



**CITY OF WARRENSBURG, MISSOURI
BOARD OF ADJUSTMENT**

**WARRENSBURG MUNICIPAL CENTER
200 S. HOLDEN ST.
WARRENSBURG, MO 64093**

**OCTOBER 14, 2019
4:00 PM
AGENDA**

1. Call To Order

2. Roll Call

3. Minutes

3.I. Meeting Held August 27, 2019

Documents:

[08-27-19 BOA MINUTES.PDF](#)

4. Other Business

4.I. Resolution For VAR-30-2019

Documents:

[RESOLUTION VAR-30-2019.PDF](#)

4.II. Resolution For VAR-35-2019

Documents:

[RESOLUTION VAR-35-2019.PDF](#)

5. Adjourn



CITY OF WARRENSBURG, MISSOURI Board of Adjustment

Minutes of a Meeting Held on August 27, 2019

The meeting was called to order by Chair Don Nimmer at 6:00 PM.

Roll was called and members Don Nimmer, Mike Shaw, Anita Love, Willie Crespo and Bryon Freeman were present. Doug Harris, attorney and counsel to the Board of Adjustment; Barbara Carroll, Director of Community Development; and Kristin Dyer, City Planner, were also present. The meeting was recorded by a court reporter.

3. Minutes

3.1 Meeting Held June 12, 2019

Minutes from the June 12, 2019, Board of Adjustment meeting were reviewed. Love moved to approve the minutes. Shaw seconded. Approved 5-0.

4. Hearings

4.1 VAR-30-2019: Request for Variance 500 E. Gay St.

Carroll summarized the nature of the request. The case is a request to be allowed:

1. To encroach 31.5 ft. into the required 40' setback from the property line adjacent to Gay St. This request involves Sec. 27-118 (g) (2) c of the Code of City Ordinances.
2. To encroach 21 ft. into the required 35' setback from the property line adjacent to Mitchell St. This request involves Sec. 27-118 (g) (2) b of the Code of City Ordinances.
3. To allow parking spaces in the rear yard. This request involves Sec. 27-408 (d) of the Code of City Ordinances.
4. To allow a parking space with the dimensions of 10 ft on the east, 7.5 ft on the west, 25 ft. on the north and 25 ft. on the south with no drive aisle behind it to count as a legal conforming parking space for off-street parking requirements. This request involves Sec. 27-410 (b) and Sec. 27-411 of the Code of City Ordinances.
5. To not be required to provide an accessible parking space. This request involves Sec. 27-414 (b) of the Code of City Ordinances.
6. To not be required to install the landscape buffer B (modified by type D) along the property line adjacent to the R3: Low Density Multi Family Residence District. This request involves Sec. 27-561 (a) and (c) (1) of the Code of City Ordinances.
install one 83.18 sq. ft. wall sign in a R1: Single Family Residence District. This request involves Sec. 27-504 (c) (1) of the Code of City Ordinances.

Craig Hibdon and Barbara Carroll were sworn in by the court reporter.

Hibdon stated he remodeled the property about 20 years ago, and the main concern now is the foundation and floor are in total disrepair. Hibdon stated his goal is to level the current building and build a brand new building on the same footprint. The parking lot will remain the

same. Board members questioned Hibdon regarding the parking lot, the street classifications for Gay St. and Mitchell St., and the parking space/driveway from Mitchell Street and the intent regarding ADA standards. Hibdon clarified the building will be brought up to ADA standards, but the request is to not require an ADA parking space. Carroll clarified that the adopted Building Code has its own requirement for an ADA parking space and that regardless of the Board of Adjustment might decide, the Building Code will still require an ADA parking space be installed.

Carroll offered Exhibits 1-5 to the Board of Adjustment, and they were received by the Chair. Carroll clarified the general intent behind the request is to bring the whole property into compliance, not just the structure, and that is why there are some many pieces to the request. Carroll reviewed and answered questions concerning the lot dimensions based on the 1998 survey, the required setbacks as they applied to a structure and the parking, and landscaping requirements. The Board of Adjustment discussed the landscape buffer requirements and the intersection of Gay St. and Mitchell St.

No public comment was received in the meeting. Nimmer closed the public hearing. Ex-parte contacts were disclosed by board members. None was indicated. Shaw moved to consider all six requests together. Love seconded. Approved 5-0 on a roll call vote. Freeman moved to approve the variance as requested. Crespo seconded.

A roll call vote was taken as follows:

Mike Shaw:	Yes
Anita Love:	Yes
Bryon Freeman:	Yes
Willie Crespo:	Yes
Don Nimmer:	Yes

The motion was approved 5-0. The variance was approved.

4.II VAR-35-2019: Request for Variance

444 E. Russell Ave.

Carroll summarized the nature of the request. The case is a request to allow the installation of a gravel parking area instead of a parking area paved with concrete or asphalt for Land Use 10.220 and Land Use 10.300. This request involves Sec. 27-412 (a) of the Code of City Ordinances.

Barbara Carroll, Scott Rasa, Mark Carter, and Cheryl Borgstadt Brown were sworn in by the court reporter.

Rasa offered Exhibit A to the Board of Adjustment, and they were received by the chair. Rasa stated he has worked with Miller Pipeline for the last year and a half in Higginsville with a supply yard, and now they are in Warrensburg to work on gas mains for the next 5 years. Rasa stated the long-term plan for the property is to develop the whole thing and not to spend \$300,000 to concrete an acre or an acre and a half for a temporary staging area for Miller Pipeline. Mr. Rasa and the Board of Adjustment discussed the different entrances on E. Young St. and E. Russell Ave., grading the property and how much of the property will be used for Miller Pipeline, the types of vehicles and equipment that will be used on the property.

Carroll offered Exhibits 1-5 to the Board of Adjustment, and they were received by the Chair. Carroll argued on behalf of the City that it is a not a temporary use. The first five years is using the property as a laydown yard and parking equipment and vehicles which is Land Use 10.220 and 10.300 and then there would be a change in use after the five years. Part of the variance is the driveways as well and since the variance runs with the land they could always remain as gravel even if there is a change of use in the future.

In rebuttal, Mr. Rasa offered to use temporary staging area for a limited time and stated he does not want the variance for future developments on the property. Mr. Rasa and the Board of Adjustment discussed the site and vehicle traffic on the property.

Public comment was received as follows.

Mark Carter, 433 E. Young St., stated he owns Elite Auto next door to the property, and offered Public Comment A to the Board of Adjustment. It was received by the Chair. Carter showed the portion of the property he owns to the Board of Adjustment and stated his and Rasa's plan to level the land between their properties. Carter stated he is glad to see the land cleared and said it is a good thing. Carter stated putting in concrete would cost \$300,000 or more, and it's temporary.

Cheryl Borgstadt Brown, 507 E. Young St., stated she has a piece of property nearby, and seeing the land cleared wanted to know more. With the trucks and stuff, it will ruin the concrete with them pulling in and out. She was happy to see the area cleaned up and supports a temporary gravel lot and loves the future development concept.

Nimmer closed the public hearing. Ex-parte contacts were disclosed by board members. None was indicated. Freeman moved to grant the variance to allow gravel parking not exceed two (2) acres on the southern portion of the lot for a period of six (6) years. Shaw seconded. Approved 5-0. Freeman moved to approve the variance as requested. Shaw seconded.

A roll call vote was taken as follows:

Bryon Freeman:	Yes
Willie Crespo:	Yes
Mike Shaw:	Yes
Anita Love:	Yes
Don Nimmer:	Yes

The motion was approved 5-0. The variance was approved.

Nimmer granted permission for the exhibits that were presented by the applicants, public and staff to be withdrawn by staff and maintained as part of the file.

5. Other Business – None.

6. Adjourn

Shaw moved to adjourn the meeting. Crespo seconded. Approved 5-0 on a roll call vote. The meeting adjourned at 7:30 PM.

Date: _____

Chair



CITY OF WARRENSBURG, MISSOURI
Community Development Department

BOARD OF ADJUSTMENT

RESOLUTION

Case No.: VAR-30-2019

Request for Variance: 500 E. Gay St.

The legal description of the property in question is as follows:

THE NORTH ONE-THIRD OF THE WEST 38 FEET OF LOT 13, AND THE NORTH ONE-THIRD OF LOT 14 EXCEPT THE WEST 8 FEET THEREOF, IN VANDEVENTER PLACE ADDITION TO THE CITY OF WARRENSBURG; IN JOHNSON COUNTY, MISSOURI. (EXCEPT RIGHT-OF-WAY TO CITY OF WARRENSBURG IN BOOK 1443, AT PAGE 65, RECORDS OF JOHNSON COUNTY, MISSOURI.)

Applicant: Craig A. & Sherri L. Hibdon

Hearing Date: August 27, 2019
6:00 p.m.
Warrensburg Municipal Center, 200 S. Holden St.

General Statement of Case:

1. To encroach 31.5 ft. into the required 40' setback from the property line adjacent to Gay St. This request involves Sec. 27-118 (g) (2) c of the Code of City Ordinances.
2. To encroach 21 ft. into the required 35' setback from the property line adjacent to Mitchell St. This request involves Sec. 27-118 (g) (2) b of the Code of City Ordinances.
3. To allow parking spaces in the rear yard. This request involves Sec. 27-408 (d) of the Code of City Ordinances.
4. To allow a parking space with the dimensions of 10 ft on the east, 7.5 ft on the west, 25 ft. on the north and 25 ft. on the south with no drive aisle behind it to count as a legal conforming parking space for off-street parking requirements. This request involves Sec. 27-410 (b) and Sec. 27-411 of the Code of City Ordinances.
5. To not be required to provide an accessible parking space. This request involves Sec. 27-414 (b) of the Code of City Ordinances.
6. To not be required to install the landscape buffer B (modified by type D) along the property line adjacent to the R3: Low Density Multi Family Residence District. This request involves Sec. 27-561 (a) and (c) (1) of the Code of City Ordinances.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Testimony was taken at the public hearing at 200 S. Holden Street on August 27, 2019. At that hearing Barbara Carroll, Director of Community Development represented the City of Warrensburg. Craig

Hibdon appeared on behalf of the applicant. Doug Harris was present as Counsel to the Board of Adjustment.

The following information was presented at the hearing:

1. The property in question at 500 E. Gay St. is located in a GB: General Business District.
2. At the time of the public hearing and deliberation by the Board, the property was developed with a Shelter Insurance office.
3. The applicant submitted a site plan to the City that shows the existing building footprint of 24.1 ft. by 34.1 ft., one parking space to the west, a parking lot to the east with four (4) spaces, and tree locations.
4. The applicant submitted a site plan to the City that shows a proposed building footprint of 24.1 ft. by 34.1 ft. which matches the existing building footprint. In addition, the site plan shows one parking space to the west, a parking lot to the east with four (4) spaces, and tree locations. The proposed building encroaches into the required forty (40) foot setback from the property line adjacent to E. Gay St. and required thirty-five (35) setback from Mitchell St. The existing parking lot encroaches into the required 10 ft. rear setback.
5. Sec. 27-118 (g) (2) c states no structure is allowed within forty (40) feet of an arterial street right-of-way.
6. Sec. 27-118 (g) (2) b states no structure is allowed within thirty-five (35) feet of a collector street right-of-way.
7. Sec. 27-408 (d) states off-street parking spaces may be located within the required front or side yards in nonresidential district.
8. Sec. 27-410 (b) states the width of all aisles providing access to individual parking stalls, stall depth, and stall width shall be in accordance with the requirements specified in Section 27-411, Parking design table. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.
9. Sec. 27-411 90-degree angle parking stalls must be 9' wide, 19' long and have a 24' drive aisle behind them.
10. Sec. 27-414 (b) states where 1 to 25 parking spaces is provided, one van accessible parking spaces shall be required.
11. Sec. 27-561 (a) states a GB: General Business District is required to install the landscape buffer B (modified by type D) along the property line adjacent to the R3: Low Density Multi Family Residence District
12. Sec. 27-561 (c) (1) states GB: General Business adjacent to R3: Low Density Multi Family Residence District is required screen by plantings to 75% opacity to 7' height with, at minimum, 30% of plantings reaching 40' in height at maturity. This is reduced when a property line requiring a landscape buffer is adjacent to a street, no solid barrier shall be required and required plantings shall be reduced by fifty (50) percent. Requirements of Sec. 27-552 Landscaping and screening in parking lots shall not be reduced.
13. The adopted Major Street Plan classifies E. Gay St. as an arterial street.
14. The adopted Major Street Plan classifies Mitchell St. as a collector street.
15. A 1998 survey shows the lot is 48 ft. north to south and 110.36 ft. east to west except for the northwest corner.
16. The applicant is requesting a variance to be allowed to:
 - a. To encroach 31.5 ft. into the required 40' setback from the property line adjacent to Gay St. This request involves Sec. 27-118 (g) (2) c of the Code of City Ordinances.
 - b. To encroach 21 ft. into the required 35' setback from the property line adjacent to Mitchell St. This request involves Sec. 27-118 (g) (2) b of the Code of City Ordinances.
 - c. To allow parking spaces in the rear yard. This request involves Sec. 27-408 (d) of the Code of City Ordinances.

- d. To allow a parking space with the dimensions of 10 ft on the east, 7.5 ft on the west, 25 ft. on the north and 25 ft. on the south with no drive aisle behind it to count as a legal conforming parking space for off-street parking requirements. This request involves Sec. 27-410 (b) and Sec. 27-411 of the Code of City Ordinances.
 - e. To not be required to provide an accessible parking space. This request involves Sec. 27-414 (b) of the Code of City Ordinances.
 - f. To not be required to install the landscape buffer B (modified by type D) along the property line adjacent to the R3: Low Density Multi Family Residence District. This request involves Sec. 27-561 (a) and (c) (1) of the Code of City Ordinances.
17. The property would be built back to the existing footprint of 816 square feet.
 18. Remodeling would not be possible due to the needed repair and releveling of the existing foundation.
 19. No changes would be made to the existing parking lot to the east or the parking space located along Mitchell St.
 20. The property would not be able to meet the required landscape buffer since screening is required along 32 ft. of the 85.51 ft of the north property line. The parking lots and walkways use 51 ft.
 21. The granting of the variance for the rear parking setback would allow the minimum parking requirements to be met.
 22. Notice of the hearing on this matter was published in the Daily Star Journal on August 9, 2019.
 23. Notice was also posted on the property on August 9, 2019.
 24. Notice was mailed to property owners within 300 ft. on August 9, 2019.
 25. The Code of Ordinances of the City of Warrensburg, Missouri, provides as follows:
 - a. Section 27-61 (a) (2) provides that the Board of Adjustment may grant a variance "in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would deprive the owner of the reasonable use of the land or building involved...."
 - b. Section 27-61 (a) (2) further requires the Board to find that:
 - a. There are special circumstances or conditions "... applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that such circumstances or conditions are such that the application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building;"
 - b. "...the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board of adjustment is the minimum variance that will accomplish this purpose;" and
 - c. "...the granting of the variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Based upon this information and its interpretation of the cited code provisions, the Board finds that:

1. The situation is unique in that the property is situated on the corner of E. Gay St. and Mitchell St. which have required setbacks from major streets.
2. After applying the 40' setback from Gay Street and the 10 rear setback from the south property line, there is less than 0' from north to south upon which a structure could be built.
3. The granting of the variance will allow the property owner to rebuild an existing structure and business, comply with the required parking and utilize the lot to make a reasonable return on investment.

4. The granting of the variance is necessary for the reasonable use of the land, and the variance requested is the minimum variance that will accomplish this purpose.
5. The granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare because the use is in keeping with the character of the neighborhood and surrounding uses.

IT IS THEREFORE RESOLVED BY THE BOARD that the requested variance be granted on 500 E. Gay St. to allow

1. To encroach 31.5 ft. into the required 40' setback from the property line adjacent to Gay St. This request involves Sec. 27-118 (g) (2) c of the Code of City Ordinances.
2. To encroach 21 ft. into the required 35' setback from the property line adjacent to Mitchell St. This request involves Sec. 27-118 (g) (2) b of the Code of City Ordinances.
3. To allow parking spaces in the rear yard. This request involves Sec. 27-408 (d) of the Code of City Ordinances.
4. To allow a parking space with the dimensions of 10 ft on the east, 7.5 ft on the west, 25 ft. on the north and 25 ft. on the south with no drive aisle behind it to count as a legal conforming parking space for off-street parking requirements. This request involves Sec. 27-410 (b) and Sec. 27-411 of the Code of City Ordinances.
5. To not be required to provide an accessible parking space. This request involves Sec. 27-414 (b) of the Code of City Ordinances.
6. To not be required to install the landscape buffer B (modified by type D) along the property line adjacent to the R3: Low Density Multi Family Residence District. This request involves Sec. 27-561 (a) and (c) (1) of the Code of City Ordinances.

Passed by the Board of Adjustment this _____ day of _____, 2019.

Chair



CITY OF WARRENSBURG, MISSOURI
Community Development Department

BOARD OF ADJUSTMENT

RESOLUTION

Case No.: VAR-35-2019

Request for Variance: 444 E. Russell Ave.

The legal description of the property in question is as follows:

THAT PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 46, RANGE 26 IN THE CITY OF WARRENSBURG, JOHNSON COUNTY, MISSOURI, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF RUSSELL AVENUE; EXCEPT THOSE TRACTS DESCRIBED IN DEEDS RECORDED IN BOOK 307 AT PAGE 173, IN BOOK 321 AT PAGE 304, IN BOOK 324 AT PAGE 51, IN BOOK 329 AT PAGE 107, IN BOOK 337 AT PAGE 314, IN BOOK 358 AT PAGE 321, IN BOOK 392 AT PAGE 29, IN BOOK 573 AT PAGE 131, IN BOOK 730 AT PAGE 196, IN BOOK 818 AT PAGE 178, AND IN BOOK 818 AT PAGE 184, JOHNSON COUNTY DEED RECORDS; AND EXCEPT LAND STREET; AND BEING IDENTIFIED AS TRACTS 2A AND 2B ON THE SURVEY PREPARED BY LARRY DE. GRAHAM, RLS 2057, DATED MAY 8, 1998 AND FILED IN SURVEY RECORD BOOK 7 AT PGES 210-211, JOHNSON COUNTY DEED RECORDS.

ALSO, ALL THAT PART OF NORTH LAND STREET VACATED IN CITY OF WARRENSBURG, JOHNSON COUNTY, MISSOURI, AS VACATED IN CITY OF WARRENSBURG ORDINANCE NO. 3345 RECORDED JULY 23, 1998 IN BOOK 1564 AT PAGE 194, JOHNSON COUNTY DEED RECORDS.

Applicant: Scott Rasa

Hearing Date: August 27, 2019
6:00 p.m.
Warrensburg Municipal Center, 200 S. Holden St.

General Statement of Case:

1. To allow the installation of a gravel parking area instead of a parking area paved with concrete or asphalt for Land Use 10.220 and Land Use 10.300. This request involves Sec. 27-412 (a) of the Code of City Ordinances.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Testimony was taken at the public hearing at 200 S. Holden Street on August 27, 2019. At that hearing Barbara Carroll, Director of Community Development represented the City of Warrensburg. Scott Rasa appeared on behalf of the applicant. Doug Harris was present as Counsel to the Board of Adjustment.

Public Comment was received from the following people that appeared to speak during the hearing:

Mark Carter
Cheryl Borgstadt Brown

The following information was presented at the hearing:

1. The property in question at 444 E. Russell Ave. is located in a GB: General Business District.
2. At the time of the public hearing and deliberation by the Board, the property was undeveloped, and a construction entrance was located between 425 and 433 E. Young St.
3. The applicant submitted a site plan to the Board of Adjustment that shows a temporary parking and staging area located along the southern property line between 425 and 433 E. Young St.
4. The applicant submitted a site plan to the Board of Adjustment that shows a long-term plan for the development with two fast food restaurants, one restaurant and one auto parts store with entrances along E. Russell Ave. and E. Young St.
5. Sec. 27-412 (a) states parking for land uses #2.000 through #25.000 – all nonresidential uses shall be paved with concrete or asphalt.
6. Land Use 10.220 is storage of goods not related to sale or use of those goods on the same lot where they are stored with storage inside or outside completely enclosed structures.
7. Land Use 10.300 is the parking of vehicles or storage of equipment outside enclosed structures where (i) vehicles equipment are owned and used by the person making use of the lot, and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot.
8. The adopted Major Street Plan classifies E. Young St. as an arterial street.
9. The adopted Major Street Plan classifies E. Russell Ave. as a collector street.
10. The applicant is requesting a variance to be allowed the installation of a gravel parking area instead of a parking area paved with concrete or asphalt for Land Use 10.220 and Land Use 10.300. This request involves Sec. 27-412 (a) of the Code of City Ordinances.
11. Hard-surface parking would reduce the life expectancy of the pavement due to the heavy equipment and vehicles that will use the parking lot.
12. The gravel parking area will be used by contractor and Miller Pipeline for vehicle, equipment and materials storage and parking.
13. The area outside of the gravel will be regraded and filled.
14. The applicant consented to the variance being limited in time for the gravel parking area.
15. The applicant consented to the variance being limited in time for the gravel parking area to a restricted size.
16. Notice of the hearing on this matter was published in the Daily Star Journal on August 9, 2019.
17. Notice was also posted on the property on August 9, 2019.
18. Notice was mailed to property owners within 300 ft. on August 9, 2019.
19. The Code of Ordinances of the City of Warrensburg, Missouri, provides as follows:
 - a. Section 27-61 (a) (2) provides that the Board of Adjustment may grant a variance "in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would deprive the owner of the reasonable use of the land or building involved...."
 - b. Section 27-61 (a) (2) further requires the Board to find that:
 - a. There are special circumstances or conditions "... applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that such circumstances or conditions are such that the application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building;"
 - b. "...the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board of adjustment is the minimum variance that will accomplish this purpose;" and
 - c. "...the granting of the variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or otherwise detrimental to the public welfare."

Based upon this information and its interpretation of the cited code provisions, the Board finds that:

1. The situation is unique in that the property is used a temporary staging area for Miller Pipeline for vehicle, equipment and materials storage and parking and for regrading the other portions of the lot for redevelopment of the site.
2. The granting of the variance will allow the property owner to allow Miller Pipeline to work within City Limits for the next 6 years while allowing the property owner to regrade other portions of the lot for redevelopment.
3. The granting of the variance is necessary for the reasonable use of the land, and the variance requested is the minimum variance that will accomplish this purpose.
4. The granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare because the use is in keeping with the character of the neighborhood and surrounding uses.

IT IS THEREFORE RESOLVED BY THE BOARD that the requested variance be granted on 444 E. Russell Ave. to allow

1. To allow the installation of a gravel parking area instead of a parking area paved with concrete or asphalt for Land Use 10.220 and Land Use 10.300 not exceed two (2) acres on the southern portion of the lot for a period of six (6) years. This request involves Sec. 27-412 (a) of the Code of City Ordinances.

Passed by the Board of Adjustment this _____ day of _____, 2019.

Chair