

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of March 5th, 2015 – 6:30 p.m.

Members present: Fertig, Gardner, Holley, Mahoney, Wilbur
Staff present: Cargill, Guntert

ITEM NO. 1 COMMUNICATIONS

Acknowledge communications to come before the Board.

Guntert said staff received two communications that were included in the online packet.

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

Gardner said he had a conversation before the meeting with staff and Jon Josserand regarding pervious pavement, which is mentioned in a communication, and said he thought gravel was more pervious than pervious pavement.

Fertig said she also spoke with Mr. Josserand on the phone regarding Item 3. She said he voiced concerns about the trend of converting single family homes in the Oread Neighborhood to duplexes. She said specifically regarding Item 3, Mr. Josserand asked that the Board be cognizant of parking issues that are unique to that street.

There were no agenda items deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the February 5, 2015 meeting of the Board.

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to approve the minutes from the February 5, 2015 meeting of the Board.

Unanimously approved 5-0.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 BUILDING SETBACKS, PARKING SPACES, AND PARKING AREA
DESIGN/PAVING VARIANCES FOR A DUPLEX RENOVATION, 707 &
709 WEST 12TH STREET [DRG]**

B-15-00002: 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 minimum 25 feet front yard and 5 feet side yard building setbacks required in Section 20-601(a) of the City Code. The variance request seeks approval for the 4 feet front yard and 0 foot side yard building setbacks that currently exist. The second variance is for a reduction in the number of off-street parking spaces from the code required 8 spaces per Section 20-902 of the City Code, to a minimum of 5 parking stalls. The third request is a variance to reduce the 24 feet aisle width standard for 90 degree parking stalls found in Section 20-913(f)(1) of the City Code, to a minimum of 19 feet. The final request is a variance from the off-street parking area paving standards found in Section 20-913(e)(1) of the City Code to allow gravel surface to reduce storm water runoff in the area. These variance

requests are submitted to allow the contract purchaser to renovate the existing structure into a duplex residential dwelling with each dwelling unit having 4-bedrooms. The property is located at 707 & 709 W. 12th Street. Submitted by Michael R. Myers, Hernly Associates, Inc., for Ernest H. Eck, et al., contract purchaser from Lilian Six Trust, 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 about the comment that parking is no longer allowed on 12th Street.

Guntert said there are "no parking" restrictions on both sides of the street to allow access for emergency vehicles, and the landscaped divider acts as a one way circulation.

Holley said he is all too familiar with their widths and radius requirements. He asked if all 20 spots on 12th Street are gone.

Guntert said if there are cars there they're parking illegally.

Mahoney asked if the property has operated as a duplex in the past.

Guntert said it does have a history operating as a duplex, but more recently there has been more dwelling units in the structure.

Mahoney asked if there was a requirement for off-street parking in its use as a duplex.

Guntert said it likely was used as a multi-dwelling structure since before the current Development Code and perhaps even the Zoning Code.

Gardner concluded that the five proposed parking spaces are five more than are currently provided.

Guntert said that is correct, it's an attempt to bring the property closer to compliance.

APPLICANT PRESENTATION

Mr. Mike Myers, Hernly Associates, appeared on behalf of Ernie Eck, property owner. He said the ownership group also owns the dwelling due east, which recently underwent rehabilitation and received the highest award from the Kansas Preservation Alliance. He explained that the proposed project is a little bit smaller but will receive the same amount of care and preservation as the other. He said this is primarily a preservation project- there will be no additional rooms or increase in density, but the property must be rented to recuperate rehabilitation costs. He reiterated that all on-street parking was eliminated for this house, and after considering various options they decided to create five new parking spaces using the back area of the lot with a narrow driveway on the side. He mentioned that a historic listing shows this property was a duplex as early as 1914-1915, and he explained how the building was divided. He added that only the driveway will be paved, and a curb and gutter system will maintain runoff and the gravel in the parking area. Overall, he feels the project will have a positive impact on the neighborhood by alleviating on-street parking and access issues.

Mahoney asked if the new parking area will hold five vehicles.

Myers said yes.

Mahoney asked if it is safe to assume that there would be room in the driveway for two more vehicles.

Myers said yes, if you blocked the parking area.

Mahoney asked if you could fit three vehicles in the driveway.

Myers said he is imagining ingress and egress for all vehicles so he doesn't have the information, but supposed you could probably pack 10 cars in there if you were being unkind to those in first.

Mahoney said he has further questions for staff.

Fertig asked if he is aware of the rental situation of the property.

Myers said it is vacant right now. He said the owner is not renting it due to the proposed rehabilitation work.

Wilbur asked what the current worst case scenario is for runoff.

Myers said right now, runoff from this property goes to the next lot down, where it enters a storm inlet drain that carries it off to Mississippi Street where it is released into the street collection system.

Gardner asked if the owner renovated the property north of this one.

Myers said the property to the east at 1145 Indiana Street.

Gardner asked if they solved the parking problem there.

Myers said they didn't need to change the parking there but it was cleaned up a bit.

Holley asked if there were discussions to combine parking with an adjacent back lot.

Myers said he understood the owner attempted to discuss that idea but received no response from neighbors.

Holley said he was just curious because that might have resulted in all eight spaces.

Myers said he believes there are two property owners that use that parking area, which is very steep- about 14 or 15 percent grade of dirt and gravel.

Mr. Ernie Eck, property owner, said the property has not be leased since August 2013 because he didn't feel comfortable renting it with all of its antiquated systems. He explained that since he purchased the property, the street parking was removed and that issue has since been compounded due to the Oread Hotel, the University of Kansas, and the HERE project.

PUBLIC COMMENT

Ms. Marci Francisco said she has lived in the Oread Neighborhood since 1979, and the one thing that has remained consistent is the parking issue. She explained that, in general, the idea is to preserve some of the neighborhood structures and do it in a way that gives the property owners equal ability to rent out their homes. She said the variances raise concern because they give some property owners more bedrooms with less parking. She asked the Board to be deliberate in their findings of a unique situation so as not to set a precedent. She mentioned that the project is landlocked, and the use of gravel with a curb and gutter system as reasons why the project might be considered unique. She said it's her understanding that there will be five parking spaces added and an increase in the number of bedrooms that can

be rented. She added that the City vacated the alley behind her house which compounded the parking problems. She recognized a job well done on the renovation of the property to the east. She reiterated her concern that she doesn't want this project to set a precedent, and acknowledged the tough decisions the Board faces.

Ms. Candice Davis said she's an investor and resident in the Oread Neighborhood. She said she also owns a rental property that has been rehabilitated and rented to four unrelated individuals, which is allowed under multi-family zoning. She said duplexes create the additional opportunity to add four more for a total of eight. She understands the difficulty with the property but wants the Board to keep in mind that the large duplexes threaten to destroy all the houses in the neighborhood. She believes the neighborhood is zoned incorrectly because it has the largest number of houses that are single dwelling units. She feels you really have to stick to the parking requirement when allowing duplexes this large, and the stacked parking requirement is particularly a problem. She mentioned a concern that property owners might end up making a property more valuable than the structures on it. She said the code changes all the time, and people shouldn't be excused from complying with current standards, particularly when they are generating extra income from noncompliance. She concluded that parking is not a unique problem in the neighborhood- there are 54 spaces on Indiana Street, all taken, and the HERE project was given an excuse for 38 spaces. She doesn't want this particular request to set a precedent.

Fertig asked if the preference is that the Board not approve variances to allow for parking behind the structure and continue to have no parking opportunities for this property.

Davis said her preference would be to have no more than four to six bedrooms, or a smaller unit on a smaller lot that wouldn't require so much parking.

Fertig thanked Davis for her comments.

ACTION TAKEN

Motioned by Holley, seconded by Wilbur, to close the public hearing portion of the item.

Unanimously approved 5-0.

BOARD DISCUSSION

Mahoney said he commends the applicant for the historic renovation of the property, something he always appreciates. He also understands the neighborhood has parking issues, and the addition of five spaces to the current zero spaces is at least a step in the right direction, but ideally he'd like to see eight. He said one thing worth noting is the property has been used as a duplex as far back as 1914 and they're not adding anything to it. He said if the applicant does nothing, this goes unnoticed, but because the applicant is performing due diligence, he's faced with the potential of not getting the variance. He feels this is a compromise by the applicant, and the Historic Resources Commission approval means a lot to him. He said he supports the request as proposed.

Holley said the plan seems well thought out. The drive, unlike the lot a few away, appears to be concrete and has a curb to enclose the gravel to mitigate any runoff. He said ideally, he'd love to see a duplex that has two small families in each unit, but that's not likely to be the case due to the proximity to the University. He said he is leaning toward approval, primarily because they are all unique lots with incredible slopes, but the vacation of the street parking- for this property in particular- makes it unique.

Fertig said the new development at 11th and Indiana Streets that, as Ms. Davis pointed out, will result in essentially 38 fewer spots than are required for the development. She pointed out the actual variance requests also are for the side yard setback and front yard setback, just to acknowledge the current location of the structure, and she has no issues with those.

The Board agreed.

Fertig said the real issues are the parking spaces, the parking lot aisle width, and the gravel versus paved surface for the parking area.

Mahoney asked if any Board members felt the gravel was not a workable solution.

Fertig said the gravel will be bordered by a concrete barrier so it will be corralled to eliminate excessive runoff while maintaining a safe entryway of solid paved surface.

Gardner said gravel provides more pervious surface than any other option and is the best at mitigating issues of runoff.

Mahoney said he feels they can eliminate that as an issue.

Wilbur said he's concerned about the runoff but feels they've proposed the best solution.

Holley said he likes contained gravel.

Gardner said they actually removed something from the house to accommodate their parking solution.

Guntert said there was a little shed addition on the northwest corner just as the drive opens into the parking area that will be removed.

Wilbur said the applicant should be commended for their due diligence and they seem to have done everything they can to be considerate of the neighborhood. He expressed concern about a bigger parking issue in the neighborhood and the risk of setting a precedent.

Mahoney said he also considered that, but feels the Board considers each request on an individual basis and each one is unique.

Fertig asked staff if decisions by this Board set precedents since each request is so different.

Guntert said each application should be weighed individually on its own merits.

Mahoney said he thinks they all agree on everything and feels they're hinging on the reduction in parking.

Fertig said she understands the Code calls for eight parking places, but agrees that five is better than the zero spaces currently provided. She feels this property has some unique factors.

Holley said the street parking conditions will worsen for the entire neighborhood, but this property did have street parking when it was purchased by the current owner and then was reduced. He said this is also an existing use for eight tenants, not a new proposal.

Fertig agreed.

ACTION TAKEN

Motioned by Mahoney, seconded by Holley, to approve all of the variances based upon the evidence and testimony provided at the hearing, staff's recommendation, and an affirmative determination that the review and decision making criteria of Section 20-1309(g)(1) of the City Code were met by these requests.

Unanimously approved 5-0.

**ITEM NO. 4 FRONT YARD SETBACK VARIANCE FOR A NEW ADDITION ON AN
EXISTING RESIDENTIAL HOME AT 810 AVALON ROAD [DRG]**

B-15-00053: 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 from the minimum 25 feet front yard building setback required in Section 20-601(a) of the City Code. The variance request seeks approval for a 22 feet front yard setback. The request was submitted to allow the property owner the ability to build an addition on the south end of the home consisting of a two-car garage, kitchen, mudroom and elevated deck on the main living level; and two bedrooms and a bathroom on the lower walk-out basement level. The property is located at 810 Avalon Road. Submitted by Dan Sabatini, Sabatini Architects, for Anthony and Meredith Lang, the 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.

Mahoney asked if the setback is a reduction from 25 feet to 22 feet.

Guntert said yes.

Gardner said that is less than what was approved previously.

Guntert said yes the approved variance in 1983 was for an 18 feet front setback.

Mahoney asked if it was negated due to the plat.

Guntert said they don't know why the applicant didn't move forward with a building permit with the initial 1983 request; but, they came back six years later with another variance request and were advised of a plat restriction related to building setbacks from the street right-of-way.

Mahoney asked if variances have a statute limiting their duration.

Guntert said under the old Code, variances were good for 120 days after date of approval pending a building permit. He explained that the current Development Code allows a 24 month period of approval, and once a building permit is approved the variance is vested with the property.

Mahoney thanked staff.

APPLICANT PRESENTATION

Mr. Dan Sabatini said the site slopes 20 feet from front to back, and they're trying to keep the building design similar to the existing house and the neighborhood. He said this is a pretty modest attempt to make the impact of the front setback as minimal as possible. He said the current homeowners were not the previous owners who requested the earlier variances.

Holley asked about the possibility of keeping the addition size and sliding it back three feet.

Sabatini said the main issue with that would be the chimney, and as the addition moves further back the grade and fill would be more significant.

Gardner said he has a question for the applicant (property owner). In reference to the application, he asked the owner whether she has had items stolen from the existing carport.

Ms. Meredith Lang said yes.

Gardner said ok, the enclosed garage will also help to deter theft.

Lang said yes.

Holley said there were no formal communications received on this item and none of the neighbors are here to voice an opinion on the variance request.

Guntert said staff did not receive any written communications or phone calls from neighbors who received notice.

No public comment

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to close the public hearing portion of the item.

Unanimously approved 5-0.

ACTION TAKEN

Motioned by Gardner, seconded by Mahoney, to approve the variance based upon the evidence and testimony provided at the hearing, staff's recommendation, and an affirmative determination that the review and decision making criteria of Section 20-1309(g)(1) of the City Code were met by the request.

Unanimously approved 5-0.

ITEM NO. 5 MISCELLANEOUS

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

Guntert said there were two items submitted for the April meeting.

ADJOURN 7:41 PM