MINUTES  
BOARD OF ADJUSTMENT 
JUNE 14, 2011  

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 Assistant City Counselor, Susan Crigler.

The minutes from the regular meeting of May 10, 2011 were approved as submitted on a motion by Mr. Campbell and a second by Mr. Hazelrigg.

The minutes from the special meeting of May 31, 2011 were approved as submitted on a motion by Mr. Hazelrigg and a second by Mr. Campbell.

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

Case Number 1817 was a request by Garrett Taylor, attorney for Zeta Phi Corp of the Beta Theta Pi Fraternity and The Beta Theta Pi Club of Columbia, for variances from compliance with Article V of Chapter 12A – Stormwater Management as it pertains to water quality by allowing off-site water quality treatment and as it pertains to detention due to a net reduction in impervious area on property located at 520 S. College Avenue, 1307 Wilson Avenue, 1313 Wilson Avenue and 1300 Rosemary Lane.

Chair Townsend explained the applicant had requested this case be tabled to the July 12, 2011 Board of Adjustment meeting.

Ms. John made a motion to table Case No. 1817 to the July 12, 2011 Board of Adjustment meeting. The motion was seconded by Mr. Hazelrigg and approved unanimously by voice vote.

Case Number 1820 was a request by Adam Patchett, attorney for College and Walnut, LLC, for a conditional use permit for the purpose of providing an uncovered, surface off-street parking area, which does not meet the minimum screening and landscaping requirements, does not meet the setback requirement of six feet of an adjoining lot in a residential district and does not meet the requirement for curbing or similar measures to assure safe and proper control of vehicular and pedestrian movements on property located at 1211 E. Walnut Street, 1213 E. Walnut Street, 1215 E. Walnut Street, College Avenue & Walnut Street and 113 College Avenue.

Chair Townsend explained the applicant had requested this case be tabled to the July 12, 2011 Board of Adjustment meeting.

Mr. Hazelrigg made a motion to table Case No. 1820 to the July 12, 2011 Board of Adjustment meeting. The motion was seconded by Ms. John and approved unanimously by voice vote.

Case Number 1821 was a request by Lawrence Leip, attorney for St. Andrews Evangelical Lutheran Church, for a variance from compliance with Article V of Chapter 12A – Stormwater Management as it pertains to detention by allowing the site to detain to a
redevelopment flow higher than permitted by the City’s Stormwater Management and Water Quality Manual on property located at 914 West Boulevard South.

Chair Townsend noted this case had been withdrawn.

Lawrence Leip, the attorney for St. Andrews Evangelical Lutheran Church, thanked the Board for its effort to get them on the schedule for tonight and noted they had been able to reach an agreement with the City with regard to this project.

**Case Number 1819 was a request by Robert Hollis, attorney for White Castle Systems, Inc., for a variance to the sign ordinance by allowing the installation of a freestanding sign on the Clark Lane frontage that exceeds the maximum height permitted or a determination that the interstate/freeway category is applicable, whereby the sign would be permitted on property located at 3401 Clark Lane.**

Chair Townsend opened the public hearing.

Robert Hollis, an attorney with offices at 1103 E. Broadway, provided an handout and explained his client wanted to replace a sign that existed at the White Castle location on Clark Lane. The existing freestanding sign was 27 feet tall and they wanted to replace it with a 40 foot tall sign. He showed the location of the White Castle, the existing sign, and the proposed sign using a powerpoint presentation. He noted the White Castle sign was not visible, but the Taco Bell and Kentucky Fried Chickens signs, which were respectively 45 feet and 41 feet in height, were visible. Other signs in the area that were not as tall were still visible as they were not obstructed in the same fashion as the White Castle sign. He pointed out that once the sign could be seen, the person driving would have already needed to be in the left turn lane. As a result, they wanted to move the sign to the east and south in addition to installing a taller sign.

Chair Townsend asked if that would put the sign in front of Bandana’s. Mr. Hollis replied no and pointed out the sign would be in front of White Castle.

Mr. Campbell asked if the new sign was the same size as the other sign. Mr. Hollis replied it was slightly larger, but still smaller than what would be allowed.

Mr. Hollis noted the sign company for his client had performed tests and determined 40 feet was the minimum height required for visibility. He reiterated the current sign was not visible and that its distinct competitive disadvantage would be remedied by granting the variance requested. He explained his client had indicated complaints were received on a daily basis from people stating the restaurant was difficult to find since they could not see the sign. He believed the Board could determine staff improperly interpreted the ordinance if they agreed it was within a shopping center that was within 1,000 feet of the interstate as a 40 foot sign would then be proper or it could grant a variance to the 40 foot height of the sign as there were practical difficulties and unnecessary hardships since the sign could not be seen. He also felt the variance would meet the spirit of the ordinance as it would allow the sign to communicate the location of the establishment and contribute to safety by allowing the driver time to get into the appropriate lane. He provided the applicable sections of Chapter 23 and Chapter 29, the application and the presentation for the record.

There being no further comment, Chair Townsend closed the public hearing.
Mr. Paneck commented that he felt the Board needed to rule on the variance request as Mr. Hollis’ arguments for the interstate/freeway interpretation were unfounded. He explained that if the site was considered a shopping center, only one freestanding sign would permitted, and there were several signs there. In addition, the site was outside of the 1,000 foot limitation as his calculation determined it was 1,450 feet to that intersection as the calculation was based on travel distance.

Ms. Crigler explained the Board needed to determine the problem being complained of was not the same as surrounding properties, was not self-created and did not indicate a need for rezoning in order to grant the variance.

Mr. Campbell noted he and his wife drove by there last night and this White Castle was not highly visible at the present time. He pointed out the Board had granted a number of variances in that general area, so he was agreeable in granting this variance as well.

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

CASE NO. 1819 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO, CAMPBELL. VOTING NO: NO ONE. The variance was approved as requested.

By acclamation of the Board, Mr. Townsend was re-elected Chair and Mr. Clithero was re-elected Vice-Chair.

There being no further business, the meeting adjourned at 7:27 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk