


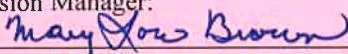
REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office:

~~Res~~/Ord No.: 4875

Sponsor(s): None

Date: August 22, 2016

SUBJECT	<p>Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Wayne N. & Priscilla L. Wheeler Case No. RZ-2016-534</u></p>													
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1" data-bbox="310 489 1190 800"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT</td> </tr> <tr> <td></td> <td>TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: \$ _____</p> <p>Prior Year Budget (if applicable): _____ Prior Year Actual Amount Spent (if applicable): _____</p>		Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT		TO ACCT
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Amount budgeted for this item * (including transfers):	\$													
Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT													
	TO ACCT													
PRIOR LEGISLATION	Prior ordinances and (date): _____ Prior resolutions and (date): _____													
CONTACT INFORMATION	RLA drafted by Randy Diehl, Administrator, Development Division, 881-4577													
REQUEST SUMMARY	Requesting a change of zoning from District AG (Agricultural) on 1.5 ± acres to District RS (Residential Suburban). The 1.2 ± acres are legally described as Lot 4, Reynolds Addition, aka 8921 S. Shroul Road, and specifically described on Attachment to RLA-1. Staff recommends approval because the change in zoning is consistent with the intent and purpose of the County Plan and complies with the Unified Development Code requirements. The Jackson County Plan Commission voted 8 to 0 to recommend <u>APPROVAL</u> to the County Legislature.													
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)													
ATTACHMENTS	See Attachment to RLA-2													
REVIEW	Department Director: Brian D. Gaddie, P.E. Director of Public Works  Finance (Budget Approval): <i>If applicable</i> Division Manager:  County Counselor's Office:	Date: Date: Date: 8/18/16 Date:												

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

ATTACHMENT TO RLA-2:

Attachments

Plan Commission Public Hearing Summary from July 21, 2016

Location Map

Staff Report

Affidavit of Publication in Independence Examiner

Names/Addresses of Surrounding Property Owners

Copy of letter to said property owners

Map showing current zoning district in area

County Code Chapter 240 – Unified Development Code

County Master Plan – “Strategy for the Future”

Application

Pictures of Property

Plot Plan

VS-858

RZ-2016-534

ATTACHMENT TO RLA 1:

Description:

Lot 4, Reynolds Addition, a subdivision in Jackson County, Missouri.

RE: RZ-2016-534

Randy Diehl gave the staff report:

Applicant: Wayne N & Priscilla L. Wheeler

Location: Lot 4, Reynolds Addition, aka 8921 S. Shrout Road.

Area: 1.5 ± acres

Request: Change of zoning from District AG (Agricultural) to District RS (Residential Suburban)

Purpose: Applicant is requesting the change in zoning in order to decrease the building setback requirements for future construction.

Current Land Use and Zoning in the Area:

The zoning in the area is predominantly Agricultural. The land use in the area are single family residences.

Property sizes in the immediate area range from smaller than 1 acre in size to 10 acres and above.

Development of the platted lots within the various subdivisions occurred from 1976 to 1995. Reynolds Addition was platted in 1978.

The Zoning Order (adopted in 1960) in place at the time did not require a change in zoning for platted lots. Therefore the platted lots are within District AG (Agricultural).

In 1994 the Board of Zoning Adjustment granted to the applicant a variance of 12.5 feet to the required 25 foot sideyard setback for the construction of a 24 x 28 detached garage.

Prior to the adoption of the Unified Development Code (UDC) in 1995, the 1960 Zoning Order did not have a provision for rezoning. The only residential zoning in the Order was Single Family Zoning for lots 7,500 to 15,000 square feet in size. A variance was the only way to accommodate those situations where minor changes to district requirements could be granted.

The UDC allows legal non-conforming lots the opportunity to be rezoned to the appropriate zoning district.

The side yard setbacks will be reduced from 30 feet to 15 feet.
The rear yard setback will be reduced from 50 to 20 feet.

The front yard setback will remain 50 feet since this setback was established on the recorded plat.

County Plan:

The County Plan Development Diagram illustrates this area within the Urban Development Tier (UDT).

The Residential Suburban District (RS) is intended for detached single family residential use

Recommendation:

This request for rezoning is consistent with the intent and purpose of the County Plan.

Staff recommends APPROVAL of RZ-2016-534

Mr. Antey: *Are there any questions for Randy?*

Mr. Antey: So were going from legal non-conforming and bringing it into compliance with the UDC.

Mr. Diehl: That is correct. It is no different from may we have done in the past couple years.

Mr. Tarpley: Is there any structures on the property?

Mr. Diehl: Their house, the detached garage and pool.

Mr. Tarpley: Is it hooked to public sewers?

Mr. Diehl: No, it's on septic. The lateral field is on the north part of the back of the lot.

Mr. Antey: *Are there any other questions for staff?*

Is the applicant here?

Wayne Wheeler, 8921 S. Shrout Road.

Mr. Antey: *Do you have anything to add to Randy's report?*

Mr. Wheeler: No I do not.

Mr. Antey: *Are there any other questions for the applicant?*

Mr. Tarpley: What size building are you constructing?

Mr. Wheeler: 18 x 28.

Mr. Akins: Would the AG setback require you to set the building over the lateral field?

Mr. Wheeler: No.

Mr. Akins: Question for staff, the variance still stays in place?

Mr. Diehl: Yes, it does.

Mr. Antey: *Are there any other questions for the applicant?*

There were none.

Mr. Antey: *Is there anyone else who is in favor of this application?*

There were none.

Mr. Antey: *Is there anyone who is opposed or has questions regarding this application?*

There were none.

Motion to take under advisement.

Mr. Gibler moved to take under advisement. Mr. Akins seconded.

Discussion under advisement

Motion to approve.

Mr. Tarpley moved to approve RZ-2016-534. Mr. Haley seconded.

Mr. Tarpley	Approve
Mr. Gibler	Approve
Mr. Haley	Approve
Mr. Crawford	Approve
Mrs. Mershon	Approve
Mrs. Querry	Approve
Mr. Akins	Approve
Chairman Antey	Approve

Motion Carried 8 – 0.

STAFF REPORT

**PLAN COMMISSION
July 21, 2016**

RE: RZ-2016-534

- Applicant:** Wayne N & Priscilla L. Wheeler
- Location:** Lot 4, Reynolds Addition, aka 8921 S. Shroust Road.
- Area:** 1.5 ± acres
- Request:** Change of zoning from District AG (Agricultural) to District RS (Residential Suburban)
- Purpose:** Applicant is requesting the change in zoning in order to decrease the building setback requirements for future construction.

Current Land Use and Zoning in the Area:

The zoning in the area is predominantly Agricultural. The land use in the area are single family residences.

Property sizes in the immediate area range from smaller than 1 acre in size to 10 acres and above.

Development of the platted lots within the various subdivisions occurred from 1976 to 1995. Reynolds Addition was platted in 1978.

The Zoning Order (adopted in 1960) in place at the time did not require a change in zoning for platted lots. Therefore the platted lots are within District AG (Agricultural).

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Prior to the adoption of the Unified Development Code (UDC) in 1995, the 1960 Zoning Order did not have a provision for rezoning. The only residential zoning in the Order was Single Family Zoning for lots 7,500 to 15,000 square feet in size. A variance was the only way to accommodate those situations where minor changes to district requirements could be granted.

The UDC allows legal non-conforming lots the opportunity to be rezoned to the appropriate zoning district.

The side yard setbacks will be reduced from 30 feet to 15 feet.
The rear yard setback will be reduced from 50 to 20 feet.
The front yard setback will remain 50 feet since this setback was established on the recorded plat.

County Plan:

The County Plan Development Diagram illustrates this area within the Urban Development Tier (UDT).

The Residential Suburban District (RS) is intended for detached single family residential use

Recommendation:

This request for rezoning is consistent with the intent and purpose of the County Plan.

Staff recommends APPROVAL of RZ-2016-534

Respectfully submitted,

Jackson County Public Works
Development Division
Randy Diehl, Administrator

**Plan Commission
July 21, 2016
RZ-2016-534**

Applicants / Property Owners:

**54-200-03-26
Wayne and Priscilla Wheeler
8921 S. Shroul Road
Grain Valley, MO 64029**

**Certified Mail – Return Receipt
Property Owners within 185 feet**

54-200-03-37-00-0-00-000
WALLCE RICKY L & GINA R
9002 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-39-00-0-00-000
GALINDI LISA D
8922 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-40-00-0-00-000
GRAHAM CONRAD & KAZUKO EDA
8914 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-35-00-0-00-000
KING LARRY D & SHARON S
8919 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-36-00-0-00-000
CURTIN EDWARD M & MARY J
8917 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-28-00-0-00-000
SMITH JAMES & ALICE
9007 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-27-00-0-00-000
AKINS TERRAL S & VICKIE L
9003 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-25-00-0-00-000
KEEPORTS KENNETH W & CYNTHIA
8915 S SHROUT RD
GRAIN VALLEY MO 64029

54-200-03-22-04-1-00-000
REYNOLDS JOHN R & FERN Y
8815 S SHROUT RD
GRAIN VALLEY MO 64029

Ord. 4875



**JACKSON COUNTY, MISSOURI
APPLICATION FOR CHANGE OF ZONING**

Ord. 4875

APPLICANT INFORMATION:

1. Application must be filed with the Jackson County Planning and Development Division, 303 W. Walnut, Independence, Missouri 64050 by the date on the Plan Commission Calendar.
2. Application must be typed or printed in a legible manner.
3. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application. Incomplete applications will not be accepted and will be returned to the applicant.
4. Attach application for subdivision approval, consistent with the requirements of UDC Section 24003.10, as may be required.
5. The filing fee (non-refundable) must accompany application.
(Check payable to: Manager of Finance)
\$350.00 – Change of Zoning to Residential
\$500.00 – Change of Zoning to Commercial or Industrial

TO BE COMPLETED BY OFFICE PERSONNEL ONLY:

Rezoning Case Number RZ- 2016 534
Date filed 5-2-16 Date of hearing 7-21-16
Date advertised 7-6-16 Date property owners notified 7-6-16
Date signs posted 7-6-16
Hearings: Heard by PC Date 7-21-16 Decision _____
Heard by _____ Date _____ Decision _____
Heard by _____ Date _____ Decision _____

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Owner(s):

a. Applicant(s) Name: Wayne N. and Priscilla L. Wheeler

Address: 8921 S. Shroust Rd.

Grain Valley, MO 64029

Phone: (816) 228-4512

b. Owner(s) Name: Wayne N. and Priscilla L. Wheeler

Address: 8921 S. Shroust Rd., Grain Valley, MO 64029

Phone: (816) 228-4512

c. Agent(s) Name: _____

Address: _____

Phone: _____

d. Applicant's interest in Property: Owner

2. General location (Road Name) Shrout Rd.

3. Present Zoning AG Requested Zoning RS

4. AREA (sq. ft. / acres) 1.5 acres

5. Legal Description of Property: (Write Below or Attached 9)

Lot 4, Reynolds Addition

6. Present Use of Property: Residential

7. Proposed Use of Property: Residential

8. Proposed Time Schedule for Development: Summer - Fall 2016

9. What effect will your proposed development have on the surrounding properties?

None - Adding 18'8" X 28' Garage

10. Is any portion of the property within the established flood plain as shown on the FEMA Flood Boundary Map? No

If so, will any improvements be made to the property which will increase or decrease the elevation? _____

11. Describe the source/method which provides the following services, and what effect the development will have on same:

a. Water Rural Water Dist. #13

b. Sewage disposal Septic

c. Electricity KCP&L

d. Fire and Police protection Lake Lotawanna Fire / Jackson Co Sheriff

12. Describe existing road width and condition: 21' Asphalt

13. What effect will proposed development have on existing road and traffic conditions? None

14. Are any state, federal, or other public agencies approvals or permits required for the proposed development? NO

If so, describe giving dates of application and status (include permit numbers and copies of same, if issued):

Verification: I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

Signature

Date

Property Owner(s)

Wayne N. Wheeler
Priscilla L. Wheeler

4/28/16
4/28/16

Applicant(s):

Wayne N. Wheeler
Priscilla L. Wheeler

4/28/16
4/28/16

Contract Purchaser(s):

STATE OF Missouri

COUNTY OF Jackson

On this 28 day of April, in the year of 2016, before me the undersigned notary public, personally appeared Wayne N. Wheeler and Priscilla L. Wheeler

known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public Debra L. Moberg

Commission Expires July 18, 2018



Ord. 4875



S SHRROUT RD

8915

AG

8921

9003

Ord. 4875



S SHROUT RD

8915

AG

8921

9003

Ord. 4875



**BEFORE THE BOARD OF ZONING ADJUSTMENT OF
JACKSON COUNTY, MISSOURI AT INDEPENDENCE, MISSOURI**

IN THE MATTER OF THE APPEAL
FROM DIRECTOR OF PLANNING
REFUSAL TO ISSUE A BUILDING
PERMIT FOR THE CONSTRUCTION OF
A 24X28 FOOT DETACHED GARAGE
TO COME TWELVE AND ONE-HALF
FEET FROM SOUTH SIDE YARD
PROPERTY LINE OF ONE AND ONE-
HALF ACRE TRACT KNOWN AS LOT 4,
REYNOLDS ADDITION, BEING PART OF
SW 1/4, SECTION 20, TOWNSHIP
48N, RANGE 30W, AKA 8921 S.
SHROUT ROAD.

Application No. VS-858
Wayne and Priscilla Wheeler
8921 S. ShROUT Road
Grain Valley, MO 64029

ORDER

NOW ON THIS DAY, evidence having been presented to and heard by the Jackson County Board of Zoning Adjustment in the above matter, the Board makes the following Order, Decision and Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. We find that Application VS-858 was filed by the applicant on August 4, 1994, requesting variance to permit the construction of a 24x28 foot detached garage to come twelve and one-half feet (12.5') from side yard property line of a one and one-half acre tract of land, being part of SW 1/4 of Section 20, Township 48N, Range 30W, more specifically described as Lot 4, Reynolds Addition, a subdivision in Jackson County Missouri, aka 8921 S. ShROUT Road..

2. We find that the Director of Planning and Zoning refused to issue a building permit as applied for, because the applicant failed to meet the requirements set out in the Zoning Order of Jackson County, Missouri.

3. We find that a public hearing was held on September 7, 1994, by this Board and that the property owners that lived or owned property within 1000 feet of subject property were notified of the hearing.

4. We find that the public hearing was held in the manner and form provided by law and that all interested parties were given full opportunity to be heard and were heard under oath.

5. We find that opportunity for opposition was had at the public hearing and that three persons appeared in opposition to the variance.

AND THE BOARD HAVING HEARD AND CONSIDERED THE TESTIMONY BY THE APPLICANT AND THE STAFF MAKES THE FURTHER SPECIFIC FINDINGS OF FACT.

- (a) The applicant is appealing the Director of Planning and Zoning refusal to issue a Building Permit for the construction of a 24x28 foot detached garage to come 12.5 feet from sideyard (south) property line of a 1.5 acre tract of land, being part of SW 1/4 of Section 20, Township 48N, Range 30W, more specifically described as Lot 4, Reynolds Addition.
- (b) That said tract of land is in Zoning District "D", Agricultural, which requires that there shall be a sideyard on each side of a building not less than twenty-five feet (25').
- (c) That the Jackson County Master Plan illustrates said tract of land to be in the Suburban Development Tier which allows development of lot sizes between one-third and five acres and residential zoning with a lesser side yard setback.
- (d) That applicant's appeal is reasonable, will not seriously injure the appropriate use of neighboring property, and to grant the variance in this instance would promote substantial justice and will be in keeping with the scope, general intent and purpose of Chapter 240 of the Jackson County Code.

CONCLUSIONS OF LAW

1. The Board finds that under the provisions of Jackson County Ordinance 23, Enacted March 5, 1973, (Codified in Chapter 82 of the Jackson County Code), Title XIII, Section 8.28 and 8.29, it is empowered to hear appeals from any persons aggrieved by a public officer in administering County Zoning Regulations. Further the Board may vary or modify the application of any of the regulations or provisions so the intended regulations shall be strictly observed, public safety and welfare secured and substantial justice done. In exercising its powers, the Board may in conformity with the provisions of the Jackson County Zoning Regulations or Ordinances, reverse or affirm wholly or partly, or may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

2. The Board finds that Section 24020, Chapter 240 of the Jackson County Code empowers the Board to grant variance provided that such variance will not seriously injure the appropriate use of neighboring property and will conform to the general intent and purpose of Chapter 240 of the Jackson County Code.

3. The Board finds that public notice of the hearing before the Board was given in the Independence Examiner on August 23, 1994, that thereafter such hearing was held on September 7, 1994 in the manner and form provided by law.

AND THE BOARD FINDS THAT AFTER CAREFULLY WEIGHING THE EVIDENCE presented by the applicant and the staff that the granting of the variance is reasonable and proper, will not seriously injure the appropriate use of neighboring property and the granting of the variance will be in keeping with the scope, general intent and purpose of Chapter 240 of the Jackson County Code.

IT IS THEREFORE ORDERED ADJUDGED, AND DECREED BY THE BOARD that the decision of the Director of Planning and Zoning in refusing to issue a Building Permit for the construction of a 24x28 foot detached garage to come within (12.5) feet from side yard (south) property line of a one and one-half (1.5) acre tract of land known as Lot 4, Reynolds Addition, a subdivision of Jackson County, Missouri, being part of SW 1/4 of Section 20, Township 48N, Range 30W, aka 8921 S. Shroul Road, is HEREBY OVERRULED and Application VS-858 for a TWELVE AND ONE-HALF (12.5) FOOT VARIANCE is GRANTED BY UNANIMOUS VOTE of the BOARD MEMBERS with no time limitation.

IT IS BY THE BOARD FURTHER ORDERED that an attested copy of the Findings, Decision and Order be mailed to applicant and interested parties.

Donace J. Wilson
Chairperson

[Signature]
Executive Secretary

Order made this 10th day
of November 1994.

This Order approved as to form by
[Signature]
Legal Counsel

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

I, Mary Jo Brogato, Clerk of the County Legislature within and for the County aforesaid, hereby certify that the foregoing is a true copy of the Order of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said County in my office in Kansas City, Missouri on this 10th day of November, 1994.

Mary Jo Brogato
Clerk of the County Legislature

Lot 4, Reynolds Addition, a
subdivision in Jackson County, MO
8921 S. Shroust
Grain Valley, MO 64029

Lot = 146.43' x 450'
= 65,893 sq ft.
1.5 Acres
Flat topography

