

Board of Zoning Appeals Minutes
6:00 PM
April 18, 2024

I. Call the meeting to order.

The meeting was called to order at 6 p.m. by BZA Chair Darren Nielsen.

Members Present: Erik Hage, Chris Thowe, Darren Nielsen, Jeff Meador

Staff Present: Jennifer Jones-Lacy, Assistant City Administrator and Wade Holtkamp, Building Inspector

Members Absent: Brandon Gillette

II. Approve minutes from 12/14/2023 meeting:

MOTION: CHRIS THOWE MOVED AND JEFF MEADOR SECONDED TO APPROVE THE MEETING MINUTES FROM DECEMBER 14, 2023. (MOTION CARRIED 4-0)

III. Variance Request BZA 2024-001: Request relief from Sec. 16-613 - Accessory Uses and Structures; Development and Performance Standards at 5015 Buena Vista St.

Ms. Jones-Lacy gave an overview of the variance request. Staff recommended approval of a variance to allow fence construction in the front yard to accommodate a necessary outdoor play area for infants of Gioiosa Montessori daycare. This outdoor play area is 1 of 3 on the lot that will support the State of Kansas daycare required outdoor space.

The details of the fence and location are as follows. Install a (4') tall picket fence (52' north/south x 20' east), (1,100 sq ft) in the front yard abutting the building. The fence will have an approximate (20') setback front to 50th St and (18') setback to Clark Dr. This area is well outside the site distance triangle creating no hazards for street traffic. The large mature trees near the proposed fence location will not be disturbed.

The proposed fence will be wood dog-eared pickets that are (4') long, (3.5") wide, spread (2") apart on (2"x4") wood rails at (8') centers attached to (4"x4") wood posts set (2') into the ground with wet cement. The fence contains a north gate into the building with a wooden ramp and a south gate leading outside. The fence will be painted white to match the building trim.

The surrounding neighborhood is residential in nature and a fence is a traditional accessory use. A neighbor notice was mailed along with a posting in a newspaper.

Staff further explained that this fence does not conflict with the sight distance triangle and that due to the special use of the facility as a daycare, we are not concerned about precedent setting with this case as this is a very unique situation.

Chairperson Nielsen invited the applicant Brandy Poire, owner of the daycare, to speak on the topic.

Ms. Poire explained that the fence will be used for infants and will only have a sandbox as a permanent fixture in the fenced in area. She confirmed that KDHE requires a 48" fence to be installed for the safety of the children.

Mr. Thowe wanted to confirm that the buses or tree wouldn't be disturbed that are near the fence installation. Ms. Poire confirmed that the trees would stay in place and that they do not conflict with the fence.

Ms. Jones-Lacy showed photos of what the fence would look like. Ms. Poire said it would be painted to match the building.

Chairperson Nielsen opened the public hearing. As there were no speakers he closed the public hearing.

After Mr. Hage read through the variance requirements, Ms. Jones-Lacy took the vote regarding the variance criteria. The vote was as follows:

BZA Members Name	Nielsen	Thowe	Meador	Hage
Uniqueness	Yes	Yes	Yes	Yes
Effect adjacent property	Yes	Yes	Yes	Yes
Would it create a hardship to applicant	Yes	Yes	Yes	Yes
Public Interest	Yes	Yes	Yes	Yes
Spirit and intent of the law	Yes	Yes	Yes	Yes

The committee discussed conditions of the approval, stating they did not want anything permanently installed to exceed the height of the fence.

MOTION: MR. NIELSEN MADE A MOTION AND JEFF MEADOR SECONDED, TO CONDITIONALLY APPROVE VARIANCE NO. 2024-001 SO THAT NO PERMANENT STRUCTURES WOULD BE INSTALLED ABOVE THE HEIGHT OF THE INSTALLED FENCE. (MOTION CARRIED 4-0).

MOTION: MR. NIELSEN MADE A MOTION AND ERIK HAGE SECONDED, TO ADJOURN THE MEETING. (MOTION CARRIED 4-0).

The meeting adjourned at 6:35 p.m.