

## **BOARD OF ZONING APPEALS**

### **Meeting Minutes of February 5, 2009 –6:30 p.m.**

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

Staff present: Guntert, Parker, Miller

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#### **ITEM NO. 1            COMMUNICATIONS**

Staff stated the Board had received all communications.

No Board member disclosed ex parte contacts or abstentions.

Staff stated Item No. 3 would be deferred at the applicant's request.

#### **ITEM NO. 2            MINUTES**

##### **ACTION TAKEN**

Motioned by Bowman, seconded by Lane, to approve the December 4, 2008 Board of Zoning Appeals minutes.

Motion carried unanimously, 7-0

#### **ITEM NO. 3            ZARCO 66 FUEL STATION/COFFEE SHOP; 2005 W. 9<sup>TH</sup> STREET [DRG]**

**B-12-20-08:** 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 variances are from the following provisions in the City Code: Article 2, Sections 20-213(e)(1) and 20-213(f)(4); Article 6, Sections 20-601(b), 20-602(e)(6)(i) and 20-602(e)(7); Article 9, Sections 20-902, 20-908(c), 20-911(b)(2), 20-913(f)(1), and 20-913(k); Article 10, Sections 20-1002, 20-1003(c)(1), 20-1003(f), 20-1004(d), 20-1005(c), 20-1005(e)(3), 20-1005(g)(1), and 20-1006(b); and, Article 11, Section 20-1105(a) of the City Code. These variances pertain to certain base district standards in the CS (Commercial Urban) District; density and dimensional standards; parking, loading and access standards; landscaping and screening standards; and, general development standards of the Development Code as they relate to the redevelopment of an existing commercially developed property. The property is legally described as: Lot 4, in Block 1, in Riling Heights, an Addition to the City of Lawrence, less the following: Beginning at the Northwest corner of said Lot 4; thence South 40 feet; thence East and parallel with the North line of Lot 4, 80 feet; thence in a Southeasterly direction to a point on the East line of Lot 4 located 85 feet South of the Northeast corner thereof; thence North 85 feet to the Northeast corner of Lot 4; thence West along the North line of Lot 4 to the point of beginning; in Douglas County, Kansas. The subject property is a fuel station and drive-through coffee shop at 2005 W. 9th Street. Submitted by Tim Herndon and Brian Sturm of Landplan Engineering, P.A., for Zarco 66, Inc., the property owner of record.

*Deferred at the applicant's request*

**ITEM NO. 4      700 CONNECTICUT STREET [DRG]**

B-1-1-09: 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 variance is from the provisions in Article 6, Section 20-601(b) of the City Code as it pertains to the front yard and exterior side yard building setbacks for properties zoned CS (Commercial Strip) District. The Code requires a 25 feet front building setback and a 15 feet exterior side yard building setback. The applicant has requested each setback be reduced with the variance to 0 feet. The second variance is from the provisions in Article 9, Section 20-908(c) of the City Code as it pertains to the setback of off-street parking from a street right-of-way. The Code requires a 15 feet setback and the applicant is requesting it be reduced to 0 feet. The property is legally described as: Lots 22 and 24 on Connecticut Street in the Original Townsite of the City of Lawrence, Douglas County, Kansas. The requested property is generally located on the southeast corner of E. 7<sup>th</sup> Street and Connecticut Street. Submitted by Paul Werner with Paul Werner Architects for Lance W. Burr, the property owner of record.

**STAFF PRESENTATION**

Mr. David Guntert presented the item.

Lane asked Mr. Guntert to explain how Staff arrived at the suggested five feet variance to require a ten feet setback along 7<sup>th</sup> Street.

Mr. Guntert said he looked at the other developed property in the area of the request. Those properties had building and parking setbacks ranging from approximately three feet to ten feet. He said the residence to the east of the alley had a twenty five feet setback. Staff was looking for a reasonable compromise that would protect the sight visibility at the street intersection and allow room for landscaping.

Lane asked Mr. Guntert if the grass area between the sidewalk and the curb would remain.

Mr. Guntert said the grass area was part of the street right-of-way and it would remain.

Lane asked Mr. Guntert why 7th Street had an extra lane on the west side of Connecticut Street. He asked if the lane was used purely for parking.

Mr. Guntert stated the extra lane was used for parallel parking.

Carpenter stated the extra lane had been marked as a turning lane at one time.

**APPLICANT PRESENTATION**

Paul Werner, Paul Werner Architects, stated he met with the East Lawrence Neighborhood Association and they seemed supportive. He said the variance made sense. Mr. Werner said the church to the west of the project had zero feet setback and the auto body shop across the street had a five feet setback. He said there was a landscape area along the street east of Connecticut Street. There were often cars parked on the southwest corner of Connecticut Street. He said there would be landscaping in the five to six feet space between the sidewalk and the street curb and gutter. The applicant wanted to be able to park as many cars in the proposed parking lot as possible. It was not their intent to come back to the Board later with a request for a parking space variance.

**PUBLIC COMMENT**

K.T. Walsh stated the East Lawrence Neighborhood Association was in support of the project. She suggested the applicant plant iris on the north side of the property. Ms. Walsh said the applicant had agreed to work with the East Lawrence Neighborhood Association on traffic safety in the area. She said the neighborhood was made up of historic homes and neighbors did not want the suburban setback applied to this development.

Blaufuss asked Ms. Walsh if she was referring to the front of the building.

Ms. Walsh said she was referring to the front of the building on the Connecticut Street side.

## **PUBLIC HEARING CLOSED**

### **BOARD DISCUSSION**

von Tersch said she agreed with the staff report. She said it was not clear how much the reduced exterior side yard setback should be.

Mr. Guntert said the applicant requested a fifteen feet setback. Staff recommendation was for a ten feet setback which would be a five feet variance.

Lane asked if the sidewalk was on the property line.

Mr. Guntert said the property line was approximately a foot south of the back edge of the sidewalk.

von Tersch asked if the structure would be further south than the church.

Mr. Guntert said the new structure would be further south than the church if the Board approved a variance that required a 10 feet setback.

Kimball asked Staff if the setback was reduced to ten feet would the parking setback also be reduced. He said two more stalls would be taken if the setback was more than eight feet. Kimball stated he liked the commercial building being up to the corner and to the front of the street on both sides.

Lane said if there was a zero feet setback it would be more consistent with the body shop and the other buildings in the area. He said the church was 3.5 feet back from the sidewalk and the tax advisor's office further west was right up to the property line.

Blaufuss asked if there would be a vision problem with traffic turning left onto 7<sup>th</sup> Street.

Lane said traffic that was coming towards the intersection would be on the other side of the street so he didn't think so.

von Tersch asked how the parking would be affected if the setback was ten feet.

Mr. Werner stated the building would be on the corner and the parking would be behind the structure. He said a setback from zero to eight feet would be one parking space and ten feet would be two parking spaces. Mr. Werner said the sidewalk was two feet north of the property line.

Carpenter said the sidewalk was two feet further north than the sidewalk by the church. He said if there was a three feet variance it would line the building up with the church.

Mr. Guntert said there was a previous variance application for the church property and the building setback was reduced to 3.5 feet.

Kimball asked Mr. Werner what the building would be used for.

Mr. Werner said he did not know what the use of the building would be. He said the parking lot size would determine the size of the building and the use would have to be something that conformed to the amount of parking spaces they provided. He did not intent to come back asking for a parking space reduction.

Blaufuss asked Mr. Guntert if Staff's recommendation was built on a compromise.

Mr. Guntert stated Staff was trying to allow enough space for landscaping.

Carpenter said if there was a setback of 3.5 feet along the north side of the property the new building and parking would line up with the church to the west and mimic the auto body shop building setback across the street from the property.

**ACTION TAKEN**

Motioned by von Tersch, seconded by Lane, to approve the variance for a zero feet front setback along the west property line of 700 Connecticut street, based on the findings of fact and recommendation in the staff report.

Motion carried unanimously, 7-0

**ACTION TAKEN**

Motioned by Kimball, seconded by Blaufuss, to approve the variance for an exterior side yard building setback and off-street parking setback reduction from the required 15 feet to 3.5 feet, matching the church building setback on the west side of Connecticut Street, based on the findings of fact and recommendation in the staff report.

Motion carried unanimously, 7-0

**ITEM NO. 5 MISCELLANEOUS**

- a) No other business to come before the Board.

**ACTION TAKEN**

Motioned by Lowe, seconded by Kimball, to adjourn the Board of Zoning Appeals meeting.

Motion carried unanimously, 7-0

**ADJOURN – 7:03 p.m.**

Official minutes are on file in the Planning Department office.