

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
MAY 17, 2007

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 7:05 p.m. on Thursday, May 17, 2007.

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

Mr. Earl Schenberg, Chair
Mr. Kenneth Balk, alternate
Mr. Ted Brown, Vice Chair
Mr. John Becker, alternate
Mr. Roger Levy, alternate

Mr. Brown made a motion, seconded by Mr. Becker, to approve the Minutes of a Regular Meeting of April 19, 2007. 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.

Affidavits of Publication

The Affidavit of Publication was read by Chair Schenberg and marked as an exhibit.

1. **To consider the appeal of Sunrise Senior Living for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 611 North Lindbergh Boulevard. Section 26-52.23(a),(b),(d). Nursing and Personal Care Facilities. This section requires that Nursing and Personal Care Facilities: (a) shall be located on sites of at least 3 acres, (b) the density of development shall not exceed 20 dwelling units per acre, and (d) no building shall be located within 50 feet of any property line. The applicant is requesting a variance to allow a Nursing and Personal Care Facility on a 1.75 acre site, with a density of 30.6 units per acre, and a minimum building setback of 17 feet on the northern property line and 30 feet on the eastern property line.**

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.

Chair Schenberg called for the City's presentation on the appeal of Sunrise Senior Living for property located at 611 North Lindbergh Boulevard.

Mr. Hurlbert, City Planner and Economic Development Administrator, stated this request of Sunrise Senior Living for a zoning variance for the property addressed as 611 North Lindbergh Boulevard and located at the northwest corner of Lindbergh Boulevard and Sunswep Drive. The subject site is currently zoned "GC" General Commercial District and consists of a single story structure of approximately 7400 square feet, which is currently vacant. The Watercolors Café was the most recent tenant and prior to that, the tenant was

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the K.C. Masterpiece Restaurant. Mr. Hurlbert said the site was originally developed for the Howard Johnson Restaurant in 1966.

The applicant requested approval of a redevelopment of the property, with the proposal involving demolition of the existing structure and construction of a three-story, approximate 65,000 sq. ft. senior residential facility with a total of 80 dwelling units. Mr. Hurlbert stated a nursing and personal care facility is permitted on the property, with a conditional use permit, per Section 26-52.23 of the Creve Coeur Zoning Code. During preliminary review of the proposal, Staff noticed several deficiencies to the zoning requirements, including minimum lot size, maximum density, and building setback. As a result, the applicant is requesting a variance from these regulations to allow for the proposed redevelopment. Mr. Hurlbert stated he was available to answer any questions to this variance request. No questions were asked of Mr. Hurlbert.

Chair Schenberg called for the representatives of the applicant to come forward.

Mr. Wade DeWoskin stated that he turned 84 on his last birthday and has been in the restaurant business for 30 years. He felt the building would not be good for retail or office and could only be used for a restaurant because of the structure and the difficulty of getting onto the site. He spoke of the difficulty they have had getting tenants and how the divider on Lindbergh has put him in a very unfair situation.

Ms. Laura Hester, Sr. V.P. of Development for Sunrise Senior Living, presented a brief background and spoke of the program offered by Sunrise, along with slides showing the site layout and floor plans. Sunrise is currently one of the nation's largest providers of assisted living services, serving about 50,000 residents. She pointed out that the assisted living service provided actually falls between independent living and nursing. Local facilities are located in Des Peres, Clayton, and Chesterfield. A question and answer period followed.

Mr. J. R. Patrick O'Brien, 10331 N. Sunswept Drive, pointed out all the office buildings along Lindbergh that are very successful, very occupied, and very commercial. He thought the facility was beautiful, and he said he hopes they find a suitable place to put it.

Mr. Mike Schmidt, #1 Sunswept, pointed out that he and the residents of Sunswept are not against Sunrise but are against "putting 5 pounds in a 1 pound bag". He alluded to the 7,400 square foot building that presently exists versus the proposed 65,000 square feet building. There were about 40 residents present from Tealwood and Sunswept. Mr. Schmidt pointed out that when Howard Johnson's was built, the property owner and the City of Creve Coeur agreed that the greenspace between the existing building and the neighborhood should remain as a visual and audio buffer between the restaurant site and the residential area. He presented several exhibits to show the impact the proposed facility would have on the residential neighborhood. Chair Schenberg asked what height would be allowed for an office building on the proposed site, and Mr. Hurlbert responded by saying 45 feet, with 20 ft. rear, 12 ft. side and 10 ft. front setbacks.

Mr. Mark Plunkett, 10305 Sunswept, expressed concerns with invasion of privacy, blocking of sunlight, noise, stormwater runoff, and decrease in the value of his property. Mr. William R. Green, 10311 Sunswept expressed water runoff as his major concern, along with the likely decrease in property value of at least \$50,000. Mr. Mike Campbell, 14 Sunswept, stated that all the trustees and the majority of the residents of the Sunswept association are opposed to this specific 24-hour day, seven day a week entity.

Mr. Robert Greene, #2 Sunswept, asked questions of the City Staff, to which Mr. Hurlbert replied that the applicant would be required to acquire MoDOT approval for any change in the access location, which is usually done during the Site Plan process. He also said a roof overhang up to 18 inches would be allowed to go into a setback, but the portion of the building that sticks out is part of the structure and would have to meet the setback.

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Ms. Jennifer Novak Smith, 20 Sunswept, asked why there were no photographs of the back sides of any of the facilities to see how they would be placed in the neighborhood. Ms. Diana Schmidt, #1 Sunswept, noted that her view from the front window would overlook a 5-story block of wood, glass and brick. Ms. Lisa Wallace, #3 Sunswept, referred to the already small space for the facility and spoke about the “sledding” hill and water problems. Mr. Tom Birkenmeier, 17 Sunswept, stated he was sympathetic to Mr. DeWoskin, but felt there were other alternatives. He felt the proposed location was inappropriate and that developers should be able to come up with a good use for the property. He acknowledged the long hill and pending water issues.

In response to Mr. Becker, Mr. Hurlbert replied that all developments in the City of Creve Coeur are required to meet certain stormwater standards MSD also has standards that must be met. Mr. Hurlbert said that stormwater is reviewed during the Site Plan process and the permit is usually issued during the Site Improvement Plan stage. A brief discussion followed.

Ms. Judy Fiedler, 34 Tealwood Drive, asked how many people would occupy the 80 units, and Ms. Hester responded “one to three people.” Ms. Fiedler stated that she sees the proposed development as a high-impact, high-density facility and expressed concern with the increase in traffic. Ms. Iris Cheek, #4 Sunswept, agreed with everything the residents mentioned and expressed her opposition for the reasons already stated. She stated that she is a social worker and has done volunteer work with the Alzheimer Association and expressed concern that this proposal is the wrong type of facility for this location. She expressed concern with this type of business being so close to a very major, busy street due to the fact that people with dementia will wander out of a locked facility.

Attorney Carl Lumley offered the following exhibits into the record:

1. City of Creve Coeur Charter.
2. Code of Ordinances of the City.
3. Comprehensive Plan of the City.
4. Application and all attachments thereto.
5. The report submitted by Mr. Hurlbert on behalf of the City.
6. The exhibits offered by the applicant this evening
7. The exhibits and materials offered by the opposition this evening.
8. A collective exhibit of the communications and letter received by the City on this application, and the public file concerning this application.

Mr. Lumley advised separate votes be taken on the multiple variances.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Laura Hester, SVP Development Sunrise Senior Living, for the variance requested in Section 26-52.23(a), after having found from the evidence presented that the requested 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 nor 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;

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- (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.

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

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

Chair Schenberg announced the variance is denied.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Laura Hester, SVP Development Sunrise Senior Living, for the variance requested in Section 26-52.23(b), after having found from the evidence presented that the requested 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 nor 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.

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

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

Chair Schenberg announced that the variance is denied.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Laura Hester, SVP Development Sunrise Senior Living, for the variance requested in Section 26-52.23(d), after having found from the evidence presented that the requested 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 nor 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.

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

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

Chair Schenberg announced that the variance is denied.

Chair Schenberg made a motion, seconded by Mr. Brown, 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. All members voiced approval.

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 9:02 p.m.

Earl Schenberg, Chairman

Attest:

Pat Rosenblatt, Secretary