

BOARD OF ZONING APPEALS
Meeting Minutes of February 4, 2010 –6:30 p.m.

Members present: Kimball, Lowe, Blaufuss, Lane, von Tersch
Members excused: Carpenter
Staff present: Guntert, Miller, Parker

ITEM NO. 1 COMMUNICATIONS

No communications to come before the Board.

ITEM NO. 2 MINUTES

Motioned by Lane, seconded by Kimball, to approve the January 7, 2010 Board of Zoning Appeals minutes.

Motion carried 3-0-2, Lowe and von Tersch abstained

ITEM NO. 3 NW CORNER OF E. 13TH STREET & NEW JERSEY STREET [DRG]

B-12-20-09: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2009 edition. The requests involve variances from the lot area and residential building setback requirements of the Development Code as they pertain to property in the RS5 (Single-Dwelling Residential) District. The variances are requested to allow for the construction of a new residential dwelling. The property is legally described as: The East One-Half of Lot 143 on New Jersey Street in the Original Townsite of the City of Lawrence, Douglas County, Kansas. The subject property is addressed as 1245 New Jersey Street, which is on the northwest corner of E. 13th Street and New Jersey Street. Submitted by Michael Morley, SIPSmart Building Systems, Inc. for Scott Rustenhoven, the property owner of record.

STAFF PRESENTATION

David Guntert presented the item.

Lowe asked Mr. Guntert how the applicant would gain access to the sewer.

Mr. Guntert stated the applicant was looking at extending the public sewer main within the street right-of-way.

Lowe asked Mr. Guntert if it was uncommon to install a sewer within the street right-of-way.

Mr. Guntert said it was not uncommon to find sanitary sewer in the street right-of-way. This was really the only viable option for the applicant because of where the buildings were located on the adjacent properties. There was not enough separation distance between the structures and a new sewer line to make it work.

APPLICANT PRESENTATION

Michael Morley said the choices for design had been difficult due to not being able to cross over the water main in the middle of the right-of-way. He said there could be a manhole at the center of the alley and another at the termination. They were also negotiating with the neighboring property owners because of the

excavation work involved in laying the sewer. Mr. Morley said the footprint of the home would be approximately 900 square feet.

Kimball asked the applicant if the home would be a single story home.

Mr. Morley stated the home would be two floors with two bedrooms and a bathroom on the second story.

PUBLIC COMMENT

No one from the public spoke to this item.

PUBLIC HEARING CLOSED

BOARD DISCUSSION

Kimball stated the lot size was unique. The current ownership did not have any involvement in the creation of the current property size.

Blaufuss said the structure setbacks were similar to other developed properties in the neighborhood.

ACTION TAKEN

Motioned by von Tersch, seconded by Kimball, to approve the variance request for the NW corner of East 13th Street and New Jersey Street, based on the findings of fact in the staff report and the following condition:

1. The variances are subject to the applicant's approval from the City of a set of public improvement plans for extending a public sanitary sewer main to the parcel.

Motion carried unanimously, 5-0

ITEM NO. 4 878 LOCUST STREET [DRG]

B-1-1-10: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2009 edition. The requests involve variances from the off-street parking and design standards of the Development Code as they pertain to the establishment of a small-scale church proposing to move into an existing residential dwelling. The property is legally described as: Lot 1, Final Plat of Payne Subdivision, a Replat of Lot 20, Addition No. 11, North Lawrence, in the City of Lawrence, Douglas County, Kansas. The subject property is addressed as 878 Locust Street. Submitted by Clifford LaFrenz of Country Community Church, with permission from Barbara J. Clark, the property owner of record.

STAFF PRESENTATION

David Guntert presented the item.

Blaufuss recalled a similar variance request the Board granted for another church in the neighborhood that was in the floodplain.

When asked about the condition tying the action of the Board to the plan submitted with the variance request, Mr. Guntert said the property owner would have to comply with the Development Code requirements if the property use changed or they expanded the size of the building. The other option for them would be to seek a new variance.

Lane asked if the variance would remain if the structure was used as a residence and if the parking

lot would have to be removed.

Mr. Guntert stated if the structure was returned back to residential use curb and gutter would not be necessary and the parking lot would not have to be removed.

APPLICANT PRESENTATION

Clifford LaFrenz said the church would most likely be a temporary use for this property. They were a small church just getting started. They hoped to increase in attendance and if that happened the building would soon become too small. They were trying to keep the exterior appearance of the building and property residential so it could easily be returned to a residential use in the future.

Lowe asked Mr. LaFrenz if the church meeting times were like any other church.

Mr. LaFrenz said meeting times were only on Sunday and maybe a youth group would meet there during the week in the future.

von Tersch asked Mr. LaFrenz if anyone currently lived in the structure.

Mr. LaFrenz said no one currently lived in the structure and no one would live in the structure while they used it as a church.

PUBLIC COMMENT

William Robarge said he lived at 305 N. 9th Street. If the variances the church was now asking for did not involve a parking space reduction then he would have no comment. He was concerned about allowing on-street parking to be used to meet the minimum requirements for the church. The streets in this area were narrow and Locust Street was used as a truck delivery route for the ICL plant just north of the property.

Mr. Guntert stated the revised plan showed five parking spaces on the property. That was the minimum number of parking spaces required by code for the 20-seat meeting room in the structure.

PUBLIC HEARING CLOSED

BOARD DISCUSSION

Kimball asked Staff if there was storm sewer on the property.

Mr. Guntert stated there was a grader ditch collection system along the streets.

von Tersch said the property was not unique. She said the actual church was how uniqueness applied.

Blaufuss said the uniqueness was the temporary status of the church.

Lowe said the parking issue was solved and the meetings would be only on Sundays.

Lane asked if parking on Locust Street was allowed.

Mr. Guntert said parking was not permitted on the north side of Locust Street.

ACTION TAKEN

Motioned by Lowe, seconded by Lane, to approve the variance request for 878 Locust Street, based on the findings of fact in the staff report and subject to conditions as listed in the staff report:

1. A site plan for the change in use of the property to a church is required.
2. The applicant files a license agreement with the City for the use of a portion of the public right-of-way covering the area where the residential dwelling encroachment is found.
3. The variances are linked to the plan submitted with the variance application and will become null and void at such time as the church, or their successors in title, decide to redevelop or expand the building.

Motion carried unanimously, 5-0

ITEM NO. 5 MISCELLANEOUS

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

Lowe asked Staff if Michael Bowman's seat on the Board would be filled by the Mayor.

Mr. Guntert stated the Mayor had not yet made an appointment for Mr. Bowman's seat.

ACTION TAKEN

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

Motion carried unanimously, 5-0

ADJOURN – 7:07p.m.

Official minutes are on file in the Planning Department office.