



Agenda
City of Crystal Lake Park
Board of Adjustment Meeting
Frontenac Municipal Complex,
10555 Clayton Road, Frontenac, Missouri 63131
January 28, 2016, 7:00 PM

Board of Adjustment Meeting

- I. Pledge of Allegiance
- II. Call to order / Roll Call
- III. Approve Agenda
- IV. Approval of October 22, 2014 Board of Adjustment Minutes
- V. New Business
 1. Appeal of Bob and Carol Ann Giovando a variance to Section 405.040 of the Municipal Code pertaining to setbacks to allow an addition to the existing home at 2100 Bopp Road within Residence District D.
- VI. Vote to Adjourn the Meeting

Please Note:

- The Board of Adjustment may adjourn to closed session to discuss legal, confidential or privileged attorney-client matters pursuant to Section 610.021(1), RSMo 2000 or for any other reason allowed by Missouri law



Revised Minutes
City of Crystal Lake Park
Board of Adjustment Meeting
Frontenac Municipal Complex,
10555 Clayton Road, Frontenac, Missouri 63131
January 28, 2016, 7:00 PM

Pledge of Allegiance

Call to Order/Roll Call and Announcement of a Quorum: Chair Matt Posey called the meeting to order at 7:26 p.m.

Board Members: Present: Chair Matt Posey, Members Stephanie Berk, Mike Mason, Stacey Kelley, Amin Haider and Alternate Member Troy Burrus,

Absent: Member Judy Kunkel and Alternate Member Judy Brog

City Officials: Present: City Attorney Paul Martin, City Planning Consultant Ada Hood, City Clerk Angela McCormick, Recording Secretary/Communications Coordinator Jonathan Carey-Voris and Court Reporter Karen Russo

Absent: Board of Alderpersons Representative Kelly Larson

Applicant Representatives Present: Bob and Carol Ann Giovando, 2100 Bopp Road, St. Louis, MO 63131
Stephen Stoltz, Architect, sjstoltz@hotmail.com, Paul Dean Hunsiker Architect, Inc, 1016 Clark Drive, Fenton, MO 63026, (618) 792-9148, and Fran Stoltz

Approve the Agenda:

Chair Posey asked for a motion to approve the Agenda and Board of Adjustment. Member Berk moved and Member Burrus seconded the motion to approve the agenda for the January 28, 2016 meeting. The board unanimously approved it by voice vote.

Approve October 22, 2014 Meeting Minutes:

Chair Posey asked for a motion to approve the minutes of the last meeting. Board Member Mason moved and Member Berk seconded a motion to approve the October 22, 2014 Minutes. The board unanimously approved them by voice vote.

New Business:

1. Variance Appeal for 2100 Bopp Road

Variance Request for 2100 Bopp Road, Lot 7, Lot 8 and Lot 9 in Block 13 in Residence District D, Parcel No. 21N441519

Applicant: Robert and Carol Ann Giovando owners of this property

Subject Property: 2100 Bopp Road

Zoning District: Residence District D

Appeal: Applicant appeals to the Board of Adjustment seeking a Variance from Section 405.040 of the Municipal Code to for the consolidation of the contiguous Lots 7, 8 and 9 into one lot and construct a 1,514 square foot addition to the existing home at 2100 Bopp Road.

Exhibits:

The City submitted the following exhibits which City Attorney Paul Martin read into the Record:

- Exhibit 1: Certified copy of the Land Use regulations;
- Exhibit 2: Comprehensive Plan;
- Exhibit 3: Zoning Map;
- Exhibit 4: Notices posted on January 7, 2016 pursuant to Missouri statutory requirements;
- Exhibit 5: Affidavit and photograph of notices posted dated January 7, 2016
- Exhibit 6: Notice mailed to property owners within 185 feet of the subject property dated Jan.19, 2016;
- Exhibit 7: Notice published in The Countian dated January 8, 2016;
- Exhibit 8: Affidavit of publication dated January 8, 2016;
- Exhibit 9: Ada Hood's Memo dated January 19, 2016;
- Exhibit 10: Proposed site plan submitted by applicant;
- Exhibit 11: Property Boundary Survey submitted by applicant;
- Exhibit 12: Letter from Applicant dated January 12, 2016
- Exhibit 13: Application to the Board of Adjustment.

Said exhibits are incorporated herein and made part of this decision as if fully set forth.

Swearing in of Witnesses

City Attorney Martin asked Court Reporter Karen Russo to swear in witnesses. She swore in:

Ada Hood, AICP, Crystal Lake Park's City Planning Consultant
Robert and Carol Ann Giovando, residents at 2100 Bopp Road
Steve Stoltz – Architect with Paul Dean Hunsiker Architect, Inc

City Planning Consultant Ada Hood reviewed her memo to the Board dated January 19, 2016. She noted that the applicant is proposing to consolidate all three lots into one lot and construct a 1,514 square foot addition to the existing home. The existing home is located on Lot 8, while Lots 7 and 9 are currently vacant. The proposed addition will be added to the south of the existing home and extend over onto Lot 9. The applicant is proposing to consolidate the three lots to accommodate the proposed addition. Once the lots are consolidated, the new lot will measure 15,000 square feet in size and will have three front yards, one on Crystal Drive, another on Bopp Road and the third on Spring Drive.

City Planning Ada Hood presented a site plan to the BZA of lots 7, 8, and 9. The proposed addition would cross over the lot line of Lot 9.

A 15 foot setback is required and 40 foot aggregate setback required. The side yard will measure 6 feet along the portion of the proposed addition. The site plan shows that for the most part the side yard setback is in compliance, except for 27.5 linear feet of the addition which is not in compliance. In this area a 9 foot variance is requested. Additionally, a 34 foot variance is requested for the aggregate side yard setback.

The front yard setback is 20 feet minimum, in compliance. The maximum living space in the building may not exceed three thousand (3,000) square feet. The existing building measures 1,605 square feet in size and the proposed addition will measure 1,514 square feet in size for a total of 3,119 square feet. In terms of corner lots, the applicant is providing the required front yard setback. In terms of the intensity of use, all three lots will be consolidated.

	Zoning Code Requirement	Proposed Setback
Side Yard Setback	15 feet	Partial 6 feet minimum
Side Yard Aggregate Setback	40 feet	Partial 6 feet minimum
Rear Yard Setback	25 feet	Not applicable
Front Yard Setback	20 feet	20 feet minimum
Front and Rear Yard Aggregate Setback	50 feet	92 feet minimum

The applicants request variances as follows: 9-foot variance to the side yard setback requirement and a 34-foot variance to the side yard aggregate setback requirement.

Testimony and Board of Adjustment Discussion:

Member Stephanie Berk – asked which school district the house would be in if the lots were consolidated.

Jonathan Carey-Voris noted that all of CLP is in the Ladue School district.

Section 420.060: Burden of Proof

A. Non-Use Variances. In presenting any application for a non-use variance, the burden of proof shall rest on the applicant to clearly establish that, as a practical matter, the property cannot be used for a permitted use without coming into conflict with restrictions of the Zoning Code. The following specific criteria shall be considered:

- A.1. How substantial the variance is in relation to the requirement;
- A.2. The potential effect of the increased population density produced on the available government facilities;
- A.3. The potential to produce a substantial change in the character of the neighborhood or a substantial detriment to adjoining property owners;
- A.4. The ability to obviate the difficulty by some method, feasible for the applicants to pursue, other than the variance; and
- A.5. In view of the manner in which the difficulty arose and considering all of the above factors, whether the interests of justice would be served by granting the variance.

In presenting any application for a variance, the burden of proof shall rest with the applicant to prove that the harm complained of is not self-inflicted.

Chair Posey posed a question regarding the setback requirements.

Ms. Hood noted that if each lot was left as an individual each lot the setback would be 6 feet. However, the size of the combined lots triggers the new setbacks since it is over 9,000 square feet.

Member Stacey Kelley asked if the neighbors had been contacted.

City Clerk McCormick noted that letters had been sent to neighbors within 185 feet of the property.

Mr. Giovando noted that they have discussed the plans with their neighbors who are in favor of the addition. Mr. Hayes at 11920 Spring Drive asked to have a landscape buffer installed between their houses and they are going to do it.

Chair Posey stated the he spoke with BZA member Judy Kunkel who could not attend tonight's meeting and she is in support of the variance.

Member Burrus asked if combining lots 8 and 9 would be over 9,000 square feet.

Ms. Hood replied that it would and there would still be a 15 foot minimum setback required.

Member Burrus asked why they need to combine lot 7.

Mr. Giovando replied that they don't have to, but since they have to combine two lots, they may as well combine all three at the same time.

Ms. Hood said in the zoning code provision in that it implies if one owner owns two contiguous lots, they cannot break them up.

Attorney Martin noted that the code encourages the consolidation of contiguous lots.

Chair Posey asked to have the 34 foot setback requirement explained.

Ms. Hood explained that the code requires the aggregate setback requirement if it is adjacent to another property. Fifteen feet is needed on either side but an aggregate of 40 feet setback is also needed. The two side yards would need to add up to 40 since the portion that fronts on Bopp only has 6 feet.

Member Burrus what is the distance of Lot 9 to Bopp Road.

Ms. Hood said it is 50 feet, noting that each of the three lots is 50 feet wide. She explained further that if lot 9 where an individual lot only 6 feet would be required since lots under 9,000 square feet do not need to provide an aggregate.

City attorney explained that if the Variances are approved, they cannot build until the lot consolidation is approved and recorded with St. Louis County. Also, they will need to install a landscape buffer between the neighbor's home and the addition.

Member Burrus stated that in terms of buildings that will be so close in construction, although the property owners discussed the project/addition, in lieu of a verbal agreement, the petitioner should have and present written permission for the project. A project this big should have something in writing.

The applicant agreed.

The City Attorney recommended amendments to the following paragraphs within the Findings of Fact:

1. Applicants are the owners of properties situated at 2100 Bopp Road (Lot 7, 8, and 9). Applicants have represented that these lots be consolidated, and this application is being considered for the lots as so consolidated.
23. The variances granted herein are contingent on the applicants' consolidation of Lots 7, 8 and 9 into one lot as may be approved by the City of Crystal Lake Park. The variances will not become effective until the filing of the approved consolidation plat with the St. Louis County Recorder of Deeds.
24. The variances granted herein are further contingent on the applicant installing a landscape buffer, as approved by the City Planner, between the applicant's property and the Hayes' property located at 11921 Spring Drive, Crystal Lake Park, MO.

City Attorney Martin stated that the board should focus on the affect this has on neighboring property and the neighborhood as a whole

Ms. Hood asked City Attorney Martin to review the guidelines establishing the burden of proof and standards for reviewing this application. After Mr. Martin spoke on these matters, Chair Posey asked Board Members if they had any questions. They were generally in favor of the project, so the Chair asked for a motion to approve the Variance.

Board Member Kelley moved and Member Mason seconded that the Board grant the requested variances as follows: 9-foot variance to the side yard setback requirement.

The board voted as follows: Chair Matt Posey – aye; Stephanie Berk – aye; Troy Burrus – aye; Stacey Kelley – aye; Mike Mason – aye

Chair Posey declared the motion approved.

Member Burrus moved to approve a 34-foot variance to the side yard aggregate setback requirement for 2100 Bopp Road. Member Berk seconded it. The board voted as follows:

Chair Matt Posey – aye; Stephanie Berk – aye; Troy Burrus – aye; Stacey Kelley – aye; Mike Mason – aye

Chair Posey declared the appeal approved.

The applicants thanked the Board for hearing their appeal.

Vote to Adjourn Meeting

There being no further business, a motion was made by Member Mason and seconded by Member Berk to adjourn the meeting. The motion to close the meeting was unanimously approved by voice vote. The meeting adjourned at 7:58 p.m.

Next Meeting: The next Board of Adjustment meeting is scheduled to be held on the February 25, 2016 at 7:00 p.m., at the Frontenac Municipal Complex, 10555 Clayton Road, Frontenac, Missouri. The board will be notified if there is no agenda for the month.

MINUTES RECORDED BY: 
Angela McCormick, Recording Secretary

ATTEST: 
Chairperson, Board of Adjustment/Presiding Officer

REPORT OF DECISION

NOW THEREFORE, pursuant to the powers vested in the Board of Adjustment, the Board hereby grants the requested variances as follows: 9-foot variance to the side yard setback requirement and a 34-foot variance to the side yard aggregate setback requirement for 2100 Bopp Road and directs that City staff be informed of this decision and be responsible for its enforcement;

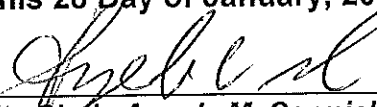
The ayes and nays cast on the motion to grant the variance of 13 feet from the requirements of Title IV, Land Use, Chapter 405, Zoning Districts, Section 405.040(2)(A)(3) which requires a 25 foot rear yard setback to allow the new deck were as follows:

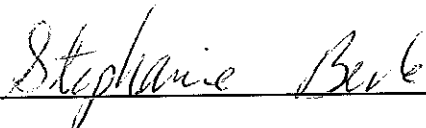
Member	AYE	NAY	ABSENT
Matt Posey, Chair	X		
Stephanie Berk	X		
Troy Burrus (alternate)	X		
Amin Haider	X		
Mike Mason	X		

The ayes and nays cast on the motion to grant the variance of 12.5 feet from the requirements of Title IV, Land Use, Chapter 405, Zoning Districts, Section 405.040(2)(A)(5) which requires a 50 foot front/rear yard aggregate setback were as follows:

Member	AYE	NAY	ABSENT
Matt Posey, Chair	X		
Stephanie Berk	X		
Troy Burrus (alternate)	X		
Amin Haider	X		
Mike Mason	X		

ADOPTED and APPROVED this 28 Day of January, 2016:

MINUTES RECORDED BY: 
 City Clerk, Angela McCormick

CHAIR/PRESIDING OFFICER ATTEST: 

City of Crystal Lake Park Board of Adjustment Variance Decisions 2100 Bopp Road, 1-28-2016

APPLICANT: ROBERT AND CAROL ANN GIOVANDO
SUBJECT PROPERTY: 2100 BOPP ROAD
ZONING DISTRICT: RESIDENCE DISTRICT D
APPEAL: APPLICANT APPEALS TO THE BOARD OF ADJUSTMENT SEEKING A FINDING THAT SECTION 405.040(A)(2)(b)(2) SIDE YARD (INCLUDING AGGREGATE SIDE YARD) SETBACK REQUIREMENTS IMPOSES A HARDSHIP
HEARING DATE: JANUARY 28, 2016

**BOARD OF ADJUSTMENT OF
 THE CITY OF CRYSTAL LAKE PARK**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. Applicants are the owners of properties situated at 2100 Bopp Road (Lot 7, 8 and 9). Applicants have represented that these lots will be consolidated, and this application is being considered for the lots as so consolidated.
2. The City submitted the following exhibits which were admitted into evidence:
 - Exhibit 1:** Certified copy of the Land Use regulations;
 - Exhibit 2:** Comprehensive Plan;
 - Exhibit 3:** Zoning Map;
 - Exhibit 4:** Notices posted on January 7, 2016 pursuant to Missouri statutory requirements;
 - Exhibit 5:** Affidavit and photograph of notices posted dated January 7, 2016; and
 - Exhibit 6:** Notice mailed to property owners within 185 feet of the subject property dated January 19, 2016; and
 - Exhibit 7:** Notice published in the The Courier dated January 8, 2016; and
 - Exhibit 8:** Affidavit of publication dated January 8, 2016; and
 - Exhibit 9:** Ada Hood's Means dated January 19, 2016; and
 - Exhibit 10:** Proposed site plan submitted by applicant; and
 - Exhibit 11:** Property Boundary Survey submitted by applicant; and
 - Exhibit 12:** Letter from Applicant dated January 12, 2016
 - Exhibit 13:** Application to the Board of Adjustment.

Said exhibits are incorporated herein and made part of this decision as if fully set forth.

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10. The request for variances is not based exclusively upon the desire of the applicant to secure a greater financial return from the property.
11. The granting of the variances will not adversely affect the rights of adjacent property owners or residents.
12. The strict application of the provisions of the land use regulations from which variances are requested, will cause severe practical difficulty or extreme hardship for the property owner represented in the application.
13. The variances desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community.
14. Granting the variances will not violate the general spirit and intent of the land use regulations or comprehensive plan.

CONCLUSIONS OF LAW

15. The jurisdiction of the Board of Adjustment is defined by Section 69.090.1 R.S.Mo. and the City's land use ordinances.
16. 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, and where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinances.
17. That appropriate notices were authorized and posted and the documents supporting these are on file with the City Clerk's office.
18. The variances requested arise from conditions which are unique to the property in question and are not created by action of the property owner.
19. The request for variances is not based upon the desire of the owners to secure greater financial return from the property and presents a hardship related to the criteria set forth in the Crystal Lake Park Land Use Code and Chapter 69 Missouri Revised Statutes 2000.
20. As a matter of law, Applicant has met all criteria as set forth in Title IV of the Crystal Lake Park Municipal Code and Chapter 69 Missouri Revised Statutes 2000.

REPORT OF DECISION

NOW THEREFORE, pursuant to the powers vested in the Board of Adjustment, the Board hereby grants the requested variances from the side and aggregate side yard setback requirements for 2100 Bopp Road and directs that City staff be informed of this decision and be responsible for its enforcement;

21. The ayes and nays cast on the motion to grant the variance of 9 feet from the requirements of Title IV, Land Use, Chapter 405, Zoning Districts, Section 405.040(A)(2)(b)(2) which requires a 15 foot side yard setback, to allow the proposed addition were as follows:

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3. That Applicant seeks variances from the requirements of the Crystal Lake Park Land Use Code Section 405.040(A)(2)(b)(2), as follows:

- A. 9-foot variance to the side yard setback requirement to allow the addition.
- B. 34-foot variance to the aggregate side yard setback requirement.

4. That the Board of Adjustment may consider and allow such variances to the strict application of the terms of the land use regulations as set in harmony with its general purpose and intent when the Board is satisfied, under evidence heard before it, that a granting of such variances will not merely serve as a convenience to the applicant but will alleviate some demonstrable hardship or difficulty so great as to warrant a variation from the Comprehensive Plan and the Land Use Regulations.

5. That there was substantial and competent evidence presented to demonstrate the unique character of this real property, with respect to the proposed usage of the property by the current owner and that strict adherence to the requirements of the code would create an unnecessary hardship or practical difficulties due to the configuration and size of the lot.

6. That there was substantial and competent evidence in the record that there were no objections by neighboring property owners.

7. In presenting any application for a non-use variance, the applicant met the burden of proof and clearly established that, as a practical matter, the property cannot be used for a permitted use without coming into conflict with restrictions of the land use regulations.

8. That the record contained substantial and competent evidence to support findings that granting of the variances

- o would not impair an adequate supply of light and air to adjacent property;
- o would not increase the congestion in public streets;
- o would not increase the public danger of fire and safety;
- o would not diminish or impair established property values within the surrounding area;
- o would not in any other respect impair the public health, safety, convenience or general welfare of the community;
- o Would be the least variance necessary.
- o Would not have a negative effect on the available government facilities.
- o Would not produce a substantial change in the character of the neighborhood or a substantial detriment to adjoining property owners.
- o Would serve the interests of justice.

9. The variances requested arise 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 or actions of the applicant.

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	AYE	NAY	ABSENT
MATT POSEY	X		
STEPHANIE BERK	X		
MIKE MASON	X		
AMIN HAIDER			X
STACEY KELLEY	X		
JUDY KUNKEL			X
TROY BURRELS	X		
JUDY KUNKEL			X

22. The ayes and nays cast on the motion to grant the variance of 34 feet from the requirements of Title IV, Land Use, Chapter 405, Zoning Districts, Section 405.040(A)(2)(b)(2) which requires a 40 foot aggregate side yard setback, to allow the proposed addition were as follows:

	AYE	NAY	ABSENT
MATT POSEY	X		
STEPHANIE BERK	X		
MIKE MASON	X		
AMIN HAIDER			X
STACEY KELLEY	X		
JUDY KUNKEL			X
TROY BURRELS	X		
JUDY KUNKEL			X

23. The variances granted herein are contingent on the applicants' consolidation of Lots 7, 8 and 9 into one lot as may be approved by the City of Crystal Lake Park. The variances will not become effective until the filing of the approved lot consolidation plat with the St. Louis County Recorder of Deeds.

24. The variances granted herein are further contingent on the applicant installing a landscape buffer, as approved by the City Planner, between the applicant's property and the Hayes' property located at 11921 Spring Drive, Crystal Lake Park, MO.

ADOPTED AND APPROVED THIS 28th DAY OF JANUARY, 2016.



 MATT POSEY, CHAIR

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