



**MINUTES
BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF AUGUST 17, 2011
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. Dan Meyer; Mr. James Selinger; Mr. Tom Fann; Mr. William Jaggi; Mr. Ken Braunfeld, Planning Coordinator, Mr. Kit Eaker, Planner, and Ms. Melissa Vollmer, Recording Secretary. Mr. Nick Trupiano was absent.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of July 20, 2011. Being none, Mr. Kendall made a motion and Mr. Jaggi seconded to approve the minutes as presented. All in favor, the motion carried and the minutes were approved.

COMMUNICATIONS AND REPORTS OF OFFICERS

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

NEW BUSINESS:

PETITION 11-T:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 11-T. Nob Hill Association requests a variance to permit trash enclosures to be constructed of wood in lieu of masonry or vinyl material in a PUD Planned Urban Development at Nob Hill subdivision.

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 11-T. The petitioner or their agent was requested to step forward to present their position.

Ms. Ashley Bearden, Nob Hill Association, was sworn in as the petitioner. Ms. Bearden explained that the Nob Hill subdivision has had two common dumpsters for solid waste since the development was completed. The dumpsters are located on concrete pads and are screened with wood fence material. Due to the weight of the solid waste dumpster a City employee was injured moving the dumpster into position for the truck to haul the solid waste away. Ms. Bearden noted that the Nob Hill Association and the City have been working together to reconfigure the trash enclosure so the

dumpster within the enclosure will be situated to prevent City employees from manually moving the dumpster. Due to this change, the trash enclosures will need to be angled and constructed to the new City standards.

Mr. Meyer 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-T.

Mr. Eaker stated that the Nob Hill subdivision is located on the north side of Sutters Mill Road, west of Jungermann Road along Coach Court and Carson Court. The subdivision was platted in 1973 and completed in the mid-1970s. The development has had two common dumpsters for solid waste since the development was completed. The solid waste dumpsters are located on concrete pads and are screened with wood fence material. One dumpster is located on Coach Court and another on Carson Court. The homeowner's association for Nob Hill has always maintained the dumpster enclosures to meet City standards.

The current location of the trash enclosure for Nob Hill requires City solid waste drivers to manually open the doors of the trash enclosure and move the dumpster into position. Due to the weight of the solid waste dumpster a City employee was injured moving Nob Hill's dumpster into position for the truck to haul the solid waste away.

Due to the injuries suffered by the City driver; Nob Hill and the City's Solid Waste Department have been working together to reconfigure the trash enclosure so that the dumpster within the enclosure will be situated to prevent City employees from manually moving the dumpster. This will require new trash enclosures that will be angled and constructed to the new City standards. Current City standards for trash enclosures within a multi-family residential zoning district require the enclosures to be constructed of masonry or vinyl materials. Since, the current trash enclosures were built prior to the code change related to screening materials, the applicant's existing trash enclosures are currently legal non-conforming.

Noting the trash enclosures are legal non-conforming, the applicant has requested a variance to permit both new trash enclosures to be constructed of wood instead of masonry or vinyl materials.

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 405.420 Non-Conforming Use

B. Continuance of a Non-Conforming Use.

1. Any legal non-conforming building or structure may be continued in use provided there is no structural change other than normal maintenance and repairs.

Section 405.160 R-3(A) and R-3(B) Multi-Family Residential District

I. Miscellaneous Requirements.

6. All exterior solid waste containers shall be screened from public view. All screening shall be six (6) feet in height and of masonry or vinyl fencing construction that matches or complements the primary building on site.

Mr. Eaker noted that the trash enclosures for Nob Hill have been located in their current position for over thirty years and were constructed to the City's trash enclosure code requirements. The existing trash enclosures are currently legal non-conforming; therefore, according to City Code if a structure is replaced it must meet current City Code. The current code requires trash enclosures to be constructed of masonry or vinyl material.

Although the existing trash enclosures are made out wood they are not in disrepair nor do they have any other Code violations. One of the reasons they are constructing new angled trash enclosures is to accommodate the City by reducing the physical labor and possible work related injuries for City employees. The new trash enclosures will allow the solid waste truck operator to drive in front of the enclosure and lift the dumpster without having to physically move the dumpster into position.

The City changed the code to require masonry or vinyl materials, since both products are low maintenance. The applicant is proposing to use a PureWood® product. This is a full wood product that has the attributes to make it a low maintenance option. Given that the subdivision has had over thirty years with wood trash enclosures, allowing the subdivision to continue to use a wood-based product would ensure the aesthetics of the subdivision are not negatively impacted. Also, City staff has had no previous concerns with Nob Hill and their maintenance of their existing trash enclosures.

Based on this analysis staff recommends approval of the requested variance to permit trash enclosures to be constructed of wood in lieu of masonry or vinyl material in a PUD Planned Urban Development on common ground of Nob Hill Plat Three as recorded in plat book 19 page 55 and Nob Hill Plat Four recorded in plat book 19 page 124 at the St. Charles County Recorder of Deeds Office, more commonly known as Nob Hill.

Mr. Meyer asked if any of the board members had questions for Mr. Eaker. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-T. Seeing none, Mr. Meyer closed the public hearing.

Mr. Fann a motion and Mr. Kendall seconded to approve Petition 11-T.

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

Mr. Meyer	Yes
Mr. Kendall	Yes
Mr. Selinger	Yes
Mr. Fann	Yes
Mr. Jaggi	Yes

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

Mr. Fann presented the findings of fact as follows:

1. The subject subdivision is located north of Sutters Mill Road along Coach Court and Carson Court.

2. The subdivision is zoned PUD Planned Urban Development.
3. The adjacent zoning is R-1 Single-Family Residential District to the north, C-2 Community Commercial District to the east, and PUD Planned Urban Development to the south and west.
4. The Zoning and Subdivision Regulations permits trash enclosures to be constructed of masonry and vinyl materials.

Mr. Kendall 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-N 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. Selinger made a motion and Mr. Kendall seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

PETITION 11-U:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 11-U. Kimberly Christiansen requests a variance to permit the installation of a fence with a zero (0) foot front (side) yard setback in lieu of a ten (10) foot setback in the R-1 Single-Family Residential District at 123 Kimberly Lane

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 11-U. The petitioner or their agent was requested to step forward to present their position.

Ms. Kimberly Christiansen was sworn in as the petitioner. Ms. Christiansen explained that she is proposing the installation of a privacy fence on her property at the corner of Kimberly Lane and Willott Road. The home faces Kimberly Lane to the west with the south side of the home facing Willott Road and is, therefore, subject to two front yard setback requirements. Due to this, Ms. Christiansen is requesting a variance to permit the installation of a fence with a zero foot front (side) yard setback in lieu of a ten foot setback at 123 Kimberly Lane.

Mr. Meyer asked if there were any questions of the petitioner. Being none, Mr. Ken Braunfeld was sworn in to present the City's position for Petition 11-U.

Mr. Braunfeld stated that the subject request was previously reviewed at the July 20, 2011 Board of Adjustment meeting. At that meeting only four Board of Adjustment members in attendance. As required by City Code it takes four affirmative votes to grant a variance. At the July meeting the vote was three in favor and one against; thus the variance was denied. Based on this, the applicant has

resubmitted this request to allow the full five member board an opportunity to review the merits of this request.

The subject site is located at 123 Kimberly Lane, which is located at the northeast corner of Kimberly Lane and Willott Road, and is therefore subject to two front yard setback requirements. The actual home faces Kimberly Lane to the west, with the south side of the home facing Willott Road.

A new owner bought the house and has been rehabbing it. Subsequent to this activity they contacted the City to get the requirements for installation of a fence. Staff advised that a fence on a front (side) building line must be ten (10) feet back from the property line. Staff noted that Willott Road had been widened since the home was originally built. To aid the owner in determining where the fence could be built, staff provided a copy of the road plans showing the current property line adjacent to the home. A review of the road plans found that the right-of-way extended twenty-two feet back from the curb of Willott Road towards the house, leaving only seven feet of the front (side) yard for the placement of the fence.

The applicant indicated this would substantially limit the use of their side and back yard. They also said the proposed fence would not impact the neighbor behind them as that property faced Julie Lane and the fence would be next to their backyard and front (side) yard.

Based on this, Kimberly Christiansen requests a variance to allow A variance to permit the installation of a fence with a zero (0) foot front (side) yard setback in lieu of a ten (10) foot setback.

Mr. Braunfeld 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.

Mr. Braunfeld 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 neighborhood's views are not blocked. In addition, fencing setbacks were created to help insure proper visibility of an intersection by maintaining an acceptable site visibility triangle.

In this case the lot is unique in that it has two front yards of which the front (side) yard faces a street that no other home on that block faces. A review of the adjacent properties finds the adjacent home to the east is the mirror image of the subject lot at 123 Kimberly Lane. Consequently, the adjacent house faces Julie Lane with the front (side) yard facing Willott Road and the rear yard facing the rear yard of 123 Kimberly. Therefore, the front (side) yard setback to Willott Road, being the side of the home and lot, does not encroach into another home's traditional front yard area.

It is noted that a standard subdivision street's right-of-way is approximately twelve (12) feet beyond the curb. A fence on a corner lot would be setback ten (10) feet from the property line. Therefore, a

fence on a standard (side) front building line would be twenty-two (22) feet back from the curb. As previously noted the right-of-way is approximately twenty-two feet wide along this section of Willott Road, which is larger than would typically be found along an already upgraded arterial roadway. Therefore, if the fence is allowed to extend to the property line as requested, it would be in keeping with the standard distance from a subdivision street.

Also, the proposed fence has been checked by both the Planning Department and the Engineering Department to verify the proposed fence will not interfere with the sight visibility area if placed as proposed by the applicant towards the rear corner of the home.

Based on this analysis staff recommends approval of the variance to permit the installation of a fence with a zero (0) foot front (side) yard setback in lieu of a ten (10) foot setback in the R-1 Single Family Residential District. The property is located on lot 302 of Brookmount Plat 6 as recorded in book 11 Pages 1 at the St. Charles Recorder of Deeds Office, more commonly known as 123 Kimberly Lane.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-U. Seeing none present to comment Mr. Meyer closed the public hearing.

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

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

Mr. Meyer	Yes
Mr. Kendall	No
Mr. Selinger	Yes
Mr. Fann	Yes
Mr. Jaggi	Yes

There being 4 yes and 1 no vote, Mr. Meyer declared that Petition 11-U was approved.

Mr. Fann presented the findings of fact as follows:

1. The site is located at 123 Kimberly Lane.
2. The lot is presently zoned R-1 Single-Family Residential District.
3. Adjacent zoning and land uses are R-1 Single-Family Residential District.

Mr. Selinger 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-U as follows:

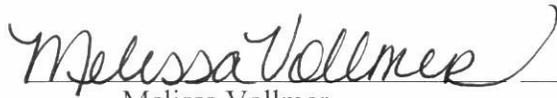
1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

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.

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Mr. Meyer made a motion and Mr. Jaggi seconded to adjourn the meeting. All in favor, the meeting was adjourned at 6:45 p.m.

Respectfully submitted:



Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman