



**MINUTES BOARD OF ADJUSTMENT
ONE ST. PETERS CENTRE BLVD., ST PETERS, MO 63376
MEETING OF MAY 16, 2018
6:00 P.M.**

CALL TO ORDER

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

ATTENDANCE

Those in attendance were Mr. John Shetterly; Mr. Brian Stiens; Mr. Bill Jaggi, Mr. Nick Trupiano; Mr. Bill Kendall; 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 March 21, 2018 meeting. Mr. Fann made a motion and Mr. Kendall 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. Mr. Braunfeld indicated that there were none.

PETITION 18-H

Mr. Jaggi stated that the purpose of the meeting was to consider Petition 18-H. James Michael Anthony requests a variance to permit two home occupations in a single-family residence. The property is located on the east side of Ellington Oaks Court, north of Ellington Oaks Drive – Lot 39 of Ellington Place Plat Two as recorded in Book 42 Pages 106-107 at the St. Charles County Recorder's Office, more commonly known as 28 Ellington Oaks Court.

Mr. Jaggi declared the public hearing open to consider Petition 18-H. The petitioner or their agent was requested to step forward to present their petition. Mr. James Anthony, homeowner, was sworn in as the petitioner. Mr. Anthony explained that his wife received a home based business license in 2015 to operate a counseling business from their home. In the meantime, he has been writing books but can't get a publisher to publish the books; therefore, he has decided to self-publish his books. In order to do so, he will need a home based business license. City Code only allows one home occupation to be run out of a home, so he is here tonight seeking a variance from the Code. Mr. Anthony noted that no one will be coming to his home and he will solely be using his home as an office.

Mr. Braunfeld was sworn in to present the City's position on Petition 18-H. Mr. Braunfeld noted that the applicant, James Anthony, requested approval for a home occupation at the March 7, 2018 Planning and Zoning Commission meeting. The applicant explained the operation of the business as on-line publishing to be called Neuwoehner Press. Mr. Anthony noted the home, at 28 Ellington Oaks Court, would be used as an office and that no customers would come to the home. Given the very limited activity at the residence, the Planning and Zoning Commission granted approval.

Since Mr. Anthony's wife already had a home occupation business, the two businesses must be grouped under the same business license or seek a variance to permit more than one home based business from operating at the residence. It is noted a home occupation business may have more than one component and still qualify as a single business, but that they must operate under one business license. The applicant indicated they cannot operate under one license and have to pursue approval of a second home occupation.

Mr. Anthony's wife, Michele Anthony, obtained Planning and Zoning Commission approval for a home based counseling business on November 4, 2015. Mrs. Anthony is a certified counselor and provides counseling services to clients. Customary to other home based businesses, which have customers come to the home, a contingency was included that all clients park in the driveway. In addition, the business was to get a further review within six (6) months, if there were any complaints. It is noted that there have been no complaints during this initial six month time frame or during the subsequent two year operation of the business.

Based on this the applicant has requested a variance to permit two home occupations in a single-family residence. The property is located on the east side of Ellington Oaks Court, north of Ellington Oaks Drive – Lot 39 of Ellington Place Plat Two as recorded in Book 42 Pages 106-107 at the St. Charles County Recorder's Office, more commonly known as 28 Ellington Oaks Court.

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 405.380: HOME OCCUPATIONS

B. Home Occupations (Residential Districts). Residential home occupations shall be reviewed and approved by the Commission. Said occupations shall meet all contingencies set by the Commission and conform to the following criteria:

1. Only one (1) Home occupation shall be permitted per residence.

Mr. Braunfeld explained that the existing counseling business requires clients to park in the home's driveway to avoid parking conflicts on the street. The proposed publishing business will operate exclusively via computer and on-line with no customers coming to the home. Therefore, traffic generation to the home will not change. In addition, to date there have been no concerns regarding the existing business since it began over two years ago.

The goal of the home based business regulations is to permit residents to run a business from their home such that their neighbors or other casual observers in the neighborhood do not know a business is being operated from a particular home. It is noted that some home-based businesses operate multi-function businesses under the umbrella of a single company. While this may be practical for some businesses the applicant indicated this would not work for their specific circumstances.

In general there have been very few problems with home based businesses and are typically related to outside activity such as equipment cleaning or storage from a lawn business, or child care facility with playground activity and drop-off/pick-up traffic. In this case, the limited number of clients coming to the

home and parking in the driveway has not caused a problem. In addition, the proposed business activity will be exclusively over the internet, phone, or off-site. Given the very limited intensity of the additional use, no problems are expected.

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 use their home in a manner that is consistent with the goal of the City Code, which is to permit a person to operate a business from their home, such that their neighbors or other casual observers in the neighborhood do not know a particular home includes a business. Therefore, by allowing the variance the applicant can achieve full use of the property.

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

If the property owner is not able to operate the second business from their home, in a manner consistent with the goals of the City Code, it will impose a hardship on the owner.

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

It would not be practical for the applicant to operate either business from another location; therefore, the current code does not impose a hardship.

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

The applicant has elected to establish a second business at the property. However, this request is reasonable as it will operate in a manner consistent with the goals of the City Code, which is to not impact the surrounding neighborhood.

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 property would be in harmony with the general purpose and intent of the zoning regulations, since the two businesses can be operated in a manner consistent with the goals of the City Code, which is to not impact the surrounding neighborhood.

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 variance to permit two home occupations in a single-family residence with the following contingency:

1. No customers or employees associated with the online publishing business shall come to the residence.

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 18-H. Mr. Pat Akers, 204 Strayhorn Drive, had general questions about the business and if it was allowed under their subdivision indentures and noted he was not in opposition to the petition. Ms. Dianna Akers, 204 Strayhorn Drive, questioned if it was allowed under their subdivision indentures and said she was not in opposition of the petition. Seeing no one else present to comment, Mr. Jaggi closed the public hearing. Mr. Jaggi also noted that the City cannot enforce subdivision indentures and that it is up to the Homeowners Association to enforce them.

Mr. Kendall made a motion and Mr. Stiens seconded to approve Petition 18-H.

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. Trupiano	Yes

There being 5 yes, 0 no vote, Mr. Jaggi declared that Petition 18-H was approved.

Mr. Trupiano presented the Findings of Fact as follows:

1. The property is located on the east side of Ellington Oaks Court, north of Ellington Oaks Drive – Lot 39 of Ellington Place Plat Two as recorded in Book 42 Pages 106-107 at the St. Charles County Recorder's Office, more commonly known as 28 Ellington Oaks Court.
2. The property is zoned Planned Urban Development (PUD).
3. Adjacent properties are zoned Planned Urban Development (PUD).
4. The City Code permits only one (1) home occupation per residence.

Mr. Stiens 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 18-H 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. Trupiano seconded to enact the Conclusions of Law. The motion carried unanimously.

Mr. Stiens made a motion and Mr. Trupiano seconded to adjourn the meeting at 6:28 p.m. The motion carried unanimously.

Respectfully submitted:



Melissa Vollmer
Recording Secretary



Bill Jaggi
Chairman