



**MINUTES**

**DOUGLAS COUNTY BOARD OF ZONING APPEALS**

Public Works/Zoning and Codes Building - Training Room, and by Zoom  
3755 E 25<sup>th</sup> Street  
**Monday, March 18, 2024**  
10:00 A.M.

MEMBERS PRESENT: Rich Barr, Chair, Fadra Mitchell, Charlie Thomas, Scott Eudaly, Jerry Wohletz

MEMBERS ABSENT:

STAFF PRESENT: Tonya Voigt, Zoning Director; Karl Bauer, County Planner; Ben Harris, Code Enforcement Officer

PUBLIC PRESENT: In Person: Natalya Lowther  
Virtual: Dean Grob

Rich Barr called the meeting to order at 10:00 a.m.

Rich Barr called roll and a quorum was established.

**ITEM NO. 1:**

**MINUTES**

Approve, revise, or approve with conditions the Dec. 18, 2023, meeting minutes.  
Charlie Thomas motions to approve, Fadra Mitchell seconds. Approved 5-0.

**ITEM NO. 2:**

**DISCLOSURE OF EX PARTE COMMUNICATIONS**

Chair asks Board members for disclosure of any ex parte communications on the items on the agenda.

Rich Barr asks, all members attest to no communication.

**VARIANCE REQUESTS**

**ITEM NO. 3:** **ZBZA-2024-0001** - A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from J. Dean Grob of Grob Engineering Services, LLC for Vernon Clay Heine requesting a Variance to allow gravel surfacing in lieu of the required asphalt or concrete pavement for all off-street parking spaces and access drives for nonresidential uses taking access from adjoining roads paved with asphalt or concrete, located at 1723 E 1500 Road.

<b>APPLICANT:</b>	J. Dean Grob of Grob Engineering Services, LLC
<b>OWNER:</b>	Vernon Clay Heine
<b>LOCATION:</b>	1723 E 1500 Road
<b>AREA:</b>	8.01 acres
<b>DATE OF PUBLIC HEARING:</b>	March 18, 2024, 10:00 am.

**DATE PUBLIC NOTICE PUBLISHED:** February 27, 2024  
**PRESENT LAND USE:** LI – Light Industrial District and ASO – Airspace Overlay, used as heavy equipment sales and rentals, contractor shop/yard, equipment storage, exterior storage, and as a wireless facility; proposed manufacturing and production.

### **ASSOCIATED CASE:**

- SP-24-00031: Site plan

### **SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:**

- 12-311-302: Surfacing. Reads in part: “All off-street parking spaces and their access drives required for all (non-residential) commercial and industrial uses shall be paved with an asphalt or concrete surface if the adjoining road is also paved with asphalt or concrete.”

### **DESCRIPTION OF VARIANCE REQUESTED:**

The subject property, 1723 E 1500 Road is approximately 8 acres in size and used as heavy equipment sales and rentals, contractor shop/yard, equipment storage, exterior storage, and as a wireless facility. Structural development includes a one-story metal building, an accessory building, and a telecommunications tower. The applicant and landowner are not proposing any new structures, though a manufacturing and production use are proposed.

The County’s parking surfacing standards require pavement for commercial and industrial uses taking access from a paved road. The property takes access from E 1500 Road, a paved road maintained by Douglas County Public Works. The applicant is requesting the variance to allow the existing gravel driveways and the mostly gravel parking to remain. The applicant’s site plan indicates that there are existing parking spaces paved with concrete and additional concrete aprons will be constructed. ADA parking will be concrete-surfaced.

During the public processes for site plans, variances, and rezonings on nearby properties, nearby residents have delivered public comment regarding concerns over stormwater drainage in the area and that would be amplified by a higher density of structures and impervious surfaces. Additionally, much of this property is within the floodplain and floodway, where drainage and permeability are of greater concern.

### **STAFF RECOMMENDATION**

County Staff recommend approval of the variance request from J. Dean Grob of Grob Engineering Services, LLC for Vernon Clay Heine requesting a Variance to allow gravel surfacing in lieu of the required asphalt or concrete pavement for all off-street parking spaces and access drives for nonresidential uses taking access from adjoining roads paved with asphalt or concrete, located at 1723 E 1500 Road, with the following stipulations:

1. This variance shall apply only to waive pavement standards for uses approved with site plan SP-24-00031. Any expansion of the nonresidential uses that increase the parking requirements will require another variance to be obtained from the Douglas County Board of Zoning Appeals;
2. The conditions of approval from site plan SP-24-00031 shall be maintained;
3. Article 5 of the County Code: Public Roads Access Management Standards shall be maintained;

4. Access to the property shall be maintained in a condition that would allow a fire apparatus to enter the property, and;
5. Americans with Disabilities Act parking shall be paved with asphalt or concrete.

**10:01 am Chair Barr calls meeting to order.**

Karl Bauer presents ZBZA-2024-0001 and reviews staff report.

10:06am – Karl yields the floor.

Jerry Wohletz asked what the reason for the additional parking would be, and if the structure was planning to be expanded. It was clarified that there is only the addition of a manufacturing use proposed with a site plan that would be implemented within the existing building. There is no zoning change associated with this request.

Dean Grob discussed the requirements from PW that the approaches be paved and brought up to existing standards for commercial entrances. External storage for the property to the North has also been added to the site plan to accurately reflect the proposed uses.

Dean Grob also discussed the additional benefits of using gravel as opposed to paving, such as adding additional permeable surfaces that would assist in the control of runoff and drainage.

Rich Barr asked if the parking expansion would be in the existing footprint for the gravel or if it would be a new addition; Grob responded that it wasn't on the 2001 Site Plan, but has been added to the draft site plan for the current proposal to accurately reflect the use in this area.

Rich Barr also clarified and asked that if E 1500 Rd were gravel, there would be no need for a variance request (as there is no risk of gravel being carried into a paved roadway). Karl confirmed that if E 1500 were a gravel roadway, there would be no need for a variance.

Charlie Thomas asked what would be manufactured at the site. Dean Grob said it would mostly be HVAC fabrication, welding, and pipe work. Employees at the shop would be there for a short period of time, no more than a few days at a time while working on a specific fabrication project.

Rich Barr opened public comment at 10:20AM.

Natalya Lowther complained that there were no instructions about how to write public comment in advance, and that she was not able to access the staff report in advance to the meeting.

She also mentioned that the 2001 site plan only showed 4 parking spaces, with the most recent site plan increasing the current number of parking spaces to 10. She requested that the variance be postponed, requesting a comprehensive drainage study be done. Kaw Valley Drainage District has also requested this study according to Natalya.

The Sod Shop required on-site detention for their proposed use, and Natalya is also requesting that detention be included in this site plan. The proposed use could result in groundwater contamination. She also stated that her disability has prevented her from being able to comment publicly on the item and put pressure on her regarding the three-minute public comment limit.

Natalya also said that the concrete would help to prevent contaminants leeching into the groundwater, a protection not offered by gravel.

Rich Barr clarified that the issue before the board is the deviation of the requirement that the approach be paved, not the concerns being brought before the Board by Ms. Lowther. It was also posited by Jerry Wohletz that the parking would also primarily be paved, and would therefore catch the majority of contaminants that could be released by parked vehicles.

Rich Barr reiterated that we were hearing a variance specifically for the pavement requirement for gravel access drives, and that the Board would not even be hearing a variance request if E 1500 Rd were a gravel roadway. The roadway specifically is what is driving the variance request. The zoning of the property would permit them to implement a permitted land use regardless of the variance or not, which were primarily her concerns.

Charlie Thomas moved to approve the variance at 10:30 A.M., with the stipulations approved in the staff report, minus condition number three.

Seconded by Jerry Wohletz. Motion passes 5-0 with all in favor.

There is an April BZA meeting, mentioned by Karl. Fadra mentioned that she would not be in town in July if there were a meeting scheduled at that time.

Meeting was adjourned at 10:33 AM.

??? makes a motion to approve the conditions as written. To allow a variance to allow gravel surfacing in lieu of the required asphalt or concrete pavement for all off-street parking spaces and access drives for nonresidential uses taking access from adjoining roads paved with asphalt or concrete, located at 1723 E 1500 Road, with the following stipulations:

1. This variance shall apply only to waive pavement standards for uses approved with site plan SP-24-00031. Any expansion of the nonresidential uses that increase the parking requirements will require another variance to be obtained from the Douglas County Board of Zoning Appeals;
2. The conditions of approval from site plan SP-24-00031 shall be maintained;

3. Article 5 of the County Code: Public Roads Access Management Standards shall be maintained;
4. Access to the property shall be maintained in a condition that would allow a fire apparatus to enter the property, and;
5. Americans with Disabilities Act parking shall be paved with asphalt or concrete.

?? seconds motion

Motion passes 3-0

Motion to adjourn

Charlie moves to adjourn, Rich seconds, motion passes 3-0.