



MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
October 20, 2011

A regular meeting of the Board of Adjustment of the City of Creve Coeur, Missouri was called to order by Vice-Chair Rhonda O'Brien at the Creve Coeur Government Center, 300 North New Ballas Road, at 7:00 p.m. on Thursday, October 20, 2011. The roll was called; Mr. Jaffe, Mr. Balk, Mr. Levy, and Mr. Davie were also in attendance.

Mr. Balk was in attendance for Mr. Earl Schenberg who was absent. Mr. Jaffe was in attendance for Mr. John Becker, due to his absence.

Mr. Jaffe made a motion to approve the minutes of January 27, 2011. Mr. Levy seconded the motion, which unanimously carried.

Vice-Chair O'Brien outlined the procedures of the Board of Adjustment, stating that four affirmative votes are required for the granting of a variance.

Reporter Deborah McLaughlin swore in all parties who wished to address the Board.

The Affidavit of Publication was read by Chair O'Brien and marked as an exhibit.

Affidavit of Publication

1. *To consider a variance to allow the structural modification of the house at 302 S. Spoede Road by renovating and creating an addition to the existing building with a legally pre-existing, but non-conforming front yard setback where the required setback is 50 feet in the "A" Single Family Residential zoning district. Section 405.610.D, Nonconformities within Setback Lines, of the City of Creve Coeur Zoning Ordinance states that no such alterations to non-conforming structures are allowed. If granted, the variance will permit the renovation and expansion of the home to include a new family room, garage, and second floor master suite.*

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

1. Creve Coeur Charter
2. Creve Coeur Code of Ordinances
3. Creve Coeur Comprehensive Plan
4. Staff Report prepared by City Staff
5. Application on this matter and all materials submitted with the application
6. Any presentations that may be presented by the City or on behalf of the applicants

Mr. Paul Langdon, Director of Community Development and Staff Liaison, stated that the applicant is seeking a variance to allow the structural modification of the existing home with a pre-existing, non-conforming setback. Mr. Langdon made a presentation on the property showing that the family wants to renovate and add a family living area and garage. Mr. Langdon stated that expansion is not uncommon for this particular area in Creve Coeur.

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Mr. Jaffe asked if the Board was passing judgment on the plan of the house. Mr. Langdon replied that, as a matter of design, the Board is not unless the Board feels there is something inherent in the design that would pose a risk to other properties. Mr. Jaffe then stated he did not feel that the board should be concerned with what is inside the house; that the board's only concern should be allowing them to build on an area where that is not allowed. Mr. Langdon replied that Mr. Jaffe's concern was valid and correct. Mr. Jaffe asked if there was a set of subdivision restrictions what were going to be of concern to the architect. Mr. Paul Fendler, Fendler & Associates, representing the Malinak's as their architect, presented the background of the house. Mr. Fendler stated the house was constructed in the 1940s before there were zoning ordinances on this property. Mr. Fendler also gave a presentation of the surrounding area, on the allowable and non-allowable building areas, and on the encroachment toward Spoede which is not any further than the existing house. Mr. Fendler described the interior renovations the Malinak's would like to make and also explained they purchased the property because it was a family member's home. The Chaminade Park trustees are in full support of the project.

Ms. Betsy Malinak shared some personal history about the property. Chair O'Brien asked if the neighbors had been contacted and Ms. Malinak replied they have and have not received any negative response. Mr. Levy asked about the landscaping and Ms. Malinak replied there will be some landscaping but it will be discussed with the neighbors to make sure it is something they all agree on.

Chair O'Brien made a motion to approve the requested variances allowing the expansion and structural modification of the house within the pre-existing non-conforming front setbacks where such modifications are otherwise prohibited based on positive findings that:

1. The variance requested arises from pre-existing non-conforming lot size that resulted in an unusable building area that is unique to the property in question and which is not ordinarily found elsewhere in the same zoning district.
2. The variance requested is because the City's zoning requirements were imposed after the construction of the house that resulted in an otherwise unbuildable lot not created by the applicant or owner of the property.
3. The granting of the variances will not adversely affect the adjacent property owners or residence.
4. The strict application of the front setbacks will cause severe practical difficulty and extreme hardship for the property owner represented in the application because they will not be able to make any modifications to the home in a manner similar to those in the neighborhood.
5. Allowing the house modifications will not adversely affect the public health, safety, order, convenience or general welfare of the community.
6. Granting the setback variances so the modifications can be built will not violate the general spirit and intent of this Chapter.
7. By reason of an exceptionally small lot within an "A" Single Family Residential zoning district, the strict application of the front setback requirements actually creates a hardship to the property in a manner dissimilar to that of other similarly situated property in the zoning district in which it is located because the owners are unable to modify or replace the house in the same manner and to similar extents as other single-family residential properties in the same district.
8. The proposed variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

Mr. Jaffe asked if the applicant had the ability to modify the design after the board approves a variance, to which Mr. Langdon replied, they are able to modify the design within the variance granted.

Mr. Jaffe seconded the motion, with the resultant vote as follows:

Mr. Jaffe...aye	Mr. Balk...aye	
Mr. Levy...aye	Chair...aye	Mr. Davie.....aye

Chair O'Brien announced the variances are granted.

Vice-Chair O'Brien made a second motion, seconded by Mr. Jaffe, that the Board instruct the Planning Staff to prepare Findings of Fact and Conclusion of Law regarding the variance request for expansion and structural modification within the front yard setbacks at 302 S. Spoede Road based upon the testimony received and the deliberations of the board on this application as decided on October 20, 2011. The motion unanimously passed.

Vice-Chair O'Brien passed the gavel to Mr. Jaffe to conduct the next portion of the hearing related to the second applicant and stepped down from the dais due to a conflict of interest.

The Affidavit of Publication was read by acting Chair Jaffe and marked as an exhibit.

Affidavit of Publication

2. *To consider a variance to allow signs to be placed on the roof at 11050 and 11052 Olive Boulevard where the City of Creve Coeur Sign Regulations Section 405.930(D) prohibit roof signs. If granted, the variance will permit the identification of new tenants within a retail center that will be consistent with the pre-existing, non-conforming roof signage of the other tenants.*

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

1. Creve Coeur Charter.
2. Creve Coeur Code of Ordinances.
3. Creve Coeur Comprehensive Plan.
4. Staff Report prepared by City Staff.
5. Application on this matter and all materials submitted with the application.
6. Any presentations that may be presented by the City or on behalf of the applicants.

Mr. Paul Langdon, Director of Community Development and Staff Liaison, presented the staff report on the property located at 11050-11052 Olive Boulevard. Mr. Langdon explained the pre-existing conditions of the building and stated it was built with the intent of having roof signs. The building has no fascia and it resembles a residential roof. He stated that he believes this is the only building in Creve Coeur with roof signs. The property is truly unique in the eyes of the City. The City Staff explored whether or not the business could use a ground sign but that was not a practical option.

Mr. George Marcher, Solon Gershman, Inc., stated there is no other place to mount the sign and it is important to allow the tenant to identify themselves.

Acting Chair Jaffe made a motion to approve the variance to allow two new signs to be placed on the roof at 11050 and 11052 Olive Boulevard where such signs are otherwise prohibited based upon the positive findings that:

1. The variance requested arises from pre-existing reliance upon roof signs which is unique to the property in question and which is not found elsewhere in the same zoning district
2. The variance requested is because of the unique hardship specifically the reliance upon roof signs that was not created by the applicant nor the owner of the property.
3. The granting of the variance will not adversely affect adjacent property owners or residences.
4. The strict application of the prohibition will cause severe practical difficulty and extreme hardships for the property owner representing the application because they will not be able to identify any tenants in the associated retail space.
5. Allowing the roof signs will not adversely affect the public health, safety, order, convenience, or general welfare of the community.

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6. Granting the roof sign variance for just these two signs will not violate the general spirit and intent of the Zoning Ordinance.
7. By reason of absolute dependence upon the otherwise prohibited form of signage the strict application of the terms of the zoning regulation actually create a hardship for the property in a manner dissimilar to that of other similar situated property in the zoning district which it is located because of the property owner would be unable to provide any opportunity for the business tenant to identify themselves which does not occur in any other inline center elsewhere in this district.
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

Mr. Davie seconded the motion with the resultant vote as follows:

Mr. Balk...aye	Mr. Levy...aye
Acting Chair....aye	Mr. Davie.....aye

Acting Chair Jaffe announced the variance is granted.

Acting Chair Jaffe made a second motion, seconded by Mr. Davie, that the Board instruct the Planning Staff to prepare Findings of Fact and Conclusion of Law regarding the variance request for new roof signage at 11050-11052 Olive Boulevard based upon the testimony received and the deliberations of the board on this application as decided on October 20, 2011. The motion unanimously passed.

Mr. Jaffe turned the gavel back to Vice-Chair O'Brien, who returned to the dais.

There being no further business to come before the Board, upon motion being made and duly seconded, Vice-Chair O'Brien declared the meeting of the Board of Adjustment adjourned at 7:50 p.m.

Attest:

Ms. Rhonda O'Brien, Vice-Chair

Julie Lowery, Recording Secretary