

1. **ROLL CALL**

The Board of Zoning Appeals meeting was called to order at 5:30 p.m. with the following members present: Robert Hickman (5/5), Rod Calhoun (5/5), Jon Richardson (5/5), Darryl Peterson (3/5), Logan Leuenberger (5/5), Jane Gamber (3/5) and Dave Inskeep (4/5). Valerie Roberts-Ropp (0/5) and Jackson Swearer (4/5) were absent.

Staff present were: Ryan Hvitlæk, Director of Planning & Development; Amy Allison, Senior Planner, and Charlene Mosier, Planning Technician.

2. **APPROVAL OF MINUTES**

The minutes of the May 25, 2021 meeting were approved on a motion by Inskeep, seconded by Richardson, passed unanimously.

3. **CORRESPONDENCE & STAFF REPORTS**

The documents and staff reports were accepted into the official record on a motion by Richardson, seconded by Leuenberger, passed unanimously.

4. **PUBLIC HEARING**

- a. **ZV21-000005 – Request for a variance from Section 27-314.G.2 Accessory Buildings and Uses. The applicant is requesting a variance from the above-stated regulations to construct a 3,065 sq ft detached garage that will be larger than 1,200 sf and more than 10% of the rear yard lot coverage at the property located at 2609 N Apple Ln, Hutchinson, KS.**

Calhoun asked if there were any outside contacts or conflicts of interest; there were none.

Allison provided the staff presentation. The property owners are Keith and Shari Schuessler. The request is for a variance from Section 27-314.G.3 of the Hutchinson Zoning Regulations, which limits the size of a detached garage to 1,200 sq ft or 10% of the rear yard lot coverage. The property's rear yard is approximately 18,103 sq ft with 10% being 1,810 sq ft. The proposed detached garage with covered porch is 3,066 sq ft. The property is zoned R-4 Residential Conservation Neighborhood District and is designated as Commercial on the 2017-2037 Comprehensive Plan Land Use Map. An existing garage structure would need to be modified or removed if the proposed structure is approved. Notices were mailed to 5 owners of the 8 surrounding properties. Allison showed a PowerPoint of maps, a site plan and photos.

(Gamber arrived).

ANALYSIS OF FINDINGS OF FACT REQUIRED FOR VARIANCE REQUESTS: SEC. 27-314.G.2. Maximum Size

Finding	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district and is not created by an action or actions of the property owner or applicant.</p>	<p>Section 27-341.G.2. establishes a maximum size for accessory structures which considers the size of a property’s rear yard. For properties with rear yards larger than 12,000 square feet, the maximum size of a detached garage can be increased to 10% of the rear yard. Regarding the property in question, the code already takes into account the larger rear yard and would allow a larger garage than otherwise permitted (1,810 sf). There is nothing unique about the property, with the size (0.79 acres) being somewhat common in this area of town. All properties that are similar in size have the same requirements.</p>	<p><input type="checkbox"/> Not met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The proposed garage is on the large size, resembling what one would find in a commercial or industrial district. As a primarily residential neighborhood, it would be uncommon to find a garage of this size for purely a residential use. Staff is concerned about the ability to easily transition this type of building into a commercial use, which would affect the rights of adjacent owners.</p> <p>There is one garage of a similar size to the north of the property. However, the garage was built to code due to the lot’s being 3.37 acres. The garage also is almost 2,000 sf smaller than the principal structure (house).</p>	<p><input type="checkbox"/> Met / Not met</p>
<p>3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>As mentioned previously, the property is large enough to meet the 10% garage size exception. However, the proposed garage is almost double the size permitted in the code (16.7%). Staff cannot find a hardship for this case. The applicant would be able to construct a larger than average detached garage and would also be able to construct another accessory structure (potentially more) if necessary. Per staff’s opinion, this is a request for convenience with no demonstratable hardship.</p>	<p><input type="checkbox"/> Not met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>Permitting construction of the proposed garage would not adversely affect the public health, safety, morals, order, convenience, or prosperity.</p>	<p><input checked="" type="checkbox"/> Met</p>
<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>The intent of §27-314.G.2. in the <i>Hutchinson Zoning Regulations</i> is to set maximum detached accessory structure sizes while still allowing for the maximum use of space on residential properties for detached garages, sheds and carports. Prior regulations capped the maximum size of detached accessory structures as to not be more than the principal structure. The regulations were changed to allow for larger accessory structures but within reason. The accessory structure and use section still intend for accessory</p>	<p><input type="checkbox"/> Not met</p>

	structures to be clearly incidental to the principal structure. Staff does not feel this proposal meets the intent.	
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Staff recommends denial of the request because Factors 1, 2, 3, and 5 were not met.

Calhoun asked the applicant to address the Board.

Keith and Shari Schuessler, 3900 Fox Fire St, said the proposed building would actually be 40' X 60' (2,400 sq ft or 13 percent of the rear yard). The wrap around porch would improve the appearance of the building. If the porch is not included, that would remove 600 square feet. The house sits on the south side of the lot which leaves 60 percent of the lot open. Other Apple Lane lots are deeper, and this lot has more frontage and is not nearly as deep (180' deep by 210' wide). Mr. Schuessler said the proposed building would enhance the value of the property and surrounding properties. Shari Schuessler said she is a realtor, and homes along Apple Lane range in value from \$17,000 to \$238,000. She presented the Board with a handout of information and photos. The building would be used for personal storage of mowers, trailers, utility tractor with implements and other equipment. They have seven rental properties and much of the equipment is used to maintain the properties. They prefer to have one large structure as opposed to several smaller storage sheds. He mentioned concerns of the new bridge on Apple Lane that may induce more commercial truck and semi traffic in the neighborhood.

Calhoun asked for comments from the audience.

David Mencl, 2525 Apple Lane, said he is in favor of the request. He lives adjacent to this property and the area is unique with large lots and is located close to a railroad and the Hutchinson Airport. He does not think the same criteria can be used to consider the proposed structure on Apple Lane as is used in other areas of town with much smaller lots. Most of the properties along Apple Lane have out buildings. There has not been much change to this area in the last 22 years. This area also does not have city water or city sewer.

Allison said that State Statute is very strict with the factors that can be considered for a variance and the factors have to be the same for all properties. The value of properties or expenses involved in a project are not something that can be considered.

Leuenberger asked for clarification if a 36' x 30' shed is approvable. Allison said an 1,810 sq ft shed would be allowed as it would be 10 percent of the rear yard. This is a property with a rear yard of at least 12,000 square feet. The applicant could apply for the administrative adjustment to increase the allowed area by an additional 10 percent, but this would still not permit the size

the applicant is requesting. The applicant is not over the lot coverage allowed of 35% but he is over the square footage allowed for one structure.

Shari Schuessler asked if multiple structures would be allowed if they are under the 35% lot coverage. Allison said multiple structures could be allowed; however, only one detached garage structure is allowed.

Allison pointed out Hutchinson has the most lenient regulations for the size of accessory structures when compared to other cities in Kansas. Another concern is the proposed accessory structure is so much larger than the principal structure and this is a concern as they often turn into commercial businesses such as auto repair shops when the property is sold later.

Gamber asked if it makes a difference when the property is a rental property. Allison said the requirements are the same.

Dave Mencl, 2525 Apple Ln, said 22 years ago he requested CR zoning because it was a transitional area, and the request was turned down. They went to the City Council and got the zoning approved.

Richardson said he is in the construction business of large buildings. Staff has done a lot of work over the years to make the regulations less stringent. This property is very close to the city limit line and was in the county. He understands the applicant's situation, but the Board has to base their decision on the factors only.

Leuenberger asked if a hardship could be considered because without the building it makes it difficult to maintain their rental business. Allison said this type of home business is contrary to home occupation guidelines and a financial burden cannot be a consideration when reviewing the factors.

Hvitlok said the applicant can also apply for an administrative adjustment which would allow for up to 2,172 square feet if approved. He noted that Hutchinson allows for larger structures than he has seen allowed in comparable cities located in other states.

There was general discussion among the commission members on possible options regarding the proposed garage on this property.

Calhoun closed the hearing.

Motion by Leuenberger, seconded by Hickman to deny ZV21-000005, a variance request from Section 27-314.G.2 to construct a 2,400 sq ft detached garage that is larger than the permitted 1,200 sq ft and more than 10% of the rear yard lot coverage at the property located at 2609 N Apple Ln, Hutchinson, KS based upon a finding that the factors required are not met. The motion

passed with the following vote: Richardson, Gamber, Leuenberger, Hickman, Peterson, Inskeep, Calhoun.

5. **UPCOMING CASES**
 - a. Special use permit cases for two auto repair businesses.
6. **CITY COUNCIL UPDATE** – None.
7. **OPEN COMMENTS FROM THE AUDIENCE**
 - a. None.
8. **ADJOURNMENT** – The meeting adjourned at 6:23 p.m.

Respectfully Submitted,

Charlene Mosier
Planning Technician

Approved this 13th day of July 2021

Attest: 

Ryan Hvitlök, AICP, CFM
Director of Planning & Development