



**MINUTES BOARD OF ADJUSTMENT  
ONE ST PETERS CENTRE BLVD., ST PETERS, MO 63376  
MEETING OF FEBRUARY 19, 2020  
6:00 P.M.**

CALL TO ORDER

Vice Chairman Bill Jaggi called the meeting to order at 6:00 p.m.

ATTENDANCE

Those in attendance were Mr. Gregg Sartorius; Mr. Bill Kendall; Mr. Brian Stiens; Mr. Bill Jaggi; Mr. John Shetterly; Ms. Julie Powers, Director of Planning, Community and Economic Development; Mr. Ken Braunfeld, Planning Coordinator and Ms. Melissa Vollmer, Recording Secretary. Mr. Tom Fann was absent.

MINUTES

Mr. Jaggi asked the Board for any comments or questions regarding the minutes of the November 20, 2019 meeting. Mr. Sartorius made a motion and Mr. Shetterly seconded to approve the minutes as presented. The motion carried unanimously.

COMMUNICATIONS AND REPORTS OF OFFICERS

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

PETITION VAR 20-01

Mr. Jaggi stated that the purpose of the meeting was to consider Petition VAR 20-01. Regional Eye Care requests a variance to permit a reduction in the sign setback in the C-3 General Commercial District. The property is located on the south side of Veterans Memorial Parkway, north side of Mexico Road, east of Cave Springs Road – 3821 Veterans Memorial Parkway.

Mr. Jaggi declared the public hearing open for consideration of Petition VAR 20-01. The petitioner or their agent was requested to step forward to present their petition. Mr. Russ Mason, Fast Signs, was sworn in as the petitioner. Mr. Mason explained that the applicant would like to install a monument sign along Mexico Road; however, due to the angle of the road if the sign is held back ten feet from the front property line, it would be within a parking space or at the edge of the parking area. Therefore, they are requesting the variance to allow the reduction of the sign setback .

Ms. Julie Powers was sworn in to present the City's position on Petition VAR 20-01. Ms. Powers explained that the applicant, Regional Eye Care, is a tenant in a portion of a building at 3821 Veterans Memorial Parkway. The property fronts on Veterans Memorial Parkway and Mexico Road. The applicant would like to construct a ground sign along Mexico Road to identify the business. The business is located in the C-3 General Commercial District where ground signage is allowed to be thirty feet tall and one hundred square feet in area and must be ten feet back from the property line.

It is noted that the building was approved in 2004 and is 6,440 square feet in area. The building is oriented to Veterans Memorial Parkway with rear access oriented to Mexico Road; both frontages have

parking area for patrons. To the east is the recently updated Lions Choice restaurant in the C-3 District and to the west is an IHOP restaurant and County Inn and Suites hotel in the C-3 District. To the south, across Mexico Road, is a shopping center in the City of St. Charles zoned commercial. Staff notes that previous variances in the area have been approved that permitted reduced side yard setbacks and reduced sign setbacks.

The buildings and front parking placement along Mexico Road were designed at an angle, with some of the lot very close to the property line. If the sign is held back ten feet from the front property line, it would be within a parking space or at the edge of the parking area. An alternative location along the side property line has limited width and probably would not include adequate space for the monument sign, including the footing. Also, the right-of-way along Mexico Road includes a fairly side grass area. Therefore, placement of the sign ten feet back from the property line would result in a sign location nearly twenty feet from Mexico Road.

Based on this, Regional Eye Care requests a variance to allow a reduction in the ten foot ground sign setback from Mexico Road, within the C-3 General Commercial District, for property located at 3821 Veterans Memorial Parkway.

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 405.745.D. Signs Permitted in all "C" Commercial and "I" Industrial Districts...

1.b.(4) Ground signs shall not extend nearer than ten (10) feet to the public right-of-way (as measured from the sign edge).

Ms. Powers noted that although the sign is required to be ten feet back from the property line/right-of-way, the site has some unique issues that make the placement of the sign a hardship for the applicant. These include the narrow grass area along the east property line and the angled grass area at the front of the site. Near the entrance, where the sign would be helpful, there is minimal grass area; further to the west on the site there is more area. However, the front property line is approximately fifteen feet from the edge of curb along Mexico Road. This area of right-of-way is a grass area and includes a sidewalk – to the passerby it appears to be a setback.

The proposed sign location would be approximately five to ten feet from the edge of curb if an agreement is made with the City to allow the sign within in the right-of-way. If the sign is shifted and is totally on the site, it would be setback at least fifteen feet from the curb. Given this large amount of right-of-way, the visual encroachment of the sign will not be noticeable due to the layout of the street with the additional green space between the property line and curb. Staff has also reviewed the sight visibility and found no obstruction to vehicular traffic.

Staff will review the proposed location with the City Streets and Engineering Departments to determine the feasibility of the sign within the right-of-way. If allowed, a separate agreement with the City will be executed.

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 place the proposed ground sign in a location on the property that would make the sign less visible to traffic and away from the entrance to the site; therefore, it would have a negative impact on the property return.

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

If the sign was required to be ten feet back from the property line, the applicant would have a hardship as it could negatively impact the site layout or be difficult to see. A variance will allow the owner to place their proposed ground sign in a location that would have improved visibility from Mexico Road.

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

The applicant's angled lot configuration and right-of-way width limit the practical location for a ground sign on the property, thereby creating a hardship.

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

When the property was developed it was designed at an angle with limited grass area near the entrance from Mexico Road; also, there is a wide area of right-of-way. Neither of these were the applicant's action.

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 the development will be in harmony with the general purpose and intent of the zoning regulations since the sign being placed closer to the property line will not increase 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?

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 approval of the requested variance to permit the reduction of the ten (10) foot sign setback with the following contingencies:

1. The ground/pole sign shall be setback a minimum of zero (0) feet from the property line.
2. The ground/pole sign shall not interfere with the sight visibility along Mexico Road.
3. An agreement with the City will be executed prior to placement of the sign in the right-of-way.

Mr. Jaggi asked if any of the board members had questions for Ms. Powers. Mr. Jaggi asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 20-01. Seeing no one present to comment, Mr. Jaggi closed the public hearing.

Mr. Kendall made a motion and Mr. Stiens seconded to approve Petition VAR 20-01.

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

Mr. Stiens	Yes
Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Sartorius	Yes

There being 5 yes and 0 no vote, Mr. Jaggi declared that Petition VAR 20-01 was approved.

Mr. Stiens presented the Findings of Fact as follows:

1. The property is located at 3821 Veterans Memorial Parkway.
2. The lot and adjacent zoning are presently zoned C-3 General Commercial District.

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

Mr. Shetterly presented the Conclusions of Law for Petition VAR 20-01 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. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION VAR 20-02

Mr. Jaggi stated that the purpose of the meeting was to consider Petition VAR 20-02. Richard Dinkela/Creve Coeur Paving requests an amendment to variance 17-L to allow for the parking and storage of vehicles, equipment, and materials on gravel, in lieu of a paved surface in the I-1 Light Industrial District. The property is located on the south side of Brown Road, east of Highway 79, more commonly known as 370 Brown Road.

Mr. Jaggi declared the public hearing open for consideration of Petition VAR 20-02. The petitioner or their agent was requested to step forward to present their petition. Mr. Richard Dinkela, was sworn in as the petitioner. Mr. Dinkela explained that he is requesting to amend a variance that was granted on May

17, 2017 that granted the limited ability to park or store equipment or materials on a gravel surface. Mr. Dinkela noted that at that time he intended to develop the property with a warehouse building. Since that time, Mr. Dinkela has decided not to develop the property as proposed rather, he would like to purchase the adjacent properties, demolish the existing homes and re-develop a larger site with a multi-bay office warehouse building. This proposal may not happen for at least a year and because of this he would like to amend Variance 17-L to allow for the parking and storage of vehicles, equipment, and materials on gravel in lieu of a paved surface.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition VAR 20-02. Mr. Braunfeld explained that the applicant is requesting to amend a variance granted on May 17, 2017, via Petition 17-L. At that time the Board of Adjustment granted the limited ability to park or store equipment or materials on a gravel surface.

Variance 17-L was part of a larger project which included a new warehouse building and the construction of a paved storage area for general equipment and vehicle storage. At that time the existing house on the site would continue to be used as an office with the warehouse building used for the operation of the business. It is noted the existing house on the property continues to be used as an office for the paving business. At the time of the initial variance request, the applicant indicated the storage or movement of their heavy paving equipment will damage standard pavement. In addition, they needed a gravel area available for training.

**Property History:**

1. In April of 2016 it was brought to the City's attention the business had started operating from 370 Brown Road. At that time the business had converted the existing residential home for use as a commercial office and gravel had been added to the rear of the site for the outside storage of materials and equipment. Based on these changes, the applicant was advised the property was in violation of the City development code. Various options for the phasing in of the necessary improvements were made, including paving, landscaping, lighting, and screening.
2. A site plan to re-develop the site was submitted on July 22, 2016 and approved by the Planning and Zoning Commission on September 7, 2016. The redevelopment included a new warehouse building, paving, landscaping, screening and water quality features.
3. On May 17, 2017, via Petition 17-L, the Board of Adjustment granted the limited ability to park or store equipment or materials on a gravel surface.
4. Between May 17, 2017 and August 28, 2019 there have been various communications to bring the site into compliance including finalizing the approved site plan/architectural contingencies and variance requirements. This also included discussion that no more fill would be placed along the creek bank and that the existing parking/storage area would not be expanded.

**Property Status:**

1. The following was communicated to the owner regarding violations of the City Code, including that Variance 17-L was no longer valid, as it was tied to a site plan which was never constructed and had expired.
  - a. The existing parking and storing of vehicles and equipment on an unpaved (gravel) surface is in violation of the City Code.
  - b. the site plan to redevelop the property, which was approved on September 7, 2016, has expired.
  - c. Variance 19-L, which granted the limited use of gravel parking/storage area for training and/or equipment, was tied to what is now the expired site plan.
  - d. A new variance will be needed to park/store vehicles/equipment on an unpaved surface without a site plan. At this time, staff will only support a variance for up to one year, for the temporary parking/storing of vehicles/equipment on an unpaved site, while the properties are assembled, a development plan is created, and implemented.
  
2. Independent of the zoning, at a meeting on August 28, 2019, the applicant was advised the following Chapter 530 Stormwater and Chapter 535 Grading requirements were not in compliance with the City Code. This included additional fill and non-approved asphalt millings/asphalt waste had been placed along the creek bank without a permit. To bring the site into compliance the following corrective items and time table were noted.
  - a. Start by December 20, 2019 and completed by February 14, 2020.
  - b. Install siltation control as previously discussed with the Engineering Department.
  - c. Remove all non-approved asphalt millings/waste, broken concrete, and miscellaneous debris from the creek bank.
  - d. To stabilize the creek bank, place clean rock on exposed/un-vegetated sections of the creek bank (no asphalt).
  - e. Install a rock/boulder swale along the south side of the site to control erosion and provide water quality for the stormwater leaving the site.
    - Swale shall be 4-5 feet wide by 1 foot deep.
    - Fabric lined
    - 6 inch rock, nominal size
    - Coordinate the exact design and location with the Engineering Department.
  - f. Place approved large barriers such as concrete blocks to prevent vehicles from getting close to the edge of the property and dumping fill or asphalt.

During the most recent meetings with the applicant he discussed the desire to not develop the property as proposed in the September 7, 2016 site plan. Rather, the applicant indicated he was going to propose purchasing the adjacent properties, demolish the existing homes, and redevelop a larger site with a multi-bay office warehouse building. The applicant indicated this proposal would not happen for about one year, but could also not guarantee any specific timetable.

Staff advised the zoning would accommodate this use and that the City would be supportive. In addition, staff advised that the City has not supported nor could support an open-ended variance for the entire lot to be gravel. Staff advised it could support a limited variance expiring at the end of 2020, for the

temporary parking/storing of vehicles/equipment on an unpaved site, while the properties are assembled, a development plan is created and implemented.

Recently the applicant indicated they would like to use the entire non-conforming gravel area “as is” for an indefinite amount of time. Staff advised that this request could only be granted by the Board of Adjustment.

Based on this, Richard Dinkela/Creve Coeur Paving requests an amendment to Variance 17-L to allow for the parking and storage of vehicles, equipment, and materials on gravel, in lieu of a paved surface, in the I-1 Light Industrial District, for property located on the south side of Brown Road, east of Highway 79, more commonly known as 370 Brown Road.

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 405.230 I-1 Light Industrial District:

I. Miscellaneous Requirements.

8. All of the lot used for parking of vehicles and storage and display, and all driveways used for vehicle ingress and egress shall be paved and maintained in accordance with Section 405.550(G) Off-Street Parking, Construction Standards (Drive Aisles and Parking).

Section 405.550 Off-Street Parking:

G. Construction Standards (Drive Aisles and Parking)

1. All ground level off-street drive aisles and parking shall be constructed to City of St. Peters’ standards. Said drive aisles and parking, including access drives to parking spaces within residential districts, shall be paved and maintained in a clean, orderly and dust-free condition...
2. Approved construction materials shall include concrete, asphaltic concrete, brick/stone pavers, or other materials of equal quality as approved by the City Engineer.

As noted above, the City has been working with the applicant for several years to accommodate the reuse of and redevelopment of the property for a paving business. This included support of a variance for the limited use of gravel to accommodate the heaviest pieces of equipment associated with the business. The City is also supportive of the applicant’s long-term goal for complete redevelopment of the subject site and adjacent sites into a modern light industrial building.

The City cannot support the open ended use of gravel in violation of the City Code. This provision of the code has consistently and uniformly been applied to all residential, commercial, and industrial developments throughout the City. The use of asphalt or concrete pavement is designed to provide a safe, smooth, solid, dust and dirt free surface to drive/walk and for storage. In contrast gravel is generally uneven, is prone to ruts, potholes, standing water, mud, and migration off site.

The City can support a variance expiring at the end of 2020 for the temporary parking/storage of vehicles/equipment on an unpaved site, while the properties are assembled, a development plan is

created, and implemented. A longer term limited gravel area can also be supportive, subject to the remaining gravel area being removed and returned to a lawn like condition.

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 petitioner will eventually be able to get a reasonable return from the property when it is fully developed. The temporary variance allows a reasonable return in the interim.

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

If the gravel surface is not allowed a temporary hardship will result in the interim, as the use of the site will be limited and the applicant will not be able to fully operate at this location.

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

The City code does not address heavy equipment storage for industrial uses and can pose a hardship for certain properties and uses. The hardship can be addressed with final development; the proposed variance addresses an interim issue.

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

The hardship is a result of the extended development timetable of the site – the applicant wants to use the site prior to final development. The variance will allow the interim use while the final layout is determined.

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, the development would be in harmony with the general purpose and intent of the zoning regulations because the site will be consistent with the general heavy industrial pattern of 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 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, staff recommends approval of the requested variance to allow a limited rock surface in place of asphalt or concrete for driveways, parking, storage and display areas in the I-1 Light Industrial District for property located at 370 Brown Road, with the following contingencies:

1. The site shall comply with all landscaping and paving requirements of the City Code including but not limited to all areas for the driving/parking of vehicles and equipment or the storage of materials/equipment as noted below.
2. A limited gravel rock parking/storage area shall be permitted not to exceed 100 feet by 200 feet as approved by the Planning Department.
3. The limited gravel rock area shall only be used for the parking or storage of asphalt paving equipment that would otherwise damage standard pavement.
4. The limited rock gravel surface shall be maintained in a uniform flat, mud free, and dust free condition, and shall be connected to a paved driveway and the remaining gravel area outside the 100 x 200 foot area shall be separated by a barrier as approved by the Planning Department.
5. The limited 100 foot by 200 foot gravel rock lot shall remain only as long as the applicant uses the area for the parking or storage of asphalt paving equipment. At the time the use of the site changes or the paving company is relocated, the gravel lot shall be required to return to a grass-like condition or be paved with materials as approved by City Code.
6. All areas outside of the limited 100 foot by 200 foot gravel storage area shall be returned to a lawn like condition by December 31, 2021 unless a site plan, engineering permits, and building permits have been approved and issued and the site is under active construction to complete the project.

Mr. Jaggi asked if any of the board members had questions for Mr. Braunfeld. There was general discussion with Mr. Dinkela, staff and the Board regarding a plan and timeframe for completion that will be acceptable to the City and Mr. Dinkela. Seeing no one present to comment, Mr. Jaggi closed the public hearing.

Mr. Stiens made a motion and Mr. Sartorius seconded to approve Petition VAR 20-02.

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

Mr. Sartorius	Yes
Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Stiens	Yes

There being 5 yes and 0 no vote, Mr. Jaggi declared that Petition VAR 20-02 was approved.

Mr. Stiens presented the Findings of Fact as follows:

1. The property is located on the consolidated lot of three parcels as recorded in book 4685 page 730-732 at the St. Charles County Recorder's Office, more commonly known as 370 Brown Road.
2. The lot is presently zoned I-1 Light Industrial District.
3. The adjacent zoning is I-1 Light Industrial District.

4. The City Code requires asphalt or concrete pavement.

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

Mr. Shetterly presented the Conclusions of Law for Petition VAR 20-02 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. Sartorius seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION VAR 20-03

Mr. Jaggi stated that the purpose of the meeting was to consider Petition VAR 20-03. Michael and Pam McGowan c/o BiState Pools requests a variance to permit a pool that encroaches into the rear/side and front setback and in an easement in the R-1 Single Family Residential District. The property is located on lot 174 of Savannah Plat Two as recorded in Book 39 Pages 151-153 at the St. Charles County Recorder of Deeds Office, more commonly known as 85 North Hillview Drive.

Mr. Jaggi declared the public hearing open for consideration of Petition VAR 20-03. The petitioner or their agent was requested to step forward to present their petition. Mr. Ken Kostecki, Bi State Pool, and Mr. Mike McGowan, homeowner, were sworn in as the petitioners. Mr. Kostecki explained that the homeowners would like to install a swimming pool in their backyard. When they laid out the proposed location of the pool, they discovered that the pool would extend past the front building line facing Red Ridge Parkway and also into the rear/side yard six foot setback and the five foot wide utility easement.

Ms. Julie Powers was sworn in to present the City's position on Petition VAR 20-03. Ms. Powers explained that Michael and Pam McGowan are the owners of a home located on Lot 174 of Savannah Plat Two as recorded in Book 39 Pages 151-153 at the St. Charles County Recorder's Office, more commonly known as 85 N. Hillview Drive. The owners want to install a swimming pool in the backyard. When the applicants laid out the proposed location of the pool in their backyard, the owner discovered that the pool would extend past the front building line facing Red Ridge Parkway and also into the rear/side yard six foot setback and the five foot wide utility easement.

The subject home is located on the corner of North Hillview Drive and Red Ridge Parkway; the home faces and is accessed from North Hillview Drive with the backyard visible from Red Ridge Parkway. The rear yard is not very deep and includes a patio and a deck with stairs; the backyard area of the lot is fenced with a four foot tall vinyl privacy fence. Since the lot is adjacent to both roads, it was platted with a front building line towards both streets.

Based on this the McGowans request a variance to permit a reduction of the twenty-five (25) foot front building setback, the six foot rear/side setback, and an encroachment into an easement to permit the

installation of a swimming pool. The property is located on Lot 174 of Savannah Plat Two as recorded in Book 39 Pages 151-153 at the St. Charles County Recorder's Office, more commonly known as 85 North Hillview 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 405.130 R-1 Single Family Residential District.

#### H. Yard Requirements.

1. The minimum yard requirements shall apply to each lot.
  - a. The minimum front yard depth shall be twenty (20) feet unless otherwise platted. Roof, canopy, and covered entranceways, including support posts shall extend no more than four (4) feet over the front building line.
  - b. Each side yard width shall be a minimum of ten percent (10%) of lot width as measured at the front building line except lots which are on a cul-de-sac and lots for which the preliminary plat was approved by the City of St. Peters before January 1, 2001 need not have a side yard which is more than six (6) feet wide.
  - c. Rear yard depth shall be a minimum of twenty-five (25) feet, except the rear yard depth on a corner lot may be fifteen (15) feet. Swimming pools, decks and open-air porches shall be excluded from the twenty-five (25) feet and fifteen (15) feet depth requirements; however, these structures shall not be closer than six (6) feet to the rear yard line.

Section 405.270 Accessory Buildings or Structures, Alterations and Additions.

2. In residential zoning districts, accessory buildings or structures shall include but not be limited to, the following: greenhouses, swimming pools, garages (attached – unattached) and similar uses.
4. No principal building or structure or accessory building or structure shall be located within or partially within a designate utility easement.

Ms. Powers noted that in nearly all lots within the City of St. Peters, building setback regulations which require the placement of pools, decks, and sheds in the rear yard area are an important tool to manage the placement of traditionally back yard accessory structures. In this case, the lot is encumbered by a front building line setback to Red Ridge Parkway which has no practical use given that the home is part of a standard subdivision and fronts to North Hillview Drive. Given that, staff finds that the proposed request to permit the installation of a swimming pool in the rear yard (back) area. The proposed placement of the pool, in a corner of the lot, appears to be the only place the pool could go in the yard.

Staff also notes that the property is fenced, as is required for a pool, and that the rear property line is the side yard of the adjacent house. The adjacent lot is on the curve of a road and includes a very wide side yard. Therefore, the placement of the pool on the subject lot will be a significant distance from the

adjacent home. Also, the pool will not be near the adjacent rear yard or driveway area, giving privacy to the applicant in their pool and the adjacent neighbors. While the pool is near the road, the fence will buffer any impact of the pool activity on the streetscape.

Regarding the placement of the pool partially in the easement, staff notes that the proposed encroachment would still leave some of the standard five foot wide easement for the utility companies' use. Also, staff notes there is five feet of easement on the abutting lot and it appears there are no City utilities in this easement.

Given the abutting easement, staff believes the variance will not have a negative impact. The granting of the variance will not relinquish the property owner from any easement rights that have been granted to the City or other utility companies. In essence, the property owner will proceed at their own risk and are free to deal with the other utility companies on the encroachment.

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?

Compliance with the regulations would not allow the applicant to fully utilize the value of their property as the rear yard is not very deep and already includes improvements such as a deck and patio. Also, some of the easement would be preserved which would supplement the adjacent easement area.

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

The applicant would not be able to construct a pool in the rear yard area; although the applicant could still use the rear yard area for their current amenities, they would suffer a hardship by not being able to use their yard area to add a swimming pool. The standard five foot easement was established but has not been used. Given the limited depth of the yard, there is a hardship element.

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

The City regulations typically apply without issue to standard lots. However, the rear yard depth is limited and there is a second front yard, making the possibility of an additional amenity difficult. Coupled with the easement a hardship is evident on the subject property as it limits the recreational use of the rear yard.

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

When the property was originally platted, the corner lot configuration and setbacks were established. Although the current owner has requested the pool, they did not initially develop the property.

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 were approved, it would be in harmony with the general purpose and intent of the zoning regulations since the pools location will not impact the neighborhood and the encroachment is not visibly noticeable. In addition, there is easement area still available for the utility companies to use, and it can be combined with the abutting easement.

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 approval of the requests variance to allow a reduction in the front yard setback and rear/side yard setback, and an encroachment into a utility easement with the following contingencies:

1. The encroachments shall be as generally indicated on the attached exhibit.
2. The granting of this variance is only for a pool.
3. The granting of this variance does not relinquish the various utility companies rights to use the easement as granted on lot 174 of Savannah Plat Two as recorded in Book 39 Pages 151-153 at the St. Charles County Recorder's Office, more commonly known as 85 North Hillview Drive.
4. The use of the easement is at the property owners' sole risk which may require partial or full removal of the pool at the property owner's expense at the request of a utility company for use of the easement.

Mr. Jaggi asked if any of the board members had questions for Ms. Powers. Mr. Jaggi asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 20-03. Mr. Mike Wiss, 11 Savannah Hill Drive, noted that the plans for this project have not been submitted to the HOA for approval. Mr. Ken Kostecki, BiState Pools noted that they would be submitting plans if they receive the variance from the City. Ms. Nancy Clark, 6 Red Ridge Parkway, had concerns regarding more stormwater being added in this area. Mr. Ken Kostecki, BiState Pools noted that they would have to comply with the City's Stormwater Management Plan and would not be redirecting any stormwater to her yard. Mr. Jaggi noted that the Board also received an email from Mary Amrein and Ruth Brown in opposition to this petition and emails from Roger and Colleen Schulte, Dennis and Kim Clermont and Joe Reynolds in favor of this petition. Seeing no one else present to comment, Mr. Jaggi closed the public hearing

Mr. Kendall made a motion and Mr. Stiens seconded to approve Petition VAR 20-03.

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

Mr. Stiens	Yes
Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes
Mr. Sartorius	Abstain

There being 4 yes, 1 abstention and 0 no vote, Mr. Jaggi declared that Petition VAR 20-03 was approved.

Ms. Julie Powers presented the Findings of Fact as follows:

1. The lot is located on lot 174 of Savannah Plat Two as recorded in Book 39 Pages 151-153 at the St. Charles County Recorder's Office, more commonly known as 85 North Hillview Drive.
2. The lot is presently zoned R-1 Single Family Residential District.
3. The surrounding zoning is R-1 Single Family Residential District.

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

Mr. Shetterly presented the Conclusions of Law for Petition VAR 20-03 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. Stiens seconded to enact the Conclusions of Law. The motion carried unanimously.

#### PETITION VAR 20-04

Mr. Jaggi stated that the purpose of the meeting was to consider Petition VAR 20-04. St. Charles County Ambulance District requests a variance from the rooftop utility screening requirement for a portion of the headquarters building in the I-1 Light Industrial District. The property is located on the south side of Salt River Road, east of Mid Rivers Mall Drive, more commonly known as 2000 Salt River Road.

Mr. Jaggi declared the public hearing open for consideration of Petition VAR 20-04. The petitioner or their agent was requested to step forward to present their petition. Mr. Roy Mangan, Archimages, was sworn in as the petitioners. Mr. Mangan explained that the St. Charles County Ambulance District is building a new headquarters building at 2000 Salt River Road. The new 141,562 square foot building will be located on a 31.15 acre tract. The proposed building will screen the rooftop utilities from the front and sides with a parapet or in combination with secondary rooftop utility screens; however, it would not be practical to provide full screening along the rear of the building. Mr. Mangan noted they are requesting a waiver from the required screening due to the location of the building on the property, distance to adjacent uses and the size and proportion of the rear rooftop units, for the south (rear) rooftop utilities.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition VAR 20-04. Mr. Braunfeld explained that the proposed site will contain the future St. Charles County Ambulance District (SCCAD) headquarters building. The project is located on the south side of Salt River Road east of Mid Rivers Mall Drive. The new 141,562 square foot headquarters building will be located on a 31.15-acre tract and contain administrative office space, training space, warehousing, vehicle service, indoor vehicle storage, and training facilities for the ambulance district.

The surrounding area is commonly called the Old Town Levee area which generally contains industrial uses with limited legacy residential. The surrounding land uses include to the east vacant industrial, to the southeast the City fleet maintenance facility, and to the south protected wetlands. To the southwest is vacant industrial ground, beyond which is a propane tank company and contractors office with RV storage, and to the west is undeveloped industrial property. To the north is Salt River Road, beyond which is vacant industrial and agricultural zoned property.

The proposed building will screen the roof top utilities from the front and sides with a parapet or in combination with secondary roof top utility screens; however, it became apparent it would not be practical to provide full screening along the rear of the building. The applicant is requesting a waiver from the required screening due to the location of the building on the property, distance to adjacent uses, and the size and position of the rear roof top units, for the south (rear) rooftop utilities.

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 405.460 Site Plan Review

##### E.4. Criteria

- a. Roof top utilities such as, but not limited to, cooling towers and heating and cooling equipment installed in conjunction with any buildings or installed on any building heretofore erected shall be screened/enclosed with walls of brick, wood or other similar architectural material extending to the height of the highest projection of such equipment from all sides.

Mr. Braunfeld noted that the site will be developed with a new SCCAD headquarters building facing Salt River Road. The headquarters building will be constructed of tilt-up concrete panels with office/training rooms towards Salt River Road and vehicle storage, maintenance, and service bays to the rear (south). The roof top units will be screened to the front and sides of the building with generally smaller units left unscreened to the rear (south).

The developer provided sight line studies of the building from several key location – Salt Lick Road, Mid Rivers Mall Drive, and the vacant industrial ground to the south.

Site lines A, B, C, D, and F show all roof top utilities are screened by the parapet or secondary screen in compliance with the code. This includes from Salt River Road and the east and west sides of the building. It also includes an extended view from Mid Rivers Mall Drive and Ecology Drive.

To the south (rear) of the building is a wetland area and undeveloped industrial ground. Site line E shows a few of the larger roof top units on the west side of the building to be screened by a secondary roof screens in compliance with code. However, the smaller units extending along the back side of the building are exposed to the south and will have limited visibility.

A review of the buildings scale, position on the lot, size of the units, and nature of the surrounding developments finds that it will not be practical to screen, nor is required to meet the spirit of the code for several reasons. This includes that the roof top utilities will be screened from the most important views, being the front and sides with very limited views to the rear.

Immediately to the south is wetlands which cannot be disturbed or developed. In addition, due to their size and location, it is highly unlikely that it will be developed with pedestrian or bike paths which could open the view to the unscreened units. To the southeast and southwest, only a portion of the smaller roof top units will be visible from a future industrial development. Given the size of the units and distances to the industrial properties, the extension of a full parapet for such a limited view is not practical. Also, the use of secondary screens at this location, as permitted by code, would not enhance the aesthetics of the building.

Finally, the project is near the Premier 370 business park which provides alternative roof top screening requirements due to the very large scale of the projects. In the Premier 370 development, roof top utilities have been successfully integrated into the area with a forty (40) foot setback, from the edge of the building.

It is also noted that St. Charles County Ambulance District is a publicly funded agency and that the substantial investment to screen the units for minimal public benefit would not be the best use of public funds.

Therefore, staff is of the opinion the requested waiver of the rooftop utilities along the rear of the building as shown on the attached exhibits is reasonable.

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 applicant's return and reasonable use of the property are enhanced with the proposed variance as the rooftop screening along the south (rear) would not be needed; the investment can be used in an area of the project more visible to the public or to enhance public safety.

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

Strict application of the regulations would result in the installation of unnecessary and or redundant screening which poses a hardship to the applicant.

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

The limited exposure of a few select units, nature of the project, and surrounding developments conclude that installation of additional screening is not warranted and would pose a hardship.

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

The limited exposure and the related unwarranted screening are not the result of the applicant's own actions.

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 substantially enhance the public safety by allowing the development of the St. Charles County Ambulance District Headquarters building and, 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 it is staff's recommendation to permit a variance to allow a reduction in the screening for rooftop utilities with the following contingencies:

1. The front and sides of the building shall screen the roof top utilities as substantially shown on the attached exhibits.
2. The screening waiver shall only apply to the south (rear) side of the building.

Mr. Jaggi asked if any of the board members had questions for Mr. Braunfeld. Mr. Jaggi asked if there was anyone in the audience to speak in favor, opposition or to comment on Petition VAR 20-04. Seeing no one present to comment, Mr. Jaggi closed the public hearing.

Mr. Shetterly made a motion and Mr. Stiens seconded to approve Petition VAR 20-04.

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

Mr. Stiens	Yes
Mr. Shetterly	Yes
Mr. Kendall	Yes
Mr. Jaggi	Yes

Mr. Sartorius Yes

There being 5 yes, 0 no vote, Mr. Jaggi declared that Petition VAR 20-04 was approved.

Mr. Sartorius presented the Findings of Fact as follows:

1. The property is located on Lot 1 of the Salt River Road Subdivision as recorded in book 50 Page 308 at the St. Charles County Recorder's Office, more commonly known as 2000 Salt River Road.
2. The lot is presently zoned I-2 Heavy Industrial District.
3. The zoning to the east is I-1 Light Industrial District and to the south and west is I-2 Heavy Industrial District.

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

Mr. Shetterly presented the Conclusions of Law for Petition VAR 20-04 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.

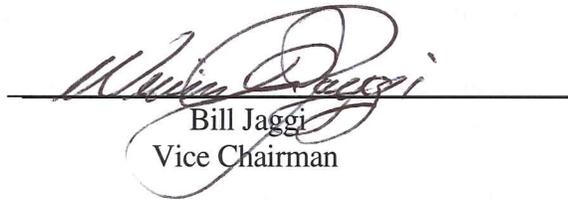
Mr. Kendall made a motion and Mr. Sartorius seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Jaggi made a motion and Mr. Stiens seconded to adjourn the meeting at 8:10 p.m. The motion carried unanimously.

Respectfully submitted:



Melissa Vollmer  
Recording Secretary



Bill Jaggi  
Vice Chairman