

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

### **Applicant**

Mark Penner  
725 Old Mill  
Peabody, KS 66866

### **Application**

Application number ZP03.059. Applicant has requested a rear yard variance from fifty (50) feet to three (3) feet in a "RR" Rural Residential Zone District. Applicant intends to construct an accessory structure.

### **Project Description**

Mark Penner owns approximately five (5) acres in the southeast quarter of Section 33, Township 21 South, Range 3 East. This property is located east of the City of Peabody.

The proposed project will consist of the construction of a secondary structure. A construction application has not 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 September 12, 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.

**Staff Recommendation**

Approve rear yard variance of no more than thirty (30) feet