



AGENDA
BOARD OF ZONING APPEALS
February 13, 2024
Regular Meeting at 5:30pm
Basehor City Hall
And on Zoom

<https://cityofbasehor.zoom.us/j/86920569820?pwd=wp4yAWBHyB032VbFlasaHdH9XKtYAh.1>

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **PV-006-23- Application PV-006-23, consider a variance to Article 7.11.e.(3), minimum rear yard setback of twenty-five (25')feet and a minimum front yard setback of eighty (80) feet. pg. 2-14**
5. **PADM-003-24-Board of Zoning Appeals By Laws. pg. 15-21**
6. **Adjournment**

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 4

PV-006-23

Topic: Variance request to setback requirements

Narrative: Consider application PV-006-23, consider a variance to Article 7.11.e.(3), minimum rear yard setback of twenty-five (25') feet and a minimum front yard setback of eighty (80) feet.

Presented by: Krystal Voth

Attachments: Staff report
Aerial
Site Plan
Application
Public Hearing Notice



Case No. PV-006-23

STAFF REPORT

Board of Zoning Appeals Meeting: February 13, 2024

Application:	Variance Request – Front and Rear Yard Setbacks		
Owner/Applicant:	Smith Family Trust/Mike Fulkerson		
Legal Description:	Lot 1 Wolf Creek Meadows		
Location:	Generally located near 142 nd & Parallel		
Planner:	Krystal A. Voth		
Parcel Size:	<u>±13,780 Sq. Ft</u>	Zoning:	<u>R-0 Suburban Residential</u>
Parcel ID Number:	<u>181-11-0-00-00-002.00</u>	Current Use:	<u>Vacant</u>

REPORT:

Request

The applicant is requesting two variances related to the setback requirements in the I-1 Zoning District. The applicant is requesting a front yard setback reduction from 80' to 50' (Article 7.11.e.1(b)). The applicant is also requesting a rear yard setback reduction from 25' to 10' (Article 7.11.e(3)) The variance request is for Lot 1 of Wolf Creek Meadows, the final plat for which will be considered by the Planning Commission on February 13, 2024. If granted, the variances will permit the construction by Consolidated Water District #1 of a small building to house a new water meter that will permit better water service to the City. The variances, if granted, will be subject to the approval of the final plat.

Variance Request and Analysis

Article 17 of the Basehor Zoning Regulations state:

The board shall have power to hear and decide variances from the specific terms of this ordinance in an individual case provided that the spirit and intent of this ordinance be observed, public safety and welfare are secured, adjoining property owners are not adversely affected and the strict application of the Zoning Ordinance will result in an unnecessary hardship on the property owner/applicant. Such variance shall not permit any use not permitted in the zoning ordinance in such district.

The Zoning Regulations provide that a variance may be granted in each case, upon finding by the board that **all** of the following conditions have been met:

- 1. 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.**
 - 1.1. The development of this parcel is constrained greatly by the presence of a floodway and Special Flood Hazard Area. Additionally, there are existing utility easements that were established several decades ago and cannot be vacated. The reduction of setbacks will allow for development on the parcel.
- 2. The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.**
 - 2.1. This variance request would **likely not** adversely affect the rights of the adjacent property owners or residents.
- 3. That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**
 - 3.1. If the requested variances are not granted, it is unlikely the proposed water meter structure will be constructed at this location.
- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare, or the harmonious development of the city.**
 - 4.1. The proposed variance would **likely not** have adverse effects.
- 5. That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.**
 - 5.1. The granting of this variance is not opposed to the general spirit and intent of the Zoning Ordinance.

6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions, which are in question.

6.1. These variance requests are the minimum variances necessary.

Staff Comments

The application before the Board of Zoning Appeals is related to a pending Final Plat for Wolf Creek Meadows. Wolf Creek Meadows will be presented to the Planning Commission for approval at the February 13 Planning Commission Meeting. Therefore, should the Board of Zoning Appeals grant the requested variances, the approval will be conditioned upon the approval and recording of the Final Plat.

The applicant is requesting reductions in the front and rear yard setbacks in order to facilitate the development of an 865 square foot, single story, building to house a metering station. The front yard setback request reduces the distance from 80' (from the property line) to 50'. The rear yard setback request reduces the distance from the rear yard from 25' to 10'. The deviations, if granted, apply to Lot 1 of Wolf Creek Meadows and will not apply to Lot 2. The parcel is constrained by existing easements and the presence of floodplain.

Variance Conditions			
No.	Variance	Condition Met	Condition Not Met
1	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.	X	
2	The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.	X	
3	That the strict application of the provisions of the Sign Code Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.	x	
4	That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare, or the harmonious development of the city.	X	
5	That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Code.	X	
6	That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Sign Code provisions, which are in question.	X	

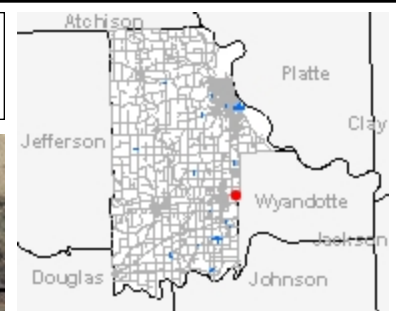
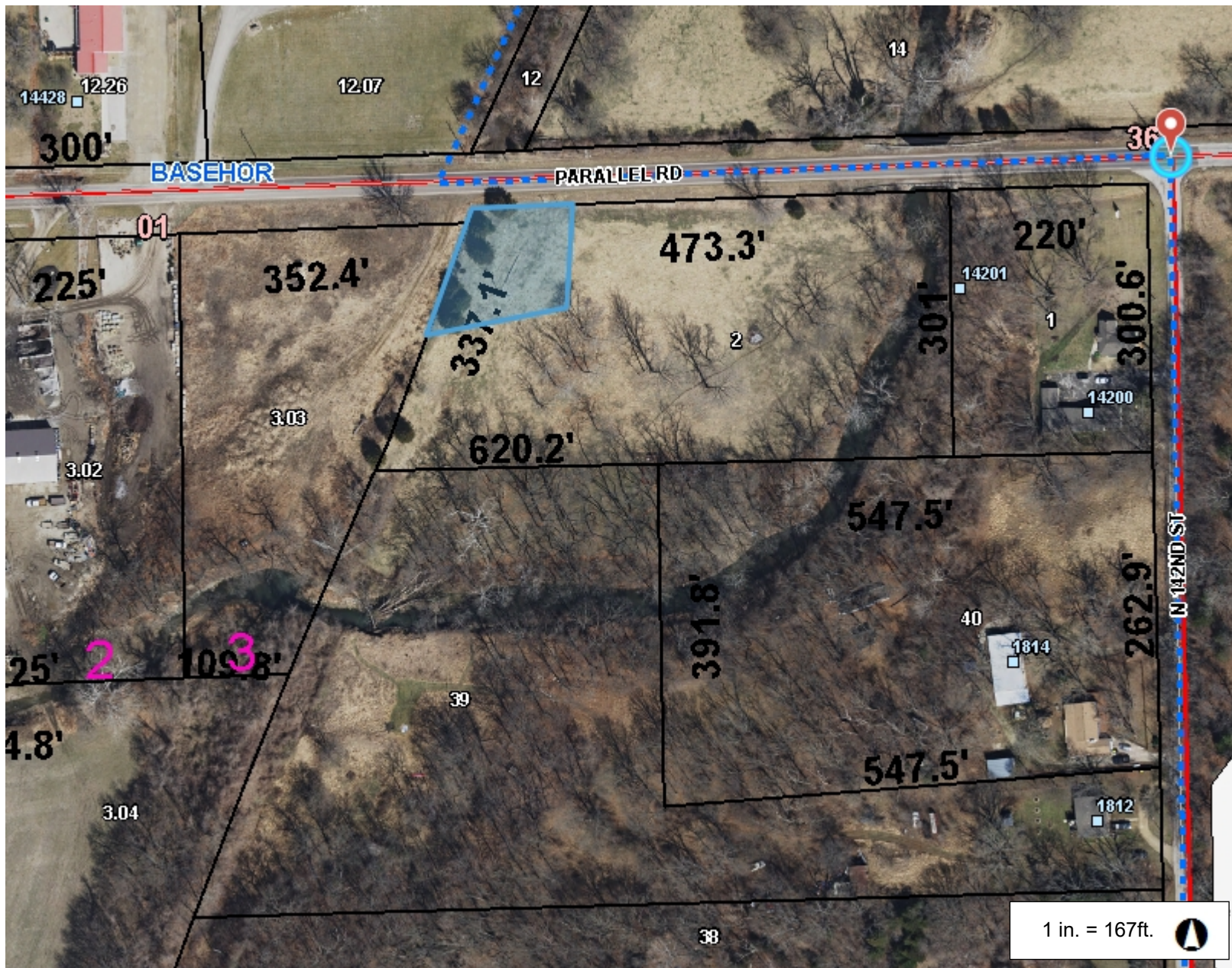
STAFF RECOMMENDATION:

Staff recommends approval of Case No. PV-006-23, Front Yard Setback Reduction to 50' and a Rear Yard Setback Reduction to 10' for Lot 1 of Wolf Creek Meadows.

ACTION OPTIONS:

1. Approve Case No. PV-006-23, Front Yard Setback Reduction to 50' and a Rear Yard Setback Reduction to 10' for Lot 1 of Wolf Creek Meadows subject to the recording of the Final Plat for Wolf Creek Meadows , with Findings of Fact that the 6 requirements for a variance have been met, or
 2. Deny Case No. PV-006-23, Front Yard Setback Reduction to 50' and a Rear Yard Setback Reduction to 10' for Lot 1 of Wolf Creek Meadows, with Findings of Fact that one or more of the 6 requirements for a variance have not been met, or
 3. Continue the request to another date, time, and place.
-

Rezoning Request



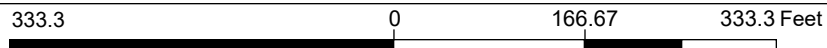
Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- City Limit Line
- Major Road
 - <all other values>
 - 70
- Road
 - <all other values>
 - PRIVATE
- + Railroad
- Section
- Section Boundaries
- County Boundary

1 in. = 167ft.



Notes



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

7-21

THIS MAP IS NOT TO BE USED FOR NAVIGATION

PEZ-001-23, PV-006-23, PPP-003-23
PPF-004-23, PSP-004-23



APPLICATION FORM

CITY OF BASEHOR

Planning & Zoning Department

2620 N. 155th Street, PO Box 406, Basehor, KS 6601

Phone: 913-724-1370 Fax: 913-724-3388

www.basehor.org

Project Name & Description CWD1 Parallel Rd Meter Station		Total Site Acreage 4.1 Acres	Present Zoning R-0
Legal Description (May be attached as separate sheet) See Attached		Proposed Zoning R-0 & I 1	
Project Address / General Location Parallel Rd, West of 142nd St., South Side		Date 12/21/23	
Parcel ID Number (CAMA Number) 052-181-01-0-00-00-002.00-0		Floor Area Classification	
Property Owner Name Smith Family Living Trust	Phone 913-223-5134	Fax N/A	
Property Owner Address 13920 Parallel Rd	City Basehor	State KS	Zip 66007
Applicant's Name Consolidated Water District #1	Phone 913-724-7000	Fax 913-724-1310	
Applicant's Address P.O. Box 419 / 15520 Crestwood Dr.	City Basehor	State KS	Zip 66007
Applicant will be responsible for all fees incurred for 3 rd party review of plans. Initials [MF]		Property Owner and/or Applicant's E-mail address mfulkerson@crwd1.com	

APPLICATION TYPE			
☐ Annexation	☐ Preliminary Development Plan (Submit Sheet A)	# of lots _____	
☒ Rezoning (Submit Sheet A)	☐ Final Development Plan (Submit Sheet A)	# of lots _____	
☐ Conditional Use Permit (Submit Sheet A)	☐ Re-Plat	# of lots _____	
☐ Special Use Permit	☒ Preliminary Plat	# of lots <u>2</u>	
☒ Variance (Submit Sheet B)	☒ Final Plat	# of lots <u>2</u>	
☒ Site Plan	☐ Lot Split		

PROJECT INFORMATION							
Existing Use							
☐ Residential	☐ Commercial	☐ Industrial	☐ Office	☒ Agriculture	☐ Vacant	☐ Other _____	
Proposed Use							
☐ Residential	☐ Commercial	☒ Industrial	☐ Office	☒ Agriculture	☐ Other _____		

COMPLETE THIS AREA IF APPLYING FOR SITE PLAN, CONDITIONAL USE PERMIT AND PRELIMINARY OR FINAL DEVELOPMENT PLANS (in acres)			
Total Site Area	Existing Floor Area 0	Existing Building Footprint N/A	Open Space Area 3.8 Acres
No. of Buildings 1	Proposed Floor Area 840 sq ft	Proposed Building Footprint 28' x 30'	Pavement Coverage 3,000 +/- sq ft

COMPLETE THIS AREA FOR PRELIMINARY AND FINAL PLATS			
Proposed Number of Lots 2	Maximum Lot Size 3.79 Acres	Minimum Lot Size 0.31 Acres	Average Lot Size 2.05 Acres

Property Owner/Agent Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.			
x <u>Mike Fulkerson</u> <u>12/21/23</u>		Office Use Only	
Signature Date		☒ Filing Fee \$ <u>1070</u> ☒ Received by <u>[Signature]</u> ☐ # of Plans _____	
		☐ Attached Legal Description ☐ Property Ownership List	

CITY OF BASEHOR

Planning & Zoning Department
 2620 N. 155th Street, PO Box 406, Basehor, KS 66007
 Phone: 913-724-1370 Fax: 913-724-3388
 www.basehor.org



GENERAL REASON FOR APPEAL, EXCEPTION, OR INTERPRETATION

REASON FOR REQUEST

Is this a request for:

- ☐ an interpretation of the zoning ordinance text, maps, or boundaries according to Article 17(6)A?
 (Includes appeals from decisions of any officer administering the provisions of the Zoning Ordinance as allowed in Article 17(11)A.)
- ☐ a special exception as allowed in Article 17(10)A in the Zoning Ordinance?
- ☒ a request for a variance from the Zoning ordinance as allowed in Article 17(14)A?

Explain, including the interpretation, exception or applicable section of the Zoning Ordinance.

Article 7, Section 11, "Light Industrial", Part 11.e.(3) notes a required Rear Yard Setback of 25-feet. Because this is a shallow lot with restricted room in the rear due to an existing 33-foot wide Verizon easement, we would like to request that the Rear Yard setback be reduced to 10-feet. The proposed Lot 1 would have a south boundary line aligned with the north line of the existing Verizon easement.

REQUEST FOR VARIANCE

A request for a variance from the zoning ordinance may be granted upon the finding of the board that all of the following conditions have been met: (Explain in detail how each of the following conditions have been met)

- 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 zone or district; and is not created by an action or actions of the property owner or the applicant. The existing Verizon easement greatly reduces the usable space on this lot.
- b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The existing Verizon easement can't be used for other purposes and as such provides an additional 33-feet of space between any future development on the property to the south. Future development to the south is also not likely due to the location of property with respect to the flood plain.
- c. That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application. Because of the limited depth of the lot, there is not any excess space to accommodate a Rear Setback of 25-feet. This lot is ideally situated for completion of the needed new water supply connection from BPU located at the intersection of Parallel Road and 142nd Street. Moving to another location is not very practical and would increase costs significantly for the District.
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare or the harmonious development of the city. Because this location is just out of the flood plain of Wolf Creek and is of limited useable size, a small building constructed on this site should not create any detriment to the immediate area and the city as a whole.
- e. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance. With the existing Verizon easement, adequate room between any future construction to the south would provide a minimum spacing greater than 25-feet.
- f. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions which are in question. Allowing the Rear Setback to be deduced would still provide room for the district to maintain and mow the area between the back of their proposed building and perimeter fence.

WOLF CREEK MEADOWS

A Minor Subdivision in the Northeast Quarter of Section 1, Township 11 South, Range 22 East of the 6th P.M., City of Basehor, Leavenworth County, Kansas.

FINAL PLAT

PREPARED FOR:
SMITH FAMILY LIVING TRUST
13920 PARALLEL RD
BASEHOR, KS 66007
PID # 181-01-0-00-00-002

SURVEYOR'S DESCRIPTION:
Tract of land in the Fractional Northeast Quarter of Section 1, Township 11 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, as written by Joseph A. Herring PS-1296 on November 26, 2023, and more fully described as follows:
Commencing at the Northeast corner of said Fractional Northeast Quarter; thence South 87 degrees 55'01" West for a distance of 239.49 feet along the North line of said Fractional Northeast Quarter to the TRUE POINT OF BEGINNING; thence South 01 degrees 14'53" East for a distance of 336.34 feet; thence South 88 degrees 08'14" West for a distance of 677.64 feet to the centerline of abandoned Atchison, Topeka, and Santa Fe Railway; thence North 24 degrees 21'22" East for a distance of 372.68 feet along said centerline to the North line of said Fractional Northeast Quarter; thence North 87 degrees 55'01" East for a distance of 516.60 feet along said North line to the point of beginning.
Together with and subject to covenants, easements, and restrictions of record.
Said property contains 4.59 Acres, more or less, including road right of way.

CERTIFICATION AND DEDICATION
The undersigned proprietors state that all taxes of the above described tract of land have been paid and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which subdivision shall be known as: WOLF CREEK MEADOWS.

Easements shown on this plat are hereby dedicated for public use, the rights of way which are shown with dashed lines on the accompanying plat, and said easements may be employed to locate and maintain sewers, water lines, gas lines, poles and wires and any other form of public utility now and hereafter used by the public over, under and along the strips marked "Utility Easement" (U/E) or "Drainage Easement" (D/E).

Streets shown on the accompanying plat and not heretofore dedicated for public use are hereby so dedicated.

Building Lines or Setback Lines (B.S.L.) are hereby established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

IN TESTIMONY WHEREOF,
We, the undersigned owners of WOLF CREEK MEADOWS, have set our hands this _____ day of _____, 2024.

Colleen Smith, Trustee of
SMITH FAMILY LIVING TRUST

NOTARY CERTIFICATE:
Be it remembered that on this _____ day of _____, 2024, before me, a notary public in and for said County and State came Colleen Smith, Trustee to the SMITH FAMILY LIVING TRUST, to me personally known to be the same persons who executed the forgoing instrument of writing, and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year above written.

NOTARY PUBLIC
My Commission Expires: _____ (seal)

PLANNING COMMISSION APPROVAL:
Approved by the Planning Commission of the City of Basehor, Leavenworth County, Kansas, this _____ day of _____, 2024.

Chairman
Jon Gallion

Secretary
Krystal Voth

CITY COUNCIL APPROVAL:
Approved by the Governing Body of the City of Basehor, Leavenworth County, Kansas, this _____ day of _____, 2024.

Mayor
Richard Drennon

City Clerk
Katherine Renn

CITY ENGINEER'S APPROVAL:
The City Engineer's plat review is only for general conformance with the subdivision regulations as adopted by the City of Basehor. The City is not responsible for the accuracy and adequacy of the design, dimensions, elevations, and quantities.

CITY ENGINEER



Scale 1" = 100'

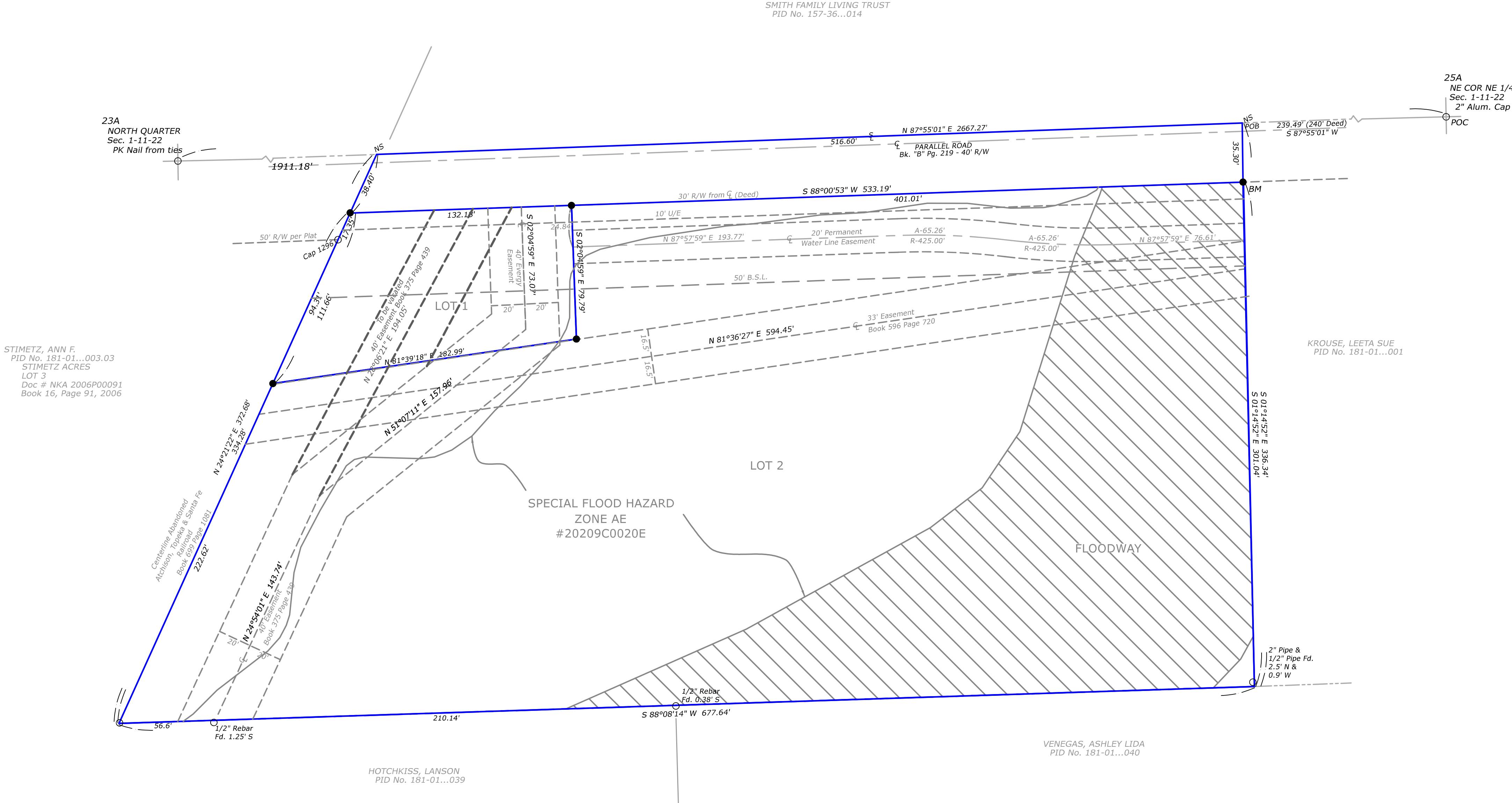
Job # K-23-1750
December 20, 2023 Rev. 1/24/24
J. Herring, Inc. (dba)
HERRING
SURVEYING
& COMPANY
315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5361
Email - survey@leamcash.com

100 0 100 200 300
1" = 100'

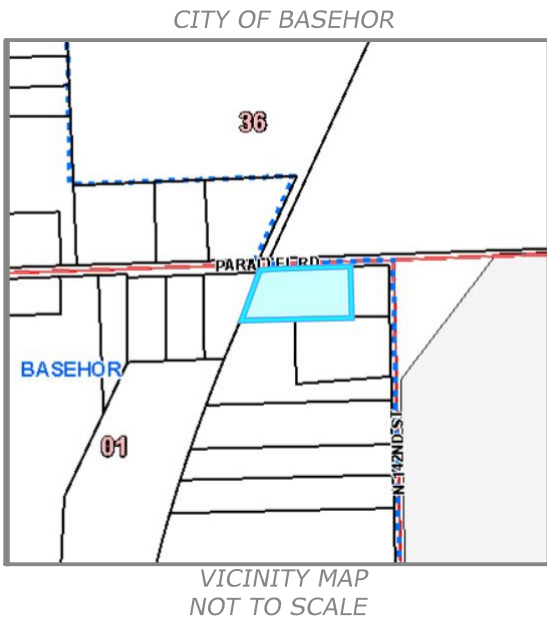
Daniel Baumbach, PS#1363
County Surveyor

- NOTES:
1. Basis of Bearing - KS SPC NORTH ZONE 1501 NAD 83
 2. Zoning - Lot 1 - I-1; Lot 2 - R-0
 3. Benchmark - 1/2" Rebar NE COR LOT 2 - Elev. 860' GPS Observation - NAVD 1988
 4. Setbacks - Lot 1 - Front - 50', Rear - 10', Side - 15' Lot 2 - Front - 50', Rear - 25', Side - 30'
 5. ERROR OF CLOSURE
- PLAT - 4.59 Acres - Closure - 1 : 857566
Including Parallel Road Right of Way
 5. ERROR OF CLOSURE
- PLAT - 4.59 Acres - Closure - 1 : 857566
 6. PROPERTY IS IN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM Map 20209C0020E DATED 9/2/2015

LOT AREA: (excluding right of way)
LOT 1 - 0.32 Acres, 13780 Sq.Ft.
LOT 2 - 3.86 Acres, 167938 Sq.Ft.



- LEGEND:**
- - 1/2" Rebar Set with Cap No.1296
 - - 1/2" Rebar Found, unless otherwise noted.
 - () - Record / Deeded Distance
 - U/E - Utility Easement
 - D/E - Drainage Easement
 - B.S.L. - Building Setback Line
 - R/W - Permanent Dedicated Roadway Easement dedicated this plat
 - ℄ - Centerline
 - ⚡ - Section Line
 - BM - Benchmark
 - POB - Point of Beginning
 - POC - Point of Commencing
 - NS - Not Set this Survey



I hereby certify that this survey was made by me, or under my direct supervision, on the ground during the month of December 2023 and this map or plat is correct to the best of my knowledge.

Joseph A. Herring
PS # 1296

**CITY OF BASEHOR
BOARD OF ZONING APPEALS**

NOTICE OF PUBLIC MEETING

Notice is hereby given that the Board of Zoning Appeals of the City of Basehor, will hold a public meeting on Tuesday, February 13, 2024 at 5:30PM, in the meeting room of City Hall located at 2620 N. 155th Street, Basehor, Kansas, and remotely via Zoom, to consider a variance request. The request is regarding application PV-006-23 a variance to Article 7.11.e.(3), Minimum Rear Yard Setback of Twenty-Five (25') and Article 7.11.e.1(b), Minimum Front Yard Setback of 80', on the following described property:

Tract of land in the Fractional Northeast Quarter of Section 1, Township 11 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, as written by Joseph A. Herring PS-1296 on November 26, 2023, and more fully described as follows: Commencing at the Northeast corner of said Fractional Northeast Quarter; thence 87 degrees 55'01" West for a distance of 641.01 feet along the North line of said Fractional Northeast Quarter to the TRUE POINT OF BEGINNING; thence South 02 degrees 04'59" East for a distance of 114.40 feet; thence South 81 degrees 39'18" West for a distance of 182.99 feet to the centerline of abandoned Atchison, Topeka, and Santa Fe Railway; thence North 24 degrees 21'22" East for a distance of 150.05 feet along said centerline to the North line of said Fractional Northeast Quarter; thence North 87 degrees 55'01" East for a distance of 115.08 feet along said North line to the point of beginning.

Request Submitted By: Mike Fulkerson, Consolidated Water District #1
Address: 00000 Parallel Road
Parcel ID Number: 181-01-0-00-00-002.00

Further information is available, including the full legal description, for inspection during regular business hours in the City of Basehor & Zoning Department.

We encourage public input. If you wish to provide comments in writing, written comments must be received no later than noon, Monday, February 12, 2024.

Krystal A. Voth, Secretary
City of Basehor, Board of Zoning Appeals

Publish by 01/24/2024

(Publish One Time)

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☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.68

Total Postage and Fees \$8.73

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 Cal-Ann Farms Inc
 14253 Leavenworth Rd
 Basehor, KS 66007

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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 Leeta Sue Krouse
 14200 Parallel Rd
 Basehor, KS 66007

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 Ashley Lida Vanegas
 1614 1/2 3rd St
 Basehor, KS 66007

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 Ann Stinetz
 16226 Evans Rd
 Basehor, KS 66007

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Postage \$0.68

Total Postage and Fees \$8.73

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 Smith Family Living Trust
 13920 Parallel Rd
 Basehor, KS 66007

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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Postage \$0.68

Total Postage and Fees \$8.73

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 Shore Capital Real Estate
 1 E Wacker Dr #51E 2900
 Chicago IL 60601

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7021 2720 0002 4182 1467

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☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.68

Total Postage and Fees \$8.73

Postmark Here JAN 30 2024 USPS 01/30/2024

Sent To Lanson Hotchkiss

Street and Apt. No., or PO Box No. 1812 N 142nd St

City, State, ZIP+4® Baschar KS 66007

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 5
PADM-003-24

Topic: BZA By Laws

Narrative: Board of Zoning Appeals By Laws

Presented by: Krystal Voth

Attachments: Staff report
By Laws



City of Basehor

Agenda Item Cover Sheet

Board of Zoning Appeal Bylaws

Meeting Date:

February 13, 2024

Staff Contact:

Krystal A. Voth – Planning Director

Topic:

Consideration of adoption of By-Laws for the Basehor Board of Zoning Appeals

Narrative:

Mr. Pete Heaven, Special Counsel, has prepared by-laws for the Board of Zoning Appeals. These by-laws outline the officers, duties and responsibilities of the Board of Zoning Appeals and hearing procedures.

Recommended Motion:

1. Approve the presented By-Laws of the Basehor Board of Zoning Appeals

Attachments:

- A. Draft by-laws

**BY-LAWS
OF THE
BOARD OF ZONING APPEALS
BASEHOR, KANSAS**

The Board of Zoning Appeals ("Board") of the City of Basehor, Kansas, has adopted the following by-laws to govern all proceedings before the Board.

I. OFFICERS.

A. **Chair and Vice-Chair.** The Board shall elect one of its members as a Chair and one of its members as a Vice-Chair. Each member so elected shall serve one (1) year or until a successor has been elected. There shall be no limit on the number of terms that any member may serve as Chair or Vice-Chair.

B. **Secretary.** The Board shall elect a Secretary. The Secretary need not be a member of the Board. The Secretary shall serve for a one (1) year term or until a successor has been elected. There shall be no limit on the number of terms that any person may serve as Secretary. If the Secretary is absent from a Board meeting, the Board shall appoint a Secretary pro-tem for the meeting who shall have the same duties and responsibilities as the Secretary.

II. DUTIES OF OFFICERS.

A. **Duties of the Chair.** The Chair shall be the presiding officer at all meetings of the Board. The Chair may at the Chair's discretion:

1. Call special meetings of the Board;
2. Adjourn or recess the Board from an open session to a closed deliberative session; and
3. Determine all points of order and procedure not otherwise specified in these by-laws.

B. **Duties of the Vice-Chair.** The Vice-Chair shall serve in the absence of the Chair, and in so doing shall have the same duties as the Chair.

C. **Duties of the Secretary.** The Secretary shall be in attendance at all meetings of the Board and shall keep minutes in accordance with the provisions herein.

III. **BOARD MINUTES.** Minutes shall be kept of Board proceedings. The minutes shall accurately reflect the business conducted by the Board, a summary of evidence presented at a public hearing, findings of fact by the Board, resolutions and other decisions of the Board and votes taken by the Board on any issue. Roll call votes shall be reflected in the minutes when the Chair or any member has called for a roll call vote. If any member is absent from a hearing or fails to vote, the minutes shall reflect that fact. The official minutes of the Board shall be approved by the Board, signed by the

Secretary and filed at City Hall. No minutes shall be made of closed deliberative sessions of the Board that are permitted to be closed sessions under the law.

IV. **MEETINGS**. Meetings of the Board shall be at the call of the Chair and at such other times as the Board may determine.

V. **MOTIONS AND VOTING**. A vote shall be taken on all motions that are made by a member of the Board and seconded by another member of the Board. Votes shall be taken by voice, provided that any member may request and by doing so, require a roll call vote. A motion shall fail unless at least a majority of a quorum of the Board votes in favor of it. No binding action shall be taken by the Board during any closed deliberative session.

VI. **APPEALS AND HEARING PROCEDURE**.

A. **Matters that may be appealed to the Board**. The following matters may be appealed to the Board in accordance with applicable law and the by-laws adopted herein:

1. **Appeal requesting variance from Zoning Regulations**.
Whenever a person has been denied a building permit because the activity for which the permit is requested requires a variance from the Zoning Regulations to be lawful, such person may file an appeal to the Board requesting a variance from the Zoning Regulations.
2. **Appeal from a decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code**. An appeal to the Board may be taken by any person aggrieved, or by any officer of the City, County or any governmental agency or body affected by any decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code.

B. **Manner in which appeals shall be filed**. All appeals to the Board shall be filed in writing with the City Clerk. The appeal shall set forth the grounds for the appeal and identify the person(s) filing the appeal.

C. **Appeal fees**. No appeal will be deemed filed until any required fee is paid to the City Clerk.

D. **Time within which appeal must be filed**. An appeal requesting a variance from the Zoning Regulations must be filed within thirty (30) days of the denial of the permit requested. All other appeals must be filed within thirty (30) days of the decision at issue.

E. **Time for hearing**. After an appeal has been properly filed with the City Clerk, the Chair and City Clerk shall fix a reasonable time for the hearing. If the Board

fails to act on an appeal within sixty (60) days after an appeal has been properly filed with the City Clerk, the person appealing may deem the request denied.

F. **Published notice.** After an appeal has been properly filed and the time for hearing set, notice of the time, place and subject of such hearing shall be published in the official City newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of the notice shall be mailed by the City Clerk to each party to the appeal, to owners of property adjacent to any property at issue in the appeal and to the Planning Commission. Mailed notice shall be deemed complete on mailing. The failure of any person to receive any such mailed notice shall not invalidate any subsequent action taken by the Board.

G. **Hearing procedure.** At appeal hearings before the Board, the following procedures will apply as applicable to the type of appeal being heard:

1. The Chair or City staff shall advise the public in attendance of the matter that is the subject of the hearing.
2. The Chair may establish time limits for any person who addresses the Board;
3. All statements or questions by the public shall be directed to the Board and to no other person in attendance at the hearing;
4. The Chair may at any time adjourn or recess the Board from a public hearing to a deliberative session;
5. The person filing the appeal shall be the initial party to address the Board at the public hearing;
6. The Chair shall ask for comments from the public and the Secretary shall include a summary of the comments in the minutes for the meeting;
7. The Board may close the hearing when it determines that sufficient information has been received, or it may continue the hearing to another date. Whenever any hearing is continued, the Chair shall announce to those persons then in attendance the date and time to which the hearing will be continued; and
8. To ensure order at the public hearing, the Chair shall adopt such other rules and procedures as the Chair deems appropriate to govern the hearing.

VII. **BOARD STANDARDS OF REVIEW AND POWERS.** The following standards of review and powers are hereby adopted by the Board when it hears the appeals identified below:

A. **Appeal requesting a variance.** Whenever an appeal is filed with the Board requesting a variance from the Zoning Regulations, the Board may grant a variance upon a finding by the Board that all of the following conditions have been met:

1. 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 zone or district; and is not created by an action or actions of the property owner or the applicant;
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. That the strict application of the provisions of the Zoning Regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations.

No variance may permit any use not permitted by the Zoning Regulations in such district. In granting any variance, the Board shall prescribe any condition that it deems to be necessary or desirable.

B. **Appeals from a decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code.** The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code. If a decision of an officer is appealed, the officer whose decision has been appealed, when notified by the City Clerk of the appeal, shall arrange to transmit to the Board all papers constituting the record upon which the action appealed from was taken. Whenever a party appeals any decision of the City Administrator, City Clerk or other officer administering the provisions of the Zoning Regulations or Building Code, the Board shall review the matter *de novo*. In exercising the foregoing powers, the Board may reverse or affirm, wholly or in part, or modify the order, requirements, decision or determination as in its opinion should be done under the circumstances.

C. **General Powers.** The Board shall have such other powers and duties as are prescribed by Kansas law. With respect to any appeal before the Board or any matter referred to it under these Zoning Regulations, the Board shall have all of the powers of the officer or board from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

VIII. **DECISION BY THE BOARD.** The final disposition of any appeal to the Board shall be in the form of a resolution, which shall affirm, modify or reverse the order or decision from which the appeal is taken. The resolution shall contain the Board's findings of fact with respect to the appeal and shall be adopted by the Board and made a part of the Board's minutes.

IX. **APPEALS FROM DECISION BY THE BOARD.** Any person aggrieved by any action or inaction of the Board may bring an action in the District Court of Johnson County, Kansas to determine the reasonableness of such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the Board. A decision of the Board shall not be a final decision until the Board adopts a resolution setting forth its decision in writing.

X. **BY-LAWS.** These by-laws may be amended or repealed by an affirmative vote of a majority of the members of the Board.

Adopted by the Board of Zoning Appeals of the City of Basehor, Kansas, on the ____ day of _____, 2024.

Secretary