

**SEDGWICK COUNTY BOARD OF ZONING APPEALS
PLANNING AGENDA
October 14, 2008**

The Sedgwick County Board of Zoning Appeals meeting was held at 3:30 p.m. on Tuesday, October 14, 2008, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N Main, Wichita, Kansas.

BOARD MEMBERS PRESENT:

BRAD HAWTHORNE, TOM LINDSAY and JOHN DAILEY.

BOARD MEMBER ABSENT:

JANA MULLEN
GRANT TIDEMANN

STAFF PRESENT:

JESS MCNEELY, BZA Secretary and Senior Planner;
YOLANDA ARBERTHA, Recording Secretary
BOB PARNACOTT, County Attorney;

STAFF ABSENT:

GLEN WILTSE and KELLY DIXON, County Code Enforcement.

LINDSAY Officially called the meeting to order at 3:30 p.m.

MCNEELY Handed out updated bylaws.

Approval of the June 10, 2008, Minutes.

MOTION: To approve the June 10, 2008, minutes.

DAILEY moved, **HAWTHORNE** seconded the motion, and it carried **(3-0)**.

LINDSAY Announces case **BZA2008-46** County Variance request to reduce a side setback from 20 to 10 feet in RR Rural Residential zoning.

JESS MCNEELY, Planning Staff presented the staff report.

APPLICANT/AGENT: John and Pamela Horner (Owners)

REQUEST: County Variance request to reduce a side setback from 20 to 10 feet

CURRENT ZONING: RR Rural Residential zoning.

LOCATION: Located north of 101st Street North and west of Greenwich (10520 E 4th).

BACKGROUND: The applicant requests a variance to reduce the Zoning Code required side building setback from 20 feet to 10 feet for an accessory structure in RR Rural Residential 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 developed with a home and accessory structures. The applicant wishes to build a 30 by 30-foot accessory structure on the west portion of his property. Because of the existing home and tree locations, the applicant wishes to build the accessory structure 10 feet from the west property line. The west property line is at an angle; therefore the proposed building would be 10 feet from the property line at the northwest corner, but 24 feet from the property line at the southwest corner (see the attached site plan).

All surrounding properties to the north, south, and east 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, as 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, where no future buildings are anticipated.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance for a side setback reduction from 20 to 10 feet would not adversely affect the rights of adjacent property owners, as the adjacent property is a railway with a drive directly adjacent to the proposed building site.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant, as this small property with existing features would make it 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 setback reduction from 20 to 10 feet will not adversely affect the public interest, as building and fire 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 setback reduction from 20 to 10 feet does not oppose the general spirit and intent of the Zoning Code, as the desired separation between buildings is still maintained due to the railway location west of the site.

RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance, and recommends that the variance be APPROVED. Should the Board determine that the conditions necessary for the granting of a variance exist, then the Secretary recommends that the variance to reduce the 20 foot side setback to 10 feet be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback variance from 20 to 10 feet shall apply to the 30 by 30-foot building identified on the site plan only. All future building projects must conform to the Zoning Code unless additional variances or adjustments are granted.
3. The proposed building shall obtain necessary permits, and shall conform to all other codes including but not limited to building, health, and fire.
4. The proposed building shall be constructed within one year of the variance approval, unless such time is extended by the Board of Zoning Appeals.
5. The above conditions are subject to enforcement by any legal means available to Sedgwick County.

MCNEELY The applicant is here to answer any question you may have for him. Are there any questions of planning staff on this item?

DAILEY Did you decide placement to avoid trees?

HORNER Yes, along with the general look.

DAILEY How it fits in with the house.

HORNER Exactly, if you move to the south it would look unattractive abutting way out. This placement has it setting back in alignment with the house.

HAWTHORNE Can someone explain the vacated alley portion? On the Aerial viewing it does not exist. Was that an old aerial?

MCNEELY Yes. That was an alley. The applicant did the vacation.

HORNER To give some history, the house is property where my grandmother once lived. At the time of her death, I could not afford to buy it. My parents purchased it and

at that time I vacated to close the alley way. There is an alley between the two properties and a street between the house and the house next to it. In order to vacate the alley and the street, I was to have all the adjacent property owners to agree with the vacationing of the alley and the street. One of the property owners to the north would not agree to vacate the street; therefore, only the alley was vacated. That is the reason why only the alley is vacated.

HAWTHORNE Once it is vacated that is like a permanent deal right?

MCNEELY Yes, once the alley way is vacated the alley ceases to exist but the old plat shows it and our zoning map shows it as being vacated. It reverts to the ownership of the adjacent property owner. It is his property to do with as he pleases. He can build across the vacated alley now if he chose to.

HORNER It was almost platted 109th on the North, Greenwich Rd to the east and I do not know how far west. It went quite a way south around the year 1877 whenever they officially file this plat. At one point, someone had some grand ideas for Furley.

DAILEY Are there going to be any driveways back to this building?

HORNER I am not doing that at this time. I may put something like a rock driveway on that property going straight back from the street. I have no plans to install a driveway at this time. Maybe at some point, I may put something in later. Right now it is something to park my mowers and for a little storage area.

DAILEY Will it have garage doors?

HORNER Yes, a garage type door.

DAILEY Where the older house is now, was that your Grandmother's house?

HORNER Yes that was my Grandmother's house.

DAILEY Do you have ownership of it now?

HORNER Yes, I have ownership of it.

LINDSAY Any more discussion? Since no one is here in opposition, we need a motion.

HAWTHORNE I move that we approved the case as presented.

DAILEY Seconded

LINDSAY All in favor say aye.

Motion carried (3-0)

LINDSAY Any other items for the board to consider? Since none, I move to adjourn.

Adjourned at 3:54 p.m.