



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JULY 16, 2014
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. Brian Stiens; Ms. Julie Powers, Director of Planning, Community & Economic Development; and Ms. Melissa Vollmer, Recording Secretary. Mr. William Jaggi and Mr. Nick Trupiano were absent.

MINUTES

Mr. Meyer asked the Board for any comments or questions regarding the minutes of June 18, 2014. 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 14-S:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-S. Consort Homes, LLC requests a variance to allow an encroachment of the front yard setback to Siena Drive for the construction of a home. The property is located on Lot 45 of Bella Vista Plat One as recorded in plat book 44 pages 307-310 at the St. Charles County Recorder of Deeds Office, more commonly known as 143 Siena Drive.

Mr. Meyer declared the public hearing open to consider Petition 14-S. The petitioner or their agent was requested to step forward to present their position. Mr. Roger Cox, Consort Homes, was sworn in as the petitioner. Mr. Cox explained that Consort Homes is planning to construct at home at 143 Siena Drive. The subject lot is a corner lot at Siena Drive and Toscana Way. With the curve of the road, the front corner of the lot is wider and rounded while the back of the lot is narrow. During the planning of the proposed house, it was determined that the house will encroach about six inches into the front yard which is actually on the side/back of the house. Due to this encroachment, they are requesting the variance as presented.

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 14-S.

Ms. Powers explained that the applicant is planning to construct a home at 143 Siena Drive in the Bella Vista subdivision. 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 subject lot is a corner lot at Siena Drive and Toscana Way; corner lots typically have two front yards. Also, given the curve in the road, the front corner of the lot is wider and rounded; while the back

(northern part) of the lot is narrow. During the planning of the proposed home, it was determined that the house will encroach about six inches into the front yard which is actually on the side/back of the house.

Noting that the code does not allow front yard encroachments, the applicant submitted an application for a minor front yard setback variance.

Ms. Powers noted that the variance requested by the applicant is from the Planned Urban Development (PUD) Agreement for the Bella Vista subdivision, as approved via Ordinance 4093, states the following:

10. Building setbacks on all single-family lots shall be as follows:
 - a. Front yards shall be a minimum of twenty (20) feet.

Ms. Powers explained that setback are typically required around the perimeter of most lots in the City to establish a yard area for each single family home. The typical setback for front yards is twenty feet. On the subject lot, the proposed residence will result in a slight encroachment of approximately one-half of a foot.

Therefore, the applicant has requested a variance to encroach into one of the front yards (side yard) by approximately one-half foot. This will allow the new homeowner to have the model home they prefer with little or no noticeable impact on the neighborhood. Staff has checked the utility atlas of the City and notes that there are no utilities in easements within the impacted front yard. Further, staff notes that the site is oddly shaped, with a wide area at the front of the house but a much narrower lot at the rear. Therefore, even though the lot is standard size (8,870 square feet), the lot configuration impacts the ability for a standard home model to be placed on the lot.

Staff notes that the encroachment is very small and will not be noticeable when constructed. Given this minor encroachment, staff is of the opinion the modified setback is reasonable. The amount is very slight and will not have an impact when constructed.

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 reviewed options of other home styles and other home placements, shifting the footprint around the lot to determine feasibility. Given the narrow lot width at the back (north) of the lot, it would be difficult to fit most home styles on the site. To ensure a home that is consistent with the neighborhood and to allow the buyers full and reasonable use of their lot; a slight variance of ½ - one foot is needed.

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

To comply with the code, a different possibly smaller style home would have to be chosen 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 odd lot configuration.

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 encroachment is negligible and cannot be detected.

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 a variance to allow a structure to encroach up to one foot into the front yard for property located on Lot 45 of Bella Vista Plat One as recorded in plat book 44 pages 307-310 at the St. Charles County Recorder of Deeds Office, more commonly known as 143 Siena Drive.

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 14-S. Seeing no one present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Kendall seconded to approve Petition 14-S.

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

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| Mr. Fann | Yes |
| Mr. Kendall | Yes |
| Mr. Stiens | Yes |
| Mr. Meyer | Yes |
| Mr. Shetterly | Yes |

There being 5 yes, and 0 no vote, Mr. Meyer declared that Petition 14-S was approved.

Mr. Stiens presented the findings of fact as follows:

1. The subject property is located on Lot 45 of Bella Vista Plat One as recorded in plat book 44 pages 307-310 at the St. Charles County Recorder of Deeds Office, more commonly known as 143 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. Shetterly seconded to approve the findings of fact. The motion carried unanimously.

Mr. Fann presented the Conclusions of Law for Petition 14-Q 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. Stiens made a motion and Mr. Kendall seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION 14-T:

Mr. Meyer stated that the purpose of the meeting was to consider Petition 14-T. Rally House of Kansas City, Inc. requests a variance to permit a wall sign which exceeds five percent of the wall area on an existing building in the C-3 General Commercial District. The property is located west of Mid Rivers Mall Drive, north of McMenemy Road – Mid Rivers Plaza.

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 14-T. The petitioner or their agent was requested to step forward to present their position. Gary Grewe, GJ Grewe, Inc., was sworn in as the petitioner. Mr. Grewe explained that Rally House is planning to move into a tenant space within Mid Rivers Plaza, formerly occupied by Party City. To enhance visibility, the operator has indicated that a larger sign is needed facing east. The subject tenant space is approximately 539 feet from Mid Rivers Mall Drive and 536 feet from Suemandy Drive. This tenant space is also sits further back from Bed, Bath and Beyond, which is adjacent, and blocks the subject façade from McMenemy Road. Due to these limitations, the applicant is requesting the variance as presented.

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 14-T.

Ms. Powers explained that the subject multi-tenant retail shopping center is located on the north side of McMenemy Road west of Mid Rivers Mall Drive and is known as Mid Rivers Plaza. The property is zoned C-3 General Commercial District. The subject building is part of a larger center that is partially oriented to the east and partially oriented to the north. The area which is oriented to the east sits behind a row of buildings that front on Mid Rivers Mall Drive. Access to this area is off of Mid Rivers Mall Drive and McMenemy Road. The applicant is within this area of the center.

City regulations allow each building to have signage on all walls that face a street or access drive, or which face a parking lot. Since this building's entrances are facing east, the signage has been placed on the wall facing the parking lot.

Rally House is planning to move into the tenant space previously occupied by Party City, which move to another location within the center. To enhance visibility the operator has indicated a larger sign is needed

facing east. The subject tenant space is approximately 539 feet from Mid Rivers Mall Drive and 536 feet from Suemandy Drive. Further, this tenant space sits further back than the larger Bed, Bath and Beyond store which is adjacent, thereby blocking the subject façade from McMenemy Road.

Based on this, Rally House of Kansas City requests a variance to permit a wall sign which exceeds five percent of the wall area in the C-3 General Commercial District. The property is located west of Mid Rivers Mall Drive, north of McMenemy Road – Mid Rivers Plaza.

Ms. Powers 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 405.745: Permanent Sign Regulations by Zoning District

D. Sign 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. If the business fronts on more than one (1) street or access drive, the sign area for each wall shall be computed separately. Where a business has no wall fronting on a street or access drive, the Administrative Officer shall determine frontage for all sign locations. The Administrative Officer may approve the placement of a wall sign on a main façade, including, but not limited to, facades fronting a parking lot or including a main building entrance, in lieu of a sign parallel to a roadway.

Ms. Powers noted that the subject multi-tenant shopping center is situated in two sections; the applicable section is behind other businesses which front on Mid Rivers Mall Drive. Therefore, although the site is in a busy, commercial area, the businesses are partially blocked from the main traffic area. A business is permitted thirty-two square feet of wall signage or five percent of the wall area, whichever is greater. The applicant’s business will be permitted a sign of 101.5 square feet. However, to compensate for the second tier location away from the main roadway and to allow their corporate branding to be included, they are requesting a larger sign of 149 square feet.

Staff believes this sign would still be proportional to the façade and would be beneficial to the visibility of travelers on Mid Rivers Mall Drive. Also, staff notes that the red sign background increases the overall sign size but that the main letters within the sign are actually within the permitted sign size. This extra sign area is part of the corporate branding and helps identify the business in an attractive way.

Staff notes that the applicant is not eligible for a sign on the side of the building that faces north towards Suemandy Road unless a multi tenant sign is added to the wall of this building and used for all tenants in the subject building. Even then, the sign would be several stores away from the applicant’s space and may not provide much visibility. Staff notes that a north wall multi tenant sign could be slightly larger than the sign permitted for the applicant – probably about 120 square feet – which would allow the subject user approximately forty square feet if the sign were divided amongst the three uses in the building. Noting this is the approximate amount of extra sign area proposed for the subject sign, staff

recommends a contingency that would limit any future side (north) wall sign to two users unless the sign for the subject tenant space is installed as permitted by City Code. This is consistent with other “sign shifts” which have been approved in the City.

This proposal is reasonable in staff’s opinion because the overall amount of signage for the property will not change. The second layer building location impacts the visibility of the site and creates a hardship. Staff finds that the proposed sign will not be visually out of scale with the other signs in the center or the building façade. In addition, there will be no net increase in wall signage to the center as any future north wall sign will be limited to ensure the overall sign package is reasonable.

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 building is permitted two wall signs if a multi-tenant wall sign is installed on the north wall. By allowing for the shifting of permitted signage, the proposed sign will better meet the needs of the applicant and have no net increase in total wall signage. 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 the shifting of wall signage between separate walls that are permitted a sign. The proposed wall sign area substitution will improve visibility for the applicant with no overall net change in the total signage available for the building.

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

The shopping center was constructed in a major commercial area, but is partially blocked by other businesses which front on Mid Rivers Mall Drive. Therefore, visibility is limited – this can pose a hardship for a business. The substitution of wall signage will further the goals of the applicant with no negative impact on the City of St. Peters.

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

The property was developed and the sign code established prior to the applicant’s business being located at the subject center.

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 substitution of wall signage 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?

If the variance is granted, the yard will have no grass area. This will be in contrast to the rest of the neighborhood. Therefore, the public welfare will not have been assured and substantial justice will not have been done.

Based on this analysis, staff recommends approval of the requested variance to permit a wall sign which exceeds five percent of the wall area with the following contingencies:

1. The wall sign on the main (eastern) façade of the business shall not exceed 150 square feet in area.
2. The permitted signage on the north wall of the subject building, if ever installed, shall be reduced by one-third, if the subject tenant space is applying the subject variance and has a wall sign that exceeds what is allowed per City Code.

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 14-T. Mr. Chuck Rowles, Manager for Johnny Mac's Sporting Goods Store, spoke in opposition to this petition. Seeing no one else present to comment, Mr. Meyer closed the public hearing.

Mr. Fann made a motion and Mr. Stiens seconded to approve Petition 14-T with the recommended contingencies.

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

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| Mr. Fann | Yes |
| Mr. Kendall | Yes |
| Mr. Shetterly | Yes |
| Mr. Meyer | Yes |
| Mr. Stiens | Yes |

There being 5 yes and 0 no vote, Mr. Meyer declared that Petition 14-T was approved.

Mr. Fann presented the findings of fact as follows:

1. The property is located west of Mid Rivers Mall Drive, north of McMenamy Road – Mid Rivers Plaza.
2. The lot is presently zoned C-3 General Commercial District.
3. The surrounding zoning is presently zoned C-3 General Commercial District.

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

Mr. Shetterly presented the Conclusions of Law for Petition 14-T 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 a motion and Mr. Stiens 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