



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

July 7, 2005

Thomas M. Wall
Cynthia J. Wall
11711 E. 103rd Street South
Mulvane, KS 67110

RE: BZA2005-30 – Variance to reduce the interior side setback on the west from 20 feet to 3 feet on property zoned “RR” Rural Residential. Generally located south of 103rd Street South and east of Greenwich Road. (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: John Moses, 15015 E. 59th Street South, Derby, KS 67037
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

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. 2005-00030

WHEREAS, Thomas M. and Cynthia J. Wall (Owners/Applicants); pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests variance to reduce the interior side setback on the west from 20 feet to 3 feet on property zoned "RR" Rural Residential legally described as follows:

The East Half of the Northwest Quarter of Section 27, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except the East 664.6 feet thereof and except the North 680 feet thereof. Generally located south of 103rd Street South and east of Greenwich Road. (11711 E. 103rd Street South).

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 there is a very large tree located along the south property line that requires locating any structure on the subject property more than the minimum setback from the south property line in order to preserve the mature tree. Additionally, the abutting property to the north was developed with a house on two lots, and the house is set back over 45 feet from the common property line, which is unique to the development of the surrounding neighborhood.

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 variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the house on the abutting property to the north is set back over 45 feet from the common property line and sufficient separation between buildings will be provided to prevent any adverse impacts from constructing the house on the subject property with a zero-foot side setback.

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 remove the attached single-car garage from the house will be a financial hardship and will prevent full utilization of the property since the garage is needed for a physically disabled resident to access the house during inclement weather.

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 variances would not adversely affect the public interest, inasmuch as the public has an interest in supporting infill development in existing residential neighborhoods by providing reasonable flexibility in development regulations.

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 variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as sufficient separation between structures will be provided to maintain fire safety and to provide for the circulation of light and air.

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.*, variance be granted to reduce the interior side setback on the west from 20 feet to 3 feet on property zoned "RR" Rural Residential legally described as follows:

The East Half of the Northwest Quarter of Section 27, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except the East 664.6 feet thereof and except the North 680 feet thereof. Generally located south of 103rd Street South and east of Greenwich Road. (11711 E. 103rd Street South).

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

1. The site shall be developed in substantial conformance with the approved site plan.
2. The setback reduction shall apply only to the "Attached Single-Car Garage" 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.
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.

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 on the west from 20 feet to 3 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 a 104-foot by 146-foot horse barn 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. A pipe fence shall be erected along the full length of the west property line of the subject property.
4. 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.
5. 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: BZA2005-00030

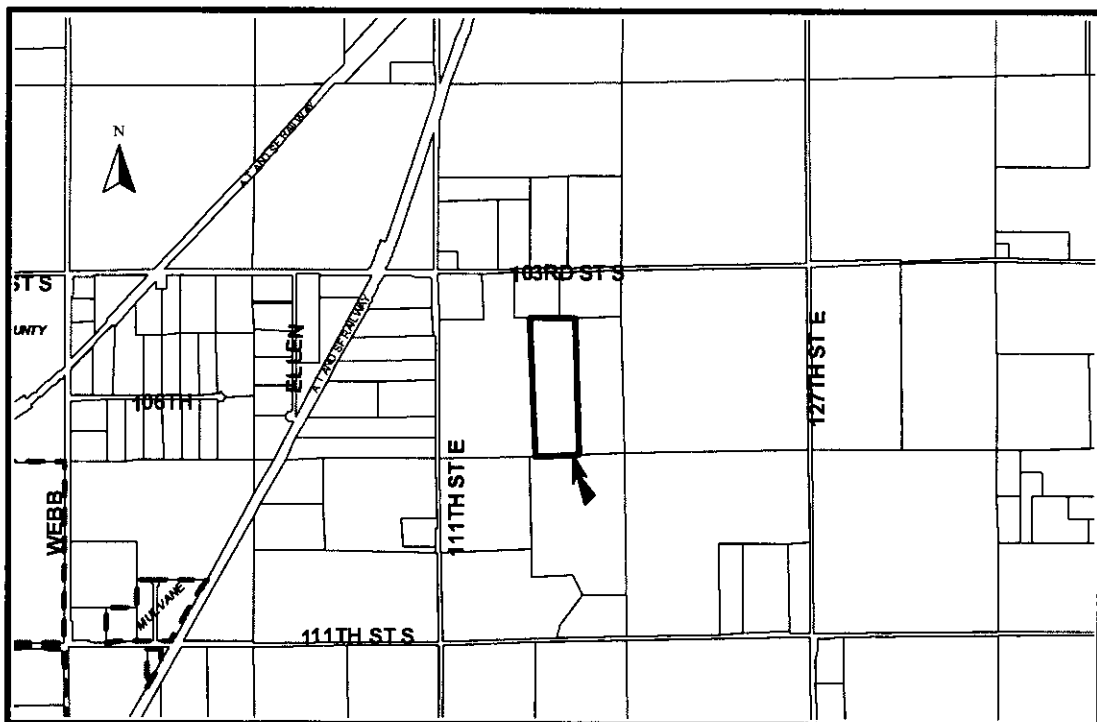
APPLICANT/AGENT: Thomas M. and Cynthia J. Wall (Owners/Applicants);
John Moses (Agent)

REQUEST: Variance to reduce the interior side setback on the west
from 20 feet to 3 feet

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 28.41 acres

LOCATION: South of 103rd Street South and east of Greenwich Road
(11711 E. 103rd St. S.)



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 construct a 104-foot by 146-foot horse barn on the subject property (see attached site plans, elevation drawings, and floor plan). According to the applicant (see attached written justification), the horse barn needs to be constructed in the proposed location due to significant limitations on the subject property on where a structure of the proposed size can be constructed. These limitations include easements, land contour, creeks, ponds, floodway reserve, shelter belt, and tree coverage (see attached survey and aerial photograph). The "RR" Rural Residential zoning district requires a 20-foot setback along the west property line; however, the applicant has requested a variance to reduce the interior side setback along the west property line to three feet in order to construct the proposed horse barn in an area that does not entail major changes to the land. A variance is required to reduce building setbacks by more than 20 percent.

ADJACENT ZONING AND LAND USE:

NORTH	"RR"	Agriculture
SOUTH	"RR"	Agriculture
EAST	"RR"	Agriculture
WEST	"RR"	Agriculture

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as there are significant limitations in terms of easements, land contour, creeks, ponds, floodway reserve, shelter belt, and tree coverage that require locating the proposed structure less than the minimum setback from the west property line.

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 property is used for agriculture and does not contain any structures. Additionally, a pipe fence will be constructed along the west property line so that no part of the barn or its operation will encroach upon the adjacent property.

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 construct the proposed horse barn elsewhere on the subject property will be a significant financial hardship without any resulting public benefit.

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 agricultural properties, including preventing unnecessary filling of flood prone areas and preserving established shelter belts and tree coverage.