

EDGERTON COMMUNITY BUILDING
EDGERTON BOARD OF ZONING APPEALS
April 9, 2018
6:30 PM
Minutes

The Edgerton Board of Zoning Appeals (the Board) convened with Chairman John Daley calling the meeting to order at 6:30 p.m.

The Roll Call was answered, indicating those present were: Chair John Daley, Board members Josh Beem, Charlie Crooks, and Jeremy Little. Absent was: Board member Tim Berger. Also present were: Mayor Donald Roberts, City Administrator Beth Linn, Development Services Director Katy Crow, and Planning and Zoning Coordinator Chris Clinton.

The Planning and Zoning Coordinator indicated a quorum was present.

MINUTES

The meeting minutes of December 11, 2018 were considered.

Motion by Mr. Little, seconded by Mr. Crooks, to approve the minutes. Motion was approved, 4-0.

PUBLIC HEARINGS

PUBLIC HEARING – VARIANCE REQUEST FOR 31600 W. 207th STREET, BZA2019-01

The opening of a public hearing in regards to an application requesting consideration and approval of a variance from the signage requirements in L-P District districts required under the Unified Development Code (UDC) Article 5, Section 5.2.P(17.d.3.a) was considered.

Applicant/Agent: Mark Bright, Kubota North American Distribution

Chairman Daley opened the public hearing.

Ms. Crow explained the role of the Board of Zoning Appeals to the Board. She also stated that there are five factors that are out lined by Kansas State Statutes that need to be voted on to approve the variance from the UDC.

Ms. Crow introduced the project by saying Kubota at 207th and Homestead Lane are applying for a variance from the signage requirements in the L-P District as outlined in Article 5 of the UDC. She informed the Board that there is a Rural zoned property to the north that is owned by the Kansas Department of Transportation (KDOT) that is used for interstate frontage and agricultural purposes. The parcel to the south is also zoned Rural and is used for agricultural and residential purposes. To the east of the site is another L-P zoned parcel that is currently vacant. The final parcel to the west is another parcel owned by KDOT that is interstate frontage and agricultural.

There are 2 buildings on the site. The north building is Building 2 and the south is Building 1. Building 2 has a cut corner that creates a fifth wall and is there due to flood plain. The cut corner faces Interstate 35. Ms. Crow explained it is unusual to have a 5-sided building. All other buildings in LP are 4 sided.

The City of Edgerton UDC states that the maximum area of a wall sign on a frontage road is equal to one time the length of the building frontage. The length of the wall where the sign is requested is 121 feet, therefore code allows the placement of a 121 square foot sign on that particular wall. The applicant has proposed a 451 square foot sign to be placed on that wall. The contractor for the applicant, HighTech Signs, provided several sign options to the applicant, ranging in size from 8 to 12 feet tall. A current 12-foot template is up on the building now. In evaluating the letter sizes using renderings from the Homestead/I-35 interchange, the applicant decided a height of 10 feet would be best. Ms. Crow showed Board Members renderings of what the sign will look like during both daytime and nighttime hours. Other than the square footage, the sign appears to be in compliance with the UDC.

Ms. Crow explained the applicant provides answers for the same 5 factors as to why the variance should be approved.

The first factor states the variance arises from a condition unique to the property in question and is not a general condition found in the neighborhood. The applicant answered the variance is unique to the area due to the unique configuration because of the flood plain. The smaller fifth side does not appear on any other building found in any L-P zoned area.

The second factor is that granting the variance will not adversely affect the rights of adjacent property owners or residents. The applicant responded that there are no residents on the parcel that is between the wall and Interstate 35. None of the land that KDOT owns has not been developed. Chairman Daley asked if some of the land is in the flood plain. Ms. Crow replied that yes, part of it is.

The third factor is that strict adherence to the regulations in the specific case will constitute unnecessary hardship upon the property owner requesting the variance. The board must determine that the hardship is greater than an economic disadvantage, and in fact extends to a means of livelihood, a matter of protecting title to property, or if left uncorrected, would result in a severe and irrevocable change in the applicant's ability to transfer property. A hardship may also be construed to be "honest error" imposed upon a property owner by a ministerial official, or licensed professional, or through eminent domain or zoning resulting in a substantial (a near taking) loss of property rights. The applicant replied that the northwest face has the highest visibility from the Interstate 35 corridor and interchange at Homestead Lane. The logo is a way for a brand to be recognized and is key to success for a business. The applicant wants the logo to be seen on Interstate 35 as it will help attract employment and customers. If the variance is not approved, the sign would have to be on a side not readable from Interstate 35.

The fourth factor reads the variance desired will not adversely affect the public health, safety, moral or welfare, convenience, prosperity or general order. The applicant states that the sign would not affect any of the topics raised if the variance was granted.

The final factor states that the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions that are in question. The applicant said the northwest wall is an extension of the north wall and if the sign was placed on the north wall, the sign could actually be made larger than the proposed sign is.

The Board Chairman called for anyone to speak regarding this item. The applicant declined, indicating that staff had provided their application in the packet. No one from the public spoke.

Mr. Beem motioned to close the public hearing, Mr. Little seconded. Motion carried, 4-0. The public hearing was closed.

Chairman Daley asked if the applicant had any comments. Mr. Bright stated he had no further comments but was available for any questions.

The Board did not have any questions. Chairman Daley stated the Board will vote on each of the five factors. Mr. Brett Powell, applicant representative, asked if questions could be asked and answered during the voting. Chairman Daley responded if there have questions, the Board will ask and the applicant may answer.

Ms. Crow reread factor 1, then stated the findings of facts for approval are the application is unique due to Building 2 being the only building in any L-P zoned parcels to have a fifth wall. The fifth wall was constructed due to the flood plain on the parcel. The applicant had to cut the corner because they are unable to build on the flood plain. Ms. Crow said the findings of fact for denial of the request is other warehouses that do front Interstate 35 have signage that is in the size requirements of the UDC. Chairman Daley stated he does not see any issues with the sign being on the cut wall. Mr. Crooks motioned to approve uniqueness of the property, Mr. Little seconded. The first factor regarding the uniqueness of the property was approved, 4-0.

Ms. Crow reread the second factor. The findings of fact to approve the request are the two lots that are adjacent to the northwest corner frontage are owned by KDOT and there is no development on the land and other warehouses do have illuminated signage facing the Interstate. The findings of fact to deny the request is the sign will be seen from the interstate and could be a possible distraction. Chairman Daley stated drivers see signs daily and this one would be no different. Mr. Little motioned to approve the effects on adjacent properties, Mr. Crooks seconded. Second factor approved, 4-0.

Ms. Crow stated the third factor for the Board. The findings of fact to approve the request was hardship is placed on the applicant by the flood plain that exists on the parcel. The existence of the flood plain on the parcel required a creative solution to fitting the building on that site. Cutting the corner allowed for that creative solution. The findings of fact to deny the request is the applicant could place the sign on another wall that is larger and would not require a variance. Chairman Daley said the applicant can't build on the flood plain, so it is understandable to have the cut wall. Mr. Beem motioned to approve a hardship is present, Mr. Little seconded. Motion to approve the third factor, 4-0.

The fourth factor was reintroduced by Ms. Crow. The finding of fact to support the request was that the UDC does allow for large wall signs on a wall that does not extend an extensive amount of linear feet. If the corner was not cut, then the applicant would be able to request a 1,664 square foot sign. The findings of fact to deny the request was the requested sign itself is over 330 square feet larger than what the UDC allows at 121 square feet. Mr. Crooks motioned to approve to the variance is keeping with the spirit and intent of the zoning ordinance, Mr. Beem seconded. Motion to approve the fourth factor carried, 4-0.

The final factor was read again by Ms. Crow. The finding of fact to approve the request was the proposal of the size of sign is the minimum to get the desirable readability from Interstate 35. The findings of fact to deny the request is the proposed signage is the size of the requested sign is drastically larger than what the UDC would allow and is not incremental up to the requested size. Chairman Daley stated applicant is not wanting a sign that is overtly large for that wall and the readability study used letters from 8 to 12 feet in height to compare the sizes. Mr. Little motioned to approve the variance is the minimum amount of variance necessary, Mr. Beem seconded. Minimum amount of variance factor was approved, 4-0.

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Crooks, seconded by Mr. Little. The motion was approved, 4-0.

The meeting adjourned at 6:49 p.m.

Submitted by:

Chris Clinton
Planning and Zoning Coordinator