

HAYS AREA BOARD OF ZONING APPEALS MEETING AGENDA
CITY COMMISSION CHAMBERS 1507 MAIN, HAYS, KS
FEBRUARY 10, 2016
8:15 A.M.

1. **CALL TO ORDER BY CHAIRMAN.**

2. **CONSENT AGENDA.**

A. Minutes of the regular meeting of January 13, 2016.

Action: Consider approving the minutes of the January 13, 2016 meeting.

3. **PUBLIC HEARING ITEMS.**

A. Public hearing on a request from James and Shawn Mulkey for a two foot variance to reduce the east side yard building setback from the required seven feet to five feet and reduce the distance between structures from the required five feet to one foot to construct a 15 foot by 20 foot carport at 210 E 17th Street. (Case #01-16)

Action: Consider approving a request for a two foot variance to reduce the east side yard building setback from the required seven feet to five feet and reduce the distance between structures from the required five feet to one foot to construct a 15' x 20' carport at 210 E 17th Street.

B. Public hearing on a request from Brent & Jill K Goertzen for a two and one-half foot variance to reduce the east side yard building setback from the required seven and one-half feet to five feet to construct a 20' by 24' shed at 1310 W 44th Street (Case #02-16)

Action: Consider approving a request for a two and one half foot variance to reduce the east side yard building setback from the required seven and one-half feet to five feet to construct a 20' by 24' shed at 1310 W 44th Street.

4. **NON-PUBLIC HEARING ITEMS.**

A. None.

5. **OFF AGENDA ITEMS/COMMUNICATIONS.**

A. None

6. **ADJOURNMENT.**

**DRAFT
HAYS AREA BOARD OF ZONING APPEALS
COMMISSION CHAMBERS IN CITY HALL
MINUTES
JANUARY 13, 2016**

1. CALL TO ORDER: The Hays Area Board of Zoning Appeals met at their regularly scheduled meeting on Wednesday January 13, 2016 at 8:15 a.m. in Commission Chambers at City Hall

Roll Call:

Present: Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

Absent: Tom Lippert

City Staff Present: Jesse Rohr, Superintendent and Linda Bixenman, Administrative Assistant of Planning, Inspection and Enforcement.

2. CONSENT AGENDA:

A. Minutes: Jerry Sonntag moved, Rich Sieker seconded the motion to approve the minutes from the December 9, 2015 meeting. There were no corrections or additions to those minutes.

Vote: Ayes: Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

3. PUBLIC HEARING ITEMS:

A. CASE # 13-15 PUBLIC HEARING FROM HAYS MEDICAL CENTER FOR AN EIGHT FOOT VARIANCE TO REDUCE THE FRONT YARD BUILDING SETBACK FOR A MONUMENT SIGN FROM THE REQUIRED TEN FEET TO TWO FEET AT 2509 CANTERBURY DRIVE. The applicant is requesting an 8 foot variance to place a monument sign two feet from the front property line rather than the 10 feet as required per regulation in a "C-O" Office and Institution Zoning District on the property at 2509 Canterbury Drive.

The base of the monument sign has already been built two feet from the front property line. When they submitted a full set of plans for the building permit, there was a misunderstanding that it included the sign. Signage requires a separate review for a permit.

The property is currently under construction with a substantial addition and a remodel of the existing facility. The frontage of the property is also being redone with a new drive approach and new parking. The proposed monument sign would be located approximately 60 feet north of their existing sign and would be setback further than the other similar monument signs along Canterbury.

He pointed out that the "C-O" zoning district is the only commercial zoning district requiring a front yard setback for signs of this size.

Jesse Rohr explained that the board can consider approval of the variance or not approve the variance.

Based on the discussion from last month, staff would recommend granting the variance. He pointed out that the applicants were in attendance if the board had any questions for them or him.

There were no comments from the audience.

Jerry Sonntag moved, Rich Sieker seconded the motion to grant the eight foot variance as submitted to reduce the front yard building setback from required ten feet to two feet at to construct a monument sign at 2509 Canterbury Drive based on the consideration it meets the five statutory requirements.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

4. NON-PUBLIC HEARING ITEMS:

A. CASE # 01-16 CONSIDER SETTING A PUBLIC HEARING FROM JAMES AND SHAWN MULKEY FOR A TWO FOOT VARIANCE TO REDUCE THE EAST SIDE YARD BUILDING SETBACK FROM THE REQUIRED SEVEN FEET TO FIVE FEET AND REDUCE THE DISTANCE BETWEEN STRUCTURES FROM THE REQUIRED FIVE FEET TO ONE FOOT TO CONSTRUCT A 15 FOOT BY 20 FOOT CARPORT AT 210 E 17TH STREET. Jesse Rohr presented a power point presentation with the information, location, and site plan for the variance request as listed above to construct a 15 foot by 20 foot carport on the above property. The house faces the north on 17th Street.

Due to the owner not aware of the building setback requirements, the carport has already been constructed over the existing driveway. There is no garage on the property. The owner had the option of removing the carport or coming before the Board of Zoning Appeals. Because it is already constructed should not be considered when determining if the variance should be granted or not.

Jesse Rohr explained that the board can consider setting a public hearing or not setting a public hearing for the February 10, 2016 meeting.

Staff would recommend moving this forward to a public hearing. There have been similar requests in the past. If approved, staff would recommend that there be the condition that the carport would remain open on all sides.

He asked if there were any questions from staff or the owner.

Jerry Sonntag asked for clarification of the location of the property line and asked the owner if he had located the property pins on the property. James Mulkey answered that they had not located the pins. He explained the location of the property line to the best of his knowledge. Jesse Rohr answered that staff can meet with Mr. Mulkey to pull some measurements for clarification of the property line. If there is a question of the location of the property line, the owner can consider hiring a licensed surveyor.

Lou Caplan stated that he thinks the only people having an objection would be those living in the home because the carport is so close to the house.

Lou Caplan entertained a motion.

Rich Sieker moved, Gerald Befort seconded the motion to set the public hearing to hear the above case at the February 10, 2016 meeting.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

Jesse Rohr explained the notification process.

A. CASE # 02-16 CONSIDER SETTING A PUBLIC HEARING FROM BRENT AND JILL K GOERTZEN FOR A TWO AND ONE-HALF FOOT VARIANCE TO REDUCE THE EAST SIDE YARD BUILDING SETBACK FROM THE REQUIRED SEVEN AND ONE HALF FEET TO FIVE FEET TO CONSTRUCT A 20 FOOT BY 24 FOOT SHED AT 1310 W 44TH STREET.

Jesse Rohr presented a power point presentation with the information, location, and site plan for the variance request as listed above to construct a 20 foot by 24 foot proposed shed that would be located in the rear southeast corner of the property eighteen feet from the house. There is no rear yard access. The shed will be used as a workshop. It will not be used as a vehicle garage. The house faces to the north on 44th Street.

He pointed out that a similar setback was granted to the neighboring property at 1308 W 44th Street for a similar size shed to be built five feet from the side yard property line.

Jesse Rohr explained that the board can consider setting a public hearing or not setting a public hearing for the February 10, 2016 meeting.

Staff would recommend moving this forward to a public hearing.

Lou Caplan asked if the proposed shed and the neighboring shed would be ten feet apart. Jesse Rohr answered that was correct.

Jerry Sonntag asked Mr. Goertzen what his reasoning was to build the proposed shed five feet from the side yard property line when there was plenty of room on the property. Mr. Goertzen answered that it was partly due to precedence because that was what his neighbors were granted. The other reason was to maintain the yard area.

Jerry Sonntag pointed out to the board that this was a perfect example of setting precedence. The board has to be careful when setting precedence.

Lou Caplan asked if there were any further questions to staff or the owner. There were no more questions.

He entertained a motion.

Jerry Sonntag moved, Gerald Befort seconded the motion to set the public hearing to hear the above case at the February 10, 2016 meeting.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

Jesse Rohr explained the notification process.

5. OFF AGENDA ITEMS: None

A. UPDATE ON THE REWRITE OF THE ZONING AND SUBDIVISION REGULATIONS: Jesse Rohr explained there will be a draft of the zoning and subdivision regulations to be sent out to them in the following week. They are planning for adoption this summer.

Accessory Building Setbacks:

He explained that it has been discussed having a standard five foot side yard building setback for accessory structures since those type of cases that come before the board are granted. The way it is written in the rewrite is that the setback would be the same as the primary structure which would be a minimum of seven feet. They can consider making the five foot side yard building setback standard in the rewrite of the regulations. If there were accessory buildings on neighboring lots five feet from the side yard, they would be 10 feet apart.

If someone would come before the board to ask to be closer to the side yard, it would be hard pressed that it would be granted since they would already be allowed to build five foot from the side yard.

Jerry Sonntag agreed with a standard five foot side yard building setback for an accessory structure. It would be extenuating circumstances to request a variance to build closer than five feet from the side yard.

Jesse Rohr explained that the 120 square foot size shed is allowed to be three feet from the side yard.

Jerry Sonntag suggested that all accessory buildings be five foot from the side yard. This would avoid the argument. Lou Caplan added that with five foot they can mow around it.

Jesse Rohr stated that is a good point. This would be considered.

Lou Caplan asked that with the proposed new regulations, some things would be decided at City Staff level. He asked what would be the process if City Staff denied the request. Jesse Rohr stated that as long as the request would meet the criteria set out in the regulations, it could be determined at staff level such as certain special use permits now designated as "Limited Use". If it was denied by City Staff, the applicant could appeal to the Board of Zoning Appeals.

Jesse Rohr used the example of "Day Care" use would be under "Limited Use" which means that use will not longer come before the board if it meets the criteria spelled out in the regulations.

Jesse Rohr suggested that the rear yard building setback for an accessory building would be five feet from the rear yard with or without an alley. The board concurred.

B. EDUCATIONAL TRAINING: Jesse Rohr informed the board of an educational training session that will be set up for the Planning Commission and Board of Zoning Appeals Members.

The educational training will be in Hays conducted by a land use attorney from Lee Summit Missouri that will cover zoning law, conducting a public hearing etc. More information and details will follow.

C. OTHER:

Conflict of Interest

Lou Caplan asked if a board member knows one of the applicants if they should recues themselves from the public hearing. Jesse Rohr explained that the board member would only have to recues themselves if there was a conflict of interest, not just because they know an applicant.

Rewrite of the Zoning and Subdivision Regulations

Lou Caplan asked of the Hays Board of Realtors had been in touch with city staff about their concerns with the proposed rewrite of the zoning and subdivision regulations. Jesse Rohr answered that once the update of the draft of the rewrite is presented, there may be discussion at that time.

Jesse Rohr explained the timeline for the discussion and adoption of the rewrite of the zoning and subdivision regulations.

6. ADJOURNMENT: Lou Caplan adjourned the meeting at 8:49

Submitted by: Linda K. Bixenman, Administrative Assistant,
Planning, Inspection and Enforcement

DRAFT

Board of Zoning Appeals Action Report

AGENDA ITEM: Setback Variance Application #01-16
 ADDRESS: 210 E 17th
 OWNER: James and Shawn Mulkey
 TYPE OF REVIEW: Variance
 PRESENTED BY: Jesse Rohr, P.I.E. Superintendent
 DATE PREPARED: February 2, 2016
 MEETING DATE: February 10, 2016

SUMMARY AND RECOMMENDED ACTION:

The applicant is requesting a variance to reduce the side yard setback from 7' to 5', a variance of 2' and also allow a reduced distance from the house of 1' from the required 5' to allow the reconstruction of a 15 x 20 carport on the property located at 210 E 17th (see further details below and attached site drawing). Staff recommends approval of the request as submitted with the condition the carport is not enclosed at any point in the future.

BACKGROUND:

- The applicant is requesting a variance on 1 side:
 - East Side – 7' to 5'
- Applicant wishes to construct a 15' x 20' carport on the property
- Applicant also wishes to have the carport as close as 1' from the existing house.
- Due to what is believed to be an honest mistake, this carport was erected on site without proper approval due to the owner not realizing the requirements. The fact the carport already exists should not be considered when determining if the variance should be granted or not.

	Setback Required	Applicant Proposed
Front Yard	N/A	N/A
Side Yard	7'	5'
Rear Yard	N/A	N/A
Other Structures	5'	1'

STANDARDS OF EVALUATION:

Per State Statute 12-759 and City Ordinance Sec. 71-1250

- The BZA has the authority to grant a variance if a literal enforcement of the provisions of the adopted regulations, will, in an individual case, result in unnecessary hardship, provided:
 - The spirit of the regulations shall be observed
 - Public safety and welfare secured
 - Substantial justice shall be done
- The applicant must show that the property was acquired in good faith and that the variance is needed due to extraordinary or exceptional circumstances of the property such as exceptional narrowness, shallowness, or shape of the lot
- Before granting a variance on the basis of unusual difficulty or unreasonable hardship, there must be finding by the Board that all of the following conditions exist:
 - a. Uniqueness of the property not ordinarily found in the same zone or district and not created by willful action of the owner

Staff Analysis: *While the uniqueness of this property is not very apparent when compared to homes in the surrounding neighborhood, the variance request in itself is minimal as compared to other similar requests for carports in the past. Also, as you look at the site, it is obvious that the existing accessory buildings and large trees on the property make it challenging to place the carport elsewhere on the lot.*

- b. The granting of the variance will not adversely affect the rights of adjacent property owners

Staff Analysis: *It is staff's opinion that this request will have minimal impact on the one property owner adjacent to the east property line of the subject property.*

- c. The strict application of the code will constitute unnecessary hardship upon the property owner

Staff Analysis: *As stated in the application submitted by the owner, other areas on the lot were considered and due to the fact that the concrete driveway is already in place, this location was chosen as the best option while trying to have a minimal impact on surrounding properties and not creating undue work and cost on the part of the owner.*

- d. The variance will not adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare

Staff Analysis: *This variance **should not** adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare.*

- e. The granting of the variance desired will not be opposed to the general spirit and intent of the regulations

Staff Analysis: *The granting of a variance for the carport, with approval of a variance as submitted, should not be opposed to the general spirit and intent of the zoning regulations.*

OPTIONS:

- Approve the variance as submitted
- Do not approve the variance

RECOMMENDED ACTION:

The owner of this property is attempting to utilize an older lot and is requesting a small change to accommodate a vehicle under protective cover and be able to better utilize the property for the future. **Based on the analysis above, staff recommends approval of the variance request with the condition that the carport is not enclosed at any point in the future.**

ATTACHMENTS:

- Variance application
- Variance justification and diagram from owner
- Images/Maps

Set the Public Hearing 1-13-16
mailings January 19, 2016

APPLICATION FOR VARIANCE

I. Name of Applicant James + Shawn Mulkey Phone ~~785-259~~ ⁷⁸⁵⁻⁶³⁹⁻²⁹⁵¹
Mailing Address 210 E 17th St. Hays KS 67601
Name of Owner (if different from applicant) Same Phone 785-639-2951

Mailing Address Same
Name of Authorized Agent James Mulkey Phone 785-639-2951
Mailing Address 210 E 17th St Hays KS 67601
Relationship of applicant to property is that of Owner
(Owner, tenant, lessee, other)

II. The variance is requested For a carport (15'x20') next to the house on existing slab - Reduce Sidelyard From 7' to 5' and 6' away from house

on property located at 210 E 17th St and legally described as: Fairview, Block 13, E 15' lot 10; West 55' Lot 12 section 33 Township 13 Range 10
in the City of Hays and which is presently zoned R-3

Give metes and bounds description below or on attached sheet: (required only if property is not part of a legally recorded plat)

- III. The applicant and owner herein, or authorized agent and owner:
- A. Acknowledges receipt of an instruction sheet concerning the filing and hearing of this variance request.
 - B. Acknowledges the fee requirements established; and that the appropriate fee is herewith tendered.
 - C. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
 - D. Acknowledges right to appeal the decision of the board to the District Court.

James L. Mulkey
APPLICANT

AUTHORIZED AGENT (IF ANY)

James L. Mulkey
OWNER

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, ENFORCEMENT DIVISION ON James L. Mulkey,
TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00.

Sinda K. Bixenman, Administrative Assistant
NAME AND TITLE





212 E 17th St

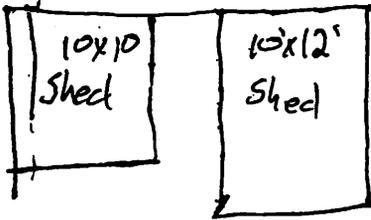
Hays, Kansas

Street View - Apr 2013



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Back Fence

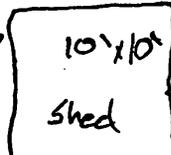
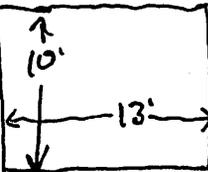


○ Cottonwood tree (Large)

15' x 15' dog run



71' x ≈ 135'



10'

9'

Fence

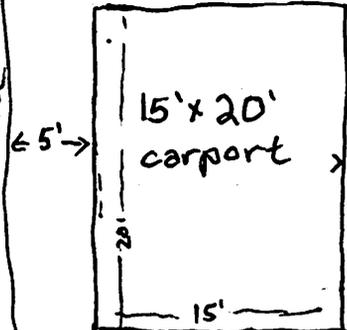
15'

Fence

water cellar door

Gate

Fence



Fence

18' small tree

flowers

drive way

walk

tree small

24' not to scale at all

sidewalk



tree small





Date: 12-18-15

To: Hays Area Board of Zoning

From: James L Mulkey

Re: We request a setback for 2 carport
15'x20' next to the house.

A Uniqueness

Due to the fact that our property is small & narrow. I put it up about a year ago. Were I put it is the only logical place to put in. Concrete was already there. You would not have to go through a gate to park. It is 5 ft. away from my neighbors fence and a foot away from my house.

B Adjacent Property

The set back will affect only one neighbor. He has no problem with it. There is still plenty of lawn between us.

C Hardship

There is no other logical place to put a carport the drive is already there. We have no Garage to protect a vehicle. We have never had a decent vehicle so we finally get one and we would like keep it nice.

D Public Interest

If you will please let this carport remain it will not adversely affect the public's health, safety, morals, order, convenience, prosperity or general welfare.

E Spirit & Intent of the Zoning Regulation

Granting of the variance desired will

not be opposed to the general spirit and intent of the Zoning Regulations. The Carport will not be in the way of utilities or interfere with traffic or street maintenance.

Sincerely

James L. Mulkey

This is a list of property owners abutting the subject property that were sent notification of the Public Hearing.

#01-16							
Property Address	Parcel	First Name	Last Name	Address	City	State	Zip
208 E 17th St	026-138-33-0-40-22-004.00-0	Gerald D Jr & Sheila	Bethel	208 E 17th St	Hays	KS	67601
209 E 16th St	026-138-33-0-40-22-010.00-0	Susan and Robert E	Bruns	21025 Walker Lane	Spring Hill	KS	66083
209 E 17th St	026-138-33-0-40-15-014.00-0	Sidney L	Toll	209 E 17th St	Hays	KS	67601
210 E 17th St	026-138-33-0-40--22-003.00-0	James Leroy & Shawn Lynrae	Mulkey	210 E 17th St	Hays	KS	67601
211 E 17th St	026-138-33-0-40-15-015.00-0	Curtis L & Amy L	Staab	3408 Summer Lane	Hays	KS	67601
213 E 16th St	026-138-33-0-40-22-011.00-0	Douglas F	Werth	213 E 16th St	Hays	KS	67601
213 E 17th St	026-138-33-0-40-15-016.00-0	Norma J Younger Revocable Living Trust		1422 3rd St	Hays	KS	67601
214 E 17th St	026-138-33-0-40-22-002.00-0	Newell Family Trust		214 E 17th St	Hays	KS	67601

(Published in The Hays Daily News, January 18, 2016)

BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE

TO: James and Shawn Mulkey
 The Hays Area Planning Commission
 The City of Hays, Kansas, and all other persons concerned

You are hereby notified that pursuant to the provisions of K.S.A. 12-716 through K.S.A. 12-724 et seq. as amended, and Ordinance 3721 of the Code of Ordinances of the City of Hays, and Resolution 2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by James and Shawn Mulkey.

The subject of the hearing shall be a request by James and Shawn Mulkey for a variance as may be deemed by the Hays Area Board of Zoning Appeals of said City, from existing legal requirements for a two foot (2') variance to reduce the east side yard building setback from the required seven feet (7') to five feet (5') and a request for a four foot variance (4') to reduce the distance between the structures from the required five feet (5') to one foot (1') to construct a 15 foot by 20 foot carport at 210 E 17th Street, Hays, KS in Ellis County, Kansas.

You are hereby notified that a hearing will be had upon said appeal on the 10th day of February 2016 at 8:15 a.m., in the City Commission Chambers of City Hall, in the City of Hays, Kansas, at which time said appeal will be determined.

Lou Caplan, Chairman
 Hays Area Board of Zoning Appeals

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Board of Zoning Appeals Action Report

AGENDA ITEM: Setback Variance Application #02-16
 ADDRESS: 1310 W 44th
 OWNER: Brent and Jill Goertzen
 TYPE OF REVIEW: Variance
 PRESENTED BY: Jesse Rohr, P.I.E. Superintendent
 DATE PREPARED: February 2, 2016
 MEETING DATE: February 10, 2016

SUMMARY AND RECOMMENDED ACTION:

The applicant is requesting a variance to reduce the side yard setback from 7 ½ feet to 5 feet', a variance of 2 ½ feet to allow the construction of a detached 20' x 24' shed on the property located at 1310 W 44th (see further details below and attached site drawing). Based on the analysis contained within this memo, staff recommends approval of the variance request as submitted.

BACKGROUND:

- The applicant is requesting a variance on 1 side:
 - East Side – 7 1/2' to 5'
- Applicant wishes to construct a detached shed on the property
- A similar variance (5' setback) was issued in 2015 for the neighboring property at 1308 W 44th, setting precedence for this neighborhood.

	Setback Required	Applicant Proposed
Front Yard	N/A	N/A
Side Yard	7 ½'	5'
Rear Yard	5'	5'
Other Structures	5'	>5'

STANDARDS OF EVALUATION:

Per State Statute 12-759 and City Ordinance Sec. 71-1250

- The BZA has the authority to grant a variance if a literal enforcement of the provisions of the adopted regulations, will, in an individual case, result in unnecessary hardship, provided:
 - The spirit of the regulations shall be observed
 - Public safety and welfare secured
 - Substantial justice shall be done
- The applicant must show that the property was acquired in good faith and that the variance is needed due to extraordinary or exceptional circumstances of the property such as exceptional narrowness, shallowness, or shape of the lot
- Before granting a variance on the basis of unusual difficulty or unreasonable hardship, there must be finding by the Board that all of the following conditions exist:
 - a. Uniqueness of the property not ordinarily found in the same zone or district and not created by willful action of the owner

Staff Analysis: *It is not immediately clear what is unique about this property. This lot is very typical of others in the area regarding lot size. The applicant states that the layout of the house, including exterior door and window locations has been a determining factor in placement of the proposed shed.*

- b. The granting of the variance will not adversely affect the rights of adjacent property owners

Staff Analysis: *It does not seem that the 2 ½ foot variance being requested would adversely affect nearby property owners.*

- c. The strict application of the code will constitute unnecessary hardship upon the property owner

Staff Analysis: *Again, this is a lot that is very consistent with others in the neighborhood. A smaller shed could be considered that would be able to meet the setbacks and not require a variance while still maintaining the yard space the applicant desires. However, the variance being requested is minimal in the grand scheme of things.*

- d. The variance will not adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare

Staff Analysis: *It is unlikely that the variance would adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare.*

- e. The granting of the variance desired will not be opposed to the general spirit and intent of the regulations

Staff Analysis: *The granting of a variance for the proposed shed, with approval of a variance as submitted, would not likely be opposed to the general spirit and intent of the zoning regulations.*

RECOMMENDED ACTION:

Staff recommends approving this variance as submitted.

OPTIONS:

- Approve the variance as requested
- Do not approve the variance

ATTACHMENTS:

- Variance application
- Variance justification and site drawing(s) from owner
- Images/Maps

Set the Public Hearing 1-13-16
mailings January 19, 2016

APPLICATION FOR VARIANCE

I. Name of Applicant Brent + Jill Goertzen Phone 628-3656
 Mailing Address 1310 W 44th
 Name of Owner (if different from applicant) - Phone _____
 Mailing Address _____
 Name of Authorized Agent - Phone _____
 Mailing Address _____
 Relationship of applicant to property is that of Owner
(Owner, tenant, lessee, other)

II. The variance is requested a 2 1/2' variance to reduce the east side yard building setback from 7 1/2' to 5' to construct a 20'x24' shed
 on property located at 1310 W 44th and legally described as: Lot 3 block 2 41st St Plaza 4th Edition
 in the City of Hays and which is presently zoned R-2

Give metes and bounds description below or on attached sheet: (required only if property is not part of a legally recorded plat)

- III. The applicant and owner herein, or authorized agent and owner:
- A. Acknowledges receipt of an instruction sheet concerning the filing and hearing of this variance request.
 - B. Acknowledges the fee requirements established; and that the appropriate fee is herewith tendered.
 - C. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
 - D. Acknowledges right to appeal the decision of the board to the District Court.

Brent + Jill Goertzen
APPLICANT

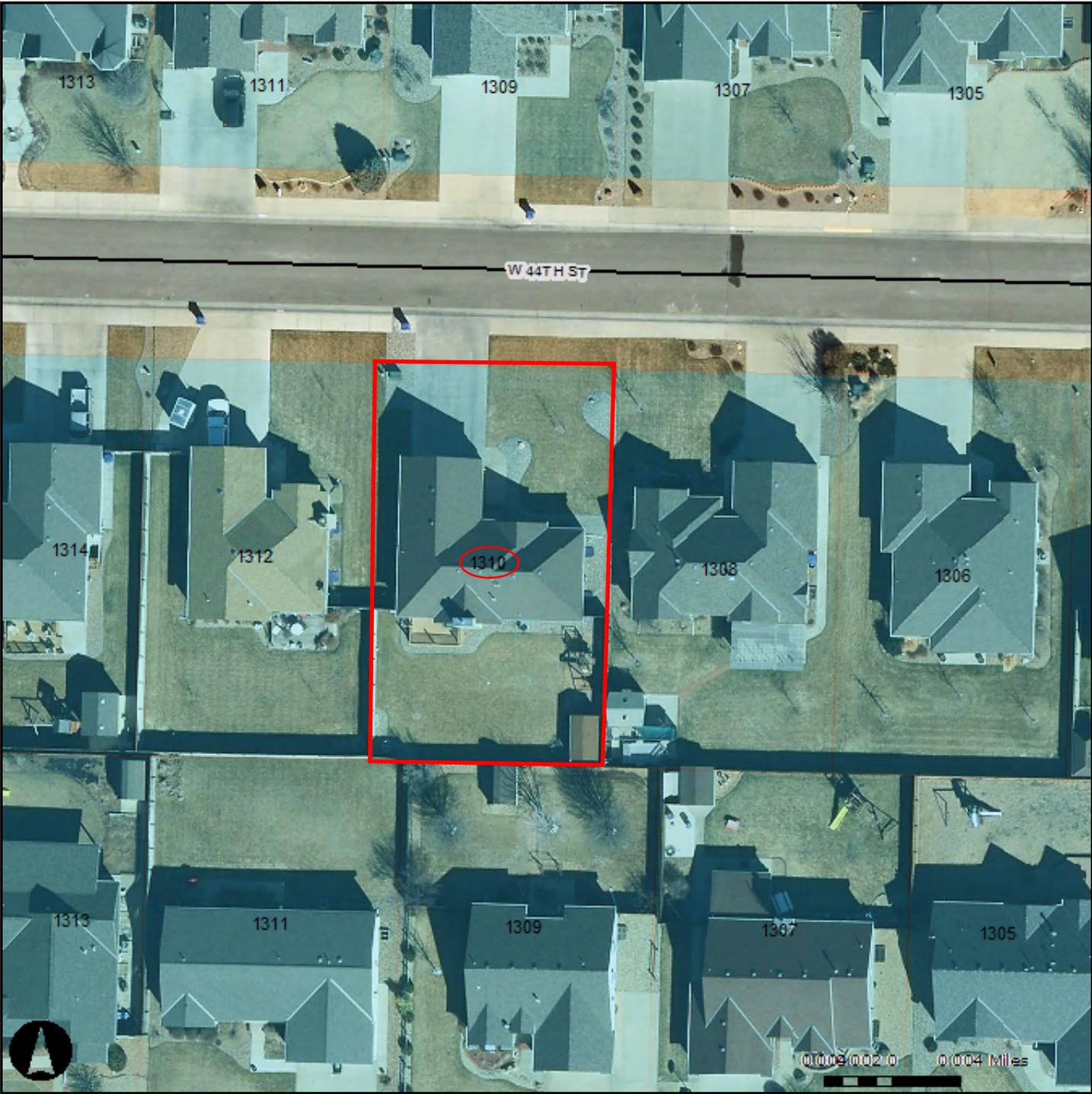
AUTHORIZED AGENT (IF ANY)

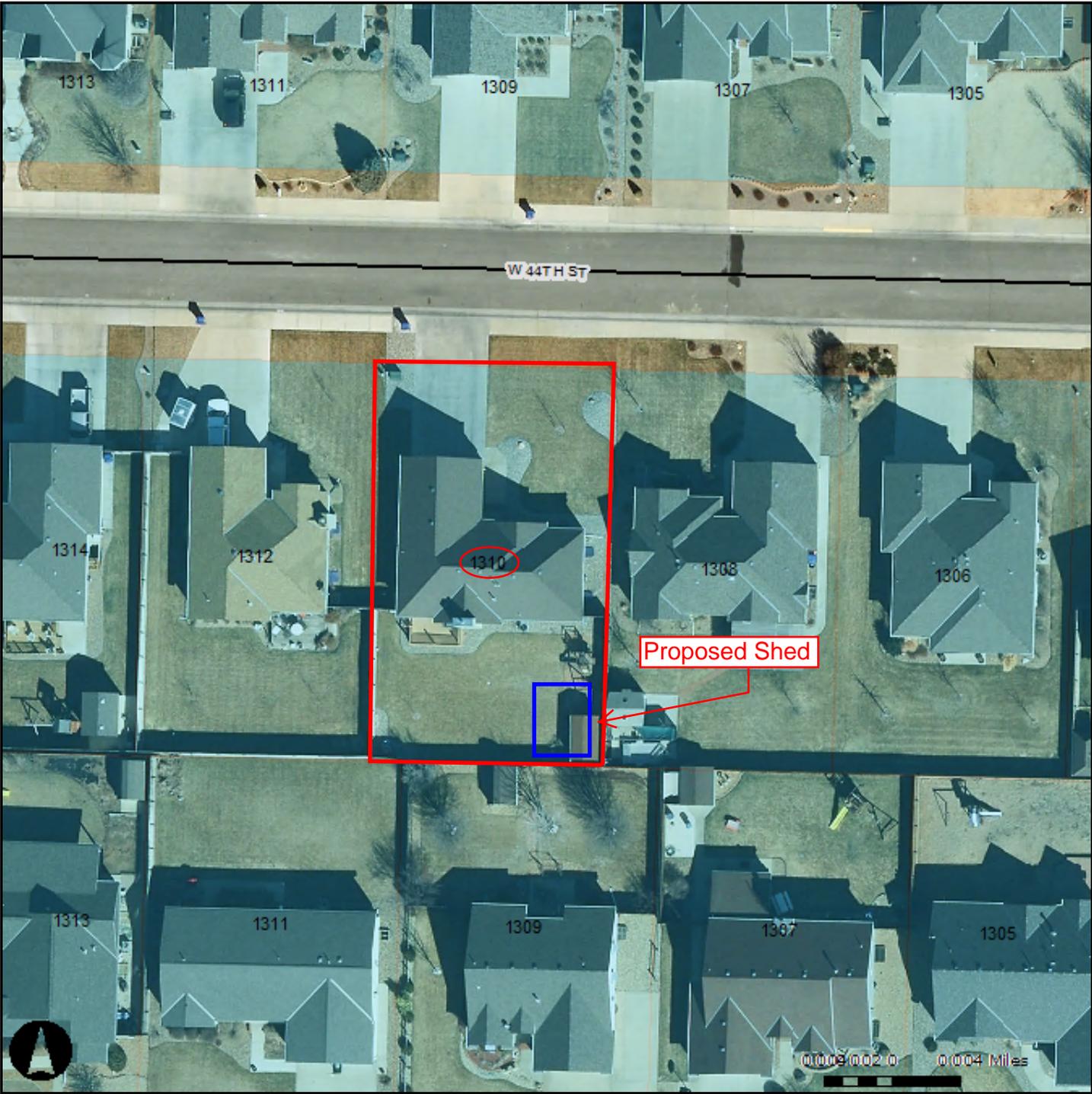
Brent + Jill Goertzen
OWNER

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, ENFORCEMENT DIVISION ON December 23, 2015
TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00

Sinda Bixman, Administrative Assistant
NAME AND TITLE





1313

1311

1309

1307

1305

W 44TH ST

1314

1312

1310

1308

1306

Proposed Shed

1313

1311

1309

1307

1305

0.000 0.002 0

0.004 Miles

Date: December 23, 2015

To: Hays Area Board of Zoning

From: Brent and Jill Goertzen *BJG JKG*

RE: Application for Variance

We hereby request a setback from the property line to allow for an Accessory Structure to be used as a workshop which will be 20'x24'.

Uniqueness:

Due to the layout of our house, our master bedroom and bathroom are located in the southeast corner of the house (facing south). There are very few windows on that portion of our house and therefore will not have a negative impact on the aesthetic view from the house. However, since the family room, dining room and patio door is located at the southwest corner (all facing south) of the house, constructing the shed in a location other than proposed will have a negative impact on the aesthetic view from the house. Moreover, we would lose much more of the grass and functional space of the backyard should the structure be built other than the proposed location.

Adjacent Property:

The setback will affect only one neighbor (Robert Wickham, 1308 West 44th Street) to the east of our property. He has no problem with the shed in the proposed location. In fact he recently constructed a storage shed on his property and received a variance for his building that required a 5' setback, which is the same total setback of our request.

Hardship:

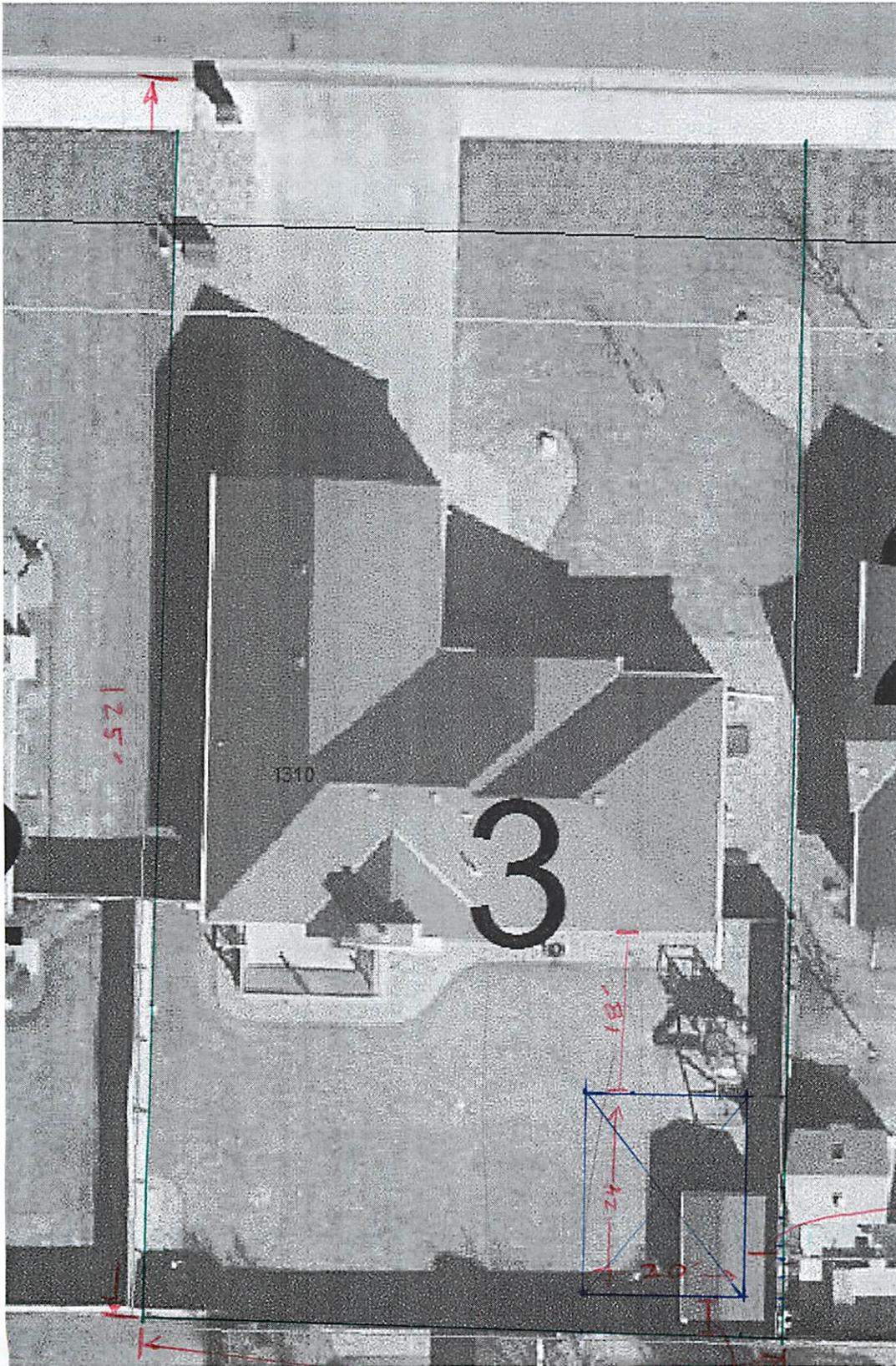
Placing the building on the lot per the current required zoning regulations would place the building in the middle of the backyard. The building would then impact the aesthetics from the living room, dining room and patio on the southwest portion of the house and substantially cut down on the functional greenspace.

Public Interest:

Our goal in requesting this variance is to allow the construction of an Accessory Structure serving as a personal workshop, in a location that our neighbors also agree on, and still maintain the visual appeal and functionality of the backyard space. It will also improve the neighborhood and the fair market value of the real estate with the new workshop. Moreover, our request is consistent with precedent set by the setback approved by Zoning Appeals for the adjacent property.

Spirit and Intent of the Zoning Regulations:

Granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations. The workshop will not be in the way of utilities nor interfere with traffic. Moreover, it is our understanding the setback requested through this Variance Application could be similar to the proposed Zoning Regulations currently under review by the Planning Commission.



125'

1310

3

18'

24'

20'

73'

5'

- Property Line
- Propose Structure

5'

1309 W 44th St

Hays, Kansas



Street View - Apr 2013



This is a list of property owners abutting the subject property that were sent notification of the Public Hearing.

#02-16							
Property Address	Parcel	First Name	Last Name	Address	City	State	Zip
1307 W 43rd St	026-134-20-0-00-03-054.00-0	Casey & Jordan	Patterson	1307 W 43rd St	Hays	KS	67601
1307 W 44th St	026-134-20-0-00-03-069.00-0	Kathleen M	Brenner	1307 W 44th St	Hays	KS	67601
1308 W 44th St	026-134-20-0-00-03-061.00-0	Robert J & Linda S	Wickham	1308 W 44th St	Hays	KS	67601
1309 W 43rd St	026-134-20-0-00-03-055.00-0	Betty	Mills	1309 W 43rd St	Hays	KS	67601
1309 W 44th St	026-134-20-0-00-03-070.00-0	Stephen F & Chada	Schleicher	1309 W 44th St	Hays	KS	67601
1310 W 44th St	026-134-20-0-00-03-060.00-0	Brent J & Jill K	Goertzen	1310 W 44th St	Hays	KS	67601
1311 W 43rd St	026-134-20-0-00-03-056.00-0	James L & Teresa K	Feyerherm	1311 W 43rd St	Hays	KS	67601
1311 W 44th St	026-134-20-0-00-03-071.00-0	David J & Joanne B	Steeple	1311 W 44th St	Hays	KS	67601
1312 W 44th St	026-134-20-0-00-03-059.00-0	Charles & Janet	Ihloff	1312 W 44th St	Hays	KS	67601

(Published in The Hays Daily News, January 18, 2016)

BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE

TO: Brent & Jill Goertzen
 The Hays Area Planning Commission
 The City of Hays, Kansas, and all other persons concerned

You are hereby notified that pursuant to the provisions of K.S.A. 12-716 through K.S.A. 12-724 et seq. as amended, and Ordinance 3721 of the Code of Ordinances of the City of Hays, and Resolution

2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by Brent & Jill Goertzen.

The subject of the hearing shall be a request by Brent & Jill Goertzen for a variance as may be deemed by the Hays Area Board of Zoning Appeals of said City, from existing legal requirements for a two and one-half foot (2 1/2') variance to reduce the east side yard building setback from the required seven and one-half feet (7 1/2') to five feet (5') to construct a 20 foot by 24 foot shed at 1310 W 44th Street, Hays, Kansas in Ellis County, Kansas

You are hereby notified that a hearing will be had upon said appeal on the 10th day of February 2016 at 8:15 a.m., in the City Commission Chambers of City Hall, in the City of Hays, Kansas, at which time said appeal will be determined.

Lou Caplan, Chairman
 Hays Area Board of Zoning Appeals