

RESOLUTION NO.: 25 -2011
INTRODUCED BY: O'Toole

A RESOLUTION DENYING A VARIANCE REQUEST FOR AN
ADDITIONAL BUSINESS USE AT 465 RICHMOND ROAD.

WHEREAS, Patrick M. Schikowski, d/b/a Pat's Marathon, at 465 Richmond Road in the City of Richmond Heights, filed an application with Zoning Board of Appeals (Case No. 768) requesting a variance from Section 1151.03 to permit the parking of vehicles for third parties as a separate main use and not an accessory use to the service station use on said property in violation of the use regulations of said Code Section; and

WHEREAS, the Zoning Board of Appeals at its December 2, 2009 meeting considered this variance application and a vote on a motion to deny the variance ended in a tie vote of two ayes and two nays and, pursuant to the Codified Ordinances, this Council has reviewed Case No. 768 through its Planning and Zoning Committee and Committee-of-the-Whole, and determined that the variance requested from the use regulations of the Code is not supported by the evidence in the record before this Council;

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Based upon the record before the Zoning Board of Appeals at its December 2, 2009 meeting and the records of this Council's Planning and Zoning Committee and Committee-of-the-Whole, Council denies the use variance request in Zoning Board of Appeals Case No. 768 since the applicant has not demonstrated an unnecessary hardship which outweighs the limitations set forth in the Zoning Code, and the granting of the variance would be contrary to the purpose and intent of the Zoning Code and specifically Section 1151.03.

Section 2: This Council finds and determines that: 1) the property in question has other economically viable uses which are permitted in the zoning district without the variance because it is a long established service station use selling gasoline and other lubricants and servicing and maintaining vehicles; 2) the variance sought is not the minimum which will afford relief to the applicant since the applicant has other economically viable uses of the subject property under the current zoning regulations in the B-1 District; (3) the essential character of the neighborhood and the business districts in the City would be substantially altered as a result of permitting separate parking lot main uses at commercial/business use establishments that are not accessory parking for the business customers while they are purchasing goods or obtaining services; 4) the

property in question has no unique or exceptional circumstances or conditions, such as topographic conditions, geological conditions, types of adjoining developments, or other conditions that do not apply to other properties within the same zoning district; and a variance would not be justified on any lot where similar circumstances as the applicant's prevail; 5) any hardship condition, if any, is created by the actions of the applicant; 6) the purpose, intent and objectives of the Zoning Code and Comprehensive Plan of the City would not be observed and the public health, safety or general welfare would be adversely affected by granting a use variance because it would be tantamount to an amendment of the Zoning Code to permit a use not presently permitted in this B-1 Zoning District.

Section 3: The Clerk is instructed to mail a copy of this Resolution to the applicant.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council