

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
SEPTEMBER 1, 2015  
5:30 P.M.  
CITY HALL COUNCIL CHAMBERS**

**Present:** Allen Harvey, Jodi Hansen, Rochelle Conway, and Larry Wolf.

**Excused:** Seth

**Staff Present:** Andrew Fangman, City Planner  
Stephanie Oien, Office Coordinator, Community Development

Chairperson Harvey called the meeting to order at 5:30 p.m.

**Minutes:**

Wolf motioned to approve the minutes from the June 2, 2015 meeting; second by Harvey. All ayes, motioned carried.

Staff reported that minutes from the July 7, 2015 were not completed. These will be presented at the next meeting.

**Appeal Case No. 946, filed by Ronald Chandler, to construct a 14'x22' carport at 805 Poplar Street. The proposed structure will extend into the required rear yard setback per City Code Section 10-6-3 (A).** Ronald Chandler of 602 Woodlawn Avenue would like to construct a carport for additional parking. Mr. Chandler advised that he operates a barbershop at 805 Poplar Street and his daughter lives and operates a daycare at 805 ½ Poplar Street. He noted that parking is limited in the area and it becomes more limited with snow removal. He would like to provide more off-street parking for he and his daughter so that there is more parking available on the street for customers. He noted that the adjacent neighbor parks his car directly to where he is proposing to place the carport. The neighbor provided written support with the appeal request. Harvey asked if the entrance would be from the alley. Mr. Chandler responded that the entrance will be from the alley. Wolf motioned to approve the appeal as requested; second by Hansen. All ayes, motion carried.

**Appeal Case No. 947, filed by Maximina Garcia, to construct a building addition connecting the garage to the home at 2120 Wallace Street. The garage is located 10 feet from the rear property line. Once the garage is connected to the main structure the required 25 foot rear yard setback (City Code 10-6-3(A)) for the main structure will not be met.** Maximina Garcia and fiancé Jesse Alvarez were present to discuss the request. Mr. Alvarez advised they would like to connect the house to the garage for convenience and increased safety in the dark rear yard. Additional photos of the property were submitted at the meeting. Alvarez explained that the proposal is not to increase the size of the existing buildings, just to join them. Harvey asked if the proposed structure will be open or closed. Alvarez stated that the structure will be closed. Fangman advised that there are no staff concerns with the proposal. Harvey noted that the rear yard abuts Kemper Field and there are no residences. Hansen motioned to approve the appeal as requested; second by Wolf. All ayes, motion carried.

**Appeal Case No. 948, filed by James Powers, to construct a 1,080 square foot detached garage and 1,080 square foot attached garage with his proposed residence on Lots 14 and 15 of Riverbend 2<sup>nd</sup> Addition (3302 Clermont Drive). The combined square footage of proposed accessory building space will exceed the 1,440 square foot limit allowed by City Code Section 10-19-1 (B)(2).** James Powers, 2614 Dover Downs, was present to discuss his request. Mr. Powers noted that a revised drawing was submitted that shows the attached garage to be 910 square feet. Harvey asked if there would be a concrete driveway to Clermont Drive. Mr. Powers replied that there would be concrete driveways from Clermont Drive to each of the garages. Mr. Powers indicated that he was in the process of requesting a utility easement vacation. Fangman noted that this request is on the Planning and Zoning Commission agenda for September 8. He added that there are no staff concerns with the proposal. Conway motioned to approve the request as submitted; second by Wolf. All ayes, motioned carried.

**Appeal Case No. 949, filed by Ralph Hearn, to construct a 1,200 square foot shed/garage, at 5900 67<sup>th</sup> Avenue West. There is 3,930 square feet of garage/accessory building space on the property (permitted by prior variance). The maximum square footage of accessory building space allowed by City Code Section 10-19-1 (B)(2) is 1,440.** Kristy Hearn, 240 E. Vine Street, Letts, represented Ralph Hearn at the meeting. Ms. Hearn explained that Mr. Hearn owns a large 9 acre property and would like extra storage for vehicles, tractor, and equipment. Harvey asked if it will be connected via a driveway to 67<sup>th</sup> Avenue West. Fangman explained that City Code requires hard surface for all vehicular access. Hansen asked if there was an alternative site for the proposed garage so that it would not be too close to the neighbor's property. Ms. Hearn noted that there is 9 acres and plenty of room for change. She also stated that Mr. Hearn was arranging for a privacy fence to be installed. Bryan Freyermuth, 5812 67<sup>th</sup> Avenue West, stated that he didn't believe the building was necessary. Mr. Freyermuth noted that there is already a large building on the property that exceeds City Code. He asked why the original building was not built to the original plan. He also stated that the proposed structure is only 15 feet from the property line. He expressed concerns that the space is not being used adequately. He advised that the current building is being used for softball and baseball practice and that the additional traffic uses his driveway for access. He added that there is no hard surface to the existing building. Connie Bellinger, 5901 67<sup>th</sup> Avenue West, expressed concerns that she was misled with the prior appeal. Ms. Bellinger stated that she believed the first garage/storage building should be used for the additional storage. She also stated that there is no driveway to this building. She added that there is a 3-car garage already for storage. Ms. Hearn responded that when the original building was constructed the Zoning Board of Adjustment said no driveway was required. She added that her kids practice there and the building was built according to the submittal. She stated that concrete was being poured at the site the same day of this meeting. She added that the Herleins next door are allowing use of their driveway to access the current building. Mr. Hearn has had the property surveyed due to issues with neighbors. Mr. Freyermuth asked if this meeting was the place to express neighborhood concerns. Harvey responded that the meeting was not the appropriate place for bickering neighbors. Ms. Bellinger asked if there is a need for the second building couldn't it be placed farther away from 67<sup>th</sup> Avenue West. She voiced concerns about the effect on property values. She also indicated that she lives directly across the street and that no driveway to the house is in place. Ms. Bellinger also expressed concerns about the possibility of a ball field being placed on the property. Fangman clarified that any area to be driven on needs to be hard surfaced. He stated that the original plan for the first building did not suggest a lot of vehicle traffic. He added that outside structures in this zoning classification must be located 200 feet from the property line. There is sufficient space for a ball diamond and it would be allowed. Harvey asked Ms. Hearn if she would want to discuss these concerns with Mr. Hearn. Ms. Hearn replied that she did not need to have further discussion with Mr. Hearn. He wants to construct the building. The proposed building will match the existing building. She also

advised that there are no plans for a ball diamond. Allen motioned to approve the request as submitted; seconded by Conway. Conway voted aye with Harvey, Wolf, and Hansen dissenting; request was denied.

**Appeal Case No. 950, filed by Adam Shutt of Martin & Whitacre Surveyors & Engineers for Kasey O’Kelly, to construct a 1,518 square foot restaurant at 501 East 6<sup>th</sup> Street. The proposed setback of 6 feet from the Mulberry Avenue right-of-way does not meet the 20 foot setback required by Section 10-11-3 (A) of City Code. Conditional Use Case No. 272, filed by Adam Shutt of Martin & Whitacre Surveyors & Engineers for Kasey O’Kelly, to construct a restaurant with a drive through window at 501 East 6<sup>th</sup> Street. Per City Code Section 10-11-2 (B) a conditional use permit is required for drive through restaurants in the C-1 Zoning District.** These two cases were discussed together. Kasey O’Kelly, 704 Barry Avenue, was present to discuss his request. Mr. O’Kelly proposes constructing a take-out restaurant. The layout with a larger parking area and smaller building is to provide easy access to the restaurant. He added that the placement opens up the visibility at the corner of 6<sup>th</sup> Street and Mulberry Avenue. The building is to be pushed forward to accommodate a drive through. O’Kelly anticipates that 60% of his business will be through the drive through. He explained that the site plan is designed to be efficient for in and out traffic. Harvey asked why so much parking was being proposed. O’Kelly replied that they wanted it to be inviting and accessible. Hansen asked what the peak hours of business will be. O’Kelly stated that lunch and dinner would be peak. He added that he anticipated being open Sunday through Thursday until 9 p.m. and Friday and Saturdays until 10 p.m. Harvey questioned the design of two lanes, in and out, on Mulberry Avenue and asked if an entrance off 6<sup>th</sup> Street had been considered. O’Kelly stated that an entrance off 6<sup>th</sup> Street doesn’t allow for much car stacking. Harvey asked if neighbors had expressed concerns about traffic at 5<sup>th</sup> Street and Mulberry Avenue as the layout eliminates off-street parking. Fangman noted that the design will eliminate two off-street parking spaces. He added that there is more than adequately meets the parking requirements. Harvey asked why so much parking was being provided. He followed up by asking if the building will be large enough for future seating. O’Kelly replied that there would be ample seating in a different restaurant format. Fangman explained that the new building will go through the City’s site plan review process before permitting and construction would move forward. Wolf added that the site plan review process will address the layout of the property. Fangman stated that the distance to Mulberry Avenue and the use of a drive through are the only items before the Zoning Board of Adjustment. After Board action the item would then go through the City’s site plan review process. He added that all other building on the street are close to the property line; requiring the proposed building to set back further would look out of place. Conway motioned to approve Appeal Case No. 950 as submitted; seconded by Wolf. All ayes, motion carried. Wolf motioned to approve Conditional Use Case No. 272 as submitted; seconded by Conway. Ayes were received from Wolf, Conway, and Hansen with Harvey dissenting; motioned passed.

**Conditional Use Case No. 273, filed by Kevin Koellner for SND/KRE Endeavors, LLC, to operate an Enterprise Rental Car Retail Facility at 103 Ford Avenue. This constitutes a conditional use per City Code Section 10-11-2 (A).** Property owner Kevin Koellner was present to discuss the request. Mr. Koellner advised that they would like to move the Enterprise Car Rental business to this building. He explained that the property at 105 Ford Avenue was being demolished and would be replaced with 36 parking stalls. Two storefronts will be added, one of which will be for Enterprise. Harvey questioned the property lines. Fangman explained that there are separate parcels owned by the same company. Hansen asked if this business will be the same as the existing Enterprise business in town. Koellner explained that they will be relocating Enterprise from Krieger’s. Hansen motioned to approve the request as submitted; seconded by Wolf. All ayes, motion carried.

**Election of Officers**

Harvey was nominated as chair with Wolf as vice chair. Hansen seconded. All ayes, motion carried.

Adjourned.

Respectfully Submitted,

ATTEST:

Andrew Fangman, Secretary  
City Planner

Allen Harvey  
Chairperson