



**LOUISBURG BOARD OF ZONING APPEALS
MEETING MINUTES
WEDNESDAY APRIL 27, 2022**

The Board of Zoning Appeals of the City of Louisburg, Kansas met at 6:00 p.m. in the City Hall Council Chambers with Chairperson Andy Sauber presiding.

ATTENDANCE:

Commission Members:	Betty Brown, Jason Burk, and Thorvald McKiernan
City Council:	Steve Town and Tiffany Ellison
City Administrator:	Nathan Law
Staff:	Jean Carder
Recording Secretary:	Rusty Whitham
Visitors:	Andy Gabbert

Item 1: ROLL CALL

Item 2: ADOPTION OF THE AGENDA:

A motion was made by Thorvald McKiernan to adopt the agenda. The motion was seconded by Jason Burk. Motion passed 4-0.

Item 3: APPROVAL OF THE MINUTES:

A motion was made by Thorvald McKiernan to approve the minutes from the December 16, 2020 meeting. The motion was seconded by Betty Brown. Motion passed 4-0.

NON-PUBLIC HEARING ITEMS:

Item 4: Election of Board of Zoning Appeals Chairman, and Vice-Chairman in accordance with Chapter XVI, Article 2, Paragraph 16-203 of the City Code.

After a brief discussion the following motions occurred:

Thorvald McKiernan made a motion to nominate Andy Sauber as Chairperson of the BZA. The motion was seconded by Jason Burk. The motion passed 4-0.

Jason Burk made a motion to nominate Thorvald McKiernan as Vice-Chairperson of the BZA. The motion was seconded by Betty Brown. The motion passed 4-0.

PUBLIC HEARING BUSINESS ITEMS:

Item 5: 22001-VAR (Variance) – Request to deviate from the minimum rear yard setback requirements and minimum required parking stalls requirements. Vacant tract of land located at the S/E Corner of Metcalf Road and Highway K68 (Amity) Little Round House Subdivision (Parcel ID: 1093202003001000).

Andy Sauber asked staff if there is any additional relevant information that needs to be discussed that wasn't included in the informational packets. Staff replied by saying all information is current, no further information is available.

Andy Gabbert stated that he works for Renaissance Infrastructure Consulting, and he will be representing the applicant at tonight's meeting.

Andy Sauber then opened the discussion for public comment. No public comment occurred. Sauber then closed the public comment portion of this discussion.

Andy Sauber then asked how many businesses will occupy the proposed building. Andy Gabbert said only one retail business will be in the building.

Sauber asked if staff was satisfied with allowing the applicant to install only 42 parking stalls instead of 53. Administrator Law said when you consider square footage of the building that is dedicated to office space and storage, 42 stalls should be sufficient for the amount of retail space available to the public.

Andy Sauber then stated that the applicant's request to reduce the rear setback from 25-feet to 18.4-feet. Sauber asked if the property can be further divided so the minimum setbacks can be met. Administration Law explained that this lot was platted in 2001 and the lot lines have been established.

Thorvald McKiernan asked what is the setback on the west side of the property. Administrator Law explained that there is zero side yard setback on properties zoned within C-3 Zoning District.

Jason Burk asked if the proposed building could be smaller so that the rear setback can be met. Andy Gabbert explained that the end users of the building is a national recognized retail chain. This retail chain has a prototype building size and they will not be willing to downsize the structure.

Jason Burk then asked if the city is willing to sell off additional land located to the south to the developer. Administration Law said the amount of land purchased was agreed upon by contract and it is the amount of land desired by the purchaser/developer. Law went on by saying that the developer has the option to secure additional land from the city if they wish. Andy Gabbert explained that there is a 20-foot utility easement located at the rear of the property (southside) of the lot that will hinder any adjustment of the building towards the south.

The Board of Zoning Appeals then discussed the following factors in relation to two variance requests submitted by the developer:

- A. **UNIQUENESS:** The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.
- B. **ADJACENT PROPERTY.** The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.
- C. **HARDSHIP:** The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.
- D. **PUBLIC INTEREST:** The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- E. **SPIRIT AND INTENT:** Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.
- F. **MINIMUM VARIANCE:** The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

The Board of Zoning Appeals did not find any issues with the above mentioned factors.

After additional discussion Thorvald McKiernan made a motion to approve both variances as written. Jason Burk seconded the motion. The motion passed 4-0.

Item 6: ADJOURNMENT:

A motion was made by Jason Burk to adjourn the meeting. Second was made Thorvald McKiernan. The motion passed 4-0. Meeting adjourned at 6:16p.m.

Submitted by Rusty Whitham