

**BOARD OF ZONING APPEALS
FEBRUARY 13, 2023
DECISIONS**

The Board of Zoning Appeals met in regular session on Monday, February 13, 2023, at 6:00 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), Ms. Brandie Armstrong (Commission Chamber), Mr. Duane Beth (Commission Chamber), Mr. James Connelly (Zoom); Mr. Jake Miller (Zoom), Mr. Joseph Straws (Zoom) and Mr. Aaron Ward (Commission Chamber) (Absent: Ernst, Jones, Mohler and Pauley). Mr. Gunnar Hand, AICP, Director of Planning + Urban Design (Commission Chamber at 6:45 p.m.), Ms. Janet L. Parker, CSC/APC, Executive Assistant to the Director of Planning + Urban Design (Zoom), Mr. Byron Toy, AICP, Lead Planner (Commission Chamber), Mr. James Molloy (Commission Chamber); and Mr. Patrick Waters, Assistant Counsel (Commission Chamber), were also present.

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

Recording Secretary Parker stated that the following application is removed from the agenda tonight along with the corresponding three (3) applications on the Planning Commission agenda: COZ2022-045, MPL2022-026 and PLAT2023-001. All four (4) applications have been moved to the March 13, 2023 agendas due to a Statutory notification issue.

BOZA2022-077 – CHAD R. SCHIMKE, 13700 Marxen Road, zoned **AG WyCo Agricultural District**. This appeal has been filed to allow for two (2) variances in conjunction with Change of Zone COZ2022-045 for a Change of Zone from AG WyCo Agricultural District to C-3 Commercial District, MPL2022-026 Master Plan Amendment, and PLAT2023-001 Subdivision Plat. Variance 1: This appeal has been filed to grant a variance from the minimum parking requirements in a C-3 zone. Section 27-467(e) states that parking requirements for this district are required at a ratio of four (4) spaces per 1,000 square feet of floor area. The subject property has multiple buildings for a total of 81,616 square feet, requiring 327 parking spaces including eight (8) ADA parking spaces. The current proposal has 11 parking spaces, a deviation of 316 parking spaces. Variance 2: The appeal has been filed to grant a variance from the maximum allowed outdoor storage in a C-3 Zone. Section 27-467(c)(6) states that outdoor storage shall not be allowed to exceed 20 percent of the property. The proposed project has approximately 50 percent outdoor storage, a violation of 30 percent.

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 5:50:

BOZA2022-060 – ROGER BARRETT WITH SK DESIGN GROUP, 810 North 6th Street, zoned C-0 Nonretail Business District (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.)

Secretary Parker stated that this application was held over from last month's meeting for further review of the proposed parking.

Appeared in Support:

- Roger Barrett, applicant, SK Design Group, 4600 College Boulevard, Suite 100, Overland Park, Kansas 66211
- Neil Martelle, Vice President, Eagle Point Development, 125 John Roberts Road, Suite 12, South Portland, Maine

The Board of Zoning Appeals members directed questions to the applicant.

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 18:55: Planner Toy stated to answer Mr. Connolly's original question, the code requires off-street parking within 200 feet and the Applicant could not secure that parking because it does not exist within 200 feet. The Unified Government did not want to give up the parking in the lot to the east because there are other users of that parking. Lot 6, which is to the northeast, was the best place to allocate parking for this project as it was not being utilized (20 spaces provided at this location). The Merc Co-op has some parking along their building, but the Fire Department parks there. At City Hall Place apartments, they have 17 spaces available. They have a total of 37 parking spaces that are off-street. Staff recommends approval subject to the condition in the staff report.

Board Member Connolly asked if the reason for the variance is for the parking that is further than the required 200' requirement. Planner Toy stated yes.

Board Members directed questions to Staff concerning where visitors will park and the availability of Lot E for parking, which is also used by patrons of the casino and citizens that use the lot for Unified Government business.

Senior Counsel Waters stated that the Merc Co-op grocery store has dedicated parking and this proposal will not affect their parking. Buildings and Logistics and Parking Control took into account other future potential developments and specifically limited the amount of parking that would be allocated to this developer to make sure there was enough available for the future.

Motion/Vote starts at 27:50:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Ms. Armstrong, the Board of Zoning Appeals voted as follows to **DENY BOZA2022-060 as it is not in compliance with City Ordinance, the location of the off-site proposed parking from the building could cause a safety issue as well as a general welfare issue Downtown:**

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

Motion to DENY Passed: 5 to 1

Application starts at 29:10:

BOZA2022-068 – SCOTT BREWER WITH GRINTER’S CHAPLE, 1020 South 78th Street and 7819 Swartz Road, Zoned R-1 Single Family District. This appeal is requesting two (2) variances. This appeal is requesting in conjunction with PLAT2022-043, a Preliminary and Final Plat for the subdivision of one (1) single-family residential parcel into two (2) residentially zoned parcels, one (1) parcel (thereafter “Lot 1”) which contains a vacant place of worship, and one (1) parcel (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 2, created by PLAT2022-043, receives access from South 78th Street, which is designated as a Class A Thoroughfare per Section 27-763(c)(6). The appellant is requesting that Lot 2 be 0.34 acre, a violation of 4.66 acres. 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 2, created by PLAT2022-043, receives access from South 78th Street, which is designated as a Class A Thoroughfare per Section 27-763(c)(6). The appellant is requesting that Lot 2 have a frontage of 88.5 feet, a violation of 211.5 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:

- Patricia Reeder, attorney representing the applicant, 5611 Southwest Arrington Court, Topeka, Kansas 66614

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 32:45: Planner Toy stated that this variance has a corresponding Plat that will be heard later this evening by the City Planning Commission. The proposal is to split two (2) lots; the church to the west and the house in the southeast corner. 78th Street is classified as a Class B Thoroughfare, which in this neighborhood isn't really inclusive, but it is still designated a major street in the Major Street Plan. As proposed in the Plat, the frontages of the two (2) proposed parcels does not meet the requirement, and that is the reason the variance is being requested. Staff recommends approval of this application subject to the conditions in the staff report.

Motion/Vote starts at 33:33:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Mr. Connelly, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-068:**

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

Motion to Passed: 6 to 0

Subject to:

- 1. Due to the vacant nature of the existing church, Grinter Chapel, it is unclear if Lot 1 comply with the current parking minimums. As the church is currently vacant but has an existing parking lot, any question of parking requirements would not arise until the property has been renovated and a certificate of Occupancy is requested. At the time of request for a Certificate of Occupancy, Applicant or their successor's must provide a floor plan demonstrating the maximum amount of seating within the building;**
- 2. The driveway apron at 1020 South 78th Street is in need of repair. The driveway apron must be fixed before the lot split can be reflected by the GeoSpatial Services Division;**
- 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 may be required. 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;**
- 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; and,**
- 8. This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-040. 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 PLAT2022-040 by the Unified Government City Planning Commission and upon any ordinance publications required by law.**

Application starts at 34:30:

BOZA2022-069 – AUSTIN THOMPSON WITH ATLAS LAND CONSULTING, 4601 Gibbs Road, zoned R-1 Single Family Residential District. R-1 Single Family Residential District. This appeal has been filed to allow for one (1) variance in conjunction with Change of Zone COZ2022-047 for a Change of Zone from R-1 Single Family Residential to AG Agricultural District. Variance 1: This appeal has been filed to grant a variance from the maximum allowed depth in the AG Agricultural District. Section 27-280(b)(2) states that the depth of a lot, measured as the average horizontal distance from the front street line to the rear lot line, shall not exceed three times the width. The width of the lot is 139 feet and the depth of the lot is 830, a violation of 413 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:

- Andrea Weishaubt, applicant, Atlas Land Consulting, 14500 Parallel, Basehor, Kansas 66007 – Ms. Weishaubt was having technical issues and could not unmute herself. Lead Planner Toy explained the request.
- Ashley Gammon, 4610 Oak Grove Court, Kansas City, Kansas 66109

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 36:00: Planner Toy stated that the request for a variance from the lot width to depth ratio. The property’s frontage is narrow and then it becomes wider further into the property’s depth. He stated that the property was an old farmstead and there will be a Change of Zone application to the A-G Agriculture District before the City Planning Commission later this evening. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 37:48:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Ms. Armstrong, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-069:**

Carson	Chairman
Ward	Aye
Armstrong	Aye
Beth	Aye
Connelly	Aye
Ernst	Not Present
Jones	Not Present

Miller Aye
Mohler Not Present
Pauley Not Present
Straws Aye

Motion to Passed: 6 to 0

Subject to:

- 1) This Board of Zoning Appeals case is being heard in conjunction with COZ2022-047. 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) COZ2022-047 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;
- 2) If approved and should livestock be introduced to the property or timber stand improvements to be made, the applicant should contact the Conservation District for technical assistance per the comments below to update their Conservation District Plan accordingly;
- 3) An access agreement must be filed to maintain the drive access between the subject property and the adjacent property at 4611 Gibbs Road;
- 4) The abandoned driveway and any remaining equipment and debris must be removed. The sod or grass shall be repaired;
- 5) All parking must be on an improved surface;
- 6) A timber stand buffer shall be maintained around the perimeter of the property;
- 7) 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; and,
- 8) Site improvements that include land disturbance activity on greater than one (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 through 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 Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620.

Application starts at 38:59:

BOZA2022-071 – MARK WOLFE WITH HOME REHAB, LLC, 4547 Melody Lane, zoned R-1 Single Family District. This appeal has been filed to allow for two (2) variances in conjunction with Change of Zone COZ2022-052 for a Change of Zone from R-1 Single Family Residential to RP-2 Two-Family District. Variance 1: This appeal has been filed to grant a variance from the minimum rear yard open space. Section 27-609 states that no accessory use shall cover more than 30 percent of a required rear yard. The subject property has a parking lot that covers the entire rear yard, a violation of 70 percent. Variance 2: The appeal has been filed to grant a variance from the minimum setback requirements. Section 27-456(c)(2) states that the front yard setback shall be 25 feet. The property has a front yard setback of 18 feet, a violation 7 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:

- Mark Wolf, applicant, Home Rehab, LLC, 8901 College Boulevard, Suite 100, Overland Park, Kansas 66210

Appeared in Opposition:

- Ashley Gammon, 4610 Oak Grove Court, Kansas City, Kansas 66109

The Board members directed questions to the Applicant.

Staff Recommendation starts at 51:59: Planner Toy stated that all utilities will be required to be separate as required by Building Inspection. In 1966 this property was rezoned from R-1 Single Family District to R-2 Two Family District and then back to R-1 in a blanket zoning decades ago. This duplex is a legal non-conforming use and a Change of Zone to RP-2 Planned Two Family District is necessary to rectify the non-conformity, which is being heard later this evening by the City Planning Commission. Staff would request another condition, which would be 37 that states:

7. The sidewalk from the front door entrance to the Melody Lane curb shall be repaired and replaced.

Staff recommends approval subject to the revised conditions.

Motion/Vote starts at 53:09:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Mr. Connelly, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-071**:

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

Motion to APPROVE Passed: 6 to 0

Subject to:

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-052. 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) COZ2022-052 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;**
- 2. The parking pad at the front of the property that does not enter the rear yard shall be removed and replaced with sod or landscaping with the curb restored;**
- 3. Landscaping such as grass or sod in the front or side yards shall be repaired;**
- 4. Any units rented to tenants shall obtain a rental license through the rental licensing department. Please contact Rental Licensing at 913-573-8649 for more information;**
- 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 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;**
- 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. The sidewalk from the front door entrance to the Melody Lane curb shall be repaired and replaced.**

Application starts at 54:08:

BOZA2022-072 – AUSTIN THOMPSON WITH ATLAS LAND CONSULTING, 5110 Hutton Road, zoned R-1 Single Family District. This appeal has been filed to grant a variance from the maximum accessory building floor area in the R-1 District. Section 27-609(2) requires that the total area of a detached accessory building not exceed 1,000 square feet. The appellant is requesting an accessory building with a total floor area of 1,600 square feet, a violation of 600 square 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:

- James Wilson, applicant, 5110 Hutton Road, Kansas City, Kansas 66109

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 1:00:05: Planning Director Hand stated that the variance is from the standard maximum 1,000 square foot requirement for an accessory structure. The proposed structure is 1,600 square feet on the 1.4 acre property. The property is in the Prairie-Delaware-Piper Area Plan. Staff received no letters in support nor in opposition. There are no Notices of Violation. On calculations like this, Staff generally uses what is proportional to the size of a lot and size of the building. There have been many requests of this nature before the Board often with recommendations of approval, but they have met that “rule of thumb” square footage to acreage calculation. This request is just outside said ratio and Staff does not believe that there is anything unique about this parcel of land. Staff recommends denial of this variance, but has included conditions of approval if the Board wants to move forward with a decision of approval. One (1) condition is that the building will be a maximum of 1500 square feet in lieu of the 1600 square feet requested.

Motion/Vote starts at 1:01:40:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Ms. Armstrong, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-072:**

Carson	Chairman
Ward	Aye
Armstrong	Aye
Beth	Aye
Connelly	Aye
Ernst	Not Present
Jones	Not Present

Miller Aye
Mohler Not Present
Pauley Not Present
Straws Aye

Motion to APPROVE Passed: 6 to 0

Subject to:

1. Submission of a revised accessory building floor plan demonstrating an area of no more than 1,500 square feet;
2. The property shall not be used for the storage of additional heavy or commercial machinery outside of the proposed scope and/or the uses allowed within the R-1 zoning district;
3. Per Section 27-675(b)(1), parking, loading and maneuvering areas for replacement or expansion of existing asphalt or concrete areas shall be improved with a permanent asphalt or concrete pavement to Unified Government standards;
4. The minimum such surface shall be two (2) inches of asphalt over six (6) inches of compacted gravel. The Unified Government engineer shall determine acceptable alternatives;
5. The parking, loading or maneuvering area is in the rear yard it may be improved with a minimum such surface shall be paved to UG standards and must cover less than 40 percent of the rear yard and less than 1,000 square feet in area;
6. The exterior walls shall be made of either horizontal clapboard, wood, or plywood siding, stone, artificial stone, brick, artificial brick, and textured finishes such as stucco. Fiberglass, plastic, and preformed, corrugated, or ribbed metals are not allowed. Metals can be used provided they have a factory applied and painted finish closely matching the color of the primary structure. Standard concrete masonry units are also not allowed unless the walls of the building are painted the exact color of the primary structure;
7. A building permit is required for a permanent structure greater than 120 square feet. Please contact the Building Inspection Division at (913) 573-8620 to begin that process;
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. All existing and future driveways must feature curb cuts that are constructed to UG standards;
10. A Right-of-Way Permit may be required for any use of the right-of-way while erecting fencing along the subject property's boundary. 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,

11. 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 1:03:05:

BOZA2022-075 – MIKE AND PAULA WALLACE, 12200 Donahoo Road, zoned R-1 (WyCo) Large Lot Single-Family Residential District. The appeal has been filed in conjunction with SP2022-081, a Special Use Permit to keep a dog kennel for six (6) dogs. This appeal has been filed to grant a variance from the lot line setback for kennels in the R-1 (WyCo) District. Article VII Section 4.7, via Article VI Section 4.7, via Article V Section 4.7.E of the 1992 Piper Area Annex Zoning Code, states that all buildings and structures for kennels shall be located at least 200 feet from any lot line. The appellant is requesting a kennel with setbacks from the side yard lines of 57 feet and 65 feet, and a setback from the rear yard line of 72 feet, a violation of 243 feet, 235 feet, and 228 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:

- Paula Westerfield-Wallace, applicant, 12200 Donahoo Road, Kansas City, Kansas 66109
- Mavis Hutchings, 12141 Donahoo Road, Kansas City, Kansas 66109
- Jamie Cochran, 12220 Donahoo Road, Kansas City, Kansas 66109

Appeared in Opposition:

- Clinton Wattier, 12140 Donahoo Road, Kansas City, Kansas 66109

Staff Recommendation starts at 1:12:29: Planning Director Hand stated this case is being heard in conjunction with Special Use Permit SP2022-001 for a dog kennel, which will be heard later this evening by the City Planning Commission. It is important to note that the request before the Board is not for the dogs but the accessory structure that currently houses the dogs and it is important to not mix the two (2) applications. The property is currently zoned a historic county zoning code that can no longer be created (R-1 WYCO). In this historic zone district, the kennel has to be more than 200 feet from any property line and it cannot meet that requirement anywhere on this property. Staff recommends that this variance be denied and as a condition of approval for the Special Use Permit being heard later this evening is a requirement to file a Change of Zone

application to rezone this property to R-1 Single Family District which does not have the 200 foot requirement for an accessory structure as it relates to animals. The property is in the Prairie-Delaware-Piper Area Plan. Before this evening, Staff had received no letters in support nor in opposition. There were some old Notices of Violation on the property that were prior to the new owners and they have all been addressed. Staff recommends denial as this is a self-imposed hardship. Staff has included some conditions of approval if necessary. He stated that there is a path forward for what the applicants want to do and that is the Special Use Permit and Change of Zone process.

Board Member Ward asked if the applicants understand what is being proposed by Staff and Director Hand stated yes. They did not follow this path early on in the process because Staff only discussed the extent of the operation and just recently after draft staff reports discussed this option.

Board Members directed questions to Staff concerning noise from the dogs. Senior Counsel Waters stated that there is a specific ordinance in the Animal Code that addresses excessive noise by animals that is so loud and continuous or untimely as to disturb the sleep or piece of a neighbor. Complaints are handled in animal court.

Motion/Vote starts at 1:18:25:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Ms. Armstrong, seconded by Mr. Connelly, the Board of Zoning Appeals voted as follows to **DENY BOZA2022-075 based on staff comments and the option for a Change of Zone path moving forward:**

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

Motion to DENY Passed: 6 to 0

The meeting was adjourned at 7:19 p.m.

THE BOARD OF ZONING APPEALS

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

Janet L. Parker, Secretary, CSC/APC