



**MINUTES BOARD OF ADJUSTMENT  
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF APRIL 16, 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; Mr. Ken Braunfeld, Planning Coordinator; and Ms. Melissa Vollmer, Recording Secretary.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of March 19, 2014. Mr. Jaggi made a motion and Mr. Trupiano 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-G:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-G. Josh Lawson/Integrity Home Solutions requests a variance to permit a deck to encroach into an easement in a PUD Planned Urban Development. The property is located on the north side of Mira Villa Drive, west of Saravalle Drive – Lot 117 of Bella Vista Plat One as recorded in Plat Book 44 Page 307 at the St. Charles County Recorder of Deeds Office, more commonly known as 543 Mira Villa 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-G. The petitioner or their agent was requested to step forward to present their position. Mr. Charlie Gable, Integrity Home Solutions, was sworn in as the petitioner. Mr. Gable explained that due to the unusually large utility easement in the back yard of this property, it is impossible to build a larger deck with stairs without it encroaching into the easement. Based on this, they are requesting a variance to allow a structure (deck) to encroach into the easement.

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-G.

Ms. Powers explained that the applicant owns property at 543 Mira Villa Drive in the Bella Vista subdivision. The applicant would like to construct a deck on the property that would extend ten feet from the back of the house. The deck would still be more than twenty five feet back from the property line; however, the deck stairs would encroach approximately four feet into the general utility easement in the rear of the property.

Typically, general utility easements around a residential property are five feet wide. In this case the applicant's property has a wider, twenty foot wide general utility easement along the rear property line. The

easement is this large due to the easement containing a storm water sewer line that discharges into a regional detention basin abutting the applicant's property.

City Code requires that all accessory building and structures are not allowed to encroach into any easements. Based on this the applicant has requested a variance to allow a structure (deck) to encroach into an easement.

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 405.270: 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.

Ms. Powers noted that 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. On the applicant's lot the developer of the subdivision created a twenty foot wide easement to allow a storm sewer to connect to the regional detention basin. The adjacent lot, to the north, does not have any easement – it was all accommodated on the subject lot which caused the large easement to be located in the applicant's property.

The applicant has requested a variance to encroach the easement by approximately four feet to accommodate the stairs from the deck. This small encroachment will allow the deck to be a standard ten foot deep which is a usable, enjoyable deck. If they are not allowed to encroach into the easement the applicant would only be allowed to construct a deck that is about six feet deep.

Staff requested that the City Utility Department review the site because of the proximity to a storm sewer. They have indicated that the placement of the steps is acceptable but have also requested a contingency stating that the placement of the steps in the easement is at the owner's own risk and they could be asked to remove them at a future date. Staff notes this is highly unlikely and would occur only with some type of major sewer repair. Staff notes that this four foot encroachment could allow the Utility Department ample room if they ever need to repair the storm sewer.

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?

Compliance with the regulations would not allow the applicant to fully utilize the value of their property as they would have a smaller deck and large, unused yard.

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

The easement is unusually large which causes a hardship to the use of the rear yard.

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

The City regulations typically apply without issue to standard shaped lots. With the large rear utility easement, use of the rear property area is limited. Allowing the deck to encroach into the easement will allow use of the entire lot.

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

The property was originally platted with the large easement at the request of the City; it was not done by the owner.

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 property would be in harmony with the general purpose and intent of the zoning regulations since the owner would be able to use their yard in a manner that is compatible with the area.

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 a variance to allow a structure (deck) to encroach four feet into an easement for property located on Lot 117 of Bella Vista Plat One as recorded in Plat Book 44, Page 307 at the St. Charles County Recorder of Deeds Office, more commonly known as 543 Mira Villa Drive with the following contingencies:

1. The granting of this variance is for a deck/deck steps only.
2. 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 steps at the property owner's expense at the request of the City of St. Peters.

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-G. 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-G.

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-G was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The subject property is located on lot 117 of Bella Vista Plat One as recorded in Plat Book 44, Page 307 at the ST. Charles County Recorder of Deeds Office, more commonly known as 543 Mira Villa Drive.
2. The lot is presently zoned PUD Planned Urban Development.
3. The adjacent zoning is PUD Planned Urban Development.

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

Mr. Jaggi presented the Conclusions of Law for Petition 14-G 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.

PETITION 14-H:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-H. Midas St. Peters, LLC, requests a variance to allow a reduction in the front yard setback in the C-3 General Commercial District. The property is located on the south side of Veterans Memorial Parkway, west of Jungermann Road, commonly known as 4221 Veterans Memorial Parkway – Marriott Hotel.

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-H. The petitioner or their agent was requested to step forward to present their position. Mr. Doug Tieman, Pickett Ray and Silver, was sworn in as the petitioner. Mr. Tieman explained that a new Courtyard Marriott Hotel is planned on the site of the vacant Holiday Inn. In addition a new road on the west side of the site is proposed, to connect Jungermann Circle to Veterans Memorial Parkway. The new road will create a front yard instead of a side yard for the west side of the building. This increases the setback from fifteen feet to thirty feet. Therefore, they are requesting a variance to allow a reduction in the front yard setback.

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 14-H.

Mr. Braunfeld explained that in 2014 the applicant received approval of a Special Use Permit from the Board of Alderman and site plan approval from the Planning and Zoning Commission for the construction of a new Marriott Courtyard Hotel on the site of the vacant Holiday Inn. The project will include the complete removal of the Holiday Inn building and the construction of a new four story, one-hundred and twenty-three room Marriott Courtyard Hotel. In addition, the project will include the removal of the adjacent retail building containing the Open MRI to the east. The plan is for this lot to redevelop with a restaurant or retail use.

During the site plan review process this area was under review for the proposed one-way outer road system. At this location Veterans Memorial Parkway would become one-way east bound only. Part of the one-way outer road system plan was to provide additional circulation to allow west bound movement. It was decided that the City would construct a new road on the west side of the site to connect Jungermann Circle with Veterans Memorial Parkway. Although the one-way outer road concept was not adopted, the City is still pursuing the road connection between Veterans Memorial Parkway and Jungermann Circle to facilitate circulation in this area.

With the final site plan and road design, the new road will create a front yard instead of a side yard for the west side of the building. This increases the setback from fifteen feet to thirty feet. It was determined that it was not practical to re-design the plan. The plan had been carefully crafted to accommodate the redevelopment of the property given the constraints of the existing lot size, lot dimensions and new road.

Based on this, Midas St. Peters, LLC requests a variance to allow a reduction in the front yard setback in the C-3 General Commercial District. The property is located on the south side of Veterans Memorial Parkway, west of Jungermann Road, commonly known as 4221 Veterans Memorial Parkway.

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 405.210: "C-3" General Commercial District

G. Yard Requirements

1. All buildings shall be set back from all street right-of-way lines not less than thirty (30) feet.

Mr. Braunfeld noted that the project will include the complete removal of the Holiday Inn building and the construction of a Marriott Courtyard Hotel including the proposed redevelopment of the property to the east with a restaurant use.

Although the one-way outer road concept was not adopted, the City is still pursuing the construction of the road connection between Veterans Memorial Parkway and Jungermann Circle to facilitate traffic circulation in this area. The proposed new road will create a front yard instead of a side yard for the west side of the building, increasing the setback from fifteen feet to thirty feet.

An evaluation of the site plan did not find a practical alternative as the plan had been carefully crafted to accommodate the proposed project. The substitution of the fifteen foot side setback in lieu of a thirty foot front setback results in no visual difference due to the layout of the project. The cross section of the hotel is long and narrow with the bulk of the hotel (260 feet +/-) facing Veterans Memorial Parkway and Jungermann Circle. Only the short width of the hotel (60 feet +/-) will face the new street. Therefore, the amount of the hotel's mass impacting the front yard to the proposed street is minimal. It is noted that the land for the proposed ground is being sold to the City by the developers to improve circulation for the overall area. Therefore, a public good is being created by building the road and improving traffic flow.

Mr. Braunfeld 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 plan had been carefully crafted to accommodate the redevelopment of the property given the constraints of the existing lot size and dimensions. In addition, the new proposed road will further the public good by improving traffic flow in the area. Therefore, the proposed design provides for the reasonable use of the property.

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

To accommodate the redevelopment of the property given the constraints of the existing lot size, lot dimensions, and new public road, the strict application of the setback regulations would constrain the redevelopment of the property.

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

With the new road to facilitate public traffic flow, an increased front yard impacts the site design. Therefore, the property suffers a hardship.

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

The existing lot size and lot dimensions were already established. In addition, the location of the new road is in the best interest of the City's overall road plan and traffic management.

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 the redevelopment of the site and the construction of a new road to facilitate traffic circulation.

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 allow a reduction in the front yard setback in the C-3 General Commercial District with the following contingency:

1. The front yard setback shall be fifteen feet to the new road on the west side of the building.

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 14-H. 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-H.

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-H was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The property is located on Lot 11 of Jungermann Subdivision Plat Nine as recorded in book 22 page 66 at the St. Charles County Recorder of Deeds Office, more commonly known as 4221 Veterans Memorial Parkway.
2. The lot is presently zoned C-3 General Commercial District.

3. The property to the east and west is zoned C-3 General Commercial District with Veterans Memorial Parkway to the north and Jungermann Circle to the south.

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

Mr. Fann presented the Conclusions of Law for Petition 14-H 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. Jaggi a motion and Mr. Trupiano seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION 14-I:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-I. OHM Concession Group, LLC requests a variance to permit signs painted directly on the wall and signage which exceeds five percent of the wall area in the C-2 Community Commercial District. The property is located on the south side of Mexico Road, west of South Church Street (7337 Mexico Road).

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-I. The petitioner or their agent was requested to step forward to present their position. Mr. Joe Dale, architect for Dunkin Donuts, was sworn in as the petitioner. Mr. Dale explained that the subject site will be developed with a Dunkin Donuts. The building is small and will have the shorter wall parallel to the street. City regulations allow buildings to have signage on all walls that face a street or access drive, or which face a parking lot. The main façade faces Mexico Road and the larger side wall faces the drive-through lane; however, will be very visible to Mexico Road. Mr. Dale noted that Dunkin Donuts is requesting a larger sign on the front of the buildings and painted signs on the side of the building.

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-I.

Ms. Powers explained that the subject site will be developed with a Dunkin Donuts; it will be located at 7337 Mexico Road which is on the south side of Mexico Road, west of Mid Rivers Mall Drive and Church Street. The development area is the west side of the existing Hatfield and McCoy's site. The development in the site area includes a small shopping center in the C-1 District to the west, a senior apartment facility to the south in the R-3 District, and a mix of commercial uses in the C-3 District to the east. Across Mexico Road are several commercial uses in former single family residences in the C-1 District. Several single family homes in unincorporated St. Charles County also front Mexico Road in this area

Access to the Dunkin Donuts will be via two drives from Mexico Road with a cross access connection to the Hatfield and McCoy's parking lot/entrances. The building is small – approximately 2,000 square feet in area – and will have the shorter wall parallel to the street.

City sign regulations allow each building to have signage on all walls that face a street or access drive, or which face a parking lot if that is the main façade. Since this main façade faces Mexico Road, the signage is permitted on the wall parallel to Mexico Road. However, the larger, side wall which faces the drive-through lane will be very visible from Mexico Road. The applicant is proposing a channel letter sign on the front of the building and a painted sign on the side of the building which will include a cup with the initials "DD".

Based on this, OHM Concession Group, LLC, request a variance to permit a wall sign which exceeds five percent of the wall area on the front of the building and a painted wall sign on the side of the building in the C-2 Commercial District. The property is located west of Mid Rivers Mall Drive and South Church Street, and on the south side of Mexico Road – 7337 Mexico Road.

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 405.730: Signs Prohibited

The following signs shall be prohibited:

2. Paper posters and signs painted directly on exterior walls, chimneys or other parts of the building.

Section 405.745: Permanent Sign Regulations by Zoning District

D. Signs Permitted in all "C" Commercial and "I" Industrial Districts (Non-Residential). In certain non-residential districts, the following signs are permitted in accordance with the regulations set forth herein

4. Wall Signs

- a. The total area of each wall sign shall not exceed five percent (5%) of the building façade or thirty-two (32) square feet, whichever is greater. A wall sign shall be permitted on each wall which parallels and is adjacent to, or is oriented to a street or access drive. If the business fronts on more than one (1) street or access drive, the sign area for each wall shall be computed separately. Where a business has no wall fronting on a street or access drive, the Administrative Officer shall determine frontage for all sign locations. The Administrative Officer may approve the placement of a wall sign on a main façade, including, but not limited to, facades fronting a parking lot or including a main building entrance, in lieu of a sign parallel to a roadway.

Ms. Powers noted that the subject site is located between two existing buildings – Hatfield and McCoy's restaurant and a multi tenant site to the west currently used for a child gymnastics center. The subject site was created by re-platting the restaurant parcel. Therefore, the new Dunkin Donuts will be built between two existing buildings. In addition, the Dunkin Donuts building is small – approximately 2,000 square feet – and the shorter façade is parallel to Mexico Road.

The Dunkin Donuts prototype building uses a painted motif on the side of the building. This includes a coffee cup with "DD" on the cup and some swirls. Because the "DD" functions as a sign for the business, it requires a variance. In general, the painted treatment is part of the architectural design of the building, but the addition of the company letters result in the treatment being considered a sign.

As noted above, the front of the building which parallels Mexico Road is the shorter side of the building. The larger side of the building is the side of the building which is not parallel to Mexico Road but is easily visible to eastbound traffic. The proposed sign is part of the architectural treatment of the building, adding to the

building's overall branding. Staff is of the opinion the impacted visibility from Mexico Road, resulting from the "fitting in" of the building between two existing buildings, coupled with the building design which results in a shorter front width, make the sign on the side of the building reasonable. By adding signage to the eastern façade of the building, the westbound drivers will be able to see the building sooner and make a safer entrance into the drive.

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 building is being placed between two existing buildings and is small and narrow; this configuration results in some limited visibility of the front of the building. By using the visible side of the building, west bound drivers will be able to see the building more quickly and have safer access to the site.

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

The code does not allow signs which exceed five percent. By allowing this sign on the side wall, the visibility limitations will be addressed.

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

The location between existing buildings and the building configuration limit the visibility of the front of the building. With this design, the property suffers a hardship.

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

There is limited area remaining on the larger parcel to be incorporated into a separate parcel which is not due to the applicant's actions. Therefore, the parcel is small and has more depth than width. Because of this, there are limited options for the building shape. The applicant's building design is aligned with the parcel shape.

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 wall signage will not cause 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 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 requested variances to permit a wall sign which exceeds five percent of the wall area on the front of the building and a sign on the east side of the building with the following contingency:

1. A wall sign shall be permitted on the side (eastern) façade of the building.

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-I. 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-I.

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-I was approved.

Mr. Jaggi presented the findings of fact as follows:

1. The property is located west of Mid Rivers Mall Drive and west of South Church Street and the south side of Mexico Road – 7337 Mexico Road.
2. The lot is presently zoned C-2 Community Commercial District.
3. The surrounding zoning is C-1 Neighborhood Commercial District, C-3 General Commercial District, and R-3 Residential District.

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

Mr. Trupiano resented the Conclusions of Law for Petition 14-I 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. Jaggi made a motion and Mr. Fann seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION 14-J:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-J. Bryan Hunt requests a variance to permit a reduction of the twenty-five (25) foot front building setback to permit the addition of an open air porch and the installation of a fence. The property is located on lot 5 of Harvest Point Subdivision, as recorded in Book 26 Page 39 at the St. Charles County Recorder of Deeds Office, more commonly known as 3806 Harvest Point 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-J. The petitioner or their agent was requested to step forward to present their position. Mr. Bryan Hunt, homeowner, was sworn in as the

petitioner. Mr. Hunt explained that he would like to install a fence and a canopy over his existing concrete patio. Due to the curvature of the lot and adjacent cul-de-sac, he has a very unusually front building line setback in the backyard area and therefore, needs to request the stated variance.

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 14-J.

Mr. Braunfeld explained that the applicant, Bryan Hunt, is the owner of a home located at 3806 Harvest Point Drive. The applicant desires to create a covered porch over the existing concrete patio and to install a fence. When the applicant laid out the porch and fence he found that the curvature of the adjacent cul-de-sac created a very unusual front building line setback in the backyard area.

Based on this, Bryan Hunt requests a variance to permit a reduction of the twenty-five foot front building setback to permit the addition of an open air porch and the installation of a fence. The property is located on lot 5 of Harvest Point subdivision, as recorded in Book 26 Page 39 at the St. Charles County Recorder of Deeds Office, more commonly known as 3806 Harvest Point Drive.

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 405.130: (R-1 Single Family Residential)

H. Yard Requirements

1. The minimum yard requirement shall apply to each lot.
2. The minimum front yard depth shall be twenty (20) feet...

Section 405.360: Fence Requirements

D. Fence Regulations for "R" (Residential) Districts.

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.
7. In no case shall any front yard be enclosed by a fence other than provided for a through-lot.

Mr. Braunfeld noted that the proposed lot is very unusual in that it is a corner lot with an unusual bend in the cul-de-sac extending the depth of the front building line in an atypical way. As shown on the exhibit, the proposed encroachments are limited to just a corner of the proposed porch and a small portion of the fence in the backyard area of the property.

The covered porch will extend over an existing concrete patio and include a small extension of an outside fireplace/grill. A review of the proposed porch in relation to the adjacent properties does not suggest the proposed addition will create any safety or aesthetic concerns. In fact, the proposed addition will be a positive investment into the home, and that of the neighborhood. It is also noted that a review by the Building Department found no additional fire hazards would be created by these encroachments as supported by staff.

The requirement that a fence be held back ten feet from the property line on a corner lot is to balance the front yard integrity of homes adjacent to the side/rear yard of a corner lot house. In this case each adjacent home is placed at an angle around a cul-de-sac such that the whole court acts as a modified front yard area.

To create a more usable back yard area the applicant has proposed that the subject fence extend past an existing tree and then angle back to the rear property line. Where the fence extends past the tree a small encroachment will occur. It is estimated that only one section of the fence will extend into the ten foot setback. In addition, the subject fence along Harvest Point Court will only be four feet in height to further minimize any visual encroachment. The remainder of the fences on the property will all be in compliance with City codes. It is noted that the fence along the side of the house will be six feet in height. This will allow the owner to park and screen a boat/RV/trailer as required by City Code. It is also noted that the fence will not impact the sign visibility of the intersection or cul-de-sac.

Setback requirements have been established to provide for adequate separation of buildings and uses, and create reasonable amount of open space between structures to enhance the general health, safety, and welfare of the community.

It is staff's opinion that the proposed variances will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Mr. Braunfeld 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 owner flexibility to install a covered porch and a fence, 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 installation of a covered porch to improve the house and will allow to improve the house and will allow 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 the setback regulations would prevent an improvement to the home and 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 porch cover and 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 permit a reduction of the twenty-five foot front building setback to permit the addition of an open air porch and the installation of fence with the following contingencies:

1. The building encroachment shall be limited to an open-air porch as shown on the exhibit.
2. The fence shall be setback a minimum of five feet from the property line adjacent to Harvest Point Court and limited to the area as shown on the exhibit.
3. The fence beyond the side of the house along Harvest Point Court shall not exceed a height of four feet.

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

Mr. Jaggi made a motion and Mr. Kendall seconded to approve Petition 14-J.

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-J was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The property is located on lot 5 of Harvest Point subdivision, as recorded in Book 26 Page 39 at the St. Charles County Recorder of Deeds Office, more commonly known as 3806 Harvest Point 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. Fann made a motion and Mr. Jaggi seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi resented the Conclusions of Law for Petition 14-J 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.

PETITION 14-K:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-K. Haley Properties requests a variance to allow a reduction in the side yard setback in the C-2 Community Commercial District for the installation of an exterior below grade access stairway and canopy. The property is located on the south side of Mexico Road, east of Knaust Road – lot 1 of Oakridge Estates subdivision as recorded in Book 31, Pages 5-6 as recorded at the St. Charles County Recorder of Deeds Office, more commonly known as 8065 Mexico Road.

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-K. The petitioner or their agent was requested to step forward to present their position. Ms. Debbie Haley, owner, was sworn in as the petitioner. Ms. Haley explained that she would like to add office space to the lower level of the building. This will allow an existing tenant on the main level to expand and she will re-locate her office to the lower level. To provide access to the lower level the proposed stairs and canopy would encroach into the side yard building setback; therefore, she is requesting the variance as presented.

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 14-K.

Mr. Braunfeld explained that in 2006 the applicant redeveloped an existing house at 8065 Mexico Road. At that time the property has been recently annexed into St. Peters and zoned C-2 Community Commercial District. The existing 1,882 square foot house was completely renovated to create a commercial appearance and include a 1,518 square foot addition to the rear.

At that time it was determined that the east side of the project would be within the minimum 20 foot setback between a commercial building and a residential property. Since it is not practical for the existing building to be relocated, the applicant was advised to pursue a variance. A variance for this encroachment was granted by the Board of Adjustment for Petition 06-L on October 19, 2006.

Subsequent to the success of the project and businesses within the building, the owner would like to add office space to the lower level (basement) of the building. This will allow an existing tenant on the main level to expand. To accommodate this expansion, the building owner, who has a real estate company at this location, would relocate to the lower level. To provide access to the lower level the proposed stairs and its canopy would encroach into the side yard building setback.

Based on this, Haley Properties requests a variance to allow a reduction in the side yard setback in the C-2 Community Commercial District for the installation of an exterior below-grade access stairway and canopy. The property is located on the south side of Mexico Road, east of Knaust Road – lot 1 of Oakridge Estates subdivision as recorded in Book 31 pages 5-6 as recorded at the St. Charles County Recorder of Deeds Office, more commonly known as 8065 Mexico Road.

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 405.200: C-2 Community Commercial District

G. Yard Requirements

2. Side Yard: Side yard width shall be ten (10) feet except when adjacent to a residential district, then twenty (20) feet is required.

Section 405.510: Yard and court encroachments

- C. Exterior Stairways and Fire Escapes: Outside stairways, smokeproof tower balconies, fire escapes, window wells and other required elements of a means of egress shall not project more than four (4) feet beyond the face of the wall.

Mr. Braunfeld explained that the subject property was originally an existing home constructed in unincorporated St. Charles County within the adjacent Oakridge Estates subdivision. Over time Mexico Road has expanded, Ft. Zumwalt South High School was built and expanded across the street, and a commercial shopping center was constructed to the west at the corner of Mexico Road and Knaust Road. In 2006 the property was annexed into the City of St. Peters and zoned C-2 Community Commercial District. Together, these factors all lead to the redevelopment of the property in 2006 into an attractive and successful office building.

As noted before, the owner desires to use the lower basement area of the building for office space. The access is necessary to create its own entrance and to allow improved access to the lower level which will provide more flexibility in the use and compliance with the building code. The specific design would create an open air stairway to the lower basement area with a covered canopy to keep rain and snow off the stairs and identify the entrance.

The adjacent residential properties are buffered from the existing development by a six foot tall white vinyl fence. To date staff is not aware of any concerns between the residential and commercial development. It is noted that with the exception of a canopy to shield the steps from water, the majority of the project will be below grade and will not be visible to the adjacent residences.

Mr. Braunfeld 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 building was a redevelopment of a residential property that was functionally obsolete. The construction of a below-grade access stairwell with an open air canopy/roof will allow for improved access to the lower level and more flexibility in the use and compliance with the building code, thus providing for the reasonable use of the property.

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

The construction of a below grade access stairwell with an open air canopy/roof will allow for improved access to the lower level and more flexibility in the use and compliance with the building code. The strict application of setback regulations would prevent the construction of this access, resulting in a hardship.

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

The subject building was a redevelopment of a functionally obsolete building. The proposed below grade stairwell and open air canopy/roof that projects into the side yard setback is necessary to more fully utilize the lower level and comply with the building code. The property suffers a hardship because the setbacks limit the options for expansion.

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

The original building placement and lot layout were in place before the redevelopment of the property and reuse of the existing building.

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 the construction of an exterior lower level entrance, which enhances the value and appearance of the building.

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 allow a reduction in the side yard setback in the C-2 Community Commercial District for the installation of an exterior below grade access stairway and canopy with the following contingency:

1. The encroachment is for a below-grade access stairwell and open air canopy/roof.

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 14-K. 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-K.

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-K was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on the south side of Mexico Road, east of Knaust Road – lot 1 of Oakridge Estates subdivision as recorded in Book 31 Pages 5-6 at the St. Charles County Recorder of Deeds Office, more commonly known as 8065 Mexico Road.
2. The lot is presently zoned C-2 Community Commercial District.
3. The property to the west is zoned C-2 Community Commercial District with Mexico Road to the north.
4. The adjacent zoning to the east and south is located in unincorporated St. Charles County and is zoned residential.

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

Mr. Trupiano presented the Conclusions of Law for Petition 14-K 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. Jaggi made a motion and Mr. Fann seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Jaggi made a motion and Mr. Meyer seconded to adjourn the meeting at 7:15 p.m. The motion carried unanimously.

Respectfully submitted:

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Melissa Vollmer  
Recording Secretary

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Dan Meyer  
Chairman