



MINUTES

DOUGLAS COUNTY BOARD OF ZONING APPEALS

Public Works/Zoning and Codes Building - Training Room, and by Zoom

3755 E 25th Street

Monday, April 15, 2024

10:00 A.M.

MEMBERS PRESENT: Rich Barr, Chair, Fadra Mitchell, Charlie Thomas, Scott Eudaly, Jerry Wohletz

MEMBERS ABSENT: n/a

STAFF PRESENT: Tonya Voigt, Zoning Director; Karl Bauer, County Planner; Ben Harris, Code Enforcement Officer

PUBLIC PRESENT: In Person: Richard A. Hird
Virtual: n/a

Rich Barr called the meeting to order at 10:01 a.m.

Rich Barr called roll and a quorum was established.

ITEM NO. 1: MINUTES

Approve, revise, or approve with conditions the March. 18, 2024, meeting minutes.

Charlie Thomas motions to approve, Jerry Wohletz seconds. Approved 5-0.

ITEM NO. 2: DISCLOSURE OF EX PARTE COMMUNICATIONS

Chair asks Board members for disclosure of any ex parte communications on the items on the agenda.

Rich Barr asks:

Jerry Wohletz acknowledges that he knows the neighbors of the property surrounding 1540 N 1100.

VARIANCE REQUESTS

ITEM NO. 3: ZBZA-2024-0002 - 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.

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.

10:01 am Chair Barr calls meeting to order.

Karl Bauer presents ZBZA-2024-0002 and reviews staff report. Karl notes that the BZA authority is limited to setbacks.

10:11am – Karl yields the floor.

Rich Barr asks applicant if he will build another carport.

Rich Hird notes that the existing structure is only for storage until the house is built.

Main part of the house will face the North toward the field.

Rich Hird notes that there is a 16-inch water main.

Rich Barr asks for distance to the back of the house.

Rich Hird notes that it will be 120' and the carport will be 100'

Rich Hird - Septic system is already in the radius of the property.

Rich Barr – Asks for clarification about location of house and carport.

Fadra Mitchell – notes that she did a site visit. The front of the property is elevated quite a bit. The house will be set visually lower than the road because of the grade.

Jerry Wohletz – asks for setback clarification for the carport.

Rich Barr – The carport will be at 100' from the center of right of way. The house will be at 120'.

Rich Hird reiterates that the septic is already present to the North. They had to enlarge the lateral field to serve a potential 2-bedroom house.

Charlie Thomas – if we didn't approve of it there is nothing that could go there.

Rich Hird – It will be on rural water. It was previously on well.

Rich Barr asks about the rural resident that called with concerns. Karl notes that they were on the edge of the notification range and did not want a house there.

Rich Barr asks if there are any motions?

No members of the public were in attendance to deliver comment.

Jerry Wohletz – makes motion 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.

Fadra Mitchell – seconds the motion.

Motion passes 5-0 with all in favor.

Karl Bauer begins staff updates.

Karl notes upcoming text amendment going before the Board of County Commissioners on Wed. April 17. Part of the proposed regulations is to provide an administrative path forward for vacation rentals. If there is an appeal that would come before this body.

Jerry asks about the commissioners view on the proposed regulations and Karl notes that it passed the planning commission unanimously.

Karl – The proposed regulation will allow for administrative approval and a life safety inspection from the building inspector.

Rich – If there are 30 operating without approval, if 25 don't want to comply, what will the process be?

Tonya – under the current requirements they would all need a CUP to operate and that would inundate the commissions. The typical enforcement process of letters and notifications would be followed to work towards compliance and registration.

Charlie notes how arduous a CUP is and if the process can be done administratively it is better.

Karl notes that this was initiated through the planning commission after an application in 2022.

Tonya notes that Home Based Businesses and Agritourism are also approved administratively.

Karl – introduces the Board of Zoning Appeals presentation.

1. What is a BZA – Separate body from the Planning Commission
2. Powers of the BZA – Quasi-judicial – Considers Variances and appeals
 - a. Can't consider financial burden
 - b. Decisions are final, appeals are heard by District Court
 - c. Not advisory like the Planning Commission
3. What can't BZA decide?
 - a. Land Use Variances

- b. Encroachment
 - c. Sanitation Systems
 - d. Building Code Appeals
4. What's a setback.
 - a. Historically intended to provide light and air, limit spread of disease, limit spread of fire, provide sanitation and drainage.
 - b. Why are they important?
 - c. Modern Criticism of setbacks
 5. What is a nonconformity?
 - a. Legal non-conformity, was legal when it started but is no longer permitted. Sometimes these are called grandfathered.
 - b. Examples of nonconformities – small parcels, houses in industrial district
 6. Zoning in Douglas County – review of districts
 - a. Setbacks measured from the center of the right of way.
 7. Zoning Districts.
 8. Decision Making Criteria
 9. What Happens before a meeting – the process
 10. How Meetings work
 11. What is KOMA?
 12. Who's who at Zoning and Codes?
 13. What do you do if a member of the Media Contacts you? Direct them to County's Public Information Officer – Karrey Britt.

Motion to adjourn from Rich Barr.

Jerry Wohletz seconds motion.

The BZA Meeting was adjourned at 10:55 AM.