



city of **CREVE COEUR**

300 North New Ballas Road • Creve Coeur, Missouri 63141

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

APPLICANT: Audrey and Gregory Cmarik, Homeowners
SUBJECT PROPERTY: 12441 Cross Green Lane, Creve Coeur, MO 63141
ZONING DISTRICT: "B-RDD" Single Family Residential
APPEAL: Rear Yard Setback, to wit,

VARIANCE REQUEST FOR THE PROPERTY AT 12441 CROSS GREEN LANE TO ALLOW FOR A REAR ADDITION WITHIN THE EXISTING BUILDING FOOTPRINT OF THE NON-CONFORMING HOUSE TO ENCROACH 18 FEET, 6 AND ½ INCHES INTO THE REQUIRED 30 FOOT REAR YARD SETBACK

HEARING DATE: MAY 23, 2023

FINDINGS OF FACT

1. The Applicants were represented by Amy Miller of Mosby Building Arts. Bethany Moore 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 Presentation by Staff 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 including the PowerPoint presentation.
 7. Proof of public notice
3. The Applicant submitted a rear yard variance request of 18 feet, 6 and ½ inches in order to construct a rear addition within the existing building's footprint at 12441 Cross Green Lane. The subject property is within the Country Forest Subdivision, zoned B-RDD, where unless otherwise noted on the subdivision plat the standards fall back to the underlying B zoning district, per Section 405.450(D)(1)(c) of the Residential Designed Development Procedure. The subdivision plat does not indicate a reduced rear yard and B Zoning District has a rear yard setback of thirty (30) feet, per Section 405.260(E)(4)(e). Therefore, the variance request is for the 18 feet, 6 and ½ inches of encroachment.
4. The variance requested arises due to the lack of documentation on the approved Country Forest subdivision plat for the rear yard setback. The lack of documentation causes the

rear setback to revert back to the underlying B zoning district setback of 30 feet, causing any construction at the rear of the house to require a variance. This issue is common to this subdivision but is not ordinarily found in the B Zoning District outside of the Country Forest subdivision. The variance requested is not due to a hardship created by the owner of the property.

5. The granting of the variance would not adversely affect adjacent property owners or residents, due to the location of the rear addition and the rear property line's proximity to the common ground beyond. Allowing the addition will not have an adverse effect on the adjacent properties, as the addition will be built within the existing building's footprint.
6. Strict application of the provisions of the Zoning Ordinance would cause severe practical difficulty to the property owner because the required rear yard setback of 30 feet would completely eliminate the property owner's ability to make almost any improvements, let alone add an addition within the existing footprint, causing severe practical difficulty when the property owner needs to upgrade features of the home.
7. Granting the 18 foot, 6 and ½ inch rear yard variance will not adversely affect the public health, safety, order, convenience, or general welfare of the community.
8. Granting the 18 foot, 6 and ½ inch rear yard setback variance would not violate the general spirit and intent of Section 405.630 *Yard Regulations* as the reduced rear and side yard setbacks for the approved Residential Designed Development were not recorded on the plat, causing the setbacks to revert back to the underlying "B" zoning which applies to larger lots not in consideration of maintenance of commons ground. The rules applied to the Residential Designed Development more clearly provide the requirements for such standards and where they must be placed on the subdivision plat. As with many homes in the Country Forest Subdivision, any meaningful improvement will require a variance until the subdivision ordinance is modified to codify the side-yard and rear-yard setback.
9. The lot and subdivision were approved with reduced size in consideration of maintenance of the large common ground areas. The home was placed according to setbacks other than those required of lots in the B zoning district in consideration of the Residential Designed Development, similar to many of the homes in the area, and as such are not easily improved without a variance since the rear yard and side yard setbacks are not recorded on the plat. Given the history of the subdivision, and lack of documented standards regarding the rear yard setback, this represents an "exceptional circumstance" for this property.
10. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property, given that the proposed addition within the existing footprint of the house and therefore will not result in the diversion of additional stormwater that would adversely affect adjacent property.

CONCLUSIONS OF LAW

11. Pursuant to Section 89.090.1 R.S.Mo. and City Ordinance, the Board of Adjustment has jurisdiction to hear this appeal.
12. The Board of Adjustment is authorized to hear and decide appeals where it is alleged that