

MINUTES

BOARD OF ADJUSTMENT  
CITY OF CREVE COEUR, MISSOURI  
MAY 21, 2015

A regular meeting of the Board of Adjustment of the City of Creve Coeur, Missouri was called to order by Chairman Earl Schenberg at the Creve Coeur Government Center, 300 North New Ballas Road, at 4:00 p.m. on Thursday, May 21, 2015. The roll was called: Mr. Ivan Schenberg, Mr. Roger Levy, Chairman Earl Schenberg, Mr. Martin Satz and Mr. Robert Mooney were in attendance. Also in attendance: Mr. Paul Langdon, Ms. Whitney Kelly, Mr. Helmut Starr, Ms. Jessica Stutte and Deborah McLaughlin.

2. **ADDITIONS TO-ACCEPTANCE OF THE AGENDA**

There were no additions or changes to the agenda.

3. **APPROVAL OF MINUTES**

Mr. Robert Mooney made a correction to the Board of Adjustment minutes of April 16, 2015. Page 3, "Moon" should be "Mooney".

Mr. Satz made a motion to accept the Board of Adjustment minutes for April 16, 2015 as amended.

Mr. Roger Levy seconded the motion.

All stated aye to approve the minutes.

The minutes were approved.

4. **NEW BUSINESS**

Variance to allow site coverage of up to 31%, where Section 405.250(E)(2)(e) limits properties zoned A-Single Family Residential to a maximum site coverage of 25%. The request would allow an addition to the home consisting of a new outdoor covered patio without having to remove existing coverage elsewhere. Residential Site Coverage is defined as the area of a residential lot covered by impermeable surfaces including, but not limited to, the main building, accessory buildings, patios and driveways, but not including landscaped areas, swimming pools, spas or sidewalks or pool decks of four (4) feet or less in width.

Applicant: Joe Litvag  
3 W. Windrush Creek  
Creve Coeur, MO 63141

Mr. Litvag indicated they would like the opportunity to enhance the quality of living and quality of our property, thus, enhancing the property values for all the properties around us.

As you all are aware, and I've learned, this has been a great education process for me, our property is zoned A-Single Family Residential, which, as I understand it, initially intended to apply to properties that are at least 1 acre in size.

Our lot size is a little bit less than half an acre, yet we are being held to the same standard, hence, the request for our variance.

Mr. Litvag indicated they want to build an outdoor living space. All of the neighbors are in favor of the plan.

Mr. Litvag indicated he believes the plan meets all the criteria. It does arise from a condition that is somewhat unique and not ordinarily found in the same zoning district. It's because of a unique hardship not created by myself and my family. It will not adversely affect any adjacent property owners or residents. The application of zoning ordinance will cause hardship for us because, quite simply, if the variance isn't granted, we can't move forward with our project to improve this property. It, obviously, will not affect the safety, convenience or welfare of the community, and he doesn't believe it violates the spirit because that was specifically designed for larger properties of which his property is not.

Mr. Litvag doesn't feel his application will set a precedent.

Ms. Kelly indicated the applicant does not meet the standard that this is a unique property outside of his 3 acres. Ms. Kelly indicated that the City is recommending denial.

Mr. Levy made a motion that should the applicant be able to present a plan that would not increase the site coverage they now have, that this committee would approve that. The motion was seconded by Mr. Ivan Schenberg. Chairman Schenberg, Mr. Ivan Schenberg and Mr. Roger Levy voted aye. Mr. Robert Mooney and Mr. Martin Satz voted nay.

Clarification was made by Mr. Langdon on what the motion and vote are.

Mr. Martin Satz made a motion that we change the verbiage on the application as presented to state that we move to approve a variance for 3 West Windrush Creek allowing a 29 percent site coverage, where 25 percent is the maximum required in the A-Single Family Residential District to

allow the construction of an outdoor living area based upon a finding that, and then we leave the following eight items alone, and this motion is to change that number from 31 to 29 percent. Mr. Ivan Schenberg seconded the motion. All voted aye.

Chairman Schenberg moved to approve the variance for No. 3 Windrush Creek allowing a 29 percent site coverage where it's now 25 percent is the maximum required under A-Single Family Residential District to allow construction of an outdoor living area based upon the positive finding that, one, the variance requested arises from condition which is unique to the property in question, and which is not ordinarily found elsewhere in the same zoning district; two, the variance requested is because of a unique hardship not created by the applicant nor the owner of the property; three, granting the variance will not adversely affect adjacent property owners or residents; the strict application to the site coverage will not cause severe practical difficulties and extreme hardship to the property owner presented in the application; the proposed addition will not adversely affect the public health, safety, order, convenience or general welfare of the community; granting the site coverage variance will not violate the general spirit and intent of this chapter; by reason of the lot shape within the A-Single Family Residential District, the strict application of the requirements actually creates a hardship to the property in a manner dissimilar to that of other similarly situated properties in the zoning district; and granting a variance will not result in diversion of additional storm water that could adversely affect the property. The motion was seconded by Mr. Ivan Schenberg.

Mr. Helmut Stutt, City Attorney, entered into the record, the Charter of the City of Creve Coeur, the City's Code of Ordinances, the City's Comprehensive Plan, the staff report, the application and materials submitted by the applicant, together with the photographs and the letter of support that he submitted today, as well as the email from Mark Bronson dated Monday, May 18th to Paul Langdon and the Commission, and the public file regarding the application.

The resultant vote is as follows:

Mr. Ivan Schenberg-aye	Mr. Levy-aye	Mr. Satz-aye
Mr. Mooney-aye	Chairman Schenberg-aye.	

Chairman Schenberg moved to direct the staff to prepare and authorize the Chair of the Board of Adjustment to

execute the findings of fact and conclusions of law regarding the variance requested for 3 Windrush Creek based on the 29 percent rather than 31 percent. Upon the testimony received and the deliberations to the Board on this application decided May 21st, 2015. All voted aye.

5. **OTHER BUSINESS**

B. Variance requests to allow a building setback of 25 feet, where Section 405.370(4)(a) Maximum front yard requires that a minimum of 50 percent of the building elevation parallel to the street right-of-way shall be located a maximum of 15 feet from the right-of-way in the CB (Core Business) District.

Applicant: Vanchi Properties LLC  
844 N. New Ballas Road  
Creve Coeur, MO 63141

Attorney John King spoke on behalf of the applicant. Mr. King indicated that what has happened at this location is that Dr. Jacobs bought the lot and soon discovered, after purchasing the lot and meeting with the planning staff, that he had an easement problem located on the west side of the property along Rue De La Banque and New Ballas. Laclede Gas and the utilities company had filed an easement along Rue De La Banque from the street, and that was a 10 foot easement along this west side of property.

This easement was abandoned by everybody but Laclede Gas. All the other utilities abandoned the easement. Laclede Gas left their easement in, and it's right adjacent to the 15 foot setback line. They informed us that they would not move that easement, and that we should not be building adjacent to the easement because it could be a dangerous situation to try to build next to the gas line on the west side of the property.

So what we are asking for is the 10 foot variance, so that we are actually 25 feet from the property line instead of 15 foot. We're asking for a 10 foot variance along the side of the building.

Mr. Langdon indicated the applicant meets the requirements for the variance.

Mr. Helmut Stutt, City Attorney, entered into the record the Charter of the City of Creve Coeur, the City's Code of Ordinances, City's Comprehensive Plan, the staff report, the application and materials submitted by the applicant, the letter from Laclede Gas, and the public file regarding the application.

Chairman Schenberg moved to approve a variance to allow a

building setback of 25 feet where Section 405.370(4)(a) maximum front yard required a minimum of 50 percent elevation parallel to the street right-of-way shall be located maximum 15 feet from the right-of-way in Core Business Zoning District based upon the positive findings: One, the variance requested arises from a condition which is unique to the property in question, which is not ordinarily found elsewhere in the same zoning district; the variance requested is because of unique hardship not created by the applicant nor the owner of the property; the granting of variance will not adversely affect adjacent property owners or residents; the strict application of front yard setback will cause severe practical difficulty and extreme hardship for the property owner presented in the application; the proposed addition will not adversely affect the public health, safety, order, convenience or general welfare of the community; the granting the setback variance will not violate the general spirit and intent of the chapter; that by reason of the lot shape of the Core Business Zoning District, the strict application of the setback requirements actually create a hardship to the property in a manner dissimilar to that of other similarly situated properties in the zoning district; and granting the variance will not result in diversion of additional storm water that would adversely affect adjacent property.

Motion was seconded by Mr. Robert Mooney. There being no further discussion, the resultant vote was as follows:

Mr. Ivan Schenberg-aye      Mr. Levy-aye      Mr. Satz-aye  
Mr. Mooney-aye              Chairman Schenberg-aye

Chairman Schenberg made a motion to direct the staff to prepare and authorize the Chair of the Board of Adjustment to execute findings of fact and conclusions of law regarding the variance request of 844 North New Ballas based on the testimony received, the deliberations of the Board on this application decided May 21st, 2015.

Mr. Levy seconded the motion. All voted aye.

6. **ADJOURNMENT**

There being no further business to come before the Board, Chairman Schenberg moved to adjourn. Mr. Levy seconded the motion. All voted in favor of adjourning the meeting. The Board of Adjustment meeting was adjourned at 4:54 p.m.

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Earl Schenberg, Chairman

Produced by: Deborah K. McLaughlin, Court Reporter,