



**Wichita-Sedgwick County Metropolitan Area Planning Department**

October 21, 2016

Nancy Loescher  
5228 W. Central  
Wichita, KS 67212

**RE: BZA2016-00039** – City Variance to reduce the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet, generally located north of Central and east of I-235 at 5224 W. Elm Cir.

Dear Applicant:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **October 20, 2016**. This resolution reflects the official action of the Board. It is forwarded for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Knebel'.

Scott Knebel, AICP  
Acting BZA Secretary

cc: Kyle McLaren, MABCD  
Mike Gable, MABCD  
JR Cox, MABCD  
Janet Miller, WCC VI CM  
Martha Sanchez, CL VI

**BZA RESOLUTION NO. BZA2016-00039**

**WHEREAS**, Nancy Loescher (owner/applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, request to reduce the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet generally located north of Central Avenue and east of I-235 (5224 W. Elm Cir.).

Legal Description: Lot 1, Block 1, Nahola Addition, Wichita, Sedgwick County, Kansas.

**WHEREAS**, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of October 20, 2016, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

**WHEREAS**, the Board of Zoning Appeals has found that this property is unique inasmuch as the property is being developed as a Planned Unit Development with a mixture of housing, community center, and day care on an infill development site with an unusual configuration. The only street access is on the north and south ends of the property, and the property abuts the rear yards of residential lots on both the east and west. This unique configuration requires the parking areas to be located at the north and south ends of the lot and significantly restricts the available locations for trash dumpsters.

**WHEREAS**, the Board of Zoning Appeals has found that the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the trash dumpsters will be enclosed by a screening fence and will be adjacent to the rear of the abutting residential lots and approximately 60 to 80 feet from the nearest residence. The only complaint received from adjacent properties (see attached e-mail) was from the owner of a property along the east side of the site, and the dumpsters are proposed to be located adjacent to the west side of the site.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the compatibility site design standard for trash dumpsters will prevent the development from complying with the parking requirement.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance is not adverse to the public interest inasmuch the public has an interest in supporting infill development, including development of uniquely configured properties.

**WHEREAS**, the Board of Zoning Appeals has found that granting the requested variance does not oppose the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between trash dumpsters and

residential structures and the proposed trash dumpster locations provide significant separation from the residential structures.

**WHEREAS**, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, request to reduce the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet generally located north of Central Avenue and east of I-235 (5224 W. Elm Cir.).

Legal Description: Lot 1, Block 1, Nahola Addition, Wichita, Sedgwick County, Kansas.

**The variance is hereby GRANTED, subject to the following conditions:**

1. The site shall be developed in substantial conformance with the approved site plan.
2. Only two trash dumpster locations shall be permitted on the site.
3. The trash dumpster locations shall be enclosed by a 6- to 8-foot tall screening fence.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**ADOPTED AT WICHITA, KANSAS, this 20th Day of October, 2016.**



BZA Board Chair, David W. Foster

ATTEST:



Scott Knebel  
Acting BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2016-00039

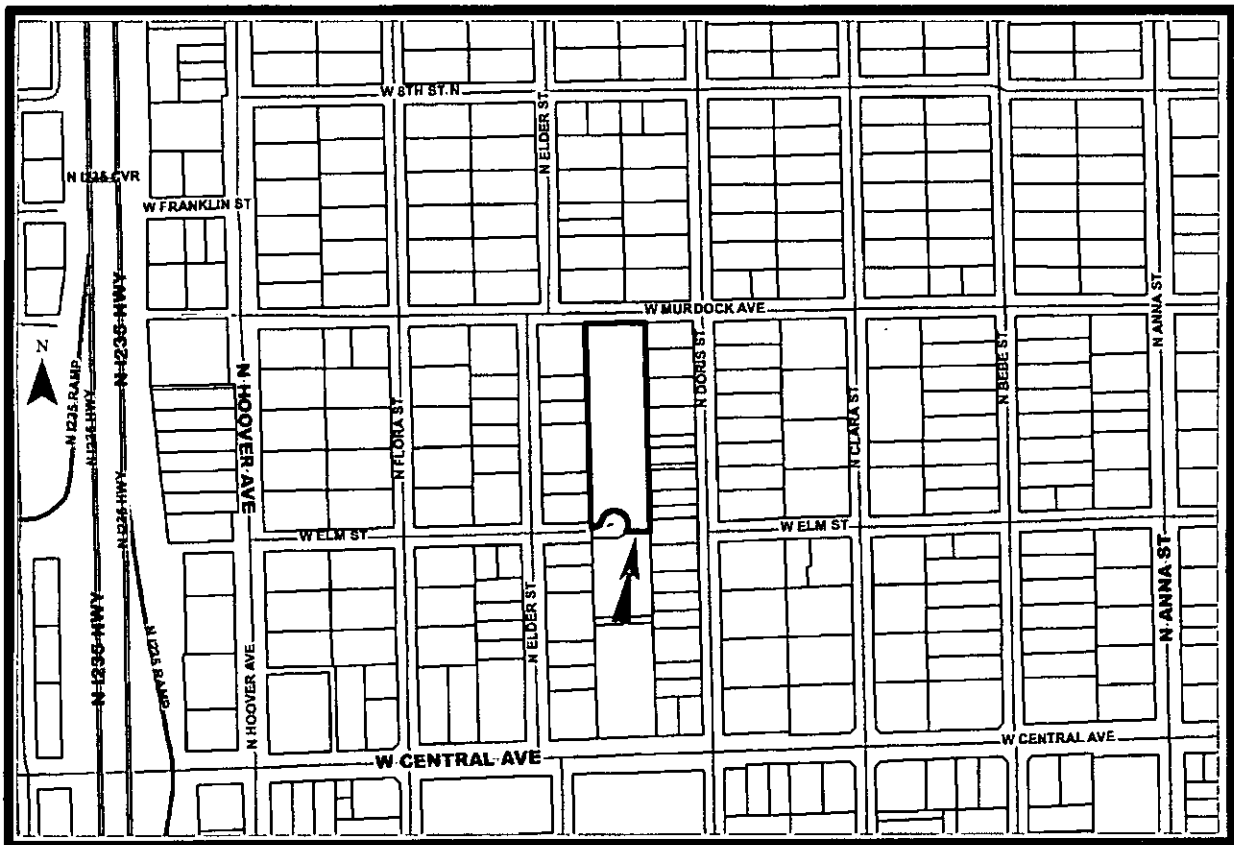
APPLICANT/AGENT: Nancy Loescher (Owner/Applicant); Kaw Valley Engineering, Inc. c/o Scott Servis (Agent)

REQUEST: Variance to reduce the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet

CURRENT ZONING: PUD 37 Nahola Planned Unit Development

SITE SIZE: 2.4 acres

LOCATION: North of Central Avenue and east of I-235 (5224 W. Elm Cir.)



**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

**BACKGROUND:** The applicant is constructing a duplex development as part of PUD 37 Nahola Planned Unit Development. The applicant proposes to construct two trash dumpster enclosures at the north and south ends of the development along the west property line (outlined in red on the attached site plans). According to the applicant (see attached written justification), the trash dumpster enclosures must be constructed within 1.5 feet of the west property line in order meet the parking requirement.

Section IV-C.7.b. of the Unified Zoning Code requires trash dumpsters to be located a minimum of 20 feet from any property zoned TF-3 Two Family Residential or more restrictive. Since the property west of both proposed trash dumpster locations is zoned SF-5 Single-Family Residential, a variance is required to permit the trash dumpsters to be located within 1.5 feet of the west property line.

**ADJACENT ZONING AND LAND USE:**

NORTH	SF-5	Single-family residences
SOUTH	PUD 37	Community center, day care
EAST	SF-5	Single-family residences
WEST	SF-5	Single-family residences

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the property is being developed as a Planned Unit Development with a mixture of housing, community center, and day care on an infill development site with an unusual configuration. The only street access is on the north and south ends of the property, and the property abuts the rear yards of residential lots on both the east and west. This unique configuration requires the parking areas to be located at the north and south ends of the lot and significantly restricts the available locations for trash dumpsters.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the trash dumpsters will be enclosed by a screening fence and will be adjacent to the rear of the abutting residential lots and approximately 60 to 80 feet from the nearest residence. The only complaint received from adjacent properties (see attached e-mail) was from the owner of a property along the east side of the site, and the dumpsters are proposed to be located adjacent to the west side of the site.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the compatibility site design standard for trash dumpsters will prevent the development from complying with the parking requirement.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting infill development, including development of uniquely configured properties.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between trash dumpsters and residential structures and the proposed trash dumpster locations provide significant separation from the residential structures.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the compatibility site design standard for trash dumpsters 20 feet to 1.5 feet be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. Only two trash dumpster locations shall be permitted on the site.
3. The trash dumpster locations shall be enclosed by a 6- to 8-foot tall screening fence.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

