



LAWRENCE BOARD OF ZONING APPEALS
MINUTES FOR **DECEMBER 6, 2018**

Members present: Clark, Gardner, Gascon, Harrod, Shipley, Wilbur, Wisner
Staff present: Crick, Dolar, Mortensen, Weik

ITEM NO. 1 COMMUNICATIONS

A. Acknowledge communications to the come before the Board.

Weik said a communication was received regarding the deferral of Item 3.

B. Disclosure of ex-parte communications and/or abstentions for specific agenda items.

Clark said he was contacted by the applicant for Item 3.

C. Announce any agenda items that will be deferred.

Weik stated that Item 3 was deferred prior to the meeting.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the October 4, 2018 and November 1, 2018 meetings of the Board.

ACTION TAKEN

Motioned by Clark, seconded by Wisner, to approve the October 4, 2018 minutes and defer the November 1, 2018 minutes.

Motion carried 5-0-2, Gardner and Harrod abstained.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 VARIANCE FROM THE REAR YARD BUILDING SETBACK FOR A
RESIDENTIAL STRUCTURE; 1620 UNIVERSITY DRIVE**

B-18-00538: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 30 foot rear setback standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the setback to 13 feet to allow for the construction of a new addition parallel to the rear lot line at the current depth the existing structure is from the rear lot line. The property is located at 1620 University Drive. Submitted by Anthony W. & Ann K. Walton, property owners of record.

ITEM NO. 4 MISCELLANEOUS

A. Annual Board Training

Weik presented training materials.

Gascon asked staff to discuss the terms "arbitrary" and "capricious" in more detail.

Weik explained that those terms indicate a parcel, sticking to the letter of the law, cannot develop in the same manner any other conforming use could with similar zoning.

Crick added that the term "arbitrary" also refers to the way variances are applied specific to each property- that similar conditions on different properties may not have the same outcome. The term "capricious" is a function of the Board's quasi-judicial nature- the Board does not set the Land Development Code, it interprets the code.

Weik continued her presentation.

Gascon asked about the language that states a hardship is "loss of property without compensation".

Weik explained that it means the property owner cannot utilize their property in the same way someone else can in the same zoning district. She continued her presentation.

Gascon asked about unnecessary financial hardship, and noted that it appears to be a common criteria in other cities.

Weik said he did not know why Lawrence is unique in that regard, but it is stated in the code that loss of financial potential is not considered an unnecessary hardship. She stressed the code's intent to equalize rights across zoning districts.

Gascon asked whether that criteria could be considered if the language specific to financial hardship was removed from the code.

Weik said yes, potentially.

Gascon asked if that is determined by City Commission.

Weik said yes.

Gascon mentioned that the Board has heard many cases where eliminating that language could have helped many people.

Weik said in some cases there are several elements that could tip the scale in either direction. She continued her presentation.

Gardner asked if the rules regarding political points applies only to Board members.

Weik said city commissioners are elected, so they're allowed to bring some political opinions, but advisory board members are not.

Gardner asked if the public can be political.

Weik said they can't regulate members of the public; however, Board members can encourage members of the public to remain civil and courteous during meetings.

- B. There was no other business to come before the Board.

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to adjourn the meeting.

ADJOURNED 7:17PM