

***CITY OF OSAGE CITY
PLANNING AND ZONING***

**Regular Meeting
September 18, 2024**

7:00 PM

City Council Room – 221 S. 5th – Osage City, Kansas

GoToMeeting Information:

Planning & Zoning Meeting

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I. Call To Order:

Casey Mussatto _____ Loren DeBaun _____

Gail Lohmeyer _____ Maurice Koch _____

II. Consent Agenda

- 1. Approval of July 24, 2024 Special Meeting Minutes**
- 2. Approval of August 21, 2024 Regular Meeting Minutes**

III. Regular Business

1. Review of a variance for 332 Van Buren related to storage containers that are currently on the respective property and potentially set a public hearing for the variance or exception for October 16, 2024.

IV. Adjournment

**PLANNING AND ZONING COMMISSION
OSAGE CITY, KANSAS
MINUTES
July 24, 2024**

ROLL CALL: Now on this 24th day of July 2024 the Planning and Zoning Commission met at 7:00 p.m. at the City Council Chambers in said City, the following members being present and participating to wit, Commissioners: Casey Mussatto, Gail Lohmeyer, and Maurice Koch. Loren DeBaun via telephone conference. Officials present: City Clerk Amy Woodward, City Manager Katie Hodge, Planning and Zoning Clerk Lindsay Bandy, and Utilities Director Dale Schwieger. Others present: None

APPROVAL OF THE CONSENT AGENDA:

1. Approval of June 19, 2024, Regular Meeting Minutes

Motion by Lohmeyer, second by Koch to approve the consent agenda. The motion was declared carried.

REGULAR BUSINESS:

1. Cancel the Public Hearing. for a zoning change application from Residential Zone R-1 to Commercial Zone C-2 for a retail liquor store on Lot 1 and the E ½ of Lot 2, Block 36, in Osage Carbon Company's Second Addition to Osage City, Kansas commonly known as 1244 Brant Street as requested by property owners Jeff Crocker, Belinda Crocker and Dean Davidson. (Zoning changed in 1986 from R-1 to C-1)

Motion by Koch, second by Lohmeyer to cancel the public hearing scheduled for Wednesday July 24, 2024, for a zoning change application from Residential Zone R-1 to Commercial Zone C-2 for a retail liquor store on Lot 1 and the E ½ of Lot 2, Block 36, in Osage Carbon Company's Second Addition to Osage City, Kansas commonly known as 1244 Brant Street as requested by property owners Jeff Crocker, Belinda Crocker, and Dean Davidson. (Zoning was changed in 1986 from R-1 to C-1) The motion was declared carried.

ADJOURN: *Motion made by Lohmeyer, second by DeBaun to adjourn. The motion was declared carried.*

APPROVED: _____ **ATTEST:** _____
Casey Mussatto, Chairman **Amy Woodward, City Clerk**

This 21st day of August 2024

(SEAL)

**PLANNING AND ZONING COMMISSION
OSAGE CITY, KANSAS
MINUTES
August 21, 2024**

Due to lack of any new business, the Regular Planning and Zoning meeting for August 21, 2024, was cancelled.

APPROVED: _____ **ATTEST:** _____
Casey Mussatto, Chairman **Amy Woodward, City Clerk**

This 18th day of September 2024.

(SEAL)

CITY OF OSAGE CITY

REQUEST FOR CITY PLANNING & ZONING ACTION

DATE
09/18/2024

TIME
7:00 P.M.

AGENDA SECTION NO: III	ORIGINATING DEPARTMENT: Administration	APPROVED FOR AGENDA:
ITEM NO. 1	BY: Katie Hodge, City Manager	BY: KH

ITEM:

Shelley Mueting, 332 Van Buren, has submitted a variance application for storage container(s) already set in the backyard

BACKGROUND:

Jim Welch, Code Administrator has been working with Shelley and Brian Mueting over the past year related to the storage containers. Please see the following email traffic between the Code Administrator and Mr. Mueting and a copy of the containers on the property. In addition, I have provided excerpts of Planning and Zoning codes related to accessory buildings, storage containers, variances and exceptions.

FISCAL NOTE:

PLANNING & ZONING ACTION:

- 1) To accept the variance application and set a public hearing for October 16, 2024
- 2) To reject the application
- 3) Table the discussion until a later planning and zoning meeting

STAFF RECOMMENDATION:

MOTION:

I make a motion that we accept the variance application for the storage containers and set a public hearing for October 16,2024 at 7 pm here at the council chambers located at 221 S. 5th Street

I make a motion that we reject the variance application based on _____

I make a motion that we table this discussion until the next Planning and Zoning meeting on October 16, 2024

ZONING VARIANCE APPLICATION

CITY OF OSAGE CITY

201 South 5th, Osage City, KS 66523
(785) 528-3714 Fax: (785) 528-4951

Case Number: _____ Date Received: _____ Application Fee: _____

The applicant requests a variance from the following section of the Osage City Zoning Regulations:

Section _____

Describe the purpose of this variance.

TO BE ABLE TO KEEP THE SEACONTAINERS
THAT ARE CURRENTLY ON OUR PROPERTY.

The property to which this application applies is located:

Address 332 VAN BUREN ST.

Legal Description _____

Property Owner Information

Name SHELLEY MUETING Phone (816) 805-6585

Address 332 VAN BUREN ST.

E-Mail Address _____

Applicant Information (If different from property owner)

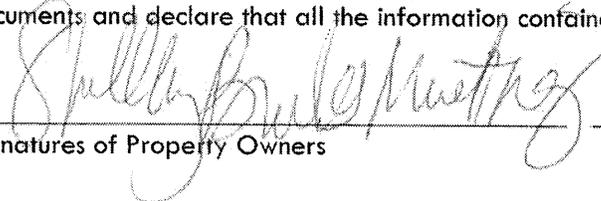
Name BRIAN MUETING Phone (785) 380-1238

Address 332 VAN BUREN ST.

E-Mail bmueting@hotmail.com

I do hereby certify that I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I hereby authorize the submission of this application and associated documents and declare that all the information contained therein is true and correct.

Signatures of Property Owners



The following factors are considered by the Board of Zoning Appeals when making a determination. Please answer these five questions in regard to the proposed project.

1. The proposed development would not be contrary to the public health, safety, and public interest because

THEY ARE BUILDINGS THAT WILL STORE OUR EXCESS BELONGINGS AND NOT ANYTHING HAZARDOUS.

2. The literal enforcement of zoning regulations would result in the following unnecessary hardships:

WE WOULD INCUR COSTS TO MOVE OUT THE BUILDINGS AND WOULD NOT HAVE A PLACE TO STORE OUR BELONGINGS. WE TRIED TO RENT STORAGE, BUT NONE WAS AVAILABLE AT THAT TIME.

3. The following conditions which were not created by the owner's actions are unique to this parcel and are not commonly found on parcels used in similar ways:

WE ACTUALLY HAVE TWO LOTS.

4. The proposed development would not adversely affect the rights of adjacent property owners because

WE HAVE PAINTED THEM TO MAKE THEM LOOK BETTER. ONE NEIGHBOR DOES NOT HAVE A PROBLEM WITH THEM.

5. The proposed development would not be contrary to the general spirit and intent of the Osage City Zoning Regulations because

THIS ~~REG~~ REGULATION WAS NOT ON THE WEBSITE WHEN WE LOOKED. ~~WE~~ TURNED THE FIRST TIME. IN TURN, WE DID NOT KNOW THEY WOULD BE A PROBLEM.

If the space provided on this form is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including site plans, photographs, drawings, building elevations, maps, statistics, legal documents, and letters of support.

For questions please call the Zoning Administrator; 785 528-3714.

All rulings of the Board of Zoning Appeals shall be final and binding on all parties. Any decision of the Board of Zoning Appeals may be appealed according to district court within 30 days of a final decision.

This application cannot be processed until each of the following items has been submitted.

- Written and signed certifications from the Osage County Treasurer's office that all property taxes for the parcel have been paid.
- Copy of deed (available from the Osage County Register of Deeds. (See Record of Owners – Attached))
- Names and mailing addresses of the owners of record of real property within 200 feet of the boundaries of the parcel and the legal descriptions of each property within 200 feet of the boundaries of the parcel. Please present this information in print-out form from the Osage County Appraiser.
- Supporting documentation, such as a site plan, building elevations, landscape plan, and detailed studies, may be required. Please confer with the Zoning Administrator prior to submitting this application.

PLEASE NOTE:

The applicant MUST be present at the public hearing in order for this application to be considered. The application may be tabled if the applicant is not present.

Van Buren St

Van Buren St

332 Van Buren St



RE: Storage Containers at 332 Van Buren St.

20-7

Mueting, Brian <Brian.Mueting@becn.com>

Tue 8/20/2024 11:23 AM

To: Code Administrator <codeadmin@osagecity.com>

Cc: Katie Hodge <katie@osagecity.com>; Fred Nech <chief@osagecity.com>

James,

I have the variance application filled out. Is there a way that I can email it as we are not in town during the day to be able to bring it to city hall by the 27th? If not, I am off work on August 30th and can bring it in then. Or can I email it to meet the date of the 27th and then bring in a hard copy on the 30th?

Let me know.

Thanks,

Brian Mueting

Department Manager - Rebar

Beacon Building Products

O 785-596-8983 | M 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



From: Code Administrator <codeadmin@osagecity.com>

Sent: Tuesday, August 20, 2024 11:08 AM

To: Mueting, Brian <Brian.Mueting@becn.com>

Cc: Katie Hodge <katie@osagecity.com>; Fred Nech <chief@osagecity.com>

Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Mr. Mueting,

The city has been extremely patient with the storage container violations that you have on your property.

The first letter of the violation was sent to you 7/19/2023.

If the shipping containers or not removed or a variance for the shipping containers is not presented to the clerks in city hall by Aug 27th a citation for the violation will be issued.

James Welch

Code Administrator

City of Osage City

codeadmin@osagecity.com

Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Tuesday, June 25, 2024 4:14 PM
To: Code Administrator <codeadmin@osagecity.com>
Cc: Brian Mueting <bmueting@hotmail.com>
Subject: RE: Storage Containers at 332 Van Buren St.

I will send in the variance as soon as I have time to fill it out.

From: Code Administrator <codeadmin@osagecity.com>
Sent: Tuesday, June 25, 2024 4:02 PM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

You will still have to ask the planning and zoning. That circumvents the intent of the code and I wont sign off on that. I understand you are trying to save money but I have to follow the intent and the letter of the code. I apologize for the incontinence but I feel that is the best route. If you would like I can have city hall staff reach out to add you to a planning and zoning agenda.

James Welch
Code Administrator
City of Osage City
codeadmin@osagecity.com
Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Tuesday, June 25, 2024 3:55 PM
To: Code Administrator <codeadmin@osagecity.com>
Subject: RE: Storage Containers at 332 Van Buren St.

I can cover the top of them with TPO or rubber to take care of the roof part. That I can get where I work.

From: Code Administrator <codeadmin@osagecity.com>
Sent: Tuesday, June 25, 2024 3:43 PM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

The code says “completely enclosed” a fence does not meet that requirement.
A fence does not cover the roof which meets the definition of “completely enclosed”

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Tuesday, June 25, 2024 3:38 PM
To: Code Administrator <codeadmin@osagecity.com>
Cc: Katie Hodge <katie@osagecity.com>; Brian Mueting <bmueting@hotmail.com>
Subject: RE: Storage Containers at 332 Van Buren St.

James,

Again, a fence that exceeds 80% visual blockage per the City of Osage City Zoning and Subdivision Regulations (attached) is considered a structure. By enclosing the storage containers inside an 80% visually blocked fence, they will be completely enclosed inside a structure and will satisfy the zoning code. Show me where I am wrong, and I will gladly send in the variance.

Thanks,

Brian Mueting
Department Manager - Rebar
Beacon Building Products
O 785-596-8983 | M 785-414-0391
218 SE Branner St
Topeka, KS 66607
becn.com



From: Code Administrator <codeadmin@osagecity.com>
Sent: Tuesday, June 25, 2024 3:15 PM
To: Mueting, Brian <Brian.Mueting@becn.com>
Cc: Katie Hodge <katie@osagecity.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Brian,

I have attached the building permit you submitted. It states your intention to hide the shipping containers behind a fence.

I have attached again the zoning code that explicitly spells out the requirement of enclosing a shipping container inside of another structure.

The permit will not be approved as it is presented.

You have the option of a hearing before the city council or applying for a variance.

James Welch

Code Administrator

City of Osage City

codeadmin@osagecity.com

Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueeting, Brian <Brian.Mueeting@becn.com>
Sent: Monday, June 24, 2024 7:10 AM
To: Code Administrator <codeadmin@osagecity.com>
Cc: Brian Mueeting <bmueting@hotmail.com>
Subject: RE: Storage Containers at 332 Van Buren St.

James,

Per the attached page from the City of Osage Zoning Regulations, a fence is a structure if it exceeds 80% visual blockage. We are not "hiding" the shipping containers as you say. We are proposing to enclose them in a structure to satisfy the requirements of number 3 below.

We request a building permit be issued and then we can move forward with getting the contractors set up to do the work. If permits need to be requested for their work, I will make sure that they complete that task.

Thanks,

Brian Mueeting

Department Manager - Rebar
Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



From: Code Administrator <codeadmin@osagecity.com>
Sent: Friday, June 21, 2024 11:36 AM
To: Mueeting, Brian <Brian.Mueeting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Brian,

I am sorry but hiding the shipping containers is not allowed under the zoning codes.

In order to proceed with this plan of action you would have to apply for a variance through the planning and zoning commission.

Once you have obtained the variance I will sign the permit for the proposed plan.

Listed below is the prohibited uses for accessory structures.

c. Prohibited accessory uses. None of the following shall be permitted as an accessory use:

1. Outdoor storage or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Zoning Administrator that such waiver would not be adverse to public health, safety or welfare.
2. Outdoor storage, except as specifically permitted in the district regulations.
3. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure. Further, in the event any such container, lawfully placed as of the effective date of these regulations, is removed, no replacement container may be placed on the property.

I have attached a variance application.

James Welch

Code Administrator

City of Osage City

codeadmin@osagecity.com

Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>

Sent: Monday, June 17, 2024 4:28 PM

To: Code Administrator <codeadmin@osagecity.com>

Cc: Brian Mueting <bmueting@hotmail.com>

Subject: RE: Storage Containers at 332 Van Buren St.

James,

Attached is the building permit. I could not fill everything out as I am still waiting on a couple quotes. Let me know if you have any questions.

Thanks,

Brian Mueting

Department Manager - Rebar
Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



From: Code Administrator <codeadmin@osagecity.com>
Sent: Friday, June 14, 2024 10:59 AM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Thanks for the update.

James Welch
Code Administrator
City of Osage City
codeadmin@osagecity.com
Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Friday, June 14, 2024 10:58 AM
To: Code Administrator <codeadmin@osagecity.com>
Subject: RE: Storage Containers at 332 Van Buren St.

James,

I plan on filling out the building permit this weekend and send it to you on Monday (or wherever it goes). I have been busy at work and have been trying to get pricing from contractors on what we plan in doing, so that is what has caused the delay.

Thanks,

Brian Mueting
Department Manager - Rebar
Beacon Building Products
☎ 785-596-8983 | 📠 785-414-0391
218 SE Branner St
Topeka, KS 66607
becn.com



From: Mueting, Brian
Sent: Wednesday, May 29, 2024 10:30 AM
To: Code Administrator <codeadmin@osagecity.com>
Subject: RE: Storage Containers at 332 Van Buren St.

Thank you.

Thanks,

Brian Mueting
Department Manager - Rebar
Beacon Building Products
O 785-596-8983 | M 785-414-0391
218 SE Branner St
Topeka, KS 66607
becn.com



From: Code Administrator <codeadmin@osagecity.com>
Sent: Wednesday, May 29, 2024 10:28 AM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Good morning,

No deed is needed for the permit. Basic info only on the permit will be needed for this project.
I don't really need a drawing for it either.
I will allow some extra time to get the paperwork submitted.
Thank you for your response.

James Welch
Code Administrator
City of Osage City
codeadmin@osagecity.com
Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Tuesday, May 28, 2024 8:32 AM
To: Code Administrator <codeadmin@osagecity.com>
Cc: Brian Mueting <bmueting@hotmail.com>
Subject: RE: Storage Containers at 332 Van Buren St.

James,

We are planning on submitting the building permit application as soon as possible. Is the copy of the deed necessary to submit the application? Since the house is in my wife's late husband's name and her old name, I am not able to request a copy of the deed. Since she is in the medical field, she is not able to just take off anytime to be able to go in and request one as she is probably booked out 6 months with appointments.

Also, we may need a little added time to be able to get every submitted.

Thanks,

Brian Mueting
Department Manager - Rebar
Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



From: Mueting, Brian

Sent: Thursday, October 19, 2023 10:27 AM

To: 'Code Administrator' <codeadmin@osagecity.com>

Subject: RE: Storage Containers at 332 Van Buren St.

James,

We are on vacation next week, so we will try to get a variance submitted the week after. I know that my wife needs to get some information from the county/city to be able to fill out the form. That will determine when we get the form submitted.

Thanks for your help.

Thanks,

Brian Mueting
Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



From: Code Administrator <codeadmin@osagecity.com>

Sent: Monday, October 16, 2023 2:07 PM

To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

In order to minimize the costs that you may have the variance to forgo the siding and use a fence would be your best bet. They may not require the roof either. At this point I can only offer a guess.

James Welch
Code Administrator
City of Osage City
codeadmin@osagecity.com
Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Monday, October 9, 2023 9:54 AM
To: Code Administrator <codeadmin@osagecity.com>
Subject: RE: Storage Containers at 332 Van Buren St.

James,

How do you think we should proceed? Submit a building permit to put a roof on the two containers how they sit? Or a permit if we were to move them and put up a fence?

Or do we need to skip the building permit and go straight to requesting a variance?

I am just not sure what we need to do at this point. What is the best way to proceed to hopefully get the matter taken care of without having to get rid of the containers?

Thanks,

Brian Mueting
Beacon Building Products
O 785-596-8983 | M 785-414-0391
218 SE Branner St
Topeka, KS 66607
becn.com



From: Code Administrator <codeadmin@osagecity.com>
Sent: Friday, October 6, 2023 11:42 AM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

Brian,

The following is the zoning code that I have referenced.

Located in Article 20, Sub section 20-7 Accessory Uses, Item 20-701 letter C Prohibited accessory uses.

c. Prohibited accessory uses. None of the following shall be permitted as an accessory use:

1. Outdoor storage or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile 20-152

homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Zoning Administrator that such waiver would not be adverse to public health, safety or welfare.

2. Outdoor storage, except as specifically permitted in the district regulations.

3. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure. Further, in the event any such container, lawfully placed as of the effective date of these regulations, is removed, no replacement container may be placed on the property.

James Welch

Code Administrator

City of Osage City

codeadmin@osagecity.com

Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>

Sent: Wednesday, October 4, 2023 8:47 AM

To: Code Administrator <codeadmin@osagecity.com>

Subject: RE: Storage Containers at 332 Van Buren St.

James,

I have tried to find the actual code on the Osage City website but have not been able to locate it. Do you have a pdf that you could send me and tell me the date it was implemented? I just want to make sure I have all my ducks in a row when I submit the building permit.

Thanks,

Brian Mueting

Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607



From: Code Administrator <codeadmin@osagecity.com>
Sent: Monday, October 2, 2023 2:10 PM
To: Mueting, Brian <Brian.Mueting@becn.com>
Subject: RE: Storage Containers at 332 Van Buren St.

CYBERSECURITY WARNING: External Sender is codeadmin@osagecity.com. Pause and review before clicking links or opening attachments. When in doubt, click Report Phish.

As a home owner you are able to construct the roofs and add siding to the containers.
You can submit a permit application without a contractor. Just put "self" under the contractor information.
You can obtain a building permit application at city hall where you pay your bill or on the Osagecity.com web site.

As the Code stands right now the containers would have to have siding attached to them to make them appear to be regular sheds along with a roof.
Windows are not required.
If you would like to discuss this in person feel free to call my cell phone.

James Welch
Code Administrator
City of Osage City
codeadmin@osagecity.com
Cell: (785) 817-4061 | Office: (785) 528-3802 | Fax: (785) 528-3022

From: Mueting, Brian <Brian.Mueting@becn.com>
Sent: Tuesday, September 26, 2023 10:50 AM
To: Code Administrator <codeadmin@osagecity.com>
Subject: Storage Containers at 332 Van Buren St.

James,

I am Shelley Mueting's husband. You know her as Shelley Brooks due to the house still under that name.

I am writing about the storage containers that are in our backyard. I know that you would like to have a roof put on them to make them look more like a shed. I have not been able to get a contractor to give me a quote to do that for us and that is why we have not submitted for a building permit. I was not sure if we as the homeowners could do that or if it had to be by a contractor. I have passed the ICBO Builders Contractor License test but do not currently have a contractor license. Not sure that helps if we do need a licensed contractor to submit for the permit.

Just so you know, Shelley did get the containers mostly painted this past weekend. Not sure if that helps our cause or not. We would really like to just paint the roof and trim a darker color with some faux windows to give the illusion that they are just typical sheds, but that would obviously be up to you.

Please let me know what I need to do to get a permit. Shelley and I both work out of town, so it is hard for us to do anything in Osage during normal business hours. If I could do it online or through email, that would help me greatly.

Thanks,

Brian Mueting

Beacon Building Products

☎ 785-596-8983 | 📠 785-414-0391

218 SE Branner St

Topeka, KS 66607

becn.com



SECTION 20-7 ACCESSORY USES

20-701. Accessory uses are permitted in any zoning district in connection with any permitted principal use, consistent with the provisions of this section and section 20-8.

- a. **Definitions.** An accessory use is a structure or use which:
1. Is subordinate to and serves a principal building and principal use.
 2. Is subordinate in area, extent or purpose to the principal building or buildings served.
 3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served.
 4. Is located on the same tract as the principal building or principal use served.
- b. **Permitted accessory uses.** Any structure or use that complies with the terms of subsection a. of this article may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following:
1. Private garages and carports, whether detached or attached, as further regulated by section 20-8.
 2. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed one hundred forty-four (144) square feet in gross floor area.
 3. A children's playhouse.
 4. A private swimming pool and bathhouse.
 5. A guest house or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units or permanent occupancy as house-keeping units.
 6. Statuary, arbors, trellises, barbecue stoves, flagpoles, fences, walls, hedges and radio and television antennas.

7. Storm shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
8. Off-street parking and loading spaces as regulated by Article 22 of these regulations.
9. Retail sales of products manufactured, processed or fabricated on site.
10. Storage of recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, motor homes, provided no such equipment is occupied for dwelling purposes.
11. Restaurants, drug stores, gift shops, club and lounges and newsstands when located in a permitted hotel, motel or office building.
12. Offices for permitted business and industrial uses when the office is located on the same site as the business or industry to which it is an accessory.
13. The storage of retail merchandise when located within the same building as the principal retail business.

c. Prohibited accessory uses. None of the following shall be permitted as an accessory use:

1. Outdoor storage or overnight parking in a residential district of trucks of a gross vehicle weight of 12,000 pounds or mobile homes, provided such storage or parking may be permitted upon the issuance of a waiver by the Zoning Administrator following a finding by the Zoning Administrator that such waiver would not be adverse to public health, safety or welfare.
2. Outdoor storage, except as specifically permitted in the district regulations.
3. Storage of containers typically transported by tractor-trailer rigs, in a residential district, except where completely enclosed within a structure. Further, in the event any such container, lawfully placed as of the effective date of these regulations, is removed, no replacement container may be placed on the property.

board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the board and shall be public record.

25-203. The secretary of the Osage City Planning Commission shall serve as the secretary of the Board of Zoning Appeals.

25-204. The Board of Zoning Appeals shall meet as needed to consider the business before it. The board shall select one of its members as chair and one as vice-chair, who shall serve one year and until their successors have been selected. Special meetings may be called at any time by the chair or in the absence of the chair, by the vice-chair.

SECTION 25-3 APPEALS

25-301. The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

- a. Appeals to the board may be taken by the person aggrieved, or by any officer, department or bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within sixty (60) days after a ruling has been made by the Zoning Administrator. The Zoning Administrator shall transmit to the secretary of the board all papers constituting the record upon which the action appealed from is taken.
- b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the board, after the notice of appeal has been filed, that a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

SECTION 25-4 VARIANCES

25-401. The board shall have the power to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- a. The applicant must show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property which existed at the time of the effective date of the district zoning regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of the property in the manner similar to that of other property in the zoning district where it is located.
- b. Variances from these regulations may be granted only in the following instances:
 1. To vary from the applicable lot area and width, height and yard regulations.
 2. To vary from the applicable off-street parking and loading requirements.
- c. In accordance with Section 25-10 a request for a variance may be granted by the Zoning Administrator for variances of 15% or less of the requirement. Requests for variances of greater than 15% of the requirement of the regulation may be granted, upon a finding of the board that all of the following conditions have been met. The board shall make a determination on each condition, and the finding shall be entered in the record:
 1. The variance requested arises from a 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 action of the property owner or applicant.
 2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- d. In granting a variance, the board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.
- e. Whenever the board grants a variance the results of such action will be recorded with the Register of Deeds of Osage County by the secretary, after the passage of the thirty (30) day appeal period.

SECTION 25-5 EXCEPTIONS

25-501. The board shall have the power to grant exceptions to the provisions of these zoning regulations, when expressly authorized to do so by these regulations in a particular zoning district or districts.

- a. In no event shall exceptions to the provisions of the zoning regulations be granted where the exception contemplated is not specifically listed in the zoning regulations. The board shall not grant an exception when the conditions established by this section are not found to be present.
- b. The board shall not grant an exception unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
 1. The proposed exception complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 2. The proposed exception at the specified location will contribute to and promote the welfare or convenience of the public.
 3. The proposed exception will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 4. The location and size of the exception, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the exception will not dominate the immediate

neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the exception will so dominate the immediate neighborhood, consideration shall be given to:

- (a) The location, nature and height of buildings, structures, walls and fences on the site, and
 - (b) The nature and extent of landscaping and screening on the site;
5. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect;
 6. Adequate utility, drainage and other such necessary facilities have been or will be provided; and
 7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

25-502. Exceptions Allowed. The following exceptions are expressly allowed to be granted by the board when such is consistent with Section 25-501:

- a. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within one hundred (100) feet of said district boundary line.
- b. An off-street parking area in a residential district where such facility would relieve traffic congestion on the streets and where said parking lot conforms to the following specification:
 1. The land devoted to parking to be located adjacent to, and within 200 feet of a business or industrial district.
 2. Walls, fences, or planting shall be provided in a manner to afford protection for and be in harmony with surrounding residential property.

3. The same front yard depth restrictions shall be required as are required in the zoning district in which the parking area is located.
 4. All driveways and the area used for the parking of vehicles shall be surfaced with a hard, durable, rustproof material, and be properly drained.
 5. The area shall be used exclusively for parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
 6. The approval of all plans and specifications for the improvement, surfacing, drainage, entrances, and exits, or lights for said parking area shall be obtained from the City Engineer.
 7. The area shall conform to such other requirements as the board, in the exercise of sound discretion, may require for protection of surrounding property, persons, and neighborhood values.
- c. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve
- d. Special Yard and Height Exceptions: The following yard exceptions, limited as to location and especially in locations described below may be approved by the board.
1. An exception in the yard regulations on a lot where, on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations.
 2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
 3. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.
 4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths

shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

SECTION 25-6 DETERMINATIONS OF BOARD

25-501. In exercising the foregoing powers, the board may reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a zoning certificate.

SECTION 25-7 BOARD HEARINGS

25-701. The board shall hold a public hearing on each application for an appeal, variance or exception. On all applications, notice of time and place of the public hearing shall be published once in the official city newspaper not less than twenty (20) days prior to the date of such public hearing. In addition, for all applications for a variance or exception all property owners within two hundred feet (200') of the subject property (1,000 feet when the subject property is adjacent to the city limits) shall be notified by mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or exception.

25-702.

- a. The procedure for requesting a hearing before the board is as follows:
 1. All applications to the board shall be in writing on forms provided by the Zoning Administrator. Applications shall be completed in their entirety and filed in the office of the Zoning Administrator with all supporting data. The Zoning Administrator may require any legal description submitted as part of an application to be certified by a registered surveyor, and shall determine whether the filed application is complete.
 2. The Zoning Administrator may either create the required ownership list or may require an application to be accompanied by an ownership list, certified by a registered abstractor, listing the legal description and the names and addresses of the owners of all property located within two hundred (200) feet of the boundaries of the property included in the application. Whenever any portion of the property that is the subject of the application is within two hundred (200) feet of the city limits the applicant shall provide such an ownership list for the property

structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the board in consideration of the application should be included.

3. Exceptions.

- (a) The applicant shall submit a statement in writing justifying the exception applied for, and indicating under which article and section of the zoning regulations the Board of Zoning Appeals is believed to have jurisdiction.
- (b) The applicant shall prepare and submit in duplicate at the time of filing the application a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the board in consideration of the application.

SECTION 25-8 PERFORMANCE UPON GRANT OF VARIANCE OR EXCEPTION

25-801.

- a. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.
- b. The board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the board, and shall be enforceable by or payable to the Governing Body in a sum less than or equal to the cost of constructing the required improvements.
- c. In lieu of the performance bond requirements, the board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration

- d. After the board has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted, and the provisions of these regulations shall thereafter govern.

SECTION 25-9 APPEALS FROM BOARD DECISIONS

25-901. In exercising its powers the board, in conformity with the provisions of this article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the board may bring an action in the District Court of Osage County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by the board, in accordance with state law.

SECTION 25-10 ADMINISTRATIVE VARIANCES

25-1001.

- a. Except where variances are expressly prohibited by the Regulations, any requirement under these Regulations which may be varied from in accordance with the provisions of Section 25-4 may be submitted to the Zoning Administrator with a request for an administrative variance.
- b. No application for an administrative variance may reduce the requirement sought to be varied from by an amount greater than fifteen (15) percent.
- c. The Zoning Administrator may approve, disapprove, modify and approve, or refer directly to the Board of Zoning Appeals, an application for administrative variance.
- d. Any final decision by the Zoning Administrator on an application for an administrative variance may be appealed to the Board of Zoning Appeals.