

II. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public Hearing to receive comments on a variance request to exceed the number and size of signs in the C-3, central business district, at 100 North 10th Street.

Details:

Site Address: 100 North 10th Street
Legal Description: Lot 6-9 Block 40 Orig Plat, City of Independence, Montgomery County, Independence.
Property Owner: Brew Crew Properties LLC, Sarah Kromer
Existing Use: Scooter's coffee kiosk
Existing Zoning: C-3, central commercial district

Background/History: Scooter's was recently built, and they are wanting to add three of their brand standard snap signs to the building that are 8 sq. ft. rather than the 5 sq. ft. the City Code allows. They currently have 4 signs, one on the front, one on the back and one on each side of the building. This would add three signs on each side.

Request:

There is a Scooter's Coffee Drive-Thru sign already on the building and they want to add 3 more signs to each side of the building. City Code for a corner building allows for one sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller.

A standard Scooter's coffee kiosk has four (4) signs on each side of the building, one sign in front and one at the rear, for a total of ten (10) signs. They have one free-standing sign which City code allows. The brand standard size they use for the three signs they want to add is 8 sq. ft. The City Code allows for 5 sq. ft. signs. The total sq. ft. for the four signs on each side of the building is 66.4 sq. ft., 16.4 sq. ft. more than the City Code allows.

Policy Explanation:

802.6. District C-3, central commercial district:

a. *Permitted signs:*

1. *[Generally:]* Signs permitted in the C-3 district shall be illuminated signs, nonilluminated signs, marquee signs, temporary signs, wall signs and projecting signs with the exception that no sign shall be mounted, painted or affixed to any surface extending above the transom or storefront beam whichever is higher.
2. *Wall signs:* One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller.
3. *Corner buildings:* One sign equal to standards above for each wall.
4. *Multiuse signs:* Total sign area for all uses not to exceed above standards.
5. *[Signs hanging from awnings or mounted to storefronts:]* Signs hanging from awnings or mounted to storefronts may not exceed five square feet per face.
6. *[Freestanding buildings:]* Freestanding buildings shall be permitted one freestanding sign not to exceed 80 square feet per face or 160 square feet total of all faces in the sign area. The top of the sign shall not be higher than 25 feet above ground level.
7. *Historical restorations or reproductions:* Historically significant or reproduced signs shall be referred to the Main Street Committee for recommendation to the city commission who may authorize such installation.
8. *[Rear wall signs:]* One rear wall mounted sign not to exceed 18 inches by 36 inches for business identification.

b. *[Poster panels and billboards:]* Poster panels and billboards shall not be permitted in the C-3 zone.

c. *Signs on awnings, canopies, and marquees:*

1. There shall not be more than one sign exceeding an aggregate gross surface area of such awning, canopy or marquee of ten percent of the gross area for each principal building.
2. The gross surface area of a sign shall not exceed 50 percent of the gross surface area of the awning, canopy or marquee to which the sign is fixed.

d. *General standards:*

1. Any awning, canopy, marquee or projecting sign shall not be less than seven feet above the surface of the grade of any street or sidewalk.
2. Awnings and canopies shall be no closer than four feet from the public street curb and in no case extend more than 12 feet from the property line.
3. Marquees shall be no closer than two feet from the property line.

Variance: The granting of permission by the board of zoning appeals to allow the development of a lot or tract for uses allowed within the zoning district in a manner which exceeds

maximum limits or is less than minimum limits established by these regulations and where such limits prohibit use of the land in a manner equivalent to the abutting similarly zoned properties.

Sec. 2-116. - Variances, exceptions.

When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the following manner:

1. To authorize in specific cases a variance from the specific terms of the regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the 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 request for a variance may be granted in such case, upon a finding by the board that all the following conditions have been met:

In considering the providing of a variance we wish to provide the following information:

- a. *That the variance requested arises 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 any action or actions of the property owner or the applicant;*
 1. The four (4) standard brand signs are made for all Scooter's coffee kiosks and used for continuity.
- b. *That the granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents;* The granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents as the signs are not in excess.
- c. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;* The four (4) standard brand signs are used at all Scooter's coffee kiosks. Scooter's has done ample research for specific sizing on their snap frames and they are large enough to be seen but not in excess.
- d. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;* It does not appear that the variance will adversely affect public health, safety, morals, order, convenience, prosperity or general welfare.
- e. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.* According to section 801.2 of the zoning code, the intent and purpose of the sign code is: "Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate

goods, services, and facilities in the City of Independence without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein.” Granting the variance will not be opposed to the general spirit and intent of the zoning regulations. The signs are standard to any Scooter’s coffee kiosk.

2. To grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation.

In no event shall exceptions to the provisions of the zoning regulation be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulation. Under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulation by the board of commissioners, are not found to be present.

Staff Recommendation: City Staff recommends approving the variance based upon staff recommendation of the evidence presented in each specific case that:

- a. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 1. There is no apparent issue with public safety, health or welfare.
 2. The coffee kiosk has already made improvements by tearing down the old gas station and improving the area.
- b. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable generally to other property.
 1. The standard brand snap signs are used universally and would make this coffee kiosk stand out as different from other Scooter’s coffee kiosks if the variance is not granted.
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.
 1. The store would not be in continuity with other Scooter’s coffee kiosks.

Chairperson opens the hearing.

Public Comments:

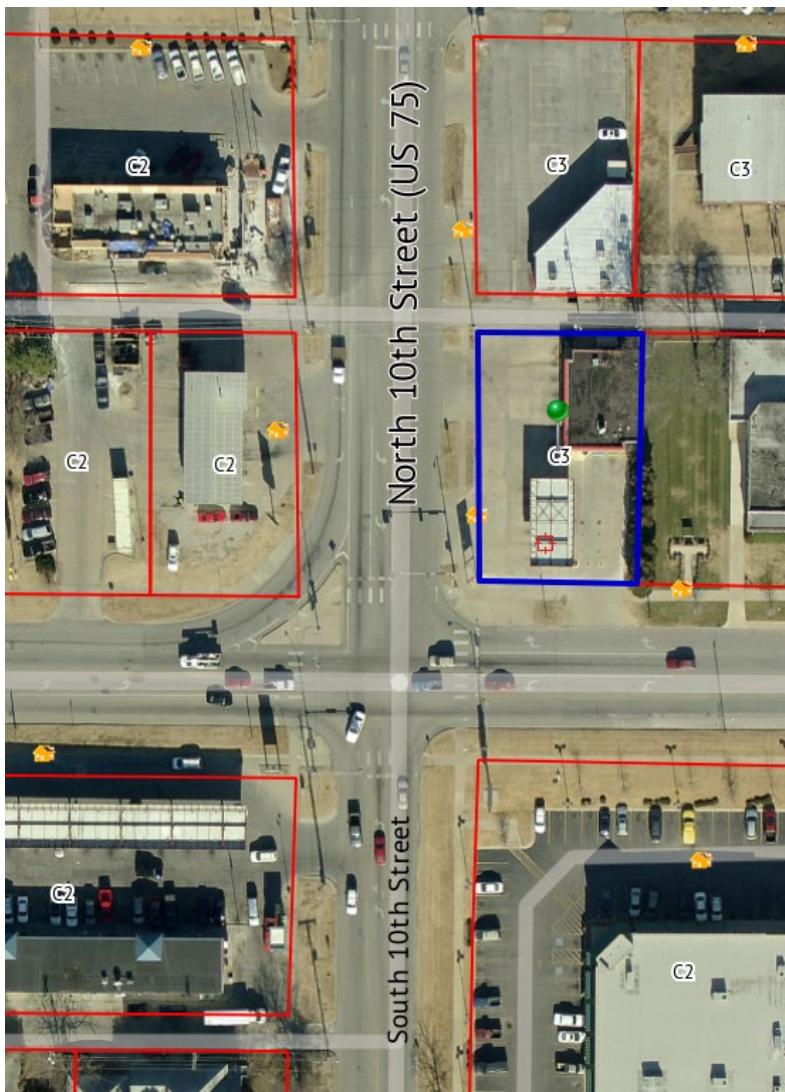
Suggested Motion:

I move to approve a variance to exceed the number and size of signs in the C-3, central business district, at 100 North 10th Street by allowing three (3) additional signs on both the east and west side of the building for a total of six (6) additional “snap frame” signs measuring 8.4 square feet each for a total of 50.4 square feet of additional signage.

Attachments:

Property Location
Application
Surrounding Property Owners' Responses (if any)
Hearing Notice

Property Location:



APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 12/5/2021

2. Name, Address and Telephone Number of Property Owner:
 Brew Crew Properties LLC
 Sarah Kromer
 13913 W. Lost Creek Circle Wichita, KS 67235

3. I appoint the following person as my agent during consideration of my request:
 Name: Sarah Kromer
 Address: 13913 W. Lost Creek Circle Wichita, KS 67235
 Telephone: 316-633-0323

4. Common Address of Land Involved:
 100 N. 10th Street
 Independence, KS 67301

5. Legal Description of Land Involved:
 According to our property deed, the description is the above listed address.
 Parcel # 099-31-0-20-08-005.00-0 Lot Size 12,197 Sq. Ft.

6. Describe what you wish to do which the zoning code prohibits:
 We would like to add snap frames on two sides our of building. Standard Scooter's coffee kiosks have 3 on each side. We would like to be allowed to have the 3 on each side, but would consider two on each side as well if this was more fitting for the zone code.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:
 Zoning permits 5 sq foot for signage on the building, our snap frames (3 on each side) are 8 sq feet each and cannot be made smaller.

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:
 We are in a commercia area. The signs require no extra lighting or space, they simply would be attached to the exterior of our existing building. Scooter's had tried to make them smaller in the past for other location and does not allow them to be any smaller.These are standard signage on sides of Scooter's coffee kiosks.

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Board of Zoning Appeals will conduct a public hearing on:

Tuesday, February 1, 2022, at 5:30 p.m.

To receive comments on a variance request to exceed the number and size of signs in the C-3, central business district, at 100 North 10th Street.

Common Address:

100 N. 10th Street

Legal Description:

Lot 6-9, Block 40, Orig Plat, City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Brew Crew Properties LLC, Sarah Kromer

Case Number:

2022/VAR/01

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

These snap frames are brand standard for all Scooter's coffee house and kiosks, and are used to help advertise what we offer. Not having these changes the appearance of the building, as well as the functionality of our building.

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

The purpose of these signs is solely for advertising that pose no risk to any of the above mentioned.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

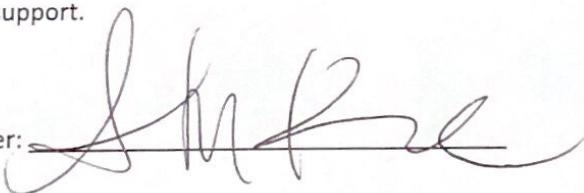
Scooter's has done ample research for specific sizing on their snap frames -they are large enough to be seen, but not in excess.

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

Document attached.

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

Signature of Property Owner:



Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____

CITY OF INDEPENDENCE

REC#: 01164496 12/13/2021 9:09 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-1878
AUTH #: 08030J
TRAN #: 000000049270

TYPE: PURCHASE
APP NAME: CAPITAL ONE
ENTRY MODE: CHIP

AMOUNT USD\$ 100.00

EMV DETAILS:
AC: CFF21B7FF83BA188
AID: A00000004101C
ATC: 0041
TSI: E800
TVR: 0000008000

TRAN: 1.9000 VARIANCE
100 N 10TH
VARIANCE FOR SCOOTERS
MISC FEES 100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00

**APPLICATION FOR SIGN PERMIT
CITY OF INDEPENDENCE, KS
620-332-2504**

BUSINESS Brew Crew LLC (DBA: Scooter's Coffee)

ADDRESS 100 N. 10th Street Independence, KS 67301

CONTACT NAME [Business Owner] Sarah Kromer

PHONE 316-633-0323 **City License #** _____

SIGN COMPANY Omaha Neon Sign Co.

CONTACT NAME Andye Nelson

Location of sign or advertising structure, be specific in detail: _____

Monument sign in SW corner of lot, two directional signs - one in NW corner, one in SE corner. (document attached with locations of each) _____

Color White, Red, Black **Dimensions** 12'x6'10"x28" (monument) 3'9"x23"x12" (directional) **sq ft per face** _____

Construction Material Aluminum, Lexan **Lit Internally? Y/N** Y

ELECTRICIAN TBD

COMPANY NAME _____

PHONE _____ **City License #** _____

ADDITIONAL INFORMATION & REQUIREMENTS

Does this design fit the guidelines of the historical district?

One set of detailed scale drawings and specifications [dimensions] showing proposed structure, method of construction and attachment to building or ground must accompany this application.

Stress and design calculation [if applicable] showing dead load and wind design must accompany this application.

Evidence that sign will comply with National Electric Code must accompany this application [if applicable].

Application submitted by Sarah Kromer

PERMIT APPROVAL

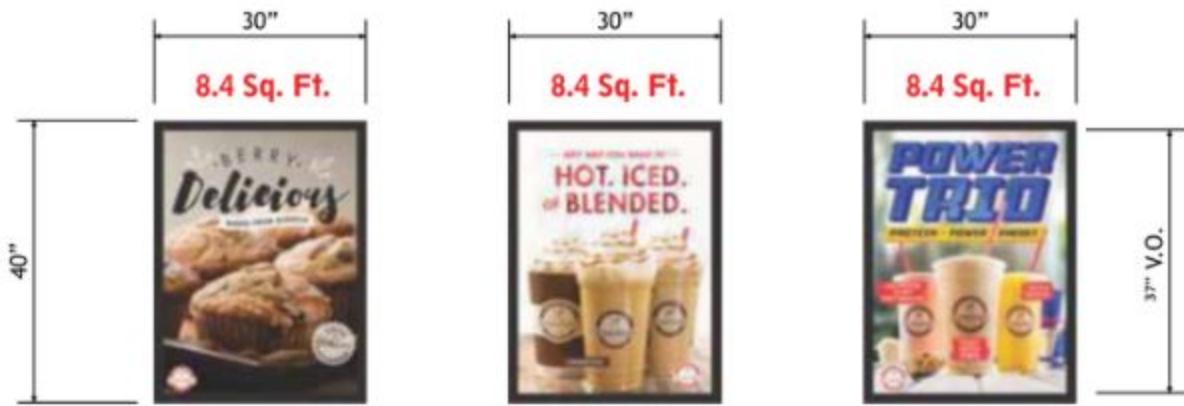
A \$25.00 fee must be paid and permit must be signed before work is started on installation of sign.

Zoning Administration **Date** _____ **Permit Number** _____



INSTALL CUSTOMER PROVIDED SIGN PANELS

SCALE: $\frac{1}{2}'' = 1'-0''$

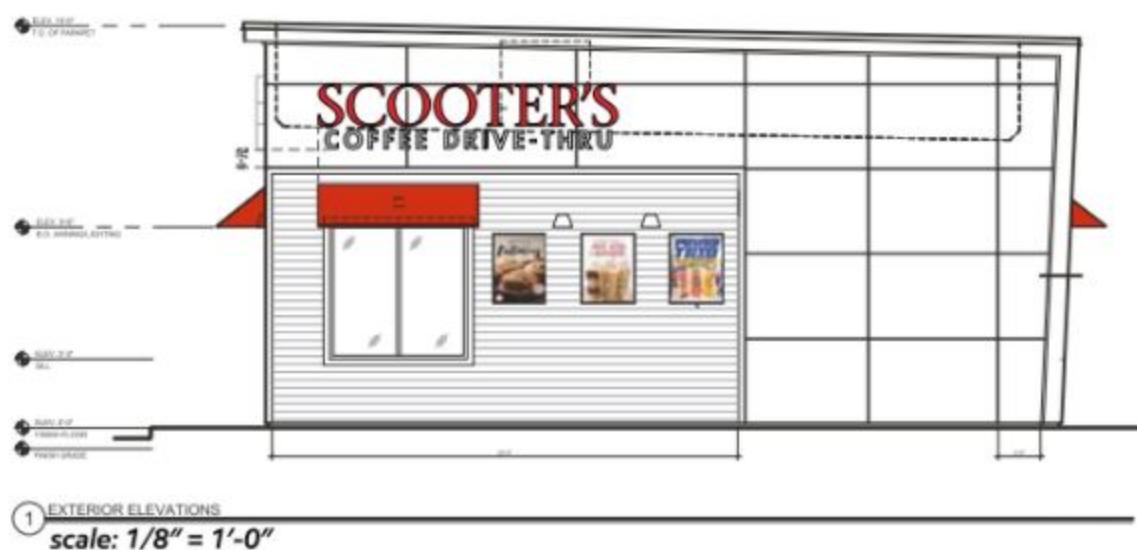


25.2 Total Sq. Ft.



SCOPE OF WORK:
INSTALL CUSTOMER PROVIDED SIGN PANELS. PANELS ARE TO BE MOUNTED TO FASCIA IN CUSTOMER SPECIFIED LOCATION USING PROPER HARDWARE AND FASTENERS (NON-CORROSIVE).

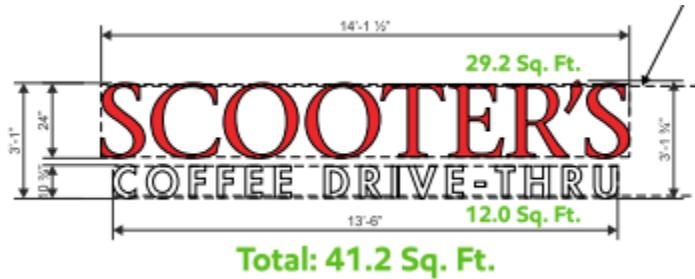
NOTE: SNAP FRAMES ARE TO BE INSTALLED BY



Sign on north/south sides of Building:



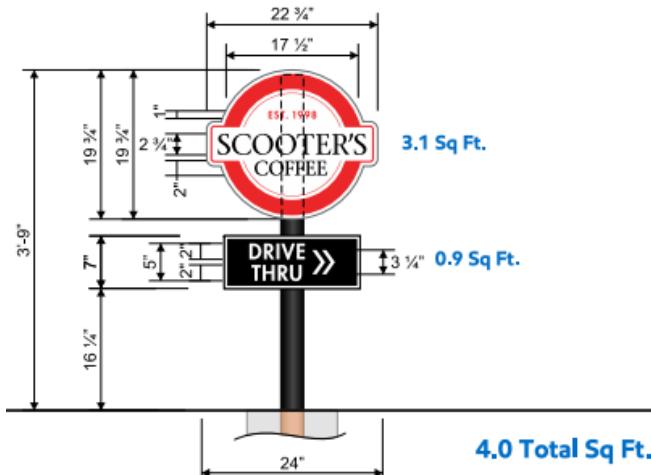
Signage on east/west sides of building:



Main Freestanding Sign:



Directional Freestanding Signs (at each entry - 2 total):



Asking for Variance of Snap Frames on east and west side of building:



25.2 Total Sq. Ft.

