St. Marys Board of Zoning Appeals  
Regular Meeting Agenda  
St. Marys City Hall  
Wednesday, January 9, 2019 @ 7:00 P.M.

Call to Order

1. Members Present  
John D’Aloia__ Andrew Bunel__ George Kneuper__ John Simecka__ Jimmy Hostetler__

Others Present: ______________________________________________________
____________________________________________________________________
____________________________________________________________________

2. Minutes of the December 18, 2017, Regular Meeting

3. Approve Agenda – Items Added/Removed:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

4. Old Business:

a) Reorganize BZA – Chairman  
Tabled_________  Second__________  Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka, ___ Hostetler

b) Reorganize BZA – Vice-Chairman  
Tabled_________  Second__________  Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka, ___ Hostetler

c) 7:05 p.m. Public Hearing - Request for Variance – Harpe  
Tabled_________  Second__________  Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka, ___ Hostetler

d) 7:10 p.m. Public Hearing - Request for Variance – Rezac  
Tabled_________  Second__________  Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka, ___ Hostetler

e) 7:15 p.m. Public Hearing - Request for Variance – Webber  
Tabled_________  Second__________  Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka, ___ Hostetler
5. Adjournment

Motion _________ Second _________
Vote: ___ D’Aloia, ___ Bunel, ___ Kneuper, ___ Simecka
ST. MARYS BOARD OF ZONING APPEALS  
Regular Meeting at City Hall  
Monday, December 18, 2017

MEMBERS PRESENT: Andrew Bunel, John Simecka, and John D’Aloia, Jr.

MEMBERS ABSENT: George Kneuper.

OTHERS PRESENT: Maurice Cordell (Zoning Administrator).

Chairman John Simecka called the meeting to order at 7:30 p.m.

The minutes of the last regular meeting held on November 21, 2017, were discussed. On a motion by D’Aloia, seconded by Bunel, to approve the minutes as presented. VOTE: AYE - Bunel, D’Aloia, and Simecka. Motion carried.

The agenda was approved as presented.

Old Business: None.

New Business:

Board Reorganization – Chairman Simecka asked for nominations for Chairman. Bunel nominated Simecka. Simecka asked two additional times for nominations for Chairman, and hearing none he closed the nomination process. After discussion, on a motion by Bunel, which was seconded by D’Aloia, to appoint Simecka as Chairman. VOTE: AYE - Bunel, D’Aloia, and Simecka. Motion carried.

Chairman Simecka asked for nominations for Vice-Chairman. Bunel nominated D’Aloia. Simecka asked two additional times for nominations for Vice-Chairman, and hearing none he closed the nomination process. After discussion, on a motion by Bunel, seconded by Simecka, to appoint D’Aloia as Vice-Chairman. VOTE: AYE - Bunel, D’Aloia, and Simecka. Motion carried.

Cordell asked that the BZA members bring in their UDC’s so that they can be updated.

As there was no further business, the meeting was adjourned at 7:33 p.m., on a motion by D’Aloia, which was seconded by Simecka. VOTE: AYE - Bunel, D’Aloia, and Simecka. Motion carried.

______________________________     Date_______________________

Zoning Administrator
ST. MARYS BOARD OF ZONING APPEALS
Regular Meeting at City Hall
Wednesday, July 8, 2015

MEMBERS PRESENT: Andrew Bunel, George Kneuper, John Simecka, and John D’Aloia, Jr.

MEMBERS ABSENT: Kevin Crane

OTHERS PRESENT: Maurice Cordell (Zoning Administrator), Dylan Cushing, and Jennifer Hodge.

Chairman John Simecka called the meeting to order at 7:30 p.m.

The minutes of the last regular meeting held on November 17, 2015, were discussed. Cordell noted that the minutes lacked the day the meeting was held in November 2014. After discussion it was determined that the meeting was held on the 17th. On a motion by Kneuper, seconded by D’Aloia, the minutes were approved as amended. VOTE: AYE - Bunel, Kneuper, D’Aloia, and Simecka. Motion carried.

The agenda was approved as presented.

Old Business: None.

New Business:

Variance Request 28220 Gailland Road

Chairman Simecka asked the applicant to explain his request. Dylan Cushing stated that he submitted a request for a variance from the following provision of the U.D.C., Chapter 1, Article 10.102.1b, which reads: “Single family, non-farm, dwelling unit for each quarter/quarter section (40 acres) exclusive of farm residences.” The applicant then cited his Statement of Purpose, which was submitted with his application, to justify his request.

Simecka asked Cordell if he had received any feedback from the Notice of Public Hearing that was published in the June 10, 2015, St. Marys Star. Cordell stated that he had not received any feedback regarding Cushing’s request for variance.

After reviewing the Application for Variance, it was determined to be complete.

D’Aloia distributed a map of Section 3, in Township 10, Range 12E, which identified the non-farm dwellings in each quarter/quarter section of the aforementioned Section 3, noting that four non-farm dwellings have already been constructed in the applicant’s quarter/quarter section, and as a result U.D.C., Chapter 1, Article 10.102.1b has been violated, thus establishing a precedent. Additional discussion centered upon U.D.C., Chapter 1, Article 10.102.1b, and whether it was an appropriate policy.
After discussion, a motion by D’Aloia, seconded by Kneuper, a variance was approved at 28220 Gaillard Road, since it met the requirements for such, and because precedence has already been established. VOTE: AYE - Bunel, Kneuper, D’Aloia, and Simecka. Motion carried.

U.D.C.

D’Aloia distributed a draft letter regarding a proposed revision to U.D.C., Chapter 1, Article 10.102.1b, that also included handouts of K.S.A. 2-3202 and K.S.A. 2-3203. After discussion, a motion by Kneuper, which was seconded by D’Aloia, to send the letter to the Planning Commission, and ask that it consider revising U.D.C., Chapter 1, Article 10.102.1b, as per D’Aloia’s letter was approved. VOTE: AYE - Bunel, Kneuper, D’Aloia, and Simecka. Motion carried.

As there was no further business, the meeting was adjourned at 7:50 p.m., on a motion by Kneuper, which was seconded by D’Aloia. VOTE: AYE - Bunel, Kneuper, D’Aloia, and Simecka. Motion carried.

_________________________________     Date_______________________
Zoning Administrator
July 27, 2015

From: Chairman, BZA
To: Chairman, PC
Subj: UDC Change Proposal

1. At the July 8th meeting of the BZA, a citizen’s request was considered for a variance from the Quarter/Quarter dictate regarding a non-farm residence in an ETZ area zoned Agricultural. The BZA granted the request.

2. After action on the citizen’s request was completed, the BZA considered a member’s proposal to recommend to the PC that it consider eliminating the Quarter/Quarter dictate by revising Section 10.102.1.b) to read:

"b) Single family, non-farm dwelling units. Factory-built homes, excluding mobile homes, will be allowed if placed on a permanent foundation. The provisions of Section 11.100.4 apply, less Section 11.100.4.a). As long as the zoning of any contiguous land to the dwelling unit parcel remains Agricultural, the provisions of KSA 2-3202, Certain Agricultural Activities Not A Nuisance, and KSA 2-3203, Definitions, apply."

3. The rationale for the recommended change is:

a. The NE1/4 of Section 3 and the NW1/4 of Section 2 contain 25 homes located in the RR-zoned land and 10 homes in the Agricultural zoned land. The area is losing its agricultural nature. It is already divided into 55 parcels; the acreage of the RR-zoned land is 175, leaving 145 acres zoned Agricultural.

b. The population of the portion of St. Marys Township outside the city limits, per the state’s official estimates, is steadily growing: 2011 - 1,016 people; 2012 - 1,044; 2013 - 1,065. (2013 last official estimate). The number of homes in the ETZ north of town indicates that there is a market outside the city limits for residences.

c. There are four homes in the NW1/4 of the NE1/4 of Section 3 on land zoned Agricultural, and four homes in the SW1/4 of the NW1/4 on land zoned Agricultural, all owned by different people. If two of the homes in each Quarter/Quarter section are non-farm dwelling units, the Quarter/Quarter section dictate was not imposed when the houses were built. A precedent has been established. While some parcels appear to be used for haying (as shown on the 2014 aerial on the county’s GIS website), other agricultural use of some of the other parcels is not evident.
d. Removing the Quarter/Quarter dictate in no way impacts the ability of a farmer/rancher from using Agricultural zoned land for agriculture, nor does it impact the ability of a person from buying up contiguous parcels to turn them back into agricultural use without a zoning amendment.

e. Removing the Quarter/Quarter dictate provides the owner of Agricultural zoned land freedom to make personal decisions on selling portions of his land unconstrained by a UDC dictate.

4. The BZA requests that the PC formally consider this recommendation and take action to implement it.

Sincerely,

BZA Chairman, John Simecka
The Harpe's provided the requested information, but I failed to give them the Variance Application, but instead gave them the ETZ application.
Extra Territorial Zones

New Building Address: 4000 St. Marys Zoning District: __________ Date: 10-8-18

Legal Description: Lots(s) _______ Block: ___ Subdivision: _______________

County Legal Description (i.e. copy of deed): ______________________________________

Section _______ Twp. _________ Range _________

Name of Landowner: Jeremy/Jennifer Harpe Phone: 785-584-6191

Name of Applicant: Jennifer Harpe Phone: 785-584-6191

Address of Applicant: 5848 NW Roseville Rd, Roseville, KS 66533

Use of Structure:

Residential: ☑️ Commercial: _______ Accessory: _______ Other: _______

☐ New construction ☐ Relocation ☐ Other __________

Method of Construction (Check One)

Manufactured Home: ___ Site Built Home ☑️, Modular Home, ____, *Mobile Home ____, Residential-Design Manufactured Home ____.

*Mobile Home: For Definition See K.S. A. 58-4202 (b).

If Mobile Home please complete the following: Make or Model _______, Length_____, Width_____, Year_____.

To be occupied by: Property Owner____, Relative____, Employee____, Other (explain): ____________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________
**List all Square Footages**

Square foot of: 1st floor: 1560 2nd floor: _ _ _ _ Basment: 560 Garage: 24 x 24

Accessory: 30 x 50

**Total Number (all Floors)**

Bedrooms: 3  Bathrooms: 2

**Utilities:**

Gas: Propane: _ _ Natural: _ _

Water: Rural: _ _ Well: _ _ City: _ _

Electric: Bluestem: _ _ KPL: _ _ Other: _ _

Wastewater: Septic: _ _ Lagoon: _ _ Other: _ _

**Estimated Cost of Construction:** 140,000  Estimated Market Value: 200,000

Starting date: 10/3/18  Estimated completion date: _ / _ / _

I hereby acknowledge that the information presented is correct and that the project will comply with all applicable zoning regulations of the City of St. Marys and Sanitary Code Regulations of Pottawatomie County. It is further-understood that compliance with applicable ordinances is my responsibility as Landowner/Applicant.

(Signature of Applicant/ Date)
JOINT TENANCY WARRANTY DEED
(Following Kansas Statutory Warranty Form)

This 3rd day of Aug., 2016,

Benedict V. Dabrowski and Kimberly M. Dabrowski, husband and wife,

CONVEY AND WARRANT TO:

Jeremy J. Harpe and Jennifer Harpe,

as joint tenants with the right of survivorship and not as tenants in common, all the following described real estate, situated in the County of Pottawatomie, State of Kansas, to wit:

The Northerly 282.84 feet of the Easterly 770.12 feet of the Southeast Quarter of the Northwest Quarter of Section Two (2), Township Ten (10) South, Range Twelve (12) East of the 6th P.M., situate in Pottawatomie County, Kansas.

Subject to easements, rights of way, restrictions, homeowner association agreements and by-laws of record;

for the sum of other valuable considerations and One and no/100 Dollars.

EXCEPT AND SUBJECT TO EXCEPTIONS HEREBEFORE STATED.

Benedict V. Dabrowski

Kimberly M. Dabrowski

STATE OF Kansas COUNTY OF Pottawatomie

This instrument was acknowledged before me on Aug. 3, 2016 by Benedict V. Dabrowski and Kimberly M. Dabrowski.

(Signature of notarial officer)

Michelle C. DeLettera
Notary Public - State of Kansas

My appointment expires Aug. 3, 2019

Book 735 Page 107
Certificate of Survey

Description: Book 735, page 107
The Northerly 282.84 feet of the Easterly 770.12 feet of the Southeast Quarter of the Northwest Quarter of Section Two (2), Township Ten (10) South, Range Twelve (12) East of the 6th P.M., situate in Pottawatomie County, Kansas.

Notes:
1. By agreement with client no investigation has been made regarding the location and/or existence of utility lines and easements.
2. Basis of bearings: Assumed the East line of the Northwest Quarter bears S00°39'54"W.
3. Reference surveys: Plat of Johnson Subdivision recorded in Plat Book Cabinet C, page 111.

This is to certify that this field survey was completed on the ground by me or under my direct supervision.

Date of Survey: February 7, 2018
Date of Plat: 2.12.18

PREPARED FOR:
Jennifer & Jeremy Harpe
5848 NW Rossville Road
Rossville, Kansas 66533

Schmidt, Beck & Boyd Engineering, LLC
1415 SW Topeka Blvd. | Topeka, Kansas 66612
785.215.8630 | 785.215.8634 (F)
1. Sharon A Brunin Trust
   28950 Loir Rd
   St. Marys, KS 66534

2. Natale + Maria Parisi
   4830 Shawnee Rd
   St. Marys, KS 66534

3. Jason + Amanda Fabaz
   4690 Shawnee Rd
   St. Marys, KS 66534

4. Ramin Barrara Jr + Rhonda Lenherr
   515 W Bertrand
   St. Marys, KS 66534

5. Ronald Harry Laney
   P.O. Box 131
   St. Marys, KS 66534

6. David + Mary Delallo
   28690 Gailand Rd
   St. Marys, KS 66534

7. Thomas + Shannell Peetcrs
   28600 Gailand Rd
   St. Marys, KS 66534

8. Matthew + Norg White
   28540 Gailand Rd
   St. Marys, KS 66534
9. John + Sarah Dorobek  

88594 Gaillard Rd  

St. Marys, KS 66534

10. Joseph + Jayne Johnson  

44441 Shawnee  

St. Marys, KS 66534

11. Adam + Sarah Haurle  

38586 Gaillard Rd  

St. Marys, KS 66534

12. Matthew + Autumn Vanwamel  

38578 Gaillard Rd  

St. Marys, KS 66534
PUBLIC NOTICE

Notice is hereby given that on Wednesday, December 19, 2018 at 7:05 p.m. in the Commission Chambers of City Hall, St. Marys, KS; the St. Marys Board of Zoning Appeals will hold a public hearing on the application of Jeremy & Jennifer Harpe, 5848 NW Rossville Road, Rossville, Kansas, for a variance on improvements to be made at 4600 Shawguee Road, Pottawatomie County, St. Marys, Kansas.

The purpose of the hearing is to consider an application for a variance from St. Marys UDC Chapter 1, Article 10.105.1b, which allows only one single-family, non-farm, dwelling unit for each quarter/quarter section, exclusive of farm residences. The purpose of the hearing is to receive public testimony; thus, any interested person or persons may appear and be heard on this issue at this time. This notice shall be published twenty (20) days before the public hearing.

Maurice Cordell
Zoning Administrator
November 30, 2018

This is to notify you that on Wednesday, December 19, 2018 at 7:05 p.m. a Public Hearing will be held by the St. Marys Board of Zoning Appeals, in the commission room located at 200 South 7th, St. Marys, Kansas, 66536.

The Public Hearing will be held to consider a variance from St. Marys UDC Chapter 1, Article 10.105.1b, which allows only one single-family, non-farm, dwelling unit for each quarter/quarter section, exclusive of farm residences.

Applicant(s): Jeremy and Jennifer Harpe, 5848 NW Rossville Road, Rossville, Kansas are constructing a single-family house at 4600 Shawguee Road, St. Marys, Kansas. Please see the attached for…

**Complete Legal Description:** The Northerly 282.84 feet of the Easterly 770.12 feet of the Southeast Quarter of the Northwest Quarter of Section Two (2), Township Ten (10) South, Range Twelve (12) East of the 6th P.M., situate in Pottawatomie County, Kansas.

For more information regarding this Variance application, please visit [www.smks.info](http://www.smks.info) and/or contact the Zoning Administrator at City Hall or call (785) 437-2311.

Sincerely,

Maurice Cordell  
Zoning Administrator
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>City, State, Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sharon A Brunin Trust</td>
<td>28950 Wirt Road</td>
<td>St. Marys, KS, 66536</td>
</tr>
<tr>
<td>Natalie &amp; Maria Parsi</td>
<td>4630 Shawguee Road</td>
<td>St. Marys, KS, 66536</td>
</tr>
<tr>
<td>Jason &amp; Amanda Fabaz</td>
<td>4680 Shawguee Road</td>
<td>St. Marys, KS, 66536</td>
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<tr>
<td>Ramon Barrara/Rhonda Lenherr</td>
<td>515 W. Bertrand</td>
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</tr>
<tr>
<td>Ronald Harry Laney</td>
<td>PO Box 131</td>
<td>St. Marys, KS, 66536</td>
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<td>Joseph &amp; Jayne Johnson</td>
<td>44421 Shawguee</td>
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</tr>
</tbody>
</table>
The red X below is the property in question:
This begins the Rezac variance application packet.
APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type

APPLICATION IS MADE FOR:

☐ APPEAL FROM A DECISION OF THE CODE ENFORCEMENT OFFICER, ZONING ADMINISTRATOR, OR OTHER CITY STAFF, IN THE ENFORCEMENT OF THE UNIFIED DEVELOPMENT CODE.

☐ VARIANCE FROM SPECIFIC SECTION(S) OF THE UNIFIED DEVELOPMENT CODE.

LEGAL DESCRIPTION: See attached

LOCATION OR ADDRESS OF SUBJECT PROPERTY: The parcel directly east of 28220 Gailand Road.

ZONING ON SUBJECT PROPERTY: Agricultural CURRENT LAND USE: pasture

REQUEST: (CITE SPECIFIC SECTION, BY SECTION AND SUBSECTION, OF THE UNIFIED DEVELOPMENT CODE FROM WHICH VARIANCE IS BEING REQUESTED.)

Chapter 1, Article 10.105.1b

PROPERTY OWNER'S NAME: James & Misty Rezac
COMPANY: 
MAILING ADDRESS: 310 S. 10th Street St. Marys Kansas 66536

APPLICANT/AGENT'S NAME: Same as above
COMPANY: 
MAILING ADDRESS: 

CASE No. BZA- (Staff Use Only)

SIGNATURE OF OWNER OR AGENT:

NOTE: If not signed by owner, authorization of agent must accompany this application.

FEE: REC'D BY:

DATE PAID:
SUBMISSION REQUIREMENTS FOR A VARIANCE
(Attach additional sheets if necessary.)

1. Does the request arise from a condition, which is unique to the property in question, 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?
   Explain: \( \text{No} \)

2. Will granting a variance adversely affect the rights of adjacent property owners or residents?
   Explain: \( \text{No} \)

3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner represented in the application?
   Explain: \( \text{No} \)

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?
   Explain: \( \text{No} \)

5. Will the variance be opposed to the general spirit and intent of this ordinance?
   Explain: \( \text{No} \)

Attach a list of names and addresses of all owners of land within the notification area two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area) of the subject property.

Prepared by: Dustin Perez Date: 11-15-18

It is the applicant's responsibility to demonstrate that all of these conditions have been met at the time of application. Applicants are encouraged to submit any materials that will support their case, including sketch plans, photographs, studies, letters of support, etc.
PROPERTY OWNER NOTIFICATION LETTER

November 30, 2018

This is to notify you that on Wednesday, December 19, 2018 at 7:10 p.m. a Public Hearing will be held by the St. Marys Board of Zoning Appeals, in the commission room located at 200 South 7th, St. Marys, Kansas, 66536.

The Public Hearing will be held to consider a variance from St. Marys UDC Chapter 1, Article 10.105.1b, which allows only one single-family, non-farm, dwelling unit for each quarter/quarter section, exclusive of farm residences.

Applicant(s): Dustin and Misty Rezac, 310 S. 10th Street, St. Marys, Kansas have surveyed the property directly to the east of 28220 Gailand Road into two new parcels, as illustrated on the attached survey. This is the property that is the subject of the Public Hearing.

Complete Legal Descriptions:

DESCRIPTION (Parcel 1):
A parcel of land located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanking, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1532.13 feet to the True POINT OF BEGINNING; Thence continuing South 89°55'36" East along said North line, 366.50 feet to the West line of Flerlage Estates, a recorded subdivision in said Northeast Quarter, Thence South 1°46'17" West along said West line, 356.72 feet, Thence North 89°55'36" West parallel with said North line, 366.51 feet, Thence North 1°46'20" East 356.72 feet to the POINT OF BEGINNING, containing 3.00 acres, and subject to any easements of record.

DESCRIPTION (Parcel 2):
A parcel of land located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanking, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1532.13 feet, Thence South 1°46'20" West 356.72 to the True POINT OF BEGINNING; Thence South 89°55'36" East parallel with said North line, 366.51 feet to the West line of Flerlage Estates, a recorded subdivision in said Northeast Quarter, Thence South 1°46'17" West along said West line, 831.94 feet to the North line of Country Breeze Estates, a recorded subdivision in said Northeast Quarter, Thence South 89°56'58" West along the North line of said Country Breeze Estates, 366.54 feet, Thence North 1°46'20" East 832.74 feet to the POINT OF BEGINNING, containing 7.00 acres, and subject to any easements of record.
DESCRIPTION (Easement):
A 30.00 feet wide easement for the purpose of Ingress/Egress, located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanking, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1898.63 feet to the West line of Flerlage Estates, a recorded subdivision in said Northeast Quarter, said point being the True POINT OF BEGINNING; Thence South 1°46'17" West along said West line, 1188.66 feet to the North line of Country Breeze Estates, a recorded subdivision in said Northeast Quarter, Thence South 89°56'58" West along said North line, 30.01 feet, Thence North 1°46'17" East parallel with said West line, 1188.73 feet to the North line of said Northeast Quarter, Thence South 89°55'36" East along said North line, 30.01 feet to the POINT OF BEGINNING, containing 0.82 acre.

For more information regarding this Variance application, please visit www.smks.info and/or contact the Zoning Administrator at City Hall or call (785) 437-2311.

Sincerely,

____________________________________
Maurice Cordell
Zoning Administrator
Note: both of the parcels above (labelled as ‘Rezac Parcels’) are owned by the applicant, and total approximately 10-acres. A survey was conducted and a new three-acre parcel was created from the existing top parcel. The remaining portion of the top parcel was then combined with the entire lower parcel to form a new parcel of approximately seven-acres.

The attached survey illustrates the new parcel configuration and contains the legal descriptions for both parcels, as well as a new 30’ wide ingress/egress easement that runs along the east side of the entire property.
I hereby certify that a survey of the above described property was made by me or under my direct supervision on October 26, 2018, and is correct to my belief and knowledge.

Andrew P. Tanting, PLS

DESCRIPTION (Parcel 1):
A parcel of land located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanting, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1532.13 feet to the True POINT OF BEGINNING; Thence continuing South 89°55'36" East along said North line, 366.50 feet to the West line of Flerage Estates, a recorded subdivision in said Northeast Quarter, Thence South 1°46'17" West along said West line, 356.72 feet, Thence North 89°55'36" West parallel with said North line, 366.51 feet, Thence North 1°46'20" East 356.72 feet to the POINT OF BEGINNING, containing 3.00 acres, and subject to any easements of record.

DESCRIPTION (Parcel 2):
A parcel of land located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanting, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1532.13 feet, Thence South 1°46'20" West 356.72 feet to the True POINT OF BEGINNING; Thence South 89°55'36" East parallel with said North line, 366.51 feet to the West line of Flerage Estates, a recorded subdivision in said Northeast Quarter, Thence South 1°46'17" West along said West line, 831.94 feet to the North line of Country Breeze Estates, a recorded subdivision in said Northeast Quarter, Thence South 89°56'58" West along the North line of said Country Breeze Estates, 366.54 feet, Thence North 1°46'20" East 832.74 feet to the POINT OF BEGINNING, containing 7.00 acres, and subject to any easements of record.

DESCRIPTION (Easement):
A 30.00 feet wide easement for the purpose of Ingress/Egress, located in the Northeast Quarter of Section 3, Township 10 South, Range 12 East of the 6th P.M., Pottawatomie County, Kansas, described by Andrew P. Tanting, PS 1314, on November 9, 2018, as follows: Commencing at the Northwest corner of said Northeast Quarter, Thence South 89°55'36" East along the North line of said Northeast Quarter, 1898.63 feet to the West line of Flerage Estates, a recorded subdivision in said Northeast Quarter, said point being the True POINT OF BEGINNING; Thence South 1°46'17" West along said West line, 1188.66 feet to the North line of Country Breeze Easements, a recorded subdivision in said Northeast Quarter, Thence South 89°56'58" West along said North line, 30.01 feet, Thence North 1°46'20" East parallel with said West line, 1188.73 feet to the North line of said Northeast Quarter, Thence South 89°56'58" East along said North line, 30.01 feet to the POINT OF BEGINNING, containing 0.82 acre.
<table>
<thead>
<tr>
<th>Name</th>
<th>Address 1</th>
<th>City, State, Zip</th>
<th>Name</th>
<th>Address 1</th>
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<tbody>
<tr>
<td>Robert Bohuslav</td>
<td>28144 Gailand Rd</td>
<td>St. Marys, KS 66536</td>
<td>Gerald Harp Sharie</td>
<td>28375 Gailand Rd</td>
<td>St. Marys, KS 66536</td>
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<td>Doug Flerlage</td>
<td>6021 NW Button Rd</td>
<td>Topeka, KS 66618</td>
<td>Kim &amp; Scott Harrison</td>
<td>28165 Country Breeze</td>
<td>St. Marys, KS 66536</td>
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<td>Chet &amp; Christy Tyler</td>
<td>28495 Gailand Rd</td>
<td>St. Marys, KS 66536</td>
<td>Jose &amp; Maria Rada</td>
<td>315 South 10th</td>
<td>St. Marys, KS 66536</td>
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<td>Robert Bohuslav</td>
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<td>St. Marys, KS 66536</td>
<td>Scott &amp; Amy Roth</td>
<td>28179 Gailand Rd</td>
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<td>Gerald Harp Sharie</td>
<td>28375 Gailand Rd</td>
<td>St. Marys, KS 66536</td>
<td>Jose &amp; Maria Rada</td>
<td>315 South 10th</td>
<td>St. Marys, KS 66536</td>
</tr>
<tr>
<td>Theodore Eubanks</td>
<td>28430 Gailand Rd</td>
<td>St. Marys, KS 66536</td>
<td>Jose &amp; Maria Rada</td>
<td>315 South 10th</td>
<td>St. Marys, KS 66536</td>
</tr>
</tbody>
</table>
PUBLIC NOTICE

Notice is hereby given that on Wednesday, December 19, 2018 at 7:10 p.m. in the Commission Chambers of City Hall, St. Marys, KS; the St. Marys Board of Zoning Appeals will hold a public hearing on the application of Dustin and Misty Rezac, 310 S. 10th Street, St. Marys, Kansas, for a variance on proposed improvements to their property located directly to the east of 28220 Gailand Road, Pottawatomie County, St. Marys, Kansas.

The purpose of the hearing is to consider an application for a variance from St. Marys UDC Chapter 1, Article 10.105.1b, which allows only one single-family, non-farm, dwelling unit for each quarter/quarter section, exclusive of farm residences. Part of the hearing involves receiving public testimony; thus, any interested person(s) may appear and be heard on this issue at this time. For more information please visit www.smks.info/variance and/or contact the Zoning Administrator at City Hall (785) 437-2311. This notice shall be published twenty (20) days before the public hearing.

Maurice Cordell
Zoning Administrator
This begins the Webber variance application.
CITY OF ST. MARYS, KANSAS
APPLICATION FOR BOARD OF ZONING APPEALS

APPLICATION IS MADE FOR:

☐ APPEAL FROM A DECISION OF THE CODE ENFORCEMENT OFFICER, ZONING ADMINISTRATOR, OR OTHER CITY STAFF, IN THE ENFORCEMENT OF THE UNIFIED DEVELOPMENT CODE.

☐ VARIANCE FROM SPECIFIC SECTION(S) OF THE UNIFIED DEVELOPMENT CODE.

LEGAL DESCRIPTION: Parcel # APN #: 076-272-10-0-20-14-010-00-0

LOCATION OR ADDRESS OF SUBJECT PROPERTY: 603 W. WALNUT ST.
ZONING ON SUBJECT PROPERTY: R2 CURRENT LAND USE: SINGLE FAMILY RESIDENCE

REQUEST: (CITE SPECIFIC SECTION, BY SECTION AND SUBSECTION, OF THE UNIFIED DEVELOPMENT CODE FROM WHICH VARIANCE IS BEING REQUESTED.)

PROPERTY OWNER'S NAME: THEODORE J. WEBBER AND MARY L. WEBBER PHONE: 785-321-1213
COMPANY: ___________________ FAX: ___________________
MAILING ADDRESS: 603 W. WALNUT ST, ST. MARYS, KS 66536 STREET CITY STATE ZIP

APPLICANT/AGENT'S NAME: SEE ABOVE PHONE: ___________________
COMPANY: ___________________ FAX: ___________________
MAILING ADDRESS: ___________________ STREET CITY STATE ZIP

CASE No. BZA- ________________ (Staff Use Only)

SIGNATURE OF OWNER OR AGENT: ___________________

NOTE: If not signed by owner, authorization of agent must accompany this application.

FEE: ___________________ REC’D BY: ___________________ 
DATE PAID: ___________________
1. Does the request arise from a condition, which is unique to the property in question, 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?

Explain: Yes. Improvements must not be within 15 feet of property line on the South. Request is to allow approx 12' variance on South Easterly side of front of property for covered deck porch.

2. Will granting a variance adversely affect the rights of adjacent property owners or residents?

Explain: No. One can still see through porch addition. Variance will improve look & value to home, street/neighborhood.

3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner represented in the application?

Explain: Yes. Variance will allow porch/deck to be in proportion to home. Deck/porch to start 13' from East side of house and wrap around toward East side and continue along East side of house. Will continue along East side of house approx 26'.

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?

Explain: No. One can still see and have clear view looking from West to East, and looking from South to North of property.

5. Will the variance be opposed to the general spirit and intent of this ordinance?

Explain: No. Variance will still leave approx 12' of lawn to property on South side, and 16.6' length of house will still be within 15' of property line on South side.

Attach a list of names and addresses of all owners of land within the notification area two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area) of the subject property.

Prepared by: _______________ Date: _______________

It is the applicant's responsibility to demonstrate that all of these conditions have been met at the time of application. Applicants are encouraged to submit any materials that will support their case, including sketch plans, photographs, studies, letters of support, etc.
CERTIFIED LETTERS: The applicant will be responsible for mailing notices (see attached form letter) of the public hearing for the requested appeal or variance by certified mail, return receipt requested to all owners of land within the notification area: two hundred [200] feet within the city limits; one thousand [1,000] feet in the unincorporated area of the subject property. These notices must be sent a minimum of twenty (20) days prior to the public hearing. Information regarding ownership of the land within the notification area can be obtained from the Register of Deeds Office in the County Courthouse, or through a title insurance company (preferred method). A list of property owners within the notification area must be submitted with the application.

AFFIDAVIT OF COMPLIANCE: An affidavit (see attached form) concerning the mailing of property owner notification letters must be returned to the City Clerk Office by the Monday preceding the Board of Zoning Appeals meeting.

BOARD OF ZONING APPEALS REVIEW AND DECISION: The St. Marys Board of Zoning Appeals meets in the City Hall. The agenda and staff reports will be available the Thursday preceding the Board of Zoning meeting. The chairperson will open the public hearing for each case to hear presentations by the city staff, the owner or authorized agent, and the audience, respectively. After everyone has had the opportunity to speak, the Board of Zoning Appeals will close or continue the public hearing to a later date.

In hearing an appeal, the Board is asked to make a judgment regarding a city official's interpretation of the Zoning Ordinance. The Board may reverse or affirm the official's decision in whole or in part.

In hearing a variance, the Board must decide whether the request meets all five of the following criteria:

1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action or actions of the property owner or the applicant; and
2. That the granting of the variance will not adversely affect the rights of the adjacent property owners or residents; and
3. That the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; and
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of this ordinance.

NOTE: Decisions of the Board may be appealed to the District Court within thirty (30) days of the action.
PROPERTY OWNER NOTIFICATION LETTER

Dear Property Owner:

This is to notify you that a public hearing will be held at the St. Marys City Hall, 200 South Seventh St. Marys, Kansas, to consider an appeal or variance from the following section(s) of the Unified Development Code:

Section: 

The appeal/variance relates to the following described tract of land:

General Location: 603 W. WALNUT ST., ST. MARYS, KS 66534

Legal Description:

FROM TITLE INC. Co
PARCEL #APN#: 075-272-10-0-20-14-010.00-0

REGISTER OF DEEDS POTT COUNTY, KS
THE EASTERLY HALF OF LOT 14 AND ALL OF LOT 15, IN BLOCK 48, AN ADDITION TO ST. MARYS, SOMETIMES KNOWN AND DESIGNATED AS FIRST ADDITION TO ST. MARYS, SITUATE IN POTAWATOMIE COUNTY, KANSAS, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

A public hearing will be held to consider an appeal or variance regarding the above described tract at 7:00 PM on ___________, 20__. Any interested persons or property owners are invited to attend. Information regarding this request is available from the Zoning Office at City Hall (phone 785-437-2311).

Respectfully,

__________________________
Zoning Administrator
CITY OF ST. MARYS, KANSAS

PROPERTY OWNER NOTIFICATION

AFFIDAVIT

I, **THEODORE J. WEBBER** of lawful age being first duly sworn upon oath, state:

That I am the **OWNER** (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Board of Zoning Appeals, mail certified notice to all persons owning property within the notification area two hundred (200) feet in the City of St. Marys; of the subject property, in compliance with the Unified Development Code. These notices were mailed on the _____ day of ______________ 20__.

__________________________
Signature of Agent, Owner or Attorney

Subscribed and sworn to before me this ___ day of ______________ 20__

__________________________
Notary Public

My Commission Expires:

__________________________
JOINT TENANCY WARRANTY DEED  
(Following Kansas Statutory Warranty Form)

This ___ day of ___ , 2003

Virginia Madrid and Philip Madrid, wife and husband,
of Pottawatomie County, in the State of Kansas

CONVEY AND WARRANT TO:

Theodore J. Webber and Mary L. Webber, husband and wife

of Pottawatomie County, in the State of Kansas,
as joint tenants with the right of survivorship and not as tenants in common, all the following described real
estate, situated in the County of Pottawatomie, State of Kansas, to wit:

The Easterly half of Lot 14 and all of Lot 15, in Block 48, an Addition to St. Marys,
Sometimes known and designated as First Addition to St. Marys, situate in Pottawatomie
County, Kansas. Subject to easements and restrictions of record.

for the sum of other valuable considerations and One and no/100 Dollars.

EXCEPT AND SUBJECT TO EXCEPTIONS HEREBEFORE STATED.

Virginia Madrid  
Date: 5-3-03

Philip Madrid  
Date: 5-3-03

STATE OF Kansas, COUNTY OF Pottawatomie, SS:

BE IT REMEMBERED, That on this ___ day of ___, 2003 before me, the undersigned, a
Notary Public in and for the County and State aforesaid, came Virginia Madrid and Philip
Madrid, wife and husband, who are known to me to be the same person who executed the
foregoing instrument of writing, and duly acknowledged the execution of the same. IN
TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and
year last above written.

(Seal)  
Ann M. Barthuly  
Notary Public-State of Kansas  
My Appt. Exp. 5-27-03

My commission expires 5-27-03

ENTERED IN TRANSFER RECORD IN MY OFFICE

MAY 7 2003  

BETTY JO GRITZ  
Register of Deeds  
Pottawatomie County  
Book: 396 Page: 73
Receipt: 6 2003  
Total Fees: $6.00  
Pages Recorded: 1  
Date Recorded: 5/7/2003 11:45:20 AM

Book 396 Page 73
1. MRS. AMELIA FLANAGAN
   601 W. WALNUT ST.

2. 512 6TH ST  (FACES EAST)

3. 606 W. WALNUT ST  (POLICE OFFICER)

4. MR. DENNIS ROBINSON
   607 W. WALNUT ST

5. MR. & MRS. REISER
   610 W. WALNUT ST

6. MR. & MRS. SLOTTIO
   610 W. WALNUT ST
James & Amelia Flanagan
601 W. Walnut Street
St. Marys, KS 66536

Mark & Sarah Lamberson
606 W. Walnut Street
St. Marys, KS 66536

Chad & Kendra Bidwell
512 6th Street
St. Marys, KS 66536

Gregory & Kendra Slotto
610 W. Walnut Street
St. Marys, KS 66536

Zachary & Theresa Reiser
611 W. Walnut Street
St. Marys, KS 66536

Dennis Robinson
607 W. Walnut Street
St. Marys, KS 66536

Israel & Joan Armenta
511 6th Street
St. Marys, KS 66536

Mary C Fox Family Trust
212 S 10th Street
St. Marys, KS 66536

Roger Rebegila
606 Willow
St. Marys, KS 66536

Jerome & Sandra Greene
610 Willow
St. Marys, KS 66536

Luke & Katherine Waliser
612 Willow
St. Marys, KS 66536

Andrew Harpe
607 Willow
St. Marys, KS 66536

James & Elizabeth Carroll
611 North 6th Street
St. Marys, KS 66536

Charles & Leslie Thomas
38820 Coneflower Rd
Belvue, KS 66407

Phyllis M Davis
601 N 6th Street
St. Marys, KS 66536
PROPERTY OWNER NOTIFICATION LETTER

December 21, 2018

This is to notify you that on Wednesday, January 9, 2019 at 7:15 p.m. a Public Hearing will be held by the St. Marys Board of Zoning Appeals, in the Commission Chambers of City Hall located at 200 South 7th, St. Marys, Kansas, 66536.

The Public Hearing will be held to consider a variance from St. Marys UDC Chapter 1, Article 11.102.5a, which requires a minimum front yard setback of 15 feet.

Applicant(s): Theodore J. and Mary L. Webber, 603 Walnut Street, St. Marys, Kansas are wanting to make an improvement (porch) that would encroach upon the front yard setback by approximately five (5) feet.

Complete Legal Description: The Easterly half of Lot 14 and all of Lot 15, in Block 48, an Addition to St. Marys, Sometimes known and designated as First Addition to St. Marys, situate in Pottawatomie County, Kansas.

For more information regarding this Variance application, please visit www.smks.info/variance.html and/or contact the Zoning Administrator at City Hall or call (785) 437-2311.

Sincerely,

Maurice Cordell
Zoning Administrator
As part of a larger construction project the Webber’s are adding a porch to the front of their home. The porch will be approximately 5’ into the 15’ front yard setback.
PUBLIC NOTICE

Notice is hereby given that on Wednesday, January 9, 2019 at 7:15 p.m. in the Commission Chambers of City Hall, St. Marys, KS; the St. Marys Board of Zoning Appeals will hold a public hearing on the application of Theodore J. and Mary L. Webber, 603 Walnut Street, St. Marys, Kansas for a variance on proposed improvements to their property.

The purpose of the hearing is to consider an application for a variance from St. Marys UDC Chapter 1, Article 11.102.5a, which requires a minimum front yard setback of 15 feet. The applicant’s proposed porch would encroach into the front yard setback by approximately five (5) feet. Part of the hearing involves receiving public testimony; thus, any interested person(s) may appear and be heard on this issue at this time. For more information please visit www.smks.info/variance and/or contact the Zoning Administrator at City Hall (785) 437-2311. This notice shall be published twenty (20) days before the public hearing.

Maurice Cordell
Zoning Administrator