



BOARD OF ZONING APPEALS MINUTES
MONDAY, October 20, 2025, 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

CALL TO ORDER:

Board Members Present

Ron Bates
Daniel Bolling
Jan Horvath

Board Member(s) Absent

Ted Davis

City Staff Present

Michelle Baragary
Kim Portillo
Sarah Roll

Chairperson Ron Bates called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: September 15, 2024

Chairperson Bates asked for comments, changes or a motion on the September 15, 2025 minutes to present for approval. Commissioner Horvath offered a motion to approve the minutes as presented, seconded by Commissioner Bolling and approved by a vote of 3-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2025-18 BZA – 2410 S 14TH STREET

Hold a public hearing for Case No. 2025-18 BZA – 2410 S 14th St., wherein the applicants are seeking a variance from Section 1.05 of the adopted Development Regulations to expand an existing nonconforming gravel driveway in the R1-9, Medium Density Single Family Residential District.

Commissioner Bates called for the staff report.

City Planner Michelle Baragary provided the Board with an overview of the application that the subject property, 2410 S 14th Street, is situated in R1-9 (Medium Density Single Family Residential District)

and contains a single-family home with a side-loaded attached garage. The existing driveway is a lawfully established nonconforming gravel driveway, installed in 1954. All surrounding properties utilize paved driveways, consistent with the neighborhood standard.

The continuation of the existing nonconforming driveway is permitted under the regulations, provided it is maintained and not expanded or abandoned. Abandonment would occur if the driveway is not maintained (e.g., gravel washes away, or it becomes overgrown), requiring any new installation to conform with the current Development Regulations.

The Development Regulations strictly prohibit the physical expansion of any nonconforming use. Section 1.05.D.3 states:

Extension. Any nonconforming use shall not be physically extended, expanded, or enlarged. Such prohibited activities shall include, without being limited to:

- a. Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments or that cause such use to become nonconforming).*

The subject property was sold in December 2024. Following the sale, and prior to mid-July 2025, the nonconforming driveway was expanded. This expansion included widening the entrance at 14th Street (extending over the property line) and expanding westward approximately 52 feet, widening the final dimensions to 23 feet. This action directly violates Section 1.05.D.3, necessitating the current variance request.

Ms. Baragary read staff comments and then stated staff is available to answer and questions, and the applicant is here as well.

Chairman Bates asked if staff can show aerial view from 2022 again. He states it appears to him that there is a rectangular area right at the curve as you are going west.

Chairman Bates asked if there are any other questions for staff.

Commissioner Horvath asked for clarity on how the driveway was expanded or improved. He wanted to clarify that the driveway was expanded to the west.

Ms. Baragary explained with the photos how the driveway was expanded.

Commissioner Horvath stated that the pictures lead him to believe that the drive was used to be a City street, but a dead end. However, was the driveway extended to the west and north? Where the other cars are shown in the 2024 photos.

Planning Director Kim Portillo states that would be a question for the applicant. It appears it was in the aerial photo.

Commissioner Horvath states that photo leads him to believe the area the other cars are parked in has been extended as well. He just wanted to make sure that the expansion is limited to what appears to be a light grey color in the aerial photos.

Vice Chairman Bolling asked how much over the property line the driveway goes. When he reviewed he read the notes that the driveway encroaches onto the neighboring property.

Ms. Baragary states that staff does not know the exact measurement, however it is clearly over from the aerial view. City Regulations state that there is a minimum two-foot setback from the property lines for driveways.

Chairman Bates opened the public hearing.

Jennifer Koppen approached the stand with Attorney Amy Bateman to speak on Ms. Koppen's behalf.

Ms. Bateman wanted to make clear the purchase of the property. She states that Ms. Koppen did not create this compliance issue.

She states Ms. Koppen purchased the property in June 2025 through private sale. In regards to the warranty deed question presented to the applicant, that is the way warranty deeds are written, and there is a mortgage on the home.

Ms. Bateman states when Ms. Koppen purchased the property, they were not given any disclosure in regards to the nonconformance of the driveway. It does not appear there were any citations prior to the purchase as well. The previous owner laid down the gravel around January or February.

Ms. Bateman also wanted to point out that this home was built in 1940. The average build date for the other 14 homes on that street was 1972. This home would be unique as it was not built with garage or driveway.

The driveway was completed with AG3, on a base. Ms. Bateman believes there is no runoff or wash out, even with the rain we have currently received.

Ms. Bateman believes it would be a significant burden to the homeowners to try to retrograde the driveway to where it was at in 1952. Doing this would cause more problems that it would be helpful. She believes the cost would be approximately \$15,000.

Ms. Bateman also stated there were measurements take on the property. To include 8' offset from the south property line and a 15' offset from the west property line. The width of the driveway is 20', and the extension piece is 52' to the west.

Ms. Bateman stated that if the board isn't comfortable approving the variance as it stands, Ms. Koppen would be welcome to any other recommendations on mitigation or any concerns that the City might have in terms of some increased barrier or border.

Commissioner Horvath asked Ms. Bateman to repeat the offsets of the driveway again.

Ms. Bateman repeated the setbacks and stated the measurement for the south property line was measured from the neighboring property's fence.

Chairman Bates clarified through a photo the south property line and said this is assuming the neighbor's fence is on the property line.

Chairman Bates asked if there was anyone else that wishes to speak.

Vanessa Reed with Leavenworth County Commission approached the stand to speak. She stated City of Leavenworth is in her County Commission District. Ms. Reed said she understands the difficulties that come with sitting on a board, and the legalities to consider. However, the City of Leavenworth is getting a very bad reputation for being anti-improvements. She stated there are a lot of things that City staff and board should be focusing on that get neglected. Meanwhile, good standing citizens who are trying to improve the city and neighborhood seem to get an unreasonable manner of attention.

Ms. Reed would ask that if there was any way possible to allow them to go back to doing business as they were, she would really appreciate it.

Robin Johnson approached the stand to speak and stated she is a walker. She walks up 14th street on occasion. She stated the improvements to that property are immense and would hate to see it shut down.

Jan Glick approached the stand to speak and stated she was a walker, and she walked past the house a lot. Ms. Glick states looks so much better now than it did before. She states she would hate to see them have to redo everything.

Ms. Glick stated that anyone who is trying to make that area should be able to do that.

With no one else wishing to speak, Chairman Bates closed the public hearing and called for discussion among the commissioners.

Chairman Bates asked if the limit to the driveway 12' as he recollects seeing 12' in the paperwork.

Ms. Baragary states that it was the width of the driveway before the expansion.

Chairman Bates asked Ms. Baragary how that was calculated.

Ms. Baragary stated she used the measuring tools on the maps.

Chairman Bates asked if it was originally 18 feet wide, and over time the grass grows over it, are they at that point not allowed to take it back to the 18 feet?

Ms. Baragary stated no, you have to maintain it or you have to bring it into compliance with the current regulations.

Chairman Bates asked when the regulations were adopted that prohibited this.

Ms. Portillo stated she wasn't sure exactly when that portion of the regulation was passed. It might have been 1967 or 1976, either way there have been no issues with maintaining that as it was.

Chairman Bates asked if the main complaint of the City is that they expanded it in width, and the additional pad at the end.

Commissioner Bolling asked if there has been any complaints from any other property owners. Especially the property owner who's land the driveway is encroaching on?

Staff said no.

Commissioner Horvath stated that no matter what they do, the size of the setback or from the neighbors property line to the south must be reestablished. Would that be a correct statement?

Ms. Baragary stated that staff has worked with property owners before. If the applicant can show them where the pins for the property lines are, and that the driveway does in fact meet the setbacks, staff would just have it on record.

Chairman Bates pointed out the curb, and how it looks like it was formally a street.

Ms. Portillo stated that the curb was originally a right of way or a street that was platted in that area.

With no further discussion, Chairman Bates read the following criteria regarding the Board's authority and reviewed each item.

BOARD OF ZONING APPEALS AUTHORITY:

The Board's authority in this matter is contained in Article 11 (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 the 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.

Vote 3-0

All board members voted in the affirmative.

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

Vote 3-0

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.

Vote 3-0

All board members voted in the affirmative.

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

Vote 3-0

All board members voted in the affirmative.

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

Vote 2-1

Vice Chairman Bolling and Commissioner Horvath voted in the affirmative. Chairman Bates voted in the negative.

3. In granting variance, the Board may impose 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 the Development Regulations.

ACTION:

Approve or deny the variance request from Section 1.05 of the adopted Development Regulations to allow an expansion of a nonconforming gravel driveway.

Chairman Bates stated that based on the findings, the variance for Case No. 2025-18 BZA is granted subject to the following condition:

- The south property line must be professionally surveyed within sixty (60) days of the October 20, 2025, hearing date.
- The purpose of the survey is to confirm that the driveway does not encroach onto the neighboring property, and that it complies with the required two (2) foot setback from the south property line.

2. 2025-21 BZA – 513 MAPLE STREET

Hold a public hearing for Case No. 2025-21 BZA – 513 Maple St., wherein the applicants are seeking a variance from Section 4.04.B of the adopted Development Regulations to allow a detached garage larger than the allowable size in the R1-6 (High Density Single Family Residential District) zoning district.

Commissioner Bates called for the staff report.

City Planner Michelle Baragary provided the Board with an overview of the application. The subject property is a 2.2-acre lot zoned RI-6 (High Density Single Family Residential District) with an existing single family home on the lot. To the north and east of the property are single-family homes. To the west of the property is a church and catholic school, and to the south is land owned by the church and one single-family home.

Section 4.04 of the Development Regulations states that for single-family residences, detached garages on parcels one acre or larger may not exceed 1,200 square feet. The applicants are proposing to install a 1,620 square foot detached garage with a 120 square foot attached covered overhang, total 1,740 square feet for the overall size of the accessory structure. The garage will be located in the rear yard and will be constructed of post frame with metal siding and roofing. The applicant has chosen a design that is compatible with the existing single-family home, with overhead doors that match the existing home and a matching color palette. The applicant is proposing a concrete driveway extension off the existing driveway, which would be in conformance with the code.

After notices were sent to property owners within 200 ft. as required by State Statute, staff received one inquiry.

Ms. Baragary read staff comments and then stated staff is available to answer and questions, and the applicant is here as well.

Chairman Bates asked if staff had any questions.

With no further questions, Chairman Bates opened the public comments.

With no one else wishing to speak, Chairman Bates closed the public hearing and called for discussion among the commissioners.

With no discussion, Chairman Bates read the following criteria regarding the Board's authority and reviewed each item.

BOARD OF ZONING APPEALS AUTHORITY:

The Board's authority in this matter is contained in Article 11 (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 the 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.

Vote 3-0

All board members voted in the affirmative.

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

Vote 3-0

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.

Vote 3-0

All board members voted in the affirmative.

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

Vote 3-0

All board members voted in the affirmative.

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

Vote 3-0

All board members voted in the affirmative.

4. In granting variance, the Board may impose 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 the Development Regulations.

ACTION:

Approve or deny the variance request from section 4.04 of the Development Regulations to allow a detached garage greater than 1,200 square feet.

Chairman Bates stated that based on the findings, the variance for Case No. 2025-18 BZA is granted with no restrictions, conditions, or safeguards.

Chairman Bates asked if there was any other business to be taken up. There was no other business.

Chairman Bates called for a motion to adjourn. Commissioner Horvath moved to adjourn, seconded by Commissioner Bolling and passed 3-0.

The meeting adjourned at 6:53 p.m.

Minutes taken by Planning Assistant Sarah Roll.

DRAFT