



Wichita-Sedgwick County Metropolitan Area Planning Department

Gary Applegate
1730 N Gow
Wichita, KS 67203

October 14, 2019

RE: BZA2019-00033 – City Variance to reduce the rear setback for an accessory structure from 5 feet to Zero feet on property zoned SF-5 Single Family Residential and generally located one-half block south of West 17th Street North approximately one-half mile east of North West Street (1730 N. Gow).

Dear Applicant,

At its regular meeting on **October 10, 2019**, the Wichita - Sedgwick County Board of Zoning Appeals considered the above captioned request. The action of the BZA was to **APPROVE** the request.

Enclosed is a signed copy of the above referenced BZA Resolution adopted by the Board of Zoning Appeals. This resolution reflects the official actions of the Board and is forwarded for your information and files.

Part of the resolution indicates one condition that must be met in order for the variance to take effect.

- 1. The rear setback reduction shall only apply to accessory structure as illustrated on the site plan.**
- 2. The applicant shall obtain all necessary inspections.**
- 3. A revised site plan shall be submitted to Planning to be reviewed and approved by the Planning Director.**

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Philip Zevenbergen
Associate Planner

Copies to: MABCD

BZA RESOLUTION NO. BZA2019-00033

WHEREAS, Gary and Kathy Applegate (Applicants);pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the rear building setback for an accessory structure from 5 feet to zero feet, and legally described as follows:

Legal Description: The North 76.56 feet of Lot 8, EXCEPT the East 63 feet thereof ALONG WITH the South 6 feet of Lot 9, EXCEPT the East 63 feet thereof, Stone's Second Addition to 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 October 10, 2019, 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 conditions of the request are unique to the subject property. In this case, this variance request arises from the conditions of an abnormally small residential lot making it unique to the property and which is not ordinarily found in the same zone or district. The lot was originally owned by the adjoining church, and the house was the church parsonage. At some point, prior to the applicant purchasing, the 63 feet of the rear yard was converted to parking for Faith Community Church. When the applicant purchased the house, the lot size was only 91.75 feet deep leaving only 31 feet between the rear of the house and the property line.

WHEREAS, the conditions of the request will not adversely affect the rights of adjacent property owners. In this case, the closest residential property line from the accessory structure is 63 feet to the east. The closest house to the east is 147 feet from the property line. The accessory structure is 31 feet from the south property line and 16 feet from the north property line. A 15-foot deck is between the accessory structure and the applicant's house. Due to the distance from the nearest residence and the adjacent parking lot, the accessory structure should not adversely affect the rights of adjacent property owners.

WHEREAS, the strict application of the applicable Code will constitute unnecessary hardship. In this case, the applicant states that the strict application of the five-foot setback from the east property line will reduce the size of the accessory structure affecting the function of the structure. The structure is used for two purposes: storage and work space. Reducing the size of the structure would mean either a reduction in the storage or work space. Currently, the items to be stored in the structure are located in the single car garage, two rooms in the basement, and a rented storage unit. Using the garage as storage has prevented the home owner from being able to park a car in the garage. In addition, one of the two rooms in the basement is the equipment room, which should have minimal storage use. To move the structure five-feet off the property line would mean rebuilding the deck to reduce its size.

WHEREAS, the conditions of the request will not adversely affect the public interest. In this case, the property to the east is owned by Faith Community Church and is used for church parking. The church leaders have indicated they see no problems with the structure on the property line, which matches the privacy fence along the property line. There are no easement on the property line and the structure does not interfere with any utilities going into the house. Gas and water come in from the west while electric and cable come into a utility pole three feet to the south of the structure. The sewer line is 15 feet to the south of the structure

WHEREAS, it is the opinion of Board of Zoning Appeals that granting this variance will not be opposed to the general spirit and intent of the applicable Code. The adjacent property was originally part of the lot. If the lot was the original size, the accessory structure would be 63 feet from the property line. The owner of the parking lot—Faith Community Church—has no objection to the location of the structure.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, 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, a Variance to reduce the rear building setback for an accessory structure from 5 feet to zero feet, and legally described as follows:

Legal Description: The North 76.56 feet of Lot 8, EXCEPT the East 63 feet thereof ALONG WITH the South 6 feet of Lot 9, EXCEPT the East 63 feet thereof, Stone's Second Addition to Wichita, Sedgwick County, Kansas.

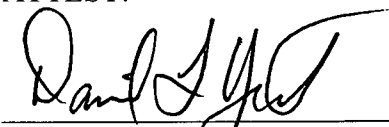
The variances are hereby GRANTED, subject to the following conditions:

1. The rear setback reduction shall only apply to accessory structure as illustrated on the site plan.
2. The applicant shall obtain all necessary inspections.
3. A revised site plan shall be submitted to Planning to be reviewed and approved by the Planning Director.

ADOPTED AT WICHITA, KANSAS, this 10th Day of October 2019.


Charles A. Warren, BZA Board Chair

ATTEST:


David L. Yearout,
BZA Secretary

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

BACKGROUND: The applicant is requesting a reduction of the rear setback from five feet to zero feet to bring an existing accessory structure into compliance. The property is located at 1730 N. Gow, which is one-half block south of East 17th Street North and approximately one-half mile east of North West Street. The 16-foot by 24-foot accessory structure is used for storage and work space. The applicant's property was originally owned by the adjacent church, and the house was originally the church parsonage. The church converted the rear 63 feet of the property to a surface parking. The church eventually sold the remaining residential portion of the property.

The conversion of the rear half of the property left a unique lot being only 91.75 feet deep, which leaves only 31-feet from the house to the rear property line. As seen on the site plan, the accessory structure stands directly behind a 15-foot deck connected to the house, and occupies that portion of the rear yard between the deck and the property line. There is a six-foot, wooden privacy fence on the property line adjacent to the church parking lot. The rear wall acts as a portion of this fence. There is no guttering system on the accessory structure, so with the slope of the roof, all run-off drains onto the church property. In communication with the applicant, the church property has expressed no concern over the placement of the accessory structure in relation to their adjacent parking lot.

The Unified Zoning Code Section III-D.7.e-(1) states that Accessory Structures shall not utilize more than one-half the required rear yard. The required rear yard on the applicant's property is calculated to (+/-) 400 square feet. The accessory structure will occupy only 120 square feet of that required rear yard, which is in compliance with the code.

The applicant initially constructed the structure without a permit in May 2019. Shortly after, he received notice that he needed to obtain a permit, for which he did. In the process of obtaining the permit, he was instructed he needed to seek a variance to reduce the setback. The structure will have to pass all applicable inspections. The applicant intends to have those inspections conducted should this case be approved.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Church
SOUTH	SF-5	Single-family residential
EAST	SF-5	Church surface parking lot
WEST	SF-5	Single-family residential

UNIQUENESS: The applicant states that this variance request arises from the conditions of an abnormally small residential lot making it unique to the property and which is not ordinarily found in the same zone or district. The lot was originally owned by the adjoining church, and the house was the church parsonage. At some point, prior to the applicant purchasing, the 63 feet of the rear yard was converted to parking for Faith Community Church. When the applicant purchased the house, the lot size was only 91.75 feet deep leaving only 31 feet between the rear of the house and the property line.

ADJACENT PROPERTY: The applicant states that the closest residential property line from the accessory structure is 63 feet to the east. The closest house to the east is 147 feet from the property line. The accessory structure is 31 feet from the south property line and 16 feet from the north property line. A 15-foot deck is between the accessory structure and the applicant's house. Due to the distance from the nearest residence and the adjacent parking lot, the accessory structure should not adversely affect the rights of adjacent property owners.

HARDSHIP: The applicant states that the strict application of the five-foot setback from the east property line will reduce the size of the accessory structure affecting the function of the structure. The structure is used for two purposes: storage and work space. Reducing the size of the structure would mean either a reduction in the storage or work space. Currently, the items to be stored in the structure are located in the single car garage, two rooms in the basement, and a rented storage unit. Using the garage as storage has prevented the home owner from being able to park a car in the garage. In addition, one of the two rooms in the basement is the equipment room, which should have minimal storage use. To move the structure five-feet off the property line would mean rebuilding the deck to reduce its size.

PUBLIC INTEREST: The applicant states that the variance will not adversely affect the general public. The property to the east is owned by Faith Community Church and is used for church parking. The church leaders have indicated they see no problems with the structure on the property line, which matches the privacy fence along the property line. There are no easement on the property line and the structure does not interfere with any utilities going into the house. Gas and water come in from the west while electric and cable come into a utility pole three feet to the south of the structure. The sewer line is 15 feet to the south of the structure

SPIRIT AND INTENT: The applicant states that granting the variance will not be opposed to the general spirit of the applicable code since the adjacent property was originally part of the lot. If the lot was the original size, the accessory structure would be 63 feet from the property line. The owner of the parking lot—Faith Community Church—has no objection to the location of the structure.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, the recommendation of Staff that the variance to reduce the rear setback from five feet to zero feet be **GRANTED**, subject to the following conditions:

1. The rear setback reduction shall only apply to accessory structure as illustrated on the site plan.
2. The applicant shall obtain all necessary inspections.
3. A revised site plan shall be submitted to Planning to be reviewed and approved by the Planning Director.

Attachments:

1. Areal Map
2. Zoning Map
3. Site Plan
4. Building Permit

Gary Applegate

SITE PLAN

City of Wichita Map Print

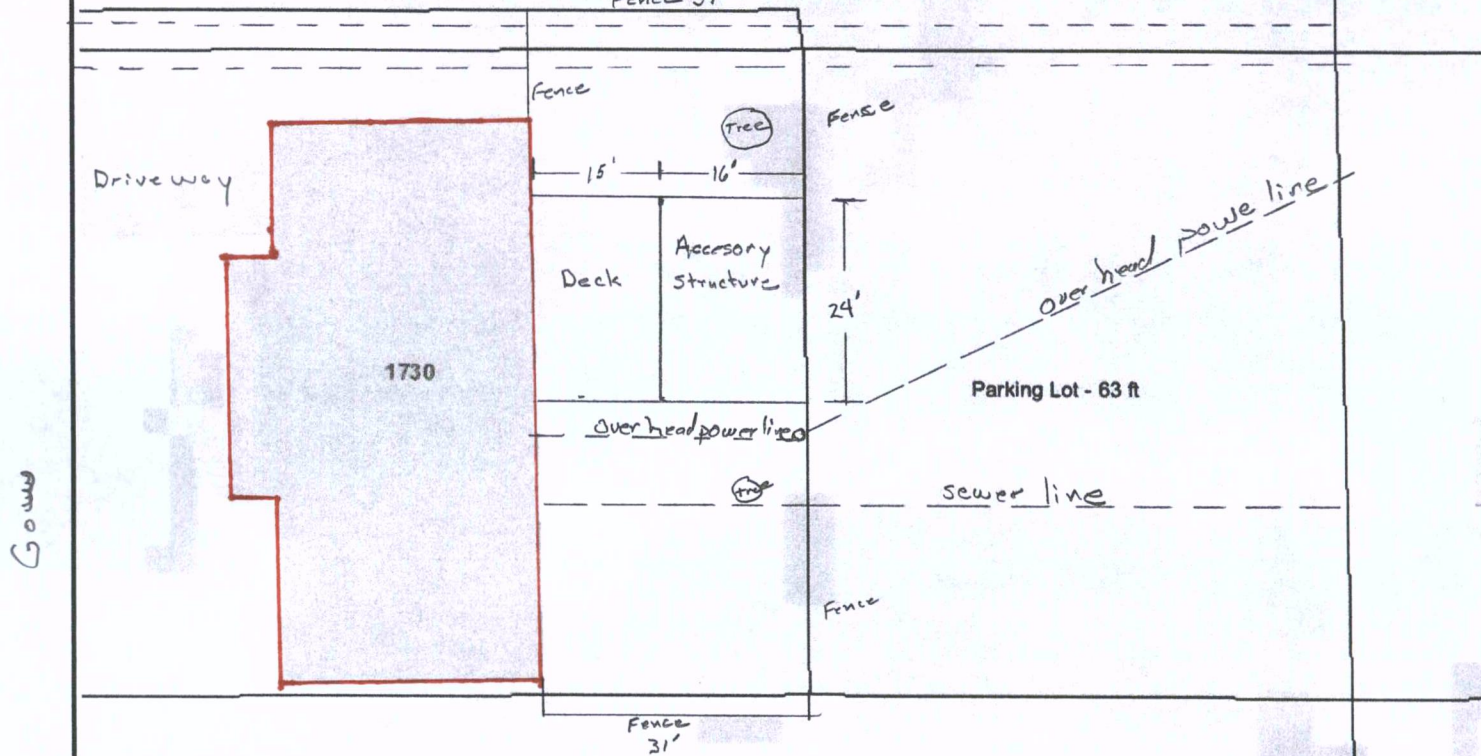


North
↑

APPROVED 10/24/19 BY *[Signature]*

Parking lot

Address: 1730 N Gow
Lot 8, Stone's 2nd
addition, excluding E 63 ft



Request variance from
the 5' setback from
back property line due
to small yard

40.0 0 40.0 Feet

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This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

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