

Wichita-Sedgwick County Metropolitan Area Planning Department

August 27, 2003

Joe Hoover
USD 259
3850 N. Hydraulic
Wichita, KS 67219

RE: BZA2003-41 – Variances to reduce the front building setback from 25' to 14'1" and to permit a parking area within the street side setback for Marshall Middle School on property zoned "TF-3" Two-family Residential. Generally located at the northeast corner of 14th Street North and Payne. (1510 Payne)

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on August 26, 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,

Scott Knebel
Assistant BZA Secretary

SK/rms

CC: Rosalie Bradley, 1401 Julianne, Wichita, KS 67203
Kurt Bachman, 5025 Harborside Ct., Wichita, KS 67204
Sharon Fearey, WCC, District VI, Mail Stop 1-13
Terri Dozal, N.A. VI, Mail Stop 1-135
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichitagov.org

BZA RESOLUTION NO. 2003-00041

WHEREAS, Wichita Public Schools c/o Joe Hoover, (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variances to reduce the front building setback from 25' to 14'1" and to permit a parking area within the street side setback for Marshall Middle School on property zoned "TF-3" Two-family Residential and legally described as follows:

Even Lots 2 through 48, inclusive, and Odd Lots 1 through 47, inclusive, on Payne Avenue, Garden Grove Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 14th Street North and Payne (1510 Payne).

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 August 26, 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 property is developed with a single nonresidential use, a school, that is sitting on property that is platted with 25-foot wide lots initially intended for multiple individual uses that have front yard setbacks on both Salina and Payne streets. Instead, the site is developed with a building that fronts Payne Street, and is to be developed in a manner that makes the Salina Street side of the building the rear of the building. 14th Street will remain a side street, however, the fact that the redevelopment of the site will incorporate the existing building that prevents the project from being moved move northward, and there is a need to preserve the play area to the north of the building.

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 would not adversely affect the rights of adjacent property owners, inasmuch as the addition to the structure would be internal to the subject property. Approval of these requests will retain sufficient building setback to allow for landscaping, fire protection, separation, light and air circulation, and pedestrian access, and will impact nearby properties minimally.

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 Zoning Code constitutes an unnecessary hardship upon the applicant, due to site constraints (existing plat that has front setbacks on both Payne and Salina), the need to use the existing building as part of the remodel and the need to preserve the open space located to the north of the building. Alternatives to the variances would make the project more costly to redevelop, and make the site less efficient.

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 there will be no encroachments into public utility easements or street right-of-way, and therefore there will be no effect on the general public.

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 variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access.

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.

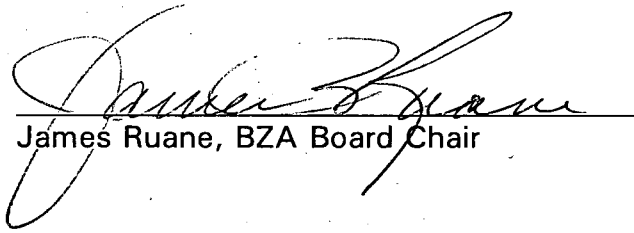
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that variances to reduce the front building setback along the east property line from 25' to 14' 1" and to permit a parking area within the street side setback along the south property line for Marshall Middle School are granted on property zoned "TF-3" Two-family Residential and legally described as follows:

Even Lots 2 through 48, inclusive, and Odd Lots 1 through 47, inclusive, on Payne Avenue, Garden Grove Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 14th Street North and Payne (1510 Payne).

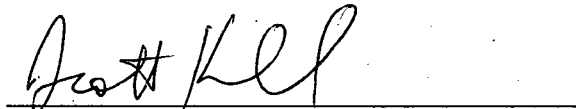
The variance are hereby **GRANTED**, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the front building setback shall be reduced from 25' to 14' 1" along the east property line, and the a parking area shall be permitted within the street side yard setback along the south property line no closer than 6' 6" from the property. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition and parking area shall be constructed in general conformance with said site plan.
2. A sidewalk shall be constructed along the entire length of the south property line and along the east property line from the south property line to the first driveway north of the south property line.
3. 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 variances unless such time period is extended by the BZA.
4. The resolution authorizing these variances 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 26th DAY of AUGUST 2003.


James Ruane, BZA Board Chair

ATTEST:


Scott Knebel, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
August 26, 2003

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00041

OWNER/APPLICANT: Wichita Public Schools c/o Joe Hoover

AGENT: n/a

REQUEST: Variances to reduce the front building setback from 25' to 14'1" and to permit a parking area within the street side setback for Marshall Middle School.

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

LOCATION: Northeast corner of 14th Street North and Payne (1510 Payne)



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 subject property is developed with the Marshall Middle School, is located at the northeast corner of 14th Street North and Payne (1510 Payne), and is zoned "TF-3" Two-Family Residential. The application area encompasses the entire block, and is platted with 25-foot wide lots that front both Salina Street and Payne Street. Because of the way the site is platted, this property has front building setback requirements on both Payne and Salina. Due to a major reconstruction project on the school site, the applicant is requesting two variances. The applicant submitted the attached site plan illustrating the variances requested and the attached narrative description of the need for the variances requested.

The first variance requested is to reduce the front building setback along the east property line, the Salina Street side, from 25' to 14'1". The Unified Zoning Code requires a 25' front building setback in the "TF-3" Two-Family zoning district. By code, the reduction of a front building setback by greater than 20% requires a variance. The zoning regulations also allow "setback averaging" whereby a building can be set back a distance equal to the average front building setback of the five existing structures on either side of the property within the block on the same side of the street. In the case of the subject property, setback averaging would not address the applicant's problem since there are no other buildings on the west side of Salina in this block.

The second variance requested is to permit a parking area with the required 15' street side yard setback for the "TF-3" Two-Family zoning district. The proposed parking area would be setback 6'6" from 14th Street North and would be located south of the school building. The code permits an administrative adjustment to permit parking within the front and street side setback areas for residential zoning districts, but the administrative adjustment cannot permit a parking area to be located any closer than 8' from the property line. The proposed remodeling project will not accommodate an eight-foot setback (see site plan), as the remodeling project will incorporate the existing building into the project. The existing building cannot be moved without additional major expense. There is also a need to preserve the open space to the north of the building for open space and recreational uses.

The application area is surrounded by property developed with residential uses that typically have 25' front setbacks and 6' street side yard setbacks. The 15' street side yard setback is a relatively new zoning code requirement that was not in place when the properties in this neighborhood were developed.

ADJACENT ZONING AND LAND USE:

NORTH	"TF-3"	Church
SOUTH	"TF-3"	Single-family and duplex
EAST	"TF-3"	Single-family and duplex
WEST	"TF-3"	Single-family and duplex

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property is developed with a single nonresidential use, a school, that is sitting on property that is platted with 25-foot wide lots initially intended for multiple individual uses that have front yard setbacks on both Salina and Payne streets. Instead, the site is developed with a building that fronts Payne Street, and is to be developed in a manner that makes the Salina Street side of the building the rear of the building. 14th Street will remain a side street, however, the fact that the redevelopment of the site will incorporate the existing building that prevents the project from being moved northward, and there is a need to preserve the play area to the north of the building.

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 as the addition to the structure would be internal to the subject property. Approval of these requests will retain sufficient building setback to allow for landscaping, fire protection, separation, light and air circulation, and pedestrian access, and will impact nearby properties minimally.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, due to site constraints (existing plat that has front setbacks on both Payne and Salina), the need to use the existing building as part of the remodel and the need to preserve the open space located to the north of the building. Alternatives to the variances would make the project more costly to redevelop, and make the site less efficient.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way, and therefore there will be no effect on the general public.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access.

RECOMMENDATION: Should the Board determine that conditions necessary grant the variances exist, then it is the recommendation of the Secretary that a variance to reduce the front building setback along the east property line from 25' to 14'1" feet and a variance to permit a parking area within the street side yard setback along the south property line but no closer 6'6" from the property line 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 front building setback shall be reduced from 25' to 14'1" along the east property line, and the a parking area shall be permitted within the street side yard setback along the south property line no closer than 6'6" from the property. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition and parking area shall be constructed in general conformance with said site plan.
2. 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 variances unless such time period is extended by the BZA.
3. The resolution authorizing these variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

SITE PLAN

APPROVED 8-26-03 BY BZA

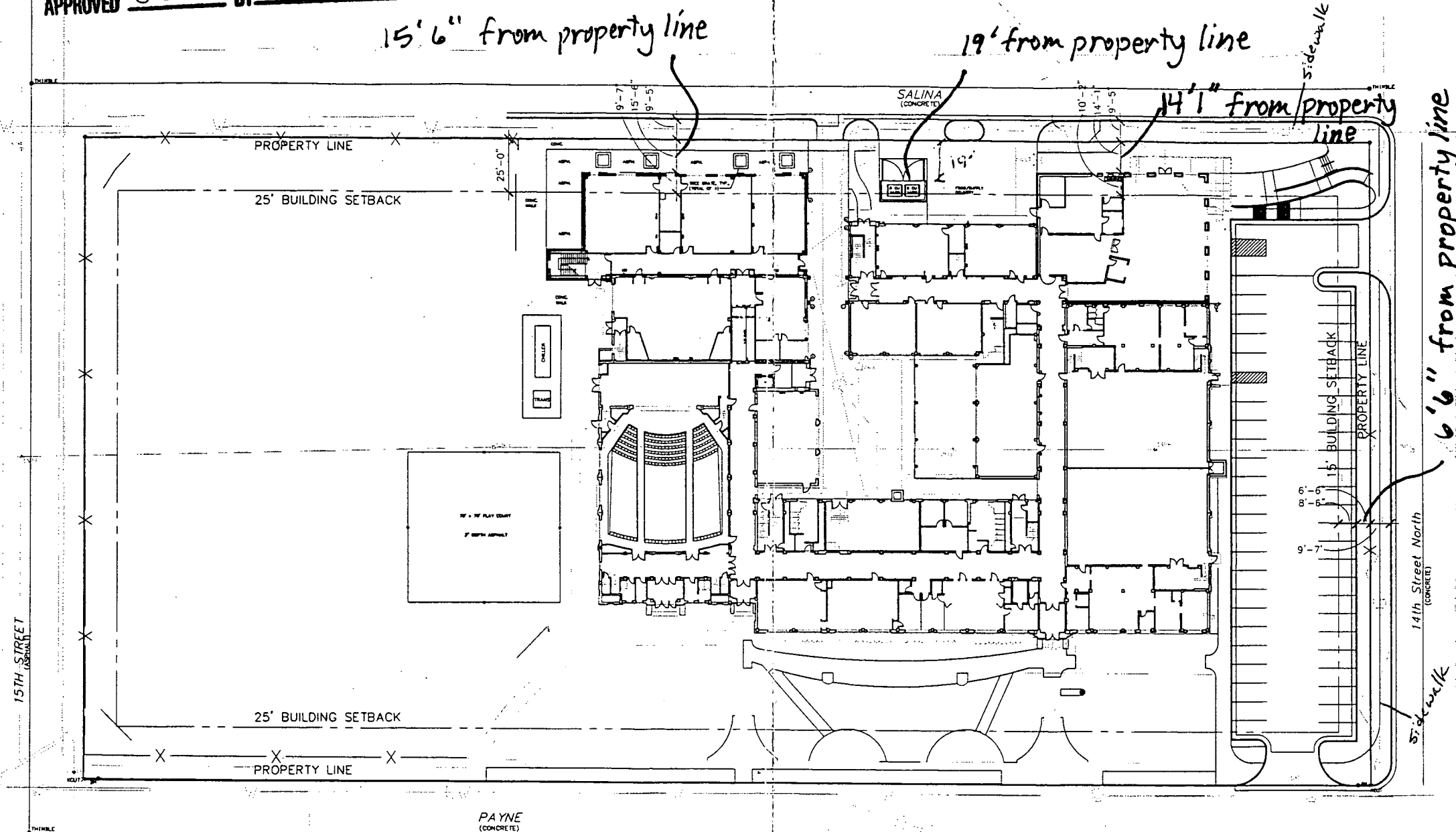
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ZONING PLAN

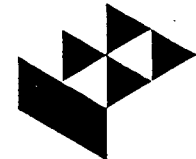


JAN BURGESS, AIA
PROJECT ARCHITECT

1510 Payne

Marshall Middle School

DATE: 7/3/03



Gessen Livingston

Architecture
420 South Emporia
Wichita, KS 67202
Tel: (316) 265-9367
Fax: (316) 265-5646
Email: gessen@gliv.com



WICHITA
PUBLIC SCHOOLS

PROGRESS PRINT
NOT FOR CONSTRUCTION
DATE: 7/3/03

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Gessen Livingston Associates, Inc.

Marshall Middle School
USD 259
Wichita, Kansas

Rev	Date	Description

ZONING PLAN

Job No. 1023.030
Date: 7/3/03
Drawn: JLB
Checked: TDM

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