



**CITY OF WARRENSBURG, MISSOURI
BOARD OF ADJUSTMENT**

**WARRENSBURG MUNICIPAL CENTER
200 S. HOLDEN ST.
WARRENSBURG, MO 64093**

**August 27, 2018
4:00 PM
AGENDA**

1. Call To Order

2. Roll Call

3. Minutes

3.I. Meeting Held July 12, 2018

Documents:

[07-12-18 BOA MINUTES.PDF](#)

3.II. Meeting Held July 18, 2018

Documents:

[07-18-18 BOA MINUTES.PDF](#)

3.III. Meeting Held August 6, 2018

Documents:

[08-06-18 BOA MINUTES.PDF](#)

4. Other Business

4.I. Resolution For VAR-07-2018

Documents:

[RESOLUTION VAR-07-2018.PDF](#)

4.II. Resolution For VAR-08-2018

Documents:

[RESOLUTION VAR-08-2018.PDF](#)

5. Adjourn



CITY OF WARRENSBURG, MISSOURI Board of Adjustment

Minutes of a Meeting Held on July 12, 2018

Acting as Chair, the meeting was called to order by Vice-Chair Anita Love at 6:02 PM.

Prior to the Board's attorney arriving, and without opposition from the applicants or the Board, staff requested to present items under "Other Business" on the agenda. Carroll introduced the new City website where the Board may review the agenda and packets online. She stated for the Board of Adjustment, paper packets will continue to be sent. Secondly, the August 6 Planning and Zoning Commission will include an online webinar for ethics training. Board of Adjustment members are invited to attend. Lastly, the City may use an online app called "Doodle" to set-up meetings in the future. This would be in place of the Permit Clerk calling individual members to check their availability for different meeting dates and times.

Adam Sommer, attorney and counsel to the Board of Adjustment arrived at 6:15 p.m.

Roll was called and members Willie Crespo, Bryon Freeman, Anita Love, Nancy Knight, and Lynn Solomon were present. Barbara Carroll, Director of Community Development; and Kristin Pack, City Planner, were present. Jerry Franklin and Barry Glasscock were present as the applicants. The hearings were recorded by a court reporter.

Minutes from the January 29, 2018, Board of Adjustment meeting were reviewed. Love asked under paragraph two, whether Sandi Bryan or Bryon Freeman's name was supposed to be corrected. The Board agreed it was Bryon Freeman's name to be corrected. Second, under Item 4, it should state "written applicant" and not "written application" as stated. Solomon moved to make the stated corrections to the minutes. Crespo seconded. Love called for a vote on the motion. Approved 5-0. Crespo moved to approve the amended minutes. Knight seconded. Love called for a vote on the motion. Approved 5-0.

4. Hearings

4.1 VAR-06-2018: Request for Variance-Signs

321 E. Young Ave.

Barbara Carroll, Barry Glasscock, Kristin Pack and Dan Hurley were sworn in by the court reporter. Carroll entered Exhibits 1-4 to the Board of Adjustment, and they were received by the Board. Carroll summarized the nature of the request. She stated the staff report includes two resolutions that are the Board's previous decisions on the property from 2002 and 2006. Those two resolutions are referenced under 709 and 715 N. Charles. Carroll clarified in 2016 the property was re-addressed as 321 E. Young with suite numbers, thus the current case is for the current address.

Glasscock entered Exhibits A-C to the Board of Adjustment, and they were received. Glasscock made arguments on behalf of Glasscock Plaza, LLC and stated the reason for the request is there is no other place for the signage. The awning was installed before the sign ordinance was adopted, and there are rooftop signs currently there. There is space between Bread of Life Books and Serenity Spa where Metro PCS wants to install a rooftop sign. The signs would be the same height of 4 ft., but the lengths would be different, and there is not viable place to up a sign and make it uniform in appearance.

There was a general discussion between the board members and the applicant about how the signs are attached to the roof, the mansard roof over the walkway, and the aesthetics and location of the other signs already installed on the roof.

Carroll entered Exhibits 5-7 to the Board of Adjustment, and they were received. Carroll summarized the information in the staff report. Carroll reviewed the history of the prior sign variances for this property and the reason for the three applications in the staff report. Carroll stated staff was looking for a decision that would comprehensively address sign needs for a strip mall wherein the tenants change, the interior walls delineating the tenant spaces change, and the addresses change, which make it physically difficult to determine where variances have been granted. There was a general discussion about the range of sizes for tenant spaces

Ex-parte contacts were disclosed by board members. None was indicated.

No public comment was received in the meeting. Love closed the public hearing. Solomon moved to approve variance to allow the installation of 4 ft. tall signs for each suite that can be extended to cover the length of the suite for an unlimited number of suites. Crespo seconded.

A roll call vote was taken as follows:

Lynn Solomon:	Yes
Nancy Knight:	Yes
Bryon Freeman:	Yes
Willie Crespo:	Yes
Anita Love:	Yes

The motion was approved 5-0. The variance was granted.

4.II VAR-07-2018: Request for Variance-Setbacks

Tract A of Keystone Development - 2nd Plat

Northeast corner of Russell Ave. and Missouri Business Route 13/Maguire Street

Jerry Franklin was sworn in by the court reporter. Dan Hurley, Kristin Pack and Barbara Carroll having been sworn in earlier in the meeting. Pack entered Exhibits 1-5 to the Board of Adjustment, and they were received. Pack summarized the nature of the request and stated Tract A is separate from the previous variance application for 305 E. Russell Ave. and 315 E. Russell Ave.

Franklin entered Exhibit A, which included 6 items, to the Board of Adjustment, and they were received. Franklin made arguments on behalf of Keystone Hospitality, LLC and stated the sign will not encroach into the right-of-way, and it will be placed in Tract A. He stated the old sign encroached 3 ft. into the right-of-way and that was no burden to the community. Franklin stated there is an old utility pole in front of the middle of the tract. He further described the site and the proposed sign.

There was a general discussion between board members and Franklin regarding what businesses or events will be advertised on the sign, the off-premise sign permit from the Missouri Department of Transportation (MoDOT), the fact that it includes an electronic message board, other off-premise signs nearby, the impact on southbound traffic's visibility, and the ability to relocate the existing utility pole and on-site storm water infrastructure.

Carroll made arguments on behalf of the City and summarized the staff report. Carroll stated previously the Board approved a 40 ft. encroachment into the 40 ft. setback from

Maguire St. for the two lots north of Tract A. Tract A is a different piece of land requesting a variance from the 10 ft. setback requirement for a sign which is technically a different section of the zoning ordinance but physically in-line with the previously approved variance in the real world. The signs previously located on the property was removed by the applicant earlier this year; therefore, there is no non-conforming or grandfathered status in place. Carroll stated a smaller sign would fit as the tract is currently platted, or the sign could be located to another lot where it could fit at the proposed dimensions; however, it would limit the number of signs for a future business on the other property.

Franklin stated one reason the sign cannot be smaller is because it would not be useful to moving traffic with a smaller electronic message center. City code requires an electronic message center to be 50% or less of the surface display area of the overall sign. Future businesses would not like if they could not have their own sign on their lot.

Love opened the meeting for public comment. Dan Hurley stated the electronic message center is 5 ft. by 10 ft., and with moving traffic that is the minimal video size. There was a general discussion about the variance granted on Lots 4 and 5, future buildings and uses for those sites and possible signs for those properties. Love closed the public hearing. Ex-parte contacts were disclosed by board members. None was indicated.

Crespo moved to approve variance as requested. Solomon seconded.

A roll call vote was taken as follows:

Lynn Solomon:	Yes
Nancy Knight:	Yes
Bryon Freeman:	Yes
Willie Crespo:	Yes
Anita Love:	Yes

The motion was approved 5-0. The variance was granted.

5. Other Business

B. Resolution for BA 2017-03

Carroll introduced the resolution that contains the findings for approving the variance for BA 2018-01 regarding property 305 E. Russell Ave. and 315 E. Russell Ave. Carroll asked the Board if the resolution accurately reflected the reasons for their action. No changes were brought forward. Solomon moved to approve the resolution. Crespo seconded.

Nimmer called for the question and a roll call vote was taken as follows:

Lynn Solomon:	Yes
Nancy Knight:	Yes
Bryon Freeman:	Yes
Willie Crespo:	Yes
Anita Love:	Yes

The motion carried. The resolution approving the variance for BA 2018-01 was approved 5-0.

6. Adjourn

Solomon moved to adjourn the meeting. Freeman seconded. Approved 5-0. The meeting adjourned at 7:35 PM.

Date: _____

Chair



CITY OF WARRENSBURG, MISSOURI Board of Adjustment

Minutes of a Meeting Held on July 18, 2018

The meeting was called to order by Chair Don Nimmer at 6:15 PM.

Roll was called and members Anita Love, Don Nimmer, Mike Shaw, Nancy Knight and Bryon Freeman were present. Adam Sommer, attorney and counsel to the Board of Adjustment; Barbara Carroll, Director of Community Development; and Kristin Pack, City Planner, were also present. Jamie Poulsen, Trevor Fox and Patrick Joyce were present as the applicants. The meeting was recorded by a court reporter.

4. Hearings

4.1 VAR-08-2018: Request for Variance-Setbacks and Parking

623 S. Maguire St.

Carroll summarized the nature of the request. The case is to be allowed to encroach 30 ft. into the required 40 ft. setback from the west property line adjacent to S. Maguire St.; for Space 1, reduce the number of parking spaces required for Land Use 8.200 from the required 20 parking spaces to 12 parking spaces; to reduce the required stall length for 60-degree angle parking from 21 ft. to 17.32 ft.; and to encroach 15 ft. into the required 30 ft. setback from the east property line for placement of a dumpster.

Barbara Carroll, Jamie Poulsen, Trevor Fox and Patrick Joyce were sworn in by the court reporter.

Patrick Joyce entered Exhibits A-E to the Board of Adjustment, and they were received by the Board. Joyce made arguments on behalf of Dream Team Properties, LLC. He stated the existing building is unsightly and requires a lot of maintenance. Joyce presented the floor plan and layout of the site and summarized the proposed development including 19 proposed parking spaces, a second tenant space, new dumpster enclosure and interior seating. Joyce stated seating was targeted for university students walking to the site, and the striping for the parking was based on the adjacent University of Central Missouri (UCM) parking lots. There was a general discussion about the number and location of the parking spaces, the number of customers that drive to the business to pick up pizzas, the parking spaces for the second tenant space, sight triangle and landscaping concerns.

Carroll entered Exhibits 1-5 to the Board of Adjustment, and they were received. Carroll made arguments on behalf of the City regarding the adopted zoning map, table of uses and public notices given for the hearing. Carroll stated there is reasonable use of the site if the building is downsized to a single space without the second tenant space. She also stated UCM parking spaces do not fall under the jurisdiction of the City and may not be striped to the required City dimensions. Carroll entered Exhibit 6, an aerial photo of the parking lot at McDonald's parking lot located at 311 E. Young Ave., to the Board of Adjustment, and it was received. Using the aerial photo, Carroll demonstrated the impact of fitting a car or large vehicle into the stall with the stall depth is shortened to 17.5 ft. Carroll stated on-street

parking is not allowed on S. Maguire St. and only permitted parking at UCM, which leaves Jefferson St. next to the adjacent residential neighborhood if people do not want to use the stall on-site because they are too hard to get in and out of.

Joyce rebutted that the proposed store design is a prototype from the corporate office, and the tenant space justifies the expense for the new store. The Board of Adjustment discussed the site, building, seating and layout regarding corporate requirements.

Nimmer opened the meeting for public hearing. Cassie Hensley was sworn in by the court reporter.

Casey Hensley, 507 Zoll Street, addressed the Board of Adjustment and stated she is the general manager of Domino's. Hensley stated the new store would raise the mark, and the existing store walls are bowing-in; tiles are starting to fall; and only so much can be replaced. Hensley stated she has about 6-7 drivers on a shift, and they rotate in-and-out of the store.

Nimmer asked if anyone else would like make any additional comments. Joyce stated the UCM parking lots indicate the proposed parking design functionally works. Nimmer closed the public hearing. Ex-parte contacts were disclosed by board members. None was indicated. Board members discussed amongst themselves what the minimum variance needed to make the site work for a restaurant vs a restaurant and tenant space.

Love moved to approve all four variances as requested. Knight seconded.

A roll call vote was taken as follows:

Bryon Freeman:	No
Mike Shaw:	No
Anita Love:	No
Nancy Knight:	Yes
Don Nimmer:	No

The motion was denied 1-4. The variance was denied.

5. Other Business

6. Adjourn

Love moved to adjourn the meeting. Freeman seconded. Approved 5-0. The meeting adjourned at 7:20 PM.

Date: _____

Chair



CITY OF WARRENSBURG, MISSOURI
Board of Adjustment

Minutes of a Meeting Held on August 6, 2018

The meeting was called to order by Chair Don Nimmer at 4:00 PM

Roll was called and members Don Nimmer, Anita Love, Nancy Knight, Sandi Bryan and Mike Shaw were present. Barbara Carroll, Director of Community Development; and Kristin Pack, City Planner, were also present. The meeting was recorded by a court reporter.

3. Other Business

3.I. Resolution for VAR-06-2018

Carroll introduced the resolution approving the variance for VAR-06-2018 regarding property at 321 East Young Street. Carroll asked the Board if the resolution accurately reflected the reasons for their decision. No changes were brought forward. Shaw moved to approve the resolution. Bryan seconded.

Nimmer called for the question and a roll call vote was taken as follows:

Mike Shaw:	Yes
Nancy Knight:	Yes
Anita Love:	Yes
Sandi Bryan:	Yes
Don Nimmer:	Yes

Motion carried. The resolution approving the variance for VAR-06-2018 was approved 5-0.

4. Adjourn

Bryan moved to adjourn the meeting. Shaw seconded. Approved 5-0. The meeting adjourned at 4:15 PM.

Date: _____

Chair



CITY OF WARRENSBURG, MISSOURI
Community Development Department

BOARD OF ADJUSTMENT

RESOLUTION

Case No.: VAR-07-2018

Request for Variance: Tract A of Keystone Development 2nd Plat

The legal description of the property in question is as Tract A of Keystone Development – 2nd Plat.

Applicant: Keystone Hospitality, LLC

Hearing Date: July 12, 2018
6:00 p.m.
Warrensburg Municipal Center, 200 S. Holden St.

General Statement of Case:

To encroach 10 ft. into the required 10 ft. sign setback for a pole sign from the west property line adjacent to Missouri Business Route 13/Maguire Street. This request involves Sec. 27-504 (e) (2) c of the Code of City Ordinances.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Testimony was taken at the public hearing at 200 S. Holden Street on July 12, 2018. At that hearing Barbara Carroll, Director of Community Development represented the City of Warrensburg. Jerry Franklin appeared on behalf of the applicant. Adam Sommer was present as Counsel to the Board of Adjustment.

The following information was presented at the hearing:

1. The property in question is located on northeast corner of Russell Ave. and Missouri Business Route 13/Maguire Street, and is described as Tract A of Keystone Development – 2nd Plat in a GB: General Business District.
2. At the time of the public hearing and deliberation by the Board, the property was not developed.
3. Keystone Development – 2nd Plat was recorded on January 12, 2018.
4. Section 27-504 (e) (2) c of the Code of City Ordinances states no pole sign shall intrude into any public right-of-way and all structures, supports, and sign faces shall be at least ten (10) feet from any lot line adjacent to a street, and at least five (5) feet from any other lots line.
5. The applicant is requesting a variance to be allowed to encroach 10 ft. into the required 10 ft. sign setback for a pole sign from the west property line of Tract A adjacent to Missouri Business Route 13/Maguire Street.
6. Earlier in 2018, the previous non-conforming sign shown on Keystone Development 2nd Plat was removed by the applicant.
7. Section 27-504 (e) (8) limits an electronic message center to 50% or less of the aggregate square footage of the surface display area of the sign to which it is attached.

8. Reducing the size of the overall sign would reduce the size of the electronic message center to meet the required 50% ratio.
9. The current dimensions of the electronic message center of 5 ft. 3 in. by 10 ft. 6 in. is the minimum size recommended for visibility from adjacent streets and traffic patterns.
10. There is a Kansas City Power and Light (KCP&L) utility pole located south of the lot, adjacent to the E. Russell Avenue, which obstructs the view of the sign from northbound traffic Missouri Business Route 13/Maguire Street.
11. There is storm drainage infrastructure in the area north of the proposed sign location.
12. Notice of the hearing on this matter was published in the Daily Star Journal on June 26, 2018.
13. Notice was also posted on the property on June 21, 2018.
14. Notice was mailed to property owners within 300 ft. on June 21, 2018.
15. The Code of Ordinances of the City of Warrensburg, Missouri, provides as follows:
 - a. Section 27-61 (a) (2) provides that the Board of Adjustment may grant a variance "in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would deprive the owner of the reasonable use of the land or building involved...."
 - b. Section 27-61 (a) (2) further requires the Board to find that:
 - a. There are special circumstances or conditions "... applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that such circumstances or conditions are such that the application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building;"
 - b. "...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 of adjustment is the minimum variance that will accomplish this purpose;" and
 - c. "...the granting of the variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Based upon this information and its interpretation of the cited code provisions, the Board finds that:

1. The situation is unique in that the property is situated behind the KCP&L utility pole adjacent to the East Russell Avenue and storm drainage infrastructure that are challenging to relocate.
2. The granting of the variance will allow the sign to be visible from Missouri Business Route 13/Maguire Street heading north.
3. The granting of the variance is necessary for the reasonable use of the land, and the variance requested is the minimum variance that will accomplish this purpose.
4. The granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare because the use is in keeping with the character of the neighborhood and surrounding uses.

IT IS THEREFORE RESOLVED BY THE BOARD that the requested variance be granted on Tract A of Keystone Development 2nd Plat to allow a 10 ft. encroachment in the required 10 ft. sign setback for a pole sign from the west property line adjacent to Missouri Business Route 13/Maguire Street.

Passed by the Board of Adjustment this _____ day of _____, 2018.

Chair



CITY OF WARRENSBURG, MISSOURI
Community Development Department

BOARD OF ADJUSTMENT

RESOLUTION

Case No.: VAR-08-2018

Request for Variance: 623 S. Maguire St.

The legal description of the property in question is:

LOTS 11 AND 12, GALLAHER'S FIRST ADDITION TO THE CITY OF WARRENSBURG, A SUBDIVISION IN JOHNSON COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THERE OF, FILED IN PLAT BOOK 2 AT PAGE 25.

Applicant: Dream Team Properties, LLC

Hearing Date: July 18, 2018
6:00 p.m.
Warrensburg Municipal Center, 200 S. Holden St.

General Statement of Case:

- 1) To encroach 30 ft. into the required 40 ft. setback from the west property line adjacent to S. Maguire St.;
- 2) For Space 1, reduce the number of parking spaces required for Land Use 8.200 from the required 20 parking spaces to 12 parking spaces;
- 3) To reduce the required stall length for 60-degree angle parking from 21 ft. to 17.32 ft.;
- 4) To encroach 15 ft. into the required 30 ft. setback from the east property line for placement of a dumpster.

These requests involve Sec. 27-118 (g) (2) c, Sec. 27-406, Sec. 27-411, and Sec. 27-118 (g) (3) a of the Code of City Ordinances.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Testimony was taken at the public hearing at 200 S. Holden Street on July 18, 2018. At that hearing Barbara Carroll, Director of Community Development represented the City of Warrensburg. Patrick Joyce, Jamie Poulson and Trevor Fox appeared on behalf of the applicant. Adam Sommer was present as Counsel to the Board of Adjustment.

The following information was presented at the hearing:

1. The property in question is located 623 South Maguire Street on the northeast corner of S. Maguire St. and Jefferson St. in a GB: General Business District.
2. The existing lot is of a size, width, depth, and topography that is consistent with the surrounding neighborhood.
3. At the time of the public hearing and deliberation by the Board, the property was developed with a single commercial building used for Domino's Pizza.

4. The applicant has submitted a site plan showing the proposed location of the new building including 19, 60-degree angled parking spaces, dumpster enclosure, proposed setback and required setbacks.
5. Section 27-118 (g) (2) c of the Code of City Ordinances states no structure is allowed within forty (40) feet of an arterial street right-of-way.
6. The City of Warrensburg Major Street Plan approved by the Planning and Zoning Commission and City Council identify Maguire Street as an arterial street.
7. Section 27-406 of the Code of City Ordinances requires for Land Use 8.2, 1 parking space per 3 seats provided in the seating/dining area (indoor or outdoor) plus 1 space per each employee on the maximum shift.
8. Section 27-411 of the Code of City Ordinances states the required stall length perpendicular from the curb must be 21 feet for 60-degree angled parking spaces.
9. Section 27-118 (g) (3) a of the Code of City Ordinances states no structure, or any storage, display or parking of merchandise, vehicles or equipment is allowed within thirty (30) feet of a side or rear lot boundary line which adjoins property in any residential district.
10. The east property line of the lot in question is adjacent to an R4: Medium Density, Multi-Family Residence District.
11. The applicant is requesting a variance to be allowed to encroach 30 ft. into the required 40 ft. setback from the west property line adjacent to S. Maguire St.
12. The applicant is requesting a variance to be allowed to reduce the number of parking spaces required for Land Use 8.200 from the required 20 parking spaces to 12 parking spaces for Space 1 on the submitted Site Plan
13. The applicant is requesting a variance to be allowed to reduce the required stall length for 60-degree angled parking from 21 ft. to 17.32 ft.
14. The applicant is requesting a variance to be allowed to encroach 15 ft. into the required 30 ft. setback from the east property line for placement of a dumpster.
15. The lot size is 151 ft. by 91 ft., and with the required setbacks, there is a building envelope of 81 ft. by 61 ft.
16. A building envelope of 81 ft. by 61 ft. allows for construction of an 1,800 sq., ft., restaurant, office or retail building and 19 parking spaces.
17. 19 parking spaces for a restaurant would accommodate 24 seats and 11 employees on the maximum shift.
18. The elimination of the second tenant space would accommodate a single building for a restaurant, office or retail use.
19. Reducing the size of the parking spaces may deter drivers from using the parking lot causing them to park on the side streets in the adjacent residential neighborhood.
20. Notice of the hearing on this matter was published in the Daily Star Journal on June 29, 2018.
21. Notice was also posted on the property on June 28, 2018.
22. Notice was mailed to property owners within 300 ft. on June 28, 2018.
23. The Code of Ordinances of the City of Warrensburg, Missouri, provides as follows:
 - a. Section 27-61 (a) (2) provides that the Board of Adjustment may grant a variance "in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would deprive the owner of the reasonable use of the land or building involved...."
 - b. Section 27-61 (a) (2) further requires the Board to find that:
 - a. There are special circumstances or conditions "... applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that such circumstances or conditions are such that the application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building;"

- b. "...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 of adjustment is the minimum variance that will accomplish this purpose;" and
- c. "...the granting of the variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Based upon this information and its interpretation of the cited code provisions, the Board finds that:

1. There are no special circumstances or conditions applying to the land which deny the applicant reasonable use of the property.
2. The lot size and configuration provides a suitable building site in accordance with the setback requirements.
3. The granting of the variance is not necessary for the reasonable use of the land.
4. No practical difficulties or unnecessary hardships prevent use of the property in compliance with the applicable zoning requirements.

IT IS THEREFORE RESOLVED BY THE BOARD that the requested variance be denied

Passed by the Board of Adjustment this _____ day of _____, 2018.

Chair