



**MINUTES BOARD OF ADJUSTMENT
ONE ST PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF MARCH 20, 2019
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. Brian Stiens; Mr. John Shetterly; Mr. Bill Jaggi, Mr. Tom Fann; Mr. Bill Kendall; Ms. Julie Powers, Director of Planning, Community & Economic Development; Mr. Ken Braunfeld, Planning Coordinator; and Ms. Melissa Vollmer, Recording Secretary. Mr. Nick Trupiano was absent.

MINUTES

Mr. Fann asked the Board for any comments or questions regarding the minutes of the February 20, 2019 meeting. Mr. Jaggi made a motion and Mr. Shetterly 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 19-C

Mr. Fann stated that the purpose of the meeting was to consider Petition 19-C. John E. Heidebreder requests a variance for a reduction in the size of livable space in the S-D Old Town District. The property is located on Lot 15 and Part Lot 2 of Deppe and Reinecke's Addition to St. Peters as recorded in Book 2 Page 19 at the St. Charles County Recorder's Office – 102 Second Street.

Mr. Fann declared the public hearing open for consideration of Petition 19-C. The petitioner or their agent was requested to step forward to present their petition. Mr. John Heidebreder was sworn in as the petitioner. Mr. Heidebreder explained that he is proposing a live-work unit at 102 Second Street in Old Town St. Peters. The proposed home would be approximately 1,550 square feet of which 550 square feet is living space and the remaining 1,000 square feet will be used for a garage. The garage will be used to park the vehicles for their tree trimming and landscape business.

Mr. Braunfeld was sworn in to present the City's position on Petition 19-C. Mr. Braunfeld explained that the applicant, John Heidebreder, is the owner under contract of a lot on the south side of Second Street, east of National Street, with an anticipated address of 102 Second Street. The site is located in Old Town St. Peters. The zoning for the subject lot is S-D Old Town. S-D Old Town permits any combination of R-1 Single Family, R-2 Two-Family Residential, C-1 Neighborhood Commercial and C-2 Community Commercial uses.

The applicant is planning to construct a live work single-family home. Live-work units are both prevalent and permitted in the Old Town District. The proposed home would be approximately 1,550 square feet of which 550 square feet is living space and the remaining 1,000 square feet for a garage. The proposed

business would be tree trimming and landscaping, although any appropriate business could occupy the property in the future. The garage would be used for the inside storage of light commercial equipment as well as personal vehicles.

Staff advised the applicant that the City Code requires 950 square feet of living space for property development prior to May 9, 1991. The applicant indicated they would design the garage to be integrated into the main structure as viewed from the outside. They also indicated they would design the house so that the livable space can easily be expanded in the future to meet the minimum standards.

Therefore, John E. Heidebreder requests a variance for a reduction in the size of livable floor space in the S-D Old Town District. The property is located on Lot 15 and Part Lot 2 of Deppe and Reinecke's Addition to St. Peters as recorded in Book 2 Page 19 at the St. Charles County Recorder of Deeds Office – 102 Second 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)

Section 405.130 Single Family Residential

1. Floor area. Every single-family detached dwelling hereafter erected shall contain a floor area exclusive of garage space and area over open porches as follows:
2. For all subdivision approved for development prior to May 9, 1991, all houses shall contain a minimum of nine hundred fifty (950) square feet of livable floor space completely above grade.

Mr. Braunfeld noted that Old Town is a mixed use area with the zoning code allowing for any combination of R-1 Single Family, R-2 Two-Family Residential, C-1 Neighborhood Commercial and C-2 Community Commercial uses. This portion of second street contains residential homes, with many backing to commercial uses. The subject project backs to a commercial building with the potential for residential on the second floor and the former fire station that was converted into a commercial space.

The proposed live-work unit will be constructed to look like a single-family house from the street with a rear entry garage. Therefore, the garage will not be visible from the street and the garage opening will face the commercial uses to the rear. The location of the garage door facing the commercial uses will further the impression, from Second Street, that the overall 1,550 square foot structure is predominately a house and will conceal the actual size of the garage.

On the inside, the 1,550 square foot structure would include 550 square feet of livable space. This would include a great room, full kitchen, master bedroom, walk-in closet, bathroom, and laundry. The applicant has also designed the house so that the living space can be expanded into the oversized garage, thereby allowing for greater flexibility in the future. This would include an additional one or two bedrooms and bath. In this configuration the house would become a standard three bedroom home with attached garage and meet the 950 square foot minimum.

Staff notes the minimum unit size was established to insure traditional single-family subdivisions were built to an appropriate standard and insure stable property values. However, the variety and scale of

residential and commercial uses in Old Town is ideal for the construction of a new live-work unit of the proposed size. The building design and scale will be appropriate for the residential nature of Second Street and, at the same time, have a commercial element facing the commercial uses to the south. It is also noted the property has not been developed for more than thirty years. In staff's opinion, the unit size modification will not be noticeable to the passer by on Second Street.

Overall, staff is of the opinion this project will be appropriate for the site. In addition, new construction within Old Town will be welcomed and will improve property values and may also foster future investment in the area.

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?

Development of the site without a livable floor space modification would not be feasible given the proposed location of the property and the previous lack of development interest. The proposed modification to the livable floor space will make the project feasible.

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

If the livable floor space regulations are not varied, the lot will be difficult to develop. Modification of this regulation will mitigate the hardship created by the location of the property.

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

Not accommodating an appropriately designed single-family mixed use project, which is impacted by the location of the property, creates a hardship. Without variances, development of the property will be difficult.

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

The location of the property and market conditions to permit a live-work unit, warrant the reduction in the livable floor space area, permitting the development of the property. None of these conditions were the result of the current applicants 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, the development would be in harmony with the general purpose and intent of the zoning regulations because, while the livable floor space area will be smaller, the development will be of an appropriate scale and enhance the character of 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, staff recommends approval of the requested variance with the following contingencies:

1. The minimum livable floor area shall be 550 square feet.
2. The design of the building shall be residential in nature and compatible with Old Town as shown on the presented exhibits.
3. The garage associated with a structure of less than 950 square feet shall be rear entry.
4. The design of the building shall include maintenance free materials.
5. The building shall be designed to allow the conversion of a minimum of 400 square feet of the garage into livable floor space in the future.
6. The future expansion of the livable floor space into the garage area may be in any square foot increment.

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 19-C. Mr. Herb Iffrig, neighboring property owner, had questions regarding the pecan trees along the property line. Ms. Candy Heidebreder noted that they would do everything possible to retain as many trees as possible. 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 19-C.

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

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

There being 5 yes, 0 no vote, Mr. Fann declared that Petition 19-C was approved.

Mr. Jaggi presented the Findings of Fact as follows:

1. The property is located on Lot 15 and Part Lot 2 of Deppe and Reinecke's Addition to St. Peters as recorded in Book 2 Page 19 at the St. Charles County Recorder's Office – 102 Second Street.
2. The lot is presently zoned S-D Old Town.
3. The adjacent zoning is S-D Old Town.

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

Mr. Stiens presented the Conclusions of Law for Petition 19-C 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 19-D

Mr. Fann stated that the purpose of the meeting was to consider Petition 19-D. Dale Blaine requests a variance to permit a structure (egress window well) in a side yard setback/utility easement. The property is located on lot 298 of Tanglewood Plat 6 as recorded in book 20 page 103 at the St. Charles County Recorder of Deeds Office, more commonly known as 233 Barkwood Trails Drive.

Mr. Fann declared the public hearing open for consideration of Petition 19-D. The petitioner or their agent was requested to step forward to present their petition. Mr. Dale Blaine, homeowner, was sworn in as the petitioner. Mr. Blaine explained that to bring his home up to code before he sells it, he would like to install an egress window in his basement. To do this, a window well will need to be constructed that will encroach into the easement on the side of his yard.

Mr. Ken Braunfeld was sworn in to present the City's position on Petition 19-D. Mr. Braunfeld explained that Dale Blaine would like to install an emergency egress window well approximately eighteen inches into the five foot general utility easement along the side property line at 233 Barkwood Trails Drive. The applicant noted the house was advertised with three bedrooms on the main floor and two in the basement, with no emergency egress window wells.

The home was built in 1978 and it is unknown when the basement bedrooms were constructed. It is believed that the code at that time required basement bedrooms to have a means of egress, but the exact code requirements or basement configuration at that time is unknown. Subsequent to the construction of this subdivision, the City adopted a new building code which requires all basements with or without bedrooms to have an emergency egress window well to allow people to safely exit the basement during an emergency. The applicant indicated they would like to consolidate the two bedrooms into one bedroom and install a window well. This will increase the value of the home, make the basement safer, and meet the new code requirements.

Based on this, Dale Blaine requests a variance to permit a structure (egress window well) in a side yard setback/utility easement. The property is located on lot 398 of Tanglewood Plat 6 as recorded in book 20 page 103 at the St. Charles County Recorder of Deeds Office, more commonly known as 233 Barkwood Trails 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 405.270 Accessory Buildings or Structures, Alterations and Additions

4. No principal building or structure or accessory building or structure shall be located within or partially within a designated utility easement.

Mr. Braunfeld explained that general utility easements are established around the perimeter of most lots in the City during the record plat process. The typical easement is five (5) feet on each side of a lot line thus creating a ten (10) foot wide easement. The layout and design of the subdivision and this home were completed many years before the emergency egress window well building code requirement. The current owner would like to install an emergency egress window well to meet the best management practices of the code for the safety of the family, which will place approximately eighteen inches of the window well within the five foot general utility easement.

In general it is important to protect easements and prohibit structures from being built in an easement. In this case the encroachment into the easement is to permit emergency egress from the basement. As noted, the original design of this home and subdivision pre-date the current code requirements. In addition, lots in modern subdivisions generally have perimeter utility easements which provide the utility companies many alternative utility locations should some future need arise.

Ideally, staff would suggest the property owner obtain easement vacations from the various utility companies including the City. However, the length of time and processing fees from utility companies can be hundreds of dollars and take many months. All these items combined lead to what staff believes creates an undue hardship for the applicant.

Therefore, the best solution to this problem is for the City to grant a variance from the Code requirement that prohibits the placement of a structure in an easement. The granting of the variance will not relinquish the property owner from any easement rights that have been granted to the utility companies. In essence, the property owner will proceed at their own risk and are free to deal with the utility companies on the encroachment.

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 would not be able to install an emergency egress window well within a small portion of an easement that does not contain any public utilities. Therefore, this would reduce the safety of the home and compliance with current building codes. Together this would be a burden to the homeowner with no benefit to the public.

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

The proposed variance allows the installation of an emergency egress window well which will improve the safety of the home and compliance with current building codes. The strict application

of the easement regulations would prevent a safety improvement to the home resulting in a hardship.

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

The current building code requirements requiring an emergency egress window will require a small encroachment into the existing easement, creating a hardship on the subject property.

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

While the applicant is responsible for the placement of the emergency egress window well, it is being done to improve safety and compliance towards current building codes.

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 emergency egress window well will improve safety and compliance towards current building codes. In addition, approximately three to four feet of the five foot utility easement will still be available for the utility companies to use, plus the additional five feet of utility easement on the other side of the property line.

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 the approval of a variance to permit a structure (egress window well) in a side yard setback/utility easement, for property location on lot 398 of Tanglewood Plat 6 as recorded in book 20 page 103 at the St. Charles County Recorder of Deeds Office, more commonly known as 233 Barkwood Trails Drive, with the following contingencies:

1. The granting of this variance is for an egress window well and associated accessories only.
2. The window well and associated accessories may not extend more than two (2) feet into the easement.
3. The granting of this variance does not relinquish the utility companies' rights to the use of the easement as granted by Tanglewood Plat 6 as recorded in book 20 page 103 at the St. Charles County Recorder of Deeds Office.
4. The use of the easement is at the property owner's sole risk which may require partial or full removal or relocation of the window well at the property owners expense at the request of a utility company for use of the easement.

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 19-D. Seeing no one present to comment, Mr. Fann closed the public hearing.

Mr. Jaggi made a motion and Mr. Kendall seconded to approve Petition 19-D.

Mr. Fann 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. Fann	Yes

There being 5 yes, 0 no vote, Mr. Fann declared that Petition 19-D was approved.

Mr. Jaggi presented the Findings of Fact as follows:

1. The property is located on lot 398 of Tanglewood Plat 6 as recorded in book 20 page 103 at the St. Charles County Recorder of Deeds Office, more commonly known as 233 Barkwood Trails Drive.
2. The lot is presently zoned R-1 Single Family Residential District.
3. The adjacent zoning is R-1 Single Family Residential District.

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

Mr. Shetterly presented the Conclusions of Law for Petition 19-D as follows:

1. The variance will not impair the supply of light or air to the adjacent properties.
2. The variance will not increase congestion in the public streets.
3. The variance will not impact the safety of the community.
4. The variance will not impact on the general health and welfare of the community.

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

PETITION 19-E

Mr. Fann stated that the purpose of the meeting was to consider Petition 19-E. Dudas Fitness requests a variance to allow a sign on a façade that has no street frontage or driveway frontage. The property is located on the north side of Old Highway 94, east of Jungermann Road, more commonly known as 3963 Old Highway 94.

Mr. Fann declared the public hearing open for consideration of Petition 19-E. The petitioner or their agent was requested to step forward to present their petition. Mr. Kenny Terbrock was sworn in as the petitioner. Mr. Terbrock explained that Dudas Fitness would like to install a sign facing towards Jungermann Road so that travelers southbound on Jungermann Road may see the sign before reaching the intersection and making their turning decision.

Ms. Julie Powers was sworn in to present the City's position on Petition 19-E. Ms. Powers explained that the subject fitness center is under construction on the north side of Old Highway 94, east of Jungermann Road. The site is zoned C-3 General Commercial District. To the west is a fast food restaurant zoned C-3 General Commercial District, and to the north is a grocery store and a WalMart store, both zoned C-3 General Commercial District. To the east are other commercial uses in the C-3 District, and to the south are commercial and residential uses in unincorporated St. Charles County.

The fitness center will be a total of 9,450 square feet in area and will be accessed via a shared entrance with the adjacent KFC fast food restaurant and a full entrance at the east end of the site. Parking will be at the front of the site. The proposed building has a contemporary look and includes a mix of brick, stone and EFIS. The extended roof is composed of architectural shingles. Overall, the design is attractive and of an appropriate scale for the neighborhood.

The applicant proposed a sign facing south towards Old Highway 94 which was approved. An additional sign facing west towards Jungermann Road is also proposed by the developer of the facility, as they have noted that travelers southbound on Jungermann Road may see the sign before reaching the intersection and making their turning decision.

It is noted the code was recently revised to allow signage to be shifted from walls that have frontage to secondary front walls that do not have frontage. Even with the code change, the modest size of the building does not allow extra square footage for the side wall. Therefore, after a wall sign was approved facing Old Highway 94, there is no extra signage area left for the west side of the building. Staff advised the applicant that a variance would be need to approve a small sign on the west wall

Based on this, Dudas Fitness requests a variance to permit wall signage without street frontage. The property is located on the north side of Old Highway 94, east of Jungermann Road, more commonly known as 3963 Old Highway 94.

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 Permanent Sign Regulations by Zoning District

4. Wall Signs.

- a. The total area of each wall signs 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 and shall include all signs on each wall. 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 or a portion 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. The transferred sign area shall not exceed the permitted sign area.

Ms. Powers noted that the building is located away from the Jungermann Road intersection, and is oriented to Old Highway 94. Therefore, the side of the building faces west towards the street with no direct frontage to Jungermann Road, but with an orientation to and some visibility from Jungermann Road.

As previously noted the code was recently revised to allow signage to be shifted from walls that have frontage to secondary front walls that do not have frontage. Despite the code change, the building allows a customary sign for the front wall and no extra signage for the side wall.

The applicant has proposed a small sign on the west side of the building – twenty-seven square foot channel letters – which are generally more aesthetically pleasing. The placement of a building next to the subject site will impact the visibility of the sign, but the traffic on Jungermann Road will still be able to see the sign as they travel southbound. This identification to the main traffic in the area will assist the new business and allow safe travel to the new facility.

In general, the signs on the sides of the building do not facilitate building identification unless there is a unique site condition or building orientation. However, in the subject case, the façade orientation to Jungermann Road, which is on lot away from the road, will facilitate visibility and identification of this new business.

Staff notes that the side wall sign would be used to attract/direct travelers on Jungermann Road, much as a freestanding sign pole would do. Noting this, staff believes any future pole sign that may be installed should be reduced in size. This type of sign area “swap” has been used on other sites to ensure that the approved signage is effective for the site and the use, but not out of scale for the development or the site area.

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?

By allowing for the placement of the subject wall sign on the west elevation, visibility of the site will be improved. This improved identification ensures a reasonable return by the business while ensuring no additional signage clutter for the City because of the related pole sign reduction.

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

The code does not factor in unique building orientation. Although this building has permitted signage on the south side of the building, thereby minimizing the hardship, by allowing limited additional wall signage on the side of the building the goals of the applicant are furthered without harming the intent of the sign regulations.

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

The building does not have a hardship as adequate signage is available on the front (south) side of the building. However, a sign on the side of a building facilitates the business visibility and any future pole sign will be modified to balance the extra wall sign.

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

The lot was platted some time ago, and the adjacent building was constructed many years ago. Although the building has visibility from the adjacent roadway, these factors impact visibility of the applicant's building.

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 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?

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 wall signage without street frontage with the following contingencies:

1. The total of the west wall signage shall not exceed twenty-seven and one-half (27.5) square feet.
2. Any future freestanding sign on the subject property shall not exceed seventy (70) square feet.

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 19-E. Seeing no one present to comment, Mr. Fann closed the public hearing.

Mr. Kendall made a motion and Mr. Jaggi seconded to approve Petition 19-E.

Mr. Fann 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. Fann	Yes

There being 5 yes, 0 no vote, Mr. Fann declared that Petition 19-E was approved.

Mr. Stiens presented the Findings of Fact as follows:

1. The property is located on the south side of Old Highway 94, east of Jungermann Road, more commonly known as 3963 Old Highway 94.
2. The lot is presently zoned C-3 General Commercial District.
3. The surrounding zoning is C-3 General Commercial District to the north and east, C-3 General Commercial District and I-1 Light Industrial District to the west, and unincorporated St. Charles County to the south.

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

Mr. Jaggi presented the Conclusions of Law for Petition 19-E 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. Jaggi seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Jaggi made a motion and Mr. Fann seconded to adjourn the meeting at 7:00 p.m. The motion carried unanimously.

Respectfully submitted:



Melissa Vollmer
Recording Secretary



Tom Fann
Chairman