

THE CITY OF

SpringHill

KANSAS

**REGULAR MEETING AGENDA
BOARD OF ZONING APPEALS
WEDNESDAY, JANUARY 24, 2024
SPRING HILL CIVIC CENTER
401 N. Madison St
7:00 P.M.**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

CITIZEN PARTICIPATION

This is an opportunity for those in attendance to address the Board of Zoning Appeals regarding items not on the agenda.

FORMAL BOARD ACTION

1. **Approval of Minutes:** April 4, 2018

2. **Public Hearing – Variance Request**

Case No. BZA-000142-2023
Request: Variance to screening and fencing code
Address: 20275 Ridgeview Rd.
Applicant: Ryan Gallagher

DISCUSSION

REPORTS

ANNOUNCEMENTS FROM BZA AND STAFF

ADJOURN

PUBLIC HEARING PROCEDURE

1. Chairperson opens the public hearing.
2. Board members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.
3. Board members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.
4. Staff presents a report and comments regarding the case.
5. Applicant or agent of the applicant makes brief presentation of the case or request.
6. Board members ask for any needed clarification of the applicant or agent.
7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.
8. Board members ask for any further clarifications from applicant or staff.
9. Public Hearing is closed.
10. Members deliberate the request.
11. 14-day Protest Period begins after the Board of Zoning Appeals Public Hearing is closed. *

* **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Board of Zoning Appeals. Sample copies of protest petitions may be obtained from the City Clerk Office at 401 N. Madison St., Spring Hill, KS 66083 (913-592-3664).

THE FOLLOWING MINUTES ARE SUBJECT TO MODIFICATION
AND ARE NOT OFFICIAL MINUTES
UNTIL APPROVED BY THE SPRING HILL BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS (BZA)
APRIL 4, 2018
MEETING MINUTES

The Board of Zoning Appeals met on Wednesday, April 4, 2018, at the Spring Hill Community Center, 613 S. Race St. The meeting convened at 7:01 p.m. with Chairman Brian King presiding, and Christie Campbell, BZA Secretary recording.

BZA Members in attendance:	Brian Haupt Brian King Wendy North Jim Rose
BZA Members absent:	Vacancy
Staff in attendance:	Jim Hendershot, Interim City Administrator Patrick Burton, Project Coordinator Christie Campbell, BZA Secretary
Public in attendance:	Cathy Mitchell, H.E.R.S. Inc. Barney Byrne, H.E.R.S. Inc. Richard Smith, Niffie Printing Andrea Rice, BL Rice Homes Brian Rice, BL Rice Homes

PLEDGE OF ALLEGIANCE

ROLL CALL

The secretary called the roll of the Board of Zoning Appeals. With a quorum present, the meeting commenced.

APPROVAL OF THE AGENDA

Motion by Mr. Rose, seconded by Mr. Haupt, to approve the agenda as presented.
With all in favor, motion carried 4-0-0

FORMAL BOARD ACTION

1. Approval of Minutes: April 5, 2017 BZA meeting minutes

Motion by Mr. Haupt, seconded by Ms. North, to approve the minutes as presented.
With all in favor, motion carried 4-0-0

2. Public Hearing – Variance Request (BZA-01-17)

Beginning of Staff Report

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**SPRING HILL BOARD OF ZONING APPEALS
STAFF REPORT**

**Meeting Date: April 4, 2018
Report Preparation Date: March 29, 2018**

CASE NUMBER: BZA-01-18

APPLICANT/AGENT: BL Rice Homes

REQUEST: Applicant requests variance to rear yard setback.

CURRENT ZONING: C-2 General Commercial

SITE SIZE: 150'x120'=18,000 sq. ft., .41 ac.

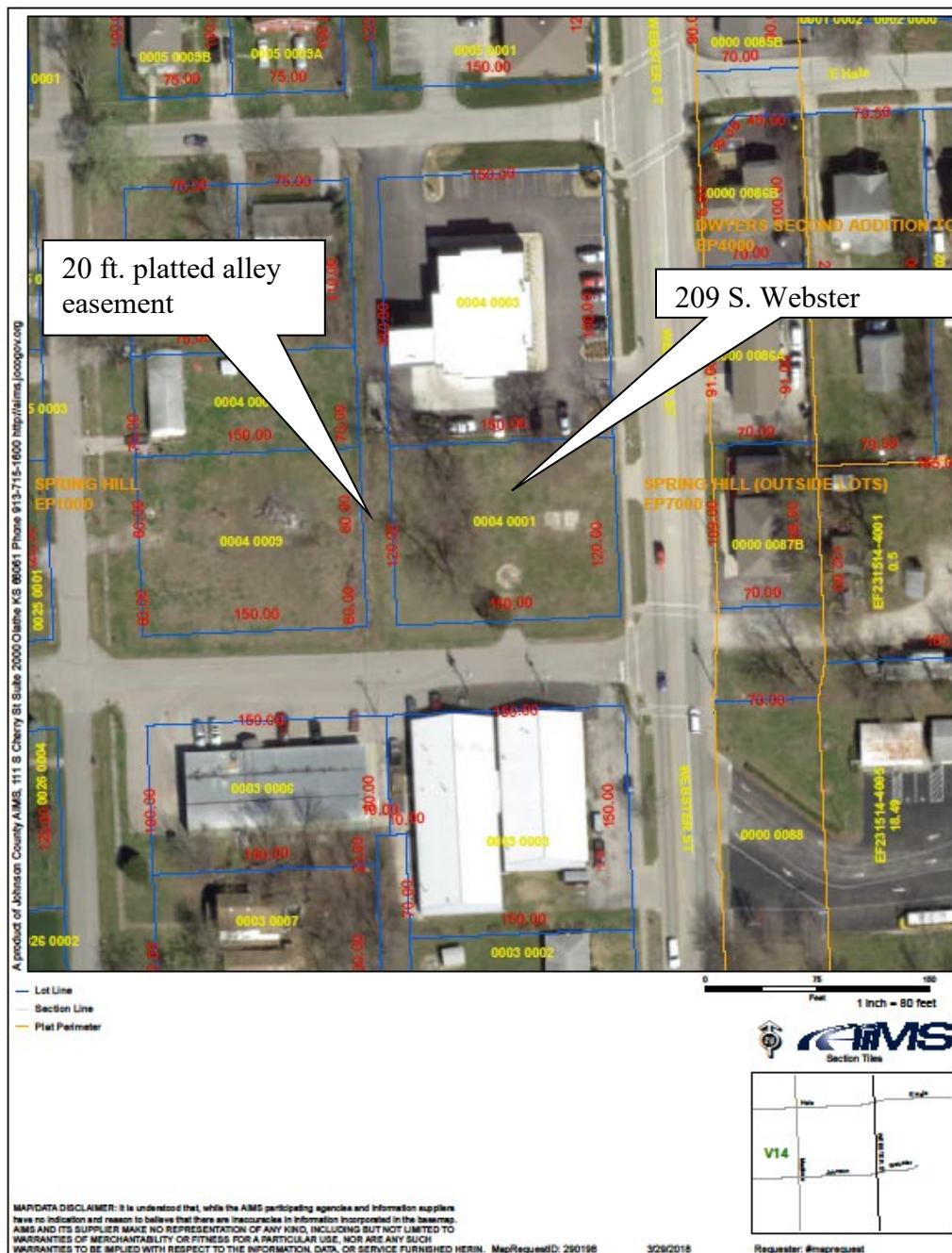
LOCATION: 209 S. Webster St.

PROPOSED USE: Restaurant

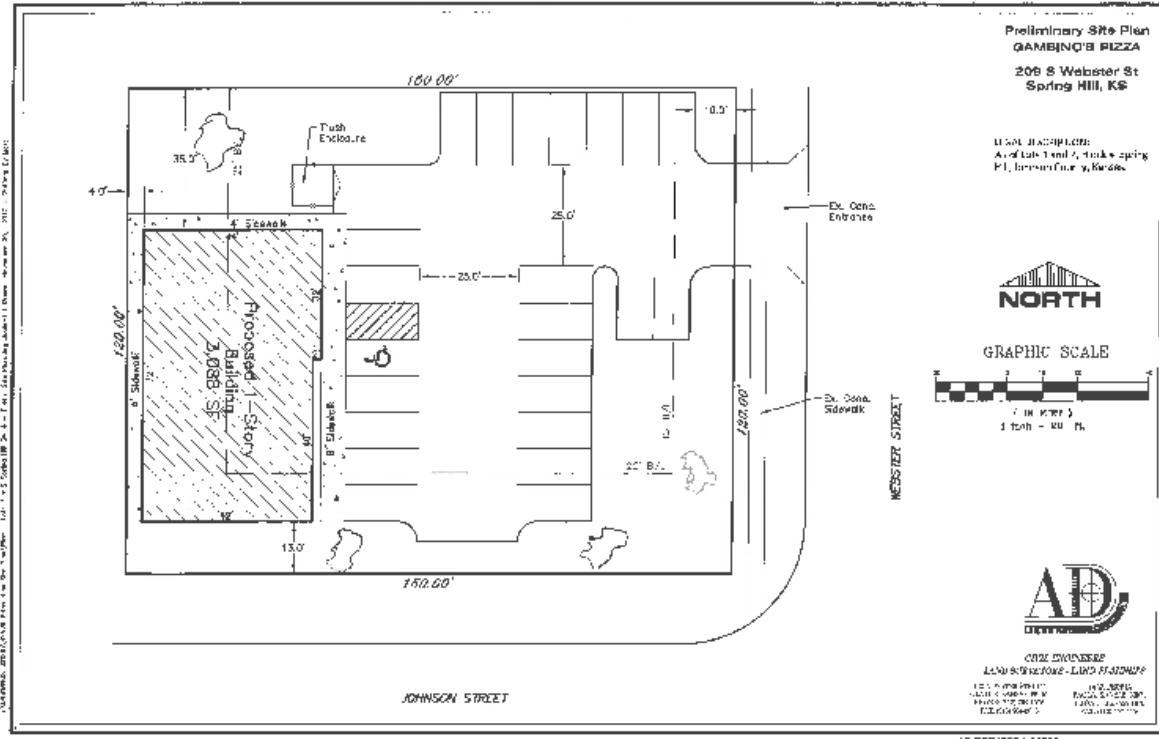
VICINITY MAP:



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BACKGROUND: The applicant has submitted a request to construct a commercial building on property located at 209 S. Webster St. in Spring Hill. Please refer to site plan and aerial photos above.

The property is zoned C-2 and the proposed use as a restaurant is an allowed use within the district. When discussing the project with the applicant, meeting the minimum setback regulations on the street side and rear yards became an issue when accommodating for the building and required parking.

Minimum rear yard setback in a C-2 district when adjoining a residential district is 25 feet. Minimum street side setback in a C-2 district is 25 feet. This particular lot is adjacent to a platted 20 ft. alley on the rear or west end of the property. The applicant is requesting a variance to allow the placement of the building within 4 ft. of the property line and utilizing the platted 20 ft. alley to achieve the separation from the residential property to the west. In addition, to successfully utilize this, lot the applicant is requesting a variance to the street side setback to construct the building within 13 ft. of the street side property line. This allows for the required parking and trash enclosure to be installed on the property.

REVIEW:

The following is a review for compliance with the provisions of Section 17.366.K of the Spring Hill Zoning Code which states; “An application for a variance may be granted upon a finding by the Board that all of the following conditions have been met:”

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1. *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 zone or district; and is not created by an action or actions of the property owner or the applicant.*

This particular property was created with the original plat of Spring Hill and has been vacant for many years. Surrounding development has also been in existence for many years. The area along Webster Street was zoned Commercial and is shown as commercial on the Future Land Use Map as an effort to promote commercial activity along Webster St. To comply with regulations for site plan and parking, the proposed variance was the best alternative for this use on this property.

2. *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

To date, staff has had no contact with the adjoining property owners regarding the proposed construction. Notification of the variance hearing was mailed to all property owners within 200 feet of the subject property informing the owners of their right to be present and speak at the hearing on the proposed construction.

It is staff's opinion the proposed project will not adversely affect adjacent property owners or residents. The site plan has been developed to limit the effect of traffic on the side street by limiting access to Webster St. Parking along the side street will not be affected and the intersection of Webster and Johnson Street will have no negative results from a drive access onto Johnson St.

3. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

As noted above, the long range plan for Webster St. is for development of this primary corridor as commercial. Accomplishing this with existing lot dimensions can prove difficult and can result in a variance request for building setback regulations. Strict application of the zoning regulations will constitute an unnecessary hardship upon the property owner and further hinder the ability to develop the property.

4. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

With the placement of the building closer to the west property line, it is staff's opinion that granting approval will have no negative affect on the public. Granting of the variance will not create traffic issues or limit any visibility for the driving public.

5. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.*

The variance request is not opposed to the general spirit and intent of the zoning regulations. The code allows for the granting of a variance when reviewed and approved by the Board of Zoning Appeals. It is staff's opinion this request is reasonable based on the issues noted above.

ANALYSIS: As noted above, strict compliance with setback regulations in existing portions of communities can prove to be difficult. Understanding the vision of Webster St. is for commercial development, variance requests such as this application are not unusual. For comparison purposes this request is similar to a previously approved request to utilize the platted alley as a portion of the rear yard setback at Casey's General Store, also on Webster St. It is staff's opinion the request is reasonable and will not have negative effects on the area or the community and is in compliance with the Future Land Use Map and overall vision of the City of Spring Hill.

RECOMMENDATION: Staff recommends approval of variance request BZA-01-18 allowing the construction of a commercial building as per the included plot plan for 209 S. Webster St., Lots 1 and 2, Block 4, Spring Hill, KS

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Possible action for BZA:

- 1) Approve variance request as recommended by staff
- 2) Approve variance request with amendments to staff recommendation
- 3) Deny variance request
- 4) Table action and remand to staff for further investigation

Suggestion Motion: Move to approve application BZA-01-18 for the construction of a commercial building located at 209 S. Webster with a street side setback of 13 feet and a rear yard setback of 4 feet as shown on the included plot plan and as presented in the staff report.

Attachments: Plot Plan
Application

End of Staff Report

Chairman King asked if there were any conflicts of interest or any contact with the property owner. Mr. King noted that he is a deacon at the church from which the applicant currently rents. With no other contacts or conflicts disclosed, Chairman King officially opened the public hearing.

Mr. Hendershot presented the staff report, which outlined the current site and proposed variance request. He explained that the applicant has submitted a request to construct a commercial building on the property located at 209 S. Webster St. in Spring Hill. The property is zoned C-2 and the proposed use as a restaurant is an allowed use within the district. When discussing the project with the applicant, meeting the minimum setback regulations on the street side and rear yards became an issue when accommodating for the building and required parking; thus, the applicant is requesting a variance to these setbacks.

As noted in the staff report, strict compliance with setback regulations in existing portions of communities can prove to be difficult. Understanding the vision of Webster Street, is for commercial development, variance requests such as this application are not unusual. For comparison purposes this request is similar to a previously approved request to utilize the platted alley as a portion of the rear yard setback at Casey's General Store, also on Webster Street. It is staff's opinion the request is reasonable and will not have negative effects on the area or the community and is in compliance with the Future Land Use Map and overall vision of the City of Spring Hill.

With no further questions or comments from the public, Chairman King officially closed the public hearing.

Motion by Mr. Rose, seconded by Mr. Haupt, to approve application BZA-01-18 for the construction of a commercial building located at 209 S. Webster St. with a street side setback of 13 feet and a rear yard setback of 4 feet as shown on the included plot plan and as presented in the staff report.

With all in favor, motion carried 4-0-0

DISCUSSION

REPORTS

ANNOUNCEMENTS FROM BZA AND STAFF

ADJOURN

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**Motion by Mr. Rose, seconded by Mr. Haupt, to adjourn.
With all in favor, motion carried 4-0-0**

The meeting adjourned at 7:24 p.m.

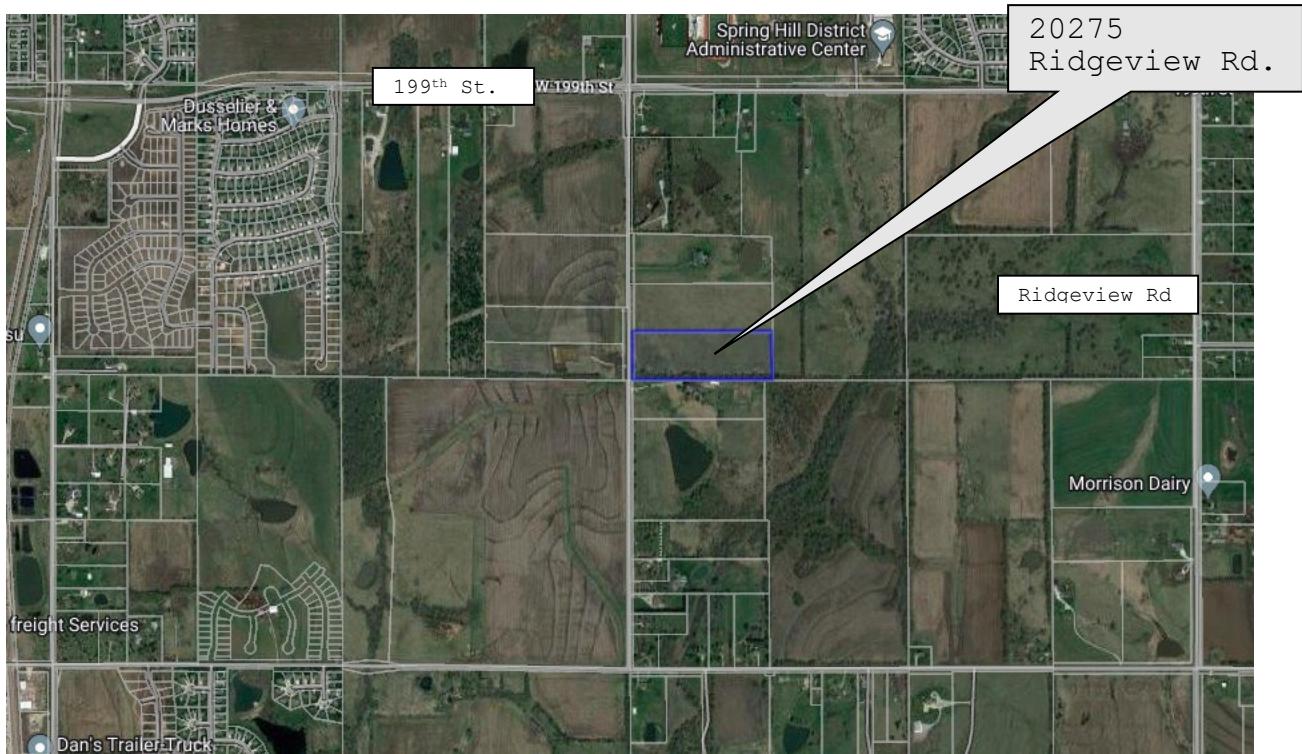
DRAFT

SPRING HILL BOARD OF ZONING APPEALS

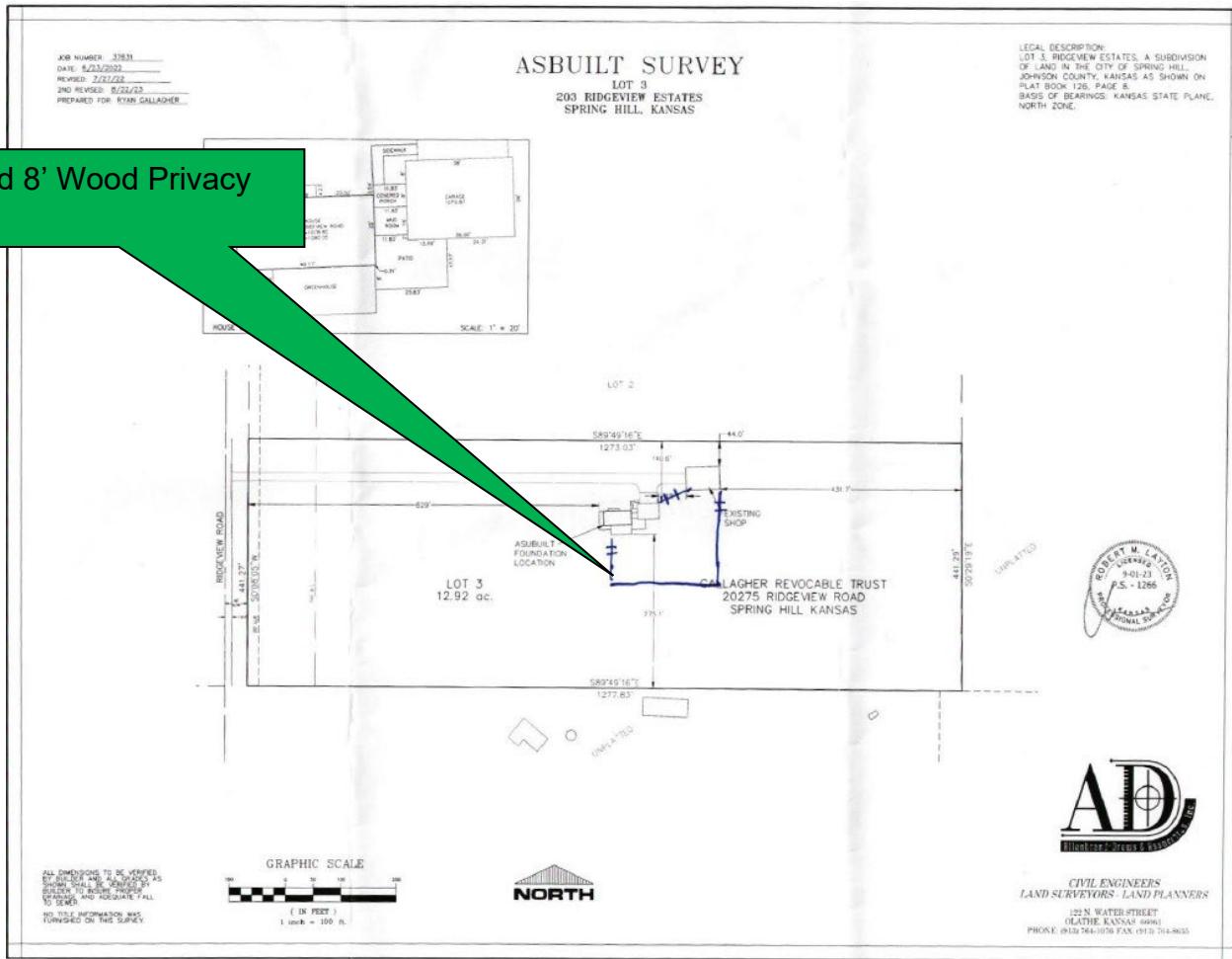
STAFF REPORT

Meeting Date: January 24, 2024
Report Preparation Date: January 11, 2024

<u>CASE NUMBER:</u>	BZA-000142-2023
<u>APPLICANT/AGENT:</u>	Ryan Gallagher
<u>REQUEST:</u>	Applicant requests variance to screening and fencing Section 17.360(A) and (C) of the Municipal Code to install eight-foot deer fencing.
<u>CURRENT ZONING:</u>	“R-R” Rural Residential
<u>SITE SIZE:</u>	12.92 +/- ac.
<u>LOCATION:</u>	20275 Ridgeview Rd., 03 RIDGEVIEW ESTATES LT 3 SPC 241 1 3
<u>PROPOSED USE:</u>	Fencing
<u>VICINITY MAP:</u>	



Site Location



BACKGROUND: The applicant has submitted a request to construct eight-foot deer fencing on Lot 3, of Ridgeview Estates, better known as 20275 Ridgeview Road. As per the site plan above, the fencing would enclose his orchard near the house so deer and other wildlife would not be able to destroy trees.

The applicant applied for a fence permit through the building permit process. It was denied due to height and type of material to be used. It does not meet Section 17.360(A) and 17.360(C), Screening and Fencing requirements. All screening and fencing shall be built using new building materials that are residential in character and must be approved by the zoning administrator and the erection of a fence with a height greater than six feet in Districts R-R through MH are prohibited.

The required publication of the hearing for this variance request was completed along with notification of adjoining property owners indicating the date and time of the hearing.

REVIEW:

The following is a review for compliance with the provisions of Section 17.366.K of the Spring Hill Zoning Code which states; “An application for a variance may be granted upon a finding by the Board that all of the following conditions have been met:”

1. *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 zone or district; and is not created by an action or actions of the property owner or the applicant.*

The variance is necessary because the property has a condition that makes it different from others in the same zoning district. This unique condition is not something commonly seen in residential areas within the city limits. The condition leading to the variance is not a result of any action taken by the property owner.

2. *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

The statement in the variance application emphasizes that if the permit for variance is granted, it will not negatively impact the rights or interests of the surrounding property owners or residents.

It is the staff’s opinion that the proposed project will not adversely affect adjacent property owners or residents. Placement of the fencing as desired does not create any traffic hazard or visibility issues for adjoining properties.

3. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

The strict adherence to these regulations would impose an unreasonable burden on the property owner who is using the 10 +/- ac property as agricultural which is a permitted use in the R-R district. Therefore, a variance is necessary to alleviate the undue difficulty on the owner. It is the staff’s opinion that strict application of the zoning regulations would create a hardship on the property owner by limiting or restricting the use of the property as agricultural.

4. *That the variance desired will not adversely affect public health, safety, morals, order, convenience, prosperity, or general welfare.*

It is the staff’s opinion that granting approval will have no negative affect on the public or safety. Additionally, Staff feels granting the approval will ensure the property rights of the applicant are balanced with the over-all well-being of the surrounding property owners and community.

5. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.*

The variance request is not opposed to the general spirit and intent of the zoning regulations. The code allows for the granting of a variance when reviewed and approved by the Board of Zoning Appeals. It is the staff's opinion this request is reasonable based on the issues noted above and no negative impact on the surrounding properties.

ANALYSIS:

RECOMMENDATION: Staff recommend approval of variance request BZA-000142-2023 allowing the construction of the eight-foot deer fencing per the included plot plan and photos at 20275 Ridgeview Road.

Possible action for BZA:

- 1) Approve variance request as recommended by staff
- 2) Approve variance request with amendments to staff recommendation
- 3) Deny variance request
- 4) Table action and remand to staff for further investigation

Suggestion Motion: Motion to approve application BZA-000142-2023 for the construction an eight-foot deer fence located at 20275 Ridgeview Road as shown on the included plot plan and as presented in the staff report.

Attachments: Plot Plan

Photos of deer fencing material



Variance to Board of Zoning Appeals

RECEIVED

10/27/23

Community Development/Planning Dept.

401 N. Madison St., Spring Hill, KS 66083

(913) 592-3657 • (913) 592-5040 FAX

planning@springhillks.gov • www.springhillks.gov

ADDRESS OR VICINITY 20275 S. Ridgview Rd.

ZONING ORDINANCE OR CODE SECTION FROM WHICH YOU SEEK A VARIANCE

Screening out fencing, section 17.360

BRIEF EXPLANATION Request for 8' deer fencing around a small orchard in the center of my property near my home, over 400' from closest city property

PRESENT ZONING R-2

PROPERTY SIZE ~12.9 acres

(see drawing)

PRESENT USE OF PROPERTY Farmstead

REAL ESTATE PARCEL NUMBER EP 94500000 0003

LEGAL DESCRIPTION Lot 31 Ridgview Estates, a subdivision of (and in the city of Spring Hill), Plat Book 126 Pg. 8

APPLICANT:

NAME Ryan Gallagher CONTACT "

ADDRESS 20275 S. Ridgview Rd.

CITY Spring Hill STATE KS ZIP 66083

PHONE (913) 638-6409

FAX —

E-MAIL ryjgallagher@gmail.com

PROPERTY OWNER:

NAME " CONTACT "

ADDRESS "

CITY " STATE " ZIP "

PHONE " FAX —

E-MAIL "

APPLICANT SIGNATURE

DATE 9/21/23

PROPERTY OWNER SIGNATURE

DATE 9/21/23

The following items **must** be submitted with this application:

- 1) Applicable fee of \$400 for zoning ordinances; \$250 for sign regulations.
- 2) A Certified list of property owners which includes:
 - All owners of record of City land within 200 feet of the subject property. Parcels adjacent to unincorporated county locations require a notification distance of 1,000 ft.
 - The list shall provide titled owners, mailing addresses & legal descriptions of their property, and be obtained through a title insurance company.
- 3) A site plan of the subject property including existing and proposed improvements.

OFFICE USE ONLY

FILE CODE

BZA-000142-2023

FEES RECEIVED BY

Amber

DATE

BZA MEETING DATE

DATE CERTIFIED LIST OF OWNERS RECEIVED

BZA DECISION (circle) Approved or Denied

AFFIDAVIT OF PUBLICATION
Miami County Republic, 121 South Pearl Street, Paola, KS 66071

Acct ID: 119410
Ad ID: 1825730

P.O.:
Desc.: Hearing BZA-000124-2023

CITY OF SPRING HILL
PO BOX 424
SPRING HILL, KS 66083

Miami County Republic
State of Kansas, Miami County, ss:

I, SANDRA RIDINGS, being duly sworn according to law, state that I am the Legal Advertising Coordinator of the MIAMI COUNTY REPUBLIC, a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Miami County, Kansas, with a general paid circulation on a weekly basis in Miami County, Kansas; and that said newspaper is not a trade, religious, or fraternal publication.

Said newspaper is published at least weekly fifty times a year and has been so published continuously and uninterruptedly in said County and State for a period of more than five years prior to the first publication of the said notice; and has been admitted to the post office of Paola, in said county as second-class matter.

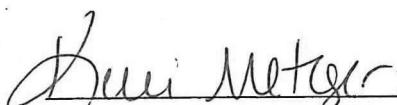
The affixed notice appeared in said newspaper on the following date(s).

Run Date(s): Jan. 3, 2024

TOTAL COST: \$64.22

(Signed) 

Subscribed and sworn before me this 11 day of Jan, 2024.

 Notary Public

KELLI METZGER
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES OCTOBER 19, 2024

My Commission Expires: Oct. 19, 2024

(Published in the Miami County
Republic Wed. 1/03/24)

**CITY OF SPRING HILL,
KANSAS**

PUBLIC HEARING

**NOTICE OF VARIANCE
TO THE BOARD OF
ZONING APPEALS**

Real Property: NOTICE is hereby given that the Board of Zoning Appeals of the CITY of SPRING HILL, KANSAS, will hold a Public Hearing at 401 N. Madison St., Spring Hill, Kansas, on the 24th day of January, 2024 at 7:00 P.M. at which time and place you may be heard in regard to a variance to the zoning ordinances, for the following described real properties, situated in the City of Spring Hill, Johnson County, Kansas, to wit:

Owner requests a variance to screening and fencing requirements for residential zoned property.

The legal description of the property is below.

LEGAL DESCRIPTION:
203 RIDGEVIEW ESTATES LT
3 SPC 241 1 3, City of Spring
Hill, Johnson County, Kansas,
more commonly known as 20275
Ridgeview Road.

This notice shall be published once in the official city newspaper at least twenty (20) days prior to the date of said hearing.

Dated this 29th day of December,
2023

**SPRING HILL BOARD
OF ZONING APPEALS**
Brian King, Chairman

ATTEST:

(SEAL)

Glenda Gerrity, City Clerk



