

BOARD OF ZONING APPEALS
Meeting Minutes of July 11, 2013 - 6:30 p.m.

Members present: Edie, Kimzey, Mahoney, Perez
Staff present: Cargill, Guntert

ITEM NO. 1 COMMUNICATIONS

Mr. Guntert stated that an email from Ms. Joy Rhea regarding Item 4 had been received and added to the agenda packet. He also mentioned a phone call from Scott Montgomery, resident on New Hampshire Street, with questions about Item 4 and parking, and seemed satisfied with Mr. Guntert's responses.

No board member disclosure of 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 May 2, 2013 meeting of the Board.

ACTION TAKEN

Motioned by Edie, seconded by Kimzey, to approve the May 2, 2013 Board of Zoning Appeals minutes.

Motion carried unanimously, 4-0.

BEGIN PUBLIC HEARING:

ITEM NO. 3 MAXIMUM DRIVEWAY WIDTH VARIANCE FOR A NEW RS5 ZONED DEVELOPMENT; WEST OF LANGSTON HUGHES ELEMENTARY SCHOOL

B-13-00223: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2011 edition. The request is for a variance to allow residential driveways in a new residential development area recently rezoned to RS5 (Single-Dwelling Residential) District to exceed the 12 feet maximum driveway width standard set forth in Section 20-908(b)(3) of the City Code. The request is being made for all of the RS5 zoned lots in Langston Heights Addition, a newly approved residential subdivision that has not yet been recorded at the office of the Douglas County Register of Deeds. Also included in the request is an unplatted parcel currently zoned UR (Urban Reserve) District which is located immediately to the south of the new Langston Heights Addition. The subject properties are generally located west and northwest of Langston Hughes Elementary School and east of K-10 Highway. Submitted by Tim Herndon, for RSR Holdings, LP. Alvamar, Inc. is the current property owner of record. **The legal description for the property in the appeal and the case file for the public hearing item are available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Mr. Guntert presented the item.

APPLICANT PRESENTATION

Mr. Tim Herndon, representing RSR Development and RSR Holdings LP, explained that the north portion of the development is a 30 acre subdivision that was approved in December 2012 and February 2013. He said the south portion of the development will be commercial, and was also the topic of a neighborhood meeting the previous night that indicated no objections from residents in the development area. Mr. Herndon said he agrees with the staff recommendation and said the variance is in keeping with the character of the neighborhood.

PUBLIC COMMENT

There was no public comment.

BOARD DISCUSSION

Perez made the observation that the entire neighborhood consists of two car garages which have more than a 12 feet wide driveway. The variance requested would not be out of character for the area.

Mahoney agreed.

Perez asked if it was premature to grant a variance on the southern portion of the request when the zoning for it had not yet been decided by the City.

Mahoney said he felt the variance is contingent upon the ultimate rezoning of the property as RS5 District.

Mr. Guntert stated that staff discussion concluded the variance could move forward with a condition that the RS5 rezoning is approved. The applicant also needed the early decision in order to know how to proceed with the project as a whole; the decision on the variance affects how the land will be subdivided.

Perez commented that most of the RS5 zoning that currently exists is in the downtown area and asked how anything could be developed in a district zoned as such.

Mr. Guntert said there are proposed parking text amendments that would provide alternate driveway width standards for properties zoned RS5. Those text amendments were just starting to work their way forward in the public hearing process and it would be some time before they could be adopted by the City.

ACTION TAKEN

Motioned by Perez, seconded by Edie, to approve the variance request for the existing and proposed RS5 zoned property lying generally to the west of Langston Hughes Elementary School, based on the recommendation and findings of fact in the staff report.

Motion carried unanimously, 4-0.

**ITEM NO. 4 **MAXIMUM SEATING CAPACITY, OFF-STREET PARKING SPACE AND
PARKING SETBACK VARIANCES; 1501 NEW HAMPSHIRE STREET****

B-13-00224: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2011 edition. The first request is to allow a neighborhood religious institution to be able to keep the existing 198 seating capacity in the assembly area at the former Lawrence Community Theater instead of a code allowed maximum 93 seat capacity in the sanctuary or general assembly/worship space required by Section 20-522(1)(i)(b) of the Development Code. The second request involves a variance from the code required number of off-street parking spaces and parking setbacks in Article 9, "Parking, Loading & Access", Sections 20-902, "Off-Street Parking Schedule A" and 20-908, "Location" in the Development Code. The subject property is located at 1501 New Hampshire Street. Submitted by Joy Rhea, Captured Landscapes, LLC with the permission of the property owner of record, Lawrence Community Theatre, Inc. **The legal description for the property in the appeal and the case file for the public hearing item are available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

STAFF PRESENTATION

Mr. Guntert presented the item.

Mahoney asked if the 50 required parking spaces was based on the seating capacity of 198.

Mr. Guntert said yes.

Mahoney asked if the building was approved for that seating capacity and whether there are fire code issues that should be addressed.

Mr. Guntert stated the seating capacity is for the current use as a theater; however, the applicant is looking into whether there may be building improvements that might need to be made as a result of the City's adoption of new building codes.

Mahoney asked if the original church at that location had the same seating capacity.

Mr. Guntert said probably so because the building had not been expanded since it was built.

APPLICANT PRESENTATION

Ms. Joy Rhea, presenting on behalf of the Community Theater and a board member of Vintage Church, said the church was currently using Liberty Memorial Central Middle School for their church services. This arrangement has been working well, but when the community theater decided to move to a new location the church leaders started to discuss the idea of moving to a facility of their own. With the theater being right next door to the school, it would work well for them.

She said they are asking to maintain the current seating capacity, and any fire code and site plan issues would be addressed as the project moved forward. She indicated an agreement with the school district would allow the church to use their parking when not in use and that the school district has provided confirmation of their support for the requested variances.

Perez asked if any church services would conflict with extracurricular activities at the school.

Ms. Rhea said that currently, the church is holding Sunday morning services only, which do not conflict with any school activities. She said any future church gatherings throughout the week would be planned around school activities, and additional parking could be provided by neighboring churches that already have parking agreements in place with the theater.

PUBLIC COMMENT

Ms. Lisa Harris, President of the Barker Neighborhood Association, said in general they support the variance request. She said there are concerns about the seating capacity and potential fire code issues as the previous church did not have the current stadium seating that now exists. Ms. Harris indicated that the parking agreement with the school district had yet to be completed but felt that it needed to be specific and address the concern of conflicting events requiring parking from both establishments. She suggested the variances be linked to the parking agreement and use of the building as opposed to staying with the property if it changes to another use in the future. She said she was not familiar with how agreements were made if not made with the city. Overall, the Barker Neighborhood Association would welcome the church as an addition to the neighborhood.

COMMISSION DISCUSSION

Mahoney agreed that the current seating could be a fire code issue, but said that it was not uncommon for entities to enter into parking agreements. He asked if there was an application the City provided in facilitating the agreement.

Mr. Guntert said shared use parking agreements are part of the site plan process, and could potentially be recorded for ease of access to the information.

Eddie said he liked that the shared use parking agreements were incorporated into the site plan process.

Perez asked if staff could ensure the parking agreement addressed conflicting events between the church and school.

Mahoney said he understands that the shared use parking agreement will address those issues and ultimately the school's events would take priority.

Perez asked who would approve the agreement.

Mr. Guntert stated that the agreement was strictly between the parties named in the agreement but it would be reviewed by city staff.

Eddie asked about the possibility of the church and school not coming to an agreement.

Mr. Guntert said the site plan could not be approved without the shared use parking agreement.

Mahoney mentioned that there aren't many Sunday morning school activities, and Wednesday church services would be later than most after school events. He also commented that he was pleased to see a vacant building being used.

Kimzey noted that any fire code concerns would be addressed in the city's review.

Mahoney agreed and felt that there were positive solutions to all concerns.

ACTION TAKEN

Motioned by Edie, seconded by Perez, to approve the variance at 1501 New Hampshire Street with the staff recommended conditions. Motion carried 4-0

ITEM NO. 5 MISCELLANEOUS

- a) Mr. Guntert mentioned that there were no applications submitted for the August 1st meeting but there is a sign code board matter that will be on the agenda.

ADJOURN 7:18pm

Official minutes are on file in the Planning Department office.