



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*, Jaron Ruckman, property owner, requesting a Variance to allow a reduction of the required 30-foot interior side setback to approximately five feet for a proposed 20-foot by 30-foot accessory building, to be located at 1152 E 1000 Road.

APPLICANT/OWNER:	Jaron Ruckman
LOCATION:	1152 E 1000 Road
AREA:	1 acre
DATE OF PUBLIC HEARING:	July 18, 2022, 10:00 am.
DATE PUBLIC NOTICE PUBLISHED:	June 28, 2022
PRESENT LAND USE:	Ag-2 – Transitional Agricultural District, used as residential

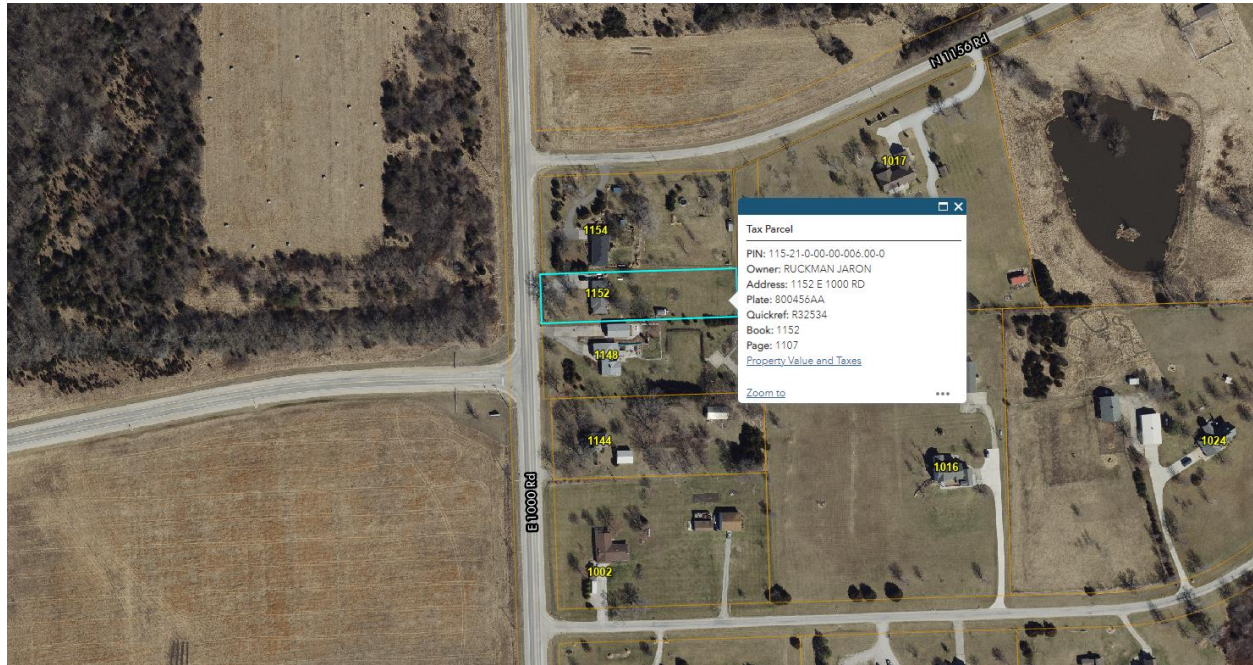
SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-303-2.04 Dimensional Standards: Requires 30-foot interior side setback.

DESCRIPTION OF VARIANCE REQUESTED:

The subject property is a 100-foot wide, 435.6-foot deep one-acre parcel created in 1958, prior to the adoption of the county’s first zoning code in 1966. The property is developed with a legal-nonconforming single-family residence (built 1962) and a shed. The existing shed is 10-by-16 feet and is approximately seven feet from the property line. Based on historical aerial imagery, the shed appears to have been in place since at least 2000. The applicant intends to demolish the existing shed and replace it with a 20-by-30-foot workshop building to be located approximately five feet from the property line. The applicant intends to use the new workshop to store household tools and equipment and is not connected to any business or trade. The applicant has stated the proposed placement is the only possible location in order to avoid disturbing the existing septic system, and due to the narrow width and relatively small size of the property, as well as the presence of mature trees and a large fire pit.

VICINITY MAP (2020)



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 was created in 1958, prior to the adoption of the 1966 zoning code. Being only one acre in size and 100 feet in width, there are limited building locations on this property.

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

The location of the proposed workshop building is not anticipated to cause any substantial negative impact to the surrounding property owners or hinder any views. The applicant has submitted documentation indicating the neighboring property owner to the south, who would be most impacted by the granting of this request, has no opposition to its approval. The neighboring property owner to the north also signed said documentation. The applicant has stated that neighbors either have or plan on installing similar buildings. A building of this type is a permitted use in the Ag-2 district.

Part of the intent of a 30-foot minimum interior side setback is to mitigate concerns over drainage and flooding issues caused by a high density of structures. The neighborhood consists of properties similar to the applicant's in size and width, and is built to a suburban density. The potential for drainage issues similar to that of urban areas is an inherent risk in a neighborhood of this type. There do not appear to be any drainage issues caused by the existing shed. Staff has spoken with the applicant about the potential for drainage issues, and he is open to digging a trench or placing gravel to mitigate these issues should they materialize. The property is sloped gently to the east, away from the nearest dwellings and other structures.

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 small size, narrow shape, and presence of the existing septic system, mature trees, and a large fire pit make it impossible for the applicant to adhere to the required minimum 30-foot interior side setback. Said requirement limits the applicant's ability to use and enjoy his property in a similar way to his neighbors.

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

A workshop building with the uses as described by the applicant is a permitted use in the Ag-2 District and is common in the neighborhood. The applicant has stated that he has neighbors that plan to build similar structures. It is not expected to adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The recommended conditions of approval further serve to mitigate any concerns.

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

The interior side setback requirement of 30 feet is designed to reduce conflicts between neighbors and mitigate drainage concerns from a high density of structures. The existing dwelling and shed are within the interior side setback, and staff is unaware of any complaints regarding the structures. Buildings on neighboring properties are also within the interior side setback.

The applicant has submitted documentation indicating the neighboring property owner to the south, who would be most impacted by the proposed workshop building, has no objection to the approval of this variance request. The neighboring property owner to the north also signed said documentation. Any future property owners would acquire the property knowing the structure is there.

Staff find this variance request to be in alignment with the general spirit and intent of the zoning regulations.

PUBLIC COMMENTS:

As of July 12, 2022, no comments have been received.

AGENCY COMMENTS:

- *Evergy: Evergy has no concerns with the variance. It does look like Evergy has a power pole just sw of the proposed location. The customer must maintain a 10 ft clearance from this pole with any construction.*

As of July 12, 2022, no additional comments have been received.

STAFF RECOMMENDATION

County Staff recommend approval of the variance request from Jaron Ruckman, property owner, requesting a Variance to allow a reduction of the required 30-foot interior side setback to approximately five feet for a proposed 20-foot by 30-foot accessory building, to be located at 1152 E 1000 Road, with the following stipulations:

1. This variance shall apply only for a 20-by-30-foot workshop building. Any other structures shall comply with the adopted zoning regulations or another variance shall be obtained from the Douglas County Board of Zoning Appeals;

2. All construction shall maintain a 10-foot clearance from any electrical poles, and;
3. Should issues arise from the diversion of the free flow of water around the proposed workshop building, the applicant shall take measures to mitigate said issues.

Prepared by: Karl Bauer, County Planner

Date: July 12, 2022