

CITY BOARD OF ZONING APPEALS

AGENDA

Thursday, July 23, 2015

1:30 p.m.

The regular meeting of the City Board of Zoning Appeals will be held on **Thursday, July 23, 2015**, in the Planning Department Conference Room, 10th Floor, Wichita City Hall, 455 North Main, Wichita, Kansas **no earlier than 1:30 p.m.**

1. **BZA2015-00026** - City variance request to reduce the interior side yard setback to zero feet (south property line) to allow an existing carport to remain on site, generally located south and west of the intersection of 21st Street North and North Wellington Place (2143 N. Wellington Pl.)
Planner: Derrick Slocum
2. **BZA2015-00028** - City Variance to the sign code to increase height of an off-site sign from 30 feet to 41.3 feet, generally located northeast of the intersection of Knight Street and McCormick Avenue (648 South Knight St.)
Planner: Derrick Slocum
3. **BZA2015-00029** - City variance request to reduce the rear yard setback on Lots 1, 3 and 25 from 20 feet to 9 feet for the construction of duplexes, generally located south and east of the intersection of North Ridge Road and West Central Avenue.
(DEFERRED Indefinitely)
4. **BZA2015-00030** - City variance request to reduce the side yard setback from 6 feet to 1 foot for a carport, generally located southwest of the intersection of West 21st Street North and North Wellington Place (2137 N. Wellington Pl.)
Planner: Derrick Slocum

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00026

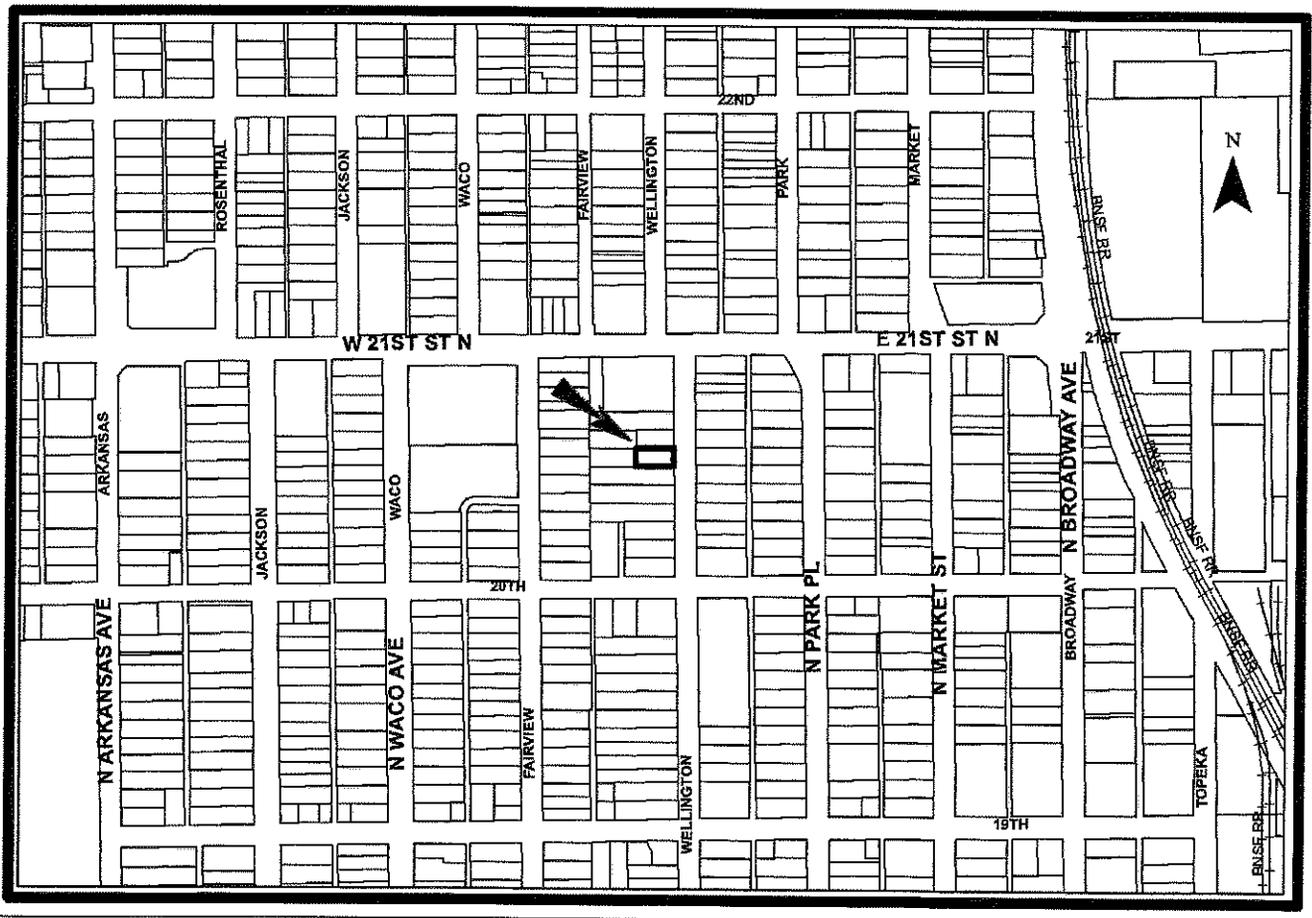
APPLICANT/AGENT: Raul Castillo Hernandez and Hortencia Castillo (Owner, Applicant)

REQUEST: Variance to reduce the interior side setback from 6 feet to 0 feet.

CURRENT ZONING: MF-29 Multi-family Residential ("MF-29")

SITE SIZE: 0.12 acres

LOCATION: Generally located at the south and west of the intersection of 21st Street North and North Wellington Place (2143 Wellington Pl.)



BACKGROUND: The applicant requests a variance to reduce the Zoning Code required interior side building setback from six feet to zero feet in order to keep an existing carport on the site. The zoning code requires a six-foot interior side yard building setback in the MF-29 Multi-family Residential (“MF-29”) zoning district. The application area is developed with a home, an attached carport along the south side of the house and two accessory structures in the rear part of the property. According to the applicant, the carport was existing when the house was purchased. When the applicant tried to make changes to the carport in the past, he was told to leave the carport alone and that it would be fine. This current variance application is the case of the property owner to the north of the subject site wanting to place a carport on his property similar to the applicants. The neighbor then reported the applicants existing carport when they were notified that they could not put up a carport of their own.

Currently, separation between the existing attached carport and the residential structure to the south is 7’-3”. Building and fire code would require a minimum six-foot separation between buildings, unless the buildings have increased fire-rated walls and roofs. The only legal assurance of this building separation would be to record a joint setback agreement with the property owner to the north, ensuring that any future improvements on either property would maintain a minimum of six feet between buildings. All surrounding properties are also zoned MF-29 and developed with single-family residences, except for the property directly west of the subject site and it is developed with a parking lot.

ADJACENT ZONING AND LAND USE:

NORTH	MF-29	Single-family Residence
SOUTH	MF-29	Single-family Residences
EAST	MF-29	Single-family Residences
WEST	MF-29	Church Parking Lot

The five criteria necessary for approval as they apply to Variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the existing carport has been in place since before the current property owners purchased the property. The applicants just want to keep the carport as is with no modifications.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance for an interior side setback reduction may not adversely affect the rights of adjacent property owners, provided that the property owner to the south of the site does not desire to build at the normally required six foot building setback. The applicants will be required to file a signed legal assurance with the register of deeds regarding any future improvements on either property that would maintain a minimum of six feet between buildings.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant, as the applicant would have to remove a structure that came with the property and was one of the main selling points of the property for the applicants.

PUBLIC INTEREST: It is staff’s opinion that the requested variance for a side setback reduction from six to zero feet will not adversely affect the public interest, as no public right-of-way is affected by the proposed setback reductions, and provided that building and fire codes are followed.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a side setback reduction from six to zero feet does not oppose the general spirit and intent of the Zoning Code, especially provided that the adequate separation between buildings is maintained and utilities, rights-of-way and easements would not be affected.

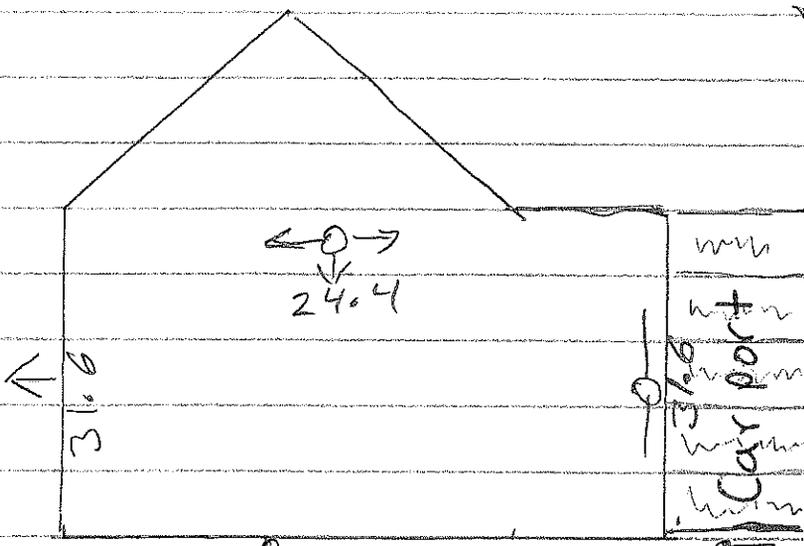
RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance, and recommends that the variance be APPROVED. Should the Board determine that the conditions necessary for the granting of a variance exist; the Secretary then recommends that the variance for a interior side setback reduction from six to zero feet be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The applicant shall obtain all permits necessary for any improvements, and any improvements shall be completed within one year of the granting of the variance.
3. The applicant shall file a joint building setback agreement, ensuring a minimum six foot separation between buildings on adjoining lots (south property), and prior to receiving a building permit or certificate of occupancy for the proposed structure.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

Sidewalk to house - Front porch

19.6

13.8 - To the North fence



S

7.2 FT

106.5

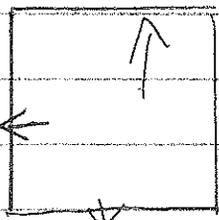
24.4

11.9

Storage

32.6

3 FT



6 FT

32.6



5.6 FT

6 FT

106.5

50 FT

West

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00028

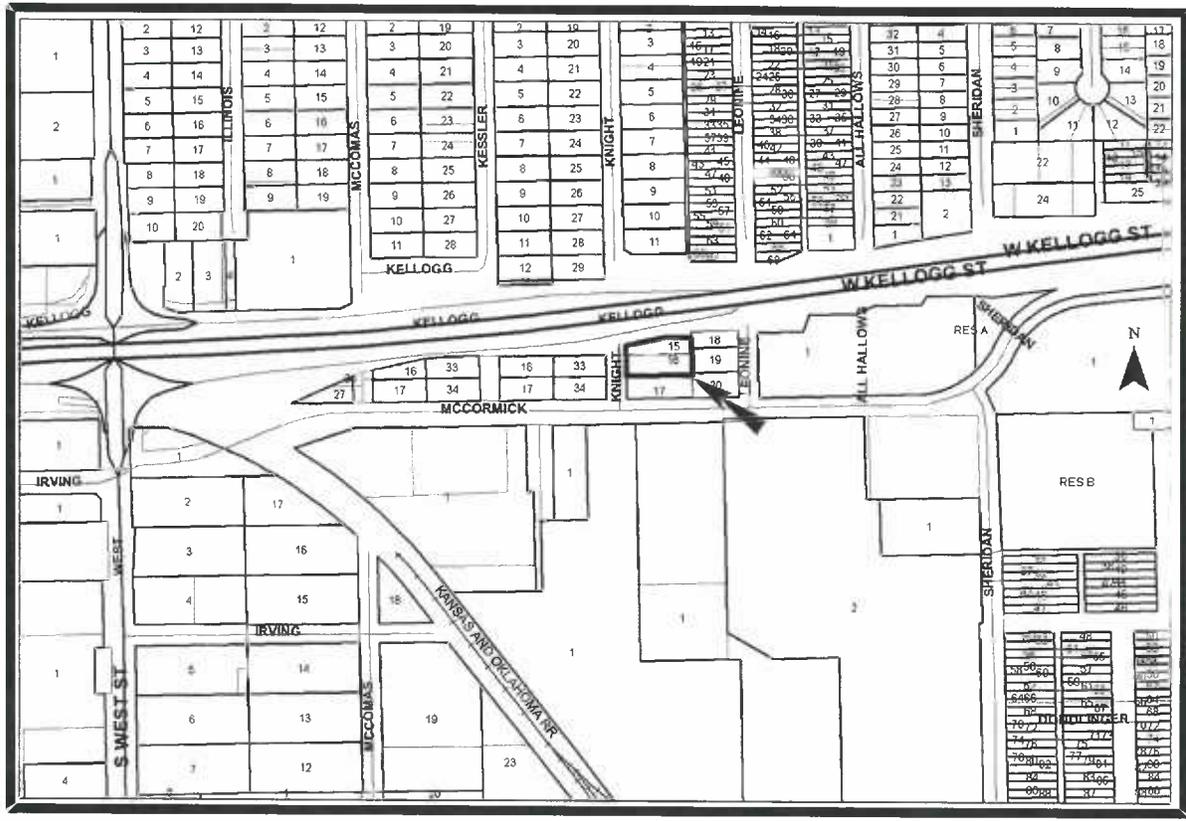
APPLICANT/AGENT: Clear Channel Outdoor, Inc. c/o David Mollhagen
(owner/applicant)

REQUEST: City Sign Code variance to increase the height of an off-site sign
from 30 to 41.3 feet

CURRENT ZONING: LI Limited Industrial

SITE SIZE: 0.30 acres

LOCATION: Generally located south of Kellogg and east of West Street (648
S. Knight St.)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant's company, Clear Channel Outdoor, has a 30-foot high off-site sign at the location of 648 S. Knight Street, right along the south side of Kellogg (US-54). The applicant is requesting a variance to increase the height of the off-site sign to 41.3 feet. The applicant is requesting this variance because the sign will need to be moved to the south 24 feet due to the acquisition of additional right-of-way for Kellogg to make room for turn lanes for the future improvement of the I-235/US-54 interchange. The sign at its new location would be obstructed from the east approach by an existing structure. The height increase to 41.3 feet would allow for the sign to be seen from the east approach unobstructed. The sign has been in its present location since 1998.

Section 24.04.222 (3) of the Sign Code limits off-site signs in LI Limited Industrial ("LI") zoning to 35 feet in height. Section 24.04.251 of the Sign Code permits increasing the maximum allowed height of an off-site sign located within seventy-five feet of a zoning lot line that directly abuts the right-of way of an elevated portion of a highway structure to a height at the top of the sign that does not exceed twenty feet above the height of the top of the highest railing or barrier along the traffic deck or decks within the right-of-way at a point perpendicular the sign. However, the location of the subject off-site sign is not located along the elevated portion of the Kellogg Expressway, thus the variance request on the increase in height.

All property surrounding the application area is zoned LI and developed with warehouses, offices salvage yard, recycling center, sports complex and US-54/Kellogg Expressway.

ADJACENT ZONING AND LAND USE:

NORTH	US-54/Kellogg	Kellogg Expressway
SOUTH	LI	Warehouse-Office, Sports Complex
EAST	LI	Salvage, Recycling Center
WEST	LI	Warehouse-Retail, Future expressway expansion

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch that the north property line is being moved further from Kellogg to allow for the expansion of the freeway and thus decreasing visibility of the subject off-site sign by having to relocate it 24 feet south of its present site. This relocation will cause the sign to lose direct sight from the east approach due to being obstructed by an existing structure.

ADJACENT PROPERTY: It is staff's opinion that the requested variance would not adversely affect the rights of adjacent property owners inasmuch that the off-site sign is located along an expressway and adjacent properties are zoned LI Limited Industrial and developed with industrial type uses. The sign has been at this location since 1998 with no issues and is a legal, conforming sign.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the Sign Code would constitute a hardship upon the applicant inasmuch as the relocation of the off-site sign was not the fault of the applicant/owner. This relocation is the result of right-of-way acquisition for the I-235/US-54 interchange improvement. This sign relocation, if the sign is kept at the current height, will experience significant obstruction and would not be visible from the east approach on US-54.

PUBLIC INTEREST: It is staff's opinion that the requested variance is not adverse to the public interest inasmuch as the expansion of the I-235/US-54 interchange is in the public interest, permitting a sign with adequate visibility for this site, due to right-of-way acquisition for said expansion, is also in the public interest.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance does not oppose the general spirit and intent of the Sign Code inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The Sign Code does not anticipate such situations such as right-of-way acquisition that could be detrimental to existing signage.

RECOMMENDATION: Should the Board determine that the conditions necessary for the requested variance exist, the Secretary recommends that a variance to increase the height of an off-site sign from 35 to 41.3 feet in LI Limited Industrial ("LI") zoning be GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the height of the subject sign from 25 to 41.3 feet only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to relocate/construct the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.



S.
Fidelity



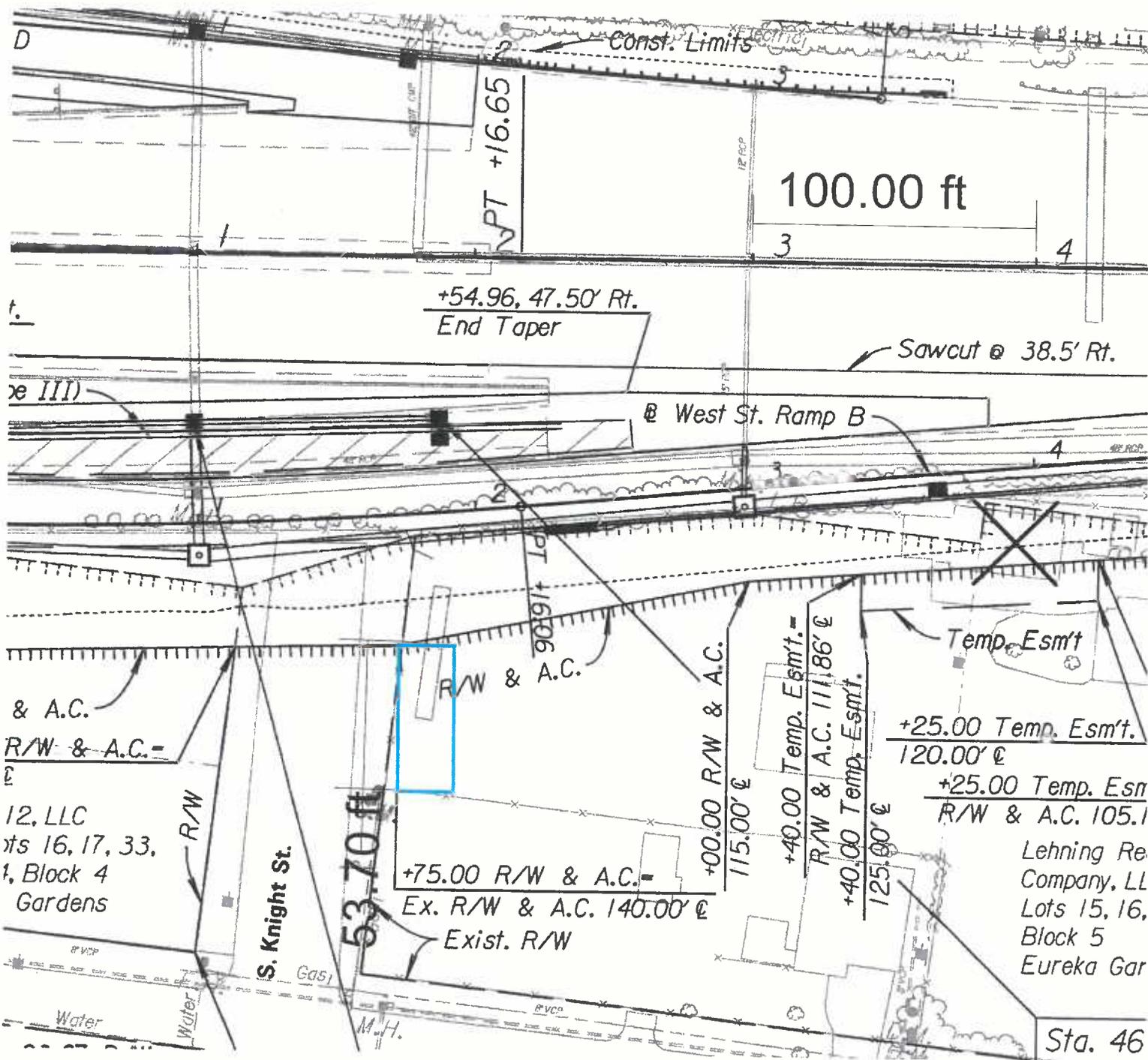
14 ft

11.3 ft

54 400

EXHIBIT A

L#838, Lehning, 3693 W. Kellogg



Legal Description: LOT 16 BLOCK 5 EUREKA GARDENS

3. **BZA2015-00029** - City variance request to reduce the rear yard setback on Lots 1, 3 and 25 from 20 feet to 9 feet for the construction of duplexes, generally located south and east of the intersection of North Ridge Road and West Central Avenue.
(DEFERRED Indefinitely)

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00030

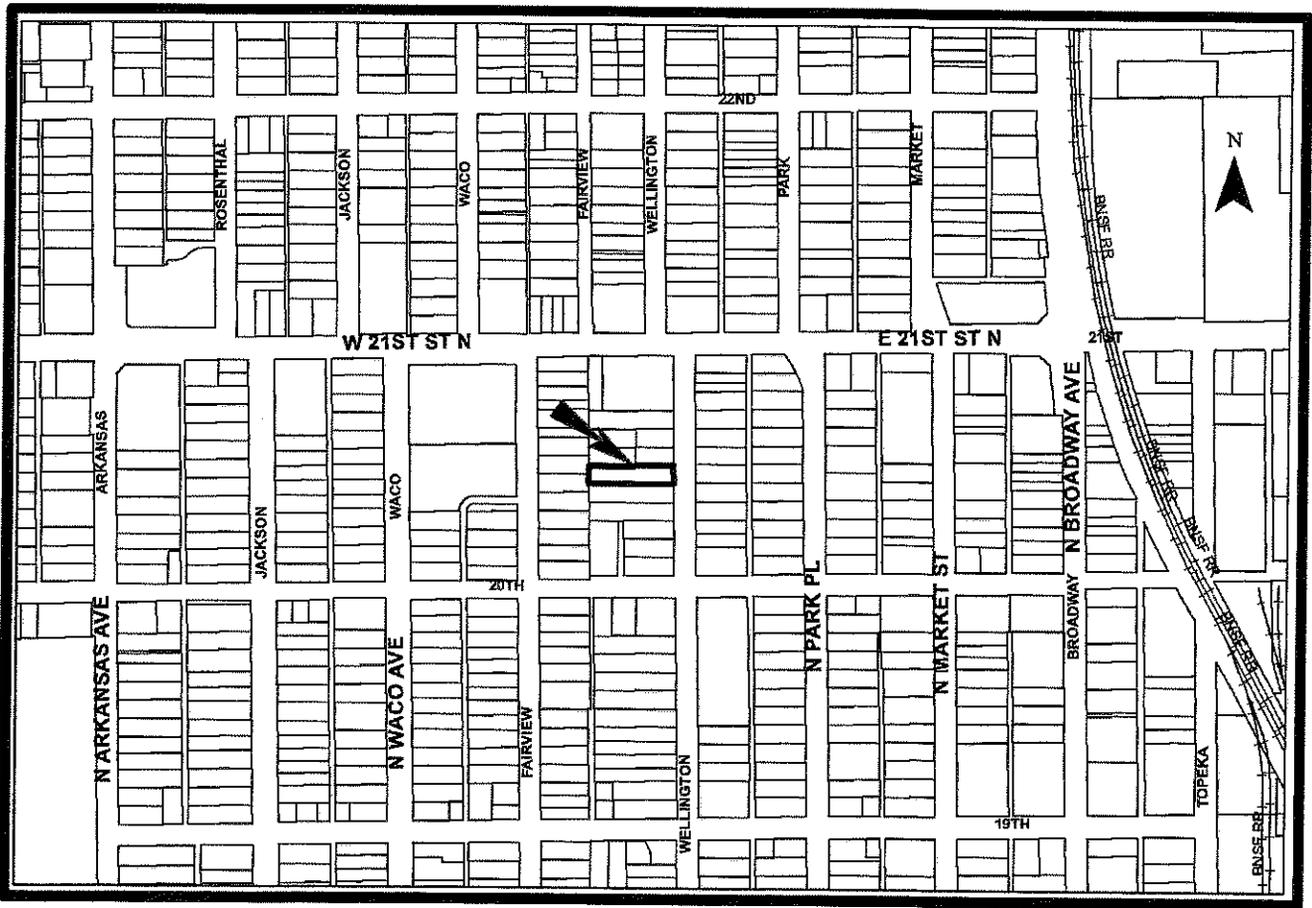
APPLICANT/AGENT: Martiniano and Bernadine Lumbreras (Owner, Applicant)

REQUEST: Variance to reduce the interior side setback from 6 feet to 1 foot.

CURRENT ZONING: MF-29 Multi-family Residential ("MF-29")

SITE SIZE: 0.26 acres

LOCATION: Generally located at the south and west of the intersection of 21st Street North and North Wellington Place (2137 Wellington Pl.)



JURISDICTION: The Board has jurisdiction to consider the Variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to reduce the Zoning Code required interior side building setback from six feet to one foot in order to keep an existing carport on the site. The zoning code requires a six foot interior side yard building setback in the MF-29 Multi-family Residential (“MF-29”) zoning district. The application area is developed with a home, an attached carport along the south side of the house and two accessory structures in the rear part of the property. According to the applicant, the carport was built in November 2014. No one reported the carport, but the house directly across the street located at 2132 Wellington Place was having major remodeling done, and a compliance officer was over at that house. That officer noticed the carport and started asking the applicant questions. It was during this time that the officer notified the applicant that they would need to apply for a variance for the carports setback encroachment.

Currently, separation between the existing attached carport and the residential structure to the south is 7'-3". Building and fire code would require a minimum 6-foot separation between buildings, unless the buildings have increased fire-rated walls and roofs. The only legal assurance of this building separation would be to record a joint setback agreement with the property owner to the north, ensuring that any future improvements on either property would maintain a minimum of 6 feet between buildings. All surrounding properties are also zoned MF-29 and developed with single-family residences.

ADJACENT ZONING AND LAND USE:

NORTH	MF-29	Single-family Residence
SOUTH	MF-29	Single-family Residences
EAST	MF-29	Single-family Residences
WEST	MF-29	Single-family Residences

The five criteria necessary for approval as they apply to Variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the existing carport has been in place for many years with no issues. The applicants just want to keep the carport as is with no modifications.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance for an interior side setback reduction may not adversely affect the rights of adjacent property owners, provided that the property owner to the south of the site does not desire to build at the normally required six foot building setback. The applicants will be required to file a signed legal assurance with the register of deeds regarding any future improvements on either property that would maintain a minimum of 6 feet between buildings.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant, as the applicant would have to remove a structure that has caused no issues and does keep more than 6 feet of separation between the subject structure and the residential structure to the south.

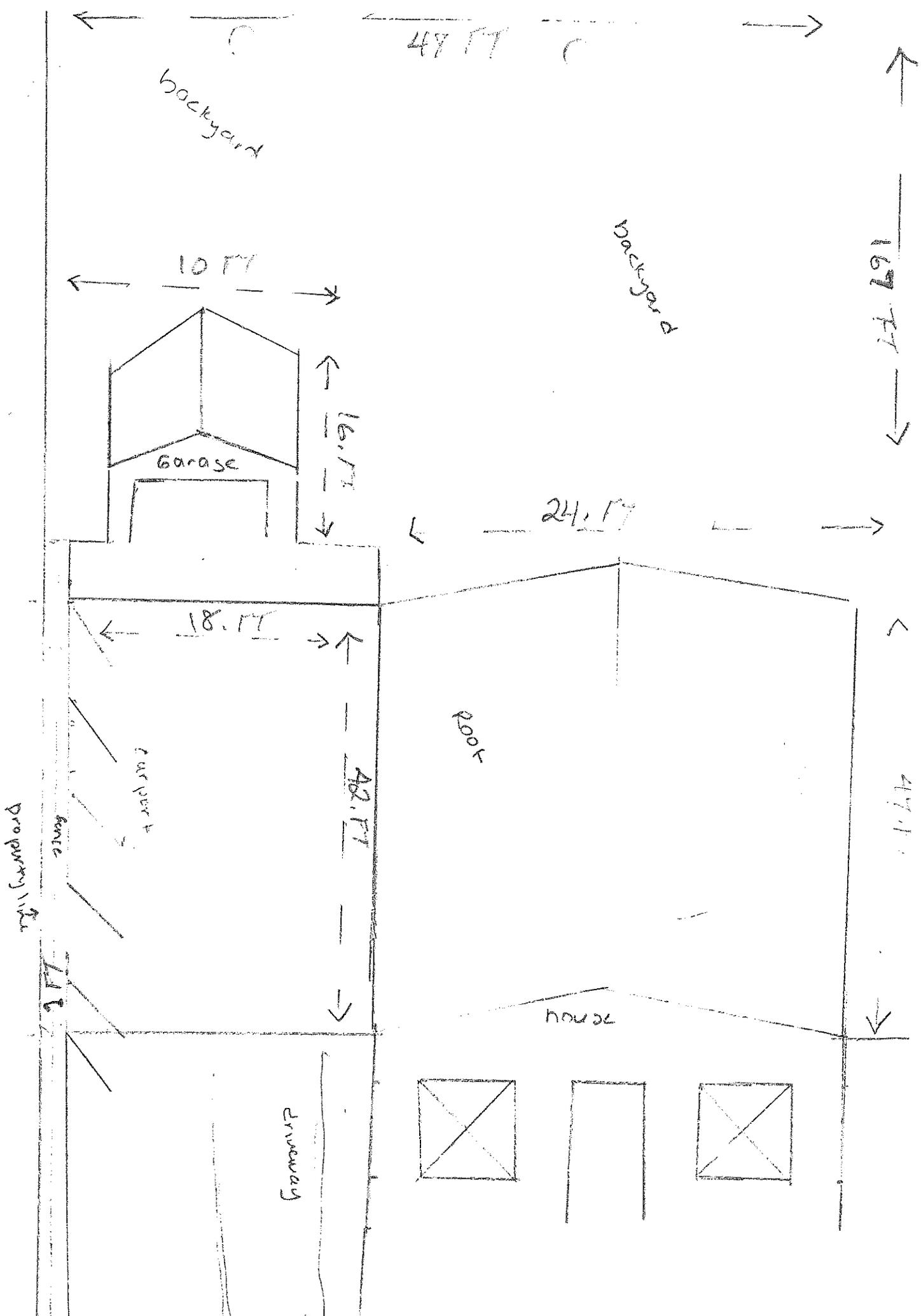
PUBLIC INTEREST: It is staff’s opinion that the requested variance for a side setback reduction from six to one foot will not adversely affect the public interest, as no public right-of-way is affected by the proposed setback reductions, and provided that building and fire codes are followed.

SPIRIT AND INTENT: It is staff’s opinion that granting the requested variance for a side setback

reduction from six to one foot does not oppose the general spirit and intent of the Zoning Code, especially provided that the adequate separation between buildings is maintained and utilities, rights-of-way and easements would not be affected.

RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance, and recommends that the variance be APPROVED. Should the Board determine that the conditions necessary for the granting of a variance exist; the Secretary then recommends that the variance for an interior side setback reduction from six to one foot be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The applicant shall obtain all permits necessary for any improvements, and any improvements shall be completed within one year of the granting of the variance.
3. The applicant shall file a joint building setback agreement, ensuring a minimum six foot separation between buildings on adjoining lots (south property), and prior to receiving a building permit or certificate of occupancy for the proposed structure.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.



48 FT

backyard

10 FT

Garage

16 FT

backyard

167 FT

24 FT

18 FT

42 FT

carport

property line

backyard

47 FT

house

driveway

Site plan

