving 23' of R.O.W. on our side. This will give us a 35' driveway (23' + 12' on our property) to pave an main

13. WERE THESE SPECIAL CIRCUMSTANCES THE RESULT OF ANY ACTION TAKEN

SUBSEQUENT TO MAY 10, 1984? :

~~NO~~ see below

NO

NOTE: Applications must be accompanied by additional information as outlined in the Board of Adjustment Application Procedures. (Page 1 of this packet). The Administrative Officer of the Zoning Ordinance will review the application for Variance and determine if sufficient data is contained to adequately describe the situation to the Board of Adjustment. If the data is not adequate, the Administrative Officer shall return the application to the applicant for additional information. Only completed applications shall be forwarded to the Board of Adjustment.

SIGNATURE OF APPLICANT: x *[Signature]*

SIGNATURE OF PROPERTY OWNER: x *[Signature]*
Colleen Braefield

Checks should be made payable to the City of Osage Beach. Postage costs should be calculated and submitted with the \$330.00 filing fee.

STATE OF MISSOURI,

COUNTY OF CAMDEN,

Subscribed and sworn to me before me, the 11th day of February 2020

Notary Public *[Signature]*

My Commission expires: 7/7/2022

(stamp) DOROTHY URLICKS Notary Public - Notary Seal STATE OF MISSOURI Comm. Number 14515244 Camden County My Commission Expires: July 7, 2022

(seal)

x when was the street paved?

Date Submitted 2-11-20

CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
REQUEST FOR REVIEW

NAME OF APPLICANT: BRAYFIELD

MAILING ADDRESS:

TELEPHONE:

LOCATION OF PROPERTY: Be specific. Give directions to property. Include Lake Road and lot number. Attach legal description of property to this application. Please mark property in some way, i.e., distance from property lines with red paint, flags or stakes, indicating location of proposed variance.

VARIANCE FOR/FROM:

APPEAL FOR/FROM:

List names and mailing addresses of the current adjoining property owners:
(Attach a separate sheet if necessary)

Need help with this

NAME Samuel + Colleen Brayfield COMPLETE ADDRESS/WITH ZIP CODE

1045 Lowell Williams Rd. Linn Creek, MO 65052

Brian + Laura Maloney 15300 Mockingbird Ln Osage Beach, MO 65065-2410

Joseph + Jacqueline Bartholomew 58600 Bluebird Circle Osage Beach, MO 65065

Louis Meiser 5858 Bluebird circle Osage Beach, MO 65065-2404

Everett + Lucy Parker 5854 Bluebird Circle Osage Beach, MO 65065

Judith Christeson 5835 Pleasant Ln Osage Beach, MO 65065-2425