

BOARD OF ZONING APPEALS

Meeting Minutes of **July 10, 2008 –6:30 p.m.**

Members present: Kimball, Carpenter, Blaufuss, Lane, von Tersch, Bowman, Lowe
Staff present: Patterson, Miller

ITEM NO. 1 COMMUNICATIONS

Patterson stated communications were emailed to the Board of Zoning Appeals from Staff Attorney John Miller.

No Board member disclosure of ex parte contacts or abstentions from the discussion and vote on agenda item under consideration.

No agenda items deferred.

ITEM NO. 2: MINUTES

Mr. Miller requested one change to page six of the June 5, 2008 Board of Zoning Appeals minutes.

ACTION TAKEN

Motioned by Lowe, seconded by Carpenter to approve the June 5, 2008 Board of Zoning Appeals minutes with changes noted.

Motion carried, 7-0

ITEM NO. 3 2024 MASSACHUSETTS STREET [PGP]

B-06-09-08: A request for variances as provided in Section 20-1309 of the Land Development Code in the Code of the City of Lawrence, Kansas, 2008 edition. The request is to reduce the 25 feet off-street parking setback from a street right-of-way in a residentially zoned district as set forth in Section 20-908(b) in Article 9 of the City Code, to a minimum of 0 feet. The second request is to allow the drive and parking within the 25 feet setback to exceed the 12 feet maximum width allowed in Section 20-908(b)(3) of the City Code. The applicant is asking for a driveway width of 17 feet within the front setback area only. The property is legally described as Lot 7, Block 2, Haskell Place Addition in the City of Lawrence, Douglas County, Kansas. The subject property is located at 2024 Massachusetts Street. Submitted by Ed Harnett and Tyler G. Harnett, the property owners of record.

STAFF PRESENTATION

Mr. Paul Patterson presented the item.

Carpenter asked Staff if the width of the driveway had been measured.

Patterson stated the width of the driveway had not been measured.

APPLICANT PRESENTATION

Ed Harnett stated he purchased the home from his son four or five years ago. He said the driveway was not a problem until parking was allowed on Massachusetts street on Sundays. He said the area was one of highest traffic ticketed areas in the city because of the amount of speeding.

Tyler Harnett stated the main purpose of extending the driveway was for safety reasons. He said if there were more than two vehicles in the driveway the vehicles had to back onto Massachusetts street and drive around the block to allow one vehicle out of the driveway. He said there was river rock installed to allow a

parking spot in the area but the river rock was not successful. Mr. Harnett stated a larger driveway would be more effective.

Ed Harnett stated his son Tyler had room mates and the larger driveway would be more effective. He said it was very hazardous and inconvenient not to have a bigger driveway. He said the style of the home was more contemporary and was different from others on Massachusetts street. He said most of the neighbors had a single car driveway that continued to the back of the structure and widened into double car parking and a garage. Mr. Harnett stated he was not prepared financially to have concrete poured of that size. He said he did not want to make a sore spot in the neighborhood. Mr. Harnett stated he would like to be able to park two vehicles side by side. He said he would also like to repair the sidewalk and make the home look better and fit well with the neighborhood.

Lane asked the applicant if he had widened the entryway to the driveway and added the gravel or had it been widened prior to the purchase of the property.

Ed Harnett stated he had widened the driveway after he purchased the property. He said he had added river rock instead of gravel and it needed to have concrete poured.

Carpenter asked when the rock had been added to the driveway area.

Tyler Harnett stated the rock had been added a year and a half ago.

PUBLIC COMMENT

Mike Goans stated Staff had found three of the five criteria had not been met. He said there was nothing unique about this property within the neighborhood. He said the situation was an inconvenience but it was not a zoning hardship. Mr. Goans stated the area of the property was a premiere entrance to the City and it would affect the entire community if the variance was allowed.

Ryan Haack stated he owned the property at 2028 Massachusetts. He said if concrete was allowed to be poured as requested it could lead to eventually the applicant wanting to remove the tree and it would look like a parking lot instead of a driveway.

Ed Harnett stated there would be no plan to remove the tree in the future.

BOARD DISCUSSION

Kimball said there was enough room in the area to add an additional driveway in the back of the property rather than in front of the property.

von Tersch stated safety was a concern but there was another solution. She said the street scape should be preserved and the applicant could add an additional driveway in the back of the property.

Lane said the Land Development Code stated no driveway should exceed twelve feet in width. He said the Land Development Code prevented the applicant from widening the driveway beyond the rear of the structure and the solution would be to extend the driveway in the rear of the structure.

Carpenter asked Staff how the applicant was able to widen the driveway previously.

Patterson stated the applicant would have had to obtain a driveway curb cut permit and he did not know if the permit had been obtained.

Carpenter stated it appeared the gravel had been added after the Land Development Code changes took effect.

Patterson stated the standards for driveways did not allow gravel to be part of a driveway.

Carpenter stated there were gravel driveways throughout the neighborhood that were installed prior to the Land Development Code and were permitted as long as they were not paved over.

ACTION TAKEN

Motioned by Lane, seconded by Blaufuss, to deny the variance for 2024 Massachusetts street based upon Staff's recommendation and based on the findings of fact presented in the body of the staff report.

Motion carried unanimously, 7-0

ITEM NO. 4 MISCELLANEOUS

John Miller, Staff Attorney stated at the June 5th Board of Zoning Appeals meeting a hearing request was considered for an appeal of the administrative decision on the University Park Plan Residential Development. He said the Board of Zoning Appeals had a hearing and made a decision subject to the findings of facts. Mr. Miller stated Staff had prepared a draft of findings of facts. He asked the Board of Zoning Appeals to approve the draft findings of fact as prepared and make any comments or changes and Staff would make the suggested changes. Mr. Miller asked if there were suggestions of changes that the findings of fact be approved at the current Board of Zoning Appeals meeting.

Lane asked if there were modifications suggested by the Board of Zoning Appeals.

Mr. Miller stated he had not received suggested changes from the Board of Zoning Appeals. He said if the draft findings of facts were acceptable the draft would be filed with the City Clerk. He said notice would be sent to the applicant and the thirty day appeal process would begin with the District Court. Mr. Miller stated the applicant or any other member of the public could appeal the decision of the Board of Zoning Appeals.

ACTION TAKEN

Motioned by von Tersch, seconded by Carpenter, to approve the procedural findings as submitted by Staff. Mr. Miller stated the University Park project and the Preliminary Development Plan had been approved by the City Commission on June 24th, 2008 with a unanimous vote of 5-0.

Motion carried unanimously, 7-0

Mr. Miller stated he had copies of the procedural findings for the Board of Zoning Appeals to sign.

Patterson stated there was a variance request in August for a Dunkin Donuts at the north west corner of Michigan and west 6th street.

Lane asked if the variance was different than the one that was previously granted. He asked if the variance went with the property.

Patterson stated there were modifications made to the variance request.

ACTION TAKEN

Motioned by Bowman, seconded by Carpenter, to adjourn the Board of Zoning Appeals meeting.

Motion carried unanimously, 7-0

ADJOURN – 7:20p.m.

Official minutes are on file in the Planning Department office.

