

Agenda
City of Crystal Lake Park
Public Hearing and Board of Adjustment Meeting
Frontenac Municipal Complex, 10555 Clayton Rd, Frontenac, MO 63131
Meeting Location: Upstairs Training Room
Thursday, July 28, 2011, at 7:00 pm

- I. **Pledge of Allegiance**
- II. **Call to order, Roll Call, and Announcement of a Quorum**
- III. **Approve Agenda**
- IV. **Approval of October 28, 2010, Board of Adjustment Minutes**
- V. **Old Business**
- VI. **New Business**
 - A. **Public Hearing - Variance Request from Paul Martorelli from Section 405.040 (4) to allow the separate sale, development, and use of Lots 9 and 10 located at 11921 Spring Drive [aka 2100 Bopp Road] within District D.**
- VII. **Board of Adjustment Decisions**
 - A. **Variance Request – 11921 Spring Drive**
- VIII. **Vote to Adjourn the Meeting**

Please note:

- The next Board of Adjustment meeting will be held when a Variance Request has been submitted. The meeting time, location, and other details will be posted on the community Bulletin Board and on the City's web site.
- The Board of Adjustment may adjourn to closed session to discuss legal, confidential or privileged attorney-client matters pursuant to Section 610.021(1), RSMo. 2000, real estate matters pursuant to Section 610.021(2), RSMo. 2000, personnel matters pursuant to Section 610.021(3), RSMo. 2000, audit matters pursuant to Section 610.021(17), RSMo. 2000, or for any other reason allowed by Missouri law.

MINUTES
Public Hearing and Board of Adjustment Meeting
Frontenac Municipal Complex, 10555 Clayton Rd, Frontenac, MO 63131
Meeting Location: Upstairs Training Room
Thursday, July 28, 2011, at 7:00 pm

Pledge of Allegiance

Call to Order/Roll Call: Chairperson Susan Kusama called the meeting to order at 7:00 pm to discuss the variance request made by Paul Martorelli, owner of 11921 Spring Drive.

Board Members: Present: Susan Kusama, Chair and Members Nancy Brooks, Sel Dibooglu, Mary Elbert, and Amin Haider, and Alternate Member Mike Mason. Absent: Alternate Member Judy Brog.

City Officials: Present: Attorney Paul Martin, City Planner Ada Hood, Recording Secretary Jonathan Carey-Voris, and Court Reporter Karen Russo. Absent: Building Inspector Neil Cantwell.

CLP Residents Present: Paul Martorelli (2100 Bopp Road).

Others Present: Jim Hayes & Erin O'Neil (husband & wife), potential buyers of Lot 10.

Approve the Agenda

Board of Adjustment Member Brooks moved and Member Dibooglu seconded the motion to approve the agenda for the July 28, 2011 meeting. The Board unanimously approved it.

Approve October 28, 2010 Meeting Minutes:

A correction was made to the vote recorded in Item #4 of Phoebe Weil's Variance Request. Then Board Member Elbert moved and Member Brooks seconded a motion to approve the October 28, 2009 Minutes. The Board unanimously approved them.

Old Business: None

Swearing in of Witnesses

City Attorney Paul Martin asked Court Reporter Karen Russo to swear in witnesses. She swore in:

Ada Hood, CLP City Planner
Paul Martorelli, owner of 11921 Spring Drive (Lots 9 & 10) in District D
Jim Hayes, potential buyer of Lot 10 for construction of a single family home

New Business:

Variance Request for 11921 Spring Drive in Residence District D

Applicant: Mr. Paul Martorelli, 2100 Bopp Road
Subject Property: 11921 Spring Drive (Lots 9 & 10)
Zoning District: Residence District D
Appeal: Applicant appeals to the Board of Adjustment seeking a finding that section 405.040(4) Intensity of Use requirement imposes a hardship.

Attorney Martin read the following Exhibits into the Record:

- Exhibit 1: Certified copy of the Land Use regulations;
- Exhibit 2: Comprehensive Plan;
- Exhibit 3: Zoning Map;
- Exhibit 4: Notices published and posted pursuant to Missouri statutory requirements;
- Exhibit 5: Notice provided to property owners at least 24 hours prior to meeting date;
- Exhibit 6: City Planner Ada Hood's Memo dated July 15, 2011;
- Exhibit 7: Variance Request submitted by applicant 4-14-2011;
- Exhibit 8: Original Recorded Plat submitted by applicant;
- Exhibit 9: Subsequent Recorded Plat submitted by the applicant; and
- Exhibit 10: Sketch of proposed development (2 pages) submitted by the applicant

Said exhibits are incorporated herein and made part of this decision as if fully set forth.

The following summarizes the facts of the case:

In introductory remarks, City Planner Ada Hood noted that this Variance request involves subdividing 11921 Spring Drive, Lots 9 & 10 (100 feet by 100 feet) into two 50-foot by 100-foot lots for separate sale, development, and use. She noted that this lot was originally platted as two separate lots, but was developed as a single lot. In 1968, Crystal Lake Park adopted an ordinance requiring all contiguous lots under the same ownership as of October 24, 1968 to be deemed a single lot. In essence, this zoning code provision consolidated these lots into single lots without the subdivision procedure or recorded plat.

Ms. Hood reviewed her Memo of July 15, 2011, the applicant's variance request, and showed the applicant's sketch of his intended use of the two lots if the variance is granted. She reviewed the Board's responsibilities and noted that the burden of proof is on the applicant.

Testimony:

At this point, Chair Kusama opened the meeting to hear testimony from residents and other interested parties.

Paul Martorelli, owner of 2011 Bopp Road (Lot 8) & 11921 Spring Drive (Lots 9 & 10) in District D

Mr. Martorelli described his goal of building a garage on this property. He bought it as lots 9 & 10 and wasn't aware of the rule about not subdividing it into two lots. He said that Building Inspector Neil Cantwell gave him the idea of using part of the property for a garage and selling the rest for a single family home. He said that he has had offers to buy it as a 100' x 100' lot, but that he wants to build a garage on Lot 9 which is adjacent to his home on 2100 Bopp Road (Lot 8). The garage would match his log home. He noted that he has a new car that he has to keep covered because he doesn't have a garage. He said he doesn't drive it much because it's such a hassle to remove and replace the cover. He has a contract to sell Lot 10 to Jim Hayes and Erin O'Neil (husband & wife) for construction of a single family home. He likes to buy run-down houses in his area and try to make them better. He said he is also buying 11918 Crystal Drive (Lot 7) behind his house and will close on it next week.

Jim Hayes, potential buyer of Lot 10 for construction of a single family home

Mr. Hayes said that he and his wife have been looking for property to build a home on for a long time. They love Crystal Lake Park and have friends in the neighborhood. They want to buy Lot 10 and build a home on it and raise their son there. He said that they have selected Kim Hibbs of Hibbs Homes as their builder and understand that he has a good reputation with Crystal Lake Park having built the Patney's home on 11910 Crystal Drive.

Board of Adjustment Discussion

Member Dibooglu asked why this law was passed in 1968. Attorney Martin said it was made because the City wanted to maintain lot size. He noted that the Board’s task isn’t to question the law, but to decide if exceptional conditions exist to grant an exception to the law and would the interest of justice be served by granting it. He pointed out that if this Variance is granted it doesn’t mean that Mr. Martorelli will automatically have permission to build a garage on the lot. Ms. Hood confirmed this, stating that under current rules a secondary structure can’t be built on a lot unless there is a primary structure on it. He may have to apply for another Variance to build the garage.

Member Brooks asked if the Variance could be approved with the condition that Mr. Martorelli join Lot 9 with Lot 8 where his home is located. Attorney Martin said that it may be his desire to join the lots but that the Board of Adjustment doesn’t have the authority to stipulate that condition. He did note that flip flopping the lots in this way could be seen as an exceptional condition.

Member Dibooglu noted that the Board doesn’t have information about how many other properties in District D are in the same situation. Attorney Martin agreed, noting that gathering this information would require doing title searches on a lot of properties to determine what was owned in 1968 which would be very time consuming and costly. He suggested that the Board look at lot sizes in District D today. Are homes predominately built on 50’ x 100’ lots or 100’ x 100’ lots and would granting this Variance change the character of the neighborhood.

Ms. Hood displayed the CLP Zoning Map (Exhibit 3). It clearly shows that most of the homes in the Spring Drive, Crystal Drive, Bedford Drive, and Grandview Drive section of District D are built on 50 x 100 lots.

At this point, Chair Kusama lead the Board through the checklist of elements required for granting a Variance. There was additional discussion as to whether this would cause an impact on government services and population density, but since a house already exists at 11921 Spring Drive it was decided the impact would be negligible. Member Brooks noted that there are some vacant homes in this area and having a new home built here would be an improvement to the neighborhood.

Following this discussion, Chair Kusama called for a motion to vote on this Variance. Board Member Haider moved that the Variance be granted and Member Elbert seconded it.

The ayes and nays cast on the motion to grant the variance from requirements of Title IV, Land Use, Chapter 405, Intensity of Use, Section 405.040(4) which requires Lots 9 & 10 to be treated as a single lot were as follows:

BOARD MEMBER	AYE	NAY	ABSENT
Susan Kusama	Aye		
Sel Dibooglu	Aye		
Nancy Brooks	Aye		
Amin Haider	Aye		
Mary Elbert	Aye		
Mike Mason (alt)	N/A		
Judy Brog (alt)	N/A		

NOW THEREFORE, pursuant to the powers vested in the Board of Adjustment, the Board hereby grants the requested variance from Intensity of Use requirement for 11921 Spring Drive and directs that City staff be informed of this decision and be responsible for its enforcement.

ADOPTED AND APPROVED THIS 28th DAY OF JULY 2011.

SUSAN KUSAMA, CHAIR ATTEST: _____

VOTE TO ADJOURN MEETING

There being no further business, a Motion was made by Board Member Haider and seconded by member Dibooglu to adjourn the meeting. The motion to close the meeting was unanimously approved. The meeting adjourned at 8:10 pm.

Next Meeting: Next meeting will be held at when a Variance Request has been submitted. The meeting time, location, and other details will be posted on the community Bulletin Board and on the City's web site.

MINUTES RECORDED BY: _____
Jonathan Carey-Voris, Recording Secretary

ATTEST: _____
Susan Kusama, Chair, Board of Adjustment/Presiding Officer