MINUTES BOARD OF ADJUSTMENT
ONE ST PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JUNE 17, 2020
6:00 P.M.

CALL TO ORDER
Chairman Tom Fann called the meeting to order at 6:00 p.m.

ATTENDANCE
Those in attendance were Mr. Tom Fann; Mr. Brian Stiens; Mr. Bill Jaggi; Mr. John Shetterly; Mr. Ken Braunfeld, Planning Coordinator; and Ms. Melissa Vollmer, Recording Secretary. Mr. Bill Kendall was absent.

MINUTES
Mr. Fann asked the Board for any comments or questions regarding the minutes of the May 20, 2020 meeting. Mr. Jaggi made a motion and Mr. Stiens seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS
Mr. Fann asked for any reports or communications from the Officers or Staff. Ms. Powers indicated that there were none.

PETITION VAR 20-09
Mr. Fann stated that the purpose of the meeting was to consider Petition VAR 20-09. Ralph Arehart requests a variance to permit a fence that extends beyond the front building line to Driftwood Lane in the R-1 Single-Family Residential District. The property is located on lot 199 of the Resubdivision of Lots 197, 198 and 199 of Tanglewood Plat 3 as recorded in Book 21 Page 83 at the St. Charles County Recorder's Office, more commonly known as 822 Millwood Drive.

Mr. Fann declared the public hearing open for consideration of Petition VAR 20-09. The petitioner or their agent was requested to step forward to present their petition. Mr. Ralph Arehart was sworn in as the petitioner. Mr. Arehart explained that he would like to install a fence that extends beyond the "secondary" front building line along Driftwood Lane.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition VAR 20-09. Mr. Braunfeld that subject site is located 822 Millwood Drive, which is located at the northeast corner of Millwood Drive and Driftwood Lane and is, therefore, subject to two front yard setback requirements. The home faces west to Millwood Drive with the driveway accessing Millwood Drive. Driftwood Lane to the south is also the entrance drive into Laurel Park.

The owner contacted the City to get the requirements for installation of a fence. Staff advised that a fence may not extend into the front yard area along Millwood Drive. In addition, the City Code permits the "secondary" front building line along Driftwood Lane to extend ten (10) feet beyond the front building line.

The applicant indicated this would substantially limit the use of their side and backyard area. They noted the proposed fence would not impact the neighbor behind them as that property faced towards Birch Leaf Drive and the proposed fence would be adjacent to the neighbors backyard and to the entrance drive to Driftwood Lane and Laurel Park.

Based on this, Ralph Arehart requests a variance to permit a fence that extends beyond the front building line to Driftwood Lane in the R-1 Single-Family Residential District. The property is located on lot 199 of the Resubdivision of Lots 197, 198, 199 of Tanglewood Plat 3 as recorded in Book 21 Page 83 at the St. Charles County Recorder's Office, more commonly known as 822 Millwood 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) state:

Section 405.360 (D) Fence Requirements

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 may extend ten (10) feet beyond the front building line as platted and shall not extend into the sight distance area as defined in Section 405.340 of this Chapter.

5. On a through-lot, a fence is permitted to extend to, and along, the property line opposite the front of the structure. No fence shall be permitted to extend beyond the building line at the front of the structure or any property line.

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. If the rear property lines of corner lots abut each other, the front yard fence setback along the sides of the structures may be located along the property line.

Mr. Braunfeld noted that fence setback regulations were designed to balance the fencing of front and side yards on a corner lot and to allow reasonable use of a corner lot's side and backyard, while maintaining the visual front yard open space of the neighboring property. In addition, fencing setbacks where created to help insure proper visibility of an intersection by maintaining an acceptable site visibility triangle.

In this case the lot is unique in that it has two front yards of which the "secondary" front yard faces a street that no other home on that block faces. The adjacent properties finds the adjacent home to the east faces Birch Leaf Drive with that backyard facing the entrance to Laurel Park and Driftwood Lane. Therefore, the subject "secondary" front yard setback to Driftwood Lane, being the side of the home and lot, does not encroach into another home's traditional front yard area.

It is also noted that the City Code was amended many years ago to address this general issue. However, the code amendment only permits fences to extend over the building line and to the property line where the backyards back to each other. In this case, the applicants backyard connects to the side yard of the neighbor. Therefore, the proposed variance will be in keeping with the spirit of the City Code, as there

will be not visual encroachment of the neighbor's actual front yard area to Birch Leaf Drive. It is noted that at the next annual zoning code review, staff will suggest the Code be amended to better address this type of situation.

It is also noted that the proposed fence will not interfere with the site visibility of Millwood Drive and Driftwood Lane if placed as proposed by the applicant towards the rear corner of the home.

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?

   In this case, the placement of the fence on the lot will not create an encroachment of the abutting front yard area due to the orientation of the subject lot and adjacent lot. The proposed variance will allow the property owner better use of their property, while maintaining the sight visibility triangle for safety, thus providing for the reasonable use of the property.

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

   The placement of the fence on the lot and orientation of the subject home/lot and adjacent home/lot does not create an encroachment of the visual front yard area. The proposed variance allows the proposed fence to meet the intent of the fence regulations while maintaining the sight visibility triangle for safety. The strict application of setback regulations would lessen the use of the side and rear yard, resulting in a hardship.

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

   Although the site does not suffer a hardship, to the applicant or the neighboring property, the placement of the fence on the lot does not create a meaningful encroachment. Fence placement per code would unnecessarily limit the usable rear yard area.

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

   The placement of the house and lot occurred with the original subdivision development, not by the applicant.

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 a fence to be installed on the subject residential 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; there will be no ill effects on surrounding properties or the City as a whole.

Based on this analysis, it is staff recommends approval of the variance to allow a fence to extend beyond the front building line in the R-1 Single Family Residential District with the following contingencies:

1. The fence may extend to the property line along Driftwood Lane.

2. The fence shall not interfere with the sight visibility regulations of the City of St. Peters.

Mr. Fann asked if any of the board members had questions for Mr. Braunfeld. Mr. Fann asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 20-09. Seeing no one present to comment, Mr. Fann closed the public hearing.

Mr. Jaggi made a motion and Mr. Stiens seconded to approve Petition VAR 20-09.

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

Mr. Stiens	Yes
Mr. Shetterly	Yes
Mr. Kendall	Absent
Mr. Jaggi	Yes
Mr. Fann	Yes

There being 4 yes, 0 no and 1 absent vote, Mr. Fann declared that Petition VAR 20-09 was approved.

Mr. Stiens presented the Findings of Fact as follows:

1. The property is located on lot 199 of the Resubdivision of Lots 197, 198, 199 of Tanglewood Plat 3 as recorded in Book 21 Page 83 at the St. Charles County Recorder's Office, more commonly known as 822 Millwood Drive.

2. The lot is presently zoned R-1 Residential District.

3. The adjacent zoning is R-1 Residential District.

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

Mr. Jaggi presented the Conclusions of Law for Petition VAR 20-09 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. Jaggi made a motion and Mr. Shetterly seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION VAR 20-10

Mr. Fann stated that the purpose of the meeting was to consider Petition VAR 20-10. St. Peters MO (SWC S St. Peters and Woodstone) Outlot 3 LLC, requests a variance to permit a reduction in the rear yard setback in the C-3 General Commercial District. The property is located on lot 3 of the Boundary Adjustment of Outlots 2 and 3 of the record plat of the Resubdivision of lot 8 of the Resubdivision of lot 4 of Wal-Mart's First Addition to the City of St. Peters, as recorded in Book 50 Page 325 at the St. Charles County Recorder's Office, more commonly known as 3620 South St. Peters Parkway.

Mr. Fann declared the public hearing open for consideration of Petition VAR 20-10. The petitioner or their agent was requested to step forward to present their petition. Mr. Matt Fogarty, Premier Design Group, was sworn in as the petitioner. Mr. Fogarty explained that the proposed 9,995 square foot Dollar Tree store will be located on a 1.4 acre lot adjacent to the Fresh Thyme grocery store along South St. Peters Parkway. The location of the building is limited due to the location of the shopping center's cross-access drive, which reduces the usable width of the lot, by shifting the building back 6 feet into the rear yard setback. In addition, the rear mounted HVAC and duct work screening projects an additional 3.5 feet, for a total encroachment of approximately 9.5 feet.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition VAR 20-10. Mr. Braunfeld explained that the Planning and Zoning Commission approved the site plan for a new Dollar Tree store on May 6, 2020 with a contingency to obtain a variance for the rear yard setback. The proposed 9,995 square foot store will be located on a 1.4 acre lot adjacent to the Fresh Thyme grocery store, along South St. Peters Parkway.

The location of the building is limited due to the location of the shopping center's cross-access drive, which reduces the usable width of the lot. The east/west cross-access driveway's connection to South St. Peters Parkway extends south into the lot to accommodate the curvature and grade change of the right-in/right-out access. This encroachment reduces the usable area of the lot by shifting the building back 6 feet into the rear yard setback. In addition, the rear mounted HVAC and duct work screening projects an additional 3.5 feet, for a total setback encroachment of approximately 9.5 feet.

Based on this, St. Peters, MO (SWC S St. Peters and Woodstone) Outlot 3 LLC., requests a variance to permit a reduction in the rear yard setback in the C-3 General Commercial District. The property is located on lot 3 of the Boundary Adjustment of Outlots 2 and 3 of the record plat of the resubdivision of lot 8 of the resubdivision of lot 4 of Wal-Mart's First Addition to the City of St. Peters, as recorded in Book 50 Page 325 at the St. Charles County Recorder's Office, more commonly known as 3620 South St. Peters Parkway.

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) state:

Section 405.210 C-3 General Commercial District

G. *Yard Requirements..*

3. There shall be a twenty-five (25) foot rear yard except when adjacent to a residential district, then thirty (30) feet is required.

Mr. Braunfeld noted that an examination of the Dollar Tree site plan and cross-access driveway layout finds the proposed design is the most practical to accommodate the proposed project. It is noted that the lot is not located in front of the Fresh Thyme building but rather set to the side. In this location, the proposed Dollar Tree will back to a hill sloping up, which will visually absorb the encroachment. In addition, the roof top HVAC equipment and duct work has been moved to the ground behind the building, creating part of the required encroachment, which substantially improves the look of the building especially from the side and rear properties.

Therefore, the encroachment is reasonable due to consideration of traffic flow, topography, and placement of the HVAC equipment, which together will create a functional and attractive development.

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?

   Given the overall shopping center and Dollar Tree design, the proposed layout is the most practical design to accommodate the proposed project. In addition, the proposed rear yard encroachment will have minimal visual impact due to the sloping hill behind the building. The aesthetic benefits of placing the HVAC and duct work at ground level also impact the overall quality of the site design. Therefore, the proposed variance allows the most practical mechanism to permit the project, providing for the reasonable use of the property.

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

   While there will be an encroachment of the rear yard setback, there will be minimal visual impact due to the hill side and the benefits of locating the HVAC and duct work behind the building. The strict application of setback regulations would require a less practical layout, resulting in a hardship.

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

   The subject property is next to the Fresh Thyme development which included additional commercial lots fronting to South St. Peters Parkway. In this location, the proposed project will back to a hill sloping up, which will visually absorb the encroachment. In addition, the roof top HVAC equipment and duct work has been moved to the ground behind the building. This in part creates the required encroachment; however it substantially improves the look of the building, especially from the side and rear properties. Therefore, the rear yard setback restricts the practical

options for the development and, therefore, the ability to achieve the highest and best use of the property.

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

   The existing layout of the commercial lots, entrance drive, and topography restricts the practical options to accommodate the proposed development; this creates a hardship for the applicant.

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 development and use of the property and bring new services to 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 have been able to use their property to the fullest extent; there will be no ill effects on surrounding properties or the City as a whole.

Based on this analysis, it is staff's recommendation to permit a variance to allow an encroachment of the rear yard setback for the construction of a building with the following contingencies:

1. The rear yard setback for the building shall be fifteen (15) feet.

Mr. Fann asked if any of the board members had questions for Mr. Braunfeld. Mr. Fann asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 20-10 Seeing no one present to comment, Mr. Fann closed the public hearing.

Mr. Jaggi made a motion and Mr. Shetterly seconded to approve Petition VAR 20-10.

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

Mr. Stiens	Yes
Mr. Shetterly	Yes
Mr. Kendall	Absent
Mr. Jaggi	Yes
Mr. Fann	Yes

There being 5 yes, 0 no and 1 absent vote, Mr. Fann declared that Petition VAR 20-10 was approved.

Mr. Shetterly presented the Findings of Fact as follows:

1. The property is located on lot 3 of the Boundary Adjustment of Outlots 2 and 3 of the record plat of the resubdivision of lot 8 of the resubdivision of lot 4 of Wal-Mart's First Addition to the City of St. Peters, as recorded in Book 50 Page 325 at the St. Charles County Recorder's Office, more commonly known as 3620 South St. Peters Parkway.

2. The lot is presently zoned C-3 General Commercial District.

3. Adjacent zoning to the east and west is C-3 General Commercial District with the property to the south zoned I-1 Light Industrial District.

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

Mr. Jaggi presented the Conclusions of Law for Petition VAR 20-10 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. Shetterly seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Fann made a motion and Mr. Jaggi seconded to adjourn the meeting at 6:40 p.m. The motion carried unanimously.

Respectfully submitted:

Melissa Vollmer
Recording Secretary

Tom Fann
Chairman