

# LEAVENWORTH BOARD OF ZONING APPEALS

**Monday, September 15, 2025 – 6:00 P.M.**  
**COMMISSION ROOM, CITY HALL**  
**LEAVENWORTH, KANSAS**

## AGENDA

### CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: August 18, 2025 **Action:** Motion

### OLD BUSINESS:

**None**

### NEW BUSINESS:

**1. 2025-15 BZA – 771 OTTAWA STREET.**

Hold a public hearing for Case No. 2025-15 BZA – 771 Ottawa St., wherein the applicant is seeking variances from Section 4.04 of the adopted Development Regulations to allow an accessory dwelling unit to be occupied without the owner occupying the principal dwelling unit in the R1-6 (High Density Single Family Residential District) zoning district.

### ADJOURN



**BOARD OF ZONING APPEALS MINUTES**  
**MONDAY, August 18, 2025, 6:00 P.M.**  
**COMMISSION ROOM, CITY HALL**  
**LEAVENWORTH, KANSAS**

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**CALL TO ORDER:**

**Board Members Present**

Ron Bates  
Jan Horvath  
Ted Davis  
David Ramirez

**Board Member(s) Absent**

Daniel Bolling

**City Staff Present**

Michelle Baragary  
Kim Portillo  
Sarah Roll

Chairman Ron Bates called the meeting to order at 6:02 p.m. and noted a quorum was present.

**APPROVAL OF MINUTES: June 16, 2025**

Chairman Bates asked for comments, changes or a motion on the June 16, 2025 minutes to present for approval. Commissioner Davis offered a motion to approve the minutes as presented, seconded by Commissioner Ramirez and approved by a vote of 3-0. Commissioner Bates abstained from the vote.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**1. 2025-13 BZA – 2101 10<sup>th</sup> AVENUE**

Hold a public hearing for Case No. 2025-13 BZA – 2101 10th Ave., wherein the applicant is seeking variances from Section 8 of the adopted Development Regulations to allow a freestanding sign in excess of the maximum allowable square footage of sign area, to be located adjacent to residential property, and allow the EMC portion of the freestanding sign to exceed the maximum allowable size for an EMC in the R1-6 (High Density Single Family Residential District) zoning district.

Chairman Bates called for the staff report.

The applicant, Young Sign Co., Inc. on behalf of Trinity Lutheran Church, is applying for variances from the above noted section of the adopted Development Regulations to allow the installation of 42.75 SF freestanding sign with a 26 SF Electronic Message Center (EMC), located adjacent to residential property. The applicable development regulation for this site allows for a maximum freestanding sign area of 32 SF, of which 25% (8 SF) may be an EMC. Additionally, the development regulations prohibit any EMC adjacent to residentially zoned areas.

Of note, Trinity Lutheran Church has an existing nonconforming freestanding sign that is 40 SF.

Trinity Lutheran Church located at 2101 10<sup>th</sup> Avenue is zoned RI-6 (High Density Single Family Residential District). Public or semi-public facilities, such as a church, are allowed signage as regulated and permitted in the Neighborhood Business District (NBD).

Section 8.08 of the Development Regulations states:

Public and Semi-Public Buildings: Churches, school, libraries, community centers, hospitals, or other public/semi-public facilities located in a residentially zoned district shall be allowed signage as regulated and permitted in Section 8.10, Signs Permitted in the Neighborhood Business District (NBD).

Section 8.10 of the Development Regulations states that freestanding signs permitted in the NBD may have two faces and shall not exceed 32 square feet per face. Section 8.10 further states:

The allowed freestanding signs may be electronic changeable message signs, provided they comply with all other standards in this article addressing lighting, safety, and electronic changeable messages.

Section 8.13 of the Development Regulations states that when allowed by any other section of this sign code, an EMC sign shall comply with performance standards listed in the code. Section 8.13 further states:

Size and Placement: The maximum size of any EMC shall be 25% of allowed square footage of any monument or wall sign or 32 square feet, whichever is less. No EMCs shall be located adjacent to residential property.

It should be noted when calculating sign area, section 8.03 of the Developments Regulations states:

The entire area within a single continuous rectangle enclosing all elements (individual letters and/or logo) of the sign which form an integral part of the display including the perimeter border.

Trinity Lutheran Church is adjacent to residential property. To the west is Leavenworth High School zoned RI-9, to the north is a single-family home zoned RI-6, to the east are two single-family homes zoned RI-6, and to the south is a single-family home and a vacant lot both zoned RI-6.

Staff recommendation is that the variances requested could not fully meet all the conditions required for approval.

After the required notice was published and sent to properties within 200', staff has received no comments from any notified property owners.

Commissioner Davis asked – for an electronic sign, according to the code, it can only be 25% of the surface area. Is there a logic behind that number?

City Planner Michelle Baragary explained that electronic signs are lit signs that change messages. In residential areas, you need to take into consideration the properties and the character of residential zoned areas versus commercial or industrial or office business districts.

Ms. Baragary reviews to staff comments for each variance.

Chairman Bates asked if there are any questions for staff regarding staff report.

Commissioner Ramirez asked if there was any feedback from the house across from the church. Homeowners by the name of Truman on Thornton St.

Commissioner Davis advised there is someone in the audience who identifies as that property owner.

Chairman Bates advised they would make time for public comment. First, they will have the time for questions with the staff.

Commissioner Ramirez asked if Ms. Baragary stated there was a possibility that a smaller sign is available. He had also asked if there is one in stock that is available.

Ms. Baragary confirmed there are various sizes of EMC's available for purchase, and the EMC has not yet been ordered for this project.

Commissioner Davis asked when looking at the other sizes, if staff had considered the effectiveness of those sizes to be able to convey a message.

Ms. Baragary confirmed that she believes they will be just as effective in this situation. She also indicated the location of the EMC and the location of the illuminated ID sign on the site plan from the petitioner.

Commissioner Davis asked if the ID sign or the EMC sign would be closest to the road.

Ms. Baragary states the EMC, which is the larger of the two signs, will be closer to the street.

Petitioner Ann Hoins (Young Sign Company, 326 Choctaw St.) advised that they petitioned it to have the EMC closest to the road, however they could rearrange the sign to have the EMC farther from the road if they'd like.

Chairman Bates opens the public hearing.

Ann Hoins introduces herself as the petitioner from Young Sign Co, who represents Trinity Lutheran Church. She states the church had asked her for a sign that would be large enough that they could promote blood drives, vacation bible school, among many other events.



Ms. Hoins advised that the church has been asking for three years, and they feel like the 25% or 8 square feet is too small for an electronic message center for their church.

Commissioner Davis asked how the 25% of the sign area is calculated.

Ms. Hoins explained that it was 25% of the allowable 32 square feet sign. She then produced a drawing showing the size of the smaller EMC offered and explained that it would be 11 square feet, which would also require a variance.

Ms. Hoins explained that they would use the existing columns, which are ten feet apart and 4 feet wide. The existing sign is completely illuminated as it stands now.

Ms. Hoins raised some concerns regarding the sign code, specifically how 8.13.F and 8.13.H are conflicting. However, she understands that what she is asking for exceeds what is allowed. She went to explain what would be illuminated on the ID sign along with the EMC.

The existing sign also has a top piece that was not included in the area of the sign, which makes it more than 40 square feet.

Commissioner Horvath asked if the total area of the new sign would be 42.75 square feet.

Ms. Hoins confirmed that would be the total with the framing, edges and all pieces of the sign.

Commissioner Horvath asked Ms. Hoins if she agreed with Ms. Baragary as far as the purpose of the EMC.

Ms. Hoins asked Ms. Baragary what her statement was regarding the purpose, as she could not remember. Ms. Baragary clarified that it was to allow the messages of the church but to also be compatible in the zoning district that it's located in.

Ms. Hoins stated that this is unique as there is a high school across the street, and that makes it a lot less of a residential area than other churches.

Commissioner Horvath apologized and stated he should have directed that question to one of the residents of that area. Though he presumes that no one spoke up, that she is speaking for everyone in the audience.

Commissioner Horvath also asked if that representation of the sign in the drawing was the larger EMC or the smaller one that was available.

Ron Ronig (member of Trinity Lutheran Church) stated that the total square feet for the represented EMC sign is 26.04

Planning Director Kim Portillo asked to make a comment on the codes referenced by Ms. Hoins. She states that the two codes referenced that Ms. Hoins states are "contradictory" – one states no EMC's next to residential zoned property. The second one is different because it says no EMC's within 100 feet

of a residential home. The 100 feet would apply to a property in an area zoned RMX or other non-residentially zoned districts.

Commissioner Horvath asked about the property north of the proposed sign, and if it is approximately 100 feet to that house on the corner.

Ms. Portillo states she believes it is further than 100 feet.

Ms. Baragary presented a photo on Google Maps showing the house to the north for reference.

Mr. Ronig indicated where the sign would be in comparison to the house.

Chairman Bates asked if the City considered the triangle that is above the sign to be a part of the sign and included in the measurements for the existing sign.

Ms. Baragary verified that portion is not included in the sign calculations.

Commissioner Ramirez asked if that triangle would be placed on the new sign.

Ms. Hoins said that would not be replaced on the new sign, as there is a new design.

Ms. Baragary wanted to address Ms. Hoins claim that staff stated a 32 SF EMC would be allowed for this sign. Staff did not say an EMC of that magnitude would be allowed in a residential district. Only in commercial or industrial zoning is 32 SF allowed, and that would be the maximum size permitted.

Chairman Bates asked if the EMC sign just intended to show letters, or can you show graphics as well.

Ms. Hoins confirmed you are able to show graphics.

Commissioner Ramirez asked if Ms. Hoins previously state that the smaller of the two signs was 11 square feet.

Ms. Hoins confirmed it was approximately 11 square feet.

Commissioner Davis asked about the intensity of the signs.

Ms. Hoins said the manufacturer of the EMC is Daktronics, and they make these signs dimmable, controllable, and can be shut off if requested.

Commissioner Ramirez addresses the agreement from the church that they would maintain a 10:00 pm shut off of the sign.

Ms. Hoins states there is nothing in the regulations that requires them to do that. This would be completely voluntary from the church.

Commissioner Davis asked if Ms. Hoins had any knowledge of the type of electronic sign they had across the street at the high school.

Ms. Hoins states the school does not have an EMC. It could be due to budgeting reasons or it could be the restrictions preventing them from obtaining one.

Chairman Bates opened the floor to anyone else who wanted to speak at this time. He called upon Mr. Tom Lauhon.

Mr. Lauhon states he owns the property at 917 Marion, which is the property directly to the south of the church. He states that from his property, the sign can barely be seen. He also said for the last 30 years he has never had a problem with the sign, and does not see having an issue with the new sign.

Dennis Truman approaches the stand and states he lives at 922 Thornton Street, which is the property north of the church. He points to the pictures projected on the screen and states that the bushes block the sign and he cannot even see it from his house. He stated that putting up a bigger sign is not going to bother him.

Mr. Truman states he believes that teenagers will not be bothered by the large sign because they are too busy looking at their phones.

Mr. Ronig states he started asking Ann about the sign a few years ago. He claims the reason they are here tonight is that the code was supposed to be revised, per previous administrations. They have been waiting for the codes to change. He then said enough is enough; they want to do something good for this community. He believes the church wants to invest in the city and work within the system as a good community neighbor.

Mr. Ronig states the church is buying property around the church intentionally so they can control the city block. He also states that the primary intention for the EMC is for communication, and they have all the funding for the sign, so funding is not a worry.

Commissioner Davis states that the staff report indicates that the church would not be adversely affected should the Board deny the appeal. He asked Mr. Ronig if he agrees with that statement.

Mr. Ronig agrees that could be true. The sign they currently use is functioning quite nicely; they even created a new logo and refaced the sign.

Mr. Ronig believes by not letting them put up the new sign would adversely affect the city and the community instead of the church.

Reverend Dr. Damian Snyder approaches the stand and states he is the senior pastor at Trinity Lutheran Church.

Reverend Snyder stated he is simply asking the board to approve this variance so they can continue to share the gospel.

Mark Denny approached the stand and stated he is the president for Trinity Lutheran Church. He states he previously served on the Leavenworth County Planning & Zoning Commission. From his perspective

and factors stated in the staff report, this request should be denied. Mr. Denny acknowledges that the church is not able to accommodate all requirements for this variance to be approved.

Mr. Denny then stated that what he is asking the board to do is instead is look at the spirit of the law. The sign will not be any bigger than what is already there and he doubts anyone will even notice the new sign.

He further states that he also believes the sign code should be reviewed as well.

He stated he wants to thank everyone for their consideration, and asks them to again look at the spirit of the law and not the letter of the law.

Ms. Baragary informs the Board that the five criteria that the Board does vote on has nothing to do with the City that is actually state statutes.

Commissioner Davis asks Ms. Baragary what injury would come to the community if this variance were to be approved.

Ms. Baragary asked for clarification on which variance he is referring.

Commissioner Davis said all three variances.

Ms. Baragary responds that staff has outlined what they think would be the issues in the staff report

Ms. Portillo states that staff has outlined what we think would be the issues and the injury to the community. For example, the EMC would cause glare into the residential home to the north, and although the current property owner does not have an issue with the proposed sign, at some point that home could change ownership.

Commissioner Davis asked if this is based on any investigation; if anyone has gone out there and illuminated the area to support this or is this mere speculation.

Ms. Portillo responded that it is based off of staff's reasonable assumption that the sign is electronic and faces directly into their windows. Ms. Portillo further states that the first criteria is not met, which is that there is not a hardship that constitutes the need for this sign, or for any of the three variances. However, ultimately it is up to the Board to decide if you find the same or not.

Chairman Bates closes the public hearing, and asks for discussion among the Board considering criteria.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions - Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed,

public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
  - a) That the variance requested arises from such condition which is unique to the property in question and 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.

**Staff Comment:**

**Variance 1: Overall Sign Size**

Public & semi-public buildings (including churches) are permitted by-right in residential zoning districts. The City of Leavenworth has many churches in residential districts. When the sign code was developed, the need for these facilities to have larger signs was considered, which is why signage for public & semi-public buildings are regulated and permitted by section 8.10 Signs Permitted in the Neighborhood Business District and not by section 8.08 Signs Permitted in Residential Districts. The existing monument sign is 14' from the west property line and is already highly visible from the public right-of-way. There are no site conditions such as steep slopes or obstructions that make it difficult to see the sign from public right-of-way at the allowable size.

Staff finds that there is no unique condition of the property that justifies larger overall freestanding sign area than what the development regulations allow.

**Vote: 4-0**

**All board members voted in the affirmative.**

**Variance 2: EMC adjacent to residential property**

The church is surrounded by residential properties to the north, east and south. The requested sign would be located on the west faade along 10th Avenue. While three of the properties are currently

owned by the church, they may not be at some point in the future. The Development Regulations prohibit EMCs next to residential property, regardless of ownership.

Staff finds that there is no unique condition of the property that makes an EMC necessary at this location.

**Vote: 4-0**

**All board members voted in the affirmative.**

### **Variance 3: EMC Size**

The proposed EMC would be more than three times the allowable size, and again staff finds there are no site conditions such as steep slopes or obstructions that make it difficult to see the sign from public right-of-way at the allowable size. Sign allowances, especially for EMC's are intentionally more limited within residential neighborhoods to preserve the residential character of the neighborhood.

Staff finds that there is no unique condition of the property that justifies a larger EMC area than the development regulations allow, and that the variance requested is created by the action or actions of the property owner or applicant.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

- b)* That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

### **Staff Comment:**

#### **Variance 1: Overall Sign Size**

The existing sign, which does not have an EMC is already 40 SF, which is larger than the allowed size for a freestanding sign. The proposed modifications would increase the overall size of the sign by 2 SF to 42 SF, whereas a maximum of 32 SF is allowed for a freestanding sign in the NBD.

As far as staff is aware, there are no issues from surrounding properties regarding the existing non-electronic sign. Staff finds it unlikely that the small increase of 2 SF would significantly impact the surrounding property owners. However, the addition of an electronic element to the sign could have an impact, as addressed in the following paragraphs.

**Vote: 4-0**

**All board members voted in the affirmative.**

**Variance 2: EMC adjacent to residential property**

With the EMC being located on the west side of the property, the building would act as an intervening buffer between the sign and the residentially zoned properties to the east, so they are not likely to be adversely impacted. Additionally, the property to the west on the opposite side of 10th Avenue is a school, which is different than a typical residential use and not likely to be negatively impacted by an EMC. The property to the north is a single-family home.

Although it is on the opposite side of Thornton Street, the home does have windows that directly face the proposed EMC. This could have a negative impact of visual distraction and glare into the home.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 3: EMC Size**

An electronic message center that is over three times the maximum allowable size in a residential zoned district could adversely affect the rights of adjacent residential property owners or residents, particularly on the existing single-family home to the north. Potential impacts include increased light and glare into residential areas and a visual scale that is out of character with the surrounding neighborhood.

**Vote: 4-0**

**All board members voted in the affirmative.**

- c) That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

**Staff Comment:****Variance 1: Overall Sign Size**

Staff finds the strict application of the Development Regulations will not constitute unnecessary hardship upon the property owner as the regulations have taken into account the need for larger signs for churches located in residential districts by having less restrictive regulations but at the same time being compatible in the residential district they are located in. There is an existing nonconforming sign that is in decent condition and could be used for many years to come. Staff does not find that denying the size increase would create a hardship for the property owner.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 2: EMC adjacent to residential property**

The Development Regulations considers the needs of public & semi-public facilities and made the sign code less restrictive for these types of facilities that are located in residential zoning districts. Therefore, staff does not believe the strict application of the Development Regulations will constitute unnecessary hardship upon the property owner.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 3: EMC Size**

EMCs can be ordered in various sizes, such as a 4'2" x 2'8" (11.13 SF) or 4'2" x 3'11" (16.34 SF). The property owner has the option to make the EMC the smaller of the two signs, and the ID sign as the larger sign. Therefore, staff finds that the strict application of the provisions of the Development Regulations will not constitute unnecessary hardship upon the property owner.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

- d) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;

**Staff Comment:****Variance 1: Overall Sign Size**

The existing sign, which does not have an EMC, is already 40 SF, which is larger than the allowed size for a freestanding sign. The proposed modifications would increase the overall size of the sign by 2 SF to 42 SF, whereas a maximum of 32 SF is allowed for a freestanding sign in the NBD.

As far as staff is aware, there are no issues from surrounding properties regarding the existing non-electronic sign. Staff finds it unlikely that the small increase of 2 SF would significantly impact the surrounding property owners.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 2: EMC adjacent to residential property**



EMCs in residential areas can negatively impact the neighborhood through light pollution, visual clutter, and potential distractions to drivers. EMCs located near intersections or pedestrian crossings are of particular concern. With the high school to the west, there is a pedestrian crossing at this intersection, and a lot of young, inexperienced drivers that attend the high school.

Staff finds that an EMC adjacent to residential property could adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 3: EMC Size**

An EMC that is 26 SF versus the allowable 8 SF will have more light pollution, glare, visual clutter in the neighborhood, and be a greater distraction for drivers, especially for the students attending the high school that could potentially lead to accidents.

Staff finds that an electronic message center that is over three times the maximum allowable size in a residential zoned district could adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

- e) That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.

**Staff Comment:**

**Variance 1: Overall Sign Size**

The existing monument sign is already highly visible from the public right-of-way. There are no site conditions such as steep slopes or obstructions that make it difficult to see the sign from public right-of-way at the allowable size.

Staff finds the Development Regulations have taken into account the need for larger signs for churches located in residential districts by having less restrictive regulations, and that the granting of the variance increasing the overall sign area will be opposed to the general spirit and intent of the Development Regulations.

**Vote: 4-0**

**All board members voted in the affirmative.**

**Variance 2: EMC adjacent to residential property**

Staff finds that by having less restrictive regulations for churches located in residential districts, the sign code provides a means to display their message(s) while being compatible with the residential district they are located in.

Staff does believe that the granting of the variance desired will be opposed to the general spirit and intent of the Development Regulations.

**Vote: 3-1**

**Chairman Bates, Commissioner Horvath and Commissioner Davis voted in the affirmative. Commissioner Ramirez voted in the Negative.**

**Variance 3: EMC Size**

The purpose of the sign code is to create the framework for a comprehensive and balanced system of regulations of signs to facilitate easy and pleasant communication between people and preserving and improving the quality of the city's environment. One way this is accomplished is by reducing distraction of motor vehicle operation by signage that could be harmful to traffic and pedestrian safety. By having less restrictive regulations for churches located in residential districts, the sign code provides a means to display their message(s) while being compatible with the residential district they are located in.

EMCs can be ordered in various sizes, such as a 4'2" x 2'8" (11.13 sqft) or 4'2" x 3'11" (16.34 sqft). The property owner has the option to make the EMC the smaller of the two signs, and the ID sign as the larger sign. Staff believes that the granting of the variance for an EMC three times larger than the allowable size in a residential zoning district is in opposition to the general spirit and intent of the Development Regulations.

There are no extenuating circumstances, such as steep slopes or obstructions, impairing the visibility of the sign and warranting an EMC of this magnitude in a residential area; therefore, staff finds that the granting of the variance for a 26FT EMC is in opposition to the general spirit and intent of the Development Regulations.

**Vote: 4-0**

**All board members voted in the affirmative.**

3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially

injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

**ACTION:**

- Approve or deny the variance to allow a freestanding sign with a sign area that exceeds the maximum allowable sign area.
- Approve or deny the variance to allow an EMC to be located adjacent to residential property.
- Approve or deny the variance to allow the EMC portion of the freestanding sign to exceed the maximum allowable size for an EMC. If the variance to allow the EMC adjacent to residential property is denied, the Board does not need to vote on this variance, as no EMC would be allowed at all.

Chairman Bates asked if there are any additional limitations that need to be imposed. He asked if that is where they can impose time limitations if they desired.

Ms. Baragary confirmed that the board could put in place any conditions, safeguards, and restrictions upon the premises benefited by the variance.

Chairman Bates advised that Ms. Hoins discussed with the church a shut down time for the EMC of 10:00pm.

Commissioner Davis stated it would be acceptable. However, he does not understand why that would be necessary.

Chairman Bates asked if anyone wants to put in a motion for time restrictions.

Hearing none, Chairman Bates stated there will be no restrictions imposed.

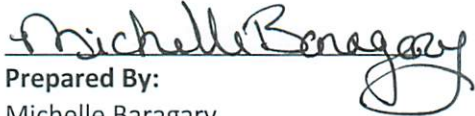
Chairman Bates called for a motion to close the meeting. Commissioner Davis made a motion to adjourn the meeting, seconded by Commissioner Horvath and passed 4-0

The meeting adjourned at 7:11 p.m.

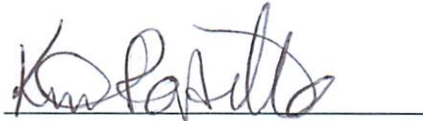
Minutes taken by Planning Assistant Sarah Roll.

**BOARD OF ZONING APPEALS AGENDA ITEM  
VARIANCE REQUEST  
2025-15-BZA  
771 OTTAWA ST.**

**SEPTEMBER 15, 2025**



**Prepared By:**  
Michelle Baragary  
City Planner



**Reviewed By:**  
Kim Portillo  
Director of Planning and  
Community Development

**SUMMARY:**

The applicant is requesting a variance to allow an accessory dwelling unit (ADU) at a property in which neither the principal dwelling nor the accessory dwelling will be occupied by the owner.

**DISCUSSION:**

The property located at 771 Ottawa St. is zoned R1-6 (High Density Single Family Residential District), and is currently functioning as a Residential Home-Stay (Airbnb) with an existing detached accessory building. The owner, Carl Piekarski, intends to use the detached accessory building as an accessory dwelling unit, which will be rented. Accessory dwelling units are allowed with issuance of a Special Use Permit based on the requirements of Section 4.04 of the adopted Development Regulations:

*Accessory Dwelling Units (ADUs) may be approved by Special Use Permit in any residential zoning district subject to the following conditions:*

- (1) *Shall be compatible with the design of the principal dwelling unit.*
- (2) *Shall respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards.*
- (3) *Shall not have a separate driveway entrance from the street(s) to which the property is adjacent.*
- (4) *Shall be 900 square feet or smaller in size, not to exceed 33% of the floor area of the principal dwelling unit.*
- (5) ***Either the principal dwelling unit or the accessory dwelling unit must be occupied by the owner of the premises.***
- (6) *Shall meet all building code requirements for a single family dwelling unit.*
- (7) *Lots containing accessory dwelling units shall contain a minimum of two off-street parking spaces, exclusive of garage space.*

The owner has indicated that he does not intend to live in either the principal dwelling or accessory dwelling unit, and that he intends to rent both the principal and accessory units separately. In November 2022, a Special Use Permit (SUP) was issued to allow the principal dwelling at 771 Ottawa to function as a Residential Home-Stay (Airbnb) in the R1-6 zoning district. If the variance is granted, the applicant intends to continue operating the Airbnb. One of the conditions of the SUP for the Airbnb states that any guests of the property must park in the driveway or garage of the home. Per section 5.02 of the Development Regulations, the required off-street parking rate for a single-family or two-family dwelling unit is 2 per each dwelling unit, totaling 4 off-street parking spaces. Currently, there are 2 approved parking spaces used for the principal dwelling. The property allows room for a gravel parking pad off the rear alley. The gravel parking pad shall be contained by a border, and may be a maximum of 37 feet as measured from the rear property line.

According to the submitted application, the detached accessory structure was converted to a single dwelling unit prior to the applicant purchasing the property in August 2021. Sometime after November 2022, the applicant renovated the detached accessory structure. The City has no record of the conversion or renovations of the detached accessory structure. Since building permits were not issued, staff is unaware if the renovations meet residential building codes.

There has been one SUP issued for an ADU, which occurred in 2024. The ADU was existing nonconforming, as ADUs were not specifically addressed in the Development Regulations at the time of construction of the detached structure. In 2021, a variance application was submitted to allow an ADU at a property in which neither the principal dwelling nor the accessory dwelling would be occupied by the property owner, and was denied.

If the Board were to grant the variance, staff would recommend a condition be added to require parking be installed directly off the rear alley to accommodate 2 vehicles. Additionally, a Special Use Permit would need to be approved to allow the accessory dwelling, subject to the variance.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.



1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.

- a) *That the variance requested arises from such condition which is unique to the property in question and 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.*

Staff comments: Staff disagrees. The property is located in the R1-6 (High Density Single Family Residential District) zoning district, and is occupied by a single-family dwelling unit with an existing detached accessory structure. The lot width is 48', and lot size is 6,000 SF, which meets the development standards. The property is surrounded by single-family homes with the exception of four existing nonconforming duplexes to the north. In November 2022, the applicant applied for and was issued a Special Use Permit to allow a Residential Home-Stay (Airbnb) in the principal dwelling. When operating an Airbnb in a residential neighborhood, the Development Regulations do not allow an accessory structure located on the same lot to be rented as well. The need for the variance arises from the property owner's desire to increase revenue.

- b) *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

Staff comments: Staff agrees. Four existing nonconforming duplexes are located on the north side of Ottawa, across the street from the subject property. The ADU would be an additional housing option for a single-person.

- c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

Staff comments: Staff disagrees. The Development Regulations offers several rental uses in residentially zoned neighborhoods, such as Bed & Breakfast Inns, Residential Home-Stay, and Boarding & Rooming Houses, all of which require the issuance of a SUP. Each of the stated uses have specific regulations and requirements to meet the intent of that use. Furthermore, the Development Regulations allows two-family dwelling units in the R1-6 zoning district with the issuance of a SUP as well. A primary difference between ADUs and two-family dwelling units is that ADUs are accessory and subordinate to the principal dwelling unit. Of the many rental options offered in the Development Regulations, the applicant chose the Residential Home-Stay.

- d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*

Staff comments: Staff agrees. Four existing nonconforming duplexes are located on the north side of Ottawa Street, across the street from the subject property. Staff does not believe the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. However, since permits were not issued for the conversion and renovations of the detached building, should the variance be granted, the applicant shall acquire all necessary permits and inspections to ensure code compliance before renting the space as a living unit.

- e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*

Staff comments: The Development Regulations offers several rental uses in residentially zoned neighborhoods, such as Bed & Breakfast Inns, Residential Home-Stay, and Boarding & Rooming Houses, all of which require the issuance of a SUP. Each of the stated uses have specific regulations and requirements in order to meet the intent of that use. ADUs are specifically intended to allow, for example, an elderly parent or independent living that is accessory and subordinate to the principal dwelling occupied by the property owner. The ADU cannot be accessory or subordinate to a principal dwelling that is operating as an Airbnb.

3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

**ACTION:**

Approve or deny the variance request to allow an accessory dwelling unit on a property in which neither the principal nor accessory dwelling are occupied by the owner of the property, as described herein and subject to subsequent approval of a Special Use Permit.



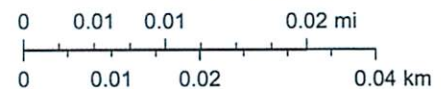
# 2025-15 BZA - 771 Ottawa



9/12/2025, 4:41:52 PM

1:1,128

- Override 1
- Leavenworth City Limits
- Parcels\_Current
- City Right-of-Way
- Buildings
- RoadCenterline
- Address (Points)



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community





**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

**OFFICE USE ONLY**

Case No.: 2025-15 BZA  
Application No. 17647  
Fee (non-refundable) \$350.00  
Filing Date 7/22/2025  
Hearing Date 9/15/2025  
Publication Date \_\_\_\_\_

**PETITION**

Property Zoning: R1-6  
Location of Subject Property: 771 OTTAWA STREET, LEAVENWORTH KS 66048  
Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)  
Petitioner: PIERREI LLC - CARL PIEKARSKI  
Petitioner Address: 31516 W. 217th STREET, SPRING HILL KS 66083  
Email: PIKEP8@MSN.COM Telephone: 720-275-4894  
Petitioner's Interest in Property: HAVE OFF STRUCTURE BECOME A LEGAL DOMICILE  
Purpose of Petition: UTILIZE OFF STRUCTURE TO HOUSE HOMELESS VETERAN

☐ Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A  
☒ Variance: \_\_\_\_\_  
Section 11.03.B  
☐ Exception: \_\_\_\_\_  
Section 11.03.C

Site Plan or drawing attached (hard & digital copy): Yes ☒ No ☐

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name (print): PIERREI LLC - CARL PIEKARSKI  
Signature: [Signature] Date: 7/19/2025

State of Kansas )  
County of Johnson )

Signed or attested before me on 19 July 2025 by Carl Piekarski

Notary Public: Nicole Kennard

My appointment expires: 3-11-2029 (Seal)



**NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized.**

**Check list below...**

|                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data                                       |
| <input checked="" type="checkbox"/> | Full legal description of subject property obtained from the Register of Deeds Office (913-684-0424)                         |
| <input checked="" type="checkbox"/> | Certified list of property owners within two hundred (200) feet of the subject property – County GIS Department 913-684-0448 |
| <input checked="" type="checkbox"/> | A filing fee of Three Hundred- fifty dollars (\$350)   |

**Request for Variance Statement: (771 Ottawa Street):**

We believe a brief history of the property would be beneficial before addressing the request for variance statement. The property was purchased from the Veterans Administration due to a foreclosure from the previous owner. We spent one year rehabilitating the home updating outdated items like replacing the windows with new ones; replacing the kitchen cabinets and flooring; having the original hardwood flooring refinished; replaced the carpet; updating the bathroom; replaced the backyard rotting deck etc. All permits were pulled where appropriate. After completing our renovations we requested and was approved for a special use permit so the main house could be used as a short-term rental Airbnb home, which is still its purpose today.

PIE2REI LLC's origin intent was to simply purchase properties and rent them to tenants. The owner, myself, being a Veteran decided to reach out to the VA to see if there was a need in the community for Veterans. The VA responded positively and I became aware that there was a great need for housing for homeless Veterans. In fact at the time there were over 35 homeless Veterans on a waiting list in the Independence Missouri area. We then shifted our focus to renting to only homeless Veterans and currently have all our units in Independence housing homeless Veterans.

We recently purchased a four-plex in Leavenworth and now house two homeless Veterans there and will fill the remaining units with Veterans when the current tenants leave.

Back to our property at 771 Ottawa street. At that time no attention was given to the small off structure, but it was apparent that the offstructure was used before for a domicile as all the electric; plumbing fixtures; a small kitchen and bathroom were all there. All the utilities must be run threw the main home as there are no separate meters. My Son-in-Law and I went in and completely rehabilitated it like we did the main house. We showed the offstructure, which we will refer to as the Studio apartment, as it is only 280 square foot in dimensions, to a Veteran who suffers from PTSD and needs a space all to himself away from other people. He loved it and requested to move in. I contacted the Postal Service to obtain a mailing address for the studio. They directed me to the city planning department and that is when we became aware of that there were issues. We advised the Veteran that no one could live in the studio until it would be legal to do so or it would only be used for storage. We are grateful that the city planning department decided that we could apply for a variance and we are hoping to be able to get a variance approval. We thank you all in advance for your time in this matter.

The purpose of the variance request is because the ADU requires the owner to live in the main property and then the studio could be rented. We assume that requirement is so the owner could monitor any tenant who would live in the studio. By renting to a homeless Veteran under the VA's VASH program the Veteran has a caseworker, who in most cases are licensed social workers, and the owner can contact the caseworker if there are any concerns or complaints from any of the neighbors about the Veteran living on site.

Since we do not live in the main property we are requesting a variance be approved removing the requirement that the owner live on site.

Below are the answers to the variance statement questions that need to be addressed:

- That the variance requested arises from such condition which is unique to the property in question and 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.

Since the main property has been approved with a special use permit to be used for short-term stays, we are requesting a variance from the ADU requirement for the owner to live on site. The Studio has a front and back door, which allows the purposed tenant to access the self-enclosed fenced in backyard as well as use of the parking that is available both in front of the studio and the spot available in the alley way. The site plan shows the detail where there is parking available off street for up to four vehicles on the side of the main house and in front of the studio, and a single spot for a vehicle on the property in the alley way. There is also enough street parking spots for at least another three vehicles. Please refer to the pictures provided for parking.

- That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

The requested variance will not have any effect to the rights of any of the surrounding properties in any way.

- That the strict application of the provisions of the development regulations from which the variance requested will not constitute any unnecessary hardship upon the property owner represented in the application.

The requested variance will not constitute any unnecessary hardship to the owner or the short-term stay tenants of the main house.

- That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The variance will not adversely affect any public health, safety, morals, order, convenience, prosperity, or general welfare to the owner, the short-term tenant or any tenant who would live in the studio structure.

- That granting of the variance desired will not be opposed to the general spirit and intent of the development regulations.

To the best of our knowledge the variance would not inhibit the general spirit or intent of any development regulations. The off structure was there at the time of purchase, and this was not a new construction building. No modifications were made to the existing structure outside of updating or replacing existing materials in the structure.

# Site Plan for 771 Ottawa Street, Leavenworth, KS 66083

The site plan for the property located at 771 Ottawa Street in Leavenworth, Kansas, provides a comprehensive overview of the property's layout, features, and development considerations. This document serves as a crucial tool for architects, engineers, city planners, and stakeholders involved in the development or renovation of the site.

## Property Overview

The property at 771 Ottawa Street is situated within a predominantly residential area of Leavenworth. The site spans approximately [insert acreage or square footage], with existing structures, landscaping, and access points that influence the planning process. The location benefits from proximity to local amenities, transportation routes, and community facilities, making it a strategic site for residential or mixed-use development.

## Key Components of the Site Plan

- **Property Boundaries:** Clearly delineated boundaries outlining the extent of the property, including any easements or rights-of-way.
- **Existing Structures:** Locations and dimensions of existing buildings, garages, sheds, or other structures on the site.
- **Landscaping and Open Spaces:** Areas designated for lawns, gardens, trees, and other landscaping features.
- **Access Points:** Driveways, walkways, and pathways providing ingress and egress to the property.
- **Parking Areas:** Designated parking zones, including on-site parking spaces, driveways, and potential future expansions.
- **Utilities and Drainage:** Placement of water, sewer, electrical, and stormwater management systems.
- **Development Zones:** Areas allocated for new construction, extensions, or modifications, aligned with zoning regulations.

## Development Considerations

When planning for development or renovation, several factors must be considered, including local zoning ordinances, building codes, environmental impact assessments, and community guidelines. The site plan should incorporate sustainable practices, such

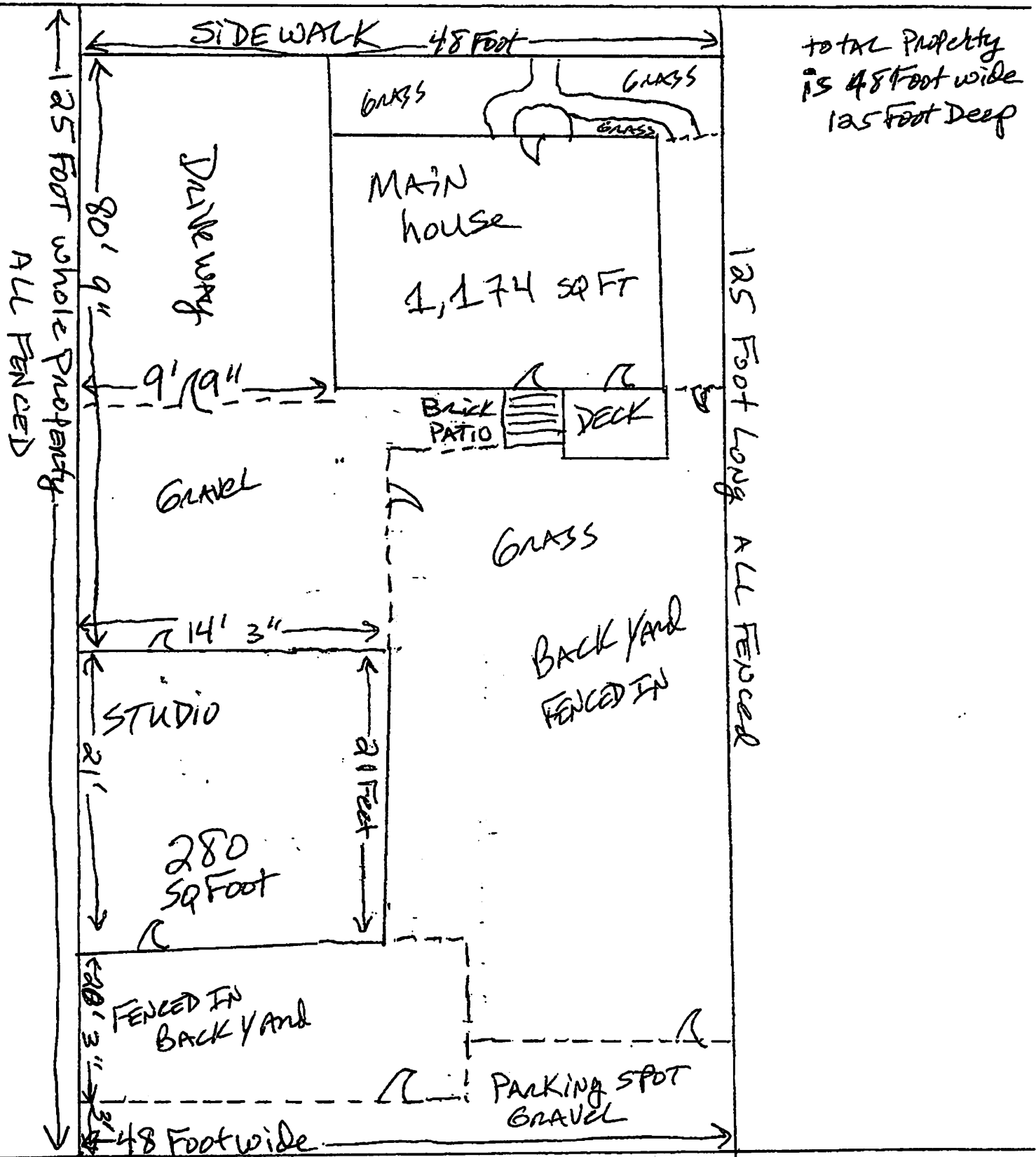
as stormwater management and energy-efficient design, to ensure compliance and promote environmental stewardship.

## **Conclusion**

The site plan for 771 Ottawa Street provides a detailed blueprint for current and future development activities. It ensures that all aspects of the property are considered, facilitating smooth project execution and adherence to regulatory standards. Properly developed, this plan will support the sustainable growth and enhancement of the property, aligning with community development goals and property owner objectives.

# 771 Ottawa Street Site PLAN

Public Street

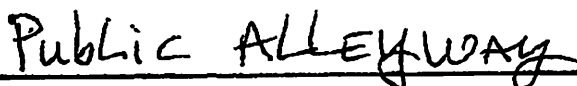


Public ALLEYWAY

--- FENCE ---  
 A - DOOR OR GATE

Public Street

125 Foot Long ALL FENCED

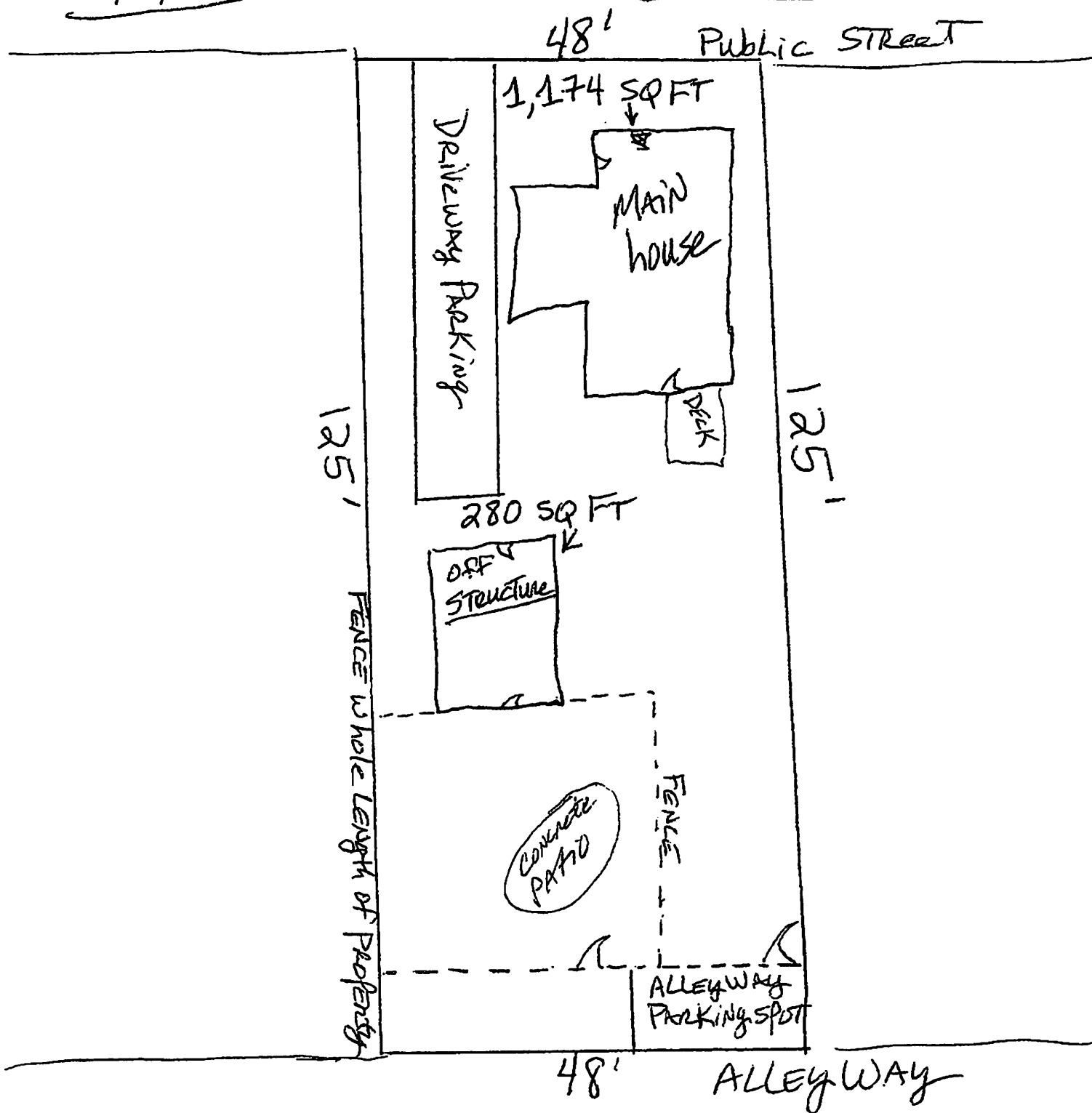


--- FENCE ---  
 π - DOOR OR GATE



771 O-TAWA

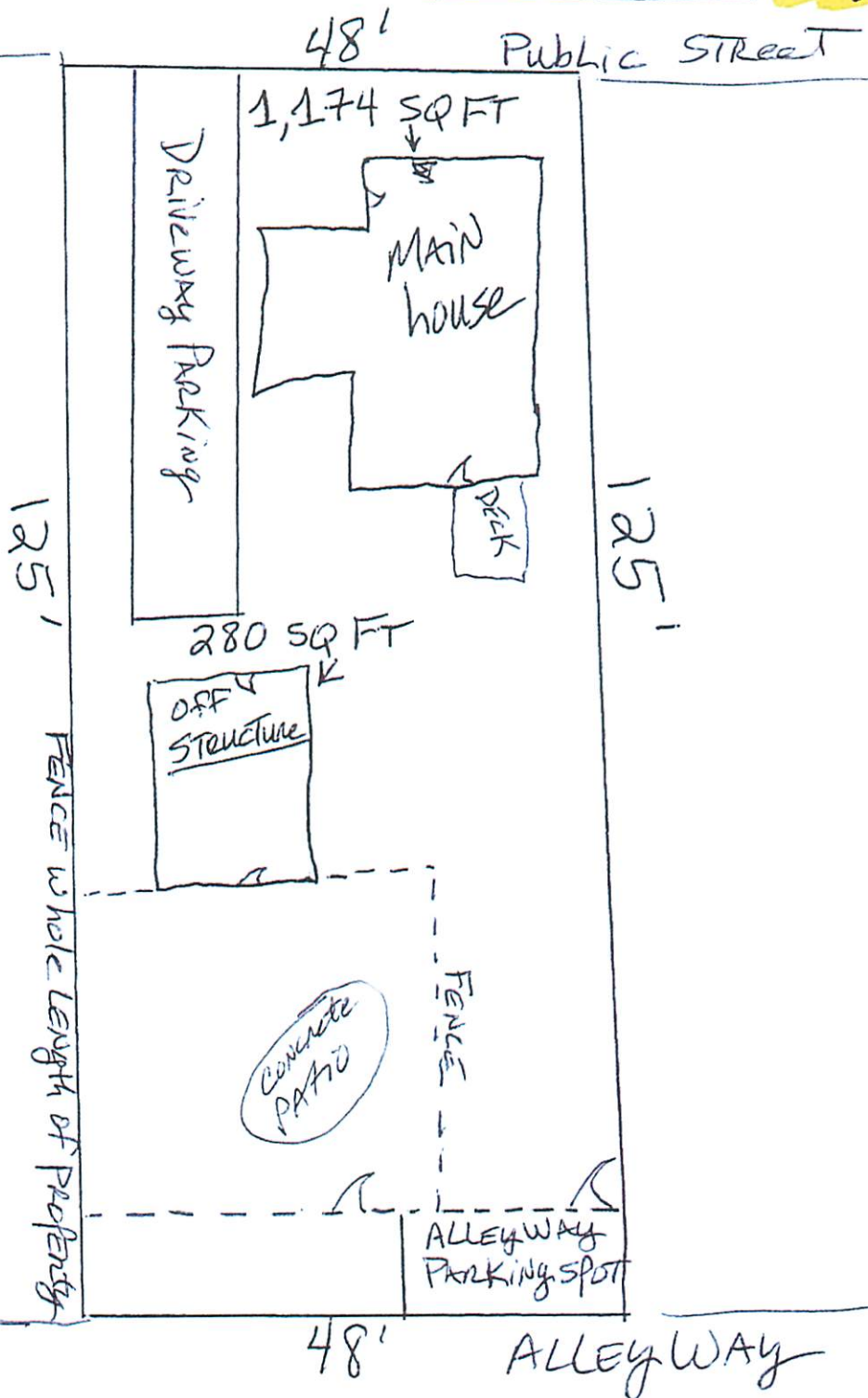
Site PLAN



∩ = DOORS OR GATES

771 OTTAWA

Site PLAN **copy**



$\cap$  = DOORS OR GATES































