



BZA MEETING

Tuesday, July 13, 2021 at 7:00 pm

MEETING LOCATION: 520 N. Commercial Ave

(Council Chambers)

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1. CALL TO ORDER / ROLL CALL
2. ADDITIONS / DELETIONS TO AGENDA
3. APPROVAL OF MINUTES

Attachments:

- **4-13-21 BZA minutes** (bza-meeting_minutes_2021-04-13_160543.pdf)

4. HEARINGS/PRESENTATIONS/PUBLIC FORUM
5. NEW BUSINESS

a. RedBarn Farms Variance

Attachments:

- **Building permit/plans & map** (Redbarn_building_permit-plans-map.pdf)
- **Letter from Owners of Record** (owner_of_records_letter-Held.pdf)
- **Variance application** (Redbarn_variance_app.pdf)
- **Variance regulations** (variance_regs..pdf)

6. UNFINISHED BUSINESS
7. ADJOURN



BZA MEETING

Minutes

Tuesday, April 13, 2021 at 7:00 pm

MEETING LOCATION: 520 N. Commercial Ave

(Council Chambers)

Click here to visit our: [Facebook Page](#)

1. CALL TO ORDER / ROLL CALL

Minutes:

Meeting opened at 7:00 PM

Present: Beth Sharbutt, Justin Stucky, Clint Brown, Tyler Mosiman, Chad Mueller

Absent: Steve McGinn

Also present: Amanda Mabry, Secretary; Rick & Elsie Bell, Jimmy Sharbutt

2. ADDITIONS / DELETIONS TO AGENDA

Minutes:

**MOTION BY BETH SHARBUTT TO APPROVE THE AGENDA AS PRESENTED
SECOND BY TYLER MOSIMAN**

Vote results:

Ayes: 5 / Nays: 0

3. APPROVAL OF MINUTES

Minutes of December 8, 2020, BZA Meeting

Minutes:

**MOTION BY TYLER MOSIMAN TO APPROVE THE MINUTES AS PRESENTED
SECOND BY CLINT BROWN**

Vote results:

Ayes: 5 / Nays: 0

4. HEARINGS/PRESENTATIONS/PUBLIC FORUM

Minutes:

NONE

5. NEW BUSINESS

a. Garage Variance for Bell

Open Public Hearing for 212 N Commercial garage variance, @ _____ (time)

Minutes:

Chair opened the public hearing at 7:03 PM

Jimmy Sharbutt spoke for the Bells explaining that they need more room in the garage and with the setbacks they would not be able to achieve the size they need. He is asking for an 11 foot setback off the rear property line instead of the required 18 foot. Board asked if it would be out any further than the others in line of the alley?

Jimmy stated it would not be out as far as some of the others down the alley.

Chair asked for public comments. Nobody else was present and nobody contacted City staff with any concerns.

Chair closed the public portion of the hearing at 7:06 PM.

Board reviewed and answered the action question. Attached for record. 3. A. is not/is / was B. would not C. will not D. will not E. will not 4. no special restrictions, follow plans as presented.

MOTION BY TYLER MOSIMAN TO APPROVE THE VARIANCE FOR 212 N COMMERCIAL GARAGE ALLOWING IT TO BE 11 FEET OFF THE REAR PROPERTY LINE WITH THE UNDERSTANDING THAT NO STRUCTURE CAN BE BUILT IN THE EASEMENT

SECOND BY CLINT BROWN

Beth Sharbutt abstained due to conflict of interest

Vote results:

Ayes: 4 / Nays: 0

6. UNFINISHED BUSINESS

None

Minutes:

NONE

7. ADJOURN

Minutes:

MOTION BY CLINT BROWN TO ADJOURN THE MEETING AT 7:10 PM.

SECOND BY CHAD MUELLER

Vote results:

Ayes: 5 / Nays: 0

City of Sedgwick, Kansas
Application for Building Permit

Permit # _____

Date 6/3/2021

Application is hereby made for a permit to ERECT Single family Residential Home
(Erect Remodel, Add To, Move, Demolish)

Located at (street address): 601 Shocker Lane

Legal Description: ROBBINS FARMS SUBDIVISION in the NE quarter of the SE Quarter of Section 34, Township 24 South, Range 1 West of the 6th principal meridian in Sedgwick, Harvey County Kansas

In accordance with the following description, in conformance with all provisions and law in effect pertaining thereto.

Existing use: Empty Lot Proposed use: Single Family Residential Estimated cost: \$235K

Lot Information:

Street Frontage 82'
Width 82 W / 128 E
Depth 5.108 / 151 N
Area 9,999 sq ft.

Sanitation Information:

Sewer... ☒ Private... ☒ Public... ☒
Water... ☒ Private... ☒ Public... ☒

Building Information:

Width 57'
Depth 54'
Height 23'

1467 - 2nd floor kitchen
Floor Area Sq. Ft. 1467 sq ft 1st Floor
15 Total % Lot Coverage:
If residential, # of dwelling units 1
Basement: Yes ☒ No ☐ Floor Elev. _____

Floors (number) 1 Floor Full Basement

Setback Information:

	Actual	Required
Front Yard	<u>26'</u>	<u>25'</u>
Side Yard	<u>11' N / 21' S</u>	<u>6'</u>
Rear Yard	<u>19' + 54'</u>	<u>25'</u>
	min max	

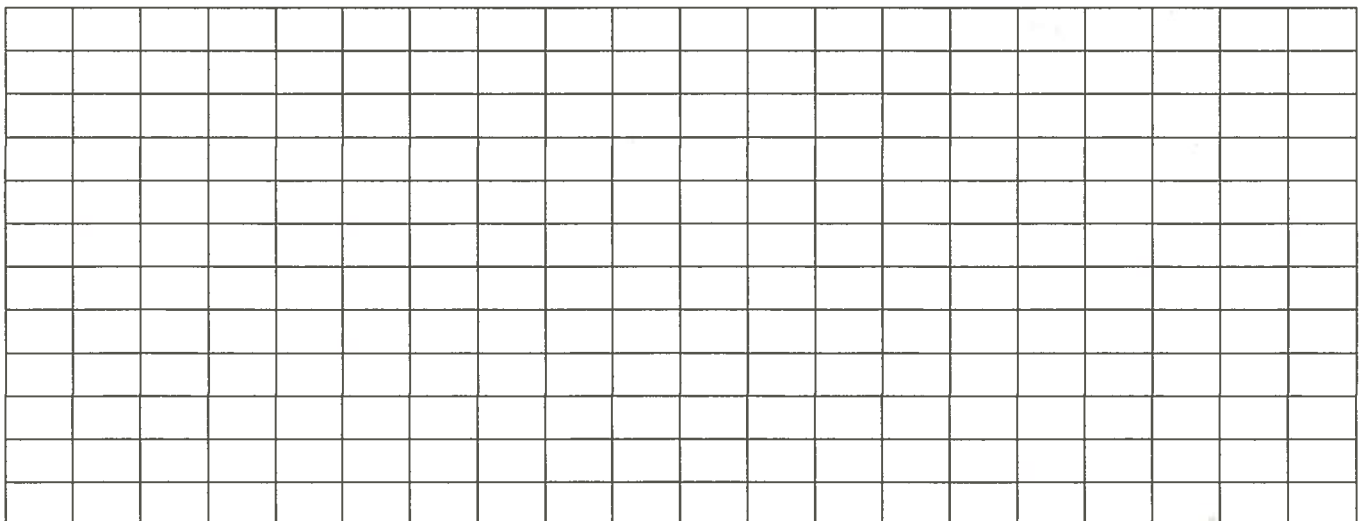
Number of Off Street Parking

Required	Provided
<u>2</u>	<u>2+</u>

The Structures and accessory buildings are located in the described area according to the following diagram.

Length of Lot _____ Scale: 1" = 24'

See attached Site Plan



Comments: LOT 3 is an odd shape with front cul-de-sac. 27 feet
at the back/side (East) facing drainage ditch and lot 6 DEAN HEED
farmstead ranges from a 22' setback to 18' setback. The maximum backyard
set back is 54' at the SE corner.
All other setbacks exceed the requirement and Dean HEED owner
of lot 6 approves the minor variance along the east back side.

I hereby affirm that the above statements are true and correct and agree to comply with all ordinances and law pertaining to and governing the construction, alterations, extension or removal of buildings described in this application. I do hereby grant the City's representative access to the premises to determine compliance with local codes and ordinances.

The applicant shall be responsible for providing all necessary surveys and information sufficient to insure conformance with Zoning Regulations, Local Codes and Ordinances. The applicant shall also be responsible for compliance with the City's current adopted Building, Plumbing, Electrical, and Mechanical regulations. Permits when issued, do not nullify any deed restriction validly filed of record. For nonconformance, the designated City Official, may in writing stop or restrict work. The jurisdiction shall have alleged deficiencies inspected within 48 hours by a licensed contractor in the field at the applicant's expense. If construction of any type on the project continues before sited deficiencies are corrected, the designated City Official may revoke any or all permits at the time. This permit shall be effective for one (1) year following issuance date.

Building Permit shall be displayed in a prominent place during construction.

OWNER'S SIGNATURE or REPRESENTATIVE	ADDRESS	PHONE
<u>Dean Heed</u>	<u>1103 E 7th St</u>	<u>714-478-8861</u>
<u>DRU HEED</u>	<u>SEDOWICK, KANSAS 67135</u>	
Print Name		

ISSUANCE OF BUILDING PERMIT

This building permit is hereby issued to _____
For the purpose of _____

Building Permit Denied By: _____ Date: 6.3.21

Reason for Denial: Rear yard setback to street does
not meet the 25' req.

Permit Fee Paid: \$ 831.85
Inspection Fee: \$ 200.00
meter/tap - 1300.00
Total Paid: \$ _____
Minimum Pad Elevation Req'd _____ (MSL)

Plumbing: \$ 50.00
Electric: \$ 50.00
Mechanical \$ 50.00
Sewer Tap \$ 100 (tap) 50 insp.
Meter 3/4", 1" or 2" 1200.00

By: _____
Zoning Administrator

Date: _____

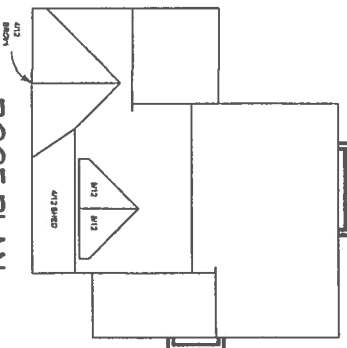
NUMBER	DATE	REVISION BY	DESCRIPTION

SHEET NUMBER
E-1
REVISION #:

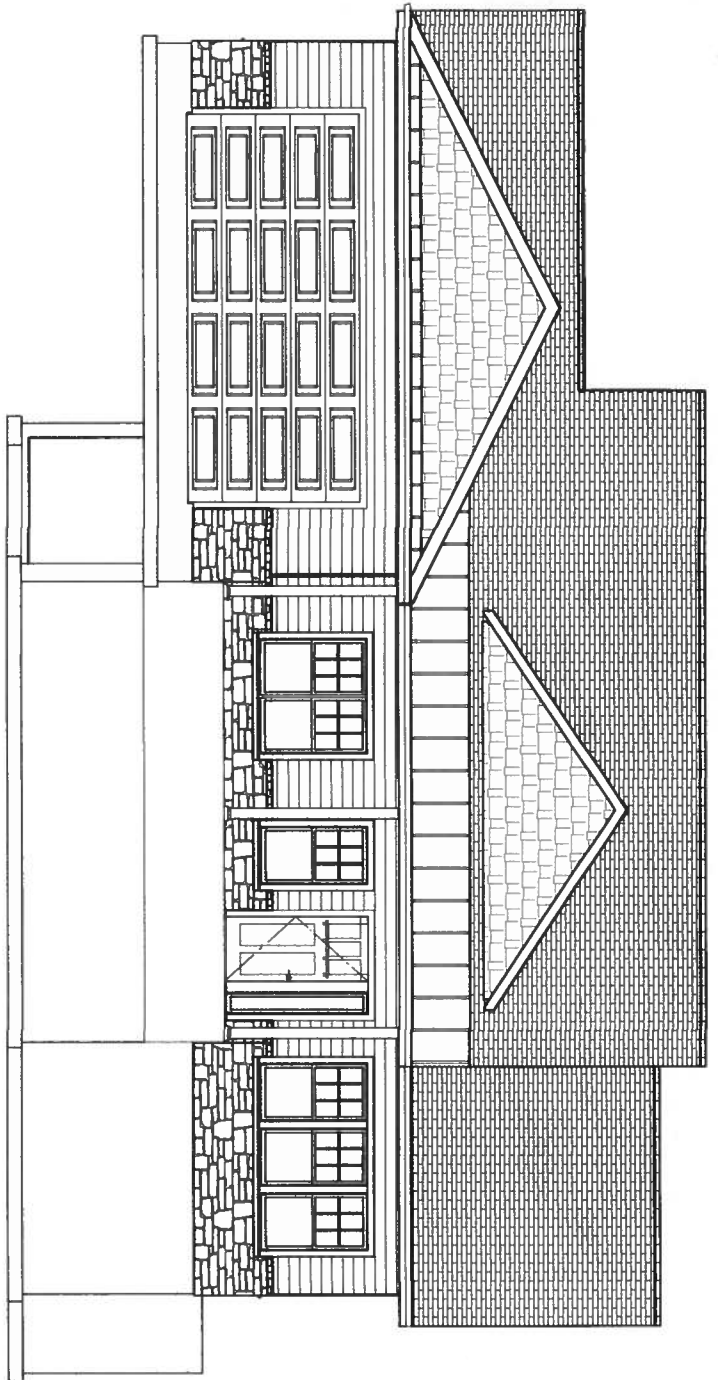
EXTERIOR ELEVATIONS & ROOF
PLAN
DRAWN BY: DATE: 5/21/2021

HELD
MARGREITER CONSTRUCTION

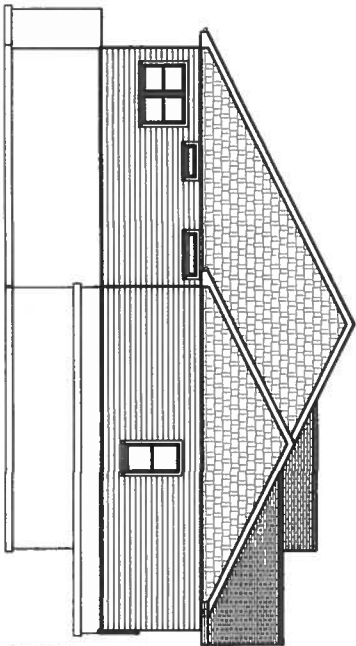
MILL CREEK LUMBER & SUPPLY
2000 E. 37TH ST. N WICHITA, KS 67219
WWW.MILLCREEKLUMBER.COM



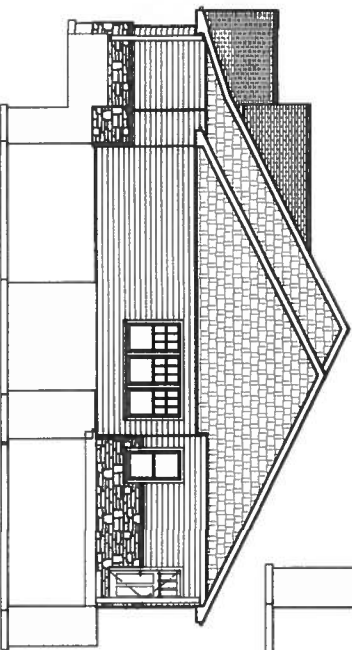
ROOF PLAN
6/12 PITCH
EXCEPT WHERE NOTED



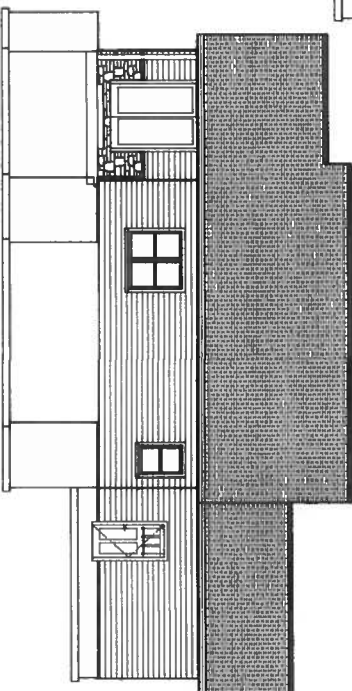
FRONT ELEVATION
CONCEPTUAL ONLY



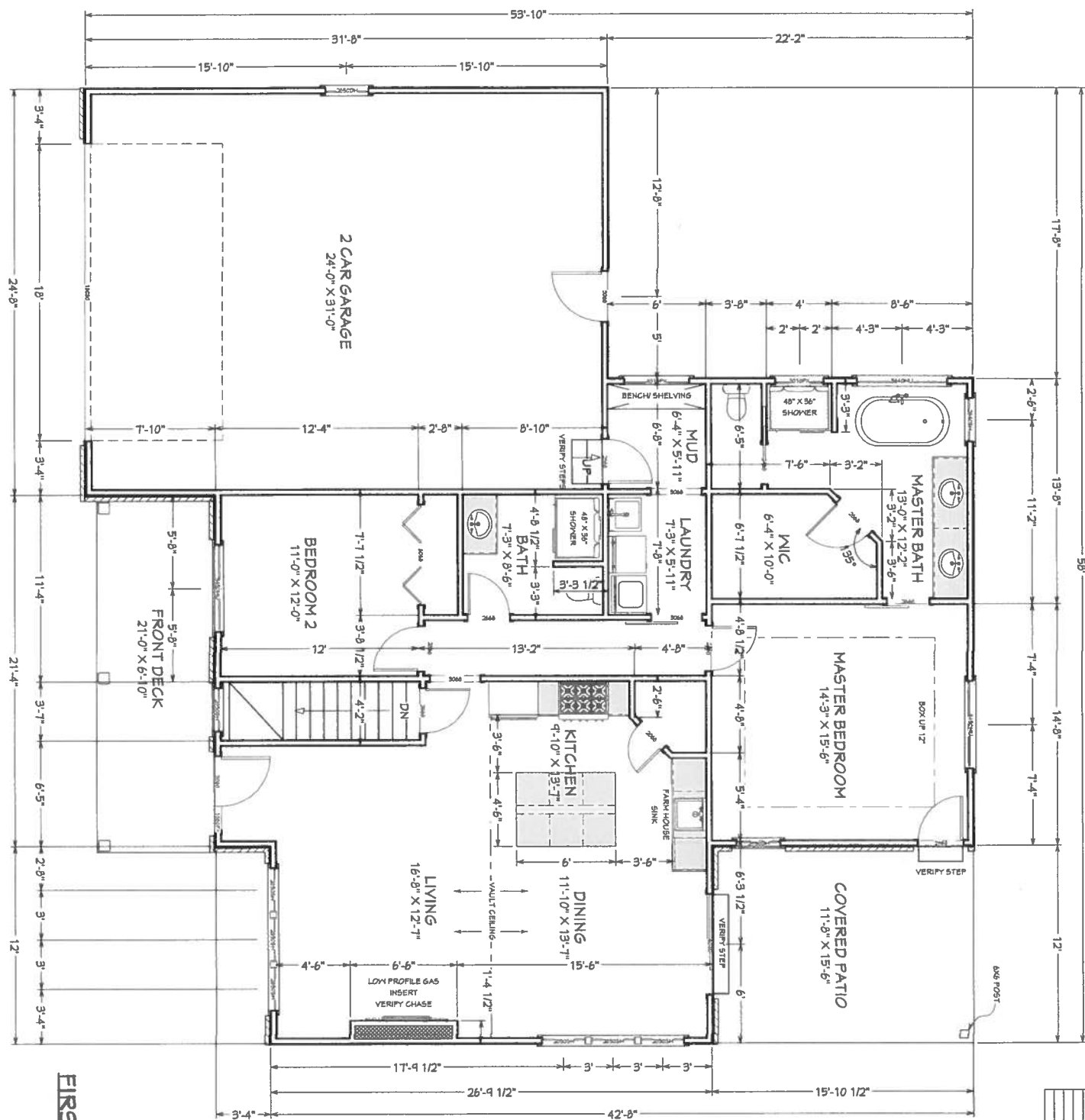
LEFT ELEVATION
CONCEPTUAL ONLY



RIGHT ELEVATION
CONCEPTUAL ONLY



REAR ELEVATION
CONCEPTUAL ONLY



FIRST FLOOR PLAN

SCALE: 1/4"=1'
9' CEILINGS
1467 SQ. FT.

NUMBER	DATE	REVISION	DESCRIPTION



MILL CREEK LUMBER & SUPPLY
2000 E. 37TH ST. N WICHITA, KS 67219
WWW.MILLCREEKLUMBER.COM

**HELD
MARGREITER CONSTRUCTION**

FIRST FLOOR PLAN

DRAWN BY: DATE: 8/21/2021

SHEET NUMBER

A-1

REVISION #:



ArcGIS Web Map

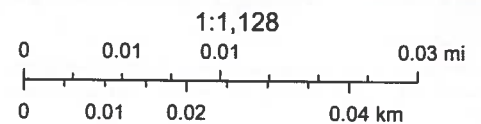


6/3/2021, 4:37:18 PM

- Buffer_Query result
- Subdivision
- Road Centerline
- CITY - PAVED
- CITY - PROPOSED
- Parcel Boundary
- Parcel Boundary
- Building Permits
- Parcel Boundary

NG911 2014 Imagery

- Red: Band_1
- Green: Band_2
- Blue: Band_3



Kansas Next-Gen 911 Coordinating Council, Sedgwick County, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA

FROM: Owners of Record

TO: City of Sedgwick
Board of Zoning Appeals
511 N. Commercial
Sedgwick, KS 67135

In response to the letter received on June 18, 2021 from the Board of Zoning Appeals to the surrounding neighbor property owners' of the Red Barn Farms housing development we appreciate the opportunity to provide the following comments regarding our concerns and opposition to granting an exception (variance) to the original Zoning Regulations. The property in question is legally described as follows:

S34, T24, R01 W, Redbarn Farms, Block 1, LOT 3 in the City of Sedgwick, Harvey County, Kansas, Sedgwick, KS.

Our primary concerns are as follows:

1. It is probable that once precedent is set on the first variance that these requests will continue to come for the remaining four lots at Red Barn Farms. It is the request of the neighbors that the new houses aren't built any larger than the lot can accommodate while still following initially established set back guidelines.
2. Building larger homes than what the lot allows for while following current guidelines could destroy property uniformity within the development as well alter proper drainage for the surrounding neighboring properties.
3. When the addition was initially platted the zoning regulations were a 30' rear setback and the current zoning regulations require a 25' rear set back.

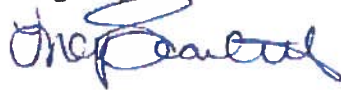
After studying several prior legal cases similar to Red Barn Farms property set back variance request, the likely outcome when a municipality adopts a comprehensive plan (including zoning) that the people have concluded the restrictions are necessary for the public benefit and that the initial ordinance should be observed. Therefore, variances should not be easily granted and a variance should be the absolute exception and not the rule.

To this point, the Red Barn Farms developer knew that this property was sized for developing smaller homes (i.e., patio home sized development). At the time the plot plan was originally approved by the City, very specific conversations and questions were asked by both the Zoning and City Councils about the small size of the lots and the developer assured the council "that the size of the lots were plenty adequate for the houses he would plan to build." Within a year, the developer is back asking for a property set back variance and not because of an "undue hardship," rather because of a personal request of the developer. It is our belief that if the Board of Zoning Appeals grants this variance that there could be a precedent set for many more variance requests for the other four lots. The truth is, the developer could easily build an approximately 1,200 square foot home on the lot and the developer would like to build a larger ~1,400 square foot home that wasn't made for these small lots. If the desire of the developer was for larger homes they should have developed 4 larger lots instead of 5 smaller lots. We suggest the smaller home be built as originally communicated or this could easily become a "slippery slope" for requests of ongoing variances.

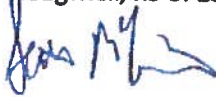
We appreciate your careful consideration of the Owners of Record request to deny the developer's request for a variance for the reasons aforementioned.

7

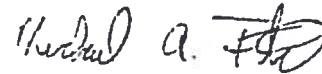
Troy and Sandra Scarlett
1000 Douglas Dr.
Sedgwick, KS 67135



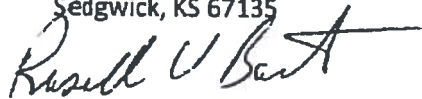
Scott B McGinn TR
1010 Douglas Dr.
Sedgwick, KS 67135



Michael A. and Jane R. Fitch
1020 Douglas Dr.
Sedgwick, KS 6135



Russell W & Shannon Banta
1106 Douglas Dr.
Sedgwick, KS 67135



Keith and Kaye Hill
610 N Fern Ct
Sedgwick, KS 67135



Aaron & Karen Stucky
612 Fern Ct
Sedgwick, KS 67135



Tyler M. & Kathryn J Mosiman
PO Box 221
Sedgwick KS 67135



Board of Zoning Appeals
&
Planning Commission

Publication Date	6.10.21	Application Date	6/3/21
Hearing Date	7.13.21	Date Filed	6.3.21
Vicinity Map	6.3.21	Filing Fee	\$150.00
Ownership List	6.3.21	Receipt No.	040400

APPLICATION FOR VARIANCE OR APPEAL

- Applicant's Name DRU HELD
- Applicant's Address 18941 Ocean Park Lane Huntington Beach, Ca. 92648
- Telephone (daytime) 714-478-8861 E-mail DRUHELDS2@Yahoo.com
- Owner's Name DRU HELD
- Owner's Address 1103 E 7th St Sedgwick, Kansas 67135
- Legal Description of affected property (attach additional sheet if necessary)
- Approximate Street Address 601 Shackle Lane Sedgwick, Kansas 67135
- Present Zoning R1 Use Residential Single Home
- Proposed Use Model Home Residential
- Are there any covenants of record which prohibit the proposed development? YES (attach copy) NO
- Nature of variance request (for variance only) Back side set back
- Nature of appeal requested (for appeal only)
- Justification for requested variance or appeal faces East on drainage ditch joins lot to Dray Hill Farmstead who approves of variance
- List exhibits or plans submitted, including site plan Site, Floor Plan, Elevations
- Present information in support of each of the (5) five conditions listed in Item No. 15, Page 2 of this application.**
(See guide for completing Variance Applications for helpful definitions of terms)

I hereby certify that if this variance application is approved, I will complete construction in accordance with plans submitted to the Board of Zoning Appeals and I agree to abide by all restrictions, conditions, and requirements lawfully binding upon me in this regard.

Applicant(s)
Signature DRU HELD

Owner(s)
Signature DRU HELD

Date: 6/3/21

Date: 6/3/21

If the applicant is not to be represented by legal counsel or an authorized agent, please complete the following in order that correspondence and communications pertaining to this application may be forwarded to the authorized individual.

Name of representative: _____

Complete Mailing Address, including zip code _____

Telephone (Business): _____ E-Mail address: _____

15. (Cont.)

A request for a variance with the Board of Zoning Appeals may be granted only when the following 5 (five) conditions have been met. Present information on this form in support of each of the following criteria (Attach separate sheets if necessary):

- a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone and is not created by action(s) of the property owner or applicant because:

Unique property plat with front cul-de-sac

- b. Granting the variance will not adversely affect the rights of adjacent property owners or residents because:

Adjacent owner Dean Hecy approves variance.

- c. Strict application of provisions of the zoning ordinance, of which the variance is requested, will constitute unnecessary hardship upon the property owner because:

Won't be able to build model home.

- d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare because:

No, the variance is just a 27' stretch on east backside from a 18' setback on the north side of house to a 22' setback on the south side then widening to 51'.

- e. Granting the variance will not be opposed to the general spirit and intent of the zoning ordinance because:

Redbarn Farms subdivisions model home is being built by developer to spur the selling and building on the remaining lots.

16. Action by the Board of Appeals: Approve _____ Disapprove _____

Restrictions Imposed:

Date

Chairman

Secretary

Certified to the Zoning Administrator this _____ day of _____, 20____

Section 107 Variances.

The Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. Variances may be authorized only in those specific instances enumerated in Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. **According to K.S.A. 12-759(e), any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.**

- A. Application.** An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
 2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
 3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction; and
 4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property.
 5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request.
- B. Hearing and Notice.** A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Authorized.** Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D, and may be granted only in the following instances and in no others:
1. To vary the applicable minimum lot area, lot width and lot depth requirements.
 2. To vary the applicable bulk regulations, including maximum height and lot coverage and minimum yard requirements.
 3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Sections 3-103F.
 4. To vary the applicable number of required off-street parking spaces and the amount of off-street loading requirements of Article 5.
 5. To vary the applicable dimensional sign provisions of Article 7 regarding general standards and district regulations.

6. To vary the applicable requirements in Sections 10-107C1 through 5 above in conjunction with conditional use applications for nonconforming, nonresidential structures and uses under provisions of Section 8-105.
7. To vary the applicable provisions permitted by the floodplain regulations. (*See the City Floodplain Management Regulations.*)

D. Standards:

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S.A. 12-759(e) have been met which are listed below:
 - a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
 - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.
2. In determining whether the evidence supports the conclusions required by Section 10-107D1, the Board shall consider the extent to which the evidence demonstrates that:
 - a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
 - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
 - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
 - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

- E. Conditions.** In granting a variance, the Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance such as are provided for in Section 10-108D. Failure to comply with any of the conditions for a variance which are later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original variance; however, only the requested condition is to be reconsidered at the hearing.
- F. Decisions and Records.** The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances in order to properly issue permits.
- G. Period of Validity.** No variance granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the variance, unless within such 180-day period a zoning permit is obtained and the variance requested is started. The Board may grant additional extensions not exceeding 180 days each, upon written application during the existing 180-day period, without further notice or hearing.

Section 108 Conditional Uses.

The Board may grant as an exception to the provisions of these regulations, the establishment of only those conditional uses that are expressly authorized to be permitted in a particular zoning district or in one or more zoning districts. No such conditional use shall be granted unless it complies with all of the applicable provisions of these regulations.

- A. Application.** An application for a conditional use shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the conditional use, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations or Section 10-108D if applicable;
 2. A statement as to why the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood;
 3. A statement as to how the proposed conditional use is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and
 4. Present data in support of the standards specified in Section 10-108C.
 5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed which necessitate the request.