

**BOARD OF ZONING APPEALS**  
**April 11, 2022**  
**Decisions**

The Board of Zoning Appeals met in regular session on Monday, April 11, 2022, at 6:00 p.m., (via Zoom Webinar and the Lobby of the Municipal Office Building was open with James Molloy present in the Lobby) with the following members present: Mr. Jeff Carson, Chairman Presiding, Mr. Duane Beth, Mr. Jim Ernst, Mr. Jake Miller, Mr. Mark Mohler, Ms. Susannah Pauley, Mr. Joseph Straws III and Mr. Aaron Ward (Absent: Armstrong, Connelly, and Jones). Mr. Gunnar H. Hand, AICP, Director of Planning + Urban Design, Ms. Janet L. Parker, CSC/APC, Executive Assistant, Mr. Daniel Kuhn, Assistant Counsel, Mr. Byron Toy, AICP, Lead Planner, and Mr. James Molloy, Planning Intern, (in the City Hall Lobby) were also present.

Chairman Carson called the meeting to order at 6:00 p.m.

Recording Secretary Parker stated that she would like to welcome Mr. Aaron Ward to the Board of Zoning Appeals.

Recording Secretary Parker read the Board of Zoning Appeals Statement: "We would like to welcome those participating by telephone, Zoom or in the Lobby to the meeting of the Board of Zoning Appeals. Members of the Board of Zoning Appeals are participating remotely by Zoom and Mr. Jeff Carson is serving as chairman this evening.

Please note the following instructions for the meeting:

1. If you are joining by Zoom Video, please make sure you have an appropriate background and plan to stay visible during the meeting;
2. Board Members - Use the raise your hand feature when you want to speak, and after Chairman Carson recognizes you, please unmute your microphone and state your name when you begin to speak. If you need to recuse or if you need a break, use the raise your hand feature.
3. For those attending the meeting this evening, please use the "raise your hand" feature if you want to speak on an application. After the Chairman recognizes you, please state your name and address and make your comments.
4. If you are having issues getting in the Zoom meeting, please email [planninginfo@wycokck.org](mailto:planninginfo@wycokck.org) and let Secretary Parker know.
5. Proper meeting decorum is expected of all participating in the meeting and anyone who fails to act properly may be removed from the meeting. The City reserves the right to discontinue a meeting if any improper behavior occurs which prevents the uninterrupted conduct of business.

The format for this evening's meeting is as follows:

1. The applicant will make the opening statement explaining the proposal. The applicant will be given fifteen (15) minutes to present their case, which includes the applicant, consultants, and other members of the applicant's team.
2. Members of the Board will then address any questions they may have to the applicant.
3. Any persons wishing to speak in favor will be recognized and allowed to do so at that time.
4. Then those persons in opposition will be recognized to make their statements and ask questions with each member of the public being given five (5) minutes to express their opinions. Time may not be shared between speakers.
5. A speaker's time may be extended in five-minute intervals by a 2/3<sup>rd</sup> majority vote of the Board.
6. The applicant will then answer questions and make a closing statement.
7. The public hearing portion of the meeting will be closed, and the public will only be allowed to address the Board if a question is directed to them.
8. The staff will make their recommendation.
9. The Board will discuss the application and make their decision with a brief statement of the reason for the motion preceding the making of the motion.
10. Motions to approve shall include the staff stipulations unless otherwise stated in the motion.
11. I would remind the Board and audience that we have a lengthy Board of Zoning Appeals Agenda followed by the lengthy City Planning Commission agenda, and we would ask that you keep your comments as concise as possible.

**Application starts at 7:00 and the applicant was not present, and the application was moved to the end of the agenda. The application was recalled at 1:19:51 and the applicant was not present.**

**BOZA2022-001 – LEE WALKER**, 4800 Washington Avenue, Zoned R-2 Two Family District. This appeal has been filed to grant a variance from the maximum projection into a required yard. Section 27-639(c) states that open porches may not project more than three and one-half (3.5) feet into the minimum yard. The appellant is requesting an open porch projecting 25 feet into the required front yard, a violation of 21.5 feet.

Recording Secretary Parker asked if the Board had any contact to disclose on this application. (No one responded in the affirmative.)

**Appeared in Support:**

- No one appeared

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 1:20:18:** Planning Director Hand stated that this variance is for projection of the porch into the front yard setback. The property is located in the Mid-Town area. This is a unique piece of property and there is a large amount of right-of-way taken for street construction that went unused. He stated that it is 25' from the back of the curb to the property line. The applicant is renovating the duplex and when the stairs/porch is built it will project into the setback. Staff has received no letters in support nor opposition. There are numerous code violations on this property, which will be addressed through this project. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 1:22:50:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Miller, seconded by Mr. Straws, the Board of Zoning Appeals voted as follows to **APPROVE** this appeal:

<b>Carson</b>	<b>Chairman</b>
<b>Armstrong</b>	<b>Not Present</b>
<b>Beth</b>	<b>Aye</b>
<b>Connelly</b>	<b>Not Present</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Not Present</b>
<b>Miller</b>	<b>Aye</b>
<b>Mohler</b>	<b>Aye</b>
<b>Pauley</b>	<b>Aye</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>Aye</b>

**Motion to APPROVE Passed: 7 to 0**

**Subject to:**

- 1) The front porch must be constructed to the plans provided by the applicant and attached to this staff report;**
- 2) Any construction of a roof over any existing or proposed open porch on the subject property must either comply with Section 27-639(c) or must receive a separate variance;**
- 3) A building permit is required. Please contact the Building Inspection Division at (913) 573-8620 to begin that process; and,**
- 4) All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street.**

**Application starts at 8:14:**

**BOZA2022-016 – MARK MOBERLY WITH SUNFLOWER DEVELOPMENT**, 10 South Hallock, 525 and 529 Central Avenue, zoned R-1(B) Single Family and CP-0 Planned Nonretail Business Districts (recommend for approval by City Planning Commission RP-6 Planned High-Rise Apartment District). This appeal has been filed to a build a 142-unit, eight (8) story apartment complex (six (6) level apartment over two (2) levels of structured parking). Sec. 27-461(d) states one parking space shall be provided for each dwelling unit that has one (1) bedroom or less. One and one-half (1.5) parking spaces shall be provided for each dwelling unit that has two (2) bedrooms or more.

Recording Secretary Parker asked if the Board had any contact to disclose on this application. (No one responded in the affirmative.)

**Appeared in Support:**

- Mark Moberly, applicant, 1125 Grand Boulevard, Suite 202, Kansas City, Missouri
- Gretchen Blaine, Generator Studio

**Appeared in Opposition:**

- Steve Sudekum
- Karrin and Brad Huhmann
- Rose Eilts, 506 North 4<sup>th</sup> Street, Kansas City, Kansas 66101
- Buck Hessel, 31 South Hallock, Kansas City, Kansas 66101
- Jerri Moulder Hessel, 31 South Hallock, Kansas City, Kansas 66101
- Veronica Hernandez, 134 South Hallock, Kansas City, Kansas 66101
- Anna Cole, 245 Orchard Street, Kansas City, Kansas 66101
- Rachel McMeachin, 556 Lowell Avenue, Kansas City, Kansas 66101

**Staff Recommendation starts at 48:47:** Planning Director Hand stated that there is a section in the notices that are sent out to the owners within 200' in Spanish, directing how to contact Staff for assistance with Spanish interpretation of the information provided. He further stated that the Central Area Master Plan was wholly translated into Spanish and was used in review of this proposed project. The bump out on the west side of the street in front of 16 South 6<sup>th</sup> Street (vacant property) should not impact anyone parking in front of their house unless they were parking in front of the vacant parcel across the street from the project. Director Hand stated that the condition in the Staff recommendation for a parking district was included as it can be done in many ways that would protect the existing parking for the residents, and church business, as well as add 19 parking spaces for general use of the public on Russian Hill and the Central Avenue Corridor. He further stated that this variance is being heard in conjunction with the Change of Zone, Vacation and Master Plan Amendment that were considered last month by the Planning Commission and

recommended for approval and will be heard by the Board of Commissioners on April 28, 2022. This variance is requesting 136 parking spaces and 151 parking spaces are required for a violation of 15 parking spaces. The applicant alluded to the new parking requirements that are under consideration; however, even under that proposed code amendment, 142 parking spaces would be required, and a variance would still be needed. Staff received no letters in support specific to this parking variance nor any letters specifically in opposition to this variance although opposition was expressed at the meeting tonight and there has been opposition to the larger project, which have been included in the staff reports. Director Hand stated that if the project moves forward, a final development plan will be required and all the phases of parking (ADA, off-street, etc.) will have to be addressed. If the variance is denied this evening, the applicant will have two (2) options. One (1) would be to provide more parking in the parking garage. The second option would be to reduce the combination of units and unit types so to match currently proposed spaces to the code request.

The Board of Zoning Appeals directed questions to Staff and applicant regarding parking, traffic and access for fire trucks.

**Motion/Vote starts at 1:07:28:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Straws, seconded by Mr. Ernst, the Board of Zoning Appeals voted as follows to **DENY** this appeal as the variance application does not meet the Statutory Requirements/Factors to be Considered for #2 and #4:

<b>Carson</b>	<b>Chairman</b>
<b>Armstrong</b>	<b>Not Present</b>
<b>Beth:</b>	<b>Aye</b>
<b>Connelly</b>	<b>Not Present</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Not Present</b>
<b>Miller</b>	<b>No</b>
<b>Mohler</b>	<b>No</b>
<b>Pauley</b>	<b>Aye</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>Aye</b>

**Motion to DENY Passed: 5 to 2**

**Application starts at 1:11:07:**

**BOZA2022-018 – JAY HEALY WITH GBA**, 2600 South 88<sup>th</sup> Street, zoned **MP-3 Planned Heavy Industrial District**. This appeal has been filed to grant a variance from the parking minimum requirement for the MP-3 District. Section 27-470(f) requires paved off- street parking at a ratio no less than one (1) space for each 500 square feet of building area be provided. For buildings larger than 20,000 square feet, only one (1) space for each 1,000 square feet needs to be provided for increments between 20,000 and 50,000 square feet.

The total area of the existing building and the proposed building expansion measures 42,384 square feet, requiring a total of 63 parking spaces. The appellant is requesting 10 parking spaces, a violation of 53 parking spaces.

Recording Secretary Parker asked if the Board had any contact to disclose on this application. (No one responded in the affirmative.)

**Appeared in Support:**

- Jay Healy, applicant, GBA, 9801 Renner Boulevard, Suite 300, Lenexa, Kansas 66219

**Appeared in Opposition:**

- Victoria Hernandez

**Staff Recommendation starts at 1:14:26:** Planning Director Hand stated that this application is being heard in conjunction with Plan Review Application PR2022-003 by the City Planning Commission later this evening. The request is for a parking variance in the Riverview area. He stated that this is an industrial area and as the applicant noted, there are only 7 people that work in this entire facility. There is a lot of informal parking on this property that is mostly used for storage of materials. The current code requires 63 parking spaces based on the size of the building. The applicant is providing 10 parking spaces and the variance is for 53 parking spaces. Director Hand stated that the new parking code that is being considered would require 43 parking spaces and they would still need a variance for 33 parking spaces. Staff has received no letters in support and had not received any opposition to the project until this evening. Staff has included several conditions of approval in the staff report, which are included in the plan review application that is on the City Planning Commission Consent Agenda this evening. Staff has requested the applicant clean up the driveway aprons, gutters and right-of-way from any tracking of debris around off-site and add a two (2) part buffering strategy with a fence and landscaping. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 1:18:50:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ernst, seconded by Mr. Straws, the Board of Zoning Appeals voted as follows to **APPROVE** this appeal:

<b>Carson</b>	<b>Chairman</b>
<b>Armstrong</b>	<b>Not Present</b>
<b>Beth</b>	<b>Aye</b>
<b>Connelly</b>	<b>Not Present</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Not Present</b>

Miller                   Aye  
Mohler                   Aye  
Pauley                   Aye  
Straws                   Aye  
Ward                    Aye

Motion to APPROVE Passed: 7 to 0

Subject to:

- 1)     **The Final Plan Review must conform to all plans submitted by the applicant. Relevant plans can be found in the Attachments section of this report;**
- 2)     **This Board of Zoning Appeals case is being heard in conjunction with PR2022-003. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petition(s) PR2022-003 by the Unified Government City Planning Commission and upon any ordinance publications required by law;**
- 3)     **Approval of this case by the Board of Zoning Appeals, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the exercise of variance(s) approved, or any portion thereof, do(es) not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located;**
- 4)     **The applicant has filed and maintained a current business occupation tax application;**
- 5)     **A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by [buildinginspecton@wycokck.org](mailto:buildinginspecton@wycokck.org) to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;**
- 6)     **All existing and future driveways must feature curb cuts that are constructed to UG standards;**
- 7)     **Applicant shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets, and Retaining Walls, or other requirements as applicable;**
- 8)     **All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off**



- the property or onto the public street;
- 9) Per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the unified government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design to begin this process; and,
- 10) Site improvements that include land disturbance activity on greater than 1 acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article XIV, Sections 8- 610—8-618). Land disturbance fees shall be processed by UG Public Works during the land disturbance/ Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Department, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620.

The meeting was adjourned at 7:24 p.m. (1:24:15)

***THE BOARD OF ZONING APPEALS***

BY: *Janet L. Parker, CSC/APC*  
Janet L. Parker, Secretary, CSC/APC