



LAWRENCE BOARD OF ZONING APPEALS
AGENDA FOR **MAY 2, 2019**
1ST FLOOR OF CITY HALL, 6 E. 6TH STREET, CITY COMMISSION MEETING ROOM
6:30 PM

TAKE A ROLL CALL TO DETERMINE IF THERE IS A QUORUM OF MEMBERS PRESENT

ITEM NO. 1 COMMUNICATIONS

- A. Acknowledge communications to the come before the Board.
- B. Disclosure of ex-parte communications and/or abstentions for specific agenda items.
- C. Announce any agenda items that will be deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the February 7, 2019, March 7, 2019, and April 4, 2019 meetings of the Board.

BEGIN PUBLIC HEARING:

ITEM NO. 3 VARIANCE FROM FRONT SETBACK, SIDE INTERIOR SETBACK STANDARDS, AND PAVING STANDARDS FOR DRIVEWAY AND STORAGE AREAS; 508 MICHIGAN STREET

B-19-00181: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first variance request is from Section 20-601(b) reducing the required front setback for CS zoning adjacent to RS zoning from 25 feet to 12.5 feet for the existing structure. The second variance request is from Section 20-601(b) reducing the required interior side setback from 12 feet to 8 feet. The third variance request is from Section 20-538(6) allowing gravel as surfacing for exterior storage areas. The fourth variance request is from Section 20-913(e)(1) allowing existing driveways to remain gravel surfacing. The property is located at 508 Michigan Street. Submitted by Grob Engineering Services, LLC on behalf of Jesson S. and Season I.S. Ross, property owners of record.

ITEM NO. 4 MISCELLANEOUS

- A. Consider any other business to come before the Board.

ITEM NO. 3 **FRONT SETBACK ADJACENT TO RS ZONING, SIDE INTERIOR SETBACK STANDARDS AND PAVING STANDARDS FOR DRIVEWAY AND STORAGE AREAS; 508 MICHIGAN STREET [KEW]**

B-19-00181: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first variance request is from Section 20-601(b) reducing the required front setback for CS zoning adjacent to RS zoning from 25 feet to 12.5 feet for the existing structure. The second variance request is from Section 20-601(b) reducing the required interior side setback from 12 feet to 8 feet. The third variance request is from Section 20-538(6) allowing gravel as surfacing for exterior storage areas. The fourth variance request is from Section 20-913(e)(1) allowing existing driveways to remain gravel surfacing. The property is located at 508 Michigan Street. Submitted by Grob Engineering Services, LLC on behalf of Jesson S. and Season I.S. Ross, property owners of record.

B. REASON FOR REQUEST

Applicant's Request – "The variance request has 3 parts. The first variance is from Development Code Section 20-601 for rear yard setback for CS zoning adjacent to RS zoning. The setback increased from typical 12' to 25' when adjacent to RS zoned property. We are requesting setback be reduced to 15' in lieu of 25' to comply with Type 2 bufferyard requirements. The second variance is from City Development Code Section 20-601 for side yard setback along the south boundary for CS zoning adjacent to RS zoning. The adjacent property to the south is zoned RS5. The property belongs to LMH Health. LMH has indicated that the property was purchased solely to allow a drive to be constructed from Michigan Street in the event it was needed for future expansion of the Lawrence Medical Plaza. It is highly unlikely that RS zoned use would occur on this piece of property so we are requesting the side yard setback be reduced to 8' (note, if adjacent property was zoned CS, setback would be 0'). The third variance is from City Development Code Section 20-538 & 20-913 to allow exterior storage and driveway areas (excludes parking areas) to remain gravel surfacing in lieu of asphalt or concrete. The nature of the business entails soils and landscaping materials more conducive to storage on compacted AB-3 gravel than asphalt or concrete. The existing storage areas and drives in the eastern portion of the site have been gravel surfacing for 30+ years."

C. ZONING AND LAND USE

Current Zoning & Land Use: CS (Commercial Strip) District; Contractor Sales and Service Business.

Surrounding Zoning and Land Use: RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to the north; Detached dwelling structures.

RM12 (Multi-Dwelling Residential) District & RS5 (Single-Dwelling Residential) District to the south; vacant ground.

RM12 (Multi-Dwelling Residential) District to the east;
Westside Automotive Center and multi-dwelling structures.

RS5 (Single-Dwelling Residential) District and CO
(Commercial Office) District to the west; detached dwelling
structures and LMH Health Plaza.

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(b) Nonresidential Districts: "Unless otherwise expressly stated, all development in the Commercial and Industrial Districts shall comply with the Dimensional Standards of the following table:

Front: [9] note: "Additional Setback restrictions apply to properties developed adjacent to RS zoned properties where expressly required elsewhere in the Development Code."

Front = 25 feet.

Side (interior- adjacent R) [9]

Side = 12 feet.

Section 20-538(6)(i) Surfacing Required "In CR, CS, and CC Districts, Exterior Storage areas located in these districts shall be located upon any of the paved surfaces as provided in Section 20-913."

Section 20-913(e)(1) Parking and Loading Area Design Standards, Surfacing. "All off-street parking areas and driveways, including those serving attached dwellings, detached dwellings and duplexes, shall be surfaced with a minimum of one of the following:"

(e) Surfacing

(1) All off-street **Parking Areas** and **Driveways**, including those serving **Attached Dwellings**, **Detached Dwellings** and Duplexes, shall be surfaced with a minimum of one of the following:

- (i) 4 inches of reinforced Portland cement concrete;
- (ii) 5 inches of granular rock base with 2 inches of asphalt;
- (iii) 7 inches of granular rock with a double asphaltic prime and seal;
- (iv) 5 inches of full depth asphalt; or
- (v) 4 inches of compacted gravel for residential **Driveways** constructed in **Floodplains** areas with a paved **Driveway Apron** constructed to city residential **Driveway** standards.

- (2) As an alternative to the surfacing required in the preceding paragraph, all off-street parking for uses allowed by right within residential Districts or areas of low off-street parking use as determined by the City Engineer (such as fire safety lanes or overflow [Parking Areas](#)), may be surfaced with the following alternative methods of paving. The surfacing shall be installed per the manufacturer's recommendations, with the pavement and base designed by a professional engineer licensed in the State of Kansas. The pavement cross-section shall demonstrate the structural ability to support the anticipated vehicle loads for the use. The pavement design shall be reviewed and approved by the City Engineer.
 - (i) Grid unit pavers with grass; or
 - (ii) Concrete, brick, or clay interlocking paver units.
- (3) [Private Streets](#) shall be built to City Street standards and maintained by the [Landowner](#).
- (4) [Driveway](#) approaches (aprons) shall be built to City standards, including, where applicable, the Residential [Driveway](#) Requirements adopted by the City Commission on July 10, 1996 as amended, and maintained by the [Landowner](#).

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Land Development Code lists the five requisite conditions that have to be met for a variance to be approved.

1. The variance requests arise from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.

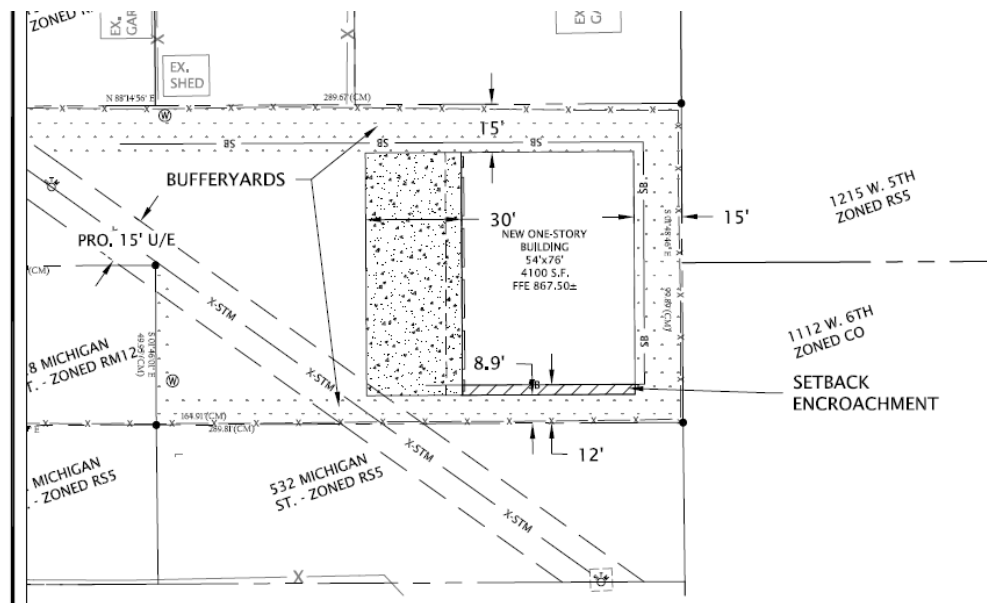
Applicant response: *"This variance is unique in that the property is zoned CS while no adjacent properties are zoned CS. Adjacent zonings are RS5, RM12 & Co. For the setback requirements, the zoning of some adjacent property does not match is proposed future use. Some of the actions could be considered created by the owner, but only to utilize the available space of an in-fill development project while negotiating various adjacent zonings."*

This variance request is associated with the expansion development project being proposed on the property at 508 Michigan Street. There is a minor subdivision (MS-19-00217) and site plan (SP-19-00216) in process to accommodate the expansion of the existing *contractor sales and service* business. The existing business currently encumbers two parcels (both addressed as 508 Michigan). The minor subdivision will combine the parcels. The site plan will document the proposed accessory storage building.

The applicant is pursuing a variance to the front setback for the existing structure on site. The variance request is to reduce the front setback from 25 feet to 12.5 feet. The applicant is also requesting the side interior (adjacent to the RS5 district) reduction from 12 feet to 8 feet to accommodate the proposed accessory storage building. In addition, the applicant seeks a variance from the surfacing standards for both exterior storage and driveways. The applicant is proposing to keep the existing gravel for both the drive and exterior storage area.

The county shows the structure was listed as a commercial retail structure as possibly a remodel in 1979. Based on aerial photography going back prior to 1966, the structure appears to be present in 1941 in its current location. This would indicate the structure was built under the 1935 code. The zoning of this parcel under this code was U-3 Business District. It was also listed in "Class A" for height districts. This height class district required front setbacks to be 20 feet as measured from zoning boundaries, streets or alleys. The location of the structure met and exceeds the setback requirement of 20 feet as measured from the street and zoning boundary. The structure is located approximately 35 feet from Michigan Street.

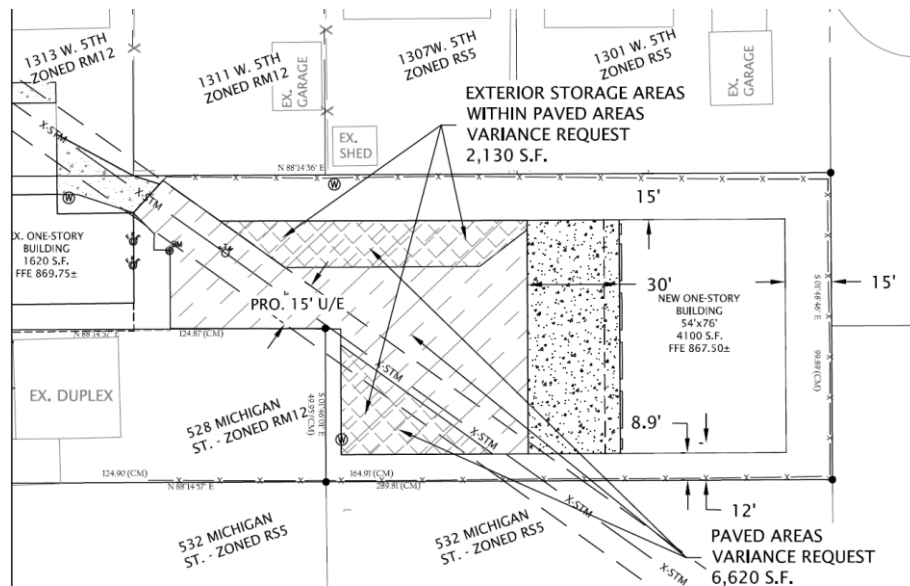
The site had been determined to qualify for non-conforming use registration in January of 2017 (NCR-17-00015). Based on the zoning history provided in the non-conforming use registration letter, expansions of non-conforming uses are not permitted per Section 20-1502(b)(1) unless by the exceptions noted in this section. To expand the existing use, the applicant is required to rezone the property to a commercial zoning district that permits the use and site plan to accommodate any exterior storage or expansion of the use. The applicant rezoned the site in March of 2017 (Z-17-00087) from RM12 & RS5 to CS to accommodate the existing *contractor sales and service* use. Rezoning to CS creates a unique circumstance as the surrounding zoning of RS5 and RM12 still exists on adjacent properties. It inherently creates extraordinary setback requirements adjacent to RS zoning. These are the setback requirements the applicant seeks relief from.



Finding regarding setbacks: Rezoning a parcel to accommodate a non-conforming use in compliance with current Land Development Code requirements creates zoning circumstances unique to this parcel. The parcel is almost completely surrounded by residential zoning districts which has a higher setback

requirement than it would if adjacent to other similarly zoned properties.

The applicant proposes to use gravel as the exterior storage surface type and driveway. The Land Development Code does not list gravel as a permitted surface type for an exterior storage area or driveways unless it is for a residential driveway located in a floodplain area. Neither of these criteria are met in this instance and granting this variance would grant special privilege to an exterior storage area in the CS District that others do not enjoy. There are code standards that permit the applicant to use pervious pavers to mitigate any storm water runoff while complying with the intent of the surfacing standards.



Other commercial businesses have paved storage areas with curb and gutters around the perimeter. No unique conditions are present on this property that prevent the applicant from following the Land Development Code required pavement surface standards.

Finding regarding surfacing material: No unique conditions are present on this property due to zoning or platting that prevents the applicant from following the required pavement surface exterior storage standards in the Land Development Code. An expansion of use on the property is not a unique circumstance and is an action undertaken by the owner. Similar properties in the CS District are required to meet the standards of the Land Development Code when new or increasing intensity development activity occurs.

2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents.

Applicant response: *"Granting of this variance would not affect the rights of adjacent property owners. The property to the south is owned by LMH Health and proposed use is a future driveway only to access Michigan Street from Lawrence Medical Plaza. The property to the northeast is owned by an individual and the exhibit included with this request was provided to the property owner and he indicated that the reduced setback would not adversely affect him or his property value."*

In staff's opinion, granting the requested setback reductions should not have any adverse effect upon the rights of adjacent property owners or residents. When the application for development and variance request were received, notification was sent to all property owners within 400 feet of the subject property. There has been no communication as of the date of this report.

Finding regarding setbacks: Granting the requested parking area setbacks should not have any adverse effect upon the rights of adjacent property owners or residents.

Allowing the applicant to keep existing gravel while expanding a commercial use which requires a standard site plan under the requirements of the Land Development Code, which is not in accordance with the standards set forth in the Sections 20-538 and 20-913 for exterior storage and driveways, though it does not adversely affect the rights of adjacent property owners or residents.

Finding regarding surfacing material: Allowing the applicant to expand a commercial business and keeping the existing gravel as a surfacing material for exterior storage and drive areas does not adversely affect the rights of adjacent property owners or residents as the bufferyards would contain the gravel to the subject property.

3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

Applicant response: *"Strict adherence to the requirement would not allow the property owner the right to take full advantage of property which has been used for generally the same operation for 30 plus years. The implementing of bufferyard requirements and existing of city storm sewer that traverses the property greatly reduces the available building space."*



In staff's opinion, strict adherence to the code requiring 25 feet front setback may be an unnecessary hardship. A structure already exists on the parcel. The structure is located 12.5 feet from the west property line along Michigan Street. The expansion of the business does not include any modifications to the existing structure. The expansion would include an accessory storage building in east portion of the parcel. The code standards at the time of construction measured the setback from either streets, alleys or zoning boundaries. In this case the zoning map boundary and Michigan Street were the same measuring point. The structure is approximately 35 feet from Michigan Street and would have exceeded the 20 foot front setback required at the time.

Also, because the parcel was recently rezoned to CS (Commercial Strip) District to accommodate an existing registered non-conforming use, (rezoning the parcel to CS made the use conforming), it has additional setbacks encumbered on it due to the adjacent residential parcels. The setbacks are larger than the setbacks that would have been required when it was originally developed as a commercial use.

Finding regarding setbacks: Strict adherence to the 25 feet front setback would be an unnecessary hardship for the property owner. The existing structure is already within the 25 feet setback. The variance to 12.5 feet for the front setback would memorialize the existing structure. The structure was built in compliance with zoning and setback requirements at the time of construction. The additional setbacks that are encumbered on the parcel due to the rezoning of the property and adjacent residential zoned districts creates an unnecessary hardship that other similarly zoned commercial properties might not have to this extent. Similarly zoned CS districts are contiguous with other commercial districts. Because of the rezoning to CS to bring the property into a conforming use and enable the use to continue or expand, most of the property is adjacent to residential zoning districts. This imposes additional setbacks not typically found on other CS zoned properties. Additionally, the property zoned RS5 to the south is currently owned by LMH Health. If this parcel were to develop as part of the LMH Health Plaza adjacent to it on the east, it would possibly be rezoned and combined with the existing CO zoning of the LMH Health Plaza parcel. If this were the case, the code required the setback between the CS zoning and the CO zoning district would be 0 feet.

In staff's opinion, it is not consistent with the code to continue to use a gravel surface exterior storage and drive area when they are expanding the business through a standard site plan process. Exterior storage and drive areas, built in conformance with adopted standards in the City's Land Development Code, is anticipated to be provided with every new development project. The proposed expansion of use on the site and additional development of structure and site improvements triggers a standard site planning process. Standard site plans require compliance with the Land Development Code where areas of the site are being expanded or modified. Because the use is expanding and modifying this part of the site, bufferyards are required, drive and storage areas identified on site, these areas fall under the scope of standard site planning requirements for current code standard compliance.

Development processes are not considered unnecessary hardships as they are equally applied to all properties that are applicable to those code standards. The property is also being combined through a minor subdivision process. During this process easements are dedicated to capture any utility infrastructure not currently located in easements. There is a storm drain that runs diagonally through the parcel. The new accessory storage building is being placed on the east portion of the lot to avoid conflict with the storm drain and necessary easement. Paving this location would not conflict with the utility easements. Infrastructure is frequently located under paved surfaces. The infrastructure and easement do not constitute an unnecessary hardship in providing surfacing that is compliant with the Land Development Code standards.

Finding regarding surfacing material: This requirement does not constitute an unnecessary hardship since surfacing does not affect the ability to expand the business and utilize the site for this proposed use. The code requirements for exterior storage and drives provide options that would meet the standard and provide various levels of permeability if that is a concern for this site.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Applicant response: *"The owner believes that granting the variance would not adversely affect the public health, safety, morals order, convenience, prosperity or general welfare. Having slight reduction in setbacks and gravel surfacing would have no adverse affects."*

In staff's opinion, granting the requested variance for setbacks will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed setback reductions to not impact the access or use of the site and will not impact the adjacent parcels. Required bufferyard setbacks adjacent to residential property boundaries will provide room to provide appropriate screening, noise mitigation and landscaping, which will be addressed at the time of site plan approval.

Finding regarding setbacks: Granting the variance for the front and interior side setbacks will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

A variance from the code required pavement surfacing requirements for the new exterior storage area will adversely affect the public health, safety, prosperity, order, convenience and general welfare. The applicant is making an investment in the neighborhood by remodeling and upgrading the existing commercial property at 508 Michigan Street. Requiring the exterior storage and drive areas to comply with one of the pavement standards in the Land Development Code will serve to define the boundary of these areas; keep vehicles and storage materials confined to the paved areas; provide better means to identify storage areas with pavement; and, directly control where vehicles may enter and exit the lot onto the street, and will also prevent encroachment into the bufferyards to ensure and protect the mitigation of possible conflicts, such as possible screening of large off-street parking areas, other unsightly equipment and materials, buffer incompatible uses and help prevent light spillover as outlined in Section 20-1001(a) of the Land Development Code.

Finding regarding surfacing material: A variance from the code required pavement surfacing for the drive and exterior storage areas will adversely affect the public health, safety, prosperity, order, convenience and general welfare.

5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.

Applicant response: *"Granting of the variance would not be opposed to the general spirit and intent of the development code as the requested setback variance is consistent with the side yard setback. The use of gravel surfacing has been implemented and is acceptable under existing conditions so would not be outside the general spirit and intent of the development code."*

In staff's opinion, the front setback and interior side setback variances are not opposed to the general spirit and intent of the code. Also, the applicant is providing bufferyards where required and the appropriate landscaping to comply with the intent of this chapter.

Finding regarding setbacks: The front and interior side setback variances are not opposed to the general spirit and intent of the code.

Granting variances from the code required paving requirements for the exterior storage area and driveway is opposed to the general spirit and intent of the Land Development Code. Likewise, the use of gravel material for these areas is opposed to the general spirit and intent of the code. The intent of the standards is to provide uniform criteria for development of similarly zoned properties and uses. The

Land Development Code offers several options for alternate paving that the applicant can use, some of which would accomplish the same result they are seeking to achieve with gravel.

Finding regarding surfacing materials: Granting a variance for these two standards is opposed to the general spirit and intent of the Land Development Code.

Conclusions:

Front Setback and interior side setback (adjacent to RS districts):

Staff's analysis finds the request meets all five conditions set forth in Section 20-1309(g)(1) of the Land Development Code the Board must find existing to grant a variance for the front setback and interior side setback (adjacent to RS districts).

Exterior storage surfacing and driveway surfacing:

Staff's analysis of this variance finds the request does not meet all five conditions set forth in Section 20-1309(g)(1) in the Land Development Code the Board must find existing to grant a variance from the surfacing requirements for exterior storage and driveways.

Recommendation:

Staff recommends approval of the front setback variance reducing the setback to 12.5 feet based upon the findings in the staff report that conclude the applicant's request meets the 5 conditions outlined in Section 20-1309(g)(1) needed for variance approval.

Staff recommends approval of the interior side setback (adjacent to RS) variance reducing the setback to 8 feet along the south property line.

Staff recommends denial of the variance from the exterior storage area surface requirements based upon the findings in the staff report that conclude the applicant's request does not meet the 5 conditions outlined in Section 20-1309(g)(1) needed for variance approval.

Staff recommends denial of the variance from the driveway surface requirements based upon the findings in the staff report that conclude the applicant's request does not meet the 5 conditions outlined in Section 20-1309(g)(1) needed for variance approval.



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

6 East 6th St.
P.O. Box 708
Lawrence, KS 66044

www.lawrenceks.org/pds

PHONE 785-832-3150
TDD 785-832-3205
FAX 785-832-3160

30 January, 2017

Jesson S. Ross
135 Earhart Circle
Lawrence, KS 66049

RE: **NCR-17-00015**: Non-conforming Use Registration Application for 508 Michigan Street, legally described as Lots 125, 126 & 127, in Block 44, in the West Lawrence addition to the City of Lawrence, Kansas and that portion of Arkansas Street adjacent to these lots, which were vacated by the City of Lawrence, pursuant to the Order of Vacation filed November 20, 1991, all in Douglas County, Kansas.

Mr. Ross:

This letter provides you with the formal determination of the above-referenced property as a non-conforming use of lots 126. To utilize lots 125 & 127 for commercial use would require rezoning the property. Please retain this letter for your records.

Per Section 20-1502 of the Land Development Code, a nonconforming use is a land use that was legally established, but is no longer allowed by the use regulations of the Zoning District in which it is located. It is the general policy of the City of Lawrence to allow uses that came into existence legally, in conformance with then-applicable requirements, to continue to exist and be put to productive use.

The property located at 508 Michigan Street is currently zoned RM12 (Multi-Dwelling Residential) and RS5 (Single-Dwelling Residential District) District. These districts do not permit a commercial use. Staff has found sufficient information to register Lot 126 (Michigan St frontage) as a legal, nonconforming commercial land use. The parcel addressed as 508 Michigan also includes Lots 125 & 127 along with vacated right-of-way for Arkansas Street (the eastern portion of the property). While this property has been used in the past as a storage yard accessory to both Comet Corp and Apex Fence Company, Staff cannot find zoning authority for the establishment of a commercial use on these lot. Therefore, any registration of a nonconforming use is only being made for Lots 126 on Michigan Street. Declaring this a non-conforming use grants the property owner certain rights to continue the use. Those rules can be found in Section 20-1502 of the Land Development Code. <http://www.lawrenceks.org/assets/pds/planning/documents/DevCode.pdf>.

A brief zoning history of the property is provided below and research of past use is attached.



1927/1935 – U-1 District/Class A – Dwelling House District
1946 - U-3 District/Class A – **Business District** (ord. 2104) Michigan frontage
1949 - D District – **Local Business** along Michigan/2nd Dwelling east half
1966 - RM-1 (Multi-Family Residential District) rezoned with new zoning ordinance
1978 - RS-2 (Single-Family Residential District) east part lots 125 & 127 rezoned.
2006 - RM12 (converted from RM-1) and RS5 (converted from RS-2) when the Land Development Code was adopted.

You have indicated a desire to continue the use of lot 126 as is. This lot contains an existing office/warehouse building that was being used as a contractor office. This use is classified as a commercial use in the current Land Development Code. You have indicated the proposed use will continue as a commercial use, therefore it may be registered as a non-conforming use.

Please note that Section 20-1502(c) of the Land Development Code outlines the conditions that determine loss of a nonconforming use status. Expansions or changes of use shall be subject to the provisions of Section 20-1502 of the Land Development Code.

Registration of Nonconforming Land Use/Structure: Commercial Use located only on Lot 126; 508 Michigan Street.

This letter serves as the City's recognition and related registration of the nonconforming use of the commercial use located at 508 Michigan Street, legally described as Lots 125, 126 & 127, in Block 44, in the West Lawrence addition to the City of Lawrence, Kansas and that portion of Arkansas Street adjacent to these lots, which were vacated by the City of Lawrence, pursuant to the Order of Vacation filed November 20, 1991, all in Douglas County, Kansas.

Commercial uses, including material/equipment storage, is not permitted on the remainder of the property unless it is rezoned to an appropriate zoning district and Site Planned for those uses.

Please feel free to contact me should you have any additional questions at (785) 832-3162 or ksimmons@lawrenceks.org.

Respectfully,



Katherine Simmons
Planner I

Encl. - Use & History of 508 Michigan Street



VARIANCE FROM UNNECESSARY HARDSHIP BY THE BOARD OF ZONING APPEALS

Application Requirements

Please note, the application and application materials must be submitted in print and electronic format, on disc. If you are unable to provide the application materials in electronic format, please contact the Planning Office at 785-832-3150.

This checklist has been provided to assist you as you prepare your application. Submission of less information than necessary to adequately review and process your application may delay the review process. Planning Staff will determine the completeness, accuracy, and sufficiency of the application within five (5) business days of submission. Incomplete applications will be returned to the applicant.

Pre-Application Meeting

- ☐ 1. Pre-Application Meeting. The applicant shall meet with Planning Staff at least seven (7) business days prior to submittal of the application.

General Submittal Requirements

- ☐ 1. A complete application form.
- ☐ 2. Payment of review fee. (\$150 residential; \$350 other, +\$50 Legal Ad Fee for All BZA Applications) (Make check payable to the City of Lawrence.)
- ☐ 3. Owner Authorization form if Applicant is not the legal owner of the property.

Requirements for Public Notification of the Public Hearing

- ☐ 1. Legal description of the property in print and electronic (Microsoft Word) formats.
- ☐ 2. A list certified by the County Clerk of all property owners within the notification area (400 feet) of the subject property.
- ☐ 3. Ownership List Certification form.

Other Requirements

- ☐ 1. Plot plan illustrating the requested variances and proposed development.
 - a. Submit 2 paper copies and 1 copy in electronic format (TIF or PDF).
 - b. If larger than 8.5 " x 11", fold all plans with the image side out.
 - c. Additional plans and an 11" x 17" reduction (if larger than 8.5 " x 11") may be requested prior to completion.



**APPLICATION FOR
VARIANCE FROM UNNECESSARY HARDSHIP**

OWNER INFORMATION

Name(s) Jesson S. and Season I.S. Ross
Contact Jess Ross
Address 508 Michigan Street
City Lawrence State Kansas ZIP 66044
Phone (785) 841-3055 Fax (--) --
E-mail jesson@greentouchservice.com Mobile/Pager (785) 208-8877

APPLICANT/AGENT INFORMATION

Contact J. Dean Grob
Company Grob Engineering Services, LLC
Address 3210 Mesa Way, Suite A
City Lawrence State Kansas ZIP 66049
Phone (785) 856-1900 Fax (785) 856-1901
E-mail jdgrob@grobengineering.com Mobile/Pager (785) 766-3740
Pre-Application Meeting Date 4-5-19 Planner Sandra Day

PROPERTY INFORMATION

Present Zoning District CS Present Land Use Contractor Sales & Service
Proposed Land Use Contractor Sales & Service
Legal Description (*may be attached*) LOTS 125, 126, & 127, IN BLOCK 44 IN THE WEST LAWRENCE
Address of Property 508 Michigan Street
Total Site Area 0.52 AC
Number and Description of Existing Improvements or Structures 1 one-story office/shop building



Description of variance requested:

This variance request has 3 parts. The first variance is from City Development Code Section 20-601 for rear yard setback for CS zoning adjacent to RS zoning. The setback increased from typical 12' to 25' when adjacent to RS zoned property. We are requesting setback be reduced to 15' in lieu of 25' to comply with Type 2 bufferyard requirements. The second variance is from City Development Code Section 20-601 for side yard setback along the south boundary for CS zoning adjacent to RS zoning. The adjacent property to the south is zoned RS5. The property belongs to LMH Health. LMH has indicated that the property was purchased solely to allow a drive to be constructed from Michigan Street in the event it was needed for future expansion of the Lawrence Medical Plaza. It is highly unlikely that RS zoned use would occur on this piece of property so we are requesting the side yard set back be reduced to 8' (note, if adjacent property was zoned CS, setback would be 0'). The third variance is from City Development Code Section 20-538 & 20-913 to allow exterior storage and driveway areas (excludes parking areas) to remain gravel surfacing in lieu of asphalt or concrete. The nature of the business entails soils and landscaping materials more conducive to storage on compacted AB-3 gravel than asphalt or concrete. The existing storage areas and drives in the eastern portion of the site have been gravel surfacing for 30+ years.



UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:

This variance is unique in that the property is zoned CS while no adjacent properties are zoned CS. Adjacent zonings are RS5, RM12 & CO. For the setback requirements, the zoning of some adjacent property does not match is proposed future use. Some of the actions could be considered created by the owner, but only to utilize the available space of an in-fill development project while negotiating various adjacent zonings.

2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:

Granting of this variance would not affect the rights of adjacent property owners. The property to the south is owned by LHM Health and proposed use is a future driveway only to access Michigan Street from Lawrence Medical Plaza (correspondence from LMHH forthcoming). The property to the northeast is owned by an individual and the exhibit included with this request was provided to property owner and he indicated that the reduced setback would not adversely affect him or his property value (correspondence forthcoming).



3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:

Strict adherence to the requirement would not allow the property owner the right to take full advantage of
of property which has been used for generally the same operation for 30 plus years. The implementing of
bufferyard requirements and existing of city storm sewer that traverses the property greatly reduces the
available building space.

4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:

The owner believes that granting the variance would not adversely affect the public health, safety,
morals, order, convenience, prosperity or general welfare. Having slight reduction in setbacks and gravel
surfacing would have not adverse affects.



**City of Lawrence
Douglas County**
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County
Metropolitan Planning Office**
6 East 6th Street, P.O. Box 708, Lawrence, KS 66044
(785) 832-3150 Fax (785) 832-3160
<http://www.lawrenceks.org/pds/>

5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:

Granting of the variance would not be opposed to the general spirit and intent of the development code as
the requested setback variance is consistent with the side yard setback. The use of gravel surfacing has been
implemented and is acceptable under existing conditions so would not be outside the general spirit and intent
of the development code.

SIGNATURE

I/We, the undersigned am/are the **(owner(s))**, **(duly authorized agent)** **(Circle One)** of the
aforementioned property. By execution of my/our signature, I/we do hereby officially apply for
variances as indicated above.

Signature(s): John Dean Hol Date 4-8-19

Date _____

Date _____

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____



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OWNER AUTHORIZATION

I/WE Jesson S. Ross, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 5th day of April, 2019, make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/We the undersigned, have previously authorized and hereby authorize J. Dean Grob, Grob Engineering Services, LLC (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas, regarding 508 Michigan Street (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.

3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Owner

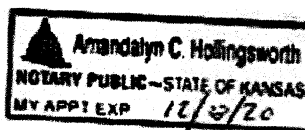
Owner

STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 5th day of April, 2019
by Jesson S. Ross

My Commission Expires: 12/3/20

Notary Public





PROPERTY OWNERSHIP LIST CERTIFICATION

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

Radius of Notification

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense**. **Allow 10 business days** to receive the map.

THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

Signature

4-8-19

Date

J. Dean Grob

Printed Name



**City of Lawrence
Douglas County**
PLANNING & DEVELOPMENT SERVICES

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Note to Applicant:

Replace this page with "Exhibit A, Legal Description".

DESCRIPTION: LOTS 125, 126, & 127, IN BLOCK 44 IN THE WEST LAWRENCE ADDITION TO THE CITY OF LAWRENCE, KANSAS AND THAT PORTION OF ARKANSAS STREET ADJACENT TO THESE LOTS, WHICH WERE VACATED BY THE CITY OF LAWRENCE, PURSUANT TO THE ORDER OF VACATION FILED NOVEMBER 20, 1991, ALL IN DOUGLAS COUNTY, KANSAS.



VARIANCE
Unnecessary Hardship or Flood Protection Regulations

DETERMINATION OF COMPLETENESS, ACCURACY, AND SUFFICIENCY
(Completed by Staff)

The following items apply to variance applications. Submission of less information than necessary to adequately review and process your application may delay the review process. The following submittal requirements will be deemed: (P)provided or (NP)not provided. (Circled items have not been reviewed due to time constraints.)

Pre-Application Meeting

P NP

- ☐ ☐ 1. Pre-Application Meeting. The applicant shall meet with Planning Staff at least seven (7) business days prior to submittal of the application.

General Submittal Requirements

- ☐ ☐ 2. A complete application form.
- ☐ ☐ 3. Payment of review fee.
- ☐ ☐ 4. Owner Authorization form if applicant is not the legal owner of the property.

Requirements for Public Notification of the Public Hearing

- ☐ ☐ 5. Legal description of the property in print and electronic (Microsoft Word) formats.
- ☐ ☐ 6. A list certified by the County Clerk of all property owners within the notification area of the subject property.
- ☐ ☐ 7. Ownership List Certification form.

Other Requirements

- ☐ ☐ 8. Plot plan illustrating the requested variances and proposed development.
 - a. Submit 2 copies (in print form) and an electronic copy of the entire application.
 - b. If larger than 8.5 " x 11", fold all plans with the image side out.
 - c. Additional plans and an 11" x 17" reduction (if larger than 8.5 " x 11") may be requested prior to completion.



Determination of Completeness, Accuracy, and Sufficiency

I have reviewed the variance application submitted by:

Name: _____ Date: _____

Application No. _____

Based upon the submitted information, I find the application to be:

- ☐ Complete (based upon the items reviewed)
- ☐ Incomplete, inaccurate, or insufficient (circle) for the following reasons:
 - ☐ The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards.
 - ☐ The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards.
 - ☐ Other

Planner _____

Date _____

(1) Resubmit by _____ to be placed on the agenda for the Board of Zoning Appeals meeting on _____. (All resubmitted materials must be deemed to be complete, accurate, and sufficient.)



RESOURCES AVAILABLE TO THE APPLICANT

1. Planning Staff
2. Calendars:
 - Board of Zoning Appeals Submittal Deadlines and Meeting Dates
 - Planning Commission Submittal Deadlines and Meeting Dates
 - Historic Resources Commission Submittal Deadlines and Meeting Dates
3. Fee Schedule
4. City of Lawrence Development Code
 - The following articles of the Development Code are applicable to variance applications:
 - Article 6: Density and Dimensional Standards
 - Article 13, Section 20-1308: Zoning Variances

PLANNING DEPARTMENT PROCEDURES

Public Hearing: Planning Staff will schedule a hearing before the Board of Zoning Appeals, which is responsible for hearing the request.

Newspaper Publication: Planning Staff will publish the notice of the public hearing twenty (20) days prior to the date of the public hearing.

Mailed Notice: Planning Staff will mail notices of the public hearing to all property owners within the required notification area at least twenty (20) days prior to the public hearing. Planning Staff will also mail notice to any Registered Neighborhood Associations whose boundaries include or are contiguous to the subject property.



**APPROVAL AND EXTENSION TIME PERIOD
LAND DEVELOPMENT CODE
ARTICLE 13**

No action by the City shall be necessary to cause the approval to expire. Its expiration shall be considered a condition of the original approval.

SITE PLANS:

[Section 20-1305(o)(1)]

Approval time period -- Building permit must be obtained within **24 months** of final approval of the site plan or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

SPECIAL USE PERMITS:

[Section 20-1306(k)]

Approval time period -- Building permit must be obtained within **24 months** of the effective date of the decision on the Special Use or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

PRELIMINARY DEVELOPMENT PLAN:

[Section 20-1304(d)(12)]

Approval time period -- Application for a Final Development Plan must be submitted within **24 months** after final approval of the preliminary development plan or within 6 months after the date shown on an approved development schedule or the approval shall expire.

Extension -- Extension of **up to 24 months**, or the proposed phasing schedule may be modified to extend all dates by a period **up to one-half the original period allowed for development of that phase**, may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

FINAL DEVELOPMENT PLAN

[Section 20-1304(e)(2)(vii)]

Approval time period -- A building permit must be obtained within **24 months** after the final approval of the Final Development Plan or the approval shall expire.

Extension -- Extension of **up to 24 months**, or the proposed phasing schedule may be modified to extend all dates by a period up to **one-half the original period allowed for development of that phase** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.



INSTITUTIONAL DEVELOPMENT PLAN

[Section 20-1307(g)]

Approval time period -- A building permit must be obtained within **24 months** after the final approval of the Institutional Development Plan or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by the City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

ZONING VARIANCES

[Section 20-1309(k)]

Approval time period -- A building permit must be obtained within **24 months** after the variance has been granted or the variance will expire. The variance will also expire upon expiration of a building permit.

Extension -- Extension of up to **24 months** may be approved by the Board of Zoning Appeals for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

APPROVAL AND EXTENSION TIME PERIOD SUBDIVISION REGULATIONS

PRELIMINARY PLAT*

[Section 20-809(j)]

Approval time period -- A final plat must be submitted within **24 months** of the date approval of the preliminary plat was granted by the Planning Commission or the approval of the preliminary plat shall expire.

- * Per Section 20-1304(d)(10) of the Development Code, approval of a Preliminary Development Plan constitutes approval of a preliminary plat. In the case of properties that were platted with a Preliminary Development Plan, the approval and extension dates of the Preliminary Development Plan shall apply. (See previous page)

Extension -- An extension of **up to 24 months** may be granted by the Planning Commission for a Preliminary Plat if the cause of failure to submit a final plat is beyond the subdivider's control. A written request must be provided to the Planning Director prior to the expiration date. Additional extensions may be requested, if necessary.

FINAL PLAT

[Section 20-809(n)(5)]

Approval time period -- Approval of a Final Plat shall be effective for no more than **24 months** from the date of approval unless all conditions of approval have been completed.



Extension – An extension may be granted by the Planning Director for good cause. A written request for extension must be provided to the Planning Director prior to the expiration of the original 24 month approval period.

MINOR SUBDIVISION/REPLAT

(Section 11-108(k))

Approval of a Minor Subdivision/Replat by the Planning director and acceptance of dedications by the Governing Body shall be effective for no more than **24 months** from the date of acceptance unless all conditions of approval have been completed or an extension has been granted by the Planning Director for good cause.

Extension – The extension request must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.

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**SITE PLAN FOR
GREENTOUCH LAWN & TREE
508 MICHIGAN STREET
LAWRENCE, KANSAS**

JDG

jdc

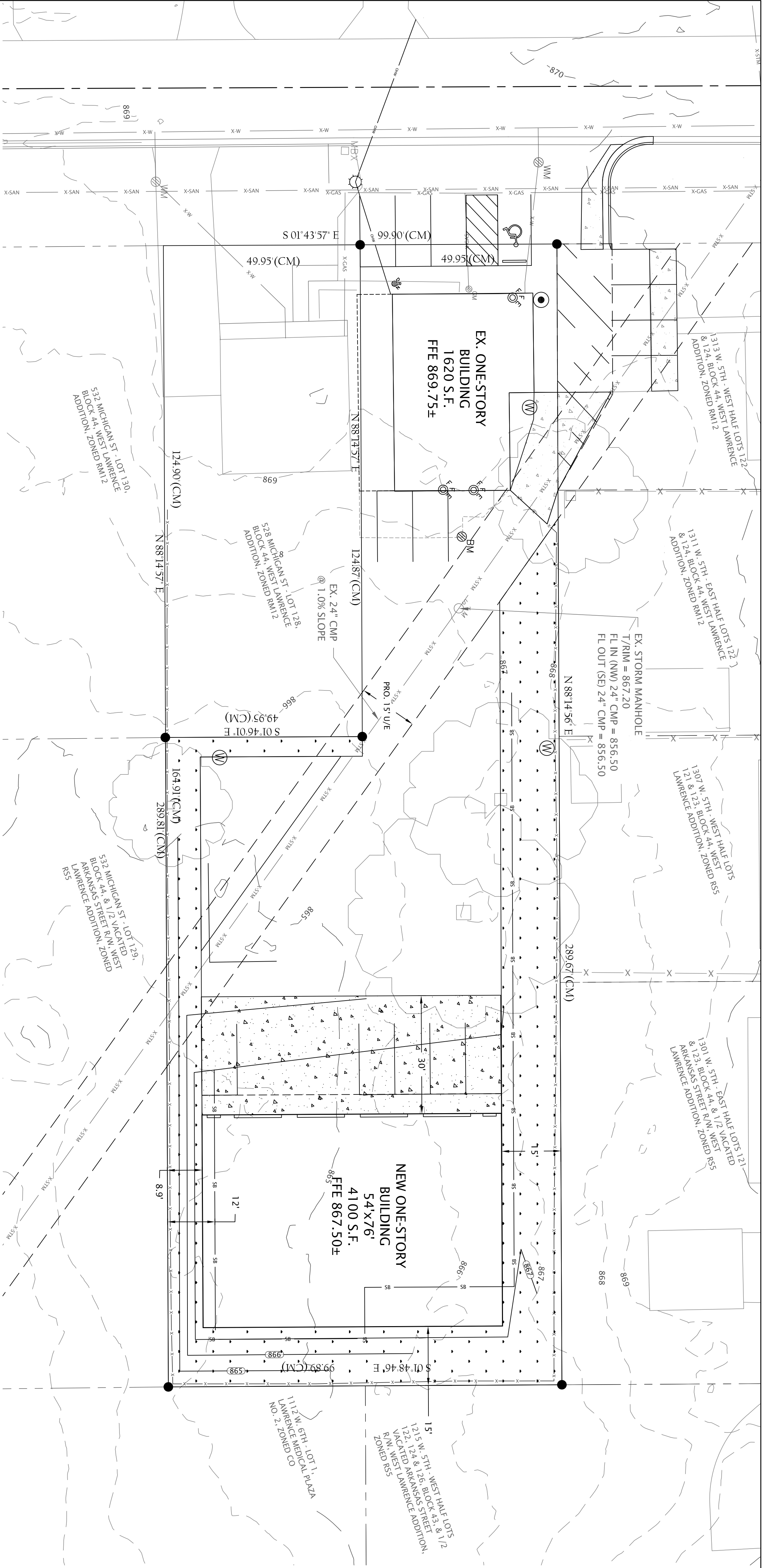
IL 8, 2019

REVISIONS

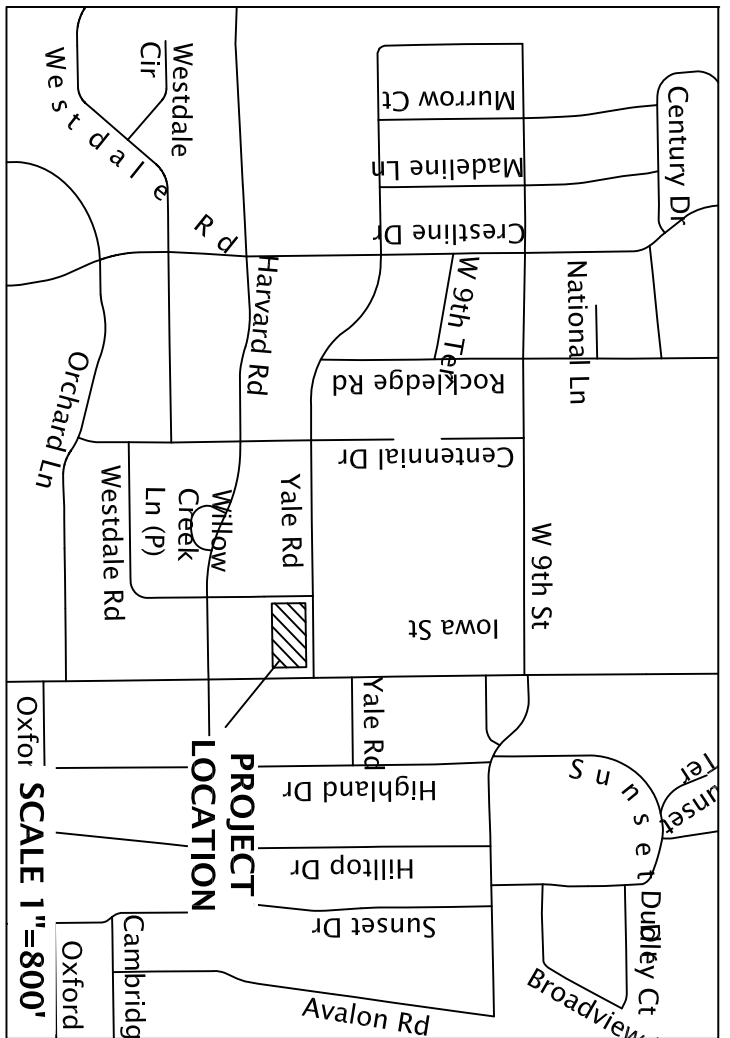
SHEET

1

1




DRAFT DRAWING IN PROGRESS



LOCATION MAP

Approved and Released

City of Lawrence
Douglas County

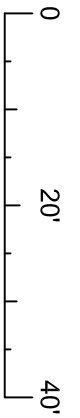
 Case No. _____
Approval Date: _____
Release Date: _____
Planner: _____
_____ of _____ Sheets
Asst./Director: _____

SITE PLAN for GREENTOUCH LAWN & TREE

SITE PLAN for



SCALE: 1" = 16'



LEGEND

	SANITARY SEWER MANHOLE
	STORM DRAIN
	GAS MAINS
	UTILITY POLE
	WATER MAINS
	WATER VALVE
	FIRE HYDRANT
	TRAFFIC SIGNAL SFR
	GAS VALVE
	GAS METER
	LIGHT POLE
	SIGN
	ELECTRIC BOX
	CABLE TV BOX

BB BACK OF CURVE TO BLACK OF CURVE

 RC RIGHT OF CENTER

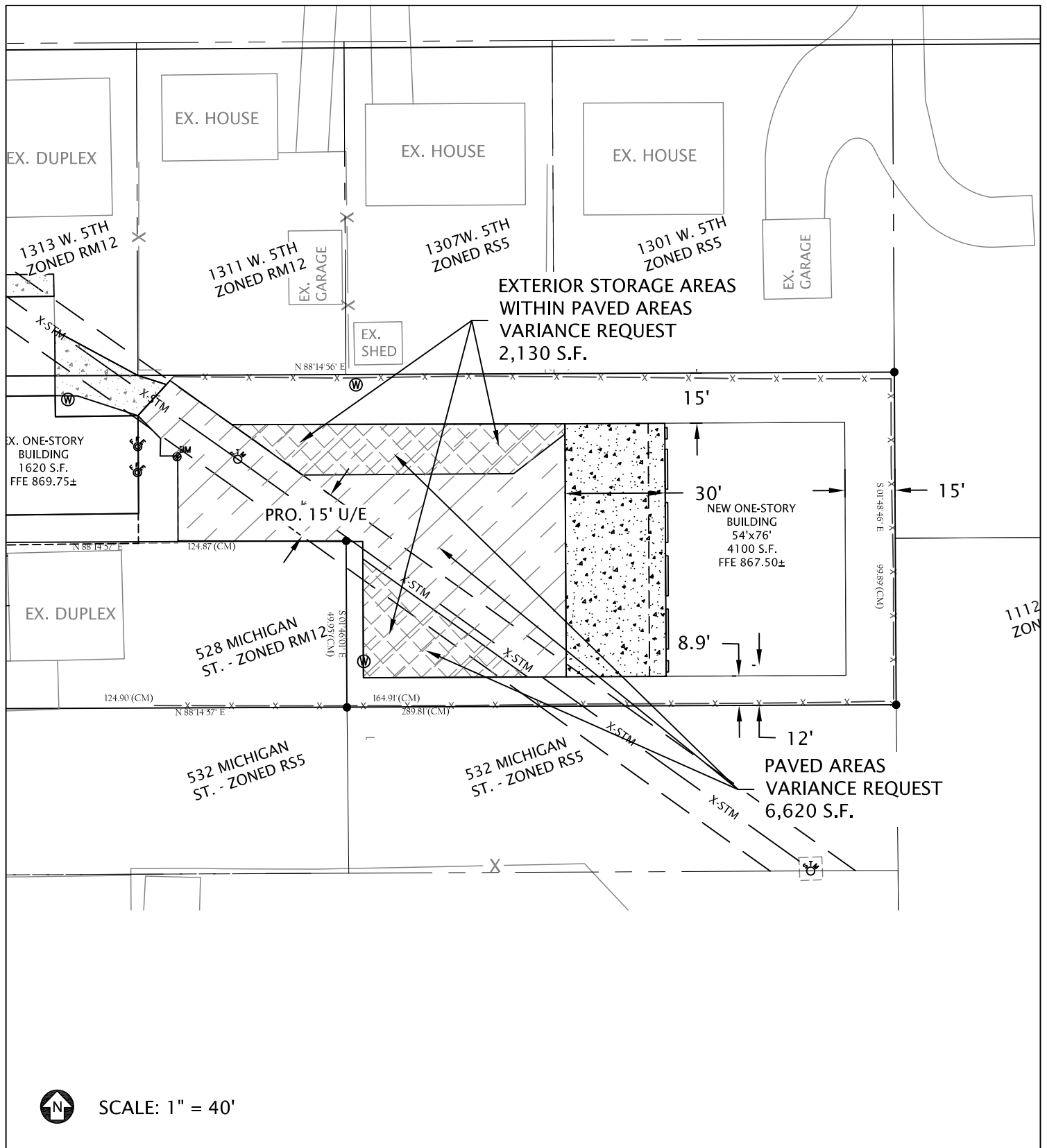
 UE UTILITY EASEMENT

 PC PROPERTY CORNER

 BE BUILDING INGRESS/EGRESS

NOTE: "X" IN UTILITY LINE DENOTES EXISTING FEATURE

NOTE: "X" IN UTILITY LINE DENOTES EXISTING FEATURE



GREENTOUCH LAWN & TREE
508 Michigan Street - Lawrence, Kansas

BZA PAVEMENT SURFACING VARIANCE EXHIBIT

GES

**GROB
ENGINEERING
SERVICES, LLC**

*Site Planning & Land Development
Civil Engineering, Design & Consulting*

3210 Mesa Way, Suite A * Lawrence, Kansas 66049
Phone 785 856-1900 * Fax 785 856-1901
www.grobengineering.com

-----Original Message-----

From: Monica Davis <thurber.davis@gmail.com>

Sent: Monday, April 29, 2019 12:56 PM

To: Katherine Weik <kweik@lawrenceks.org>

Subject: Feedback from Planning and Development Services contact page

Ms. Weik

My name is Bob Thurber and I am the property owner at 1301 W 5th St. I am writing in regard to Item No. 3 on the BZA agenda for Thursday, May 2nd-variance requests for the CS property at 508 Michigan St.

I have read the staff report and want to express my support for the recommendations. I agree that the setback variance requests meet criteria and would not have an significant impact on the adjacent properties.

The surfacing materials are another matter. When this property was rezoned two years ago to CS after many years of non-conforming use in a residential area, development code and design guidelines came into play which were designed to upgrade commercial areas adjacent to residential ones. Bufferyards, paving and landscaping were all mentioned at the rezoning hearing.

These are all good things for the four remaining residential properties on 5th St. not owned by LMH or this applicant. The applicant states that this property has been used this way for 30 plus years and perhaps that is the point. The neighborhood has been dealing with this situation for a very long time. Now the property has been rezoned, the guidelines have been triggered. So, in the absence of hardship, the development code should be followed so that intended improvement of the property will be achieved.

I plan on being at the BZA meeting Thursday to make public comment.

Thank you for your time,

Bob Thurber

Sent from my iPad

From: Rich Webb <Rich.Webb@LMH.ORG>

Sent: Monday, April 29, 2019 3:21 PM

To: 'jdgrob@grobengineering.com' <jdgrob@grobengineering.com>; Katherine Weik <kweik@lawrenceks.org>

Cc: Joseph Pedley <Joseph.Pedley@LMH.ORG>

Subject: Lawrence Board of Zoning Appeals - 508 Michigan St

From the discussions today, LMH has no concerns with the zoning request at 508 Michigan St.

Per your comments, it appears the zoning request would not impact a future request for an access road across the properties south of the 508 Michigan St property. We understand any future request for an access road in this area would need to be designed following applicable city codes and approved through the city planning commission.



Rich Webb

Director - Facilities Management

Rich.Webb@LMH.ORG

785-505-3011

Facilities Management

325 Maine Street, Lawrence, KS 66044

www.lmh.org