



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JUNE 18, 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; 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 May 21, 2014. Mr. Jaggi made a motion and Mr. Fann 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.

Mr. Kendall was not in attendance at the start of the meeting.

PETITION 14-Q:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-Q. Dollar Tree Stores, Inc. requests a variance to permit a wall sign which exceeds five percent of the wall area on an existing building in an Commercial Planned District (CPD). The property is located east of Jungermann Road, south of Willott Road – 935 Jungermann Road.

Mr. Meyer declared the public hearing open to consider Petition 14-Q. The petitioner or their agent was requested to step forward to present their position. Mr. Brian Grass, Dale Signs Service, was sworn in as the petitioner. Mr. Grass explained that they would like to increase the square footage of the signage on the front (northern) façade of the building. This will enhance visibility and direct patrons to the entrance. The larger sign which faces Jungermann Road would be smaller than what's allowed.

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-Q.

Mr. Braunfeld explained the subject multi-tenant retail strip shopping center is located on the east side of Jungermann Road, south of Willott Road. The property is zoned CPD Commercial Planned District which allows the sale of used merchandise and all C-2 District uses. The center includes Brewer's True Value Hardware, Erio's Restaurant and a mix of other small uses. Dollar Tree is planning to go into the former Blockbuster Video space at the end of the center, fronting Jungermann Road.

City regulations allow each building to have signage on all walls that face a street or access drive, or which face a parking lot. The units at the end which face the parking lot have signs facing the parking lot. Staff notes this building and unit also have a wall facing Jungermann Road which is allowed signage.

Dollar Tree inquired regarding the permitted signage. Their larger façade faces Jungermann Road, but their main entrance faces the parking lot. The main entrance – the northern façade – is allowed a sign of approximately 46.5 square feet. The sign on the west façade, facing Jungermann Road, is allowed to be 198 square feet. To enhance visibility and direct patrons to the entrance, the operator has indicated a larger sign is needed facing the parking lot; the applicant proposes a sign of 129.3 square feet. The larger wall which faces Jungermann Road would include a smaller sign of approximately 43 square feet.

Based on this, Dollar Tree requests a variance to permit a wall sign which exceeds five percent of the wall area or thirty-two square feet in area in a CPD. The property is located on the east side of Jungermann road, south of Willott Road – 935 Jungermann 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 405.745: Permanent Sign Regulations by Zoning District.

D. Signs Permitted in all “C” Commercial and “I” Industrial Districts (Non-Residential). In certain non-residential district 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.

Mr. Kendall joined the meeting in progress.

Mr. Braunfeld explained that the multi-tenant shopping center is located on Jungermann Road south of Willott road. This area includes a Walgreens and church to the north and a church to the northwest. Other uses in the area are predominately residential. This area of Jungermann Road is not a major commercial center with the prominence of Mexico Road, Highway 364, and the McClay Road/Jungermann Road intersection. Given that, this center has struggled for tenants over the last few years, especially during the recent recession. A tenant such as Dollar Tree, coupled with the newer hardware store, have and will give a new life to this center not seen for some time.

The center was designed with a section that is perpendicular to Jungermann Road. The units in this area have entrances that face the parking lot. In the subject case, this end unit has a large façade along

Jungermann Road. The applicant would like to have a smaller sign on that wall, to identify the use, but the larger, main sign would be above the main entrance. This is consistent with the other uses in the center.

Staff notes that the applicant is proposing a smaller sign on the side of the building that faces Jungermann Road. This sign of forty-three square feet will be 155 square feet smaller than permitted. Noting that additional signage is permitted on this side façade that is not being used, staff recommends shifting square footage from the side of the building to balance the overall signage on the building. The sign on the front of the building would be increased by eight three square feet. This type of shift has been done with other users when the permitted signage and the main façade are not aligned. By doing so, the overall sign amount for the user is not increased but the signage is used much more efficiently.

Given the above, staff proposes a contingency that would reduce the allowed signage on the side façade by the amount of extra signage on the front of the building. This is consistent with other “sign shifts” which have been approved by the City.

This proposal is reasonable in staff’s opinion because the overall amount of signage for the property will not change. Staff finds that the proposed sign will not be visually out of scale with the other signs in the center or the building façade. In addition, there will be no net increase in wall signage for the center.

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 building is permitted two wall signs. By allowing for the shifting of available sign area, the proposed sign will better meet the needs of the applicant and have no net increase in total wall signage. This furthers the aesthetic goals of the sign code and ensures a reasonable return by the business.

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

The code does not allow the shifting of wall signage between separate walls that are permitted a sign. The proposed wall sign area substitution will improve visibility for the applicant with no overall net change in the total signage available for the building.

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

The shopping center was constructed in a semi-U shaped style that was popular at the time but creates small front facades which face the parking lot. Therefore, visibility is limited which can pose a hardship for a business. The substitution of wall signage will further the goals of the applicant with no negative impact on the City of St. Peters.

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

The property was developed and the sign code established prior to the applicant’s business being located at the subject center.

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 substitution of 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 variance to permit a wall sign which exceeds five percent of the wall area with the following contingencies:

1. The wall sign on the main (northern) façade of the business shall not exceed 130 square feet in area.
2. The available signage permitted towards Jungermann Road shall be reduced by the amount of extra sign area use on the front building façade.

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

Mr. Fann made a motion and Mr. Trupiano seconded to approve Petition 14-Q.

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

Mr. Fann	Yes
Mr. Kendall	Absent
Mr. Trupiano	Yes
Mr. Meyer	Yes
Mr. Jaggi	Yes

There being 4 yes, 0 no and 1 absent vote, Mr. Meyer declared that Petition 14-Q was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The property is located on the east side of Jungermann Road, south of Willott Road – 935 Jungermann Road.
2. The lot is presently zoned CPD Commercial Planned District.
3. The surrounding zoning is C-2 Commercial District to the north, R-1 Single Family Residential District to the east and south and PUD to the west.

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

Mr. Jaggi presented the Conclusions of Law for Petition 14-Q 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-R:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-R. Carl and Janice Duffner request a variance to allow less than fifty (50) percent turf grass on a lot in the R-1 Single Family Residential District. The property is located on Lot 97 of Richmond Plat Two as recorded in book 37 pages 73-74 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Fishers Hill 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-R. The petitioner or their agent was requested to step forward to present their position. Mr. Carl Duffner and Mrs. Janice Duffner, homeowners, were sworn in as the petitioners. Mr. Duffner explained that they have owned their home since approximately 2002. Because of water issues in their rear yard, they began removing the grass and converting the entire yard to a mix of mulch and planting beds. The water problem has been addressed by the City; however, Mr. and Mrs. Duffner noted that they enjoy their plantings and would like to retain the yard as it is today. At this time there is not any grass in either the front nor rear yards.

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-R.

Ms. Powers explained that Carl and Janice Duffner are the owners of a home located on Lot 97 of Richmond Plat 2 as recorded in Book 37 Pages 73-74 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Fishers Hill Drive. They are the original owners of the home which is a larger lot at the end of a cul-de-sac.

Over time, the owners have removed all the grass from the yard and converted it to a mix of mulch and planting beds. The front area includes a bench and pond along with a mix of plants and flowers. The rear includes a landscaped hillside, planting areas, small pond, walkways and seating areas. The owners have indicated to staff that some of the landscaping – the hillside area in the back – was installed partially as a result of water problem. To stabilize the hill and deter erosion, the hillside was planted. The water problem has been addressed by the building up of the area on the back side of the fence and the addition of an inlet installed by the City.

The City recently received a concern regarding the absence of grass in the yard. Staff made a field visit of the area and confirmed that there is no grass in the yard; it is a mixture of mulch and planting beds

with some walkways and seating areas. The owners wish to retain the garden treatment of the yard rather than grass, citing personal preference and an allergy to grass.

Based on this, Carl and Janice Duffner request a variance to allow less than fifty percent turf grass in their yard in the R-1 Single Family Residential District. The property is located on Lot 97 of Richmond Plat 2 as recorded in Book 37 Pages 73-74 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Fishers Hill Drive.

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 405.390: Landscaping and Screening

A. Residential Districts. It shall be at the discretion of the individual property owners to landscape their lots; however, at any given time the following provisions shall apply:

4. All landscaping shall be properly maintained according to City ordinances presently in effect. A minimum of fifty percent (50%) of all yard areas shall be comprised of turf grass. Trees shall not be planted within six (6) feet of a property line in the side and rear yard. The individual owner shall be responsible for such maintenance.

Ms. Powers noted, to allow a full review of this issue, please note the following overview of the above referenced code and an overview of the subject lot's landscaping.

The code change referenced above was approved in October, 2010 via Ordinance 5096. This code change was approved by the Board of Aldermen after many complaints about a single family home which used a mix of landscaping materials in their entire front yard. The materials included some wild flowers and other natural grasses which were not weeds but gave the appearance of weeds to many residents of the area. At that time, the Board determined that most subdivisions in the City were constructed to include standard front, back and side yards – a typical suburban streetscape. By requiring only fifty percent of the yard to be turf grass, the Board felt the individual homeowner could still have the flexibility to have a large vegetable garden, planting beds, and other unique applications to yard design while maintaining a yard that meets the community standard.

The subject lot, 1 Fishers Hill Drive, was developed as part of the Richmond subdivision. Per the St. Charles County Assessor's records, the home was sold to the Duffner's in 2002 from the original builder. Per the aerial photo records of the City of St. Peters, in 2006 the lot was predominately grass with some planting beds along the boundaries of the property. The rear yard area was not fenced. In 2009, just after the City Code was amended to require turf grass, the fence was installed and the planting beds were expanded. It appears the entire west side yard in front of the fence was a planting bed, and the circular planting area and beds along the walkway in the front of the house were in place. In 2012, it appears that the only grass area remaining was on the east side of the home in front of the fence.

As evidenced by the photos provided by staff, many of the plantings on the subject lot are very attractive and well kept; some of them are very mature as they have been in place since at least 2009 and possible before. In addition, there is a lot of ground cover which is low to the ground and, therefore, gives an appearance, height, and scale that is similar to grass. Staff acknowledges that landscaping is a "personal

preference” amenity – a hobby or passion for some while a chore for others. Because of this, each single family home becomes a reflection of the personal tastes of the property owner.

In balance with this, however, is the commitment of each property owner to the community and subdivision standards. Most subdivision, especially newer ones like Richmond, include indentures which identify the parameters for design and upkeep of the subdivision. In addition, the City Code includes limitations on a variety of issues which apply to residential areas, including paving of driveways, setbacks, parking of vehicles, etc. These requirements – like the minimum amount of lawn requirement – are in place to ensure that the City’s neighborhoods retain the quality and character that property owners observe and expect when they purchase their homes.

Noting the above, staff is of the opinion a compromise is reasonable for the subject site. Staff determined that the grass area in 2009, at or about the time the code was amended, was approximately five percent. Therefore, a return to that same percent of turf grass area would be reasonable. Staff believes the grass area should be in front of the fence.

It is staff’s opinion that the proposed variance will not impair an adequate supply of light or air to the 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.

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 applicant would be able obtain a reasonable return from their property and continue to use the property as a single family residence if the subject yard is at least fifty percent grass. However, given the substantial plantings and the amount of ground cover, staff believes a modified percentage of grass would still allow the property owner to get a reasonable return from the property.

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

If fifty percent of the lot is required to be grass, it would create a hardship for the property owner given the significant effort they have put into the plantings.

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

Because of the extent of the landscaping at the subject location, removal of approximately one-half of the materials would pose a hardship to the property owner. The property itself does not suffer a hardship.

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

The applicant/property owner did the landscaping, 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 were approved it would not be in harmony with the general purpose and intent of the zoning regulations since the standard in the subdivision and community at large is a grass lawn. A compromise which allows a reduced percentage of grass area which is in the front yard and side yard in front of the fence will allow the spirit of the regulations to be preserved.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

If the variance is granted, the yard will have no grass area. This will be in contrast to the rest of the neighborhood. Therefore, the public welfare will not have been assured and substantial justice will not have been done.

Based on this analysis staff recommends approval of the requested variance to allow a reduction in the amount of turf grass to five percent of the total yard area with the following contingencies:

1. The grass area shall all be in the front yard or in the side yard in front of the homeowner's fence.
2. The grass area shall be installed by December 1, 2014.

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-R. Mr. Mark Letko, 2 Fishers Hill Drive spoke in favor of the variance requested. Ms. Emma Rice, 16 Fishers Hill sent an e-mail in opposition and spoke in opposition to this petition. Mr. Gene Rice, 16 Fishers Hill Drive spoke in opposition to this petition. Mr. Bob Simon, 3 Fishers Hill Drive spoke in opposition to this petition. Mr. Jaggi questioned Mr. Rice if the subdivision indentures addressed the issue of no grass on a property. Mr. Rice indicated that they did not. Seeing no one else present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition 14-R as presented by staff with the recommended contingencies.

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

Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Trupiano	Yes
Mr. Meyer	Yes
Mr. Jaggi	No

There being 4 yes and 1 no vote, Mr. Meyer declared that Petition 14-R was approved.

Mr. Trupiano presented the findings of fact as follows:

1. The property is located on Lot 97 of Richmond Plat 2 as recorded in Book 37 Pages 73-74 at the St. Charles County Recorder of Deeds, more commonly known as 1 Fishers Hill Drive.
2. The lot is presently zoned R-1 Single Family Residential District.
3. The surrounding zoning is zoned 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 presented the Conclusions of Law for Petition 14-R 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 a motion and Mr. Trupiano 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 7:00 p.m. The motion carried unanimously.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman