



**BOARD OF ZONING APPEALS MINUTES
MONDAY, MARCH 16, 2026, 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS**

CALL TO ORDER:

Board Members Present

Ron Bates
Jan Horvath
Ted Davis

Board Member(s) Absent

Christopher L `Heureux

City Staff Present

Michelle Baragary
Kim Portillo
Ben Hyde

Chairman Davis called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: January 16, 2026

Chairman Davis asked for comments, changes or a motion on the January 16, 2026 minutes presented for approval. Board Member Bates moved to approve the minutes as presented, seconded by Board Member Horvath and approved by a vote of 3-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. **INTRODUCE NEW BOARD MEMBER CHRISTOPHER L'HEUREUX**
2. **INTRODUCE TO NEW PLANNING ASSISTANT BEN HYDE**
3. **2026-09 BZA – 4200 NEW LAWRENCE**

Hold a public hearing for Case No. 2026-09 BZA, 4200 New Lawrence Rd., wherein the applicant is seeking a variance from Section 4.03 of the adopted Development Regulations to allow an accessory structure to be located forward of the main building line.

Chairman Davis called for the staff report.

City Planner Michelle Baragary stated the applicants and property owners, Clifton and Rozenda Downing, are requesting a variance from the adopted Development Regulations to allow the placement of an accessory structure forward of the main building line for their single-family residence located at 4200 New Lawrence Road.

The subject property is zoned R1-25, Low Density Single Family Residential District, and is developed with a single-family home. The parcel is approximately 4.24 acres, and the house is located approximately 380 feet from New Lawrence Road.

The applicants are proposing to construct a 36' x 30' agricultural accessory building to store equipment and tools used to maintain the property. Due to the terrain, the property slopes significantly downward toward an existing pond located behind the residence, which limits the ability to place the structure within the rear yard area. Additionally, the property contains significant wooded areas and varying terrain between the house and New Lawrence Road, obscuring visibility of the proposed structure from the roadway and adjacent properties.

Proposed Site Plan and Accessory Structure:

- 36' x 30' concrete pad
- The proposed accessory structure will be 24' x 30' with a 12' x 30' lean-to on the west side, totaling 1,080 SF and have two windows and a door on the west side.
- The proposed placement is approximately:
 - 55' forward of the main building line
 - 28' from the north property line
 - 300' from the east property line
 - 90' from the south property line

Section 4.03.E of the adopted Development Regulations states that:

1. *No accessory buildings shall be erected in any required front or side yard, or at any other place forward of the main building line.*

Article 12 of the Development Regulations defines "Agriculture Accessory Building" as follows:

A detached accessory structure used for the shelter of livestock, the storage of agricultural products, or the storage and maintenance of equipment or supplies used for agricultural or property maintenance activities.

In accordance with Kansas State Statute, notice of the public hearing was mailed to property owners within 200 feet of the subject property. As of the date of this report, staff has received no comments from notified property owners.

Chairman Davis opened the public hearing.

Clifton Downing, property owner, came to the podium. He stated he was retired navy and built the home in 2021. The agriculture building is needed to store his tools, mowers, and other equipment to maintain his property. Mr. Downing further stated that due to the topography of his property, he is unable to install the agricultural building in the rear yard. The proposed placement is the best option and also provides screening from the public roadway.

With no one else wishing to speak, Chairman Davis closed the public hearing and called for discussion among the Board Members.

Board Member Bates asked if the trees surrounding the proposed structure and located on the subject property were ever to be cut down, the proposed structure be visible to the property owner to the north.

Mr. Downing responded it would not be because of coverage of other trees.

Ms. Baragary added that removal of the trees on the subject property would not negatively impact the property to the north (4000 New Lawrence Road), as that property contains substantial existing trees and vegetation in that area.

With no further discussion, Chairman Davis read the following criteria regarding the Board's authority and reviewed each item.

BOARD OF ZONING APPEALS AUTHORITY:

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

Variances: To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - a) *That the variance requested arises from such condition which is unique to the property in question and 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.*

Staff finding: Staff agrees. The subject property contains unique physical characteristics that limit placement of accessory structures behind the primary residence. The lot slopes significantly downward toward an existing pond located to the rear of the home, which restricts feasible building areas in the rear yard. Additionally, the residence is located approximately 380 feet from New Lawrence Road, resulting in a large front yard area relative to typical residential lots. These conditions are related to the natural terrain and layout of the property and were not created by the actions of the property

owners. Therefore, staff finds that the request arises from conditions unique to the property.

Vote 3-0

All board members voted in the affirmative.

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

Staff finding: Staff agrees. The proposed agricultural accessory building will be located a substantial distance from adjacent property lines and public roadways. The structure is proposed to be located approximately 300 feet from the east property line and New Lawrence Road, approximately 28 feet from the north property line, and approximately 90 feet from the south property line. Additionally, the site contains significant tree cover and varying terrain that will help screen the structure from neighboring properties and the roadway. Staff has not received any comments or objections from property owners notified of the request. Based on the proposed location, size, and limited visibility of the structure, staff finds that granting of the variance will not adversely affect the rights of adjacent property owners or residents.

Vote 3-0

All board members voted in the affirmative.

- c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

Staff finding: Staff agrees. Strict application of the Development Regulations would create an unnecessary hardship for the property owner due to the unique physical characteristics of the property and existing underground lines. The terrain slopes significantly downward toward an existing pond located behind the residence, which limits the practical placement of an accessory structure within the rear yard area while maintaining reasonable access and usability. Additionally, lines for water, gas, electric, and fiber optic cable for internet are installed on the south side of the residence. As a result, the area located forward of the main building line represents the most feasible location for the proposed agricultural accessory building. Without the requested variance, the property owner's ability to construct a structure necessary for the storage of equipment and tools used to maintain the property would be significantly limited. Therefore, staff finds that strict enforcement of the regulations would create unnecessary hardship under these circumstances.

Vote 3-0

All board members voted in the affirmative.

- d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*

Staff finding: Staff agrees. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or the general welfare. The proposed agricultural building will be situated approximately 300 feet from the east

property line and adjacent roadway. The structure will be used for the storage of equipment and tools associated with maintaining the property and will not introduce new land uses or activities that would negatively impact the surrounding area. Based on the evidence presented, there is no indication that the proposed variance would create conditions detrimental to the public interest or otherwise compromise the general welfare of the area.

Vote 3-0

All board members voted in the affirmative.

- e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*

Staff finding: Staff agrees. The general intent of the Development Regulations is to promote orderly development and minimize potential impacts of accessory structures on neighboring properties and public rights-of-way. In this case, the proposed structure will remain substantially set back from the roadway and adjacent property lines and will be partially screened by existing vegetation and topography. Given the large size of the parcel and the limited visibility of the structure, staff finds that the request is generally consistent with the spirit and intent of the Development Regulations.

Vote 3-0

All board members voted in the affirmative.

3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

No conditions or restrictions were imposed.

ACTION:

Approve or deny the variance request from Section 4.03 of the adopted Development Regulations to allow placement of an accessory structure forward of the main building line.

Chairman Davis stated that based on the findings, the variance for Case No. 2026-09 BZA is granted without any conditions or restrictions.

Chairman Davis asked if there was any other business to be taken up. There was no other business.

Chairman Davis called for a motion to close the meeting. Board Member Bates made a motion to adjourn the meeting, seconded by Board Member Horvath and passed 3-0.

The meeting adjourned at 6:20 p.m.

Minutes taken by Planning Assistant Ben Hyde.