

MINUTES
BOARD OF ADJUSTMENT
CITY OF CREVE COEUR
OCTOBER 18, 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 7:00 p.m. on Thursday, October 18, 2007.

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

Mr. Earl Schenberg, Chair
Mrs. Rhonda O'Brien
Mr. Barry Koenemann, Alternate
Mr. Ted Brown, Vice Chair
Mr. John Becker

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

Chair Schenberg announced that the appeal of Warren Sign Company, on behalf of Delmar Gardens, had been withdrawn by the applicant. He stated he would hear the appeal of Alan Flom before Western Oil Company.

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

Affidavits of Publication

1. To consider the appeal of Alan Flom for the following variance request in Ordinance No. 1903, The Zoning Code, for the property located at 120 Camfield Square. Section 26-51.4(b) *Location*. This section requires that an accessory structure shall be located at least ten (10) feet from the principal building. The applicant is requesting a variance to allow for the construction of building addition approximately four (4) feet from a swimming pool.

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. Becker disclosed that he is acquainted with the applicant, not so that it would affect any decision making. Chair Schenberg also disclosed that he knows the applicant's brother and that no decision would be affected by that knowledge.

Chair Schenberg called for the City's presentation on the appeal of Alan Flom for property located at 120 Camfield Square.

Mr. Hurlbert, City Planner and Economic Development Administrator, gave a brief report on the requested variance. The subject property is addressed as 120 Camfield Square, located within the Camfield Square Subdivision, south of Ladue Road between New Ballas and Mosley Road. The property is currently

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zoned "A" Single Family Residential District, as are the properties on all sides of the subject property. Camfield Square Subdivision consists of 13 lots and was approved around 1980 with a Residential Design Development procedure.

Per Section 26-51.4, an accessory structure shall be located at least 10 feet from the principal building. The applicant is requesting a variance to allow for the construction of a building addition approximately four feet from an existing inground swimming pool. The location of the addition will be on the west side of the house, near the western property line. The property has several utility easements which crisscross each other in the rear yard. Placement of these easements, along with the location of an existing inground swimming pool, allows only a small area in which a building addition can be constructed. Mr. Hurlbert pointed out that during review of submitted plans by the applicant for building permit approval, it was noted that in order for the addition to meet the sideyard setback, it was pushed closer to the pool and, therefore, does not meet the separation distance of ten feet. For these reasons, Staff has determined that approval of the applicant's request does not create any negative impact to the adjoining properties nor does it set a precedent due to the unique circumstances of the property.

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. Creve Coeur Comprehensive Plan.
4. The Board of Adjustment application and all attachments thereto.
5. The report by Staff dated October 18, 2007.
6. The collective exhibit of any materials received from the applicant.
7. All communications and letters received by the City concerning this application.

A brief question and answer period followed.

Mr. Alan Flom stated the pool was constructed in 1989. The building addition, a first floor master bedroom suite, will come close to the existing walkway around the pool. He explained that there would be a door approximately 20 feet from the pool. A letter was received from Rose Luh, a Trustee, who had no objections to Mr. Flom's request for a variance. Mr. Becker read the letter into the record. Mr. Flom pointed out that there are four easements on his property. He said his neighbor to the west had no objections either.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Alan Flom 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.

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

Mrs. O'Brien - nay
Mr. Becker – aye

Mr. Koenemann – aye
Mr. Brown – aye

Chairman - aye

Chair Schenberg announced the variance is granted.

Chair Schenberg read the second affidavit.

2. To consider the appeal of Western Oil Company for the following variance requests in Ordinance No. 1903, the Zoning Code, for the property located at 767 N. New Ballas Road:

- a) Section 26-43.5(c)(2). *Maximum site coverage*. This section requires that the amount of gross site area covered by buildings, structures, surface parking, pavement for automobile circulation or permitted exterior business services, storage, merchandise display, repair, or processing shall not exceed sixty-three percent (63%) or up to seventy percent (70%) of the site with a bonus feature as approved by the Planning and Zoning Commission.
- b) Section 26-43.5(d)(2). *Yard and setback requirements*. This section requires the minimum side yard setback for any parcel in the “CB” Core Business District be ten (10) feet.
- c) Section 26-62.6(1). *Design Standards for Landscape Plans*. This section requires that a perimeter landscaped buffer strip shall be provided and maintained at a width of not less than five (5) feet between a parking lot and the property line of abutting property.

The applicant is requesting variances to allow for the redevelopment and construction of a new gasoline station on the property with a total of 90% site coverage, a building setback of five (5) feet along the west property line, and a landscape buffer of zero (0) feet along the south property line.

Chair Schenberg called for the City’s presentation on the appeal of Western Oil Company for property located at 767 N. New Ballas Road.

Mr. Hurlbert gave a brief report on the requested variance. This requested variance is for the proposed redevelopment of the Phillips 66 Gas Station. The property is located south of Olive Boulevard and west of North New Ballas Road and currently zoned “CB” Core Business District, as are the properties on all sides of the subject property. The applicant has requested redevelopment of the property, which involves removing the existing building, canopy and pumps and constructing a new, larger convenience store along with canopy and pumps. The proposal also includes removal of two of the four entrances to the site, one on Olive Boulevard and one on North New Ballas Road. As a result of the redevelopment, the applicant is requesting variances to allow for a total of 90% site coverage, in lieu of the 63% required; a building setback of 5 feet along the west property lines in lieu of the 10 foot requirement; and a landscape buffer of 0 feet along the southern property line in lieu of the standard 5 feet.

Mr. Hurlbert submitted the following exhibits entered into evidence:

1. City of Creve Coeur Charter.
2. Code of Ordinances for the City of Creve Coeur.
3. Creve Coeur Comprehensive Plan.
4. The Board of Adjustment application and all attachments thereto.
5. The report by Staff dated October 18, 2007.
6. A collection of exhibits and any materials received from the applicant.
7. All communications and letters received by the City to this point.

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In response to Mr. Koenemann's question, Mr. Hurlbert said that all entrances on Olive Boulevard would be approved per MoDOT's requirements. He pointed out that the reduction of the curb cuts is a definite improvement that both the City and MoDOT seek.

Mr. Schenberg alluded to issues that could possibly be precedent setting and asked Mr. Hurlbert to bring to the attention of the Board such things as the location of the refuse enclosure. Mr. Hurlbert responded by saying that the location of the trash enclosure is the reason for the request for 0 foot landscape buffer through that section. He said the trash enclosure fencing and screening material would be on the property line as proposed. Regarding the issue of setting a precedent, Mr. Hurlbert directed attention to the plans that show the Infiniti Dealership on the property to the south that has a 0 foot setback as well, with the fire escape on the property line. With regard to the western property line, Mr. Hurlbert said the 5 foot setback was in their application and if the plan shows something different, the applicant needs to offer a clarification. The site coverage would stay the same. Mr. Hurlbert said no communications were received after notifications letters were sent to all adjoining properties. A brief discussion followed.

The applicant distributed colored photographs and artist renderings of the site as it presently exists as well as what is being proposed.

Mr. John King, Attorney representing Western Oil, stated that Mr. George Eberle, owner of the station wants to build a new "C" store and station at this location and will eliminate the car wash and service bays. The proposed "C" store is 3,245 square feet in gross area. Mr. King explained the need for three variances. There will be five pump islands, the same number that exists today, there will be plantings throughout the site, with a 2 ft. buffer on the south. Mr. King explained that if the applicant receives the requested variances, he will then have to go before the Planning and Zoning Commission for a required Conditional Use Permit, and then to the City Council for final approval. The original building on this site was 2,775 square feet, with the canopy at 2,966 square feet. The new building will be 3,245 square feet with a 4,373 square foot canopy.

Mr. King noted such hardships as poor circulation, unable to compete with newer stores, and the 20 foot easement granted to MoDOT. He stated that their request is for a 6.5 foot setback on the west as shown on the plan. Mr. Dave Bohler, Clayton Engineering, was present to answer questions. Discussion followed with regard to shrinking the size of the building and moving it 1-1/2 feet to the east. Mr. Hurlbert pointed out that the landscape variance will be necessary for the entire perimeter.

Hearing no further questions, Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Western Oil Company for the variances requested after having found from the evidence presented that the requested variance arises from all the following circumstances and are applied to Section 26-43.5(c)2. *Maximum Site Coverage*:

- (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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Chair Schenberg announced that these three variances, if granted, are conditioned on the drawings presented this evening dated October 15, 2007.

Mr. Becker seconded the motion, with the resultant vote as follows:

Mr. Becker – aye		Mr. Brown – aye
Mr. Koenemann – aye	Chair – aye	Mrs. O’Brien – aye

Chair Schenberg announced the variance is granted.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Western Oil Company for the variances requested after having found from the evidence presented that the requested variance arises from all the following circumstances and are applied to Section 26-43.5(d)2. *Yard and Setback Requirements:*

- (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.

Chair Schenberg announced that the variance is granted.

Chair Schenberg made a motion that the Creve Coeur Board of Adjustment approve the application of Western Oil Company for the variances requested after having found from the evidence presented that the requested variance arises from all the following circumstances and are applied to Section 26-62.6(1) *Design Standards for Landscape Plans:*

- (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.

Mrs. O’Brien seconded the motion with the resultant vote as follows:

Mr. Becker – aye		Mr. Brown – aye
Mr. Koenemann – aye	Chair – aye	Mrs. O’Brien - aye

Chair Schenberg announced the variance is granted.

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Chair Schenberg made a motion, seconded by Mr. Koenemann, 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 Chair stated this applies to all three variances. 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 8:05 p.m.

Earl Schenberg, Chairman

Attest:

Pat Rosenblatt, Secretary