

Board of Zoning Appeals Staff Report

Applicant

Tim Summervill
2248 E. 150th
Marion, KS 66861

Application

Application number ZP04.096. Applicant has requested an acreage variance from forty (40) acres to thirty-eight (38) acres in an "A" Agricultural Zone District.

Project Description

Mr. Summervill owns approximately thirty-eight (38) acres in the northeast quarter of the northeast quarter of Section 15, Township 20 South, Range 4 East. This property is located one mile south and two miles east of the City of Marion. Applicant intends to subdivide six (6) acres for resale.

Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification has been completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No public comments have been received as of January 13, 2005.

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.

Kansas Department of Transportation expanded Highway 77 by obtaining 1.55 acres from applicant.

Staff Recommendation

Approve an acreage variance of no more than two (2) acres. (REASONS: Precedent of prior acreage variance approval when considering expansion of public right-of-way. Applicant did not create non-compliant property through own action.)