



**MINUTES
BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF FEBRUARY 16, 2011
6:00 P.M.**

CALL TO ORDER

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

ATTENDANCE

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

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of January 19, 2011. Being none, Mr. Jaggi made a motion and Mr. Kendall seconded to approve the minutes as presented. All in favor, the motion carried and the minutes were approved.

COMMUNICATIONS AND REPORTS OF OFFICERS

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

NEW BUSINESS:

PETITION 11-B:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 11-B. William S. Beckett, owner, requests a variance to allow a side yard setback of 4.8 feet in lieu of five (5) feet, a rear yard setback of eleven and one-half (11.5) feet in lieu of fifteen (15) feet, and allow a 0.2 foot encroachment into a utility easement for an existing home. The property is located on Lot 103C of Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office, more commonly known as 238 Bellemeade Drive.

Mr. Meyer further stated that the evidence and testimony received this evening would be the only record considered by the Board. Title IV Land Use of the Municipal Code, as amended, shall be Exhibit #1 for this petition.

Mr. Meyer declared the public hearing open to consider Petition 11-B. The petitioner or their agent was requested to step forward to present their position.

Mr. William Beckett, was sworn in as the petitioner. Mr. Beckett explained that he purchased the home at 238 Bellemeade Drive and as part of the purchasing process the property was surveyed and it

was discovered the house encroaches into the side yard setback/easement and rear yard due to the covered porch.

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

The applicant purchased a new home at 238 Bellemeade Drive. As part of the purchasing process the property was surveyed and it was discovered the house encroaches into the side yard setback/easement and rear yard due to the covered porch. The home has been a display home for about two years. It is noted that Bellemeade subdivision was built as a Planned Urban Development (PUD) District.

Subsequent to the new survey, staff reviewed the original building permit site plan which shows the proposed home in compliance with the required five foot side yard setbacks and outside of the easement. The building permit also showed an uncovered deck which only requires a six foot setback instead of the fifteen foot setback required when the deck/porch is covered. It is unknown how the home was built in the incorrect location or why the uncovered deck/porch was converted to a covered deck/porch during construction.

Based on this William S. Beckett, owner, requests a variance to allow a side yard setback of 4.8 feet in lieu of five (5) feet, a rear yard setback of eleven and one-half (11.5) feet in lieu of fifteen (15) feet, and to allow a 0.2 foot encroachment into a utility easement for an existing home. The property is located on Lot 103C of Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office, more commonly known as 238 Bellemeade Drive.

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

Section 405.270 Accessory Buildings or Structures, Alterations and Additions:

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

Within the Bellemeade Planned Urban Development District, approved via Ordinance 4279, dated May 27, 2005 it states:

The Property shall comply with the following design criteria:

- a. Setbacks on all single family lots shall be a minimum front yard setback of twenty (20) feet, a **minimum side yard setback of five (5) feet, and a minimum rear yard setback of fifteen (15) feet.** Decks and porches may encroach into minimum setback areas as permitted by the Zoning Code for the R-1 Single Family District.

Staff finds the existing side yard encroachment of two tenths of a foot (approximately 2-3 inches) not observable to the eye and, therefore, of no detriment to the adjacent property.

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

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

The rear yard setback encroachment was caused by the construction of a covered porch in lieu of an open air deck. Staff was advised that there may have been two different builders associated with this home's construction and the design may have changed with the new builder. The covered porch is integrated into the home's roof line and adds an attractive element to the rear of the home. The attractive design of the covered porch element adds value to the home and neighborhood and mitigates any visual intrusion into the rear yard area; the limited three and one-half foot encroachment has minimal impact.

This lot also contains perimeter utility easements including a five foot general utility easement along each side of the lot. Since the lots setback and easement size are both five feet, the same two tenths of a foot (approximately 2-3 inches) side yard setback encroachment also extends into the general utility easement.

In general it is important to protect easements and prohibit structures from being built in an easement. In this case the encroachment into the easement is minimal and it would not be practical to relocate the existing home two to three inches. In addition, the other lots within this development also have perimeter utility easements which provide many alternative utility locations should some future need arise.

The applicant has indicated they are in the process of seeking easement vacations to vacate a portion of the subject easement; however, this process can take a substantial amount of time to complete and the new owner would like to comply with City Codes now since they have closed on the property.

Therefore, the best solution is for the city to grant a variance from the Code requirement that prohibits the placement of a structure in an easement. The granting of the variance will not relinquish the property owner from any easement rights that have been granted to the utility companies. In essence, the property owner will proceed at their own risk and are free to deal with the utility companies on the encroachment.

Based on this analysis staff recommends the approval of a variance to allow a side yard setback of 4.8 feet in lieu of five (5) feet, a rear yard setback of eleven and one-half (11.5) feet in lieu of fifteen (15) feet, and allow a 0.2 foot encroachment into a utility easement for an existing home. The property is located on Lot 103C of Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office, more commonly known as 238 Bellemeade Drive, with the following contingencies:

1. The granting of this variance is for the existing encroachment of the house.
2. The subject property is located on Lot 103C of Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office, more commonly known as 238 Bellemeade Drive.
3. The granting of this variance does not relinquish the utility companies' rights to the use of the easement as granted by Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office.
4. The use of the easement is at the property owner's sole risk which may require partial or full removal or relocation of the home at the property owners expense at the request of a utility company for use of the easement.

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

Deleted: Landscape requirements have been established to provide for adequate separation of buildings, parking lots, and uses, to create reasonable amount of open space to enhance the general health, safety and welfare of the community. However, in this case it was determined that it was not practical to establish the four (4) foot landscape buffer strip in front of the existing parking lot.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-B. Seeing no one present to comment, Mr. Meyer closed the public hearing.

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

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

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

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

Mr. Fann presented the findings of fact as follows:

1. The subject property is located on Lot 103C of Bellemeade Plat One as recorded in plat book 45 page 150 at the St. Charles Recorder of Deeds Office, more commonly known as 238 Bellemeade Drive.
2. The lot is presently zoned R-3 Planned Urban Development District (R-3 PUD).
3. The adjacent zoning is R-3 PUD District.

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

Mr. Jaggi presented the Conclusions of Law for Petition 11-B 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. Selinger seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

PETITION 11-C:

The Petitioner was unable to attend the meeting; therefore this item will be postponed until the March 16, 2011 Board of Adjustment Meeting.

Mr. Meyer made a motion and Mr. Jaggi seconded to adjourn the meeting. All in favor, the meeting was adjourned at 6:30 p.m.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Daniel Meyer
Chairman

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

Deleted: 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.

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

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

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

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