

**THE MINUTES OF THE 800th PUBLIC HEARING
OF THE BOARD OF ADJUSTMENT
CITY OF OVERLAND, MISSOURI
HELD ON WEDNESDAY, JANUARY 11, 2023**

ROLL CALL:

The meeting was called to order at 6:30 pm and the following members responded to roll call:

Mr. Dan Kipper
Mr. Michael Ferren
Mr. Dennis Hageman
Mr. Jeff O'Connell
Mr. Tim Jones

Others in Attendance:

Mr. Joseph Bond, Legal Counsel
Mr. James Osborne, Community Development

APPROVAL OF MINUTES

Mr. Jeff O'Connell asked for a motion to approve the minutes of the Wednesday, December 14, 2022, Board of Adjustment Hearing.

Mr. Dennis Hageman made a motion to approve the minutes of the Wednesday, December 14, 2022, Board of Adjustment Hearing. Mr. Tim Jones seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: FERREN – YES, O'CONNELL – YES, KIPPER – 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.

Chairman Mr. Jeff O'Connell 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 9451 Page Avenue. to please step forward and give their name, address and reason for the variance(s) request.

Mr. Alvah Levine, on behalf of the property owner, Mr. William Vasquez, addressed the Board to request approval of six (6) variances related to the property discrepancies found during a Site Plan Review. He further explained no land or property was eligible for purchase to help neither alleviate the concerns with the property nor assist in conforming to the zoning code. The site plan review was previously performed due to an applied zoning map amendment of the property from “PD-C” Planned Development Commercial to “PD-MxD” Planned Development Mixed Use to allow for the property to be utilized as both Commercial and a Residential dwelling.

The following exhibits were presented to the Board of Adjustment:

EXHIBIT B-1	AGENDA
EXHIBIT B-2	APPLICATION #PZ22-0041
EXHIBIT B-3	APPLICATION #PZ22-0042
EXHIBIT B-4	APPLICATION #PZ22-0043
EXHIBIT B-5	APPLICATION #PZ22-0044
EXHIBIT B-6	APPLICATION #PZ22-0045
EXHIBIT B-7	APPLICATION #PZ22-0046
EXHIBIT B-8	NOTICE OF PUBLIC HEARING
EXHIBIT B-9	ORDINANCE(S)
EXHIBIT B-10	STAFF REPORT
EXHIBIT B-11	SITE PLAN

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

Mr. James Osborne, Planning & Zoning Coordinator, addressed the Board and explained that the applicant had recently applied for a zoning map amendment for the property. He explained to the Board applicant has previously appeared before the Planning & Zoning Commission, whom recommended approval of the zoning map amendment from “PD-C” Planned Development Commercial to “PD-MxD” Planned Development Mixed Use, contingent upon variance(s) approval. Mr. Osborne further explained during the zoning map amendment process a site plan review was conducted of the property in relation to the Performance and Standard Regulations to ensure the property conformed to the new

requirements. He explained the variances requested by the applicant are the results of the discrepancies found during the site plan review.

There was a brief discussion regarding the future intentions of the property and what land uses will be instilled. This discussion included how the upper half of the property will be utilized for a residential dwelling unit and the lower section as a commercial unit.

There were no comments from the City Attorney.

There were no comments from the Board.

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.190.D.1, specifically to the Regulations and Performance Standards and the requirement of a minimum lot area of six thousand square feet, to allow for the actual lot area of two thousand and five hundred square feet, due to the practical difficulties as demonstrated by the applicant.

Mr. Dan Kipper made a motion to approve the variance from Section 400.190.D.1. Mr. Tim Jones seconded the motion.

Mr. Jeff O'Connell polled the vote as follows: KIPPER – 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 400.190.D.1 specifically to the Regulations and Performance Standards and the requirement of a minimum dwelling unit size of three thousand square feet, to allow for the actual dwelling unit size of eight hundred and seventy-five square feet, due to the practical difficulties as demonstrated by the applicant.

Mr. Michael Ferren made a motion to approve the variance from Section 400.190.D.1. Mr. Dennis Hageman seconded the motion.

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

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.440.B specifically to Off-Street Parking and Loading Requirements and the required access to parking areas, to allow for the backing out directly into a public road, as presented within the Applicant's site plan, due to the practical difficulties as demonstrated by the Applicant.

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

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

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.450.A.2, specifically to Screening and Landscaping and the required street frontage landscaping, to allow for the absence of frontage landscaping on the property, as presented within the applicant's site plan, due to the practical difficulties as demonstrated by the applicant.

Mr. Dan Kipper made a motion to approve the variance from Section 400.450.A.2. Mr. Michael Ferren seconded the motion.

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

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.450.A.4, specifically to Screening and Landscaping and the required parking lot interior landscaping, to allow for the absence of interior landscaping located in the parking lot, as presented within the applicant's site plan, due to the practical difficulties as demonstrated by the applicant.

Mr. Tim Jones made a motion to approve the variance from Section 400.450.A.4. Mr. Dennis Hageman seconded the motion.

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

MOTION CARRIED

Mr. Jeff O'Connell asked for a motion to approve the variance from Section 400.450.A.11, specifically to Screening and Landscaping and the required ten foot landscape buffer strips between a parking lot or driveway and the abutting property line at a side or rear yard, to allow for the absence of a buffer strip on the property line, as presented within the applicant's site plan, due to the practical difficulties as demonstrated by the applicant.

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

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

MOTION CARRIED

Mr. Jeff O'Connell asked for the applicant on behalf of 9402 Liberty Avenue to please step forward and give their name, address and reason for the variance request.

Mr. Ryan Reichenbacher, the property and business owner, D&R Landscaping Inc. of 9402 Liberty Avenue, addressed the Board to request approval of one variance for the property. He explained to the Board the variance being requested is to assist the property in conforming to the zoning code. He further explained that he recently appeared in front of the Planning and Zoning Commission for a Conditional Use Permit and Site Plan Approval it was approved by both the Planning and Zoning Commission and City Council contingent upon variance approval of the site deficiency found during the site plan review.

The following exhibits were presented to the Board of Adjustment:

EXHIBIT C-1	AGENDA
EXHIBIT C-2	APPLICATION #PZ22-0047
EXHIBIT C-3	NOTICE OF PUBLIC HEARING
EXHIBIT C-4	ORDINANCE(S)
EXHIBIT C-5	STAFF REPORT
EXHIBIT C-6	SITE PLAN

Exhibits C-1 through C-6 were accepted as evidence and approved as presented.

Mr. James Osborne, Planning & Zoning Coordinator, addressed the Board and explained the applicant was here this evening requesting one variance because during the site plan review conducted on the property there was a discrepancy found with the property. The minimum lot area of a property zoned "PD-C" Planned Development Commercial requires a minimum lot size of twenty thousand square feet. The site plan review found the subject property is found to only be thirteen thousand and nine hundred ninety-seven square feet.

Mr. Osborne further explained to the applicant had previously appeared in front of the Planning and Zoning Commission in request of a Conditional Use Permit and Site Plan Approval which was recommended for approval by the Commission. City Council also had granted approval contingent upon variance approval for this discrepancy.

There was a brief discussion in regards to the new business relocating to the property. The discussion included storage of materials, and how the creek that is located throughout the property actually effects the use of the property and how this use makes use of the property in the possibly the best form.

There were no comments from the City Attorney.

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 400.230.D.1 specifically to Regulations and Performance Standards and the required minimum lot area of twenty thousand square feet, to allow for the actual lot area size of thirteen thousand and nin hundred ninety-seven square feet, due to the practical difficulties as demonstrated by the applicant.

Mr. Tim Jones made a motion to approve the variance from Section 400.230.D.1. Mr. Dennis Hageman seconded the motion.

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

MOTION CARRIED

MOTION TO ADJOURN:

Mr. Tim Jones made a motion to adjourn. Mr. Michael Ferren seconded the motion. All were in favor. The meeting adjourned at approximately 6:27 PM.

Respectfully Submitted,

Jeff O'Connell, Chairman
Board of Adjustment