

BOARD OF ZONING APPEALS

Meeting Minutes of March 1, 2007 – 6:30 p.m.

Approved by BZA on April 5, 2007

Members present: Blaufuss, Emerson, Goans, Lane, von Tersch

Staff present: Patterson, J. Miller, Brown

ITEM NO. 1: COMMUNICATIONS

- Email from Barry Walthall to David Guntert requesting a deferral of the sign variance request for CVS Pharmacy
- No ex parte or abstentions were indicated

ITEM NO. 2: MINUTES

Five minor changes were noted in the January minutes by Goans. As there was no meeting in February, there are no February minutes.

Motioned by Lane, seconded by Goans, to approve the January 4, 2007 meeting minutes as revised.

Motion carried unanimously, 5-0.

Swearing in of witnesses.

ITEM NO. 3: 1400 WEST 6TH STREET [PGP]

B-02-01-07: A request for variances as provided in Section 20-1309 of the Land Development Code in the Code of the City of Lawrence, Kansas, 2006 edition. The request is specifically to reduce the parking lot setback, landscaping and buffer yard standards in Sections 20-908, 20-914 and Article 10 of the City Code for an existing commercially developed property being site planned for a restaurant with a drive through service lane. The property is legally described as Lots 139, 141 and 143 in Block 45, West Lawrence Addition in the City of Lawrence, Douglas County, Kansas. The subject property is located at 1400 West 6th Street (northwest corner of W. 6th & Michigan Streets). Submitted by Terrence J. Campbell with Barber Emerson, L.C., for Lahu, L.L.C. who is the property owner of record.

STAFF PRESENTATION

Mr. Paul Patterson introduced the item, a request for a variance from the parking lot setback for an existing parking lot aisle at 1400 W. 6th Street. Landscape/parking lot screening materials are normally required within this 15' setback area.

Lane asked if the property line had been changed at the time that 6th Street was widened.

Mr. Patterson stated that the property line did not change.

Lane asked if the plan that Mr. Patterson handed them was now the site plan being considered.

Mr. Patterson replied yes, that what he gave them was the site plan with revisions.

Goans inquired if the curb cut onto Michigan was being eliminated?

Mr. Patterson responded, yes.

Goans inquired about the screening between the driveway and single family residence to the North.

Mr. Patterson said that the property to the north was also zoned CS and a buffer was not required but that the applicant was building a six foot wood fence and also planting trees.

Lane asked if the property to the North was being used as a residence?

Mr. Patterson said yes, he believed so.

APPLICANT PRESENTATION

Mashhur Zarif Haque, owner of Lahu LLC, stated that he would like to do what is in the best interest of the neighbors and has sent emails to the neighbors who requested the Site Plan. To his knowledge there had been no opposition from the neighbors. He said it was his intention for the site to look nice by adding berming and landscaping. The intention was to redevelop the site in a desirable way.

Terrence J. Campbell, attorney with Barber Emerson, represented property owner, Lahu LLC. He stated that they were trying to continue the setbacks that were already there and that the hope is that it would be a benefit for the neighbors and community. They are attempting to close off one of the access points to Michigan. He went on to say that the site was close to the Old West Lawrence and Pinckney Neighborhoods and that they have not heard from any of the members of either organization. He also stated that Planning Commissioner Burress lived near the area and that they had not heard any opposition from him. The applicant will attempt to compensate for not being able to landscape in some areas by making up for it in other areas. He hopes any remaining issues can be worked out with Planning Staff. He believes the newly redesigned Site Plan does bring the plan into compliance with the five factors of the Staff Report.

PUBLIC COMMENT

No public comment.

BOARD DISCUSSION

Goans asked if the review comments had been incorporated in the site plan.

Mr. Patterson stated that the site plan review comments had basically been met but that the parallel parking spaces may need to be moved and the minimum number of parking spaces determined. The landscape requirements had been met.

Goans wanted clarification that the only thing the Board would be addressing would be the parking requirements.

Mr. Patterson said that was correct.

Goans stated that there was a pre-existing condition on the setbacks and that the applicant had bent over backwards to minimize the pre-existing condition. He felt that the applicant had gone as far as reasonably appropriate and thought the Board should support the project.

Lane asked if the location of the parallel parking was not an issue on the site plan.

Mr. Patterson stated that the City Engineer would be making a recommendation on the parking issues.

Lane wanted to know if that would have any effect on the setbacks.

Mr. Patterson stated, no.

Motioned by Blaufuss, seconded by von Tersch, to approve the variance request for 1400 W. 6th Street as presented, based on the findings of fact presented in the body of the staff report and revised site plan, subject to the following conditions:

1. A reduction of the required 15' setback from the W. 6th Street right-of-way to a minimum of 10' width', subject to landscape/screening requirements of Section 20-1004(c); and
2. A reduction of the required 15' parking lot area setback from the Michigan Street right-of-way to a minimum of 5', subject to landscape/screening requirements of Section 20-1004(c).

Motion approved unanimously, 5-0.

ITEM NO. 4: MISCELLANEOUS

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

Mr. Patterson stated that at that point in time the Planning Department did not have any variance submittals. He also stated that at some point they should update the bylaws.

Lane asked if the bylaws could be looked at via email.

Mr. Patterson said that he could provide the bylaw information through email to get it started.

Lane asked if Mr. Patterson recommended the Board convene a special meeting at an earlier date.

Goans inquired if the Board would convene just to update the bylaws?

Mr. Patterson replied, no, that the discussion and action on the bylaws could occur over several months as part of their regular board meetings.

ADJOURN – 6:55 p.m.

Official minutes are on file in the Planning Department office.