MINUTES
BOARD OF ADJUSTMENT
JANUARY 10, 2012

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, Plan Reviewer, John Simon, and Assistant City Counselor, Susan Crigler.

The minutes from the regular meeting of December 13, 2011 were approved as submitted on a motion by Mr. Campbell and a second by Mr. Clithero.

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

**Case Number 1828** was a request by Robert J. Buckley, attorney for Rho Alpha of Chi Omega Fraternity, Inc., for a variance to the building height requirement by allowing the building to exceed the maximum height permitted on property located at 406 Burnam Avenue.

Chair Townsend opened the public hearing.

Robert Buckley, an attorney with offices at 401 Locust Street, stated he was representing the Rho Alpha Chapter of Chi Omega Fraternity, Inc. and noted Robert Cunningham of the Cunningham Architecture Group would provide a presentation to the Board.

Robert Cunningham, 2504 Waterside Drive, explained Chi Omega was requesting a variance to allow construction of a proposed new fraternity house at a height that exceeded the maximum of 35 feet permitted by the zoning ordinance. He noted the Board granted the same type of variance for the Beta House on College Avenue last month. He showed the location of the subject property and pointed out it was surrounded by other fraternity and sorority houses. He explained there were three methods for measuring the height of a building and only two were relevant to this discussion. One method, which would be used for the variance request, was to take the measurement from the midpoint of the sloping roof of the building to a point on the curb of the street in front of the building. Another relevant method and one they initially planned to use involved the measurement being taken from the midpoint of a sloping roof down to grade ten feet away from the building across the front face of the building. He understood this method of measurement was being interpreted differently than it had before in that the point ten feet away from the building was being taken as the average around the perimeter of the entire building. When doing the calculation in that manner, the height of the building was way over the 35 foot limit. He displayed the plans for the property and noted they were exceeding the maximum height allowed by 9 feet 4 inches. He explained the property sloped downward from front to back, and as a result, they decided to design parking underneath the building for environmental and aesthetic purposes. If they did not include underground parking, the building could be lowered and could potentially be within the height restriction with an adjustment to the pitch of the roof. He displayed fraternity and sorority houses that exceeded the 35 foot height limitation, to include houses where the height limitation would not necessarily be exceeded if the method of measurement was calculated based on his interpretation instead of the average around the perimeter of the entire building. He asked the Board to grant the variance requested.
There being no further comment, Chair Townsend closed the public hearing.

Mr. Campbell commented that the Lewis and Clark halls on campus were only a half of a block away from this site and they were seven stories high. In addition, Greektown was a congested area where space was at a premium. He suggested the City review the height limitation in certain areas, such as this area, when reviewing zoning ordinances as those limitations did not need to be the same as those for single family homes or duplexes. Group homes, such as this, needed to be larger in order to be economically feasible, and they could only go up in order to gain size due to the space limitation.

Mr. Townsend felt underground parking was needed in the area as well. Mr. Hazelrigg agreed and noted everyone seemed to have a car now, unlike in the past.

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

CASE NO. 1828 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO, CAMPBELL. VOTING NO: NO ONE. The variance was approved as requested.

Case Number 1833 was a request by Michael Foster, attorney for Kimberly Black, for a variance to the rear yard setback requirement by allowing a reduced rear yard so the house and deck can remain in their existing location on property located at 5003 Cherry Blossom Lane.

Chair Townsend opened the public hearing.

Michael Foster, an attorney with offices at 6750 New Town Avenue, stated he was representing Kimberly Black and noted they were requesting a variance to the rear yard setback for the property located at 5003 Cherry Blossom Lane. He pointed out they were requesting the rear yard setback be reduced to two feet and explained the property behind the subject property was zoned for a greenspace area, so there was not an expectation for a home to be built within 25 feet of the existing home. He noted the deck and home at 5003 Cherry Blossom had been constructed together in March of 2009 and the property immediately adjacent had been zoned PUD-7.

Mr. Clithero understood a privacy fence had been built across the property line and into the conservation easement and asked if it had been removed. Mr. Foster stated it was his understanding it had been removed, but he could not definitively testify to that.

Mr. Campbell understood the deck was 2.1 feet from the property line. Mr. Foster stated that was correct. Ms. John noted the back of the house was only 12.9 feet from the property line.

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

Mr. Campbell stated he did not want to grant the variance, but did not like the options either as they were limited. Ms. John commented that if they decided to approve the variance request, she thought they needed to specify the fence must be within the property line.
Mr. Campbell made a motion to approve the variance as requested subject to the fence being located within the property line. The motion was seconded by Mr. Clithero.

CASE NO. 1833 VOTE RECORDED AS FOLLOWS: VOTING YES: HAZELRIGG, JOHN, TOWNSEND, CLITHERO, CAMPBELL. VOTING NO: NO ONE. The variance was approved as requested subject to the fence being located within the property line.

There being no further business, the meeting adjourned at 7:25 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk