

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**CITY OF CREVE COEUR**  
**MAY 18, 2006**

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 7:03 p.m. on Thursday, May 18, 2006.

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

**Mr. Donn Beedle**  
**Mrs. Barbara Meadows**  
**Mr. John Becker, alternate**  
**Mr. Ted Brown**  
**Mr. Earl Schenberg, Chair**

Chair Schenberg called for nominations from the Board members for a Co-Chairman. Hearing none, he nominated Ted Brown. Mr. Beedle seconded the nomination, with the vote being unanimous. Chair Schenberg declared Mr. Brown Co-Chairman of the Board of Adjustment.

Chair Schenberg introduced Roger Levy, the new Board member, who was sitting in the audience. He was appointed to take the place of Cathy Meyer who recently married and moved to Chesterfield.

Mr. Beedle made a motion, seconded by Mr. Brown, to approve the Minutes of a Regular Meeting of March 16, 2006. With no corrections being heard, the Minutes were approved.

**Affidavit of Publication**

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

1. *To consider the appeal of Dr. Heather Williamson for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 150 S. Mason Road, Section 26-30.5(a)(2) Lot Size Requirements, which requires that a the minimum lot width for any parcel in the "A" Single Family Residential District be one hundred and fifty (150) feet. The applicant is requesting a variance to allow a subdivision of the subject property to create two lots, each with a frontage width of one hundred thirty six and a quarter (136.25) feet.*
2. *To consider the appeal of Forever Network, Inc. d/b/a Forever Bellerive Cemetery for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 740 N. Mason Road, Section 26-103.6(b) Low Monument Signs, which states that an institutional use in a residential district is allowed a single low monument sign that is not more than twelve (12) square feet in size per sign face, no more than two (2) faces, not more than six (6) feet in height, is set back at least ten (10) feet from the right-of-way, and not located in the sight distance triangle. The*

*applicant is requesting a variance for the following reasons: (a) to allow a non-institutional use within a residential district a single low monument sign; (b) to allow the existing monument sign, approximately 37.4 square feet in size; (c) to allow the existing monument sign, approximately 12.75 feet in height; (d) to allow the existing monument sign, approximately 2 feet from the right-of-way.*

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.

Mr. Hurlbert, City Planner, stated the property at 150 S. Mason Road is located on the east side of Mason Road, south of Ladue Road, and is currently zoned "A" Single Family Residential District. The applicant is requesting to subdivide the subject property and create two lots which requires a minimum lot size of one acre, 150 feet wide, and 150 feet deep. The subject property is a minimum of 273 feet wide and 488 feet deep and totals 3.09 acres. The proposal is for each lot to be approximately 136 feet wide. Mr. Hurlbert pointed out that the property is sufficient to accommodate a subdivision of two to three lots with the requirement that the applicant build a street to City standards running east to west, most likely along the southern property line. To accomplish this would require a large scale disruption of the site, to the adjoining neighbors, and to the overall neighborhood. It would also involve the removal of trees, grading of the property, and meeting stormwater requirements. The subdivision, as it is currently proposed, provides less of a negative impact on the site and the surrounding properties.

Upon researching issues of precedence in the Board of Adjustment Minutes for the last six years, Mr. Hurlbert found two occasions where the Board has granted a variance to reduce the minimum lot width for properties addressed as 10825 and 10831 Ladue Road and 849 Carillon Court. He stated that the Comprehensive Plan speaks to this issue in the residential neighborhood section and read the following: ".....to preserve the safe and quiet integrity of single family neighborhoods as a goal and, secondly, to encourage the continued preservation of the suburban landscape character of the area, its open greenspace, and stream corridors."

Mr. Lee Curtis, Assistant City Attorney, offered the following exhibits to be entered into the record:

- a. The Code of Ordinances for the City of Creve Coeur.
- b. Comprehensive Plan for the City of Creve Coeur.
- c. The Applicant's Application for the Variance with accompanying drawings and plans.
- d. Staff Report prepared by Mr. Hurlbert.
- e. Any correspondence the City may have received from neighbors pursuant to the publication and notification. (Mr. Hurlbert did not receive any correspondence).

Mr. Steve Polk, with Zavradinov Professional Services, represented Dr. Heather Williamson in the request for a variance. He stated the parcel is 3.1 acres total, with the request for two lots that have less than 150 feet frontage as required by "A" Single Family District. The lot has 273 feet of frontage on South Mason Road and has been in this configuration since 1968. Dr. Heather Williamson grew up on the property and her plan in subdividing the parcel is to build her residence and share the property with her mother. In an effort to avoid putting the property line through the swimming pool, the desired acre was carved out of the south side of the property, which turned out to be an unconventional layout. He explained other options that

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were considered before deciding the more appropriate approach would be to split the lot in half. Mr. Polk pointed out that the houses on both sides of the subject property were developed, under a flag lot criteria, before the property was annexed into Creve Coeur. He spoke of a more conventional lot configuration that could be created by developing the property with the addition of a public roadway, which would involve disrupting a wooded area and removing mature trees. He referred to the concern of the County Highway Department concerning the potential of a new public street being tied into Mason Road.

Mr. Polk gave the following arguments for why this variance makes sense:

1. The applicant had no control over this since the property was created in St. Louis County prior to 1968, at which time there were no frontage requirements.
2. Lot size and configuration established a long time ago.
3. Adjoining property owners support the variance. A draft of the letter sent to adjoining property owners was submitted to the City.
4. Loss of buffer would be a hardship for the Williamsons and the neighbors. The cost to do a street to get access to one lot could be done more economically and effectively with a driveway.
5. Neighbors feel there would be no impact on the neighborhood.
6. The proposal is in keeping with the size and character of the neighborhood even though the lot layout is rather unconventional.

In answer to a question posed by Mr. Becker, Mr. Polk pointed out a significant wooded area between the house and properties to the east. Mrs. Meadows asked if the original home would be removed, and Mr. Polk answered that it would remain. The 6 ft. security fence also will remain. Mr. Hurlbert explained that the fence is nonconforming because it is within the front yard setback, and that the existing house is a nonconforming structure because it also does not meet the front yard setback. The existing driveway will remain so the security gate can stay at its present location. Once inside the security gate, the new driveway will go to the east to serve the new house. The view from the street will remain unchanged. A brief discussion followed.

Chair Schenberg expressed concern with setting a precedent. Mr. Hurlbert stated that the two instances he referred to were existing lots that were platted with a reduced lot width. This is a new lot that is being created and the issue could be argued that it would set a precedent. Mr. Hurlbert pointed out some factors involved that may be able to separate from precedent. Chair Schenberg felt it could be time for the City to address lot width. Mr. Hurlbert said this issue has been requested three times in five years and it is hard to determine if it will happen more in the future.

Mr. Polk presented three letters to the Court Reporter marked Exhibit 1A, 1B and 1C.

Mr. James Pablick, representing himself and Greystone Development to the south of the proposal, spoke in favor of this development as proposed. He said Dr. White and Lewis Ruben are also in favor. Mr. Pablick lives adjacent to the property to the south and favored the granting of the variance without the requirement of putting in a street, which would destroy too many trees.

Chair Schenberg made a motion, seconded by Mr. Beedle, that the Creve Coeur Board of Adjustment approve the application of Dr. Heather Williamson for a variance of Section 26-30.5(a) Lot Size Requirements, City of Creve Coeur Ordinance No. 1903, Zoning Code after having found from the evidence presented that the requested variance arises from all of 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;

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- (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.

Chair Schenberg called for the vote, which was as follows to-wit:

Mr. Beedle – aye  
Mr. Becker – aye

Mrs. Meadows – nay  
Mr. Brown – aye

Chair - aye

Mrs. Meadows explained her negative vote by saying that she feels the applicant is creating the problem.

Chair Schenberg announced that the variance is granted.

Chair Schenberg made a motion, seconded by Mr. Becker, 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.

Chair Schenberg asked the City Planner to make his presentation in the appeal of Forever Bellerive Cemetery.

Mr. Hurlbert stated the property is addressed as 740 N. Mason Road, located on the east side of Mason Road, south of Villa Hill Lane, and is zoned “A” Single Family Residential. The applicant seeks the allowance of an existing monument sign for a noninstitutional use within a residential district, approximately 37 sq. ft. in size, approximately 12.75 feet in height, and approximately 3 ft. from the right-of-way on the property. Mr. Hurlbert explained that the sign regulations allow for an institutional use in a residential zoning district to have a single low monument sign that is not more than 12 sq. ft. in size per face, not more than 6 ft. in height, and is set back at least 10 ft. from the right-of-way. He went on to say that the code does not clearly define “institutional use.” However, Section 26-103.6(a) does provide the example such as schools and places of worship. The subject monument sign, which is only one-sided and facing north, was erected and signage placed on it without any permit by the previous owners of the property prior to 1992. The applicant is required to bring all signage on the property to conformance with the City’s regulations as a condition of approval for the mausoleum addition, which was approved in 2004 with that approval being extended until December 2005.

Mr. Hurlbert pointed out that the cemetery property is unique because it cannot be clearly defined as a place of worship or a school, and it is the only large scale cemetery in the City of Creve Coeur. Due to this, City Staff feels there is no precedent in the City that has occurred previously or will occur in the future. Staff also feels there are safety issues since the sign is located on a bend along Mason Road and the replacement of the existing sign with a smaller low monument sign could create problems of lack of visibility for the cemetery, causing the southbound traffic to miss the entrance and, therefore, hampering traffic safety on Mason Road.

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Mr. Becker asked if he is to understand that the mausoleum approval was contingent on this sign coming down and being replaced with a conforming sign. Mr. Hurlbert responded by saying that the condition was that all signage was to be brought into conformance. He said that this condition was placed on the mausoleum at the City Council level.

Chair Schenberg asked what the sign requirements would be if this were a place of worship or a school, and Mr. Hurlbert answered 12 square feet sign area, 6 feet in height, and 10 feet from the right-of-way. He also pointed out that the discussion at the Council level included other outstanding issues such as stormwater and a “garage” on the property that needs to be brought up to better standards. The applicant was asked to address each of these issues, signage being one of the issues. Mr. Brown asked if any complaints had been made about the sign, and Mr. Hurlbert gave a negative response. A brief discussion followed.

Mr. Curtis introduced the following exhibits into the record:

1. The Code of Ordinances of the City of Creve Coeur.
2. Comprehensive Plan for the City of Creve Coeur.
3. Applicant’s application for a variance and accompanying drawings, pictures and plans.
4. Staff report prepared by Mr. Hurlbert.
5. Any correspondence received from neighbors. Mr. Curtis stated that he understands there has been none.

Ms. Katy Scannel, General Counsel for Forever Network, gave two reasons as to why they think this is a very unique situation: (1) Forever Bellerive is the only freestanding cemetery in Creve Coeur and no precedent will be set in this matter. (2) The stone structure, being used as the sign, has been there for over 75 years. The structure was not put there by her client, nor has it been modified in anyway, other than the addition of the lettering. Ms. Scannel felt making the sign smaller would create the lack of visibility. She said there was never any discussion of taking down the stone structure, just simply the request to make the application to be in compliance. Mr. Hurlbert stated that it had actually been suggested in the report to the Council that the best avenue would probably be the variance procedure.

Ms. Scannel referred to pictures of the sign and the fact that there have not been any complaints in the three years it has been there. She said they were trying to make the sign by utilizing a structure that is already on the property. She alluded to several variance criteria stating that:

1. 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. Clearly, a cemetery is not ordinarily found in Creve Coeur, much less the same zoning district.
2. The property is unique because the structure has been there over 75 years.
3. Granting of the variance shall not adversely affect the adjacent property owners or residents. No complaints have ever been received about the sign.
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. Safety issues are involved. The sign is visible and putting lettering on the existing structure prevents them from having to create some other type of sign on the property.
5. The variance desired will not adversely affect the public health, safety, order, convenience, or general welfare of the community. She felt it would have the opposite impact and would positively affect those issues.
6. Granting the variance desired will not violate the general spirit and intent of the chapter, which she felt would not occur.

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A brief discussion followed.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Forever Network Inc. d/b/a Forever Bellerive Cemetery for the variance requested after having found from the evidence presented that the requested variance arises from all of 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. Becker seconded the motion, with the resultant vote as follow, to-wit:

Mr. Beedle – aye  
Mr. Becker – aye

Mrs. Meadows – aye  
Mr. Brown - aye

Chair – aye

Chair Schenberg made a motion, seconded by Mr. Beedle, 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.

Chair Schenberg announced that the variance is granted.

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 8:10 p.m.

Attest:

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*Earl Schenberg, Chairman*

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*Pat Rosenblatt, Secretary*