



Wichita-Sedgwick County Metropolitan Area Planning Department

June 7, 2001

Vincente Soto
Natividad Soto
813 N. Volutsia
Wichita, KS 67214

FILE COPY

RE: BZA2001-00001 – Variance to allow a reduction of the side yard setback for a carport on property zoned “TF-3” Two-Family Residential. Generally located north of Murdock on the west side of Volutsia (813 N. Volutsia).

Dear Mr. Soto:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 22, 2001, this resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Knebel'.

Scott Knebel, Assistant Secretary
Board of Zoning Appeals

SK/rs

cc: Mr. Lorenzo, 251 N. Millwood, Wichita, KS 67203
Cesar Mendoza, 8626 W. Westlawn, Apt. 501, Wichita, KS 67212
City Council Member District I, Carl Brewer, Mail Stop 1-13
D.A.B. I, Heidi Drew, Mail Stop 1-135
J. R. Cox, Office of Central Inspection, Mail Stop 1-72
Jim Garcia, OCI, Mail Stop 1-72
Sharon Dickgrafe, Law Department, Mail Stop 1-132

BZ RESOLUTION NO. 2001-00001

WHEREAS, Vincente Soto (owner/applicant), Cesar Mendoza, (agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variance to allow a reduction of the side yard setback for a carport on property zoned "TF-3" Two-Family Residential and legally described as follows:

Lot 11, Nuckoll's Subdivision on Reserve "A" Mossmans 2nd Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of Murdock on the west side of Volutsia (813 N. Volutsia).

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 May 22, 2001, 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. The property is unique because the adjacency and the basic dimensions between the property line and the adjacent home. Given the fact that we have nobody to object and that there has been a verbal confirmation that there has been consent by the adjacent property owner's that the adjacent owner will not be adversely affected.

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. In regards to adjacent property, it seems fitting to look back on the uniqueness of this project. The granting of the variance would not adversely affect the public interest, because it is a residence and it appears there is no other objection from the community.

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. The strict application of the variance of the provisions of the Zoning Code may constitute an unnecessary hardship because of the fact that it appears to be the only way that they can possibly provide protected storage for their vehicle.

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. The granting of the variance would not be subject to the general spirit and intent of the Zoning regulations because of the fact that we have reviewed the case.

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.

WHEREAS, each of the five conditions required by Section 2.12.0.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 reducing the setback to 2 feet or otherwise reducing the setback by 4 feet on property zoned "TF-3" Two-Family Residential and legally described as follows:

Lot 11, Nuckoll's Subdivision on Reserve "A" Mossmans 2nd Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of Murdock on the west side of Volutsia (813 N. Volutsia).

RECOMMENDATION:

1. There shall not be any overhang from the structure other than a downspout.
2. That the total width of the structure shall be limited to 10.7 feet.
3. That the north side of the structure shall not be enclosed at any time. Anytime that the structure would be enclosed the variance shall be null and void.
4. 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 from 6 feet to 2 feet on the north side of the property. This setback reduction shall apply only to the carport shown on the survey submitted to the Board of Zoning Appeals.
5. The applicant shall obtain all local permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
6. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22nd DAY of MAY, 2001.



John Rogers, 1st Vice Chair signing for Floyd Pitts, President

ATTEST:



Scott Knebel, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2001-00001

OWNER/APPLICANT: Vicente Soto

AGENT: Cesar Mendoza

REQUEST: Variance to allow a reduction of the side yard setback for a carport

CURRENT ZONING: "TF-3" Two-Family Residential

LOCATION: Generally located north of Murdock on the west side of Volutsia (813 N. Volutsia)

FILE COPY



JURISTITION: 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 received a building permit for a carport to be attached to the north side of a single-family residence on the applicant's property located at 813 N. Volusia. The building permit was issued on the basis of a site plan submitted by the applicant showing that the carport would conform to the required 6-foot side yard setback. Upon inspection, the Office of Central Inspection discovered that the carport had been constructed in a manner that does not conform to the required 6-foot side yard setback. The carport has been constructed so that the support posts for the carport are on the north property line with the eaves for the carport overhanging the abutting property to the north. The applicant has requested a variance to reduce the required side yard setback to allow the carport to remain on the property as constructed. The applicant has not provided a site plan documenting the actual location of the carport; rather, the applicant has provided a site plan showing that the carport only encroaches into the side yard setback by approximately two feet.

ADJACENT ZONING AND LAND USE:

NORTH	"TF-3"	Single-Family Residence
SOUTH	"TF-3"	Single-Family Residence
EAST	"TF-3"	Single-Family Residence
WEST	"TF-3"	Single-Family Residence

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as the property is developed in the same fashion thousands of other residential properties in the older parts of Wichita. The property is a 50-foot wide residential lot developed with a single-family residence and a garage located behind the house.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would adversely affect the rights of adjacent property owners, inasmuch as the eaves of the carport encroach upon the abutting property to the north.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Zoning Code does not constitute an unnecessary hardship upon the applicant, inasmuch as the applicant has sufficient property to construct a carport or expanded garage behind the residence.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest, inasmuch as there would only be six feet of separation between residential structures at the front setback which does not provide sufficient separation structures for fire protection.

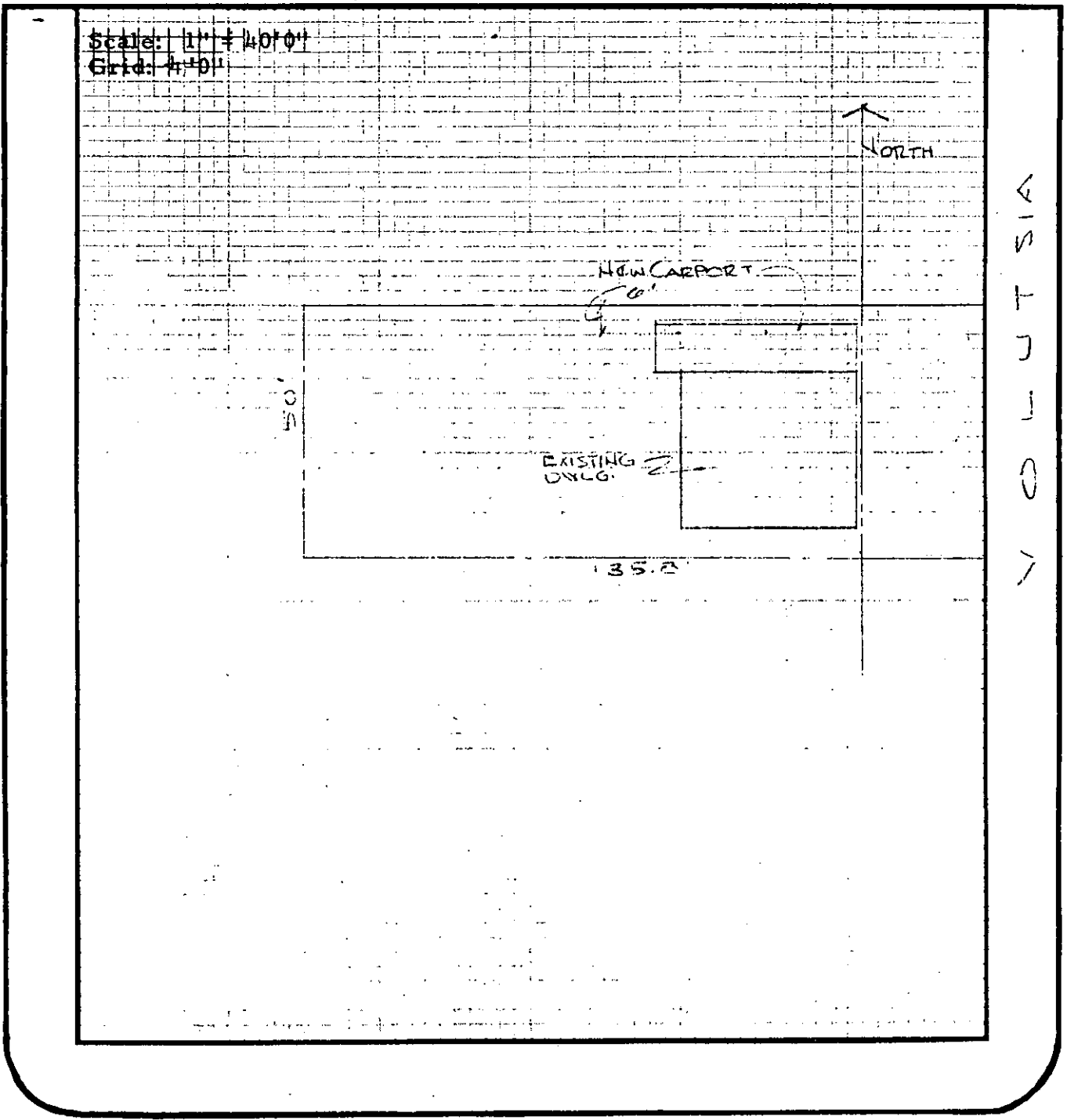
SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would be opposed to the general spirit and intent of the zoning regulations, inasmuch as the intent of setbacks, in addition to public safety, is to provide sufficient separation for light and air circulation and pedestrian access. As proposed, the carport does not meet this intent and, in fact, encroaches upon a neighboring property.

RESIDENTIAL PLOT PLAN

ADDRESS: 813 N. VOLUTSIA PERMIT NO. ED2000-05248

LOT(S): 11 BLK. OF NUCKOLLS SUB ZONING SF6

REQUIRED SETBACKS: FRONT 25 SIDE 6 SIDE 6 REAR 20



I certify that the above plat complies with applicable zoning setbacks and sub-division covenants and restrictions.

Signed: Vuente Soto
(Applicant)

White Copy - File Yellow Copy - Applicant



Air Capitol Land Surveyors

2160 W 21st STREET
WICHITA, KANSAS 67203

[316] 838-9071

PLAT OF SURVEY

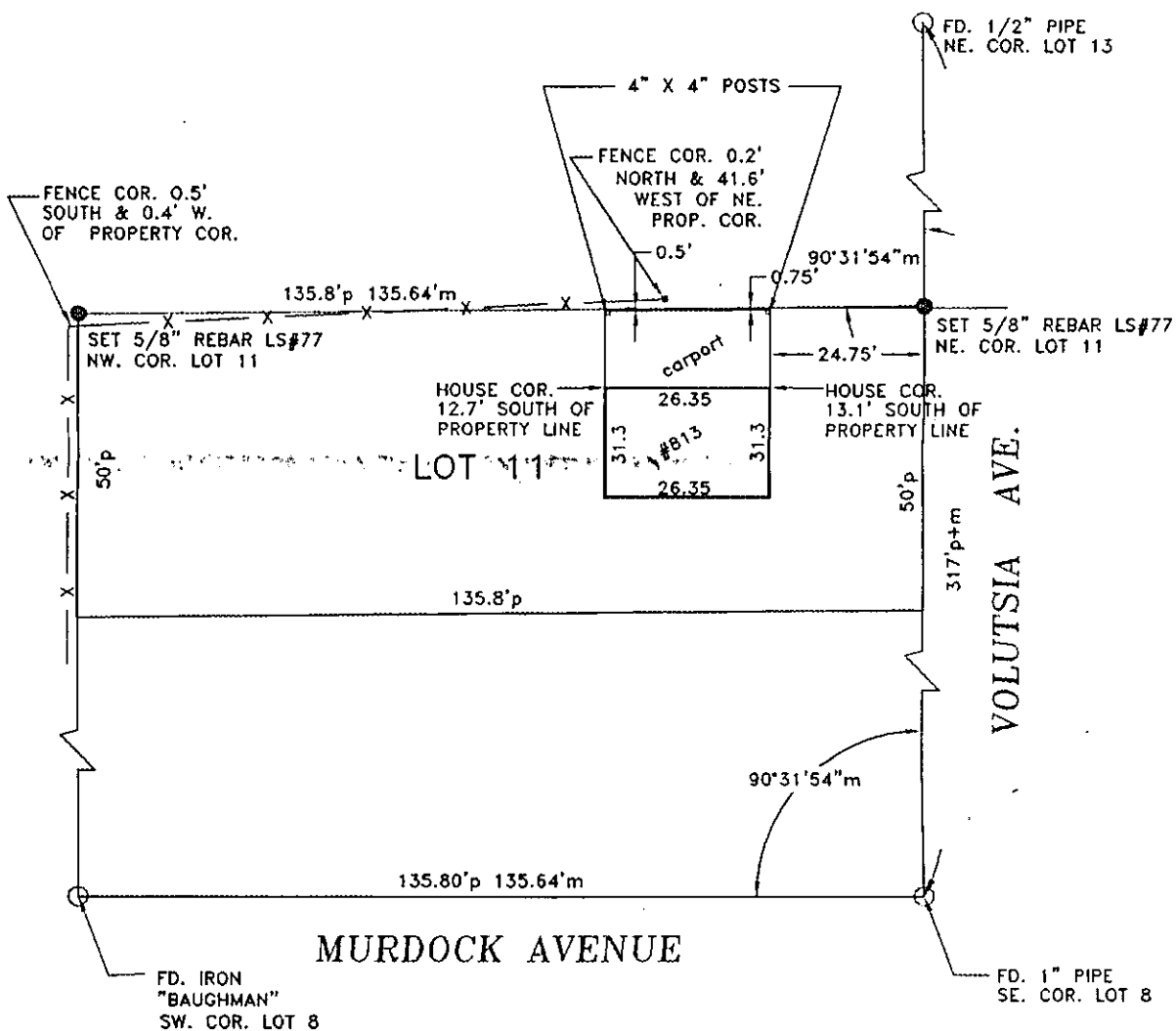
APRIL 20, 2001

LEGAL DESCRIPTION:

LOT 11, NUCKOLLS
SUBDIVISION OF RESERVE
A, MOSSMANS 2ND ADD.
TO WICHITA, KANSAS.

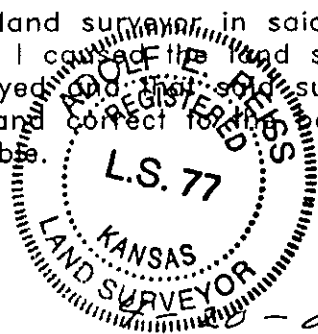
LEGEND

p = PLATTED BEARING OR DISTANCE
m = MEASURED BEARING OR DISTANCE



State of Kansas }
County of Sedgwick } SS

I, Adolf E. Reiss, being a duly licensed land surveyor in said County and State, do hereby certify that I caused the land shown in the accompanying exhibit to be surveyed and that the survey and the accompanying exhibit are true and correct to the best of my knowledge and information available.



Adolf E. Reiss
Adolf E. Reiss L.S. #77

DATE