

WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS

Minutes

March 19, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 19, 2015 at 3:00 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent; Vice Chair; John Dailey; David Dennis; David Foster; Bill Johnson; Don Klausmeyer; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. Matt Goolsby; Joe Johnson; John McKay Jr.; Bill Ramsey and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney and Robert Parnacott, Assistant County Counselor.

1. Approval of the minutes of the February 19, 2015 and March 5, 2015 meeting.

MOTION: To approve the minutes of the February 19, 2015 meeting.

DENNIS moved, **WARREN** seconded the motion, and it carried (9-0).

MOTION: To approve the minutes of the March 5, 2015 meeting.

WARREN moved, **KLAUSMEYER** seconded the motion, and it carried (8-0-1).
NEUGENT – Abstained.

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2. **BZA2015-00005** - City request for a variance to reduce parking spaces from 53 to 14 generally located east of Vine Avenue at 1710 West Douglas on property described as:

Lots 23, 24, 25, 26 and 27, together with the East 60 feet of lots 31 and 32, all in Block 6, Junction Town Co. Addition to Wichita, Sedgwick County, Kansas.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to reduce the Zoning Code parking requirement from 53 to 14 spaces (74%). The Zoning Code allows staff-approved administrative adjustments to parking standards of up to 25% for site redevelopment, however, this parking reduction request exceeds that percentage. The application area includes two downtown commercial row structures and the associate parking area between the buildings and a small lot to the north, across the alley. The applicant is renovating the existing buildings into a new church. The subsequent new seating capacity for the church requires parking for 53 spaces. The substantial renovation of the building requires the property owner to come into code compliance with the number of parking spaces, or seek this variance.

The church has rented out the west building for six years and last year purchased the current building and the building to the east. The church plans to expand their worshiping space for their growing church. The church has already received permission to use parking from adjacent businesses. Since the parking is only needed on Sunday mornings, the adjacent parking will be available, due to the other businesses not being open during that time.

Property north of this site is zoned SF-5 and is developed with single-family residences. Property south of the site is zoned LC and GC and is developed with commercial retail. Also property to the east and west is zoned GC and developed with commercial retail as well. Douglass is a paved four-lane arterial street at this location with a 100-foot right-of-way and on-street parking.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Downtown Row Store
SOUTH	LC and GC	Downtown Row Store
EAST	GC	Downtown Row Store
WEST	GC	Downtown Row Store

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch the building on this site does not require the code specified number of parking spaces on an everyday basis. When the parking is needed, the church has made agreements with surrounding property owners to use their parking on Sundays, when the other businesses are closed.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a parking reduction would not adversely affect the rights of adjacent property owners, as adequate parking exists on the site and adjacent sites. On-street parking will also accommodate parking overflow from this and neighboring sites.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant, as this site does not have enough physical space available to meet current parking standards. Without a parking variance, this site could not renovate as a church.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a parking reduction will not adversely affect the public interest, as renovation of this building is in the public interest, and this church can function without the number of parking spaces required by the current code by using adjacent parking that is available.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a parking reduction does not oppose the general spirit and intent of the Zoning Code, as existing parking is adequate to meet this site's parking needs.

RECOMMENDATION: It is staff's opinion that the requested variance of the Zoning Code to reduce the parking requirement from 53 to 14 spaces is appropriate for this site. Should the Board determine that the criteria necessary to grant a variance exist, then the Secretary recommends that the variance be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to renovate the site.
3. Parking spaces on the site shall be paved and marked in accordance with City standards.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

DENNIS commented that both applications to be heard at today's meeting were requesting a large reduction in the required number of parking spaces. He asked where the patrons of these businesses are going to park. He asked how this is fair to the businesses that are in close proximity to these locations.

SLOCUM commented that the church has agreements with surrounding property owners to use parking on Sundays when the surrounding business are not open. He said as far as the bed and breakfast is concerned, which has five rooms at each home, he couldn't figure out why 52 spaces were required. He said hotels and motels require one space per room. He said he feels 26 spaces should be more than enough to cover parking in addition to street parking near the location.

DENNIS said he is not going to vote to approve either case with no written agreements from surrounding property owners.

SLOCUM said he doesn't have any written agreements on either case.

DAILEY asked what happens if a business withdraws their permission for parking.

SLOCUM said a clause could be added as a condition of approval.

DAILEY asked what happens if the use changes.

SLOCUM explained that any change in use will require another variance. He briefly reviewed the history of the location stating that there was a different use previous to this request.

DAILEY clarified so the Board could put a condition if the parking permissions were withdrawn or the business changes to a different use, the variance would be null and void.

SLOCUM said that can be added as a condition on both cases.

MILLER STEVENS suggested that each case be discussed separately.

FOSTER asked that both cases be heard.

DERRICK SLOCUM, Planning Staff presented the Secretary's Report.

MILLER STEVENS clarified that the church has no ministries such as a food pantry, etc. so they would only need parking on Sunday.

SLOCUM said that is correct.

DAILEY asked where the other parking lots they will be using are located.

SLOCUM indicated there was one across the street in addition to several more within 600 feet of the site.

DAILEY said he would like to see those agreements in writing.

SLOCUM said the Board can make that a condition of approval.

MILLER said the applicant had parking agreements with the property owners to the north and west which the City requires before issuing building permits; however, when those property owners found out that the City wanted a "long term" lease agreement, they backed out. He said after review by Public Works and Fire it was determined that the location did not need as many parking spaces as initially thought. He said if they can get the variance, they may not need any additional spaces.

B. JOHNSON said he doesn't believe anyone who is willing to invest in a business will succeed if they don't have those parking agreements in writing.

DENNIS reiterated his previous concerns. He added that the Board has no guarantee that the spaces will only be needed on Sunday. He said there is no evidence that they have agreements with any of the surrounding property owners. He suggested deferring the case until staff can provide adequate answers to the Board's questions. He said right now he will vote to deny the application.

NUEGENT asked if the applicant or agent was present to discuss the application. No one responded to her query.

MOTION: To defer the application for one month.

DENNIS moved, **DAILEY** seconded the motion.

SUBSTITUTE MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **WARREN** seconded the motion.

DAILEY clarified that if the property changes hands, the parking reverts back and the variance is null and void.

SLOCUM said the variance does not “revert back,” back but if there is a different use on the property a different parking requirement could come into play and the new owners would have to apply for another variance.

KLAUSMEYER clarified that there had to be an agreement with surrounding property owners for parking before a permit can be issued.

MILLER said the applicant is only required to have 14 spaces at this time which would not require them to get parking on other property.

RICHARDSON clarified that if the Board denies the variance request to reduce the parking to 14 spaces, the applicant will need to find 53 spaces (what is required by Code) on other properties.

SLOCUM responded that is correct. He said these type of variances occur up and down Douglas and mentioned the Pizza Hut near Sycamore that received a variance for zero (0) parking spaces. He said in many of the older commercial areas there is a lack of parking.

BJ SHEU, 3000 STONEYBROOK, ROSE HILL, KANSAS said she wanted to point out that any neighbors have the opportunity to come to the Board Meeting and protest if they are not in favor of the proposed parking reduction.

The **SUBSTITUTE MOTION** carried (7-2). **DAILEY** and **DENNIS** – No.

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3. **BZA2015-00006** - City request for a variance to reduce parking on properties located on the northwest corner of 10th Street North and Topeka Avenue on property described as:

Lot 1, Block A, Frazey Addition to Wichita, Sedgwick County, Kansas.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to reduce the Zoning Code parking requirement from 52 to 26 spaces (50%). The Zoning Code allows staff-approved administrative adjustments to parking standards of up to 25%; this parking reduction request exceeds that percentage. The applicant recently filed a zone change (ZON2015-00006) for LC Limited Commercial from NO Neighborhood on Lot 2 of this two lot subject site. The rezone will make both lots in the Frazey Addition LC for the proposed Bed and Breakfast use for the existing structures on the site. The required parking for the Bed and Breakfast use on this site would be 52 parking spaces. The site is limited in size and with the configuration of the site and placement of the existing structures, only 26 spaces can be placed on the application area.

Background on this site show there were two previous variance requests for this site. BZA06-83 was approved for reducing the parking requirement from 39 spaces to 23 spaces and elimination of the screening requirement. BZA40-83 was approved for reducing the parking requirement from 44 spaces to 34 spaces and elimination of screening requirement. All of these variance requests, including the current request, are due to the changing uses and the size of the subject site.

Property north of this site is zoned B Multi-family Residential and is developed with a single-family residence. Property south of the site is zoned NO Neighborhood Office and is developed with a single-family residence. Property to the east of the site is zoned B and is developed with a surgical/medical and dental clinic. Property west of the site is zoned LC and is developed with a fast food restaurant and hotel/motel. North Topeka Avenue is a two-lane, paved, one-way local road with 80 feet of right-of-way and on-street parking. East 10th Street North is a two-lane, paved, local road with 40 feet of right-of-way and no on-street parking.

ADJACENT ZONING AND LAND USE:

NORTH	B	Single-family Residence
SOUTH	NO	Single-family Residence
EAST	B	Surgical/Medical/Dental Clinic
WEST	LC	Fast Food Restaurant/Hotel-Motel

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch as it is located in a historically designated area and the owner is attempting to retain the residential character of the structures and eliminate any possible parking in the front yards, that is permitted by the zoning code.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a parking reduction would not adversely affect the rights of adjacent property owners inasmuch as the present uses surrounding the subject site have enough parking for their uses and the proposed use for the subject site should not have overflow parking needs that affects the surrounding properties.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant inasmuch as the applicant would be unable to remodel the structures and preserve the character of the neighborhood as desired for the proposed Bed and Breakfast. If absolute adherence to the parking requirement was required, then parking would be located all through the site, removing the residential feel of the area and even that would most likely fall below the spaces required.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a parking reduction will not adversely affect the public interest inasmuch as the reduction in actual number of parking spaces being provided will be insignificant as compared to the retention of the residential character of the area.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a parking reduction does not oppose the general spirit and intent of the Zoning Code inasmuch as the remodeling of the existing residential structures for a bed and breakfast would not demand the parking required for the proposed use.

RECOMMENDATION: It is staff's opinion that the requested variance of the Zoning Code to reduce the parking requirement from 52 to 26 spaces is appropriate for this site. Should the Board determine that the criteria necessary to grant a variance exist, then the Secretary recommends that the variance be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to renovate the site, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.
3. Parking spaces on the site shall be paved and marked in accordance with City standards.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

DERRICK SLOCUM, Planning Staff presented the Secretary's Report.

BJ SHEU, 3000 STONEYBROOK, ROSE HILL, KANSAS commented that the Staff Report was a bit vague. She pointed out where the café and Bed and Breakfast were going to be located. She said use of the parking lot will be for breakfast and lunch for the café and the B&B in the evening. She said they don't believe there will be congestion. She added that the neighbors are in favor of the development because both of the buildings are on the National Historic Register and have been vacant for a long time. She said if a new use is not found, the buildings will continue to be vacant and deteriorate. She said the architect is shooting for 60 seats in the restaurant (originally it was 100 seats, but that is not going to happen). She said she believes the Code calls for one parking space for every three seats in the restaurant. She said they would like approval to move forward with the project, obtain their building permit and get started with the remodeling. She said the location is surrounded by a sea of parking spaces, but she does not believe her customers are going to use them.

DENNIS asked the applicant to estimate how many people are going to be using the parking lot per day.

SHEU said it was difficult to answer that question because people came in at different times during the day. She said they currently have 26 parking spaces on site. She said each car can bring in up to four customers.

DENNIS asked if she anticipates her customers using all the parking spaces on site and having to find other parking spaces.

SHEU said no because this is a unique situation and many of the customers will walk to the restaurant.

MOTION: To approve subject to staff recommendation.

RICHARDSON moved, **KLAUSMEYER** seconded the motion, and it carried (9-0).

The Wichita-Sedgwick County Board of Zoning Appeals adjourned at 4:05 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Board of Zoning Appeals, held on _____, is a true and correct copy of the minutes officially approved by such Board.

Given under my hand and official seal this _____ day of _____,
2015.

John L. Schlegel, Secretary
Wichita-Sedgwick County Board of
Zoning Appeals