

**LAWRENCE BOARD OF ZONING APPEALS  
MINUTES**

**OCTOBER 9, 2003 – 7:10 P.M., COUNTY COMMISSION MEETING ROOM,  
SECOND OF COUNTY COURTHOUSE AT ELEVENTH AND  
MASSACHUSETTS STREET, LAWRENCE, KANSAS**

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**MEMBERS PRESENT:** Chairman Herndon, Mr. Goans, Mr. Hannon, Mr. Fizell, Mr. Hicks, Mr. Henderson, Mr. Santee and Student Representative Julia Szabo

**STAFF PRESENT:** Mr. Guntert and Ms. Saker

**ITEM NO. 1: MINUTES**

Three typographical errors were noted in the September 2003 minutes.

Motioned by Mr. Hicks, seconded by Mr. Hannon to approve the minutes of the September 4, 2003 meeting as revised.

Motion carried unanimously, 7-0, with Student Representative Szabo abstaining.

**ITEM NO. 2A: COMMUNICATIONS**

- Letter written from Staff member David Guntert to City Clerk Frank Reeb outlining BZA actions of October 2, 2003 meeting
- Letter from Stuart Doores requesting extension to a variance granted in June 2003
- Transcript from October 2, 2003 meeting that will serve as minutes of that meeting once approved in November

**ITEM NO. 2B: ELECTION OF OFFICERS FOR 2003-2004**

Mr. Herndon and Mr. Hannon were both nominated for the position of Chair for 2003-2004. Mr. Hannon said he would prefer not to serve as Chairman, but he was willing to repeat his term as Vice-Chairman.

Motioned by Mr. Hannon, seconded by Mr. Henderson to reelect Mr. Herndon as the 2003-2004 Chairman.

Motion carried unanimously, 7-0, with Student Representative Szabo abstaining.

Motioned by Mr. Hicks, seconded by Mr. Fizell to reelect Mr. Hannon as the 2003-2004 Vice-Chairman.

Motion carried unanimously, 7-0, with Student Representative Szabo abstaining.

**BEGIN PUBLIC HEARING:**

No Board member had an ex parte communications or abstentions to declare and no deferrals were requested.

**ITEM NO. 3:      LOT SOUTH OF 1029 KENTUCKY STREET**

**B-08-24-03:** A request for a variance as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2001. The variance is from the provisions in Section 20-1212 of said City Code, which requires a minimum of eight parking spaces for a 10-person boarding house. The applicant is asking for a reduction to five parking spaces. The property is located directly south of 1029 Kentucky Street and is legally described as: Lot 109 on Kentucky Street in the Original Townsite of the City of Lawrence. Submitted by University of Kansas Student Housing Association for James C. and Nancy R. Dunn, property owners of record.

**STAFF PRESENTATION**

Mr. Guntert explained the Board had looked at the same project in September to consider a lot size variance. At that time, it was noted that a parking variance would also be required, but this was delayed for various reasons.

The applicants proposed to relocate an existing structure, saving it from demolition, and modifying the interior for use as a 10-room boarding house. The Zoning Code required eight parking spaces for this use at this size. It was noted that the Zoning Code had been recently changed, and the old Code would have required only 5 spaces.

The applicant was proposing to provide 5 parking spaces, including the required handicapped-accessible space and one 7' space, which was .5' too narrow to qualify as a compact car space but was proposed as motorcycle parking.

Staff felt that the compact car space issue could be negotiated at the Site Plan stage and recommended approval subject to conditions listed in the Staff Report.

These conditions were discussed, with some confusion regarding the specific intent of condition one, which read,

    "The applicant will obtain and provide written certification of additional off-street parking spaces available for their use, located within a 2-block area from the block of 1033 Kentucky, to meet the minimum parking space requirements for the 10-room boarding house."

Mr. Guntert believed Mr. Patterson had written this condition based on the Code allowance for off-site parking within 300' of the primary structure if the parking area was held under the same ownership.

It had been suggested at the September meeting that the applicant might be able to obtain permission to park at the neighboring church. Mr. Guntert said Staff did not have any information on the status of this agreement.

**APPLICANT PRESENTATION**

Greg Seibold spoke on behalf of The University of Kansas Student Housing Association (UKSHA). It was established that the majority of the available parking area was taken up by a handicapped-accessible space that the organization was required to provide per

Federal regulations, even if no ADA modifications were proposed inside the structure and there was currently no intent to house a handicapped student.

Mr. Seibold presented information he had gathered earlier in the day, including photographs and data on parking availability at six different times.

It was clarified that the neighboring Church had been unwilling to dedicate parking to UKSHA because of liability reasons, but Church officials had pointed out that their parking area was only restricted on Sundays. It was noted that signage in the Church parking lot stated this clearly.

Mr. Seibold said UKSHA had contacted the neighbors who had expressed concerns at the September meeting, the Schneider's and Mr. Minden. Mr. Seibold said Mr. Minden's concerns appeared to be reduced and the Schneider's had expressed no further objection to the project.

Discussion between Staff and the applicant had been geared mainly toward the project's site plan and he had no input regarding condition one.

Mr. Seibold said UKSHA was still negotiating the terms of sale with James Dunn, the current owner of the destination property, but there was no indication that Mr. Dunn would not go through with the sale.

The applicant was unsure if non-handicapped persons would be able to use the handicapped space if it was not needed by anyone on the subject property, since the parking area would be reserved for residents. It was suggested that this would become an enforcement issue, but clearly this was not within the purview of the Board.

Alternative divisions to the available parking area were discussed, specifically the creation of more compact spaces.

### **PUBLIC HEARING**

marci fransisco, 1101 Ohio, said she thought it would be difficult for the UKSHA to meet condition 1.

Ms. fransisco was asked if she believed there was enough parking in the area to accommodate the project. She replied that parking problems seemed to be a block-by-block situation, and this particular block appeared to have less parking congestion than blocks closer to the University and Downtown.

Sven Alstrom, local architect and member of the Lawrence Preservation Alliance, said the Alliance was enthused about the project and encouraged the Board to support the applicants' efforts.

Janet Gerstner, Lawrence resident, said she had lived in the subject area for several years and that parking in the Church lot was not uncommon.

Ms. Gerstner presented photographs taken that day of the house in its original location. She said this area faces more severe parking concerns than the destination area and noted that there was only one space provided for the house in its existing location.

Ms. Gerstner referenced the minutes of the September 2002 BZA meeting, in which a boarding house at 1121 Ohio was granted a variance to allow for no provided parking.

She suggested the variance could be tied to use, since these types of students (co-op residents) typically walked, rode bicycles or took advantage of public transportation.

Ms. Gerstner said this was a good opportunity on many levels.

Elizabeth Collins, student co-op housing resident at 1614 Kentucky, provided support for the statement that co-op residents tended to use non-vehicular modes of transportation.

### **COMMISSION DISCUSSION**

Chairman Herndon pointed out that, in the example cited by Ms. Gerstner, the project was changing uses from an apartment building to a boarding house, which carried a smaller parking requirement. Granting the variance for no required parking acknowledged an existing condition that was becoming less of a violation by changing use.

It was established that the Historic Resources Commission had approved the current project.

It was suggested that the relocation of the house would allow for increased parking in an area with less parking problems.

Mr. Henderson did not feel the request met the Five Criteria, that it was simply too large a use on too small a lot.

Mr. Fizell explained that he had resided in a co-op in Wisconsin that had maintained only 2 parking spaces for 45 students. He had also lived in the subject area and was familiar with the parking issues.

Mr. Fizell said he would favor dropping Staff's condition 1, although he understood its intent. It was suggested that a new condition could be added, tying the variance to use and/or owner. Most of the Commission agreed with this proposal.

**ACTION TAKEN**

Motioned by Mr. Herndon, seconded by Mr. Goans to approve a variance to allow for a reduction in the minimum number of required parking spaces from 8 to 5 as requested, subject to the following revised conditions:

1. The variance shall be valid for as long as the property is owned by the University of Kansas Student Housing Association and is used as a boarding house with no more than ten (10) bedrooms;
2. The project will abide by the conditions of the Lawrence Historic Resources Commission; and
3. The project will obtain the required site plan approval from the City Commission.

Motion carried 6-1, with Mr. Henderson voting in opposition. Student Representative Szabo voted in the affirmative.

**ITEM NO. 4:     2300 OXFORD ROAD**

**B-08-25-03:** A request for a variance as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2001. Said request is specifically to vary from the provisions of Section 20-608 of said City Code, which requires a 30' rear yard setback in the RS-2 District. The applicant is asking to reduce the setback to a minimum of 12½' to allow for a new screened porch addition to the existing residence at 2300 Oxford Road. The request is for the following legally described property: Lot 14, Block 1, Valley View Addition No. 3 in the City of Lawrence. Submitted by the property owners of record, David L. and Hazel J. Springer.

**STAFF PRESENTATION**

Mr. Guntert explained the request was for a reduced rear yard setback from 30' to 12.5' to accommodate the addition of a screened porch to the existing residence.

The property was located at the end of a cul-de-sac and backed onto a construction office and storage areas. The proposed porch would be hidden from view from the front yard and from the adjacent properties due to the orientation of the primary structure on the lot.

The previous property owner had obtained a variance allowing for a reduced front yard setback from 25' to 20'.

Staff had reviewed the project per the Five Criteria and recommended approval with the condition that such approval be tied to the porch addition – no other expansion into the rear yard would be allowed.

It was clarified that the proposed porch would be placed over and slightly expand an existing wooden deck.

It was suggested that the spirit of the Code would not be violated because there was no visual encroachment on any other properties. A possible hardship could be argued due to the type of use on the adjacent property to the rear.

**APPLICANT PRESENTATION**

Hazel Springer, property owner, was present to answer questions from the Board. It was established that the Springer's were not the original owners of the house.

**ACTION TAKEN**

Motioned by Mr. Henderson, seconded by Mr. Fizell to approve a variance to allow for a reduced rear yard setback from 30' to 12.5', subject to the following condition:

1. The variance shall apply only to the screen porch structure as submitted.

Motion carried unanimously, 7-0, with Student Representative Szabo voting in the affirmative.

**ITEM NO. 5:     516 LOUISIANA STREET**

**B-08-26-03:** A request for a variance as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2001. The variance is from the provisions in Section 20-1312 of said City Code, which regulates the size for an accessory building to not exceed a maximum size of 30 percent of the required rear yard. The applicant is asking for approval of an accessory building size of 540 s.f., which is 90 s.f. larger than permitted by Code (450 s.f. allowed). The property is located at 516 Louisiana Street and is legally described as: Lot 54 on Louisiana Street in the Original Townsite of the City of Lawrence. Submitted by Neal C. Becker and Ann E. Cudd, property owners of record.

**STAFF PRESENTATION**

Mr. Guntert introduced the Item, explained the variance was requested to allow placement of a garage that would cover more than the Code maximum of 30% of the rear yard. The applicant was requesting a garage of 540 square feet, 90 square feet larger than allowed by Code.

**APPLICANT PRESENTATION**

Neal Becker, property owner, explained the existing structure would be replaced, correcting the existing 2' encroachment into the adjacent property.

Drip line concerns were discussed, noting Staff's condition that the eaves be placed so they would not encroach over the property line.

It was verified that Mr. Becker understood the upper story of the proposed garage could not be used for living quarters or a place of business.

Mr. Becker did not know if there had originally been a written agreement regarding the shared driveway between his property and the adjacent lot. However, the applicant would no longer use this driveway if his proposal were approved as requested.

It was clarified that the original design had included two doors for continuous ingress-egress (drive through). The design had been modified because the applicant did not think this design would be practical for "normal-sized" cars.

**BOARD DISCUSSION**

Mr. Goans said he hated to see any barn structure demolished, even those in this state of disrepair, but he believed he could support this project.

**ACTION TAKEN**

Motioned by Mr. Goans, seconded by Mr. Hannon to approve the variance to allow for maximum rear yard coverage of an accessory building of 540 square feet, subject to the following conditions:

1. The detached 2-story garage shall be limited to a maximum building footprint of 18' x 30' = 540 square feet;
2. The applicant shall comply with the Lawrence Historic Resources Commission's condition of approval of September 6, 2000 (CA-06-08-00), "The applicant provide

- photograph documentation and a measured drawing of the existing garage prior to the release of the demolition permit;" and
3. The garage shall be located so the garage's eaves and drip-lines will not encroach over the property line.

Motion carried unanimously, 7-0, with Student Representative Szabo voting in the affirmative.

**ITEM NO. 6:            LOT 15, TIFFANY ADDITION NO. 2**

**B-9-29-03:** A request for an exception as provided in Section 20-1708 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2001. Said exception is specifically to reduce the 10' side yard building setback required in Section 20-608 of said City Code to a minimum of 5.5' along the east property line. Section 20-1505(b) of said City Code allows one side yard to be reduced to no less than 3' provided the sum of the two side yards is equal to or greater than the sum of the required side yards for the zoning district. The exception is submitted to allow the construction of a new residence on the following legally described property: Lot 15, Final Plat of Tiffany Addition No. 2, a replat of Tiffany Addition in the City of Lawrence. Said described property is an undeveloped lot located on the south side of Tiffany Drive between 3705 Tiffany Drive and 3717 Tiffany Drive. Submitted by Galen Uhrich and Beth Rundquist, property owners of record.

**STAFF PRESENTATION**

Mr. Guntert explained the request for a special exception, allowed by the Code in specific circumstances, for redistribution of side yard setbacks.

Staff recommended approval of the project, based on the analysis provided in the Staff Report.

**APPLICANT PRESENTATION**

Galen Ulrich, property owner, was present to answer questions from the Board.

**BOARD DISCUSSION**

It was established that a special exception could be allowed without reference to the Five Criteria.

Adjacent property owners had been notified about the project and no objection had been expressed.

**ACTION TAKEN**

Motioned by Mr. Goans, seconded by Mr. Hannon to approve the special exception for redistribution of the side yard setbacks for Lot 15, Tiffany Addition No. 2., based on the analysis provided in the body of the Staff Report.

Motion carried unanimously, 7-0, with Student Representative Szabo voting in the affirmative.

**ITEM NO. 7: MISCELLANEOUS**

**A. Request to extend variance for the 500 Block of Locust Street**

Motioned by Mr. Hannon, seconded by Mr. Goans to extend the variance granted for the 500 Block of Locust Street for 90-days.

Motion carried unanimously, 7-0, with Student Representative Szabo abstaining because she had not been part of the Board when the original variance was granted.

**B. Receive City Clerk notification letter**

Mr. Guntert explained that the Code required Staff to notify the City Clerk of BZA actions in writing within 5 working days of the Board's decision on the Wal-Mart appeal considered at the October 2, 2003 meeting. The Board was given a copy of the letter that had been forwarded to Frank Reeb.

The Board was also supplied with a transcript of that meeting, which would serve as the official minutes once approved in November.

Findings used for the Board's decision would be drafted and included in the November packets.

**ADJOURN – 8:45 p.m.**

*Official minutes are on file in the Planning Department office.*