CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

August 19, 2015

REVISED LETTER AND RESOLUTION

John Horner
10610 E. 4th Street
Valley Center, KS 67147

RE: **BZA2015-00032** – County Variance to reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential ("RR") zone district for a new structure, generally located at 4th and Avenue E in unincorporated area of Furley (10610 E. 4th Street).

Dear Mr. Horner:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Sedgwick County Board of Zoning Appeals on **August 18, 2015.** 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,

Derrick Slocum
County BZA Asst. Secretary

cc: Dave Unruh, County Commissioner
Bob Parnacott, County Counselor
Kelly Dixon, Sedgwick County Code Enforcement
Jim Weber, Sedgwick County Public Works

BZA RESOLUTION NO. BZA2015-00032

WHEREAS, John Horner (owner/applicant) pursuant to Kansas Statutes Annotated 12-759, reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential ("RR") zone district for a new structure; generally located at 4th and Avenue E in unincorporated area of Furley (10610 E. 4th Street).

Legal Description: Lots 8-14 and ½ of vacated alley adjacent on the West, Block 15, City of Furley, Sedgwick County, Kansas.

WHEREAS, proper notice as required by statue, resolution, bylaws of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of August 18, 2015, 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; and

WHEREAS, the Board of Zoning Appeals has found that this property is unique, inasmuch that it was platted in 1887 on smaller lots than those typical in RR zoning, and therefore does not have adequate space for the required building setbacks in RR zoning. The property is also unique in that it borders a railway to the west and unimproved public right-of-way to the east, where no future buildings are anticipated.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a front setback reduction from 30 feet to 15 feet would not adversely affect the rights of adjacent property owners, inasmuch that the request would actually allow for a new building that would be less impactful to the area than the existing structure. The existing structure is not currently setback from the front property line, and the new building will be setback 15 feet.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Code would constitute a hardship upon the applicant, inasmuch that the property is small with existing features which creates a hardship to build an accessory structure within the required setbacks of the RR zoning district.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a front setback reduction from 30 feet to 15 feet will not adversely affect the public interest, inasmuch that fire and building codes are followed, and no public right-of-way is affected by the proposed setback reduction. This request will allow for the removal of an existing structure currently within the public right-of-way.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a front setback reduction from 30 to 15 feet does not oppose the general spirit and intent of the Zoning Code, inasmuch, at the desired separation between buildings is still maintained due the existing public right-of –way to the south and east of the subject site.

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, a variance to the Zoning Code to reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential ("RR") zone district for a new structure; generally located at 4th and Avenue E in unincorporated area of Furley (10610 E. 4th Street).

Legal Description: Lots 8-14 and ½ of vacated alley adjacent on the West, Block 15, City of Furley, Sedgwick County, Kansas.

The variance is hereby 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 30 feet to 15 feet is for the identified new accessory structure. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The accessory structure 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.

ADOPTED AT WICHITA, KANSAS, this 18th Day of August, 2015.

John W. McKay Jr

CoBZA Board Chair, John W. McKay Jr

ATTEST:

Derrick Slocum
Asst. BZA Secretary

BOARD OF ZONING APPEALS
Sedgwick County, Kansas

AGENDA ITEM NO. 4
CoBZA Meeting: August 18, 2015

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00032

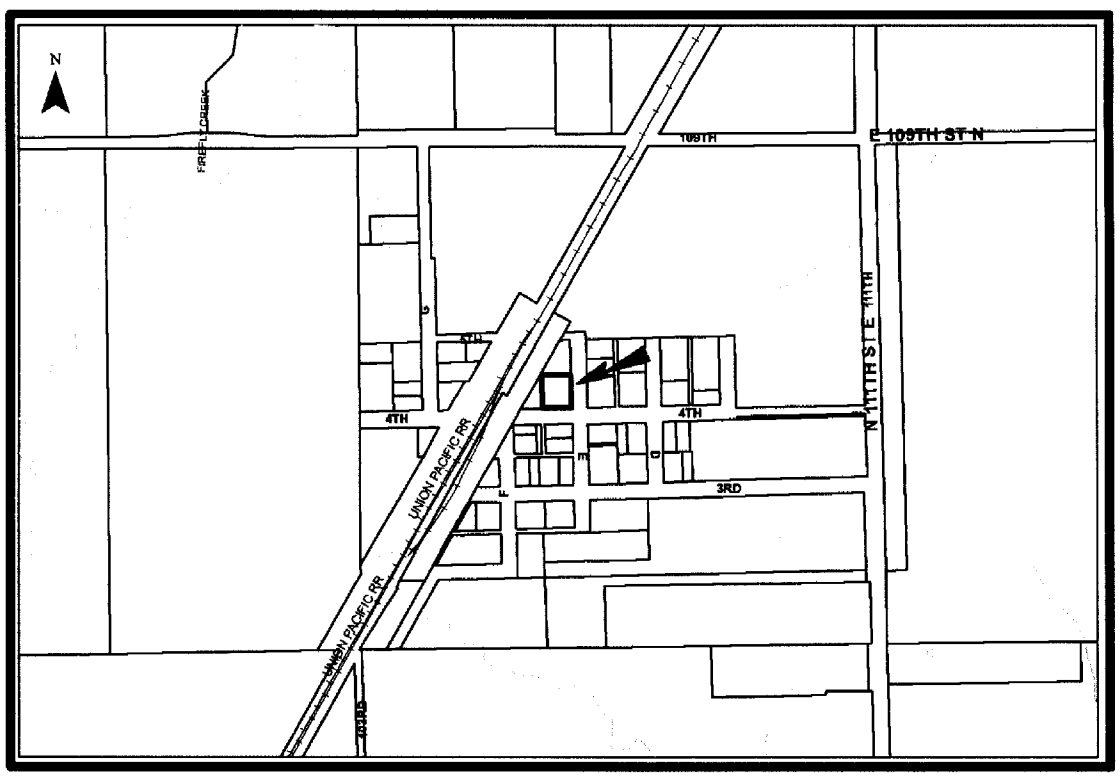
APPLICANT/AGENT: John Horner (owner/applicant)

REQUEST: County Variance to reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential ("RR") zone district for a new structure.

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 0.61 acres

LOCATION: Generally located at 4th and Avenue E in unincorporated area of Furley (10610 E. 4th Street).



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 30 feet to 15 feet for a new structure in RR Rural Residential ("RR") zoning. The application area is within the subdivision of Furley, platted in 1887. This subdivision is within the unincorporated County, but is divided on smaller lots than those typical of the RR zoning district. The applicant's entire parcel is less than one acre in size, while the Zoning Code would now require a minimum of two acres in the RR district for a single-family residence. The site is currently developed with a home and accessory structures. The applicant desires to remove the existing structure that, according to GIS, is a few feet over the front property line. Due to the location of the principal structure and trees, the applicant wishes to build a new structure 15 feet from the front property line. This variance request is for the proposed 15 foot front setback of the zoning districts 30 foot setback requirement. Overall, the applicant is wanting to remove an existing structure that currently lies on the front property line and is 20 feet from the east property line with a new structure that will be setback 15 feet from the front property line and 30 feet from the east property line.

All surrounding properties to the north, south, east and west are also zoned RR. North of the site are agricultural fields. South and east of the site are single-family residences. West of the site is an LI Limited Industrial ("LI") zoned railway and grain elevator.

ADJACENT ZONING AND LAND USE:

NORTH	RR	Agriculture
SOUTH	RR	Single-family residences
EAST	RR	Single-family residences
WEST	LI	Railway, grain elevator

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

UNIQUENESS: It is staff's opinion that this property is unique, inasmuch, that it was platted in 1887 on smaller lots than those typical in RR zoning, and therefore does not have adequate space for the required building setbacks in RR zoning. The property is also unique in that it borders a railway to the west and unimproved public right-of-way to the east, where no future buildings are anticipated.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a front setback reduction from 30 feet to 15 feet would not adversely affect the rights of adjacent property owners, inasmuch, that the request would actually allow for a new building that would be less impactful to the area than the existing structure. The existing structure is not currently setback from the front property line, and the new building will be setback 15 feet.

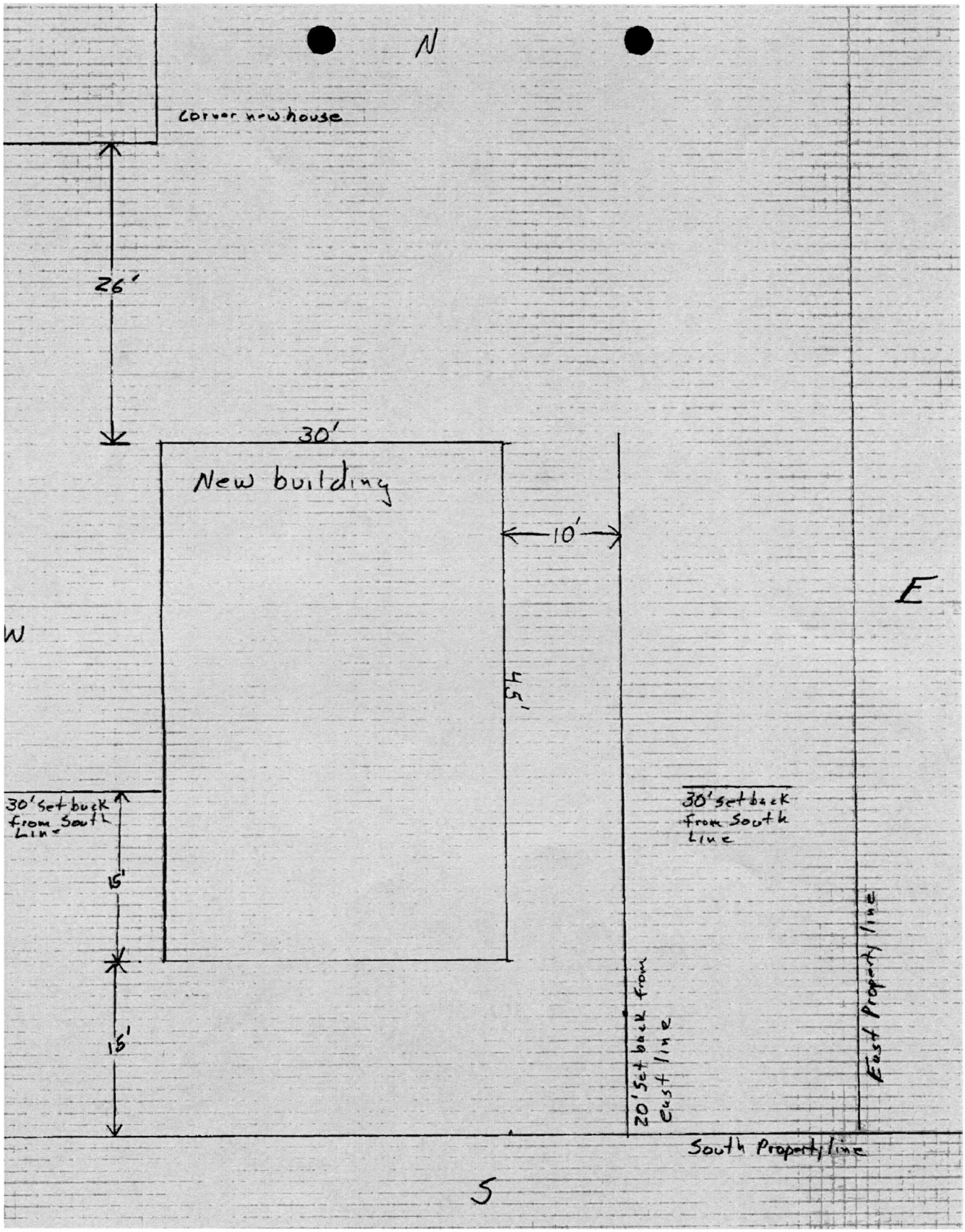
HARDSHIP: It is staff's opinion that the strict application of the code would constitute a hardship upon the applicant, inasmuch, that the property is small with existing features which creates a hardship to build an accessory structure within the required setbacks of the RR zoning district.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a front setback reduction from 30 feet to 15 feet will not adversely affect the public interest, inasmuch, that fire and building codes are followed, and no public right-of-way is affected by the proposed setback reduction. This request will allow for the removal of an existing structure currently within the public right-of-way.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a front setback reduction from 30 to 15 feet does not oppose the general spirit and intent of the Zoning Code, inasmuch, at the desired separation between buildings is still maintained due the existing public right-of–way to the south and east of the subject site.

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 30 feet to 15 feet for a new accessory structure 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 30 feet to 15 feet is for the identified new accessory structure. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The accessory structure 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.


N
corner new house
26'
30'
New building
10'
45'
E
W
30' set back from South Line
15'
15'
30' set back from South line
20' set back from east line
East Property line
South Property line
S