

**BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
FEBRUARY 27, 2018**

The Board of Adjustment of the City of Town and Country met at 6:00 P.M. on Tuesday, February 27, 2018 at the Municipal Center, 1011 Municipal Center Drive, Town and Country, Missouri, 63131.

ROLL CALL

The 6:00 PM roll call indicated Chairman James Crowley, regular members, David Adam, Matt Meyer, Chris Barclay and Dr. Sam Hawatmeh to be present.

Chairman James Crowley presided.

City Attorney Steve Garrett represented the City.

Also present were City Clerk Ashley McNamara and City Planner Ryan Spencer.

APPROVAL OF MINUTES – 11/29/17

Chairman Crowley noted for the record that he would not vote on the minutes as he was not present at the 11/29/17 meeting.

Dr. Hawatmeh moved for approval, seconded by Mr. Meyer.

Chairman Crowley called for any amendments or corrections.

Hearing none, the minutes were unanimously approved by voice vote.

SAFETY AND SECURITY

Chairman Crowley reminded everyone that for the security and safety of everyone in attendance, the Board of Adjustment has a zero tolerance policy when it comes to any outbursts, etc.

PROCEDURE REVIEW

Chairman Crowley reviewed the hearing procedure. He stated that if at any time an applicant has questions or needs further explanation, they are encouraged to interrupt for clarification.

PUBLIC HEARING

A court reporter with Midwest Litigation Services was present to record the public hearings.

1. Case No. 18-01

On the request of George Stock, Stock and Associates Consulting Engineers, applicant, on behalf of Union Electric, owner, and Mercy Health East Communities, owner, for a variance from Section 405.610.A.3. of the Zoning Regulations regarding the minimum setback requirement for lots abutting the west side of Ballas Road. The variance is necessary in order to allow for the relocation of an Ameren electric substation in conjunction with construction of a site development plan for Mercy's Phase 1 South Campus Expansion. The project is to be located at 767 S. New Ballas Road and 777 S. New Ballas Road, in the Office (O) Zoning District.

Attorney Garrett entered the following exhibits into the record:

- A. Application for Appeal, received by the City of Town and Country on January 3, 2018.
- B. Narrative for Appeal, 1-page.
- C. St. Louis County Real Estate Information regarding 767 S. New Ballas, 1-page.
- D. Recorded Warranty Deed regarding 777 S. New Ballas, 7-pages.
- E. Email chain regarding Mercy Expansion Project, 3-pages
- F. Letter from Ryan Spencer, City Planner, to George Stock, Stock and Associates Consulting Engineers, dated January 8, 2018, 1-page.
- G. City of Town and Country Memorandum from Ryan Spencer, City Planner, dated February 27, 2018, 2-pages.
- H. Typewritten notice of hearing posted at the Municipal Center and on the subject property and mailed to property owners within 300 feet with a list of property owners attached, 2-pages.
- I. Affidavit of Publication of notice of hearing published in The St. Louis Countian on February 9, 2018, 1-page.
- J. Site Plan, aerial view of existing conditions, and rendering of proposed layout, dated January 3, 2018, 8-pages.

Mr. Garrett also entered Appellant's Exhibit 1 into the record which consisted of a 7-page PowerPoint presentation that was displayed during the hearing.

Ryan Spencer, City Planner, was sworn and testified on behalf of the City. He stated that he is familiar with the subject property and that it is zoned Office (O). He noted that there are no existing variances for the property, however it is currently nonconforming as the setback from Ballas Road is closer than allowable by Code. He noted that the relocation of an Ameren electric substation is necessitating a variance from Section 405.610.A.3. which requires that structures be located 90 ft. from the street lot line of Ballas Road.

George Stock, owner's representative, was sworn and spoke on behalf of the appellant. Utilizing Appellant's Exhibit 1, Mr. Stock pointed out the site location of the current substation and where it is proposed to be relocated, just south on the property. He noted that the substation is presently nonconforming and will continue to be at its new location. The reconfiguration of the intersection was described and the right-of-way lines were pointed out on the site plan. He noted that the new location would be 35.76 ft. from the Ballas Road lot line at its closest point, which would require a variance of 54.24 ft. from the Code.

Mr. Stock explained the hardship to include the very irregular geometry of the right-of-way line, as it comes much closer to the structure than it would if it followed along Ballas Road. He noted that the intent of the setback requirement is met because the structure is actually 116 ft. away from the roadway itself. He also stated that extensive electrical infrastructure exists underground which limits how far west the structure can be located. He added that the building itself and the parking needs at the 777 S. New Ballas site also limit how far west the structure can be located. Finally, he noted that the overall plan adds greenspace to the property and is in no way injurious to neighbors.

Chairman Crowley called for public comments.

Farhad Moshiri, with an office at 777 S. New Ballas Rd #116E, was sworn and expressed concerns about the safety of the electric substation as it pertains to radiation/microwave emissions and the removal of spaces from the doctor's parking lot.

Ted Mena, Ameren Project Manager, was sworn and stated for the record that any EMF or microwave emissions would be minimal and in any case, would be less than those one is exposed to in a typical office breakroom. Mr. Mena also spoke about the new communication mast that would allow substation equipment to communicate and allow the overhead lines to be placed underground. Mr. Mena stated that the new, relocated substation would be safer because of technological advances and because of the enhanced precast wall that would be in place around it.

Mr. Stock stated that approximately 30 spaces would be removed from the doctor's parking lot but they would be replaced elsewhere on the campus. He also pointed out the relocated spaces, as well as the newly configured access and internal drives on the site plan.

Chris Viviano, Mercy Senior Project Manager, was sworn and noted that no current plans are proposed for the 777 building. He also stated that he was unaware of the plan to accommodate additional doctor's only parking but would provide contact information to Dr. Moshiri for follow up.

Hearing no further, Chairman Crowley declared Case No. 18-01 fully presented at 6:35 PM.

Chairman Crowley called for unanimous consent in favor of granting the variance as stated. Hearing no objection, the vote was as follows:

Chairman Crowley- AYE
Mr. Adam- AYE
Dr. Hawatmeh- AYE
Mr. Meyer- AYE
Mr. Barclay- AYE

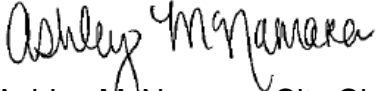
A brief recess was held at 6:36 PM. The meeting reconvened at 6:37 PM with all members present.

The decision of the Board of Adjustment to **grant** the requested variance is as contained in the **Decision and Resolution, Case No. 18-01**, filed with and made a part of these minutes.

ADJOURN

There being no further business, the meeting adjourned at 6:38 PM.

Respectfully submitted,


Ashley McNamara, City Clerk

**BOARD OF ADJUSTMENT
CITY'S EXHIBITS**

Case No.: 18-01

Appellants: George Stock, Stock and Associates Consulting Engineers, Inc.
on behalf of both Union Electric, owner
and Mercy Health East Communities, owner

Location: 767 S. New Ballas Road and 777 S. New Ballas Road

Hearing Date: February 27, 2018

Section 405.300 of the Municipal Code provides that the Municipal Code, including the Zoning Code, the Comprehensive Plan and land use map shall be part of each hearing before the Board of Adjustment to the extent applicable, without being specifically introduced at the hearing.

CITY EXHIBITS

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- J. Site Plan, aerial view of existing conditions, and rendering of proposed layout, dated January 3, 2018, 8-pages.

DECISION OF THE BOARD OF ADJUSTMENT
CITY OF TOWN AND COUNTRY, MO
CASE NO. 18-01

Appellants: George Stock, Stock and Associates Consulting Engineers, Inc.
on behalf of both Union Electric, owner
and Mercy Health East Communities, owner

Subject Property: 767 S. New Ballas Road and 777 S. New Ballas Road

Zoning District: Office (O)

Proposal: Appellants request a variance from Section 405.610.A.3. of the Zoning Regulations, regarding the minimum setback requirement for lots abutting the west side of Ballas Road. The variance will allow for the relocation of an Ameren electric substation in conjunction with construction of a site development plan for Mercy's Phase 1 South Campus Expansion.

Hearing Date: February 27, 2018

1. Chairman Crowley called for unanimous consent in favor of granting a minimum setback variance of 54.24 feet from Section 405.610.A.3. of the Town and Country Zoning Regulations which would allow for the relocation of an Ameren electric substation in conjunction with construction of a site development plan for Mercy's Phase 1 South Campus Expansion.

Hearing no objection, the vote was as follows:

Crowley	AYE
Adam	AYE
Hawatmeh	AYE
Meyer	AYE
Barclay	AYE

**CITY OF TOWN AND COUNTRY RESOLUTION
BOARD OF ADJUSTMENT
CASE NO. 18-01**

WHEREAS, the Board of Adjustment of the City of Town and Country does find and determine that the subject properties located at **767 S. New Ballas Road** and **777 S. New Ballas Road** are within the city limits of the City of Town and Country, and are in the **Office (O)** Zoning District; and

WHEREAS, **George Stock, Stock and Associates Consulting Engineers, applicant**, on behalf of **Union Electric, owner**, and **Mercy Health East Communities, owner**, (the "Appellants"), has submitted a request for a setback variance to allow for the relocation of an Ameren electric substation in conjunction with construction of a site development plan for Mercy's Phase 1 South Campus Expansion; and

WHEREAS, Section 405.610.A.3. of the Zoning Regulations requires that the minimum setback requirement for lots abutting the west side of Ballas Road shall be ninety (90) feet from the west street lot line of Ballas Road; and

WHEREAS, plans show the Ameren electric substation is located only 35.76 feet from the property line; and

WHEREAS, a variance of 54.24 feet from Section 405.610.A.3. is required to allow for the relocation and expansion to be constructed as shown on the plans; and

WHEREAS, the Appellants have requested that the Board of Adjustment find that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Zoning Regulations; and

WHEREAS, the Board of Adjustment does find that to grant the requested variance

- would** be in harmony with the general purpose and intent of the Zoning Ordinance
- would not** be detrimental to the public welfare
- would not** constitute a change in the district map
- would not** impair an adequate supply of light and air to adjacent property
- would not** increase congestion in public streets
- would not** increase the danger of fire; and

WHEREAS, this Board does further find and determine that practical difficulties and unnecessary hardships **have** been demonstrated.

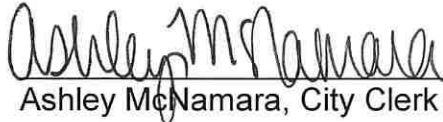
**BOARD OF ADJUSTMENT
CASE NO. 18-01**

NOW, THEREFORE, BE IT RESOLVED, that the requested variance from the strict application of the Zoning Regulations of the City of Town and Country is hereby **approved**.

The following is the vote taken on the foregoing resolution:

Crowley	AYE
Adam	AYE
Hawatmeh	AYE
Meyer	AYE
Barclay	AYE


James Crowley, Chairman


Ashley McNamara, City Clerk