

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common.

**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 regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between structures to maintain fire safety and to provide for the circulation of light and air, and the requested variance does not negatively impact this intent.

**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 reduce the interior side setback and street side setback from 20 feet to 15 feet be **GRANTED**, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The setback reduction shall apply only to the "28-foot by 66-foot 1998 Solitare House with a 20-foot by 20-foot addition" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. 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.

**SECRETARY'S REPORT**

CASE NUMBER: BZA2005-00031

APPLICANT/AGENT: David and Teresa Branine (Owners/Applicants)

REQUEST: Variance to reduce the interior side setback and street side setback from 20 feet to 15 feet

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 0.49 acres

LOCATION: South of 79<sup>th</sup> Street South and west of the Kansas Turnpike (I-35) at 8001 S. Mead



**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 proposes to replace an existing mobile home on the subject property with a 28-foot by 66-foot residential-design manufactured home with a 20-foot by 20-foot addition (see attached site plan). According to the applicant (see attached written justification), the proposed residential-design manufactured home must encroach into the required interior side setback and street side setback due to the location of existing improvements on the property, including the septic system and a garage, which prevent an orientation of the structure in a manner that complies with the setback requirements. Additionally, the applicant indicates that the existing mobile is located in a manner the encroaches into the setbacks, and the proposed residential-design manufactured home would be located in the same location as the mobile home.

The "RR" Rural Residential zoning district requires a 20-foot setback along both the south property line and along the 79<sup>th</sup> Street South frontage road; however, the applicant has requested a variance to reduce the interior side setback and the street side setback to 15 feet in order to replace the existing mobile home with a residential-design manufactured home. A variance is required to reduce building setbacks by more than 20 percent.

**ADJACENT ZONING AND LAND USE:**

NORTH	"RR"	Single Family
SOUTH	"RR"	Mobile Home
EAST	"RR"	Mobile Home
WEST	"RR"	Mobile Home

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the property was platted in its current configuration 1959; however, the zoning regulations that established the 20-foot side yard setback requirements were not established until 1985, long after the property had already been developed.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the adjacent properties all are developed with even greater encroachments into the currently-required setbacks than is proposed by the variance request.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the applicant to comply with the side yard setback requirements will prevent the applicant from upgrading property in an economical manner with no corresponding public benefit.

**ADOPTED AT WICHITA, KANSAS, this 5th DAY of JULY, 2005.**

  
Chair, Sedgwick County Board of Zoning Appeals

ATTEST:

  
Dale Miller, BZA Secretary

## BZA RESOLUTION NO. 2005-00031

**WHEREAS**, David and Teresa Branine (Owners/Applicants); pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests variances to reduce the interior side setback and street side setback from 20 feet to 15 feet on property zoned "RR" Rural Residential legally described as follows:

Lot 24, Block 1, Kirby Gardens Addition, Sedgwick County, Kansas. Generally located south of 79th Street South and west of the Kansas Turnpike (I-35) at 8001 S. Mead.

**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 July 5, 2005, 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 Kansas Statutes Annotated 12-759 *et. seq.*; and

**WHEREAS**, the Sedgwick County Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique inasmuch as the property was platted in its current configuration 1959; however, the zoning regulations that established the 20-foot side yard setback requirements were not established until 1985, long after the property had already been developed.

**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 the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the adjacent properties all are developed with even greater encroachments into the currently-required setbacks than is proposed by the variance request.

**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 the Board that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the applicant to comply with the side yard setback requirements will prevent the applicant from upgrading property in an economical manner with no corresponding public benefit.

**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 the Board that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common.

**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 the Board that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the setback requirements is to maintain sufficient separation between structures to maintain fire safety and to provide for the circulation of light and air, and the requested variance does not negatively impact this intent.

**WHEREAS**, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, to be present before a variance can be granted has been found to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Sedgwick County Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, variances be granted to reduce the interior side setback and street side setback from 20 feet o 15 feet on property zoned "RR" Rural Residential legally described as follows:

Lot 24, Block 1, Kirby Gardens Addition, Sedgwick County, Kansas. Generally located south of 79th Street South and west of the Kansas Turnpike (I-35) at 8001 S. Mead).

**The variance is hereby GRANTED, subject to the following conditions:**

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The setback reduction shall apply only to the "28-foot by 66-foot 1998 Solitare House with a 20-foot by 20-foot addition" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. 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.



FILE COPY

**Wichita-Sedgwick County Metropolitan Area Planning Department**

July 7, 2005

David and Teresa Branine  
8001 S. Mead  
Haysville, KS 67060

**RE: BZA2005-31 – Variance to reduce the interior side setback and street side setback from 20 feet to 15 feet on property zoned “RR” Rural Residential. Generally located south of 79th Street South and west of the Kansas Turnpike (I-35) at 8001 S. Mead. (District II)**

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the County Board of Zoning Appeals on July 5, 2005. 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,

A handwritten signature in cursive script that reads 'Dale Miller'.

Dale Miller, Manager  
Current Plans Division

DLM/rms

Cc: Tim R. Norton, BOCC, District II, Mail Stop County Suite 320  
Bob Parnacott, County Law Dept., Mail Stop, County Suite 359  
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213