



**MINUTES  
BOARD OF ADJUSTMENT  
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF JANUARY 15, 2014  
6:00 P.M.**

CALL TO ORDER

Chairman Dan Meyer called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Bill Kendall; Mr. Tom Fann; Mr. Nick Trupiano; Mr. Dan Meyer; Mr. William Jaggi; Ms. Julie Powers, Director of Planning, Community and Economic Development; and Ms. Melissa Vollmer, Recording Secretary.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of December 18, 2013. Mr. Kendall made a motion and Mr. Jaggi seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

Mr. Meyer asked for any reports or communications from the Officers or Staff. Mr. Braunfeld indicated there were none.

PETITION 14-A:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-A. Merritt R. Peterson, c/o Merle E. Schneider, Realtor, requests a variance to allow a fence to extend beyond the front building lines in the R-1 Single Family Residential District. The property is located on Lot 1 of Brookwood Estates Plat 1 as recorded in plat book 30 page 138 at the St. Charles County Recorder of Deeds Office, more commonly known as 101 Crickett Court.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 14-A. The petitioner or their agent was requested to step forward to present their position. Mr. Merle E. Schneider, Realtor, was sworn in as the petitioner. Mr. Schneider explained that the new owner of 101 Crickett Court would like to replace the existing, older fence for safety and privacy in the side yard and back yard. When replacing the fence, they would like to shift the fence closer to Salt Lick Road to allow more usable area in the back yard.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Ms. Julie Powers was sworn in to present the City's position for Petition 14-A.

Ms. Powers stated that the subject site is located at 101 Crickett Court at the entrance to the Brookwood Estates subdivision and at the intersection of Crickett Court, Spanish Trail and Salt Lick Road. The home faces Crickett Court with the side yard facing Spanish Trail and the rear yard facing Salt Lick Road.

The applicant has purchased the home and plans to install a new wooden fence. The realtor and the subdivision trustee approached the City requesting information on fencing. The applicant indicated they would like to replace the existing, older fence for safety and privacy in their side and back yards. When

replacing the fence the new owner would like to shift the fence closer to Salt Lick Road to allow more usable area in the rear yard.

Staff advised that the property is on a double corner adjacent to three separate streets, subject to three front building lines and also noted that the fence could not extend beyond the building lines except as allowed in the City Code.

Based on this, Merritt R. Peterson, c/o Merle E. Schneider requests a variance to allow a fence to extend beyond the front building line in the R-1 Single Family Residential District. The property is located on Lot 1 of Brookwood Estates as recorded in plat book 30 page 138 at the St Charles County Recorder of Deeds Office, more commonly known as 101 Crickett Court.

Ms. Powers noted that the variance requested by the applicant is from requirements of the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended) it states:

#### SECTION 405.360 Fence Requirements

4. On a corner lot, a fence shall not extend beyond the front building line, as platted, which is parallel to the front of the house. Along other front building lines as platted on a corner lot, the fence shall be set back a minimum of ten (10) feet from the property line and shall not extend into the sight distance area as defined in Section 405.340 of this Chapter.

Ms. Powers noted that fence setback regulations were designed to prevent the fencing of front yards and side yards, on a corner lot, to maintain these areas as open space and ensure adjacent neighbor's views are not blocked. In addition, fencing setbacks were created to help insure proper visibility of an intersection by maintaining an acceptable sight visibility triangle.

In this case the lot is unique in that it is at the entrance to the subdivision and has three front yards. The applicant's request would not affect the traditional front yard of the house facing Crickett Court. Rather the request is for the front (rear) yard facing Salt Lick Road. Along this frontage, the new fence would be set back approximately seven feet from the right-of-way line of Salt Lick Road. As with many major roads, this road corridor has been widened as the City has grown. Therefore, there is less right-of-way area between the street pavement and the property line. With this road's increased traffic, the new property owner would like a safe and screened rear yard.

On the side of the property facing Spanish Trail the fence would be set back ten feet from the property line. With no other homes facing this section of street, the proposed encroachment will not be visually noticeable.

Staff notes that there are two lots on Crickett Court with rear yards facing Salt Lick Road, but since they are not on a corner they are defined as "through lots" which permits fencing to the rear property line. Given this, the adjacent homes can have their "through lot" fencing at the rear property line. Staff was advised by one of these owners that a fence will be installed in lieu of the existing landscaping. Therefore, the applicant's request to place their fence further to the rear would not encroach on the front yard of any adjacent property or be aesthetically unattractive. In fact, if fences are installed along the other rear yards, the proposed fence would be more in line and look more appropriate.

Staff will work with the Engineering Department to ensure the fence location is not in violation of the City's Street Engineering Sight Visibility Standards. This may include a small angle segment at the corner of the property. This will be verified during fence installation to determine the exact location where the fence and sight visibility triangle intersect, and is listed as a contingency.

Ms. Powers stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

The subject corner lot is very unique with three road frontages resulting in three front building line setbacks. The proposed variance will allow the property owners some flexibility while maintaining the sight visibility triangle for safety, thus providing for the reasonable use of the property.

2. Does the hardship result from the strict application of these regulations?

The subject corner lot is very unique with three road frontages resulting in three front building line setbacks. The proposed variance allows the proposed fence to meet the intent of the corner lot fence regulations while maintaining the sight visibility triangle for safety. The strict application of setback regulations would lessen the use of the rear yard, resulting in a hardship.

3. Is the hardship suffered by the property in question?

The subject corner lot is very unique with three road frontages resulting in three front building line setbacks substantially limiting the normal use of the property's side and rear yard area. Therefore, the property suffers a hardship.

4. Is the hardship the result of the applicant's own actions?

The placement of the house and lot occurred with the original subdivision development, thereby creating the hardship.

5. Is the requested variance in harmony with the general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance is approved it would be in harmony with the general purpose and intent of the zoning regulations, since it will allow a fence to be installed on the subject residential property.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will have been assured and substantial justice will have been done because the applicant will be able to use their property to the fullest extent and will have no ill effects on surrounding properties or the City as a whole.

Based on this analysis, staff recommends approval of the variance to allow a fence to extend beyond the front building line in the R-1 Single Family Residential District with the following contingency:

1. The fence shall be set back a minimum of five (5) feet from the property line adjacent to Salt Lick Road and shall also maintain the City's sight visibility standards from the adjacent streets.

Mr. Meyer asked if any of the board members had questions for Ms. Powers. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 14-A. Mr. Meyer noted that the Board received a letter from a neighbor, Mr. Robert Etherton, opposing this petition. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Trupiano seconded to approve Petition 14-A.

Mr. Meyer requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Trupiano	Yes
Mr. Meyer	Yes
Mr. Jaggi	Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 14-A was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on Lot 1 of Brookwood Estates Plat One as recorded in book 30 page 138 at the St. Charles County Recorder of Deeds Office, more commonly known as 101 Crickett Court.
2. The lot is presently zoned R-1 Single Family Residential District.
3. The adjacent zoning is R-1 Single Family Residential District.

Mr. Jaggi made a motion and Mr. Kendall seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi presented the Conclusions of Law for Petition 14-A as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Kendall made a motion and Mr. Fann seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION 14-B:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-B. Keith Evans requests a variance to allow a freestanding sign to be located less than ten (10) feet from the property line in the R-1 Single Family Residential District. The property is located on the west side of Mid Rivers Mall Drive, south of Countryside Drive also known as Lot 433 of Country Hill Plat 3 as recorded in plat book 17 pages 17-18 at the St. Charles County Recorder of Deeds Office, more commonly known as 819 Mid Rivers Mall Drive.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 14-B. The petitioner or their agent was requested to step forward to present their position. Mr. Keith Evans, property owner, was sworn in as the petitioner. Mr. Evans explained that he is the owner of the Allstate Insurance company located at 819 Mid Rivers Mall Drive. Mr. Evans indicated that with the increased traffic on Mid Rivers Mall Drive, a slightly larger sign is needed to ensure visitors to his office can see the property in time to safely turn into the site. Mr. Evans noted that he would like to increase his current sign which is six square feet to twelve square feet.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Ms. Julie Powers was sworn in to present the City's position for Petition 14-B.

Ms. Powers stated that the applicant, Keith Evans, is the owner of a single user office located at 819 Mid Rivers Mall Drive. The office is located in a former single family residence in the R-1 Single Family Residential District and fronts on Mid Rivers Mall Drive. The applicant received a special use permit for a single user office in 2005, with the Commission and Board recognizing the transitional nature of the properties on Mid Rivers Mall Drive. The special use permit allowed a six square foot sign which was installed at its current location in 2005.

Recently the owner/applicant approached the City regarding a larger sign. Mr. Evans indicated that with the increased traffic on Mid Rivers Mall Drive, a slightly larger sign is needed to ensure visitors to his office see the property in time to safely turn into the site. He also noted the number of signs that are in the area, including Swier Chiropractic, the church across the street, and the mortuary to the south on Mid Rivers Mall Drive.

As staff evaluated the larger sign request, it was determined that the sign location is in the City right-of-way and, therefore, not in compliance with the required sign setback of ten feet. Therefore, staff advised the applicant that they would need a variance for the sign setback in addition to a special use permit amendment to increase the sign size.

Based on this, Keith Evans requests a variance to allow a freestanding sign to be located less than ten (10) feet from the property line in the R-1 Single Family Residential District. The property is located on the west side of Mid Rivers Mall Drive, south of Countryside Drive, also known as Lot 433 of Country Hill Plat 3 as recorded in plat book 17 pages 17-18 at the St. Charles County Recorder of Deeds office, more commonly known as 819 Mid Rivers Mall Drive.

Ms. Powers noted that the variance requested by the applicant is from requirements of the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended) it states:

SECTION 405.745 D. Signs Permitted in all "C" Commercial and "I" Industrial District...

1. b. (4) Ground signs shall not extend nearer than ten (10) feet to the public right-of-way (as measured from the sign edge).

Ms. Powers noted that although the sign is required to be ten feet back from the property line, the site has some unique considerations that make the placement of the sign ten feet back a hardship for the applicant. As previously noted, the current sign is located in the City right-of-way, thereby not adhering to the required ten foot setback. Staff believes the sign was approved at this location because staff was then unaware of the substantial amount of right-of-way along Mid Rivers Mall Drive.

Specifically, this area of Mid Rivers Mall Drive has a large amount of right-of-way which appears to be the front yard of the subject tract and adjacent properties. The right-of-way measures at approximately thirty three feet back from acing Salt Lick Road. Along this frontage, the new fence would be set back approximately seven feet from the right-of-way line of Salt Lick Road. As with many major roads, this road corridor has been widened as the City has grown. Therefore, there is less right-of-way area between the street pavement and the property line. With this road's increased traffic, the new property owner would like a safe and screened rear yard.

It is noted that the office has operated at this location for approximately eight years with no issues. During that time, the sign has been at the same location and has not caused any issues to travelers in the area, and it has helped to identify the property to visitors. The applicant has improved the property to be an attractive

small office which is very appropriate along the major thoroughfare of Mid Rivers Mall Drive. The use of a larger sign at this location will be consistent with the area and help identify the site in a safe manner.

Staff further notes that the related increase in the sign size was recommended by the Planning Commission on January 8<sup>th</sup> and will be acted on by the Board of Aldermen on January 23, 2014,

Ms. Powers stated the code considerations as follows:

1. If the petitioner complied with the provisions of this Zoning Code (does not obtain the variance they are requesting), will they not be able to get a reasonable return from, or make reasonable use of the property?

The applicant would have to place a ground sign in a location on the property that would make the sign less visible to on-coming traffic, and therefore, it could have a negative impact on the office use and on vehicular safety in the site area.

2. Does the hardship result from the strict application of these regulations?

If the sign is required to be ten feet back from the property line, the applicant would have a hardship. A variance will allow them to place their proposed ground sign in a location that would have maximum visibility from Mid Rivers Mall Drive.

3. Is the hardship suffered by the property in question?

The extensive right-of-way obtained by the City in the past limit the opportunities for the practical placement of a business sign on the property.

4. Is the hardship the result of the applicant's own actions?

The limited practical opportunities for the placement of a ground sign are due to the right-of-way obtained by the City, not be the current or previous owners of the property.

5. Is the requested variance in harmony with the general purpose and intent of the zoning regulations and does it preserve the spirit?

If the variance is approved the development will be in harmony with the general purpose and intent of the zoning regulations since the sign placement will be at the same location it has been with no issue; it will not increase hazards to pedestrian and vehicular traffic or cause blighting within the community.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

The public safety and welfare will have been assured and substantial justice will have been done because the applicant will be able to use their property to the fullest extend and will have no ill effects on surrounding properties or the City as a whole.

Based on this analysis staff recommends approval of the requested variance to permit the reduction of the ten (10) foot sign setback requirement to zero (0) feet.

Mr. Meyer asked if any of the board members had questions for Ms. Powers. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 14-B. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition 14-B.

Mr. Meyer requested Ms. Vollmer call the roll, which resulted in the following votes:

Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Trupiano	Yes
Mr. Meyer	Yes
Mr. Jaggi	Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 14-B was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on the west side of Mid Rivers Mall Drive, south of Countryside Drive also known as Lot 433 of Country Hill Plat 3 as recorded in plat book 17 pages 17-18 at the St. Charles County Recorder of Deeds Office, more commonly known as 819 Mid Rivers Mall Drive.
2. The lot is presently zoned R-1 Single Family Residential District.
3. The adjacent zoning is R-1 Single Family Residential District.
4. The Zoning and Subdivision Regulations require a sign to be set back 10 feet from the property line.

Mr. Fann made a motion and Mr. Trupiano seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi presented the Conclusions of Law for Petition 14-B as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Fann made a motion and Mr. Trupiano seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Meyer made a motion and Mr. Jaggi seconded to adjourn the meeting at 6:35 p.m. The motion carried unanimously.

Respectfully submitted:

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Melissa Vollmer  
Recording Secretary

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Dan Meyer  
Chairman