

MINUTES

Independence Planning Commission Independence Board of Zoning Appeals

Tuesday, October 2, 2018

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

Planning Commissioner Present

Jim Hardy, Barb Emert, Steve McBride, Nick McCollam (outside), Mary Jo Meier and Michelle Anderson

Planning Commissioners Absent

Andy McLenon (outside), Philipp Umlauf and Brian Beecham

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors

Harry Smith, Kate Gladson and Sadee McCollam

Minutes

- a. Consider approving minutes from the September 4, 2018 meeting.

Barb Emert made a motion to approve the minutes of the September 4, 2018 meeting, Mary Jo Meier seconded the motion. The motion carried 6-0.

Planning Commission

- b. Consider a text amendment to Appendix B – Zoning Code relating to Off-street parking requirements.

The following staff report was provided:

This item was tabled from your July 2, 2018 meeting regarding this subject. The following staff report and proposed amendment were previously presented:

Current design requirements for all off-street parking:

Article VII Section 705.0 Design Requirements:

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exception: Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

Proposed amendments:

Definitions:

Gravel: Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.

Accessibility of parking and paths: All off-street parking shall have a minimum of two ADA accessible parking stalls, one van accessible and one car accessible, and must have an accessible path leading from the parking stall to the entryway of the facility. The ADA parking stalls must be the closest stalls to the facility.

Add exceptions:

Exception: Off-street parking in M-1 or M-2 districts are allowed to utilize different gravel materials for surfacing materials. The gravel must be compliant with ADA guidelines regarding levelness, materials, and accessibility.

Exception: An accessible path must be accompanied from the parking stalls to the entry and are allowed to utilize gravel for surfacing materials.

Excerpt of 7/2/2018 Planning Commission Minutes

Abbey reviewed the report for the board members. Steve McBride stated that he did not want to stifle business. Andy McLenon suggested including the commercial zones of C-1, C-2 and C-3. Kelly Passauer stated that she wanted the board to understand that would mean that commercial businesses such as restaurants and retail establishments could have gravel parking lots. Andy McLenon stated that he didn't think that would be an issue, as there are other restaurants in the area that have gravel parking lots, such as in Thayer, Kansas, and it doesn't seem to hinder their business. Brian Beecham expressed concern that this amendment might hinder the progress made by the young entrepreneurs in the City. Steve McBride agreed with Brian Beecham on this concern. Some board members expressed concerns that this amendment could bring about backlash with the road troubles at Peter Pan Road. Andy McLenon expressed concern regarding existing driveways in residential zones that are not required to be hard surfaced, while new driveways in residential zones are required to be hard surfaced. Kelly Passauer stated that some of those gravel driveways were grandfathered in. Andy McLenon stated that he felt this created a perception issue. Steve McBride moved to adjourn the public hearing regarding a text amendment relating to off-street parking until October 2, 2018 at 5:30 PM, seconded by Brian Beecham. The motion carried 5-0.

Staff reviewed updated recommended highlighted modifications that was provided in writing at the meeting and also presented on the PowerPoint as follows:

- ARTICLE IV. – RULES AND DEFINITIONS

- 403.0. – Definitions.

- **ADA:** The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.
 - **Gravel:** Any use of the term gravel shall be defined as crushed stone, AB3, or any other rock that is ADA compliant for the use of off-street parking materials compacted enough to be compliant with ADA guidelines for levelness, materials, and accessibility.
 - **Parking space, off-street:** A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, Gravel, and Vehicle storage lot).

- ARTICLE VII. – OFF-STREET PARKING AND LOADING REGULATIONS

- 705.0. - Design requirements.

- **705.1 Surface material:** Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exceptions:**
 - Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.
 - In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for off-street parking and the required accessible path to an entrance to the facility served by such off-street parking. Such gravel shall be compliant with ADA guidelines, including, but not limited to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks.
 - **705.4. Service drives:**
 - c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
 - **Exception:** In M-1 and M-2 districts gravel may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for service drives and the required accessible path to an entrance to the facility served by such service drive. Such gravel shall be compliant with ADA guidelines, including, but not limited

to materials, levelness, compaction and accessibility; maintained adequately for all weather use; and so drained as to avoid flow of water across sidewalks.

- **705.5. Minimum parking space dimensions:**
 - f. If 90-degree ADA car accessible space,
 - stall depth—19' 0"
 - stall width —9' 0" with 5' 0" access aisle
 - aisle width—25' 0"
 - g. If 90-degree ADA van accessible parking space,
 - stall depth—19' 0"
 - stall width—11' 0" with 5' 0" access aisle
 - Vertical clearance – 8' 2"
 - aisle width—25' 0"
- **705.6. Striping required:** Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.
- **Exceptions:**
 - Open parking spaces for one- and two-family dwellings.
 - Gravel parking lots meeting an exception in 705.1, except for markings and identifying signage for any required ADA accessible stalls.
- **705.7. ADA Accessibility:**
 - a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.
 - b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.
 - c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.
 - **Exception:** Open parking spaces for one- and two-family dwellings.

Staff believes this change is consistent with the intent and purpose of the zoning regulations; the areas affected will be the industrial zoned districts (M-1 and M-2); and the proposed amendment is made necessary because of new planning concepts and social economic conditions in the zoning districts affected.

A motion was made by Mary Jo Meier, seconded by Jim Hardy to recommend accepting staff's recommendation and proposed text amendment modifications; and submitting such recommended modifications to the City Commission for approval. The motion carried 6-0.

Board of Zoning Appeals

- c. Consider a variance request to decrease the setbacks in an R-2 and/or M-1 zoned district(s) at 808-822 South 19th Street.

Staff provided the following report:

Overview of Variance Requested

The Board of Zoning Appeals has received the attached application from Harry Smith and Precision Railway Equipment Company, LLC requesting a variance from the district regulations. Mr. Smith is planning on constructing a building on the parcels included in the variance which have been rezoned to M-1, light industrial.

Specifically, the variances are from the following sections shown in bold which state:

513.4. Intensity of use regulations:

- a. **Minimum lot area: Five acres unless the proposed project abuts an existing industrial or commercial zone.***
- b. **Minimum lot width: No requirement.***
- c. **Maximum lot coverage: 60 percent.***

513.5. Height limitations:

- a. **Maximum height of structure: 45 feet or three stories (whichever is smaller).***

Exception: Grain elevator may exceed height limitation provided in this section as a conditional use (article IX).

513.6. Yard regulations:

- a. **Minimum front yard: 25 feet measured from property line.***
- b. **Minimum side yard: 15 feet for any building or structure.***
Exception: 25 feet when abutting a street; 30 feet when abutting any "R" district.
- c. **Minimum rear yard: Ten feet.***
Exception: 80 feet when abutting any "R" district.

The district regulations of the City zoning ordinance above state that in an M-1, light industrial district the minimum front yard setback shall be 25 feet and the minimum rear yard setback shall be 80 feet when abutting any "R" (Residential) district. The applicant is requesting that the 25' front setback be encroached 5' for a reduced front yard setback of 20' and the 80' rear yard setback be encroached 60' for a reduced rear yard setback of 20'.

In reviewing the conditions that must be met when considering the variance, we wish to provide the following information:

- 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 any action or actions of the property owner or the applicant;** This area was originally platted into lot for residential development, however, many of the residences in the area have been removed. The area is being redeveloped as industrial.*

b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;* City staff does not foresee that approval of these variances will adversely affect the rights of any property owners or residents. The planned building is a storage building which will not have manufacturing occurring within it. There is also an alley easement that is approximately 20' in width that serves as a buffer between the light industrial and residential zoned property. In addition, there is only one residentially zoned structure on the other half of the block to the east. There is one light industrial zoned structure south of the proposed side yard setback that has been converted to a residence.

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;* The applicant has indicated that without the variance they would not have enough space to construct their building.

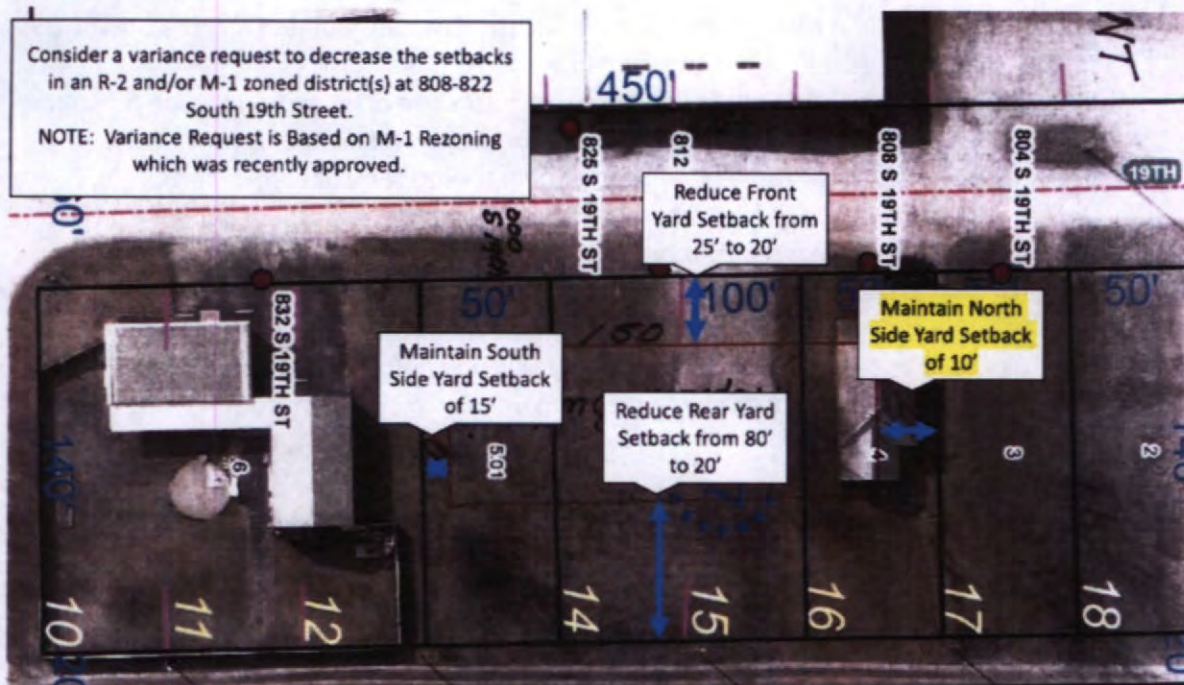
d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;* Staff does not foresee this creating any adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare.

e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* The Comprehensive Plan indicates that opportunities for industrial growth should be provided, which includes favorable land use. Considering the unique situation of a new developing industrial use from the previous vacant land, staff does not feel that approval of this variance will be opposed to the general spirit and intent of the zoning regulations.

Staff Recommendation

Staff recommends **approving** the variance as requested by reducing the 25' front yard setback 5' for a reduced front yard setback of 20', and by reducing the 80' rear yard setback 60' for a reduced rear yard setback of 20'.

The applicant, Harry Smith spoke and said he wanted to modify the above requests to also include reducing the north side yard boundary 5' from 15' to 10' as follows (the modification, from variance requests included on the original application, is highlighted):



Staff recommended modifying the variance as requested.

Barb Emert moved to approve the variance as modified by reducing the 25' front yard setback 5' for a reduced front yard setback of 20'; by reducing the 80' rear yard setback 60' for a reduced rear yard setback of 20'; and by reducing the 15' north side yard setback 5' for a reduced north side yard setback of 10'. The motion was seconded by Michelle Anderson. The motion carried 5-0.

- d. Consider a variance request from the size and number of signs in a C-4 zoned district at 121 South Peter Pan Road.

The following staff report was provided:

Overview of Variance Requested

The Board of Zoning Appeals has received an application from Wal-Mart Real Estate Business Trust to grant a variance from the sign regulations provided for in the zoning ordinance. Their request is to exceed the number and size of signs allowed in a C-4 zone at 121 South Peter Pan Road.

Section 802.5 subsection "a" provides for the following:

802.5. District C-2, general business district and District C-4, highway commercial district:

- a. *Wall and marquee sign: **Each business or commercial establishment shall be permitted not more than three illuminated or non-illuminated wall or marquee signs, not more than one on a facade, the total area of which sign shall not exceed 20 percent of the total area of the facade upon which it is placed. Such signs shall not extend above the average roof level of a one-story building more than five feet, and shall not extend above***

the average level of a two or more story building. Any signs painted directly upon wall surfaces shall not exceed 20 square feet in area.

- b. Projecting and detached sign: In lieu of one of the above attached signs, one projecting sign or one detached sign shall be permitted for each establishment, provided such projecting sign shall not exceed the area or height requirements of paragraph "a." above; and such detached sign shall not exceed 30 feet in height, nor shall it exceed 150 square feet in area per face nor more than 300 square feet total of all faces. Such detached and projecting signs shall be located not less than three feet from the property line providing it does not interfere with traffic view or other signs as might be obstructed from view. In the case of a shopping center, only one detached sign shall be allowed for the center, and one detached sign will be allowed for any service station which is part of the center.*
- c. Electronic sign: Electronic signs consisting of LED/Reader board electronic changeable copy) or electronic display center (video display sign) as defined in this ordinance are permitted and must meet the following requirements:*
 - 1. Detached sign: The sign must be a detached sign and the electronic portion may not exceed more than 20 percent of the allowable square footage per face of said detached sign.*
 - 2. Duration: Any portion of the message or image must have a minimum duration of eight seconds.*
 - 3. Off-premises advertising: All messages displayed shall be directly related to the business for which the sign was constructed.*
 - 4. Setback: The leading edge of the sign must be a minimum of 100 feet from an abutting residential district boundary.*
 - 5. LED/Reader board (electronic changeable copy) signs shall have the following additional restrictions:*
 - i. Limited text: The text of the sign must be limited to ten words to allow passing motorists to read the entire copy with minimal distraction.*
 - 6. Electronic display center (video display) signs shall have the following additional restrictions:*
 - i. Brightness: The sign must not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum of 500 nits (candelas per square meter) between dusk and dawn.*
 - ii. Dimmer control: The sign must have an automatic dimmer control to produce a distinct illumination change as required.*
 - iii. Audio or pyrotechnics: Audio speakers or any form of pyrotechnics are prohibited.*

Review of Request

The applicant previously received variances for their existing signs. They are now requesting variance to add an additional wall sign that is 2' X 6" or 65.43 square feet.

The sign code for a C-4 district allows a maximum of three (3) signs, which may be a combination of one (1) detached sign and two (2) walls signs with only one (1) wall sign per

façade. They currently have nine (9) signs on the building totaling 501.15 square feet in addition to detached signage. The request for an additional 2' X 6" or 65.43 square foot wall sign which would place their total signage on the building at 566.83 square feet, not counting the detached signage that is not on the building. At this time the applicant has not requested a variance from the maximum of 20% of the total area of the facade upon which it is placed, since after the new signage is installed they will still be at an estimated 4% of the total surface area of the façades.

Board of Zoning Appeals Considerations

In considering the providing of a variance we wish to provide the following information:

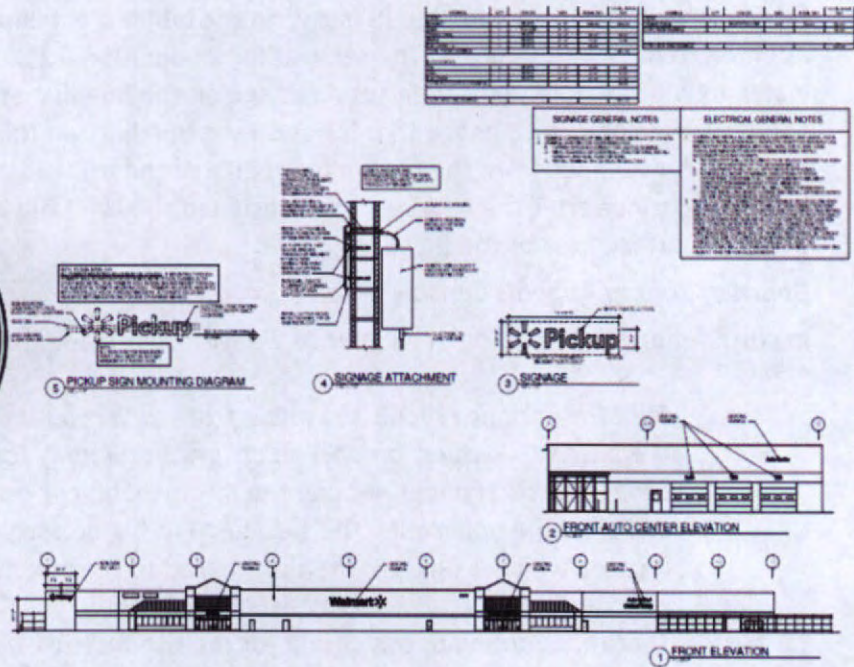
- a. *That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by any action or actions of the property owner or the applicant; This business is a big box store with very large façades which is unique when compared to the majority of commercial buildings.*
- b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents; The variance request does not appear to create any adverse effects to adjacent property owners since the lot owned by Wal-Mart is very large and there are no other businesses located within several feet of the building.*
- 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; The sign requested is informational and directional to a service being provided.*
- d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; It does not appear that the variance will adversely affect public health, safety or general welfare.*
- e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations. The variance request is not opposed to the zoning regulations.*

Staff Recommendation

1. Staff recommends **approving** the variance to exceed the maximum number and size of signs by allowing for an additional wall sign that is 2' X 6" or 65.43 square feet.

Katie Gladson of BRR Architecture represented the applicant, Wal-Mart. She indicated the additional signage was needed as shown due to a new "Pickup" service Wal-Mart was offering customers.

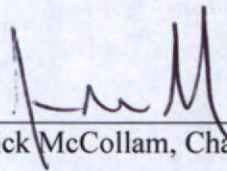
Consider a variance request from the size and number of signs in a C-4 zoned district at 121 South Peter Pan Road.

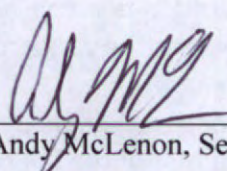


A motion was made by Jim Hardy, seconded by Barb Emert to approve staff's recommendation to grant the variance to exceed the maximum number and size of signs by allowing for an additional wall sign that is 2' X 6" or 65.43 square feet. The motion carried 5-0.

Adjournment

The meeting was adjourned with a motion by Barb Emert, seconded by Jim Hardy. The motion carried 6-0


Nick McCollam, Chair


Andy McLenon, Secretary