

BOA 051514 Minutes
MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR, MISSOURI
MAY 15, 2014

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A regular meeting of the Board of Adjustment of the City of Creve Coeur, Missouri was called to order by Chair Earl Schenberg at the Creve Coeur Government Center, 300 North New Ballas Road, at 7:00 p.m. on Thursday, May 15, 2014. The roll was called: Chair Schenberg, Mr. I. Schenberg, Mr. Becker, Mr. Levy, Ms. Gada and Mr. Mooney were in attendance.

2. ADDITIONS TO-ACCEPTANCE OF THE AGENDA

No additions to the agenda.

3. APPROVAL OF MINUTES

Mr. Schenberg indicated that they used to ask to read the Findings for Law and we pass that each meeting on each issue, so we're not going to be reading that and doing a vote.

A. Draft minutes for the meeting of October 17, 2013. There is a change to the minutes of the October 17th meeting. They were mistyped. The last page was recorded that all voted for, and actually all voted against it.

Chairman Schenberg made a motion to accept the amended minutes of October 17, 2013 meeting. The motion was seconded by Mr. Levy, which unanimously carried.

4. NEW BUSINESS

A. Request for several variances to allow for a 40-square foot sign area, 12-foot tall monument sign located at the property line (zero feet from the public right-of-way) for the Westgate Centre shopping center located at 12320 Olive Boulevard, in the "PC", Planned Community zoning district.

APPLICANT'S REPRESENTATIVE: Jon Krone
Warren Sign Co.
2955 Arnold Tenbrook Road
Arnold, MO 63010

APPLICANT: Tom Stern
Westgate Centre LLC
c/o Solon Gershman, Inc.
7 N. Bemiston Avenue
Clayton, MO 63105

Mr. Ivan Schenberg indicated he was recusing himself due to his wife being a broker at Solon Gershman, Inc. Mr. Robert Mooney (alternate) participated in the hearing.

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7 Reporter Deborah K. McLaughlin swore in all parties
who wished to address the Board.
8 Chair Schenberg indicated that Mr. Ivan Schenberg will
not be able to vote. Consequently, we'll have Mr. Mooney,
9 our alternate, so we have still have five votes.
Procedure here, in order to get a variance passed, you
10 have to have four positive votes.
Mr. Jon Krone, 2955 Arnold Tenbrook Road, indicated
11 they will be the fabricator, installer of this sign. They
have also designed the sign. The sign has been designed
12 with the plaza in mind. They look forward to providing a
quality sign that will be placed in the City of Creve
Coeur.
13 Tom Stern, 233 Brookdale Court, indicated he's lived
in the City of Creve Coeur for 30 years. He is Chairman
14 of Gershman Commercial Real Estate. The firm has been
active in managing and leasing properties in the City of
15 Creve Coeur for more than 50 years.
Mr. Stern indicated Section 405.970 provides
16 variances in the City's sign regulations for practical
difficulties or unnecessary hardship, so long as the
17 spirit of the regulations are observed.
The request is for a level playing field. The
18 ability for tenants to be identified on a monument sign,
just as their competitors in other shopping centers that
19 are zoned Core Business or Mixed Use.
Proposing an additional sign to Westgate that would
20 be 12 feet high and 40 square feet in size, and it's
designed to be very reflective of the design of the rest
21 of the shopping center.
The first question asked in the staff analysis was
22 whether or not we have a condition that's unique to our
property. And that's certainly the case, since only
23 Westgate exists in a planned community development.
The second question was whether or not this provides
24 a unique hardship for us, and he believes the answer is an
unqualified yes.
25 Mr. Stern discussed signs in the area.

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1 Mr. Stern indicated in attendance tonight are two
longterm tenants of Westgate Centre, Mark Waldman of
2 Birkenstock & More and Bruce Layton of Distinctions.
Mr. Becker asked if this is an additional sign in
3 addition to the 25-foot, which will remain. Mr. Stern
indicated that was correct.
4 Mr. Becker asked about the names on the signs. A
discussion was had about the names on the signs.
5 Ms. Whitney Kelly indicated she would like to
correct some errors made by Mr. Stern.
6 Ms. Whitney Kelly indicated that at the time the
applicant's property was considered not to meet the
7 standard for the common sign plan, and we did encourage
him to proceed with a variance, as well as maybe a text
8 amendment to pursue those options to get the sign.
He did not pursue all of his options at that time.
9 In 2012 we revised the sign code in order to address
certain content specific regulations with the Supreme
10 Court, and other court cases have indicated that the City
cannot regulate.
11 Ms. Whitney Kelly indicated to say that he's
significantly harmed, in large part, it is his own

12 hardship that he has created by wanting to maintain the
existing sign.

13 He also says it's the only sign for the entire
14 planning community district, however, as we have
indicated, there are other columns that also identify his
15 at Tempo and Olive. And then there was the sign at
Crosscreek that also, at one point, identified the center,
16 but now is being taken up by the apartment complex down
the road.

17 The fact that the applicant is simply wanting a sign
where he is proposing and maintaining the existing
18 nonconforming sign, he is, in fact, creating the hardship,
and, therefore, does not meet the standard for a variance.

19 Chair Schenberg asked Ms. Kelly if what she was
saying is that some of the examples Mr. Stern showed are
under the old code.

20 Ms. Whitney Kelly indicated that there is no unique
hardship on this property.

21 Mr. Lumley wanted to clarify that what Ms. Kelly was
saying is that the measurement of the setback is from the
22 old right-of-way location, so the signs weren't
necessarily there.

23 Ms. Whitney Kelly discussed typeface.

24 Mr. Stern responded to the City's comments.

25 Mr. Lumley asked Mr. Stern to elaborate further on
setback, to which Mr. Stern did.

Mr. Stern indicated with all due respect, I would
tell you that I'm very disturbed that this is an

1 adversarial situation. It shouldn't be. This should be³
something that should be promoted, and I would speculate
2 that of the 115 signs that Ms. Kelly has approved this
last year that not one of them was a monument sign.

3 Mark Waldman, was sworn in by the court reporter.

4 Mr. Waldman indicated that he lives in Creve Coeur.
He indicated that they have been sitting in Westgate for
15 years, and for 15 years he has heard people say, I have
5 no idea where you're at. We could move into Ladue
tomorrow. I can find something in Olivette. Chesterfield
6 is after us always to move. We're here because I love
Creve Coeur, and I happen to love Westgate.

7
8 City Attorney Carl Lumley offered the following exhibits
into the record on behalf of the City:

- 9 1. City of Creve Coeur Charter.
- 10 2. Code of Ordinances of the City of Creve Coeur.
- 11 3. The Creve Coeur Comprehensive Plan.
- 12 4. Staff's report with the application and all
attachments, material presented by the applicant this
evening.
- 13 5. The public file regarding the application.

14 End of public hearing.

15 Chair Schenberg moved to approve the following variance of
the Westgate Centre Shopping Center located at 12320 Olive
16 Boulevard in the "PC" Planned Community District: A low
monument sign with zero setback from Section 405.950.C.4
For the sign regulation, zoning ordinance requires that
17 such signs must be set back at least 15 feet from the
right-of-way based upon a positive finding that:

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- 18 1. The variance requested arises from the conditions that
are unique for the property in question and not ordinarily
found elsewhere in the same zoning district.
- 19 2. The variance requested are because of unique hardships
not created by the applicant nor the owner of the
20 property.
- 21 3. The granting of the variance will not adversely affect
adjacent property owners nor residents.
- 22 4. The strict application of the sign regulation will
cause severe practical difficulty and extreme hardships
for the property owner represented in the application.
- 23 5. The proposed development will not adversely affect the
public health, safety, order, convenience or general
24 welfare of the community.
- 25 6. Granting the variance will not violate the general
spirit and intent of this chapter.
7. By reason of exceptional narrowness, shallowness or

- 1 shape of specific piece of property, or by reason of
2 exceptional topographical conditions, other extraordinary
3 or exceptional circumstances that the strict application
of the terms and the sign regulations actually create a
4 hardship to the property in a manner dissimilar to that of
other similar situated properties in the city.
- 5 8. Granting the variance will not result in the diversion
of additional storm water that would adversely affect
adjacent properties.
- 6 Mr. Becker seconded the motion, with the resultant vote as
follows:
- 7 Mr. Becker-nay Mr. Levy-nay Ms. Gada-aye
Mr. Moody-nay Chair-nay

- 8
- 9 2. Mr. Schenberg made a motion on the second low monument
10 sign on the property where Section 405.950.C.4 of the sign
regulations provide for only one monument sign on the
property. And referring to those variances. Mr. Becker
11 seconded the motion, with the resultant vote as follows:
- 12 Mr. Becker-nay Mr. Levy-nay Ms. Gada-nay
Mr. Moody-nay Chair-nay
- 13 3. A low monument sign that is 60 feet from the existing
nonconforming sign where Section 405.950.C.4 of the sign
14 regulation of the zoning ordinance requires that the
monument sign be located a minimum of 150 feet from the
15 other ground signs on the same side of the street. Zoning
Administrator may authorize a variance from the separation
16 requirements for good cause for up to 50 lineal feet. And
findings of fact apply as before. Mr. Becker seconded the
17 motion, with the resultant vote as follows:
- 18 Mr. Becker-nay Mr. Levy-nay Ms. Gada-nay
Mr. Mooney-nay Chair-nay

- 19 Chair Schenberg made a motion to direct the staff to
20 prepare and authorize the Chair of the Board, to execute
findings of fact and conclusions of law regarding the
21 variance requests at 12320 Olive Boulevard based upon the
testimony received and the deliberations of the Board on
22 this application as decided May 15th, 2014.
All indicated aye in favor.

23 (A short break was taken.)

24

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1 B. Request for a variance side-yard set-back at 60 Villa⁵
2 Coublay Drive in the A-Single Family zoning district.

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4 APPLICANT: Joseph Hunter
5 60 Villa Coublay Drive
6 Creve Coeur, MO 63141
Reporter Deborah K. McLaughlin swore in all parties who
7 wished to address the Board.

8 The applicant does not appear.

9 A person in the audience indicated that one of the
10 neighbors passed away on Monday.
11 The Alternate trustee indicated they are opposed.

12 Mr. Levy questioned if the applicant isn't present can the
13 meeting still be held. Mr. Lumley indicated the choice is
14 either continue the hearing or null it.

15 Mr. Lumley asked which alternate is not participating.
16 Chair Schenberg indicated Mr. Mooney is not a voting
17 member. Mr. Ivan Schenberg is a voting member.

18 Discussion was had concerning the absence of the
19 applicant.

20

21 Ms. Whitney Kelly indicated the applicant has submitted a
22 request for a variance from a side yard setback in the
23 A-single-family zoning district that requires a minimum of
24 15 feet from his north property line.

25 In 2012, the applicant erected the storage shed or carport
approximately 7 feet or 8 feet from the property line.
In proceeding to get the building permits issued for that,
it required a variance, and that's what we're here
tonight.

The applicant's materials he submitted in support of his
variance request indicated no unique hardship regarding
the property. They were all personally imposed. And
there is nothing unique about the property that would
warrant a variance from the zoning district regulation.

23

24 Chair Schenberg indicated he was out there and noticed
25 that there's a cable in the tree on the north side of that
big pine tree to the north of that carport that runs
diagonally across from the tree to a smaller cedar tree on

1 the west side, and then from the cedar tree on the west⁶
2 side is one of those tie-down ratchet nylon straps
anchored to the building. There's two of those. And my

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3 first question of him was if we have a storm, and pine
4 trees have a tendency to sway in the wind, that's going to
5 pull that right out of the ground and sheet metal fly all
6 over the place. An imminent danger.
7 Ms. Whitney Kelly indicated should the Board approve the
8 variance, they would proceed with issuing a building
9 permit per the drawings and do an inspection.
10 The drawings did not indicate such anchoring cable system,
11 therefore, would ask that he comply with the approved
12 drawings that include engineering indicating that the
13 structure would withstand 90-mile an hour wind loads.
14 Ms. Whitney Kelly indicated that what's before the Board
15 is the side-yard variance request.

16 City Attorney Carl Lumley offered the following exhibits
17 into the record on behalf of the City:

- 18 1. City of Creve Coeur Charter.
- 19 2. Code of Ordinances of the City of Creve Coeur.
- 20 3. The Creve Coeur Comprehensive Plan.
- 21 4. Staff's report with the application.
- 22 5. The public file regarding the application.

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24 Nancy Marino, 297 South Graeser, stated she is in Westwood
25 Place Subdivision, but her property backs Villa Coublay.
26 She strongly opposes granting a variance to allow a
27 building code to a side yard property line. Current rules
28 protect curb appeal and property value, and the beauty of
29 tree-lined streets, and she feels such a structure within
30 7 feet of a property line is an eyesore and has negative
31 impact on many neighbors.

32 End of public hearing

33 Chair Schenberg moved to approve the variance allowing the
34 location of the carport 7 feet from the side property line
35 where 15 feet is required. It's an A-single family
36 residential district based upon a positive finding that:

- 37 1. The variance requested arises from conditions which is
38 unique to the property in question and which not
39 ordinarily found elsewhere in the same zoning district.
- 40 2. The variance requested is because of a unique hardship
41 not created by the applicant nor the owner of the
42 property.
- 43 3. The granting of the variance will not adversely affect
44 adjacent property owners or residents.

45 4. The strict application of the side yard setbacks will
46 cause severe practical difficulty and extreme hardship for
47 the property owner represented in the application.

48 5. The proposed addition will not adversely affect the
49 public health, safety, order, convenience or general
50 welfare of the community.

51 6. Granting the side yard setback variance will not
52 violate the general spirit and intent of this chapter.

53 7. By reason of the lot shape within an A-single family
54 residential zoning district the strict application of the
55 side yard setback requirements will actually create a
56 hardship to the property in a manner dissimilar to that of
57 other similar situated properties in the zoning district.

58 8. And the granting the variance will not result in the

8 diversion of additional storm water that would adversely
affect adjacent properties.
9 Seconded by Mr. Levy.
10 Further discussion was had about voting nay with the
11 provision if there's a reason why Mr. Hunter could not
appear here tonight that the Board would reconsider.
12 Mr. Lumley indicated he could file a new application with
an explanation.
The resultant vote was as follows:
13 Mr. I. Schenberg-nay Mr. Becker-nay Mr. Levy-nay
Ms. Gada-nay Chair-nay
14
15 Chair Schenberg made a motion to direct the staff to
prepare and authorize the Chair of this Board of
16 Adjustment to execute the findings of facts and
conclusions of law regarding the variance requested for 60
17 Villa Coublay Drive based upon the testimony received and
deliberations of the Board on this application as decided
18 this May 15th, 2014. Seconded by Mr. Becker.
All indicated aye in favor.
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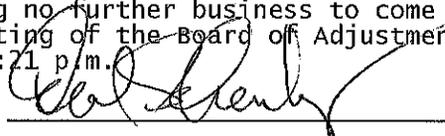
20 5. OTHER BUSINESS

21 None.
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1 6. ADJOURNMENT

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2 There being no further business to come before the
Board, the meeting of the Board of Adjustment was
3 adjourned at 8:21 p.m.

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5 Earl Schenberg, Chairman

6 Produced by: Deborah K. McLaughlin, Court Reporter
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