



FILE COPY

**Wichita-Sedgwick County Metropolitan Area Planning Department**

April 25, 2003

Tony Lee Pearce  
1970 Keith Ct.  
Wichita, KS 67212

**RE: BZA2003-10 –Variance to Section III-D.7.e. (5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure on a key lot. Generally located at the northeast corner of Keith St. and Keith Ct. (1970 Keith Ct.).**

Dear Mr. Pearce:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on April 22, 2003. This resolution reflects the official action of the Board to grant your requests 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 BZA Secretary

SK/rms

CC: Bob Martz, WCC, District V, Mail Stop 1-13  
Dana L. Brown, N.A. V, Mail Stop 1-13  
Sharon Dickgrafe, Law Department, Mail Stop 1-132  
J. R. Cox, OCI, 1-72

## **BZA RESOLUTION NO. 2003-00010**

**WHEREAS**, Tony Lee Pearce Revocable Trust, c/o Tony L. Pearce (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variance to Section III-D-7.e. (5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure on a key lot zoned "SF-5" Single-family Residential and legally described as follows:

Lot 14, Block E, Jamesburg Addition, Wichita, Sedgwick County, Kansas.  
Generally located at the northeast corner of Keith Street and Keith Court (1970 Keith Ct.).

**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 April 22, 2003, 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. It is the opinion of the Board that this property is unique, inasmuch as the interior lot to the north that adjoins the subject property has a curved front lot line that curves inward toward the interior of the key lot. This is an unusual lot configuration involving a key lot. More commonly, the side lot line of a key lot is extended as the front lot line of the adjacent interior lot.

**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 the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the house on the adjacent property to the north is oriented such that the front of the house faces to the northwest due to the curved front lot line. Such an orientation of the house combined with the curvature of the street alleviates the potential negative impact of having two structures along the street with significantly different setbacks, since the proposed garage will be aligned with the structures on the straight portion of the street as well as with the structures on the curved portion of the street.

**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 the Board that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as requiring the

proposed garage to be set back 25 feet will considerably decrease the size of the backyard on the subject property without any corresponding benefit to the public good.

**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 the Board that the requested variance would not adversely affect the public interest, inasmuch as the proposed garage will be designed and constructed in the same manner as the house on the subject property and therefore will be harmonious with the development of the neighborhood.

**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 the Board that the granting of the variance requested would not oppose the general spirit and intent of the Code inasmuch the intent of Section III-D.7.e.(5) of the Unified Zoning Code is to prevent accessory structures from protruding in front of principal structures along a street. Since the street is curved in this area, allowing a Variance to place the proposed garage closer to the street will not have the impact of the accessory structure protruding in front of the principle structures along the street.

**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.

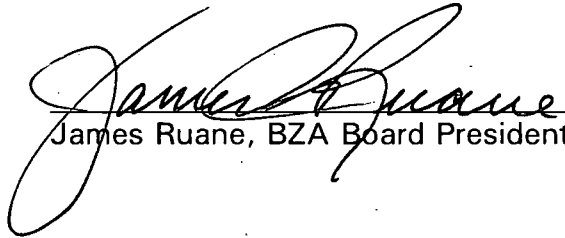
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that variance to Section III-D-7.e. (5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure on a key lot zoned "SF-5" Single-family Residential and legally described as follows:

Lot 14, Block E, Jamesburg Addition, Wichita, Sedgwick County, Kansas.  
Generally located at the northeast corner of Keith Street and Keith Court.

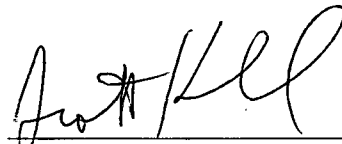
The variance is hereby **GRANTED**, subject to the following conditions:

1. The street side setback for one accessory structure on the subject property shall be reduced from 25 feet to 15 feet.
2. The accessory structure shall be limited to a 24-foot by 24-foot garage that shall be located on the subject property in general conformance with the approved site plan.
3. The accessory structure shall have the same vertical siding, same color of shingles, same roof pitch, and same paint scheme as the principal structure.
4. The applicant shall obtain all permits necessary to construct the garage, and the garage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
5. The resolution authorizing the 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 APRIL, 2003.

  
James Ruane, BZA Board President

ATTEST:

  
Scott Knebel, BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2003-00010

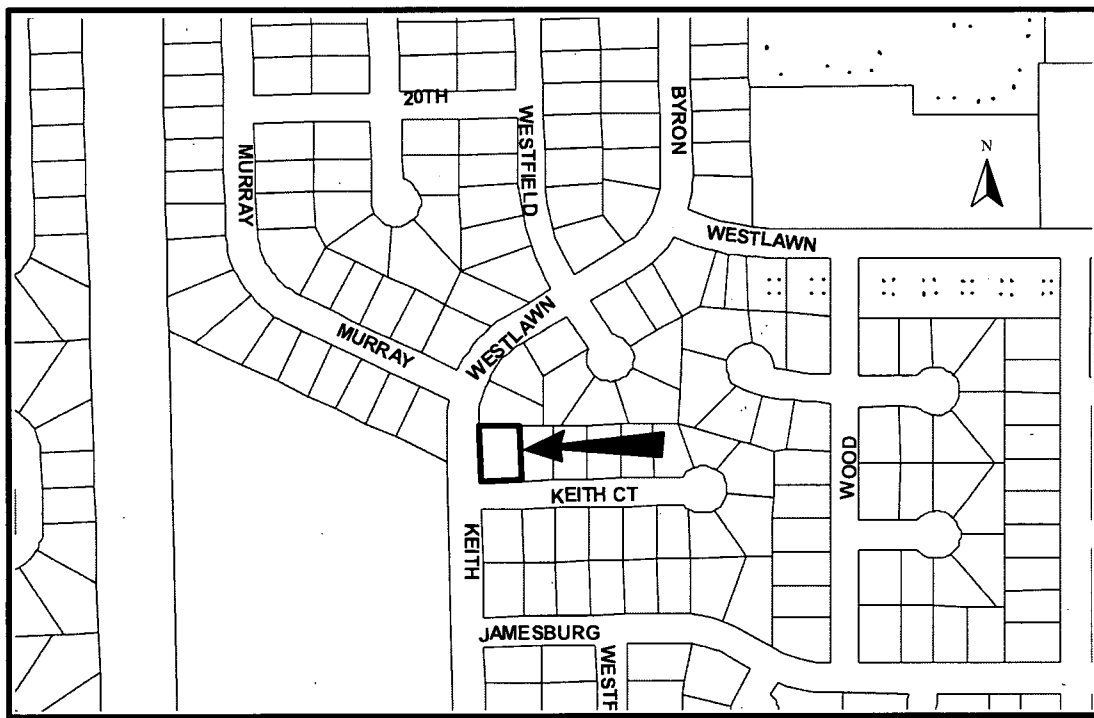
OWNER/APPLICANT: Tony Lee Pearce Revocable Trust c/o Tony L. Pearce

REQUEST: Variance to Section III-D.7.e.(5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure on a key lot

CURRENT ZONING: "SF-5" Single Family

SITE SIZE: 0.25 Acres

LOCATION: Northeast corner of Keith St. & Keith Ct. (1970 Keith Ct.)



**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 is requesting a variance to Section III-D.7.e.(5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure on a key lot. The subject property is located on the northeast corner of Keith St. and Keith Ct. at 1970 Keith Ct. The subject property is zoned "SF-5" Single Family and is developed a single family residence.

The applicant proposes to construct a 24-foot by 24-foot detached garage in the northwest corner of the subject property as illustrated on the attached site plan and lot illustrations. As stated in the attached letter, the applicant proposes to locate the garage in the northwest corner of the subject property in order to preserve as much of the back yard as possible, to line up the garage with the side wall of his house, and to preserve the view of his back yard from the adjoining property to the north. Were the subject property not a key lot, the proposed detached garage would be permitted with a 10-foot rear setback and a 15-foot street side setback.

Section II-B.7.k. of the Unified Zoning Code defines a key lot as, "a corner lot adjoining two or more non-corner (interior or through) lots." Since the adjoining property to the north is a non-corner (interior) lot, Section III-D.7.e.(5) of the Unified Zoning Code requires accessory structures on the subject property to meet the front building setback of the adjoining property to the north. For the subject property, this requires a 25-foot street side setback for accessory structures. The only method provided by the Unified Zoning Code to reduce this 25-foot building setback requirement is a Variance. Therefore, the applicant has requested a Variance of Section III-D.7.e.(5) of the Unified Zoning Code to permit a 15-foot street side setback for an accessory structure.

**ADJACENT ZONING AND LAND USE:**

|       |        |               |
|-------|--------|---------------|
| NORTH | "SF-5" | Single family |
| SOUTH | "SF-5" | Single family |
| EAST  | "SF-5" | Single family |
| WEST  | "SF-5" | Single family |

**UNIQUENESS:** It is the opinion of staff that this property is unique, inasmuch as the interior lot to the north that adjoins the subject property has a curved front lot line that curves inward toward the interior of the key lot. This is an unusual lot configuration involving a key lot. More commonly, the side lot line of a key lot is extended as the front lot line of the adjacent interior lot.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the house on the adjacent property to the north is oriented such that the front of the house faces to the northwest due to the curved front lot line. Such an orientation of the house combined with the curvature of the street alleviates the potential negative impact of having two structures along the street with significantly different setbacks, since the

proposed garage will be aligned with the structures on the straight portion of the street as well as with the structures on the curved portion of the street.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as requiring the proposed garage to be set back 25 feet will considerably decrease the size of the backyard on the subject property without any corresponding benefit to the public good.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the proposed garage will be designed and constructed in the same manner as the house on the subject property and therefore will be harmonious with the development of the neighborhood.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Code inasmuch the intent of Section III-D.7.e.(5) of the Unified Zoning Code is to prevent accessory structures from protruding in front of principal structures along a street. Since the street is curved in this area, allowing a Variance to place the proposed garage closer to the street will not have the impact of the accessory structure protruding in front of the principle structures along the street.

**RECOMMENDATION:** It is staff's opinion that the variance requested is appropriate. Should the Board determine that the five conditions necessary for granting the variance exists, then it is the recommendation of the Secretary that the variance be GRANTED, subject to the following conditions:

1. The street side setback for one accessory structure on the subject property shall be reduced from 25 feet to 15 feet.
2. The accessory structure shall be limited to a 24-foot by 24-foot garage that shall be located on the subject property in general conformance with the approved site plan.
3. The accessory structure shall have the same vertical siding, same color of shingles, same roof pitch, and same paint scheme as the principal structure.
4. The applicant shall obtain all permits necessary to construct the garage, and the garage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
5. The resolution authorizing the 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.

Proposed garage - 24' X 24'

Driveway - ~~10' X 3.1'~~

→ 11 feet from street to sidewalk  
~~7.5' from sidewalk~~  
16 feet from sidewalk to garage

Garage would be in line with  
the house (15'9") from property  
line on Keith Street and 11' from  
property line in back yard between  
and the neighbor (Whipples)

BZA2003-00010

# SITE PLAN

APPROVED 4-22-03 BY BZA ~~Keith~~

33'

29'

