

## **Board of Zoning Appeals Staff Report**

### **Applicant**

Karen Humphries and Sharon Werner  
58 Lakeshore Drive  
Marion, KS 66861

### **Application**

Application number ZP02.074. Applicant has requested a retaining wall height variance from the maximum of six (6) inches to sixteen (16) inches and a variance from required two (2) feet setback to no setback in a "V-1" Village Zone District. A construction application has been received.

### **Project Description**

Karen Humphries and Sharon Werner own all of lot 24 and part of lot 25 of Lakeside subdivision. This property is located on the west side of Marion County Lake

The proposed project will consist of the construction of a retaining wall to divert drainage around their residence.

### **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. One public comment letter has been received as of August 7, 2002.

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.

The Marion County Zoning Regulations 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.

- 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.

**Staff Recommendation**

Approve retaining wall variance of height requirement by ten (10) inches. Approve with a condition that retaining wall is constructed with reflectors and a condition that design and construction of retaining wall will not adversely affect water drainage to the property directly adjacent.

Deny two feet setback variance for retaining wall.