

Board of Zoning Appeals Staff Report

Applicant

Alexanderfeld Mennonite Church
Agent: Abe Ensز
1806 Holly
Hillsboro, KS 67063

Application

Application number BZA-11-02. Applicant has requested a side yard variance from fifty (50) feet to five (5) feet in a "RR" Rural Residential Zone District.

Project Description

Alexanderfeld Mennonite Church sits on 4.94 acres in Section 4 Township 20 Range 2 of Liberty Township. This property is located approximately 1 mile west and 1 mile south of Hillsboro.

Applicant intends to construct a 48-foot by 72-foot addition to the east side of the church. In order to fit the addition onto the property, the church is requesting a variance of the side yard setback

The property is served by public water supply. The wastewater system that presently serves the property has previously been reported to be in compliance with the Marion County requirements; however no records of the system can be found in the County files. The owner indicates modifications were made to the system within the past few years, but nothing is shown in the files. As such, any expansion will require confirmation of the capacity of the system to support the structures and uses.

Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification was completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No public comments have been received as of April 20, 2011.

Yard variances are provided for in the Marion County Zoning Regulations to relieve hardships caused by exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of regulations or restrictions, or by reason of exceptional hardship upon owner of such property. However, as previously noted, a self-imposed hardship (i.e. wanting to building on a lot too small, or wanting to build at a specific location because it is more convenient is a clear self-imposed hardship.)

The Marion County Zoning Regulations and Kansas Statutes provide that the following conditions must be met in order to grant a variance:

- 1) 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 and action or actions of the property owner(s) or the applicant.
- 2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
- 2 3) The strict application of the provisions of the Marion County Zoning Regulations of which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
- 4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
- 5) That granting the variance will not be opposed to the general spirit and intent of the Marion County Zoning Regulations. The purpose of the variance is to provide relief where normal adherence to the regulations is not possible.

Adjacent property has received a variance approval to construct a primary structure within the required ten (10) feet side yard setback according to the staff report for church property dated May 9, 2003. As such, variances have been granted in this area in the past.

Staff Recommendation

In as much as the "hardship" in question is, in the opinion of staff, self-imposed; staff recommends denial of the variance request. The applicant has indicated land can be obtained from the adjacent owner to resolve the setback issues. Additionally, staff would strongly recommend the questions concerning the on-site wastewater systems be resolved and the owner be clear of the requirements to comply with the Sanitation Code before any further modifications to the church and/or school are made. The needs under the Sanitation Code, coupled with construction plans for the addition to the building, would resolve exactly what might be needed in order to resolve all the issues.