

CITY OF WICHITA BOARD OF ZONING APPEALS

AGENDA

Thursday, October 20, 2016

1:30 p.m.

The regular meeting of the City of Wichita Board of Zoning Appeals will be held on **Thursday, October 20, 2016**, in the Planning Commission Conference Room, 2nd Floor, Ste #203, 271 West Third Street, Wichita, Kansas **no earlier than 1:30 p.m.**

1. Minutes of the June 16, 2016 and July 7, 2016 Board of Zoning Appeals Meetings
2. **BZA2016-00039** - City Variance to reduce the distance of trash dumpsters from SF-5 Single-family Residential zoning from 20 feet to 1.5 feet as required by compatibility site design standards of Section IV-C.7.b. of the UZC, generally located north of Central and west of I-235 at 5224 W. Elm Circle.

CITY OF WICHITA BOARD OF ZONING APPEALS

MINUTES

June 16, 2016

The regular meeting of the City of Wichita Board of Zoning Appeals was held on Thursday, June 16, 2016 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: Lowell Richardson, Chair Pro-Tem; David Foster; John McKay Jr.; Debra Miller Stevens and. Members absent were: David Dennis; Matt Goolsby and Bill Ramsey. Staff members present were: Dale Miller, Director; Derrick Slocum, Secretary; Jeff Vanzandt, Assistant City Attorney.

1. **BZA2016-00019** - City BZA Variance request to allow an off-site sign within the required building setback, and to allow the sign height 20' above the elevated freeway in GC General Commercial zoning on property described as:

That part of Lot 74, Linwood Acres Addition, Wichita, Sedgwick County, Kansas described as Commencing at the northwest corner thereof; thence S00 degrees 48'36"E along the west line of said Lot 74, 151.14 feet for the Point of Beginning; thence N88 degrees 17'50"E, 20 feet; thence S01 degree 33'31"E, 58.16 feet; thence S87 degrees 22'46"W, 20.77 feet to the W line of said Lot 74; th. N 00 degrees 48'36"W along said west line to the point of beginning.

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's company, Ashby St. Outdoor LLC, has an 18-foot high off-site sign at the location of 11716 E. Kellogg, right along the north side of Kellogg (US-54). The applicant is requesting a variance to increase the height of the off-site sign to 38 feet. The applicant is requesting this variance because the sign will need to be moved to the north due to the acquisition of additional right-of-way for the Kellogg construction. The new location will be setback zero feet from the new front property line and the sign at its new location would be obstructed by the future new elevated expressway. The height increase to 38 feet would allow for the sign to be seen from the east and west directions on Kellogg unobstructed.

Section 24.04.222 (3) of the Sign Code limits off-site signs in LI Limited Industrial ("LI") zoning to 35 feet in height. Section 24.04.251 of the Sign Code permits increasing the maximum allowed height of an off-site sign located within seventy-five feet of a zoning lot line that directly abuts the right-of-way of an elevated portion of a highway structure to a height at the top of the sign that does not exceed twenty feet above the height of the top of the highest railing or barrier along the traffic deck or decks within the right-of-way at a point perpendicular the sign. However, the location of the subject off-site sign is located along the elevated portion of the Kellogg Expressway, thus the variance request on the increase in height. Billboards are treated as

structures, and are required to observe building setback standards. The site is zoned General Commercial (GC) that has the following setbacks: front-20 feet; rear-zero feet; interior side-zero or five feet and street side-zero feet. The Kellogg frontage is the application area's front yard. The applicant is requesting a zero building setback from the application area's front yard (Kellogg).

All property surrounding the application area is zoned GC General Commercial and developed with retail, vehicle dealerships, restaurants and Kellogg (US-54).

ADJACENT ZONING AND LAND USE:

NORTH	GC	Retail
SOUTH	GC	Kellogg, Restaurant, Fast Food Restaurant
EAST	GC	Retail
WEST	GC	Car Dealership

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

UNIQUENESS: It is staff's opinion that this property is unique inasmuch that the south property line is being moved further from Kellogg to allow for the expansion of the freeway and thus decreasing visibility of the subject off-site sign by having to relocate it further north of its present site. This relocation will cause the sign to lose direct sight from the east and west approach due to being obstructed by the expressway.

ADJACENT PROPERTY: It is staff's opinion that the requested variance would not adversely affect the rights of adjacent property owners inasmuch that the off-site sign is located along an expressway and adjacent properties are zoned GC General Commercial and developed with commercial type uses. The sign has been at this location for many years with no issues and is a legal, conforming sign.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the Sign Code would constitute a hardship upon the applicant inasmuch as the relocation of the off-site sign was not the fault of the applicant/owner. This relocation is the result of right-of-way acquisition for the continued construction on the Kellogg expressway project. This sign relocation, if the sign is kept at the current height, will experience significant obstruction and would not be visible from the east and west approach on US-54.

PUBLIC INTEREST: It is staff's opinion that the requested variance is not adverse to the public interest inasmuch as the improvement of the Kellogg expressway is in the public interest, permitting a sign with adequate visibility for this site, due to right-of-way acquisition for said improvement, is also in the public interest.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance does not oppose the general spirit and intent of the Sign Code inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The Sign Code does not anticipate such situations such as right-of-way acquisition that could be detrimental to existing signage.

RECOMMENDATION: Should the Board determine that the conditions necessary for the requested variance exist, the Secretary recommends that a variance to reduce the front building setback to zero feet and to increase the height of an off-site sign from 18 to 38 feet in GC General Commercial (“GC”) zoning be GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan.
2. The variance shall be to reduce the front building setback to zero feet and to increase the height of the subject sign from 18 to 38 feet only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to relocate/construct the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

MOTION: To approve per the Secretary’s Report.

MCKAY moved, **MILLER STEVENS** seconded the motion, and it carried (4-0).

The City of Wichita Board of Zoning Appeals adjourned at 1:32 p.m.

State of Kansas)
Sedgwick County) ss

I, Dale Miller, Secretary of the City of Wichita Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the City of Wichita 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 _____, 2016.

Dale Miller, Secretary
City of Wichita Board of Zoning Appeals

CITY OF WICHITA BOARD OF ZONING APPEALS

MINUTES

July 7, 2016

The regular meeting of the City of Wichita Board of Zoning Appeals was held on Thursday, July 7 19, 2016 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: David Dennis, Chair; David Foster; Matt Goolsby; John McKay Jr.; Debra Miller Stevens; Bill Ramsey and Lowell Richardson. Staff members present were: Dale Miller, Director; Derrick Slocum, Secretary; Jeff Vanzandt, Assistant City Attorney and Maryann Crockett, Recording Secretary.

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1. Approval of the May 19, 2016, City of Wichita Board of Zoning Appeals Minutes

MOTION: To approve the May 19, 2016 City of Wichita Board of Zoning Appeals Minutes.

MCKAY moved, **MILLER STEVENS** seconded the motion, and it carried (4-0-2). **GOOLSBY** and **RAMSEY** – Abstained.

2. **BZA2016-00023** - City variance request to reduce the front setback to 4-feet on property zoned MF-29 Multi-family Residential, generally located north and east of the intersection of South Hillside Avenue and 31st Street South (3117 S. Yale St.) on property described as:

Lot 44, Block F, Planeview Subdivision No 2, being a Subdivision in Section 2, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant proposes to construct a porch on the front of a duplex located on the subject property (see attached site plan). According to the applicant (see attached written justification), the proposed porch must encroach into the required front setback due to the location of the existing duplex on the subject property, which is has only a 14-foot setback from the front property line.

The MF-29 Multi-Family Residential (MF-29) zoning district requires a 25-foot front setback; therefore, the existing duplex already encroaches into the required setback. Section III-E.1.e.(1)(i) of the Unified Zoning Code permits open, unenclosed porches to encroach eight (8) feet into a required front setback. Since the duplex already encroaches into the required front setback by 11 feet, a variance is required to reduce the front setback to permit the proposed porch to be constructed on the front of the existing duplex.

ADJACENT ZONING AND LAND USE:

NORTH	“MF-29”	Single-family residence
SOUTH	“MF-29”	Single-family residence
EAST	“MF-29”	Duplex
WEST	“MF-29”	Single-family residence

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property was developed as workforce housing to support the construction of military aircraft during World War II. The Planeview neighborhood, in which the subject property is located, is a unique development area in which many, if not most, existing structures do not conform to one or more of the development standards of the Unified Zoning Code.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the adjacent properties also are developed with existing encroachments into the currently-required setbacks. A property improvement such as the proposed porch could have a positive impact on adjacent property.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as the applicant could construct an open, unclosed porch in the front setback if the duplex did not already encroach into the setback and preventing the applicant from upgrading the property has no corresponding public benefit.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting continued reinvestment in residential properties, including permitting upgrades of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between structures to maintain fire safety and to provide for the circulation of light and air, and the requested variance does not negatively impact this intent.

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 to reduce the front setback from 25 feet to 4 feet be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The setback reduction shall apply only to the existing duplex that encroaches 11 feet into the front setback and an open, unenclosed porch in front of the duplex, which shall encroach no closer to the front property line than four (4) feet. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. 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.

MOTION: To approve subject to staff recommendation.

RAMSEY moved, **RICHARDSON** seconded the motion, and it carried (7-0).

The City of Wichita Board of Zoning Appeals adjourned at 1:35 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Dale Miller, Secretary of the City of Wichita Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the City of Wichita 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 _____, 2016.

Dale Miller, Secretary
City of Wichita Board of Zoning Appeals

SECRETARY'S REPORT

CASE NUMBER: BZA2016-00039

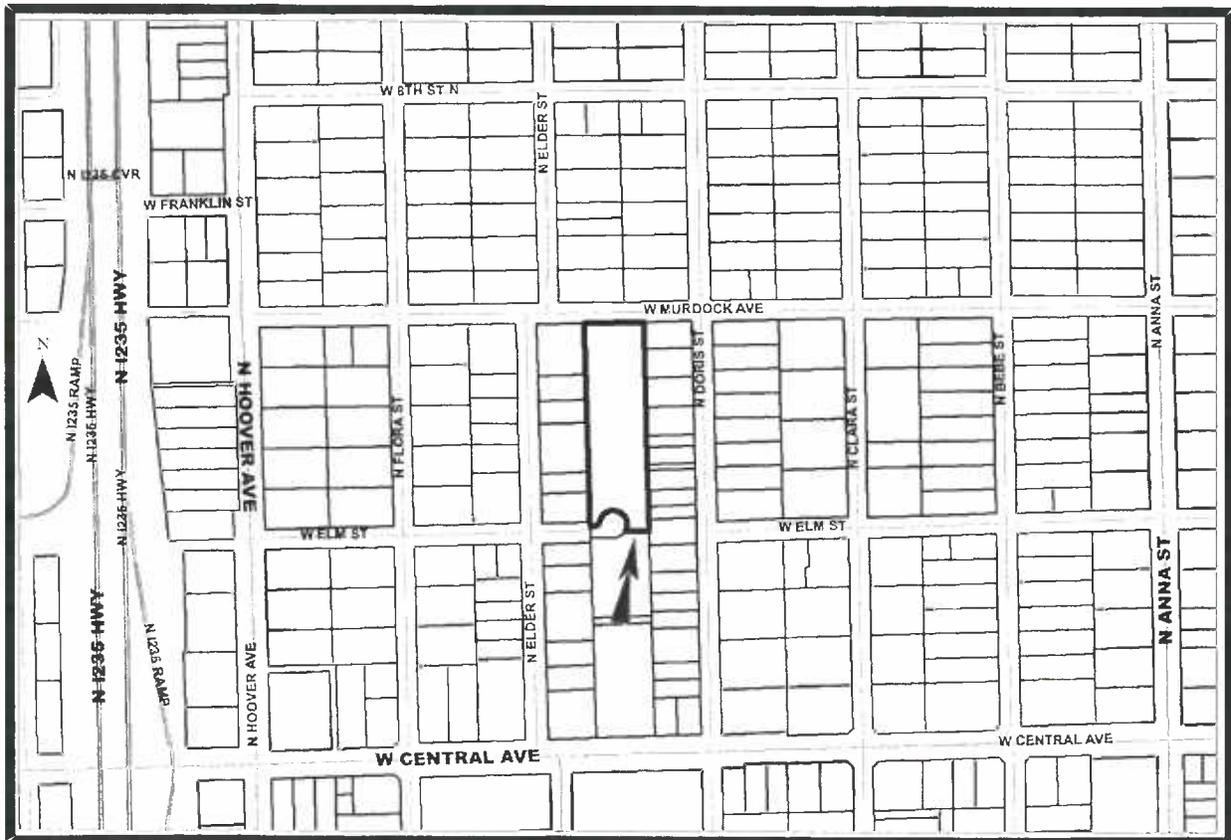
APPLICANT/AGENT: Nancy Loescher (Owner/Applicant); Kaw Valley Engineering, Inc. c/o Scott Servis (Agent)

REQUEST: Variance to reduce the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet

CURRENT ZONING: PUD 37 Nahola Planned Unit Development

SITE SIZE: 2.4 acres

LOCATION: North of Central Avenue and east of I-235 (5224 W. Elm Cir.)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant is constructing a duplex development as part of PUD 37 Nahola Planned Unit Development. The applicant proposes to construct two trash dumpster enclosures at the north and south ends of the development along the west property line (outlined in red on the attached site plans). According to the applicant (see attached written justification), the trash dumpster enclosures must be constructed within 1.5 feet of the west property line in order meet the parking requirement.

Section IV-C.7.b. of the Unified Zoning Code requires trash dumpsters to be located a minimum of 20 feet from any property zoned TF-3 Two Family Residential or more restrictive. Since the property west of both proposed trash dumpster locations is zoned SF-5 Single-Family Residential, a variance is required to permit the trash dumpsters to be located within 1.5 feet of the west property line.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Single-family residences
SOUTH	PUD 37	Community center, day care
EAST	SF-5	Single-family residences
WEST	SF-5	Single-family residences

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property is being developed as a Planned Unit Development with a mixture of housing, community center, and day care on an infill development site with an unusual configuration. The only street access is on the north and south ends of the property, and the property abuts the rear yards of residential lots on both the east and west. This unique configuration requires the parking areas to be located at the north and south ends of the lot and significantly restricts the available locations for trash dumpsters.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the trash dumpsters will be enclosed by a screening fence and will be adjacent to the rear of the abutting residential lots and approximately 60 to 80 feet from the nearest residence. The only complaint received from adjacent properties (see attached e-mail) was from the owner of a property along the east side of the site, and the dumpsters are proposed to be located adjacent to the west side of the site.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the compatibility site design standard for trash dumpsters will prevent the development from complying with the parking requirement.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting infill development, including development of uniquely configured properties.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between trash dumpsters and residential structures and the proposed trash dumpster locations provide significant separation from the residential structures.

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 compatibility site design standard for trash dumpsters 20 feet to 1.5 feet be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. Only two trash dumpster locations shall be permitted on the site.
3. The trash dumpster locations shall be enclosed by a 6- to 8-foot tall screening fence.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
5. 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.



KAW VALLEY ENGINEERING, INC.

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Address: 200 N. Emporia, Suite 100
Wichita, KS 67202

August 30, 2016

VIA EMAIL

dmiller@wichita.gov

Mr. Dale Miller
Planning Director
City of Wichita
Planning Department
Tenth Floor, City Hall
455 N. Main Street
Wichita, KS 67202

**RE: Variance Request
LOT 1, BLOCK 1 - NAHOLA ADDITION**

Dear Mr. Miller:

Enclosed herewith for consideration by the Board of Zoning Appeals is a variance application to allow trash enclosures within 1.5 feet of the property line on Lot 1 of NAHOLA Addition as shown on the attached site plan. This request is being made due to the unique characteristics of this site and is made for the following reasons:

1. NAHOLA Addition is a duplex development with a PUD Overlay (PUD-37). General note number 6 of this PUD requires "A parking ratio of 1:25 stalls per DU will be required when residential units are provided." In an effort to provide the required parking, the applicant has proposed trash enclosure locations in the two locations shown on the attached site plan. Keeping these trash enclosures no closer than 20 feet to the adjoining residential properties would require elimination of proposed parking to accommodate the proposed trash enclosures, thus having a detrimental impact on the overall parking stall count.
2. Should this variance request be approved, the location of the proposed trash enclosures will not have a detrimental impact on the adjoining property owners. Dumpsters will be screened from the view of the adjoining properties with 6' high solid wood privacy fences. The adjacent residential properties have no such requirement. In addition, we anticipate trash pickup no more frequently than once per week, which is normally the case in residential neighborhoods.
3. The strict application of the provisions of the applicable codes regarding trash enclosure setbacks would require the property owner to eliminate parking stalls and thus have a detrimental impact on the residence and their guests of this community, thus creating a hardship for said residence and the property owner.
4. The approval of this variance will have no impact on the health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The proposed trash enclosures will screen the dumpsters from the view of the adjoining properties and trash enclosure locations will allow trash trucks to completely enter the site during trash pickup operations. This will help ensure the safety of the general public on adjoining public roadways, as the traveling public will not be required to maneuver around trash trucks during pickup operations. In addition, the owner has made every effort to locate these trash enclosures on the site in inconspicuous locations so as to keep them out of view from the general public as best as possible.
5. Granting of this variance will not be opposed to the general spirit and intent of the applicable code. The 20' compatibility setback required by code for the proposed trash enclosures was put in place to ensure minimal disturbance to adjoining properties during trash pickup operations and to minimize odors for adjoining

residents. As previously mentioned, the proposed trash enclosure locations will allow trash trucks to pick up trash from the proposed duplexes in a manner that will allow them to access the dumpsters from locations completely removed from the public streets. The general public will not be required to maneuver around trash trucks during pickup operations. In addition, dumpsters will have lids to keep odors to a minimum and trash will be picked up on a regular basis to minimize odors.

Thank you for your consideration of this variance request. We would like to have this request considered at the October 20th BZA Meeting. Should you have any questions, please do not hesitate to call.

Respectfully,

Kaw Valley Engineering, Inc.



Scott Servis, PE

Accepted By:

Name/Title:

Date:

Encl.

Knebel, Scott

From: Sally Loehr <sally.loehr@sbcglobal.net>
Sent: Sunday, October 02, 2016 5:02 PM
To: Knebel, Scott
Cc: Ralph Loehr
Subject: case No. BZA2016-00039 Trash dumpster placement

Dear Mr. Knebel:

I am representing my mother, Emma Gleeson, who lives at 731 N. Doris. She received a letter about a public hearing concerning the city variance to reduce the distance of the trash dumpsters from SF-5 Single-Family Residential zoning from 20 feet to 1.5 feet.

We are opposed to reducing from 20 feet to 1.5 feet. From the street, it looks like my mother has one huge garage behind her house. However, half of this huge garage is her quilting room where she spends most of her time working on quilts. She enjoys the fresh air and odor free smell from her windows and doors while working in her quilting room.

According to the paper map mailed to my mother, the placement of these dumpsters (I noticed it implied more than one) would be located right behind her property and quilting room. I kindly suggest Nahola, LLC find a new location for these dumpsters closer to their own occupants that rent from them instead of effecting the homeowners that surrounds their property.

I am requesting a copy of the staff report for review. Please let me know if I need to obtain this report by email or in person.

Thank you!

Sincerely,

Sally Loehr, Attorney in fact for Emma Gleeson