

## **BOARD OF ADJUSTMENT MEETING MINUTES**

15933 Clayton Road, Suite 300  
Clarkson Valley, Missouri 63011

April 9, 2026

Mr. Mayberger called the meeting to order at 6:33 p.m. The Clarkson Valley Board of Adjustment, pursuant to notices posted on the City of Clarkson Valley website and the bulletin board, met to consider one application.

Roll call for the meeting was taken, with the following members in attendance:

- Tom Berkeley (via Zoom)
- Joe Mayberger
- Rick Vaduka
- Matt St. John

Also in attendance:

- City Attorney Patrick Butler (arrived at 7:14 via phone)
- City Administrator/City Clerk Megan Eldridge
- Building Commissioner Paul Mercurio (via Zoom)
- Renee Stark, Court Reporter with 360 Litigation Services

### **PUBLIC HEARING**

**Mark and Sandy Ellis, 17 Jennycliffe Ln. – Requesting a variance from the Rear Yard and Rear Building Line requirements to allow a retaining wall, swimming pool, swimming pool fence, and swimming pool equipment to encroach into the rear yard located at 17 Jennycliffe Lane.**

Ms. Eldridge read the notice of hearing.

Mr. Mayberger asked if all the members had viewed the property. Mr. Vaduka stated he had not.

Mr. Mayberger explained to the applicant that since only four Board Members were in attendance, this request must receive affirmative votes from all four members to be granted. Mr. Mayberger asked the applicant if they approved of four members hearing the request, to which Ms. Ellis responded she did.

Ms. Stark swore in those that planned to speak during the hearing: Jeff Kulow, Burke Construction and Sandy Ellis, homeowner.

Mr. Kulow presented the variance request on behalf of the homeowners. If the pool was placed parallel to the home and more toward the existing screened-in porch, the pool and retaining wall would not fit within the setbacks and still maintain an adequate distance from the pool to the house's foundation and porch.

Mr. St. John understood the hardship was the pool could not be oriented within the rear yard setback because a certain distance between the pool and the foundation of the house and the screened-in porch was required from an engineering perspective. Mr. Kulow stated there needed to be at least six feet of distance from the screened-in porch. The pool would not negatively impact the neighbors and there was

a good distance and a tree line from the back of the property to the neighbor's home. The pool would be in the rear yard setback no matter where it was located.

Mr. St. John asked for the distance from the back of the house to the rear yard setback. Mr. Kulow stated it was about 25 feet. Mr. St. John asked for the distance from the screened-in porch to the side yard setback. Mr. Kulow stated it was about 47 or 48 feet.

Mr. St. John asked Mr. Mercurio if the pool could extend past the house as long as it was within the setback. Mr. Mercurio stated he did not believe anything in the City Code prohibited the pool from extending past the house.

Mr. St. John noted there was 50 feet between the side building line and the screened-in porch and at least 25 feet from the back of the house. The five-foot deep pool would need to be at least 10 feet from the house. Mr. Kulow stated there was almost 25 feet from the back corner of the house to the rear yard setback, but that distance would shrink significantly the farther the pool extended past the house. Mr. St. John stated there was a big difference between a 35-foot variance and rotating the pool and moving it 10 feet.

Mr. St. John asked Mr. Mercurio if any rear setback variances were granted on Jennycliffe Lane. Mr. Kulow stated 8 Forest Club Drive seemed to have a lot of variances in the rear yard. Mr. St. John noted 20 Jennycliffe Lane appeared to have something in the setback, but he didn't know where the lot lines were or if it had been granted a variance or permit. Mr. St. John asked if 8 Forest Club Drive was granted a variance and what the hardship was. Ms. Eldridge stated she thought 8 Forest Club Drive went before the Board of Adjustment a few years ago.

Mr. St. John asked if the applicant had letters of support from surrounding neighbors. Mr. Kulow stated he had not received them yet but could provide them. Ms. Ellis stated the Lellos and the Trosts were fine with their plan. Mr. Mayberger asked if one of those owners resided at 9 Forest Club Drive. Ms. Ellis stated the Lellos did.

Mr. St. John asked if the setbacks had changed on Jennycliffe Lane. Ms. Eldridge stated they had not.

Mr. St. John asked if variances had been granted on properties adjacent to the Ellis property and if the Board could receive letters of support from those property owners for this proposal. Ms. Eldridge stated she would need to research whether variances had been granted on adjacent properties. The City had not received any letters of support, but the City's procedure was to send a notice of hearing to surrounding property owners if a letter was not received. Ms. Ellis stated surrounding property owners did receive the notice because they contacted her. She stated the Reynolds must have a large variance because they are practically building another house. Ms. Eldridge stated that was 2 Jennycliffe Lane which did not touch the Ellis property. Mr. St. John asked if 2 Jennycliffe Lane was granted a variance. Ms. Eldridge stated it was.

Mr. St. John stated he would be interested in seeing what variances the City had granted to properties near the Ellis property and what the hardships were. Ms. Eldridge stated it appeared 8 Forest Club Drive was granted a variance, but she was not able to provide information at this time. Mr. St. John understood it would have been approved based on a hardship. Ms. Eldridge stated she assumed so. The property owner of 8 Forest Club Drive submitted a hardship letter, but all applications were required to provide a hardship letter. Mr. St. John understood applicants didn't have to define the hardship but just check the

box. In this instance and others, he felt the hardship wasn't explained. Ms. Eldridge stated it was up to the Board of Adjustment to decide if the applicant met the hardship requirement.

Mr. St. John was concerned about not having approval from the neighbors. He thought the neighbors would support this request because they would have gone to their neighbors for the same approval. He asked the Board members if they recalled a similar variance in the past. Mr. Mayberger stated he did not recall a variance this large being requested. Ms. Eldridge stated 2 Jennycliffe received several variances, but she had not been with the City long enough to recall other variances similar to this request. Mr. Mayberger and Mr. St John spoke about the application for 2 Jennycliffe Lane. Mr. St. John stated the swimming pool at 8 Forest Club Drive is oriented like this application, but it may have gotten a five- or six-foot variance versus 25 feet.

Mr. St. John asked how long the pool was. Mr. Kulow replied it was 38 feet. Mr. St. John understood seven or eight feet of that was a wading/bathing pool. Mr. Kulow stated that was correct. Mr. St. John asked if the shallow area was only 12 inches deep, was it required to be only one foot from the house. Mr. Kulow stated the distance was usually twice the depth. He could get the pool closer to the wall but that was the pool entrance was and he needed about six feet for an adequately safe walkway to enter the pool.

Mr. St. John stated if the pool was 10 feet from the house and was L-shaped, and the wading pool was within the first four feet, they might be able to rotate the pool and request a variance based on the lot and the layout. Mr. Kulow stated the pool could not be L-shaped because it is a fiberglass pool. If the shape of the pool was changed, a different pool shell would be required. He noted he could move the pool in and keep the same design. The 15 feet was to provide decking, but he could reduce the variance to about eight feet off the house. Mr. St. John asked what that would do to the rear retaining walls. Mr. Kulow stated they would be a little bit shorter. Mr. St. John understood fencing would be on top of the retaining wall. Mr. Kulow stated that was correct. Ms. Eldridge stated when public hearing notice for the application was done, the plans did not include a fence. A fence had been added but Mr. Mercurio would need to confirm if that needed a variance. Mr. St. John understood the fence would move wherever the wall is. Mr. Kulow stated the fence would sit just inside the wall.

Mr. St. John asked if the door to the basement would be modified to comply with the pool code. Mr. Kulow stated it would.

Mr. Mayberger asked what the variance was for 8 Forest Club Drive. Ms. Eldridge stated she had not been able to find it. Mr. St. John stated it appeared to have a significant intrusion into the setback. He noted 8 Forest Club Drive was within 75 feet of 17 Jennycliffe Lane. He asked if a hardship was granted with neighbor approvals for a similar situation. Mr. Mercurio stated just because an applicant was granted a variance for a particular hardship, that should not be considered when reviewing another application as each case should be determined with facts and hardships.

Mr. St. John asked if it was fair to request the homeowner get written or witness testimony from the neighbors approving the variance. Mr. Mercurio stated that was at the Board's discretion. It was encouraged for applicants to discuss their proposal with neighbors and provide documentation or comments from them. This was not submitted with this request but that doesn't mean the homeowner doesn't have it. Mr. Kulow asked if the Board would consider approving something contingent upon the applicant providing that documentation. Mr. St. John stated the Board can place conditions on a variance but they could not on that.

Mr. Mayberger stated the Board must consider whether the surrounding property is protected and this large of a variance was difficult to approve.

Mr. St. John asked if the Board could table this and provide recommendations. Only four members were present, this was a massive variance, and they did not have any letters from other homeowners. He felt the contractors can consider moving the pool and minimizing the variance. He thought the applicant would have difficulty getting the variance approved without having all their ducks in a row. He asked if the applicant could return to the Board of Adjustment if they denied the variance. Ms. Eldridge stated they could reapply, but it would have to be substantially different from the original application.

Mr. St. John stated he would recommend tabling the application. Mr. Vaduka stated the Board should make recommendations and have the applicant return.

Mr. Mayberger asked if any proponents or opponents wished to speak in support of the application.

There being no speakers, Mr. Mayberger closed the hearing.

Mr. Berkeley noted a discrepancy of 10-12 feet in the elevations between the pool deck and the bottom of the retaining wall. Mr. Kulow stated it was possible the dimensions are not matching the sea level topography, but the distances and heights of the walls are accurate. It was safe to say the pool elevation was the same as the walkout basement elevation. Mr. Berkeley thought the numbers at the top and bottom of the walls were inaccurate and suggested the applicant correct the dimensions when they return to the Board. Mr. St. John agreed that the numbers were off. He asked what the finished floor elevation of the basement was. Mr. Kulow stated it is 609.5 feet, but that didn't match the site plan. They would adjust the elevation plan to make sure it matches.

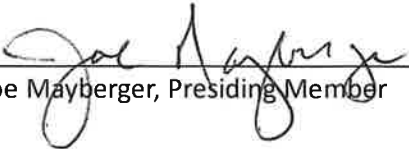
Mr. St. John asked what type of wall the retaining wall would be. Mr. Kulow stated it would be a Rockwood Eight-Inch Classic.

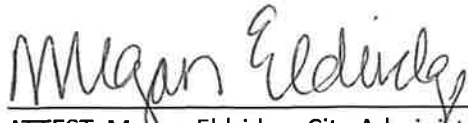
Mr. St. John suggested the applicant reduce the variance, rotate the pool, and get the surrounding property owners to approve the project. The Board understood the hardship and the engineering requirements of the pool's location, but it was an egregious variance. Mr. Kulow asked if the retaining wall could be in the setback. Ms. Eldridge asked how tall the wall was. Mr. Kulow stated it was almost 5.5 feet tall. Ms. Eldridge stated the wall had to be down to 24 inches tall to be allowed in the setback. Mr. St. John suggested hardscaping the slope which would not need a variance because it's landscaping.

Mr. St. John moved to postpone the application to the May Board of Adjustment meeting with recommendations for the applicant to minimize the variances, to get homeowner support in writing, and review the orientation of the pool to create a less intrusive variance. Mr. Mayberger second the motion. A voice vote was taken, which resulted in a unanimous affirmative result. Mr. Mayberger declared the motion passed.

#### **ADJOURN**

Mr. St. John moved to adjourn the meeting at 7:24 p.m. Mr. Mayberger declared the meeting adjourned.

  
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Joe Mayberger, Presiding Member



ATTEST: Megan Eldridge, City Administrator/City Clerk