



**MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
OCTOBER 17, 2013**

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, October 17, 2013. The roll was called; Chair Schenberg, Mr. Becker, Mr. I. Schenberg and Mr. Levy, were in attendance.

Mr. Schenberg made a motion to accept the agenda, which unanimously carried.

Mr. Levy made a motion to approve the minutes of June 20, 2013 meeting. Mr. I. Schenberg seconded the motion, which unanimously carried.

Chair Schenberg outlined the procedures of the Board of Adjustment, stating that four affirmative votes are required for the granting of a variance.

Unfinished Business

- A. Approval of the Finding of Facts and Conclusion of Law regarding the property at 12550 Olive Boulevard.

Chair Schenberg motioned to approve the Findings of Fact and Conclusions of Law regarding the variance requested for 12550 Olive Boulevard based upon the testimony received and the deliberations of the Board on this application, as decided on June 20, 2013. Mr. Becker seconded the motion which carried unanimously.

New Business

- A. Regarding property at 450 N. Lindbergh Boulevard:**

A request for a variance to allow a floor area ratio of 0.73 for an assisted living and memory care facility at 450 N. Lindbergh Boulevard, in the "GC" General Commercial zoning district, where Section 405.360.E.3.c of the Zoning Ordinance allows a maximum floor area ratio four-tenths (0.4).

Applicant's Representative: George M. Stock, P.E.
Stock & Associates Consulting Engineers, Inc.
257 Chesterfield Business Parkway
Chesterfield, MO 63005

Applicant: Daniel Thies
Tealwood Acquisitions, LLC
16650 Chesterfield Grove Road
Suite 100
Chesterfield, MO 6005

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

Mr. George Stock, 257 Chesterfield Business Parkway, explained the orientation of the site. Mr. Stock said the proposal is to increase the FAR (floor area ratio) to develop a 75 unit assisted living/ memory care facility. Mr. Stock explained when the application was first applied for the request was for a FAR of .73, based on a building submission made a couple of months ago. Mr. Stock said the building has been refined and the FAR request has been reduced to .67. Mr. Stock showed a picture of the site as it exists and then a picture of the site with the proposed building located on it. Mr. Stock explained the formula used to determine the FAR and what is considered usable and non-usable space within the FAR description. Mr. Stock said the site is zoned "GC" General Commercial and the assisted living and memory care is an allowable use within the district under a conditional use permit. Mr. Stock showed a site plan and explained that the building has not been successful with "GC" office or retail use it has had a high vacancy rate. Mr. Stock said the hardship that exists on the property today was created after the property was zoned and developed and continues to be a hardship for this property and other properties within the district. One of the things being looked at, when trying to develop this property as a sustainable development, is that an assisted living and memory care facility is a destination as opposed to a retail or office space, Mr. Stock said. Mr. Stock said the proposed assisted living facility is low traffic, it will provide more greenspace, and give the entire site stormwater improvements that do not exist today. Mr. Stock showed the site sections and views from neighboring properties.

Mr. Ivan Schenberg asked how many residents a facility at the current would FAR be able to handle. Mr. Stock said it would probably be around 50.

Mr. Ivan Schenberg asked about access from Beaver Drive. Mr. Stock said the original proposal included access from Beaver and Lindbergh, but since they flipped the building, the only access points are off Lindbergh Boulevard.

Mr. Levy asked how many staff would be working on a normal shift. Mr. Stock said 12 maximum on a shift and 25 when there is a shift change.

Mr. Paul Langdon, Director Community Development, went over some procedural aspects of the review. Mr. Langdon said Lindbergh Boulevard is a problem, and there is more disinvestment in the properties along it then anywhere else in the city. Mr. Langdon said they have complaints from property owners that there are no repairs to their problems. Mr. Langdon also said they have spoke with MoDOT and MoDOT has said the median will not be going away. Mr. Langdon asked the Board to consider if increasing the FAR would fix the problems of this site. Lastly, Mr. Langdon said the Comprehensive Plan does not provide guidance for this area.

Mr. Carl Lumley, City Attorney, reiterated to the Board, that the City Council and Planning & Zoning Commission have the tools to address area wide problems by changing the text of the Zoning Code or changing the district. Mr. Lumley said they do not have the tools to address the problems of a specific property with the exception of moving a district. Mr. Lumley said the Board has the tools to deal with a problem that truly applies to a particular property, but does not have the power to change the rules for the whole area. Mr. Lumley said this is not a variance for an assisted living facility; it is a variance for the property.

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Ms. Susan Hibbard, 16 N. Tealbrook Drive, is opposed to the project on this site. Ms. Hibbard is concerned with noise, delivery trucks, emergency vehicles, and increased traffic. Ms. Hibbard is also concerned with sewer back-ups.

Mr. Jeffrey Dickler, 7 Haven View Drive, is opposed to the project. Mr. Dickler is concerned with people in the facility being in jeopardy by living along such a busy street. Mr. Dickler also has concerns with the placement of the trash enclosure.

Ms. Deni Dickler, 7 Haven View Drive, is opposed to the project. Ms. Dickler has traffic concerns and concerns with the Zoning Code changes.

Ms. Sandra Greenberg, 19 Haven View Drive, is opposed to the project. Ms. Greenberg said this project would adversely affect the community because it is oversized.

Ms. Janine Schilders, 18 Haven View Drive, is opposed to the project. She read a letter she submitted for public record.

Ms. Judy Fielder, 34 Tealwood, is opposed to the project. Ms. Fielder said the request is not unique and the variance is the choice of the applicant not created by owner or applicant.

Mr. David Deibel, 27 Beaver, is opposed to the project. Mr. Deibel said it is too close to the residential housing.

Mr. Darrell Mayberry, 31 Tealwood, is opposed to the project. Mr. Mayberry is concerned with the worker-to-patient ratio.

Mr. Elizabeth Callahan, 450 Foxbrook Drive, is opposed to the project. Ms. Callahan said the area is already too busy.

Ms. Mabel Purkerson, MD, 20 Haven View Drive, is opposed to the project. Ms. Purkerson has concerns with safety issues, traffic, the size of the lot, and people being hit by cars.

Mr. Andrew Tessler, 13 Haven View Drive, is opposed to the project. Mr. Tessler said it is an unrealistic project and he has traffic concerns.

Ms. Luella Isbell, 14 Haven View Drive, is opposed to the project. Ms. Isbell thinks a precedent is being set, if the variance is passed. Ms. Isbell is also concerned with the variance carrying over to another business should the proposed project fail. Ms. Isbell has safety concerns for children in the area, too.

Mr. Mike Knight, 20 Beaver Drive, is opposed to the project. Mr. Knight has parking concerns, density concerns, and stormwater concerns.

Mr. Ken Bush, 11 Tealbrook, is opposed to the project. Mr. Bush thinks the site is too small for an assisted living facility.

Mr. Herbert Wiegand, Jr., 18 Beaver Drive, is opposed to the project. Mr. Wiegand said the variance would cause blight; this type of structure would not be useful in the future.

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

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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.
7. All communications and letters received by the City to this point regarding the application.

End of public hearing.

Chair Schenberg moved to approve a maximum floor area ratio of 0.67 at 450 N. Lindbergh Boulevard where 0.4 is the maximum allowed in the "GC" General Commercial district, based upon a positive finding that:

1. The variances requested arise from conditions that are unique to the property in question and that are not ordinarily found elsewhere in the same zoning district;
2. The variances requested are because of unique hardships not created by the applicant nor the owner of the property;
3. The granting of the variances will not adversely affect adjacent property owners nor residents;
4. The strict application of the provisions of the Zoning Ordinance, from which a variance is requested, will cause severe practical difficulty or 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 variance desired 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 zoning district in which it is located.
8. Granting the variance will not result in the diversion of additional stormwater that would adversely affect adjacent property.

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

Mr. I. Schenberg – nay
Chair – nay

Mr. Becker – nay

Mr. Levy – nay

Chair Schenberg moved to approve the Findings of Fact and Conclusions of Law as prepared by Staff regarding the variance requested for 450 N. Lindbergh Boulevard based upon the testimony received and the deliberations of the Board on this application, as decided on October 17, 2013. Mr. Becker seconded the motion with the resultant vote as follows:

Mr. I. Schenberg – aye
Chair – aye

Mr. Becker – aye

Mr. Levy – aye

OTHER BUSINESS

None

ADJOURNMENT

There being no further business to come before the Board, upon motion being made and duly seconded, Chair Schenberg declared the meeting of the Board of Adjustment adjourned at 8:45 p.m.

Attest: *Earl Schenberg, Chairman*

Julie Lowery, Recording Secretary