

BOARD OF ADJUSTMENT
OF THE CITY OF SUNSET HILLS, MISSOURI

THURSDAY, April 28, 2016

BE IT REMEMBERED that the Board of Adjustment of the City of Sunset Hills, Missouri met in regular session on Thursday, April 28, 2016. The meeting convened at 7:00 p.m.

ROLL CALL

Present:	Jerome Cox	-Member
	Mark Naes	-Member
	William Weber	-Member
	Larry Smith	-Member
	Bryson Baker	-City Engineer
	Robert E. Jones	-City Attorney
	Lynn Sprick	-Assistant Planner
Absent:	William Groth	-Member

APPROVAL OF MINUTES OF THE MARCH 24, 2016 MEETING

Copies of the Minutes of the March 24, 2016 Board of Adjustment meeting were distributed to the members for their review. Mr. Weber noted that he had made the motion to adjourn instead of Mr. Cox. Mr. Weber made a motion to approve the minutes as amended. Mr. Smith seconded the motion and it was unanimously approved.

NEW BUSINESS

A-04-16 Notice of appeal submitted by Mark Doering to vary the number of loading spaces from four (4) spaces to two (2) spaces as required in Appendix B, Zoning Regulations, Section 6.5-2 for a restaurant with drive through, attached retail space and an urgent care facility at 3751 South Lindbergh Boulevard.

Mark Doering, President of Doering Engineering, and Steve Saladin, developer and owner of Jimmy John's were present. Mr. Doering asked for a variance for the loading spaces. Their buildings would be a total of 9000 square feet all together. He

believes two loading spaces would be adequate. He stated that according to the City Code, since the buildings are separate, four are required. If it was all one building, they would only be required to have two loading spaces. They want to have two shared spaces for two buildings.

Mr. Weber asked if the correct number of spaces could've been designed in, initially, since they knew about the requirements ahead of time. He also asked if they could eliminate some of the regular parking spaces.

Mr. Doering stated they would rather not do that because it would be more pavement and they would like to keep the pavement to a minimum.

Mr. Saladin stated they were already at the minimum number of parking spaces.

Mr. Baker agreed; they cannot remove any parking spaces.

Mr. Cox noted that one loading space is long and one is much shorter and asked if there is a size requirement in the code stating how big they have to be.

Mr. Saladin answered that there is a requirement. One has to be 12 ft. wide by 50 ft. deep and one has to be 12 ft. wide by 25 ft. For a separate building on site, it would have to meet the same requirements.

Mr. Cox noted that the loading spaces are at the left end of Jimmy John's. He asked how they would adequately serve the urgent care.

Mr. Saladin stated this was the only logical place for the loading spaces. He stated the urgent care signatory agreed there was not a tremendous need for on-site deliveries. He noted that there are no loading spaces at his Jimmy John's restaurant at Sunset Place. He stated the box truck just pulls up and unloads out front and the doctor at the urgent care approved the site plan.

Mr. Naes asked if the urgent care needed ambulance service, how they would transport people from the building to the ambulance.

Mr. Saladin answered they would pull up out front and use the handicap ramp access. Emergency services require a circular traffic pattern in the parking lot, which they have. He assumes they would pull up curbside, use the handicap ramp access, and exit like a fire truck would.

Mr. Doering stated the ambulances would only pick up; they do not drop off at an urgent care.

Stan Wallach, Attorney of Wallach Law Firm was present. He was representing Mike and Connie Courtois, who live behind Jimmy John's. He was also representing Gary and Susan Wideman, who live close by. He stated under the City Code for a

variance, an application should identify a unique characteristic of the subject property, which prevents compliance and should identify practical difficulties, and particular hardships. He feels the application shows no legal basis for a variance, it just stated the City has excessive parking requirements. The applicant does not address the four findings under the code for variance, Section 5.3-2 A, B, C, and D. The staff reports that the applicant fails to meet two of the four requirements. He stated in subsection A the board must find that the owner would not be able to make any reasonable use of the property without a variance. He stated the staff advised that if they followed the requirements, they would make reasonable use of the property. He stated that it was their choice to have two buildings with three uses. Requirement C, states the hardship was not due to the owner's own action. The staff stated it could be the result of the applicant's own actions. He feels the property owner could propose a different use or a different site plan. He feels nothing in subsection B supports that the difficulties or hardships are peculiar to the property and it contrasts with other properties in the district. He noted the staff states you could consider it peculiar because the lot backs up to residential and therefor there is a 75 ft. buffer. He stated that means any commercial property that backs up to a different zoning district could be eligible for a variance. He does not believe that it is peculiar for this piece of ground. Where the issuance of variance states it will be detrimental to the public welfare or to public health, the staff relied on the traffic study, which doesn't talk about these variances. It mentions that four loading spaces are needed and two are provided. He feels that there has been no showing of any type of hardship or practical difficulty, other than their desire to do the site plan how it is already drawn. He stated that Mr. and Mrs. Courtois are concerned about the loading spaces for all the buildings being right outside their back door and bedroom window.

Mr. Weber stated they could have designed the plan to fit the required loading spaces to begin with.

Mr. Doering stated he designed the two spaces closer to the corner for lack of disturbance to the neighbors, but he can move them to the other side. He asked for a continuance, so they could address these issues.

Mr. Cox asked if everyone was okay with the continuance.

Mr. Jones verified that it is acceptable for the applicant to request a continuance.

A-05-16 Notice of appeal submitted by Eric & Natalia Shelvy to vary Appendix B Section 5.12(A)1 to allow an accessory structure in the side yard for the purpose of constructing an inground swimming pool at 10844 Woodforest Drive.

Bob Smith, representing Prestige Pools, and John Tinge, the excavating contractor with Prestige Pools, were present. Mr. Smith stated they submitted the proposal to put the pool in and it was approved in the area that it is requested. He wants to proceed with the pool where it is currently located. The permit was issued; a problem occurred when the pool needed to be moved and it was addressed with Public Works, then it was realized the permit was issued in error.

Mr. Tinge stated the original plan for the pool showed the pool in the side yard. After the pool was laid out and designed, the homeowner wanted to move it two feet closer to the home. When the drawings were re-submitted, staff realized they had issued the permit and they shouldn't have. The backyard is a continual grade up and the front yard is a continual grade down. The pool is not visible from street at all where it is located because of the trees.

Mr. Cox asked if they had discussed this with the neighbor next to the pool.

Eric Shelvy, homeowner, was present and stated that he has discussed it with the neighbor for the past year, since the plan began. The neighbor has no issues with it.

Mr. Weber stated it is in a secluded area and not visible from the street, so he has no problem with it.

Mr. Cox called for a vote on A-05-16 submitted by Eric and Natalia Shelvy to vary Appendix B Section 5.12-2(A)1 to allow an accessory structure in the side yard for the purpose of constructing an in ground swimming pool at 10844 Woodforest Drive. All agreed and the motion was unanimously approved.

ADJOURNMENT

Mr. Weber made a motion to adjourn the meeting at 7:21 p.m. Mr. Smith seconded the motion, and it was unanimously approved.

Recording Secretary



Sarina Cape