

**BOARD OF ZONING APPEALS**  
**Meeting Minutes of December 4, 2008 –6:30 p.m.**

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Members present: Kimball, Bowman, Blaufuss, Lane, Lowe, von Tersch

Members absent: Carpenter

Staff present: Guntert, Parker, Miller

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**ITEM NO. 1 COMMUNICATIONS**

Blaufuss stated Staff and the Board had received communication for Item 3.

von Tersch said she had attended a neighborhood association meeting where the same communication had been discussed.

No agenda items deferred.

**ITEM NO. 2 MINUTES**

**ACTION TAKEN**

Motioned by Lane, seconded by Bowman, to approve the November 6, 2008 Board of Zoning Appeals minutes.

Motion carried, 5-0-1 von Tersch abstained

**ITEM NO. 3 903 & 903 ½ ALABAMA STREET [DRG]**

**B-10-17-08:** A request for variances as provided in Section 20-1309 of the Land Development Code in the Code of the City of Lawrence, Kansas, 2008 edition. The first request is for a variance to exceed the maximum 12 dwelling units per acre standard as it relates to the minimum lot area standard in the RM12D District per Section 20-601(a) of the City Code. The second request is a reduction in the 10 feet minimum exterior side yard setback for residential structures set forth in Section 20-601(a) of the City Code to a minimum of 9 feet. The applicant plans to move the existing duplex residential structure north so it is situated on its own lot (Lot 1). That action opens the second lot (Lot 2) for development of a new duplex residential dwelling. No setback variances are being requested for the new structure on the south lot (Lot 2). The property is legally described as Lots 1 & 2, Block 23, Sinclair's Addition in the City of Lawrence, Douglas County, Kansas. The subject property is located at 903 & 903 ½ Alabama Street. Submitted by Dan Hermreck for James A. Slough, the property owner of record.

**STAFF PRESENTATION**

Mr. David Guntert presented the item.

von Tersch asked Staff what the zoning was for 903 & 903 ½ Alabama Street prior to the development code being adopted.

Mr. Guntert stated the zoning for 903 & 903 ½ Alabama Street was duplex zoning, RMD.

Blaufuss asked Staff if the applicant would be able to build the structure after 2009 without the density variance.

Mr. Guntert stated it would take some time to amend the current code. He said a text amendment would be drafted which would be heard by the Planning Commission and the City Commission. Once the text amendment was approved, an ordinance would be prepared to adopt the language.

Blaufuss asked Staff if the end result would be that the applicant could build the structure.

Mr. Guntert stated the intent was to look at language that would provide standards for lots of this size.

von Tersch asked Staff what the percentage of duplexes to single family dwellings was in the area.

Mr. Guntert said the County Appraiser's Office identified the land uses. Mr. Guntert provided a map showing the land uses in this area.

von Tersch said the 900 block of Alabama Street and Maine Street were predominately single family homes.

Mr. Guntert stated there were quite a few single dwelling structures in the area that were rentals.

Blaufuss asked Staff if the structure behind 903 Alabama Street was an interior design store.

Mr. Guntert stated the structure behind 903 Alabama Street was an interior design store which had a store front facing toward West 9<sup>th</sup> Street.

von Tersch said the situation was a unique one. She stated the original homes that were built along Ninth Street were built in the middle of the lots.

Kimball asked if the commercial structure was built with a zero lot line setback.

Mr. Guntert stated the commercial structure was at a zero lot line setback.

Lowe asked Staff why the bay window in the structure could not be changed. It seemed as though the window was the reason why the applicant needed the setback variance.

Mr. Guntert said Mr. Hermreck would explain the issue with the window.

#### **APPLICANT PRESENTATION**

Dan Hermreck stated the home was built in the late 1800's and was within the environs of a property on the National Historic Register. He stated the home owner did not want to change the character of the old house. Mr. Hermreck said the plan was to move the existing structure onto its own lot; rehabilitate the structure and add a small addition on the west side of the structure. He said the area was zoned for a duplex.

Kimball said a variance would not be needed if the home was moved to the lot to the south of it.

Mr. Hermreck stated moving the home to the south would change the character of the area.

#### **PUBLIC COMMENT**

Ms. Gail Reber, 916 Alabama Street, stated she had been very active with the homeowners in the area in the 1970's. She said the single family homes in the neighborhood were being torn down and replaced with modern apartment buildings. The area was predominately single family homes. She stated the bigger homes

were being used as rental homes and most did not have a garage. Ms. Reber said parking was a problem in the area. She asked the applicant if the home would be demolished.

Mr. Hermreck stated the home would remain in some fashion and that the proposed development plan would have to be heard and approved by the Historic Resources Commission.

## **PUBLIC HEARING CLOSED**

### **BOARD DISCUSSION**

Lowe stated it was interesting that the window could not be changed but there could be an addition added to the home.

von Tersch said the area could be down zoned so that no duplexes could be allowed in the area.

Kimball said if the home was moved to the lot to the north the setback would be reduced.

### **ACTION TAKEN**

Motioned by Kimball, seconded by Lowe, to approve the variance request for 903 & 903 ½ Alabama Street based on the findings of fact in the staff report subject to approval of the Historic Resources Commission.

Motion carried unanimously, 6-0

## **ITEM NO. 4      1300-02 W 23rd STREET [DRG]**

**B-11-19-08:** A request for a variance as provided in Section 20-1309 of the Land Development Code in the Code of the City of Lawrence, Kansas, 2008 edition. The request is from the provisions in Article 12, Section 20-1204 of the City Code as it pertains to development within the regulatory floodplain. The request is related to the submittal of a new site plan for a change in the use of an existing commercial property which exceeds the percentage of impervious surface area allowed by the City Code. The property is legally described as: The East 112 feet of Lot 12, Block 2, Southwest Addition No. 5 in the City of Lawrence, Kansas. The subject property is the former location of Russell Stover Candies at 1300-02 W. 23<sup>rd</sup> Street. Submitted by Paul Werner with Paul Werner Architects, for Bodker Realty, Inc., the property owner of record.

### **STAFF PRESENTATION**

Mr. David Guntert presented the item.

### **APPLICANT PRESENTATION**

Paul Werner, Paul Werner Architects, stated Staff had been helpful with the project. He said the applicant was ready for construction.

### **PUBLIC COMMENT**

No one from the public spoke to this item.

## **PUBLIC HEARING CLOSED**

### **BOARD DISCUSSION**

No Board discussion.

**ACTION TAKEN**

Motioned by Kimball seconded by Bowman to approve the variance request for 1300-02 West 23<sup>rd</sup> Street based on the findings of fact in the staff report.

Motion carried unanimously, 6-0

**ITEM NO. 5 MISCELLANEOUS**

- a) Discussion and approval of 2009 BZA meeting and application submittal dates.

**ACTION TAKEN**

Motioned by Lane, seconded by Kimball, to approve the 2009 Board of Zoning Appeals Schedule.

Motion carried unanimously, 6-0

- b) Consider any other business to come before the Board.

Mr. Guntert stated the Board of Zoning Appeals agenda would be available electronically in February 2009.

**ACTION TAKEN**

Motioned by Bowman, seconded by Lane, to adjourn the Board of Zoning Appeals meeting.

Motion carried unanimously, 6-0

**ADJOURN – 7:35p.m.**

Official minutes are on file in the Planning Department office.