



# city of CREVE COEUR

300 North New Ballas Road • Creve Coeur, Missouri 63141  
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## BOARD OF ADJUSTMENT OF THE CITY OF CREVE COEUR

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

**APPLICANT:** John King, of Lathrop & Gage, LLP, on behalf of the Applicant, Michael Pepper, of Edwin Pepper & Associates  
**SUBJECT PROPERTY:** 9974 Old Olive Street Road, Creve Coeur, MO 63141  
**ZONING DISTRICT:** GC-General Commercial District  
**APPEAL:** Setback Variance, to wit,

**APPLICANT APPEALS TO THE BOARD OF ADJUSTMENT SEEKING A VARIANCE TO ALLOW A NEW PARKING AREA FOR THE BUILDING LOCATED AT 9974 OLD OLIVE STREET ROAD, CREVE COEUR, MO, 63141 THAT WOULD BE THREE (3) FEET FROM THE PROPERTY LINE ALONG OLD OLIVE STREET ROAD AND FIVE (5) FEET FROM THE PROPERTY LINE ALONG OLIVE BOULEVARD WHERE SECTION 405.360.E.4. MINIMUM FRONT YARD REQUIRES THAT THE PROVISIONS OF SECTION 405.240 SHALL PREVAIL WHERE APPLICABLE ON MAJOR STREETS AND HIGHWAYS THAT IN EVERY INSTANCE, THE FIRST TEN FEET OF THE FRONT YARD SETBACK FROM THE RIGHT-OF-WAY SHALL BE PROVIDED WITH AND MAINTAINED WITH SIDEWALKS, UNLESS IMPROVED SIDEWALK EXISTS IN THE ABUTTING PUBLIC RIGHT-OF-WAY, AND WITH LANDSCAPING INCLUDING, BUT NOT LIMITED TO, DECIDUOUS STREET TREES AT REGULAR INTERVALS.**

**HEARING DATE:** November 17, 2016

### FINDINGS OF FACT

1. The Applicant represents the owners of the property located at 9974 Old Olive Street Road.
2. The City submitted the following exhibits which were admitted into evidence:
  1. City of Creve Coeur Charter.
  2. Code of Ordinances of the City of Creve Coeur.
  3. The Creve Coeur Comprehensive Plan.
  4. Staff's report to the Board, with The Board of Adjustment application and all attachments thereto.
  5. The public file regarding the application.
  6. Public Comments received.
3. The Applicant seeks area variances to allow for a new parking area for the building located at 9974 Old Olive Street Road, Creve Coeur, MO, 63141 that would be three (3) feet from the property line along Old Olive Street Road and five (5) feet from portions of the property line along Olive Boulevard, on property that is being acquired from MoDOT.
4. The variances requested arise from conditions that are unique to the property in question and which are not ordinarily found in the same zoning district, and are not created by an action or actions of the applicant.

5. The strict application of the provisions of the zoning district, from which a variance is requested, will cause severe practical difficulty or extreme hardship for the property owner represented in the application, to wit:

The existing property is non-conforming to lot size, where adequate onsite-parking is not available. The Applicants are under contract to purchase excess right-of-way from the MoDOT, however, the combined lot size would still be non-conforming at 12, 165 square feet, where the minimum lot area for properties in the General Commercial District is 21,780 square feet, and the irregular shape creates a practical difficulty and hardship for the property owner.

6. The proposed variances will not adversely affect adjacent property owners or residents.
7. The proposed variances will not result in the diversion of additional stormwater that would adversely affect adjacent property.
8. The variances desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community.
9. Granting the variances will not violate the general spirit and intent of the Zoning Ordinance.

#### **CONCLUSIONS OF LAW**

10. Pursuant to Section 89.090.1 R.S.Mo. and City Ordinance, the Board of Adjustment has jurisdiction to hear this appeal.
11. The Board of Adjustment is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made in the enforcement or interpretation of the Code, or where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the ordinances.
12. Appropriate notices were authorized and published by the City Clerk and mailed to all the residents and property owners in compliance with the City Code and the documents supporting those are on file with the City Clerk's office.

#### **REPORT OF DECISION**

13. The variance application to allow for a new parking area for the building located at 9974 Old Olive Street Road, Creve Coeur, MO, 63141 that would be three (3) feet from the property line along Old Olive Street Road and five (5) feet from the property line along Olive Boulevard, on property that is being acquired from MoDOT as shown in the materials presented at the meeting of November 17 2016 is granted.
14. Notwithstanding the provisions of Sections 405.360(E)(4)(a) *Minimum front yard*, the property owner may construct the improvements on the area under contract from MoDOT to be combined with the existing property at 9974 Old Olive Street Road as shown on the site plan and other materials submitted with the application, subject to the Planning and Zoning Commission approval of the site development plans and all other applicable laws, ordinances and regulations.

15. The ayes and nays cast on the motion to grant the variance were as follows:

5 AYE                      0 NAY                      \_\_\_ ABSENT

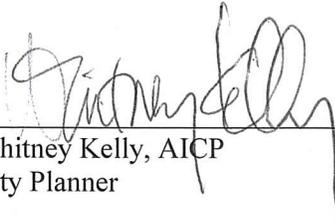
Name:            Mr. Roger Levy            - Aye  
                  Mr. Martin Satz           - Aye  
                  Mr. Ivan Schenberg      - Aye  
                  Mr. Glenn Wilen         - Aye  
                  Mr. Robert Mooney      - Aye

ADOPTED AND APPROVED THIS 17th DAY OF November, 2016.



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Roger Levy  
Chairman



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Whitney Kelly, AICP  
City Planner