



**REGULAR MEETING AGENDA  
BOARD OF ZONING APPEALS  
WEDNESDAY, APRIL 5, 2017  
SPRING HILL COMMUNITY CENTER  
613 S. RACE ST.  
7:00 P.M.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF AGENDA**

**FORMAL BOARD ACTION**

1. **Approval of Minutes:** July 1, 2015
2. **Public Hearing – Variance Request**
  - Case No.** BZA-01-17
  - Request:** Variance to the rear and front yard setbacks
  - Address:** 17119 W. 197<sup>th</sup> Terr., Lot 8 Block 1, Prairie Ridge at Spring Hill No. 2
  - Applicant:** Don Margritier, Ridge Development, LLC

**DISCUSSION**

**REPORTS**

**ANNOUNCEMENTS FROM BZA AND STAFF**

- Joint meeting with City Council, Planning Commission and BZA on Thursday, April 20, 2017 at 6:00 p.m. at the Community Center. Dinner will be provided.
- Mayor Ellis will be hosting an Appreciation Dinner for all Spring Hill Boards on Thursday, June 15, 2017.

**ADJOURN**

## PUBLIC HEARING PROCEDURE

1. Chairperson opens the public hearing.
2. Commission members describe what, if any, ex-party contacts they might have had regarding this case; indicating the nature of the communication and *whom* it was with.
3. Commission members describe what, if any, conflicts of interest they may have and dismiss themselves from the hearing.
4. Staff presents a report and comments regarding the case.
5. Applicant or agent of the applicant makes brief presentation of the case or request.
6. Commission members ask for any needed clarification of the applicant or agent.
7. Public comments are solicited from the audience. Each member of the audience must fill out a Citizen Participation/Comment Form.
8. Commission members ask for any further clarifications from applicant or staff.
9. Public Hearing is closed.
10. Members deliberate the request.
11. 14-day Protest Period begins after the Planning Commission Public Hearing is closed. \*

\* **Protest Petitions:** Any protest petition must be filed in the Office of the Spring Hill City Clerk within 14 days from the conclusion of the public hearing held by the Planning Commission. Sample copies of protest petitions may be obtained from the City Clerk Office at 102 S. Main St., Spring Hill, KS 66083 (913-592-3664).

**BOARD OF ZONING APPEALS (BZA)  
JULY 1, 2015  
MEETING MINUTES**

The Board of Zoning Appeals met on Wednesday, July 1, 2015, at the Spring Hill Civic Center, 401 N. Madison, Room 15. The meeting convened at 7:00 p.m. with Chairman Brian King presiding, and Christie Campbell, BZA Secretary recording.

BZA Members in attendance:        Brian Haupt  
   Brian King  
   Wendy North  
   Jim Wilson

Staff in attendance:                     Jim Hendershot, Community Development Director  
   Christie Campbell, BZA Secretary

Public in attendance:                     Matthew Kauffman, CP&Associates Architects

**ROLL CALL**

The secretary called the roll of the Board of Zoning Appeals. With a quorum present, the meeting commenced.

**APPROVAL OF THE AGENDA**

**Motion by** Mr. Haupt, seconded by Ms. North, to approve the agenda as amended to add the election of BZA officers (Chairman and Vice-Chairman).

**Motion carried 4-0-0**

**FORMAL BOARD ACTION**

**1. Approval of Minutes: April 3, 2013 BZA meeting minutes**

**Motion by** Mr. Haupt, seconded by Ms. North, to approve the minutes as presented.

**Motion carried 4-0-0**

**1a. Election of BZA Officers (Chairman and Vice-Chairman)**

**Motion by** Mr. Haupt, seconded by Mr. Wilson, to elect Mr. Brian King as the BZA Chairman.

**Motion carried 4-0-0**

**Motion by** Mr. Wilson, seconded by Ms. North, to elect Mr. Brian Haupt as the BZA Vice-Chairman.

**Motion carried 4-0-0**

**2. Appoint Christie Campbell as Secretary to the Board of Zoning Appeals**

**Motion by** Mr. Haupt, seconded by Mr. Wilson, to appoint Christie Campbell as the BZA Secretary.

**Motion carried 4-0-0**

3. **Public Hearing – Casey’s Retail Company (BZA-01-15)**

*Beginning of Staff Report*

SPRING HILL BOARD OF ZONING APPEALS

STAFF REPORT

Meeting Date: July 1, 2015  
Report Preparation Date: June 19, 2015

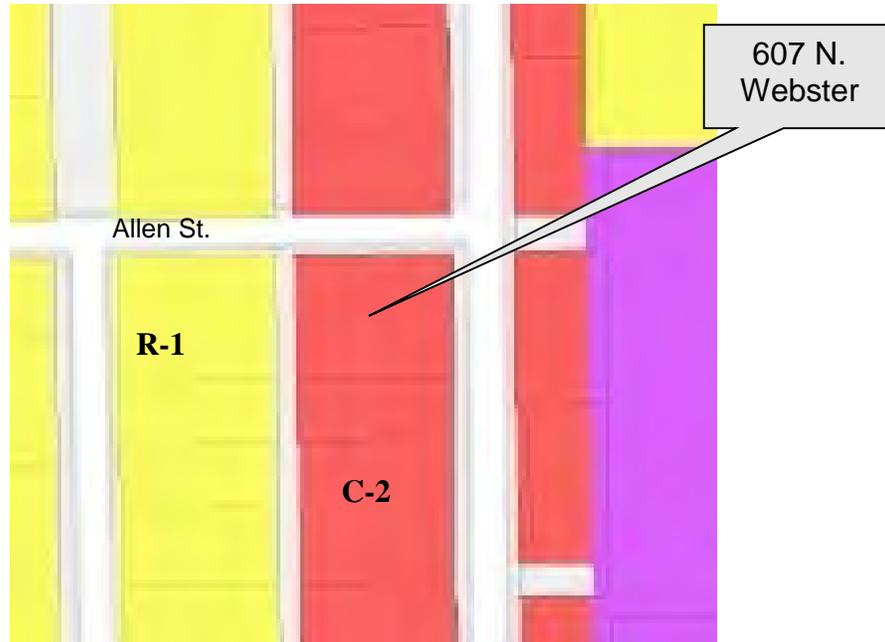
- 
- CASE NUMBER:** BZA-01-15
- APPLICANT/AGENT:** Casey’s Retail Company / CP&Associates Architects
- REQUEST:** Applicant requests the enlargement of a nonconforming use to an existing retail store located at 607 N. Webster, as per the authority granted to the BZA in Section 17.344.E.
- CURRENT ZONING:** “C-2” General Business District
- SITE SIZE:** 150’x180’= 27,000 sq. ft., .62 ac.
- LOCATION:** 607 N. Webster St.
- PROPOSED USE:** Retail Convenience Store
- VICINITY MAP:**



**BACKGROUND:** The applicant has submitted a request to construct a sixteen foot addition to the south side of the existing retail store located at 607 N. Webster (Casey’s General Store). The existing building, constructed in 1995, is a nonconforming use as it is located within the required 25 foot rear yard setback currently required for commercial properties adjacent to residential districts. The proposed addition also includes the installation of a walk-in cooler/freezer on the west side of the building. Included with this packet is a site plan showing the proposed project.

Section 17.344 of the Spring Hill Zoning Regulations addresses the topic of nonconforming uses. Subsection E of this section provides the Board of Zoning Appeals the authority to permit the enlargement of a nonconforming use not exceeding 50 percent of the ground floor area of the building. The design of the proposed addition (16’x36’) and cooler/freezer (6’8”x21’) totals 716 sq. ft. or 30% of the existing structure size.

**ADJACENT ZONING AND LAND USE:**



	<u>ZONE</u>	<u>LAND USE</u>
NORTH:	C-2	Commercial
SOUTH:	C-2	Commercial
EAST:	C-2	Commercial
WEST:	R-1	Residential

**REVIEW:**

The following is a review for compliance with the provisions of Section 17.366.K of the Spring Hill Zoning Code which states; “An application for a variance may be granted upon a finding by the Board that all of the following conditions have been met:”

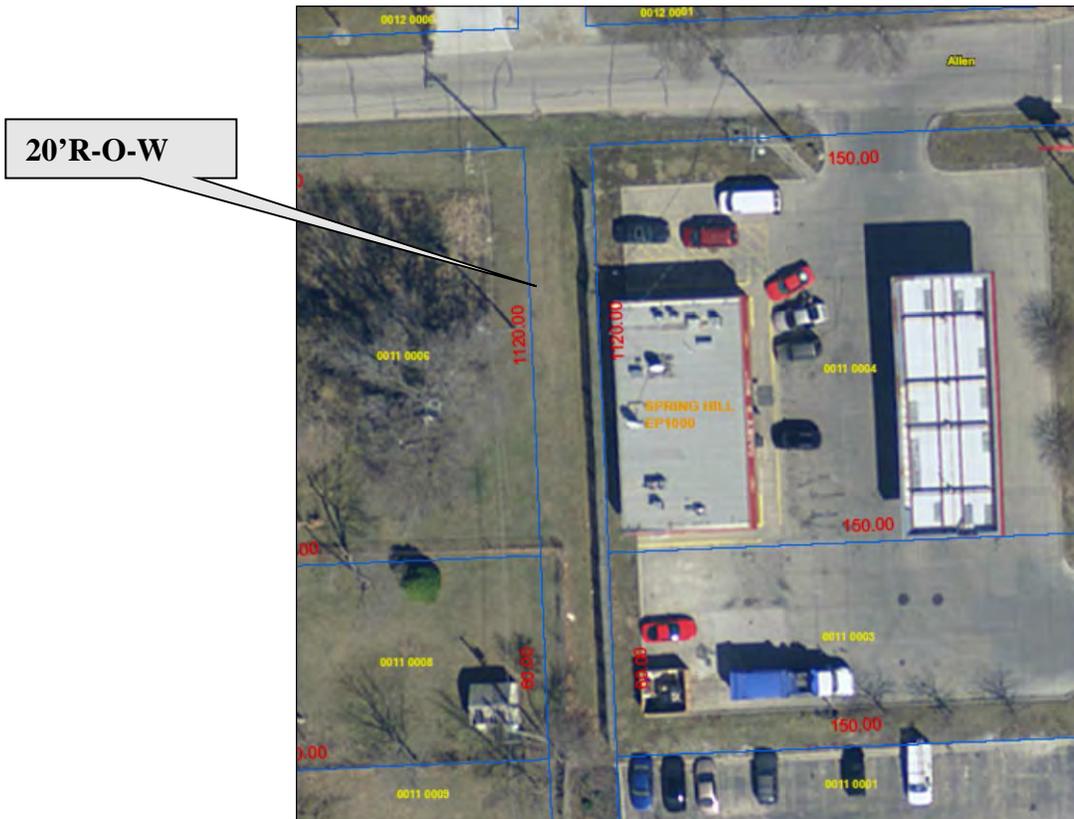
1. *That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.*

The request is unique to the property in that it is a legal nonconforming use. The proposed addition is common to the retail industry as businesses evolve to remain successful and viable in the community.

2. *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

To date, staff has had no contact with the adjoining property owners regarding the proposed construction. Notification of the variance hearing was mailed to all property owners within 200 feet of the subject property informing the owners of their right to be present and speak at the hearing on the proposed construction.

It is staff's opinion the proposed project will not adversely affect adjacent property owners or residents. Current code requires a 25 foot setback from the rear property line when adjacent to a residential district. As shown in the photo below, there is a platted 20 foot right-of-way between the property in question and the adjoining property to the west. The proposed cooler/freezer will be 4'10" from the west property line for a total separation of 24'10" from the east property line of the property directly to the west. In addition, the existing privacy fence is located one foot from the property line and will remain creating a visual and sound barrier between the properties.



3. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

Strict application of the zoning regulations would create a hardship on the property owner by limiting or restricting a business opportunity in the community. As noted in #2 above, it is staff's opinion the proposed addition will not adversely affect the rights of adjoining owners or residents.

4. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

It is staff's opinion that granting approval will have no negative affect on the public. Granting the non-conforming use expansion along with the variance for the cooler/freezer will result in greater safety and convenience for the public. This is due to the installation of a loading area on the south end of the building. A common occurrence is with large delivery trucks parking parallel with the store front which disrupts customer parking and causes a safety hazard for patrons of the business. The loading area will allow for a designated area for delivery vehicles and greatly reduce the safety hazards currently present with delivery trucks.

5. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.*

The variance request is not opposed to the general spirit and intent of the zoning regulations. The code allows for reasonable expansions of nonconforming uses when reviewed by the Board of Zoning Appeals. In this case the request is reasonable due to the separation distance to adjoining properties and increased safety for the patrons of the business.

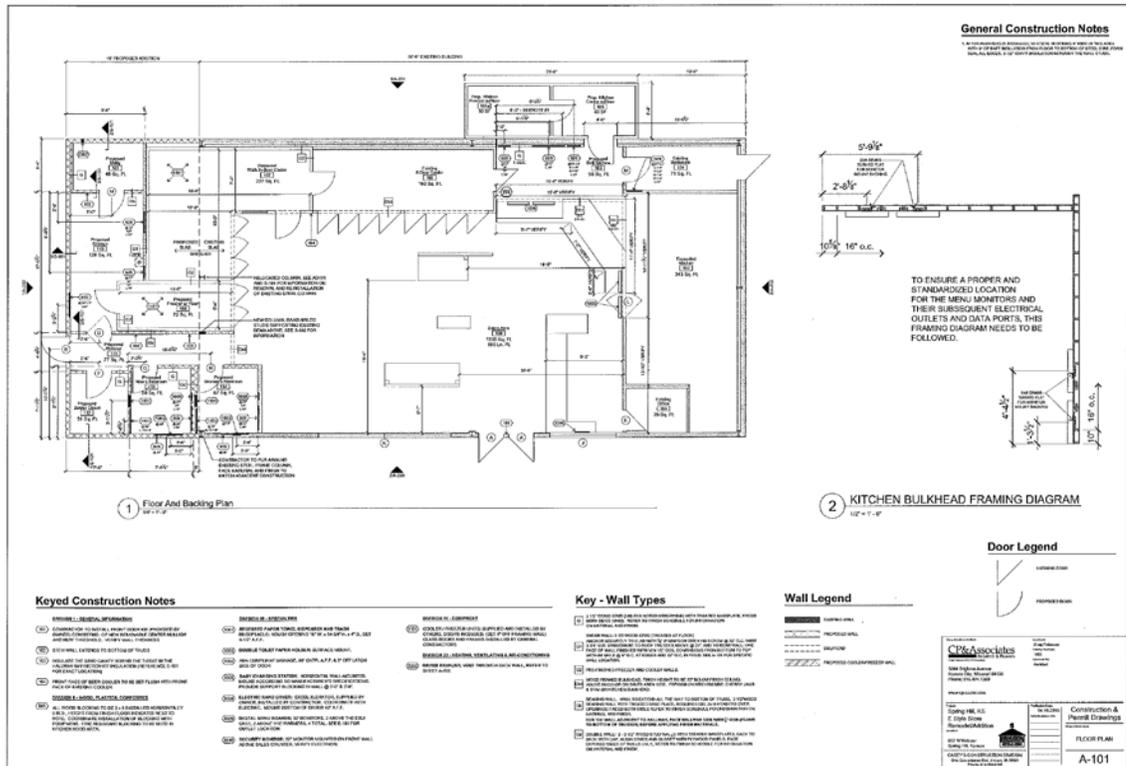
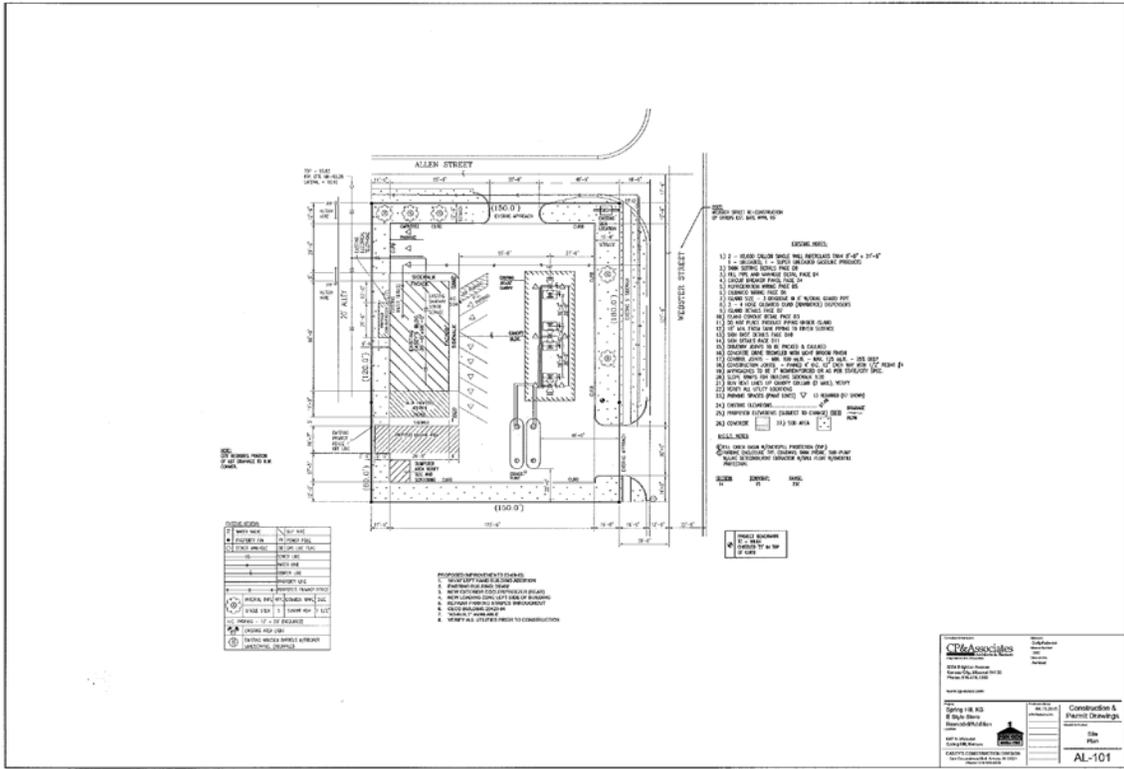
**ANALYSIS:** Expansions of nonconforming uses must be carefully analyzed to ensure adverse situations are not created with the proposed project. It is staff's opinion this project will not create any adverse issues and may serve to positively affect the flow of traffic and safety of pedestrians within the property. Parking regulations will be met with the installation of parking spaces as shown on the attached site plan. Trash containers will continue to be enclosed as required and a new loading zone will be created for delivery vehicles. Granting of the request to expand the nonconforming use along with the rear yard setback variance for the cooler/freezer is reasonable.

**RECOMMENDATION:** Staff recommends approval of variance request BZA-01-15 allowing the 576 sq. ft. expansion of the nonconforming building located at 607 N. Webster and the installation of a cooler/freezer unit as shown on the site plan.

*Suggestion Motion: Motion to approve application BZA-01-15 for the enlargement of a nonconforming use and the installation of a cooler/freezer within the rear yard setback area as presented by staff.*

Attachments: Site Plan  
Floorplan

THE FOLLOWING MINUTES ARE SUBJECT TO MODIFICATION  
AND ARE NOT OFFICIAL MINUTES  
UNTIL APPROVED BY THE SPRING HILL BOARD OF ZONING APPEALS



End of Staff Report

Mr. Hendershot presented the staff report, which outlined the current site and the proposed changes.

Mr. Haupt asked about the height of the existing privacy fence and the proposed cooler at the back of the store. It was confirmed by a representative with the Casey's site plan project, Mr. Matthew Kauffman with CP&Associates Architects, that the fence is 6' in height and the proposed cooler is 8'. It was also noted that the condenser unit for the cooler is currently on the roof, and the new unit will be set similar to where the current unit is located. Mr. Kauffman indicated that the new condenser unit should be adequately screened like the current one.

Mr. King asked if there would be any additional noise issues generated from the cooler. Mr. Kauffman indicated that it should not, as it is comparable to a residential sized unit. Mr. King inquired as to whether or not the plans were to replace all of the cooler units throughout the store. Mr. Kauffman clarified that the plans do not call for replacement of all coolers. It will just be the addition of the cooler unit in the rear of the store to accommodate for the updates in the kitchen and the additional cooler space needed for the sandwich station.

Mr. Wilson asked if there would be other equipment added to the kitchen. Mr. Kauffman indicated that there would be a new counter and refrigerator case added to display the ingredients for sandwiches.

Mr. Wilson also inquired about the extinguishing equipment in the kitchen for cooked foods. Mr. Kauffman indicated that the ventilation hoods that are currently in place will stay with no changes.

Ms. North asked if these plans were similar to the new Casey's store in Gardner. Mr. Kauffman stated that the Spring Hill store is much smaller and will not change the outside appearance, but the interior remodel will be similar to the layout of the newer stores. These updates will accommodate for the addition of the sandwich station as well.

Mr. Haupt asked if these plans have been reviewed for fire regulations. Mr. Kauffman confirmed that they have been reviewed, and Mr. Hendershot indicated that the fire department does inspections at least annually of the site.

Chairman King formally opened the public hearing; with no comments presented, the public hearing was closed.

**Motion by Mr. Haupt, seconded by Mr. Wilson, to approve application BZA-01-15 for the enlargement of a nonconforming use and the installation of a cooler/freezer within the rear yard setback area as presented by staff.**

**Motion carried 4-0-0**

The application for file code BZA-01-15 will be presented to the Planning Commission on July 9, 2015, and the City Council on July 23, 2015.

**ADJOURN**

**Motion by Ms. North, seconded by Mr. Haupt, to adjourn.**

The meeting adjourned at 7:23 p.m.

SPRING HILL BOARD OF ZONING APPEALS

STAFF REPORT

Meeting Date: April 5, 2017

Report Preparation Date: March 14, 2017

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**CASE NUMBER:** BZA-01-17

**APPLICANT/AGENT:** Ridge Development, LLC

**REQUEST:** Applicant requests variance to front and rear yard setbacks.

**CURRENT ZONING:** “R-1” Single Family Residential

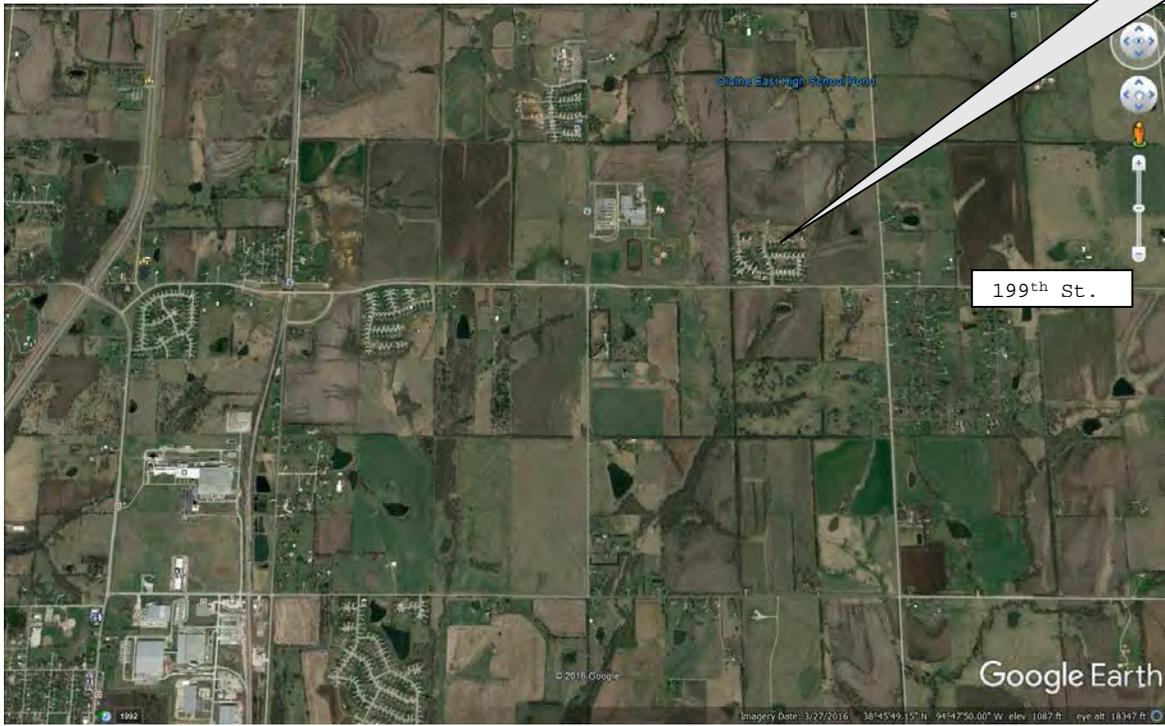
**SITE SIZE:** 12,208 sq. ft., .28 ac.

**LOCATION:** Prairie Ridge Subdivision, 17119 W. 197<sup>th</sup> Terrace

**PROPOSED USE:** Single Family Dwelling

**VICINITY MAP:**

Prairie Ridge  
Subdivision



## Prairie Ridge Subdivision



**BACKGROUND:** The applicant has submitted a request to construct a single family dwelling on Lot 8, Block 1, Prairie Ridge at Spring Hill No. 2. As per the site plan on the following page, the lot is irregular in shape and poses setback challenges particularly related to the depth of the lot.

In particular, the rear setback in an R-1 district is a minimum of 25 feet and the front yard setback is 35 feet. As shown on the plot plan the proposed dwelling provides a 33 foot front yard and 20.2 foot rear yard at the narrowest point.

The applicant has tried unsuccessfully to relocate the dwelling on the lot to minimize the setback encroachments. To shift the house on the lot does little to alleviate the setback issues and further complicates issues for the driveway caused by a storm water inlet in the curb.

The required publication of the hearing for this variance request was completed along with notification of adjoining property owners and posting of a sign at the property indicating the date and time of the hearing.



## REVIEW:

The following is a review for compliance with the provisions of Section 17.366.K of the Spring Hill Zoning Code which states; “An application for a variance may be granted upon a finding by the Board that all of the following conditions have been met:”

1. *That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.*

The relationship of the lot to the adjoining cul-de-sac creates an irregular sized and shaped lot and thereby creates difficulties with setback compliance. An argument could be made that a smaller home could be placed on this lot; however, in today’s market lots such as the one being considered often are the most sought after lots within a development. This fact combined with the size and price range of homes being built in the development a smaller home would be out of character in this area.

2. *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

To date, staff has had no contact with the adjoining property owners regarding the proposed construction. Notification of the variance hearing was mailed to all property owners within 200 feet of the subject property informing the owners of their right to be present and speak at the hearing on the proposed construction.

It is staff’s opinion the proposed project will not adversely affect adjacent property owners or residents. The irregular shape of the lot along with the shape of the cul-de-sac does not provide for any clear sight angle that would allow comparison of the home to others in the neighborhood. Placement of the home as desired does not create any traffic hazard or visibility issues for adjoining properties. In addition, the request does not affect the side setbacks which in this case are in excess of the minimum 7 feet as required by code.

3. *That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

As noted in #2 above, a smaller home that meets the setback requirements would be out of character with the surrounding homes in the subdivision. It is staff’s opinion that strict application of the zoning regulations would create a hardship on the property owner by limiting or restricting the opportunity to market the lot.

4. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

It is staff’s opinion that granting approval will have no negative affect on the public. Granting of the variance will not create traffic issues or limit any visibility for the driving public and sidewalks will be installed as required for pedestrian movement.

5. *That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.*

The variance request is not opposed to the general spirit and intent of the zoning regulations. The code allows for the granting of a variance when reviewed and approved by the by the Board of Zoning Appeals. It is staff's opinion this request is reasonable based on the issues noted above related to the irregular size and shape of the lot, the adjoining cul-de-sac street, and no negative impact on the surrounding properties.

**ANALYSIS:**

**RECOMMENDATION:** Staff recommends approval of variance request BZA-01-17 allowing the construction of a single family dwelling as per the included plot plan at 17119 W. 197<sup>th</sup> Terrace.

Possible action for BZA:

- 1) Approve variance request as recommended by staff
- 2) Approve variance request with amendments to staff recommendation
- 3) Deny variance request
- 4) Table action and remand to staff for further investigation

*Suggestion Motion: Motion to approve application BZA-01-17 for the construction of a single family dwelling located at 17119 W. 197<sup>th</sup> Terrace with a front yard setback of 33 feet and a rear yard setback of 20.2 feet as shown on the included plot plan and as presented in the staff report.*

Attachments: Plot Plan  
Minutes from July 1, 2015 BZA meeting



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**Hearings/  
Meetings**

time and place you may be heard in regard to a variance to the zoning ordinances, for the following described real properties, situated in the City of Spring Hill, Johnson County, Kansas, to wit:

**Owner requests a variance to rear and front yard setbacks.**

The legal description of the property is below.

**LEGAL DESCRIPTION:**

**Lot Eight (8), Block One (1), Prairie Ridge at Spring Hill Phase 2, a subdivision in Spring Hill, Johnson County, Kansas, more commonly known as 17119 W. 197th Terrace.**

This notice shall be published once in the official city newspaper at least twenty (20) days prior to the date of said hearing.

**Dated this 3rd day of March, 2017  
SPRING HILL BOARD  
OF ZONING APPEALS**

**Brian King, Chairman**

**ATTEST:**

**(SEAL)**

**Glenda Gerrity, City Clerk**

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**Hearings/  
Meetings**

(Published in the Miami County  
Republic Wed., 3/08/17)

**CITY OF SPRING HILL, KANSAS  
PUBLIC HEARING  
NOTICE OF VARIANCE TO THE  
BOARD OF ZONING APPEALS**

**Real Property:** NOTICE is hereby given that the **Board of Zoning Appeals of the CITY of SPRING HILL, KANSAS**, will hold a **Public Hearing** at the Spring Hill Community Center, 613 S. Race St., Spring Hill, Kansas, on the **5th day of April, 2017 at 7:00 P.M.** at which

AFFIDAVIT OF PUBLICATION

NPG Newspapers, Inc., P.O. Box 29, St. Joseph, MO 64502

Reference: 182892
Ad ID: 6458228

P.O. : Christie Campbell
DESC. :BZA Hearing 4-05-17.Request #BZA-01-17

GLEND A GERRITY
CITY OF SPRING HILL
PO BOX 424
SPRING HILL, KS 66083

Miami County Republic

(Published in the Miami County
Republic Wed., 3/08/17)

State of Kansas, Miami County, ss:

CITY OF SPRING HILL, KANSAS
PUBLIC HEARING
NOTICE OF VARIANCE TO THE
BOARD OF ZONING APPEALS

I, Sandra Ridings being duly sworn according
to law, state that I am the Legal Advertising
Coordinator of the Miami County Republic, a
weekly newspaper printed in the State of
Kansas, and published in and of general circula-
tion in Miami County, Kansas, with a general
paid circulation on a weekly basis in Miami
County, Kansas; and that said newspaper is not
a trade, religious, or fraternal publication.
Said newspaper is published at least weekly fifty
times a year and has been so published continu-
ously and uninterruptedly in said County and
State for a period of more than five years prior to
the first publication of the said notice; and has
been admitted to the post office of Paola, in said
county as second class matter.

Real Property: NOTICE is hereby
given that the Board of Zoning
Appeals of the CITY of SPRING HILL,
KANSAS, will hold a Public Hearing at
the Spring Hill Community Center, 613
S. Race St., Spring Hill, Kansas, on the
5th day of April, 2017 at 7:00 P.M. at
which time and place you may be heard
in regard to a variance to the zoning
ordinances, for the following described
real properties, situated in the City of
Spring Hill, Johnson County, Kansas, to
wit:

Owner requests a variance to rear
and front yard setbacks.

The legal description of the property is
below.

That this notice, a true copy of which is hereto
attached, was published in the regular and entire
issue of said weekly newspaper as follows, to-
wit:

LEGAL DESCRIPTION:
Lot Eight (8), Block One (1), Prairie
Ridge at Spring Hill Phase 2, a sub-
division in Spring Hill, Johnson
County, Kansas, more commonly
known as 17119 W. 197th Terrace.

Run Dates: 03/08/17 to 03/08/17
Appearances: 1
AD SPACE: 86
TOTAL COST: \$84.12

This notice shall be published once in
the official city newspaper at least twenty
(20) days prior to the date of said
hearing.

(Signed) [Signature]

Dated this 3rd day of March, 2017
SPRING HILL BOARD
OF ZONING APPEALS
Brian King, Chairman

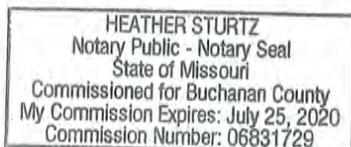
Subscribed and sworn before me this
8th day of March 2017

ATTEST:

(SEAL)

Glenda Gerrity, City Clerk

[Signature] Notary Public



My Commission Expires: 7/25/20