



**MINUTES  
BOARD OF ADJUSTMENT  
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF JULY 18, 2012  
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. Nick Trupiano; 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 June 20, 2012. Mr. Jaggi made a motion and Mr. Selinger 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.

OLD BUSINESS:

PETITION 12-S:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 12-S. St. Louis Chinese Baptist Church requests a variance to permit the installation of a fence with a zero (0) foot front yard setback in the R-1 Single Family Residential District. The property is located on lot 1 of Covenant Park Plat 1 as recorded in plat book 25 page 77 at the St. Charles Recorder of Deeds Office, more commonly known as 908 Jungermann Road.

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

Mr. Peter Lam, St. Louis Chinese Baptist Church was sworn in as the petitioner. Mr. Lam explained that the St. Louis Chinese Baptist Church wants to install a fence along Jungermann Road for security and safety for the children and young adults that use the paved parking area for recreation activities. The fence would be six feet tall and would be built along Jungermann Road at a zero foot setback.

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 12-S.

Mr. Braunfeld stated that the St. Louis Chinese Baptist Church is requesting a variance to permit the installation of a fence with a zero (0) foot front yard setback in the R-1 Single Family Residential District. The specific fence placement which mandates the variance is along Jungermann Road.

The church is located at a very busy intersection – Willott Road and Jungermann Road. The church has entrances from both roads which access the paved parking areas. These areas connect to make an outside activity area in addition to the parking area. There is a steep drop off in the back corner of the property and the parking area slopes towards the rear.

As part of the church activities, children and young adults use the paved area for recreation including basketball. A basketball hoop is installed in the flat area of the parking lot that extends from Jungermann Road. Often time the ball will roll onto Jungermann Road, causing a safety hazard for the children at play as well as the cars traveling on Jungermann Road.

Based on this, the church requests a variance to permit the installation of a fence along Jungermann Road at a zero (0) foot setback in lieu of the required twenty (20) foot setback.

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 405.360 Fence Requirements

6. On any interior lot other than a through-lot, a fence shall not extend beyond the front building line nor shall any fence extend beyond the side and rear property lines.

Mr. Braunfeld noted that fence regulation were designed to ensure that the fencing of yards allows adequate open space while still allowing individuals privacy and full use of their property. In addition, fencing regulations were created to help ensure proper aesthetics are established and maintained. In the subject case, the church is a well-maintained property at a major intersection. The proposed fence will be attractive in design and will, most importantly, ensure the safety of church members using their recreation area and the general public traveling on Jungermann Road.

The uses at the intersection include the City's war memorial and a vacant commercial building, a Walgreens drug store, and a multiple family development. The fence would not impact the view of these uses and would be complimentary in design.

Staff also notes that during the recent road improvement planning and construction in the site area, the church was very cooperative with the City, providing needed right-of-way for the road widening as a donation to the City. This cooperation by the church allowed the City to move forward with some much needed road improvements. This type of support from churches and institutions is key to progress that benefits the adjacent property owners as well as the overall community.

Noting the need to assist the church with safety of their membership and full usage of their site, staff is supportive of the variance to allow placement of the fence along Jungermann Road frontage.

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?

Compliance with the regulations would not allow the applicant to fully utilize their entire site with any assurance of safety. The fence placement along the front property line will assure use of the site in a safe manner.

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

By applying the required setback on the fence the applicant would face a hardship of limited site use.

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

If the fence setback is required, the site will suffer the hardship of limited usage.

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

When the property was originally developed, the site was graded with a change in elevation and a steep drop off. This allows balls used in recreation to roll into the street. This site design was not a result of the applicant's 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 property would be in harmony with the general purpose and intent of the zoning regulations since the owner would be able to utilize their outside area to its fullest extent. The fence will be of a material that is attractive and in keeping with the area.

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 the installation of a fence with a zero (0) foot front yard setback for the property located on lot 1 of Covenant Park Plat 1 as recorded in plat book 25 page 77 at the St. Charles County Recorder of Deeds Office, more commonly known as 908 Jungermann Road.

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 12-S. Seeing none, Mr. Meyer closed the public hearing.

Mr. Jaggi made a motion and Mr. Selinger seconded to approve Petition 12-S.

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

Mr. Meyer Yes

Mr. Kendall Yes

Mr. Selinger Yes

Mr. Trupiano Yes

Mr. Jaggi Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 12-S was approved.

Mr. Jaggi presented the findings of fact as follows:

1. The site is located at 908 Jungermann Road.
2. The lot is presently zoned R-1 Single Family Residential District.
3. Adjacent zoning and land uses are R-1 Single Family Residential 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 12-S 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. Trupiano seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

#### NEW BUSINESS:

##### PETITION 12-U:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 12-U. Victor DeWitt requests a variance to permit a reduction of the twenty-five (25) foot front building line setback to permit the expansion of the existing house and a reduction in the ten (10) foot front yard setback for a fence. The property is located on lot 11 of the Resubdivision of lots 8, 9, 10, and 11 of Tanglewood Plat 1, as recorded in Book 19 Page 125 at the St. Charles Recorder of Deeds Office, more commonly known as 4 Spring Leaf Court.

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

Mr. Victor DeWitt, homeowner, explained that he is wanting to add on to his home and garage and correct an existing fence encroachment. When he laid out the proposed addition he found that the angle of the adjacent street created a very unusual corner lot front building line which extends into his

yard. Due to the homes fixed location there are no practical alternatives to the proposed encroachment.

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 12-U.

Mr. Braunfeld stated that the applicant, Victor DeWitt, is the owner of a home located on lot 11 of the Resubdivision of lots 8, 9, 10 and 11 of Tanglewood Plat 1, more commonly known as 4 Spring Leaf Court. The applicant desires to expand their home and garage, and correct an existing fence encroachment. When the applicant laid out the proposed addition he found that the angle of the adjacent street created a very unusual corner lot front building line which extends into their yard. Due to the homes fixed location on the lot and angle of the street there are no practical alternatives to the proposed encroachment.

During this time it was also noted that the fence extended beyond the "other" front building line (side yard) as defined by City Code. It is staff's understanding that the fence was installed by a previous property owner and has been in this location for many years with no known problems.

Based on this, Victor DeWitt requests a variance to permit a reduction of the twenty-five (25) foot front building line setback to permit the expansion of the existing house and a reduction in the ten (10) foot front yard setback for a fence, for property located on lot 11 of the Resubdivision of lots 8, 9, 10 and 11 of Tanglewood, Plat 1, as recorded in Book 19 Page 125 at the St. Charles County Recorder of Deeds Office, more commonly known as 4 Spring Leaf Court.

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:

Record Plat: the Resubdivision of lots 8, 9, 10 and 11 of Tanglewood Plat 1, as recorded in Book 19 Page 125 at the St. Charles County Recorder of Deeds Office, **established a twenty-five (25) foot front building line setback** from Briar Hill Court and Spring Leaf Drive.

Section 405.130 (R-1 Single Family Residential)

H. Yard Requirements

1. The minimum yard requirement shall apply to each lot.
2. The minimum front yard depth shall be twenty (20) feet...

Section 405.360: Fence Requirements

D. Fence Regulations for "R" (Residential) Districts.

4. On a corner lot, a fence shall not extend beyond the front building line, as platted, which is parallel to the front of the house. **Along other front building lines as platted on a corner lot, the fence shall be set back a minimum of ten (10) feet from the property** line and shall not extend into the sight distance area as defined in Section 405.340 of this Chapter.

Mr. Braunfeld stated that the proposed corner lot is very unusual with Briar Hill Court at an atypical angle, as shown on the exhibit. Briar Hill Court and the associated building line is not at a standard 90

degree angle but rather angles back into the lot causing an unusual encroachment into the front yard setback along the side of the applicant's existing home.

The proposed addition will be to the rear of the existing home. With the expansion, the house will still be set back approximately fifty feet from the rear property line, well in excess of the minimum fifteen foot setback as permitted on a corner lot. However, due to the above noted angle of the street, approximately seven feet of the garage's corner will extend into the Briar Hill Court twenty-five foot front building line.

The original builder used the unusual street and lot layout to orient the adjacent home behind the subject lot at a 45 degree angle to Briar Hill Court. Therefore, the adjacent home's rear yard and side yard face the rear of the subject lot. It is noted that the adjacent house has a side entry driveway, garage, and landscaping which further buffers the view of the applicant's rear yard and proposed addition. It is also noted that the City's standard front building line setback is twenty feet rather than the plat's twenty-five feet.

Staff finds that given the home's location, the proposed addition will not create any safety or aesthetic concerns. In fact, the proposed additions will be a positive investment into the home, enhancing its value, and that of the surroundings neighborhood.

Therefore, the position of the two homes, angle of the street, and distance between the houses will allow the applicant's expansion to be constructed with no noticeable visual encroachment. As previously noted, the existing fence has been in place with no known concerns from the adjacent properties. It is also noted that the construction of a residential fence does not require a permit. A review of the site finds that the existing four foot tall fence, which will be converted into a six-foot tall privacy fence, will not have an adverse effect on the neighboring properties due to the same home and lot orientation issues illustrated above.

It is noted that a review by the Building Department found no additional fire hazards would be created by the proposed addition's encroachment as supported by staff.

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 subject corner lot is very unique due to an unusual angle of the street resulting in an irregular shaped front yard. The irregular front building lines limit the standard placement of a house addition or placement of a fence. The proposed variance allows for the standard placement of the

addition and allows the existing fence to remain, thus providing for the reasonable use of the property.

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

The subject corner lot is very unique due to an unusual angle of the street resulting in an irregular shaped front yard. The irregular front building lines limit the proposed practical house expansion and placement of a fence. The strict application of setback regulations would make the side and rear yards difficult to use, resulting in a hardship.

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

The subject corner lot is very unique due to the unusual angle of the street; it results in an irregular shaped front yard which limits the normal use of the property's side and rear yard area.

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

The subdivision and placement of the house occurred with the original development thereby creating the hardship.

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

If the variance is approved it would be in harmony with the general purpose and intent of the zoning regulations, since it will allow for the reasonable placement of the house addition and allow the existing fence to remain thus providing for the reasonable use of the property.

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 a variance to reduce the twenty-five (25) foot front building line setback to permit the expansion of the existing house and a reduction in the ten (10) foot front yard setback for a fence with the following contingencies:

1. The home's encroachment shall not exceed seven (7) feet into the twenty-five (25) foot front building line setback to Briar Hill Drive.
2. The fence shall be setback as shown on the applicant's exhibit including:
  - a. The fence shall not extend past the rear of the home towards Spring Leaf Drive.
  - b. The fence may be placed two (2) feet back in lieu of ten (10) feet back from the Briar Hill Court property line.
  - c. The fence may extend parallel to Briar Hill Court until it intersects the fifteen (15) foot wide utility easement adjacent to the rear property line, at which point the fence shall

angle away from the property line to re-establish the minimum ten (10) foot fence setback requirement at the rear property line.

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 12-U. Seeing none, Mr. Meyer closed the public hearing.

Mr. Jaggi made a motion and Mr. Selinger seconded to approve Petition 12-U with the stated contingencies.

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

Mr. Meyer      Yes  
Mr. Kendall     Yes  
Mr. Selinger    Yes  
Mr. Trupiano    Yes  
Mr. Jaggi       Yes

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 12-U was approved with the stated contingencies.

Mr. Trupiano presented the findings of fact as follows:

1. The property is located on lot 11 of the Resubdivision of lots 8, 9, 10, and 11 of Tanglewood Plat 1, as recorded in Book 19 Page 125 at the St. Charles Recorder of Deeds Office, more commonly known as 4 Spring Leaf Court.
2. The lot is presently zoned R-1 Residential District.
3. The adjacent zoning is R-1 Residential District.

Mr. Kendall 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 12-U 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. Trupiano seconded to enact the Conclusions of Law. All in favor, the Conclusions of the Law were adopted.

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

Respectfully submitted:

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Melissa Vollmer  
Recording Secretary

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Dan Meyer  
Chairman