

**STAFF REPORT**

ON AN APPLICATION FOR: A VARIANCE under the terms of the Douglas County Zoning and Land Use Regulations of Douglas County, Kansas, an application from Aaron Damm, for a variance request for a 98' reduction of the required 500' setback for a dog kennel (breeding) operation, located at 1924 E 950 Rd.

APPLICANT/OWNER:	Aaron Damm and Megan Weatherman/David and Gina Weatherman
LOCATION:	1924 E 950
AREA:	15 Acre, 80 Acre combined
DATE OF PUBLIC HEARING:	April 19, 2021, 10:00 am
DATE PUBLIC NOTICE PUBLISHED:	March 20, 2021
PRESENT LAND USE:	AG-2, Transitional Agricultural

SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

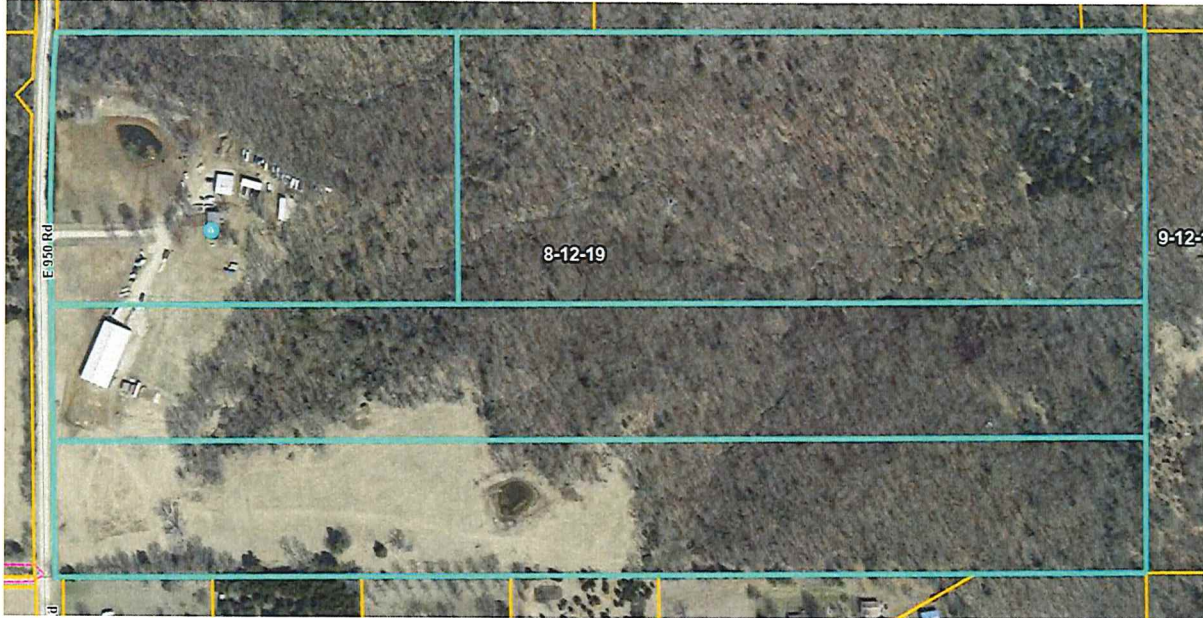
- 12-306-23.01a Any open pens, runs, cages or kennels shall be located at least 500 feet from any property lines.

DESCRIPTION OF VARIANCE REQUESTED: The subject property is a 15-acre interior lot. Under the same ownership is a 25-acre lot to the east of the subject property, as well as 20 acres to the south. The subject property has been in active violation of various county codes since 2019. Violations cited included excessive noise from the Diesel Truck operation, operating an un-permitted auto repair business on premise, excessive noise caused by an un-permitted breeding operation, and construction on premise without a building permit. In 2020, Damm met with staff and was to remedy all violations on site. To validate the dog breeding operation, Damm was instructed he would have to apply for a conditional use permit (CUP).

In order to apply for the CUP, Damm would first need to get a standard waived from the Board of Zoning Appeals for a northern side-yard setback. Damm currently does not meet other dog kennel standards but can and will easily meet those standards without proceeding through the Board of Zoning Appeals. Aaron Damm and Megan Weatherman are to inherit all of the land from David and Gina Weatherman. Upon inheriting the land, Aaron Damm is to combine the east 25 acres with the subject site, as well as the south property currently listed as 1922 E 950 Rd.

To date, Aaron and Megan have been in constant communication with our office. Staff have performed site visits and the untagged stored vehicles have been moved off-site. Aaron and Megan are to apply for a conditional use permit (CUP) for their dog kennel operation, pending this variance request. Mr. Damm has been instructed to register his home business once the CUP process has begun. Mr. Damm has also requested building inspections for facilities on site and is cooperating with staff. The first image depicts all the lots owned by David Weatherman that are to be inherited by Megan Weatherman and partner

Aaron Damm. Image 2 highlights the dog kennel.



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**

In February of 2020, Douglas County adopted new zoning regulations. The regulation changed the required setback for such an operation from 200 ft. to 500 ft. The purpose behind this was to protect adjacent property owners from being disrupted by the noise. The actual construction of the breeding facility was placed prior to the updated zoning regulations, albeit without a building permit. If the applicant had applied for a building permit and CUP prior to the regulations updating, they would be grandfathered in this location.

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

If approved, the dog kennel operation would not have any direct impact upon neighbors. There are no residences within 1,000 ft. of the proposed operation. The operation of a dog kennel would not prevent adjacent property owners from utilizing their land.

- 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 relocation of the building 98 ft. south would involve clearing additional trees as well as removing the site from the best noise cancelling location, thereby making the noise blocking ability of the proposed facility less effective.

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

The location of the dog kennel is approximately 1,153 ft. from the neighboring residence to the north. In addition, there is approximately 660 ft. of dense woods between the kennel and the property owner to the north. The land to the east of Damm is mostly vacant land with one residence approximately 3,000 ft. away. To the south is a subdivision. The closest residence is approximately 1,130 ft. and is separated by 500 ft. of dense trees and an open field.

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

With the documents provided by Damm serving as a guarantee that Megan Weatherman and he are inheritor of the property and the additional requirement that the lots be combined, staff do not find granting a 98 ft. reduction in one side yard setback oppositional to the intent and spirit of these regulations.

- F. **Agency Comments**

N/A

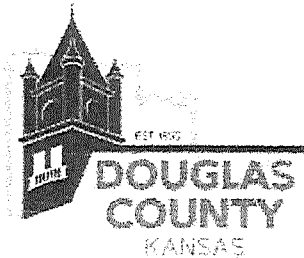
STAFF RECOMMENDATION

County Staff recommend approval of the variance request by Aaron Damm to allow for a 98' reduction of the required 500' setback for a dog kennel operation, located at 1924 E 950 Rd. subject to the following conditions:

1. Lots 500323A, 500323B, and 500323C shall be combined into one singular lot to meet the standards required for a dog kennel (breeding) operation;
2. A Conditional Use Permit will be applied for within 30 days of the Board of Zoning Appeals determination;
3. The Home Business registration will be applied for and paid for within 30 days of the Board of Zoning Appeals determination;

Prepared by: Dre'Vel Taylor, Zoning Specialist

Date: 04/1/2021



Information Form

This information form must be completed in its entirety before the application will be accepted.

I. APPLICANT INFORMATION

Applicant Aaron Damm
Primary Contact (if applicant is an entity) _____
Address: 1924 E 950 Rd
City: Lawrence State: KS Zip: 66049
Tel: 785-218-2057 Fax: _____
Email: kawvalleydiesel@outlook.com
Relationship to property owner(s) (check most applicable)
☒ Property Owner ☐ Buyer ☐ Consultant ☐ Other (describe) _____

II. PROPERTY INFORMATION

List all Property Owners of record Dave weatherman
-If the Property Owner is an entity, list the individual(s) with authority to execute this application for the entity.
Property Address and Plate number: 1924 E 950 Rd Lawrence, KS 66049
Existing Use of Property: AG
Total Property (Lot) Area: 80 acres (Square feet or acres)
Current Zoning District: AG-2

Douglas County Zoning and Codes
3755 E 25 Street
Lawrence, KS 66046
Phone 785-331-1344 *Fax 785-842-1201

III. NATURE OF REQUEST FOR VARIANCE

If more space is needed, please attach additional pages.

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.

We had a portable dog kennel building placed in 2019 to be used for a dog breeding kennel. The building is 402 ft from our N property line. The new regs require 500 ft. We have electricity, plumbing and concrete all around the building so moving it would be hard and expensive. I have been working with zoning department to finish building and obtain kennel permit.

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

There is over 600 feet of dense woods between the building and neighbors house. Plus a very deep ravine between. Neighbors house is 1100 feet from kennel building.

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 distance was 200 ft when we set the building in place.

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 cost to move the building would be very high. Concrete removed and replaced. Drains for basement area would need moved and re-plumbed. Electrical service moved and lots of other work.

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

We positioned the building in its location due to trees on three sides blocking sound. Plus shade for dog's yards and play area. The trees/woods create a natural U shape and we centered the building in the middle of the U, also aligning front door with driveway.

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

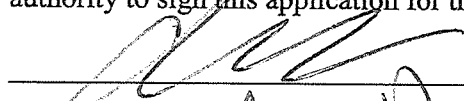
We did not know the setback was going to change from 200 to 500 feet.

EACH PERSON SIGNING THIS APPLICATION PACKET ATTESTS TO THE FOLLOWING:

- That the facts and information in this Application Packet and its attachments are true, complete and accurate, to the best of the person's knowledge;
- That the signatory understands that any omission, or incorrect information, may invalidate any required notice or action taken by the Board of Zoning Appeals.
- That each Property Owner grants to the Applicant, and the Applicant accepts, the authority to represent the property owner in all aspects of the processing of this Application Packet, including but not limited to, communication with County Administration, representation at all meetings and public hearings, and modification of this Application Packet.

PROPERTY OWNER(S)

*All property owners must sign. If the property owner is an entity, the signatory must have the authority to sign this application for the entity.



Print Name: Aaron Damm

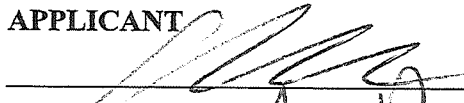
1-11-20

Date

Print Name: _____

Date

APPLICANT



Print Name: Aaron Damm

1-11-20

Date

FOR OFFICE USE ONLY

Date Received: _____ Received By: _____

Public Hearing Date: _____

County: Fee Paid: _____ Receipt # _____
Check _____ Check # _____ Cash _____

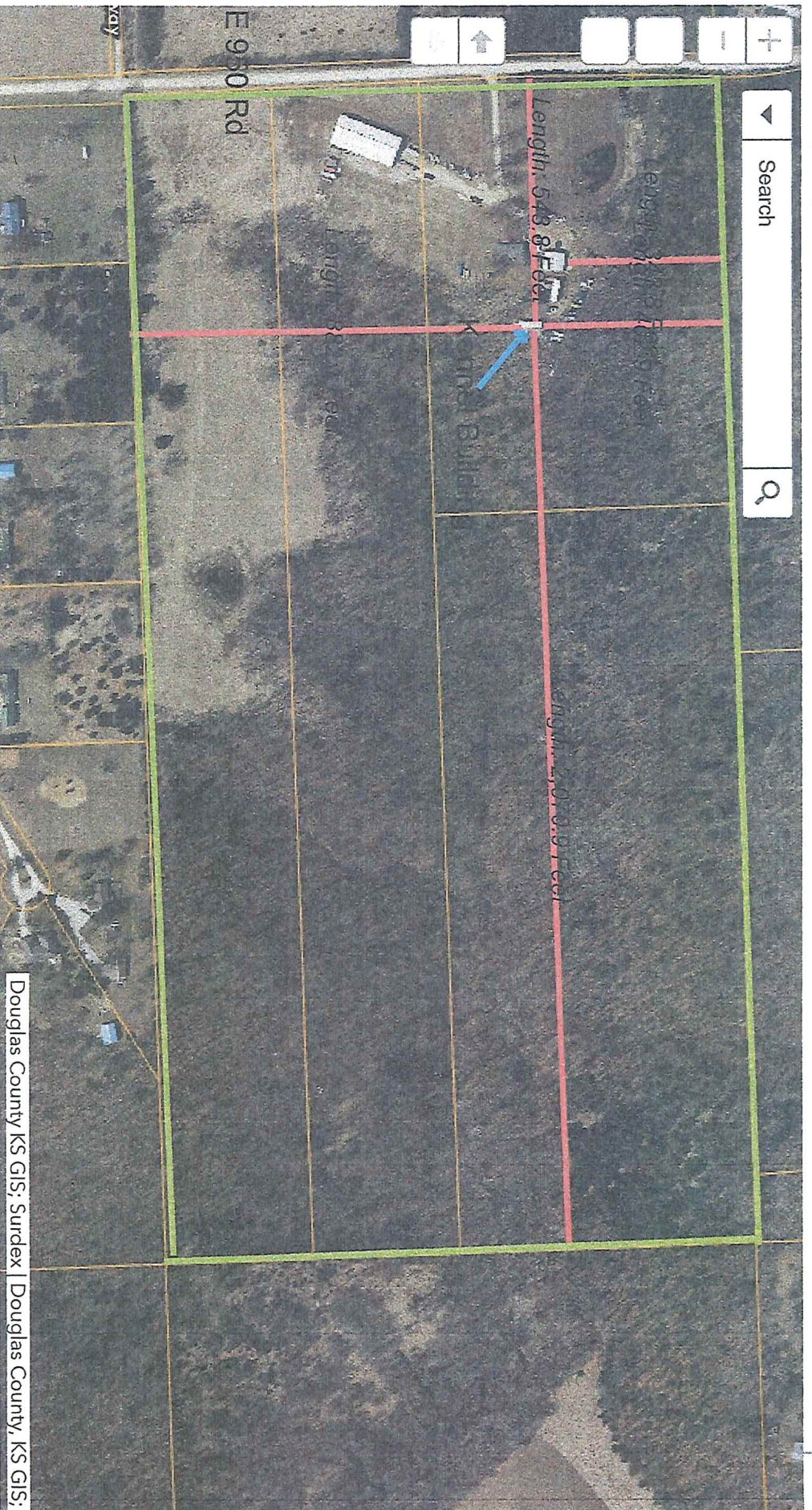
Douglas County Zoning and Codes
3755 E 25 Street
Lawrence, KS 66046
Phone 785-331-1344 *Fax 785-842-1201

Property Viewer for Douglas County, Kansas

County Map Gallery

County Website

Interactive Map of Law



Variance kennel setback for 1924 E 950 Rd Lawrence, KS 66049 1-11-20
Owner - Aaron Dawin

↕ N

400ft

2074030.45 260143.16 Feet_US

Current setback from N property line 402 ft.
Requesting variance for 98 ft.

Affidavit of Fact

I, Megan Weatherman, upon purchase of property located at 1924 E 950 Rd, Lawrence KS 66049, will combine plate numbers 500323A, 500323B, 500323C into one track. Purpose is to comply with 20 acre requirement and set back requirement for dog kennel.



Date 4-8-21

State of Kansas
County of Douglas

Signed or attested before me on April 8, 2021 by
Megan Weatherman.




Notary

Affidavit of future purchase.

I David Weatherman am agreeing to sell Megan Weatherman property located at 1924 E 950 Rd, Lawrence, Kansas, 66049. Property is described as 80 acres. Property will be sold with all rights, titles and interest in said property.

Property Owner



Date

4/8/2021

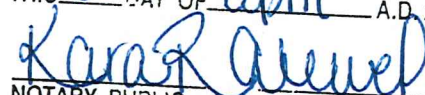
SWORN TO AND SUBSCRIBED BEFORE ME
THIS 8th DAY OF April A.D. 2021

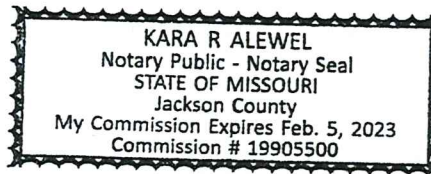
NOTARY PUBLIC,

STATE OF MISSOURI

MY COMMISSION

COUNTY OF


12352023
Jackson



ZO - Taylor, Dre Vel

From: Philip Hodson <hodsonfarmph6@gmail.com>
Sent: Sunday, March 28, 2021 7:36 AM
To: ZO - Zoning
Subject: Philip Hodson(Estate executor), for Nelda Hodson - Hearing/Comments on ZBZA-2021-0004. Request for a Variance by Aaron Damm.

Aaron Damm's girlfriends father borders my west property line . I am the Executor and owner of my mothers Estate . Nelda L. Hodson . I have lived and farmed on the Estate for 25 years . Mr. Damm and his girlfriend have operated a puppy mill for 4 years now . Mr. Damm wants the variance for his diesel truck repair business he also has on the property , not just the puppy mill. Mr. Damm and his girlfriend are not the the sort to follow any Zoning Laws or Codes . I suggest you consult the Kansas Attorney General Office for a reference. So we neighbors don't expect you people at Douglas County to do much about the Zoning an Code breaking already gone on . Its easy to ignore and give in , Right ? What we do expect is you will raise our taxes every year while at the same time giving tax abatements to area " good ol boys " and profitable corporations that can afford to pay their property taxes. Plus your support of the Chamber of Commerce with tax payer dollars (a private org.that is against the min wage hike , against workmans comp , against social security , against medicare ... anything for the working man/gal . So I don't do ZOOM , or go to meetings ... So here is one neighbors opinion ... No on the Variance . Feel free to share this reponse with all the county commissioners . Phil Hodson . 1923 E. 1025 Rd .Lawrence , Kansas 66049.785 550 8036 .