

BOARD OF ZONING ADJUSTMENTS PROCESS

Application

- A variance is defined as a modification of or departure from the provisions of the Unified Development Ordinance (UDO) which, if applied to a specific lot, would significantly interfere with the use of the particular property.
- Application filing fee and legal notice publishing charge, payable to the City of Lee's Summit - see Schedule of Fees and Charges found on www.cityofls.net. One legal notice is required for a variance. A single payment covering the application fee and legal notice charge may be accepted. An application may be withdrawn at any time upon written request; however, no refund will be made after the initial publication.
- The application must include the exact legal description of the property upon which the variance is being requested.
- The application shall be accompanied by at least one set of drawings to clearly indicate the requested variance in relation to the property and/or structures. These could include a plot plan, plat, site plan, survey and/or building elevation(s). Pictures can be submitted with the application and drawings but cannot replace the drawings. The drawings must be of such detail that it can be clearly read. **These drawings must be able to be clearly read as well as being reproduced. If the drawings are larger than 11" by 17", a smaller copy of the drawings shall also be provided.**

Public Hearing Process

- State statutes require legal notice of the time and place to be published 15 days prior to the hearing in an official paper.
- **Mail Notices.** The applicant must mail notices to the last known owner of record as provided by the county within 300 feet at least 15 days prior to the hearing. Sample notices are available. The notice must include:
 - time and place of hearing,
 - general description of the proposal,
 - location map of the property,
 - street address, or general street location
 - statement explaining that the public will have an opportunity to be heard
- **File Affidavit.** An affidavit must be filed with the Development Services Department prior to the public hearing certifying the notices have been sent. Provide a list of the property owners notified and a copy of the notice sent.
- **Post Sign.** The applicant shall post a sign on the premises, at least 15 days prior to the date of the hearing, informing the general public of the time and place of the public hearing.
- **Maintain Sign.** The applicant shall make a good faith effort to maintain the sign for at least the 15 days immediately preceding the date of the hearing, through the hearing, and through any continuances of the hearing. The sign shall be placed within 5 feet of the street right-of-way line in a central position on the property that is the subject of the hearing. The sign shall be readily visible to the public. If the property contains more than one street frontage, one sign shall be placed on each street frontage so as to face each of the streets abutting the land. The sign may be removed at the conclusion of the public hearing(s) and must be removed at the end of all proceedings on the application or upon withdrawal of the application.
- Variance applications require a public hearing, allowing the applicant and any other party to present testimony or evidence to the Board. The applicant or his/her representative will be asked to present its



LEE'S SUMMIT MISSOURI

BOARD OF ZONING ADJUSTMENTS PROCESS

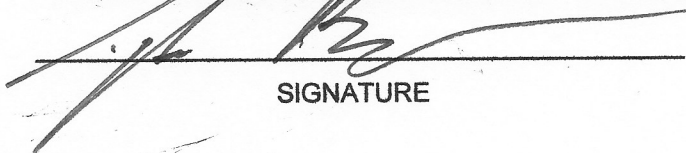
case to the Board, FULLY describing the situation and the variance criteria (see Statement of Variance Criteria).

- Any evidence presented to the Board will become public record and must be provided in duplicate to the City or tagged as an exhibit at the hearing.

Board's Authority

- The Board of Zoning Adjustment may grant a variance, only if application of the UDO when applied to a particular property, would significantly interfere with the use of the property.
- The Board's authority is limited by the statutes of the State of Missouri and the UDO. The Board may only grant a variance if, in its discretion, each of the variance criteria is met (See Statement of Variance Criteria). It is the applicant's responsibility to demonstrate to the Board that each of these criteria have been met. The Board may evaluate the evidence in the record before it, and exercise its discretion on whether each of these criteria has been met on a case by case basis.

The person completing the application must sign below.



SIGNATURE

Tyler Burns

PRINT NAME HERE



LEE'S SUMMIT MISSOURI

NON-USE VARIANCE APPLICATION FORM

Application No. _____

APPLICATION IS HEREBY MADE TO THE BOARD OF ADJUSTMENTS OF THE CITY OF LEE'S SUMMIT, MISSOURI, REQUESTING A VARIANCE TO THE UNIFIED DEVELOPMENT ORDINANCE, AS SET FORTH BELOW,

VARIANCE REQUEST (Give description of variance(s) requested) Variance to UDO 6.1350.B5
The city ordinance requires that all external structures (decks, etc) must be constructed at least 25' from the property line. A variance is requested in this case to allow deck construction which would violate this ordinance (see attached layout for details). The deck would remain captive to the property without negatively impacting the community, natural environment, or otherwise have detrimental effect.

PROPERTY ADDRESS 4105 NE Edgewater Ct, Lee's Summit, MO 64064

LEGAL DESCRIPTION _____
8 9, WEST LK VLG 2ND PLAT, 7 48 31, 8, 9, WEST LAKE VILLAGE #2, WEST LAKE VILLAGE 02

APPLICANT Tyler Burns PHONE 816-803-4063
CONTACT PERSON self FAX N/A
ADDRESS 4105 NE Edgewater Ct CITY/STATE/ZIP Lee's Summit, MO 64064
E-MAIL tyler.tj.burns@gmail.com

PROPERTY OWNER Tyler Burns, Jill Burns, Brett Hines PHONE 816-803-4063
CONTACT PERSON Tyler Burns FAX N/A
ADDRESS 4105 NE Edgewater Ct CITY/STATE/ZIP Lee's Summit, MO 64064
E-MAIL tyler.tj.burns@gmail.com

THIS APPLICATION MUST BE ACCOMPANIED BY:

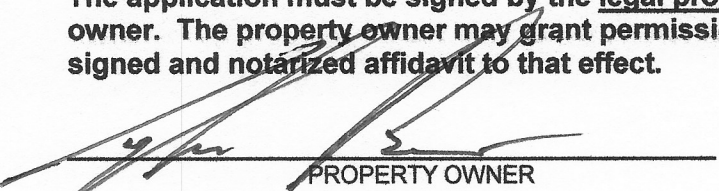
- Acknowledgement of the Board of Adjustment Process.
- One set of drawings to clearly indicate the requested variance in relation to the property and/or structures. These could include plot plan, plat, site plan, survey and/or building elevation(s).
(Note: These drawings must be able to be clearly read as well as being reproduced. If the drawings are larger than 11" by 17", a smaller copy of the drawings shall also be provided.)
- Statement of Non-use Variance Criteria.
- Application filing fee and legal notice publishing charge, payable to the City of Lee's Summit - see Schedule of Fees and Charges found on www.cityofls.net. One legal notice is required for a variance. A single payment covering the application fee and legal notice charge may be accepted. An application may be withdrawn at any time upon written request; however, no refund will be made after the initial publication.



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NON-USE VARIANCE APPLICATION FORM

The application must be signed by the legal property owner AND the applicant, if other than the owner. The property owner may grant permission for the filing of the application by means of a signed and notarized affidavit to that effect.



PROPERTY OWNER



APPLICANT

Print name here: Tyler Burns

Tyler Burns

Receipt #: _____ Date Filed: _____ : Processed by: _____ Application # _____



LEE'S SUMMIT MISSOURI

STATEMENT OF VARIANCE CRITERIA (NON-USE)

In accordance with Section 2.530.B.3 of the Lee's Summit Unified Development Ordinance, the applicant must meet each of the following requirements to support the granting of the requested variance. **Failure to complete each may result in an incomplete application.** Explain **IN DETAIL** how this application meets each of the following requirements.

1. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.

The new proposed deck layout will not obstruct view, activity, or other reasonable functions to be carried out by neighboring owners. The "back" of the property itself meets an easement that is accessible to the community of Lakewood. Similarly, no view or activities in the easement are obstructed.

In general, this variance will allow the construction of personal, private use of space on the plot without impacting the neighbors, users, or other casual bystanders of the property.

2. The granting of the variance will not be opposed to the general spirit and intent of the ordinance from which the variance is sought.

The ordinance is in place to safeguard the use of space and access of the property owner, as well as their immediate neighbors. Notably, the distance from the "back" of the property guards against "overlapping usage" between close proximity neighbors. In this situation, the easement of Lakewood community, and the lack of neighboring obstruction keep with the spirit of the ordinance.

3. The variance requested will not adversely affect the public health, safety, morals, or general welfare of the community.

Public health, safety, morals and general welfare are not applicable in this case as the variance is requested to enable the building of a private deck, not generally accessible. A deck could be considered a public health or safety risk if open to the public; However, the variance in this case maintains a safe distance from public areas. Additionally, appropriately permitted construction principles by the deck builder will ensure that the structure itself is safe, and maintainable; both for the property owner, as well as guests, and other public that would encounter it.

4. The variance requested arises from a condition which is unique and peculiar to the property in question and which is not ordinarily not found in the same zone or district, and further, is not created by an action or actions of the property owner or applicant.
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LEE'S SUMMIT MISSOURI

STATEMENT OF VARIANCE CRITERIA (NON-USE)

The need for this variance arises due to the year of construction of the property in question. It was built, and later granted a variance for the home-structural dimensions. However, the outcome of this unique scenario is that there is no possible way to construct a deck and stay within the bounds of the ordinance. The plot, and layout dictate the need, not any subsequent action of the property owner/applicant.

5. Substantial justice will be done by the granting of this variance.

The variance in question conforms with the general purpose and outlook of the Lakewood community. Many owners, including residents near the property in question, have similar variances to enable close access to the water, easement and other recreational activities. A similar application is underway with the HOA itself, and is expected to pass according to the community and its general mindset towards the lake and access to it. The precedence of other Lakewood community members applying and successfully being approved for similar variances demonstrates a sense of equality amongst the its members.

Further, in accordance with Section 2.530.B.2 of the Lee's Summit Unified Development Ordinance, the applicant must meet each of the following requirements to support the granting of the requested non-use variance. Explain **IN DETAIL** how this application meets each of the following requirements.

1. Practical difficulties exist that would make it impossible to carry out the strict letter of the Unified Development Ordinance when considered in light of the following factors:

a. How substantial the requested variation is, in relation to the requirement of the Ordinance.

The ordinance itself dictates a 25' distance between the edge of the property and the nearest structure (deck) to be constructed. The main structure of the house is 27' from the property line, meaning that the strict honoring of the ordinance would dictate a deck no larger than 2' wide. This is an impractical size for usable deck.

b. The effect of increased population density, if any, on available public facilities and services, if the variance is allowed.

The only impact would be to an increased number of users in the public easement as well as boaters or other users of the lake itself. While this would create a situation where more people would have visibility to the deck, the general usage of these areas is geared towards the lake. In this sense, the deck would be behind these users, even if there were more of them.

c. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created if the variance is allowed.

The character of the neighborhood and surrounding community will not be adversely affected by this change. In fact, the general neighborhood perspective would be honored by the more accessible usage of the amenities provided by the natural surroundings.

Regarding impact to adjoining properties, one neighbor's residence faces away from the proposed deck and no windows or other access are directed at the proposed location. Additionally, the only other neighbor has full and direct access to the lake and easement without being obstructed by the new design. In fact, the part of the deck design closest to this neighbor is the smallest and will not change from the current layout, footprint or design.



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STATEMENT OF VARIANCE CRITERIA (NON-USE)

d. Whether it is feasible for the applicant to pursue a method, other than a variance, to obviate the practical difficulty.

The only other options available are:

a) tear down the existing deck without replacing. This leaves a gap, and oddly viewed house face that would actually detract from the look and feel of the property and the community as a whole.

b) retrofit the existing deck best as possible. Though its been made clear by multiple contractors that its likely going to rot away regardless of their rehabilitation.

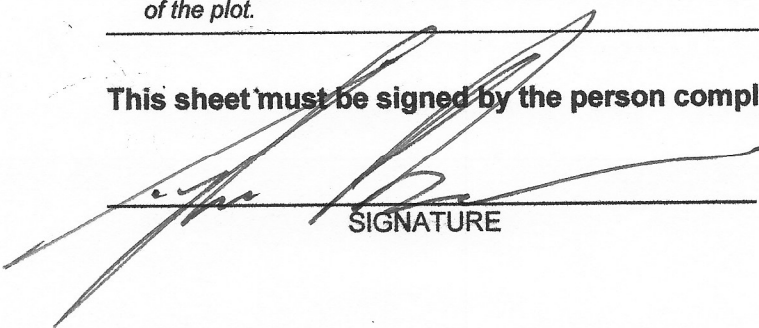
e. Whether the interests of justice will be served by allowing the variance, in view of the manner in which the practical difficulty arose in consideration of all of the above factors.

The variance in question enables the construction of a deck of like kind and purpose of the original construction of the house. In addition, the community, neighbors or other general participants are not adversely affected by this requested variance. While the difficulty arose due to end of life of the current structure, the new structure would keep the spirit of the property, and would only minimally impact others outside of the property. However, it provides great continuity and utility to the existing home owners.

f. Conditions of the land in question, and not conditions personal to the landowner. (The Board will not consider evidence of the applicant's or landowner's personal financial hardship unrelated to any economic impact on the land.)

The variance in question is simply a question of layout, not hardship, or even adjustment to existing situations. The consideration is based upon an original construction of the primary structure which was, itself, requiring a variance to an ordinance that was successfully granted. This is a continuation of the effect of the construction, and its impact on the layout of the plot.

This sheet must be signed by the person completing this sheet.



SIGNATURE

Tyler Burns

PRINT-NAME HERE