CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

September 15, 2015

Ed Clithero
14220 Cherokee Trail
Rose Hill, KS 67037

RE: **BZA2015-00043** – County variance to reduce the interior side building setback from 20 feet to 3 feet on property zoned RR Rural Residential ("RR") for an accessory building.

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Sedgwick County Board of Zoning Appeals on **September 15, 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 Secretary

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

BZA RESOLUTION NO. BZA2015-00043

WHEREAS, Ed Clithero, (owner/applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests a variance to reduce the interior side building setback from 20 feet to 3 feet on property zoned RR Rural Residential ("RR") for an accessory building ("RR"); generally north of East Cherokee Trail and west of South 143rd Street East (14220 E. Cherokee Trail)

Legal Description: Lot 3, Block 1, Arrowhead Hills, 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 September 15, 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 *et. seq.*; and

WHEREAS, the Board of Zoning Appeals has found that this property is unique inasmuch, that it was platted in the 1960's 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 contains easements and a lateral field that takes up a large are of the property where no future buildings can be built.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a side yard interior setback reduction from 20 feet to 3 feet would not adversely affect the rights of adjacent property owners, inasmuch, that the request would still have separation of over 50 feet and would not be impacting any easements or sight lines. Even though the setback is 20 feet at this location, the existing structure is only 10 feet from the east property line because it was built before the property was zoned to RR.

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 side yard setback reduction from 20 feet to 3 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.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a side yard setback reduction from 20 to 3 feet does not oppose the general spirit and intent of the Zoning Code, inasmuch, at the desired separation between buildings is still maintained due to the existing placement of principal structures to the west and east of the subject site.

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 reduce the interior side building setback from 20 feet to 3 feet on property zoned RR Rural Residential ("RR") for an accessory building ("RR"); generally north of East Cherokee Trail and west of South 143rd Street East (14220 E. Cherokee Trail)

Legal Description: Lot 3, Block 1, Arrowhead Hills, 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 side yard setback reduction from 20 feet to 3 feet is for the identified 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, SEDGWICK COUNTY, KANSAS, this 15th Day of September, 2015.

BZA Board Chair, **John McKay**

ATTEST:

Derrick Slocum
BZA Secretary

BOARD OF ZONING APPEALS
SEDGWICK COUNTY, KANSAS

AGENDA ITEM NO. 2
September 15, 2015

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00043

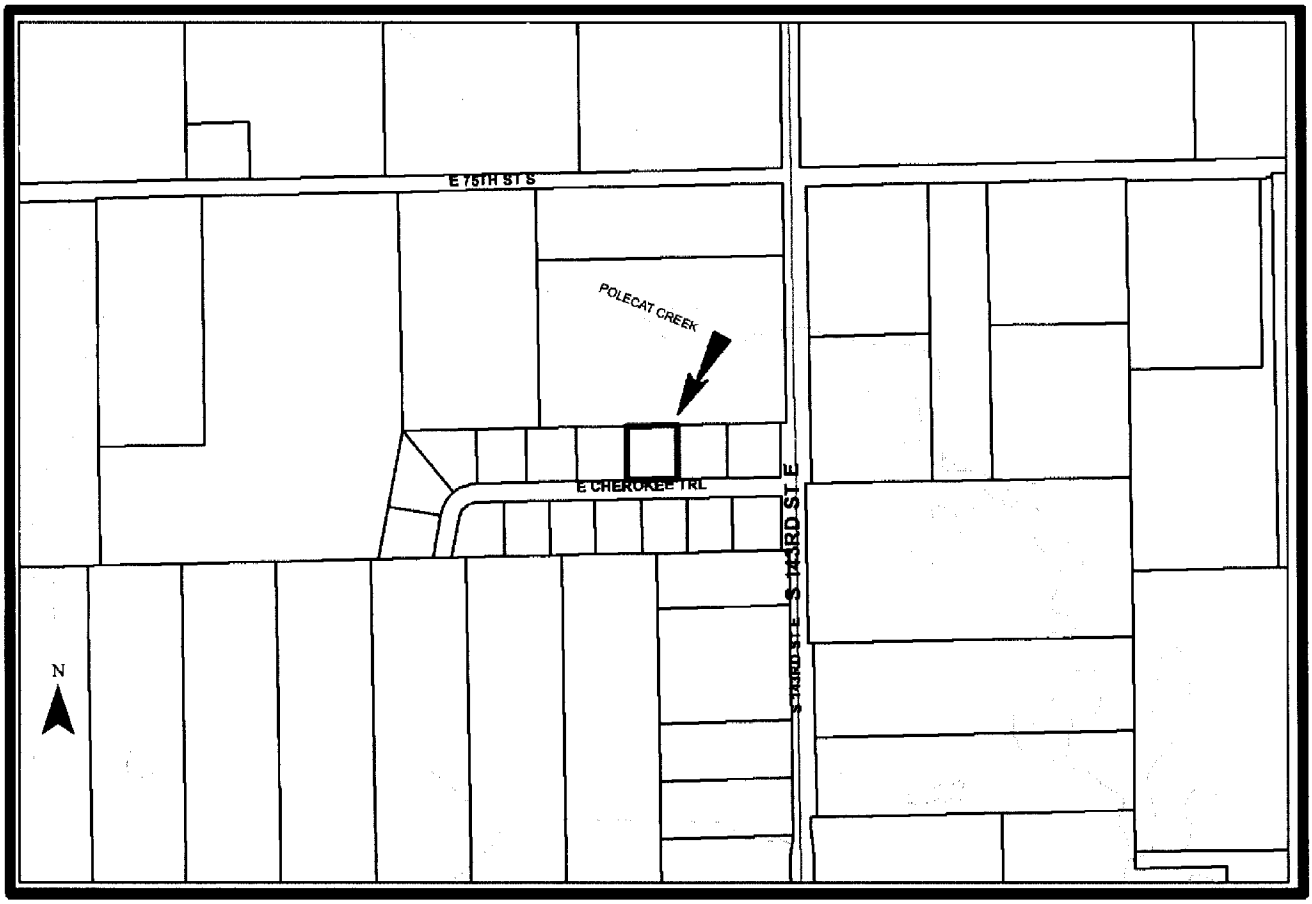
APPLICANT/AGENT: Ed Clithero (owner/applicant)

REQUEST: County Variance to reduce the interior side yard setback from 20 feet to 3 feet on property zoned RR Rural Residential ("RR") for an accessory building.

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 0.68 acres

LOCATION: Generally north of E. Cherokee Trail and west of South 143rd St. East (14220 E. Cherokee Trail)



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 interior side setback from 20 to 3 feet from the east property line in RR Rural Residential ("RR") zoning. This subdivision, platted and developed in the 1960's, 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 and place a larger structure in the same location. The property has site restrictions that reduces the amount of buildable area which make this location on the property the most desirable. A large drainage easement runs diagonally from the northeast portion of the property to the southwest and there is a large septic lateral field located in the northeast part of the property as well. As shown on the site plan, the location of the proposed structure is really the only viable location on the property. The structure will meet the front setback of 30 feet and will be separated between 3 to 5 feet from the principal structure, with a 1 hour firewall for the wall adjacent to the principal structure. There will be more than 50 feet of separation between the proposed structure and the residence to the east.

All surrounding property is also zoned RR. Property south, east and west of the site is primarily developed with larger lot single-family residences. North of the site is agricultural property.

ADJACENT ZONING AND LAND USE:

NORTH	RR	Agricultural
SOUTH	RR	Single-family residence
EAST	RR	Single-family residence
WEST	RR	Single-family residence

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 the 1960's 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 contains easements and a lateral field that takes up a large are of the property where no future buildings can be built.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a side yard interior setback reduction from 20 feet to 3 feet would not adversely affect the rights of adjacent property owners, inasmuch, that the request would still have separation of over 50 feet and would not be impacting any easements or sight lines. Even though the setback is 20 feet at this location, the existing structure is only 10 feet from the east property line because it was built before the property was zoned to RR.

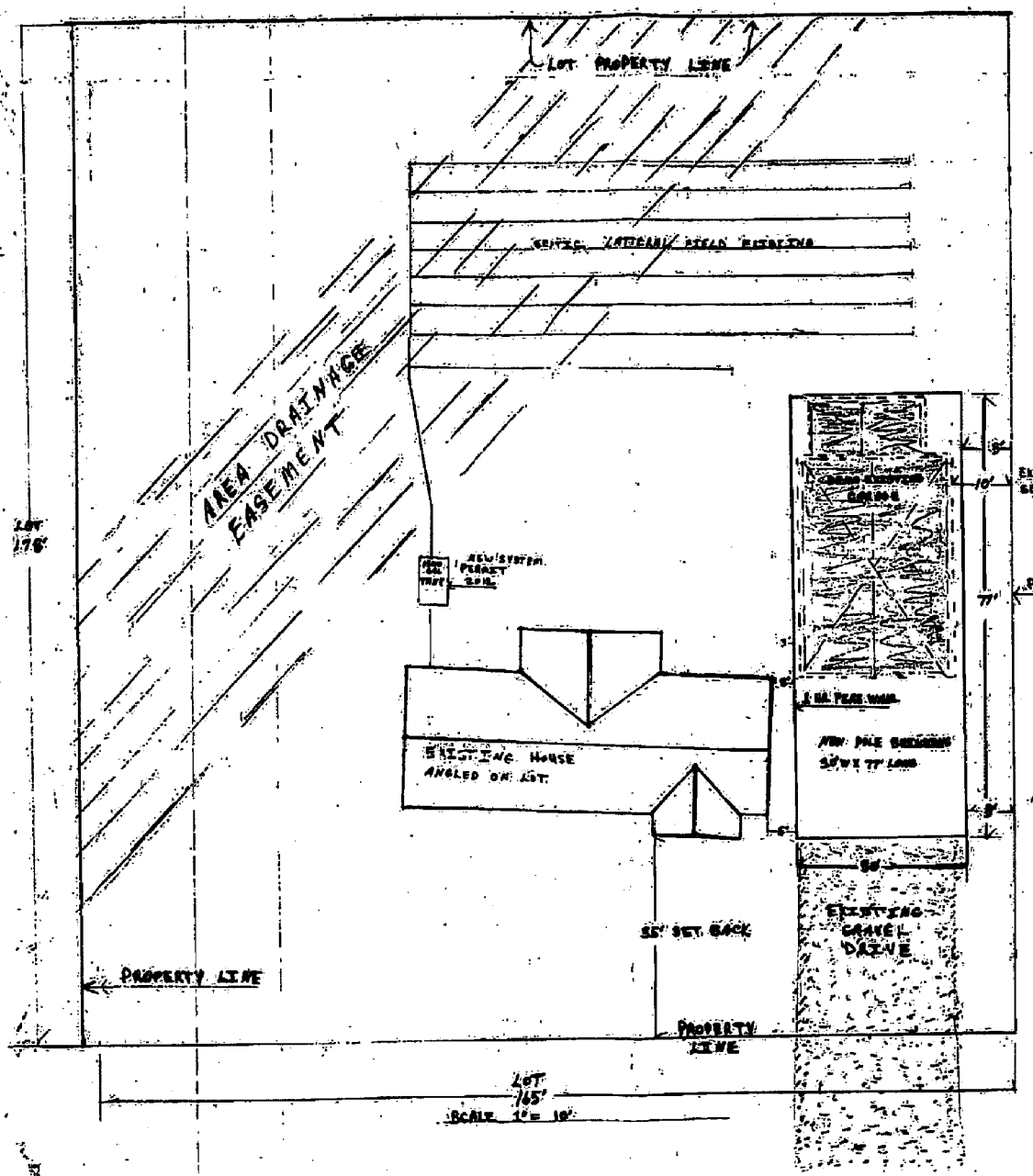
HARDSHIP: It is staff's opinion that the strict application of the code would constitute a hardship upon the applicant, inasmuch, that the property is small with existing features which creates a hardship to build an accessory structure within the required setbacks of the RR zoning district.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a side yard setback reduction from 20 feet to 3 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.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a side yard setback reduction from 20 to 3 feet does not oppose the general spirit and intent of the Zoning Code, inasmuch, at the desired separation between buildings is still maintained due to the existing placement of principal structures to the west 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 side yard setback from 20 feet to 3 feet for an accessory structure be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The side yard setback reduction from 20 feet to 3 feet is for the identified 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.



NEW POST FRAME BUILDING

ED CLITHERO RESIDENCE 316-441-9548

14220 CHEROKEE TRAIL

SEDGWICK CO. KS.

DRAWN BY: LARRY D. LITTLE

LTD BUILDERS 316-777-9421
316-250-4870