

BOARD OF ADJUSTMENT
OF THE CITY OF SUNSET HILLS, MISSOURI
THURSDAY, MAY 24, 2018

BE IT REMEMBERED that the Board of Adjustment of the City of Sunset Hills, Missouri met in regular session on Thursday, May 24, 2018. The meeting convened at 7:00 p.m.

ROLL CALL

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

Absent:

APPROVAL OF MINUTES

Copies of the minutes of the April 26, 2018 Board of Adjustment meeting were distributed to the members for their review. Mr. Weber stated he did not make the motion to adjourn the meeting; Mr. Smith made the motion. Mr. Weber made a motion to approve the minutes as amended, and it was unanimously approved.

NEW BUSINESS

A-04-18 Notice of Appeal, submitted by Tidal Wave Luxury Wash, to vary the side setback from the required 25 feet to 16.5 feet for the construction of a commercial building at 3720 South Lindbergh Boulevard.

Mr. Jones stated there was a court reporter in attendance for the administrative hearings. Anyone speaking is required to be sworn in.

Mr. Baker stated the property is currently The Econolodge site. The applicant is proposing to demolish the existing structure and construct a multiuse building. The applicant came to the Board of Adjustment to be approved for a variance before moving onto Planning and Zoning for approval on a Conditional Use Permit and Amended Development Plan.

Mr. Naes asked if they presented their conceptual plan with the Planning and Zoning Commission.

Mr. Baker replied yes.

Brandon Harp, with Civil Engineering Design Consultants, was present and stated the site is 2.57 acres and zoned PD-LC(B). It is located on the Southeast corner of Lindbergh Boulevard and East Watson Road. The area is designated as commercial in the City's Comprehensive Plan and sits adjacent to all commercial sites. It is located at a signalized intersection. They are proposing a luxury car wash, a convenience market, a restaurant with a drive through, gas pumps, and car vacuums. The building will be 11,000 square feet. The City requires a ten foot parking set back along the right-of-way and the plan meets those requirements. The plan contains additional landscaping and double the required green space along the frontage. They will be adding berming, buffering, and stormwater mitigation. The main building and carwash meet the setback requirements, but the equipment for the carwash does not. There is a 25 foot required setback and they are asking for only 16.5 feet. C-1 zoning allows a 15 foot setback and the property is surrounded by C-1 commercial properties with 15 foot setbacks. Their hardships are the property being narrow, fronting Lindbergh Boulevard and along Watson Road. This requires the building to be in an east west direction, facing East Watson Road. The drive entrances are mandated by Missouri Department of Transportation (MODOT). This pushes the building South, due to the required drive aisle width and parking setbacks from East Watson Road. There is a topography change of eight to nine feet across the site, so they must maintain certain slopes. The sidewalk project also dictates how the building will sit relating to the property. They have not filed a formal petition because they would like to obtain a variance for the setback first. If the variance is denied, they do have the option to rezone the property to C-1. If the property remains PD-LC(B) The Planning and Zoning Commission, along with The Board of Aldermen, will approve the permits based on a specific site plan. If zoned C-1, the property will be available to all permitted uses, so any plan compliant with the C-1 district would be acceptable. PD zoning lets The City have more control over the project. The building will be made of stone, efis, and a variety of materials with heavy landscaping.

Mr. Naes asked if the landscaping requirement is greater in the PD-LC(B) zoning district than the C-1 district.

Mrs. Sprick replied it is the same.

Mr. Naes asked if the carwash equipment would be inside or outside.

Mr. Harp replied it would be inside the structure.

Mr. Naes asked if it would be possible for the equipment to be located on the roof.

Mr. Harp replied no.

Mr. Naes asked if the equipment moves the car through the carwash.

Mr. Harp replied yes, the equipment feeds the mechanical system and services horizontally for the carwash. He will be submitting detailed landscaping, elevations, and lighting plans to the Planning and Zoning Commission.

Mr. Smith asked if there will be any gas pumps at the entrance to the carwash.

Mr. Harp replied no.

Mr. Weber stated once the current building is demolished, they will be starting with a blank slate with all setbacks established. He asked if they would be able to reduce the size of the building or move it.

Mr. Harp stated limited parking requirements have to be met. With all of the amenities the building cannot be moved. There are minimum stacking requirements with the drive through and car wash, so the traffic does not adversely affect circulation. Fuel delivery trucks have to be able to navigate the site and with the limited curb cuts, it is difficult to make that work. They would like to maintain the current zoning in lieu of re-zoning.

Mr. Weber asked if they could make the building smaller.

Mr. Harp stated the economics of the project would not work if the building was smaller. Financially, the building needs to be the size that it is. The real estate broker

presented the high sales price for the property and most businesses could not make a plan that works. The different amenities are added, so the business can survive with the high sale price of the property. The building has to be a certain size for interior requirements, as well. The drive through is opened up into the retail area with the market and lounge. Each amenity has minimum dimension requirements.

Mr. Weber stated the hardship is a problem.

Mr. Harp stated the site is set up to face East Watson Road. It is a corner lot, so they have to meet front yard setbacks on each corner. Curb cut locations are mandated by the City and by the State. The orientation of the lot is not conducive to frontage along Lindbergh Boulevard. Minimum drive lane coverage around the gas canopy and minimum parking requirements have to be met. The car wash has minimum dimensions, as well.

Mr. Cox asked Mr. Jones what the percentage reduction to the setback the ordinance allows the Board to make.

Mr. Jones replied 35%.

Mr. Cox asked if, from the City's point of view, it is an advantage to avoid rezoning.

Mr. Jones stated yes, because C-1 has permitted uses. All uses can be accomplished by obtaining a building permit. In a Planned District the use is tied to the Development Plan, so it is more attractive to develop.

Mr. Baker stated permitted uses are benign uses. Something the City is more worried about would have to have a Conditional Use Permit, which would require the City's approval. Basic uses are listed and conditional uses are things such as gas stations, which are more worrisome. The PD district does not give the City as much control, but it gives some flexibility. C-1 has a strict set of rules.

Mr. Harp stated the PD district has more scrutiny from the City. In the C-1 District the site plan review must meet the ordinance. If it is a PD district, they can work with the Planning and Zoning Commission and City staff to add things, like green space. C-1 is more black and white.

Mr. Jones stated the power point presentation presented by the applicant will be Exhibit one. The City will offer The Code of Ordinances and the City's file as Exhibits A

and B.

Kathryn Heese, of 8811 Ryegate Court, stated she is not opposed to the variance. It is not a commercial site; it is a planned corner. She wants to see the hotel go away. She stated adjustments can be made to make the building face Lindbergh Boulevard. East Watson is a two lane street with no shoulder, limited turns, and the egress needs to be moved several hundred feet. She stated they are trying to squeeze too much into a property that will not accommodate. Hundreds of houses feed off East Watson Road and it gets backed up. This proposal will add to the traffic volume.

James Woelick Junior, of 10238 Richview Drive, stated he is glad to see the hotel go. The variance is a nightmare because of the limited access on East Watson Road.

Kathy Lalk, of 8817 Ryegate Court, stated she would like to see something else in the area and the establishment be Lindbergh Boulevard facing.

Doug McGuire, of 12501 Maret Drive, stated he is not in favor. He does not believe the proposal is a proper use of the site. This project will be competition to other gas stations in the City. He would like to see a right turn only onto Lindbergh Boulevard.

Joan Deelo, of 3702 Sunset Chase Drive and a neighborhood trustee, stated the staff report stated, if the plan is approved, it is difficult to say if it will have a negative impact on surrounding properties. Until they have a better grasp on how it will affect neighboring properties, the plan should not go through.

Mr. Harp clarified the use and traffic were not being reviewed at the time. Subject to approval they will make a formal submittal to City. There will be public hearings for the special use upon specifics of the site plan and usage. Only setbacks were being discussed at the present meeting. Viability, uses, traffic curb cuts to East Watson Road will be looked at in extreme detail as plans are developed.

Mr. Weber called for a vote on petition A-04-18 Notice of Appeal, submitted by Tidal Wave Luxury Wash, to vary the side setback from the required 25 feet to 16.5 feet for the construction of a commercial building at 3720 South Lindbergh Boulevard. There being 4 aye votes and 1 nay vote, the petition was approved.

A-05-18 Notice of Appeal, submitted by 3825 Lindbergh ODPT LLC – George J Despotis, Manager, to vary the maximum amount that a variance may be granted for a setback from thirty-five (35) percent to eighty (80) percent for the construction of a commercial building at 3825 South Lindbergh Boulevard.

Mr. Jones stated petitions A-05-18 and A-06-18 can be heard together, but there will have to be two separate votes.

Mr. Baker stated the property was originally zoned residential. A lawsuit re-zoned the property commercial. The legal opinion of the City attorney was that it was allowed to be built 15 feet away from the property line. A tornado destroyed the area and left only the foundation of the office building. Dr. Despotis wants to utilize the concrete pad with the same distance from the property line. There are two different variances. The first is to vary the requirement from 35% to 80%. The second variance will be for the setback to be from 75 feet to 15 feet where the existing pad is now.

Mr. Weber asked if they are allowed to reduce to 80%.

Mr. Jones stated it is determined by another section of the ordinance to vary the application of the terms and conditions of the zoning ordinance. The front yard setback from the public street would not be able to be varied. It is within the jurisdiction of the Board of Adjustment to reduce to 80%.

Jim Hall, Principal with Hall Associates representing Dr. Despotis, was present and stated the property is one and a half acres. The existing building is 4,500 square feet. The ordinance states if a building is damaged over 50%, any new construction has to meet the current requirements. The current requirements are a 75 foot setback from residential properties, a 30 foot front setback, and 10 foot for parking. They would like to build a small, one story office building. They will have to go through the Planning and Zoning Commission for site plan approval. They will maintain a 30 foot front setback and 10 foot parking requirements. The northern parking lot will be kept the same. The southern lot has been reconfigured slightly and meets setback requirements, as well. They cannot comply with the 75 foot requirement from the adjoining residential property. The 75 foot setback and the 30 foot setback make the site unbuildable. If they were able to utilize the maximum 35%, it would reduce the rear yard setback from the residential property to 48.75 feet. The front yard setback would go down to 19 ½ ft. This would leave them with 19 feet of building space at the narrow end and 24 feet at the widest end. This is not a feasible building area for a modern building. The site is L shaped and narrow; 84 feet wide at one end and 96 feet wide at the other. For 16 years the previous

single story office building operated and functioned well. They would like to build something smaller using the same footprint and criteria. The hardship is not generated by finances, but by functionality and viability of the site.

Mr. Naes asked if the adjoining property is owned by Dr. Despotis.

Mr. Hall stated it is under contract.

Mr. Naes asked if the petitioner owned the property when it was re-zoned commercial.

Mr. Hall replied yes.

Mr. Naes stated the hardship was created by the petitioner when he petitioned for the property to be re-zoned.

Mr. Hall stated he is not sure if there was a 75 foot requirement at the time. There was no hardship at the time and they were able to build the building and maintain the 15 foot setback.

Mr. Naes asked if the property was nonconforming when re-zoned.

Mrs. Sprick stated the property was re-zoned in approximately 1980, as result of a lawsuit. The building was not constructed until 1995. The city does not know if there was a 75 foot setback in 1980. When the structure was built in 1995, the city attorney recommended the City not enforce the 75 foot setback because it would make the property unusable.

Mr. Naes stated the petitioner made the problem of his own accord.

Mr. Hall stated the tornado is what caused the problem. It was a legally approved use by the City at the time. They are asking for it to be re-established to the same set of rules as it was at the time.

Mr. Naes stated if the site is rebuilt as a non-conforming building, it will exasperate the problem of constructing non-conforming buildings in the City. He asked if they had a client that wants to put in a dental business at this location.

Mr. Hall relied yes.

Mr. Naes asked if there will be any other use of the property besides a professional services building.

Mr. Hall replied no, not at this time.

Mr. Weber asked if barriers or fencing are required for building construction.

Mr. Hall stated all buffer requirements and landscaping will comply.

Mr. Weber asked if there would be a buffer to the rear.

Mr. Hall stated yes, and there will be fencing.

Mr. Jones stated exhibit one will be the four page handout from the petitioner. The City code will be exhibit A and the City files for the two petitions as exhibit B and C.

Jackie Tyra, of 12440 Court Drive, asked if the building would be partially located on Harlan Gast's property.

Mr. Weber stated the building plans are contained within the site.

Mrs. Tyra asked if the variance was on property that Dr. Despotis does not own.

Mr. Weber stated he is asking for a variance on property that he currently owns. The existing pad will be used for a smaller building.

Mrs. Tyra asked if they would be coming closer to the residential property behind them.

Mr. Weber stated it would be no closer than before.

Mr. Baker stated the building would be closer than what the code allows. He clarified that Dr. Despotis does not own the property behind him. It is currently under contract.

Mrs. Tyra stated the problem was created by the petitioner.

Mr. Weber called for a vote on petition A-05-18 Notice of Appeal, submitted by 3825 Lindbergh ODPT LLC – George J Despotis, Manager, to vary the maximum

amount that a variance may be granted for a setback from thirty-five (35) percent to eighty (80) percent for the construction of a commercial building at 3825 South Lindbergh Boulevard. There being 4 aye votes and 1 nay vote, it was unanimously approved.

A-06-18 Notice of Appeal, submitted by 3825 Lindbergh ODPT LLC – George J Despotis, Manager, to vary the the rear setback from the required 75 feet to 15 feet for the construction of a new commercial building at 3825 South Lindbergh Boulevard.

Mr. Weber called for a vote on petition A-06-18 Notice of Appeal, submitted by 3825 Lindbergh ODPT LLC – George J Despotis, Manager, to vary the the rear setback from the required 75 feet to 15 feet for the construction of a new commercial building at 3825 South Lindbergh Boulevard. There being four aye votes and 1 nay vote, it was unanimously approved.

ADJOURNMENT

Mr. Smith made a motion to adjourn the meeting at 8:01pm. Mr. Naes seconded the motion, and it was unanimously approved.

Recording Secretary



Sarina Cape