

**THE MINUTES OF THE 795th PUBLIC HEARING  
OF THE BOARD OF ADJUSTMENT  
CITY OF OVERLAND, MISSOURI  
HELD ON WEDNESDAY, JULY 13, 2022**

ROLL CALL:

The meeting was called to order at 6:00 pm and the following members responded to roll call:

Mr. Jon Seal  
Mr. Tim Jones  
Mr. Dennis Hageman  
Mr. Jeff O'Connell  
Mr. Michael Ferren

Others in Attendance:

Mr. Newton McCoy, Legal Counsel  
Mr. James Osborne, Community Development  
Court Recorder

APPROVAL OF MINUTES

Mr. Jeff O'Connell asked for a motion to approve the minutes of the Wednesday, June 08, 2022, Board of Adjustment Hearing.

Mr. Tim Jones made a motion to approve the minutes of the Wednesday, June 08, 2022, Board of Adjustment Hearing. Mr. Michael Ferren seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: FERREN - YES, O'CONNELL - YES, SEAL - YES, JONES -YES, HAGEMAN - YES.

OATH & REQUIRED VOTES

Mr. Jeff O'Connell invited all parties present wishing to partake in any discussion of the applications submitted to the board, to please step forward and be sworn in.

The Court Reporter administered the oath as follows: "do you solemnly swear or affirm that the testimony you will give at this hearing will be the truth, the whole truth, and nothing but the truth" and all parties present responded to the affirmative.

Mr. Jeff O’Connell read Section 400.935: Period of validity. Unless as otherwise specified by the Board of Adjustment in their approval for an application, no variance granted by the Board of Adjustment shall be valid for a period longer than one hundred eighty (180) days from the date upon which the variance is granted.

Mr. Jeff O’Connell read Section 400.940: Approvals, Required Vote, to the applicants, as follows: “A concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Article, or to affect any variation in the chapter. (CC 1976 App. A §15.08; Ord. No. 2449 §1, 11-14-88)”

Mr. Jeff O’Connell asked for the applicant on behalf of 9910 Page Ave to please step forward and give their name, address and reason for the variance request.

Mr. Tom Townsend on behalf of Moore Business Enterprises, 9910 Page Ave, addressed the Board to request approval of two (2) variances related to the property. He explained to the Board that the business had recently applied for a Multiple Unrelated Use Conditional Use Permit and Site Plan Review in regards to the Moore Business Office to operate multiple unrelated businesses in the office center. During the review it was determined that the site did not conform to the code per a side yard setback encroachment and not meeting the required parking spaces.

The following exhibits were presented to the Board of Adjustment:

EXHIBIT A-1	AGENDA
EXHIBIT A-2	APPLICATION #PZ22-0010
EXHIBIT A-3	APPLICATION #PZ22-0011
EXHIBIT A-4	NOTICE OF PUBLIC HEARING
EXHIBIT A-5	ORDINANCE(S)
EXHIBIT A-6	STAFF REPORT
EXHIBIT A-7	SITE PLAN

Exhibits A-1 through A-7 were accepted as evidence and approved as presented.

Mr. James Osborne, Community Development, addressed the Board and explained that the applicant had recently applied for an umbrella conditional use

permit and site plan approval with the Planning and Zoning Commission regarding a Multiple Unrelated Use located within the Moore Business Office Center. During the site plan review it was found that the building was encroaching in the side yard setback and did not have the required parking spots to obtain full capacity.

There was brief discussion regarding the multiple unrelated uses and the intended future of the Moore Business Office Center. The discussion also included how the side yard setback encroachment was understood regarding the hardship.

Discussion further progressed into the topic of required parking and how much parking is current and how and where it can be utilized and for whom.

Special Counsel Newton McCoy added that the variance requested at this time was very vague and advised that the request be further defined so that to protect from further deviation of intended use and required parking.

There was a discussion how in the past that the property has utilized the parking for “storage of vehicles” and wanted to protect from approving a general variance request.

Special Counsel Newton McCoy asked that the Board to consider adding the stipulation to parking variance request as, “This variance from Section 400.470 is intended solely to allow providing 22 spaces (to include one ADA compliant space) on the Page side of the building, solely for the use of the occupants (and their employees and guests) of the office spaces and suites on the east side of the building. This variance shall not be construed as a variance to permit the rental of parking spaces or rental of spaces for “storage” of any motor vehicle or for parking for any limousine, taxi or other transportation service”

There were no comments from the Board.

There were no comments from the audience.

Mr. Jeff O’Connell asked for a motion to approve the variance from Section 400.240.D.4.b Regulations & Performance Standards - Side Yard Setback

Mr. Michael Ferren made a motion to approve the variance from Section 400.240.D.4.b. Mr. Jon Seal seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: SEAL - YES, JONES - YES, HAGEMAN - YES, FERREN - YES, O'CONNELL - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.470 Off-Street Parking and Loading Requirements - Required Parking Spaces, with the stipulations as amended and presented.

Mr. Michael Ferren made a motion to approve the variance from Section 400.470. Mr. Dennis Hageman seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: JONES - YES, HAGEMAN - YES, FERREN - YES, O'CONNELL - YES, SEAL - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for the applicant on behalf of 1945 Walton Avenue to please step forward and give their name, address and reason for the variance request.

Mr. Thomas Jost, 1945 Walton Ave, on behalf of Jost Builders LLC addressed the Board to request approval of one variance related to the property. He explained to the Board that he had recently applied for a building permit to construct a new prefabricated permanent storage facility on the property. He stated that he was the owner of the hired contractor to install the system. Mr. Jost explained the application was placed on standby currently due it required a Conditional Use Permit and Site Plan Approval.

The following exhibits were presented to the Board of Adjustment:

EXHIBIT B-1	AGENDA
EXHIBIT B-2	APPLICATION #PZ22-0012
EXHIBIT B-3	NOTICE OF PUBLIC HEARING
EXHIBIT B-4	ORDINANCE(S)
EXHIBIT B-5	STAFF REPORT
EXHIBIT B-6	SITE PLAN
EXHIBIT B-7	BUILDING PERMIT APPLICATION

Exhibits B-1 through B-7 were accepted as evidence and approved as presented.

Mr. James Osborne, Community Development addressed the Board and explained that during the Site Plan Review it was found that new construction of the prefabricated storage facility encroached into the side yard setback. Mr. Osborne had further explained to the Board that the applicant was already scheduled on the Planning and Zoning Agenda for the July meeting, and recommendation for approval would require this variance, thus the applicant was being proactive.

There was a brief discussion regarding the installation of a new concrete pad and how the structure will be secured to the pad. The discussion also included brief concerns on storage facility and the documents supplied regarding the construction of the facility.

Special Counsel Newton McCoy added for consideration that item was located in the M1 Manufacturing Zoning District and would have no direct impact on other properties.

There were no comments from the Board.

There were no comments from the audience.

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.240.D.4.b Regulations & Performance Standards - Side Yard Setback

Mr. Tim Jones made a motion to approve the variance from Section 400.240.D.4.b. Mr. Jon Seal seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: HAGEMAN - YES, FERREN - YES, O'CONNELL - YES, SEAL - YES, JONES - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for the applicant on behalf of 9100 Lackland Road to please step forward and give their name, address and reason for the variance request.

Mr. Brian Waddell, 9100 Lackland Rd, on behalf of Virgil Properties LLC addressed the Board to request approval of six (6) variances related to the

property. He explained to the Board that he had recently had a tenant apply for a Conditional Use Permit and Site Plan Review. Mr. Waddell explained that the Planning and Zoning Commission had recommended approval contingent upon variance approval for the items requested this evening.

The following exhibits were presented to the Board of Adjustment:

EXHIBIT C-1	AGENDA
EXHIBIT C-2	APPLICATION #PZ22-0013
EXHIBIT C-3	APPLICATION #PZ22-0014
EXHIBIT C-4	APPLICATION #PZ22-0015
EXHIBIT C-5	APPLICATION #PZ22-0016
EXHIBIT C-6	APPLICATION #PZ22-0017
EXHIBIT C-7	APPLICATION #PZ22-0018
EXHIBIT C-8	NOTICE OF PUBLIC HEARING
EXHIBIT C-9	ORDINANCE(S)
EXHIBIT C-10	STAFF REPORT
EXHIBIT C-11	SITE PLAN

Exhibits C-1 through C-11 were accepted as evidence and approved as presented.

Mr. James Osborne, Community Development addressed the Board and explained that the property has never been subjected to a site plan review in correlation to the current zoning codes. In performing the site plan review it was found that the site did not conform to the code in various sections and the building owner is here in attempt to get the property in compliance. Mr. Osborne explained to the Board that Planning and Zoning had already made recommendation for approval, contingent upon variance approval, and if granted this evening would receive final approval on July 18<sup>th</sup>, 2022 from City Council.

There was a brief discussion regarding the property and construction of the original building. The discussion also included the hardships regarding conforming to the code.

There was also a brief discussion regarding the backing onto Lackland Road, and the variance requested. Mr. Waddell informed it was a required variance, but the tenant was not intending this to be a primary function of the parking located on the front of the property and would avoid in most cases if applicable.

Special Counsel Newton McCoy added for consideration that the property was constructed prior to the current zoning code being instilled within the City and should be noted.

There were no comments from the Board.

There were no comments from the audience.

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.220.D.1 Regulations & Performance Standards - Minimum Site Area

Mr. Dennis Hageman made a motion to approve the variance from Section 400.220.D.1. Mr. Tim Jones seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: FERREN - YES, O'CONNELL - YES, SEAL - YES, JONES - YES, HAGEMAN - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.220.D.3 Regulations & Performance Standards - Maximum Lot Coverage

Mr. Tim Jones made a motion to approve the variance from Section 400.220.D.3. Mr. Michael Ferren seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: O'CONNELL - YES, SEAL - YES, JONES - YES, HAGEMAN - YES, FERREN - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.220.D.4.b Regulations & Performance Standards - Side Yard Setback

Mr. Michael Ferren made a motion to approve the variance from Section 400.220.D.4.b. Mr. Dennis Hageman seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: SEAL - YES, JONES - YES, HAGEMAN - YES, FERREN - YES, O'CONNELL - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.450.A.2 Screening and Landscaping - Landscape Frontage

Mr. Tim Jones made a motion to approve the variance from Section 400.450.A.2. Mr. Jon Seal seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: JONES - YES, HAGEMAN - YES, FERREN - YES, O'CONNELL - YES, SEAL - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.450.A.11 Screening and Landscaping - Landscape Buffer Strips

Mr. Tim Jones made a motion to approve the variance from Section 400.450.A.11. Mr. Michael Ferren seconded the motion.

Mr. Jeff O'Connell polled the vote as follows HAGEMAN - YES, FERREN - YES, O'CONNELL - YES, SEAL - YES, JONES - YES.

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.440.B Off-Street Parking and Loading Requirements - Access to Parking Areas

Mr. Tim Jones made a motion to approve the variance from Section 400.440.B. Mr. Jon Seal seconded the motion.

Mr. Jeff O'Connell polled the vote as follows HAGEMAN - YES, FERREN - YES, O'CONNELL - YES, SEAL - YES, JONES - YES, HAGEMAN - YES.

MOTION CARRIED

MOTION TO ADJOURN:

Mr. Tim Jones made a motion to adjourn. Mr. Jon Seal seconded the motion. All were in favor. The meeting adjourned at approximately 6:43 PM.

Respectfully Submitted,

Jeff O'Connell, Chairman  
Board of Adjustment