



To: Board of Adjustment
From: City Staff
Date: June 20, 2017
Re: Case #17017 - 411 S. Fox Ridge Drive Covered Deck Variance

GENERAL INFORMATION

**Applicant/
Property Owner:** Brackmann Construction Inc.
1418 N. Scott
Belton, MO 64012

Requested Action: Granting of variance to construct a covered deck

Property Location: 411 S. Fox Ridge Drive – Eagle Glen Subdivision, 2nd, Lot 28



2016 Aerial Photograph:



Site Photographs



View of the existing deck at 411 S. Fox Ridge Drive



View looking southwest near the rear property line



View looking northeast along the rear property line

Existing Zoning: R-1P Single Family Residential District, Planned

Existing Surrounding Uses: **North:** Residential
 South: Park, Residential
 East: Residential
 West: Residential

Total Tract Size: 10,500 square feet

Growth Management Plan: The Future Land Use Plan Map contained within the 2013 Growth Management Plan designates this property as appropriate for low-density residential development.

Major Street Plan: The Major Thoroughfare Plan has S. Fox Ridge Drive classified as a Major Collector

Advertisement: June 1, 2017 Journal Newspaper

Public Hearing: June 20, 2017 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 Proposed Findings of Fact
Exhibit 8. Support letter from adjacent property owners

PROPOSAL

The applicant seeks a variance to UDC Section 405.030(B)(1) Projections into Required Yards - Porches and decks greater than 30 inches above grade, open on at least 3 sides, with no roof or cover. The requested variance would allow the applicant to construct a covered deck on the rear of their house.

VARIANCE REQUIREMENTS

City Ordinance Requirements: In order for the applicant to accomplish the aforementioned action, they must first meet the provisions of the Unified Development Code. Chapter 470 of the Unified Development Code outlines the requirements and actions that need to be taken in order to be granted a variance, specifically Section 470.060.

PREVIOUS ACTIONS ON OR NEAR THE PROPERTY

1. The Eagle Glen Subdivision, 2nd Plat was approved by the City of Raymore on March 25, 2002.
2. The Eagle Glen Subdivision, 2nd Plat was recorded on April 17, 2002.
3. A building permit was issued for the property on May 7, 2003.
4. A Certificate of Occupancy was issued for the property on November 5, 2003

STAFF COMMENTS

1. The zoning regulations for the lots in the Eagle Glen Subdivision are as follows:
 - a. Lot Area Minimum: 8,400 square feet
 - b. Lot Width Minimum: 70 ft
 - c. Lot Depth Minimum: 100 ft
 - d. Front Setback Minimum: 30 ft
 - e. Rear Setback Minimum: 30 ft
 - f. Interior Side Lot Minimum: 10% lot width, 7 ft. minimum
2. The Unified Development Code, effective January 1, 2009, limits open porches and decks to a maximum projection of 30 percent into the required rear yard. In a change from the previous code, the UDC prohibits covered porches and decks from projecting into the required rear yard.
3. The southern corner of the existing deck structure is built to the maximum allowable projection of 9 feet (30% of the required rear yard setback).
4. The applicant intends to remove the existing deck, and reconstruct a new deck that is smaller in size.
5. The proposed deck and roof will extend 6 feet (20%) into the required rear yard setback.
6. The existing deck has stairs. The applicant has indicated that they will not add stairs to the proposed deck, but it will be screened on three sides.
7. Notices of the variance request were mailed to twelve (12) property owners that live within 185 feet of the subject property. Staff only received one visit from an adjoining neighbor, who was mostly curious if the proposed deck would affect their property. Staff determined there would be no major affects.

8. 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 property in question is similar in depth and shape to surrounding properties. The need for the variance arises as a result of the orientation of the house on the lot. The applicant has stated that the rear of their property faces southeast, and without cover, the existing deck receives constant direct sunlight, making it uncomfortable to use, which is not a situation created by an action of the applicant.

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 applicant is permitted practical use of their property under the zoning regulations. However, the code does not allow a roof to extend into the required rear yard. Staff finds there is no unnecessary hardship imposed by the provisions of the Unified Development Code.

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

The granting of the variance will not adversely affect the rights of adjacent property owners. The property is adjacent to a wooded area, so the roof addition will not result in a decreased distance between structures or have otherwise intrusive impacts on adjacent homeowners.

Many adjacent homeowners have covered decks in their rear yards. Although these decks do not project more than 30 percent into the required rear yard, they are covered by extensions of the roof line. The requested variance will allow the deck to be covered. The applicant has also spoken with two adjacent neighbor, and received no opposition.

- 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.**

The granting of the variance will allow the property owner to construct a roof covering the deck on the rear of the house that is consistent in size and design with surrounding properties.

Other properties within the Eagle Glen subdivision have covered decks, however, no homeowners are permitted to build decks or porches that encroach more than 9 feet into the required rear yard. The existing deck of the subject property is built to the maximum encroachment of 9 feet into the required rear yard.

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

The requested variance would allow a covered deck to be constructed on the rear of the applicant's homes, and would not have an impact on other development regulations. The structure will still comply with the maximum allowed projection of 30 percent into the required rear yard.

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

Setback and projection/obstruction requirements are in place to provide adequate separation between homes for the purposes of health and safety. The rear yard of Lot 28 abuts wooded park land, thus the requested variance to construct a covered deck would not result in inadequate separation between homes. While it is important to maintain appropriate separation between structures for the protection of homeowners, the requested variance is not deemed to adversely affect 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.**

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 requested variance will not be opposed to said purposes and intents of the UDC. The addition of a roof will not adversely affect surrounding properties or the character of the neighborhood.

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 contradictory to the purpose and intent of the Code and will not adversely affect the public health, safety or welfare. Thus, granting the variance would be a just application of the Code. Staff does not find, however, that UDC Section 405.030 creates an undue hardship to the applicant. Granting the variance is not necessary to relieve the applicant of substantial hardship or difficulty.

STAFF RECOMMENDATION

The subject property is similar in depth, size, and shape to surrounding properties. Several homes surrounding the subject property have decks that are covered by extensions of the roof line. The addition of a covered deck will not adversely affect surrounding properties or the character of the neighborhood.

The existing deck is built to the maximum allowable projection of 9 feet (30% of the required rear yard). However, the property owner has indicated that they intend to decrease the size of the deck during the construction of the roof, and the proposed deck will only extend six feet (20%) into the required rear yard. The property owner has discussed their plans to build a covered deck with their neighbors, and received no objections.

Staff recommends the Board of Adjustment accept the staff proposed findings of fact and approve case #17017 as requested, as it meets the required conditions of approval.