

**BOARD OF ZONING APPEALS
OCTOBER 10, 2022
DECISIONS**

The Board of Zoning Appeals met in regular session on Monday, October 10, 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 (Commission Chamber), Mrs. Karen Jones, Vice Chairman (Zoom), Ms. Brandie Armstrong (Zoom), Mr. Duane Beth (Commission Chamber), Mr. Jim Ernst (Zoom), Mr. Jake Miller (Zoom), Mr. Mark Mohler (Zoom), Ms. Susannah Pauley (Zoom), Mr. Joseph Straws (Zoom) and Mr. Aaron Ward (Commission Chamber) (Absent: Connelly). Mr. Gunnar H. Hand, AICP, Director of Planning + Urban Design (Commission Chamber), Ms. Janet L. Parker, CSC/APC, Executive Assistant to the Director of Planning + Urban Design (Zoom), Mr. Byron Toy, AICP, Lead Planner (Zoom), Mr. James Molloy, Planner (Zoom), and Mr. Patrick Waters, Assistant Counsel (Commission Chamber), were also present.

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

Recording Secretary Parker 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 need to recuse or if you need a break, use the raise your hand feature.
3. For those attending the meeting 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 4:25:

BOZA2022-039 – GERARDO VELASQUEZ, 2901 North 60th Street, zoned **R-1 Single Family District**. This appeal is requesting two (2) variances. Variance 1: This appeal has been filed to grant a variance from the interior side yard setback in the R-1 District. Section 27-454(d)(2)b requires an interior side yard setback of seven (7) feet. The appellant is requesting an interior side yard setback of four (4) feet, a violation of three (3) feet. Variance 2: This appeal has been filed to grant a variance from the maximum accessory building floor area in the R-1 District. Section 27-609(2) requires that the total area of a detached accessory building not exceed 1,000 square feet. The appellant is requesting an accessory building with a total floor area of 1,152 square feet, a violation of 152 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:

- Gerardo Velasquez, applicant, 2901 North 60th Street, Kansas City, Kansas 66104

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 6:36: Planning Director Hand stated that the request is for two (2) variances. The first variance is for an interior side yard setback and the second variance is for the size of the accessory structure, which is over the 1,000 square foot maximum requirement. The property is in the City-Wide Master Plan area. Staff has received no letters in support nor in opposition. There are some old Notices of Violation. Staff does not believe a hardship exists for Variance 1 for the interior side yard setback. The applicant's home is already non-conforming regarding the interior side yard setback and this variance would extend and exacerbate that non-conformance. The applicant can move the proposed expansion three (3) feet to be in compliance with the ordinance. The property is over one-half acre and Staff believes the property is large enough for the size variance for the accessory structure. Staff recommends denial of Variance 1 and approval of Variance 2 with the conditions of approval in the staff report.

Motion/Vote starts at 8:45:

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 **DENY Variance 1 and APPROVE Variance 2:**

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

Motion to DENY Variance 1 and Approve Variance 2 Passed: 9 to 0
For the following reasons for denial of Variance 1:

- 1. The variance request does not fulfill Statutory Requirement #2. Construction of an additional 17 linear feet of the primary residence only four (4) feet from the neighboring parcel has an adverse effect on said neighbor;**
- 2. The variance request does not fulfill Statutory Requirement #3. Creating architectural designs for a residential expansion in compliance with the side yard setback requirements does not constitute an unnecessary hardship on the applicant; and,**

3. The variance request does not fulfill Statutory Requirement #5. Expanding an existing non-conformity, even if the expansion does not create the same degree of violations as the existing non-conformity, is not the intention of Section 27-454(d)(2)b.

Conditions for approval of Variance 2:

1. The applicant must submit building elevations and a basic artist's rendering of the accessory building that demonstrates the following:
 - a. The siding on the building must be horizontal;
 - b. The exterior wall materials shall be limited to customary residential finish materials, including horizontal clapboard siding of all materials, wood and plywood siding, stone and brick (both actual and artificial), and textured finishes such as stucco and stucco board which visually cover the underlying material regardless of the underlying material. Metal cannot be used for the walls of the building unless they have a factory-applied paint finish closely matching the color of the primary residence; and,
 - c. The exterior roofing materials for roofs sloped more than two (2) in 12 shall be shingles or tiles and not metal, fiberglass or plastic sheets. Metal may be allowed if the roof has a factory-applied painted finish that closely matches the roof color of the primary residence or the color of the primary residence itself if the roof and walls of the accessory structure are to be the same color;
2. A revised site plan must demonstrate an updated floor plan of the proposed expansion and the accessory building that does not have a breezeway connecting the two (2) buildings before the proper building permits can be issued by the Building Inspections Division;
3. The existing accessory building must be demolished, as the applicant has intended to do;
4. The proposed 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;
5. The driveway on site is currently gravel. All parking, loading, or maneuvering areas related to the accessory building must be paved with a minimum of two (2) inches of asphalt over six (6) inches of compacted gravel or an acceptable alternative as determined by the county engineer;
6. The exterior walls shall be made of either horizontal clapboard, wood, or plywood siding, stone, artificial stone, brick, artificial brick, and textured finishes such as stucco. Fiberglass, plastic, and preformed, corrugated, or ribbed metals are not allowed. Metals can be used provided they have a factory applied and painted finish closely matching the color of the primary

- structure. Standard concrete masonry units are also not allowed unless the walls of the building are painted the exact color of the primary structure;
7. A building permit is required for 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. 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. 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.

Application starts at 10:35:

BOZA2022-041 – TIM GATES/AGNES GATES REALTY, 1005 Osage Avenue, zoned **C-3 Commercial District**. This appeal has been filed to allow for two (2) variances in conjunction with Special Use Permit SUP2022-050. Variance 1: Section 27-668(5) states that for eating places, 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. Section 27-668(a)(12) states that dance halls must provide one (1) parking space for every 50 square feet of seating or assembly area plus one (1) space for each remaining 200 square feet of total floor area. Ordinance requirements require 63 parking spaces aggregate between the proposed uses. The subject property currently has 27 parking spaces, a violation of 36 parking spaces.

Variance 2: 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. The applicant is wishing to retain an existing parking lot that extends to the property line, a deviation of six (6) 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:

- Tim Gates, applicant, Agnes Gates Realty, 2045 South 74th Street, Kansas City, Kansas 66106

Appeared in Opposition:

- No one appeared

Staff Recommendation starts at 12:40: Planning Director Hand stated that this application is being heard in conjunction with Special Use Permit SP2022-050 which will be heard later this evening by the City Planning Commission. The property is in the Armourdale Area Master Plan. Mr. Gates is representing the property owner, who previously had an approved parking variance but did not make the required changes to the parking lot and without permits added additional building square footage thereby changing the total parking requirement. After working with the Applicant on the Special Use Permit, Staff recommended the applicant file a variance application for parking. The applicant's updated plan addresses both parking needs and the applicable landscape, and screening requirements. The ordinance requires 63 parking spaces and the subject property currently has 27 parking spaces, a violation of 36 parking spaces. Regarding variance 2, the zoning code states that parking and other paved areas shall be no less than six (6) feet from any property line. The applicant wishes to retain an existing parking lot that extends to the property line, a deviation of six (6) feet. Staff recommends approval subject to the conditions in the staff report.

Motion/Vote starts at 14:51:

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 this appeal:**

Carson	Chairman
Mohler	Aye

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1) The inoperable vehicles must be removed from the parking lot.**
- 2) The boat must be removed from the parking lot.**
- 3) The storage container must be removed from the parking lot.**
- 4) Building materials, fluid container, inoperable restaurant equipment, salvage material, and all other debris, defunct equipment, and trash must be removed from the property's exterior, including the roof.**
- 5) The rear fenced-in area must be free of all salvage material and equipment. The fenced area must be removed or modified, as it blocks the rear emergency exit from the current restaurant. This exit must remain unblocked and allow for unrestrained access of persons to exit.**
- 6) An architect or registered professional must submit a new as-builts of the building including the storage room and cooler additions.**
- 7) An architect or registered professional must submit a new site plan to include a six (6) foot setback for a fence and landscape buffer at the front of the parking lot on the Osage frontage per Section 27-467(d)(2)e. The approval of a variance for this site plan may be required.**
- 8) Lighting must be upgraded to down-ward facing lighting per the Commercial Design Guidelines**
- 9) Any non-permitted signage must obtain sign permits, including any murals or other painted signage.**
- 10) A building permit must be obtained on any modifications of the property not previously captured in permits, including but not limited to the cooler, freezer, side stairwell into basement, and any other modifications.**
- 11) A new TCO/CO shall be obtained. The Current CO issued in 2017 is listed as incomplete with corrections and repairs needed. Additionally, a passing TCO/CO inspection may be required once the parking lot is completed at either or both locations as well as the interior of the building.**
- 12) Rental licensing must be obtained on the dwellings units if they become rented to the public.**
- 13) Fencing must be repaired or replaced where needed and added where required.**

- 14) Trash and other disposals shall be enclosed in a structure comparable with the requirements of the Commercial Design Guidelines.
- 15) The building shall be painted in a uniform color.
- 16) Any business or land use in Kansas City, KS that is required to provide off-street parking shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-466 through 27-470; 27-592 through 27-616; 27-667 through 27-676]. Inoperable vehicles shall be stored inside an enclosed building. Inoperable vehicles may not be stored outside unless they are completely screened from view in accordance with all applicable ordinances. Outside storage shall not include wrecked or salvage vehicles. Any vehicle parked or stored outside must be on an improved surface, located on the same land parcel as the business use, and be parked within a regulation dimension parking stall. Any outside storage may not reduce the availability of all required parking spaces as required by ordinance.
- 17) All entertainment must cease by at least 1:00AM
- 18) Doors and windows must stay closed during any entertainment performance.
- 19) Must comply with Unified Government Security Ordinance (Chapter 4, Article II Division 1, Sec 4-104,f), including:
 - a) Must have at least one (1) security personnel stationed at the door at all times that is able to monitor any required parking area. Additional security guards may be required depending on the building capacity;
 - b) Patrons are not allowed to loiter in their vehicles. If so determined, they will be asked to leave;
 - c) An I.D. scanner will be used at all times;
 - d) At closing time, all security personnel will begin from a designated area to move patrons towards the exit and then to their vehicles.
 - e) No amplified speakers or entertainment is allowed in outdoor spaces; and
 - f) Any illumination that results from an entertainment event shall not be seen or otherwise impact adjacent residential uses.
- 20) 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.
- 21) If approved, the Applicant may need additional licenses or permits for safe and proper operation. The approval of this application does not mitigate the need for additional licenses as this application is for zoning approval only.
- 22) 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 buildinginspecton@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.
- 23) All existing and future driveways must feature curb cuts that are constructed to UG standards.
- 24) 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.
- 25) 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.
- 26) 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.
- 27) 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.
- 28) Section 27-467(g) requires that trees are required at not less than one (1) per 7,000 square feet of site area. The subject property has 17249.799 square feet, requiring 3 trees be provided on the site plan.
- 29) 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.
- 30) 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.
- 31) 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.

32)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.

33)Section 27-696(b)(5) states that all outside bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container. No trash enclosures may be located in required yards adjacent to street right-of-way. In commercially and industrially zoned areas where the trash container will not be visible from off the property due to other screening or topographic conditions and will not be visible from public parking or pedestrian areas on the site, such trash bin screening need not be provided. In industrially zoned areas where the trash container will not be visible from residential property and where such containers are kept directly alongside the building and in a well-kept manner, such screening need not be provided.

34)The applicant must keep a current annual Business License/Occupation Tax.

Application starts at 15:45:

BOZA2022-042 – LIDIA VILLAR WITH LIDIA & COMPANY, LLC, 1218 Kansas Avenue, Zoned **R-2(B) Two-Family District**. This appeal has been filed to allow for two (2) variances in conjunction with Change of Zone COZ2022-027 for a Change of Zone from R-2(B) to CP-1 and Master Plan Amendment MPL2022-015 from Residential to Commercial. Variance 1: Section 27-464(d)(2) states that the front yard setback shall not be less than 15 feet. The applicant is proposing a setback of five (5) feet, a violation of 10 feet. Variance 2: Section 27-464(e) requires off-street parking at a ratio of not less than four (4) spaces per 1,000 square feet of building floor area. Section 27-668(a)(5) requires a ratio of one (1) space for every 50 square feet of seating area. The applicant is proposing a building with 5,847 square feet of total building area with 197 square feet being dedicated to a snack bar area, requiring a total of 27 parking spaces. The subject plan has 17 parking spaces, a deviation of ten (10) 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:

- Jeff Schulzler, representing the applicant, Pluribus Architectural Collaborative LLC, 926 Cherry, Kansas City, Missouri 64106

Appeared in Opposition:

- Jessica Pineda, 1230 Kansas Avenue, Kansas City, Kansas

Staff Recommendation starts at 18:05: Planning Director Hand stated that this case is being heard in conjunction with Change of Zone COZ2022-027 and Master Plan Amendment MPL2022-015 by the Planning Commission later this evening. The Applicant is requesting two (2) variances. The first variance is for front yard setback. Code requires that it not be less than 15 feet and the applicant is proposing a setback of five (5) feet for a violation of 10 feet. This is an urban neighborhood and the variance meets the intent and character of the neighborhood. The second variance is for off-street parking. Code requires 27 parking spaces for the size of the building and the applicant is proposing 17 parking spaces for a violation of 10 spaces. If the applications are approved by the City Planning Commission later this evening, a final development plan will be required. Staff included additional parking spaces in the variance as the design may change due to the site constraints, and Staff did not want to impede any progress in the development process and bring back the variance. The property is in the Armourdale Area Master Plan. Staff has received no letters in support nor in opposition except for the public comments expressed tonight. There are Notices of Violation on the property. He further stated that the project will be required to meet the Commercial Design Guidelines. Staff recommends approval subject to the conditions in the staff report.

Board Member Jones asked if the concerns of the lady in opposition regarding the safety of her children with the parking lot are a concern for Staff. Director Hand stated Staff does not believe it will be a concern as there is only access provided off the main commercial corridor. Kansas Avenue is an arterial road and this project is in conformance with the Armourdale Area Master Plan.

Motion/Vote starts at 24:20:

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

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1) **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;**
- 2) **Section 27-464(g) requires that trees are required at not less than one (1) per 7,000 square feet of site area. The subject property has 15,314.79 square feet, requiring 2 trees be provided on the site plan;**
- 3) **Section 27-464(g) requires that trees are requires that a six (6) foot high architectural or landscape 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;**
- 4) **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;**
- 5) **Any business or land use in Kansas City, Kansas that is required to provide off-street parking shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-466 through 27-470; 27-592 through 27-616; 27-667 through 27-676]. Inoperable vehicles shall be stored inside an enclosed building. Inoperable vehicles may not be stored outside unless they are completely screened from view in accordance with all applicable ordinances. Outside storage shall not include wrecked or salvage vehicles. Any vehicle parked or stored outside must be on an improved surface, located on the same land parcel as the business use, and be parked within a regulation dimension parking stall. Any outside storage may not reduce the availability of all required parking spaces as required by ordinance;**

- 6) If approved, the applicant or any occupying businesses must file and maintain a current business occupation tax application with the Kansas City, Kansas business licensing office. Any contractor associated with the project shall file and maintain a current business occupation tax application with the Kansas City, Kansas business licensing office and with the building inspection office;
- 7) Section 27-573 acknowledges the use of the Commercial Design Guidelines and their use in this district as established by Ordinance O-50-06 and otherwise adopted by the City-wide Master Plan;
- 8) The applicant is requesting a Special Use Permit for a property to be zoned as CP-1 Limited Business District. Therefore, this property is subject to, and must comply with, all applicable regulations under the Commercial Development Guidelines Overlay District (CDGOD). This subsection addresses the applicant's demonstrated compliance with relevant CDGOD regulations for COZ2022-027. All listed requirements that are identified as *"have not been met"* must be granted a deviation by the City Planning Commission upon specific request by the applicant during the City Planning Commission meeting;
- 9) The following requirements of the Commercial Development Guidelines Overlay District have been met:
 - (a) Per Section 27-575(d)(2), curb-cuts should be minimized and concentrated at mid-block;
 - (b) Section 27-575(a)(2) states the parking and circulation should account for pedestrians, bicycles, and vehicles. This circulation pattern, per Section 27-575(d)(8), shall connect in a way that is obvious to users.
 - (c) Section 27-575(d)(9) states that there shall be pedestrian circulation from the perimeter of the site to the principal customer entrance to all buildings. Within the site, there shall be pedestrian connections provided to all pedestrian activities, including transit stops, street crossings, open space, building and store entry points, and adjacent pedestrian systems.
 - (d) Section 27-575(d)(10) states that sidewalks in front of buildings must be designed to accommodate pedestrian activity both for that use and for movement between uses.
 - (e) Section 27-575(f)(1) states that there should be a designated walkway or clear pathway to the main entrance of a building so that pedestrians are not required to walk through parking lots.
 - (f) Section 27-575(d)(14) states that sidewalks that are within reasonable proximity to an identified trail system should connect to that system and accommodate the uses anticipated on the trail (e.g., pedestrian, bicycle).
 - (g) Section 27-575(a)(3) states that street layout should define a cohesive development.

- (h) Section 57-575(d)(3) a sense of entry or arrival shall be created at primary entryways into the development.
- (i) Section 27-577(b)(3)(b) states that street trees should be planted no closer than 55 feet and no more than 65 feet apart with groupings or ornamental trees and shrubs placed between them.
- (j) Section 27-577(d)(1) states that 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.
- (k) Section 27-577(f)(1) states that all new development landscaping must be irrigated with an automatic system approved by the planning department. Rehabilitation development must either have an irrigation system or a watering plan.
- (l) Section 27-577(f)(1) states that plants that die must be replaced no longer than four (4) months from the date of its death.

10) The following requirements of the Commercial Development Guidelines Overlay District *have not* been met in which the applicant is requesting a deviation for approval:

- (1) Section 27-577(c)(4) states that 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.
- (2) Section 27-575(e)(3) states that parking located between front of building and street right-of-way must provide an additional 20 feet of landscaped area in addition to the required setback.
- (3) Section 27-575(e)(4) states that parking must be screened from adjacent streets by walls, shrubs, trees, or other design elements.
- (4) All new rooftop mechanical equipment (i.e., RTUs, HVAC, vent stacks, etc.) shall be screened from public view by the parapet of the building. Architectural screens such as opaque, textured, or perforated panels do not meet the standards of the Commercial Design Guidelines.

11) Section 27-696(b)(5) states that all outside bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container. No trash enclosures may be located in required yards adjacent to street right-of-way. In commercially and industrially zoned areas where the trash container will not be visible from off the property due to other screening or topographic conditions and will not be visible from public parking or pedestrian areas on the site, such trash bin screening need not be provided. In industrially zoned areas where the trash container will not be visible from residential property and where such containers are kept directly alongside the building and in a well-kept manner, such screening need not be provided; and,

12) Per Section 27-723(a), no sign (including the structure or sign surface or murals) 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.

Application starts at 25:15:

BOZA2022-043 – ANDREA WEISHAUBT WITH ATLAS LAND CONSULTING, 13205 Parallel Parkway, Zoned **R Rural Residential District (WyCo)**. This appeal has been filed in conjunction with COZ2022-029, a Change of Zone from R Rural Residential District (WyCo) to AG Agriculture District and PLAT2022-032, a Preliminary and Final Plat (Stimac Addition) to create four (4) agricultural lots (designated as Lots 1, 2, 3, and 4).

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 Land Consulting, 2300 Hutton Road, Suite 108, Kansas City, Kansas 66109

Appeared in Opposition:

- James Fagan was on the Zoom meeting but due to technical difficulty on his end, his testimony could not be heard.

Staff Recommendation starts at 25:26: Planning Director Hand stated this variance is in conjunction with COZ2022-029 and PLAT2022-032, which will be heard later this evening by the City Planning Commission. He stated that the request is for a variance from the three 3:1 lot depth to width ratio. This property is in the Prairie-Delaware-Piper Master Plan. Staff has received no letters in support nor in opposition. The change of zone to be heard this evening would rezone the property to A-G Agriculture (City) District and would require development that matches the character of the existing surrounding properties. Staff recommends approval subject to the conditions in the Staff report.

Motion/Vote starts at 30:40:

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

Carson **Chairman**
Mohler **Aye**

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

Motion to APPROVE Passed: 9 to 0

Subject to:

- 1. This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-032 and COZ2022-029, heard by the City Planning Commission, on October 10, 2022;**
- 2. All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements;**
- 3. Proposed development(s) within this preliminary plat or plans review will require drawings to be submitted with additional information. These additional plans may result in additional comments, changes, or conditions before final approval;**
- 4. 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;**
- 5. All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements;**
- 6. Any future development shall work with the Wyandotte County Conservation District and develop a Conservation Plan to address concerns noted by the Conservation District;**
- 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. 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;
10. All existing and future driveways must feature curb cuts that are constructed to UG standards; and,
11. 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.

Application starts at 31:53:

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

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

Recording Secretary Parker stated that the following correspondence for and against this application (and the corresponding applications on the City Planning Commission agenda) were received. The letters will become part of this case and included in the meeting packet for the Board of Commissioners meeting on October 27, 2022 for the case on the City Planning Commission agenda. Ms. Parker read the names and addresses into the record:

SUPPORT:

Greg Arnold, 4524 Francis
Jeff Wells, 4505 Eaton
Pamela Simunich, 4505 Eaton
Colt McArthur, 4836 Booth
Mark Dickenson, 4458 Francis Street
Beth Ciperson, 4535 Cambridge
Amy Reardon, 4501 Eaton Street
Juliann VanLiew, 4445 Francis
Mohammad Almohimed, 1404 Westport Road
John, 4511 Rainbow Boulevard with Rainbow Cleaners and KC Car Gallery
Siara Stahl, 1903 West 43rd Place
Tim Akhmedov, 1903 West 43rd Place
Amber Turner, 4521 Eaton Street
Sarah Sadler, 4509 Francis Street
Sophie Sadler, 4507 Francis Street
Jason Sadler, 4507 Francis Street
Anna Leigh Wessling, 2109 West 43rd Street
John Golway, 4320 Lloyd
Misty Jennings, 1813 State Line Road
Jackson Royce, 4506 Francis Street
Michaela Russell, 4506 Francis Street
Storm Fritz, 4203 Booth Street
Gerald Greer, 4503 Francis Street
Anthony Noll, 4520 Francis Street

OPPOSITION:

Erin Stryka, Rosedale Development Association
Gilbert A. Pintar, Hanover Height Neighborhood Association
Shari Wilson, 4529 Francis Street, Kansas City, Kansas 66103
Valerie Wells
Marissa Butler

Appeared in Support:

- Bob Johnson, Polsinelli, 900 West 48th Place, Kansas City, Missouri 64112
- Blair Tanner, Tanner White Properties, 2000 West 47th Street, Kansas City, Missouri
- Aaron Mesmer, Block Real Estate Services
- Mike King, 4600 Rainbow Boulevard, Kansas City, Kansas, President/CEO YouthFront
- Greg Kindle, President of Wyandotte Economic Development Council
- Kevin Sadler, 4509 Francis Street, Kansas City, Kansas 66103
- Dan Thompson, 4514 Francis Street, Kansas City, Kansas 66103

- Megan Lovelace, 4458 Francis, Kansas City, Kansas 66103
- Gerald Greer, 4503 Francis Street, Kansas City, Kansas 66103
- Topher Philgreen, President of Topher Enterprises, 4512 Rainbow Boulevard, Kansas City, Kansas 66103

Appeared in Opposition:

- Chris Steineger, 4529 Francis Street, Kansas City, Kansas 66103
- Kelly White, 4410 Francis Street, Kansas City, Kansas 66103
- Carol Marinovich, 4158 Eaton, Kansas City, Kansas 66103, and representing Gil Pintar and Hanover Heights Neighborhood Association
- Erin Stryka, Rosedale Development Association, 1403 Southwest Boulevard, Kansas City, Kansas 66103
- Shari Wilson, 4529 Francis Street, Kansas City, Kansas 66103
- Jennifer Tatum, 4455 Francis Street, Kansas City, Kansas 66103

Staff Recommendation starts at 1:35:21: Planning Director Hand stated this case is being heard in conjunction with Change of Zone Application COZ2021-048, which will be heard by the City Planning Commission later this evening and is requesting a RP-6 zoning district that does not have a height limit. He stated that the height transitions from east to west on this project. Director Hand stated that the intent of the code was not for urban infill, but for Greenfield development and as the adjacent property that would be impacted is outside the Unified Government and owned by the applicant. It is for the setback to not impact the adjacent abutting property owners. The setback being requested impacts Westwood, Johnson County and this property owner. Staff has received numerous letters in support and in opposition. There are no Notices of Violation on this property. Staff recommends approval subject to the conditions in the staff report.

Board Member Straws asked if the Staff provides guidelines to a developer that wants to do urban infill. Director Hand stated yes, the Commercial Design Guidelines, which will be further discussed at the Planning Commission hearing other relevant guidelines, master plan, and code sections are provided to applicants at the time they apply. The guidelines are not germane to this request.

Motion/Vote starts at 1:39:56:

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

Carson	Chairman
Mohler	Aye
Pauley	Aye
Straws	Aye
Ward	Aye

Armstrong Aye
Beth Aye
Connelly Not Present
Ernst Aye
Jones Aye
Miller Aye
Motion to APPROVE Passed: 9 to 0
Subject to:

- 1. This Board of Zoning Appeals case is being heard in conjunction with COZ2021-048, which is to rezone the property from C-1 Limited Business and R-1(B) Single Family Districts to RP-6 Planned High-Rise Apartment District to build a 7-story, 149-unit apartment on 1.89 acres at 4601 Rainbow Boulevard;**
- 2. The privacy fence, indicated as a screen fence on sheet L.1 cannot exceed six (6) feet in height, specifically along the east property line. The privacy fence shall have masonry columns every thirty-two (32) feet running;**
- 3. A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspection@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;**
- 4. All existing and future driveways must feature curb cuts that are constructed to UG standards;**
- 5. Site improvements that include land disturbance activity on greater than one (1) acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article XIV, Sections 8-610 through 8-618). Land disturbance fees shall be processed by UG Public Works during the Land Disturbance/Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works Department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620;**
- 6. A Right-of-Way Permit is Required. The applicant is required to contact the Public Works Department at (913) 573-5311 or by info@wycokck.org to confirm if they need a right-of-way permit, and if so, must take it upon themselves to initiate the permit process accordingly; and,**
- 7. Applicant shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets, and Retaining Walls, or other requirements as applicable**

The meeting was adjourned at 7:42 p.m.

THE BOARD OF ZONING APPEALS

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