



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF APRIL 15, 2015
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. John Shetterly; Mr. Dan Meyer; Mr. William Jaggi; Ms. Julie Powers, Director of Planning, Community & Economic Development 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 March 18, 2015. 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. Ms. Powers indicated there were none.

PETITION 15-E:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 15-E. Habitat for Humanity of St. Charles County requests a variance to allow a structure within the front yard setback side yard setback and easement on a lot in a Planned Urban Development (PUD). The property is located on Lot 7 of The Enclaves at Eisenhower as recorded in book 45 pages 288-289 at the St. Charles County Recorder of Deeds Office, more commonly known as 121 Clinton Court.

Mr. Meyer declared the public hearing open to consider Petition 15-E. The petitioner or their agent was requested to step forward to present their position. Mr. Tony Bradbury, Construction Manager for Habitat for Humanity, was sworn in as the petitioner. Mr. Bradbury explained that the homeowner at 121 Clinton Court has a small ramp extending from the home for handicap accessibility. The current proposal is for the ramp to be replaced with a ramp that meets standard grades and design; it will be constructed by Habitat for Humanity. To ensure the appropriate grade, the ramp must extend into the side and front yard setback and the side yard 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 15-E.

Ms. Powers explained that the applicant constructed a home at 121 Clinton Court in the Enclaves at Eisenhower as part of the original subdivision development. The subdivision is zoned PUD Planned Urban Development. The PUD agreement requires a minimum twenty foot front yard for each lot – this is the standard for all single family lots in the R-1 residential district in St. Peters. The PUD agreement also requires a five foot side yard setback; the standard in the City is five to six foot side yards.

The subject lot is at the end of Clinton Court adjacent to the common ground on one side; the side property line adjacent to the common ground angles in slightly at the front of the lot. The common ground area is a grassy, open area with a path which extends to the creek that aligns Birdie Hills Road.

The resident currently has a small ramp extending from the home for handicap accessibility. The current proposal is for the ramp to be replaced with a ramp that meets standard grades and design; it will be constructed by Habitat for Humanity. To ensure the appropriate grade, the ramp must extend into the side and front yard setback and the side yard easement.

City Code states that all accessory buildings and structures are not allowed to encroach into any yards or easements. Therefore, the applicant submitted an application for variances to allow front and side yard encroachments into the side yard easement.

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

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.

The Planned Urban Development (PUD) agreement for the Enclaves at Eisenhower subdivision, as approved via Ordinance 4543, states the following:

10. Building setbacks shall be as follows:
 - a. A minimum front yard of twenty (20) feet; corner lots shall have a minimum front yard of fifteen (15) feet.
 - b. A minimum side yard of five (5) feet.

Ms. Powers noted that setbacks are required on lots in the City to establish a yard area for each single family home. The typical setback for front yards is twenty feet and five to six feet for side yards. On the subject lot, the proposed ramp will result in a slight encroachment of approximately three to five feet into the front yard and approximately four to five feet into the side yard.

Therefore, the applicant has requested a variance to encroach into the front yard and side yard; this will allow the homeowner to have an accessibility ramp and continue to live in the home. Staff notes that the encroachments are small and will be hardly noticeable when constructed. Given the common ground are next to the lot, the impact of the slight encroachment will be even less noticeable as there is a large grassy area on the impacted side of the lot. Further, staff notes that the site has a unique shape with the angled side property line, resulting in a narrower front yard area. Therefore, even though the lot is standard size (5,278 square feet) for this subdivision, the lot configuration impacts the ability for the ramp to be constructed without impacting the side yard setback. Also, the twenty foot front setback, which is standard in the City, would be impacted by a ramp on any lot, no matter the size.

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 standard five foot easement. Staff has checked the utility atlas of the City and notes that there is a water line in easements within the impacted yards. Ms. Powers noted that the Utilities Department reviewed this matter and noted that the water line is actually in the easement of the adjacent lot and not in the easement on the applicant's lot.

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 proposed ramp is required to allow the homeowner to continue to live in the residence into the future. The narrow front area of the lot further impacts the feasibility of the ramp to the site. To ensure the ramp meets standards for accessibility ramps, the setback encroachments and easement encroachment are required. These variances are needed to allow this homeowner reasonable use of their property.

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

To comply with the code, a ramp which meets standards would not fit on the site which would have a significant hardship on the owner.

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

The property suffers a hardship because of the narrow lot configuration near the front of the site.

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

The lot configuration was part of the original plat and not the applicant's own actions.

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 encroachments are negligible and will be minimally noticeable, especially given the adjacent common ground.

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 to encroach up to five (5) feet into the front yard, five (5) feet into the side yard, and five (5) feet into the side yard easement for property located on Lot 7 of the Enclaves at Eisenhower as recorded in Plat Book 45 Pages 288-289 at the St. Charles County Recorder of Deeds Office, more commonly known as 121 Clinton Court with the following contingencies:

1. The granting of these variances is for a ramp 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 ramp 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 15-E. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition 15-E.

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

Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Meyer	Yes
Mr. Shetterly	Yes

There being 5 yes, and 0 no vote, Mr. Meyer declared that Petition 15-E was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on Lot 7 of the Enclaves at Eisenhower as recorded in Plat Book 45 Pages 288-289 at the St. Charles County Recorder of Deeds Office, more commonly known as 121 Clinton Court
2. The lot is presently zoned PUD Planned Urban Development.
3. The adjacent zoning is PUD Planned Urban Development.

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

Mr. Jaggi presented the Conclusions of Law for Petition 15-E 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. Shetterly seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 15-F:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 15-F. Designery c/o Mid Rivers Limited Partnership requests a variance to allow a wall sign on a side of a building façade that is not oriented to a street or access drive. The property is located on Lot A of Parcel 12 of Mid Rivers Mall Plat Seven as recorded in Plat Book 22, Page 59 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Mid Rivers Mall Drive.

Mr. Meyer declared the public hearing open to consider Petition 15-F. The petitioner or their agent was requested to step forward to present their position. Mr. Shannon Brown, Designery, was sworn in as the petitioner. Mr. Brown explained that Krilogy Financial is going to be occupying a tenant space at 1 Mid Rivers Mall Drive and it was determined that a sign on the west wall would be the best fit for the proposed tenant and the existing tenants of the building. The applicant has indicated that they would give up an equivalent amount of permitted wall signage in exchange for the sign on the west wall.

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 15-F.

Mr. Braunfeld explained that the subject property is located in the Mid Rivers Mall shopping area at the southwest corner of Interstate 70 and Mid Rivers Mall Drive. The property is zoned C-3 General Commercial

District. The property contains a three-story, 60,634 square foot office building which includes US Bank and a variety of other office users.

City regulations allow each building to have wall and ground signage that faces or is adjacent to a street or main access drive. The building has frontage to Interstate 70 to the north, Mid Rivers Mall Drive to the east, and a private street/access drive to the south.

Based on this, Designery c/o Mid Rivers Limited partnership requests a variance to allow a wall sign on a side of a building façade that is not oriented to a street or access drive. The property is located on Lot A of Parcel 12 of Mid Rivers Mall Plat Seven as recorded in plat book 22 page 59 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Mid Rivers Mall Drive.

Mr. Braunfeld noted that the variance requested by the applicant is from the Zoning and Subdivision Regulations (Title IV Land Use Chapter 405 as amended), states the following:

Section 40.5745: 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.

Mr. Braunfeld noted that each building is permitted wall signage per street frontage. The building has frontage to Interstate 70 to the north, Mid Rivers Mall Drive to the east, and a private street/access drive to the south. However, the size and height of the building is unique making the west wall very visible to the adjacent Interstate 70. The applicant has determined a sign on the west wall of the building would best serve the proposed Krilogy tenant and the existing US Bank tenant by placing the signs on different walls of the building. It would also balance the building signage among two walls rather than placing all the signs on just one wall. As also noted the applicant would be willing to give up an equal amount of wall signage from another wall of the building.

In staff's opinion this proposal is reasonable because the overall wall signage for the property will remain approximately the same – the sign area will be shifted between two visible walls. The height and orientation of the building creates a unique sight line to Interstate 70 that would not typically be present with a standard one story building. Further, staff notes that shifting signs between walls has been supported where appropriate.

Staff believes that given the height and sight lines of the building there would be a certain aesthetic appeal to balancing the wall signs at the top of the building on different walls. A review of the proposed wall sign finds it to be in keeping with standard design criteria and will compliment the other signs on the building.

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 proposed use could be identified on other building walls. However, by allowing for the shifting of signage between two different walls, the signage will better meet the needs of the applicant, ma better balance signage on the building, and will not increase the total wall signage available. 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 a wall sign on the west wall of the building. The shifting of wall signage will better meet the needs of the applicant, may better balance signage on the building, and will not increase the total wall signage.

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

The inability to install the proposed wall sign could pose a hardship for the subject applicant for this property. The shifting of wall signage may better balance signage on the building and will not increase the total wall signage, thus furthering the goals of the applicant and the City of St. Peters.

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

The property was zoned and the sign code established prior to the proposed use by the applicant for this property. The shifting of wall signage will further the aesthetic goals of the sign code and the City.

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 shifting of wall signs 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 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 wall sign without direct street frontage with the following contingency:

1. During the time a wall sign is in place on the west side of the building, the wall facing south shall have the permitted sign area reduced by the size of the sign on the west wall.

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

Mr. Jaggi made a motion and Mr. Fann seconded to approve Petition 15-F.

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

Mr. Fann	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Meyer	Yes
Mr. Shetterly	Yes

There being 5 yes, and 0 no vote, Mr. Meyer declared that Petition 15-F was approved.

Mr. Jaggi presented the findings of fact as follows:

1. The property is located on Lot A of Parcel 12 of Mid Rivers Mall Plat Seven as recorded in plat book 22 page 59 at the St. Charles County Recorder of Deeds Office, more commonly known as 1 Mid Rivers Mall Drive.
2. The lot and surrounding properties are zoned C-3 General Commercial District.

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

Mr. Shetterly presented the Conclusions of Law for Petition 15-F 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. Kendall seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Meyer made a motion and Mr. Kendall seconded to adjourn the meeting at 6:30 p.m. The motion carried unanimously.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Dan Meyer
Chairman