

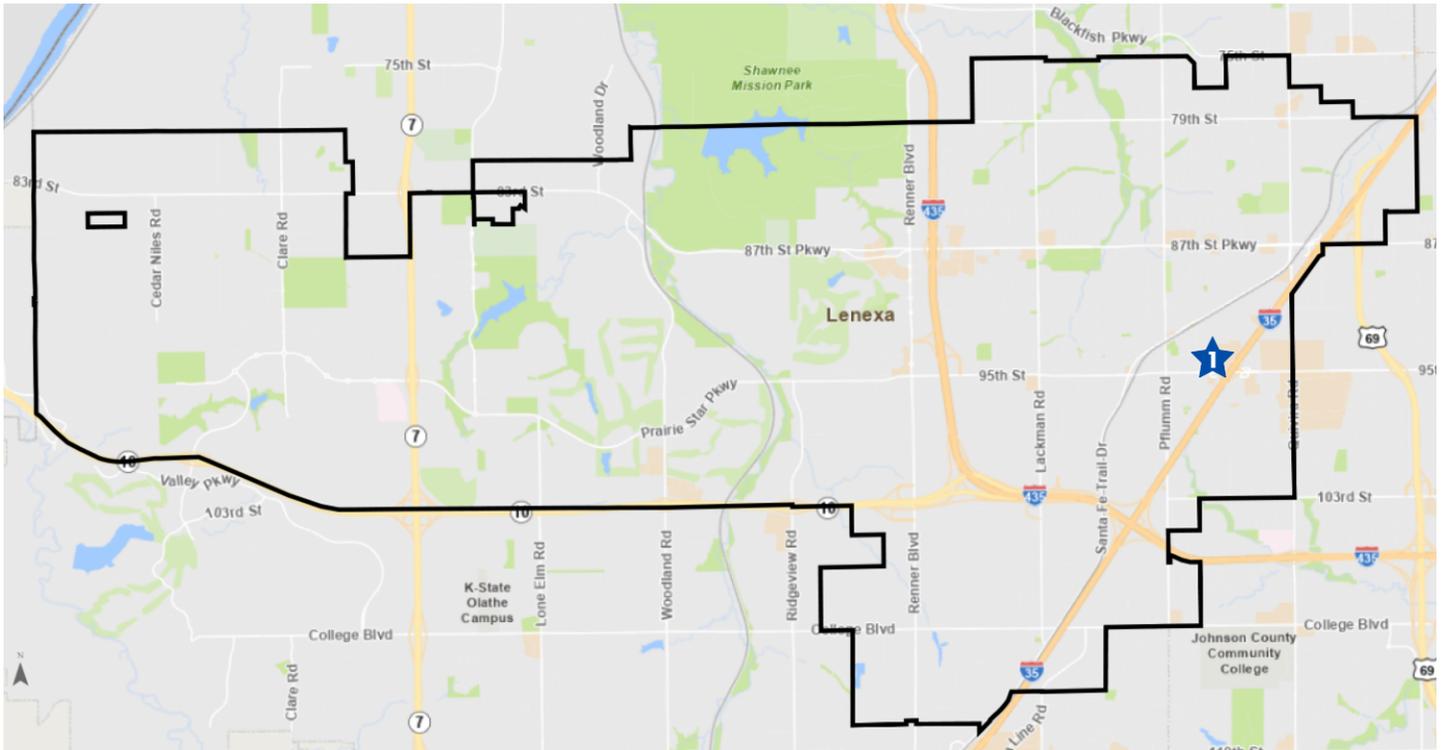
BOARD OF ZONING APPEALS AGENDA

OCTOBER 2, 2023 at 7:00 PM



Community Forum at City Hall
17101 W. 87th Street Parkway
Lenexa, KS 66219

AGENDA MAP



CALL TO ORDER

ROLL CALL

APPROVE MINUTES

REGULAR AGENDA

1. **Woods Shed - Consideration of variances from the rear yard and side yard setback requirements to allow an accessory structure to remain in it's current location on property located at 9420 Gillette Street within the R-1, Single-Family Residential District. BZ23-02**

ADJOURN

APPENDIX

2. Draft Meeting Minutes - May 1, 2023

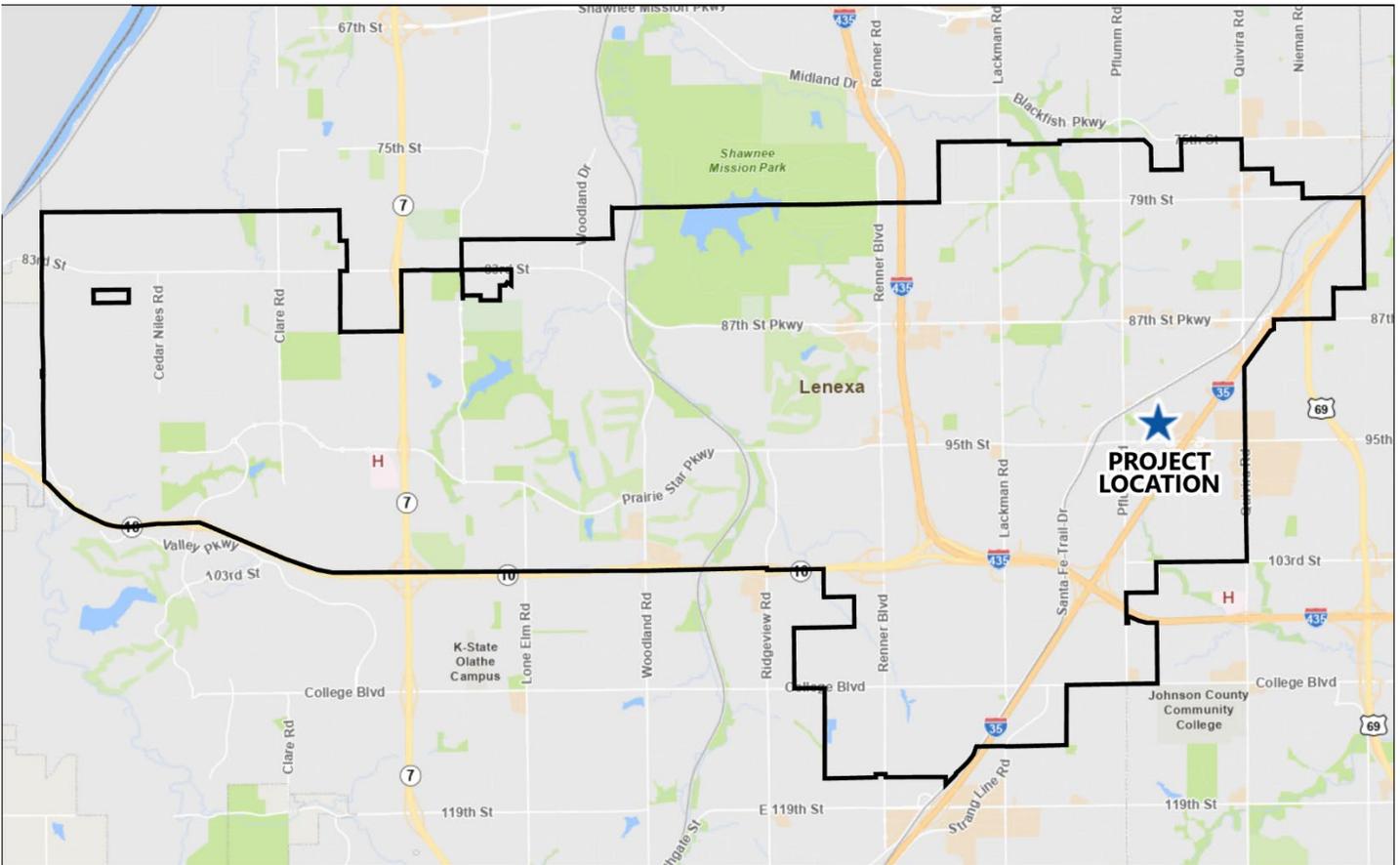
If you have any questions about this agenda, please contact Stephanie Kisler, Planning Manager, at skisler@lenexa.com.

*If you need any accommodations for the meeting, please contact the City ADA Coordinator at 913-477-7550 at least 48 hours prior to the meeting.
Kansas Relay Service: 800-766-3777*

Assistive Listening Devices are available for use in the Community Forum by request.

WOODS SHED SIDE & REAR YARD SETBACK VARIANCE

Project #:	BZ23-02	Location:	9420 Gillette Street
Applicant:	Michael Woods, Property Owner	Project Type:	Variance
Staff Planner:	Logan Strasburger	Proposed Use:	Single-family residential



PROJECT SUMMARY

The applicant requests a 2-foot variance from the 5-foot rear yard setback requirement and a 2-foot variance from the 5-foot side yard setback requirement to allow an existing 144 square foot shed to remain in its current location. The shed was constructed within the setback in 2016 and Staff discovered the nonconforming shed while reviewing a building permit request for another structure on the property in July 2023. The property is located at 9420 Gillette Street and is zoned R-1, Single-Family Residential District. A public hearing is required.

STAFF RECOMMENDATION: APPROVAL

SITE INFORMATION

The site is a single-family residence in the Mullen Park subdivision. The subdivision was platted in 1952 and the single-family residence was constructed in 1956. The subdivision is zoned R-1, Single-Family Residential.

LAND AREA (AC)	BUILDING AREA (SF)	CURRENT ZONING	COMP. PLAN
.20	864 (Primary Structure) 144 (Shed)	R-1	Suburban Residential



Exhibit 1: Aerial image of subject site. Accessory structure is highlighted by the dashed lines.

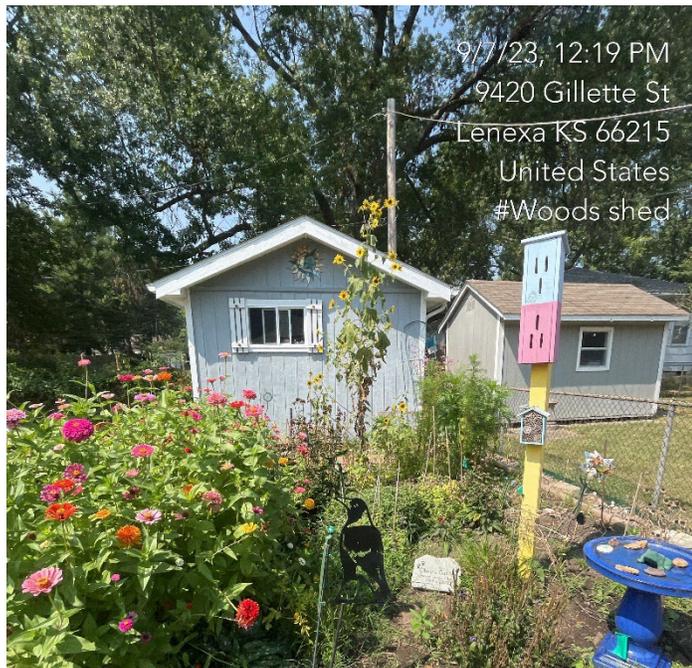


Exhibit 2: West-facing view of shed.



Exhibit 3: Northwest-facing view of shed.

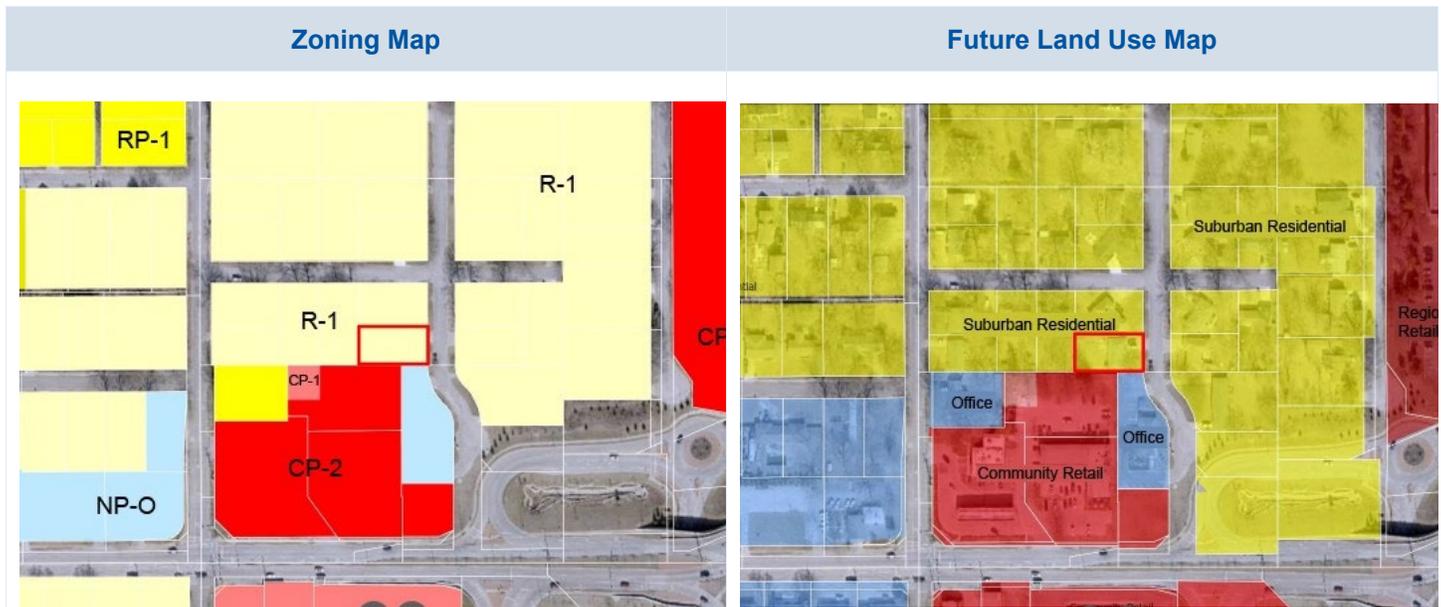


TABLE 1: COMPARISON OF SURROUNDING PROPERTIES

Vicinity	Land Use Designation	Zoning	Current Use
Subject Property	Suburban Residential	R-1, Residential Single-Family	Residential – Single-Family Detached
	North	Suburban Residential	Residential – Single-Family Detached
South	Office, Community Retail, Neighborhood Retail, Suburban Residential	CP-1, Planned Neighborhood Commercial District, Planned Community Commercial District, RP-1, Planned Residential Single-Family (Low-Density) District	Commercial – Restaurant, Service Station, Child Care Center; Residential – Single-Family Detached
East	Suburban Residential	R-1, Residential Single-Family	Residential – Single-Family Detached
West	Neighborhood Retail, Office, Suburban Residential	CP-1, Planned Neighborhood Commercial District, NP-O, Planned Neighborhood Office District, R-1, Residential Single-Family, RP-1, Planned Residential Single-Family (Low-Density) District	Commercial – Auto Body Repair, Office, Medical Clinic; Residential – Single-Family Detached

VARIANCE REVIEW

The applicant is requesting a variance from [Section 4-1-B-24-F-2-C-3-a](#) of the UDC to allow an existing 144 square foot, 10-foot tall shed to continue encroaching into the required rear and side yard setbacks by 2-feet. The required side yard setback in the R-1 Zoning District is 5-feet for any accessory structure that is equal to or less than 10-feet in height and is equal to or less than 200 square feet of ground floor area. The applicant proposes the shed remain 2-feet within the required rear and side yard setbacks from the property lines.

The shed's conformance with the Unified Development Code (UDC) came into question when the applicant applied for a separate building permit for a lean-to structure/ pergola over their existing concrete patio. Staff observed the existing shed on site via satellite imagery obtained through geographic information systems. Further investigation revealed the applicant did not apply for a building permit for the shed, as they were under the impression that anything under 150 square feet of gross floor area was not required to be permitted. The shed does not meet rear and side yard setback requirements for the R-1 Zoning District. The property is compliant with all other R-1 Zoning District regulations. There are similar, nonconforming accessory structures in the neighborhood such as the one on the neighboring property directly to the north.



Exhibit 4: North property line (Side Yard Setback) – 3' from property line.

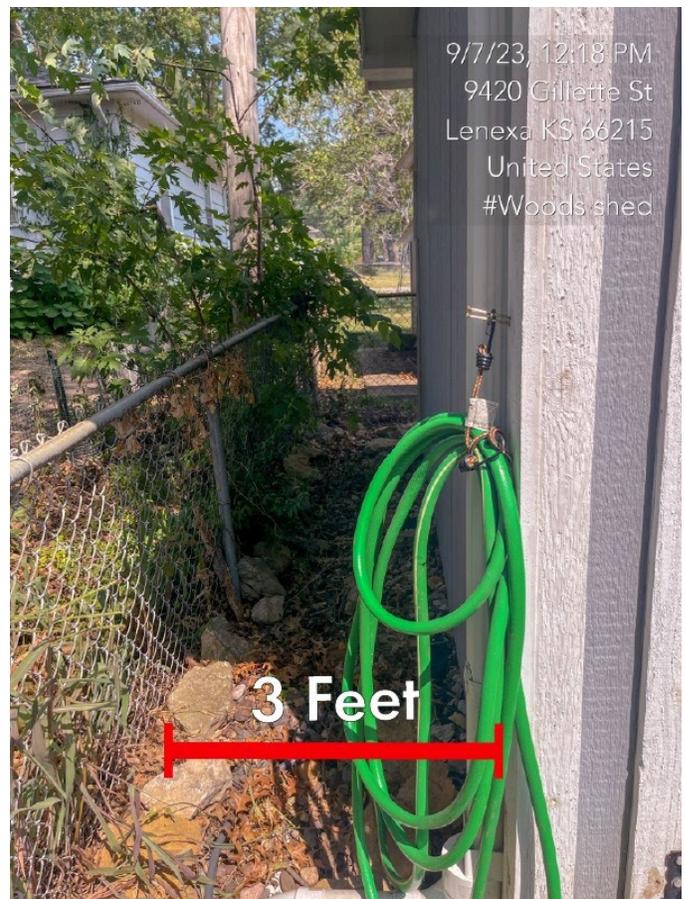


Exhibit 5: West property line (Rear Yard Setback) – 3' from property line.



© All EagleView Technology Corporation

Exhibit 6: Eastern view of Mullen Park Subdivision. Green outlines the subdivision. Yellow outlines the subject property at 9420 Gillette Street.



Exhibit 7: Southwest-facing view from Gillette Street.



Exhibit 8: South-facing view from 94th Place.



Exhibit 9: Aerial of neighborhood. The red rectangle outlines the subject property at 9420 Gillette Street.

VARIANCE CRITERIA

The Board of Zoning Appeals may approve a variance from any zoning requirements of the UDC, provided the variance is not contrary to the public interest and special conditions exist that cause enforcement of the code to result in an unnecessary hardship. Section 4-1-K-4 of the UDC lists six criteria that a variance application must meet. Criteria are provided as follows with a summary of staff’s analysis of each. The applicant’s responses to the criteria are attached in a separate document.

1. ***That the variance requested arises from 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 of the property owner or the applicant;***

The individual property is not particularly unique by itself; however, there are conditions that the applicant attempted to mitigate by placing the shed close to their property line, and, unintentionally encroached within the required rear and side yard setback. Conditions affecting the site include water run-off, flooding,

and bright flood lights that shine all hours of the evening from the westerly-adjacent property. The applicant located the shed in the current location to block the flood lights from view from the residence. The applicant also installed drainage improvements near the shed. The variance conditions arose by action of the property owner by installing the shed too close to the property line.

The required minimum lot width within the R-1 Zoning District is 70-feet. The applicant's lot is 69-feet wide, which makes the lot legally nonconforming. The subject lot is one of three lots within the 18-lot Mullen Park subdivision that have nonconforming lot widths; the remaining 15 lots conform to minimum R-1 Zoning District requirements. Interior lot widths range from 70 feet to 72 feet. Corner lot widths range from 80 feet to 125 feet.

The primary structure on the subject property and the primary structure on the northern adjacent lot are also legal nonconforming. Both primary structures do not meet the R-1 Zoning District minimum interior side setback requirement. Many primary structures within the subdivision do not meet R-1 Zoning District side setback requirements.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

The shed in its current location has not adversely affected the rights of adjacent property owners or residents; it is Staff's opinion that the granting of the permit for the variance will not adversely affect neighboring property owners or residents. There have been no documented complaints or concerns about the shed from nearby property owners since it was constructed in 2016.

3. That the strict application of the provisions of this Chapter from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

Denial of the variance request will require the property owner to move the shed back 2-feet from both the north and west property line to meet the 5-foot setback requirements from the side and rear property lines. According to the applicant, the cost to hire a contractor to move the shed is approximately two-thirds of the cost to build the shed. Relocating the shed would also force the property owner to modify the drainage improvements that mitigate water run-off from the westerly-adjacent property and remove the shed's concrete footings. If the applicant is required to move the shed, they will be subject to the westerly-adjacent property's flood lights.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the City;

Granting the variance as requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare of the harmonious development of the City. The applicant confirmed there are no flammable liquids or materials stored within the shed. The shed is not a threat to any primary structure in the event of a fire, as it is setback a minimum of 40-feet from any home. If the variance request were denied, the applicant would be required to move the shed, which would affect the existing drainage improvement that benefits both the applicant and neighboring property to the north.

5. That granting the variance desired will not be opposed to the general spirit and intent of this Chapter; and

The granting of this variance is consistent with the spirit and intent of the R-1 Zoning District. The shed will remain in its current location, encroaching 2-feet into the required rear yard and side yard setback.

The reduction of the rear and side yard setback from 5-feet to 3-feet for the accessory structure will not alter the character of this community.

6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Chapter which are in question.

If the variance were granted it would be the minimum amount of variance that would afford relief and would be the least amount of modification possible of the provisions of this Chapter in question.

While the nonconforming shed location situation was created by the applicant's own action, typically a difficult criterion to overcome, Staff believes that in this specific instance, requiring the shed to be relocated 2 feet from the property lines would produce more harm than good to the applicant given there is no observable benefit to adjacent property owners to require such. If the shed were not there and the circumstances were the same, Staff may not be recommending the granting of the variance.

RECOMMENDATION FROM PROFESSIONAL STAFF

- ★ **Conduct a Public Hearing.**
- ★ **Staff recommends approval of the proposed variance for the existing Woods Shed.**

VARIANCE

Staff recommends **approval** of BZ23-02 – **Woods Shed Variance** allowing a 2-foot variance from the 5-foot rear yard setback and a 2-foot variance from the 5-foot side yard setback requirement for accessory structures to allow an existing shed to remain at its current location on the property located at 9420 Gillette Street, in the R-1, Residential Single-Family District.



West facing view of shed



North property line & side yard setback



West property line & rear yard setback



West facing view of shed



North facing view of shed

Variance Application & Checklist Responses BZ23-02

1. Existing shed was stick built in 2016 and used for storage of lawn mowers, gardening tools and patio furniture. Shed was built in current location of 36" off property line to help control water drainage coming off residence at 13009 W. 94th Street and to hide the view of the same residence. Moving the shed will require redoing the drainage system around the shed.
2. Existing Shed currently sits within homeowner property lines and doesn't hinder any access to or from or restrict views of nearby residents. The shed rests 50' west from back of homeowner residence, 50' south west from the back of residence located at 9414 Gillette Street and 40' east from the back of the residence located at 13009 W. 94th Street.
3. Moving the existing shed will be cost prohibitive. Estimate is \$10,000 to have the shed moved the 2ft to code. Cost for materials to build the shed in 2016 was estimated at \$3,000. A section of the fence on the south property line, not owned by homeowner, will have to be taken down to allow moving equipment access to backyard. We will have to get permission of the fences property owner to remove and replace a section. The equipment required to move the shed would damage an existing well established and maintained butterfly garden, damage the yard. require the existing drainage system around the shed to be re-done and newly planted trees to be dug up. Several of the concrete piers the shed sits on will need to be removed. New concrete piers will need to be poured and allowed to cure before the shed can be placed on them.
4. Existing shed doesn't interfere with any access to nearby residences, it rests 50' from homeowner residence, 50' from back of the residence at 9414 Gillette Street and 40' from the back of the residence at 13009 W. 94th Street. The shed does not have any exterior lighting that would be an annoyance to nearby residences. No hazardous chemicals or flammable liquids are kept in the shed, the shed in its current location does not pose any additional threats to neighboring properties or structures. It does not adversely affect the public health or safety of the community. This shed was constructed with high-quality materials that are typically not used on sheds and built with additional lumber than most sheds. The shed is built with 2x4 walls at 16" centers, floors are 2x10 joist at 12" centers and rafters on 16" centers. The typical Tuff Sheds sold locally of this same size have 2x4 walls on 24" centers and 2x8 floor joists on 24" centers and roofs rafters on 24" centers.
5. Existing shed was placed at 3' setback to help with drainage from neighboring residences and used as a deterrent to block bright outdoor lighting coming from the residence to the west of my property located at 13009 W. 94th Street. The area between the shed and fence lines is well maintained and kept free and clear of weeds and debris.
6. If variance is not allowed and shed has to be moved, we'll have to redo existing landscaping and gardening, patch and reseed yard and will have to remove and repour supports piers at a considerable expense.



2100 WALNUT STREET, KANSAS CITY, MO 64108
Quote submitted by the Lenexa Division, 9801 Alden St, Lenexa, KS 66215

Date: 9-25-23

Project: mike woods

Terms: COD/Pending Approval

We propose to provide Labor, Materials, Tools and Equipment to perform work as directed at:

Scope: plate back yard with steel plates up to the shed and pick shed up and move as directed

Price for this work is \$10000.00plus tax if applicable

Conditions:

1. Free and clear access is to be provided to Belger Cartage Service, Inc.
2. All work is to be performed during our regular business hours of 8:00 am to 4:30 pm Monday through Friday.
3. All times are Belger yard to Belger yard with a 4-hour minimum charge. If work exceeds 4 hours, a total daily time of 8 hours will be invoiced in a combination of actual time on job and crew wages.
4. Equipment which may be delivered, brought upon or delivered is at the sole risk of the lessee. Belger Cartage Service, Inc. is hereby relieved from any and all responsibility for damage to any curb, sidewalk, drive, lawn or appurtenance adjacent to the said premises.
5. Cancellations must be received by 4:00 pm Central Time to avoid a 4-hour minimum charge.
6. It is the customer's responsibility to provide accurate weights and dimensions for all components. The proposed use of equipment/crane is subject to change in the event information is received that renders the current proposal ineffective and may change all fees included in this quote.
7. All Electrical and Mechanical disconnect and reconnect is excluded unless noted otherwise in Scope of bid.
8. All machinery moves are set in place only and specifically exclude fine leveling, grouting or anchoring of machinery unless noted otherwise in Scope of bid.
9. All crating materials to remain on site and are the responsibility of customer to dispose of.
10. This quote is dependent upon availability of the equipment/manpower at the time of project's start date.
11. Quotation Valid for 30 Days.
12. Any delays due to delivering carrier or others will result in additional charges.

Thank you for the opportunity.

Belger Cartage Service, Inc. – Lenexa Division

Cellular **816-556-6776**
Office 816-472-0000
Fax 816-472-0100

Housing-Oilfield Hauling-Heavy Hauling-Steel Erection-Motor Crane Service-Regional Delivery-Railroad Pickup and Delivery Contractor-Pool-Car Distribution-Contract Trucks-Moving Electronic Equipment

This Quotation is subject to the conditions printed on the reverse side of this sheet and/or page 3, unless expressly accepted herein, and becomes an order when accepted.

Accepted for Purchaser, Date

Company _____

BELGER CARTAGE SERVICE, INC.

Signature _____

Print _____

Matt Norwood

Title _____

Project Manager

PROVISIONS AND CONDITIONS

1. Belger Cartage Service, Inc., hereinafter referred to as "Belger", reserves the right to correct all typographical or clerical errors in the prices or specifications.
2. Prices as quoted are based on a forty (40) hour week and do not include any overtime. Start times are flexible between 6:00 AM and 9:00 AM. Time worked before 6:00 AM will be at overtime rate. Time worked after (8) hours per day on Monday through Friday, or on Saturdays, will be have additional charges. Sundays or holidays will also have additional charges. However, it is understood that no overtime work will be performed unless specifically authorized in writing by the customer before the work is started.
3. In the event of change in cost of labor and material made subsequent to the date of this quotation and/or subsequent to the date of the contract, the contract amount will be adjusted to the extent of such change. However, work will not be started until the adjusted price has been approved in writing by the customer.
4. The amount of any State or Government tax, or other similar charge upon the production, sale or shipment of products sold hereunder, now imposed or hereafter becoming effective, shall be added to the price herein quoted, and shall be paid by the Customer.
5. Should the Customer order any change in the work to be performed as outlined in the proposal, Belger reserves the right to adjust the Quotation price accordingly. However, in the event of any upward revision in prices, work shall not be started until specifically authorized in writing by the Customer.
6. Unless otherwise specifically stipulated, the Customer is to maintain job site free and clear of any equipment or material that may, in any way, interfere with the work to be performed under this proposal. This shall be done without cost to Belger.
7. All agreements are contingent upon strikes, accidents and other delays beyond Belger's control.
8. Whenever Belger is asked to hold or warehouse equipment that has been received (for a stated or indefinite period) it is agreed that storage charges will apply, starting from the date that such equipment is received.
9. Unless otherwise specifically stipulated, the Customer will make all necessary openings, and close said openings without cost to Belger. Grouting and grouting materials, unless specifically excepted, shall be furnished by Customer.
10. Belger shall not be liable for any damages the Customer incurs, that may be caused by delay in the completion of work to be performed under this quotation, when such delay is caused by conditions beyond Belger's control.
11. The Customer shall provide, without cost to Belger, adequate storage space for Belger's tools, equipment, etc., as may be necessary when said equipment is required for completion of work herein described.
12. Belger is covered by insurance to the extent indicated below and will be pleased to furnish certificates of such insurance upon request:

Public Liability and Property Damage.....	Limit \$1,000,000
Automobile and Truck Liability (Fleet)	Limit \$1,000,000
Cargo Damage.....	Limit \$1,000,000
Employer's Liability.....	Limit \$1,000,000
Workmen's Compensation.....	Limit Statutory
13. No indemnification, hold harmless, contractual liability or other provision which may affect Belger's liability or responsibility for injury or damage, is binding on Belger unless expressly approved in writing by an officer of Belger or their insurance carrier.
14. The terms of payment for any work covered by this quotation shall be net cash upon completion of work, except in specific instances as may be stipulated or where provision is made for partial payment as work under this quotation has progressed.

No employee or agent of Belger shall have the right to modify or change this proposal without written authorization signed by an officer of Belger.

CALL TO ORDER

Chairman Poss called the regular meeting of the Board of Zoning Appeals meeting to order at 7:00 p.m. on Monday, May 1, 2023. The meeting was held in the Community Forum at Lenexa City Hall at 17101 W. 87th Street Parkway, Lenexa, Kansas.

ROLL CALL

COMMISSIONERS PRESENT

Commissioner Ben Harber
Commissioner Don Horine
Commissioner Curt Katterhenry
Commissioner Brenda Macke
Vice-Chairman Mike Burson
Commissioner David Woolf
Commissioner John Handley
Chairman Chris Poss

COMMISSIONERS ABSENT

Commissioner Jason Leib

STAFF PRESENT

Scott McCullough, Director of Community Development
Stephanie Kisler, Planning Manager
Tim Collins, Engineering Construction Services Administrator
Andrew Diekemper, Assistant Chief – Fire Prevention
Steven Shrouf, Assistant City Attorney
Dave Dalecky, Planner II
Kim Portillo, Planner III
Gloria Lambert, Senior Administrative Assistant

APPROVAL OF MINUTES

The minutes of the December 5, 2022 meeting were presented for approval.

Chairman Poss entertained a motion to **APPROVE** the minutes as amended. Moved by Commissioner Woolf, seconded by Commissioner Katterhenry, and **APPROVED** by a majority voice vote.

REGULAR AGENDA

1. Knipp Garage - Consideration of a variance from the side yard setback requirement to construct a detached garage on property located at 21112 W. 90th Street within the RP-E, Planned Residential Estate District. BZ23-01

APPLICANT PRESENTATION:

Stacy Knipp, property owner, is requesting a variance from the code to build a detached garage in the direction of her property line. She showed an aerial and street view of her property and explained where she wanted to construct the garage.

STAFF PRESENTATION:

David Dalecky presented the Staff Report and showed an aerial of the homeowner's property and surrounding area in the Whispering Hills subdivision within the RP-E, Planned Residential Estate District. Many of the lots are not compliant with the city code. He showed an image of the area on the property where the homeowner would like to construct the garage and pointed out the proposed setbacks. He showed other properties near the applicant's property, explaining several properties have different types of existing encroachments into setback requirements. The applicant proposes to locate the new garage on the side of the property that is accessible from the existing driveway.

PUBLIC HEARING:

Chairman Poss **OPENED** the Public Hearing and asked if anyone wished to speak on this item. Hearing no comments from the public, Chairman Poss entertained a motion to **CLOSE** the Public Hearing. Moved by Commissioner Handley, seconded by Commissioner Burson, and carried by a unanimous voice vote.

BOARD OF ZONING APPEALS DISCUSSION:

Several board members concluded the setback reduction was reasonable considering the context of the area and the applicant is locating the building on the side of the property that connects to the existing driveway and designed the building with an offset to reduce the encroachment.

MOTION:

Chairman Poss entertained a motion to recommend **APPROVAL** of a for a 5-foot variance from the 25-foot side yard setback requirement to allow a detached garage to be constructed at a 20-foot setback from the east property line at 21112 W. 90th Street, in the RP-E, Planned Residential Estate District.

Moved by Commissioner Macke, seconded by Commissioner Katterhenry, and carried by a unanimous voice vote.

ADJOURNMENT

Chairman Poss ended the regular meeting of the Lenexa Board of Zoning Appeals at 7:13 p.m. on Monday, May 1, 2023.