

LEAVENWORTH BOARD OF ZONING APPEALS

MONDAY, August 20, 2018 - 7:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

AGENDA

CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: July 16, 2018 **Action:** Motion

OLD BUSINESS:

None

NEW BUSINESS:

1. 2018-13 BZA – 2534 2ND AVENUE

Hold a public hearing for Case No. 2018-13 BZA, wherein the applicant, Pastor Ron Suttles, is requesting a variance from the Development Regulations to allow for a reduction in required rear yard setback, an increase in the allowed impervious area, and a reduction in the required drive separation for a proposed church to be located at 2534 2nd Avenue.

2. 2018-14 BZA – WEST GLEN, 1ST PLAT

Hold a public hearing for Case No. 2018-14 BZA, wherein the applicant, Mike Reilly, is requesting a variance from the Development Regulations to allow reduced front setbacks and side yard setbacks for specific lots in the West Glen subdivision.

ADJOURN



BOARD OF ZONING APPEALS MINUTES
MONDAY, July 16, 2018, 7:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

The Leavenworth Board of Zoning Appeals (BZA) met in regular session on Monday, July 16, 2018. It was determined a quorum was met with the following board members present: Dick Gervasini, Ron Bates, Kathy Kem and Jan Horvath. Mike Bogner was absent. Staff members City Planner Julie Hurley and Administrative Assistant Michelle Baragary were present.

Vice Chairman Gervasini called the meeting to order at 7:00 pm and called for the first item on the agenda; approval of minutes from May 21, 2018. As there were no comments or changes, Mr. Horvath moved to approve the minutes as presented, seconded by Mr. Bates. The minutes were approved 4-0.

The Vice Chairman called for the next item on the agenda – **Case No. 2018-08 BZA – 63 Logan Street – Variance Request** - and requested the staff report.

City Planner Julie Hurley addressed the board stating the applicant, Michael Gabrick, is requesting a variance from the Development Regulations to allow a driveway which does not lead to a garage, carport, rear yard parking area, or other allowed parking space.

The subject property is zoned R1-6, High Density Single Family Residential District, and is surrounded by other similar single family homes. The existing house does not have a garage, and the applicant is requesting the variance to allow the driveway for accessibility issues. On the same block, there are several other homes with existing driveways in the front yard that do not lead to a garage or carport, which were installed prior to the adoption of current regulations prohibiting such, making them “legal non-conforming” driveways.

Article 12 of the Development Regulations defines a “driveway” as:

A parking lane which leads from a street or an alley to a garage, carport, rear yard parking area, a parking space established in accordance with the provisions of this ordinance, or to another street or alley. Such driveway may extend in front of, alongside of, or in the rear of a principal structure either planned for or erected upon a building site.

The chairman called for questions or comments from the board about the staff report.

Mr. Bates asked if the applicant submitted a drawing indicating where the driveway would be installed.

Ms. Hurley responded the applicant did not submit a drawing.

Mr. Bates asked if the board has the authority to state where the driveway would be allowed.

Ms. Hurley stated the board could do that. She further stated the applicant has indicated he intends to install the driveway up to the front porch.

Mr. Bates asked if there will be a problem with the distance to the side property line.

Ms. Hurley responded the driveway meets the required minimum distance of 2' from the property line. Furthermore, there are a few other houses on this block that have an existing front yard parking area. Some of the existing parking areas are gravel, which would not be allowed. The driveway would have to be paved and up to today's standards.

Ms. Kem asked if the reason for not entering from the rear yard is due to the incline on the property.

Ms. Hurley stated that was correct. Due to the incline and the steps that are in the rear yard.

Vice Chairman Gervasini opened the public hearing.

Michael Gabrick, applicant, approached the board stating he is on oxygen and is unable to walk any distance and his wife walks with a cane; therefore, they need to be able to park close to the house. Mr. Gabrick proceeded to ask if he could install a carport directly in front of his porch (east side of the front bedroom). The carport would be approximately 12' x 18'.

Ms. Hurley stated the carport could not protrude in front of the wall of the front bedroom. If the applicant can get the carport to fit in that area, then it would be allowed.

Mr. Gervasini stated the variance would not be needed if the applicant could fit a carport in the area east of the front bedroom.

Ms. Hurley agreed. However, since this variance request has already been submitted it would be best if the board would go ahead and take action, especially since the applicant is not sure if he can get a carport to fit and meet the required setbacks.

The neighbor at 59 Logan approached the board stating Mr. and Mrs. Gabrick both have significant health issues. Having the ability to park in the front yard close to the entrance of the home is a necessity for them.

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

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)

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.*

Vote 4-0

All board members voted in the affirmative.

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 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 0-4

All board members voted in the affirmative.

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.

Vice Chairman Gervasini asked if the board wants to impose any conditions, safeguards and restrictions upon the premises.

Mr. Bates asked if the board gives a blanket approval of the variance request, can the applicant move the driveway to anywhere he wants it.

Ms. Hurley believes the driveway has been formed. The board can make the condition that the driveway remain where it has been formed already.

Vice Chairman Gervasini stated the variance shall be granted with the stipulation that the driveway to installed where it is currently formed.

Vice Chairman Gervasini asked for any other comments, questions or business to discuss.

Ms. Hurley stated there was another request for the property located at 2500 S. 4th Street, however, the applicant withdrew the application.

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

The meeting adjourned at 7:19 p.m.

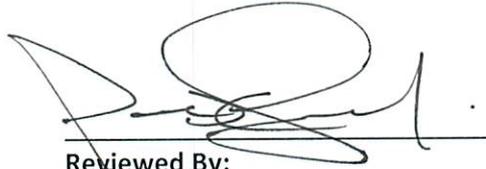
JH:mb

Board of Zoning Appeals Agenda Item
Variance Request
2018-13-BZA
2534 2nd Avenue

AUGUST 20, 2018



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

SUMMARY:

The applicant, Pastor Ron Suttles, is requesting a variance from the Development Regulations to allow for a reduction in required rear yard setback, an increase in the allowed impervious area, and a reduction in the required drive separation for a proposed church to be located at 2534 2nd Avenue.

DISCUSSION:

The subject property is zoned R1-6, High Density Single Family Residential District, and is proposed to be developed with a new facility for the Body of Christ Outreach Ministries. Religious facilities are an allowed use within the R1-6 zoning district.

In order to facilitate the development of the site, the applicant is requesting three variances:

1. A reduction in the rear yard building setback from 25' to 5' along the western property line. Section 4.03 of the Development Regulations requires a minimum 25' rear yard setback in the R1-6 zoning district.
2. An increase in the allowed amount of impervious surface from 50% to 61%. Section 4.03 of the Development Regulations allows a maximum lot coverage of 50% in the R1-6 zoning district.
3. A reduction in the distance between the proposed southern drive entrance and the existing driveway on the adjacent property to the south from 50' to 15'. Section 5.05 of the Development Regulations requires that a driveway for a non-residential use be a minimum of 50' from another access driveway.

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;*

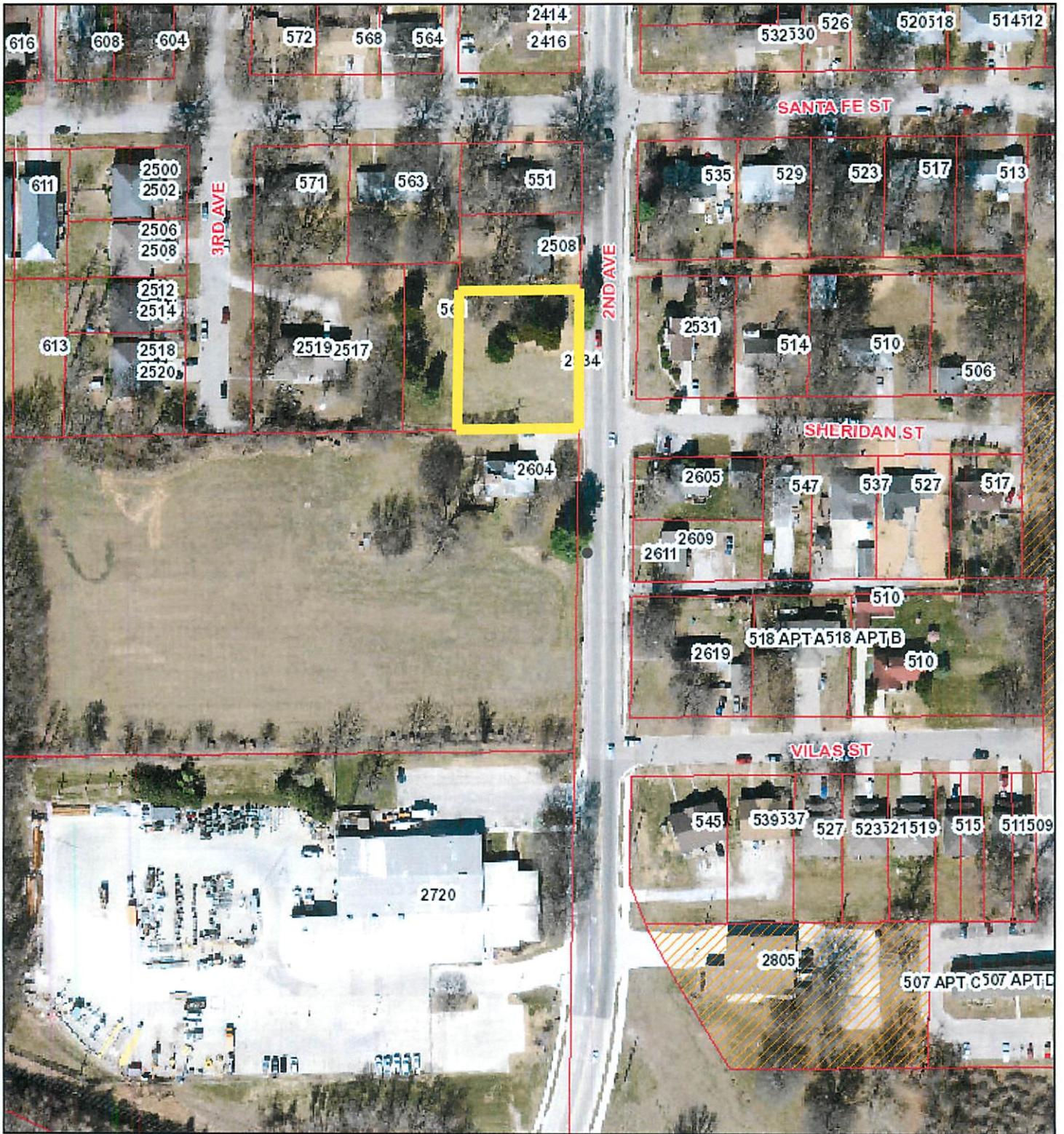
 - e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*

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:

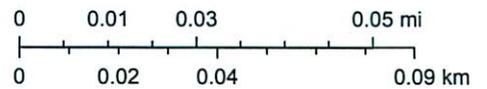
Approve or deny the request for variances from the Development Regulations to allow a reduced rear yard setback, increase in allowed lot coverage, and reduced distance between drive entrances as described for 2534 2nd Avenue.

2534 2nd Avenue



8/16/2018, 1:53:35 PM

1:1,749



City of LV GIS, 2017, LV GIS Dept 09/23/2016, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, City of LV GIS, Dave Griffith, 2013



Case No. 2018-13 BZA

BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

Application No. 4295
Fee (non-refundable) \$350.00
Filing Date 07-03-2018
Fee Paid \$350.00

Property Zoning R1-6

PETITION

Petitioner: Pastor Ron Suttles
(name typed or printed)
Petitioner Address: 2123 Magnolia Dr., Leavenworth, KS 66048
Email: BOCOM@ATT.NET Telephone: 913-758-9220
Location of Property Involved: 2534 2nd Ave., 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: Building Setbacks and Lot Coverage Variances

- 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: RONALD M. SUTTLES Pastor BOCOM

Signature: Ronald M. Suttles Sr. Pastor Date: 6-30-18

State of Kansas)

County of Leavenworth)

Signed or attested before me on July 3, 2018 by Brenda R. Jones

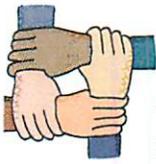
Brenda R. Jones
(Signature of Notary Public)



BRENDA R. JONES
Notary Public
State of Kansas
My Comm. Expires 06/29/2020

My commission expires: 6/29/2020 (Seal)

FOR OFFICE USE ONLY:	
Date of Publication	<u>7-27-18</u> Date of Hearing: <u>8-20-18</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)



BODY OF CHRIST OUTREACH ...NISTRIES

2534 2nd Avenue
Leavenworth KS 66048

Telephone: (913) 758-9220
Email: bocom@att.net

July 3, 2018

Board of Zoning Appeals

City of Leavenworth, Kansas

We are requesting to accommodate the building of the new church. For parking and for proper entrance and exit of the site.

The variance requested are the following:

1. Reduction of the Rear-Yard setback from 25 feet to 5 feet along the West property line.
2. Increase in the amount of impervious surface to be added from 50% to 61%.
3. Reduce the distance between entrance for the South Entrance.

If you need any additional information, please let me know.

Thanks

Ronald Suttles

Pastor, Body of Christ Outreach Ministries

Leavenworth, Kansas

913-961-1945

DATE	DESCRIPTION



GENERAL NOTES:

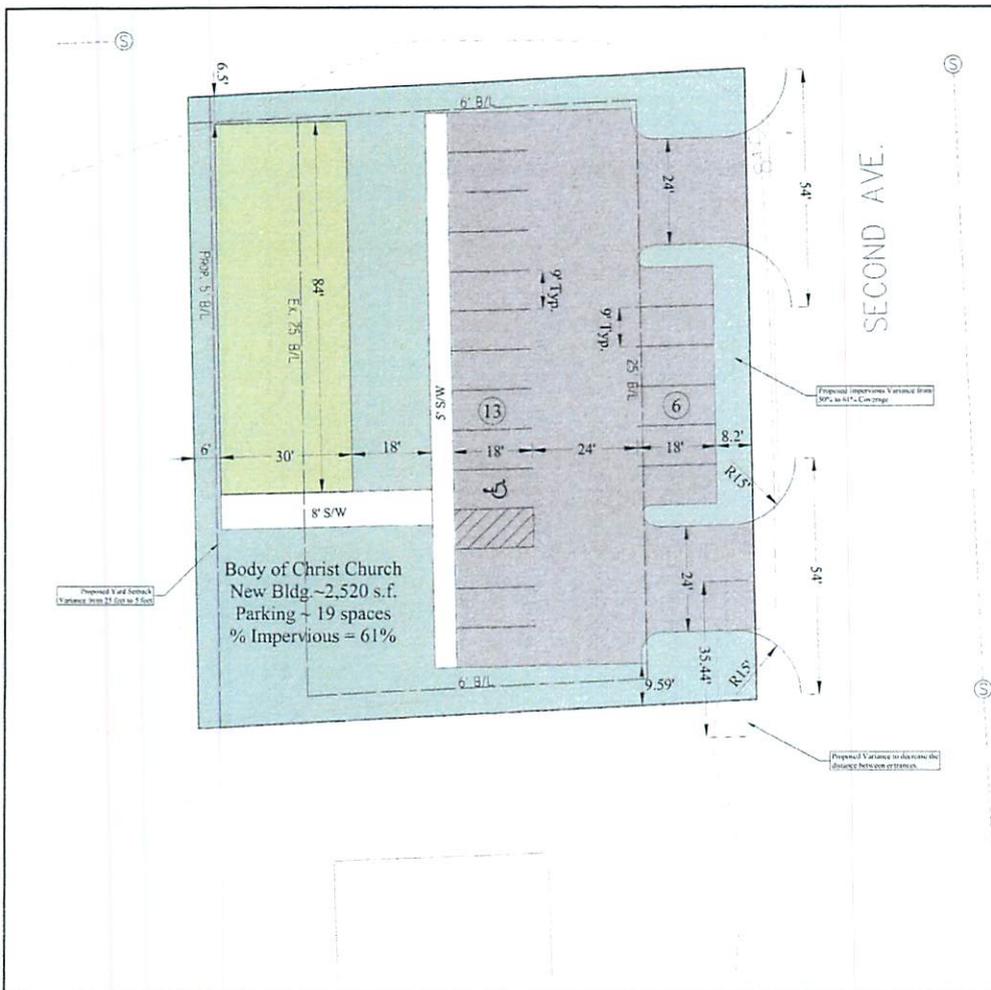
- Development plans are prepared in accordance with the City of Lawrenceville, Georgia and shall be subject to review and approval by the City Engineer before any construction will be permitted.
- The City of Lawrenceville plans to install a general ordinance with 6' of Low Impact Permeable Paving and 6' of Low Impact Permeable Paving. The City of Lawrenceville will require the applicant to provide the design of permeable and 6' of Low Impact Permeable Paving. The City of Lawrenceville will require the applicant to provide the design of permeable and 6' of Low Impact Permeable Paving.
- The applicant shall have one (1) proposed copy of the plans prepared for the City of Lawrenceville and one (1) copy of the proposed Design and Construction Schedule and Specifications of the site plan at all times.
- All existing utility lines shall be shown on the site plan and shall be protected in accordance with the City of Lawrenceville Ordinance. All existing utility lines shall be shown on the site plan and shall be protected in accordance with the City of Lawrenceville Ordinance.
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LEGEND

- PROPOSED NUMBER PARKING SPACES
- EXISTING ASPHALT PAVEMENT
- EXISTING NEW BITUMENS
- EXISTING GREEN SPACE (LVA)

DATE OF PREP: 7/2/14
BY: J. Napier
TOP OF ASPHALT PAVEMENT: 5' FINISH GRADE
FINISH GRADE

NOTE: All parking lot markings shall be 3" min. width



Body of Christ Church
New Bldg. ~2,520 s.f.
Parking + 19 spaces
% Impervious = 61%

Proposed Yard Surface
Variance: 25.00 ft to 5 feet

Proposed Variance to decrease the
distance between entrances.

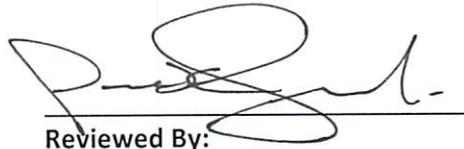
SECOND AVE.

**Board of Zoning Appeals Agenda Item
Variance Request
2018-14-BZA
West Glen, 1st Plat**

AUGUST 20, 2018



Prepared By:
Julie Hurley
City Planner



Reviewed By:
Paul Kramer
City Manager

SUMMARY:

The applicant, Mike Reilly, is requesting a variance from the Development Regulations to allow reduced front setbacks and side yard setbacks for specific lots in the West Glen subdivision.

DISCUSSION:

The subject property is zoned R1-6, High Density Single Family Residential District, and is part of the West Glen 1st Plat. The property was rezoned from R1-25, Low Density Single Family Residential District, to R1-6 in 2017 to facilitate the development of the West Glen subdivision. The plat was approved at the same time.

Lots 27-49 of the plat are intended to be developed with maintenance-provided single-family homes. The variance request is being made to accommodate a more varied aesthetic to the development.

Section 4.03 of the Development Regulations requires a 25' front yard setback and a 6' side yard setback in the R1-6 zoning district. A variance to allow the following reductions is being requested:

Lots 27-30: Reduction in required front yard setback to 20'

Lots 31-34: Reduction in required front yard setback to 18'

Lot 35: Reduction in front yard setback to 15', and reduction in side yard setback on the north side of the lot to 0'. This lot abuts a tract to the north that will be maintained as open space.

Lots 40-41: reduction in front yard setback to 20'

Lot 47: Reduction in front yard setback to 18', and reduction in side yard setback on the north side of the lot to 0'. This lot abuts a tract to the north that will be maintained as open space.

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,

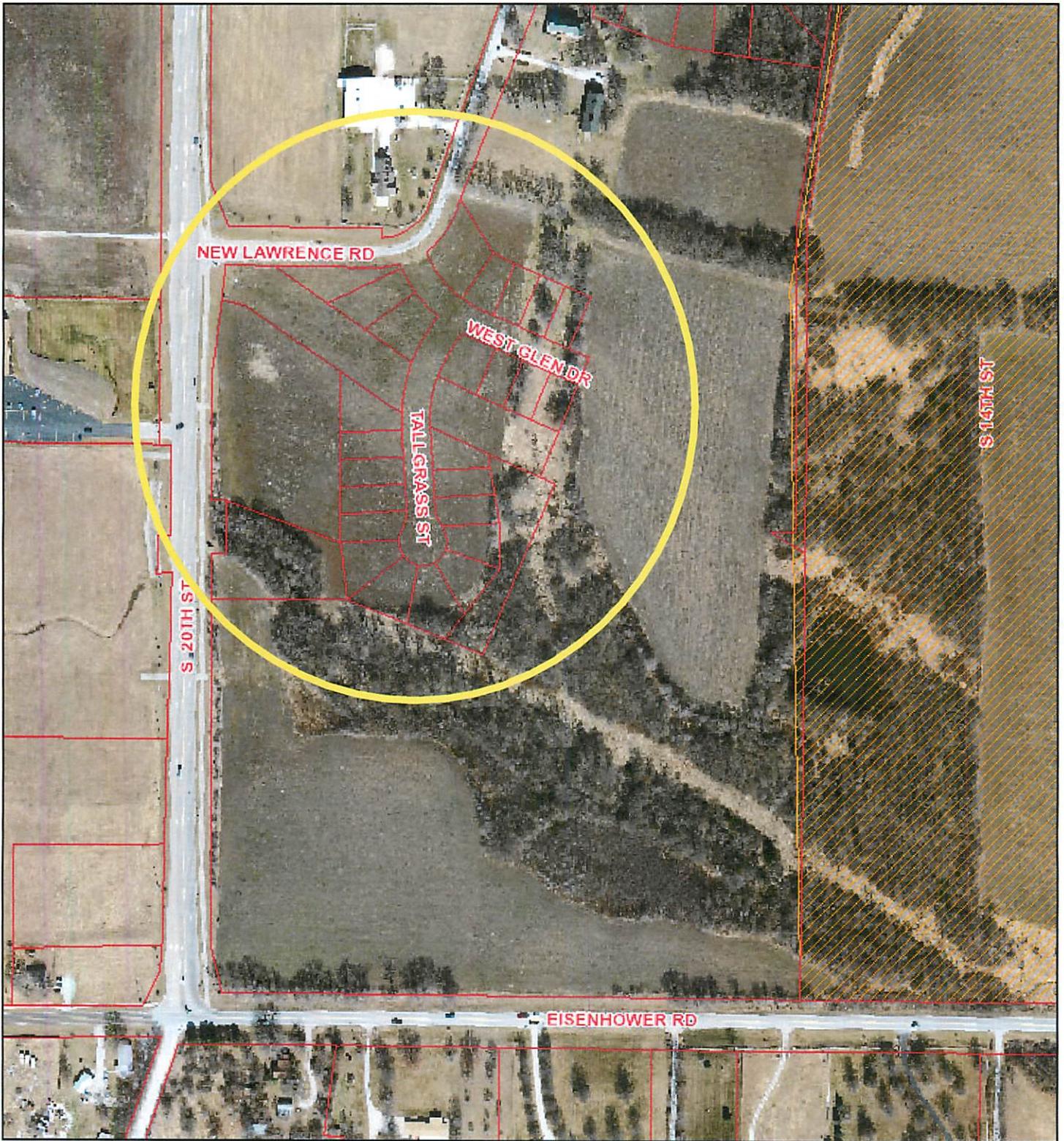
provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only 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.

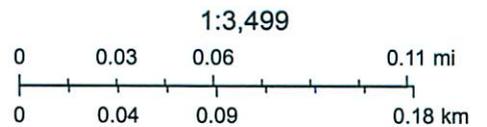
ACTION:

Approve or deny the request for a variance from the Development Regulations to allow a reduced front and side yard setbacks as described for West Glen, 1st Plat.

West Glen, 1st Plat



8/16/2018, 1:58:21 PM



City of LV GIS, 2017, LV GIS Dept 09/23/2016, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, City of LV GIS, Dave Griffith, 2013



Case No. 2018-14 BZA

BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

Application No. 4303
Fee (non-refundable) \$350.00
Filing Date 7-6-18
Fee Paid 350.00

Property Zoning R1-6

PETITION

Petitioner: Mike Reilly
(name typed or printed)
Petitioner Address: PO Box 9, Leavenworth, KS 66048
Email: mike@reillyandsons.com Telephone: 913-682-1234
Location of Property Involved: West Glen, 1st Plat
Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

Petitioner's Interest in Property: Property Owner

Purpose of Petition: Reduce the front-yard setbacks and side-yard setbacks on new Lots in West Glen, 1st Plat.

- 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: Mike Reilly

Signature: [Signature] (print name) Date: 7-5-18

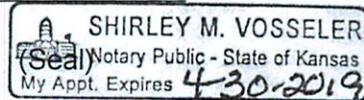
State of Kansas)

County of Leavenworth)

Signed or attested before me on July 5, 2018 by Michael C. Reilly

[Signature]
(Signature of Notary Public)

My commission expires: 4-30-2019



FOR OFFICE USE ONLY:	
Date of Publication	<u>7-27-18</u> Date of Hearing: <u>8-20-18</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)

