

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 Geoffrey J. Ulmer requesting a variance to allow a detached accessory dwelling unit on property less than 10 acres in size, to be located at 1197 N. 400 Road.

APPLICANT/OWNER:	Geoffrey Ulmer, Applicant; Geoffrey & Jamie Ulmer, & Wanda Gaunce, Owners
LOCATION:	1197 N. 400 Road (Plate № 900306D)
AREA:	8.9 acres
DATE OF PUBLIC HEARING:	August 19, 2024, 10:00 AM.
DATE PUBLIC NOTICE PUBLISHED:	July 30, 2024
PRESENT ZONING AND LAND USE:	Ag-2 – Transitional Agricultural District, used as a single-family residence.

SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-306-1.04(m)(2) Standards that apply to all Accessory Dwelling Units: “A minimum of 5 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (10 acres total) if the dwellings are served by well water.”

DESCRIPTION OF VARIANCE REQUESTED:

The subject property, located at 1197 N. 400 Road, is approximately 8.9 acres in size and is developed with a single-family residence (built in 2000) and a garage. The applicant is proposing construction of a detached accessory dwelling unit (ADU) for his recently widowed mother to allow her to live closer to him. The ADU is intended to be part of an approximately 50-foot by 90-foot building that would also include a workshop.

Douglas County’s Zoning Regulations require 10 contiguous acres outside of the floodplain for a property to be eligible for a detached ADU if served with a well. The subject property is approximately 8.9 acres in size with approximately 4.27 contiguous acres outside the floodplain. While an attached ADU would be permitted on the subject property, the Zoning Regulations would not allow a detached ADU. The applicant is seeking a variance to allow the proposed ADU to be detached.

With an attached ADU, the existing septic system would need to be expanded and with a detached ADU, an additional septic system would need to be installed. The 10-acre requirement is intended to limit the density of septic systems and ensure there is adequate distance between the septic system and the well. Lawrence-Douglas County Public Health has issued a septic permit for the property and has expressed they have no concerns arising from granting this variance request.

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**

The subject property is approximately 8.9 acres in size and was created in 1991, prior to its current ownership. The property is similar in size and shape to neighboring properties. A stream crosses the property from north to south and is within the regulatory 100-year floodplain. The existing house and proposed building would be situated on a 4.27-acre contiguous area outside the floodplain.

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

The location of the proposed building is not anticipated to adversely affect the rights of adjacent property owners or residents. The area of the property immediately adjacent to the proposed building is currently used for agricultural purposes and is not anticipated to hinder any views, cause adverse impacts, or generate any more light or noise than any other residence. The proposed building will be for uses permitted in the Ag-2 District.

- 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 subject property is just under the ten-acre requirement for a detached accessory dwelling unit, though this is greatly reduced by the floodplain. Whether an accessory dwelling unit were to

be attached or detached, the existing septic system would need to be expanded or a new one constructed. Environmental Health has issued a permit for a new septic system. The applicant has stated that he has attempted to plan for an attached accessory dwelling unit, though it would not be possible due to the layout of the existing house.

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

Accessory buildings used as workshops, storage, and for woodworking are common in the unincorporated area, and an accessory dwelling unit is also a common use. The Accessory dwelling unit is intended for the applicant's mother. The proposed building would meet all required setbacks. Environmental Health has not indicated any concerns arising from the addition of another septic system. 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 ten-acre requirement is intended to ensure there is adequate distance between the well and septic system(s). Zoning staff met with Environmental Health staff to discuss this specific property, and Environmental Health staff determined distances are adequate. The acreage requirements are also intended to reduce the appearance of a high density of houses, such as having two large houses on a small lot. In this case, the appearance will be of an existing house with a large accessory building in back. While the accessory building must be residential in character, the main use will be as a workshop with a smaller portion being for living quarters.

PUBLIC COMMENTS:

Zoning and Codes staff have not received any written comments or phone calls regarding this request as of August 7, 2024.

AGENCY COMMENTS:

Staff reached out to several agencies seeking comment regarding the granting of this request. The Health Department indicated they have no concerns. Willow Springs Township indicated they were reviewing this and may provide comment later. No further comments have been received as of August 7, 2024. Additional comments may be pending.

STAFF RECOMMENDATION

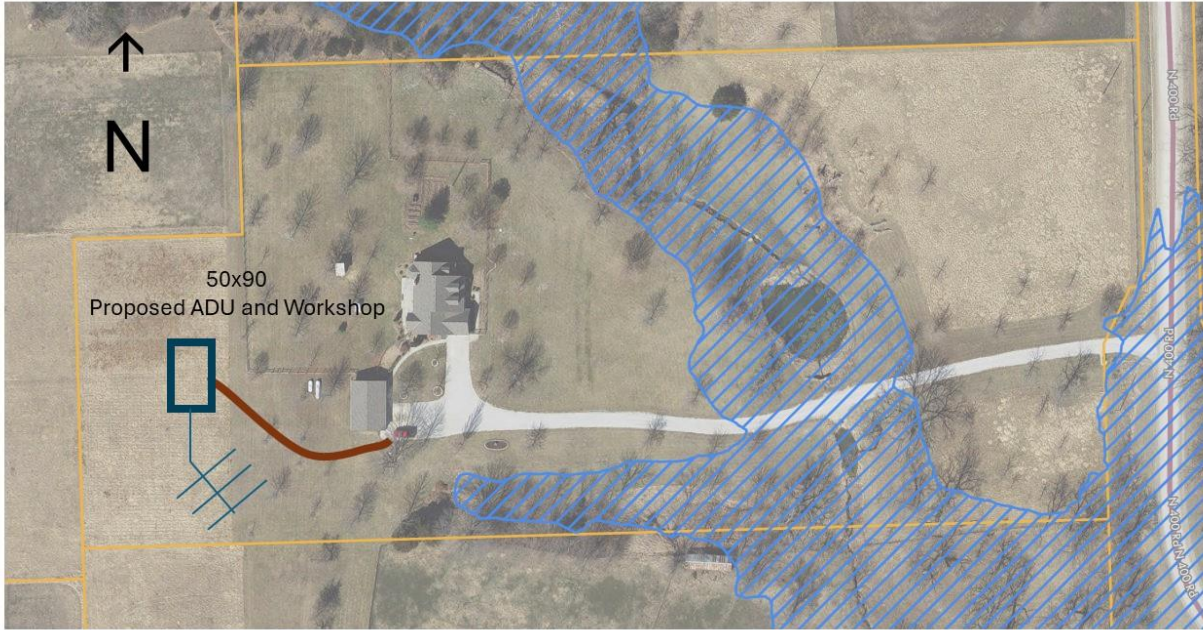
County Staff recommend approval of the variance request to allow a detached accessory dwelling unit on property less than 10 acres in size, to be located at 1197 N. 400 Road with the following stipulation:

1. All additional regulations concerning accessory dwelling units shall be continually maintained.

Prepared by: Karl Bauer, County Planner

Date: August 7, 2024

APPENDIX I: SITE PLAN



APPENDIX II: PETITION

Adjacent Property Owner or Resident Statement (Completion of this form by the applicant is optional.)

To Whom It May Concern:

We, the undersigned, own property or are residents adjoining 1197 N. 400th Rd. in Douglas County, Kansas.

It is our understanding that Geoffrey J. Ulmer has filed a variance with the Zoning Board of Appeals to allow construction of a detached ADU with septic systems

As adjoining property owners or residents, we have no objections to the approval of this variance.

Signature	Name	Address	Date
<i>Ron Arnold</i>	Ron Arnold	1201 N. 400 Rd	6/5/24
<i>Lisa Heath Green</i>	Lisa Heath Green	1171 N 400 Rd	6/4/2024
<i>Kirsten Minnis</i>	Kirsten Minnis	1189 N. 400 Rd.	6.4.24



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