CITY OF WICHITA

FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

March 30, 2000

GSA, Inc.
C/o Gary L. Smith
15425 Grassmere Lane
Goddard KS 67052

RE: BZA 01-00 – A variance to reduce the side yard setback from 6 feet to 2 feet 3 inches. Generally located south of 29th Street North and west of Tyler. (2722 N. Keith)

Dear Mr. Smith:

At its regular meeting on March 28, 2000, the Board of Zoning Appeals considered the above-captioned requests. The action of the BZA was to APPROVE the variance request.

The action of the BZA is FINAL. Enclosed is a signed copy of the above-referenced BZA Resolution No.01-00. If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,

Lisa Van de Water
BZA Assistant Secretary

Cc: C. Plush, 2645 Keith Court, Wichita, KS 67205
Randy Parker, 8401 E. 101 N, Valley Center, KS 67147
Hoah Vu, 2726 Keith, Wichita, KS 67205
Matt Lillie, 10300 W. Central, Wichita, KS 67212
John F. Reals, 250 N. Water, Wichita, KS 67202
Robert Kaplan, 430 N. Market, Wichita, KS 67202
City Council Member, Bob Martz 1-13
James Garcia, Office of Central Inspection

BZA RESOLUTION NO. 01-00

WHEREAS, Gary L. Smith, GSA, Inc. pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard setback from 6 feet to 2 feet 3 inches on property zoned "SF-6" Single-Family Residential and legally described as follows:

> Lot 2, Block 3, Bradford North Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of 29th Street North and west of Tyler (2722 N. Keith)

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 28, 2000, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant. It is the opinion of staff that this property is unique inasmuch as the lot is somewhat "pie-shaped" in that it narrows to the rear of the lot. Additionally, the side yard building setback requirements, in addition to safety and access, are intended to allow light and air circulation for two adjacent structures; in this case, there are no windows on either home that face the shared property line in question.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch the adjacent property owner has access between the two structures, there are no windows facing the home in question, and the existing separation meets Unified Building Code and Fire Department standards. Additionally, per the Unified Zoning Code, twenty percent of a building setback may be reduced administratively, resulting in a minimum separation of 9.6 feet for any adjacent side yards.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the protruding portion of the home is one of the main exterior walls. Denial of this request would require the removal of the structure and foundation. This structure is more than one-half completed; reconstruction would be a major expense.

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as no public utilities or rights-of-way are being infringed upon; all public utility easements are being honored.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the spirit of the Unified Zoning Code's requirements for side yard setbacks are to provide air and light circulation and to maintain "curb appeal" and consistency in residential areas. All of these are being met with the existing building separation.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the side yard setback from 6 feet to 2 feet 3 inches on property zoned "SF-6" Single-Family Residential and legally described as follows:

> Lot 2, Block 3, Bradford North Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of 29th Street North and west of Tyler (2722 N. Keith)

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease a rear yard setback be GRANTED, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the side yard setback shall be reduced to 2 feet three inches. This setback reduction shall apply only to the structure shown on the site plan approved by the Board of Zoning Appeals.

2. The applicant shall obtain all local permits necessary to construct the indicated structure and all construction shall be completed within one year following the BZA approval of the variance or resolution unless such time period is extended by the BZA.

3. No windows or additional structures shall be added to the north wall of the existing structure.

4. The resolution authorizing this variance may be declared null and void upon findings by the Board if the applicant has fails to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 28th day of March, 2000.

Floyd Pitts, President

ATTEST:

Lisa Van de Water, Assistant Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
February 1, 2000 – Deferred
February 22, 2000 – Deferred
March 28, 2000

SECRETARY'S REPORT

CASE NUMBER: BZA 01-00

OWNER/APPLICANT: GSA, INC., c/o Gary L. Smith

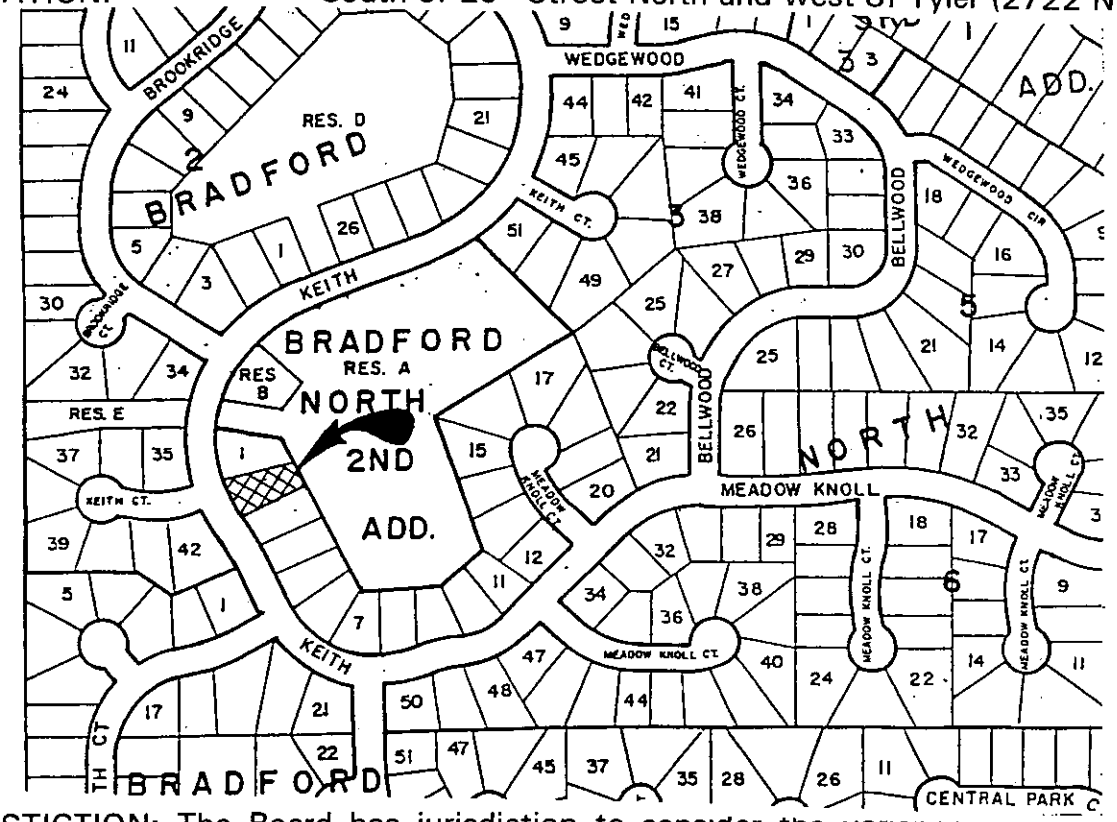
AGENT: N/A

REQUEST: Variance to reduce the side yard setback from 6 feet to 2 feet three inches.

CURRENT ZONING: "SF-6" – Single-Family Residential

SITE SIZE: Less than 1 Acre

LOCATION: South of 29th Street North and west of Tyler (2722 N. Keith)



JURISTICTION: 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.

Recent Case Background: Originally, this case was to be heard on January 25, 2000, but the meeting was canceled because there was not quorum present. That meeting was rescheduled for February 1, 2000. This case was presented and there was much discussion with the applicant and the adjacent property owner to the north, Mr. Vu. The Board at this meeting made no decision and suggested to the applicant that he defer the case to the next BZA meeting, so that an efforts could be made to come to some agreement between the two opposing property owners. At the February 22nd BZA meeting, the applicant deferred this case once again. At the time of the meeting, there was a verbal agreement between the adjacent property owners and they wanted time to get a written agreement worked out before this Board made any decision. Thus, the case is before the Board today.

BACKGROUND: The applicant is requesting a variance for a decrease in the required side yard setback from 6 feet to 2 feet three inches for a residential lot in the Bradford North Addition. Currently, the house on this lot is under construction; it is completely framed and entirely closed in. In the process of the construction of the home to the north, it was discovered that the home in question was built within the required building setback. A further survey confirmed this, as is shown on the survey submitted by the applicant. This survey shows that the rear corner of the north wall angles into the setback to a maximum of 3.75 feet at the rear of the home.

The applicant states that, originally, the footprint of the home was rotated to align with the front street right-of-way and the angle of the homes to the south. This rotation put the home at an angle to the north property line, but in line with the south property line. The rotation was miscalculated, thus the protrusion of the home into the setback.

The surrounding uses are essentially singe-family residential, except to the east; the rear property line of this lot is adjacent to a platted reserve that contains a lake.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6" – Single-Family Residence under construction
SOUTH	"SF-6" – Single-Family Residence
EAST	"SF-6" – Platted Reserve/Lake
WEST	"SF-6" – Single-Family Residence

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the lot is somewhat "pie-shaped" in that it narrows to the rear of the lot. Additionally, the side yard building setback requirements, in addition to safety and access, are intended to allow light and air circulation for two adjacent structures; in this case, there are no windows on either home that face the shared property line in question.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch the adjacent property owner has access between the two structures, there are no windows facing the home in question, and the existing separation meets Unified Building

Code and Fire Department standards.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the protruding portion of the home is one of the main exterior walls. Denial of this request would require the removal of the structure and foundation. This structure is more than one-half completed; reconstruction would be a major expense.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as no public utilities or rights-of-way are being infringed upon; all public utility easements are being honored.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the spirit of the Unified Zoning Code's requirements for side yard setbacks are to provide air and light circulation and to maintain "curb appeal" and consistency in residential areas. All of these are being met with the existing building separation.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease a rear yard setback be GRANTED, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the side yard setback shall be reduced to 2 feet three inches. This setback reduction shall apply only to the structure shown on the site plan approved by the Board of Zoning Appeals.

2. The applicant shall obtain all local permits necessary to construct the indicated structure and all construction shall be completed within one year following the BZA approval of the variance or resolution unless such time period is extended by the BZA.

3. No windows or additional structures shall be added to the north wall of the existing structure.

4. The resolution authorizing this variance may be declared null and void upon findings by the Board if the applicant has fails to comply with any of the foregoing conditions.

SRB
924 NORTH MAIN
WICHITA, KANSAS 67203
http://www.feist.com/~srb

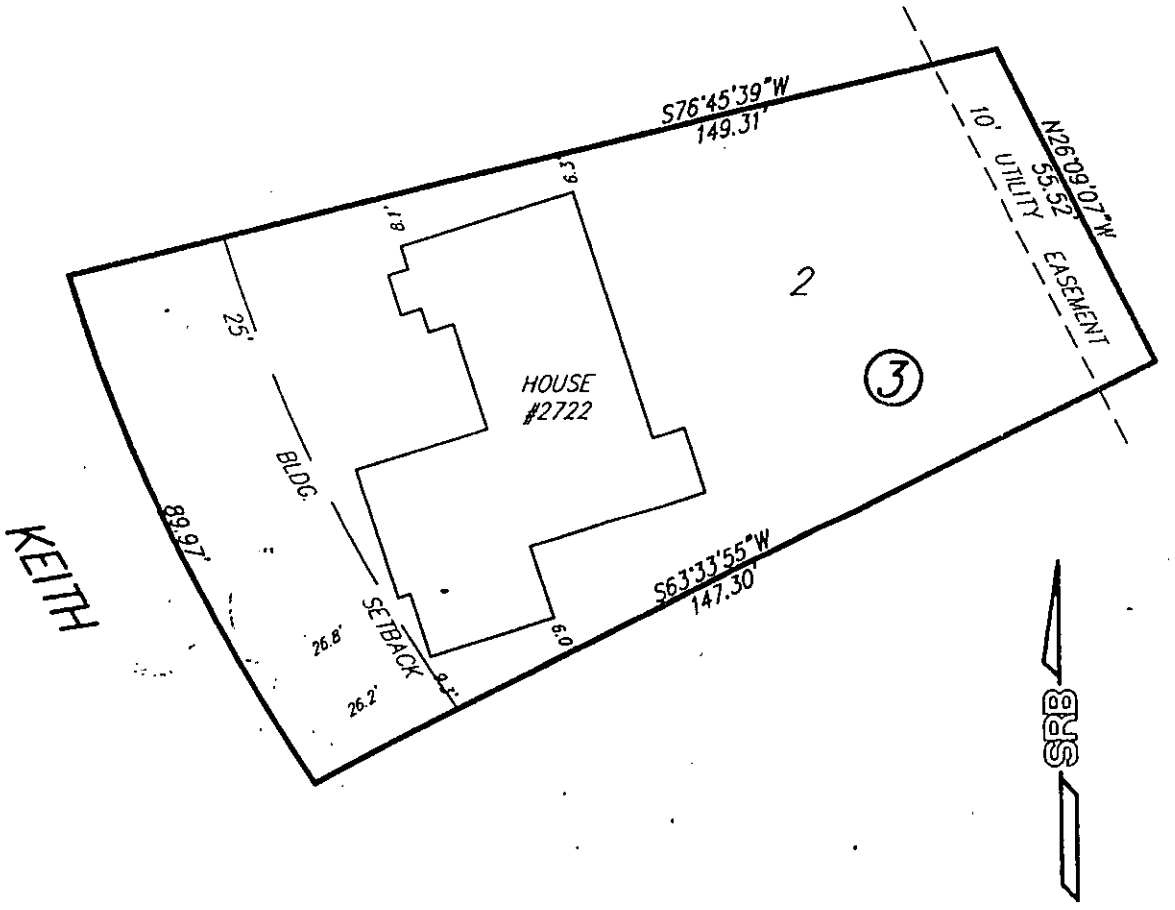
316-264-8008
FAX 264-4621
srb@feist.com

SAVOY, RUGGLES & BOHM, P.A.
ENGINEERING & SURVEYING

Correct Placement.

EXHIBIT

Demonstration of Possible
Site Plan Alignment.



1" = 30'

28 JAN 00

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FAX 264-4621
srb@feist.com

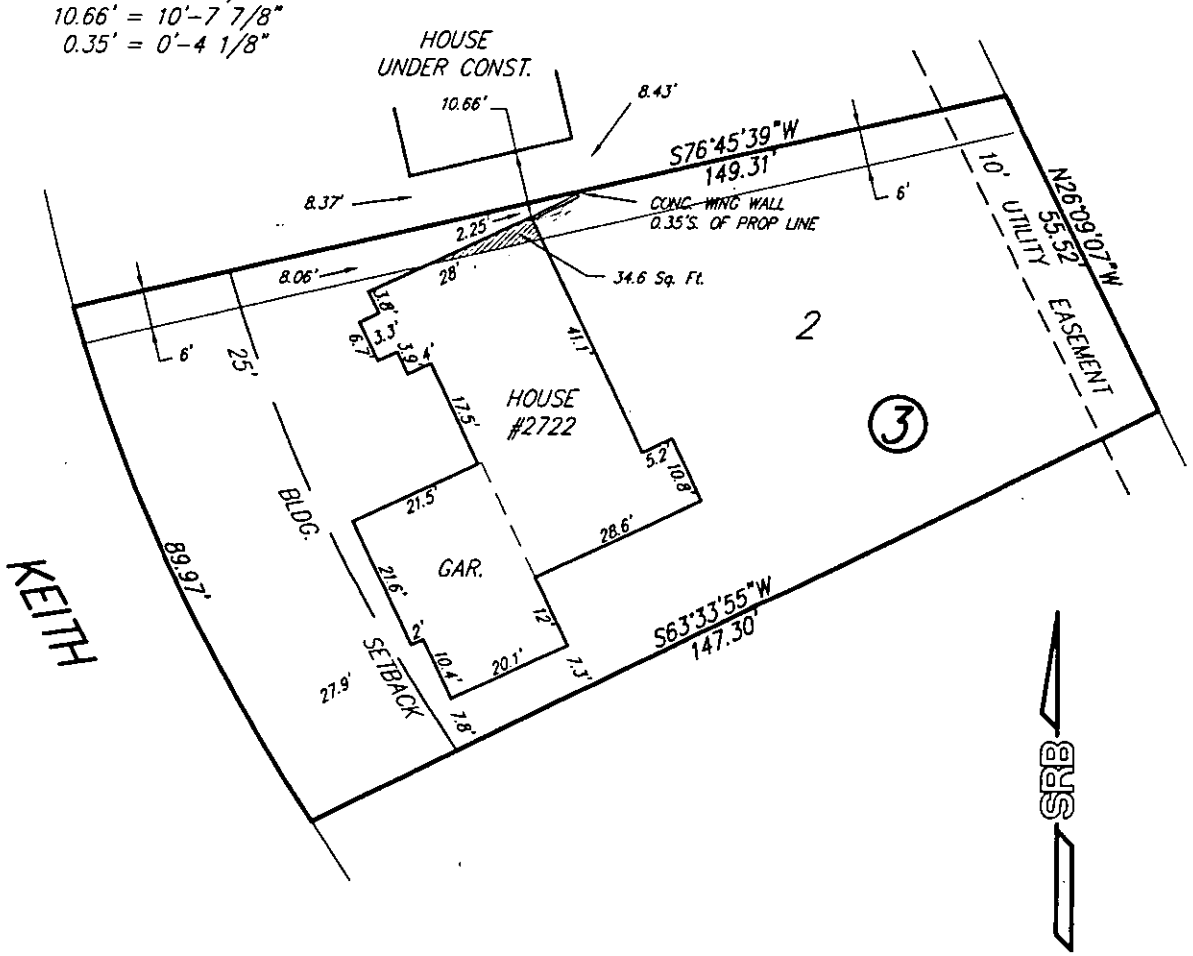
SAVOY, RUGGLES & BOHM, P.A.
ENGINEERING & SURVEYING

WRONG PLACEMENT

EXHIBIT

LOT 2, BLOCK 3
BRADFORD NORTH

8.37' = 8'-4 1/2"
8.06' = 8'-0 3/4"
2.25' = 2'-3"
8.43' = 8'-5 1/8"
10.66' = 10'-7 7/8"
0.35' = 0'-4 1/8"



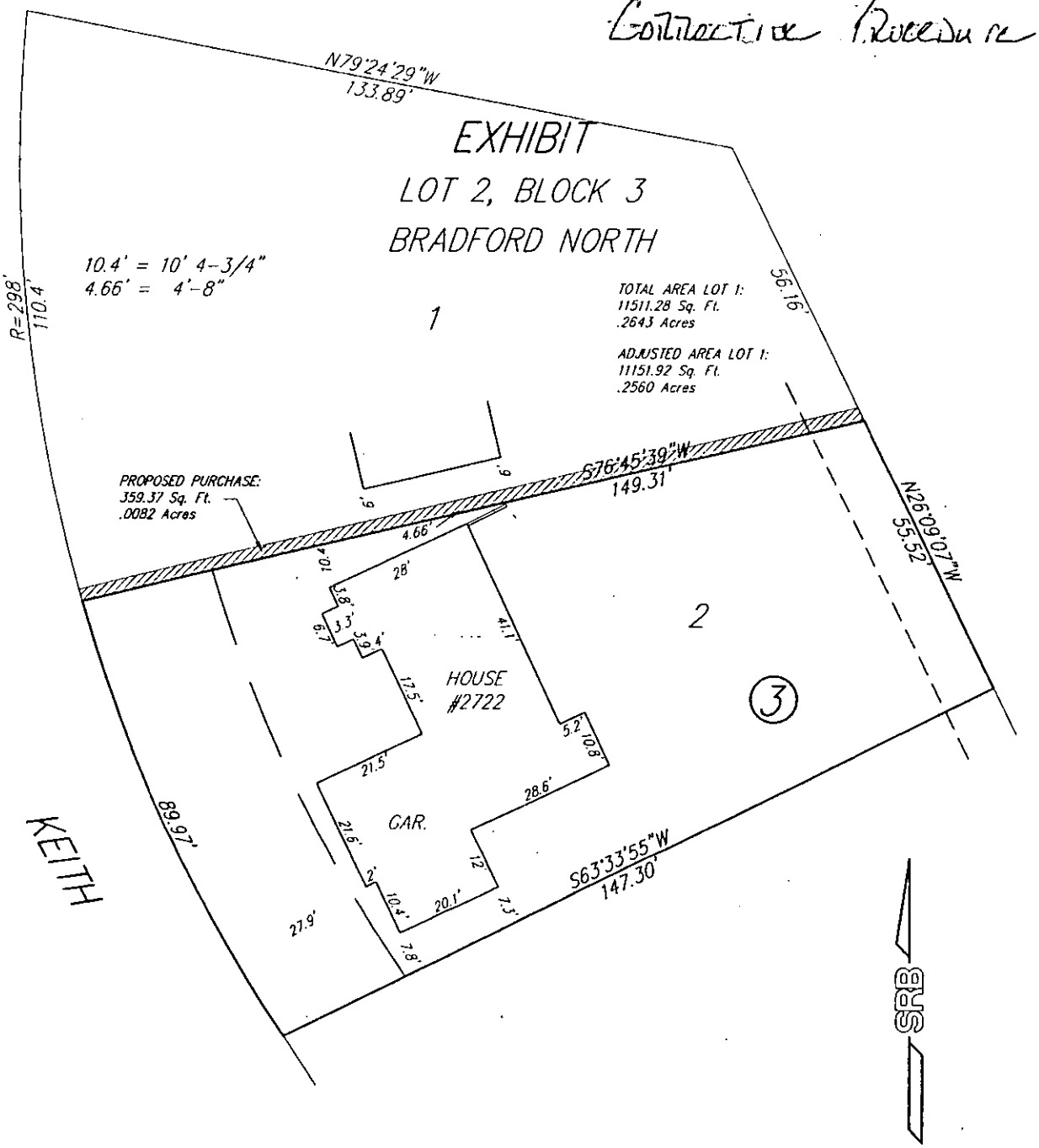
1" = 30'
8 FEB 00

DWG FILE: 23128G-R.C.
PROJECT NO. 99K23128G

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SAVOY, RUGGLES & BOHM, P.A.
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Contractive Procedure



1" = 30'
8 FEB 00

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