

LEAVENWORTH BOARD OF ZONING APPEALS

Monday, September 20, 2021 – 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

AGENDA

CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: August 16, 2021 **Action:** Motion

OLD BUSINESS:

None

NEW BUSINESS:

1. **2021-24 BZA – 1820 S. 4TH STREET**
Hold a public hearing for Case No. 2021-24 BZA – 1820 S. 4th Street, wherein the applicant is requesting a variance from the adopted Development Regulations to allow the use of an existing non-conforming sign after a change in business name and ownership.
2. **2021-25 BZA – 44 LIMIT STREET**
Hold a public hearing for Case No. 2021-25 BZA – 44 Limit St., wherein the applicant is requesting a variance from the adopted Development Regulations to allow a detached garage greater than 900 square feet on a parcel less than one acre.

ADJOURN



**BOARD OF ZONING APPEALS MINUTES
MONDAY, AUGUST 16, 2021, 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS**

CALL TO ORDER:

Board Members Present

Dick Gervasini
Ron Bates
Kathy Kem
Jan Horvath

Board Member(s) Absent

Mike Bogner

City Staff Present

Jackie Porter
Michelle Baragary
Julie Hurley

Vice Chairman Gervasini called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: July 19, 2021

Vice Chairman Gervasini asked for comments, changes or a motion on the minutes presented for approval: July 19, 2021. Ms. Kem moved to approve the minutes, seconded by Mr. Horvath and approved by a vote of 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. CASE NO. 2021-23 BZA – 940 EISENHOWER RD

Hold a public hearing for Case No. 2021-23 BZA – 940 Eisenhower Rd, wherein the applicant is requesting a variance to allow a reduction in the required number of parking spaces for a retail use.

Vice Chairman Gervasini called for the staff report.

City Planner Jackie Porter stated the applicant, BEL Investments, and property owner, HGS Developers, LLC are requesting a variance from sections 5.02.A of the adopted Development Regulations to allow a reduction in the required number of parking spaces for a retail use.

Section 5.02.A of the adopted Development Regulations reads in part as follows:

- *Table 5.01 Parking Rates – Specific Use: Retail Required Parking Rate: 1 per 200 sqft.*

The lot is located at 940 Eisenhower Road, which is currently zoned PUD, Planned Unit Development. The PUD was established in 2004 as commercial PUD for the Three B's Commercial Centre Subdivision. The subject property is adjacent to properties that are part of the Three B's Commercial Centre Subdivision PUD, and Lansing City limit is located to the south.

The proposed development is a Dollar Tree retail store and will be 9,000 square feet. Submitted site plans show a total of 29 parking spaces. Based upon the required 1 space per 200 sqft. for a retail use, the required number of spaces for the proposed site is 45. This amounts to a shortfall of 16 spaces. There is currently no share parking agreement in place with adjacent owners.

Staff has not received any comments in regards to this case.

Vice Chairman Gervasini asked for questions about the staff report.

Ms. Kem asked what the parking ratio requirement is for commercial districts not in PUDs.

Planning Director Julie Hurley responded the parking requirement is based on the use and not the zoning; therefore, the ratio is still one for every 200 sqft. of retail use.

Mr. Gervasini asked what the rationale was for zoning this area PUD.

Ms. Hurley responded the rezoning was done in 2004. From looking at the file, it is her understanding the rezoning was based on some internal circulation issues and maybe some curb cuts on Eisenhower Rd.

Mr. Horvath stated the policy report indicates there was no feedback from adjacent property owners and asked if that had changed.

Ms. Hurley stated one of the Bohannon's, who owns the Three B's Commercial Centre Subdivision, did call our department today to be sure staff was aware there is no shared parking agreement for this retail use to utilize other parking spaces in that development.

With no further questions about the staff report, Vice Chairman Gervasini opened the public hearing.

Matt Gibbs, HGS Developers, stated HGS Developers have owned the subject property since 2008 and would like to either develop the property or sell it. The property is surrounded by four drive lanes, which is somewhat unique to have a cross-access internal drive system that borders all four sides, which does limit some ability to develop the site. Additionally, on the south side of the cross-access agreement that runs on the south of the subject property to Casey's, from the entrance on Eisenhower there is a large retaining wall that is anywhere from 5' to 15' in height. This renders the whole sliver of ground to the south of the retaining wall unusable.

Mr. Gibbs further stated they have been through four or five different iterations of the site plan trying to determine how to add more parking to the site. Originally, they started with a 10,000 sqft Dollar Tree building. The building has now been reduced to Dollar Tree's smallest national prototype of 9,000 sqft in order to get the 29 parking spaces currently on the site plan.

Mr. Gibbs went over his memorandum, included in the policy report, which discusses the five criteria the Board votes on: unique conditions, adjacent properties, hardship, public welfare and development regulations.

Richard Ogburn, BEL Investments, stated Dollar Tree typically develops 10,000 sqft stores with 50 parking spaces. This particular Dollar Tree store will be 9,000 sqft. Traffic studies have been done and Dollar Tree feels 29 parking spaces for this location is adequate.

Ms. Kem asked is the access would be off the same driveway that is on Eisenhower and there would be no additional curb cuts.

Mr. Ogburn responded there are two access points; one on Eisenhower and one of 10th Street.

Ms. Kem asked staff if there are any other properties within this PUD that has received variances.

Ms. Hurley responded in the negative.

Mr. Gervasini asked if any attempts have been made to use shared parking.

Mr. Gibbs responded in the affirmative. There have been ongoing conversations with Three B's Commercial Centre but have not come to an agreement as of this date.

Mr. Bates asked how many additional parking spaces would be available if they were to enter into a shared parking agreement.

Mr. Gibbs stated there could potentially be another 8 parking spaces added in the detention area with a shared parking agreement.

Mr. Bates asked staff if the city finds it acceptable to have parking spaces across a traffic way/driveway.

Ms. Hurley responded if parking spaces were added there that would meet the requirement for shared parking but there would need to be a written agreement in place between the two property owners. There would need to be a pedestrian crossing/walkway installed.

Dale Bohannon, Three B's Commercial Centre, does not see how being short so many parking spaces would work. The liquor store has a drive thru and is always busy. If Dollar Tree has a minimal amount of parking spaces and they overflow onto the street, it is going to impede people being able to get in and out of the drives.

Mr. Bohannon further stated in 2007 they were four spots short of having enough spots for this particular property to be developed; and this Board would not allow them build there without those additional four parking spaces. This is a PUD so everybody in this subdivision shares the roadway expense; the city has nothing to do with it.

Mr. Bates asked if semi-tractor trailers service the electrical company located in the northeast corner.

Mr. Bohannon stated they have a 53' trailer that brings supplies once every two weeks.

Ms. Kem asked the size of the electrical building.

Mr. Bohannon stated it is 6,000 sqft; however, 4,800 of it is warehouse.

Ms. Hurley stated that parking requirement was most likely based on it being more of a warehouse type use.

Mr. Bates asked the developer how much of the Dollar Tree building would be retail and how much would be storage.

Mr. Ogburn stated about 18% of the 9,000 sqft is dedicated to stock room; and 7,380 sqft to retail.

Mike Reilly, 608 Delaware, is in favor of the Dollar Tree development and the variance request. Mr. Reilly stated he looks at things from a competitive standpoint at a local level. Dollar Tree has looked at locations in Kansas City Kansas, Shawnee and Lansing, to name just a few, at 3 parking spaces per 1,000 sqft. If this project were to go directly across the street in Lansing, the parking requirement would fall almost within the margin of error where staff could probably recommend approval without going through Lansing's variance process. This brings up the question of whether or not Leavenworth's Development Regulations just need to be adapted.

Mr. Reilly further stated Casey's site is smaller than the subject property site. From a traffic impact standpoint, a convenience store like Casey's is much more impactful than a Dollar Tree store or any retail store would be. There are semi trucks for fuel, food, beverage, etc. Another Casey's General Store can be built on this site and would be well within any parking requirement according to the regulations. Casey's, the liquor store and car wash generates more traffic than a Dollar Tree store would and yet the proposed site of the Dollar Tree would have more parking per 1,000 sqft. than any of those previously mentioned.

Mr. Reilly further stated, if it's not a Dollar Tree or Dollar General, at some point in time, something is going on this site that will have a semi attached to it for deliveries and that has clients attached to it for parking. The average 15 minutes shopping span for a Dollar Tree customer is less impactful and less intensive on neighboring property owners than the current Casey's General Store. A variance should apply in this case because of the unique nature that the development regulations are too heavy for this type of use, especially when you factor in where retail is going. Retail is heading to less daily traffic and more shipping traffic.

Mr. Reilly concluded by saying looking at the surrounding area and this particular development, from a pure traffic impact, ingress/egress standpoint, another Casey's could be put on this site today and it would be much more detrimental to this development area than a Dollar Tree would be. Or imagine a very successful drive-thru restaurant placed on this site and the traffic that would be stacked up in a drive-thru line versus the limit traffic of a Dollar Tree.

Fredonia Grissom, 905 Lewis Dr., stated she did not know it was a Dollar Tree store for this site. She further stated is against the variance request because there will be too many people, a lot of lights and

delivery trucks causing a lot of noise. Stated the traffic on 10th Street is already bad. Ms. Grissom said she does not know the hours of operation but would think deliveries would be early morning or in the evening around 7 p.m.

Ms. Grissom asked if the detention basin will be taken away and replaced with parking stalls.

Ms. Hurley responded the detention basin is located at 930 Eisenhower and is not a part of this development. Because it is a detention area, 930 Eisenhower will never be developed.

Mr. Ogburn stated he wanted to address a couple of Ms. Grissom's concerns. The hours of operation are 9 a.m. to 9 p.m. Generally, Dollar Tree has two truck deliveries per week.

With no one else wishing to speak, Vice Chairman Gervasini closed the public hearing and called for discussion among the board members.

With no further discussion, 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)

Variances: To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing the special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - a) *That the variance requested arises from such condition which is unique to the property in question and is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.*

Vote 4-0

All board members voted in the affirmative.

Ms. Kem stated planning in general is moving away from minimal parking standards across the nation and hopes the city council and staff will consider reviewing the planning requirements in the future. Ms. Kem further stated this site is unique in the fact there are driveways on all four sides and they have no other place they can put these parking spaces. She encourages further negotiations of a shared parking agreement.

- 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 4-0

All board members voted in the affirmative.

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

Vote 3-1

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 4-0

All board members voted in the affirmative.

Mr. Bates stated the regulations creates a requirement for a certain number of parking spaces based on the size but believes the applicant has made a good argument as to why that should not apply to them and therefore would not oppose the general spirit 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 the Development Regulations.

ACTION:

Approve or deny the request for a variance from section 5.02.A of the Development Regulations to allow a reduction in the required number of parking spaces for the proposed retail development at 940 Eisenhower Road.

Vice Chairman Gervasini stated based on the findings, the board is in favor of granting the variance with no conditions or restrictions.

Ms. Hurley stated there are two items on the agenda for next month's BZA meeting September 20, 2021 and reminded the board of the training with the City Attorney Monday, August 30th.

Vice Chairman Gervasini called for a motion to adjourn. Mr. Bates moved to adjourn, seconded by Ms. Kem and passed 4-0.

The meeting adjourned at 6:40 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.

DRAFT

**Board of Zoning Appeals Agenda Item
Variance Request
2021-24 BZA
1820 S 4th Street**

SEPTEMBER 20, 2021


Prepared By:

Jacquelyn Porter
City Planner


Reviewed By:

Paul Kramer
City Manager

SUMMARY:

The applicant is requesting a variance from section 8.15.A of the adopted Development Regulations to allow the use of an existing non-conforming sign after a change in business name and ownership.

DISCUSSION:

The applicant and owner, Niyan LLC, Priya Paten Managing Partner, is requesting a variance from the above noted section of the adopted Development Regulations to allow the use of an existing non-conforming sign after a change in business name and ownership. Section 8.15.A of the current Development Regulations require that a nonconforming sign be modified to conform, replaced with a conforming sign, or removed if there is a change in business name or ownership.

- *8.15.A Nonconforming: A nonconforming sign existing lawfully at the time of the passage of this sign code may be continued under the terms as hereinafter provided that such nonconforming signs shall be modified to conform, replaced with a conforming sign or removed according to the following:*
 1. *If there is a change in business ownership, tenant, name or type of business.*
 2. *Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 25% of the current value of the sign as of the date of alteration or repair.*

The subject property is zoned R1-6, High Density Single Family Residential, and was previously occupied by Connie's Liquor Spot. Retail liquor sales are not an allowed use in R1-6 zoning. However, as an existing nonconforming use, the business is permitted to continue. Section 8.15.E of the Development Regulations allows nonconforming uses which are otherwise permitted by the regulations to display signage in conformance with the least intensive zoning district in which the use is permitted by right. RMX, Residential Mixed Use, is the least intensive zoning district in which food and beverage sales are permitted by right.

The business was purchased in May, 2021, by Niyan LLC. At the time of purchase, the name of the business was changed to Topsy's Liquor. There is an existing free standing sign associated with the business, which is located off of the property and in the right-of-way. Current regulations for signage in the RMX district require that no part of a free standing sign structure shall be closer than 5 feet to any property line, and no permanent signage is allowed in the right-of-way, making the existing sign non-conforming.

After the required notice was published, staff has received one comment from a neighbor representing 1817 Rose in favor of the variance.

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 request for a variance from section 8.15.A of the Development Regulations to allow the use of an existing non-conforming sign after a change in business name and ownership at 1820 S. 4th St.

ATTACHMENTS:

- Letter of Intent
- Aerial and Zoning Maps
- Application

Niyan LLC

**Attachment to
PETITION (for Variance)
to the BOARD OF ZONING APPEALS**

Purpose for Petition

Niyan LLC purchased the property at 1820 South 4th Street, Leavenworth, Kansas, formerly known as Connie's Liquor (the old A & W building) May 21, 2021. When we inquired about changing the face of the sign, we were informed that even though the sign was legal when it was installed, it is now not legal and no changes can be made to the sign.

The explanation was something along the line of: the State of Kansas expanded the right-of-way along Highway 7-73 and now the sign is in the right-of-way, so the City Planning department does not have the authority to issue the permit to change the face of the sign.

The cost to move or change the sign is likely well in excess of \$20,000 and it could be much more. The sign is not an impediment to the vision of traffic since it is much higher than the necessary field of vision for Highway 7-73 and the vehicles entering or existing the parking lot of the business.

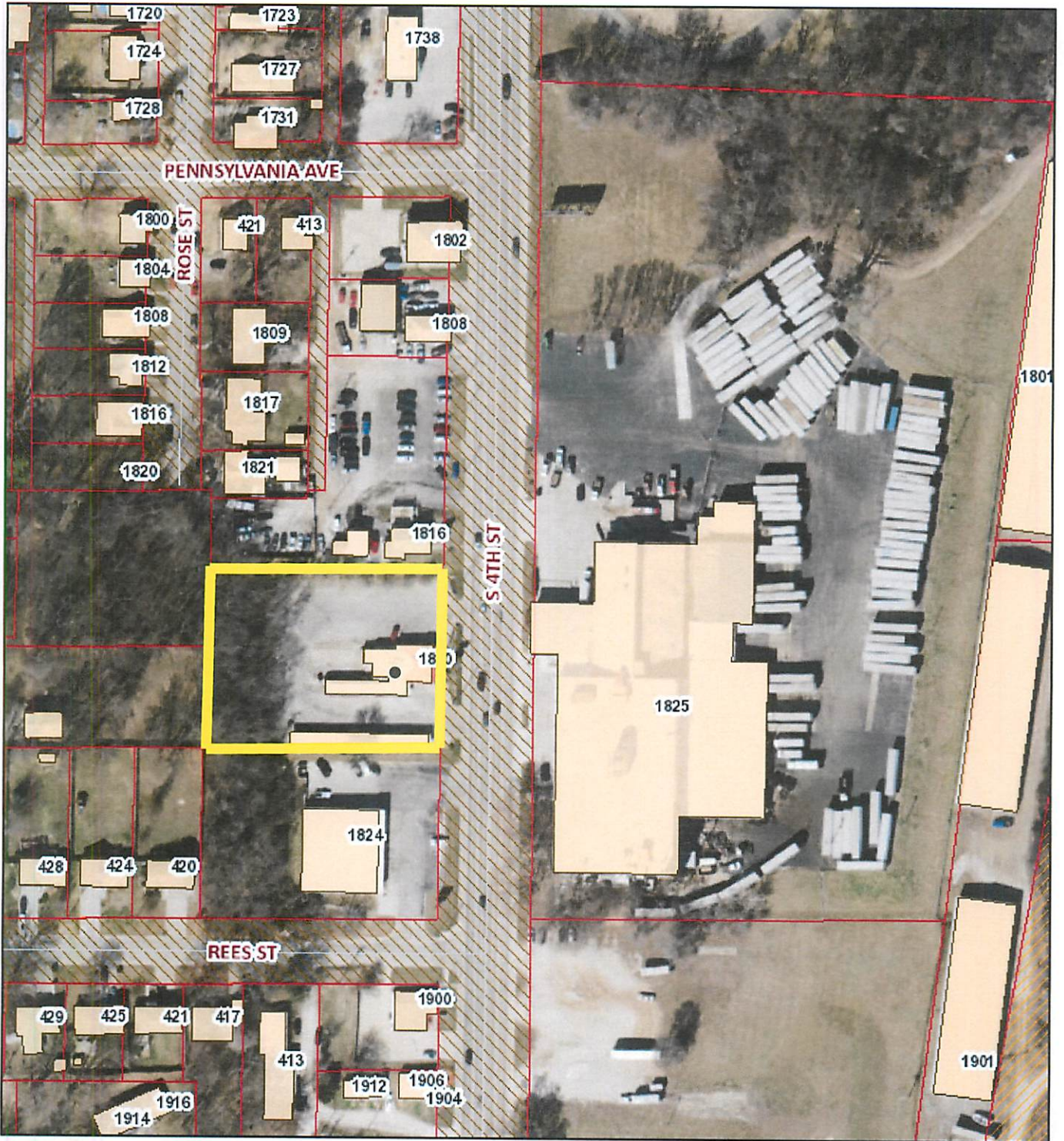
The change of the face of the sign will not change the character of the neighborhood; it will have no effect on uses of properties nearby; the sign as it currently is will remain the same, only the face will be changed, and it is suitable for the subject property; the granting of the variance of the restriction will not detrimentally affect nearby property; and the business has not been vacate and has been continually operated with the sign in place.

The relative gain to the public health, safety, and welfare by the destruction of the value of plaintiffs property as compared to the hardship imposed upon the individual landowner: the change of the face of the sign would have no effect public health, safety and welfare. The cost to remove and replace the sign would be a considerable hardship to the new business owner; removal of the sign without replacement would likely create a hardship to the business and devalue the property.

The recommendations of permanent or professional staff are unknown at this time.

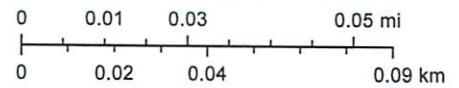
**Respectfully submitted by:
Niyan LLC
Priya Patel, managing partner
tipsyliquorsleavenworth@gmail.com**

1820 S 4th St Aerial Map



9/15/2021, 8:46:38 AM

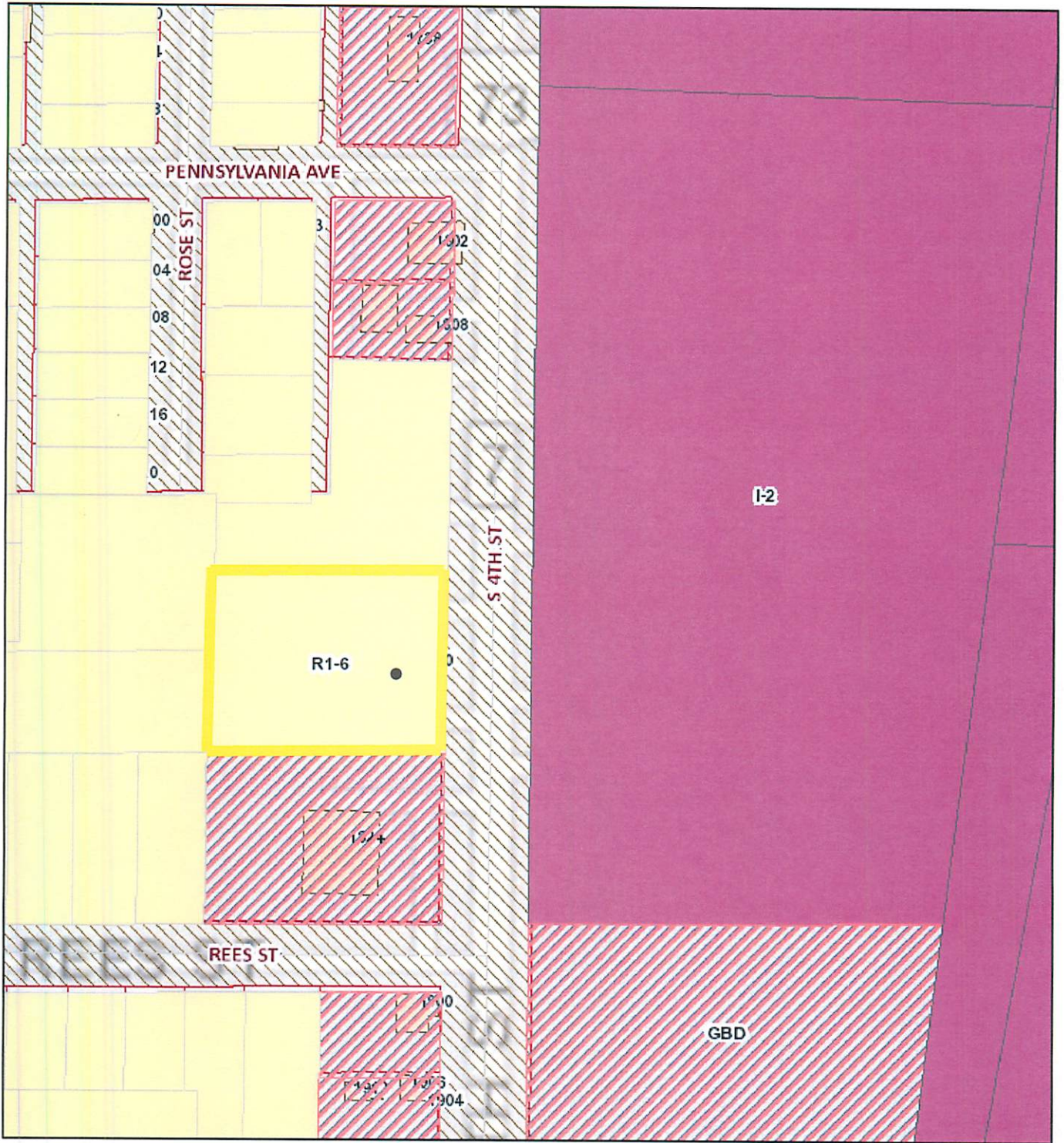
1:2,257



- Override 1
- Missouri River
- Parcels (City Owned)
- Lansing City Limits
- Parcels_Current
- Ft Leavenworth Military Installation
- Buildings
- Leavenworth City Limits
- Address (Points)
- City Right-of-Way
- RoadCenterline

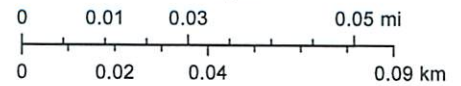
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

1820 S 4th St Zone Map



9/15/2021, 8:47:54 AM

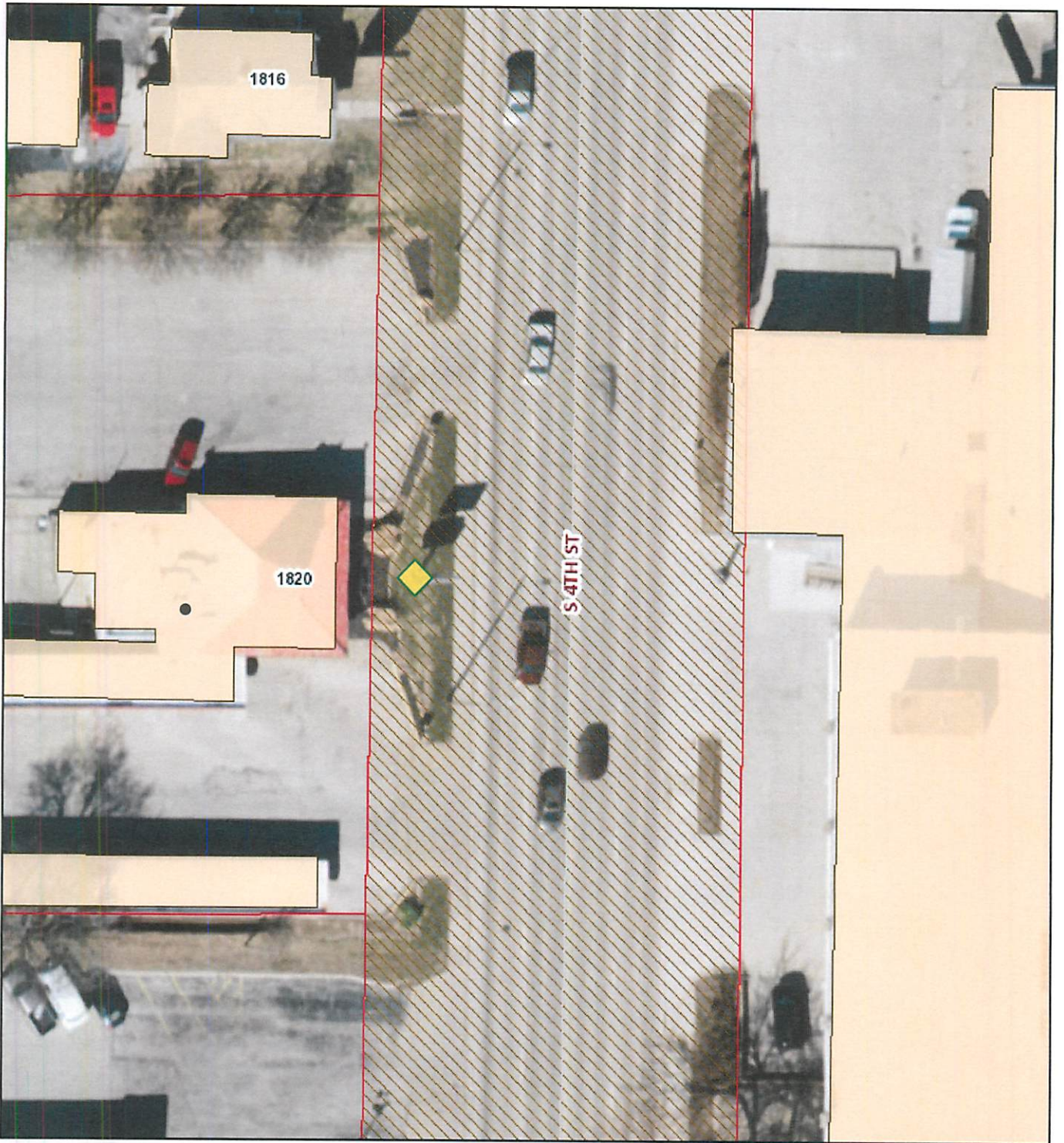
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- Override 1
- MP
- Zoning_CURRENT**
- CBD
- NBD
- GBD
- I-1
- PUD
- R-MF
- I-2

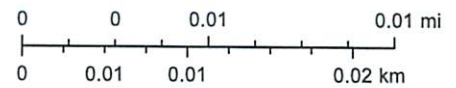
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community












1820 S 4th St Aerial Map Sign Location



9/15/2021, 8:53:21 AM

1:564



-  Override 1
-  Missouri River
-  Parcels (City Owned)
-  Lansing City Limits
-  Parcels_Current
-  Ft Leavenworth Military Installation
-  Buildings
-  Leavenworth City Limits
-  Address (Points)
-  City Right-of-Way
-  RoadCenterline

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BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

Case No.:	<u>2021-24</u>	BZA
Application No.	<u>9867</u>	
Fee (non-refundable)	<u>\$350.00</u>	<u>SA</u>
Filing Date	<u>8-5-21</u>	
Hearing Date	<u>9-20-21</u>	
Publication Date	<u>8-26-21</u>	

PETITION

Property Zoning: _____

Location of Subject Property: 1820 South 4th Street, Leavenworth, Kansas

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

Petitioner: Niyan LLC, Priya Patel, Managing Partner

Petitioner Address: 5007 N 143rd St, BASEHOR, KS 66007

Email: tipsyliquorsleavenworth@gmail.com Telephone: 478-719-5740

Petitioner's Interest in Property: owner

Purpose of Petition: see attached explanation Section 8.15.A

- 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 (*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 (print): Niyan LLC, Priya Patel, Managing Partner

Signature: *Priya Patel* Date: 8/4/2021

State of Missouri
County of Leavenworth

Signed or attested before me on 8-5-21 by Priya Patel

Notary Public: Sonda Arnold

My appointment expires: May 28, 2022 (Seal)

NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized.
Check list below...

<input type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<input type="checkbox"/>	Full legal description of subject property obtained from the Register of Deeds Office (913-684-0424)
<input type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property – County GIS Department 913-684-0448
<input type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)

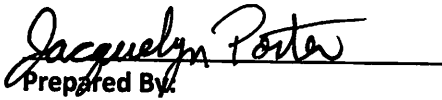


Connie's is turning into Topsy's and we are needing to install face replacements on the existing pole sign. We are still working on the new face layout with the customer. But as soon as we have that we will send it over for your records!

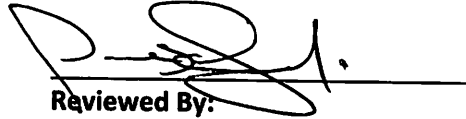


**Board of Zoning Appeals Agenda Item
Variance Request
2021-25 BZA
44 Limit Street**

SEPTEMBER 20, 2021



Prepared By:
Jacquelyn Porter
City Planner



Reviewed By:
Paul Kramer
City Manager

SUMMARY:

The applicant is requesting a variance from section 4.04.B.3 of the adopted Development Regulations to allow a detached garage greater than 900 square feet on a parcel less than one acre.

DISCUSSION:

The applicant and owner, Kevin Cox, is requesting a variance from the above noted section of the adopted Development Regulations to allow construction of a detached garage that is greater than 900 square feet on a parcel less than one acre.

- *4.04.B.3-For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.*

The applicant proposes to construct a 1,200 square foot detached garage at the northeast corner of the property, with access off the adjacent alley. The property is currently zoned as Medium-Density Single-Family Residential District, R1-9 with a single-family dwelling. The primary structure has calculated area of 1,680 square feet and the lot is 0.29 acres.

The proposed use of the detached garage is for storage and restoration of an antique vehicle. The extra space will be used for storage of belongings that are currently in a storage unit

After the required notice was published, staff has not received comment from any neighbors

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.

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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 request for a variance from section 4.04.B.3 of the Development Regulations to allow a 1,200 square foot detached garage at 44 Limit Street.

ATTACHMENTS:

- Letter of Intent submitted by Kevin Cox
- Aerial and Zoning Maps
- Application

Kevin D. Cox
44 Limit Street
Leavenworth, Kansas
66048
913-240-5584

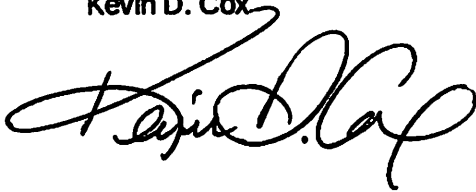
August 6, 2021

Dear Zoning Committee,

I Kevin D. Cox would respectfully request to build a new garage at the address of 44 Limit Street Leavenworth, Kansas 66048 in the dimensions of 30x40 feet. I know that it is 10 feet longer than what is allowed but I would like to have enough room to be able to get my old car out of the driveway that has been sitting there for years and is an eyesore. This way I would have a place to restore the car and place to keep the car when finished. Plus I have been paying for at least a decade on a storage unit and with this extra space I would be able to bring all my belongings here to my home and store them.

Thank you for your time and kind consideration in this request.

Sincerely,
Kevin D. Cox

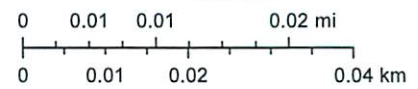
A handwritten signature in black ink, appearing to read "Kevin D. Cox". The signature is fluid and cursive, with a large, sweeping initial "K" and a long, trailing flourish at the end.

44 Limit St Aerial Map



9/14/2021, 3:55:10 PM

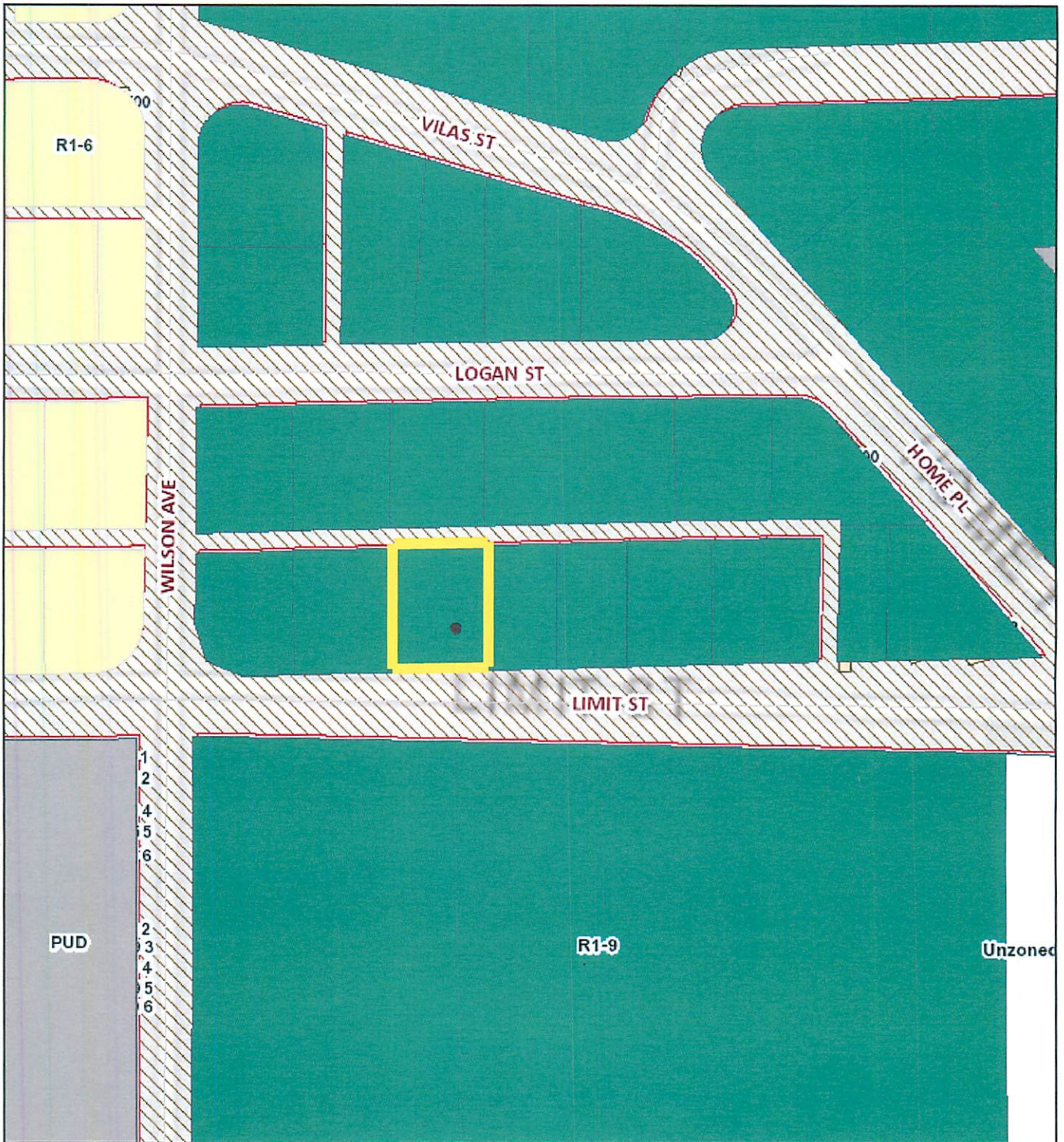
1:1,128



- Override 1
- Missouri River
- Parcels (City Owned)
- Lansing City Limits
- Parcels_Current
- Ft Leavenworth Military Installation
- Buildings
- Leavenworth City Limits
- Address (Points)
- City Right-of-Way
- RoadCenterline

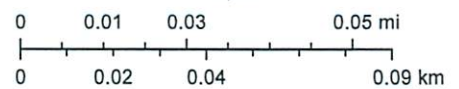
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

44 Limit St Zoning Map



9/14/2021, 3:52:18 PM

1:2,257



- | | |
|----------------|------|
| Override 1 | MP |
| Zoning_CURRENT | NBD |
| CBD | OBD |
| GBD | PUD |
| I-1 | R-MF |
| I-2 | |

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



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

OFFICE USE ONLY

Case No.:	<u>2021-25</u>	BZA
Application No.	<u>9884</u>	
Fee (non-refundable)	<u>\$350.00</u>	
Filing Date	<u>8-6-21</u>	
Hearing Date	<u>9-20-21</u>	
Publication Date	<u>8-26-21</u>	

PETITION

Property Zoning: _____

Location of Subject Property: 44 Limit Street Leavenworth, Ks. 66048

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

Petitioner: Kevin D. Cox

Petitioner Address: 44 Limit Street Leavenworth, Ks. 66048

Email: X49Quiksilver@ADL.com Telephone: 913-240-5584

Petitioner's Interest in Property: Owner

Purpose of Petition: To build a garage 10 feet larger in length than what is allowed.

- Appeal of Administration Decision _____ Date of Decision _____
Section 11.03.A
- Variance: Section 4.04.B
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 (print): Kevin D. Cox

Signature: [Handwritten Signature] Date: Aug. 6 2021

State of Kansas)

County of Leavenworth)

Signed or attested before me on 6 August 2021 by Kevin D. COX

Notary Public: Karen Valencia

My appointment expires: 3-25-22 (Seal)



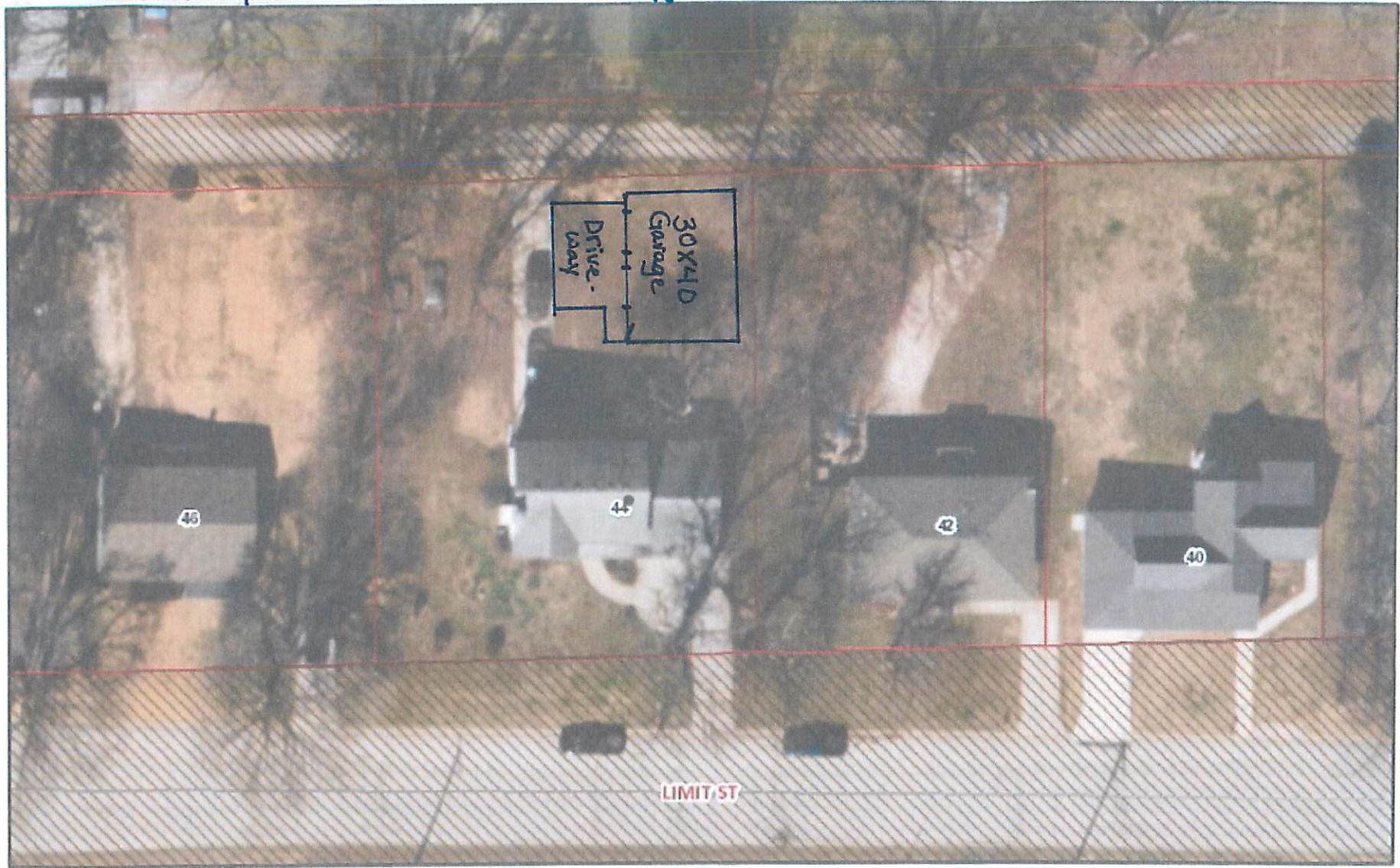
NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized. Check list below...

<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<input checked="" type="checkbox"/>	Full legal description of subject property obtained from the Register of Deeds Office (913-684-0424)
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property – County GIS Department 913-684-0448
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)

*7 feet from alley. *29 feet from house *Garage doors facing West.
 *7 feet from property line. 44 Limit
 N









W

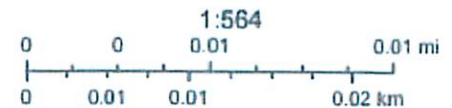
E



S

8/6/2021, 11:41:34 AM

-  Parcels (City Owned)
-  Missouri River
-  Leavenworth City Limits
-  Parcels_Current
-  Lansing City Limits
-  City Right-of-Way
-  Address (Points)
-  Ft Leavenworth Military Installation
-  RoadCenterline



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

Much larger than what I am wanting to build. But it was the only one I could find that looked anything like what I want.



30' x 40'

W

40'

N

30'

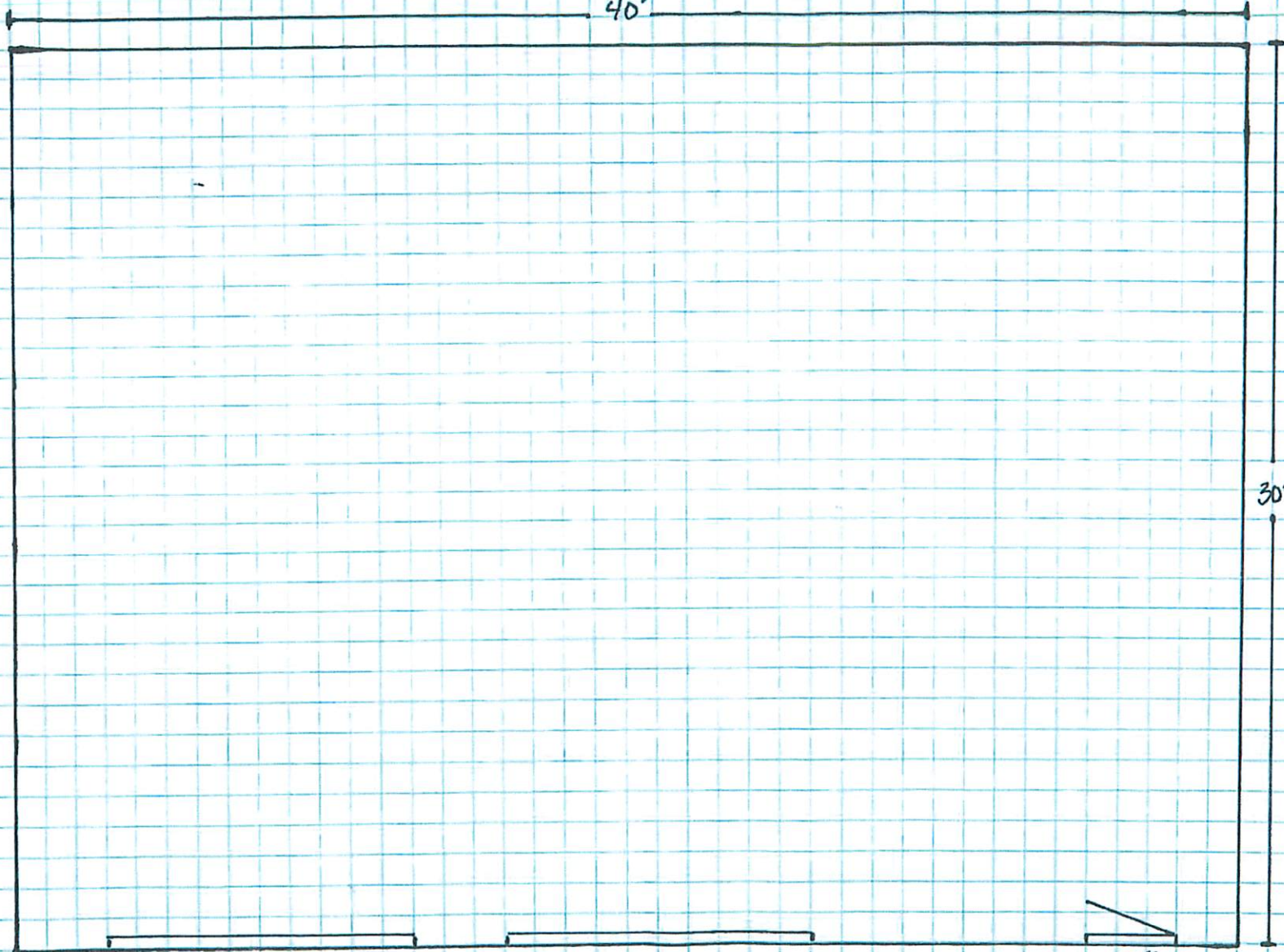
S

10' x 10'
Garage door

10' x 10'
Garage door

36"
Entry door

W



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The Parcel Number for this Property is 052-093-06-0-30-07-007.02-0
Quick Ref ID: 8476

Owner Information

Owner Name	COX, KEVIN DWAYNE
Address	44 LIMIT ST LEAVENWORTH, KS 66048

Property Situs Address

Address	44 LIMIT ST, Leavenworth, KS 66048
---------	------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	112.0
Tax Unit Group	001

Property Factors

Topography	Above Street - 2
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2021 Appraised Value

Class	Land	Building	Total
Residential - R	10,200	161,020	171,220
Total	10,200	161,020	171,220

Tract Description

SOUTHSIDE PARK SUB, S06, T09, R23E, BLOCK 35, Lot 22 - 23 Plat Book/Page 2B /56 Lot Width: 100.0 Lot Depth: 126.7 Deed Book/Page 0751/0143 0536/1995

Building Permit Information

Permit Number	Amount	Issue Date	Description
15637	90,357	5/20/1998	Dwelling
97005	1	4/1/1997	Dwelling Demolition

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
21	3720	15	5134	15	6594		

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Frontage and Depth	Primary Site - 1		100	126	0.99							10,200

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	Conventional
Quality	AV+	Bsmt Type	Full - 4
Year Built	1998	Total Rooms	6
Eff Year		Bedrooms	3
MS Style	Two Story	Family Rooms	
LBCSStruct	Detached SFR unit	Full Baths	2
No. of Units		Half Baths	1
Total Living Area		Garage Cap	3
Calculated Area	1,680	Foundation	Concrete - 2
Main Floor Living Area	840		
Upper Floor Living Area Pct.	100		
CDU	AV		
Phys/Func/Econ	AV/ /		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components

Code	Units	Pct	Quality	Year
Attached Garage (SF)	588			
Garage Finish, Attached (SF)	588			
Raised Slab Porch (SF) with Roof	76			
Frame, Siding, Vinyl		100		
Composition Shingle		100		
Total Basement Area (SF)	840			
Raised Subfloor (% or SF)	1,680			
Basement Garage, Single (#)	1			
Warmed & Cooled Air		100		

Plumbing Fixtures (#)	13			
Plumbing Rough-ins (#)	1			
Single 2-Story Fireplace (#)	1			
Automatic Floor Cover Allowance				
Wood Deck (SF)	96		3	1999

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