

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of November 3, 2016 – 6:30 p.m.

Members present: Clark, Gascon, Holley, Mahoney, Wilbur
Staff present: Cargill, Crick, Guntert

ITEM NO. 1 COMMUNICATIONS

- a) Acknowledged communications that were included in the packet.
- b) There were no Board member disclosures of any ex parte contacts and/or abstentions from the discussion and vote on any agenda item under consideration.
- c) Announced that agenda item 3 had been withdrawn by the applicant; and, item 5 will be deferred from consideration at the request of the applicant.

ELECTION OF OFFICERS FOR 2016-2017- deferred

Accept nominations for and elect Chair and Vice-Chair for the coming year.

ACTION TAKEN

Motioned by Holley, seconded by Gascon, to elect Josh Mahoney as Chair.

Unanimously approved 5-0.

Motioned by Gascon, seconded by Wilbur to elect Jonathan Holley as Vice Chair.

Unanimously approved 5-0.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the October 6, 2016 meeting of the Board.

ACTION TAKEN

Motioned by Holley, seconded by Wilbur, to approve the minutes from the October 6, 2016 meeting of the Board.

Motion carried 4-0-1; Gascon abstained.

BEGIN PUBLIC HEARING:

ITEM NO. 3 OUTDOOR LIGHT CONTAINMENT VARIANCE FOR A NEW AUTOMOTIVE SALES DISPLAY LOT; SW CORNER OF W. 29TH STREET AND IOWA STREET [DRG]

B-16-00338: 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 the Outdoor Lighting Standards relating to Spillover Light, which is listed in Section 20-1103(d)(3)(ii) of the City Code. This code provision states that spillover light from a development site shall not exceed 1 foot-candle measured at the lot line onto public street rights-of-way or other properties in a nonresidential zoning district. The property is located on the southwest corner of W. 29th Street between Iowa Street and the Iowa Street frontage road. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1st and October 6th meetings by the applicant.

ITEM NO. 4 AUTOMOTIVE SALES DISPLAY AREA VARIANCE FROM A PUBLIC STREET RIGHT-OF-WAY; 2851 IOWA STREET [JSC]

B-16-00339: 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 code required 15 feet minimum off-street parking area setback from public street rights-of-way, which is required in Section 20-908(c) of the City Code, to a minimum of 0 feet along the property's frontage on W. 28th Terrace and Iowa Street frontage road. The property is located at 2851 Iowa Street. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1st and October 6th meetings by the applicant.

STAFF PRESENTATION

Crick presented the item.

Mahoney asked if staff would recommend approval with an amendment to the parcel line.

Crick said staff would not approve because the addition of the land would allow space for additional vehicle parking and would still need to comply with the 15 feet setback.

Clark asked for clarification as to what the applicant was requesting the Board to approve.

Crick explained using the figures in his presentation.

Wilbur asked what the setbacks are for the two variances approved under the 2006 code.

Crick explained the history of those properties, noting the east and west sides of Iowa Street have different right-of-way due to the frontage roads.

Wilbur asked what the setbacks are for the two properties.

Crick said 14-15 feet for both.

Wilbur asked if the current request is for a zero foot setback.

Crick said that was correct.

Gascon asked what staff believes the purpose was for the setback in this location.

Crick said it's mainly for consistency along the frontage road, but typically they're installed to accommodate any road widening.

Gascon asked if there's a chance for road widening in this location.

Crick said he couldn't speak for the City Engineer but it didn't seem likely.

Mahoney disagreed.

Clark asked if this can be used as traditional parking as opposed to a display.

Crick said the code interprets both scenarios the same.

APPLICANT PRESENTATION

Mr. David Hamby, BG Consultants, explained the variance request. He mentioned the setbacks for surrounding properties, particularly the other dealerships in the area.

Mr. Russ Briggs, property owner, explained that their alternative was to raze the building and use all of the property for display parking. He said that alternative was not desirable.

Gascon asked how much they pay in property tax.

Briggs did not know what it was for this property but thought it was about \$700,000 a year he paid to the county for all of his businesses in Lawrence.

Wilbur asked when Briggs purchased the property.

Briggs said a little less than a year ago.

No public comment

ACTION TAKEN

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

Unanimously approved 5-0.

BOARD DISCUSSION

Mahoney said he particularly likes when people use existing structures, but he is struggling to meet all five conditions. He believes this request met the condition of uniqueness.

They discussed which criteria they felt the variance did and did not meet. They were mostly hung up on the unnecessary hardship criteria.

Gascon felt the alternative to demolish the building was unnecessary.

Mahoney questioned whether that was the only alternative, and enough to grant a variance.

Clark said the property was purchased a year ago with the knowledge that a variance would be needed to meet their needs. He thought that should be taken into consideration. There should be conditions tied to this variance and use if it was approved.

Gascon said that seemed reasonable.

Crick said the request is for a parking setback, not a building setback.

Mahoney questioned whether another owner in the future could make the display parking area into traditional parking. He asked staff if the variance could be tied only to its current ownership.

Guntert said variances run with the land and not ownership. If in the future the property was redeveloped, the developer would be expected to comply with the applicable development code standards in effect at that time.

Holley said he could support the variance with a condition tied to future redevelopment of the property.

ACTION TAKEN

Motioned by Holley, seconded by Gascon, to approve the variance request based on meeting all five conditions with a condition that the variance is tied to the east structure and any redevelopment will nullify the variance.

Motion carried 4-1 with Clark dissenting.

ITEM NO. 5 VARIANCE FROM THE MAXIMUM ACCESSORY DWELLING UNIT SIZE; 1535 MASSACHUSETTS STREET [JSC]

B-16-00440: 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 the code permitted maximum size accessory dwelling unit in a residential dwelling structure defined in Section 20-534(2)(ix) of the City Code. The code standard limits the size of an accessory dwelling unit to not more than 33 percent of the living area of the primary dwelling or 960 square feet, whichever is less. The proposed size of the accessory dwelling unit is 960 square feet. The living area in the principal dwelling is 2,106 square feet which limits the size of an accessory dwelling unit to 695 square feet. The property is located at 1535 Massachusetts Street. Submitted by Leticia Cole with Paul Werner Architects for Joann E. Qandil, the property owner of record.

ITEM NO. 6 PERIMETER BUILDING SETBACK VARIANCE FOR ARTERRA EVENT GALLERY; 2161 QUAIL CREEK DRIVE [DRG]

B-16-00441: 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 the minimum 30 feet perimeter building setback requirement from the boundary of a planned commercial development district (approved under the terms and conditions of the previous zoning code) as required by reference in Section 20-222(e) of the City Code. The applicant seeks variance approval to reduce the perimeter building setback to a minimum of 10 feet from the west property boundary so they can build an addition on the west side of the existing commercial structure. The property is located at 2161 Quail Creek Drive. Submitted by Allen Belot, Allen Belot Architects, for Arterra, LLC, the property owner of record.

STAFF PRESENTATION

Guntert presented the item.

APPLICANT PRESENTATION

Mr. Allen Belot explained why the original variance expired before work began, and recapped the reason for the variance request.

No public comment

ACTION TAKEN

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

Unanimously approved 5-0.

BOARD DISCUSSION

Mahoney said he understands the concern from one neighbor but doesn't feel the variance contributes to those concerns.

ACTION TAKEN

Motioned by Wilbur, seconded by Holley, to approve the variance based upon staff's findings and recommendation that the request meets the required conditions necessary to grant a variance from the development code.

Unanimously approved 5-0.

ITEM NO. 7 MISCELLANEOUS

a) No other business to come before the Board.

ADJOURN 7:23 PM