



**STAFF REPORT**

**ON AN APPLICATION FOR:** A VARIANCE under the terms of the Douglas County Zoning and Land Use Regulations of Douglas County, Kansas, an application from Roger Rodecap and Jaci Matney of 575 N 900 Rd, to allow for the extension of the use of a Temporary Housing Unit (RV) during construction of a Primary Residence, not to exceed two calendar years. Pursuant to quasi-judicial precedent established by the Douglas County Board of Zoning Appeals, which established the Temporary Secondary Dwelling Affidavit/Application as an administrative function of the Zoning Director.

<b>APPLICANT/OWNER:</b>	Roger Rodecap and Jaci Matney
<b>LOCATION:</b>	575 N 900 Rd.
<b>AREA:</b>	5.1 Acre
<b>DATE OF PUBLIC HEARING:</b>	February 15, 2021
<b>DATE PUBLIC NOTICE PUBLISHED:</b>	January 29, 2021
<b>PRESENT LAND USE:</b>	AG-2, Transitional Agricultural

**SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:**

- Pursuant to quasi-judicial precedent established by the Douglas County Board of Zoning Appeals, which established the Temporary Secondary Dwelling Affidavit/Application as an administrative function of the Zoning Director.
  - Post February 2020, RV/Campers are permitted by administrative approval for temporary use not to exceed two calendar years during the construction of a primary residence.
  - Prior to February 2020, RV/Campers were considered multi-family dwellings, subject to approval by the Board of Zoning Appeals.

**DESCRIPTION OF VARIANCE REQUESTED:** The subject property is a 5.1 acre “buildable” interior parcel gaining frontage from N 900 Road. In 2018, Zoning and Codes received multiple neighbor complaints regarding the storage of a semi-trailer, an RV being stored on a parcel without a residence, and the kenneling of dogs on a property lacking a kennel license and a residence. The owner was subsequently sent a violation letter detailing the violations that needed to be remedied prior to a building permit being issued. Matney and Rodecap applied for a residential building permit on October 1, 2018 for the construction of a 1 bedroom, 1 bath, single-family residence. With the initial building permit, the applicant applied for a Temporary RV affidavit to permit use of the RV on the property for office and storage during construction. The approved plans depicted the future residence with a lean-to styled carport.

The Building Codes office issued several extensions on the building permit without progress from the applicant. When the building permit expired, Zoning staff set conditions that must be met in order to receive a new building permit. The conditions attached were that the dogs must be removed, the applicant must appear before the BZA if they desired to keep the RV/Camper on site, and without an active building permit, the semi-trailer must be removed from site.

After 2+ years of dialogue, letters, an expired permit and numerous neighbor complaints about the condition of the property, Matney signed the property over to Rodecap. The dogs and RV were moved to a different parcel and a new building permit was applied for and issued. The dogs are to remain offsite until a certificate of occupancy is issued. The applicant requests the variance to allow an extension of the RV to stay on the property to utilize as office space and construction storage during the life of the permit. After occupancy, the RV will be removed. The remaining dogs may return after occupancy as the code cannot restrict an owner from having dogs on properties with a residence. Any future complaints associated with the dogs will be a civil matter handled between law enforcement and the parties involved.

## 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**

It is common practice for construction sites to have office and storage spaces on site. These allow the workers to find relief from the elements as well as review plans. Storage allows the crew to maintain their tools on site in a safe manner. Staff do not find any circumstances that would be categorized as unique to this specific situation.

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

Adjacent property owners have dealt with a parcel that has been poorly maintained and that has created multiple nuisances over time. By allowing the camper remain on the property, the owner has stated that the construction of the residence can continue and will be completed. Completion of the construction and cleanup of the parcel in a timely fashion is the goal of Zoning and Codes.

- 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 strict application of these regulations would require the applicant to transport supplies off and onto the site on a regular basis or find another means to secure items during construction. This could make the construction process more difficult for the applicant. Alternatively, there is an RV/Camper storage facility nearby, or the applicant can place storage structures of less than 200 sq. ft. on the property without a building permit. In addition, Zoning and Codes has allowed the semi-container to remain on the property during construction for storage of construction materials.

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

Approving the extension of the RV itself would not adversely affect the public health, safety,

morals, or order of the neighborhood as many residents own RV's and Campers. The primary difference is that other owners are storing their campers/RV's on land with a residence and/or within an existing structure.

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

Campers and RV's have historically been a nuisance in Douglas County and the current regulations exist to ensure that they do not continue to expend large amounts of staff time and county resources. The intent behind the regulations is to prohibit RV's on vacant parcels, with the caveat that they can be located on a vacant parcel during construction for a maximum of 2-years with a valid building permit. Current Zoning Regulations allow Campers/RV's to be pulled on and off a site, not to exceed 14 calendar days.

**F. Agency Comments**

N/A

**STAFF RECOMMENDATION**

County Staff recommend denial for an application from Roger Rodecap and Jaci Matney of 575 N 900 Rd, to allow for the extension of the use of a Temporary Housing Unit (RV) during construction of a Primary Residence, not to exceed two calendar years. County Staff recommend the RV remain off site and stored at an RV park.

Prepared by: Dre'VeL Taylor, Zoning Specialist

Date: 2/2/2021