



**MINUTES**

**DOUGLAS COUNTY BOARD OF ZONING APPEALS**

Public Works/Zoning and Codes Building - Training Room, and by Zoom

3755 E 25<sup>th</sup> Street

**Monday, December 18, 2023**

10:00 A.M.

MEMBERS PRESENT: Rich Barr, Chair, Fadra Mitchell, Charlie Thomas

MEMBERS ABSENT: Scott Eudaly, Jerry Wohletz

STAFF PRESENT: Tonya Voigt, Zoning Director; Karl Bauer, County Planner; Ben Harris, Code Enforcement Officer

PUBLIC PRESENT: In Person: Gerald Jaax, Nancy Jaax, James E. Sack  
Virtual: Colin Aldrich

Rich Barr called the meeting to order at 10:03 a.m.

Rich Barr called roll and a quorum was established.

**ITEM NO. 1: MINUTES**

Approve, revise, or approve with conditions the Oct. 16, 2023, meeting minutes.

Charlie Thomas motions to approve, Rich Barr seconds. Approved 3-0.

**ITEM NO. 2: DISCLOSURE OF EX PARTE COMMUNICATIONS**

Chair asks Board members for disclosure of any ex parte communications on the items on the agenda.

Rich Barr asks, all members attest to no communication.

**VARIANCE REQUESTS**

**ITEM NO. 3: ZBZA-2023-0007** - A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from Gerald P. and Nancy K. Jaax requesting a variance to allow a reduction of the required 30-foot rear setback to approximately nine feet for a proposed 12-foot by 16-foot shed building, located at the terminus of N 1505 Road.

<b>APPLICANT/OWNER:</b>	Gerald P. and Nancy K. Jaax Revocable Living Trust
<b>LOCATION:</b>	Western Terminus of N 1505 Road (Plate № 400192A)
<b>AREA:</b>	10 Acres
<b>DATE OF PUBLIC HEARING:</b>	October 16, 2023, 10:00 am.
<b>DATE PUBLIC NOTICE PUBLISHED:</b>	September 26, 2023
<b>PRESENT LAND USE:</b>	Ag-2 – Transitional Agricultural District, used as a recreational property.

## SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-303-2.04 Dimensional Standards: Requires 30-foot rear or interior side setback from the property line.

## DESCRIPTION OF VARIANCE REQUESTED:

The subject property, located at the western terminus of N 1505 Road (a private road), is approximately 10 acres in size and consists of a hilly, partially wooded lot. The only structure is a 12-foot by 16-foot “Tuff Shed” that is used as sleeping quarters when the owners and their guests visit the property. The applicant is requesting a variance to bring the structure into conformance with the Zoning Regulations, as the structure was installed prior to obtaining approvals from Douglas County Zoning and Codes and is built within the required 30-foot rear setback. Generally, structures under 200 square feet (e.g., small garden sheds) do not require a building permit, but since this structure is used as sleeping quarters, a building permit will be required. Based on the very steep nature of the property, the site where the structure is one of the few potential building sites as it is near the top of the relatively flat hilltop and offers a view of the surrounding area. The applicant has included documentation that the neighboring property owner whose property is immediately adjacent to the structure has no opposition to the granting of this request.

The property is crossed by several easements, including a 66-foot-wide natural gas pipeline easement that crosses the property east to west and a 15-foot-wide utility easement along the western and southern property lines. Prior to obtaining a building permit, the applicant will need to verify that the structure is located outside the easement. Because of the nature of the property and the existing vegetation, staff do not have an accurate measurement of exactly how far the structure is from the property line and it may be well above the nine feet requested.

## STAFF RECOMMENDATION

County Staff recommend approval of the variance request from Gerald P. and Nancy K. Jaax requesting a variance to allow a reduction of the required 30-foot rear setback to approximately nine feet for a proposed 12-foot by 16-foot shed building, located at the terminus of N 1505 Road, with the following stipulations:

1. This variance shall apply only for a 12-foot by 16-foot structure. Any other structures shall comply with the adopted zoning regulations, or another variance shall be obtained from the Douglas County Board of Zoning Appeals.
2. This variance does not vacate any existing easements.
3. Prior to obtaining a building permit, the applicant shall verify that the structure is built outside any easements, or the easements shall be vacated.

### 10:01 am Chair Barr calls meeting to order.

Karl Bauer presents ZBZA-2023-0007 and reviews staff report.

10:06am – Karl yields the floor.

Rich Barr notes that he visited the site, and it was quite steep.

Nancy Jaax notes that there are 2 houses along the road to get to the property.

Jerry notes that the neighbor Aldrich recently purchased the property to the west that abuts the property. When we put the structure in there, we didn’t realize we needed to deal with the variance.

We went to the website and it said that if it’s under 200 sq ft and did read thoroughly. It’s our error, and it was during covid.

Rich – without survey markers we are not sure where the property line is. I know easements have to be respected.

Karl – this is a platted lot and utility easements are added to plats.

Jerry - there is a gas line to the south of the building, about 50 ft to the south.

Rich asks about the width of the gas easement. 50 ft.

Charlie – Even if we say yes, it will need to be verified that the structure is out of the easement if it is built in the easement.

Rich opens public comment.

Colin Aldrich – bought property in July of 2022. Landplan survey notes that the fence line is accurate.

No utilities along the survey. Colin believes the gas easement is 30’.

Nancy – it was built for a storage shed. During covid, it expanded into a tiny house concept. It’s run on a generator. No sewage, no water. Kids are not there as much as they used to be.

Charlie, based on findings of the report, I have no issues.

Fadra, what is the foundation?

Jerry, it is on fixed concrete footers.

10:20 Rich – asks for motion.

Charlie makes a motions to approve the conditions as written. To allow a reduction of the required 30-foot rear setback to approximately nine feet for a proposed 12-foot by 16-foot shed building, located at the terminus of N 1505 Road, with the following stipulations:

1. This variance shall apply only for a 12-foot by 16-foot structure. Any other structures shall comply with the adopted zoning regulations, or another variance shall be obtained from the Douglas County Board of Zoning Appeals.
2. This variance does not vacate any existing easements.
3. Prior to obtaining a building permit, the applicant shall verify that the structure is built outside any easements, or the easements shall be vacated.

Fadra seconds motion

Motion passes 3-0

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**ITEM NO. 4: ZBZA-2023-0010:** A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from James E. Sack requesting a variance to allow a reduction of the required 210-foot front setback to approximately 100 feet for a proposed 36-foot by 52-foot addition to an agricultural building, to be located south of N 1000 Road approximately one-half mile west of E 1800 Rd.

<b>APPLICANT/OWNER:</b>	James E. Sack/ James E. and Nancy J. Sack
<b>LOCATION:</b>	1751 N 1000 Road (Plate № 800987A)
<b>AREA:</b>	37.85 Acres
<b>DATE OF PUBLIC HEARING:</b>	December 18, 2023, 10:00 am.
<b>DATE PUBLIC NOTICE PUBLISHED:</b>	November 28, 2023
<b>PRESENT LAND USE:</b>	Ag-1 – Agricultural District, used as agricultural machinery storage and pasture; single-family residence adjacent

**SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:**

- 12-303-1.03 Dimensional Standards: Requires 60-foot base setback from the center of a principal arterial road (without a median) and a 150-foot front and exterior side setback.

**DESCRIPTION OF VARIANCE REQUESTED:**

The subject property, located on the south side of N 1000 Road adjacent to 1751 N 1000 Road, is approximately 37.85 acres in size and is used as pasture and has several agricultural buildings. The applicant is requesting a variance to construct a 36-foot by 52-foot addition to an existing legal-nonconforming agricultural building approximately 100 feet from the center of the road, within the required 210-foot front setback. The applicant intends for the addition to serve as a machine shed, used for storing agricultural machinery and equipment. The existing agricultural building the proposed addition is to be attached to was constructed in 1960 and 1987 according to appraiser records. It is approximately 84 feet from the center of the road at the closest point. Douglas County's first zoning code, adopted in 1966, required a 50-foot front setback. The applicant is limited in where a new building could be constructed due to a stream crossing the property.

**STAFF RECOMMENDATION**

County Staff recommend approval of the variance request from James E. Sack requesting a variance to allow a reduction of the required 210-foot front setback to approximately 100 feet for a proposed 36-foot by 52-foot addition to an agricultural building, to be located south of N 1000 Road approximately one-half mile west of E 1800 Road, with the following stipulation:

1. This variance shall apply only for a 36-foot by 52-foot addition to an agricultural building. Any other structures shall comply with the adopted zoning regulations, or another variance shall be obtained from the Douglas County Board of Zoning Appeals.

**10:20 Karl Bauer presents ZBZA-2023-0010 and reviews staff report.**

10:24 – Karl yields the floor.

James Sack comments on the steep nature of the parcel.

Rich notes that there is currently a building closer to the road.

Charlie notes that if there was nothing there at all, it may be different. It's in conformance with what is already there.

Charlie makes a motion to approve a variance to allow a reduction of the required 210-foot front setback to approximately 100 feet for a proposed 36-foot by 52-foot addition to an agricultural building, to be located south of N 1000 Road approximately one-half mile west of E 1800 Road, with the following stipulation:

1. This variance shall apply only for a 36-foot by 52-foot addition to an agricultural building. Any other structures shall comply with the adopted zoning regulations, or another variance shall be obtained from the Douglas County Board of Zoning Appeals.

Fadra seconds

Motion passes 3-0

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**ITEM NO. 5: Election of Officers**

Charlie nominates Rich Barr to serve as chair.

Motion passes 3-0.

Charlie nominates Jerry Wohletz for vice chair.

Motion passes 3-0.

Rich Barr moves to keep Ben Harris as secretary.

Motion passes 3-0

Motion to adjourn

Charlie moves to adjourn, Rich seconds, motion passes 3-0.

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