

**City of Lawrence
Board of Zoning Appeals
October 4th, 2012**

MEMBERS PRESENT: Perez, Holley, Mahoney, Lowe, Edie, Christie
MEMBERS EXCUSED: Kimzie
STAFF PRESENT: Guntert, Parker, Miller, Bond
PUBLIC PRESENT: Dorsey, Grob, Skie

**BOARD OF ZONING APPEALS
Meeting Minutes of October 4th, 2012 –6:30 p.m.**

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

ITEM NO. 1 COMMUNICATIONS

No communications came before the Board.

Lowe said he received a phone call from a citizen in North Lawrence who expressed an opinion regarding Item 3.

Mr. Guntert stated he received a phone call from a citizen who lived on Elm Street who was concerned about noise in the area.

No agenda items deferred.

ITEM NO. 2 MINUTES

Motioned by Holley, seconded by Edie, to approve the August 2, 2012 Board of Zoning Appeals minutes.

Motion carried, 4-0-2 Perez and Mahoney abstained

ITEM NO. 3 FRANKS NORTH STAR TAVERN; 508 LOCUST STREET [DRG]

B-12-00169: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2011 edition. The first request is for a variance to reduce the 25 feet front yard setback required in Section 20-601(b) of the City Code to a minimum of 0 feet. The variance is requested to allow for the creation of a small hospitality area in front of the existing commercial building. The second variance is to reduce the required amount of off-street parking spaces which are calculated on the code provisions in Section 20-902, Off-Street Parking Schedule A, for eating and drinking establishments. The subject property is known as Franks North Star Tavern located at 508 Locust Street. Submitted by Frank Dorsey with the permission of Jesse DelCampo, a 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.

Lowe asked Mr. Guntert if the hospitality license renewal process was annual.

Mr. Guntert stated the license is an annual license issued to the business owner. If the business ownership changed the new owner would have to apply for the license. The license did not transfer with an ownership change.

APPLICANT PRESENTATION

Frank Dorsey stated there had been concern with the past reputation of the property. He has spoken with immediate neighbors and they were happy with the direction the club was going. Mr. Dorsey said windows were installed in the front side of the building so people could see what was going on inside the bar. He wanted it to be a neighborhood bar type atmosphere that people felt comfortable going to for a drink and conversation with friends. He didn't think the outside seating area would create much of a noise concern in the area.

Perez asked the applicant to explain the fence material proposed.

Mr. Dorsey presented photos of a rod iron fence with a small shelf.

Lowe asked Mr. Dorsey if the fence would connect to the sidewalk.

Mr. Dorsey said yes the fence would extend out from the building to the sidewalk.

PUBLIC COMMENT

No one from the public spoke to this item.

PUBLIC HEARING CLOSED

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

Motion carried unanimously, 6-0

BOARD DISCUSSION

Mahoney thought the project was pretty straight forward and felt it met the conditions for approval of the variances.

Holley said he had a concern with the request if the liquor license and hospitality license were transferable to a new owner. Since that was not the case, he did not see any other concerns with what the applicant was requesting.

Lowe thought the City's noise ordinance would be able to protect the residential neighbors if there were complaints about too much noise coming from the hospitality area late in the evening.

ACTION TAKEN

Motioned by Mahoney, seconded by Perez, to approve the variance request for a front yard setback and parking variance, at 508 Locust street, based on the recommendation and findings of fact in the staff report, with the following conditions:

- 1) The applicant obtains site plan approval from the City, a Sidewalk Dining & Hospitality License, and a Use of the Right-of-Way Agreement. The variances remain valid as long

as a Sidewalk Dining & Hospitality License and a Use of the Right-of-Way Agreement are kept current for the current proprietor.

Motion carried unanimously, 6-0

ITEM NO. 4 700 BLOCK LINCOLN STREET; FLOODPLAIN DEVELOPMENT [AM]

B-12-00179: A request for a variance as provided in Section 20-1309 of the Land Development Code in the Code of the City of Lawrence, Kansas, 2011 edition. The request is from the provisions in Article 12, Sections 20-1204 (e) (1)(i), 20-1204 (e) (2) ii (a), and 20-1204 (e) (2) ii (b) of the City Code as they pertain to development in the Regulatory Floodplain Overlay District. The variance requests are related to a proposed new residential development project on the north side of the 700 block of Lincoln Street and east of Lyon Park in North Lawrence. Submitted by J. Dean Grob, Grob Engineering Services, LLC, for Bluejacket Ford, LLC the property owner of record. **The legal description for the property in the appeal and the case files for the public hearing items are available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Ms. Amy Miller presented the item.

Perez asked Staff the rationale behind the Development Code to allow the project.

Ms. Miller said the Floodplain Regulations that FEMA developed established the baseline regulations a community must follow; the State adopted a model ordinance that could be more restrictive than the Federal model. She said there could also be local regulations.

APPLICANT PRESENTATION

Dean Grob, Grob Engineering, presented a FEMA drawing to the Board and said the Kansas Department of Agriculture, Water Resources Division, approved the hydraulic study that had been prepared and the permit had been issued.

Holley asked Mr. Grob to explain the height of the retaining wall on the west end of the project.

Mr. Grob stated the retaining wall was four feet in height.

PUBLIC COMMENT

Shelley Skie, 625 North 8th Street, stated she was concerned with flooding. She said it appeared the flood level would not raise more than six inches and six inches was fairly significant. She asked if the current retaining wall was grandfathered in. Ms. Skie stated the ditch would contain a force of water flowing.

PUBLIC HEARING CLOSED

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

Motion carried unanimously, 6-0

BOARD DISCUSSION

Lowe said the drainage on the north side of the property would flow to the northeast. He said it did not appear the east side of the lots would be affected.

Ms. Miller said the retaining wall was on the subject property five feet from the property line.

Matt Bond, City Stormwater Engineer, said Ms. Skie's property and the property to the immediate south was the higher property. He said the Floodplain Regulations did not allow a developer to fill a lot from lot line to lot line. The typical type of material used for fill was clay soils that do not have the same ability to absorb water like the natural soils on the property do. In this case, the developer was asking to be able to fill the pad sites across the proposed subdivision in order to avoid having a series of channels between the houses which would become a maintenance problem for the homeowners. It allowed them to create a better plan for handling the drainage.

Perez asked Mr. Bond if fill was allowed over the entire development.

Mr. Bond stated the same elevation would be maintained across the area of the elevated pad sites. The rest of the lot would not be filled, and the drainage would be improved.

Holley asked Mr. Bond if clay soils would be used to fill the lots.

Mr. Bond stated clay would only be used under the structures.

Mahoney said his biggest concern was the affect on neighbors but it appeared the drainage may improve.

ACTION TAKEN

Motioned by Holley, seconded by Perez, to approve the variance request at 700 Lincoln Street, based on the recommendation and findings of fact in the staff report as follows:

1. Approval of a local Floodplain Development Permit, and
2. Approval of a Preliminary and Final Plat for the subdivision showing the proposed building envelopes.

Motion carried unanimously, 6-0

ITEM NO. 5 MISCELLANEOUS

- a) No other business to come before the Board.

ACTION TAKEN

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

Motion carried unanimously, 6-0

ADJOURN- 7:20 p.m.

Official minutes are on file in the Planning Department.