

BOARD OF ZONING APPEALS

Meeting Minutes

September 1, 2005

Members present: Blaufuss, Emerson, Goans, Hannon, Herndon, Lane and Santee
Staff Present: Patterson, Pool, Guntert and Saker

ITEM NO. 1: COMMUNICATIONS

- There were no additional communications for the Board.
- No ex parte communications were disclosed.
- No abstentions from agenda items were indicated.
- Staff asked the Board to consider deferral of Items 3 & 4 to allow processing of a revised site plan currently in process that would address Staff's concerns related to these appeals. It was possible this may happen as late as October.

ITEM NO. 2: MINUTES

One error was noted in the minutes of the August meeting.

Motioned by Hannon, seconded by Lane to approve the August 4, 2005 minutes as revised.

Motion carried 5-0-1, with Blaufuss abstaining due to her absence from the August meeting.

ITEM NO. 3: 1246 HASKELL AVENUE; NEIGHBORHOOD APPEAL

B-04-10-05: Consider an appeal from the Brook Creek Neighborhood Association to expand the list of items included as violations in a "Notice and Order" issued by Barry Walthall, Code Enforcement Manager of the Division of Codes Enforcement/Inspection, Neighborhood Resources Department, City of Lawrence. The "Notice and Order" citing a number of Zoning Code violations at 1246 Haskell Avenue was issued to the property owner of record, Polk & Polk L. C. on March 30, 2005 by Mr. Walthall. The appeal, submitted by Michael S. Almon, for Brook Creek Neighborhood Association, was filed in the Planning Office on April 8, 2005. [Deferred from the June 2, 2005 meeting.]

ITEM NO. 4: 1246 HASKELL AVENUE; PROPERTY OWNER APPEAL

B-04-11-05: Consider a request from Jane Eldridge, attorney with Barber Emerson, L.C. on behalf of her client Greg Polk, for an interpretation of each section of the Zoning Code cited in a "Notice and Order" issued by Barry Walthall, Code Enforcement Manager of the Division of Codes Enforcement/Inspection, Neighborhood Resources Department, City of Lawrence. A "Notice and Order" citing a number of Zoning Code violations at 1246 Haskell Avenue was issued to the property owner of record, Polk & Polk L. C. on March 30, 2005 by Mr. Walthall. The appeal for interpretation of these referenced code provisions was filed in the Planning Office on April 8, 2005. [Deferred from the June 2, 2005 meeting.]

Items 3 & 4 were discussed simultaneously.

STAFF PRESENTATION

Mr. Guntert explained that these items did not involve variance requests. Item 3 was an appeal initiated by the area residents for an interpretation of the Code sections regarding the approved site plan violations cited by the City for this property. Item 4 was initiated by the property owner and was an appeal related to the notice and order of violation served by Neighborhood Resources.

Staff recommended deferral of both items because a revised site plan was scheduled to go before the City Commission in the near future. Normal procedure would require the Board to act on an item before a site plan went to the governing body. However, in this case Staff recommended the City Commission take action first because the revised site plan, if approved, addressed the violation issues raised by Neighborhood Resources. If the revised site plan was approved, both appeals would become moot and would not have to be dealt with by the BZA.

It was verified that there were no variance requests associated with the proposed revised site plan.

APPLICANT PRESENTATIONS

Jane Eldridge spoke on behalf of the property owner (applicant in Item 4), supporting Staff's recommendation for deferral so the site plan process could be completed.

Michael Almon spoke on behalf of the Brook Creek Neighborhood Association (applicant in Item 3), saying the Association submitted their appeal in April but had been "delayed and kept in the dark by Staff for months". Mr. Almon said the neighborhood had been notified only 1 week previously of the revised site plan. Furthermore, area residents felt the revised site plan was inadequate, "barely addressing violations" identified by Neighborhood Resources.

Mr. Almon said the Neighborhood Association wanted the Board to go forward with consideration of the existing site plan "before the applicant is allowed to slip through a new site plan without coming to this Board."

PUBLIC COMMENT

No member of the public spoke on these items.

BOARD DISCUSSION

Hannon said he was comfortable following Staff's recommendation, saying he would be satisfied that identified violations had been dealt with if the revised site plan were approved by the City Commission.

Herndon noted that the revised site plan would be on the City Commission's Consent Agenda, meaning no public hearing was required. However, any member of the public could have the item pulled from the Consent Agenda for a hearing, providing an opportunity to relate the neighborhood's concerns in a more appropriate forum.

Santee arrived at 6:45 p.m.

It was suggested that discussing these items at length was an ineffective use of time, if they would become moot points when/if the new site plan was approved. It was countered that the Board could not know for sure the new site plan addressed the violations because they were not yet aware what these violations were.

Mr. Almon responded to questioning that he understood the process for site plan hearings, but this did not address the neighborhood's frustration at the "shoddy handling" by Staff (poor inspections, lack of enforcement, poor communications).

Emerson said deferral may be appropriate, but agreed that this was "not a good way [for the City] to run business."

It was clarified that the revised site plan, if approved, would supersede the existing site plan, even if the Board upheld the neighborhood's appeal of the existing plan.

Herndon said he appreciated the neighborhood's frustrations and agreed this was poor business practice, but it would be practical at this point to follow Staff's recommendation.

ACTION TAKEN

Motioned by Hannon, seconded by Blaufuss to defer Items 3 & 4 until the City Commission takes action on the pending revised site plan.

Motion carried 5-2, with Goans and Emerson voting in opposition.

ITEM NO. 5: 1813 ALABAMA STREET

B-08-26-05: A request for a special exception as provided in Section 20-1708 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The request is specifically to reduce the 5' side yard building setback required in Section 20-608 of said City Code to a minimum of 3' along the north property line. Section 20-1505(b) of said City Code allows one side yard to be reduced to no less than 3' provided the sum of the two side yards is equal to or greater than the sum of the required side yards for the zoning district. The exception is submitted to allow the construction of a new addition to a residence, including an emergency egress opening, on the following legally described property: Lot 4, Block 15, University Place Addition in the City of Lawrence. Said described property is located at 1813 Alabama Street. Submitted by Shannon and Bob Lockwood, property owners of record.

STAFF PRESENTATION

Ms. Pool introduced the item, a request for an exception to allow an egress window to extend into northern side yard, reducing the side yard setback to 3'. She explained the request met the criteria for an exception, noting the placement of the house on the lot. This placement resulted in an average side yard setback (with the new egress window) of more than the required 10 feet.

It was verified that the new window was needed to meet egress requirements enforced by Neighborhood Resources.

APPLICANT PRESENTATION

Bob Lockwood, applicant, said he intended to replace the existing basement because of foundation damage. With this project, he was required to bring the rest of the structure up to current Code standards, including the proposed egress window.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

The Board had no additional questions or comments.

ACTION TAKEN

Motioned by Herndon, seconded by Lane to approve an exception to allow a northern side yard setback of 3', based on the findings presented in the Staff Report.

Motion carried unanimously, 7-0.

ITEM NO. 6: McDONALD'S RESTAURANT; 1309 WEST 6TH STREET

B-08-27-05: A request for a variance as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The request is specifically to vary from the provisions of Section 20-1215 of said City Code, which requires the perimeter of parking areas to have concrete curbs in accordance with city standards for concrete curbs. The applicant is asking for a variance to allow straight back curbs, which have already been constructed on the property. The request is for the following legally described property: Lot 1, North Part of Block 53 Replat, A Replat of Lots 92, 94, 96, 98, 100, and 151-156 in Block 53, West Lawrence Addition in the City of Lawrence. Said described property is known as McDonald's Restaurant located at 1309 West 6th Street. Submitted by Thomas J. Dobski, property owner of record.

STAFF PRESENTATION

Mr. Patterson introduced the item, a request to allow retention of the existing "stand up" curbing at the McDonald's location on W. 6th Street. He stated that the subject area was zoned C-5 and had recently been remodeled following site plan approval for the rear of the existing structure and a second drive-through lane in February 2005.

The approved site plan specified standard curb and gutter for the interior and had included no changes to the existing drive, but upon inspection it was found that new stand up curbing had been constructed (C-5 zoning requires standard curb and gutter) in both places.

Staff said the City Engineer had recently reviewed the plan showing the new drive as constructed and was not significantly concerned about the stand up curbing on the lot's interior. However, she was concerned about the impact of stand up curbing at the drive on stormwater flow in relation to the street.

Staff recommended approval of the variance to allow retention of the stand up curbing in the lot's interior with the stipulation that, when/if this interior curbing fails, it must be replaced with standard curb and gutter.

Staff recommended denial of the variance to allow retention of the stand up curbing at the drive and further recommended the applicant be given 30 days to submit drawings and 45 days to install the required standard curb and gutter. Herndon suggested that 45 and 75 days respectively would be a more reasonable time limit to accomplish these tasks.

It was clarified that the interior stand up curbing was existing at the time the site plan was approved in February and had not been changed. The driveway stand up curbing had also existed prior to the site improvements, but had not been addressed in the approved site plan and was replaced in kind without consultation with City Staff.

APPLICANT PRESENTATION

Gary Berlin, McDonald's USA, said he had been the construction manager on this project. He said the project superintendent had been told by street improvement crews

that the W. 6th Street improvements would extend as far as the McDonald's property but they had not.

Several points were verified with Mr. Berlin:

- The approved site plan included details for standard curb and gutter for the lot interior.
- Stand up curbing was constructed in the lot's interior.
- The applicant supported Staff's recommendation that the interior stand up curbing be allowed to remain until it failed.
- The approved site plan did not specifically require standard driveway curbing in place of the existing stand up curbing.
- The applicant did not propose any driveway changes with the approved site plan.
- Driveway changes were constructed outside of the approved site plan, with stand up curbing to match the previous drive curb and the interior lot curbing.
- The applicant opposed Staff's recommendation to require the applicant to pay to replace curbs that had been constructed so recently, also at the applicant's expense.
- The applicant was concerned about the negative impact on business of making driveway improvements.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

It was discussed that the interior curbs, if they failed, would be the responsibility of the property owner. If the driveway curbs on W. 6th Street failed it would be a public responsibility.

It was verified that City Staff had no opportunity to review the driveway curbing (and advise the applicant about Code requirements) until it was in place and cited by Neighborhood Resources.

Staff responded to questioning that the City did not intend for W. 6th Street improvements to reach the subject property.

Herndon suggested the driveway curbing should have been noted during site plan review as an element that did not meet current standards, even if no changes were proposed by the applicant at that time. The applicant made improvements that were not part of the approved site plan and he (Herndon) felt these "mistakes offset each other." He said Staff's recommendation was a reasonable compromise, allowing the applicant to keep the non-compliant curbing on the interior, but requiring replacement of the driveway curbing that would impact adjacent properties (impacting stormwater runoff).

ACTION TAKEN

Motioned by Herndon, seconded by Hannon to support Staff's recommendation as stated in the Staff Report, changing the time limits for drawing submission and construction to 45 and 75 days installation respectively.

DISCUSSION ON THE MOTION

Mr. Berlin was allowed to comment and said the business had been in place several years with stand up curbing and had faced no flooding problems. Staff replied that their flooding concerns were not for the subject property but potential runoff impacts on/in the street. Herndon added that the Board had a responsibility to apply the Code as evenly as possible to all applicants to avoid inappropriate precedent or claims of inequity.

ACTION TAKEN

Motion on the floor was to approve the variance to allow retention of existing stand up curbing for the lot interior at McDonald's Restaurant, 1309 W. 6th Street, based on the findings provided in the Staff Report and subject to the following conditions:

1. When it becomes necessary to replace the existing stand up curb within the interior of this property, the applicant shall install curb and gutter to city standards.

The motion on the floor was also to deny the variance to allow retention of the existing stand up curbing for the driveway at McDonald's Restaurant, 1309 W. 6th Street and require replacement with standard curb and guttering per the Code of the City of Lawrence, subject to the following stipulations:

1. Within 45 days from this hearing public improvements plans be submitted to and approved by Public Works, and
2. Within 75 days from this hearing the curb and gutter between the two driveways on W. 6th Street shall be replaced per City Standards.

Motion carried unanimously, 7-0.

ITEM NO. 7: 1128 WILLIAMSBURG PLACE

B-08-28-05: A request for a variance as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The request is specifically to vary from the provisions of Section 20-608 of said City Code, which requires a 25' minimum rear yard building setback in the RM-1 (Multiple-Family Residence) District. The applicant is asking for a variance to reduce the setback to a minimum of 17.9' to accommodate a new deck that will replace an existing smaller deck. The request is for the following legally described property: Beginning at the Southeast corner of Lot 17, Block 7, in "An Amended Plat of Quail Run No. 2", a Subdivision in the City of Lawrence, Kansas; thence South 89°51'04" West, along the south line of said Lot 17, 75.90 feet; thence North 18°49'30" West, 37.48 feet; thence North 0°08'56" West, 64.50 feet; thence North 89°51'04" East, 83.73 feet to the East line of said Lot 17; thence South 2°32'09" East, along said East line, 100.09 feet to the point of beginning, in Douglas County, Kansas. Said described property is located at 1128 Williamsburg Place. Submitted by Patrick and Anne Ferguson, property owners of record.

STAFF PRESENTATION

Mr. Patterson introduced the item, a request to reduce the rear yard setback from 21.5' (existing encroachment) to 17.9' to accommodate a new 2-story deck to replace the existing smaller 2-story deck. He noted that the existing rear yard setback was 21.5'.

Staff said the entire area was platted as a single lot in 1989 with single-family homes per existing development. Individual homes were recorded through a plat of survey but with no rear yard setbacks.

Mr. Patterson referenced the Staff Report, which explained how, in Staff's opinion, each of the five criteria were met. He particularly noted that Staff considered this a unique situation, since this property was in a multi-family zoning district and backed onto undeveloped parkland.

Staff recommended approval of the request, subject to the conditions listed in the Staff Report.

APPLICANT PRESENTATION

Patrick Ferguson, applicant, stated agreement with Staff's recommendation. He explained the new deck would have different dimensions than those described in the Staff Report, but the setback would still be 17.9'.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

Hannon stated agreement with Staff's analysis of the situation.

ACTION TAKEN

Motioned by Hannon, seconded by Emerson to approve the variance to allow a reduced rear yard setback of 17.9' for 1128 Williamsburg Place, based on the findings presented in the body of the Staff Report.

Motion carried unanimously, 7-0.

ITEM NO. 8: 700 EAST 22ND STREET

B-08-29-05: A request for variances as provided in Section 20-1709.1 of the Zoning Ordinance of the Code of the City of Lawrence, Kansas, 2003. The variances are from the provisions found in Article 12 and Article 14A of said City Code, which address parking layout, paving, landscaping, screening and lighting requirements. These requests are for the following legally described property: Lot 1, Final Plat of Davol No. 2. Said legally described property is known as 700 East 22nd Street. Submitted by Darron R. Ammann with Bartlett and West Engineers for Group IV, LLC, property owner of record.

STAFF PRESENTATION

Ms. Pool introduced the item, a request for multiple variances divided by areas. She listed each of the requested variances by area and stated Staff's recommendation (approval or denial) for each:

Area I – Southwest parking lot

- Allow retention of existing parking lot perimeter curbing, which does not currently meet today's Code – Staff recommends approval
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code - Staff recommends approval
- Remove the requirement for parking lot landscape islands to allow retention of the existing parking lot layout - Staff recommends approval
- Allow use of chain link fencing to meet fencing requirement for outdoor storage areas – Staff recommends denial, suggesting landscape screening may be used in conjunction with chain link fencing to achieve intended visual block.

Area II – 22nd Street Parking Area

- Allow retention of existing parking lot perimeter curbing, which does not currently meet today's Code – Staff recommends approval
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code - Staff recommends denial, stating that the parking space stripes and ADA spaces are not adequately identified.
- Allow retention of the existing 15' parking lot setback from the street right-of-way – Staff recommends approval

Area III – Length of subject property along Haskell Avenue

- Allow retention of the existing (smaller than required by code) curb radii extension of the north & south drives – Staff recommends approval
- Allow retention of the existing drive, which exceeds the maximum width of a curb cut – Staff recommends approval
- Remove requirement for landscape screening along the arterial street – Staff recommends denial because the landscape buffer is 20' wide and provides sufficient space to provide the required vegetative screening

Area IV – Northern section

- Allow retention of the existing 10' greenspace setback – Staff recommends approval, with the condition that the existing fence be maintained

Area V – General

- Allow submission of lighting plan only for new lighting elements – Staff recommends denial because of concern about impact of existing lighting on adjacent residential development
- Allow submission of photometric plan only for new lighting elements – Staff recommends denial because of concern about impact of existing lighting on adjacent residential development
- Remove requirement for bicycle parking per Code – Staff recommends denial
- Allow retention of location and amount of existing interior greenspace, which does not currently meet the code minimum requirements – Staff recommends approval
- Modify requirement for screening of outdoor equipment storage areas to allow use of chain link fencing - Staff recommends denial because these areas may be seen from 23rd Street and the future Burroughs Creek Rail Trail.
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code - Staff recommends denial for the Area Ii parking lot (off of Haskell Avenue) because the parking space stripes and ADA spaces are not adequately identified.
- Modify requirement for screening of rooftop equipment – Staff recommends approval except for the equipment visible from Haskell Avenue.

APPLICANT PRESENTATION

Stan Myers, Bartlett & West Engineers, spoke on behalf of the applicant. Mr. Myers said the applicant had no objection to Staff's recommendations for approval, but asked to address those elements recommended for denial:

Area I – Southwest parking lot

- Allow use of chain link fencing to meet fencing requirement for outdoor storage areas. *The applicant discussed using chain link fencing to meet their own security needs.*

Area II – 22nd Street Parking Area

- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code. *The applicant asked for a revised condition requiring the lot be restriped to retain the existing surfacing material but address Staff's concerns about identifying regular and ADA parking spaces.*

Area III – Length of subject property along Haskell Avenue

- Remove requirement for landscape screening along the arterial street. *The applicant agreed to withdraw this request because this issue would be dealt with in a revised site plan.*

Area V – General

- Allow submission of lighting plan only for new lighting elements. The applicant explained the intent to provide lighting plans only for new sections of lighting. *The applicant did not want to incur the cost of developing a lighting plan for*

existing lighting that had been in place several years with no complaints from the adjacent residents.

- Allow submission of photometric plan only for new lighting elements. *The applicant did not want to incur the cost of developing a photometric plan for existing lighting that had been in place several years with no complaints from the adjacent residents.*
- Remove requirement for bicycle parking per Code. *The applicant agreed to withdraw this request because this issue would be dealt with in a revised site plan.*
- Modify the requirement for screening of outdoor equipment storage areas to allow use of chain link fencing. *The applicant discussed using chain link fencing to meet their own security needs.*
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code. *The applicant asked for a revised condition requiring the lot be restriped to retain the existing surfacing material but address Staff's concerns about identifying regular and ADA parking spaces.*
- Modify the requirement for screening of rooftop equipment. *The applicant stated that no equipment was visible from Haskell Avenue.*

Mr. Myers addressed the issue of lighting, saying it was known that existing lighting did not meet code standards. New lighting would be designed per Code, but the applicant did not want to take on the additional cost of revising existing lighting to current standards, especially when no complaints had been received during the time the existing lighting had been in place.

Mr. Myers said the project would be a benefit to east Lawrence and the entire City, but it was possible only because the property was purchased at a reduced cost. Requiring replacement of existing and (the applicant felt) adequate elements such as parking and lighting raised the cost of the project and made leasing rates less competitive.

It was verified that the applicant was not asking for a variance to reduce the number of required regular or ADA parking spaces. There was discussion about the state of existing surfacing material on both parking lots. Joel Fritz, co-owner, said one lot was in good shape and needed only "small patch repair". He said the other parking lot had a sturdy subgrade and asked if a chip & seal treatment would suffice in place of total replacement. Staff said the code did define chip & seal as a suitable resurfacing treatment.

The applicant explained their aversion to wood fences to screen the outdoor storage areas, saying wood fences were expensive to construct and maintain. Chain link fencing would provide security.

Staff noted the proximity of the subject area to the proposed Burroughs Creek Corridor Trail, which was not in place but was identified in the Capital Improvements Plan as a project that would go through in the near future. For this reason, it was important to provide adequate screening along this side of the property.

PUBLIC COMMENT

No member of the public spoke on this item.

BOARD DISCUSSION

The Board verified requests that were withdrawn or items for which the applicant did not object to Staff's recommendations. Remaining issues were discussed:

Area I – Southwest parking lot

- Allow use of chain link fencing to meet fencing requirement for outdoor storage areas. *The Board discussed approving this request with the condition that landscape screening also be provided to visually block the storage areas.*

Area II – 22nd Street Parking Area

- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code. *The Board discussed denial per Staff's recommendation, with the understanding that the applicant was amendable to resurfacing (chip & seal) and restriping the lot as required.*

Area V – General

- Allow submission of lighting plan only for new lighting elements. The applicant explained the intent to provide lighting plans only for new sections of lighting. *The Board discussed approval of this variance, based on the applicant's testimony about the prohibitive cost of replacing existing lighting and the lack of neighborhood complaints.*
- Allow submission of photometric plan only for new lighting elements. *The Board discussed approval of the variance as discussed above.*
- Modify the requirement for screening of outdoor equipment storage areas to allow use of chain link fencing. *The Board discussed approving this request with the condition that landscape screening also be provided to visually block the storage area in Area I.*
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code. *The Board discussed denial of this request as outlined in their discussion for Area II (parking area accessed by Haskell Avenue).*

Herndon pointed out that making this site conform to current lighting standards was not reasonable, noting that street lights in this area did not meet the Code requirements. He said he hoped the lighting section of the code was addressed in upcoming code revisions.

ACTION TAKEN

Motioned by Herndon, seconded by Hannon to approve/deny the remaining requested variances as follows:

Area I – Southwest parking lot

- Allow retention of existing parking lot perimeter curbing, which does not currently meet today's Code – APPROVED PER STAFF

- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code – APPROVED PER STAFF
- Remove the requirement for parking lot landscape islands to allow retention of the existing parking lot layout - APPROVED PER STAFF
- Allow use of chain link fencing to meet fencing requirement for outdoor storage areas APPROVED WITH CONDITION THAT VEGETATIVE SCREENING MUST BE PROVIDED ALONG THE SOUTHERN AND WESTERN BOUNDARIES [OF THE SECTION IDENTIFIED AS 'AREA 1'] ALSO TO VISUALLY BLOCK STORAGE AREAS FROM VIEW

Area II – 22nd Street Parking Area

- Allow retention of existing parking lot perimeter curbing, which does not currently meet today's Code – APPROVED PER STAFF
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code – DENIAL PER STAFF
- Allow retention of the existing 15' parking lot setback from the street right-of-way – APPROVED PER STAFF
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Area III – Length of subject property along Haskell Avenue

- Allow retention of the existing (smaller than required by code) curb radii extension of the north & south drives – APPROVED PER STAFF
- Allow retention of the existing drive, which exceeds the maximum width of a curb cut – APPROVED PER STAFF
- ~~Remove requirement for landscape screening along the arterial street~~ WITHDRAWN

Area IV – Northern section

- Allow retention of the existing 10' greenspace setback – APPROVED PER STAFF WITH CONDITION THAT EXISTING FENCE MUST BE MAINTAINED

Area V – General

- Allow submission of lighting plan only for new lighting elements – APPROVED WITH CONDITION THAT LIGHTING PLAN FOR NEW LIGHTING WILL BE SUBMITTED FOR APPROVAL OF CITY
- Allow submission of photometric plan only for new lighting elements – APPROVED WITH CONDITION THAT PHOTOMETRIC PLAN MUST BE SUBMITTED FOR APPROVAL OF CITY
- ~~Remove requirement for bicycle parking per Code~~ – WITHDRAWN
- Allow retention of location and amount of existing interior greenspace, which does not currently meet the code minimum requirements – APPROVED PER STAFF
- Modify requirement for screening of outdoor equipment storage areas to allow use of chain link fencing - APPROVED WITH CONDITION THAT VEGETATIVE SCREENING MUST BE PROVIDED ALSO TO VISUALLY BLOCK STORAGE AREAS FROM VIEW
- Allow retention of existing parking lot surfacing material, which does not currently meet today's Code – DENIED PER STAFF
- ~~Modify requirement for screening of rooftop equipment~~ – WITHDRAWN

All approvals "per Staff" were based on the findings presented in the body of the Staff Report. Findings for those items approved contrary to Staff's recommendation were identified in Board discussion and centered on the determination that extensive modification to the existing building/site was an unreasonable burden to place on the applicant and the situation(s) met the five criteria for granting a variance.

Motion carried unanimously, 7-0.

ITEM NO. 9: MISCELLANEOUS

- a) Consider a request to extend for 90-days the variances approved at the June 2 meeting for the property at 500 Locust Street (B-05-15-05).

Motioned by Herndon, seconded by Hannon to approve a 90-day extension for the variances granted for the property at 500 Locust Street.

Motion carried unanimously, 7-0.

- b) Consider a request from Rich Minder, Treasurer for Delaware Street Commons, for an additional 90-day extension of variances previously granted (B-01-01-04: 1224 Delaware Street) and extended by the Board. The last request was considered and approved at the June 2, 2005 meeting.

Motioned by Herndon, seconded by Lane to approve a 90-day extension for the variances granted for the Delaware Street Commons.

Motion carried 6-0-1, with Blaufuss abstaining due to her absence from the original hearing for this property.

- c) Consider any other business to come before the Board.
- The Board was given a draft of the proposed amendment to the Code language regarding parking space requirements for duplex uses in all zoning districts.
 - The Board recognized and thanked Herndon for his 7 years of service.
 - It was noted that Santee's first term was complete and he would be eligible for reappointment beginning in October.

ADJOURN – 8:50 p.m.