



AGENDA
BOARD OF ZONING APPEALS
December 16, 2024
Regular Meeting at 5:00pm
Basehor City Hall

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of minutes of the preceding meeting.**
 - a. Minutes of May 13, 2024.**
- 5. PV-002-24-Request for variance at 21062N. 155th Street for accessory building size limit for a R-1 zoned lot.**
- 6. Adjournment**



**MINUTES
BOARD OF ZONING APPEALS
May 13, 2024
Regular Meeting at 5:00pm
Basehor City Hall**

- 1. Call to Order at 5:00pm**
- 2. Pledge of Allegiance**
- 3. Roll Call**

Members-William Lindquist, David Howard, Steve Foss, Brian Freeman

Staff-Krystal Voth, Planning and Zoning Director, Diana Jacobson

- 4. Approval of minutes of the preceding meeting.**

a. Minutes of February 13, 2024.

William Lindquist motioned to approve the minutes of February 13, 2024 with Steve Foss seconding. Motion carried 4-0.

- 5. PV-001-24-Request for variance at 1409 N. 155th Street for accessory building size limit for a RO zoned lot.**

Krystal Voth presented staff report.

Member Lindquist motioned to approve PV-001-24 with member Foss seconding. Motion carried 4-0.

- 6. Adjournment**

Member Freeman motioned to adjourn meeting with member Howard seconding. Motion carried 4-0. Without further discussion meeting adjourned at 5:09pm.

Submitted without revisions or corrections on this 16th day of December, 2024.

David Howard, Chair

Diana Jacobson, Secretary

City of Basehor
Agenda Item Cover
Sheet PV-002-24

Agenda Item No. 5

Topic: Variance for accessory building requirements.

Narrative: Applicant is requesting a variance to the R-1 zoned accessory building requirements for 21062 N. 155th Street.

Presented by: Jim Sherman, Planning and Zoning Director

Attachments: Staff report
Zoning Regulations Article 7
Zoning map
Picture of building
Application
Public hearing notice



Case No. PV-002-24

STAFF REPORT

Board of Zoning Appeals Meeting: December 16, 2024, 5:00pm

Application:	Variance Request – Maximum Accessory Structure Size- Basehor
Owner/Applicant:	Zoning Code-Article 7, 2.g Invictus Builders-George D Lynch
Legal Description:	S26, T10, ACRES 4,01, S350' OF N1120' OF W660' LESS ROW ALSO LESS LT 1
Location:	HIGH POINT DOWNS 2 ND PLAT lot width: 350.0 lot Depth: 660.0
Planner:	21062 N 155 th Street Jim Sherman

Parcel Size:	<u>4.0 acres</u>	Zoning:	<u>R-1, Single Family Residential District</u>
Parcel ID Number:	<u>157-26-0-00-00-002.00-0</u>	Current Use:	<u>Dwelling Under Construction</u>

REPORT:

Request

The applicant is requesting a variance to the Basehor Zoning Regulations Article 7 which requires an accessory structure to be 900 square feet or smaller in an R-1 district. The lot presently has a single-family dwelling under construction that was issued a building permit in 2024; the dwelling has not obtained a certificate of occupancy to date. The accessory structure was constructed without a building permit or the submittal of plans.

Variance Request and Analysis

Article 17 of the Basehor Zoning Regulations state:

The board shall have power to hear and decide variances from the specific terms of this ordinance in an individual case provided that the spirit and intent of this ordinance be observed, public safety and welfare are secured, adjoining property owners are not adversely affected and the strict application of the Zoning Ordinance will result in an unnecessary hardship on the property owner/applicant. Such variance shall not permit any use not permitted in the zoning ordinance in such district.

The Zoning Regulations provide that a variance may be granted in each case, upon finding by the board that **all** of the following conditions have been met:

1. That the variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant.

1.1. The subject property does **not** have any extraordinary conditions; the condition is due to lack of adhering to the permitting requirements as the applicant was aware a building permit was to be secured prior to construction.

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

2.1. This variance request would **likely not** adversely affect the rights of the adjacent property owners or residents. The surrounding parcels are zoned R-1 with no large accessory structures in the immediate area.

3. That 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.

3.1. There is **no** indication of unnecessary hardship, the structure is new and was constructed without a building permit.

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.

4.1. The proposed variance would **likely not** have adverse effects.

5. That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.

5.1. **No** the intent of the Planning Commission and City Council when adopting accessory uses within Single Family districts intended specifically to restrict the size of accessory

structures. The intent was to permit larger accessory structures in those districts zoned appropriately such as R-0.

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

6.1. This variance would be the minimum variance necessary and only applies to an accessory structure that exceeds the maximum.

Staff Comments

The applicant is requesting a variance to the maximum size allowed for an accessory structure located in a R-1 zoned district as defined in Article 7 of the Zoning Regulations which requires all accessory structures in R-1 not to exceed 900 square feet. The request is for an increase of 700 square feet, or a 78% increase. The Board of Zoning Appeals has the authority to grant the request as presented. Staff recommends denial of the request because the request is not in conformance with the Basehor Zoning Code. The land surrounding this lot is all zoned R-1.

STAFF RECOMMENDATION:

Due to the nature of the request, which is not in conformance of the Basehor Zoning Code, Staff is not able to recommend approval of Case No. PV-002-24.

ACTION OPTIONS:

1. Recommend approval of Case No. PV-002-24, Lot Frontage Variance Request, with Findings of Fact, or
 2. Recommend denial of Case No. PV-002-24, Lot Frontage Variance Request, with Findings of Fact, or
 3. Continue the request to another date, time, and place.
-

2. R-1 Single Family Residential District:

a. Purpose: The purpose of this district is to provide for low-density single-family residential development, including those uses, which reinforce residential neighborhoods.

b. Permitted Uses: Single-family residential and related public and semi-public uses are permitted. For a specific listing of permitted and conditionally permitted uses, see Appendices A of these regulations.

c. Intensity of Use Regulations:

1. Density: Maximum 3.5 dwelling units per acre.
2. Minimum Lot Area: Ten thousand (10,000) square feet.
3. Minimum Lot Width:
 - a. Interior: Seventy-five (75) feet.
 - b. Corner: Ninety (90) feet.

d. Height Regulations:

Maximum Structure Height: Two and one-half (2 1/2) stories, or thirty-five (35) feet.

Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, scenery lofts, tanks, ornamental towers, church steeples, spires, antennas, or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained herein. One (1) additional foot of height above the specified limitation shall be permitted for each one (1) foot of additional yard provided over the minimum requirement on all sides of the lot.

e. Yard Regulations:

1. Front Yard: Thirty-five (35) feet.
2. Side Yard: Minimum ten (10) feet, or ten percent (10%) of the lot width, not to exceed twelve (12) feet.
3. Rear Yard: Minimum thirty (30) feet or twenty percent (20%) of the lot depth, whichever is greater, not to exceed forty-five (45) feet.

Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except that where no lots within the same block front on one of the two streets, the side yard setback requirements along such street shall be twenty (20) feet.

Lots fronting on two streets shall maintain the required front yard setback along both frontages.

f. Minimum Dwelling Size: Each dwelling shall provide a minimum of one-thousand-two hundred (1200) square feet of living floor area or as required by Section 4-104.10 of the City of Basehor Subdivision Regulations; whichever square footage is greater.

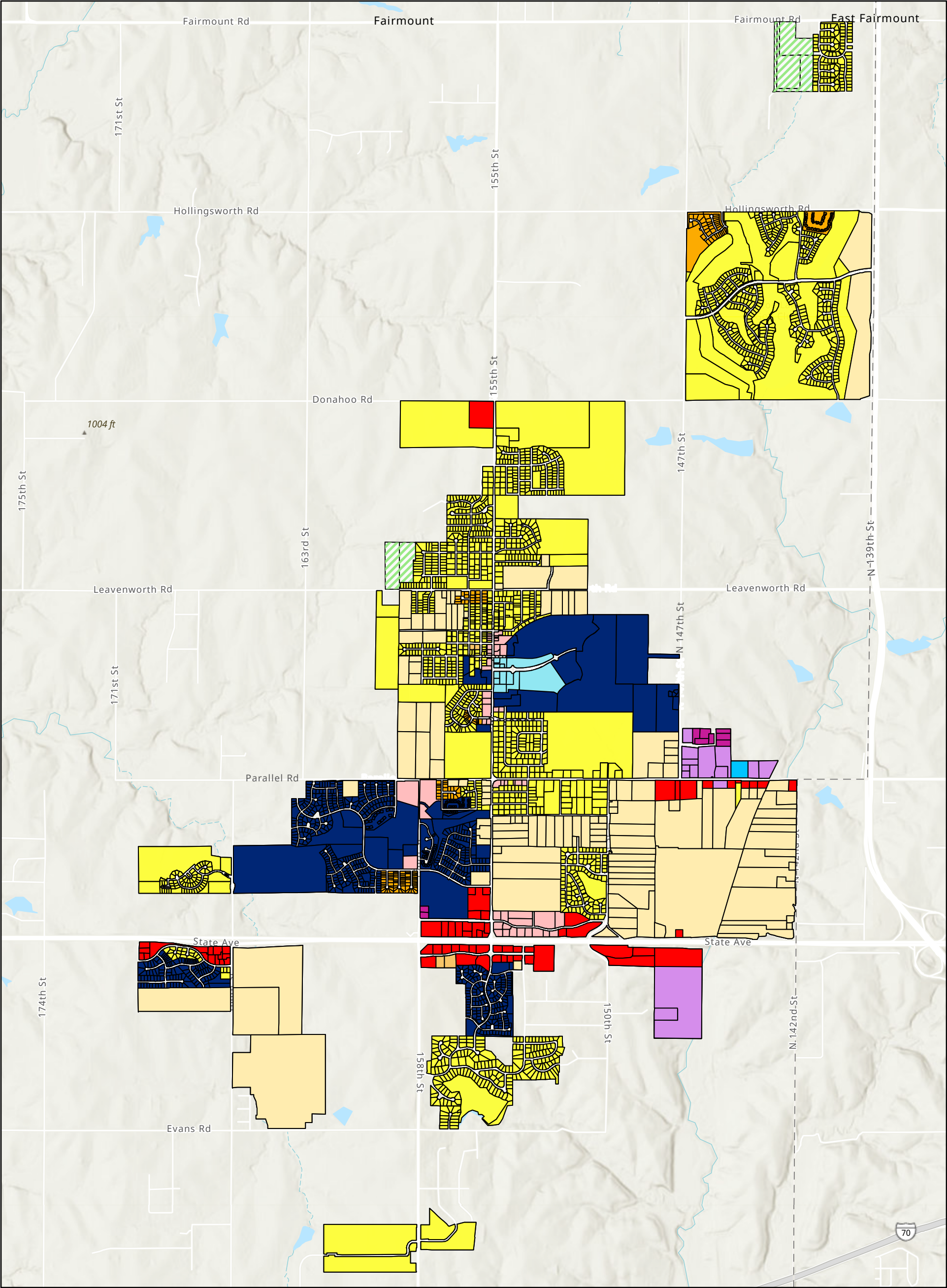
g. Accessory Buildings: 2.5% of the total square footage of the lot. The maximum size of any accessory building (detached or attached) shall not exceed 900 square feet in size.

1. Yard Regulations:

- a. Side Yard: Must maintain same setback as primary structure.
- b. Rear Yard: Ten (10) feet.

No accessory building shall be erected in any required front or side yard, and no accessory building or structure shall be erected closer than five (5) feet to any other building.

Zoning Districts Map



MU-2

MU-1

P-I

I-1

CP-2

CP-1

PR

R-3

R-2

R-1

R-O

Parks

Parcel Boundaries

0

0.33

0.65

1.3 mi

0

0.5

1

2 km

Esri, NASA, NGA, USGS, FEMA

Missouri Dept. of Conservation, Missouri DNR, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

Updated: 5/18/2023



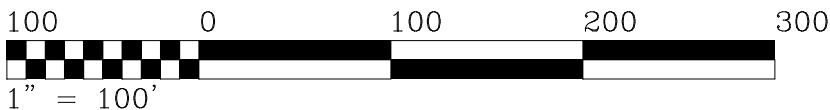
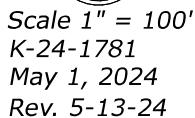
Tract in NW 1/4 Section 26-10-22,
Basehor, Kansas.

PREPARED FOR:
Invictus Builders LLC

BL - Building Setback Line
EG - Existing Grade/Elevation
TC - Top of Curb
FG - Proposed Finished Grade/Elevation
BF - Basement Floor Elevation
GF - Garage Floor Elevation
FF - First Floor Elevation

 - Proposed Drainage Flow
 - O/S - Offset Point
 TBD - To Be Determined
 NS - Not Set this Survey
 - 1/2" Bar Found
 - 1/2" Bar Set Cap No.1296

- 1) Lot Dimensions and Easements as per recorded Plat.
- 2) Erosion control measures as per City Regulations.
- 3) Proposed Structure located out of 100 year flood plain.
- 4) Rear Building Setback not shown on recorded plat.
- 5) Sewer Stub shown as per provided plans
- 6) Kansas One-Call should be contacted prior to construction.
- 7) Backflow protection is required on all lower level plumbing.



 J.Herring, Inc. (dba)
HERRING
SURVEYING
COMPANY

315 North 5th Street, Leav., KS 66048
Ph. 913.651.3858 Fax 913.674.5381
Email - survey@teamcash.com

NOTE: This is plot plan was prepared for construction of foundation plan only. Builder shall verify all dimensions and all grades shown to insure adequate fall to sewer and proper drainage of lot. No title information was provided for this drawing. Not responsible for any easements which are unplatted. Builder is required to have city approval of this plot plan before any construction. Prior to excavation, Kansas One Call should be notified for field marking of utilities.

CITY OF BASEHOR

Planning & Zoning Department
1600 N. 158th Street, Basehor, KS 66007
Phone: 913-724-1370
www.cityofbasehor.org



APPLICATION FORM

PV-002-24

Project Name & Description Invictus Builders - Variance Request		Total Site Acreage 4.0 AC	Present Zoning R-1
Legal Description (May be attached as separate sheet) Attached		Proposed Zoning R-1	
Project Address / General Location 21062 N 155th Street		Date 10/10/2024	
Parcel ID Number (CAMA Number) 157-26-0-00-00-002.00-0		Floor Area Classification	
Property Owner Name Invictus Builders	Phone 913-481-6847	Fax 913-319-3002	
Property Owner Address 1204 STATE AVE #STE A TONGANOXIE, KS 66086		City	State Zip
Applicant's Name Joe Herring	Phone 913-547-2881	Fax	
Applicant's Address 315 N 5th Street	City Leavenworth	State Ks	Zip 66048
Applicant will be responsible for all fees incurred for 3 rd party review of plans. Initials [X]		Property Owner and/or Applicant's E-mail address danlynch@lynchresidential.com HerringSurveying@outlook.com	

APPLICATION TYPE

☐ Annexation	☐ Preliminary Development Plan (Submit Sheet A) [# of lots _____]
☐ Rezoning (Submit Sheet A)	☐ Final Development Plan (Submit Sheet A) [# of lots _____]
☐ Conditional Use Permit (Submit Sheet A)	☐ Lot Split
☐ Special Use Permit	☐ Preliminary Plat [# of lots _____]
☒ Variance (Submit Sheet B)	☐ Final Plat [# of lots _____]
☐ Site Plan	

PROJECT INFORMATION

Existing Use ☒ Residential ☐ Commercial ☐ Industrial ☐ Office ☐ Agriculture ☐ Vacant ☐ Other _____	
Proposed Use ☐ Residential ☐ Commercial ☐ Industrial ☐ Office ☐ Agriculture ☐ Other _____	

COMPLETE THIS AREA IF APPLYING FOR SITE PLAN, CONDITIONAL USE PERMIT AND PRELIMINARY OR FINAL DEVELOPMENT PLANS (in acres)

Total Site Area	Existing Floor Area	Existing Building Footprint	Open Space Area
No. of Buildings	Proposed Floor Area	Proposed Building Footprint	Pavement Coverage

COMPLETE THIS AREA FOR PRELIMINARY AND FINAL PLATS

Proposed Number of Lots	Maximum Lot Size	Minimum Lot Size	Average Lot Size
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Property Owner/Agent Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

X Signature 10/10/2024 Date

Office Use Only
☐ Filing Fee \$ 150 ☐ Received by [Signature] ☐ # of Plans _____
☐ Attached Legal Description ☐ Property Ownership List

EXPLAIN THE REASON FOR THE REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a variance to the Basehor Zoning Regulations Article 2.6 (R-1, accessory use). This regulation allows for a maximum square footage of 900 for an accessory building within the R-1 zoning district. The future property owner (not the builder who currently owns the property) commissioned a builder to construct an accessory building on the site prior to obtaining a building permit. This building is 1600 square feet, which exceeds the maximum allowable square footage in the R-1 zoning district by 700sq. The property in question is four-acres in total, and the future owner believed the zoning was agricultural due to the large size of the lot. If the property were zoned agricultural, this building would be permitted. The Basehor City Zoning Map indicates this property to be zoned as R-1, the applicant has requested the City to provide the ordinance which officially zoned the property as R-1 and as of yet that documentation has not been received. The City regulations regarding annexation state that a property will assume the most similar zoning category upon annexation as the property was zoned in the County. In this case, we believe that zoning district was originally Rural Residential and as such this property should have maintained a zoning category of "Agricultural" which would allow this building to remain. The future property owner is aware that a building permit should have been obtained prior to constructing the building and in the future will work with the Planning and Zoning Department on future construction.

The applicant requests that the Board of Zoning Appeals grant a variance to this regulation and allow the constructed building to remain as it.

That 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 the applicant.

The future property owner did cause this issue. They incorrectly believed that since a building permit had been obtained for the house that they could also construct the accessory building on the site. The future property owner is aware now that all buildings over 120sq require a building permit and will work with the Planning and Zoning Department in the future to obtain necessary permit. Even though the property owner unintentionally caused this request, we still believe this situation is unique in that this large (4-acre) parcel may actually be zoned as agricultural and if that is the case, a variance is

not needed. Additionally, the regulations state that an accessory building cannot exceed 2.5% of the total area of the property and cannot be larger than 900sf. The building as it currently stands does not exceed the 2.5% portion of the regulation. A 900sq limit seems unreasonable for a parcel of this size.

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

It is highly unlikely that the granting of this variance will negatively impact the rights of adjacent property owners. The Building is significantly less than the allowable 2.5% of the total land area and the building meets all applicable setback requirements. Given the size of the parcel and the location of the property at the very edge of the city, this outbuilding fits with the character of the neighborhood.

That 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.

The strict application of the zoning ordinance (which may not be applicable if this property is actually zoned agricultural) will require an already constructed building to be torn down and removed. This does not seem to be in the best interest of the City or the property owners especially given that allowing the building to remain will not hinder adjacent property owners in any way.

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.

Allowing this building to remain will not adversely affect the public health, safety, morals, general welfare or the harmonious development of the city especially given the location of the property and the size of the property. Requiring the building to be removed will lower the value of the property and will reduce the property taxes collected on this property in the future.

In preparing to submit this application to the Board of Zoning Appeals, the applicant researched previous variance requests. The Board heard and granted a similar request on which allowed a 2,600 square foot building to remain on a 1.6 acre tract of land that was

more centrally located within the city. The applicant believes are request is similar in nature.

That granting the variance desired will not be opposed to the general spirit and intent of the Zoning ordinance.

This request does not oppose the general spirit and intent of the zoning ordinance, especially given that we are able to fully comply with the first portion of the regulation that caps the maximum of 2.5% of the total land area. Also, if the property is technically zoned as agricultural land, this variance is not necessary at all.

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

This request is the minimum variance that will afford relief.

**CITY OF BASEHOR
BOARD OF ZONING APPEALS
PV-002-24**

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Zoning Appeals of the City of Basehor, will hold a public hearing on December 16, 2024, at 5:00 PM, in the meeting room of City Hall located at 1600 N. 158th Street, Basehor, Kansas to consider a variance on accessory request to the City of Basehor Zoning Code, Article 7, Section 2, R-1 Single Family, Subsection g; Accessory Buildings:

LEGAL DESCRIPTION:

**Request Submitted By: Dan Lynch
Address: 21062 N. 155th Street
Parcel ID Number: 157-26-0-00-00-002.00-0**

Further information is available, including the full legal description, for inspection during regular business hours in the City of Basehor & Zoning Department.

We encourage public input. If you wish to provide comments in writing instead of in person, written comments must be received no later than noon, Friday, December 13, 2024.

Jim Sherman, Planning and Zoning Director
City of Basehor, Board of Zoning Appeals

Publish by November 26, 2024.

(Publish One Time)

KREIKEMEIER,ROBERT & LINDSEY MAI 15162 DONAHOO RD BASEHOR, KS 66007	INVICTUS BUILDERS LLC 1204 STATE AVE #STE A TONGANOXIE, KS 66086	BRANDT,ROGER L SR & LINDA J;TRUS 15525 HOLLINGSWORTH RD BASEHOR, KS 66007
HETZEL,KARLTON & RHONDA; HETZEL 15414 BELMONT CT BASEHOR, KS 66007	DRAKE,ANDREW J & SHANDY K 15410 BELMONT BASEHOR, KS 66007	STEPHENS,ASHTON B & KAELE S 15400 BELMONT CT BASEHOR, KS 66007
BONDY,WESLEY MATTHEW & LAURA M 15420 BELMONT CT BASEHOR, KS 66007	H Aidari,SAMANDER & Haidari,FARIDI 15424 BELMONT CT BASEHOR, KS 66007	SMART,KRISTOPHER L & BARBARA R 21026 155TH ST BASEHOR, KS 66007

9589 0710 5270 2455 2370 52

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City, State, ZIP+4® Basehor, KS 66007

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Sent To Muhammad & Faridullah Heidari

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City, State, ZIP+4® Basehor, KS 66007

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Sent To Andrew & Sherry Drake

Street and Apt. No., or PO Box No. 15410 Belmont CT

City, State, ZIP+4® Basehor, KS 66008

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Street and Apt. No., or PO Box No. 15414 Belmont CT

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Street and Apt. No., or PO Box No. 15470 Belmont

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Street and Apt. No., or PO Box No. 15525 Hollingsworth Road

City, State, ZIP+4® Basehor, KS 66007

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Postage

Total Postage and Fees

Sent to
 Christopher & Barbara
 21026 155th Street
 Overland Park, KS 66009

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 Invictus builders
 1209 State Ave Suite A
 Topeka, KS 66606

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 15400 Belmont CT
 Overland Park, KS 66007

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