



**MINUTES BOARD OF ADJUSTMENT
ONE ST PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF JULY 21, 2021
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. Bill Jaggi; Mr. Brian Stiens; Mr. John Shetterly; Mr. Jeffrey Peine; Ms. Julie Powers, Director of Planning, Community & Economic Development; Ms. Melissa Vollmer, Recording Secretary; and Mr. Ken Braunfeld, Planning Coordinator. Ms. Brynn Palmer was absent.

MINUTES

Mr. Fann asked the Board for any comments or questions regarding the minutes of the May 19, 2021 meeting. Mr. Jaggi made a motion and Mr. Shetterly seconded. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

Mr. Fann asked for any reports or communications from the Officers or Staff. Ms. Powers noted that there were none.

PETITION VAR 21-13:

Mr. Fann stated that the purpose of the meeting was to consider Petition VAR 21-13. Mike's Bait, Tackle & Archery, LLC c/o Melissa Roos requests a variance to permit an accessory building on a lot that does not include a main building in the S-D Special Old Town District. The property is located on the east side of North Church Street, west of Depot Street (350 North Church Street).

Mr. Fann declared the public hearing open for consideration of Petition VAR 21-13. The petitioner or their agent was requested to step forward to present their petition. Mr. Daniel Stokes, representative for Mike's Bait, Tackle and Archery, was sworn in as the petitioner. Mr. Stokes explained that the property owner is wanting to subdivide the property at 350 North Church Street. Currently the property has one house and small garage oriented to North Church Street, with a large garage to the rear of the site with access to the alley. By subdividing the lot, the larger garage will be on a separate lot by itself and would no longer be considered an accessory structure. Since the new lot with the larger garage would not have a main building, they are requesting the variance as stated.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition VAR 21-13. Mr. Braunfeld explained that the subject property is located at 350 North Church Street, on the north side of an alley connecting North Church Street and Depot Street. Currently 350 North Church Street has one house and a small garage oriented towards North Church Street, with a large garage to the rear of the site with access to the alley. The applicant would like to divide the property into two lots. Lot 1 would include the existing house and smaller garage oriented to North Church Street. Lot 2 would include the larger garage and space to construct a new second house. It is noted the exact orientation or dimensions of the proposed second lot is not known at this time; however, the existing 0.9+/- acre lot is sufficiently large to accommodate a second lot and home.

Staff advised that the two existing garages/sheds are classified as “accessory structures” to the existing house and permitted by City Code. If the property is subdivided and the larger garage is on a separate lot by itself, it could no longer be classified as an accessory structure. Staff also noted the larger garage would conform, when the new house is built, but there is no specific timeline for its construction. Therefore, the only way to temporarily permit a standalone accessory structure (garage/shed) will be through a variance.

Based on this, Mike’s Bait, Tackle & Archery, LLC c/o Melissa Roos requests a variance to permit an accessory building on a lot that does not include a main building in the S-D special Old Town District. The property is located on the east side of North Church Street, west of Depot Street (350 North Church Street).

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 405.270 Accessory Building or Structures, Alterations and Additions.

A. All accessory structures shall be permitted with the following provisions and requirements

6. All accessory buildings shall be ancillary to the main building and use on the subject property; no accessory building may be used for a separate business or use.

Mr. Braunfeld noted that the applicant would like to subdivide the property to allow for the subdivision of the property and allow for the future potential construction of a new house. However, during this intermediate time, a variance is needed to accommodate an accessory building without a primary structure.

Accessory structures are typically used for storage of materials and/or parking of vehicles in support of the primary structure/use on the property. Without the primary structure on the property, in this case residential, the use of the garage for parking/storage would not be permitted.

In this case, the garage is existing and the property owner would like the opportunity to subdivide the property now and potentially build a second house in the future. To accommodate this request, a variance can be structured to allow the interim use of the garage on a separate lot but still meet the intent of the City Code. The variance would allow the garage to only be used by the occupants of the existing house or the current property owner, until a new house is built on the property, or the garage/lot is connected to another adjacent lot with a house (primary structure). The garage would be prohibited from being used for unrelated storage or other commercial purposes.

Based on this, but for the new property line, the visual impact to the surrounding area will not change and the garage will continue to appear as an accessory structure to the existing house. Therefore, the variance will have no negative affect to the surrounding properties.

Mr. Braunfeld presented 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 will not allow the applicant to subdivide the property, to allow an existing accessory building to remain without a primary structure, that can be accommodated with the appropriate restrictions. Therefore, the proposed variance allows for the most practical mechanism to provide for the reasonable use of the property.

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

The applicant would be prevented from subdividing the lot in a timely fashion, within restrictions that will prevent any negative impact to the surrounding properties; Therefore it would create a hardship for the applicant.

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

The City regulations do not effectively address the interim use of property with an accessory structure and therefore creates a hardship on the property.

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

While the current property owner is proposing the subdivision of the property, the property was developed in 1940 in the Old Town area of St. Peters. Since that time, the City's Zoning and Subdivision Regulations were subsequently established including the subdivision of property and the requirements for accessory structures. Together, these factors create the issues for the applicants.

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 subdivide the property while maintaining the visual appearance of the property in a manner that is compatible 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 it is staff's recommendation to grant the variance with the following contingencies:

1. The lot containing the subject garage/shed shall not be sold without the subject lot being attached to a lot containing a primary structure or a primary house is constructed on the property.
2. The garage/shed may not be used for any commercial purposes including storage or rental to a third party, nor shall the lot be used for any outside third party storage.
3. The exterior of the garage/shed shall be maintained in good condition consistent with the adjacent residential properties.
4. Until a house is built or the lot attached to an adjacent property, no outside storage is permitted with the exception of standard residential items used by the resident of 350 North Church Street.
5. Access or use of the garage/shed shall be during customary residential hours and may not interfere with the standard use of the adjacent house.

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 21-13. Seeing no one present to comment, Mr. Fann closed the public hearing.

Mr. Fann made a motion and Mr. Jaggi seconded to approve Petition VAR 21-13.

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

Mr. Peine	Yes
Mr. Shetterly	Yes
Mr. Stiens	Yes
Mr. Jaggi	Yes
Mr. Fann	Yes

There being 5 yes and 0 no vote, Mr. Fann declared that Petition VAR 21-13 was approved.

Mr. Shetterly presented the Findings of Fact as follows:

1. The subject site is located on the Deppe & Reineke 2nd Addition Block 6 Lot 7-11 & Part of 12, more commonly known at 350 North Church Street
2. The existing and proposed lots are presently zoned S-D Old Town District.
3. The adjacent zoning is S-D Old Town District

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

Mr. Stiens presented the Conclusions of Law for Petition VAR 21-13 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. Shetterly made a motion and Mr. Jaggi seconded to enact the Conclusions of Law. The motion carried unanimously.

PETITION VAR 21-14:

Mr. Fann stated that the purpose of the meeting was to consider Petition VAR 21-14. Julie Trost requests a variance to permit bee hives on a lot that is less than 10,000 square feet and closer to the property line than twenty (20) feet in the R-1 Single-Family Residential District. The property is located on the south side of Elk Run Drive, east of Bear Mountain Drive (3 Elk Run Drive).

Mr. Fann declared the public hearing open for consideration of Petition VAR 21-14. The petitioner or their agent was requested to step forward to present their petition. Ms. Julie Trost, homeowner, was sworn in as the petitioner. Ms. Trost explained that they have been keeping bee hives for a couple of months in their rear yard. They were advised that a 10,000 square foot lot is required by City Code for bee keeping. Their lots is approximately 8,040 square feet. The bee hives are kept in the corner of the rear lot and Ms. Trost explained that they would be moving them to be compliant with the Code that they must be 20 feet from the property line.

Ms. Julie Powers was sworn in to present the City's position on Petition VAR 21-13. Ms. Powers explained that the applicant is the owner of a home located on 3 Elk Run Drive. The applicant has been keeping bee hives for several years at the subject location. Recently they were advised that a 10,000 square foot lot is required in the City Code as a minimum area for bee keeping. The lot is approximately 8,040.6 square feet. Also, the resident was advised that hives must be at least twenty feet from the property line; their hives are closer than this to the property line.

Based on this, Julie Trost requests a variance to permit the keeping of bees on less than 10,000 square feet and closer than twenty feet to the property line for property located on Lot 72 of Mid Rivers Estates Plat II as recorded in book 23 page 144 at the St. Charles Recorder of Deeds Office, more commonly known as 3 Elk Run Drive.

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) state:

SECTION 405.280: ANIMALS

D. Bees may be kept in a residentially zoned district under the following conditions:

1. A minimum lot size of ten thousand (10,000) square feet.
2. The maximum number of colonies shall be limited to three (3) hives.
3. The hive(s) location shall not be visible where possible, and behind a sight-proof fence which is six (6) feet in height; a fresh water supply shall be located within five (5) feet of the hive.
4. An apiary of one (1) or more hives shall be located at least twenty (20) feet from the property line or public right-of-way, with the hive opening directed towards the most distant property line.

Ms. Powers noted that the proposed lot is situated on a typical sized lot and in a standard subdivision layout - there are adjacent comparable lots to the rear and sides of the subject lot. The rear yard of the home includes a swimming pool and is fenced on all sides. The hives are placed adjacent to the fence in a corner of the site.

The bee hive location at the corner of the lot places it away from the house on the subject tract and the houses on adjacent lots. While bees will travel some distance away from the hive, they will typically not bother people near the hive unless they are antagonized. However, placement away from activity areas is typically desired as it ensures the hives will not have a negative or fearful impact.

Staff notes that bee hives can actually be kept closer to residences than often thought. A review of literature related to bee keeping indicates that a substantial distance from the property line and from buildings/residences is not needed. A distance of twenty feet from the property line is recommended in the literature for smaller lots. If less than twenty feet is provided, a hedge or similar plantings should be installed to force the bees above the activity areas. Similarly, a distance of thirty feet from a street or sidewalk is recommended; if the setback is less than this then a hedge or plantings is needed as noted above.

In the subject case, the hives are away from activity areas and should not be impacting adjacent residences. However, staff notes that a neighbor has indicated that the bees are in their yard and impacting the residents' ability to enjoy their yard. Therefore, if the hives are permitted, additional setback from the fence line would be beneficial to create an area for plantings between the hives and the fence. Thus, staff recommends the hives be shifted towards the swimming pool as much as possible.

Typically, it is also important to place the hives where ample water supply is available and to not overload the lot size with too many hives. The applicant has a pool and bee feeders, so the water supply is addressed. Also, one source indicates no more than four hives should be on a lot of $\frac{1}{4}$ acre. Noting this, staff believes the two hives on the subject site can be accommodated.

Also, the literature notes and code requires, it is important for the placement of the opening of the hives to be away from activity areas. Therefore, staff recommends that the hive openings be shifted away from the neighbors to the south, oriented to the north.

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.

Ms. Powers presented 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 lot is standard size, as are all the lots in this subdivision. Bee keeping is a hobby which requires a minimum lot size per the City Code. The applicant will be able to continue living at the residence without the variance, thereby getting a reasonable return. The variance would enhance this return.

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

The strict application of lot area regulations would limit the use of the lot for beekeeping; there is no hardship related to the general residential use of the lot.

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

The subject lot is standard in size and configuration but not large enough to meet current code for beekeeping. Therefore, there is no inherent lot hardship.

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

The subdivision and lot sizing occurred with the original development, thereby impacting the beekeeping options. The applicant did not create any hardship.

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

The regulations are established to allow reasonable use of property without negative impact on a site area. The subject beehives are not visible to but have had some reported impact on the area residents.

6. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

Substantial justice will have been done because the applicant will have been able to use their property to the fullest extent; with the shifting and reorientation of the hives, staff believes the safety of the residents can be assured.

Noting the support for bee keeping on lots of varying sizes in the bee keeping literature, and the shifting and reorientation of the hives, staff is of the opinion the variance is reasonable subject to the following contingencies:

1. Bee hives shall not be located in the front yard.
2. A maximum of two (2) hives shall be permitted in total on the lot.
3. The hives shall be shifted from their location at the time of this application towards the north near the swimming pool.
4. The entrance to the hives shall be oriented to the north.

Mr. Fann asked if any of the board members had questions for Ms. Powers. Mr. Fann asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 21-13. Ms. Joan King, 5 Elk Run Drive, spoke in favor of this petition. Ms. Stacie McLemore, 764 Bear Mountain Drive, spoke in favor of this petition. Seeing no one else present to comment, Mr. Fann closed the public hearing.

Mr. Jaggi made a motion and Mr. Shetterly seconded to approve Petition VAR 21-13.

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

Mr. Peine Yes
Mr. Shetterly Yes
Mr. Stiens Yes
Mr. Jaggi Yes
Mr. Fann Yes

There being 5 yes and 0 no vote, Mr. Fann declared that Petition VAR 21-13 was approved.

Mr. Jaggi presented the Findings of Fact as follows:

1. The property is located on Lot 72 of Mid Rivers Estates Plat II as recorded in book 23 page 144 at the St. Charles Recorder of Deeds Office, more commonly known as 3 Elk Run 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. Shetterly seconded to approve the findings of fact. The motion carried unanimously.

Mr. Paine presented the Conclusions of Law for Petition VAR 21-13 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. Shetterly made a motion and Mr. Jaggi seconded to enact the Conclusions of Law. The motion carried unanimously.

Appeal of SU 21-05: ERC Construction c/o Rosemann and Associates (Synergy Apts.), west side of Mid Rivers Mall Drive at St. Peters Howell Rd.

A transcript will be provided by Sara Tom.

Mr. Fann made a motion and Mr. Jaggi seconded to adjourn the meeting at 9:39 p.m. The motion carried unanimously.

Respectfully submitted:



Melissa Vollmer
Recording Secretary



Tom Fann
Chairman