WICHITA – SEDGWICK COUNTY

WSC

FILE COPY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

August 4, 1999

Stefan Prystanski
9926 S. 151st Street West
Clearwater, KS 67026

RE: CoBZA 2-99 – This case is an appeal of the County Zoning Administrator's opinion that the applicants are operating an illegal business on land (approximately 9 acres) zoned "RR", Rural Residential. It is the opinion of the zoning administrator that the applicants are operating a "manufacturing limited" operation that requires a "conditional use" in the "LC", Limited Commercial or "GC" General Commercial Zoning Districts.

Dear Ladies and Gentlemen:

Enclosed is a signed-copy of the above-referenced CoBZA Resolutions adopted by the County Board of Zoning Appeals on June 7, 1999. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that the necessary signatures have been obtained.

If you have any questions concerning this matter, please contact our office at 268-4421.

Sincerely,

Keith Gooch

Keith Gooch, Assistant Secretary
County Board of Zoning Appeals

KG/rs

Enclosure

cc: Calvin D. Rider, 200 E. First Street, Suite 200, Wichita, KS 67202
Adams & Jones, %Roger D. Hughey, P. O. Box 1034, Wichita KS 672001-1034
George Blosing, County Code Enforcement
Glen Wiltse, County Code Enforcement
Michelle Daise, County Law
Don and Ladonna Lawrenz, P.O. Box 82, 9750 S. 151st Street West, Clearwater, KS 67026

BOARD OF ZONING APPEALS
SEDGWICK COUNTY, KANSAS

Appeal of	)	
	)	
STEFAN PRZYSTANSKI,	)	Case No. CoBZA 2-99
9926 S. 151st St. West,	)	
Clearwater, Kansas,	)	
	)	

DECISION AND RESOLUTION
June 7, 1999

This matter is the appeal of Stefan Przystanski from the March 15, 1999 determination of the Zoning Administrator for Sedgwick County, Kansas that the appellant's activities constitute manufacturing, in violation of Rural Residential zoning.

Stefan Przystanski appears by Calvin Rider of Brown, Dengler, Good & Rider, LC, his attorneys. The Zoning Administrator for Sedgwick County, Kansas appears by Jennifer Magaña, Assistant County Counselor.

A quorum was present, consisting of Chairman Wiley and Members Mullen, Gideon and Tidemann. Evidence was heard and received, and the Board recessed to executive session to deliberate, reconvened and announced its decision reversing the decision of the Zoning Administrator.

This is the written Decision of the Board, setting forth its findings and reasons.

Evidence Considered

The Board considered the following evidence:

1. The Administrative Record of the Sedgwick County Zoning Administrator.

2. Letter of Glen Wiltse, Zoning Administrator, to Calvin D. Rider dated March 15, 1999.

3. Statement of Administrative Error filed by Calvin D. Rider on behalf of Stefan Przystanski.

4. Copy of Warranty Deed from Clearwater Farms, Inc. to Stefan Przystanski and Erna Przystanski dated May 8, 1984.

IN OPPOSITION TO THE ADMINISTRATOR'S RULING:

5. Approximately 60 slide pictures.

6. Four topiaries in various stages of completion.

7. Wire.

8. Notebook with 7 sections:

   a. Receipts.
   b. Invoices.
   c. 1984 tax return.
   d. Escrow Agreement.
   e. Warranty Deed.
   f. Advertisement.
   g. Photographs.

9. Opening statement of Calvin Rider.

10. Testimony of Stefan Przystanski.

11. Testimony of Scott Hickman.

12. Testimony of Ryan Ast.

13. Testimony of Ann Woods.

14. Testimony of Bill Forest.

IN SUPPORT OF THE ADMINISTRATOR'S RULING:

15. 7 photographs taken in 1998.

16. 2 building permits.

17. Website page.

18. 4 aerial photographs.

19. Testimony of Donald Berntsen.

20. Statement of Jennifer Magaña.

21. Testimony of Glen Wiltse.

PHILIP L. BOWMAN
ROGER D. HUGHEY
MERT F. BUCKLEY
JOHN W. SUMI
MONTE VINES
LARRY D. SPURGEON
KENNETH G. GALE
PATRICK B. HUGHES
CATHLEEN A. GULLEDGE
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Roger D. Hughey E-Mail:
rhughey@adamsjones.com

August 2, 1999

HAND-DELIVERY

Mr. Dale Miller
Chief Planner, Current Plans
Metropolitan Area Planning Dept.
455 N. Main, 10th Fl.
Wichita, KS 67202

RECEIVED
AUG 02 1999
METROPOLITAN PLANNING
ROUTE

Re: **Stefan Przystanski, CoBZA 2-99**

Dear Dale:

I am enclosing the Decision and Resolution I have prepared following the hearing on June 7, 1999.

The legal description of the subject property was taken from the Warranty Deed attached to Mr. Przystanski's "Statement of Administrative Error," which was the land subject to the appeal. I understand there is some adjacent land about which there may be some dispute, but unless the administrative record shows that other land is involved, this is all of the land subject to the ruling of the Board.

Very truly yours,

ADAMS & JONES, CHARTERED

Roger D. Hughey

/kc

Enc.

Findings of Fact

The Board made the following findings of fact:

1. This proceeding concerns property described as:

> Beginning 2239.53 feet South of the Northwest corner of the Northwest Quarter; thence East 1322.9 feet to the East line of the West Half of the Northwest Quarter; thence South 329.48 feet to the South line of the Northwest Quarter; thence West 1325.72 feet to the Southwest corner of the Northwest Quarter; thence North 329.58 feet to the beginning, all in Section 23, Township 29 South, Range 2 West, Sedgwick County, Kansas,

commonly known as 9926 S. 151st St. West, Clearwater, Kansas ("Subject Property").

2. The owners of the Subject Property are Stefan Przystanski and Erna Przystanski.

3. The Subject Property is presently subject to "RR," rural residential zoning.

4. There was no evidence concerning the filing of a nonconformity registration form.

5. Beginning in 1984, the Subject Property was used in part for the manufacturing of topiary objects by hand by Mr. Przystanski.

6. Countywide zoning became effective January 1, 1985, thus subjecting the Subject Property to zoning for the first time.

7. Stefan Przystanski has continuously used the Subject Property for the manufacture of topiary objects by hand and continues that use to this day.

Conclusions

1. Stefan Przystanski's use of the Subject Property for the manufacture of topiary objects is the same as it was in 1984, before zoning went into effect.

2. Stefan Przystanski's use of the Subject Property for the manufacture of topiary objects does not conform to rural residential zoning regulations.

3. Stefan Przystanski is entitled to continue to use the Subject Property for the manufacture of topiary objects in the same manner as his use in 1984.

Resolution

Member Tidemann moved that the following resolution be adopted:

> BE IT RESOLVED that the determination letter of March 15, 1999 by the Sedgwick County Zoning Administrator be reversed for the reason of a prior nonconforming use.

Member Mullen seconded, and a vote was taken. In favor of the resolution: Chairman Wiley and Members Mullen, Gideon and Tidemann. Opposed: none. The resolution was adopted.

BOARD OF ZONING APPEALS OF
SEDGWICK COUNTY, KANSAS

Gary Wiley, Chairman

Dale Miller, Secretary

COBZA 2-99

This case is an appeal of the County Zoning Administrator's opinion that the applicants are operating an illegal business on land (approximately 9 acres) zoned "RR", Rural Residential. It is the opinion of the zoning administrator that the applicants are operating a "manufacturing, limited" operation that requires a "conditional use" in the "LC", Limited Commercial or "GC", General Commercial zoning.

