

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

### **Applicant**

Robert Spachek  
P.O. Box 185  
Lincolnvilve, KS 66858

### **Application**

Application number ZP06.028. Applicant has requested a side yard setback variance from fifteen (15) feet to ten (10) feet and from fifteen (15) feet to eight (8) feet; and a back yard setback variance from twenty (20) feet to fifteen (15) feet in a "R-1" Single Family Residential Zone District.

### **Project Description**

The proposed project is for the construction of a Residence and Garage. A construction application for each has been received.

### **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 written public comments have been received as of May 5, 2006.

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.

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 side yard variances of no more than seven (7) feet. Approve a back yard variance of no more than five (5) feet. (Planning Factors #4 and #5)