

BOARD OF ZONING APPEALS
MARCH 13, 2023
DECISIONS

The Board of Zoning Appeals met in regular session on Monday, March 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. Karen Jones, Vice Chairman (Zoom), Ms. Brandie Armstrong (Commission Chamber), Mr. Duane Beth (Commission Chamber), Mr. James Connelly (Zoom), Mr. Jim Ernst (Zoom), Mr. Jake Miller (Zoom), and Mr. Aaron Ward (Commission Chamber) (Absent: Mohler and Straws). Mr. Gunnar Hand, AICP, Director of Planning + Urban Design, Ms. Janet L. Parker, CSC/APC, Executive Assistant to the Director of Planning + Urban Design (Zoom); and Mr. James 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 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.

Recording Secretary Parker stated that Appeal BOZA2022-065 for Luke Kush at 1327 Minnesota Avenue, will not be heard this evening. That application needs to be heard in conjunction with the Vacation Application that was removed from the City Planning Commission agenda last week.

Application starts at 4:56:

BOZA2022-050 – COLBY KIRK WITH GAP OUT INVESTMENTS, 915 Barnett Avenue, Zoned R-1(B) Single Family District (proposed RP-5 Planned Apartment District). This appeal has been filed to a modify a residential building to a 9-unit multi-family building with a group home/transitional housing. Variance 1: Sec. 27-460(c)(2)b. states the side yard, interior setback shall not be less than ten (10) feet between any building and any property line. Appellant is requesting 8 feet, 11 inches, a violation of 1.1 feet. equal to at least 40 percent of the site area is maintained as non-vehicular open space. Appellant is requesting 905.564 square feet of lot area per dwelling unit, a violation of 594.436 square feet of lot area. Variance 3: Sec. 27-460(c)(4) states the minimum floor area is not less than 380 square feet of habitable floor area per dwelling unit. Appellant is requesting between 247 – 315 square feet per unit, a violation of 133 – 65 square feet per unit. Variance 4: Sec. 27-460(d) states one and one-half (1.5) parking spaces shall be provided for each dwelling unit that has one (1) bedroom or less. Two (2) parking spaces shall be provided for each

dwelling unit that has two (2) bedrooms or more. Appellant is requesting two (2) off-street parking spaces, a violation of 9 spaces. Variance 2: Sec. 27-460(c)(3) states the lot area shall not be less than 1,500 square feet per dwelling unit; however, provided that an area

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

Appeared in Support:

- Colby Kirk, applicant, 4300 Harrison Street, Kansas City, Missouri 64110

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 19:43: Planning Director Hand stated that this application is being heard in conjunction with Master Plan Amendment MPL2022-024, Change of Zone Application COZ2022-037 and Special Use Permit Application SP2022-092 which will be heard later this evening by the City Planning Commission. The variance request is for side yard setback, lot area, unit size and parking for a total of four (4) variances. The property is located in the Central Area Plan. Staff has received no letters in support nor in opposition. There are several old Notices of Violation which will be addressed by the rehabilitation of this property. The violations are nuisances associated with vacant buildings. Staff recommends approval of all four (4) variances with the conditions in the staff report. He further stated that the property is in the environs of a Historic Landmark and will require an environs review before building permits are issued. In the 1990s to 2000s the Department had a legal non-conforming process whereby someone could have a ten (10) year grace period that were caught up in these types of situations to allow the property owner to request a Change of Zone. The previous property owner received a legal non-conforming permit for up to nine (9) units and that is the last time Staff tracked a unit count for this building. Staff is trying to honor that original unit count and these are all of the requirements that are necessary to essentially have RP-5 Planned Apartment District zoning, which is the density required. He stated that parking is a concern for Staff and believes that some off-street parking should be provided via a new driveway to park in the rear.

The Board of Zoning Appeals directed questions to Staff.

Motion/Vote starts at 23:50:

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 BOZA2022-050:**

Carson **Chairman**

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

Motion to APPROVE Passed: 7 to 0

Subject to:

1. This Board of Zoning Appeals case is being heard in conjunction with COZ2022-037, MPL2022-024, and SP2022-092;
2. This property is within the 200-foot Environs of the William T. Maunder Residence, 1885 located at 616 North 9th Street. Prior to obtaining a building permit, an Historic Environs Review must be performed by Planning Staff;
3. Construct a driveway with asphalt or concrete for two (2) parking spaces in the rear of the property for tenants or staff;
4. Comply with all KCKFD requirements, which includes, but is not limited to installing a residential fire suppression system adhering to all relevant codes and ordinances;
5. Sec. 27-700(b)(1) Buffer plantings, which shall include the equivalent of a minimum of one (1) evergreen tree or one (1) shade tree and three (3) large shrubs for each 30 feet of adjacent project boundary, shall be provided for such development adjacent to single-family or two-family zoned property. Except in district R-M and C-0, such buffer plantings may be arranged on any portion of the property. Buffer plantings will be in addition to required trees. All multi-family residential projects shall include at least one (1) shade tree per 8 dwelling units and one (1) shrub per dwelling unit in addition to the tree requirement, but not in addition to the buffer plantings if required;
6. All shade trees shall be at least two (2) inch caliper. All evergreens shall be at least six (6) in height. All shrubs shall be five (5) gallons, external to the site and three (3) gallons internal to the development when planted;
7. All disturbed areas within the development shall be brought to finished grade and seeded or sodded. There shall not be any exposed, bare ground unless the lot has an active building permit for building construction;
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 to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;

9. All existing and future driveways must feature curb cuts that are constructed to UG standards;
10. 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;
11. 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;
12. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within six (6) months of approval unless otherwise determined by the Director of Planning or their designee.

Application starts at 24:38:

BOZA2022-074 – FERNANDO GOMEZ WITH ENVISION CONSTRUCTION, INC. 825 Minnesota Avenue, Zoned C-D Central Business District. This appeal has been filed to grant a variance from the parking minimum requirement for a restaurant in the C-D District. Section 27-465(f)(1) states that non-residential or hotel uses in this district need not provide off-street parking. Section 27-668(a)(5) states, however, 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. The existing and proposed floor space of the subject building measures a total of 5,037 square feet. Of this total area, 2,072 square feet will be used for seating and 2,965 square feet will be remaining floor area, resulting in a total of 52 required parking spaces. The appellant is requesting 11 parking spaces, a violation of 41 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:

- Fernando Gomez, applicant, Envision Construction, Inc.

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 27:55: Planning Director Hand stated this is a parking variance for a restaurant in the Downtown area. The property is located in the Downtown Area Plan. The applicant is proposing to expand the restaurant and use the adjacent surface parking lot. Staff received no letters in support nor in opposition. There are old Notices of Violation on this property from a previous owner and a current Notice of Violation for food waste in the alley. Staff recommends approval subject to the conditions in the staff report. Staff is requesting some improvements to the existing parking lot, which includes

repaving and screening as per the Downtown Area Plan and removal of the barbed wire, which is currently in violation of the zoning standards.

Motion/Vote starts at 29:18:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Ms. Armstrong, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2022-074:**

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

Motion to Passed: 7 to 0

Subject to:

- 1. A parking agreement between the property owner of the subject property and the property owner of 821 Minnesota Avenue must be signed, notarized, and recorded with the Register of Deeds;**
- 2. All future effective parking agreements, regardless of the off-site location, must provide enough parking spaces so that all but 41 of the required parking spaces are provided for use by the subject property;**
- 3. The barbed wire on the exterior east wall facing the parking lot at 1821 Minnesota Avenue must be removed;**
- 4. Current hours of operation are: 10:00 AM to 9:00 PM Business operation hours after expansion will be 10:00 AM to 12:00 AM.**
- 5. A temporary permit for live entertainment may be issued up to three (3) times in a year. If in the future there is live entertainment and the number of live entertainment events exceed a frequency of three (3) events per year, then a Special Use Permit is required;**
- 6. No amplified speakers or entertainment is allowed in outdoor spaces;**
- 7. Any exterior work must be in compliance with the Commercial Development Guidelines Overlay District (Sections 27-573—578);**
- 8. The current parking lot is in disrepair and must be repaved;**
- 9. 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;**

10. 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;
11. Per the Downtown Area Master Plan, the surface parking lot must be screened by a combination of fencing and shrubs;
12. 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;
13. 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 begin this process;
14. The applicant has filed and maintained a current business occupation tax application;
15. 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;
16. 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;
17. 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; and,
18. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within six (6) months of approval unless otherwise determined by the Director of Planning or their designee.

Application starts at 30:13:

BOZA2022-076 – VITALIY SOYARKOV WITH VS SERVICES, LLC, 6220 Kansas Avenue, Zoned M-3 Heavy Industrial District. This appeal has been filed to grant a variance from the requirement to screen mechanical equipment on a roof. Section 27-699(b)(6) states that mechanical equipment or other utility hardware on a building shall be screened from public view. Rooftop mechanical equipment will be up to nine (9) feet, three (3) inches above the edge of the rooftop. The appellant is requesting rooftop screening of zero (0) feet, a violation of nine (9) feet, three (3) inches

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

Appeared in Support:

- Vitaliy Soyarkov, applicant, VS Services, LLC, 753 South 66th Terrace, Kansas City, Kansas 66111

The Board of Zoning Appeals directed questions to the applicant.

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 34:26: Planning Director Hand stated that this application is requesting a variance from screening HVAC units on the rooftop. This property is in the City-Wide Comprehensive Plan in the south Midtown area. Staff received no letters in support nor in opposition. There are some older Notices of Violation that have been remediated. Staff recommends denial of this application. Staff has included conditions of approval in the staff report if the Board of Zoning Appeals approves this application.

The Board of Zoning Appeals directed questions to Staff.

Motion/Vote starts at 38:00:

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 **DENY BOZA2022-076 for the reasons listed in the staff report and non-compliance with the ordinance requirements they agreed to follow:**

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

Motion to DENY Passed: 7 to 0

Application starts at 39:05:

BOZA2022-077 – CHAD SCHIMKE, 13700 Marxen Road, Zoned AG Agriculture (WYCO) District. The approval of a variance from the minimum parking requirements and for additional allowed outdoor storage. 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 asked if the Board had any contact to disclose on this application. (No one responded in the affirmative.)

Appeared in Support:

- Chad Schimke, applicant, 11710 Kelly Road, Leavenworth, Kansas 66048
- Les Hamilton, BHC Rhodes, 7101 College Boulevard, Overland Park, Kansas

The Board of Zoning Appeals directed questions to the applicant.

Appeared in Opposition:

- Steve Solis, 13841 Marxen Road, Kansas City, Kansas 66109
- Mike Kenaga, representing his mother and father, Henry and Mary Ellen Kenaga, 23979 131st Street, Leavenworth, Kansas 66048

Staff Recommendation starts at 52:01: Planning Director Hand stated that this application was held over from last month's meeting for noticing of this case to the property owners within 1,000 feet. This application is being heard in conjunction with Master Plan Amendment Application MPL2022-026, Change of Zone Application COZ2022-045 and Plat Application PLAT2023-001, which will be heard later this evening by the City Planning Commission. This variance request is for parking and outdoor storage area for a proposed self-storage facility. He further stated that this property is in the Prairie-Delaware-Piper Area Plan. Staff has received no letters in support and one (1) letter in opposition along with the public testimony this evening. There are no Notices of Violation on this property. Staff recommends denial. Staff has included conditions of approval if the Board moves forward with a decision of approval.

Chairman Carson asked Staff to address the comments regarding closing Marxen Road and access to K-7. Planning Director Hand stated that the County Engineer reviewed the plan and he has not heard anything about the closing of Marxen Road and access to K-7. He further stated that Staff can contact KDOT but that will entail the application being held over for one (1) month.

The Board of Zoning Appeals discussed the option of parking in front of the storage facility to assist with parking. Director Hand stated that Staff is more concerned about the amount of outside storage and how parking in front of the facility could affect that storage. The site plan could change if the outside storage and parking changes. The denial of this application will not eliminate the project as there are other entitlements to be heard at the City Planning Commission meeting.

Motion/Vote starts at 1:03:40:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Connelly, seconded by Mr. Ernst, the Board of Zoning Appeals voted as follows to **HOLD OVER BOZA2022-077 for a redesigned comprehensive plan to be submitted showing parking in front of the facility, an acceptable amount of outdoor storage needed, and Staff to contact KDOT regarding the possible closing of Marxen Road and access to K-7 to the April 10, 2023 Board of Zoning Appeals meeting:**

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

Motion to HOLD OVER Passed: 6 to 1

Application starts at 1:05:40:

BOZA203-001 – MICHAEL A. RHODES, 10702 Donahoo Road, Zoned CP-1 Planned Limited Business District. This appeal has been filed to grant a variance from the maximum continuous display time period for a wood-framed temporary sign. Section 27-729(b)(4)c.2, states that the maximum continuous time period is 90 days. The appellant is requesting to erect a temporary sign for 641 days, a violation of 551 days

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

Appeared in Support:

- Michael Rhodes, applicant. 10800 Donahoo Road, Kansas City, Kansas 66109

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 1:07:35: Planning Director Hand stated that this case is related to Special Use Permit SP2022-119 that was recommended for approval by the City Planning Commission and approved by the Board of Commissioners last month to be a donation site for fill. The variance is for the length of time a temporary sign can be posted on the property. The property is in the Prairie-Delaware-Piper Area Plan. Staff has received no letters in support nor in opposition. There are some older Notices of Violation. The Applicant is attempting to synchronize the Special Use Permit with the sign. The Special Use Permit is set to expire in two (2) years. Staff recommends denial of this application. Staff has included conditions of approval if the Board moves forward with a decision of approval.

Motion/Vote starts at 1:09:04:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Mr. Beth, the Board of Zoning Appeals voted as follows to **DENY BOZA2023-001 based on lack of fulfillment of Statutory requirements:**

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

Motion to DENY Passed: 6 to 1

Application starts at 1:10:08:

BOZA203-002 – RYAN SWINFORD WITH CHICK-FIL-A, INC., 10770 Parallel Parkway, Zoned CP-2 Planned General Business District. This appeal has been filed to grant a variance from the front yard setback in the CP-2 District. Section 27-466(d)(1)a states that the front yard setback is 25 feet. The appellant is requesting a drive-thru canopy attached to the primary building that will create a front yard setback of 11 feet and 8 inches, a violation of 13 feet and four (4) inches.

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

Appeared in Support:

- Alan Wiley, representing the applicant, 565 White Pond Drive, Akron, Ohio 44320

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 1:13:01: Planning Director Hand stated that this application is being heard in conjunction with Plan Review Application PR2023-003 this evening by the City Planning Commission. The variance is for a front yard setback. Staff would note that the original building received a variance for a front-yard setback for the existing canopy. This request is for a second canopy for a second drive-through lane. 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 the property. Staff recommends denial. Staff has included conditions of approval if the Board moves forward with a decision to approve. Staff also has an additional condition of approval, if approved.

- 1. A direct pedestrian connection shall be constructed from the sidewalk along Parallel Parkway to the primary pedestrian entrance of the existing building.**

Motion/Vote starts at 1:16:25:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Ward, seconded by Mr. Miller, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2023-002:**

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

Motion to APPROVE Passed: 7 to 0

1. The site design shall be compliance with all materials submitted to Staff as part of BOZA2023-002, including canopy materials, pedestrian access facilities, parking, and landscaping;
2. Per Section 27-577(f)(1), all new development landscaping must be irrigated with an automatic system approved by the planning department. Applicant shall submit an irrigation plan sheet when landscape plan is approved;
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 to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;
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. This Board of Zoning Appeals case is being heard in conjunction with PR2023-003. 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 PR2023-003 by the Unified Government City Planning Commission and upon any ordinance publications required by law;
6. The applicant has filed and maintained a current business occupation tax application;
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 Pre-Construction meeting is required for any improvements to public infrastructure upon the approval and issuance of a Development Review Committee (DRC) Permit. Any improvements to, construction or alteration of: sanitary systems, stormwater systems, public or private streets, sidewalks, or other public infrastructure will require a pre-construction meeting with the Department of Public Works. The applicant is required to contact the County Engineer at (913) 573-5400 or by info@wycokck.org prior to construction to arrange this meeting;
9. Section 27-466(g) requires that trees are required at not less than one (1) per 7,000 square feet of site area. The subject property has 54,635 square feet, requiring eight (8) trees be provided on the site plan;
10. Section 27-699(a)(4) states that at least one-half of the trees planted to fulfill the tree planting requirements shall be shade trees;
11. Section 27-699(a)(6) states that non-industrial and non-structural parking lots that have a paved area wider than a double-loaded aisle and more than 20,000

square feet in area shall provide one shade tree for each 20 parking spaces on the interior of the parking lot. Interior tree plantings are in addition to other landscaping requirements;

12. Section 27-702(1)(a-d) states that shade trees shall be at least two (2) inch caliper when planted as measured 12 inches above the ground. All ornamental deciduous trees shall be at least two (2) inch caliper when planted as measured 12 inches above the ground. All evergreens shall be 5 to 6 feet in height when planted as measured 12 inches above the ground. Ornamental deciduous trees shall be 6 to 8 feet when planted as measured 12 inches above the ground;
13. As per the Planning Director's interpretation of the Commercial Design Guidelines, the following architectural standards have been identified as being good design practices and shall be included in the design plans: Gutters and downspouts shall be internalized. Scuppers shall be recessed in the corners. Overflow drains (lamb's tongues, etc.) shall also be internalized; Lighting shall be installed to have a 90-degree cutoff; and, in addition to wrought iron fencing, masonry columns shall be installed every 32 feet or closer and at each prominent entry or gate;
14. Should the predicted amount of traffic increase by more than twenty (20%) percent, a traffic impact study shall be required;
15. The Department of Planning and 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, 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 the 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;
16. All conditions of approval herein must be constructed, executed, implemented, or otherwise completed within six (6) months of approval unless otherwise determined by the Director of Planning or their designee; and,
17. A direct pedestrian connection shall be constructed from the sidewalk along Parallel Parkway to the primary pedestrian entrance of the existing building.

Application starts at 1:17:20:

BOZA203-003 – AUSTIN THOMPSON WITH ATLAS LAND CONSULTING, 12602 Hollingsworth Road, Zoned R-1 Single Family 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 Lot 2 be platted with a depth-to-width ratio of 3.25:1, a violation of 8 percent.

Recording Secretary Parker asked if the Board had any contact to disclose on this application. Chairman Carson and Board Member Ward said that they were contacted by someone in a subdivision concerning this case.

Appeared in Support:

- Austin Thompson, applicant, 14500 Parallel, Unit R, Basehor, Kansas 66007

Appeared in Opposition:

- Gerald Smith, Freeman Farms
- Laura Arenas, 12925 Hubbard Road, Kansas City, Kansas 66109
- Sarah Miller, 4814 North 130th Street, Kansas City, Kansas 66109
- Kevin Burgess, 12816 Hollingsworth Road, Kansas City, Kansas 66109
- Tom McMillan, 5227 North 130th Terrace, Kansas City, Kansas 66109
- Jason Jones, 4931 North 131st Drive, Kansas City, Kansas 66109
- Jerry Godell, 12410 Meadow Lane, Kansas City, Kansas 66109
- Sean Ziolo, 12935 Meadow Lane, Kansas City, Kansas 66109
- Ron Broyles, 4953 North 131st Drive, Kansas City, Kansas 66109
- Robert Serra, 4819 North 130th Street, Kansas City, Kansas 66109
- Christy Driver, 13001 Meadow Lane, Kansas City, Kansas 66109
- Sharon McMillian, 5227 North 130th Terrace, Kansas City, Kansas 66109
- Gary Wietharn, 5030 North 130th Street, Kansas City, Kansas 66109
- Sarah Joy, 4709 North 130th Street, Kansas City, Kansas 66109
- Patrick Kirwan, 4905 North 130th Street, Kansas City, Kansas 66109

Chairman Carson asked Legal Staff if the new developer that is purchasing this land is responsible for the amenities agreement Mr. Freeman made for Freeman Farms. Counsel Conway stated that it is his understanding that these properties were left over from the Freeman Farms development. He would have to review the agreement but does not believe that the new owner of this property would be responsible for the amenities agreed to by Mr. Freeman. Planning Director Hand stated that in the Staff's research, as noted by Legal Counsel, these are leftover parcels that were not included in the previous cases. He stated that the plat will be heard later this evening by the City Planning Commission and if this development is to become part of the larger Freeman Farms development, the Commission could add the amenities as a condition of approval. He is not sure that condition would hold up for the variance. All of the past Freeman Farms applications are

not associated with this parcel and therefore are not associated with the conditions of approval of Freeman Farms. Chairman Carson asked if Freeman Farms has met the 100 house development that would trigger the amenities. Director Hand stated no, they are just under the 100 condition. There are two (2) lots on Hubbard Road that have been combined and Staff is tracking combination of lots. If Mr. Freeman wanted to continue to develop his lots, he would need to have other entitlements before the Commission.

Staff Recommendation starts at 1:41:09: Planning Director Hand stated that this variance is being heard in conjunction with PLAT2023-006, which will be heard by the City Planning Commission later this evening. The variance before the Board is the lot to depth ratio. The Applicant is proposing to divide the one (1) parcel into two (2) parcels. The property is in the Prairie-Delaware-Piper Area Plan. Staff has received no letters in support and before the meeting this evening received no letters in opposition. There may have been some letters in opposition received after the meeting packets had been completed. There are some old Notices of Violation related to this being an undeveloped parcel for weeds. Staff recommends approval subject to the conditions in the staff report. If this variance is approved and the City Planning Commission approves the plat and plan review, there will be more entitlements required when they propose to develop the property in the future.

The Board of Zoning Appeals directed questions to Director Hand and the Applicant.

Motion/Vote starts at 1:51:20:

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mrs. Jones, seconded by Mr. Ernst, the Board of Zoning Appeals voted as follows to **APPROVE BOZA2023-003:**

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

Motion to APPROVE Failed: 4 to 4

After considering the reasons for the appeal and the evidence and testimony presented at the hearing, on motion by Mr. Miller, seconded by Mr. Ward, the Board of Zoning Appeals voted as follows to **DENY BOZA2023-003 due to incompatibility with the existing parcels and the ability of the Applicant to move forward with the project even without the variance:**

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

Motion to DENY Passed: 5 to 2

The meeting was adjourned at 7:57 p.m.

THE BOARD OF ZONING APPEALS

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