CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

Ken Erxleben
7757 South Pattie Street
Haysville, KS 67060

October 29, 2024

RE: BZA2024-00060 – Variance request in the County to reduce building setback to 6 feet to allow an accessory pole barn in front of primary structure located on the northwest corner of South Pattie Avenue and East 77th Street (7757 South Pattie Avenue).

Dear applicant;

At its regular meeting on **October 10, 2024**, the official action of the Board of Zoning Appeals was to **GRANT** the requested Variance. The approval of the request is subject to the following conditions:

1. The site is to be developed in general conformance to the approved site plan.

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

Sincerely,

Christina Rieth

Christina Rieth
Current Plans
Associate Planner

CC: MABCD
K.E. Miller Engineering, attn: Kirk Miller, 117 East Lewis Street, Wichita, KS 67202

BZA RESOLUTION NO. BZA2024-00060

WHEREAS, Ken Erxleben (owner); pursuant to Kansas Statutes Annotated 12-759, requests Variances to reduce the front setback to six feet for a new accessory structure and to allow an accessory structure in front of a principal structure, generally located the northwest corner of East 77th Street South and South Pattie Avenue; legally described as follows:

Lot 8, Block C, Hancock Second Addition to Haysville, Sedgwick County, Kansas.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of October 10, 2024, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a Variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

WHEREAS, the conditions of the request are unique to the subject property; and

WHEREAS, waiving the requirements will not adversely affect the rights of adjacent property owners; and

WHEREAS, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner; and

WHEREAS, it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare; and

WHEREAS, it is the opinion of Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case; and

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, are found to be present for a Variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, Variances to reduce the front setback to six feet for a new accessory structure and to allow an accessory structure in front of a principal structure, generally located the northwest corner of East 77th Street South and South Pattie Avenue; legally described as follows:

Lot 8, Block C, Hancock Second Addition to Haysville, Sedgwick County, Kansas.

The variances are hereby **GRANTED,** subject to the following conditions:

1. The accessory structure shall be in substantial conformance with the approved site plan.

ADOPTED AT WICHITA, KANSAS, this 31st day of OCTOBER, 2024.

Bryan Frye, BZA Board Chair

ATTEST:

Scott Wadle,
BZA Secretary

Sedgwick Co. public notice

(Published in The Ark Valley News Sept. 19, 2024.)

MAPC October 10, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on **Thursday, October 10, 2024, no earlier than 1:30 p.m.,** the Wichita Sedgwick County Metropolitan Area Planning Commission/ Board Zoning Appeals will consider the following applications. The meeting will be held in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. **If you have any questions regarding the meeting or items on this notice, please call the Wichita Sedgwick County Metropolitan Area Planning Department at (316) 268 4421.**

BZA2024-00059: Variance request in the County to increase maximum square footage for a monument sign; generally located on the east side of North 167th Street West and within one-half mile north of West 4th Street North.

BZA2024-00060: Variance request in the County to reduce building setback to 6 feet to allow an accessory pole barn in front of primary structure located on the northwest corner of South Pattie Avenue and East 77th Street (7757 South Pattie Avenue).

ZON2024-00043: Zone Change request in the County from SF-20 to GC General Commercial with Protective Overlay to allow Vehicle Storage Yard located on the north side of West 53rd Street north and one-half mile west of North Meridian Avenue (3400 West 53rd Street North).

ZON2024-00047: Zone Change request in the County from SF-20 Single-Family Residential to GC General Commercial for a 5-acre portion of property located at the southeast corner of West 135th Street South and West Kellogg.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor. As provided in Section V of the Wichita Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate:

1) **Attend In-Person** at the **Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202.** Self-paid parking is available nearby. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268 4464) by 5:00 PM, 3 days prior to the meeting.

2) **Submit Comments Ahead of Time** regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) – using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting. Planning Departments staff make efforts to share all comments but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery. **Written Comments** should be submitted by 5:00 PM the day before the meeting. **Video and Audio Comments** (mp3, etc.) formats be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

Email Planning@wichita.gov
Mailing Address Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: **Scott Wadle**
271 W. 3rd Street – Suite 201
Wichita, KS 67202
Phone 316.268.4421
Fax 316.858.7764

3) **If you need accommodations pursuant to the ADA, please contact Planning Staff within one week prior to the scheduled meeting.**

Option to View Remotely (Not Participate)

The meeting will be streamed live and recorded. Virtual comment is not available. To view the live stream or recording, follow the link: https://www.wichita.gov/Planning.

WITNESS MY HAND on September 19, 2024
Scott Wadle, Secretary
Wichita Sedgwick County Metropolitan Area Planning Commission

Affidavit of Publication

STATE OF KANSAS,
SEDGWICK COUNTY, ss.

Chris Strunk, being first duly sworn, deposes and says: That he is Publisher of The Ark Valley News, formerly The Valley Center Index, a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Sedgwick County Kansas, with a general paid circulation on a yearly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Valley Center in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks, the first publication thereof being made as aforesaid on the 19th day of September, 2024. with subsequent publications being made on the following dates:

_____, 2024 _____, 2024

_____, 2024 _____, 2024

_____, 2024 _____, 2024

Chris Strunk

Subscribed and sworn to before me this 19th day of September, 2024.

Notary Public

My commission expires 4/24/28

Additional copies $ _____

Printer's fee

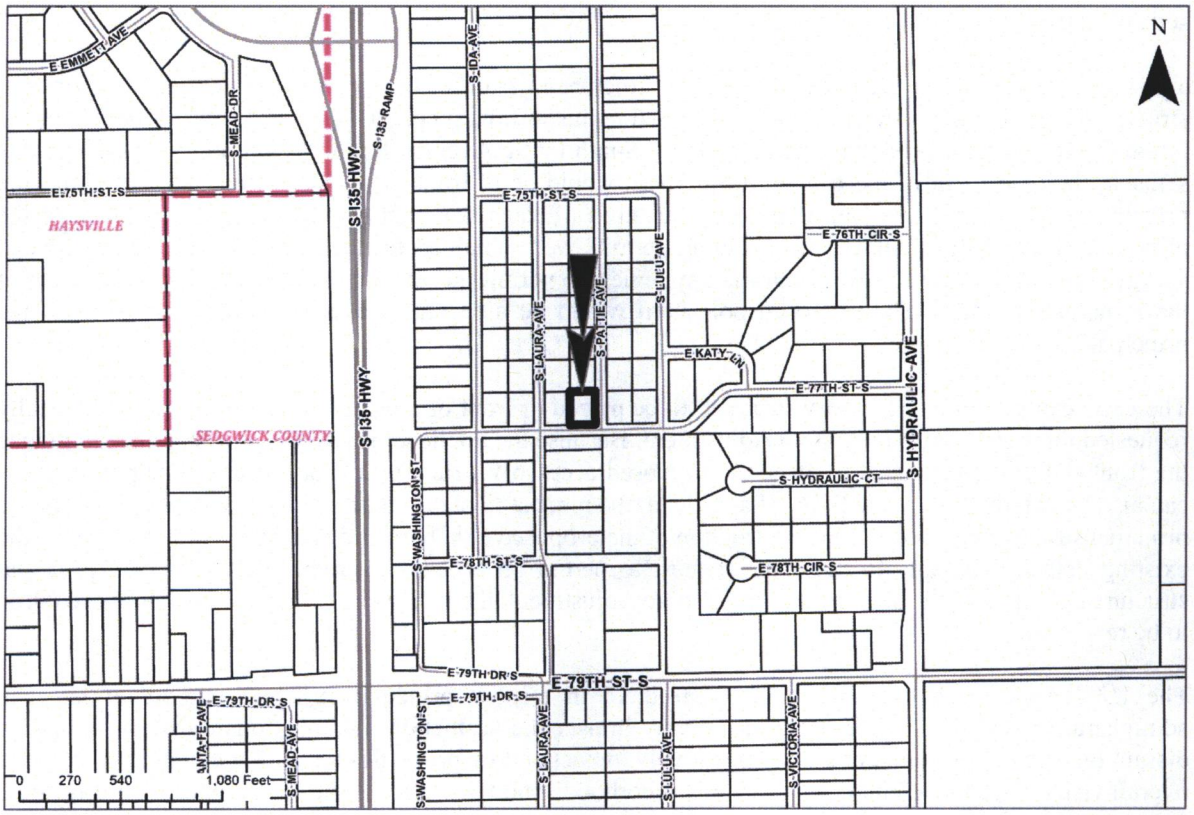
LISA K. STRUNK
NOTARY PUBLIC
STATE OF KANSAS

Wichita-Sedgwick County Zoning Board of Appeals
October 10, 2024

AGENDA ITEM NO. 3

SECRETARY'S REPORT

CASE NUMBER:	BZA2024-00060 (County)
APPLICANT:	Ken Erxleben (Applicant)/K.E. Miller Engineering (Agent)
REQUEST:	Variances to allow a reduced front setback and to allow an accessory structure in front of a principal structure within the given setbacks
CURRENT ZONING:	SF-20 Single-Family Residential District
SITE SIZE:	0.564 acres
LOCATION:	Located on the northwest corner of East 77th Street South and South Pattie Avenue (7757 South Pattie Avenue).



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant is requesting two Variances:

- one to reduce the front setback from 25 feet to six (6) feet; and
- one to allow an accessory structure in front of a principal structure.

The subject site is 0.56-acre property zoned SF-20 Single-Family Residential (SF-20). The property is located on the northwest corner of East 77th Street South and South Pattie Avenue (7757 South Pattie Avenue).

The applicant has indicated that they are requesting the Variances in order to allow for the construction of an accessory pole barn on site within the requested setbacks. According to the provided site plan, the proposed pole barn would be six feet from the south (front) property line, 28.72 feet from the east (street side) property line, and 25 feet from the existing detached garage. The current structures on site are accessed via gravel driveways from South Pattie Avenue.

The Unified Zoning Code (UZC) defines the front of a lot as the narrowest street-side dimension. The lot is narrower along East 77th Street South than it is along South Pattie Avenue. Therefore, the setback along East 77th Street South is the front setback.

The front setback can be reduced by Administrative Adjustment by up to 20 percent (from 25 feet to 20 feet in this case). The request to reduce the setback to six (6) feet is a 76 percent reduction of the front setback and requires a Variance for approval.

The second request is to permit an accessory structure in front of the principal structure. The principal structure (a single-family dwelling) is constructed in the northwest corner of the site, toward the rear of the lot, and oriented so it faces the streetside along South Pattie Avenue. Regardless of any reduction in the setback, the placement of the proposed pole barn would be in front of (or closer to East 77th Street) the principal structure. In 2011, an accessory structure (a detached garage) was constructed in front of the principal structure. It is unknown if building permits were obtained for the construction of the detached garage. There is no case history regarding any review to permit this existing accessory structure in front of the principal structure. The proposed pole barn would be a second accessory structure in front of the principal structure.

The UZC can permit an accessory structure to be placed in front of a principal structure. This is typically requested through an Administrative Adjustment. Because the applicant is requesting a Variance to reduce the front setback, the request to place the proposed accessory structure in front of the principal structure can also be determined by the BZA. If approved, the request to place an accessory structure in front of the principal structure can permit the construction of the proposed pole barn and also bring into compliance the existing detached garage. Because the request to permit an accessory structure in front of a principal structure can typically be done by Administrative Adjustment, the five criteria for a Variance is not required to be reviewed.

The UZC does not allow an accessory structure in front a principal structure without at least an administrative review because it can negatively impact the aesthetics and functionality of the property, disrupt the street view, and potentially negatively impact nearby properties because it can detract from the overall visual appeal and character of the neighborhood. The UZC affords the Administrative Adjustment opportunity in order to permit them in cases such as this where the lot is a corner not and the principal structure is oriented to the street side and the front can be used as buildable area on the lot.

SURROUNDING DEVELOPMENT: Properties to the north, east, south, and west are zoned SF-20 and developed with single-family dwellings. Property directly to the east has an accessory structure constructed approximately 12 feet from the south (front) setback. There is no case history on this site. It is unknown if proper permits were acquired prior to construction.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family dwelling
SOUTH:	SF-20	Single-family dwelling
EAST:	SF-20	Single-family dwelling
WEST:	SF-20	Single-family dwelling

CASE HISTORY: On September 24, 1968, the subject site was platted as Lot 8, Block C of the Hancock 2nd Addition. There is no other zoning cases associated with this site.

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

Criterion 1. The variance requested arises from 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 of the property owner or the applicant.

Applicant Narrative
The applicant states: "This is an older neighborhood where the entire neighborhood is zoned SF-20. This is an older plat where in this block, and adjacent blocks, lots face the north-south streets and are wider than they are deep. The existing septic system and drive to the existing garage limits the location of the proposed auxiliary structure to the southern part of the lot."

Staff Analysis
Staff does not agree with the above statement. The applicant has not shown where the existing sewer line is located and thus cannot provide an analysis of this claim. The fact that all of the lots in the immediate vicinity face north-south and are wider than they are deep does not make this property unique. The desire to construct an additional accessory structure on a small lot is a choice of the applicant. The applicant purchased the lot with the given constraints.

Criterion 2. The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents.

Applicant Narrative
The applicant states: "The proposed structure will encroach into a street setback and will not be near any neighboring properties, therefore not adversely affecting neighboring properties."

Staff Analysis
Staff agrees with the above statement. The distance between the edge of the proposed accessory structure and the property to the south will not adversely affect the neighboring properties. There is a sufficient buffer between the proposed accessory structure and the existing structures.

Criterion 3. The strict application of the provisions of the applicable Code from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

Applicant Narrative
The applicant states: "The auxiliary structure, if located at the setback as determined by code, will limit access and use of the existing garage. Without a variance, the owner will not be able to proceed."

Staff Analysis:
Staff does not agree with the above statement. It is staff's opinion, based on the information received, that the proposed pole barn can be modified in size or location to accommodate the existing drives, or the gravel drives can also be modified to accommodate a conforming accessory structure.

Criterion 4. The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community.

Applicant Narrative
The applicant states that, "The setback reduction is common in the neighborhood. Many structures exist in the neighborhood that encroach into the code setback. This variance will not adversely affect the neighborhood. The south property line is also heavily treed which will help to hide the encroachment into the setback."

Staff Analysis:
Staff agrees with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The trees along the south property line could conceal the proposed pole barn and continue the harmonious development of the community.

Criterion 5. The granting of the Variance will not be opposed to the general spirit and intent of the Code.

Applicant Narrative
The applicant states: "The setback reduction is common in the neighborhood. Many structures exist in the neighborhood that encroach into the code setback along 77th Street South and along 75th Street South. The structure has not been built so this is not to correct a mistake making the property non-complying."

Staff Analysis:
Staff does not agree with the above statement. While the placement of structures in the immediate vicinity may be nonconforming, it is staff's opinion that the request will increase the degree of nonconformity, which does not meet the general spirit and intent of the Code on nonconforming structures.

LEGAL CONSIDERATIONS: The Board of Zoning Appeals has the following options for actions.

1. Approval – The Board of Zoning Appeals can find that all five conditions necessary to the granting of a Variance exists and can approve the requested Variance. Any vote by the BZA to approve a Variance requires eight (8) votes per the BZA bylaws.

2. Denial – The Board of Zoning Appeals can find that the requested Variance does not meet the five criteria required to grant a Variance. Any vote by the BZA to deny a Variance requires a single majority of members present and voting.

RECOMMENDATION:

1. The recommendation of Staff is that the Variance to reduce the front setback to six (6) feet for an accessory pole barn **does not meet** the five criteria required to grant a Variance.

Alternatives

1. 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 following Variance for the reduction in the front setback is granted to **12 feet** with the following conditions:

    a. The building addition shall be constructed in substantial conformance with the revised site plan that demonstrates the granted setback.

b. Building permits shall be obtained from MABCD for the construction of the pole barn.

2. The recommendation of Staff is that the request for permit an accessory structure in front of the principal structure should be approved with the following conditions:

   a. The building shall adhere to all applicable setbacks as determined by the Board of Zoning Appeals with the associated Variance request.

Staff Report Attachments:

1. Site Plan
2. Applicant-Submitted Variance Justification Letter
3. Applicant-Submitted Site Plan
4. Aerial Map
5. Zoning Map
6. Land Use Map
7. Site Photos

Five conditions for variance.

a. This is an older neighborhood where the entire neighborhood is zoned SF-20. This is an older plat where in this block, and adjacent blocks, lots face the north-south streets and are wider than they are deep. The existing septic system and drive to the existing garage limits the location of the proposed auxiliary structure to the southern part of the lot.

b. The proposed structure will encroach into a street setback and will not be near any neighboring properties, therefor not adversely affecting neighboring properties.

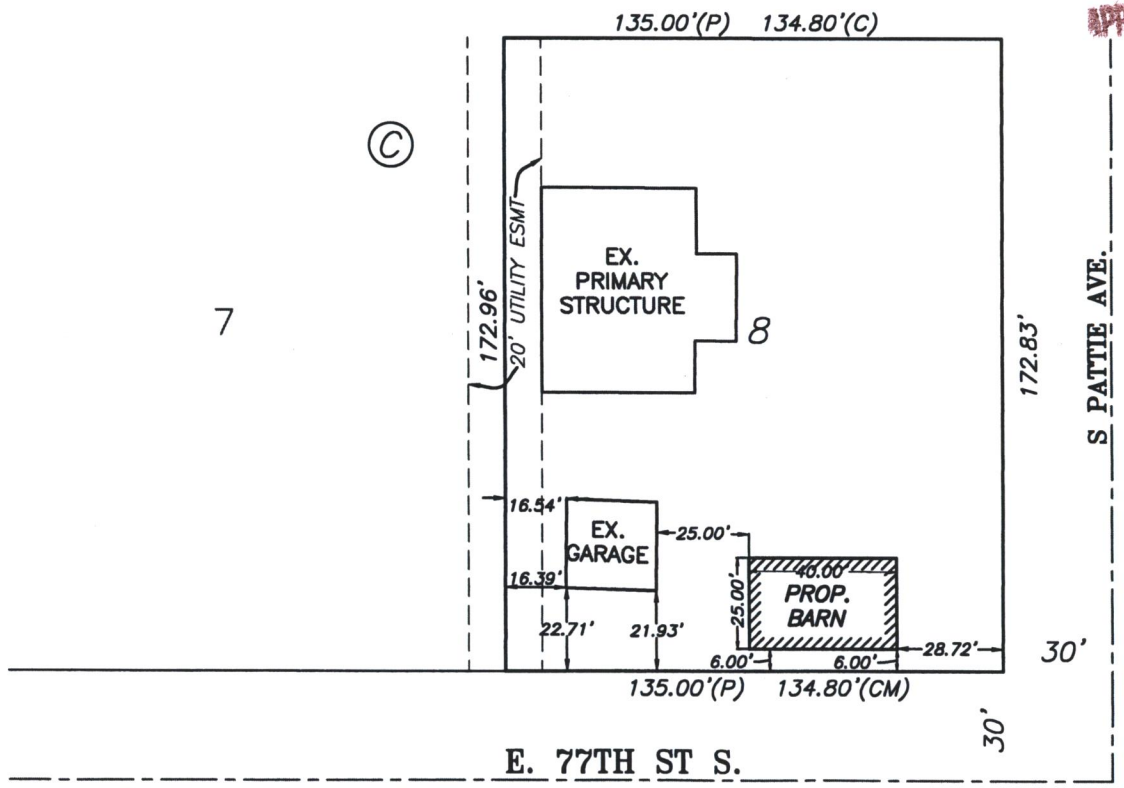
c. The auxiliary structure, if located at the setback as determined by code, will limit access and use of the existing garage. Without a variance, the owner will not be able to proceed.

d. The setback reduction is common in the neighborhood. Many structures exist in the neighborhood that encroach into the code setback. This variance will not adversely affect the neighborhood. The south property line is also heavily treed which will help to hide the encroachment into the setback.

e. The setback reduction is common in the neighborhood. Many structures exist in the neighborhood that encroach into the code setback along 77th Street South and along 75th Street South. The structure has not been built so this is not to correct a mistake making the property non-complying.

Lot 8, Block C
Hancock Second Addition
Sedgwick County, Kansas
7757 S. Pattie Ave.

SITE PLAN
APPROVED 10/24 BY CMR



SITE PLAN:
08.27.2024

SCALE: 1"=50'

ZONING: SF-20
FRONT SETBACK: 25'
MIN. SIDE-YARD SETBACK: 10.0'
MIN. STREET-SIDE SETBACK: 20.0'
MIN. REAR SETBACK: 25.0'