

BOARD OF ADJUSTMENT MINUTES

JANUARY 26, 2023

A meeting of the Board of Adjustment of the City of Bridgeton was held on January 26, 2023 in the Council Chambers at the Bridgeton Government Center, 12355 Natural Bridge Road, Bridgeton, Missouri. The meeting was called to order at 7:10 p.m. with the following members in attendance:

Ron Abernathy
Anthony Banks
Dan Pipkens
Robert Jamison, Chair

Also present: Bob Saettele, Ex-officio
Zach Greatens, Planning & Zoning Officer
Mike Tolles, City Attorney
Georgia Northway, Court Reporter
Sue Glazer, Recording Secretary

Chair Jamison informed the petitioner that it takes four affirmative votes for approval and that he has the right to ask that the vote be held for another meeting when a full Board (five members) is present.

APPROVAL OF AGENDA

The applicant for Petition No. 2-23 has requested to postpone the petition until the next meeting. It was moved by Ron Abernathy, seconded by Dan Pipkens, to approve the agenda, with an amendment to postpone Petition No. 2-23. **By voice vote the motion carried and the agenda was approved.**

APPROVAL OF MINUTES

It was moved by Ron Abernathy, seconded by Anthony Banks, to approve the minutes of October 27, 2022. **By voice vote the motion carried and the minutes were approved.**

PETITIONS:

**Petition #1-23 Christopher Bedell & Erin Phillips
 3171 Fort Samuel Ct.**

Chair Jamison opened the public hearing for Petition #1-23 submitted by Christopher Bedell, 3171 Fort Samuel Court. Chair Jamison said this is an application for variance from Section 410.050.J of the Municipal Code (Zoning Ordinance) of the City of Bridgeton. The applicant is requesting a ten (10) foot variance from the twenty (20) foot front yard setback to allow the installation of a fence. The property at 3171 Fort Samuel Court is a corner lot within the Planned Single-Family Residential Unit Development (PUD). Chair Jamison reviewed the criteria by which the Board considers the request for an appeal. Chair Jamison further advised that all persons who wished to testify would be recognized at the proper time and

when called forward would be sworn in giving their name and address to the court reporter before commencing their testimony.

Chair Jamison advised that the record upon which this petition was taken would be transmitted by Zach Greatens, Planning & Zoning Officer. Mr. Greatens was sworn in by the court reporter. Mr. Greatens read the list of items comprising City Exhibit #1 for Petition #1-23, which was received in evidence and so marked by the court reporter.

Mr. Greatens reviewed the variance process for Board of Adjustment (BOA). He explained the scope of authority by the Board. The Board may take the following action on the variance request: they may approve or deny the request, either in whole or partly, or they may modify the request or may impose conditions if necessary. Mr. Greatens showed an aerial map of the property. It is a corner lot and has road frontage on three sides. It is in the MacKay Vista subdivision. The property is approximately .16 acres This is in a Planned Single-Family Residential Unit Development (PUD). Mr. Greatens said the property is surrounded by a mix of commercial zoning to the west and R-2 zoning to the north. The applicant desires to enclose the rear yard with a fence. He is requesting to reduce the 20-foot setback by 10 feet, resulting in a 10-foot setback from the Fort Samuel Drive side. There is an existing fence near the rear property line. It was part of the subdivision approval. The Planning Commission requested a fence for the MacKay Vista subdivision go along Fee Fee Road. It was approved by City Council. It came to the BOA as an appeal because the Design and Review Board denied the design of the fence. The BOA determined the design, height and location of the fence. The subdivision fence angles across the rear corner of the property owner's lot. Mr. Greatens showed pictures of the site. The owner is proposing to extend the fence out from the back corner of the house towards Fort Samuel Drive and follow a ten-foot setback from the property line, which is approximately 8 inches off the sidewalk. The owner said his intent is to abut or tie into the subdivision fence. The subdivision fence is approximately 10½ feet from the property line. Mr. Greatens showed the conceptual site plan showing where the fence would be located if the variance is approved. The rear corner of the house is approximately 3½ feet from the setback. Chair Jamison asked how far off the sidewalk would the fence be located. Mr. Greatens said the survey markers are still there. The marker is about 8 inches from the sidewalk. If a 10-foot variance is approved, the fence should be located 10 feet 8 inches from the sidewalk. Mr. Banks asked how much taller is the proposed fence than the subdivision fence? Mr. Greatens said the subdivision fence is five feet tall. The applicant has submitted a proposed six-foot fence. Mr. Banks asked if they can require the proposed fence to be the same height. Mr. Greatens said that is up to the Board. The Board can modify and have conditions added to the variance.

It was noted that the petitioner was not represented by counsel. The petitioner, Christopher Bedell, 3171 Fort Samuel Court, Bridgeton, MO was sworn in by the court reporter. Mr. Bedell said he was the first homeowner to purchase a lot at this 30-lot subdivision. He selected this lot because it was the third largest lot and no one was behind his property. He backs up to Fee Fee Road. After he went to the house he realized it has setbacks and easements and he did not realize the subdivision sign was going to be angled in his yard and cut off some of his property. He said he has a dog and that is why he wants a large lot. He said he is losing about 75% of his yard because of the 20-foot setback. Mr. Bedell said he is not proposing a five-foot fence to tie into the subdivision fence. He said a five-foot fence is not readily available to consumers. It is a special-order item. Either a six-foot or four-foot fence would be available to consumers. He would rather have a six-foot fence for the privacy. He said a fence would also help stop trash blowing into his yard. As the building line currently exists, he has less than four feet off the side of a house. He said the person that cuts his grass said he needs at least a six-foot opening on the fence in order to fit his equipment through. He said he is asking for a 10-foot variance. He said his property line is less than a foot from the sidewalk, but he cannot use any of his yard if he wants to fence it in because of the 20-foot setback. Mr. Abernathy asked if there is an HOA. Mr. Bedell said the subdivision is finished now and the homeowners are in the process of nominating and voting for the HOA trustees. He said they should have an HOA by March 1. Mr. Bedell

said he did apply to be a trustee on the HOA. Mr. Abernathy asked if there is something in the HOA about fencing. Mr. Bedell said their HOA by-laws are a mess. There is no uniformity on color or type of fencing. He said the homeowners can have a six-foot privacy fence on a corner lot or they can have a six-foot fence around a patio with a hot tub. Otherwise, they cannot have a six-foot privacy fence. He said there is no conflict with the HOA for what he is requesting. The by-laws state the fencing has to start at the end of the house. Some of the neighbors have complained about the subdivision fence that was installed and approved by the City. Mr. Abernathy asked if it would be possible to start the first section even with the five-foot fence and taper up to a six-foot fence. Mr. Bedell said he is not sure a five-foot fence is available. Mr. Banks asked if he would be allowed to run the privacy fence right up against the subdivision’s picket fence along Fee Fee Road. Chair Jamison said that type of change would bring up a lot of issues. Mr. Bedell said the houses along Fort Samuel Drive have a six-foot white privacy fence behind their back yard. The fence blocks their property from the existing house that sits on the hill. One of these homes has a black fence connecting to the white privacy fence. He said there is no uniformity with the fencing in the subdivision.

Bob Saettele, 3530 Fee Fee Road, Bridgeton MO, was sworn in by the court reporter. Mr. Saettele said with a 10-foot setback it would allow Mr. Bedell to put sprinklers on both sides of the fence.

Chair Jamison asked Mr. Bedell to come forward to explain where he proposes to have the gate. Mr. Bedell said he would like to have the gate as close to his house as possible.

There being no one else to speak, Chairman Jamison closed the public hearing. He said the Board will discuss it further and render a decision.

Motion was made by Dan Pipkens, seconded by Ron Abernathy, to approve Petition #1-23. Roll call vote was as follows:

- Abernathy - Aye
- Banks - Aye
- Pipkens - Aye
- Jamison - Aye

The motion CARRIED and the variance was granted.

**Petition #3-23 Russ Henke
 3655 Pennridge Drive**

Chair Jamison opened the public hearing for Petition #3-23 submitted by Russ Henke, representing 70 Trade Center LLC, 3655 Pennridge Drive for an application for appeal from Section 500.095, Sod – Permanent Revegetation, of the Municipal Building Code of the City of Bridgeton, Missouri. The applicant is requesting an appeal to use another method of permanent revegetation in lieu of sod on the north, east and west sides of the proposed warehouse located at 3655 Pennridge Drive. The property is located within the M-3(v) Planned Manufacturing District. Chair Jamison reviewed the criteria by which the Board considers the request for an appeal. Chair Jamison further advised that all persons who wished to testify would be recognized at the proper time and when called forward would be sworn in giving their name and address to the court reporter before commencing their testimony.

Chair Jamison advised that the record upon which this petition was taken would be transmitted by Zach Greatens, Planning & Zoning Officer. Mr. Greatens was sworn in by the court reporter. Mr. Greatens read

the list of items comprising City Exhibit #1 for Petition #3-23, which was received in evidence and so marked by the court reporter.

Mr. Greatens said this is a request for an appeal to Municipal Code Section 500.095. He explained the appeal process for BOA. He explained the scope of authority by the Board. The Board may take the following action: reverse or affirm, in whole or partly, or may modify the order appealed from. They shall have all the powers of official (or agency) from whom the appeal is taken. In this case, the Board shall have all powers of City staff since the sod ordinance is enforced through the site disturbance permits and building permits for the City of Bridgeton. The subject property is 3655 Pennridge Drive. This property was recently three parcels of land and was recently consolidated through a boundary adjustment plat. Within the last three weeks, the plat was recorded at St. Louis County. Mr. Greatens showed a site plan that has the buildings that were previously there. It was formerly the Capitol Inn hotel. The buildings have since been demolished. He showed the surrounding properties and the surrounding zoning districts on the screen. The property is zoned M-3(v) Planned Manufacturing District. The property was rezoned in 2021 to the current planned manufacturing district. The hotel buildings were demolished late last year. The reason it was rezoned was for a proposed office/warehouse building, approximately a little over 70,000 s.f. Site disturbance and building permits have been approved. A rendering of the building was submitted in the packets given to the Board. The sod requirement is enforced through the site disturbance permit and building permit. The applicant has requested an appeal to allow an alternative method of revegetation for a portion of the site. Sod is proposed in the front area where there is an irrigation system proposed. They are proposing seed and straw on the sides and rear. Chair Jamison said primarily what is in the public view. Mr. Greatens said that is correct. Mr. Greatens said the sod ordinance was passed by City Council in November 2021. It was the result of some residential redevelopments where there was some stormwater impacts on adjacent residential property. The sod ordinance includes appeal language for situations where a better alternative is available. The applicant included their explanation for an alternative method in their application that was submitted. Mr. Greatens showed pictures of the site and how it presently looks. He showed the plan that the applicant submitted on where they are proposing sod and seed and straw. Sod is required near the retention basin. He showed slides submitted by the applicant showing the overall plans of the property. Chair Jamison said the seed and straw would take longer to germinate and grow, compared to sod that is instant lawn. Mr. Greatens said yes.

It was noted that the petitioner was not represented by counsel. The petitioner, Russ Henke, 308 Wilmar Valley Drive, Wentzville, MO 63385, was sworn in by the court reporter. Mr. Henke said everything within the public frontage will look very nice. He said it is a large site and they are proposing a large building. Regarding the landscaping, cost is one perspective, but they have found that to do sod without irrigation, the sod dies because of the hot summers. They try to build greener buildings and one of the green initiatives is to minimize watering. He said building codes are now supporting water reduction-type measures. He said what they are proposing is an equivalent. He said where they have slopes, they would establish strong matting. Any of the steeper slope areas, they would propose the strong matting. It also helps hold the moisture underneath from natural rains and helps the seed to germinate. The areas that are flatter they would use the conventional seed and straw. He said they do not have much of that on this site. Mr. Henke referred to the site plan showing the detention basin which is to manage stormwater control on the site for MSD. MSD has the requirement that inside the basin at the normal water pool and below are to be sodded. This is because of erosion issues they have had in the past. Whenever there is a good size rain, the pool fills and it is natural watering for the sod. It then slowly discharges out and it is basically back to a dry basin. Mr. Henke explained the vegetation that would be around the basin. At the back of the building is a large, paved area. They would have a heavily landscaped row in the back to meet the City's requirements. Behind that is a six-foot privacy fence as part of the requirements by the City. Their plan is to put the fence right on the property line. The neighbors will only see their privacy fence. They are leaving everything on the other side of the fence existing as is. Mr. Henke said the seed and straw method is more drought resistant. This would

help hold the rain more. Anywhere there is a slope they would use strong matting to minimize erosion control. He said the City will not release their escrow until they establish the grass. Chair Jamison said the proposal of where the sod is indicated, is within the footprint of the irrigation system and there are no plans to extend the irrigation system beyond. Mr. Henke said that is correct. There are damage issues with irrigation systems. At industrial sites, the truck drivers are hard on irrigation systems.

There being no one else to speak, Chairman Jamison closed the public hearing. He said the Board will discuss it further and render a decision.

Mr. Abernathy asked who maintains the basin. Mr. Henke said MSD maintains it. Mr. Henke said the City is holding a large escrow until they have satisfied all the City’s requirements.

Motion was made by Dan Pipkens, seconded by Ron Abernathy, to approve Petition #3-23. Roll call vote was as follows:

- Abernathy - Aye
- Banks - Aye
- Pipkens - Aye
- Jamison - Aye

The motion CARRIED and the appeal was granted.

OTHER BUSINESS

There was no Other Business.

EX-OFFICIO REPORT

Mr. Saettele gave an update on current business.

ADJOURNMENT

There being no further business before the Board, it was moved and seconded to adjourn. By voice vote, the motion carried and the meeting was adjourned at 8:25 p.m.

Robert Jamison, Chair

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