



RAYMORE BOARD OF ADJUSTMENT AGENDA

Tuesday, April 19, 2016 - 6:00 p.m.

City Hall Council Chambers
100 Municipal Circle
Raymore, Missouri 64083

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Personal Appearances - None
5. Consent Agenda
 - a. Acceptance of Minutes of November 10, 2015 meeting
6. Old Business - None
7. New Business -
 - a. Case #16005 - Wehmeir Variance, 429/431 Kreisel Drive (*public hearing*)
8. Staff Comments
9. Board Member Comments
10. Adjournment

Any person requiring special accommodation (i.e. qualified interpreter, large print, hearing assistance) in order to attend this meeting, please notify the City Clerk at (816) 331-0488 no later than forty-eight (48) hours prior to the scheduled commencement of the meeting.

THE **BOARD OF ADJUSTMENT** OF THE CITY OF RAYMORE, MISSOURI, MET IN REGULAR SESSION **TUESDAY, NOVEMBER 10, 2015** IN THE COUNCIL CHAMBERS OF CITY HALL, 100 MUNICIPAL CIRCLE, RAYMORE, MISSOURI WITH THE FOLLOWING BOARD MEMBERS PRESENT: TOM BUECHLER, DAVID WOSTE, MIKE VINCK AND STEPHEN GRUBE. ABSENT WAS GERALD JENKINS. ALSO PRESENT WERE COMMUNITY DEVELOPMENT DIRECTOR JIM CADORET AND CITY ATTORNEY GEORGE KAPKE.

1. **Call to Order** –Secretary Grube called the meeting to order at 7:00 p.m.
2. **Pledge of Allegiance**
3. **Roll Call** – Roll was taken and Secretary Grube declared a quorum present to conduct business.
4. **Personal Appearances – None.**
5. **Consent Agenda –**
 - A. Acceptance of Minutes of October 21, 2014 meeting

Motion by Board member Vinck, Second by Board member Woste to accept the minutes of October 21, 2014 as written.

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 4-0-0

6. **Old Business – None**
7. **New Business**

Motion by Board member Vinck, second by Board member Buechler, to modify the agenda by considering New Business as follows: Election of Officers 1st; Case #15017 2nd; and Discussion on new meeting date/time 3rd.

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 4-0-0

A. Election of Officers

Motion by Board member Woste, second by Board member Buechler, to nominate the following slate of officers:

Chairman:	Stephen Grube
Vice-Chairman:	Mike Vinck
Secretary:	Gerald Jenkins

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 4-0-0

B. Case #15017 - Helmering Variance, 520 Bradford Court

Chairman Grube opened Case #15017 - Helmering Variance, 520 Bradford Court.

Matthew Helmering, owner of 520 Bradford Court, presented his request to the Board. He was joined at the meeting by his wife Sarah. Mr. Helmering stated his lot is unique as it is the only cul-de-sac lot in Ward Park Place that is designed the way it is. The other ten cul-de-sac lots spread throughout the subdivision have greater lot depth and there are two lots at the end of each cul-de-sac versus his one lot at the southern end of Bradford Court.

Mr. Helmering indicated his open deck currently encroaches into the rear yard setback area. The home is set back a distance of thirty-one feet (31'). The request is to convert the open deck to usable enclosed space off the kitchen with a John Deer room below. Mr. Helmering indicated he did consider other options for the addition but the options really limited the usable floor space indoors.

Mr. Helmering advised the Board he did talk with all the neighbors and received signed petitions in favor of the proposal. He indicated the unique shape of his lot poses a hardship in complying with the rear yard setback requirement.

Board member Vinck asked for clarification on the setback of the existing deck. Mr. Helmering indicated the deck currently extends eleven feet (11') from the house. The proposed addition would extend twelve feet (12') from the home. Board member Vinck commented that the proposed addition is only one foot closer to the rear property line than the existing deck structure.

Jim Cadoret, Community Development Director, presented the staff report. The applicant, Matthew and Sarah Helmering are requesting a variance to the Raymore Unified Development Code (UDC) Section 405.030A to reduce the required minimum rear yard building setback from thirty feet (30') down to eighteen feet (18').

As this was a public hearing, Mr. Cadoret entered for the record: Mailed Notices to Adjoining Property Owners; Notice of Publication; Unified Development Code; Application; Growth Management Plan; Staff Report; Applicant justification letter; Proposed Site Plan; and the support letters from the neighbors.

Under Previous Actions on the Property:

1. Home was constructed in 2005.
2. Fence along southern (rear) property line was installed in 2010 by permit; and the fence segments connecting to the house were installed in 2015 by permit..

Under Staff Comments:

1. The minimum rear yard building setback of thirty feet (30') is the standard setback in the R-1 zoning district.
2. The roof covered portion of the home is currently thirty-one (31') from the rear property line.

3. A deck that is open on three sides and does not have a roof cover is allowed to project into the required rear yard setback area.
4. The depth of this lot is one-hundred feet (100'). The standard lot depth in Ward Park Place is one-hundred twenty-five feet (125'). The lots adjacent to the south have a lot depth of one-hundred twenty eight feet (128').
5. Notices were mailed to the owners of property within one-hundred eighty-five feet (185').

Mr. Cadoret stated he had not been contacted by any adjacent property owners.

Mr. Cadoret stated that staff had submitted Proposed Findings of Fact as the board is required to make findings of fact as part of their review. Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve the variance as requested. This concluded the staff report.

Chairman O'Connor opened and closed the floor for public comment at 7:17 p.m.

Motion by Board member Vinck, Second by Board member Woste to accept Staff Proposed Findings of Fact and approve Case #15017 Helmering Variance, 520 Bradford Court.

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 4-0-0

C. Discussion of new meeting date/time.

Mr. Cadoret stated a conflict exists for the Board to continue meeting on the 2nd Tuesday of the month. The newly formed Arts Commission has been meeting each month on the 2nd Tuesday of the month and will be continuing that schedule. The Board of Adjustment has been asked to move its meeting day. Mr. Cadoret indicated the options available to the Board are limited as the Council Chambers are booked on each Monday and Thursday of the month, and there are member conflicts with meeting on Wednesday. Park Board meets on the 4th Tuesday of the month and the Planning Commission meets on the 1st and 3rd Tuesday.

Mr. Cadoret suggested the Board meet on the 3rd Tuesday of each month at 6:00 p.m., before the regularly scheduled meeting of the Planning Commission.

Board member Woste expressed concern on having to move the meeting date and on possible conflict with the meeting running long and interfering with the Planning Commission meeting.

Mr. Cadoret indicated he can control the agenda's for both meetings to avoid any overlap of meetings.

Motion by Board member Vinck, Second by Board member Grube to hold the Board of Adjustment meetings on the third Tuesday of each month at 6:00 p.m. as needed.

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Nay

Board member Vinck Aye
Motion passed 3-1-0

8. Staff Comments - None

9. Board member Comment – None

10. Adjournment

Motion by Board member Vinck, Second by Board member Woste to adjourn.

Vote on Motion:

Board member Jenkins	Absent
Board member Buechler	Aye
Board member Grube	Aye
Board member Woste	Aye
Board member Vinck	Aye

Motion passed 4-0-0

The Board of Adjustment meeting for November 10, 2015 adjourned at 7:26 p.m.

Respectfully submitted,

Jim Cadoret



To: Board of Adjustment
From: City Staff
Date: April 19, 2016
Re: **Case #16005 - Wehmeir Variance**
429/431 Kreisel Drive

GENERAL INFORMATION

**Applicant/
Property Owner:** Harper Building LLC % Keith Wehmeir
P.O. Box 375
Lee's Summit, MO 64034

Requested Action: Variance to required minimum front yard setback

Property Location: **429/431 Kreisel Drive; Le'Mor Estates Lot 26**



2014 Aerial Photograph:



Property Photographs:



(View from front yard looking east at property)



(View from from trail looking north at rear of lot)



(View from trail on side yard looking northwest at lot)

Existing Zoning:

“R-2P” Single and Two-Family Residential Planned District

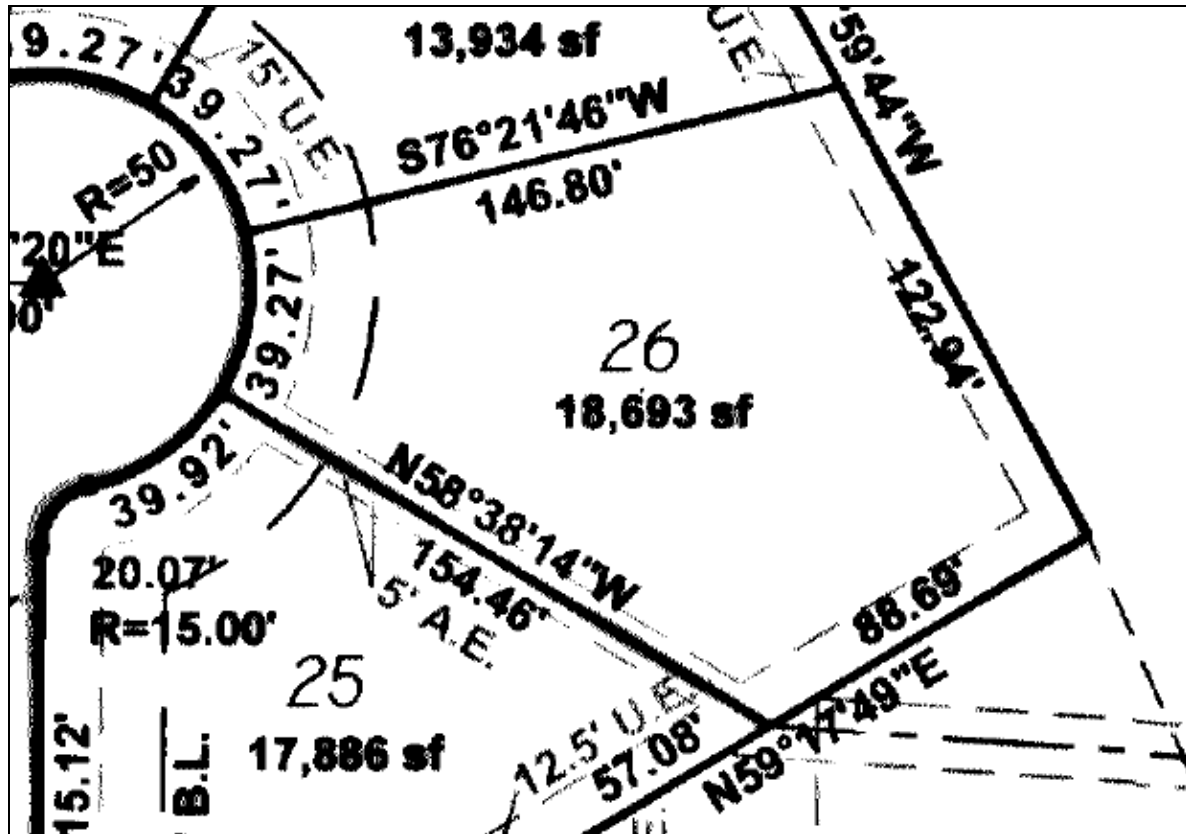


Existing Surrounding Uses:

- North:** Two-Family Residential
- South:** Undeveloped lot
- East:** Single Family Residential
- West:** Two-Family Residential

Total Tract Size: 18,693 sq. ft. (.43 acres)

Subdivision Plat: Le'Mor Estates Lot 26



Growth Management Plan: The Future Land Use Plan Map contained in the Growth Management Plan identifies this property as appropriate for medium density residential development.

Major Street Plan: The Major Thoroughfare Plan Map contained in the Growth Management Plan has Kreisell Drive classified as a local street.

Advertisement: March 31, 2016 Journal Newspaper

Public Hearing: April 19, 2016 Board of Adjustment

- Items of Record:**
- Exhibit 1. Mailed Notices to Adjoining Property Owners
 - Exhibit 2. Notice of Publication
 - Exhibit 3. Unified Development Code
 - Exhibit 4. Application
 - Exhibit 5. Growth Management Plan
 - Exhibit 6. Staff Report
 - Exhibit 7. Applicant Justification
 - Exhibit 8. Proposed Site Plan

alteration of use of land if it determines the public safety and welfare will be secured and substantial justice will be done.

B. Prohibited Variances

The Board of Adjustment may grant variances from all requirements of this Code except:

1. the requirements for public improvements contained within Chapter 445;
2. uses permitted within a particular district as specified in Chapter 405 and Chapter 410;
3. any provision in Chapter 460, Flood Protection; and
4. any provision in Chapter 455, Natural Resource Protection.

C. Applications

An application for a variance may be obtained from the Community Development Director. The application must be completed in its entirety in accordance with Section 470.010C and filed with the Community Development Director so that a public hearing date can be established in accordance with Section 470.010E.

D. Procedure

1. Board of Adjustment Public Hearing

All proposed variance applications must be submitted to the Board of Adjustment. The Board of Adjustment will hold a public hearing on the application in accordance with Section 470.010E. The public hearing must be held at the next regular meeting of the Board of Adjustment for which the application may be scheduled given public notice deadlines, unless the applicant has consented to an extension of this time period. The Community Development Director or other appointed official as designated by the Planning and Zoning Commission must prepare a written summary of the proceedings, and give notice of the hearing as provided in Section 470.010E.

2. Board of Adjustment Action

Upon conclusion of the public hearing, the Board of Adjustment must approve, approve with conditions or disapprove the requested variance. A concurring vote of at least four members of the Board of Adjustment is required to approve any variance request.

E. Findings of Fact

A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board will make a determination on each condition, and the finding will be entered into the record.

1. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner, applicant, or their agent, employee or contractor.
2. The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.
3. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.
5. Whether the requested variance is the minimum variance necessary to provide relief.
6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.
8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.

F. Conditions of Approval

1. In making any decision varying or modifying any provisions of the Unified Development Code, the Board may impose such conditions, restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
2. The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond will be based on a general estimate of cost for the improvements as determined by the Board and will be enforceable by, or payable to, the City Council in the sum equal to the cost of constructing the required improvements.

3. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

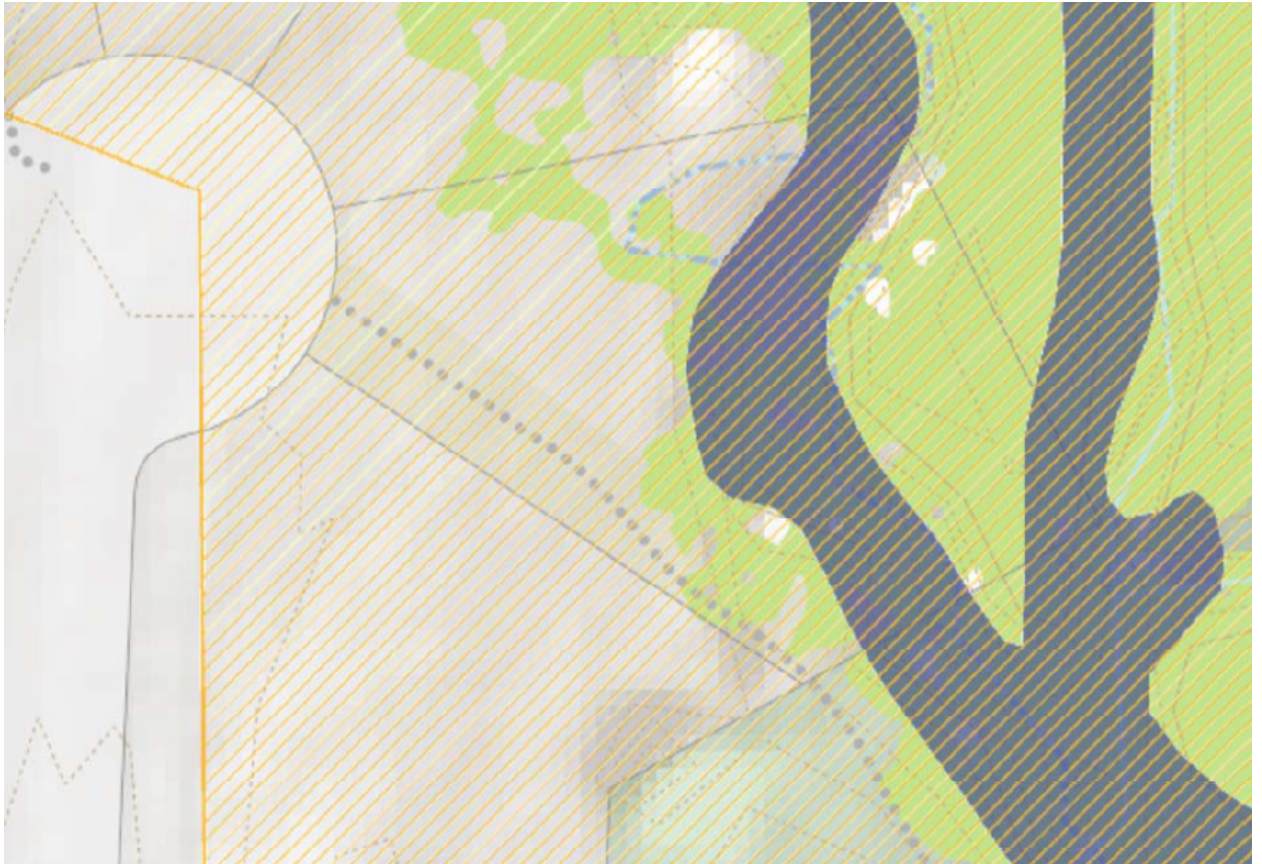
G. Appeal of Board's Decision

Any person or persons jointly or severally aggrieved by any decision of the Board, any neighborhood organization as defined in Section 32.105, RSMo. representing such person or persons, or any officer, department, board or bureau of the municipality may present to the Circuit Court of the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the Court within 30 days after the filing of the decision in the office of the Board.

PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

1. The "R-2P" Single and Two-Family District zoning designation was established on April 9, 2001.
2. The Le'Mor Estates Final Plat was approved on July 12, 2004.
3. The R-2P zoning designation was modified on July 9, 2007. The minimum side yard setback was reduced from 10-feet down to 10% of the lot width and the minimum rear yard setback was reduced from 30-feet down to 18-feet.
4. A request to rezone lots 21-25 (south of the subject property) from "R-1" Single-Family Residential to "R-2" Single and Two-Family Residential was denied on May 13, 2013.
5. A FEMA Letter of Map Revision was issued on April 28, 2008 that established the flood plain boundary line on the subject property (as identified on the site plan that was submitted). This LOMR identifies the flood plain boundary line approximately five feet from the rear of the proposed dwelling.
6. The Assistant Director of Public Works reviewed the variance application and recommends that the variance be approved to allow the home to be placed closer to the front property line, creating a separation between the rear of the home and the flood plain boundary line. Included in his recommendation was an order for the property owner to remove any fill or debris that has been placed in the flood plain.

7. In January of 2013 the new Flood Insurance Rate Map issued by FEMA modified the flood plain boundary line on the property. The new boundary line has moved further east on the lot, farther away from the rear of the proposed new structure on Lot .26. The GIS map below illustrates the approximate location of the flood plain on the lot (shown in dark blue).



STAFF COMMENTS

1. The front yard building setback of thirty feet (30') established for the property is the standard front yard setback in the R-2 "Single and Two-Family Residential Zoning District".
2. Many of the newer subdivisions in Raymore are utilizing a twenty-five (25) foot front yard setback. All of the homes in the Alexander Creek and the Creekmoor subdivisions have the 25-foot front yard setback.
3. The proposed dwelling will exceed the minimum required side and rear setback.

4. The proposed dwelling will be constructed on a slab and will be \pm 5 feet above the flood plain boundary elevation.
5. Notices of the variance request were mailed to 8 property owners that lived within one-hundred eighty-five feet (185') of the subject property.
6. A concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant.

STAFF PROPOSED FINDINGS OF FACT

Section 470.060 of the Unified Development Code directs the Board of Adjustment concerning their actions in dealing with a variance request. Specifically, Section 470.060(E) directs the Board of Adjustment to make determinations on eight specific conditions and the findings entered into the public record. The eight conditions and Staff's recommendation concerning each condition are as follows:

1. **The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner and applicant or their agent, employee or contractor.**

The lot is a uniquely shaped, large cul-de-sac lot that has flood plain on the rear $\frac{2}{3}$ of the lot. Over the past several years the flood plain boundary line has been adjusted twice on the lot.

2. **The strict application of the provisions of the Unified Development Code of which the variance is requested will constitute an unnecessary hardship or practical difficulty upon the property owner represented in the application and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same district.**

An unnecessary hardship arises when the physical characteristics of a property, coupled with imposed governmental regulations, preclude a property owner from any reasonable use of their land. The meandering flood plain boundary line on the rear $\frac{2}{3}$ of the lot limits the buildable area of the lot. Allowing the home to be moved five feet closer to the front property line allows for an adequately sized two-family dwelling to be constructed on the lot.

3. **The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.**

Granting of the variance will not adversely affect the rights of adjoining property owners. A similar two-family dwelling is under construction on the adjacent lot.

Due to the curved front property line along the cul-de-sac the fact that the structure is five feet closer to the front property line will not be noticeable to residents.

- 4. The granting of the variance will not result in advantages or special privileges to the applicant or property owner that this code denies to other land, structures or uses in the same district.**

Granting of the variance will not result in advantages or special privileges to the applicant. The requested variance is a reasonable request that remains in compliance with all other provisions applicable to buildings, including side and rear minimum setbacks.

- 5. Whether the requested variance is the minimum variance necessary to provide relief.**

The requested variance is the minimum variance necessary to allow the property owner to construct the dwelling and avoid encroachment into the flood plain.

- 6. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. While the home is being constructed closer to the front property line, the reduction will not be noticeable and an adequate area for parking in the driveway will still remain.

- 7. The granting of the variance desired will not be opposed to the relevant purposes and intents of this Unified Development Code.**

Relevant purposes and intents of the UDC include the promotion of health, safety, and general welfare and the protection of property values through the regulation of density and mass of structures. The granting of the proposed variance will not be opposed to said purposes and intents of the UDC. The encroachment of the home into the front yard setback area is a reasonable request and avoids any impact on the flood plain area.

- 8. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this code and the individual hardships or practical difficulties that will be suffered if the variance request is denied.**

As stated above, the requested variance is not contrary to the purpose and intent of the Code and will not adversely affect the public health, safety or welfare. The

flood plain limits the ability to build on the lot and the minimum variance request allows for placement of a home with minimal impact.

STAFF RECOMMENDATION

The subject property is a very uniquely shaped cul-de-sac lot that has been impacted by the flood plain boundary. When the subdivision was approved there was not a code restriction on allowing a lot to be platted that contains land in the flood plain. The proposed variance is a reasonable request to allow construction of a two-family dwelling that is comparable in size with other dwellings in the area. The driveway can still accommodate the parking of vehicles that will not block the sidewalk. The home will be several feet above the flood plain and will not impact the flow of water in the floodplain.

Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve the variance as requested.

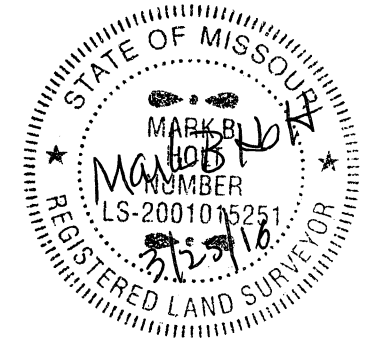
Per the City of Raymore
the house has been moved
forward and OVER the building
setback by 5'

Lots 25-29
1% Annual Chance
Flood Elevation = 998.0
Lowest Lot Elev = 1003.0 to 1004.5
as per FEMA Case #07-07-0018A
December 28, 2006
The Line shown as the
Base Flood Elevation is
also the approximate TOP
of Bank to the existing creek

General Notes

It is the responsibility of the contractor to verify the depth of the sanitary sewer in relation to the foundation prior to pouring the foundation. The contractor must verify the sidewalk location with the City prior to construction. The contractor shall verify that the foundation dimensions shown and the construction staking are in compliance with the owners or builders foundation plan. Cuts or Fills shown are for assistance in excavation only. Final basement or top of foundation elevations shall be made by the owner or contractor.

Note:
No Title Report was furnished by the client. Eagle Pointe Surveying assumes No Responsibility for Records not shown. The Client has made an agreement that this Plot Plan is Not a Boundary Survey.



CLIENT:
Keith Wehmer

LOT 26
Le'Mor Estates
Raymore, Missouri

Eagle Pointe Surveying, L.L.C.
1216 NE Applewood St.
Lee's Summit, Missouri 64086
(816) 456-0156

DATE	DRAWN BY	CHKD BY	JOB NO.	SCALE	SHT. NO.
10/25/15	MBH	MBH	1509-982	1"=40'	1

It shall be the responsibility of the builder to verify the necessary elevation as to which the lowest floor should be built, as to avoid any possible flood insurance issues, and to make sure the structures have been elevated out of the flood plain

