

**BOARD OF ZONING APPEALS
DECEMBER 12, 2022
DECISIONS**

The Board of Zoning Appeals met in regular session on Monday, December 12, 2022, at 6:10 p.m., (via Zoom Webinar and Commission Chamber of the Municipal Office Building) with the following members present: Mr. Jeff Carson, Chairman Presiding (Commission Chamber), Mrs. Karen Jones, Vice Chairman (Zoom), Mr. Duane Beth (Commission Chamber), Mr. Jim Ernst (Zoom), Mr. Jake Miller (Zoom), Mr. Mark Mohler (Zoom), Ms. Susannah Pauley (Zoom), Mr. Joseph Straws (Zoom) and Mr. Aaron Ward (Commission Chamber) (Absent: Armstrong). Mr. Gunnar H. Hand, AICP, Director of Planning + Urban Design (Commission Chamber), Ms. Janet L. Parker, CSC/APC, Executive Assistant to the Director of Planning + Urban Design (Zoom), Mr. Byron Toy, AICP, Lead Planner (Zoom), and Mr. Patrick Waters, Assistant Counsel (Commission Chamber), were also present.

Chairman Carson called the meeting to order at 6:10 p.m.

Recording Secretary Parker read the Board of Zoning Appeals Statement: “We would like to welcome those participating by telephone, Zoom or in the Commission Chamber to the meeting of the Board of Zoning Appeals. Members of the Board of Zoning Appeals are participating remotely by Zoom or are present in the Commission Chamber 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 are in the Commission Chamber, please state your name before speaking once Chairman Carson recognizes you.
3. For those members of the public attending the meeting virtually this evening, please use the “raise your hand” feature if you want to speak on an application. If you are present in the Commission Chamber, please come to the microphone at the front of the room when the application is called. 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 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 2/3rd majority vote of the Board.
6. The Chairman will ask for a show of hands of people who are in support or opposition that did not speak.
7. The applicant will then answer questions and make a closing statement.
8. 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.
9. The staff will make their recommendation.
10. 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.
11. Motions to approve shall include the staff stipulations unless otherwise stated in the motion.

Application starts at 3:47:

BOZA2022-059 – AUSTIN THOMPSON WITH ATLAS LAND CONSULTING, 705 South 55th Street, zoned **R-1 Single Family District**. This appeal is requesting seven (7) variances. The appeal has been filed in conjunction with PLAT2022-037, a Preliminary and Final Plat for one (1) single-family residentially zoned lots, one (1) lot (thereafter "Lot 1") which contains a place of worship, and one (1) lot (thereafter "Lot 2") which contains an existing single-family residence. Variance 1: This appeal has been filed to grant a variance from the minimum size of a residential lot that abuts a major street. Section 27-280(f) states that a residential lot facing or receiving access onto a street designated as a major street must have a minimum lot size of five (5) acres. Lot 1 and Lot 2, created by PLAT2022-037, receive access from South 55th Street, which is designated as a Class C Thoroughfare per Section 27-763(e)(55). The appellant is requesting that Lot 1 be 0.84 acre and Lot 2 be 0.15 acre, a violation of 4.16 acres and 4.85 acres, respectively. Variance 2: This appeal has been filed to grant a variance from the minimum frontage of a residential lot that abuts a major street. Section 27-280(f) states that a residential lot facing or receiving access onto a street designated as a major street must have a minimum frontage of 300 feet. Lot 1 and Lot 2, created by PLAT2022-037, receives access from South 55th Street, which is designated as a Class C Thoroughfare per Section 27-763(e)(55). The appellant is requesting that Lot 1 have a frontage of 87.5 feet and Lot 2 have a frontage of 56 feet, a

violation of 212.5 feet and 244 feet, respectively. Variance 3: This appeal has been filed to grant a variance from the front yard setback in the R-1 District. Per Section 27-454(d)(2)a, the front yard setback shall be no less than 25 feet. The appellant is requesting Lot 1 with a front yard setback of 10 feet and Lot 2 with a front yard setback of 10 feet, a violation of 15 feet and 15 feet, respectively. Variance 4: This appeal has been filed to grant a variance from the corner side yard setback in the R-1 District. Per Section 27-454(d)(2)c, the corner side yard setback shall be no less than 25 feet. The appellant is requesting Lot 1 with a corner side yard setback of zero (0) feet, a violation of 25 feet. Variance 5: This appeal has been filed to grant a variance from the minimum lot width in the R-1 District. Per Section 27-454(d)(3)a, the lot width shall be no less than 65 feet at the building line. The appellant is requesting that Lot 2 have a width of 56 feet, a violation of nine (9) feet. Variance 6: This appeal has been filed to grant a variance from the minimum lot area in the R-1 District. Per Section 27-454(d)(3)b, the lot area shall be no less than 7,150 square feet. The appellant is requesting that Lot 2 have an area of 6,720 square feet, a violation of 430 square feet. Variance 7: This appeal has been filed to grant a variance from the minimum parking requirement for a single-family residence in the R-1 District. Per Section 27-454(e), two (2) off-street parking spaces shall be provided on the premises for each single-family dwelling, at least one (1) of which shall be in a garage or carport. Lot 2 will feature a driveway capable of accommodating two (2) vehicles. The appellant is requesting zero (0) parking spaces in a garage, a violation of one (1) covered parking space.

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

Appeared in Support:

- Austin Thompson, applicant, Atlas Land Consulting, 14500 Parallel Road, Unit R, Basehor, Kansas 66007

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 6:37: Planning Director Hand stated that this case is being heard in conjunction with PLAT2022-037. As the applicant notes, there are numerous variances being requested. This is an existing parcel with two (2) structures; a church and house located in the Turner neighborhood. The plat would create a new parcel for the single family home not too dissimilar in size and shape from adjacent existing parcels. Staff has received no letters in support nor in opposition. There are no Notices of Violation. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 7:44:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Ms. Pauley, the Board of Zoning Appeals voted as follows to :

Carson	Chairman
Pauley	Aye
Straws	Aye
Ward	Aye
Armstrong	Not Present
Beth	Aye
Connelly	Aye
Ernst	Aye
Jones	Aye
Miller	Aye
Mohler	Aye

Motion to Passed: 9 to 0

Subject to:

- 1. Per Section 27-699(b)(5), all outside bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container;**
- 2. All landscaping plans must follow the landscaping plan submitted and shall comply with all applicable landscaping requirements, included Sections 27-698(a), 27-699(a)(6), and 27-700(a);**
- 3. Comply with all comments incorporated herein by the Wyandotte County Conservation District;**
- 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;**
- 5. 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 at (913) 573-5750 or signpermits@wycokck.org to begin this process;**
- 6. All existing and future driveways must feature curb cuts that are constructed to UG standards;**
- 7. A Right-of-Way Permit may be required. The applicant is required to contact the Public Works Department at (913) 573-5311 or by info@wycokck.org to confirm if they need a right-of-way permit, and if so, must take it upon themselves to initiate the permit process accordingly;**
- 8. 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; and,

9. This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-037. 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 PLAT2022-037 by the Unified Government City Planning Commission and upon any ordinance publications required by law.

Application starts at 9:09:

BOZA2022-060 – ROGER BARRETT WITH SK DESIGN GROUP, INC., 810 North 6th Street, (proposed zoning to C-D Central Business District). This appeal has been filed to build a 60-unit, six (6) story apartment building with ground floor retail. Sec. 27-465(f)(1) states uses in this district need not provide off-street parking, except that residential occupancies shall provide not less than one (1) off-street parking space for each dwelling unit, and hotels shall provide one (1) off-street parking space for each room. Such parking spaces shall be paved and shall be on the premises or off the premises within 200 feet on the main entrance to the building served. Appellant is requesting 14 parking spaces, a violation of 46 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:

- Roger Barrett, applicant, SK Design Group, Inc., 4600 College Boulevard, Suite 100, Overland Park, KS 66211
- Neil Martelle, Eagle Point Properties

The Board directed questions to the applicant and developer concerning parking.

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 23:35: Planning Director Hand stated that this case is being heard in conjunction with COZ2022-042, which will be heard later this evening by the City Planning Commission. The Change of Zone is for C-D Central Business District, which does not require any off-site parking for retail. He stated that the request is a variance of 46 parking spaces. Applicant will provide 14 parking spaces on-site and 60 spaces are required. He further stated that when parking variances are submitted, Staff looks to the

previously proposed code as a comparison, and there is no difference for this use and zone district. It is still the one parking space for one unit. This property is in the Downtown Area Master Plan. Staff has received no letters in support nor in opposition and there are no Notices of Violation. Director Hand stated that the property is in a local Historic District, and this proposed use received a Certificate of Appropriateness for the zone change. A second Certificate of Appropriateness will be required if the Variance and Change of Zone are approved. Director Hand stated based on the conversation this evening regarding the parking agreement, he would like to amend condition #3 and add a new condition #4, as follows:

- 3. The developer will obtain a parking agreement with either the Unified Government or other private property owner for additional parking stalls. This will alleviate the burden of lack of on-street parking in the adjacent residential neighborhood; and,**
- 4. If the parking agreement is for off-site parking more than 200 feet from the front door of the primary entrance, then another variance is required.**

The Board directed question to Staff regarding the parking agreement and existing parking agreements with other businesses.

Motion/Vote starts at 33:40:

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

Carson	Chairman
Pauley	Aye
Straws	No
Ward	No
Armstrong	Not Present
Beth	No
Connelly	No
Ernst	No
Jones	No
Miller	Aye
Mohler	Aye

Motion to APPROVE Failed: 3 to 6

Subject to the revised conditions:

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-042. 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 COZ2022-042 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;**

2. The subject property is within the boundaries of a Huron Place Historic District. A Certificate of Appropriateness is required to be approved by the Landmarks Commission prior to any demolition, alteration, construction, repair, change of occupancy, or change in use of the subject property;
3. The developer will obtain a parking agreement with either the Unified Government or other private property owner for additional parking stalls. This will alleviate the burden of lack of on-street parking in the adjacent residential neighborhood; and,
4. If the parking agreement is for off-site parking more than 200 feet from the front door of the primary entrance, then another variance is required.

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Connelly, seconded by Mr. Ward, the Board of Zoning Appeals voted as follows to **HOLD OVER this appeal until the January 9, 2023, meeting, for a parking agreement to be submitted that would be satisfactory to the Board:**

Carson	Chairman
Pauley	Aye
Straws	Aye
Ward	Aye
Armstrong	Not Present
Beth	Aye
Connelly	Aye
Ernst	Aye
Jones	Aye
Miller	Aye
Mohler	Aye

Motion to HOLD OVER Passed: 9 to 0

Application starts at 42:30:

BOZA2022-062 – CASEY NOVAK, 10344 Hollingsworth Road, zoned **A-G Agriculture District**. This appeal has been filed to grant a variance from the interior side yard setback in the A-G District. Per Section 27-452(d)(2)b, the interior side yard setback shall be no less than 20 feet. The appellant is requesting an interior side yard setback of 10 feet, a violation of 10 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:

- Casey Novak, applicant, 10344 Hollingsworth Road, Kansas City, Kansas 66109

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 44:41: Planning Director Hand stated that this variance is for an interior side yard setback due to a building expansion of the existing home. The property is in the Prairie-Delaware-Piper Master Plan. The house is on the eastern portion of the large parcel, but there are site constraints as well as deed restrictions on the property that necessitates the variance request. Staff has received two (2) letters in support and no letters in opposition. There are no Notices of Violation on this property. Staff recommends approval subject to the conditions in the staff report.

Chairman Carson asked Staff to explain the difference between this application and the application that was denied last month. Director Hand stated that this is for expansion of the existing structure. Last month's application was for new construction and related to the placement of the garage in front of the primary residence. That property had similar conditions as the current application, however, this application also has a deed restriction that limits development on the west side of the parcel.

Motion/Vote starts at 46:50:

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

Carson	Chairman
Pauley	Aye
Straws	Aye
Ward	Aye
Armstrong	Not Present
Beth	Aye
Connelly	Aye
Ernst	Aye
Jones	Aye
Miller	Aye
Mohler	Aye

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. The existing driveway appears to consist of gravel. The driveway must be graded and surfaced to UG standard within six (6) months of approval of BOZA2022-062;**
- 2. 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 buildinginspection@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;

3. 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;
4. 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 at (913) 573-5750 or signpermits@wycokck.org to begin this process;
5. All existing and future driveways must feature curb cuts that are constructed to UG standards;
6. A Right-of-Way Permit is required. The applicant is required to contact the Public Works Department at (913) 573-5311 or by info@wycokck.org to confirm if they need a right-of-way permit, and if so, must take it upon themselves to initiate the permit process accordingly; and,
7. 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.

Application starts at 47:49:

BOZA2022-063 – TRENT GADDY WITH JULES BOREL, LLC, 1223 Meadowlark Lane, zoned **CP-0 Planned Non-Retail Business District**. This appeal is requesting two (2) variances. The appeal has been filed in conjunction with: COZ2022-043, a Change of Zone from CP-0 Planned Non-Retail Business District to B-P Planned Business Park District; and MPL2022-027, a Master Plan Amendment from Mixed-Use (City-Wide) to Business Park (City-Wide). Variance 1: This appeal has been filed to grant a variance from the minimum lot size in the B-P Planned Business Park District. Section 27-472(a) requires that all new lots must be a minimum of 10. The appellant is requesting a lot size of 2.1 acres, a violation of 7.9 acres. Variance 2: This appeal has been filed to grant a variance from the minimum building setback in the B-P Planned Business Park District. Section 27-472(d)(2)b states that from the perimeter of the business park the minimum building setback is 40 feet. The appellant is requesting a building that, from the business park perimeter, is setback of 10 feet on the side yard and setback 30 feet on the rear yard, a violation of 30 feet and 10 feet, respectively.

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

Appeared in Support:

- Trent Gaddy, applicant, Jules Borel, LLC, 7081 West 52nd Street, Overland Park, Kansas 66202
- Greg Kindle, Wyandotte County Economic Development Council
- Edgar Galicia, Central Avenue Betterment Association

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 54:00: Planning Director Hand stated this property is governed by a Special Use Permit for the temporary use of land, which is limited to a two (2) year maximum approval term. This case came in just before Staff worked with the Board of Zoning Appeals and City Planning Commission to interpret Temporary Use of Land Special Use Permits. This proposal represents a permanent solution for this property and use. The property is in the Midtown area just north of State Avenue on Meadowlark Lane. It is an existing building with existing business park zoning adjacent to the property. The code district was designed and intended to develop a business park in a greenfield site with large lots and setbacks. This is a more built out urban neighborhood that has been redeveloped over the last couple of decades. Staff has received no letters in support nor opposition prior to this evening. There are some Notices of Violation on the property that have all been addressed by the Applicant and the redevelopment project the last two (2) years. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 56:19:

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

Carson	Chairman
Pauley	Aye
Straws	Aye
Ward	Aye
Armstrong	Not Present
Beth	Aye
Connelly	Aye
Ernst	Aye
Jones	Aye
Miller	Aye
Mohler	Aye

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. All landscaping plans must follow the preliminary landscaping plan submitted and shall comply with all applicable landscaping requirements, included Sections 27-472(g), 27-699(a)(6), and 27-702(1)(a-d);**
- 2. The sidewalk serving the parking lot must be extended and connected to the sidewalk in the Meadowlark Lane right-of-way;**
- 3. Per Section 27-699(b)(5), all outside bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container;**
- 4. Per Section 27-699(b)(6), mechanical equipment or other utility hardware whether on the ground or on a building shall be screened from public view;**
- 5. The parking lot should be repaired and paved subject to UG standards;**
- 6. All conditions stated in the applicant responses to SP-2020-95 remain the same, as attested to by the applicant on November 28, 2022;**
- 7. 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;**
- 8. 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 at (913) 573-5750 or signpermits@wycokck.org to begin this process;**
- 9. Section 27-699(a)(6) states that non-industrial and non-structural parking lots that have a paved area wider than a double-loaded aisle and more than 20,000 square feet in area shall provide one shade tree for each 20 parking spaces on the interior of the parking lot. Interior tree plantings are in addition to other landscaping requirements;**
- 10. Section 27-702(1)(a-d) states that shade trees shall be at least two (2) inch caliper when planted as measured 12 inches above the ground. All ornamental deciduous trees shall be at least two (2) inch caliper when planted as measured 12 inches above the ground. All evergreens shall be 5 to 6 feet in height when planted as measured 12 inches above the ground. Ornamental deciduous trees shall be 6 to 8 feet when planted as measured 12 inches above the ground; and,**
- 11. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-043 and MPL2022-027. 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 Petitions COZ2022-043 and MPL2022-027 by the Unified Government Board of Commissioners and upon any ordinance publications required by law.**

The meeting was adjourned at 7:05 p.m.

THE BOARD OF ZONING APPEALS

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