

**MINUTES  
BOARD OF ADJUSTMENT  
FEBRUARY 11, 2014**

Chair Townsend called the meeting to order at approximately 7:00 p.m. Those members attending included Fred Carroz, Elizabeth Peters, Phil Clithero, David Townsend and Martha John. Also attending were the City Clerk, Sheela Amin, Planner, Clint Smith, Planner, Steve MacIntyre, Engineering Manager, Shane Creech and Assistant City Counselor, Rose Wibbenmeyer.

The minutes from the regular meeting of January 14, 2014 were approved as submitted on a motion by Ms. John 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 1874 was a request by Robert Hollis, attorney for H&S 1100 Properties, LLC, for a conditional use permit to allow plumbing, heating, air conditioning, and electrical businesses, which may include related customary activities such as contracting, retail and wholesale sales and distribution as required by Sections 29-23 and 29-16 of the Code of Ordinances of the City of Columbia; and for variances to the minimum parking lot lighting requirement and the screening and landscaping requirements by not requiring the parking lot to be lit and by not requiring any additional screening and landscaping as would be required in Sections 29-30.1(g)(1) and 29-25(e)(3), (4) and (5) of the Code of Ordinances of the City of Columbia on property located at 1100 Business Loop 70 West.**

Ms. Amin noted Tia Thacker had contacted the City Clerk's Office to state her opposition to this request because she believed 125 business owners would be displaced if The Market Place closed. She indicated that although this was a hobby for a few of them, it provided supplemental or full income for others. She stated other area flea markets were full, so these business owners had nowhere to move their inventory or businesses.

Chair Townsend understood the closing of The Market Place was not germane to this request and would likely close regardless. Ms. Amin stated that was her understanding.

Chair Townsend opened the public hearing.

Robert Hollis, an attorney with offices at 1103 E. Broadway, stated he represented the applicant and understood the staff report recommended approval of the conditional use permit, but had not recommended approval of all of the variances requested. He submitted into evidence a packet of information, which included a copy of his presentation. He explained Ferguson had an interest in the property, and this use was conditional in C-3 even though it was permitted in C-P without a conditional use permit. He noted he felt the standards for the conditional use permit had been adequately addressed in the staff report. In terms of the variances, he felt there were practical difficulties that would create unnecessary hardships if the strict letter of the ordinances were carried out. He pointed out the site would change very little and only a very small area of pavement that would be disturbed. One of the ordinances at issue required a tree to be planted for every 4,500 square feet of disturbed pavement, and they felt the planting of one or two trees would not accomplish much. Another variance request was for the plantings required along the

Business Loop because the area involved had a lot of easements so there was not much room available for the plantings. He understood the requirement was to screen 50 percent of the parking area adjacent to the right-of-way with one tree for every 50 feet. He noted the plantings would be minimal if required and felt the hardship in order to accomplish this would be greater than any benefit. He asked the Board to grant the conditional use permit and variances.

Jay Gebhardt, an engineer with A Civil Group, 3401 Broadway Business Park Court, provided a handout and explained the parking area would be split, creating a north piece and south piece. The north piece would be utilized for outdoor storage, and would be separated by a fence from the south portion of the lot. If the conditional use permit was approved and Ferguson moved forward with its plans, docks would need to be installed, and this required the excavation of some pavement and a dock-well so the trucks were level with the finished floor of the existing building. This would trigger the requirement for the one tree per 4,500 square feet of disturbed area, which would not result in many trees. He understood purpose of the tree was to create shade for the pavement, and explained this area would be a working storage yard for Ferguson. It would not be a parking lot for customers, and as a result, they would not want to plant a tree in that area. If required, they would plant the 1-3 trees required around the perimeter of the lot, which would not address the purpose of the ordinance to plant the trees. The other variance involved two areas as the ordinance indicated screening was required for parking areas was within 20 feet of a right-of-way. There were difficulties in accomplishing this for the 250 foot area along the I-70 portion of the property. The other area that would require screening was along the Business Loop and involved a lot of utilities, so they had concerns and felt it would not accomplish much. He pointed out many of the requests made in the application were from the fear of having to do everything, and by going through this process, staff had clarified what was required.

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

Mr. Smith stated staff felt the applicant met the standards for granting a conditional use permit at this location. In addition, staff did not believe the variances requested for lighting and landscaping in proximity to residential property were necessary because those items were not required. The applicant would, however, be required to provide one tree for every 4,500 square feet for the disturbance of the parking area for the truck dock and the screening along the southern edge of the parking pavement area closest to I-70 and along the Business Loop. Staff did not feel a hardship had been presented for the Business Loop location, which was the reason they recommended the screening be installed.

Ms. Peters understood the applicant had indicated it was difficult to provide for the screening along the Business Loop because of the easements, and asked if that would create a problem or if it could be accommodated with hedges instead of trees. Mr. Smith replied a variety of landscaping was permitted to meet that requirement. The individual easements would need to be reviewed, but typically landscaping was permitted in easements. He noted there were some overhead lines, and the property to the east had understory trees, which grew a little lower, so staff felt there was an opportunity to meet that requirement. Mr. Clithero understood there was a gas line in the area, which created different issues than an overhead line.

Ms. Wibbenmeyer commented that the Board could grant a conditional use permit when it found the proposed conditional use was in compliance with all of the regulations of the applicable zoning district and in conformance with character of the adjacent area within the same zoning district in which it was located, and the off-street parking and loading areas were provided in accordance

with standards set forth in Section 29-30, adequate utilities, drainage, and other such facilities were provided, and adequate access was provided and designed to prevent traffic hazards and minimize traffic congestion. She noted approval and issuance of such a permit would not be deemed to relieve the applicant of the duty to comply with other provisions of the laws and ordinances. The Board could also stipulate any conditions it deemed necessary. With regard to the variances requested, the Board could permit such variances only when it found there was practical difficulty or unnecessary hardship in connection with the specific piece of property that was not self-imposed, but was due to the unique characteristics of the land and not common to surrounding properties. The Board also had to find that by granting the variances, substantial justice would be done, public safety and welfare preserved, and the viability of the zoning ordinance as a whole would be protected.

Mr. Clithero asked for clarification regarding the variances requested. He understood staff was agreeable to not requiring the screening along I-70 and asked if a variance was still needed. Mr. Smith replied the variance was needed if the Board agreed with the request of the applicant to not plant trees at that location. He pointed out staff did not necessarily have a recommendation for that location. There were some identified hardships that could make it difficult in that location. He clarified there were two variances requested for two sections of the Code of Ordinances. The first involved the pavement in proximity to the right-of-way along the Business Loop and along I-70, and the second was the loading dock area. Chair Townsend understood the variances were for screening along I-70 and the Business Loop and for the planting of trees due to disturbing the concrete. Mr. Clithero asked if a variance was granted for the planting of the trees due to the disturbance of the pavement, if that would allow the applicant to tear up the entire parking lot without planting any trees. He thought they would have to be careful with how the variance was worded. Ms. Wibbenmeyer agreed.

Ms. John stated her preference was to approve the conditional use permit and deny the variances. Chair Townsend asked if she meant denial of all of variances. Ms. John replied there were only two since the other two were not necessary. The landscaping along the rights-of-way was one variance and the landscaping for the disturbed parking lot was the other variance that the applicant felt was necessary. Mr. Smith stated that was correct, and explained the first variance had two parts. Chair Townsend asked about the screening. Ms. John replied the screening was associated with the first variance.

Ms. John made a motion to approve the conditional use permit subject to approval of building plans that demonstrated compliance with all applicable zoning and stormwater regulations. The motion was seconded by Mr. Clithero.

CASE NO. 1874 FOR THE CONDITIONAL USE PERMIT VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, PETERS, CLITHERO, TOWNSEND, JOHN. VOTING NO: NO ONE. The conditional use permit was approved subject to the approval of building plans that demonstrated compliance with all applicable zoning and stormwater regulations.

Chair Townsend understood Section 29-25(e)(3) was the landscaping requirements on the Business Loop, not I-70. Ms. Amin clarified that Section 29-25(e)(3) applied to both the Business Loop and I-70, and the Board could split it if they wanted. Chair Townsend understood the other variance was the pavement disturbance from the loading docks.

Mr. Clithero made a motion to approve the variances associated with the requirements of Section

29-25(e)(3). The motion was seconded by Mr. Carroz.

Ms. Peters asked for clarification of what that variance would mean. Chair Townsend replied the applicant would not need screen along I-70 or the Business Loop. Ms. Amin explained the screening that would be required if the variance was not granted would be done with landscaping along the rights-of-way.

CASE NO. 1874 FOR APPROVAL OF THE VARIANCES ASSOCIATED WITH THE REQUIREMENTS OF SECTION 29-25(e)(3) VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, CLITHERO, TOWNSEND, JOHN. VOTING NO: PETERS. The variances were approved.

Ms. John made a motion to deny the variance associated with the requirements of Section 29-25(e)(4). The motion was seconded by Mr. Carroz.

CASE NO. 1874 FOR DENYING THE VARIANCE ASSOCIATED WITH THE REQUIREMENTS OF SECTION 29-25(e)(4) VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, PETERS, TOWNSEND, JOHN. VOTING NO: CLITHERO. The variance was denied.

**Case Number 1875 was a request by Ruth O'Neill, attorney for CEK Holdings, LLC (owner & lessor) and Vickie Pence (lessee representative), for a conditional use permit to allow church use, including temporary Room At The Inn (RATI) community services, for a period not to exceed five years, on property located at 4201 I-70 Drive Southeast.**

Ms. Amin stated two e-mails had been received. One was from Betty Frech indicating she had concerns and questions, and based on what information she had, she did not feel M-1 zoning was appropriate for a homeless shelter. The other was from Mark Stevenson indicating he owned property around the area as well, and although he favored sheltering the homeless, he was opposed to providing that service at this location and suggested a different location.

Chair Townsend opened the public hearing.

Ruth O'Neill, 1001 Rangeline, explained the property at issue had been a church in the past. She thought it had been two different churches over an extended period of time until the spring or summer of 2013. She understood the staff recommended approval of the conditional use permit to allow a church on the site subject to the condition the parking lot be striped to delineate the required number of parking spaces prior to issuance of the final certificate of occupancy. She noted the owner of the property had received an estimated cost for the striping, which she provided the Board, and was agreeable to accommodating that condition as soon as the weather permitted it.

Ms. John stated some concerns they had received involved the Room at the Inn and asked for a further explanation with regard to it. Ms. O'Neill replied the Room at the Inn was a community effort to provide temporary winter shelter for the homeless, who were not otherwise sheltered in existing year-round shelters, so they could get out of the elements. For the last five years, Room at the Inn had operated in January and February through the assistance of many entities. The Unitarian Universalistic Church on Shepard had opened this past December when severe weather came earlier than expected, and last year Room at the Inn services were able to be extended an extra week. The issue with Room at the Inn was that there was not a permanent place for this

hospitality and life saving function. It moved from place to place from year to year, and this year it would be housed in six different churches in the months of December, January and February. At this time, they did not have a location if services were needed beyond February. The thought of the applicant was that the location could provide services in March of this year if needed. She pointed out the Columbia Interfaith Resource Center Board, which operated Room at the Inn, had not made a decision regarding the March location, but this would be an option if the church use was allowed. She understood the applicant would make this space available so the Room at the Inn would not have to pay money to rent space in the month of March. The "not to exceed five years" language was included to allow this property to be available if needed in the future.

Ms. John stated Room at the Inn had been located near her residence at one time, and there had been concerns because it had been hard for people to get to the location. Ms. O'Neill commented that she believed that was a big concern. This year, faith communities had provided transportation from a central point, so they took people to the shelter in the evenings and brought them back to town in the mornings.

Ms. Peters asked for clarification regarding the request of the applicant. Ms. O'Neill replied they were asking for a conditional use permit because the property was zoned M-1. Ms. John understood one of the possible uses of the church was to provide space for Room at the Inn.

Mr. Clithero understood the request was for a conditional use permit to have a church at this location and asked what the Room at the Inn had to do with it. It had been in several locations in the past, and this Board had never granted a conditional use permit for the Room at the Inn anywhere else. Chair Townsend replied he understood overnight accommodations were not allowed as an approved use in the industrial zoning classification. Ms. Wibbenmeyer explained a church in the M-1 zoning district required a conditional use permit. She believed temporary housing was allowed in the R-3 zoning district. Mr. MacIntyre thought temporary housing was allowed in O-1 or R-3, which were lower zoning districts. In this situation, the request was for a conditional use permit for a church use in the M-1 district, which was an eligible use in the M-1 district under the conditional use permit requirement. The shelter was an accessory use to the church as was traditionally the case. It was secondary to the principal application. Ms. O'Neill stated this was not a request for a conditional use permit to run a homeless shelter at this location. Mr. Clithero thought it was important that was pointed out due to the inquiries the Board had received.

Chair Townsend understood that if the Board granted a conditional use permit for the church, the church would be allowed to participate in Room at the Inn by providing a location if needed. Ms. John thought that was correct.

Mr. Carroz understood a church had been located at this site in the past and asked for clarification. Ms. Amin replied it did not appear as though any previous church had ever requested a conditional use permit per staff research.

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

Mr. MacIntyre commented that there were two conditions associated with the granting of a conditional use permit for a church in the M-1 district. One condition was that the permit could not exceed five years, so the applicant would have to apply for another conditional use permit upon expiration. The other condition was related to parking, and since the entire lot was already paved,

staff was only suggesting the parking be formalized with striping and that the certificate of occupancy not be granted if the applicant did not fulfill that requirement.

Ms. Wibbenmeyer explained the Board could grant a conditional use permit if it found the proposed conditional use was in compliance with all of the regulations of the applicable zoning district and in conformance with the character of the adjacent area within the same zoning district in which it is located, and off-street parking and loading areas were provided in accordance with standards set forth in the ordinances, adequate utilities, drainage and other such facilities were provided and adequate access was provided and designed to prevent traffic hazards and minimize traffic congestion. She noted the approval and issuance of the permit would not be deemed to relieve the applicant of the duty to comply with the provisions of other laws and ordinances. The Board could also stipulate any conditions necessary.

Ms. John suggested they approve the conditional use permit for five years with the condition suggested by staff involving the striping of the pavement.

Mr. Clithero understood a certificate of occupancy would not be issued if the parking lot was not striped. Ms. John understood the striping was dependent on the weather, but believed it could be done by May. Mr. Clithero understood staff could issue a certificate of occupancy if the applicant was required to stripe the lot by May. Mr. MacIntyre stated that was correct, but pointed out it could be challenging to indicate non-compliance with a conditional use permit if the property was already occupied. It would make it a more difficult situation. Mr. Clithero understood it would be difficult to require the striping to be done by March. Ms. John agreed.

Ms. John made a motion to approve the conditional use permit for five years subject to the condition that the parking lot be striped to delineate the required number of parking spaces by May of 2014, and if that condition was not met, the conditional use permit would be revoked. The motion was seconded by Mr. Clithero.

Ms. Amin asked for clarification regarding the wording for the certificate of decision in terms of whether "including temporary Room at the Inn (RATI) community services" would be included. She noted it had been included in the notice of the public hearing. Chair Townsend suggested it be included since the applicant had worded it that way in its application. Ms. Peters thought they could grant the conditional use permit for the church use without addressing the Room at the Inn. Chair Townsend commented that he was concerned that if it was not included and it was used for that type of service in March, those that had issues with it would claim the conditional use permit did not allow it. Ms. John understood the church could provide for those services. Chair Townsend agreed, but thought the clarification was helpful. He asked Ms. Wibbenmeyer if she thought that was acceptable. Ms. Wibbenmeyer replied she thought that was a good approach.

CASE NO. 1875 VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, PETERS, CLITHERO, TOWNSEND, JOHN. VOTING NO: NO ONE. The conditional use permit was approved subject to the condition that the parking lot be striped to delineate the required number of parking spaces by May of 2014, and if that condition was not met, the conditional use permit would be revoked.

**Case Number 1876 was a request by Robert J. Buckley, attorney for Delta Upsilon Alumni Corporation, for (1) a variance to the building height requirement by allowing the building height to exceed the maximum height permitted; (2) a variance to the screening and**

**landscaping requirements for paved areas within fifty feet of a residential use/zoning district by not requiring screening and landscaping for the paved areas within fifty feet of a residential use/zoning district as required by Section 29-25(e)(5); (3) a variance to the requirement that parked vehicles shall be prevented from intruding on travel lanes by not requiring curb islands, wheel stops, or other means that would prevent parked vehicles from intruding on the travel lane of the public alley along the west property line; and (4) a variance to either the front yard setback requirement by allowing the building to encroach into the required front yard or a variance to the parking access aisle width requirement by allowing the parking access aisle width to be less than required on property located at 711 Tiger Avenue.**

Chair Townsend opened the public hearing.

Robert Buckley, an attorney with offices at 401 Locust Street, Suite 406, stated he represented the Delta Upsilon Alumni Corporation with regard to their building project located at 711 Tiger Avenue and listed the variances they were requesting.

Sarah Clark, an architect with offices at 2405 Waterside Drive provided a handout to the Board and explained this lot was zoned R-3 and had a maximum building height of 35 feet. They were proposing a two-story structure above a basement that would be used for a parking garage. The building height was the result of the existing grades on Rollins, which would provide for the entrance and exit to the parking garage. She stated they set it as low as possible based upon the existing grades while trying to minimize the water that had potential to come into the building. The building height was measured at the top of the curb at the northeast corner of the lot, since it was the highest point they could establish, to the mid-point of the highest roof slope. She commented that the building directly across Tiger Avenue was the University of Missouri Business School building, which had four stories plus a roof, and their neighbors on Rollins, the Phi Kappa Theta building, had three stories plus a roof. She noted they were asking for a 41 foot height based on the curb to the mid-point of the highest roof portion of their structure, which was six additional feet from the maximum 35 feet allowed for this zoning district.

Ms. Peters asked for the height of the other fraternities on Rollins. Ms. Clark replied Phi Kappa Theta was three stories above grade plus the roof structure, and she believed it exceeded the 35 foot height. She noted there were two and three story buildings further down Rollins as well.

Ms. John asked for the pitch of the roof. Ms. Clark replied it was 6:12. Ms. John asked what would be in the roof space. Ms. Clark replied they had an attic space, the second floor, and the first floor. Ms. John asked what would be in the attic space. Ms. Clark replied there was not a story in the attic space. They only planned to include a small mezzanine there to set the units that fed the second floor. Ms. John asked if the pitch could be lowered a little. Ms. Clark replied they were trying to get additional height to a few rooms through a scissor truss, which was at a 3:12 with a nine foot stud as it worked the best. She pointed out they had tried to depress the basement as far as they could as the height from the finished floor of the basement to the first floor was 10 feet 2 inches. In addition, they only had a clearance of 7 feet 1 inch to drive underneath the structure. She reiterated she felt it would fit in terms of context with the surrounding buildings as most were two stories with a roof and this was similar. This lot just happened to slope greatly from right to left on Tiger and east to west on Rollins, so the building was set back from the front as required and appeared taller.

Ms. Peters understood the applicant did not plan to use the third story for any rooms. Ms. Clark stated that was correct. It was non-occupied.

Jay Gebhardt, an engineer with A Civil Group, 3401 Broadway Business Park Court, provided a handout and explained a lot of the variances were the result of a ten foot wide public alley that separated two fraternities. He referred to the aerial photo he had provided, which illustrated the current parking situation, and stated this project would create some order via the parking structure underneath the building and the parking that would be provided along the west side of the new building.

He explained one of the maps was an overview of the site and showed the current parking situation. They were trying to create order by putting a parking structure underneath the building and providing parking along the west side of the building. He referred to the proposed building layout document and described the location of the alley. He noted the parking on the west side of the building was within 50 feet of the fraternity to the west, and as a result landscaping was required, so they were requesting a variance from the requirement for landscaping within 50 feet of a residential use. He explained the parking would be accessed from the alley. In addition, they were adding a ten foot lane to the 10 foot public alley to provide a total of a 20 foot lane. He noted they would pull straight in from the alley to the parking spaces. If they were required to screen the parking area from the fraternity, they would not be able to get to the parking spaces because that screening was required along the alley. This configuration would not be able to be accommodated if the landscaping was required and there was not enough room on the lot to configure it differently. He stated they were also asking for a variance from the requirement to have a curb or curbstops. They did not want to have driveway entrances on the alley. He pointed out they had spent a lot of time with the Fire Department in trying to improve the situation, and were able to satisfy their need of being able to make the curve yesterday afternoon. He pointed out the fraternity on the other side of their lot had pull-in parking off of the alley, and they were proposing to be allowed to do the same thing. As a result, he felt there was equity for this variance as well as the landscaping variance. He pointed out the Code of Ordinances required a 24 foot drive aisle where there was parking on both sides. In this case, that was on the north side where the fraternity to the west parked. He noted the Fire Department had been concerned about making the turn on to Fifth Street, and they had been able to demonstrate they would not impede this movement. As a result, the Fire Department was satisfied with the 20 foot width. In order to provide for this 20 foot width, they needed a variance to the front yard setback requirement on Tiger Avenue in addition to the variance to the aisle width requirement. He explained the Newman Center was on Tiger Avenue, and the Board had granted a variance for a 10 foot front yard setback to the Newman Center within the past year. Delta Upsilon was only asking for a 15 foot front yard setback. He pointed out the MU Business School, parking garage and the Reynolds Alumni center had zero foot setbacks. The front yard setback variance would allow them to slide the building to the east and provide the 20 foot aisle discussed previously. He commented that when the application was submitted, they had asked for either a variance to the 24 foot aisle or a variance to the 25 foot front yard setback, but the best solution would require both variances. He summarized that Delta Upsilon was requesting variances to the building height requirement, the requirement for landscaping along the west property line, the requirement for curbs along the west side of the property, the parking aisle width requirement and the front yard setback requirement.

Mr. Clithero asked for clarification regarding the location of the variance for the curb requirement. Ms. John replied she believed it was along the alley. Mr. Gebhardt stated that was correct. He



explained a curb or curbstops were required so people could not drive down the alley to access the property except at defined points. The applicant wanted to keep it open at all points.

Ms. Peters asked for clarification regarding the front yard setback that was now being requested. Mr. Gebhardt replied they were still asking for a 15 foot setback instead of 25 foot setback. Ms. Peters understood Mr. Gebhardt had indicated the Newman Center was at ten feet and the parking garage at Rollins and Turner had a zero foot set back. Mr. Gebhardt stated that was correct. Ms. Peters noted there was grass there and asked if that was not considered part of the setback. Mr. Gebhardt replied the grass was part of the street right-of-way.

Chair Townsend understood the applicant would be moving 31 spaces off-surface and placing them underground. Mr. Gebhardt stated that was correct.

Ms. Peters noted the alley traveled east/west except behind the house and asked Mr. Gebhardt if he knew why. Mr. Gebhardt replied it used to go through the parking lot of the Newman Center out to Turner, so it was a T-shaped alley. There was an alley from Rollins to Turner, and the piece that remained downed to Fifth Street. He understood the City vacated the portion on the church property so the church could be built, and that created a 90 degree L-shaped alley. He pointed out the Fire Department had been under the impression the alley went from Fifth to Tiger through the parking lot that existed on Delta Upsilon, but that never existed. This caused them concern in terms of access for a building to be where parking currently existed. As a result, the applicant had provided enough room so the ladder truck could get through. He noted they would have to back up a couple of times, but they were okay with it since it was better than what they had now.

John Tate, 4518 Royal Lytham Drive, stated he was a Phi Kappa Theta Alumni Association Board Member and explained an issue they had was with the parking on the side of the house near the alley because the Delta Upsilon members were using the Phi Kappa Theta private property to exit since they did not want to go to Fifth Street, and he felt that would continue with this proposal. He noted they had to replace the concrete on their site 3-4 times already due to this. He pointed out he felt there had been some inaccurate statements and explained the parking at Phi Kappa Theta was actually six feet inside the property line, and not at the alleyway, so he felt they were far enough away to not cause any problems. He stated they were also concerned about the management of the parking lot on the side of the house as there had been multiple issues in the past in terms of the City's trash removal trucks not being able to get to the dumpster, and in situations where the Columbia Police Department had been contacted, the Delta Upsilon members had retaliated by damaging Phi Kappa Theta property. As a result, they were concerned the extra spaces along the side of the house would allow that practice to continue. He noted Phi Kappa Theta had to install security cameras facing that side of the house due to past incidents. He stated they were opposed to anything that would essentially widen the alley via eminent domain and would oppose the alley being converted to a one-way alley, which he understood was not currently being proposed.

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

Mr. Creech pointed out the layout had changed since staff first saw this plan. Originally five parking spaces were not at the full 18 foot depth. Mr. Gebhardt stated all of the spaces were now 18 feet deep. Mr. Creech commented that if the Board were to grant a variance, staff would prefer the Board grant the front yard setback variance because the building would be in line with the Newman Center, which was previously granted a variance, and would allow for a wider aisle,

potentially up to the required 24 feet. In terms of the building height, they were requesting something higher than staff was allowed to grant. He reiterated that if there had been spaces that were less than 18 feet deep, and the Board preferred to grant a variance to the drive aisle, staff would ask for those spaces to be removed, but he understood that was no longer an issue as all were at least 18 feet deep.

Ms. Wibbenmeyer explained the Board could permit a variance only when it found there was practical difficulty or unnecessary hardship in connection with the specific piece of property, which meant conditions of that property were unique and the problem was not self-imposed. The Board also had to find that by granting the variance, substantial justice would be done, public safety and welfare would be preserved, and the viability of the zoning ordinance as a whole would be protected.

Ms. Peters asked if the extra ten feet, which would create more of an alleyway would keep the men living at Delta Upsilon from destroying the neighboring property. Mr. Gebhardt replied there was a balance with regard to the site plan. The arced sidewalk in the front needed to be handicapped accessible, and if the building was moved further east, the sidewalk would need to be shortened and ramps would be required. He noted they were trying to avoid ramps due to the elevations on the site. He felt they had pushed the building as far east as possible without messing something else up. The aisle width was at 20 feet, and this had been vetted with the Fire Department. He also noted he did not mean to imply the neighbors were doing anything wrong. The applicant only wanted to be able to do the same thing they were doing in terms of parking.

Ms. Peters asked how much concrete there was now. Mr. Gebhardt replied it was difficult to determine where the alley was located and where parking on the private property started now. He thought there was probably about 18 feet, but it narrowed and got wider at certain points. He noted the Delta Upsilon members tended to not park in an orderly manner, and he believed this would change once they created defined parking spaces on the west side of the building because there would not be room to double stack. They planned to keep a 20 foot clear space, which included the 10 foot alley and 10 feet of private property.

Ms. Peters understood the Delta Upsilon members should be able to turn around without running into the neighbor's property. Mr. Gebhardt stated that was correct. He pointed out the dumpster for these properties would be located at the end of the alley, and this redesign would provide better access to the dumpster. He commented that he would reach out to the Phi Kappa Theta representatives and provide them a set of plans to begin communication with them.

Mr. Carroz stated it appeared as though the applicant did not need a 15 foot setback, and could work with a 20 foot setback. Mr. Gebhardt stated a 20 foot setback would work, but the application had indicated a 15 foot setback, and they were hesitant in changing it due to the sidewalk issue. He noted the Board could change it to 18 feet if they preferred.

Ms. John made a motion to approve the five variances requested per tonight's presentation.

Mr. Clithero asked for clarification as he thought one of the variances was an either/or situation. Ms. Amin explained when the application was submitted, it was an either/or situation, but they had requested both tonight instead of just one or the other.

Ms. Amin asked for clarification regarding the front yard setback the Board was approving. Mr.

Carroz suggested 20 feet. Mr. Gebhardt stated they could do 20 feet if the 60 square foot roof overhang could be within the 20 feet. Ms. Peters asked if it would be easier if it remained at 15 feet so they did not have to deal with the roof overhang situation. Mr. Carroz was agreeable to leaving it at 15 feet.

Ms. Amin understood the variances the Board was recommending for approval were a building height of 41 feet, not requiring landscaping along the alleyway, not requiring any curbs or other means to prevent parked vehicles from intruding in the travel lane, a front yard setback of 15 feet instead of the required 25 feet, and a parking aisle width on the west side of the property of 20 feet instead of the required 24 feet.

The motion made by Ms. John to approve the five variances requested per tonight's presentation was seconded by Mr. Clithero.

CASE NO. 1876 VOTE RECORDED AS FOLLOWS: VOTING YES: CARROZ, PETERS, CLITHERO, TOWNSEND, JOHN. VOTING NO: NO ONE. The variances were approved.

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

Respectfully Submitted,

Sheela Amin  
City Clerk