

**LAWRENCE BOARD OF ZONING APPEALS
MINUTES**

**DECEMBER 5, 2002 – 8:00 P.M., CITY COMMISSION MEETING ROOM, FIRST FLOOR OF
CITY HALL AT SIXTH AND MASSACHUSETTS STREET, LAWRENCE, KANSAS**

MEMBERS PRESENT: Mr. Goans, Mr. Hicks, Mr. Fizell, Mr. Henderson, Mr. Herndon and Mr. Hannon. Lawrence High School Student Representative Marguerite Schumm was also present.

STAFF PRESENT: Mr. Pedrotti and Mr. Wilson.

ITEM NO. 1: MINUTES

One change was made to the November 2002 minutes, involving the removal of a sentence regarding the project at 825 Missouri.

Motioned by Mr. Hannon to approve the minutes of the November 11, 2002 meeting as revised. Seconded by Mr. Herndon.

Motion carried unanimously, 6-0.

ITEM NO. 2: COMMUNICATIONS

Mr. Pedrotti listed communications from Staff and the public:

- 90-day extension request for B-04-10-02; 1309 Rhode Island Street
- 90-day extension request for B-07-18-02; 1612 W. 15th Street
- 90-day extension request for B-01-03-02; 950 E. 21st Street
- Mr. Herndon noted the applicant for the project at 532 Lincoln had indicated they would not be present at the meeting due to a family obligation.

ITEM NO. 3: 1001 MISSISSIPPI STREET

B-10-35-02: 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. Said requests are specifically to vary from the provisions of Section 20-1209(a) of said City Code, which requires a 25' off-street parking lot setback from a street right-of-way; and, to vary from the provisions of Sections 20-608 and 20-1503 of said City Code, which requires a 14.5' exterior side yard setback. The applicant is asking for variances from these provisions to allow a 10' setback for the building and parking lot along West 10th Street. The variances will allow the owner to proceed with plan approval to construct a new tri-plex residential structure. The request is for the following legally described property: Lot 1, Block 25, Sinclair's Addition in the City of Lawrence, Douglas County, Kansas. Said described property is known as 1001 Mississippi Street. Submitted by Paul Werner Architects for Brad Ziegler, property owner of record. (Deferred from the November 7 meeting by the Board.)

STAFF PRESENTATION

Mr. Pedrotti explained the Item had been tabled at the November meeting due to the introduction of new information regarding the size of the proposed structure and the configuration of the parking lot. The applicant proposed demolition of the existing structure and construction of a tri-plex.

Staff recommended approval of the two variance requests, which would allow for a 10' setback for the exterior side yard and the off-street parking lot.

APPLICANT PRESENTATION

Paul Werner of Paul Werner Architects spoke on behalf of the applicant. Mr. Werner noted how close the other buildings in the area were to the street. He stated the structure had been used as three units in the past, but had been vacant for some time.

Mr. Werner described the parking situation of the existing structure and how that would change with the proposed structure.

Other elements of the proposed project were noted:

- 9 bedrooms (1 additional from existing)
- 9 parking spaces
- Access onto the alley
- No curb cut onto 10th Street (preserving historic sidewalk)

Mr. Werner gave examples of similar situations in the Oread neighborhood.

Mr. Herndon asked if the Mississippi Street frontage had been averaged. Mr. Werner replied this was so, but that this “squeezed in” the side yards.

It was clarified that the project would go through the site planning process, but would be reviewed only by Neighborhood Resources. The project was exempt from ADA Accessibility provisions because it involved only three units.

PUBLIC HEARING

marci francisco, member of the Oread Neighborhood Association said the design proposed was a good attempt to match the structure to the area. However, she opposed the project because she did not believe the claim of uniqueness (due to its location in the Original Townsite) was met. Under this claim, the project did not have to follow the requirements of the Subdivision and/or Zoning Regulations.

Ms. francisco said an Original Townsite ordinance was needed from the Planning and City Commissions that would set planning regulations for the area. The BZA’s interpretation of current regulations allowed developers to create “skinnier” buildings. Ms. francisco gave the example of a structure at 7th & Rhode Island where a building was renovated into desirable apartment units, following the suggestions of the Oread Neighborhood Plan. This Plan included provisions for preservation of existing houses.

Carol von Tersch, Lawrence Preservation Alliance, said the Alliance was opposed to the granting of variances when the goal was to demolish existing properties. Ms. von Tersch said she knew the Zoning Ordinance did allow this kind of project, but said it was possible and more appropriate to renovate and thus preserve existing properties.

Shelly Horowitz said she used to live next door to the subject property. She was concerned the proposed project was too large for the lot and thought perhaps too many units were involved.

Chairman Herndon asked the applicant to respond to the comments made in the public hearing. Mr. Werner said he understood the comments made, but felt differences in requirements applied to the subject property and those mentioned made comparison unfair. He said a parking variance would be required, even if the structure were renovated instead of rebuilt. This was verified with Staff.

It was established that the adjacent structures had parking spaces.

BOARD DISCUSSION

Mr. Fizell supported the idea of renovation over destruction of existing housing stock, even for structures not technically defined as “historic”. He expressed willingness to work with the applicant toward the renovation of the property, but did not feel it was appropriate to allow the demolition of the structure through variances. Mr. Goans supported this position as well. He did not feel the property met the uniqueness claim. Although the property was 63’ wide instead of 50’, this should make it easier to meet the requirements.

Mr. Hannon said he was torn between saving existing structures and supporting what was allowed by regulations. He said the setbacks should be consistent throughout the neighborhood, no matter what decision was made. Mr. Hannon asked if it was within the Board's jurisdiction to control what existing structures would or would not be preserved.

Mr. Henderson said he did not believe the property was unique and that he was opposed to granting the variance.

Mr. Herndon said that, regardless of his personal opinions about preservation, he did believe the property was unique, because it was surrounded by "an ocean" of non-conforming structures. It would be prejudicial to apply strict regulations to this single property, particularly because the applicant did not create the situation.

Mr. Herndon noted the setbacks in the area, saying using averaging was the only way to make this structure fit into the area. Regarding the parking variance, Mr. Herndon noted that the existing parking was in an unimproved back yard area. He appreciated the applicant's attempt to provide an improved parking surface that increased the available parking by 30%. Mr. Herndon said all the other regulations were met and he did not think this project would have a detrimental effect to the surrounding area and he would support the request.

ACTION TAKEN

Motioned by Mr. Hannon to approve the two variances as requested to allow for a 10' setback for the building and parking lot. Mr. Herndon seconded.

Motion carried 4-2, with Mr. Fizell and Mr. Goans voting in opposition to the motion. Student Representative Schumm abstained.

Student Representative Schumm left after this Item.

ITEM NO. 4: 2541, 2549, 2559 & 2563 REDBUD LANE

B-11-42-02: 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. Said requests are specifically to vary from the provisions of Section 20-608 of said City Code, which sets forth a 25' front yard building setback from the street right-of-way. The applicant is seeking a variance to reduce the front setbacks on 4 existing apartment buildings as follows: 2541 Redbud Lane -- to a minimum of 20'; 2549 Redbud Lane – to a minimum of 19.5'; 2559 Redbud Lane – to a minimum of 19.3'; and, 2563 Redbud Lane – to a minimum of 20.4'. Said variances are requested for the following legally described property: Lots 9, 10, 11 & 12, Block 2, Southridge Addition No. 3 in the City of Lawrence. Said described property is generally known as 2541, 2549, 2559 & 2563 Redbud Lane. Submitted by William Newsome with Southwind Capital, LLC, property owner of record.

STAFF PRESENTATION

Mr. Wilson introduced the Item, explaining it involved a variance granted in September 1998. The applicant was now being required to survey the property and the dimensions did not match the previous survey. Staff recommended approval of the current request, which was to grant the same variances based on the updated survey.

It was clarified that the variances, if approved, would apply consistently to each individual address. Denial of the variances would technically require demolition of all the existing structures.

APPLICANT PRESENTATION

There was no applicant presentation.

PUBLIC HEARING

No member of the public spoke on this Item.

ACTION TAKEN

Motioned by Mr. Goans to approve all variances as requested. Mr. Hicks seconded.

Motion carried unanimously, 6-0.

ITEM NO. 5: 532 LINCOLN STREET

B-10-40-02: 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, which establishes the front building setback for structures in the RS-2 (Single-Family Residence) District. Based upon this City Code provision, the applicant is required to have a 25' front setback. They are requesting a variance to reduce this setback to 19.9'. The variance request is for the following legally described property: Lots 27, 28 & 29, North Lawrence Addition No. 6 in the City of Lawrence. Said described property is commonly known as 532 Lincoln Street. Submitted by Rebecca M. Tingle, property owner of record.

STAFF PRESENTATION

Mr. Pedrotti explained the variance requested would allow for construction of a front porch on the existing residence. It was noted that the applicant was not present tonight due to a medical emergency, but Staff recommended moving ahead with the Item in spite of the applicant's absence.

It was clarified the proposed structure would have a roof, but would not be enclosed. The house on the adjacent lot had a porch similar to that proposed.

The Board agreed to hear the Item despite the applicant's absence, noting their appreciation that the applicant had let Staff know in advance that she would not be attending. If serious concerns arose, the Board would table the Item until the applicant could attend.

APPLICANT PRESENTATION

The applicant was not present, as explained above.

PUBLIC HEARING

No member of the public spoke on this Item.

BOARD DISCUSSION

It was suggested that the proposed porch would be nearly identical to the one already in existence on the adjacent property.

ACTION TAKEN

Mr. Goans motioned to approve the variance to allow for a reduced front yard setback, with the provision that the porch would be an open structure. "Open" was defined as not screened or in any way weather-tight. Mr. Herndon seconded.

Motion carried unanimously, 6-0.

ITEM NO. 6: NE CORNER OF N. 3RD & MAPLE STREETS

B-10-41-02: 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. Said requests are specifically to vary from the provisions of Section 20-807 of said City Code, which establishes the building setbacks for industrial structures in the M-2 (General Industrial) District. Based upon the Code provisions, the applicant is required to have a 25' setback along the west property line, and a 15' setback from the east property line. The applicant is asking for a variance to reduce the building setback to 15' along the west property line and to 9' along the east property line. The request is for the following legally described property: Lots 190 & 191, Southwest Block of North Lawrence Addition No. 3 in the City of Lawrence. Said described property is generally located on the northeast corner of N. 3rd Street and Maple Street. Submitted by Mike Nieder, property owner of record.

STAFF PRESENTATION

Mr. Pedrotti introduced the Item, explaining Staff recommended denial for both variances because additional land was readily available that, if utilized, would eliminate the need for the variances requested.

APPLICANT PRESENTATION

The applicant was not present.

PUBLIC HEARING

No member of the public spoke on this Item.

BOARD DISCUSSION

Based on Staff's recommendation, Mr. Hannon said he would support denial of the request.

ACTION TAKEN

Mr. Herndon asked if the Board would be amenable to tabling the Item until the applicant was present to explain why this design had been chosen. The Board agreed.

ITEM NO. 7: MISCELLANEOUS

- A. Mr. Herndon said the Board had been asked to provide the Mayor with a summary of the Items the Board had dealt with in the past year. This would include a listing of how many Items the BZA and the SCBA had received.
- B. The Board would have a Study Session in early 2003 to discuss the Status and impacts of the new Code revisions, particularly the new definition of “hardship”.
- C. Consideration of requests for 90-day extensions.
 - a. 90-day extension request for B-04-10-02; 1309 Rhode Island Street
 - b. 90-day extension request for B-07-18-02; 1612 W. 15th Street
 - c. 90-day extension request for B-01-03-02; 950 E. 21st Street

Motioned by Mr. Fizell to approve all three requests for 90-day extensions. Mr. Goans seconded.

Motion carried unanimously, 6-0.

ADJOURN – 9:35 p.m.