WICHITA — SEDGWICK COUNTY

W-SC

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

November 2, 1999

FILE COPY

G. D. Rousseau
9919 South Hillside
Haysville, KS 67060

RE: CoBZA 3-99 – Variance to allow the reduction of a rear yard setback to 5 feet for placement of agriculture building. Generally located south of 95th Street South and west of Hillside (9919 S. Hillside).

Dear Mr. Rousseau

Enclosed is a signed copy of the above-referenced CoBZA 3-99 Resolutions adopted by the County Board of Zoning Appeals on November 1, 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,

Lisa Verts

Lisa Verts, Assistant Secretary
County Board of Zoning Appeals

LV/rs

Enclosure

cc: George Bloesing, County Code Enforcement
Glen Wiltse, County Code Enforcement
Michelle Daise, County Law

Made with Recycled Paper

CoBZA RESOLUTION NO. 3-99

WHEREAS, G.D. Rousseau, pursuant to Section V-G, Wichita-Sedgwick County Unified Zoning Code, requests a variance to allow the reduction of a rear yard setback to 5 feet for placement of agriculture building on property zoned "RR" Rural Residential and legally described as follows:

> Lot 1, Bluebird Bayou an Addition to Sedgwick County, Kansas.
> Generally located south of 95th Street and west of Hillside
> (9919 S. Hillside).

WHEREAS, proper notice as required by ordinance and by the rules of the Sedgwick County Board of Zoning Appeals has been given; and

WHEREAS, the Sedgwick County Board of Zoning Appeals did, at the meeting of November 1, 1999, consider said application; and

WHEREAS, the Sedgwick County Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section V-G, Wichita- Sedgwick County Unified Zoning Code;

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the variance 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 an action or actions of the property owners or the applicant. It is the opinion of staff that this property is unique, inasmuch as a significant portion of the property is wetland with drainage problems or is covered with a well-established hedgerow, leaving only limited area for development.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of staff the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the proposed building will be out of site of all property to the north, east, and south. The property to the west is currently cultivated agricultural land.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of staff that the strict application of the provisions of the zoning regulation may constitute an unnecessary hardship upon the applicant, inasmuch as that without this variance the applicant would be required to remove a significant amount of trees or do major soil infill to bring the wetland area up to a higher elevation. The applicant already is required to infill the home site, per the Derby Planning Commission, at a significant personal cost.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the placement of the proposed building would save ecologically valuable hedgerow and keep the building out of site from surrounding properties.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulation, inasmuch as the rural nature of this area is maintained through the separation of buildings on adjacent property.

WHEREAS, each of the five conditions required by Section V-G, Wichita-Sedgwick County Unified Zoning Code, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of Sedgwick County that this request be **APPROVED** for a variance to decrease the rear yard setback to 5 feet on property zoned "RR" Rural Residential and legally described as follows:

Lot 1, Bluebird Bayou an Addition to Sedgwick County, Kansas.
Generally located south of 95th Street and west of Hillside
(9919 S. Hillside).

Subject to the following conditions:

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease the rear yard setback to 5 feet be GRANTED, subject to the following conditions:

1. The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning.

2. The agricultural building shall be placed on the site as indicated on the submitted site plan, at least 5 feet from the rear property line.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions

ADOPTED AT WICHITA, KANSAS, this 1st day of November 1999.

Gary L. Wiley, Chairman

ATTEST:

Lisa Verts, Assistant Secretary

BOARD OF ZONING APPEALS
SEDGWICK COUNTY, KANSAS

AGENDA ITEM NO. 1
November 1, 1999

SECRETARY'S REPORT

CASE NUMBER: CoBZA 3-99

OWNER/APPLICANT: G.D. Rousseau

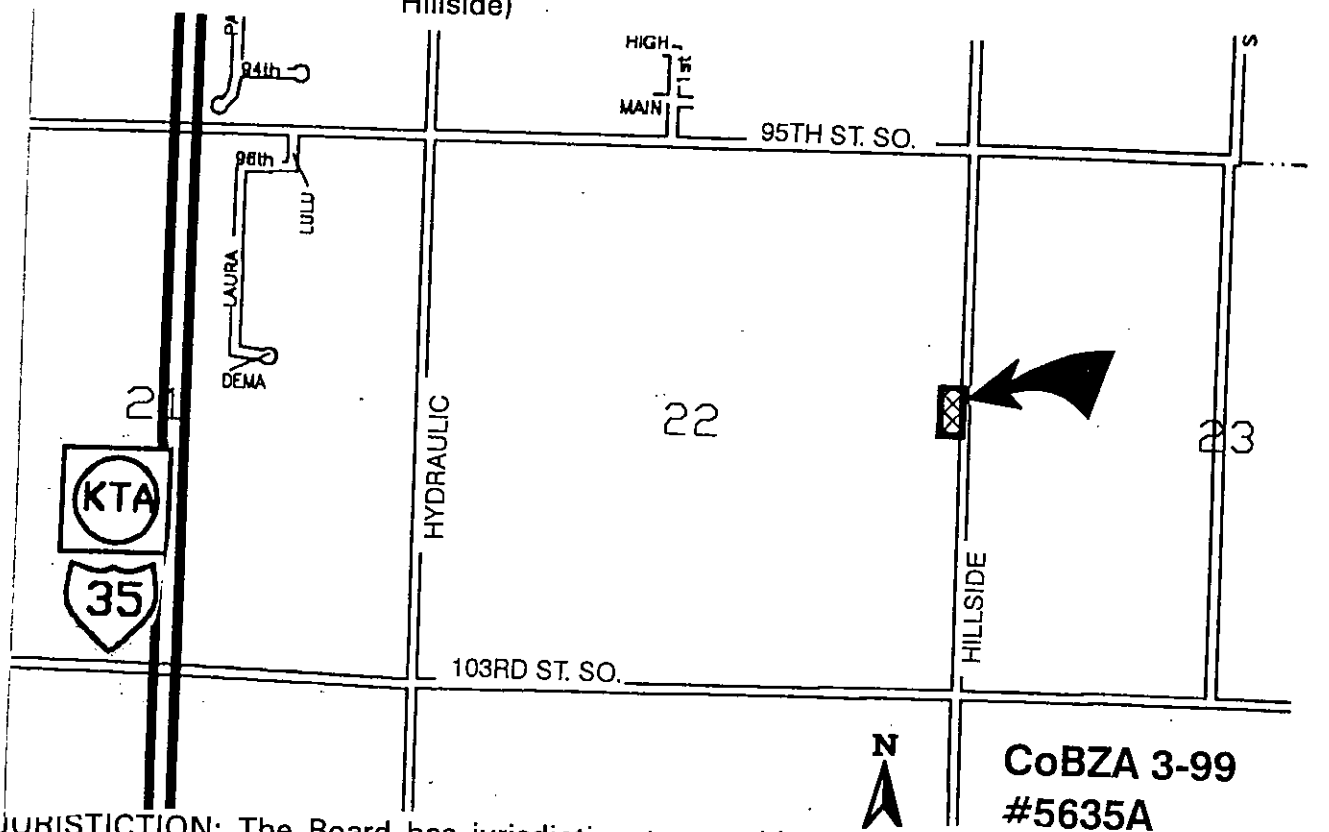
AGENT: N/A

REQUEST: Variance to allow the reduction of a rear yard setback to 5 feet for placement of agriculture building

CURRENT ZONING: "RR" – Rural Residential

SITE SIZE: 9.5 Acres

LOCATION: South of 95th Street South and west of Hillside (9919 S. Hillside)



JURISTICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 16.A.2 of the Sedgwick County Zoning Regulations. The Board my grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant wishes to develop the north half of a 9½-acre platted lot as a home site. In doing so, he wishes to place a 50 feet by 80 feet Stran Steel agricultural building at the rear of his property. The applicant is requesting a 20-foot reduction in the 25-foot rear yard building setback as required by the Unified Zoning Code.

Economics, topography, and a well-established hedgerow prevent the applicant from placing the agricultural building in any place other than the rear of the property, behind the hedgerow. Economically, it is not feasible to place the building on the south half of the lot, since this has potential of being sold as a separate parcel. Topographically, much of this property is low-lying wetland with significant drainage problems. Derby Planning Commission is requiring the home site pad to be elevated an additional three feet to account for the drainage problem. There is a well-established hedgerow that runs the full width of the north half of the 9½ acres and continues along the north boundary of the property. These trees stand in excess of 100 feet and add significant ecological diversity and intrinsic value to the site; removing them for the sake of putting up a corrugated steel building would not be ideal. There is a natural clearing in the trees along the applicant's west property line that, with this variance, would allow the construction of a building with minimal tree removal. The property to the west is used for agricultural purposes and does not contain any buildings near their common property line. Placing the building in this location would screen it from the adjoining property except to the west.

ADJACENT ZONING AND LAND USE:

NORTH	"RR" – Agricultural Uses
SOUTH	"RR" – Agricultural Uses
EAST	"RR" – Agricultural Uses
WEST	"RR" – Agricultural Uses

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as a significant portion of the property is wetland with drainage problems or is covered with a well-established hedgerow, leaving only limited area for development.

ADJACENT PROPERTY: It is the opinion of staff the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the proposed building will be out of site of all property to the north, east, and south. The property to the west is currently cultivated agricultural land.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulation may constitute an unnecessary hardship upon the applicant, inasmuch as that without this variance the applicant would be required to remove a significant amount of trees or do major soil infill to bring the wetland area up to a

higher elevation. The applicant already is required to infill the home site, per the Derby Planning Commission, at a significant personal cost.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the placement of the proposed building would save ecologically valuable hedgerow and keep the building out of site from surrounding properties.

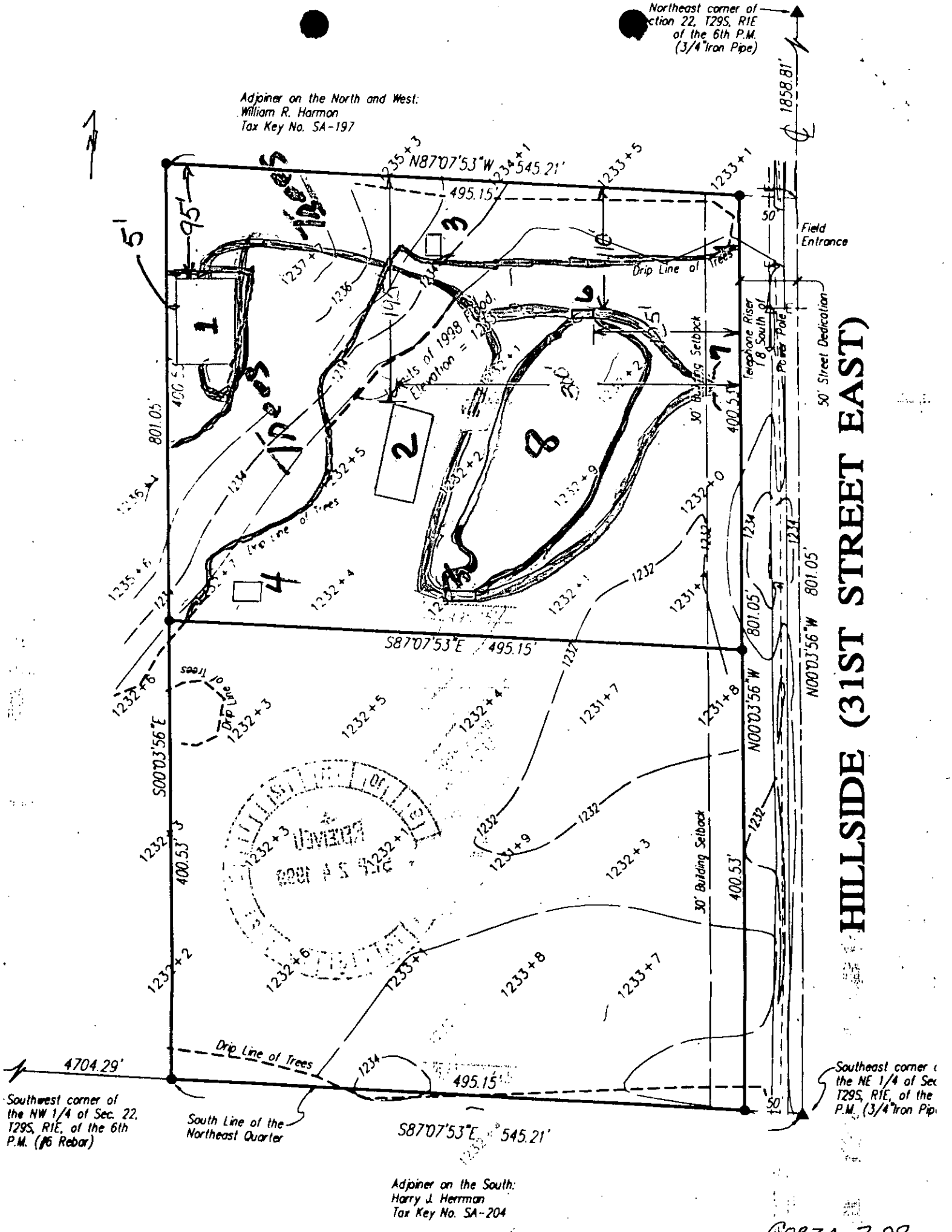
SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulation, inasmuch as the rural nature of this area is maintained through the separation of buildings on adjacent property.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease the rear yard setback to 5 feet be GRANTED, subject to the following conditions:

1. The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning.

2. The agricultural building shall be placed on the site as indicated on the submitted site plan, at least 5 feet from the rear property line.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions


Northeast corner of ction 22, T29S, R1E of the 6th P.M. (3/4" Iron Pipe)
Adjoiner on the North and West:
William R. Harmon
Tax Key No. SA-197
N87°07'53"W 545.21'
495.15'
1858.81'
50' Street Dedication
HILLSIDE (31ST STREET EAST)
Field Entrance
Drip Line of Trees
Telephone Riser 18 South of Power Pole
30' Building Setback
Limits of 1998 Flood Elevation = 1235
801.05'
400.53'
S87°07'53"E 495.15'
N00°03'56"W
S00°03'56"E
4704.29'
Southwest corner of the NW 1/4 of Sec. 22, T29S, R1E, of the 6th P.M. (#6 Rebar)
South Line of the Northeast Quarter
S87°07'53"E 545.21'
Southeast corner of the NE 1/4 of Sec T29S, R1E, of the P.M. (3/4" Iron Pip
Adjoiner on the South:
Harry J. Herrman
Tax Key No. SA-204
1 2 3 4 5 6 7 8

COBZA 3-99