

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, MAY 7, 2024**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, May 7, 2024, at 6:30 p.m. in the Council Chambers of the Municipal Building at 7700 Mission Road. Chair Jonathan Birkel called the meeting to order at 6:30 p.m. with the following members present: James Breneman, James Kersten, Melissa Brown, and Melissa Temple.

The following individuals were present in their advisory capacity to the Board of Zoning Appeals: Chris Brewster, Multistudio; Nickie Lee, Deputy City Administrator; Terry O'Toole, Council Liaison; Mitch Dringman, Building Official; Adam Geffert, City Clerk/Board Secretary.

APPROVAL OF MINUTES

Mr. Breneman moved for the approval of the minutes of the March 5, 2024, Board of Zoning Appeals meeting as presented. Ms. Brown seconded the motion, which passed 5-0.

PUBLIC HEARINGS

BZA2024-03 Variance of required side setback
 Tomahawk Animal Hospital
 Zoning: C-2
 Applicant: Brian Michener, Lo Design

Mr. Brewster stated that the applicant was requesting a variance for the side setback from 10' to approximately 1.5' on the west side yard lot line to allow for the partial replacement and expansion of an existing building. The existing principal building runs approximately 48' along the west property line, and has a single-story elevation at approximately 1.5' from the side lot line. There are also two greenhouse outbuildings at roughly the same distance from the property line for another 93' along the side lot line.

The proposal would replace the two outbuildings, expand the existing principal building to the rear, and continue the current 1.5' side setback. Doing so would result in a building approximately 64.75' along the west property line with a single-story elevation. Mr. Brewster said that the plan required approval of the Board of Zoning Appeals according to the variance criteria for the placement of the building addition since it is expanding the degree of nonconformance of the principal building. He noted that if the variance was

granted, the applicant would also need site plan approval from the Planning Commission for other aspects of the proposal.

The property is currently used for an animal care business and a portion of the building and premises was historically used as a nursery. Each of these are a permitted use in the C-2 zoning district, as is the proposed expansion of the existing animal care business, which will utilize the entire building and site.

Mr. Brewster stated that the property is zoned C-2 which requires the following for side setbacks:

- No minimum required
- Side setbacks abutting R-1 through C-O zoning districts should back the adjacent property requirement; [The side setback in R-3 that applies in this situation is 10'. Section 19.12.025 requires a 10' side setback for two story buildings and 15' for two and one-half story buildings.]

The elevation would maintain the current single-story profile and include a side gable in the rear portion of the building, as well as a roof extension for an enclosed patio. The remainder of the rear lot and street-side side lot would be used for a reconfiguration of the parking lot and an outdoor space. The outbuildings are proposed to be removed, and the principal building expanded for an additional 17.75'.

Mr. Brewster noted that Section 19.54.030 of the City's zoning regulations required the Board to find that all five of the following "golden factors" be met to grant a variance:

1. Uniqueness - That the variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant.
2. Adjacent Property - That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.
3. Hardship - That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.
4. Public Interest - That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. Spirit and Intent of the Regulation - That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

He added that if the Board did approve the variance, it should be subject to the following conditions:

1. That the variance be granted only to the extent shown with the submitted application and based on submitted plans and elevations.

2. The variance, if approved, requires other elements of the proposed expansion to be approved by the Planning Commission according to the site plan criteria. If the site plan is not approved, this variance shall not be valid and shall require review based on any subsequent site plan.
3. The variance, if approved, shall be recorded with the County Register of Deeds within one year of approval.

Applicant Brian Michener was present to discuss the application. Mr. Birkel asked how drainage would be handled at the site. Mr. Michener stated that the proposal included the construction of a dog park, which would reduce the impervious area from 89% to 69%. He added that water would drain to the storm sewer on Lamar Avenue.

Mr. Birkel opened the public hearing at 6:39 p.m. With no one present to speak about the project, Mr. Birkel closed the hearing at 6:40 p.m.

Board members reviewed the golden factors and determined that the proposal met all requirements.

Ms. Brown made a motion to approve the variance with the conditions recommended by staff. Ms. Temple seconded the motion, which passed 5-0.

OTHER BUSINESS

None.

ADJOURNMENT

Chair Jonathan Birkel adjourned the meeting of the Board of Zoning Appeals at 6:42 p.m.

Adam Geffert
City Clerk/Board Secretary