

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

### **Applicant**

Wayne Handle  
124 Zebu  
Burns, KS 66840

### **Application**

Application number ZP03.0075. Applicant has requested an acreage variance from ten (10) acres to three and five tenths (3.5) acres and a front yard variance from seventy-five (75) feet to fifty (50) feet in a "RR" Rural Residential Zone District.

### **Project Description**

Harold Lefert owns approximately seven and one half (7.5) acres in the southeast quarter of Section 33, Township 22 South, Range 5 East. This property is located east of the City of Burns on Hwy 77. Existing property is compliant for construction.

This property contains one residence of approximately 1200 sq. ft., one carport and an old railway car used as an outbuilding. The private wastewater system that serves this property is compliant.

### **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 7, 2003.

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.

Property will be reduced in size to accommodate right-of-way enlargement of HWY 77.

Residence will be fifty feet from edge of KDOT right-of-way.

Residence will have a greater exposure risk to traffic accidents.

Property has been compliant for construction.

**Staff Recommendation**

Approve an acreage variance of no more than six and forty-seven tenths (6.47) acres.

Approve front yard variance of no more than twenty-five (25) feet.