BOARD OF ZONING APPEALS AGENDA

CITY HALL COUNCIL CHAMBERS

TUESDAY, SEPTEMBER 18, 2018

MEETING BEGINS @ 6:00 P.M.

BOARD OF ZONING APPEALS MEMBERS:

PLEASE CONTACT DON @ 667-1708

NO LATER THAN 12:00 NOON, TUESDAY, SEPTEMBER 18, 2018,

IF YOU WILL BE UNABLE TO ATTEND

PREPARED BY:

DON E. SLONE, AICP, CFM
CITY PLANNER — FLOODPLAIN MANAGER
CRS COORDINATOR

PEOPLE  PLANNING  PROGRESS
Call to Order: Time: ________

Roll Call:
_____ Jason Krone _____ Sherri Neff _____ Lloyd Mesmer (Chairman)
_____ Merle Parks _____ Craig Stephan (Vice-Chairman)

New Business:

ITEM NO. 1: Approval of Minutes: The Board of Zoning Appeals meeting held August 21, 2018.

Motion: ___________________ Second: ___________________

1. Board Discussion
   # For: _________ # Against: _________

ITEM NO. 2: Variance: BZA-115: “502 Lake Forest Drive”, requested by Bill Giles for RoxAnn Banks Dicker, property owner of record is requesting the following variances:

1. Article VIII, “R-1”, Single-Family Residential District, Section 4, Height Regulations from the maximum structure height of two and one-half stories, or thirty-five (35) feet to thirty-seven (37) feet;
2. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (1) Front Yard Setback within the required twenty-five (25) feet to the current four and one-half (4½) feet; and
3. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (3) Rear Yard Setback within the required twenty-five (25) feet to seventeen (17) feet.

These requests are to allow the property to be a “legal conforming structure”. The property is located at 502 Lake Forest Drive.

Open Public Hearing Time: ___________

1. Staff Presentation
2. Applicant Presentation
3. Public Comment

Close Public Hearing Time: __________

Motion: ___________________ Second: ___________________

4. Board Discussion / Vote

_____ Jason Krone _____ Sherri Neff _____ Lloyd Mesmer
_____ Merle Parks _____ Craig Stephan

Approved: _____ Denied: _____

Adjournment: _______________
ITEM NO. 1

BOARD OF ZONING APPEALS AGENDA
Tuesday, September 18, 2018 – 6:00 p.m.

Approval of Minutes: The Board of Zoning Appeals meeting held August 21, 2018.

PRESENT
Jason Krone
Sherri Neff
Lloyd Mesmer

& VOTE:
Merle Parks
Craig Stephan

MOTION: __________________________
SECOND: _______________________

ACTION: Make a motion to approve.

STAFF RECOMMENDATION: The City Planner recommends approval of the Board of Zoning Appeals meeting Minutes.

NARRATIVE: The minutes of the August 21, 2108 meeting are attached.
BOARD OF ZONING APPEALS MINUTES
Tuesday, August 21, 2018 @ 6:00 p.m.

Members Present: Jason Krone, Merle Parks, Lloyd Mesmer, and Craig Stephan

Staff Present: Don E. Slone, AICP, CFM, City Planner

Vice-Chairman Stephan called the meeting to order at 6:06 p.m. and called roll. Roll call listed above. Lloyd Mesmer came to the meeting late at 6:11 p.m.

Vice-Chairman Stephan introduced Item No. 1: Variance: BZA-114: “134th St. Communication Towers”, a request by Raymond Everett for The Everett Family Trust, property owners of record for the following variance:

Article VI, “A-1”, Agricultural District, Section 3, Intensity of Use Regulations, Paragraph 1, Minimum Lot Area.

This request is for a variance to the required (3) three-acre minimum lot area in order to convey the two (2) existing communication towers as additional public services are not required. The property is located at 80 S. 134th Street.

Vice-Chairman Stephan opened the public hearing at 6:07 p.m. and asked for Staff presentation. The City Planner presented the Staff Report with a recommendation to approve the Variance subject to the listed condition including the background on the case.

Vice-Chairman Stephan asked if the applicant would like to make a statement. Raymond Everett stated they are just trying to clear up some of the issues with the Family Trust with this variance as the communication tower companies want to purchase the property.

Vice-Chairman Stephan closed the public hearing at 6:10 p.m. and asked for a motion. Jason Krone made a motion to approve the variance with the listed condition with a second from Merle Parks.

Merle Parks asked if they create this tract what access will they have to 134th Street. The City Planner stated the rectangular piece of property has been acquired by KDOT and that will give access to 134th Street. This is all right-of-way.

Craig Stephan asked how far north will this10 ft. easement go and the City Planner stated the 10 ft. goes around outside the existing fence for maintenance purposes.

Merle Parks stated access to the north is the existing driveway. It splits at the house a goes straight west and then the road turns left.

Craig Stephan asked if the house was staying and the City Planner stated the house stays and that KDOT has all the property they need. The access point on 134th Street will come from the driveway. The driveway is public access.

Merle Parks stated by splitting this variance will not clear up the “First Right of Refusal”. This action has nothing to do with the legal action.

Vice-Chairman Stephan asked for the vote. Motion was approved 5-0.

Vice-Chairman Stephan asked if the Board had any additional business, seeing none, he adjourned the meeting at 6:20 p.m.

Don E. Slone, AICP, CFM, Secretary
ITEM NO. 2

BOARD OF ZONING APPEALS AGENDA
Tuesday, September 18, 2018 – 6:00 p.m.

Variance: BZA-115: “502 Lake Forest Drive”, requested by Bill Giles for RoxAnn Banks Dicker, property owner of record is requesting the following variances/appeal:

1. Article VIII, “R-1”, Single-Family Residential District, Section 4, Height Regulations from the maximum structure height of two and one-half stories, or thirty-five (35) feet to thirty-seven (37) feet;
2. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (1) Front Yard Setback within the required twenty-five (25) feet to the current four and one-half (4 ½) feet; and
3. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (3) Rear Yard Setback within the required twenty-five (25) feet to seventeen (17) feet.

These requests are to allow the property to be a “legal conforming structure”. The property is located at 502 Lake Forest Drive.

PRESENT

Jason Krone  
Sherri Neff  
Lloyd Mesmer

& VOTE:

Merle Parks  
Craig Stephan

MOTION: ______________________

SECOND: _____________________

ACTION: Make a motion to approve.

STAFF RECOMMENDATION: The City Planner supports the requested variance based upon the Board findings and subject to the condition listed in the Staff Report.

NARRATIVE: A Staff Report is included in the agenda. Staff will be present to answer any questions.
VARIANCE: 502 Lake Forest Drive
Case No.: BZA-115
Applicant: Bill Giles
Property Owners: Bill Giles and RoxAnn Banks Dicker
Location: 502 Lake Forest Drive (Unplatted Common Ground)
Zoning: R-1, Single-Family Residential District
Lot Size: 0.26 acres
Building Use: Carport, Garage and Deck Replacement

Staff Recommendation:
The City Planner supports the request to grant the following (3) variances based upon the submitted “Factors for Consideration” and Supporting Documentation:

1. Article VIII, “R-1”, Single-Family Residential District, Section 4, Height Regulations from the maximum structure height of two and one-half stories, or thirty-five (35) feet to thirty-seven (37) feet;
2. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (1) Front Yard Setback within the required twenty-five (25) feet to the current four and one-half (4 1/2) feet; and
3. Article VIII, “R-1”, Single-Family Residential District, Section 5, Yard Regulations, Paragraph (3) Rear Yard Setback within the required twenty-five (25) feet to seventeen (17) feet.

This support is subject to the following (1) condition:
1. The applicants file the “Variance Approval Letter” provided, and provide a “filed copy” to the City Planner to close the file.

Exhibits:
Applicant’s Fact Sheet addressing the “Conditions for Consideration”; WYCO Parcel Data Sheet; Article VIII, “R-1”, Single-Family Residential District zoning; Certificate of Survey; Existing and Proposed Site Plans; Building Elevations; Approval Letter Lake of the Forest Inc.; and Proof of Publication.

A request for a variance may be granted, upon a finding by the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.

1. **Condition Unique to the Property** – 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 applicant;
2. **No Adverse Affects** – The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. **Unnecessary Hardship** – The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. **Public Health, Safety and Welfare** – The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. **Ordinance Intent** – The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
FACT SHEET

1. Condition Unique to the Property –
   a. Lots at Lake of the Forest are unique in size and shape due to history and topography; variance is the norm. Pre-existing decay and foundation issues are present and proposed changes in this building plan address both issues to stabilize the property. The increase in livable square footage helps offset this significant cost. Private parking difficulties due to narrow roadways, without shoulders, is a common problem at Lake of the Forest and this construction will add a garage parking space to alleviate on-street congestion.

2. No Adverse Effects –
   a. All the adjacent property, surrounding this subject property, is “common” Lake Forest property with private streets on the easterly and westerly sides, a creek to the north, and woods to the south.
   b. There is no adverse effect nor change in use of this surrounding property as a result of the proposed addition.
   c. The Board of Directors of Lake of the Forest and surrounding property owners have reviewed and approved this proposed work, including placement on the lot and height of the construction.

3. Unnecessary Hardship –
   a. Location of the proposed addition is within the narrowing portion of this trapezoidal property, without impact on others.
   b. The existing carport provides benefit as a car cover as well as an protected outdoor space. Loss of this would be significant, however continuing existence would be in line with conditions existing for many years.
   c. The cost and visual appearance of extending the existing masonry chimney an additional ten plus feet vertically into the air would be detrimental, particularly when no risk is present due to current use.

   a. The requests for acceptance, for each of the three issues described above, will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

5. Ordinance Intent –
   a. Open space continues to be provided around the subject house and the proposed addition.
   b. Separation of the existing house, with proposed addition, remains significantly greater than the minimum that is allowed with two houses immediately adjacent to each other with minimum required side yard setback.
   c. Mass of the existing building with the proposed addition is still less than that which could be constructed within the maximum limits building area and volume.
THREE ISSUES FOR REQUESTED CONSIDERATION

1. **Planning: Location of proposed addition on the property and reconstruction of existing carport** – Request review and action to confirm acceptance of location of proposed improvements within the property boundary.
   a. The location of this proposed garage replacement and addition is within the narrowing portion of the northerly end of the trapezoidal shaped property which results in penetration into the property. This addition placement has no impact on surrounding homes and is approved by the Lake Forest Board of Directors.
   b. The work of this proposed addition also includes the removal of a substantial portion of the existing carport and then reconstruction of the existing carport on the easterly side of the house (which is nearly in its entirety located with the building setback on this side of the house).
   c. Except for the three existing support columns on its southerly side, the removal of the existing carport will better accommodate demolition of the existing garage and foundation as well as construction of the new addition and its foundation, and then it will be reconstructed with new carport structure using roof trusses.

2. **Planning: Height/Number of stories** – Request review and action to confirm acceptance of height/number of stories of the existing house plus the proposed addition.
   a. The existing house is one story above grade on the addressed side of the house.
   b. The significant slope exposes a Lower Level walk-out basement on the westerly side of the existing house, which is less than 50% of the size of the first floor.
   c. With the proposed addition, there will then be two levels above adjacent grade on the easterly side of the house and three levels above grade only on the westerly side of the house due to the significant slope on this westerly side.

3. **Building: Distance from chimney to proposed addition** – Request review and action to confirm acceptance of proximity of the proposed addition with reference to the existing chimney.
   a. The existing chimney has three flues – one flue ("A") for a natural gas water heater and two flues ("B" & "C") one for each of the existing fireplaces – which will be within ten horizontal feet of the proposed addition which will not be at least two feet lower than the top of this existing chimney.
   b. The existing two fireplace flues within the existing masonry chimney no longer carry combustion gases nor combustible by-products. The existing Lower Level firebox (flue "C") has an electric fireplace insert and the existing Main Level firebox (flue "B") has an enclosed natural gas fireplace insert.
   c. The southerly most existing flue ("A"), for the natural gas fired water heater, is the flue farthest in distance from the proposed addition, but still just slightly less ten horizontal feet.
   d. The center existing flue ("B"), serving the Main Level fireplace, now contains a nominal three-inch diameter pipe for exhaust from the natural gas fired fireplace insert.
   e. The northerly most existing flue ("C"), serving the Lower Level fireplace, now carries no exhaust from the electrical fireplace insert.
PARCEL INFORMATION
Parcel: 201335 [See Parcel Map]
KUPN: 048270101100100001
Status: 
Tax Unit: 110
Volume: 20
TD: 5
Book: 8A
Reference: 1311-0002
Map: 464
Map Section: D27

PROPERTY DESCRIPTION
Property Address: 502 LAKE FOREST DR BONNER SPRINGS KS 66012
Subdivision: LAKE FOREST CLUB RES
Assessed With Parcel:
Assessed Here Parcel:
Sec-Twp-Range:
Description:
Book Page: 00-00-00
2014R-15315

Frontage: 0.00 Left: 0.00 Right: 0.00 Rear: 0.00
Deeded Acres: Mapped Acres: 0.259 Mapped SQFT: 11280.859

NAME & ADDRESS
Owner Name: DICKER, ROX ANN BANKS
Mailing Address: 8 HILLCREST AVE EASTBOROUGH KS 67208
Leader:

APRAISAL SUMMARY
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DISCLAIMER - VALUES AND/OR INFORMATION IS SUBJECT TO CHANGE.
ARTICLE VIII

"R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION 1. PURPOSE: The purpose of this district is to provide for single-family residential development at a higher density than the "R-S" District, including those uses which support and encourage residential neighborhoods.

SECTION 2. PERMITTED USES: Single-family residences, including residential design manufactured homes and group homes as defined in these regulations, and related public and semi public uses are permitted. For a specific listing of permitted uses and uses permitted by special use permit, see Appendices A and B of these regulations. (Revised, Ordinance No. 1630)

SECTION 3. INTENSITY OF USE REGULATIONS:
1. Minimum lot area: Seven thousand (7,000) square feet
2. Minimum lot width: Sixty (60) feet

SECTION 4. HEIGHT REGULATIONS: Maximum structure height Two and one-half (2-1/2) stories, or thirty-five (35) feet.

SECTION 5. YARD REGULATIONS: Except as modified by the provisions of Article XXII, minimum yard sizes shall be as follows:
1. Front Yard: Twenty-five (25) feet.
2. Side Yard: Seven and one-half (7-1/2) feet, except where utility easements are required, then the minimum side yard must be ten (10) feet.
3. Rear Yard: Twenty-five (25) feet. The Planning Staff as designated by the City Manager shall average irregular yard dimensions to establish setback requirements. Should the average dimension meet the requirement of the zoning district, a building permit shall be issued if requested. Should the average dimension not meet the requirements of the zoning district, the application for a building permit shall be denied. (Revised Ordinance No. 1648)

4. Encroachments: Under no circumstances will structures encroach into easements, required yards or rights-of-way. Encroachments shall not include chimneys, balconies, roof overhangs, etc., two feet above grade and not extending more than three (3) feet into the setback. Structural retaining walls that are not part of a larger structure also shall not be considered as encroachments. (Revised, Ordinance No. 1884, 12/20/99)

SECTION 6. MANUFACTURED HOME: All manufactured homes residential design shall meet all of the aesthetic requirements listed under Article XXII: Supplementary District Regulations, Section 10: Manufactured Home. (Revised Ordinance No. 2126)

SECTION 7. RESIDENTIAL STRUCTURE ORIENTATION:
1. The main entrance of any residential structure shall be oriented parallel to the street right-of-way line; and
2. On corner lots, the entrance of any residential structure shall be oriented parallel with, or at an angle not to exceed 45 degrees between the street right-of-way lines.
CERTIFICATE OF SURVEY

PREPARED FOR: ROXANN BANKS DICKER
562 LAKE FOREST DRIVE
CITY OF BONNER SPRINGS
COUNTY OF WYANDOTTE
STATE OF KANSAS
DATE: MARCH 9, 2016

PM: 201335

DEED DESCRIPTION: DOC. #2014R-15315
BEGINNING AT A POINT 503 FEET NORTHWEST OF THE MOST NORTHERLY POINT OF LOT 136 IN
RESURVEY OF PART OF THE LAKE OF THE FOREST CLUB, A SUBDIVISION OF LAND IN WYANDOTTE
COUNTY, KANSAS, SAID POINT BEING 21 FEET SOUTHEAST OF THE CENTERLINE OF MAIDEN LANE ROAD,
MEASURED AT RIGHT ANGLES; THENCE IN A NORTHEASTERLY DIRECTION 140 FEET; SAID POINT BEING
17 FEET SOUTHEAST OF THE CENTERLINE OF MAIDEN LANE ROAD, MEASURED AT RIGHT ANGLES;
THENCE IN A SOUTHEASTERLY DIRECTION 68 FEET AT A 90 DEGREE ANGLE FROM THE LAST
DESCRIBED COURSE; THENCE IN A SOUTHWESTERLY DIRECTION 115 FEET; THENCE IN A NORTHEASTERLY
DIRECTION 119 FEET TO THE POINT OF BEGINNING BEING IN THE NORTHEAST QUARTER OF SECTION
27, TOWNSHIP 11 SOUTH, RANGE 23 EAST, IN WYANDOTTE COUNTY, KANSAS.

NOTES:
1. THIS SURVEY DOES NOT SHOW OWNERSHIP OR EASEMENTS.
2. FENCE LINES DO NOT DENOTE PROPERTY LINES.
3. NO TITLE INFORMATION WAS PROVIDED ON THIS SURVEY.
4. ELEVATIONS ARE NAVD 92.

REFERENCES:
1. RESURVEY OF LAKE OF THE FOREST (1933)
2. DOC. #2014R-15315
3. DOC. #2015R-00317
4. DOC. #2015R-11039
5. DOC. #2014R-07385
6. DOC. #2015R-05561
7. DOC. #2015R-00513

(Legend)
1/2" x 34" REBAR SET WITH #1349 CAP
SURVEY MONUMENT FOUND (AS NOTED)
ORIGIN UNKNOWN

I HEREBY CERTIFY THIS DRAWING TO BE A TRUE REPRESENTATION
OF A SURVEY PERFORMED UNDER MY DIRECTION IN THE
MONTH OF FEBRUARY, 2016.
FIELD SURVEY COMPLETED FEBRUARY 18, 2016.

LARRY T. HANK, LS  #1349

NAHN SURVEYING
P.O. BOX 1040
LANCASTER, KANSAS 66046-1040
(785) 547-0440
nahsurvey.com

TRAVERSE SUMMARY:
CLOSED LOOP - 5 POINTS
HORIZONTAL DISTANCE: 443.00 FEET
AREA: 1166.51 SQ. FT, 1.02 ACRES

ERROR SUMMARY:
RELATIVE: 1:225517 (CLOSED LOOP) LINEAL: 0.000 FEET
NORTHING: 0.000 FEET EASTING: 0.000 FEET
LOCATION OF EXISTING CHIMNEY
June 1, 2018

RoxAnn Dicker
#502 Lake Forest
Bonner Springs, KS 66012

Dear Ms. Dicker:

Please be advised that the Lake of the Forest Board of Directors at its meeting on May 31st approved your remodeling plans for your #502 residence.

If I can assist you in any other manner, please advise.

Sincerely,

Fred Bosilevac
Lake of the Forest, Inc.
Business Manager
(913) 522-8390
NOTICE OF A PUBLIC HEARING
BOARD OF ZONING APPEALS
CITY OF BONNER SPRINGS, KANSAS

The Board of Zoning Appeals will hold a public hearing on Tuesday, September 18, 2013 at 6:00 pm at City Hall in the Council Chambers, 205 E. 2nd Street, Bonner Springs, Kansas. The purpose of the public hearing is to receive public comment for:

Variance: BZA-115: "502 Lake Forest Drive", requested by Bill Gilles for RoxAnn Banks Dicker, property owner of record is requesting the following variances/appeals:
1. Article VIII, "R-1", Single-Family Residential District, Section 4, Height Regulations from the maximum structure height of two and one-half stories, or thirty-five (35) feet to thirty-seven (37) feet;
2. Article VIII, "R-1", Single-Family Residential District, Section 5, Yard Regulations, Paragraph (1) Front Yard Setback within the required twenty-five (25) feet to the current four and one-half (4 1/2) feet; and
3. Article VIII, "R-1", Single-Family Residential District, Section 5, Yard Regulations Paragraph (3) Rear Yard Setback within the required twenty-five (25) feet to seventeen (17) feet.

These requests are to allow the property to be a "legal conforming structure". The property is located at 502 Lake Forest Drive.

The complete legal description and application for the above item is available for public inspection at the City Planner's Office, 205 E. 2nd Street, to Don E. Stone, AICP, CPM, City Planner at (913) 667-1708 or by email to dstone@bonnersprings.org.

Persons who wish to be heard will be given an opportunity to make comments at the public hearing.

/s/ Don E. Stone, AICP, CPM
Board of Zoning Appeals Secretary
(First published 8-23-18)
1st The Wyandotte Echo 8-23-18

PROOF OF PUBLICATION

State of Kansas, Wyandotte County, ss.
Roberta M. Peterson, of lawful age, being duly sworn, says that she is the PUBLISHER of The Wyandotte Echo, a weekly newspaper, owned and operated by M.R.P.P. Inc., printed and published in the city of Kansas City, Wyandotte County, State of Kansas, which said newspaper has a general circulation and has been admitted to the mails as second class matter in said county, and has been published therein during a period of more than five years prior to the first publication of the legal notice hereto annexed; that affiant, of her own knowledge, knows that the printed notice was published each and every issue of The Wyandotte Echo for _1_ consecutive week(s) as follows:

1st Publication was made on: August 23, 2018
2nd Publication was made on: ______________
3rd Publication was made on: ______________
4th Publication was made on: ______________

Printer Fees: $ 29.40

______________________________
Roberta M. Peterson, Publisher
The Wyandotte Echo
Official Newspaper for Wyandotte County, KS
PO Box 2305, 3006 Strong Avenue
Kansas City, KS 66110