

**CITY OF OLIVETTE
BOARD OF BUILDING APPEALS
MEETING MINUTES
SEPTEMBER 5, 2019 AT 6:00 PM**

Date Approved: (November 7, 2019)

The City of Olivette Board of Building Appeals (Board) met on September 5, 2019, at 6:00 PM in the City Council Chambers of the Olivette City Center addressed as 1140 Dielman Road, Olivette, Missouri. Sanford Goldman presiding as Chair called the meeting to order. Board Member Carol Waggoner served as secretary.

1. ROLL CALL:

On roll call, the following members were present: Brad Abel, Sanford Goldman, Rob Jurgiel, Bryan Lewis, Jodie Rich, Michael Saunders, and Carol Waggoner.

Also in attendance were: City Attorney Paul Martin, Director of Planning and Community Development Carlos Trejo, and Planner/GIS Coordinator Jonathan Roper. City Council liaison in attendance was Mayor Missy Waldman.

A quorum being presented, Mr. Goldman declared the meeting in session for the transaction of business.

2. APPEALS:

A. 736 Engelton Lane, appeal to the issuance of a building permit for the construction of a new single family home.

Prior to discussions, Ms. Waggoner disclosed she previously had met with the Petitioner, Mr. Rongbi Liu at the request of the City Manager.

City Attorney Martin addressed the Board. He noted Mr. Liu had filed a petition with the St. Louis County Circuit Court on December 31, 2018, regarding the construction of a new single family home on the adjacent property addressed as 736 Engelton Drive. On July 11, 2019, the Court granted Mr. Liu the opportunity to file an appeal per Section 500.030.J of the City of Olivette Municipal Code. The Court ordered the City to inform Mr. Liu of the manner and means to file the appeal to the Board of Building Appeals. Mr. Liu filed his appeal on August 8, 2019.

Mr. Trejo provided a presentation regarding the role of the Board of Building Appeals. He noted that under Section 500.030.J, the Board has the authority to determine:

- (i) that the true intent of this code or the rules or regulations adopted pursuant to this code have been incorrectly interpreted, or
- (ii) that the provisions of this code do not apply, or
- (iii) that an equivalent form of construction can be used

Mr. Trejo noted that the Petitioner submit an appeal to the Board dated August 8, 2019. He noted that the Petitioner did not clearly identified what subsection of 500.030.J is being appealed, but the Petitioner did reference that it was his belief the permit was approved based on misrepresentation and false information. Mr. Trejo advised, the Board consider the petition on the basis of subsection (i) of Section 500.030.J, that being the true intent of the code or the rules or regulations adopted pursuant to this code have been incorrectly interpreted.

Mr. Trejo noted that a building permit for the construction of a new home was applied on August 8, 2018. The building permit application was reviewed for compliance with the June 21, 2018, approval of the City's Planning and Community Design Commission per Chapter 425 Community Design of the City's Land Use Code. In addition, the building permit was reviewed for compliance with the adopted 2015 International Residential Code. The building permit was issued on August 28, 2018, under permit #P2018-0695. Mr. Trejo provided an overview of the number of inspections conducted during the construction of the home.

Mr. Trejo noted that prior to the Community Design Review of the new single family home at 736 Engelton Lane, the owner of the property had submitted to the City a petition to subdivide the original property grounds that form a portion of 736 Engelton Lane. The original property grounds were addressed as 9518 Engel Lane. The petition for subdivision was dated September 19, 2017. Following two review meetings with the Planning and Community Design Commission, the petition for preliminary plat and subdivision improvements was approved on November 16, 2017. Within said preliminary plat and subdivision improvement plans, the Developer identified changes to the existing grading of the property grounds addressed as 9518 Engel Lane, including increasing the existing land grade at the southwest corner of the proposed building footprint by two additional feet (2').

Mr. Liu spoke before the Board. Mr. Liu stated that he believes the permit for the construction of the new home at 736 Engelton Drive was approved based on misrepresentation and false information. He noted that the City Staff Report to the Planning and Community Design Commission, dated June 21, 2018, had critical false statements and misrepresentation. He stated that based on his review of the City's Zoning Ordinance (Chapter 400) and Community Design Review (Chapter 425), the actual height of the home at 736 Engelton Drive is 37 feet, not the 35-feet as identified under the June 21st Staff Report. He stated that the actual pre-existing grades illustrated on the new home plans are two feet (2') higher than what was identified in the Staff Report, noting that this represents a misrepresentation. Mr. Liu noted the new construction truly negatively impacts adjacent neighbors, stating that Zoning Ordinance Sections 400.1050, 400.270, and 400.1090 (B.2) are violated. He distributed a copy of a petition signed by eight (8) property owners. Mr. Liu stated he believes that the new home elevations do not comply with the City's Residential Redevelopment and Design Guidelines as they relate to massing and context. Mr. Liu noted that he found several misrepresentations in the Staff Report, including: a description of his home as a one (1) story structure, where he stated he lives in a two (2) story home; a reference that the lot grounds are conducive to a walkout basement, where he believes the lot is flat; that the home does not overshadow his property, where he believes it does; and he noted the front of the home has six (6) steps to the porch, where the plans referenced in the City notification letter only identified four (4).

Discussion ensued amongst the Board. It was noted that the issues referenced by Mr. Liu are regarding Chapter 400 Zoning Regulations, Chapter 405 Subdivision Regulations, and Chapter 425 Community Design, including the Olivette Residential Redevelopment and Design Guidelines. The issues identified by Mr. Liu are either platting, zoning, or community design related and that the Board of Building Appeals has no jurisdiction. The Board noted that specifically under Chapter 500 Building and Construction, there is no evidence that the permit was issued inconsistent with the approved Community Design Review as conducted by the City's Planning and Community Design Commission, nor in violation to the City's building codes, including the review of the building permit plans and the required building inspections.

Chairman Goldman called for vote to deny the appeal of Mr. Liu that the permit was approved based on misrepresentation and false information. Ms. Waggoner called a roll call vote, the following votes were taken:

Mr. Goldman	Yes
Mr. Jurgiel	Yes
Ms. Waggoner	Yes
Mr. Abel	Yes
Ms. Rich	Yes
Mr. Saunders	Yes
Mr. Lewis	Yes

The motion to deny was unanimously approved.

3. ADJOURNMENT:

Chairman Goldman asked if there were any further questions or comments. Being no further question or comments, the meeting was adjourned at 7:25 PM

Secretary Carol Waggoner

Chair Sanford Goldman

Adopted: 2019 11-07