

**LAWRENCE BOARD OF ZONING APPEALS**  
**Meeting Minutes of March 2, 2017 – 6:30 p.m.**

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Members present: Clark, Holley, Mahoney, Wilbur

Staff present: Cargill, Crick, Larkin, Walthall

**ITEM NO. 1      COMMUNICATIONS**

- a) There were no communications not included in the agenda packet.
- b) There were no abstentions.
- c) Item No 2 and Item No 4 have been deferred.

**ITEM NO. 2      MINUTES**

The minutes from the February 2, 2017 meeting of the Board were deferred.

**ITEM NO. 3      ADOPT FINDINGS OF FACT FOR BOARD OF ZONING APPEALS  
DECISION UPHOLDING STAFF'S ADMINISTRATIVE DECISION  
DENYING THE SUFFICIENCY OF APPELLANT'S EVIDENCE TO SUPPORT  
REGISTRATION OF A 5-UNIT NON-CONFORMING RESIDENTIAL USE  
AT 433 OHIO STREET**

Consider adopting findings of fact as reasons for the Board's decision in the matter of the following appeal:

**B-16-00522:** Consider an appeal filed by Paul R. Horvath, Morning Star Management, LLC, representing Jason E. Horvath, property owner of record of the real property at 433 Ohio Street. The appeal challenges an administrative determination, issued by letter dated November 21, 2016, from Ms. Sandra Day, AICP, Planner II, in the City of Lawrence Planning and Development Services Department, which determined the documentation provided to staff was not sufficient to certify registration of the property, located at 433 Ohio Street, as a five-unit non-conforming residential use. The appeal was filed under the guidelines of Section 20-1311 in the Land Development Code of the City of Lawrence, Kansas, 2015 edition. Reasons for filing this appeal are cited by the appellant in their appeal packet dated December 7, 2016, and received in the Planning Office on December 7, 2016.

**ACTION TAKEN**

Motioned by Mahoney, seconded by Clark, to adopt the Findings of Fact in the matter of appeal B-16-00522.

Unanimously approved 4-0.

**PUBLIC COMMENT**

Mr. Paul Horvath, appellant, said he submitted new evidence in the appeal and planned to ask that the Board defer its decision for 30 days.

Mahoney explained that the action required this evening was only to adopt Findings of Fact based on the Board's decision last month.

Horvath assumed his new evidence would be considered before the Findings of Fact were considered.

Clark said the aforementioned documents were included with the agenda packet.

Mahoney confirmed that the new evidence was available in the packet for review before the Board made a decision this evening.

Horvath felt he overlooked the physical structure as evidence so he presented that to the Planning Commission and assumed it would be considered this evening, and the item possibly deferred to consider his new information.

Mahoney asked staff if there has been any communication regarding Mr. Horvath's new evidence.

Mr. Jeff Crick said his evidence was included in the agenda packet and he was informed that the Findings of Fact would be considered this evening. He explained that the agenda item was advertised for the adoption of the Findings of Fact only.

Mahoney said he just wanted to confirm there was no additional action by the City.

Crick said unless action was taken prior to his acquisition of the case, he doesn't believe there is anything new to report.

Horvath asked if the Board can defer the item for 30 days to give the Planning Commission a chance to review his new information.

Mahoney said he was under the impression that only the Findings of Fact would be considered this evening and that Mr. Horvath's new evidence was provided for consideration before action was taken.

Mr. Randy Larkin said that is correct. He's not aware of any change to Planning Staff's recommendation.

Horvath said he submitted his information to David Guntert and thought the Planning Commission, not the Board of Zoning Appeals (BZA), would be able to overturn the decision.

Larkin said Planning Commission isn't involved with the case, the BZA hears the appeal and any further appeal would go to the District Court.

Crick said he does not believe staff has changed the recommendation.

Mahoney said the additional information hasn't changed his decision from last month, and the Board has voted on the matter.

#### **BEGIN PUBLIC HEARING:**

#### **ITEM NO. 4      VARIANCE FROM THE ACCESSORY DWELLING UNIT BUILDING SIZE STANDARD AND RESIDENTIAL DRIVEWAY PAVEMENT STANDARD; 737 ELM STREET**

**B-17-00001:** A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2016 edition. The first request is a variance from the code permitted maximum size accessory dwelling unit defined in Section 20-534(2)(i) of the City Code. The code provision limits the size of an accessory dwelling unit to no more than 33 percent of the living area in the primary dwelling or 960 square feet,

*Deferred by  
Applicant*

whichever is less. According to the Douglas County Appraiser's Office, the living area in the principal dwelling is 532 square feet which limits the size of an accessory dwelling unit to 177 square feet. The proposed size of the accessory dwelling unit is 675 square feet. The second variance is from the residential driveway pavement standards contained in Section 20-913(e) of the City Code. The applicant seeks a variance to allow the use of gravel to surface the driveway in order to reduce the impact of storm water runoff. The property is located at 737 Elm. Submitted by Susan Raines, the property owner of record. This item was deferred by the applicant from the February 2<sup>nd</sup> meeting.

**ITEM NO. 5 MISCELLANEOUS**

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

**ADJOURN 6:40 PM**