Chair Townsend called the meeting to order at 7:00 p.m. Those members attending included John, Townsend, Clithero, Campbell and Gorman. Also attending were the City Clerk, Sheela Amin, Engineering Manager, Shane Creech, Engineer I, Philip Teeple, Building Regulation Supervisor, John Sudduth and Assistant City Counselor, Susan Crigler.

The minutes from the regular meeting of June 14, 2011 were approved as submitted on a motion 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 1812 was a request by Kimberly R. Black for a variance to the rear yard setback requirement by allowing a reduced rear yard so the structure can remain in its existing location on property located at 5003 Cherry Blossom Lane.

Chair Townsend explained the applicant had requested this case be tabled to the September 13, 2011 Board of Adjustment meeting.

Mr. Campbell made a motion to table Case No. 1812 to the September 13, 2011 Board of Adjustment meeting. The motion was seconded by Ms. John 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 August 9, 2011 Board of Adjustment meeting.

Mr. Campbell made a motion to table Case No. 1820 to the August 9, 2011 Board of Adjustment meeting. The motion was seconded by Ms. John and approved unanimously by voice vote.

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.
Ms. Amin explained correspondence from interested parties had been provided in the past and today.

Chair Townsend opened the public hearing.

Craig Van Matre, an attorney with offices at 1103 E. Broadway, stated he was representing the Zeta Phi Corp of the Beta Theta Pi Fraternity and The Beta Theta Pi Club of Columbia, and noted they were asking for a variance from the stormwater detention requirements with respect to a redevelopment of the site located at 520 S. College, 1307 Wilson, 1313 Wilson and 1300 Rosemary.

Tim Crockett, an engineer with Crockett Engineering Consultants at 2608 N. Stadium Boulevard, pointed out the three buildings that were razed via an aerial view of the site and noted the annex would remain.

Mr. Van Matre stated the current Beta House was outdated and showed a depiction of the new structure. He explained the water quality variance that was requested as part of the application was no longer needed as a rain garden filtration system that met the City’s requirements would be installed.

Mr. Crockett stated the area of impervious surface prior to this renovation totaled about 1.3 acres, and there would be an increase of about 14 percent in pervious surfaces on the property after construction was complete. Even though they were decreasing impervious surface, this project did not meet the stormwater detention requirements per City staff. The manual indicated the maximum release rate from any development and redevelopment should be controlled by limiting the post-development stormwater release rates to the pre-development rates for the 1, 2, 10 and 100 year storms and staff’s interpretation was that pre-development meant pre-settlement, which was before today’s development existed on the property. He believed staff’s interpretation of pre-development was how the site looked in the 1700’s before it was ever developed.

Mr. Van Matre commented that he felt staff’s interpretation was incorrect, but understood the Board’s ability to rule on that issue would have necessitated a delay since the notice would need to be republished as the original application did not include that request. He also understood there was a potential ordinance change, which would not require a variance from the Board for detention if impervious surface was reduced by 10 percent, but it was several months away from being considered by Council, and they could not wait. As a result, they were asking for a variance from the water quantity requirements of the manual.

Mr. Crockett explained that based on staff’s interpretation, they were only meeting the pre-development rates for the 1 and 2 year storms in terms of detention for this redevelopment. They were unable to meet the larger storms because they did not have a location to install stormwater detention facilities. The only option was to go below grade and the best location to go below grade was behind the annex, but that would require the elimination of a geothermal system for the property. Another location was the lower parking lot, but they could not discharge adjacent to the property due to its grade. They would have to daylight 500 feet down Wilson Avenue, and that would involve a substantial reconstruction of Wilson Avenue and would be very expensive.

Mr. Van Matre noted they could meet the stormwater detention requirements if they eliminated the ground source geothermal heating/cooling system, but that would mean an increase in the utility
cost and utility carbon footprint. If they wanted to keep the geothermal system and meet the requirement, it would have to discharge down Wilson Avenue due to grades and elevations.

Mr. Crockett commented that the neighbors had been upset with the fact there was a substantial amount of water draining down Wilson due to a sump pump that ran continuously and the source of that water was a leak in a City water main, which would be fixed as a result of this development.

Mr. Van Matre understood they also could meet the stormwater requirements by removing 12 parking spaces and the corresponding pavement. Mr. Crockett stated that was correct and explained 93 parking spaces were planned for the site. Mr. Van Matre understood the zoning ordinance only required 60 parking spaces on the site. Mr. Crockett stated that was correct and noted they allowed for extra spaces due to the population of the house and the nature of student housing. He explained they wanted to ensure they had adequate off-street parking due to the already overcrowded adjacent streets.

Mr. Crockett described the changes in the project since the original application had been submitted. He noted a bio-retention facility would be installed to meet the water quality requirements for this development and described the other items considered in terms of best management practices.

Mr. Van Matre asked the Board to grant a variance to the stormwater requirement pertaining to detention as it would allow the applicant to reduce the consumption of utilities due to the geothermal system and allow for adequate on-site parking. In addition, the new design would help with the drainage of stormwater on the site. He understood that if the Board granted the variance, the applicant would be required to do some form of mitigation, and that the City did not have a standardized procedure in terms of mitigation.

Mr. Van Matre noted the East Campus Neighborhood Association was concerned about the effect of this development on the neighborhood and wondered if bigger pipes would address the problem. Mr. Crockett stated that would not resolve the problem.

Mr. Gorman commented that the letter to Public Works from Mr. Crockett had originally indicated a 1.2 percent reduction in impervious surface and asked if the 14 percent had been attained by removing some parking spaces and installing the rain garden. Mr. Crockett replied yes. Mr. Van Matre noted it was due to the removal of five parking spaces and the addition of the rain garden.

Bill Toalson, 4545 Route K, stated he was the representative of the Beta Theta Pi Fraternity with regard to the construction of this building. He explained this project had started 3 ½ years ago due to an inefficient heating system, lack of air conditioning, the new fire sprinkler requirements and the fact wireless internet would not work in the existing building.

Mr. Campbell asked when the building was built. Mr. Toalson replied 1962.

Mr. Van Matre reiterated mitigation would be required if the Board granted this variance, and noted they were agreeable to providing cash for an appropriate purpose. Mr. Toalson agreed and explained they would be willing to pay $5,000.

Mr. Van Matre provided certified copies of pertinent ordinances, the application and the powerpoint
presentation for the record, and asked the Board to take note of the City’s stormwater manual.

Janet Hammen stated she was the President of the East Campus Neighborhood Association and provided a letter to the Board. She noted she had lived on Wilson Avenue for 30 years and moved to Cliff Drive, which was still in the East Campus neighborhood, last summer. She pointed out this project was subject to the current stormwater ordinance and revisions to the ordinance were not near finalization as there had not been any public hearings or anything for the Council to act upon. As a result, she believed the current ordinance should be considered for this particular issue. This project was also in the Hinkson Creek Watershed for which the City was under considerable stress to reduce runoff. She stated she was appreciative of the applicant meeting with them and noted the water quality issue had been solved to the Neighborhood Association’s satisfaction. The only issue now involved water quantity and they felt the issues had been fairly presented. She commented that there were no guidelines to determine a “fee in lieu of” amount and communities in Kansas City and St. Louis had stricter guidelines, whereby a “payment in lieu of” was not available. After talking to several experts, she determined potential ways to calculate it. Those possibilities included the payment of 1-2 percent of the total construction costs, the payment of a certain amount, such as $20 per cubic feet, for the difference between the volume required to meet the 100 year storm and what it met once it was developed, and the payment of a lump sum of about $25,000 to be used specifically to acquire land in the immediate Hinkson Creek area so it would benefit the East Campus Neighborhood or to be used to establish an East Campus Neighborhood Stormwater Fund. She noted the payment of a certain amount per cubic foot would allow for small improvements to reduce the cost to the applicant, and gave the increase in the size of pipes, the conversion of certain parking spaces to a permeable surface and the conversion of the basketball patio to a permeable surface as examples. She suggested the Board ask staff to work with the applicant to determine the least expensive of the three options. Since this was the first time the “fee in lieu of” issue had come before the Board, she believed it was important as it might guide future developments. She felt the Board should make it fair and equitable for the taxpayers and citizens.

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

Mr. Creech commented that staff was supportive of what had been presented as they were reducing impervious area and meeting the water quality component. With regard to the “fee in lieu of,” staff would be supportive of the mitigation determined by the Board.

Chair Townsend asked if the money could be designated for an East Campus Neighborhood study. Mr. Creech replied he assumed it could.

Mr. Campbell asked who made the final decision on which option should be taken. Mr. Creech replied he believed it was the Board’s decision.

Mr. Clithero understood a monetary contribution, the construction of a stormwater management facility or the purchase and donation of private lands was only required if the variance granted would likely result a lower level of stormwater control. He wondered how that was measured. Mr. Creech noted they were reducing impervious area, so they were improving stormwater runoff, but the manual required more. Mr. Clithero understood the monetary contribution should be in accordance with a schedule established by the Director and based on the cubic feet of the storage required but not provided for by the stormwater management of the property in question, and asked if that schedule existed. Mr. Creech replied it did not. Mr. Clithero asked why that had not
yet been established. Mr. Creech replied the Storm Water Advisory Commission would be addressing it. Mr. Clithero pointed out it was to be established by the Director.

Chair Townsend commented that based on this information, he did not believe the Board had the purview to determine the amount. Mr. Campbell and Mr. Clithero agreed. Chair Townsend noted they could authorize that it be paid, but not determine the actual dollar amount.

Chair Townsend asked Ms. Crigler for her legal opinion. Ms. Crigler replied that if the Board was uncomfortable with assigning a monetary amount because it was the Director’s responsibility, the only option they had was to defer to the Director.

Mr. Campbell thought the Board should make a decision based on the option presented to them as he did not feel he had the expertise to determine which option would be best.

Chair Townsend commented that the ordinance indicated the Board was not limited to the mitigation measures listed, so they had the power to impose what they felt was necessary without input from the Director. He asked if staff thought $5,000 for a study was appropriate. Mr. Creech replied that because they were supportive of what the applicant was proposing, any monetary contribution would be above and beyond.

Mr. Clithero did not believe mitigation was required.

Ms. Crigler commented that Chapter 12A was very specific with regard to the requirements for granting a variance, and she believed those requirements had been met. She also believed the Board had the authority to choose the necessary mitigation.

Mr. Campbell stated he had map of the City of Columbia dated to approximately 1875 and it showed the area as having been subdivided by R.B. Price. In addition, when he moved to Columbia in 1940, there were homes along College. He was not sure what time frame staff was using to determine pre-development, but this area had been developed for over 100 years. He noted he was in favor of on-site mitigation whenever possible as doing work in other areas would not help the stormwater situation. He believed the applicant had made a good attempt to meet the requirements and was in favor of granting the variance. He noted he did not have a position on the issue of whether to require a “fee in lieu of” payment.

Chair Townsend understood the additional $5,000 was not required. Mr. Creech explained the applicant did not meet the stormwater ordinance requirements, but was improving the water quantity situation. Chair Townsend also understood the Board could require the $5,000 payment and stated the applicant had indicated they would be willing to provide $5,000 for a stormwater study.

Mr. Campbell made a motion to approve the variance as requested subject to a payment of $5,000 for additional studies in the stormwater area. The motion was seconded by Mr. Gorman.

CASE NO. 1817 VOTE RECORDED AS FOLLOWS: VOTING YES: JOHN, TOWNSEND, CLITHERO, CAMPBELL, GORMAN. VOTING NO: NO ONE. The variance was approved as requested subject to a payment of $5,000 for additional studies in the stormwater area.
Case Number 1822 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 (Rock Bridge High School).

Chair Townsend opened the public hearing.

David Walker, an attorney with offices at 3210 Bluff Creek Drive, stated he was representing the Columbia Public Schools and explained they were requesting a variance to allow the construction of a storage building adjacent to the Rock Bridge athletic fields in a location that was approximately seven feet too close to the property line between the School District property and Bethel Park. He referred to the drawings in the application, which showed the location of the proposed storage building in relation to the track and other improvements. He explained that moving the building in any direction would interfere with drainage, require the removal of mature trees and potentially interfere with a rain garden BMP. He pointed out only one corner of the proposed building encroached upon the 25 foot yard setback requirement and noted he believed this application met the requirements for the Board to grant the variance.

Ms. John asked for the construction materials that would be used for the storage building.

David Bennett, an engineer with offices at 1113 Fay Street, stated it would be a steel building on wood poles.

Donna Buchert, 5601 Highlands Parkway, stated she was representing the Booster Club of Rock Bridge High School and explained the storage building would be used to house athletic equipment, so those items would not be exposed to the elements as much as they had been in the past. The money to construct this was raised by the Booster Club and private donations.

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

Mr. Sudduth commented that the letter of denial indicated there was a 25 foot all yard requirement, but staff did not have any issues since it abutted a park. He also noted the Parks and Recreation Department did not object to this variance being granted.

Ms. Crigler noted this was an area variance and the Board needed find the problem being sought to be relieved was due to the property itself, not self-imposed and not the same as surrounding properties, which would indicate the need for rezoning.

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

CASE NO. 1822 VOTE RECORDED AS FOLLOWS: VOTING YES: JOHN, TOWNSEND, CLITHERO, CAMPBELL, GORMAN. VOTING NO: NO ONE. The variance was approved as requested.

Case Number 1823 was a request by Marjorie Lewis, attorney for 507 Rollins, L.L.C., for a variance to the parking aisle width requirement by allowing a lesser parking aisle width than required on property located at 507 Rollins Street.
Chair Townsend opened the public hearing.

Marjorie Lewis, an attorney with offices at 601 E. Broadway, Suite 203, explained she was representing 507 Rollins, LLC, the applicant and owner of the property at 507 Rollins, and noted they intended to erect a three-story 27,710 square foot sorority house for Sigma Sigma Sigma with an underground parking garage that would house 60 women. The Building and Site Development Division denied a building permit to erect the building because the garage level plans provided for a 22 foot access aisle with parking at 90 degrees to the direction of travel instead of a 24 foot access aisle. As a result, they were requesting a variance from the parking aisle width requirement so it could be reduced to 22 feet. She provided Exhibits 1-17 for the record and described those documents. She explained the tract’s width dictated the parking aisle width, and that width had existed since 1999. The applicant did not create this situation and the difficulty was not shared by the surrounding properties as the other tracts were larger. She believed substantial compliance with the zoning ordinance would be met if the Board granted the variance. In addition, the spirit of the zoning ordinance would be observed and public safety and welfare would be secured. She pointed out the aisle width reduction was appropriate for smaller cars favored by students and four required spaces fronting on the alley would still be available for larger vehicles.

Barry Agnew, an architect with Agnew Rincon Architects with offices at 121 Manly Street, Greenville, South Carolina, commented that 30 parking spaces were required by ordinance and the most efficient way to provide those spaces was with a simple double-load aisle. Due to the width of the property and the required width of the parking spaces and aisles, they had to provide for parking underground. It would be a walkout garage that was open on the rear side and underground on the front side. He noted the required aisle width for 90 degree parking was 24 feet. He explained the property was 80 feet wide, and since side yards of 10 feet on each side were required, the space they could work with was only 60 feet wide. Since it was a sloping site, they also had to put in two one-foot thick retaining walls on both sides of the parking area to create flat parking, which reduced the effective area to 58 feet. Their options were to seek a side yard variance, a variance to the number of parking spaces required or a variance to the aisle width requirement. Since it was private parking underneath the building and most of the vehicles would be smaller cars, they felt the aisle width variance would be best as it would be less likely to affect others. He did not feel this problem was self-imposed because of the slope of the property. In addition, they could not resolve the issue of the width of the property as they could not purchase adjacent property or widen the lot. He noted this problem was not common to the surrounding properties because they were all wider than 80 feet and some had lesser slopes. The combination of these issues provided for the uniqueness of this property.

Mr. Campbell asked if the alley behind the lot was public or part of the lot. Mr. Agnew replied it was a public alley that would remain in use.

John Petelik of Monument, LLC with offices at 1 N. Pennsylvania, Indianapolis, Indiana, stated Monument was the managing member of 507 Rollins, LLC, the owner of the property, and noted the property was purchased in 2008 with the intention of Tri-Sigma of using the property in the future.

Beth Maddox, 1110 Doral Drive, commented that she was Tri-Sigma’s House Corporation President and noted they currently had 180 members and were renting a house at 909 Richmond Avenue. That lease was expiring so they needed their own permanent facility.
Ms. Lewis asked the Board to grant the variance for a 22 foot aisle width instead of the required 24 foot width.

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

Ms. Crigler commented that in order to grant this area variance, the Board needed to find the problem being complained of was unique to the property, not self-imposed and not the same as surrounding properties, which would indicate a need for rezoning.

Ms. John stated she believed it would be difficult to pull out of a 90 degree parking space with very narrow aisle, and recommended they post a sign indicating only small vehicles can park in the lot.

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

CASE NO. 1823 VOTE RECORDED AS FOLLOWS: VOTING YES: JOHN, TOWNSEND, CLITHERO, CAMPBELL, GORMAN. VOTING NO: NO ONE. The variance was approved as requested.

Case Number 1824 was a request by Bruce Beckett, attorney for MU Crew, L.L.C., for a variance from compliance with Article V of Chapter 12A – Stormwater Management as it pertains to the use of best management practices (BMP’s) by allowing the proposed renovation without requiring the installation of water quality BMP’s 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, Suite 200, stated she was representing MU Crew, LLC, the owner of the building at 201 S. College Avenue, and explained she had previously been in front of the Board with regard to the layout of this lot, and with the exception of the issue discussed this evening, plans had been finalized to improve the building on the lot. Due to the addition to the building, it was subject to the stormwater ordinances and would require a rain garden be constructed. She understood a rain garden should not be located any closer than 10 feet from the foundation of the building assuming the foundation was built with modern materials. The majority of this building was not of modern construction. She showed a picture of the foundation at the rear and noted it was not structurally sound and needed to be repaired. Given the location of the lot, the rain garden could only be located near the corner of College and Locust, which was only 10 feet from the foundation, and since the foundation was more susceptible to water than modern construction, their engineer believed a drain in the rain garden would be needed in order to ensure the structural integrity of the building was not compromised. The drain, however, was not a viable option in that location as it would need to connect to the CMP and thread through multiple utilities at approximately the same depth. In addition, the 15 inch CMP was a MoDOT storm drain, which would require MoDOT approval for a connection. She explained the site currently drained down Locust Street and MoDOT did not typically allow connections to their storm drains unless their property drained into the MoDOT right-of-way. As a result, she was not sure they would be allowed to connect, and even if they were allowed to connect, they would have trouble creating the connection due to the utilities. She noted staff had suggested they pothole in order to determine where the utilities were located, but since the utilities were very old, they were concerned with exposing and having to fix them if they
were damaged as that would be very costly. She explained her client was planning to add four above-grade apartments at the rear of the building, but would only net two apartments since they were removing the apartments in the basement. In addition, all of the apartments would be improved to meet sprinkler code requirements and a total of four apartments would be handicap accessible. She felt the safety and quality of life of the occupants would be improved. She noted the site did not have on-site parking or impervious area other than the expanding building. In addition, a hydrodynamic separator, which had been suggested, would not help this site as it was intended to remove heavy solids and almost all of the water from this site was surface and roof water and had very few pollutants needing to be removed by the hydrodynamic separator. She felt this was a perfect in-fill development as it increased density and provided a better standard of living, while still retaining the character of the older building. She believed granting this variance would bring substantial justice and further preserve the public safety and welfare of the tenants and others. She understood staff felt they had not proven the cost for potholing, but the cost was unknown since they did not know if they would be able to access the storm drain and could potentially cause several utilities to have problems. She pointed out detention was not required for this site and there would be a minimal impact to water quality. She understood staff had indicated it was not possible to determine whether this created an unreasonable burden or hardship since the location of the utilities were unknown, but they felt the fact they would have to expose the utilities was an unreasonable burden or hardship since it could damage the utilities. She believed meeting the minimum on-site management requirements was not feasible due to the physical characteristics of the site and noted the downstream waterway would not be impacted. She did not believe mitigation measures were required because staff had not determined there was a negative effect on stormwater control.

Mr. Clithero asked which direction the lot drained. Ms. La Mar replied it drained toward Locust Street, which was on the north side of the property.

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

Mr. Campbell asked for the feasible options. Mr. Creech replied staff was not provided enough information to determine what might be feasible as they did not know the elevations of the utilities or the cost to install something.

Chair Townsend asked if potholing was practical. Mr. Creech replied he thought it was practical.

Ms. Crigler stated the stormwater ordinance was very specific on what the Board needed to find in order to grant the variance.

Mr. Campbell commented that he felt he needed more information with regard to whether potholing was really not a viable alternative.

Wes Bolton, an engineer with Allstate Consultants with offices at 3312 Lemone Industrial Boulevard, stated he felt the potholing issue involved the scope of the project and the inherent cost of potholing. Potholing was done by digging with a trackhoe or backhoe until the utilities were found. The utilities at this site were very old and the general elevation of the utilities were 3 ½ - 4 ½ feet. They would also have to tear out the existing sidewalk to pothole. The associated costs included the replacement of the sidewalk and the potential replacement of a water line, gas line and telephone line. He noted they felt it was highly unlikely they would be able to connect to the CMP, and therefore, did not want to pothole and significantly increase potential costs.
Mr. Gorman asked if the possibility of having to replace some of the utilities had to do with the difficulty of gingerly digging with a backhoe and damaging the old pipe. Mr. Bolton replied yes. Mr. Clithero noted they might then also find out they could not connect to the required pipe.

Mr. Campbell asked if the utilities in that area were rebuilt when College was widened. Mr. Creech replied he was not sure, but thought the utilities likely pre-dated the widening of College. Mr. Bolton agreed and noted the fact they unable to be located vertically meant they were old.

Ms. John asked how long depth locators had been placed on utilities. Mr. Bolton replied he did not know.

Mr. Campbell felt this testimony had been persuasive in that they could be creating a lot of problems since they did not know the impact.

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

CASE NO. 1824 VOTE RECORDED AS FOLLOWS: VOTING YES: JOHN, TOWNSEND, CLITHERO, CAMPBELL, GORMAN. VOTING NO: NO ONE. The variance was approved as requested.

There being no further business, the meeting adjourned at 8:50 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk