MINUTES – 5.21.2019
BONNER SPRINGS BOARD OF ZONING APPEALS MEETING
City Hall – 205 E. 2nd Street – Bonner Springs, KS 66012
Tuesday, May 21, 2019 -- Regular Meeting -- 8:00 p.m.

1. Meeting CALLED TO ORDER by Chair Lloyd Mesmer

Meeting called to order at 8:04 p.m. following a regular meeting of the Bonner Springs Planning Commission.

2. ROLL CALL

Chair Mesmer requested roll call.
City Planner, Rachel Clyne called roll.
Present: Jason Krone; Lloyd Mesmer (Chair); Sherri Neff; Merle Parks
Absent: Craig Stephan
Quorum Established

3. CONSENT

Item #1 – Approval of Minutes of April 16, 2018 Board of Zoning Appeals meeting

Motion to APPROVE with two updates noted was made and seconded
Chair Mesmer asked for those in favor to state ‘aye’.
AYE – Mesmer, Neff, Parks
NAY –
Abstain – Krone
MOTION PASSED 3 – 0 – 1

4. PUBLIC HEARING

Item #2 -- BZA-116 - Four (4) variance requests for Arts & Entertainment District – each request will be reviewed, discussed, and decided separately – See staff report for details

Request #1 -- Maximum structure height: Five (5) stories or one hundred fifteen (115) feet.

Request #2 -- Adjust parking to 4,800 spaces for the Arts & Entertainment Campus only.

Request #3 -- Reduction of roadway classifications

Request #4 -- Increase the maximum of any one material to 85%

Chair Mesmer asked staff for a presentation. Planner Clyne reviewed the City’s Ordinance on the Board of Zoning Appeals and the five (5) conditions that must be addressed for each variance request. Staff explained that the applicant had provided five (5) responses to each of the four (4) variance requests, and that each request required individual review and decision. Planner Clyne named the four requests and recommended approval on all requests.
Request #1 -- Maximum structure height: Five (5) stories or one hundred fifteen (115) feet. Chair Mesmer opened the public hearing and asked the applicant for comment. The applicant was represented by Mark O'Hara with HOK. Board member Parks asked about the uniqueness of the property to warrant a variance. Mr. O'Hara stated that the proposed Arts & Entertainment District contained a greater density in structures and the height limitation was prohibitive to the design of the concert pavilion.

Peter Sloan, also with HOK, further explained the concert pavilion was designed to be supported by large trusses instead of columns. This design would allow for a clear site line for all attendees, both indoor and outdoor. Member Krone asked about the height of the windows that would be opened to allow for outdoor seating. Mr. Sloan stated the windows were designed to be 25' - 30' tall as to not encumber the visitor's experience. Chair Mesmer closed the public hearing and asked for a motion. Member Krone made a motion to approve and Member Neff seconded that motion. Chair Mesmer called for a vote.

Following the vote Member Parks suggested a review of the Zoning Ordinance to determine if a change in height limitations was necessary. Member Krone stated he was comfortable with his vote for approval because it did not set a precedent.

Motion to APPROVE Request #1 made by Krone, seconded by Neff
AYE – Krone, Mesmer, Neff, Parks
NAY –
MOTION PASSED 4 – 0

Request #2 -- Adjust parking to 4,800 spaces for the Arts & Entertainment Campus only

Chair Mesmer opened the public hearing and confirmed Mr. O'Hara was representing the applicant. Mr. O'Hara discussed the methodology used to determine the number of parking spaces requested. Extensive data was provided and discussed to explain the requested number of parking stalls would not negatively affect the project.

Board member Parks asked about the uniqueness of the property to warrant a variance. Mr. O'Hara stated that the project was mixed use and the applicants wanted less hardscape throughout the district. Pat Warren, President of the Kansas City Speedway addressed the Board and voiced concern about overflow parking. Mr. O'Hara stated the applicants do not want people to park outside of the district and the calculations indicate the requested number will serve the public at peak times on peak days. Chair Mesmer asked for any other questions of the audience, closed the public hearing, and asked for a motion. Member Neff made a motion to approve and Member Krone seconded that motion. Chair Mesmer called for a vote.

Following the vote Member Neff suggested the City review of the Zoning Ordinance to consider changing the parking ratio to 3:1 - three (3) seats per one (1) parking stall. Member Parks stated that by allowing for factors starting from transportation, such as an increase in individual transportation over mass transportation, the variance request was not applicable to the requirements to state statute.

Motion to APPROVE Request #2 made by Neff, seconded by Krone
AYE – Krone, Mesmer, Neff
NAY – Parks
MOTION PASSED 3 – 1
Request #3 -- Reduction of roadway classifications

Chair Mesmer read the introduction for Request #3, opened the public hearing, and asked the applicant for comments. Lance Scott of CFS Engineers, PA, explained that the tighter radius and slower speeds would encourage walkability and have a traffic calming effect. With no other comments, Chair Mesmer closed the public hearing and asked for a motion. Member Krone made a motion to approve, which was seconded by Member Parks. Chair Mesmer called for a vote.

Motion to APPROVE Request #3 made by Krone, seconded by Parks
AYE – Krone, Mesmer, Neff, Parks
NAY –
MOTION PASSED 4 – 0

Request #4 -- Increase the maximum of any one material to 85%

Chair Mesmer read the introduction for Request #4, opened the public hearing, and asked the applicant for comments. Mr. O'Hara clarified the request was only for the concert pavilion and the Central Utility Plant (CUP). Board member Parks asked about the uniqueness of the property to warrant a variance. Mr. O'Hara stated that the size and utility of the structures called for consideration of the definition of material. Mr. O'Hara stated that if the same materials were used on a structure, it would present in a variety of colors, patterns, or textures. Mr. Warren addressed the Board and spoke highly of HOK as a company and the work they produce.

With no other public comments, Chair Mesmer closed the public hearing and asked for a motion. Member Krone made a motion to approve, which was seconded by Member Neff. Chair Mesmer called for a vote.

Motion to APPROVE Request #4 (Concert Pavillion and CUP only) made by Krone, seconded by Neff
AYE – Krone, Mesmer, Neff, Parks
NAY –
MOTION PASSED 4 – 0

5. ADJOURNMENT

Chair Mesmer called the meeting adjourned at 9:30 p.m.

/s/ L. Rachel R. Clyne
BSBZA Secretary – Signature

Minutes Revised by Parks

Date

Note: The text has been slightly modified for clarity.
Revisions to BZA minutes of May 21, 2019 requested by Merle Parks

1. Note the attendance of Dan Trent, city attorney

2. Insert the following between paragraphs 2 and 3 regarding Request #1:

   Member Parks stated that he objected to the use of variances for initial
development purposes. He stated his opinion that variances are allowed by state law in
unusual circumstances when the configuration of property does not allow for
compliance with the zoning regulations through no fault of the landowner. A variance is
to be used to avoid uncontrollable hardship, not as a development tool.

   Member Parks asked why the variance approach was used as opposed to a
Planned Unit Development. He was advised that city staff had recommended that
approach to the developer. Member Parks did not want to set a precedent of granting
variances for development purposes but did not want to penalize the developer for
following staff recommendations.

3. Insert the following regarding the roll call vote as to Request #2:

   Member Parks objected to the parking formula used by the developer, stating
that the current code requirement of 4 : 1 was already very developer-friendly. The
variance request would provide even fewer spaces based on a formula that might have
limited applicability.

4. Insert the following regarding the vote as to Request #4:

   Questions were directed to Dan Trent regarding the lack of specificity of the
materials to be used or the design. While a schematic drawing was presented it was
admitted it was not a final design. There were questions whether the granting of the
variance would allow the developer to submit any site plan which complied with the
variance, regardless of the aesthetics.

   Attorney Trent advised the Board that if any submitted site plan was not up to the
quality and aesthetic standards asserted by the developer to the BZA, the Planning
Commission would have the right to reject any plan which was aesthetically deficient,
even if it technically complied with the variance. The developer agreed with Trent
regarding that issue.