

A-04-21

Title: Appeal, submitted by Joe Figge, to vary the side setback from the required seventy-five feet (75') from a residential property to thirteen feet (13') for the construction of a commercial building at 3825 South Lindbergh Boulevard (per Appendix B, Section 4.9-4B2a).

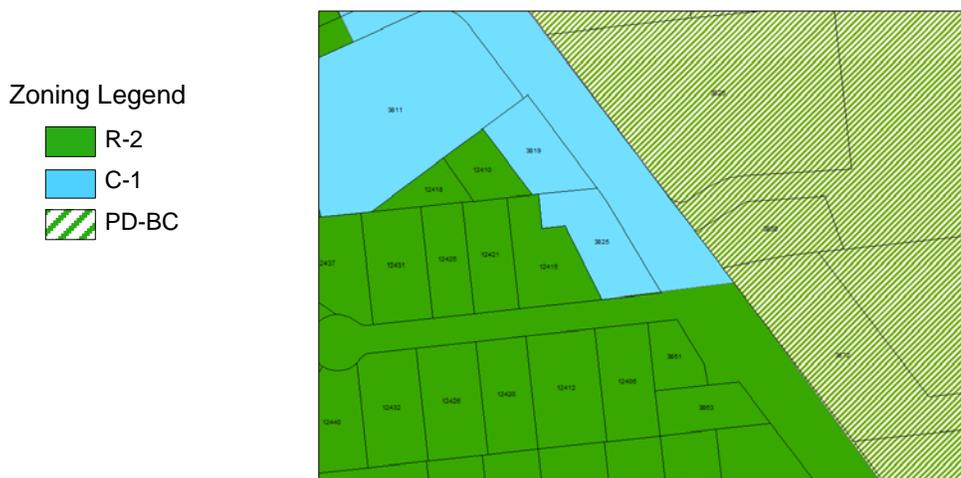
Owner: 3825 Lindbergh ODPT LLC
12511 Elaine Drive
St Louis, Missouri 63131

Date: March 2021



*Map is for informational use only; not a representation of the project.

Summary: This Appeal is to vary the side setback from the required seventy-five feet (75') to thirteen feet (13') for the construction of a commercial building at 3825 South Lindbergh Boulevard. The property is located on the northwest corner of South Lindbergh Boulevard and Court Drive and is currently zoned C-1 Commercial District. The property to the north is also zoned C-1. The properties to the east (across South Lindbergh Boulevard) are zoned PD-BC Planned Development-Business Commercial. The properties to the south (across Court Drive) and west are zoned R-2 Single Family Residential-20,000 square foot minimum lot size.



History and Staff analysis:

This property was rezoned as the result of a lawsuit in 1980. A commercial structure was then constructed on the site circa 1995. At that time, the City Attorney wrote a legal opinion stating that the structure should be permitted at the lesser setback of fifteen feet (15') from the side property line. In 2011, a tornado destroyed the structure and the property has been vacant (with the exception of a concrete pad and parking areas) since that time.

The Petitioner is now proposing to redevelop the property, utilizing the existing concrete pad. The previous structure was considered non-conforming and once it was destroyed by a tornado, that non-conforming status was lost.

As a result, all new development is required to meet current requirements, including setbacks from the property lines. Setback requirements for the C-1 Commercial Zoning District are outlined in Appendix B Zoning Regulations, Section 4.9-4:

- (B) Minimum building setbacks:
 - 1. Permitted and conditional uses:
 - a. Front yard: 30 feet
 - b. Side yard: 15 feet
 - c. Rear yard: 15 feet
 - 2. Setbacks from abutting residentially zoned property
 - a. Buildings no more than 24 feet in height: 75 feet
 - b. Buildings greater than 24 feet in height: 150 feet

The Petitioner wishes to utilize the existing concrete pad and parking areas. The proposed structure would be thirteen feet (13') from the rear property line. However, the adjoining property is zoned R-2, Single Family Residential, which requires a setback of 75 feet for a building no more than 24 feet in height.

If this Appeal is approved, the petitioner will be able to move forward with potential development of the property. All other current requirements will be enforced, including screening between commercial and residential properties, as defined in Appendix B Zoning Regulations, Section 5.13-2:

- (A) Where a non-residential use adjoins a residentially zoned property or property used for residential purposes in any district, the developer of the non-residential use shall provide the following screening within the required rear and/or side yard setback areas:
 - 1. Within the setback area, there shall be a landscaped buffer planted with one (1) canopy tree for every thirty (30) lineal feet of common property line or planted with evergreen trees spaced so that such evergreen trees create a continuous visual screen within five (5) years after planting. Combination of canopy trees, evergreen trees, ornamental trees and shrubs are permissible and encouraged, provided that such landscaping,

in the opinion of the enforcement officer, will effectively screen the non-residential uses from the view of the abutting residential zoned properties.

2. In addition, there shall be a neat, clean and maintained sight-proof fence or wall having a minimum height of six (6) feet but not more than eight (8) feet. Where a loading area or access drive thereto is within fifty (50) feet of residentially zoned property, the fence shall be eight (8) feet in height.

Per Appendix B, Zoning Regulations, Section 9.3-2 Findings: The Board of Adjustment may grant variances from the strict application of this Ordinance when by reason of the strict application of this Ordinance or Amendments thereto would result in unusual difficulty or unreasonable hardship upon the owner of said property; provided that such variance can be granted without substantial impairment of the intent, purpose and integrity of this Ordinance. It is further provided that this provision shall not permit the Board of Adjustment to permit a use of land not authorized by the provisions of this Ordinance for a specific zoning district or to increase the height or volume of a building or structure or to increase the density of development beyond that permitted by this Ordinance for any particular zoning district.

Before granting a variance, there must be a finding by the Board of Adjustment that all of the following conditions exist:

- (A) That if the owner complied with the provisions of this Ordinance, the owner would not be able to make any reasonable use of the property which is permitted in the district in which the property is located.

If the owners complied with the provisions of this Ordinance, they would not be able to make use of the property without a different variance. The property is too shallow to meet both the front setback of thirty (30) feet and the side setback of seventy-five (75) feet from residential property.

- (B) That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district.

The difficulties and hardships could be considered peculiar to this property. The property is shallow and adjacent to a residential property, requiring a greater setback.

(C) That the hardship was not the result of the applicant's own action and is not merely financial or pecuniary.

The hardship is not the result of the applicant's own action. It is not financial or pecuniary.

(D) That the issuance of a variance will not be detrimental to the public welfare or health or injurious to other property.

Based on the information we have, this variance should not be detrimental to the public welfare or health or injurious to other property. Prior to the tornado in 2011, the property was occupied by a commercial structure. A different commercial structure is proposed at this time.

If the Board believes that application of this Ordinance would result in unusual difficulty or unreasonable hardship upon the owner of said property, this appeal should be approved.