

BOARD OF ADJUSTMENT MEETING

JANUARY 28, 2021

Via Zoom Videoconference

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APPEARANCES

Mr. Keith Slusser, Chairman

Mr. Jared Balint

Mr. Ryan Marshall

Ms. Kristen McDaniels

Mr. Adam Sommer

Ms. Lisa Koerkenmeier
Director of Planning and Development

ON BEHALF OF THE CITY:

CURTIS, HEINZ, GARRETT & O'KEEFE
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MEETING CONVENED AT 7:02 P.M.

CHAIRMAN SLUSSER: Welcome to the January 28, 2021, meeting of the Brentwood Board of Adjustment.

The Board of Adjustment meets on call to hear requests for variances from provisions of the City Code, and to decide those matters.

The Board is formed under the provisions of Division 3 of Chapter 400, Article 2, of the Brentwood City Code, and is guided in their deliberations by the standards set forth in Division 7 of Chapter 400. I'll do roll call. Keith?

CHAIRMAN SLUSSER: Present. Jared?

MR. BALINT: Present.

CHAIRMAN SLUSSER: Ryan?

MR. MARSHALL: Present.

CHAIRMAN SLUSSER: Adam?

MR. SOMMER: Present.

CHAIRMAN SLUSSER: Kristen?

MS. McDANIELS: Present.

CHAIRMAN SLUSSER: There we go. All five members are here and accounted for. So all testimony that is given by the applicant and his representatives must be given under oath, sworn by a court reporter. We'll have a presentation of the applicant, a presentation of the Director of Planning and Development,

1 questions from the board, questions or comments from the
2 audience. If anyone in the audience wants to comment or
3 question, you'll need to give your name and address and
4 be sworn in before you speak.

5 The purpose of the meeting this evening is
6 the appeal of -- hopefully I say your name correctly --
7 Tom Magee, Bragees LLC from Section 400.1330 D.3.a of the
8 Brentwood Code of Ordinances pertaining to the required
9 front yard setback in a B single-family residential
10 district for the principal structure for property located
11 at 9101 Moritz Avenue.

12 I would like to have the applicant give the
13 presentation, and please give your name and address for
14 the record and be sworn in. And if you have any
15 additional documents, please present those as evidence.

16 **THOMAS MAGEE**

17 of lawful age, being first duly sworn to tell the truth,
18 the whole truth and nothing but the truth, says as
19 follows:

20 MR. MAGEE: Good evening. My name is
21 Thomas Magee, 8734 Bridgeport Avenue. I own and operate
22 Bragees Home Services.

23 CHAIRMAN SLUSSER: You're free to go.

24 MR. MAGEE: The project is at 9101 Moritz
25 Avenue, and it is actually a rear canopy over an existing

1 platform deck. I'm not sure -- it keeps coming up on the
2 reports as a front yard setback. I feel like it was a
3 side yard setback. But the canopy itself would be inside
4 of the house and the garage boundary, and we're just
5 asking for a setback revision for the existence of the
6 canopy.

7 CHAIRMAN SLUSSER: Anything else you'd like
8 to present, or is that it?

9 MR. MAGEE: No.

10 CHAIRMAN SLUSSER: Okay. Well, at this
11 time I will try to find my script. Okay. At this time
12 I'd like to ask the Director of Planning and Development
13 for her report to be entered into the report.

14 **LISA KOERKEMEIER**

15 of lawful age, being first duly sworn to tell the truth,
16 the whole truth and nothing but the truth, says as
17 follows:

18 MS. KOERKENMEIER: Lisa Koerkenmeier,
19 Director of Planning and Development for the City of
20 Brentwood. Good evening, everyone.

21 So the petition tonight, as Mr. Magee has
22 said, is for -- it actually is for a front right-of-way
23 setback. So when you have a corner lot situation here in
24 Brentwood, you only have one side yard, which is the
25 interior lot line, and that corner lot, wherever the

1 residence primary door is on the residence becomes the
2 primary frontage, and then the other frontage along the
3 intersecting street is actually a front right-of-way yard
4 setback. I know we've had several of these lately so I
5 know probably the board members are pretty familiar with
6 this.

7 So the setback that is being requested
8 tonight, they would have to in a B single-family
9 residential district set 25 feet then from the
10 intersecting street there, and that would be High School
11 Drive. And as I mentioned, the project that they would
12 like to build, there already is, like, an elevated
13 platform deck in the rear lot. So the project consists
14 of putting, like, a cover over that deck. But the
15 covered portion of it will actually still tie back into
16 the principal structure. So that covering of that deck
17 because it's part of the principal structure still has to
18 meet that 25-foot setback.

19 So in order to build the cover that they
20 would like to build, they would need a setback then from
21 that 25-foot setback. Their request is for a 14-foot
22 variance from that setback. So the new setback then
23 would be 11 feet.

24 This, again, I know we've had a lot of
25 these cases here lately, so I think you are all kind of

1 familiar it. But I did want to point out it was a little
2 unusual with this particular property when we were
3 writing the staff report. There are quite a few existing
4 structures on there. There's the house itself, and
5 then -- that was built in 1985. Then there was a
6 detached garage that's at the rear of the property
7 that -- this is all by county records, but that was
8 constructed in 1991. And then the deck came along later.
9 But really, as it stands, none of those structures
10 actually meet the setback. So I can't really go back in
11 time and say for sure how the other structures were
12 allowed to be built. I couldn't find any variances on
13 file, but, again, that's based on records that we have
14 still in our system, and that were available to me. I
15 don't know, again, if that really is a point for you to
16 consider, but I just kind of wanted to explain it. I
17 know I outlined it in the staff report, but it is a
18 little different in that respect.

19 So, with that, though, I think the request
20 kind of is as it stands and -- but I can certainly take
21 any questions.

22 MS. McDANIELS: So the existing platform
23 deck part is essentially considered already part of the
24 house structure just like this canopy would be, but
25 you're saying that there really isn't any record of a

1 variance for the platform deck situation that's already
2 there? Is that kind of what we're looking at?

3 MS. KOERKENMEIER: That's correct.

4 MS. McDANIELS: And the canopy isn't going
5 to go outside of the -- there's a fence there, I think,
6 so the canopy is going to be within that.

7 MR. MAGEE: Yes.

8 MS. McDANIELS: It's basically the width of
9 the house, right, the canopy?

10 MR. MAGEE: It's less than the width of the
11 house. The fence comes on the inside corner of the
12 house.

13 MS. McDANIELS: Okay.

14 CHAIRMAN SLUSSER: Any other --

15 MR. MARSHALL: I have a question, Keith.

16 CHAIRMAN SLUSSER: I was going to ask if
17 you have a question, so there you go.

18 MR. MARSHALL: I have a question for you,
19 Lisa. We had a similar case -- maybe not similar, but we
20 heard a petitioner last year, I believe, sometime and the
21 whole case kind of depended on whether or not the
22 accessory structure, the new structure to be built was
23 physically connected to the principal structure. In this
24 case if the petitioners did not have the canopy connected
25 to the house, would they be subject to the same setback

1 requirements?

2 MS. KOERKENMEIER: So, if it was more like
3 a pergola or something freestanding?

4 MR. MARSHALL: Correct.

5 MS. KOERKENMEIER: Okay, that would, I
6 think technically -- I might have to refer to Stephanie,
7 but I do think that probably would be considered just an
8 accessory structure. You still would have, though, a
9 distance requirement, though, from the house, which I
10 think is ten feet, but, Stephanie, I don't know if you
11 could confirm that or --

12 MS. KARR: I think it would be a little bit
13 of a stretch to consider that an accessory structure,
14 when it's basically on the deck that's connected to the
15 house, and that's right off of the house. It's
16 probably -- even if it was freestanding on top of the
17 deck, I still think that's part of the deck structure
18 which is connected to the house, so I still think that
19 that's going to be subject to the same setback
20 requirement.

21 MR. MARSHALL: Thank you.

22 MR. SOMMER: This is a bit of laziness on
23 my part, Lisa. What is the side yard setback
24 requirement? I know this is a 25-foot front yard
25 setback. What would a normal side yard be?

1 MS. KOERKENMEIER: Five feet.

2 MR. SOMMER: Five feet. Okay. And they
3 want it at 11 feet; correct?

4 MS. KOERKENMEIER: So, yeah, their setback
5 would still be 11 feet. They are requesting a 14-foot
6 variance.

7 MR. SOMMER: Okay. And just to confirm,
8 this is -- so in the pictures -- I actually know this
9 property. I walk by it all the time. That garage is
10 this home's garage, correct? The yard between the garage
11 and the house.

12 MR. MAGEE: Correct.

13 MR. SOMMER: Okay. Thank you.

14 MR. BALINT: So I have a question for Lisa.
15 So, Lisa, under our standards -- let me get to it here
16 real quick. It's number four. "Not impairing an
17 adequate supply of light to the adjacent..." You know, I
18 look at the pictures -- and I, too, walk by this house
19 all the time. There's no concern from what I'm reading
20 here that this is going to block any view or cause any
21 safety -- any less light to their neighbors? I guess
22 with the sun coming up in the east and, you know,
23 going -- you know, shining down in the morning, is it
24 going to -- does it cause any, you know, inconvenience to
25 their neighbors to the west?

1 MS. KOERKENMEIER: I don't know if I would
2 really know that. You know, there obviously was not
3 really like a light study done. Maybe Tom -- this
4 coverage is going to be -- there's no -- what should I
5 say? It's not like lattice or anything on the top;
6 correct?

7 MR. MAGEE: No. It's a solid wooden
8 structure. It would be roughly ten to ten foot six tall
9 at the house, which is just above the bay window about
10 three courses of siding up above the brick.

11 MR. BALINT: So from High School then as
12 you're walking towards Moritz or towards Pine there, and
13 you're going by the privacy fence, is it, you know,
14 concealed by the privacy fence based on the lay of the
15 land? What's the --

16 MR. MAGEE: No. You'll see the canopy
17 above the brick, right at the height of the brick, and to
18 a couple courses of siding. Just for reference, on your
19 house you've got a two story, so basically about halfway
20 up your house, Jared, where it would attach in the back.

21 MR. BALINT: Okay.

22 MR. MAGEE: It would be lower than your
23 garage roof.

24 MR. BALINT: Okay.

25 MR. SOMMER: I have one question. It's

1 probably more -- I don't know if it's for the homeowner
2 or for Lisa -- or the applicant, I'm sorry. So we have a
3 25-yard front yard setback on the front part of this
4 property. It's a corner lot, and so we're also applying
5 the 25-yard front yard setback on the eastern side of the
6 property, which I understand. I just want to check.
7 This is a 40-foot wide lot; correct?

8 MS. KOERKENMEIER: Yes.

9 MR. SOMMER: Right. And so we're applying
10 25 feet of that, so it leaves them 15 feet build if we
11 applied a front yard setback to both the front yard and
12 the side yard, that would leave them 15 feet of yard to
13 put anything; correct? I just want to make sure my math
14 is right.

15 MS. KOERKENMEIER: Well, and you've still
16 got then the five yard side yard, too, the interior.

17 MR. SOMMER: So they have a ten foot wide
18 house, is what they can build, because they have two
19 front yards. I just want to make sure I confirm I
20 understood that.

21 MS. KOERKENMEIER: That's correct.

22 MR. SOMMER: Okay. Thank you.

23 CHAIRMAN SLUSSER: Did we get any
24 correspondence from neighbors or anything like that?

25 MS. KOERKENMEIER: No, we did not. The

1 notices were sent but we did not receive any
2 communication.

3 CHAIRMAN SLUSSER: Has the neighbor
4 spoken at all -- has the homeowner spoken with the
5 neighbor at all? Do you have any inkling if they -- you
6 know, a lot of people don't open up their mail, so who
7 knows -- you know, I don't know that I can rely on that,
8 but have they spoken at all with the neighbor? Do you
9 know?

10 MR. MAGEE: I heard from one previous
11 client that lives on the other side catty-corner on the
12 east side of High School and explained the project, and
13 they were -- they thought it would be a very nice
14 project.

15 CHAIRMAN SLUSSER: Is there -- I guess
16 where is the rainwater? Do you have that all set up so
17 it doesn't cause water to run off onto the sidewalk and
18 anything like that?

19 MR. MAGEE: I had turned ARB in and then
20 with the first of the year, the 200-square foot changes
21 came and that, so I had Steve pull off of the January
22 meeting so I could get it engineered.

23 CHAIRMAN SLUSSER: So you plan on having
24 the water dump somewhere that's not going to end up on
25 the sidewalk and --

1 MR. MAGEE: Correct. It will have to
2 follow the new city's guidelines for rain watershed.

3 CHAIRMAN SLUSSER: Anyone else have any
4 questions? We have a couple audience members. Do the
5 audience members want to raise their hands and ask any
6 questions? Okay. All right. So, Carmen, if you would
7 state your name and address and be sworn in.

8 MS. ARACAMA: Hi, I'm Carmen Valero
9 Aracama. I'm the homeowner, 9101 Moritz Avenue.

10 **CARMEN VALERO ARACAMA**

11 of lawful age, being first duly sworn to tell the truth,
12 the whole truth and nothing but the truth, says as
13 follows:

14 MS. ARACAMA: So I haven't spoken to my
15 neighbors next door about this. I actually could bring
16 it up, but so far everybody that I've spoken in the
17 neighborhood, not directly across the street or next to
18 my house, felt that it was -- it -- discrete project from
19 the street, and also an improvement to the house, I
20 guess.

21 CHAIRMAN SLUSSER: Thank you.

22 CHAIRMAN SLUSSER: Anything else anyone
23 wants to add? Okay. Thank you. Okay. At this time I
24 will state the standards by which the variance is to be
25 judged.

1 Section 400.810. The variation requested
2 arise from a condition which is unique to the property in
3 question and which is not ordinarily found in the same
4 zoning district and is not created by an action or action
5 of the property owner or the applicant. The granting of
6 the variation shall not adversely affect the rights of
7 adjacent property owners or residents. The strict
8 application of the provisions of this chapter from which
9 a variation is requested will cause severe practical
10 difficulty or extreme hardship for the property owner
11 represented in the application. The variation desired
12 will not adversely affect the public health, safety,
13 order, convenience, or general welfare of the community.
14 Granting the variation desired will not violate the
15 general spirit and intent of this chapter.

16 At this time I'd like to request a motion
17 from a board member to approve the petition. You may add
18 conditions to the motion for approval.

19 MR. SOMMER: I'll give it a go. Motion to
20 approve the variance from Section 400.1330.D.3.a of the
21 Brentwood Code of Ordinances for the property located at
22 9101 Moritz Avenue for a front yard setback variance of
23 14 feet, and I had one condition that's good for
24 12 months from the date of approval.

25 CHAIRMAN SLUSSER: Do I have a second?

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MR. MARSHALL: Second.

CHAIRMAN SLUSSER: Okay. So we have a first and a second. I will conduct a roll call. Jared?

MR. BALINT: Yes.

CHAIRMAN SLUSSER: Ryan?

MR. MARSHALL: Yes.

CHAIRMAN SLUSSER: Adam?

MR. SOMMER: Yes.

CHAIRMAN SLUSSER: Kristen?

MS. McDANIELS: Yes.

CHAIRMAN SLUSSER: Keith, yes. A vote of 5-0. The variance has passed.

And as we have no other variances for this evening, everyone have a nice night.

MEETING ADJOURNED AT 7:21 P.M.

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C E R T I F I C A T E

I, Debra M. Musielak, Registered Diplomate Reporter, Certified Shorthand Reporter within and for the States of Missouri and Illinois, DO HEREBY CERTIFY that I was present on the date and at the place aforementioned and that the aforesaid proceedings were had as appears herein, and that this is a true and accurate record of said proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of February, 2021.



Debra M. Musielak
MO CCR #681
IL CSR #084-001684