

WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS

MINUTES

February 19, 2015

The regular meeting of the Wichita-Sedgwick County Board of Zoning Appeals was held on Thursday, February 19, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby, Chair; Carol Neugent, Vice Chair; John Dailey; David Dennis; David Foster; Bill Johnson; Joe Johnson; Don Klausmeyer; John McKay Jr.; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. Bill Ramsey and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the January 8, 2015 Meeting minutes.

MOTION: To the minutes of the January 8, 2015, as corrected.

MCKAY moved, **KLAUSMEYER** seconded the motion, and it carried (12-0).

2. **BZA2015-00001** - City variance request to install a temporary parking surface material in conjunction with construction of a temporary pop-up park generally located east of Main Street, on the south side of East Douglas Avenue (111-123 E. Douglas Ave.) on property described as:

Lots 97, 99, 101, 103, 105, 107 and the West 21.4 feet of lot 109, Douglas Avenue in Plat of Reserve Greiffinstein's Addition to Wichita, Sedgwick County, Kansas.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to install a temporary parking area with crushed rock surfacing for a temporary pop-up park on property zoned CBD Central Business District ("CBD"). The applicant purchased the property in 2011 with plans to redevelop the property with a new, mixed-use commercial building. Yet due to current commercial real estate market conditions, there is currently little support for a new building to be constructed at this time. The interim plan for the current time is to fill in the existing hole created when the past building occupying the site was demolished. On the filled area, the applicant plans to occupy the site with a proposed pop-up park with temporary furnishings including planters with landscaping, lighting, seating, tables and art. The plan will also include a space for food trucks to operate during the day for visitors to the park. Additional temporary parking will be designated for the remaining south portion of the site for the adjacent Woolf Bros. building tenants.

The proposed plan is to have a crushed rock temporary surfacing for the parking area. This would be temporary in nature, much cheaper for the applicant, better for drainage and easily

removed when a new building is constructed on the site in the future. The variance request is for the use of a crushed rock surface material for the temporary parking area. Article IV, Section A, 2.b of the Unified Zoning Code states “all Parking areas, Loading areas and driveways on all Developments other than low-density residential Developments shall be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris.” The variance request would allow for the crushed rock material to be used for the temporary parking area.

All surrounding properties are zoned CBD Central Business District. Property north of the subject site, across Douglas Avenue, is zoned CBD and is developed with a parking garage. Properties south, east and west of the subject site are zoned CBD and are developed with office buildings.

ADJACENT ZONING AND LAND USE:

NORTH:	CBD	Parking Garage
SOUTH:	CBD	General Office Building
EAST:	CBD	General Office Building
WEST:	CBD	General Office Building

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff’s opinion that this property is unique inasmuch as the site has been vacant and dangerous to the public with the presence of a large, deep hole taking up the majority of the site. The uniqueness of the site is due to the fact the subject site is suited for a large commercial building operation, but currently, the conditions do not exist to support such a development. The crushed rock surface would be temporary and used in conjunction of the proposed pop-up park.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance to allow for crushed rock temporary parking will not adversely affect the rights of adjacent property owners, inasmuch as surrounding properties will take advantage of the additional parking and the current visual eyesore and public hazard, that is the large hole, will be filled and developed with a more aesthetically visually pleasing pop-up park with parking for food car vendors and building occupants.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch in that the economic cost to the property owner to pave an area which will, in the future, be developed as a commercial building, would put a burden on the applicant due to the cost associated with paving a large parking area. Also, when a building is developed on the site, the paved surface would have to be removed for the construction, which would also come at a greater cost than removing or working with the crushed rock surface.

PUBLIC INTEREST: It is staff’s opinion that the requested variance to allow for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants will not adversely affect the public interest, inasmuch the project fills in the existing hole that was left when the former buildings were torn down. The hole currently is a safety hazard that must be fenced. The temporary improvements planned for this

site will also improve the aesthetics and activate the site with programmed uses, inviting the public to utilize the temporary park.

SPIRIT AND INTENT: It is staff's opinion that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch the property had been used for a commercial office building that was demolished and the property is currently an unsafe site and this request will develop the property and create a safe site and fill in an existing undeveloped property.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the Variance for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all local permits necessary to complete any and all needed improvements.
3. The resolution authorizing this Variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

DERRICK SLOCUM, Planning Staff presented the Secretary's Report.

DAILEY asked if there was something that regulated what the hole filling was going to be.

SLOCUM said he assumed it would be gravel or dirt, but added that Code Enforcement would make that determination.

FOSTER commented that there was no time constraint listed in the conditions and asked if there should be, and how long it should be.

SLOCUM said a time constraint could be added if that is what the Commission requires.

DENNIS asked for a definition of "temporary" since the Staff Report refers to this as a "temporary" fix. He suggested two years or the parking lot has to be paved.

DIRECTOR SCHLEGEL said the applicants were present so the Commission could ask them what their intentions were.

MILLER STEVENS suggested that the case be presented because it seemed like there were a number of issues and that would also give the applicant a chance to speak to the Commission.

MILLER STEVENS asked about the surface in the park area.

SLOCUM said the park is not part of the request; the request is for the parking lot. He suggested she ask the applicant about the plans for the park itself.

MILLER STEVENS asked if there was a requirement for dust abatement because it will be a large area with just crushed rock.

SLOCUM replied that would be a code enforcement issue and he doesn't know what the requirement is for dust abatement on a parking lot.

RICHARDSON asked about the notification area and if any comments had been received by the neighbors.

SLOCUM said there was a 200 foot radius notification area and that no comments had been received from any of the neighbors.

B. JOHNSON clarified that if the applicant was building a building at the site, there would be no parking requirement because it is zoned Central Business District (CBD),

SLOCUM said that was correct.

MILLER explained that although parking is not required, if it is provided, it must meet zoning code standards.

MICHAEL RAMSEY, 120 E. FIRST STREET, WICHITA, KANSAS 67202 said this proposal is a "place marker" until downtown and the CBD is more conducive to Class A commercial development. He said what they are proposing will not be permanent parking and will consist of crushed stone in varying degrees. He said they feel there should be a parking area for larger park events. He referred to the site plan for the park including a zone for food trucks, parking, and place for a stage, etc. He said as far as the time frame, since they are putting in a significant amount of infrastructure for the pocket park itself, they would like a two year period. He said they can come back to the Commission at that time and if they are not happy then they can pull the zoning.

MILLER STEVENS asked about the material for the park surface.

RAMSEY said it will consist of small or crushed rock.

MILLER STEVENS asked how long the applicant has owned the property.

RAMSEY said since 2011. He said they have developed other areas downtown and typically take one or two projects per year. He said they have a two-three year time frame on this location to obtain a Class A tenant.

JEFF FLUHR, DOWNTOWN DEVELOPMENT CORPORATION, 507 EAST DOUGLAS AVENUE, WICHITA, KANSAS said they are working with the developer on this location. He said there has been a lot of activity along Douglas including the Union Station Project, Exchange Place and the River Vista Project. He said this hole is an eyesore that takes away from the "walkability" they are trying to create along Douglas Avenue. He said they have applied for a grant from the Knight Foundation for a temporary park because eventually they want to build a building at the location. He said they are continuing to build the Class A market place in the downtown area so on an interim basis they wanted to do something positive with the

hole. He said the park will create energy for downtown revitalization along this important corridor.

DENNIS asked if two years was adequate time.

FLUHR replied that is the goal. He mentioned several other properties owned by the applicant in the downtown area.

J. JOHNSON suggested a three year time frame and mentioned that there has been a hole at the location since 2006 or 2007. He said a temporary use was a lot better than what was there now. He said if the applicants needs to they can ask for an extension at that time.

FOSTER asked about any economic gain from this effort. He also asked about park maintenance and liability.

RAMSEY commented there will be no direct economic benefit, but indirectly absolutely. He said they believe the park will generate positive energy in the area and be a place for events, etc.

FLUHR said this is private property and a budget for maintenance has been built in. He said in addition they are developing partnerships including PEC (who has agreed to provide testing, fill and compact the fill for the area), Hi Touch and COX (who have agreed to intall WiFi capability at the park).

DAILEY confirmed that the parking lot and park are both temporary.

FLUHR said yes.

RICHARDSON asked about a time frame to comply with terms of the Knight Grant.

FLUHR said the park will be built this year and they would like to have it ready to go by this summer. He said they will be using soil excavated from the River Vista Project and another area.

MOTION: To approve subject to staff recommendation with the additional requirement that the applicant come back to the Planning Commission in three years.

DENNIS moved, **J. JOHNSON** seconded the motion, and it carried (12-0).

The Wichita-Sedgwick County Board of Zoning Appeals adjourned at 1:40 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Board of Zoning Appeals, held on _____, is a true and correct copy of the minutes officially approved by such Board.

Given under my hand and official seal this _____ day of _____, 2015.

John L. Schlegel, Secretary
Wichita-Sedgwick County Board of
Zoning Appeals