


City of Lee's Summit

Planning & Special Projects

November 7, 2017

TO: Board of Zoning Adjustments

FROM: Christina Stanton, AICP, Senior Planner 

RE: **PUBLIC HEARING – Application #PL2017-215 – Variance to Unified Development Ordinance Article 8, Table 8-1, Setback for Private Swimming Pool – 4548 SW Raintree Shore Drive; Wesley Fields, applicant**

Recommendation

The Department of Planning & Special Projects recommends **APPROVAL** of the variance, as requested.

Request

Variance Requested: a non-use variance to the setback requirement for a private swimming pool

Site Characteristics

Location: 4548 SW Raintree Shore Drive

Zoning: R-1 (Single-Family Residential)

Property Owner: King Building Inc.

Surrounding Zoning and Uses:

North: R-1 – single-family residences

South: R-1 – single-family residence

West (across Raintree Lake): R-1 – single-family residences

East (across SW Raintree Shore Dr.): R-1 – single-family residences

Background

- November 2, 2016 – The Codes Administration Department issued Building Permit #PRRES20162747 for a single-family house with 2 covered decks, the larger of which was set back 30' from the rear property line, at 4548 SW Raintree Shore Drive.
- September 14, 2017 – The Codes Administration Department issued Building Permit #PRRES20172863 for a swimming pool that was shown to be 10' from all decks and the (East) side property line, and was outside the 15' utility easement. This slightly curvilinear pool was approximately 15' long by 13' wide.

Ordinance Requirement

Private Swimming Pool Setback Requirements. The Unified Development Ordinance requires a minimum private swimming pool setback of 10 feet, inclusive of the concrete apron or deck surrounding the swimming pool. (UDO Article 8, Table 8-1)

Existing Conditions. Currently the house is under construction. The original approved plot plan showed 2 covered decks, the larger of which was set back 30' from the rear property line.

The plot plan that was approved in September indicated an in-ground pool approximately 15' long by 13' wide. The rear of the property abuts a small common area tract which contains a sidewalk that runs behind all the properties abutting Raintree Lake in this area.

Request. The applicant is requesting a variance of 8' to the required 10' swimming pool patio/deck setback requirement.

Analysis of Variance

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 4, Sec. 4.590.B.3.:

Criteria #1 – The granting of the variance will not adversely affect the rights of adjacent landowners or residents.

Granting the variance will not adversely affect the adjacent property owners' view since the structure is an in-ground swimming pool and the abutting property to the south is common area owned by the Raintree Lake Property Owners Association.

Criteria #2 – The granting the variance will not be opposed to the general spirit and intent of this Ordinance.

The intent of setbacks is to keep privacy and separation between uses and structures. Granting the requested variance will not be opposed to the spirit and intent of the ordinance. The proposed reduced setback is in the direction of common area and Raintree Lake.

Criteria #3 – The variance desired will not adversely affect the public health, safety or general welfare.

It is not anticipated that the proposed in-ground swimming pool will have any adverse affect to the public health, safety or general welfare since the requested variance of 8' encroaches toward common area and Raintree Lake to the south and not any of the abutting residential lots.

Criteria #4 – The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.

The lot backs up to common property and Raintree Lake.

Criteria #5 – Substantial justice will be done.

Substantial justice would be done. As proposed, the swimming pool will meet the required 10' setback from the side property lines. The requested variance is for 8' of the required 10' setback from the rear property line, which is shared with the Raintree Lake Property Owners Association's common property. The common property is comprised of a narrow strip of land with a sidewalk, which runs behind all the properties in this area that abut Raintree Lake. A variance would not violate the spirit of maintaining privacy and separation between uses and structures.

Analysis of Non-Use Variance

With respect to a non-use variance, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 4, Sec. 4.590.B.2.:

Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.

Following the strict letter of the UDO would limit the construction of the desired private swimming pool. However, these limitations are no different than those placed upon other property owners within this and other subdivisions. There are no practical difficulties making it impossible to carry out the strict letter of the ordinance requirement and construct a private swimming pool of the same or similar shape and functionality.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 4, Sec. 4.590.B.2.:

Consideration #1 – How substantial the variation is, in relation to the requirement.

The applicant requests a 8 foot variance from the required 10 foot setback from the swimming pool.

Consideration #2 – If the variance is allowed, the effect of increased population density, if any, on available public facilities and services.

Approval of the setback encroachment will not increase population and thus would have minimal, if any, effect on the available public facilities.

Consideration #3 – Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created.

Granting a variance will not produce a substantial change in the character of the neighborhood. The swimming pool encroachment would be 8 feet and is unlikely to have a negative impact on the adjacent properties since the encroachment is towards common property and Raintree Lake.

Consideration #4 – Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance.

The UDO requires a minimum 10 foot setback from the swimming pool and any concrete apron or deck surrounding the swimming pool. The proposed swimming pool is set back 2 feet from the rear property line. The applicant could obviate the need for a variance by reducing the size of the swimming pool from 18' x 35' to 10' x 35'. The pool cannot be moved closer to the house due to Section 8.020.H of the UDO, which states: "When an accessory structure is attached to the principal structure by a breezeway, passageway, or similar means, or is located within 10 feet of the principal structure it shall comply with the yard requirements of the principal structure to which it is accessory." Due to this section of the UDO, if the swimming pool were closer than 10' from the house it would be required to be set back 30' from the rear property line.

Consideration #5 – Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

The interests of justice would be served by granting the requested variance. The variance would not violate the spirit and intent of maintaining privacy and separation between uses and structures.

Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.

The size of the lot itself is not unique. The fact that the rear of the lot abuts common property and a lake is somewhat unique.

Attachments:

1. Reduced copy of original plot plan approved on November 2, 2016, for construction of a single-family home with two covered decks
2. Reduced copy of revised plot plan approved on September 11, 2017, for a slightly curvilinear pool approximately 15' long by 13' wide
3. Site plan corresponding with slightly curvilinear pool
4. Copy of proposed revised site plan showing larger pool – date stamped October 4, 2017
5. Rendering of proposed larger pool – date stamped October 4, 2017
6. Reduced copy of revised original plot plan showing approximate location of larger proposed pool
7. *North Shore at Raintree Lake* plat
8. Board of Zoning Adjustment Application and Variance Criteria – 5 pages
9. Location Map

Revising

ORDERED BY: KING BUILDING
DESCRIPTION: LOT 14 NORTH SHORE AT RAINTREE LAKE, LOTS 1-50 & TRACTS A-F
LEE'S SUMMIT, CASS COUNTY, MISSOURI

CONSTRUCTION STAKE PLOT PLAN

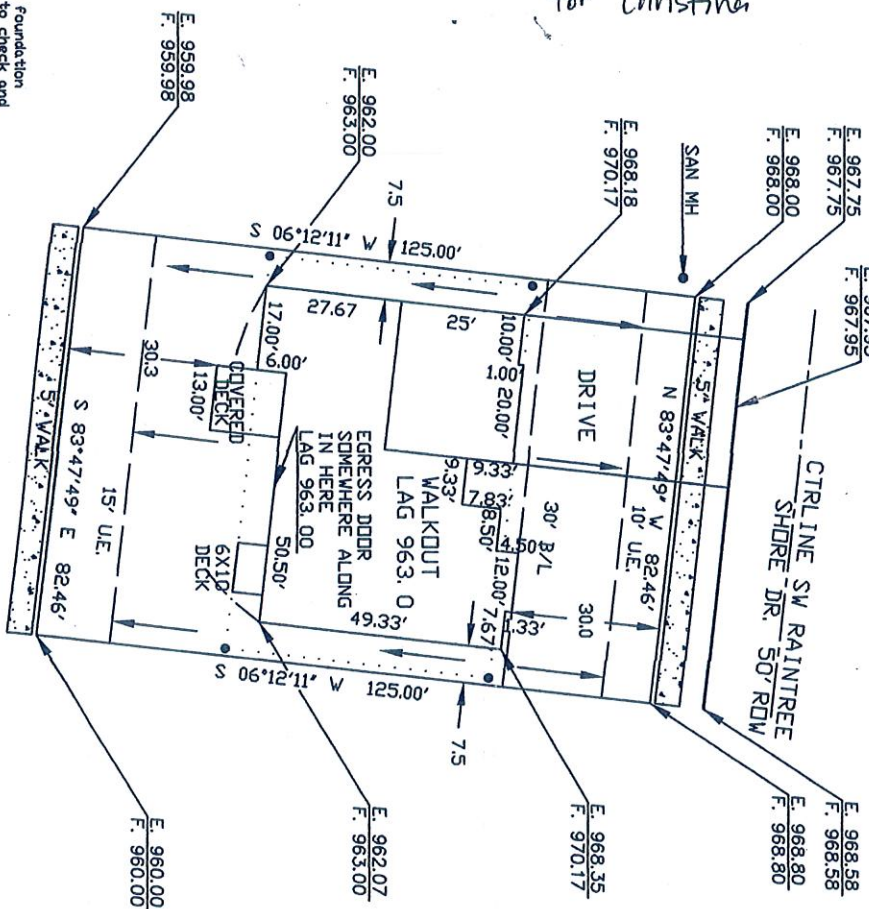
This approval is issued in reliance upon information submitted by the applicant. Any permit issued pursuant to this approval may be suspended or revoked whenever the permit is issued in error, or on the basis of incorrect information furnished, or in violation of any ordinance or regulation. Approved plans shall not be changed, modified or altered without authorization. The issuance or granting of a permit or approval of plans shall not be construed to be a plan for, or an approval of, any violation of any of the provisions of the ordinance of the City of Lees Summit, Missouri.

APPROVED Jennifer Thompson DATE 11/2/16
PRINT NAME Jennifer Thompson
for Christina

**HENLEY
SURVEY CO.**

PHONE: (816) 716-3254

This plot plan was prepared for use before and during foundation construction only. House staked as shown on plot plan. Contractor to check and verify house dimensions and elevations at job site. We are not responsible for unknown or platted easements of any kind unless we are furnished the description of said easements before the field work is performed. NOTE: Cuts shown hereon for excavation are a guide only. Final decision as to cuts and foundation height to be made by builder on job site.



• = 6' 0/S BAR (TYP.)

1" = 30' DATE: 09/12/16

DIRECTION OF DRAINAGE



\$216.38

CONSTRUCTION STAKE PLOT PLAN

ORDERED BY: KING BUILDING
DESCRIPTION: LOT 14 NORTH SHORE AT RAINTREE LAKE, LOTS 1-50 & TRACTS A-F
LEE'S SUMMIT, CASS COUNTY, MISSOURI

4548 SW RAINTREE SHORE DR.

MBFE = 961.0

MBOE = 965.0

BFE = 963.0

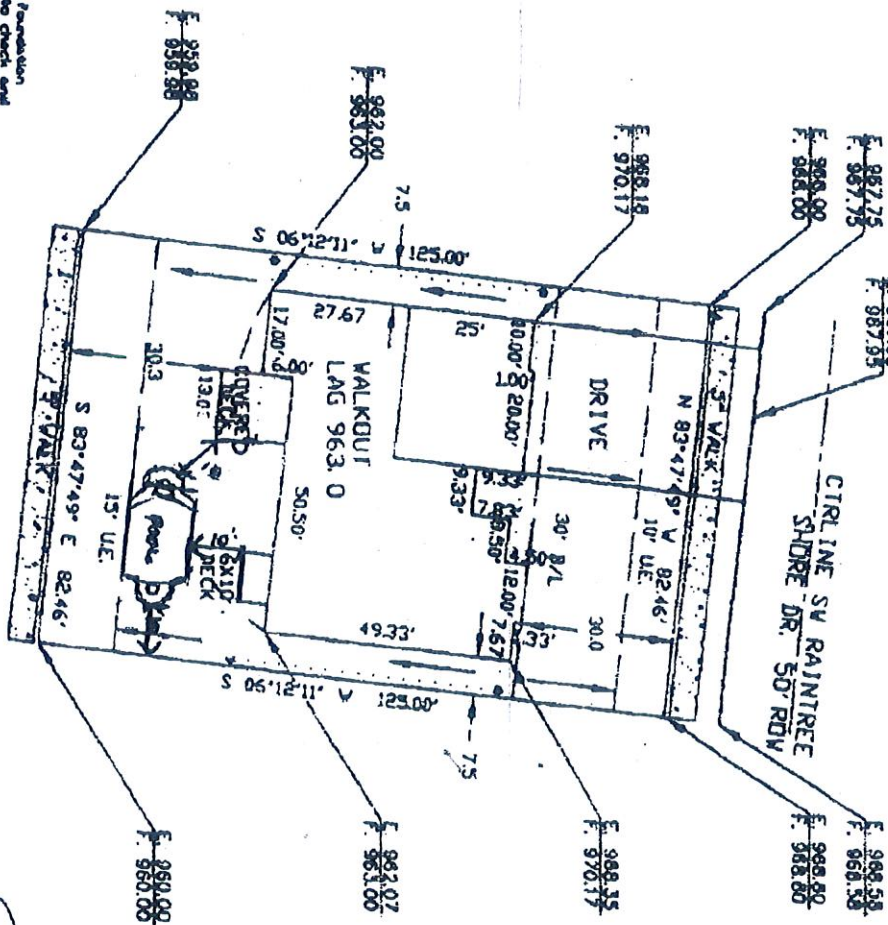
TOF = 971.67

Public Works approval is contingent upon: 1) finish grading not impeding the existing surface water flow patterns from adjacent property(s); 2) no alteration of the existing drainage flow patterns which increases or alters the drainage into adjacent property(s); or 3) not creating any other adverse impact to adjacent property(s) due to grading practices or other construction practices which divert surface water to adjacent property(s).

**HENLEY
SURVEY CO.**

PHONE: (816) 716-3254

This pilot plan was prepared for use before and during Foundation Construction only. Plans related to storm or flood plan construction to check and verify house dimensions and elevations at job site. We are not responsible for omission or clerical statements of any local utilities or any Division the direction of said statements before the final work is performed. After the storm hazard for evacuation are a guide only. Final decision as to cuts and Foundation height to be made by holder on job site.



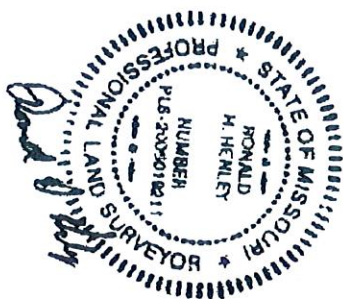
MESSEY FIELDS

RESIDENCE

Der. Service

approval for pool

9/11/17

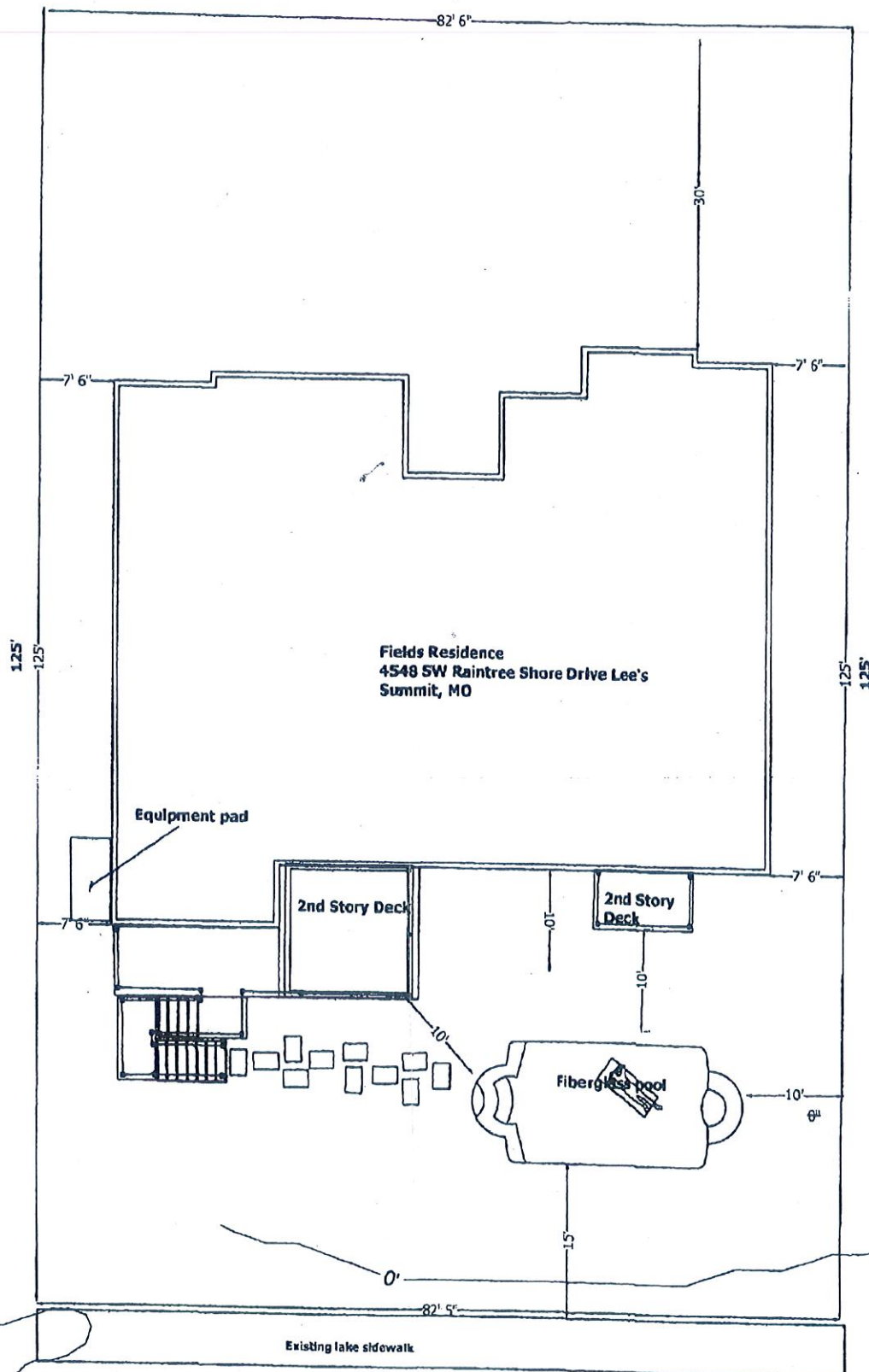


• - 6' O/S BAR (TRP.)

$$1. = 30$$

DATE: 09/12/16

DIRECTION OF DRAINAGE



Equipment pad

2nd Story Deck

2nd Story Deck

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Fiberglass pool

Existing lake sidewalk

Scale: 1/8" = 1 ft.

7' 6"

7' 6"

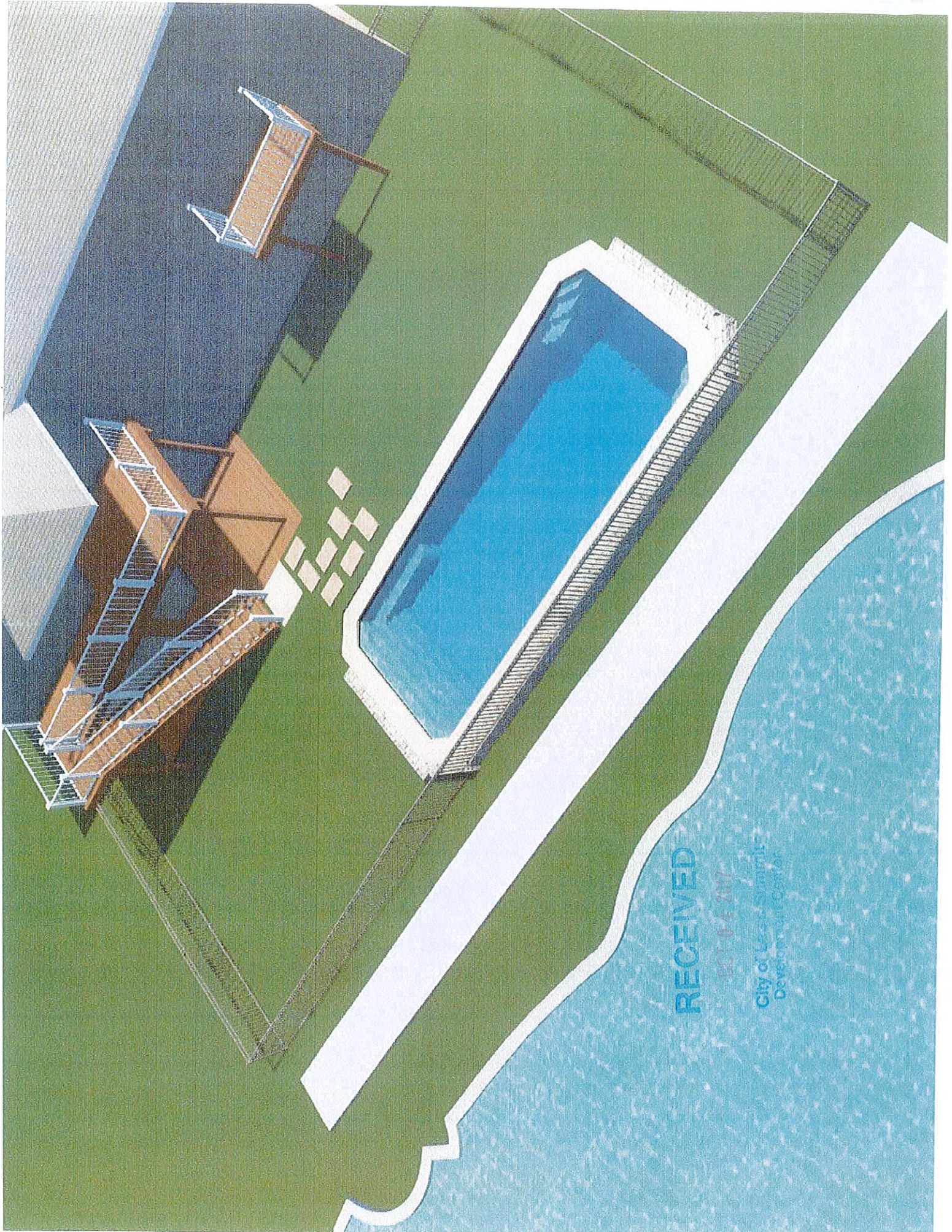
10'

10'

35'

82' 5"

3'



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ECI 042017

City of Las Vegas Summit
Development Center

2014.7.14.1

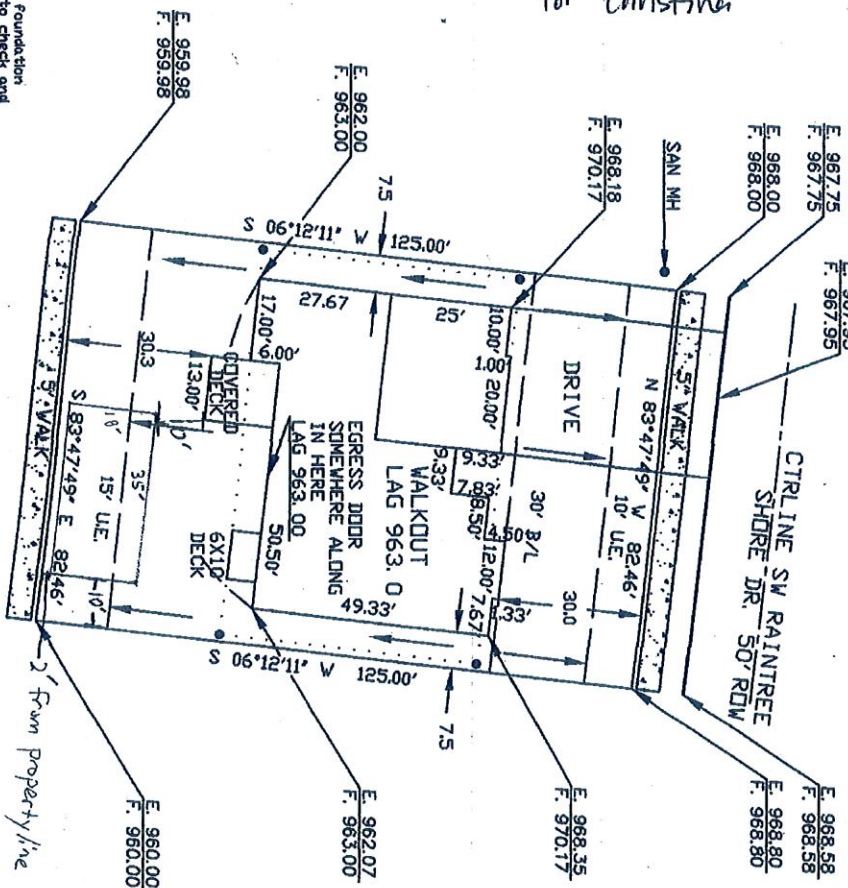
Revising

4548 SW RAINTREE SHORE DR
 MBFE = 961.0
 MBOE = 963.0
 BFE = 963.0
 TOF = 971.67
 GAR = 970.17

This approval is issued in reliance upon information submitted by the applicant. Any permit issued pursuant to this approval may be suspended or revoked whenever the permit is issued in error or on the basis of incorrect information furnished, or in violation of any ordinance of regulation. Approved plans shall not be changed, modified or altered without authorization. The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the ordinance of the City of Lees Summit, Missouri.

APPROVED *Jennifer Thompson* DATE 11/2/16
 PRINT NAME Jennifer Thompson
 for Christina

CONSTRUCTION STAKE PLOT PLAN
 ORDERED BY: KING BUILDING
 DESCRIPTION: LOT 14 NORTH SHORE AT RAINTREE LAKE, LOTS 1-50 & TRACTS A-F
 LEE'S SUMMIT, CASS COUNTY, MISSOURI

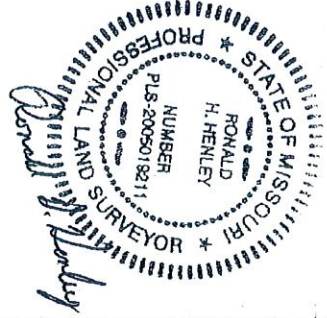


HENLEY
 SURVEY CO.

PHONE: (816) 716-3254

This plot plan was prepared for use before and during foundation construction only. House staked as shown on plot plan. Contractor to check and verify house dimensions and elevations at job site. We are not responsible for use of this plan for any other purpose. The field notes and plat are the basis for this plan. The field notes and plat are the basis for this plan. The field notes and plat are the basis for this plan.

1" = 30' DATE: 09/12/16
 DIRECTION OF DRAINAGE —→



2005.T. 0044515

2805.1 0644585
NORTH SHORE AT RAINTREE LAKE


Lots 1 through 50 and Tracts A through F
A subdivision in Sections 5 & 6, Township 46, Range 31
and Section 31, Township 47, Range 31
in Lee's Summit, Cass & Jackson Counties, Missouri

PROPERTY	BOUNDARY DESCRIPTION
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[illegible]

This is to certify that within the plot of NORTH SHORE AT RAINIER, located in the City of Leavenworth, Washington, the following plat has been laid out and duly approved by the Mayor and City Council of the City of Leavenworth, Missouri, this 7th day of October, 2004 by Ordinance No. 2810.

Approved: City of Leavenworth



The seal of the City of Leavenworth, Missouri, is circular. It features a central shield with a landscape scene, including a river, a bridge, and a building. The shield is surrounded by a ring of text that reads "CITY OF LEAVENWORTH, MISSOURI".

John H. ...

6/10/82

Director Planning & Development

5-11-a-1

Date _____

Entered in the transfer record this _____ day of _____
A.D. 2004.

John S. [Signature]
Recorder of Deeds
7-1-04

Approved by Jackson County Assessor: _____

By Edith L. Linn 5-24-55
Date

County Line
Mass County

Developed By:
North Shore Properties Inc.

[illegible]

Signature and stamp in purple ink indicates on original signed copy by this Secretary, any other cells in this on original copy.

REVISIONS					
DATE	DESCRIPTION	BY	CHKD	APP'D	NOTED

JOB NO.	3185
SCALE	NOTED
DRAWN BY	06/02/04
CHECKED BY	J.A.N.
DATE	E.A.R.
SHEET NOS.	1 OF 2

**FINAL PLAT - NORTH SHORE AT RAINTREE LAKE
IN SECTIONS 5 & 6, TWP. 46, RNG. 31
& SECTION 31, TWP. 47, RNG. 31
LEE'S SUMMIT, CASS & JACKSON COUNTIES, MISSOURI**

WEISKIRCH & PARKS ENGINEERS, INC.

 111 NORTH MAIN, SUITE #10
INDEPENDENCE, MISSOURI 64050
(816)254-5000 FAX: (816)252-9712
WPET@SMBELL.NET



NON-USE VARIANCE APPLICATION FORM

Application No. PL2017-215

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) _____

APPLICANT REQUESTS A VARIANCE TO ENCROACH UPON THE 10 FOOT REAR SET BACK OF THE

SUBJECT PROPERTY.

PROPERTY ADDRESS 4548 SW RAIN TREE SHORE DRIVE, LEE'S SUMMIT MO 64082

LEGAL DESCRIPTION NORTH SHORE AT RAIN TREE LAKE LOT 14

PROPERTY OWNER WESLEY FIELDS

ADDRESS 4548 SW RAIN TREE SHORE DRIVE

CITY—STATE—ZIP LEE'S SUMMIT MO 64082

PHONE 816-679-2634

FAX _____

APPLICANT WESLEY FIELDS

ADDRESS 4548 SW RAIN TREE SHORE DRIVE

CITY—STATE—ZIP LEE'S SUMMIT MO 64082

PHONE 816-679-2634

FAX _____

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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).

City of Lee's Summit
Development Center



NON-USE VARIANCE APPLICATION FORM

(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.
- Enclosed is the fee in the amount of \$ 465.00 (\$300 filing fee plus \$165 advertising charge) Payable to the **City of Lee's Summit**.

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: <u>WESLEY FIELDS</u>	<u>WESLEY FIELDS</u>

Receipt #: 2017030458 Date Filed: 10/4/17 Processed by: CS

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Development Center



STATEMENT OF VARIANCE CRITERIA (NON-USE)

In accordance with Section 4.520.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.

Encroachment of Rear Set-Back will not affect adjacent property owners because the rear property line is adjacent to the lake.

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 policy and spirit of the ordinance is designed to prevent building too close to another peroperty owner.

That will not result by virtue of granting this variance.

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

The variance will accommodate a residential pool and will not adversely affect public health, safety, morals or general welfare of the community.

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City of Lee's Summit
Development Center

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.

The requested variance is unique because it will encroach on property adjacent to the lake.



STATEMENT OF VARIANCE CRITERIA (NON-USE)

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

A property owner in close proximity requested and was granted a similar variance. It would be just to make the same accommodation for the same purpose.

Further, in accordance with Section 4.530.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 variance is not substantial because it will not adversely impact adjacent property owners.

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

None.

- 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.

None.



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.

There is no other method to obviate this practical difficulty.

- 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.

It will permit the applicant to use his entire property to accommodate a pool without adversely impacting

adjacent property 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 requested variance is not specific to the Applicant, as it could apply to each property owner that

owns property adjacent to the lake and specifically where their rear property line is adjacent to the lake.

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


SIGNATURE

WESLEY FIELDS

PRINT NAME HERE

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OCT 04 2017

City of Lee's Summit
Development Center

**Appl. #PL2017-215--VAR to swimming pool setback
4548 SW Raintree Shore Dr.;
Wesley Fields, applicant**

