

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

### **Applicant**

Edward W. Burnett  
208 Warren Road  
Eldorado, KS 67042

### **Application**

Application number ZP04.071. Applicant has requested a front yard variance from thirty (30) feet to fifteen (15) feet, a side yard variance from ten (10) feet to six (6) feet and a rear yard variance from twenty (20) feet to four (4) feet. This property is in a "V-1" Village Zone District.

### **Project Description**

The proposed project is for the construction of a new residence. Residence will be a 30 feet by 56 feet modular home. A construction application 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 public comments have been received as of November 5, 2004.

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. Typically "V-1" Village Zone Lots are large enough to provide ample building space.

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.

Applicant received BZA variance approvals in September of 2000 for a twenty (20) feet setback for the front yard, a six (6) feet setback for the side yard and an eight (8) feet setback for the rear yard.

**Staff Recommendation**

Approve front yard variance of no more than ten (10) feet. Approve side yard variance of no more than four (4) feet. Approve rear yard variance of no more than ten (10) feet. Recommend that private water well be properly plugged before construction of residence. (REASONS: Staff recommendation is consistent with BZA approvals of similar setback variance requests.)