

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

November 5, 2024, at 4:00 p.m.
Abilene Public Library
209 NW 4th St. Abilene, KS 67410

Agenda Item
1. Call to Order
2. Roll Call: ___ Penni Zelinkoff, Chair ___ Travis Sawyer, Vice Chair ___ Rod Boyd ___ Matt Mead ___ Eric Anderson ___ William Rose ___ Bill Marshall
3. Approval of Agenda
4. Declaration of Conflict of Interest/Ex Parte Communications by members
5. Approval of Meeting Minutes – May 7, 2024
Business 6. Public Hearing for BZA 24-11 , a request from Samuel Kleinbeck to allow a variance from the fencing requirements surrounding a swimming pool as outlined under Article 20, Section 20-901(g)(2) of the zoning regulations of the City of Abilene, KS. The site address is 103 Xavier Dr, Abilene, KS. *Staff report *Open public hearing *Applicant/Public comments *Close public hearing *Commission discussion and action
7. Adjournment

Abilene Board of Zoning Appeals Minutes
Abilene Public Library
209 NW 4th St., Abilene, KS
May 7, 2024, at 4:00 p.m.



1. Call to Order by Vice Chair Zelinkoff at 4:00 p.m.

2. Roll Call

Board of Zoning Appeals members present: Vice Chair Penni Zelinkoff, Bill Marshall, William Rose, Rod Boyd, Eric Anderson, Matt Mead

Absent: Chair Travis Sawyer

Staff present: Community Development Director Kari Zook, Administrative Assistant Kellie Olson, City Manager Ron Marsh

Public present: Anders Herpolsheimer

3. Approval of Agenda

Motion by Mead to approve the agenda as written, seconded by Marshall. Motion carried unanimously 6-0.

4. Approval of Minutes

Motion by Rose to approve the November 7, 2023, minutes as written, seconded by Boyd. Motion carried unanimously 6-0.

5. Public Hearing for BZA 24-5, a request from JumpStart gas station to allow a variance to exceed the maximum square footage allowance on an existing high-rise pole sign as outlined under Article 27, Section 27-604 of the zoning regulations of the City of Abilene, KS. The site address is 2000 N Buckeye Ave., Abilene, KS.

The staff report was discussed. Vice Chair Zelinkoff opened the public hearing at 4:05 p.m. The applicant, Anders Herpolsheimer with Ron's Sign Co., discussed the project site plan for the proposed sign. Ron Marsh, City Manager, commented that several community members have reached out to him with their approval and anticipation to see that sign being utilized in the near future. The public hearing was closed at 4:09 p.m.

Motion by Marshall to approve the variance request, seconded by Rose. Motion carried unanimously 6-0. There is a 30-day appeal period which shall expire on June 6, 2024.

6. Adjournment

Motion by Boyd to adjourn at 4:10 p.m., seconded by Mead. Motion carried unanimously 6-0.

ATTEST:

Board of Zoning Appeals

Community Development

Staff Report



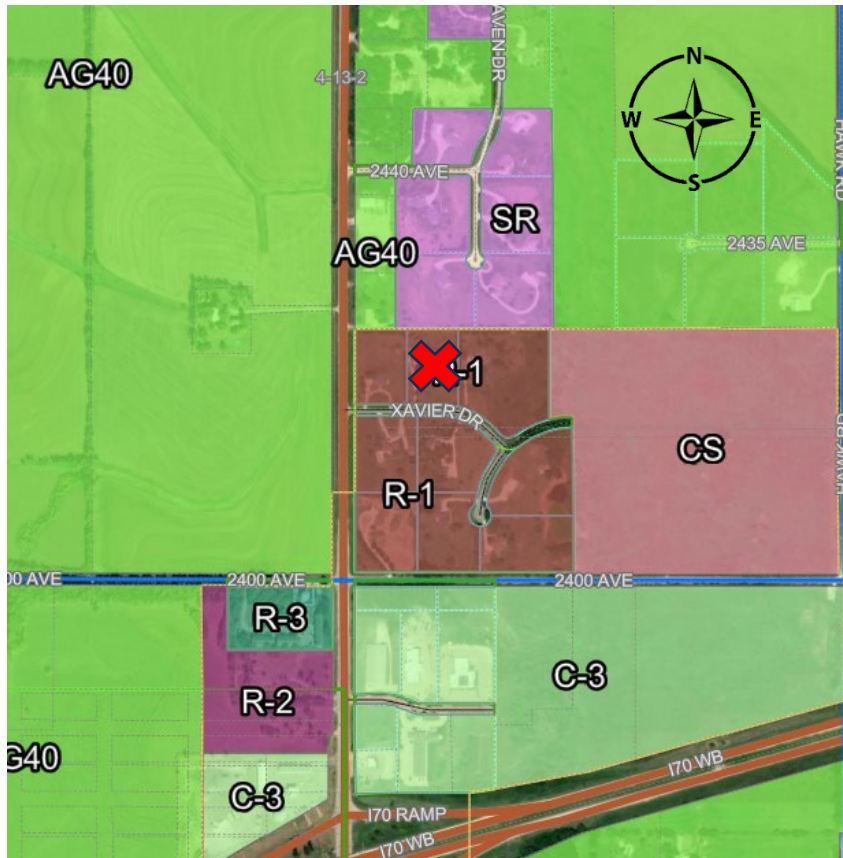
TO: Board of Zoning Appeals
FROM: Kari Zook, Community Development Director
SUBJECT: BZA 24-11 Variance request
DATE: November 5, 2024

APPLICANT/OWNER:

Samuel Kleinbeck 103 Xavier Dr. Abilene, KS 67410
 Application date received: 9/25/24

BACKGROUND:

- The applicant recently completed the construction of an inground swimming pool in the rear yard. The size is 18' x 48', and the max depth is 8'.
- Article 20, Section 20-901(g)(2) states the following: *Security fences not less than six feet in height shall be required for permanent and temporary swimming pools that exceed a depth of thirty inches.*
- The variance request is to avoid installing any fencing around the swimming pool.
- Site photos and the variance justification are attached to the agenda packet for reference.



Direction	Zoning Classification	Land Use(s)
North	SR - Suburban Residential (DKCO)	Low density residential
East	R-1	Low density residential
South	R-1	Low density residential
West	R-1	Low density residential

The notice of public hearing was published in the Abilene Reflector Chronicle on October 11, 2024, and written notices were sent by mail on October 11, 2024, to property owners within 1,000 feet of the site address (since the subject property is adjacent to the city/county line) as required by Article 25, Section 25-701 of the zoning regulations.

COMMENTS:

Departmental/Citizen comments

ACTION:

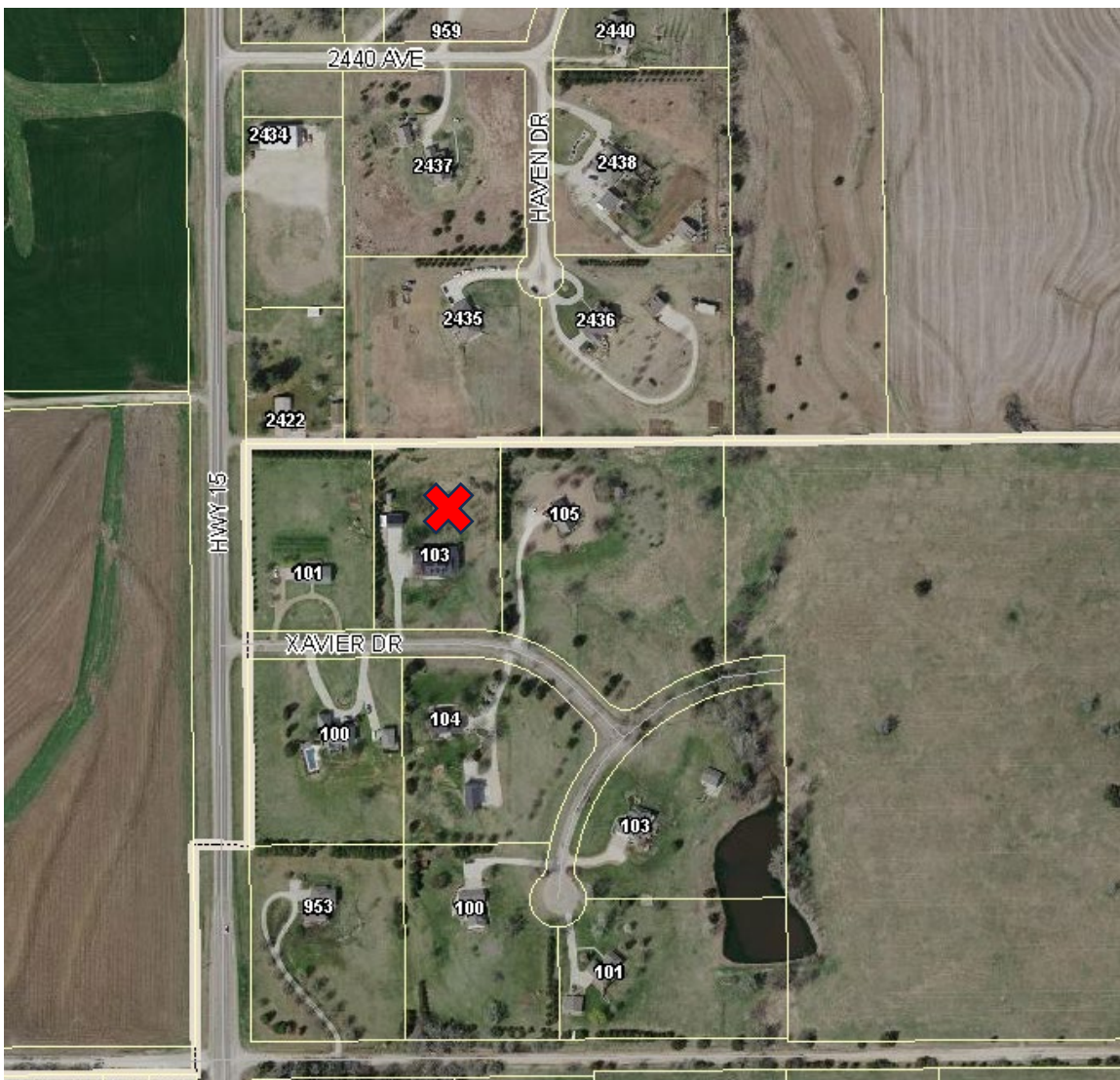
The Board of Zoning Appeals may:

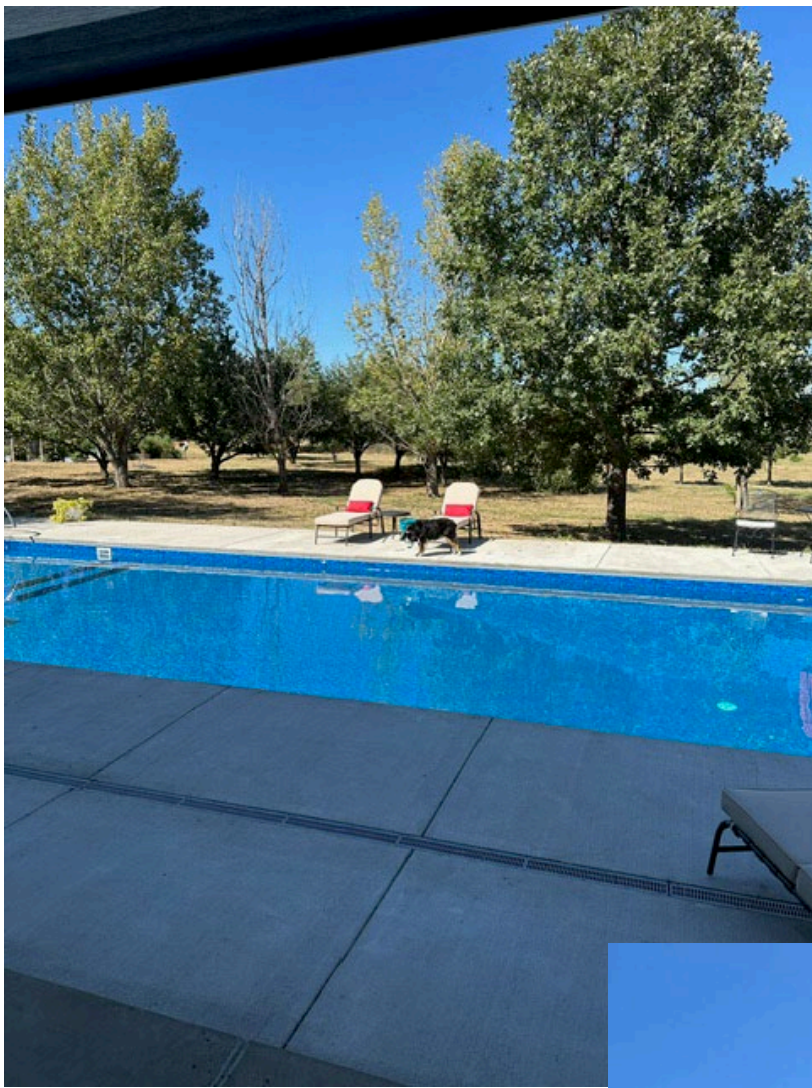
1. Approve the variance as requested.
2. Approve the variance with amendments.
3. Disapprove the variance with findings.

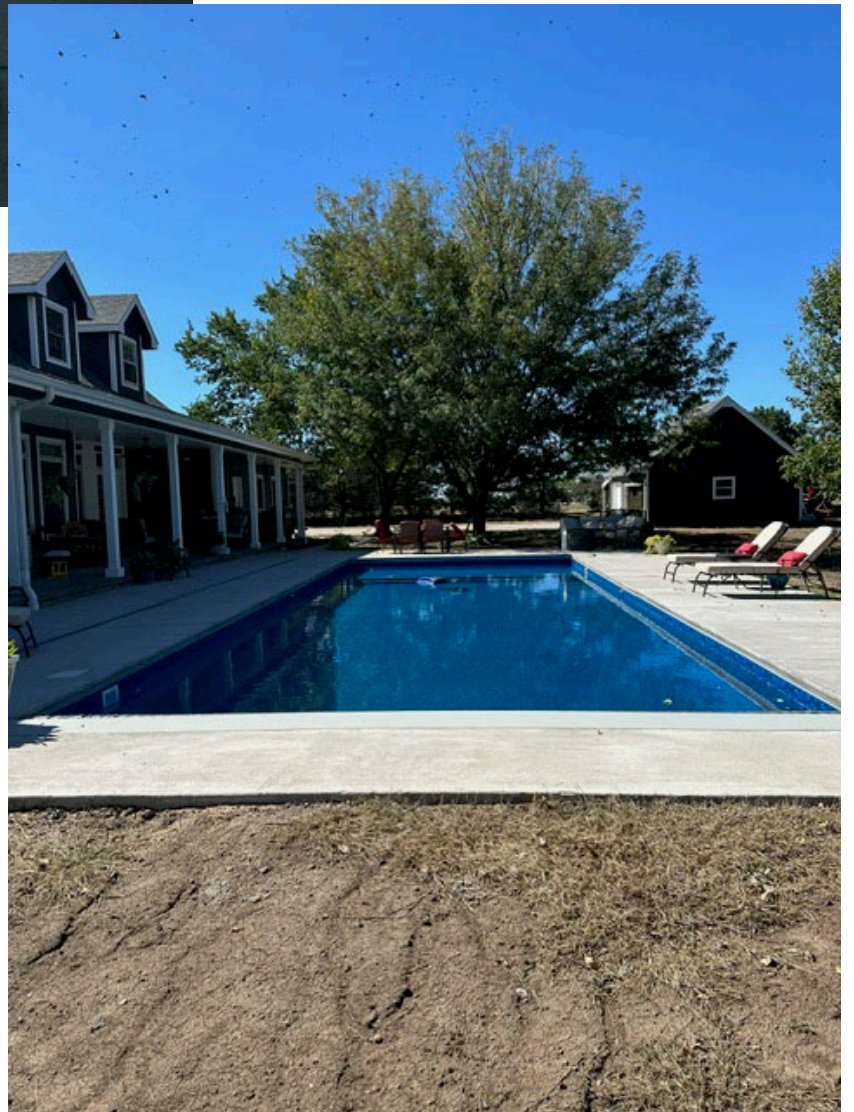
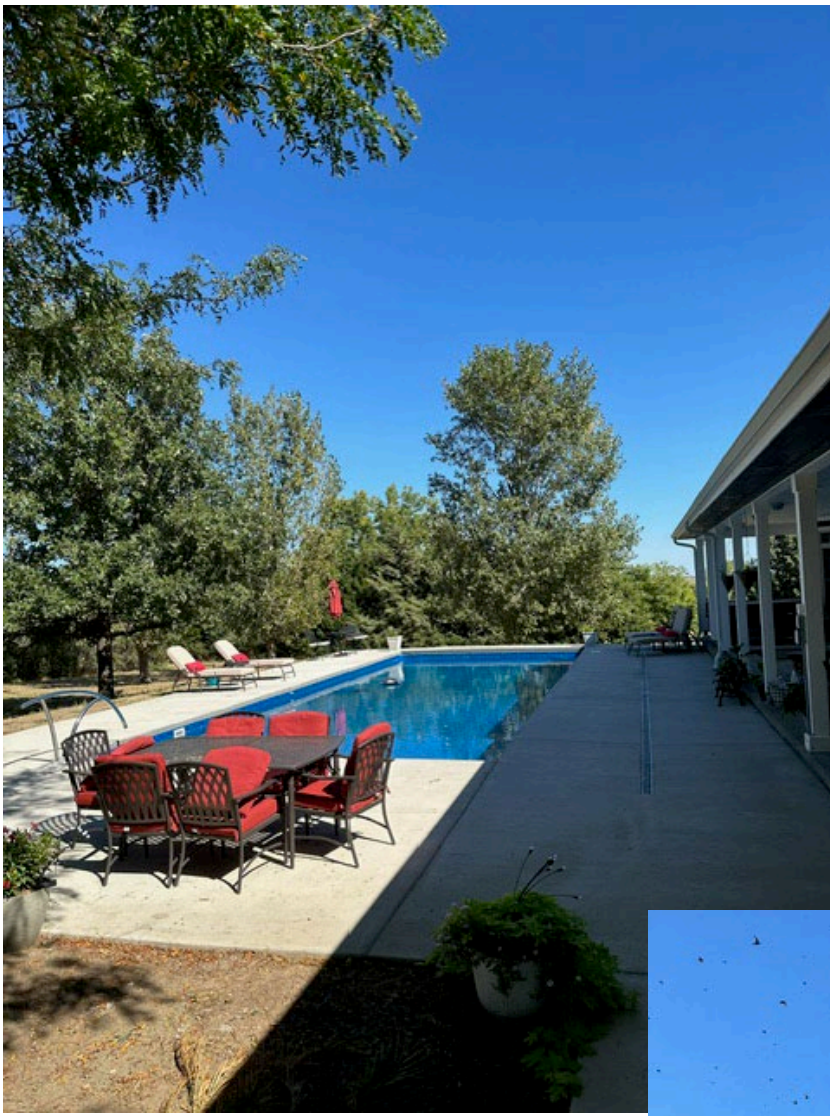
NOTES:

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.

*The appeal period will expire on December 5, 2024.









DEVELOPMENT APPROVAL APPLICATION

419 N. Broadway · Abilene, KS 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):

- | | |
|---|--|
| <input type="checkbox"/> ADMINISTRATIVE APPEAL | <input type="checkbox"/> LOT SPLIT |
| <input type="checkbox"/> ANNEXATION | <input type="checkbox"/> REPLAT |
| <input checked="" type="checkbox"/> VARIANCE | <input type="checkbox"/> PRELIMINARY PLAT |
| <input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT | <input type="checkbox"/> FINAL PLAT |
| <input type="checkbox"/> CONDITIONAL USE PERMIT | <input type="checkbox"/> REZONING |
| <input type="checkbox"/> DEVELOPMENT CODE AMENDMENT | <input type="checkbox"/> VACATION (PLAT, STREET, EASEMENT) |

FOR OFFICIAL USE ONLY

App Number: BZA 2411
Date Received: 9/25/21
Received By: K2

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

request no fence around our pool located on our 2.5 acre lot

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: _____ Tel: (____)
Business Name: _____ Fax: (____)
Address: _____
City: _____ State: _____ Zip Code: _____
E-mail: _____

PROPERTY OWNER (If Different from Applicant/Agent):

Name: Samuel Kleinbeck Tel: 520 220-7339
Business Name: _____ Fax: (____)
Address: 103 Xavier Dr.
City: Abilene State: KS Zip Code: 67410
E-mail: skleinbeck@yahoo.com

ENGINEER/ARCHITECT/SURVEYOR:

Name: _____ Tel: (____)
Business Name: _____ Fax: (____)
Address: _____
City: _____ State: _____ Zip Code: _____
E-mail: _____

PROPERTY INFORMATION

PROPERTY ADDRESS: 103 Xavier Dr Abilene KS. 67410

PARCEL ID: _____

ZONING: Existing: _____ Proposed: _____

LAND USE: Existing: _____ Proposed: _____

GROSS SIZE OF PLAT/LOT:

Residential: 2.5 acres Commercial: _____ Industrial: _____ Other: _____ Total: 2.5

NUMBER OF LOTS:

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

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: _____ Total Building Area: _____
Maximum Height of Buildings or Structures: _____ Total Impervious Area: _____

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


Property Owner Signature

Date
9/13/24

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

- Copy of Deed
- Site Plan
- Infrastructure Plans
- Elevation Survey
- Performance Agreement
- Text Amendment Language
- Annexation Boundary Map
- Variance Justification
- Easements and Covenants
- Preliminary Plat
- Development Agreement
- Traffic Impact Study
- Proof of Notification
- Property Owner List
- Operating Characteristics Report
- Location Map *Not included - pulled from permit file*
- Final Plat
- Grading and Stormwater Plans
- Construction Plans *Not included.*
- Utility Plans
- Comprehensive Plan Amendment Justification
- Administrative Appeal Justification
- Other photos of rear yard

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
 City Commission Board of Zoning Appeals

DATE OF INITIAL HEARING(S): 11/5/24

FEE AMOUNT: \$250 **DATE FEE PAID:** 9/25/24 CC

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.

Kari Zook Com Dev Director
Name Title
Kari Zook 9/25/24
Signature Date

F



Entered in transfer record in my office
this 6 day of March A.D. 19
Barbara M. Jones
Brandy Slaw
Co. Clerk
Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY
Karen J. Freeman, Register of Deeds
Book: D261 Page: 844
Receipt #: 272830
Pages Recorded: 1
Cashier Initials: JFreeman
Date Recorded: 3/6/2019 3:55:35 PM
Recording Fee: \$2100

XJ S

KM

WARRANTY DEED
(Following Kansas Statutory Warranty Form)

This 26th day of February, 2019,

Dustin J. DeWeese and Michelle DeWeese, husband and wife,

CONVEY AND WARRANT TO:

Samuel L. Kleinbeck and Sherri D. Kleinbeck,

as joint tenants with the right of survivorship and not as tenants in common, all the following described real estate, situated in the County of Dickinson, State of Kansas, to wit:

Lot Two (2), Block Two (2), in the Cunningham Addition to the City of Abilene, Dickinson County, Kansas;

Subject to easements, rights of way, restrictions, homeowner association agreements and by-laws of record;

for the sum of other valuable considerations and One and no/100 Dollars.

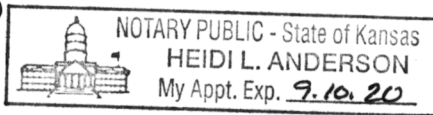
EXCEPT AND SUBJECT TO EXCEPTIONS HEREINBEFORE STATED.

[Signature]
Dustin J. DeWeese

[Signature]
Michelle DeWeese

STATE OF KANSAS COUNTY OF Dickinson, ss:
This instrument was acknowledged before me on 2-26, 2019, by Dustin J. DeWeese.

(Seal, if any)



[Signature]
Notary Public

My appointment expires 9.10.20.

STATE OF KANSAS COUNTY OF Dickinson, ss:
This instrument was acknowledged before me on 2-26-19, 2019, by Michelle DeWeese.

(Seal, if any)



[Signature]
Notary Public

My appointment expires 9.10.20.

Request Pool Fence Variance

Samuel Kleinbeck 103 Xavier Dr. Abilene, KS 67410

The pool is built on my property, 103 Xavier Dr, North of Abilene. All property in this area are 2.5 acres plus in size well above the normal lots sizes in the town of Abilene. Our housing area consisting of only 8 houses is well north of the city and away from the public. All other properties next to my residence are obscured by natural foliage consisting of trees and bushes. As the owner of the pool, I have equipped the pool and the property with the most up to date security systems. The pool has a built-in security pool cover that allows 1000lbs to walk across it, the covers operating system is always locked and the key to unlock the system is secured inside the residence. We also have a security camera Ring service that alerts to anyone who enters the back yard where the pool is located. We have also installed a water break system that alerts us if anything breaks the water surface and also a rear door alert if anyone opens the back door to the pool area. We have spent over \$30K to the safety of our family, other people and animals and feel that having to add a fence will constitute a financial hardship to us at this time.

Thank you for your consideration.



Samuel Kleinbeck, (Th.D)

CW5 US Army (ret)

Permit #: 2023-182

Please submit this form to:
Community Development
419 N Broadway
785-263-2355
kolson@abilene-cityhall.com

APPLICATION FOR PERMIT

- Building Electrical
- Plumbing Mechanical



PERMIT TYPE

- Residential Commercial/Industrial
- Non-Residential

METHOD OF PAYMENT: Cash/Check Charge

Project Site Address: 103 Xaverer Dr.

Property Owner: Samuel Kleinbeck

Property Owner Phone/E-mail: 520-220-7339 skleinbeck@yahoo.com

General Contractor/Engineer: Ebeling Pools Inc.

General Contract Phone/E-mail: 620-663-9805

Class of Work: New Addition Alteration/Remodel Repair Demolition Other _____

Describe Work: Pool construction

Value of Work: \$ 55,400

Site Plan attached: YES NO

Builder Declaration (List Contractors):

Electrical: JA Electrical

Plumbing: JA Plumbing

Mechanical: Ebeling Pool

Living Area: _____ Garage Sq. Ft.: _____

Addition Sq. Ft.: _____ Total Sq. Ft.: _____

Stories/Height: _____ Land Area: _____

Coverage %: _____ Occupant Load: _____

Occupant Class: _____ Use of Building: _____

ICC Building Type: _____

I certify that I have read this application and state that the above information is correct, and that I as owner or builder, do agree to comply with all city adopted building codes, relating to building construction. I acknowledge the city is not responsible for covenants, easements, or right-of-way related to the property listed above.

Signature: [Signature]

Date: 8/4/23

- Builder/Contractor Agent for Contractor Owner Agent for Owner

Work Sheet
(to be completed by staff)

Building	Base \$25
	Each Additional \$1,000 x \$3.50 = <u>190.40</u>
	Additional Inspections \$25
Electrical	<u>\$25</u>
Mechanical	\$25
Plumbing	<u>\$25</u>
Sewer	\$10
Septic	\$20

PAID
AUG 04 2023
ck# 2770

Permit Fee: \$ 265.40

Building Inspection Department
(for office use only)

Zoning District: _____ Historic District: _____
Flood Zone: _____ Corp of Engineer: _____

Setbacks: Front Yard _____ Side Yard _____
Rear Yard _____

Special Conditions:

Approved for Issuance by:
Signature: _____
Date: _____

EBELING POOLS, INC.
 2803 North Lorraine
 HUTCHINSON, KS 67502

PROPOSAL

(620) 663-9805

TO	PHONE	DATE
	JOB NAME / LOCATION	
	JOB NUMBER	JOB PHONE

We hereby submit specifications and estimates for:

	Swimming pool 18x36 pool	55,400
	Automatic Pool cover	17,000
	Center cover	1,200
	Chlorine dispenser 5060	2600
	Star up salt	350
	Sundack steps add to pool length for 46' long	9,000
	4- LED lights with control	3950
	Upgrade pump to Variable Speed	1200
	2 - Deep end cover Boards @ 1400	2800
	4 - Stainless Stained fountains	2500
	Heat Pump/Cool	6800
		<u>102,800</u>
	TAX	6,825.92
		<u>109,625.92</u>

102,805	
- 17,476	- 17%
<u>85,329</u>	
6,825.92	8%

We Propose hereby to furnish material and labor - complete in accordance with the above specifications, for the sum of: _____ dollars (\$ _____).

Payment to be made as follows:

Down SR Smith pool 600-

All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance.

Authorized Signature _____

Note: This proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Signature _____

Date of Acceptance: _____

