

DEPARTMENT MEMORANDUM

**DATE:** MAY 12, 2022  
**TO:** BOARD OF ADJUSTMENT  
**FROM:** CARLOS TREJO, AICP  
DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT  
**RE:** 724 CHERRY TREE LANE  
PETITION FOR AREA VARIANCE

**PETITIONER:**  
Evan Tranen

**OWNER:**  
Evan and Dawn Tranen

**SUMMARY OF STAFF'S REVIEW AND RECOMMENDATIONS:**

Petitioner seeks a variance from the site coverage requirements for Accessory Structures under Section 400.1592 (A.1).

Section 400.1592 (A.1) limits the total square footage of the COMBINED AREA OF ALL ACCESSORY STRUCTURES on a lot to 10% of the lots area.

The property at 724 Cherry Tree Lane:

- has a lot area of 8,704 square feet. Thus under Section 400.1592 (A.1), the maximum coverage of the combined area of all accessory structures should not exceed 870.4 square feet.
- there is an existing 192 square foot concrete pation on the property grounds (per St. Louis County records). That patio represents about 10% of the permitted coverage.

**Proposal.**

The City received a building permit application for construction of a pool and patio at the property addressed as 724 Cherry Tree Lane. Based on the plans submitted, the proposed improvements were noted as:

651 sf.Pool footprint
744 sf.pool deck
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1,395 sf. Total proposed, plus 128 sf. of existing patio

Under the City's Zoning Regulations (Chapter 400 of the Olivette Municipal Code), the amount of exterior improvements on a property, excluding the house and driveways, may not exceed **10% of the lot area**. In addition, only 50% of the pool footprint is counted towards the lot area. The property at 724 Cherry Tree Lane is 8,704 sf. When the building permit plans were reviewed, the total amount of exterior improvements proposed (counting only 50% of the pool) totaled **17.5% of the lot area**. The permit was denied.

**Background.**

On September 9, 2021, the property owner at 724 Cherry Lane submitted a similar request to the ZBA to permit a pool and pool deck totaling 1,558 sf, or 17.9% of the lot area. At that time in September, 100% of the pool footprint was counted towards the lot area. The ZBA granted a variance, but only up to 13.75% of the lot area to be authorized solely to 724 Cherry Tree Lane, allowing up to 1,197 sf improvements.

On January 25, 2022, the City Council adopted Ordinance #2738, which amended the Zoning Regulations so that only 50% of the pool area would count towards the 10% site coverage.

On April 22, 2022, the property owner submitted a revised set of building permit plans. Said plans illustrated the improvements (with only 50% of the pool footprint being counted) totaled 1,523 sf, or 17.5% of the lot area. The City denied the revised improvement plans.

**Appeal.**

The owner at 724 Cherry Tree Lane has appealed the City's decision to deny the building permit application, and petitioned to forward the request to the ZBA. The ZBA has jurisdiction to grant relief from the strict

application of the Zoning Ordinance to a specific piece of property by issuing an area variance. An area variance may permit the building or enlargement of a structure when specific enforcement of the Zoning Ordinance would prohibit such construction. The ZBA may issue an area variance only upon findings that:

1. The property has a unique condition, one not typically found in the same zoning district, relating to the width, depth, or shape of the lot, its topography, or other exceptional circumstance not created by an owner or the applicant; and
2. Strict application of the Zoning Ordinance would result in practical difficulties, as distinguished from a mere inconvenience, which would deprive an owner of the reasonable use of the property; and
3. The variance would not unreasonably affect adjacent properties; and
4. The variance would observe the spirit of the Zoning Ordinance, secure public safety and welfare, and do substantial justice; and
5. The Board finds that the variance will not impair light to adjacent property, increase congestion, increase danger from fire and safety, diminish or impair property value, and respect health, safety, comfort, morals and welfare of the City of Olivette.

**STAFF RECOMMENDATION.**

Staff findings are as follows:

- The accessory structures proposed are permitted by right and not being opposed. The issue is that they exceed the combined area permitted by Code for a lot of this size.
- The purpose of the regulations is to establish reasonable standards, address impact of stormwater generated on the site, and ensure the orderly development of property.
- The lot is a legal nonconforming lot of record.
- There are no unique conditions to the shape of the property or visibly on the property grounds.

**ACTION:** The Board shall motion on the variance request. The motion shall be in the affirmative to grant the variance request as submitted. Once the motion is seconded, the Board may:

1. Motion to amend the variance request.
2. Motion to incorporate any additional conditions the Board finds reasonable.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to effect any variance.

**RECOMMENDED MOTION:**

Motion to grant a variance to permit a combined area of all accessory structures to total 17.5% of the lot area at the property addressed as 724 Cherry Tree Lane to permit the construction of a pool and deck/hardscape as illustrated in the plas dated April 22,2022, as prepared by Liquid Assests.

## CODE SECTIONS

### Zoning.

The property grounds are zoned 'SR' Single Family Residential District. The property is a legal non-conforming parcel.

#### Section 400.1630 Jurisdiction.

A. The Board shall have jurisdiction in the following instances:

1. To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the Building Official in the enforcement of this Chapter.
2. To interpret the provisions of this Chapter in such a way as to carry out the intent and purpose of the Zoning Map fixing the several districts, where the street layout actually on the ground varies from the street layout as shown on the Zoning Map.
3. To permit the erection and use of a building or the use of premises in any location for a public service corporation or for public utility purposes necessary to the public convenience or welfare.
4. To permit the reconstruction of a non-conforming building which has been destroyed or partially destroyed by fire or other act of God where the Board shall find some compelling public necessity requiring a continuance of the non-conforming use and in no case shall such a permit be issued if its primary function is to continue a monopoly.
5. To grant relief by from the strict application of the Zoning Ordinance to a specific piece of property by issuing an area or a use variance as allowed herein.

#### Section 400.1650 Variances.

A. Area Variance. An area variance may issue to permit the building or enlargement of a structure when specific enforcement of the Zoning Ordinance would prohibit such construction. The Board of Adjustment may issue an area variance only upon findings that:

1. The property has a unique condition, one not typically found in the same zoning district, relating to the width, depth, or shape of the lot, its topography, or other exceptional circumstance not created by an owner or the applicant; and
2. Strict application of the Zoning Ordinance would result in practical difficulties, as distinguished from a mere inconvenience, which would deprive an owner of the reasonable use of the property; and
3. The variance would not unreasonably affect adjacent properties; and
4. The variance would observe the spirit of the Zoning Ordinance, secure public safety and welfare, and do substantial justice; and
5. The variance would satisfy the additional criteria of Subsection 400.1650(C), below.

C. Additional Variance Criteria. Before issuing any variance, the Board shall find that the variance will not:

1. Impair an adequate supply of light and air to adjacent property, or
2. Unreasonably increase the congestion in public streets, or
3. Increase the public danger of fire and safety, or
4. Diminish or impair established property value within the surrounding area, or
5. In any other respect impair the public health, safety, comfort, morals and welfare of the City of Olivette.

D. Every variance granted or denied by the Board shall be accompanied by a written finding of fact, based on sworn testimony and evidence, and conclusions of law specifying the reason for granting or denying such variance.



### LOCATION MAP



### AERIAL





**PROPERTY AERIALS**

