

LEAVENWORTH BOARD OF ZONING APPEALS

Monday, May 20, 2024 – 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

AGENDA

CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: March 18, 2024 **Action:** Motion

OLD BUSINESS:

None

NEW BUSINESS:

1. **2024-11 BZA – 108 WOODMOOR CT**
Hold a public hearing for Case No. 2024-11 BZA – 108 Woodmoor Ct., wherein the petitioner is seeking a variance from Section 8.09 of the adopted Development Regulations to allow two neighborhood identification signs in the Mobile/Manufactured Home Park District (MP).

ADJOURN



BOARD OF ZONING APPEALS MINUTES
MONDAY, March 18, 2024, 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

CALL TO ORDER:

Board Members Present

Kathy Kem
David Ramirez
Daniel Bolling
Dick Gervasini

Board Member(s) Absent

Jan Horvath

City Staff Present

Michelle Baragary
Julie Hurley

Chairperson Kem called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: February 26, 2024

Chairperson Kem asked for comments, changes or a motion on the February 26, 2024 minutes presented for approval. Commissioner Ramirez moved to approve the minutes as presented, seconded by Commissioner Bolling and approved by a vote of 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. 2024-08 BZA – 1031 METROPOLITAN AVE

Hold a public hearing for Case No. 2024-08 BZA – 1031 Metropolitan Ave., wherein the petitioner is seeking a variance to section 8.15 of the adopted Development Regulations to allow the use of an existing nonconforming sign after a change in business name or ownership.

Chairperson Kem called for the staff report.

Planning Director Julie Hurley stated the applicant, Infinity Signs, LLC, is requesting a variance from section 8.15 of the adopted Development Regulations to allow the use of an existing nonconforming sign after a change in business name or owner for the property located at 1031 Metropolitan Ave.

The subject property is zoned GBD, General Business District, and is occupied by a Sunoco gas station, which is an allowed use in the GBD zoning district. There is one existing freestanding sign associated with the property, which is currently located on the northwest corner of the property, along the west property line. Current regulations require that freestanding signage in the GBD zoning district be located on the parcel and be setback a minimum of 5' from any property line, making the existing sign nonconforming.

Section 8.15.A of the Development Regulations requires 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.*

As the existing sign is considered "existing nonconforming", it may continue to exist in its current state, but no additional permits may be issued without issuance of a variance. The gas station changed names in the summer of 2023 and changed signs without permits. A permit was sought in September 2023, but denied because of the above-mentioned section.

After the required notice was published to properties within 200', staff has received no comments from any notified property owners.

Chairperson Kem asked for questions about the policy report.

Commissioner Gervasini asked if a different fuel supplier were to go into this same location, would they need to go through this same process.

Ms. Hurley responded if it changes the name of the business/branding, then yes it would need to go through this same process. Ms. Hurley further stated this might be something that staff could look into with potentially changing the regulations because we are getting of these specific types of variance requests, and gas stations can change frequently.

With no further questions about the staff report, Chairperson Kem opened the public hearing.

Sam Morani, owner/applicant, stated he made the same types of changes at the other two Wood Oil gas stations he purchased located at 500 Limit St. and 700 Eisenhower. The existing sign is a hazard as the gas prices must be changed manually. The new sign will be digital. He has spent almost \$200,000 improving the store, adding a pump, fixed everything underground, and brought everything into compliance with KDHE. He signed a 12-year contract with Sunoco so he will not be changing the name anytime soon.

With no one else wishing to speak, Chairperson Kem closed the public hearing and called for discussion among the commissioners. With no further discussion, Chairperson Kem 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.

Chairperson Kem stated she agrees based on the Board’s previous history of granting variances for similar signs.

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 the 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 these Development Regulations.

No safeguards or restrictions imposed.

ACTION:

Approve or deny the request for a variance from section 8.15 of the adopted Development Regulations to allow the use of an existing nonconforming sign after a change in business name or owner.

Chairperson Kem stated based on the findings, the variances for Case No. 2024-08 BZA is granted for the continued use of the existing nonconforming freestanding sign located at 1031 Metropolitan Ave.

With no further discussion, Ms. Hurley stated there are no items on the agenda for April.


With no further business, Chairperson Kem called for a motion to adjourn. Commissioner Gervasini moved to adjourn, seconded by Commissioner Bolling, and passed 4-0.

The meeting adjourned at 6:12 p.m.

Minutes taken by Planning Assistant Michelle Baragary.

**Board of Zoning Appeals Agenda Item
Variance Request
2024-11 BZA
108 Woodmor Court**

MAY 20, 2024



Prepared By:
Julie Harley
Director of Planning and
Community Development

SUMMARY:

Consider a variance from section 8.09 of the adopted Development Regulations to allow two neighborhood identification signs in the Mobile/Manufactured Home Park District (MP).

DISCUSSION:

The applicant, Kansas City Sign Company, is requesting a variance from the above noted section of the adopted Development Regulations to allow two freestanding neighborhood identification signs at 108 Woodmor Court, a manufactured home community zoned MP.

The subject property is an existing manufactured home community, previously named Woodmore Court, which has recently been sold and renamed to Forest Hills. The new owners of the property wish to install two freestanding neighborhood identification signs at the entrances into the community.

Section 8.09 of the Development Regulations does not allow for freestanding neighborhood identification signs in the MP district. Each of the proposed signs will be 32 sqft in area, with an overall height of 6.7'. The signs as proposed comply with the regulations pertaining to freestanding neighborhood identification signs in all other residential districts.

After the required notice was published to properties within 200', staff has received no comments from any notified property owners.

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.

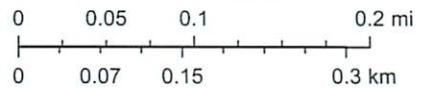
ACTION:

Approve or deny the request for a variance from section 8.09 of the Development Regulations to allow two freestanding neighborhood signs in the MP District.



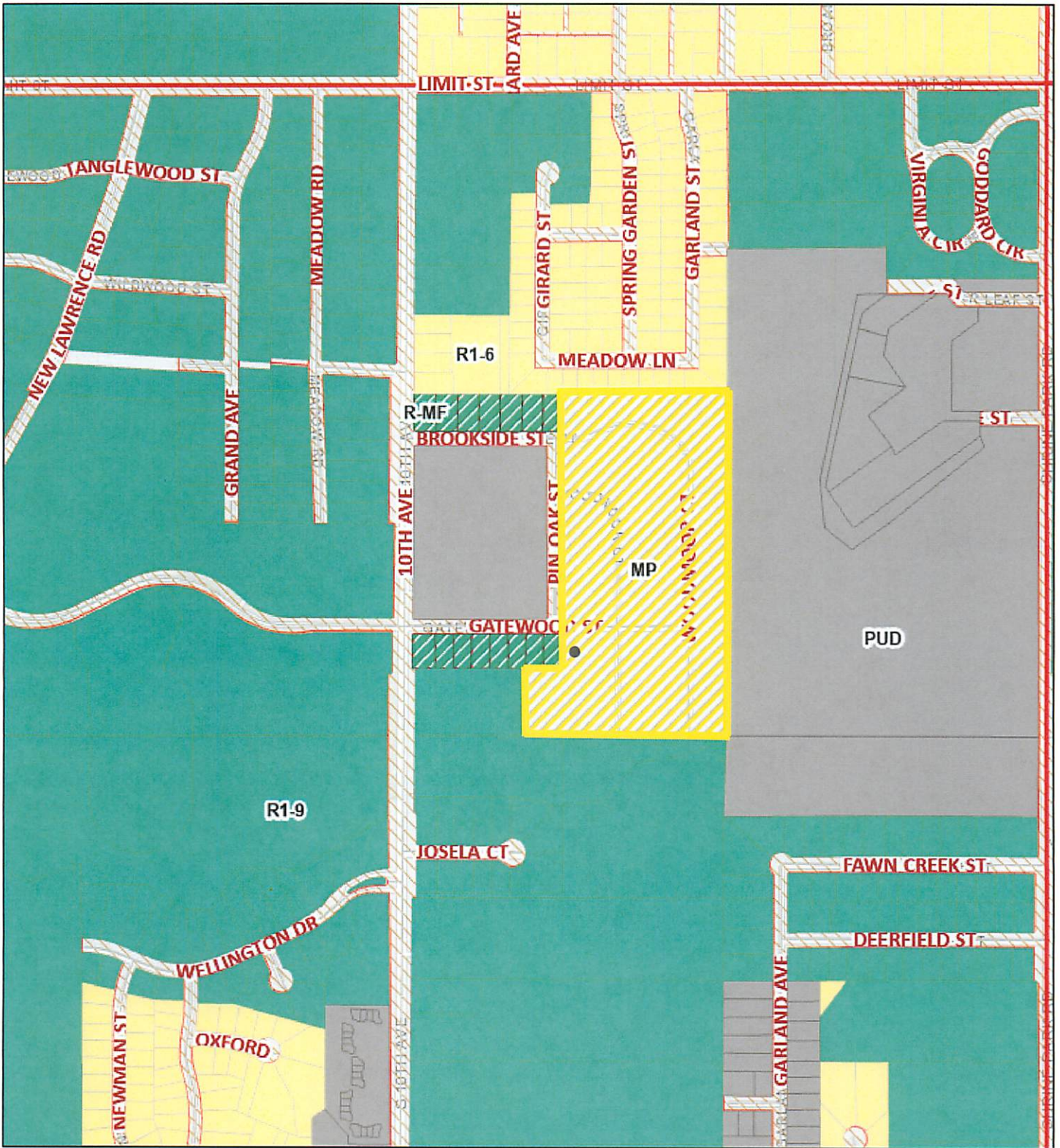
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1:9,028



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

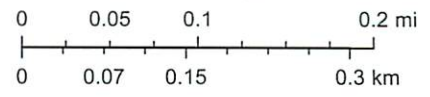
2024-11-BZA (Zoning)



5/16/2024, 2:46:18 PM

1:9,028

- Override 1
- R1-9
- Zoning_CURRENT MP
- PUD
- R-MF
- R1-6
- Parcels (City Owned)
- Parcels_Current
- Section Lines
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline



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BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

Case No.: 2024-11 BZA

Application No. 15264
 Fee (non-refundable) \$350.00
 Filing Date _____
 Hearing Date _____
 Publication Date _____

PETITION

Property Zoning: _____

Location of Subject Property: 108 WOODMOOR CT LEAVENWORTH, KS 66048

Legal Description: S11, T09, R22E, ACRES 22.78, PT W1/2NE1/4, BEG 107 E SW COR NE1/4, E533.10' N1394.93', W980.17', S1120.4', W150', S291.36' TO POB Deed Book/Page 0629/1057 0562/1733

Petitioner: Lee Mendenhall

Petitioner Address: 8248 NW 101 st. Terrace Ste 4 KCMO 64153

Email: lee@kansascitysigns.com Telephone: 816.216.6109

Petitioner's Interest in Property: Sign installer - Kansas City Sign Company

Purpose of Petition: To allow ground signs at manufactured home park

- Appeal of Administration Decision _____ Date of Decision _____
Section 11.03.A
- Variance: to allow 2 neighborhood identification signs in MP District
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): RFRE II, LLC

Signature: [Signature] Date: 4/2/24

State of Michigan)

County of Oakland)

Signed or attested before me on 04/02/2024 by Larry Nelson

Notary Public: Melissa Myles

My appointment expires: 07/10/2030 (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 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 913-684-0443
<input type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)



Statement

Kansas City Sign Company wants to apply for a variance for two ground signs located in the Mobile/Manufactured Home Park. These signs would indicate the Name, website and phone number for the location. These would be located at each entrance to the mobile park.

While researching the area it looks like this is one out of two mobile parks located in Leavenworth and with this location the signs were mostly seen by an apartment complex and a few houses within the 200' radius. I have provided a map with additional information on the fourth page of the permit drawing.



POST & PANEL SIGN - SINGLE SIDED

metal frame/post

panel: 3MM Maxmetal with digitally printed vinyl overlay

Overall sign size: 80" x 96" • 53.3 ft²

Panel size: 96" x 48" • 32 ft²

INSTALLATION ADDRESS

108 Woodmoor Court
Leavenworth, KS 66048

8248 NW 101st Terrace #13, Kansas City, MO 64153 • 816.216.6109 • KansasCitySigns.com

INSTALL LOCATION



PROPERTY LINE

8248 NW 101st Terrace #13, Kansas City, MO 64153 • 816.216.6109 • KansasCitySigns.com



INSTALL LOCATION



PROPERTY LINE