

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS  
AGENDA  
November 4, 2014  
6:30 P.M.**

**I. ROLL CALL**

**II. APPROVAL OF MINUTES - October 7, 2014**

**III. ACTION ITEM**

**BZA2014-04 Request for a Variance from P.V.M.C. 19.44.020(C4)  
"Yard Exceptions" to increase the projection of the porta cochere  
5115 West 81<sup>st</sup> Street  
Zoning: R-1a Single Family Residential District  
Applicant: Gerald Mancuso & Dr. Jana Goldsich**

**BZA2014-05 Appeal from Section 19.48H of the Zoning Ordinances  
prohibiting signs from extending above the height of the wall on  
which it is mounted & Section 19.48.012(I) "Roof sign"  
2310 West 75<sup>th</sup> Street  
Zoning: C-O Office Building District  
Applicant: Mike Kress, Generator Studio**

**BZA2014-06 Request for a Variance from Section 19.14.030 "Rear Yard" for a  
reduction from the 25' setback of 6'4" for an enclosed deck  
7919 Pawnee Street  
Zoning: RP-4 Condominium or Common Wall Dwelling District  
Applicant: M. Christian Lewis**

**IV. OTHER BUSINESS**

**V. OLD BUSINESS**

**VI. ADJOURNMENT**

If you cannot be present, comments can be made by e-mail to  
[Cityclerk@Pvkansas.com](mailto:Cityclerk@Pvkansas.com)

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS  
MINUTES  
TUESDAY, NOVEMBER 4, 2014**

**ROLL CALL**

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, November 4, 2014 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Randy Kronblad called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, Nancy Vennard, Nancy Wallerstein and Larry Levy. Also present in their advisory capacity to the Board of Zoning Appeals were: Ron Williamson, Planning Consultant; Kate Gunja, Assistant City Administrator; Mitch Dringman, Building Official and Joyce Hagen Mundy, Board Secretary.

Kate Gunja introduced the city's new Building Official Mitch Dringman who was in attendance.

**APPROVAL OF MINUTES**

Bob Lindeblad asked that the minutes reflect the actual vote on the motion to continue BZA2014-04. The correction is as follows: "The motion was voted on and passed by a vote of 4 (Levy, Wolf, Wallerstein, Kronblad) to 3 (Lindeblad, Breneman, Vennard)."

Bob Lindeblad moved the minutes of the October 7, 2014 meeting of the Board of Zoning Appeals be approved as corrected. The motion was seconded by Nancy Vennard and passed unanimously.

Chairman Randy Kronblad reviewed the procedures for the public hearings, noting that there are two new applications before the Board and the application continued from the October meeting.

**BZA2014-04 Request for a Variance from P.V.M.C. 19.44.020(C4) "Yard  
Exceptions" to increase the projection of the porta cochere  
5115 West 81<sup>st</sup> Street**

Chairman Randy Kronblad noted the public hearing on this application was closed and called upon the applicant to present any new information.

Jerry Mancuso, asked that Board Member Bob Lindeblad recuse himself based upon improprieties. He does not feel Mr. Lindeblad can make an unbiased decision and is misusing his power as a board member. Mr. Mancuso stated he had hired a detective and volunteered to disclose that information to the board members. Mr. Mancuso asked Mr. Lindeblad if he would recuse himself. Mr. Lindeblad responded "no". He then asked the Board to recuse Mr. Lindeblad. Mr. Mancuso noted that two board members were not in attendance and asked that his application be continued until it could be heard by the full board.

Mr. Mancuso was asked to submit the additional information that was requested by the Board at the October meeting prior to the end of the week in order for it to be considered at the December 2<sup>nd</sup> meeting as the filing deadline for that meeting has past.

**BZA2014-05 Appeal from Section 19.48H of the Zoning Ordinances prohibiting signs from extending above the height of the wall on which it is mounted & Section 19.48.012(I) "Roof sign"**

Mike Kress with Generator Studio appeared before the Board to appeal the interpretation of the Building Official that the proposed signage for 2310 West 75<sup>th</sup> Street was a roof sign and therefore prohibited. The requested sign is proposed to be mounted on top of the canopy over the entrance of the office building. It will not be located on the roof.

Mr. Kress stated he felt the proposed location was both the safest location for the signage and the best location for visibility by the public on the high traffic, high speed 75<sup>th</sup> Street. The building owner does not want a monument sign, feels that this is the most logical location for the identification signage and the sign fits the integrity of the architecture of the building. He understands the intent of the regulations for signage to not project above a building's roof and feels the proposed sign meets the intent of those regulations.

Ron Williamson explained that although the appeal was made for a sign at a specific location, it needs to be emphasized that if this appeal is approved it affects the Sign Ordinance as a whole, not just this specific location. Therefore, if approved, this type of sign could be located on any business building in the City. The specific location for this appeal is merely an example of the decision being appealed.

The applicant requested a sign permit for a sign that would be mounted on the top of the new entrance canopy as shown on the attached drawing. The Building Official denied the permit on the basis that the sign is a roof sign which is prohibited by the Sign Ordinance. It also violates Section 19.48.25.H. which prohibits signs from extending above the height of the wall on which is it mounted.

Mr. Williamson noted that the city code does not define "roof signs". The Leawood Ordinance defines roof signs as follows:

**Roof Sign** - Any sign erected and constructed wholly on the roof of a building, supported by the roof structure.

The Leawood Ordinance also prohibits roof signs.

The applicant has suggested that it is a marquee sign and the Prairie Village Ordinance is silent on marquee signs. However, the Leawood Ordinance defines marquee signs as:

**Marquee Sign** - Any sign attached flat against or under the canopy of a building, but not on the upper surface of a canopy.

Based on that definition the proposed sign would not be permitted.

The Overland Park definitions are virtually the same as Leawood and are as follows:

**“Roof sign”** means any sign erected, constructed and maintained wholly upon or over the roof of the building and having the roof as a principal means of support.

**“Marquee sign”** means any sign attached flat against or under the marquee or permanent sidewalk canopy of a building, but not on the upper surface of a marquee or canopy.

Mr. Williamson added that when the Planning Commission approved Sign Standards for 3520 W. 75<sup>th</sup> Street, it was determined that the sign above the entrance canopy (Continental) was a roof sign and it was required to be removed as a condition of approval of the Sign Standards.

Bob Lindeblad noted he remembers the discussion on the building at 3520 West 75<sup>th</sup> Street. However, as he views this application the sign does not appear to be a roof sign, but simply a sign located on the roof of a canopy. He feels it is a creative application of signage.

Larry Levy noted similar signs are seen throughout the country.

Randy Kronblad asked if there would be any illumination. Mr. Kress responded a hidden low light, not visible to the public, would light the lettering giving it a silhouette appearance.

Nancy Vennard noted the library on Mission Road has a canopy with lettering on the face of the canopy and asked if a similar application would be possible. Mr. Kress responded the owner did not feel such an application would provide the needed visibility.

Nancy Wallerstein confirmed there will not be a monument sign or other signage on the building. Mr. Williamson noted that this is a single tenant building. Mr. Kress responded the identifying signage for the building is located on a wall sign inside the building.

Larry Levy asked the height of the letters. Mr. Kress stated the capital letters are 12 inches in height and comply with the city’s regulations.

Nancy Wallerstein confirmed if the appeal was approved similar signage could be installed without Planning Commission review. Mr. Williamson noted only in single tenant buildings. Multi-tenant buildings would have to come before the Commission for approval of sign standards and the subject would be addressed then.

Nancy Vennard asked if the zoning regulations needed to be changed to address this. Mr. Williamson stated that the approval of the appeal would actually change the sign regulations and an amendment is not needed.

Bob Lindeblad noted that if the lettering was adjacent to a fascia location it would be called a wall sign, not a roof sign. He asked how far the canopy extended from the building. Mr. Kress replied 11 feet.

Mr. Lindeblad confirmed that in order to approve the proposed signage it would need to be considered a wall sign and meet the sign criteria. Mr. Williamson stated the proposed sign does comply with the limitation on the percentage of building façade coverage. Mr. Lindeblad stated he feels the signage should be approved as long as it is below the eave of the roof.

Larry Levy moved the Board of Zoning Appeals finds the proposed signage to be a wall sign as long as its location is within the plane of the building and below the roof eave. The motion was seconded by Nancy Wallerstein.

Mrs. Wallerstein asked if the motion could include that this signage would be in lieu of a monument sign. Ron Williamson stated conditions cannot be applied to an appeal of an interpretation. The action of the Commission is simply to make the determination that the proposed signage is a wall sign and not a roof sign and therefore in compliance with the city's code.

The motion was voted on and passed unanimously.

**BZA2014-06 Request for a Variance from Section 19.14.030 "Rear Yard" for a reduction from the 25' setback of 6'4" for an enclosed deck 7919 Pawnee Street**

Chris Lewis, 7919 Pawnee, was present with his wife to present their deck contractor. Mr. Lewis stated he is requesting a variance to screen in an existing deck that was built as part of the original footprint. He noted the unit attached to his screened in his deck a few years ago. It was noted that cedar trees block the view of the deck from the neighbors.

Chairman Randy Kronblad asked if anyone was present to address the Board on this application. With no one wanting to address the Board, the public hearing was closed at 8:05 p.m.

Ron Williamson noted the deck is approximately 12' 4" by 15' 8". The deck extends approximately 6' 4" into the rear yard. An unenclosed deck, which may have a roof, can extend into the rear yard 12 feet. Since the enclosed deck will extend into the rear yard 6' 4", the applicant needs a variance in order to enclose the deck.

This is an RP-4 Planned District which permits common wall single-family residences. This is the north unit of a two-family attached dwelling. The south unit has enclosed its deck. The rear yard requirement is 35 feet in the R-4 District. However, in the RP-4 Planned District the rear yard can be reduced to 60% of the requirement which would be 21 feet. Based on a field measurement of the existing dwelling it appears that it is 25 feet from the property line so the variance would be approximately 6' 4". This dwelling

was built in 1983 and unfortunately the Development Plan is not as detailed as required now. Pawnee Street is a private street and there are no standard setback lines. Each building location was approved on the plan and there are several stand-alone single-family dwellings, as well as, two-family attached dwellings in the development.

Mr. Williamson noted the existing deck is set on wood columns with concrete footings. It is critical that the proposed screened-in deck does not become an all-season room. Therefore, if the variance is approved, a condition should be attached limiting the foundation to the existing columns and footings and that it is only a screened porch.

Bob Lindeblad confirmed that the applicant could build a fence around the deck.

Since the variance request was very minor a neighborhood meeting was not required.

Chairman Randy Kronblad led the Board in the following review of the five required conditions:

**A. Uniqueness**

**That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.**

**In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.**

This lot is located in a development that is unusual. The development was planned around the commercial transmission tower which has a 420 foot radius from the center point. This has created an unusual layout for this development which is not found in other parts of the City.

Bob Lindeblad noted this is unique planned development without a clear development plan establishing setbacks for the project and therefore, moved the Board find that the variance does arise from a condition unique to this property. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

**B. Adjacent Property**

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

The south unit has already enclosed their deck and the unit to the north will not be affected. A private drive is located to the west. The houses to the east back into this property and the rear wall of those houses is approximately 65' from the property line. Also the property line is heavily landscaped and provides screening. Adjacent property should not be adversely affected.

Nancy Vennard moved the Board find that the variance does not adversely affect the rights of adjacent property owners or residences. The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

**C. Hardship**

**That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.**

The deck already exists and there is no other location to build a new one and enclose it. If the enclosure would line up with the existing rear building line it would only be six feet deep, which would not be useful.

Nancy Vennard noted there is not another feasible location for the deck and moved that the Board find the variance would constitute an unnecessary hardship upon the property owner. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

**D. Public Interest**

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

The proposed variance is only for the existing deck which is 15' 8" in length, not the entire building. It is a minor improvement and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Bob Lindeblad moved the Board find that the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

**E. Spirit and Intent of the Regulation**

**That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.**

This is a planned development that was built in 1983 which has non-standard setbacks and building locations. The approval of this variance would accommodate an improvement that was not anticipated in 1983 and would not be opposed to the general spirit and intent of these regulations.

Nancy Vennard moved that the Board find that the variance is not opposed to the general spirit and intent of these regulations. The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

Nancy Wallerstein moved that after reviewing the information submitted and consideration of the testimony during the public hearing, the Board finds that all five conditions can be met as required by state statutes, that the Board grant the requested variance subject to the following conditions:

1. That the variance be approved for only the enclosure of the existing deck as shown on the plans submitted with the application.
2. That no additional foundation or footings be constructed and the enclosure be screened only.

The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

**OTHER BUSINESS**

It was noted that the Board will meet again on December 2, 2014 to consider the continued application and hear a new application for 3905 Delmar.

**ADJOURNMENT**

Chairman Randy Kronblad adjourned the meeting of the Board of Zoning Appeals at 8:10 p.m.

Randy Kronblad  
Chairman