

BOARD OF ZONING APPEALS MINUTES

Gardner, Kansas

Wednesday, August 19, 2009

The Board of Zoning Appeals met in regular session on the above date at Gardner City Hall, 120 E. Main Street, Gardner, Kansas.

I. Call to Order

Chairman Wilnauer called the meeting to order at 6:31 PM

II. Roll Call

Member(s) present: Kipp Wilnauer, Mike Hutton, Andrew Copeland, Neale Wooten and Tory Roberts.

No members absent.

Staff present: Community Development Director Fred Sherman, Planner Amy Kynard, Planner Jennifer Dady and City Clerk Teresa Anderson.

Others present: Bill Miller with USD 231 and Dave Fesenmeyer with Sign Here, Inc.

III. Swear in Board members

City Clerk Teresa Anderson swore-in all Board members.

IV. Consent Item

1. Consider approval of the minutes of the June 17, 2009, meeting.

Motion Copeland, second Hutton to approve minutes as written.

Motion approved. (5-0)

Board members and staff introduced themselves.

V. New Business

1. Bylaws

Discuss creating bylaws for the Board of Zoning Appeals.

Director Sherman gave a PowerPoint Presentation that included:

- Definition of the Board of Zoning Appeals
- Chapter 18.190 of the City Municipal Code
- Case History
- Officers
- Meetings – annually if no applications have been submitted

Board member Copeland asked why quorum is set at 4 members.

Director Sherman explained the code states 4 members are required for quorum.

Board member Copeland asked what would happen if there was a tie vote.

Director Sherman provided examples of what could be changed in the By-Laws regarding quorum.

- Conduct of Meetings
- Public Hearings
- Meetings – approval of minutes

Board member Hutton asked how attendance issues would be handled. Hutton expressed his concerns for members who regularly miss meetings.

Director Sherman stated that City Council would address that and replace members if needed.

Board member Hutton agreed that it would be good to have annual meetings.

Board member Wooten stated he is agreeable to monthly meetings.

Director Sherman stated the By-Laws presented are a draft and changes can be made. Staff will work on creating By-Laws for the Board.

Kipp Willnauer recused himself from item #2 (BZA-09-03) due to a conflict of interest and left the chambers.

2. BZA-09-03

Consider a variance request from Section 18.170.020 District R-1 (Single-Family District) and District A (Agriculture District) – Signs; to allow the construction of a nineteen-foot ten-inch (19'-10") sign located at 425 N Waverly Rd. The application was filed by U.S.D. 231 for the Gardner-Edgerton High School site.

1. **APPLICANT:** Unified School District 231.
2. **REQUESTED ACTION:** Consider a variance request from Section 18.170.020 District R-1 (Single-Family District) and District A (Agriculture District) – Signs; to allow the construction of a nineteen-foot ten-inch (19'-10") sign.
"To replace an existing fifteen (15) foot sign that is damaged."
3. **LOCATION:** The property is located at 425 N Waverly Rd. – Lot 1, New Gardner High School.
4. **PROPERTY DESCRIPTION:** This property is currently zoned R-1, Single-Family Residential District (Z-97-09, Ord. 1902).
5. **ZONING ORDINANCE PROVISIONS:** The following zoning ordinance provisions are applicable to this variance request:
 - 18.10.040 Rules and Definitions. Definitions.
 9. "Attention attracting device" means any flasher, blinker, animation, banner or other object designed or intended to attract the attention of the public to an establishment or to a sign.
 90. "Sign" means any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of official notice or official flag.
 - 18.170.020 Signs. District R-1, Single-Family District and District A, Agriculture District.
 - A. One non-illuminated sign per building, not more than six square feet in area, mounted on the building, indicating a home occupation.
 - B. One semi-illuminated or indirectly illuminated or non-illuminated detached sign per church, not more than 20 square feet on church premises.
 - E. No sign in this section shall exceed eight feet in overall height, including the structure supporting the sign.
 - F. Residential Project Identification Signs. Project identification signs for a subdivision or residential project may be permitted at each entrance to the subdivision or project. All project identification signs shall be ground-based signs with a minimum of 50 percent of the base enclosed and shall be located on the premises. The signs may be non-illuminated, indirectly illuminated or internally illuminated. Such signs shall not exceed six feet in overall height above the average grade, and the sign face shall not exceed 32 square feet in area per face. If not sitting within a landscape area, the sign base shall be located within a curbed landscape area, extending a minimum of three feet on all sides of the sign base. Where a project is situated on both sides of a public or private street, one project identification sign may be located on each side of the street, or, alternatively, one project identification sign may be located in a landscaped median. A copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the sign and required landscaping shall be submitted with the permit.
 - 18.170.140 Signs. Signs not to constitute a traffic hazard or public nuisance.
 - A. No sign or other advertising structure shall include attention-attracting devices.
 - B. No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of the intensity, position, shape, or color, it may interfere with, obstruct the view, or be confused with any traffic sign, signal, or device; or which makes use of words "Stop," "Look," "Drive-In," "Danger," or any word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.
 - C. No part of any sign shall be located less than 10 feet from a side or rear property line, nor less than 35 feet from the centerline of a single-family residential street, nor less than 40 feet from the centerline of a multifamily, commercial, industrial, or secondary thoroughfare street nor less than 50 feet from the centerline of a primary thoroughfare, nor less than 65 feet from the centerline of an arterial thoroughfare, not less than 10 feet from a street right-of-way line, whichever provides the greater setback.
 - D. No sign nor the illumination thereof shall create a public nuisance.

6. **ZONING ORDINANCE VARIANCE REQUEST:** A variance from 18.170.020 of the Zoning Ordinance – Signs within the R-1 Zoning District would need to be granted to allow the proposed sign.

There was previously an approximately 15' tall monument sign on the subject site, but it was recently removed due to wind damage. This previous sign was likely erected when the high school facility was first constructed. The approved site plans for the high school facility (SP-98-06) and the athletic complex (SP-99-07) did not indicate any proposed signage. The construction plans submitted for the building permit (#489-98) for construction of the high school facility did not denote any proposed signage. No sign permit was issued by the City of Gardner, nor has there been a Board of Zoning Appeals action on this subject property for the previous 15' tall monument sign.

The applicant's request is to replace the former sign with a new 19'-10" sign. The applicant states on the application:

"While the property is zoned R-1, no specific reference to schools or athletic facilities is made. Given the opportunity by a local company to procure a high quality restored sign at an efficient cost, and given the unique public venue GEHS and the District Activity Complex provide, we are requesting this variance on behalf of USD 231."

The applicant has indicated that the proposed sign would be placed in the exact location of the former sign, but that the sign could be placed farther back, if necessary. Staff estimates that the base of the former sign was set back approximately 24' from the Waverly Road right-of-way (the property line) but this measurement cannot be conclusively verified without a survey.

The applicant has provided elevations and a rendering of the proposed sign.

- The overall dimensions of the proposed sign structure are shown to be:
 - 19'-10 1/8" tall
 - 10'-6 1/4" wide
 - 3'-3 1/4" deep
- The base of the structure is shown to be:
 - 14'-11 7/8" tall
 - 6'-6" wide
 - It displays large letters reading "GEHS"
 - The sides of this portion of the structure feature a blue vertical stripe.
- The top portion of the structure is shown to be:
 - 4'-8 1/4" tall
 - 10'-6 1/4" wide
 - It features the words "Gardner Edgerton High School"
 - The sides of this portion of the sign structure show a "GE" logo.
- The applicant has indicated that the top portion of the sign will be internally illuminated, while the base will not be illuminated. The part that reads "Gardner Edgerton High School" is therefore the only text that would be illuminated.



The applicant has also provided an image showing a future LED message board in hopes of getting the message board "pre-approved" so that the School District does not have to return to the Board of Zoning Appeals if and when that is added. Staff inquired about the other changes that would be made to the sign when the LED board is added. The applicant responded that the top portion of the sign would not change, so the "GE" logo and words "Gardner Edgerton High School" would remain. The only changes to the sign would be the removal of the large "GEHS" on the base and the addition of the LED message board, with a possible smaller "GEHS" above or below the message board. The applicant has indicated that if approved, the LED message board's hours of operation –

"...would cease at 9:00 p.m. or at the conclusion of any event being held at the High School or District Athletic Complex, whichever is later."

There are four components to this variance request.

1. The height of the proposed sign.
2. The area of the proposed sign.
3. The number of faces on the proposed sign (four instead of two).
4. The future LED message board (i.e. is it an "attention attracting device?").

Height - While 18.170.020 of the Zoning Ordinance (Signs – District R-1, Single-Family District and District A, Agriculture District) does not specifically address schools, which are a permitted use in these zoning districts, subsection "E" states

that "no sign in this section shall exceed eight feet in overall height, including the structure supporting the sign." The proposed sign is therefore more than double the maximum height for this zoning district.

If this property were zoned to the C-2 (General Business District) zoning district, the sign at the location proposed would be roughly double the height allowed for a 24' setback; a 20' tall sign would need to be set back at least 45' from the property line to be allowed within the C-2 zoning district.

While the sign is proposed as a replacement for a 15' tall sign, staff has been unable to find any record of approval (a sign permit or variance) for the former sign. As a result, there is no evidence that the City had previously approved a sign of that

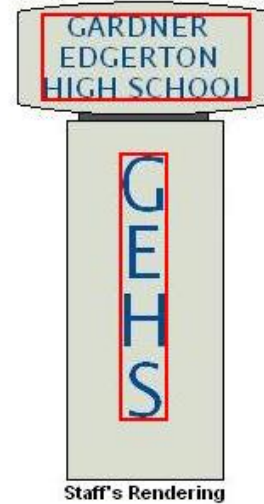


Gardner Board of Zoning Appeals Minutes of August 19, 2009

height in this location. Due to this fact, staff has not taken the height of the former sign into consideration of the current request.

Area - Section 18.170.020 of the Zoning Ordinance (Signs – District R-1, Single-Family District and District A, Agriculture District) provides two different standards for the maximum allowed area for a detached monument sign. Churches are allowed to have one monument sign up to 20 sq. ft. in size, and project identification signs for a subdivision or residential project are allowed up to 32 sq. ft. in face area (with a maximum height of 6 feet).

The square footage of the proposed sign was not provided, but staff estimates that approximately 54 sq. ft. of each primary face of the sign (24 sq. ft. of the top and 30 sq. ft. of the base) plus approximately 4 sq. ft. of each side of the sign would be covered by words or letters. This calculation of 54 sq. ft. is a rough estimate based on an 8' x 3' box around the words "Gardner Edgerton High School" plus a 2'-6" x 12' box around the letters "GEHS," and the 4 sq. ft. refers to a roughly estimated 2' x 2' box around the letters "GE" and logo on the side of the sign.



If the blank area surrounding the words, or the entire sign structure is included in the sign area calculation, the two primary faces would each have approximately 142 square feet (44.5 sq. ft. for the top and 97.5 sq. ft. for the base), and the sides that contain the logos would each have approximately 12 sq. ft. of signage area. Typically, staff uses the area of rectangles surrounding the sign text for determining the area of most signs with individual letters mounted on a building or a monument, whereas staff generally counts the entire area of a cabinet sign.¹

For properties zoned to the C-2 zoning district in Gardner, a 54 sq. ft. monument sign would be allowed only if it was set back at least 25 feet from the property line. Staff has estimated the proposed setback at 24 feet.

If the "GEHS" noted on the lower portion of the proposed sign was not included, this would reduce the sign text area to 24 sq. ft., and the total primary face area to 44.5 sq. ft. which is more consistent with other nearby cities' regulations. However, this would still exceed the maximum allowed for churches in Gardner's R-1 district.

The proposed future sign would eliminate the "GEHS" but add an LED message board that would likely measure approximately 6'-6" x 3' (19.5 sq. ft.). This would make the text area a total of 43.5 sq. ft. (and the total primary face area 64 sq. ft.), excluding any "GEHS" that might be added above or below the message board.

Number of Sign Faces - Many cities limit detached signs to two faces, meaning text can only be placed on the front and back of the sign, not the sides. The proposed sign would have a "GE" logo placed on each side of the sign, giving it four faces instead of two. Gardner specifies that signs may be "single- or double-faced" within commercial districts, but does not specify a number of allowable faces within the R-1 district.

LED Message Board - Many cities allow schools to have a changeable copy sign; however, many of these same cities prohibit electronic message boards city-wide, often specifically including them in the definition of an "attention-attracting device." Gardner's definition of "attention-attracting device" does not specifically address electronic message boards, and several have been installed around the city in the past. If the BZA determines that electronic message boards are indeed attention-attracting devices, staff will no longer permit these types of signs within the city.

Comparison to Other Cities - Because the Gardner Municipal Code does not specifically address signs for schools within the R-1 zoning district, staff examined surrounding cities' ordinances for comparison purposes. Both Lenexa and Overland Park place schools and churches in the same category, meaning there's no difference in sign regulation for these uses. Olathe also has schools and churches in the same category; however, schools are permitted to have a message board, whereas churches must apply for permission to have one.

The Gardner Municipal Code limits church signs in the R-1 district to 20 sq. ft. in area and 8 feet in height (18.170.020.A and 18.170.020.E), but does not mention school signs at all. The chart below outlines what would be allowed for a school sign with a 24' setback in the other cities' single-family zoning districts. The proposed sign is significantly taller than would be allowed in Lenexa, Olathe, or Overland Park. Even with the background excluded from the area, the sign would exceed the maximum area allowed in Lenexa, Olathe, and Overland Park.

	Max. Height	Max. Area ¹	Max. Faces	Message Board	LED Msg. Brd.
Gardner R-1 Church ²	8'	20 sq. ft.	not specified	not specified	not specified
Gardner R-1 Subdivision	6'	32 sq. ft.	not specified	not specified	not specified
Gardner C-2 ³	10'	45 sq. ft.	2	not specified	not specified
Lenexa ⁴	5'	36 sq. ft.	4 (implied)	yes	not clear
Olathe ⁵	10'	45 sq. ft.	2	yes	no
Overland Park ⁶	8'	50 sq. ft.	not specified	not specified	no

	Height	Text Area ¹	# Faces	Message Board	LED Msg. Brd.
Proposed Sign	19'-10"	54 + 4 sq. ft.	2 + 2	proposed	proposed

Estimated setback: 24 feet

- VARIANCE CRITERIA:** Pursuant to the requirements of K.S.A. 12-715 and Chapter 18.190 of the City Code, The Board of Zoning Appeals may grant a variance from the Zoning Ordinance provided that the Board finds that all of the following five conditions have been met. The applicant has provided responses to each of the five conditions; these responses have been provided below along with staff's responses.

Does the variance request arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant?

Applicant's Response

Yes. Most school facilities in Gardner are zoned R-1, Single Family Residential, or A, Agricultural. The current sign ordinance does not specifically address the unique use of the property considered in this request, which is the only high school and high school sports complex in Gardner.

Staff's Response

Yes. Schools are a permitted use within the R-1 zoning district, and the City's sign ordinance does not specifically address signs for schools in this zoning district. Clearly, some level of signage needs to be allowed to help visitors locate and identify the school and sports complex.

Will the granting of the permit for the variance adversely affect the rights of adjacent property owners or residents?

Applicant's Response

No. In comparison to the sports field lighting and scoreboards for football, softball, baseball, soccer, and tennis facilities on the property, the proposed 19' internally illuminated sign would not appear to impede significantly on the rights of adjacent property owners. Should the proposed sign later be fitted with an LED display board, its hours of operation would cease at 9:00 p.m. or at the conclusion of any event being held at the High School or District Athletic Complex, whichever is later.

Staff's Response

No. While adjacent property owners or residents could potentially prefer the school to have a shorter sign, a 19'-10" sign should not adversely affect their rights for use and development of their properties.

Will the strict application of the provisions of the Zoning Ordinance of which the variance is requested constitute unnecessary hardship upon the property owner represented in the application?

Applicant's Response

Yes. The marquee sign (and future message board) is an important land mark and future information center-piece for Gardner Edgerton High School. The proposed sign replaces the original 15' internally illuminated sign, which was damaged in a wind storm. The school district was presented with an opportunity to purchase a re-conditioned sign from a local vendor at an excellent price. Without making significant modifications to the sign, the replacement at 19' would be approximately 4' taller than the original marquee sign. Strict application of the R-1 sign ordinance would exclude the use of this sign in its present form.

Staff's Response

No. "Unnecessary hardship must involve unique characteristics of the property itself, not economic difficulties of the owner."⁷ While the land use may be somewhat unique, a sign that meets the zoning regulations would have ample visibility from both directions and would not prohibit use of the site. The fact that the applicant can get a good deal on a larger sign is irrelevant to consideration of the variance request.

A policy change to the city's adopted sign regulations to allow schools or recreational activity centers to have unique sign criteria is a legislative action that the City Council would need to consider, not the Board of Zoning Appeals.

Will the variance desired adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?

Applicant's Response

No. The addition of the sign and the potential for a future message board may, in fact, add a benefit to the community in terms of communicating public events. The school district currently has two LED message board operating, one at Wheatridge Middle School and one at Pioneer Ridge Middle School.

Staff's Response

No. Allowing the proposed sign to exceed the maximum height requirement will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Will the granting of the variance desired be opposed to the general spirit and intent of the Zoning Ordinance?

Applicant's Response

No. The general intent of the zoning ordinance is directed toward single-family residences, developments under construction, and churches. The spirit and intent of the ordinance is to allow and control signage applications appropriate to the property and use. The proposed sign seems appropriate for an eighty-acre complex serving 1600 student high school students and an athletic complex which has accommodated as many as 3000 patrons during the high school football playoff season.

Staff's Response

No. The purpose of sign standards is to promote an effective, reasonable, and orderly arrangement of signs; to prevent signs from being a significant distraction to operators of motor vehicles; and to preserve an attractive physical environment along public streets. While the proposed sign's contribution to or detracton from "an attractive physical environment" is debatable, the sign (without the LED message board) would not be a distraction to drivers or appear disorderly. Therefore, it would not be opposed to the general spirit and intent of the Zoning Ordinance.

8. **STAFF RECOMMENDATION:** The Kansas Statutes Annotated require that all five of the conditions outlined in KSA 12-715 be met for a variance.

Staff disagrees with the applicant that this request meets the “unnecessary hardship” criterion. The adopted sign regulations for the City of Gardner do not address signage requirements for school facilities located within a residential zoning district. The adopted sign regulations do provide some policy guidance in regards to sign standards for churches, which is a compatible land use to some school facilities. The athletic recreational complex at the high school facility in Gardner is a unique characteristic of this subject property that may justify the need – from a public policy perspective – for unique sign standards for identification, notification and way-finding needs.

The primary role of the Board of Zoning Appeals is to consider variance requests and appeals in a quasi-judicial manner. That is, to consider the facts of the specific case presented, consider the adopted rules and regulations, and then render a decision. The role of the Board of Zoning Appeals is not legislative in manner. It is not the role of the board to establish new public policy in regards to the zoning ordinance provisions. That is the role of the Planning Commission and City Council.

From a public policy perspective, the City of Gardner may in the future need to adopt a new set of sign standards that permits larger and a greater number of signs at facilities that have a unique characteristic – like the high school site or at regional parks like Celebration Park. Under the current set of sign regulations, the proposed sign exceeds the standards of what is permitted, and does not meet all five of the criteria outlined in KSA 12-715 for a variance; therefore, staff must recommend that the Board of Zoning Appeals deny a variance from Section 18.170.020 District R-1 (Single-Family District) and District A (Agriculture District) – Signs; to allow the construction of a nineteen-foot ten-inch (19’-10”) sign on property located at 425 N Waverly Rd.

Director Sherman gave a PowerPoint Presentation that included:

- Aerial View
- Zoning Map – surrounding zoning
- Oblique Images of Former Sign
- Proposed Sign – overall dimensions
- Future LED Message Board
- Zoning Ordinance Provisions
- Four Components to Variance Request
 - Height
 - Area
 - Number of Sign Faces
 - LED Message Board
- Comparison to Other Cities
- Variance Criteria – five criteria
- Staff Recommendation

Bill Miller, Director of Operations at USD 231 gave a PowerPoint Presentation that included:

- USD 231 District Activity Complex
- Gardner Edgerton High School
- GEHS Marquee Sign – following the wind storm on Dec. 27, 2008.
- GEHS Football Scoreboard dimensions
- Timeline
- Future Proposed Sign (with LED Message Center)
- GEHS and DAC Design Features
- Structural Height Comparison
- Hardships

Mr. Miller asked if there were any questions.

Board member Copeland stated there were several issues he would like to discuss.

Director Sherman and Board members Copeland and Wooten discussed current setbacks; commercial setback requirements; residential setback requirements.

Board member Wooten stated that height is capped at 8’ in residential districts.

Director Sherman and Board members Copeland, Roberts and Wooten discussed sign guidelines for residential zoning.

Director Sherman gave comparisons for residential and commercial signage.

Board members Wooten and Roberts asked about the score boards.

Director Sherman explained the score boards were not approved at the City level.

Mr. Miller explained none of the features ever went through this process.

Board member Roberts asked if the new sign could be reduced to the old sign height without going through this process.

Dave Fesenmeyer with Sign Here, Inc stated the sign is not going to look out of place, but can be shortened.

Mr. Miller stated the old sign did not present itself.

Board member Roberts asked if the new sign would be sturdier than the old sign.

Mr. Fesenmeyer stated the old sign was poorly built.

Board member Hutton asked if the sign would be lit all night long.

Mr. Miller stated he has committed to the standard of the sign being off at 9 PM or at end of a school event, whichever is later.

Board member Hutton stated the stadium lights are more noticeable than the sign would ever be.

Mr. Miller stated the District would like the sign to be visible from US 56 Highway.

Board member Hutton called for a recess at 7:50 PM

The meeting was called to order at 7:56 PM

Board member Copeland stated he has a hard time coming to a decision.

Board member Wooten stated there is uniqueness to this site and asked if a variance would be required to repair the old sign.

Director Sherman explained Gardner Municipal Code 18.185.210 - Site plan approval and "Significant redevelopment."

Board member Hutton discussed the findings on case BZA-09-01 – the canopy was considered a separate structure.

Director Sherman explained BZA-09-01 did not require a variance.

Board member Hutton asked if there could be a stipulation/agreement that the signs will be turned off after the activity.

Mr. Miller stated he is agreeable to that.

Director Sherman explained the board needs to look at the four components to the variance request and the five variance criteria.

Board member Copeland stated the neighbors were informed and there was no one present in the audience.

Mr. Fesenmeyer explained the letters on the sign will light up; nothing lights up on side facing the neighbors to the west; and that the LED message board would not be visible from greater than a 45 degree angle.

Board member Wooten asked if the sign base could be turned 90 degrees.

Mr. Fesenmeyer stated the 8" steel tube is a structural component and the frame cannot support the weight of the beams.

Board members Hutton, Wooten and Copeland discussed whether or not the whole structure is the sign.

Board members Hutton, Wooten and Copeland agreed the whole structure is the sign.

Board member Roberts stated she can see it both ways.

Board members agreed the whole structure is a sign.

Mr. Fesenmeyer stated that other cities have allowed different calculations.

Director Sherman, Board members Hutton, Wooten and Copeland discussed the issue of height.

Board member Hutton gave an example of the bank sign at the corner of Main Street and Center Street.

Board member Roberts asked if the CP-2 zoning at 175th Street & Waverly Road could have this type of sign.

Director Sherman stated they could with a 45 foot setback.

Board member Hutton asked if Mr. Miller is flexible with a larger setback.

Mr. Miller stated he is okay with another 25 feet setback for a total of 45 feet.

Board member Copeland asked if the setbacks will hinder the signs visibility.

Mr. Miller stated there is room to move the sign.

Director Sherman and Board members Roberts and Copeland discussed where the property lines are and the detention basin just south of the sight.

Mr. Miller stated he is comfortable with the 45 foot setback.

Motion Copeland to grant a variance to allow a sign at 475 N Waverly Road to follow the regulations for signs in the C-2 district (General Business District) instead of the R-1 district (Single-Family Residential District); provided the illuminated portion of the sign is turned off by 9 PM or the end of any event on the site, whichever is later.

Board member Roberts asked about the future LED component.

Copeland rescinded his motion.

Director Sherman stated that should the Board specify that sports complexes in the R-1 district would be subject to the C-2 signage standards, then staff would review such uses under those standards. This would include the height and area of the sign, including any message board component.

Board member Wooten stated this is a unique facility.

Motion Copeland to grant a variance with the criteria being that this is for an athletic complex; to allow a sign at 475 N Waverly Road to follow the regulations for signs in the C-2 district (General Business District) instead of the R-1 district (Single-Family Residential District); provided the illuminated portion of the sign is turned off by 9 PM or the end of any event on the site, whichever is later, Second by Wooten.

Motion approved 4-0-1 (Willnauer abstained)

Board member Hutton stated he appreciates the applicant's cooperation.

V. Adjourn

Kipp Willnauer returned to the chambers.

Motion Hutton, second Copeland to adjourn meeting at 8:32 PM

Unanimously approved (5-0)

Public Hearing was closed with adjournment.

Angie Lind
Planning Services Specialist
Community Development Department

¹ Each city calculates area differently. Lenexa calculates the area of the "visually or architecturally distinct area" which encloses text and/or graphics (4-1-E-5). Olathe uses the entire surface, including frames, trim, and molding (18.64.040.F.1). Overland Park calculates area by drawing a single rectangle around the entire sign face, including background panels and other sign elements (18.110.560).

² Gardner Municipal Code 18.170.020.E: "No sign in this section shall exceed eight feet in overall height..."

³ Gardner Municipal Code 18.170.070.C: "...Detached signs may be single- or double-faced....The sign face and base shall not exceed six feet in overall height above the natural or average grade. The actual sign face shall not exceed 25 square feet in area per face if set back the minimum of 10 feet from the property line. For each additional five feet of setback, the overall sign height may be increased two feet and the sign face may be increased 10 square feet to a maximum of 15 feet in overall sign height and 65 square feet per sign face....The sign base area shall not exceed the actual sign face area by more than 10 percent...."

⁴ The Lenexa Unified Development Code 4-1-E-10 indicates that public institutions (including schools) may have a monument sign of not more than 36 square feet, with a maximum height of 5 feet. As much as 75% of the area may be used for a changeable copy panel. Section 4-1-E-3 defines "attention-attracting devices," but is not clear on whether or not a school's LED message board would be considered an attention-attracting device. Section 4-1-E-5 states: "The City encourages 3-dimensional monuments, particularly at street corners and other high visibility locations. Equilateral triangular signs may have 3 panels of the allowed size, and cubic signs may have 3 or 4 panels of 75 percent of the allowed size."

⁵ The Olathe Unified Development Code (18.64.060.C & 18.64.040.G) allows nonresidential uses that are permitted within residential districts (including schools) one monument sign of up to 25 square feet, with a maximum height of 6 feet. The height may be increased by two feet and the area increased by ten square feet for each additional five feet of setback beyond the ten foot minimum, to a maximum of 15 feet in height and 65 square feet in area. Section 18.64.F.3 states: "Unless determined by the zoning district regulations, the allowable copy area of a sign shall be based on one (1) side of the sign. Double-faced copy area is allowed provided that both sides of the sign are parallel to one another and that the applicable zoning district regulations are not conflicting."

⁶ The Overland Park Municipal Code (18.440.060) includes a special provision for public/semi-public facilities, including schools. This provision states that facilities with a land area of more than 10 acres may have monument signs of not more than 50 square feet, with a maximum height of 5 feet. The height may be increased by one foot for every two additional feet of setback beyond the 10 foot minimum setback, to a maximum of 8 feet in height. There is also a provision that allows "sports venues" to submit a special "sign package" to the Planning Commission that may deviate from size requirements. A list of criteria is outlined in Overland Park's Municipal Code for considering approval of this sign package.

⁷ <http://dictionary.getlegal.com/unnecessary-hardship>