

## **LAWRENCE BOARD OF ZONING APPEALS**

### **AGENDA**

**JANUARY 5, 2017 – 6:30 P.M., CITY COMMISSION MEETING ROOM, FIRST FLOOR OF CITY HALL AT SIXTH 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 November 3, 2016 meeting of the Board.

### **BEGIN PUBLIC HEARING:**

#### **ITEM NO. 3 VARIANCE FROM THE REAR YARD BUILDING SETBACK FOR A RESIDENTIAL DWELLING DECK ADDITION; 315 HEADWATERS DRIVE [DRG]**

**B-16-00380:** 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 feet minimum rear yard building setback standard in an RS7 (Single-Dwelling Residential) District which is required by Section 20-601(a) of the City Code. The applicant is seeking a variance from this code standard to allow the construction of a 10 feet deep deck addition that will reduce the rear yard building setback to a minimum of 20 feet. The property is located at 315 Headwaters Drive. Submitted by Doug Hassig, President of R&H Builders, Inc., who is the property owner of record. Deferred from the October 6<sup>th</sup> and November 3<sup>rd</sup> meetings by the applicant.

#### **ITEM NO. 4 VARIANCE FROM THE FRONT YARD BUILDING SETBACK FOR A RESIDENTIAL DWELLING DECK ADDITION; 2534 MAVERICK LANE [DRG]**

**B-16-00481:** 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 25 feet front yard building 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 to allow for construction of a 10 feet deep deck addition that will reduce the front yard building setback to a minimum of 12 feet. The property is located at 2534 Maverick Lane. Submitted by William Morris, who is the property owner of record.

**ITEM NO. 5**      **VARIANCE FROM THE ACCESSORY BUILDING SETBACK STANDARDS;  
401 LOUISIANA STREET [JSC]**

**B-16-00515:** 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 allow an accessory pergola structure to be located in front of the 20 feet front yard building setback as required by Section 20-533(3) and Section 20-601(a) of the City Code in the RS5 (Single-Dwelling Residential) District. The second request is to allow the proposed pergola to extend into the required 20 feet exterior side yard setback established in Section 20-601(a) of the City Code. The property is located at 401 Louisiana Street. Submitted by Sean Bergin and Ann Lavaty, who are the property owners of record.

**ITEM NO. 6**      **MISCELLANEOUS**

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

**LAWRENCE BOARD OF ZONING APPEALS**  
**Meeting Minutes of November 3, 2016 – 6:30 p.m.**

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Members present: Clark, Gascon, Holley, Mahoney, Wilbur  
Staff present: Cargill, Crick, Guntert

**ITEM NO. 1      COMMUNICATIONS**

- a) Acknowledged communications that were included in the packet.
- b) There were no Board member disclosures of any ex parte contacts and/or abstentions from the discussion and vote on any agenda item under consideration.
- c) Announced that agenda item 3 had been withdrawn by the applicant; and, item 5 will be deferred from consideration at the request of the applicant.

**ELECTION OF OFFICERS FOR 2016-2017- deferred**

Accept nominations for and elect Chair and Vice-Chair for the coming year.

**ACTION TAKEN**

Motioned by Holley, seconded by Gascon, to elect Josh Mahoney as Chair.

Unanimously approved 5-0.

Motioned by Gascon, seconded by Wilbur to elect Jonathan Holley as Vice Chair.

Unanimously approved 5-0.

**ITEM NO. 2      MINUTES**

Consider approval of the minutes from the October 6, 2016 meeting of the Board.

**ACTION TAKEN**

Motioned by Holley, seconded by Wilbur, to approve the minutes from the October 6, 2016 meeting of the Board.

Motion carried 4-0-1; Gascon abstained.

**BEGIN PUBLIC HEARING:**

**ITEM NO. 3      OUTDOOR LIGHT CONTAINMENT VARIANCE FOR A NEW AUTOMOTIVE SALES DISPLAY LOT; SW CORNER OF W. 29<sup>TH</sup> STREET AND IOWA STREET [DRG]**

**B-16-00338:** 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 Outdoor Lighting Standards relating to Spillover Light, which is listed in Section 20-1103(d)(3)(ii) of the City Code. This code provision states that spillover light from a development site shall not exceed 1 foot-candle measured at the lot line onto public street rights-of-way or other properties in a nonresidential zoning district. The property is located on the southwest corner of W. 29<sup>th</sup> Street between Iowa Street and the Iowa Street frontage road. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1<sup>st</sup> and October 6<sup>th</sup> meetings by the applicant.

**ITEM NO. 4      AUTOMOTIVE SALES DISPLAY AREA VARIANCE FROM A PUBLIC STREET RIGHT-OF-WAY; 2851 IOWA STREET [JSC]**

**B-16-00339:** 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 to reduce the code required 15 feet minimum off-street parking area setback from public street rights-of-way, which is required in Section 20-908(c) of the City Code, to a minimum of 0 feet along the property's frontage on W. 28<sup>th</sup> Terrace and Iowa Street frontage road. The property is located at 2851 Iowa Street. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1<sup>st</sup> and October 6<sup>th</sup> meetings by the applicant.

**STAFF PRESENTATION**

Crick presented the item.

Mahoney asked if staff would recommend approval with an amendment to the parcel line.

Crick said staff would not approve because the addition of the land would allow space for additional vehicle parking and would still need to comply with the 15 feet setback.

Clark asked for clarification as to what the applicant was requesting the Board to approve.

Crick explained using the figures in his presentation.

Wilbur asked what the setbacks are for the two variances approved under the 2006 code.

Crick explained the history of those properties, noting the east and west sides of Iowa Street have different right-of-way due to the frontage roads.

Wilbur asked what the setbacks are for the two properties.

Crick said 14-15 feet for both.

Wilbur asked if the current request is for a zero foot setback.

Crick said that was correct.

Gascon asked what staff believes the purpose was for the setback in this location.

Crick said it's mainly for consistency along the frontage road, but typically they're installed to accommodate any road widening.

Gascon asked if there's a chance for road widening in this location.

Crick said he couldn't speak for the City Engineer but it didn't seem likely.

Mahoney disagreed.

Clark asked if this can be used as traditional parking as opposed to a display.

Crick said the code interprets both scenarios the same.



## **APPLICANT PRESENTATION**

Mr. David Hamby, BG Consultants, explained the variance request. He mentioned the setbacks for surrounding properties, particularly the other dealerships in the area.

Mr. Russ Briggs, property owner, explained that their alternative was to raze the building and use all of the property for display parking. He said that alternative was not desirable.

Gascon asked how much they pay in property tax.

Briggs did not know what it was for this property but thought it was about \$700,000 a year he paid to the county for all of his businesses in Lawrence.

Wilbur asked when Briggs purchased the property.

Briggs said a little less than a year ago.

## **No public comment**

## **ACTION TAKEN**

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

Unanimously approved 5-0.

## **BOARD DISCUSSION**

Mahoney said he particularly likes when people use existing structures, but he is struggling to meet all five conditions. He believes this request met the condition of uniqueness.

They discussed which criteria they felt the variance did and did not meet. They were mostly hung up on the unnecessary hardship criteria.

Gascon felt the alternative to demolish the building was unnecessary.

Mahoney questioned whether that was the only alternative, and enough to grant a variance.

Clark said the property was purchased a year ago with the knowledge that a variance would be needed to meet their needs. He thought that should be taken into consideration. There should be conditions tied to this variance and use if it was approved.

Gascon said that seemed reasonable.

Crick said the request is for a parking setback, not a building setback.

Mahoney questioned whether another owner in the future could make the display parking area into traditional parking. He asked staff if the variance could be tied only to its current ownership.

Guntert said variances run with the land and not ownership. If in the future the property was redeveloped, the developer would be expected to comply with the applicable development code standards in effect at that time.

Holley said he could support the variance with a condition tied to future redevelopment of the property.

### **ACTION TAKEN**

Motioned by Holley, seconded by Gascon, to approve the variance request based on meeting all five conditions with a condition that the variance is tied to the east structure and any redevelopment will nullify the variance.

Motion carried 4-1 with Clark dissenting.

### **ITEM NO. 5      VARIANCE FROM THE MAXIMUM ACCESSORY DWELLING UNIT SIZE; 1535 MASSACHUSETTS STREET [JSC]**

**B-16-00440:** 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 code permitted maximum size accessory dwelling unit in a residential dwelling structure defined in Section 20-534(2)(ix) of the City Code. The code standard limits the size of an accessory dwelling unit to not more than 33 percent of the living area of the primary dwelling or 960 square feet, whichever is less. The proposed size of the accessory dwelling unit is 960 square feet. The living area in the principal dwelling is 2,106 square feet which limits the size of an accessory dwelling unit to 695 square feet. The property is located at 1535 Massachusetts Street. Submitted by Leticia Cole with Paul Werner Architects for Joann E. Qandil, the property owner of record.

### **ITEM NO. 6      PERIMETER BUILDING SETBACK VARIANCE FOR ARTERRA EVENT GALLERY; 2161 QUAIL CREEK DRIVE [DRG]**

**B-16-00441:** 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 minimum 30 feet perimeter building setback requirement from the boundary of a planned commercial development district (approved under the terms and conditions of the previous zoning code) as required by reference in Section 20-222(e) of the City Code. The applicant seeks variance approval to reduce the perimeter building setback to a minimum of 10 feet from the west property boundary so they can build an addition on the west side of the existing commercial structure. The property is located at 2161 Quail Creek Drive. Submitted by Allen Belot, Allen Belot Architects, for Arterra, LLC, the property owner of record.

### **STAFF PRESENTATION**

Guntert presented the item.

### **APPLICANT PRESENTATION**

Mr. Allen Belot explained why the original variance expired before work began, and recapped the reason for the variance request.

### **No public comment**

### **ACTION TAKEN**

Motioned by Gascon, seconded by Holley, to close public comment for the item.

Unanimously approved 5-0.

### **BOARD DISCUSSION**

Mahoney said he understands the concern from one neighbor but doesn't feel the variance contributes to those concerns.

**ACTION TAKEN**

Motioned by Wilbur, seconded by Holley, to approve the variance based upon staff's findings and recommendation that the request meets the required conditions necessary to grant a variance from the development code.

Unanimously approved 5-0.

**ITEM NO. 7 MISCELLANEOUS**

a) No other business to come before the Board.

**ADJOURN 7:23 PM**

**ITEM NO. 3      VARIANCE FROM THE REAR YARD BUILDING SETBACK FOR A  
RESIDENTIAL DWELLING DECK ADDITION; 315 HEADWATERS DRIVE  
[DRG]**

**B-16-00380:** 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 feet minimum rear yard building setback standard in an RS7 (Single-Dwelling Residential) District which is required by Section 20-601(a) of the City Code. The applicant is seeking a variance from this code standard to allow the construction of a 10 feet deep deck addition that will reduce the rear yard building setback to a minimum of 20 feet. The property is located at 315 Headwaters Drive. Submitted by Doug Hassig, President of R&H Builders, Inc., who is the property owner of record. Deferred from the October 6<sup>th</sup> and November 3<sup>rd</sup> meetings by the applicant. **The legal description for each application is found in the respective project case file which is available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

**B.      REASON FOR REQUEST**

Applicant's Request – *"Would like to enlarge deck by 10 feet into the 30 feet rear yard setback."*

**C.      ZONING AND LAND USE**

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

Surrounding Zoning and Land Use:              RS7 District to the north, south and east; vacant lots to the north; single-dwelling residential homes to the south; and a single-dwelling residential home and vacant lots to the east

OS (Open Space) District to the west; future city park with a large detention pond, pedestrian path, etc.

**D.      ZONING ORDINANCE REQUIREMENTS**

Section 20-601(a), "DENSITY AND DIMENSIONAL STANDARDS; OCCUPANCY LIMITS, Residential Districts," provides the minimum building setbacks, density, coverage and building height standards for residential zoning districts. The code required minimum rear yard building setback for structures in the RS7 (Single-Dwelling Residential) District and what is being requested by the applicant follows:

West lot line (Rear lot line) – 30' required; 30' existing and 20' proposed

**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: *"Due to the shortened lots along the park edge in combination with the required minimum house square footage, the deck space is insufficient."*

**Building Setbacks:**

The subject property was residentially developed in the past year with a new single-family home. The lot is a very similar size to other lots along the west side of Headwaters Drive; several lots to the south are presently in different stages of residential construction. This lot is a perfect rectangle having a front and rear lot dimension of 72.18 feet and side lot lines of 115.00 feet. Nothing is unique about the lot that creates an obstacle to conform with the code required building setbacks. In staff's opinion, the applicant's request seeking to reduce the 30 feet rear yard setback to a minimum of 20 feet in order to be able to expand the size of the existing deck is solely due to decisions made by the property owner.

Finding – The property was recently developed with a single-family residential home. The lot is not unique in size, shape, etc. when compared to other nearby lots in this subdivision. The applicant chose to build a house with a floor plan that is deeper than it is wide which left no room to extend the deck further from the back of the dwelling without encroaching into the code required rear yard setback.

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

Applicant response: *"No, there are no adjacent neighbors due to the pond and walking trail."*

**Building Setbacks:**

In staff's opinion, granting a rear yard building setback only for the deck encroachment will not have any adverse effect upon the rights of adjacent property owners or residents. Due to the location of the deck, there will be no impact upon either side yard associated with the dwelling; only the rear yard setback will be reduced.

Directly behind the property is a large tract of land deeded to the City by the developers of this subdivision. Tract 'A' is identified on the final plat for public parkland and recreation paths, but it also includes a drainage easement. Currently, this area has a large detention pond, which collects stormwater runoff from this development, and a pedestrian path. Tract 'A' is identified as a future city park.

Finding -- Granting the variance for a reduced rear yard setback, if restricted to only apply to the proposed deck expansion, will not have any adverse effect upon the rights of adjacent property owners or residents. The project will not extend the deck closer to the side lot lines.

**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: *"Homes in the neighborhood and price range are expected to include larger entertainment areas in order to enjoy the park pond and trails."*

**Building Setbacks:**

In staff's opinion, strict adherence to the code required 30 feet rear yard building setback is not an unnecessary hardship for the property owner. The applicant should have been aware

of the code required building setbacks when building permit plans were filed with the City. Section 20-602(e)(6)(vii) in the Development Code allows uncovered patios and decks to be located in required setbacks provided they are not more than 2.5 feet above ground level. Therefore, the owner has other options available to create outdoor entertainment space that is code compliant.

Finding -- Strict adherence to the code required 30 feet rear yard building setback is not an unnecessary hardship for the property owner. Other options are available to create outdoor entertainment space that is code compliant.

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

Applicant response: "No."

**Building Setbacks:**

In staff's opinion, granting the requested variance for the rear yard building setback will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. This property is located in a newly developing residential subdivision. Since development of this lot began, other new residential homes have been started on lots to the south of the subject property on the west side of Headwaters Drive. Those lots are similar in size to this lot and none of them have required a variance. Approval of a reduced rear yard for an elevated deck addition changes the development pattern of the rear yards and it may lead to other property owners seeking similar variances. The public open space behind these lots should not be used as a substitute for the code required rear yard setback.

Finding – Granting a variance for the rear yard building setback adversely affects the public health, safety, morals, order, convenience, prosperity or general welfare. The conditions surrounding this request are self-created by the applicant. The request is inconsistent with the general purpose for establishing building setback standards.

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

Applicant response: "No. This variance would not create more impervious surface and would not impede upon any neighbors or easements."

**Building Setbacks:**

In staff's opinion, this setback variance is opposed to the general spirit and intent of the Development Code with regard to the purpose for building setbacks. Setbacks are established in residential zoning districts to help create a consistent streetscape along public streets; to maintain adequate open space on a lot for lawns and trees; for air and sunlight in the home; and, to allow room for recreation activities outside the home.

Finding -- The variance request is opposed to the general spirit and intent of the city code. The variance request is directly due to a decision by the applicant to build a residential

dwelling style that used all of the available lot depth leaving no room for a larger elevated deck. No unusual or unique property conditions exist that make it impossible to comply with the code required rear yard setback.

**Conclusions:**

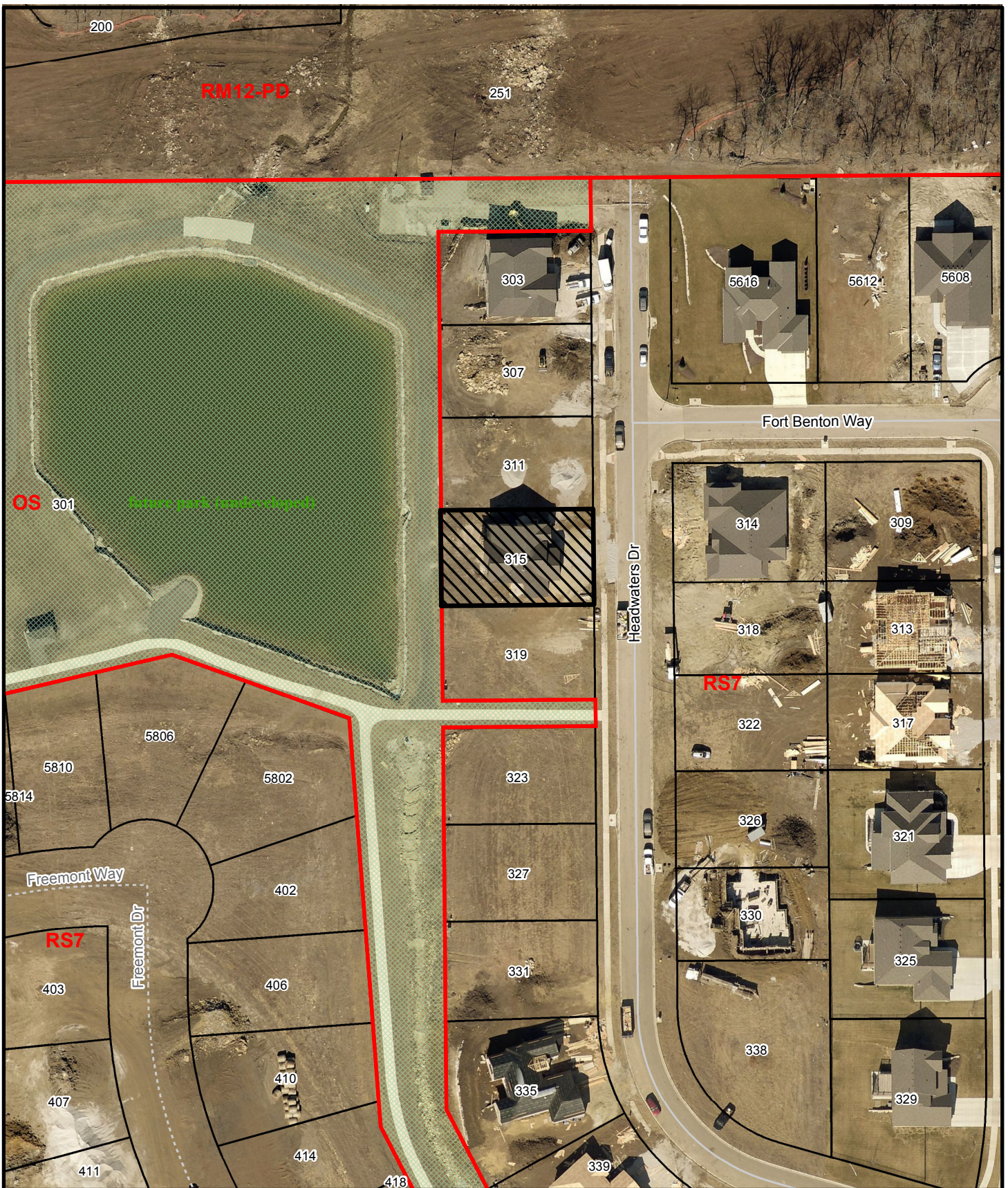
**Building Setback:**

Staff's analysis finds this request does not meet the five conditions set forth in Section 20-1309(g)(1) of the Development Code the Board must find existing to grant a variance for the rear yard building setback. Specifically, the request fails to meet conditions 1, 3, 4 and 5. The property is not unique in its shape or size; the variance request is a result of self-created decisions made by the applicant; and, there is no unnecessary hardship to the applicant if the zoning setback standard for the rear yard is preserved.

**Recommendation:**

Staff recommends denial of the rear yard building setback variance based upon the findings in the staff report that conclude the applicant's request failed to meet all 5 conditions outlined in Section 20-1309(g)(1) needed for variance approval.





B-16-00380: Variance from the Code Required 30 Feet Rear Yard Building Setback for an Elevated Deck Addition on the Residential Dwelling Located at 315 Headwaters Drive

Lawrence Planning & Development Services Dept  
September 14, 2016



Subject Property  
Scale: 1 Inch = 100 Feet





City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County  
Metropolitan Planning Office  
6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

APPLICATION FOR  
VARIANCE FROM UNNECESSARY HARDSHIP

RECEIVED

SEP 01 2016

City County Planning Office  
Lawrence, Kansas

OWNER INFORMATION

Name(s) DOUG HASSIG  
Contact \_\_\_\_\_  
Address 1216 BEL-AIR CT  
City LAWRENCE KS State KS ZIP 66049  
Phone ( 785 ) 865-6529 Fax ( 785 ) 841-2140  
E-mail DSHASSIG@GMAIL.COM Mobile/Pager ( 785 ) 865-6529

APPLICANT/AGENT INFORMATION

Contact SAME AS ABOVE  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Phone ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_  
E-mail \_\_\_\_\_ Mobile/Pager ( \_\_\_\_\_ ) \_\_\_\_\_  
Pre-Application Meeting Date \_\_\_\_\_ Planner \_\_\_\_\_

PROPERTY INFORMATION

Present Zoning District \_\_\_\_\_ Present Land Use \_\_\_\_\_  
Proposed Land Use \_\_\_\_\_  
Legal Description (*may be attached*) LOT 4 BLOCK 3 OREGON TRAIL ADDITION  
Address of Property 315 HEADWATERS  
Total Site Area OPPROX. 8250SF.  
Number and Description of Existing Improvements or Structures \_\_\_\_\_  
\_\_\_\_\_



**City of Lawrence  
Douglas County**

PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County**

**Metropolitan Planning Office**

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**Description of variance requested:**

WOULD LIKE TO ENLARGE DECK BY 10' INTO THE 30' REAR YARD SETBACK



**City of Lawrence  
Douglas County**

PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County**

**Metropolitan Planning Office**

6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044

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**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:**

DUE TO THE SHORTENED LOTS ALONG THE PARK EDGE IN COMBINATION WITH THE

REQUIRED MINIMUM SQUARE HOUSE FOOTAGE THE DECK SPACE IS INSUFFICIENT

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

NO == THERE ARE NO ADJACENT NEIGHBORS DUE TO THE POND AND WALKING TRAIL



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:

HOMES IN THE NEIGHBORHOOD & PRICE RANGE ARE EXPECTED TO INCLUDE LARGER  
ENTERTAINMENT AREAS IN ORDER TO ENJOY THE PARK POND & TRAILS.

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

NO



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

NO. THIS VARIANCE WOULD NOT CREATE MORE IMPERVIOUS SURFACE  
AND WOULD NOT IMPEDE UPON ANY NEIGHBORS. OR EASEMENTS

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): Day/Hung Date 9/1/2016

Date \_\_\_\_\_

Date \_\_\_\_\_

Application No. \_\_\_\_\_  
Date Received \_\_\_\_\_  
BZA Date \_\_\_\_\_  
Fee \$ \_\_\_\_\_  
Date Fee Paid \_\_\_\_\_



**City of Lawrence  
Douglas County**  
PLANNING & DEVELOPMENT SERVICES

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**OWNER AUTHORIZATION**

I/WE DOUG HASSIG President, R&H Builders, Inc, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 1ST day of SEPTEMBER, 20 16, 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.

DOUG HASSIG

Owner

Owner

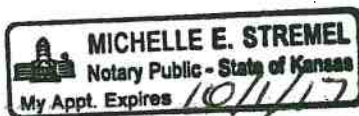
STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 1ST day of SEPTEMBER, 20 16

by Michelle E Stremel

My Commission Expires: 10/1/17

Michelle E Stremel  
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 200 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

9/01/2016  
Date

DOUG HASSIG

Printed Name

**315 HEADWATERS DRIVE**

LEGAL

LOT #4 BLOCK #3

2ND PLAT, CITY OF LAWRENCE

COUNTY OF DOUGLAS

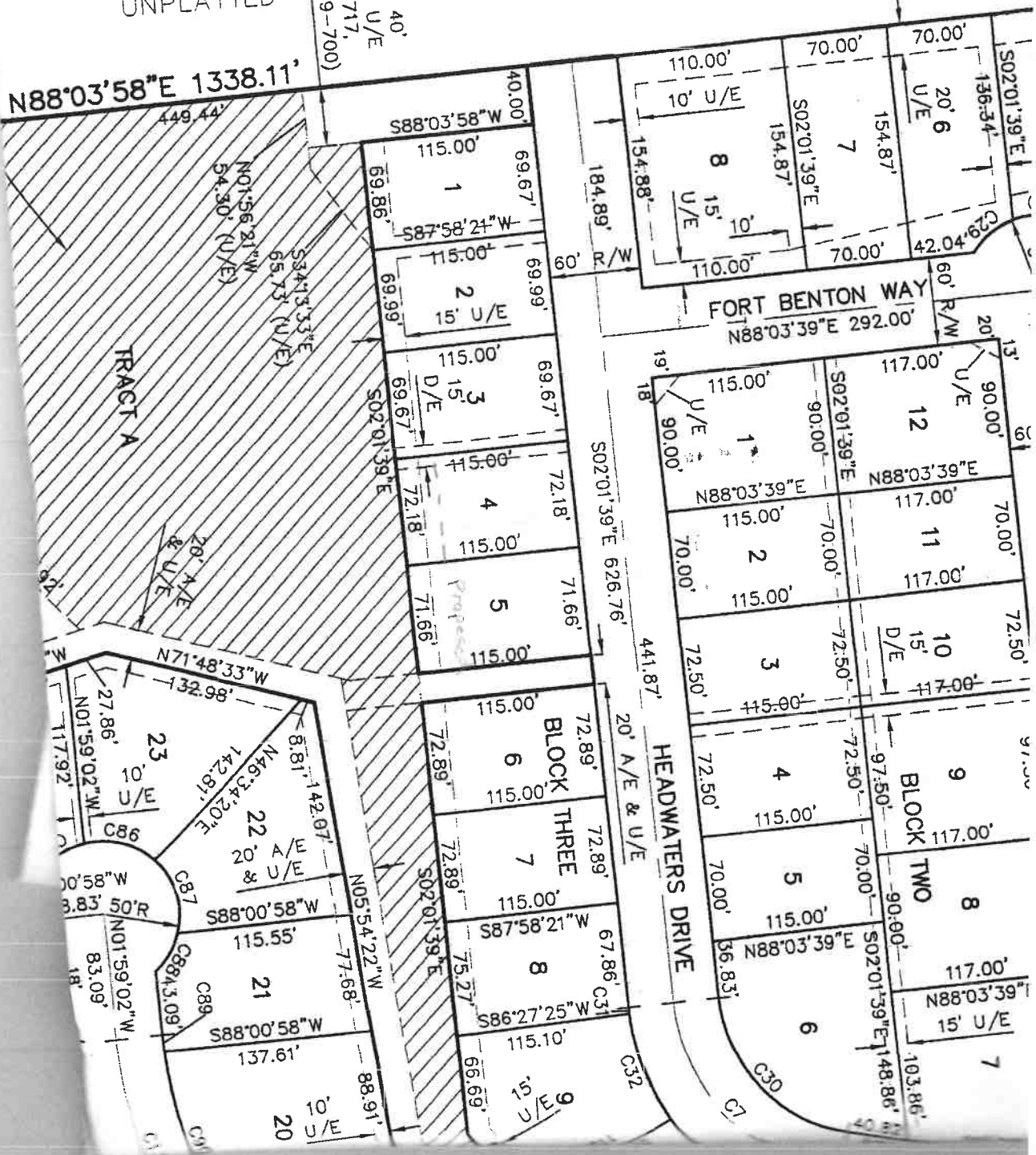
STATE OF KANSAS



UNPLATTED

EXIST. 40'  
A/E & U/E  
(BK. 717,  
PGS. 699-700)

N88°03'58"E 1338.11'





LEGAL DESCRIPTION

A REPLAT OF LOTS 1-9, BLOCK 1, LOTS 1-13, BLOCK 2, LOTS 1-47, BLOCK 3, LOTS 1-14, BLOCK 4, LOTS 1-19, BLOCK 5, LOTS 1-10, BLOCK 6, AND LOTS 1-11, BLOCK 7, IN OREGON TRAIL ADDITION, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, CONTAINS 41.730 ACRES, MORE OR LESS, EXCLUSIVE OF EXISTING RIGHT-OF-WAY AND TRACTS A & B.

SIGNATURES

OWNERS OF LOTS 1-9, BLOCK 1, LOTS 1-13, BLOCK 2, LOTS 1-47, BLOCK 3, LOTS 1-14, BLOCK 4, LOTS 1-19, BLOCK 5, LOTS 1-10, BLOCK 6, AND LOTS 1-11, BLOCK 7, IN OREGON TRAIL ADDITION

JOHN M. MCGREW, MANAGER  
OREGON TRAIL HOLDINGS LC

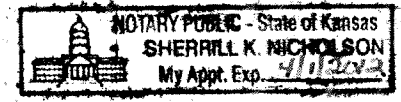
ROGER D. JOHNSON, MANAGER  
OREGON TRAIL HOLDINGS LC

ACKNOWLEDGEMENT

STATE OF KANSAS  
COUNTY OF DOUGLAS

BE IT REMEMBERED THAT ON THIS 7th DAY OF May, 2009, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, IN AND FOR SAID COUNTY AND STATE, CAME JOHN M. MCGREW, MANAGER, OREGON TRAIL HOLDINGS LC AND ROGER D. JOHNSON, MANAGER, OREGON TRAIL HOLDINGS LC WHO IS (ARE) PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S) WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGE THE EXECUTION OF THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY SEAL ON THE DAY AND YEAR LAST WRITTEN ABOVE.



Sherrill K. Nicholson  
NOTARY PUBLIC

MY COMMISSION EXPIRES

APPROVED AS A MINOR SUBDIVISION UNDER THE SUBDIVISION REGULATIONS OF THE CITY OF LAWRENCE AND THE UNINCORPORATED AREA OF DOUGLAS COUNTY

Scott McCullough  
PLANNING DIRECTOR  
DATE  
SCOTT MCCULLOUGH

REVIEWED IN COMPLIANCE WITH K.S.A. 58-2005.

Michael D. Kelly, P.L.S. #669  
DOUGLAS COUNTY SURVEYOR

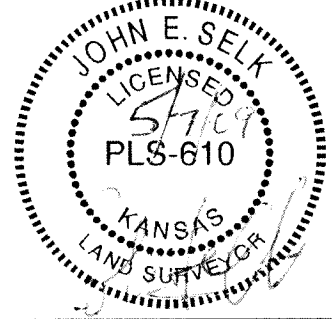
FILING RECORD

STATE OF KANSAS  
COUNTY OF DOUGLAS

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF THE DOUGLAS COUNTY REGISTER OF DEEDS ON THIS 15th DAY OF May, 2009, AND IS DULY RECORDED AT 10:18 AM, IN PLAT BOOK 7-18 PAGE 341.

CERTIFICATION

I HEREBY CERTIFY THAT THE PLATTED AREA SHOWN HEREON IS THE RESULT OF A FIELD SURVEY PERFORMED UNDER MY DIRECT SUPERVISION IN THE MONTH OF APRIL, 2005 AND THAT THIS SURVEY CONFORMS TO THE KANSAS MINIMUM STANDARDS FOR BOUNDARY SURVEYS. THE SURVEY DOES NOT CERTIFY OWNERSHIP OR EASEMENTS, NOR SHALL IT BE CONSTRUED TO CERTIFY THAT GOVERNING SETBACK REQUIREMENTS, BUILDING CODES, SUBDIVISION REGULATIONS OR ZONING ORDINANCES WILL BE MET NOW OR AT ANY TIME, HENCEFORTH.



JOHN E. SELK, P.E., P.L.S. #610  
1310 WAKARUSA DRIVE  
LAWRENCE, KANSAS 66049  
(785) 843-7530

NOTES

STREET TREES SHALL BE PROVIDED IN ACCORDANCE WITH THE MASTER STREET TREE PLAN FILED WITH THE REGISTER OF DEEDS. BOOK 1049, PAGE 515.

THE CITY IS HEREBY GRANTED A TEMPORARY RIGHT OF ENTRY TO PLANT THE REQUIRED STREET TREES PURSUANT TO SECTION 20-811(g) OF THE CITY SUBDIVISION REGULATIONS.

BASIS OF BEARINGS FOR THIS PLAT IS NAD83-MODIFIED STATE PLANE COORDINATES. (KANSAS NORTH ZONE)

ERROR OF CLOSURE = 1 : 1,405.034.

TRACTS 'A' AND 'B' HAVE BEEN CONVEYED TO THE CITY OF LAWRENCE (VIA WARRANTY DEED, BOOK 1024, PAGE 132) GENERALLY FOR PUBLIC PARKLAND/RECREATION PATH PURPOSES (INCLUDING EASEMENTS AS SHOWN).

SINGLE-FAMILY AND DUPLEX DRIVEWAY ACCESS TO/FROM OVERLAND DRIVE, GEORGE WILLIAMS WAY AND STONERIDGE DRIVE IS PROHIBITED.

MULTI-FAMILY DRIVEWAY ACCESS (LOT 17, BLOCK FIVE) IS LIMITED TO ONE TO/FROM GEORGE WILLIAMS WAY (TO BE SHARED WITH THE PROPERTY IMMEDIATELY TO THE SOUTH) AND ONE TO/FROM OVERLAND DRIVE.

SOILS INVESTIGATIONS SHALL BE PERFORMED BEFORE PRIMARY STRUCTURES ARE ERECTED ON LOTS WITH SLOPES GREATER THAN 3:1, OR NON-ENGINEERED FILL GREATER THAN 12 INCHES. A SOILS ENGINEER LICENSED BY THE STATE OF KANSAS SHALL PERFORM INVESTIGATIONS, AND A REPORT OF THE INVESTIGATION SHALL BE SUBMITTED TO THE CITY OF LAWRENCE CODES ENFORCEMENT DIVISION. OTHER LOTS MAY BE REQUIRED TO BE INVESTIGATED WHERE EXCAVATION REVEALS INDICATIONS OF UNSUITABLE CONDITIONS.

NO BUILDING PERMITS WILL BE ISSUED UNTIL THE COMPLETION OF GEORGE WILLIAMS WAY, STONERIDGE DRIVE OR OVERLAND DRIVE TO SERVE THE SUBDIVISION.

BUILDING PERMITS ISSUED WITHIN THIS SUBDIVISION SHALL BE LIMITED TO A MAXIMUM NUMBER OF DWELLING UNITS (BASED UPON AN UPDATED REVISIT IMPACT STUDY SHOWING ONLY ONE ACCESS INTO THE SUBDIVISION WITH LEVEL OF SERVICE OF 'C' OR BETTER, AT THE INTERSECTION OF GEORGE WILLIAMS WAY AND WEST 6TH STREET, OR STONERIDGE DRIVE AND WEST 6TH STREET) UNTIL SUCH TIME AS A SECOND ACCESS TO THE SUBDIVISION IS COMPLETED.

THE INDIVIDUAL PROPERTY OWNERS FOR LOTS 6-11 AND 14-15, BLOCK THREE, OREGON TRAIL ADDITION, ARE RESPONSIBLE FOR THE OWNERSHIP AND MAINTENANCE OF THE PRIVATE INDIVIDUAL SANITARY SEWER SERVICES LOCATED ON CITY PROPERTY (TRACT A).

THE DRAINAGE EASEMENTS WILL REMAIN FREE OF ANY NATURAL OR NON-NATURAL STRUCTURES OR VEGETATIVE BARRIERS (INCLUDING BUT NOT LIMITED TO TREES, SHRUBBERY, BERMS, FENCES, AND WALLS).

FURTHER DIVISION OR CONSOLIDATION OF ANY LOTS CONTAINED IN THIS MINOR SUBDIVISION IS PROHIBITED AND SHALL BE PROCESSED AS MAJOR SUBDIVISION(S).

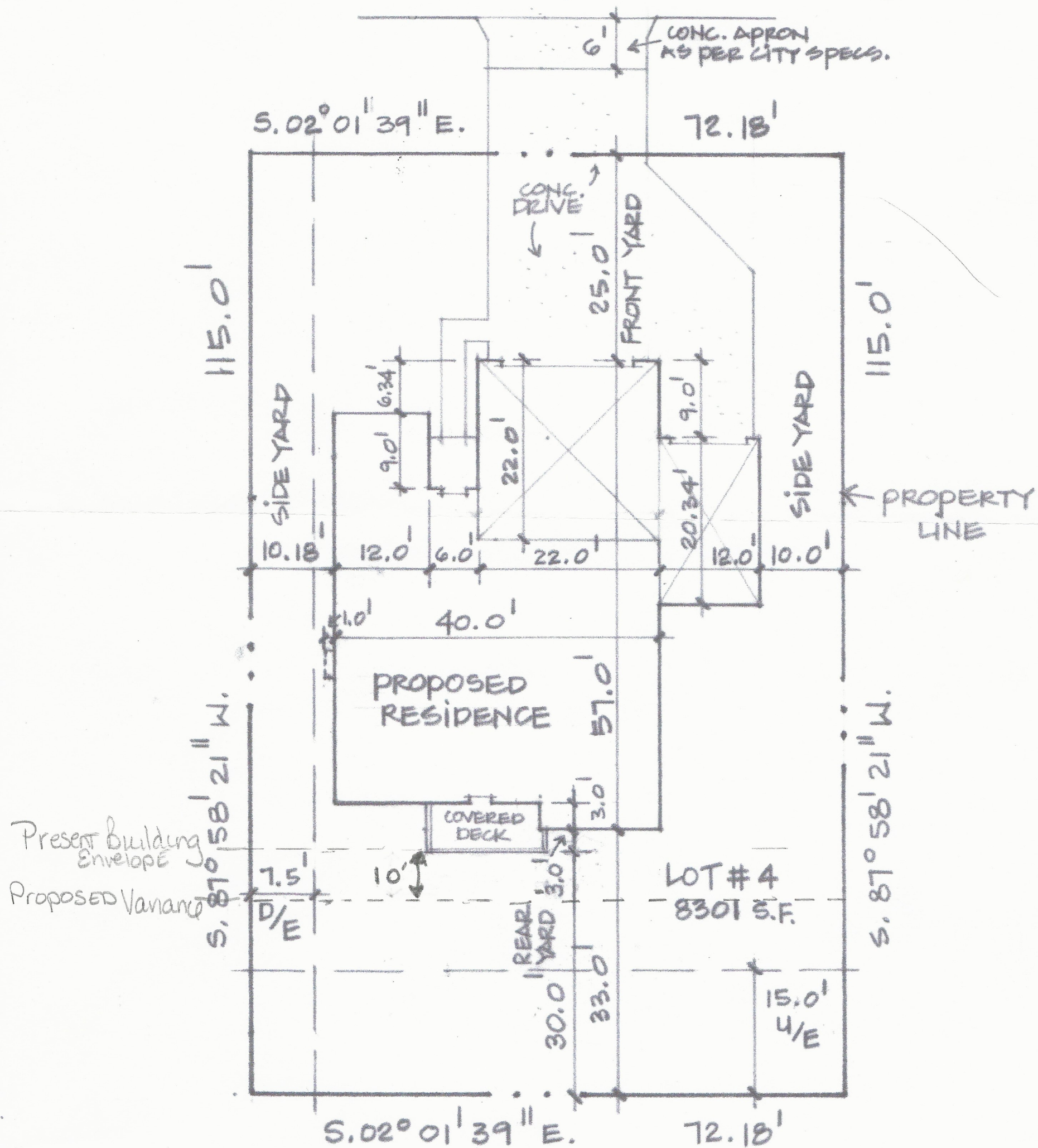
CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	282.05	425.00	257.92	N15°38'11"E
C2	127.85	425.00	127.37	N08°35'27"E
C3	134.19	425.00	133.64	N24°15'17"E
C4	255.42	500.00	252.66	S18°39'56"W
C5	138.05	500.00	137.61	S25°23'26"W
C6	117.37	500.00	117.11	S10°45'21"W
C7	174.00	135.00	162.20	S38°57'06"E
C8	151.80	560.00	151.33	S05°46'55"W
C9	263.93	500.00	260.87	S17°05'20"E
C10	205.41	275.00	200.67	N10°49'44"W
C11	62.03	300.00	61.92	N82°05'34"E
C12	86.84	420.00	86.69	S82°05'34"W
C13	157.83	340.00	156.42	S15°16'57"E
C14	157.83	340.00	156.42	N15°16'57"W
C15	164.33	750.00	164.00	N85°42'25"W
C16	164.33	750.00	164.00	N85°42'25"E
C17	393.90	1200.00	392.13	N82°34'48"W
C18	100.84	1200.00	100.81	N75°35'02"E
C19	245.50	750.00	244.40	S82°33'14"E
C20	153.79	1200.00	153.69	N88°18'44"W
C21	139.26	1200.00	139.19	N81°18'57"E
C22	153.79	750.00	153.69	N04°27'19"E
C23	169.75	750.00	169.39	S85°26'50"E
C24	113.56	500.00	113.32	S04°31'23"W
C25	64.08	500.00	64.04	S01°41'16"W
C26	46.36	50.00	44.72	N24°32'15"E
C27	44.11	50.00	42.70	N27°18'07"E
C28	46.55	50.00	44.88	N29°14'43"E
C29	34.17	50.00	33.51	S24°30'22"W
C30	135.33	105.00	126.46	S36°57'06"E
C31	4.36	165.00	4.36	S02°47'07"E
C32	76.74	165.00	76.05	S16°52'03"E
C33	78.99	165.00	78.23	S43°54'21"E
C34	52.57	165.00	52.35	S66°44'52"E
C35	89.39	395.00	89.20	N04°27'19"E
C36	94.10	395.00	93.87	N26°28'33"E
C37	18.98	530.00	18.98	S32°16'28"W
C38	91.45	530.00	91.34	S26°18'19"W
C39	88.26	530.00	88.16	S16°35'29"W
C40	72.06	530.00	72.00	S07°55'33"W
C41	80.76	470.00	80.66	S08°57'12"W
C42	30.36	50.00	29.89	S23°37'30"E
C43	48.34	50.00	48.48	S26°42'14"E
C44	42.22	50.00	40.97	N45°24'37"E
C45	44.87	50.00	43.38	N04°29'05"W
C46	45.59	50.00	44.03	N56°18'55"W
C47	38.43	50.00	37.49	S75°32'30"W
C48	99.29	470.00	99.11	S27°14'53"W
C49	34.72	455.00	34.71	N31°08'51"E
C50	86.31	455.00	86.18	N23°29'37"E
C51	93.01	455.00	92.85	N12°12'10"E
C52	66.50	455.00	66.44	N02°09'34"E
C53	34.09	685.00	34.09	N88°51'14"E
C54	45.35	710.00	45.35	S86°17'13"E
C55	136.61	710.00	136.40	S78°56'42"E
C56	3.18	710.00	3.18	S73°18'17"E
C57	79.48	1240.00	79.47	N75°00'46"W
C58	101.44	1240.00	101.41	N81°59'26"W
C59	50.33	1240.00	50.32	N85°29'49"W
C60	115.23	1240.00	115.18	N89°19'18"W
C61	15.40	710.00	15.40	N88°38'15"E
C62	125.19	710.00	125.03	S95°41'24"E
C63	98.83	790.00	98.77	N83°00'50"W
C64	74.26	790.00	74.24	N89°17'27"W
C65	179.57	245.00	175.58	N11°13'48"W
C66	77.90	50.00	70.26	N49°16'32"E
C67	46.66	50.00	44.98	S59°21'34"E
C68	51.00	50.00	48.82	S03°24'25"E
C69	74.26	50.00	72.62	S68°21'29"W
C70	112.18	530.00	111.97	S26°09'50"E
C71	102.62	530.00	102.45	S14°33'13"E
C72	64.97	530.00	64.93	S05°29'43"E
C73	64.71	590.00	64.68	S01°09'31"W
C74	54.14	590.00	54.12	S06°55'47"W
C75	44.22	50.00	42.80	S16°16'46"E
C76	69.04	50.00	63.69	S48°37'08"W
C77	68.76	50.00	63.47	S25°23'34"W
C78	67.74	50.00	62.67	N25°46'43"E
C79	40.00	530.00	39.99	S07°10'41"W
C80	64.75	530.00	64.71	S01°30'58"W
C81	36.95	270.00	36.92	N84°05'46"E
C82	18.88	270.00	18.88	N78°10'22"E
C83	31.72	450.00	31.72	S78°11'21"W
C84	50.05	450.00	50.02	S83°21'41"W
C85	39.05	50.00	38.06	S57°03'28"W
C86	49.86	50.00	47.82	N71°59'53"W
C87	53.67	50.00	51.13	N12°40'29"W
C88	28.86	50.00	28.46	N34°36'45"E
C89	11.56	310.00	11.56	S03°03'07"E
C90	132.35	310.00	131.34	S16°21'03"E
C91	41.39	370.00	41.37	N25°22'34"W
C92	102.38	370.00	102.05	N14°14'39"W
C93	27.98	370.00	27.98	N04°09'02"E
C94	30.67	310.00	30.66	N04°49'05"W
C95	113.24	310.00	112.61	N18°07'00"W
C96	32.19	370.00	32.18	S26°05'20"E
C97	93.86	370.00	93.61	S16°19'45"E
C98	45.71	370.00	45.68	S05°31'22"E
C99	79.47	390.00	79.33	S82°00'26"W
C100	17.75	330.00	17.75	N77°42'38"E
C101	50.48	330.00	50.43	N83°38'02"E
C102	89.44	470.00	89.30	S07°26'07"E
C103	124.85	470.00	124.48	S20°29'47"E
C104	33.81	470.00	33.80	S30°10'01"E
C105	64.25	305.00	64.13	N28°11'34"W
C106	71.40	305.00	71.24	N13°27'04"W
C107	88.58	305.00	88.27	N01°34'32"E
C108	101.56	790.00	101.49	S84°49'22"E
C109	49.78	790.00	49.78	S74°58'54"E
C110	91.87	1160.00	91.85	N75°26'43"W
C111	110.23	1160.00	110.18	N80°26'11"W
C112	118.66	1160.00	118.61	N89°03'11"W
C113	173.09	790.00	172.75	S85°42'25"E
C114	155.57	710.00	155.25	N85°42'25"W
C115	104.52	470.00	104.30	S04°39'33"W
C116	2.23	470.00	2.23	S01°00'51"E
C117	34.90	50.00	34.90	N85°07'03"W
C118	58.56	50.00	55.27	N18°25'57"E
C119	68.27	50.00	63.09	S88°53'46"E
C120	9.59	50.00	9.57	S44°17'06"E
C121	37.37	50.00	36.50	N56°21'25"E
C122	48.23	50.00	46.38	S74°36'10"E
C123	73.51	50.00	67.07	S04°51'13"E
C124	12.11	50.00	12.08	S01°00'51"E
C125	67.93	530.00	67.88	S01°41'16"W
C126	60.24	470.00	60.19	S01°41'16"W
C127	45.94	530.00	45.92	S00°29'58"W
C128	74.44	530.00	74.38	S07°00'22"W

MEBO TABLE		
BLOCK	LOT NO.	MEBO
BLOCK ONE	TWO	3
	TWO	4
	TWO	9
	TWO	10
	TWO	1
BLOCK TWO	THREE	2
	THREE	4
	THREE	6
	THREE	8
	THREE	10
BLOCK THREE	THREE	1
	THREE	2
	THREE	3
	THREE	4
	THREE	5
BLOCK FOUR	THREE	6
	THREE	7
	THREE	8
	THREE	9
	THREE	10
BLOCK FIVE	THREE	11
	THREE	12
	THREE	13
	THREE	14
	THREE	15
BLOCK SIX	THREE	16
	THREE	17
	THREE	18
	THREE	19
	THREE	20
BLOCK SEVEN	THREE	21
	THREE	22
	THREE	23
	THREE	24
	THREE	25
BLOCK EIGHT	THREE	26
	THREE	27
	THREE	28
	THREE	29
	THREE	30
BLOCK NINE	THREE	31
	THREE	32
	THREE	33
	THREE	34
	THREE	35
BLOCK TEN	THREE	36
	THREE	37
	THREE	38
	THREE	39
	THREE	40

LOT AREA TABLE		
LOT NO.	SQ. FT.	ACRES
1	14,480	0.332
2	13,945	0.320
3	13,386	0.307
4	15,872	0.364
5	14,803	0.339
6	10,516	0.241
7	10,840	0.248
8	17,036	0.391
9	10,350	0.237
10	8,050	0.184
11	8,337	0.191
12	8,337	0.191
13	8,050	0.184
14	14,034	0.322
15	13,812	0.317
16	10,530	0.241
17	11,407	0.261
18	8,482	0.194
19	11,890	0



## HEADWATERS DRIVE 315



## SITE PLAN

SCALE: 1" = 20' 0"



## LEGAL:

LOT #4, BLK. #3  
 OREGON TRAIL ADDITION  
 2ND PLAT, CITY OF LAWRENCE  
 COUNTY OF DOUGLAS, STATE

**From:** [Doug Hassig](#)  
**To:** [David Guntert](#)  
**Subject:** Re: 315 Headwaters Drive -- BZA Meeting on January 5th @ 6:30 p.m.  
**Date:** Wednesday, January 04, 2017 9:53:06 AM

---

DAVID, Unfortunately we are forced to cancel our request. Doug Hassig R&H.thank you for your help.

On Tue, Jan 3, 2017 at 12:19 PM, David Guntert <[dguntert@lawrenceks.org](mailto:dguntert@lawrenceks.org)> wrote:

Doug,

Happy New Year! I want to be sure you have a copy of our staff report for your variance request involving the rear yard building setback at 315 Headwaters Drive. Your request is scheduled to be heard during the January 5, 2017 Lawrence Board of Zoning Appeals Meeting. It is Item No. 3 on their agenda so it will come up for consideration shortly after the start of the meeting at 6:30 p.m. The meeting will take place in the Commission Meeting Room located on the First Floor of City Hall, 6 East 6<sup>th</sup> Street.

If you have any questions, please do not hesitate to contact me.

**David R. Guntert**, Planner II - [dguntert@lawrenceks.org](mailto:dguntert@lawrenceks.org)

Planning and Development Services | [www.lawrenceks.org](http://www.lawrenceks.org)

City Hall, 6 E. 6<sup>th</sup> Street

P.O. Box 708, Lawrence, KS 66044-0708

office [\(785\) 832-3158](tel:(785)832-3158) | fax [\(785\) 832-3160](tel:(785)832-3160)

*"Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey:  
<http://lawrenceks.org/pds/survey/satisfaction>."*

**ITEM NO. 4      VARIANCE FROM THE FRONT YARD BUILDING SETBACK FOR A  
RESIDENTIAL DWELLING DECK ADDITION; 2534 MAVERICK LANE  
[DRG]**

**B-16-00481:** 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 25 feet front yard building 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 to allow for construction of a 10 feet deep deck addition that will reduce the front yard building setback to a minimum of 12 feet. The property is located at 2534 Maverick Lane. Submitted by William Morris, who is the property owner of record. **The legal description for each application is found in the respective project case file which is available in the Planning Office for review during regular office hours, 8-5 Monday - Friday.**

**B.      REASON FOR REQUEST**

*Applicant's Request – "We would like to remove existing front non-conforming deck and replace with a larger deck on the front of the home. The new deck would cover the front slope of the yard and sit on new constructed piers as well as the retaining wall for the drive out basement. Current deck is not constructed to code and is built into the setback already. The new deck would be 6' larger (further into the setback) and wider than the existing deck. The home is currently set at 20' from the front property line, not the required 25' as per RS7 requirements. The house and the retaining wall are permanent structures and I would like to use the existing structure of the home to add a new deck to the front of the home, add curb appeal and value to the property."*

**C.      ZONING AND LAND USE**

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

Surrounding Zoning and Land Use:              RS7 District in all directions; single-dwelling residential homes to the north, south, east and west.

**D.      ZONING ORDINANCE REQUIREMENTS**

Section 20-601(a), "DENSITY AND DIMENSIONAL STANDARDS; OCCUPANCY LIMITS, Residential Districts," provides the minimum building setbacks, density, coverage and building height standards for each residential zoning district. The code required minimum front building setback for structures in the RS7 (Single-Dwelling Residential) District is 25 feet. The applicant is seeking approval of a 12 feet setback.

**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 home is currently constructed 5' inside the 25' setback requirement for the RS7 district. The current road right of way is 60' which seem large for a two lane road in this residential district. The home also has a drive out basement, which restricts how to use the front portion of the home. There is an existing retaining wall that holds sloped soil, which is hard to maintain. The new deck would cover the small portion of sloped soil, replace a non-code compliant deck with a code compliant deck and make the home look better from the street.*

*To recap: Street right of way is 60', current home sits 20' from property line (not the required 25'), home is a drive out basement with a retaining wall next to the driveway, and need to replace existing deck which requires a variance anyway."*

**Building Setback:**

The subject property has been residentially developed since 1977 according to information found on the Douglas County Appraiser's property record card. All existing building and site improvements occurred before the current zoning codes, which became effective in July 2006. The applicant purchased this property in 2014; no major site improvements have been made to the property since they bought it. No further reduction of the front building setback will occur with the construction of the uncovered deck structure.

It appears from the City's aerial imagery and GIS mapping layers there are a number of developed properties nearby with similar front yard improvements that do not conform with the RS7 zoning setback standard. What the applicant plans to build is compatible with the development pattern along the east side of the street.

Finding – The property was developed around 1977. A number of other properties on the east side of Maverick Lane appear to be developed with front entry decks similar to what is proposed by the applicant. The dwelling structure setback and front retaining wall are currently noncompliant with the RS7 zoning setback; both existed when the applicant purchased the property. No further setback reduction will be made with the construction of the uncovered deck.

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

Applicant response: *"The variance would allow me to build a new deck to replace the older deck, provide curb appeal and be built into the existing structure (retaining wall) already in place on the property. There would be no impact to adjacent property owners."*

**Building Setback:**

In staff's opinion, granting the requested front building setback reduction, which appears to have existed for many years because of the retaining wall, will not have an adverse effect upon the rights of adjacent property owners or residents. The adjacent property to the north has a similar arrangement with a front entry deck and retaining wall that appears to be in the code required front yard. A number of other property owners along the east side of the street north of the applicant's property have similar site improvements on their property.

Finding -- Granting the variance, measured from the existing retaining wall which is currently located in the front yard setback, will not have any adverse effect upon the rights of adjacent property owners or residents. The request appears to be similar to a number of other residential properties along the east side of Maverick Lane north of the applicant's property.

**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: *"There is no way to make the current structure fit the legal setback for this property. All the homes in the neighborhood are at the same setback as my home, if we could move the home back 17 feet to fit the zoning, then this home would set back farther than all the homes in the area and look out of place. Secondly, the drive out basement leaves a large grade change that leaves the driveway lower than the rest of the property to the south."*

**Building Setback:**

In staff's opinion, strict adherence to the code required building setback is a hardship for the property owner. As previously described, the current front yard setback is noncompliant with the RS7 zoning code standard. The front wall of the house is approximately 20 feet behind the front property line instead of the code required 25 feet. The retaining wall, which is considered a structure by code because of its permanent placement and height above grade, is even closer to the front property line (approximately 12 feet front setback). Both of these conditions have existed this way for many years (possibly since the house was built). No practical solution exists to resolve the existing setback encroachment short of granting this variance.

In recent years, it has become more difficult for home owners to secure financing from lending institutions on property that is not compliant with city zoning codes. Validating the existing front yard setback by means of a city approved variance will help clear up any potential questions a lending institution may have about the legality of these property improvements.

Finding -- Strict adherence to the code required front yard building setback is an unnecessary hardship for the property owner.

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

Applicant response: *"The deck being proposed will be built into the existing grade to blend with the overall building. There is nothing about the deck that would impact public health, safety, morals, order, convenience, prosperity, or the general welfare of the people in the neighborhood."*

**Building Setback:**

In staff's opinion, granting the requested variance for the front yard building setback will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The variance reflects site conditions that have existed on this property for a very long time. No further reduction of the existing setback will take place as a result of this request.



Finding -- Granting the variance for the front yard building setback will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed request honors the existing retaining wall setback and does not propose any further setback reduction for this uncovered deck project.

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

Applicant response: *"The current deck was not built to the general spirit and intent of the code, I am trying to rectify the problem and meet the general spirit and intent of the development code."*

**Building Setback:**

In staff's opinion, the front building setback variance is not opposed to the general spirit and intent of the development code. The uncovered deck addition will not extend beyond the current retaining wall setback, which has been in existence on this property for a very long time. In addition, the proposed deck structure is compatible with other homes in the block that have similar front entry decks.

Finding -- The front building setback variance for the uncovered deck is not opposed to the general spirit and intent of the code. It recognizes the existing site development pattern of this property, which has been in existence for a very long period of time.

**Conclusions:**

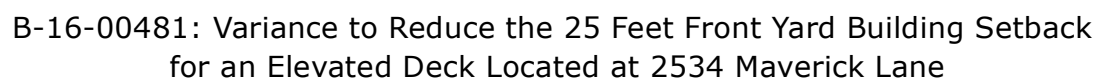
**Building Setback:**

Staff's analysis concludes the applicant's request meets the five conditions in Section 20-1309(g)(1) of the Development Code the Board must find present to grant a variance from the RS7 front building setback standard.

**Recommendation:**

Staff recommends approval of the front yard building setback variance based upon the findings in the staff report that conclude the request meets the 5 conditions outlined in Section 20-1309(g)(1) needed for variance approval.





Scale: 1 Inch = 50 Feet





6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

RECEIVED  
NOV - 9 2016  
City County Planning Office  
Lawrence, Kansas

Name(s) William Morris

Contact William Morris

Address 2534 Maverick Lane.

City Lawrence State KS ZIP 66046

Phone (785) 409 - 7481 Fax ( )

E-mail bmorris@vapormitigationsciences.com Mobile/Pager ( )

Contact See above

Company Property owner and resident

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

E-mail \_\_\_\_\_ Mobile/Pager (\_\_\_\_) \_\_\_\_\_

Pre-Application Meeting Date \_\_\_\_\_ Planner \_\_\_\_\_

Present Zoning District RSF Present Land Use Residential

Proposed Land Use Residential

Legal Description (*may be attached*) \_\_\_\_\_

Address of Property 2534 Maverick Lane.

Total Site Area \_\_\_\_\_

Number and Description of Existing Improvements or Structures 1 house, with current 8' x 6' deck on front of home, also an enclosed 12' x 16' porch on rear of home



**Description of variance requested:**

Would like to remove existing front non-conforming deck and replace with a larger deck on the front of the home. The new deck would cover the front slope of the yard and sit on new constructed piers as well as the retaining wall for the drive out basement. Current deck is not constructed to code and is built into the setback already. The new deck would be 6' feet larger (further into the setback) and wider than the existing deck. The home is currently set at 20' from the front property line, not the required 25' as per RS7 requirements. The house and the retaining wall are permanent structures and I would like to use the existing structure of the home to add a new deck to the front of the home, add curb appeal and value to the property.



### 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 home is currently constructed 5' feet inside the 25' setback requirement for the RS7 district. The current road right of way is 60' which seem large for a two lane road in this residential district. The home also has a drive out basement, which restricts how to use the front portion of the home. There is an existing retaining wall that holds sloped soil, which is hard to maintain. The new deck would cover the small portion of sloped soil, replace a non-code compliant deck with a code compliant deck and make the home look better from the street.

To recap: Street right of way is 60', current home sits 20' from property line (not the required 25'), home is a drive out basement with a retaining wall next to the driveway, and need to replace existing deck which requires a variance anyway.

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

The variance would allow me to build a new deck to replace the older deck, provide curb appeal and be built into the existing structure (retaining wall) already in place on the property. There would be no impact to adjacent property owners.



**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:**

There is no way to make the current structure fit the legal setback for this property. All the homes in the neighborhood are at

the same setback as my home, if we could move the home back 17 feet to fit the zoning, then this home would set back

farther than all the homes in the area and look out of place. Secondly, the drive out basement leaves a large grade change

that leaves the driveway lower than the rest of the property to the south.

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

The deck being proposed will be built into the existing grade to blend with the overall building. There is nothing about the

the deck that would impact public health, safety, morals, order, convenience, prosperity, or the general welfare of the people in the neighborhood.



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County  
Metropolitan Planning Office**

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

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

The current deck was not built to the general spirit and intent of the code, I am trying to rectify the problem and meet the  
general spirit and intent of the development code.

**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): [Signature] Date 10-19-16

\_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Date \_\_\_\_\_

**STAFF USE ONLY**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

BZA Date \_\_\_\_\_

Fee \$ \_\_\_\_\_

Date Fee Paid \_\_\_\_\_



6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

I/WE William F. Morris, hereby referred to as the "Undersigned", being of lawful age, do hereby on this October day of Oct, 2011, make the following statements to wit:

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

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.


Willy Muri

Owner

The foregoing instrument was acknowledged before me on this 19 day of Oct, 20 16.

Pat Linder

Pat Lerner

 **PAT LEDERER**  
Notary Public - State of Kansas  
My Appt. Expires 12-7-2017





### 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 200 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

  
\_\_\_\_\_  
Printed Name





Capital Title Insurance Co.  
4821 W 6th Street, Suite D  
Lawrence, KS 66049

EXECUTOR'S DEED

*L1405097*

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, on the 8th day of January, 2014, Rosalee Marie Earl, a resident of Douglas County, Kansas, died testate, leaving a Will which was duly admitted to probate in the District Court of Douglas County, Kansas, Probate Division, on the 14th day of March, 2014, wherein Sally J. Cool was named as Executrix and said Sally J. Cool was duly appointed by said Court as such Executrix, and Letters Testamentary Under the Kansas Simplified Estates Act were issued to her on March 14, 2014, which letters are in full force and effect; and

WHEREAS, the said Will of Rosalee Marie Earl authorizes and empowers said Executrix to sell and convey any real estate in the said estate; and

WHEREAS, said Executrix has sold the real estate, which is hereinafter described, to William F. Morris, a Single Person, for the consideration hereinafter set out, which consideration has been paid in full.

NOW, THEREFORE, I, Sally J. Cool, Executrix of the Will of Rosalee Marie Earl, deceased, in consideration of the sum of One Hundred Thirteen Thousand Five Hundred Dollars (\$113,500.00), the receipt whereof is hereby acknowledged, do grant, bargain, sell and convey unto William F. Morris, his heirs and assigns, all of the interest of Rosalee Marie Earl in the following described real estate in the County of Douglas, and the State of Kansas, to-wit:

Lot Eight (8), Block Five (5), Replat of Cimarron Hills, a Subdivision in the City of Lawrence, Douglas County, Kansas. Commonly known as 2534 Maverick Lane, Lawrence, Kansas 66046.

to have and to hold the same with all the appurtenances and hereditaments thereunto belonging forever.

\* Case No 14-PR-20

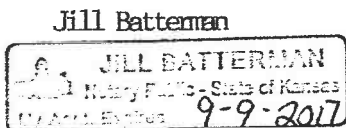
IN WITNESS WHEREOF, I have hereunto set my hand this 9th  
day of June, 2014.

Sally J. Cool  
Sally J. Cool, Executrix of the  
Estate of Rosalee Marie Earl

STATE OF KANSAS, DOUGLAS COUNTY, ss:

BE IT REMEMBERED that on this 9th day of June, 2014,  
before me, a Notary Public in and for the County and State  
aforesaid, came Sally J. Cool, who is personally known to me to  
be the same person who executed the above and foregoing  
instrument of writing and duly acknowledged the same to be her  
free and voluntary act and deed.

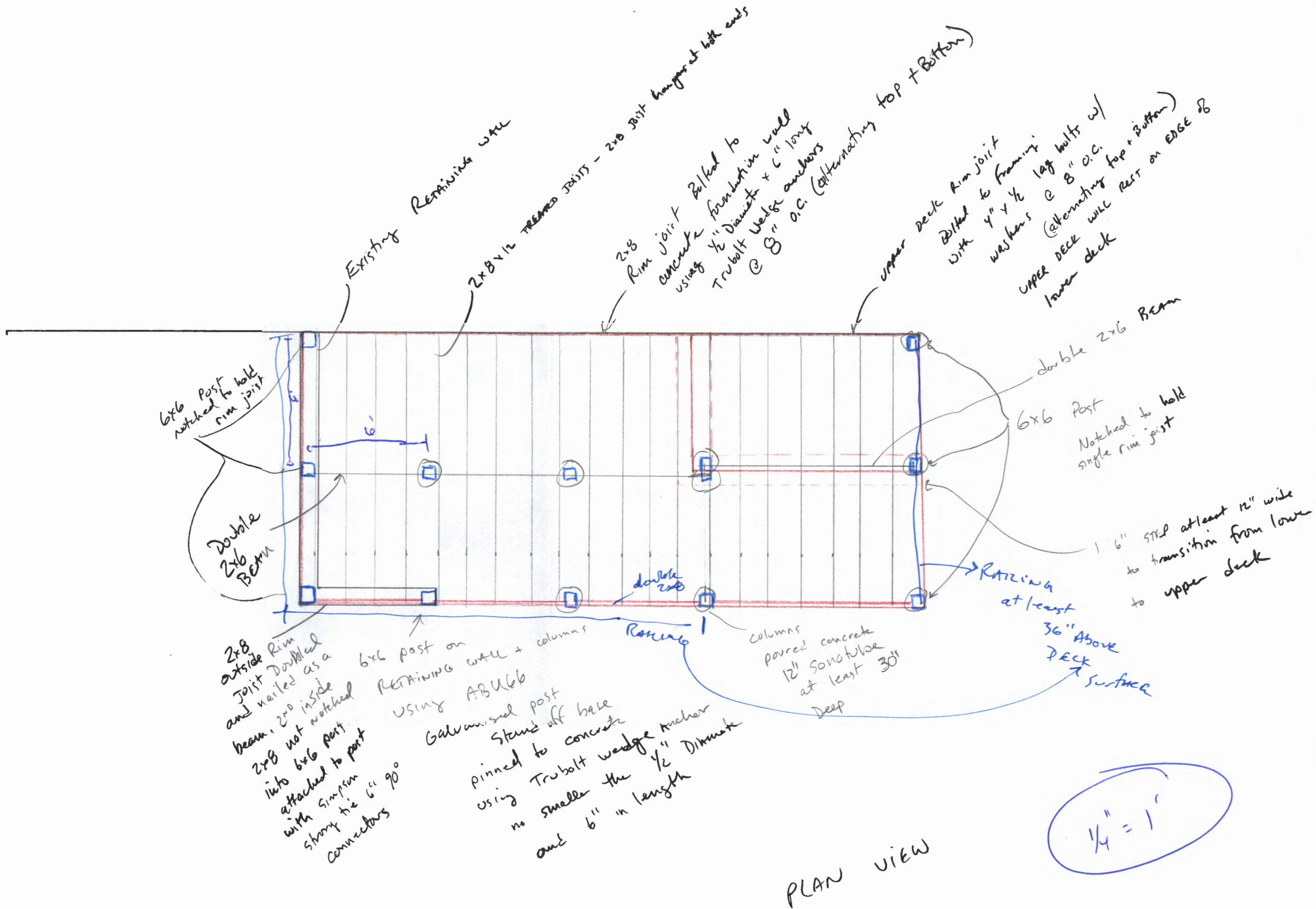
IN TESTIMONY WHEREOF, I have hereunto set my hand and  
affixed my notarial seal the day and year last above written.



Jill Batterman  
NOTARY PUBLIC

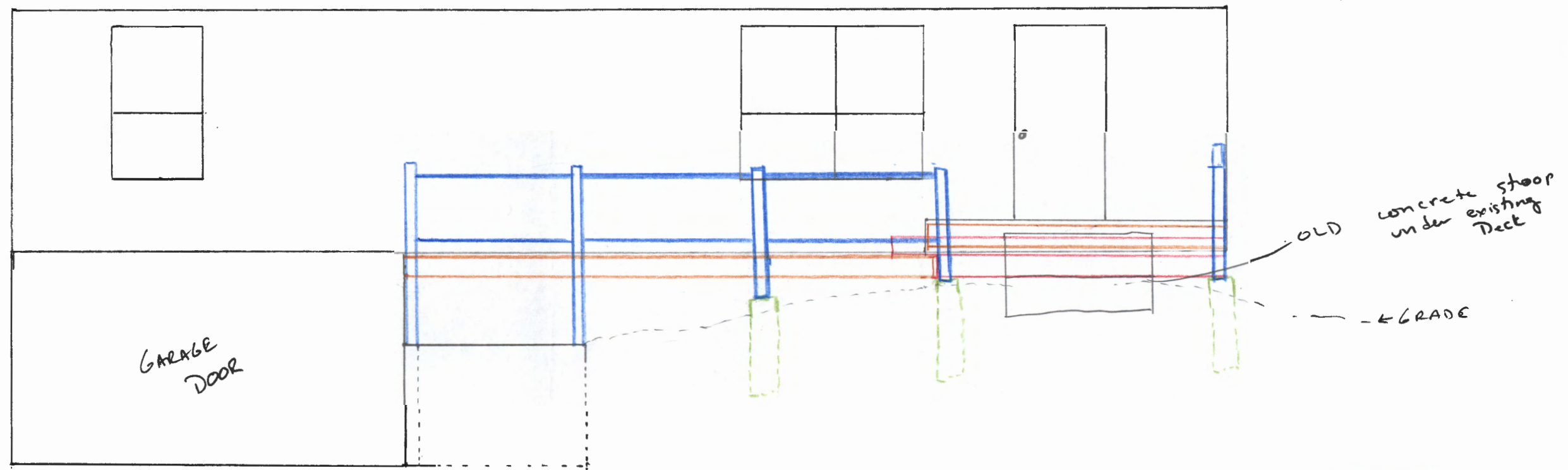
My appointment expires:  
9-9-2017

$1.4 \text{ ft}^2 \text{ per sonotube}$   
 $\times 8$   
 $11.2 \text{ ft}^2 \text{ TOTAL}$   
 $0.41 \text{ yds}$



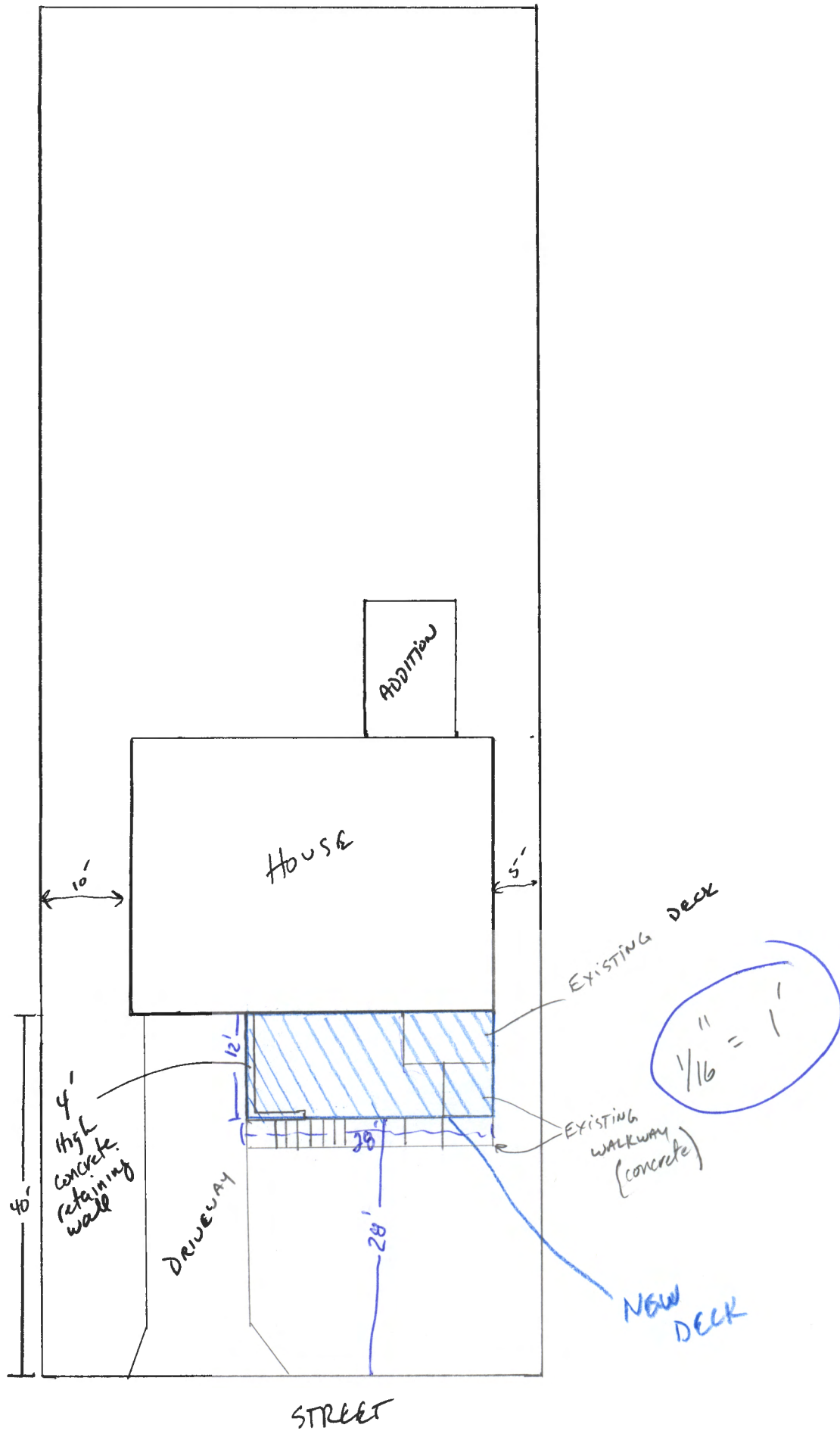
PLAN VIEW

1/4" = 1'



FRONT VIEW

$\frac{1}{4}'' = 1'$



**ITEM NO. 5**      **FRONT AND EXTERIOR YARD VARIANCES; 401 LOUISIANA STREET  
[JSC]**

**B-16-00515:** 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 allow an accessory pergola structure to be located in front of the 20 feet front yard building setback as required by Section 20-533(3) and Section 20-601(a) of the City Code in the RS5 (Single-Dwelling Residential) District. The second request is to allow the proposed pergola to extend into the required 20 feet exterior side yard setback established in Section 20-601(a) of the City Code. The property is located at 401 Louisiana Street. Submitted by Sean Bergin and Ann Lavaty, who are the property owners of record.

**B. REASON FOR REQUEST**

Applicant's Request – *"A variance is requested to allow for a detached 20'x20' carport pergola to the east side of the existing residence which was originally built in 1865. This request is a variance from the 20-ft setback in front of the house."*

**C. ZONING AND LAND USE**

Current Zoning & Land Use:                      RS5 (Single-Dwelling Residential – 5,000 square feet) District; Detached Dwelling use.

Surrounding Zoning and Land Use:              RS5 (Single-Dwelling Residential – 5,000 square feet) District; to the south and west; Single-Family Residential uses.

RS7 (Single-Dwelling Residential – 7,000 square feet) District; to the north and east; Single-Family Residential uses.

**D. ZONING ORDINANCE REQUIREMENTS**

Section 20-533(3), "General Standards for Accessory Structures," has a standard requiring Accessory Structures in residential districts shall be located to the rear of the front building line and may be located as close as 5 feet to interior and rear lot lines.

Section 20-601(a), has a standard establishing a required setback of 20 feet front yard building setback (northern property line), and exterior side yard setback (eastern property line).





Figure 1: 2016 Aerial Photograph of Site

## 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 purpose of the variance is to avoid having to remove a 100+ year old tree in our backyard and existing fence. The proposed carport pergola will shelter our 2 cars from the ice + snow, and from the black walnuts falling from the tree, to the east of our driveway. Our home (existing structure) was built in 1865, with a 1920 addition on the east side, and a 2003 addition on the south side."*

The applicant's request is for a variance from the 20 foot front setback and to allow an accessory structure to be located ahead of the front building line as required by code. Staff initially believed that a variance may also be necessary from the required 20 foot exterior side setback from the unopened Louisiana Street right-of-way. However, based on the survey provided by the applicant, the proposed structure would comply with the exterior side setback and does not need a variance.



**Figure 2: GIS Rights-of-Way Measurements**

There are two variances that are required for a structure of this nature to be located as proposed. The first is a variance from Section 20-533(3) requiring, "Accessory Structures in residential districts shall be located to the rear of the front Building line." The interpretation of the front building line has been uniformly defined by staff as the Front Setback or behind the front façade of the principal structure if the structure is in excess of the required minimum setback. The second variance is from Section 20-601(a) varying the minimum front setback of 20 feet from the property line to a minimum of 5.1 feet.

The limitation for this application is the unopened portion of Louisiana Street, and the large dedication allocated for W. 4<sup>th</sup> Street. This portion of right-of-way was platted in 1920, but has not been opened or constructed since. At present, there are also no public improvement plans that expect the opening of Louisiana Street to traffic, and this lot is not serviced by an alley; therefore, right-of-way is not available for the applicant to utilize for accessing the rear of the property. The action of opening the Louisiana Street right-of-way is not an action that could be undertaken by the owner.



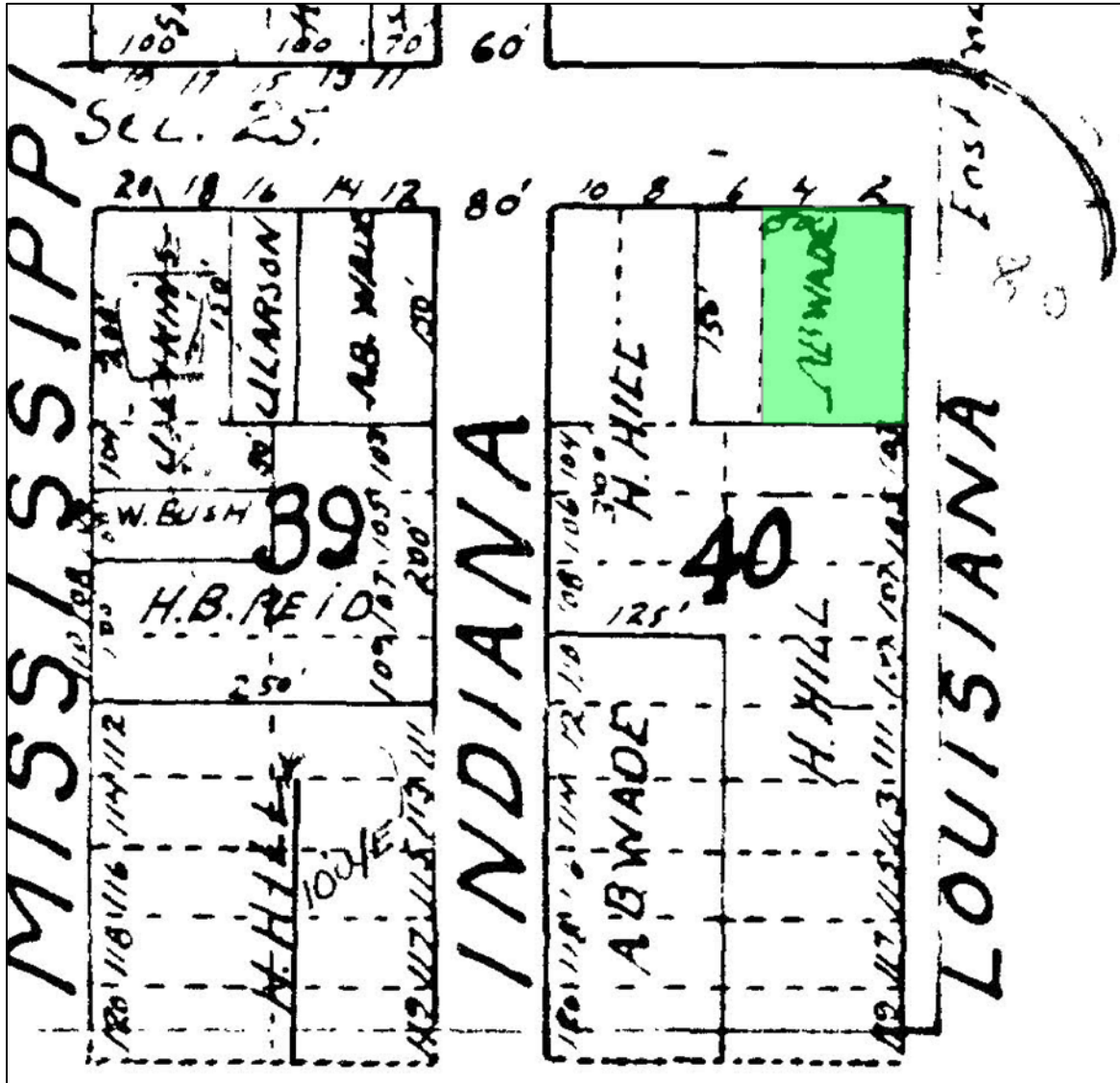


Figure 3: West Lawrence Plat (1920), Subject Parcel Highlighted in green

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

Applicant response: "The variance will not adversely affect the rights of the adjacent property owners because the street currently has several homes that were built prior to platting of the neighborhood. The result is that the homes are not within the current building setback of 20 feet in front of the house."

In staff's opinion, the requested variance will not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within a 400 foot distance of the subject property to inform 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: *"Due to confinement issues of the very mature large tree and the existing fence, and the location of the house in relation to the street, this is the best location."*

Strict application of the Land Development Code could be considered an unnecessary hardship in this particular case. The residence was constructed in 1865, and the West Lawrence plat was recorded in 1920, 55 years after the construction of the house and 7 years before the adoption of Lawrence's first zoning code. Given the age of the residence, the existing plat, and the unopened portion of right-of-way, the potential placement options for vehicular access are limited. Staff agrees that the proposed placement of the carport pergola is reasonable given the various site constraints, and that strict application of the Land Development Code under these circumstances could impose a hardship.

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

Applicant response: *"The carport pergola will not adversely affect the public."*

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

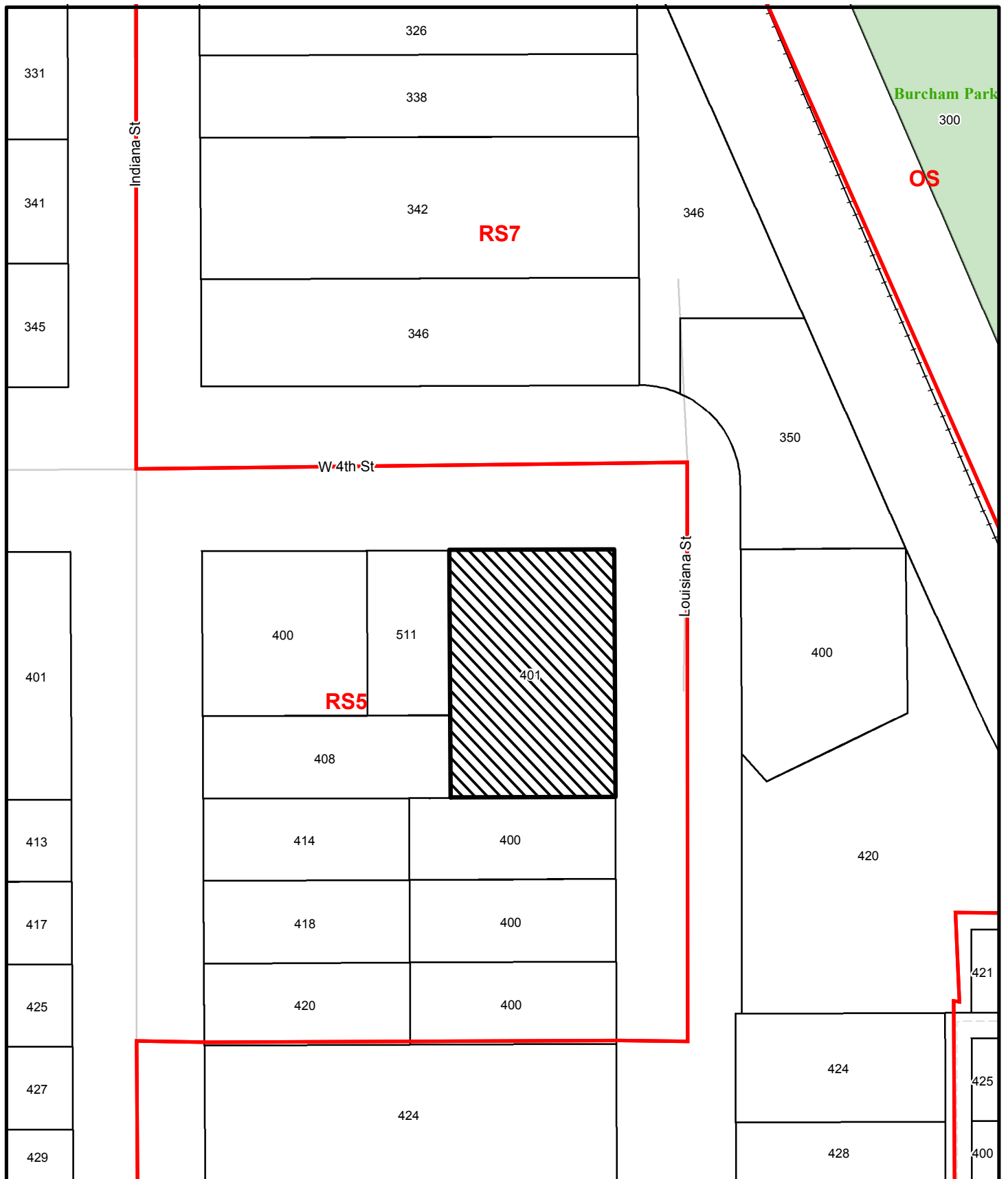
5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.

Applicant response: *"Granting of this variance will not oppose the development code and will be similar to other variances granted within older neighborhoods."*

In staff's opinion, approval of this variance would be consistent with the general spirit and intent of the Land Development Code. Under this particular set of conditions and limitations, the Land Development Code does not anticipate the development and platting pattern of this residence. In examples where both the residence was constructed and the plat was recorded prior to the City of Lawrence adopting zoning in 1927, the Land Development Code cannot fully account for the original townsite conditions in some instances. With no anticipated opening of the Louisiana Street right-of-way to the public, this would not permit access to the rear of the parcel via this right-of-way. Given the large right-of-way allocated to W. 4<sup>th</sup> Street, the proposed carport pergola is maintaining a consistent setback along the southern side of the street, and does not encroach into the Louisiana Street exterior side setback as required in Section 20-601(a).

**Conclusions:** Staff's analysis of this variance application finds the request meets the 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 requested variance to reduce the front setback to a minimum of 5.1 feet and to allow an Accessory Structures within residential districts to be located ahead of the front building line.



B-16-00481: Variance to Allow an Accessory Pergola Structure in the 20 Feet Front Yard Building Setback Located at 401 Louisiana Street

Lawrence Planning & Development Services Dept  
December 12, 2016



Subject Property  
Scale: 1 Inch = 80 Feet



**APPLICATION FOR  
VARIANCE FROM UNNECESSARY HARDSHIP**

RECEIVED

DEC 05 2016

City County Planning Office  
Lawrence, Kansas

**OWNER INFORMATION**

Name(s) Ann Lavaty & Sean Bergin  
Contact Ann Lavaty or Sean Bergin  
Address 401 Louisiana St  
City Lawrence State KS ZIP 66044  
Ann Phone (785) 760-4298 Sean Phone (785) 760-4297  
E-mail sbergin@sunflower.com Mobile/Pager ( ) NA

**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 RS-1.5 Present Land Use Single-family/residential  
Proposed Land Use Single family Residential  
Legal Description (may be attached) Lots 2 & 4, Block 40, West Lawrence  
Address of Property 401 Louisiana St  
Total Site Area 15,000 sq ft / 150' x 100'  
Number and Description of Existing Improvements or Structures 1 structure -  
1 single family residence





# City of Lawrence Douglas County

PLANNING & DEVELOPMENT SERVICES

## Lawrence Douglas County Metropolitan Planning Office

6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

### Description of variance requested:

A variance is requested to allow for a detached 20' x 20' carport pergola to the east side of the existing residence which was originally built in 1865. This request is a variance from the 20-ft setback in front of the house.



### 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 purpose of the variance is to avoid having to remove a 100+ year<sup>old</sup> tree in our backyard and the existing fence. The proposed carport pergola will shelter our 2 cars from ice + snow, and from the black walnuts falling from the tree, to the east of our driveway. Our home (existing structure) was built in 1865, with a 1920 addition on the east side, and a 2003 addition on the south side. ~~As a result,~~

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

The variance will not adversely affect the rights of the adjacent property owners because the street currently has several homes that were built prior to platting of the neighborhood. The result is that the homes are not within the current building setback of 20 feet in front of the house.



# City of Lawrence Douglas County

PLANNING & DEVELOPMENT SERVICES

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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:

Due to confinement issues of the very mature large ~~S~~ tree and the existing fence, and the location of the house in relation to the street, this is the best location.

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

The carport pergola will not adversely affect the public.




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

Granting of this variance will not oppose the  
development code and will be similar to other  
variances granted within older neighborhoods.

**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 12/3/2016

 Date 12/3/2016

\_\_\_\_\_ Date \_\_\_\_\_

**STAFF USE ONLY**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

BZA Date \_\_\_\_\_

Fee \$ \_\_\_\_\_

Date Fee Paid \_\_\_\_\_



### 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.

Ann Lavaty                      S. Bergin  
Signature

12/3/16  
Date  
12/2/16

Ann Lavaty                      Sean Bergin  
Printed Name

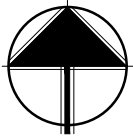


# EXHIBIT DRAWING

4TH STREET (RW = 100')  
ASPHALT PAVEMENT

## LEGAL DESCRIPTION:

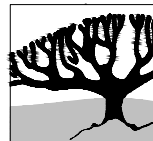
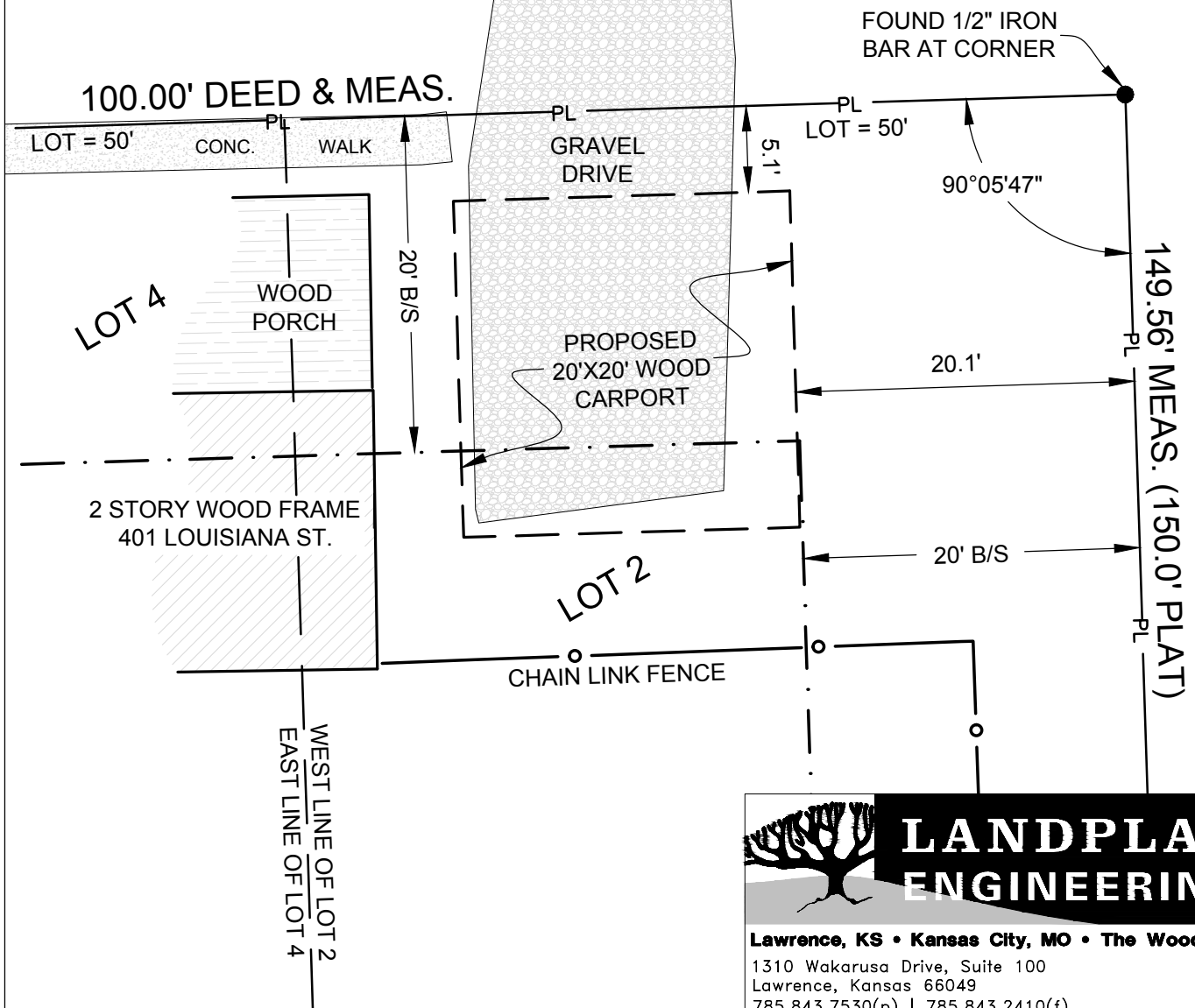
LOTS 2 & 4, BLOCK 40,  
WEST LAWRENCE



NORTH  
SCALE: 1" = 10'

PREPARED FOR:

ANN LAVATY  
DECEMBER 7, 2016



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