

LAWRENCE BOARD OF ZONING APPEALS

AGENDA

AUGUST 3, 2017 – 6:30 P.M., CITY COMMISSION MEETING ROOM

1st FLOOR OF CITY HALL AT 6th AND MASSACHUSETTS STREET, LAWRENCE, KANSAS

CALL THE MEETING TO ORDER

TAKE A ROLL CALL TO DETERMINE IF THERE IS A QUORUM OF MEMBERS PRESENT

ITEM NO. 1 COMMUNICATIONS

- a) Acknowledge communications to come before the Board.
- b) Board member disclosure of any ex parte contacts and/or abstentions from the discussion and vote on any agenda item under consideration.
- c) Announce any agenda items that will be deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the July 6, 2017 meeting of the Board.

BEGIN PUBLIC HEARING:

ITEM NO. 3 VARIANCE FROM THE SIDE BUILDING SETBACKS FOR A RESIDENTIAL DWELLING; 524 OHIO STREET [JSC]

B-17-00307: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2017 edition. The request is for a variance from the 5 foot interior side setback standard required by Section 20-601(a) of the City Code for the RS5 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the interior side setback to a minimum of 2.5 feet from the southern property line, and to a minimum of 3.16 feet from the northern property line. The property is located at 524 Ohio Street. Submitted by David Sane, Rockhill & Associates, for Kami Day and Michele Eodice, property owners of record.

ITEM NO. 4 VARIANCE FROM THE FRONT BUILDING SETBACK FOR A RESIDENTIAL DWELLING; 1415 E 18TH STREET [JSC]

B-17-00337: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2017 edition. The request is for a variance from the 25 foot front setback standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the front setback to a minimum of 1 foot to allow for the construction of a roofed 22 foot long attached car port. The property is located at 1415 E. 18th Street. Submitted by Todd LaPrad, property owners of record.

ITEM NO. 5 **MISCELLANEOUS**

- a) Consider any other business to come before the Board.

LAWRENCE BOARD OF ZONING APPEALS
Meeting Minutes of July 6, 2017

Members present: Clark, Gardner, Holley, Mahoney, Wilbur, Wisner
Staff present: Cargill, Crick

ITEM NO. 1 COMMUNICATIONS

- a) There were no additional communications to come before the Board.
- b) Wilbur said he would abstain from Item 4.
- c) No agenda items were deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the April 6, 2017, May 4, 2017, and June 1, 2017 meetings of the Board.

ACTION TAKEN

Motioned by Holley, seconded by Wilbur, to approve the minutes from the April 6, 2017 meeting of the Board.

Motion carried 5-0-1, Clark abstained.

Motioned by Gardner, seconded by Clark, to approve the minutes from the May 4, 2017 meeting of the Board.

Motion carried 5-0-1, Mahoney abstained.

Motioned by Gardner, seconded by Holley, to approve the minutes from the June 1, 2017 meeting of the Board.

Unanimously approved 6-0.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 VARIANCE FROM THE REAR BUILDING SETBACK FOR AN
UNCOVERED HORIZONTAL STRUCTURE; 4821 W. 26th STREET [JSC]**

B-17-00290: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the 30 foot rear setback standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the rear setback to a minimum of 12 feet to allow for the construction of an uncovered horizontal structure. The property is located at 4821 W. 26th Street. Submitted by Allison Wilson, property owners of record.

STAFF PRESENTATION

Mr. Jeff Crick presented the item.

Clark asked for clarification of the easements.

Crick explained the location of the Southern Star easement.

Mahoney asked if neighbors were notified.

Crick said a neighbor called this afternoon with general questions and did not indicate that he was opposed.

APPLICANT PRESENTATION

Mr. Matt Tait, applicant, emphasized that the pool will be above ground and will not be on top of any utility line.

NO PUBLIC COMMENT

ACTION TAKEN

Motioned by Gardner, seconded by Wilbur, to close public comment for the item.

Unanimously approved 6-0.

BOARD DISCUSSION

Holley said it seems like a no-brainer- it's not on a utility line and there are no neighbor complaints. He is in favor of approving the request.

Mahoney agreed.

ACTION TAKEN

Motioned by Gardner, seconded by Wisner, to approve the variance as outlined in the staff report.

Unanimously approved 6-0.

ITEM NO. 4 VARIANCE FROM THE REAR BUILDING SETBACK FOR A RESIDENTIAL DWELLING; 5120 CODY COURT [JSC]

B-17-00275: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the 30 foot rear setback standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the rear setback to a minimum of 12.5 feet to allow for the construction of a covered attached deck. The property is located at 5120 Cody Court. Submitted by Jim and Allison Nye, property owners of record.

STAFF PRESENTATION

Crick presented the item.

Clark asked if the removal of the deck is the issue.

Crick said that's correct. He said the deck can be repaired in place but removing it would require new deck construction to comply with current code.

Gardner asked if replacing the deck with current dimensions would be allowed.

Crick said general maintenance is allowed, but swapping out more than half the deck would be reviewed under current code standards.

Mahoney asked if they could add to the existing deck.

Crick said that would also require review under the current Land Development Code.

Clark asked how the proposed replacement deck compares to the original.

Crick presented a drawing of the proposed replacement.

Clark asked if they're asking to add a roof to the replacement deck.

Crick said that's correct.

Gardner asked if the deck is the exact same size as the original.

Crick said the applicant can answer that question.

Applicant was not present.

NO PUBLIC COMMENT

ACTION TAKEN

Motioned by Clark, seconded by Gardner, to close public comment for the item.

Unanimously approved 6-0.

BOARD DISCUSSION

Mahoney said he has a hard time with the five conditions, particularly the uniqueness condition. He said it would be nice if the applicant was present to answer some questions.

Gardner agreed.

Clark agreed. He said the addition of the proposed roof also increases the visual height.

Wisner said it looks like they are putting up the same size deck with a roof to replace the shade of the tree, but it would have been nice to get clarification from the applicant.

Holley doesn't feel a roof is equivalent to a tree.

ACTION TAKEN

Motioned by Clark, seconded by Holley, to deny the variance based on the staff report, Board discussion, and lack of presentation by the applicant.

Motion carried 5-0-1, Wilbur abstained.

ITEM NO. 5 **CITY OF LAWRENCE FIRE STATION NO. 1 SITE AREA AND
STRUCTURE SETBACKS FROM ALL PROPERTY LINES; 745 VERMONT
STREET [JMB]**

B-17-00285: A request for variances as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The first request is for a variance to reduce the 40 foot minimum front setback requirement listed in Section 20-601(b) of the City Code to a minimum of 9 foot, 6 inches feet. The second request is for a variance to reduce the 40 foot minimum exterior side setbacks requirement listed in Section 20-601(b) of the City Code to a minimum of 16 feet from the west property line, and 37 feet from the eastern property line. The third request is for a variance to reduce the 15 foot minimum rear setback requirement listed in Section 20-601(b) of the City Code to a minimum of 9 feet, 5 inches. The property is located at 745 Vermont Street. Submitted by Jay Zimmerschied, Zimmerschied Architecture, for the City of Lawrence, Kansas, property owner of record.

STAFF PRESENTATION

Crick presented the item.

BOARD DISCUSSION

Clark asked for clarification about memorializing the existing building setbacks.

Crick explained that memorializing the setbacks allows the building to be rebuilt in the same footprint.

Wilbur asked if they lock that in forever.

Gardner asked if the variance is also for the addition and whether they must wait for an approval from the Historic Resources Commission (HRC) before taking action.

Crick said the addition will be in the southwest corner and will be heard by the HRC later this month. If the setbacks are being adjusted for the addition it would need to come back before the Board.

Clark asked about the setbacks for the parking lot structure to the north.

Crick said he believes it has either no setback or a 1 ft setback.

Gardner asked if this variance is conditioned upon HRC approval.

Crick said they can condition it to match what the HRC approves.

Holley asked if the dimensions of the structure can be moved up slightly through recommendations by the HRC.

Crick said it would be tight and would have to remain very similar to what is proposed on the current drawing.

Mahoney asked if they could go smaller in size.

Crick said yes.

APPLICANT PRESENTATION

Mr. Mark Bradford, Fire Chief, explained the project. He mentioned that the addition will meet their needs as proposed and could possibly go smaller, and they will continue to share space with the Senior Resource Center of Douglas County.

Gardner asked if the addition will be office space.

Bradford said that's correct. He explained the proposed layout.

Holley asked if the material for the addition will be similar or differentiated from the existing.

Bradford said they are proposing a blend of materials they believe the HRC will approve.

NO PUBLIC COMMENT

ACTION TAKEN

Motioned by Gardner, seconded by Clark, to close public comment for the item.

Unanimously approved 6-0.

BOARD DISCUSSION

Mahoney said the request is cut and dry and feels it meets the five conditions for a variance. He does not believe they need to condition the variance but wouldn't necessarily oppose once either.

Clark said any conditions by the HRC would just be imposed by the HRC.

Gardner feels they need to condition their approval because they're approving a replacement footprint larger than the original building.

Clark asked if the addition and memorialization of the setbacks are two separate pieces.

Mahoney said the request is for setbacks only.

Crick said that's correct.

Mahoney explained that if the HRC doesn't approve of the plan it won't move forward as proposed.

Crick said that's correct.

Gardner said his concern is that they're allowing any building to be built in the proposed footprint in the future.

Mahoney said if the building is razed then a replacement structure isn't considered historic.

Gardner asked if a new structure can be built in the proposed setbacks with an approved variance if the building is razed.

Crick explained that the variance runs with the land and with the approved variance a replacement structure can rebuild using the proposed setbacks, but would be subject to current code standards. He noted that HRC requirements and height limitations for GPI (General Public and Institutional Use District) would still be in effect, and anything exceeding the in-ground building setbacks would require a new variance.

Mahoney feels Gardner's concern is the possibility to build anything in that footprint, but the new design would still have to be approved by HRC.

Crick said that's correct.

Gardner said he understands and withdrew his objection.

ACTION TAKEN

Motioned by Holley, seconded by Wilbur, to approve the variance based on findings in the staff report and Board discussion.

Unanimously approved 6-0.

ITEM NO. 6 **PARKING VARIANCE FOR A MIXED USE STRUCTURE; 1420 CRESCENT DRIVE [JSC]**

B-17-00284: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from Article 9, "Parking, Loading and Access," requiring a minimum number of off-street parking spaces to be provided from a required 56 spaces to 30 spaces. The property is located at 1420 Crescent Road. Submitted by David Hamby, BG Consultants, Inc., on behalf of Axiom Equities, L.L.C., property owners of record.

STAFF PRESENTATION

Crick presented the item.

Wilbur asked if it's reasonable to assume that the majority of traffic will be foot traffic and if that is included in the matrix.

Crick said it's not worked into the matrix as a reduction but it's a recognized goal of the MU (Mixed Use) District. He said that the Planning Commission and City Commission have recognized that the MU designation doesn't fit everywhere because it's a very precise zoning application. The proposed use is permitted by right under the zoning district- the variance only speaks to the intensity of the use.

Wilbur asked how staff arrived at the conclusion that the second floor would also be considered a fast food use.

Crick said there is a method used by the Planning Director to make an equivalent use determination, since zoning code doesn't always cover every possible scenario. The Planning Director determined that, due to the mobility between the first and second floors, the second floor would also be considered fast order food.

Clark asked if that decision was made after the application was submitted with 40 parking spaces.

Crick said that's correct.

Clark asked what use was used to determine they needed 40 parking spaces.

Crick said that is what triggered the determination by the Planning Director, because the listed use was a library-type use, which isn't in the City's code, and it didn't have the components to be assembly space.

Holley asked if the 400 ft rule would include stops made by KU on Wheels.

Crick said yes, KU on Wheels and Lawrence Transit are the same under the code.

Clark asked if the current parking is metered.

Crick said it is not on campus and is not metered.

Mahoney said it's just a private lot and anyone can park there as determined by the owner.

Wisner pointed out that a site plan was approved in 1989 with a requirement of 37 spaces, and wondered what changed to only require 30 spaces if there were no modifications to the building.

Crick said there have been no modifications to the building but the site has been modified to include a dumpster and recycling enclosure.

Wisner asked if a retail use requires only 34 spaces.

Crick said correct.

APPLICANT PRESENTATION

Mr. Jason Hoskinson, BG Consultants, said this is a unique site that City code doesn't fully address. He feels the Board should consider the location and the types of patrons using McClain's Bakery. He said the parking calculations used to get 56 spaces are similar to that of the McDonalds on 6th Street or Panera Bread on 23rd Street, which are isolated commercial areas. McClain's expects most of their patrons to be on foot or bicycle. He noted that 300 buses pass this location daily, carrying roughly 15,000 people, and those transit stops were in front of the subject property until somewhat recently, which would have provided a credit of 20 parking stalls. He explained that the second floor is intended to be an assembly area for studying, not restaurant space. He pointed out that forcing customers to park far away is not in owner's best interest and they don't anticipate that happening.

Holley asked if they explored the idea of a parking deck.

Mr. Mike O'Connell, Axiom Equities, said they have not explored that option.

Wisner asked what other parking options they have considered.

O'Connell said their only real options are alternative uses, other than a multi-level parking garage, which he believes would not be received well by the neighbors.

Mr. Greg Hirleman, McClain's Bakery, said coffee is the basis for the entire design of the second floor- there will be no service- it will be quiet just like a coffee bar atmosphere. He said they were really attracted to the space because it has two floors which allows them to have two separate concepts: restaurant on the first floor and coffee bar/study area on the second.

O'Connell added that the intent is to serve the people in the immediate area- neighbors, pedestrians, and students. If/when the parking lot is full, there's little damage to the neighbors because patrons can't park in the residential area and any other parking requires a fee, so the risk is on the owners.

Holley said they might be underestimating the probability of overflow parking going into the neighborhood. He asked how they plan to regulate parking time restrictions.

Hirleman said parking will be restricted to guests, but it would be tricky to police. He believes parking will be less than two hours overall and employees will be encouraged to park elsewhere, and are likely to be students living in the area. He mentioned that they operate another location with remarkable foot traffic that has no parking area and has had no issues. He feels very confident about the number of pedestrians that will use the proposed location.

BOARD DISCUSSION

Wilbur asked about the parking restrictions in the surrounding neighborhood.

Crick said some streets have no parking on both sides, but the majority have parking on only one side, and the realignment of Naismith Drive up to this location removed the ability to turn left at this intersection.

Gardner said he drove by the site today and getting there by vehicle is challenging.

PUBLIC COMMENT

Ms. Jan Sheldon, 1511 Crescent Rd, said she and her husband are opposed to the variance request for a number of reason. First, they believe the reduction from 56 to 30 spaces is large, and the developer knew from the beginning what the requirement would be. They believe the request will adversely affect the neighborhood by creating spillover parking into the neighborhood, and creating a safety hazard for small children in the area by increasing traffic. She noted that the City has made several efforts to calm traffic in the area and she appreciates that.

Gardner asked what street she lives on.

Sheldon said she lives on Crescent Road. She noted that there is no parking allowed along Jayhawk Boulevard.

Wilbur asked what the parking was like when Jayhawk Bookstore was still there.

Sheldon said currently, parking on her street is restricted from 8 am to 5 pm Monday through Friday and is open after 5 pm and on the weekends. Normally, there would be no parking on game days or special event weekends.

Ms. Debbie Schroeder, 1501 Crescent Rd, said her driveway has been closed for 17 days due to City construction, but her biggest concern is the possibility of a parking structure.

Mr. Thomas Schroeder, 1501 Crescent Rd, said noted that there's never been 56 parking spaces on the property.

Clark said that's correct, it would be the new requirement.

Gardner clarified that they don't have a problem with the reduction of spaces they just don't want a parking structure.

Mr. Schroeder said that's correct.

Ms. Faye Watson, 1516 Crescent Rd, said this will be open 6 am until midnight and they'll be selling beer and wine, not just bakery items. She questioned whether students will really be over there studying with beer and wine available that late. She said trash is already an issue on this street and fraternities and sororities sell their parking which creates spillover parking.

Clark asked if she is opposed to the variance request.

Watson said she is not opposed to the development or the parking but feels other things need to be considered.

Mr. Kris Kaase, 1506 Crescent Rd, said the streets are heavily used for parking, but his main concern is preserving safety in a family neighborhood, noting the late hours of operation and the sale of alcohol.

Wisner asked if his concern is the parking or the nature of the business.

Kaase said both are concerns because the amount of parking is very limited already, particularly in the evening and on the weekends.

Mr. Schroeder clarified that he and his wife are in favor of the business, but they agree with concerns about trash and the hours of operation.

Mr. Kurt Look, 1513 Crescent Rd, said he is in favor of the business if they are accurately characterized as a bakery, but would not support it as a drinking establishment. He hopes the 30 proposed parking spaces will be sufficient because he doesn't believe the neighborhood can support any overflow parking. He does not want to see "no parking" signs removed in the future due to that issue.

ACTION TAKEN

Motioned by Gardner, seconded by Clark, to close public comment for the item.

Unanimously approved 6-0.

BOARD DISCUSSION

Mahoney said he knows that parking is a stressful situation that close to campus and he understands neighbors' concerns. He agrees that businesses should do their due diligence. Similarly, there are issues that come with living in close proximity to a major university, and 20 cars likely won't make a difference. He is an advocate for developers using existing structures and often we need to make concessions to do that. He noted that the neighbors don't want parking to go up in height, and he's not sure if that is even possible, and would likely be out of the purview of the Board of Zoning Appeals.

Gardner asked if the property was used as a food establishment before it was a bookstore.

A woman said it was Shakespeare's Pizza.

Gardner asked if they only used space on the bottom floor.

The woman said yes, it used only the first floor.

Gardner said parking requirements don't fit every situation. He asked if they can start operating with only the first floor and later show that the parking isn't an issue as a condition to expand to the second floor.

Crick said the parking must be addressed at this time. He said the Planning Commission and City Commission could apply similar conditions during the site plan process but it is beyond the ability of this Board.

Gardner said he feels most of the traffic will be pedestrian and doesn't feel 56 spaces will be needed.

Crick added that the site plan is currently under review but it has not been approved or denied

as of this time.

Wisner agreed Gardner. He asked if there is any way the Board can condition how the parking is used or enforced.

Mahoney doesn't think the board has the authority because it's a privately-owned lot.

Crick said it's a little beyond their authority because the enforcement would require a level of staff dedication which is beyond the City's ability.

Wilbur feels Criteria 4 & 5 have not been met.

They decided to discuss each condition individually.

Mahoney feels the situation is unique, and they all agreed.

Clark mentioned the levee café was granted a variance because they knew foot traffic would be certain.

Mahoney said they don't base decisions on precedence.

They agreed that the variance would not affect the rights of adjacent property owners, as stated in Criteria 2.

Mahoney feels Criteria 3- which determines hardship caused by strict application to the code- is tricky. This is definitely a mixed-use project that will most certainly see a lot of foot traffic. He feels some of the hardship could almost be tied to financial gain, because a less intensive use might meet parking requirements, and it's ultimately a choice by the developer. He's on the fence when it comes to determining unnecessary hardship, and welcomed thoughts from other Board members.

Holley and Wilbur agreed with Mahoney's comments.

Mahoney moved on to discuss Criteria 4, regarding the effect on public health, safety, prosperity, and welfare. He said some neighbors might say that this project threatens some of those items. He questioned whether spillover from 26 cars would be noticeable spread throughout the neighborhood. He stressed that he understands the frustration with the parking but he doesn't believe this project will be the cause of any significant issues.

Clark asked if the intent of parking requirements to serve the tenant or the surrounding neighborhood.

Mahoney feels the requirement is there to alleviate parking in other areas.

Gardner said he sees an unnecessary hardship (Criteria 3) due to the MU zoning.

Mahoney asked if he feels strict application of the code would constitute unnecessary hardship.

Gardner said he does.

Clark feels 26 cars is a drop in the bucket for this high traffic area and will not be detrimental.

Mahoney feels Criteria 5 is open to interpretation; either way, it's hard not to meet Criteria 5 if you meet the others.

Wisner said he completely agrees.

Holley mentioned they would have received a reduction in spaces if the transit stop hadn't been moved, which is still very close.

Mahoney asked what the parking requirements would be if the second floor was determined to be general assembly.

Crick said general assembly is not in the code, so the equivalent would probably be event center use, which would be a different parking load calculation altogether.

Mahoney guessed it would still require a considerable amount of parking.

Hoskinson explained assembly parking calculations for the second floor. Ultimately, he said that there would be a 16 space reduction if the second floor was not considered fast order food.

Crick explained that a small event center use would require 1 space per 3 occupants for maximum occupancy of the structure, but ultimately that calculation would be subject to agreement by the Planning Director.

Mahoney asked if they might have around 12 employees.

Gardner said that's a maximum number of employees for peak hours.

Mahoney said it's a significant reduction, but as some Board members have mentioned, they're not sure if it's significant in this neighborhood.

Wilbur agreed, but if you live there you feel it, so

Clark asked if the MU 20 credit is all or nothing.

Crick said that's correct.

Gardner said they moved the bus stops for safety reasons- he asked when they were moved.

Crick said they moved the stops within the last 12-18 months at the recommendation of the transit administrator due to congestion issues and safety concerns. He noted that bus stops can be moved at any time based on that type of recommendation.

Gardner asked when the property owner purchased the property.

O'Connell said they purchased it about eight months ago. Regarding due diligence, they were instructed to provide a parking calculation on their application based on what they intended to do, but weren't provided a determination until after they submitted an application. They have never intended a high intensity use for second floor, and feel the unnecessary hardship is the somewhat arbitrary parking calculated based on the determination for the second floor.

Hirleman stressed that they have always visualized the second floor as a living room study parlor space.

Gardner feels the transit stop proximity is a factor in considering the variance.

Mahoney asked if they're close to 200 feet from the transit stop.

Crick said yes, approximately.

Clark said he feels the intent of that measurement is to establish foot traffic and that location couldn't be more appropriate in that regard.

Holley agreed.

Ms. Schroeder asked if the variance applies to a future business on the property, such as a McDonald's.

Crick said the variance follows the property, but confirmed that a more intense use would require another variance, while a less intense use would not.

Holley said the interpretation of the use as fast food would allow another fast food to come in.

Mahoney said they have, in the past, tied the variance to the business.

Crick said it is possible to condition the variance based on the existing structure or configuration of the present lot, or if the building is remodeled or changed significantly. The variance ultimately runs with the land and uses will change over time.

Gardner said the Board has conditioned things before based on the use.

Mahoney said the issue here is that the use will be fast food. He asked whether there is an alternative classification for the second floor that would reduce the parking requirements for the second floor.

Crick said fast order food is one of the most intensive parking ratios you'll see in the code. The requirements and purpose of the parking code is to provide adequate offsite parking, but there's an even comment that it needs to be flexible. General retail sales would require 1 for 300 feet, so that would reduce the requirement significantly.

Wisner said he's a little uncomfortable penciling things out with hypothetical reductions because there are lots of mitigating factors based on the location. He's comfortable making a motion but asked if any conditions are possible.

Hirleman mentioned that they introduced alcohol to only one other location. They're a family business, not a bar. They plan to sell premium beer and wine which they don't believe will attract students. He said if it becomes a problem it will be eliminated.

Crick clarified that the liquor license is granted by the City Commission.

Mahoney said it's not an issue for him.

Holley said that relieves his reservations regarding Criteria 4. He feels the tenant is legitimately concerned about the neighborhood and his only concern is future tenants.

Crick said that any condition would need to be well placed under the ability of the Board.

Gardner asked if there is any better use classification for the second floor.

Crick said that is the best fit per code.

ACTION TAKEN

Motioned by Clark, seconded by Wisner, to approve the variance request based on findings of fact, staff presentation, applicant presentation, and neighbor discussion, and because it meets the five conditions for a variance.

Motion carried 4-2, Wilbur & Mahoney were opposed.

Ms. Schroeder asked if a change in use will affect the variance.

Mahoney said the variance will follow the property.

Crick said another variance would be required if the use is intensified. A site plan will also be required for any significant changes.

ITEM NO. 7 MISCELLANEOUS

a) No other business to come before the Board.

ADJOURN 8:43 PM

ITEM NO. 3 **VARIANCE FROM THE FRONT BUILDING SETBACK FOR A COVERED PORCH;
524 OHIO STREET [JSC]**

B-17-00307: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2017 edition. The request is for a variance from the 5 foot interior side setback standard required by Section 20-601(a) of the City Code for the RS5 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the interior side setback to a minimum of 2.5 feet from the southern property line, and to a minimum of 3.16 feet from the northern property line. The property is located at 524 Ohio Street. Submitted by David Sane, Rockhill & Associates, for Kami Day and Michele Eodice, property owners of record.

B. REASON FOR REQUEST

Applicant's Request – *"The house was built between 1871 – 1905. By 1905 it has a wraparound porch which is evident on site and is visible on the 1905 Sanborn Fire Insurance map. To build a new porch and meet the historic standards for HRC and State tax credits we are to match the footprint of the 1905 porch. This will require the porch to extend 36" into the front yard setback and 30" into the side yard setback.*

The property is part of the Pinckney #1 Historic District and is a contributing structure."

C. ZONING AND LAND USE

Current Zoning & Land Use: RS5 (Single-Dwelling Residential) District; residential dwelling

Surrounding Zoning and Land Use: RS5 (Single-Dwelling Residential) District to the north, south, east, and west; single-dwelling residential homes.

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts," has standards defining the minimum building setbacks for residential dwellings based upon each residential zoning district. In the RS5 District, the minimum front building setback is listed to be 20 feet, and the interior side setback is listed to be 5 feet.

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Development Code lists the five requisite conditions that have to be met for a variance to be approved.

1. The variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.

Applicant response: *"The house needs steps/porch to enter the front and side door. To do this and meet the historic requirements of HRC & SHPO we are encouraged to match any evidence of the original porch. The Sanborn map from 1905 and ghosting on the house wall & at the pavement show that the two doors were gathered by a wraparound porch. This was not the design plan until this evidence was uncovered. We had planned a small, covered front porch and we were going to seal the side door."*

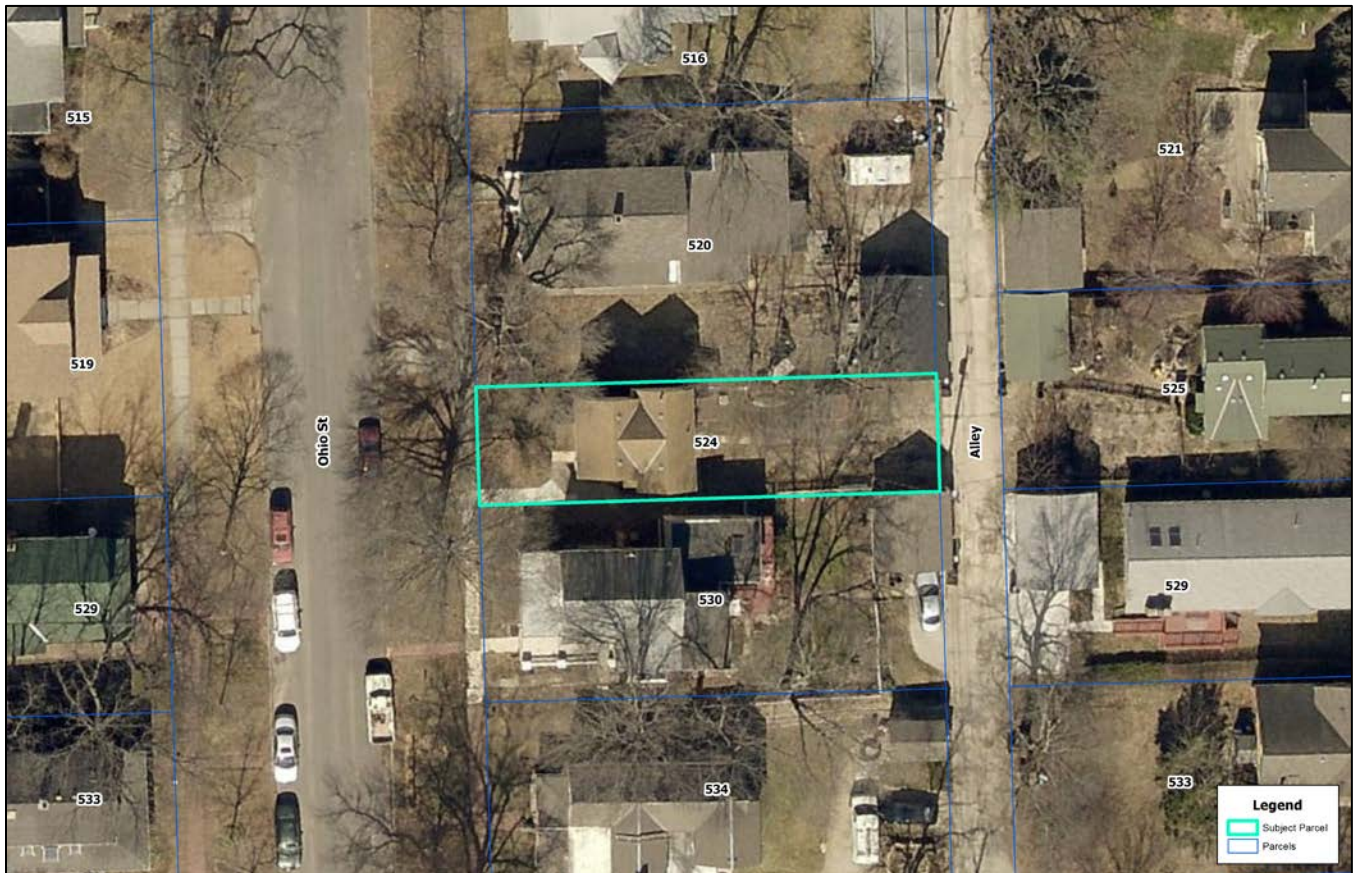


Figure 1: Subject Property

The construction of the house pre-dates the adoption of Lawrence's first zoning code in 1927. The siting of the residence on the lot was not subject to any density and dimensional standards at that time. The reduction of the required interior side setback would help formalize the existing building footprint within the Land Development Code, while allowing for the reconstruction of the historic footprint of the original porch.

The parcel is a portion of a standard platted Original Townsite lot. The Original Townsite of Lawrence was platted with lot measuring 50 feet wide by 117 feet long. This particular parcel however is only 30 feet wide. While having parcel lines not corresponding with platted lot lines is a common occurrence in this portion of Lawrence, the narrowness of the existing parcel is unique. Applying the code required interior side setbacks would reduce the buildable width of the building envelope to 20 feet, which is a 33% reduction of buildable lot width in this instance.

The front setback on this property is not being considered for a variance due to 20-602(e)(1)(i), which permits for front setbacks of the base district, any new building erected may comply with the average front setback of the existing buildings. Due to the construction pattern of the of the block face for this portion of Ohio Street, the exception would allow for the construction closer to the front setback line. The applicant would have to submit information showing the front setback of the block face for staff to determine the appropriate setback measurement when submitting the building permit application. Based on information available via the City's Geographic Information System (GIS), the average front setback along this block face is estimated to be 12 feet.

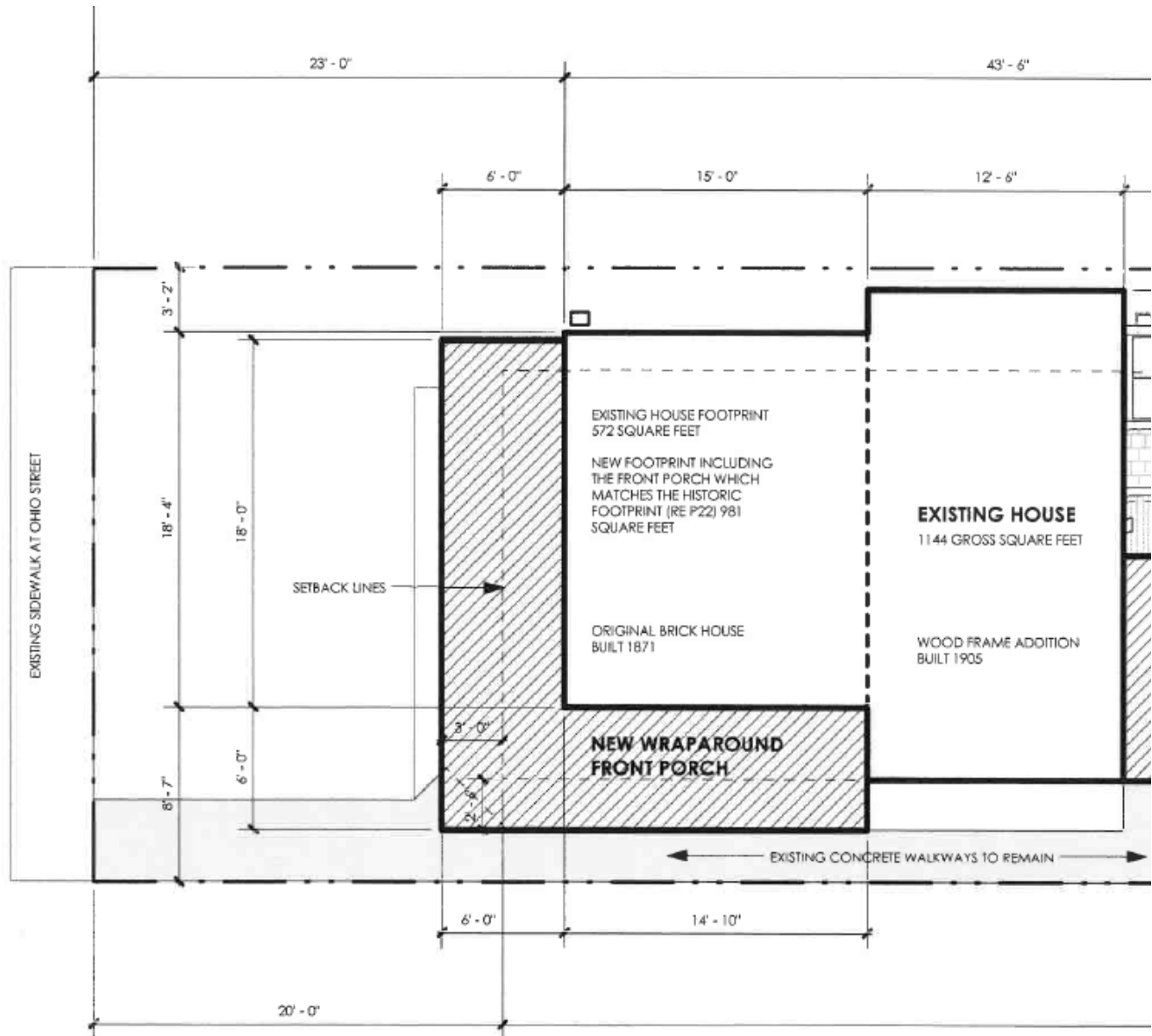


Figure 2: Applicant's Drawing of Proposed Porch Location

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

Applicant response: "The neighbors adjacent to the property on the side where porch will encroach in the setback have expressed support. Plus, it is not uncommon for houses in the historic neighborhoods to encroach into the setback and it would not stand out from the typical condition."

In staff's opinion, the requested variance would not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within 400 feet of the subject property informing them of the application filed by the property owner. As of the time this report was written, staff has not been contacted by any property owner expressing concerns or objections to the applicant's request.

3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

Applicant response: "It will make it difficult to design functional porches to enter the house while still meeting the historic standards and being approved for the tax credits."

In staff's opinion, strict adherence to the code required building setbacks may constitute an unnecessary hardship. The parcel for this residence is not a standard dimension that would have been platted. Since the parcel exists at 30 feet wide, the totality of the 5 foot interior side setback would reduce the buildable space of this lot to 20 wide. This particular residence would have been constructed approximately 27 years before Lawrence would adopt its first zoning code. At that time, the structure would not have been subject to setbacks as we currently have today. Requiring the porch to comply with the modern setbacks would cause the design of the porch to be modified and inconsistent with the requirements for the Historic Resources Commission and the Kansas State Historic Preservation Office.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Applicant response: "It is being done in this manner to be seen as 'appropriately' responding to the historic character of its surroundings. This will not adversely affect any of these issues. It is fully contained upon the property and does not encroach on any public space."

In staff's opinion, granting the requested variance will not create an adverse effect upon the public health, safety, morals, order, convenience, prosperity or general welfare. The request in question is contained within the parcel owned by the applicant. This structure would not create any spill-over noxious effects to the surrounding area.

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

Applicant response: "As stated above the intent is to respect the historic conditions in a historically registered neighborhood. It is an effort to conform rather than deviate from its surroundings."

In staff's opinion, granting the setback variance would not be opposed to the general spirit and intent of the Land Development Code. Granting the requested variance is consistent with the previous findings

of the Board, and also consistent with the spirit of Land Development Code. Granting of these requested variance would permit the continued use and renovation of the existing residence, while also ensuring that the needs and protections of the public interest are maintained.

Conclusions:

Staff's analysis of this variance application finds the request meets all five conditions set forth in Section 20-1309(g)(1) of the Land Development Code that the Board must find existing to grant a variance.

Recommendation:

Staff recommends approval of the side yard building setback variance based upon the findings in the staff report concluding that the request meets the five conditions outlined in Section 20-1309(g)(1).



City of Lawrence

THOMAS M. MARKUS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
LESLIE SODEN

COMMISSIONERS
STUART BOLEY
MATTHEW J. HERBERT
LISA LARSEN
MIKE AMYX

July 25, 2017

City of Lawrence Board of Zoning Appeals
c/o City of Lawrence Douglas County Planning & Development Services
P.O. Box 708
6 E 6th Street
Lawrence, KS 66044

RE: Request for Variance for 524 Ohio Street

Dear Board of Zoning Appeals Members,

On July 20, 2017, the Lawrence Historic Resources Commission (HRC), as part of their Design Review application for 524 Ohio Street, reviewed the following Board of Zoning Appeals application:

ITEM NO. 3 VARIANCE FROM THE FRONT BUILDING SETBACK FOR A COVERED PORCH; 524 OHIO STREET

B-17-00307: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2017 edition. The request is for a variance from the 5 foot interior side setback standard required by Section 20-601(a) of the City Code for the RS5 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the interior side setback to a minimum of 2.5 feet from the southern property line, and to a minimum of 3.16 feet from the northern property line. The property is located at 524 Ohio Street. Submitted by David Sane, Rockhill & Associates, for Kami Day and Michele Eodice, property owners of record.

The property located at 524 Ohio Street is located in the Pinckney II Historic District listed in the National Register of Historic Places. As such, any issuance of a lease, permit, license, certificate, or other entitlement for use must be reviewed under the Kansas Historic Preservation Law. In addition, 524 Ohio Street is also located within 250' of properties listed in the Lawrence Register of Historic Places and is subject to review under Chapter 22 of the City Code for its impact on these properties.

The HRC is in support of the above variance request. The approval of this request will allow the property owner to reconstruct a porch in the historic configuration for the structure based on architectural evidence discovered by the applicant and verified by the City Historic Resources



Administrator. The applicant has removed the artificial siding that was covering the original siding of the historic structure. The removal of this siding in conjunction with the reconstruction of the original porch configuration will allow for the change in status of this structure from a non-contributing structure in the National Register District to a contributing structure to the National Register District. This change in status not only returns a historic structure to add to the wonderful sense of place for the city, but will also allow the owner to seek historic tax credits to maintain a wonderful historic asset to the City of Lawrence. (*Economic Impact of Historic Rehabilitation Tax Credits in Kansas*
(http://www.kshs.org/preserve/pdfs/kansas_executive_summary.pdf)

While the HRC referred the project to the Architectural Review Committee (ARC), a sub-committee of the HRC, for final design refinement of the porch details and roof material for the entire structure, the HRC is in support of the placement of the reconstructed porch.

The HRC supports the variance associated with case number B-17-00307 and Design Review case number DR-17-00308.

Please let me know if you have any questions.

Respectfully,

Lawrence Historic Resources Commission

A handwritten signature in blue ink, reading "Lynne Braddock Zollner". The signature is fluid and cursive, with the first name "Lynne" being the most prominent.

p.p. Lynne Braddock Zollner, AICP
Historic Resources Administrator



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(785) 832-3150 Fax (785) 832-3160
<http://www.lawrenceks.org/pds/>

VARIANCE FROM UNNECESSARY HARDSHIP BY THE BOARD OF ZONING APPEALS

Application Requirements

Please note, the application and application materials must be submitted in print and electronic format, on disc. If you are unable to provide the application materials in electronic format, please contact the Planning Office at 785-832-3150.

This checklist has been provided to assist you as you prepare your application. Submission of less information than necessary to adequately review and process your application may delay the review process. Planning Staff will determine the completeness, accuracy, and sufficiency of the application within five (5) business days of submission. Incomplete applications will be returned to the applicant.

Pre-Application Meeting

- ☒ 1. Pre-Application Meeting. The applicant shall meet with Planning Staff at least seven (7) business days prior to submittal of the application.

General Submittal Requirements

- ☒ 1. A complete application form.
- ☐ 2. Payment of review fee. (\$150 residential; \$350 other, +\$50 Legal Ad Fee for All BZA Applications) (Make check payable to the City of Lawrence.)
- ☒ 3. Owner Authorization form if Applicant is not the legal owner of the property.

Requirements for Public Notification of the Public Hearing

- ☒ 1. Legal description of the property in print and electronic (Microsoft Word) formats.
- ☒ 2. A list certified by the County Clerk of all property owners within the notification area (400 feet) of the subject property.
- ☒ 3. Ownership List Certification form.

Other Requirements

- ☒ 1. Plot plan illustrating the requested variances and proposed development.
 - a. Submit 2 paper copies and 1 copy in electronic format (TIF or PDF).
 - b. If larger than 8.5 " x 11", fold all plans with the image side out.
 - c. Additional plans and an 11" x 17" reduction (if larger than 8.5 " x 11") may be requested prior to completion.



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APPLICATION FOR VARIANCE FROM UNNECESSARY HARDSHIP

OWNER INFORMATION

Name(s) KAMI DAY + MICHELE ED RICE
Contact KAMI DAY
Address 320 NORTH PETERS AVE.
City MANHATTAN State OK ZIP 73069
Phone (785) 760-6483 Fax ()
E-mail kamiday@gmail.com Mobile/Pager (785) 760-6483

APPLICANT/AGENT INFORMATION

Contact DAVID SAIN
Company ROCKHILL + ASSOCIATES
Address 1546 E. 350 ROAD
City LEWISTON State KS ZIP 66050
Phone (785) 393-0746 Fax ()
E-mail daidsaine@sunflower.com Mobile/Pager (785) 393-0746
Pre-Application Meeting Date MAY 19, 2017 Planner LYNNE BRADDOCK ZOLLNER

PROPERTY INFORMATION

Present Zoning District RS-5 Present Land Use RESIDENTIAL
Proposed Land Use RESIDENTIAL
Legal Description (may be attached) OHIO STREET S 30 LOT 30
Address of Property 524 OHIO STREET
Total Site Area 3510 S.F.
Number and Description of Existing Improvements or Structures
EXISTING HOUSE W/ SMALL ADDITION



UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:

THE HOUSE NEEDS STEEP PORCHES TO ENTER THE FRONT AND SIDE DOOR. TO DO THIS AND MEET THE HISTORIC REQUIREMENTS OF HAC + SHPO WE ARE ENCOURAGED TO MATCH ANY EVIDENCE OF THE ORIGINAL PORCH. THE SANBORN MAP FROM 1905 AND GHOSTING ON THE HOUSES WALL + AT THE PAVEMENT SHOW THAT THE TWO DOORS WERE GATHERED BY A WRAPAROUND PORCH. THIS WAS NOT THE DESIGN PLAN UNTIL THIS EVIDENCE WAS UNCOVERED. WE HAD PLANNED A SMALL, COVERED FRONT PORCH AND WE WERE GOING TO SEAL THE SIDE DOOR.

2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:

THE NEIGHBORS ADJACENT TO THE PROPERTY ON THE SIDE WHERE PORCH WILL ENCRoACH IN THE SETBACK HAVE EXPRESSED SUPPORT. PLUS, IT IS NOT UNCOMMON FOR HOUSES IN THE HISTORIC NEIGHBORHOODS TO ENCRoACH INTO THE SETBACK and it would NOT STAND OUT FROM THE TYPICAL CONDITIONS.



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Description of variance requested:

THE HOUSE WAS BUILT BETWEEN 1871-1905.
BY 1905 IT HAD A WRAP AROUND FRONT
PORCH WHICH IS EVIDENT ON SITE AND IS
VISCUE ON THE 1905 SANBORN FIRE
INSURANCE MAPS. TO BUILD A NEW PORCH
AND MEET THE HISTORIC STANDARDS
FOR HRC and STATE TAX CREDITS WE ARE
~~WANTING~~ TO MATCH THE FOOTPRINT OF THE
1905 PORCH. THIS WILL REQUIRE THE
PORCH TO EXTEND 36" INTO THE FRONT YARD
SETBACK and 30" INTO THE SIDE YARD SETBACK.

THE PROPERTY IS PART OF THE PLANCHNEY #1
HISTORIC DISTRICT AND IS A CONTRIBUTING
STRUCTURE.



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3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:

IT WILL MAKE IT DIFFICULT TO DESIGN FUNCTIONAL PORCHES TO ENTER THE HOME WHILE STILL MEETING THE HISTORIC STANDARDS AND BEING APPROVED FOR THE TAX CREDITS.

WE HAVE BEEN IN DISCUSSION WITH HISTORIC RESOURCES ABOUT THE PORCH AND IT IS GOING THRU PRE SUBMITTAL REVIEW BUT THIS IS RELATED TO THE APPEARANCE OF THE DESIGN - NOT THE MATCHING OF THE ORIGINAL FOOTPRINT

4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:

IT IS BEING DONE IN THIS MANNER TO BE SEEN AS "APPROPRIATELY" RESPONDING THE HISTORIC CHARACTER OF ITS SURROUNDINGS. THIS ~~VARIANCE~~ WILL NOT ADVERSELY AFFECT ANY OF THESE ISSUES. IT IS FULLY CONTAINED UPON ~~THE~~ THE PROPERTY AND DOES NOT ENCRUCH ON ANY PUBLIC SPACE.



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5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:

AS STATED ABOVE THE INTENT IS TO
RESPECT THE HISTORIC CONDITIONS IN
A HISTORICALLY REGISTERED NEIGHBORHOOD.
IT IS AN EFFORT TO CONFORM RATHER THAN DEVIATE
FROM ITS SURROUNDINGS.

SIGNATURE

I/We, the undersigned am/are the (owner(s)), (duly authorized agent), (Circle One) of the
aforementioned property. By execution of my/our signature, I/we do hereby officially apply for
variances as indicated above.

Signature(s):

Date

6/8/2017

Date

Date

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____



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OWNER AUTHORIZATION

I/WE Kami Day, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 9 day of June, 20 17 make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/We the undersigned, have previously authorized and hereby authorize DAVID SAIN + ROUGHILL ASSOCIATES (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas, regarding 524 OHIO STREET, LAWRENCE, KS (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.

3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Owner

Owner

STATE OF ~~KANSAS~~ OKLAHOMA
COUNTY OF ~~DOUGLAS~~ Cleveland MS

The foregoing instrument was acknowledged before me on this 9 day of June, 20 17, by Kami Day

My Commission Expires: 03/10/19

Notary Public





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PROPERTY OWNERSHIP LIST CERTIFICATION

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

Radius of Notification

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business days** to receive the map.

THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

Signature

Date

6/13/2017

Printed Name

DAVID SAIN

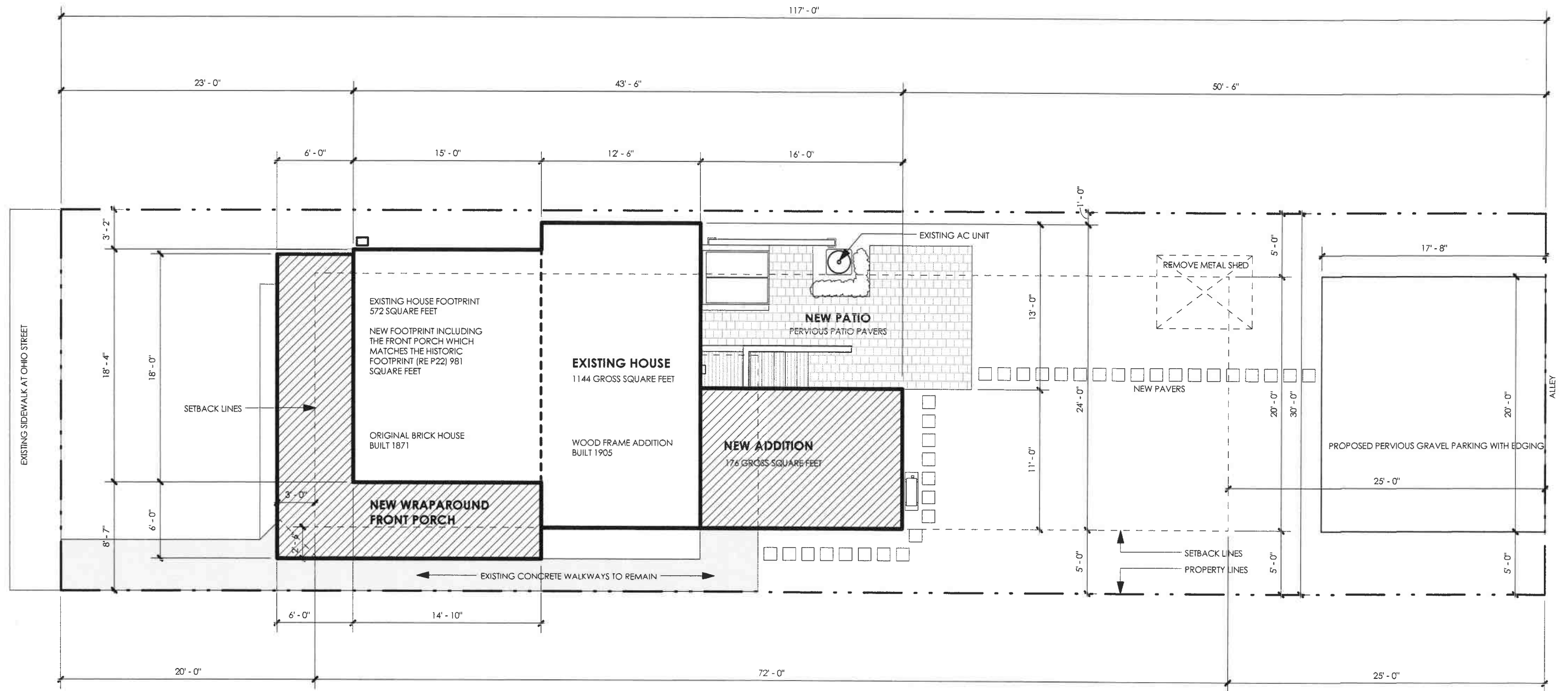
ROCKHILL and ASSOCIATES
DESIGN/CONSTRUCTION

DAVID SAIN
1546 E. 350 ROAD, LECOMPTON, KS 66050

LEGAL DESCRIPTION FOR 524 OHIO STREET LAWRENCE, KANSAS 66044:
OHIO STREET S 30 LOT 30

PHONE 785-393-0746

DAVIDSAIN@SUNFLOWER.COM



ITEM NO. 4 **VARIANCE FROM THE FRONT BUILDING SETBACK FOR A RESIDENTIAL DWELLING; 1415 E. 18th STREET [JSC]**

B-17-00337: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2017 edition. The request is for a variance from the 25 foot front setback standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the front setback to a minimum of 1 foot to allow for the construction of a roofed 22 foot long attached carport. The property is located at 1415 E. 18th Street. Submitted by Todd LaPrad, property owners of record.

B. REASON FOR REQUEST

Applicant's Request – *"Carport. Contractor was found on Facebook, was paid cash for work. The reason I had it built is that I'm recovering from a broken back and it's hard for me to move fast. It takes me a long time to get in and out of trucks."*

C. ZONING AND LAND USE

Current Zoning & Land Use:	RS7 (Single-Dwelling Residential) District; residential dwelling
Surrounding Zoning and Land Use:	RS7 (Single-Dwelling Residential) District; residential dwellings.

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts," has standards defining the minimum building setbacks for residential dwellings based upon each residential zoning district. In the RS7 District, the minimum front building setback is listed to be 25 feet.

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Development Code lists the five requisite conditions that have to be met for a variance to be approved.

1. The variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.

Applicant response: *"The Car Port is the same as 5 other ones in a three block radius."*

Applying for this variance originates from an inspection related to a notification of working being conducted without obtaining the required permits. The carport was constructed in a manner that infringes 24 feet into the required front setback as required in Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts," for properties zoned RS7, which necessitates the variance application.

The request is to reduce the front setback due to the construction of an attached carport to the existing residence. If the carport was not attached to the existing residence, then the Land Development Code would not permit the carport. Section 20-533(3) states, "Accessory Structures in residential districts shall be located to the rear of the front Building line," meaning the carport could not exist between the residence and the front setback line. When an accessory structure is attached to the primary residence, it then ceases to be accessory, and become part of the principal residence. At that point, Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts" become applicable to the carport structure.

A similar case was heard in this neighborhood in 1995 for 1808 Maple Lane (B-12-30-95) for a reduction of the 25 feet front yard setback requirement as provided in Section 20-608 of the 1966 City Zoning Code, to a minimum of 11 feet, to allow construction of a carport addition on the front of the existing residence. Based on the conditions at that time, and the then adopted code, Planning Staff recommended approval of the variance, subject to the condition that the carport addition remain an open sided structure over the duration of its existence on the property. Staff could not find any other variances issued by the Board of Zoning Appeals since 1976 in this portion of Lawrence relating to front setbacks for carports.



Figure 1: Subject Property



Figure 2: Setbacks and Approximate Carport Location based on Submitted Drawing

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

Applicant response: "No. There are other houses in my area with carports"

In staff's opinion, the requested variance would not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within 400 foot of the subject property informing them of the application filed by the property owner. As of the time this report was written, staff has not been contacted by any property owner expressing concerns or objections to the applicant's request.

3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

Applicant response: "Very hard & cost a lot more money. Planning on moving soon."

In staff's opinion, strict adherence to the code required building setbacks would not constitute an unnecessary hardship. The Land Development Code explicitly states that the conditions for the variance cannot be created by action(s) of the property owner. It should also be noted that as defined for the intent and purpose of the Land Development Code, unnecessary hardship is defined noting that, "mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship." (§

20-1701) Under this definition, financial considerations are not singularly adequate grounds to constitute an unnecessary hardship.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Applicant response: *"No it would not."*

In staff's opinion, granting the requested variance may create an adverse effect upon the public health, safety, morals, order, convenience, prosperity or general welfare. The request in question is contained within the parcel owned by the applicant. However, a front setback reduction of this degree within a RS District may have the potential to create spill-over effects to the surrounding area. As the structure will be located in the front yard, and will be highly visible, staff would caution that affects from a structure of this size and scale would not be as mitigated as structures in the rear or interior side setbacks can be in certain cases.

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

Applicant response: *"I don't think so."*

In staff's opinion, granting the setback variance would be opposed to the general spirit and intent of the Land Development Code. Strict adherence to the code requiring the 25 feet front yard building setback is not an unnecessary hardship in this instance, and as defined within the purview of the Board. The conditions surrounding this requested hardship variance are due to the action of the owner, and not originating from a condition that is unique to the property in question, and/or not ordinarily found in the same zone or district.

Conclusions:

Staff's analysis of this variance application finds the request does not meet all five conditions set forth in Section 20-1309(g)(1) of the Land Development Code that the Board must find existing to grant a variance.

Recommendation:

Staff cannot recommend approval of the front yard building setback variances based upon the findings in the staff report concluding that the request does not meet the five conditions outlined in Section 20-1309(g)(1).



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**APPLICATION FOR
VARIANCE FROM UNNECESSARY HARDSHIP**

JUN 30 2017

City County Planning Office
Lawrence, Kansas

OWNER INFORMATION

Name(s) Todd La Prad
Contact _____
Address 1415 E 18TH ST
City Lawrence State KS ZIP 66044
Phone (540) 588-5324 Fax (____) _____
E-mail toddmrfixit@yahoo.com Mobile/Pager (____) SAME

APPLICANT/AGENT INFORMATION

Contact _____
Company _____
Address _____
City _____ State _____ ZIP _____
Phone (____) _____ Fax (____) _____
E-mail _____ Mobile/Pager (____) _____
Pre-Application Meeting Date _____ Planner _____

PROPERTY INFORMATION

Present Zoning District _____ Present Land Use Residential
Proposed Land Use HOME
Legal Description (may be attached) _____
Address of Property 1415 E. 18TH ST Lawrence KS 66044
Total Site Area _____
Number and Description of Existing Improvements or Structures (1)

B-17-00337



Description of variance requested:

Car Port

Contractor was Found on Face Book
Was Paid Cash For Work.

The Reason I Had it Built is For
Im recovering From a Broken Back and
its hard For me too move Fast. and
It Takes me a long time to get in and out of Truck.

Don McKay 913-633-7611 is who
Built car Port.



UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:

2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:

(NO) There are other Houses in
My Area with Car Ports



3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:

Very Hard & Cost alot more money

Planing on moving Soon.

4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:

No it would not



5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:

I don't think so

SIGNATURE

I/We, the undersigned am/are the **(owner(s))**, **(duly authorized agent)**, **(Circle One)** of the aforementioned property. By execution of my/our signature, I/we do hereby officially apply for variances as indicated above.

Signature(s):

Todd Labrad

Date

6-28-17

Date

Date

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____

Legal Description for 1415 E 18th Street, Lawrence
Ks, 66044

EDGEWOOD PARK ADD NO 2 BLK 10 LT 4



OWNER AUTHORIZATION

I/WE _____, hereby referred to as the "Undersigned", being of lawful age, do hereby on this _____ day of _____, 20 __, make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/We the undersigned, have previously authorized and hereby authorize _____ (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas, regarding _____ (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.

3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Owner

Owner

STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this _____ day of _____, 20 __,

by _____.

My Commission Expires:

Notary Public



PROPERTY OWNERSHIP LIST CERTIFICATION

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

Radius of Notification

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense**. **Allow 10 business days** to receive the map.

THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

Todd LaPrad
Signature

6-27-17
Date

Todd LaPrad
Printed Name



VARIANCE FROM UNNECESSARY HARDSHIP BY THE BOARD OF ZONING APPEALS

Application Requirements

Please note, the application and application materials must be submitted in print and electronic format, on disc. If you are unable to provide the application materials in electronic format, please contact the Planning Office at 785-832-3150.

This checklist has been provided to assist you as you prepare your application. Submission of less information than necessary to adequately review and process your application may delay the review process. Planning Staff will determine the completeness, accuracy, and sufficiency of the application within five (5) business days of submission. Incomplete applications will be returned to the applicant.

Pre-Application Meeting

- ☐ 1. Pre-Application Meeting. The applicant shall meet with Planning Staff at least seven (7) business days prior to submittal of the application.

General Submittal Requirements

- ☐ 1. A complete application form.
- ☐ 2. Payment of review fee. (\$150 residential; \$350 other, +\$50 Legal Ad Fee for All BZA Applications) (Make check payable to the City of Lawrence.)
- ☐ 3. Owner Authorization form if Applicant is not the legal owner of the property.

Requirements for Public Notification of the Public Hearing

- ☐ 1. Legal description of the property in print and electronic (Microsoft Word) formats.
- ☐ 2. A list certified by the County Clerk of all property owners within the notification area (400 feet) of the subject property.
- ☐ 3. Ownership List Certification form.

Other Requirements

- ☐ 1. Plot plan illustrating the requested variances and proposed development.
 - a. Submit 2 paper copies and 1 copy in electronic format (TIF or PDF).
 - b. If larger than 8.5 " x 11", fold all plans with the image side out.
 - c. Additional plans and an 11" x 17" reduction (if larger than 8.5 " x 11") may be requested prior to completion.



VARIANCE
Unnecessary Hardship or Flood Protection Regulations

DETERMINATION OF COMPLETENESS, ACCURACY, AND SUFFICIENCY
(Completed by Staff)

The following items apply to variance applications. Submission of less information than necessary to adequately review and process your application may delay the review process. The following submittal requirements will be deemed: (P)provided or (NP)not provided. (Circled items have not been reviewed due to time constraints.)

Pre-Application Meeting

P NP

- ☐ ☐ 1. Pre-Application Meeting. The applicant shall meet with Planning Staff at least seven (7) business days prior to submittal of the application.

General Submittal Requirements

- ☐ ☐ 2. A complete application form.
- ☐ ☐ 3. Payment of review fee.
- ☐ ☐ 4. Owner Authorization form if applicant is not the legal owner of the property.

Requirements for Public Notification of the Public Hearing

- ☐ ☐ 5. Legal description of the property in print and electronic (Microsoft Word) formats.
- ☐ ☐ 6. A list certified by the County Clerk of all property owners within the notification area of the subject property.
- ☐ ☐ 7. Ownership List Certification form.

Other Requirements

- ☐ ☐ 8. Plot plan illustrating the requested variances and proposed development.
 - a. Submit 2 copies (in print form) and an electronic copy of the entire application.
 - b. If larger than 8.5 " x 11", fold all plans with the image side out.
 - c. Additional plans and an 11" x 17" reduction (if larger than 8.5 " x 11") may be requested prior to completion.



Determination of Completeness, Accuracy, and Sufficiency

I have reviewed the variance application submitted by:

Name: _____ Date: _____

Application No. _____

Based upon the submitted information, I find the application to be:

- ☐ Complete (based upon the items reviewed)
- ☐ Incomplete, inaccurate, or insufficient (circle) for the following reasons:
 - ☐ The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards.
 - ☐ The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with Development Code standards.
 - ☐ Other

Planner _____

Date _____

(1) Resubmit by _____ to be placed on the agenda for the Board of Zoning Appeals meeting on _____. (All resubmitted materials must be deemed to be complete, accurate, and sufficient.)

RESOURCES AVAILABLE TO THE APPLICANT

1. Planning Staff
2. Calendars:
 - Board of Zoning Appeals Submittal Deadlines and Meeting Dates
 - Planning Commission Submittal Deadlines and Meeting Dates
 - Historic Resources Commission Submittal Deadlines and Meeting Dates
3. Fee Schedule
4. City of Lawrence Development Code
 - The following articles of the Development Code are applicable to variance applications:
 - Article 6: Density and Dimensional Standards
 - Article 13, Section 20-1308: Zoning Variances

PLANNING DEPARTMENT PROCEDURES

Public Hearing: Planning Staff will schedule a hearing before the Board of Zoning Appeals, which is responsible for hearing the request.

Newspaper Publication: Planning Staff will publish the notice of the public hearing twenty (20) days prior to the date of the public hearing.

Mailed Notice: Planning Staff will mail notices of the public hearing to all property owners within the required notification area at least twenty (20) days prior to the public hearing. Planning Staff will also mail notice to any Registered Neighborhood Associations whose boundaries include or are contiguous to the subject property.

**APPROVAL AND EXTENSION TIME PERIOD
LAND DEVELOPMENT CODE
ARTICLE 13**

No action by the City shall be necessary to cause the approval to expire. Its expiration shall be considered a condition of the original approval.

SITE PLANS:

[Section 20-1305(o)(1)]

Approval time period -- Building permit must be obtained within **24 months** of final approval of the site plan or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

SPECIAL USE PERMITS:

[Section 20-1306(k)]

Approval time period -- Building permit must be obtained within **24 months** of the effective date of the decision on the Special Use or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

PRELIMINARY DEVELOPMENT PLAN:

[Section 20-1304(d)(12)]

Approval time period -- Application for a Final Development Plan must be submitted within **24 months** after final approval of the preliminary development plan or within 6 months after the date shown on an approved development schedule or the approval shall expire.

Extension -- Extension of **up to 24 months**, or the proposed phasing schedule may be modified to extend all dates by a period **up to one-half the original period allowed for development of that phase**, may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

FINAL DEVELOPMENT PLAN

[Section 20-1304(e)(2)(vii)]

Approval time period -- A building permit must be obtained within **24 months** after the final approval of the Final Development Plan or the approval shall expire.

Extension -- Extension of **up to 24 months**, or the proposed phasing schedule may be modified to extend all dates by a period up to **one-half the original period allowed for development of that phase** may be approved by City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.



INSTITUTIONAL DEVELOPMENT PLAN

[Section 20-1307(g)]

Approval time period -- A building permit must be obtained within **24 months** after the final approval of the Institutional Development Plan or the approval shall expire.

Extension -- Extension of **up to 24 months** may be approved by the City Commission for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

ZONING VARIANCES

[Section 20-1309(k)]

Approval time period -- A building permit must be obtained within **24 months** after the variance has been granted or the variance will expire. The variance will also expire upon expiration of a building permit.

Extension -- Extension of up to **24 months** may be approved by the Board of Zoning Appeals for good cause shown if written request is made by letter to the Planning Director before the expiration date. Additional extensions may be requested, if necessary.

APPROVAL AND EXTENSION TIME PERIOD SUBDIVISION REGULATIONS

PRELIMINARY PLAT*

[Section 20-809(j)]

Approval time period -- A final plat must be submitted within **24 months** of the date approval of the preliminary plat was granted by the Planning Commission or the approval of the preliminary plat shall expire.

- * Per Section 20-1304(d)(10) of the Development Code, approval of a Preliminary Development Plan constitutes approval of a preliminary plat. In the case of properties that were platted with a Preliminary Development Plan, the approval and extension dates of the Preliminary Development Plan shall apply. (See previous page)

Extension -- An extension of **up to 24 months** may be granted by the Planning Commission for a Preliminary Plat if the cause of failure to submit a final plat is beyond the subdivider's control. A written request must be provided to the Planning Director prior to the expiration date. Additional extensions may be requested, if necessary.

FINAL PLAT

[Section 20-809(n)(5)]

Approval time period -- Approval of a Final Plat shall be effective for no more than **24 months** from the date of approval unless all conditions of approval have been completed.



Extension – An extension may be granted by the Planning Director for good cause. A written request for extension must be provided to the Planning Director prior to the expiration of the original 24 month approval period.

MINOR SUBDIVISION/REPLAT

(Section 11-108(k))

Approval of a Minor Subdivision/Replat by the Planning director and acceptance of dedications by the Governing Body shall be effective for no more than **24 months** from the date of acceptance unless all conditions of approval have been completed or an extension has been granted by the Planning Director for good cause.

Extension – The extension request must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.

JAMIE SHEW
DOUGLAS COUNTY CLERK
1100 Massachusetts
Lawrence, KS 66044

Marni Penrod-Chief Deputy Clerk
Heather Dill-Deputy Clerk Elections

June 28, 2017

A CERTIFIED PROPERTY OWNERSHIP LIST WITHIN 400 FT OF 1415 E 18TH ST
(U11923). 06/28/2017. REQUESTED BY TODD LAPRAD.

JOHN R. NICHOLS
DOUGLAS COUNTY CLERK'S OFFICE
1100 MASSACHUSETTS ST
LAWRENCE, KS 66044

785-832-5147

jnichols@douglas-county.com

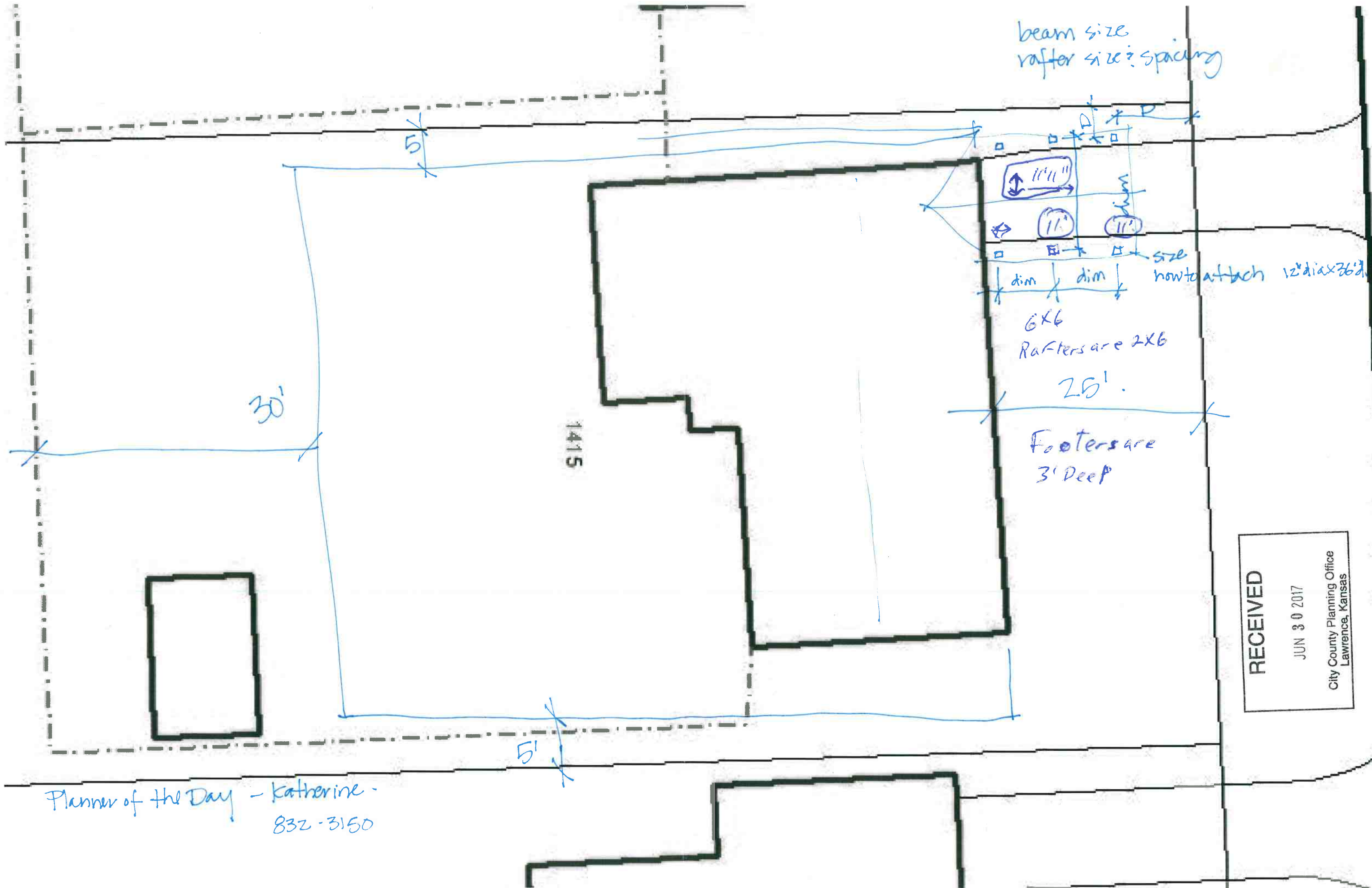
Douglas County Real Estate Division
County Clerk's Office. I do hereby certify
the Property Ownership listed hereto, to be
true and accurate.

A handwritten signature in black ink, appearing to read "John R. Nichols", is written over a horizontal line.

POL WITHIN 400 FT OF 1415 E 18TH ST (U11923).



109-05-0-20-12-018-00-0	0.18937326	VIGNE JAMES P	VIGNE EMILY ME	1402 E 19TH ST	LAWRENCE	KS	66046	012149	023	103-05-0-20-12-018-00-0	R21127	1402 E 19TH ST
109-05-0-20-12-017-00-0	0.18932506	SNOW KENNETH R	SNOW PATRICIA T	3211 CHESTNUT LN	HUDORA	KS	66025	012144	023	103-05-0-20-12-017-00-0	R21126	1332 E 19TH ST
109-05-0-20-12-016-00-0	0.13947291	HEDRICK ROBERT M		552 THOMAS AVE FL 1	FOREST PARK	IL	60130	011895	023	103-05-0-20-12-016-00-0	R21125	1320 E 19TH ST



Planner of the Day - Katherine -
832-3150

RECEIVED
JUN 30 2017
City County Planning Office
Lawrence, Kansas