

**LAWRENCE BOARD OF ZONING APPEALS
NOVEMBER 3, 2005 – 6:30 P.M., CITY COMMISSION MEETING ROOM, FIRST FLOOR OF
CITY HALL AT SIXTH AND MASSACHUSETTS STREET, LAWRENCE, KANSAS
MEETING MINUTES**

Board members present: Blaufuss, Goans, Hannon, Lane, Carpenter and new member von Tersch
Staff present: Patterson, Pool, Gunter and Saker

ITEM NO. 1: COMMUNICATIONS

- New Board member Carol von Tersch was introduced.
- There were no additional communications to come before the Board.
- Hannon said he met with the applicant for Item 1 when he went for a site visit.
- Goans and Lane said they had spoken with the property owners for Item 1 several months ago, before the Item was scheduled to appear before the Board.
- There were no deferral requests to be considered.

ITEM NO. 2: MINUTES

Several typographical errors were noted in the October 2005 minutes.

Motioned by Goans, seconded by Lane to approve the October 2005 minutes as revised.

Motion carried 5-0-1, with von Terch abstaining because she was not present at the October meeting.

Swearing in of witnesses.

ITEM NO. 3: 825 MAINE STREET

B-10-32-05: A request for variances as provided in Sections 20-1709.1 and 20-1709.2 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. A variance is requested from Section 20-1312 of the City Code to allow an accessory building to exceed 30 percent coverage of the area of the required rear yard. This request is for the following legally described property: Block 15, Lot 7, 825 Maine St., Lane Place Addition. Said described property is located at 825 Maine Street. Submitted by Katie Nichols of Sabatini Architects for Lisa Grossman and Kelly Barth, property owners of record.

STAFF PRESENTATION

Ms. Pool introduced the item, a request to allow an accessory structure to exceed the maximum 30% accessory building coverage area within the required rear yard setback of 30 feet. Ms. Pool explained that the accessory structure was allowed to abut the alley because it did not have doors opening out onto the alley. Similarly, there were no side yard setbacks for the accessory structure.

It was verified that the proposed structure would exceed the total amount of rear yard coverage allowed by Code by 6%.

It was noted that the proposal was approved by the Historic Resources Commission on October 20, 2005, with conditions regarding documentation.

Staff recommended approval of the variance, finding the request met all five of the required criteria as outlined in the Staff Report.

The Board agreed unanimously to defer this item to the end of the agenda in anticipation of the applicant's attendance. The Item was taken up again at 7:50 p.m.

APPLICANT PRESENTATION

Katie Nichols, Sabatini Architects, spoke on behalf of the applicant. Ms. Nichols said the proposal attempted to preserve as much greenspace as possible while providing adequate space for the property owner's artistic medium (large canvas paintings).

The applicant agreed with the Staff recommendation as stated.

Ms. Nichols responded to questioning that the 1-1/2 story accessory building would be equipped with electricity and would have a utility sink, but would not be supplied with water.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

The Board asked for more information on why the proposed structure was so large. Ms. Nichols explained that the applicant works with large paintings that are difficult to move in and out of the primary structure's basement. The accessory structure will be placed in the northwest corner of the lot so as to avoid excessive encroachment on an existing mature tree. It was further noted that the existing shed would be removed and that the new building would incorporate the shed space into its design.

Goans pointed out that the Board had set a clear precedent for approving accessory structures close to this size (528 square feet).

It was noted that the primary structure was unusually small for the lot size, meaning the combined lot coverage of the home and the proposed accessory building would be about 25% of the total lot.

ACTION TAKEN

Motioned by Hannon, seconded by Lane to approve the variance to allow an accessory structure to cover more than 30% of the required rear yard for 825 Maine, based on the findings presented in the Staff Report.

Motion carried unanimously, 6-0.

ITEM NO. 4: SOUTHWEST JUNIOR HIGH SCHOOL; 2511 INVERNESS DRIVE

B-10-33-05: A request for variances as provided in Sections 20-1709.1 and 20-1709.2 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The first request is specifically to reduce the number of shade trees required in Section 20-14A04.3 of said City Code from one shade tree per 40' of street frontage, to one shade tree per 80' of street frontage, initially. The second variance request is from the provisions of Section 20.14A04.6 which define the minimum parking island requirements as 200 S.F. at the terminus of a double rowed parking aisle or 100 S.F. at the terminus of a single rowed parking aisle. The applicant is seeking a variance from the parking island requirement in the north parking area. The third variance is from the provisions of Section 20-14A04.7 of said City Code which requires screening of storage & loading area from adjacent property. The applicant is seeking a variance to allow the screening to be added in a later phase. The fourth variance is from the provisions of Section 20-14A04.8 of the City Code which establishes screening requirements. The applicant is seeking a variance to allow a broken line of shrub massing rather than the continuous screen as required by Code. These requests are for the following legally described property: Southwest School Add Lt 1. Said described property is located at 2511 Inverness Drive. Submitted by Gould Evans Associates for U.S.D. 497, property owner of record.

STAFF PRESENTATION

Ms. Miller introduced the item, a request for multiple variances:

1. Allow phased provision of required street trees;
2. Reduction in the required parking islands for the north parking lot;
3. Allow phased screening of the outdoor loading area; and
4. Allow alternate screening design, using a broken rather than continuous line of shrubbery for safety.

Ms. Miller said that, in Staff's opinion, landscaping requirements would be adequately met by the applicant's proposal and variances 1 & 4 were not necessary.

Staff recommended denial of variances 2 & 3, finding they did not meet all five of the requisite criteria. Specifically, Staff said the proposal was not unique because the property was platted and developed after the Zoning Ordinance was adopted. Furthermore, Staff said the loading dock should be required to provide full screening, especially since the southern property line would not be able to provide street trees because of existing utility easements and high pressure gas lines.

APPLICANT PRESENTATION

Cole Welch, Gould Evans Associates, spoke on behalf of the applicant. Mr. Welch showed a representation of the applicant's proposal for phased screening. He showed existing vegetation and added landscaping proposed as Phase 1 and Phase 2. Mr. Welch explained the applicant's hope that these landscaping phases would be completed through Eagle Scout projects or public service projects.

Mr. Welch showed the existing building and the location of the proposed addition, noting that no improvements were proposed to the Sunflower Elementary School at this time.

Mr. Welch responded to questions about the variances impacting the parking lot, showing how providing full landscaped islands per code would remove multiple existing parking spaces. This would increase on-street parking in a neighborhood where parking was already at a premium.

The applicant felt the property was unique because it was a school in a residentially-zoned area and both schools were platted as a single property. Additionally, the applicant said this was a small addition on a large parcel.

Mr. Welch explained the proposed improvements were being done as part of the recent school bond issue, in which monies were allotted for defined projects. The funding was intended to create more classroom space, and bringing the entire lot up to full code standards would use a significant amount of the bond funding on non-classroom elements. The proposed phased screening reflected the school's desire to be a good neighbor and provide adequate screening, but when additional funding was available.

Mr. Welch showed the existing rear loading dock that is shared by both schools.

The applicant noted that the proposed addition was some distance from the areas identified for improvements by Staff and the designated areas had only limited visibility from the street and the neighboring residences.

Mr. Welch suggested requiring bond issue funding to be used for parking lot and landscaping improvements would be a hardship and would be detrimental to the neighborhood, since the schools would lose needed parking spaces. It was noted that the primary hardship was financial, which was not suitable grounds for meeting the criteria.

The applicant agreed with Staff's analysis that variances 1 & 4 were not necessary.

It was verified that the applicant intended to meet the Code requirements eventually, but asked for a variance to allow that compliance to be met in phases.

PUBLIC COMMENT

Betty Alderson said she noticed the shifting greenspace in the site and asked that the project be as environmentally sensitive as possible. She expressed concern about losing greenspace in/near the flood plain and asked how the phasing would be tracked to ensure all phases were completed.

Ms. Alderson said she understood funding was scarce and the bond monies had likely been budgeted already, but other funding sources may be available.

BOARD DISCUSSION

von Tersch pointed out that phased landscaping would result in vegetative screening at different growth stages. It was discussed that schools should have to meet the same Code requirements as all other kinds of development. A school use was not automatically considered unique in terms of zoning requirements.

The Board agreed with Staff and the applicant that variances 1 & 4 were not needed.

It was suggested that variance 2 was reasonable, since the parking lot had been in place several years and had a significant amount of open space. Also, required parking lot islands would take up needed parking spaces. Carpenter asked how this request met the criteria of uniqueness. It was suggested the property was unique based on its size and the fact that it was not seen from the nearby residential areas.

It was noted that Staff drew a clear line between schools constructed before adoption of the 1966 Zoning Code and those developed after zoning code adoption.

Carpenter said he did not think variance 2 met the criteria of hardship just because the voters chose to build classroom space over landscaping.

ACTION TAKEN

Motioned by Blaufuss, seconded by Hannon to approve the variance to allow retention of the existing parking lot islands for 2511 Inverness Drive (Southwest Junior High), based on the Staff analysis of criteria 2-5 and with the following added finding for criteria 1:

1. The size of the property and its lack of visibility from the road or area residences make the property unique.

Motion carried 5-1, with Carpenter voting in opposition.

Motioned by Hannon to approve the variance to allow phased screening around the rear loading dock.

Motion died for lack of a second.

Motioned by Blaufuss, seconded by Lane to deny the variance to allow phased screening around the rear loading dock.

Motion carried 5-1, with Hannon voting in opposition.

**ITEM NO. 5: SUNSET HILL ELEMENTARY SCHOOL & WEST JUNIOR HIGH SCHOOL;
901 SCHWARZ ROAD & 2700 HARVARD ROAD**

B-10-34-05: A request for variances as provided in Sections 20-1709.1 and 20-1709.2 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The first request is specifically to reduce the parking setback required in Section 20-1209(a) of said City Code from 25' to 0' along Crestline Drive. The second variance request is from the curb and gutter requirements of Section 20-1215 of the City Code. Applicant is also seeking a variance from the parking lot islands requirement defined in Section 20-14A04.6(b) of the Code. These requests are for the Sunset Hill/West Junior High property generally located south of W 9th Street and north of Harvard Road between Wellington Road and Crestline Drive. Said described property is located at 2700 Harvard Rd. and 901 Schwarz Rd. Submitted by C L Maurer of Landplan Engineering for U.S.D. 497, property owner of record.

STAFF PRESENTATION

Ms. Miller introduced the item, a set of variances requested for another school site that was developed prior to adoption of the Zoning Ordinance in 1966.

1. Reduction of the parking lot setback 0' along Harvard Road to acknowledge existing conditions.
2. Retention of current parking lot aisles and landscape islands to acknowledge existing conditions.
3. Retention of existing curb & guttering to acknowledge existing conditions.

Staff noted that several area residents had called with concerns that the proposal would reduce the amount of off-street parking provided on the site. Ms. Miller said this would occur if the variances were denied. She noted that the parking area was not visible from adjacent homes.

Staff recommended approval of all requested variances, finding they met all five of the required criteria.

APPLICANT PRESENTATION

C.L. Maurer, Landplan Engineering, spoke on behalf of the applicant. Mr. Maurer agreed with Staff's analysis that this property was unique and it would be a hardship to strictly apply the regulations because the property was developed before the Zoning Ordinance was adopted.

Mr. Maurer described the proposed renovations, including additional parking spaces where the tennis courts are currently located.

The applicant pointed out that the property was platted with a 50' right-of-way along Crestline. He asked for a reduction in the setback here to continue providing as much parking as possible,

It was suggested that the area opened by the removal of the portable classroom could also be used for parking. Mr. Maurer said this would have to be considered in light of the project budget and noted this would require another curb cut.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

The Board had no additional comments or questions on this item.

ACTION TAKEN

Motioned by Lane, seconded by Carpenter to approve the three variances requested for 901 Schwartz Road and 2700 Harvard Road (Sunset Hill Elementary School and West Junior High School), based on the findings presented in the Staff Report.

Motion carried unanimously, 6-0.

ITEM NO. 6: LAWRENCE HIGH SCHOOL; 1901 LOUISIANA STREET

B-10-35-05: A request for variances as provided in Sections 20-1709.1 and 20-1709.2 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The first request is specifically to reduce the parking setback required in Section 20-1209(a) of said City Code from 25' to 0' along 21st Street and Louisiana Street. The second variance request is from the curb and gutter requirements of Section 20-1215 of the City Code. Applicant is also seeking a variance from the parking lot islands requirement defined in Section 20-14A04.6(b) of the Code. These requests are for the Lawrence High School property generally located west of Louisiana Street between W 19th Street and W 21st Street. Said described property is located at 1901 Louisiana Street. Submitted by C L Maurer of Landplan Engineering for U.S.D. 497, property owner of record.

STAFF PRESENTATION

Ms. Miller introduced the item, another school-related request involving several variances to acknowledge existing conditions of development that took place prior to adoption of the 1966 Zoning Ordinance. *For clarity, variance 1 will be split into two parts:*

- 1a. Reduction in the parking lot setback to 0' along Louisiana Street;
- 1b. Reduction in the parking lot setback to 0' along 21st Street;
2. Retention of the existing parking lot islands in both parking areas; and
3. Retention of the exiting curb and gutter for both parking areas and the small area designated in the rear.

Staff recommended approval of variance 1a, stating that existing trees met the intent of the ordinance.

Staff recommended denial of variance 1b. There are no street trees in this narrow but visible section to form a buffer between uses. It was noted that denial of this variance would result in the loss of existing parking, which had been of concern to several area residents. The Board expressed that they shared this concern.

Staff recommended approval of variance 2 because the loss of parking spaces would be a hardship on the applicant and the neighborhood, and existing landscape screening and greenspace provided an adequate buffer between uses.

Staff recommended approval of variance 3 per the opinion of the City Stormwater Engineer, who had no objection, and it was noted that this area had functioned without curb & gutter for several years with no significant problems.

Ms. Miller pointed out that the subject property was located within the historic environs and would be subject to review by the Historic Resources Commission (HRC). An attempt was made to take this item before the HRC before it came to the Board, but only a preliminary site plan was prepared in time for the October HRC meeting. The Board was asked to take action on the variance with the understanding that the request would come back if their decision was countered by the HRC.

APPLICANT PRESENTATION

C.L. Maurer, Landplan Engineering, spoke on behalf of the applicant. Mr. Maurer spoke about the number of parking spaces that would be lost if variances 1a and/or 1b were denied. He noted that the lot along 21st Street was the only one designated for Faculty/Staff parking and it would lose a minimum of 8-9 spaces.

It was suggested that this situation was unique because the City controlled small pieces of the High School property, including the Aquatic Center and the tennis area, but the parking that would be lost would be for school (not City) uses.

Mr. Maurer said if all variances were denied, the property would lose a minimum of 10-15 spaces.

PUBLIC COMMENT

Jean Klein, area resident, asked for clarification on the proposal. She said she trusted the City Stormwater Engineer's opinion, but there had been water coming from the high school site and pooling near the tennis courts.

Betty Alderson, Lawrence resident, asked for clarification that the requested setback variance along 21st Street applied to a limited section as shown on the plan, not the entire road to 19th Street. She shared the concerns of the previous speaker that the proposal would negatively impact drainage in this area that had not been reached by stormwater improvements.

It was verified that the proposal did not include an increase in impervious surface with the addition of parking spaces, but existing parking might be lost if the lots were required to meet current City standards.

David Dunfield, GLPM Architects, asked for clarification on the HRC review in October. Staff explained the HRC reviewed and approved the historic review of the site plan, but had yet to comment on the variance requests.

BOARD DISCUSSION

The Board generally agreed with Staff's analysis of variances 1a and 1b and the difference created by the presence of vegetative screening. However, they were significantly concerned about the hardship of losing existing parking spaces.

It was suggested that the added landscaping of enlarged islands would not be significant on a lot of this size.

ACTION TAKEN

Motioned by Lane, seconded by Hannon to approve variances 1a & 1b for 1901 Louisiana Street (Lawrence High School), based on the findings for all five criteria presented by Staff for variance 1a and the additional findings for variance 1b:

1. Approval recognizes existing conditions;
2. The variance is applicable only to the section of 21st and Louisiana Streets indicated on the plan.

Motion carried 6-0.

Motioned by Lane, seconded by Hannon to approve variance 2 for 1901 Louisiana Street (Lawrence High School), based on the finding presented by Staff for all five criteria.

Motion carried unanimously, 6-0.

Motioned by Hannon, seconded by Lane to approve variance 3 for 1901 Louisiana Street (Lawrence High School), based on the finding presented by Staff for all five criteria.

Motion carried unanimously, 6-0.

The Board moved at this point to Item 3.

ITEM NO. 7: MISCELLANEOUS

There were no other matters to come before the Board.

ADJOURN – 8:00 p.m.

Official minutes are on file in the Planning Department Office.