CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

May 9, 2012

Dennis Lawson
230 N. Wood
Wichita, KS 67212

RE: BZA2012-20 – County Variance to reduce the front building setback from a section line road from 85 feet to 63 feet on property zoned RR Rural Residential ("RR") for a carport.

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Sedgwick County Board of Zoning Appeals on **May 8, 2012.** This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

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

Sincerely,

Jess McNeely, AICP
County BZA Secretary

cc: Tim Norton, County Commissioner
Bob Parnacott, County Counselor
Bill Raymond, County Counselor
Kelly Dixon, Sedgwick County Code Enforcement
Irene Hart, Sedgwick County Code Enforcement
Jim Weber, Sedgwick County Public Works

BZA RESOLUTION NO. BZA2012-20

WHEREAS, Barbara Nottingham and Dennis Lawson, (owner/applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests a variance to the Zoning Code to reduce the front building setback from a section line road from 85 to 63 feet, for a car port, on 30 acres zoned RR Rural Residential ("RR"); generally located south of 79th Street South and west of Hoover (6391 W. 79th Street South).

Legal Description: the West 30 acres of the NE 1/4, Sec 10, T29S, R1W, 6th PM, 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 May 9, 2012, 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 Board of Zoning Appeals has found that this property is unique. The majority of the site is within floodplain and is covered with tree growth. The applicant chose the carport location to be as far out of the bottom of the flood zone as possible, yet still easily accessible to the road, and with enough room to place a trailer under the carport with a vehicle.

WHEREAS, the Board of Zoning Appeals has found that the requested variance will not adversely affect the rights of adjacent property owners, as adjacent properties are used for agriculture and large-lot residences. The carport is similar to accessory structures on nearby residential properties.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Code will constitute an unnecessary hardship upon the applicant. Requiring the applicant to comply with the 85-foot setback requirement would: place the carport in the floodplain, would require tree removal, and would place the carport at a location inaccessible to a trailer towed by a vehicle.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest, as the carport is 63 feet from the 79th Street South centerline. 79th Street South is not planned for any improvements or expansion.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not oppose the general spirit and intent of the zoning regulations, as the intent of the Zoning Code setback requirement is to maintain sufficient separation between structures, to maintain fire safety, and to provide for the circulation of light, air and traffic; the requested variance does not oppose this intent.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, 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 *et. seq.*, a variance to the Zoning Code to reduce the front building setback from a section line road from 85 to 63 feet, for a car port, on 30 acres zoned RR Rural Residential ("RR"); generally located south of 79th Street South and west of Hoover (6391 W. 79th Street South) is granted, subject to conditions.

Legal Description: the West 30 acres of the NE 1/4, Sec 10, T29S, R1W, 6th PM, Sedgwick County, Kansas.

The variance is hereby <u>GRANTED</u>, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback variance is granted for the carport identified on the site plan only. Any future structures shall conform to all Zoning Code required setbacks unless granted additional adjustments or variances.
3. The applicant shall obtain all permits necessary to construct the structure within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to Sedgwick County.

ADOPTED AT WICHITA, KANSAS, this 9th Day of May, 2012.

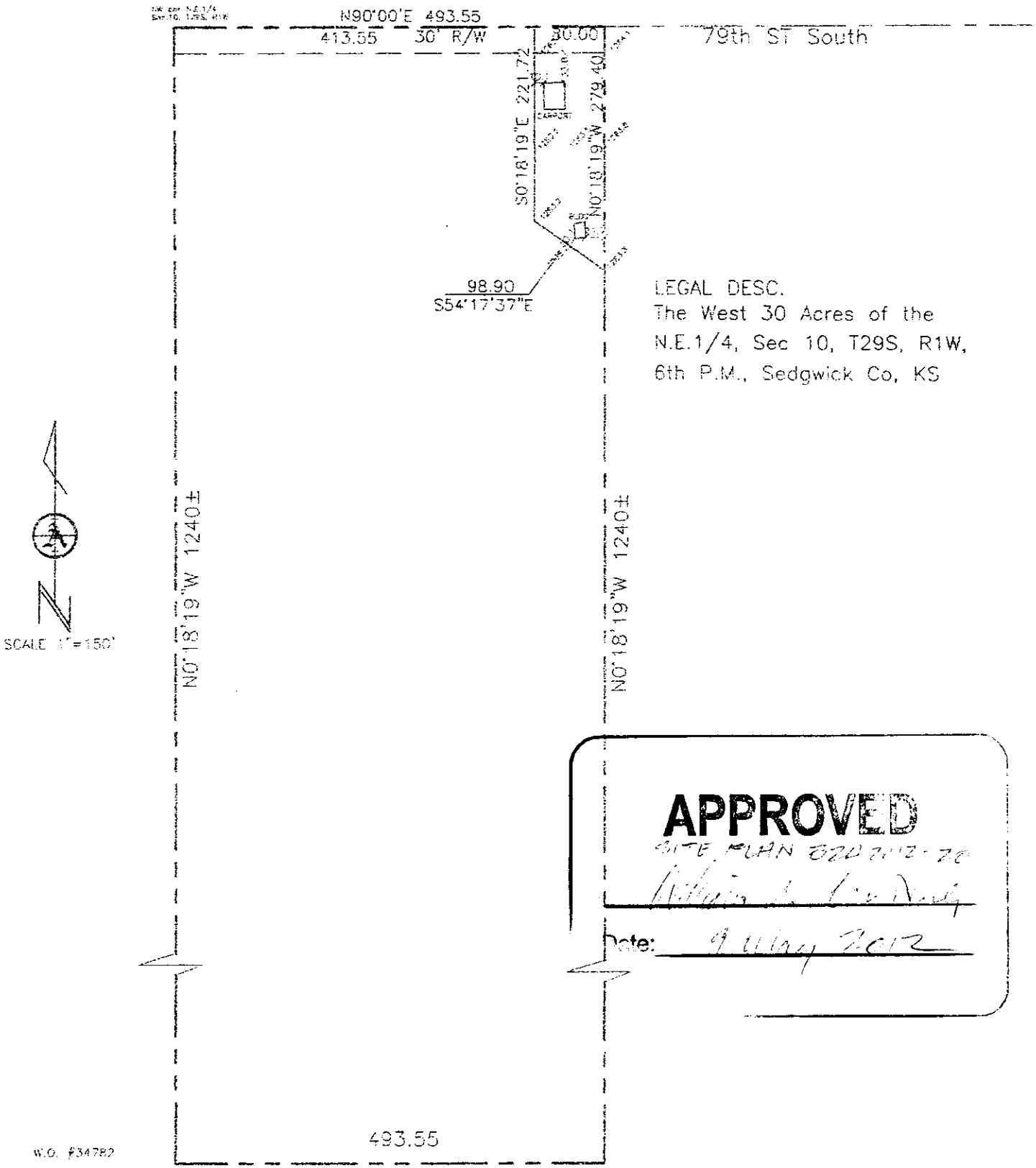
Grant Tideman, BZA Board Chair

ATTEST:

Jess McNeely, AICP
BZA Secretary

L.O.M.A.

B.F.E.=1283 NAVD



APPROVED

SITE PLAN BZA 2012-20

Date: 9 May 2012

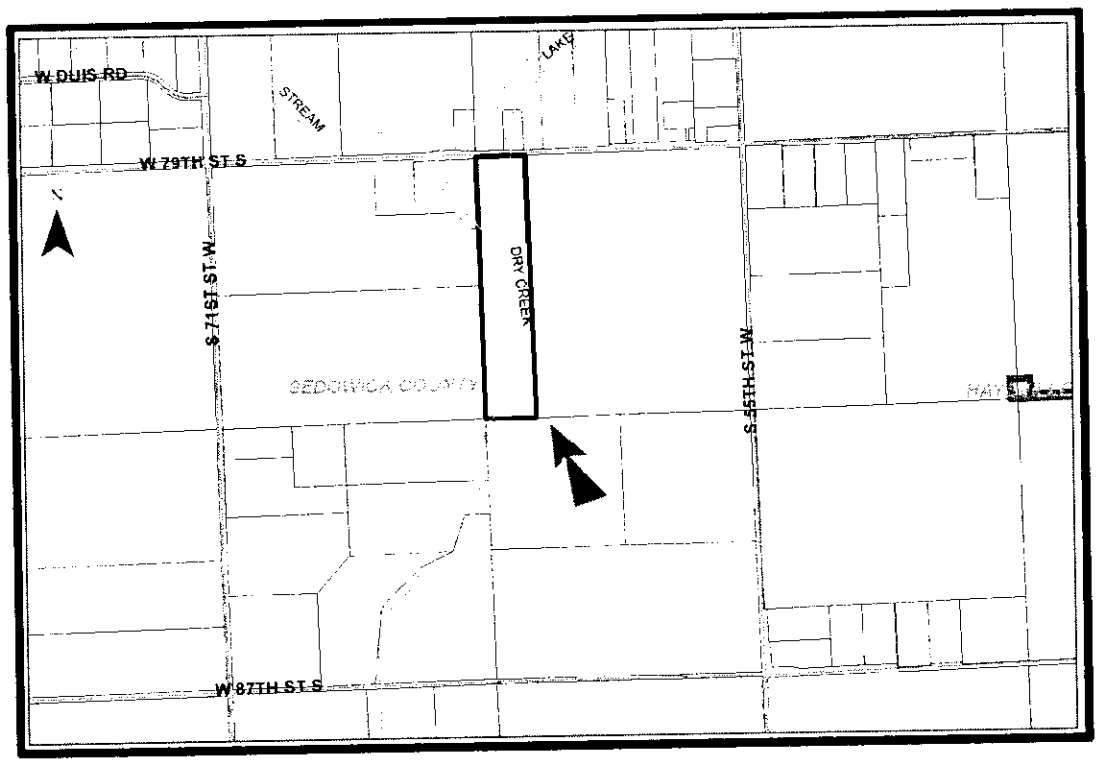
BOARD OF ZONING APPEALS
Sedgwick County, Kansas

AGENDA ITEM NO. 2
CoBZA Meeting: May 9, 2012

For - Martin / Bailey 5-0

SECRETARY'S REPORT

CASE NUMBER:	BZA2012-20
APPLICANT/AGENT:	Dennis Lawson (owner/applicant)
REQUEST:	County Variance to reduce the front building setback from a section line road from 85 feet to 63 feet on property zoned RR Rural Residential ("RR") for a carport.
CURRENT ZONING:	RR Rural Residential ("RR")
SITE SIZE:	30 acres
LOCATION:	Generally south of 79th Street South and west of Hoover (6391 W. 79th South).



JURISDICTION: The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to reduce the Zoning Code required front setback from 85 to 63 feet from the section line road centerline in RR Rural Residential ("RR") zoning. West 79th Street South is a two-lane, unpaved section line road at this location with a 60-foot right-of-way width. The applicant constructed a car port on the vacant site within 63 feet of the section line road centerline. The site is constrained by trees, a small outbuilding and flood plain which make the variance request necessary for the car port (see the attached site plan). The applicant was not aware of the section line road setback when he constructed the car port, his concern was placing the car port in a location that would be easily accessible to a vehicle and camping trailer, and allow for future buildings outside the floodplain. The applicant recently had this property surveyed to remove this ½ acre from the floodplain. The majority of this 500-foot wide site is within Zone A on the FEMA Floodplain Maps; most of the site is subject to a 100-year flood event.

All surrounding property is also zoned RR. Property north and west of the site is primarily developed with large lot single-family residences. South and east of the site is agricultural property.

ADJACENT ZONING AND LAND USE:

NORTH	RR	Single-family residences, agriculture
SOUTH	RR	Agriculture
EAST	RR	Agriculture
WEST	RR	Single-family residences, agriculture

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique. The majority of the site is within floodplain and is covered with tree growth. The applicant chose the carport location to be as far out of the bottom of the flood zone as possible, yet still easily accessible to the road, and with enough room to place a trailer under the carport with a vehicle.

ADJACENT PROPERTY: It is staff's opinion that granting the variance will not adversely affect the rights of adjacent property owners, as adjacent properties are used for agriculture and large-lot residences. The carport is similar to accessory structures on nearby residential properties.

HARDSHIP: It is staff's opinion that the strict application of the zoning regulations would constitute an unnecessary hardship on the applicant. Requiring the applicant to comply with the 85-foot setback requirement would: place the carport in the floodplain, would require tree removal, and would place the carport at a location inaccessible to a trailer towed by a vehicle.

PUBLIC INTEREST: It is staff's opinion that the requested variance will not adversely affect the public interest as the carport is 63 feet from the 79th Street South centerline. 79th Street South is not planned for any improvements or expansion.

SPIRIT AND INTENT: It is staff's opinion that the variance would not oppose the general spirit and intent of the zoning regulations, as the intent of the Zoning Code setback requirement is to maintain sufficient separation between structures, to maintain fire safety, and to provide for the circulation of light, air and traffic; the requested variance does not oppose this intent.

RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance. Therefore, staff recommends that the variance be APPROVED. Should the Board determine that the necessary conditions exist to grant a variance, the Secretary recommends that the variance to reduce the front setback from 85 to 63 feet from a section line road centerline for a carport be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The front setback reduction from 85 to 63 feet from a section line road centerline is for the identified carport only. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The car port shall obtain all necessary permits, and shall conform to all other codes including but not limited to zoning and building.
4. The above conditions are subject to enforcement by any legal means available to Sedgwick County.