

LEAVENWORTH BOARD OF ZONING APPEALS

Monday, November 17, 2025 – 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

AGENDA

CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: October 20, 2025 **Action:** Motion

OLD BUSINESS:

None

NEW BUSINESS:

1. BOARD OF ZONING APPEALS TRAINING SESSION

Staff led presentations to the Board of Zoning Appeals on statutory authority, variance criteria, quasi-judicial procedures, and best practices for conducting hearings.

ADJOURN



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

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

2.07 Appeals

Any person wishing to appeal a provision of this document as it has been applied to their case shall make application for appeal to the appropriate entity as listed below.

- A. Zoning Regulations. Zoning regulations shall be appealed to the Board of Zoning Appeals as specified in Article 11. Specifically this shall include:
1. Article 1. Section 1.05 Non-conformances
 2. Article 2. Section 2.05 Site Development Plans
 3. Article 4. District Regulations
 4. Article 5. Parking
 5. Article 6. Landscaping
 6. Article 8. Signs
 7. Article 10. Supplementary District Regulations
- B. Development Regulations. Development regulations shall be appealed to the City Commission where specified in these regulations. Specifically this shall include:
1. Article 3. Subdivision Standards
 2. Article 9. Historic Preservation

Summary Table:

	Pre-application Meetings		Review Body				Notice		
	Staff	Community	Staff	PC	CC	BZA	Published	Posted	Mailed
Text Amendment	☐		R	R/H	D		■		
Rezoning	■	☐	R	R/H	D		■	■	■
Plat, Minor	■		R	D	A				

DEVELOPMENT REGULATIONS
ARTICLE 2. APPLICATIONS & PROCEDURES

Plat, Preliminary	■		R	D	A			■	
Plat, Final			R	R	D			■	
Site Plan	□		D	A/D		A			
Planned Zoning	■	■	R	R/H	D		■	■	■
Special Use Permit	■		R	R/H	D		■		■
Minor Modification	■		D	A					
Other Appeals (specified in these regulations)	Dependent on specific applicable code sections								
Variance	□		R			D	■		■
Appeal of Administrative Decision						D	■		■

R = Review/Recommendation

D = Decision

A = Appeal

H = Public Hearing

■ = Required

□ = Optional or Recommended

PC = Planning Commission

CC = City Commission

BZA = Board of Zoning Appeals

ARTICLE 11. BOARD OF ZONING APPEALS

11.01. Creation

A Board of Zoning Appeals is created for the City of Leavenworth. Such Board shall consist of five members, all of whom shall be residents of the City of Leavenworth. Members shall be appointed by the Mayor with the consent of the City Commission. Appointments shall be made for three-year terms. Vacancies shall be filled by appointment for the unexpired term. Members of the Board shall serve without compensation.

11.02. General

The word "Board" when used in this article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, regulations, or resolutions. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of facts by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board immediately and shall be of public record.

- A. **Secretary:** The Secretary of the Board of Zoning Appeals shall be a member of the city staff appointed by the Director.
- B. **Meetings:** Unless notified otherwise the members of the Board of Zoning Appeals will meet regularly once each month, at such time and place as is fixed by resolution. They shall select one of their members as chairman and one as vice-chairman, who shall serve one year or until their successors have been selected. Special meetings may be called at any time by the chair or in his absence, by the vice-chairman. A majority of the Board shall constitute quorum for the transaction of business. The Board shall cause a proper record to be kept of its proceedings.
- C. **Quorum:** A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

11.03. Powers and Jurisdiction

The Board shall have those powers and duties authorized by this ordinance and by KSA 12-759 and any amendments thereto.

- A. **Appeals:** After proper hearing to decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of these regulations, except where the City Commission is specifically empowered to hear an appeal.

DEVELOPMENT REGULATIONS
ARTICLE 11. BOARD OF ZONING APPEALS

11.03 Power and Jurisdiction

1. Appeals to the Board may be taken by the person aggrieved, or by any officer or department of the city government affected by the rigid enforcement of these Development Regulations. Such appeal shall be filed with the Secretary of the Board, as shall be herein prescribed. The administrative official shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.
 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the Secretary of the Board certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record.
- B. ***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:
 - a. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - b. 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.
 - c. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - d. 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.
 - e. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;

- f. That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.
- 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.
- C. **Exceptions:** To grant exceptions which are specifically listed as permitted in these Development Regulations. In no event shall exceptions to the provisions of the Development Regulations be granted where the exception contemplated is not specifically listed as in the Development Regulations of the City of Leavenworth, Kansas. An exception is not a variance. Further, under no conditions shall the Board have the power to grant an exception when the conditions of this exception, as established by these Development Regulations, are not found to be present.
- D. **Conditions of Determination:** In exercising the foregoing powers, the Board, in conformity with the provisions of these Development Regulations, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the administrative official and may attach appropriate conditions, restrictions or safeguards necessary to protect public interest and welfare.

11.04. Applications

- A. The procedure for requesting a hearing before the Board shall be as follows:
 - 1. **Application Submission:** All applications to the Board shall be in writing on forms provided by the Secretary of the Board. Said application shall be completed in its entirety and filed in the office of the City Clerk with all supporting data.
 - 2. **Notification of Nearby Property Owners:** All applications shall be accompanied by an ownership list certified by an attorney, a title company or a list and map prepared by the Leavenworth County GIS Department listing the names and addresses of all property owners located within 200 feet, excluding streets and alleys, of the boundaries of the property included in the application. If the property is adjacent to the city limits, the area shall be expanded to 1,000 feet of property owners outside the city limits.
 - 3. **Public Notification:** The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the City Commission) at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and the chair of the Planning Commission.
- B. In addition to the above requirements, certain applications require additional information as follows:
 - 1. **Appeals:**

- a. An application for an appeal shall be filed within 10 days after a ruling has been made by an Administrative Official and furnished to the appellant in writing.
 - b. A copy of the written ruling of the Administrative Official which the applicant believes to be in error shall be submitted.
 - c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
 - d. Where necessary, a plot plan, drawn to scale, showing existing and proposed plans for the area in question shall be submitted.
- 2. *Variances:*
 - a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating the enforcement provisions of the specific regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five conditions as set out in herein.
 - b. The applicant shall submit six (6) copies of a sketch drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.
- 3. *Exceptions:*
 - a. The applicant shall submit a statement in writing justifying the exception applied for and indicating under which article and section of the Development Regulations the Board of Zoning Appeals is believed to have jurisdiction.
 - b. The applicant shall prepare and submit at the time of filing, the application, six copies of a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways, and any other information which would be helpful to the Board in consideration of the application.
- C. **Conditions of Approval:** In making any decision varying or modifying any provisions of the Development Regulations, or in granting an exception to the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
- D. **Performance Bonds:** The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board for 125% of necessary improvements, and shall be enforceable by or payable to the City Commission in the sum equal to the cost of constructing the required improvement. In lieu of the performance bond requirements, the Board may specify a time limit for the completion of such

required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

11.05. Appeal of the Board Decision

Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the board, per KSA 12-759.

12-759. Same; board of zoning appeals; membership; vacancies; powers; fees; variances; exceptions. (a)

Any governing body which has enacted a zoning ordinance or resolution shall create a board of zoning appeals by adoption of the appropriate ordinance or resolution. Such board shall consist of not less than three nor more than seven members. If a city enacts zoning regulations which affect land outside the corporate limits of such city, at least one member of the board shall be a resident of the area outside the city's limits. The members first appointed shall serve respectively for terms of one, two and three years, divided equally or as nearly equally as possible among the members. Thereafter the terms of the members may be changed to either three or four years, whichever is deemed to be in the best interest of the city or county. Vacancies shall be filled by appointment for the unexpired terms. The members of such board shall serve without compensation. The board annually shall elect one of its members as chairperson, and shall appoint a secretary who may be an officer or an employee of the city or county. The board shall adopt rules in accordance with the provisions of the ordinance or resolution creating the board. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record. The governing body, in the ordinance or resolution creating such board, may establish a scale of reasonable fees to be paid in advance by the party appealing. Any two or more cities or counties which have established a joint planning commission may establish a joint board of zoning appeals.

(b) Any board of zoning appeals in existence on the effective date of this act shall continue in existence, but shall be governed by the provisions of this act.

(c) The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning ordinance or resolution as hereinafter provided. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper in the case of a city and in the official county newspaper in the case of a county at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the appropriate planning commission.

(d) Appeals to the board of zoning appeals may be taken by any person aggrieved, or by any officer of the city, county or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance or resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor. The officer from whom the appeal is taken, when notified by the board or its agent, shall transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance or resolution. In exercising the foregoing powers, the board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

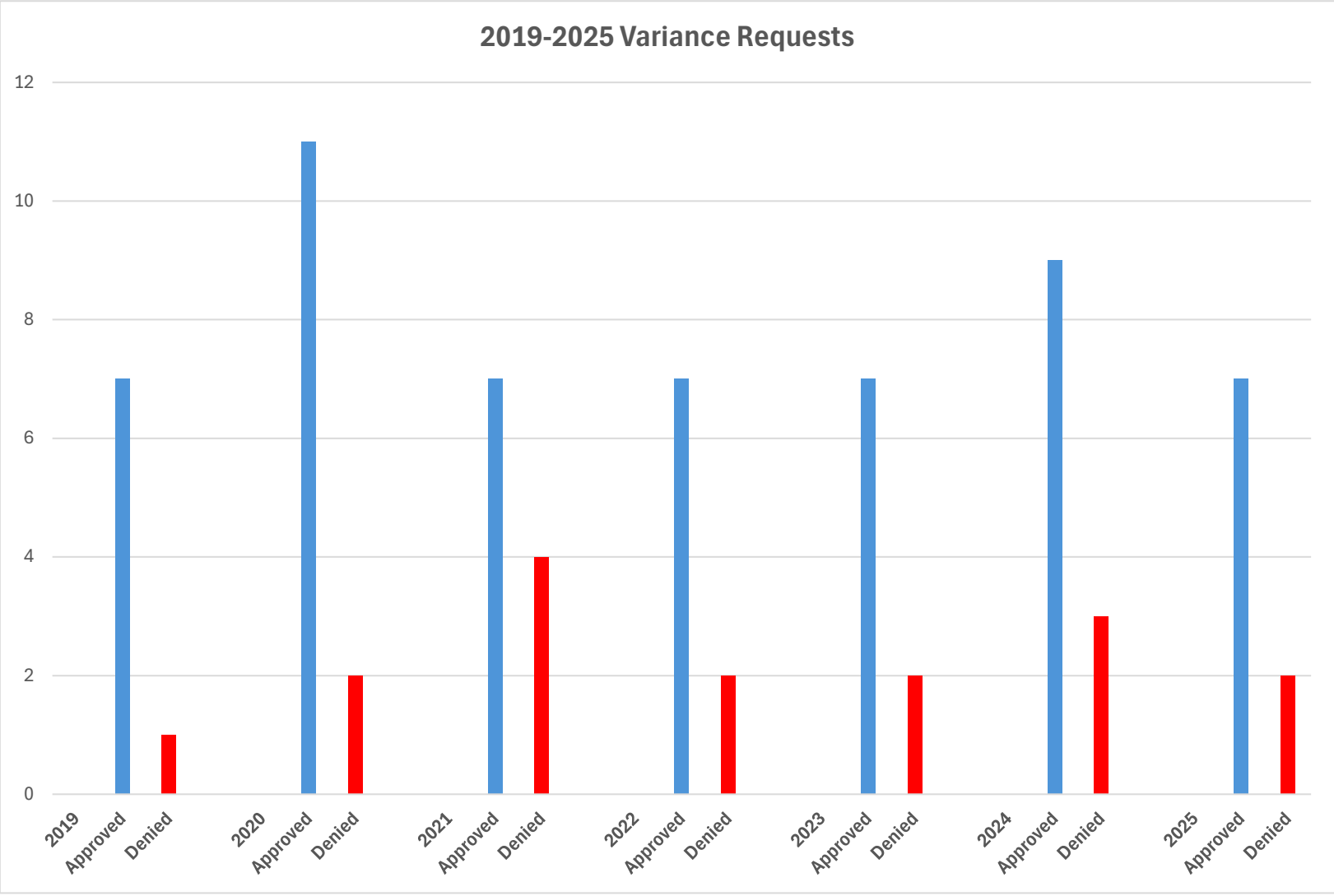
(e) When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the manner hereinafter provided: (1) To authorize in specific cases a variance from the specific terms of the regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district. A request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met: (A) 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; (B) that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents; (C) that the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; (D) that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and (E) that granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations; and (2) to grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation. In no event shall exceptions to the provisions of the zoning regulation be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulation. Further, under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulation by the governing body, are not found to be present.

(f) Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the board.

(g) A planning commission also may be designated as a board of zoning appeals under this section.

(h) The provisions of this section shall become effective on and after January 1, 1992.

History: L. 1991, ch. 56, § 20; July 1.



2025	Total Variances Requested	9
Total Approved	7	78%
Total Denied	2	22%
Case No.	2025-02	
Address	601 Topeka	
Variance Requested	Allow a solid fence in excess of 6' in the side yard of a residential property	
Action Taken	Denied	
Add'l Information		
Case No.	2025-05	
Address	3004 Somerset	
Variance Requested	Allow a deck to project into the required rear yard and to be more than 36 inches above grade	
Action Taken	Granted	
Add'l Information		
Case No.	2025-11	
Address	1354 Ohio	
Variance Requested	Allow a reduction in the 75' minimum lot width requirement and allow a paved driveway in the front yard that will not lead to a garage, carport, alley or rear yard parking area	
Action Taken	Granted	
Add'l Information		
Case No.	2025-13	
Address	2101 10th Ave.	
Variance Requested	Allow freestanding sign with area that exceeds the maximum allowable sign area	
Variance Requested	Allow an Electronic Message Center to be located adjacent to residential property	
Variance Requested	Allow the EMC portion of the freestanding sign to exceed the maximum allowable size for an EMC.	
Action Taken	Granted - freestanding sign with area that exceeds the maximum allowable sign area	
Action Taken	Granted - Electronic Message Center to be located adjacent to residential property	
Action Taken	Granted - EMC portion of the freestanding sign to exceed the maximum allowable size for an EMC.	
Add'l Information	No conditions/restrictions applied to any variance	
Case No.	2025-15	
Address	771 Ottawa	
Variance Requested	Allow an accessory dwelling unit at a property in which neither the principal dwelling unit nor the accessory dwelling unit will be occupied by the owner.	
Action Taken	Denied	
Add'l Information		
Case No.	2025-18	
Address	2410 S 14th St	
Variance Requested	Allow expansion of a non-conforming gravel driveway	
Action Taken	Granted	
Add'l Information	Conditions - Survey south property line within 60 days to ensure no encroachment onto neighboring property and it complies with the 2 foot setback from south property line	
Case No.	2025-21	
Address	513 Maple St.	
Variance Requested	Allow a detached garage greater than 1200 sq feet	
Action Taken	Granted	
Add'l Information		

Totals to Date

Total Variances Requested	71	
Total Approved	55	77%
Total Denied	16	23%

2024	Total Variance Requests	12
Total Approved	9	75%
Total Denied	3	25%
Case No.	2024-03	
Address	4618 S 4th St. (U-Haul)	
Variance Requested	Allow 3 additional signa on the south side, 4 additioinal signs on the east wall, and to exceed the maximum wall surface coverage for attached signs from 10% to 18% on the east wall for a property zoned GBD	
Action Taken	Granted - Uhaul wall sign on south wall.	
	Denied - two aluminum storage door displays on south wall	
	Denied - Two aluminum storage door displays on east wall, north end	
	Granted - two aluminum storage door displays on the east wall, south end	
Add'l Information		
Case No.	2024-07	
Address	1107 Ottawa St.	
Variance Requested	Allow interior side setbacks of less than 6'	
Action Taken	Granted	
Add'l Information		
Case No.	2024-08	
Address	1031 Metropolitan	
Variance Requested	Allow the use of an existing nonconforming sign after a change in business name or ownership	
Action Taken	Granted	
Add'l Information		
Case No.	2024-11	
Address	108 Woodmoor Ct.	
Variance Requested	Allow two neighborhood identification signs in the Mobile/Manufactured Home Park District	
Action Taken	Granted	
Add'l Information		
Case No.	2024-15	
Address	3900 New Lawrence Rd	
Variance Requested	Allow an accessory structure to be erected forward the main building line	
Action Taken	Granted	
Add'l Information		
Case No.	2024-16	
Address	347 N. 20th Terr.	
Variance Requested	Allow a solid fence in excess of 6' in the rear yard of a residential property	
Action Taken	Granted	
Add'l Information	Condition that it does not exceed 8' in height	
Case No.	2024-18	
Address	1903 S 4th St	
Variance Requested	Allow a freestanding sign in excess of the maximum allowable height	
Action Taken	Denied	
Add'l Information		
Case No.	2024-20	
Address	2115 Vilas	
Variance Requested	Allow an accessory structure to be erected forward the main building	
Action Taken	Granted	
Add'l Information		
Case No.	2024-25	
Address	601 Topeka	
Variance Requested	Allow a storage building in excess of 250 sq ft	
Action Taken	Granted	
Add'l Information		

2023	Total Variance Requests	9
Total Approved	7	78%
Total Denied	2	22%
Case No.	2023-02	
Address	722 S. 5th St.	
Variance Requested	Allow a reduction in the required parking for a restaurant use	
Action Taken	Granted	
Add'l Information		
Case No.	2023-03	
Address	4800 S 20th St.	
Variance Requested	Allow a reduction in the required setback from the primary building.	
Action Taken	Granted	
Add'l Information		
Case No.	2023-06	
Address	5000 10th Ave. (Walmart)	
Variance Requested	Allow 2 additional signs on the front side and 7 additional signs on the South wall in GBD	
Action Taken	Granted	
Add'l Information		
Case No.	2023-14	
Address	604 Pottawatomie St.	
Variance Requested	Allow the use of an existing non-conforming sign after a change in business name and ownership	
Action Taken	Granted	
Add'l Information		
Case No.	2023-20	
Address	200 S. Broadway St.	
Variance Requested	Allow a projecting sign to encroach into the right of way by 6 feet.	
Action Taken	Denied	
Add'l Information		
Case No.	2023-21	
Address	4650 New Lawrence Rd.	
Variance Requested	Allow more than two accessory structures on a property zoned R1-25	
Action Taken	Granted	
Add'l Information		
Case No.	2023-27	
Address	819 N 6th St	
Variance Requested	Allow an interior side setback of less than 6'	
Action Taken	Denied	
Add'l Information		
Case No.	2023-32	
Address	123 N Broadway (Leav Mission)	
Variance Requested	Allow the use of an existing non-conforming sign after a change in tenant	
Action Taken	Granted	
Add'l Information		
Case No.	2023-35	
Address	2205 S 4th St.	
Variance Requested	Allow the use of an existing non-conforming sign after a change in tenant	
Action Taken	Granted	
Add'l Information		

2022	Total Variance Requests	9
Total Approved	7	78%
Total Denied	2	22%
Case No.	2022-10	
Address	700 Eisenhower (Sunoco)	
Variance Requested	Allow the use of two existing non-conforming signs after a change in business name and ownership	
Action Taken	Granted	
Add'l Information		
Case No.	2022-11	
Address	4300 New Lawrence Rd	
Variance Requested	Allow an accessory structure in the front yard and a fence over 48" in the front yard	
Action Taken	Granted	
Add'l Information		
Case No.	2022-23	
Address	1900 S 4th St.	
Variance Requested	Allow the use of an existing non-conforming sign after a change in tenant	
Action Taken	Granted	
Add'l Information		
Case No.	2022-24	
Address	1920 Spruce St.	
Variance Requested	Allow accessory structures forward the main building line for a property zoned GBD	
Action Taken	Granted	
Add'l Information		
Case No.	2022-25	
Address	3532 Lakeview Dr.	
Variance Requested	Allow more than two accessory structures in R1-9	
Action Taken	Granted	
Add'l Information		
Case No.	2022-30	
Address	200 S. Broadway	
Variance Requested	Allow a reduction in required off-street parking	
Action Taken	Granted	
Add'l Information		
Case No.	2022-31	
Address	522 S 5th St.	
Variance Requested	Allow a reduction in required off-street parking	
Action Taken	Granted	
Add'l Information		
Case No.	2022-35	
Address	4600 Lakeview Dr.	
Variance Requested	Allow and electric fence on a property in R1-9, to allow the installation of the electric fence without being installed behind an open fence separated by three feet, and to allow more than two detached accessory structures on one lot.	
Action Taken	Denied - Electric Fence	
Action Taken	Denied - Install Electric Fence,	
Action Taken	Granted - Third accessory structure	
Add'l Information		

2021	Total Variance Requests	11
Total Approved	7	64%
Total Denied	4	36%
Case No.	2021-03	
Address	1922 5th Ave	
Variance Requested	Allow restoration of a nonconforming structure, with setbacks of 4'	
Action Taken	Granted	
Add'l Information		
Case No.	2021-05	
Address	1901 Spruce St.	
Variance Requested	Allow a sign to exceed the max sq footage required for an attached sign in R1-6	
Action Taken	Granted	
Add'l Information		
Case No.	2021-06	
Address	312 N. 2nd St	
Variance Requested	Allow two wall signs and one projecting sign for a nonconforming commercial use in R1-6	
Action Taken	Granted	
Add'l Information		
Case No.	2021-07	
Address	402 S 20th St	
Variance Requested	Allow a wall sign and sandwich board sign for nonconforming commercial use in R1-9	
Action Taken	Granted	
Add'l Information		
Case No.	2021-09	
Address	1008 Quincy St.	
Variance Requested	Allow accessory structure greater than the square footage of the primary use, and in excess of 900 square feet.	
Action Taken	Denied	
Add'l Information		
Case No.	2021-16	
Address	1187 Randolph	
Variance Requested	Allow reduction to structure setback, and allow accessory structure larger than 900 sq feet.	
Action Taken	Denied	
Add'l Information		
Case No.	2021-20	
Address	804 S. 4th St.	
Variance Requested	Allow unenclosed porch or stoop to be closer to the property than 15 feet.	
Action Taken	Granted	
Add'l Information		
Case No.	2021-23	
Address	940 Eisenhower Rd (Dollar Tree)	
Variance Requested	Reduction in the number of required parking spaces for a retail use.	
Action Taken	Granted	
Add'l Information		
Case No.	2021-24	
Address	1820 S. 4th St.	
Variance Requested	Allow the use of an existing non-conforming sign after a change in business name and ownership	
Action Taken	Granted	
Add'l Information		
Case No.	2021-25	
Address	44 Limit St.	
Variance Requested	Allow a detached garage greater than 900 sq feet on a parcel less than one acre.	
Action Taken	Denied	
Add'l Information		
Case No.	2021-27	
Address	806 N Broadway	
Variance Requested	Allow an accessory dwelling unit at a property in which neither the principal dwelling nor the accessory dwelling will be occupied by the owner	
Action Taken	Denied	
Add'l Information		

2020	Total Variance Requests	13
Total Approved	11	85%
Total Denied	2	15%
Case No.	2020-03	
Address	4824 S 4th St (Starbucks)	
Variance Requested	Freestanding Sign in excess of 15' high	
Action Taken	Denied	
Add'l Information		
Case No.	2020-13	
Address	4501 S 4th St (Zeck Ford)	
Variance Requested	Allow more than one wall sign in GBD zone	
Action Taken	Granted	
Add'l Information		
Case No.	2020-14	
Address	4820 S 4th St. (U-Haul)	
Variance Requested	Accessory structures forward the main building	
Action Taken	Granted	
Add'l Information		
Case No.	2020-19	
Address	812 Shawnee St	
Variance Requested	Use of legal non-conforming duplex to legal nonconforming triplex	
Action Taken	Granted	
Add'l Information		
Case No.	2020-23	
Address	1325. S 4th St	
Variance Requested	allow reduction in the required rear setback and expand a nonconforming structure	
Action Taken	Granted	
Add'l Information		
Case No.	2020-24	
Address	550 Muncie Rd	
Variance Requested	Allow an accessory structure without a primary dwelling	
Action Taken	Denied	
Add'l Information		
Case No.	2020-26	
Address	1014 Michigan	
Variance Requested	Allow more than two accessory structures	
Action Taken	Granted	
Add'l Information	Approval of above ground pool	
Case No.	2020-27	
Address	4820 S 4th St (U-Haul)	
Variance Requested	Allow more than one sign on a wall	
Action Taken	Granted	
Add'l Information		
Case No.	2020-34	
Address	3550 S. 4th (St. John Pavilion)	
Variance Requested	Allow more than one sign on a wall	
Action Taken	Granted	
Add'l Information		
Case No.	2020-35	
Address	924 S 4th St	
Variance Requested	Allow an expansion of a nonconforming structure, accessory structure larger than 900 sq ft, and reduction of the required rear yard setback	
Action Taken	Granted	
Add'l Information		
Case No.	2020-36	
Address	708 Shawnee St (Raymos Pawn)	
Variance Requested	Allow refacing of a nonconforming free standing sign	
Action Taken	Granted	
Add'l Information		
Case No.	2020-38	
Address	2500 S 4th St (Kung Fu Tea)	
Variance Requested	Allow more than one sign on a wall	
Action Taken	Granted	
Add'l Information		
Case No.	2020-39	
Address	2614 S 24th St.	
Variance Requested	Allow restoration of a building that is not in conformance with the regulations for the zoning district	
Action Taken	Granted	
Add'l Information		

2019	Total Variance Requests	8
Total Approved	7	87.50%
Total Denied	1	12.50%
Case No.	2019-01	
Address	5239 S 4th St (Luxury Imports)	
Variance Requested	Pave more than 50% of lot	
Action Taken	Granted	
Add'l Information		
Case No.	2019-04	
Address	1718 Seneca St.	
Variance Requested	Allow front setback of less than 25' (front patio)	
Action Taken	Denied	
Add'l Information		
Case No.	2019-10	
Address	5000 10th Ave (Walmart)	
Variance Requested	More than one sign on a wall in GBD	
Action Taken	Granted	
Add'l Information		
Case No.	2019-11	
Address	114 N 18th St	
Variance Requested	Detached garage with 16' setback	
Action Taken	Granted	
Add'l Information	Required setback is typically 25'	
Case No.	2019-12	
Address	721 Miami St	
Variance Requested	Home occupation in a detached garage	
Action Taken	Granted	
Add'l Information		
Case No.	2019-13	
Address	1116 N Broadway	
Variance Requested	Expand nonconforming structure and increase of the maximum allowable lot coverage	
Action Taken	Granted	
Add'l Information		
Case No.	2019-14	
Address	1400 Sanders	
Variance Requested	Detached garage greater than 1,200 sq ft	
Action Taken	Granted	
Add'l Information	Tied vote on 11.18, granted 12.16	
Case No.	2019-17	
Address	1205 Franklin	
Variance Requested	Reduction in setback for a fence on a corner lot	
Action Taken	Granted	
Add'l Information		