Chair Townsend called the meeting to order at 7:00 p.m. Those members attending included Hazelrigg, John, Townsend, Clithero and Campbell. Also attending were the City Clerk, Sheela Amin, Chief Building Inspector, Jim Paneck, and City Counselor, Fred Boeckmann.

The minutes from the regular meeting of December 14, 2010 were approved as submitted on a motion made by Mr. Campbell and a second by Ms. John.

The following cases, properly advertised, were considered. All persons testifying were duly sworn by the City Clerk.

**Case Number 1798** was a request by Lori L. Green, attorney for Hardt’s Rental LLC, for a variance to the minimum lot area per dwelling requirement by allowing the construction of a new two-family (duplex) structure on a lot smaller in size than required on property located at 1510/1512 W. Worley Street.

Chair Townsend explained Case Number 1798 had been withdrawn.

**Case Number 1802** was a request by David Walker, attorney for the Columbia School District, for a variance to the side yard setback requirement by allowing the construction of a pole frame storage building to encroach into the required side yard on property located at 4303 S. Providence Road.

Chair Townsend explained that since the applicant for Case Number 1802 was not in attendance, the Board would continue to the other cases and address this case at the end of the meeting.

**Case Number 1803** was a request by Phebe La Mar, attorney for the MU Crew, L.L.C., for variances to the rear and side yard setback requirements, the off-street parking requirements and the minimum lot size requirement by allowing an non-conforming building that does and/or will encroach into the required rear and side yard setbacks and not meet the off-street parking and minimum lost size requirements on property located at 201 S. College Avenue.

Chair Townsend opened the public hearing.

Phebe La Mar, an attorney with offices at 111 S. Ninth Street, explained she was representing MU Crew, LLC, the owners of the property located at 201 S. College Avenue. She noted the property backed up to Lee Elementary School and was across Locust from the Stephens College Campus. Stephens College, at that location, was zoned C-2. The building was located next door to another apartment building and across College Avenue from a portion of Greek Town. It was in an area historically permitted to obtain C-2 zoning if requested, which would not require any setbacks or on-site parking. The property was best suited for residential use according to the Sasaki plan and had historically been used for residential purposes. It was ideal for individuals seeking apartments close to campus and four of eight individuals that currently lived in the building did not have vehicles. Her client was seeking variances in order to add to rear of current building the depth of
approximately twenty-five feet. The building, as it currently existed, was grandfathered with regard to parking, side yard setbacks and density. They were seeking to increase the density by two apartments. They were adding four apartments, but would remove two of the apartments in the basement for a net gain of two apartments. Additional storage and a laundry facility would be added to the basement. This proposal would result in an upgrade in the living conditions and safety of the tenants in the building as the electrical systems would be improved, asbestos would be removed and ingress/egress and the exterior aesthetics for the building would be improved. She noted the intent was to match the exterior of the addition with the exterior of the remainder of building and that a new privacy fence between the building and Lee Elementary would be constructed to ensure the continued safety of the students. The building had never had on-site parking and those tenants with vehicles had the option of parking in various garages within or slightly over 1,000 feet from the building. She commented that there were practical difficulties and unnecessary hardships in enforcing the ordinances on this property, and that those were not self-imposed. There was not any access for this property onto a public street. It backed up to a school and was across the street from Stephens College, which caused unique constraints in terms of the use of the property. In addition, it was located next to C-2 zoned property. She stated that granting the variances would bring substantial justice and further preserve the public safety and welfare of the tenants, and asked the Board to grant the variances requested.

Mr. Clithero understood there was a building south of the subject building with cars parked behind it and asked if there was a driveway along it from College. Ms. La Mar replied yes. Mr. Clithero noted he saw a vehicle parked between Lee Elementary and the building on the aerial photo and asked if that was an alley. Ms. La Mar replied it was an alley, but it was only accessible to Lee Elementary.

Mr. Campbell understood the addition would blend into the existing building so it would look like one building. Ms. La Mar stated that was correct. Ms. John asked for clarification regarding the purpose of the addition. Ms. La Mar replied the plan was construct four apartments into the addition as there would be two on the first floor and two on the second floor. The two apartments currently located in the basement would be converted to storage and laundry facilities. Mr. Campbell asked for the size of the addition. Ms. La Mar replied it would be approximately 25 feet deep from back of the building and would be the width of the existing building. Mr. Hazelrigg asked if the four new apartments would be one bedroom apartments. Ms. La Mar replied they would be one bedroom or studio apartments. Ms. John asked how many apartments would remain in the older part of the building. Ms. La Mar replied there were currently eight, so six of those would remain.

Janet Hammen, 1844 Cliff Drive, stated she had lived in the East Campus Neighborhood for over 30 years and the issue of density, yard setbacks and parking was a perpetual and perennial problem. She viewed this area as the same and believed this was a self-imposed limitation since they wanted to increase the density by adding apartments. The nearby parking options would cost the tenants money as they were not free. In addition, she did not believe the property being grandfathered in terms of no parking was a reason to allow that to continue. She asked the Board to not allow the back yard, side yard and off-street parking variances.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Paneck explained the 1,000 foot limitation for off-site parking did not apply to residential activity.
Mr. Campbell commented that a part of the plan for the downtown area included increased density and residential housing, but there was a question of the boundary for the downtown area. College Avenue was the boundary for the C-2 area. The issue of parking was valid, but noted new apartments were being built a block away without any parking.

Mr. Hazelrigg noted this was a perpetual problem as increased density would increase traffic near a school, but there was also a need for housing close to campus.

Mr. Campbell made a motion to approve the variances as requested. The motion was seconded by Mr. Clithero.

CASE NO. 1803 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO, CAMPBELL. VOTING NO: NO ONE. The variances were approved as requested.

Case Number 1804 was a request by Thomas Schneider, attorney for the Boone Hospital Center, for variances to the sign ordinance by allowing the wall signage (one sign) at the north elevation and the wall signage (two signs) at the west elevation to exceed the maximum square feet permitted on property located at 1600 E. Broadway.

Chair Townsend opened the public hearing.

Thomas Schneider, an attorney with offices at 11 N. Seventh Street, explained he represented the Board of Trustees of Boone County Hospital and noted they were downsizing the variance request. They were originally seeking a 406 square foot sign on the north façade and it had been reduced to 260.4 square feet since the logo was being removed. They were originally seeking 714 square feet of signage on the west elevation and it had been reduced to 568.4 square feet due to the removal of the logo. The signage they were seeking was fairly equivalent to what had been installed on the east elevation of the Hospital. He noted Boone Hospital was a massive building and it was important for it to have enhanced signage for aesthetic proportionality and readability at a distance.

Trevor Starkenburg, an employee of Sign Productions, 500 Wolford Road, Cedar Rapids, Iowa, provided a handout of the visual representations of the signs. The letters on the existing sign shown in the first diagram were four feet tall and nearly equivalent to what they were requesting for the new signage. The second diagram was a readability map showing how far away the signs could be read. The third diagram was a good representation of how the signs would look. The north elevation was on the left and the west elevation was on the right. The fourth diagram showed the “spoonheads” logo signage for the west elevation. The last two diagrams were graphics to help show the signage was not overpowering. The signs would be over 150 feet in the air.

Mr. Hazelrigg asked if the signs would be self-illuminated or if they would involve spot lights. Mr. Starkenburg replied the Boone Hospital Center signs shown in white would be self-illuminated. The “spoonheads” logo would be lit by an up-light the Hospital had installed.

There being no further comment, Chair Townsend closed the public hearing.
Mr. Hazelrigg made a motion to approve the variances as requested. The motion was seconded by Mr. Campbell.

Mr. Clithero asked if the sign ordinance needed to be amended as it related to buildings of this size since there was a large difference between 48 feet and 400 feet, and he felt the request was appropriate. Mr. Paneck noted this building was out of proportion in terms of what would normally exist in an O-1 district and signs were regulated by street classifications and zoning districts. In addition, there was not any latitude built into the ordinance. Ms. John pointed out there were not many buildings of this size in Columbia at this time, and until there were many more, she was not sure it was a concern.

CASE NO. 1804 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO, CAMPBELL. VOTING NO: NO ONE. The variances were approved as requested.

Case Number 1805 was a request by David G. Brown, attorney for The Broadway Shops, by ordinance interpretation or a variance, to allow a tenant to place a sign on a wall that is not considered an on-premise wall since the tenant does not utilize the space adjacent to the wall on property located at 2703 E. Broadway.

Chair Townsend opened the public hearing.

David Brown, an attorney with offices at 1714 Brandeis Court, explained they were appealing a decision to rescind a sign permit that had been granted to The Broadway Shops. Hollywood Video had utilized a large space at The Broadway Shops and had received a variance for 192 square feet of signage. Hollywood Video was no longer a tenant and the space it utilized had been divided into three tenant spaces. A request had been made for signage for GameStop, which was located in the middle tenant space, and the sign in dispute was at the end of building. The permit had originally been granted, and based on that approval, The Broadway Shops had finalized a lease with GameStop and spent over $70,000 in construction costs to accommodate the requirements of GameStop. He did not believe City staff should be allowed to rescind the permit because it had been relied upon by The Broadway Shops and GameStop in terms of decisions made, so he was asking the Board to correct the decision made by staff to rescind the permit based upon the estoppel argument. In addition, he felt “on-premises” in Section 23-14 of the City Code governing shopping center signs was not defined and vague, and questioned whether GameStop was barred from having a sign on the end of the building. He asked the Board to correct staff’s interpretation of the ordinance indicating GameStop was not allowed to have a sign on the end of the building because it was occupying the middle of the building. If those first two arguments were not agreed upon, he was asking the Board to grant a variance allowing the sign. He noted this was not too much signage as it was approximately 59 square feet.

Mr. Campbell understood this was one-third of the square feet allowed when there was just one tenant and asked if they would be back asking for signage for the other two tenants since it had been split into three spaces.

Jay Lindner, a representative of The Broadway Shops with offices at 1400 Forum Boulevard, referred to a diagram toward the end of the handout provided and explained it showed how the signage would be split. The east side would include the sign in question and one other tenant sign for a restaurant occupying the end of the building, and the total square footage would be less than the 192 square feet that was originally allowed for Hollywood Video. There would not be any
Mr. Campbell asked about the south side of the building. Mr. Lindner replied each tenant would have a sign behind their individual spaces for the south side. He thought each sign would be approximately 60 square feet.

Ms. John asked if they had tenants for the other two spaces. Mr. Lindner replied they had a tenant for the end of the building, which was the east end, but not for the third space. Ms. John asked about that tenant. Mr. Lindner replied it was Five Guys, which was a restaurant. Ms. John asked if they were okay with having the GameStop sign on their wall. Mr. Lindner replied yes and explained it was pre-negotiated with them.

Mr. Hazelrigg asked if Five Guys would have a sign on the north side as well or if they would just have signage on the east and south. Mr. Lindner replied he was not sure as he had not seen their official application.

There being no further comment, Chair Townsend closed the public hearing.

Mr. Paneck stated it had been the ordinance interpretation of City staff to not allow a sign on a wall that did not create the space. He noted there was a blanket variance for the shopping center to allow double signage for anyone that occupied two or more suites, which allowed Hollywood Video more signage. He explained he had spoken with Mr. Lindner regarding the application as a contractor was not listed and had asked if GameStop would occupy the east of the building and recalled being told yes, which was why he issued the sign permit.

Mr. Boeckmann explained he did not believe the Board should make a decision based on the equitable estoppel argument as it was not within the Board’s jurisdiction. The Board could grant the permit based on the interpretation of the ordinance or by variance.

Mr. Campbell stated he had difficulty with the application because he felt it violated some of the principles of the ordinance, which included having a limited amount of signage directly related to the place of business. As a result, he could not support the request.

Chair Townsend commented that visibility from Highway 63 could help a business and was a reason to allow signage on the east side. Mr. Campbell noted they could create a directory if they wanted.

Mr. Campbell made a motion to deny the request. The motion failed for a lack of a second.

Mr. Hazelrigg made a motion to approve variance as requested. The motion was seconded by Ms. John.

CASE NO. 1805 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO. VOTING NO: CAMPBELL. The variance was approved as requested.

Case Number 1802 was a request by David Walker, attorney for the Columbia School District, for a variance to the side yard setback requirement by allowing the construction of
a pole frame storage building to encroach into the required side yard on property located at 4303 S. Providence Road.

Chair Townsend explained no one was present for Case Number 1802.

Mr. Campbell made a motion to table Case Number 1802 to the February 8, 2011 Board of Adjustment meeting. The motion was seconded by Ms. John and approved unanimously by voice vote.

There being no further business, the meeting adjourned at 7:44 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk