

J. STAFF REPORTS

K. ITEMS BY PLANNING AND ZONING BOARD MEMBERS:

___ Gary Janzen ___ Rick Shellenbarger ___ Toby Meadows
___ Paul Spranger ___ Mike Boyd
___ Brian Shelton ___ Steve Conway

L. ADJOURNMENT OF THE PLANNING AND ZONING BOARD

Motion made by _____. Seconded by _____. For ___ Against ___

Note to Planning and Zoning Board Members: If you are unable to attend this meeting, please contact Ryan Shrack (316-755-7320) prior to the meeting.

All items listed on this agenda are potential action items unless otherwise noted. The agenda may be modified or changed at the meeting without prior notice. At anytime during the regular Planning and Zoning Board meeting, the Planning and Zoning Board may meet in executive session for consultation concerning cases to be deliberated. This is an open meeting, open to the public, subject to the Kansas Open Meetings Act (KOMA). The City of Valley Center is committed to providing reasonable accommodations for persons with disabilities upon request of the individual. Individuals with disabilities requiring an accommodation to attend the meeting should contact the Community Development Department in a timely manner, at communitydevelopment@valleycenterks.org or by phone at (316)755-7320. For additional information on any item on the agenda, please visit www.valleycenterks.org or call (316) 755-7320.

**PLANNING AND ZONING BOARD/BOARD OF ZONING APPEALS MEETING
MINUTES
CITY OF VALLEY CENTER, KANSAS**

TUESDAY, JANUARY 25, 2022, 7:00 P.M.

CALL TO ORDER: Chairperson Gary Janzen called the meeting to order at 7:02 P.M. with the following members present: Brian Shelton, Rick Shellenbarger, Mike Boyd, and Steve Conway.

Members Absent: Paul Spranger, Toby Meadows

City Staff Present: Brent Clark, Ryan Shrack, and Brittney Ortega

Audience: Mayor Lou Cicirello, Sue Allen, Howard Botts, Barry Gaskill, Charisse Bansemer, Paul Good

AGENDA: A motion was made by Chairperson Janzen and seconded by Board Member Boyd to set the agenda. Motion passed unanimously.

APPROVAL OF DRAFT MINUTES: Chairperson Janzen made a motion to approve the December 16, 2021, meeting minutes. The motion was seconded by Board member Conway. Motion passed unanimously.

COMMUNICATIONS: Introduction of new Community Development Assistant, Brittney Ortega.

PUBLIC HEARINGS BEFORE THE PLANNING AND ZONING BOARD/BZA:

1. Review of SP-2022-01, application of Barry Gaskill, pursuant to Section 17.12, who is petitioning to build a 3,840 sq. ft. building addition onto the existing commercial building currently addressed as 350 W. Industrial St., Valley Center, KS 67147.

R. Shrack gave a summary of his staff report with the board. Mr. Gaskill is seeking approval for a building addition. This will allow for extra space for various aspects of his business as well as extra storage. City staff is recommending approval.

Chairperson Janzen opened hearing for comments from the public: 7:07 PM

Chairperson Janzen enquired about the area to the west. Mr. Gaskill commented that area is now cleared up and empty. Constructing this addition should also allow the company to hire additional employees.

Chairperson Janzen closed the public hearing: 7:09 PM

Based on the City Staff recommendations and discussion by the Planning and Zoning Board, Chairperson Janzen made a motion to approve SP-2022-01. Motion was seconded by Board Member Shellenbarger. The vote was unanimous.

2. Review of V-2021-05, application of Charisse Bansemer, pursuant to City Code 17.10.08., who is petitioning for a variance to allow for a portion of a commercial building located at 121 S. Park Ave., Valley Center, KS 67147 to be used as a temporary residential living space.

R. Shrack gave a summary of his staff report with the board. This area is zoned as C-2, general business district, meaning it may not be used for residential purposes other than new buildings where a person is operating their business and they own the building. The request has been made by the applicant to allow her to remain for a temporary time frame of six months. R. Shrack notes the building as been inspected by both City of Valley Center Inspector and MABCD inspector. The city has received a number of emails and phone calls in support of the applicant. City staff is recommending approval.

Members of the board asked questions regarding codes, zoning and possible rezoning. All questions were addressed by R. Shrack

Chairperson Janzen opened hearing for comments from the public: 7:18 PM

Charisse Bansemer, applicant, spoke on her situation and why she is applying for this variance. Her intentions are not to use this property as a permanent residence. The goal is to bring in more businesses and possible event space to generate revenue within this community. She is also working toward owning the building. C. Bansemer expressed that six months may not be enough time to meet her goals for the building.

Paul Good, legal counsel for the applicant, spoke in support of C. Bansemer. He voiced concern over the variance and whether it was needed as it was his understanding there was no violation of code.

Members of the board asked for additional information pertaining to zoning. R. Shrack provided clarification.

Howard Botts spoke in support of C. Bansemer. He addressed the positive progression of Valley Center, business owners and citizens when we work together.

Mayor Cicirello, speaking on behalf of the governing body, is in support of the applicant. He notes that the city attorney has also looked at the code and reads it the same as city staff and the board.

Chairperson Janzen closed the public hearing: 7:42 PM

The board questioned what would need to be done to give the applicant a one-year variance. R. Shrack answered and referred to the inspection report submitted by Inspector Bill Andrews and Inspector Jerod Truman. The board recommended a one-year variance. The staff recommendation

was read by Board Member Boyd with the changed dates reflecting January 24, 2023, as the one year mark. In order for the applicant to continue to reside in the building beyond January 24, 2023, an egress window or door must be installed, along with appropriate electrical outlets. A building permit is required prior to any work being done.

Based on the City Staff recommendations and discussion by the Board of Zoning Appeals, Board Member Boyd made a motion to approve V-2021-05 granting a one-year variance to the applicant. Motion was seconded by Board Member Shellenbarger. The vote was unanimous.

NEW BUSINESS: none

OLD OR UNFINISHED BUSINESS: none

STAFF REPORTS: R. Shrack informed the board that the next meeting will be held on 2/22/2022 and there will be one application to review at that time.

He also gave an update on preparation for the WABA Home Show and the decision made by City Council to pursue public power. Further detailed information was provided by City Administrator Brent Clark.

ITEMS BY PLANNING AND ZONING BOARD MEMBERS:

Gary Janzen-none
Paul Spranger-absent
Brian Shelton-none
Rick Shellenbarger-none
Mike Boyd-none
Steve Conway-none
Toby Meadows-absent

ADJOURNMENT OF THE PLANNING AND ZONING BOARD/BZA MEETING: A motion was made by Chairperson Janzen to adjourn and seconded by Board Member Shelton. Vote was unanimous and the meeting was adjourned at 8:04 PM.

Respectfully submitted,

Ryan Shrack, Community Development Director

Gary Janzen, Chairperson



Date: February 15, 2022

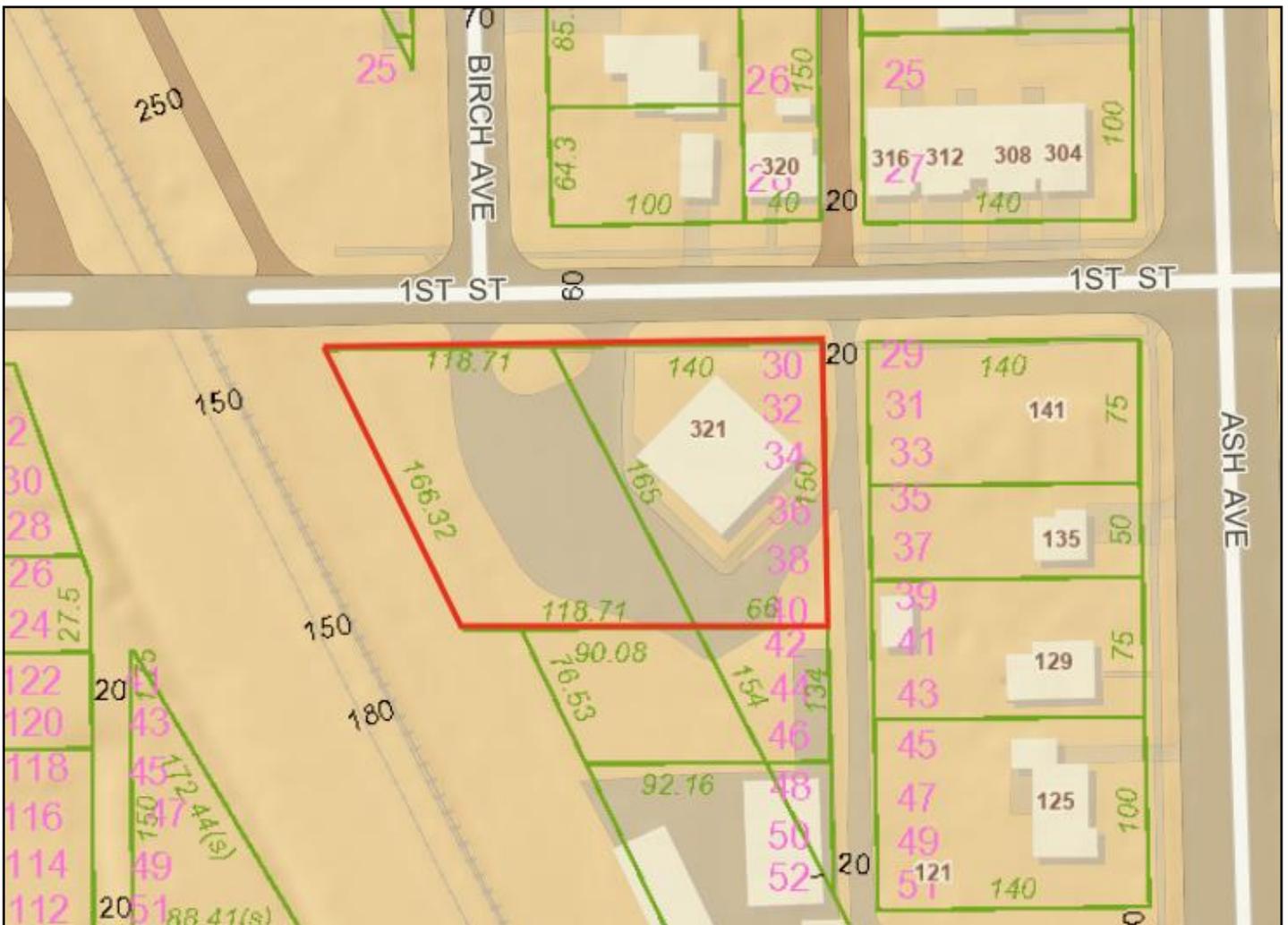
Present Zoning: R-1B (Single-Family Residential District)

Proposed Zoning: C-1 (Central Business District)

Rezoning Application Case Number: RZ-2022-01

Applicant: Michael and Tammy Miller

Property Address: 321 W. 1st Street, Valley Center, KS 67147 (outlined in red below)



Applicants' Reasons for Rezoning: The applicants are requesting a rezoning from R-1B to C-1 to allow for a new commercial use to take place in the existing building (see applicant's letter at the end of this staff report). The applicants had originally planned to convert the existing building, which was the former community library, into a residence for themselves when they purchased this property. This plan was abandoned due to the applicants not wanting to live so close to an active railroad line and they decided to rezone this area to a commercial designation. The original rezoning request was to change the zoning to C-2 to allow for the existing building to be used as an indoor storage facility. Since these two lots are located inside the downtown neighborhood overlay district, indoor storage facilities are a prohibited use in this

area. The applicants understand that if this rezoning application is approved, the new commercial use of the existing building and other lot will have to adhere to the City's zoning code for not only C-1, but also the downtown neighborhood overlay district. A list of permitted uses in C-1 zoned property, as well as prohibited uses in the downtown neighborhood overlay district can be found at the end of this staff report.

Review Criteria for a Zoning Amendment per 17.11.01.H (*criteria in italics*)

1. *What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?*

The subject property consists of two parcels. On one parcel, sits the former community library building. The other parcel is primarily a gravel parking lot area that was utilized by the library when its operations were located here. This property is located in a mixed-use neighborhood. There are both single and multi-family residential units in the surrounding area, with various commercial buildings/uses located to the south of this property. An active BNSF railroad line is located immediately west of this property.

2. *What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?*

The current zoning of the subject property is R-1B (Single-Family Residential District). The surrounding zoning and land uses are as follows:

- North: R-2 (Two-Family Residential District)
- South: C-1 (Single-Family Residential District)
- East: R-1B (Single-Family Residential District)
- West: C-2 (General Business District)

3. *Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?*

No

4. *Would the request correct an error in the application of these regulations?*

No

5. *Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?*

The rezoning request is the direct result of the applicants wanting to repurpose the existing building into a new commercial use, which required rezoning from a residential designation to a commercial designation.

6. *Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?*

Yes, all utilities and appropriate street access are available to the property at this time.

7. *Would the subject property need to be platted or replatted or in lieu of dedications made for rights-of-way, easements, and access control or building setback lines?*

No

8. *Would a screening plan be necessary for existing and/or potential uses of the subject property?*

No

9. *Is there suitable vacant land or buildings available or not available for development that currently has the same zoning?*

Not applicable in this case.

10. *If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?*

The City of Valley Center supports its businesses and encourages new businesses that will provide the residents of the community with greater services and spur employment opportunities through the creation of new jobs.

11. *Is the subject property suitable for the uses in the current zoning to which it has been restricted?*

No, the property needs to be rezoned in order to allow for commercial uses to take place on it.

12. *To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?*

The transition from a single-family residential district to a commercial district will not have a negative effect on the surrounding property owners. There are multiple commercial buildings and activities located close to this property.

13. *Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?*

Yes

14. *Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?*

Yes

15. *What is the nature of the support or opposition of the request?*

- City staff supports this rezoning. The standard public notice was published in *The Ark Valley News* and notices were sent out to surrounding property owners. Only two responses have been received to date and both individuals were not opposed to this rezoning request.
- Other public comments in support or opposition will not be known until the public hearing.

16. *Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?*

No

17. *By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the request?*

No

City staff recommends approval of this rezoning application.

Applicant's Letter

To whom it may concern,

Please accept this supplemental documentation for the Rezoning Amendment Application submitted for two lots. We wish to change the zoning from its current residential status to C-1 Central Business District. Previously we had submitted for these two lots at 321 W 1st and the lot directly West to be rezoned as C-2 with the intent of building indoor storage. However, on 1/7/22 we were informed that indoor storage would not conform to the D-O Downtown Neighborhood Overlay District. Therefore, we withdrew this application on 1/7/22.

After meeting with Mr. Shrack on 1/7/22, it was decided that we would like to pursue changing these two lots to C-1. C-1 will allow us several opportunities to utilize this land in a more productive way. Whichever direction we go with these two lots, we will ensure that it conforms to both C-1 and D-O as specified in the Valley Center Zoning Ordinance Regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Miller". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael R. Miller

C-1 Permitted, Special, and Conditional Uses

(Per City Code 17.04.09.A-C.)

A. Permitted Uses.

1. Animal hospitals and clinics limited to the care, treatment and grooming of small animals, where all activities take place within a completely enclosed building.
2. Antique, gift shops and florist.
3. Bakeries, including retail and wholesale sales.
4. Barber and beauty shops.
5. Business and professional offices and financial institutions, including drive-up windows.
6. Bus stations and taxi stands.
7. Department and variety stores (see Section 17.02.09 for definition)
8. Dwelling units constructed in conjunction with, but above the first floor of business establishments.
9. Garden, furniture, appliance and hardware stores (see Section 17.02.09 for definition of GARDEN STORE and Section 17.04.10.F.3 for outdoor display and storage)
10. Grocery and convenience stores for food and related items.
11. Hotels, motels and bed and breakfast homes and inns.
12. Laundries and dry cleaning establishments, including self-service.
13. Newspaper, publishing and printing firms.
14. Parking lots or parking garages.
15. Outdoor Cafes in conjunction with Restaurants
16. Restaurants, but not drive-ins.
17. Motion Picture Theatre
18. Retail stores. (See Section 17.02.09 for definitions of RETAIL and STORE.)
19. Self-service laundries.
20. Service establishments with not more than 10 employees.
21. Service businesses such as repairing watches, jewelry, shoes, office machines and appliances; dress making and tailor shops; barber and beauty shops; locksmiths; and the like.
22. Single-family attached, not exceeding two, and two-family dwellings.
23. Multiple-family dwellings.
24. Studios: art, music, dance, photographic and radio or television broadcasting.

B. Special Uses.

1. Public buildings erected or land used by any agency of a city, county or state government.
2. Manufacturing establishments, limited. (see Section 17.02.09 for definition of MANUFACTURING, LIMITED)
3. Technical and business schools with related off-street parking space.
4. Other Special uses not specifically listed as a permitted special or conditional use, but which are in keeping with the intent of Section 17.04.09 and compatible with the uses permitted in Section 17.04.09A.

C. Conditional Uses.

1. Accessory apartments (see Section 17.02.09 for definition of Accessory Apartment)
2. Adult and child care centers and preschools.
3. Amusement centers.
4. Commercial recreational activities both indoor and outdoor.

Downtown Neighborhood Overlay District Prohibited Permitted, Special, and Conditional Uses

(Per City Code 17.04.14.D-F.)

A. Permitted Uses that are Prohibited in the Overlay District.

1. Auction houses.
2. Automobile service stations.

3. Automobile, small truck and motorcycle salesrooms, repairs and refinishing services. (See Section 17.04.09.C.5 for repair garages and Section 17.04.09.C.8 for outside sales lots.)
4. Establishments employing not more than five persons in construction businesses such as plumbing, heating, air conditioning and electrical work, but not woodwork such as millwork. (See Section 17.04.09.F for outdoor storage.)
5. Liquor stores
6. Rental centers including appliances, furniture, tools and construction equipment. (See Section 17.04.09.F.3 for outside storage.)
7. Self-service laundries.
8. Religious Institution
9. Golf courses, including accessory club houses, but not driving ranges and miniature golf courses operated for commercial purposes.
10. Public and private schools: educational buildings for primary, intermediate and secondary schools including transportation centers, recreation areas, spectator sports facilities and the like.

B. Special Uses that are Prohibited in the Overlay District.

1. Assembly places both private and public, and fraternal and service clubs.
2. Religious Institution.
3. Mini-storage facilities for inside rental storage only.
4. Sexually oriented businesses as defined by K.S.A. 12-770(a) 2-15.
5. Cemeteries, private or public.
6. Group homes which exceed the number of persons permitted by the definition in Section 17.02.09.
7. Hospitals.
8. Multiple dwelling units for the elderly and handicapped whereby density and parking requirements may be varied from the standards otherwise required by these regulations.
9. Nonprofit institutions for educational, philanthropic or charitable purposes.
10. Nursing and convalescent homes.
11. Retirement centers and assisted living facilities.
12. Rehabilitation houses.

C. Conditional Uses that are Prohibited in the Overlay District.

1. Auction houses
2. Automobile service stations and sale of gasoline at convenience stores.
3. Wholesale and inventory storage not otherwise related to the principal use of the premises.
4. Contracting shops for plumbing, electrical, heating and air conditioning, wood working and the like with outside storage when permitted. (See Section 17.04.09.F.3 for outside operations and storage.)
5. Drive-in establishments.
6. Vacant space.
7. Large recycling collection centers. (See Section 17.02.09 for definition of Recycling Center.)
8. Mini-storage facilities for inside rental storage only.
9. New and used car lots including the sale of vans, small trucks, recreational vehicles, motor-homes and boats.
10. Utility substations and water towers. (See Section 17.03.27 for Lot Size and Bulk Regulations.)
11. Earth-sheltered dwellings.
12. Swimming, tennis, racquetball and similar recreational club activities and related clubhouses.