

Board of Zoning Appeals Staff Report

Applicant

Neil Hett
1509 E. 120th
Peabody, KS 66866

Application

Application number ZP05.105. Applicant has requested a temporary variance from the prohibited use of a mobile home, as defined in regulation, for the purpose of establishing an office building in an "A" Agricultural Zone District. Applicant has also requested a variance from the minimum width requirement of twenty two (22) feet.

Project Description

Mr. Hett owns approximately twenty (20) acres in the northwest quarter of Section 9, Township 21 South, Range 3 East. This property is located four miles north of the City of Peabody.

The proposed project will consist of the establishment of a mobile home for use as an office building. Office building will accommodate an approved CUP for Landscape Materials Storage and Retail Sales. Applicant seeks to utilize mobile home structure for three (3) years.

A construction application has been received. A permit to construct has not been issued.

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 January 12, 2006.

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.

A mobile home was moved onto the applicant's property previous to the receipt of a construction application. An enforcement letter was issued by staff before the receipt of a construction application.

An enforcement letter was issued by staff with a thirty (30) day deadline for removal of the mobile home. The Marion County Commission provided a deadline extension to allow the applicant to seek a variance approval from Board of Zoning Appeals.

The Structure is used as an office building, not as a residence.

The Structure has been utilized in conjunction with a CUP approved in February of 2005. The approved CUP does allow for an office structure.

Applicant requests a temporary variance allowance.

Structure appears to have been constructed previous to the enactment of the National Manufactured Home Construction and Safety Standards Act of June 15, 1976.

Staff Recommendation

Approve a temporary variance of three (3) years from Section 15-102 of the Marion County Zoning Regulations to allow for the construction of a manufactured home of less than twenty-two (22) feet in width. Recommend structure be used only for office space as part of the existing Conditional Use Permit in the "A" Agricultural Zone District. (REASON: Variance approval is consistent with approval of similar previous applications)

Deny approval of a variance from Section 21-110 of the Marion County Zoning Regulations to allow for the construction/ relocation of a mobile home, as defined. (REASONS: Regulation clearly forbids the relocation of mobile homes in Marion County. The structure in question appears to have been constructed previous to the enactment of the National Manufactured Home Construction and Safety Standards Act. Variance denial is consistent with precedent of denial for similar previous applications)