

**CITY OF ABILENE
BOARD OF ZONING APPEALS
AGENDA**

November 1, 2022 at 4:00 p.m.
Abilene Public Library
209 NW 4th St. Abilene, KS 67410

Agenda Item
1. Call to Order
2. Roll Call: ___ Bill Marshall, Chair ___ Brenda Finn-Bowers, Vice Chair ___ Rod Boyd ___ Matt Mead ___ Diana Miller ___ Helen Rose ___ Travis Sawyer
3. Approval of Agenda
4. Approval of Meeting Minutes – October 4, 2022
Business 5. Public hearing for BZA 22-11, a request by David Strong d/b/a Windy Trails RV, LLC, to allow a variance from the surfacing requirements as outlined under Article 22, Section 22-305 of the zoning regulations of the City of Abilene, KS. *Staff report and recommendation *Open public hearing *Applicant/Public comments *Close public hearing *Commission discussion and action
6. Adjournment

Abilene Board of Zoning Appeals Minutes
Abilene Public Library
209 NW 4th St., Abilene, KS
October 4, 2022



1. Call to Order at 4:11 p.m.

2. Roll Call

Board of Zoning Appeals members present: Chair Bill Marshall, Vice Chair Brenda Finn Bowers, Rod Boyd, Helen Rose, Matt Mead

Absent: Travis Sawyer, Diana Miller

Staff present: Community Development Director Kari Zook, Administrative Assistant Kelsey Briand

3. Approval of Agenda

Motion by Mead to approve the agenda, seconded by Rose. Motion carried unanimously 5-0.

4. Approval of Minutes

Motion by Mead to approve the December 1, 2020 minutes as written, seconded by Finn Bowers. Motion carried unanimously 5-0.

5. Public Hearing for BZA 22-10, a request by Bill Guillian d/b/a Commercial Property Rentals, LLC, to allow a variance from the surfacing requirements as outlined under Article 22, Section 22-305 of the zoning regulations of the City of Abilene, KS.

The staff report and recommendation were discussed. Chair Bill Marshall opened the public hearing at 4:16 p.m. and there were no public comments. The public hearing was then closed at 4:16 p.m. Commissioners then discussed the proposed development in regard to fencing requirements and driveway entrances and exits.

Motion by Boyd to approve the requested variance from the surfacing requirements, seconded by Mead. Motion carried unanimously 5-0.

6. Adjournment

Motion by Finn Bowers to adjourn, seconded by Mead. Motion carried unanimously 5-0.

ATTEST:

Board of Zoning Appeals

Kari Zook
Community Development Director

CITY OF ABILENE, KANSAS

DEVELOPMENT APPROVAL APPLICATION FORM

419 N. Broadway · Abilene, Kansas 67410 · Tel: (785) 263-2355 · Fax: (785) 263-2552 · www.abilenecityhall.com

INSTRUCTIONS: This Application and all required fees and information must be submitted in accordance with the Code of the City of Abilene and the City of Abilene Zoning and Subdivision Regulations. All information requested in this application must be provided and answered completely.

PART I: TO BE COMPLETED BY APPLICANT

APPLICATION INFORMATION

APPLICATION FOR (CHECK APPROPRIATE BOX):

- Administrative Appeal, Annexation, Certificate of Appropriateness, Comprehensive Plan Amendment, Conditional Use Permit, Development Code Amendment, Final Plat, Home Occupation Permit, Landmark Designation, Lot Split, Non-Conforming Use Certificate, Preliminary Plat, Planned Development, Replat, Rezoning / Zoning Map Amendment, Site Plan, Vacation (Plat, Street, Easement), Variance

FOR OFFICIAL USE ONLY

Appn Number: B2A 22-11
Date Received: 9/16/22
Received By: [Signature]

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Variance to allow gravel on-site near the proposed horse barn area.

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: David Strong, Business Name: Windy Trails RV, LLC, Address: 23 North Solomon Road, City: Solomon, State: Kansas, Zip Code: 67480, E-mail: d_w_strong80@hotmail.com

PROPERTY OWNER (If Different from Applicant/Agent):

Name: _____, Business Name: _____, Address: _____, City: _____, State: _____, Zip Code: _____, E-mail: _____

ENGINEER/ARCHITECT/SURVEYOR:

Name: Leon D. Osbourn, Business Name: Kaw Valley Engineering, Address: 2319 N. Jackson, City: Junction City, State: Kansas, Zip Code: 66441, E-mail: ldo@kveng.com

PROPERTY INFORMATION

PROPERTY ADDRESS OR GENERAL LOCATION (IN RELATION TO NEAREST STREETS):

1900 Block of NW 14th Street, Abilene, Kansas, 67410

PROPERTY TAX IDENTIFICATION

NUMBER: 001-1130704001002000

ZONING: Existing: C-3 Proposed: C-3

LAND USE: Existing: Agricultural Proposed: RV Park

GROSS SIZE OF PLAT/LOT:

Residential: _____ Commercial: 39.27 AC Industrial: _____ Other: _____ Total: _____

NUMBER OF LOTS:

Residential: _____ Commercial: 1 Industrial: _____ Other: _____ Total: _____

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 4

Total Building Area: 19,617 SF

Maximum Height of Buildings or Structures: 16'-6"

Total Impervious Area: 261,941.56 SF

EXISTING PUBLIC FACILITIES:

	Public	Private	Other (Describe)
Water Service:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Wastewater Service:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Roadway Access:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

FLOODPLAIN INFORMATION:

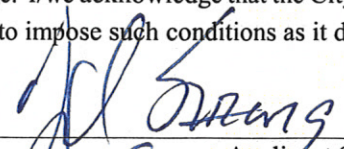
Floodway: Yes No FIRM Map-Panel Number: _____
Floodway Fringe: Yes No Zone: _____

ARE ANY OTHER PERMITS OR DEVELOPMENT APPROVALS REQUIRED, APPLIED FOR OR RECEIVED FOR THE APPLICATION PROPERTY BY THE CITY OR ANY OTHER JURISDICTION OR AGENCY?

Yes No If Yes, Describe Briefly and Attach a Copy of Each Permit, Approval or Application

APPLICANT/PROPERTY OWNER CERTIFICATION*

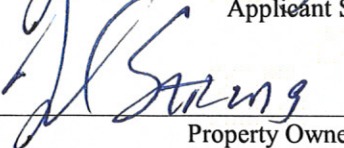
I/we acknowledge receipt of the instruction sheet explaining the method of submitting this application. I/we realize that this application cannot be processed unless it is completely filled in; is accompanied by a current abstractor's certificate as required in the instruction sheet; and is accompanied by the appropriate fee. I/we further certify that the foregoing information is true and correct to the best of our knowledge. I/we acknowledge that the City of Abilene Planning Commission, Board of Zoning Appeals or City Commission shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.



Applicant Signature

8/7/22

Date



Property Owner Signature

8/7/22

Date

* This Application must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this Application.

PART II - TO BE COMPLETED BY STAFF

DOCUMENTS TO BE SUBMITTED WITH APPLICATION**

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Copy of Deed | <input type="checkbox"/> Easements and Covenants | <input type="checkbox"/> Location Map |
| <input checked="" type="checkbox"/> Site Plan | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Final Plat |
| <input type="checkbox"/> Infrastructure Plans | <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Grading and Stormwater Plans |
| <input type="checkbox"/> Elevation Survey | <input type="checkbox"/> Traffic Impact Study | <input type="checkbox"/> Construction Plans |
| <input type="checkbox"/> Performance Agreement | <input type="checkbox"/> Proof of Notification | <input type="checkbox"/> Utility Plans |
| <input type="checkbox"/> Text Amendment Language | <input type="checkbox"/> Property Owner List | <input type="checkbox"/> Comprehensive Plan Amendment Justification |
| <input type="checkbox"/> Annexation Boundary Map | <input type="checkbox"/> Operating Characteristics Report | <input type="checkbox"/> Administrative Appeal Justification |
| <input checked="" type="checkbox"/> <u>Variance Justification</u> | <input type="checkbox"/> Other _____ | |

Additional document requirements provided to applicant on _____. The applicant is advised that the application is not accepted for public review until such time as the above identified documents are submitted and a Determination of Complete Application is certified.

_____	_____
Name	Title
_____	_____
Signature	Date

** Number of copies for submission determined by Zoning Administrator. The Zoning Administrator may request additional information as deemed necessary to properly evaluate the permit application.

APPLICATION REVIEW

DECISION-MAKING BODY: Staff Planning Commission Board of Zoning Appeals City Commission
 Heritage Commission Other (specify):

DATE OF INITIAL HEARING(S): 11/1/22

FEE AMOUNT: \$200- **DATE FEE PAID:** 9/8/22

DETERMINATION OF COMPLETE APPLICATION:

I certify that the Development Approval Application and attached documents are sufficient in form and content for review and recommendation by the decision-making bodies of the City of Abilene. As such, all required notifications and hearings may proceed pursuant to City regulations and procedures. This certification does not preclude the review, recommendation and/or decision-making bodies from requesting additional information as deemed necessary to serve the public interest.

<u>Kari Zook</u>	<u>CD Director</u>
Name	Title
<u>Kari Zook</u>	<u>9/16/22</u>
Signature	Date



Entered in transfer record in my office
this 21 day of February A.D. 20
Barbara Mc Jones
Co. Clerk
Hope Stanbock
Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY
Marty Holt, Register of Deeds
Book: D263 Page: 741-742
Receipt #: 275987
Pages Recorded: 2
Cashier Initials: MHolt
Date Recorded: 2/21/2020 3:25:31 PM
Recording Fee: \$38.00
Martha J Holt



First American

KANSAS SPECIAL WARRANTY DEED
(Individual/Tenants in Common)

THIS DEED, made this 18th day of **February, 2020** by and between **Sticker Patch Properties, LLC, a Kansas limited liability company**, as Grantor(s), and **Windy Trails RV, LLC**, as Grantee(s), whose mailing address is 23 N Solomon Rd, **Solomon, KS 67480**.

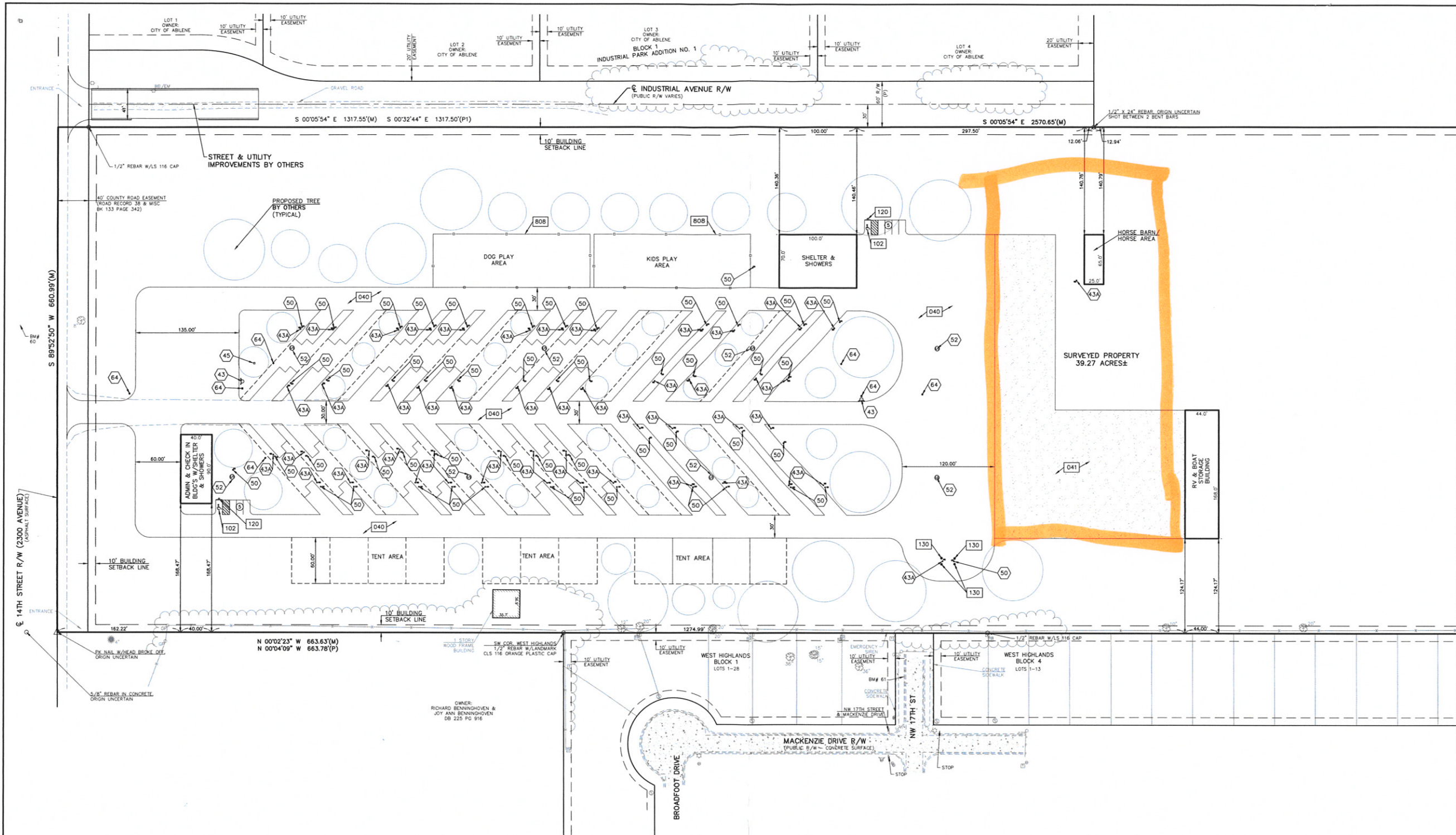
WITNESSETH, that the Grantor(s), for and in consideration of the sum of One Dollar and other good and valuable consideration paid by the Grantee(s), the receipt and sufficiency of which is hereby acknowledged by Grantor(s), do/does by these presents **SELL and CONVEY** unto the Grantee(s), the following described Real Estate, situated in the County of Dickinson, State of Kansas, to-wit:

The East Half of the West Half of the Southeast Quarter (E½ W½ SE¼) of Section Seven (7), Township Thirteen (13) South, Range Two (2) East of the 6th P.M., Dickinson County, Kansas EXCEPT

A tract of land in the East Half of the West Half of the Southeast Quarter of Section 7, Township 13 South, Range 2 East of the 6th P.M., described as follows: Beginning at the Northwest corner of said East Half of the West Half of said Southeast Quarter Section: First Course, thence on an assumed bearing of North 89°18'52" East, 201.967 meters (662.62 feet) along the North line of said Quarter Section to the East line of said West Half; Second Course, thence South 00°30'37" East, 18.749 meters (61.51 feet) along said East line; Third Course, thence South 87°22'31" West, 202.088 meters (663.02 feet) to the West line of said East Half of said West Half of the Southeast Quarter; Fourth Course, thence North 00°32'44" West, 25.587 meters (83.95 feet) along said West line to the Point of Beginning.

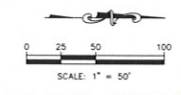
Subject to all easements, restrictions and reservations, if any, now of record.

TO HAVE TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the Grantee(s), and to the heirs and assigns of such Grantee(s) forever.



NOTE:
 1. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF ENTRANCE, SLOPED PAVING, EXIT PORCHES, RAMPS, TRUCK DOCKS, PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY ENTRANCE LOCATIONS.
 2. THESE PLANS HAVE NOT BEEN VERIFIED WITH FINAL ARCHITECTURAL CONTRACT DRAWINGS. CONTRACTOR SHALL VERIFY AND NOTIFY THE ENGINEER OF ANY DISCREPANCIES. CONTRACTOR IS FULLY RESPONSIBLE FOR REVIEW AND COORDINATION OF ALL DRAWINGS AND CONTRACTOR DOCUMENTS.
 3. ALL DIMENSIONS ARE TO BACK OF CURB UNLESS NOTED OTHERWISE.
 4. ALL DIMENSIONS ARE PERPENDICULAR TO PROPERTY LINE.
 5. ACTUAL SIGN LOCATIONS TO BE COORDINATED WITH CONSTRUCTION MANAGER.

- CONSTRUCTION NOTES:
 1. COORDINATE START-UP AND ALL CONSTRUCTION ACTIVITIES WITH OWNER.
 2. CONSTRUCTION METHODS AND MATERIALS NOT SPECIFIED IN THESE PLANS ARE TO MEET OR EXCEED THE CITY OF ABILENE.
 3. ALL CONSTRUCTION WORK AND UTILITY WORK OUTSIDE OF PROPERTY BOUNDARIES SHALL BE PERFORMED IN COOPERATION WITH AND IN ACCORDANCE WITH REGULATIONS OF THE AUTHORITIES CONCERNED.
 4. PUBLIC CONVENIENCE AND SAFETY: THE CONTRACTOR SHALL CONDUCT THE WORK IN A MANNER THAT WILL INSURE, AS FAR AS PRACTICABLE, THE LEAST OBSTRUCTION TO TRAFFIC, AND SHALL PROVIDE FOR THE CONVENIENCE AND SAFETY OF THE GENERAL PUBLIC AND RESIDENTS ALONG AND ADJACENT TO HIGHWAYS IN THE CONSTRUCTION AREA.
 5. ONE IN EIGHT ACCESSIBLE PARKING STALLS MUST HAVE A SIGN DESIGNATING "VAN-ACCESSIBLE". SEE DETAIL 102 AND 120.
 6. ALL TRAFFIC CONTROL DEVICES, INSTALLATION AND OPERATIONS SHALL CONFORM WITH THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES".
 7. PAINT FOR STRIPING ON PUBLIC STREETS, HIGHWAYS AND ENTRANCES SHALL BE REFLECTORIZED PAINT CONFORMING TO THE SPECIFICATIONS OR REQUIREMENTS OF THE AUTHORITY GOVERNING THE STREET OR HIGHWAY.
 8. WHEN ASPHALT PAVING IS USED CURB AND GUTTER DETAIL 001 SHALL BE USED. WHEN CONCRETE PAVING IS USED CURB AND GUTTER DETAIL 003 SHALL BE USED.



- DETAILS - SEE DETAIL SHEETS FOR THE FOLLOWING DETAILS
- 040 CONCRETE PAVING
 - 041 GRAVEL SURFACING
 - 102 ACCESSIBLE STRIPING
 - 120 ACCESSIBLE PARKING SIGNAGE
 - 130 GUARD POST DETAIL
 - 808 WROUGHT IRON FENCE

- NOTES:
- 43 FIRE HYDRANT (SEE WATER PLANS)
 - 43A FROST PROOF YARD HYDRANT (SEE WATER PLANS)
 - 45 3" MASTER METER (SEE UTILITY PLAN)
 - 50 CLEAN-OUT (SEE SANITARY PLAN)
 - 52 SANITARY SEWER MANHOLE (SEE SANITARY PLANS)
 - 64 WATER VALVE (SEE WATER PLANS)

	LEON D. OSBOURN ENGINEER KS # 9772				
KAW VALLEY ENGINEERING <small>2319 N. JACKSON I.P.O. BOX 1304 P.O. BOX 780-2040 FAX (785) 762-7744 jake@kvw.com www.kvw.com</small>					
<small>KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES IN THE STATE OF KANSAS UNDER AUTHORIZATION # 0-110, EXPIRES 12/31/22</small>					
WINDY TRAILS RV PARK 14TH STREET ABILENE, KANSAS	CONSTRUCTION DOCUMENTS SITE PLAN				
PROJ. NO.	A20-0238				
DESIGNER	LDO				
DRN. BY	BKR				
CFN	0236SP				
SHEET	REV				
3 OF 18	0				

Variance Requirements

The Board of Zoning Appeals must find that all of the following criteria for the granting of a variance are met by the application:

- a. 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 zoning district; and is not created by an action or actions of the property owner or the applicant;
- b. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- c. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;¹
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- e. That granting the variance desired will not be opposed to the general spirit and intent of these zoning regulations.

¹ The terms "Unnecessary Hardship" or "Undue Hardship" have generally been interpreted by the legal system to mean that all viable economic activity of the land will be taken away by the strict interpretation and application of the regulations, which results in a regulatory taking of property.

To: The City of Abilene Zoning Board:

From: David Strong – Windy Trails RV Park

Re: Response to Variance Requirements requested by Zoning Board

- a) The variance requested does not meet the definition of unique and no action by the property owners would be defined by such. An RV park has traffic coming in and out as does the Concrete Plant, Cenex, Russell Stovers, Great Plains Warehouse, and the adjacent storage units. These are all businesses in the same zoning district.
- b) The granting of this variance will have little to no effect on the abovementioned businesses nor do anything that would impinge on the rights of these owners. Quite the opposite would prove to be true for certain businesses such as Cenex and Love's Travel Store as the RV owners would use these businesses for fuel, food and supplies.
- c) Attached is the sheet with the layout outlining my reasoning for the variance(s) I am requesting. I have highlighted the areas specifically affected by the variance. For example, it is not conducive for the welfare of horses or other equine species to be housed on concrete. For their welfare, they should have housing provided much like the stalls at the CKFF which are dirt. I am not aware of ANY such situation where horses or other equine breeds are housed on concrete as this is fundamentally dangerous to their well-being.
- d) There will be nothing generated by Windy Trails RV Park that will affect the safety, morals, order, convenience, prosperity and or general welfare of any adjacent landowners and/or businesses. There will be cameras on the property as well as fencing. Also, each visitor will have prepaid for their space and time and subsequently given a code which is unique to that visitor and will trace back to that visitor should there be a need arise to find them.
- e) I can't perceive any opposition to granting this variance(s) as there are no adjacent businesses adversely affected. As much as any of us would like to have a dust-free zone, in reality that is simply just not attainable especially in drought conditions that we have been experiencing lately. Any farming done, any traffic generated by the adjacent businesses, with the exception of Russell Stovers which is all concrete, will have dust at this time.

Staff Report



TO: Board of Zoning Appeals
FROM: Kari Zook, Community Development Director
SUBJECT: BZA 22-11
DATE: November 1, 2022

APPLICANT/OWNER:

Windy Trails RV, LLC/David Strong, 1900 Blk NW 14th St., Abilene, KS 67410
 Application date received 9/16/22

BACKGROUND:

- The applicant is requesting a variance from the surfacing requirements set forth in Article 22, Section 22-305 as stated: Surfacing. All off-street parking facilities, loading areas, vehicular storage areas and drives and access to and from such areas shall be surfaced and maintained with four (4) inches of asphalt, or concrete to create a permanent all-weather, dust-free surface. Section 22-602: Alternate surface. The Board of Zoning Appeals, after due public notice and hearing, may grant a variance to the surfacing materials required in this article.
- The applicant is specifically seeking a variance to allow gravel on-site near the proposed horse barn/RV & boat storage area that's located at the rear (north side) of the RV park. The site plan indicating that area is attached to the agenda packet for reference.



Direction	Zoning Classification	Land Use(s)
North	AG40	I-70/Farmland (outside city limits)
East	R-3/AG40	Golden Belt Heights West/Farmland (outside city limits)
South	I-2	Superior Sanitation
West	I-2/AG40	City-owned industrial lots/Farmland (outside city limits)

The notice of public hearing was published in the Abilene Reflector Chronicle on October 7, 2022 and written notices were sent by mail on October 7, 2022 to property owners within 1,000 feet of the site address as required by Article 25, Section 25-701 of the zoning regulations.

COMMENTS:

Departmental comments: None

Citizen comments: None

STAFF RECOMMENDATION:

Staff recommends approval of the variance request.

ACTION:

The Board of Zoning Appeals may:

1. Approve the variance as requested.
2. Approve the variance with amendments.
3. Disapprove the variance with findings.

NOTES:

Upon conclusion of the hearing, the board will render a decision on the request. If a person is aggrieved by the decision, they may appeal the decision to the Dickinson County District Court within 30 days.