



**REGULAR MEETING AGENDA
BOARD OF ZONING APPEALS
WEDNESDAY, APRIL 4, 2018
SPRING HILL COMMUNITY CENTER
613 S. RACE ST.
7:00 P.M.**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

FORMAL BOARD ACTION

1. **Approval of Minutes:** April 5, 2017
2. **Public Hearing – Variance Request**
 - Case No.** BZA-01-18
 - Request:** Variance to the rear yard setback
 - Address:** 209 S. Webster St.
 - Applicant:** BL Rice Homes (Brian and Andrea Rice)

DISCUSSION

REPORTS

ANNOUNCEMENTS FROM BZA AND STAFF

ADJOURN

PUBLIC HEARING PROCEDURE

1. Chairperson opens the public hearing.
2. Commission 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. Commission 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. Commission 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. Commission 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 Planning Commission 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 Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 102 S. Main St., Spring Hill, KS 66083 (913-592-3664).

BOARD OF ZONING APPEALS (BZA)
April 5, 2017
MEETING MINUTES

The Board of Zoning Appeals met on Wednesday, April 5, 2017, at the Spring Hill Community Center, 613 S. Race St. The meeting convened at 7:00 p.m. with Chairman Brian King presiding, and Christie Campbell, BZA Secretary recording.

BZA Members in attendance: Brian Haupt
 Brian King
 Wendy North (via teleconference)

BZA Members absent: Jim Wilson
 Vacancy

Staff in attendance: Jim Hendershot, Community Development Director
 Patrick Burton, Project Coordinator
 Christie Campbell, BZA Secretary

Public in attendance: Don Margritier, Ridge Development, LLC

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. Haupt, seconded by Ms. North, to approve the agenda as presented.
With all in favor, motion carried 3-0-0**

FORMAL BOARD ACTION

1. Approval of Minutes: July 1, 2015 BZA meeting minutes

**Motion by Mr. Haupt, seconded by Ms. North, to approve the minutes as presented.
With all in favor, motion carried 3-0-0**

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

Beginning of Staff Report

SPRING HILL BOARD OF ZONING APPEALS

STAFF REPORT

Meeting Date: April 5, 2017
Report Preparation Date: March 14, 2017

CASE NUMBER: BZA-01-17

APPLICANT/AGENT: Ridge Development, LLC

REQUEST: Applicant requests variance to front and rear yard setbacks.

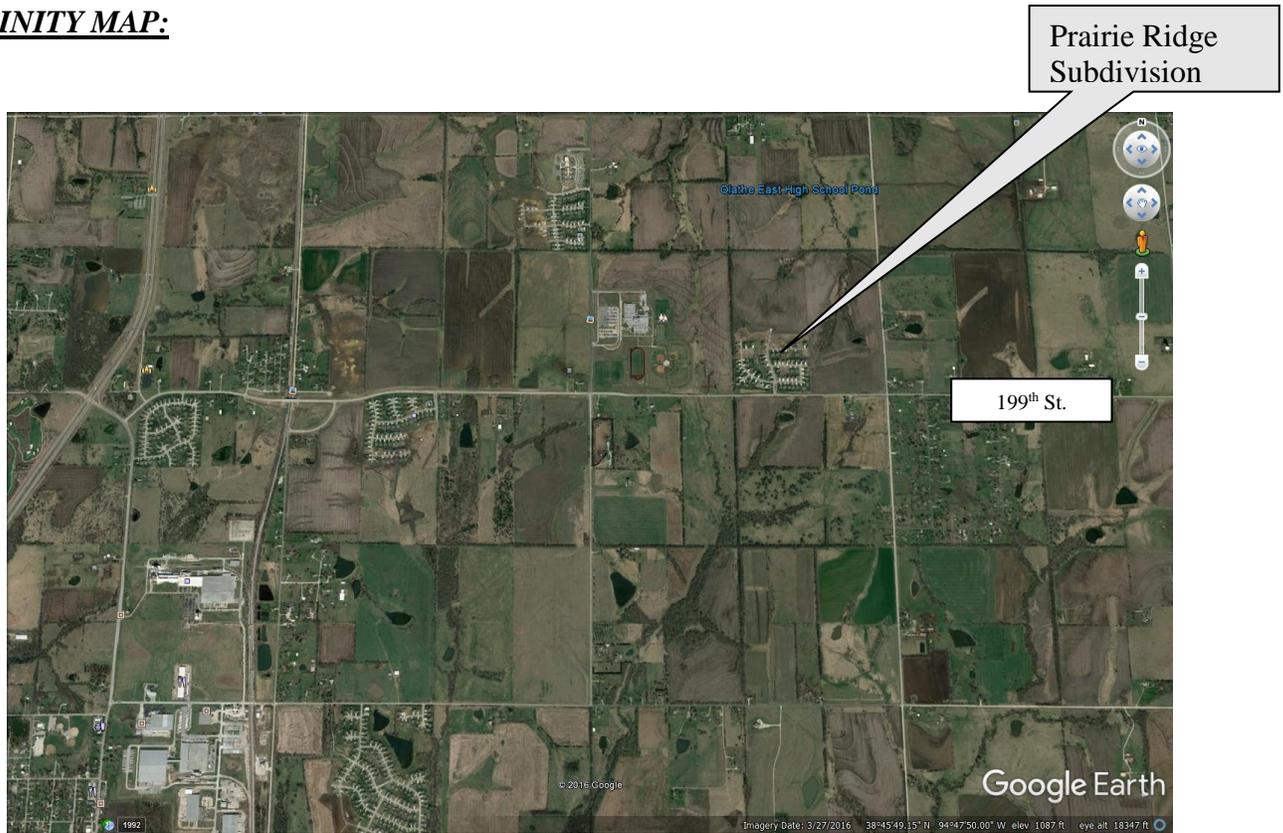
CURRENT ZONING: “R-1” Single Family Residential

SITE SIZE: 12,208 sq. ft., .28 ac.

LOCATION: Prairie Ridge Subdivision, 17119 W. 197th Terrace

PROPOSED USE: Single Family Dwelling

VICINITY MAP:



Prairie Ridge Subdivision



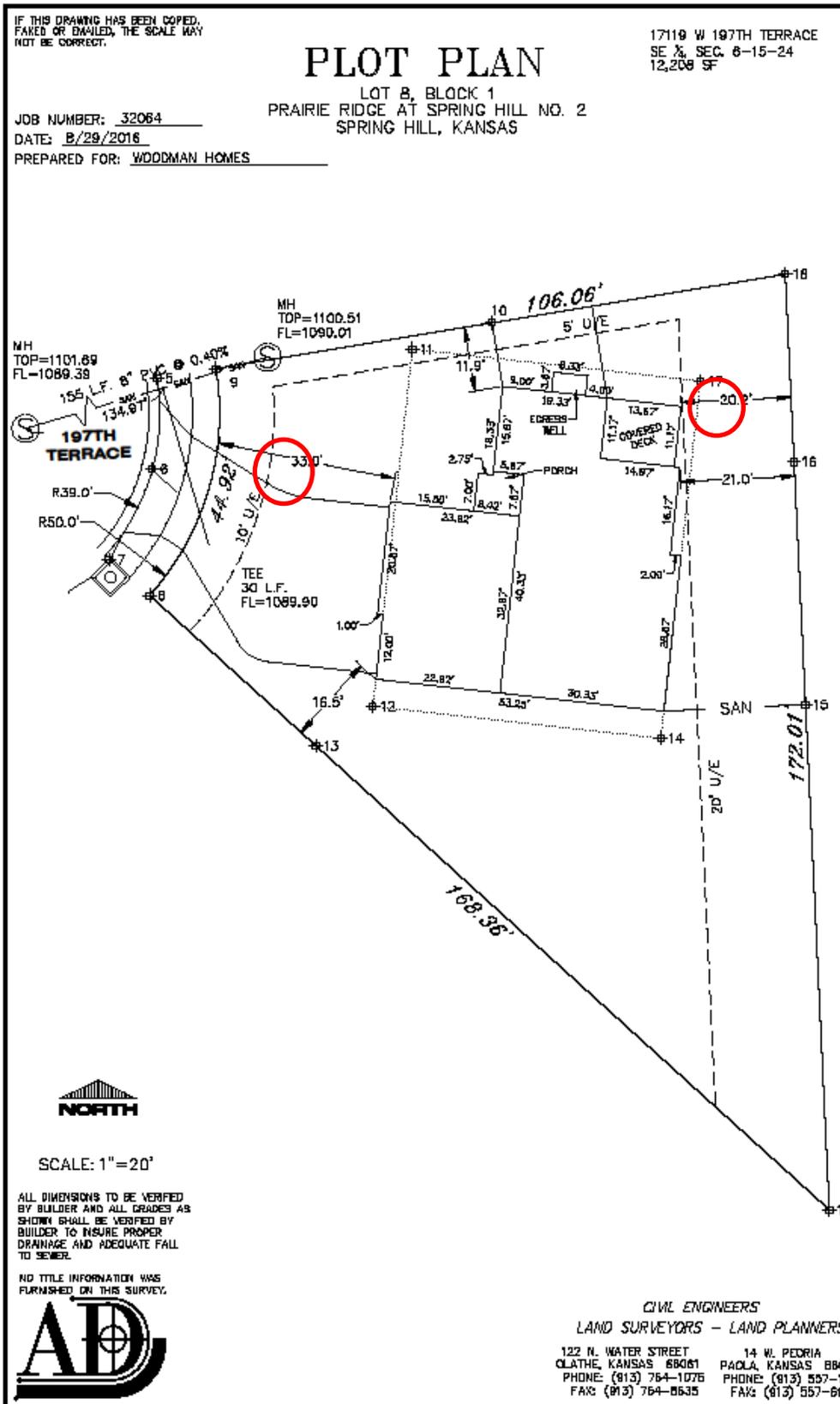
BACKGROUND: The applicant has submitted a request to construct a single family dwelling on Lot 8, Block 1, Prairie Ridge at Spring Hill No. 2. As per the site plan on the following page, the lot is irregular in shape and poses setback challenges particularly related to the depth of the lot.

In particular, the rear setback in an R-1 district is a minimum of 25 feet and the front yard setback is 35 feet. As shown on the plot plan the proposed dwelling provides a 33 foot front yard and 20.2 foot rear yard at the narrowest point.

The applicant has tried unsuccessfully to relocate the dwelling on the lot to minimize the setback encroachments. To shift the house on the lot does little to alleviate the setback issues and further complicates issues for the driveway caused by a storm water inlet in the curb.

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

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



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 relationship of the lot to the adjoining cul-de-sac creates an irregular sized and shaped lot and thereby creates difficulties with setback compliance. An argument could be made that a smaller home could be placed on this lot; however, in today's market lots such as the one being considered often are the most sought after lots within a development. This fact combined with the size and price range of homes being built in the development a smaller home would be out of character in this area.

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 irregular shape of the lot along with the shape of the cul-de-sac does not provide for any clear sight angle that would allow comparison of the home to others in the neighborhood. Placement of the home as desired does not create any traffic hazard or visibility issues for adjoining properties. In addition, the request does not affect the side setbacks which in this case are in excess of the minimum 7 feet as required by code.

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 in #2 above, a smaller home that meets the setback requirements would be out of character with the surrounding homes in the subdivision. It is staff's opinion that strict application of the zoning regulations would create a hardship on the property owner by limiting or restricting the opportunity to market the lot.

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

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 and sidewalks will be installed as required for pedestrian movement.

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 by the Board of Zoning Appeals. It is staff's opinion this request is reasonable based on the issues noted above related to the irregular size and shape of the lot, the adjoining cul-de-sac street, and no negative impact on the surrounding properties.

ANALYSIS:

RECOMMENDATION: Staff recommends approval of variance request BZA-01-17 allowing the construction of a single family dwelling as per the included plot plan at 17119 W. 197th Terrace.

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-01-17 for the construction of a single family dwelling located at 17119 W. 197th Terrace with a front yard setback of 33 feet and a rear yard setback of 20.2 feet as shown on the included plot plan and as presented in the staff report.

Attachments: Plot Plan
Minutes from July 1, 2015 BZA meeting

End of Staff Report

Mr. Hendershot presented the staff report, which outlined the current site and proposed variance request. Due to the fact that the lot is irregular in shape, it is difficult for any builder in this particular market area to construct a house based on the width of the property with current setback requirements. He stated that variance to the setback would allow for the proposed house to be built with setbacks of 33 feet in the front yard and 20.2 feet in the rear yard. Mr. Hendershot added that staff has not had any adverse contact with adjoining property owners that are either for or against this variance request.

Chairman King asked if there were any conflicts of interest or any contact with the property owner. With no contacts or conflicts, Chairman King officially opened the public hearing at 7:06 p.m.

Mr. Haupt stated that he does not really like cul-de-sacs, as he feels they create planning problems, such as this one being presented this evening.

Mr. Hendershot explained that when the subdivision was originally preliminary platted, the thought of building this size of house, and in this price range, was not much of a consideration.

The developer and applicant, Mr. Margritier, added that people are wanting larger homes than what was originally marketed, which has changed the housing market to accommodate sales.

With no further questions or comments from the public, Chairman King officially closed the public hearing at 7:13 p.m.

Motion by Mr. Haupt, seconded by Ms. North, to approve application BZA-01-17 for the construction of a single family dwelling located at 17119 W. 197th Terrace with a front yard setback of 33 feet and a rear yard setback of 20.2 feet as shown on the included plot plan and as presented in the staff report.

With all in favor, motion carried 3-0-0

DISCUSSION

REPORTS

ANNOUNCEMENTS FROM BZA AND STAFF

- Joint meeting with City Council, Planning Commission and BZA on Thursday, April 20, 2017 at 6:00 p.m. at the Community Center, 613 S. Race St. Dinner will be provided.
- Mayor Ellis will be hosting an Appreciation Dinner for all Spring Hill Boards on Thursday, June 15, 2017.

ADJOURN

**Motion by Mr. Haupt, seconded by Ms. North, to adjourn.
With all in favor, motion carried 3-0-0**

The meeting adjourned at 7:15 p.m.

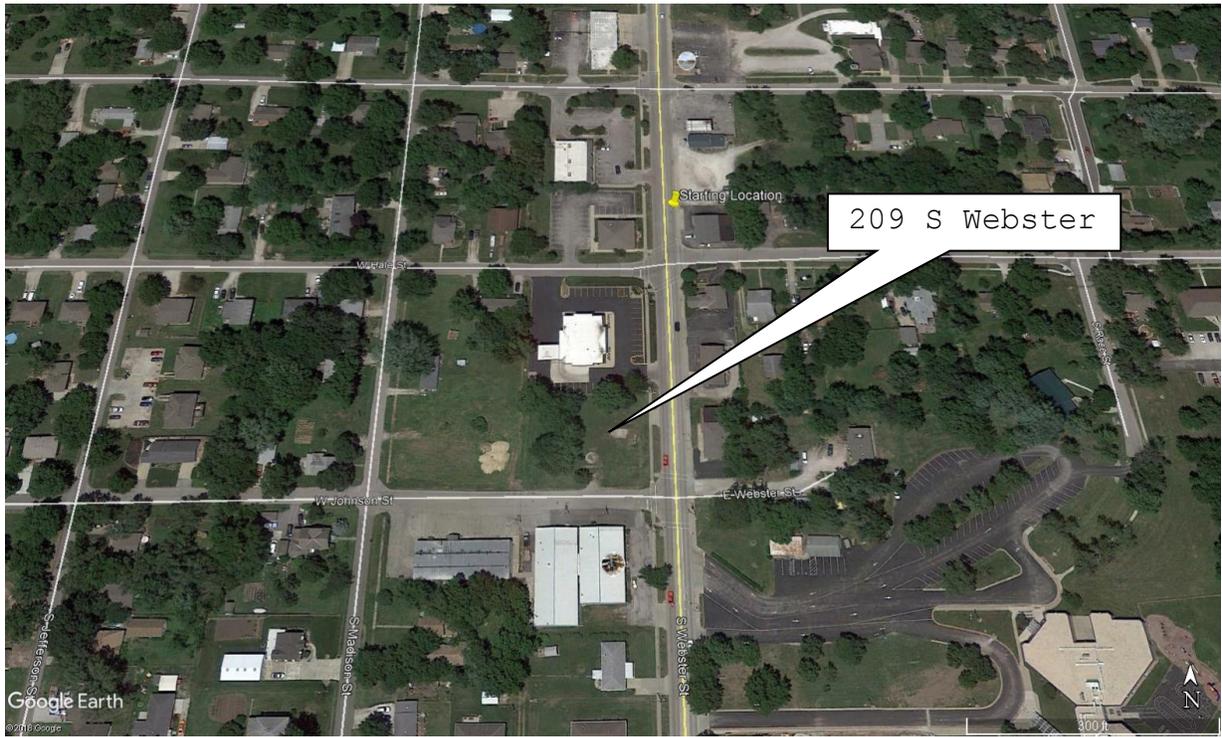
SPRING HILL BOARD OF ZONING APPEALS

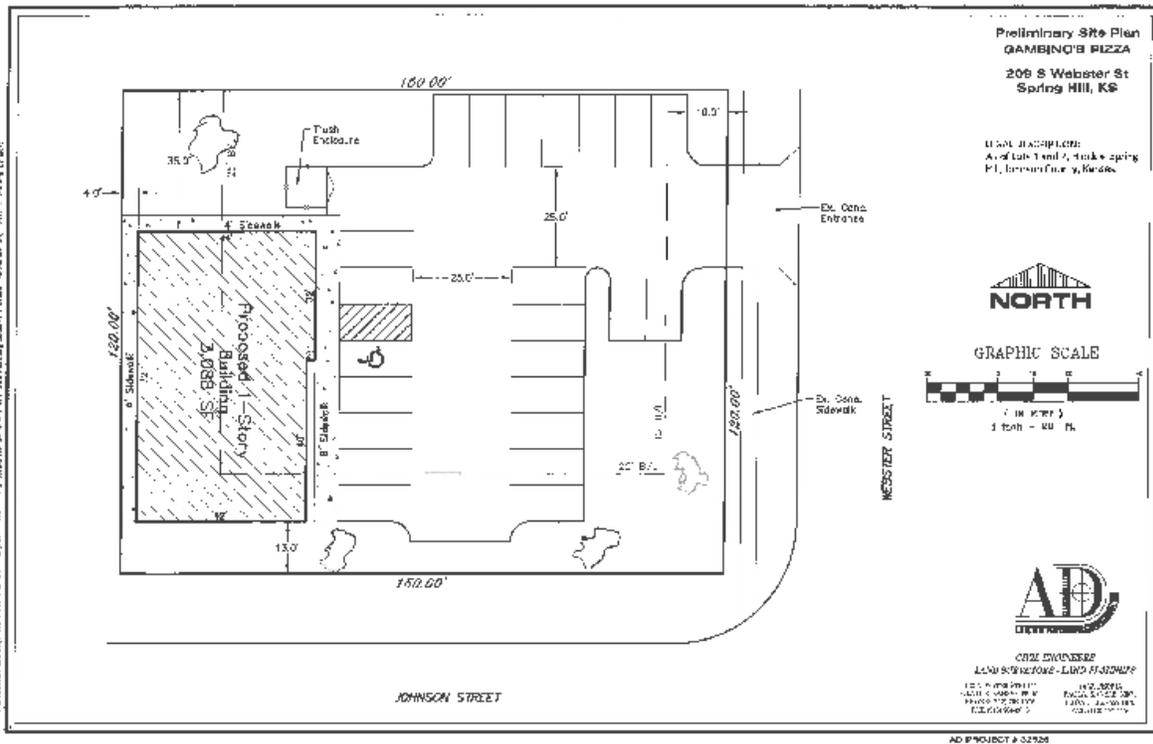
STAFF REPORT

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:





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:”

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

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

I:\DRAWINGS_32000\32526 Brian Rice Site Plan\Rice - Lots 1 & 2 Spring Hill Bk 4 - Prelim Site Plan.dwg Scale=1:1 Drawn November 30, 2017 - 7:40am By Matt

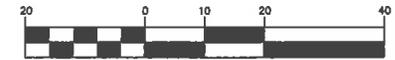
**Preliminary Site Plan
GAMBINO'S PIZZA**

**209 S Webster St
Spring Hill, KS**

LEGAL DESCRIPTION:
All of Lots 1 and 2, Block 4, Spring
Hill, Johnson County, Kansas.



GRAPHIC SCALE



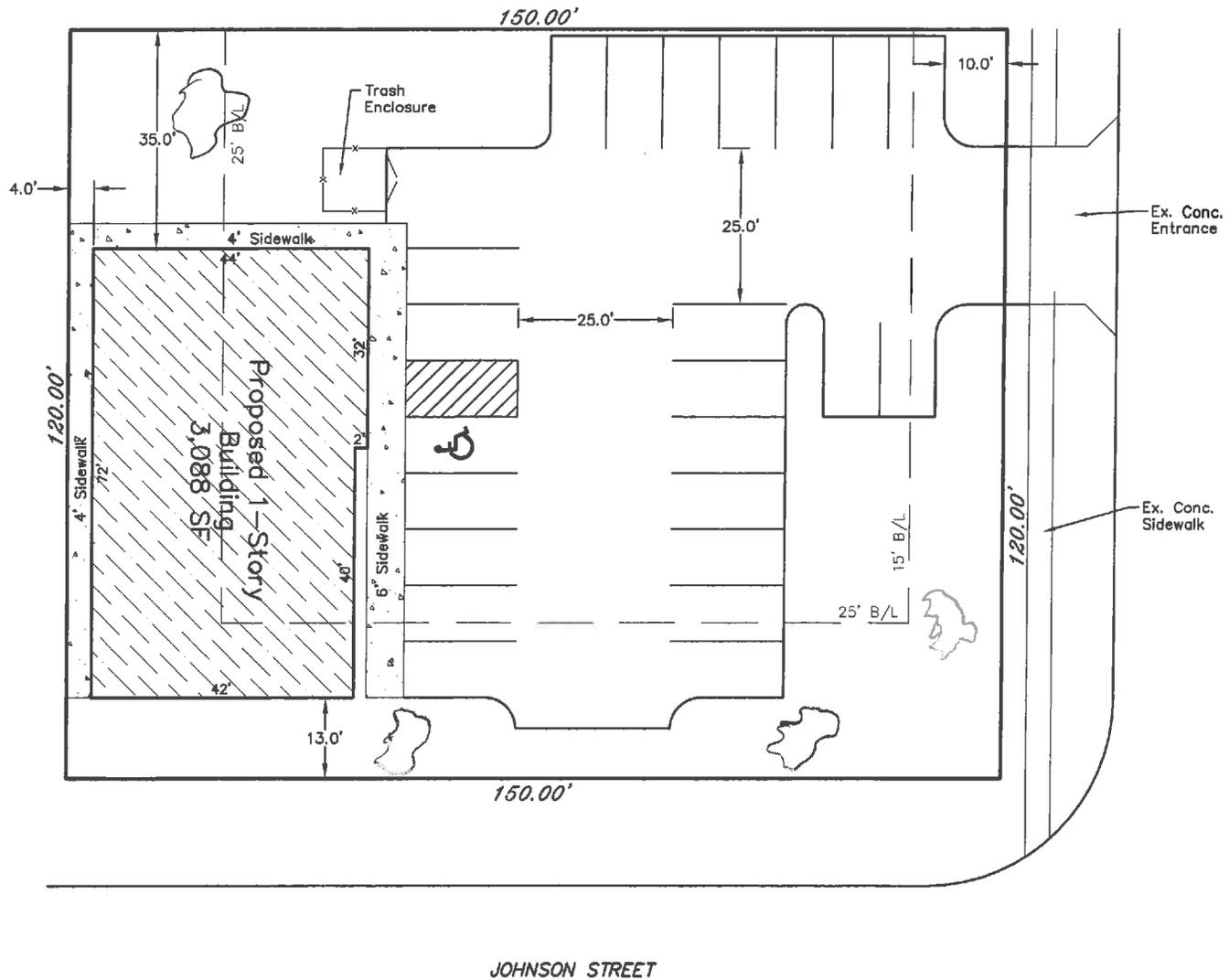
(IN FEET)
1 inch = 20 ft.



**CIVIL ENGINEERS
LAND SURVEYORS - LAND PLANNERS**

122 N. WATER STREET
OLATHE, KANSAS 66061
PHONE: (913) 764-1076
FAX: (913) 784-8885

14 W. PEORIA
PAOLA, KANSAS 66071
PHONE: (913) 557-1076
FAX: (913) 557-6904



JOHNSON STREET

WEBSTER STREET



RECEIVED

FEB 05 2018

Variance to Board of Zoning Appeals

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

CITY OF SPRING HILL, KS
TIME 3:50 INITIALS [signature]

ADDRESS OR VICINITY 209 S Webster Spring Hill KS 66083

ZONING ORDINANCE OR CODE SECTION FROM WHICH YOU SEEK A VARIANCE set backs

BRIEF EXPLANATION we would like to put our building 5 foot set back and use alley as the other 20 foot.

PRESENT ZONING commercial PROPERTY SIZE 120 x 150

PRESENT USE OF PROPERTY none

REAL ESTATE PARCEL NUMBER

LEGAL DESCRIPTION Spring Hill LTS 1 & 2 BLK 4 SPC-0031

APPLICANT:

NAME Brian Rice Andrea Rice CONTACT Andrea Rice 913 439-0404
ADDRESS 206 N Webster Spring Hill
CITY Spring Hill STATE KS ZIP 66083
PHONE 913 439-0404 FAX
E-MAIL blricehomes@gmail.com topt@is9@gmail.com

PROPERTY OWNER:

NAME BL Rice Homes CONTACT Brian Rice
ADDRESS 661 W North St
CITY Spring Hill KS STATE KS ZIP 66083
PHONE 913 748 6452 FAX
E-MAIL blricehomes@gmail.com

APPLICANT SIGNATURE Andrea Rice DATE 2-5-18

PROPERTY OWNER SIGNATURE [signature] DATE 2-5-18

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.
- 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-01-18 FEE RECEIVED BY Christie Campbell DATE 2/5/18
BZA MEETING DATE 4/4/18 DATE CERTIFIED LIST OF OWNERS RECEIVED 2/5/18
BZA DECISION (circle) Approved or Denied

AFFIDAVIT OF PUBLICATION

NPG Newspapers, Inc., P.O. Box 29, St. Joseph, MO 64502

Reference: 182892
Ad ID: 6526331

P.O. :

DESC. :Hearing.Variance to Board Zone Appeals

GLEND A GERRITY
CITY OF SPRING HILL
PO BOX 424
SPRING HILL, KS 66083

Miami County Republic

(Published in the Miami County
Republic Wed., 3/07/18)

State of Kansas, Miami County, ss:

CITY OF SPRING HILL, KANSAS
PUBLIC HEARING
NOTICE OF VARIANCE TO THE
BOARD OF ZONING APPEALS

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.

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 613 S. Race St., Spring Hill, Kansas, on the 4th day of April, 2018 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:

That this notice, a true copy of which is hereto attached, was published in the regular and entire issue of said weekly newspaper as follows, to-wit:

Owner requests a variance to the rear yard setback.

The legal description of the property is below.

Run Dates: 03/07/18 to 03/07/18

Appearances: 1

AD SPACE: 83

TOTAL COST: \$81.36

LEGAL DESCRIPTION:

LOT 1 & 2, BLOCK 4, CITY OF SPRING HILL, A SUBDIVISION IN THE CITY OF SPRING HILL, JOHNSON COUNTY, KANSAS, more commonly known as 209 S. Webster Street.

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

(Signed)

Dated this 2nd day of March, 2018

SPRING HILL BOARD
OF ZONING APPEALS
Brian King, Chairman

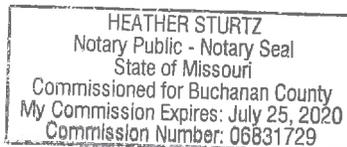
ATTEST:

(SEAL)

Glenda Gerrity, City Clerk

Subscribed and sworn before me this
7th day of March 2018

Heather Sturtz Notary Public



My Commission Expires: 7/25/20