

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of October 1, 2015 – 6:30 p.m.

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

ITEM NO. 1 COMMUNICATIONS

There were no communications to come before the Board.

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 knows the applicant for Item 6 but did not discuss any agenda items and does not have a conflict.

Fertig said she works with one of the applicants on Item 6 but does not feel she has a conflict.

Guntert mentioned that Item 4 has been withdrawn from the agenda.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the September 3, 2015 meeting of the Board.

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to approve the minutes from the September 3, 2015 meeting of the Board.

Motion carried 5-0-2. Gascon and Kimzey abstained.

BEGIN PUBLIC HEARING:

ITEM NO. 3 DRIVEWAY PAVEMENT STANDARDS VARIANCE TO USE GRAVEL FOR A NEW RESIDENTIAL DWELLING STRUCTURE; 872 OAK STREET [DRG]

B-15-00444: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from Section 20-913(e), "PARKING AND LOADING AREA DESIGN STANDARDS, Surfacing", in the City Code which requires all off-street Parking Areas and Driveways to be surfaced with one of the listed material types. The applicant's request is to permit gravel surfacing to be used on a new residential driveway, which is not a code recognized material type. The property location is 872 Oak Street. Submitted by Nathan and Sarah Clark, 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.

APPLICANT PRESENTATION

Mr. Nathan Clark, property owner and applicant, said there's no ditch or curb on the street, so when it rains the water pools. He said they'd like to limit the amount of water in the street. He suggested concrete pavers or gravel as options, and is open to other suggestions.

Gascon asked if the purpose for requesting the right to use gravel for the driveway is to reduce the amount of surface water runoff.

Fertig asked the applicant to explain what they proposed to use for the driveway materials because she did not understand the terminology they used on the application.

Clark said it was all crushed limestone materials of two different sizes - the bigger stuff will go down first, then it will have a top dressing of smaller washed rock.

Gardner asked if they plan to border the drive with concrete, which he feels looks the nicest.

Clark said that's the ideal long term plan. He said it would be great to get the variance so he can get his Certificate of Occupancy.

Holley asked if the concrete apron can be permeable concrete.

Guntert said he knows the Public Works engineers are looking into possibly adding it as another construction material design option but did not think anything had been officially decided.

PUBLIC COMMENT

Mr. Harold Shephard said driveway aprons built in the City ROW have to be built with concrete strength equal to at least 4000 pounds.

ACTION TAKEN

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

Unanimously approved 7-0.

BOARD DISCUSSION

Gardner said permeable driveways are a good idea and he hopes the City will seriously consider adding it as another pavement option for people to use. Even though the property is not in a regulated floodplain it is near the Kansas River Levee and water issues exist in the neighborhood. He did not have any objections to the applicant using gravel for their driveway because it would allow storm water to be absorbed into the ground to some extent. He preferred the owner use options that keep the gravel from washing away into the street and along the sides of the driveway.

Mahoney agreed. He said he feels this is a good way to prevent runoff and it seems like a technicality in this case because gravel is already allowed as a pavement option in other areas of this neighborhood.

Wilbur agreed it is consistent with many of the homes in the neighborhood.

Mahoney didn't feel it was necessary to put any condition on the variance for the applicant to install a border along the driveway edge to control the spread of gravel in the yard.

ACTION TAKEN

Motioned by Gardner, seconded by Holley, to approve the variance as outlined in the staff report.

Unanimously approved 7-0.

ITEM NO. 4 APPEAL OF AN ADMINISTRATIVE DECISION REGARDING THE DENIAL OF AN APPLICATION TO REGISTER A NONCONFORMING USE OF A STRUCTURE AS A DUPLEX USE; 612 WEST 6TH STREET [JSC]

B-15-00453: Consider an appeal filed by Dennis L. Williams and Sharon A. E. Dominik, owners of the real property at 612 W. 6th Street. The appeal challenges an administrative determination, issued by letter dated August 6, 2015, from Mr. Jeff Crick, AICP, Planner II, in the City of Lawrence Planning and Development Services Department, which denied the application for Registration of a Non-Conforming Use of the property located at 612 West 6th Street as a duplex use. The appeal was filed under the guidelines of 20-111 in the Land Development Code of the City of Lawrence, Kansas. The reasons for filing this appeal are cited by the appellant in their appeal packet dated August 31, 2015, and received in the Planning Office on September 3, 2015. **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.**

ITEM NO. 5 INTERIOR SIDE YARD SETBACK VARIANCE FOR AN EXISTING RESIDENTIAL DWELLING STRUCTURE; 730 ASH STREET [JSC]

B-15-00457: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance to reduce the 5 feet side yard building setback required in Section 20-601(a) of the City Code to a minimum of 2 feet along the west side of the existing residential dwelling. The property is located at 730 Ash Street. Submitted by Brian Mueller, Managing Partner with Mueller Associates, LLC 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

Crick presented the item.

Mahoney asked how the issue was brought to the City's attention.

Crick said the property owner brought the issue forward.

Fertig asked if staff was recommending approval of this variance request.

Crick confirmed staff was recommending approval of this variance request.

APPLICANT PRESENTATION

Mr. Eric Jay, Struct/Restruct, said this came about during a site analysis of the property, and the addition will meet the minimum required setback from the west side.

Mr. Sam Hall said he's the owner of the property to the west and did not object of the request, but did question the position of the survey and shifting his property line based on the documentation gathered as part of this submission.

Jay said they plan to dismantle the existing garage and rebuild subject to the required setbacks.

Fertig asked if Hall objects to the variance. He did not.

Gardner commended the applicant for getting the variance even though they don't need it and their addition is in compliance.

PUBLIC COMMENT

Mr. Nathan Clark said he lives in the house and has heard of no objections.

ACTION TAKEN

Motioned by Gascon, seconded by Gardner, to close public comment for Item 5.

Unanimously approved 7-0.

BOARD DISCUSSION

The Board agreed the request was reasonable.

ACTION TAKEN

Motioned by Mahoney, seconded by Holley, to approve the variance as outlined in the staff report.

Unanimously approved 7-0.

ITEM NO. 6 ACCESSORY STRUCTURE SETBACK IN FRONT OF THE ESTABLISHED FRONT BUILDING LINE; 1717 WEST 7TH STREET [DRG]

B-15-00454: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance to permit an accessory shed structure to be located in front of the established front building line rather than behind the established front building line as required in Section 20-533(3) of the City Code. The property is located at 1717 West 7th Street. Submitted by Eric Jay, Struct/Restruct, LLC, for the property owners of record, Burke Griggs and Emily Bowersock Hill. **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 intent of the rule in the code is to prevent accessory buildings from being built in front of a residential dwelling so they do not interfere with sight lines along the street frontage.

Guntert said that was correct.

Wilbur asked how large the accessory structure is.

Mr. Eric Jay, the applicant, said 16 feet by 36 feet.

Gardner asked if there are trees near the building site.

Guntert said there's a heavy vegetation line along the south side of the street right-of-way that extended onto the applicant's property. In addition, the property had a higher elevation than the street so the line of sight from the roadway would also play into how much of the structure would be visible.

APPLICANT PRESENTATION

Mr. Eric Jay, Struct/Restruct, said they chose the site location because it's flat and because the

vegetation to the north hides most of it. He said the property is unique because the front of the house actually faces toward the southeast. Originally, the access to the home came from a private drive entering the property from the terminus of West 8th Street. Some time ago, the City decided access from 7th Street was necessary to be able to provide better emergency response to the property, so a driveway was added to the rear of the property, flipping its orientation. He said they selected the original rear yard space on this property based upon the way the home is built on the site. He did not believe the structure will be visible from the street because of all the vegetation and grade elevations that exist.

Gardner asked if the driveway from Broadview Drive was still being used by the owners for access.

Jay said yes but not to his client's driveway. It still provides access to the other two properties south of his client's property.

PUBLIC COMMENT

Mr. Harold Shephard, property owner to the north, asked what hardship prompted the variance request.

Jay said the main hardship is the orientation of the property which would ultimately require the property owner to build the structure in their front yard, if the code required setback was strictly enforced on his client. He explained that it's not historically appropriate to do so, and typically, an accessory structure is placed in the rear yard.

Shephard said it sounds like more of a convenience for the property owner.

Jay said it's not a convenience it's a technicality.

Shephard disagreed.

Jay said the site terrain is a hardship by having to cut away six feet of dirt instead of one.

Shephard did not feel that is a hardship.

Mahoney asked Mr. Shephard if he was against the variance.

Shephard said he was neither for nor against it. He knew there were conditions when variances were necessary for the development of property. He just wanted to be sure the applicant's request was really necessary for the project to be able to move forward.

Gardner reiterated the City's requirement for the property owner to open up a new driveway on West 7th Street and how that decision affected the property owner in this request.

Jay said it naturally flipped the orientation of the property, forcing the front lot line to West 7th Street. That determination and action changes all sorts of restrictions on the property.

Shephard said the new drive on West 7th Street does not have restrictions.

Jay said the front yard setback is 25 feet from the front building line, which was now considered to be along West 7th Street.

Shephard asked when this driveway was constructed.

Mahoney said it was in approximately 1990.

Jay said the house has been there since the 1920s. He explained that the City needed access from a public road, not other private drives.

Shephard further explained why he does not think this project demonstrates a hardship for the property owner.

Fertig said the Board takes the notion of hardship very seriously. She said this property is unique because their front yard is now their backyard.

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to close public comment for Item 6.

Unanimously approved 7-0.

BOARD DISCUSSION

Gascon feels the property is unique. He said the proposed site for the accessory building was once the back yard for this property, but now it is considered their front yard due to the driveway access from West 7th Street.

Gardner said it was the City's action requiring a new driveway access from West 7th Street that created the hardship in this case.

Fertig said without the unique situation, this type of variance would not typically be considered.

Mahoney agreed that the property is unique.

ACTION TAKEN

Motioned by Gardner, seconded by Mahoney, to approve the variance as outlined in the staff report.

Unanimously approved 7-0.

ITEM NO. 7 MISCELLANEOUS

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

ADJOURN 7:20 P.M.