

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of May 1st, 2014 – 6:30 p.m.

Members present: Fertig, Gardner, Gascon, Holley, Kimzey
Staff present: Cargill, Guntert

ITEM NO. 1 COMMUNICATIONS

There were no communications to come before the Board.

No Board members disclosed any ex parte contacts and/or abstentions from the discussion and/or any agenda item under consideration.

No agenda items were deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the April 3, 2014 meeting of the Board.

ACTION TAKEN

Motioned by Gascon, seconded by Fertig, to approve the minutes from the April 3, 2014 meeting of the board with a revision to Holley's comments regarding the Kwik Shop.

Motion carried 5-0-1.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 MAXIMUM IMPERVIOUS COVERAGE, PERIMETER PARKING SETBACK &
INTERIOR PARKING LOT LANDSCAPE VARIANCES FOR 302 & 346 MAINE
STREET [DRG]**

B-14-00138: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2013 edition. The first request is for a variance from the 75 percent maximum impervious site cover standard found in Section 20-601(a) of the City Code for property located in a RSO (Single-Dwelling Residential Office) District. The applicant is seeking approval for a 77 percent maximum impervious site cover at 346 Maine Street; and, an 84 percent maximum impervious site cover at 302 Maine Street. The second request is a variance from the 25 feet off-street parking area setback from a street right-of-way in any residential district required in Section 20-908(b) of the City Code. The applicant is requesting a 0 feet parking area setback from the north property line adjacent to W. 3rd Street for the property at 346 Maine Street as well as the property at 302 Maine Street; and, a 7 feet parking area setback from the west property line adjacent to Maine Street for the property at 302 Maine Street. The final request is a variance from the interior parking lot landscape standard in Section 20-1003(c)(1) of the City Code which requires a minimum 40 square feet of landscape area per parking stall. Based upon this code standard, the applicant is required to provide 5,920 square feet of interior parking lot landscaping at 346 Maine Street; they are asking for a variance to provide 4,268 square feet of interior parking lot landscaping. On the adjacent property at 302 Maine Street, the applicant is requesting an interior landscape area reduction from the code required 960 square feet, to a minimum of 637 square feet. All of the variances are requested for a project designed to provide additional parking stalls at the northern end of 346 Maine Street and for development of a new parking area on the corner property at 302 Maine Street. Submitted by Darron Ammann with Bartlett & West, Inc., on behalf of Lawrence Memorial Hospital and J&S Holdings, LLC, the respective property owners of record. **The legal description for each application is found in the respective project case file which is available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Guntert presented the item.

Gardner asked if Lawrence Memorial Hospital (LMH) is the applicant.

Guntert said they are one of the applicants and property owners. The other owner is also an applicant, and Darron Ammann, of Bartlett & West, filed the application on their behalf.

Gardner asked if the parking will be used for emergency room parking and other medical offices.

Guntert said the application indicated it would be used for hospital staff, but the applicant can better answer that question.

Gascon asked if there is an existing variance for permeable area at 346 Maine St.

Guntert said not for permeable area, which is a new code standard as of 2006 when the current Land Development Code was adopted. There were other variances previously approved for building and parking lots, but those came in under the old zoning code standards.

Gascon asked if 346 Maine St would have to seek a variance for permeable area if existing improvements were requested under the current code.

Guntert said he did not have the data to answer that question.

Gascon asked if the permeable area is based on the assumption that the applicant will receive a 15 ft vacation of right-of-way.

Guntert said yes, as are the setback variances requested.

APPLICANT PRESENTATION

Darron Ammann, Bartlett & West, Inc, said the applicants are J & S Holdings and LMH. He said they've looked at many options to address the parking situation and feel this project will be a great benefit to the area. He mentioned the additional parking will be used mostly by hospital staff and there is an existing house at 302 Maine St where the proposed parking lot will be located. He said Public Works is currently reviewing their request for a 15 ft vacation of right-of-way, but most of the right-of-way in the area has already been reduced as requested by surrounding organizations such as Bert Nash, so they feel it will be supported. It is unique to ask for a zero ft setback, but they are using every inch of the property to make a double bay parking lot work. The existing curb cut at 302 Maine St will be removed and a proposed cross-access agreement with the property owner at 346 Maine St would allow use of their entrance and aid in traffic flow. Currently, he said, the drainage is poor in the area. They are increasing the impervious surface but adding three inlets which will help with storm water drainage, a plan that has been accepted by the City's Stormwater Engineer as part of the site plan process. He said the project is safely designed and they have added landscaping and street trees. He said for the 346 Maine St property, they are just modifying the northern portion of the parking lot to work with the 302 Maine St configuration, so 95% of the property will not be disturbed.

Gardner asked where the inlets are.

Ammann indicated on the overhead where the inlets are located, and added that storm water is currently pouring into the street.

Gardner asked if, at the west end, cars using the last two parking spots will have to back into the inlet.

Ammann said they will back up into a hammerhead.

Fertig asked if it would be possible to run two rows of parking at 302 Maine St without the setback variance.

Ammann said it would be impossible.

Fertig thanked the applicant.

Kimzey asked what kind of setback they have across the street at Bert Nash.

Ammann said he isn't sure but it is close.

Guntert said he isn't sure, either, but it does have a different zoning so they may have been able to go with a lesser setback, possibly 15 feet.

Ammann said they requested a 20 ft vacation of right-of-way on the south side when that property was developed, and he indicated where it was on the overhead.

Guntert pulled up an aerial of the location.

Gardner said it appears to match what the applicant is requesting.

Ammann said it would be matching what is there today.

Gascon asked if they would be adding a sidewalk up to Maine St.

Ammann said yes.

Gascon asked if the curb-to-curb street width would be the same.

Ammann asked if he was referring to Maine St.

Gascon said on W 3rd St.

Holley asked if the applicant is proposing changes to the curb.

Ammann said no.

Gascon asked if a permeable paving surface meets the requirement for permeable area.

Ammann asked if his question was in reference to drainage.

Gascon said yes.

Ammann said since it's a small area it made more sense to use an inlet, although they could potentially meet the 75% impervious surface requirement without the vacation of right-of-way.

Gascon said ok.

Holley thanked the applicant.

PUBLIC HEARING

Pat Miller, Pinckney Neighborhood Association, said they had two concerns, sidewalk and drainage, both of which have already been discussed. She added that there is currently a torrent coming from the parking lots at LMH onto 4th St when it rains. The association has no objection to the parking lot and would prefer parking to stay in that area as opposed to other undeveloped locations such as Woody Park, as rumors have indicated.

Joe Harvey, Lawrence Oral Surgery, said he has been an owner of his business at 308 Maine St since 1967. He feels that the applicant is trying to do too much with too little. Regarding the landscaping, he doesn't feel it will be done to "the best extent possible" as stated by Mr. Ammann, and feels that a one-third reduction in green space is a big number. At first, he explained, the parking lot on the west side of the street had issues with trees and green space, and he is not in favor of the current proposal since it will remove the strip of green space still left. He questioned the need for City Code if everyone can obtain a variance, and added that a small portion of the population will be served by a big change. He concluded that he is not opposed to their request for additional parking, but it should be reasonable to keep the existing green space between the end of the building line out to Maine St. He added that his business was denied a request for additional parking when they remodeled in 1998.

Gascon asked what property is his.

Harvey said 308 Maine St, back-to-back with 302 Maine St.

Gascon mentioned that, according to his calculations, 88.4% of Harvey's property is impervious.

Harvey said that was 16 years ago.

Gascon stated that it would not be in compliance under the current code.

Harvey asked for the relevance of Gascon's comment.

Gascon explained that Harvey is holding the applicant to a certain standard of green space, but his business does not meet that standard either.

Harvey said his green space met current code when the structure was built.

Gascon said he understood, but was simply stating that Harvey is asking the applicant to meet a higher code standard than his own property.

Holley asked for clarification as to the compromise Harvey suggested, which he thought to include the denial of the variance on Maine St so the setback is the same, and approval of the variance on W 3rd St.

Harvey said he appreciates their need for all requested variances, but yes that is correct.

Gardner asked if the variance on W 3rd St also adds a sidewalk that will benefit the neighborhood.

Guntert said there isn't a sidewalk there currently, but as part of the site plan process they would have to include a sidewalk that would connect to the existing sidewalk on Maine St.

Harvey asked if the sidewalk will stay on the Maine St side.

Holley said yes.

Gardner said there isn't one on W 3rd St but they're going to build one.

Harvey said some sort of park would be great there.

Gardner said a sidewalk would be a benefit to the neighborhood.

Harvey asked if his comments will be used to make a decision on the item.

Holley explained that other members of the public would be allowed to speak, then the Board will discuss the item and make a determination.

Fertig asked the applicant how the site plan would be affected if the setback for 302 Maine St is denied.

Ammann said it would impact the layout of the parking lot, and to clarify, they are asking for a parking lot setback reduction, not a building setback reduction. He said every possible space that can be used for green space will be landscaped, a plan that has been reviewed and approved by City staff.

Kimzey asked how many parking stalls would be lost if they lose the variance for the setback on Maine St.

Amman said six to eight.

Kimzey asked if they are improving the runoff situation on the site.

Ammann said absolutely. Right now, the runoff goes down the existing drive and into the street because there are no inlets currently catching the water.

Gascon asked about what appears to be a u-shaped landscaping element on the edge of the east side of the project.

Ammann said it is a curved island which will be green space.

Gascon asked if it is there only to provide green space.

Ammann said it also functions as a division of property lines and it contains a utility pole for cable.

Gascon assumed then that the space could not be a parking stall.

Ammann said they could have blasted the space out for parking but it made more sense to keep the division and green space there.

Gascon asked if they could blast it out and shift all of the spaces to the east.

Ammann said, based on comments from staff during the site plan approval process, he didn't feel that would be supported.

Gascon suggested moving everything to the east and removing the two spaces on the end.

Ammann said it's possible to do that, but Planning staff seemed in favor of keeping a clear separation of the properties.

Holley thanked the applicant.

Brendan Farrell, Lawrence Oral Surgery, referred to the plan on the overhead and pointed out that the parking lot will disrupt the strip of green space along the street.

Harvey said six to eight parking spots less is probably the right amount.

BOARD DISCUSSION

Gardner said if they take out two parking spots and the green space in the divider, they would probably have the same need for a variance.

Fertig said the actual site plan appears to have one parking stall that would intrude on the line of green space, and although she understands the neighbor's concerns, she fails to see why that would torpedo the entire variance request. The property owner has a right to try to address their needs as best they can, and she supports their requests for parking setback variances for 302 & 346 Maine St with conditions.

Kimzey agreed, and said the aerial view shows the parking across the street at Bert Nash just as close to Maine St, so the applicant would be in keeping with the rhythm of the area. He acknowledged the fact that there is a serious parking problem in that area.

Fertig said the variances for impervious area seem almost negligible, so she supports the variances for 77% impervious coverage at 346 Maine St and 84% at 302 Maine St. She said if it were a larger lot a 2% difference might be noticeable, but not for a project this size.

Holley said in his experience the small percentage differences are arbitrary, and having dealt with the City's Stormwater Engineer, he feels confident that if it has his approval then the overall stormwater situation will be improved. He said he has no issue with the setback variance for W 3rd St since it is similar to the property across the street, but has reservations regarding the Maine St side. He explained that the need for more parking will always be an issue, but ordinances are in place for a reason, and maxing out every bit of green space for a couple parking spots does not seem to be in the public's best interest.

Gascon said it's not really a setback issue, it has more to do with the location of the last stall. If the neighbors are really only concerned with the line of green space, it could remain if the last two stalls are removed and only the hammerhead sticks out. He felt that the location or number of stalls was irrelevant to the setback variance request, and asked if the Board has the power to request the removal of the two parking stalls.

Guntert said they have the ability to approve something that is not as excessive as what is requested. For example, the applicant has asked for a 7 ft setback on Maine St, but the Board could approve a 10 or 15 ft setback variance.

Gascon asked if the setback is seven feet from the edge of the property line to the hammerhead.

Guntert said yes.

Gascon asked for the stall width.

Guntert said the typical stall width is 8 ½ feet.

Gascon asked if they could approve a 15 ½ ft variance.

Ammann said they are willing to give up those last 2 stalls on Maine St, if that would help, it would reduce the variance request by 8.5 feet to 15 feet.

Gardner asked if they would keep the green space divider.

Ammann indicated on the overhead what would be removed.

Gardner asked if the property divider would stay green.

Ammann said yes.

Kimzey said that alleviates the landscaping requirement.

Holley said the hammerhead would still be in there.

Ammann said it would improve the green space number and reduce the impervious area.

Gascon asked if the hammerhead needs to be bigger.

Ammann said no, the hammerhead has a 5 ft radius which is fairly typical.

Gascon said if they revised the setback to 15 ft they could only remove the stall, but if it was revised to 12 ft they could possibly extend the hammerhead.

Ammann said it would help to extend that.

Gardner said he likes Gascon's idea as far as safety for parking.

Gascon said a nice-sized tree could go in that newly freed space, and mentioned he was curious as to why staff is in favor of the horseshoe as a property divider.

Guntert said he did not have information on that.

Holley felt there might be a consensus among Board members in favor of Gascon's proposal.

Gardner asked for clarification of the proposal.

Gascon said the right-of-way variance would change to a distance between 7 ft and 15 ½ ft.

They discussed which distance would be the best compromise.

Holley reiterated that they are not addressing the number of stalls, just determining the amount of green space. He was in favor of adjusting the variance to 9 ft because the hammerhead works as drawn.

Gascon said he's comfortable with 13.5 feet.

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to approve the variances for the property at 346 Maine St subject to staff recommended conditions.

Unanimously approved 5-0.

Motioned by Kimzey, seconded by Fertig, to approve the variances for 302 Maine St, subject to staff recommended conditions, with the following revisions:

- 1) 15 ft parking setback along Maine St
- 2) 0 ft parking setback along W 3rd St; impervious surface area requirements and interior parking lot landscaping modified accordingly

Unanimously approved 5-0.

ITEM NO. 4 MISCELLANEOUS

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

Guntert said there will be a meeting June 5th. Staff expects at least two separate applications for that meeting.

Meeting adjourned at 7:42 PM.