



LAWRENCE BOARD OF ZONING APPEALS
AGENDA FOR **OCTOBER 4, 2018**
1ST FLOOR OF CITY HALL, 6 E. 6TH STREET, CITY COMMISSION MEETING ROOM
6:30 PM

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

ELECTION OF OFFICERS FOR 2018-2019

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

ITEM NO. 1 COMMUNICATIONS

- A. Acknowledge communications to the come before the Board.
- B. Disclosure of ex-parte communications and/or abstentions for specific agenda items.
- C. Announce any agenda items that will be deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the September 6, 2018 meeting of the Board.

BEGIN PUBLIC HEARING:

ITEM NO. 3 VARIANCES FROM THE PARKING STANDARDS AND MAXIMUM IMPERVIOUS COVER FOR A RESIDENTIAL DISTRICT; 1917 NAISMITH DRIVE

B-18-00436: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first request is for a variance from the 25 foot parking area setback standard required by Section 20-908(b) of the City Code for a Residential District. The applicant is seeking a variance from this code standard reducing the parking setback to a minimum of 25 foot parking setback to a minimum of 11 feet from the eastern property line, a minimum of 8.5 feet from the norther property line, and a minimum of 0 feet from the southern property line adjacent to W. 19th Terrace. The second request is for a variance from the 70% maximum impervious cover standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District to 75.5%. The property is located at 1917 Naismith Drive. Submitted by Hernly Associates, Inc. on behalf of North American Islamic Trust Inc., property owner of record.

ITEM NO. 4 VARIANCE FROM THE PARKING AREA SETBACK FOR A RESIDENTIAL DWELLING; 1300 TENNESSEE STREET

B-18-00433: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 25 foot parking area setback standard required by Section 20-908(b) of the City Code for a Residential District. The applicant is seeking a variance from this code standard reducing the parking setback to a minimum of 3 feet to allow for the construction of a parking area. The property is located at 1300 Tennessee Street. Submitted by Paul Werner Architects on behalf of Jess D. Paul Jr., Trustee, property owner of record.

ITEM NO. 5 VARIANCE FROM THE PARKING AND DRIVEWAY STANDARDS FOR A DETACHED DWELLING; 718 ASH STREET

B-18-00438: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the surfacing requirements for parking and driveway standards required by 20-913(e)(1) of the City Code for a detached dwelling. The applicant is seeking a variance from this code standard to allow for the construction of a gravel driveway. The property is located at 718 Ash Street. Submitted by Stephen Evans, property owner of record.

ITEM NO. 6 VARIANCES FROM THE SETBACK STANDARDS AND FENCE HEIGHT FOR A RESIDENTIAL DWELLING; 941 PENNSYLVANIA STREET

B-18-00429: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first 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 to 1 foot. The second request is for a variance from the 20 foot front setback required by Section 20-601(a) to 7 feet. The third request is for a variance from the 20 foot front setback required by Section 20-601(a) to 5 feet. The fourth request is for a variance from the 5 foot interior side setback standard required by Section 20-601(a) to 0 foot to construct a retaining wall/fence totaling 8 feet in height. The property is located at 941 Pennsylvania Street. Submitted by John A. Gascon, property owner of record.

ITEM NO. 7 MISCELLANEOUS

- A. Consider any other business to come before the Board.



LAWRENCE BOARD OF ZONING APPEALS
MINUTES FOR **SEPTEMBER 6, 2018**

Members present: Clark, Gardner, Gascon, Mahoney, Shipley, Wilbur, Wisner
Staff present: Crick, Dolar, Mortensen

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

Mahoney mentioned that this meeting marks the end of his final term.

Staff and other board members thanked Mahoney for his many years of public service.

ITEM NO. 1 COMMUNICATIONS

- A. All communications were included in the agenda packet.
- B. There were no ex-parte communications or abstentions for specific agenda items.
- C. There were no items deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the June 7th, July 5th, and August 2nd, 2018 meetings of the Board.

ACTION TAKEN

Gascon said he would like to amend his comment on Page 8 of the June 7th minutes to read, "...he *may* have to ask her to leave the meeting".

Motioned by Wisner, seconded by Clark, to approve the minutes from the June 7, 2018 meeting as amended.

Motion carried 4-0-3. Gardner, Mahoney, and Shipley abstained.

Motioned by Wisner, seconded by Wilbur, to approve the minutes from the July 5, 2018 meeting of the Board.

Motion carried 6-0-1. Clark abstained.

Motioned by Clark, seconded by Wilbur, to approve the minutes from the August 2, 2018 meeting of the Board.

Motion carried 4-0-3. Gascon, Mahoney, and Wisner abstained.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 VARIANCE FROM THE REAR YARD BUILDING SETBACK FOR A
RESIDENTIAL STRUCTURE; 5914 LONGLEAF DRIVE**

B-18-00344: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 20 foot rear setback standard required by Section 20-601(a) of the City Code for the RM12 (Multi-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the rear setback to a minimum of 11.5 feet to allow for the construction of an addition to the existing residence. The property is located at 5914 Longleaf Drive. Submitted by Tanya Treadway, property owner of record.

STAFF PRESENTATION

Mortensen presented the item.

Crick asked that the applicant be allowed to speak from her seat.

APPLICANT PRESENTATION

Ms. Tanya Treadway, property owner, said she'd be happy to answer any questions about her request. She talked about her appreciation for ADA accessibility and added that the proposed covered structure will be helpful. She mentioned that her neighbors are supportive of her proposal, and that she doesn't believe her request will have an impact on anyone.

Wilbur asked when the home was purchased.

Treadway said in August 2013.

Clark asked if the applicant put together the application herself.

Treadway said yes, noting that she's a former federal prosecutor.

Clark said he appreciated her thorough application.

Treadway said staff was very helpful.

Shipley asked if anyone from the Homeowner's Association (HOA) is present.

Treadway said no.

Shipley asked if the HOA typically allows changes to their covenants.

Treadway said she doesn't know that this is an HOA issue, but the group is comprised of very reasonable people that work well together.

Crick said the City isn't a party to the HOA, but applicants are typically advised to comply with neighborhood covenants as well as the Land Development Code.

No public comment.

ACTION TAKEN

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

Unanimously approved 7-0.

Shipley asked if staff knew the developer who might have constructed the deck.

Treadway said Clemente was the developer.

Mortensen said David Clemente was the builder, and also an applicant for a similar variance in 2000.

Shipley said staff indicated there was no record of the deck being built.

Mortensen said staff could not locate a record for the deck.

Crick noted that it's not uncommon to see building permits for a new residential structure without details such as decks, patios, and landscaping.

ACTION TAKEN

Motioned by Gardner, seconded by Wisner to approve the variance based on findings in the staff report.

Unanimously approved 7-0.

ITEM NO. 4 VARIANCE FROM THE REAR YARD BUILDING SETBACK FOR A NON-RESIDENTIAL STRUCTURE; 600 MAPLE STREET

B-18-00381: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 15 foot rear setback standard required by Section 20-601(b) of the City Code for the IG (General Industrial) District. The applicant is seeking a variance from this code standard reducing the rear setback to a minimum of 0 feet to allow for the construction of warehouse buildings. The property is located at 600 Maple Street. Submitted by Schneider & Associates on behalf of Nieder Properties, property owner of record.

STAFF PRESENTATION

Mortensen presented the item.

Wilbur asked about the neighbor on Lincoln who voiced concerned about flooding.

Mortensen said that neighbor resides at 624 Lincoln Street, and noted that Matt Bond, City Stormwater Engineer, explained that the water from the site will move toward the pump station and those details would be addressed with the site plan.

Gascon asked if the project will need approval from the Planning Commission.

Crick said not at this stage, the site plan can be approved administratively.

Wisner asked how many total square feet are in the highlighted areas shown in Figure 2 on Page 78 of the agenda packet.

Clark said maybe 2000 square feet.

Shipley asked when the current owner purchased the property.

Crick said he's not sure.

APPLICANT PRESENTATION

Mr. Fred Schneider, Schneider & Associates, said Mr. Nieder has several warehouses in the area and plans to use the same concept for this property. He noted that there is a 133 ft setback from the railroad, and that they increased the setback on the west side to 20 ft. He further explained details of the project.

Shipley asked if the applicant had communication with residential neighbors.

Schneider explained that Mr. Nieder owns the properties across the street and behind the subject property, and they have contacted Lawrence Landscape.

Mortensen added that neighbors were notified by mail when the application was submitted.

Shipley asked when the property was purchased.

Schneider said no, but it was likely 15-20 years ago.

Gascon said the development will create a buffer from the railroad.

No public comment.

ACTION TAKEN

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

Unanimously approved 7-0.

BOARD DISCUSSION

Crick clarified that the highlighted areas Wisner previously inquired of total 1,760 square feet, and according to county records, the property was purchased in 1998.

Shipley said the property was purchased in 1998 and the current code was adopted in 2006.

Mortensen said that's correct.

Shipley asked about the railroad setback.

Schneider said it measures 133 feet, which is larger than usual.

Crick said that setback is measured from the center of the railway.

Gascon said the conditions of the property are unique.

ACTION TAKEN

Motioned by Gardner, seconded by Wisner, to approve the variance based on findings in the staff report.

Unanimously approved 7-0.

ITEM NO. 5 MISCELLANEOUS

- A. Consider any other business to come before the Board.

Mahoney said his first term on the BZA commenced on March 4, 2010.

Crick said board training is planned for November, and chair/vice chair elections and Sign Code will happen in October. He also introduced new member Travis Herrod and mentioned some staffing changes.

ACTION TAKEN

Motioned by Gardner, seconded by Mahoney, to adjourn the meeting.

ADJOURNED 7:06 PM

ITEM NO. 3 VARIANCES FROM THE PARKING STANDARDS AND MAXIMUM IMPERVIOUS COVER FOR A RESIDENTIAL DISTRICT; 1917 NAISMITH DRIVE

B-18-00436: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first request is for a variance from the 25 foot parking area setback standard required by Section 20-908(b) of the City Code for a Residential District. The applicant is seeking a variance from this code standard reducing the parking setback to a minimum of 25 foot parking setback to a minimum of 11 feet from the eastern property line, a minimum of 8.5 feet from the norther property line, and a minimum of 0 feet from the southern property line adjacent to W. 19th Terrace. The second request is for a variance from the 70% maximum impervious cover standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District to 75.5%. The property is located at 1917 Naismith Drive. Submitted by Hernly Associates, Inc. on behalf of North American Islamic Trust Inc., property owner of record.

B. REASON FOR REQUEST

Applicant's Request – See Attachment A

The variance request originates from the submittal of a site plan application by the property owner to the city. The proposed site plan accommodates the construction of a one-story 1,818 square foot prayer hall expansion (SP-17-00358). The purpose of the building addition is to relocate the Women's Prayer Hall from the second floor to the first floor, and to improve the ADA compliance of the main entrance. Other changes proposed with the site plan include the reduction of the south parking area adjacent to W. 19th Terrace to accommodate the addition of a public sidewalk, the addition of landscaped traffic islands in the north parking area adjacent to W. 19th Street, and increased landscaping along all adjacent roadways. The proposed site plan is provided in Attachment B.

Prior to submittal of the proposed site plan, the previous site plan was approved in 1980 (Figure 2). Through the review process for the pending site plan, it was determined that changes to the site occurred at multiple points after 1980 without approval of an updated site plan. As such, while these changes do not represent a proposed change on the pending site plan (as they are an existing condition), the Planning Director determined that all improvements made to the site prior to the previously approved 1980 site plan would be reviewed for compliance with the Land Development Code. These changes include paving of the south parking area and expansion of the north parking area (Figures 3-6).

C. ZONING AND LAND USE

| | |
|----------------------------------|---|
| Current Zoning & Land Use: | RS7 (Single-Dwelling Residential) District; Islamic Center of Lawrence |
| Surrounding Zoning and Land Use: | RS7 (Single-Dwelling Residential District to the west and south; Lutheran Campus Ministry and single-dwelling residential structures. |

U-KU (Kansas University) District to the north; multi-dwelling residential structures (Oliver Hall).

RM32 (Multi-Dwelling Residential) District to the northeast; multi-dwelling residential structure (Naismith Hall).

RM12 (Multi-Dwelling Residential) District to the east; multi-dwelling residential structures.

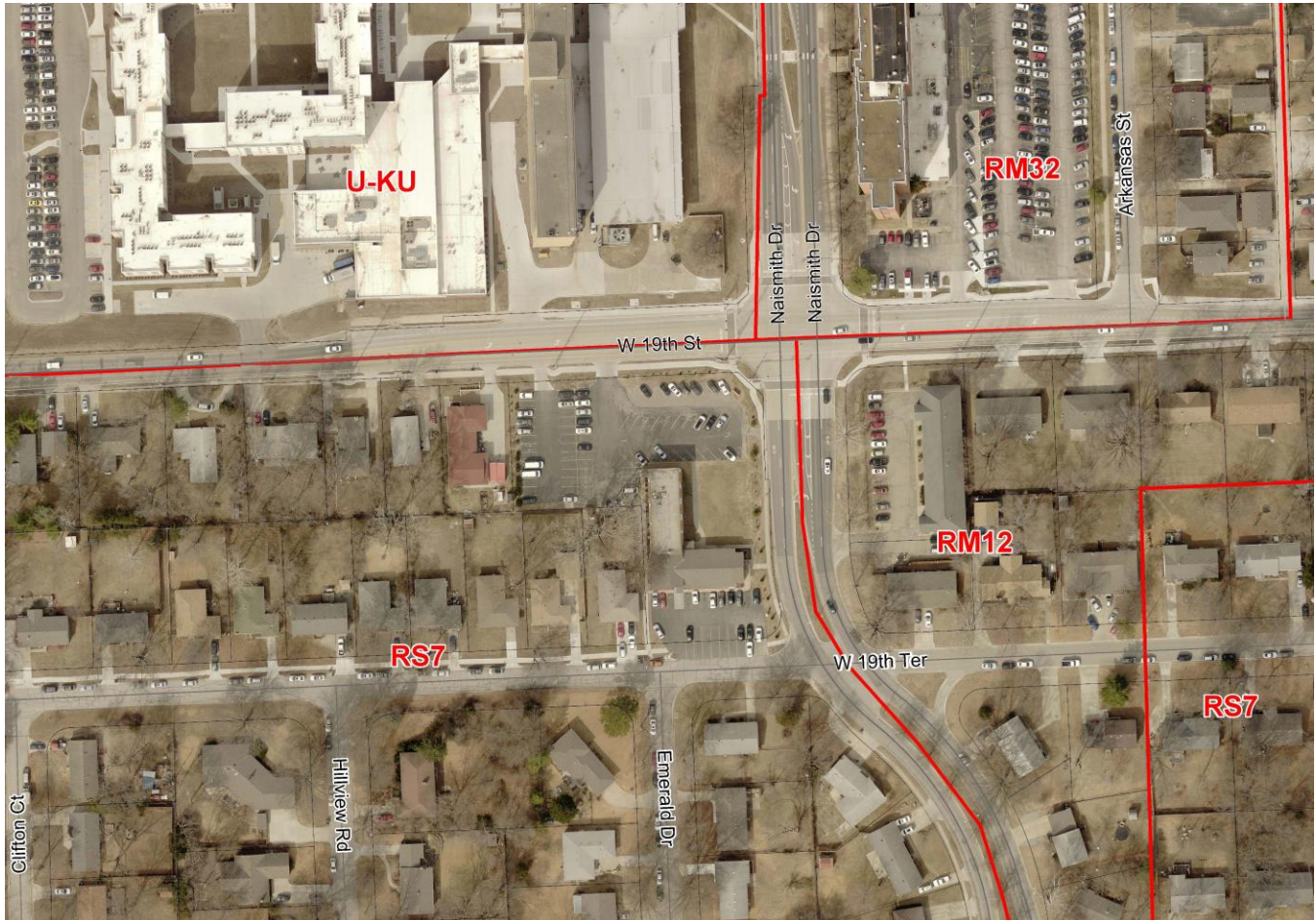


Figure 1: Zoning Map

D. ZONING ORDINANCE REQUIREMENTS

- Section 20-908(b) Residential Districts. No part of a parking area, other than a driveway, may be located within 25 feet of a street right-of-way in any residential zoning district.
- Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts." The maximum impervious coverage permitted in the RS7 (Single-Dwelling Residential) District is 70% of the site.

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Land Development Code lists the five requisite conditions that must 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 building and majority of parking improvements predate the current ownership and the current zoning code. Naismith Drive and the 19th street and Naismith intersections have been widened over time which has forced some of the impervious public improvements onto the Islamic Center land which has reduced the capacity of the land to support pervious surfaces. Zoning laws include parking setbacks that were imposed after the original construction of the building and parking area elements that were only created by actions of the current property owner."

The subject property is zoned RS7 (Single-Dwelling Residential) District and currently developed with a nonresidential structure (Islamic Center of Lawrence). The property is bound by W. 19th Street to the north, Naismith Drive to the east, and W. 19th Terrace to the south. The property contains two separate parking areas. The north parking area takes access from W. 19th Street, and the south parking area takes access from W. 19th Terrace. Both parking areas are the subject to the requested variance from the 25 foot parking setback requirement.

The previous site plan, which was approved in 1980, showed a gravel parking area located between the building and W. 19th Terrace. The site plan also showed an improved parking area located on the north side of the building. Prior to approval of the 1980 site plan, and under different ownership than the current owners, the south parking area was paved and striped, and the north parking area was expanded to the west. It appears from aerial photography that the expansion took place at some point between 1995 and 2003. It also appears that the site stayed in this configuration until the mid-2010s. Aerial photography show that at some point between 2014 and 2016, the northeast portion of the north parking area was expanded to align with the rest of the parking lot in that area. (Figures 2-6)

The property currently contains an impervious surface coverage of 74.4% of the site. The proposed site plan shows the coverage increasing to 75.5%; however, the information provided on the site plan does not take into account changes made within the right-of-way. Currently, the south parking area extends across the south property line and is immediately adjacent to W. 19th Terrace. The right-of-way is paved and used for parking. The pending site plan shows the parking being removed from the right-of-way and the area being improved with greenspace and a public sidewalk. This improvement is not accounted for on the site surface summary table on the site plan, which only calculates the pervious and impervious improvements within the property lines. Nevertheless, the reduction of the impervious surface within the right-of-way will improve stormwater drainage from the site. Also, the property contains public improvements, such as the sidewalk along Naismith Drive, that are counted toward the maximum impervious surface requirements because they are located within the property lines instead of in the street right-of-way. Finally, the city acquired approximately 740 square feet of right-of-way from 1917 Naismith Drive as part of the street improvements made to W. 19th Street and Naismith Drive. The reduction in lot area of the property increased the percentage of impervious coverage, as total parcel area decreased and no additional construction was conducted on the parcel by the applicant.





Figure 3: Aerial showing 1995 conditions



Figure 4: Aerial showing 2003 conditions

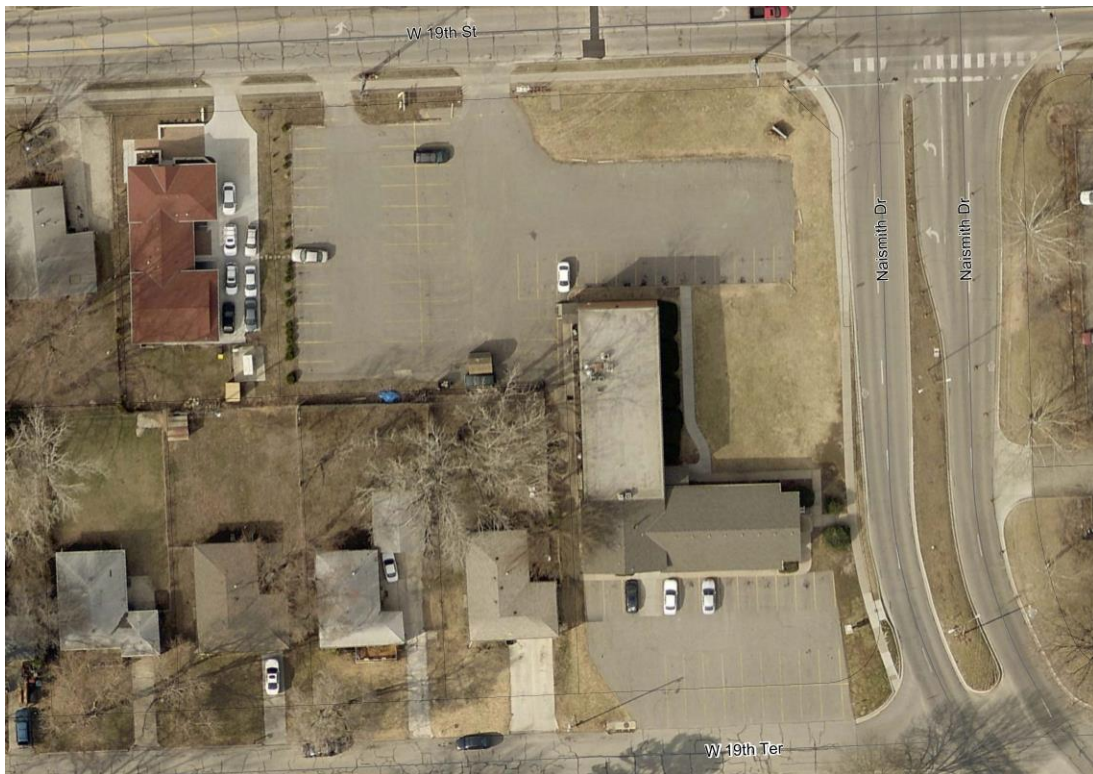


Figure 5: Aerial showing 2014 conditions

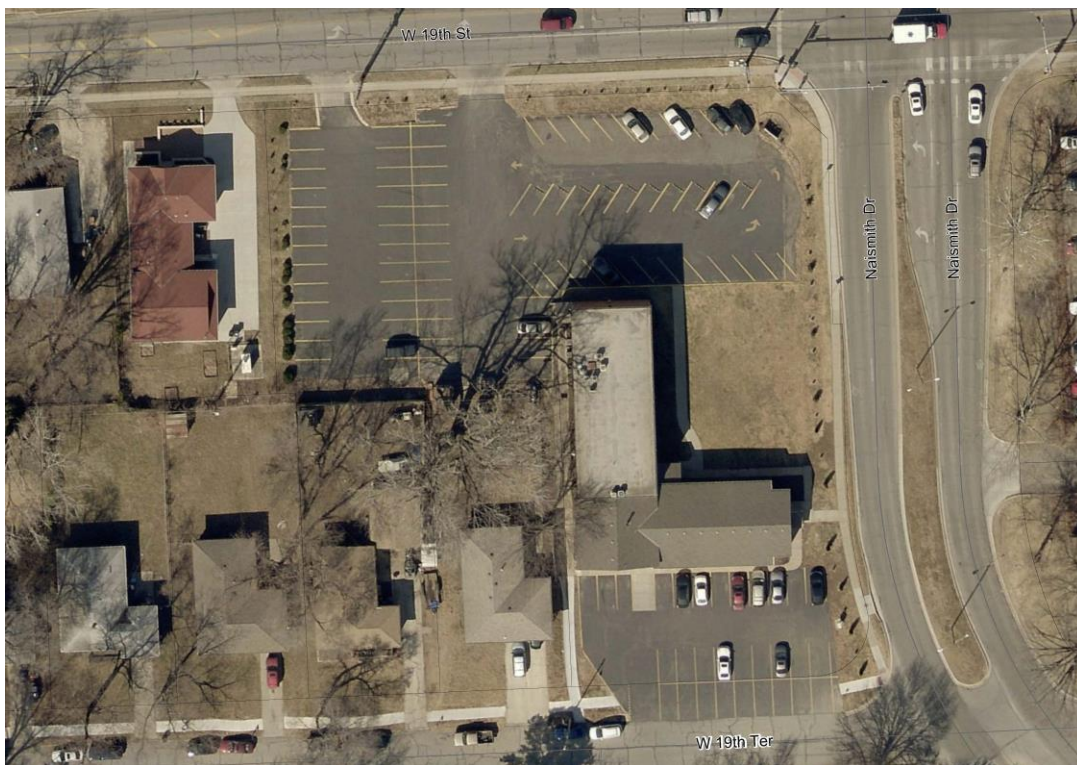


Figure 6: Aerial showing 2016 conditions

Other existing religious facilities are found nearby to this property. They include the Lutheran Campus Ministry at KU (1421 W. 19th Street) the Church of Jesus Christ of Latter Day Saints (1629 W. 19th Street), and the Chabad House (1201 W. 19th Street).

A parking variance was approved by the BZA for the Church of Jesus Christ of Latter Day Saints under the 1966 Zoning Code (B-07-22-03). Also, two parking variances were approved under the Land Development Code that include the Chabad House (B-3-01-08) and the Lutheran Campus Ministry at KU (B-8-8-11). In addition, other residential properties in the area also have parking areas within the required parking setback. (Figure 7)

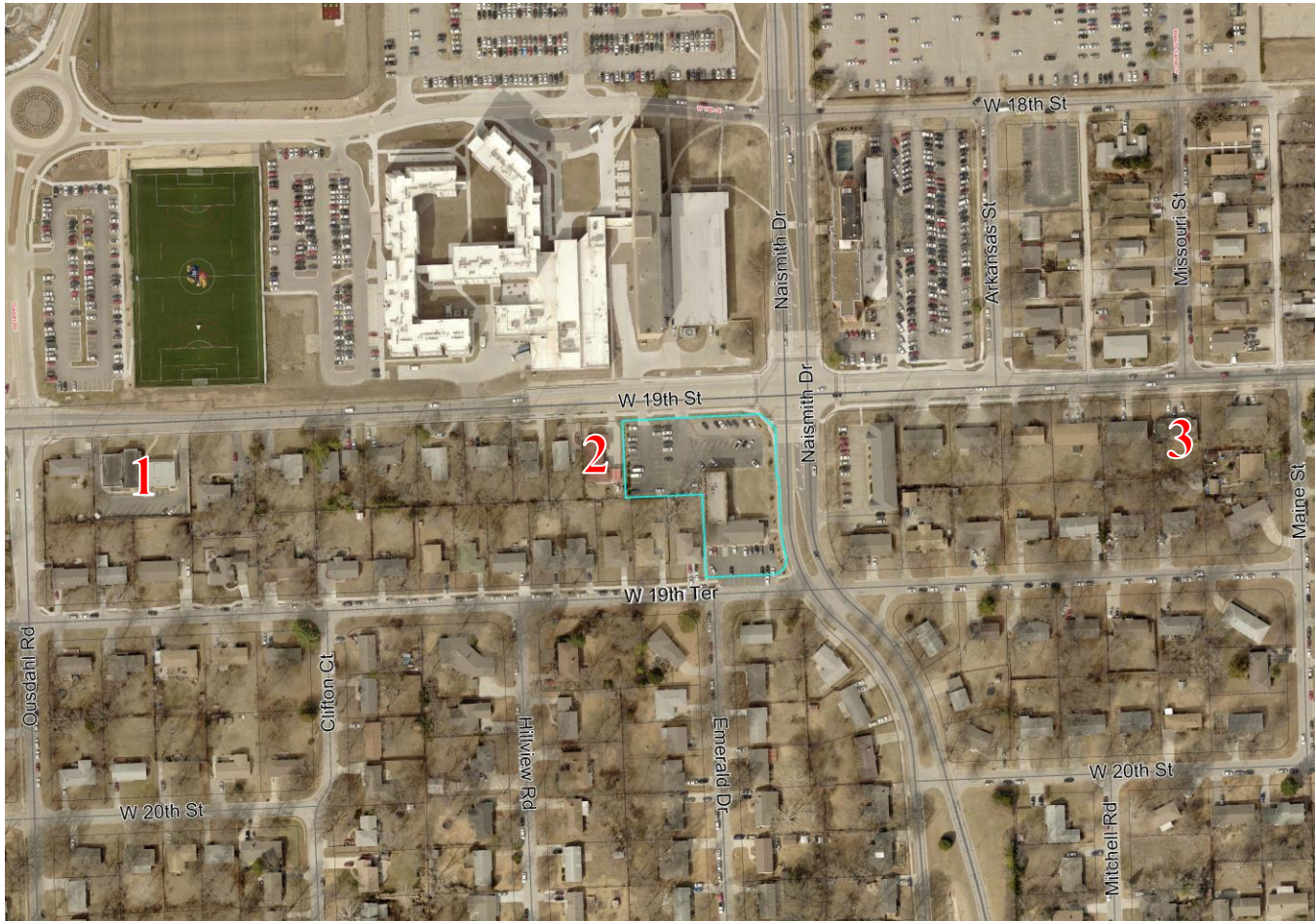


Figure 7: Surrounding Area (1: Church of Jesus Christ of Latter Day Saints; 2: Lutheran Campus Ministry at KU; 3: Chabad House)

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

Applicant response: "Granting of the variances will not adversely affect the rights of adjacent property owners. Granting of the variances will allow adjacent property owners better access to public infrastructure by installing new public sidewalks so it can be argued that their rights will actually be improved positively. Granting of the variance will allow the Islamic Center to remedy site features that were created prior to their ownership and stewardship of the property."

In staff's opinion, the requested variances 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. In addition, a notification letter about the pending site plan application was mailed by the applicant to property owners within 400 feet prior to submittal of the site plan application to the city. As of the time this report was written, staff has not received any communications about the variance request and one communication regarding the site plan application. The communication regarding the site plan expressed the need to complete the sidewalk gap between the existing sidewalk on W. 19th Terrace and Naismith Drive.

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: *"Strict application of the variance for parking setback would reduce the available off-street parking to a level where the building would no longer function for its original purpose since Islamic Center membership would have no convenient place to park. This would make access very difficult and it would constitute a hardship. Strict application of the variance for impervious surface similarly would remove paving and parking to the point where the building would no longer function well."*

In staff's opinion, strict application of the requirements may constitute an unnecessary hardship to the property owner. The intent of the variance requests is to bring existing noncompliance issues into compliance. Denial of the variances would reduce the amount of off-street parking. Currently, the site contains 105 parking spaces. The pending site plan proposes the removal of parking spaces located in the right-of-way of W. 19th Terrace. With removal of those spaces, the amount of off-street parking would equal 94 parking spaces, which would meet the amount required by the Land Development Code for the use. Adherence to the parking setback and impervious surface requirements would require the removal of a portion of the parking area along W. 19th Street, Naismith Drive, and W. 19th Terrace. In doing so, the amount of off-street parking would be reduced below the minimum number required by the Land Development Code. In that situation, in order to come into compliance, the property owner would either need to seek a variance from the BZA for a reduction in the amount of required parking or the applicant would be required to reduce their occupancy.

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

Applicant response: *"Granting of the variance will only affect the stated factors in a positive way. Granting of the variances will allow the project to continue which will allow for improvements to public sidewalk infrastructure, improve drainage in the area and it will allow for a building addition which will promote a more egalitarian form of worship for the Islamic Center membership. Site improvements will reduce stormwater run-off, reduce heat island effect, and improve handicap accessibility in the neighborhood and on the site. All of these things are positive changes."*

In staff's opinion, granting the parking setback and impervious cover variances will not adversely affect the public health, safety, morals order, convenience, prosperity, or general welfare. The existing parking configuration has been in place since at least 2016. At the time of this report, staff did not receive any communications regarding the requested variances. The proposed site plan shows changes to the south parking area that, while not compliant with the 25 foot parking setback requirement of the Land

Development Code, moves toward compliance with other code standards. Currently, the south parking area extends into the right-of-way of W. 19th Terrace. The proposed site plan shows the removal of the parking spaces currently located in the right-of-way to facilitate the addition of a sidewalk. The new sidewalk will complete a gap between the existing sidewalk located along the north side of W. 19th Terrace and Naismith Drive. The only comment staff received regarding the site plan was the importance of completing the sidewalk gap.

In addition, the pending site plan is a tool that can address the appropriate landscape materials and screening to soften the visual impact along the perimeter of the parking areas. New landscaping was provided by the city along W. 19th Street as part of improvements made to W. 19th Street in that area. The pending site plan proposed additional landscaping as well.

The site plan also proposes changes to the site that will improve the stormwater drainage. These changes include replacement of a portion of the south parking area with pervious materials and the addition of landscaped islands in the north parking area. The landscape areas will benefit the area not only by providing more pervious surface, but it will also provide shade to parked vehicles, help to direct traffic flow, and add to the aesthetics of the area. The city Stormwater Engineer supports the variance for impervious coverage based on the proposed improvements and the positive impacts the improvements will have on stormwater drainage.

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

Applicant response: *"The general spirit and intent of the Development Code is or should be to create an orderly, safe, and attractive place to live and work for the citizens. All of the features of the project and the reasons for completion of the project are in line with what we believe to be the general spirit and intent of the Development Code."*

In staff's opinion, granting of the variances would not be opposed to the general spirit and intent of the ordinance. Granting a variance that allows the parking area to be within the required 25 feet setback from the street right-of-way is compatible with the built environment within the immediate area. The general spirit and intent of the location of off-street parking spaces is to provide for an appropriate number without producing an adverse impact upon adjacent properties and the surrounding neighborhood.

The intent of the requirement that parking areas in residential zoning districts be setback 25 feet from street right-of-way is to increase the aesthetics along the roadway by providing a greenspace between the parking areas. Other requirements of the Land Development Code, such as street trees and parking lot perimeter landscaping requirements, also help increase aesthetics by screening the parking area from the roadway. Compliance with these landscape requirements are part of the review of the pending site plan. Increased landscaping along the perimeter of the site, as well as to the interior of the parking areas, will improve the overall aesthetics of the property.

The improvements proposed with the pending site plan will also aid in efficient stormwater runoff. These improvements include adding landscaped islands to the north parking area, replacing asphalt surfacing with pervious pavement, and adding greenspace along W. 19th Terrace (an area that is currently completely paved). While the site will still be above the maximum impervious surface coverage in the RS7 District, the proposed improvements will be an improvement on the existing stormwater drainage conditions. Because of this, the city Stormwater Engineer supports the impervious coverage variance.

Conclusions:

Staff's analysis of this variance application finds the parking setback variance 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; however, the five conditions are met for the impervious surface variance.

Recommendation:

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

Staff recommends approval of the impervious surface variance from the 70% maximum impervious cover standard required by Section 20-601(a) of the City Code for the RS7 (Single-Dwelling Residential) District to 75.5%.

Becky Pepper
Planner II
City of Lawrence
Building Services Department
City Hall, 6 E. 6th Street
Lawrence, KS 66044

September 6, 2018

Re: SP-17-00358; The Site Plan for 1917 Naismith Drive

Introduction:

The Islamic Center of Lawrence (ICL) took over an existing church property at 1917 Naismith Drive in 1998. At that time all parking improvements that exist now were already constructed with the exception of a 21'x105' (2,205 S.F.) strip of pavement that was added to expand the northeast parking area after 2013. That added pavement brought the northeast parking area in line with the other existing pavement along that side. The current construction project and reason for these requests is to add a Women's Prayer Hall addition, a Prayer Leader Alcove, and new, ADA accessible main entry to the north and east sides of the existing Prayer Hall to provide better access and parity of worship for the congregation, both much-desired features for the congregation.

As part of the project a site plan was submitted which revealed that there are site features which need to be upgraded to meet current zoning regulations. A primary site issue is that the south parking lot is currently paved to the street and no public sidewalk exists on that side. There have been neighborhood complaints on this issue over time. This project will eliminate (9) parking spaces and install new curb and gutter, a 5-foot wide public sidewalk, greenspace, and landscaping in the right-of-way. Modifications will be made to retain as much of the existing parking as practical and to bring the site into compliance for ADA accessible spaces.

The following requested variances are to allow certain site features that were in existence prior to or during the ICL ownership to remain. Where practical and desirable existing features are to be improved. Those features are described below in the commentary for each variance request.

It should be noted that the existing parking areas (including those to be lost) are fully utilized by ICL members, Lawrence citizens and visitors alike in times with heavy parking needs such as Islamic worship days, and holidays. This available off-street parking does a part to keep excess parking load off of the neighborhood streets during these times. The parking lot is also shared on a gratis basis with the adjacent Westwood House church.

It should also be noted that the Islamic Center owns the directly adjacent home at 1410 W. 19th Terrace and does not oppose its own requests. This one adjacent property comprises 200 feet (74%) of the 270 feet of directly adjacent property lines. The other two property owners with direct

adjacency do not oppose this variance. The property at 1414 W. 19th Terrace has a 6 foot wood privacy fence separating itself from the ICL west lot and the property owner at 1418 W. 19th Terrace has only 10 feet of direct adjacency and is an ICL member. That property has a thick landscape screen between it and the ICL west lot.

Description of Variances Requested:

1. 25 foot parking setback:

a. Section 20-522(ii)(a)(1) of the Land Development Code states, "The nearest edge of an on-site parking area shall be set back at least 25 feet from the nearest residential lot (residential use) in an R district." Given this, a 25-foot parking setback would be required along the south property line (between the west parking area and the residential properties at 1418, 1414, and 1410 W. 19th Terrace. The 25-foot parking setback is also required between the south parking area and the residential lot at 1410 W. 19th Terrace.

b. Section 20-908(b) states, "no part of a parking area, other than driveway, may be located within 25 feet of a street right-of-way in any residential zoning district."

Commentary:

The Islamic Center of Lawrence requests a variance from the 25 feet parking setback requirement on the basis that the parking was in existence prior to their ownership of the facility and it would be a hardship to lose parking spaces in excess of the (9) spaces it will give up as part of the installation of new sidewalk and landscaping improvements along 19th Terrace.

Each adjacency is unique and will be described individually. In general terms the parking areas adjacent to each of the above noted properties were in existence prior to the ICL ownership of the parking lots. Aerial photos show that the existing conditions were in place, as early as 1976 or before.

1815 Naismith Dr - Oliver Hall: Directly to the north of the subject lot is the Oliver Hall residence hall at KU (U-KU zoning). The part of the building facing the north ICL parking lot is the loading and service area of the building and the area is screened with a masonry wall. There exists an approximately 15-foot deep landscaped greenspace between the public sidewalk and the ICL parking. Plantings in the noted greenspace include (6) street trees and (14) shrubs. A new landscape island and a parking lot tree will be planted as part of this project which will provide some modest additional buffering to the parking area. The ICL parking along 19th is 8.5 feet from the north property line and ICL requests a reduction of setback from 25 feet to 8.5 feet along the entire north side to match the existing parking. It should be noted that the parking is set back and angled near the corner of 19th and Naismith and the site distance triangle is not blocked by the existing parking layout.

1900 Naismith Drive and 1324 W. 19th Terrace: The existing zoning directly east of ICL is RM12. Naismith Drive between the two properties has an 80-foot wide right of way and a grass parkway landscape median between the two, double lanes. The two properties on the east side of the Naismith right-of-way consist of two-story apartment building and a rental home owned by the same local management company. There are (4) mature street trees, (3) ornamental trees, a 6-foot privacy fence and several smaller plantings buffering these properties from Naismith Drive. Existing and proposed plantings on the ICL site on this side include (13) street trees, (4) parking lot perimeter trees, and (11) shrubs which provide additional buffering of the existing ICL parking areas. The ICL parking along the east property line varies between 14 and 16 feet although we are proposing a hammerhead that would be 11 feet from the east property line in order to solve parking access/egress issues in the south lot. ICL is requesting a parking setback reduction along the east property line from 25 feet to 11 feet to accommodate existing conditions and the hammerhead revision.

1421 W. 19th Terrace to the west of ICL along 19th Street is a small church called "Westwood House". There is an 8-foot wide landscaped green space between the ICL lot and the 1421 lot line. As part of a 2011 project to convert a single-family dwelling to the current church (SP-8-55-11) there were variances granted and landscaping installed between the Westwood House parking area and the ICL parking area. When added together there is 15 feet of already landscaped green space between the two parking lots. These two religious institutions are good neighbors on good terms and Westwood House does not plan to oppose the requested variances. In addition, as noted above Westwood House has been granted gratis use of the ICL parking lot when not in conflict with ICL high use times. ICL requests a reduction of parking setback at the north lot east property line from 25 feet to 8 feet to match existing conditions.

1418 W. 19th Terrace has 10 feet of direct adjacency to the ICL west lot. There is 5'-5" of grass between the ICL lot and the 1418 property line. The 1418 lot has a dense shrub directly adjacent to the grass. The owner of the property is an ICL member and does not oppose the variance. ICL requests a reduction in parking setback from 25 feet to 5 feet to match existing conditions.

1414 W. 19th Terrace shares a 60-foot property line with the ICL parking area 5'-5" away and has for at least 42 years as indicated on Douglas County aerial mapping. Currently there is a 6-foot wood privacy fence between the residential lot and the parking lot. The public sanitary sewer exists in the area of the lot line and trees are not being proposed. We are proposing (12) Viburnum shrubs to be installed in front of the privacy fence. It is our estimation that the existing fence and proposed shrubs provide an adequate buffer between the two uses to mitigate the proximity of the parking lot. The owner of the residential lot has not indicated opposition to the requested variance. ICL requests a reduction in parking setback from 25 feet to 5 feet to match existing conditions.

1410 W. 19th Terrace is owned by the Islamic Center. A very large multi-trunk Cottonwood tree exists in the 1410 back yard which provides deep shade for the area in question. The adjacency to the north of this lot is the same as the above two at approximately 5'-5" away. The ICL does not oppose its own variance request. ICL requests a reduction in parking setback at this location from 25 feet to 5 feet to match existing conditions. This property also has direct adjacency of the south parking lot with a distance between the parking lot and the property line of 4-feet. This area is paved with a concrete flume which was installed at some point in time to direct stormwater from the north lot to a recently replaced storm inlet along the ICL south property line at 19th Terrace. This adjacency is not able to be landscaped due to the presence of the flume although there is a 6-foot wood privacy fence in place for part of the adjacency. As noted above this property is also owned by ICL and the ICL does not oppose its own variance request. ICL requests a reduction in parking setback from 25 feet to 4 feet to match existing conditions.

3. Impervious surface

- a. Per Section 20-601(a), the maximum impervious surface allowed in the RS7 District is 70%.*

The main aspect of the project is to add an 1,818 S.F. building addition (Women's Prayer Hall and Accessible Main Entry) and an 81 S.F. Prayer Leader Alcove for the growing membership. The building additions will take the place of some existing greenspace, existing sidewalks and an existing non-accessible entry vestibule. The additions to the building together with the required accessible sidewalks, parking lot modifications and bicycle parking will add new impervious surfaces to the area within the lot lines. The total added impervious surfaces equal 589 S.F. within the lot lines.

In order to help satisfy landscaping requirements, add pervious surfaces to make up for newly created impervious surfaces, and improve on-site drainage a total of 2,074 S.F. of new pervious surface in the form of landscaping and pervious concrete paving will be added on-site and an additional 935 S.F. of new pervious surface will be added in the 19th Terrace right-of-way. The project will add 3,009 S.F. of new pervious surfaces when including pavement removal in the right-of-way. When considering the project as a whole there will be a net gain of 346 S.F. of pervious surface within the area as defined by the street curbs.

Current impervious surface percentage within the property lines is 74.4%. This number will go up to 75.5% after the project though with the added greenspace in the right-of-way the project is a net gain of pervious surface in the neighborhood.

Contributing to the current overage in impervious surface is the fact that Naismith Drive is abnormally wide relative to its right of way. In the recent past Naismith and 19th Street were widened for lane improvements and approximately 740 S.F. of right-of-way was acquired from the ICL lot. The reduction in area of the ICL property drives the percentage of impervious surface upward. Naismith drive is so wide within its right-of-way that the city

constructed public sidewalk (942 S.F.) is almost entirely within the ICL lot lines. This public amenity on the ICL lot skews the impervious percentage upward. If the city hadn't acquired right-of-way recently and if the public sidewalk wasn't on ICL land the current impervious surface would be 71.6 % and the after-project total would be 72.7%.

To summarize: The project will allow for much needed building improvements, it will remove pavement in the right-of-way that existed prior to current building ownership, it will construct a public sidewalk and parking screening where none exists, it will add internal parking landscaping and perimeter landscaping and it will add a degree of stormwater collection and mitigation. If the configuration and width of Naismith drive south of 19th weren't what it is and if the public sidewalk weren't on ICL land the request for overage in impervious surface would be closer to 2.7% rather than 5.5%.

The Islamic Center of Lawrence respectfully requests that the board grant a variance to Section 20-601(a) and allow the maximum impervious surface coverage to be 75.5%.

Thank you,

A handwritten signature in blue ink, reading "Michael R. Myers", with a stylized flourish at the end.

Michael R. Myers, AIA
Project Architect

SITE PLAN NOTES:
ZONING: Existing: RS-7
LEGAL DESC: EDMONDS ADD BLK 6 LTS 1,2,3,15& E 50 FT LT 14; LESS .017A R/W 1146/2879 (R/W SPLIT 2017)
OWNER: NORTH AMERICAN ISLAMIC TRUST, INC. C/O ISLAMIC CENTER OF LAWRENCE 1917 NAIMSMITH DRIVE LAWRENCE, KS. 66049
ARCHITECT: HERNLY ASSOCIATES, INC. 920 MASSACHUSETTS, STE 2 LAWRENCE, KS 66044
PROJECT: 81 S.F. One-Story Prayer Hall Leader Alcove Addition & 1,818 S.F. One Story Women's Prayer Hall Addition. Existing Women's Prayer Hall will become a Women's Fellowship & Instruction Area
SITE DATA:
Existing Summary
Total Buildings: 6,481 s.f.
Total Pavement: 32,479 s.f.
Total Impervious: 38,960 s.f. (74.4%)
Total Pervious: 13,433 s.f.
Lot Area: 52,393 s.f. (1.20 ac)
After Construction with pervious pvmt
Total Buildings: 8,543 s.f.
Total Impervious Pavement: 31,006 s.f.
Total Pervious Pavement: 1,635 s.f.
Total Impervious: 39,549 s.f. (75.5%)
Total Pervious: 12,844 s.f.
Lot Area: 52,393 s.f. (1.20 ac)
PARKING
Per the requirements in Article 9 of the Development Code:
Neighborhood Religious Assembly = 1 space per 4 seats required.
Accessory Dwelling Unit = 2 spaces
The practice of Islam involves kneeling and requires approx. 9 S.F. per person arranged in rows. The project involves relocating the women's prayer hall and expanding it. The existing facility includes a shared caretaker dwelling area in the educational wing for (2) caretakers and (1) security guard.
Existing Conditions
Parking required: = Prayer Hall - 1 space per 4 seats
Prayer Hall occupancy = 312 kneeling (est)
Caretaker Dwelling Unit = 2 spaces
Parking Proposed: 312/4 + 2 = 78 req.
Parking Existing = 105
After Construction
Parking required: = Prayer Hall - 1 space per 4 seats
Prayer Hall occupancy = 368 kneeling (est)
Caretaker Dwelling Unit = 2 spaces
Parking Proposed: 368/4 + 2 = 94 req.
Parking Proposed = 94
Accessible Parking Required = 3 Auto + 1 Van Accessible
Accessible Parking Provided = 3 Auto + 1 Van Accessible
Bicycle Parking 1/10 Auto Spaces Required = 10 spaces req.
= 10 spaces prop.
Exterior ground-mounted or building mounted equipment including, but not limited to, mechanical equipment, utilities boxes and meters, shall be fully screened from view of adjacent properties and from street rights-of-way (as measured 6 feet above ground level). Screening shall be in the form of landscape plantings or an architectural treatment compatible with the architecture of the principal building.
No new exterior lighting is proposed at this time. Exterior lighting to be added to the site in the future will require the submittal and approval of a photometric plan prior to installation.
UTILITIES: All are existing. No changes proposed
REFUSE DISPOSAL
Existing municipal solid waste service dumpster located along south edge of northwest parking lot.
EXISTING LIGHTING
Existing Wall Mounted Area Light
Existing Wall Mounted Small Flood
Existing LED Pole Light
SIDEWALK REPAIR
Repair defects in public sidewalk in excess of 1/2" vertical separation
ZONING VARIANCES: Status Pending
1) Section 20-908(b) states, "no part of a parking area, other than driveway, may be located within 25 feet of a street right-of-way in any residential zoning district."
2) Per Section 20-601(a), the maximum impervious surface allowed in the RS7 District is 70%.

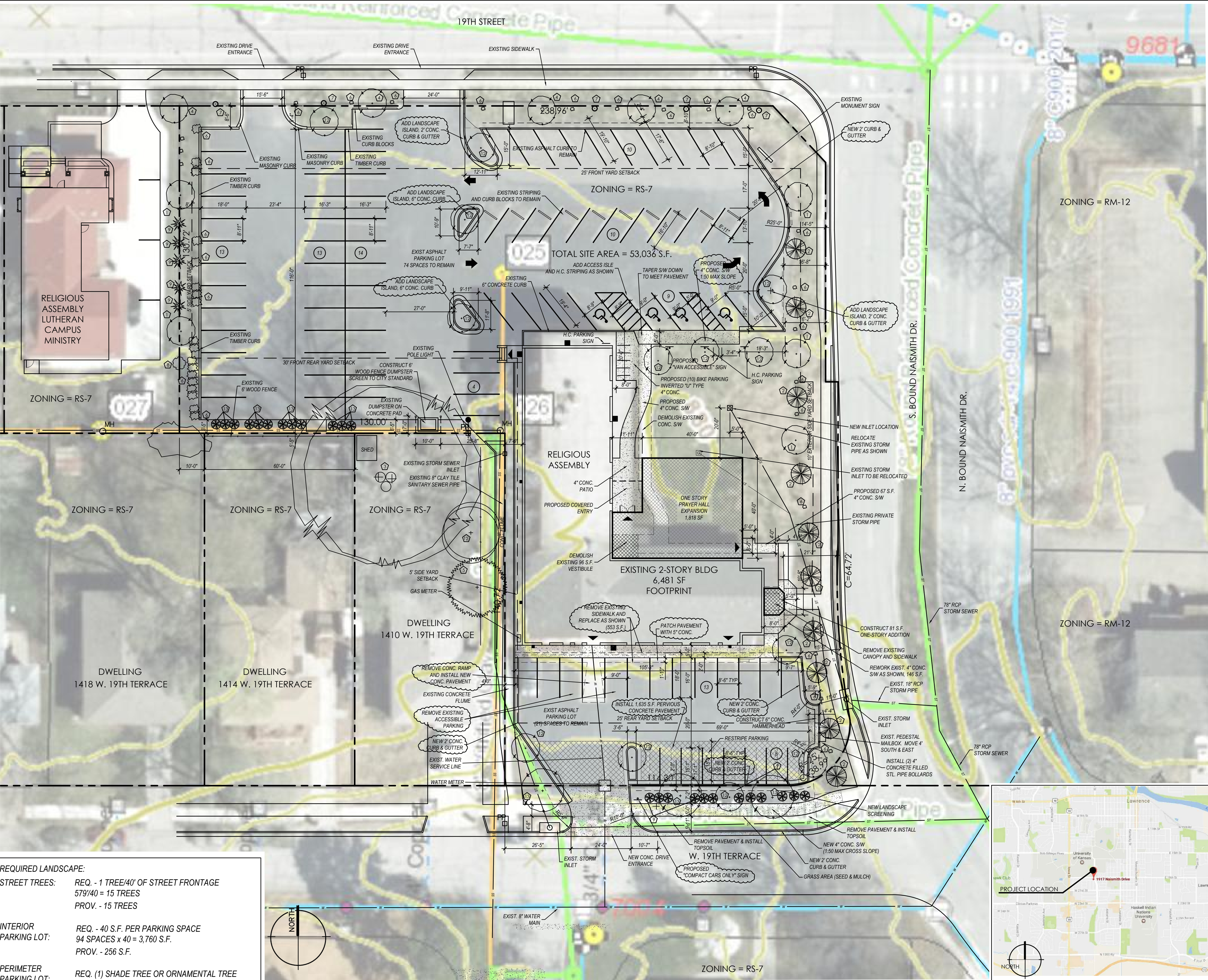
KEY NOTES
Existing Wall Mounted Area Light
Existing Wall Mounted Small Flood
Existing LED Pole Light
SIDEWALK REPAIR
Repair defects in public sidewalk in excess of 1/2" vertical separation
ZONING VARIANCES: Status Pending
1) Section 20-908(b) states, "no part of a parking area, other than driveway, may be located within 25 feet of a street right-of-way in any residential zoning district."
2) Per Section 20-601(a), the maximum impervious surface allowed in the RS7 District is 70%.

SITE DATA

| KEY | NAME | SIZE | QUANTITY | NOTES |
|-----|--------------------------|-----------------------|----------|-------------------------------------|
| 1 | Maple | 2"-3" cal | 6 | Existing |
| 2 | Cedar | 4'-6" ht. | 10 | Existing |
| 3 | Cottonwood (multi-trunk) | 30" cal (8" dia base) | 1 | Existing Adjacent lot (overhanging) |
| 4 | Plumb | 1"-2" cal | 4 | Existing |
| 5 | Elm | 20" cal | 1 | Existing Adjacent lot (overhanging) |
| 6 | Boxwood | 5 gal. | 14 | Existing |
| 7 | Dwarf Conifer | 1' - 4' dia | 36 | Existing |
| 8 | Honeysuckle | 1' - 2' dia | 5 | Existing |
| 9 | Viburnum | 6' dia | 1 | Existing |
| 10 | Euonymous Upright | 4' dia | 5 | Existing On lot line |
| 11 | Mulberry | 10" cal | 1 | Existing Adjacent lot (overhanging) |
| 12 | Redbud | 1 1/2" cal | 13 | Proposed |
| 13 | Red Maple | 2" Cal | 3 | Proposed |
| 14 | Viburnum | 5 gal. | 12 | Proposed |

NOTE: REPLACE ANY PLANTS THAT ARE DEAD OR MISSING

LANDSCAPE SCHEDULE



REQUIRED LANDSCAPE:
STREET TREES: REQ. - 1 TREE/40' OF STREET FRONTAGE 579/40 = 15 TREES PROV. - 15 TREES
INTERIOR PARKING LOT: REQ. - 40 S.F. PER PARKING SPACE 94 SPACES x 40 = 3,760 S.F. PROV. - 256 S.F.
PERIMETER PARKING LOT: REQ. (1) SHADE TREE OR ORNAMENTAL TREE PER 25 LINEAR FEET OF PARKING LOT FRONTAGE 468/25 = (19) TREES + SCREENING
PROV. (25) TREES & A WAIVER FROM THE PLANNING DIRECTOR ON SCREENING BASED ON EXISTING AND PROPOSED LANDSCAPING AND SITE CONDITIONS

LANDSCAPE NOTES

1 SITE PLAN

1" = 20'-0"

ISLAMIC CENTER OF LAWRENCE PRAYER HALL ADDITION 1917 Naimsmith Drive, Lawrence, KS

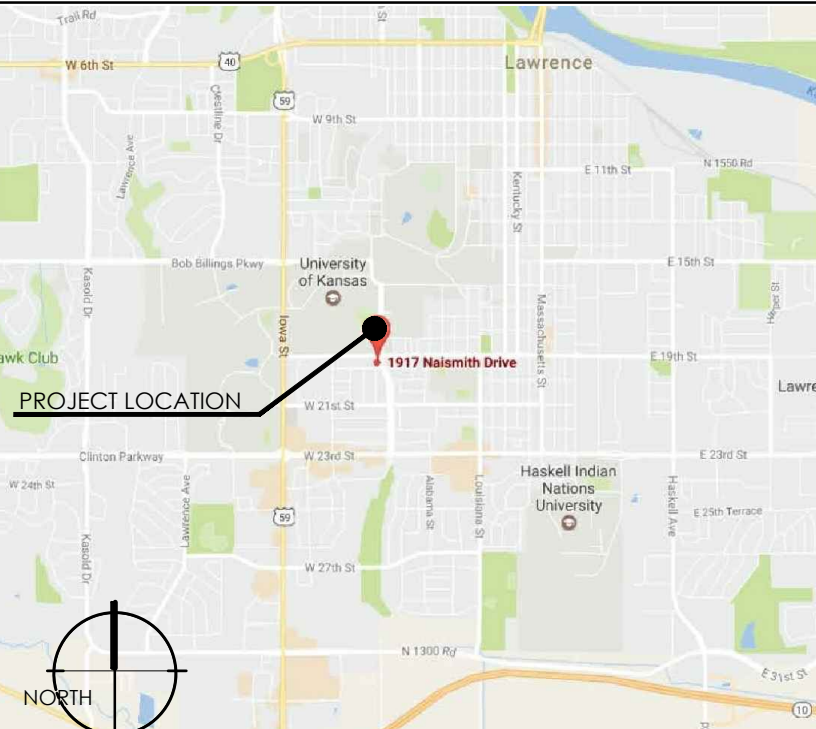
Hernly ASSOCIATES

920 Massachusetts
Lawrence, Kansas
66044
785 - 749 - 5806
FAX 785 - 749 - 1515

SITE PLAN

Date: 2018/09/04
Drawn by: MMYERS
Checked by:
Revisions:

LOCATION MAP



Approved and Released

Case No. _____
Approval Date: _____
Release Date: _____
Planner: _____ of _____ Sheets
Asst./Director: _____



ADA NOTE
This site plan has been designed within reasonable professional efforts to comply with the provisions of The Americans With Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities, Appendix A to 28 CFR Part 36. No warranty is given that this site complies with all interpretations of said provisions.

C1.0

APPLICATION FOR VARIANCE FROM UNNECESSARY HARDSHIP

OWNER INFORMATION

Name(s) North American Islamic Trust Inc.
Contact Baha Safadi
Address 1917 Naismith Drive
City Lawrence State KS ZIP 66046
Phone (785) 550-3427 Fax ()
E-mail bns5000@gmail.com Mobile/Pager ()

APPLICANT/AGENT INFORMATION

Contact Mike Myers
Company Hernly Associates, Inc.
Address 1100 Rhode Island Street
City Lawrence State KS ZIP 66044
Phone (785) 749-5806 Fax (785) 749-1515
E-mail mike@hernly.com Mobile/Pager ()
Pre-Application Meeting Date 08/15/2018 Planner 785-218-2636

PROPERTY INFORMATION

Present Zoning District RS-7 Present Land Use Religious Assembly
Proposed Land Use Religious Assembly
Legal Description (*may be attached*) Edmonds Addition Blk. 6, Lts. 1,2,3,15, & E. 50 ft. Lt. 14
Address of Property 1917 Naismith Drive
Total Site Area 52,393
Number and Description of Existing Improvements or Structures
Two Story Religious Assembly Building and Parking Lots



Description of variance requested:

See Attached Document



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 building and majority of parking improvements predate the current ownership and the current zoning code. Naismith Drive and the 19th Street and Naismith intersections have been widened over time which has forced some of the impervious public improvements onto the Islamic Center land which has reduced the capacity of the land to support pervious surfaces. Zoning laws including parking setbacks that were imposed after the original construction of the building and parking are elements that were not created by actions of the current property owner.

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

Granting of the variances will not adversely affect the rights of adjacent property owners.

Granting of the variances will allow adjacent property owners better access to public infrastructure by installing new public sidewalks so it can be argued that their rights will actually be improved positively.

Granting of the variance will allow the Islamic Center to remedy site features that were created prior to their ownership and stewardship of the property.



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:

Strict application of the variance for parking setback would reduce the available off-street parking to a level where the building would no longer function for its original purpose since Islamic Center membership would have no convenient place to park. This would make access very difficult and it would constitute a hardship. Strict application of the variance for impervious surface similarly would remove paving and parking to the point where the building would no longer function well.

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

Granting of the variance will only affect the stated factors in a positive way. Granting of the variances will allow the project to continue which will allow for improvements to public sidewalk infrastructure, improve drainage in the area and it will allow for a building addition which will promote a more egalitarian form of worship for the Islamic Center membership. Site improvements will reduce storm water run-off, reduce heat island effect, improve handicap accessibility in the neighborhood and on the site. All of these things are positive changes.



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

The general spirit and intent of the Development Code is or should be to create an orderly, safe, and attractive place to live and work for the citizens. All of the features of the project and reasons for completion of the project are in line with what we believe to be 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): _____ Date 2018/08/17

_____ Date _____

_____ Date _____

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____



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

**Lawrence Douglas County
Metropolitan Planning Office**

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

OWNER AUTHORIZATION

I/WE Baha N-Safadi, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 7th day of Sept., 20 18, 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 Mike Myers &/or Hensly Associates Inc. (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 1917 Naismith Drive (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.

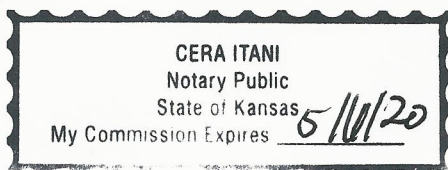
Baha N. Safadi Project Manager, Representative of Islamic Center of Lawrence
Owner Owner

STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 7th day of September, 20 18,
by Baha Safadi

My Commission Expires:

Cera
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.

Signature

2018/08/17

Date

Mike Myers

Printed Name



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

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

Exhibit A, Legal Description

EDMONDS ADD BLK 6 LTS 1,2,3,15& E 50 FT LT 14;

LESS .017A R/W 1146/2879 (R/W SPLIT 2017)

**ITEM NO. 4 PARKING SETBACK VARIANCE FROM A STREET RIGHT-OF-WAY IN A
RESIDENTIAL ZONING DISTRICT; 1300 TENNESSEE STREET [KEW]**

B-18-00433: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the 25 foot parking area setback standard required by Section 20-908(b) of the City Code for a Residential District. The applicant is seeking a variance from this code standard reducing the parking setback to a minimum of 3 feet to allow for the construction of parking space area. The property is located at 1300 Tennessee Street. Submitted by Paul Werner Architects on behalf of Jess D. Paul Jr. Trustee, property owner of record.

B. REASON FOR REQUEST

Applicant's Request: *"The request we are bringing before the Board of Zoning Appeals is to reduce the parking setback for 1300 Tennessee from 25 feet to 3 feet. If the parking setback is approved, the owner will be able to provide five parking spaces, which will allow for the existing structure to be renovated."*

C. ZONING AND LAND USE

| | |
|----------------------------------|---|
| Current Zoning & Land Use: | RM32-UC (Multi-Dwelling Residential) District; apartments. |
| Surrounding Zoning and Land Use: | RM32-UC (Multi-Dwelling Residential) District to the north; multi-family structures. |
| | RM32-UC (Multi-Dwelling Residential) District to the east; residential dwellings and apartments. |
| | RM32-UC (Multi-Dwelling Residential) District to the west and south; residential dwellings and apartments. |

D. ZONING ORDINANCE REQUIREMENTS

Section 20-908(b), "Location: Residential Districts," has standards defining the minimum setback for parking areas in residential zoning districts. In residential zoning districts, the minimum setback from a street right-of-way is 25 feet.

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Land 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: *"After looking at an aerial of the Oread Neighborhood, on corner lots, you typically find the lots have either been split into two, or the lots have been joined with the adjacent lot, making a double lot. There are only a few that are a single lot with a large existing structure on them. Being a corner lot creates a parking issue for anyone wanting to renovate these existing structures that have been converted to apartments. If this structure was located just one lot to the south, the parking setback would not be 25' and 5 parking spaces would be allowed, and the property owner would be allowed to renovate the existing structure without a variance."*



Figure 1: Subject Property

The subject property is comprised of 1 full lot (Tennessee Street Lot 194). The property is currently zoned RM32-UC District, a residential zoning district, and within the Oread Neighborhood Design Guidelines Urban Conservation Overlay District.

The -UC refers to the Oread Neighborhood Design Overlay District, which applies the [Oread Neighborhood Design Guidelines](#) to this parcel (§20-311). This property is located within District 3, which is "serving as the basis for the design guidelines in all the districts in the overlay area."

Article 9: "Parking, Loading, and Access" establishes the required parking ratio based on the type and intensity of the structure's use. A multi-dwelling structure use, which is permitted in the RM32 zoning district, is required to provide parking at 1 parking space per bedroom + 1 parking space per 10 units.

Therefore, the required off-street parking amount is derived from the intensity of the use being programmed into the structure.

In this instance the applicant is proposing to renovate the existing structure and in doing so proposes that an expansion of the parking area is required. The number of bedrooms provided in a multi-dwelling structure would determine the number of off-street parking spaces to be provided on the parcel as required by Section 20-908(a). Section 20-901(2)(i) requires that parking and loading standards "apply whenever an existing Building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measure used for establishing off-street parking and loading requirements." It is unknown at this time the permitted number of dwelling units in the structure. A non-conforming registration has not been submitted for this property.

To provide parking on the site the applicant has not proposed a reduction in number of required parking spaces. The applicant is proposing that the required setback area along the right-of-way be reduced. Section 20-901(b)(2)(ii) requires that in the case of enlargements or expansions of buildings, or uses triggering requirements for additional parking or loading, additional off-street parking and loading spaces are required only to serve the enlarged or expanded area or use, not the entire existing building or use. There is no requirement to address lawfully created non-conforming existing parking or loading deficits. Currently, information has not been provided that the use was lawfully created by means of a non-conforming registration to determine if use/parking was legally created. To date, a legal non-conforming status has not been pursued or determined. The legally permitted use of the structure on the property and the number of units that would have been lawfully permitted would dictate the required parking area needed to comply with the parking and loading standards. The lawful use would also determine which parking standards would apply. A hardship cannot be determined if the required setbacks would prevent meeting the code standard for the required number of parking. A single-dwelling structure which would only require 2 off-street parking spaces and a duplex which would permit an alternative parking configuration, would not require a variance to accommodate additional parking spaces. Apartment and congregate living uses require higher parking design as established by the Land Development Code.

Article 9 also provides for the minimum setbacks for parking locations for residentially zoning properties. Section 20-908(b) establishes that, "no part of a parking area, other than a driveway, may be located within 25 feet of a street right-of-way in any residential zoning district." This distance is set in conjunction with the Intersection Visibility requirements of the code. That section states:

No fence, wall, hedge, Landscaping, sign or other material or Structure that will obstruct vision between a height of 3 feet and 10 feet shall be erected, placed or maintained within the triangular area formed by an imaginary line starting at the point of intersection of Corner Lot Lines and extending 25 feet from their point of intersection. Visibility triangle requirements may be increased by the City Traffic Engineer when deemed necessary for traffic safety. (Section 20-1102)

This variance request is not for a reduction in the amount of required off-street parking. Instead, it is to reduce of the required 25 foot parking setback to a minimum of 3 feet permitting the construction of parking within the setback area. Based on the size of the parcel, minus the 25 foot required setback, the parcel could approximately accommodate 2 parking spaces in a tray parking design or 4 parking spaces with a garage structure, both designs would be allowed by the Oread Neighborhood Design Guidelines and the Land Development Code. The tray parking design would be permitted for single-dwelling residential use as well as duplex use. The tray parking design would not be permitted for a multi-dwelling structure. Multi-dwelling structures fall under the site planning process specified in Section

20-913 which include standards for parking and loading areas as required in Sections 20-902, 20-908, 20-912, 20-913, 20-914 and 20-915. When the Guidelines are silent, as in the case of higher-intensity parking, the Land Development Code becomes the controlling document. Under the Land Development Code they would still be able to provide some of the parking.

A garage structure would be permitted to be located within 10 feet of the property line adjacent to the public right-of-way. Section 20-533(3) (General Standards for Accessory Structures) states that unless otherwise expressly stated, the setback, height and building coverage standards of the base district apply to both principal and accessory structures. Section 20-601(a) specifies that in the RM32 zoning district the exterior side setback is 10 feet when the subject property is adjacent to an abutting rear lot line. This would utilize additional parking area on site without requiring a variance.

The Land Development Code defines an unnecessary hardship as:

The condition resulting from application of these regulations when viewing the property in its environment that is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property ownership, or convincing proof exists that it is impossible to use the property for a conforming use, or sufficient factors exist to constitute a hardship that would in effect deprive the owner of their property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute unnecessary hardship." (Section 20-1701)

The parcel is of a standard lot dimension within the older Lawrence subdivisions, the placement on the corner, nor having the alley, is a unique condition. The application of the parking setback is not due to an action of the applicant; however, the expansion of the parking area is an action being proposed by the applicant. By applying the code required parking setback, the use of the parcel is not being limited by right; however, the property may not be able to accommodate the code required site features and parking to support the expansion of parking sought by the applicant.

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

Applicant response: "Clearly, as you can see from the photos, the existing parking tray has been used for an extended period of time. Continuing to allow the existing parking to remain, after the house is renovated, would not adversely affect the rights of the adjacent property owners. If anything, by approving the setback variance, you would be allowing someone to renovate the existing, vacant structure and that would improve the area for neighboring property owners."

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 was only contacted by one property owner with questions regarding the scope of the applicant's request. The property owner was not opposed to the variance request.



Figure 2: 25 Foot Parking Setback Illustration

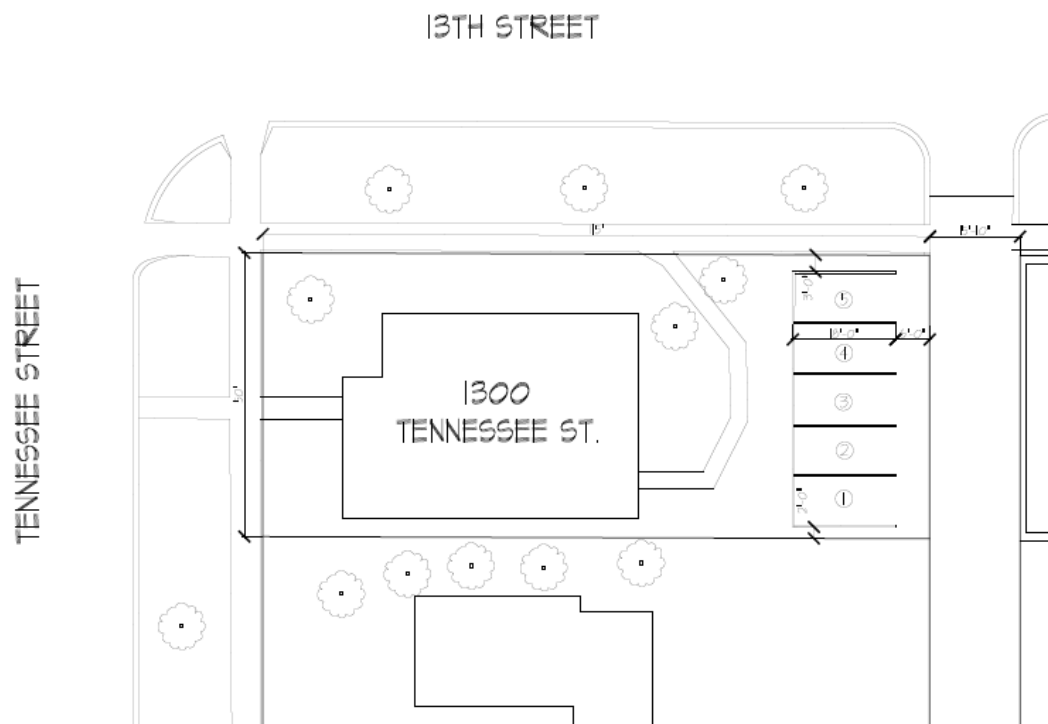


Figure 3: Site Drawing provided by Applicant



Figure 4: Staff Illustration of Application Items

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: *"If the Board does not approve the variance, the owner will only be able to provide two parking spaces; 4 if they build a garage. The existing structure has five units. Without this variance, one of the existing units will not be allowed to be rented."*

In staff's opinion, strict application of the parking setback may not constitute unnecessary hardship in this instance. The requirement for parking setbacks have been equally applied throughout Lawrence in similar parcel configuration instances. The 25 foot parking setback requirement has existed since the

adoption of the Land Development Code in 2006, and was present in the 1966 Zoning Code, requiring, "No part of a parking area other than the access way shall be located within 25 feet of a street right-of-way in the RS, RM, RM-D, RD, or PRD Districts." (Section [20-1209\(a\)](#)) Previously, the residence was zoned RD from 1966 to 2006.

The applicant has stated in the application that the structure has 5 units. The number of lawful units on this site has not yet been established. RM32 zoning would permit a multi-dwelling structure as long as the site can accommodate all other land development standards for the use. Parking for a multi-dwelling structure is determined by the number of bedrooms being provided. The zoning of the property would have previously permitted a single-dwelling structure and/or a duplex. If the existing multi-dwelling use was lawfully established it may be able to be registered as a non-conforming use. Registering it as a nonconforming use would establish the nonconforming parking and loading deficit that would also have existed when the use was established.

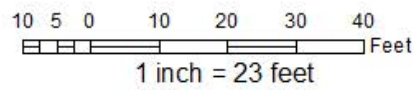
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Applicant response: *"Currently the structure is vacant. There have been homeless people squatting in the building. That itself is adversely affecting the public health and safety. By renovating the existing structure, the owner would be increasing the property values in the neighborhood and the safety of the neighboring property owners/tenants."*

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 would be contained within the parcel owned by the applicant.

However, Staff is concerned about the proximity of the parking encroaching towards the W. 13th Street intersection with the alley. The Land Development Code requires that a triangular area formed by an imaginary line starting at the point of intersection of Corner Lot Lines and extending 25 feet from their point of intersection be maintained clear between a height of 3 feet and 10 feet to ensure visibility of on-coming traffic, bicyclists, and pedestrians. (Section 20-1102)

The requirement of a clear sight triangle is to ensure adequate sight distance providing sufficient visibility and response time for drivers to avoid striking an unexpected object in the travel way. With the presence of a sidewalk on this side of the W. 13th Street, Planning Staff is cautious in expanding into this require setback as it may not provide enough time for a driver to view potential conflicting pedestrians or vehicles/objects on the intersecting roadway, and complete a safe stopping maneuver. The sidewalk is located directly adjacent to the property line and W. 13th Street is a major route to the university which is traveled heavily by both pedestrians and vehicles. There is also a steady 10 foot grade increase to the west from the alley to the Tennessee Street intersection where on-coming traffic will be approaching the point of exit/entry at the alley. While a garage would be permitted to be located as close as 10 feet to the property line along the W. 13th Street right-of-way, staff feels potentially encumbering 22 feet of the 25 foot sight triangle with parking area would detrimentally impact visibility for both pedestrian awareness and visibility for drivers.



DISCLAIMER NOTICE
The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. The City of Lawrence makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.

Date: 9/24/2018



Figure 5: Parking Setback and Sight Triangle Locations.

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

Applicant response: *"We do not feel that allowing a vehicle to be parked 3 feet from the property line is in opposition to the spirit of the code, especially since a garage is able to be built 10 feet from the property line. We feel by allowing our client to provide vehicle parking in a location that has provided parking for many years is much less intrusive than building a garage on the corner of that lot. The owner is allowed to convert the structure back to a single family residence. If the owner converted this structure to a single family residence, they would be allowed to rent it to 4 unrelated occupants and only be required to provide two parking spaces. This would cause two tenants to have a park on an already overcrowded street. We feel it is in the best interest of the neighborhood to allow our client to provide off-street parking."*

In staff's opinion, a variance in this instance would be opposed to the general spirit and intent of this chapter. While the property is currently zoned RM32, which permits the property to have a multi-dwelling use, the Land Development Code also requires parking at a level to support the intensity of the use as outlined in Off-Street Parking Schedule A (Section 20-902). Section 20-901(2)(i) requires that parking and loading standards "apply whenever an existing Building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measure used for establishing off-street parking and loading requirements." This is a standard equally applied throughout Lawrence in all zoning districts.

It is common practice to ensure a site can accommodate and comply with the Land Development Code requirements when an increase in the intensity is proposed on the site. If this variance is granted, it would permit an increase in occupants. The Land Development Code establishes required off-street parking based on the use of the structure's capacity and provides for an established parking setback from the rights-of-way ensuring the safe movement of all vehicular types and users. Without the variance, the applicant could still renovate the structure; however, the total number of bedrooms would be less than the applicant desires.

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 parking setback variance 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).



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

Lawrence Douglas County
Metropolitan Planning Office
6 East 6th 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 07 2018

City County Planning Office
Lawrence, Kansas

OWNER INFORMATION

Name(s) Jess D Paul Jr. Trustee
Contact _____
Address 12701 Briar Dr.
City Leawood State Kansas ZIP 66209
Phone (____) _____ Fax (____) _____
E-mail _____ Mobile/Pager (____) _____

APPLICANT/AGENT INFORMATION

Contact Paul Werner
Company Paul Werner Architects
Address 123 W 8th Street, Suite B2
City Lawrence State Kansas ZIP 66044
Phone (785) 832-0804 Fax (____) _____
E-mail paulw@paulwernerarchitects.com Mobile/Pager (____) _____
Pre-Application Meeting Date 5/14-6/5 Planner KW

PROPERTY INFORMATION

Present Zoning District RM32-UC Present Land Use Multi-Family
Proposed Land Use Multi-Family
Legal Description (*may be attached*) Tennessee Street Lot 194, Lawrence, Douglas County, Kansas
Address of Property 1300 Tennessee
Total Site Area 5,850 sq. ft.
Number and Description of Existing Improvements or Structures One Building with 5 units; total of 6 bedrooms

B-18-00433



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

The request we are bringing before the Board of Zoning appeals is to reduce the parking setback for 1300 Tennessee from 25' to 3'.

If the parking setback is approved, the owner will be able to provide five parking spaces, which will allow for the existing structure to be renovated.



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:

After looking at an aerial of the Oread Neighborhood, on corner lots, you typically find the lots have either been split into two, or the lots have been joined with the adjacent lot, making a double lot. There are only a few that are a single lot with a large existing structure on them. Being a corner lot creates a parking issue for anyone wanting to renovate these existing structures that have been converted to apartments. If this structure was located just one lot to the south, the parking setback would not be 25' and 5 parking spaces would be allowed, and the property owner would be allowed to renovate the existing structure without a variance.

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

Clearly, as you can see from the photos, the existing parking tray has been used for an extended period of time. Continuing to allow the existing parking to remain, after the house is renovated, would not adversely affect the rights of the adjacent property owners. If anything, by approving the setback variance you would be allowing someone to renovate the existing, vacant structure and that would improve the area for neighboring 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:

If the Board does not approve the variance, the owner will only be able to provide two parking spaces; 4 if they build a garage. The existing structure has five units. Without this variance, one of the existing units will not be allowed to be rented.

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

Currently the structure is vacant. There have been homeless people squatting in the building. That itself is adversely affecting the public health and safety. By renovating the existing structure, the owner would be increasing the property values in the neighborhood and the safety of neighboring property owners/tenants.



City of Lawrence
Douglas County

PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County
Metropolitan Planning Office**

6 East 6th Street, P.O. Box 708, Lawrence, KS 66044
(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:

We do not feel that allowing a vehicle to be parked 3 feet from the property line is in opposition to the spirit
of the code, especially since a garage is able to be built 10 feet from the property line. We feel by allowing
our client to provide vehicle parking in a location that has provided parking for many years is much less
intrusive than building a garage on the corner of that lot. The owner is allowed to convert the structure back to a
single family residence. If the owner converted this structure to a single family residence, they would be allowed to
rent it to 4 unrelated occupants and only be required to provide two parking spaces. This would cause two tenants
to have to park on an already overcrowded street. We feel it is in the best interest of the neighborhood to allow our
client to provide off-street parking.

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

9.7.2018

Date

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

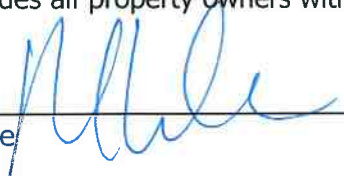
The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

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.

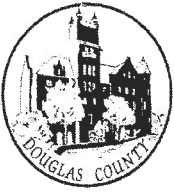
I certify that I have read and understood the above information and that the submitted Ownership list:

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.

Signature 

Date 

Printed Name _____



JAMIE SHEW
DOUGLAS COUNTY CLERK
1100 Massachusetts
Lawrence, KS 66044

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

September 6, 2018

A CERTIFIED PROPERTY OWNERSHIP LIST WITHIN 400 FT OF 1300 TENNESSEE ST
(U01839). 09/06/2018. REQUESTED BY TIFFANY ASHER OF PAUL WERNER
ARCHITECTS.

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

785-832-5147

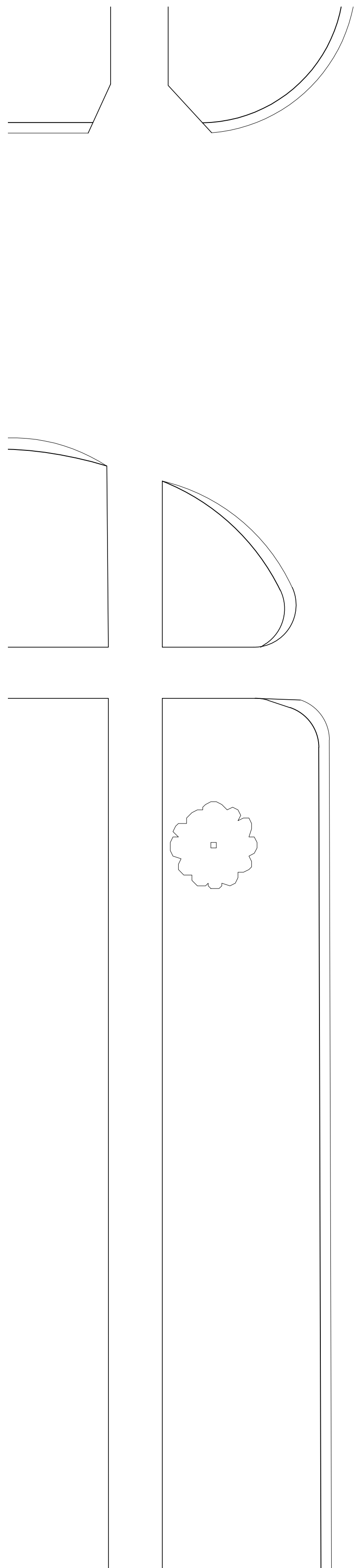
jnichols@douglascountyks.org

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

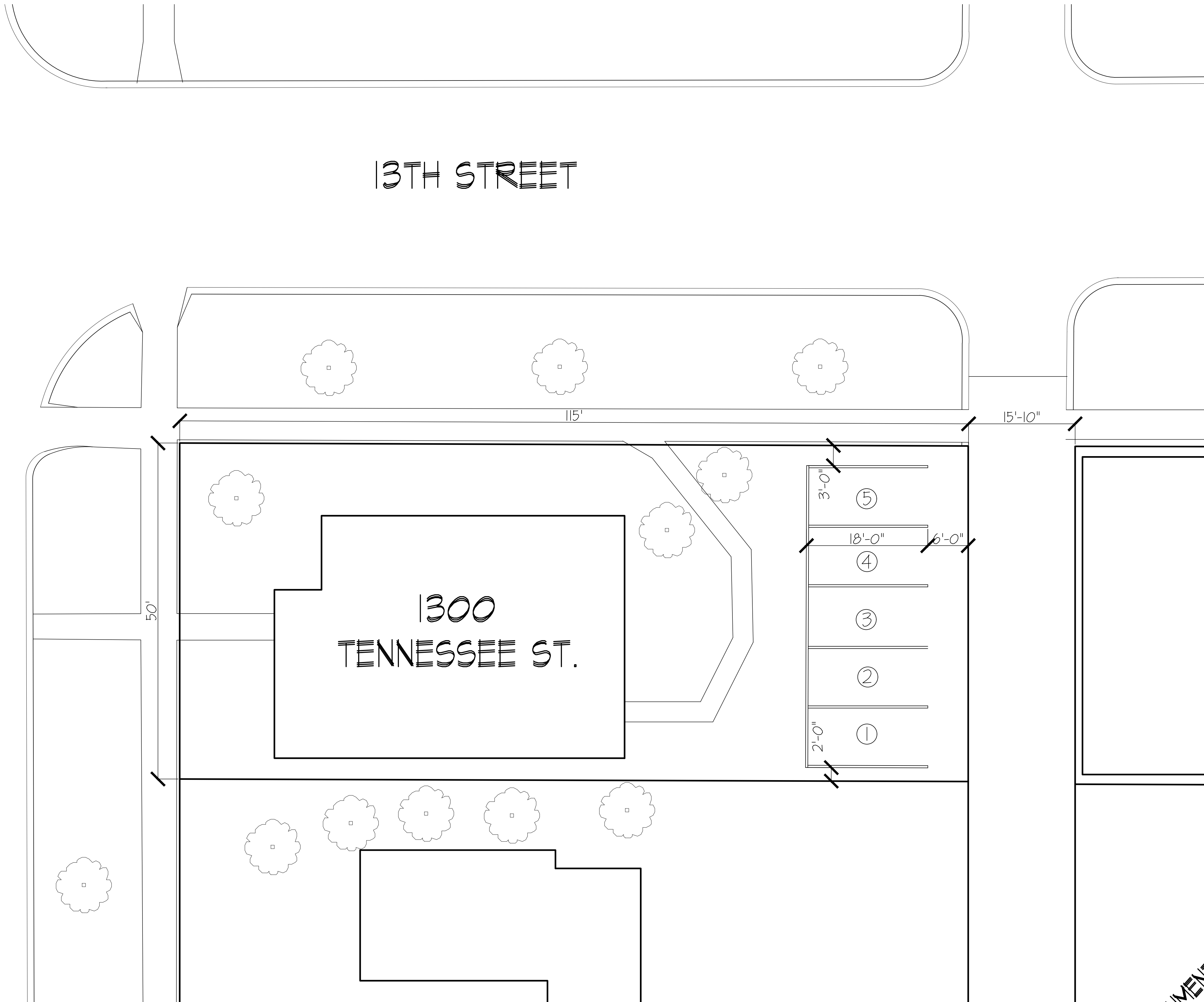
CERTIFIED POL WITHIN 400 FT
OF 1300 TENNESSEE ST (U01839)



| JOINPIN | SYSALACHES | owner1 | owner2 | owner3 | address | city | state | zip | pkts | PID | Quictrefid | status |
|-------------------------|------------|----------------------------------|--------|---|------------------------------|-----------------|-------|-------|------------|-----------------------------|------------|-----------------------|
| 079-31-0-30-22-006.00-0 | 0.26857576 | BOOLE LAWRENCE E | | BOOLE LYNNE | 1218 TENNESSEE ST | LAWRENCE | KS | 66044 | U01822A | 023-079-31-0-30-22-006.00-0 | R16331 | 1218 TENNESSEE ST |
| 079-31-0-30-22-018.00-0 | 0.13428789 | CRIMSON PROPERTIES LLC | | | PO BOX 442109 | LAWRENCE | KS | 66044 | U01620 | 023-079-31-0-30-22-018.00-0 | R16343 | 1219 KENTUCKY ST |
| 079-31-0-30-23-020.00-0 | 0.13432333 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01823 | 023-079-31-0-30-23-020.00-0 | R16367 | 1221 KENTUCKY ST |
| 079-31-0-30-22-017.00-0 | 0.1342877 | WILDHORSE PROPERTIES LLC | | | 1051 WELLSHIRE RD | LAWRENCE | KS | 66049 | U01622 | 023-079-31-0-30-22-017.00-0 | R16342 | 1225 KENTUCKY ST 1 |
| 079-31-0-30-22-007.00-0 | 0.13428807 | CARTER MANAGEMENT LLC | | C/O GAGE MANAGEMENT LLC | 2201 W 25TH ST STE R | LAWRENCE | KS | 66047 | U01826 | 023-079-31-0-30-22-007.00-0 | R16332 | 1226 TENNESSEE ST |
| 079-31-0-30-23-019.00-0 | 0.13432387 | WILDHORSE PROPERTIES LLC | | | 1051 WELLSHIRE RD | LAWRENCE | KS | 66049 | U01825 | 023-079-31-0-30-23-019.00-0 | R16386 | 1225 TENNESSEE ST |
| 079-31-0-30-23-008.00-0 | 0.13430663 | 1224 OH LLC | | | 1221 VANTUYL DR | LAWRENCE | KS | 66049 | U02029 | 023-079-31-0-30-23-008.00-0 | R16355 | 1224 OHIO ST |
| 079-31-0-30-22-015.00-0 | 0.26857576 | ROMAN CATHOLIC ARCHDIOCESE OF KC | | | 12615 PARALLEL PKWY | KANSAS CITY | KS | 66099 | U01624A | 023-079-31-0-30-22-015.00-0 | R16341 | 1231 KENTUCKY ST |
| 079-31-0-30-22-008.00-0 | 0.13428807 | MOORE FAMILY HOMES LLC | | | 3003 TAM O SHANTER DR | HANS | KS | 67601 | U01828 | 023-079-31-0-30-22-008.00-0 | R16333 | 1230 TENNESSEE ST |
| 079-31-0-30-23-018.00-0 | 0.13432327 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01827 | 023-079-31-0-30-23-018.00-0 | R16365 | 1229 KENTUCKY ST |
| 079-31-0-30-23-009.00-0 | 0.13430662 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U02031 | 023-079-31-0-30-23-009.00-0 | R16356 | 1228 OHIO ST |
| 079-31-0-30-22-005.00-0 | 0.13428788 | TABOR ROBERT L | | | 1234 TENNESSEE ST | LAWRENCE | KS | 66044 | U01830 | 023-079-31-0-30-22-005.00-0 | R16334 | 1234 TENNESSEE ST |
| 079-31-0-30-23-017.00-0 | 0.13432272 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01829 | 023-079-31-0-30-23-017.00-0 | R16364 | 1235 TENNESSEE ST |
| 079-31-0-30-23-010.00-0 | 0.20146057 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U02033A | 023-079-31-0-30-23-010.00-0 | R16357 | 1232 OHIO ST |
| 079-31-0-30-22-015.00-0 | 0.26857684 | REIBER ELIZABETH G | | | 1235 KENTUCKY ST | LAWRENCE | KS | 66044 | U01627A | 023-079-31-0-30-22-015.00-0 | R16340 | 1235 KENTUCKY ST |
| 079-31-0-30-22-010.00-0 | 0.13429376 | ECK ERNEST H | | KARLIN PATRICIA S | 915 LOUISIANA ST | LAWRENCE | KS | 66044 | U01832 | 023-079-31-0-30-22-010.00-0 | R16335 | 1238 TENNESSEE ST |
| 079-31-0-30-23-011.00-0 | 0.13432121 | SLOUGH JAMES A | | | PO BOX 763 | PRAIRIE VILLAGE | KS | 66207 | U02036A | 023-079-31-0-30-23-011.00-0 | R16363 | 1240 OHIO ST |
| 079-31-0-30-23-011.00-0 | 0.13431168 | CLOSE 2 CAMPUS RENTALS LLC | | | 5350 W 94TH TER STE 204 | KANSAS CITY | MO | 64114 | U01834 | 023-079-31-0-30-23-011.00-0 | R16336 | 1240 TENNESSEE ST |
| 079-31-0-30-23-011.00-0 | 0.11272817 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | LAWRENCE | KS | 66047 | U01833 | 023-079-31-0-30-23-011.00-0 | R16362 | 1241 TENNESSEE ST |
| 079-31-0-30-23-012.00-0 | 0.20146831 | STONEWALL RIDGE INC | | WENGER OLLIE C | 2701 W 27TH TER | LAWRENCE | KS | 66047 | U01834 | 023-079-31-0-30-23-012.00-0 | R16359 | 1244 OHIO ST |
| 079-31-0-30-22-012.00-0 | 0.15631272 | HOPKINS VYLE E | | HOPKINS ALISE E | PO BOX 489 | CALLAO | VA | 22435 | U02039A | 023-079-31-0-30-22-012.00-0 | R16337 | 1244 TENNESSEE ST |
| 079-31-0-30-22-014.00-0 | 0.08963257 | FW VENTURES LLC | | | 1017 SUMMERFIELD WAY | LAWRENCE | KS | 66049 | U01834-01A | 023-079-31-0-30-22-014.00-0 | R16339 | 1247 1/2 KENTUCKY ST |
| 079-31-0-30-22-013.00-0 | 0.04476591 | BACUS ANTHONY S | | MCCORKLE BARBARA B | 2611 W 14TH ST | OVERLAND PARK | KS | 66224 | U01633 | 023-079-31-0-30-22-013.00-0 | R16338 | 1247 1/2 KENTUCKY ST |
| 079-31-0-30-23-014.00-0 | 0.07866433 | CRAWFORD JOHN B | | CRAWFORD MICHELLE | 1736 LOUISIANA ST UNIT A | LAWRENCE | KS | 66044 | U01632 | 023-079-31-0-30-23-014.00-0 | R16337 | 1247 KENTUCKY ST |
| 079-31-0-30-23-013.00-0 | 0.05735684 | MICHAEL BRIAN K | | MC FALL CAROL F | 643 E 550 RD | LAWRENCE | KS | 66047 | U01836 | 023-079-31-0-30-23-013.00-0 | R16361 | 1247 TENNESSEE ST |
| 079-31-0-30-24-012.00-0 | 0.13432412 | LAWRENCE VILLAGE LLC | | | 2815 GILL AVE | LAWRENCE | IL | 60614 | U02040 | 023-079-31-0-30-24-012.00-0 | R16382 | 408 W 13TH ST |
| 079-31-0-30-28-002.00-0 | 0.13394294 | BRYAN RANDOLPH L | | BROWN THERESA M | 1301 VERMONT ST | LAWRENCE | KS | 66044 | U01449 | 023-079-31-0-30-28-002.00-0 | R16454 | 1300 VERMONT ST |
| 079-31-0-30-28-002.00-0 | 0.1338164 | RYAN FAMILY INVESTMENTS LLC | | | 858 E HANDEL ST | LAWRENCE | ID | 83646 | U01636 | 023-079-31-0-30-28-002.00-0 | R16428 | 1301 KENTUCKY ST 1 |
| 079-31-0-30-27-001.02-0 | 0.09431209 | BIG BLUE STUDENT RENTALS INC | | | 4920 LEONIS BL | MERIDIAN | KS | 66049 | U01637 | 023-079-31-0-30-27-001.02-0 | R16429 | 303 W 13TH ST |
| 079-31-0-30-27-002.00-0 | 0.09419013 | BIG BLUE STUDENT RENTALS INC | | | 12701 BRIAR DR | LEAWOOD | KS | 66209 | U01839 | 023-079-31-0-30-27-002.00-0 | R16404 | 1300 TENNESSEE ST |
| 079-31-0-30-26-001.00-0 | 0.09642197 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01838 | 023-079-31-0-30-26-001.00-0 | R16405 | 1301 TENNESSEE ST |
| 079-31-0-30-26-003.00-0 | 0.06480662 | CRIMSON BLUE PROPERTIES LLC | | | PO BOX 505 | LAWRENCE | KS | 66047 | U02041-02A | 023-079-31-0-30-26-003.00-0 | R16406 | 407 W 13TH ST |
| 079-31-0-30-25-001.00-0 | 1.21612015 | UNIVERSITY OF KANSAS | | BOARD OF REGENTS OF THE STATE OF KANSAS | 1617 BURNING TREE DR | LAWRENCE | KS | 66044 | U02041-01A | 023-079-31-0-30-25-001.00-0 | R16391 | 1301 OHIO ST |
| 079-31-0-30-28-021.00-0 | 0.13394139 | CORRELL TONY | | | 1450 JAYHAWK BLVD RM 245 | LAWRENCE | KS | 66044 | U01451 | 023-079-31-0-30-28-021.00-0 | R16473 | 1303 VERMONT ST |
| 079-31-0-30-28-023.00-0 | 0.35326594 | V1 LLC | | | 2201 W 25TH ST STE R | LAWRENCE | KS | 66047 | U01639A | 023-079-31-0-30-28-023.00-0 | R16455 | 1310 KENTUCKY ST 1-22 |
| 079-31-0-30-27-002.00-0 | 0.13439211 | WARNER JOHN B TRUSTEE | | WARNER JUDITH J TRUSTEE | 600 LAWRENCE AVE STE 2D | LAWRENCE | KS | 66049 | U01638 | 023-079-31-0-30-27-002.00-0 | R16452 | 1305 KENTUCKY ST 1 |
| 079-31-0-30-27-002.00-0 | 0.13439216 | EDMONDSON MICHAEL T | | | 229 WARD PKWY | KANSAS CITY | MO | 64112 | U01842 | 023-079-31-0-30-27-002.00-0 | R16431 | 1304 TENNESSEE ST |
| 079-31-0-30-26-003.00-0 | 0.12955085 | WALTER ROGER N | | WALTER EVAN W | 700 CALIFORNIA ST | LAWRENCE | KS | 66044 | U01841 | 023-079-31-0-30-26-003.00-0 | R16427 | 1305 TENNESSEE ST |
| 079-31-0-30-26-004.00-0 | 0.10809419 | BELL JOSEPH W | | BELL KERRY K | 815 INDIANA ST | LAWRENCE | KS | 66044 | U02043 | 023-079-31-0-30-26-004.00-0 | R16407 | 1304 OHIO ST |
| 079-31-0-30-28-020.00-0 | 0.13394009 | KEEB JEFFREY O TRUSTEE | | | 765 E 750 RD | LAWRENCE | KS | 66047 | U01453 | 023-079-31-0-30-28-020.00-0 | R16472 | 1305 VERMONT ST 1 |
| 079-31-0-30-27-002.00-0 | 0.1343161 | MIKENOMENTS LLC | | | 15625 HARRY LIND RD | ELGIN | TX | 78621 | U01640 | 023-079-31-0-30-27-002.00-0 | R16451 | 1309 KEN LUCKY ST |
| 079-31-0-30-27-004.00-0 | 0.13438658 | KUPPER RICHARD B | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01845 | 023-079-31-0-30-27-004.00-0 | R16432 | 1308 OHIO ST |
| 079-31-0-30-26-021.00-0 | 0.25516087 | SLOUGH JAMES A | | | PO BOX 763 | LAWRENCE | KS | 66044 | U02045 | 023-079-31-0-30-26-021.00-0 | R16408 | 1308 OHIO ST |
| 079-31-0-30-26-021.00-0 | 0.13394304 | SECOND WIND MANAGEMENT LLC | | | 13912 SE 47TH ST | BELLEVEUE | WA | 98006 | U01844A | 023-079-31-0-30-26-021.00-0 | R16426 | 1311 TENNESSEE ST |
| 079-31-0-30-27-021.00-0 | 0.1343156 | ABW INVESTMENT 1315 LLC | | | 404 N OLIVIA AVE | LAWRENCE | KS | 66049 | U01455 | 023-079-31-0-30-27-021.00-0 | R16471 | 1311 VERMONT ST |
| 079-31-0-30-27-005.00-0 | 0.13438666 | DUTCH PROPERTIES II LLC | | | 2709 MEADOWS PL | LAWRENCE | KS | 66047 | U02047 | 023-079-31-0-30-27-005.00-0 | R16433 | 1314 TENNESSEE ST A |
| 079-31-0-30-28-018.00-0 | 0.13394182 | SCHULTZ WILLIAM M | | SCHULTZ BRENDA S | 1815 BULLENE AVE | LAWRENCE | KS | 66044 | U01848 | 023-079-31-0-30-28-018.00-0 | R16409 | 1317 VERMONT ST |
| 079-31-0-30-27-006.00-0 | 0.20147528 | MADA PARTNERS LLC | | AMARAN ARJUN | 4716 VILLARNEY CIR | LAWRENCE | KS | 66047 | U01457 | 023-079-31-0-30-27-006.00-0 | R16470 | 1317 KENTUCKY ST |
| 079-31-0-30-27-006.00-0 | 0.13438745 | AMARAN MITHRA | | SCHMIDT THERESA A | 11100 W 122ND TER | LEAWOOD | KS | 66224 | U01850 | 023-079-31-0-30-27-006.00-0 | R16449 | 1317 KENTUCKY ST |
| 079-31-0-30-26-020.00-0 | 0.13429745 | FELTON ERIC A | | | 1315 TENNESSEE ST | LAWRENCE | KS | 66044 | U01849 | 023-079-31-0-30-26-020.00-0 | R16425 | 1316 TENNESSEE ST |
| 079-31-0-30-26-006.01-0 | 0.13428562 | MUNSCH ROBERT D | | | PO BOX 1851 | LAWRENCE | KS | 66044 | U02049 | 023-079-31-0-30-26-006.01-0 | R16410 | 1316 OHIO ST |
| 079-31-0-30-28-017.00-0 | 0.13394183 | SCHNEIDER JAMES A | | | 3708 STETSON DR | LAWRENCE | KS | 66049 | U01459 | 023-079-31-0-30-28-017.00-0 | R16469 | 1321 VERMONT ST |
| 079-31-0-30-28-004.00-0 | 0.13381449 | WALCOTT JOANN TRUSTEE | | HAMILTON TIMOTHY D | 700 N 12TH ST | MARYSVILLE | KS | 66208 | U01648 | 023-079-31-0-30-28-004.00-0 | R16456 | 1320 KENTUCKY ST |
| 079-31-0-30-27-007.01-0 | 0.13439314 | ABALAN SOFANIA O | | | 13131 W 100TH ST | LENEVA | KS | 66215 | U01852A01 | 023-079-31-0-30-27-007.01-0 | R337134 | 1324 TENNESSEE ST |
| 079-31-0-30-26-019.00-0 | 0.13402729 | CS PROPERTY MANAGEMENT LLC | | | 1230 NEW YORK ST | LAWRENCE | KS | 66044 | U01851 | 023-079-31-0-30-26-019.00-0 | R16424 | 1324 TENNESSEE ST |
| 079-31-0-30-26-007.00-0 | 0.13428516 | CAMPUS CHRISTIAN INC | | | 1320 OHIO ST | LAWRENCE | KS | 66044 | U02052 | 023-079-31-0-30-26-007.00-0 | R16411 | 1320 OHIO ST |
| 079-31-0-30-27-019.00-0 | 0.08056534 | NUSSON JASON L | | | 8377 PRIMROSE ST | DE SOTO | KS | 66018 | U01647A | 023-079-31-0-30-27-019.00-0 | R16448 | 1323 KEN LUCKY ST |
| 079-31-0-30-28-005.00-0 | 0.12088958 | KERN MANAGEMENT COMPANY LLC | | NUSSON TRINA A | 740 NEW HAMPSHIRE ST STE 110 | LAWRENCE | KS | 66044 | U01650 | 023-079-31-0-30-28-005.00-0 | R16457 | 1323 KENTUCKY ST |
| 079-31-0-30-27-018.00-0 | 0.13438147 | KUPPER RICHARD B | | KUPPER BONNIE S | 8377 PRIMROSE ST | DE SOTO | KS | 66018 | U01649 | 023-079-31-0-30-27-018.00-0 | R16447 | 1323 KENTUCKY ST |
| 079-31-0-30-26-008.00-0 | 0.13428532 | BACUS ANTHONY S | | | 437 W 104TH ST APT D | KANSAS CITY | MO | 64114 | U01853 | 023-079-31-0-30-26-008.00-0 | R16412 | 1321 TENNESSEE ST |
| 079-31-0-30-28-008.00-0 | 0.13381201 | ASSOCIATED MANAGEMENT GROUP LLC | | | 1815 KENTUCKY ST UNIT A | LAWRENCE | KS | 66044 | U02055 | 023-079-31-0-30-28-008.00-0 | R16458 | 1328 KENTUCKY ST |
| 079-31-0-30-27-017.00-0 | 0.13431806 | ABW INVESTMENTS (1315) LLC | | | 1315 KENTUCKY ST STE #2 | LAWRENCE | KS | 66044 | U01652 | 023-079-31-0-30-27-017.00-0 | R16446 | 1328 KENTUCKY ST |
| 079-31-0-30-27-008.00-0 | 0.13438862 | KELON OF LAWRENCE LLC | | | 9238 LEE BLVD | LEAWOOD | KS | 66206 | U01651 | 023-079-31-0-30-27-008.00-0 | R16436 | 1328 TENNESSEE ST |
| 079-31-0-30-26-009.00-0 | 0.13428514 | BACUS ROBERT | | | PO BOX 706 | LAWRENCE | KS | 66044 | U01856 | 023-079-31-0-30-26-009.00-0 | R16443 | 1328 OHIO ST |
| 079-31-0-30-28-007.00-0 | 0.13381265 | KERN MANAGEMENT COMPANY LLC | | | 548 MARKET ST UNIT 30307 | SAN FRANCISCO | CA | 94104 | U01855 | 023-079-31-0-30-28-007.00-0 | R16459 | 1333 KENTUCKY ST |
| 079-31-0-30-27-016.00-0 | 0.13431859 | BOULDER REAL ESTATE LLC | | | 1736 LOUISIANA ST | LAWRENCE | KS | 66044 | U02058 | 023-079-31-0-30-27-016.00-0 | R16445 | 1333 KENTUCKY ST |
| 079-31-0-30-27-009.00-0 | 0.13438877 | HEARN SERINA A | | | PO BOX 454 | LAWRENCE | KS | 66044 | U01653 | 023-079-31-0-30-27-009.00-0 | R16457 | 1333 KENTUCKY ST |
| 079-31-0-30-26-016.00-0 | 0.13402961 | KELON OF LAWRENCE LLC | | | 1941 MASSACHUSETTS ST | LAWRENCE | KS | 66046 | U01858 | 023-079-31-0-30-26-016.00-0 | R16431 | 1333 TENNESSEE ST |
| 079-31-0-30-26-010.00-0 | 0.13428523 | CRIMSON PROPERTIES LLC | | | PO BOX 706 | LAWRENCE | KS | 66044 | U01857 | 023-079-31-0-30-26-010.00-0 | R16421 | 1334 OHIO ST |
| 079-31-0-30-27-015.02-0 | 0.13431837 | BACUS ANTHONY S | | MCCORKLE BARBARA B | PO BOX 442109 | LAWRENCE | KS | 66044 | U02060 | 023-079-31-0-30-27- | | |



TENNESSEE STREET



PROPOSED PLOT PLAN
SCALE: 1/8" = 1' - 0"



PRELIMINARY DOCUMENTS
NOT FOR CONSTRUCTION

paulwerner
ARCHITECTS

123 W. 8th STREET
SUITE B2
LAWRENCE, KS 66044
OFFICE: 785.832.0804

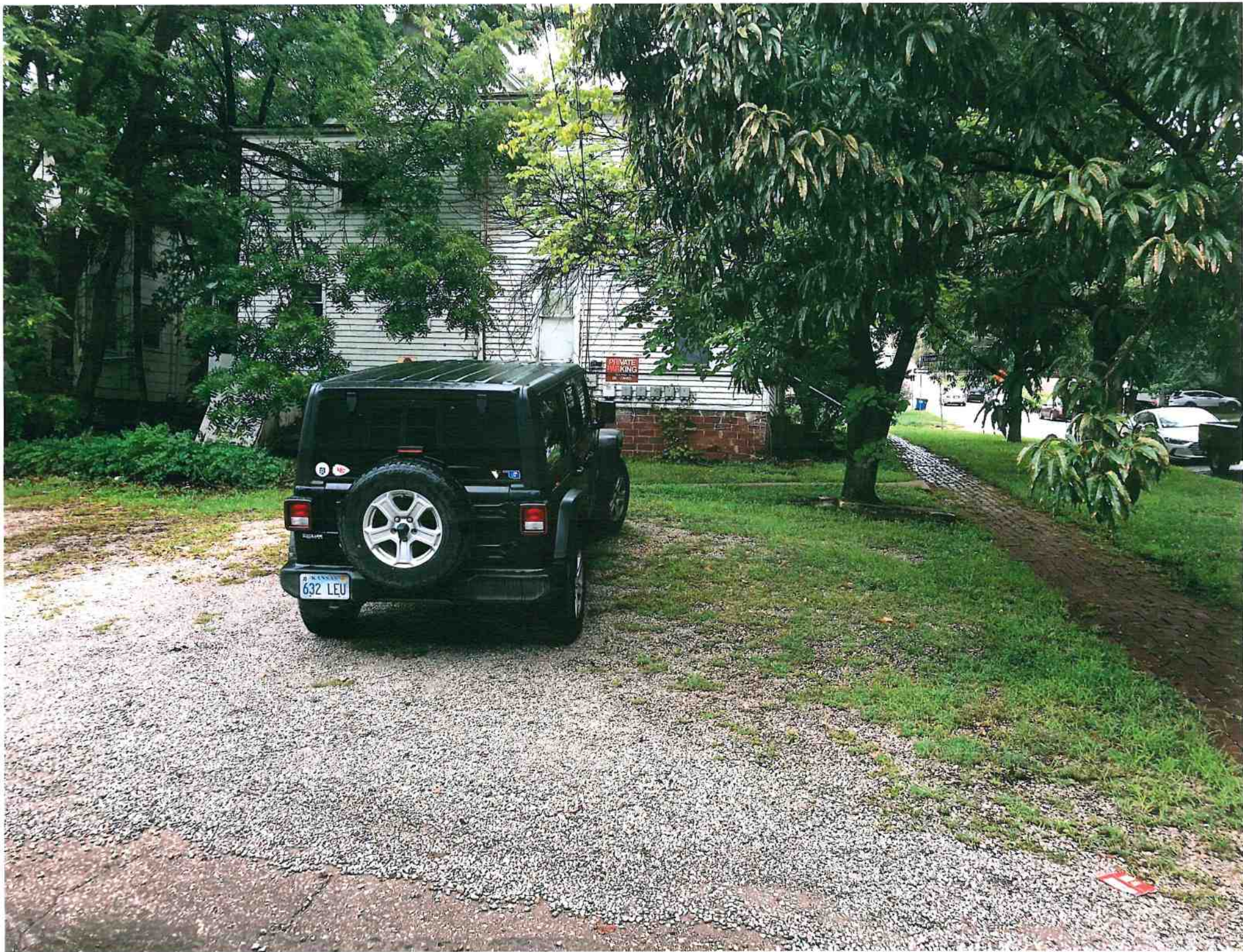
©PAUL KERNER ARCHITECTS, L.L.C.
THIS DRAWING IS COPYRIGHTED WORK BY
PAUL KERNER ARCHITECTS, L.L.C. THIS
DRAWING MAY NOT BE PHOTOGRAPHED,
TRACED OR COPIED IN ANY MANNER
WITHOUT THE WRITTEN PERMISSION OF PAUL
KERNER ARCHITECTS, L.L.C.

1300 TENNESSEE
1300 TENNESSEE ST. LAWRENCE, KS

PROJECT # 218-460
SEPT. 6, 2018

PROGRESS: DATE:

AS/00



**PRIVATE
PARKING**

**VIOLATORS WILL
BE TOWED**

KNOLST

1

2

3

4

5



ITEM NO. 5 **VARIANCE FROM THE PARKING AND DRIVEWAY STANDARDS FOR A
RESIDENTIAL DWELLING; 718 ASH STREET [LRM]**

B-18-00438: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the surfacing requirements for parking and driveway standards required by 20-913(e)(1) of the City Code for a detached dwelling. The applicant is seeking a variance from this code standard to allow for the construction of a gravel driveway. The property is located at 718 Ash Street. Submitted by Stephen Evans, property owner of record.

B. REASON FOR REQUEST

Applicant's Request - "Our request is to construct the driveway of the residence as follows: 1) build the concrete apron/approach on Ash Street into the property as indicated on the attached Plot Plan, 2) Build the driveway from the concrete apron to a concrete apron entry into the garage as indicated on the Plot Plan (note that the one-car garage indicated on the plan as an alternative was constructed) and 3) construct the driveway with 3/8 inch by 7 inch steel forms on the sides of the perimeter of the driveway and 5 inches on AB3 with a fine pea gravel on top."

C. ZONING AND LAND USE

Current Zoning & Land Use: RS7 (Single-Dwelling Residential) District; *detached-dwelling* use.

Surrounding Zoning and Land Use: RS7 (Single-Dwelling) District to the north, east, and west; *detached-dwelling* use.

OS (Open Space) District to the south; *Open Space/Park* use (Riverfront Park) and the Kansas River.

D. ZONING ORDINANCE REQUIREMENTS

20-913 PARKING AND LOADING AREA DESIGN STANDARDS

The design standards of this section apply to all [Parking Areas](#), including commercial parking lots and "non-required" [Parking Areas](#).

(e) Surfacing

- (1)** All off-street [Parking Areas](#) and [Driveways](#), including those serving [Attached Dwellings](#), [Detached Dwellings](#) and Duplexes, shall be surfaced with a minimum of one of the following:
- (i)** 4 inches of reinforced Portland cement concrete;
 - (ii)** 5 inches of granular rock base with 2 inches of asphalt;
 - (iii)** 7 inches of granular rock with a double asphaltic prime and seal;
 - (iv)** 5 inches of full depth asphalt; or
 - (v)** 4 inches of compacted gravel for residential [Driveways](#) constructed in [Floodplains](#) areas with a paved [Driveway Apron](#) constructed to city residential [Driveway](#) standards.

- (2)** As an alternative to the surfacing required in the preceding paragraph, all off-street parking for uses allowed by right within residential Districts or areas of low off-street parking use as determined by the City Engineer (such as fire safety lanes or overflow [Parking Areas](#)), may be

surfaced with the following alternative methods of paving. The surfacing shall be installed per the manufacturer's recommendations, with the pavement and base designed by a professional engineer licensed in the State of Kansas. The pavement cross-section shall demonstrate the structural ability to support the anticipated vehicle loads for the use. The pavement design shall be reviewed and approved by the City Engineer.

- (i) Grid unit pavers with grass; or
- (ii) Concrete, brick, or clay interlocking paver units.

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 property is located between the Kansas River Levee to the south and Ash Street in North Lawrence to the north. There are fourteen existing residences on the south side of Ash in this 700 block and all are constructed of gravel with no edging to retain the gravel material. We are proposing the use of steel forms as outline above to retain the gravel material and maintain a consistent edge requiring little maintenance over time. This detail was utilized in the construction of the driveway nearby at 646 Walnut Street in 2017 that has functioned as intended while maintaining a consistent edge between the drive and yard."*

This property is located in North Lawrence which is identified on the most recent September 2, 2015 FEMA Flood Hazard Area Maps as being in the boundaries of Zone X, Area with Reduced Flood Risk Due to Levee.

The Land Development Code allows a residential property owner to use compacted gravel for his or her driveway when the property is located in the regulatory floodplain areas. The Code defines floodplain in Section 20-1701, General Terms, as "The land inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic & Hydraulic Study." The City considers the term "Floodplain" to be the 100-year regulatory flood hazard area such as Zones A, AE, and AH. Since this property is not located in such an area, the applicant is not permitted to use gravel material as a code compliant driveway surface type. The applicant's property is located in Zone X-Protected by Levee. This is defined as an area with a .2% annual chance of a flood and is not considered a locally regulated flood hazard area.

The purpose for allowing gravel as a residential driveway surface type in the floodplain is to help reduce surface water runoff. Gravel surfacing will let some rainwater infiltrate into the ground so the storm water drainage system is less stressed.

The existing natural drainage system, the very minimal topographic relief, the permeable alluvial soils in North Lawrence, and the Land Development Code standards regarding when gravel materials may be used to build a residential driveway are conditions the applicant did not create. These conditions are not solely unique to this property due to a zoning or platting requirement; they are applicable to any property not located in a floodplain area.

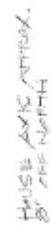
See following page for map of subject property.



Map 1a: Subject property outlined in teal. Regulatory floodplain areas marked by deep red and orange



Image 2: 718 Ash is adjacent to, but not located in, the regulatory floodplain.



gravel.

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

Applicant response: *"In addition to the other fourteen properties on the south side of the 700 block of Ash Street, most of the properties in North Lawrence both older and recently constructed homes have driveways constructed with gravel alone and no edging materials. Several homes constructed in the 600 block of Walnut in the last five years have been granted similar variances for driveways."*

In staff's opinion, allowing the applicant to use gravel as a substitute for one of the paved surface material types identified in Section 20-913(e) of the Land Development Code may adversely affect the rights of adjacent property owners or residents if the gravel is not contained to the applicant's property.

The subject property, 718 Ash Street, and the neighboring lot to the east, 722 Ash Street, were created via the Minor Subdivision/Replat process with MS-17-00700. The approved minor subdivision notes the northwest corner of 722 Ash Street as "proposed shared access agreement" area. An access easement was recorded with the Douglas County Register of Deeds (Book 1158, Page 826-828) in May, 2018. This access easement is located on 722 Ash Street and is not under the purview of this variance request. B-18-00438 applies only to the proposed driveway on 718 Ash Street. Any variance from the Code permitted driveway surfacing materials within the shared access agreement area would require a separate variance request for 722 Ash Street. At this time there has been no request by the owner for a variance from the driveway surfacing materials for 722 Ash Street.

The current owner of 722 Ash Street has not indicated support for the shared access area to be surfaced with gravel. Therefore, in staff's opinion utilizing gravel as a surfacing material may adversely affect the rights of the property owner at 722 Ash Street. Without a concrete strip between the shared access area and 718 Ash Street there is no way to contain the proposed gravel within the confines of the subject property. Without a material barrier, gravel will be carried over the lot line from 718 Ash Street into the shared access area on 722 Ash Street.

Staff notes the addition of a concrete apron, connecting the proposed driveway and street right-of-way, but would reaffirm that this action is required for the issuance of a driveway permit by the Public Works Department. The concrete apron into the public right-of-way would be necessary regardless of material used to construct the driveway. Also, the proposed concrete apron is located entirely adjacent to 722 Ash Street. The subject property shares a driveway connection to the street right-of-way through the adjacent parcel.

Staff has supported variances from the driveway surfacing material requirements in past BZA cases. Staff supported, and the BZA approved, a variance from the driveway surfacing materials for case B-12-00226 for 754 Elm Street. The applicant received the variance and installed crushed asphalt millings as well as concrete edges along the length of the drive and a concrete parking pad adjacent to the garage. Staff did not support, but the BZA approved, a variance from the driveway surfacing materials for case B-18-00098 for 868 Elm Street. The applicant received the variance and plans to install crushed gravel along with concrete edging and pads similar to 754 Elm Street.

As of the time this report is written, staff has not heard from any nearby property owners or neighbors regarding this variance 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: *"We believe that constructing our driveway as requested provides the most sustainable solution and lowest amount of runoff to the City's storm sewer systems. As proposed, the design will provide the best solution to maintenance and be consistent with the immediate area and neighborhood."*

In staff's opinion, strict application of the code standard requiring a fully paved residential driveway for this property in North Lawrence is not an unnecessary hardship upon the owner. Requiring the applicant to provide a hard surfaced parking area, as a portion of the driveway, will not interfere with his basic private property ownership rights or make it impossible to utilize the property for a conforming use. Rather, it will bring the driveway and the site in line with the spirit and intent of the Land Development Code.

All new driveways outside of the FEMA floodplain zones A, AE, and AH are held to the standards set forth by Section 20-913 of the Land Development Code. This area of North Lawrence has not been classified by FEMA as part of a regulatory floodplain, but its designation as Zone X Protected by Levee inherently suggests potential stormwater drainage or flooding issues. For this reason, the Land Development Code has established a mix of permeable and hard surfaces as appropriate. They can be found in Section 20-913(e)(2) of the Land Development Code.

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

Applicant response: *"We do not believe the variance would adversely affect the community and immediate neighborhood in terms of the stated criteria and may serve to promote sustainable solutions to driveway materials and construction details in the future."*

In staff's opinion, granting this variance to use gravel as a substitute for the approved surfacing materials of a residential driveway will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. Many examples can be found throughout the neighborhood where there are residential properties with driveways that are not fully paved with concrete. A driveway that included a gravel portion would be compatible with the wide variety of surfacing materials found throughout North Lawrence.

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

Applicant response: *"We do not believe that the variance desired would be opposed to the general spirit and intent of the Development Code. Although this property is not within a Flood Zone designated area that does allow gravel as approved driveway materials, it is within "an area with reduced flood risk due to levee" and can be considered in this context."*

In staff's opinion, allowing the use of gravel as the sole driveway surfacing material is opposed to the spirit and intent of the Code. As previously mentioned, the code allows gravel for residential driveways in floodplain areas. The applicant's property is not within a regulated floodplain area per the City's Floodplain Management Regulations but does lie within an area that FEMA recognizes as a zone protected

from flooding by levee. The intent of the Code is to keep mud and gravel off of the public street right-of-way.

Staff is aware of the drainage concerns throughout North Lawrence and understands the desire for gravel in order to alleviate drainage issues. However, in order to more closely match the spirit and intent of the Code, it is necessary for the applicant to provide an approved surface for driving and parking a vehicle. Section 20-913(e)(2) provides material options that allow for stormwater drainage.

Staff reiterates that the variance request B-18-00438 applies only to 718 Ash Street. It is impossible to contain the gravel within the confines of the lot when there is no concrete apron between 718 Ash Street and the shared access area on 722 Ash Street.

Conclusions: Staff's analysis finds the applicant's request, for the use of gravel for the driveway, does not satisfy the five conditions set forth in Section 20-1309(g)(1) of the Development Code the Board must find existing to approve a variance.

Recommendation:

Staff recommends denial of the variance request to allow the applicant to use gravel for the residential driveway surface instead of one of the pavement surface standards identified in Section 20-913(e) of the Development Code.



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County
Metropolitan Planning Office**
6 East 6th 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 10 2018

City County Planning Office
Lawrence, Kansas

OWNER INFORMATION

Name(s) Stephen and April Evans
Contact Stephen Evans
Address PO Box 726
City Lawrence State KS ZIP 66044
Phone (785) 393-9597 Fax ()
E-mail scevans704@gmail.com Mobile/Pager (785) 393-9597

APPLICANT/AGENT INFORMATION

Contact Stephen Evans
Company
Address PO Box 726
City Lawrence State KS ZIP 66044
Phone (785) 393-9597 Fax ()
E-mail scevans704@gmail.com Mobile/Pager (785) 393-9597
Pre-Application Meeting Date Planner

PROPERTY INFORMATION

Present Zoning District RS7 Single Dwelling Resid. Present Land Use RS7
Proposed Land Use RS7
Legal Description (may be attached) See attached
Address of Property 718 Ash Street, Lawrence, KS 66044
Total Site Area .31 Acres
Number and Description of Existing Improvements or Structures Single family residence currently under construction.

B-18-00438



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

Our request is to construct the driveway of the residence as follows: 1) build the concrete apron/approach on Ash Street into the property as indicated on the attached Plot Plan, 2) build the driveway from the concrete apron to a concrete apron entry into the garage as indicated on the Plot Plan (note that the one-car garage indicated on the plan as an alternative was constructed) and 3) construct the driveway with 3/8 inch by 7 inch steel forms on both sides of the perimeter of the driveway and 5 inches of AB3 with a fine pea gravel on top.



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 property is located between the Kansas River Levee to the south and Ash Street in North

Lawrence to the north. There are fourteen existing residences on the south side of Ash in this

700 block and all are constructed of gravel with no edging to retain the gravel material. We are

proposing the use of steel forms as outline above to retain the gravel material and maintain a

consistent edge requiring little maintenance over time. This detail was utilized in the

construction of the driveway nearby at 646 Walnut Street in 2017 that has functioned as intended

while maintaining a consistent edge between the drive and yard.

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

In addition to the other fourteen properties on the south side of the 700 block of Ash Street, most

of the properties in North Lawrence both older and recently constructed homes have driveways

constructed with gravel alone and no edging materials. Several homes constructed in the 600

block of Walnut in the last five years have been granted similar variances for driveways.



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

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

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:

We believe that constructing our driveway as requested provides the most sustainable solution
and lowest amount of runoff to the City's storm sewer systems. As proposed, the design will
provide the best solution to maintenance and be consistent with the immediate area and
neighborhood

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

We do not believe the variance would adversely affect the community and immediate
neighborhood in terms of the stated criteria and may serve to promote sustainable solutions to
driveway materials and construction details in the future.



**Lawrence Douglas County
Metropolitan Planning Office**
6 East 6th Street, P.O. Box 708, Lawrence, KS 66044
(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:

_____ We do not believe that the variance desired would be opposed to the general spirit and intent of _____

_____ the Development Code. Although this property is not within a Flood Zone designated area that _____

_____ does allow gravel as an approved driveway material, it is within "an area with reduced flood risk _____

_____ due to Levee" and can be considered in this context. _____

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 9/10/2018

April Evans _____ Date 9-10-18

_____ Date _____

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____



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

OWNER AUTHORIZATION

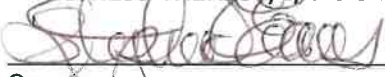
I/We Stephen Evans and April Evans, hereby referred to as the "Undersigned", being of lawful age, do hereby on this tenth day of September, 2018, make the following statements to wit:

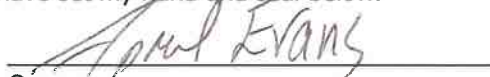
1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

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

2. I/We the undersigned, have previously authorized and hereby authorize Stephen Evans (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 718 Ash Street, Lawrence, KS 66044 (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

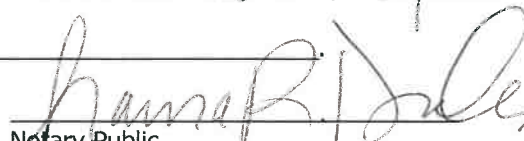

Owner

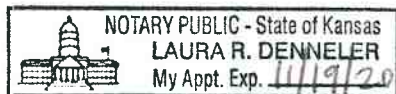
STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 10 day of Sept, 2018

by Laura R. Denneler

My Commission Expires: 11/19/20


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.

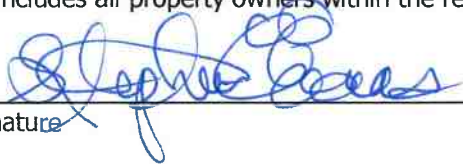
A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business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

Signature



Date

9/10/2018

Stephen Evans

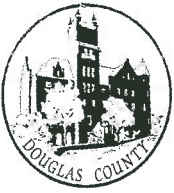
Printed Name

Exhibit A, Legal Description

Stephen and April Evans Variance Form Attachments
718 Ash Street, Lawrence, KS 66044

Legal Description

Lot 1 of Dooganville Subdivision, described as a part of Lot 22 in Simpsons Subdivision to the City of Lawrence, Douglas County, Kansas, described as follows: Beginning at the Northwest corner of said Lot; thence N88 degrees 10'57"E assumed bearing, along the North line of said Lot 60.80 feet; thence S02 degrees 18'37"E 230.07 feet to a point on the Northerly right-of-way line of the Kansas River Levee; thence Northwesterly along said right-of-way line 61.96 feet on a curve to the right, having a radius of 11,394.16 feet with a chord bearing N81 degrees 12'42"W 61.96 feet to a point on the West line of said Lot; thence N02 degrees 18'37"W along said West line 218.67 feet to the point of Beginning, containing 0.31 acres, more or less. Subject to easements of record.



JAMIE SHEW
DOUGLAS COUNTY CLERK
1100 Massachusetts
Lawrence, KS 66044

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

September 10, 2018

A CERTIFIED PROPERTY OWNERSHIP LIST WITHIN 400 FT OF 718 ASH ST
(N07846AB). 09/10/2018. REQUESTED BY STEVE EVANS.

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

785-832-5147

jnichols@douglascountyks.org

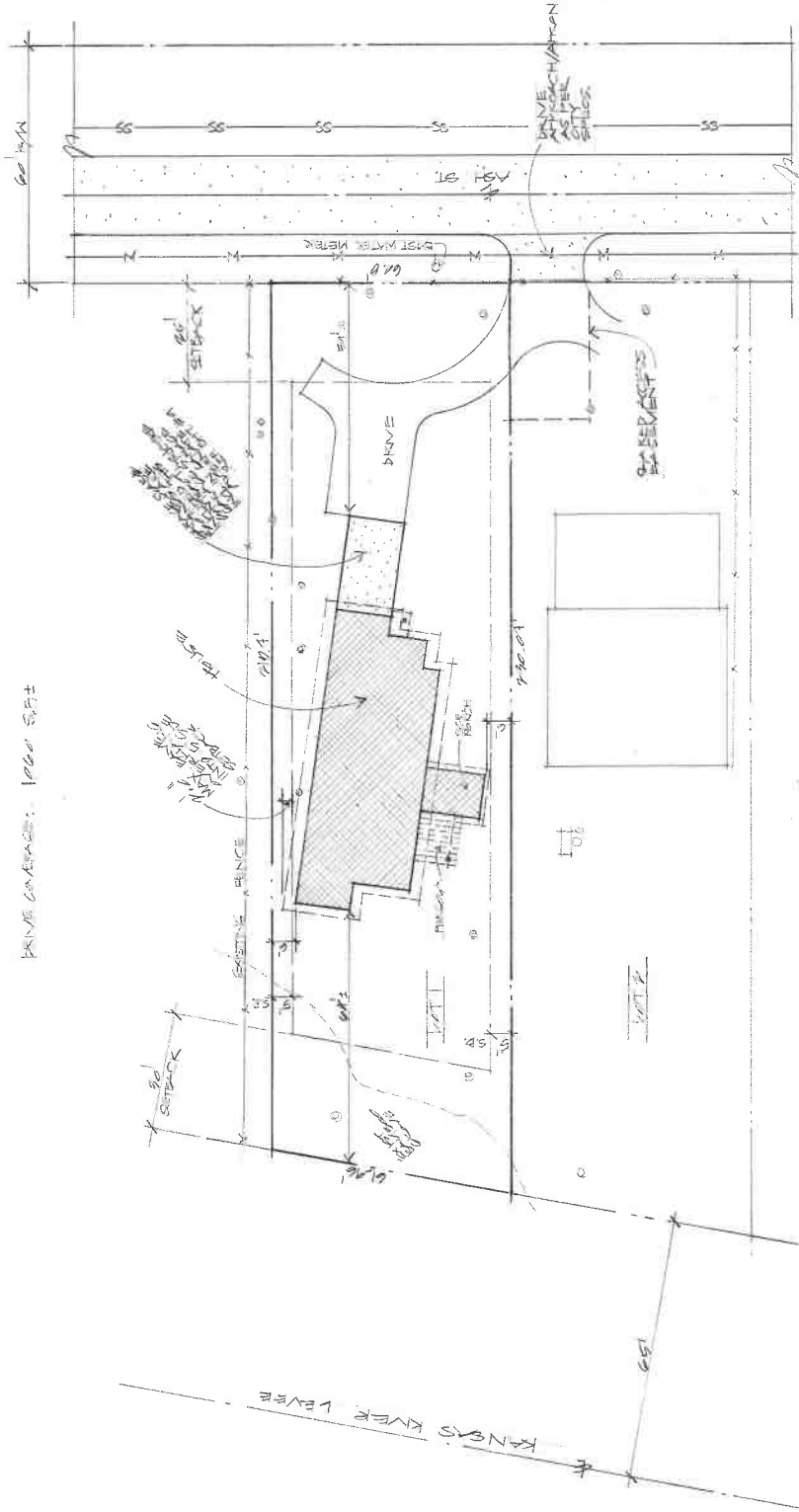
Douglas County Real Estate Division
County Clerk's Office. I do hereby certify
the Property Ownership listed hereto, to be
true and accurate.

| JOINPIN | SVSCALACRES | owner1 | owner2 | owner3 | address | city | state | zip | plate | PID | Quickrefid | status |
|-------------------------|-------------|------------------------------|--------|--------|--------------------------|-----------|-------|-------|------------|-----------------------------|------------|------------------|
| 079-29-0-30-06-014.00-0 | 2.95449199 | CITY OF LAWRENCE | | | PO BOX 708 | LAWRENCE | KS | 66044 | N07990A | 023-079-29-0-30-06-014.00-0 | R14364 | 200 N 7TH ST |
| 079-29-0-30-06-017.03-0 | 0.46950989 | SLOCUM TERRY A | | | 525 OOKPIK WAY | FAIRBANKS | AK | 99709 | N07997A | 023-079-29-0-30-06-017.03-0 | R14369 | 727 WALNUT ST |
| 079-29-0-30-06-017.04-0 | 0.25807706 | SLOAN KENNETH | | | 825 MAPLE ST | LAWRENCE | KS | 66044 | N07997B | 023-079-29-0-30-06-017.04-0 | R14370 | 723 WALNUT ST |
| 079-29-0-30-06-017.01-0 | 0.25803121 | BURGER SHANNON | | | 719 WALNUT ST | LAWRENCE | KS | 66044 | N07997 | 023-079-29-0-30-06-017.01-0 | R14367 | 719 WALNUT ST |
| 079-29-0-30-06-015.00-0 | 0.18336823 | ROUNTREE RONDA A | | | 711 WALNUT ST | LAWRENCE | KS | 66044 | N07994-01 | 023-079-29-0-30-06-015.00-0 | R14365 | 711 WALNUT ST |
| 079-29-0-30-06-016.00-0 | 0.31489504 | HANSON JAMES J | | | 713 WALNUT ST | LAWRENCE | KS | 66044 | N07995 | 023-079-29-0-30-06-016.00-0 | R14366 | 713 WALNUT ST |
| 079-29-0-30-07-006.00-0 | 0.40840744 | OSBURN ROBERT F | | | 742 WALNUT ST | LAWRENCE | KS | 66044 | N07833 | 023-079-29-0-30-07-006.00-0 | R14394 | 742 WALNUT ST |
| 079-29-0-30-07-007.00-0 | 0.20433683 | MEREDITH LYNN | | | 721 MISSOURI ST | LAWRENCE | KS | 66044 | N07834 | 023-079-29-0-30-07-007.00-0 | R14395 | 740 WALNUT ST |
| 079-29-0-30-07-008.00-0 | 0.20412324 | RISNER JAMES R JR | | | 734 WALNUT ST | LAWRENCE | KS | 66044 | N07836 | 023-079-29-0-30-07-008.00-0 | R14396 | 734 WALNUT ST |
| 079-29-0-30-07-009.00-0 | 0.40898102 | DORN CLIFTON D | | | 3124 LANCE CT | LAWRENCE | KS | 66049 | N07837 | 023-079-29-0-30-07-009.00-0 | R14397 | 730 WALNUT ST |
| 079-29-0-30-07-010.00-0 | 0.81795829 | HALL SAMUEL G | | | 726 WALNUT ST | LAWRENCE | KS | 66044 | N07838A | 023-079-29-0-30-07-010.00-0 | R14398 | 726 WALNUT ST |
| 079-29-0-30-07-011.00-0 | 0.20419039 | MYRIAD CAPITAL OF KANSAS LLC | | | 645 VERMONT ST UNIT 1323 | LAWRENCE | KS | 66044 | N07840 | 023-079-29-0-30-07-011.00-0 | R14399 | 718 WALNUT ST |
| 079-29-0-30-07-012.03-0 | 0.20449003 | KINCAD HANNAH A | | | 712 WALNUT ST | LAWRENCE | KS | 66044 | N07842B | 023-079-29-0-30-07-012.03-0 | R14402 | 712 WALNUT ST |
| 079-30-0-40-07-012.01-0 | 0.20295592 | GREEN TYLER | | | 708 WALNUT ST | LAWRENCE | KS | 66044 | N07843B | 023-079-30-0-40-07-012.01-0 | R14400 | 708 WALNUT ST |
| 079-30-0-40-19-001.00-0 | 0.56270112 | HAMILT DONALD G TRUSTEE | | | 1505 E 250 RD | LECOMPTON | KS | 66050 | N06833A | 023-079-30-0-40-19-001.00-0 | R15348 | 130 N 7TH ST |
| 079-29-0-30-07-012.02-0 | 0.20295777 | DOUGLAS JUSTIN T | | | 704 WALNUT ST | LAWRENCE | KS | 66044 | N07844B | 023-079-29-0-30-07-012.02-0 | R14401 | 704 WALNUT ST |
| 079-30-0-40-18-001.00-0 | 0.29843971 | HOWE DEBBIE | | | 646 WALNUT ST | LAWRENCE | KS | 66044 | N06821 | 023-079-30-0-40-18-001.00-0 | R15337 | 646 WALNUT ST |
| 079-29-0-30-07-017.01-0 | 0.20464244 | CLARK RICHARD G | | | 743 ASH ST | LAWRENCE | KS | 66044 | N07835 | 023-079-29-0-30-07-017.01-0 | R14408 | 743 ASH ST |
| 079-29-0-30-07-017.00-0 | 0.20485804 | SOSMAN JOHN G | | | 735 ASH ST | LAWRENCE | KS | 66044 | N07836A | 023-079-29-0-30-07-017.00-0 | R14407 | 735 ASH ST |
| 079-29-0-30-07-016.00-0 | 0.20479094 | JOHNSON JORDAN D | | | 723 ASH ST | LAWRENCE | KS | 66044 | N07841 | 023-079-29-0-30-07-016.00-0 | R14406 | 723 ASH ST |
| 079-29-0-30-07-015.00-0 | 0.20448973 | HAYDON RACHELE | | | 711 ASH ST | LAWRENCE | KS | 66044 | N07842A | 023-079-29-0-30-07-015.00-0 | R14405 | 711 ASH ST |
| 079-29-0-30-07-014.01-0 | 0.19988957 | SCHUEMANN LAWRENCE A | | | 707 ASH ST | LAWRENCE | KS | 66044 | N07843A | 023-079-29-0-30-07-014.01-0 | R14404 | 707 ASH ST |
| 079-29-0-30-07-013.01-0 | 0.19988925 | COURSEND DYLAN | | | 703 ASH ST | LAWRENCE | KS | 66044 | N07844A | 023-079-29-0-30-07-013.01-0 | R14403 | 703 ASH ST |
| 079-30-0-40-18-010.00-0 | 0.11893946 | MANN BETSY E | | | 177 N 7TH ST | LAWRENCE | KS | 66044 | N06823 | 023-079-30-0-40-18-010.00-0 | R15347 | 177 N 7TH ST |
| 079-30-0-40-18-008.00-0 | 0.37263886 | MCKELVEY EDWIN L | | | 631 ASH ST | LAWRENCE | KS | 66044 | N06826A01 | 023-079-30-0-40-18-008.00-0 | R15345 | 631 ASH ST |
| 079-30-0-40-19-002.00-0 | 0.19262993 | RICKETS STANLEY E | | | 1650 N 1600 RD | LAWRENCE | KS | 66044 | N06832 | 023-079-30-0-40-19-002.00-0 | R15349 | 176 N 7TH ST |
| 079-29-0-30-10-006.00-0 | 0.67721095 | NOVOGRADAC CHARLES K | | | PO BOX 1166 | LAWRENCE | KS | 66044 | N07850A01 | 023-079-29-0-30-10-006.00-0 | R14457 | 746 ASH ST |
| 079-29-0-30-10-006.02-0 | 0.16187649 | CORRIGAN WILLIAM E III | | | 740 ASH ST | LAWRENCE | KS | 66044 | N07850A02 | 023-079-29-0-30-10-006.02-0 | R311866 | 740 ASH ST |
| 079-29-0-30-10-006.01-0 | 0.56638865 | PRESS RANDALL J | | | 734 ASH ST | LAWRENCE | KS | 66044 | N07850B | 023-079-29-0-30-10-006.01-0 | R14458 | 734 ASH ST |
| 079-29-0-30-10-007.00-0 | 0.34126494 | PETREHN TAYLOR | | | 738 ASH ST | LAWRENCE | KS | 66044 | N07849A | 023-079-29-0-30-10-007.00-0 | R14459 | 738 ASH ST |
| 079-29-0-30-10-008.00-0 | 0.32399951 | MUELLER R BRIAN TRUSTEE | | | 730 ASH ST | LAWRENCE | KS | 66044 | N07849-01A | 023-079-29-0-30-10-008.00-0 | R14460 | 730 ASH ST |
| 079-29-0-30-10-009.00-0 | 0.33583447 | HALL SAMUEL G | | | 726 WALNUT ST | LAWRENCE | KS | 66044 | N07848A | 023-079-29-0-30-10-009.00-0 | R14461 | 728 ASH ST |
| 079-29-0-30-10-010.00-0 | 0.32881567 | PETERS KENNETH A BUILDER INC | | | 1988 E I RD | LECOMPTON | KS | 66050 | N07847A | 023-079-29-0-30-10-010.00-0 | R14462 | 726 ASH ST |
| 079-30-0-40-18-006.00-0 | 0.84592361 | HOLLADAY JOHN E | | | 2025 HILLVIEW RD | LAWRENCE | KS | 66046 | N06829 | 023-079-30-0-40-18-006.00-0 | R15343 | 600 ASH ST BLK 2 |
| 079-29-0-30-10-012.00-0 | 0.40499679 | BROOKS ROBERT W | | | 708 ASH ST | LAWRENCE | KS | 66044 | N07845A | 023-079-29-0-30-10-012.00-0 | R14464 | 708 ASH ST |
| 079-30-0-40-20-001.00-0 | 0.24636835 | DANIELS JANET L | | | 704 ASH ST | LAWRENCE | KS | 66044 | N06835-01 | 023-079-30-0-40-20-001.00-0 | R15350 | 704 ASH ST |
| 079-30-0-40-20-002.00-0 | 0.27655268 | MANCINI PETER | | | 700 ASH ST | LAWRENCE | KS | 66044 | N06835 | 023-079-30-0-40-20-002.00-0 | R15351 | 700 ASH ST |
| 079-30-0-40-18-005.00-0 | 5.85061922 | CITY OF LAWRENCE | | | PO BOX 708 | LAWRENCE | KS | 66044 | N06820B | 023-079-30-0-40-18-005.00-0 | R15342 | 600 WALNUT ST |
| 079-30-0-40-20-003.00-0 | 1.19070099 | CITY OF LAWRENCE | | | PO BOX 708 | LAWRENCE | KS | 66044 | N06835A | 023-079-30-0-40-20-003.00-0 | R15352 | 700 ASH ST |
| 079-29-0-30-09-004.00-0 | 21.61405871 | CITY OF LAWRENCE | | | PO BOX 708 | LAWRENCE | KS | 66044 | N07845BA | 023-079-29-0-30-09-004.00-0 | R14450 | 700 ASH ST |
| 079-29-0-30-10-011.01-0 | 0.31320694 | EVANS STEPHEN C | | | PO BOX 726 | LAWRENCE | KS | 66044 | N07846AB | 023-079-29-0-30-10-011.01-0 | R343427 | 718 ASH ST |

OF 718 ASH ST (N07846AB)



ZONING: R57
 DESCRIPTION: DOWNSIDE SUBDIVISION
 A PART OF LOT 22, GIBSON'S SUBD.
 LOT 1
 LOT SIZE: 31.00 ACRES / 13,440,000 SQ. FT.
 BUILDING: HOUSE & GARAGE 1411 SQ. FT.
 GARAGE AUTOMATIC 236 SQ. FT.
 DRIVE COVERAGE: 1000 SQ. FT.



DRIVE: (VARIABLE)
 CONCRETE
 CONCRETE STUMPS
 TUNE 12/1/10

HOUSE AXIS APPROX.
 80° OFF NORTH



SITE PLAN



10/10/2010

1

1010 1011

From: Stephen Evans <scevans704@gmail.com>

Sent: Monday, October 1, 2018 10:41 AM

To: Lucas Mortensen <lmortensen@lawrenceks.org>; Jeff Crick <jcrick@lawrenceks.org>

Cc: Katherine Weik <kweik@lawrenceks.org>; Caitlyn Dolar <cdolar@lawrenceks.org>; Peters Kenn <kapbuilders@sunflower.com>; Williams Kent <kent.t.williams@gmail.com>; Evans April <aprilevans1729@gmail.com>

Subject: Re: B-18-00438 Completeness Review





Lucas, Jeff and all,

We have reviewed the BZA material contained in the October 4, 2018 Agenda package related to our Driveway Variance Request for 718 Ash Street. Thank you for that very thorough review and documentation of this request which has provided us the opportunity to communicate additional information that we believe may allow further consideration by Staff and the Board. I am copying Kenn Peters, the current owner of 722 Ash Street and the building contractor for our house at 718 Ash, and Kent Williams who has signed a real estate purchase contract with Kenn for 722 Ash. You may anticipate hearing from both Kenn and Kent directly regarding this variance request.

I will offer some detailed comments below regarding several points in the Staff review but would like to share with you my personal reasons for pursuing this variance. From the perspective of sustainability and the use of hard surface pavement materials, it is clear that gravel provides the best solution to minimize storm water runoff. Additionally, it is clear that minimizing the use of

hard surface materials including asphalt and concrete will help reduce radiant temperatures in the environment. I know you all know this and am simply stating this as my motivating factor to be clear of my intentions. I also happen to just like how a simple gravel driveway contained with steel edges looks.

Following are some additional comments/thoughts for you to consider:

1. I do think that being located in the “Zone X-Protected by Levee” area deserves some additional consideration. We are near the AH Zone/100 Year area four blocks to the north of 718 Ash which does allow for gravel driveways and both areas rest in parts of the North Lawrence neighborhood with predominately gravel driveways. Staff stated in its review the following: “This area of North Lawrence has not been classified by FEMA as part of a regulatory floodplain, but its designation as Zone X Protected by Levee inherently suggests potential stormwater drainage or flooding issues.”
2. Staff has noted that North Lawrence has experienced drainage concerns in general and the approval of this variance would contribute to the solution and intent to alleviate drainage issues in the area while reducing surface water runoff.
3. The current owner of 722 Ash is Kenneth A. Peters Builders, Inc. Kenn has a real estate purchase contract executed with Kent Williams who plans to begin construction on a residence in early 2019. My wife April and I and Kent Williams have developed site plans for both properties together with the best interests of both properties on the forefront of this process. This included our agreement to have shared access to the properties which has a recorded easement in place with the Register of Deeds as stated by Staff.
4. We are providing a site plan diagram indicating how the shared access works with both driveways; see attached. Kent Williams also desires a gravel driveway contained with steel forms consistent with the desires for 718 Ash. Given the plan diagrams for the shared drive and drives into both properties, both owners believe the long-term maintenance and environmental considerations including drainage issues are best addressed without hard surface materials for drives or edges. Also, considering 718 will be constructed before 722, parts of the 718 drive will need to be adjusted when 722 is built which is much easier with steel forms than concrete edges that would have to be removed.
 1. We would request guidance from staff on preparing the documentation to support approval of the variance for 718 Ash as stated and the intent to apply for a similar variance for 722 Ash at the appropriate time.
5. We appreciate the information shared by staff on the prior approvals for gravel driveways at 754 and 868 Elm Street. It is also our understanding that the BZA approved the use of a gravel driveway at 872 Oak Street that was part of a new construction project and did not require concrete edges. We would also like to share the following:
 1. Attached are photos of the gravel driveway at 646 Walnut Street in North Lawrence that was built in 2017 by Kenn Peters. This utilizes the steel form for edges that we are proposing for 718 and 722 Ash. Although a concrete apron was not built which would prevent the gravel material moving on to 7th Street, the steel form has maintained a consistent edge between the drive and yard over time.

2. Attached are photos of the gravel driveway at 602 Walnut Street that was constructed in 2012. This drive also utilizes the steel forms we are proposing and has not encountered any problems while containing the gravel material.
6. Staff stated in their review the following: "The intent of the Code is to keep mud and gravel off of the public street right-of-way." We are certain that the proposed driveway construction details for 718 and 722 will satisfy this intent.

We appreciate staff's report and careful consideration of the Land Development Code in the context of this request and ask the Board to reconsider our variance request in light of the comments presented in this letter.

Thanks very much.



Steve Evans
PO Box 726
Lawrence, KS 66044
scevans704@gmail.com
785-393-9597

On Sep 13, 2018, at 9:45 AM, Lucas Mortensen <lmortensen@lawrenceks.org> wrote:

Stephen,

Please find attached the Completeness Review for your BZA case, B-18-00438, for 718 Ash Street. The completeness review formally allows staff to begin reviewing your variance application. Staff will provide a recommendation to the Board based on the review and decision-making criteria found in Section 20-1309 of the Land Development Code.

The BZA will review this item on October 4th at 6:30 PM in the City Commission meeting room at City Hall (6 East 6th Street). This is a public hearing and you'll have a few minutes to speak to the board but it is not required. It is helpful to have the applicant available to answer whatever questions may arise for the Board, though.

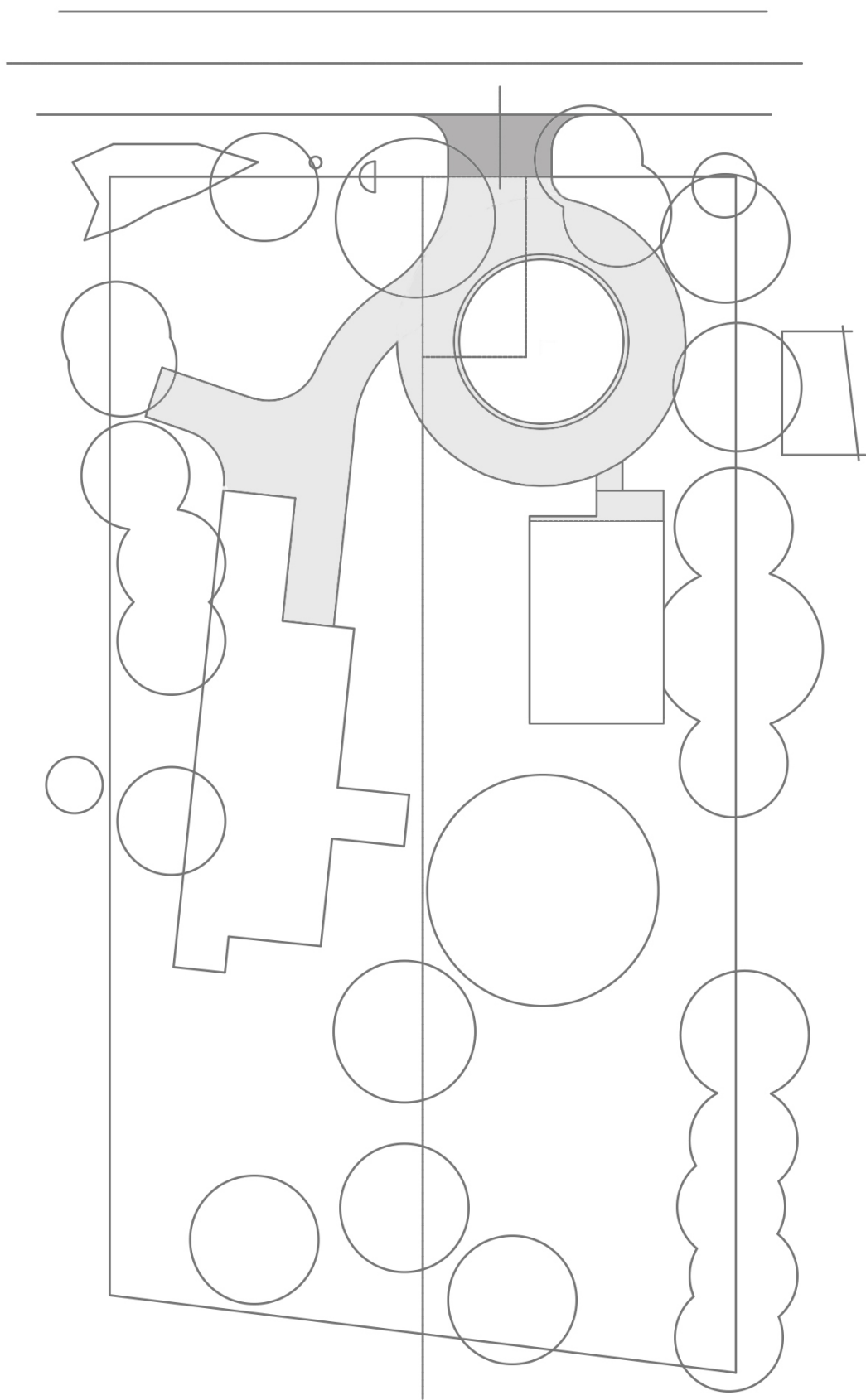
The October BZA meeting packet will be published on September 27th. This will include the staff recommendation and write-up for your case. I'll make sure to send you a reminder about that when the time comes so you can take a look.

Please let me know if you have any questions or comments regarding your application or the BZA process,

Luke Mortensen

<image001.jpg>

Luke Mortensen, *Planner I* – lmortensen@lawrenceks.org
Planning and Development Services | [City of Lawrence, KS](#)
P.O. Box 708, Lawrence, KS 66044
Office (785).832.3158 | Fax (785).832.3160



718 and 722 Ash 66044
01 September, 2018



-----Original Message-----

From: Kenneth Peters <kapbuilders@sunflower.com>

Sent: Monday, October 1, 2018 12:51 PM

To: "\"jcrick"@lawrenceks.org; "lmortensen\"""@lawrenceks.org

Subject: BZA case no. B-18-00438, for 718 Ash Street

Hi, Jeff,

I am the current owner of the property at 722 Ash Street in North Lawrence and have an executed real estate contract in place with Kent Williams to purchase the property and build a residence. We anticipate beginning construction in early 2019. I have worked closely with Mr. Williams along with Steve and April Evans, the owners of 718 Ash, to coordinate the driveway designs utilizing a shared easement that has been recorded. Both property owners desire gravel driveways contained by a 7 inch steel form on all edges which is a construction detail I have used extensively and most recently at 646 Walnut Street. The driveways constructed in this manner have not experienced any problems and perform well in terms of maintenance. As an experienced contractor, I see no advantage to utilizing concrete over steel forms for driveway edging and given the driveway designs for both properties and sequencing the steel forms are my preference.

I do support the driveway variance as submitted for 718 Ash utilizing gravel and steel forms.

Thank you for your considerations.

Kenneth A. Peters

From: Kent Williams <kent.t.williams@gmail.com>

Sent: Monday, October 1, 2018 11:59 AM

To: Jeff Crick <jcrick@lawrenceks.org>

Cc: Lucas Mortensen <lmortensen@lawrenceks.org>; Katherine Weik <kweik@lawrenceks.org>; Caitlyn Dolar <cdolar@lawrenceks.org>; Steve Evans <Scevens704@gmail.com>; Kenn Peters <kapbuilders@sunflower.com>; Kent Williams <kent.t.williams@gmail.com>

Subject: BZA case no. B-18-00438, for 718 Ash Street

Dear Mr. Crick:

I am fully aware of Mr. Evans' efforts regarding the aforementioned case. Mr. Evans has my complete cooperation and support in this regard. I am under contract with Mr. Peters regarding 722 Ash Street for purchase from Mr. Peters with the intention to develop said property in 2019. If you have any concerns or questions please do not hesitate to contact me at this email address or by phone at (323) 251-5784.

Yours Truly,

Kent T. Willilams
1337 N. Lewellen St.
Wichita, KS. 67203

--

kent

323.251.5784

www.kent-thomas-williams.com

ITEM NO. 6 **VARIANCE FROM THE SETBACK STANDARDS AND FENCE HEIGHT FOR A RESIDENTIAL DWELLING; 941 PENNSYLVANIA STREET [LRM]**

B-18-00429: A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The first 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 to 1 foot. The second request is for a variance from the 20 foot front setback required by Section 20-601(a) to 7 feet. The third request is for a variance from the 20 foot front setback required by Section 20-601(a) to 5 feet. The fourth request is for a variance from the 5 foot interior side setback standard required by Section 20-601(a) to 0 foot to construct a retaining wall/fence totaling 8 feet in height. The property is located at 941 Pennsylvania Street. Submitted by John A. Gascon, property owner of record.

B. REASON FOR REQUEST

Applicant's Request – *"We seek the following four variances from the City of Lawrence, Kansas Land Development Code:*

- 1. Reduction of the north side yard setback requirement of 5' to 1' to match the current placement of the existing structure which was built in 1890 before the land development code was adopted.*
- 2. Reduction of the front yard setback from 20' to 7' to match the current placement of the existing structure which was built in 1890 before the land development code was adopted.*
- 3. Reduction of the front yard setback from 20' to 5' to allow for the re-construction of a functional front porch that likely matched the original pattern/dimensions of the original front porch.*
- 4. Increase of the maximum fence height of 6' to 8' to allow for the installation of a new concrete retaining wall and re-construction of a fence damaged from the adjacent property owners tree on the south property line."*

C. ZONING AND LAND USE

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

Surrounding Zoning and Land Use: RS5 (Single-Dwelling Residential) District to the east, west, north and south; *Detached Dwelling Residential use.*

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(a), "DENSITY AND DIMENSIONAL STANDARDS; OCCUPANCY LIMITS, Residential Districts," provides the minimum building setbacks for each residential district. The code required minimum building setbacks in the RS5 (Single-Dwelling Residential) District and what is being requested by the applicant follow:

North setback (interior side setback) – 5 feet required; 1 foot proposed to memorialize existing building footprint.

East setback (front setback) – 20 feet required; 7 feet proposed to memorialize existing building footprint.

East setback (front setback) – 20 feet required; 5 feet proposed for construction of a two foot wide front porch addition.

South setback (interior side setback) – 5 feet required; 0 feet proposed for construction of a retaining wall and fence. Section 20-602(6)(IX) permits walls, fences, or hedges up to six feet in height within any required yard. The proposed fence will be 8 feet.



Image 1: Subject Property outlined in Teal. Subject Property is located within and surrounded by the RS5 (Single-Dwelling Residential) District

E. SPECIFIC ANALYSIS

Section 20-1309(g)(1) in the Land 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 is reported to be constructed in 1890 with evidence of multiple additions completed before 1910. At the time of construction there were no setback requirements and like many homes of that era, the house was placed very close to the front yard property line. The house is unique in that it is one of only three remaining original structures on the west side of the block, all of which are sited very close to the front property line and the north property line in violation of current setback requirements.*

It is estimated that the front porch was replaced with concrete and basic 2x4 construction within the last 20 years and does not match the construction of the original home. The porch was damaged from foundation settlement and when a tree fell on the house in 2017. Contractors replaced the south foundation of the house and had to remove the damaged front porch for access to the stone foundation. If variance 1 is approved, it would allow for a front porch of less than 4.5' deep, less than the turning radius required by the Americans with Disabilities Act. The desired porch depth is 6' which aligns with Christopher Alexander's Seminal work; A Pattern Language – Chapter 167 – Six Foot Balcony (see attached). Based on historical precedent (see attached there is evidence that the original front porch extended beyond the front of the house.

The site slopes from the front property line to the rear property line in the alley with an elevation grade change of about 6-7'. This is the case for most of the properties on the block, however, many of the other lots of been re-graded to change the natural slope of the land. This is particularly the case for the property to the south at 945 Pennsylvania Street. This has led to a significant groundwater mitigation issues, and ultimately tree root damage that led to a tree falling on our house in 2017. We are in negotiations with an Insurance Company to correct this grade differential with a retaining wall and the replacement of our damaged fence along the south retaining wall. Because of the unique siting and regarding issues to the south, the adjacent property is located in such a way that a common fence placed at 6' high does not provide the privacy that is desired.

The subject property was originally platted and recorded in 1863 as Pennsylvania Street Lot 59, Original Townsite. The existing residence was built in 1890, per Douglas County Register of Deeds records. There was no adopted zoning code at the time of platting or construction. The siting of the residence on the lot was not subject to any density and dimensional standards because the first zoning code was not adopted until 1927. The north setback variance request (5 feet to 1 foot) and the east setback variance (20 feet to 7 feet) would memorialize the existing footprint of the structure. This would allow the applicant to rebuild the structure in its current footprint in the case of damage or destruction. Therefore, the placement of the house on the lot due to its age is a unique condition not created by the applicant.

The east setback variance request (20 feet to 5 feet) for the front porch extension is a result of the removal of the existing front porch. The porch was removed to access the stone foundation for necessary repairs caused by a neighbor's tree falling on the existing residence. The applicant is looking to replace the previous front porch with a larger front porch that would extend more into the front setback. An uncovered structure less than 30 inches in height would not require a variance to be located in the front setback. The applicant is proposing a covered front porch. The Land Development Code permits exceptions to the required front setback. Section 20-602(e)(I) establishes,

"In any District where 35% or more of the frontage on one side of a street between two intersecting streets is improved with buildings whose front setbacks do not vary more than 15 feet from the required front setbacks of the base district, any new building erected may comply with the average front setback of the existing buildings."

Taking this exception into account, the subject property would still be held to a 16 foot front setback rather than a 20 foot front setback. The average setback of the block was set after the subject property was constructed in 1880. The majority of houses on the block were built under the 1966 Zoning Code which required a 25 foot front yard setback in the RS-2 District. This creates a situation where the majority of structures on the block are in compliance with setback requirements; therefore, this exemption does not benefit the subject property since the average setback of the blockface remains too great.

Staff is unable to comment on the historical accuracy and aesthetics of the proposed front porch addition but would note that an uncovered porch would be permitted, without a variance, within the front yard setback. A primary function of front setbacks is to maintain visual and planar consistency along the blockface. Due to the varied ages of the existing houses along the 900 block of Pennsylvania Street, there is less of a consistent blockface to protect with unimpeded front setbacks. Pennsylvania Street is an 80 foot wide section of right-of-way that already houses necessary public infrastructure. It is unlikely the City will be requesting easements beyond the existing right-of-way.

The south setback variance request (5 feet to 0 feet) is a result of a hardship not induced by the applicant. Significant site re-grading on the neighboring 945 Pennsylvania Street altered the hydrology of the site causing increased water run-off onto the subject property. The applicant will place a retaining wall on his property line to mitigate water runoff from 945 Pennsylvania Street to 941 Pennsylvania Street. This will prevent water from flowing down the 3-4 foot elevation change between the lots. A retaining wall is permitted within the interior side setback. The applicant wishes to replace his damaged fence on top of the proposed retaining wall so that both properties are screened. Due to the significant finish floor grade variation between the two properties, the retaining wall and 8 foot fence will properly screen both 945 and 941 Pennsylvania Streets. This is 2 feet higher than the maximum fence height of 6 feet permitted by the Land Development Code.

945 Pennsylvania Street is oriented towards E. 10th Street and sits just 9.5 feet from the subject property's interior side lot line. As a result, the applicant's proposed side yard fence and retaining wall will function as a rear yard fence for 945 Pennsylvania Street and provide desired screening for both properties. As of the time of this report's writing, staff has not been contacted by the owner of 945 Pennsylvania Street.

Significant grade changes between 941 Pennsylvania and 945 Pennsylvania and the subsequent hydrology alteration resulted in hardships to the applicant that were not self-induced. The existing residence was built prior to any zoning code's density and dimensional standards; therefore, the subject property is subject to setback requirements determined after its construction. The reduction of the

required front yard setback would help formalize the existing building footprint within the context of the Land Development Code.

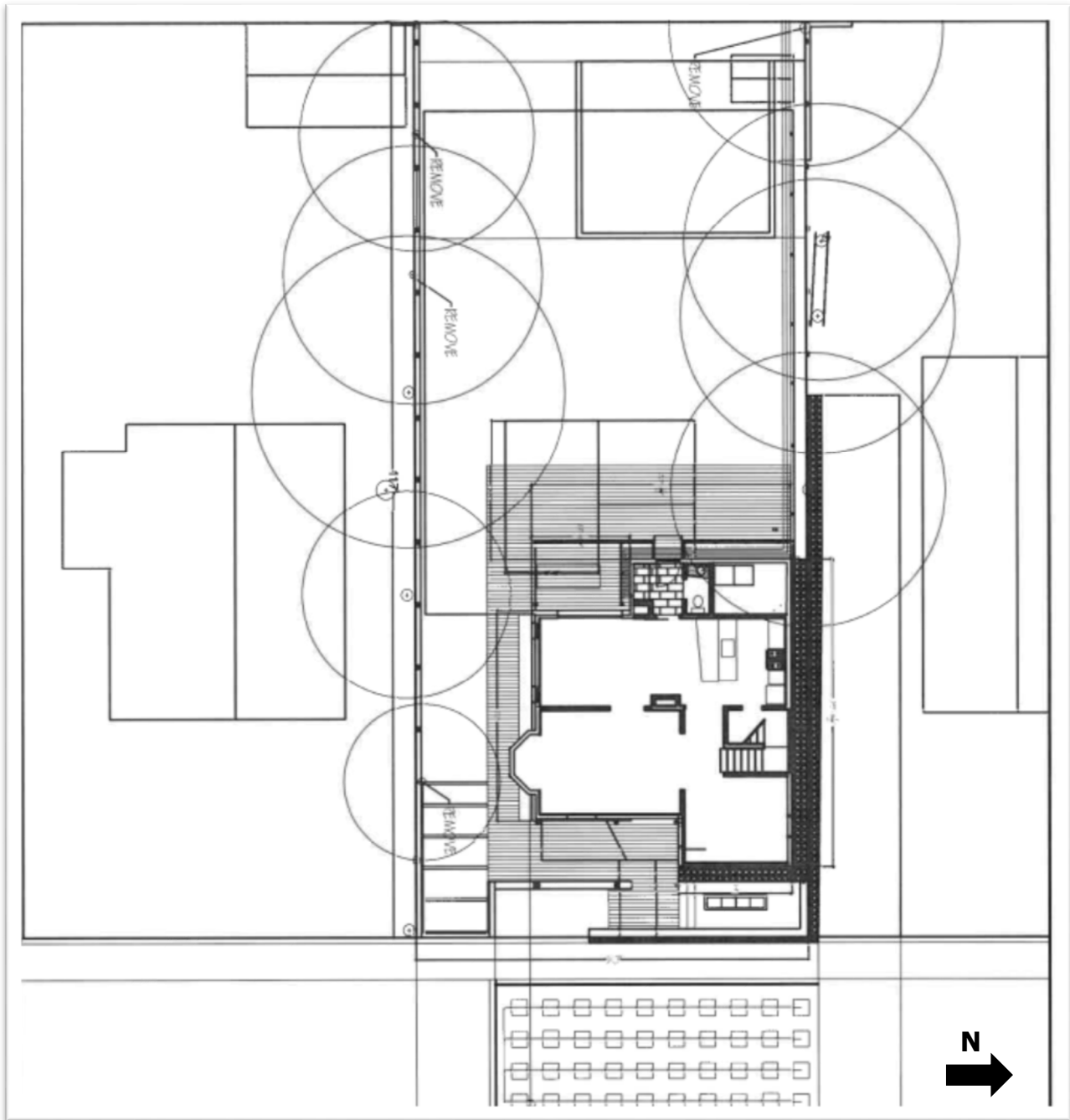


Image 2: Proposed site plan for subject property. Subject property faces east and fronts Pennsylvania Street.

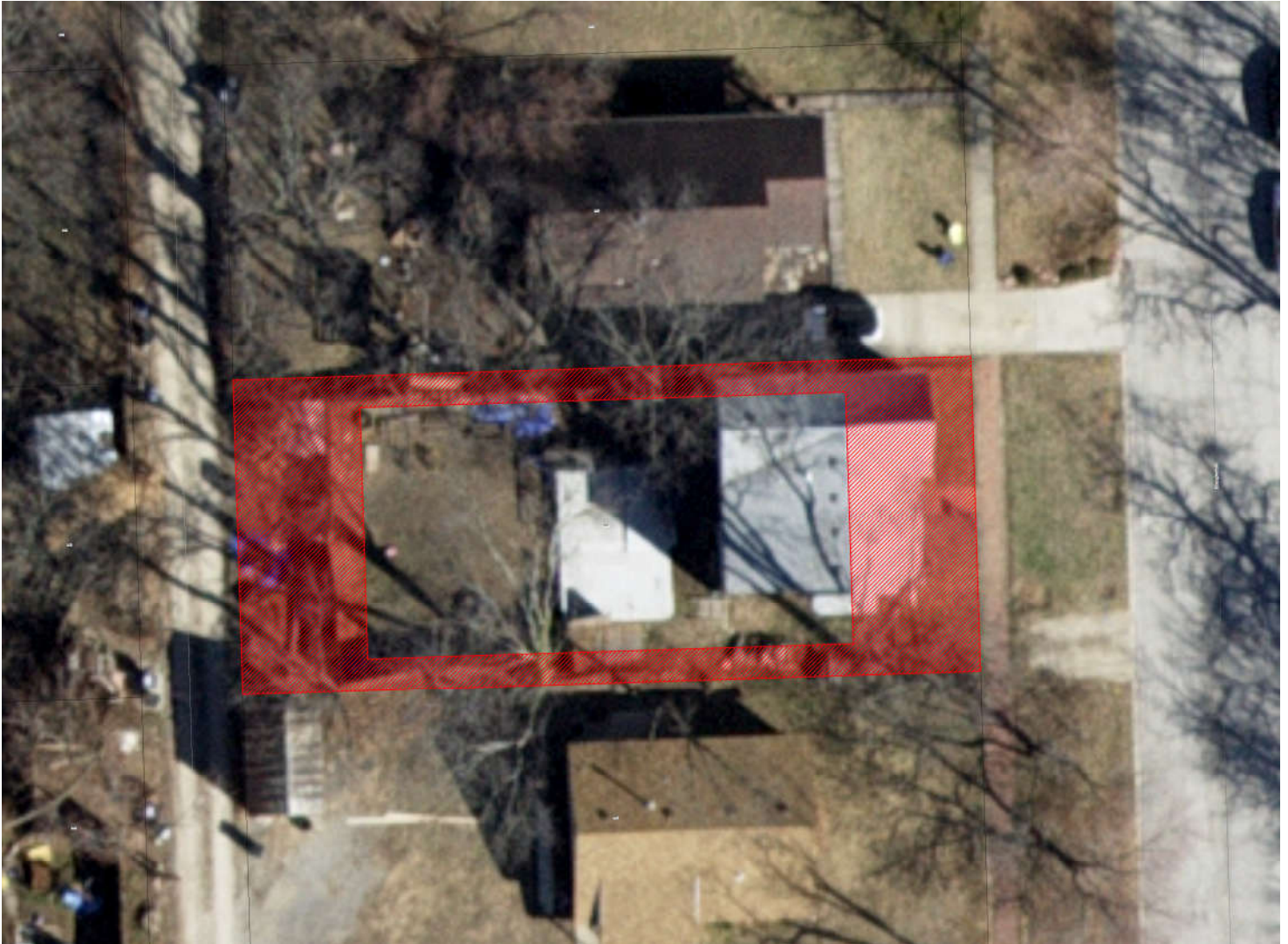


Image 3: Red, striped area represents required setback area as established by the Land Development Code. Existing residence built prior to any adopted density and dimensional standards.

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

Applicant response: "Because of the siting of the house, the front porch cannot be viewed from either neighboring houses and would have no impact to them. We do not believe that the ability to place a chair 2 feet closer to the property across the street would have a material impact to our neighbors.

The granting of variance 4 would enhance the privacy of the adjacent property owners by allowing a fence that would provide appropriate privacy and prevent us from looking directly into our neighbors house while at the dinner table or on our deck cooking wieners."

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.



Image 4: Note the varied front setbacks and inconsistent blockface. Subject property outlined in teal.

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: *"The strict application of the provisions would require that we relocate the house several feet from its existing foundation to comply with current setbacks which is unnecessary. The application of the front yard setback limited by the front of the current house would prevent the reconstruction of a front porch that is ADA compliant, functional and likely matched the pattern of the original house."*

It is important to note that the current development code was created for modern suburban development and applied original town site neighborhoods that were built with much different building patterns. Traditionally houses were placed much closer to the property line than modern construction and porches were designed so that neighbors could engage residents sitting on them from the sidewalk. Current setback provisions do not address or acknowledge this traditional development pattern. This modern applications of building setbacks ignores 116 years of successful history of the existing structure.

The limitations of a 6' height in fence would prevent the fence from achieving its primary purpose of providing privacy from the adjacent property."

In staff's opinion, strict adherence to the code required building setbacks may constitute an unnecessary hardship to this property owner given the age of the existing residence and recorded plat. Granting these variances would allow this structure to maintain its existing setback along the north property line and permit the owner the ability to renovate the existing structure allowing for its continued updating and use.

The altered hydrology and subsequent fallen tree resulted in hardships upon the applicant that were not self-induced. The north setback variance (5 feet to 1 foot) and the east setback (20 feet to 7 feet) variance will memorialize the existing residence's footprints. Without these variances the applicant would be subject to the density and dimensional standards, established by the current Land Development Code, if the structure was ever damaged to the extent that rebuilding or replacement was necessary.

The south setback (5 feet to 0 feet) variance and east setback (20 feet to 5 feet) variance requests are intended to return the subject property to a completed and improved state. The retaining wall, which is already permitted in the side yard setback by Section 20-602(6)(IX), and fence combination will provide proper screening between the subject property's side yard and the neighboring 945 Pennsylvania Street's rear yard. It will also prevent future hydrology issues caused by the substantial regrading of 945 Pennsylvania Street. Without it there may be continued hydrology issues in the future.

Due to the age of the residence, the structure already encumbers 13 feet of the front yard setback. The strict application of the provisions of the Land Development Code would not allow for any type of covered front porch without a variance.

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

Applicant response: *"The variances would allow the improvements and restoration to the property that would enhance the above by bringing the house in compliance with current development code, improving the architectural character and functionality of the house and by providing adequate privacy between neighbors."*

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, and will provide a benefit to the adjacent owners of 945 Pennsylvania Street in the form of increased rear yard screening. 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: *"The existing setback requirements were created much later than the original neighborhood and ignore the development patterns of the original Lawrence town site. The original intent of setbacks was to create a buffer between current street curb lines and the right of way for future street widening projects and to prevent city officials from having to engage in eminent domain accommodate widening streets. This particular property has 20' of available street right of way between the curb and existing sidewalk which is more than adequate for street widening, which has not occurred in 128 years.*

There are several provisions in the code that require a fence to be at least 6' in height with the understanding that the primary purpose is to provide screening and privacy. There are some instances in the code where maximum height of 10' is provided. It is unclear why there is a 6' height limit for fences in residential development, however a 2' variance is not enough to oppose the general spirit of the intent which may be to prevent large walls that obstruct light and block views of neighboring property owners. In this particular case, the sun is coming from the opposite side of the neighboring property and there is no view being blocked other than the view directly into my living room where I can be seen walking around in my undergarments."

In staff's opinion, approval of this variance is consistent with the general spirit and intent of the Land Development Code. Granting the requested variances is consistent with the previous findings of the Board, and also consistent with the spirit of Land Development Code. Granting of these requested variances 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 requested variance based upon the findings in the staff report concluding that the request meets the five conditions outlined in Section 20-1309(g)(1). Staff recommends the Board grant the variance to reduce the required side yard setback from 5 feet to 0 feet for the south setback, the variance to reduce the side setback from 5 feet to 1 foot for the north setback, the variance to reduce the front setback from 20 feet to 7 feet for the east setback and the variance to reduce the front setback from 20 feet to 5 feet for the east setback for the existing structure at 941 Pennsylvania Street.



**APPLICATION FOR
VARIANCE FROM UNNECESSARY HARDSHIP**

RECEIVED

SEP 06 2018

City County Planning Office
Lawrence, Kansas

OWNER INFORMATION

Name(s) John A. Gascon & Erica A. Gascon
Contact John A. Gascon
Address 941 Pennsylvania Street
City Lawrence State KS ZIP 66044
Phone (785) 841-3053 Fax (____) _____
E-mail john.gascon@gmail.com Mobile/Pager (____) _____

APPLICANT/AGENT INFORMATION

Contact John A. Gascon
Company n/a
Address See Above
City _____ State _____ ZIP _____
Phone (____) _____ Fax (____) _____
E-mail _____ Mobile/Pager (____) _____
Pre-Application Meeting Date _____ Planner _____

PROPERTY INFORMATION

Present Zoning District RS-5 Present Land Use RS-5 Residential (single family)
Proposed Land Use No Change
Legal Description (*may be attached*) PENNSYLVANIA STREET LT 59
Address of Property 941 Pennsylvania Street
Total Site Area 5,850sf
Number and Description of Existing Improvements or Structures 1 Single Family Home



Description of variance requested:

We seek The following four variances from the City of Lawrence, Kansas Land Development Code:

1. Reduction of the north side yard setback requirement of 5' to 1' to match the current placement of the existing structure which was built in 1890 before the land development code was adopted.

2. Reduction of the front yard setback from 20' to 7' to match the current placement of the existing structure which was built in 1890 before the land development code was adopted.

3. Reduction of the front yard setback from 20' to 5' to allow for the re-construction of a functional front porch that likely matched the original pattern/dimensions of the original front porch.

4. Increase of the maximum fence height of 6' to 8' to allow for the installation of a new concrete retaining wall and re-construction of a fence damaged from the adjacent property owners tree on the south property line.

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 is reported to be constructed in 1890 with evidence of multiple additions completed before 1910. At the time of construction there were no setback requirements and like many homes of that era, the house was placed very close to the front yard property line. The house is unique in that it is one of only three remaining original structures on the west side of the block, all of which are sited very close to the front property line and the north property line in violation of current setback requirements.

It is estimated that the front porch was replaced with concrete and basic 2x4 construction within the last 20 years and does not match the construction of the original home. The porch was damaged from foundation settlement and when a tree fell on the house in 2017. Contractors replaced the south foundation of the house and had to remove the damaged front porch for access to stone foundation. If variance 1 is approved, it would only allow for a front porch of less than 4.5' deep, less than the turning radius required by the Americans with Disabilities Act. The desired porch depth is 6' which aligns with Christopher Alexander's Seminal work; A Pattern Language - Chapter 167 - Six Foot Balcony (see attached). Based on historical precedent (see attached) there is evidence that the original front porch extended beyond the front of the house.

The site slopes from the front property line to the rear property line in the alley with an elevation grade change of about 6-7'. This is the case for most of the properties on the block, however, many of the other lots of been re-graded to change the natural slope of the land. This is particularly the case for the property to the south at 945 Pennsylvania Street. That property was regarded to make the front 75% of the lot flat, creating a 3-4' grade differential on the south property line. This has led to a significant groundwater mitigation issues, and ultimately tree root damage that led to a tree falling on our house in 2017. We are in negotiations with an Insurance Company to correct this grade differential with a retaining wall and the replacement of our damaged fence along the south retaining wall. Because of the unique siting and regarding issues to the south, the adjacent property is located in such a way that a common fence placed at 6' high does not provide the privacy that is desired.

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

Because of the siting of the house, the front porch cannot be viewed from either neighboring houses and would have no impact to them. We do not believe that the ability to place a chair 2 feet closer to the property across the street would have a material impact to our neighbors.

The granting of variance 4 would enhance the privacy of the adjacent property owners by allowing a fence that would provide appropriate privacy and prevent us from looking directly into our neighbors house while at the dinner table or on our deck cooking wieners.



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:

The strict application of the provisions would require that we relocate the house several feet from it's existing foundation to comply with current setbacks which is unnecessary. The application of the front yard setback limited by the front of the current house would prevent the reconstruction of a front porch that is ADA compliant, functional and likely matched the pattern of the original house.

It is important to note that the current development code was created for modern suburban development and applied to original town site neighborhoods that were built with much different building patterns. Traditionally houses were placed much closer to the property line than modern construction and porches were designed so that neighbors could engage residents sitting on them from the sidewalk. Current setback provisions do not address or acknowledge this traditional development pattern. This modern applications of building setbacks ignores 116 years of the successful history of the existing structure.

The limitations of a 6' height in fence would prevent the fence from achieving its primary purpose of providing privacy from the adjacent property.

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

The variances would allow the improvements and restoration to the property that would enhance the above by bringing the house in compliance with current development code, improving the architectural character and functionality of the house and by providing adequate privacy between neighbors.





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

The existing setback requirements were created much later than the original neighborhood and ignore the development patterns of the original Lawrence town site. The original intent of setbacks was to create a buffer between current street curb lines and the right of way for future street widening projects and to prevent City Officials from having to engage in eminent domain accommodate widening streets. This particular property has 20' of available street right of way between the curb and existing sidewalk which is more than adequate for street widening, which has not occurred in 128 years.

There are several provisions in the code that require a fence to be at least 6' in height with the understanding that the primary purpose of a fence is to provide screening and privacy. There are some instances in the code where a maximum height of 10' is provided. It is unclear why there is a 6' height limit for fences in residential development, however a 2' variance is not enough to oppose the general spirit of the intent which may be to prevent large walls that obstruct light and block views of neighboring property owners. In this particular case, the sun is coming from opposite side of the neighboring property and there is no view being blocked other than the view directly into my living room where I can be seen walking around in my undergarments.

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 9/5/18
 Date 9/6/18

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.

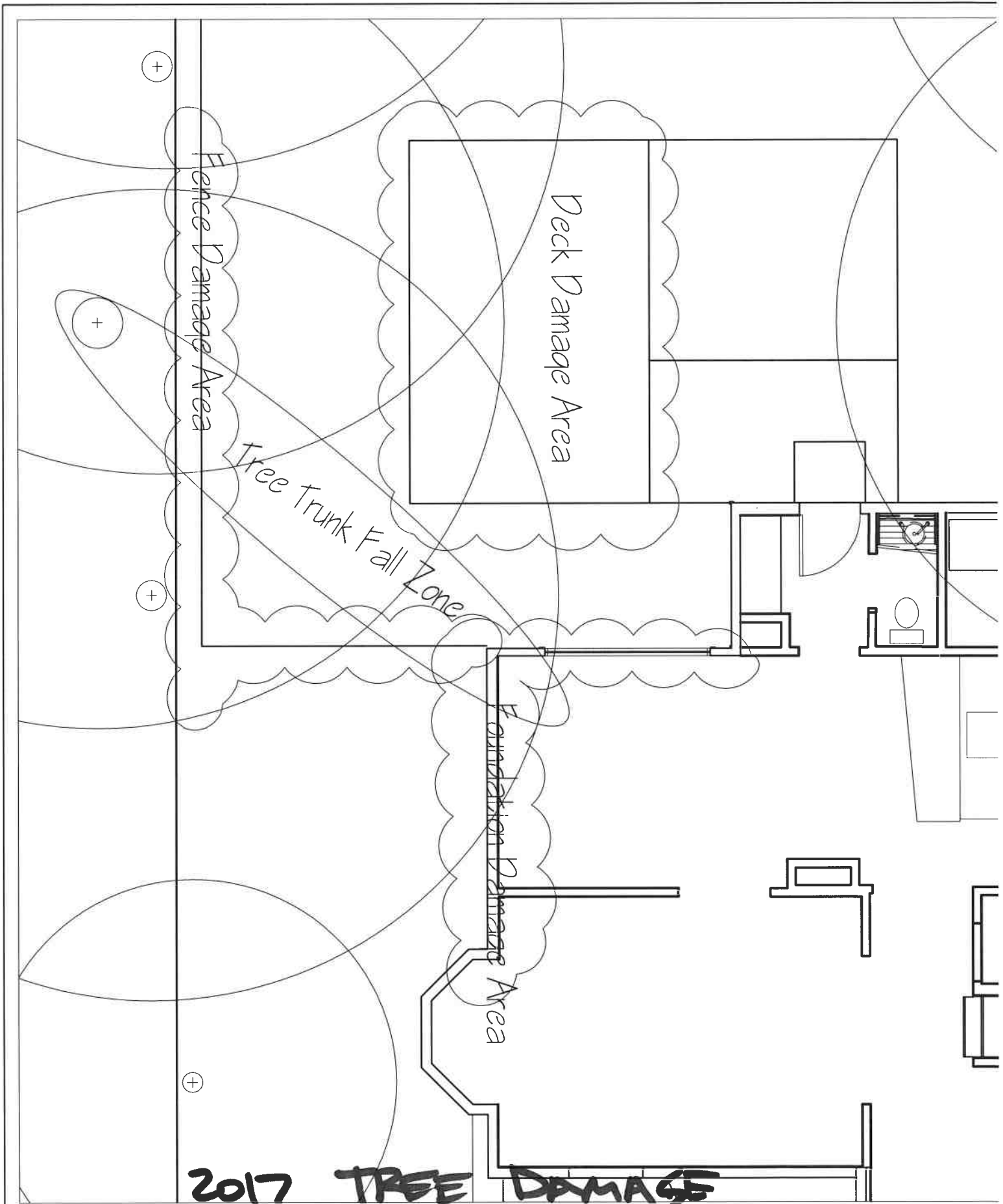
I certify that I have read and understood the above information and that the submitted Ownership list:

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.

Signature

Date

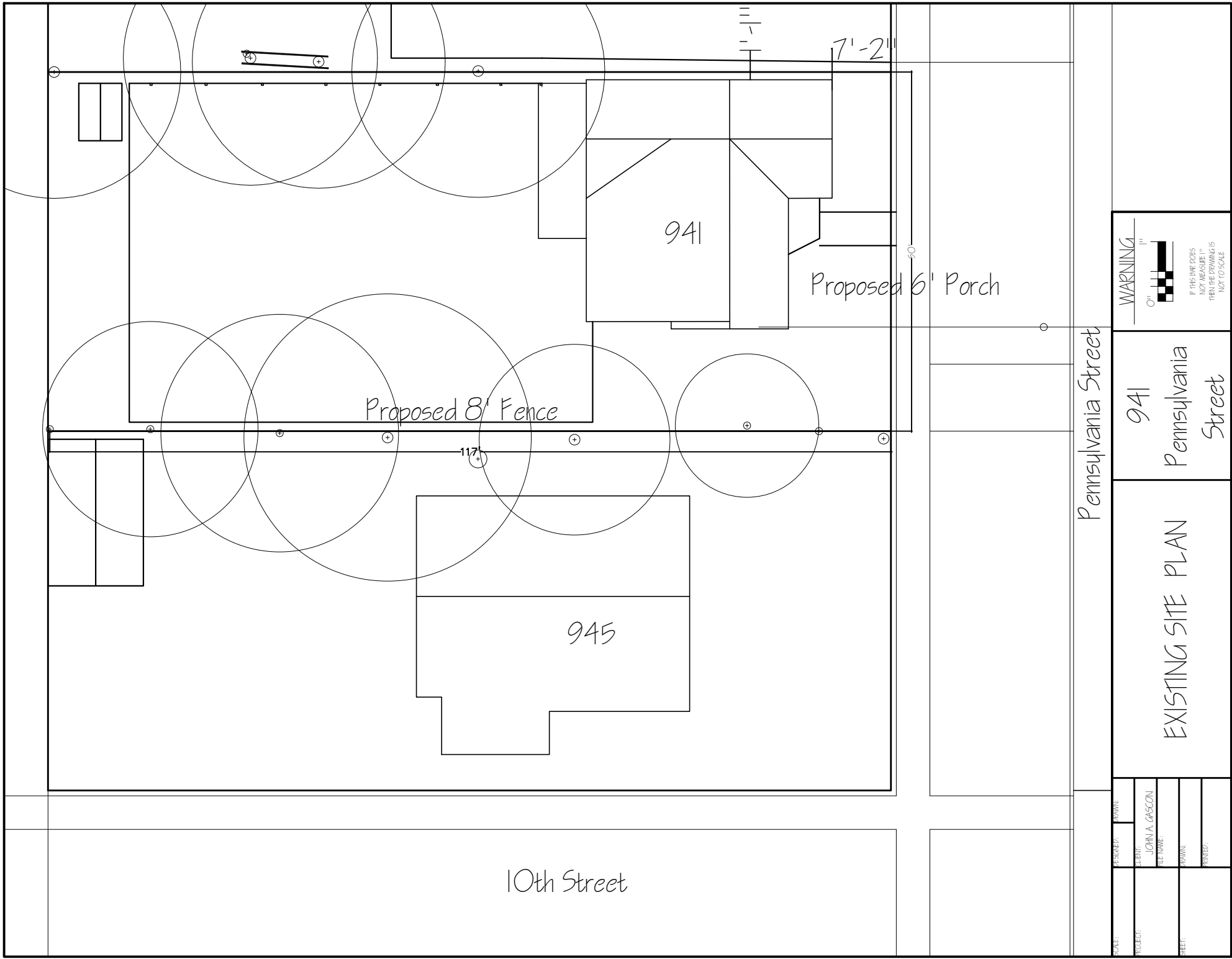
Printed Name



| | | |
|---------|----------------|------|
| FILE | DATE | NAME |
| VARIES | JAG | JAG |
| PROJECT | JOHN W. GASSON | |
| 0005 | | |

941

WARNING
0" 1"



WARNING

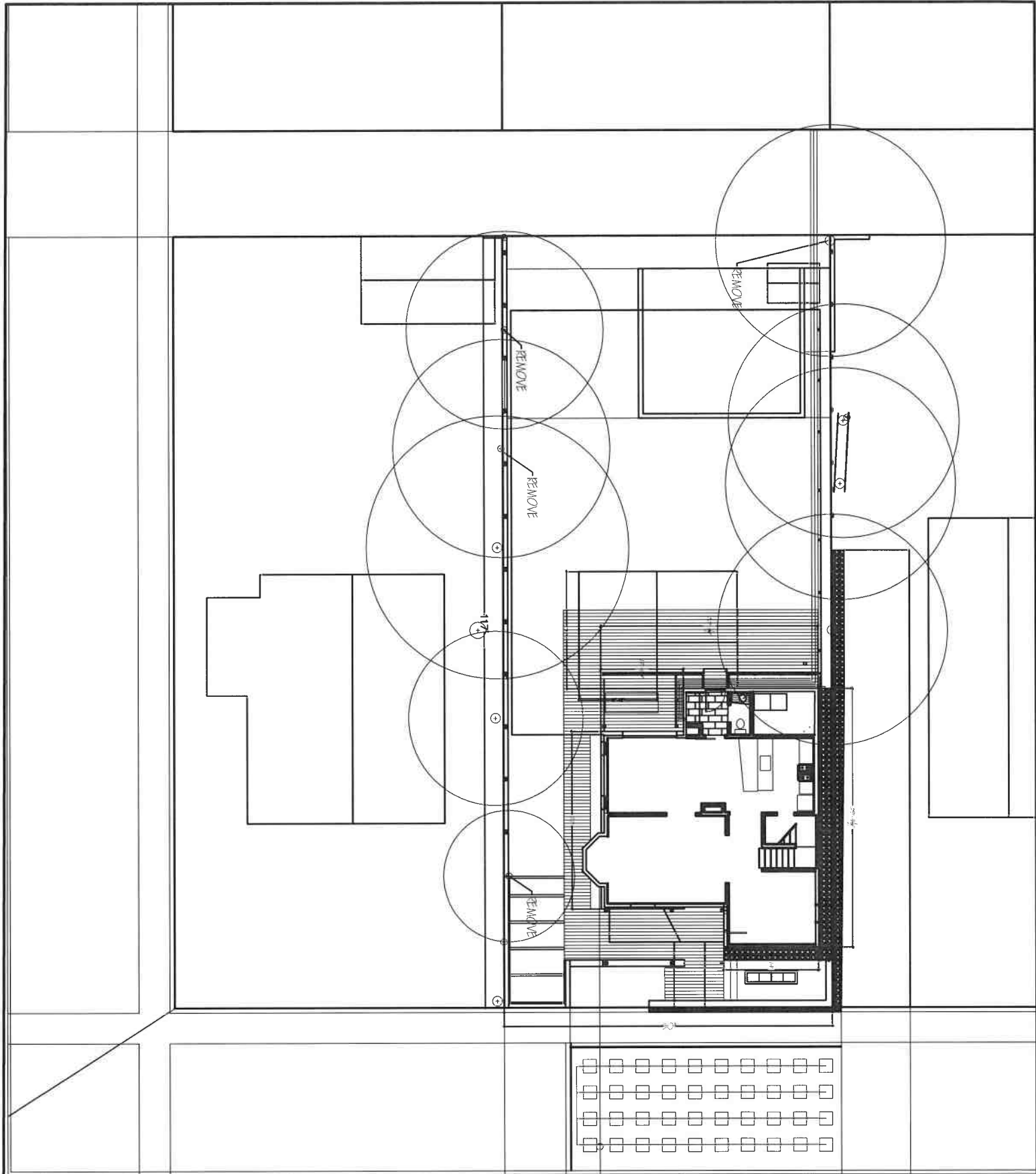
0" 1" 2" 3" 4" 5" 6" 7" 8" 9" 10"

IF THIS BAR DOES NOT MEASURE 10" THEN THE DRAWING IS NOT TO SCALE

941
Pennsylvania
Street

EXISTING SITE PLAN

| | |
|--------------|----------------|
| DESIGNED BY: | DOWN |
| DRAWN BY: | JOHN A. GASSON |
| CHECKED BY: | JOHN A. GASSON |
| DATE: | |
| SCALE: | |
| PROJECT: | |
| SHEET: | |



| | | |
|----------|----------------|-------|
| DATE: | DESIGNED: | DATE: |
| VARIES | JAG | JAG |
| PROJECT: | SUBMIT: | |
| | JOHN A. GASCON | |
| | DATE: | |
| FEET: | BY: | |
| OF | THRU: | |

FUTURE
SITE PLAN

941
PENN

WARNING

IF THIS SHEET DOES
NOT MEASURE 1"
THEN THE DRAWING IS
NOT TO SCALE



1008 Rhode Island St

Front Porch Setback Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





800 Connecticut St

Front Porch Setback Precedent

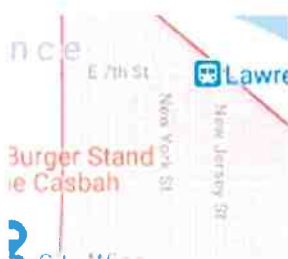


Image capture: Jun 2017 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - Jun 2017





714 New York St

Front Porch Set Back Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





1204 Connecticut St

Front Porch Setback Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





1221 Connecticut St

Front Porch Setback Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





1032 Connecticut St

Front Porch Setback Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011



1032 Connecticut St

Front Porch Setback Precedent



Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





946 Rhode Island St

Front Porch Setback Precedent



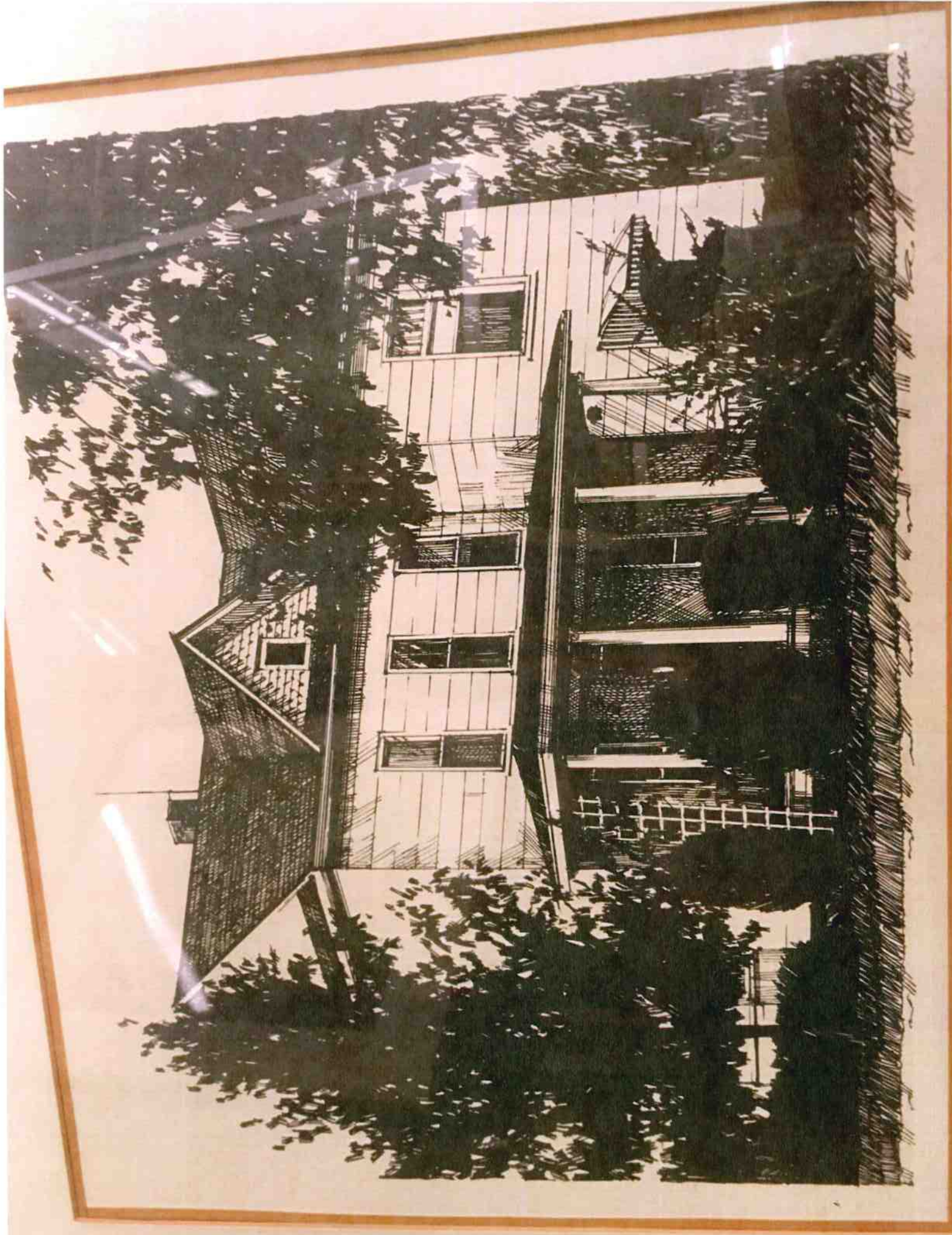
Image capture: May 2011 © 2018 Google

Lawrence, Kansas

Google, Inc.

Street View - May 2011





167 Six-Foot Balcony**

... in various places [Arcades \(119\)](#) and [Gallery, Surround \(166\)](#) have helped you to imagine some kind of a balcony, veranda, terrace, porch, arcade along the building edge or halfway into it. This pattern simply specifies the depth of this arcade or porch or balcony, to make sure that it really works.



Balconies and porches which are less than six feet deep are hardly ever used.

Balconies and porches are often made very small to save money; but when they are too small, they might just as well not be there.

A balcony is first used properly when there is enough room for two or three people to sit in a small group with room to stretch their legs, and room for a small table where they can set down glasses, cups, and the newspaper. No balcony works if it is so narrow that people have to sit in a row

facing outward. The critical size is hard to determine, but it is at least six feet. The following drawing and photograph show roughly why:



Six feet deep.

Our observations make it clear that the difference between deep balconies and those which are not deep enough is simply astonishing. In our experience, almost no balconies at all which are 3 or 4 feet deep manage to gather life to them or to get used. And almost no balconies which are more than six feet deep are not used.



Narrow balconies are useless.

Two other features of the balcony make a difference in the degree to which people will use it: its enclosure and its recession into the building. As far as enclosure goes, we have noticed that among the deeper balconies, it is those with half-open enclosures around them - columns, wooden slats, rose-covered trellises - which are used

most. Apparently, the partial privacy given by a half-open screen makes people more comfortable - see [Half-Open Wall \(193\)](#)

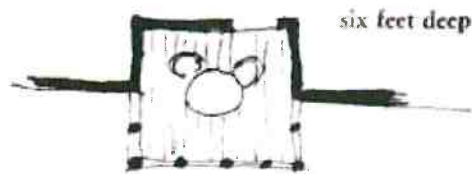


Not this this.

And recesses seem to have a similar effect. On a cantilevered balcony people must sit outside the mass of the building; the balcony lacks privacy and tends to feel unsafe. In an English study ("Private Balconies in Flats and Maisonettes," *Architect's Journal*, March 1957, pp. 372-76), two-thirds of the people that never used their balconies gave lack of privacy as their reason, and said that they preferred recessed balconies, because, in contrast to cantilevered balconies, the recesses seemed more secure.

Therefore:

Whenever you build a balcony, a porch, a gallery, or a terrace always make it at least six feet deep. If possible, recess at least a part of it into the building so that it is not cantilevered out and separated from the building by a simple line, and enclose it partially.



Enclose the balcony with a low wall - [Sitting Wall \(243\)](#), heavy columns - [Column Places \(226\)](#), and half-open walls or screens - [Half-Open Wall \(193\)](#). Keep it open toward the south - [Sunny Place \(161\)](#). Treat it as an [Outdoor Room \(163\)](#), and get the details of its shape and its construction from [The Shape Of Indoor Space \(191\)](#). . . .

Add Pattern to Bookmarks

[A Pattern Language](#) is published by Oxford University Press, Copyright Christopher Alexander, 1977.

Sitting on the Porch

 baconfromacorns.com/sitting-on-the-porch/

July 5, 2017



"I cannot separate it [watching the world go by] from the porch where it occurs. The action and the space are indivisible. The action is supported by this kind of space. The space supports this kind of action. The two form a unit, a pattern of events in space."

Christopher Alexander, *The Timeless Way of Building*

One of the most wonderful aspects of the natural order of times and seasons is the different parts of a day. For many of us, summer means daytime temperatures that can be downright prohibitive. It can be hard to plan on doing something outdoors when the heat might be overwhelming. Besides, a number of those outdoor activities are not for everyone in the household, since they are age selective.

But everyone can enjoy sitting outside together in the evening on the patio, porch, deck, or lawn. It would be hard to say just how central this activity was to the social and cultural life of past generations. Before air conditioning, television, and automobiles, and a number of other household-changing technologies, people were practically driven outside on a summer evening. They sat together with others of their household, and they often found themselves welcoming friends or neighbors into their circle. Goodness knows what they spoke of—presumably the little things of life as well as some bigger things, and it was surely common that individuals would have hand-work to give rhythm and background to the conversation and the passing of time.

I presume nobody needed to say, "Meet on the porch at 7pm," or "Get out here Kids, it's time for

<https://www.printfriendly.com/p/g/AeckvM>

9/4/2018

porch-sitting.”

Now we need to be realistic. It will take planning and artfulness if the household is going to be sitting somewhere all—or reasonably all—together. But we need not fret. Let’s just do it. It is within our power to orchestrate it, or at least to make conditions conducive to it. Depending on the age of children, it might simply work for parents to go somewhere and just sit down. And stay there a while. The others might just come.

This is the season for doing it outdoors: on porch, patio, deck, or lawn. It might not seem like we are ‘doing’ very much at all. But this simple activity might just be a springboard to an unexpected wealth of other activities, and in any case, of being together.

~ ~ ~

This is the second in a series: **What To Do This Summer**.

Christopher Alexander (1936–) was born in Austria and is currently an emeritus professor of architecture at the University of California, where he taught for almost forty years. He has been widely influential through his theories of architecture, and is especially known for his 1977 book *A Pattern Language*.

Other posts on Christopher Alexander, including the series called [Restoring Home Life Room by Room](#), can be found [HERE](#).

Image: Missouri sharecroppers. 1930's



[John Cuddeback](#)

Husband, father, and professor of Philosophy. *Bacon from Acorns* springs from one conviction: there is an ancient wisdom about how to live the good life in our homes, with our families; and it is worth our time to hearken to it. Let’s rediscover it together. [Learn more](#).

YOU MAY ALSO LIKE: