

AGENDA

Due to public health orders related to COVID-19, the meeting will be closed to the public. Members of the public who wish to observe the meeting can do so via the City's YouTube channel at <https://www.youtube.com/user/DeSotoKansas/live>.

Meeting information materials can be viewed here:

<https://drive.google.com/drive/folders/1yVele2kOHm-gWrwASgo1n1ypjAqhxl0>

Members of the public who wish to participate during the meeting may join the video conference at <https://www.gotomeet.me/DeSotoKS>

1. Call to Order

2. Roll Call

Chairman: Steve Winslow

Members: Linda Lane
Doug Pickert
Robert Freeman

Staff: Patrick Reavey, City Attorney
Mike Brungardt, City Administrator
Brad Weisenburger, Planning and Capital Projects Director

3. Agenda Items:

A. Consider a variance from Appendix C Zoning Regulations - Article 4 Rural Suburban District side yard setback. The variance is requested for a 1.02-acre tract located at 30655 W 84th Circle. The application has been submitted by Brian and Loretta Scott.

4. Adjournment

ITEM: Consider a request for a variance from required side-yard setback regulations in the R-O Zoning District for an accessory building

HEARDING DATE: April 8th, 2020

TO: City of De Soto Board of Zoning Appeals

FROM: Brad Weisenburger, Planning and Capital Projects Director

CC: City Staff via Electronic Packet Distribution

Applicant: Brian and Loretta Scott

Site Address 30655 W 84th Circle

EXHIBITS: Exhibit A: Variance Application, received February 15th, 2020
 Exhibit B: Location Map
 Exhibit C: Maps of Variance Area on site
 Exhibit D : BZA Record of Findings

Summary: Brian and Loretta Scott have requested a variance to construct an accessory building in the rear yard of their single-family dwelling at 30655 W 84th Circle. The property is zoned R-O, (Residential Suburban) and the required side-yard setback is 25 feet. The applicant is requesting a 10’ reduction to allow the construction a wood frame building, essentially a two-car garage.

I. Background & Application Information

The variance application materials are attached as **Exhibit A**. All required fees have been paid, and notification letters have been sent to all owners of property within 200 feet of the Scott’s property. **Exhibit B** shows the project location for the proposed variance.

Exhibit C shows of the property and surrounding area. The lot is 1.02 acres in size. Article 5 Supplementary District Regulations addresses Accessory Buildings. The applicant is not asking for a variance from the city code regarding the specifics of Article 5. The request is solely directed at reducing the 25’ side yard setback as established in the RO zoning district.

The hardship for the requested variance arises because the lateral field and septic tank were placed in the rear yard and towards the southwest of the lot. Because of the essential use of the private wastewater system, it is not feasible to relocate the septic tank or lateral. Additionally, the setback for structures from a private waste water system is 10’.

If the property was zoned R-1 the side yard setback would be 10% of the tract width with or a 15’ maximum, 10’ is the minimum for R-1. This tract lot width is approximately 153’, therefore, the R-1 side yard setback would be 15’.

II. Review of Variance Requests.

In considering approval of the requested variances, the BZA is charged with determining whether the requests are found to be generally compatible with surrounding area and is in the best interest of the City as a whole. In making such determination, the BZA may consider all factors they deem relevant to the questions of compatibility and the best interest of the City. Specific topics on which to base your decision are found in Paragraph 2.B of Article 12 of the City's Zoning Regulations, The criteria are listed below along with a brief staff review of each.

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 an action or actions of the property owner or applicant.

The lot size and configuration is quite common in the rural-residential areas of the City. The residential areas surrounding the applicants' location are all zoned rural suburban R-O. The proposed building does not fit due to the size of the structure (24' x 36'), due to the lot size being just over 1 acre with the RO setback requirements.

The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.

The surrounding area includes mostly rural residential uses. There are many smaller sheds and few accessory buildings in the neighborhood. There is a decorative fence to the south of the site which would provide some screening to the southern property owner. Otherwise the area is rather open, and the building would be clearly seen by the neighbors. However, it is unlikely that any surrounding properties will be significantly impacted by granting the variance request if the materials used were similar to the residential materials in the area. A metal building would potentially cause an adverse condition for the neighbors.

The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application. Such hardship shall not be based solely upon economic considerations.

The applicant must keep the lateral field clear for compliance with septic and lateral field regulations. There is no feasible location on this lot for an accessory building of this size (24' x 36') due to the lot size being just over 1 acre. Potential solutions other than a variance would be to reduce the width of the building to 15' in width or shorten the length to 25', approximately for either. It is also an option to relocate the lateral field to accommodate the proposed structure.

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The proposed accessory building does not appear to have any significant impact on public safety.

The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

In general, set-back requirements are intended to protect adjoining properties from inappropriate or undesirable encroachments, and to help establish neighborhood densities and character. The R-O district's side yard setback is 25 feet. If the variance was granted the residence to the west would be most impacted by the proposed accessory building. However, the variance does not appear to threaten the intent of the requirement to establish and maintain a low-density residential setting in this area.

The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

The proposed accessory building could be constructed within the required set backs of 25' on each side and 50' in the rear. From staff's perspective the variance request (reduction of 10') is reasonable based upon compliance to the 25' setback however there are potential solutions that do not require granting a variance, these include reducing the size of the building or relocating the lateral field.

As discussed early in the staff report the R-1 district regulations could be applied using the 10' to 15' side yard set back as a more reasonable standard or reducing the width of the proposed structure could be enforced.

III. **BZA Actions**

According to the variance regulations, the BZA is to make a specific finding on each of the criteria listed in Section II above. If the majority of the BZA finds that any one of the criteria is not met, the request must be denied.

Attached as **Exhibit D** is a "Record of Decision" form that can be used to formally record the votes of the members on each criteria. The BZA is the final authority on these variances. Once you vote, the decision can only be appealed to the district court.

**End of Memo
Exhibits to follow.**

VARIANCE APPLICATION
BOARD OF ZONING APPEALS

Return Form to:
City of De Soto Planning Department
P.O. Box C, 32905 W. 84th Street
De Soto, KS 66018
(913) 583-1182 ext. 115
Fax: (913) 583-3123

For Office Use Only
Case No.: _____
Filing Fee: _____
Deposit: _____
Date Advertised: _____
Date Notices Sent _____
Public Hearing Date: _____

APPLICANT: Brian K. Scott PHONE: 913.296.0657
E-MAIL: b.scott433@gmail.com FAX: _____
ADDRESS: 30655 W. 84th Circle ZIP: 66018-9185
OWNER: Brian and Loretta Scott PHONE: Same
E-MAIL: lascott@kc.rr.com FAX: _____
ADDRESS: Same ZIP: Same
LOCATION OF PROPERTY: 30655 W. 84th Circle, De Soto, KS
LEGAL DESCRIPTION: Cedar Junction Estates Second PLAT
LT 15 BLK 1 DEL 276 4 1 15

TO BE COMPLETED FOLLOWING CONSULTATION WITH PLANNING STAFF:

Section of Zoning Ordinance from which Variance is Requested: Appendix C, Article
4, R-Q, 6.B (side yard)

Adjacent Zoning and Land Use:

	Zoning	Land Use
North	<u>R-Q</u>	<u>RSD</u>
South	<u>R-Q</u>	<u>RSD</u>
East	<u>R-Q</u>	<u>BSD</u>
West	<u>R-Q</u>	<u>RSD</u>

Present Zoning/Land Use of Property: R-Q Residential Suburban District
Proposed Use of Property: _____
Utility lines or easements that would restrict proposed development:

IMPORTANT: Review Zoning Regulations, Article 12 and Procedures Manual, Article 9 available at www.desotoks.us, Online Documents and Regulations

Please indicate below the extent to which the following standards are met, in the applicant's opinion. When answering the questions below, please provide full, complete, descriptive answers. Bear in mind that it is the function of the Board to investigate completely any proposed adjustment to how the regulations are applied to your property, to be sure that it is the least change necessary, and that it will not have a negative affect upon the surrounding property owners and property values.)

1. **UNIQUENESS**

Yes No

The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

The current layout of the lateral field prevents construction of the desired structure anywhere else on the property due to current setback requirements. Please see attached drawing, which shows that the West lateral hinders placement of structure without relocation to the East side of the property.

2. **ADJACENT PROPERTY**

Yes No

The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. **HARDSHIP**

Yes No

The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

Cost of relocation of current lateral will cause a financial hardship on applicant as well as have potential environmental impact.

IMPORTANT: Review Zoning Regulations, Article 12 and Procedures Manual, Article 9 available at www.desotoks.us, Online Documents and Regulations

4. **PUBLIC INTEREST**

___ Yes No

The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. **SPIRIT AND INTENT**

___ Yes No

Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

6. **MINIMUM VARIANCE**

Yes ___ No

The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

Decreasing the side setback from 25 feet to 15 feet on the West property line will allow place of the proposed structure and allow the minimum 15-foot setback from the western most lateral line.

SIGNATURE: Brian K Scott

DATE: 2/15/20

BY: Brian K Scott

TITLE: _____

IMPORTANT: Review Zoning Regulations, Article 12 and Procedures Manual, Article 9 available at www.desotoks.us, Online Documents and Regulations

SAMPLE MEMO FROM APPLICANT TO THE BOARD OF ZONING APPEALS

Date: _____

(Please print)

Applicant's Name: Brian K. Scott

Address: 30655 W. 84th Circle

Applicant De Soto, KS 66018-9185

To: City of De Soto Board of Zoning Appeals

Re: Variance Request

Listed below is the information requested by City staff in connection with my/our request for a

Variance from the Appendix C, Article 4, R-D, 6.B (side yard)

regulations. This variance is needed because: The current setback

requirements prevent the construction of
desired structure.

1. **Uniqueness.** (What physical surroundings, shape, or topographical conditions make this property unique or different from others and creates a practical difficulty or unnecessary hardship in meeting this regulation).
2. **Adjacent Property.** (Will varying the regulation be detrimental or adversely affect the rights of adjacent property owners or other residents of the City)
3. **Hardship.** (What type of hardship would result in strict application of the regulations)
4. **Public Interest.** (Why will the variance not have an adverse affect upon the public health, safety, morals, order, convenience, or general welfare of De Soto)
5. **Spirit and Intent.** (How will the spirit and intent of the regulations be met with the Variance)
6. **Minimum Variance.** (Request is for the minimum variance necessary for proposed use)

Sincerely,

Brian K. Scott

(Applicant's Name)

(Business Name)

IMPORTANT: Review Zoning Regulations, Article 12 and Procedures Manual, Article 9 available at www.desotoks.us, Online Documents and Regulations

To Whom it May Concern:

We are the property owners of 30655 W. 84th Cir. in De Soto, KS.

I am wishing to construct a 24' x 36' outbuilding for storage purposes in the rear of my property.

The layout of the septic tank and lateral system and 25' side setback restriction combined restricts the construction of said building.

Therefore, I am requesting a reduction in setback to 15' on the West property line.

A reduction from 25' to 15' setback on the West property line would allow the construction of the building between the marked lateral field and the property line giving at least 15' from each.

My only other option would be to relocate the west-most lateral line to the east side of the property. I wish to avoid the disturbance of the existing lateral field and all the mess that would entail.

Thank You for your consideration,

Brian & Loretta Scott
30655 W. 84th Circle
De Soto, Kansas 66018-9185



Kiewit

Made by:	Date:	Job No.
Checked by:	Date:	Sheet No.

For:

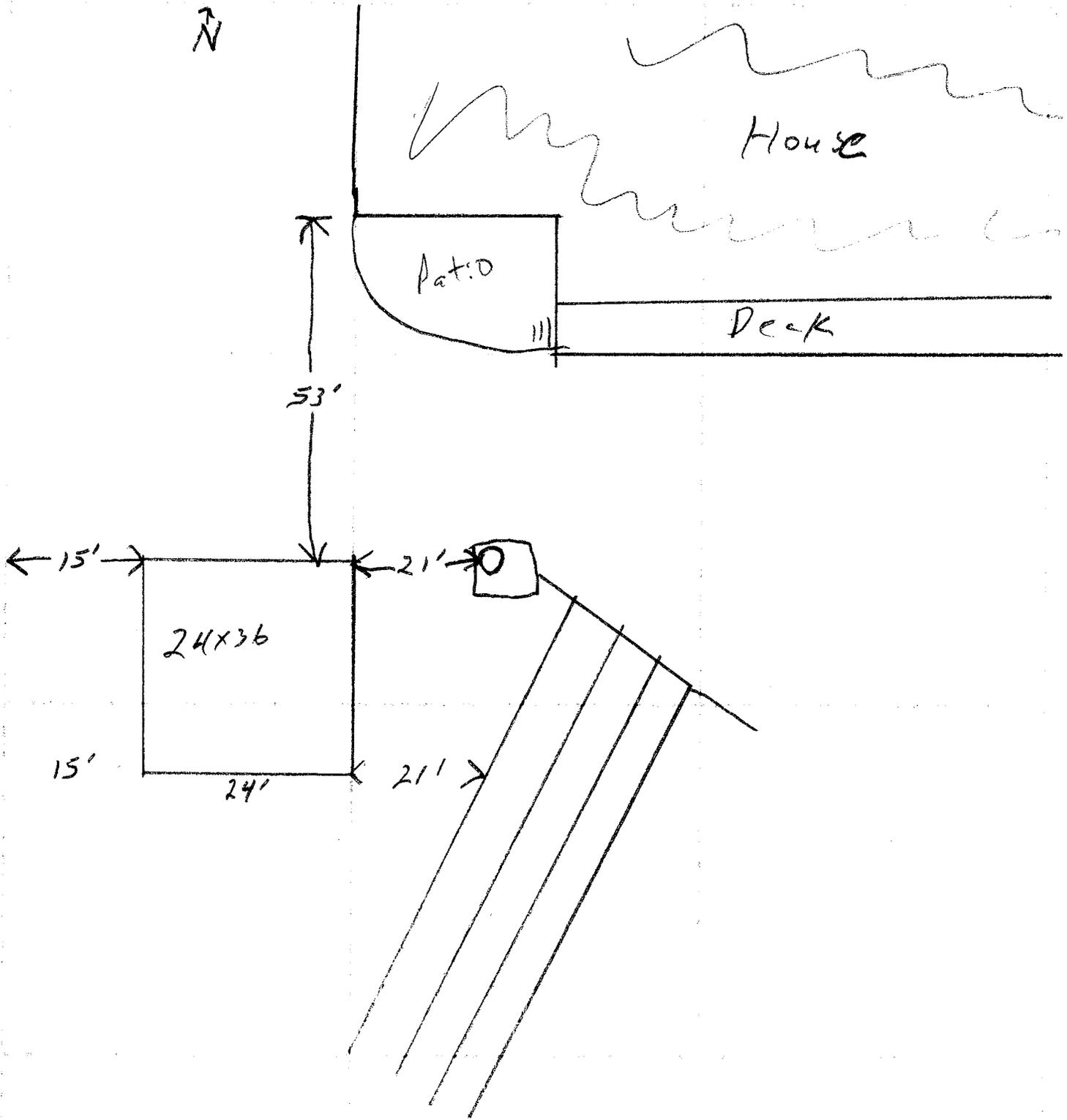


Exhibit B



Proposed structure

W 83rd St

W 83rd St

W 83rd St

Exhibit C

Corliss Rd

84th Cir

Taylor Ct



30655 84th Circle

Corliss Rd

W 84th Terrace

Corliss Rd

Board of Zoning Appeals RECORD OF FINDING

From Paragraph 2.B.(2) of Article 12 of the Zoning Regulations:

“A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.”

This document represents the findings of the Board of Zoning Appeals on the matter described herein.

APPLICANT: Brian and Loretta Scott
 HEARING DATE: April 8th, 2020
 PROPERTY LOCATION: 30655 84th Circle
 VARIANCE REQUEST: **Side Yard Setback: Reduce from 25 feet to 15 feet.**

The votes of each member of the BZA are recorded below. A yes vote indicates that the requested variance meets the specific standard, and is in support of granting the variance.

1. UNIQUENESS

The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

Pickert: Yes No

Lane: Yes No

Freeman: Yes No

Winslow: Yes No

Overall Board Determination: Yes No

2. ADJACENT PROPERTY

The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

Lane: Yes No

Pickert: Yes No

Winslow: Yes No

Freeman: Yes No

Overall Board Determination: Yes No

3. HARDSHIP

The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

Pickert: Yes No

Winslow: Yes No

Freeman: Yes No

Lane: Yes No

Overall Board Determination: Yes No

4. PUBLIC INTEREST

The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Winslow: Yes No.

Pickert: Yes No

Lane: Yes No

Freeman: Yes No

Overall Board Determination: Yes No

5. SPIRIT AND INTENT

Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

Lane: Yes No

Freeman: Yes No

Pickert: Yes No

Winslow: Yes No.

Overall Board Determination: Yes No

6. MINIMUM VARIANCE

The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

Lane: Yes No

Pickert: Yes No

Winslow: Yes No

Freeman: Yes No

Overall Board Determination: Yes No

SIGNATURE: _____

DATE: _____

BY: _____

TITLE: Chairman, Board of Zoning Appeals

“Motion by _____.”