

AGENDA

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, May 11, 2015
7:30 p.m.

Commission Meeting Room
Courthouse Plaza East

(Procedure: Open joint meeting of the Riley County Planning Board/Board of Zoning Appeals.)

I. OPEN PUBLIC COMMENTS

II. CONSENT AGENDA

1. Consider the minutes of the April 13, 2015 meeting.
2. Consider the Report of Fees for the month of April 2015.

(Procedure: Adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and due to no agenda items for the Board of Zoning Appeals, convene as the Riley County Planning Board.)

III. GENERAL AGENDA - RILEY COUNTY BOARD OF ZONING APPEALS

1. No agenda items.

IV. GENERAL AGENDA - RILEY COUNTY PLANNING BOARD

1. Public Hearing at the request of the Riley County Planning Board to amend Section 2 – Definitions, Section 8 – AG (Agricultural District) and Section 22B – Special Events, of the Riley County Zoning Regulations. **ACTION NEEDED: Recommend approval/denial to the Board of County Commissioners.**
2. Conduct Annual Review of the Comprehensive Plan.
3. Discussion - Accessory Building or Use Definition (Interpretive Policy #01-01 rev., 2003)

(Procedure: Adjourn the Riley County Planning Board meeting.)

MINUTES

RILEY COUNTY PLANNING BOARD/ BOARD OF ZONING APPEALS

Monday, April 13, 2015
7:30 pm

Courthouse Plaza East
Commission Meeting Room
115 North 4th Street

Members Present: Lorn Clement, Chairman
Dr. Tom Taul, Vice-Chair
Diane Hoobler
John Wienck

Members Absent: Julie Henton

Staff Present: Monty Wedel - Director, Bob Isaac – Planner and Lisa Daily -
Administrative Assistant

Others Present: Sue Stringer and Robert Boyd

OPEN PUBLIC COMMENTS

Sue Stringer with the Kansas Department of Wildlife, Parks and Tourism stated she wanted to commend Riley County Planning & Development staff for organizing the Agritourism Task Force comprised of agritourism venues, rural retreat venues and citizens of Riley County to review and amend the current zoning regulations regarding agritourism.

CONSENT AGENDA

The minutes of the January 12, 2015 meeting were presented and approved. The Report of Fees for the month of January (\$2,052.25), February (\$1,415.00) and March (\$1,469.50) were presented and approved.

John Wienck moved to adjourn the joint meeting of the Riley County Planning Board/Board of Zoning Appeals and, due to the lack of agenda items for the Board of Zoning Appeals, moved to reconvene as the Riley County Planning Board.

Diane Hoobler seconded. Carried 4-0

RILEY COUNTY PLANNING BOARD

Proposed Agritourism Regulation Amendments

Monty Wedel stated the Board of County Commissioners has reviewed an earlier version of the proposed agritourism amendments (Riley County Zoning Regulations) they were comfortable with moving forward to public hearings. He explained the current draft was prepared by the Agritourism Task Force and all members are in agreement with the changes proposed.

Mr. Wedel highlighted some of the major proposed changes. The definition of agritourism, was changed by adding “working farm, ranch, vineyard or other agricultural operation”. Mr. Wedel said that agritourism needs to be treated similar to rural resort, retreat and event centers and the

new licensing requirement will do that without putting a significant burden on the agritourism operation. He explained that the agritourism facility rules address indoor venues; while Section 22B-Special Events will address outdoor venues. The major changes to the special events section related to noise restrictions to protect neighboring properties.

Diane Hoobler questioned the building limitation of 2,500 square feet for an agritourism facility as being too restrictive. Mr. Wedel explained a conditional use approval would need to be pursued for buildings larger than 2,500 square feet.

Sue Stringer questioned the time frame for renewing Agritourism Facility licenses.

Mr. Wedel replied that licenses will renew annually, subject to compliance with local, state and federal regulations.

Tom Taul moved to proceed with publication of the notice of public hearing.

Diane Hoobler seconded. Carried 4-0.

Election of Officers

By unanimous vote, the Board re-elected Lorn Clement as the Chairman and Tom Taul as Vice-Chair for 2015. The Board also re-elected Bob Isaac to serve as Planning Board Secretary.

Annual Report

The Board members by consensus agreed that the annual report is impressive and provides useful information.

Annual Comprehensive Plan Update

Bob Isaac provided the Board with an outline of the material for the statutorily mandated annual review of the comprehensive plan. Mr. Isaac reminded the Board that last year it was suggested to eliminate the agricultural buffer requirement for sites located within designated growth areas. He explained this would be an amendment to the zoning regulations, not an amendment to the Plan.

Diane Hoobler expressed concern with the number of residential building permits issued for a “Lot of Record”. Mrs. Hoobler stated that a correction from 2014 to 2015 needed to be made in Chapter 8.

Mr. Isaac reminded the Board of the rationale behind the “grandfathering” criteria that was established and agreed upon.

Lorn Clement noted a clerical error on the last page of the report, stating “inconvenient” should be changed to “convenient”. Mr. Clement asked when the 1000’ notification requirement would be increased to 2000’, as recommended by the Plan.

Bob Isaac stated that this would be an amendment to the zoning regulations.

Lorn Clement stated he is ready to move forward with this amendment and the remaining Board members agreed.

Mr. Isaac stated that he would meet with the Planning Director and discuss the procedure for this specific request.

Mr. Isaac explained that a formal review process of the Comprehensive Plan will be on next month's agenda, which will allow all Board members time to review the material.

Big Blue Floodplain Management Update

Monty Wedel said the City staff is preparing the first draft.

Lorn Clement moved to adjourned.

Diane Hoobler seconded. Carried 4-0.

The meeting was adjourned at 8:14 P.M.



**RILEY COUNTY
PLANNING & DEVELOPMENT**

REPORT OF FEES

April 2015

<u>DATE</u>	<u>NAME</u>	<u>AMOUNT</u>
04-01-2015	Sessum, Building Permit #15-0009	\$ 150.00
04-01-2015	Suhbing, Repair Permit & copy fees	79.00
04-02-2015	L&L Trenching, Repair Permit	75.00
04-03-2015	Durtschi, Lagoon Permit & Building Permit #15-0010 & #15-0011	500.00
04-03-2015	Tafoya, Environmental Site Evaluation	100.00
04-06-2015	Robinson, Building Permit #15-0012	150.00
04-07-2015	Meyer, Environmental Site Evaluation	100.00
04-07-2015	Van Der Stelt, copy fees	5.50
04-09-2015	L&L Trenching, Repair Permit	75.00
04-09-2015	Johnson, Repair Permit	75.00
04-09-2015	Avery, (2) Radon Kits	10.00
04-10-2015	Schuler, Building Permit #15-0013	150.00
04-10-2015	Danenberg, Water Screening Report	12.00
04-13-2015	Wernette, copy fees	1.50
04-13-2015	Valentine, Building Permit #15-0014	150.00
04-13-2015	Smith, copy fee	1.00
04-14-2015	Nauman, Environmental Site Evaluation	100.00
04-14-2015	Gugenhahn, Repair permit	75.00
04-15-2015	Cammel, Building Permit #15-0015	150.00
04-16-2015	Blew Associates, Replat	270.00
04-17-2015	Meier, Well Permit	75.00
04-17-2015	Connet, Repair Permit	75.00
04-20-2015	Pitts, Environmental Site Evaluation	100.00
04-20-2015	Beneke, Water Screening Report	10.00
04-21-2015	Estes Company, Lagoon Permit	300.00
04-21-2015	Estes Company, Building Permit #15-0016	150.00
04-21-2015	BAM Excavation, Repair Permit	75.00
04-23-2015	McNeil, Environmental Site Evaluation	100.00
04-27-2015	Kitterman, Building Permit #15-0018	150.00
04-27-2015	Network Real Estate, Conditional Use	400.00
04-27-2015	Jones, Repair Permit	75.00
04-28-2015	Leonard Backhoe, Repair Permit	75.00
	TOTAL	\$3,814.00

DEPOSITS MADE:

04-10-2015	\$ 1469.50
04-17-2015	759.50
04-27-2015	75.00
04-30-2015	1360.00
05-01-2015	150.00
TOTAL	\$3,814.00

Permit #	App Date	Ownr	Type of Bldg	Use of Bldg	Const Cost	Amnt Paid	Property Address	City & Zp
15-0001	02/13/2015	Phillip & Dana Hebert	House (site built)	Residential dwelling	\$220,000.00	\$150.00	11741 Kansas Ave	Riley (66531)
15-0002	02/23/2015	Wylee Austin	Barn	Hay, tractor & equipment storage	\$32,000.00	\$0.00	5550 W 104th Ave	Riley (66531)
15-0003	03/11/2015	Dan Knight	Garage (detached)	Vehicle & personal storage	\$17,500.00	\$150.00	7645 Saddle Dr	Manhattan (66503)
15-0004	03/11/2015	Michael & Jessica Stamm	House (site built)	Residential Dwelling	\$450,000.00	\$150.00	7024 N 52nd St	Manhattan (66503)
15-0005	03/16/2015	Richard J. Kellogg	Barn	Pole barn - residential storage	\$21,000.00	\$150.00	5616 W 104th Ave	Riley (66531)
15-0006	03/19/2015	Stagg Hill Golf Course Club	Miscellaneous	Shelter	\$15,000.00	\$225.00	4441 Stagg Hill Rd	Manhattan (66503)
15-0007	03/30/2015	Dan Swihart	Storage (ag related)	Hay/equipment/ welder & tool storage	\$10,000.00	\$0.00	3690 Kitten Creek Rd	Manhattan (66503)
15-0008	03/30/2015	USD 378	Commercial	Weight room & wrestling room	\$380,000.00	\$0.00	12451 Fairview Church Rd	Riley (66531)
15-0009	04/01/2015	Fred Sessum	Garage (detached)	Residential storage	\$8,000.00	\$150.00	4871 Eureka Dr	Manhattan (66503)
15-0010	04/03/2015	Jared A. & Angela M. Durtschi	House (site built)	Residence	\$295,000.00	\$150.00	6898 N 52nd St	Manhattan (66503)
15-0011	04/03/2015	Jared A. & Angela M. Durtschi	Barn	House livestock	\$22,000.00	\$50.00	6898 52nd St	Manhattan (66503)
15-0012	04/06/2015	Steven & Betty Robinson	Storage (residential)	Storage for residential use	\$37,358.00	\$150.00	3618 Rocky Ford Ave	Manhattan (66502)
15-0013	04/10/2015	Mark & Jeanette Schuler	Storage (residential)	Residential storage	\$5,600.00	\$150.00	2609 Rogers Blvd	Manhattan (66502)

Permit #	App Date	Ownr	Type of Bldg	Use of Bldg	Const Cost	Amnt Paid	Property Address	City & Zp
15-0014	04/13/2015	Luc Valentin & Kira Everhart	Storage (ag related)	Hay storage for horses	\$10,000.00	\$150.00	7120 N 52nd St	Manhattan (66503)
15-0015	04/15/2015	Robert and Laurie Cammel	Garage (detached)	Residential storage	\$45,000.00	\$150.00	15200 Madison Rd	Riley (66531)
15-0016	04/21/2015	Travis R. & Amanda M. Wymer	House (site built)	Residence	\$910,000.00	\$150.00	5755 Tuttle Cove Rd	Manhattan (66503)
15-0017	04/24/2015	USD 384 BLUE VALLEY	Miscellaneous	Green House for AG Education	\$70,000.00	\$0.00	9339 Green Randolph Rd	Randolph (66554)



PLANNING & DEVELOPMENT

STAFF REPORT

Regulation Amendment

PETITION: #15-05

APPLICANT: Riley County Planning Board

REQUEST: Amend Section 2 (Definitions), Section 8 (Agricultural District (AG)) and Section 22B (Special Events) of the Riley County Zoning Regulations

(PUBLIC NOTICE EXCERPT)

RILEY COUNTY ZONING REGULATIONS:

SECTION 2 – DEFINITIONS

Replace the definition of Agritourism with the following:

***AGRITOURISM:** Activities conducted on and accessory to a working farm, ranch, vineyard, or other agricultural operation conducted for the enjoyment and/or education of visitors, guests or clients to view or enjoy rural, farming or ranching activities; and/or historic, cultural or natural attractions. A working farm, ranch, vineyard or other agricultural operation shall be determined by using the analysis for granting an agricultural exemption for a residence specified in these regulations. To be considered an agritourism activity, the company, business or entity sponsoring the activity must also be registered with the State of Kansas as an Agritourism Operator.*

Insert the following definition:

***AGRITOURISM FACILITY:** A building that is part of an agritourism operation that is solely or periodically used for conferencing, training, educational, recreational or social activities, which may include meeting facilities, kitchen and dining facilities, recreational amenities and lodging accommodations intended for participants/guests and not for the transient general public.*

SECTION 8 – AGRICULTURAL DISTRICT (AG)

TABLE 8.1 AG DISTRICT AND SUBDISTRICT TABLE OF ALLOWED USES

Add, in the Use Category “Agriculture Support Uses”, the following: “Agritourism Facility” in the Use Type column, “P” in the General Ag District column, “--“in the Residential Use Designator column, and “*Subsection 6*” in the Use-Specific Standards column.

6. USE SPECIFIC STANDARDS

Change as indicated:

C. Agritourism

Minimum Parcel Size

~~The minimum parcel size shall be three (3) acres. Uses specifically listed as a permitted or conditional use in other zoning districts or as a conditional use in the AG district, shall not be permitted within the Agritourism use category, unless otherwise specifically authorized herein.~~

Use Limitations

~~Uses specifically listed as a permitted or conditional use in other zoning districts or as a conditional use in the AG district, shall not be permitted within the Agritourism use category, unless otherwise specifically authorized herein.~~

Structure Limitations

~~Structures established specifically for agritourism uses shall not exceed 2,000 square feet. Larger structures may be permitted by conditional use approval. The number of such structures shall be limited to one (1) per each three (3) acres up to a maximum of three (3). Additional structures may be permitted by conditional use approval.~~

Special Events

Special events associated with an agritourism use (e.g. concerts, non-profit benefits, wedding ceremonies, catered food events, and harvest festivals), *that does not include an Agritourism Facility*, shall be governed by Section 22B – Special Events.

D. Agritourism Facility

Building Limitations

Buildings used for agritourism activities shall not exceed 2,500 square feet. Larger structures may be permitted by conditional use approval. The number of such structures shall be limited to one (1) per each three (3) acres up to a maximum of three (3). Additional structures may be permitted by conditional use approval.

Use Limitations

Use of the Agritourism Facility is limited to those uses not specifically listed as a permitted or conditional use in other zoning districts or as a conditional use in the AG district, with the exception of uses permitted in a Rural Resort, Retreat and Events Center.

Agritourism Facility License

Prior to use of any building for agritourism activities, either new or existing, the owner must obtain an Agritourism Facility License from Riley County Planning and Development. A condition of issuance of the license shall be the determination that the building complies with the following standards:

- *Conforms to the Riley County Sanitary Code;*
- *Conforms to the State Fire Code;*
- *The facility meets the off-street parking requirements of the Zoning Regulations;*
- *The parcel on which the facility is located must have direct access to and abut a public road, i.e. no travel easements;*
- *The facility and the associated parking area is set back a distance of 1000 feet from residences and/or a residential zoning district, unless a written waiver is obtained from all affected property owners;*
- *The entrance to the property on which the facility is located is determined by the County Engineer to safely accommodate the expected traffic;*
- *Noise generated from within the facility and from the parking lot serving the facility shall not exceed 65 dBA or greater at the property line, unless a written*

waiver is obtained from the owner of the property affected or the facility and the parking area is more than 1000 feet from the property line.

Buildings used for certain types of agritourism activities, such as viewing of livestock or tours of historic structures, may be exempted from the licensing requirement at the discretion of the Planning and Development Department. The Department may require a license and accompanying review of the standards if issues arise regarding any of the above standards.

Any violation of a local, state or federal regulation shall be sufficient cause for revocation of the Agritourism Facility License.

This license shall be renewed annually by the first of January of each calendar year.

SECTION 22B – SPECIAL EVENTS

Change as indicated:

SPECIAL EVENT DEFINED

The term “Special Event” shall mean a temporary, short-term use of land or structure conducted on private property in the unincorporated area of Riley County, Kansas. *“Special Event” shall not apply to permanent facilities for recurring events. Such permanent facilities shall be considered either a “rural resort, retreat and events center” or an “agritourism facility” as defined and as regulated elsewhere in these regulations not otherwise included as a permitted or accessory use by these regulations.* “Special Event” shall be for one or more of the following types of activities:

1. Type 1. Any of the following types of events:
 - a. Private gatherings (including wedding receptions, family reunions or other private affairs by invitation only); or
 - b. Events open to the general public for which no admission or entrance fee is charged and no commercial activity (including but not limited to retail sales) is involved, such as auctions, rallies and similar events; or
 - c. Events open to the general public for which an admission or entrance fee is charged and/or commercial activity is conducted and the total participants (including but not limited to spectators, event management and staff, vendors and security) are less than 50 persons.
 - d. Any registered agritourism activity as defined *herein*, ~~by KSA 74-50, 167 et seq.~~ *provided the activity is determined to be in conformance with the performance standards for special events with the following exception: All registered agritourism operations at the time of adoption of these regulations shall not be required to conform to the noise standard. However, if the agritourism registration is allowed to lapse for more than one (1) year, the above exception is void and the agritourism operation shall comply with all performance standards for special events. there are no legitimate complaints about the activity received by the Planning & Development Department from any property owners within 1000 feet of the activity. If it is determined the activity is not in conformance with the performance standards for special events legitimate complaints are received, the activity shall require be required to meet the requirements of a Type 2 or Type 3 permit, event as may be appropriate applicable. Any building used*

for agritourism shall meet the requirements for an agritourism facility as specified in the “AG District and Subdistrict Table of Allowed Uses”.

GENERAL REQUIREMENTS

1. The special event duration shall not exceed four (4) days, unless an extension is granted by the Riley County Planning & Development Department or the Riley County Board of Zoning Appeals, whichever is appropriate. *Registered agritourism activities shall be exempt from this requirement.*
2. The special event shall be restricted to a maximum frequency, for similar events at the same location, of two (2) times per calendar year unless otherwise granted by the Riley County Planning & Development Department or the Riley County Board of Zoning Appeals, whichever is appropriate. Registered ~~agri-tourism~~-agritourism activities shall be exempt from this requirement.

PERFORMANCE STANDARDS

1. **Noise.** *Noise generated from the activity shall not exceed 65 dBA or greater at the property line, unless a written waiver is obtained from the owner of the property affected and filed with the Register of Deeds or the nearest point of the activity is more than 1000 feet from the property line. ~~Noise shall not be generated by any use to the point of unreasonably disturbing the peace, quiet or comfort of neighboring properties.~~*
4. **Health and Sanitation.** All requirements of the Riley County *Sanitary Code* ~~Manhattan Health Department~~ and other health ~~authorities~~ regulations shall be met. These standards include proper food and beverage safety, the provision of an adequate potable water supply and adequate provisions for the disposal of solid waste and wastewater. The organizer must provide a minimum of two (2) sanitary facilities, regardless of the number of participants in the event. If the organizer anticipates more than two hundred (200) participants, a sanitary facility shall be provided for each additional one hundred (100) participants. *If it is determined the Riley County/Manhattan Health Department finds that additional facilities are necessary to ensure public health, the organizer shall provide the recommended number or shall restrict participants to the number that corresponds to the sanitary facilities available.*

BACKGROUND:

In May 2010, the Riley County Zoning Regulations were amended to include a new section entitled Special Events. This new section specifically identified three different types of special events of varying size and intensity. Agritourism activities (as defined by KSA 74-50, 167 et. seq.), was listed as a Type I Special Event, which included exemption language/parameters for such activities registered with the State.

In May 2012, the “Vision 2025 Amendments” of the Riley County Zoning Regulations were adopted and included definitions for “agritourism” and “rural resort, retreat & events centers”. Use Specific Standards were established for each use in Section 8 of the zoning regulations. However, since the time of adoption those regulations, the interest in converting barns or implement sheds into events centers for weddings, reunions, dances, etc. under the auspices of agritourism has increased. There was a growing concern that “agritourism”, as defined in the zoning regulations, was too broad and allowed people to establish commercial businesses in agricultural areas, circumventing the rezoning process and any formal review. Thus, the Agritourism Task Force was assembled in August 2014, comprised of citizens that operated such events centers or were registered with the State as an Agritourism Operator. Sue Stringer, manager of Kansas Byways & Agritourism, was invited to sit in as a task force member to

provide technical information along with the State's perspective on agritourism. After several meetings and iterations of proposed amendments to the existing zoning regulations, the group agreed to amend the regulations as shown in the above Notice of Public Hearing excerpt, with specific changes to Sections 2, 8 and 22B of the Riley County Zoning Regulations.

STAFF RECOMMENDATIONS: Staff recommends that the Planning Board forward a recommendation of approval to adopt the proposed amendments as published and shown in the staff report.

POSSIBLE MOTION(S)

ACTION NEEDED:

A. Move to forward a recommendation of approval to the Board of Commissioners of Riley County of the proposed amendment to the Riley County Zoning Regulations as published.

Or

B. Move to forward a recommendation of approval to the Board of Commissioners of Riley County of the proposed amendment to the Riley County Zoning Regulations with the following changes:

Or

C. Move to forward a recommendation of denial to the Board of Commissioners of Riley County of the proposed amendment to the Riley County Zoning Regulations as published.

Prepared by: Bob Isaac, Planner
April 30, 2015



MEMO

<input type="checkbox"/>	PLEASE COMMENT
<input type="checkbox"/>	PLEASE REPLY
<input type="checkbox"/>	URGENT
<input checked="" type="checkbox"/>	FOR REVIEW

DATE **5/4/15**

TO:
Riley County Planning Board

FROM:
Monty R. Wedel, AICP
Planning & Development
110 Courthouse Plaza
Manhattan, Kansas 66502
mwedel@rileycountyks.gov

Phone: (785)537-6332
Fax: (785) 537-6331

SUBJECT: Subordinate Buildings

MESSAGE: Mr. Edward Behnke is in the process of purchasing an unplatted tract on Purcell Road which has an approximately 800 square foot home located on the property. Mr. Behnke would like to build a 1000-1200 square foot accessory building for storage purposes. Under our current Zoning Regulations, "Accessory Building or Use" is defined as: "A subordinate building or portion of the principal building, or a use customarily incident to and located on the lot occupied by the principal building or use of the property." We have for many years interpreted this definition as meaning that an accessory building must be smaller than the principal building, in this case the home. In fact, we even have a couple of Interpretive Policies that we have had in place for a number of years and that provide greater detail on this interpretation. The two Interpretive Policies our attached for your reference.

Mr. Behnke has asked if there is any relief, i.e. variance option, for this requirement. In checking the Zoning Regulations under variances, there does not appear to be any flexibility for granting a variance for this particular element. A copy of the section on variances is also attached for your reference. Mr. Behnke raises an interesting question and staff feels we should explore the possibilities. I see several questions we could ask ourselves and assess:

1. Does subordinate mean a building that is smaller in size or does it mean something else?
2. If so, does that requirement make sense? Does it serve some useful purpose? Staff has been enforcing this rule for some time and it appears to work and generally makes sense to people. The idea, particularly in residential areas, is to not allow something that would be totally out of scale and character with the neighborhood. The other purpose it serves is to discourage the use of these buildings for "commercial" type uses to offset the cost of construction. The greater the

size of the building the greater the tendency to want to use it for storage rental or other commercial type purposes.

3. If you agree that 1 and 2 are correct as they currently exist, the question then becomes should there at least be a variance option for this physical limitation? Most such physical requirements within the regulations, as you can see, do have a variance option. Almost all are limited in some way to a maximum percentage change. The greatest percentage change for a similar limitation appears to be an increase in maximum building height not more than 25%.

In summary, staff suggests that if the Planning Board wanted to consider a variance option for this limitation, it should not be greater than 25%. If the board wants to move forward with this change, staff would draft a Notice of Public Hearing for the next meeting. Please keep in mind that if we made this change, Mr. Behnke or any other person desiring relief, would have to apply for the variance and it would have to be granted based on the merits for granting a variance as outlined in the Kansas statutes and in our regulations.



PLANNING & DEVELOPMENT

Monty R. Wedel
Director

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Manhattan, Kansas 66502
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E-mail: mwedel@co.riley.ks.us

Riley County Zoning Regulations

Interpretive Policy #01-01 Revised

Effective Date: March 4, 2003

SUBJECT: Accessory Building or Use Definition (Subordinate)

SECTION 2- DEFINITIONS of the Riley County Zoning Regulations defines "ACCESSORY BUILDING OR USE" as: "A subordinate building or portion of the principal building....."

For purposes of enforcement administration, the term "subordinate" shall mean a building that meets all of the following criteria:

1. A building that has a smaller "building footprint", in terms of square footage, than the principal structure on the lot or tract (the "building footprint" includes only the outer dimensions of the building, not the total square footage of the structure); and
2. A building that is lower in height than the principal structure on the lot or tract.

Exception: The above policy shall not apply to buildings in Zones A-4 and A-5 in which livestock are kept.

***ANY PERSON NOT AGREEING WITH THIS INTERPRETATION MAY APPEAL THIS DECISION TO THE BOARD OF ZONING APPEALS**

As directed by: Monty R. Wedel, Planning & Development Director

As reviewed by: Steve W. [Signature], County Counselor



Monty R. Wedel
Director
110 Courthouse Plaza
Manhattan, Kansas 66502
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Riley County Zoning Regulations

Interpretive Policy # 01-01

Effective Date: December 5, 2001

SUBJECT: Accessory Building or Use Definition (Subordinate)

SECTION 2- DEFINITIONS of the Riley County Zoning Regulations defines "ACCESSORY BUILDING OR USE" as: "A subordinate building or portion of the principal building...."

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1. A building that has a smaller "building footprint", in terms of square footage, than the principal structure on the lot or tract (the "building footprint" includes only the outer dimensions of the building, not the total square footage of the structure); and
2. A building that is lower in height than the principal structure on the lot or tract.

*ANY PERSON NOT AGREEING WITH THIS INTERPRETATION MAY APPEAL THIS DECISION TO THE BOARD OF ZONING APPEALS

As directed by: Monty R. Wedel, Planning & Development Director

As reviewed by: Steve May, County Counselor

and where, because of special conditions, a literal enforcement of the regulations will result in unnecessary hardship in an individual case. Such variances shall not violate the spirit of these regulations nor permit any use not permitted by the regulations for any zoning district. Before granting a variance the Board must find that all of the following conditions are met:

- a. The variance requested arises from conditions which are unique to the property in question and which are not ordinarily found in the same zone or district and that such conditions are not created by an action of the owner or applicant.
- b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- c. The strict application of the provisions of the zoning regulations from which the variance is requested will constitute unnecessary hardship upon the property owner or applicant.
- d. The variance requested will not adversely affect the public health, safety and welfare.
- e. The granting of the variance will not be opposed to the general spirit and intent of the regulations.

Variances may be granted only:

- a. To reduce the specified minimum lot depth and/or lot width not more than 20%.
- b. To reduce the minimum lot area for a single family or two-family dwelling not more than 20%; except in no case shall any lot area be less than that required by the County Sanitary Code.
- c. To reduce the minimum lot area per dwelling unit for multiple family dwellings not more than an amount which will permit the addition of one more dwelling unit to the number permitted by a strict application of the minimum lot area requirement; except in no case shall any lot area be less than that required by the County Sanitary Code.
- d. To reduce the minimum yard requirements.
- e. To reduce minimum off-street parking requirements.
- f. To increase the maximum building height not more than 25%.
- g. To increase the maximum height of a non-commercial wind energy conversion system (as defined herein) by not more than 33%.

- h. To permit the reconstruction or repair of and the continued nonconforming use of a structure that has been damaged by up to 75% of its structural value; provided that the use of the structure is not changed nor its size increased.
- i. To permit the reconstruction of a damaged or destroyed nonconforming structure in a Floodplain District provided that such structure is located in a developed area; and provided that the land area included in the granting of such variance does not exceed one half acre; and provided that the use of the structure is not changed nor its floor area increased; and further provided that the degree or intensity of nonconformity is not increased.
- j. To modify requirements relating to signs.

Application for the granting of a variance by the Board of Zoning Appeals shall be in the form of a letter stating the legal description of the land to be considered, the nature and details of the requested variance and the property owner's reasons for requesting the variance. Such letter shall be delivered to the County Zoning Officer who shall forthwith notify the chairman of the Board of Zoning Appeals of the receipt of the application. The Chairman shall call for a hearing, in the manner prescribed in paragraph 2 above, not more than 30 days after receipt of such notice.

- 5. The Board of Zoning Appeals may also grant exceptions to the provisions of the zoning regulations in those instances where the Board is specifically authorized to grant such exceptions and only under the terms of such regulation. In no event shall exceptions to the provisions of these regulations be granted where the use or exception contemplated is not specifically listed as a Conditional Use in such regulations. Further, under no condition shall the Board of Zoning Appeals have the power to grant an exception where conditions of the exception, as established in the zoning resolution by the Board of County Commissioners, are not found to be present. Application for the granting of an exception shall be in the same form and manner as that for a variance, as specified above.
- 6. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may, within 30 days after such order or determination, bring action in the District Court of the County to determine the reasonableness of any such order or determination.
- 7. A fee for the filing of an application for matters to be brought before the Board of Zoning Appeals shall be established by the Board of County Commissioners and such fee shall be paid by the applicant at the time of filing of the application.