

MINUTES OF REGULAR MEETING

ST. CHARLES COUNTY BOARD OF ZONING ADJUSTMENT

DATE: September 5, 2019

TIME: 7:00 P.M.

PLACE: COUNTY EXECUTIVE BUILDING
100 NORTH THIRD ST.
EXECUTIVE COUNCIL CHAMBERS
ST. CHARLES, MO 63301

MEMBERS PRESENT: Gerry Prinster, Chairman; Kevin DeSain, Secretary; Vicki LaRose; John Matlick; and Leslie Gross, Alternate Board Member

MEMBERS ABSENT: David Bauer, Vice-Chairman; and Robert Boschert, Alternate Board Member

STAFF PRESENT: Robert Myers, Planning & Zoning Director; Mark Price, County Planner; and Sheila Weiss, Recording Secretary

SPEAKERS: **VAR19-03:** Matt Poston, Engineer with THD Design Group; And Phillip Pisciotta, property owner

VAR19-04: Jeff Bornefeld, Commander of VFW Post #5327; and Michael Giunta, Quartermaster, VFW Post #5327

CALL TO ORDER

Board of Zoning Adjustment Chairman Gerry Prinster called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, he welcomed the audience, explained the functions of the Board of Zoning Adjustment and the format of the meeting, and explained the procedures for speakers. Chairman Gerry Prinster also introduced The Unified Development Ordinance (UDO) and Zoning Maps of St. Charles County into the record.

CHANGES TO THE AGENDA

NONE

PUBLIC HEARINGS

I. VARIANCE REQUEST - 232 BERG CROSSING DRIVE

Application: VAR19-03
Owner: Phillip J. Pisciotta
Applicant: THD Design Group
Variance Requested: A request to vary Section 405.080.D.2 of the Ordinances of St. Charles County (OSCCMo); to vary the 50-foot minimum required front yard setback to 37 feet to allow for the construction of a new residence.
Property Zoning: A, Agricultural District, with Planned Unit Development Overlay District
Area: 2.39 acres
Location: On the southwest terminus of Berg Crossing Drive, approximately 1,000 feet north of Highway 94 South
Council District: 2
Account No.: T051300022

Board Secretary Kevin DeSain read the variance request aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or owner's representative to approach the podium to explain the request.

Matt Poston, the owner's engineer, was sworn in. Mr. Poston stated that Mr. Pisciotta is requesting a 13 foot variance to the front yard setback due to extreme topography on the lot which limits the placement of the home. Mr. Poston distributed an exhibit to the Board members showing grade percentages throughout the subdivision as compared to the subject property. Mr. Poston stated that the staff report states that none of the other lots within the subdivision have needed a variance in order to develop the property. He believes that the property at 4448 Killdeer Drive was granted a variance (Application No. 1933) from the front yard setback in order to build their home. Mr. Poston stated that if the home were to be pushed back to meet the required front yard setback, it would force the house to sit about halfway into a 2:1 slope. This would cause extremely extended foundation walls down into the bedrock, which could possibly cause foundation failure in the future.

Chairman Gerry Prinster asked if anyone on the Board had any questions for the applicant's engineer.

Kevin DeSain stated that nothing in the drawing appears to show where the house is tied to the land and actual property boundaries. He asked Mr. Poston if they have a boundary survey confirming that the house would in fact extend over the 50-foot minimum required front yard setback and to the extent applied for.

Matt Poston responded that they have a survey but he did not bring a copy with him this evening. He stated that the setback at the front of the house would be approximately 37.5 feet.

John Matlick stated that most of the homes in this development have been built on hills or woody terrain. He asked Mr. Poston what makes this particular home different from those homes.

Matt Poston responded that their geotechnical engineer reviewed the information and agreed that the more suitable portion of the property to build the home would be closer to the bluff. He stated that this lot has about a 28% slope, which is quite a bit steeper than most of the surrounding lots. The further back on the property you go, the steeper the slope. If the home were to be built 50-foot back on the property, it could require that the foundation and footing extend to almost the same height as the basement of the home.

John Matlick stated that there are a lot of properties in Augusta Shores Subdivision that have had to build up their land prior to building the homes. He stated that in the communications received regarding this variance request, it was stated that the Homeowner's Association has covenants that require a minimum 50-foot front yard setback. He asked Mr. Poston if the homeowner has spoken with the Association and received permission from them to allow for a 37-foot front yard setback.

Matt Poston responded that their intention is to try to first obtain a variance from the County and then approach the Homeowner's Association for their approval.

Gerry Prinster stated that County staff believes that re-orientation of the home on the lot is possible. He asked Mr. Poston if they have explored that option.

Matt Poston responded that they did explore building the home further to the southwest portion of the property, and they concluded that they would have the same issue with the foundation.

Vicki LaRose asked Mr. Poston if the owner has looked at any options for modifying the plans for the home.

Matt Poston responded that the owner has been working with this architect for some time to develop the construction plans for this home, and he would really like to try to use those plans to build his home.

Chairman Gerry Prinster asked if the County staff had any comments regarding this variance request.

Kevin DeSain asked staff if the property at 4448 Killdeer Drive has a variance for their front yard setback.

Mark Price responded that the property at 4448 Killdeer Drive was granted a variance for both their front yard and rear yard setbacks from 50 feet to 35 feet.

Gerry Prinster asked if Mr. Pisciotta has already purchased this lot.

Matt Poston responded in the affirmative.

Kevin DeSain asked if Mr. Pisciotta was aware of the setback requirement when he purchased this property and approached the architect.

Matt Poston responded that he believes he was. Mr. Pisciotta affirmed that he was aware of the setback requirement when he purchased this property.

Vicki LaRose asked County staff to address the concerns about site distance that were expressed in the written communications received regarding this variance request.

Mark Price responded that there is a sharp turn at the intersection of Murdoch Lane and Berg Crossing at the front side of the subject property, and there is a rock wall along the front portion of the property which makes it hard to see when going around that turn. If the home were to be built closer to the road in addition to this existing rock wall, it may cause further sight distance issues.

Matt Poston responded that the addition of the home on this property will not impede the site distance any further.

Phillip Pisciotta, property owner, was sworn in. Mr. Pisciotta stated that the photo in the staff report of the rock wall is from Murdoch Lane looking towards Berg Crossing.

There being no further comments from the applicant or their representative, Chairman Gerry Prinster asked if County staff had any further comments.

There were no further comments from County staff.

For the record, the County received two written communications opposing this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

There being no speakers from the audience, Chairman Gerry Prinster closed the public hearing and called for discussion from the Board members.

Leslie Gross stated that she would prefer that the owner request approval from the Homeowner's Association for this variance prior to the Board of Zoning Adjustment approving the variance.

There being no further discussion from the Board, Chairman Prinster asked for a motion to approve this variance.

Leslie Gross made a motion to approve VAR19-03, subject to conditions in the staff report and that the owner must obtain approval from the Homeowner's Association for the requested 37-foot front setback. The motion was seconded by John Matlick.

The vote on the motion was as follows:

Gerry Prinster	- No	Kevin DeSain	- No
John Matlick	- Yes	Vicki LaRose	- No
Leslie Gross	- Yes		-

Application VAR19-03 was **Denied**.

The vote count was 2 Yeas, 3 Nays, and 0 Abstentions.

II. VARIANCE REQUEST - 1414 HIGHWAY Z

Application: VAR19-04
Owner: Wentzville Memorial VFW Post #5327
Applicant: Michal Giunta
Variances Requested: 1. A request to vary Section 405.475.A.1 of the Ordinances of St. Charles County (OSCCMo); to allow for the display of an electronic sign in the A, Agricultural District, which is not permitted; and
2. A request to vary Section 405.490.B of the Ordinances of St. Charles County (OSCCMo); to allow the sign to operate so that it is flashing, which is not permitted.

Property Zoning: A, Agricultural District
Area: 8.57 acres
Location: Approximately 320 feet south of the intersection of Highway Z and Peruque Hills Parkway, adjacent to the City of Wentzville.

Council District: 2
Account No.: 726270B000

Board Secretary Kevin DeSain read the variance request aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or owner's representative to approach the podium to explain the request.

Jeff Bornefeld, Commander of VFW Post #5327, located at 1414 Highway Z, Wentzville, MO 63385 was sworn in. Mr. Bornefeld stated that this sign has been there for 11 years and was originally a lighted letterboard sign. In an effort to help recruit new members after he took over as VFW Commander 3 years ago, he removed the existing sign panels and added two LED boards. With this newly modified sign, he now intends to remove some of the other multiple signs and banners from the property to try to make it look more presentable. He was not aware that the existing sign was placed on the property without a permit, and he also was not aware that a permit was required for the modifications that were made to the existing sign. Mr. Bornefeld stated that the sign is still bolted down to the slab, and it would take 15 minutes to move the sign if necessary. The sign cannot really be moved to any other location on the property due to the slope of the property. They are not trying to be a nuisance and have no problem not displaying flashing messages or starbursts on the sign. They would like to be allowed to use the sign to display basic messages, just like the sign down the street at the church does.

Michael Giunta, Quartermaster of VFW Post #5327, located at 1414 Highway Z, Wentzville, MO 63385 was sworn in. Mr. Giunta stated that the sign is screened by trees, and he does not believe it could be a nuisance to the nearby residential properties. He stated that the sign does not flash, and the messages stay up for 10 seconds. Mr. Giunta stated that State Senators and several State Representatives are supposed to be sending them letters endorsing the sign to remain "as is". Mr. Giunta stated that they have hired an engineer from Cochran Engineering who is currently in the process of surveying the property. Once the survey has been completed, they will have more detailed engineered drawings of the site that show the exact location of the landscaping, the building, and the sign.

Chairman Gerry Prinster asked the Board members if there were any questions for the applicants.

Leslie Gross asked if they had any photos of the referenced sign located at the church down the street from them.

Michael Giunta responded in the negative.

Leslie Gross asked if either of the applicants are familiar with the residence on Peruque Ridge Drive, whose owner stated in a letter that he can see the sign from inside of his home.

Michael Giunta responded that he cannot see the sign from anywhere on the property due to all of the trees.

Gerry Prinster responded that the leaves will not be on the trees much longer.

Leslie Gross stated that she believes she read that this type of flashing sign is not allowed on agriculturally zoned property, but would be allowed on commercially zoned property. She asked County staff if there is any place on the property that the sign could be moved that would bring it into compliance.

Robert Myers responded in the negative.

Kevin DeSain asked County staff if this application could be tabled this evening in order to allow the applicant more time to collect additional information to support this variance request.

Robert Myers responded that would be up to the applicant. He stated that in hearing the applicant's testimony, it sounds like they are no longer requesting the second variance to allow the sign to operate so that it is flashing. If this is the case, the applicant could choose to rezone a portion of the property (where the sign is located) to commercial or industrial zoning, since those districts allow signs with electronic displays.

Jeff Bornefeld confirmed that he is no longer requesting a variance for the sign to be flashing, and he has no issue with the messages displaying in ten-second intervals.

Michael Giunta asked County staff if they would be required to rezone the entire property to commercial or industrial zoning. He stated that those zoning districts would not allow them to conduct their events such as tractor pulls and turkey shoots.

Robert Myers stated that they could request to rezone a portion of the property including the sign to commercial zoning, and they would still be allowed to conduct their other events on the property.

Leslie Gross asked if MoDOT requires a permit for the digital signage, or if that is only for the flashing element of the sign.

Robert Myers responded that MoDOT may or may not require a permit for an electronic sign, since the sign is located on a State Highway. If Highway Z is part of the Federal Aid Highway System, then the Highway Beautification Act of 1965 prohibits flashing signs along the route. The Federal Highway Administration has required states to adopt rules determining "flashing", and has recommended to states that they adopt requirements that digital messages hold for a minimum of 10 seconds.

Gerry Prinster asked County staff if a scrolling message is considered by County Ordinance to be “flashing”.

Mark Price responded in the affirmative. He stated that the image would be required to be a static image.

Jeff Bornefeld asked County staff who would hear the request if they elected to table this application and request to rezone that portion of the property.

Robert Myers responded that a request for rezoning would be heard by both the Planning and Zoning Commission and the County Council.

Michael Giunta asked County staff what additional information could be submitted if they decide to table this application.

Robert Myers responded that the scope of authority for the Board of Zoning Adjustment is to determine if there is a hardship specific to a property that requires a variance so as to cause unreasonable deprivation of use of the property. Tabling this application will likely not enable additional information to be gathered to support evidence of a hardship.

Jeff Bornefeld asked County staff what their options are if they request to table this application and request a rezoning.

Robert Myers responded that it is preferable that zoning district boundaries follow property lines. Since they have stated that they already hired an engineer to survey the property, they may wish to ask the engineer to draw up plans to divide off the portion of the property where the sign is located, and then request to rezone that portion of property to commercial zoning.

Gerry Prinster asked County staff if there is a minimum lot size requirement for commercially zoned property.

Mark Price responded that there is no minimum lot size requirement in the General Commercial District (C2) Zoning District.

Jeff Bornefeld asked the Board of Zoning Adjustment to table this application.

Chairman Gerry Prinster asked if the County staff had any additional comments regarding this variance request. There were no additional comments.

Kevin DeSain stated that he has driven by this property, and thinks the sign looks bad. Had the applicants brought forth drawings showing their future plans for items such as landscaping and cleaning up the property, that may have really helped support this variance request. He suggested that they get together with their engineer, and come up with a plan for this property.

For the record, staff received one communication in opposition to this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

There being no speakers from the audience, Chairman Gerry Prinster closed the public hearing and asked for a motion to table application VAR19-04.

Leslie Gross made such motion, and the motion was seconded by Vicki LaRose.

The vote on the motion was as follows:

Gerry Prinster	- Yes	Kevin DeSain	- Yes
John Matlick	- Yes	Vicki LaRose	- Yes
Leslie Gross	- Yes		-

Application VAR19-04 was **TABLED**.

The vote count was 5 Yeas, 0 Nays, and 0 Abstentions.

APPROVAL OF THE MINUTES FROM THE MAY 2, 2019 REGULAR MEETING

Chairman Gerry Prinster asked for a motion to approve the minutes from the May 2, 2019 regular meeting. Kevin DeSain made the motion to approve, and the motion was seconded by Leslie Gross.

Upon a vote, the minutes were approved by unanimous voice acclamation.

OTHER BUSINESS

NONE

ADJOURNMENT OF MEETING

Chairman Gerry Prinster called for a motion to adjourn the meeting.

The motion was made by Kevin DeSain, and was seconded by Leslie Gross.

The motion to adjourn was approved by unanimous voice acclamation, and the meeting adjourned at 7:59 PM.

Respectfully submitted by:

Gerry Prinster, Chairman

Date