

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT MEETING SUMMARY
Thursday, October 5, 2006**

The Board of Adjustment meeting was called to order at 7:00 p.m. on Thursday, October 5, 2006 by Ms. Laura Lueking, Acting Chair of the Board of Adjustment.

I. Introduction of Board and City Staff

The following individuals were in attendance:

Ms. Marilyn Ainsworth
Ms. Laura Lueking
Ms. Dru Thomas
Mr. Alan Baudler
Mr. Richard Morris
Mr. Rob Heggie, City Attorney, City of Chesterfield
Ms. Annissa McCaskill-Clay, Assistant Director of Planning, City of Chesterfield
Department of Planning
Ms. Joyce Collins-Catling, Executive Secretary, City of Chesterfield Department
of Planning
Court Reporter, Midwest Litigation Services

II. Approval of July 27, 2006 Meeting Summary

Richard Morris made a motion to approve the summary as amended.
Marilyn Ainsworth seconded the motion.
The motion passed by voice vote 5-0

III. Request for Affidavit of Publication

IV. Public Hearing Items:

- A. **B.A. 9-2006 Paul & Martha Harris c/o Champion Patio:** A request for a variance from St. Louis County Ordinance 8,112 to allow 324 Strawbridge Drive in Greenfield Village to maintain a six (6) foot side yard setback in lieu of an eight (8) foot setback. (17R620452)

Assistant Director of Planning Annissa McCaskill-Clay presented exhibits supporting the Petitioner's request for a variance allowing a 6' side yard setback in lieu of the required 8' setback. A letter of support from the adjacent homeowner on the left of the Petitioner has been received. The adjacent homeowner on the other side of the Petitioner is present to speak at tonight's meeting.

Tom Creighton of Champion Patio, representing the Petitioner requesting the variance, stated the additional sunroom can be constructed but would be offset to the left of the house, and will be a gable within a gable; roof lines will be odd and not centered. The homeowners (Petitioners) would prefer that the room be centered. The home sits on a corner lot in a pie-shape off to one side.

There were no additional speakers present in favor of the petition.
There was one speaker present in opposition.

Terence Mueller, Attorney speaking on behalf of the adjacent property owner (Ms. Betty Sano) whose setback line and boundary will be affected by the variance, presented exhibits in evidence opposing the request for variance. He applauded the Petitioner's representative for his candor in stating the sunroof can be constructed without the variance. Mr. Mueller pointed out that lots occupied by both Petitioner and Ms. Sano were zoned as R-2 by St. Louis in the late 1970's that provided 10' setback. Due to density development procedures, a reduction of side yard setbacks from 10' to 8' occurred in an assemblage of lots in the Greenfield Village. He pointed out that the lot is not an irregular shaped lot, therefore no practical difficulty exists. He further pointed out that this variance is only for the convenience of the Petitioner.

There are no letters from the Trustees supporting this request.

Rebuttal by Petitioner: Tom Creighton stated that the room will be built regardless if the variance is granted or denied. He further stated that aesthetically, it would look better.

**Richard Morris made a motion to approve the variance.
Marilyn Ainsworth seconded the motion.**

**The voice vote was as follows: Marilyn Ainsworth, no; Laura Lueking, no;
Dru Thomas, no; Alan Baudler, no; Richard Morris, no.**

The motion failed by voice vote 0-5

- B. B.A. 10-2006 Tom and Nancy Cavedine:** A request for variance from Section 1003.115.7.3.b to permit an eight (8) foot tall fence within the minimum front yard setback for an existing residence at 15754 Carriage Hill Drive in Round Hill Subdivision. (21T610843)

The Acting Chair noted that the wording regarding side yard vs. front yard setback.

Assistant Director of Planning Annissa McCaskill-Clay presented exhibits supporting the Petitioner's request to allow an 8' fence within the minimum yard setback. She noted that governing zoning for this subdivision (Round Hill) were established prior to the City's incorporation.

Tom Cavedine, Petitioner, stated that the request is for an 8' privacy fence that will provide substantial privacy between his back porch and the neighbor's back porch. He pointed out that the houses were built in the 1970's and are built very close to each other; no more than 9' total between the houses. The fence will only be in a small portion of the back yard and not the front, and provides mutual privacy to both homeowners. This 8' fence replaced a shorter fence built in 1984. The new fence was constructed in the exact location as the old fence in November 2005 after approval was given by Subdivision Trustees. The fence contractor gave an ambiguous answer when they were asked about any restrictions to constructing an 8' fence. The Petitioner received a letter from the City of Chesterfield in April 2006 regarding the height of the fence; they were unaware of the restriction.

There was one additional speaker present in favor of the petition.

Sharon Brune, neighbor whose back yard runs parallel to the Petitioner's back yard, stated that due to the slope of in the land, one would still be able to look over a 6' fence. They are pleased with the 8' fence, and support it with no concerns.

NOTE: If the fence was 6', there would be no need for a variance.

There were no speakers present in opposition.

**Richard Morris made a motion to approve the request.
Dru Thomas seconded the motion.**

The voice vote was as follows: Marilyn Ainsworth, no; Laura Lueking, no; Dru Thomas, yes; Alan Baudler, yes; Richard Morris, yes.

The motion failed by voice vote 3-2

- C. **B.A. 8-2006 Plan Provision LLC:** A request for a variance from Section 1003.107 of the City of Chesterfield Zoning Ordinance to permit a proposed child care center to maintain a structure setback of twenty (20) feet on the western boundary of an "E-One Acre" Estate District, in lieu of a seventy-five (75) foot setback. (18V510017/17661 Wildhorse Creek Road)

Assistant Director of Planning Annissa McCaskill-Clay presented exhibits supporting the Petitioner's requesting relief from the required structure setback of 75' on the western boundary of their proposed child care center. The proposed use is a permitted use as non-residential under a residential zoning.

Rodney Henry, Petitioner, stated that the proposed use is for a child care center on Wild Horse Creek Road. The difficulty is to keep the parking in the rear and keep the green space in front. Lot is narrow in shape and long, and they have had to encroach on the 75' setback to the west in order to keep the parking in the rear as requested by City Council and provide a drive. They've met the 75' on the east side, but not on the western boundary. The parking was originally in the front, and shared in the back. The long term plan for this parcel is for an inter-connector road for access on the east which push the building to the west.

There was one additional speaker present in favor of the petition.
There were no speakers present in opposition.

**Marilyn Ainsworth made a motion to approve the request.
Richard Morris seconded the motion.**

The voice vote was as follows: Marilyn Ainsworth, no; Laura Lueking, yes; Dru Thomas, yes; Alan Baudler, no; Richard Morris, yes.

The motion failed by voice vote 3-2

- D. **B.A. 11-2006 Chesterfield Village (Sachs Properties) c/o Doster Mickes James Ullom Benson & Guest:** A request for variance from Section 1003.165.5.5.b to permit an internal road for a "C8" Planned Commercial development to maintain a five (5) foot setback in lieu of the required ten (10) foot setback at 16150 Main Circle Drive. (18T340234)

Assistant Director of Planning Annissa McCaskill-Clay presented exhibits supporting the Petitioner's request for a variance to the City of Chesterfield Zoning Ordinance's specific requirement for internal roads in a C-8 Planned Commercial District to maintain a 10' setback as opposed to a 5' setback currently being requested by the Petitioner. During review of the development, the Department of Planning found an issue with the internal road system showing a 5' setback along Lydia Hill, the property going into the City's park. The requirement for the 10' setback is due to the PS zoning. If this development was

zoned commercially, that requirement would not exist. She stated that the Petitioner will discuss the reason for the internal road.

Mike Doster, et al, on behalf of the Petitioner Chesterfield Village, provided a powerpoint presentation reflecting the associated site. The issue stated that the setback applies to the adjacent property. The variance is a practical difficulty and will not cause an adverse affect on adjacent sites. The City zoned the property PS subsequent to the client's purchase of the property. The drive will be adjacent to City of Chesterfield property, and was mandated by the Monarch Fire Protection District, required as an alternative access to the parking lot for the back buildings. The applicant is prepared to build a fence and plant trees on the City's property, and plan to file for a re-zoning of the North side.

There was one additional speaker present in favor of the petition.

There were no speakers present in opposition.

There was one speaker in neutral.

Mike Herring, City Administrator, stated that he is not speaking in favor or in opposition, but would like to clarify on behalf of the City of Chesterfield that this requirement for the drive established by the Monarch Fire Protection District is of no concern to the City, and does not create any adverse impact on the park. Although the City is not anticipating any expense to construct a drive, it does serve the City's long term needs and purposes envisioned for the park. The City has proposed uses further north along that line that will require access, and this is the beginning of what is hoped to be the access point for these uses within the park. Furthermore, the access near the proposed Aquatic Center is currently being reviewed by the City, for consideration of updating the Master Plan to relocate the access point further to the west. The City will keep in mind the Petitioner's offer to construct trees, but may not want this due to the future need to expand the size of the drive into a roadway that leads back into the park. In essence, this variance would fit favorably with the City's long term plans for the whole area, and would not cause any adverse impact.

Richard Morris made a motion to approve the request.

Marilyn Ainsworth seconded the motion.

The voice vote was as follows: Marilyn Ainsworth, yes; Laura Lueking, yes; Dru Thomas, yes; Alan Baudler, yes; Richard Morris, yes.

The motion passes by voice vote 5-0

VI. Adjournment

Meeting adjourned at 8:40 p.m