

STAFF REPORT

ON AN APPLICATION FOR: A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from Scott Dixon and Marianne Carter, property owners, requesting a variance to allow a reduction of the required 30-foot rear setback to 12 feet for a proposed accessory building, to be located at 1662 E. 1100 Road.

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| APPLICANT/OWNER: | Scott Dixon and Marianne Carter |
| LOCATION: | 1662 E 1100 Road (Plate № 800178C) |
| AREA: | 2 acres |
| DATE OF PUBLIC HEARING: | June 17, 2024, 10:00 AM. |
| DATE PUBLIC NOTICE PUBLISHED: | May 28, 2024 |
| PRESENT ZONING AND LAND USE: | CP – Clustered Preservation District, used as a single-family residence with a legal-nonconforming (started June 1994) custom woodworking home occupation. |

SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

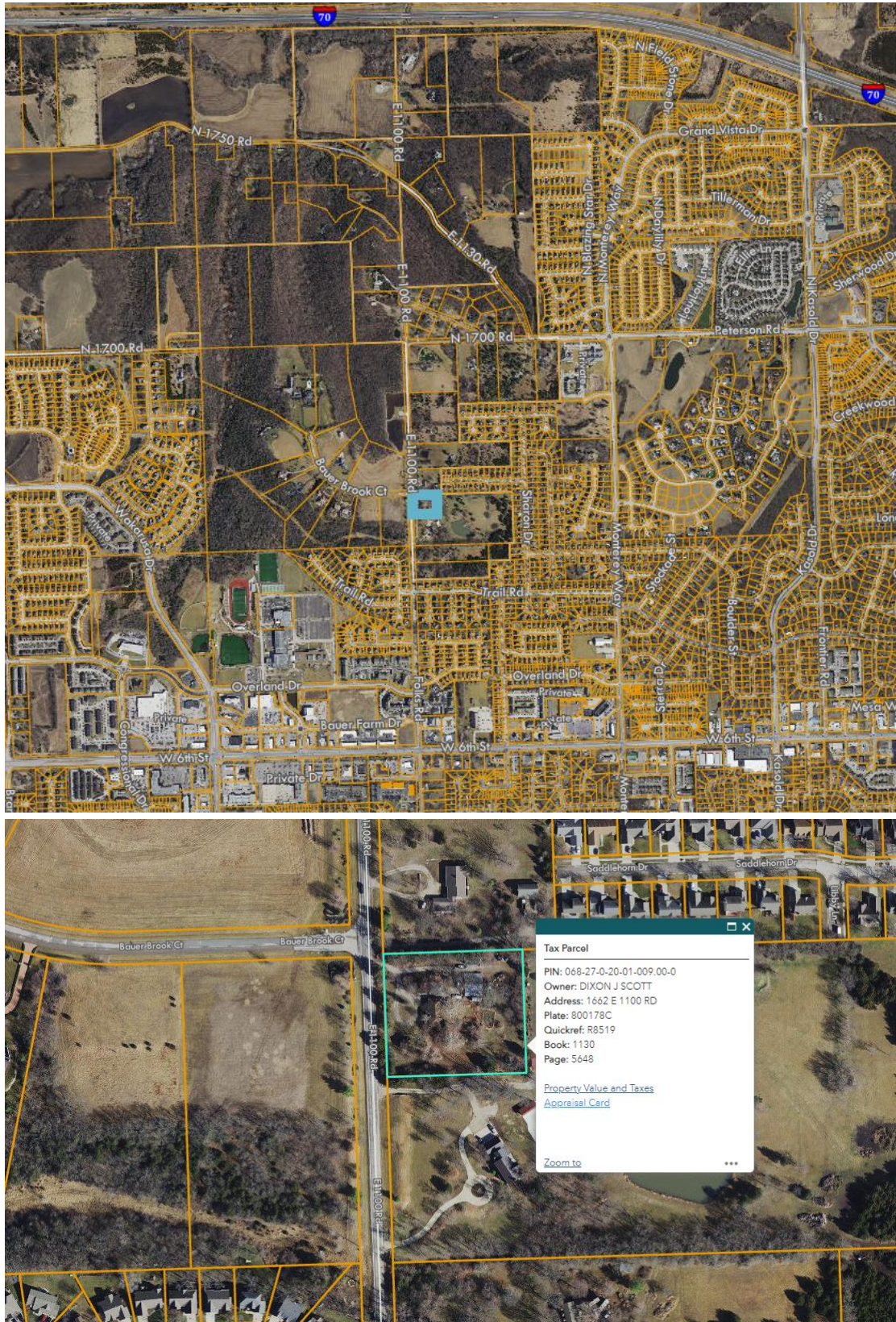
- 12-303-3.04 Dimensional Standards: Requires 30-foot rear setback.

DESCRIPTION OF VARIANCE REQUESTED:

The subject property, located at 1662 E 1100 Road (known as Folks Road within Lawrence city limits), is two acres in size and is developed with a single-family residence (built in 1965) and several accessory buildings. The applicants are in the process of redeveloping their property and are seeking to reconstruct several of the buildings. The variance is being requested to construct an accessory building 12 feet from the rear property line where a 30-foot setback is required. The proposed accessory building is 80 feet by 40 feet in size and will be used as a workshop for the applicant’s custom woodworking business, which is a permitted legal-nonconforming home occupation that has been operating at least since June 1994. The property has maintained compliance since the adoption of home occupation regulations in 2000. The applicants have proposed this location due to the location of existing buildings, to ensure space for the septic system, and to preserve mature trees.

The subject property is adjacent to Lawrence city limits. While the property is within Tier 2 of Lawrence’s Urban Growth Area, it may not be a candidate for annexation at this time due to the distance to City water and sewer. The applicants have stated they are not interested in applying for a voluntary annexation of their property.

VICINITY MAPS (2022)



STANDARDS FOR VARIANCES:

- A. **That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant**

Properties of this size are uncommon in the unincorporated area and have limited space outside the required setbacks. The subject property was created in 1979, prior to the adoption of the more restrictive current standards.

- B. **Granting the variance would not adversely affect the rights of adjacent property owners or residents**

The location of the proposed accessory building is not anticipated to adversely affect the rights of adjacent property owners or residents. The property immediately adjacent to the proposed accessory building is largely undeveloped is not anticipated to hinder any views or cause adverse impacts. Additionally, the applicants intend to keep a fence and a row of trees that line the rear property line which will serve to partially screen the structure, and the proposed accessory building will be insulated, further serving to reduce any adverse impacts.

- C. **The strict application of the regulations for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application**

The subject property is adjacent to Lawrence city limits across E 1100 Road and is within Tier 2 of the Urban Growth Area. While a voluntary annexation into the City of Lawrence and a rezoning to a district which would allow development at a more urban density would be a more favorable permitting path for the structure to be constructed in the proposed location, annexation of the property may be logistically difficult due to the location of city water and sewer. As such, due to the locations of the existing and proposed septic system and existing buildings, the relatively small size of the property, and the required setbacks, the applicant's ability to use the property in a manner that is common in the unincorporated area is hindered.

- D. **The variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare**

Accessory buildings used as workshops, storage, and for woodworking are common in the unincorporated area. The property is permitted as a home occupation and is therefore required to abide by regulations set forth in the zoning code that are intended to further uphold public safety and welfare. Staff does not anticipate any substantial adverse impact to the public health, safety, morals, order, convenience, prosperity, or general welfare arising from the granting of this variance.

- E. **Granting the variance desired would not be opposed to the general spirit and intent of these Regulations**

The rear setback requirement of 30 feet is designed to reduce conflicts between neighbors and mitigate drainage and fire concerns arising from a high density of structures. The property to the east is mostly undeveloped, and the neighboring property owner indicated he is not opposed to the granting of this variance. The location of the proposed accessory drains away from the neighboring property to the west and toward the subject property. Staff find this variance request to be in alignment with the general spirit and intent of the zoning regulations.

PUBLIC COMMENTS:

On June 3, 2024, Zoning and Codes staff received a letter from a nearby resident indicating “no problem” with the request and that the applicants were “improving the neighborhood.”

As of June 3, 2024, no further written comment has been received.

AGENCY COMMENTS:

Staff reached out to several agencies seeking comment regarding the granting of this request. No comments have been received as of June 3, 2024. Additional comments may be pending.

STAFF RECOMMENDATION

County Staff recommend approval of the variance request to allow a reduction of the required 30-foot rear setback to 12 feet for a proposed accessory building, to be located at 1662 E. 1100 Road, with the following stipulation:

1. This variance shall apply only for an accessory building as shown on the submitted site plan. Any other structures shall comply with the adopted zoning regulations or another variance shall be obtained from the Douglas County Board of Zoning Appeals.

Prepared by: Karl Bauer, County Planner

Date: June 3, 2024

APPENDIX I: SITE PLAN



APPENDIX II: BUILDING PLANS

