

AGENDA

The Rolla Board of Adjustment
Rolla City Hall, 3rd Floor Conference Room, 901 North Elm Street
Thursday, November 3, 2022 @ 5:30 PM

Board Members: Matt Crowell (Chairperson), Judy Jepsen (Vice-Chairperson), Laura Stoll, Jacob Rohter, John Meusch, Jonathan Hines (Alternate)

- I. APPROVE MINUTES:**
Review of the Minutes from the Board of Adjustment meeting held on October 13, 2022.
- II. OLD BUSINESS:**
1. **ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.
- III. PUBLIC HEARING:** **NONE**
- IV. OTHER BUSINESS/REPORTS FROM THE CHAIRPERSON, COMMITTEE, OR STAFF:** **NONE**

NEXT MEETING DATE: December 1, 2022

BOARD OF ADJUSTMENT MINUTES
October 13, 2022
Rolla City Hall

Presiding: Chairperson Matt Crowell
Members Present: Judy Jepsen, John Meusch, Jacob Rohter (by Zoom)
Alternates Present: Jonathan Hines
Members Not Present: Laura Stoll
City Officials in Attendance: Tom Coots, City Planner, and Sarah West, Executive Assistant
Others in Attendance: Russell Been, Sasha Riedisser, and Zach Buchheit

Chairperson **Matt Crowell** called the meeting to order at 5:53 P.M. The meeting started late due to technical difficulties in connecting to Zoom. He recognized the members who were present. **Crowell** swore in all present who intended to speak.

I. APPROVE MINUTES:

John Meusch asked for an amendment to be made to the minutes to note the other persons in attendance at the meeting. **Crowell** approved the minutes from the July 7, 2022 Board of Adjustment meeting as amended by John Meusch.

II. OLD BUSINESS:

1. **ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

As the applicant was not present, the Board decided to table the case until the next scheduled meeting on November 3. A voice vote showed all in favor.

2. **ZV2022-05:** Variance to Section 42.399 (h) to allow reduced setbacks for a telecommunications tower.

Tom Coots presents the staff report.

Sasha Riedisser, the Collective Solutions attorney, is located at 211 North Broadway in St. Louis, Missouri, and confirms she was sworn in. She mentions Mr. Buchheit's letter to the Board states improvements could be made to the current tower in Schuman Park to meet the 5G and FirstNet capability. However, this would be a complete redesign of the tower from the current flag pole design to a monopole. Due to this proposed unconcealed design, federal law states that it would need to go through the zoning process again. This would lead SBA to have the same issues of gaining exemptions from the setbacks that Collective Solutions is currently going through now.

Riedisser mentions the Rolla zoning code is allowed to have setbacks, but federal law is there to make sure those setbacks do not prohibit a carrier from filling a gap in coverage. She states there is no better place for the tower and not being able to build a tower and meet AT&T's coverage objectives would be a hardship. The parcel the proposed tower is located on was required by the City to have a small portion rezoned, creating a unique condition of the land and making that portion unusable for any purpose besides a tower.

Collective Solutions presents a picture to the Board of the existing tower in Schuman Park and a concept of the same tower redesigned if upgrades were made to allow for FirstNet and 5G capabilities.

Russell Been, the owner of Collective Solutions, is located at 340 Marshall Road Valley Park, Missouri, and confirms he was sworn in. He states the concept tower in the picture given to the Board is an AT&T tower with 5G and FirstNet, so the picture is an accurate representation of the proposed tower.

Zach Buchheit, representing SBA Communications, is located at 7700 Forsyth Boulevard Suite 1100 in St. Louis, and confirms he was sworn in. He states a letter from their engineer was given to AT&T in November of 2021 that offered options to modify the current tower but no response was received. He mentions there was no pictures of the upgraded Schuman Park tower put out by SBA Communications.

Buchheit states that no one on behalf of AT&T is present. Collective Solution's entire argument is their coverage objectives, but this is not a hardship imposed by the land. There is nothing unique about the land itself that causes a hardship. The hardship was self-imposed by the rezoning of the property.

He states materials submitted by Collective in the past mentioned discrimination if the tower is denied. AT&T is currently serving the community and 5G and FirstNet could be available on current tower, so there is no prohibition on service if the proposed tower is denied. The federal code being referenced talks about not discriminating against providers, not builders. Since there is no provider present, there is no discrimination against them. There cannot be discrimination between the current tower and the proposed tower as the current tower was built under a different code.

Buchheit states setbacks are common requirements across the country, and the local laws have been designed for safety in mind. Only the people interested in the property have created the hardship by rezoning the property, and nothing about the land itself creates a hardship. The land is already being used for a business. The property is a self-imposed best location that was given a limited search area.

Riedisser states AT&T is not just switching towers for financial reasons, but 5G and FirstNet cannot be put on the current tower. She points out AT&T's choice on where to locate the tower is a business decision, and state statutes dictate that authorities are not allowed to evaluate these types of decisions. She states the land owner did not want to rezone property, but the City required it. Now there is a hardship because the portion of the parcel is too small to be used for anything other than a tower.

Buchheit points out that state law says business decisions cannot be considered, so AT&T's coverage objectives should not be considered as that is a business decision.

Riedeisser states the state law uses evaluate and not consider. This does not mean you cannot take into account that AT&T needs the tower, it means that you cannot second guess whether AT&T is correct on their need for the tower.

The applicant provides a detailed site plan describing the variances needed.

Coots states the request will need four exemptions to the setbacks: from the right-of-way of Old St. James Road, from the sidewalk, from adjacent buildings, and from the property lines. The tower is 95 feet tall with a 5 foot lightning rod, so a distance of at least 100 feet is needed to meet code requirements.

The distance of the tower from the right-of-way of Old St. James Road 78 feet and 70 feet from the sidewalk. The adjacent buildings are 75.5 feet from 1850 Old St. James Road, 38 and 85 feet from the two buildings on 801 East 18th Street, and 81 feet from 1900 Old St. James Road. The tower is 25 feet from the 1850 Old St. James property line, 0 feet from 801 East 18th and 71 feet from the 809 East 18th Street property line.

Crowell asks if the people in the adjacent buildings were aware of the request. **Coots** states they were provided notice. **Crowell** asks if anyone has responded. **Coots** no.

Coots states the lot has not been subdivided, but is split zoned. The applicant is leasing the small portion that has been rezoned. **Crowell** asks if the City required the split zoning of the property. **Coots** confirms rezoning the portion of the property the applicant is leasing was a requirement of approving the Conditional Use Permit set by City Council.

Crowell moves into Board deliberation.

1st Criterion: **Crowell** states the situation is unique because City Council required the split zoning. **Coots** mentions the tower would need to have a variance for the setbacks no matter what

the property was zoned. **Meusch** mentions the applicant decided this location is best for a cell tower. **Hines** states the Board is not allowed to evaluate where the applicant can put a tower.

Crowell asks if there is any property large enough to handle the setbacks requirements in the city. **Coots** confirms there are properties within city limits, but according to the applicant, none that are in the area they need. **Crowell** states the property has a unique condition because there is no land in close proximity that would be large enough and meet coverage objectives. All Board members agreed the 1st criterion was met.

2nd Criterion: **Hines** states the applicant did not create the hardship. **Crowell** comments based upon setbacks how would any new tower be built without making some variance to Rolla's zoning code. All Board members agreed the 2nd criterion was met.

3rd Criterion: **Crowell** states the variance is based upon location and the need to cover a certain area. **Hines** comments the variance will not give special treatment to the applicant that harms the surrounding businesses. All Board members agreed the 3rd criterion was met.

4th Criterion: **Meusch** mentions there is no issues with public safety unless the tower falls. **Jepsen** points out that any building can fall and become a danger to the public. **Hines** states there is no detriment to public welfare by the tower's existence and normal use. **Crowell** mentions no neighbors have raised concerns and have had extensive time to contest the tower. All Board members agreed the 4th criterion was met.

5th Criterion: **Crowell** asks if the property was previously being used by the owner. **Coots** confirms it was being used for storage. **Hines** states the tower is not going to alter the character of the neighborhood. **Crowell** comments is the variance necessary for the reasonable use of the property if the property was already being used in a manner that was consistent with the neighborhood. He agrees the variance will not alter the character of neighborhood and is the minimum needed.

Hines states the variance is necessary for the reasonable use of a cell tower. **Meusch** comments a cell tower is a reasonable use of the property. **Crowell** it is reasonable, but is it necessary? There was a reasonable use of the property prior to the applicant wanting to build a tower. Is the variance necessary to continue to use the property? **Hines** the tower is a reasonable use so that makes the variance necessary.

Crowell asks how the criteria is interpreted. **Coots** the traditional view is the applicant cannot use the property, so a variance is needed for some reasonable use. In this case, the property is already being used. **Crowell** asks if the split zoning of the property would affect the previous use. **Coots** confirms the property could continue to be used as a storage yard with the new

zoning. **Crowell** asks if the landlord could refuse the building of the cell tower and continue using the property as before without any variances. **Coots** yes, based on what they were using it for.

Crowell asks if there is now a limited use of the property since being rezoned. **Coots** states the use would be grandfathered in. **Crowell** asks if the split zoning would grandfather in the original use. **Coots** yes it would grandfather in the use as it was the day it was zoned.

Riedeisser states there will be more economical use of the property by building a tower than using it for storage. There is no economically viable use of the small portion that was rezoned. **Crowell** asks if the Board considers the most economically viable use. **Coots** the code states the City does not have to allow for the most economical use, it has to allow a reasonable use of the property.

Crowell concerned about the variance being necessary as the property is already being used. A reasonable use of the property based on the zoning and neighborhood is storage. **Hines** we have agreed the cell tower is a reasonable use of the property. If we decide it is not necessary for a cell tower as a reasonable use, it limits the use of the land to storage. It scopes down the definition of basic reasonable use. The tower is reasonable, therefore the variance is necessary. **Crowell** states there are viable uses of the property already. Giving a variance is not essential to be able to use the property reasonably. **Jepsen, Hines, Meusch, and Rohter** agreed the 5th criterion was met. **Crowell** voted no.

6th Criterion: **Rohter** states the original intent would be the safety of surrounding areas, and engineered details were provided. All Board members agreed the 6th criterion was met.

A motion was made by Jonathan Hines, seconded by Judy Jepsen, to approve the variance to allow reduced setbacks for a telecommunications tower. A roll call vote on the motion showed the following. Ayes: Jepsen, Hines, Rohter, and Meusch. Nays: Crowell. The motion passes.

III. PUBLIC HEARING: NONE

IV. OTHER BUSINESS/REPORTS FROM THE CHAIRPERSON,
COMMITTEE, OR STAFF: NONE

Having no further business, the meeting was adjourned at 7:05 P.M.
Minutes prepared by **Sarah West**

NEXT MEETING: Thursday, November 3, 2022



Report to:

Board of Adjustment

Case No.: ZV2021-04

Meeting Date: November 3, 2022

Subject: Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

Applicant and Notice:

Applicant/Owner- Charles Arthur and Stephen Moorkamp of Pine Tree Investments, LLC
Public Notice - Letters mailed to property owners within 300 feet; Legal ad in the Phelps County Focus; signage posted on the property; <https://www.rollacity.org/agenda.shtml>

Background: The applicants recently completed construction of a dental office on the subject property. The applicants are seeking to erect a monument sign to identify the property. The proposed sign would be located 3 feet from the front property line. The minimum front yard setback is 10 feet.

The Board of Adjustment did conduct a public hearing at the December 9, 2021 meeting. After closing the public hearing and deliberations, the Board voted to table/continue the deliberations to the next meeting to allow for a 5th Board member to be appointed by the City Council. The applicant has been waiting since that date for the Board to consist of 5 members, although the applicant did request a postponement in July 2022 due to a schedule conflict.

Property Details:

Current Zoning - C-1, Neighborhood Commercial
Current Use - Dental office

Code Reference:

Sec. 42-244.4. General Sign Provisions.

h. Setbacks. Unless exempt by Subsection 42-244.4(f), all signs, including temporary signs and exempt signs, shall conform to the side and rear setback requirements of the zoning district they are located in. However, the front of the lot shall be defined as any lot line that fronts a street. Such signs shall have a minimum rear yard setback of ten feet and a minimum side yard setback of five feet.

C-1, Neighborhood Commercial DISTRICT

Sec. 42-186.3 Area Requirements.

Minimum setback dimensions:

- **Front yard: 10 feet from the front lot line.**
- *Each side yard: 5 feet measured from side lot line.*
- Rear yard: 10 feet from the rear property line.

Variance Approval Criteria:

A variance must be reviewed to ensure that the following criteria are met:

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship has not been created by any person currently having interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.
7. (Use Variances Only) The use is consistent with the intent of the Comprehensive Plan.

Discussion: The applicant states that the property location on Pine Tree Rd is impacted by reduction in visibility from existing trees along the street. The property is also near a slight curve in the roadway. The trees and the curve does reduce visibility of the sign for drivers in either direction. Removal of enough trees to provide the visibility is not preferred by the applicant. The location of the proposed sign does not appear to impact the visibility for vehicles exiting the driveway.

Staff Recommendation:

Staff recommends that the Board further review all criteria to ensure the criteria are met. Staff concedes that some or all of the criteria may be met for this request based on maintaining proper visibility for the sign.

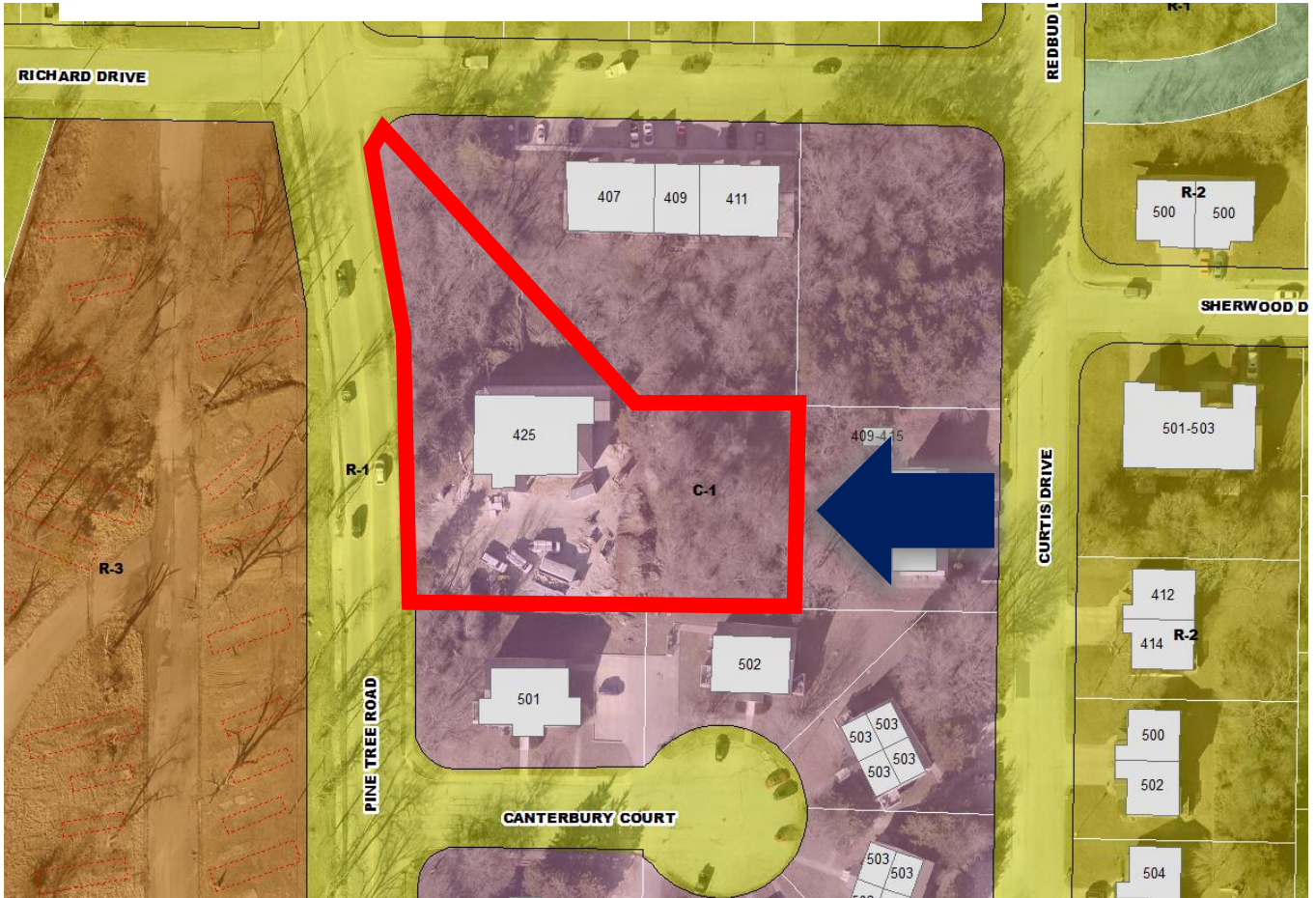
Alternatives:

The Board of Adjustment has the following alternatives of action:

1. Find that each of the criteria for approval of the variance(s) are met and explain how each criteria is met for the record.
2. Find that the criteria for approval of the variance could be met through the imposition of conditions or limitations to ensure that the criteria are met. The Board will explain how each criteria is met and grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Prepared by: Tom Coots, City Planner

Attachments: Public Notice Letter, Application, Letter of Request, Sign Plan, Minutes from December 9, 2021 Board of Adjustment meeting



Project Information:

Case No: ZV21-04
 Location: 425 Pine Tree Rd
 Applicant: Moorkamp and Arthur Family Dentistry
 Request:
 Variance to allow a sign setback in the C-1, Neighborhood Commercial district



Public Hearing:

Board of Adjustment
December 2, 2021
5:30 PM
 City Hall: 1st Floor



For More Information Contact:

Tom Coots, City Planner
tcoots@rollacity.org

(573) 426-6974
 901 North Elm Street
 City Hall: 2nd Floor
 8:00 – 5:00 P.M.
 Monday - Friday



Who and What is the Board of Adjustment?

The Board of Adjustment (BOA) is an appointed group of citizens from Rolla who are charged with hearing and deciding Variances, Appeals, and Special Exceptions.

What is a Variance?

A Variance is a request for relief from a particular provision in the zoning code. A Variance should only be granted if certain criteria are met. Variances are frequently sought to allow things such as reduced setback, lot size or increased height.

What is an Appeal or Special Exception?

An Appeal is a request for an interpretation of the meaning of the zoning code from the Board of Adjustment. A Special Exception is a request to allow certain uses.

How Will This Impact My Property?

Each case is different. Adjacent properties are more likely to be impacted. Please contact the Community Development Office at (573) 364-5333 if you have any questions.

What if I Have Concerns About the Proposal?

If you have any concerns or comments, please try to attend the meeting. You may learn details about the project at the meeting. You will be given an opportunity to ask questions or make comments.

What if I Cannot Attend the Meeting?

Please try to attend the meeting if you have any questions or concerns. However, if you are unable to attend the meeting, you may provide written comments by letter or email. These comments will be presented to the Board.

What if I Have More Questions?

Please contact the Community Development Office if you have any additional questions.

LEGAL DESCRIPTION

Lot 15, Scottsdale Subdivision, Resubdivision of Lots 12 and 15-19, City of Rolla, Phelps County, Missouri



212406



COMMUNITY DEVELOPMENT DEPARTMENT
901 North Elm St
Rolla, MO 65401
P.O. Box 979

573-364-5333 + www.rollacity.org/comdev

BOARD OF ADJUSTMENT APPLICATION

Contact Information:

Property Owner:

Charles Arthur, Stephen Moorkamp

Name(s)

425 Pine Tree Rd.

Mailing Address

Rolla, MO 65401

City, State, Zip

(573) 578-7833, (573) 578-6623

Phone

charlieoarthur@gmail.com, stephenmoorkamp@gmail.com

Email

Agent/Applicant (If Different Than Property Owner):

N/A

Name

Mailing Address

City, State, Zip

Phone

Email

Property/Request Information:

Request:

- [x] Variance
[] Special Exception
[] Appeal

42-186.3 Area Requirements

Code Section (Variance/Appeal Only)

425 Pine Tree Rd.

Property Address/Location

C-1

Property Zoning

Monument Sign / Ground Sign

Proposed Development/Project

APPLICATION CHECKLIST:

Applicant Checks Boxes

- [x]
[]
[]
[]
[]
[]
[]

Completed Application Form

Agent Letter (If Applicable)

Filing Fee - \$350

Legal Description (Unplatted and Irregular Lots Only)

Site Plan/Survey (If Applicable)

Letter of Request:

Please include description of project, request, how criteria for approval are met, and any other pertinent information.

- [x]
N/A
[x]
N/A
N/A
[x]

City Staff Verifies

OFFICE USE ONLY:

Case No: 2021-04

DRC Meeting Date: 10.5.21

Advertise By: 10.23.21

Submission Date: 9.17.21

BOA Hearing Date: 11.4.21

I N F O R M A T I O N :

Variations are required to meet the following criteria:

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship was not created by any person currently having an interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.
7. (Use Variations Only) The use is consistent with the intent of the Comprehensive Plan.

Appeals are required to meet the following criteria:

1. The Appeal was filed within 15 days or after the administrative officer has rendered a decision.
2. The interpretation of the code as made by the administrative officer was incorrect or unclear.

Special Exceptions are required to meet the following criteria:

1. The request is consistent with the general spirit and intent of the regulations.
2. The request is consistent with the general and specific rules for the Special Exception.
3. The request serves the general welfare and preserves the community interest.

Acknowledgement and Authorization:

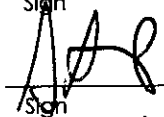
The owner(s) understand and agree that the application will be placed on hold until a complete application and all required items on the checklist are received. The owner(s) understand and agree to permitting employees of the City of Rolla to enter the subject property for purposes of posting a yard sign(s), retrieving the yard sign(s), taking photographs of the property/building(s), and investigating the property for pertinent information related to the request. Should ownership of the property change after the application is submitted, authorization is required from the new owner to continue with the review of the request, or the request will be withdrawn from consideration. The undersigned understands that refunds may be provided if the request is withdrawn prior to the Board of Adjustment hearing, less any costs already incurred.

Property Owner(s):

Applicant/Agent (If Different From Owner)

 _____
Charles Arthur
Sign Print

Sign Print

 _____
Stephen Markcup
Sign Print

Sign Print

Board of Adjustments Members,

We are asking for a variance for the sign at our dental office at 425 Pine Tree Rd to avoid the elimination of the mature trees that have lined the street for many years. We are proposing to move our sign closer to the road and request a variance to the city regulation of a ten-foot setback. Our property line, based on the survey lines, begins four feet from the sidewalk, which makes our property line start twelve and a half feet from the street. We are asking to have a ground sign (monument sign) that will have a base of six feet long (one and a half feet wide) and an overall height of around four and a half feet constructed on our property on the area just north of our entrance. This sign will be seven feet from the sidewalk, fifteen and a half feet from the street. We are asking for the variance to be moved from ten feet to three feet for our site.

The concern with our current sign site is that due to the unique layout of our property and the tree barrier we currently have between the street and neighboring properties, traffic coming from the north and south would not have sufficient time for visualization of our sign without complete removal of the trees lining the street. Removing this many trees would alter the essential character of our property on Pine Tree Rd, as well as the neighboring residential properties. We would also like to avoid any kind of pole sign, as there are no other pole signs in the proximity.

Respectfully,



Charles Arthur, DDS



Stephen Moorkamp, DDS

1. *The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.*

The unique layout and tree coverage of our property along Pine Tree Rd. would require removal of trees along the road in order for vehicles to have adequate visualization of a ground business sign due to the rear setback requirements. Our proposed sign location would allow for that adequate visualization without removal of trees and thus preserving the natural environment around Pine Tree Rd. and maintaining more buffer from the road and for our neighboring residential areas. Thus, an economic and financial hardship would be avoided as well as unnecessary removal of mature trees in the area.

2. *The alleged hardship was not created by any person currently having an interest in the property.*

The building was designed and built with a sign location planned that is within city regulations, however, prior to initiating construction of the sign, it was felt that a better location is possible that would allow for adequate visualization from both northbound and southbound traffic without removal of significant trees. These trees serve as a buffer for our property from the road as well as a buffer for the neighboring properties from our property and the road as well.

3. *The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.*

The purpose of our variance request is to maintain the character of the area and not affect the atmosphere of Pine Street Rd and the neighboring residential properties while also not creating unnecessary financial and environmental impacts.

4. *The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.*

No known detriments to the public have been identified through our variance request. However, substantial property changes would likely need to be made if the original sign location has to be used that may affect the atmosphere of the area and neighboring properties. The requested sign location would also allow for enough visualization for vehicles to avoid unsafe, sudden stops.

5. *The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.*

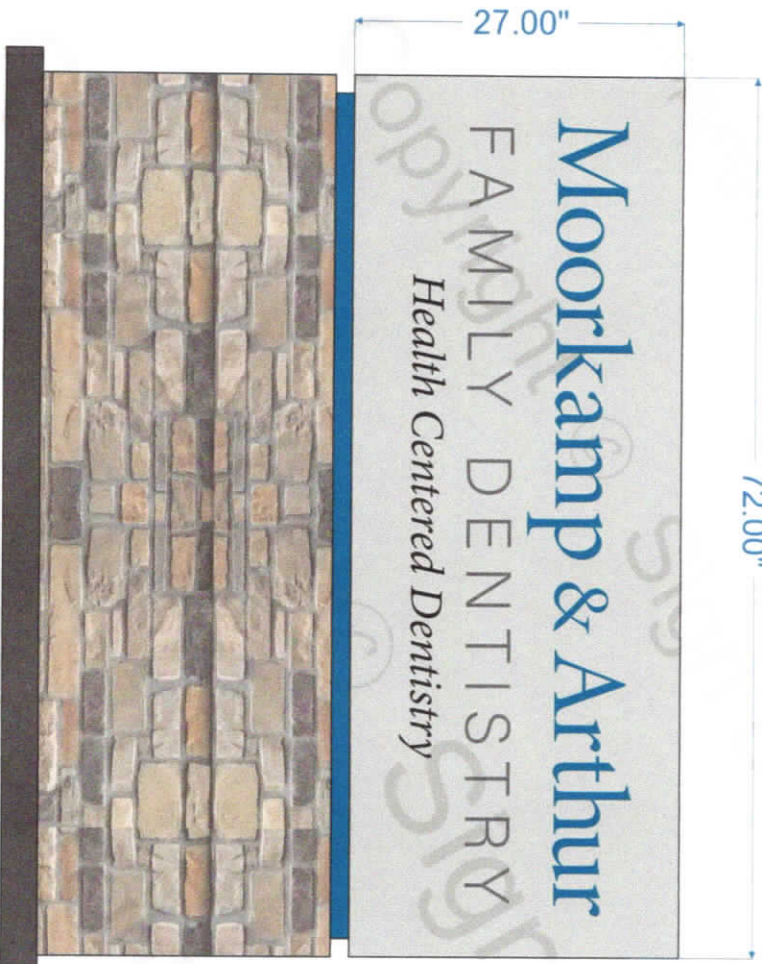
Accepting our variance request for a new sign location would make for minimal and reasonable changes to our property, while avoiding major changes to the character of "Pine Tree" Rd.

6. *The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.*

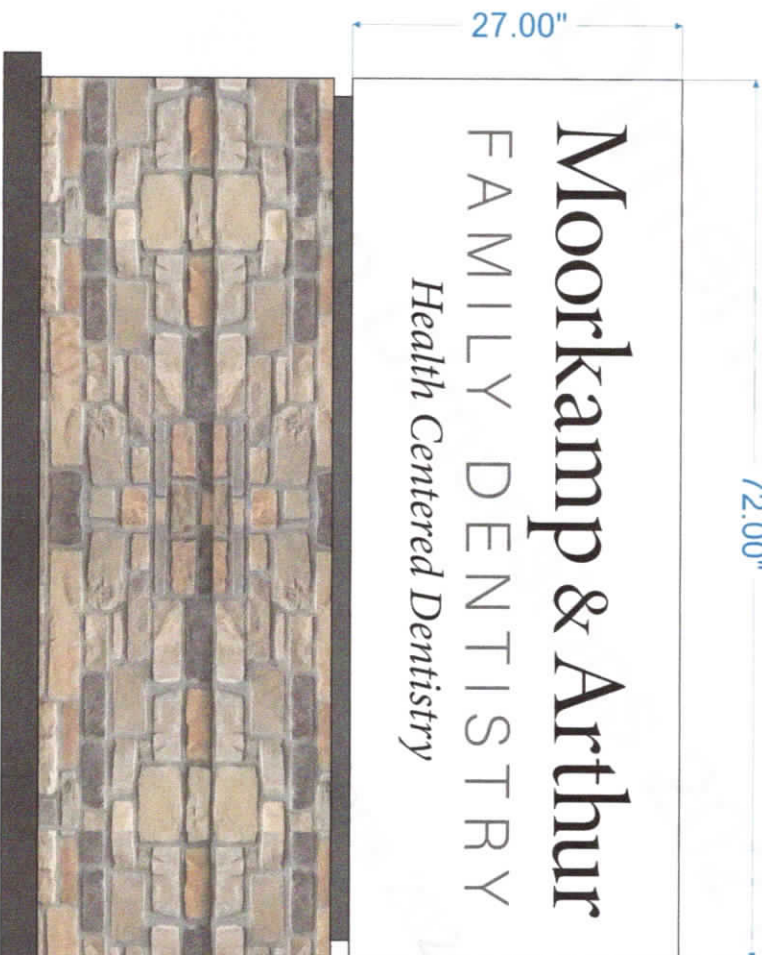
Much unnecessary work with the removal of so much of the natural environment would need to be done to accomplish a sign with similar visibility but under a required setback.

Option 1: 27" X 6' Double Sided LED Lit Aluminum Sign With Push Through Acrylic Letters
 2" Reveal, Stone Base By Others
 Option 2: 27" X 6' Double Sided Non Lit Aluminum Sign 2" Reveal, Stone Base By Others

Design Option 1



Design Option 2



CLIENT APPROVAL: Please review art proofs carefully! Check for correct spelling and information. Colors viewed on monitors may vary slightly from actual colors in final production. If color critical, please provide accurate color samples (ie: Pantone, Paint Swatches, CMYK, RGB etc.) Your signature indicates review and acceptance of the proof as is. Once this proof is signed and returned with approval, Sign Dimensions LLC is not responsible for any discrepancies regarding color, spelling or materials used in production. Production will not begin until approval and 1/2 down payment is received. This original design is the exclusive property of Sign Dimensions LLC and is copyright protected.

FURTHER REVISIONS REQUIRED

I VERIFY THAT THIS IS EXACTLY HOW I WOULD LIKE IT TO BE PRODUCED

SIGNATURE: _____

DATE: ___ / ___ / ___

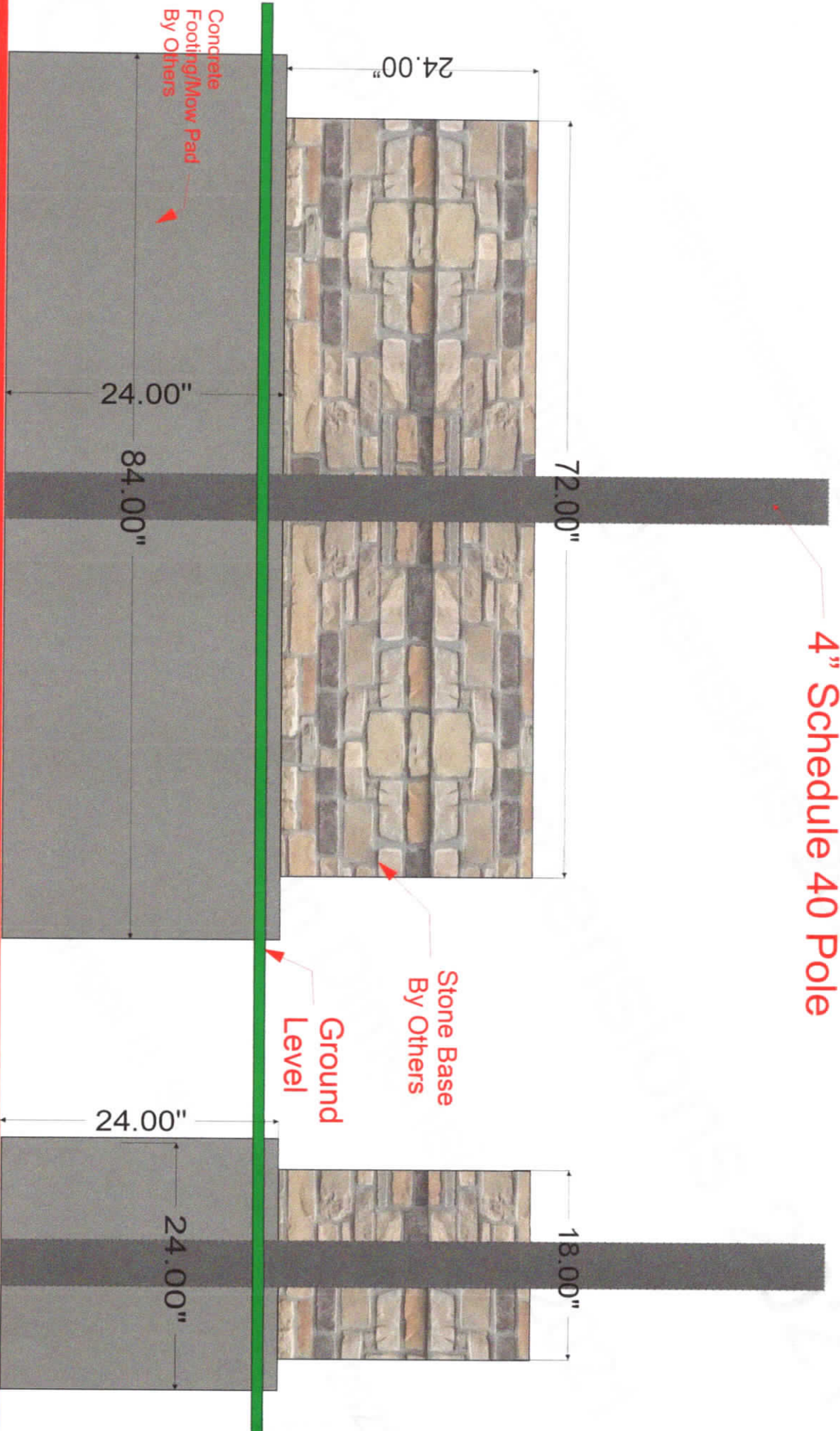
REVISION # _____

Quote # 014463

SIGN DIMENSIONS
 www.signdimensions.net
 11820 CR 3080
 Rolla, MO

(P) 573-368-3600
 (F) 573-368-3800

4" Schedule 40 Pole



CLIENT APPROVAL: Please review art proofs carefully! Check for correct spelling and information. Colors viewed on monitors may vary slightly from actual colors in final production. If color critical, please provide accurate color samples (ie: Pantone, Paint Swatches, CMYK, RGB etc.) Your signature indicates review and acceptance of the proof as is. Once this proof is signed and returned with approval, Sign Dimensions LLC is not responsible for any discrepancies regarding color, spelling or materials used in production. Production will not begin until approval and 1/2 down payment is received. This original design is the exclusive property of Sign Dimensions LLC and is copyright protected.

FURTHER REVISIONS REQUIRED

I VERIFY THAT THIS IS EXACTLY HOW I WOULD LIKE IT TO BE PRODUCED

SIGNATURE: _____

DATE: ___ / ___ / ___

REVISION # _____
QUOTE # 014463

SIGN DIMENSIONS
 www.signdimensions.net
 11820 CR 3080
 Rolla, MO

(P) 573-368-3600
 (F) 573-368-3800

BOARD OF ADJUSTMENT MINUTES
December 9th, 2021
Rolla City Hall

<u>Presiding:</u>	Chairperson Thomas Sutton
<u>Members Present:</u>	Laura Stoll, Judy Jepsen, Matt Crowell
<u>Alternates Present:</u>	None
<u>Members Not Present:</u>	None
<u>City Officials in Attendance:</u>	Tom Coots, City Planner, Steve Flowers, Community Development Director, and Sarah West, Administrative Assistant
<u>Others in Attendance:</u>	Charles Arthur, Applicant, Stephen Moorkamp, Applicant, Jason Smith, Applicant, Jennifer Smith, Applicant

Note: The meeting location was changed to the 4th Floor Conference Room to allow for Thomas Sutton to attend via Zoom. The meeting started late due to technical difficulties.

Chairperson **Thomas Sutton** called the meeting to order at 5:45 P.M. He recognized the members who were present. **Sutton** swore in all present who intended to speak.

I. OTHER BUSINESS/REPORTS FROM THE CHAIRPERSON, COMMITTEE, OR STAFF:

Introduction of new Board member, Matt Crowell.

II. APPROVE MINUTES:

Sutton approved the minutes from the August 5th, 2021 Board of Adjustment meeting as printed and distributed.

III. OLD BUSINESS: NONE

IV. PUBLIC HEARING:

- 1. Request: ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

Tom Coots introduced the variance request ZV2021-04 for a property located at 425 Pine Tree Road and presented the information in the staff report.

Judy Jepsen commented on the sight line issue, as people would be looking for the sign if they had previously made a dentist appointment. **Matt Crowell** asked if the applicants were to place the sign where it would currently be allowed, what would tree removal entail. **Coots** states this would be something the applicant should be able to answer.

Sutton opens the public hearing.

Charles Arthur, located at 1328 Chelsea Lane, and **Stephen Moorkamp** are the applicants. They confirmed they were sworn in.

Arthur gives the dimensions of the proposed sign, as well as the proposed area. He mentions if the variance is granted, the sign would be 7 feet from the sidewalk, and 15 ½ feet from the road. He stated that customers have voiced concerns over the sudden stopping from both directions due to lack of visibility of the current sign.

Moorkamp states they want to keep the natural beauty of the area, and while it is possible to cut down trees on the southbound side, they would prefer not to. They cannot cut down trees on the northbound side.

Stoll commented that she could not see their building or their sign. **Jepsen** thought the building was very visible.

Jepsen asked if the sign would be lit. **Arthur** stated there would be subtle ground lighting, but no internal lighting. He states the base of the sign is only about 2 foot tall. **Moorkamp** states their sign would be similar to City park signs.

Sutton closes the public hearing and moves into Board deliberation.

Jepsen asks if the proposed sign was the only commercial sign on Pine Tree Road. **Arthur** states there are other signs along the roadway that are closer to the street than the proposed sign.

Stoll comments the sign would blend with the area. **Crowell** asks to what extent the board considers aesthetics as a factor. **Coots** states it likely could be in some of the criteria.

Coots asks the board to go over the criteria for approval.

1st Criterion: **Crowell** expresses concern that the trees hindering visibility is not a unique circumstance to this lot. **Jepsen** asks if the applicant wishes to be one foot closer than the standard. **Coots** seven feet closer. **Sutton** commented the he thought the first criterion was met. **Crowell** stated if the safety problem was only due to trees on the northbound side hindering visibility, then this was not a unique issue. If the safety issue was caused due to the trees on the southbound side, which the applicant couldn't remove, then there would be an issue that would be unique to the property. **Coots** states that due to the trees, the visibility on the south side begins at 130 feet from the driveway. **Crowell** asks if it is possible to move the sign to the north to gain visibility. **Coots** states it is possible to move the sign, but moving farther from the driveway would work against providing added visibility to allow people to see the sign and turn to the driveway. **Crowell** is 130 feet not safe? **Coots** says it would be ideal for a 200-300 foot range at this speed of traffic.

All Board members agreed the 1st criterion was met.

2nd Criterion: **Sutton and Stoll** expressed that they thought the hardship was not created by the applicant. **Jepsen** objected, stating the applicant bought the site and planned the building there. **Crowell** asks if it would have been reasonable to place the driveway somewhere else? **Coots** says the building could not have shifted further north; the applicant will have to say if the building could have been placed elsewhere on the lot. The building was built at that location on this lot due to the beauty of the area. **Crowell** in reality the building could have been placed somewhere else, and the driveway could have been redirected. **Coots** states no zoning issues would have stopped that. **Arthur** states that the building was best placed in the current position due to the size of the building and uniqueness of the lot. In operatory rooms, north facing windows are best to keep the sun out of everyone's eyes. **Crowell** there is land to the east, is there a reason nothing was built there? **Moorkamp** there was a sewage issue. **Crowell** you couldn't have built in that area due to the current existing utilities? **Jepsen** there was an issue with the sewer connection? **Moorkamp** yes. **Crowell** when picking the site, was there consultation with the City or did you submit plans without consultation? **Arthur** yes, with Archer-Elgin, the City, and the architect. If any sign was moved north, you would lose visibility due to the slope of the roadway. **Steve Flowers** commented there were elevation problems with moving the building as they did not have the proper slope to get to the sewer.

Stoll, Crowell and Sutton agreed the 2nd criterion was met. **Jepsen** voted no.

All Board members agreed the 3rd criterion was met.

4th Criterion: **Sutton** have we heard from any neighbors? **Coots** no issues.

All Board members agreed the 4th criterion was met.

5th Criterion: **Coots** stated the applicant placed the sign as far from the sidewalk as they could. There could be alternatives to the applicant's sign placement and size. **Crowell** what would be the impact of moving the sign further from the road? Is this the minimum for safety purposes? **Arthur** stated they wanted their sign to fit in with the neighborhood. **Moorkamp** stated patients have complained about not being able to see their sign.

Stoll, Crowell and Sutton agreed the 5th criterion was met. **Jepsen** voted no.

All Board members agreed the 6th criterion was met.

Crowell asked the applicant their timeframe, and if it was a hardship to delay this issue. **Arthur** just more delay. **Crowell** due to disagreement, it would be beneficial to table the issue, possibly gaining another member's insight, as it does not appear that you will have enough votes for approval of the request.

(Note: A variance requires at least 4 votes for approval to approve the request. Since only 4 members are present, all 4 must vote to approve to be able to approve the request. A 5th Board member may be appointed prior to the next meeting)

Arthur commented that an alternative pole sign would not be beneficial as all their neighbors are two-story residential duplexes, so the sign would be in direct line of sight.

A motion was made by Laura Stoll, seconded by Matt Crowell, to table the issue to the next meeting scheduled for January 6th, 2022. A vote on the motion showed the following: Ayes: Crowell, Stoll, Jepsen, and Sutton. Nays: None. The motion passes unanimously.

2. **Request: ZV2021-05:** Variance to Section 42-177.2 to allow a reduction in the side yard setback in the R-3, Multi-family district.

Tom Coots introduced the variance request ZV2021-05 for a property located at 1206 Bardsley Road and presented the information in the staff report.

Sutton opens the public hearing.

Jason Smith, located at 18500 Deep Woods Trail, is the applicant. He confirmed he was sworn in. He is proposing that the building would be built five feet from the property line with a five foot wooden deck up against the property line.

Sutton asked how long the applicant owned the property. **Smith** stated the property was purchased in 2019.

Jepsen asked if the property was surveyed prior to being purchased. **Smith** stated he paid for a survey after purchase. The purchase was through tax sale, which takes one year to gain ownership of the property.

Crowell asked if there was a way to shift the building south and west to avoid the issue. **Smith** not if we are going to meet the City Code for parking. In order to create the needed parking spots, the building can't be moved south. **Jepsen** commented about the requirement for green space as well.

Sutton asked if the apartment complex as a whole could be smaller. **Smith** stated a smaller complex could be built.

Mike Dees, located at 110 South Elm Street, owns the property adjacent to the subject property. He expressed concern with the property lines backing up against 405 East 12th street, and whether he would have access to his property. **Smith** confirms his property line goes across an alleyway, and he states he intends to improve and asphalt the alleyway and not restrict access.

Jennifer Smith, who partners in ownership of the subject building, states that the property lines do not impact Dees from getting to his property.

Jepsen is that a widely used alleyway? **Smith** yes, it is used for parking.

Susan Harmon, who owns 407 East 12th Street, also expressed concern about the alleyway access.

Sutton closes the public hearing and moves into Board deliberation.

Coots asks the board to go over the criteria for approval.

All Board members agreed the 1st criterion was met.

All Board members agreed the 2nd criterion was met.

3rd Criterion: **Crowell** the applicant could build a smaller unit. **Stoll** states safety being an issue as a corner of the building will be very close to the roadway. She also asks for confirmation about the deck on the back of the house being covered under the Code. **Coots** states the code allows for uncovered decks to encroach into a front yard, but does not for a side or rear yard. **Flowers** stated the Code allows concrete to be poured right up to the property line.

All Board members agreed the 3rd criterion was met.

4th Criterion: **Crowell** commented about the setbacks being right up against the neighbors to the east. **Smith** commented that the neighbors on the eastern side have not said anything opposing the variance. He also stated it would not be beneficial to the citizens of Rolla to have a building five feet closer to a major thoroughfare. He pointed out the building itself would not be up against the property line, instead it would be the edge of the porch. **Stoll** asked if shortening the porch would be plausible. **Smith** stated it might not be useable. **Jepsen** stated that a small porch would be a safety issue.

Stoll, Jepsen, and Sutton agreed the 4th criterion was met. **Crowell** voted no.

5th Criterion: **Crowell** comments that he believes there are other reasonable uses of this land. **Jepsen** is that ours to determine? **Crowell** states the Board is there to determine if this variance is necessary. The applicant can build without the variance, and can also provide alternatives that does not violate the setback. He states that safety is not the only factor to consider. **Smith** comments that this is a special circumstance, and he believes his request to be reasonable. He states that he applied for the variance at the recommendation of Tom Coots.

Stoll, Jepsen, and Sutton agreed the 5th criterion was met. **Crowell** voted no.

6th Criterion: **Crowell** states this is not simply a safety issue; there are setbacks for a reason.

Stoll, Jepsen, and Sutton agreed the 6th criterion was met. **Crowell** voted no.

Stoll asked the applicant about the timeframe, and would delaying create a hardship. **Smith** stated yes, as waiting would result in losing contractors.

Crowell stated he was not opposed to a compromise. He expressed concern over no buffers between future owners of the properties.

Smith asks what the current Code says about how close each structure can be. **Flowers** states it depends on the zoning and what fire separation is required. Some lots allow for zero lot lines. In this case, there is a 5 foot setback required between both property lines, thus buildings can be no closer than 10 feet. **Smith** states there is currently at least a 15 foot separation between buildings.

Crowell how high off the ground is the planned deck? **Smith** about four feet. **Crowell** asked if a condition could be made for a fence. **Sutton** asks if there was room for a fence. **Flowers** a fence can be built right up against the property line, or attached to the deck if they wish. **Stoll** asks if the applicant can build a privacy fence on the deck instead of railing. **Flowers** confirms this to be true.

Crowell states there are competing interests. **Stoll** asks if the applicant would be willing to compromise. **Smith** yes. Would one foot off the property line be a reasonable compromise? **Crowell** states he would prefer two feet instead. He asks if adverse possession plays a role in decision making. **Coots** states that if the public is using the property, the public can maintain that use. **Crowell** states the setbacks would stay with the original property lines. **Jepsen** asks if the City replaced the sidewalk, could they move it back off the property line. **Coots** states they could replace it in the same spot.

Crowell proposes a two foot setback from the neighboring property. **Flowers** asked if a two foot area could be maintained. **Crowell** withdraws his objection and motion, and supports the application.

A motion was made by Matt Crowell, seconded by Laura Stoll, to approve the application as submitted. A roll call vote on the motion showed the following: Ayes: Crowell, Stoll, Jepsen, and Sutton. Nays: None. The motion passes unanimously.

Having no further business, the meeting was adjourned at 7:57 P.M.

Minutes prepared by **Sarah West**

NEXT MEETING:

Thursday, January 6, 2022