



city of **CREVE COEUR**

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

APPLICANTS: Joseph and Kimberly Cacciabando, property owners
SUBJECT PROPERTY: 3 Benwood Lane, Creve Coeur, MO 63141
ZONING DISTRICT: C Single Family Residential
APPEAL: Setback Variance, to wit,

VARIANCE REQUEST FOR THE PROPERTY AT 3 BENWOOD LANE TO ALLOW FOR A SWIMMING POOL AND ASSOCIATED PATIO AREA 4 FEET FROM THE NORTH PROPERTY LINE, WHERE SECTION 405.460 ACCESSORY USES AND STRUCTURES REQUIRES THAT SUCH STRUCTURES ARE A MINIMUM OF 15 FEET FROM THE PROPERTY LINE

HEARING DATE: December 21, 2020

FINDINGS OF FACT

1. The Applicants are the homeowners of 3 Benwood Lane, and were also represented by Wilson Waggoner, of Sherril Associates, the Civil Engineer for the project. Jason Jaggi and Whitney Kelly 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 Presentations by Staff and the Applicant 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.
 7. The public comments received.
 8. Proof of public notice
3. The Applicant requests variances to allow a swimming pool at 7.1 feet with the patio at 4 feet from the side property line, Section 405.460(B)(6) Accessory Uses and Structures of the City of Creve Coeur Zoning Ordinance requires that swimming pools, and their related structures, and other similar facilities, are to be setback at least 15 feet and 10 feet, respectively, from any lot line.
4. The variance requested arises from personal desire to have a pool that would reduce the required setback from 15 feet to 7.1 feet with the patio and related structures at 4 feet, and not due to the unique nature of the property.

5. Upholding the existing setback requirements would not cause severe practical difficulty and extreme hardship for the Applicant represented in the application.
6. The Applicant has submitted no evidence that strict adherence to the requirements of the Code could create an unnecessary hardship or practical difficulties due to the unique characteristics of the property not ordinarily found in the same zoning district
7. Granting the setback variances to allow for the pool within the setback as proposed violates the general spirit and intent of Chapter 405 of the Code of Ordinances by affecting the convenience of adjoining and nearby properties and would negatively impact the relationship between the pool structure in this neighborhood and the adjacent properties.

CONCLUSIONS OF LAW

8. Pursuant to Section 89.090.1 R.S.Mo. and City Ordinance, the Board of Adjustment has jurisdiction to hear this appeal.
9. 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.
10. Appropriate notices were authorized and published by the City Clerk and mailed to all the residents and property owners in compliance with the City Code and the documents supporting those are on file with the City Clerk's office.

REPORT OF DECISION

12. The variance application is denied.
13. The Board denied the variances for the setback due to the lack of evidence supporting any hardship related to such request.
14. The ayes and nays cast on the motion to grant the variance were as follows:

 0 AYE 4 NAY 1 ABSENT

<u>Name:</u>	Mr. Glenn Wilen (Chair)	- Nay
	Mr. Martin Satz	- Nay
	Mr. Robert Mooney	- Nay
	Mr. James Kostelc	- Nay

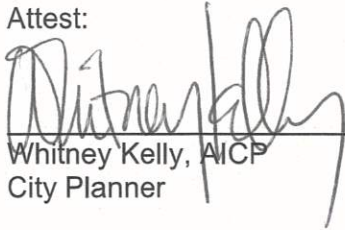
ADOPTED AND APPROVED THIS ____ DAY OF _____, 2020.

Glenn Wilen Digitally signed by Glenn Wilen
Date: 2020.12.18 16:44:31 -06'00'

Glenn Wilen
Chairman

Date of signature: 12/18/2020

Attest:

A handwritten signature in black ink, appearing to read "Whitney Kelly", is written over a horizontal line. The signature is stylized and cursive.

Whitney Kelly, AICP
City Planner