
Board of Adjustment
January 9, 2018
Staff Report

Application Summary –

A request by Caleb Colbert (attorney), on behalf of Delta Tau Delta Association of Columbia, Missouri (owners), to grant variances to structure height, median setback, occupied areas of the required front, side, and rear yards, and screening and landscaping which are not permitted per Sections 29-2.2(a)(3), Table 29.2-4, 29-4.1(a), Table 4.1-1, 29-4.1(b)(1)(i), 29-4.1(c), Table 4.1-5, 29-4.3(f)(1) and (3), 29-4.3(g)(3)(v)(C), 29-4.4(c)(9) of the Unified Development Code in order to allow reconstruction of a fraternity house at 506 Rollins Street.

Site Characteristics

The subject property, 506 Rollins Street, is currently occupied by a 3-story fraternity house with a 66-bed capacity. The existing home is to be demolished and replaced by a new 3-story fraternity house with a 66-bed capacity, additional study areas and meeting rooms – the footprint of the home will be larger than the existing structure. The subject property is located within the commonly defined neighborhood of “Greek Town” west of the MU campus and is surrounded by other fraternity and sorority houses. The subject site and adjacent properties are zoned R-MF (Multiple-Family Dwelling) district.

Relief Sought and Purpose

The applicant is seeking relief from multiple provisions of Unified Development Code as indicated above. Attached to this report is a variance table that has been prepared by the applicant which outlines each requested variance and explains the necessity for the variance. According to the applicant, if the requested variances are denied and full compliance is required the site would only be capable of accommodating 28-beds – a 40% reduction of its current usage. In summary, the applicant is seeking relief to allow for reconstruction of a new fraternity house that is larger than the existing home which due, to new the Unified Development Code standards, cannot otherwise be reconstructed on the site as desired.

It should be noted that in April 1989 the subject property was granted a 14-foot variance to the then required median setback, a 10 space parking variance, and a variance to parking lot screening. Following consultation with the City Counselor, these previously approved variances will not carry forward if the subject site is redeveloped as proposed. The applicant’s current set of requested variances addresses the need for a new variance to the median front yard setback and parking lot landscaping/screen requirements. No variance is required for the number of parking spaces as the proposed site plan shows parking in compliance with current regulatory requirements.

Variance Analysis –

Summary and Impacts –

The applicant is seeking variances from the following regulatory requirements of the Unified Development Code:

1. **Section 29-2.2(a)(3), Table 29.2-4 and 29-4.1(a), Table 4.1-1** – A 14-foot variance to maximum building height within the R-MF district. If granted, proposed structure height would be permitted up to 49-feet verses the current R-MF maximum of 35-feet.

Such increased structure height has the potential of creating a structure that would dominate the surrounding development pattern which generally consists of 3-story dwellings with flat roofs or dormers that create usable living area for residents. The surrounding buildings appear compliant with the maximum 35-foot building height. In 2016, a variance was granted for 512 E. Rollins Street (east of the subject site) to permit a building height of 43-feet.

Per Section 29-4.1(a) of the UDC, building height within the R-MF district may be increased to 45-feet provided the required side yard setback is increased to a minimum 15-feet per side. Upon review of the submitted site plan depicting the proposed redevelopment of the subject property, it would appear adequate area exists to reposition the proposed new fraternity house such that a minimum 15-foot side yard can be achieved on either side of the new construction.

Such repositioning would result in the proposed parking on the east of the new structure to encroach into the required side yard. However, since a variance is being sought for a similar encroachment on the west side of the site inclusion of this new encroachment is permissible.

2. **Section 29-4.1(b)(1)(i)** – An 11-foot variance to the median front yard setback. If granted, the proposed structure would be permitted 25-feet from the front property line verses the required setback of 36-feet.

Over time, the median setback of the subject property has changed due to redevelopment along Rollins Street. In 1989, the subject property was granted a 14-foot variance to the required median front yard setback of 56' 4 ¾". Redevelopment at the corner of Rollins and Providence Road resulted in the new residential structures being setback approximately 29-feet. A recently approved expansion plan for 512 Rollins (east of the subject property) will be setback approximately 43-feet from the property line.

The proposed variance is to accommodate a 2-story covered porch projecting 10-feet from the primary dwelling. Given that the improvement will be open (with the exception of the roof) the perceived impact of this encroachment forward of the required median setback will be minimized. The use of covered porches fits into the character of the surrounding neighborhood and is a customary addition to the proposed type of structure to be reconstructed. The mass of primary dwelling will be located behind the required median setback upon reconstruction.

The proposed setback variance, if granted, would not result in a setback less than that required for standard R-MF development. The increased setback is due to the subject property being located within an already developed area with varying setbacks. Furthermore, given the fact that front yard setbacks along Rollins are increasing from west to east, it is staff's opinion, that the intent of the median setback standard is being achieved practically in that the bulk of the proposed structure will be setback at the required median setback.

3. **Section 29-4.1(c), Table 4.1-5** - A variance to permit a 0-foot side yard setback for driveway placement from the property lines on the east and west sides of the subject property. If granted, driveways would be allowed to be placed closer than the required 10-foot setback or a setback equal to the driveway radius from side property lines.

The general impact of granting the requested variance would be a reduction in the separation distance of a driveway from a structure on a neighboring lot, built at the minimum setback, as well as reduction in the amount of area to accommodate screening and landscaping. In this specific instance along the eastern property line of the subject property there is an existing parking lot and along the western property line of the subject property the driveway location is off-set approximately 5-feet from the adjacent structure by a landscape strip. Given these conditions it is unlikely that the proposed placement of the driveways would negatively impact the adjacent properties.

4. **Sections 29-4.3(f)(1) and (3) and 29-4.3(g)(3)(v)(C)** - A variance to permit parking in the required front and side yard setbacks adjacent to the access driveways serving the site. If granted, five (5) parking spaces would be permitted to encroach into the required setbacks.

At the present time, no required off-street parking is occurring within the required front yard setback along Rollins. The prohibition for parking located in the side yard setback was implemented upon adoption of the UDC in March 2017. Prior to adoption of the UDC the location of parking in the R-MF district (formerly R-3) could not occur within the front yard; however, was permitted within a side yard. This situation exists on the parcel east of the subject property.

The impact of granting a variance to permit parking within the front yard setback would negatively impact the overall neighborhood aesthetic within this specific location as well as other residentially-zoned districts. Granting a variance to allow parking within the required side yard at this specific location may have limited impact given the adjacent developed conditions. However, if development conditions were different the potential for negative impacts between adjacent properties would be enhanced especially if structure placement was at the minimum setback standard or there was no requirement to provide landscaping and screening of such parking areas.

While the site development plan shows a landscape strip along the western property line of the subject property this strip is not required to be improved with plant materials. There is no landscape strip along the eastern property line of the subject property. Per Section 29-4.4(e), Table 4.4-4, since the adjacent parcels are zoned R-MF there is a "Level 0" (no screen or landscape buffer) requirement.

5. **Section 29-4.3(f)(1)(v)** - A variance to permit more than 500 square feet or 30% of the required front yard to be improved with a paved driveway. If granted, approximately 1,764 square feet or 35% of the required 36' front yard setback would be occupied by driveway paving. The amount of paving would be reduced to approximately 1,225 square feet or 35% if the reduced 25' front yard setback were granted.

Prior to adoption of the UDC in March 2017, there were few limitations on the amount of paved surface permitted within the "required" front yard. The provision to which the applicant is seeking relief was created to ensure a minimal amount of green space was left between the back of the public right of way and the building line (i.e. the front yard setback). Once beyond the building line, a property owner can pave 100% of their lot; however, use of that paved area is limited. The UDC also includes provisions that address the maximum driveway width based on the type of structure being constructed or the number of parking stalls within a garage. These provisions were intended to be complimentary to the limitation on the maximum amount of paved surface within the required front yard.

Wider driveways are generally considered acceptable and necessary for higher volume uses such as apartment complexes or non-residential development. While the driveways proposed as part of the redevelopment site plan are within the regulatory parameters of Section 29-4.1, Table 4.1-5 they are larger than adjacent developed properties containing similar uses. The largest adjacent driveway access is 18-feet and the smallest is approximately 12-feet.

The subject site is currently only accessed by a single driveway along the western property line. The proposed site development plan shows creation of a second driveway on the east side of the building. This driveway provides access to four (4) new parking spaces required to ensure that current parking requirements are met. Without installation of the second driveway there would be no need for a variance – the occupied area of the required front yard would be approximately 18%. This elimination; however, would result in a parking deficiency being created for which a current variance has not been requested.

An alternative to removal of the second driveway would be to reduce the width of the paving proposed. If the driveway widths were reduced to 20-feet each and the requested 25-foot median front setback were granted, the occupied area of the required front yard would be approximately 29%. Furthermore, driveway widths could be further reduced to a minimum of 12-feet and designated as "one-way" traffic. Adjustment of the approach driveways to the rear parking area would not impact the proper functioning of those spaces since they have been designed to meet all regulatory requirements for 90-degree parking. Additionally, the reduction in driveway width would not preclude the placement of parking parallel to the driveways as presently proposed, and may eliminate the need for a variance from encroachment into the side yard setback.

6. **Section 29-4.3(f)(1)(v) and Section 29-4.3(f)(3)(iv)-** A variance to permit more than 500 square feet or 30% of the required rear yard to be improved with a paved driveway or outdoor parking area and waiver of required screening. If granted, approximately 2,950 square feet or 84% of the required 25' rear yard setback would be occupied by parking and driveway paving.

The provision to regulate the amount of a "required" rear yard that could be occupied by paved driveways or parking areas was implemented as part of the UDC following its March 2017 adoption. Prior to this time, few regulations existed regarding the usage of a rear yard for parking areas. Prior parking regulations would have allowed parking to be within 6-feet of an adjoining property line provided screening was installed. The new UDC provision was created to ensure that a green space was retained between developed properties in efforts to reduce incompatibilities as well as minimize stormwater-related issues.

The applicant is seeking the variance to maximize on-site parking to ensure compliance with the parking standards. There are limited options that can be employed to ensure regulatory compliance such as providing angled parking which would reduce the required drive isle within the rear parking lot. The variance sought would not change the current usage of the rear yard which is more than 90% covered with pavement and not separated from adjacent property with a 4'-6' screening device. The rear yards of the adjacent properties are devoted to parking and none have landscape buffers or screening devices between their property and the subject site with the exception of a recently redeveloped parcel immediately south of the subject property, which is separated by a landscape strip of approximately 6-feet.

Generally, approval of this type of variance would have the impact of reducing the amount of green space within a required rear yard and negate the intent of attempting to lessen the impact that parking in the rear yard of parcels can create on adjacent developed properties. Waiving the requirement for screening at the property will result in no means of shielding adjacent parcels and development from headlight beams at nighttime or having to a view parking lot continuously.

In this specific instance, the impacts of non-compliance are likely to remain unchanged as adjacent lots have already undergone redevelopment. Maximizing parking on-site to address known deficiencies within neighborhood verses requiring compliance with current regulatory standards given adjacent lots will remain non-compliant should be considered when rendering a decision on this specific variance.

7. **Section 29-4.4(c)(9) -** A variance to the requirement that outside storage areas be enclosed by a permanent screen at least eight (8) feet in height. If granted, the proposed dumpster to be located in the southwest corner of the site would not be screened from adjacent developed lots.

The purpose for this provision is to enclose outside storage containers to enhance site aesthetics as well as contain trash and other debris within a single area. Granting the requested variance would result in these objectives not being achieved. Throughout Greek Town, enclosure of dumpster sites is

not common practice. The current dumpster location on the subject site is not fully enclosed. Dumpster locations on adjacent lots are not either.

Granting a variance to the required screening standard would not result in any change to existing conditions; however, it would appear from the site development plan and field inspection that adequate space exists to surround the dumpster with required screening.

Compliance with Variance Criteria -

Staff has reviewed the "General Criteria" for the approval of a variance as articulated in Section 29-6.4(d)(3)(i) of the UDC. In relation to these criteria, staff finds that:

1. The subject property is located in a unique area (Greek Town) of the City of Columbia, but fails to have topographic, shape, size, or other factors that make achieving compliance with the UDC regulatory standards more difficult than adjacent property. Surrounding properties are developed in similar fashion to the subject property and while some have previously sought and obtained relief from the regulatory standards, the subject site is to be demolished and completely reconstructed thereby making compliance with the current UDC requirements possible. Staff does not find that site features have or will create a hardship that diligent site planning cannot overcome to ensure UDC compliance.
2. Approval of any requested variance would not result in permitting the construction of a building not otherwise allowed in the R-MF district or modify a standard contained with the definition of "Dormitory/Fraternity/Sorority".
3. Approval of any requested variance would not result in permitting development inconsistent with the Comprehensive Plan. The subject site is located within a "Neighborhood District" and the proposed use is consistent with that designation.
4. Several opportunities exist to reduce the scope of the variances requested to the minimum needed to relieve the difficulty or hardship. Such opportunities have been discussed above and will be offered in the following "Recommended Action" section.
5. Given the context in which the subject property is located, approval of any requested variance will not harm the public health, safety or welfare or be injurious to other properties or improvements within the area.

Recommendation Action –

Staff recommends the following actions relating to the requested variances:

Variance #1 - Section 29-2.2(a)(3), Table 29.2-4 and 29-4.1(a), Table 4.1-1 (Building height)

Denial of requested 14-foot variance. Adjustment of side yard setbacks to 15-feet per side would permit a 45-foot tall structure by right.

If the requested variance is denied, the required adjustment of the building footprint may reduce the scope of the Variance # 3 (driveway location). Variance #3 may no longer be necessary on the west side since the required driveway setback can be increased to the minimum 10-feet. The variance for driveway location on the east side of the property may still be required.

Variance #2 - Section 29-4.1(b)(1)(i) (Median Front-yard setback)

Denial of 11-foot variance. Reconstruction of the proposed fraternity house could proceed forward without a covered front porch. A covered porch 60 square feet or less is permitted to project up to 6-feet into the required front setback. Sufficient space exists, to the rear of property, to shift the front building corners out of required setback.

Variance #3 - Section 29-4.1(c), Table 4.1-5 (Driveway setback from adjoining property lines)

Please note - this variance may not be necessary based upon outcome of Variance #1

Denial of 0-foot setback along the WEST property line. The proposed driveway width could be reduced by 4-feet and circulation adjusted to “one-way” thereby allowing compliance with the regulatory provision.

Denial of 0-foot setback along the EAST property line. The proposed parallel parking along the east building façade could be eliminated, driveway width could be reduced by 4-feet, and circulation adjusted to “one-way” thereby allowing compliance with the regulatory provisions. **Alternatively if the Board finds,** given the surrounding land use context and belief that provision of parking outweighs green space preservation, the requested variance could be approved as submitted.

Variance # 4 - Sections 29-4.3(f)(1) and (3) and 29-4.3(g)(3)(v)(C) (Parking within front and side yard setbacks)

Please note – This variance may be impacted by the outcome of Variances #1, #2, and #3.

Denial of variance to permit parking to encroach into required “median” front yard setback. If Variance #2 is approved this part of Variance #4 is not necessary since no parking will be located within the required front yard. **Alternatively if Variance #2 is denied and the Board finds**, given the surrounding land use context and belief that provision of parking outweighs the need to have parking outside the required setback, the requested variance could be approved as submitted. Furthermore, if Variance #2 is denied and the Board does not find that the aforementioned alternative is justified, the applicant will need to seek a variance in the number of parking spaces required prior to the issuance of a building permit.

Denial of variance to permit parking to encroach into required side yard adjacent to the paved driveway on WEST side of property. The proposed parking along the western property line can be relocated to become parallel to the western building façade thereby resulting in the parking being placed outside of the required 15-foot setback. This action would result in the elimination of the parking space north of the proposed dumpster location in order to ensure access to the dumpster and rear parking lot are maintained. The driveway would be located 10-feet from the property line as permitted by Table 4.1-5 and reduced to a width of 12.5-feet as recommended per Variance #1 and #3. **Alternatively if the Board finds**, given the surrounding land use context and provision of a 6-foot setback, the variance could be approved. Such action would result in an encroachment of 5-feet into the required side yard setback.

Approve a 0.5-foot variance to permit parking to encroach into the required side yard adjacent to the paved driveway on the EAST side of the property. This variance becomes necessary if Variance #1 and Alternate Variance #3 are approved. Approval of this variance is the least amount necessary to relieve the hardship that is being created to comply with other code provisions. If Variance #1 is approved and Variance #3 denied, a setback variance of 1.5-feet would be required to ensure regulatory compliance. If Variances #1 and #3 are approved this part of Variance #4 is no longer necessary as parking would not be encroaching in the required side yard.

Variance #5 - Section 29-4.3(f)(1)(v) (Paved Driveway Surface Within Required Front Yard)

Please note - this variance may not be necessary based on outcome of Variance #2

Denial of request to permit 40% paved driveway within the required front yard. The proposed driveway widths can be reduced without impacting site ingress/egress. Compliance with maximum 30% coverage can be obtained by provision of a 20-foot wide driveway at each entry. Resulting driveway coverage at either the required 36-foot setback or 25-foot setback (Variance #2) would be approximately 29% with reduced driveway width.

Variance #6 - Section 29-4.3(f)(1)(v) and Section 29-4.3(f)(3)(iv) (Paved Driveway Surface Within Required Rear Yard and Waiver of Required Screening)

Denial of request to permit 90% paved area within the required rear yard and installation of parking lot screening. The design of the rear parking area exceeds the regulatory minimums and based upon staff calculation currently occupies 84% of the required rear yard. Parking stall depth along the southern property line is proposed at 19-feet and drive isle width is proposed at 25-feet. Minimum stall depth is 18-feet and has been shown as such for stalls along the rear of the building. Drive isle width for 90-degree parking is required at 24-feet. Reductions to the minimum design requirements would result in 2-feet of additional green space along the southern property boundary to accommodate the required screening fence.

To ensure regulatory compliance a variance of the amount of paving permitted in the required rear yard is required. Staff recommends that a variance to permit no greater than 85% paved surface in the rear yard be permitted and that required parking lot screening be installed in accordance with Section 29-4.3(f)(iv).

Variance #7 - Section 29-4.4(c)(9) (Outside Storage Screening)

Denial of the requested variance. Based the development site plan and field observation there are no known reasons the requirements of this section cannot be accommodated on the site.

II. Variance Requests

Below is a table summarizing each of the requested variances with comments on the justification for the variance request:

<u>Code Section</u>	<u>Description of Requirement</u>	<u>Requested Standard</u>	<u>Comments</u>
Table 4.1-1	Max Building Height of 35'	Max Building Height = 49'	This will facilitate a 3-story building with basement and the pitched roof aesthetic desired. This is consistent with neighborhood character and there are many existing buildings with this many stories. Approved Variances in this neighborhood for building height are common. (Note: The building may be shorter than the requested 49' height, depending on the final grading of the lot, which has not been completed at this stage in the process. The building height definition depends on the average grade adjacent to the building, and in order to provide some flexibility we have requested a maximum height we know we can meet.)
29-4.1(b)(1)(i)	Median Front Yard determined from Adjacent Lots = 36'	Allow encroachment of building structure up to 11' into the Median Front Yard Setback	This variance is intended to set the Front Yard setback at 25' from the existing Rollins St. right-of-way, in substantial compliance with the attached Exhibit 1. This will facilitate site design and necessary parking needed for the Fraternity. The front 10' of the building will be an open 2 story covered patio, which is significantly less impactful on the streetscape than a solid building face. The median setback requirement has not been consistently applied in this neighborhood as other lots have redeveloped. Because the front 10' of the encroachment will be an open air, 2 story covered porch, the building face itself will be setback at a distance that creates incremental additional setback from West to East along the south side of Rollins St, thus meeting the goal of the median front yard setback code provision.
Table 4.1-5	Driveway setback from side property line as determined by the driveway radius	Driveway Setback from Side Property Line = 0'	The East driveway, at the road, provides setback from side property line to allow for driveway radius, then the driveway swings to go along property line to allow for parking and building width needed. Driveways, and pavement up to the property line, is common in this area. By paving to the property line in some locations we are using the lot as efficiently as possible

29-4.3(g)(3)(v)(C)	No Parking in the Front or Side Yard	Parking allowed in the Front and Side Yard	This is intended to allow parking as shown on the exhibit. If no additional right-of-way is granted, there would be no parking in the front yard. The parking in the side yard is minimal, and we are providing a 6' buffer along the west property line. This will allow us to maximize usability of site.
29-4.3(f)(3)(iv)	Install screening device in Rear yard when used for parking	No installation of screening device	Screening devices between like uses serve very minimal purposes and there are parking lots on either side of the property line. Adjacent property owners currently park up to the rear property line. Variance for no screening was granted for Delta Gamma at 901 Richmond in 2016, and Alpha Chi Omega at 809/811 Tiger Ave in 2014 was approved a C-P Plan allowing no screening.
29-4.3(f)(3)(ii)	No Parking Adjacent to driveway that occupies the Front or Side Yard	Allow Parking in Front and Side Yards	This is intended to allow parking as shown on the exhibit. This layout facilitates the necessary parking spaces needed for the fraternity. Parking in this proximity up to neighboring property is happening currently.
29-4.3(f)(1)(v)	No more than 30% of the front yard to be parking or driveway	Allow up to 40% of the Front Yard to be parking and driveway	This amount of impervious space will allow for the layout as shown, and provide the best navigability through the site.
29-4.3(f)(1)(v)	No more than 30% of rear yard to be parking or driveway	Allow up to 90% of the Rear Yard to be parking and driveway	This amount of impervious space will allow for the layout as shown. We are still maintaining the required 15% open space, and parking proximity to the property lines is what is happening currently on this lot as well as many lots in the neighborhood. Maximizes usability of the site.
29-4.4(c)(9)	Screening of Outdoor Storage Areas	Allow no Screening of Outdoor Storage Areas	Only outdoor storage area planned is the Dumpster Pad in the southwest corner of the site. The current Dumpster is located in the same location without enclosure. Adjacent property use is parking lot.