

MINUTES



OLATHE BOARD OF ZONING APPEALS

Planning Division

Case Number: BZA19-0001

Hearing Date: March 9, 2020

Request A variance from *Unified Development Ordinance Section 18.50.040.B.4* to permit two drive-through windows to face a public street.

Staff: Kim Hollingsworth, Senior Planner, introduced a request for a variance to permit a new restaurant user to have two drive-through windows facing a public street at 732 West Park Street. She said the applicant plans to submit a revised preliminary site development plan application for the Wendy's restaurant, to replace the existing Pizza Shoppe on the property. The property is zoned C-3 and is surrounded by properties zoned CP-2 to the west and north, C-2 to the south, and R-1 to the east.

Ms. Hollingsworth added that the proposed layout positions the primary entrance to the south and a majority of the drive-through lane adjacent to the west façade. Due to the orientation of the lot and proximity to residential properties, the applicant is requesting one pay window and one pick-up drive-through window on the west building façade, which requires a variance. The applicant also proposes to move access from Park Street further east to increase safety at the intersection. This orientation also creates a significant landscape buffer along the east property line adjacent to the R-1 District and along Parker Street.

Ms. Hollingsworth stated that in order to allow this exception, the application must meet five requirements:

- A. *That the variance requested arises from such conditions which are unique to the property in question, are not ordinarily found in the same zone or district and are not created by an action or actions of the property owner or the applicant.*
- B. *That granting the variance will not adversely affect the rights of adjacent property owners or residents.*
- C. *That the strict application of the provisions of this ordinance would constitute an 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 the variance will not be opposed to the general spirit and intent of this ordinance.*

The applicant has provided written justification for the variance request as part of the application. Staff has reviewed all information and finds that the request meets all five

conditions required for approval and will not adversely affect the public or surrounding properties.

In summary, staff recommends approval of BZA19-0001, a variance from UDO 18.50.040.B.4, to permit two drive-through windows to face a public street, for the reasons identified in the staff report.

Bob Kralicek, 5106 W. 156th Street, Overland Park, MPC Quality Burgers, approached the podium. Mr. Kralicek reiterated the five key elements to qualify for the variance. There were no questions of the applicant.

Chair Sutherland noted that no one has signed up to speak on this item. He called for a motion to close the public hearing.

Motion by Member Nelson, seconded by Member Vakas, to close the public hearing.

Motion passed 4-0.

Member Vakas believes this application is straightforward and appreciates the applicant's efforts. He believes the plan makes good sense.

Motion by Member Vakas, seconded by Member Youker, that BZA19-0001, be approved as recommended by staff.

Aye: Nelson, Vakas, Youker, Sutherland (4)

No: (0)

Motion was approved 4-0.