

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of September 3, 2015 – 6:30 p.m.

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

ITEM NO. 1 COMMUNICATIONS

There were no communications to come before the Board.

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

No agenda items were deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the August 6, 2015 meeting of the Board.

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to approve the minutes from the August 6, 2015 meeting of the Board.

Motion carried 4-0-1.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 MAXIMUM DRIVEWAY WIDTH VARIANCE AND SPACING FROM AN
INTERSECTING STREET; 603 TENNESSEE STREET [JSC]**

B-15-00400: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The first request is for a variance from Section 20-915(e)(1)(ii) of the City Code which requires driveways with access to Arterial Streets to be located at least 300 feet from the curb face of the intersecting street. The existing driveway is approximately 107 feet west of the west pavement edge of Tennessee Street. The second request is for a variance from Section 20-908(b)(3) of the City Code which allows a maximum 12 feet wide residential driveway width in an RS5 (Single-Dwelling Residential) District. The applicant is seeking variance approval to allow a 23 feet wide driveway width with a 2 feet radius at the street curb. The property location for this request is 603 Tennessee Street. Submitted by Evan and Mary Holt, 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

Crick presented the item.

Fertig asked if the variance from the 300 feet is for maintenance purposes.

Crick said the purpose of that variance is to formalize its existence, since it was constructed long before the code was in place.

Gardner said it didn't look like there was 300 feet of separation between the streets, let alone from the street intersection to the driveway.

Crick agreed and said this standard typically applies to new construction for the purpose of maintaining adequate spacing.

Gardner asked for clarification about the other driveway on the property off the alley that he can't seem to locate.

Crick pointed out the location of the driveway on the aerial map. He said the driveway leads to a second two-car garage on the property.

Wilbur asked where the alley leads.

Crick said the alley leads to Ohio Street.

They discussed the location of the driveway and the best ways to enter the alley.

Gardner asked how anyone on a corner has a driveway if their lot isn't 300 feet.

Crick said the current Land Development Code states that an RS5 lot should take access from the alleyway where they exist.

Fertig asked if the applicant's request to build a double-wide driveway is a common feature in this neighborhood.

Crick said it is not.

Fertig asked if that is the main point of concern from the Historic Resources Commission (HRC).

Crick said yes.

Mahoney asked staff if there have been similar applications to KDOT.

Guntert said he is not aware of any.

Gardner asked about a driveway on 6th Street located a block or two further to the west of this property. He said it looks like a double driveway that serves two separate properties.

Fertig asked if they are two single driveways that were merged.

Crick said that looks to be the case.

Gardner said he did try to turn around in the applicant's driveway and it was very difficult.

APPLICANT PRESENTATION

Mr. Evan Holt, property owner, introduced himself and his wife Mary and briefly described their background and their desire to move back to Old West Lawrence. He said a key aspect to their driveway issue is that it's offset from the garage, so it makes backing in and out extremely difficult. He said the four lane highway (6th Street) has a posted 35 mph speed limit, which creates a safety hazard getting in and out of the driveway, whereas the rest of the neighborhood has a 20 mph speed limit. He explained other safety concerns they face with the current driveway configuration.

Holley asked how many cars they have.

Holt said they have two cars. Their daughter also has a car that she parks on campus but she frequently stops by the house to visit when between classes or on weekends.

Holley asked about the two car garage off the alley.

Ms. Mary Holt said that garage is very small.

Mr. Holt said it's only 16x16 feet, and most full size vehicles cannot fit.

Ms. Holt said they store their bicycles in that garage.

Mr. Holt said an appealing feature of the house is the wheelchair ramp, which is used by Ms. Holt's father, but the current parking space doesn't allow him to enter and exit without moving cars out and around the block. He mentioned that street parking is almost always occupied during the week by postal employee vehicles.

Fertig asked when the garage was added.

Ms. Holt said sometime between 2007 and 2011 when the house was remodeled.

Crick said he believes the permits were pulled in 2008.

Mahoney asked if there was an application for variance at that time.

Crick said no.

Mr. Holt said the previous owner indicated that he never attempted to pull a permit for the driveway.

ACTION TAKEN

Motioned by Holley, seconded by Gardner, to close public comment for the item.

Unanimously approved 5-0.

COMMISSION DISCUSSION

Gardner said it was very difficult pulling out of their driveway.

Mahoney asked if staff heard from any neighbors.

Guntert said no.

Mahoney said he's leaning toward approval of the variance but is having a hard time meeting some of the conditions. He said he's wrestling with the criteria for uniqueness because, although it's currently a unique driveway, the garage was added after-the-fact. He believes the request will improve aesthetics and safety. He does not believe the request will increase traffic points of conflict.

Holley said he's leaning the other way. He is sympathetic to the owners, but felt it is not a unique property and the code hasn't changed since the property was purchased. He feels that streets with fewer driveways and more vegetative strips separating the sidewalk from the street are more pedestrian friendly. He mentioned the second detached garage and said it could possibly be expanded. He did not see an undue hardship.

Wilbur said it is a very heavy traffic intersection they must negotiate when entering the driveway from 6th Street as well as when they want to leave. He definitely sees the safety issue the narrow driveway approach creates for the owners. He didn't feel there are many situations in the City that are similar, so he felt it is unique.

Gardner agreed. He asked whether it would even be possible to change the detached garage due to its historic status.

Holley said they probably could come up with a garage configuration that would be compatible and approved by the HRC.

Gardner said he would approve a wider driveway if the HRC and KDOT find it to be acceptable.

Fertig said she's on the fence. She values the concerns of the HRC, but she does feel there are safety issues with the current driveway, particularly because it's a highway and the owners inherited the unique situation. She said it doesn't appear to be common to have a driveway directly off 6th Street.

Wilbur asked what about a wider driveway is not historic. He said he typically thinks of architecture associated with historic preservation, not driveways.

Mahoney agreed. He said he does not struggle with the HRC's concerns, largely because he feels modern features can co-exist with and enhance historic neighborhoods. He feels they've made some cases for and against uniqueness, and feels they've addressed the safety concerns.

Holley disagreed, he does not feel the project meets the condition of uniqueness. He thought this proposal addresses day-to-day safety concerns, but felt it also would create space to cram more cars on the driveway which could become a new safety hazard.

Mahoney pondered whether the traffic patterns and speed limits are much different now than when the curb cut was created in 1976. He argued that the property is unique due to the modernization of 6th Street and the confinements of current zoning.

Fertig asked if Tennessee Street is an arterial street.

Guntert said 6th Street is a principal arterial and Tennessee Street is a minor.

Fertig asked if Tennessee and Kentucky Streets are the only minor arterials in the neighborhood.

Crick said New Hampshire, Vermont, and Massachusetts Streets also have the same designation.

Fertig asked if there are others further west.

Crick said Maine Street is also a minor arterial.

Fertig said the volume of traffic on 6th and Tennessee Streets is unique to the project parcel.

ACTION TAKEN

Motioned by Mahoney, seconded by Gardner, to approve the variance based on a determination that the variance approval criteria are met, subject to the condition that the applicants obtain a driveway permit from KDOT.

Motion carried 4-1, Holley dissenting

Gardner reiterated the safety concerns with the existing narrow driveway on this property.

Mr. Holt said the second garage is constructed of the same brick as the house and is not structurally sound, so it couldn't be expanded and look historically appropriate.

ITEM NO. 4 MISCELLANEOUS

a) There was no other business to come before the Board.

Guntert said there will be an October meeting.

ADJOURN 7:09 PM