



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

December 5, 2014

David and Beverly Barber  
6260 S. 143rd St. E  
Derby, KS 67037

Don Shirley  
6302 Oneida St.  
Wichita, KS 67208

**RE: BZA2014-00066** – County to reduce the interior side building setback from 20 feet to 10 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 **December 4, 2014**. 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 black ink, appearing to read 'Derrick Slocum', written over a horizontal line.

Derrick Slocum  
County BZA Asst. Secretary

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

**BZA RESOLUTION NO. BZA2014-00066**

**WHEREAS**, David and Beverly Barber, (owner/applicant) and Don Shirley (agent) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, reduce the interior side building setback from 20 feet to 10 feet on property zoned RR Rural Residential (“RR”) for an accessory building (“RR”); generally north of 63<sup>rd</sup> Street South and east of South 143<sup>rd</sup> St. East (6260 S. 143<sup>rd</sup> St. E.)

Legal Description: North 660 feet, south 1320 feet, west 675 feet, southwest ¼, excluding west 50 feet for road, SEC 25-28-2E, 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 December 4, 2014, 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 fenced and covered with tree growth near the residences. The applicant chose the accessory building’s location to be just east of an existing accessory structure, which will be removed after the construction of the proposed building. Another reason for the proposed location is it will utilize the existing driveway without make any large extensions or reconfigurations to the driveway.

**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 proposed building 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 remove the constructed concrete pad and comply with the 20 foot setback requirement would: require tree removal, would require realignment of the existing driveway and restrict access to existing underground utilities.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest, as the accessory building would be 220 feet from the 143<sup>rd</sup> Street East and at least 440 feet from any structures located on the surrounding properties.

**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 interior side building setback from 20 feet to 10 feet on property zoned RR Rural Residential (“RR”) for an accessory building (“RR”); generally north of 63<sup>rd</sup> Street South and east of South 143<sup>rd</sup> St. East (6260 S. 143<sup>rd</sup> St. E.) is granted, subject to conditions.

Legal Description: North 660 feet, south 1320 feet, west 675 feet, southwest ¼, excluding west 50 feet for road, SEC 25-28-2E, Sedgwick County, Kansas.

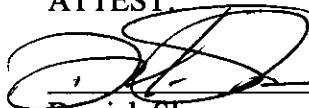
**The variance is hereby GRANTED, subject to the following conditions:**

1. The site shall be developed in conformance with the approved site plan.
2. The interior side setback reduction from 20 to 10 feet is for the identified accessory building only. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The accessory building 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 4th Day of December, 2014.**

  
BZA Board Chair, Matt Goolsby

ATTEST:

  
Derrick Slocum  
Asst. BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2014-00066

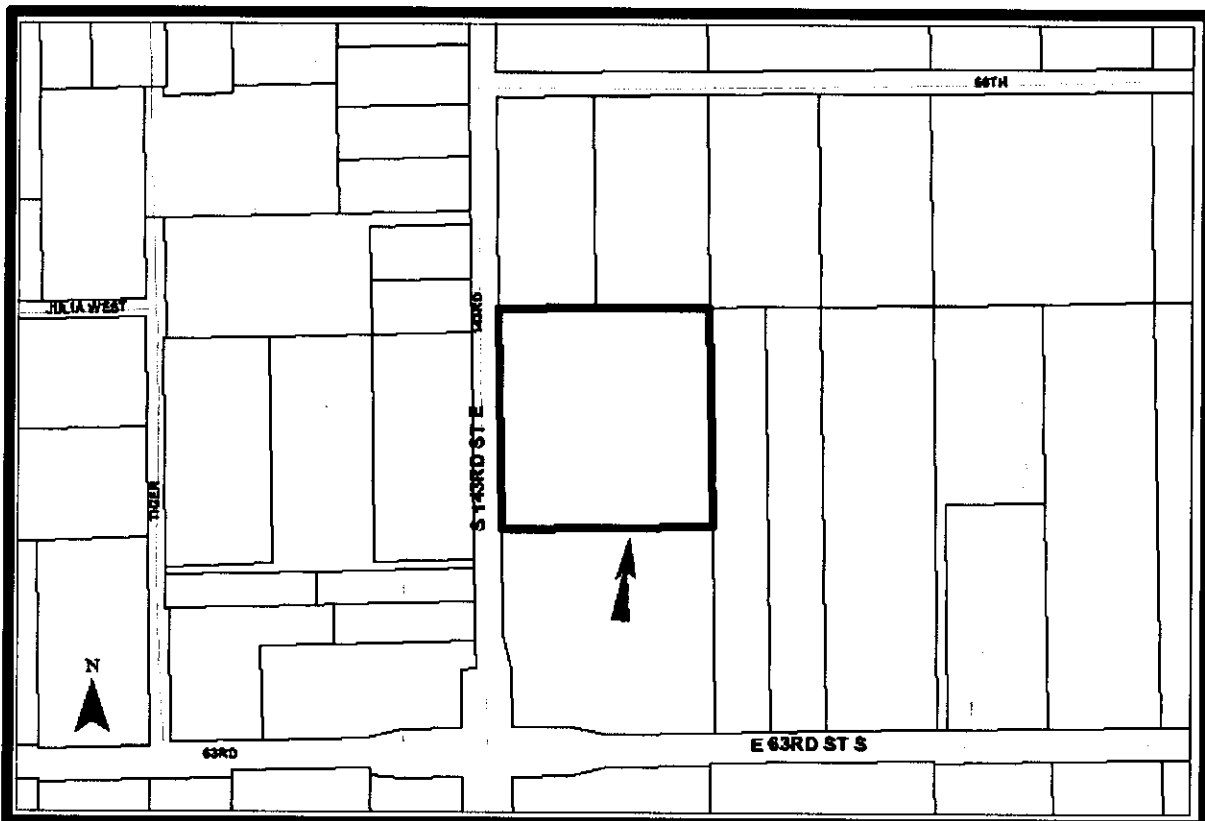
APPLICANT/AGENT: David and Beverly Barber (owner/applicant)  
Don Shirley (agent)

REQUEST: County Variance to reduce the interior side building setback from 20 feet to 10 feet on property zoned RR Rural Residential ("RR") for an accessory building.

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 9.45 acres

LOCATION: Generally north of 63<sup>rd</sup> Street South and east of South 143<sup>rd</sup> St. East (6260 S. 143<sup>rd</sup> St. E.)



**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 10 feet from the south property line in RR Rural Residential ("RR") zoning. The applicant had another party construct the concrete pad for an accessory building to be constructed on the site. Unfortunately the concrete pad was placed 10 feet into the 20 foot interior side yard setback. The applicant has state that he would like to continue the construction of the accessory building on the concrete pad. The location where the accessory building is to be constructed is one of very few places on the property where such a building could conveniently be located. The majority of the property is fenced off for the owner's horses and a number of trees would have to be removed in order for access and to place the building at another location. Also, other possible locations would prevent the owner from accessing underground utilities. The applicant stated that he has a permit for construction of the accessory building contingent on the outcome of the variance request.

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

**ADJACENT ZONING AND LAND USE:**

NORTH	RR	Manufactured home residence
SOUTH	RR	Single-family residence
EAST	RR	Manufactured home residence
WEST	RR	Farming, 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 fenced and covered with tree growth near the residences. The applicant chose the accessory building's location to be just east of an existing accessory structure, which will be removed after the construction of the proposed building. Another reason for the proposed location is it will utilize the existing driveway without make any large extensions or reconfigurations to the driveway.

**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 proposed building 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 remove the constructed concrete pad and comply with the 20 foot setback requirement would: require tree removal, would require realignment of the existing driveway and restrict access to existing underground utilities.

**PUBLIC INTEREST:** It is staff's opinion that the requested variance will not adversely affect the public interest as the accessory building would be 220 feet from the 143<sup>rd</sup> Street East and at least 440 feet from any structures located on the surrounding properties.

**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 interior side setback from 20 to 10 feet for an accessory building be **GRANTED**, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The interior side setback reduction from 20 to 10 feet is for the identified accessory building only. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The accessory building 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.