

BRENTWOOD BOARD OF ADJUSTMENT MEETING

June 23, 2022

Brentwood, Missouri

REPORTED BY DEBRA M. MUSIELAK
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APPEARANCES

Mr. Adam Sommer, Vice-Chairman

Mr. Ryan Marshall

Ms. Kristen McDaniels

Mr. Jared Balint

Ms. Whitney Kelly
Director of Planning and Development

Ms. Jessica Stutte, Building and Planning Assistant
Recording Secretary, Clerk

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1 MEETING CONVENED AT 6:57 P.M.

2 VICE-CHAIRMAN SOMMER: Welcome to the
3 June 23rd, 2022, meeting of the Brentwood Board of
4 Adjustment. The Board of Adjustment meets on call to
5 hear requests for variances from the provisions of the
6 City Code and to decide those matters. The board is
7 formed under the provisions of Division 3 of Chapter 400,
8 Article 2 of the Brentwood City Code and is guided in
9 their deliberations by the standards set forth in
10 Division 7 of Chapter 400. As there are only four
11 members available, approvals will require a unanimous
12 vote.

13 I'll start with the role call. Ryan Marshall.

14 MR. MARSHALL: Here.

15 VICE-CHAIRMAN SOMMER: Kristen McDaniels?

16 MS. McDANIELS: Here.

17 VICE-CHAIRMAN SOMMER: Jared Balint?

18 MR. BALINT: Here.

19 VICE-CHAIRMAN SOMMER: And Adam Sommer,
20 myself. I am here.

21 We'll start with a seek to approve the minutes
22 from the previous meetings. Do I have a motion to
23 approve?

24 MS. KELLY: Sorry. Those did not get
25 included. We will skip that part.

1 VICE-CHAIRMAN SOMMER: We will table that
2 until the next meeting.

3 All right. Moving on. Do we have any citizen
4 comments not on the agenda tonight? Seeing there's no
5 citizens in the audience, we will say no.

6 Move to our first item of new business, which
7 is the election of a new chairman for the Board of
8 Adjustment. I will first seek any nominations for the
9 chair.

10 MS. McDANIELS: I would like to nominate
11 Jared Balint.

12 VICE-CHAIRMAN SOMMER: We have a nomination
13 for Jared Balint. Do we have a second?

14 MR. MARSHALL: Second.

15 VICE-CHAIRMAN SOMMER: All right. We'll go
16 through a roll call vote. Ryan Marshall?

17 MR. MARSHALL: Yea.

18 VICE-CHAIRMAN SOMMER: Kristen McDaniels?

19 MS. McDANIELS: Yeah.

20 VICE-CHAIRMAN: Jared Balint?

21 MR. BALINT: I'll abstain.

22 VICE-CHAIRMAN SOMMER: And Adam Sommer,
23 Chair, I will vote yes as well.

24 So congratulations, Jared, and we'll hand over
25 the meeting to Jared as the new Chair.

1 CHAIRMAN BALINT: All right. Thank you,
2 everybody. Moving on to the next piece of the agenda, we
3 are -- so you're here to -- second page. Okay.

4 All right. The purpose of the meeting and the
5 matter for the board to consider is an application for
6 2600 Melvin.

7 2600 Melvin Variance Request from Section
8 400.1330, Section (D) (3) (a), and Section 400.1330,
9 Section (D) (3) (b), to allow for a second floor addition
10 to the existing home. The petitioner, Rich Conyers, of R2
11 Ventures, LLC, is requesting a variance from Section
12 400.1870, Subsection B, of the Brentwood Code of
13 Ordinances requiring any corner lot shall have a side
14 yard equal in width to the minimum set yard setback of
15 any adjoining lot fronting on the side street. Section
16 400.1330 (D) (3) (a) pertaining to the required minimum
17 25-foot yard setback in Section 400.1330 (D) (3) (b)
18 minimum side yard of five feet for property located in
19 the B Single Family District to allow for the second
20 floor addition and rear addition to the existing home
21 that is two feet from the side yard and 13 feet
22 9-and-a-half inches from the property line along Florence
23 Avenue for the property located at 2600 Melvin Avenue,
24 Brentwood, Missouri 63144.

25 I'm assuming are you Rich Conyers?

1 MR. CONYERS: Yeah.

2 CHAIRMAN BALINT: Will you be sworn.

3 **RICH CONYERS**

4 of lawful age, being first duly sworn to tell the truth,
5 the whole truth and nothing but the truth, says as
6 follows:

7 CHAIRMAN BALINT: Any exhibits that you
8 present tonight will be presented as evidence and marked
9 as such. So I will go ahead and ask you to present.

10 MR. CONYERS: All right. So essentially
11 tonight we're asking for a variance of a property that's
12 already existing nonconforming. We are not asking to
13 move into the direction of nonconformance, but simply be
14 able to add on top of the property, and we'll cover that
15 with the site plan as well as some of the findings in the
16 staff notes.

17 The existing home, the proposal will be the
18 interior of this home that's been vacant for quite a
19 while needs to be fully demolished, to be honest. So the
20 interior would be demolished and completely rehabbed up
21 to current standards, current expectations of living
22 conditions. And in order to do that and be fiscally
23 responsible and allow for a family to move in, we would
24 need to be able to add on top of the house in order to
25 use the two-story space of the existing lot. Otherwise,

1 it wouldn't be conducive to a family in today's
2 expectations of a home.

3 So as far as the site plan, this is the
4 existing site plan. Since you all are a little far from
5 those TVs I'm going to zoom in just so you can see
6 everything a little bit more clearly.

7 So as you can see with the side yard setback
8 off of the corner lot, if this house were built today,
9 this lot actually wouldn't be constructible. So the
10 dashed line shown here is the side yard setback if it
11 were built for current zoning standards. While the front
12 yard setback is still applicable today, both side yards
13 produce an area of less than 13 feet from each direction.
14 So essentially you could not build on this lot today if
15 we met current zoning standards.

16 So the request is that maintaining the existing
17 nonconforming distance in each direction of the side
18 yard, that we're able to build directly vertically and
19 extend to the back of the lot, which is currently
20 conforming. And as you'll see, it's quite a ways from
21 the rear yard setback.

22 So the proposed addition would be contained
23 within the existing footprint, other than the addition of
24 14 feet toward the rear yard setback.

25 Are there any questions or clarifications about

1 where we're asking to be able to be built on?

2 VICE-CHAIRMAN SOMMER: I have one question.
3 The -- so the addition is going to go on top of an
4 existing structure?

5 MR. CONYERS: Correct.

6 VICE-CHAIRMAN SOMMER: Okay. Going towards
7 that rear yard setback there's not going to be an
8 additional footprint? It's just going over the
9 existing -- like, you're not putting an addition further
10 back?

11 MR. CONYERS: I'll pull this up. So the
12 existing house is in the center. So the addition above
13 would extend over to create a covered patio on the back
14 towards the rear yard setback, which is currently not
15 only conforming but has quite a bit of distance before it
16 becomes nonconforming.

17 VICE-CHAIRMAN SOMMER: Thank you.

18 MS. McDANIELS: So the -- I drove by the
19 house. The width -- like, if you're looking at the front
20 of the house, the width, that's going to just stay in
21 that footprint, not get any wider?

22 MR. CONYERS: Correct.

23 MS. McDANIELS: Because it really seems
24 really super narrow. But you're just going to build on
25 top of it?

1 MR. CONYERS: That's correct.

2 MS. McDANIELS: So it would be super
3 narrow.

4 MR. CONYERS: It will be narrow. Part of
5 the adjustment by us taking out all of the interior walls
6 and adding beams and opening up that floor plan, allows
7 that to actually be a useful area down below, where it's
8 obviously if we had to subdivide that, you're right, it's
9 such a narrow house that the rooms get very, very small
10 and wouldn't meet today's expectations for a house.

11 MS. McDANIELS: Is there a garage
12 somewhere?

13 MR. CONYERS: There is not.

14 MS. McDANIELS: There's no garage?

15 MR. CONYERS: No. And in terms of context
16 of the surrounding homes, there's actually not garages on
17 most of the homes in the area. We talked about a carport
18 being added adjacent at the existing lot, but that would
19 put a covered area in the nonconforming use, and so at
20 this time we decided that that was an additional variance
21 we didn't, you know, want to come and ask for in addition
22 to us already trying to build a lot that wouldn't be
23 conforming today.

24 CHAIRMAN BALINT: Are there any more
25 questions? At this time I'd ask the Director of Planning

1 and Development for her report to be entered into the
2 record.

3 **WHITNEY KELLY**

4 of lawful age, being first duly sworn to tell the truth,
5 the whole truth and nothing but the truth, says as
6 follows:

7 MS. KELLY: Okay. Good evening. Whitney
8 Kelly on behalf of the City of Brentwood. As the
9 applicant has indicated they are seeking a variance from
10 Section 400.1870(B), Section 400.1330 (D) (3) (a) regarding
11 the front yard along Florence Avenue, and Section
12 400.1330(D) (3) (b) of a minimum of side yard of 5 feet
13 located for any property within the B Single Family
14 District. The existing home was originally built in 1952
15 and sits approximately 13.79 feet from Florence Avenue
16 and two feet from the south property line within the
17 existing side yard -- within the side yard setback.

18 Section 400.3180, Nonconforming Structures
19 states that any structure described as nonconforming may
20 be maintained, repaired, or remodeled provided, however,
21 that no such maintenance, repair, or remodel shall either
22 create any additional nonconformity or increase the
23 degree of the existing nonconformity for all or any part
24 of such structure. Therefore, that is what is bringing
25 you here tonight.

1 The petitioner is seeking to renovate the
2 existing ground floor and add a second floor with an
3 extension off the back of the home. The second floor
4 will maintain the existing setback of the existing home
5 with the second floor extension an additional 14 feet off
6 the rear.

7 So, again, I'll just try to go through briefly
8 since the applicant has already gone through that. This
9 is the front. This shows the rear elevation proposed,
10 and the proposed first and second floor floor plan.

11 So as the applicant has also indicated, and as
12 you can see here, the existing home lot does meet with
13 the code. It's a minimum 40 feet in width. However,
14 because it is a corner lot, the setback does make any
15 development on this site particularly difficult due to
16 the front yard setback applied along any street frontage.

17 So the green is the existing home and the red
18 is the existing -- the current zoning district standards,
19 and then you can see the 14 -- the blue shaded area here
20 is where the overhang on the second floor would be. And
21 here is a county aerial map of the existing structure and
22 a couple pictures.

23 So a variance must meet several criteria. The
24 first is the variance arises from a condition which is
25 unique to the property in question, and which is not

1 ordinarily found in the same zoning district. It is not
2 created by an action or actions of the property owner or
3 applicant.

4 As the home was originally built in 1950s prior
5 to the current regulations, it is preexisting,
6 nonconforming. And due to the corner lot configuration
7 of the site, the 25-foot setback along Florence and
8 5-foot yard setback, any meaningful alteration to the
9 existing building would require a variance before this
10 board.

11 The petitioner is keeping the second floor in
12 line with the existing structure so, therefore, it is not
13 moving the building closer to any of the setbacks.

14 Granting the variance shall not adversely
15 affect the rights of adjacent properties or residents.

16 And as the existing home is originally built in
17 1950s, and as it's currently nonconforming, just by going
18 up, it should not impair the adjacent property owners or
19 adjacent properties and affect their degree of light,
20 air, and open space, because they have -- the house is
21 existing for many years as is.

22 The strict application of the provisions of
23 this chapter from which a variance is requested will
24 cause severe practical difficulty or extreme hardship for
25 the property owners represented in the application.

1 While the subject property does meet with the
2 lot area standards for the B Single Family Home District,
3 it is the corner lot configuration on this particular
4 property that does make it rather difficult, and where
5 any meaningful structure should the -- should it be tear
6 down and rebuild would still require a variance due to
7 the narrowness of the lot and the setbacks required.

8 So the variance desired will not adversely
9 affect the public health, safety, order, convenience, or
10 general welfare of the community.

11 And the variances are to accommodate new
12 improvements to the existing structure and where the
13 existing regulations would prohibit any meaningful
14 renovations to the building. It is not -- it has not
15 been established that the corner lot has some uniqueness
16 not found in other corner lots throughout the city, but
17 generally setbacks are -- those corner lots generally are
18 wider to accommodate the additional setbacks needed for a
19 corner lot for 25 feet. The setbacks as that lot --
20 property sits, the setbacks provide fire separation
21 between the structures and allow adequate light and
22 safety, and to accommodate various easements, including
23 the utility easements for present or future. As he is
24 maintaining the existing setbacks, therefore, we did not
25 have an issue with this request.

1 The granting of the variance desired will not
2 generally violate the spirit of this chapter.

3 Section 400.1870(B) requires a corner lot to
4 have a side yard equal in width to the minimum front yard
5 setback adjoining lot and on the side street. It was not
6 the decision of the petitioner to place the existing
7 building within the setback, however, maintaining the
8 line of the existing home and therefore nothing in the
9 request, there -- however, maintaining the existing
10 line -- the home in the existing line, nothing in the
11 request will affect the public health, safety, order,
12 convenience or the general welfare of the community.

13 And, again, other review criteria include the
14 particular physical surroundings, shape or topography
15 conditions of the property involved which would result in
16 a severe practical difficulty or extreme hardship upon
17 for any owner, lessee, or occupant, of the provisions of
18 this chapter.

19 And, again, as we discussed, because of the
20 existing lot and the existing home, any meaningful
21 alteration to the home would require a variance before
22 this board.

23 So the request -- so -- which could be
24 perceived as any hardship to make any alterations to this
25 existing building. And, therefore, we did not have an

1 issue with this request at this time.

2 The petitioner -- the request for a variance is
3 not based exclusively upon the desire of the owner,
4 lessee, occupant, or applicant to secure greater
5 financial return from the property.

6 The petitioner has not provided evidence that
7 they would be deprived of all beneficial use as the home
8 has been used as such for many years. However, the City
9 does enjoy a benefit of significant private investments
10 and the existing home does appear to be obsolete given
11 the size and configuration. In many cases a larger lot,
12 and on corner lots in particular, they do provide enough
13 room for a home to -- room to grow. Which is not
14 available to this applicant or this property. So,
15 therefore, in order to have a home that would be built to
16 the standard of the City Code would be a difficulty for
17 this lot and any owner or occupant in the future.

18 So the granting of the variance will not
19 material be detrimental or injurious to other property or
20 improvements in the neighborhood in which the property is
21 located.

22 The lot was originally and appropriately graded
23 to accommodate the existing building on the site and any
24 storm water runoff is reviewed as part of the building
25 permit.

1 And the proposed variation will not impair the
2 adequate supply of light to adjacent properties,
3 substantially increase the congestion on public streets,
4 increase the danger of fire, endanger the public safety
5 or substantially diminish or impair property values
6 within the neighborhood.

7 Nothing in the request will do such in that
8 they are maintaining the existing setbacks.

9 I will also include that public notices were
10 sent out to all the properties within 300 feet. I did
11 get a couple of questions wanting to see the designs and
12 concerns about where the additions were, but we did not
13 get any comments once they reviewed that information.

14 CHAIRMAN BALINT: Thank you, Whitney. At
15 this time are there any questions from the board?

16 MR. MARSHALL: Yeah. Did staff provide a
17 recommendation?

18 MS. KELLY: We recommend approval.

19 MR. MARSHALL: I'd just say I think this
20 corner lot question is a little different than a lot of
21 the others we typically see where there's implications
22 to, you know, line of sight on some of the turning
23 motions on surrounding streets. I would just say, you
24 know, I think the applicant has been thoughtful in
25 keeping the -- you know, not further encroaching into the

1 nonconformity, and I'm inclined to approve.

2 CHAIRMAN BALINT: Whitney, do you have
3 anything else to add? Any additional questions?

4 MS. KELLY: No.

5 CHAIRMAN BALINT: All right. At this time
6 we will state the standards by which the variance is to
7 be judged under Section 400.810.

8 The variation request arises from a condition
9 which is unique to the property in question and which is
10 not ordinarily found in the same zoning district and is
11 not created by an action or actions of the property owner
12 or applicant.

13 The granting of the variation shall not
14 adversely affect the rights of adjacent property owners
15 or residents.

16 The strict application of the provisions of
17 this chapter for which a variation is requested will
18 cause severe practical difficulty or extreme hardship for
19 the property owner represented in the application.

20 The variation desired will not adversely affect
21 the public health, safety, order, convenience, or general
22 welfare of the community.

23 And granting the variation will not violate the
24 general spirit and intent of this chapter.

25 At this time I'd like to request a motion from

1 a board member to approve the petition. At the Board of
2 Adjustment all motions are in the affirmative. As
3 indicated in the staff report, any board member is -- may
4 add any conditions that they deem are appropriate. Do I
5 have a motion to approve?

6 MR. MARSHALL: Motion to approve the
7 variance as requested by the applicant here tonight on
8 June 23rd, 2022, before the Board of Adjustment.

9 CHAIRMAN BALINT: Do I have a second?

10 MS. McDANIELS: Second.

11 CHAIRMAN BALINT: At this time I'll conduct
12 the roll call vote. Kristen McDaniels?

13 MS. McDANIELS: Yeah.

14 CHAIRMAN BALINT: Adam Commers [sic].

15 VICE-CHAIRMAN SOMMER: Yes.

16 CHAIRMAN BALINT: Ryan Marshall?

17 MR. MARSHALL: Yes.

18 CHAIRMAN BALINT: Jared Balint? Yes. The
19 variance requested has been granted and there are no
20 further --

21 MS. KELLY: Yeah, so there is a second
22 motion if you look on the last page. We need a --

23 CHAIRMAN BALINT: Oh, yeah. I do need to
24 make a motion directing staff to prepare and authorize
25 the chair to execute the findings of fact and conclusion

1 of law as written in the staff report. All in favor?

2 MR. MARSHALL: Yea.

3 VICE-CHAIRMAN SOMMER: Yea.

4 MS. McDANIELS: Yea.

5 CHAIRMAN BALINT: Yea. Motion is carried.

6 At this time there is no additional action, so we are
7 adjourned.

8 ADJOURNED at 7:20 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 27th day of June, 2022.



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