



**CITY OF OSAGE BEACH
BOARD OF ADJUSTMENT**

1000 City Parkway
Osage Beach, MO 65065
573-302-2000
www.osagebeach.org

AGENDA

Regular Meeting

**November 18, 2020 - 4:00 p.m.
CITY HALL**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF MINUTES FROM THE SEPTEMBER 16, 2020 MEETING
5. NEW BUSINESS
 - A) Variance Case No. 338 Adam M. and Teri E. Guttman
6. ADJOURN MEETING

Representatives of the news media may obtain copies of this notice by contacting the following:
Tara Berreth, City Clerk
1000 City Parkway
Osage Beach, MO 65065
573-302-2000 ex 1020

If any member of the public requires a specific accommodation as addressed by the Americans with Disabilities Act, please contact the City Clerk's office 48 hours in advance of the meeting at the above telephone number.

**PUBLIC HEARING FOR VARIANCE CASE #337
OF THE BOARD OF ADJUSTMENT
FOR THE CITY OF OSAGE BEACH, MISSOURI**

September 16, 2020

Call to Order

Acting Chairman Fred Catcott (who was filling in for Chairman Randy Gross) called the Board of Adjustment Commission of the City of Osage Beach, Missouri, to order at the regular meeting on September 16, 2020 at 4:00 p.m.

Acting Chairman Catcott asked that everyone stand for the Pledge of Allegiance.

Roll Call

The following Board Members were present: Fred Catcott Acting Chairman, Karen Bowman, Louis Mayer, Gloria O'Keefe and Larry Jones. Board members not in attendance: Randy Gross, Chairman. Also, present City Planner Cary Patterson, City Attorney Ed Rucker and Planning Department Secretary Pam Campbell. Capital City Court Reporting Court Reporter, Shelly Stewart, was also present.

Minutes – 8/19/2020

Acting Chairman Catcott asked if there were any corrections or comments regarding the August 19, 2020 minutes. There were none. *Board member Karen Bowman made a motion to approve the August 19, 2020 minutes and Board member Louis Mayer seconded the motion which passes unanimously.*

New Business

Acting Chairman Catcott presided, read the Statutes of Missouri and read the criteria for granting a variance, went over the rules that special circumstances must exist and established that a quorum had been met.

B) Variance Case No. 337 Michael Farmer

Acting Chairman Catcott called Case #337 and asked Planner Patterson if all legal requirements have been met.

Planner Patterson replied yes.

Acting Chairman Catcott asked if the City made a prudent effort to notify, by mail, adjacent and otherwise obviously affected property owners.

Planner Patterson replied yes, and said the written responses received from the neighbors were included in your packet with no negative responses and said City Attorney, Ed Rucker provided a memo stating he saw no problems with this case and to proceed at your discretion.

The Code Book and file containing Variance Case #337 were entered into the record as Exhibits 1 and 2 by Planner Patterson.

Acting Chairman Catcott asked Planner Patterson to please describe the Variance request.

Planner Patterson delivered the following report:

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: September 16, 2020 **Case Number:** 337

Applicant: Michael Farmer

Location: 4800 Stewart Drive (Next to 4815 Stewart Drive)

Petition: Variance from minimum setback requirements

Purpose: Construction of a dwelling on an existing foundation

Existing Use: Single-family home

Zoning: R-1b (Single Family)

Tract Size: 11,383 sq ft

Case History **Case #** **Date**

None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Stewart Drive

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 7 of Stuart's Subdivision" and is designated with the physical address 4800 Stewart Drive.
2. The applicant is requesting a variance to build a dwelling on an existing foundation that will be 3 ft. 8 in. from the side property line. With that being the case, a variance is required to enlarge a legal non-conforming structure as is being requested in this case. Approval of the requested variance will allow the city to issue a legal building permit to construct the dwelling as per the submitted site plan. The minimum required side yard setback in the R-1b zone is ten (10') feet from the side property line.
3. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.

Acting Chairman Fred Catcott asked the applicant if there are any amendments or additions to the request and that applicant replied, no sir and added that he gave pictures to Lou.

The applicant, Michael Farmer, was then sworn in.

Acting Chairman Fred Catcott asked if the applicant had checked with Ameren regarding the decks and also about the sewer.

Michael Farmer replied there's a lift station closest to the lot that will be tied into the house that will serve his home.

Acting Chairman Fred Catcott asked if there were any opposition to the Variance or any questions.

Louis Mayer asked about the slight overlap to the right side.

Planner Patterson stated the boat ramp is not part of the request.

Acting Chairman Fred Catcott asked if the members had any other comments, there were none and then asked if the staff had any other comments, there were none.

Louis Mayer made a motion to approve Variance Case 337 and Karen Bowman seconded the motion. A roll call vote was taken, and Variance Case 337 was unanimously passed.

Adjourn

Larry Jones made a motion to adjourn the meeting and Louis Mayer made a motion to second the motion.

There being no further business to come before the Board of Adjustment, Acting Chairman Fred Catcott adjourned the meeting at 4:08 p.m.

I, Pam Campbell, Planning Department Secretary, for the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Zoning Adjustment of the City of Osage Beach, Missouri, held on September 16, 2020.

Pam Campbell/Planning Department Secretary

Fred Catcott, Acting Chairman

**PLANNING DEPARTMENT
REPORT TO
BOARD OF ADJUSTMENT**

Date: November 18, 2020 **Case Number:** 338

Applicant: Adam and Teri Guttman

Location: 5188 Shore Acres Drive

Petition: Variance from minimum setback requirements

Purpose: Construction of a Garage

Existing Use: Single-family

Zoning: R-1b (Single Family)

Tract Size: Approximately 17,000 sq ft

<u>Case History</u>	<u>Case #</u>	<u>Date</u>
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None

Utilities

<u>Water:</u>	City	<u>Gas:</u>	Summit
<u>Electricity:</u>	Ameren	<u>Sewer:</u>	City

Access: The subject property derives access from Shore Acres Drive

Analysis:

1. The applicant is the owner of the property in question. The property is a platted lot designated as "Lot 9 of Shore Acres Subdivision" and is designated with the physical address 5188 Shore Acres Drive.
2. The applicant is requesting a variance to build a garage on their property that will be 10 ft. from one side property line and within a foot of the other. This is a somewhat different situation, in that the applicant owns 3 lots that contains their primary residence, a second dwelling, and the accessory structures all that were built prior to setback regulations being established by the code. The property is accessed by a road that is not Right of Way and is built on private property. The requested garage will be built in close proximity to a cul de sac that serves as a turn around for the applicant and a couple other homes at the end of Shore Acres Drive.
3. Of course, if approved the addition cannot be built on or over any public utilities or easements.

Department Comments:

In short, the way this property is laid out is difficult as it pertains to the code. The requested garage structure falls on lot nine and can be built with a variance granted to build the structure in conformance with the submitted site plan. I tried to figure out a way to re-subdivide the property to make it a cleaner situation, but with the way the structures are laid out on the property, there is no way to remedy the issues. This property will always be sold as one piece as there is no way to separate the assets. It of course is up to this board to use the facts in this case along with any written or verbal testimony and make the decision that is right.

If this request is approved, the following conditions shall apply:

1. The structure must be built according to the submitted site plan.
2. Any expansion or significant change in the proposal shall require Board of Adjustment approval.
3. A building permit must be obtained for the new construction and all other zoning codes be adhered to.



**Variance Case
338 Location Map**

Note:

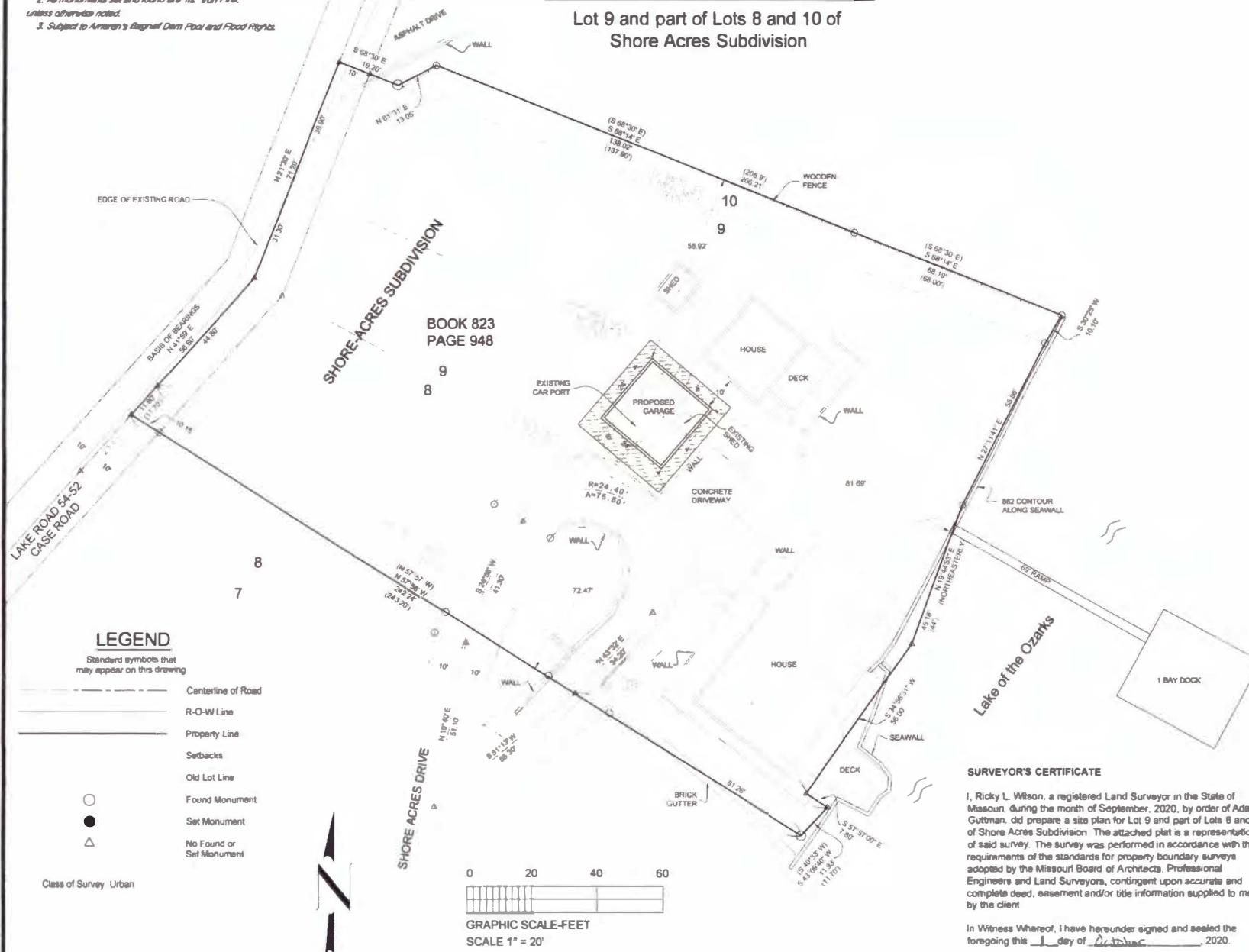
1. Bearings and Distances in parentheses are from recorded deed(s) and/or plat(s).
2. All monuments set and found are 1/2" from Plots, unless otherwise noted.
3. Subject to American's Bagwell Dam Pool and Flood Rights.

GUTTMAN: Survey

Lot 9 and part of Lots 8 and 10 of
Shore Acres Subdivision

DRAWING DATE	8/21/20
REVISIONS	
DRAWN BY	BFH
SCALE	1" = 20'
PROJECT #	MC 20-304
SHEET	1 OF 1
FIELD BOOK	BK47 PG18
MO LSC NO	2011027104

Lot 9 and part of Lots 8 and 10 of Shore Acres Subdivision
Section 11, Township 39 North, Range 16 West, Camden County, MO



SURVEYOR'S CERTIFICATE

I, Ricky L. Wilson, a registered Land Surveyor in the State of Missouri, during the month of September, 2020, by order of Adam Guttman, did prepare a site plan for Lot 9 and part of Lots 8 and 10 of Shore Acres Subdivision. The attached plat is a representation of said survey. The survey was performed in accordance with the requirements of the standards for property boundary surveys adopted by the Missouri Board of Architects, Professional Engineers and Land Surveyors, contingent upon accurate and complete deed, easement and/or title information supplied to me by the client.

In Witness Whereof, I have hereunder signed and sealed the foregoing this 1 day of October, 2020.

Ricky L. Wilson
Ricky L. Wilson
MO. REG-NO L.S. 2638

FILE LOCATION: M:\0 D\1 Projects\guttman adam\part lots 8,9 and 10 shore acres\20304.dwg

MILLER COMPANIES
Engineering • Land Surveying • Environmental Services
P.O. BOX 282, OSAGE BEACH, MO 65065
Eng (573) 346-9799 Sur. (573) 346-5552 Fax (573) 346-2894
www.millerco.com



Case #338

Date Submitted

Oct. 9, 2020
11-18-2020 @ 4pm

**CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
REQUEST FOR REVIEW**

NAME OF APPLICANT: Adam M. and Teri E. Guttman

MAILING ADDRESS: 5196 Shore Acres Rd., Osage Beach, MO 65065

TELEPHONE: 619 857-1679

LOCATION OF PROPERTY: Be specific. Give directions to property. Include Lake Road and lot number. Attach legal description of property to this application. Please mark property in some way, i.e., distance from property lines with red paint, flags or stakes, indicating location of proposed variance.

From the US 54 turn onto Case Road going northeast. Follow Case Road to the third road forking right which is Shore Acres Road. Follow Shore Acres Road to the end. The road ends at 5196 Shore Acres Road. Lot 9

VARIANCE FOR/FROM: Proposed Garage Building

APPEAL FOR/FROM:

*List names and mailing addresses of the current adjoining property owners:
(Attach a separate sheet if necessary)*

NAME

COMPLETE ADDRESS/WITH ZIP CODE

Darwyn L., and Diana M. Perdun, 809 Yale Ave., Edwardsville, IL 62025

Daniel, and Laura Ryterski, 5218 A Shore Acres Road, MO 65065

**CITY OF OSAGE BEACH
BOARD OF ZONING ADJUSTMENT
QUESTIONNAIRE**

1. **SIZE OF PROPERTY:** 0.828 Acres

2. **SOURCE OF UTILITIES:** **WATER:** Osage Beach **GAS:** None

SEWER: Osage Beach **ELECTRIC:** Ameren

3. **PRESENT USE OF PROPERTY:** Residential

4. **PRESENT ZONING OF PROPERTY:** R-1B

5. **HAVE YOU PREVIOUSLY APPLIED FOR A VARIANCE ON THIS PROPERTY?** No

IF SO, WHEN? —

6. **HOW LONG HAVE YOU OWNED THE SUBJECT PROPERTY?** One Year

7. **PLEASE LIST ANY EXISTING STRUCTURES ON THE PROPERTY AND THE YEAR BUILT.** 1 House 1928, 1 Cabin 1983,
1 Carport 1983,
2 Garden Sheds 1983

8. **DO YOU OWN ANY PROPERTY ADJACENT TO THE SUBJECT PROPERTY?** No

9. **WHY, IN YOUR OPINION IS YOUR CURRENT SITUATION, AND OR THE EXISTING
SIZE /EXTENT OF THE USE NOT ACCEPTABLE?**

A site plan is propose for a free standing garage. The proposed 24' long garage would be 3.75' from the road abutting the property at the garages south, front corner, and 13.75' from road centerline. Based on the current code 405.430.2 a variance is needed to locate the proposed garage on the only suitable terrain.

10. **IS THERE ANY PARTICULAR HARDSHIP RELATED TO YOU OR YOUR PROPERTY OF
WHICH THE BOARD SHOULD BE AWARE?**

The existing lot is on slope to the lake. Access to the lot is limited to 45' of frontage. Only 30' is drivable for parking, loading, and unloading.

There is no safe level work area for vehicle maintenance and general purpose tasks that may arise.

11. **LIST SPECIAL CIRCUMSTANCES WHICH ARE PECULIAR TO THE LAND STRUCTURE
OR BUILDING IN QUESTION AND DO NOT GENERALLY APPLY TO THE NEIGHBORING
LANDS, STRUCTURES OR BUILDINGS IN THE SAME DISTRICT OR VICINITY.**

From seawall to opposing northwest property line, a distance of 230' the elevation gain of 68' is near linear across the property.

12. LIST REASONS WHY STRICT APPLICATION OF THE PROVISIONS OF THE ZONING

ORDINANCE WOULD DEPRIVE YOU OF REASONABLE USE OF THE LAND, STRUCTURE

OR BUILDING IN A MANNER EQUIVALENT TO THE USE PERMITTED TO BE MADE BY

OTHER OWNERS OF NEIGHBORING LANDS, STRUCTURES OR BUILDINGS IN THE SME

DISTRICT.

Strict application of the provision of the zoning ordinance as reflected in current code 405.430.2 would deprive the use

of the only buildable and accessible portion of the land for a needed garage that would increase parking, provide covered storage, and establish

a safe personal maintenance area as is available to my neighbors who have similarly placed structures.

13. WERE THESE SPECIAL CIRCUMSTANCES THE RESULT OF ANY ACTION TAKEN

SUBSEQUENT TO MAY 10, 1984?

YES

NO

(unknown)

NOTE: Applications must be accompanied by additional information as outlined in the Board of Adjustment Application Procedures. (Page 1 of this packet). The Administrative Officer of the Zoning Ordinance will review the application for Variance and determine if sufficient data is contained to adequately describe the situation to the Board of Adjustment. If the data is not adequate, the Administrative Officer shall return the application to the applicant for additional information. Only completed applications shall be forwarded to the Board of Adjustment.

SIGNATURE OF APPLICANT:

Alan M. Nathan and Jene E. Guttman

SIGNATURE OF PROPERTY OWNER:

Alan M. Nathan, and Jene E. Guttman

Checks should be made payable to the City of Osage Beach. Postage costs should be calculated and submitted with the \$330.00 filing fee.

STATE OF MISSOURI,

COUNTY OF CAMDEN,

Subscribed and sworn to me before me, the 9th day of October 2020

Notary Public

Marcie L. Vansyoc

My Commission expires:

(stamp)

(seal)



Letter of Intent

In Support of Request for Variance

5196 Shore Acres Road, Osage Beach, Missouri 65065

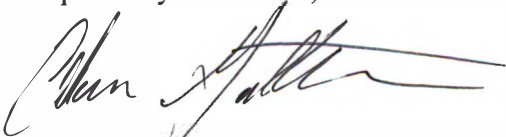
This Letter of Intent is in support of my request for a variance to the front yard setback requirement for an existing lot. The intention is to demolish an existing shed and carport of an overall 30 foot by 20 foot footprint to permit a garage having a smaller footprint, set further back from the road. The proposed new garage footprint of 24 feet by 24 feet would increase parking, provide covered storage, and establish a safe personal maintenance area as is available to neighbors who have similarly placed structures.

Strict application of the provision of the zoning ordinance as reflected in current code 405.430.2 would deprive the use of the only buildable, accessible, and cost effective portion of the land for a needed garage. The existing setback as set forth in current code 405.430.2 is 25 feet from center of road for the R-1B residential code. The existing lot is on slope to the lake. From seawall to opposing northwest property line, an incline distance of 230', the elevation gain of 68' is near linear across the property. Access to the lot is limited to 45' of frontage. Only 30' is drivable for parking, loading, and unloading. The requested variance would allow the south corner of the garage to be 13.75 feet from center of road. The closest corner of existing structures proposed for demolition is 10 feet from center of road.

In consideration of the community, concrete work as seen in the provided proposed survey drawing of September 21, 2020, to create the transition from roadway to garage entrance would return that entire portion of road to drivable. In keeping with the current character of views and rooflines a frontal image, cross-cove image, and drawn rendering of the proposed new garage demonstrates minimal to no impact. The current dwelling color scheme on the lot of sandstone walls with dark brown roof and trim are intended for the proposed garage.

Thank you for your consideration.

Respectfully submitted,



Adam Guttman

619 857-1679

mycd45@yahoo.com

