

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

April 8, 2025, 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 ___ Kristyn Anderson ___ Bill Marshall
3. Approval of Agenda
4. Declaration of Conflict of Interest/Ex Parte Communications by members
5. Approval of Meeting Minutes – November 5, 2024
Business 6. Public Hearing for BZA 25-4 , a request from Mitch Westfall to allow a variance from Article 20, Section 20-801 of the zoning regulations of the City of Abilene, KS. The applicant is requesting to install a detached accessory structure (carport) within ten (10) feet of the primary dwelling in the rear yard. The site address is 1004 NW 2 nd St., 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
November 5, 2024, at 4:00 p.m.



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

2. Roll Call

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

Absent: Eric Anderson

Staff present: Community Development Director Kari Zook, Administrative Assistant Kellie Olson, City Inspector Travis Steerman

Public present: Lee & Jamie Tanner

3. Approval of Agenda

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

4. Declaration of Conflict of Interest/Ex Parte Communications - None

5. Approval of Minutes

Motion by Sawyer to approve the May 7, 2024, minutes as written, seconded by Marshall. Motion carried unanimously 6-0.

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.

The staff report was discussed. Vice Chair Zelinkoff opened the public hearing at 4:11 p.m. The applicant was not present at the meeting. Two responses were received from property owners that received the notice of public hearing. Chuck and Ann Brussow, 104 Xavier Dr, wrote an e-mail to city staff indicating they were concerned about the safety of the neighborhood children and grandchildren if a fence is not installed and asked that the variance not be approved. Scott Reynolds, 105 Xavier Dr, voiced his concerns at city hall to city staff indicating his concerns for the neighborhood children and grandchildren if there were to be no fence installed. He stated there is a reason that requirement is in city code and asked that the variance not be approved. The public hearing was closed at 4:12 p.m.

Motion by Sawyer to deny the variance request on the findings that this would be a public and life safety concern, seconded by Rose. Motion carried unanimously 6-0. There is a 30-day appeal period which shall expire on December 5, 2024.

7. Adjournment

Motion by Rose to adjourn at 4:13 p.m., seconded by Boyd. 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 25-4 Variance request – 1004 NW 2nd St
DATE: April 8, 2025



APPLICANT/OWNER:

Mitch Westfall 902 N Walnut, Abilene, KS 67410

Application date received: 3/4/25

BACKGROUND:

- Article 20, Section 20-801 states the following: *No detached accessory building shall occupy a required yard or be located within ten (10) feet of any dwelling existing or under construction on the building site.*
- The variance request is to install a detached accessory structure (carport) within ten (10) feet of the primary dwelling in the northeast corner of the rear yard.
- This parcel is located in the R-1 (low-density residential) district. Required yard setbacks are as follows: 25' front yard, 10' side yard (parcels lawfully created prior to July 29, 2014, side yards shall not be less than 5'), 25' rear yard.
- The dwelling on this parcel was built in 1920 and has an *approximate* front yard setback of 82', side yards of 12' and 14', and a rear yard setback of 20' (legally nonconforming). The home being constructed so far towards the rear of the parcel creates a hardship for this property owner to install a carport within the rear yard and avoid the 10-foot required distance from the primary dwelling.
- Site photos and the variance justification are attached to the agenda packet for reference.



Direction	Zoning Classification	Land Use(s)
North	R-1	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 March 13, 2025, and written notices were sent by mail on March 13, 2025, to property owners within 200 feet of the site address as required by Article 25, Section 25-701 of the zoning regulations.

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 May 8, 2025.









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: B2A25-4
Date Received: 3/4/25
Received By: KZ

BRIEF DESCRIPTION OF APPLICATION PURPOSE:

Be able to put up car port behind House.

APPLICANT INFORMATION

APPLICANT/AGENT (If Not Property Owner):

Name: Mitch Westfall Tel: (785) 200-0001
Business Name: _____ Fax: (____)
Address: 902 N Walnut
City: Abilene State: Kansas Zip Code: 67410
E-mail: _____

PROPERTY OWNER (If Different from Applicant/Agent):

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

ENGINEER/ARCHITECT/SURVEYOR:

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

PROPERTY INFORMATION

PROPERTY ADDRESS: 1004 NW 2nd St

PARCEL ID: 021-114-17-0-40-08-013.00-0

ZONING: Existing: R-1 Proposed:

LAND USE: Existing: P Proposed:

GROSS SIZE OF PLAT/LOT:

Residential: X Commercial: Industrial: Other: Total:

NUMBER OF LOTS:

Residential: X Commercial: Industrial: Other: Total:

IMPROVEMENT CHARACTERISTICS:

Number of Buildings or Structures: 1 Total Building Area: 204 Sq Foot
Maximum Height of Buildings or Structures: 9' Total Impervious Area:

EXISTING PUBLIC FACILITIES:

Public Private Other (Describe)
Water Service: [] [] []
Wastewater Service: [] [] []
Roadway Access: [] [] []

FLOODPLAIN INFORMATION:

Floodway: [] Yes [X] No FIRM Map-Panel Number:
Floodway Fringe: [] Yes [X] 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 [X] 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.

Mitch Westfall
Applicant Signature

3-4-25
Date

Mitch Westfall
Property Owner Signature

3-4-25
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
- Easements and Covenants
- Preliminary Plat
- Development Agreement
- Traffic Impact Study
- Proof of Notification
- Property Owner List
- Operating Characteristics Report
- Location Map
- Final Plat
- Grading and Stormwater Plans
- Construction Plans
- Utility Plans
- Comprehensive Plan Amendment Justification
- Administrative Appeal Justification
- Variance Justification
- 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
 City Commission Board of Zoning Appeals

DATE OF INITIAL HEARING(S): 4/8/25

FEE AMOUNT: \$250 **DATE FEE PAID:** CASH **PAID**

MAR 04 2025

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
Name

Camden Director
Title

Kari Zook
Signature

3/5/25
Date

Carport
5' from House and 5' from
Property Line



existing storage shed 7'x16'

22'

1004

This building was removed

This is where I want to put car port

electric meter

gas meter

NW 2ND ST

Variance Justification Requirements

Please type your responses to the questions belows. Handwritten responses will not be accepted. If you do not have access to Microsoft Word or another way to type your responses on paper, you may email them to kari@abilenecityhall.com.

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.

- A. House was built in the late 1800's (1868?). House was placed to back of lot. The current codes would not allow enough room for a car port (10' from house and 5' from property line). Most car ports are 10' to 12' for a single car. Space from house to property line in back is 22'.
- B. Placement would not effect other properties.
- C. Renters need protection for their vehicle.
- D. It will not.
- E. I don't think it will.



Entered in Transfer Record in my
office this 22 day of August
2013 AD.
Barbara M. Jones
Co. Clerk
Brendy Jones
Deputy Co. Clerk



STATE OF KANSAS, DICKINSON COUNTY
Keren J. Freeman, Register of Deeds
Book: D250 Page: 749-750
Receipt #: 253677
Pages Recorded: 2
Cashier Initials: JF
Recording Fee: \$12.00
Authorized By: K. J. Freeman
Date Recorded: 8/22/2013 2:16:40 PM

XJW

QUIT CLAIM DEED

Grantor(s): **Connie McQuillan and Tom McQuillan, wife and husband**

Grantee(s): **Mitch Westfall**

Grantee(s) mailing address: **902 N WALNUT, Abilene, KS 67410**

In consideration of One Dollar and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor(s) **REMISE, RELEASE AND QUIT CLAIM** to Grantee(s) , the following described premises, to wit:

Lot One (1) and the East Fifteen (15) feet of Lot Three (3), on North Second Street, in Lebold's Fourth Addition to the City of Abilene, Dickinson County, Kansas.

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

The Grantor(s) covenant that neither the Grantor(s) nor the heirs/successors of Grantor(s) or assigns of such Grantor(s), nor any other person or persons for Grantor(s) or in the name or behalf of such Grantor(s), shall or will hereafter claim or demand any right or title to the aforesaid Property or any part thereof, but they and each of them shall, by these presents, be excluded and forever barred.

**Exempt from Kansas Real Estate
Sales Validation Questionnaire
as per K.S.A. 79-1437e (4).**

Dated: **August 22, 2013**

Connie McQuillan

Connie McQuillan

Tom McQuillan

Tom McQuillan

STATE OF KANSAS)
) ss.
COUNTY OF DICKINSON)

On **August 22, 2013** this deed was acknowledged before me by **Connie McQuillan and Tom McQuillan, wife and husband**, as Grantor(s).

Gloria E. Picking

Notary Public

My appointment expires: 1-6-2015

