

## **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 Daniel Orpin requesting a Variance to allow a reduction of the required setback from 210 feet to approximately 160 feet for a pool, located at 867 E 1650 Rd.

|                                      |                                                                 |
|--------------------------------------|-----------------------------------------------------------------|
| <b>APPLICANT/OWNER:</b>              | Daniel Orpin, applicant/Daniel and Lydia Orpin, owners          |
| <b>LOCATION:</b>                     | 867 E 1650 Rd (Plate № 700027-02)                               |
| <b>AREA:</b>                         | 18.48 acres                                                     |
| <b>DATE OF PUBLIC HEARING:</b>       | November 17, 2025, 10:00 AM.                                    |
| <b>DATE PUBLIC NOTICE PUBLISHED:</b> | October 28, 2025                                                |
| <b>PRESENT ZONING AND LAND USE:</b>  | Ag-2 – Transitional Agricultural; single-family residential use |

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

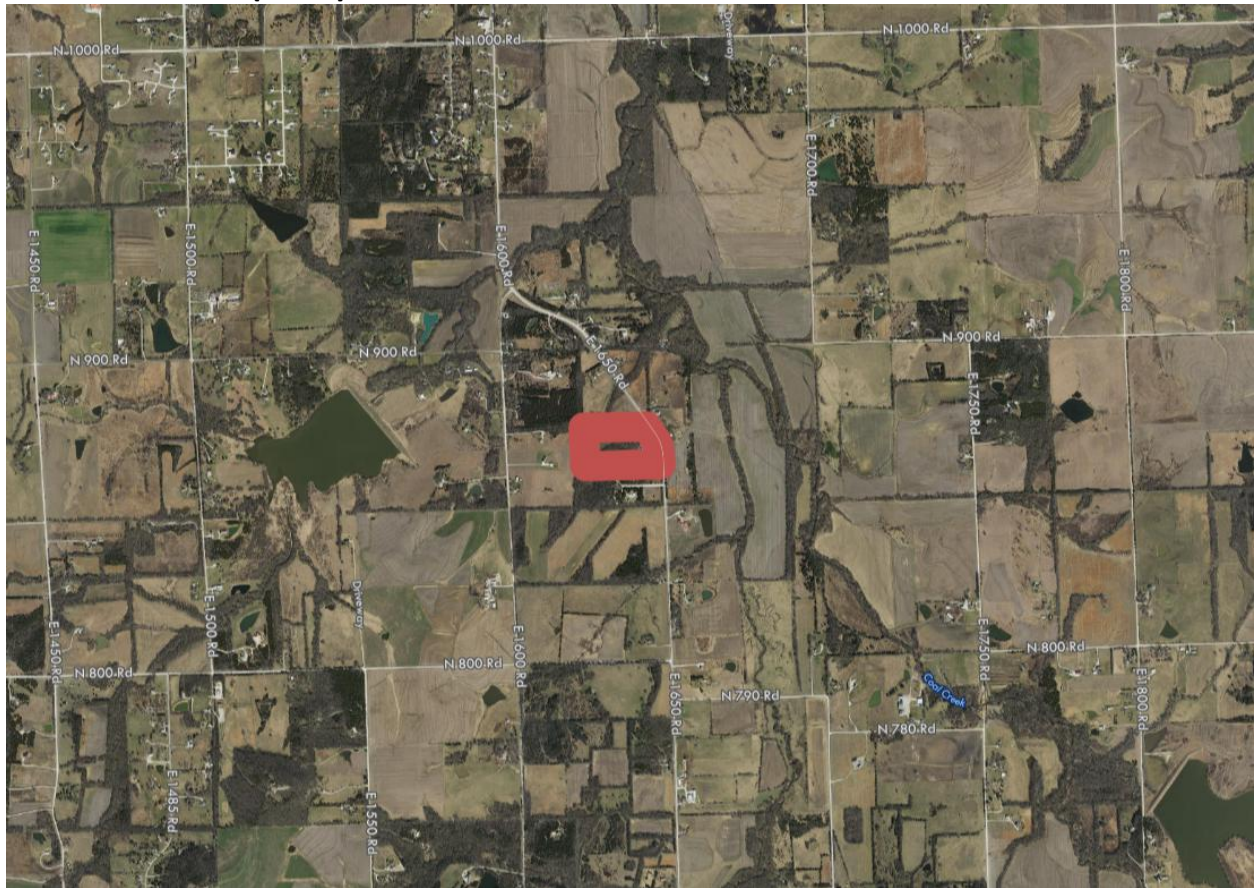
- 12-303-2.04 Dimensional Standards: Establishes a minimum base setback of 60 feet and a minimum front setback of 150 feet (210 feet total) from the centerline of a principal arterial road.

### **DESCRIPTION OF VARIANCE REQUESTED:**

Daniel Orpin has submitted a request for a variance to address an unpermitted 20-ft. by 40-ft. in-ground pool within the required front setback. A pool is considered a structure (see Section 12-315-2, General Terms), and is subject to the setback requirements. The pool was built without a permit and is currently in violation of the County's zoning regulations. Granting of a Variance will bring the pool into compliance so the permitting process can begin.

The subject property, located at 867 E 1650 Rd., is mostly wooded and is developed with a legal-nonconforming single-family dwelling that was built in 1900, as well as an accessory building. The rear of the property is bisected by a creek and there is a steep downward slope towards the creek.

## 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 18.48 acres in size and is hilly and mostly forested. The single-family dwelling on the subject property is legal-nonconforming as it was built in 1900, prior to the County's adoption of zoning regulations. Given the sloped nature of the property, the mature trees, and the location of existing utilities and the septic system, there are limited buildable sites on the subject property.

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

An in-ground pool for personal use is a permitted use in the Ag-2 District and is common in the . The location of the pool on the subject property is not anticipated to adversely affect the rights of adjacent property owners or residents.

- 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 legal-nonconforming residence, utilities, and the sloped and forested nature of the property limit developable sites. The applicant has stated that the site north of the house

where the pool was constructed “is the only reasonable location.” The typical design for an in-ground pool is adjacent to a residence. Complying with the setback requirement would require the applicant to build further from the house, to interfere with utilities, or cause removal of mature trees or excessive grading.

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

An in-ground pool for personal use is a permitted use in the Ag-2 District and is common in the Unincorporated Area. Douglas County’s regulations are intended to uphold public health, safety, and welfare. As such, the pool will be required to undergo a permitting process and inspections to ensure safety requirements, such as fencing and locking, are followed.

**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 along the road that are intended to remain in place, which serve to partially screen the pool from the road. A distance of 160 feet from the center of the road would be maintained. Buildings on nearby properties also appear to be within the required setback.

## **PUBLIC COMMENTS:**

None received as of November 4, 2025.

## **AGENCY COMMENTS:**

None received as of November 4, 2025. Additional comments may be pending.

## **STAFF RECOMMENDATION**

County Staff recommend approval of the variance request to allow a reduction of the required setback from 210 feet to approximately 160 feet for a pool, located at 867 E 1650 Rd., with the following stipulation:

1. This variance shall apply only for a 20-foot by 40-foot in-ground pool and ancillary equipment, such as covers and fencing. Any other structures shall comply with the County’s adopted zoning regulations, or another variance shall be obtained.

Prepared by: Karl Bauer, AICP – Planner II

Date: November 4, 2025

## APPENDIX I:

### Applicant Responses (Verbatim)

1. Describe the proposed project and explain why a Variance is requested. The explanation should be in sufficient detail for the BZA to completely and clearly understand the project.

The proposed variance is for a project (inground pool & patio) that we had to fire the contractor on. I called baldwin city & asked if I needed a permit to complete it myself. they told me that they don't require one. I did not realize that I needed one from the county. (continued in letter)

2. Explain why the granting of the Variance will not adversely affect the rights of adjacent property owners or residents.

The variance will not affect neighbors because the pool sits behind the front of our house & there are no close neighbors on either side.

3. Explain why the Variance requested arises from a condition, or conditions which are unique to the property in question and which are not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant.

The variance is being requested because of location of infrastructure, utilities & terrain. It is on the only side of our house that there are no utilities or overhead power

4. Explain why the strict application of the provisions from which a Variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

*(The BZA cannot consider economic hardship).*

The variance is needed for the pool on the north side of our house. The East side is the road. The West side has the water main for RWD, overhead power, terrain issues & the driveway. The south side has sewage line, septic tank/lateral field, water meter service, overhead power & gas. The north side was our only reasonable location. Our only other options would be in fields too far from the house.

5. Explain how the Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The location of our pool should not affect any of the above listed things because it is on the side of our house & will have the road view blocked by a privacy fence, and the remainder surrounded by a pool fence. There will be no noise from the pool as it is for private use by our family of 4.

6. Explain why granting the Variance will not be contrary to the general spirit and intent of the Zoning Regulations.

I feel like it does not contrast the spirit & intent of the zoning regulations, given the unfortunate location of our house & utilities surrounding it as well as the terrain.

# APPENDIX II:

## LETTER FROM THE APPLICANT (Verbatim)

**Daniel and Lydia Orpin**

867 E 1650th Rd, Baldwin City, KS 66006

Dannyorpin@icloud.com

(913)820-3809

**Date:** September 22nd, 2025

**Douglas County Board of Zoning Appeals**

Douglas County, KS

**Subject:** Request for Consideration and Approval of Variance Related to Pool Setback

Dear Members of the Douglas County Board of Zoning Appeals,

We are writing in response to the notice we received regarding a setback variance involving our recently installed swimming pool at 857 E 1650th Rd, Baldwin City, KS. We were informed that the pool may be situated too close to the road in violation of Douglas County setback requirements, and we are requesting the Board's understanding and formal consideration for approval of a variance in this matter.

The process of building our pool began with the hiring of a professional contractor. Unfortunately, the contractor performed unsatisfactorily during the initial phase, leaving the project incomplete and our yard in poor condition. Soon after, we experienced a period of significant rainfall, which turned our property into a muddy mess. This created a difficult living situation—our two large dogs were tracking mud into the house, and our one-year-old child was crawling and walking through dirty floors daily. Compounding the urgency, we were expecting another baby in just a few months and needed to resolve the situation quickly for the health and safety of our family.

Given these circumstances, we made the decision to complete the project ourselves. Before proceeding, we contacted the City of Baldwin City to inquire about permitting requirements and were advised that, since we were doing the work independently, a permit would not be necessary. Based on this information, and unaware that a separate permit from Douglas County was required, we moved forward under the belief that we were in compliance with all applicable regulations.

To our surprise, we received a letter on Saturday, September 20th, notifying us of the variance issue. Out of respect for the process and the seriousness of the matter, we went in person to meet with the appropriate officials first thing on the morning of Monday, September 22nd to understand the situation and determine the steps needed to bring it to resolution.

We want to emphasize that we acted in good faith throughout this process and believed we were following the proper procedures. At this point, we have invested a significant portion of our life savings

into this project, and unfortunately, we do not have the financial means to relocate or remove the pool. We also want to assure the Board that the current placement of the pool does not, to our knowledge, interfere with roadway safety, neighboring properties, or community aesthetics.

We respectfully ask that the Board consider approving the variance, taking into account the unique circumstances we faced, the corrective actions we've taken since learning of the issue, and our willingness to work with the county on any additional requirements or improvements.

Thank you for your time and thoughtful consideration of our request. Please let us know if additional information or documentation would be helpful in your review.

Sincerely,

Daniel and Lydia Orpin  
867 E 1650th Rd, Baldwin City, KS 66006  
(913) 820-3809  
[Dannyorpin@icloud.com](mailto:Dannyorpin@icloud.com)

## APPENDIX III: Site Plan from the Applicant



## APPENDIX IV: Site Visit 11/4/2025

