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## **ZONING & PLANNING - KANSAS**

### [American Warrior, Inc. v. Board of County Commissioners of Finney County, Kansas](#)

**Supreme Court of Kansas - July 26, 2024 - P.3d - 2024 WL 3544081**

Landowner and owner of oil and gas lease brought action against board of county commissioners and operator of sand and gravel quarry, challenging validity of conditional use permit that county board of zoning appeals issued for quarry.

The District Court granted defendants' motion for summary judgment and denied plaintiffs' motion for summary judgment. Plaintiffs appealed. The Court of Appeals reversed and remanded. Defendants sought review, which was granted.

The Supreme Court held that:

- Lack of a yearly reapplication for permit for quarry operations did not moot the issue of validity of permit, and
- County's procedures for issuing conditional use permits did not conflict with state law and thus were not preempted.

Issue of validity of conditional use permit that county board of zoning appeals issued for operation of sand and gravel quarry was not mooted by the lack of a yearly reapplication for permit, where county zoning regulation provided that the permit was valid for at least one year, which could extend beyond that year if the project was substantially completed, and neither side raised a substantial completion issue.

County's procedures for issuing conditional use permits, under which county zoning board was delegated issuing power and two of three board members needed to agree when deciding in favor of a permit applicant, did not conflict with statute requiring county to follow statutory procedure when changing zoning regulations by amendment, and thus the statute did not preempt county's procedures and a conditional use permit for operating a sand and quarry, obtained via county's procedures, was valid, where application for the quarry permit did not ask county to supplement, change, or revise county's zoning regulations but rather merely sought to use property that was zoned as agricultural for a quarry operation based on existing county regulations.

County's procedures for issuing conditional use permits, under which county zoning board was delegated issuing power and two of three board members needed to agree when deciding in favor of a permit applicant, did not conflict with statute specifying process to appeal a zoning officer's decision to a specific zoning appellate board, and thus statute did not preempt county's procedures and a conditional use permit for operating a sand and quarry, obtained via county's procedures, was valid, where county zoning board and not some individual officer through administrative action granted the permit, and county regulations complied with other portions of the statute, which specifically contemplated zoning board authority and special uses.

