



**MINUTES
BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF SEPTEMBER 21, 2011
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. Dan Meyer; Mr. James Selinger; Mr. Tom Fann; Mr. William Jaggi; 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 August 17, 2011. Being none, Mr. Fann made a motion and Mr. Jaggi 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-V:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 11-V. Jacob Paul Gamache is requesting a variance to allow a deck to encroach into a fifteen (15) foot wide general utility easement in a Planned Urban Development (PUD).

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-V. The petitioner or their agent was requested to step forward to present their position.

Ms. Jennifer Gamache, representative for Jacob Gamache, was sworn in as the petitioner. Ms. Gamache explained that Mr. Gamache would like to construct a deck on his property that would extend fourteen feet from the back of his house. The deck would still be six feet back from the property line; however the deck would encroach seven feet three inches into a fifteen foot wide general utility easement in the rear of the property. Ms. Gamache noted that Mr. Gamache is aware that he probably will not be granted the seven foot three inch variance; however would be happy with

whatever the Board would feel is appropriate and whatever the St. Peters Utility Department felt could be accommodated.

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-V.

Mr. Braunfeld stated that the applicant owns property at 126 Siena Drive in the Bella Vista subdivision. The applicant would like to construct a deck on the property that would extend fourteen feet from the back of the house. The deck would still be more than six feet back from the property line; however, the deck would encroach seven feet three inches into a fifteen foot wide general utility easement in the rear of the property.

Typically, general utility easements around a residential property are five foot wide. In this case the applicant's property has a fifteen 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 buildings and structures are required to be at a minimum six feet from the property line and not encroach into any easements. Based on this the applicant has requested a variance to allow a structure (deck) to encroach into an easement.

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 405.270 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.

Mr. Braunfeld 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 fifteen foot easement to allow a storm sewer to connect to the regional detention basin. The adjacent lot, to the south, has not been platted, so no easements were created. This caused the larger easement to be located in the applicant's property.

The applicant has requested a variance to encroach the easement by seven feet three inches; this would allow the applicant to have a fourteen foot wide deck. If they are not allowed to encroach the easement the applicant would only be allowed to construct a deck that is six feet wide. The City Utilities Department has field checked the site and determined that the applicant would not be able to encroach the easement by seven feet three inches due to the location of the storm sewer in the easement as well as the depth below grade of the storm sewer. However, the Utilities Department would be supportive of the applicant's proposed deck if it would only encroach four feet into the fifteen foot wide easement.

Although this four foot encroachment would prevent the applicant from having a fourteen foot wide deck, it still would allow the applicant to have a ten foot wide deck which is greater than the six foot

wide deck that would not encroach into the easement. Finally, the four foot encroachment would allow the Utilities Department ample room if they ever need to repair the storm sewer with the proper equipment without affecting the footings of the structure.

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 5 of Bella Vista Plat One as recorded in plat book 44 page 307-311 at the St. Charles Recorder of Deeds Office, more commonly known as 126 Siena Drive with the following contingencies.

1. The granting of this variance is for a deck 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 at the property owner's expense at the request of the City of St. Peters or any other applicable utility for use of the easement.

Mr. Meyer asked if any of the board members had questions for Mr. Braunfeld. Mr. Meyer asked if there was anyone in the audience to speak in favor, opposition or in comment of Petition 11-V. Seeing none, Mr. Meyer closed the public hearing.

Mr. Selinger made a motion and Mr. Fann seconded to approve Petition 11-V with the noted contingencies including that the deck encroach no more than four (4) feet into the easement.

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

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

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

Mr. Kendall presented the findings of fact as follows:

1. The subject property is located on lot 5 of Bella Vista Plat One as recorded in plat book 44 page 307-311 at the St. Charles Recorder of Deeds Office, more commonly known as 126 Siena Drive.
2. The lot is presently zoned PUD Planned Urban Development.
3. The adjacent zoning is PUD Planned Urban Development.

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

Mr. Jaggi presented the Conclusions of Law for Petition 11-N as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

Mr. Kendall made a motion and Mr. Selinger seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

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

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman