

EDGERTON BOARD OF ZONING APPEALS
Edgerton City Hall
July 9, 2019
6:30 PM

1. Call Meeting to Order

2. Roll Call

3. New Business

A. **MINUTES** - Consideration of the Minutes of the April 9, 2019 Board of Zoning Appeals Meeting.

B. **PUBLIC HEARING – VARIANCE REQUEST – BZA2019-02**

Consideration of Application BZA2019-02 requesting consideration and approval of a variance from the signage requirements in L-P District districts required under the Unified Development Code Article 5, Section 5.2.P (17.e) for Midwest Gateway located at 32180 West 191st Street, Edgerton, KS.

Applicant: Bucky Brooks

Agent: Midwest Gateway Ventures, LLC

4. Adjournment

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 outlined 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

STAFF REPORT

July 9, 2019

To: Edgerton Board of Zoning Appeals
Fr: Chris Clinton, Planning and Zoning Coordinator
Re: **Application BZA2019-02** - Variance Request for Deviation from L-P District Signage Requirements.

APPLICATION INFORMATION

Applicant/Property Owner: Bucky Brooks, Midwest Gateway Ventures, LLC

Requested Action: Variance – Deviation from signage requirements provided in Article 5, Section 5.2.P (14) and Section 5.2.P (17.e) of the Unified Development Code of the City of Edgerton.

Legal Description: Midwest Gateway, Lot 2

Site Address/Location: 32180 W. 191st Street

Site Size: Approximately 11.07 acres

Existing Improvements: Warehouse – 186,000 SF

Zoning and Land Uses:

	<i>ZONING</i>	<i>LAND USE</i>	<i>USER/OWNER</i>
<i>SITE</i>	L-P, Logistics Park District	Warehouse/Logistics Park	Midwest Gateway Ventures, LLC
<i>NORTH</i>	LP, Logistics Park District	Warehouse/Logistics Park	Midwest Gateway Ventures, LLC
<i>SOUTH</i>	RUR, Agricultural	Agricultural	Prairie Tree, LLC
<i>EAST</i>	I-H	Vacant	Delong Co., Inc.
<i>WEST</i>	LP, Logistics Park District	Warehouse/Logistics Park	Flexsteel Industries, Inc.

Background:

On April 11, 2017, the Edgerton Planning Commission approved the Final Site Plan for the Midwest Gateway project located at 32180 and 32190 W. 191st Street, subject to various staff recommendations. The Midwest Gateway project is comprised of two buildings. The north building (Building 1) contains 301,000 SF and the south building (Building 2) contains 186,000 SF. The south building abuts 191st Street, approximately a quarter mile west of Kill Creek Road. The Building 1 sits directly north of Building 2 adjacent to BNSF Railway operations.

Project Site: Building 2 Outlined in Red



On December 11, 2018, the Board of Zoning Appeals (BZA) approved Application BZA2018-01 for a variance related to the size and placement of a 10-foot by 50-foot (500 square foot) banner attached to the facing of Building 2 of the Midwest Gateway Development. The variance was approved for a period of 180 days which expired on June 27, 2019. The banner was placed was real estate related, used to promote the sale or lease of the buildings.

On June 7, 2019, City Staff received Board of Zoning Appeals Application BZA2019-02 to renew the variance approved in application BZA2018-01. The Applicant is requesting to keep the same banner in the same location for an additional six months. As with the original application, the size, attachment to the building, and duration of display are not allowed under the Edgerton Unified Development Code (UDC) without a variance granted by the BZA. Signage regulations related to L-P (Logistics Park) Zoning, are governed in the Unified Development Code under Article 5, Section 5.2.P.

Article 5, Section 5.2.P (14) specifically states, "No cloth, paper, banner, flag, device, or other similar advertising matter shall be permitted to be attached, suspended from or allowed to hang loose from any sign, building, or structure, except as allowed by other provisions of this Section."

Article 5, Section 5.2P (17e) with regards to *Portable Signs, Temporary Banners, Flags or Inflatable Signs*, specifically states, "The maximum size of any such sign is 12 square feet. A permit for such signs can only be issued for a maximum continuous period of fourteen (14) days, and for a maximum number of four (4) times per calendar year. A minimum time of sixty (60) days must be elapsed between expiration and issuance of such permits."

Variance:

Per the Kansas State Statute 12-759 and the City of Edgerton Organization and Bylaws of the Board of Zoning Appeals, there are five factors the Board of Zoning Appeals must consider when approving a variance. **All five** factors must be found to be true for a variance to be granted. Each factor is listed below with the applicant's response per their application and City Staff notes about each factor.

1. **The variance 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 it is not created by an action or actions of the property owner or the applicant.**

Applicant: The request is due to the large building face at the Midwest Gateway site. We currently have a sign up at the location and this request is to keep it up for an additional six month [sic].

City Staff: There are larger buildings in LPKC, which are for lease, that do not have these types of signs as the property owners have opted for a more traditional real estate sign in front of the building. Most occupied buildings have wall signs, or no sign at all. If there is a banner, used for a special event, the UDC limits the size of it to twelve (12) square feet. A wall sign could be larger than the sizing of the proposed banner if it were in fact a wall sign and permanent. Due to the size of the warehouses in LPKC, the allowed size for the proposed banner would have very limited visibility for real estate purposes. Additionally, the UDC prohibits attachment of a banner to the face of a building.

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

Applicant: No. The sign does not contain any wording or imagery that refers to any other property other than Midwest Gateway and will not adversely affect the rights of adjacent property owners' residents.

City Staff: The property that would be most affected by this banner, would be across the street. Those parcels are currently undeveloped. However, the banner could become ripped or torn during severe weather, causing harm to other nearby parcels.

3. **That the strict applications of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Applicant: The property is dependent on marketing in order to get fully leased and the existing sign has helped drive some traffic to the site. Removing the sign at this time would hamper marketing efforts.

City Staff: The size limit set by the UDC for banner size is too small for the size of the Midwest Gateway building. There are also better solutions to this hardship, such as an appropriately sized real estate sign. A real estate sign could achieve the same results as the banner attached to the building.

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

Applicant: The sign currently does not affect public health or contain any language that affects the safety, morals, convenience, order, prosperity, or general welfare.

City Staff: The banner clearly states that the two buildings located on this property are for sale or lease with contact information for inquiries. As with other signs in the area, it is possible some could see this as a distraction for drivers along 191st Street.

5. **That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations; and 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.**

Applicant: No. The sign is temporary until the building is fully leased, and once leased the ordinance would again take precedence.

City Staff: If this sign were in fact a permanent wall sign and not a temporary banner, the allowance for a wall sign would be larger than the sizing of the proposed banner. However, the main reason for this regulation is to avoid banners being used in place of a permanent sign. This banner would be encroaching on the intent of the regulation as one year exceeds the reasonable and customary definition of temporary.

The Board is to consider the factors in light of the applicant's responses and City Staff's comments during deliberation and then vote on each individual factor. If any Board member votes that one factor has not been met, they are to vote no on the overall variance, as all factors must be met in order to grant a variance.

ATTACHMENTS

- Application
- Article 5, Section 5.2 P - Unified Development Code, L-P Zoning Signage
- Notice of Public Hearing Affidavit of Compliance Provided by Applicant
- List of Neighboring Properties Notified of Public Hearing

CITY OF EDGERTON, KANSAS
APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type

APPLICATION IS MADE FOR:

☐ **APPEAL** FROM A DECISION OF THE CODE ENFORCEMENT OFFICER, ZONING ADMINISTRATOR, OR OTHER CITY STAFF, IN THE ENFORCEMENT OF THE UNIFIED DEVELOPMENT CODE.

☒ **VARIANCE** FROM SPECIFIC SECTION(S) OF THE UNIFIED DEVELOPMENT CODE.

LEGAL DESCRIPTION: Midwest Gateway, Lot 2

LOCATION OR ADDRESS OF SUBJECT PROPERTY: 32180 W 191st Street, Edgerton, Kansas 66030

ZONING ON SUBJECT PROPERTY: LP CURRENT LAND USE: Industrial Building

REQUEST: (CITE SPECIFIC SECTION, BY SECTION AND SUBSECTION, OF THE UNIFIED DEVELOPMENT CODE FROM WHICH APPEAL OR VARIANCE IS BEING REQUESTED.)

Section 5.2 - P - 17E

PROPERTY OWNER'S NAME(S): Bucky Brooks PHONE: 816-701-5000

COMPANY: Midwest Gateway Ventures, LLC FAX: 816-701-5099

MAILING ADDRESS: 1100 Walnut Street, Suite 2000 Kansas City MO 64106
STREET CITY STATE ZIP

APPLICANT/AGENT'S NAME(S): Bucky Brooks PHONE: 816-701-5000

COMPANY: Copaken Brooks FAX: 816-701-5099

MAILING ADDRESS: 1100 Walnut Street, Suite 2000 Kansas City MO 64106
STREET CITY STATE ZIP

SIGNATURE OF OWNER OR AGENT: 

If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLY

Case No.: BZA-_____ Amount of Fee Paid: \$_____ Date Fee Paid: _____

Received By: _____ Date of Hearing: _____

CITY OF EDGERTON, KANSAS

SUBMISSION REQUIREMENTS FOR A VARIANCE

(Attach additional sheets if necessary.)

Please print or type

1. Does the request arise from a condition, which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action(s) of the property owner(s) or applicant(s)?

Explain: The request is due to the large building face at the Midwest Gateway site. We currently have a sign up at the location and this request is to keep it up for an additional six month.

2. Will granting a variance adversely affect the rights of adjacent property owners or residents?

Explain: No. The sign does not contain any wording or imagery that refers to any other property other than Midwest Gateway and will not adversely affect the rights of adjacent property owners residents.

3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner(s) represented in the application?

Explain: The property is dependant on marketing in order to get fully leased and the existing sign has helped drive some traffic to the site. Removing the sign at this time would hamper marketing efforts.

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?

Explain: The sign currently does not affect public health or contain any language that affects the safety, morals, convenience, order, prosperity, or general welfare.

5. Will the variance be opposed to the general spirit and intent of this ordinance?

Explain: No. The sign is temporary until the building is fully leased, and once leased the ordinance would again take precedence.

Prepared by: Bucky Brooks, SIOR, CCIM, LEED AP

Date: 6/6/2019

Attach a list of names and addresses of all owners of land within the notification area (two hundred (200) feet within the city limits; one thousand (1,000) feet in the unincorporated area) of the subject property.

It is the applicant's responsibility to demonstrate that **all** of these conditions have been met at the time of application. Applicants are encouraged to submit any materials that will support their case, including sketch plans, photographs, studies, letters of support, etc.

FOR LEASE OR SALE

Bldg 1: Up to 301,603 SF
Bldg 2: Up to 186,107 SF

copaken  brooks

NAIHeartland

(816) 701-5000

(913) 890-2001

MIDWEST  GATEWAY

www.midwestgatewaykc.com

CO-EXCLUSIVE

right-of-way shall be located within a Parkway Buffer or a Right-of-Way Buffer as described in this Section.

10. **Alternative Landscape Plan.** In lieu of the requirements set forth in Section 1.I., Landscaping Standards, an Alternative Landscape Plan (ALP) may be submitted to the Planning Commission for approval. An ALP shall utilize an innovative use of plant materials and design techniques in response to the unique characteristics of a particular site. At a minimum, an ALP shall contain equivalent landscaping as is required by these regulations.
11. **Xeriscaping Credit.** Landscape Plans developed with sound xeriscaping principles as outlined in Kansas Smartscape® or other published materials shall be eligible for a reduction of landscaping up to 20% of the overall requirements. Applicants wishing to request credit must prepare an ALP, clearly outlining the xeriscaping principles being utilized. The final determination of credit granted shall be discretionary and based upon the final determination made by the City Administrator or designee.

P. Signage

1. **General.** The intent of this article is to promote the health, safety, welfare, convenience, and enjoyment of the public, and in part, to achieve the following:
 - a. The safety of the citizens of the City by prohibiting signs which create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or to read traffic signs.
 - b. To preserve landscape quality in the protection of the public welfare and to enhance the appearance and economic value of the landscape by providing that a sign does not create a nuisance to occupancy of adjacent and contiguous property by its brightness, height, size, or movement.
2. **Applicability and Effect.** A sign may be erected, placed, established, painted, created or maintained in the L-P District only in conformance with the standards, procedures, exemptions and other requirements of this ordinance. These regulations apply to all signs and their effect is:
 - a. To establish a permit system to allow a variety of types of signs subject to the standards and the permit procedures of the code; and
 - b. To prohibit all signs not expressly permitted by these regulations, except as approved through the appeals process established by these regulations.
3. **Exempted Signs.** The following signs shall be exempt from the requirements of this article with the exception of set back from property lines.
 - a. Signs of a duly constituted governmental body, including traffic or similar regulatory services, legal notices, warnings at railroad crossings, and other institutional or regulatory signs having to do with health, hazards, parking, swimming, dumping and of a similar nature.
 - b. Scoreboards, municipal golf course tee signs, sports field fencing, and park signs.
 - c. Signs incorporated on inside of the building/lease space on a window that is not readable from right-of-way.
 - d. Permanent signs designating historic tours, permanent direction signage, government facility or operation locations.
 - e. All City and State directional and traffic control signs.
 - f. One temporary sign not exceeding twelve (12) square feet in area.
 - g. The changing of messages or copy of signs designed and intended to be

changed on a regular basis provided the sign is not altered. Examples of these type signs are theater marquees, menus, fuel prices, directories, and the like.

- h. Signs which display date, time and temperature are permitted, providing they do not exceed six (6) square feet in addition to other signage on the property.
- i. On-site directional signs necessary for the movement and circulation of traffic which are three (3) square feet or less in size.
- j. Signs which display "help wanted," and do not exceed six (6) square feet.

4. Prohibited Signs.

- a. Off-Premise Billboards. Off-premise pole signs and billboards are prohibited in the L-P District.
- b. Trailer Mounted and Portable Read-a-Board Signs. Trailer mounted and portable read-a-board signs are strictly prohibited, and subject to the following:
 - 1. **Enforcement**. The owner or occupant of any property upon which there is located a trailer mounted, or non-trailer mounted, portable read-a-board sign in violation of this Sub-Section or the owner or lessee of any trailer mounted, or non-trailer mounted, portable sign which is in violation of this Sub-Section as herein defined shall be given notice by the Building Official or designee, stating the nature of the violation and ordering that the violation be corrected or removed from said property within seventy two (72) hours.
 - 2. **Notice**. Notice shall be given by one of the following methods:
 - a. A written notice may be attached to the sign in violation of this Sub-Section, or
 - b. Verbal notification may be made by telephone or in person.
 - c. No Response. If the owner, lessor, lessee, or the representative of the lessor of the trailer mounted or non trailer mounted portable sign fails to remove such sign within seventy two (72) hours of the notification, the owner, lessor or lessee shall be issued a citation.
 - d. Entrance onto Property. The Building Official or any duly authorized agent may enter upon private property which is accessible to the public for the purposes specified in this SubSection to examine signs or their location, obtain information as to the ownership of such signs and to declare the sign to be a violation pursuant to this Sub-Section.
- c. Obscene and Immoral Matter. It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral behavior, as defined in the Black's Law Dictionary Fifth Edition.
- d. Painting or marking or streets, sidewalks or utility poles. No person shall attach any sign, paper or other material, or paint, stencil or write any name, number (except address numbers) or otherwise mark on any sidewalk, curb, gutter, street, utility pole, public building, fence or structure except as otherwise allowed by the code.
- e. Hand Bills and Placards. No person, firm, corporation or association of persons, shall paste, stick, tack, nail or otherwise place any advertisement, handbill, placard or printed, pictured or written matter or thing for any purpose upon any fence, railing sidewalk or public telephone, electric or other utility pole, or any other public property, including trees thereon.
- f. Flashing Signs. Signs of any type with flashing, revolving or rotating lights shall not be permitted.
- g. Pole Signs/Pylon Signs. Pole signs shall be prohibited in the L-P District.

5. Illuminated signs are permitted in nonresidential districts, provided that they shall not be erected within one hundred (100) feet of any residential zoning district unless properly and adequately shielded so that light from such sign is not directed toward such residential district.
6. In no case can a sign be placed closer than fifteen (15) feet from a residential property.
7. No high intensity lights shall be permitted as part of a sign display visible from an adjacent street.
8. No sign shall be illuminated to intensity greater than two hundred (200) foot-candles. The restrictions of luminance in this Sub-Section shall be determined from any other premise or from any public street right-of-way other than an alley.
9. The maximum size of any temporary construction/development sign, that is not adjacent to a highway, is ninety (90) square feet per side, with a maximum height of twenty (20) feet and a maximum length of fifteen (15) feet.
10. The maximum size of a temporary construction/development sign adjacent to a highway is three hundred twenty five (325) square feet per side, with a maximum height of thirty (30) feet and maximum length of fifteen (15) feet.
11. No sign shall be located as to obstruct the vision or sight distance of vehicle operators or pedestrians at any intersection or street crossing. In order to maintain visual clearance and sight distance for vehicle operators and pedestrians:
 - a. A 20' x 20' Visibility Triangle shall be provided.
 - b. A sign in direct line of vision of any signal light, traffic control sign, or any other such device from any point in a moving traffic lane must be at least fifty (50) feet from such device, unless the Superintendent of Public Works, or designee, approves the placement of such sign.
12. No sign shall be constructed nearer than three (3) feet from any public or private underground utilities. No ground sign or accessories to such sign shall be located within ten (10) feet vertically and six (6) feet horizontally of electrical wires or conductors in free air carrying more than forty eight (48) volts, whether or not such wires or conductors are insulated or otherwise protected.
13. Signs Posted on Poles and Fences. No sign shall be posted upon any tree, utility pole, fence post, or any style or type of fence. No detached sign shall be suspended over any building or structure.
14. No cloth, paper, banner, flag, device, or other similar advertising matter shall be permitted to be attached, suspended from or allowed to hang loose from any sign, building, or structure, except as allowed by other provisions of this Section. Such advertising matter shall be a violation of this Section and shall be removed immediately upon notice by the Building Official. No person shall place on, or suspend from any building, pole, structure, sidewalk, parkway, driveway, or parking area, any goods, wares, merchandise, or other advertising object or structure for the purpose of advertising such items, except as otherwise permitted.
15. No portion of any sign shall be erected upon or over public property or public right-of-way, except as otherwise specifically permitted.
16. No signs shall be attached to a motorized vehicle, where the primary use of such vehicle is for sign purposes. Signs attached to or upon any motorized vehicle shall be prohibited where any such vehicle is allowed to remain parked in the same location or in the same vicinity, at frequent or extended periods of time where the intent is apparent to be one of using the vehicle for signage. Vehicles operating under a city Franchise shall be excluded from this provision. This provision does not restrict the identification signing or vehicles used for delivery service, interstate commerce, or any bona fide transportation activity.
17. **Specific Sign Regulations**
 - a. **Attached Sign.** A sign attached to, painted on, or erected against a wall of a

building which extends no more than twelve (12) inches from the wall surface upon which it is attached and whose display surface is parallel to the face of the building to which the sign is attached and may not extend above the roof line or roof façade, and must be at least eight (8) feet from grade.

b. Directional Signs.

1. Directional signs shall be allowed in the L-P District subject to the following:
 - a. Directional signs shall be limited to six (6) square feet in area for institutional uses, with one (1) sign per street entrance allowed.
 - b. Identification of services is permitted on such a sign, such as “emergency services entrance.” Such signs are limited to two (2) square feet or less in area for non-institutional uses, with no limit on the number of signs permitted for such uses. For non-institutional uses, identification of services is not permitted on such sign.

c. Monument Signs. Such signs will be governed by the requirements set forth in the following Table:

Monument Signs		
Attribute		Requirement
Number		<ul style="list-style-type: none"> – One (1) monument sign is permitted for each property. – On property of more than thirty (30) acres in size and with more than one (1) street frontage, a second monument sign is permitted on the additional street frontage. – Platted private roads may be considered a second street frontage.
Location		<ul style="list-style-type: none"> – 15 feet from all property lines. – Outside of site triangles and easements. – No closer than 400 feet to another freestanding sign located on the same property.
Size	Sign Face	<ul style="list-style-type: none"> – No element of a sign shall not exceed eight (8) feet above natural or average grade (including base, support structure or other architectural elements). – The sign face area shall not exceed one square foot per ten (10) lineal feet of street frontage up to a maximum of 60 square feet per sign.
	Base & Support Structure	<ul style="list-style-type: none"> – Base must be a minimum of two feet in height. – The base shall extend a minimum of $\frac{3}{4}$ the entire length of the sign. – The total area of the base and support structure shall be at least 75% of the sign face area. – The base and support structure shall not exceed the sign face area by more than 10 percent.
Mater	Sign face	<ul style="list-style-type: none"> – Cabinet-type signs with translucent panels or panels with reflective surfaces, including but not limited to acrylic fiberglass, plastic, or metal or channel letter signs with translucent backlit panels are prohibited. Artistic elements to the sign may include small areas of translucent, backlit surfaces that exceed no more than 5% of the total sign face. – Sign face shall provide individually cut letters including channel letter signs (may be Halo lit); stenciled panels with three-dimensional push-through graphics; cast letters and logos; cast metal; or engraved. – Background of Sign face is encouraged to be comprised of natural design materials that are compatible with the building façade. – Electrical transformer boxes and raceways shall be concealed from public view.

Base & Support Structure	<ul style="list-style-type: none"> – Natural flagstone, rock, stone, river rock, brick, limited areas of cementitious stucco, concrete and similar materials designed to match the look of the building in texture and color are considered appropriate materials. – Architectural elements should be provided on the top and/or sides of the sign
Illumination	<ul style="list-style-type: none"> – The use of backlit (halo), individually cut reverse channel letter signs, or stenciled panels with three-dimensional push-through graphics is strongly encouraged. – The use of external lighting sources is permitted. External lighting shall be designed so that the light source is directed away or shielded from passersby, adjacent properties and motorists.
Landscaping	<ul style="list-style-type: none"> – The base of a monument sign shall be softened with landscaping sufficient to cover an area extending not less than 2½ feet around the base of the sign. – The applicant shall designate the area and type of plantings in the sign permit application. Said landscape area shall be landscaped appropriately. – Landscaping shall not obstruct the sign face. – Ordinance No. 1044, 2017

d. **Wall Signs.**

1. Construction: Attached signs that are illuminated internally shall be constructed only of materials that are noncombustible or slow burning in the case of plastic inserts and faces.
2. Maximum height: A wall sign shall not extend above the roofline or facade of a building.
3. Maximum area:
 - a). Frontage: Total square footage is equal to one (1) times the length of the building frontage or lease space frontage;
 - b). Sides: Total square footage is equal to one half (0.5) times the length of the side wall of building.
4. Minimum area: A wall sign shall be a minimum of twenty four (24) square feet.
5. Depth: A wall sign shall not extend more than twelve (12) inches from the building wall to which it is attached.
6. Placement: Painted or attached directly on the wall surface on a building intended to be viewed from the ground. Signs above roofline, fascia, or top of roofs are strictly prohibited.

- e. **Portable Signs, Temporary Banners, Flags, or Inflatable Signs.** Prior to the use or placement of any portable sign, temporary banner, flags or inflatable signs, a permit must be obtained from the City. The maximum size of any such sign is 12 square feet. A permit for such signs can only be issued for a maximum continuous period of fourteen (14) days, and for a maximum number of four (4) times per calendar year. A minimum time of sixty (60) days must be elapsed between expiration and issuance of such permits. None of these signs shall be located in city rights-of-way, in any Visibility Triangle, or in any other location so as to impair traffic or pedestrian vision or safety. All such signs must be set back a minimum distance of five (5) feet from the property line. Such signs may be internally lighted; however, such lighting shall not be flashing or intermittent. Temporary electrical requirements shall be subject to the adopted electrical code.

1. Banners and other wind devices shall be securely attached to a wall surface or building element and shall not project above the apparent roof or building eave line. A fence or railing shall not be considered to be a building element.

A banner shall not be used in lieu of a permanent sign, except in the case of new businesses where it may be used for a period not exceeding thirty (30) days. Banners shall be secured at all points of attachment. Torn or severely weathered banners shall not be permitted.

2. The number of banners displayed on any premises shall not exceed two (2).
3. No individual banner shall contain more than forty (40) square feet of area.
4. Banners found in violation of this Section must be removed or made to conform within 24 hours of notification.

f. **Kiosk Signs.**

1. Kiosk signs provide a uniform, coordinated method of providing information while minimizing the negative impacts to the City and its residents. A Kiosk sign is a sign containing individual panels and is generally used to provide direction to residential subdivisions from major thoroughfares or to provide direction to schools, amenities, information centers, community facilities and neighborhoods within a residential subdivision. Kiosk signs shall conform to the requirements set forth below. A "Sign Panel" is an individual sign placard displaying directional information on a kiosk sign.
2. All kiosk signs must have approval by the Planning Commission. Placement of Kiosk signs shall not distract traffic or create a traffic hazard. The Superintendent of Public Works must approve the placement of all kiosk signs prior to installation. Kiosk sign structures shall not exceed 12 feet in height and 4 feet in width. Kiosk sign structures shall be ladder type with individual sign panels of uniform design. The color of all kiosk sign structures and panel background color will be approved by the City. The City may, by a duly executed services contract, grant to a qualified person or company the right to design, erect and maintain directional kiosk signs within the City.

18. **Maintenance of Signs.** All signs and sign support structures, together with all of their supports, braces, guys and anchors, shall be maintained in a proper state of preservation. No sign will be allowed to be kept in a dilapidated or deteriorated condition. Signs with broken or missing faces shall be repaired or replaced within fifteen (15) days of notice by the Building Official.

- a. Freestanding sign panels advertising a business that has vacated the premises must be replaced with the new business or a blank panel within thirty (30) days of vacancy.
- b. Any sign which the Building Official determines no longer serves a bona fide use conforming to this code, shall be removed by the owner, agent or person having the beneficial use of the land, buildings or structure upon which such signs is located within fifteen (15) days after written notification to do so from the Building Official. Upon failure to comply with such notice, the Building Official is hereby authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the owner of the land, building or structure to which such sign is attached or upon where it is erected.
- c. If the Building Official shall determine that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the person or persons responsible for such sign. If the permittee, owner, agent or person having the beneficial use of the premises fails to remove or repair the sign within fifteen (15) days after such notice, such sign may be removed by the Building Official at the expense of the permittee or owner of the property upon which it is located. The Building Official may cause any sign that is an immediate hazard to persons to be removed summarily and without notice.

19. **Illegal Signs.** An illegal sign is any sign that meets any of the following criteria:

CITY OF EDGERTON, KANSAS
PROPERTY OWNER NOTIFICATION AFFIDAVIT

Case No.: BZA- 2019-02

I, Robert A. Brooks of lawful age being first duly sworn upon oath, state:

That I am the agent/owner (agent, owner, attorney) for the property for which the application was filed and did, not later than ten (10) days prior to the date of the public hearing scheduled before the Board of Zoning Appeals, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

These notices were mailed on the 18th day of June, 2019.



Signature of Agent, Owner, or Attorney

Subscribed and sworn to before me this 24th day of June, 2019.


Notary Public

My Commission Expires:

5-23-23

(SEAL)



MARY C. EDWARDS
My Commission Expires
May 23, 2023
Cass County
Commission #15456353

DeLong Co, Inc
P.O. Box 552
214 Allen Street
Clinton, WI 53525

BNSF Railway Company
P.O. Box 961089
Fort Worth, TX 76131

Edgerton Land Holdings Company
4825 NW 41st Street
Suite 500
Riverside, MO 64150

Flexsteel Industries Inc
385 Bell Street
Dubuque, IA 52001

C Y Edgerton LLC
20012 W South Arsenal Rd
Wilmington, IL 60481

Omar J Holtgraver
1979 Haskell Road
Ottawa, KS 66067

Prairie Tree, LLC
6701 W 167th Street
Stilwell, KS 66085

Michael A. Gifford
13995 W 157th Terrace
Olathe, KS 66062