

# LEAVENWORTH BOARD OF ZONING APPEALS

MONDAY, June 15, 2020 – 6:00 P.M.  
COMMISSION ROOM, CITY HALL  
LEAVENWORTH, KANSAS

## AGENDA

*City Hall is now open to the public. Citizens wishing to comment may either attend in person or may dial in to the GoToMeeting using your phone at 6:00 p.m.:*

*Phone Number: +1 (872) 240-3311*

*Access Code: 161-363-805*

*Your call will be placed into queue for comment.*

### CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: March 16, 2020 **Action:** Motion

### OLD BUSINESS:

**None**

### NEW BUSINESS:

#### 1. **2020-13 BZA – 4501 S. 4<sup>th</sup> Street**

Hold a public hearing for Case No. 2020-13 BZA – 4501 S. 4<sup>th</sup> Street, wherein the applicant, Zeck Motor Company, is requesting a variance from Article 8, Section 8.15.A.2 of the adopted Development Regulations to allow maintenance, repair or alteration of a nonconforming sign that costs more than 25% of the current value of the sign as of the date of alteration or repair.

#### 2. **2020-14 BZA – 4820 S. 4<sup>TH</sup> STREET**

Hold a public hearing for Case No. 2020-14 BZA – 4820 S. 4<sup>th</sup> Street, wherein the applicant, U-Haul Company of Northern Kansas, is requesting a variance to allow accessory structures forward of the main building line for a property zoned GBD, General Business District.

#### 3. **2020-19 BZA – 814 SHAWNEE**

Hold a public hearing for Case No. 2020-19 BZA – 814 Shawnee, wherein the applicant, Brandon Close, is requesting an exception from Article 1, Section 1.05.D.7 of the adopted Development Regulations to allow an expansion of a nonconforming structure.

#### 4. **ELECTION OF OFFICERS**

ADJOURN



**BOARD OF ZONING APPEALS MINUTES  
MONDAY, March 16, 2020, 6:00 P.M.  
COMMISSION ROOM, CITY HALL  
LEAVENWORTH, KANSAS**

The Leavenworth Board of Zoning Appeals (BZA) met Monday, March 16, 2020. It was determined a quorum was met with the following board members present: Dick Gervasini, Ron Bates, Jan Horvath and Kathy Kem. Mike Bogner was absent. Staff members City Planning Director Julie Hurley and Administrative Assistant Michelle Baragary were present.

Vice Chair Gervasini called the meeting to order at 6:00 p.m. and called for the first item on the agenda – approval of minutes from December 16, 2019. Mr. Horvath moved to accept the minutes as presented, seconded by Mr. Bates and approved by a vote of 4-0.

Vice Chair Gervasini called for the next item on the agenda – **Case No. 2020-03 BZA – 4824 S. 4<sup>TH</sup> STREET – Variance Request** - and requested the staff report.

Planning Director Julie Hurley addressed the board stating the applicant is requesting an appeal to allow a freestanding sign in excess of 15' in height for a property zoned GBD, General Business District.

The property located at 4824 S. 4<sup>th</sup> Street, site of the former Payless Shoe Source store, is being redeveloped as a Starbucks. As part of the redevelopment, the existing building will be demolished to allow for construction of a new building, and the existing freestanding sign for the former Payless Shoe Source store will be removed.

Section 8.11 of the Development Regulations restricts freestanding signs in the GBD zoning district to a height of 15', with the potential for an additional 10' in height, up to a maximum of 25', with additional setback requirements as follows:

*Freestanding signs shall not exceed 15 feet in height. Where a sign is located across the street from a property zoned for commercial or industrial uses, the height of the sign may be increased to a height of 25 feet, provided that the nearest edge of the sign is setback from the property line 2 feet for each additional 1 foot in height.*

Based on drawings submitted by the applicant, the proposed sign will be placed approximately 15' from the eastern property line, which would allow for an additional 7.5' in height, up to 22.5'. The existing Payless Shoe Source sign is 22' in height.

Given the location of the property with the proximity to other surrounding signs, utility poles, buildings, vehicles, and adjacent billboard, the applicant is requesting the variance to allow for maximum visibility for the proposed Starbucks signage.

Mr. Bates asked if the distance is measured from the pole to the property line.

Ms. Hurley responded the Development Regulations state the height of the sign may be increased to a height of 25' provided that the nearest edge of the sign is setback from the property line 2 feet for each additional 1 foot in height. The sign cabinet would be the nearest edge of the sign.

Mr. Gervasini asked how tall the proposed building will be.

Starbucks architect stated the building will be 22' in height.

Mr. Horvath asked if the Starbucks located in Price Chopper, approximately 2 miles to the north, had any objection.

Brandon Haverty, representing LEV4 LLC, stated the new Starbucks would have not impact to any existing Starbucks in the area.

Ms. Kem asked if this section of the Development Regulations is currently being reviewed for any potential changes.

Ms. Hurley responded it is not.

With no further discussion among the commissioners, Vice Chairman Gervasini opened the public hearing.

Mr. Haverty stated Leavenworth is a market that Starbucks has been interested in for some time now. When Payless Shoe Source closed, this provided Starbucks an opportunity to open a store in Leavenworth. Mr. Haverty further stated the location of the proposed sign can get a little lost due to the large billboard to the south and the U-Haul vehicles parked to the north.

Ms. Kem asked what the prototypical height is for a Starbucks sign.

Mr. Haverty stated it depends on the allowable height per municipality but he believes 25' is a good average and is what Starbucks believes is needed in order to be visible due to the location.

Ms. Kem asked how much closer the proposed Starbucks building will be to 4<sup>th</sup> Street than what the current building is.

Joe, architect for Starbucks, stated he believes the old Payless building is about 8 feet further back from the main building line on the east side of the Starbucks site plan. The building will be moved closer to 4<sup>th</sup> Street in order to get adequate parking and also for the drive-thru lane.

Ms. Hurley stated the city prefers buildings closer to the street with the parking in the rear.

With no further discussion among the commissioners, Vice Chairman Gervasini 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)

**Variations:** 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, variations 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 2-2**

***Ms. Kem and Mr. Horvath disagreed.***

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

**Vote 4-0**

***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 3-1**

***Ms. Kem disagreed.***

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

**Vote 4-0**

***All board members voted in the affirmative.***

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

**Vote 3-1**

***Ms. Kem disagreed.***

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 the Development Regulations.

Vice Chairman Gervasini stated the variance is denied.

Vice Chairman Gervasini called for the next item on the agenda – **Election of Officers**. Mr. Horvath moved to table the issue until all officers are available to vote; approved by a vote of 4-0.

Ms. Hurley stated there are two items on the agenda for the April 20, 2020 meeting.

Vice Chairman Gervasini called for a motion to adjourn. Ms. Kem moved to adjourn, seconded by Mr. Horvath and approved by a vote of 4-0.

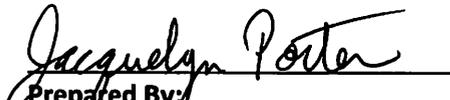
The meeting adjourned at 6:19 p.m.

JH:mb

DRAFT

**BOARD OF ZONING APPEALS AGENDA ITEM  
VARIANCE REQUEST  
2020-13-BZA  
4501 South 4<sup>th</sup> Street**

**JUNE 15, 2020**

  
**Prepared By:**  
Jacquelyn Porter  
City Planner

  
**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting an appeal to allow more than one sign on a wall for a property zoned GBD, General Business District

**DISCUSSION:**

Zeck Ford is located at 4501 South 4<sup>th</sup> Street zoned GBD, General Business District. The applicant has submitted a sign application to install a Zeck's logo sign on the west side of the building below the Ford logo. The Development Regulations were updated in 2016 to limit the number of wall signs allowed for each side of a structure or part of a structure clearly identified as a storefront to one sign. Previously, there was no limit on the number of wall signs allowed. Original signage was installed correctly per the regulations in effect at the time and is considered to be legal-nonconforming. There are currently four signs on the west side of the building. Section 8.15.A.2 state that, "Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 25% of the current value of the sign as the date of alteration or repair."

The requested variance is to allow installation of a Zeck's logo sign on the west side of the building.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

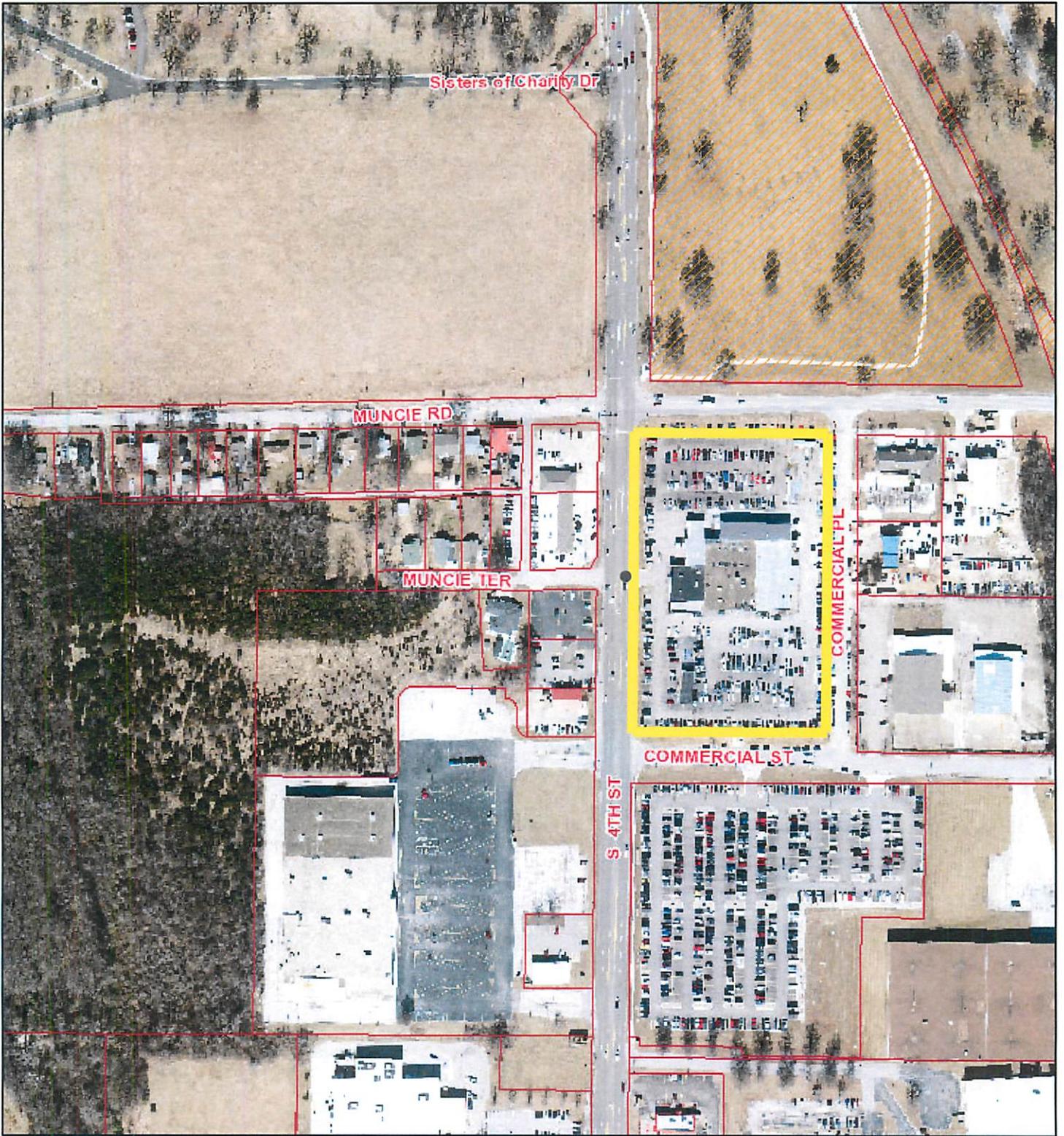
**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, 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. 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.*
  - 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 Development Regulations from which the 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;*
  - e) *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.

**ACTION:**

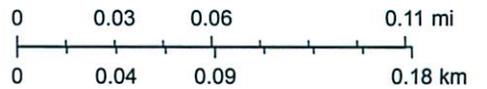
- Approve or deny the appeal to allow installation of a Zeck's logo sign on the west side of the Zeck Ford car dealership located at 4501 South 4<sup>th</sup> Street.

# 2020-13-BZA



6/11/2020, 10:19:33 AM

1:4,514



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



Case No. 2020-13 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Application No. 7171  
Fee (non-refundable) \$350.00  
Filing Date 3-5-20  
Fee Paid \$350.00 emg

Property Zoning GRD

**PETITION**

Petitioner: Zeck Motor Company - (Young Sign Co. Inc - 913-651-5432)  
(name typed or printed)

Petitioner Address: 4501 S 4th Street Trafficway 326 Choctaw ann@youngsigncompany.com  
Email: ddz@zeckauto.com Telephone: 913-727-1650

Location of Property Involved: 4501 S 4th St

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

Petitioner's Interest in Property: Additional Signage "Z" Logo Sign

Purpose of Petition: Install Zeck's logo underneath existing Ford logo on the west side of the building above entrance  
Development Regs 8.11.C.1 & 8.15.A.2

- Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance:**  
Section 11.03.B
- Exception:**  
Section 11.03.C

*Ann Hoins - Young Sign Co*  
*Ann Hoins*

Site Plan or drawing attached: Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Zeck Brothers Development

Signature: [Signature] (print name) Date: 02-25-2020

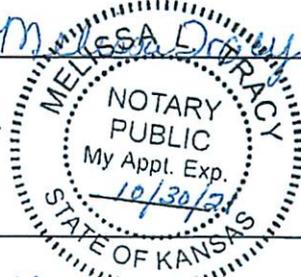
State of KA

County of Johnson

Signed or attested before me on 2-25-2020 by Melissa Tracy

Melissa Tracy  
(Signature of Notary Public)

My commission expires: 10/30/21 (Seal)



<b>FOR OFFICE USE ONLY:</b>	
Date of Publication <u>3-26-20</u>	Date of Hearing: <u>4-20-20</u>
<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<input checked="" type="checkbox"/>	Current list of names and addresses of the owners and the tax identification number of all properties within 200'
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)



**YOUNG  
SIGN  
COMPANY**

326 CHOCTAW ST., LEAVENWORTH, KS. 66048 - 913-651-5432  
see what we can do at [YoungSignCompany.com](http://YoungSignCompany.com)

February 28, 2020

Board of Zoning Appeals,

We respectfully request inclusion on the agenda to appear before your board at the meeting scheduled for April 20, 2020.

The purpose of our appearance will be to request that Zeck Ford be allowed to install a lighted "Z" logo sign on the front entrance area below the FORD logo sign at the center of the building, west elevation, facing South 4th Street Trafficway.

In the past, that location on the building included branding for Lincoln-Mercury but with their extensive remodel and addition to their building, that spot is perfect to incorporate their "Z" which has become Zeck Ford's most beneficial marketing.

The sign is 76.5" tall by 120" wide, Z shape with front lit blue behind the silver metal "Z". The perimeter of the sign has soft white halo lighting which is a beautiful effect on the building at night.

The storefront currently has channel letters reading ZECK FORD. The "Z" logo sign with that name completes the branding that is so important to the Zeck name.

We appreciate your consideration regarding this request.

Sincerely,

Ann Hoins  
Young Sign Co. Inc.







Zeck Ford, West Elevation, sign requested "Z" logo, 76.5" x 120" wide, installed at center of building above entrance. Building is 28.25ft x 68.5ft

**BOARD OF ZONING APPEALS AGENDA ITEM  
VARIANCE REQUEST  
2020-14-BZA  
4820 S. 4<sup>TH</sup> STREET**

**JUNE 15, 2020**

  
\_\_\_\_\_  
**Prepared By:**  
Julie Hurley  
Director of Planning and  
Community Development

  
\_\_\_\_\_  
**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting a variance to allow accessory structures forward of the main building line for a property zoned GBD, General Business District

**DISCUSSION:**

The property located at 4820 S. 4<sup>th</sup> Street, site of the former K-Mart and Sears stores, was recently acquired by U-Haul Company of Northern Kansas and developed as a U-Haul moving and storage facility. As part of the redevelopment, the applicant has installed three separate rows of accessory storage units in the parking lot in front of the main building.

Section 4.03.E.1 of the Development Regulations restricts placement of accessory structures as follows:

*No accessory buildings shall be erected in any required front or side yard, or at any other place forward of the main building line.*

**BOARD OF ZONING APPEALS AUTHORITY:**

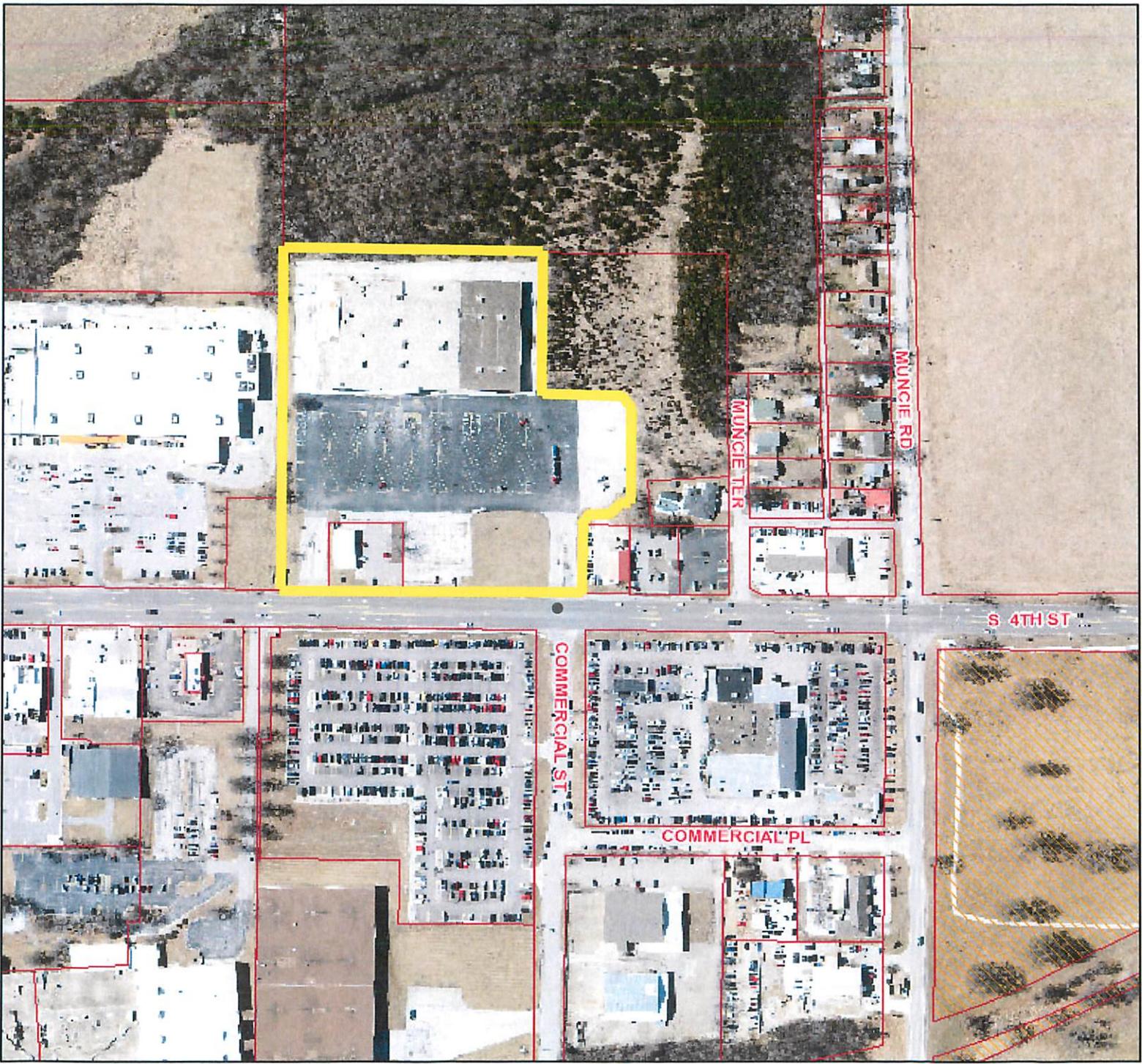
The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**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 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.

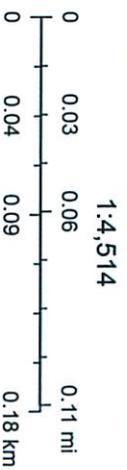
1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other 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. 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.*
  - 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 Development Regulations from which the 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;*
  - e) *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.

**ACTION:**

- Approve or deny the variance to allow installation of accessory storage units forward of the main building line at 4820 S. 4<sup>th</sup> Street.



6/11/2020, 10:08:32 AM





Case No. 2020-14 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Application No. 7185  
Fee (non-refundable) \$350.00  
Filing Date SA 3-9-20  
Fee Paid 350.00

Property Zoning G30

**PETITION**

Petitioner: U Haul Company of Northern Kansas  
(name typed or printed)

Petitioner Address: 5200 STATE AVE KC KS 66102

Email: richard.castaneda@uhaul.com Telephone: 913-522-6081

Location of Property Involved: 4820 S. 4th ST. Leavenworth KS 66048

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)

Petitioner's Interest in Property: Affiliate to AREC 34 LLC

Purpose of Petition: To maximize revenue and use of unused land for outdoor mini storage.

- Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance: → Variance request to Section 4.03.E.1 of the Dev Regs.  
Section 11.03.B
- Exception:  
Section 11.03.C

Site Plan or drawing attached (hard & digital copy): Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Josh McGinn  
(print name)

Signature: [Signature] Date: 3-9-2020

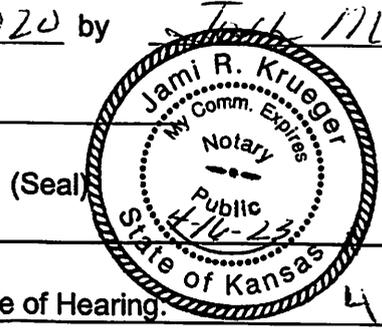
State of Kansas

County of Wyandotte

Signed or attested before me on March 9, 2020 by Josh McGinn

[Signature]  
(Signature of Notary Public)

My commission expires: 4-16-23



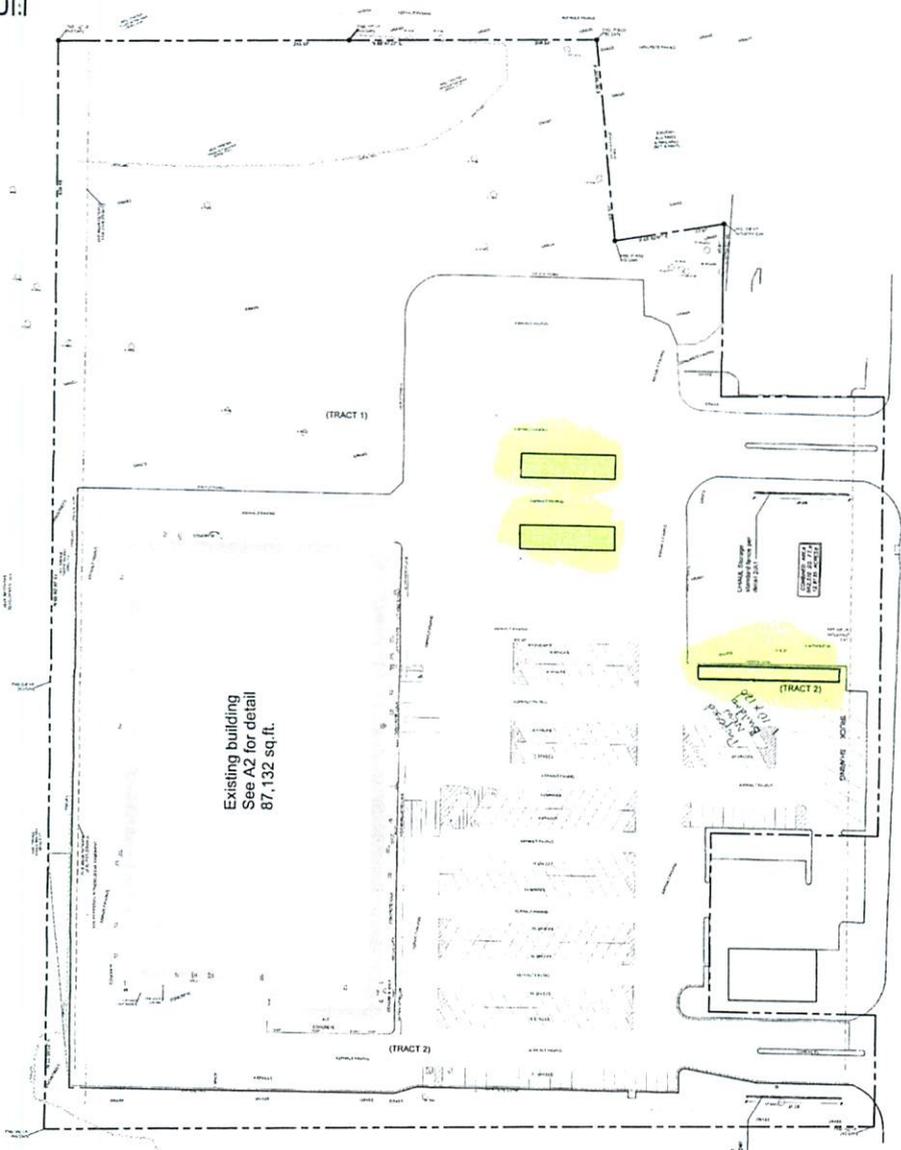
FOR OFFICE USE ONLY:	
Date of Publication	<u>3-27-20</u> Date of Hearing: <u>4-20-20</u>
<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<u>City</u>	Current list of names and addresses of the owners and the tax identification number of all properties within 200'
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)



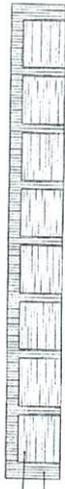
Proposed new tenant finish for  
**U HAUL**  
4820 south 4th street  
Leavenworth, KS

DATE: 09.24.2019  
DRAWN BY:  
CHECKED BY:  
DESIGNED BY:  
DATE:  
REVISIONS:

sheet number  
**A1**  
drawing type  
for permit  
sheet number  
19139

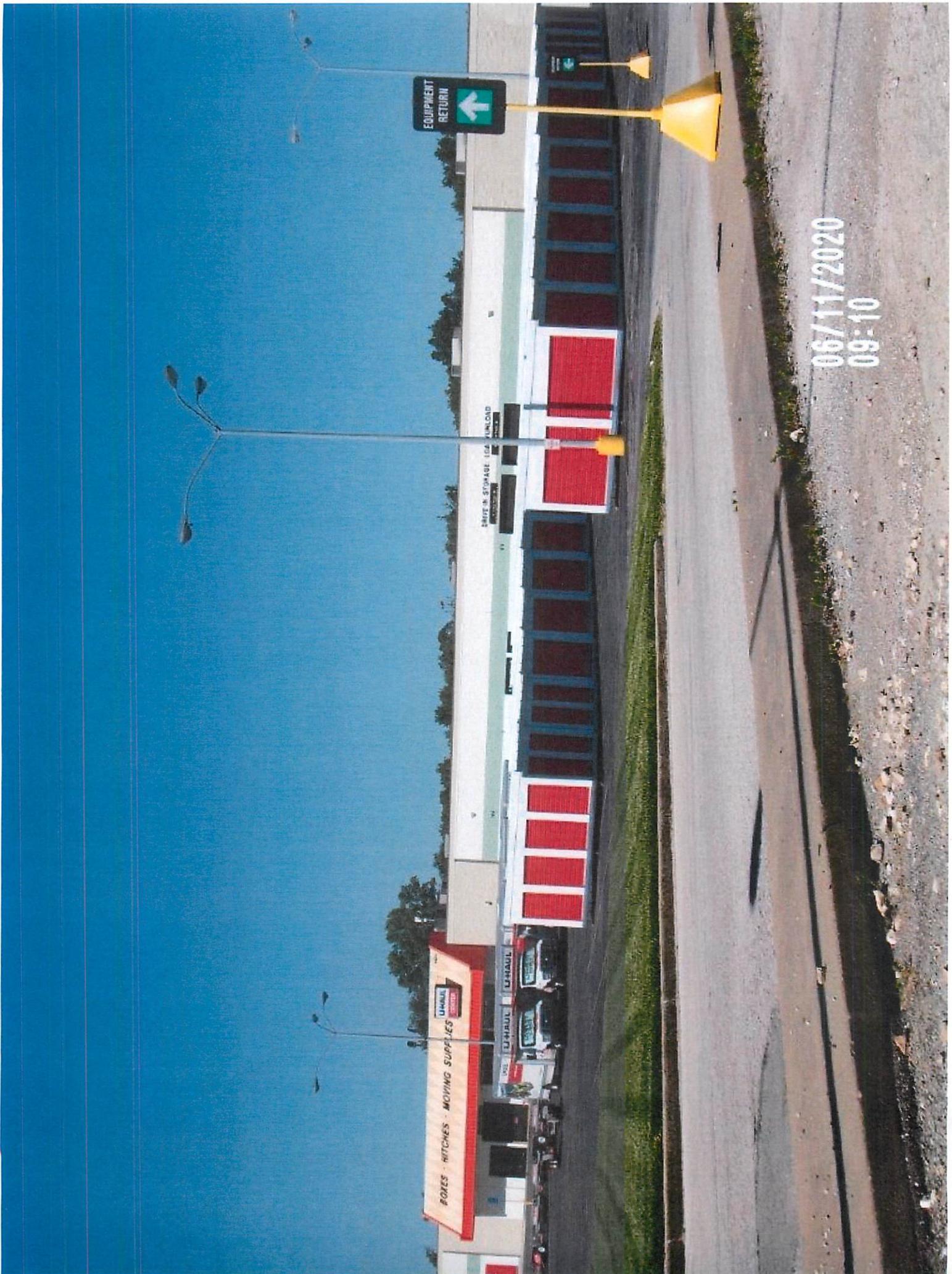


**1** Site Plan  
SCALE: 1" = 40'-0"



**2** UHaul typical fence detail  
SCALE: 1/8" = 1'-0"

UHAUL Approved Safety Fence  
Minimum 48" high  
Minimum 1.5" thick  
Minimum 1.5" wide



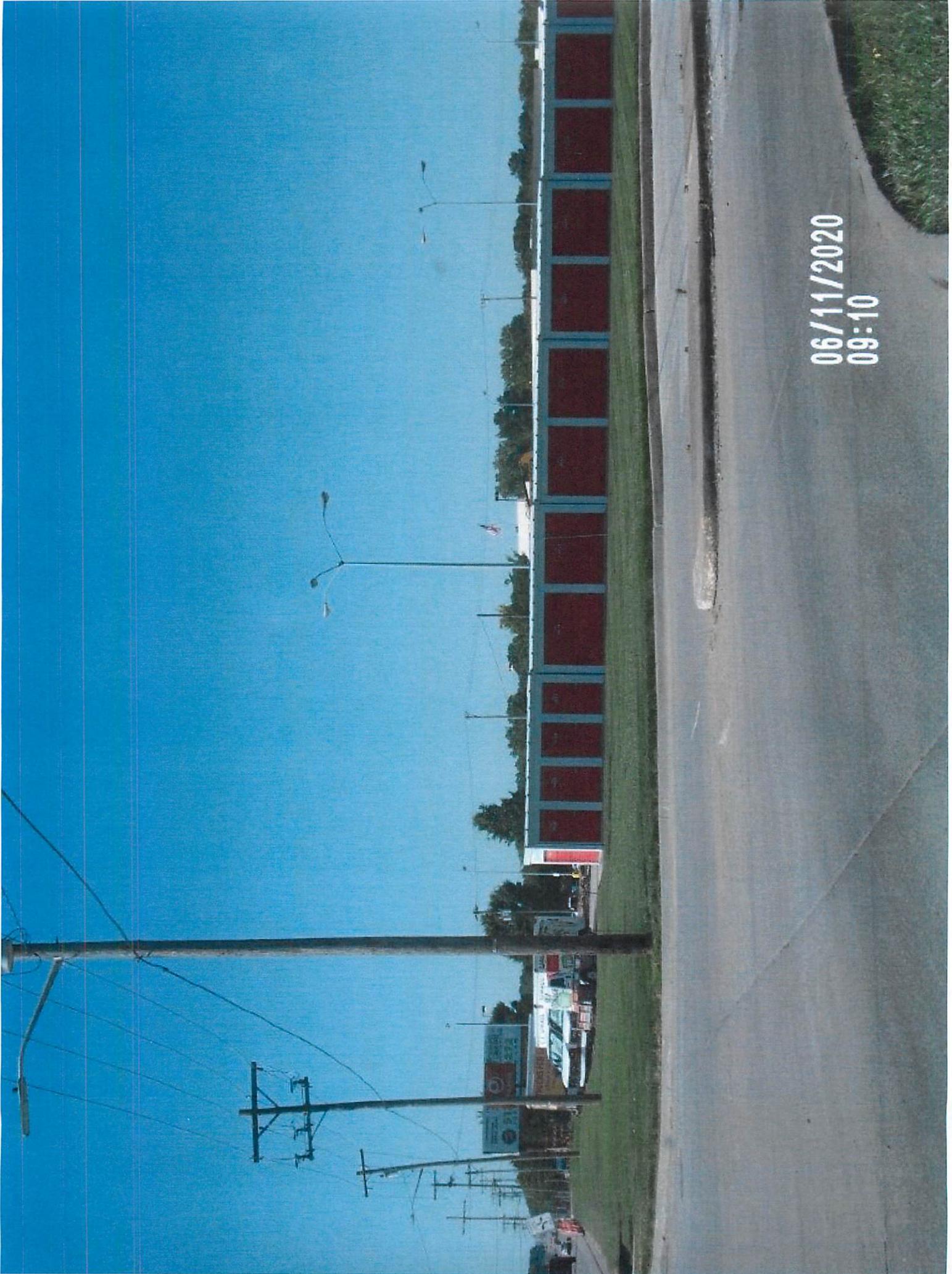
EQUIPMENT RETURN  
←

BORES · RITCHES · MOVING SUPPLIES  
LUNAR

SAFER STORAGE 102 FURNOLD

06/11/2020  
09:10

06/11/2020  
09:10



**Board of Zoning Appeals Agenda Item**  
**Exception Request**  
**2020-19-BZA**  
**814 Shawnee**

**JUNE 15, 2020**



**Prepared By:**  
Jacquelyn Porter  
City Planner



**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting an exception from section 1.05.D.7 of the adopted Development Regulations to allow an expansion of a nonconforming structure.

**DISCUSSION:**

The applicant, Brandon Close, is requesting an exception from section 1.05.07 of the adopted Development Regulations to expand a nonconforming use. The property currently is a nonconforming two-family dwelling in a R1-6 High Density Single Family Residential District. Two-family dwellings are allowed in R1-6 with a Special Use Permit. The current property does not have Special Use Permit to allow for the use of a two-family dwelling. The lot is located at 812/814 Shawnee which is currently zoned as High Density Single Family Resident District R1-6. The subject property is surrounded by properties that are zoned R1-6 are located north, south, and west of the subject property. The property to the east is zoned General Business District (GBD). The use of the property east, that is zoned GBD, is multi-family. Property to the north, that is zoned R1-6, is currently a two-family dwelling. The adjacent property to the west is currently an empty lot. Adjacent properties to the south are single-family dwelling.

The applicant is proposing to convert the lower level of the two-family dwelling to a finished apartment to create a total of three units. The property sustained fire damage in 2017, and was purchased by the applicant in May 2018. Renovation for 814 Shawnee began in late 2018. In 2019, it came to the attention of city staff that the applicant was converting the lower level to a habitable living space, and a stop work order was issued to hold all further permits.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.C (Powers and Jurisdictions – Exceptions)

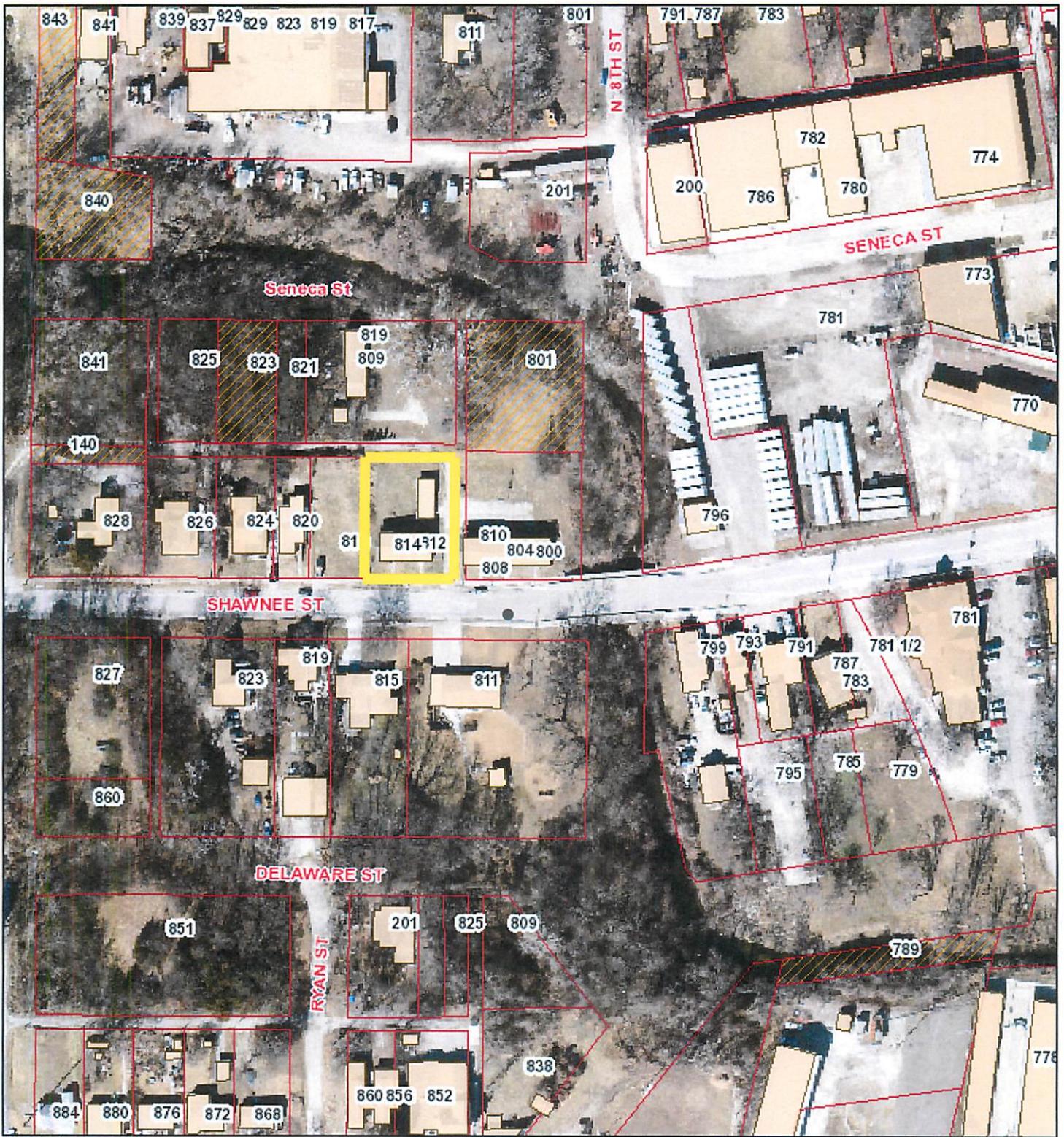
**Exceptions:** To grant exceptions which are specifically listed as permitted in these Development Regulations. In no event shall exceptions to the provisions of the Development Regulations be granted where the exception contemplated is not specifically listed as in the Development Regulations of the 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.

1. The Board shall not grant an exception unless it shall, in each specific case, make specific written findings of facts directly based upon the particular evidence presented to it, that support conclusions that:
  - a. The proposed exception complies with all applicable provisions of these Development Regulations, including intensity of use regulations, yard regulations, and use limitations.
  - b. The proposed exception at the specified location will contribute to and promote the welfare or convenience of the public.
  - c. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
  - d. The location and size of the exception, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the exception will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood, consideration shall be given to:
    - (1) The location, nature and height of buildings, structures, walls, and fences on the site, and
    - (2) The nature and extent of landscaping and screening on the site.
  - e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these Development Regulations, and such areas will be screened from adjoining residential uses and located to protect such residential uses from any injurious effect.
  - f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
  - g. Adequate access roads or entrance and exit drives will be provided and shall be so designated to prevent traffic hazards and to minimize traffic congestion on public streets and alleys.

**ACTION:**

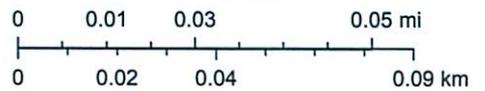
Approve or deny the request for an exception of section 1.05 of the Development Regulations to allow the expansion of a nonconforming use to a triplex dwelling in R1-6 zoning district.

# 2020-19-BZA



6/11/2020, 10:16:36 AM

1:2,257



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



Case No. 2020-19 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Application No. 7357  
Fee (non-refundable) \$350.00  
Filing Date 4-22-20  
Fee Paid 35000 ml

Property Zoning R-1-C

Hearing Date June 15, 2020  
NOH/NOZPO - May 22, 2020

**PETITION**

Petitioner: Brandon Close on behalf of Alpha Capital, LLC  
(name typed or printed)

Petitioner Address: 26380 W. Cedar Niles Circle Olathe, KS 66061

Email: brandonclose@hotmail.com Telephone: (913) 205-5493

Location of Property Involved: -812- / 814 Shawnee St. Leavenworth, KS 66048

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

Petitioner's Interest in Property: Owner

Purpose of Petition: Requesting an exception of use from a legal non-conforming duplex to a legal non-conforming triplex.  
Section 1.05.0.7

- Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance:  
Section 11.03.B
- Exception:  
Section 11.03.C

Site Plan or drawing attached: Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Brandon Close on behalf of Alpha Capital, LLC

Signature: [Signature] (print name) Date: 4/13/2020

State of Kansas  
County of Johnson  
Signed or attested before me on 4/13/2020 by Amy Clark

[Signature]  
(Signature of Notary Public)

My commission expires: 12-26-2021 (Seal)



FOR OFFICE USE ONLY:	
Date of Publication	Date of Hearing:
Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data	
Current list of names and addresses of the owners and the tax identification number of all properties within 200'	
A filing fee of Three Hundred- fifty dollars (\$350)	

To Whom It May Concern,

This is regarding 814 Shawnee Street, Leavenworth, KS 66048 and requesting an exception of use from a legal non-conforming duplex to a legal non-conforming triplex. The request for exception for use is for approval to move forward with the remodeling of the existing lower level apartment unit known as 814 ½ Shawnee St.

We purchased 814 and the adjacent 810 Shawnee St buildings back in May 2018. At that time the lower level apart, 814 ½, was a vacant but finished out apartment. The unit was vacant due to a fire in the above unit that happened prior to our purchase. At the time of purchase, we were unaware that this building was only a non-conforming duplex. The seller had advertised as a tri-plex. We pulled permits on 7/27/18 and on 8/14/18 for electrical, HVAC and renovation. Under the permits we proceeded to completely rewire the electrical, replace the HVAC system, and update the plumbing to current codes using Leavenworth contractors. It was only during the inspections in 2019 that we were notified that the building wasn't zoned as a triplex. Since then, we stopped the remodel process on the lower unit, only working on inspection requirements and getting the electrical up to code to be able to turn on for security reasons.

Over the last year we have multiple break-ins to the vacant unit with losses exceeding \$5000 of appliances, tools, and materials. A police report has been filed but is still open with no conviction in site. We are requesting an exception of use on the lower unit to be able to finish out the complete remodel and be able to lease out to a tenant. We will follow all building code requirements to ensure that it is up to current codes, including adding egress to the bedrooms. Since we have purchased the property in 2018, we have worked hard to transform the property to upscale rentals. This has enabled the attraction of high-quality tenants and the on-going revitalization of the apartment complex.

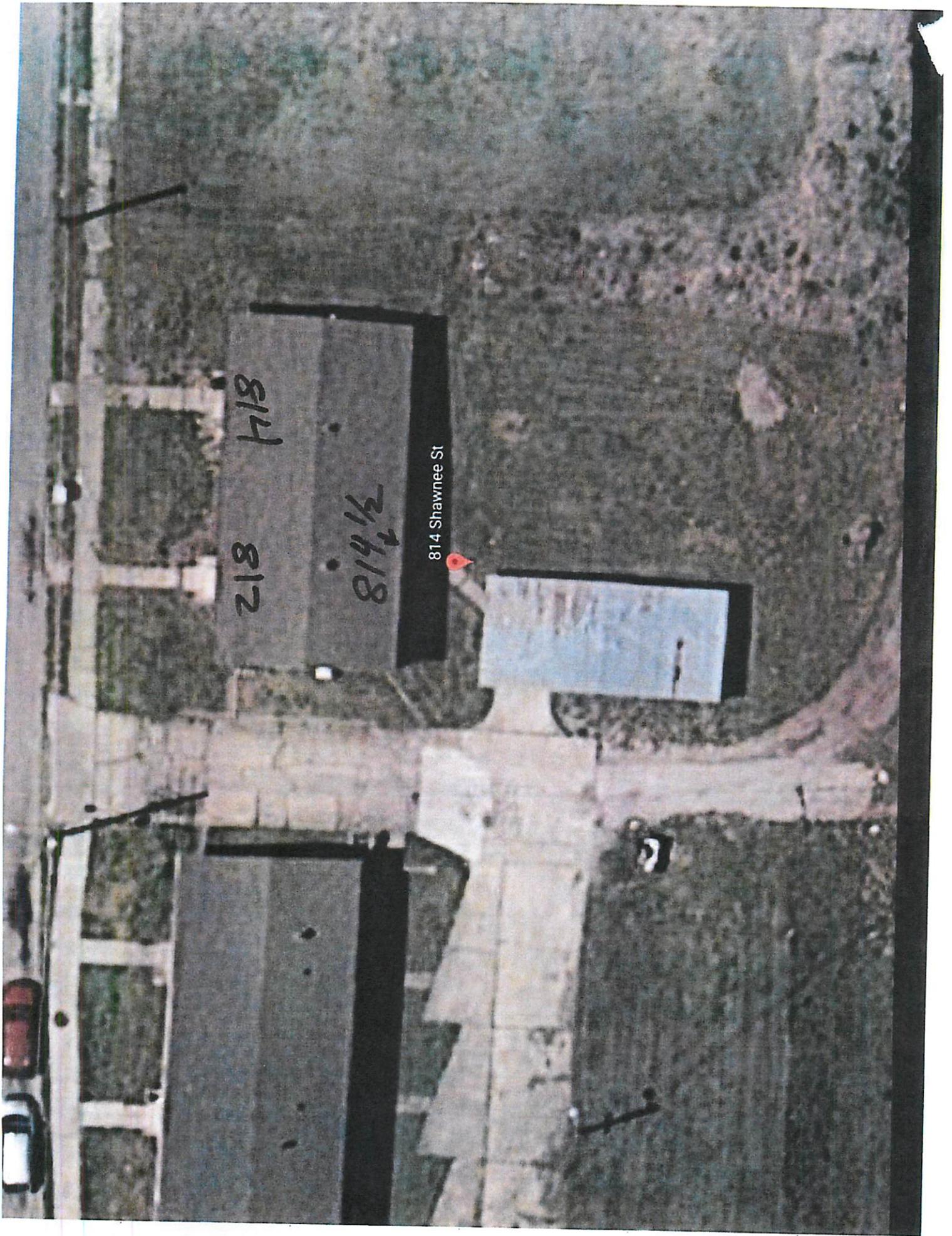
This will not be a new build or a change to the original design of the building. The lower level was built with one apartment unit, a shared complex laundry unit, and an unfinished utility and storage room. These rooms were the original plan of the building and we are requesting an exception to the current use to allow us to keep the original plan and remodel to existing codes and cosmetic finishes. Attached you will find a few pictures for reference of current state, and what the finishes will be after we would be allowed to remodel.

Thank you for your consideration.



Brandon Close

Alpha Capital, LLC



814

812

814 1/2

814 Shawnee St

