

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

The Board of Zoning Appeals met in regular session on Monday, July 11, 2022, at 6:00 p.m., (via Zoom Webinar and the Commission Chamber of the Municipal Office Building) with the following members present: Mr. Jeff Carson, Chairman Presiding (Zoom), Mrs. Karen Jones, Vice Chairman (Zoom), Mr. Duane Beth (Commission Chamber), Mr. James Connelly (Zoom), Mr. Jim Ernst (Zoom), Mr. Mark Mohler (Zoom), and Mr. Aaron Ward (Commission Chambers) (Absent: Armstrong, Miller, Pauley and Straws). Mr. Gunnar Hand, AICP, Director of Planning + Urban Design (Commission Chamber), Ms. Janet L. Parker, CSC/APC, Executive Assistant (Zoom), and Mr. Daniel Kuhn, Assistant Counsel (Zoom), 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 in-person in the Commission Chamber. 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 virtually this evening, please use the "raise your hand" feature if you want to speak on an application. If you are attending in-person in the Commission Chamber, please come to the microphone at the front of the room and Staff will inform Chairman Carson that you want to speak. After the Chairman recognizes you, please state your name and address and make your comments.
4. 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.

**Application starts at 4:05:**

**BOZA2021-041 – DANA BLAY/DBL ARCHITECTURE, INC.**, 146 South 18<sup>th</sup> Street, Zoned C-3 Commercial District. Variance 1: This appeal has been filed to grant a variance from the parking minimum requirement. Section 27-467(e) states that paved off-street parking spaces are required at a ratio of not less than four (4) spaces per 1,000 square feet of floor area in the building. The proposed building on the subject property measures 4,200 square feet, which requires 17 parking spaces. The appellant is requesting 10 parking spaces, a violation of seven (7) parking spaces. Variance 2: This appeal has been filed to grant a variance from the minimum allowed distanced between a new liquor store and any existing or proposed liquor store location, church, school, or public park. Section 27-593(b)(18) states that there must be a minimum separation distance of 1,300 feet between any new liquor store location and any existing or proposed liquor store location, church, school, or public park. The nearest distance between the parcel with the new liquor store and a church is 1,034 feet, a violation of 266 feet. The nearest distance between the parcel with the new liquor store and a public park is 1,170, a violation of 130 feet. Variance 3: This appeal has been filed to grant a variance from the front yard setback. Section 27-467(d)(2)a states that the front yard setback shall be no less than 25 feet. The appellant is requesting a front yard setback of four (4) feet and five (5) inches, a violation of 20 feet and seven (7) inches. Variance 4: This appeal has been filed to grant a variance from the corner side yard setback. Section 27-467(d)(2)c states that the corner side yard setback shall be no less than 25 feet. The appellant is requesting 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 paved area setback. Section 27-467(d)(2)e states that parking and other paved

areas shall be not less than six (6) feet from any property line and not less than 10 feet from any street right-of-way. The appellant is requesting a paved area/parking space setback of no more than zero (0) feet from the property line and no more than zero (0) feet from the street right-of-way, a violation of six (6) 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:**

- Dana Blay, DBL Architecture, 8031 Wenonga Road, Leawood, Kansas 66206

**Appeared in Opposition:**

- Chuck Green, representing the Alcott Center and owner of property at 1901 Lowell Avenue, Kansas City, Kansas 66102

**Staff Recommendation starts at 12:25:** Director Hand stated that this case was continued from last month so to correct noticing issues. It is being heard in conjunction with Special Use Permit SP2021-090, which will be heard later this evening by the City Planning Commission. This is an existing non-conforming liquor store that is being proposed to be demolished, rebuilt and expanded. The variance before the Board is a parking setback, front corner/rear yard setback and nuisance use distance requirement. Because it is an existing liquor store and is the same distance from the proposed church, Staff believes there is a unique situation here. This property is in the Central Area Master Plan. Staff received one (1) letter in support prior to this meeting and no letters in opposition other than the testimony at the meeting tonight. There are a couple of old notices of violation but after checking them again those were for graffiti and not trash. He further stated that code issues can be addressed by enforcement accordingly and have been communicated to the owner's representative this evening. Staff worked with Mr. Blay for the proposal to be in compliance with the Commercial Design Guidelines which will be addressed later this evening when the Special Use Permit is heard and that is why some of the variances are needed. Staff believes that it represents an improvement at the site. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 14:22:**

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

<b>Carson</b>	<b>Chairman</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Aye</b>
<b>Miller</b>	<b>Not Present</b>

**Mohler**                    **Aye**  
**Pauley**                  **Not Present**  
**Straws**                  **Not Present**  
**Ward**                    **Aye**  
**Armstrong**              **Not Present**  
**Beth**                     **Aye**  
**Connelly**                **Aye**  
**Motion to APPROVE Passed: 6 to 0**  
**Subject to:**

- 1. Per Section 27-575(d)(8), internal vehicular, bicycle and pedestrian circulation must connect in a manner obvious to users;**
- 2. Per Section 27-575(d)(12), pedestrian connections must be clearly defined in a combination of two or more of the following ways: six-inch vertical curb; trellis; special railing; bollards; special paving; low seat wall or other architectural features; pedestrian scale lighting; and, traffic calming devices;**
- 3. Per Section 27-577(a)(5), Landscaping shall exceed the typical code requirements by at least 75 percent;**
- 4. Per Section 27-577(b)(1), new construction must provide at least a 25-foot landscape zone between structures and/or parking lots and all public streets and access easements 40 feet wide or greater. This requirement may be reduced to 12 feet where there is no paving, other than a sidewalk, between a building and the right-of-way. The distance is to be measured from the public right-of-way or curblineline of a private easement;**
- 5. Per Section 27-577(b)(2), landscape berms and/or continuous rows of shrubs are required to screen parking from adjacent development or public streets. Shrubs used in this area must not exceed a maximum height of 30 inches at maturity;**
- 6. Per Section 27-577(c)(4), landscape areas located between commercial districts and residential districts must provide 100 percent sight-obscuring year-round buffer using plant material or a combination of fence, berm and plant material;**
- 7. Per Section 27-577(d)(1), at least 75 percent of the length of building foundations facing public streets, the exterior of the development, or common spaces must be planted with ornamental plant material such as ornamental trees, flowering shrubs, perennials, and groundcovers;**
- 8. Per Section 27-577(e)(1), parking lot landscaping must be used to minimize the expansive appearance of parking lots, provide shaded parking areas, and mitigate any negative acoustic impacts of motor vehicles;**
- 9. Section 27-577(e)(5), the primary landscaping material used in parking lots must be trees that provide shade or are capable of providing shade at maturity; Shrubbery, hedges and other planting materials may be used to complement the tree landscaping, but shall not be the sole means of landscaping;**

10. Per Section 27-578(b)(3), minimum maintained lighting standards that provide for nighttime illumination of parking lots, walkways, entrances, exits and related areas to promote a safe environment;
11. This Board of Zoning Appeals case is being heard in conjunction with SP2022-090. 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 SP2022-090 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;
12. A building permit is required for the construction of a permanent structure greater than 120 square feet. 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;
13. The applicant, contractors, subcontractors, and related third parties shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets and Retaining Walls, as applicable;
14. Section 27-467(g) requires that a six (6) foot high architectural screening is to be provided along all side and rear property lines common to or across an alley from residentially zoned property. Additional screening or buffering may be required to soften the visual impact of parking or unsightly areas; and,
15. 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. Any illumination that results from use of the parking lot shall not be seen or otherwise impact adjacent residential uses.

**Application starts at 15:10 and the applicant was not present, so the case was moved to the end of the agenda and recalled at 56:17 and the applicant was not present:**

**BOZA2022-017 – MIKE PORTSCHE WITH COMMERCIAL MULTI-FAMILY**

**DEVELOPMENT LLC**, 748 Seminary Street, Zoned R-1 Single Family District. Variance 1: This appeal has been filed to grant a variance from the rear yard setback. Section 27-455(c)(2)d requires a rear yard setback of no less than 25 feet. The appellant is requesting a rear yard setback of nine (9) feet, a violation of 16 feet. Variance 2: This appeal has been filed to grant a variance from the minimum lot size. Section 27-455(c)(3)b requires a lot to be no less than 5,000 square feet. The appellant is requesting a lot size of 3,095 square feet, a violation of 1,905 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:**

- No one appeared

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 56:46:** Director Hand stated that this variance is for a rear yard setback and minimum lot size setback. The property is currently a vacant lot and is located in the Rosedale Area Master Plan. The applicant is proposing to build a single-family home on the property. Staff has reviewed this proposal multiple times with the applicant and because this is a corner lot, the applicant chose Minnie Street to be their front yard as opposed to Seminary Street. Staff and applicant worked through several other variances and were able to eliminate them and to meet the Rosedale Master Plan Design Guidelines for single-family homes. Staff has received no letters in support nor in opposition. There are some old Notices of Violation related to debris on the property but those are irrelevant to this proposed new construction. Staff has requested that the applicant use horizontal siding and they meet the Single-Family Design Guidelines of the Master Plan. Director Hand stated that a change in the rear yard setback distance during Staff review, but was not reflected in the agenda synopsis. The request is now for nine (9) feet, which is a violation of 16 feet. Staff is asking an additional condition of approval specifically saying that it shall meet the Single-Family Design Guidelines of the Rosedale Area Master Plan. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 59:09:**

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

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

**Motion to APPROVE Passed: 6 to 0**  
**Subject to:**

- 1) The proposed residence must be constructed to the plans provided by the applicant to Staff and/or attached to this staff report, subject to any other conditions of approval contained herein;
- 2) All siding on the building must be horizontal;
- 3) Per International Building Code, as adopted by the UG Building Code, a structure within 10 feet of a property line must have an increased fire protection rating. The applicant must meet all UG Building Codes;
- 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) All existing and future driveways must feature curb cuts that are constructed to UG standards;
- 6) 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;
- 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) 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,
- 9) 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.
- 10) Project shall meet the Single-Family Design Guidelines of the Rosedale Area Master Plan.

**Application starts at 15:60:**

**BOZA2022-021 – JOHN EMANUELS**, 4411 North 67<sup>th</sup> Street, Zoned A-G Agriculture and C-1 Limited Business Districts. This appeal has been filed to construct a cul-de-sac. Sec 27-281 states “Cul-de-sacs shall normally not be longer than 500 feet, including a turnaround that shall have an outside curb radius of not less than 40 feet and a right-of-way



radius of not less than 50 feet". Appellant is requesting a cul-de-sac that is approximately 1580 feet, a violation of approximately 1080 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:**

- John Emanuels, applicant, 180 Terrace Trail South, Lake Quivira, Kansas 66217
- Mike Makris, BHC Rhodes Civil Engineers, 7101 College Boulevard, Suite 400, Overland Park, Kansas 66210

**Appeared in Opposition:**

- Tony Tucker, owner of 4141, 4244 and 4210 North 67<sup>th</sup> Street, Kansas City, Kansas 66014
- Jessie Villarreal, 4045 North 67<sup>th</sup> Street, Kansas City, Kansas 66104
- Donna Henderson-Hoyt, Cernech Neighborhood Association, 6422 Cernech Road, Kansas City, Kansas 66104
- Lawrence Kappelman, 4108 North 67<sup>th</sup> Street, Kansas City, Kansas 66104
- Josh Smith, 6445 Parkview Avenue, Kansas City, Kansas 66104

**Staff Recommendation starts at 35:36:** Director Hand stated that this case was held over from last month in order to address noticing requirements. It is being heard in conjunction with COZ2022-015 by the City Planning Commission later this evening. The variance is for a private cul-de-sac length approximately 1080 feet longer than allowed by code. Staff has received letters both in support and opposition. There are some older Notices of Violation prior to the ownership by Mr. Emanuels. The property is in the City-Wide Master Plan in the Midtown area. Staff recommends approval subject to the conditions in the staff report.

Chairman Carson asked Staff about the traffic issue. Director Hand stated that for this use it is not germane to ask for a traffic study although the Planning Commission can ask for a traffic study to be done. He stated that the discussion of the cul-de-sac should be made during the hearing on the Change of Zone application.

**Motion/Vote starts at 32:32:**

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** this appeal:

<b>Carson</b>	<b>Chairman</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Aye</b>
<b>Miller</b>	<b>Not Present</b>



Mohler                   Aye  
Pauley                  Not Present  
Straws                  Not Present  
Ward                    No  
Armstrong              Not Present  
Beth                    No  
Connelly                 Aye  
Motion to APPROVE Passed: 4 to 2  
Subject to:

1. The proposed cul-de-sac entrance must be constructed from where the existing driveway abuts North 67<sup>th</sup> Street;
2. The proposed cul-de-sac shall be no longer than 2,400 linear feet;
3. Driveways cannot be shared between commercial uses and residential uses;
4. Per Harvey Fields, Plans Examiner with the Kansas City, Kansas Fire Department, the proposed cul-de-sac and private drive shall not have any on-street parking, as the private drive is only twenty (20) feet wide;
5. Per Harvey Fields of the Kansas City, Kansas Fire Department, the minimum diameter of the cul-de-sac must be 96 feet;
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. 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,
9. 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.

**Application starts at 38:39:**

**BOZA2022-031 – ANDREA WEISHAUBT WITH ATLAS SURVEYORS**, 12750 Hubbard 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 a total floor area of all accessory buildings of 2,100 square feet, a violation of 1,100 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:**

- Austin Thompson, Atlas Surveyors, 2300 Hubbard Road, Suite 108, Kansas City, Kansas 66109

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 47:02:** Director Hand stated that this case is being heard in conjunction with Vacation VAC2022-005 later this evening by the City Planning Commission. This is a variance for the allowable size of an accessory structure. The applicant is seeking to combine two (2) lots and vacate the utilities between the two (2) and build a second detached garage. There is an existing attached garage on the house and this second garage would be detached. He further stated that the property is in the Prairie-Delaware-Piper Master Plan area. Staff received letters in support and no letters in opposition. There are no Notices of Violation on this property. Staff recommends denial as Staff does not believe the request meets all the five (5) Statutory requirements as rebuttal by the applicant earlier in his testimony.

**Motion/Vote starts at 48:35:**

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 **DENY** this appeal based on the Staff's recommendation and the application does not meet the requirements of the five (5) Statutory requirements:

<b>Carson</b>	<b>Chairman</b>
<b>Ernst</b>	<b>Aye</b>
<b>Jones</b>	<b>Aye</b>
<b>Miller</b>	<b>Not Present</b>
<b>Mohler</b>	<b>Aye</b>
<b>Pauley</b>	<b>Not Present</b>

Straws                      Not Present  
Ward                        No  
Armstrong                Not Present  
Beth                        No  
Connelly                    Aye  
Motion to DENY Passed: 4 to 2

- 1) The variance request does not fulfill Statutory Requirement #1. There are no conditions of the subject property that are unique; and the existing conditions of the subject property is ordinarily found in the same zone or district;
- 2) The variance does not fulfill Statutory Requirement #2. The adjacent property owner at 12740 Hubbard Road has not provided comment demonstrating support for the variance; an accessory building that exceeds the allowed floor area by 110% will have an adverse effect on the adjacent property owner 17 feet away;
- 3) The variance request does not fulfill Statutory Requirement #3. The requirement to construct an accessory building no greater than the maximum area allowed by the R-1 District does not constitute an unnecessary hardship;
- 4) The variance request does not fulfill Statutory Requirement #4. The massing of the proposed accessory building will adversely affect the public order and prosperity, and the general welfare; and,
- 5) The variance request does not fulfill Statutory Requirement #5. The intent and spirit of the ordinance is to prevent accessory buildings from dominating the visuals of, or standing in detriment to, the primary residence. The dimensions of the proposed accessory building will create a massing which does just that.

**Application starts at 50:01 and the applicants were not present. The application was moved to the end of the agenda and recalled at 1:00:02 and the applicants were not present:**

**BOZA2022-032 – MILDRED AND DAVID GRIGGS**, 5636 North 107<sup>th</sup> Street, Zoned A-G Agriculture District. This appeal has been filed to grant a variance from the maximum depth-to-width ratio for a lot. Section 27-280(b) states that the depth of a lot shall not exceed three (3) times the width. The appellant is requesting that the two (2) parcels created by PLAT2022-014 will both have a depth-to-width ratio of 6:1, a violation of 100% and 100%, 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:**

- No one appeared

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 1:00:32:** Director Hand stated that this application is being heard in conjunction with PLAT2022-014 later this evening by the City Planning Commission. This variance is for a lot to width ratio greater than the 3:1 requirement. The applicant is requesting a 6:1 violation. The property is in the Prairie-Delaware-Piper Master Plan area. Staff has received no letters in support nor in violation. There are no Notices of Violation. Staff is requesting the applicant to build a UG standard driveway apron. He showed the Board the plat and how the parcels would look if they met the 3:1 requirement. He stated that the property has been divided several times in the past. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 1:02:01:**

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

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

**Motion to APPROVE Passed: 6 to 0**

**Subject to:**

- 1. When the mylars are submitted to Staff to be recorded, submit the following fees:**
  - a. \$32.00 per page payable to the Register of Deeds; and,**
  - b. \$7.00 per lot payable to the Unified Treasurer;**
- 2. This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-014, heard by the City Planning Commission, on July 11, 2022;**
- 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. All existing and future driveways must feature curb cuts that are constructed to UG standards. The County Engineer will allow an asphalt driveway apron up to the edge of pavement in the right-of-way;
5. 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;
6. Utility easements shall be provided along each side of the lot to form a continuous utility easement. All easements shall be at least ten (10) feet wide. The required ten-foot width may be provided through five (5) foot easements on either side of lot or parcel lines when lines do not form, in whole or in part, the outside boundaries of the plat;
7. Utility easements shall connect with easements established in adjoining properties;
8. Per Section 27-317, electrical power, telephone service, and cable television (if applicable) shall be provided by underground wiring for all new wiring provided;
9. The applicant, contractors, subcontractors, and related third parties shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets and Retaining Walls, as applicable; 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, Room 712, 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.

**Application starts at 50:47:**

**BOZA2022-33 – ALEJANDRO DIAZ**, 5744 Tauromee Avenue, 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 Single Family 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 a total floor area of all accessory buildings of 2,400 square feet, a violation of 1,400 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:**

- Alejandro Diaz, appellant, 5744 Tauomee, Kansas City, Kansas 66102

**Appeared in Opposition:**

- No one appeared

**Staff Recommendation starts at 53:01:** Director Hand stated that the proposed accessory structure is larger than allowed by code for a R-1 parcel. The property is in the City-Wide Master Plan in the southern midtown or Riverview area closer to the Kansas River. Staff has received no letters in support nor in opposition. There are some closed Notices of Violation unrelated to this case. Staff is requesting the applicant to maintain an existing tree line for additional screening and buffering from adjacent uses. Staff is also requesting that the applicant match the material with the primary structure. There is currently a dirt driveway and Staff is asking for a gravel driveway with a UG standard driveway apron which is essentially concrete from the road to the back of the public right-of-way or the beginning of the property line since the property is over five (5) acres and rural in character. He stated that the property has been cut up over the years and is an unusually shaped “flagpole” lot. It is set deep in the property with other single-family homes essentially fronting on the street. He further stated that this could be an agriculturally zoned property that would not have a square foot maximum for accessory structures. Staff recommends approval subject to the conditions in the staff report.

**Motion/Vote starts at 55:24:**

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

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

Beth Aye  
Connelly Aye  
Motion to APPROVE Passed: 6 to 0  
Subject to:

- 1) The applicant must preserve the tree line on the property in order to screen the proposed accessory building from view from public right-of-way and from nearby properties;
- 2) The accessory building shall not be used for the operation of a commercial business, nor for the storage of any inventory, vehicles, or equipment used as part of a commercial business;
- 3) The driveway must be improved in its entirety with a minimum four (4)-inch depth of gravel or its equivalent;
- 4) Any other parking, loading, or maneuvering areas related to the accessory building must be paved with a minimum of two inches of asphalt over six inches of compacted gravel or an acceptable alternative as determined by the county engineer;
- 5) 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;
- 6) 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;
- 7) All existing and future driveways must feature curb cuts that are constructed to UG standards. The portion of the driveway between the paved, improved surface of Tauromee Avenue and the front boundary line of the subject property must be improved with four (4)-inch concrete;
- 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 at (913) 573-5750 or [signpermits@wycokck.org](mailto:signpermits@wycokck.org) to begin this process;



- 10) 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,
- 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.

The meeting was adjourned at 7:03 p.m.

**THE BOARD OF ZONING APPEALS**

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