



**MINUTES
BOARD OF ADJUSTMENT
MEETING OF JANUARY 19, 2011
6:00 P.M.**

CALL TO ORDER

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

ATTENDANCE

Those in attendance were Mr. Daniel Meyer; Mr. Bill Jaggi; Mr. Bill Kendall; Mr. Tom Fann; Mr. James Selinger; Mr. Ken Braunfeld, Planning Coordinator, and Ms. Melissa Vollmer, Recording Secretary. Mr. Tom Fann was absent.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of December 15, 2010. Being none, Mr. Jaggi made a motion and Mr. Fann 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-A:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 11-A. Darren and Karen Bond request a variance to allow a structure (deck) to encroach into an easement. The property is located on consolidated lot 25 of Timber Ridge Subdivision Plat Two as recorded in plat book 21 page 131 at the St. Charles Recorder of Deeds Office, more commonly known as 124 Timber Run 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 11-A. The petitioner or their agent was requested to step forward to present their position.

Mr. Darren Bond, was sworn in as the petitioner. Mr. Bond explained that he had requested a variance in March, 2009; however, the Board of Adjustment denied his petition. Subsequently, he indicated he was able to come up with a feasible proposal that would allow him to build his deck and also allow the City a ten foot easement adjacent to the existing ten foot easement. This would allow the City enough room to make any repairs to the sewer line, should it happen to fail.

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-A.

Mr. And Mrs. Bonds requested a variance at the March 13, 2009 Board of Adjustment meeting to allow a deck to encroach into a sewer easement behind their home. Based on the information available at the time the petition was denied. It is noted that based on the circumstances at that time the City was also not in favor of the requested variance.

Subsequent to this, the Bonds and the City re-evaluated the proposed deck location/encroachment and sewer easement size/location. It was determined that the existing ten foot wide sewer easement would not provide sufficient room to replace the existing sewer line should it fail and that additional easement would be needed.

Therefore, a revised proposal was developed that will allow the City enough room to fix or replace the sewer line in the future and also allow the Bonds to build their deck. The Bonds will give the City an additional ten foot easement adjacent to the existing ten foot easement to create a total easement width of twenty feet. In exchange, the City could support the encroachment of the deck into the easement since the likelihood of the sewer failing is small and the additional easement will make any future repairs feasible.

Based on this, Darren and Karen Bond request a variance to allow a structure (deck) to encroach t into an easement.

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

Section 405.270 Accessory Buildings or Structures, Alterations and Additions:

4. No principal building or structure or accessory building or structure shall be located within or partially within a designated utility easement.

As noted above, the initial review for the proposed deck encroachment was not favorable. However, re-evaluation by the Utility Department determined that additional easement is necessary should the sewer line need to be replaced. The Utility Department also determined that the sewer line was constructed of plastic, is approximately twenty feet deep, and is in good condition. The re-evaluated site conditions determined that a hardship now exist for both the Bonds and the City. Therefore a compromise was proposed which will allow each to better meet their goals. The Bonds will be able to install a deck more than five to seven feet wide and the City will be given sufficient easement to be able to practically work on the sewer line should it ever fail.

General utility easements are typically established around the perimeter of most lots in the City during the record plat process. The typical easement is five feet on each side of a lot line, thus creating a ten foot wide easement. Additional easements that cross through a lot may be created where necessary to accommodate a utility line that is not located in a standard perimeter utility easement. The subject lot contains two such sewer line easements. One is located at the far rear of

City of St. Peters 7/21/09 9:50 AM

Deleted: Based on this, Novogroder/St. Peters, LLC requests a variance to allow the reduction of the four (4) foot planting strip between the property line and the off-street parking facilities on a 1.77 acre site in the C-3 General Commercial District. The property is located on Lot 1 of Harvestowne Plaza Lot 1 a resubdivision plat as recorded in Book 33 Page 93-94 at the St. Charles Records Office, more commonly known as 4492 Central School Road (Walgreens).

the property; the other crosses through the middle portion of the lot and is the subject of the requested variance.

The owner understands the contingencies which include the granting of the expanded easement prior to the issuance of a deck permit, and that the property owner is responsible to relocate the deck should the City need to perform work on the line.

Based on this analysis, staff recommends approval of a variance to allow a structure (deck) to encroach into an easement for property located on lot 24 and lot 25 of Timber Ridge Subdivision Plat Two as recorded in plat book 21 page 131 at the St. Charles Recorder of Deeds Office, more commonly known as 124 Timber Run Drive with the following contingencies.

1. The property owner will grant a ten (10) foot wide easement to the City of St. Peters adjacent to the existing ten (10) foot wide easement, located behind the existing house, prior to the issuance of a deck permit.
2. The granting of this variance is for a deck only.
3. The granting of this variance does not relinquish the City of St. Peters rights to use the easement as granted by Timberridge Subdivision Plat Two as recorded in Book 21 Pages 31 and 32 at the St. Charles County Recorder of Deeds Office,
4. The use of the easement is at the property owner's sole risk which may require partial or full removal or relocation of the deck at the property owner's expense at the request of the City of St. Peters for use of the easement.

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-A. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Kendall made a motion and Mr. Jaggi seconded to approve the requested variance with the noted contingencies for Petition 11-A.

Mr. Meyer 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. Meyer	Yes

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

Mr. Fann presented the findings of fact as follows:

1. The subject property is located on lot 24 and lot 25 of Timber Ridge Subdivision Plat Two as recorded in plat book 21 page 131 at the St. Charles Recorder of Deeds Office, more commonly known as 124 Timber Run Drive.
2. The lot is presently zoned R-1 Single-Family Residential District.
3. The adjacent zoning is R-1 Single-Family Residential District.

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

City of St. Peters 7/21/09 10:05 AM

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City of St. Peters 7/21/09 10:06 AM

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Based on this analysis, it is staff's recommendation to grant Novogroder/St. Peters, LLC (Walgreens) request for a variance to allow the reduction of the four (4) foot planting strip between the property line and the off-street parking facilities with the following contingency:

1. The landscape buffer strip may range between zero feet and four feet as required by MoDOT and/or the City of St. Peters based on Highway 364 and Central School Road right-of-way requirements.

City of St. Peters 7/21/09 10:50 AM

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Mr. Jaggi presented the Conclusions of Law for Petition 10-S 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. All in favor, the Conclusions of the Law were adopted.

City of St. Peters 7/21/09 11:10 AM

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Mr. Selinger made a motion and Mr. Jaggi seconded to adjourn the meeting. All in favor, the meeting was adjourned at 6:20 p.m.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Daniel Meyer
Chairman