



LEE'S SUMMIT
MISSOURI

2020-006--

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.
- An application for variance must be completed and submitted to the Development Services Department, with the **\$300** filing fee plus one (1) **\$165** advertising charge, payable to the City of Lee's Summit.
- 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 185 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 case to the Board, FULLY describing the situation and the variance criteria (see Statement of Variance Criteria).



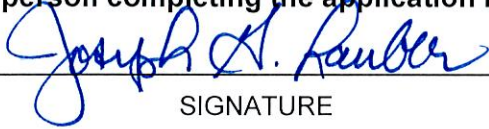
BOARD OF ZONING ADJUSTMENTS PROCESS

- 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


PRINT NAME HERE



LEE'S SUMMIT
MISSOURI

2020-006--

NON-USE VARIANCE APPLICATION FORM

Application No. PL2020-006

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) We are requesting a variance to UDO Section 6.1340.1 and Section 6.0404, Table 6-3, which when read together establishes a 50 foot side yard setback on AG zoned properties. The variance we are requesting would reduce the required variance by 35 feet, to 15 feet.

PROPERTY ADDRESS 1300 SW Hook Road, Lee's Summit, MO 64082

LEGAL DESCRIPTION Charles Estates, Lot 2

APPLICANT Joe and Sheri Lauber

PHONE 816-509-7881

CONTACT PERSON Joe Lauber

FAX _____

ADDRESS 1300 SW Hook Rd

CITY/STATE/ZIP Lee's Summit, MO, 64082

E-MAIL jlauber@laubermunicipal.com

PROPERTY OWNER Joe and Sheri Lauber

PHONE 816-509-7881

CONTACT PERSON Joe Lauber

FAX _____

ADDRESS 1300 SW Hook Rd

CITY/STATE/ZIP Lee's Summit, MO, 64082

E-MAIL jlauber@laubermunicipal.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.
- 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**.

RECEIVED

JAN 08 2020

Development Services



LEE'S SUMMIT MISSOURI

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.

Joseph G. Lauber
PROPERTY OWNER

Same

APPLICANT

Print name here:

Joseph G. Lauber

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



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 granting of the requested variance will not adversely affect the rights of adjacent property owners or residents because there remains adequate separation of 15 feet between the proposed structure and the property line. While this property is located within an AG zoning district, it and all of the surrounding properties have been used as single-family residential properties for decades. According to UDO Section 6.040 Table 6-3, the maximum side yard setback in any residentially zoned property within the City is 10 feet. Thus, the requested side yard setback after applying the variance would still exceed the common residential side yard setback by 50%. The only property owner that possibly could be affected would be the neighboring property owner to the east. Their view of the proposed garage would be blocked by a large Willow tree located in the sight line from the back of their house to the proposed structure. Furthermore, granting this variance could have the effect of clearing up drainage problems that occur at our common property line due to the natural grade and a downspout from their eaves that daylights a few feet east of the property line.

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 granting of the requested variance would not be opposed to the general spirit and intent of the ordinance from which the variance is sought because traditional AG zoned lots are multiple acres in size generally square shapes to allow for greater distances between structures. Past subdivision of lots in our area created narrow lots for single family residential use, which significantly reduces the distance between primary structures on these properties. To strictly follow the AG regulations for these residentially used properties would allow only a 65-foot swath in the center of the property. As you can see from the attached exhibits, it is utterly impossible to place even a primary structure on property considering these setbacks, let alone an unattached accessory structure like the proposed garage.



STATEMENT OF VARIANCE CRITERIA (NON-USE)

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

The requested variance will not adversely affect the public health, safety, morals, or general welfare of the community because other properties in the area already exist with side yard setbacks of less than the required 50 feet and there is no other occurrence of an adverse effect on the public health, safety, morals, or general welfare of the community. The next eight properties to the west of the subject property all have detached accessory garage/shed/shop/barn structures that are located less than 50 feet from the side property line. Two doors east of the subject property there exists another detached accessory barn with less than a 50-foot side yard setback. If these properties had been zoned as they are used, residential, a 10-foot setback would be the maximum required under the UDO. The proposed garage will likely improve drainage issues occurring where the neighbor to the east has daylighted a downspout creating standing water issues during rainy seasons, which improve health, safety, and welfare of the community by reducing mosquito breeding areas. Additionally, the garage would provide a place for the property owner to store a vehicle that is being rebuilt as a hobby so as to not have an eyesore on their open driveway. Finally, the proposed garage would be screened from the view of the neighboring house to the east by a large willow tree.

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 variance requested arises from a condition which is unique and peculiar to the subject property and is not ordinarily found in the same zone or district. This is because typically AG zoned property is made up of sometimes dozens or even hundreds of acres and is usually square in shape. The subject property is only 5 acres and is extremely narrow (165 feet wide), which is unique to lots in the area, but not ordinarily found in AG zoned lots. The width of the lot was determined when the Charles Estates subdivision was created May 3, 1994. The current owners purchased this property in 2005. Consequently, the condition from which the variance request arises was not created by the actions of the property owner/applicant



STATEMENT OF VARIANCE CRITERIA (NON-USE)

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

Substantial justice will be done by granting this variance because it would otherwise be impractical to locate an accessory garage on a narrow lot in a way that permits it to be used for the common purpose of yard maintenance and automobile storage. It is impractical to locate the proposed garage within the required setback because doing so would require the owners to place a driveway over the septic sewer lateral line running from the house to the septic tanks and further towards the aeration pond. It is also impractical to have an additional driveway approach the proposed garage from the west due to even tighter setbacks. Consequently, practical difficulties exist in enforcing the non-use UDO requirements related to side yard setbacks for this property.

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 requested variance would result in a 70% reduction in the specified side yard setback (35 feet of 50 feet requirement). While the requested variance is significant on its face, the practical application in this case is fairly insignificant considering that all residential zoned properties have a 10 feet or less side yard setback requirement and this request would leave a 15 foot side yard setback in an area that is used for single family residential uses that are located on narrow AG zoned lots.

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

The requested variance is to allow a non-habitable accessory use to a residential structure to be located closer to a side property line than the current zoning regulations allow. Consequently, there will be no possible increase in population density. The property is served by private sewer and other utilities, except water, thus there will be no significant increased need for public facilities or services.

- 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.

Granting the requested variance will not produce a substantial change in the character of the neighborhood, nor will it create a substantial detriment to adjoining properties. As indicated in the response to Paragraph 3 above, most of the properties located in this area have unattached accessory garages/barns/workshops that are located less than 50 feet from one of their side yard property lines.



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.

As indicated in the response to Paragraph 5 above, it is not feasible to pursue another method to obviate the practical difficulty. Moving the location of the proposed garage is the only possible means; however, the location of the existing driveway (east side), tighter setbacks on the west side of the house, and the location of the septic sewer lateral line in the back yard make the requested location the only one possible.

- 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 purpose of an area variance is to act as a safety valve when generally applicable zoning regulations create practical difficulties in carrying out the strict letter of the regulations. Here, justice will be served by permitting common and reasonable accessory structure to be built in the most practical location available on a lot that is uncommonly narrow for its zoning classification.

- 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 long, narrow, "piano key" nature of the lot is specific to the land itself as a result of a common subdivision practice from decades ago. The shape of the lot was not created by the owner, nor is this condition personal to the owner.

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


SIGNATURE


PRINT NAME HERE