

**CITY OF CHESTERFIELD
BOARD OF ADJUSTMENT MEETING SUMMARY
Thursday, October 7, 2004**

The Board of Adjustment meeting was called to order at 7:15 p.m. on Thursday, October 7, 2004 by Mr. Robert McAllister, 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
Mr. Robert McAllister
Mr. Richard Morris
Mr. Gerald Schwalbe
Mr. Robert Tucker
Mr. Rob Heggie, Assistant City Attorney
Ms. Jane Durrell, Council Liaison
Ms. Aimee Nassif, Project Planner, City of Chesterfield Department of Planning
Ms. Annissa G. McCaskill-Clay, Senior Planner, City of Chesterfield Department of Planning
Ms. Joyce Collins-Catling, Executive Secretary, City of Chesterfield Department of Planning
Concannon & Jaeger, Court Reporter

II. Approval of August 5, 2004 Meeting Summary

**Laura Lueking made a motion to approve the minutes.
Richard Morris seconded the motion.**

The motion passes 5-0

III. Request for Affidavit of Publication

IV. Public Hearing Items:

A. B.A. 5-2004 THF Chesterfield Four Development, L.L.C. c/o

Gary Grosse General Sign Company: A request for variance from Section 1003.168C(3)(1A&B) of the City of Chesterfield Zoning Ordinance to allow two (2) attached signs on the sides of building and a three hundred eighty two point eight (382.8) square foot sign in lieu of the City of Chesterfield Zoning Ordinance requirements that only one (1) sign be permitted per building side and that no business sign shall exceed three hundred (300) square feet in outline area for 450 THF Boulevard. (17U240055)

Project Planner, Aimee Nassif, presented the petition stating that the Petitioner is requesting the following four (4) variances pertaining to this project:

- (1) Two (2) attached wall signs
- (2) One (1) sign for Mega Screen at 382.8 square feet
- (3) Galaxy 14 Cinema Sign < 5% of wall space
- (4) Mega Screen sign > maximum square feet

Representatives for the petition, Gary Grosse of General Sign Company, stated that they are requesting variances to allow wall signs that measure 54,470 sq. ft wall area (< 2.5% wall space) proportionate to the size of the building, and a secondary sign on the East (main) elevation facing the parking area. The signs will be illuminated using low-voltage LED lighting similar to lighting used in home gardens. Florescent lamps will illuminate only the letters on the 14 Cine sign.

The unusually large signs are necessary for the overall look of the building. Due to the great distance between the building and Chesterfield Airport Road, the size of the signs for this unique venue will appear much smaller from the road.

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

Four (4) separate motions pertaining to this petition were as follows:

- (1) Robert Tucker made a motion to approve the placement of two signs on the East elevation.
- (2) Gerald Schwalbe seconded the motion.

The voice vote was as follows: Laura Lueking, yes; Richard Morris, yes; Marilyn Ainsworth, yes; Gerald Schwalbe, yes; Robert McAllister, yes.

The motion passes 5-0

- (2) **Gerald Schwalbe made a motion to approve the increase of the Mega Sign to 382.8 square feet.**
Marilyn Ainsworth seconded the motion.

The voice vote was as follows: Laura Lueking, no; Richard Morris, yes; Marilyn Ainsworth, no; Gerald Schwalbe, no; Robert McAllister, no.

The motion failed 3-2

- (3) **Gerald Schwalbe made a motion to approve the increase of the Galaxy Sign to 360 square feet.**
Marilyn Ainsworth seconded the motion.

The voice vote was as follows: Laura Lueking, no; Richard Morris, no; Marilyn Ainsworth, no; Gerald Schwalbe, no; Robert McAllister, no.

The motion failed 5-0

- (4) **Gerald Schwalbe made a motion to approve the increase of the Mega Screen size to 382.4 square feet.**
Marilyn Ainsworth seconded the motion.

The voice vote was as follows: Laura Lueking, no; Richard Morris, yes; Marilyn Ainsworth, no; Gerald Schwalbe, no; Robert McAllister, yes.

The motion failed 3-2

- B. **B.A. 6-2004 Raymond & MaryLou Sirtak:** A request for a variance to allow an existing residence at 14840 Pheasant Hill Court to maintain a twelve (12)-foot rear yard setback in lieu of a fifteen (15)-foot rear yard setback in a Flood Plain Residential “FPR-2” District. (19R110252).

Project Planner, Aimee Nassif, presented the petition and exhibits stating that the Petitioner is requesting a rear yard setback be allowed for an addition to a home built on an angle. She further stated that one neighbor in opposition sent in a letter requesting the variance not be

approved due to privacy issues with the proposed room addition directly facing their family room, property line violations, and that they were under the impression that the Sirtaks would not proceed with this request based on their earlier discussion.

Raymond Sirtak stated that the distance from the property line is 12' and not 15' for the length of a 7' wall. He stated that he did not inform the neighbor in opposition of his plans to present the project to the Board for approval. He further stated that a modified plan to include the required 15' setback could be developed at additional cost to him. Because of the octagon shape, any modifications would make the room too small. He and his wife feel that the octagon shape is very significant to the home and the modified shape would be square.

The Chairman of the Subdivision Trustees, Eric Shannon, stated that the Trustee Board approved the Sirtaks request unaware that this variance would cause a property line violation. He further stated that had the Trustees known that a variance was required, they would not have approved the request. Mr. Shannon stated that they were neither in favor of nor in opposition of this plan.

There were no additional speakers present in favor of the petition.

There were no speakers in opposition.

Gerald Schwalbe was excluded from voting due to his being a member of the Subdivision Trustees.

**Marilyn Ainsworth made a motion to approve this request.
Robert McAllister seconded the motion**

The voice vote was as follows: Laura Lueking, no; Richard Morris, no; Marilyn Ainsworth, no; Robert Tucker, no; Robert McAllister, no.

The motion failed 5-0

C. **B.A. 7-2004 Elizabeth Panke (Tim & Gina Wilmering)**: A request for a variance to allow an existing residence at 14 Ridge Crest Drive to maintain a forty four (44) foot front yard setback in lieu of a fifty (50) foot front yard setback in a an R-1 "Residential" District (16Q410044).

Project Planner, Aimee Nassif, presented the petition and exhibits stating that the Petitioner is requesting a variance of 44' for the front of a home built in 1962, zoned R-1 in 1965 by St. Louis County.

Tim Wilmering and his wife, Gina, currently reside in the 45-year old home which was built by Mr. Wilmering's parents. He and his wife are requesting a variance to allow a covering for the front porch. This would significantly update the home in comparison to neighboring homes, and would not interrupt the pastoral look of the large front yard. The covered porch would also protect against weather elements, and the River Bend Subdivision Board of Trustees has approved this plan.

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

Robert McAllister was excluded from voting due to his being a member of the Subdivision Board of Trustees.

**Laura Lueking made a motion to approve this request.
Richard Morris seconded the motion**

The voice vote was as follows: Laura Lueking, yes; Richard Morris, yes; Marilyn Ainsworth, yes; Gerald Schwalbe, yes; Robert Tucker, yes.

The motion passes 5-0

D. **B.A. 8-2004 Kurt & Jayne Busch:** an request for a variance to City of Chesterfield Ordinance 1454 to allow a beauty parlor use at 189 Chesterfield Business Parkway, in Chesterfield Business Park, a "PI" Planned Industrial District (17U130541).

Senior Planner, Annissa McCaskill-Clay, presented the petition and exhibits stated that on September 3, 2004 the City of Chesterfield rejected the zoning application for a Beauty Parlor as a non-permitted use in a PI district per the governing ordinance.

Assistant City Attorney, Robert Heggie, explained that the applicants are requesting a use variance instead of the usual setback variance, for a proposed use in a particular parcel of land.

Attorney Mike Doster on behalf of the applicants, Mr. & Mrs. Busch, reiterated that his clients are seeking a use variance. He gave background relating to Ordinance 1354 passed in 9/1998 and it's broad list of permitted uses. This ordinance was new to the developer and the City of Chesterfield at that time. Mr. Doster presented a graphic of both the PI and PC districts under this ordinance. This particular property is in the nature of a condominium, but no residents live in any of the units. There are wide varieties of uses and facilities currently maintained in this particular district. His clients found out about the inappropriate use only

after applying for a zoning application as a prelude to obtaining a permit for tenant improvements in this particular location.

Mr. & Mrs. Busch stated that they have operated a business for 26 years and in Chesterfield for the past 21. They recently purchased this second shop as a result of being notified that the building, where they've leased space, is being sold and the lease will expire in January of 2005. Other tenants at the new location are not in opposition to their establishment.

Mr. Mike Hejna, a managing member of GHH Investments and President of Gundaker Commercial Group (builder for this development) spoke in favor of the petition. He stated that a straight PC zoning was initially requested for the entire 38 acres. The City of Chesterfield suggested dividing the project and zone the North side as PI due to its office park service orientation, and to zone the South side as PC due to its heavy retail application. Mr. Hejna noted that should the initial request for the 38 acres zoned as PC, this issue would have been avoided.

There were no additional speakers present in favor of the petition.

There were no speakers in opposition.

**Laura Lueking made a motion to approve this request.
Marilyn Ainsworth seconded the motion**

The voice vote was as follows: Laura Lueking, yes; Richard Morris, yes; Marilyn Ainsworth, yes; Gerald Schwalbe, yes; Robert Tucker, yes.

The motion passes 5-0

V. Adjournment

Meeting adjourned at 8:45 p.m.