



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **June 30, 2026**
Project: **741 Javello Rd.**
Setback Variance Request
Planner: Brad Spurlock

AGENDA ITEM **PH1, BOZA1** VARIANCE REQUEST

741 Javello Rd.
Parcel #: 830-37692-240

SUMMARY: The applicant is requesting approval of a variance from the City for setback requirements. The applicant asserts that strict enforcement of the setback requirements creates a hardship due to the layout and slope of the parcel of land.

CURRENT ZONING: RE, (Residential Estates)

PROPOSED USE: RE, (Residential Estates)

CITY WARD: 3 – Aldermen Tim Burress and Mike Woshkowiak

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water

Sewer: Tontitown Sewer

Electric: Ozarks Electric

Cable: Cox Communications

Phone: AT&T

Natural Gas: Black Hills Energy

School District: Springdale

PROJECT SYNOPSIS:

The subject property is owned by John Henry Jr & Natalie Akers. The request is for a variance of ten (10) feet from the required setback regulations to allow for the construction of a detached accessory building on the subject property.

The property contains physical site constraints that limit the availability of suitable building locations outside of the required setback area. Due to the shape, topography and layout of the lot, compliance with the standard setback requirements would significantly restrict the placement of the proposed accessory structure.

153.262 POWERS AND DUTIES

The Board of Zoning Adjustment shall have all the powers and duties prescribed by law and by these regulations, which are more particularly described as follows:

(B) To authorize upon appeal, in specific cases, such variance from the terms of this zoning chapter 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 applicant has demonstrated special conditions and circumstances are present that are peculiar to the subject property, specifically the irregular shape and topography. These conditions are unique to the property and are not generally applicable to other properties with the same zoning district.

(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: Staff find that there are no nonconforming uses in the surrounding area influencing this request, and the variance is based solely on the unique physical characteristics of the subject property.

(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 reasons set forth in the application justify the granting of the variance, as the irregular shape and topography of the lot, creates a hardship that limits the reasonable building placement. The requested setback variance is the minimum necessary to allow for the reasonable use of the property while maintaining compliance with the intent of the zoning regulations.

(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: Granting this variance will be in harmony with general purpose and intent of the zoning regulations, as the request accommodates the unique physical constraints of the property while maintaining the overall character of the surrounding area. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, as the proposed development remains consistent with adjacent properties and does not introduce an adverse impact.

(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: Appropriate conditions and safeguards may be prescribed by the BOZA as part of the

approval of this variance to ensure compliance with the intent of the zoning regulations. Any such conditions, if imposed, will be enforceable, and violations shall be deemed a violation of these regulations. Staff finds the ability to impose conditions provides adequate protection to ensure the variance will not adversely impact surrounding properties.

(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: The requested variance does not seek to allow a use that is not permissible within the zoning district. The request is limited solely to a deviation from setback requirements and does not involve any change in land use. Therefore, the variance complies with this provision, and no prohibited or impermissible use is being authorized.

Streets:

This property is located at 741 Javello Rd.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. 4 Neighboring properties responded positively (included).

STAFF RECOMMENDATIONS: Staff recommend APPROVAL of this variance request, subject to the Board's findings that all variance criteria are met particularly that:

1. Unique physical conditions exist due to the shape and topography.
2. The hardship is not self-imposed.
3. The variance is the minimum necessary to allow reasonable use of the property.
4. The variance will not negatively impact surrounding properties or public welfare.

Figure 1: Vicinity Map



Figure 2: Current Zoning Map (R3, Zoning map not updated on GIS)

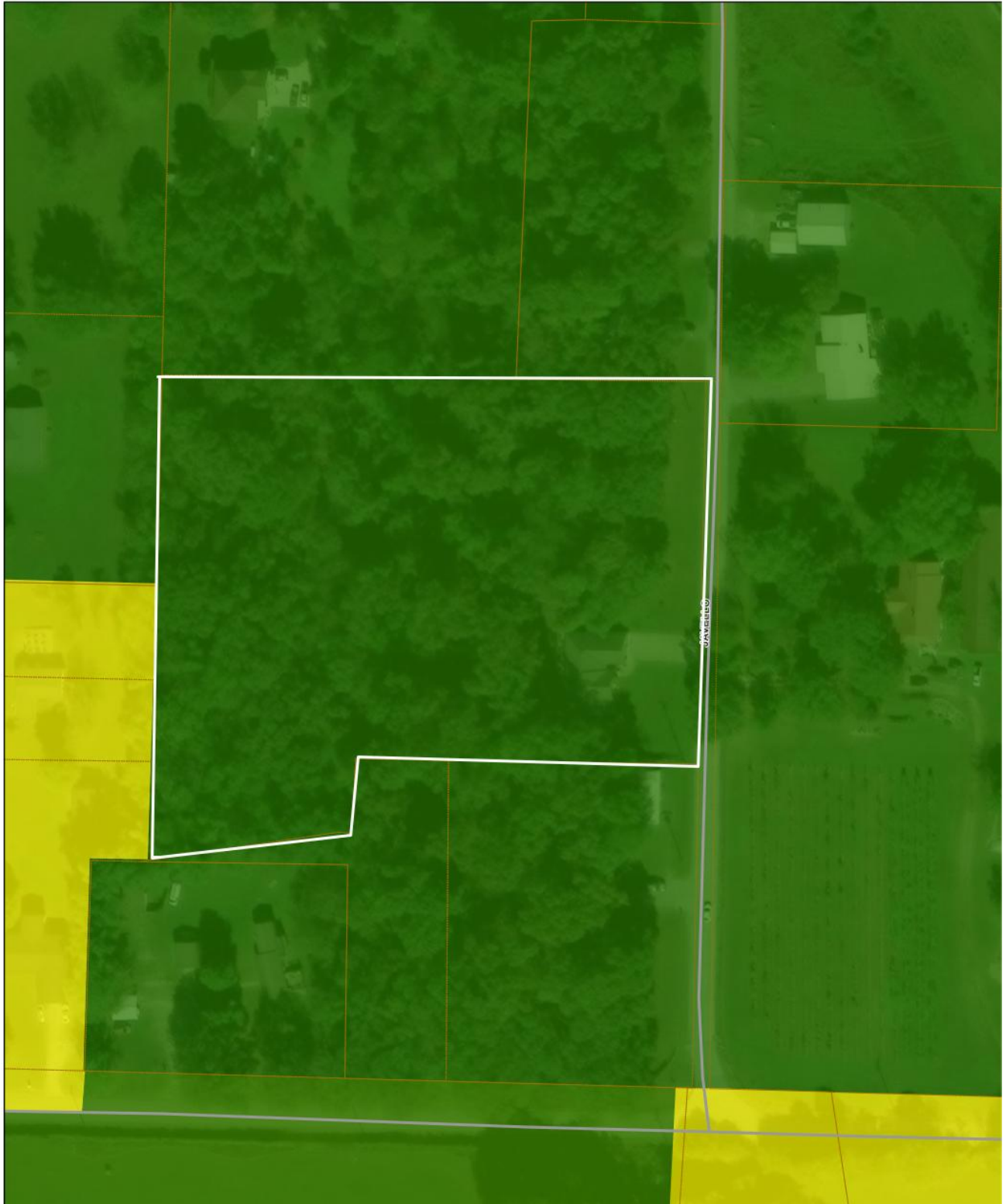


Figure 3: Setback requirements

	R-E
Category Names	Single Family Residential - 2 acre minimum lot size
Density	1 unit/2 acres
Minimum Lot Size	2 acres
Triplex, Quadplex	NP
Duplex	NP
Townhomes (single-family attached)	NP
Multi-Family (5 or more connected units)	NP
Nonresidential uses	2 acres
Max Building height	35'
Max Number of stories	N/A
Lot width min	200'
Lot depth min	200'
Setbacks for 1- and 2-story structures	
Front Setback	30'
Side Setback	30'
Street side setback	30'
Rear setback	30'