



**MINUTES
BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF MARCH 16, 2011
6:00 P.M.**

CALL TO ORDER

Vice Chairman William Kendall called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Nick Trupiano; Mr. Bill Jaggi; Mr. Bill Kendall; Mr. Tom Fann; Mr. James Selinger; Ms. Julie Powers, Director of Planning, Community and Economic Development; Mr. Kit Eaker, Planner, and Ms. Melissa Vollmer, Recording Secretary. Chairman Dan Meyer was absent.

MINUTES

Mr. Kendall asked the Board for any comments or questions regarding the minutes of February 16, 2011. Being none, Mr. Jaggi made a motion and Mr. Selinger seconded to approve the minutes as presented. All in favor, the motion carried and the minutes were approved.

COMMUNICATIONS AND REPORTS OF OFFICERS

Mr. Kendall asked for any reports or communications from the Officers.

OLD BUSINESS:

PETITION 11-C:

Mr. Fann made a motion and Mr. Jaggi seconded to remove this item from the agenda at the petitioners request. All in favor, the motion carried.

NEW BUSINESS:

PETITION 11-D:

Mr. Kendall stated that the purpose of the meeting was to consider Petition 11-D. Richard Morgan requests a variance to allow a residentially zoned lot to be within twenty-five (25) feet from an existing gas pipeline and/or hazardous liquid pipeline. The property is located on Lots 1, 2, 3, 4, 5, and 6 of Kindred Hill Plat as recorded in plat book 46 page 282 at the St. Charles Recorder of Deeds Office, more commonly known as 10 Kindred Way and 100-120 Kindred Hill.

Mr. Kendall 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. Kendall declared the public hearing open to consider Petition 11-D. The petitioner or their agent was requested to step forward to present their position.

Mr. Trey Morgan, representative for Richard Morgan, was sworn in as the petitioner. Mr. Morgan explained that he had submitted a building permit to construct a new home on lot 1 of Kindred Hill and at that time it

was determined that the property lines were within twenty-five (25) feet of an existing gas pipeline and that the pipeline and pipeline easement crossed the lot. Mr. Morgan noted that the layout of the subdivision has been in place for over twenty years with several homes already constructed. Mr. Morgan explained that he was advised that the proposed new construction would require the re-platting of the property or a variance.

Mr. Kendall 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 11-D.

Ms. Powers stated that the applicant submitted a building permit to construct a new home on lot 1 of Kindred Hill. It was determined the property lines were within twenty-five (25) feet of an existing gas pipeline and/or hazardous liquid pipeline; the pipeline and pipeline easement cross the subject lot. The applicant indicated that the layout of the subdivision has been in place for over twenty years with several existing homes already constructed.

It is noted that the property was platted in 2008 to create a lot for a new home to be constructed; however, the pipeline was omitted from the initial submittal. A subsequent submittal showed the pipeline easement but it was not noticed prior to the recording of the plat. Thus, the pipeline is on the residentially zoned lot and is therefore within twenty-five feet of the residential lot. Staff advised the applicant the proposed new construction would require the re-platting of the property or a variance.

Based on this Richard Morgan requests a variance to allow a residentially zoned lot to be within twenty-five (25) feet from an existing gas pipeline and /or hazardous liquid pipeline. The property is located on Lots 1, 2, 3, 4, 5, and 6 of Kindred Hill Plat as recorded in plat book 46 page 282 at the St. Charles Recorder of Deeds Office, more commonly known as 10 Kindred Way and 100-120 Kindred Hill.

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 405.620 Lot Dimensions, shapes and position:

9. *Pipeline setback.* All lot lines depicted on plats for residentially zoned districts shall be a minimum of twenty-five (25) feet from the nearest existing gas pipeline and/or hazardous liquid pipeline, as built, measured parallel to and from the center of such pipeline.

Kindred Hill is a small private street subdivision accessed from Mexico Road just west of Jungermann Road. The applicant indicated Kindred Hill was designed for use by the Jungermann's and their extended family. The property was annexed into the City of St. Peters in 1973. Prior to this and over the years five homes had been constructed on the property with the ability to add approximately four more.

As previously noted, during the review of the proposed home on lot 1, it was determined that the Kindred Hill Plat lot lines were within twenty-five feet of a petroleum pipeline. To address this, the plat could be amended to create common ground adjacent to the pipeline or a variance could be granted to allow the existing subdivision layout to remain. It is noted that in either case the existing and proposed homes would maintain the same setback from the pipeline.

The pipeline property line setback was created in response to resident concerns that pipelines are on residential lots and were sometimes not properly shown and/or disclosed to home buyers. In response, the code was amended in 2005 requiring new plats to set back the property lines twenty-five feet from any pipeline. This requirement helps insure a pipeline will not be on the same lot as a home. This has been successfully implemented in several new home subdivisions.

The applicant has indicated the subdivision was designed and laid out many years before the current requirements. They have also indicated that other homes in the Kindred Hill subdivision are located in the same manner as the proposed home on lot 1. They acknowledge the City's goal to keep public subdivision lots setback away from a pipeline. However, they have also indicated this is a private subdivision with private streets and the initial layout considered the existing pipeline. Also, the actual structure setback will be the same distance from the pipeline. Finally, the applicant has noted that shifting the lot line to place the pipeline in common ground will create odd shaped lots for future home development.

Based on this analysis, it is staff's opinion the proposed variance could be applied to this plat with limited impact to the property located on Lots 1, 2, 3, 4, 5, and 6 of Kindred Hill Plat as recorded in plat book 46 page 282 at the St. Charles Recorder of Deeds Office, more commonly known as 10 Kindred Way and 100-120 Kindred Hill.

Mr. Kendall asked if any of the board members had questions for Ms. Powers. Mr. Kendall asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-D. Seeing no one present to comment, Mr. Kendall closed the public hearing.

Mr. Jaggi made a motion and Mr. Selinger seconded to approve Petition 11-D.

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

Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Selinger	Yes
Mr. Jaggi	Yes
Mr. Trupiano	Yes

There being 5 yes and 0 no vote, Mr. Kendall declared that Petition 11-D was approved.

Mr. Fann presented the findings of fact as follows:

1. The subject property is located on Lots 1, 2, 3, 4, 5, and 6 of Kindred Hill Plat as recorded in plat book 46 page 282 at the St. Charles Recorder of Deeds Office, more commonly known as 10 Kindred Way and 100-120 Kindred Hill.
2. The property was annexed into the City of St. Peters in 1973.
3. The property is zoned R-3 Multi-Family Residential District.
4. The property is used for single-family residential homes.
5. The surrounding zoning is C-3 general commercial to the east, R-1 PUD to the south, Special District General Retail/Service Commercial (SD-RC) to the west, and Mexico Road to the north.

Mr. Trupiano made a motion and Mr. Jaggi seconded to approve the findings of fact. All in favor, the motion carried.

Mr. Jaggi presented the Conclusions of Law for Petition 11-D 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. All in favor, the Conclusions of the Law were adopted.

PETITION 11-E:

Mr. Kendall stated that the purpose of the meeting was to consider Petition 11-E. Vitamin Shoppe c/o Access Signs requests a variance to allow a wall sign on a rear building facade that is not oriented to a street or access drive. The property is located on Lot A2 of the Lot Split of Lot A of Mid Rivers Mall Plat Six as recorded in plat book 45 page 91 at the St. Charles Recorder of Deeds Office, more commonly known as 330 Mid Rivers Center.

Mr. Kendall 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. Kendall declared the public hearing open to consider Petition 11-E. The petitioner or their agent was requested to step forward to present their position.

Mr. Steve Brown, representative for The Vitamin Shoppe, was sworn in as the petitioner. Mr. Brown explained that The Vitamin Shoppe is located in a new strip center located on the east side of Mid Rivers Mall Drive and south of Suemandy Drive in the parking lot of Mid Rivers Center with their tenant space being located on the north side of the new strip center with direct frontage to Mid Rivers Mall Drive. Mr. Brown explained that in addition to wall signs on the front and north façade of their retail space that they would also like a wall sign on the east side of the tenant space facing the parking lot. Mr. Brown noted that Verizon Wireless, their neighboring tenant, was approved for this type of wall sign in September 2010. Based on this, they are requesting a variance to permit a wall sign, greater than twelve square feet, on the rear of the building.

Mr. Kendall asked if there were any questions of the petitioner. Being none, Mr. Kit Eaker was sworn in to present the City's position for Petition 11-E.

Mr. Eaker stated that The Vitamin Shoppe is located in a new strip center located on the east side of Mid Rivers Mall Drive and south of Suemandy Drive in the parking lot of Mid Rivers Center. The property is zoned Planned Urban Development (PUD) and allows various commercial uses.

The applicant's tenant space is located on the north side of the new strip center with direct frontage to Mid Rivers Mall Drive. The applicant is a national company and their corporate requirements are to have signage on every wall of their tenant space. In addition to wall signs on the front and north facade of their retail tenant space, the applicant has requested a wall sign on the east side of the tenant space facing a parking lot. The City Code limits wall signage to the building façades that front a street or an access drive. In this case the east walls of the tenant space do not face a street or an access drive.

Staff has already approved wall signage for the west and north elevations since the west elevation fronts Mid Rivers Mall Drive and the north elevation fronts an access drive. Staff has advised the applicant that an identification sign (twelve square feet) is allowed on another wall.

Based on this the applicant is requesting a variance to permit one additional wall sign on a wall that is not facing a street or access drive and to allow the sign to be greater than twelve square feet.

Mr. Eaker 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 Permanent Sign Regulations by Zoning District:

4. *Wall signs.*

- a. ...A wall sign shall be permitted on each wall which parallels or is oriented to a street or access drive...

8. *Identification signs.* One (1) identification sign is permitted for the principal access to the premises and one (1) sign for secondary access. The sign shall not exceed twelve (12) square feet in area per sign facing.

Mr. Eaker noted that as stated in the signage regulations:

“The purpose of these regulations is to provide minimum control of permanent signs to promote the health, safety, and general welfare of the public by lessening hazards to pedestrian and vehicular traffic, by preserving property values, and by preventing a proliferation of unsightly and incompatible development which has a general blighting effect on the City.”

The applicant is requesting to increase the size of an identification sign on the east elevation from the allowed twelve square feet to eighteen square feet. The east elevation does have a secondary entrance, a fire exit, which would allow for a twelve foot identification sign. Although the applicant would be permitted under City Code to have an identification sign the applicant believes the sign will not be visible at the Code permitted size for vehicles entering the commercial center from Suemandy Road.

In September, 2010 the Board of Adjustment granted the tenant on the south side of this development a similar variance for an increased identification sign on the east elevation from twelve feet to eighteen feet. The Board of Adjustment stated that a larger identification sign that was only several square feet larger than what was permitted by City Code would allow the tenant better visibility since the business is located back from the commercial center entrance off of Suemandy Road. Also, the modest increase in size will not affect the health, safety and general welfare of the public and would allow adequate advertising for the business while at the same time would be compatible with signage in surrounding commercial developments.

Based on this analysis, staff recommends the variance for the increase of an identification sign located on the east elevation from twelve to eighteen square feet.

Mr. Kendall asked if any of the board members had questions for Mr. Eaker. Mr. Kendall asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-E. Seeing no one present to comment, Mr. Kendall closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition 11-E.

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

Mr. Fann Yes

Mr. Kendall Yes

Mr. Selinger Yes

Mr. Jaggi Yes

Mr. Trupiano Yes

There being 5 yes and 0 no vote, Mr. Kendall declared that Petition 11-E was approved.

Mr. Jaggi presented the findings of fact as follows:

1. The lot is presently zoned PUD Planned Urban Development.
2. The adjacent zoning is PUD Planned Urban Development and C-3 General Commercial District.
3. The property is located on Lot A2 of the Lot Split of Lot A of Mid Rivers Mall Plat Six as recorded in plat book 45 page 91 at the St. Charles Recorder of Deeds Office, more commonly known as 330 Mid Rivers Center.

Mr. Fann made a motion and Mr. Trupiano seconded to approve the findings of fact. All in favor, the motion carried.

Mr. Trupiano presented the Conclusions of Law for Petition 11-D 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. Jaggi seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

Mr. Jaggi made a motion and Mr. Trupiano seconded to adjourn the meeting. All in favor, the meeting was adjourned at 6:30 p.m.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

William Kendall
Vice Chairman