



LAWRENCE BOARD OF ZONING APPEALS
AGENDA FOR **SEPTEMBER 6, 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

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

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.

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.

ITEM NO. 5 MISCELLANEOUS

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



LAWRENCE BOARD OF ZONING APPEALS
MINUTES FOR **JUNE 7, 2018**

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

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

ITEM NO. 1 COMMUNICATIONS

- A. All communications were included in the online packet.
- B. There were no ex-parte communications and/or abstentions for specific agenda items.
- C. Item 4 was withdrawn prior to the meeting.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the May 3, 2018 meeting of the Board.

ACTION TAKEN

Motioned by Wisner, seconded by Wilbur, to approve the minutes from the May 3, 2018 meeting of the Board.

Unanimously approved 4-0.

BEGIN PUBLIC HEARING:

ITEM NO. 3 EAST LAWRENCE REZONING VARIANCES

B-18-00157: 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 minimum lot area, minimum lot area per dwelling unit, minimum lot width, and minimum lot frontage required by 20-601(a) of the City Code for properties zoned RM12D. The properties are located at 708 Rhode Island St, 738 Rhode Island St, 812 Rhode Island St, 711 Connecticut St, 713 Connecticut St, 721 Connecticut St, 817 Connecticut St, 821 Connecticut St, 829 Connecticut St, 832 Connecticut St, 716 New York St, 731 New York St, 740 New York St, 746 New York St, 731 New Jersey St, 800 New Jersey St, 804 New Jersey St, 810 New Jersey St, 816 New Jersey St, 823 New Jersey St, 827 New Jersey St. The second request is also for a variance from minimum lot area, minimum lot width, and minimum lot frontage required by 20-601(a) of the City Code for properties zoned RS5. The properties are located at 712 Rhode Island St, 714 Rhode Island St, 716 Rhode Island St, 820 Connecticut St, 822 Connecticut St, 837 Connecticut St, 839 Connecticut St, 727 New Jersey St. The third request is also for a variance from minimum lot area required by 20-601(a) of the City Code for properties zoned RS5. The properties are located at

746 Connecticut St, 746 1/2 Connecticut St, 745 New York St, 747 1/2 New York St, and 845 New York St. Submitted by the City of Lawrence on behalf of the subject property owners.

STAFF PRESENTATION

Ms. Becky Pepper presented the item.

Wilbur asked if the 3 year waiver of the unrelated occupant rule could stay with the owner of the property.

Pepper said it cannot, it only applies to the properties that are rezoned.

Gascon said he's a member of the subject neighborhood and doesn't recall being asked whether he supported the rezoning.

Pepper said the request came from members of the neighborhood.

Gascon asked how many members.

Pepper said she would have to pull the letter submitted on behalf of the East Lawrence Neighborhood Association (ELNA) to verify that number.

Gascon asked how the ELNA proves their representation of the neighborhood and for the total number of residents in the neighborhood.

Pepper said she did not immediately know.

PUBLIC COMMENT

Ms. Sacey Lamberton, 700 block of New York Street, said she does not support multi-family uses in the neighborhood and feels the area would develop better be far more attractive with only single family residences.

Gascon said the Board's task is to consider a variance to a zoning code. He asked why she moved to East Lawrence.

Lamberton said they lived out in the country and no longer wanted to care for a large property. She said they're delighted to be in East Lawrence.

Gascon asked Ms. Lamberton to imagine the area in 200 years and if she agreed it would be nice to share the amenities of living near Downtown with as many people as possible, or if should be reserved for the lucky few people who own single family properties.

Lamberton said the lots are quite small and not suited for multi-family development.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Clark asked if the initial rezoning request is available.

Pepper presented the letter on the overhead monitor.

Wilbur asked if similar requests have been received in the past.

Crick said the last request received was for the Pinckney area, but this is the first large request under the current version of the zoning code.

Wilbur asked if staff received communications or feedback from members of the neighborhood.

Pepper said a few members of the neighborhood called for further explanation but did not provide any feedback or comments.

Gascon asked why staff would move forward with such a proposal because it is contrary to the current draft Comprehensive Plan for urban core neighborhoods.

Crick explained that this was a directive of the City Commission, and while the Comprehensive Plan is in a draft state it is not an adopted policy. The current comprehensive plan is *Horizon 2020*.

Gascon asked if the City Commission was made aware of the contents of the draft Comprehensive Plan.

Crick said the City Commission receives updates in the form of committee minutes and action items, as well as occasional updates on the draft going forward.

Gascon asked if it's reasonable to presume that the request is antithetical to the current draft plan.

Crick said in some respects, yes, and in others, no. The plan balances some of the items seen in the draft plan's growth and development chapter but it also makes reference to stabilization of neighborhoods and preservation of character in Chapter 3, so there are some competing interests and values that the community desired in the document to serve as a catch-all plan.

Wilbur asked if the hardship is the continued nonconforming status of the property.

Crick said that's correct.

Wilbur asked how many properties in Lawrence are nonconforming.

Crick said he doesn't have an exact number. In most instances, when a rezoning or subdivision occurs, the number of properties vary depending on the decisions that are made, but staff tries to identify and fix those nonconformities as they occur.

Gascon asked what number of properties were nonconforming before the rezoning.

Pepper said she did not have that number available.

Crick said a large number of properties were nonconforming.

Pepper explained that the majority of properties rezoning to RS5 were previously nonconforming.

Gascon asked if a denial for this request will limit a property owner's ability to seek a variance specifically for their property.

Crick said anyone can submit an application for a variance.

Clark asked if they could apply even if the current request is denied.

Crick said yes, but it would need to be a substantially different request.

Gascon asked for clarification.

Crick clarified that a property owner can request the same variance, provided they submit a new application and fee.

Wilbur said he sees hardship in the potential need for property owners to request the same variance individually.

Gascon said he feels this request addresses the hardship for all included properties. He asked if there has been a similar variance granted.

Crick said there were a few in the early 1980s. More recently, there was a mass driveway variance request for Langston Heights in 2013.

Wisner said he supports the recommendation for approval but would like to see the City work more with other neighborhoods with significant nonconformities to provide similar remedies.

ACTION TAKEN

Motioned by Wilbur, seconded by Wisner, open public comment for the item.

Unanimously approved 4-0.

Ms. Sacey Lambertson said she suspects that a lot of multi-family properties are rented and therefore not occupied by homeowners. She felt they should encourage homeowners to occupy the modest homes included in the request.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Gascon said he senses a level of discomfort by the Board being charged with a decision at this level. He felt it illustrates the fallibility of the zoning code and would like to see a better administrative approach to this issue going forward.

ACTION TAKEN

Motioned by Wisner, seconded by Wilbur, to accept staff's recommendation and approve the variance requests based on information in the staff report.

Motion carried 3-1, Gascon dissented.

****WITHDRAWN****

~~ITEM NO. 4 MAXIMUM DRIVEWAY WIDTH VARIANCE; Naismith Creek Subdivision~~

~~**B-18-00212:** 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 to allow residential driveways in a new residential development area recently rezoned to RS5 (Single-Dwelling Residential) District to exceed the 12-foot maximum driveway width standard set forth in Section 20-908(b)(3) of the City Code. The request is being made for all of the RS5-zoned lots in Naismith Creek Addition, a newly approved residential subdivision. The subject properties are generally located northwest of the intersection of Louisiana Street and W. 31st Street. Submitted by Brian Sturm, Landplan Engineering, P.A., for 78, L.C. and Grand Builders, Inc., the property owners of record.~~

ITEM NO. 5 MINIMUM OFF-STREET PARKING VARIANCE; 1346 OHIO STREET

B-17-00641: 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 Article 9, "Parking, Loading and Access," requiring a minimum number of off-street parking spaces to be provided from a required 120 spaces to 1 space. The property is located at 1346 Ohio Street. Submitted by Paul Warner with Paul Werner Architects, on behalf of D&D Rentals of Lawrence, L.L.C. and HDD of Lawrence, L.L.C., property owners of record.

STAFF PRESENTATION

Crick presented the item.

Wisner asked what allowed for the previous lack of parking.

Crick said staff could not identify anything other than the nonconforming use registration that would have granted the current parking configuration.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, explained that the need for the variance is because the structure is failing and requires a new foundation, but the lot is too small to accommodate additional parking. He explained their proposed renovation and mixed use development, and why the variance request meets the five conditions. He noted they could be in favor of a compromise on the parking reduction but ultimately believed that parking any number of cars on the property is a safety hazard.

Gascon asked if they plan to replace the entire foundation or if they'll decide once they raise the structure.

Werner said they plan to jack it up and pour a whole new concrete foundation.

PUBLIC COMMENT

Ms. Candice Davis, Oread Neighborhood resident, said she isn't aware of other homes in the area that required foundation replacement and feels that it's only done in an attempt to rent properties. She felt the request was exceedingly bold, and that Mr. Werner is aware of various other options for a mixed use property. She is completely against any concessions for parking. She said the bars generate trash, broken glass, noise, and bad behavior in the neighborhood. She felt the expansion of the bar would add to the existing safety issues in the area.

Mr. Kappelmann said he owns the three story red brick building behind the subject property. He said he appreciates the work that the applicant has completed on homes in the area. He said he's concerned about the parking situation, and explained that he must regularly tow vehicles from his own property.

Ms. Marci Francisco, 1101 Ohio Street, said parking is a frequent topic. She supports staff's recommendation for denial and felt the lot should generally be easy to develop. She acknowledged that the maintenance on the property is necessary and has done foundation work on her own properties, but has always been able to meet parking requirements.

Ms. Sacey Lambertson said it would be a mistake to take away required parking.

Mr. Kyle Thompson, 1041 Tennessee Street, mentioned a home at 14th and Kentucky Streets which had burned and received a variance to rebuild the property, but instead demolished the house and built something different. He has a similar concern about this development, due to the variance running with the property and not the project.

Ms. Janet Gestner said she lived in the Oread Neighborhood for over a decade, and during her residency the project area drew much attention. She noted how dangerous the use seemed in the neighborhood, and since then the bars have dramatically intensified, despite several traffic related deaths. She felt that the area is over saturated with bars and the geography creates a safety hazard. She thanked staff for the thorough staff report and agreed with the recommendation.

Gascon addressed Gestner's comment about the area being saturated with bars despite a previous comment about long lines to enter the subject establishment.

Gestner said her main concern is safety, and noted the intense use of a bar unusually placed in a residential neighborhood.

Gascon reiterated his comment about people standing in line to get into the establishment.

Gestner said the people standing in line aren't drinking, and those inside will be.

Gascon clarified that his interpretation of the word "saturation" would imply that there are many more bar uses in the neighborhood and that none of them are attracting business.

Gestner said she used the term to indicate there are too many bars in the area.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Wilbur said he can't get past the hardship criteria.

Gascon asked if he thought the requirement to essentially build a multi-level parking garage was not a hardship.

Wilbur noted that the proposed development is the applicant's choice.

Gascon said that the parking requirement is in place regardless of how many people are in the building.

Crick clarified that the occupancy of the structure is determined by Fire Code, which takes into account several factors including circulation spaces and seating.

Wilbur said that the use of the structure isn't a factor in the occupancy.

Crick said that's correct. He explained that the Land Development Code looks at restaurants, event centers, and bar uses differently when it comes to calculating parking. Parking is calculated based on the use allowed by zoning.

Wisner felt that the required 120 spaces was unreasonable. He felt that there were valid concerns about the bar use but focusing just on parking, he would feel more comfortable granting a variance which included parking spaces for the residential portion of the development.

Gascon asked if the property is historic or within historic environs.

Crick said the property is within the Oread Neighborhood Design Overlay District so the structure would be reviewed by the Historic Resources Commission (HRC) for aesthetics. He noted that the project would also need to be heard by the Planning Commission and City Commission for expansion and modification of the existing Special Use Permit as well as other possible agreements.

Gascon noted that the HRC could prevent modification of the property to provide parking but that wouldn't be known before the Board takes action.

Crick said that's correct. He explained that the parking calculation is initiated in commercial parking lot standards with multi-dwelling residential projects.

Gascon asked what science determines parking requirements.

Crick said typically those calculations are determined with the help of a third party consultant and City engineering staff using AASHTO, Institute of Transportation Engineers, and is also tailored to meet the needs of the community.

Gascon asked if parking is calculated the same for identical uses but in different neighborhoods.

Crick said yes. He noted that the Mixed Use zoning allows for deviations as does the Special Use Permit.

Gascon asked if the parking required for a spa would be based on the spa use.

Crick said it is based on the use and the amount of space being used for that use.

Gascon asked if the parking for the same use of the same size in this location versus 6th Street & Wakarusa Drive would be calculated identically

Crick said yes.

Gascon said the science does not take into consideration the location, pedestrians, or bicyclists, or Uber users.

Crick said that's correct, otherwise it would be considered spot zoning, which is illegal.

Gascon asked if staff could elaborate.

Crick explained that spot zoning was banned by Supreme Court decision because you can't change the zoning of a property to be inconsistent with the surrounding area.

Gascon felt that the science behind parking requirements is flawed, and that providing parking only induces driving and is not in the best interest of the public. He argued that foundation repair is necessary and is a tremendous cost, and restricting uses only limits property owners' ability to pay for such repairs. He addressed Ms. Candice Davis in the audience making a motion and noted that the Board voted in her favor at a previous meeting and that she made a comment he felt was insulting.

Davis said Gascon insulted her [at the previous meeting].

Gascon asked Davis to leave the meeting.

Davis exited the room.

Gascon encouraged members of the public to read specific literature that addresses the parking issue on a larger scale.

Clark asked if they could discuss Criteria #4.

Wilbur felt that the intent of the project was to increase attendance which will likely bring more cars to the area and be a burden on the neighborhood.

Clark noted the number of public members in attendance who are against the project, which signifies the project does adversely affect the morale of the impacted public.

Gascon said that as a member of the neighborhood six blocks away the project as proposed does not concern him. He felt that the requirement for parking was creating the issue to public safety, not the request for a reduction.

Clark talked about the threat of drunk drivers versus drunk walkers. He asked what the property was zoned before the MU (Mixed Use) designation.

Crick said it was zoned RM32.

Gascon noted that the previous zoning from a residential standpoint was a much higher intensity.

Clark said the previous zoning could accommodate an apartment building. He pointed out a paragraph in the staff report that references an expectation that the MU district provide a coordinated expansion and a balanced parking approach. He asked how that expectation is captured or communicated.

Crick said it is usually conveyed with the MU designation, and some portions of the adopted neighborhood plan give guidance in that direction, but neither give a specific parking expectation.

ACTION TAKEN

Motioned by Wilbur, seconded by Wisner, to open public comment for the item

Unanimously approved 4-0.

PUBLIC COMMENT

Mr. Paul Werner, Paul Werner Architects, said the property owner initiated the rezoning and there were no conditions of the zoning when it was approved. He added that typically expectations are communicated with conditions but that was not was not done.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Gascon felt the first paragraph in the Staff Report after the applicant's response on Criteria #5 is contradictory to the staff recommendation.

Wilbur asked if Gascon's issue is with parking regulations in general or with the requirements specific to the case.

Gascon said he's made his feelings about parking requirements pretty clear. He also noted his conflict with language in the draft comprehensive plan that is contrary to the staff recommendation for the project.

Clark asked if the variance stays with the parcel.

Crick said that's correct.

Clark asked if they could place stipulations on change of use or building permit.

Crick said they can approve with conditions which vary from case to case, such as a condition that a project receive all other approvals.

Clark posed the hypothetical scenario of a restaurant taking over the property in 10 years and only having one parking space.

Gascon said that's a valid point. He argued that the number of parking spaces may be invalid, and that the real questions should be whether parking in general should be required at all.

Clark asked how many living units are proposed.

Crick said four beds.

Clark said they could provide 5 parking spaces. He noted the aerial view shows seven cars parked at the current living units.

Gascon said that's an interesting hardship because the City doesn't recognize that property having seven spaces. He asked if the rule prohibiting stacked parking under the Oread Design Guidelines applies for this property.

Crick said that those particular guidelines are not applicable for this property so it would go to the Land Development Code for commercial property standards.

Gascon asked if stacked parking would be allowable on this property.

Crick said no. He pointed out a discrepancy in the staff report that refers to the property as congregate living while it is actually an apartment use.

Clark asked if the math is the same.

Crick said yes, the bedrooms and parking count are correct.

Clark said he loves the walkability/bikeability of the area and the support of those components not included in the current code. He also felt it was fair to require parking for the residential portion of the project, particularly given the mixed use of the property.

Crick noted that the bicycle parking portion is currently adopted in *Horizon 2020*. He reminded the Board that it is their role to adjudicate the current code.

ACTION TAKEN

Motioned by Clark, seconded by Gascon, to open public comment for the item.

Unanimously approved 4-0.

PUBLIC COMMENT

Mr. Paul Werner, Paul Werner Architects, said they are willing to explore options for meeting the parking requirement for the residential portion of the project.

Ms. Marci Francisco said she agrees there are options but the Board's decision should be based on the information already presented.

Mr. Kappelmann asked if other bars will be granted a variance if this one is passed.

Wisner said no, the variance is specific to the property.

Crick explained that a variance for multiple other properties would require a text amendment which would require final approval by the City Commission.

Ms. Janet Gerstner said granting the variance will set a precedent.

Gascon said he appreciated her opinion but that it does not set a precedent.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Crick noted that each case must be weighed independently.

Gascon said the property is unique because the current use would require 600 parking spaces. In regards to whether the project would affect the rights of adjacent property owners, he noted that the parking situation won't really be changing.

Clark said it certainly won't affect their rights.

Gascon said the hardship criteria is always the hardest, and noted that any change to the property would require parking that is not possible to provide without demolition of the existing structure, which would likely not be allowed by the HRC.

Wilbur asked if a different business use for the property could provide the required parking.

Crick said it would depend on the size and type of use.

Gascon asked if staff could provide an example of a use that would require less parking.

Crick said a restaurant use would require less parking.

Clark asked if the bridge between the two buildings is the issue, and noted that the Special Use Permit is for 1340 Ohio Street.

Crick said that even without the bridge it would still be considered a bar use.

Clark asked if the parking is only being calculated on the southern building.

Crick clarified that the variance is induced by the expansion of the use and does not correct any existing shortage of parking- without an expansion, the variance is not needed.

Clark asked if the 120 required parking spaces is only for the additional space.

Crick said yes, for the expansion of the bar use and the residential component.

Gascon reiterated that the parking technically required for the entire property would exceed the size of the entire property.

Clark asked for the square footage of the expansion.

Crick said about 4000 square feet.

They discussed whether there is hardship.

Gascon said that any change to the property would require parking that isn't possible. He wondered whether the parking requirement alleviated or added to public safety concerns. He felt the intent of the mixed use is to reduce reliance on cars, but he can see arguments both ways.

Willbur said it isn't clear how many people are parking in the neighborhood to go to the Hawk.

Gascon said it's difficult to tell.

ACTION TAKEN

Motioned by Wisner, seconded by Clark, to deny the variance based on findings in the staff report and because the request does not meet the five conditions required for a variance.

Motion carried 3-1, Gascon dissented.

ITEM NO. 6 MISCELLANEOUS

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

Crick mentioned there will be both Sign Code Board of Appeals and Board of Zoning Appeals next month.

Wilbur asked if staff has identified a replacement for Josh Mahoney.

Crick said the Mayor is aware that his term is about to expire.

ADJOURNED 8:29 PM



LAWRENCE BOARD OF ZONING APPEALS
MINUTES FOR **JULY 5, 2018**

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

ITEM NO. 1 COMMUNICATIONS

- A. Crick mentioned there were two communications received after the deadline and paper copies were provided to the Board.
- B. There were no ex-parte communications and/or abstentions for specific agenda items.
- C. There were no agenda items deferred.

ITEM NO. 2 MINUTES

Consider approval of the minutes from the June 7, 2018 meeting of the Board.

The minutes were deferred to the next meeting of the Board.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 VARIANCE FROM THE EXTERIOR SIDE YARD BUILDING SETBACK
FOR A RESIDENTIAL STRUCTURE; 1625 HASKELL AVENUE**

B-18-00272: 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 exterior side 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 exterior side setback to a minimum of 15 feet to allow for the construction of a detached dwelling. The property is located at 1625 Haskell Avenue. Submitted by Wagner Contracting, LLC, on behalf of the Estate of Virginia R. Copp, property owner of record.

STAFF PRESENTATION

Mortensen presented the item.

APPLICANT PRESENTATION

Erik Wagner, applicant, said he didn't have anything to add but had renderings of the house. He presented the plans on the overhead and explained the design.

No public comment.

BOARD DISCUSSION

Gardner said he supports the request.

Mahoney said he felt the variance would be nothing but positive and would improve the community.

Shipley asked if there wasn't more that could be done to minimize the building footprint.

Gascon explained that when the lot was designed the applicable zoning code lacked the 25 foot side yard setback, but now when all setbacks are applied there is less than 60% of the lot to build on.

Gardner added that there have been multiple changes in zoning.

Wisner said he had no issues with the request, and that it will improve the community to build a house on a vacant lot.

Mahoney said that an alternative footprint without a variance would be very small, and while possible, probably run into height restrictions.

Shipley mentioned the possibility of two dwellings on the parcel in the future.

Gascon said the current code wouldn't allow this lot to be divided, and due to the uniqueness of the lot they are struggling to fit one dwelling unit.

ACTION TAKEN

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

Unanimously approved 6-0.

ITEM NO. 4 MINIMUM OFF-STREET PARKING VARIANCE; 444/446 LOCUST STREET

B-18-00278: 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 Article 9, "Parking, Loading and Access," requiring a minimum number of off-street parking spaces to be provided from a required 64 spaces to 8 spaces. The property is located at 444/446 Locust Street. Submitted by Paul Warner with Paul Werner Architects, on behalf of Tiburcio J Reyes Sr, property owner of record.

STAFF PRESENTATION

Crick presented the item.

Gardner said the center section is a bar, so there's not a change in use because the bar size is only expanding.

Crick said they are allowed to have an accessory bar but the majority of receipts must be derived from food sales, so there must be separation between the restaurant use and proposed bar use.

Wilbur asked if that rule is enforced by Alcoholic Beverage Control.

Crick said yes, as well as approval by the City Clerk for the liquor license.

Gascon asked for the number of required parking spaces to maintain the quality restaurant use.

Crick said 16 parking spaces are required for the quality restaurant use as-is.

Gascon said they are proposing eight.

Crick said that's correct, the eight that currently exist.

Gascon asked if staff knows what the required parking was when the restaurant originally opened.

Crick said no.

Gascon asked how the parking calculation for quality restaurant use was derived.

Crick said the parking tables were approved by City Commission, which were likely created by a consultant with the code in 2005.

Mahoney clarified that there are two separate businesses with two separate addresses. He asked if the variance would be necessary if both uses were addressed as one property.

Crick said the restaurant would only be allowed an accessory bar which must derive 55% of sales from food.

Mahoney asked if the proposed bar use plans to generate more of its sales from alcohol.

Crick said that's correct.

APPLICANT PRESENTATION

Mr. Paul Werner, Paul Werner Architects, explained the existing space and the proposed project, noting that they only intend to change the operator of the existing bar/lounge space and are not changing the occupancy. He explained how they arrived at required parking calculations. He mentioned a parking variance granted to Frank's North Star Tavern down the street that reduced their parking from 90 to 16 spaces.

Wilbur asked if the bar/lounge is currently being used by the restaurant.

Werner said yes, it's event-driven.

Mahoney asked how many total spaces the applicant plans to provide.

Werner said eight.

Mahoney mentioned he was on the Board for Frank's variance request.

Wisner said it looks like there is empty space between the south end of the building and the beginning of the propose parking area.

Werner explained that there are trees but it's possible they could add one more space.

Gascon said the required parking spaces would require a three story parking garage that would encompass the entire lot. He asked the applicant if they are prepared to build such a structure.

Werner said they are not.

PUBLIC COMMENT

Ms. Jennifer Myers, Kaw Valley Group, explained their idea to expand the space, their history with the property and the neighborhood, and addressed some concerns mentioned in an email received by staff. She said they've received nothing but positive feedback from the neighborhood about their proposed project.

Wilbur asked how often they hold events and how many people are typically in attendance.

A gentleman present with the applicant said they hold events two or three times a month with around 30-40 people at a time. He said parking is hassle but there are never complaints about it.

Myers added that the space is used weekly for lunch overflow or large groups.

Gardner asked if there were any public members present that were not connected to the family or the restaurant willing to answer some questions. He asked Mr. Ted Boyle if there's ever been an issue

Mr. Ted Boyle, North Lawrence Improvement Association (NLIA) said he's lived in the neighborhood 74 years. He said there has never been a complaint on El Matador. The only complaints from the neighborhood were due to Club 508 which is now Frank's North Star. He highlighted the walkability of the neighborhood.

Gardner asked if there has ever been a problem when the event space is full.

Boyle said no, the patrons of Club 508 generated the only complaints in the area historically. He said there has been no congestion even with the band playing next door and no police calls. He noted that area residents are in favor of the project.

Myers described the family friendly theme of the business.

ACTION TAKEN

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

Unanimously approved 6-0.

BOARD DISCUSSION

Shipley asked Ms. Myers if both spaces could be rented simultaneously.

Myers explained that it's possible but certain areas would be prohibited due to liquor laws.

Shipley asked if they would rent the two spaces together.

Myers said she didn't think that would be possible.

Crick clarified that alcohol must be sold and served within each respective space.

Mahoney said he's a huge proponent of utilizing existing structures for new or changing businesses. He said he's in favor of the project but has a hard time meeting all conditions.

Gascon asked if a building permit had been pulled for the project.

Crick said not at this time but a site plan would be required.

Gascon noted that there is no construction proposed.

Crick said that's correct.

Gascon felt there was hardship due to the needed space to accommodate the required parking and because there is no construction proposed.

Mahoney felt the issues were the unique conditions and the voluntary change in use. He couldn't identify a use that would be compatible with the existing parking, and noted that they still need to apply for the necessary liquor licenses.

They talked about the impact of the change in use.

Crick said the Board is not empowered to determine the use of the property.

Wisner said he doesn't feel the proposed will increase the intensity of the property felt there is ample parking in the area, noting the gravel lot across the street.

Crick mentioned that the gravel area is railroad right-of-way.

Shipley noted that NLIA supports the request.

Wisner said he does not feel parking is an issue but is hung up on the hardship criteria.

Wilbur said the parking requirement generated by an administrative change is the hardship.

Gardner asked about actual number of required parking spaces.

Gascon said there is a discrepancy between the applicant's understanding of code required parking and the calculation in the staff report.

Crick the staff report indicates a requirement of 64 spaces and a requested reduction to eight.

Wisner said the applicant makes a logical argument for 42 required spaces instead of 64 required spaces.

Gascon talked about the shortfall of parking requirements in general and concluded that the parking requirement is an unnecessary burden on the applicant.

Mahoney said he has no problem with the uniqueness of the property and is only hung up on the unnecessary hardship because the slight business change is a choice.

Gascon said the applicant is a long standing family owned business that is trying to be compliant with State law, and the parking requirement is punishing them for doing the right thing.

Mahoney said the number of parking spaces isn't a factor for him, and he'd like to find a way to support their investment in the neighborhood.

Wisner said he felt the liquor laws are the hardship because the applicant must structure their business in a way that complies with those laws.

Shipley said any business would have to comply with those rules. She asked where other Board members stand on the issues.

Gascon felt the need for a site plan that results in 64 required parking spaces is a hardship.

Shipley questioned whether the rules set forth by the City are a hardship in every scenario.

Gascon said there is no construction taking place.

Shipley noted that they're making a change.

Wilbur said they're making a very subtle change and are planning to use the property in a similar way.

Gardner asked if they serve liquor in the event space.

Gascon said yes, adding that it was an important distinction to note they're not converting from a residential use.

Crick clarified that an event space is not required to have a liquor license, sales can be accommodated through off-premise license extensions provided by the caterer.

Gascon reiterated that liquor is already being served, and added that just coming into compliance with existing use would result in the same parking hardship.

Crick said the restaurant use is grandfathered in. He explained two parts of the code, on that details applicability of the code to all new structures and changes in use, and the other part of the code that deals with the intensification of a use.

Gardner said the event space has been used to its full potential without impact on the neighborhood.

Crick said it hasn't been approved as an event space, it was a carryover of the restaurant use. The proposed change would create two distinct spaces with two distinct users, which is an intensification of the code.

Gascon discussed practical application versus code required application of a change in use. He reiterated that any change to the property would trigger an impossible parking requirement, which is a hardship.

ACTION TAKEN

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

Unanimously approved 6-0.

PUBLIC COMMENT

Mr. Ted Boyle, NLIA, mentioned that the City library train use to park in the gravel lot across the street, and the City has been maintaining that property between 4th & 5th Streets. He said it's used extensively by surrounding businesses and parade-goers.

ACTION TAKEN

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

Unanimously approved 6-0.

BOARD DISCUSSION

Crick reiterated that the gravel lot mentioned is not City property.

Gascon asked if the variance process will repeat even if the proposed variance is granted and a structure is later added or the use changes.

Crick clarified that a structure addition would trigger an increase in required parking, which would require a variance, but a change in use alone would not because the proposed variance would run with the land.

Gascon noted that conditions cannot be tied to a property owner or specific use.

Crick said that's correct; however, conditions could be placed on corresponding site plans or licenses.

Wisner asked what, other than a bar or lounge, would increase the number of required parking spaces.

Crick said a bar or lounge is one of the uses that requires the most parking, only a conference or event center would require more.

Wisner said he's comfortable approving without conditions.

ACTION TAKEN

Motioned by Wilbur, seconded by Shipley, to approve the variance as submitted by the applicant based on findings of the Board.

Unanimously approved 6-0.

ITEM NO. 5 MISCELLANEOUS

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

Crick said there were will be a meeting in August.

ACTION TAKEN

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

ADJOURNED 8:00 PM



LAWRENCE BOARD OF ZONING APPEALS
MINUTES FOR **AUGUST 2, 2018**

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

ITEM NO. 1 COMMUNICATIONS

- A. All communications were included in the agenda packet.
- B. Gardner noted that he would be abstaining from his own request, Item 4.
- C. No items were deferred.

ITEM NO. 2 MINUTES

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

The minutes were deferred to the next meeting of the Board.

BEGIN PUBLIC HEARING:

**ITEM NO. 3 VARIANCES FROM THE REAR YARD BUILDING SETBACK FOR A
RESIDENTIAL STRUCTURE; 1524 RHODE ISLAND STREET**

B-18-00335: 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 20 foot rear setback standard required by Section 20-601(a) of the City Code for the RS5 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the rear setback to a minimum of 16 feet to allow for the construction of an addition to the existing residence. The second variance request is to reduce the rear setback of the existing residence to 1 foot. The property is located at 1524 Rhode Island Street. Submitted by Curtis Morton, property owner of record.

STAFF PRESENTATION

Mortensen presented the item.

BOARD DISCUSSION

Wilbur asked if the property has always been out of compliance with zoning codes.

Mortensen said it appears so.

Shipley asked if it's unusual to request a memorialization of an existing structure.

Crick said it's not unusual, and it effectively locks in the existing footprint just in case something happens to the structure.

Gardner noted that the applicant did not own the property when the structure was built.

Crick said that's correct.

APPLICANT PRESENTATION

Mr. Curtis Morton, property owner, explained that the house is very close to the rear property line and the intent of the variance is to ensure that he can perform any necessary repairs to the home in the future, for example if a tree falls on it or it needs a new roof.

Shipley asked if repairs would require a building permit.

Crick explained that a roofing permit wouldn't be an issue but a variance would allow the house to be reestablished in its current footprint in the event of a catastrophic loss.

There was no public comment.

ACTION TAKEN

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

Unanimously approved 4-0.

BOARD DISCUSSION

Gardner felt it was a simple request.

Clark said it is interesting that memorializing the current structure is the only way to rebuild it as is.

Shipley asked if the memorialization could backfire on the property owner in any way.

Crick explained that the variance would lock in the structure's current position on the lot, but if an addition is proposed that changes the footprint it would require a separate variance.

ACTION TAKEN

Motioned by Gardner, seconded by Clark, to approve the variances based on findings in the staff report and having met all five conditions for a variance.

Unanimously approved 4-0.

ITEM NO. 4 VARIANCE FROM THE INTERIOR SIDE YARD BUILDING SETBACK FOR A RESIDENTIAL STRUCTURE; 2112 OHIO STREET

B-18-00340: 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 5 foot interior side setback standard required by Section 20-601(a) of the City Code for the RS5 (Single-Dwelling Residential) District. The applicant is seeking a variance from this code standard reducing the interior side setback to a minimum of 1 foot to allow for the construction of an attached

carport. The property is located at 2112 Ohio Street. Submitted by Gregory B. Gardner, property owner of record.

RECUSAL

Gardner recused himself from the item.

Crick discussed process for the item.

STAFF PRESENTATION

Mortensen presented the item.

Wilbur asked how unique this situation is within the City.

Crick said it's pretty unique to see a house situated perpendicular to its longest lot line.

Shipley said she grew up in the neighborhood and disagrees that it is unusual.

Crick said it's unusual that this property was platted sometime in the 1900's and didn't develop for 50 years.

Shipley said she didn't feel the mention of alleyways was relevant since one didn't exist in this area.

Crick explained that 50 foot lots typically only existed in areas with an alley, and since this was originally platted as part of the County, an alley wasn't considered.

Shipley said that the neighborhood is comprised of small, two bedroom homes with mostly detached garages. She said there are only four or five carports in the area.

Crick explained that the Board doesn't have the ability to review the aesthetics of the neighborhood, and noted that some structures may have variances or were built without a permit.

APPLICANT PRESENTATION

Mr. Greg Gardner, property owner, said the property has been a money pit. He said the detached garage is on the verge of collapse and is close to the property line. He explained that he'd like to tear down the garage and replace it with a carport, as well as replace the driveway with a shorter drive thereby reducing the impermeable surface on the property. In addition he said he'd like to construct a covered porch connecting the house to the carport and eventually enclose it.

Clark asked if the proposed carport will have the same southern setback as the existing detached garage.

Gardner clarified that it will. He added that the neighbor to the south, who is most impacted by the proposed, supports his request.

ACTION TAKEN

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

Unanimously approved 3-0.

BOARD DISCUSSION

Clark asked about memorializing the existing detached garage, which has always been out of compliance.

Crick said the 1949 code didn't require detached structures to obey the setbacks so it was likely in compliance at that time.

Shipley felt the point of a new code was to bring things into compliance with it. She noted that the existing structure can't be grandfathered because the applicant is proposing a different footprint.

Crick explained grandfathering only exists for uses, such as a restaurant. In this instance, the variance request must prove to be unique to the lot or circumstances of the lot, or a product of zoning that makes the lot uneven with rights of nearby properties. He discussed the Board's task in balancing strict adherence to the code and whether doing so posing an undue burden on the property owner.

Clark said the structure was in compliance when it was built. He said the property is unique because it was platted long before anything was built, and was likely a burden at the time of construction.

Shipley disagreed that it's unique because other properties in the neighborhood are similar. She suggested that the rest of the neighbors could apply for similar variances.

Crick explained that anyone can apply for a variance, but typically when several properties in one area require a variance, a text amendment is initiated that recognizes that deficiency in the code.

Wilbur asked if uniqueness can apply to an entire neighborhood.

Crick said it's not unheard of- the Board has considered an entire neighborhood in the past.

They discussed the criteria for approval of a variance, specifically the hardship criteria.

Wilbur said the staff report refers to "previous findings of the Board". He asked staff to address that comment.

Mortensen explained that the structure to the north was granted a variance in the 1980's for the carport.

Clark and Shipley discussed alternative solutions for the construction of a new parking structure.

Wilbur felt that there is some hardship when options are limited.

Clark said there isn't anything preventing the property owner from constructing a detached garage, but wondered if cost- which he acknowledged they cannot consider- is a factor due to the extra stretch of driveway to keep the structure in the rear.

Wilbur said the lack of application of the code is why the Board is reviewing the request.

They continued to discuss whether the property is unique.

Crick explained the lack of subdivision regulations when the property was platted, as well as the absence of zoning, which are elements that work together in the current code.

Shipley did not feel those factors made the property unique.

Wilbur said the gap in time between platting and construction makes it unique.

Crick said the time between platting and construction is typically months, not decades. He added that some neighborhoods were even built before they were platted.

Shipley said the Barker neighborhood is an example.

Crick said that's correct.

Clark said he's hung up on the fact that there are other options.

Wilbur asked if a key factor for staff was the structure's proximity to the right-of-way.

Crick said a key factor for staff was ensuring the structure doesn't break the front setback plane, noting more leniency with side setbacks.

Wilbur asked whether staff considered the option to build the structure in the rear.

Crick said that is an option, and added that staff usually advises applicants to avoid the front setback and suggests the side as an alternative.

MOTION

Motioned by Clark, seconded by Shipley, to deny the variance request because it does not meet the five conditions, specifically the hardship criteria.

ACTION TAKEN

Motioned by Wilbur, seconded by Shipley, to open public comment for the item.

Unanimously approved 3-0.

PUBLIC COMMENT

Gardner explained that building the garage in the rear would increase the impermeable surface by extending the driveway. He said lots that were 132 feet long and 50 feet wide in 1909 didn't connect with the way houses were built years later, and that alone created an unnecessary hardship. He said his lack of ability to build an attached garage or carport is also a hardship.

ACTION TAKEN

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

Unanimously approved 3-0.

ACTION TAKEN

Motioned by Clark, seconded by Shipley, to deny the variance request because it does not meet the five conditions, specifically the hardship criteria.

Motion carried 2-1, Wilbur dissented.

ITEM NO. 5 MISCELLANEOUS

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

Mortensen mentioned that there will be at least one item on the September agenda.

Crick noted that Mahoney's term expires at the end of the September and the City Commission may appoint a new member at their next meeting.

Clark asked if there are any updates regarding pending legal action.

Crick said no.

ACTION TAKEN

Motioned by Clark, seconded by Shipley, to adjourn the meeting.

ADJOURN 7:26 PM

ITEM NO. 3 REAR SETBACK VARIANCE; 5914 LONGLEAF DRIVE [LRM]

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. The property is located at 5914 Longleaf Drive. Submitted by Tanya Treadway, property owner of record.

B. REASON FOR REQUEST

Applicant's Request – "Pursuant to the Land Development Code of the City of Lawrence, Kansas, Provision 20-1309, I am seeking an area variance from the 20-foot rear setback of my property to an 11.5-foot setback. This variance will allow for a covered horizontal structure (e.g. a covered, screened porch or a four-season room) that will be attached to my townhouse, plus the necessary stairs to the ground. The covered structure would not increase the size of the current structure, which is an uncovered deck..

Alternatively, if the Zoning Appeals Board will not consider a variance for a covered horizontal structure, I seek the same variance for an uncovered horizontal structure that will be attached to my townhouse, i.e., a replacement deck, plus the stairs.

The current deck, which was built in 2000, extends into the 20-foot rear setback by approximately 4.11 feet (4'2"). See Exhibit 1 (Survey) and Exhibit 1A (Picture of survey stakes). The current deck is approximately 15'4" wide (east to west) and 13'8" deep (north to south). It is approximately 40" off the ground. The east and west sides of the deck are bounded by the window wells, which provide light to the finished basement. Additionally, the west window well has a ladder for emergency egress from the basement bedroom.

The variance requested will allow me to use the deck's current footprint and build steps to the north. See Exhibit 2 (Plot Plan). The steps will require an additional 4' intrusion into the rear setback. The steps from the deck to the yard are currently built to the west. Changing the steps to the north would avoid the steps being building over the underground utility lines into my house and would also avoid blocking the west window well."

C. ZONING AND LAND USE

Current Zoning & Land Use: RM12 (Multi-Dwelling Residential) District; *Attached Dwelling Residential* use.

Surrounding Zoning and Land Use: RM12 (Multi-Dwelling Residential) District to the east, west, and south & OS (Open Space) District to the north; *Attached Dwelling Residential* use to the east, west, and south & *Open space* (DeVictor Park) to the north.

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(a), "Density and Dimensional Standards; Occupancy Limits – Residential Districts," has standards defining the minimum building setbacks for residential dwellings based upon each residential zoning district. In the RM12 District, the minimum rear building setback is listed to be 20 feet.

E. SPECIFIC ANALYSIS

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

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

Applicant response: *"there are four unique conditions giving rise to my request for a variance, none of which I created.*

First, because my property was built in 2000, the 1966 Zoning Code was applicable. Provision 20-1504(c) of the 1966 Zoning Code allowed for an exception to a 20-foot rear setback. But, the 1966 Zoning Code was replaced, and my property is not subject to a 20-foot setback from the rear property line. See City of Lawrence Land Development Code, provision 20-601(a). The city's Zoning Code changed in 2006, before I bought the property, but no one informed me about the change in the rear setback regulations. In fact, both the home owner and the Appraiser reported that the property had no zoning issues. See Exhibit 3 (Excerpt from Appraisal) and Exhibit 3A (Excerpt from Seller's Disclosure).

Second, because this is a townhouse development it has a unique platting situation, common with development s built under the Kansas Township Act. My townhouse is located one parcel of land that was originally zoned as one parcel; then, it was split into two parcels. It is unclear whether this fact affects the setback regulations.

Third, from all appearances, my rear property line adjoins DeVictor Prairie Park, which is approximately 30 feet from the rear setback and approximately 45 feet from the current deck. See Exhibit 4 (Pictures of views from deck). My townhome is positioned north/south, with the south being the front of the house, and the north being the rear of the house. See Exhibit 4A (Google Earth pictures of 5914 Longleaf Drive). The deck has existed as is since 2000, without complaint from the City or my neighbors. And, there are many decks like mine in the neighborhood, i.e., decks that appear to be well outside of any setback, but which are, in reality, built into the 20-foot setback.

The original plan was for the City to build a "berm" between the Longleaf townhomes adjacent to the DeVictor Prairie Park. See Exhibit 4B (architectural renderings of planned berm). This berm was never built. Instead, when my property was built in 2000, the developer and the original homeowners were allowed to install underground sprinkler systems and to sod a swath of land stretching approximately 30 feet from our back property lines. This 30-foot swath of land starts at the western side of the Longleaf neighborhood at George Williams Way, and continues eastward. See Exhibit 4C (google Earth picture of townhomes adjacent to DeVictor Prairie Park). Additionally, the original homeowners planted trees and landscaping in this 30-foot area. The city was aware of these actions and tacitly

approved them.

Since the development was built, the homeowner sin the Longleaf neighborhood have paid and continue to pay for the upkeep of this additional property through Homeowners' Association dues (which cover mowing), as well as through their personal water bills. The sodding of this swath of property, and the care undertaken by the Longleaf homeowners and Homeowners' Association solved what was a continuing problem of standing water. Additionally, it provides a cool-season grass fire break between our properties and the DeVictor Prairie Park.

Forth, my options for the location of a covered structure (or, alternatively, a replacement deck) and its dimensions are limited by factors beyond my control. I cannot build to the west or the west of my property because it is a townhouse. The Architectural Control Committee would not allow me to build a deck on the front of the house, because it would create a situation where my house was not uniform with the neighborhood. Therefore, building the deck to the north is my only option. I also cannot build a wider deck (west to east) because doing so would block the window wells.

Due to these unique circumstances, whether viewed alone or in the aggregate, I hope that the Zoning Appeals Board will agree that it is reasonable to continue the footprint of the current deck, and to add steps to the north. But to do that, a variance would be necessary.

This request does result from a unique condition that does not strictly originate from the [Land Development Code](#), or by actions of the owners. This property was platted in 1998 as Lot 33 in the Longleaf Addition. Records, per the Register of Deeds office, indicate the subject property was constructed in 2000. A subsequent lot division was performed to split the lot into two parcels granted under the Kansas Townhouse Act ([Ch. 58, Art. 37, Kansas State Statute](#)). That legal form of land division creates the ability to bypass the zoning and development regulations established by a municipality in order to divide a platted lot when a structure meets the State definition of a "Townhouse unit" ([§58-3702\(a\)](#)). In this instance, this resulted in a smaller than initially platted parcel size condition. Both the platting of the initial lot in 1998 and the subsequent Townhouse Act division were regulated by two different forms of government, and not within the control of the owners to adjust under these circumstances. The applicant was not the owner at the time of platting, construction, or division via Kansas Townhouse Act.

The combination of these actions created a narrower parcel, limiting the possible areas to expand into the side setback as the eastern side is connected to another unit and the western side requires a 5 foot interior side setback. An exposed egress basement window and underground utility lines discourage expansion or placement of steps towards the west of the existing deck. The subject property's architectural controls committee does not permit deck construction to the front (south) of the subject property.

The applicant cites Section 20-1504(c) of the 1966 Zoning Code and claims the setback exemption applied when the subject property came into existence. Section 20-1504(c) applied only to RS-1, RS-2, and RM-D districts. The subject property was zoned RM-1 which had a 25 foot required rear setback. Satellite imagery reveals that a number of decks within the townhome development encroach the required 25 foot rear setback. Staff is unable to determine why numerous horizontal structures were constructed within the required rear setback at the time of construction. Development Services department staff were unable to locate building permit documentation for the subject property or the existing deck. The Board of Zoning Appeals has previously granted variances for covered horizontal structures within the required rear setback for properties within the Longleaf Addition.

Finally, the subject property's eastward sloping lot requires a deck that is taller than 30 inches. If the subject property was flatter and did not require an elevated deck, like neighboring properties to the west, the requested variance would not be necessary. The applicant wishes to maintain handicap accessible egress and ingress from the residence's main living floor to the outdoor space. A patio or deck less than 30 inches in height would not be accessible without steps from the main living space of the applicant's home or would require regrading the subject property's backyard. Required egress window access from a basement bedroom and site drainage patterns would be compromised if the subject property were to be substantially regraded.

The current Land Development Code permits uncovered horizontal structures below 30 inches within the required rear setback. Section 20-602 (6)(VII) states, uncovered horizontal structures are items such as decks, stairways, entry bridges, wheelchair ramps, swimming pools, hot tubs and tennis courts that extend no more than 2.5 feet above the ground are allowed in required setbacks. A variance for a covered structure within the rear setback would be required regardless of height.

The uniqueness of the site given its slope, architectural elements like exposed egress windows, and narrow width (due to a Kansas Townhouse Act division) are all conditions not created by action of the applicant.

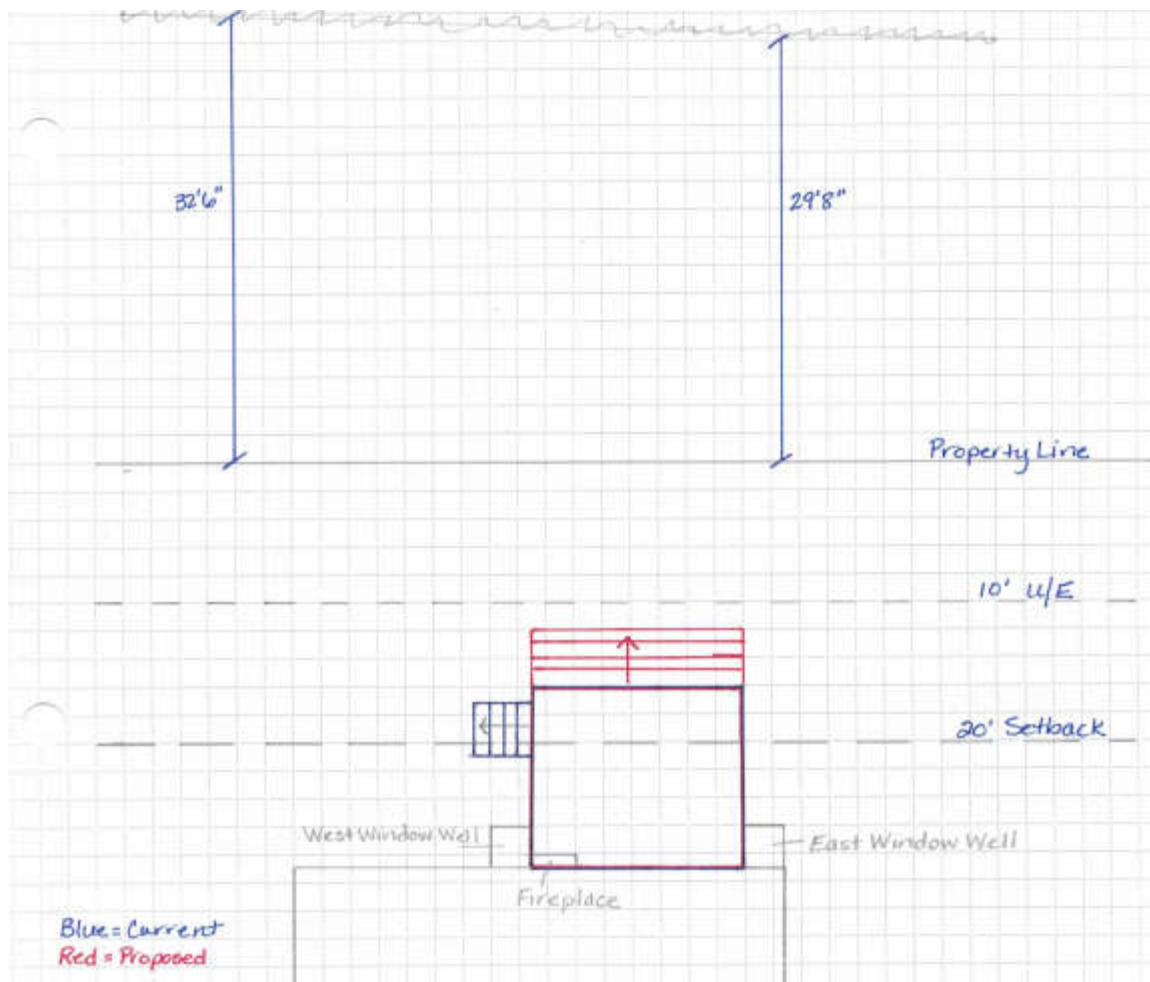


Figure 1: Subject Property Plot Plan with Existing and Proposed Horizontal Structure.

The map shows a section of Longleaf Drive with the following lot details:

- Lot 33 (Highlighted):** Bounded by bearings $N87^{\circ}41'44''E$ and $N87^{\circ}41'23''E$, and distances $647.69'$, $109.97'$, and $109.98'$. It includes a $10'$ U/E easement.
- Other Lots:** Lots 31, 32, 34, 35, 1, 7, 8, and 9 are also shown with their respective boundary measurements.
- Drives:** Longleaf Drive runs horizontally. To the west is a road with a $527.27'$ segment and a $1''W$ bearing. To the south is a road with a $177.75'$ segment and a $N02^{\circ}30'11''W$ bearing.
- Easements:** Multiple $10'$ U/E (Utility Easement) areas are indicated along the boundaries of several lots.
- Curved Boundaries:** The eastern side of the map features curved boundaries with bearings such as $S19^{\circ}17'54''S$ and $N63^{\circ}51'59''E$, and distances like $129.63'$ and $145.47'$.

Figure 3: Subject Property was originally platted as Lot 33 before split by Kansas Townhouse Act. Site outlined in red.

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

Applicant response: "If the Board of Zoning Appeals grants my request for a variance, it will not adversely affect the rights of the adjacent property owners or residents.

I have contacted the Architectural Control Committee for my Homeowners' Association, and the Committee approves both my seeking this variance and, if granted, the construction of a covered horizontal structure or a replacement deck. The Architectural Control Committee has concluded that a screened porch or a four-season room would not adversely affect the rights of adjacent property owners or residents and would not detract from the Association's goal of uniformity of appearance. See Exhibit 5 (letter from Architectural Control Committee).

I have also contacted my closest neighbors, and they support my seeking this variance, and if granted, the construction of a covered horizontal structure or a replacement deck. See Exhibit 6 (Letters from neighbors).

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

The applicant has contacted and secured the support of her immediate neighbors as well as her homeowners' association and architectural control committee.

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: "My request for a variance is a measured one. I am not seeking to increase the footprint of my current deck. Instead, my request for variance is an attempt to rectify the negative effects of a change in applicable rules and regulations that previously allowed an exception to the 20-foot rear setback. My deck is in need of replacement, not repair. Whether it is replaced with a covered structure or an uncovered structure, without a variance, I would have to comply with the now-applicable 20-foot rear setback, or I would have to reconfigure the deck to be less than 30" high. Strict application of provision 20-601(a) will constitute an unnecessary hardship on me for six reasons.

First, to build a horizontal structure (covered or uncovered) less than 30" high would require a substantial step down from the house (at least 10"), or a substantial re-grading of the property. Either would impose an unnecessary hardship.

Building a horizontal structure (covered or uncovered) less than 30" high would mean that it would no longer be handicap accessible from the house.

Re-grading the property is also problematic, because it would change the hydrodynamics of the property, negatively impacting my property and my neighbors' property. Re-grading would also impact

the window wells which border the current deck on the east and west sides. See Exhibit 4D (Pictures of window wells). Again, these window wells provide the daylight to my basement, and one window well provides egress from the basement.

Second, complying with the 20-foot rear setback would eliminate the opportunity to improve my property with a covered structure. Therefore, I would only have the choice of replacing my deck. To comply with the 20-foot rear setback, the deck would have to be reduced from approximately 210 square feet to approximately 90 square feet (The north to south measurement would be reduced from approximately 13'8" to approximately 5'6" if the steps had to be relocated to the north) making it difficult to continue using the deck for outdoor living space with a grill and a 4-chair patio set.

Third, complying with the 20-foot rear setback would make the deck substantially smaller than my neighbor's decks, making it less uniform in appearance. The grade of the Longleaf Townhomes property slopes downward from west to east. The four homes to the west of my property can build decks and patios into the 20-foot setback because they are less than 30" high. Starting with my house and moving east, however, none of the houses has a deck less than 30" high. If I am not allowed to build in the setback, as my western neighbors are, and if my eastern neighbors' decks are "grandfathered in" because they need repair rather than replacement, my property will be less uniform in appearance, possibly subjecting me to penalties from my Homeowners' Association, and making my home difficult to re-sell.

Fourth, complying with the 20-foot rear setback would either require me to move the steps 4'2" to the south (toward the house), blocking the west window well, or would require me to reduce the deck's footprint an additional 4' to relocate the steps to the north. Either creates an unnecessary hardship: a blocked window well (the window well that provides light and egress from the basement), or an unusable deck space.

Fifth, the landscaping would have to be replaced or relocated, since it is currently against the deck. See Exhibit 4E (Picture of landscaping on the north side of deck). Building a compliant structure would mean the landscaping would be 4 to 8 feet away. To relocate the landscaping to make the property look attractive would be both an unnecessary physical and financial hardship.

Sixth, if I do not replace my deck, I will be in violation of the rules and regulations governing the Longleaf Townhomes Architectural Control guidelines, which are in accordance with the Declaration of Covenants Conditions and Restrictions. See Exhibit 7 (Excerpt from Guidelines). Provision F.2 (d) provides that "no deck shall be allowed to rot or otherwise become an eyesore or nuisance." My deck is beginning to rot and is becoming an eyesore. Therefore, I have no choice but to replace my deck, not repair it. But, without a variance, I cannot even replace the deck I currently have. This imposes an unnecessary hardship on me because it will reduce both the value and enjoyment of my house and will effectively impose a unilateral modification of my real estate contract: I bought a house with a large deck, but now will not get the full benefit of my purchase.

Given the shape and topography of the existing subject parcel, the ability to construct an addition is limited to the rear of the property. In staff's opinion, strict adherence to the code required building setbacks in this instance may constitute an unnecessary hardship. Kansas State Statute permits the division of duplex and other similar use lots via the Kansas Townhouse Act. This creates a situation where the duplex lots may be created with smaller than anticipated lot dimensions and open space levels as noted by the Land Development Code.

To place the new structure entirely outside of the rear setback would drastically reduce the usable space of the deck. An adjacent property and attached townhouse unit to the east hinder expansion in that direction and an existing, required lower level egress window and utility lines limit expansion to the west. To reduce its height to lower than 30 inches would not permit direct access from the main interior living area of the subject property without substantial site regrading or stairs directly from the residence.

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

Applicant response: *"The new horizontal structure (covered or uncovered) will simply replace the footprint of the current deck and add steps to the north to avoid building the steps over the underground utility lines into my house. Therefore, the requested variance will not create a situation that would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, as it has not done so to date. I am also not requesting to use the space in a way that would impact any of these issues."*

In staff's opinion, granting the requested variance will not create an adverse effect upon the public health, safety, morals, order, convenience, prosperity or general welfare. The request in question is contained within the parcel owned by the applicant. This structure would not create any spill-over noxious effects to the surrounding area. The proposed horizontal structure will not encumber an existing platted utility easement in the rear yard. Immediate neighbors have not objected to the proposed horizontal structure.

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

Applicant response: *"As I understand the intent of setbacks, they are imposed to preserve open space and insure that a building is not constructed right up to the property line. The variance proposed will not impinge on open space, it will not allow me to build right up to the property line, and it will not encroach on the 10-foot utility easement."*

Since the current deck has existed for 18 years without negative impact on the open space, the replacement structure will also have no negative impact on the open space.

In staff's opinion, granting the setback variance would not be opposed to the general spirit and intent of the Land Development Code. Strict adherence to the code requiring the 20 foot rear yard building setback would limit the use and expansion of the residence given the limited parcel size available due to the division of this property via the Kansas Townhouse Act, which is not subject to the requirements and review of the Land Development Code. Because of this form of land division, there are stringent limitations on how and where expansion of the property may take place. Expanding into the side yard is not feasible given the distance and other code requirements. The applicant is not looking to expand the size of the deck. The proposed replacement will match the footprint of the existing deck. The stairs will be moved to the north of the existing and proposed deck footprint but do not increase the total useable space.

While the Board must look at each case independent from the others, staff would note the Board has previously granted variances for covered horizontal structures in the rear setback within the Longleaf Addition. Past variances were granted with conditions that covered horizontal structures shall remain open sided and shall not be converted to conditioned livable space.

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 rear setback variance based upon the findings in the staff report. Staff Recommends the Board grant the variance to reduce the required rear yard setback from 20 feet to 11.5 feet for 5914 Longleaf Drive.



**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

JUL 13 2018

City County Planning Office
Lawrence, Kansas

OWNER INFORMATION

Name(s) Tanya J. Treadway
Contact Tanya J. Treadway
Address 5914 Longleaf Drive
City Lawrence State KS ZIP 66049
Phone (785) 550-3109 Fax () none
E-mail swimquick55@outlook.com Mobile/Pager (785) 550-3109

APPLICANT/AGENT INFORMATION

Contact Tanya J. Treadway
Company _____
Address 5914 Longleaf Drive
City Lawrence State KS ZIP 66049
Phone (785) 550-3109 Fax () none
E-mail swimquick55@outlook.com Mobile/Pager (785) 550-3109
Pre-Application Meeting Date August 29, 2017 Planner Jeff Crick

PROPERTY INFORMATION

Present Zoning District RM12 Present Land Use Household Living; Duplex
Proposed Land Use Same as Present Land Use
Legal Description (may be attached) Attached
Address of Property 5914 Longleaf Drive, Lawrence, KS 66049
Total Site Area 4,900.0 Square Feet
Number and Description of Existing Improvements or Structures 1 residence

B-18-00344



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

Please see attached.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



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:**

Please see attached.

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

Please see attached.



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:

Please see attached.

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

Please see attached.



City of Lawrence
Douglas County
PLANNING & DEVELOPMENT SERVICES

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<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:

Please see attached.

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): *Gary J. Vreathway* Date *July 11, 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.

Tanya J. Treadway
Signature

July 11, 2018
Date

Tanya J. Treadway
Printed Name

EXHIBIT A, LEGAL DESCRIPTION

5914 LONGLEAF DRIVE

Lot 33B, Block Three

Beginning at the Southwest Corner of Lot 33, Block Three, Longleaf, an addition to the City of Lawrence, Douglas County, Kansas: thence North $02^{\circ}18'37''$ West, along the West Line of said Lot 33, 109.98 feet to the Northwest Corner of said Lot 33; thence North $87^{\circ}41'44''$ East, along the North Line of said Lot 33, 44.76 feet; thence South $02^{\circ}06'28''$ East, 109.97 feet to the South Line of said Lot 33; thence South $87^{\circ}41'23''$ West, along said South Line, 44.37 feet to the point of beginning. The above contains 0.113 Acre, more or less.

ATTACHMENT TO APPLICATION FOR VARIANCE FROM UNNECESSARY HARDSHIP

Description of variance requested:

Pursuant to the Land Development Code of the City of Lawrence, Kansas, Provision 20-1309, I am seeking an area variance from the 20-foot rear setback of my property to an 11.5-foot setback. This variance will allow for a covered horizontal structure (*e.g.*, a covered, screened porch or a four-season room) that will be attached to my townhouse, plus the necessary stairs to the ground. The covered structure would not increase the size of the current structure, which is an uncovered deck.

Alternatively, if the Zoning Appeals Board will not consider a variance for a covered horizontal structure, I seek the same variance for an uncovered horizontal structure that will be attached to my townhouse, *i.e.*, a replacement deck, plus the stairs.

The current deck, which was built in 2000, extends into the 20-foot rear setback by approximately 4.11 feet (4'2"). See **Exhibit 1** (Survey) and **Exhibit 1A** (Pictures of survey stakes). The current deck is approximately 15'4" wide (east to west) and 13'8" deep (north to south). It is approximately 40" off the ground. The east and west sides of the deck are bounded by the window wells, which provide light to the finished basement. Additionally, the west window well has a ladder for emergency egress from the basement bedroom.

The variance requested will allow me to use the deck's current footprint and build steps to the north. See **Exhibit 2** (Plot Plan). The steps will require an additional 4' intrusion into the rear setback. The steps from the deck to the yard are currently built to the west. Changing the steps to the north would avoid the steps being built over the underground utility lines into my house and would also avoid blocking the west window well.

1. **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.**

There are four unique conditions giving rise to my request for a variance, none of which I created.

First, because my property was built in 2000, the 1966 Zoning Code was applicable. Provision 20-1504(c) of the 1966 Zoning Code allowed for an exception to a 20-foot rear setback. But, the 1966 Zoning Code was replaced, and my property is now subject to a 20-foot setback from the rear property line. *See* City of Lawrence Land Development Code, provision 20-601(a). The City's Zoning Code changed in 2006, before I bought the property, but no one informed me about the change in the rear setback regulations. In fact, both the homeowner and the Appraiser reported that the property had no zoning issues. *See* **Exhibit 3** (Excerpt from Appraisal) and **Exhibit 3A** (Excerpt from Seller's Disclosure).

Second, because this is a townhouse development, it has a unique platting situation, common with developments built under the Kansas Township Act. My townhouse is located on a parcel of land that was originally zoned as one parcel; then, it was split into two parcels. It is unclear whether this fact affects the setback regulations.

Third, from all appearances, my rear property line adjoins DeVictor prairie park, which is approximately 30 feet from the rear setback and approximately 45 feet from the current deck. *See* **Exhibit 4** (Pictures of views from deck). My townhome is positioned north/south, with the south being the front of the house, and the north being the rear of the house. *See* **Exhibit 4A** (Google Earth pictures of 5914 Longleaf Drive). The deck has existed as is since 2000, without complaint from the City or my neighbors. And, there are many decks like mine in the neighborhood, *i.e.*, decks that appear to be well outside of any setback, but which are, in reality, built into the 20-foot setback.

The original plan was for the City to build a "berm" between the Longleaf townhomes adjacent to the DeVictor prairie park. *See* **Exhibit 4B** (Architectural rendering of planned berm). This berm was never built. Instead, when my property was built in 2000, the developer and the original homeowners were allowed to install underground sprinkler systems and to sod a swath of land stretching approximately 30 feet from our back property lines. This 30-foot swath

of land starts at the western side of the Longleaf neighborhood at George Williams Way, and continues eastward. *See Exhibit 4C* (Google Earth picture of townhomes adjacent to DeVictor prairie park). Additionally, the original homeowners planted trees and landscaping in this 30-foot area. The City was aware of these actions and tacitly approved them.

Since the development was built, the homeowners in the Longleaf neighborhood have paid and continue to pay for the upkeep of this additional property through Homeowners' Association dues (which covers mowing), as well as through their personal water bills. The sodding of this swath of property, and the care undertaken by the Longleaf homeowners and Homeowners' Association solved what was a continuing problem of standing water. Additionally, it provides a cool-season grass fire break between our properties and the DeVictor prairie park.

Fourth, my options for the location of a covered structure (or, alternatively, a replacement deck) and its dimensions are limited by factors beyond my control. I cannot build to the west or the east of my property because it is a townhouse. The Architectural Control Committee would not allow me to build a deck on the front of the house, because it would create a situation where my house was not uniform with the neighborhood. Therefore, building the deck to the north is my only option. I also cannot build a wider deck (west to east) because doing so would block the window wells.

Due to these unique circumstances, whether viewed alone or in the aggregate, I hope that the Zoning Appeals Board will agree that it is reasonable to continue the footprint of the current deck, and to add steps to the north. But to do that, a variance would be necessary.

2. Granting the variance would not adversely affect the rights of adjacent property owners or residents.

If the Board of Zoning Appeals grants my request for a variance, it will not adversely affect the rights of the adjacent property owners or residents.

I have contacted the Architectural Control Committee for my Homeowners' Association, and the Committee approves both my seeking this variance and, if granted, the construction of a covered horizontal structure or a replacement deck. The Architectural Control Committee has concluded that a screened porch or a four-season room would not adversely affect the rights of adjacent property owners or residents and would not detract from the Association's goal of uniformity of appearance. *See Exhibit 5* (Letter from Architectural Control Committee).

I have also contacted my closest neighbors, and they support my seeking this variance, and if granted, the construction of a covered horizontal structure or a replacement deck. *See Exhibit 6* (Letters from neighbors).

3. 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.

My request for a variance is a measured one. I am not seeking to increase the footprint of my current deck. Instead, my request for a variance is an attempt to rectify the negative effects of a change in applicable rules and regulations that previously allowed an exception to the 20-foot rear setback. My deck is in need of replacement, not repair. Whether it is replaced with a covered structure or an uncovered structure, without a variance, I would have to comply with the now-applicable 20-foot rear setback, or I would have to reconfigure the deck to be less than 30" high. Strict application of provision 20-601(a) will constitute an unnecessary hardship on me for six reasons.

First, to build a horizontal structure (covered or uncovered) less than 30" high would require a substantial step down from the house (at least 10"), or a substantial re-grading of the property. Either would impose an unnecessary hardship.

Building a horizontal structure (covered or uncovered) less than 30" high would mean that it would no longer be handicap accessible from the house.

Re-grading the property is also problematic, because it would change the hydrodynamics of the property, negatively impacting my property and my neighbors' property. Re-grading would also impact the window wells which border the current deck on the east and west sides. *See Exhibit 4D* (Pictures of window wells). Again, these window wells provide the daylight to my basement, and one window well provides egress from the basement.

Second, complying with the 20-foot rear setback would eliminate the opportunity to improve my property with a covered structure. Therefore, I would only have the choice of replacing my deck. To comply with the 20-foot rear setback, the deck would have to be reduced from approximately 210 square feet to approximately 90 square feet,¹ making it difficult to continue using the deck for outdoor living space with a grill and a 4-chair patio set.

¹ See fourth point below. The north to south measurement would be reduced from approximately 13'8" to approximately 5'6" if the steps had to be relocated to the north.

Third, complying with the 20-foot rear setback would make the deck substantially smaller than my neighbors' decks, making it less uniform in appearance. The grade of the Longleaf Townhomes property slopes downward from west to east. The four homes to the west of my property can build decks and patios into the 20-foot setback because they are less than 30" high. Starting with my house and moving east, however, none of the houses has a deck less than 30" high. If I am not allowed to build in the setback, as my western neighbors are, and if my eastern neighbors' decks are "grandfathered in" because they need repair rather than replacement, my property will be less uniform in appearance, possibly subjecting me to penalties from my Homeowners' Association, and making my home difficult to re-sell.

Fourth, complying with the 20-foot rear setback would either require me to move the steps 4'2" to the south (toward the house), blocking the west window well, or would require me to reduce the deck's footprint an additional 4' to relocate the steps to the north. Either creates an unnecessary hardship: a blocked window well (the window well that provides light and egress from the basement), or an unusable deck space.

Fifth, the landscaping would have to be replaced or relocated, since it is currently against the deck. *See Exhibit 4E* (Picture of landscaping on north side of deck). Building a compliant structure would mean the landscaping would be 4 to 8 feet away. To relocate the landscaping to make the property look attractive would be both an unnecessary physical and financial hardship.

Sixth, if I do not replace my deck, I will be in violation of the rules and regulations governing the Longleaf Townhomes Architectural Control Guidelines, which are in accordance with the Declaration of Covenants, Conditions and Restrictions. *See Exhibit 7* (Excerpt from Guidelines). Provision F.2(d) provides that "no deck shall be allowed to rot or otherwise become an eyesore or nuisance." My deck is beginning to rot and is becoming an eyesore. Therefore, I have no choice but to replace my deck, not repair it. But, without a variance, I cannot even replace the deck I currently have. This imposes an unnecessary hardship on me because it will reduce both the value and enjoyment of my house and will effectively impose a unilateral modification of my real estate contract: I bought a house with a large deck, but now will not get the full benefit of my purchase.

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

The new horizontal structure (covered or uncovered) will simply replace the footprint of the current deck and add steps to the north to avoid building the steps over the underground utility lines into my house. Therefore, the requested variance will not create a situation that would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, as it has not done so to date. I am also not requesting to use the space in a way that would impact any of these issues.

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

As I understand the intent of setbacks, they are imposed to preserve open space and insure that a building is not constructed right up to the property line. The variance proposed will not impinge on open space, it will not allow me to build right up to the property line, and it will not encroach on the 10-foot utility easement.

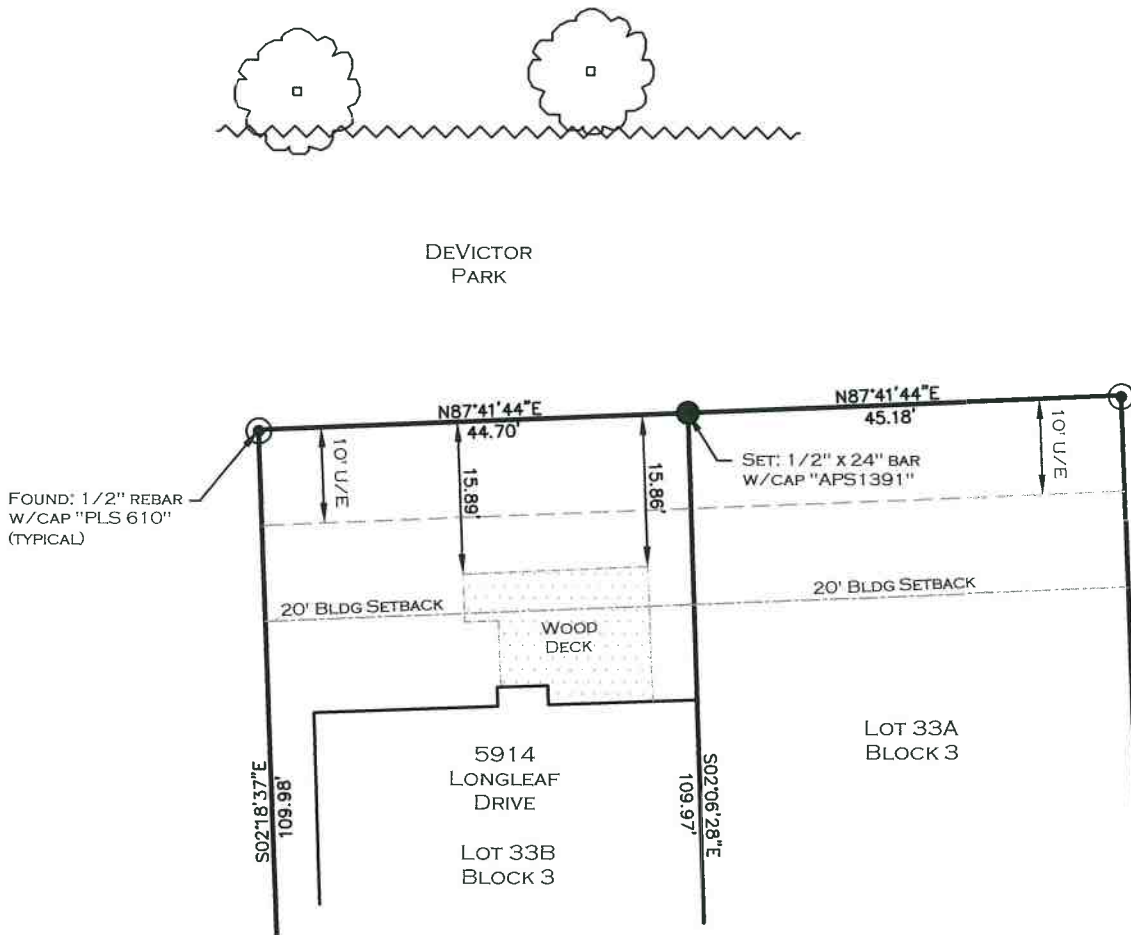
Since the current deck has existed for 18 years without negative impact on the open space, the replacement structure will also have no negative impact on the open space.

**EXHIBIT LIST FOR
APPLICATION FOR VARIANCE FROM UNNECESSARY HARDSHIP**

Exhibit	Description
1	Survey
1A	Pictures of Survey Stakes
2	Plot Plan
3	Excerpt from Appraisal
3A	Excerpt from Seller's Disclosure
4	Pictures of views from deck
4A	Google Earth pictures of 5914 Longleaf Drive
4B	Architectural rendering of planned berm
4C	Google Earth picture of townhouses adjacent to DeVictor park
4D	Pictures of window wells
4E	Pictures of landscaping on north side of deck
5	Letter from Architectural Control Committee
6	Letters from neighbors
7	Excerpt from Longleaf Townhomes Architectural Control Guidelines

BOUNDARY / IMPROVEMENT LOCATION

5914 LONGLEAF DRIVE



CERTIFICATION:

I HEREBY CERTIFY THAT THE FINDINGS REPRESENT THE TRUE AND ACCURATE RESULTS OF A SURVEY PERFORMED UNDER MY DIRECT SUPERVISION ON OCTOBER 2ND, 2017. THIS SURVEY DOES NOT CERTIFY EASEMENTS, SETBACKS OR OWNERSHIP.

LEGAL DESCRIPTION:

LOT 33B, BLOCK 3 IN LONGLEAF, AN ADDITION TO THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.



STEVEN D. WILLIAMS PS-169
P.O. Box 4444
LAWRENCE, KANSAS 66046
(785) 832-2121



SCALE:
1" = 20'

ORDERED BY:
TANYA TREADWAY

DATE:
10-2-17

JOB #:
17-083

ALL POINTS SURVEYING, LLP

PROFESSIONAL LAND SURVEYING SERVICES

P.O. Box 4444 - LAWRENCE, KANSAS - 66046 - TEL. (785) 832-2121 - FAX (785) 832-2122

DRAWN BY:
SEL

CHECKED BY:
SDW

EXHIBIT 1



Eastern Survey Stake

Railing on north of deck is at bottom of picture



Western stake, looking east

5914 Longleaf deck railing is on far right; 5912 Longleaf deck/stairs in distance



Western stake looking west from northwest corner of deck



Western stake

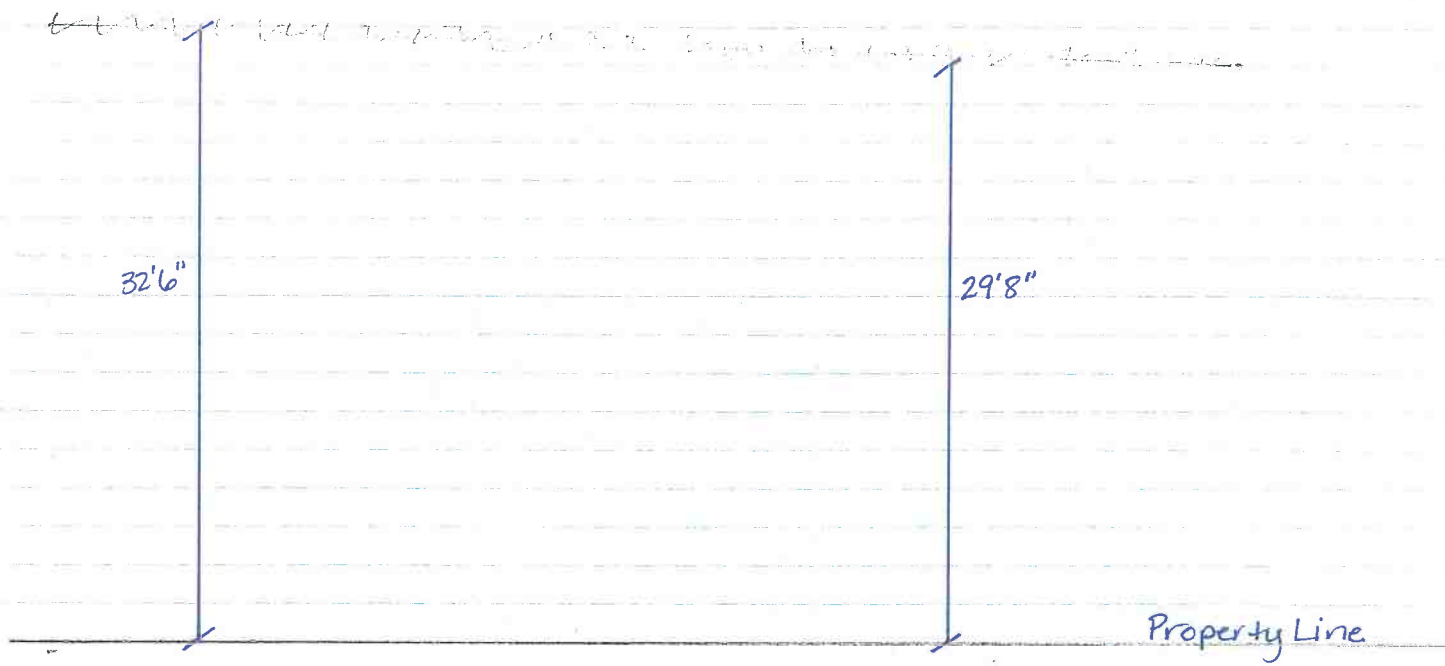
Western neighbors' (Marshalls') deck



Both stakes, looking east, with northeast corner of 5914 Longleaf Drive deck visible, plus deck of 5912 Longleaf Drive in background

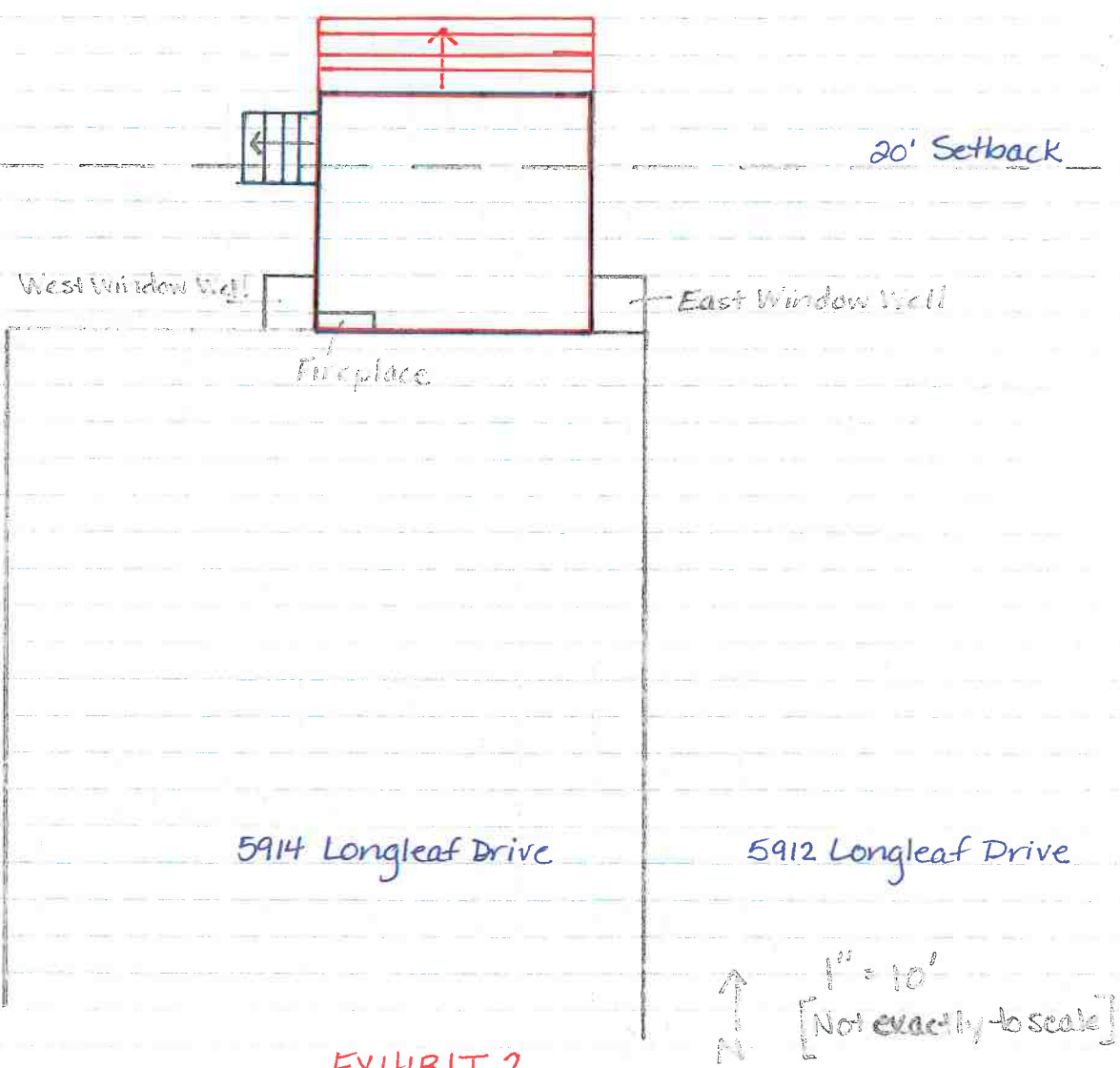


Surveyors locating eastern property line of Martinez townhome, 5912 Longleaf Drive



10' u/E

20' Setback



Blue = Current
Red = Proposed

EXHIBIT 2

EXHIBIT 2

Uniform Residential Appraisal Report

File # MV130643

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address 5914 Loneleaf Dr City Lawrence State KS Zip Code 66049
 Borrower Tanya J. Treadway Owner of Public Record Sonja M. and Gary J. Vicker Trustees County Douglas

Legal Description See attached addenda.
 Assessor's Parcel # 023-069-32-0-40-06-033.01-0 Tax Year 2012 R.E. Taxes \$ 3,163
 Neighborhood Name Loneleaf Map Reference MLS 1 Census Tract 0016.00
 Occupant ☒ Owner ☐ Tenant ☐ Vacant Special Assessments \$ 9 ☒ PUD HOA \$ 100 ☐ per year ☒ per month
 Property Rights Appraised ☒ Fee Simple ☐ Leasehold ☐ Other (describe)
 Assignment Type ☒ Purchase Transaction ☐ Refinance Transaction ☐ Other (describe)
 Lender/Client Capitol Federal Savings Bank Address 700 S. Kansas Avenue, Topeka, KS 66603
 Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? ☒ Yes ☐ No
 Report data source(s) used, offering price(s), and date(s). DOM 39;MLS#130650 was offered for \$249,950 from April 29, 2013 until June 7, 2013, when it went under contract to the borrower in this report.
 I ☒ did ☐ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. Arms length sale; The appraisers were provided a copy of the contract. It appears to be an "arms length" transaction.

Contract Price \$ 245,000 Date of Contract 06/07/2013 Is the property seller the owner of public record? ☒ Yes ☐ No Data Source(s) County records
 Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☒ No
 If Yes, report the total dollar amount and describe the items to be paid. \$0.;

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		One-Unit Housing Trends		One-Unit Housing		Present Land Use %	
Location <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural	Property Values <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining	PRICE	AGE	One-Unit	75 %		
Built-Up <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	Demand/Supply <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	\$ (000)	(yrs)	2-4 Unit	10 %		
Growth <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow	Marketing Time <input type="checkbox"/> Under 3 mths <input checked="" type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	225	Low	0	Multi-Family	5 %	
Neighborhood Boundaries The subject's neighborhood is generally bound by 6th Street to the North,		300	High	15	Commercial	5 %	
Wakarusa Drive to the East, Bob Billings Parkway to the South and Lawrence city limits to the West.		250	Pred.	10	Other	5 %	
Neighborhood Description The subject is located in the Loneleaf neighborhood of townhomes in west Lawrence. The townhomes are generally one story in design. Langston Hughes Elementary School is within one block and the subject backs to DeVictor Park. There are commercial uses, shopping and dining on 6th Street and Wakarusa Drive.							
Market Conditions (including support for the above conclusions) Recent sales in the subject's neighborhood range from around \$225,000 to \$300,000.							
Mortgage funds are available at rates from around 3.75% to 5.0%.							

Dimensions 44.2' X 109.9' Area 4900 sf Shape Rectangular View N;Res;
 Specific Zoning Classification RM12 Zoning Description Residential Multi-Family, 12 Units per Acre
 Zoning Compliance ☒ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)
 Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? ☒ Yes ☐ No If No, describe

Utilities Public Other (describe) Public Other (describe) Off-site Improvements - Type Public Private
 Electricity ☒ ☐ Water ☒ ☐ Street Asphalt ☒ ☐
 Gas ☒ ☐ Sanitary Sewer ☒ ☐ Alley None ☐ ☐
 FEMA Special Flood Hazard Area ☐ Yes ☒ No FEMA Flood Zone X FEMA Map # 20045C0154D FEMA Map Date 08/05/2010
 Are the utilities and off-site improvements typical for the market area? ☒ Yes ☐ No If No, describe
 Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☒ No If Yes, describe
 The site conforms with other sites and complies with local zoning regulations. The site has one special tax - \$9.42 Yankee Tank Sewer District #3, which started in 1994 and end in 2014.

General Description		Foundation		Exterior Description		materials/condition		Interior		materials/condition	
Units <input checked="" type="checkbox"/> One <input type="checkbox"/> One with Accessory Unit	<input type="checkbox"/> Concrete Slab <input type="checkbox"/> Crawl Space	Foundation Walls	Concrete/avg +	Floors	Wood,cpt, tile/avg +						
# of Stories 1.0	<input checked="" type="checkbox"/> Full Basement <input type="checkbox"/> Partial Basement	Exterior Walls	Wood/avg +	Walls	Drywall/avg +						
Type <input type="checkbox"/> Det. <input checked="" type="checkbox"/> Att. <input type="checkbox"/> S-Det/End Unit	Basement Area 1,432 sq.ft.	Roof Surface	Composition/avg +	Trim/Finish	Wood/avg +						
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Under Const.	Basement Finish 56 %	Gutters & Downspouts	Metal/avg +	Bath Floor	Tile/avg +						
Design (Style) One Story	<input type="checkbox"/> Outside Entry/Exit <input checked="" type="checkbox"/> Sump Pump	Window Type	Wood DP/avg +	Bath Wainscot	Tile/avg +						
Year Built 2000	Evidence of <input type="checkbox"/> Infestation	Storm Sash/Insulated	Insulated	Car Storage	None						
Effective Age (Yrs) 2	<input type="checkbox"/> Dampness <input type="checkbox"/> Settlement	Screens	Yes/avg +	<input checked="" type="checkbox"/> Driveway	# of Cars 2						
Attic <input type="checkbox"/> None	Heating <input checked="" type="checkbox"/> FWA <input type="checkbox"/> HWBB <input type="checkbox"/> Radiant	Amenities	<input type="checkbox"/> Woodstove(s) # 0	Driveway Surface	Concrete						
<input type="checkbox"/> Drop Stair <input type="checkbox"/> Stairs	<input type="checkbox"/> Other Fuel Gas	<input checked="" type="checkbox"/> Fireplace(s) # 1	Fence None	<input checked="" type="checkbox"/> Garage	# of Cars 2						
<input type="checkbox"/> Floor <input checked="" type="checkbox"/> Scuttle	Cooling <input checked="" type="checkbox"/> Central Air Conditioning	<input checked="" type="checkbox"/> Patio/Deck Deck	<input checked="" type="checkbox"/> Porch Covered	<input type="checkbox"/> Carport	# of Cars 0						
<input type="checkbox"/> Finished <input type="checkbox"/> Heated	<input type="checkbox"/> Individual <input type="checkbox"/> Other	<input type="checkbox"/> Pool None	<input checked="" type="checkbox"/> Other Spr syst	<input checked="" type="checkbox"/> Att.	<input type="checkbox"/> Det. <input type="checkbox"/> Built-in						
Appliances <input checked="" type="checkbox"/> Refrigerator <input checked="" type="checkbox"/> Range/Oven <input checked="" type="checkbox"/> Dishwasher <input checked="" type="checkbox"/> Disposal <input checked="" type="checkbox"/> Microwave <input checked="" type="checkbox"/> Washer/Dryer <input checked="" type="checkbox"/> Other (describe) Wet bar											
Finished area above grade contains: 5 Rooms 2 Bedrooms 2.0 Bath(s) 1,432 Square Feet of Gross Living Area Above Grade											
Additional features (special energy efficient items, etc.). The subject has a high efficiency HVAC.											
Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.). C2;No updates in the prior 15 years;The subject is a 13 year old townhome. The exterior is lap siding, there are wood floors in the kitchen and dining room, the living room has a tile fireplace, the basement family room has a wet bar and the yard has a sprinkler system. There was no deferred maintenance noted by the appraiser and the subject is considered to be in average-plus condition.											
Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe											
Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe											

Section E - Continued

- | | Yes | No | Unknown |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| 16. Has there ever been damage to the real property or any of the improvements due to fire, flood, wind, hail, or other acts of nature? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 17. Have you ever had a leak from any plumbing line/fixture or appliance? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. Have you had the property inspected for the existence of any types of mold? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If Yes, attach copy of any inspection report. | | | |
| 19. Have you received any insurance proceeds or filed any insurance claim on the property? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If yes, please comment and include any/all reports: #2-ADAMX 5-6 VALS ASD - MESSLER. ROOFING CORRECTED A ROOF LEAK - APRIL 8 IT from front door - no further problems. #13 - REPLACED ENTIRE DRIVEWAY, + mud jacking of driveway - sidewalk - ALMOST front porch - 2012.

SECTION F - HAZARDOUS CONDITIONS: Are you (SELLER), to the best of your knowledge, aware of any of the following substances, materials, or products on the real property which may be an environmental hazard?

- | | Yes | No | Unknown |
|-------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|
| 1. Radon..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> Pre-Plumbed <input type="checkbox"/> Operating Mitigation System | | | |
| 2. Mold | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Lead-Based Paint..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Contaminated soil or water | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Toxic Materials..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Asbestos..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Landfill or buried materials..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Underground fuel or chemical storage tanks..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. Other (specify): | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

If yes, please comment and include any/all reports: #17 Faulty flush valve in bathroom domestic repaired by Action plumbing - MS Capital Care - Feb 2013
#19 Insurance covered the above.

SECTION G - TITLE DISCLOSURES: Are you (SELLER), to the best of your knowledge, aware of any of the following which could affect the real property? FOR INFORMATION CONCERNING SPECIAL ASSESSMENTS, CONTACT BOTH THE CITY CLERK AT 832-3201, AND THE COUNTY TREASURER AT 832-5178.

For online tax info visit: http://www.douglas-county.com/online_services/valuetaxes/disclaimer.asp.
For Pending/Certified Special Assessment info visit: <http://www.lawrenceks.org/specialassessment/>

- | | Yes | No | Unknown |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| 1. Any Covenants and Restrictions or other deed restrictions or obligations..... | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you have a copy of a property survey..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Any lot-line disputes or other unusual claims against the real property..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Any encroachments..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 5. Any zoning violations..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. Any non-conforming uses of property..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 7. Any violations of "set back" requirements..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 8. Easements other than normal utility easements | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 9. Any planned road or street expansions or improvements adjacent to the property..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 10. Any notices from any governmental, or quasi-governmental agency (HOA) affecting this real property..... | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 11. Any Pending/Certified assessments on the real estate, including but not limited to those for sidewalks, streets, sewers and waterlines..... | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Total balance of remaining special taxes: \$ 171¹⁶ PO 2014 - See below

Certified Special Taxes: please itemize below:

Special Assessment 1 Description: XANER SEWER #3	Amount \$ 9.42	Pay Off Year: 2014
Special Assessment 2 Description:	Amount \$	Pay Off Year:
Special Assessment 3 Description:	Amount \$	Pay Off Year:
Special Assessment 4 Description:	Amount \$	Pay Off Year:

Pending (estimated) Special Taxes or Benefit Districts: \$ (principal only); Type of Assessment

SELLER'S Initials and date: SM 4-29-13
SELLER'S initials and date:

BUYER'S initial and date:
BUYER'S initial and date:





Looking over the deck to the North



Same view to the North from the deck's edge

EXHIBIT 4



View to Northwest. Planted area beyond tree existed when I purchased the house.



View to Northeast. Planted area existed when I purchased the house.



Looking northwest from the deck. The 2 large pear trees in the background were planted by the prior owners on City land. I planted the newer pear tree after a storm destroyed the maple tree that was in the same place.



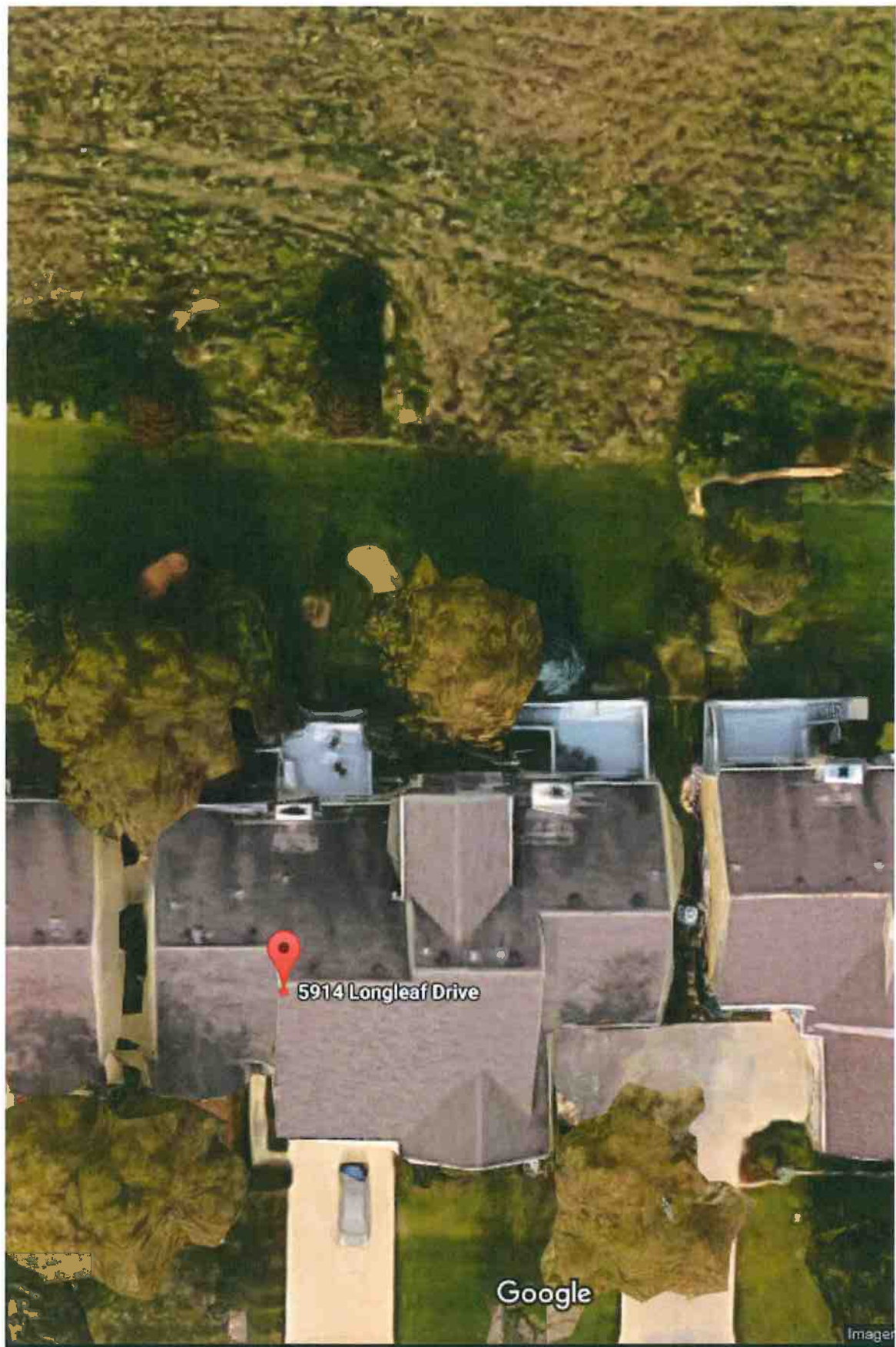
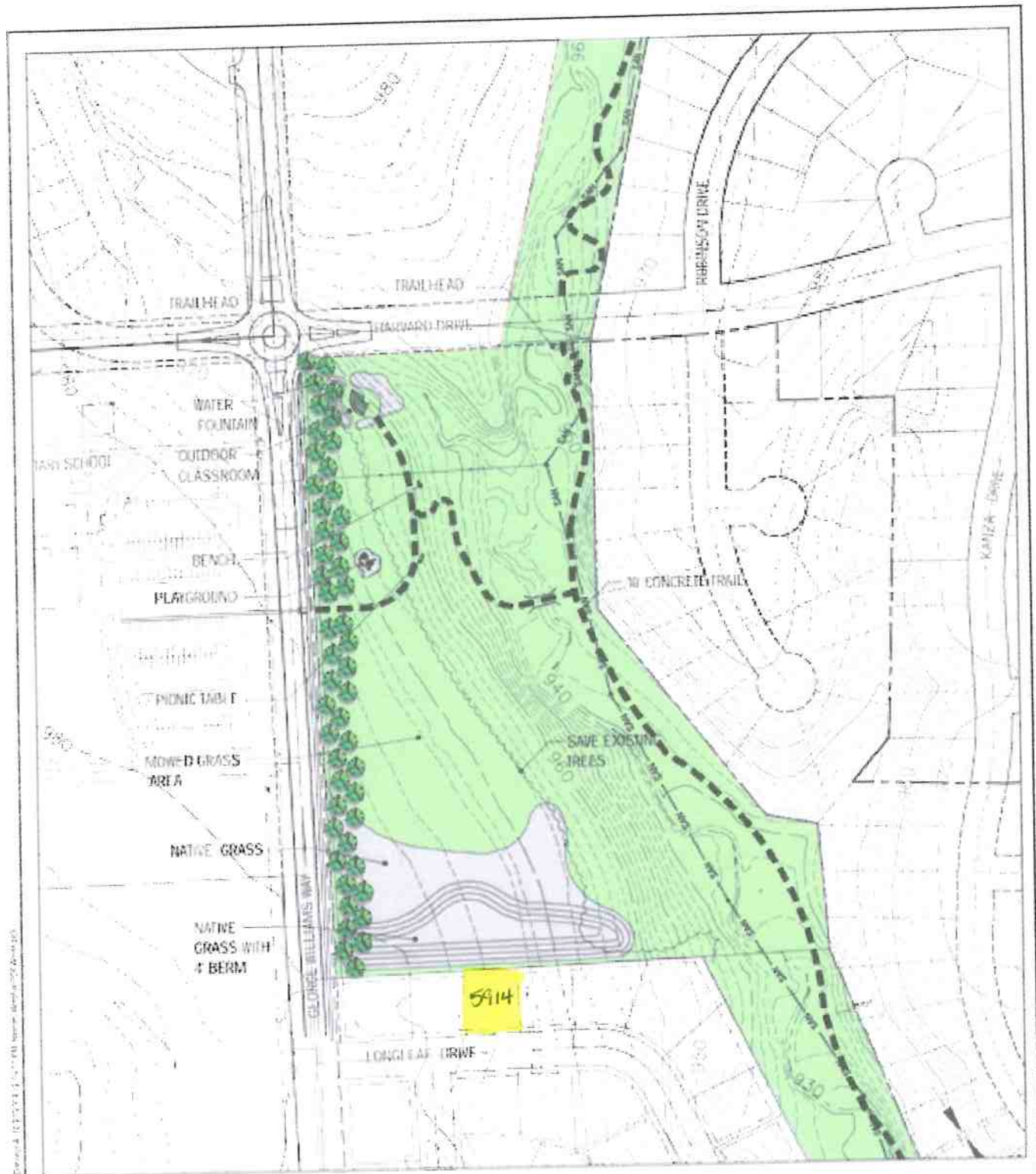


EXHIBIT 4A



CONCEPT 4



Civil Engineering
Landscape Architecture
Community Planning
Surveying

1100 Westridge Drive
Riverside, CA 92504
951.709.0100
Fax: 951.709.0101

Central Landscape Building
1000 Westridge Drive
Riverside, CA 92504
951.709.0100
Fax: 951.709.0101



North



Scale: 1"=20'

EXHIBIT 4B

Google Maps 5914 Longleaf Dr



Imagery ©2017 Google, Map data ©2017 Google United States 20 ft



5914 Longleaf Dr

Lawrence, KS 66049



EXHIBIT 4C



East window well. My neighbor's property abuts to the east.



West window well



Looking south to the deck, showing landscaping.

**Longleaf Townhomes Owner's Association
Lawrence, Kansas 66049**

June 21, 2018

Lawrence Zoning Appeals Board
City of Lawrence, Kansas 66044

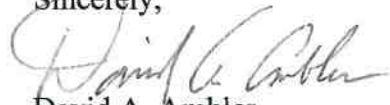
Dear Board Members,

Tanya Treadway, a resident member of our Association living at 5914 Longleaf Drive, is seeking an area variance to her property. I am writing on behalf of the Association's Architectural Control Committee while our chairperson, David Stringer, is out of the country.

Ms. Treadway has discussed with our committee her plan to seek a variance to the rear setback as she desires to be able to build either a covered structure (e.g. a four seasons room) or a replacement deck on the north side of her townhome. Ms. Treadway discussed her plans at our last annual Association meeting in November, 2017 with the homeowners present and no objections to the project were expressed. The Committee supports Ms. Treadway's seeking of this variance and will approve of her building a four seasons room or a replacement deck if the Board grants the variance being requested. The Committee has concluded that either structure would not adversely affect the rights of adjacent property owners and would not detract from the standards set by the Association for such structures.

We recommend that the Zoning Appeals Board approve the variance requested by Ms. Treadway.

Sincerely,



David A. Ambler
5913 Longleaf Drive
AAC member

EXHIBIT 5

Terry and Kathy Marshall
5916 Longleaf Drive
Lawrence, Kansas 66049

June 19, 2018

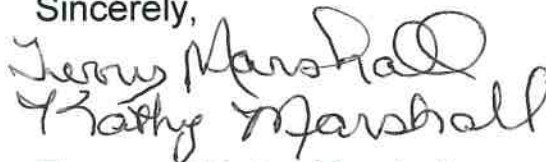
To the Zoning Appeals Board for the City of Lawrence

Re: Application for Area Variance from 20-foot rear setback of 5914
Longleaf Drive

Please accept this letter in support of the area variance being sought by the homeowner of 5914 Longleaf Drive, Tanya Treadway. We are her next door neighbors to the west.

Tanya has discussed with us her plans to seek a variance to the rear setback, and her hopes to be able to build either a covered structure (e.g., a four-season room) or a replacement deck on the north side of her townhome. We support Tanya's seeking this variance and support her building a four-season room or a replacement deck, if the Board grants the variance being requested.

Sincerely,

Handwritten signatures of Terry Marshall and Kathy Marshall in black ink. The signature of Terry Marshall is on top, and the signature of Kathy Marshall is below it.

Terry and Kathy Marshall

EXHIBIT 6

Ruperto and Ellen Martinez
5912 Longleaf Drive
Lawrence, KS 66049

July 5, 2018

To the Zoning Appeals Board for the City of Lawrence

Re: Area Variance from 20-foot rear setback of 5914 Longleaf Drive

Dear Members of the Zoning Appeals Board,

Please accept this letter in support of the area variance being sought by the homeowner of 5914 Longleaf Drive, Tanya Treadway. We are her “roof mates” to the east, sharing a common wall.

Tanya has discussed with us her plans to seek a variance to the rear setback, and her hopes to be able to build either a covered structure (*e.g.*, a 4-season room) or a replacement deck on the north side of her townhome. We support Tanya’s seeking this variance and support her building a 4-season room or a replacement deck, if the Board grants the variance being requested.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ruperto and Ellen Martinez".

Ruperto and Ellen Martinez

Treadway, Tanya
5914 Longleaf Drive

ARCHITECTURAL CONTROL GUIDELINES
in accordance with the
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
LONGLEAF TOWNHOMES

2014

***Architectural Control Guidelines in accordance with the
Declaration of Covenants, Conditions and Restrictions of Longleaf Townhomes***

I. Introduction

The Longleaf Townhomes Association (hereinafter referred to as the Association) is a cohesive community of attached homes developed with a concept of design unity, recognizing that individual updates/changes to a townhome are permitted if within the boundaries of the Amended and Restated (November 1, 2004) Declaration of Covenants Conditions and Restrictions of Longleaf Townhomes (Covenants). In keeping with this concept, the Association has established the Architectural Control Committee (ACC) and mandated that it fulfill certain responsibilities under the Covenants. By establishing the following architectural controls and guidelines the Association, through the ACC, recognizes that the individual's right to enjoy the reasonable privileges of home ownership must be balanced with the rights of other Townhome Owners (Owners).

II. Definitions by the ACC

A. Regulation: A *Regulation* is an inflexible rule established by one or more Covenants, intended to be applied by the ACC. A *Regulation* is not discretionary and cannot be modified by the ACC.

B. Standard: A *Standard* is a rule of architectural policy that normally requires a degree of interpretation to determine appropriate application in individual cases. This interpretation is the responsibility of the ACC. A *Standard* serves as a guide to the Owner by which the Owner can develop a proposed modification consistent with the established design criteria. The ACC is responsible for assuring, through its judgement, that the *Standards* are implemented in a manner consistent with the overall architectural concept of the Association.

III. The Architectural Control Committee (ACC) (Covenants, Article XI)

A. The composition of the ACC is determined by the Covenants which govern the Longleaf Community. It is of public record, binding upon all the Owners.

1. If an issue comes before the ACC which directly relates to an ACC member, Longleaf Townhomes Board of Directors (Board) shall serve as the hearing body and shall use the Covenants and ACC guidelines to make a ruling.

2. If the modification coming before the Board involves a Board member he/she shall abstain from voting on the modification.

3. Any, or all, of the ACC members can be removed from the ACC by a simple majority of the vote of either the general association membership, or at a Special/General Meeting, or by the Board at any of its meetings.

B. The ACC will make every effort to establish an equitable policy of architectural control that:

1. Is fully compliant with the Covenants;
2. establishes and maintains basic *Standards*;

Guidelines in maintaining a uniform appearance throughout the neighborhood, the Association's preferred installation locations for permitted antennae, in order of preference, are as follows: (1) Inside the townhome; (2) on the back patio or deck; (3) on the back of the townhome as close to the eave as possible; (4) on the side of the townhome as close to the eave as possible; and (5) on the roof. These preferences are meant to shield, as much as possible under the OTARD Rule, viewing of the satellite dish from the street-side(s) of the townhome and from neighboring townhomes. Although the ACC cannot require an Owner or tenant to submit an Application for Exterior Modification form, the ACC does reserve the right, under the OTARD Rule, to require notification of the installation of permitted antenna in order that the ACC may verify that the antenna will be, or has been, installed in accordance with the Association's written rules, *Regulations* and FCC rules. This requirement of notification is not to be confused with any approval process or a right to review the installation details before the antenna is installed, as both would be considered an unreasonable delay of installation under the OTARD Rule. As a courtesy, the townhome owner should contact his/her neighbors whose view would be impacted by the installation of the dish. A satellite dish may be painted to blend with its background to make it less noticeable. Painting the dish will not interfere with reception of a signal.

F. DECKS AND SCREENED PORCHES (Covenants, Article XI, 11.1)

1. *Regulation:* No deck or porch may be constructed without the approval of the ACC as they are exterior modifications.

2. *Standards:*

- a) All deck flooring must be constructed of either wood or wood composite;
- b) deck railings may be either wood, wood composite, or metal capped with wood/wood composite;
- c) limited amounts of wooden privacy screening may be used;
- d) deck wood may be treated with a "natural" stain, or stained in colors approved by the ACC, or left to weather. However, no deck shall be allowed to rot or otherwise become an eyesore or nuisance;
- e) porches must be designed to be an integral part of the house;
- f) porches must be made of the same materials and finished in the same manner as the house and must be stylistically matched to the architectural design of the house, particularly to locations of walls and to roof angles; and,
- g) any porch screening material must match that used in the home windows and sliding glass doors.

G. STORM DOORS, WINDOWS AND AWNINGS (Covenants, Article XII, 12.1, 12.7)

1. *Regulations:*

a) Neither awnings, sun screens nor canopies of any type shall be affixed to any building or structure; and,

b) though storm doors are not mentioned in the Covenants, they are an exterior modification. To install a storm door, a request must be made to the ACC for prior approval.

2. *Standards:*

- a) Any changes to existing windows, doors, storm doors must compliment the style, appearance and

REAR SETBACK VARIANCE; 600 MAPLE STREET [LRM]

B-18-00381: A request for 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 to reduce the 15 foot minimum rear setback requirement listed in Section 20-601(b) of the City Code to a minimum 0 feet. The property is located at 600 Maple Street. Submitted by Fred Schneider of Schneider and Associates, for Mike and Sheri Nieder, dba Nieder Properties of Lawrence, Kansas, the property owners of record.

B. REASON FOR REQUEST

Applicant's Request – *"The boundary survey shows a long, narrow. Lot in the 600 block of Maple Street in North Lawrence. The owner would like to develop the property by building two warehouses and one private storage building.*

After applying the required setbacks given in the present Land Development Code, there is very little allowable building area. To make the site usable, the owner is asking for the rear setback, along the railroad easement, to be vacated.

Prior to the adoption of the land development code of 2006, the Code recognized the railroad right of way as a special condition and no setback was required. Please refer to Section 20, Article 8, Table V, special Condition (b), old zoning ordinance.

The site is zoned General Industrial (IG), and the use of warehouses and storage units seems to be aligned with the zoning of the site. Because of the sound created by the trains, warehouses and storage seem to be an appropriate use.

C. ZONING AND LAND USE

Current Zoning & Land Use: IG (General Industrial) District; *Undeveloped*

Surrounding Zoning and Land Use: To the south: IG (General Industrial) District; Railroad Right-of-Way

To the west: IG (General Industrial) District; Railroad Right-of-Way and *Undeveloped*

To the east: IG (General Industrial) District & CS (Commercial Strip) District; Railroad Right-of-Way and *office* use.

To the north: IG (General Industrial) District; *Mini-Warehouse, Vehicle Storage*, and *single-dwelling residential* uses.

D. ZONING ORDINANCE REQUIREMENTS

Section 20-601(b), "Density and Dimensional Standards; Occupancy Limits – Nonresidential Districts," has standards defining the minimum building setbacks for structures based upon each zoning district. In the IG District, the minimum rear building setback for an IG zoned lot abutting a non-residentially zoned lot is listed to be 15 feet. The applicant is requesting a variance to reduce the minimum setback distance to 0 feet.

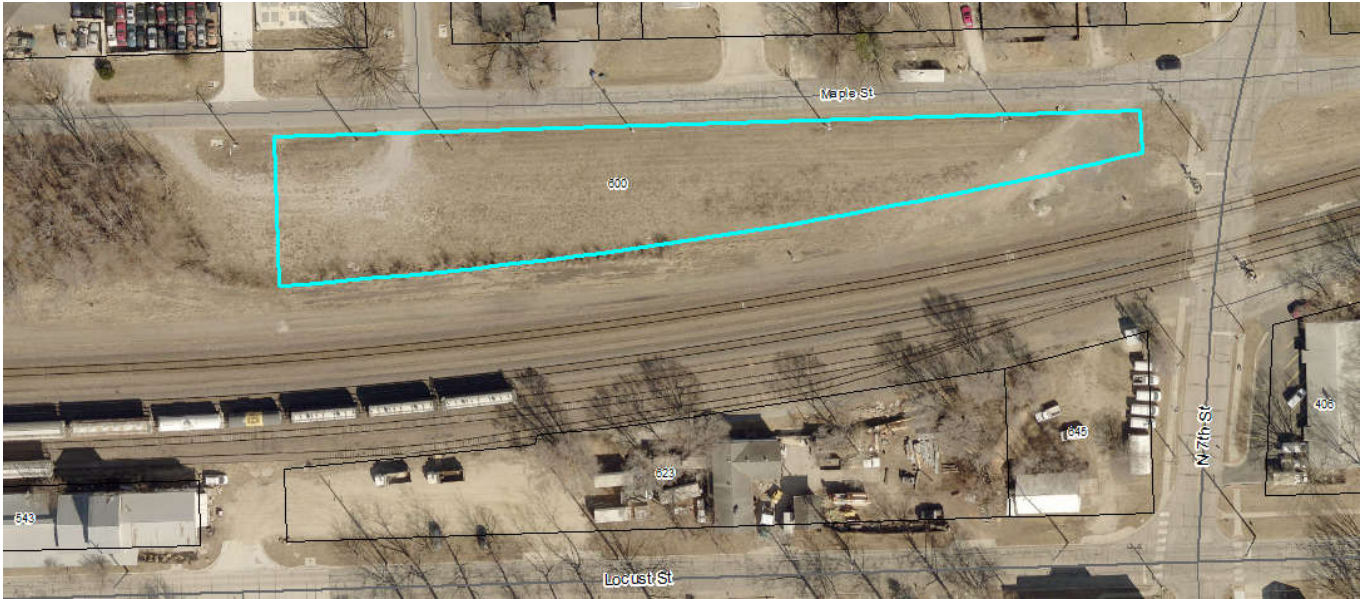


Figure 1: Existing Site Image from 2018.

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: *"Under the existing code the site is unbuildable. It is unique in its shape and this condition was not created by the owner."*

The subject property is 1.02 acres of unplatted land in North Lawrence. It has no structures or active use. Its size and shape are unique when compared to other IG (General Industrial) zoned lots throughout Lawrence. The lot's narrow depth is a result of its placement between the road right-of-way and the railroad right-of-way. Staff is unable to determine a date at which the lot came into existence. The subject property was likely originally included in the adjacent railroad right-of-way but removed and sold off for separate development. There are similarly shaped parcels located between the road right-of-way and the railroad right-of-way south of the subject property on Locust Street and east of the subject property on Maple Street. The majority of similarly shaped lots along the railroad right-of-way in this portion of North Lawrence are undeveloped. They range in size from 0.8 acres to about 1.2 acres, which makes this parcel consistent in total land mass to the other parcels.

The lot is subject to the IG (General Industrial) District setback requirements established by Section 20-601(b) of the Land Development Code. Staff has determined the required setbacks to be 15 feet on the west side, 25 feet on north side, 15 feet on the south side, and 25 feet on the east side. The total area of required setback is equal to approximately 57% of the site's total land area. The building envelope is restricted to just 19,081 square feet or approximately 43% of the site. Note: the exhibit provided by the applicant indicates a required western setback of 20 feet. Staff have interpreted the Code such that a 15 foot western setback would be required.

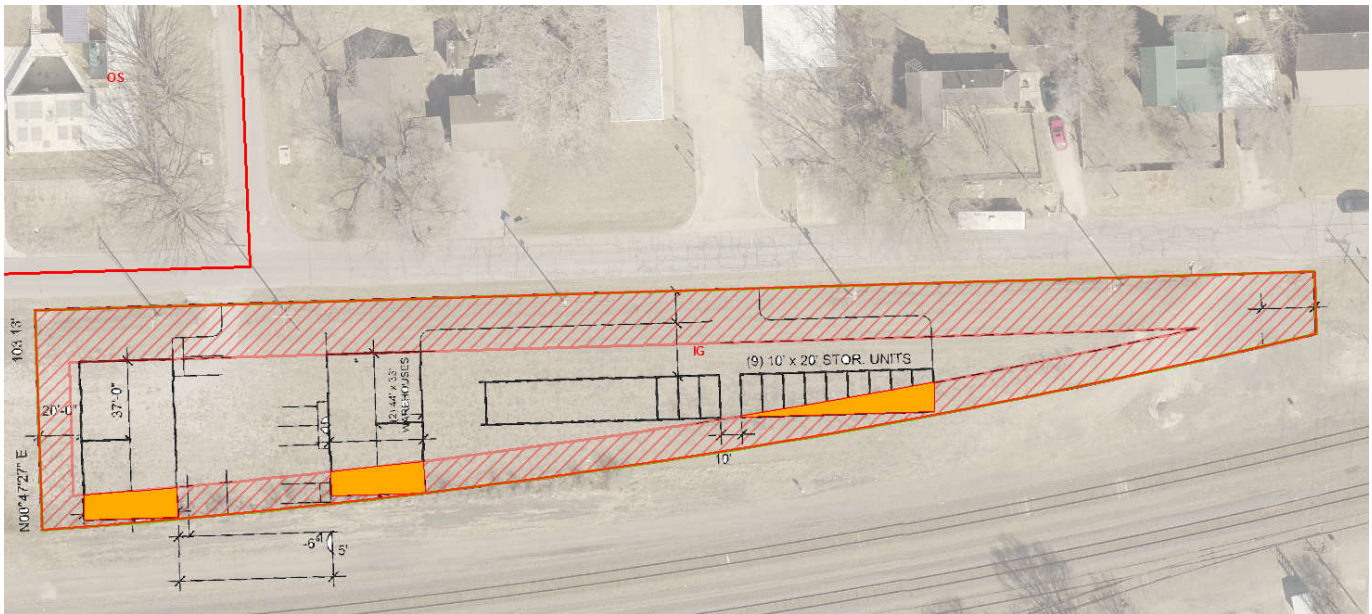


Figure 2: Red stripes indicate area of subject property encumbered by setbacks.

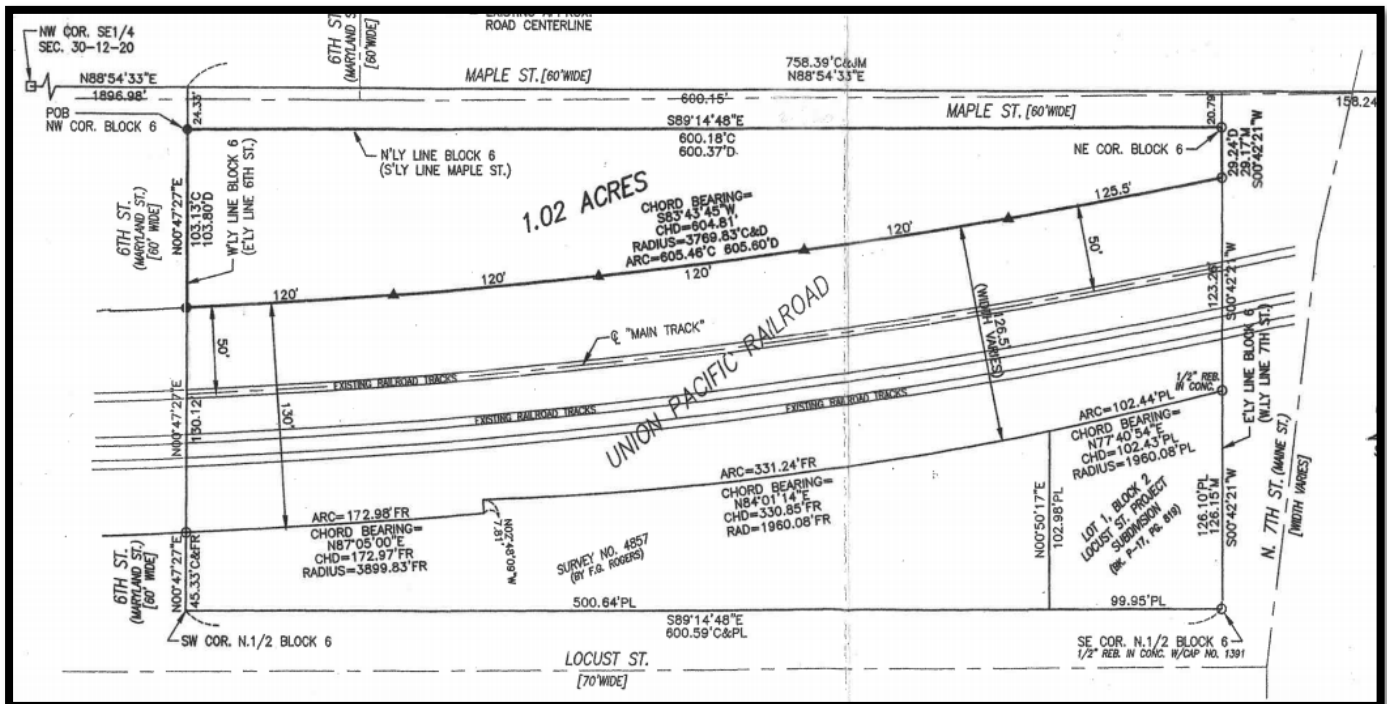


Figure 3: 2017 Survey of the Subject Property at 600 Maple Street.

The 1966 Zoning Code, adopted with Ordinance No. 3500, notes in Section 20-807 (b),

In any industrial district (M-1, M-1A, M-2, M-3, and M-4) where a yard abuts a railroad right-of-way with a minimum width of 50 feet, no structural setback from said right-of-way shall be required.

Under the 1966 Zoning Code the subject property was zoned M-3 (Intensive Industrial) District. A 2017 survey (Figure 3) of the site notes a distance of 50 feet or railroad right-of-way between the subject property's southern line and the railroad track.

The subject property sits adjacent to railroad right-of-way on east, west, & south sides and road right-of-way on the north side. Unlike the northern lot line along Maple Street, the southern lot line along the Union Pacific Lines is not straight. The southern lot line mirrors the railroad tracks and curves toward the northeast. The curving lot line and subsequent setback result in an unusual, pie-shaped buildable envelope. The wedge shaped buildable envelope does not allow for a consistent lot depth making building placement and orientation difficult. Finally, the required setbacks established for the IG (General Industrial) District are intended for large-lot or greenfield development rather than uniquely shaped lots carved from railroad right-of-way. The district's setbacks are intended to act as a buffer for moderate and high-impact industrial uses. The proposed use, *mini-warehouse storage*, is typically neither a high-impact nor a true industrial use, but it is permitted in the IG district. With the adoption and application of the IG (General Industrial) District in 2006, the Land Development Code applies a setback standard that is mainly applicable in true industrial-type applications, such as locating an intensive industrial user that may need a larger setback to mitigate potential nuisances created by its operations.

The subject property's boundaries and undeveloped status have remained unchanged, it has been the adoption of new zoning regulations that is the reason for the variance request. The proposed mini-warehouse development would not require a variance under the 1966 Zoning Code. The subject property's shape and subsequent building envelope as well setbacks intended for higher-intensity uses are unique conditions to the site and are not the result of the applicant.

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

Applicant response: *"There are no buildings on the property to the west of the site. There are no other private owners on the other three sides of the site."*

In staff's opinion, the requested variances will not adversely affect the rights of adjacent property owners or residents. Notice was provided to property owners within a 400 foot distance of the subject property to inform them of the application filed by the property owner.

As of the time this report was written, staff had been contacted by one neighboring property owner. The owner of 624 Lincoln Street is concerned about the proposed development of the site exacerbating North Lawrence's stormwater and flooding issues.

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 site is unbuildable under the existing development code. If the variance is not approved, the site cannot be used, which would create a hardship for the owner."*

In staff's opinion, strict adherence to the Land Development Code may constitute an unnecessary hardship. At its deepest point the required northern setback of 25 feet and required southern setback of 15 feet would reduce the buildable depth to about 63 feet. The depth of the buildable envelope decreases from 63 feet in the west to 0 feet in the east. Refer to Figure 2 above. Under the 1966 Zoning Code the maximum buildable depth at the western edge of the subject property would have been about 78 feet.

Prior to the adoption of the 2006 Land Development Code, the proposed structures would not have been subject to the currently required setback. Requiring the proposed structures to comply with the setbacks established by the Land Development Code would create a situation where a majority of the lot is encumbered by the setback requirements. The subject property narrowly meets the required density and dimensional standards for an M-3 (Intensive Industrial) District lot as established by Section 20-807 of the 1966 Zoning Code. The railroad right-of-way setback exception allowed an unusually shaped lot to have more buildable land for industrial development.

The M-3 (Intensive Industrial) District was rezoned to IG (General Industrial) with the adoption of the Land Development Code in 2006. Staff believe instituting modern setback requirements on a similarly zoned (M-3 to IG) lot may constitute an unnecessary hardship in this particular instance.

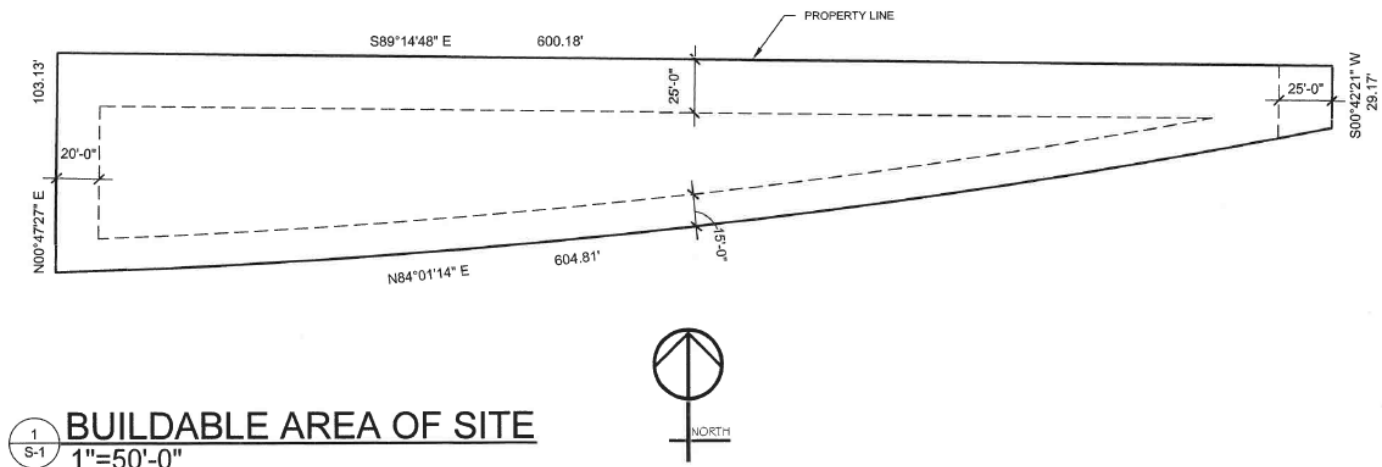


Figure 4: Buildable Area of Site.

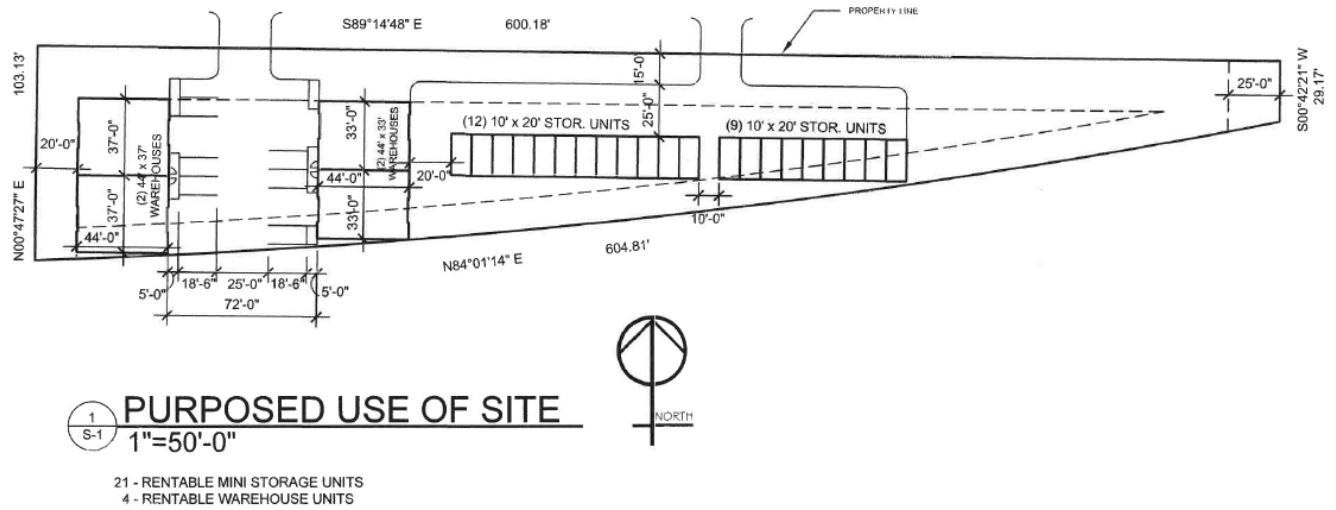


Figure 5: Proposed Site Plan.

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

Applicant response: *"The variance would allow the site to be used as the zoning specifies. There would be no adverse effects."*

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, and will be consistent with the current site layout and use. This would not create any spill-over noxious effects to the surrounding area.

Any proposed development on the subject property will be subject to the preliminary and final plat procedures as well as site the site planning review process. The applicant has indicated the proposed storage structures would only interfere with the setback along the subject property's southern property line. Staff does not anticipate any intersection visibility issues at the corner of Maple Street and North 7th Street. Required setbacks will be maintained along the eastern, northern, and western property lines.

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

Applicant response: *"By granting the variance, the site would be "activated". This would allow an empty site to be used."*

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 for the development and use of an existing, undeveloped lot, while 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 to reduce the 15 foot minimum rear setback requirement to a minimum of 0 feet for 600 Maple Street.



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RECEIVED

AUG 02 2018

City County Planning Office
Lawrence, Kansas

**APPLICATION FOR
VARIANCE FROM UNNECESSARY HARDSHIP**

OWNER INFORMATION

Name(s) MIKE AND SHERI NIEDER, dba NIEDER PROPERTIES
Contact MIKE NIEDER
Address 692 N. 1610 ROAD
City LAWRENCE State KS. ZIP 66049-9008
Phone (785) 423-1114 (MOBIL) Fax (____)
E-mail _____ Mobile/Pager (____)

APPLICANT/AGENT INFORMATION

Contact FRED SCHNEIDER
Company SCHNEIDER AND ASSOCIATES
Address 2859 FOURWHEEL DRIVE, SUITE 16-B
City LAWRENCE State KS. ZIP 66047
Phone (785) 841-3752 Fax (____)
E-mail CONTACT@SCHNEIDERARCHITECTURE.COM Mobile/Pager (____)
Pre-Application Meeting Date _____ Planner _____

PROPERTY INFORMATION

Present Zoning District IG GENERAL ^{INDUSTRIAL} Present Land Use VACANT (IG)
Proposed Land Use WAREHOUSES, STORAGE
Legal Description (may be attached) _____
Address of Property 600 MAPLE STREET, NORTH LAWRENCE, KS.
Total Site Area 1.02 ACRES OR 44,431.2 SQ. FT.
Number and Description of Existing Improvements or Structures THERE ARE NO
IMPROVEMENTS OR STRUCTURES.

B-18-00381



Description of variance requested:

THE BOUNDARY SURVEY SHOWS A LONG, NARROW, LOT IN THE 600 BLOCK OF MAPLE STREET IN NORTH LAWRENCE. THE OWNER WOULD LIKE TO DEVELOPE THE PROPERTY BY BUILDING TWO WAREHOUSES AND ONE PRIVATE STORAGE BUILDING.

AFTER APPLYING THE REQUIRED SETBACKS GIVEN IN THE PRESENT LAND DEVELOPMENT CODE, THERE IS VERY LITTLE ALLOWABLE BUILDING AREA. TO MAKE THE SITE USABLE, THE OWNER IS ASKING FOR THE REAR SETBACK, ALONG THE RAILROAD EASEMENT, TO BE VACATED.

PRIOR TO THE ADOPTION OF THE LAND DEVELOPMENT CODE OF 2006, THE CODE RECOGNIZED THE RAILROAD RIGHT OF WAY AS A SPECIAL CONDITION AND NO SETBACK WAS REQUIRED. PLEASE REFER TO SECTION 20, ARTICLE 8, TABLE II, SPECIAL CONDITION (b), OLD ZONING ORDINANCE.

THE SITE IS ZONED GENERAL INDUSTRIAL (IG.), AND THE USE OF WAREHOUSES AND STORAGE UNITS SEEMS TO BE ALIGNED WITH THE ZONING OF THE SITE. BECAUSE OF THE SOUND CREATED BY THE TRAINS, WAREHOUSES AND STORAGE SEEM TO BE AN APPROPRIATE USE.

CHAPTER XX. ZONING AND PLANNING

- Article 1. Lawrence-Douglas County Planning Commission
- Article 2. (Reserved)
- Article 3. Zoning Ordinance
- Article 4. Zoning Districts
- Article 5. Zoning Districts Map, Boundaries, Annexed Areas
- Article 6. Residential Districts
- Article 7. Commercial Districts
- Article 7A. Office Districts
- Article 8. Industrial Districts
- Article 9. South Lawrence Trafficway Overlay District
- Article 9A. Floodplain Management
- Article 9B. Stormwater and Drainage
- Article 10. Planned Unit Development Districts
- Article 11. Air Space Control Area Districts
- Article 12. Off-Street Loading and Parking Requirements
- Article 13. General Provisions
- Article 14. Special Conditions
- Article 14A. Lighting and Landscaping Requirements
- Article 14B. Communications Towers
- Article 14C. Urban Conservation Overlay District
- Article 15. Exceptions and Modifications
- Article 16. Administrative Procedure, Required Permits and Fees
- Article 17. Board of Zoning Appeals
- Article 18. Amendments and Enforcement
- Article 19. Enforcement and Severability
- Article 20. Definitions

ARTICLE 1. LAWRENCE-DOUGLAS COUNTY METROPOLITAN PLANNING COMMISSION

20-101. JOINT COMMISSION CREATED.

There is hereby created the Lawrence-Douglas County Metropolitan Planning Commission as authorized by K.S.A. 12-744 through 747, as amended. The term "Planning Commission" as it appears in the following sections shall mean the Lawrence-Douglas County Metropolitan Planning Commission. (Ord. 6287)

20-102. MEMBERSHIP.

The planning commission shall consist of ten members, five of whom shall be appointed by the mayor of the City of Lawrence and five by the chairman of the County Board of Commissioners. In each case, appointments shall be made by and with the consent of their respective governing bodies. Initially, the city shall name in the manner provided above, two appointees whose terms shall be for one year; two appointees whose terms shall be for two years; and one appointee whose term shall be for three years. The county shall name, in the manner provided above, one appointee whose term shall be for one year; two appointees whose terms shall be for two years; and two appointees whose terms shall be for three years. Thereafter all appointments shall be for terms of three years, except that appointments made to fill a vacancy that occurs before the expiration of a member's term shall be for the remainder of that unexpired term only.

The terms of the original members of the planning commission shall commence on the 1st day of June, 1969, and shall expire on the 1st day of June of the year for which the term of office is completed.

TABLE V

ZONING DISTRICTS (c)	LOT AREA MINIMUM (Square feet)	LOT WIDTH AT FRONT BUILDING LINE MINIMUM (feet)	LOT DEPTH MINIMUM (feet)	YARDS, MINIMUM (feet)					HEIGHT, MAXIMUM (a)	
				WHEN ABUTTING A STREET RIGHT-OF-WAY (b)			WHEN ABUTTING OTHER PROPERTY LINES (a)		STORIES	FEET
				When Across Street From Residential District	When Across Street From a Non-Residential District		When Abutting Property in a Residential District	When Abutting Property in a Non-Residential District		
					Minor Thoroughfare	Major Thoroughfare				
M-1 (Research Industrial)	304,920 (7 acres)	200	200	40	40	40	15	3	40	
M-1A (Light Industrial)	20,000	100	200	50	25	50	15	3	35	
M-2 (General Industrial)	5,000	50	100	25	25	50	15	3	35	
M-3 (Intensive Industrial)	20,000	100	100	50	25	50	15	7	75	
M-4 (Limited Intensive Industrial) (d)	87,120	200	200	50	25	50	15	3	35	

(a) In the M-1 and M-1A Districts there shall be no exterior storage of industrial supplies, goods, equipment, or trucks within 20 feet from any street line. In the M-2 and M-3 districts there shall be no exterior storage of industrial supplies, goods, equipment, or trucks within 20 feet from any street line when across the street from any residential district or when abutting any street designed as a major thoroughfare on the comprehensive plan.

(b) In any industrial district (M-1, M-1A, M-2, M-3, M-4) where a yard abuts a railroad right-of-way with a minimum width of 50 feet, no structural setback from said right-of-way shall be required.

(c) Minimum yard requirements set forth for the M-4 district shall apply only to buildings. Fencing setback requirements are set forth in Section 20-1418.

(d) A building or structure may exceed the district maximum height regulations up to a maximum of 150 feet: provided, that each front, side and rear yard is increased by the greater of the following quantity:

- (1) One foot for each additional two feet of height, or
- (2) Five feet for each additional story.

(e) See Section 20-806 for further conditions.

(Ord. 5583, Sec. VII)



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:**

UNDER THE EXISTING CODE THE SITE IS UNBUILDABLE.
IT IS UNIQUE IN ITS SHAPE AND THIS CONDITION WAS NOT
CREATED BY THE OWNER.

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

THERE ARE NO BUILDINGS ON THE PROPERTY TO THE WEST
OF THE SITE. THERE ARE NO OTHER PRIVATE OWNERS ON
THE OTHER THREE SIDES OF THE SITE.



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

THE SITE IS UNBUILDABLE UNDER THE EXISTING
DEVELOPMENT CODE. IF THE VARIANCE IS NOT APPROVED,
THE SITE CANNOT BE USED, WHICH WOULD CREATE
A HARDSHIP FOR THE OWNER.

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

THE VARIANCE WOULD ALLOW THE SITE TO BE USED
AS THE ZONING SPECIFIES. THERE WOULD BE NO
ADVERSE EFFECTS.



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

BY GRANTING THE VARIANCE, THE SITE WOULD BE
"ACTIVATED". THIS WOULD ALLOW AN EMPTY SITE
TO BE USED.

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):

Frank A. Schmidt

Date AUG. 2, 2018

Date _____

Date _____

STAFF USE ONLY

Application No. _____

Date Received _____

BZA Date _____

Fee \$ _____

Date Fee Paid _____



OWNER AUTHORIZATION

I/WE Mike + Sheri Nieder dba Nieder Properties, Inc., hereby referred to as the "Undersigned", being of lawful age, do hereby on this 13 day of August, 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 FRED SCHNEIDER (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 600 MAPLE ST, NORTH LAWRENCE (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.

[Signature] Owner [Signature] Owner

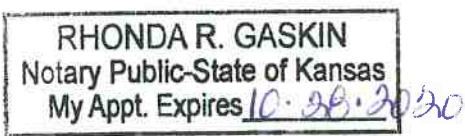
STATE OF KANSAS
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 1st day of Aug, 2018
by Michael & Sheri Nieder.

My Commission Expires:

10.28.2020

[Signature]
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 Fred Schneider

AUG. 2, 2018
Date

FRED SCHNEIDER
Printed Name



Note to Applicant:

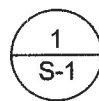
~~Replace this page with "Exhibit A, Legal Description".~~

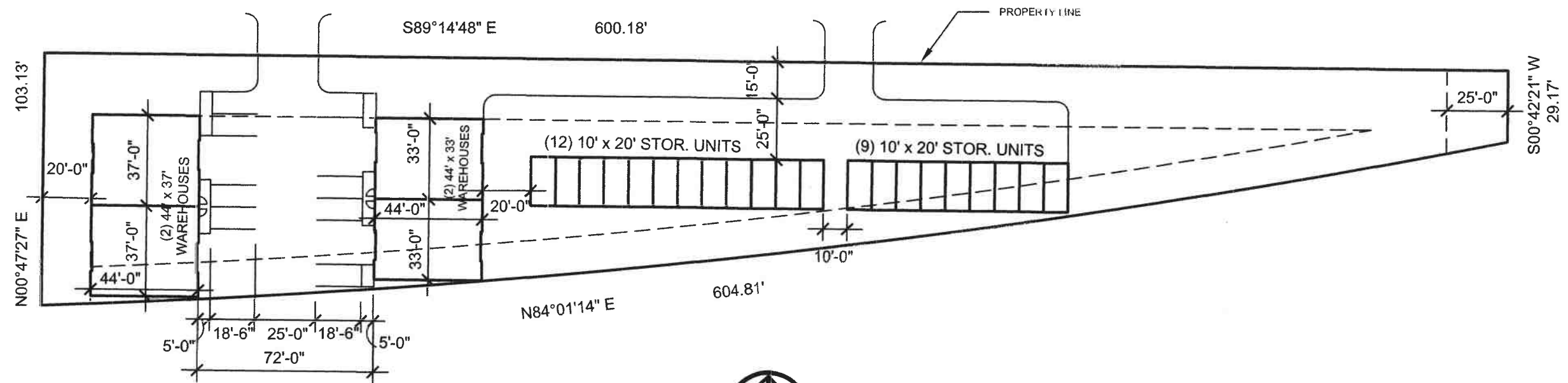
DESCRIPTION

(Recorded in Book 608, Page 285)

A parcel of land being a portion of Block 6 in that part of the City of Lawrence formerly known as North Lawrence in the Northeast Quarter of the Southeast Quarter of Section 30, Township 12 South, Range 20 East of the Sixth Principal Meridian, in the County of Douglas, State of Kansas, bounded and described as follows:

Beginning at the northwest corner of said Block 6, which is the intersection of the easterly line of Sixth (Maryland Street) with the southerly line of Maple Street, both 60 feet wide as now established; thence along the northerly line of said Block 6, South 89° 14' 48" East, 600.37 feet to the northeasterly corner of said Block, which is the intersection of the westerly line of Seventh (Maine) Street, as now established, with said south line of Maple Street; thence along the easterly line of said Block 6, South 00° 39' 57" West, 29.24 feet, more or less, to a point 50.0 feet distant northerly from the centerline of the main track of the Union Pacific Railroad Company as now constructed and operated, said point also being the beginning of a nontangent curve concave northwesterly, to which point a radial line bears South 10° 55' 42" East, 3769.83 feet; thence Southwesterly along said curve and concentric with said centerline of main track, through a central angle of 09° 12' 15", 605.60 feet to a point on the westerly line of said Block 6; thence along said westerly line of said Block, North 00° 42' 30" East, 103.80 feet to the point of beginning.


$$1'' = 50'-0''$$

1
S-1

PURPOSED USE OF SITE

1"=50'-0"

21 - RENTABLE MINI STORAGE UNITS
4 - RENTABLE WAREHOUSE UNITS

