



Wichita-Sedgwick County Metropolitan Area Planning Department

July 7, 2017

Reuben Martinez
2920 W. North Valley Road
Sedgwick, KS 6735

RE: BZA2017-00022 – City variance to allow a 2.6 foot side yard to permit a garage to be rebuilt at 2145 N. Jackson

Dear Reuben:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on June 22, 2017. This resolution reflects the official action of the Board and is forwarded for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

David M. Clements, AICP
BZA Secretary

DMC/al

Attachment – Resolution
cc: MABCD

BZA RESOLUTION NO. BZA2017-00022

WHEREAS, Mary Martinez (Applicant) Reuben Martinez (Agent) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests a Variance to reduce the interior setback to 2 and ½ feet at 2145 N. Jackson, to allow a garage to be rebuilt in its original location.

Legal Description: Lot 11 and Lot 13, except the south 6-inches, Jackson Avenue, Brooks and Oldham's Addition Wichita, Sedgwick County, Kansas.

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 June 22, 2017, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

WHEREAS, the circumstances of this application are unique, and would not be generally applicable to other property in the city. Approval of this reduced interior setback would be due to the location of the existing gas line and sewer line that prevent the garage from being constructed at the required setback. This would serve to minimize the precedent for other property in the city.

WHEREAS, allowing the garage to be reconstructed in its original location would have no negative impact on surrounding properties. The original garage has been in the location since it was constructed. The replacement garage in the same location would have no more impact on adjacent property than the original structure. It is the opinion of the BZA that the granting of the variance requested will not adversely affect the rights of adjacent property owners.

WHEREAS, relocating the new garage to a location that meets the six foot setback would cause a hardship to the applicant. Constructing the new garage at the required setback would require the relocation of the existing utilities, and this would be an economic hardship and inconvenience to the applicant.

WHEREAS, it is the opinion of the BZA that the requested variance would not adversely affect the public interest. Allowing the new garage to be constructed in the same location as the original structure would not have a detrimental effect on the immediate neighborhood or be contrary to the public interest.

WHEREAS, it is the opinion of the BZA that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations. There is a certain reasonableness to allow the new garage to be constructed in the original location due to the location of the existing utilities. Inasmuch as there is no alternative location to build a new garage that meets the interior setback requirement, rebuilding the garage in its original location is

reasonable and would not violate the spirit and intent of the non-conforming provisions of the UZC.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

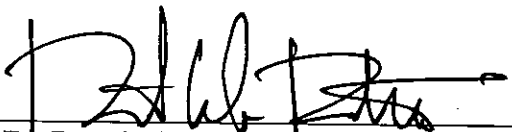
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests a Variance to reduce the interior setback to 2 and ½ feet at 2145 N. Jackson, to allow a garage to be rebuilt in its original location.

Legal Description: Lot 11 and Lot 13, except the south 6-inches, Jackson Avenue, Brooks and Oldham's Addition Wichita, Sedgwick County, Kansas.

The variances are hereby GRANTED, subject to the following conditions:

1. The new garage shall be constructed in substantial conformance with the approved site plan.
2. The interior setback reduction shall only apply to the garage on the approved site plan.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22th Day of June 2017.



BZA Board Chair, David W. Foster

ATTEST:



David M. Clements, AICP
BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2017-00022

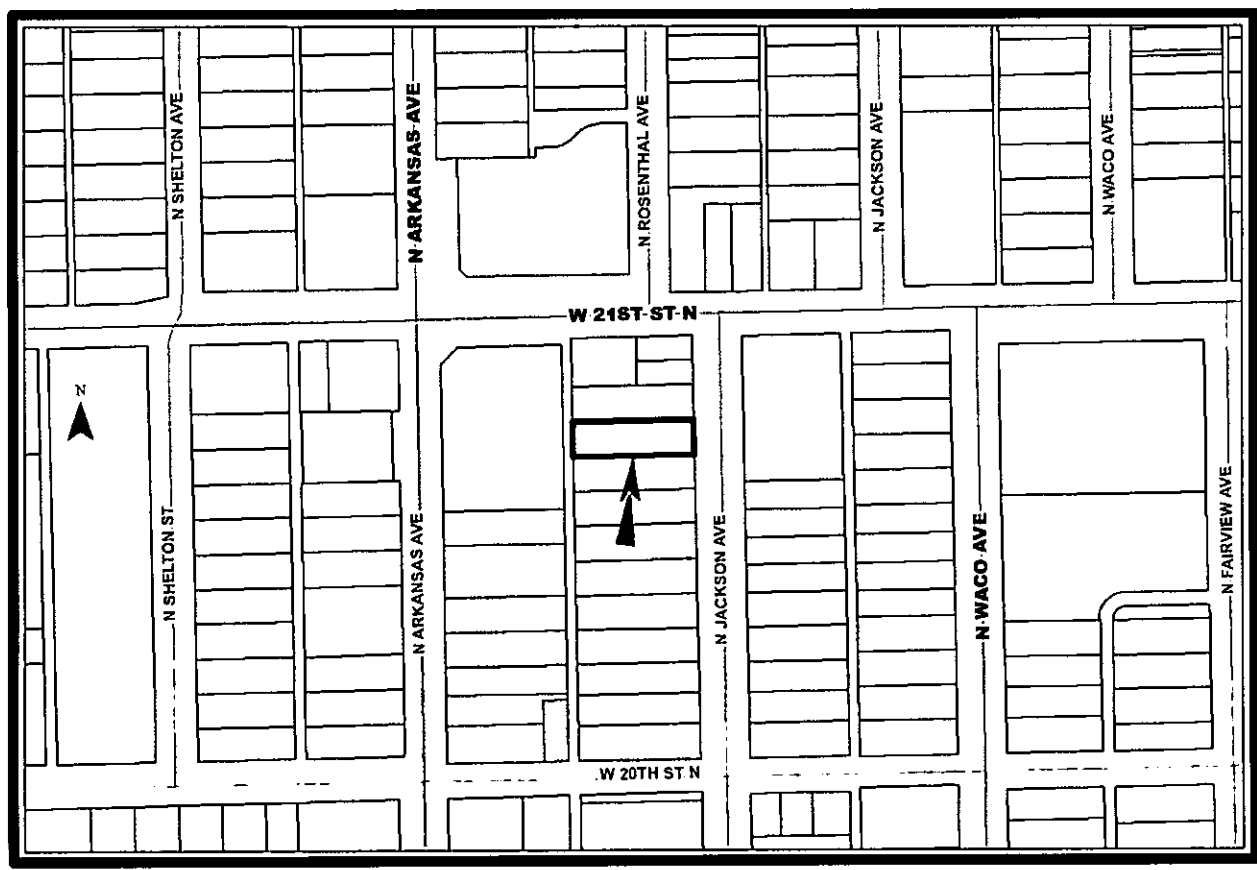
APPLICANT/AGENT: Mary Martinez/Rueben Martinez

REQUEST: Variance to reduce the minimum interior setback from six (6') feet to two and one-half feet (2 1/2)

CURRENT ZONING: TF-3 Two-Family Residential and LC Limited Commercial

SITE SIZE: 0.19 acres

LOCATION: The west side of North Jackson Avenue, 120 feet south of West 21st Street North (2145 North Jackson Avenue)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: This application was filed in order to construct a new detached garage at 2145 North Jackson Avenue. There is an existing detached garage at the subject property and this garage is located two and one-half feet (2 ½) from the interior lot line. The applicant would like to remove the existing garage, and construct a new garage in the same location.

The north half of the property is zoned LC Limited Commercial District (LC). The south half of the property is zoned TF-3 Two Family-Residential District (TF-3). The garage is located in the part of the lot zoned TF-3. The TF-3 district requires a 6-foot interior setback for an accessory structure.

The applicant explains that the new garage cannot be built at the required setback due to the location of a gas line and sewer line that extend from the alley at the rear of the property to the residence. These utility locations are shown on the attached site plan. Also, please see the attached narrative from the applicant..

ADJACENT ZONING AND LAND USE:

NORTH	LC	single-family residence
SOUTH	TF-3	single-family residence
EAST	TF-3	church
WEST	LC	commercial

UNIQUENESS: The circumstances of this application are unique, and would not be generally applicable to other property in the city. Approval of this reduced interior setback would be due to the location of the existing gas line and sewer line that prevent the garage from being constructed at the required setback. This would serve to minimize the precedent for other property in the city.

ADJACENT PROPERTY: Allowing the garage to be reconstructed in its original location would have no negative impact on surrounding properties. The original garage has been in the location since it was constructed. The replacement garage in the same location would have no more impact on adjacent property than the original structure. It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners.

HARDSHIP: Relocating the new garage to a location that meets the six foot setback would cause a hardship to the applicant. Constructing the new garage at the required setback would require the relocation of the existing utilities, and this would be an economic hardship and inconvenience to the applicant.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest. Allowing the new garage to be constructed in the same location as the original structure would not have a detrimental effect on the immediate neighborhood or be contrary to the public interest.

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. There is a certain reasonableness to allow the new garage to be constructed in the original location due to the location of the existing utilities.

Inasmuch as there is no alternative location to build a new garage that meets the interior setback requirement, rebuilding the garage in its original location is reasonable and would not violate the spirit and intent of the non-conforming provisions of the *UZC*.

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 reduce the interior setback from six feet to two and one-half feet (2 ½) GRANTED, subject to the following conditions:

1. The new garage shall be constructed in substantial conformance with the approved site plan.
2. The interior setback reduction shall only apply to the garage on the approved site plan.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

Staff Report Attachments:

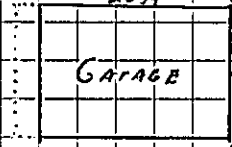
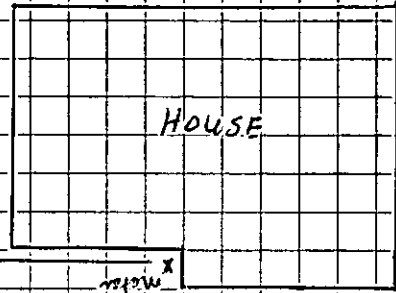
1. Site Plan
2. Narrative

E-W JACKSON AVE.

SIDE WALK

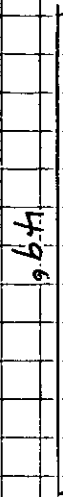


- 31 ft -
side walk to house



proposed to build 12 x 4 ft over current
site of garage

20 ft
6 x 5 ft



173

149

Martinez
2145 JACKSON

1 inch = 5 ft.