

**LAWRENCE BOARD OF ZONING APPEALS
MINUTES
NOVEMBER 6, 2003 – 6:30 P.M., CITY COMMISSION MEETING ROOM, FIRST
FLOOR OF CITY HALL AT SIXTH AND MASSACHUSETTS
STREET, LAWRENCE, KANSAS**

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

STAFF PRESENT: Mr. Guntert, Mr. Tully, Mr. Corliss, Ms. Wheeler and Ms. Saker

ITEM NO. 1: COMMUNICATIONS

- Mr. Guntert introduced new Staff member Jeff Tully
- Chairman Herndon said he had held an ex parte discussion with 6Wak representatives regarding the presence of a court reporter at this evening's meeting.
- Chairman Herndon had also contacted the City's Legal Counsel about the possible need for findings of fact for Item 2 on the October 2, 2003 agenda – the restaurant parcel associated with the Wal-Mart project. Mr. Corliss had determined that findings were not required due to the nature of the Board's action.
- There were no abstentions or deferrals.

ITEM NO. 2: MINUTES

The Board agreed to consider the legal transcript prepared by shorthand reporter Candace K. Braksick of the October 2, 2003 meeting as the official minutes of that meeting. There were no proposed changes to the transcript.

Motioned by Mr. Hannon, seconded by Mr. Fizell to approve the minutes (transcript) of the October 2, 2003 meeting as presented.

Motion carried unanimously 6-0, with Student Representative Szabo abstaining.

The Board was asked to take action to formally adopt the findings of fact established as the basis of their action on October 2, 2003. One change was requested. On page 4, Section B, second paragraph, the Board requested the "excludes" be replaced with the word "prohibits".

Motioned by Mr. Hannon, seconded by Mr. Goans to approve the findings of fact from the October 2, 2003 meeting as amended.

Motion carried unanimously, 6-0, with Student Representative Szabo abstaining.

Motioned by Chairman Herndon, seconded by Mr. Hicks to approve the minutes of the October 9, 2003 meeting as presented.

Motion carried unanimously, 6-0, with Student Representative Szabo voting in the affirmative.

Swearing in of witnesses

ITEM NO. 3: 1800 NEW HAMPSHIRE STREET

B-10-30-03: A request for variances as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2001. The first 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 572 s.f., which is 122 s.f. larger than permitted by Code (450 s.f. allowed). The second variance is from the provisions of Section 20-608 of said City Code that requires a 25 feet side street building setback from the north property line. The applicant is asking to reduce this setback to a minimum of 23 feet. The property is located at 1800 New Hampshire Street and is legally described as: The north 50 feet of Lots 1 & 2, Block 3, Cranson's Subdivision of Block 15, Babcock's Enlarged Addition in the City of Lawrence. Submitted by Stephen W. Haines contractor for Lois and Frederick S. McMillan, property owners of record.

STAFF PRESENTATION

Mr. Tully introduced the Item, explaining the request for two variances to allow for the construction of a new two-car garage with an upper level to be used as a storage area and hobby room.

The two requests were as follows:

1. Variance from the maximum allowable rear yard coverage of an accessory building. The Code allows a maximum of 30%, resulting - on this lot - in a structure of 450 square feet. The applicant proposed a structure of 572 square feet.
2. Variance from the minimum allowable side yard setback of 25'. The applicant proposed a reduced side yard setback of 23' along the northern property line.

The applicant believed his proposal matched other existing structures in the neighborhood in terms of size and setback and would not adversely affect the adjacent properties.

Staff recommended approval of the variance for the side yard setback as proposed, based on other properties in the area.

Mr. Tully noted the subject lot was not particularly unique but was one of the older, smaller lots in the city. The Board had frequently granted variances for these lots on the basis that these smaller lots did not easily accommodate two-car accessory structures.

Staff recommended approval of the variance to allow an accessory structure in excess of the Code allowance for building area, but suggested the structure be limited to 528 square feet (22' X 24'). The Board had a precedent of applying this measurement in similar situations.

It was established that the proposed structure would sit 2' closer to the north property line than the house adjacent to the east, but would sit significantly further back than the applicant's house.

Mr. Tully presented a graphic showing the proposed design of the new structure.

APPLICANT PRESENTATION

Fred McMillan, property owner, reiterated his intent to replace the existing single-car garage with a two-car structure with an upper level for use as a hobby room and storage area.

Steven Haines, contractor, was also present to answer questions from the Board.

It was established that the applicant had requested 572 square feet based on dimensions provided as part of the garage plans. The contractor said it would be possible to revise these plans to fit the dimensions suggested by Staff (22' X 24', 528 square feet).

The applicant stated that electricity would be the only utility extended to the upper level, and he understood that the upper level could not be used as living quarters or as a place of business.

PUBLIC COMMENT

No member of the public spoke on this Item.

BOARD DISCUSSION

It was discussed that the Staff Report referenced the "standard" application of 528 square feet. It was suggested that this wording implied this was a regulatory standard, when each allowance of the 528 square feet still required a variance. The Board discussed simply leaving this language out of the motion.

ACTION TAKEN

Motioned by Mr. Herndon, seconded by Mr. Goans to approve the variances to allow for a reduced side yard setback from 25' to 23' along the northern property line and for a garage structure in excess of the maximum allowable rear yard coverage for 1800 New Hampshire, subject to the following condition:

1. The detached garage shall be limited to 528 square feet (24' x 22').

Motion carried unanimously, 6-0, with Student Representative Szabo voting in the affirmative.

ITEM NO. 4: MISCELLANEOUS

- A. Consider a request to extend the variance granted in July 2003 for the Hobbs-Taylor Lofts

ACTION TAKEN

Motioned by Mr. Hannon, seconded by Mr. Hicks to approve a 90-day extension to the variance granted for the Hobbs-Taylor Lofts.

Motion carried unanimously, 6-0, with Student Representative Szabo voting in the affirmative.

- B. Chairman Herndon explained he had been made aware of two separate instances of harassment focused upon two members of the Board in response to their role in the Wal-Mart issues the previous month. He wished to make a personal statement of support for those who fulfilled their civic duties as Board members and were facing difficulties as a result.

ADJOURN – 7:03 p.m.

Official minutes are on file in the Planning Department Office.