



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: September 27, 2022
Project: Sewart Variance
Planner: Mark Latham

**PUBLIC HEARING AGENDA ITEM AND BOARD OF ADJUSTMENTS AGENDA
ITEM**

**PH-2, BZA-1
VARIANCE REQUEST**

Darrin and Scottie Sewart
Parcel #: 830-38352-100

SUMMARY: Request for a variance to allow a horse barn to encroach setbacks along west side of the property line.

CURRENT ZONING: RE, Residential Estates, 2-acre lot size

PROPOSED USE: Single-family residential

CITY WARD: 3-Penny Baskin and Tim Burress

INFRASTRUCTURE SERVICE AREAS:

Water: Washington Water Authority

Sewer: Septic

Road Access: Arbor Acres

Electric: Ozarks Electric

Cable: Cox Communications

Phone: ATT

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The Sewart Variance Request is to allow a new barn to be constructed six (6) feet from the property line. The side setback is thirty (30) feet for detached structures within the RE zoning. The owners are planning to move horses from California and feel that having the barn located six (6) feet off property line gives them a better view of the field from their home in case an emergency arises.

153.262 POWERS AND DUTIES. (as relating to variance requests)

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary

hardship that would deprive the owner of any reasonable use of the land or building involved. A variance from the terms of these zoning regulations, shall not be granted by the Board of Zoning Adjustment unless and until:

(1) The applicant demonstrates that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; that literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; that special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning regulations to other lands, structures, or buildings in the same district.

STAFF ANALYSIS: The proposed location of the barn structure on the submitted information does not show any unusual physical limitations on the property.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

STAFF ANALYSIS: The existing use is residential.

(3) The Board of Zoning Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

STAFF ANALYSIS: The variance that staff has reviewed is a twenty-four (24) foot variance, which is a major variance. The applicant has not demonstrated that an alternative location has been considered.

(4) The Board of Zoning Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these zoning regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

STAFF ANALYSIS: The proposed decrease in setback would create a situation that is out of harmony with the intent of these zoning regulations. Allowing a structure to be placed so

near the property line could be detrimental to the neighboring property as it will not meet the expected setbacks for the RE zone.

(5) In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.

STAFF ANALYSIS: If the Board of Adjustments chooses to approve this variance, staff recommends that they add the condition that if the structure is ever destroyed or removed, all future structures must adhere to the setbacks of the zoning of the property.

(6) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of these zoning regulations in the district involved, or any use expressly, or by implication, prohibited by the terms of these regulations in said district.

STAFF ANALYSIS: Residential uses and accessory uses are allowed by right in RE.

TECHNICAL INFORMATION:

Utilities:

Water: Washington Water Authority- This parcel appears to be connected to the WWA distribution system according to our records.

Electric: Ozarks Electric: OECC had no comment.

Septic: This residence has an existing system and the proposed expansion will not impact this area.

Cable: Cox Communications-No concerns were submitted for the requested variance.

Phone: AT&T-No concerns were submitted for the requested variance.

Natural Gas: Black Hills Energy-No concerns were submitted for the requested variance.

Streets:

This property access Arbor Acres. No additional drives are being proposed.

Fire:

No concerns were submitted for the requested variance.

Police:

The Police Chief has no concerns for the requested variance.

STAFF ANALYSIS: The impact of this variance request will be minimal to the surrounding area, existing utilities, and streets and fire.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. Staff has received one “in favor” comment.

STAFF RECOMMENDATION: Based on the information provided, this request appears to be caused by a condition created by the applicant, and not a unique hardship related to the property, therefore, staff recommends denial of the Sewart Variance Request to allow a new structure to encroach the side setback, and be placed six (6) feet from the west property line.

If the Board of Adjustments chooses to approve this variance, staff recommends adding the condition that if the structure is ever destroyed or removed, all future structures shall adhere to the setbacks of the zoning of the property.