



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

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To: Board of Zoning Appeals
From: Planning and Urban Design Staff
Date: November 14, 2022
Re: Appeal BOZA2022-047

GENERAL INFORMATION

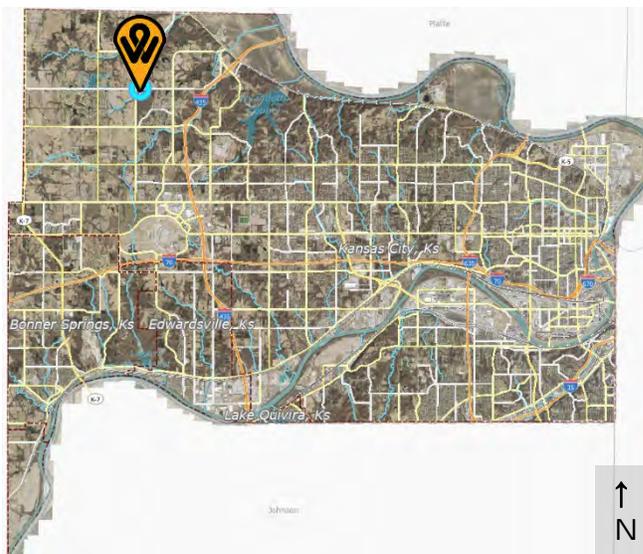
Applicant:
Vanessa Nyhus

Status of Applicant:
Property Owner
7825 Aberdeen Road
Prairie Village, Kansas 66208

Requested Actions:
Approval of a variance request.

Date of Application:
August 26, 2022

Purpose:
Variance 1: This appeal has been filed to grant a variance from the limitation of the location of an accessory building to the side and/or rear yard in the R-1 District. Section 27-609(2) requires that an accessory building not be located within the front yard. The appellant is requesting an accessory building that extends 66 linear feet into—and has a building area of 1,800 square feet within—the front yard, a violation of 66 linear feet and 1,800 square feet, respectively.



Purpose (cont.): Variance 2: This appeal has been filed to grant a variance from the maximum accessory building floor area in the R-1 District. Section 27-609(2) requires that the total area of a detached accessory building not exceed 1,000 square feet. The appellant is requesting an accessory building with a total floor area of 1,800 square feet, a violation of 800 square feet.

Property Location: 11411 Hollingsworth Road
Kansas City, Kansas 66109

Commission Districts: Commissioner At-Large, District #1: Melissa Bynum
District #5 Commissioner: Mike Kane

Existing Zoning: RP-1 Planned Single-Family District

Adjacent Zoning:
North: A-G Agriculture District
South: RP-1 Planned Single Family District
East: RP-1 Planned Single Family District
West: A-G (WyCo) Agriculture District

Adjacent Uses:
North: Undeveloped land
South: Vacant lot
East: Vacant lot
West: Undeveloped land

Neighborhood Characteristics: The subject property is within the Prairie-Piper Statistical Neighborhood and is not within a neighborhood group. The neighborhood is a mix of large single-family residential and agricultural lots, with some pockets of small-lot single-family subdivisions. The distance between the through streets—the collector streets or thoroughfares—are approximately every mile, thus creating large blocks of one (1) square mile.

Total Tract Size: 5.36 Acres

Master Plan Area: The subject property is within the Prairie-Delaware-Piper Area Master Plan.

Master Plan Designation: The Prairie-Delaware-Piper Area Master Plan designates this property as Planned Low-Density Residential. The Planned Low-Density Residential Land Use District is for single family detached residential units and should appear to be less dense. Development in these areas should include significant

areas for open space to maintain the rural character of the area. These areas may include lots ranging in size from three (3) acres to one-third (1/3) of an acre. Development proposals for lots that front a major arterial, typically described as piano key lots, are not recommended nor encouraged. Clustering units and dedicating large areas for open space are encouraged.

Major Street Plan: The Major Street Plan classifies North 115th Street as a Class C Thoroughfare. The Major Street Plan classifies Hollingsworth Road as a Collector Street.

Required Parking: Section 27-454(e) requires two (2) off-street parking spaces for each single-family dwelling, at least one (1) of which shall be in a garage or carport. The proposed primary residence features a detached garage that can accommodate at least one (1) vehicle, and a paved driveway that can accommodate more than one (1) vehicle. Therefore, the subject property meets Section 27-454(e).

Advertisement: The Wyandotte Echo – September 15, 2022, and October 20, 2022

Letters to Property Owners – September 16, 2022, and October 21, 2022

Public Hearing: November 14, 2022

Public Support: Two (2) neighbors have stated that they support the variance and have no concerns regarding the location of the proposed accessory building.

Public Opposition: None to date.

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. The property owner has not received any noise or disturbance complaints.

Building or Code Enforcement Complaints:

1. The property owner has not received any code violations.

Outstanding or Related Permits and Cases:

1. The property owner does not have any outstanding Building Permits.
2. The property owner does not have any outstanding Code Inspection.

STATUTORY REQUIREMENTS/FACTORS TO BE CONSIDERED

- 1. 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 which is not created by an action or actions of the property owner or the applicant.***

Variance 1: This variance has been filed to grant a variance from the requirement for an accessory building to be located within the side or rear yards of a residential parcel. The applicant desires to position the accessory building at its proposed location in order to give a larger level area to the primary residence while also still minimizing disturbance to natural landscape and habitat. In order to verify the topographical limitations of the property, the applicant must submit a topographical map of the subject parcel. The topographical map must demonstrate the limitations in developable areas, as stated by the applicant.

The applicant has stated that suitable development locations on the subject property are limited due to topography. Regardless of the amount of suitable building area available on the undeveloped land, the applicant has already commenced construction of the primary residence, which has the effect of artificially limiting the building areas suitable for a detached accessory building. While it is currently unclear if the variance requested arises from such condition which is unique to the property in question, it is certainly clear that the applicant further restricted the number of possible compliant locations for the accessory building by starting to construct the primary residence before the full site plan and its requisite variances were approved, for even applied for. Therefore, the variance arises in part from a condition created by an action or actions of the property owner-applicant.

Variance 2: This variance request has been filed to grant a variance from the maximum accessory building floor area. The subject property is over five (5) acres. While this size is not unusual for the neighborhood, compared to parcels within the R-1 District across the Unified Government, this is a uniquely larger parcel. In fact, the subject property meets the minimum area for the A-G Agriculture District. If this parcel were zoned A-G, the floor area of the accessory building would not be restricted, so long as it was used for the storage of equipment and machinery necessary to maintain the property. Furthermore, no development has yet occurred on the subject property. Therefore, 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 which is not created by an action or actions of the property owner-applicant.

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

Variance 1: The accessory building is located 73 feet from the public right-of-way and 135 feet from the closest neighboring parcel. Both distances are greater than the entirety of many residentially zoned parcels within the Unified Government. The applicant has stated that part of the reason for choosing the front yard location for the accessory building was to prevent the building from being in the sightline of the future adjacent neighbors to the southeast. The applicant has further stated that said neighbors would attest to this fact and support the variance to allow the accessory building in the front yard. The property owner across Hollingworth Road has also stated that they have no concern with the location of the accessory building. Therefore, granting the variance will not adversely affect the rights of adjacent property owners or residents.

Variance 2: The subject property is over five (5) acres and features a large primary residence that is set back 136 feet from the front boundary line. Therefore, the parcel's overall size and the necessary location of an accessory building compliant with all other requirements of Section 27-609(2) would allow for said building to have a floor area over 1,000 square feet. The applicant has also expressed a desire to maintain consistent architectural aesthetics across all development on site, which further reduces concerns that typically accompany a residential accessory building over 1,000 square feet. Furthermore, proper landscaping and arboreal screening addresses issues of massing and visibility from neighboring properties. Site photos taken on October 18, 2022, however, demonstrate that existing trees have already been removed to the extent that the arboreal screening is ineffective, and the accessory building will be clearly visible from the public right-of-way. Therefore, the variance will not adversely affect the rights of adjacent property owners or residents if adequately screened or sited from public view.

3. *The strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

Variance 1: Strict application would require the accessory building to be located 66 feet to the south of its current proposed location. In reviewing the submitted information, Staff has identified two (2) dominant factors that control the site design: the terrain and the existing curb cut. As previously mentioned, the applicant has stated—but has not yet sufficiently demonstrated—that terrain of the land limits the developable area to only a few locations. The location of the primary residence and the accessory building, however, could be switched as they are both identified as developable areas. While this switch may still position the accessory building in front of the front door of the primary residence, it would locate the accessory building further from Hollingsworth Road than the primary building.

The location of any development is further limited by the location of the existing curb cut on Hollingsworth Road. The applicant has cited the desire to minimize paving for a driveway as a reason that the specific locations for the buildings were chosen. If the primary residence and accessory buildings were to switch proposed locations, the driveway may not be any longer—and if fact may be shorter—than the currently proposed driveway. A driveway of a similar or shorter length than currently proposed result in similar or less grading, a similar or reduced destruction of natural resources, and a similar or decreased degree of impermeability. Therefore, strict application of the provisions of the zoning ordinance of which the variance is requested does not constitute an unnecessary hardship upon the property owner.

Variance 2: Strict application of the provisions of the zoning ordinance would require the applicant to construct an accessory building with a footprint no greater than 1,000 square feet, a footprint approximately 44% smaller than proposed. Having an accessory building of 1,000 square feet or less is the standard for single-family residences within the Unified Government. Given the size of the subject property, however, and the applicant's statement that a portion of the accessory building is needed to store equipment for maintaining the property, there are needs for the subject property which are closer to that of an agricultural property rather than a residential property. Therefore, strict application of the relevant provisions of the zoning ordinance of which variance is requested constitutes unnecessary hardship upon the applicant.

4. *The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

Variance 1: As a variance would cause the accessory building to not be screened by the primary residence, arboreal screening is also necessary to prevent passers-by on Hollingsworth Drive from seeing the accessory building. View from the public right-of-way of an accessory building in front of the primary residence normalizes site designs that the Zoning Code, Staff, and planning best practices have identified as detrimental to city development. While there was recently a dense tree stand that would have been able to effectively screen the accessory building from the aforementioned public right-of-way and neighbors, site photos taken on October 18, 2022 demonstrate that existing trees have already been removed to the extent that the arboreal screening is ineffective and the accessory building will be clearly visible from the public right-of-way. Therefore, the insufficiency of the arboreal screening will cause an accessory building in the front yard to have an adverse effect on the public health, safety, morals, order, convenience, prosperity, or general welfare.

Variance 2: The applicant has acknowledged that a larger structure will necessitate greater consideration when it comes to architectural design, so that the massing of the structure does not visually dominate the primary residence and maintains the low-density and rural aesthetic of the neighborhood. The proposed accessory building will be set back 73 feet from the front property line but must also be effectively screened by the tree stand. Even with a proposed

footprint of 1,800 square feet, the arboreal screening and architectural design could ensure that the accessory building's massing will not be an issue. While there was recently a dense tree stand that would have been able to effectively screen the accessory building from the aforementioned public right-of-way and neighbors, site photos taken on October 18, 2022 demonstrate that existing trees have already been removed to the extent that the arboreal screening is ineffective and the accessory building will be clearly visible from the public right-of-way. While this this screening will cause the accessory building to be visible from the right-of-way, the setback and architectural design of the building is such that it will not have an adverse effect on the public health, safety, morals, order, convenience, prosperity, or general welfare.

5. *The granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.*

Variance 1: The spirit and intent of Section 27-609(2) is to maintain the primary residence as the predominant use and structure within a parcel by positioning the primary residence as the foremost building on the parcel and closest to the right-of-way. By this principle, an accessory building sited closer to the public right-of-way than the primary residence cannot be apparently visible from the right-of-way. Site photos taken on October 18, 2022 demonstrate that existing trees have already been removed to the extent that the accessory building will unequivocally be visible from the public right-of-way. Therefore, the variance is opposed to the general spirit and intent of the zoning ordinance.

Variance 2: The spirit and intent of Section 27-609(2) is to prevent accessory buildings from visually dominating the view of the subject property. Under this requested variance alone, it may not be an issue for the proposed accessory building. If the building is sited further from public right-of-way than the primary residence, and if the existing tree stand is maintained and provides sufficient screening, it will not be apparently visible from the right-of-way. Site photos taken on October 18, 2022 demonstrate that existing trees have already been removed to the extent that the accessory building will unequivocally be visible from the public right-of-way. If set further back, the size of the accessory building would be proportional in size to the primary residence, and therefore, under such conditions, the variance would not be opposed to the general spirit and intent of the zoning ordinance.

PREVIOUS ACTIONS

- PR2022-040, a simultaneous Preliminary and Final Plan Review for a single-family residence constructed in a planned district

NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting at 11411 Hollingsworth Road on September 26, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

KEY ISSUES

Building Materials
Driveway and Paving
Landscape Screening and Existing Tree Stands
Topography
Use for Commercial Purposes
Visibility from the Right-of-Way

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

General

1. This Board of Zoning Appeals case is being heard in conjunction with PR2022-040. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petition PR2022-040 by the Unified Government City Planning Commission and the Unified Government Board of Commissioners and upon any ordinance publications required by law.
2. The subject property is zoned RP-1 Planned Single Family District. Per Section 27-212(b), the applicant must submit a Preliminary and Final Plan Review in conjunction with—and because of—the variance application, BOZA2022-047. The applicant has submitted an application for a Preliminary and Final Plan Review, PR2022-040. This Plan Review will be heard in conjunction with BOZA2022-047.
3. Would the applicant consider applying for a Change of Zone to the A-G Agriculture District, which does not have the same requirements for accessory buildings? This would avoid the need for a variance or Preliminary and Final Plan Reviews. It would, however, require the subject property to be replatted out of the West Ridge Estates First Plat subdivision.

Applicant Response: Yes, we would consider applying for a change of zone, but would prefer to stay in the West Ridge Estates.

4. Staff was under the impression that the subject property was currently undeveloped. When did construction of the primary residence being?

Applicant Response: The date the permit was pulled was 6/16/2022.

5. The applicant has submitted a topographical map, a version of which is available to Staff through UGMaps. The topographical maps submitted shows little issue of the proposed pad sites. Submit a revised topographical map demonstrating the relationship between the terrain of the subject property and the location of the proposed buildings.

Staff Response: A revised plot plan has been submitted and can be found under "Plot Plan of 11411 Hollingsworth Road" within the *Attachments* section of this report.

6. All tree stands in between Hollingsworth Road and the accessory building must be maintained in a manner that creates full arboreal screening of said building from being seen in the public right-of-way. All tree stands in between any and all adjacent parcels to and the accessory building must be maintained in a manner that creates full arboreal screening of said building from being seen from the adjacent parcels.
7. The accessory building shall not be used for the operation of a commercial business, nor for the storage of any inventory, vehicles, or equipment used as part of a commercial business.
8. All parking, loading, or maneuvering areas related to the accessory building must be paved with a minimum of two (2) inches of asphalt over six (6) inches of compacted gravel or an acceptable alternative as determined by the county engineer.

Planning Engineering Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval:
 - a. None
2. Items that are conditions of approval:
 - a. None
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
 - a. Detailed engineering comments are made by separate technical review of the plans and submitted directly to the applicant. Provide revised plans and responses in accordance with the engineering comments.

STAFF RECOMMENDATION

Staff recommends that the Board of Zoning Appeals **DENY** Appeal **BOZA2022-047, Variance 1** subject to all comments and suggestions outlined in this staff report, and summarized by the following:

1. **The variance request does not fulfill Statutory Requirement #1. The variance arises from the ongoing construction of the primary residence,**

- which limited possible compliant locations for the accessory building by both increasing the front yard area and fracturing the remaining buildable area in the side and rear yards;
2. The variance request does not fulfill Statutory Requirement #3. Requiring a redesign of the subject property, or at least requiring proof that no other location of the site is buildable, does not constitute unnecessary hardship upon the property owner-applicant;
 3. The variance request does not fulfill Statutory Requirement #4. An accessory building in the front yard and visible from the right-of-way has an adverse effect on the general order; and,
 4. The variance request does not fulfill Statutory Requirement #5. An accessory building in the front yard and visible from the public right-of-way does not meet the spirit of intent of the zoning ordinance.

If the Board of Zoning Appeals were to approve **BOZA2022-047, Variance 1**, Staff recommends that the following conditions apply:

1. All tree stands in between Hollingsworth Road and the accessory building must be maintained in a manner that creates full arboreal screening of said building from being seen in the public right-of-way. All tree stands in between any and all adjacent parcels to and the accessory building must be maintained in a manner that creates full arboreal screening of said building from being seen from the adjacent parcels;
2. The accessory building shall not be used for the operation of a commercial business, nor for the storage of any inventory, vehicles, or equipment used as part of a commercial business;
3. All parking, loading, or maneuvering areas related to the accessory building must be paved with a minimum of two (2) inches of asphalt over six (6) inches of compacted gravel or an acceptable alternative as determined by the county engineer;
4. This Board of Zoning Appeals case is being heard in conjunction with PR2022-040. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petition PR2022-040 by the Unified Government City Planning Commission and the Unified Government Board of Commissioners and upon any ordinance publications required by law;
5. The exterior walls shall be made of either horizontal clapboard, wood, or plywood siding, stone, artificial stone, brick, artificial brick, and textured finishes such as stucco; the exterior of the accessory building must match the materials and color of the primary residence. Fiberglass, plastic, and preformed, corrugated, or ribbed metals are not allowed. Metals can be used provided they have a factory applied and painted finish closely matching the color of the primary structure. Standard concrete masonry units are also not allowed unless the walls of the building are painted the exact color of the primary structure;
6. A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an

- existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspection@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;
7. All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street;
 8. Per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the unified government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design at (913) 573-5750 or signpermits@wycokck.org to begin this process;
 9. All existing and future driveways must feature curb cuts that are constructed to UG standards;
 10. Per Section 27-700(a), one (1) shade tree per dwelling unit is required in the front or corner side yard, and (1) one tree per 7,000 square feet of site area for uses other than residences;
 11. Site improvements that include land disturbance activity on greater than one (1) acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article XIV, Sections 8-610 through 8-618). Land disturbance fees shall be processed by UG Public Works during the Land Disturbance/Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works Department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620; and,
 12. Approval of this case by the Board of Zoning Appeals, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the exercise of variance(s) approved, or any portion thereof, do(es) not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located.

Staff recommends that the Board of Zoning Appeals **APPROVE** Appeal **BOZA2022-047, Variance 2** subject to all comments and suggestions outlined in this staff report, and summarized by the following conditions:

1. All tree stands in between Hollingsworth Road and the accessory building must be maintained in a manner that creates full arboreal screening of said building from being seen in the public right-of-way. All tree stands in between any and all adjacent parcels to and the accessory building must

- be maintained in a manner that creates full arboreal screening of said building from being seen from the adjacent parcels;
2. The accessory building shall not be used for the operation of a commercial business, nor for the storage of any inventory, vehicles, or equipment used as part of a commercial business;
 3. All parking, loading, or maneuvering areas related to the accessory building must be paved with a minimum of two (2) inches of asphalt over six (6) inches of compacted gravel or an acceptable alternative as determined by the county engineer;
 4. This Board of Zoning Appeals case is being heard in conjunction with PR2022-040. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petition PR2022-040 by the Unified Government City Planning Commission and the Unified Government Board of Commissioners and upon any ordinance publications required by law;
 5. The exterior walls shall be made of either horizontal clapboard, wood, or plywood siding, stone, artificial stone, brick, artificial brick, and textured finishes such as stucco; the exterior of the accessory building must match the materials and color of the primary residence. Fiberglass, plastic, and preformed, corrugated, or ribbed metals are not allowed. Metals can be used provided they have a factory applied and painted finish closely matching the color of the primary structure. Standard concrete masonry units are also not allowed unless the walls of the building are painted the exact color of the primary structure;
 6. A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspection@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;
 7. All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street;
 8. Per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the unified government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design at (913) 573-5750 or signpermits@wycokck.org to begin this process;
 9. All existing and future driveways must feature curb cuts that are constructed to UG standards;
 10. Per Section 27-700(a), one (1) shade tree per dwelling unit is required in the front or corner side yard, and (1) one tree per 7,000 square feet of site area for uses other than residences;

11. **Site improvements that include land disturbance activity on greater than one (1) acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article XIV, Sections 8-610 through 8-618). Land disturbance fees shall be processed by UG Public Works during the Land Disturbance/Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works Department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620; and,**
12. **Approval of this case by the Board of Zoning Appeals, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the exercise of variance(s) approved, or any portion thereof, do(es) not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located.**

ATTACHMENTS

Aerial Map
Zoning Map
Land Use Map
Five Statutory Requirements Answered by the Applicant
Neighborhood Meeting Materials
Plot Plan of 11411 Hollingsworth Road
Landscaping Plan for 11411 Hollingsworth Road
Floodplain Maps of 11411 Hollingsworth Road and Surrounding Parcels
Accessory Building Floor Plan Submitted by the Applicant
Accessory Building Elevations Submitted by the Applicant
Building Elevations of the Primary Residence
Photos of 11411 Hollingsworth Road Provided by the Applicant
Comparable Properties in the Neighborhood Provided by the Applicant
Demonstration of Alternative Site Design
Site Visit Photographs by Staff, Dated October 18, 2022

REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u>	<u>Board of Zoning Appeals</u>
Public Hearing	
Variance	November 14, 2022

STAFF CONTACT: **Michael Farley**
 mfarley@wycokck.org

MOTIONS

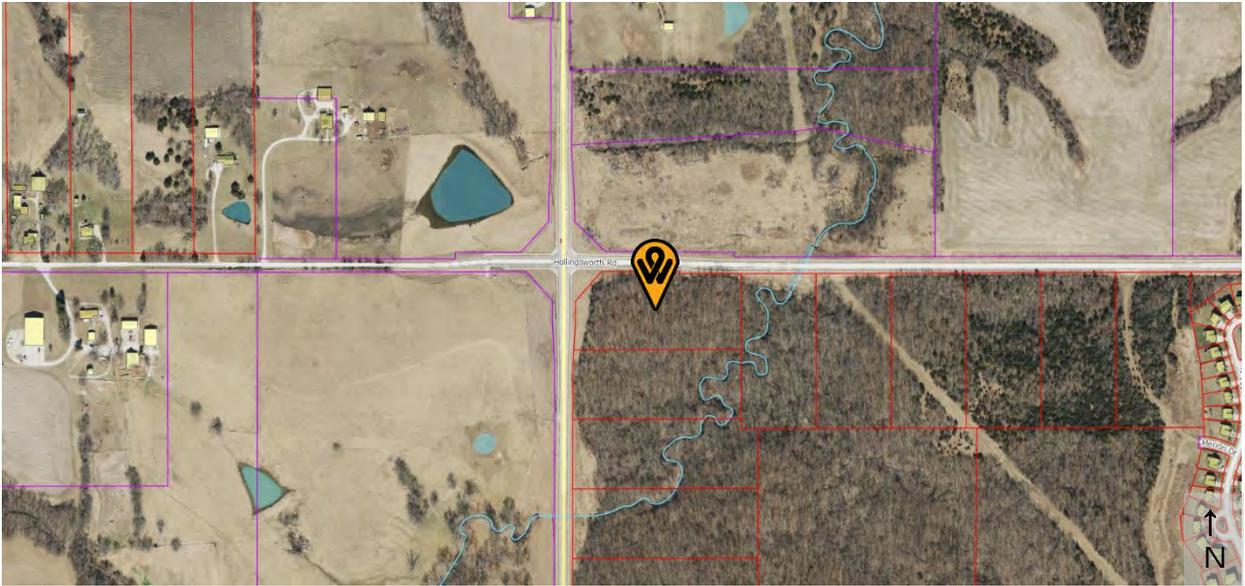
I move the Kansas City, Kansas Board of Zoning Appeals **APPROVE** Appeal **BOZA2022-047** as meeting all the requirements of the City code and being in the interest of the public health, safety and general welfare, subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements of the Kansas City, Kansas Board of Zoning Appeals:

1. _____;
2. _____; AND
3. _____

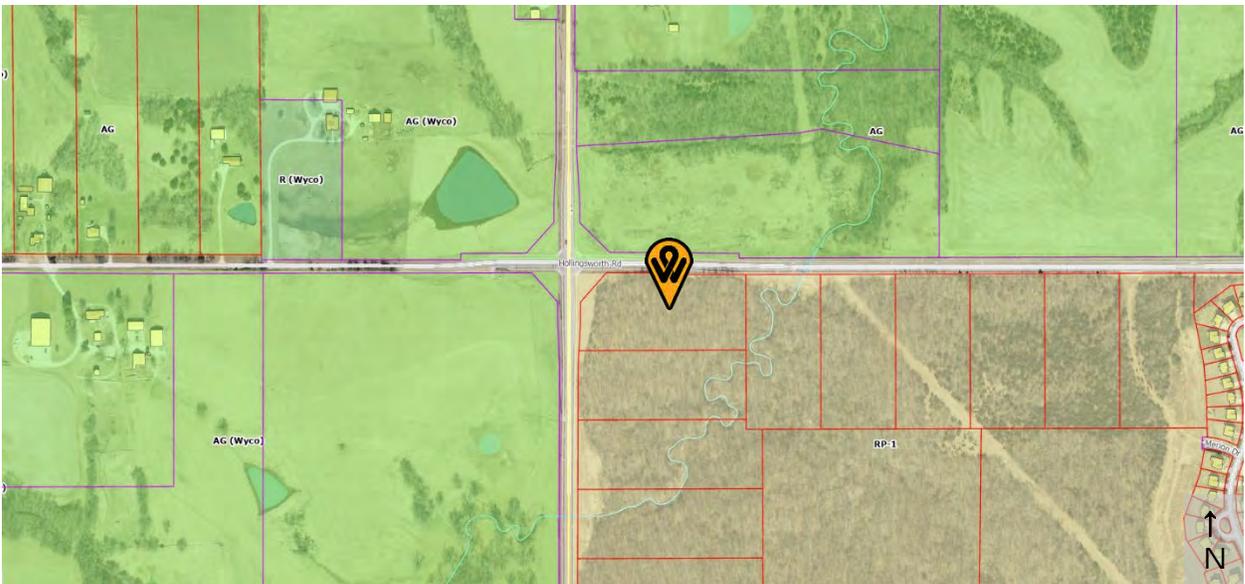
OR

I move the Kansas City, Kansas Board of Zoning Appeals **DENY** Appeal **BOZA2022-047**, as it is not in compliance with the City Code, as it will not promote the public health, safety and general welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.

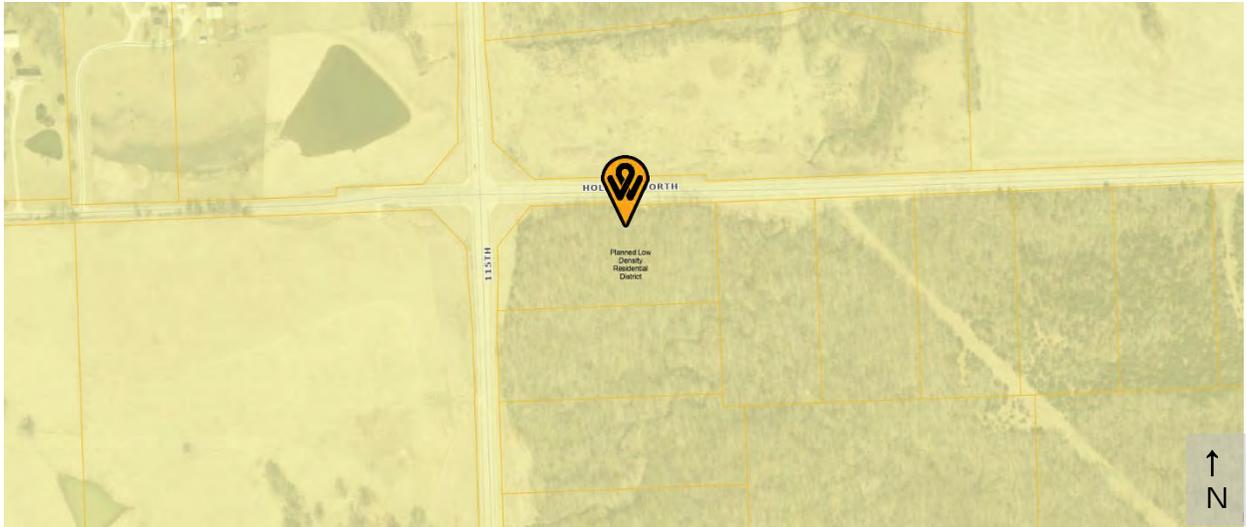
AERIAL MAP



ZONING MAP



LAND USE MAP



City-Wide Master Plan Land Uses

- Utilities
- Right-of-Way
- Urban Density
- Agricultural
- Neighborhood Commercial
- Community Commercial
- Business Park
- Floodway
- Regional Commercial
- Future Residential
- Rural-Density Residential
- Employment
- High-Density Residential
- Medium Density Residential
- Low-Density Residential
- Mixed-Use
- Parks/Open Space
- Public/Semi-Public

FIVE STATUTORY REQUIREMENTS ANSWERED BY THE APPLICANT

1.

Location Variance:

The location for the service building was chosen due to the placement considerations for being able to place both the house and building on the most level part of the land while being able to utilize the already existing curb cutout for a driveway approach off Hollingsworth Rd. This wooded lot has rolling hills throughout it. Due to the topography of the land and a curb entrance already cut out, there is only one location that makes sense to place the service building that minimizes the land that is disturbed and the least amount of trees to be removed. Placing the outbuilding where we are proposing puts it behind a tree line and out of sight from the street, out of sight from our neighbor to the south and out of sight due to the densely wooded trees from any future neighbors to the east. Pushing the building any further east or to the south puts it on a slope that would require huge retaining walls, back fill and more removal of trees. The slope of our lot backs up to a flood hazard and into a flood zone. Keeping the building and home at the top of the hill was in our opinion the best way to protect both structures from ever having water issues. Minimizing the amount of driveway and concrete was carefully calculated so that both structures could share the driveway and maximize the driveway pad for turning radius purposes for trailers, boat, and large equipment.

As you will be able to see from the topography map, the only other level spot on the land is in close proximity to the neighbor to the south. The placement of their home is only 30 ft from our property line. The steep slope on the west side of our property, off 115th, and the close proximity of the neighbors house to our property, did not make that level spot conducive to either the outbuilding or our home. We did not want to crowd our neighbors when we have 5 acres of land to work with for placement of two structures.

If we were to have moved the primary home to the east and put the building to the west, it would have made our driveway the center focal point due to the curb cutout on Hollingsworth Rd and longer due to bringing it to the backyard. Any trees that may have been originally in front of the curb cutout were removed prior to us owning this 5 acre lot. Had we placed the house to the west we would have had to clear those trees that we have left as a barrier between the street and accessory building to be able to have a view of the home. Minimizing the additional tree removal we chose to put the house where it is on the plot plan and propose the accessory building go where it is on the plot plan leaving all the trees in front of it. Before building the home we also got advice on where the best place to put a lateral field for a septic system would be on our lot and the septic expert after a soil test said that to the west and slightly south of where the home is being built would be the most ideal due to there not being any rocks in that area underground. That advice was given prior to ever even having a building permit for the primary home.

The city staffer suggested that another potential location for the building would be to the west-northwest of the primary home, but that is not an option as that was the only feasible location for the septic lateral field after a soil test. In addition, if the building went up in this space it would have put the building very close to the neighbors property line and we were wanting to be very respectful of our neighbors and keep it out of their line of sight. Please see the attached comment from our neighbors to the south. They are very appreciative that we chose to put the building on the east side of our property vs the west where it would be what they looked at from their backyard. Also, the building would be even more visible from the street if it were built where the city planner has proposed as an additional option.

FIVE STATUTORY REQUIREMENTS ANSWERED BY THE APPLICANT, CONT.

1.

Size Variance:

The size of the outbuilding was chosen based on the usage of it. Attached you will find a rendering of vehicles, a boat, large mower, snow blower, space for outdoor furniture to be stored in the winter, a work bench, yard tools and other equipment to maintain 5 acres of land. The space will all be utilized to keep all equipment and vehicles that we own out of sight and protected from the elements.

2.

The location and size of the service building will not adversely affect the rights of the adjacent property owners or residents because it will not be in their line of sight from their properties or the street. We took careful consideration in the color and design of the building as well as where we placed it because it is important to us that the building add aesthetics to the estate as well as its functional use for storage so that no equipment or vehicles are kept outside. Adding the stone at the base of the pillars is to coordinate it with the stone around the front door on our home. Keeping the building on the high and most level point of the elevation of the property also keeps it away from the flood hazard and flood zone that are at the SE corner of our lot. Adding the lean-to on the west side of the building added aesthetics that would keep it from looking like a commercial building. Between the landscaping down the sidewalk of the lean-to, adding stone to the pillars to coordinate it with the house, the lighting under the lean-to and color coordinating the building to the house, we feel it will be aesthetically pleasing and add value to the neighborhood aesthetics.

3.

We acknowledge that strict provisions for zoning is to protect the integrity and value of the land and home owners properties and we appreciate that restrictions are in place for those reasons. It is this reason that we think it is important to have a service building of 1800 sq ft to house all the equipment to maintain 5 acres of land, power tools, outdoor furniture, vehicles, Kubota tractor, boat and any future campers or 4-wheelers. We do not want any thing setting outside making the property look cluttered or not maintained. Although part of the building technically sets in the front as well as the side yard, we have left a dense tree line between it and the street to keep the house the focal point from the street. There is 135 ft of tree line between the building and the property line to the east. The 5 acre lot to the east of us is primarily all a flood hazard or flood zone and is not available for purchase. The next closest neighbor to the east is on the other side of that 5 acre flood zone lot. Across the street from us, to the north and west, is agricultural land that does not have the service building in the line of sight of any homes on those properties. The lean-to was added to give the building a non commercial use look. We even have added the stone at the base of the pillars to give it an additional aesthetically pleasing appearance that coordinates with the stone around the front door of the home.

FIVE STATUTORY REQUIREMENTS ANSWERED BY THE APPLICANT, CONT.

4.

The variance for the size and placement of our service building will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare of any resident in our subdivision or surrounding area. However, not being able to have the service building or being able to place it in the proposed location would cause more land being disturbed, more trees being removed, large retaining walls being built, placing the building in the line of sight of our neighbor to the south preventing them from having a wooded view only from their backyard and longer concrete driveway to be constructed.

5.

We do not feel that issuing us this variance will be opposed by any current or future resident in our neighborhood as we have taken the size, appearance and location into careful consideration as to only add value to our property and the surrounding properties and neighbors. It is our feeling that by having this service building and in the placement we are proposing, it will prevent the removal of any more trees and be sufficient to house all of our large equipment, vehicles, storage and work space for repairing and maintaining equipment used for maintaining 5 acres of land.

NEIGHBORHOOD MEETING MATERIALS

Sept. 16, 2022

Jared and Vanessa Nyhus
11411 Hollingsworth Rd
Kansas City, KS 66109

Subject: Neighborhood Meeting

We have filed an application with the Department of Urban Planning and Land Use #BOZA2022-047. The purpose of this meeting is to share with our neighbors where we are proposing our service building to be placed on our property due to its size and location. We have filed a change of zoning with the county and would like to share what we have proposed.

We are having a neighborhood meeting on Sept. 26th at 5:30pm on our property: 11411 Hollingsworth Rd.

We welcome any questions or comments at this meeting and look forward to meeting you. If you are unable to attend you may contact me at vnyhus@jnyhus.com or 816-914-3597.

Sincerely,

Jared and Vanessa Nyhus

MINUTES:

Application Number BOZA2022-047

Date and Location: Sept. 26th, 2022, on property 11411 Hollingsworth Rd

Meeting called to order at: 5:59 pm

Names of people in attendance: Maren Matlock (in-person)

Introductions:

Vanessa Nyhus, applicant, shared the details of the building size and location. Pictures of the rendering of the building were shown. The illustration of the plot plan showing where we are proposing that the building be placed in relation to the home. The reason for the size was shared and a picture of the scaled drawing of the building with the items and machinery that it will be used for was shown.

Questions and answers (include the following):

Maren asked, "What would the building be used for and the answer was given as well as the drawing with the items in the building was shown. Vanessa answered the question and Jared, Vanessa's husband, showed the picture.

Her response, "I love that you will keep everything in a building and not sitting out on your property like other neighbors."

Maren asked, "Why did you choose this location? I like where you want to put it, but what was your reasoning?"

Vanessa, "We wanted to keep it behind the tree-line on Hollingsworth, we didn't want you to have to look at it if we put it in the backyard or the yard to the west, the location allows us to share the driveway with the house and if we moved it further east it would be on a slope and the flood plane."

Maren, "Thank you for considering us when you chose your location, we appreciate having an unobstructed view into the woods."

Meeting adjourned at: 6:20pm

Minutes taken by: Jared Nyhus, applicants husband

NEIGHBORHOOD MEETING MATERIALS, CONT.

Sept. 26, 2022
5:30pm neighborhood
meeting

Sign In Sheet:

Print Name
Maren Matlock

Sign Name
Maren Matlock

Neighbors that called or sent emails:

STUBBINGS, ROBBIE
PO BOX 12186
KANSAS CITY, KS 66112

Robbie called me on Sept. 26th to let me know, that as a builder himself and the neighbor who owns the property across the street from us to the north, he thinks we selected the most ideal location for an outbuilding. We had met Robbie this summer and showed him where we were planning on building the house and out building and got his input at that time. He told me, the applicant, on the phone that if it were him he would have chosen the same spot and left the trees in front of it like we plan to do because any further to the east or south would require more trees to be removed, retaining walls and a lot of dirt brought in to have level ground.

From: marenmatlock
Subject: Service building
Date: September 26, 2022 at 9:10 PM
To: vnyhus@jnyhus.com



Hi Vanessa, thank you for inviting us to meet today to discuss your plans to build a service building on your property. We appreciate you taking our view into consideration when making your plans and for taking the time to share them with us. Best of luck with the rest of your build, Maren and Justin Matlock

NEIGHBORHOOD MEETING MATERIALS, CONT.

AFFIDAVIT – NEIGHBORHOOD MEETING

STATE OF Kansas)
COUNTY OF Wyandotte) SS:

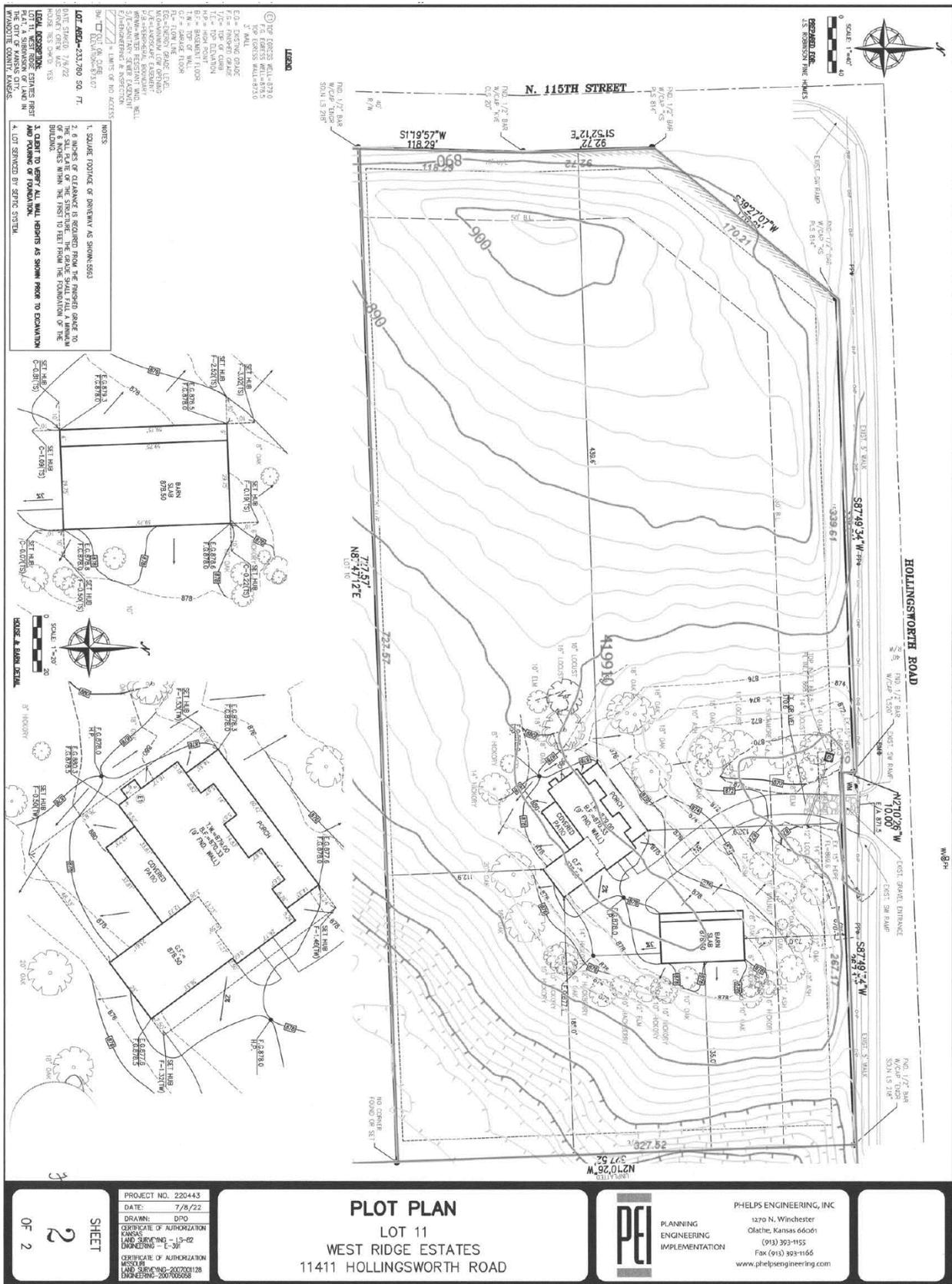
Comes now Vanessa Nyhus, of lawful age, sound mind and upon his/
her oath states as follows:

1. That I am the petitioner for Petition # BOZA2022-047
2. That I conducted a neighborhood meeting on Sept. 26th, 5:30pm
3. Attached are the minutes/summary of the meeting and a copy of the notice mailed to the property owners on the list provided by the Urban Planning and Land Use Department.

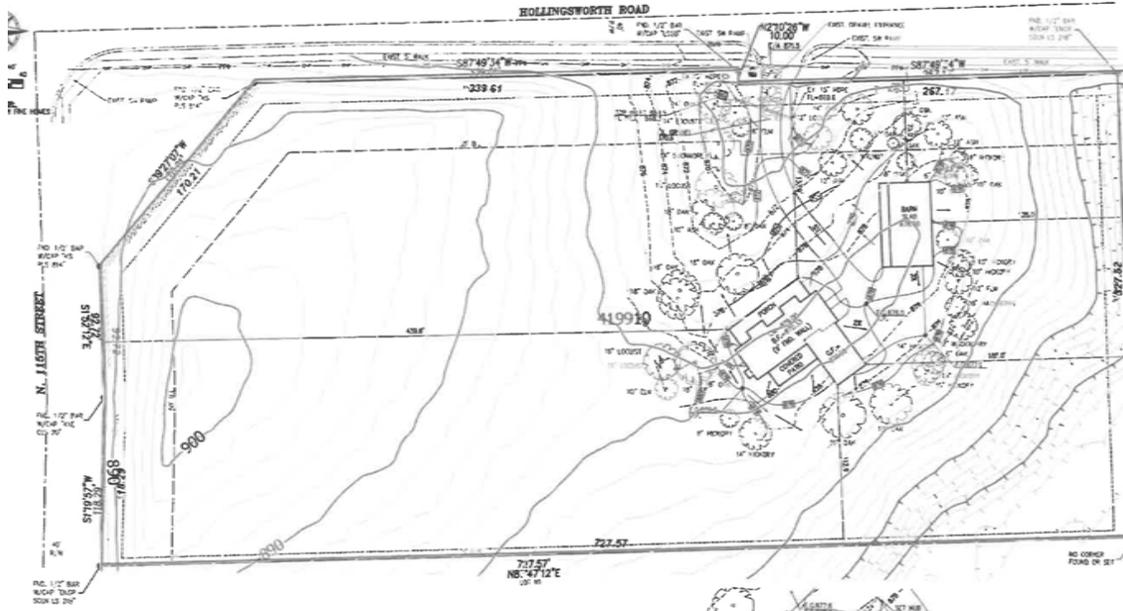
Further affiant saith not.


Affiant

PLOT PLAN OF 11411 HOLLINGSWORTH ROAD



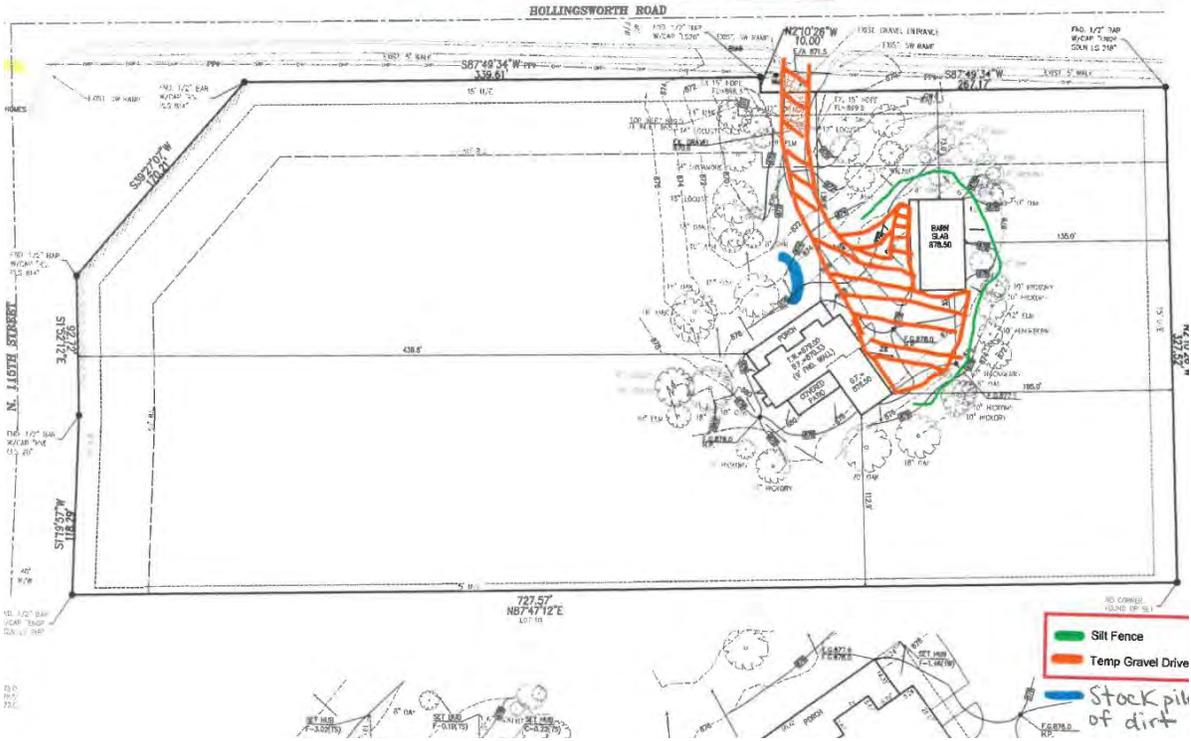
PLOT PLAN OF 11411 HOLLINGSWORTH ROAD, CONT.



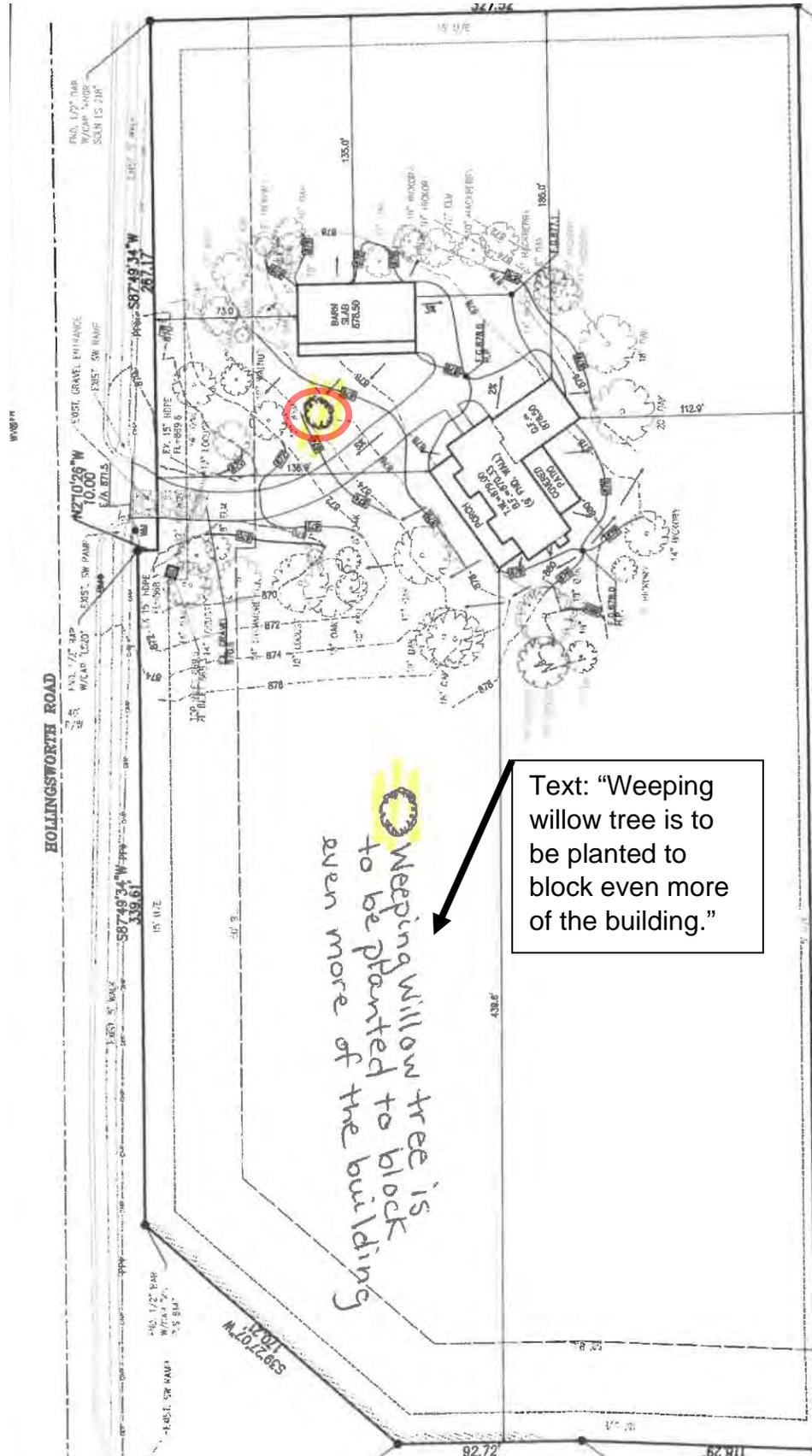
- NOTES:**
1. SQUARE FOOTAGE OF OVERLAY AS SHOWN/ISSUED
 2. 4 INCHES OF CLEARANCE IS REQUIRED FROM THE FINISHED GRADE TO THE SILL PLATE OF THE STRUCTURE. THE GRADE SHALL FALL A MINIMUM OF 6 INCHES WITHIN THE FOOT-10 FEET FROM THE FOUNDATION OF THE BUILDING.
 3. PERMIT TO EXCAVE ALL SILL MEMBERS AS SHOWN PRIOR TO EXCAVATION AND POURING OF FOUNDATION.



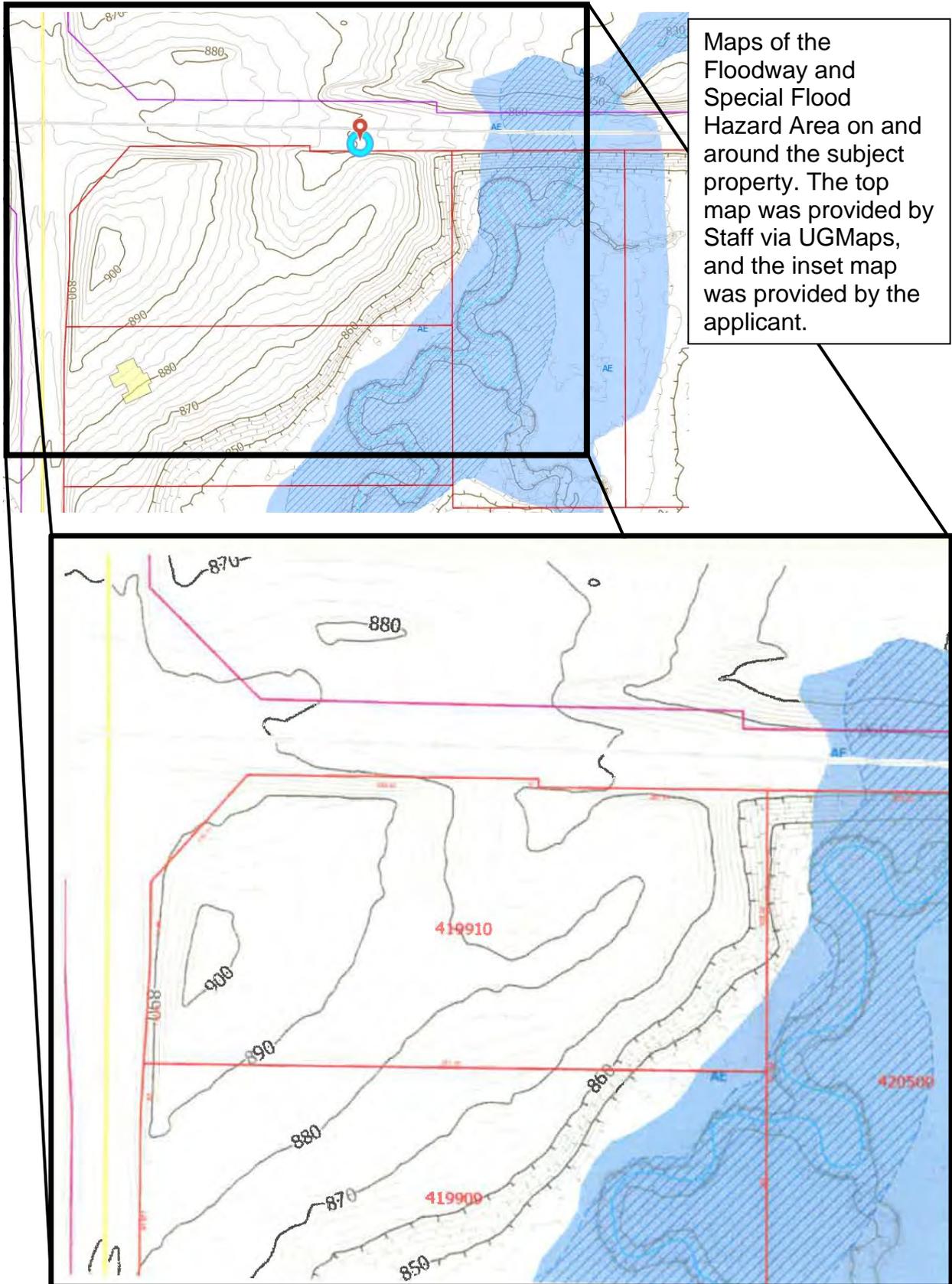
ACCESSORY STRUCTURE EROSION CONTROL PLAN



LANDSCAPING PLAN FOR 11411 HOLLINGSWORTH ROAD



FLOODPLAIN MAPS OF 11411 HOLLINGSWORTH ROAD AND SURROUNDING PARCELS

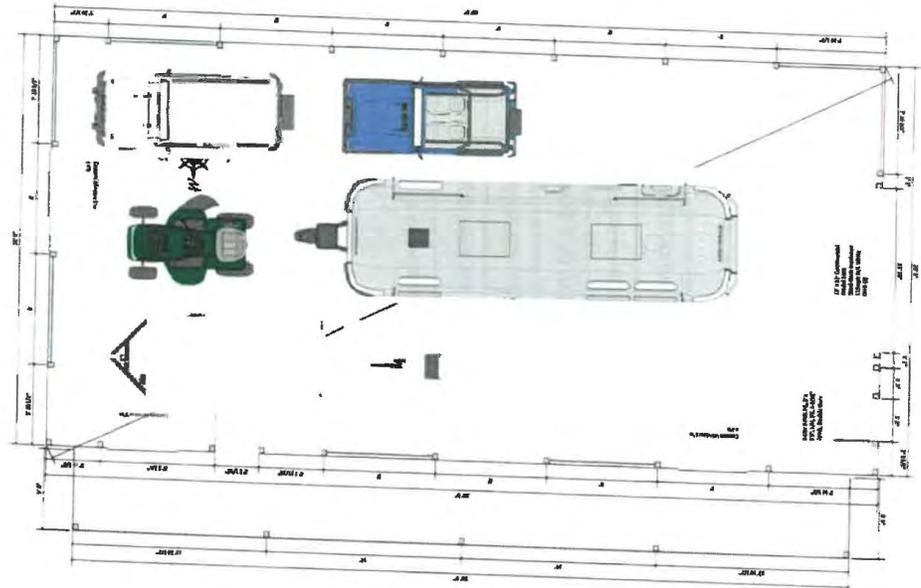


ACCESSORY BUILDING FLOOR PLAN SUBMITTED BY THE APPLICANT

Parcel 419910 – 11411 Hollingsworth

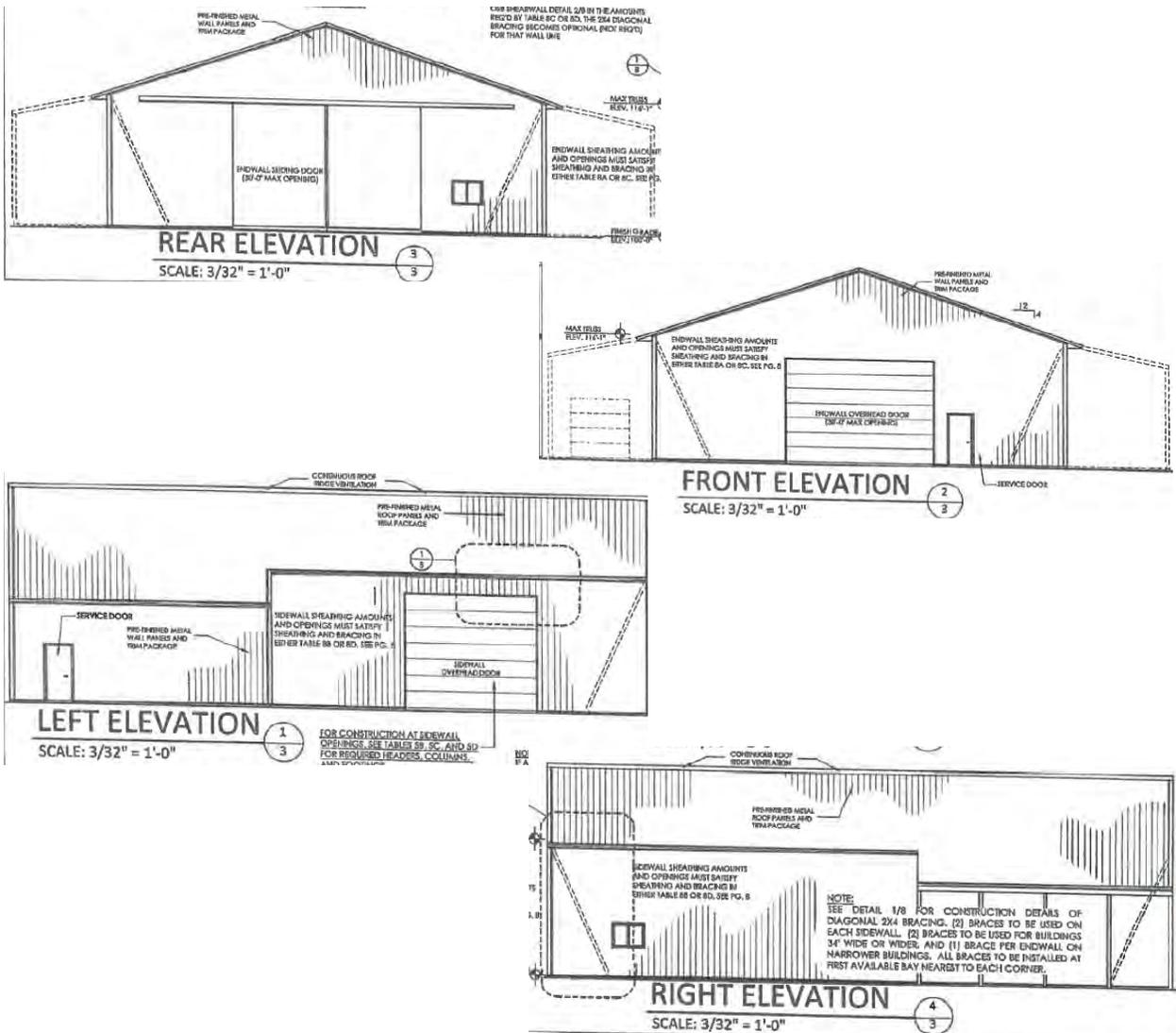
Outbuilding Layout With Existing Property of Owner

Question #1
attachment



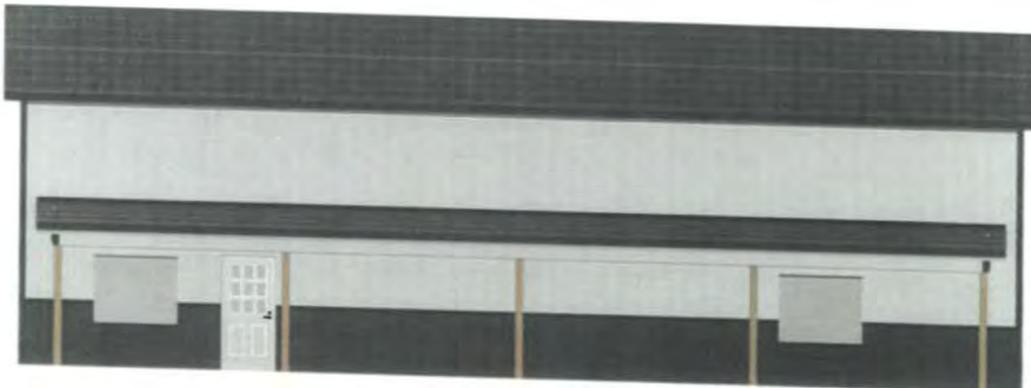
11411 Hollingsworth Road

ACCESSORY BUILDING ELEVATIONS SUBMITTED BY THE APPLICANT, CONT.



Parcel 419910 – 11411 Hollingsworth Road

Outbuilding Front View (west side)



The floor elevation is 878.5

The building height is 22' making the elevation of the roof peak 897.5

*This is 13.5' lower then the house

BUILDING ELEVATIONS OF THE PRIMARY RESIDENCE

Parcel 419910 – 11411 Hollingsworth Road

House Elevation



PHOTOS OF 11411 HOLLINGSWORTH ROAD PROVIDED BY THE APPLICANT

* Street view from Hollingsworth Rd
* Only future home is visible from Street



*Service building will sit behind this tree line



*outbuilding placement site



* Dense tree line that would be on the east side of building

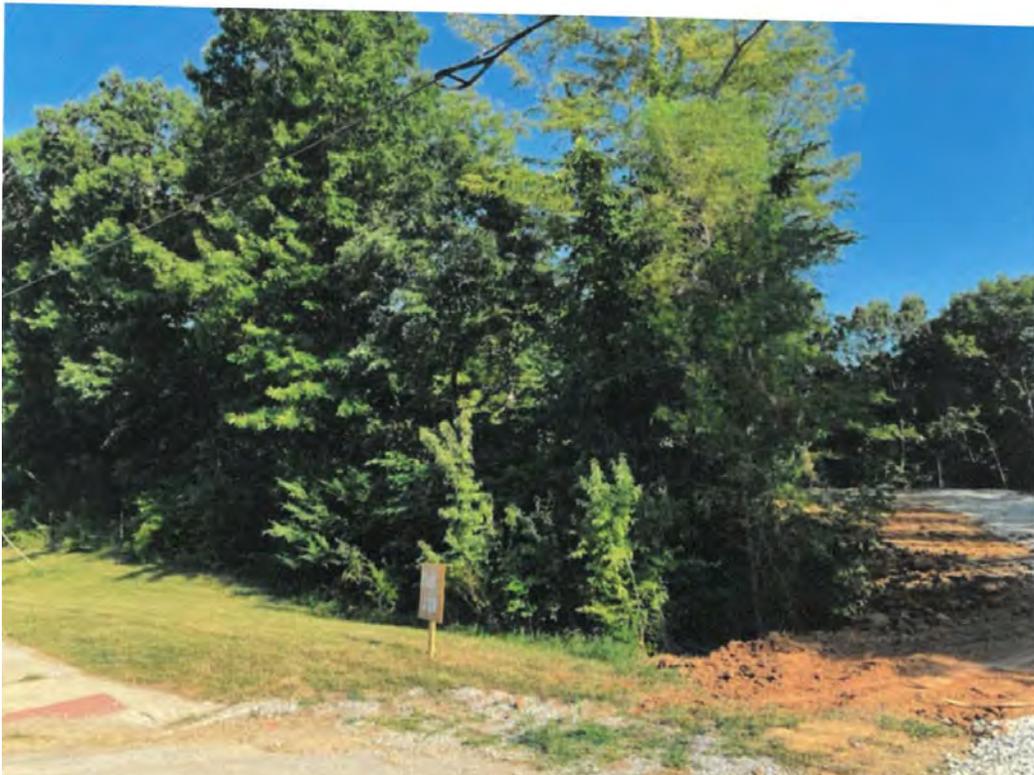


PHOTOS OF 11411 HOLLINGSWORTH ROAD PROVIDED BY THE APPLICANT, CONT.

Outbuilding is tucked behind these trees



out building would be behind these trees



COMPARABLE PROPERTIES IN THE NEIGHBORHOOD PROVIDED BY THE APPLICANT



11139 Hollingsworth Rd
Accessory building larger than
1000 sq ft

Staff Note: BOZA2021-002 granted 11139 Hollingsworth Road a variance for a 1,500-square-foot accessory building. The accessory building is located in the rear yard.



11001 Hollingsworth Rd
Accessory building with work vehicles
on property

Staff Note: 11001 Hollingsworth Road has a 2,500-square-foot accessory building. Construction permits were issued in 2004, but no variance has been granted. The accessory building is located in the rear yard.



10848 Hollingsworth Rd
Accessory building visible from street
and without coordinating aesthetics
with the primary residence.

Staff Note: 10848 Hollingsworth Road is zoned A-G and therefore does not have any primary residence-accessory building matching requirements. The accessory building is located in the rear yard.

SITE VISIT PHOTOGRAPHS BY STAFF, DATED OCTOBER 18, 2022



Above (both): Views of the subject property from Hollingsworth Road.

Lower Left: Additional view of the proposed site of the accessory building. The area is clearly visible from across the street.

Lower Right: View of the subject property from the driveway, facing south.



SITE VISIT PHOTOGRAPHS BY STAFF, DATED OCTOBER 18, 2022, CONT.



Above (both): View from the rear of the primary residence, facing west-northwest. There is suitable terrain where a compliant detached accessory building could be constructed.

STAFF SITE VISIT PHOTOGRAPHS, DATED OCTOBER 18, 2022, CONT.



Upper Left: Marked southwest corner of the proposed accessory building.

Upper Right: Site of the accessory building, as proposed by the applicant.

Below (both): Views of the terrain to the south of the construction site. Although it is difficult to tell from the photos, the land does slope downhill to the south, which does not allow for development deeper into the parcel.

