



The applicant has requested the vacation of a five-foot wall easement and the 10-foot utility easement along the rear lot line of his property addressed 7922 W. Meadow Park Ct., which is generally located south of W. 29<sup>th</sup> Street North and one-half mile west of North Ridge Road. The case is associated with BZA2019-00038 which is a variance request to reduce the rear setback to zero feet. The purpose for both requests is to construct an in-ground swimming pool near the rear property line.

In addition to the platted wall and utility easements, there is a 10-foot drainage easement, by separate instrument, on the property occupying the ten feet immediately west of the applicant's house. This easement shall be retained and no portion of the swimming pool structure shall encroach over it. The variance request to reduce the five-foot setback for accessory structures is contingent upon this vacation of the wall and utility easements being approved. If the easements are not vacated, the applicant is not able to construct anything within the setback anyway. Behind the applicant's property is a stormwater retention pond that has never been annexed into the City of Wichita. It is owned by Northridge Lakes HOA, the subdivision of which is located south and west of the applicant's property. The applicant would ultimately like to purchase a portion of the land behind his Lot to enlarge his property. If this is the case, the rear lot line would extend further west and the swimming pool would no longer be on the property line.

The purpose of the wall easement was to provide the HOA with land to construct a private wall should they see fit to do so. This addition was platted in 1992, and a wall has never been constructed. The applicant has received written permission from the Reflection Ridge Home Owners Association, giving their consent to the vacation of the five-foot wall easement. There are no public utilities located within the 10-foot utility easement. Evergy (Westar) has no objection to this vacation. Richard Aitken is the Area Representative and can be contacted at 316-261-6334 for this case. The Reflection Ridge 8<sup>th</sup> Addition was recorded with the Register of Deeds on July 20, 1992.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 3, 2019, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described portion of the platted wall and utility easements and that the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) If any utility services are found to be located within the area of the proposed Vacation, these services shall be relocated at the owner's expense, to city standards, and the applicant shall provide Planning with the dedication of utility easements by separate instruments to go with the Vacation Order to be filed with the Register of Deeds. If relocation is not possible then this Vacation shall be rendered void as the current easement must remain in place.
- (2) It is recommended that if an in-ground pool is constructed, that there be a minimum of a one-foot buffer between the edge of any part of the pool surround and the property line.
- (3) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

The Subdivision Committee recommends approval per staff recommendations.



