

**City of Lawrence
Board of Zoning Appeals
December 1, 2011**

MEMBERS PRESENT: Perez, Lowe, Edie, Holley
MEMBERS ABSENT: Christie, Mahoney
STAFF PRESENT: Guntert, Parker
PUBLIC PRESENT: Flory, Alexander

**BOARD OF ZONING APPEALS
Meeting Minutes of December 1, 2011 –6:30 p.m.**

Members present: Perez, Lowe, Edie, Holley
Members excused: Christie, Mahoney
Staff present: Guntert, Parker

ITEM NO. 1 COMMUNICATIONS

Mr. Guntert stated communication was added to the packet regarding 2618 Missouri Street.

No abstentions from the discussion or vote on agenda items under consideration.

No items deferred.

ITEM NO. 2 MINUTES

Motioned by Holley, seconded by Edie, to approve the October 6, 2011 Board of Zoning Appeals minutes.

Motion carried unanimously, 4-0

BEGIN PUBLIC HEARING:

ITEM NO. 3 2626 MANOR TERRACE [DRG]

B-11-9-11: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2011 edition. The request involves a reduction of the rear yard building setback for a residential dwelling in an RS7 (Single Dwelling Residential) District from the required 30 feet requirement found in Section 20-601(a) of the City Code, to a minimum of 14 feet. The variance is needed for the owner to be able to build a master bedroom with accessible master bath and laundry area on the back side of the dwelling. The property is located at 2626 Manor Terrace. The application was submitted by Stan Flory for Jean R. Flory and Calvin F. Flory Trustees, the property owner of record. **The legal description for the property in the appeal and the case file for the public hearing item are available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Mr. Guntert presented the item.

Holley asked Staff how strict the guidelines were for the uniqueness requirement of a project.

Mr. Guntert stated each project case was based on its own merit. Other cases should not be used to establish precedent.

Lowe said the applicants' property was the only square lot in the cul-de-sac.

Perez asked if there were utility easements that ran between the properties in the rear yard.

Mr. Guntert stated there was a 15 feet easement centered on the common rear property line of the two adjacent lots. It did not interfere with the location of the proposed addition.

APPLICANT PRESENTATION

Mr. Flory said he had looked at a couple of different options for the project. He said there were three bedrooms on the main floor and he did not want to decrease the size of the current bedrooms. Mr. Flory stated the hallways on the main floor were not wide enough for a wheelchair or a walker. The bathroom was also undersized to accommodate a walker or wheelchair. He wanted to add the addition so his mother could stay in her home rather than have to look for other types of housing accommodations that were very expensive.

PUBLIC COMMENT

There was no public comment.

PUBLIC HEARING CLOSED

Motioned by Holley, seconded by Perez, to close the public hearing.

Motion carried unanimously, 4-0

BOARD DISCUSSION

Holley stated the proposal met the uniqueness requirement and he did not believe the property to the north of the project would be affected. There was a considerable amount of distance between the structures in this area and the addition did not seem to impact it greatly in his opinion.

The Board noted the neighbors did not seem to have any problem with the request based upon no one showing up for the meeting or sending correspondence in opposition to the reduced setback.

ACTION TAKEN

Motioned by Holley, seconded by Edie, to approve the variance request at 2626 Manor Terrace, based on the recommendation of staff, the testimony of the applicant, and findings of fact in the staff report.

Motion carried unanimously, 4-0

ITEM NO. 4 2618 MISSOURI STREET [DRG]

B-11-10-11: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2011 edition. The request involves a reduction of the 5 feet accessory building setback from an interior lot line in residential zoning districts found in Section 20-533(3) of the City Code, to a minimum of 3 feet. The variance is requested so the owner can build a 10 feet by 12 feet storage shed 2 feet closer to the south property line. The property is located at 2618 Missouri Street. The application was submitted by Travis J. Alexander, the property owner of record. **The legal description for the property in the appeal and the case file for the public hearing item are available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Mr. Guntert presented the item. He added that the neighbor to the south had submitted a letter to the Planning Office indicating his concerns with the request and objections to the granting of a setback variance. The letter was part of the online materials for this agenda item.

Lowe asked Staff if the shed would be moved to the north to meet the three feet setback.

Mr. Guntert said the slab was closer to the south property line than three feet. The applicant planned to build the south wall of the shed one foot from the edge of the slab so the setback from the south property line would be 3 feet. The slab edge was 2 feet from the south property line.

Holley asked if the new wooden fence was built directly on the property line.

Mr. Guntert said the fence was set away from the property line approximately one-half foot.

Perez stated there appeared to be gravel under the fence that had washed away onto the neighbor's property.

Mr. Guntert said the neighbor was concerned about the shed creating a drainage problem. He pointed out that the existing drainage pattern was from the northwest corner to the southeast corner of the property. He thought it might be possible to create a slight swale along the south side of the yard to divert water away from the neighbor's property. Naturally, the water wanted to go that direction because of the topography of the land in this area.

Perez did not think the location of the slab would affect the drainage.

Lowe asked Staff if he had been to the site to view the project.

Mr. Guntert said he had been by the site but did not go into the back yard to look around. The wooden fence screened the area where the shed will be built. He did not believe a 2 feet variance from the required 5 feet setback for the shed would create any sort of adverse hardship to the neighbor.

Lowe said there was a steep hill. He did not think the structure would create additional run off for the neighbor.

Perez said it looked like water had washed gravel under the fence.

Mr. Guntert said he was not sure if the gravel was already in place before the fence was built or if it was laid down after the fence was constructed. The applicant would be able to answer that question for the Board.

APPLICANT PRESENTATION

Travis Alexander stated the gravel was new after the fence was installed. He had shoveled it to the area and some of it must have gone under the fence onto his neighbor's property. He said he would attempt to move it back to where it belonged. He did not think the placement of the shed would create a drainage issue. The property had always sloped from the northwest to the southeast.

He researched the City Code before starting the project to see if he needed a building permit to construct the shed. He found that a permit was not required for an accessory structure less than 200 square feet in size; his would be smaller than that. So, he proceeded to build the concrete pad a few feet away from his south property line on the most level area he has in his back yard. He later learned that the shed needed to be a minimum of 5 feet set back from the side property line and the slab was too close for that to work.

Mr. Alexander stated he had notified his neighbor of his intentions to build the shed before starting the project and he received no response from the neighbor to indicate he had any concerns he needed to be aware of.

Lowe asked Mr. Alexander if he had photos prior to the fence being installed.

Mr. Alexander stated he did not have photos prior to the fence being built.

Holley asked Mr. Alexander if there was gravel all along the fence line.

Mr. Alexander stated there was only gravel along the southwest corner of the fence.

Lowe asked Mr. Alexander if the neighbor installed pavers.

Mr. Alexander said the pavers were just recently installed by the neighbor. Mr. Alexander stated his driveway was built next to the property line.

Holley asked Mr. Alexander the relationship of the slab to the shed.

Mr. Alexander said the concrete was 13x11. He said the shed would be 12x10 and there would be a foot wide edge on the west and the south side.

Perez asked Mr. Alexander if there was any other spot in his yard to place the shed.

Mr. Alexander said the flattest spot in the yard was the location where he proposed to build the shed. He said the lawn slope was more aggressive from the northwest to the southeast.

Holley asked Mr. Alexander if the 2x4 he had installed was the entire length of the fence.

Mr. Alexander said the 2x4 and gravel was not the full length of the fence. He said the 2x4 did not create a dam along the fence.

PUBLIC COMMENT

There was no public comment.

PUBLIC HEARING CLOSED

Motioned by Edie, seconded by Perez, to close the public hearing.

Motion carried unanimously, 4-0

BOARD DISCUSSION

Perez stated added concrete affects drainage but the flow was not enough to cause an issue because the slope had been there previously.

Lowé stated water was naturally draining towards the southeast corner of the applicant's property. He thought the applicant's intent was in the right place and he was not aware of the setback requirement before he began.

ACTION TAKEN

Motioned by Holley, seconded by Perez, to approve the variance request at 2618 Missouri Street, based on the recommendation and findings of fact in the staff report.

Motion carried unanimously, 4-0

ITEM NO. 5 MISCELLANEOUS

- a) Mr. Guntert stated the Board of Zoning Appeals 2012 calendar was in the packet for approval.

ACTION TAKEN

Motioned by Edie, seconded by Holley, to adjourn the Board of Zoning Appeals meeting.

Motion carried unanimously, 4-0

ADJOURN- 7:33 p.m.

Official minutes are on file in the Planning Department office.