



**MINUTES**  
**BOARD OF ADJUSTMENT**  
**CITY OF CREVE COEUR**  
**MAY 16, 2013**

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, May 16, 2013. The roll was called; Ms. O'Brien, Mr. Becker, Mr. Levy, Ms. Gada and Mr. Davie were in attendance.

Mr. Levy made a motion to move Agenda Item B to Agenda Item A. Mr. Davie seconded the motion, which unanimously carried.

Mr. Becker made a motion to approve the minutes of November 15, 2012 meeting. 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.

**Unfinished Business**

A. None

**New Business**

**A. REQUEST FOR CONTINUANCE TO June 20, 2013. Regarding property at 12550 Olive Boulevard:**

A request for variances to allow seven new parking spaces, six (6) inches from the rear property line at 12550 Olive Boulevard, in the "GC" General Commercial zoning district, where Section 405-360.E.4.d of the Zoning Ordinance requires a landscaped buffer yard of no less than 20 feet in width, and Section 405.540.F.12 of the Zoning Ordinance states that a perimeter landscaped buffer strip shall be provided and maintained at a width of not less than five (5) feet between a parking lot and the property line of abutting property.

Mr. Langdon stated there was a math error in the original site plan and determined that their site coverage also would require a variance. Mr. Langdon said there had to be notification resent and staff suggested it be continued to the next meeting in June.

Ms. Gada motioned to continue the application to the next meeting; Mr. Becker seconded the motion, which unanimously carried.

**B. Regarding property at 10360 Old Olive Street Road:**

A request for several variances to allow a 4-story, 60 foot high, multi-family residential project, with an above ground parking structure, that has a 10-foot side-yard and is 120-125 feet from Olive Boulevard, where:

- Section 405.370(E)(3)(a) requires that properties adjacent to any single-family residential zoning district shall not penetrate the sky exposure plane that is measured 45-feet about grade and 100 feet from the property line and rising at a slope of 30 degrees rising towards the center of the site.
- Section 405.370(E)(4)(d) requires that setbacks for buildings exceeding 3-stories or 45 feet in height shall be increased to 200 feet, with a buffer yard or 50 feet plus 2 feet for every foot of building height over 45 feet, when such building abuts a single family residential zoning district.
- Section 405.370(E)(4)(a) (2) requires that any structure shall be located a maximum of 80 feet from the Olive Boulevard right-of-way.

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- Section 405.470(34)(c) multi-family dwellings (conditional use in the “CB” Core Business district) requires a minimum of 50% of the required parking shall be provided underground or within a basement garage.

Applicant: David Braswell  
Covington Realty Partners  
135 N. Meramec Ave, Suite 500  
St. Louis, MO 63105

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

Mr. David Braswell, Covington Realty, gave a description of the property and used an illustration. Mr. Braswell explained the proposal and how the proposed building sits on the site. Vice-Chair O’Brien asked if the wrapping portion of the building sits on the commercial facing or residential facing portion, and Mr. Braswell stated it would face the commercial side. Mr. Braswell pointed out the amenities and also explained the elevations.

Mr. Davie asked why the garage could not be put underground. Mr. Braswell said the cost was too high for any residential project of this size.

Ms. Gada asked why the Leasing Office could not be put on the opposite side so the view would be better for the residents. Mr. Braswell said the amenities and office would then be on opposite side of the entry point, but he said that it could be done.

Vice-Chair O’Brien asked about better screening on the Carriage House side, so it would look more like a building and not a parking garage. Vice-Chair O’Brien also asked about the rezoning application before Planning and Zoning, and Mr. Braswell stated that application has been continued subject to the outcome of the Board of Adjustment meeting.

Vice-Chair O’Brien asked if Mr. Braswell considered sizing the project down and he replied it is more economically feasible to do the proposed project. Ms. Gada asked what was the average size of the apartment? Mr. Braswell said it was just over 900 square feet and approximately 55% are one-bedroom, 35% are two-bedroom/two-baths and 10% are three-bedroom/3 baths. Mr. Braswell stated they range from 870 square feet up to 1300 square feet.

Vice-Chair O’Brien asked Mr. Braswell to discuss the impact from meeting the sky exposure plane. Mr. Braswell explained how the sky exposure plane works and showed illustrations of the property lines and angles and how it would cut off a large portion of the building.

Mr. Braswell explained the variance for the 200-foot buffer, stating that it will not work because the site is 192 feet wide, so the site is unbuildable under that premise. Mr. Braswell explained a little of the zoning history, explaining in 1999 the City changed the zoning designation on the Carriage House to “AR” Attached Single-family Residential District, which is single-family, prompting all the variance requests. Mr. Braswell said it was originally developed in the “MR” Multiple-Residence District which allowed the density of the Carriage House, at that time, but currently “AR” does not allow that density, so what stands today could not be built today. Ms. Gada asked how the density proposed compares to Carriage House. Mr. Braswell said Carriage House is at 23 units per acre and his proposal is 48.3.

There was some discussion around the Carriage House being blocked from sunlight and shadow effects on the Carriage House and if vegetation would be able to grow and sustain life. Mr. Braswell explained that the Carriage House is setback about 60 feet from the property line and stated there would be some shadow casting onto the building, but the majority of the daytime it would not.

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Mr. Braswell explained the right-of-way purchase and buffer requirement and Mr. Langdon clarified that the purchase of the right-of-way is something that is needed to get the necessary site area, and is not optional for this project.

Vice-Chair O'Brien asked what was the purpose of the 80-foot from Olive Boulevard? Mr. Langdon replied the Core Business District was intended to lead to the development of a more urban form, and over the years the setbacks got shorter and shorter. Mr. Langdon said it was changed in 1997 from a minimum setback to a maximum setback, making the standard maximum 15 feet with an absolute maximum of 80 feet, so the Planning Commission's flexibility was confined to the range from 15-80 with the intent that somewhere in between those numbers there was the right distance to give the right character to the site.

Mr. Braswell went on to describe and explain the plan for the garage proposal. Mr. Braswell stated the requirement asks for 50% of the parking to be underground and that dramatically increases the cost of the project. Mr. Braswell said there will be a connection from each level in the garage to the floor someone lived on, but there will also be elevators. Mr. Braswell also showed where all the mechanical equipment would be located.

Mr. Davie asked if any of the recent development (CityPlace and Plaza Motors) had the same requirements on them. Mr. Langdon replied there was not because the parking garage requirement came out of the effort to discourage multi-family housing, and the underground parking is not a requirement in commercial buildings. Mr. Braswell stated King's Landing got approval for the parking garage through the Board of Adjustment several years ago to be above ground instead of underground.

Ms. Gada asked what hardship would arise from changing the elevation on the east side. Mr. Braswell stated he would look into that.

In closing, Mr. Braswell said he believes his proposal will not adversely affect the community or adjacent property owners and he is also trying to meet some of the needs of the city's Comprehensive Plan.

City Attorney Ed Sluys asked for clarification in regards to the parking structure being cost prohibitive and if there were any characteristics of the land that contribute to being cost prohibitive, like slopes or rocks. Mr. Braswell said no there was not.

Mr. Langdon, Director of Community Development, presented on behalf of the City and explained how circumstances of the application are complicated. Mr. Langdon pointed out that, in the Zoning Code, there are uses still listed under the old SIC code but had been changed two weeks ago to NAICS code, which did not change development standards it was just a nomenclature and numeric change in what number it is assigned. Mr. Langdon also pointed out an important series of historical facts. Most importantly, that the special standards around the Carriage House development, that are leading to two of the variances, were intended for single-family development not multi-family development and that they were only being applied to Carriage House because the City imposed a single-family district on it. This had been done even though it was recognized, at the time, that "AR" was not conforming with the actual development of the land.

Mr. Langdon pointed out that the Planning and Zoning packets had letters in them from Danforth and Wexford encouraging the approval of this project. Mr. Langdon showed an illustration of the slope and pointed out where it sits in correlation with other businesses in the area. Mr. Langdon also showed a visual of King's Landing looking down North New Ballas Road and pointed out the parking garage and how the same affect that is being proposed is achieved at King's Landing.

Mr. Langdon walked through the Findings of Fact with the Board.

Mr. Levy asked if a better approach would be to work on the zoning in the area before bringing this kind of a proposal that requires multiple variances to the Board of Adjustment. Mr. Becker shared the same sentiment, but also hears the need for this type of development, but that the City is not allowing it, so as a committee there is a concern about granting exceptions and the precedent process. Mr. Langdon followed saying that

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with cases like this, the suggestion is that maybe the problem is not the project, it is the zoning with which the applicant is trying to work.

Mr. Robert Wedepohl, 942 Guelbreth, Unit 109, spoke in opposition of the project. Mr. Wedepohl stated he did not want to lose sunlight due to a high-rise building next door.

Ms. Kathleen McClure, 942 Guelbreth, Unit 311, spoke in opposition of the project. Ms. McClure stated she thought the project was too dense, too tall, will bring too much traffic, and it will lower her property value.

Ms. Linda Rezny, 104 Graeser Acres, spoke in opposition of the project.

The Board of Adjustment asked for clarification on the notice procedure after the residents, in attendance, said they did not believe they received any. Mr. Langdon and, after being sworn in, Planning Administrative Assistant, Julie Lowery, also the recording secretary, explained the notification process.

City Attorney Ed Sluys offered the following exhibits into the record on behalf of the City:

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. A collective exhibit of materials received from the applicant.
6. A collective exhibit of materials offered by the opposition, if any (None).
7. All communications and letters received by the City to this point regarding the application.

**End of public hearing.**

Vice-Chair O'Brien moved to approve a variance for a 4-story, 60-foot high, multi-family residential project, with an above ground parking structure, that has a 10 foot side-yard and is 120-125 feet from Olive Boulevard, on the condition that the variance shall only be valid in connection with the rezoning of the property to CB and approval of the requested conditional use permit pursuant to PZ item 13-003, where:

Section 405.370(E)(3)(a) requires that properties adjacent to any single-family residential zoning district shall not penetrate the sky exposure plane that is measured 45-feet above grade and 100 feet from the property line and rising at a slope of 30° rising towards the center of the site, based upon a positive finding that:

1. The variance requested arises from conditions that are unique to the property in question and that are not ordinarily found elsewhere in the same zoning district;
2. The variance is requested because of unique hardships not created by the applicant nor the owner of the property;
3. The granting of the variance will not adversely affect adjacent property owners nor residents;
4. The strict application of the sky-exposure plane requirement will cause severe practical difficulty and extreme hardship for the property owner represented in the application;
5. The proposed development will not adversely affect the public health, safety, order, convenience or general welfare of the community;
6. Granting the sky-exposure plane variance will not violate the general spirit and intent of this Chapter;
7. By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the "CB" Core Business District; and,
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

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

Mr. Becker – nay

Mr. Levy – nay

Ms. Gada – nay

Vice-Chair O’Brien moved to approve a variance for a 4-story, 60-foot high, multi-family residential project, with an above ground parking structure, that has a 10 foot side-yard and is 120-125 feet from Olive Boulevard, on the condition that the variance shall only be valid in connection with the rezoning of the property to CB and approval of the requested conditional use permit pursuant to PZ item 13-003, where:

Section 405.370(E)(4)(d) requires that setbacks for buildings exceeding 3-stories or 45 feet in height shall be increased to 200 feet, with a buffer yard of 50 feet plus 2 feet for every foot of building height over 45 feet, when such building abuts a single family residential zoning district based upon a positive finding that:

1. The variance requested arises from conditions that are unique to the property in question and that are not ordinarily found elsewhere in the same zoning district;
2. The variance is requested because of unique hardships not created by the applicant nor the owner of the property;
3. The granting of the variance will not adversely affect adjacent property owners nor residents;
4. The strict application of the setback and buffer yard requirements will cause severe practical difficulty and extreme hardship for the property owner represented in the application;
5. The proposed development will not adversely affect the public health, safety, order, convenience or general welfare of the community;
6. Granting the setback and buffer yard variance will not violate the general spirit and intent of this Chapter;
7. By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the “CB” Core Business District; and,
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

Ms. Gada seconded the motion, with the resultant vote as follows:

Mr. Becker – nay

Mr. Levy – nay

Ms. Gada – nay

Mr. Davie – aye

Vice-Chair O’Brien - aye

Vice-Chair O’Brien moved to approve a variance for a 4-story, 60-foot high, multi-family residential project, with an above ground parking structure, that has a 10 foot side-yard and is 120-125 feet from Olive Boulevard, on the condition that the variance shall only be valid in connection with the rezoning of the property to CB and approval of the requested conditional use permit pursuant to PZ item 13-003, where:

Section 405.370(E)(4)(a)(2) requires that any structure shall be located a maximum of 80 feet from the Olive Boulevard right-of-way, based upon a positive finding that:

1. The variance requested arises from conditions that are unique to the property in question and that are not ordinarily found elsewhere in the same zoning district;
2. The variance is requested because of unique hardships not created by the applicant nor the owner of the property;
3. The granting of the variance will not adversely affect adjacent property owners nor residents;
4. The strict application of the setback from Olive Boulevard requirement will cause severe practical difficulty and extreme hardship for the property owner represented in the application;
5. The proposed development will not adversely affect the public health, safety, order, convenience or general welfare of the community;
6. Granting the maximum setback from Olive Boulevard variance will not violate the general spirit and intent of this Chapter;
7. By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the “CB” Core Business District; and,

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8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

Ms. Gada seconded the motion, with the resultant vote as follows:

Mr. Becker – aye  
Mr. Davie – aye

Mr. Levy - aye  
Vice-Chair O'Brien - aye

Ms. Gada – aye

Vice-Chair O'Brien moved to approve a variance for a 4-story, 60-foot high, multi-family residential project, with an above ground parking structure, that has a 10 foot side-yard and is 120-125 feet from Olive Boulevard, on the condition that the variance shall only be valid in connection with the rezoning of the property to CB and approval of the requested conditional use permit pursuant to PZ item 13-003, where:

Section 405.470(34)(c) multi-family dwellings (conditional use in the "CB" Core Business district) requires a minimum of 50% of the required parking shall be provided underground or within a basement garage, based upon a positive finding that:

1. The variance requested arises from conditions that are unique to the property in question and that are not ordinarily found elsewhere in the same zoning district;
2. The variance is requested because of unique hardships not created by the applicant nor the owner of the property;
3. The granting of the variance will not adversely affect adjacent property owners nor residents;
4. The strict application of the parking garage requirement will cause severe practical difficulty and extreme hardship for the property owner represented in the application;
5. The proposed development will not adversely affect the public health, safety, order, convenience or general welfare of the community;
6. Granting the underground parking variance will not violate the general spirit and intent of this Chapter;
7. By reason of exceptional narrowness, shallowness or shape of the specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually create a hardship to the property in a manner dissimilar to that of other similarly situated property in the "CB" Core Business District; and,
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

Ms. Gada seconded the motion, with the resultant vote as follows:

Mr. Becker – nay  
Mr. Davie – aye

Mr. Levy – aye  
Vice-Chair O'Brien - aye

Ms. Gada – aye

Mr. Levy moved to direct Staff to prepare the Findings of Fact and Conclusions of Law regarding the variances requested for 10360 Old Olive Street Road based upon the testimony received and the deliberations of the Board on this application, as decided on May 16, 2013.

The motion was seconded with the resultant vote as follows:

Mr. Becker – aye  
Mr. Davie – aye

Mr. Levy – aye  
Vice-Chair O'Brien - aye

Ms. Gada – aye

**OTHER BUSINESS**

None

**ADJOURNMENT**

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 9:34 p.m.

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Attest:

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*Earl Schenberg, Chairman*

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*Julie Lowery, Recording Secretary*