

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of September 4th, 2014 – 6:30 p.m.

Members present: Fertig, Gascon, Holley, Perez
Staff present: Cargill, Guntert, Larkin

ITEM NO. 1 COMMUNICATIONS

Acknowledge communications to come before the Board.

Guntert said no communication have been received since the agenda packet was posted online.

Board member disclosure of any ex parte contacts and/or abstentions from the discussion and vote on any agenda item under consideration.

Gascon said he did have contact with Struct/Restruct LLC on an unrelated matter and there was brief mention of the property for Item 4 but it was not discussed in detail.

No agenda items were deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the August 7, 2014 meeting of the Board.

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to approve the minutes from the August 7, 2014 meeting of the Board.

Motion carried 3-0-1.

BEGIN PUBLIC HEARING:

ITEM NO. 3 BUILDING AND PARKING SETBACK VARIANCES FOR A MIXED USE DEVELOPMENT, 1106 RHODE ISLAND STREET [DRG]

B-14-00323: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2013 edition. The requests are for building setback variances from the 25 feet front yard, 5 feet side yard, 10 feet exterior side yard, and 20 feet rear yard requirements per the dimensional and density standards in Section 20-601(a) of the City Code for RM12 zoned property. The applicant is requesting approval of existing building setbacks consisting of a 5 feet front yard, 3 feet side yard, 0 feet exterior side yard, and a 0 feet rear yard. Also requested is a variance from the 25 feet parking area setback from a street right-of-way in any residential zoning district required in Section 20-908(b) of the City Code to a minimum setback of 5 feet from the north property line. These variances are requested to help facilitate the preservation and rehabilitation of a historic property which is planned to be restored to a mixed use residential and office development. The property is located at 1106 Rhode Island Street. Submitted by Michael R. Myers, Hernly Associates, Inc., for the City of Lawrence, the property owner 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.

Holley asked if the new parking off Rhode Island Street is to meet the minimum requirements or if they are going above and beyond the three proposed spaces.

Guntert said it meets the minimum number of parking spaces based on the residential and office components.

Perez asked if the variance will be valid after the property is rezoned since the variance is currently proposed under a different zoning district.

Guntert said the setbacks are the same in both the RMO and RM12 zoning districts.

Perez said he understood that, but since they are not considering the setbacks for the future zoning district, he asked if the variance will carry over despite the change in zoning.

Larkin said the variance is tied to the land and isn't dependent on the zoning, so regardless of the zoning changes the variance stays in place. He explained that if the rezoning condition isn't met, the variance will be moot.

Gascon asked if part of the variance for setbacks is to meet the parking requirement.

Guntert said they would have a difficult time meeting the minimum number of parking spaces if they had to comply with a 25 foot setback, which would be along the north and west boundaries.

APPLICANT PRESENTATION

Mr. Stan Hernly, Hernly Associates Inc, said the staff report covers all of the issues pretty thoroughly but he can go over questions about the parking setback. He said because it is a contributing property in a historic district, there are many different responsibilities associated with maintaining the historic character of the property. The project consists of a house, which will be a three-bedroom rental unit, a garage with an apartment above it, and a barn and shed, which will be the office component. He explained that a previous version of the site plan included the new garage with apartment attached to the house to allow room for two additional parking spaces off the alley. He said after meeting with the Historic Resources Administrator and Commission, there was a strong desire for a smaller addition to the back of the house, so the new structure was separated from the house, reducing the setback. He said due to the setback reduction, spaces in the parking lot were increased by one and spaces off Rhode Island Street increased by one to meet the minimum number of spaces required. He said they considered a request for a variance for the number of spaces but felt the variance for the setbacks would be a better option. He explained that the northwest corner of the site has always been open space, and although the area could accommodate additional parking, there is no desire to do so from a historic standpoint.

Gascon asked what compelled them to keep the parking versus the setbacks.

Hernly said they felt it was better to keep at least the minimum number of spaces since they will be eliminating some of the street parking with the new parking arrangement.

Gascon suggested it is an act of good will.

Hernly said he could say that, but added that the property is more viable with on-site parking as opposed to street parking if they decide to sell.

Gascon asked if there is potential to build something on the northwest corner.

Hernly said it is not an option from a historic standpoint. He explained that they are applying for Historic Preservation Tax Credits through the State and the National Park Service and both entities see the open space as a character-defining feature of the property. He said a nice piece of artwork would be awesome in that space.

No public comment

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to close the public comment portion of Item 3.

Unanimously approved 4-0.

BOARD DISCUSSION

Fertig said she feels the project is a nice compromise, particularly because the historic aspect limits their options in terms of site development. Of the five variances requested, four of them account for the current footprint and the fifth is to accommodate parking due to an inability to attach the garage to the current home. She said it's a unique property and the project looks to be a tremendous improvement.

Holley agreed. He added that the garage separation is a good choice and he understands why the tradeoff was made regarding the parking. He said it's nice to see the character of the property will be maintained.

Gascon also agreed and said he was curious about parking requirements in the current code because, personally, he would like them to apply for a parking variance and add another building. He felt that separating the garage was a great move.

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to approve the variances with conditions as recommended in the staff report.

Unanimously approved 4-0.

**ITEM NO. 4 **REAR YARD AND EXTERIOR SIDE YARD BUILDING SETBACK
VARIANCES, 2045 VERMONT STREET [DRG]****

B-14-00339: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2013 edition. The requests are for a reduction of the 20 feet rear yard and exterior side yard building setback requirements per the dimensional and density standards in Section 20-601(a) of the City Code for RS5 zoned property. The applicant is seeking approval for a 5 feet rear yard setback and 10 feet exterior side yard setback. The request is made to accommodate a proposed building addition that connects the residence with a detached garage structure on the property located at 2045 Vermont Street. Submitted by Eric Jay with Struct/Restruct, LLC, for Casey and Jackie Biggs, 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.

Gascon asked if the three other garages on that corner are within required setbacks.

Guntert said he doesn't have specific information regarding their setbacks, but typically they can be as close as five feet from the interior lot line but farther if adjoining an exterior boundary.

APPLICANT PRESENTATION

Mr. Eric Jay, Struct/Restruct, said there is an existing residence with detached garage that currently meets setback requirements, but once the two structures are connected, the garage will not meet the requirement. He said the main entrance is on Vermont Street but the owners use 21st Street as their main entry to the back of the house, and there is not much of a sidewalk from the parking area to the front of the property. He said they are adding some home office space above the garage instead of expanding the building footprint.

Fertig said the design, which uses the existing footprint and adds on top of it, is pretty cool.

Holley commented that the number of photographs and exterior plans are much appreciated and it makes the Board's job easier.

Perez asked, out of curiosity, if the tree will be affected by the project.

Mr. Jay said no, the tree will remain and it is quite important to the neighborhood. He said City arborists have been closely monitoring their excavation activities.

No public comment

ACTION TAKEN

Motioned by Gascon, seconded by Fertig, to close the public comment portion of Item 4.

Unanimously approved 4-0.

BOARD DISCUSSION

Holley agreed with Fertig's comment that it's a cool project. He said he appreciates the character of the addition because it doesn't attempt to blend with the other building and it doesn't substantially change the setbacks. He said the project is very responsive to the needs of the owners and the neighborhood.

Fertig mentioned the neighbors seem to be in favor of it.

ACTION TAKEN

Motioned by Perez, seconded by Fertig, to approve the variances as recommended in the staff report.

Unanimously approved 4-0.

ITEM NO. 5 **ACCESSORY GREENHOUSE BUILDING SETBACK VARIANCE, 4625 BAUER BROOK COURT [DRG]**

B-14-00351: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2013 edition. The request is for a variance to permit an accessory greenhouse structure to be located in front of the established front building line rather than to the rear of the front building line as required in Section 20-533(3) of the City Code. The property is located at 4625 Bauer Brook Court. Submitted by Paul Werner, Paul Werner Architects, for Gale W. and Jill R. Bogard, 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.

Gascon asked if the original solution was to put a roof on the fence to extend the principal structure, and if staff recommends the variance as opposed to that solution.

Guntert said the property owners prefer not to have the roof cover over the gateway, but in order to proceed with construction while the variance was pending it was a temporary solution.

Perez asked if the building permit has been issued.

Guntert said yes.

APPLICANT PRESENTATION

Ms. Joy Rhea, Paul Werner Architects, said the original plan was to tie the structures together with a pergola, but there were different code interpretations among Planning staff members, so the need for a covered structure or variance came up when the building permit was submitted. She added that the covered structure meets the code but doesn't fit the character of the area.

Fertig referred to an aerial view of the property and asked if there are trees between the greenhouse and the neighbor to the south.

Ms. Rhea said yes.

Gascon commented that the design looks like boat storage.

PUBLIC COMMENT

Mr. Mike Bogard, property owner, said he's a master gardener with a pretty good sized garage that is full of plants during the winter. He mentioned that the neighbors are pretty pleased with the project. He offered to answer any questions.

ACTION TAKEN

Motioned by Gascon, seconded by Fertig, to close the public comment portion of Item 5.

Unanimously approved 4-0.

BOARD DISCUSSION

Fertig said the lot is interesting and you couldn't put the structure behind the house. She felt the applicant had done their best, and even if the neighbor to the south objected to the lovely design, there are trees blocking their view. She felt it would be a hardship to place the structure anywhere else on the property.

Holley said without the formal process it might have been awhile before anyone had noticed.

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to approve the variance as recommended in the staff report.

Unanimously approved 4-0.

ITEM NO. 6 MISCELLANEOUS

- a) Review, approve and authorize the Chair to sign Findings of Fact regarding the Board's action upholding an administrative official's decision denying a minor subdivision involving the property addressed as 706 Illinois Street (B-14-00276).

Holley asked if the item can proceed without Mahoney present.

Larkin said yes, they will need to make a motion to authorize the Vice Chair to sign unless changes need to be made.

ACTION TAKEN

Motioned by Fertig, seconded by Gascon, to authorize the Vice Chair to sign the Findings of Fact from the August 7, 2014 meeting.

Motion carried 3-0-1.

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

Guntert said there is a sign variance application scheduled for the October meeting.

ACTION TAKEN

Motioned by Gascon, seconded by Fertig, to adjourn the September 4, 2014 meeting of the Board.

ADJOURN 7:32