



**BOARD OF ZONING APPEALS MINUTES  
MONDAY, August 17, 2020, 6:00 P.M.  
COMMISSION ROOM, CITY HALL  
LEAVENWORTH, KANSAS**

The Leavenworth Board of Zoning Appeals (BZA) met Monday, August 17, 2020. It was determined a quorum was met with the following board members present: Mike Bogner, Dick Gervasini, Jan Horvath and Kathy Kem. Ron Bates was absent. Staff members City Planning Director Julie Hurley, City Planner Jackie Porter and Administrative Assistant Michelle Baragary were present.

Chairman Bogner called the meeting to order at 6:00 p.m. and called for the first item on the agenda – approval of minutes from July 20, 2020. Mr. Gervasini moved to accept the minutes as presented, seconded by Mr. Horvath and approved by a vote of 4-0.

**1. CASE NO. 2020-27 BZA – 4820 S. 4<sup>TH</sup> STREET – VARIANCE REQUEST**

Chairman Bogner called for the staff report.

City Planner Jackie Porter stated the applicant is requesting a variance from Section 8.11(C) to allow more than one sign per storefront for a property located at 4820 S. 4<sup>th</sup> Street and zoned GBD, General Business District. The Development Regulations 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. U-Haul has one existing wall sign. It is 305 sqft “Boxes, Hitches, Moving Supplies” with the U-Haul logo.

The variance request is for three additional signs on the east side of the building. One of the proposed signs is located at the southeast portion of the building reading “Your Storage Place”, and is roughly 62 sqft. The second is a “Customer Entrance” sign at 52 sqft. The third reads “Drive-In Storage: Load/Unload” at 23 sqft.

The requested variance is to allow installation of a “Your Storage Place”, “Customer Entrance”, and “Drive-In Storage: Load/Unload” signs on the east side of the building. All proposed signs meet the size requirement of the GBD zoning district.

Chairman Bogner opened the meeting up for questions about the staff report.

Mr. Bogner asked if there would be additional signs in the future.

Planning Director Julie Hurley responded staff is not aware of additional signs.

Mr. Horvath asked where the Customer Entrance sign will be placed.

Ms. Porter stated directly under the existing Boxes • Hitches • Moving Supplies sign.

Ms. Hurley stated usually signs such as Customer Entrance and Drive-In Load/Unload would be directional signs. The Development Regulations limit the size of directional signs to four square feet. On a building as large as the subject building, in order to be visible, these directional signs would need to be larger than what is permitted.

Mr. Gervasini asked if the signs furthest to the north and south are just signs and will not have an entrance.

Ms. Porter stated there is no entrance for the sign to the south. The north sign will have doors for load and unloading.

Ms. Kem asked what the doors to the left of the Drive-In Load & Unload are for.

Ms. Hurley stated staff is unsure what those doors are for; but no signage has been proposed for those doors.

Mr. Russell, applicant, stated he is not sure what those doors will be used for.

Ms. Hurley stated since there are multiple existing doors, U-Haul probably needs the Customer Entrance sign to direct customers to the appropriate entrance.

With no further questions about the staff report, Chairman Bogner opened the public hearing. With no one wishing to speak, Chairman Bogner closed the public hearing and asked for discussion among the commissioners.

Ms. Kem stated she remembers Walmart requesting a variance for additional signage as well.

Ms. Hurley stated the big box stores do not quite fit what the regulations are intended for; therefore, these situations would require a variance.

Mr. Horvath asked staff if this is one variance or three separate variances.

Ms. Hurley responded this would be one variance request. However, number 3 of the Board's Authority, is where the commissioners may impose any conditions, safeguards, and restrictions. Therefore, the board may choose to approve one specific sign but deny the other two or approve two signs but deny one, etc.

Ms. Kem asked if any of the proposed signs are illuminated.

Mr. Russell responded they are not.

With no further discussion among the commissioners, Chairman Bogner 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, 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 4-0**  
**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 the Development Regulations.

**ACTION:**

**Approve or deny the request for a variance from Section 8.11(C) of the Development Regulations to allow installation of three additional signs to the east side of the U-Haul building located at 4820 S. 4<sup>th</sup> Street.**

Chairman Bogner stated the board approves the variance request for the three additional signs.

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

The meeting adjourned at 6:15 p.m.

JH:mb