

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
APRIL 10, 2008

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 7:02 p.m. on Thursday, April 10, 2008.

Upon a request for Roll Call, the following members responded:

Mr. Earl Schenberg, Chair
Mr. Ted Brown, Vice Chair
Mr. Roger Levy
Mr. John Becker
Mr. Ken Balk, alternate (arrived late)

Mr. Levy made a motion, seconded by Mr. Becker, to approve the minutes of a regular meeting of February 21, 2008. With no corrections being heard, the minutes were approved.

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

Chair Schenberg requested all parties who wished to address the Board be sworn in. Whereupon, all parties to be heard were sworn in by Court Reporter Deborah McLaughlin.

The Affidavits of Publication were read by Chair Schenberg and marked as exhibits.

Affidavits of Publication

1. To consider the appeal of Scott Family Properties for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 11500 Olive Boulevard. Section 26-43.5(c)(2) *Maximum site coverage*. This section states that “the amount of gross site area covered by buildings and structures, surface parking, pavement for automobile circulation or permitted exterior business services, storage, merchandise display, repair or processing shall not exceed sixty-three per cent (63%) of the site.” The applicant is requesting a variance to allow for a maximum of 78% site coverage.
2. To consider the appeal of Udell and Delishia Hyde for the following variance request in Ordinance No. 1903, the Zoning Code, for the property located at 4 West Windrush Creek. Section 26-30.5(c)(1) *Yard and setback requirements*. This section requires the minimum front yard setback for any parcel in the “A” Single Family Residential District by fifty (50) feet. The applicant is requesting a variance to allow for the construction of a new home approximately thirty (30) feet from the rear-facing lot line/right-of-way of Graeser Road.

Scott Family Properties - City Attorney Lumley said that the City and the Applicant, Scott Family Properties, have agreed to continue this matter to the next Board meeting. Mr. Lumley felt, in all likelihood, that the variance request would be withdrawn by then, but he wanted to be safe and continue it. There was no opposition.

Udell and Delishia Hyde - Mr. Hurlbert, City Planner and Economic Development Administrator, gave a brief report on the request of Udell and Delishia Hyde for a zoning variance from the regulation of Section 26-30.5(c)(1) *Yard and setback requirements* per the Creve Coeur Zoning Code for the property at #4 West Windrush Creek. This property is a .43 acre site situated between West Windrush Creek and Graeser Road and, therefore, has double frontage requiring 50 foot front yard setback on the east and west sides of the lot. This results in the lot being squeezed on two sides and does not provide as large a building area typical in this neighborhood. Mr. Hurlbert pointed out that since 1999, eight of the fifteen homes have been torn down and rebuilt. This structure was built around 1953 and consists of approximately 1,600 square feet of living area. This property is zoned "A" Single Family Residential District, which requires a one-acre minimum lot size, but was legally platted prior to the adoption of the existing zoning ordinance, making it a legal nonconforming lot. The applicant is intending to demolish the existing home and is requesting a variance to allow for a new, larger home with a 30 foot setback from Graeser Road.

The City submitted the following exhibits entered into the record:

1. City of Creve Coeur Charter.
2. Code of Ordinances of the City of Creve Coeur.
3. The Creve Coeur Comprehensive Plan.
4. The Board of Adjustment application and all attachments thereto.
5. The report by Staff dated April 10, 2008.
6. A collective exhibit of any materials received from the applicant.
7. A collective exhibit of materials offered by the opposition, if any.
7. All communications and letters received by the City to this point.

Mr. Hurlbert stated he was available to answer any questions concerning this variance request.

Chair Schenberg stated, since Mr. Balk has not arrived yet, he felt it only fair to stop at this moment and explain to the applicant that they need the approval of the four members present. He gave the applicant the choice to continue this evening or to continue to the next meeting. The secretary left the meeting to place a call to Mr. Balk, who informed her that he is on the way.

While awaiting Mr. Balk, a brief discussion concerning the application and the neighborhood was held between the Board members and Mr. Hurlbert.

Upon Mr. Balk's arrival, Mr. Hurlbert stated that he had summarized his report that the members received in their packets and asked Mr. Balk if he had any questions. Mr. Balk had no questions.

Mr. Barry Glantz, President of Glantz and Associates Architects, represented Udell and Delishia Hyde. He agreed with Mr. Hurlbert's comments and summary. Mr. Glantz stated that West Windrush Creek is a very unique subdivision in the City of Creve Coeur. His clients are planning to tear down their existing house and would like to rebuild an approximate 4,200-4,300 square-foot, story-and-a-half house on the same property that is commensurate with many of the new homes being built in the area. He explained that when they applied for a building permit, the application was denied because the plan encroached upon the 50-foot setback line to Graeser. Mr. Glantz said they will not encroach on the 50-foot front yard setback line on West Windrush Creek. He pointed out that their lot is smaller than the other lots in the subdivision that have been redeveloped and said even though their lot size is commensurate with the "C" District, they are required to adhere to the "A" District regulations.

Mr. Glantz stated they are asking the Board to reduce the 50 foot setback line from Graeser Road to 30 feet, which is what the setback would be if the lot existed in its "C" zoning classification. He spoke of an extensive study he had done and said he did not find any other subdivision in Creve Coeur with this unique

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situation. Mr. Schenberg recalled discussing the need for an amendment to the code because of this type of situation of more than one front yard. A brief discussion followed.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Udell and Delishia Hyde for the variance requested after having found from the evidence presented that the requested variance arises from all the following circumstances:

- (a) The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district;
- (b) The variance requested is because of a unique hardship not created by the applicant or the owner of the property;
- (c) The granting of the variance shall not adversely affect adjacent property owners or residents;
- (d) 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;
- (e) The variance desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community, and
- (f) Granting the variance desired will not violate the general spirit and intent of this Chapter.

In addition, per Section 26-118.5, an applicant for an area variance or other non-use variances must meet the following criteria:

- (a) By reason of exceptional narrowness, shallowness or shape of the specific piece of property or whereby 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,
- (b) Granting a variance would not result in the diversion of additional stormwater that would adversely affect adjacent property.

Mr. Brown seconded the motion, with the resultant vote as follow, to-wit:

Mr. Balk – aye		Mr. Becker – aye
Mr. Levy – aye	Chair - aye	Mr. Brown - aye

Chair Schenberg announced the variance is granted.

Chair Schenberg made a motion, seconded by Mr. Levy, that the Board instruct the Planning Staff to prepare Findings of Fact and Conclusion of Law consistent with the opinion of the Board in this matter for execution by the Chairman of this Board and further that this Board shall instruct the Staff to mail the findings to the Applicant and all interested parties immediately upon execution by the Chairman. The motion unanimously passed.

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 7:35 p.m.

Attest

Earl Schenberg, *Chairman*

Pat Rosenblatt, *Secretary*