



**MINUTES  
BOARD OF ADJUSTMENT  
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF FEBRUARY 20, 2013  
6:00 P.M.**

CALL TO ORDER

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

ATTENDANCE

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

MINUTES

Mr. Kendall asked the Board for any comments or questions regarding the minutes of January 16, 2013. 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. Kendall asked for any reports or communications from the Officers. Mr. Braunfeld indicated there were none.

OLD BUSINESS:

Mr. Kendall noted that staff is requesting an amendment to the approved minutes for the December 19, 2012 Board of Adjustment meeting minutes and asked Mr. Braunfeld to explain to the Board what revisions needed to be made. Mr. Braunfeld noted that due to a typographical math error, the December 19<sup>th</sup> Board of Adjustment minutes will need to be revised. When the applicant indicated their request, they did not include the original variance which had been granted. Paragraph eight of the staff recommendations and the recommended contingencies should read as follows:

In addition the applicant is requesting a reduction in the minimum unit size to accommodate the current market conditions. Current regulations require a minimum unit size of 850 square feet, but permit up to ten percent of the units to be less than this minimum, but not smaller than 650 square feet. The current proposal would allow up to ~~19%~~ 29% of the units to be less than 850 square feet. As noted by the applicant, this would allow for forty-eight one-bedroom units to be less than 850 square feet. The applicant expects these units to be approximately 747 square feet, although there could be variations in the size, but not less than 650 square feet. The two and three bedroom units would be up to 1.435 square feet.

Therefore, staff recommends approval of the requested variance with the following contingencies:

1. The site shall contain a maximum density of 168 units.
2. A maximum of ~~nineteen (19)~~ twenty-nine (29) percent of the units may be less than 850 square feet, but not less than 650 square feet.

3. The development shall contain a club house and pool or other amenities as approved on the site plan by the Planning and Zoning Commission.

Mr. Fann made a motion and Mr. Trupiano seconded to make the changes to the December 19<sup>th</sup> Board of Adjustment Minutes. All in favor, the motion carried.

PETITION 13-C:

Mr. Kendall stated that the purpose of the meeting was to consider Petition 13-C. Servicemaster requests a variance to permit an electronic changeable copy sign which exceeds twenty-four (24) square feet in area in the C-3 General Commercial District. The property is located on the north side of I-70 Service Road North, west of Executive Centre Parkway (4250 I-70 Service Road North).

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 13-C. The petitioner or their agent was requested to step forward to present their position. Mr. Jim Mason, Mason Signs, was sworn in as the petitioner. Mr. Mason explained that Servicemaster moved into the former Vic's Auto Body on the North Service Road and is proposing a sign which is predominately a digital copy sign with a smaller business sign at the top of the sign.

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 13-C.

Ms. Powers stated that Servicemaster is moving into the former Vic's Auto Body on the north side of I-70 Service Road North, west of Executive Centre Parkway (4250 I-70 Service Road North). Servicemaster will use the site for offices and an operations center for their cleaning and restoration business. Their business includes general cleaning of upholstery and carpet in addition to heavy duty cleaning after fire, floods, and other major occurrences.

The site is located in the C-3 General Commercial District. In the C-3 District, City Code currently permits pole signs of two hundred and fifty square feet in addition to a changeable copy sign of twenty-four square feet. If a sign is a digital sign, the two amounts can be combined for one large digital sign which identifies the business name and the features offered by the business.

The applicant is proposing a sign which is predominately a digital copy sign with a smaller business sign at the top of the sign. The overall sign size – 222.4 square feet – is less than the permitted combined size of 274 square feet, but the distribution of the sign area between the static sign and the changeable copy sign does not comply with the code as currently written.

Noting the above, the applicant has requested a variance to permit a static business sign in conjunction with an electronic changeable copy/business sign which exceeds twenty-four (24) square feet.

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

Section 405.745 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:

1. Ground Signs.

b. The following regulations shall apply to all ground (pole and monument) signs in all zoning districts.

8) Ground signs may be in electronic format. However, electronic ground signs may not be used in conjunction with an electronic changeably copy sign.

(a) In lieu of a separate electronic ground sign and changeable copy sign, a combined electronic sign and changeable copy sign may be permitted. Said combined signs shall not exceed the total square footage of the permitted ground sign and the changeable copy sign.

Ms. Powers noted that the proposed business will fill a vacant building which had been declining in maintenance; it had been vacant for several years. Servicemaster will fill the space with a vibrant business which includes renovation of the building and site.

As part of the renovation they are proposing a new sign which will allow them to identify their specials along with the business name. The sign is attractive – the company name at the top with a new digital copy panel below. The panel will be larger, allowing visibility from the nearby interstate.

Staff notes that when the code was amended to allow digital copy signs, a combined sign area was allowed. However, staff did not anticipate a sign like that proposed – where a static “cap” would be included to identify the business name. While not currently allowed, the concept is reasonable and the resulting sign is attractive. Therefore, this combination will be proposed with the next group of code changes.

In the interim a variance is needed to allow the sign. Staff is of the opinion this is reasonable as the sign area is less than would be allowed under the code, and the proposed sign is attractive. Staff believes it will allow the business to be properly identified and address their specials in the digital format.

Staff further notes that, in response to challenging economic times, the City created the Economic Development task force several years ago to identify strategies for business attraction and retention. One topic addressed was adequate signage. The sign that is being proposed will allow this new use to establish their location and brand in the area with a visible sign that is aesthetically pleasing along Interstate 70.

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 Code would actually allow a larger sign than that proposed by the applicant. The proposed sign distributes the sign area differently than the Code currently allows. By allowing a static sign in addition to the larger reader board the applicant will be afforded better identification of their site.

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

If the sign complies with code, a larger sign would be allowed but they would not be able to have the static identification of the use and the larger reader board. This narrow writing of the codes does impose a hardship at this time.

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

The applicant's property is very visible and will be easily seen, but the current code does impose a hardship.

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

The applicant has elected to have the proposed sign configuration. However, this request is reasonable and will probably be allowed by the code after further modification.

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

If the variance is approved, the development will be in harmony with the general purpose and intent of the zoning regulations, since the sign configuration will be attractive and the sign size will be smaller than allowed by code. As a result it 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 be 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 variance to permit a static business sign in conjunction with an electronic changeable copy/business sign which exceeds twenty-four (24) square feet in area.

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 13-C. Seeing no one present to comment, Mr. Kendall closed the public hearing.

Mr. Fann made a motion and Mr. Trupiano seconded to approve Petition 13-C with the noted contingencies.

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

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

There being 5 yes and 0 no vote, Mr. Kendall declared that Petition 13-C was approved.

Mr. Fann presented the findings of fact as follows:

1. The subject lot is located on the north side of I-70 Service Road North, west of Executive Centre Parkway (4250 I-70 Service Road North).
2. The lot is zoned C-3 General Commercial District.
3. The adjacent zoning is C-3 General Commercial District to the east and west and I-2 Heavy Industrial District to the north.
4. The Zoning and Subdivision Regulations permit a ground sign in the C-3 General Commercial District which may include a changeable copy sign of twenty-four square feet of a digital sign which cannot exceed the maximum permitted area of a static sign and changeable copy sign.

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

Mr. Jaggi presented the Conclusions of Law for Petition 13-C 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.

#### PETITION 13-D:

Mr. Kendall stated that the purpose of the meeting was to consider Petition 13-D. Jason Chapple requests a variance to allow a reduction in the minimum six (6) foot side yard setback and six (6) foot rear yard setback, to allow an accessory structure in the side yard, and to allow a structure in an easement in the R-1 Single Family Residential District. The property is located on Lot 106 of Hermitage Plat 2 as recorded in book 21 page 109 at the St. Charles Recorder of Deeds Office, more commonly known as 100 Carriage House Lane.

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 13-D. The petitioner or their agent was requested to step forward to present their position. Mr. Jason Chapple was sworn in as the petitioner. Mr.

Chapple explained that they are looking to put a swimming pool in their back yard. Mr. Chapple noted that the shape of the lot and position of the home have created a very small back yard area that will not accommodate a swimming pool. The lot is pie shaped and very shallow with an unusually deep fifteen foot wide utility easement along the rear property line. Due to this oversized easement, he is requesting the variance as listed on the application.

Mr. Kendall 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 13-D.

Mr. Braunfeld stated that the Chapples are the owners of a home at 100 Carriage House Lane. The owners desire to install a pool in their back yard. During the planning stage for the pool the applicant realized the shape of the lot and position of the home created a very small back yard area that would not accommodate a pool. Specifically, the lot is pie shaped and very shallow with an unusually deep fifteen foot wide utility easement along the rear property line. It is noted that a typical perimeter utility easement is only five (5) feet. It is unknown why the oversized utility easement was created since only Charter Cable has a single line within the easement.

Further review by the applicants found that while the lot is not very deep its extra width created areas to the side and rear of the home that could accommodate the placement of a pool, as shown on the attached exhibit. The applicants are working with their pool company to decide which location is better. The location to the southwest would be more expensive to construct as it requires the construction of a retaining wall but preserves the flatter area of the lot to the southeast. It is noted that if a retaining wall is needed it would extend into the easement. The area to the southeast is flatter, and therefore less expensive to construct, but would leave the more steeply sloped southwest corner of the lot for all other outdoor activities. In either of these locations a portion of the pool would extend into the side yard area and potentially into the side and/or rear yard easement. In addition, when the pool location was being laid out it was discovered that a corner of the existing deck extended approximately three feet into the fifteen foot rear yard easement. In addition, when the pool location was being laid out it was discovered that a corner of the existing deck extended approximately three feet into the fifteen foot rear yard easement.

Based on this Jason Chapple requests a variance to allow a reduction in the minimum six (6) foot side yard setback and six (6) foot rear yard setback, to allow an accessory structure in the side yard, and to allow a structure in an easement in the R-1 Single Family Residential District. The property is located on Lot 106 of Hermitage Plat 2 as recorded in book 21 page 109 at the St. Charles County Recorder of Deeds Office, more commonly known as 100 Carriage House Lane.

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.

c. Rear yard depth shall be a minimum of twenty-five (25) feet, except the rear yard depth on a corner lot may be fifteen (15) feet. Swimming pools, decks and open-air porches shall be excluded from the twenty-five (25) feet and fifteen (15) feet depth requirements, however, these structures shall not be closer than six (6) feet to the rear yard line.

- d. Detached accessory buildings may not be used as dwelling units and shall be located in a rear yard. Detached accessory buildings shall be set back at least six (6) feet from the side and rear lot lines and shall not be located within a public easement. . .

Mr. Braunfeld noted that the subject lot is unique due to the pie shape and very shallow depth. In addition it contains a largely unused oversized fifteen foot wide utility easement along the rear property line, containing a single Charter Cable line.

As shown on the exhibit, the lot is not very deep but is extra wide creating areas to the side and rear of the home that could accommodate the placement of a pool. As shown on the attached exhibit, the pool can successfully be placed to either the southeast or southwest side of the lot. However, in either of these locations a portion of the pool would extend into the side yard area and potentially into the side and/or rear yard easement. As also noted, when the pool location was being laid out it was discovered that a corner of the existing deck extends approximately three feet into the fifteen foot rear yard easement. To date there have been no known concerns regarding this encroachment.

A review of the site finds that either proposed pool location as shown on the exhibit will not have an adverse effect on the neighboring properties. The spirit of the requirement for buildings and structures to be located in a rear yard is to prevent crowding between houses on standards lots with typical side yards of six to ten foot widths. In this case the lot has been compressed creating larger side yards of approximately fifteen to twenty feet to the west and twenty-five to forty feet to the east. This variation is due to the steep angle of the property line as it angles away from the house. In addition, the pool will be below grade eliminating any visual encroachment of the side yard area. It is also noted that the applicant will maintain the existing four foot high fence surrounding the yard as required by the Building Code for pool safety.

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 unusual shape of the lot will not allow the applicant to fully utilize the property. Therefore, the prohibition from using a portion of the side yard for a pool or the removal of the existing deck due to a minor encroachment would be a burden to the homeowner with no benefit to the public.

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

The exaggerated pie shape of the lot in conjunction with an oversized easement limits the ability to install a pool in a standard location and would require the removal of a portion of the existing deck, thus creating the hardship.

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

The dimensions of the lot and larger easement create a hardship on the subject property.

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

The dimensions of the property and larger easement were platted on the lot and not created by the applicant and limit the normal use of the property.

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

If the variance were approved it would be in harmony with the general purpose and intent of the zoning regulations since the pool's location is minimized by the unusually large side yard. In addition, the existing deck has resulted in no known complaints. Further, two adjacent property owners have sent letter of support for the project.

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 have been 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 variance to allow a reduction in the minimum six (6) foot side yard setback and six (6) foot rear yard setback, to allow an accessory structure in the side yard, and to allow a structure in an easement with the following contingencies:

1. The granting of this variance is for a pool, retaining wall, deck and associated accessories only.
2. The pool may not extend past the front of the house on the east side of the lot or the rear of the garage on the west side of the lot.
3. The pool encroachment shall not extend more than two (2) feet into the east side yard setback or easement.
4. The pool, deck, or retaining wall encroachment shall not extend more than nine (9) feet into the fifteen (15) foot easement along the rear property line.
5. The granting of this variance does not relinquish the various utility companies' rights to use the easement as granted by Hermitage Plat 2 for Lot 106, as recorded in book 21 page 109 at the St. Charles County Recorder of Deeds Office, more commonly known as 100 Carriage House Lane.
6. The use of the easement is at the property owner's sole risk which may require partial or full removal of the pool, retaining wall, deck and associated accessories at the property owners expense at the request of a utility company for use of the easement.

Mr. Kendall asked if any of the board members had questions for Mr. Braunfeld. Mr. Kendall asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 13-D. Mr. Kendall noted that the board received two e-mails in favor of this petition and asked that they be made part of the record. Seeing no one present to comment, Mr. Kendall closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition 13-D.

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

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

There being 5 yes and 0 no vote, Mr. Kendall declared that Petition 13-D was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on lot 106 of Hermitage Plat 2, as recorded in book 21 page 109 at the St. Charles County Recorder of Deeds Office, more commonly known as 100 Carriage House Lane.
2. The lot is presently zoned R-1 Single Family Residential District.
3. Adjacent zoning is R-1 Single Family Residential District.
4. The Zoning and Subdivision Regulations prohibit a structure to be located within an easement.
5. The Zoning and Subdivision Regulations prohibit a building/structure to be located within a side yard.

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

Mr. Jaggi presented the Conclusions of Law for Petition 13-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. Jaggi made a motion and Mr. Fann seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

Mr. Kendall made a motion and Mr. Fann seconded to adjourn the meeting at 6:47 p.m. All in favor, the motion carried.

Respectfully submitted:

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Melissa Vollmer  
Recording Secretary

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William Kendall  
Vice Chairman