

LEAVENWORTH COUNTY BOARD OF ZONING APPEALS

Agenda for a Regular Meeting of 5:30 P.M., Wednesday, October 30, 2024
County Courthouse - 300 Walnut Street - Leavenworth, Kansas 66048

www.leavenworthcounty.gov

1. **Call to Order**

2. **Pledge of Allegiance**

3. **Roll Call**

4. **Secretary's Report**

5. **Declarations: (if necessary)**

- A. Declarations of receipt of communications by Planning Commissioners
- B. Disclosure of ex-parte communications for each hearing item
- C. Declarations of abstention from specific agenda items by a Commissioner

6. **Approval of Agenda**

7. **Regular Agenda**

A. Case DEV-24-123 Variance – Watson/McCoppin

Consideration of a Variance request from Article 5, Section 4 of the Leavenworth County Zoning & Subdivision Regulations on the following described property: A tract of land in the Northeast Quarter (NE ¼) of Section Twenty-Four (24), Township Nine (9) South, Range Twenty-One (21) East of the 6th p.m., Leavenworth County, Kansas.

Also known as 26567 187th Street

PID: 116-24-0-00-001.01

*****Public Hearing Required*****

*****Public Comment limited to three minutes per person*****

Adjournment of the Board of Zoning Appeals

Upcoming meeting dates:

Wednesday, November 13, 2024, 5:30 PM

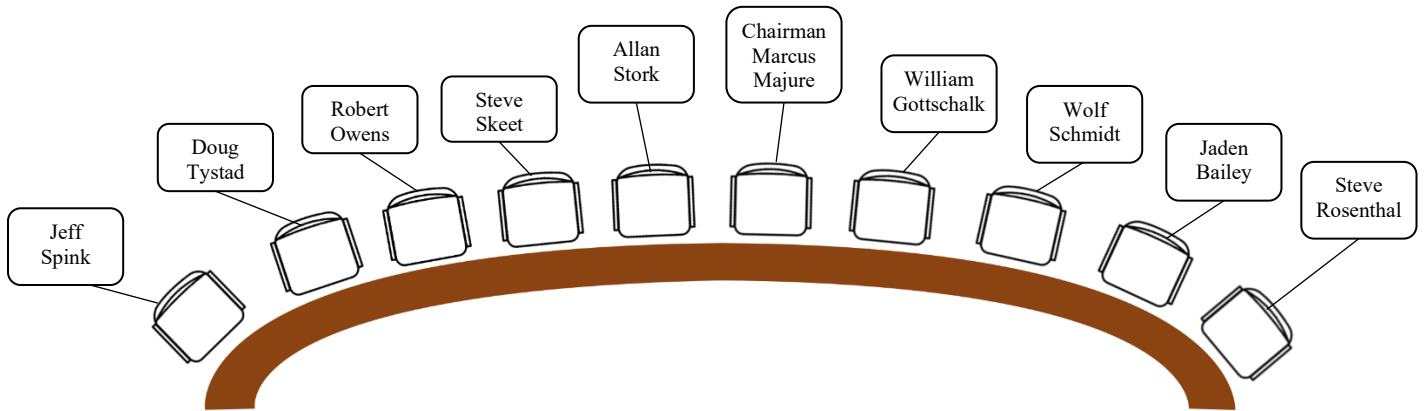
Regular Planning Commission Meeting

For More Information

If you have any questions or need to make special arrangements for a meeting,
please call or stop by the Planning and Zoning Department.

Contact Stephanie Sloop – 913-684-0465

Planning Commission Seating Chart 2024



**LEAVENWORTH COUNTY
BOARD OF ZONING APPEALS
STAFF REPORT**

CASE NO: DEV-24-123 Watson/McCoppin (**PUBLIC HEARING REQUIRED**)

October 30, 2024

REQUEST: Variance from Zoning and Subdivision Regulations Art 5, Section 4 Minimum Parcel Size for the RR-5 zoning district.

STAFF REPRESENTATIVE:

Amy Allison
Deputy Director

SUBJECT PROPERTY: 26567 187th Street

APPLICANT/APPLICANT AGENT:

Mathew Watson and Amanda McCoppin
26567 187th Street
Leavenworth, KS 66048



PROPERTY OWNER:

same

CONCURRENT APPLICATIONS:
N/A

LAND USE

ZONING: RR-5

FUTURE LAND USE DESIGNATION: RESIDENTIAL (2.5-acre min)

LEGAL DESCRIPTION:

A tract of land in the Northeast Quarter (NE ¼) of Section Twenty-Four (24), Township Nine (9) South, Range Twenty-One (21) East of the 6th p.m., Leavenworth County, Kansas.

SUBDIVISION: N/A

FLOODPLAIN: N/A

PROPERTY INFORMATION

PARCEL SIZE: 2.2 ACRES

PARCEL ID NO:
116-24-0-00-00-001.01

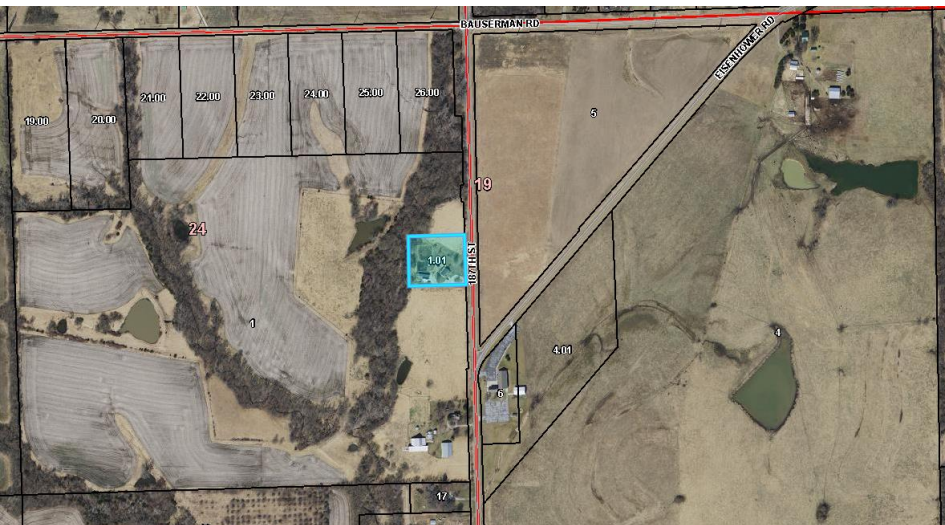
BUILDINGS:
Accessory Structure

ACTION OPTIONS:

1. Recommend approval of Case No. DEV-24-123, variance from Art. 5, Sec. 4 Minimum Parcel Size; or
2. Recommend denial of Case No. DEV-24-123, variance from Art. 5, Sec. 4 Minimum Parcel Size; or
3. Continue the hearing to another date, time, and place.

ACCESS/STREET:
187th Street County Arterial
±24' Wide, Paved

Location Map:



UTILITIES

SEWER: Lagoon

FIRE: Fire District 1

WATER: RWD 8

ELECTRIC: FreeState

NOTICE & REVIEW:

STAFF REVIEW: N/A

NEWSPAPER NOTIFICATION:
10/08/2024

NOTICE TO SURROUNDING PROPERTY OWNERS:
10/10/2024

FACTORS TO BE CONSIDERED:		
<i>A request for a variance may be granted in such individual case upon finding that all of the following conditions have been met (KS Statute 12-759)</i>	Met	Not Met
<p>1. The variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning classification, and is created by the zoning regulations and not by an action of the property owner or the applicant;</p> <p><i>The parcel was created via deed in 2001. At that time the minimum area requirements for this parcel was 5 acres and the split would have required survey action to be compliant. The parcel is approximately 2.2 acres. The current owners purchased this parcel in 2021.</i></p>	X	
<p>2. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;</p> <p><i>This property has been in the current configuration for over two decades. No detrimental effects to adjacent property owners have been documented.</i></p>	X	
<p>3. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application:</p> <p><i>The single-family residence that used to be on this site was destroyed via fire earlier this year. It was not until the property owner applied for their building permit that the parcel's non-compliance issue was noted. If a variance is not granted, this parcel will be considered non-compliant and not entitled to any further building permits.</i></p>	X	
<p>4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and;</p> <p><i>This property has been in the current configuration for over two decades. No detrimental impacts have been documented.</i></p>	X	
<p>5. Granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations</p> <p><i>The general spirit and intent of the regulations is to allow property to be developed in a manner that does not impact the surrounding neighborhood or community as a whole in a negative manner. The applicant is wishing to replace a house within the same footprint as the former house.</i></p>	X	

STAFF COMMENTS:

The applicant is requesting a variance from the minimum acreage requirement for the RR-5 zoning district. The parcel was created via deed in 2001 which at that time not only required 5 acres minimum but also survey action to be able to split tracts. Due to this, the parcel is considered non-compliant and not buildable. The former house was destroyed in June 2024. Per Resolution 2017-38, if a non-compliant parcel is destroyed by fire, the owners can apply for a building permit but also must proceed with a variance request. If the variance is denied, the building permit will remain valid but the property owners cannot receive any further building permits. If granted, the variance would allow the property owners a non-complaint, entitled to building permits status. However, if the applicant modifies their property after the variance is approved which results in the property becoming non-compliant with any regulations, the non-compliant, buildable status will no longer be in effect. In addition, any further action that modifies the

boundaries of the parcel will require survey action and review by the County Surveyor to be considered a compliant parcel.

ATTACHMENTS:

A: Application & Narrative

B: Zoning Map

C: Memorandums

CC Paid \$300.00
on 10.01.2024

BOARD OF ZONING APPEALS APPLICATION

Leavenworth County Planning and Zoning
300 Walnut, Suite 212
Leavenworth, Kansas 66048
913-684-0465

Office Use Only

Case No. _____
PID: _____
Township _____
BZA Hearing Date _____
ACTION _____ Date Received _____ Date Paid _____
Zoning District _____
Comprehensive Plan land use designation _____

APPLICANT/AGENT INFORMATION

OWNER INFORMATION (If different)

NAME Matthew Watson
ADDRESS 26567 187th st
CITY/ST/ZIP Leavenworth KS 66048
PHONE 913-238-5232
EMAIL mcwatson1473@gmail.com

NAME _____
ADDRESS _____
CITY/ST/ZIP _____
PHONE _____
EMAIL _____

GENERAL INFORMATION

Description of Appeal or Variance – Attach narrative addressing the Factor to be Considered (last page of application packet) to this application.

PROPERTY INFORMATION

Address of Property 26567 187th st Leavenworth KS 66048
Parcel size 2.3
Present improvements or structures 24x60 Building, 10x12 chicken coop, house foundation
Current use of the property? single family home

I, the undersigned, am the (circle one) owner/authorized agent, of the aforementioned property situated in the unincorporated portion of Leavenworth County, Kansas. By execution of my signature, I do hereby officially apply for an appeal/variance as indicated above.

Signature Matthew Watson Date 10/1/2024

ATTACHMENT A

Johnson, Melissa

From: Allison, Amy
Sent: Wednesday, October 2, 2024 12:15 PM
To: Johnson, Melissa
Subject: FW: Written Narrative for 26567 187th St

Narrative for the Watson Variance

From: Matthew Watson <mcwatson1443@gmail.com>
Sent: Tuesday, October 1, 2024 3:04 PM
To: Allison, Amy <AAllison@leavenworthcounty.gov>
Cc: Amanda McCoppin <amandam2208@hotmail.com>
Subject: Written Narrative for 26567 187th St

Notice: This email originated from outside this organization. Do not click on links or open attachments unless you trust the sender and know the content is safe.

(A) We purchased this house in February 2021. When we purchased the house we did our inspections and the Lagoon Failed inspection so the Lagoon was redone prior to us purchasing the house. This House sat on 2.2 acres and after moving in we put up a metal building in which I called planning and zoning to find out the requirements and they told me since I was under 2.5 acres that I must keep the out building under 1800 sq ft. (Nothing stating that I was non-conforming or Zoned incorrectly). On June 19th 2024 we had a Total Loss House fire and lost everything in the house. Upon applying for a building permit we are being told that our parcel is Non-Conforming because of the way the previous owners worded the legal description of our parcel, and that it is not Zoned Correctly because it is less than 5 acres, making it non-buildable.

(B) When we purchase the property it had a house on it that was built in 1997, we plan to build on the same foundation as the old house, therefore it will be asif nothing has changed except our property taxes will go way up.

(C) We are currently living in a rental property awaiting the reconstruction of our house. This is being paid for by our insurance policy but that money will run out soon. Our rental is \$4500 a month. We don't have the money to purchase additional acres and rebuild, so if we don't get this permit we would be forced to leave the area and this parcel would be vacated with an open basement creating an eyesore on an unbuildable lot.

(D) The House will be the exact same footprint as it was before and has been since 1997. if anything it would be worse for the community to vacate the area and leave the open foundation.

(E) We bought this property believing that it was compliant with all the rules and regulations. We are not trying to beat the system here, we are just trying to rebuild our lives after a tragic event,

Mathew Watson
American Commercial Roofing
9132385232

Janet Klasmirke
COUNTY CLERK

Doc #: 2021R03255
TERRILOIS MASHBURN
REGISTER OF DEEDS
LEAVENWORTH COUNTY, KANSAS
RECORDED ON:
03/17/2021 12:59:21 PM
RECORDING FEE: 38.00
PAGES: 2

Continental Title Company: 20398397

Warranty Deed
(Joint Tenants)

This indenture, Made this 9th day of February, 2021 between, Clifford M. Packard and Tina M. Packard, husband and wife of Leavenworth County, in the State of Kansas, party(ies) of the first part, and Mathew Watson, a single person and Amanda McCoppin, a single person, As Joint Tenants with right of Survivorship and not as Tenants in Common, of Leavenworth County, in the State of KS, party(ies) of the second part:

WITNESSETH, that the said party of the first part, in Consideration of the sum of TEN Dollars and other valuable considerations, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey unto said parties of the second part, the survivor's heirs and assigns, all of the following described real estate, situated in the County of Leavenworth and State of Kansas to wit:

Legal Description: The Northeast Quarter (NE 1/4) of Section Twenty-Four (24), Township Nine (9) South, Range Twenty-One (21) East of the 6th Principle Meridian, described as follows: Commencing at the Northeast corner of the Northeast Quarter of Section 24-T9S-R21E; thence, S 00° West, (assumed) 1,200.20 feet along the section line of the POB of this tract; thence S 00° West, 300.00 feet; thence South 90° West 1,452.00 feet; thence North 00° East, 300.00 feet; thence North 90° East, 1,452.00 feet to the POB.

LESS AND EXCEPT that portion described in Warranty Deed recorded as Document No. 2009R06831, described as follows: A tract of land in the Northeast Quarter of Section 24, Township 9 South, Range 21 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Commencing at the Northeast corner of the Northeast Quarter of said Section 24; thence South 00 degrees West (assumed) 1,200.20 feet along the section line; thence South 90 degrees West, 363.00 feet to the point of beginning of this tract; thence South 00 degrees West, 300.00 feet; thence South 90 degrees West 1,089.00 feet; thence North 00 degrees East, 300.00 feet; thence North 90 degrees East, 1,089.00 feet to the point of beginning.

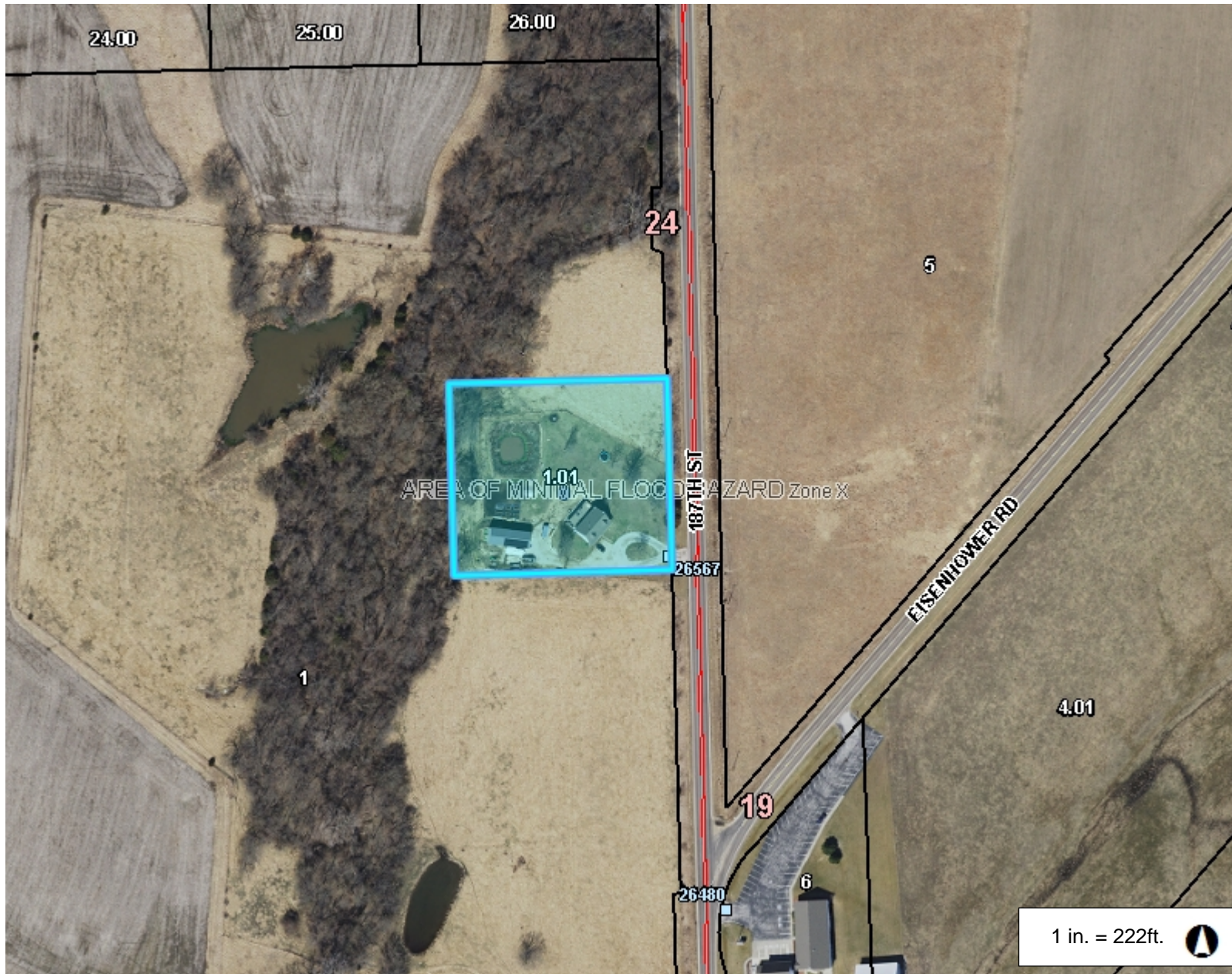
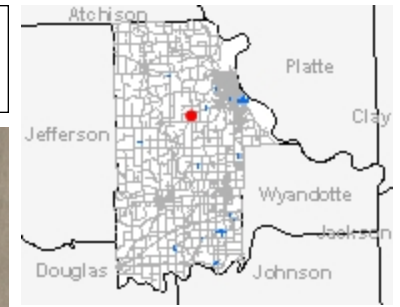
Less any part thereof taken or used for road purposes.

Note: Subject to easements, reservations, and restrictions, if any of record.

To have and to hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

And said party of the first part, for itself, and its successors and assigns, does hereby covenant, promise and agree, to and with said party(ies) of the second part, that at the delivery of these presents, it is lawfully seized in its own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the able granted and described premises, with the appurtenances; that the same are free, clear, discharged and unencumbered of and from all former and other grants, titles, charges, states, judgments, taxes, assessments and encumbrances, of what nature and kind so ever, and that it will Warrant and Forever Defend the same unto said party(ies) of the second part, survivor's heirs and assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

DEV-24-123 Watson/McCoppin Variance



Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- City Limit Line
- Major Road
- <all other values>
- 70
- Road
- <all other values>
- PRIVATE
- ⊕ Railroad
- Section
- Section Boundaries
- County Boundary
- LOMRs
- River Mile Markers
- Cross-Sections
- ~ Base Flood Elevations
- || Levees
- Flood Hazard Zones
- 1% Annual Chance Flood Hazard
- ▨ Regulatory Floodway
- ▨ Special Floodway
- Area of Undetermined Flood Hazard
- 0.2% Annual Chance Flood Hazard

Notes

444.2 0 222.08 444.2 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Johnson, Melissa

From: Amanda McCoppin <amandam2208@hotmail.com>
Sent: Tuesday, October 1, 2024 12:38 PM
To: PZ

Follow Up Flag: Follow up
Flag Status: Flagged

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I, Amanda Watson authorize this application to go through.

MEMO

To: Amy Allison
From: Chuck Magaha
Subject: Variance Watson
Date: October 8, 2024

Amy, I have reviewed the request of the variance to Mathew Watson regarding the variance of 5 acres to 2.2 acres on the current parcel that you provided to our office. I have no comments to lend at this time. If you feel I have missed an issue please give a call at 684-0457.

Watson Variance

Allison, Amy

From: Anderson, Kyle
Sent: Tuesday, October 8, 2024 9:59 AM
To: Allison, Amy
Subject: RE: RE: DEV-24-123 Variance - Watson/McCoppin

We have not received any complaints on this property. When the home and lagoon were built the property was over 5 acres. It was later non-compliantly reduced to its current configuration. The lagoon has been there working properly, with no complaints since 1997. Since the current owner was not involved in the reduction of property and purchased the home in its current configuration I would support the granting of a variance to allow the lagoon to remain in service.

Kyle Anderson
Environmental Technician/Code Enforcement
Leavenworth County Planning & Zoning
300 Walnut St. Ste. 212
Leavenworth, KS 66048
913-684-1084

Disclaimer: This message and any attachments are intended only for the use of the recipient or their authorized representative. The information provided in this email is limited in scope and response detail by available information, current zoning and subdivision regulations. Depending on the level of development, the applicable regulations can change. Final approval cannot be granted until a complete application has been submitted, reviewed and approved by the governing body. Nothing in this message or its contents should be interpreted to authorize or conclude approval by Leavenworth County.

From: Allison, Amy <AAllison@leavenworthcounty.gov>
Sent: Friday, October 4, 2024 2:28 PM
To: Magaha, Chuck <cmagaha@lvsheriff.org>; Brown, Misty <MBrown@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; McAfee, Joe <JMcAfee@leavenworthcounty.gov>; 'kmackey@fd1lvco.org' <kmackey@fd1lvco.org>
Cc: PZ <PZ@leavenworthcounty.gov>
Subject: RE: DEV-24-123 Variance - Watson/McCoppin

Good Afternoon,

The Department of Planning and Zoning has received a request for a Variance regarding a parcel that does not meet the minimum area for the RR-5 zoning district (2.2 acres) and a lagoon located on a residential lot that is less than 5 acres located at 26567 187th Street.

The Planning Staff would appreciate your written input in consideration of the above request. Please review the attached information and forward any comments to us by Friday, October 18, 2024.

If you have any questions or need additional information, please contact me at (913) 684-0465 or at pz@leavenworthcounty.gov

Thank you,
Amy Allison, AICP
Deputy Director
Planning & Zoning
Leavenworth County
913.364.5757

Allison, Amy

From: McAfee, Joe
Sent: Thursday, October 10, 2024 3:16 PM
To: Allison, Amy; Brown, Misty; 'kmackey@fd1lvco.org'
Cc: PZ; Noll, Bill
Subject: RE: RE: DEV-24-123 Variance - Watson/McCoppin

Amy,
PW has no comment on the variance request.

From: Allison, Amy <AAllison@leavenworthcounty.gov>
Sent: Friday, October 4, 2024 2:28 PM
To: Magaha, Chuck <cmagaha@lvsheriff.org>; Brown, Misty <MBrown@leavenworthcounty.gov>; Noll, Bill <BNoll@leavenworthcounty.gov>; McAfee, Joe <JMcAfee@leavenworthcounty.gov>; 'kmackey@fd1lvco.org' <kmackey@fd1lvco.org>
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Thank you,
Amy Allison, AICP
Deputy Director
Planning & Zoning
Leavenworth County
913.364.5757

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