

MINUTES

BOARD OF ADJUSTMENT
CITY OF CREVE COEUR, MISSOURI
FEBRUARY 18, 2016

A regular meeting of the Board of Adjustment of the City of Creve Coeur, Missouri was called to order by Chairman Roger Levy at the Creve Coeur Government Center, 300 North New Ballas Road, at 4:00 p.m. on Thursday, February 18, 2016. The roll was called: Chairman Roger Levy, Mr. Ivan Schenberg, Mr. Glenn Wilen and Mr. Robert Mooney were in attendance. Also in attendance: Mr. Jason Jaggi, Ms. Whitney Kelly, Mr. Carl Lumley, Ms. Jessica Stutte and Deborah McLaughlin.

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

Accepted.

3. **APPROVAL OF MINUTES**

Approval of December 17, 2016 minutes.

Mr. Mooney moved to approve the minutes.

Mr. Schenberg seconded the motion.

All voted aye to accept the minutes.

4. **NEW BUSINESS**

1. Variance Request to Allow for Two Wall Signs with a Combined Total of 71.53 Square Feet for Total Access Urgent Care in the Tenant Space Addressed as 10923 Olive Boulevard.

Mr. John King indicated he is representing Dr. Matthew Bruckel. Mr. King indicated they are here this evening to ask for an additional sign, and we think that it is very important to the Petitioner that this sign be granted on the east side of the building for westbound traffic. This is an emergency care center. Many people, which I did not know and recently learned, are brought to the clinic, not only by their relatives, friends, for an emergency situation, but ambulance, also emergency vehicles, also stop at this location.

The speed limit on Olive Street Road is 40 miles an hour at this location, and we think it's a matter of public safety, because of the speed on the Olive Street Road, and because of the fact that there is no sign or nothing when you're headed west on the east side of the building that you can locate to be able to stop at the Total Access

building.

Dr. Matthew Bruckel gave the Board some background information on himself and his company. Dr. Bruckel talked to the Board about his desires for signage.

Matt Hrdlicka, Excel Signs & Design, talked about the proposed signage.

Ashley Williams, Director of Communication for Total Access Urgent Care, gave the Board some information about the company and talked about the need for the signage they are proposing.

Whitney Kelly, City Planner, indicated to the Board that any variance requires unique circumstances. It has to be something so unique to the property that you can't make the same standards that everyone else is allowed. The applicant's use is permitted within the City, therefore, the use is not in question, and the Zoning Code and the Sign Ordinance cannot distinguish between individual uses. In fact, we have received several phonecalls for the location of up to two to three more urgent facilities along Olive Boulevard within the City.

By granting this applicant a variance, you would, therefore, be granting him an advantage that any other applicant would not be able to receive under the code. Their distinction that the sign is so small that it is invisible from Olive Boulevard is not accurate in that the property owner has received approval of a sign that would actually increase the sign area to increase it to go up to 8 feet tall over its current 6 feet in height.

The applicant has not provided any information that they're so harmed or there's something so unique about the property that any other person along Olive Boulevard would be allowed the same.

The location of utility poles is a common element throughout Olive Boulevard, and that is not a reason for a variance.

Therefore, we recommend denial.

Dr. Bruckel indicated a few clarifications. He clarified that Whitney indicated that the new monument sign, which is not yet built, is 8 feet tall. The usable functional square footage for our business actually doesn't change at all. The sign itself is 5 feet tall and our portion of the sign is 21 inches tall and our letters are allowed to be 12 inches tall.

Ms. Kelly clarified that the City is under Supreme Court requirement. The City is not allowed to regulate content, so whether you allow this tenant square footage, it can say whatever they wish to say.

Chairman Levy stated: I move to approve the variance for

the commercial tenant space at 10923 Olive Boulevard within the Shops at Westchase Shopping Center to allow for a second sign area of the 24.3 square feet wall sign on the south elevation, in addition to the 50 square foot wall sign allowed under Section 405.950.B.1 of the City's Sign Regulations, based on the following findings of facts:

The variance requested arise from conditions that are unique to the tenant space and property in question and that are not ordinarily found elsewhere in the same zoning district;

The variances requested are not [sic] because of unique hardships not created by the applicant nor the owner of the property;

Granting the variance will not adversely affect adjacent property owners nor residents.

4. The strict application of the Sign Regulations will cause severe practical difficulty and extreme hardship for the property owner represented in the application;

5. The proposed sign will not adversely affect public health;

6. Granting the variance will not violate the general spirit and intent of this chapter;

7. By reason of the exceptional narrowness, shallowness or shape of the specific piece of property, or reason for exceptional topographical conditions or extraordinary or exceptional circumstances that the strict application of the terms of the Sign Regulations will create a hardship to the tenant space and property in a manner dissimilar to that of other similarly situated property in the City; and,

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

Chairman Levy inquired if anybody on the Board wished to amend or modify the application at this point in time.

The Chairman was asked to restate No. 2.

Chairman Levy restated: The variance requested are because of unique hardships not created by the applicant nor the owner of the property.

Chairman Levy asked for a second. Mr. Satz seconded the motion.

Chairman Levy called for a vote.

Mr. Satz-nay Mr. Schenberg-nay Mr. Wilen-nay

Mr. Mooney-nay Chairman Levy-nay

Chairman Levy moved 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 requested at 10923 Olive Boulevard based upon the

testimony received and the deliberations of the Board on this application, as decided on February 18, 2016. Mr. Satz seconded the motion. All indicated aye.

2. Variance Request to Allow for a Forty-Five Feet Front-Yard Setback Along Mosley Hill Drive for the Property Addressed as 210 Mosley Road.

Lauren Strutman of Lauren Strutman Architects indicated to the Board that she is the architect hired by Mark Mehlman to design a home for this very unique lot. This lot has an extremely unique shape, 100-foot wide along Mosley Road and about 441 feet long. Additionally, there's a considerable slope on the lot, about 34 feet of fall going from west to east on the property. If we designed the home with the front door facing Mosley Road, due to the slope on the lot, we would end up with a long, skinny house, not in keeping with the area, and the garage doors would dominate the front facade facing west towards Mosley Road. We decided to design the home with the front door facing Mosley Hill, and the driveway entry off Mosley Road, which is a much quieter street and a more desirable location for the driveway than on the corner of Mosley and Mosley Hills coming off Mosley Road. We designed a home that was only 35 feet from front to rear, so we're not asking for a variance to create a bigger house. We're asking for a variance just to have a little bit more backyard, five more feet of backyard, so it would be a total of 20 feet.

Ms. Strutman indicated the homes in the area have very large backyards. We have looked at the County tax records, and I put on the application the average house in Mosley Hills has 134 feet in the backyard. We're asking for 20. I think it's based on the unusual lot shape and two front yards. That's our hardship. And I would call this a special situation, as the Chairman mentioned at the beginning of the meeting.

Mark Mehlman, the applicant, gave some of his history and background. Mr. Mehlman indicated we're trying to be flexible, and we're asking you all to, again, be as flexible. I don't think this sets any precedent whatsoever. I think the uniqueness of this lot stands alone. You look at all the other homes over there, it's unique to this zoning district. It is something that you have the right at any time that anybody would come before you again to say no. This is a very, very, very unique

situation, and I hope that you can see that.

Mr. Mehlman indicated when we came back and we met a second time with Whitney and Jason, the first comment was, I think this is great, I think you really made some strides to make some changes, and let's hope that we can get it through. Then all of a sudden we're still hoping we can get it through, but in reading the report, they said we could still build it the way it was. We're asking for 5 feet. We're asking for flexibility on your all's part. I don't think it's asking very much to be building such a gorgeous home, and I do think it's unique to this lot, and it doesn't have to set a precedent. So with that being said, I want to thank you all very much.

Mr. Schenberg inquired if Mr. Mehlman talked to the trustees in the subdivision. Mr. Mehlman indicated not only did he talk to the trustees of the subdivision, he sent a letter out to the trustee, who in turn circulated it throughout the whole neighborhood. We also talked to the home immediately to the south, and there's a flat lot immediately behind the home just to the south. So we went and presented everything to them. Asked them if they had any questions, to please call me. There's been no calls, no questions whatsoever, we're welcomed. The trustee is Barry Scherer (phonetic), who has circulated around to every resident over there, not only has he not heard anything, we've been asked to join their subdivision, and we think it's appropriate, and we look very much forward to being a part of Mosley Hills. So, again, we hope that you can find, again, some flexibility and consider our variance request.

Whitney Kelly, City Planner, indicated that as you're aware any variance request requires unique circumstances, and while the lot is unusually narrow, it is the applicant's design decisions that are the basis of the request. And simply placing the house 5 feet back, it would not require a variance or a redesign of the home to better utilize the rear area back here would provide them with a rear yard that they are seeking, and, therefore, we don't recommend approval.

Mr. Satz inquired of Ms. Kelly that when you refer to the front yard setback, that refers to the front yard setback of the existing structure, the old structure, from Mosley? Ms. Kelly indicated that, no, the front yard setback is that area which is along any street of right-of-way, so it's the front yard setback along Mosley Road of 50 feet and along Mosley Hill Drive of 50 feet.

Chairman Levy inquired if there are any modifications that could make to the house that would still allow to have backyard setback. Mr. Mehlman indicated there's no modifications. We can't make the home any skinnier in the

middle. So with that being said, again, I just want to re-emphasize that when we met the first time and the second time, we all sat down, all of us together, we said let's come up with something that's going to work here, and we looked at some other districts, and these other districts were B and C District. And when we came back, the comment was, gosh, that doesn't seem that's being very fair. I didn't want to ask for 35-foot front yard setback, but give me a 30-foot rear yard setback, which would have been that much better, I thought I was really trying to be fair and only asking for 5 feet. And, again, thinking that this is such a unique situation, I can't believe that by granting us a variance it's going to throw up people coming in all the time. You still will have that right to turn someone down. This is a unique lot, and it stands on its on, and getting 5 feet would be very, very helpful to the sale of this home.

Chairman Levy moved to approve a variance to allow for a 45-foot front yard setback for the property addressed 210 North Mosley Road, where the required in the A Single-Family Residential District is 50 feet, based upon a positive fact that;

1. 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;

2. The variance requested is because of a unique hardship 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 residents;

4. The strict application of the front yard setback will cause severe practical difficulty and extreme hardship for the property owner represented in the application;

5. The proposed addition will not adversely affect the public health, safety, order, convenience or general welfare of the community;

6. Granting the setback variance will not violate the general spirit and intent of the Chapter;

7. By reason of the change of setbacks after construction, the strict application of the setback requirements actually creates a hardship for the property in a manner dissimilar to that of other similarly situated property in the zoning district; and,

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

Chairman Levy inquired if anybody wished to modify any of the motion. There being no modifications, Chairman Levy

asked for a second for the motion. Mr. Schenberg seconded the motion. Chairman Levy called for a vote.

Mr. Satz-aye Mr. Schenberg-aye Mr. Wilen-no

Mr. Mooney-no Chairman Levy-aye.

Chairman Levy moved to direct the Staff to prepare and authorize the Chairman of the Board of Adjustment to execute Findings of Fact and Conclusions of Law regarding the variance requested for 210 Mosley Road based upon the testimony received and the deliberations of the Board on this application, as decided February 18th, 2016. In the event of a negative vote, it would be helpful to identify the factor or factors which prompted such a vote, which I think we've already done.

3. Variance Request to Allow for a New Front Porch to Project Up to Approximately Five Feet into the Front Yard Setback for the Home at 10672 Country View Drive.

Mr. Lumley indicated that he has previously done legal work for the Scheipeter Corporation. It's been at least two or three years, and he does not have a present conflict of interest.

Jeff Hyatt with Trio Creative indicated that Trio Creative is the architect of record on the project.

Mr. Hyatt indicated the variance that's being requested is for the front porch. In this particular subdivision, a quick drive-through, there are 19 homes between the front street past the park back to the main cul-de-sac. In those 19 homes, four of those homes are newer homes, not built at the same time as the rest of the subdivision; three of those have a porch of a similar size, constructed to zoning code that allows them to have the porch of that size. The fourth of the newer design does not include a covered front porch, but it would appear that the house has the ability to have it, based on the projections on the front elevation that they could have a similar porch. The remaining 14, 15 homes, there are only three or four that do not have a porch of significant cover. There are two others of, essentially, the same floor plan, very similar front elevation, that do not have a front porch. No way to know without doing surveys whether or not they have the ability to do a porch like what's being proposed or not.

So our columns that are being proposed, and actually the notes say 3 foot 11, but it would actually be about 3 foot 5 because that building line is 6 feet off of the front of the house. So where those columns would be would actually be just under 3.5 feet versus closer to 4. So, again, the porch, the slab on its own, would meet the

zoning requirements. The overhead structure, on its own, would meet the zoning requirements. The issue is how do we support it.

Ms. Kelly indicated, as the applicant has indicated, the home is existing, and it's at the setback. The need for a covered entryway is what is prompting a variance request, and since the porch is not creating additional living space into the setback, and it's consistent with that that is allowed for the structural overhang, an unenclosed porch, per the yard regulations, staff recommends approval.

Chairman Levy moved to approve a variance allowing for the front porch addition with the porch structure approximately 4 feet into the front yard setback for the home at 10672 Country View Drive. 50 feet is the minimum required in the A Single-Family Residential District, based upon a positive finding: That,

1. The variance requested arises from a condition which 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 of a unique hardship not created by the applicant nor the owner of the property;

3. Granting the variance will not adversely affect adjacent property owners or residents;

4. Strict application of the front yard setback will cause severe practical difficulty and extreme hardship for the property owner represented in the application.

5. Proposed addition will not adversely affect the public health, safety, order, convenience or general welfare of the community;

6. Granting the setback variance will not violate the general spirit and intent of this Chapter;

7. By reason of the lot shape within the B Single-Family Residential zoning district, the strict application of the setback requirements actually creates a hardship to the property in a manner dissimilar to that in other similarly situated property in the zoning district; and,

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

Mr. Schenberg seconded the motion. All indicated aye. Chairman Levy moved to direct the Staff to direct and authorize the Chairman of the Board of Adjustment to execute Findings of Fact and Conclusions of Law regarding

the variance requested for 10672 Country View Drive based upon the testimony received and the deliberations of the Board in this application, as decided on February 18th, 2016.

5. **OTHER BUSINESS**

None.

A person approached and indicated that I'm with Total Access Urgent Care. I'm Jake. I just wanted to thank you for your time. I know things got a little passionate for a second. I know we are all really busy and have other things to do. We're really glad to be coming to Creve Coeur. It's, obvious, Creve Coeur takes its standards very seriously. We take our standards very seriously. We work really hard and we care a lot. And we look forward to coming to this great city.

6. **ADJOURNMENT**

There being no further business to come before the Board, Chairman Levy moved to adjourn. Mr. Satz seconded the motion. All voted in favor of adjourning the meeting. The Board of Adjustment meeting was adjourned at 5:40 p.m.

Roger Levy, Chairman

Produced by: Deborah K. McLaughlin, Court Reporter.