

1. **ROLL CALL**

The Board of Zoning Appeals meeting was called to order at 5:30 p.m. with the following members present: Jackson Swearer (1/1), Jane Gamber (1/1), Robert Hickman (1/1), Dave Inskeep (1/1), Rod Calhoun (1/1), Jon Richardson (1/1), and Logan Leuenberger (1/1). Valerie Roberts-Ropp (0/1), Darryl Peterson (0/1) were absent.

Staff present were: Ryan Hvitløk, Director of Planning & Development; Amy Allison, Senior Planner, and Charlene Mosier, Planning Technician.

2. **APPROVAL OF MINUTES**

The minutes of the December 15, 2020 meeting were approved on a motion by Richardson, seconded by Calhoun, passed unanimously.

3. **CORRESPONDENCE & STAFF REPORTS**

The documents and staff reports were accepted into the official record on a motion by Calhoun, seconded by Hickman, passed unanimously.

4. **PUBLIC HEARING**

- a. **ZV21-000001 – Request for a variance from Section 27-917.B.1. 300-foot Residential Separation Requirement for Salvage Yards and Motor Vehicle Graveyards. The applicant is requesting a variance from the 300-foot residential district separation requirement for salvage yards to establish a new salvage yard use on the property located at 7 N Superior Street, Hutchinson, KS.**

Swearer asked if there were any outside contacts or conflicts of interest. Richardson said he has visited with the applicant but does not have a conflict.

Allison provided the staff presentation. The property owner is Borton LLC. The applicant is Gary Graber. The request is for a variance from the minimum distance requirements established in Section 27-917.B.1. of the Hutchinson Zoning Regulations which require that salvage yards be located a minimum of 300 feet from a residential district. If the variance request is approved, the applicant will apply for a Conditional Use Permit to have a salvage yard on the property located at 7 N Superior. The property is designated as Industrial on the 2017-2037 Comprehensive Plan Land Use Map. Salvage Yards are compatible with this land use designation. The zoning is I-3 Heavy Industrial District. The property was formerly a Contractor's Yard. Notices were mailed to 17 owners of 19 surrounding properties. Allison showed a powerpoint of maps, a site plan and photos. She reviewed the updated layout of the proposed metal processing facility. A screening fence would be installed as the existing fence does meet requirements.

Cynthia Cole, 11 N Town Street wanted to know the number of employees at this facility. She contacted staff after the packets was sent out.

Kraft Electric sent a letter in support of the project. Sturdi-Bilt also sent a letter in favor of the proposal.

Allison reviewed the standard factors of approval for a Zoning Variance with staff's analysis:

ANALYSIS OF FINDINGS OF FACT REQUIRED FOR VARIANCE REQUESTS:

Finding	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district and is not created by an action or actions of the property owner or applicant.</p>	<p>The subject property is located in a neighborhood where heavy industrial and residential uses are in close proximity to each other. Most of the residential uses are single-family houses whereas the industrial uses vary from storage yards to grain elevators. An auto salvage use is located two blocks north of the site. While Superior Street is considered a residential street, it does connect to 4th Avenue, which is a truck route for multiple commercial traffic businesses.</p> <p>Per the <i>Hutchinson Zoning Regulations</i>, salvage yards must be located a minimum of 300' from residential districts. The subject property sits across the street (Town & 1st Avenue) from an R-4 zoning district; therefore, a variance would be required prior to obtaining a Conditional Use Permit.</p> <p>While the property directly abuts a residential zoning district, the applicant is proposing to locate his salvage use within the building and in the storage area in the southeast corner of the property, which is surrounded by the existing building. The salvage use would be located approximately 200 ft from the residential district and 230 feet from a residential property line.</p> <p>Generally, I-3 Districts are not located close to residential districts, but this area of town was annexed into the City with most of the land already developed. The applicant has indicated that the use of the property as a salvage use would be limited to roughly the southeast fourth of the property and that salvaged material will be stored for short periods of time, which is different from many similar types of businesses in town.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The 300-foot separation requirement was established to minimize the impact of salvage uses on residential property owners. Granting of the variance would negatively impact the residential district by placing a non-compatible use closer than typically allowed.</p> <p>That being said, the neighborhood is already located next to heavy industrial uses. The applicant has made an effort to minimize the impacts his business would have on the neighbors by limiting the outdoor storage on the property to the southeast corner and by meeting all screening requirements for that use.</p>	<p><input type="checkbox"/> Met/ Not Met</p>
<p>3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The strict application of the zoning regulations would not cause the property owner a hardship because the property can be used for other industrial uses that do not have a separation requirement. It also would not cause a hardship for the applicant because there are other properties in town zoned appropriately and meet the separation requirements for this use.</p>	<p><input type="checkbox"/> Not Met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>The proposed recycling use does create concerns regarding the noise, vibrations and dust created from the use. The applicant has indicated that the scraping process would take place indoors, reducing those impacts on the neighborhood. Due to the proximity of railroads, the grain elevator and similar uses, the noise, vibrations, and dust created from the use would not be more than what already exists in this neighborhood. Therefore, the proposed variance does not appear to be contrary to the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p><input checked="" type="checkbox"/> Met</p>

<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>The intent of the Zoning Regulations for Salvage Uses is to protect residential neighborhoods from the impacts of that type of use. Granting of the variance would not meet the designated separation of the two uses identified by the City to protect the residential areas of town. The applicant has, however minimized his impact to the surrounding properties and has indicated that he will meet all of the other regulations required for this use.</p>	<p><input type="checkbox"/> Met/ Not Met</p>
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DEVELOPMENT REVIEW COMMITTEE COMMENTS:

A development review committee meeting was held on March 23, 2021 to consider this request. The following comments were made:

PLANNING AND DEVELOPMENT COMMENTS [Amy Allison, 620.694.2638]

- **Revised Plans Needed** – Please include dimensions from the east and south property lines to where the outdoor storage will be located. Outdoor storage cannot be located within the front (25 ft) or side street front yard (12.5 ft.) setbacks.
- **Revised Plans Needed** – Please include the dimensions of the parking stalls & drive aisles, the parking lot material, location of one (1) required ADA van-accessible space. Wheel guards will be required along eastern parking stalls.
- **Revised Plans Needed** – The current fence corner appears to be located within the sight triangle. Any new fencing cannot be located in the sight triangle.
- **Revised Plans Needed** – Please indicate the material and height of proposed screening fence.
- **Revised Plans Needed** – Please include any information about exterior lighting.
- **Resubmittal Required** – Please include pictures of the property and building.
- **Condition of Approval** - All loading and unloading of goods and materials must take place on private property. No public right of ways can be used for the loading and unloading of materials. The existing travel flow appears to be within the alleyway where a public sewer line is located. Engineering sign-off is required if the proposed road and scales will be placed over the sewer line.
- **Condition of Approval** - No sign approval is granted with this site plan application. A sign permit application must be submitted and approved prior to the installation of any new signage on the property, should a permit be required.
- **Condition of Approval** - Fence approval is not granted with this site plan application. A fence permit application will need to be submitted and approved prior to the installation of any new fences on the property.
- **Condition of Approval** - Any new dumpsters shall be screened from the public right of way.
- **Condition of Approval** - All requirements of Sec. 27-917.2. must be complied with.
- **Condition of Approval** - All requirements of Sec. 27-912 must be adhered to.

ENGINEERING COMMENTS [Jeff Peterson, 620.694.2662]

- **Revised Plans Needed** – Please include the distance between the proposed road and the building, as well as the location of the scales.
- **Condition of Approval** – No processing of contaminated metals shall take place on the property. Further approvals and requirements will need to be obtained before contaminated material can be processed on-site.

- **Condition of Approval** – Commercial truck traffic will be limited to Superior Street and Sherman Avenue as depicted in the site plan. No commercial truck traffic will be permitted on the residential streets of the immediate neighborhood.

PUBLIC WORKS COMMENTS [Jaime Duncan, 620.694.1914]

- **Condition of Approval** – If the proposed private drive is to be located over the public sewer line, please include the driveway materials. All manholes will need to match the grade if an elevation change is made.

INSPECTION COMMENTS [Izzy Rivera, 620.694.2631]

- **Resubmittal Required** – Please provide a building layout and list of machinery and equipment that will be used within the building.
- **Condition of Approval** – Any modifications to the building may require building permit. Please contact the Inspections Department prior to making any changes to the building.

EVERGY COMMENTS [Aaron Stegmaier, 620.669.3910]

- **Condition of Approval** – In the packet, the applicant includes the reference .pdf illustrating proposed drive improvements around the building. This proposed drive will be in conflict with various structures, require the relocation or upgrade of electrical components, and require upgrades of electrical components serving the structure. Any related component change under the ownership or control of the Company (i.e., poles, wire, and structures), or necessary upgrades required to maintain public safety or compliance with local electrical or building codes, or any necessary upgrades required to comply the National Electric Safety Code; shall be made at the owner's expense.

PUBLIC COMMENTS:

The following comments were received from the public:

- Caroline Garrison, 105 N Town St (Telephone Call on March 30, 2021)
Ms. Garrison was concerned about the property values for the neighborhood, the current rat problem, and if the scrap metal would be visible to the public. She would like to see that building returned to a productive use.
- Jason L Brown, 19 N Town St (Letter Received on April 2, 2021)
See Attached
- Kevin & Dianna Brown, 19 N Town St (Letter Received on April 5, 2021)
See Attached

Gamber asked how many feet there will be between the industrial use and the residential properties. Allison said from the property edges it would be approximately 30 feet but from the building where the operation would take place is about 230 feet.

Hickman asked how many lots are on this property. Allison said it is more than 20 lots but was developed as one parcel.

Swearer asked the applicant to address the Board. Gary Graber, applicant, said he appreciated the help and time of the Planning staff. The proposed business would be Hutch Metal Recycling and would be licensed by the State of Kansas with all required permits. Semi scales and smaller scales would be on location and the scales are certified. Hutch Metal Recycling will do business with local vendors and hire four employees. They are not a vehicle graveyard but a recycling, processing and transfer facility. They accept scrap, sort scrap, and sell to recycling smelters. They intend to be a good neighbor with the business in this neighborhood. They would not have the

truck traffic on the residential streets and when the property is upgraded, it will eliminate rodent infestation. He would also like to have a neighborhood cleanup of surrounding properties which could improve the value and security of the area. Lighting and camera equipment will be installed for added security. The business is not a cash business which helps with the issue of dropping off stolen materials. The proposed operation should improve the security and safety of the neighborhood.

Richardson asked about directing truck traffic to the correct streets with signage. Graber said they would be happy to put signs on 1st and Town Streets to direct truck traffic off the residential streets. Hours of the business would be 8 a.m. to 5 p.m. There is no night shift. They may be open one Saturday a month for residents to bring in scrap metal and aluminum cans. There will be no e-waste processing at this facility. The Borton building was constructed in 1963 prior to buffer zones created for zoning.

Swearer asked for audience comments.

Jason Brown, 19 North Town, said his questions have been addressed other than truck traffic speed. He is now in favor of the request.

Swearer asked Staff to provide the recommendation. Allison said staff recommends denial of zoning variance request ZV21-000001.

Graber said the proposed business would be an improvement in the neighborhood should put the concerns of the neighbors to rest. Graber also pointed out the regulations do not separate vehicle graveyards and recycling and the uses are different than forty years ago where old cars and metal were stacked up for years.

The commission reviewed each factor and provided a different finding than presented by Staff. Those findings are as follows:

Factor Number 2. The proposed outdoor storage area would screen the adjacent residential properties, meeting the intent of the regulation.

Factor Number 3. The property would be difficult to develop for other uses and continue to sit idle and in disrepair. The property has become the buffer between residential districts and heavy industrial to the east which creates a hardship for new uses on the property.

Factor Number 5. The proposal would not be contrary to the spirit and intent of the development and is a positive improvement for the neighborhood. Mr. Graber is willing to install signage and improve the property and install fencing to mitigate intrusion to surrounding properties.

Swearer closed the public hearing and asked for a motion.

Motion by Gamber, seconded by Calhoun, to approve the Zoning Variance request ZV21-000001 from Section 27-917.B.1 to establish a salvage yard less than 300 feet from a residential zoning district at 7 N Superior Street, Hutchinson, KS based upon a finding that the all required factors are met. Factor Number 2. The proposed outdoor storage area would screen the adjacent residential properties, meeting the intent of the regulation. Factor Number 3. The property would be difficult to develop for other uses and continue to sit idle and in disrepair. The property has become the buffer between residential districts and heavy industrial to the east which creates a hardship for new uses on the property. Factor Number 5. The proposal would not be contrary to the spirit and intent of the development and is a positive improvement for the neighborhood. Mr. Graber is willing to install signage and improve the property and install fencing to mitigate intrusion to surrounding properties. The motion passed with the following vote: Yes – Richardson, Leuenberger Gamber, Calhoun, Hickman, Inskip, and Swearer.

5. **UPCOMING CASES** – None.
 - a. April 27, 2021
 - ZV21-000002 – Request for Variance from Sec 27-410.B and 27-314.E.
 - ZV21-000003 – Request for Variance from Sec. 27-701.D.
 - b. May 11, 2021
 - ZV21-000004 – Request for Variance from Sec. 27-314.E.
6. **CITY COUNCIL UPDATE** – None.
7. **OPEN COMMENTS FROM THE AUDIENCE**
 - a. None.
8. **ADJOURNMENT** – The meeting adjourned at 6:37 p.m.

Respectfully Submitted,

Charlene Mosier
Planning Technician

Approved this 27th day of April, 2021

Attest:  _____

Ryan Hvitlök, AICP, CFM
Director of Planning & Development