

STAFF REPORT

ON AN APPLICATION FOR: A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from Richard A. Hird, property owner, requesting a variance to allow a reduction of the required 140-foot front setback to 100 feet for a single-family residence, to be located at 1540 N. 1100 Road.

APPLICANT/OWNER:	Richard A. Hird
LOCATION:	1540 N 1100 Road (Plate № 800900-01)
AREA:	0.75 acre
DATE OF PUBLIC HEARING:	April 15, 2024, 10:00 AM.
DATE PUBLIC NOTICE PUBLISHED:	March 26, 2023
PRESENT ZONING AND LAND USE:	Ag-2 – Transitional Agricultural District, vacant (proposed use as a single-family residence)

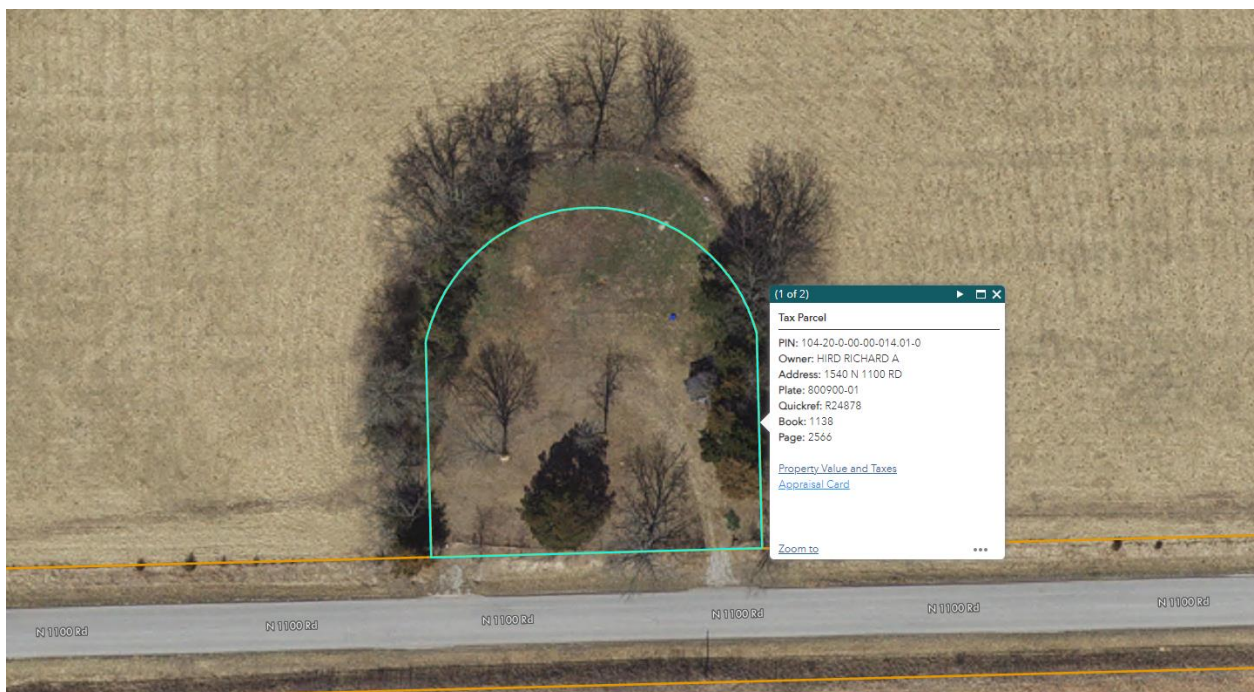
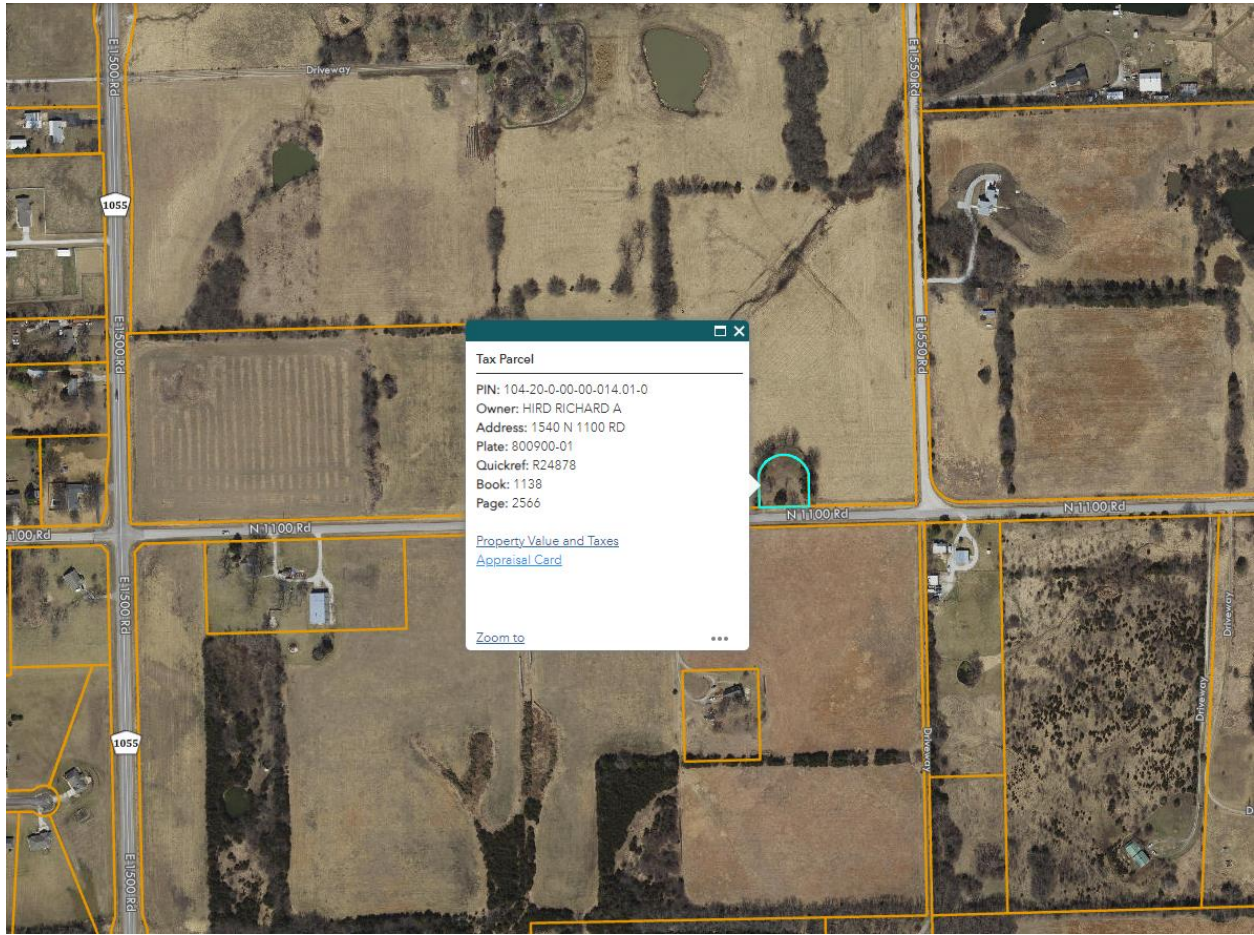
SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-303-2.04 Dimensional Standards: Requires 40-foot base setback from the center of a major collector road and a 100-foot front and exterior side setback.

DESCRIPTION OF VARIANCE REQUESTED:

The subject property, located at 1540 N 1100 Road, is approximately three-quarters of an acre in size and has semicircular rear property line. The property has existed in its current dimensions since at least 1956, predating the County’s first zoning code, and is considered vested and eligible for a residential building permit. The applicant is requesting a variance to construct a one-story single-family residence approximately 100 feet from the center of the road, within the required 140-foot front setback. According to the applicant, the property has historically been developed with a residence, which was demolished in the late 2010s. Additionally, the 1921 *Standard Atlas of Douglas County, Kansas* indicates a church was located on the property. The now-demolished residence would have been located within the setback, and was considered legal-nonconforming as it appears to have been constructed prior to the adoption of the County’s zoning regulations, based on a 1966 aerial image. Given the relatively small size of the lot, its location on a major collector road with increased setbacks, and the curved rear property line, there is very little area within the property’s buildable area. As such, the applicant is requesting a reduction in the front setback to increase the buildable area. Aside from obtaining a variance from the Board of Zoning Appeals, the applicant must also ensure the existing entrance and any septic systems meet County and other applicable standards.

VICINITY MAPS (2022)



STANDARDS FOR VARIANCES:

- A. **That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant**

Properties of this size and shape are uncommon in the unincorporated area. The property, at three-quarters of an acre in size, 165 feet in width, and with a curved rear property line has limited area outside the required setbacks.

- B. **Granting the variance would not adversely affect the rights of adjacent property owners or residents**

The location of the proposed single-family residence is not anticipated cause any substantial negative impact to the surrounding property owners or hinder any views. The location of the proposed residence is screened by mature trees and would have limited visibility from N 1100 Road and neighboring properties. Additionally, the property has historically been developed with a single-family residence.

- C. **The strict application of the regulations for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application**

The property, at three-quarters of an acre in size, 165 feet in width, and with a curved rear property line has limited area outside the required setbacks, and may not be considered buildable for a typical residence with these restrictions. As such, the strict application of these regulations would not allow the applicant to enjoy his property in the same way as others nearby.

- D. **The variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare**

A single-family residence is a permitted and common use in the Ag-2 zoning district, and the property has been used as a single-family residence historically. Staff does not anticipate any substantial adverse impact to the public health, safety, morals, order, convenience, prosperity, or general welfare arising from the granting of this variance.

- E. **Granting the variance desired would not be opposed to the general spirit and intent of these Regulations**

The front setback is intended to provide for future road improvements without having to demolish structures, and it is also beneficial for reducing traffic related distractions and incidents. In this instance, the proposed single-family residence continues to maintain a distance of approximately 100 feet from the center of the road. Additionally, the applicant intends to keep existing trees in the front side of the property that will serve to screen the building from the road to minimize roadside distractions. Staff find this variance request to be in alignment with the general spirit and intent of the zoning regulations.

PUBLIC COMMENTS:

As of April 3, 2024, a nearby resident called the Zoning and Codes office to express opposition to this variance request. No written comment has been received.

AGENCY COMMENTS:

Staff reached out to several agencies seeking comment regarding the granting of this request. No comments have been received as of April 3, 2024. Additional comments may be pending.

STAFF RECOMMENDATION

County Staff recommend approval of the variance request to allow a reduction of the required 140-foot front setback to 100 feet for a single-family residence, to be located at 1540 N. 1100 Road, with the following stipulation:

1. This variance shall apply only for a single-family residence. Any other structures shall comply with the adopted zoning regulations or another variance shall be obtained from the Douglas County Board of Zoning Appeals.

Prepared by: Karl Bauer, County Planner

Date: April 3, 2024