

BOARD OF ZONING APPEALS
JUNE 12, 2023
DECISIONS

The Board of Zoning Appeals met in regular session on Monday, June 12, 2023, at 6:03 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), Ms. Brandie Armstrong (Zoom), Mr. Duane Beth (Commission Chamber), Ms. Rose Elites (Commission Chamber), Mr. Jim Ernst, (Zoom), Mr. Jake Miller (Zoom), Mr. Mark Mohler (Zoom), Mr. Joseph Straws (Zoom), and Mr. Aaron Ward (Commission Chamber). (Absent: Connelly). 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, Planner (Commission Chamber), and Mr. Jeff Conway, Assistant Counsel (Commission Chamber), were also present.

Chairman Carson called the meeting to order at 6:03 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 the Chairman 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 4:50:

BOZA2023-013 – BRANDON BLATTNER, 2336 South Boeke Street, Zoned R-2(B) Two Family District. This appeal has been filed to grant a variance from the front yard setback in the R-1(B) District, via the R-2(B) District. Section 27-457(b)(1) allows any use permitted in the R-1(B) District, under the standards of that district; Section 27-455(c)(2)a requires a front yard setback of 25 feet. The appellant is requesting a front yard setback of 23 feet, a violation of two (2) 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:

- Brandon Blattner, applicant, 2336 South Boeke Street, Kansas City, Kansas 66103

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 7:20: Planner Toy stated that Staff had to recommend denial of this application because the Applicant inherited this property from a previous owner who had enclosed the front porch. Therefore this is a self-imposed hardship and Staff had to recommend denial as the application does not meet Criteria #1. He stated that the Board can approve the variance and if so, Staff has included conditions of approval.

The Board directed questions to Staff and the Applicant.

Mr. Blattner stated that he did not know the property was not in compliance when he purchased it.

Motion/Vote starts at 13:34:

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

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. The existing driveway is unpaved and not in compliance with UG standards. The driveway, maneuvering area, and parking areas must be paved to UG standards, including compliance with paving materials and paved area maximums;**
- 2. The wooden retaining wall along the South Boeke Street right-of-way appears to be in need of repair. Said retaining wall must be repaired to UG standards, including comments from Planning Engineering;**
- 3. All outstanding cases with the Property Maintenance Compliance, including cases CMP22-2807, BSR22-0202, and STR22-1150, must be closed;**
- 4. Retroactive building permits must be successfully issued when required, for all non-permitted work, including but not limited to: the enclosure of the front porch, the installation of heating pipes, the construction of the rear yard porch roof, and the construction of the accessory building;**

5. The enclosure of the front porch not only created a violation Section 27-455(c)(2)a, the front yard setback, but also created a violation of R311.3 of the 2018 International Building Code, which requires a landing area of 36 inches at the front door. If the variance were approved, the violation of R311.3 would still need to be remedied. Staff has identified three (3) possible options, one (1) of which Property Owner-Applicant must choose:
 - a. Setting back the front door 36 inches and adding side walls to create an alcove that fulfills R311.3; or,
 - b. Expansion of the existing steps so that the top step is 36 inches deep; or,
 - c. Construction of an uncovered, open front porch that is at least 36 inches front to back;
6. Per Section 27-609(2), 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 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;
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. 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;
11. 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;
12. 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,

13. Substantive action towards the completion of all conditions of approval herein must commence within six (6) months of approval unless otherwise determined by the Director of Planning or their designee. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within 18 months of approval unless otherwise determined by the Director of Planning or their designee.

Application starts at 14:35:

BOZA2023-018 – AARON MOORE WITH KAW VALLEY ENGINEERING, 2508 North 12th Street, Zoned R-2 Two Family District (proposed RP-5 Planned Apartment District). This appeal has been filed to rehab a vacant church building into a 12-unit multi-family apartment building. Variance 1: This appeal has been filed to grant a variance from the front yard setback in the RP-5 District. Section 27-460(c)(2)a requires a setback of not less than 25 feet from the street line. The appellant is requesting a front yard setback of five and one-half (5.5) feet, a violation of 19.5 feet. Variance 2: This appeal has been filed to grant a variance from the interior side yard setback in the RP-5 District. Section 27-460(c)(2)b requires a setback of not less than 10 feet from the interior side yard property line. The appellant is requesting an interior side yard setback of three and one-half (3.5) feet, a violation of six and one-half (6.5) feet. Variance 3: This appeal has been filed to grant a variance from the corner side yard setback in the RP-5 District. Section 27-460(c)(2)c requires a setback of not less than 25 feet from the public street. The appellant is requesting a corner side yard setback of zero (0) feet, a violation of 25 feet. Variance 4: This appeal has been filed to grant a variance from the required minimum number of parking spaces in the RP-5 District. Section 27-460(d) requires that one and one-half (1.5) parking spaces be provided for each dwelling unit that has one (1) bedroom or less, and that two (2) parking spaces be provided for each dwelling unit that has two (2) bedrooms or more. The proposed apartment building will have eight (8) units with one (1) bedroom, and four (4) units with two (2) bedrooms. 20 parking spaces are required. The appellant is requesting 17 parking spaces, a violation of three (3) parking spaces.

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

Appeared in Support:

- Aaron Moore, applicant, Kaw Valley Engineering, 8040 North Oak Trafficway, Kansas City, Missouri 64118
- Andrew Tanner, developer, 7411 Northwest 75th Terrace, Kansas City, Missouri

Appeared in Opposition:

- Andrew Mars, Jr., 2514 North 12th Street, Kansas City, Kansas 66104

Staff Recommendation starts at 20:45: Planner Toy stated that the applicant is seeking a front yard setback, interior side yard setback, corner side yard setback and a parking variance. With their proposal they would have one (1) parking space for each one (1) bedroom unit and two (2) parking spaces for each two (2) bedroom unit. This is a good adaptive use of the building that has been vacant for the last 32 years. He does not believe that it is going to have another use or once again be a church since it has been vacant for so long. The setback variances are needed as the use would not comply with the proposed zoning district that will be heard by the City Planning Commission later this evening. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 22:33:

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

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2023-011, MPL2023-006, and PLAT2023-016;**
- 2. Because this is a planned district (proposed), a Final Development Plan is required to be submitted prior to obtaining a building permit. Final architectural and civil drawings are required to be submitted at such time;**
- 3. If historic designation is sought by the applicant prior to any renovation, contact Randy Greeves, Historic Preservationist at (913) 573-5763 or jlgreeves@wycokck.org;**
- 4. Per the Multi-Family Residential Design Guidelines:**
 - a. Pedestrian walkways and sidewalks shall be a minimum of six-feet (6') wide.**

- b. All pedestrian walkways shall be designed to provide direct access and connections to and between the following:
 - i. The primary entrance or entrances to each principal multi-family building; and,
 - ii. To any sidewalks or walkways on adjacent properties that extend to the boundaries shared with the multi-family development.
 - c. Exterior building materials shall not include the following:
 - i. Board and batten wood;
 - ii. Smooth-faced or grey concrete block;
 - iii. Painted concrete block;
 - iv. Tilt-up concrete panels;
 - v. Field painted or pre-finished standard corrugated metal siding;
 - vi. Standard single or double tee concrete systems; and,
 - vii. Vinyl siding.
 - d. Landscaping is required to screen all parking areas and service entries;
5. Sec. 27-575(c)(3) Use of stepped retaining walls is necessary along public streets or other visible areas of the site to reduce the steepness of manmade slopes and to provide pockets or terraces for revegetation and landscaping. Every wall over six (6) feet in height must be “stepped”. Four (4) feet of terrace is required every 8 feet of wall;
 6. Relocate the second pole west on Cleveland Avenue due to the potential parking lot curb cut;
 7. The sidewalk along Cleveland Avenue shall extend from the intersection west to the edge of the property line;
 - a. Uncover and clean existing sidewalks. Make repairs or install new extensions where necessary;
 8. All dwelling units within a new development must be provided with a basement or with a FEMA standard safe room constructed to tornado standards for the protection of the occupants (FEMA Publication 320 or 361).

Multi-family apartments are required to have a storm shelter either in a basement or community shelter that can accommodate all residents within the multi-family units;

9. 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;
10. Interior parking lots lights shall have 90-degree cutoff fixtures;
11. Install bike racks near the front door or a high trafficked entrance/exit;
12. All existing and future driveways must feature curb cuts that are constructed to UG standards. Existing paved areas are in rough shape;
13. 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,

14. Substantive action towards the completion of all conditions of approval herein must commence within six (6) months of approval unless otherwise determined by the Director of Planning or their designee. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within 18 months of approval unless otherwise determined by the Director of Planning or their designee.

Application starts at 23:31:

BOZA2023-021 – DERRICK BURKS WITH MAYBABY’S WATER ICE, LLC, 1125 Quindaro Boulevard, Zoned C-3 Commercial District. This appeal has been filed to grant a variance from the required minimum number of parking spaces for a restaurant in the C-3 District. 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. Section 27-668 states that for restaurants, one (1) space for each 50 square feet of seating area plus one (1) space for each remaining 300 square feet of total floor area is required; but for such establishments with less than 500 square feet of seating area, at least 10 off-street parking spaces are required. The building measures a total of 303 square feet, zero (0) square feet of which will be used for seating and 303 square feet of which will be remaining floor area, resulting in the minimum 10 required parking spaces. The appellant is requesting zero (0) parking spaces, a violation of 10 parking spaces.

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

Appeared in Support:

- Derrick Burks, applicant, Maybaby’s Water Ice, LLC, 828 Quindaro Boulevard, Kansas City, Kansas 66101

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 25:19: Planner Toy stated that there is no off-street parking for this 323 square foot building. He stated that this will be a good location for the neighborhood to walk up and get a sandwich, water, or ice. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 26:04:

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

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. Any expansion of the floor area of the existing building or development of a new building within the subject property may be outside the parameters of this variance request and may require a new variance;**
- 2. Any outside dumpsters must be fully screened with masonry columns and screening that matches the façade of the on-site building;**
- 3. The sidewalk in front of the buildings must be maintained and kept free of impediments in order to accommodate pedestrian activity both for on-site uses and for movement between uses;**
- 4. A table or bench must be placed in the greenspace in the front of the building;**
- 5. One (1) shade tree of at least two (2) inch caliper when planted as measured 12 inches above the ground must be planted on site;**
- 6. Architectural screening four (4) feet in height must be constructed in the existing open space along the southern property line of the subject property;**
- 7. At least 75 percent of the length of building foundation facing Quindaro Boulevard or Georgia Avenue must be planted with ornamental plant material such as ornamental trees, flowering shrubs, perennials, and groundcovers. Due to the existing building on the property line, any flowering shrubs and perennials may be planted in above-ground planters;**
- 8. Plants that die must be replaced no longer than four (4) months from the date of its death;**
- 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 to begin this process;**

10. 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;
11. If approved, the applicant must file and maintain a current business occupation tax application with this office;
12. 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.
13. 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;
14. The Department of Planning + Urban Design shall not give approval for any temporary certificate of occupancy (TCO) or final certificate of occupancy (CO) before the completion of all required work. For any project that requires a certificate of occupancy, prior to requesting for any certificate, the applicant, permit holder, and/or property owner shall complete all items required by: Approved Plans, Codes, Ordinances, Zoning District Regulations, Planned District Requirements, Master Plan Requirements, all Design Guideline Requirements, Overlay District Requirements, and Requirements approved by the City Planning Commission and/or the UG Board of Commissioners. It is the collective responsibility of the applicant, permit holder, and property owner to ensure that any and all permits, land entitlements, deviations, or variances are obtained in advance of beginning of any work. Planning Department standards require that all required work be complete prior to requesting a TCO. The only item that is allowed to be incomplete is landscaping, which shall be complete before requesting a CO. A bonded CO may be allowed in case of adverse weather conditions; however, all requirements must be completed for all items not secured by the bond; and,
15. Substantive action towards the completion of all conditions of approval herein must commence within six (6) months of approval unless otherwise determined by the Director of Planning or their designee. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within 18 months of approval unless otherwise determined by the Director of Planning or their designee.

The meeting was adjourned at 6:29 p.m.

THE BOARD OF ZONING APPEALS

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