

**SEDGWICK COUNTY  
BOARD OF ZONING APPEALS  
AGENDA  
AUGUST 18, 2015**

The regular meeting of the Sedgwick County Board of Zoning Appeals will be held on **Tuesday, August 18, 2015, at 3:00 p.m., in the Planning Department Conference Room, Wichita City Hall- 10<sup>th</sup> Floor, 455 N. Main St., Wichita, KS.**

The following items will be considered:

1. Organization and election of Co-BZA officers
2. Adoption of County Board of Zoning Appeals Bylaws
3. Approve County Board of Zoning Appeals 2015 Meeting Calendar
4. **Case Number:** BZA2015-00032  
**Request:** County BZA Variance to reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential zone district for a new structure.  
  
**Applicant:** John and Pamela Horner  
  
**Agent:** None  
  
**General Location:** Located at 4<sup>th</sup> Street and Avenue E in unincorporated area of Furley (10610 E. 4<sup>th</sup> Street.)
5. Other business

Dale Miller, Secretary  
Derrick Slocum, Assistant Secretary

**SEDGWICK COUNTY BOARD OF ZONING APPEALS**

<b><u>Name</u></b>		<b><u>Address</u></b>	<b><u>Zip</u></b>	<b><u>Telephone</u></b>	<b><u>Appointed</u></b>	<b><u>Term Expires</u></b>
Jeff Black (Ranzau)	(Res)	123 S. Cedar, #2, Valley Ctr, KS <a href="mailto:jbspcs3000@aol.com">jbspcs3000@aol.com</a>	67147	755-1992 (Res)	5/20/2015 (appointed)	6/30/2017
Bill Johnson (Norton)	(Bus)	Evans Building Co., Inc. 9801 W. York - PO Box 12086	67215	524-0103 (Bus)	5/20/2015 (appointed)	6/30/2017
	(Res)	4001 S. 167th St., West <a href="mailto:Billj@evbansbldg.com">Billj@evbansbldg.com</a>	67149	794-3495 (Res) 524-2562 (Fax)		
Douglas Kutilek (Howell)	(Res)	<u>11303 Springwater Dr.</u> Clearwater, KS <a href="mailto:dkutilek@gmail.com">dkutilek@gmail.com</a>	67206	217-4064 (Cel)	6/10/2015 (appointed)	6/30/2017
John W. McKay Jr. (Unruh)	(Bus)	236 S. Topeka	67202	262-5491 (Bus)	5/20/2015 (appointed)	6/30/2017
	(Res)	9106 Peppertree <a href="mailto:john@casadomckay.com">john@casadomckay.com</a>	67226	262-1464 (FAX)		
Max Weddle (Peterjohn)	(Rest)	862 S. Zeta <a href="mailto:maxweddle@cox.net">maxweddle@cox.net</a>	67207	685-7839 (Res)	6/10/2015 (appointed)	6/30/2017

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<b>Secretary:</b> Derrick Slocum Division Supervisor	268-4421	<b>Asst. Secretary:</b> Dale Miller Current Plans Manager	268-4421	<b>6/10/2015</b>
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AGENDA ITEM  
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# **Bylaws of the Sedgwick County Board of Zoning Appeals**

## **Article I**

The purpose of the Board of Zoning Appeals of Sedgwick County shall be as set forth in Section VI-E of the Wichita-Sedgwick County Unified Zoning Code and in K.S.A. 12-759 as otherwise provided by state statute and county resolution.

## **Article II - Organization and Officers**

- The Board shall organize annually at its first meeting after May 1, elect a Chairman, a Vice-Chairman, and a Secretary. The Secretary may, but need not be, a member of the Board.
- The Chairman shall preside at all meetings of the Board. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of the Chairman and Vice-Chairman, the Secretary will preside to open the meeting for the purpose of selection of a Chairman pro tem.
- Subject to these rules, the presiding officer shall, on the recommendation and advice of the duly appointed legal counsel, decide all points of order and procedure, unless overruled by a majority of the Board.
- The Chairman, or other presiding officer, shall have the right to make motions and to second motions without vacating the Chair.
- The officer presiding at the meeting and the Secretary shall sign the Resolutions and other official documents adopted or approved by the Board.
- Subject to these rules and the direction of the Board, the Secretary shall submit reports on all official matters occurring between meetings; conduct all official correspondence; send all notices required by these rules and orders of the Board; make the necessary inspections of premises; attend all meetings and hearings; keep the minutes of the Board's proceedings; prepare the necessary resolutions; compile the required records; maintain the necessary files and generally supervise all the clerical and technical work of the Board. The Secretary shall be and is hereby authorized to designate an Acting or Assistant Secretary to perform any or all of the above functions in the event of the incapacity or absence of the Secretary.

## **Article III - Meetings and Voting**

- The Board of Zoning Appeals shall adopt a meeting calendar annually, setting one meeting date for each month. Such meetings shall be held at 3:00 pm, in the Planning Department Conference Room, Wichita City Hall – 10th Floor, 455 N. Main Street, Wichita, KS.
- All hearings sessions shall be open to the public.
- Three members of the Board shall constitute a quorum.

- The presiding officer may grant permission to abstain from voting. Unless such permission shall have been granted or unless there shall have been a negative vote cast, an affirmative vote shall be recorded.
- A vote of at least three members shall be required to pass any motion.
- Special meetings may be called by the Chairman or Vice-Chairman for whatever time and purpose he/she deems necessary; provided, however, that no case or proceedings shall be considered unless legal notice by publication and mail shall have been given as by law provided.
- If any member misses three meetings in a row, or four meetings in any twelve month period, without good cause, the Chairman may notify the County Commissioner who appointed the member of the absences.

#### **Article IV - Cases Before the Board**

- The jurisdiction of the Board of Zoning Appeals shall be limited to those areas specified by state statute or county resolution.
- The procedure for requesting a hearing before the Board of Zoning Appeals shall be as follows:
  - An application (appeal or variance) shall be filed with the Secretary of the Board on forms furnished by the Secretary (City Building, Metropolitan Area Planning Department, 10th Floor, 455 N. Main, Wichita, Kansas).
  - An application shall be accompanied by a filing fee as specified in Resolution #005-2015 or as it may be amended from time to time.
  - An application for a variance shall be accompanied by a certified listing from an abstract company containing the names, mailing address, zip code and legal description of the owners of the application area and of all property within a radius twice the distance of the frontage of the application area. This distance must be at least 200 feet but not more than 1000 feet.
- In addition to the above requirements, certain applications require additional information, as follows:
  - Appeals
    - The appeal shall be filed within twenty (20) days after a ruling has been made by the Zoning Administrator.
    - The order, requirement, decision or determination by the Zoning Administrator which the appellant believes to be in error; and the principal points supporting the appellants, allegation of errors, including reference to that Section of the Unified Zoning Code under which it is claimed the permit should be issued.
    - A clear and accurate description of the proposed work, use or action, in which the appeal is involved, and a statement as to why or in what manner an error has been made.

- The Zoning Administrator, or his authorized representative, shall be represented at all hearings before the Board; and shall then make available to the Board all records regarding the matter.
- A plot plan drawn to scale showing the proposed plan of improvements, when deemed necessary by the Secretary.

- **Variances**

- A statement from the applicant justifying the variance requested; indicating specifically the enforcement provisions of the Unified Zoning Code from which the variance is requested and to what degree such a variance is requested.
  - A specific statement outlining in detail the manner in which it is believed that this application will meet the requirements of Section V-G.6 of the Unified Zoning Code.
  - A sketch, drawn to scale, showing the lot or lots included in the application; the structures existing thereon; and the structure or use contemplated necessitating the variance requested.
- No application shall be considered wherein an application has been previously decided, involving the same premises and Unified Zoning Code requirements, except in cases where new plans or new facts pertaining to said requirements or regulations are presented, showing changed conditions or circumstances which, in the opinion of the Board, materially alter the aspects of the case. Each new reconsideration shall be considered a new case, requiring a filing fee.
  - No application shall be advertised for a public hearing for property wherein a change of zoning is first necessary until the zone change amendment is approved and becomes effective.

**Article V - Calendar**

- The Secretary shall maintain a docket for all applications, numbering said applications consecutively.
- The Secretary shall prepare and submit to the Board for its consideration and adoption a list of closing and hearing dates for the following year. The list shall be submitted to the Board at its last scheduled meeting in each calendar year.
- Applications shall be placed on the calendar of the Board for hearing in accordance with a closing and hearing date schedule duly adopted by the Board.

**Article VI - Notice of Hearing**

- Notice to the applicant shall be given not less than twenty days prior to the date of hearing and shall be by mail to his last known address.
- For variances, written notices shall be given by mail not less than twenty days prior to the date of hearing to property owners of record at their addresses, and if not

available, to the address of the premises, if tenanted, in all directions from the subject property for a distance of twice the frontage of the property included in the application; provided, no distance need be more than 1,000 feet and cannot be less than 200 feet. Notices shall also be mailed to the Planning Commission of any city when the applicant area lies within the City's zoning area of influence.

- All notices by mail shall be directed to the addresses stated in the certified abstract ownership list accompanying the application.
- The Secretary shall cause to be published, in the official County paper, a notice of public hearing of said meeting at least twenty days prior to the date of hearing, as provided by law.

#### **Article VII - Hearing of Cases**

- All hearings of the Board and all official actions taken by the Board shall be public.
- The applicant should be present at the public hearing, either in person or by counsel or agent. The applicant, and persons appearing in his behalf, shall be heard first and thereafter the individuals appearing in opposition to the application shall be heard. In the event of the absence of the applicant, either in person or by his counsel or agent, the Board shall determine that said applicant was duly notified, and the Board may proceed to decide the application on the basis of the facts then available for consideration.

#### **Article VIII - Final Disposition of Applications**

- The final disposition of every application shall be in the form of a resolution signed by the Chairman and Secretary. Every application granted or denied by the Board shall be accompanied by written findings of fact and reasons for granting or denying the appeal or variance; and various conditions may be stipulated by the Board to be fulfilled before granting the appeal or variance.
- In exercising its powers, the Board, by its Resolution, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, and on all applications may attach appropriate conditions, and may use or direct the issuance of a permit.
- An affirmative vote of three (3) Board members shall be necessary for any action finally disposing of any application. In case of failure to reach a decision, the matter shall be presented at the next meeting.
- An applicant may withdraw his application at any time prior to the adoption of the resolution, which would cancel and close his case; but the filing fee shall not be remitted to him.
- The Secretary shall notify the applicant, in writing, of the final action of the Board.

#### **Article IX - Hearings**

- Requests for rehearing shall be in writing and duly verified and shall be submitted to the Secretary of the Board within sixty (60) days of the date of the original hearing.

The requests shall recite the reasons for the rehearing. No requests for rehearing shall be entertained unless new evidence is submitted which could not reasonably have been presented at the previous hearing. If the request is granted by the Board, the same procedure will be followed as was followed in consideration of the original application, including filing fees, notices, etc.

- The Secretary of the Board shall determine if a rehearing shall be allowed; however, the applicant shall have the right to appeal the Secretary's determination to the Board of Zoning Appeals.

#### **Article X - Amendments**

- Amendments to these bylaws may be introduced at any meeting of the Board and voted on at the same or any subsequent meeting; provided that notice of the consideration of any such amendment or passage, either in the form of a letter or official agenda of the Board, is mailed to each member prior to its first introduction at a regular meeting.

#### **Article XI - Records**

- The records of all Board cases and hearings shall be kept on file in the Office of the Secretary of the Board, in such manner as to be available for public inspection during the regular office hours of the Secretary.

# 2015 CALENDAR

## SEDGWICK COUNTY BOARD OF ZONING APPEALS MEETING AND CLOSING DATE SCHEDULE

<u>CLOSING DATE</u> (BY 4:00 PM)	<u>NOTICE TO OFFICIAL</u> <u>NEWSPAPER</u>	<u>ADVERTISING DATE</u>	<u>BZA HEARING DATE</u> (Tuesday 3:00 PM)
July 13, 2015	July 27, 2015	July 30, 2015	August 18, 2015
August 10, 2015	August 24, 2015	August 27, 2015	September 15, 2015
September 14, 2015	September 28, 2015	October 1, 2015	October 20, 2015
October 9, 2015	October 26, 2015	October 29, 2015	November 17, 2015
November 9, 2015	November 23, 2015	November 26, 2015	December 15, 2015

The County Board of Zoning Appeals meets at 3:00 pm on the dates indicated above in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 N. Main, Wichita, KS, or as specified on their meeting agenda. For information on procedures and applications, contact the Secretary of the Board of Zoning Appeals at 268-4421.

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT  
10<sup>th</sup> Floor, City Hall, 455 N. Main  
WICHITA, KS 67202-1688

**SECRETARY'S REPORT**

CASE NUMBER: BZA2015-00032

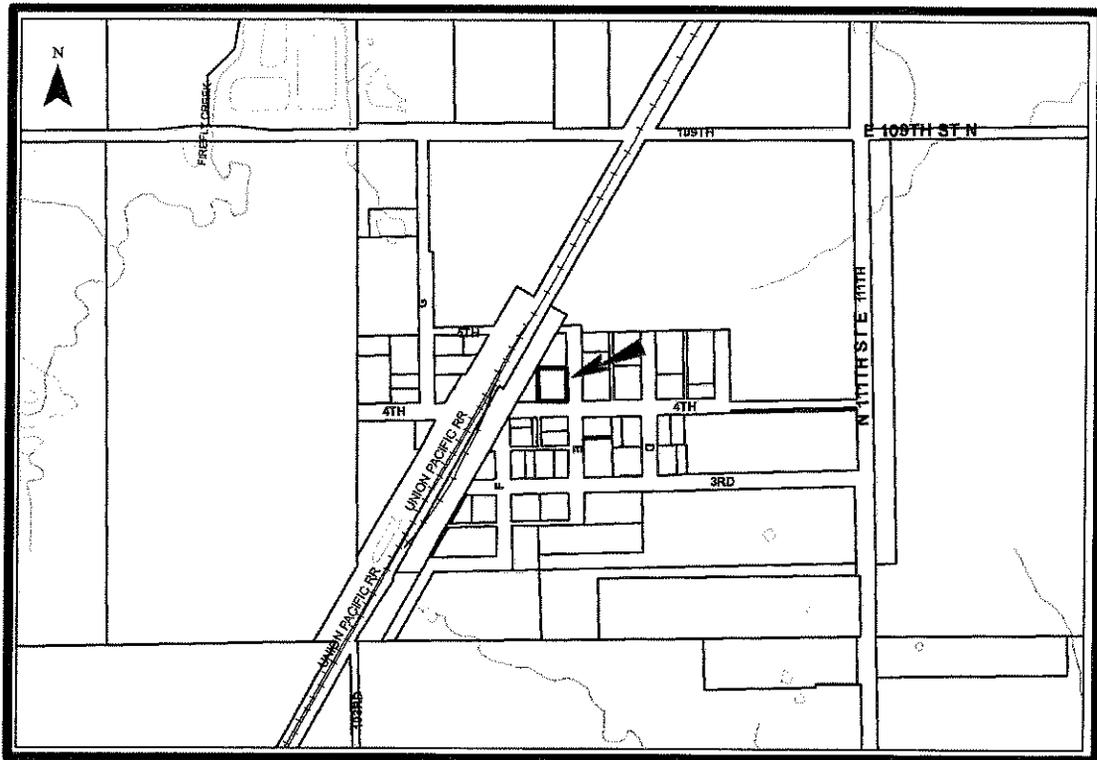
APPLICANT/AGENT: John Horner (owner/applicant)

REQUEST: County Variance to reduce the front setback requirement from 30 feet to 15 feet in the RR Rural Residential ("RR") zone district for a new structure.

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 0.61 acres

LOCATION: Generally located at 4<sup>th</sup> and Avenue E in unincorporated area of Furley (10610 E. 4<sup>th</sup> Street).



**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 front setback from 30 feet to 15 feet for a new structure in RR Rural Residential (“RR”) 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 currently developed with a home and accessory structures. The applicant desires to remove the existing structure that, according to GIS, is a few feet over the front property line. Due to the location of the principal structure and trees, the applicant wishes to build a new structure 15 feet from the front property line. This variance request is for the proposed 15 foot front setback of the zoning districts 30 foot setback requirement. Overall, the applicant is wanting to remove an existing structure that currently lies on the front property line and is 20 feet from the east property line with a new structure that will be setback 15 feet from the front property line and 30 feet from the east property line.

All surrounding properties to the north, south, east and west 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, inasmuch, that 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 and unimproved public right-of-way to the east, where no future buildings are anticipated.

**ADJACENT PROPERTY:** It is staff’s opinion that granting the requested variance for a front setback reduction from 30 feet to 15 feet would not adversely affect the rights of adjacent property owners, inasmuch, that the request would actually allow for a new building that would be less impactful to the area than the existing structure. The existing structure is not currently setback from the front property line, and the new building will be setback 15 feet.

**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 front setback reduction from 30 feet to 15 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. This request will allow for the removal of an existing structure currently within the public right-of-way.

**SPIRIT AND INTENT:** It is staff's opinion that granting the requested variance for a front setback reduction from 30 to 15 feet does not oppose the general spirit and intent of the Zoning Code, inasmuch, at the desired separation between buildings is still maintained due the existing public right-of-way to the south 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 front setback from 30 feet to 15 feet for a new accessory structure be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The front setback reduction from 30 feet to 15 feet is for the identified new 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.

