



BZA

Board of Zoning Appeals

MINUTES

DOUGLAS COUNTY BOARD OF ZONING APPEALS

Public Works/Zoning and Codes Building - Training Room, and by Teams
3755 E 25th Street
Monday, March 17th , 2025
10:00 A.M.

MEMBERS PRESENT: Fadra Mitchell; Charlie Thomas; Jerry Wohletz, Vice Chair; Rich Barr, Chair
MEMBERS ABSENT: Scott Eudaly

STAFF PRESENT: Karl Bauer, County Planner; Leo Ruhnke, Code Enforcement Officer.

PUBLIC PRESENT: In Person: Clarice Breedlove
Online:

Rich Barr called the meeting to order at 10:00 a.m.

Rich Barr then called roll, and a quorum was established at 10:01 a.m.

ITEM NO. 1:

MINUTES

Approve, revise, or approve with conditions the January 21st, 2025, meeting minutes.

It was discussed that the minutes listed Jerry Wohletz as chair instead of Rich Barr. Staff indicated they will correct this.

Charlie Thomas motions to approve January 21st, 2025, minutes with the above correction, Fadra Mitchell seconds. Approved 4-0.

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.

None heard

ITEM NO. 3:

VARIANCE REQUESTS

A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from Clarice Breedlove requesting a variance to allow a reduction of the front setback from 85 feet to 70 feet for a proposed agricultural building, to be located at 805 N. 100 Rd.

APPLICANT/OWNER: Clarice Breedlove
LOCATION: 805 N 100 Rd (Plate № 900483)
AREA: 148.85 acres
DATE OF PUBLIC HEARING: March 17, 2025, 10:00 AM.
DATE PUBLIC NOTICE PUBLISHED: February 25, 2025
PRESENT ZONING AND LAND USE: Ag-1 – Agricultural; agricultural and residential use

SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-303-1.03 Dimensional Standards: Establishes a minimum base setback of 35 feet and a minimum front setback of 50 feet (85 feet total) from the center of a local road.

DESCRIPTION OF VARIANCE REQUESTED:

Clarice Breedlove, applicant and property owner, has submitted an application for a Variance to allow a proposed hay barn to be located within the required front setback. The subject property is 148.85 acres in size and is developed with a house and several agricultural buildings. A stream bisects the property and runs from north to southwest.

The Zoning Regulations require a setback of 85 feet from the center of the road, and the applicant is requesting a reduction to approximately 70 feet. The proposed hay barn will have an area of 108 by 64 feet. The applicant has stated the siting of the proposed hay barn is constrained due to the presence of floodplain, wetlands, and existing buildings. The applicant has also stated that pushing the building further back would adversely impact the agricultural use of the property.

VICINITY MAPS (2024)



STANDARDS FOR VARIANCES:

Criteria supporting approval:

- 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**

The subject property is 148.85 acres in size and is developed with a house and several agricultural buildings. A stream bisects the property and runs from north to southwest. The applicant has stated the proposed building site is in an area intended not to interfere with the stream, floodplain, and drainage patterns. While the area of the stream nearest the proposed building site is not within the regulatory floodplain, flooding may still be possible.

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

A hay barn, as an agricultural building, is a permitted use in the Agricultural District, and such buildings are common in the immediate surroundings of the subject property. Allowing the construction of the proposed hay barn per the submitted site plan is not anticipated to adversely affect the rights of neighboring landowners. Additionally, the applicant has submitted a petition signed by nearby landowners indicating no objection to the granting of this request.

- 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 location of the stream, existing buildings, and the topography of the subject property limit the buildable locations on the portion of the property where the proposed hay barn is to be located. Additionally, much of the property, including the areas surrounding the proposed building site, are identified as farmland of statewide importance and prime farmland. Allowing the hay barn to be located within the required front setback would limit the disturbance to agricultural land.

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

A hay barn, as an agricultural building, is a permitted use in the Agricultural District, and such buildings are common in the immediate surroundings of the subject property. Allowing the construction of the proposed hay barn per the submitted site plan is not anticipated to adversely affect the affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

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

The front setback is intended to limit roadside distractions and provide space for future road improvements. Currently, there are trees and shrubbery along the road that are intended to remain in place, which would serve as screening from the road. Additionally, there are no structures on the opposite side of the road, potentially allowing space for future improvements. A distance of 70 feet from the center of the road would be maintained. Several other buildings on the subject property and adjacent properties also appear to be within the required setback.

Criteria supporting denial:

- F. **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 148.85 acres in size and has alternative potential buildable sites. Denying the variance would not limit the applicant's ability to use the property as proposed.

PUBLIC COMMENTS:

None received as of March 17th, 2025.

AGENCY COMMENTS:

Additional comments may be pending.

STAFF RECOMMENDATION

County Staff recommend approval of the variance request to allow a reduction of the front setback from 85 feet to 70 feet for a proposed agricultural building, to be located at 805 N. 100 Rd. with the following stipulation:

1. This variance shall apply only for a 108 by 64-foot hay barn. Any other structures shall comply with the County's adopted zoning regulations or another variance shall be obtained.

MEETING MINUTES:

10:00 am Rich Barr calls meeting to order.

Karl Bauer presents ZBZA-2025-0002

Karl presents the staff report for ZBZA-2025-0002.

Karl reviews photos and aerials showing the proposed location of the structure.

Karl then reviews the standards supporting approval of the variance request. A petition was submitted by the applicant which was signed by nearby landowners, indicating that the nearby landowners had no objection to the granting of this request.

Karl then reviews the standards supporting denial of the variance request.

No public comment was received in advance of the meeting.

Karl then presented the staff recommendation of approval, with a condition that the variance only apply to a 108 by 64-foot hay barn, and that any other structures shall comply with the County's adopted zoning regulations or another variance shall be obtained.

Rich Barr asked the applicant why she chose this location for the structure. The applicant replied that the location was chosen because it is nearby existing hay barns.

Charlie Thomas asked if the applicant already had a pad cleared for the proposed structure. The applicant replied that the pad was cleared last year to allow for any settling in the dirt to occur before the structure was erected.

Fadra Mitchell then asked if the applicant intended to keep the treeline on the property. The applicant replied that they do intend to keep the treeline on the property.

The Chair opened public comment. Rich Barr then asked if there were any members of the public online for public comment. No public comment was received. The Chair closed public comment.

Jerry Wohletz moved to approve the variance request subject to the conditions listed in the staff report. Fadra Mitchell seconds.

The motion passes 4-0.

STAFF UPDATES

Staff updated the board regarding the open Zoning Technician position. Staff are not anticipating an April meeting. The board asked if training for BZA members was being planned for the near future. Board members seemed interested in scheduling a training before or after the next BZA meeting, potentially in May since there is no planned April meeting.

Prior to adjournment, Clarice Breedlove thanked Karl for his high level of organization and assistance throughout the process.

Motion to adjourn from Charlie Thomas

Fadra Mitchell seconds motion. Motion passes 4-0.

The BZA Meeting was adjourned at 10:18 A.M.