



**MINUTES BOARD OF ADJUSTMENT  
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF MARCH 18, 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 January 21, 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-D:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 15-D. Bryan Witherbee c/o Bi-State Pool Management requests a variance to permit an increase in the percentage of lot coverage in a PUD Planned Urban Development. The property is on the north side of Newkirk Circle, southeast of Calvert Place - lot 44B of The Pointe at Heritage Crossing as recorded in Plat Book 43, Pages 156-157 at the St. Charles County Recorder of Deeds Office, more commonly known as 523 Newkirk Circle.

Mr. Meyer declared the public hearing open to consider Petition 15-D. The petitioner or their agent was requested to step forward to present their position. Mr. Tom Johnson, SFP Landscaping, was sworn in as the petitioner. Mr. Johnson explained that the homeowners, the Witherbees, are installing an in-ground swimming pool with concrete decking in their rear yard. Due to the smaller size of the lot, they are requesting a variance to allow a small increase (5%) in the percentage of lot coverage to allow this improvement to the home.

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-D.

Ms. Powers explained that the applicant is the owner of a home located at 523 Newkirk Circle Drive. The applicant is planning the construction of a pool with concrete decking in the rear yard of their property. The lot is within The Pointe at Heritage Crossing and includes an area of 5,009 square feet. When the applicant's pool consultant laid out the pool and paved area it was designed to leave green space along the back and side of the backyard area. However, the coverage is slightly higher than that allowed by code – it is approximately 55% in lieu of 50%.

Based on this, Bryan Witherbee requests a variance to permit an increase in the amount of lot coverage. The property is located on lot 44B of The Pointe at Heritage Crossing subdivision, as recorded in Book

43 Pages 156-157 at the St. Charles County Recorder's Office, more commonly known as 523 Newkirk Circle.

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 405.130 (R-1 Single-Family Residential)

G. *Percentage of Lot Coverage.* All buildings including accessory buildings and paved areas (driveways, patios, but excluding swimming pools) shall not cover more than fifty percent (50%) of the area of the lot.

Ms. Powers explained that The Pointe at Heritage Crossing is a subdivision of attached and detached homes; the lots range mostly in size from approximately 4,000 square feet to 8,000 square feet. This lot size and type of development – smaller lots with attached and detached homes – allows individual homeowners to have a new, attractive home with less yard maintenance. In this case, the homeowner proposes to make a further improvement to the lot by adding an outdoor pool and related patio area. The pool will be adjacent to a ten foot wide landscape bed with a mix of trees, shrubs, and flowers. The landscaping area extends up one side of the yard.

Overall, the proposed pool, patio and landscaping are very attractive and will be professionally installed. Although no grass will be in the rear yard, the yard will become very usable for family recreation and entertaining. The yard is fenced, as required for a pool, so there is an element of privacy and buffering from adjacent neighbors.

In staff's opinion the proposed variance is reasonable, as it will allow the homeowner to install their pool and related improvements to best fit their yard and is professionally designed. The amount of the increase is very small so the impact will be negligible. The proposed modification will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in 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 have to modify their design, which is a challenge given the smaller lot size. The proposed variance will allow the property owner flexibility to install the pool and patio as designed, thus providing for the reasonable use of the property.

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

The hardship is a result of the limited lot size and the strict code application. On a larger lot, there would be more space to work with to ensure the lot coverage was limited. In the subject case, a strict application of the regulations is a challenge given the lot size.

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

The subject lot is modest in size and, therefore, there is limited area to install a pool and patio. Given this situation, modification to the design of the improvement would impact the usability and attractiveness of the pool and patio. Therefore, the property suffers a hardship as it relates to lot area.

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

The lot design occurred with the original subdivision development, 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 is approved it would be in harmony with the general purpose and intent of the zoning regulations, since it will allow improvements to a lot that will be consistent with and will not cause detriment to the site 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 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 variance to permit an increase in the amount of lot coverage with the following contingency:

1. The increased lot coverage is to allot a pool and patio area only.

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-D. 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-D.

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-D was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located on lot 44B of The Pointe at Heritage Crossing subdivision, as recorded in Book 43 Pages 156-157 at the St. Charles County Recorder's Office, more commonly known as 523 Newkirk Circle.

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. Jaggi seconded to approve the findings of fact. The motion carried unanimously.

Mr. Jaggi presented the Conclusions of Law for Petition 15-D 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. Fann 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 6:15 p.m. The motion carried unanimously.

Respectfully submitted:

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Melissa Vollmer  
Recording Secretary

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Dan Meyer  
Chairman