Chair Townsend called the meeting to order at 7:00 p.m. Those members attending included Rex Campbell, Dennis Hazelrigg, Martha John, David Townsend and Philip Clithero. Fred Carroz was in attendance for Case No. 1843 as well since David Townsend had to abstain. Also attending were the City Clerk, Sheela Amin, Community Development Director, Tim Teddy, Development Services Manager, Pat Zenner, Building Regulations Supervisor, Phil Teeple, Plan Reviewer, John Simon, and Assistant City Counselor, Rose Wibbenmeyer.

The minutes from the regular meeting of July 10, 2012 were approved as submitted on a motion by Mr. Campbell and a second by Ms. John.

Chair Townsend pointed out Case No. 1846 had been withdrawn, so it would not be heard by the Board.

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

Case Number 1842 was a request by Craig Van Matre, attorney for Alpha Gamma Chapter of Alpha Delta Pi House Corporation, for a variance to the off-street parking requirement by allowing fewer off-street parking spaces than required on property located at 809 Richmond Avenue.

Chair Townsend opened the public hearing.

Garrett Taylor, an attorney with offices at 1103 E. Broadway, provided a handout of his presentation and explained he was representing the Alpha Gamma Chapter of Alpha Delta Pi House Corporation with regard to a variance to the on-site parking requirements. The Alpha Gamma Chapter of the Alpha Delta Pi House was located at 809 Richmond Avenue and was presently zoned R-3. He displayed photos of the house, and noted it currently accommodated 72 students. He commented that as the student population at the University of Missouri continued to increase, the number of female students desiring to live in the sorority house had also increased. He understood the University was also requiring more female students be allowed into sororities due to the increased number of female students going through formal rush. The current Alpha Delta Pi House was not suited to house additional students, and as a result, the House Corporation had decided to expand and update the house to accommodate more students. The new addition would house an additional 26 students for a total of 98 members living in the house. He referred to Section 29-30(b), which required one parking space for every two occupants, so the Alpha Delta Pi House would need 13 additional on-site spaces as indicated by a letter from Mr. Teddy dated July 19, 2012. The letter also indicated the shared parking arrangements in the vicinity of the house with other Greek houses whose parking lots were within 1,000 feet were not sufficient per Section 29-30(e) because the applicant needed to show the additional parking spaces being supplied by the other Greek houses were surplus, the hours of use were complimentary and not conflicting, and the documentation for the shared parking was sufficient for the life of the building. He explained his client needed the variance due to that last requirement as it was impossible to obtain a 25-30 year leases for parking in Greektown, and they were therefore
seeking a variance from Sections 29-30(b) and 29-30(e). He displayed the site plan and noted the addition would be on the east side of the house.

Amanda Norris, an architect with Simon Oswald, 700 Cherry Street, stated she was hired to help build the new addition to the Alpha Delta Pi house and explained they had looked at the potential of including parking under the addition structure and constructing a parking structure on the site. The footprint of the addition was only 1,500 square feet, and due to the parking space size and circulation requirements, it was not feasible to build an underground structure. In addition, they would have had to eliminate some of the surface parking they had. An above ground parking structure also created a problem due to circulation requirements. They only had one-way circulation with the existing surface lot and to build on top of that would have been infeasible.

Susan Bridges, 1037 W. Gregory Boulevard, Kansas City, Missouri, explained she was a member of the Alpha Delta Pi House Corporation and stated they had entered into parking lease agreements with other Greek houses. They were leasing 15 parking spaces from the Missouri Farm House Association, which involved the Farm House fraternity, for a two year term and the lease expired in July, 2015. Mr. Taylor noted they had an affidavit from the Missouri Farm House Association President stating the Farm House fraternity would still satisfy its parking requirements even after providing Alpha Delta Pi with 15 of its spaces. Ms. Bridges commented that they had a parking lease with the Delta Sigma Phi fraternity for another 15 spaces for a ten year term, so they had 30 additional spaces for two years. Mr. Taylor pointed out they had an affidavit from the President of the Delta Sigma Phi fraternity as well indicating they had sufficient parking even when leasing these spaces. Ms. Bridges stated they had agreed they would obtain alternative parking arrangements when these leases expired, so at all times they would have the necessary 13 spaces. If they were unable to obtain the necessary leases or parking, they would decrease the number of members that would reside in the Alpha Delta Pi house, but hoped it would not come to that.

Mr. Taylor stated they were asking the applicant to be allowed to use these off-site parking arrangements in lieu of on-site parking, and for the variance to be approved. He entered documents associated with this request into evidence.

Mr. Campbell agreed there was an acute shortage of housing within walking distance of the University of Missouri, and the University was encouraging, but not requiring houses to take in additional people. Mr. Taylor stated that was correct. He understood there was a requirement that a certain percentage of girls going through rush be allowed into sorority houses, which increased the membership of the houses forcing more girls to live outside of the house.

Ms. John asked how the leased spaces would be identified as belonging to members of the Alpha Delta Pi house. Ms. Bridges replied the spaces were numbered and certain spaces were assigned to the Alpha Delta Pi house, so one person would always park in the same spot. Ms. John understood Alpha Delta Pi would assign a certain number to a certain person in the house. Ms. Bridges stated that was correct, and if someone was in that spot, the issue would have to be resolved by the parking police.

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

Mr. Teeple provided a handout for the record, which included the last five additions and buildings in Greektown that required parking modifications, and listed and described those.
Chair Townsend understood three of the five listed involved the demolition of the existing building and a complete rebuild, so they were not existing buildings with additions being built onto them. He asked if Alpha Gamma Sigma was a demolition or if they were purchasing additional land. Mr. Simon replied it was a demolition. Chair Townsend understood four of the five were demolitions, and Delta Sigma Phi had expanded their existing parking lot and were leasing spaces to the applicant as a result of the expansion.

Ms. Wibbenmeyer commented that to obtain the variance, the applicant bore the burden of establishing the fact practical difficulties existed. In determining whether practical difficulties justified a non-use variance, relevant factors included how substantial the variation was in relationship to the requirement, the effect of the variances allowed of increased population density on governmental facilities, whether substantial change would be produced in the character of the neighborhood or a substantial detriment to the adjoining properties was created, whether the difficulty could be prevented by another method feasible for the applicant to pursue other than the variance, and whether the view that the manner in which the difficulty arose in considering all of the factors, interests of justice would be served by allowing the variance.

Ms. John asked for clarification on the variance being requested. Chair Townsend replied the variance was to the off-street parking requirement by allowing fewer off-street parking spaces than required. Ms. John understood they had enough parking spaces, but the leases were not long enough. Chair Townsend stated that was correct since they needed leases for the life of the building. Mr. Clithero understood that if the Board granted the variance as stated, they would not need the leases. Ms. John explained that was the issue, and why she asked for clarification on the exact variance request. Mr. Campbell thought they needed to place a condition on the decision requiring alternative parking for some period of time.

Mr. Teddy explained the variance was to reduce the number of on-site parking spaces required by 13 due to the addition. He understood they were also appealing the notion the shared parking agreement entered into in order to mitigate the situation had to be for the life of the building. He noted the ordinance specifically stated this.

Ms. John asked if they were being asked to make a decision on two different issues. Mr. Teddy replied he thought the Board needed to determine whether the applicant had addressed the shortfall of the 13 spaces in a reasonable manner as staff could not approve an off-site parking arrangement for residential areas. He thought the Board could consider an off-site arrangement within a short distance of the site in determining whether to grant the variance.

Mr. Clithero understood the Board could grant a variance for the lack of on-site parking. Chair Townsend understood they did not need to address the lease arrangements. Mr. Teddy stated he believed the Board had the option of accepting whether the term of the agreements were sufficient. Chair Townsend understood if they were comfortable with the agreements, the Board could grant the variance allowing fewer spots. Mr. Hazelrigg stated that was his understanding. Mr. Teddy pointed out the agreement he viewed had indicated it was renewable annually for up to ten years, so he was uncertain there was an assurance for ten years. Mr. Taylor explained it was a one year renewal at the option of the Alpha Delta Pi house with the Delta Sigma Phi house through 2023. Chair Townsend understood Delta Sigma Phi did not have the option to terminate after a year. Mr. Taylor stated that was correct.
Ms. John wondered why they would need off-site parking if the Board granted a variance to that requirement. Mr. Teddy stated the lease agreements would mitigate against the shortfall. Ms. John understood the two things needed to happen together. Mr. Teddy agreed as the Board would be saying they did not need 13 on-site spaces, but would have to have the off-site leased spaces.

Mr. Campbell made a motion to approve the variance to the off-street parking requirement by not requiring the 13 on-site spaces necessitated by an increase in density, subject to the condition that adequate off-site/off-street parking was maintained through parking agreements over the life of the building, and if at some point adequate off-site/off-street parking was not maintained, the occupancy in the house would be reduced accordingly. The motion was seconded by Mr. Hazelrigg.

Mr. Campbell felt this area needed to be handled differently than the rest of the City when the zoning code was updated because it was highly congested and would likely get worse.

CASE NO. 1842 VOTE RECORDED AS FOLLOWS: VOTING YES: CAMPBELL, HAZELRIGG, JOHN, TOWNSEND, CLITHERO. VOTING NO: NO ONE. The variance was approved subject to the condition that adequate off-site/off-street parking was maintained over the life of the building, and if at some point adequate off-site/off-street parking was not maintained, the occupancy in the house would be reduced accordingly.

Chair Townsend recused himself and stepped down from the dais, and Mr. Carroz took his seat since Chair Townsend was a party in interest for Case No. 1843. Vice Chair Clithero ran the meeting in place of Chair Townsend.

Case Number 1843 was a request by Daniel Beckett, attorney for Broadway Office Park Condominium Association and Broadway Office Park, LLC (owner/lessor) and St. Charles Tower, Inc. (lessee), for a conditional use permit to construct a 110 foot stealth flag pole communications antenna and tower and the related above ground equipment shelter on property located at West Broadway (the lot on which the buildings addressed as 1201, 1203 and 1205 West Broadway sit).

Ms. Amin explained an e-mail was received from Ron DeLaite, which indicated he was the owner of a condo unit at 1115F W. Broadway and that he was concerned about the effect this would have on his property values. The e-mail also indicated he hoped the Board would not grant the variance without further discussion and that he was out of town and unable to attend tonight. She noted Vice Chair Clithero had asked whether Mr. DeLaite was a party in interest prior to the meeting, and in her review of the parties in interest list, 1115 W. Broadway and 1115 W. Broadway A, B, D and E were included on the list, but 1115 W. Broadway C or F were not included.

Vice Chair Clithero opened the public hearing.

Daniel Beckett, an attorney with offices at 111 S. Ninth, stated he was representing Broadway Office Park, LLC, the owner of the real estate on the north side of West Broadway on which 1201, 1203 and 1205 West Broadway were located, and that Broadway Office Park, LLC intended on leasing property to St. Charles Tower, Inc., who would construct and own the communications tower at issue before the Board. They were requesting the Board grant a conditional use permit to construct a 110 foot stealth communications tower designed to resemble a flagpole to
accommodate three cellular carriers. He entered into evidence a certified copy of Section 29-13.1, a certified copy of Section 29-21.3, the proposed site plan, letters from St. Charles Tower, Inc. that accompanied the application for the conditional use permit, and photo simulations of the tower once built. The subject property on which this proposed tower would be built was zoned O-P and consisted predominately of commercial development. The proposed tower would be built in the common area of Broadway Office Park in the vicinity of the intersection of West Broadway and Pershing Road. He noted the proposed site location was topographically depressed in relation to the surrounding area, and when approaching the site from the east and west, the communications tower would be relatively obscured by existing vegetation, so the aesthetic impact on the community would be minimal. He pointed out there were no existing towers or structures within the geographical area that met the engineering requirements of St. Charles Tower or the proposed antenna. He stated St. Charles Tower had made a diligent effort to co-locate the proposed antenna on other facilities in the area, but those efforts were unsuccessful because the antenna could not be located elsewhere to meet the technical requirements of providing enhanced cellular service within this portion of the City. This would be a capacity site necessary to meet the demands of a carrier’s voice and data network and was integral in the process known as cell splitting, which required the tower to be equidistance from three existing towers to accomplish and achieve greater capacity coverage. He commented that neither St. Charles Tower, Inc., nor the applicant had previously failed to take advantage of available shared use opportunities, and noted the proposed tower would be able to accommodate three cellular carriers. He asked the Board to grant a conditional use permit to allow the construction of a communications tower in accordance with the plans and specifications defined in the site plan, which satisfied the general requirements promulgated in Section 29-21.3.

Greg Yocum, an engineer with St. Charles Tower, Inc. with offices at 4 West Drive, Chesterfield, Missouri, commented that as cellular systems become more mature, smaller and smaller cell sites were needed. Their client had more customers and needed the area in which they proposing to construct this tower. He explained cell splitting happened when smaller sites were located in the middle of existing sites to cover capacity and demand in the area. He noted everything in the area was primarily residential except for this, which was mostly commercial. A benefit to this project was that this would be a good co-location opportunity when other carriers needed more capacity. He stated they were a tower builder, and not a carrier, so their ultimate goal was to have multiple carriers on the pole. This specific pole would have three locations for antennas. One antenna would be for their client, and they would market the other two for future clients.

Mr. Campbell stated most of the towers they had approved were 100 feet and asked if it was essential that this tower be 110 feet. Mr. Yocum replied the area was about 10 feet lower than they preferred due to the terrain and foliage and was the reason for the additional height. Mr. Campbell stated the photo simulations showed a brown tower, but he assumed the one constructed would be white. Mr. Yocum replied it was up to the Board. He noted there was a lot of brown guttering on the site, so he thought it might blend in better if painted brown. Mr. Campbell asked if there would be any visible antenna on the tower. Mr. Yocum replied no, and explained they were all internal to the pole. The top 30 feet of the pole was essentially a canister and the antennas were mounted within it.

John James, 1115 West Broadway, Unit D, stated his property abutted the subject property and one of the main reasons he and his wife purchased this property four years ago was because of its aesthetic appeal and the fact it was almost in the middle of downtown. He pointed out the condos abutted Lake Broadway, which was a reservoir of water, and they had vegetation, which provided
an appearance of privacy. He believed this 110 foot stealth flagpole would destroy that appearance and noted there was nothing stealth about a 110 foot antenna. These towers did not look like flagpoles and were an eyesore he and his wife would have to look at everyday. It would also affect their property values. He pointed out a few blocks down West Broadway towards Stadium was an area that was almost all commercial, while this area was almost all residential property. He agreed this was a depressed area in terms of the greater community, but he walked up hill to get to the property. He was certain he would have to look at the pole every day he lived in this location and that it would affect his property value when he decided to sell the condo. He asked the Board to deny the conditional use permit.

Benjamin Long, 1115 West Broadway, Unit E, stated he had a one year old child and he was concerned about the radiation that would be emitted from the tower. Until he saw evidence indicating there were no physical or mental development detriments of living under a tower, he was opposed to this project.

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

Mr. Zenner commented that this was a regular canister-style steel pole and would not have a flag on it even though it was referred to as a stealth flag pole as flags created a series of other issues. The original application, which was withdrawn, asked for consideration of a 120 foot tower and staff had suggested it be reduced since it did not meet fall zone requirements. The new application was for a 110 foot tower. He stated this was in a valleyed area of the City, and based on the information provided, staff felt this request was reasonable in relationship to the provision of the service desired and the need in the community for it. He noted the site plan was consistent with the requirements and the screening standards would be met. A wrought iron fence would enclose the compound area, which would also have landscaping in front of it to meet the 80 percent opacity requirement. He stated staff believed the upper 25-30 feet of the tower would be visible from the intersection of Garth and Broadway and the shopping center, which housed Gerbes. Staff did not have a problem with the application as submitted since it was compliant with the requirements. He thought Mr. Yocum could address the issues of radiation, but his opinion was that towers were significantly regulated by the FCC.

Ms. John asked why the person that contacted the Board by e-mail had not received notification when everyone else in that row of condominiums were notified as she had reviewed the information on the Boone County Assessor’s Office and he was the owner of 1115F West Broadway. Ms. Amin replied the list had been provided by the applicant, so he was not sure. Mr. Beckett stated this was the list he obtained from the Assessor’s Office.

Mr. Campbell asked for the width of the lake. Mr. Zenner replied it would be about 115-120 feet to the bank of the lake from the center of the pole, and the lake itself was probably about 30-40 feet wide. Mr. Beckett explained if it fell, it would stay within the subject tract.

Ms. Wibbenmeyer explained Section 29-21.3 addressed communication antennas and towers and read subsection (a), which discussed purpose. She pointed out subsection (e)(2) listed items the Board should consider in rendering its decision, and read those items as well.

Mr. Hazelrigg stated he shared Ms. John’s concerns regarding the individual being left off of the persons of interest list as he wondered if that would create an issue in the future regardless of the outcome of the request.
John James, 1115 West Broadway, Unit D, pointed out there was also someone in Unit C, who might not have been notified. Ms. John explained that person was on the list for a different address.

Ms. Wibbenmeyer explained the rules of the Board of Adjustment provided for the notice requirements, and it was not clear to her as to why this person was not notified. She understood that particular individual had requested the case be tabled. She noted the Board was within the time period allowed under the rules if they wanted to continue this case to give that person the opportunity to appear.

Ms. John asked for the distance requirement for the parties in interest. Ms. Wibbenmeyer replied it was 185 feet from the subject property.

Mr. Beckett asked that the Board proceed with rendering a decision as that individual had commented.

Mr. Campbell understood the application indicated a .85 mile radius and asked for clarification. Mr. Yocum replied .85 was the nearest tower he had been able to find and .25 miles was the search ring as it was the feasible ring they were able to work within. The only other place they found that might work was the fire station, but it did not meet the fall zone requirements for a 110 foot tower, which was required to meet the carrier’s needs. Mr. Campbell asked about the shopping center nearby. Mr. Yocum replied the shopping center was outside of the .25 mile search ring radius. He pointed out they were required by the FCC to ensure there was not a maximum permissible exposure, but a study was only required if the antennas were on a roof. He stated the emissions were typically 100 watts, which was similar to a light bulb, and being 100 feet away from the source decreased the impact.

Ms. Wibbenmeyer explained the lack of notice to the one interested party could be a problem and pointed out there was no such thing as too much notice. She noted they had a party in interest that sent an e-mail indicating he was not provided with notice until very recently, and pointed out the safest approach would be to continue the case and notify all of the parties in interest of the new hearing date to allow them the opportunity to be heard. While the attorney for the applicant believed that person had been provided the opportunity to be heard because the information was read, this was not the same as the opportunity to appear and be heard.

Mr. Hazelrigg made a motion to continue Case No. 1843 to the September 11, 2012 Board of Adjustment meeting. The motion was seconded by Mr. Campbell and approved unanimously by voice vote.

Mr. Carroz stepped down from the dais, and Chair Townsend took his seat at the dais for the remainder of the meeting.

Case Number 1844 was a request by Phebe La Mar, attorney for MU Crew, LLC, for variances to the off-street parking requirement and the minimum lot size requirement by allowing expansion of a non-conforming building that does 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, provided a handout with one picture of the subject property prior to the addition and two pictures of the subject property after the addition was built, and explained she represented MU Crew, LLC, the owner of 201 S. College Avenue, which was located at the southwest corner of College and Locust, backed up to Lee Elementary and was across Locust from Stephens College. The property was best suited for residential purposes and was ideal for individuals seeking apartments close to campus. It was low density building with one bedroom units throughout the building. Most, if not all, of the occupants of the building were students of the University of Missouri or Stephens College. She pointed out only four of the present ten occupants had a car. She noted her clients had previously requested a variance to add two apartments to the building and explained the addition constructed included four apartments, but they got rid of the two apartments in the basement for a net of two additional apartments. The addition was designed to match the existing building and due to the slope of the roof, an additional apartment could be established in the attic of the building. She explained they were seeking a variance to add this apartment in the attic of the building for a total of eleven apartments to be in the building. Two or three more windows would be added to the exterior back of the building for the additional apartment. She noted upgrades had been made to the building when the addition was constructed, and those included sprinklers throughout the building, the removal of apartments below grade, better ingress and egress, a replacement and upgrade of the porch on the front of the building, the repair and/or replacement of the rear foundation that had been crumbling, a new fence between the building and Lee Elementary, an upgrade to the landscaping, electrical system, etc. She stated this building had never had parking or an access point to a public street, so they would not be decreasing any parking. She commented that there were practical difficulties and unnecessary hardships in enforcing the ordinances on this property, and that this situation was not self-imposed due to the fact parking had never existed here. This property backed up to one school and was across the street from another school, and as a consequence, it had unique constraints in terms of its use and was located next to property zoned C-2. She believed granting the variances would bring substantial justice and asked the Board to grant the variances requested.

Mr. Campbell asked if the additional apartment would be included in the existing structure or if it would be added to the structure. Ms. La Mar referred the bottom picture of the handout and replied it would be located in the attic of the addition. Ms. John asked how big the space would be and if it would have any headroom. Ms. La Mar replied they had not thought there would be sufficient headroom initially, but roughed it in during construction since there ended up being sufficient clearance. Mr. Campbell asked if it had eight foot ceilings. Ms. La Mar replied she believed it did. Chair Townsend asked if there were sprinklers in the attic.

Ben Galloway, 802 Sunstone Lane, stated he was a member of MU Crew, LLC, and explained the top part of the structure had allowed for more headroom than they thought it would as it was in excess of eight feet. In addition, it was conservatively 600 square feet. He thought it would make a nice loft apartment and noted it would be larger than the other apartments.

Mr. Hazelrigg asked if it would be the entire length of the addition. Mr. Galloway replied it would not be the complete top floor of the structure, and explained it would be about half of the top the floor. Ms. John asked if the bedroom would be on the back wall and if the window would be located there. Mr. Galloway replied the back wall would house the bath room, kitchen and living area. The bedroom would be on the bathroom side and would not have a window. Ms. John asked what would be the emergency egress for the bedroom. Mr. Galloway replied there would be
two doors, with one on the bedroom side and the other on the living room side. Mr. Hazelrigg asked if it would be on the exterior rear elevation. Mr. Galloway replied no, and explained the exit doors to the apartment would go out to the hallway between the existing building and the addition to a stairway. Ms. John asked if the hallway would be rated. Mr. Galloway replied it was finished and was constructed similarly to the rest of the structure. Mr. Simon explained the documents he had examined for the project would meet the Codes, and emergency egress windows would be provided on the rear or south side of the structure.

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

Mr. Teeple commented that this property was actually on two public streets, so it did have access. Ms. La Mar agreed it has access to public streets, but noted it had never had a driveway onto either public street.

Ms. Wibbenmeyer explained the applicant had the burden to establish practical difficulties existed and that the variances should be granted. She noted the factors included how substantial the variation was in relationship to the requirement, the effect of the variances allowed of the increased density on governmental facilities, whether substantial change would be produced in the character of the neighborhood or a substantial detriment to adjoining properties was created, whether the difficulty could be prevented by some method feasible for the applicant to pursue other than the variance, and whether in view of the manner in which the difficulty arose in considering all of the factors, interest in justice would be served by the variance. She pointed out the problem and complicating fact in this case was that the structure was a non-conforming structure, and noted Section 29-28(d) indicated repairs and alterations could be made to a non-conforming building provided that no structural alterations or extensions would be made, except for those required by law or ordinance unless the building was changed to a conforming use provided the Board by special permit in the case of evident hardship could grant the extension of a non-conforming use not exceeding 25 percent of the first floor. In 2011, the Board granted several variances to include the expansion of a non-conforming use, which exceeded 25 percent of the first floor square footage. She noted Section 29-28(d) would have prohibited the Board from granting the variances, but the Board granted the variances and the building was still a non-conforming structure. She stated the Board could make a decision with regard to this application for variances. If the Board found practical difficulties and believed the variances should be granted, they could grant the variances. If the Board found practical difficulties had not been established, they could deny the variances requested.

Mr. Campbell stated he thought they had addressed this through their actions in 2011 as there had been discussion as to what this area would become. He believed this area was a part of the urban core rather than a residential area.

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

CASE NO. 1844 VOTE RECORDED AS FOLLOWS: VOTING YES: CAMPBELL, HAZELRIGG, JOHN, TOWNSEND, CLITHERO. VOTING NO: NO ONE. The variances were approved as requested.
Case Number 1845 was a request by Scott and Julie Swain for a variance to the front yard setback requirement by allowing a proposed addition to encroach into the required front yard on property located at 21 Bingham Road.

Ms. Amin pointed out Marilyn Holm of 106 W. Ridgeley Road had provided written correspondence indicating she was in favor of the variance request.

Chair Townsend opened the public hearing.

Scott Swain, 21 Bingham Road, commented that there was a glitch in the ordinances as it related his property. The setback in Columbia per ordinance was 25 feet and the proposed addition was setback at 28 feet. He noted a plot map did not exist since this was one of the original neighborhoods, and in his discussion with the Assessor's Office, they thought it was surveyed individually at some point. He felt the 28 foot setback was sufficient since it was more than required per City ordinance. He stated his immediate neighbors that would be involved in the determination of the median setback were supportive of the variance request, and he provided a copy of their letter of support. He also provided a letter of approval from the Grasslands Architectural Review Board as that organization had reviewed the proposed addition. He pointed out the Grasslands covenants, which were passed in 2007, stated all parcels would comply with the setback requirements of the City of Columbia, which he believed was 25 feet. He noted a 10 foot high dirt mound had been on his property for seven weeks since he missed the deadline for the July meeting.

Renee Hulshof, 24 Bingham Road, stated she, her husband, Kenny, and their two children lived across the street from the subject property, and her family and their neighbors to the west would be most directly affected by the setback because they would look at it more than anyone else in the neighborhood. She commented that the Grasslands was one of the last remaining and most unique neighborhoods in Columbia. They had homes built in the early 1900's to 2011, which ranged in style and included statuesque federal homes, colonial revivals, bungalows, ranch homes and modern homes. They had mature trees, homes of every size and were in the middle of town. She noted they lacked storm drains that worked, sewer maps, sewers in front of the homes and a uniform setback. She asked the Board to approve the variance request of the Swain’s, and to address the glitch that had prevented them from proceeding with the project.

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

Mr. Teeple commented that there was a recorded survey of the property, but it did not show any setbacks and had been recorded in a deed book instead of a plat book. He believed the biggest issue staff had was the degree of variance requested. The exhibits provided were not completed by a surveyor so he did not feel they had sufficient data to properly identify the required setback. He pointed out the notice of application and the letter from City staff provided an erroneous Code section as it should have been Section 29-26(b)(1) instead of Section 29-26(1).

Mr. Clithero asked Mr. Teeple if he was saying there was not enough information to grant the request, but there was enough information to deny the permit. Mr. Teeple replied the ordinance indicated the median setback needed to be used and staff did not have the information to determine what the median setback would be along this section of road. Chair Townsend understood that because the City could not determine the median setback, the permit was denied. Ms. John asked if the Board could grant them a 28 foot setback. Mr. Teeple replied yes.
Ms. Wibbenmeyer explained the standard the Board needed to consider was practical difficulties.

Ms. John stated this was a situation before the Board regularly.

Mr. Campbell noted he lived in an older neighborhood and his philosophy was to encourage efforts to upgrade and improve homes in those neighborhoods.

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

Mr. Clithero noted they could not control the quickness of a resolution in these types of situations and he thought the Board had asked for this type of situation to be reviewed previously. The two situations he recalled both had four homes, and in determining the median, the two with the greatest and least setback would not be used and there were two left, which meant one would not conform. Ms. John stated she had made a recommendation to the City Council when she was Chair of the Board that they consider changing the rule so the furthest forward setback was used as long as it was at least 25 feet, but it was not acted upon. Mr. Clithero suggested they ask it be acted upon. Mr. Teddy stated the City would soon be reviewing its zoning ordinances. Mr. Campbell noted there was a situation in his neighborhood where one home had 15 feet but another had about 100 feet.

CASE NO. 1845 VOTE RECORDED AS FOLLOWS: VOTING YES: CAMPBELL, HAZELRIGG, JOHN, TOWNSEND, CLITHERO. VOTING NO: NO ONE. The variance was approved as requested.

There being no further business, the meeting adjourned at 8:26 p.m.

Respectfully Submitted,

Sheela Amin
City Clerk