

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, June, 13, 2012
7:00 PM

MEMBERS PRESENT: Joe Aistrup, Chairperson; Connie Hamilton; and Bruce Kent

MEMBERS ABSENT: Harry Hardy, Vice Chairperson; and Catherine Lavis

STAFF PRESENT: Chad Bunger, CFM, AICP, Planner II; and Jose Abraham, Planning Intern

CONSIDER THE MINUTES OF THE MAY, 9, 2012, BOARD OF ZONING APPEALS MEETING.

Kent moved to approve the May, 9, 2012 minutes, which was seconded by Hamilton and passed with a vote of 3-0.

TABLE A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE YARD SETBACK TO SIX (6) FEET ALONG THE EAST AND WEST PROPERTY LINES FOR A PROPOSED BUILDING ADDITION TO AN EXISTING HOUSE AT 1326 PIERRE STREET IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT (APPLICANT/OWNER: PAXTON AND JUDY LEMOINE).

Hamilton moved to table the item, which was seconded by Kent and passed with a vote of 3-0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE MODIFICATION OF A DRIVEWAY AND OFF-STREET PARKING AREA FOR A LEGALLY NONCONFORMING TWO-FAMILY DWELLING AT 530 BERTRAND STREET IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT (APPLICANT/OWNER: RICH AND DARNELL VARGO).

Bunger presented the staff report recommending approval of the Conditional Use with 3 conditions of approval.

Kent asked if the people who attended the neighborhood meeting oppose the proposed modification of the driveway, to which Bunger clarified that they were all in favor of the proposed site plan.

Hamilton enquired if the right of way was vacated and Bunger said it was. Hamilton suggested amending the staff report to include that the right of way has been vacated, so as to avoid the need for a condition of approval to vacate the right of way.

Noticing a photograph that showed the right of way to be part concrete and part gravel, Aistrup enquired if it had been that way for a while to which Bunger said yes.

With no further questions from the Board for City staff, Aistrup opened the public hearing.

Richard Vargo, the property owner came forward to answer any questions regarding the proposal. Hamilton asked if neighbors who did not attend the meeting indicated any concerns about the project and Vargo stated that the only concern that everyone had was cutting back into the hill. Hamilton also enquired about Vargo's plan for the part of the hill that would be cut. Vargo stated that he will build a retaining wall that would be approximately five (5) feet.

Susan Schoneweis, 609, Bertrand Street supported the Conditional Use and said that she; along with the other neighbors she had talked find the proposal to be a sensible idea.

With no other comments, Aistrup closed the public comment section for Board discussion.

The Board made the following findings of fact for the Conditional Use at 530 Bertrand Street.

PRESENT USE: Legally nonconforming two-family dwelling currently in the process of being reconstructed following a house fire.

1. **SIZE OF ZONING LOT:** The current size of the lot is 50 feet by 150 feet, with a total area of 7,500 square feet. The applicant has requested the City to vacate the N. 6th Street right-of-way (ROW). With the vacation of N. 6th Street, the lot area will be 80 feet wide by 150 feet deep, for a total area of 12,000 square feet. The applicant wants to acquire the ROW so that he can alter the approved site plan to avoid cutting further into

hill side on the subject site. The site plan approved for the building permit is not dependent on the vacation of the ROW. The subject site can be constructed as proposed with the original site plan, although the hill side would need to be further excavated.

The ROW vacation eliminates the driveway width restriction of the TNO District on the west side of the building. This allows for a more narrow off-street parking area compared to the approved site plan with the building permit. The original site plan has a driveway and parking area that is thirty-seven (37) feet width. The proposed site plan has a ten (10) foot driveway that will lead from Bertrand Street to a parking area to the north of the structure. The proposed parking area will be twenty (20) foot wide and will stack the four (4) parking spaces. The alteration in the parking area width will reduce the amount of the hill that would need to be removed to accommodate the parking area.

2. (A) **EITHER, THE CURRENT EXISTING USE HAS NO SIGNIFICANT ADVERSE IMPACT ON EITHER THE SURROUNDING NEIGHBORHOOD OR PUBLIC, HEALTH, SAFETY OR GENERAL WELFARE AND THE PROPOSAL WILL NOT WORSEN THE IMPACT:** The opinion of a legal nonconforming use for the subject site (*see attached*) shows that the subject site was used as a two-family dwelling since at least 1962. No complaints are on record with the Community Development Department on the use of the subject site.

As part of the application process, the applicant held a neighborhood meeting on April 19th to inform adjacent property owners of the proposed Conditional Use application. Four (4) people attended the meeting. Attached is the meeting summary provided by the applicant. All the people in attendance supported the Conditional Use request because it reduced the need for cutting into the hill side.

The proposal should not adversely impact the general health, safety or general welfare and should not worsen the impact of the legally nonconforming use on the general public or surrounding neighbors.

- (B) **OR, THE CURRENT EXISTING USE HAS A SIGNIFICANT ADVERSE IMPACT AND GRANTING THE PROPOSAL WILL MORE LIKELY REDUCE OR ELIMINATE THE IMPACT COMPARED TO A DENIAL OF THE REQUEST:** Not applicable
3. **COMPLIANCE WITH ALL APPLICABLE REGULATIONS, EXCEPT EXISTING LEGALLY NONCONFORMING CONDITIONS AND ANY NECESSARY EXCEPTION OF THE REGULATIONS:** The building plans and site plan submitted with the building permit conform to all applicable regulations of the Zoning Regulations. The size of the structure and number of units and bedrooms conforms to the requirements of Section 8-501 of the Zoning Regulations.
4. **THE EXISTING USE WILL CONTINUE IN SIMILAR FORM, OR IN A FORM THAT IS ALTERED ONLY TO MAKE THE PROPOSED USE MORE**

MODERN OR EFFICIENT: The previous structure was significantly damaged by a house fire and was determined to be a total loss. City Administration determined that the Section 8-405(E) would permit the owner of the substantially damaged legally nonconforming two-family dwelling to be completely reconstructed as long as the number of bedrooms, kitchens, and total square footage of living space was not increased above what was given an opinion by the City and that the new structure conformed with the compatibility standards of the TNO, Traditional Neighborhood Overlay District.

The building plans and site plan conform to the TNO District. The existing use will continue in similar form when compared to use, size of building and number of bedrooms and kitchens. The proposed site plan will be a more efficient use of the subject site in that it limits the amount of the hill side on the subject site that would be required to be excavated to provide enough area for the required parking lot.

Kent moved to approve the Conditional Use to allow for the modification of a driveway and off-street parking area for a legally nonconforming two-family dwelling at 530 Bertrand Street in the R-1/TNO, single-family residential district and traditional neighborhood overlay district, with the following conditions:

1. The Conditional Use Permit shall only apply to the existing concrete ready-mix plant and the proposed expansion on the site as outlined in the application documents and site plan.
2. Future expansions shall require a new Conditional Use Permit.
3. The Exception request to reduce the front yard setback along S. 4th Street for the existing off-street parking shall be approved.
4. All applicable permits shall be obtained.

Hamilton seconded the motion based on a modified staff report indicating that the right of way has been vacated, which passed by a vote of 3-0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING HEALTH AND FITNESS CLUB AT 3615 CLAFLIN ROAD IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT (APPLICANT: BODY FIRST FITNESS CLUB – DOUG SELLERS OWNER: DOUG SELLERS, CONSTANCE BRIGGS, STEPHEN PARISH).

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE INCREASE IN THE MAXIMUM STRUCTURE HEIGHT FROM THIRTY-FIVE (35) FEET TO THIRTY-SEVEN (37) FEET FOR AN EXISTING HEALTH AND FITNESS

CLUB AT 3615 CLAFLIN ROAD IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT (APPLICANT: BODY FIRST FITNESS CLUB – DOUG SELLERS OWNER: DOUG SELLERS, CONSTANCE BRIGGS, STEPHEN PARISH).

Bunger presented the staff reports for both the items together. The City Administration recommended approval of both items, with 4 specific conditions of approval for the Conditional Use and 1 specific condition for the Exception.

In response to Aistrup's query concerning the proposed parking, Bunger clarified that the proposed parking would be paved.

Kent enquired if the traffic generated by the project would have an impact on the neighboring Elementary School to which Bunger clarified that Hudson Street has been a collector street and an additional 14 cars would not have any adverse impact.

Hamilton asked if the operating hours of the facility listed in the staff report are the existing normal working hours with no change. Bunger stated that according to the application there would be no change in the working hours and that the therapy sessions would happen only during normal business hours.

With no further questions, Aistrup opened the public hearing.

Judd Anis, owner of the property at 1425 Hudson Street, discussed his concerns about the proposed additional parking spaces impacting the view from their property. Anis asked if the restrictive covenant that was applied when the facility was first built was still in place and wanted to know if the covenant was considered for the proposed project. According to Anis, the existing parking space is visually shielded by a berm which is not the case for the proposed additional parking. Anis asked, if the applicant would consider some kind of landscaping that may shield the parking spaces in order to mitigate the visual damage done by the proposed additional parking spaces. Anis was also concerned if there were any other site additions such as lighting that might visually affect the surrounding properties.

Kent asked if Anis was opposing the project as a whole or just concerned about some elements of the project. Anis stated that he was primarily concerned about the additional parking spaces, without any shield would be an eye sore for the neighborhood.

Aistrup inquired if Judd Anis lived at 1425 Hudson Avenue currently, to which Judd Anis answered no and explained that he has plans to live there at some point in future.

Hamilton enquired if Anis was concerned about the parking spaces in the Elementary School as well and Anis stated that those parking spaces are largely shielded by pine trees along the Racket Club road.

George Lookhart, 1319 Hudson Avenue, expressed his concerns about chances of other non-residential projects being approved within the neighborhood in future. Lookhart clarified that he is not against the project and asked “what is the slope we are moving toward to get away from the residential area?” Hamilton commented that it was a valid concern but also suggested that the proposed project would not impact the neighborhood in any way.

John Thurston, 1217 Windsong Lane, discussed his concerns about the proposed project which generally related to trees being cut, additional screening and planting, architectural appearance of the proposed addition, and drainage plans. Thurston stated that since trees are important to the neighborhood in terms of noise absorption and environmental benefits, it would be wise to replace trees that are cut in the construction process. Thurston also stated that it would be good to consider provisions for additional planting and screening to reduce impact on neighboring properties. Thurston emphasized the need for a detailed drainage plan before the approval of the Conditional Use as it might prove to be a crucial issue within his neighborhood. Thurston also added that none of his concerns were to be understood as an indication that the facility is causing problems for the neighborhood and also that the owner has been a good neighbor and has always tried to be neighborhood-friendly.

At this point, Bunger displayed and discussed the proposed elevations of the project. He also clarified that given the scale of the project, presently there is no requirement of a drainage report but shall require one during the building permit application process.

Doug Seller, the owner of Body First Fitness Club came forward to answer any question related to the proposed project. Aistrup asked Seller if he would consider adding screening and planting as suggested by the neighbors present in the meeting. Seller stated that he would consider the request. Hamilton and Seller generally discussed about the proposed additional parking, the berms, and the trees on the site. Seller clarified that the proposed parking addition

is located in such a way to ensure least damage to the site and that the berms add visual quality to the property and shall remain so. In terms of the cutting of the trees, Seller stated that the trees that would be cut are already a threat to the property as branches fall out frequently and also that he is willing to replace trees that would be cut. In terms of external on-site lighting, Seller stated that there are no proposed changes.

Hearing no other comments, Aistrup closed the public comment section for Board discussion.

Kent and Hamilton appreciated the efforts of both the owner and the neighbors in mutually taking interest in valuing and maintaining the neighborhood.

The Board made the following findings of fact for the Conditional Use at 3615 Claflin Road.

PRESENT USE: Body First Tennis and Fitness Club

Compliance with all applicable regulations: Other than building height issue of the existing structure, the subject site is in conformance with all applicable regulations.

Probable effect on adjacent properties: The subject site and all properties to the west of Hudson Avenue are zoned R, Single-Family Residential District. To the east of Hudson Avenue, properties are zoned R-1, Single-Family Residential District. The area consists of mostly owner-occupied, single-family homes. To the north is the Amanda Arnold Elementary School. To the west of Hudson Avenue are primarily large lot single-family homes.

The existing use and proposed building addition should not adversely impact adjacent properties. The health and fitness club has been in its current configuration since 1978, prior to being annexed into the City. Most properties in the area were developed at the same time or earlier. The Community Development Department does not have any complaints on record regarding the existing use. The hours of operation of the facility is generally 5:30 am to 11:00 pm on Monday – Thursday, 5:30 am – 10:00 pm on Friday, 8:00 am – 6:00 pm on Saturdays and 9:00 am – 6:00 pm on Sundays.

An increase in light, traffic and noise is anticipated, however, the increase is expected to be minor. The addition will be located as close as 115 feet from the nearest properties to the west. The distance between the building addition and the nearest neighbor should mitigate any impacts on the adjacent properties.

The building addition will house seven (7) massage therapy rooms. The amount of traffic generated by this addition and use should not be significant. The applicant documents states that ten (10) employees will share the seven (7) rooms. If all rooms are fully used, the addition of the massage therapy spaces would only generate roughly fourteen (14) additional vehicles to the site for clients per hour. This is most likely the extreme scenario, where each

room is doubled booked.

As part of the application process, the applicant held a neighborhood meeting on April 23, 2012 at the Body First Tennis and Fitness Club. According to the meeting summary, three (3) people attended the meeting. Two (2) of the attendees said they were “perfectly fine with” the proposal. One attendee’s concern was “how the new addition will look at whether it would match the existing building.”

Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The existing building is roughly 27,000 square feet in area and is located towards the southern portion of the subject site. The building is situated approximately fifty (50) feet from the east property line, sixty-five (65) feet from the south property line, 180 feet from the west property line and almost 300 feet from the north property line. The tallest point of the existing structure is thirty-six (36) feet in height. Three (3) outdoor tennis courts are situated at the southwest corner of the subject site, approximately zero (0) feet from the west and southern property lines.

The proposed addition will be 1,455 square feet in area and be situated to the west of the existing building. The addition will be almost fourteen (14) feet in height and be as close as 115 feet to the nearest property line.

- 2. Landscaping and screening:** The subject site has significant areas devoted to open landscape space with mature evergreen and deciduous trees.

Adequate provision of parking and loading: The applicant is proposing to re-strip the existing off-street parking lot and provide additional paving to provide a total of forty-nine (49) spaces. Article VII, Off-Street Parking and Loading does not specifically state what the parking requirements would be for a health and fitness club. City Administration used the following to determine the minimum required number of off-street parking:

- 4 spaces per court (7 total indoor/outdoor tennis courts) = 28 spaces
- 1 space per 300 square feet of office space = 1 space
- 1 space per 3 persons of the design occupancy of the exercise area = 15 spaces
- 5.5 spaces per 100 square feet of personal service areas (massage/personal training areas) = 5 spaces.

With the proposed parking addition and changes to the existing parking lot layout, the minimal requirements are met.

Adequate provision of drainage, and other public utilities: Adequate utilities are provided. The subject site naturally drains to the west towards Little Kitten Creek. Adequate drainage appears to be provided. A drainage plan for the building addition and new parking areas is required. City Administration will review the drainage plan during the building permit process to ensure that it is adequate.

Adequate provision of access: Access to the subject site is provided off of Hudson Avenue via a long driveway to the off-street parking lot. During previous discussions with the applicant of development of the subject site; the topic of shared access with the elementary school to the north was discussed.

Kent moved to approve a conditional use to allow for the expansion of an existing health and fitness club at 3615 Claflin Road in the R, Single-Family Residential District with the following conditions:

1. The Conditional Use Permit shall only apply to the existing concrete ready-mix plant and the proposed expansion on the site as outlined in the application documents and site plan.
2. Future expansions shall require a new Conditional Use Permit.
3. The Exception request to reduce the front yard setback along S. 4th Street for the existing off-street parking shall be approved.
4. All applicable permits shall be obtained.
5. Providing provisions for additional on-site Vegetative screening.

Hamilton seconded the motion, which passed by a vote of 3-0.

The Board made the following findings of fact for the Exception at 3615 Claflin Road.

PRESENT USE: Body First Tennis and Fitness Club

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Other than building height issue of the existing structure, the subject site is in conformance with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and all properties to the west of Hudson Avenue are zoned R, Single-Family Residential District. To the east of Hudson Avenue, properties are zoned R-1, Single-Family Residential District. The area consists of mostly owner-occupied, single-family homes. To the north is the Amanda Arnold Elementary School. To the west of Hudson Avenue are primarily large lot single-family homes.

The existing building does not adversely impact adjacent properties. The health and fitness club has been in use in its current configuration since at 1978, prior to being annexed into the City in 1979. Most properties in the area were developed at the same time or earlier. The Community Development Department does not have any complaints on record regarding the existing use. The proposed building addition will be one-story and comply with the building height requirements of the Zoning Regulations.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No impacts on the public health and safety are shown from the height of the existing building. The building was constructed in 1978. The unique configuration of the unplatted tract places the building approximately 300 feet from the right-of-way of Hudson Avenue. The building cannot be clearly seen by the public from Hudson Avenue.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The Exception request is to bring the subject site into conformance with the Zoning Regulations. This is in part due to the proposed building addition and the needed Conditional Use request. The existing building is approximately thirty-seven (37) feet tall, which would require that the building have two (2) feet of the roof's height removed to strictly meet the Zoning Regulations.

Considering that the structure has been in this condition since 1978, prior to the subject site being annexed into the City and that physical impracticality of removing the needed two (2) feet; The strict application of the Zoning Regulations seem to be unreasonable.

Hamilton moved to approve an Exception to allow for the increase in the maximum structure height from thirty-five (35) feet to thirty-seven (37) feet for an existing health and fitness club in the R, Single-Family Residential District with the following condition:

1. The Exception shall be only for the existing structure as outlined in the application documents.

Kent seconded the motion, which passed by a vote of 3-0.

A PUBLIC HEARING TO CONSIDER A VARIANCE TO ALLOW OFF-STREET PARKING BETWEEN THE FRONT LOT LINE AND A LINE PARALLEL TO THE FRONT LOT LINE DRAWN THROUGH A POINT WHICH IS ON THE SIDE OF THE PRINCIPAL STRUCTURE FURTHEST FROM THE FRONT LOT LINE; AND TO REDUCE THE MINIMUM LANDSCAPED OPEN AREA REQUIRED IN THE FRONT YARD AREA, AS DESCRIBED ABOVE, FROM SEVENTY-FIVE PERCENT (75%) TO THIRTY-FIVE PERCENT (35%) ALONG TODD ROAD, ALL FOR A PROPOSED EXPANSION OF AN EXISTING PAVED OFF-STREET PARKING LOT FOR AN EXISTING SORORITY AT 1835 TODD ROAD LOCATED IN THE R-3/UO, MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND UNIVERSITY OVERLAY DISTRICT. (APPLICANT/OWNER: KANSAS STATE ALPHA CHI OMEGA ALUMNAE ASSOCIATION – VIRGINIA J. JOYCE, TREASURER)

Bunger presented the staff report recommending approval of the Variance with 3 conditions of approval.

Kent asked if there were any known complaints or concerns regarding the proposal. Bunger stated that no complaints were forwarded to him.

Hamilton generally discussed the project for better understanding and stated her concern about the expanded use of the driveway for parking and suggested a condition of approval that the site shall be developed, used, and maintained as shown on the application be put forth to avoid this issue.

Aistrup opened the public hearing.

Mike Hoover, the contractor for the project generally explained the project and the manner in which the proposed intervention achieves efficient parking.

Hearing no other comments, Aistrup closed the public comment section for Board discussion.

The Board made the following findings of fact for the Conditional Use at 3615 Claflin Road.

PRESENT USE: Alpha Chi Omega Sorority House

CONDITIONS UNIQUE TO THE PROPERTY: The unique conditions of the subject site is the use as a sorority house, that the current conditions are legally nonconforming and the current character of the surrounding area.

The use of the subject site as Greek housing is unique to the R-3, Multiple-Family Residential District and the UO, University Overlay District. Although there are several fraternity and sorority houses associated with Kansas State University that are within the general vicinity of the subject site, the use is unique in terms of its characteristics. This sorority house has the ability to house sixty-six (66) women, with several members not living in the house. Because of this large number of residents and guests to the house, off-street parking is at a premium. The proposal is to add five (5) more spaces to provide additional parking.

The existing condition of the subject site is legally nonconforming to the current regulations. The Greek house was constructed in 1959, with building additions completed in 1975. At the time that the existing conditions were established, the Zoning Regulations only restricted the location of off-street parking to the front yard setback, which would be twenty-five (25) feet for the subject site at that time. There were no requirements on the minimum amount of

landscape area in the front yard. The existing conditions conformed to the requirements at that time. The current regulations were adopted in 1996, which restricts off-street parking behind a point on the side of the structure that is about eighty-three (83) feet from the front property line and require that that area, including the house, be at least seventy-five (75%) percent landscape space.

The surrounding area is a mix of single-family houses, multiple-family dwellings and Greek housing that are all located in proximity to the Kansas State University campus. Several of the multiple-family dwellings and the Greek houses have off-street parking in front building, which does not conform to the current regulations. It is apparent that the area of the community was developed prior to the establishment of the current regulations. Parking in front of the building is not out of character to the surrounding area along Todd Road and Claflin Road.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and adjacent properties to the east, west and south are zoned R-3/UO, Multiple-Family Residential District and University Overlay District. To the north are properties zoned R-1, Single-Family Residential District. There are three (3) properties north of Todd Road, near Denison Avenue that are zoned R-2, Two-Family Residential District, one (1) of which is zoned UO District. The commercial development at the corner of Claflin Road and Denison Avenue is zoned Commercial Planned Unit Development. The area is a mix of rental single-family and two-family dwellings, multiple-family dwellings and Greek housing. There is religious center to the south of the subject site along Claflin Road.

The applicant's proposal to install additional paving to provide more parking in an existing driveway should not adversely impact the adjacent properties. Off-street parking is already present in the front yard area as defined by the Zoning Regulations. Approximately eighteen (18) parking spaces to the west of the building are currently in this area. In addition to the established parking, the circle driveway in front of the house provides an area to park vehicles, although this area is not striped for parking. The defined front yard area is currently fifty-eight (58%) percent paving and the structure. The proposed addition would add approximately 800 square feet of paving to the north and south of the circle driveway to add five (5) parking spaces, one (1) of which would be a handicap accessible space.

A number of the Greek houses and multiple-family dwellings in the area have parking in front of the structure that is similar to what is being proposed. The addition of parking on the subject site will not be out of character with the surrounding area.

Because of the proximity to Kansas State University and the mix of residential uses, on-street parking is at a premium. The proposal would remove five (5) additional vehicles from the already congested local residential streets in the immediate area. This should be a positive outcome for the adjacent properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:
The strict application of the off-street parking regulation would require that the existing conditions be changed to remove the off-street parking and reduce the amount of paving in the

defined front yard area to bring the site into conformance with the regulations. Obviously, requiring these legally nonconforming conditions to be changed would be a hardship to the applicant. It would remove off-street parking that is needed for the residence of the sorority house. The existing conditions have been in this fashion since at least 1978.

There is no specific hardship to the applicant if the proposal to expand the circle driveway to add off-street parking is denied. It is evident that parking occurs in this circle driveway and will most likely continue. The proposal is to install approximately 800 square feet of paving so that five (5) parking spaces can be provided in an orderly fashion that will meet the City's Parking Lot Configuration Standards. The added paving will allow for the needed backing distance from the parking spaces into the circle driveway. Consider the existing conditions of the subject site and character of the area, as described in the *Probable Effect On Adjacent Properties* standard, the fact that on-street parking is at a premium; denying the proposal which would provide an orderly parking area and reduce on-street congestion along Todd Road, may be a hardship to the property owners in the surrounding area.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The effects on public health, safety and general welfare should be minimal. Off-street parking is currently provided in the defined front yard area and parking does occur in the circle driveway. The proposed additional paving and parking spaces would provide for orderly parking, rather than vehicles being parked in a haphazard fashion.

The proposal would allow for five (5) additional vehicles to be parked on the subject site, which will reduce on-street parking that is heavily congested because of the proximity to Kansas State University. This will improve the public health and safety.

A number of the multiple-family dwellings and the Greek houses in the area have similar parking in the front yard area. The existing conditions and the proposal would not be out of character or the general order along Todd Road.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of regulations requiring a minimum amount of landscaped area in the front yard are to ensure a high-quality visual front to properties in residential districts, reduce the negative impact of front yard parking on the streetscape, to minimize automobile interference with pedestrians, to encourage the retention of existing trees and natural features, and to mitigate negative storm water drainage impacts.

The subject site has existing conditions that are legally nonconforming to the current regulations. As previously stated, these conditions were established in at least 1978, prior to the adoption of the present regulations in 1996. The majority of the defined front yard has paving (35%) and off-street parking located in it. Although the current conditions and proposed improvement do not conform to the Zoning Regulations, they seem to meet the intent of the regulations. The front yard area is well maintained with a grass lawn area, mature trees and landscape beds. The front yard is similar in character with other Greek houses and multiple-family dwellings along Todd Road and in the area. Stormwater is properly managed

on the subject site and should not increase stormwater runoff beyond what the current system can manage.

Kent moved to approve the Variance to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line; and to reduce the minimum landscaped open area required in the front yard area, as described above, from seventy-five percent (75%) to thirty-five percent (35%) along Todd Road, all for a proposed expansion of an existing paved off-street parking lot for an existing sorority located in the R-3/UO, Multiple-Family Residential District and University Overlay District with the following conditions:

1. The Variance shall only apply to the proposed parking lot improvements as described in the application documents and shown on the site plan.
2. The site shall be developed as shown on the application site plan.
3. All applicable permits shall be obtained.
4. The site shall be developed, used, and maintained as per the site plan submitted with the application.

Hamilton seconded the motion, which passed by a vote of 3-0.

Aistrup adjourned the meeting.

Respectfully submitted by
Chad Bunger, Planner II