



Department of Planning and Development
2348 S Brentwood Blvd.
Brentwood, Missouri 63144
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STAFF REPORT

REQUESTED ACTION: Variance from Section 400.1330.D.3.a of the Brentwood Code of Ordinances

LOCATION OF SITE: 8500 Genevieve Ave.

LOCATOR NUMBER: 21K610961

SIZE OF TRACT: 7,500 square feet

ZONING DISTRICT: "B" Single Family Residential District

PETITIONER NAME: Nicholas and Kathleen Clark
2448 Helen Ave.
Brentwood, MO 63144

EXHIBITS

- A. Code of Ordinances for the City of Brentwood and the City's Comprehensive Plan
- B. Appeal to the Board of Adjustment, including application
- C. Application materials submitted by Petitioner
- D. Photographs of the subject property taken by staff on 8-18-2020
- E. Staff Report from the Director of Planning and Development dated for meeting 08/27/2020

REQUEST

The petitioners are seeking a variance from Section 400.1330.D.3.a of the Brentwood Code of Ordinances for the property located at 8500 Genevieve Avenue which is zoned as "B-Single Family Residential." The residence located on this parcel was demolished in November 2019, and the lot is undeveloped. The subject property is a corner lot; 50' wide along Genevieve Avenue and 150' deep on the Helen Avenue side. The petitioners are proposing to construct a detached, two-story brick residence on the lot fronting Genevieve Avenue. The proposed residence is 32' feet wide.

The required setbacks are a 25' front yard setback from Genevieve and a 25' front (ROW) setback from Helen, a 5' side yard setback from the west property line and a 20' rear yard setback from the south property line. The corner lot must also abide by Section 400.1860.C

requiring at all street intersections no obstruction to vision other than an existing building, post, column, tree or shrubbery shall be erected in area defined by the following formula: The triangular area formed by connecting two (2) points, each forty (40) feet from the street intersection and located on the front lot line.

The site plan for the proposed residence depicts a 13' front (ROW) setback along Helen Avenue. The petitioners are requesting a 12' variance from the required 25' front (ROW) yard setback. Section 400.1870.B, Yard Requirements, requires any corner lot shall have a side yard equal in width to the minimum front yard setback of any adjoining fronting on the side street. In any event, the minimum side yard setback of a corner lot shall be no less than ten (10) feet.

A previous variance was requested for this parcel in 2019. A 10' variance was granted for the front (ROW) setback along Helen Avenue with the following conditions: The variance allowed the front (ROW) yard setback to be encroached upon by 10 ft allowing a 400 sq. ft. (10' wide x 40') section of the new home to be located within the required front (ROW) yard setback of 25', and secondly, a front (ROW) setback of 15' will exist on the east property line for the principal structure only and for a distance not to exceed 40' linear feet and the variance expires if the new residence is removed or destroyed by any means to an extent greater than fifty (50) percent of the residence's then current fair market value. This residence was not built, and the variance expired.

NOTIFICATION

Property owners within 300' of the subject property were notified by a letter sent via U.S. Mail. Notice of the public hearing was published in *The Countian*.

STANDARDS FOR VARIANCE – SECTION 400.810

Section 400.810 of the Brentwood Code of Ordinances provides that the Board of Adjustment shall not grant a variation as authorized in this Article unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to that support all of the following conclusions:

1. The variation requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district and is not created by an action of actions of the property owner or the applicant.
2. The granting of the variation shall not adversely affect the rights of adjacent property owners or residents.
3. The strict application of the provisions of this Chapter from which a variation is requested will cause severe practical difficulty or extreme hardship from the property owners represented in the application.
4. The variation desired will not adversely affect the public health, safety, order, convenience or general welfare of the community.
5. Granting the variation desired will not violate the general spirit and intent of this Chapter.

REVIEW CONSIDERATIONS FOR VARIANCE – SECTION 400.820

In determining whether the evidence presented by the petitioner supports all of the conclusions required by Section 400.810, the Board of Adjustment shall consider the extent to which the evidence demonstrates that:

1. The particular physical surroundings, shape or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this Chapter were literally enforced.
2. The request for a variation is not based exclusively upon the desire of the owner; lessee, occupant or applicant to secure a greater financial return from the property.
3. The granting of the variation will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located.
4. The proposed variation will not impair an adequate supply of light to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

REVIEW CONSIDERATIONS AND CONCLUSIONS

In determining whether the evidence presented by the petitioner supports all of the conclusions required by Missouri Courts and Sections 400.810-400.820, the Board of Adjustment shall consider the extent to which the evidence demonstrates that: *(Staff's responses to the review consideration is italicized.)*

1. The particular physical surroundings, shape or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this Chapter were literally enforced.

The petitioners are requesting the variance to accommodate new construction. Improvements to the lot, including the construction of a new residence may be constructed without requiring a setback variance if the footprint of the new residence was designed with a lesser building width.

2. The request for a variation is not based exclusively upon the desire of the owner; lessee, occupant or applicant to secure a greater financial return from the property.

The petitioners have not provided evidence that they would be deprived of all beneficial use of the property if they cannot make the improvements as proposed, nor that they cannot yield a reasonable return from the constructing a smaller residence with a building width that would conform to current "B" Single-Family Residential zoning requirements.

3. The granting of the variation will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located.

The properties located to the east, west, north and south of the subject property are also zoned "B" Single-Family Residential and all corner lots are subject to the same front (ROW) yard setback requirement. Evidence provided by the applicant documents existing house widths and front (ROW) setbacks on corner lots along Helen Avenue from Litzsinger Road to Manchester Road. The existing house widths range from 25' to 31' in width. The seven (7) existing homes located within this section of Helen Avenue all front intersecting streets with Helen and average 27.7 feet in width. The existing residence located on the corner lot at 8502 Florence Avenue created only an 8' front (ROW) setback but the lot is only 40' in width.

4. The proposed variation will not impair an adequate supply of light to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

Section 400.1840, Setback and Building Lines, states the purpose of setback lines provided for in this Chapter are to establish safe and clear right-of-way and to provide adequate light, air and open space in conformity with buildings now in existence. This requirement should be adhered to for new construction to ensure public safety. Based upon existing house widths and setbacks on corner lots along Helen Avenue, the proposed new construction of a residence 32' in width would seem excessive.

STAFF RECOMMENDATION

Staff recommends denying the setback variance based upon the findings of fact noted above.

If the Board desires to approve a front (ROW) yard setback variance for the subject property, staff recommends the Board consider decreasing the footage of the variance request from 12 feet to 8 feet establishing a 17' setback which is the average setback along Helen Avenue from Litzsinger Road to Manchester Road, not including the 8' front (ROW) yard setback for the 40' wide corner lot at 8502 Florence.

Respectfully submitted,



Lisa Koerkenmeier, AICP
Director of Planning and Development



8500 Genevieve



8500 Genevieve along Helen