

**BOARD OF ZONING APPEALS  
JANUARY 9, 2023  
DECISIONS**

The Board of Zoning Appeals met in regular session on Monday, January 9, 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), Mrs. Karen Jones, Vice Chairman (Zoom), Mr. Duane Beth (Commission Chamber), Mr. Jim Ernst (Zoom), Mr. Jake Miller (Zoom), Mr. Joseph Straws (Zoom) and Mr. Aaron Ward (Commission Chamber) (Absent: Armstrong, Connelly, Mohler and Pauley). 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. Jeff Conway, Assistant Counsel (Commission Chamber), were also present.

Chairman Carson called the meeting to order at 6:00 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](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 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 4:20:**

**BOZA2022-046 – BOB JOHNSON WITH POLSINELLI**, 4601 Rainbow Boulevard, zoned C-1 Limited Business and R-1(B) Single Family Districts (proposed zoning to RP-6 Planned High-Rise Apartment District). This appeal has been filed to build a seven (7) story, 149-unit apartment building. Sec. 27-461(c)(2)d. states the rear yard setback shall not be less than the height of the building. The building height is fifty-seven (57) feet at the five (5) story portion and seventy-eight (78) feet, eight (8) inches at the seven (7) story portion at the rear property line. Appellant is requesting sixteen (16) feet, two and one-half (2-½) inches at the five (5) story portion and zero (0) feet at the seven (7) story portion, a violation of forty (40) feet, one and one-half (1-½) inches at the five (5) story portion and seventy-eight (78) feet, eight (8) inches at the seven (7) story portion.

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

**Appeared in Support:**

- Bob Johnson, applicant, Polsinelli, 600 West 48<sup>th</sup> Place, Kansas City, MO 64112
- Dan Thompson, 4514 Francis Street, Kansas City, Kansas 66103
- Jerry Greer, 4503 Francis Street, Kansas City, Kansas 66103

- McKenzie Gabriel, 4448 Cambridge, Kansas City, Kansas 66103

**Appeared in Opposition:**

- Beckie Paulson, 4418 Francis Street, Kansas City, Kansas 66103
- Chris Steineger, 4542 Francis Street, Kansas City, Kansas 66103
- Gil Pintar, 4178 Cambridge, Kansas City, Kansas 66103
- William Siggins, 4406 State Line Road, Kansas City, Kansas 66103
- Rose Eilts, 506 North 4<sup>th</sup> Street, Kansas City, Kansas 66101
- Jerri Moulder, 31 South Hallock Street, Kansas City, Kansas 66101
- Erin Stryka, Executive Director, Rosedale Development Association, 1403 Southwest Boulevard, Kansas City, Kansas 66103

**Staff Recommendation starts at 36:43:** Planner Toy stated that as stated by the Applicant, this case is back before the Board of Zoning Appeals due to a procedural issue. The notice that was sent to the property owners originally did not include the properties in the City of Westwood, Kansas to the south of the County Line. This project has not changed since it was heard in October 2022. It is the same project that was previously approved by the Board of Zoning Appeals. The request is strictly for a rear-yard setback variance on the south side of the property which is abutting the City of Westwood. The setback for the 5-story and the 7-story garage does not have any effect on the residences to the north across West 46<sup>th</sup> Avenue. Staff recommends approval subject to the conditions in the staff report.

Chairman Carson asked Legal Counsel if he wanted to respond to the testimony about the five (5) Statutory requirements. Mr. Conway stated that it is the Board's responsibility to weigh the five (5) criteria in making their decision. He stated that the Board could also incorporate its rationale from the last meeting into this decision.

**Motion/Vote starts at 39:39:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Mr. Ernst, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-046:**

<b>Carson</b>	<b>Chairman</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>No</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>Aye</b>
<b>Miller</b>	<b>No</b>
<b>Mohler</b>	<b>Not Present</b>

**Pauley**                      **Not Present**  
**Motion to APPROVE Passed: 4 to 2**  
**Subject to:**

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2021-048, which is to rezone the property from C-1 Limited Business and R-1(B) Single Family Districts to RP-6 Planned High-Rise Apartment District to build a 7-story, 149-unit apartment on 1.89 acres at 4601 Rainbow Boulevard;**
- 2. The privacy fence, indicated as a screen fence on sheet L.1 cannot exceed six (6) feet in height, specifically along the east property line. The privacy fence shall have masonry columns every thirty-two (32) feet running;**
- 3. 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](mailto: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;**
- 4. All existing and future driveways must feature curb cuts that are constructed to UG standards;**
- 5. 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;**
- 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](mailto: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. 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.**

Recording Secretary Parker stated that the original approval of this application was unanimous. She was instructed by Legal Counsel today that if anyone from the original hearing changed their vote, a reason needed to be given.

Mr. Ward stated that he is in agreement with the opposition. If all these conditions have not been met, it cannot be approved. He believes that they have not been met.

Mr. Miller stated that the original application was denied. The second application he voted for approval. He agrees with the community on the footprint after reconsidering the proposal.

**Application starts at 43:06:**

**BOZA2022-060 – ROGER BARRETT WITH SK DESIGN GROUP**, 810 North 67<sup>th</sup> 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.)

**Appeared in Support:**

- Roger Barrett, applicant, SK Design Group, 4600 College Boulevard, Suite 100, Overland Park, Kansas 66211, requested a 30-day continuance

**Appeared in Opposition:**

- Rose Eilts, 506 North 4<sup>th</sup> Street, Kansas City, Kansas 66101
- Jerri Moulder, 31 South Hallock Street, Kansas City, Kansas 66101

**Staff Recommendation starts at 48:05:** Planner Toy stated that the request to hold over this case is for the republication of the application for the distance requirement for parking from the front door to the proposed off-site parking lot. The parking is more than 200' away from the property in question. Planner Toy showed the Board the proposed location of the proposed off-site parking, which is 490 feet from the front door of the proposed project. The two (2) variances will be combined and the parking reduction will now be for a total of 9 spaces instead of 46 spaces. Staff is agreeable to the hold over request.

**Motion/Vote starts at 50:14:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Mr. Ernst, the Board of Zoning Appeals

voted as follows to **HOLD OVER BOZA2022-060 to the February 13, 2023 meeting for the reasons outlined by Staff:**

<b>Carson</b>	<b>Chairman</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>Aye</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>Aye</b>
<b>Miller</b>	<b>Aye</b>
<b>Mohler</b>	<b>Not Present</b>
<b>Pauley</b>	<b>Not Present</b>

**Motion to HOLD OVER Passed: 6 to 0**

**Application starts at 51:25 and the applicant was not present. The application was recalled at 55:00 and the applicant was not present.**

**BOZA2022-061 – ANTHONY FICARA**, 6814 and 6822 Berry Road, zoned R-1 Single Family Residential District. This appeal has been filed to allow for one (1) variance in conjunction with Change of Zone COZ2022-044 for a Change of Zone from R-1 Single Family Residential to A-G Agricultural District. Variance 1: Section 27-452(3)(b) states that lot area shall not be less than five (5) acres per dwelling unit. The subject property has one (1) dwelling unit and 4.94 acres, a deviation of 0.06 acres.

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 55:27:** Planner Toy stated that as part of the rezoning request, the applicant requested a variance for property less than 5 acres. It is approximately 4.87 acres and does not meet the A-G Agriculture District requirements. The property has a house on it and it was built 30 feet from the property line and the zoning code requires a 50 foot setback. The property is currently zoned R-1 Single Family District. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 56:20:**

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Mr. Straws, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-061**:

<b>Carson</b>	<b>Chairman</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>Aye</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>Aye</b>
<b>Miller</b>	<b>Aye</b>
<b>Mohler</b>	<b>Not Present</b>
<b>Pauley</b>	<b>Not Present</b>

**Motion to Passed: 6 to 0**

**Subject to:**

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-044. 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) COZ2022-044 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;**
- 2. Should livestock be introduced or timber stand improvements to be made, an updated Conservation District Plan is required;**
- 3. A water source shall be maintained on the property and be provided prior to the introduction of an apiary;**
- 4. The exterior debris and materials shall be removed or properly stored from public view;**
- 5. If approved, any newly constructed buildings or accessory structures must follow the setbacks of the A-G Agricultural District;**
- 6. Driveway approaches shall be upgraded to an improved surface, such as asphalt or concrete, per UG standards. The front circle drive shall be all asphalt or concrete;**
- 7. Any business or land use in Wyandotte County that is required to provide off-street parking shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-466 through 27-470; 27-592 through 27-616; 27-667 through 27-676]. Inoperable vehicles shall be stored inside an enclosed building. Inoperable vehicles may not be stored outside unless they are completely screened from view in accordance with all applicable ordinances. Outside storage shall not include wrecked or**

salvage vehicles. Any vehicle parked or stored outside must be on an improved surface, located on the same land parcel as the business use, and be parked within a regulation dimension parking stall. Any outside storage may not reduce the availability of all required parking spaces as required by ordinance;

8. 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](mailto: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;
9. 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; and,
10. Approval of this case by the Board of Commissioners, 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 real or constructive operation of any use allowed under this Special Use Permit, or any portion thereof, does not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located.

**Application starts at 52:05:**

**BOZA2022-067 – AUSTIN THOMPSON WITH ATLAS LAND CONSULTING**, 6340 Riverview Avenue, zoned R-1 Single Family Residential District. This appeal has been filed to allow for one (1) variance in conjunction with Change of Zone COZ2022-048 for a Change of Zone from R-1 Single Family Residential to AG Agricultural District. Variance 1: Section 27-280(b) states that the depth of the lot, measured as the average horizontal distance from the front street line to the rear lot line, shall not exceed three (3) times the width. The lot width for this purpose is the maximum horizontal distance between side lot lines within 60 feet of the front street line. The subject property has a frontage of 175 feet and a depth of 1156 feet, a violation of 631 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:**

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

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 53:45:** Planner Toy stated Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 54:07:**

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 BOZA2022-067**:

<b>Carson</b>	<b>Chairman</b>
<b>Straws</b>	<b>Aye</b>
<b>Ward</b>	<b>Aye</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>Aye</b>
<b>Miller</b>	<b>Aye</b>
<b>Mohler</b>	<b>Not Present</b>
<b>Pauley</b>	<b>Not Present</b>

**Motion to Passed: 6 to 0**

**Subject to:**

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-048. 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) COZ2022-048 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;**
- 2. Should livestock be introduced, an updated Conservation District Plan is required;**
- 3. A timber stand buffer shall be maintained around the perimeter of the property;**

4. 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](mailto: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;
5. 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;
6. Approval of this case by the Board of Commissioners, 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 real or constructive operation of any use allowed under this Special Use Permit, or any portion thereof, does not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located.

**ELECTION OF OFFICERS** - The following officers were elected unanimously:

**Chairman:** Jeff Carson

**Vice-Chairman:** Karen Jones

The meeting was adjourned at 7:02 p.m.

**THE BOARD OF ZONING APPEALS**

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