Wichita-Sedgwick County Metropolitan Area Planning Department

Max Christensen
6519 E Marjorie
Wichita, KS 67206

October 14, 2019

RE: **BZA2019-00036** – City Variance to street side setbacks to allow for addition to existing building on property zoned LC Limited Commercial and generally located on the south side of West 21st Street North and one block east of North Arkansas Avenue (2157/2159 N Jackson; 511 W 21st Street).

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 portion of the side-street setback along 511 W. 21st St. shall only be reduced to 1 foot to allow for the building expansion, and shall only apply to the east 40-feet of the west 93 feet of the property.**
2. **The street-side setback reduction along 2159 N. Jackson Ave shall only apply to the west 25 feet of the east 80 feet of the property.**
3. **A revised site and landscape plan shall be submitted to Planning to be reviewed and approved by the Planning Director.**
4. **All State, County, and any other applicable permits, inspections, and standards shall be met.**
5. **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.**

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
Manual & Rosa M Urbina, 7034 E 39th Street North, Wichita, KS 67226

BZA RESOLUTION NO. BZA2019-00036

WHEREAS, Manual and Rosa Urbina (Applicants); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the side-street building setback for a building addition, and legally described as follows:

Legal Description: Lots 1, 3 and 5, Jackson Block, Brooks and Oldhams 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 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, the variance arises primarily from the existing building not conforming to the zoning setback. This most likely occurred because the building predates the current zoning code.

WHEREAS, the conditions of the request will not adversely affect the rights of adjacent property owners. In this case, allowing the north and south walls of the new addition to continue the wall line of the old structure will not significantly change the existing conditions. The proposed improvement to the existing entry way on the north side of the building in place of the existing sign will have no impact on the other properties.

WHEREAS, the strict application of the applicable Code will constitute unnecessary hardship. In this case, the applicant states that restricting the addition to the setbacks as they stand would significantly restrict the usable space f the addition and would prevent the building from presenting a unified and aesthetically pleasing appearance. Thus, appreciably diminishing the owner's ability to commercially develop his property.

WHEREAS, the conditions of the request will not adversely affect the public interest. In this case, the applicant states that he feels that the proposed construction resulting from the granting of this variance will result in some improvement in the convenience, prosperity, and harmonious development of the community.

WHEREAS, the granting of the variance is not in opposition to the general spirit and intent of the applicable Code. In this case, the applicant states he feels this variance would be in harmony with the purpose of the LC zoning district to accommodate retail and commercial land uses. It does not conflict with the intent of the setback requirements to facilitate the development of adjoining lots without conflict, and it promotes a street frontages of a pleasing character.

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 side-street building setback for an for a building addition from 10 feet to one-foot, and legally described as follows:

Legal Description: Lots 1, 3 and 5, Jackson Block, Brooks and Oldhams Addition, Wichita, Sedgwick County Kansas.

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

1. The portion of the side-street setback along 511 W. 21st St. shall only be reduced to 1 foot to allow for the building expansion, and shall only apply to the east 40-feet of the west 93 feet.
2. The street-side setback reduction along 2159 N. Jackson Ave shall only apply to the west 25 feet of the east 80 feet of the property.
3. A revised site and landscape plan shall be submitted to Planning to be reviewed and approved by the Planning Director.
4. All State, County, and any other applicable permits, inspections, and standards shall be met.
5. 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 10th Day of October 2019.

Charles A. Warren, BZA Board Chair

ATTEST:

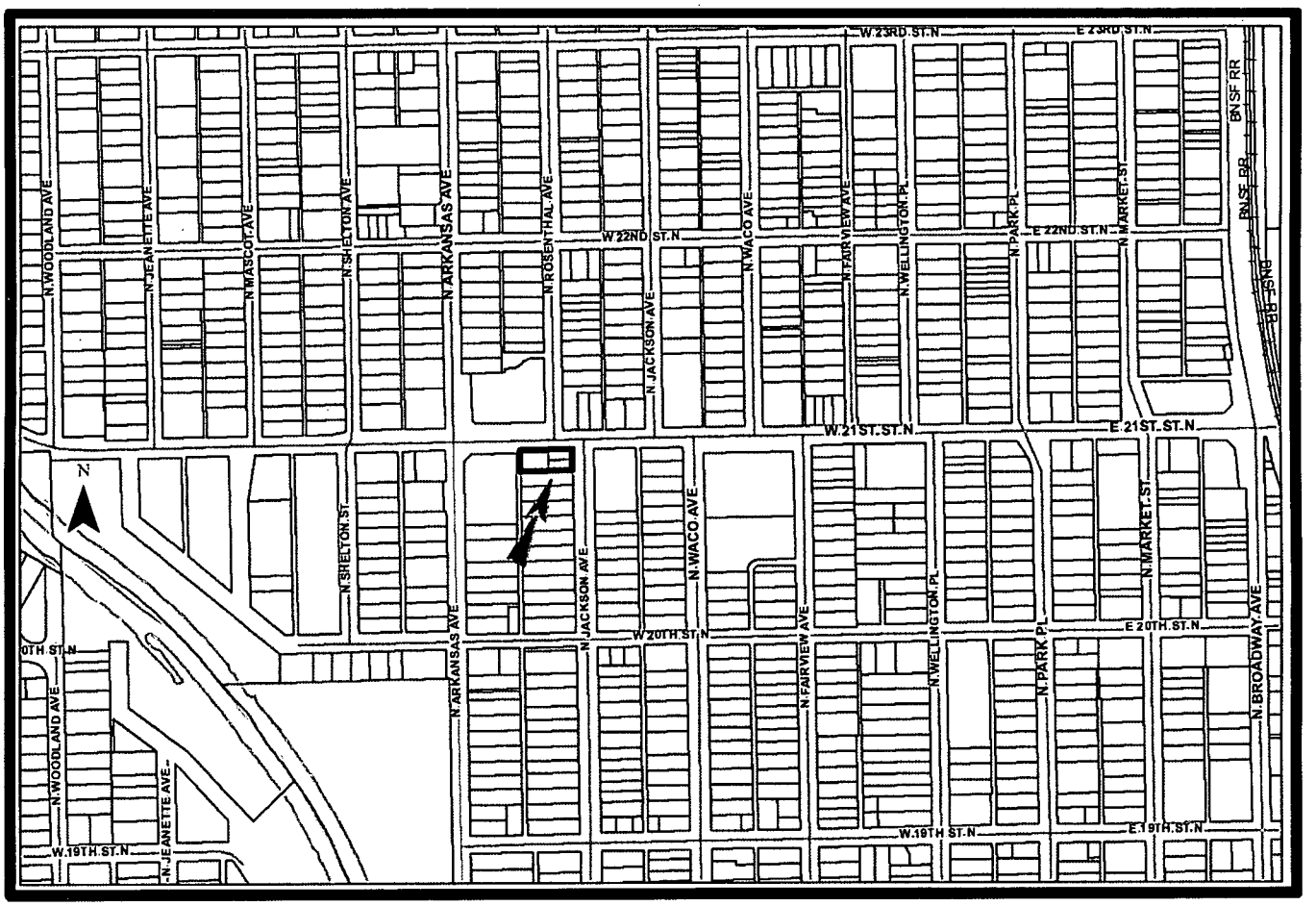
David L. Yearout,
BZA Secretary

Wichita-Sedgwick County Zoning Board of Appeals
October 10, 2019

AGENDA ITEM NO. 4

SECRETARY'S REPORT

CASE NUMBER:	BZA2019-00036
APPLICANT/AGENT:	Manuel and Rosa Urbina (applicants)/ Max Christensen (agent)
REQUEST:	Variance to reduce side-street setback to allow for building addition.
CURRENT ZONING:	LC Limited Commercial District
SITE SIZE:	0.28 acres
LOCATION:	Generally located on the south side of West 21st Street North and one block east of North Arkansas Avenue (2157, 2159 N. Jackson St; 511 W. 21st Street North).



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 the reduction of a side-street setback to accommodate a building addition on property generally located on the south side of West 21st Street North and one-half block east of North Arkansas Avenue. The property is unique in that it encompasses 3 parcels, two of which front North Jackson Avenue and the third fronting W. 21st Street. The applicant is requesting the reduction of a 10-foot side-street setback in order to construct an entryway and a building addition onto the existing structure.

As seen on the site plan, the parcel fronting W. 21st Street has an existing structure that is a hair salon with a pole sign in front. The sign will be taken down to provide space for the proposed entryway. The structure was constructed in 1935. It does not conform to the 10-foot zoning setback required in the LC Limited Commercial zoning district as it sits only 7 feet 7 inches behind the property line. The applicant is requesting to have the 10-foot setback reduced to one-foot to accommodate the proposed entryway. The entryway will not encroach into the W. 21st St. right-of-way or interfere with the existing sidewalk. The applicant states that with the current entry facing north, the entryway will help avoid cold north winds in winter from penetrating into the structure.

The north parcel fronting N. Jackson Ave has an existing, unused structure that will be demolished in order to allow for the proposed building addition. This parcel has a 10-foot side-street zoning setback. The applicant is requesting to have this setback reduced to 7 feet to allow the building addition to extend east along the same line as the existing structure. The south parcel fronting N. Jackson has no structures, but is currently being used for additional parking for the hair salon. The proposed addition will occupy the rear portion of this parcel as it extends from the rear wall of the existing structure. The remainder of the parcels fronting N. Jackson Avenue will be paved and used for parking.

The proposed building addition will also continue the rear line of the existing structure, sitting less than one-foot off the interior side property line that abuts the two-story multi-family structure to the south. The parcel to the south is also zoned LC. The Unified Zoning Code allows structures in the LC district to have a zero-foot setback for interior side property lines. The applicant intends to have three spaces for lease that will have their own separate entrances on the east face of the building addition.

ANALYSIS: There is case history on the site with BZA 4-39. This case was approved on May 11, 1939 to allow a building addition onto an existing structure. This structure was to continue the building frontage along W. 21st Street that was nonconforming to the zoning code. This case provides precedent in this matter regarding a contiguous building frontage.

The expansion of the building triggers the requirement to provide a landscaped street yard according to the Landscape Ordinance. The Ordinance states the following exceptions that do not apply to this case as the building addition is increasing the square footage of the structure by 88 percent.

> Exceptions to the Landscape Ordinance
>
> 3. You are renovating a nonresidential building, but the renovation does not increase the value of the property by more than 50 percent, does not increase the square footage of the building by more than 30 percent, and does not alter the parking lot.

ADJACENT ZONING AND LAND USE:

NORTH	LC	Gas station/convenience store; other commercial uses.
SOUTH	LC	Multi-family housing (quad-plex).
EAST	LC	Church
WEST	LC	Car wash

UNIQUENESS: The applicant states that the variance arises primarily from the existing building not conforming to the zoning setback. This most likely occurred because the building predates the current zoning code.

ADJACENT PROPERTY: The applicant states that allowing the north and south walls of the new addition to continue the wall line of the old structure will not significantly change the existing conditions. The proposed improvement to the existing entry way on the north side of the building in place of the existing sign will have no impact on the other properties.

HARDSHIP: The applicant states that restricting the addition to the setbacks as they stand would significantly restrict the usable space f the addition and would prevent the building from presenting a unified and aesthetically pleasing appearance. Thus, appreciably diminishing the owner's ability to commercially develop his property.

PUBLIC INTEREST: The applicant states that he feels that the proposed construction resulting from the granting of this variance will result in some improvement in the convenience, prosperity, and harmonious development of the community.

SPIRIT AND INTENT: The applicant states he feels this variance would be in harmony with the purpose of the LC zoning district to accommodate retail and commercial land uses. It does not conflict with the intent of the setback requirements to facilitate the development of adjoining lots without conflict, and it promotes a street frontages of a pleasing character.

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 portion of the side-street setback along 511 W. 21st St. shall only be reduced to 1 foot to allow for the building expansion, and shall only apply to the east 40-feet of the property.
2. The street-side setback reduction along 2159 N. Jackson Ave shall only apply to the west 25 feet of the property.
3. A revised site and landscape plan shall be submitted to Planning to be reviewed and approved by the Planning Director.
4. All State, County, and any other applicable permits, inspections, and standards shall be met.
5. 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.

Attachments:

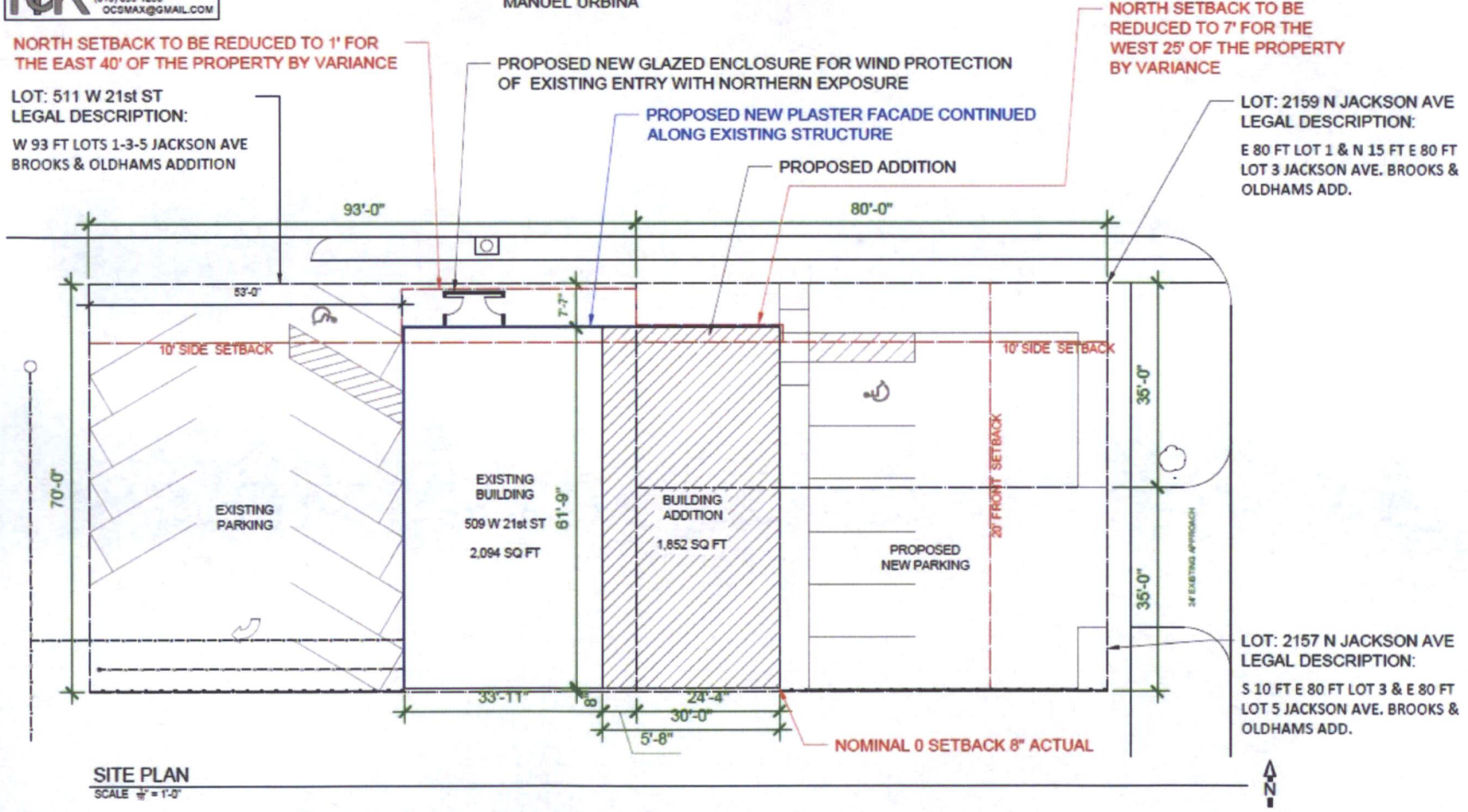
1. Areal Map
2. Zoning Map
3. Site Plan

Max Christensen Architect
6572 E. CENTRAL AVE. #204
WICHITA, KANSAS 67206
(316) 393-1256
OCSMAX@GMAIL.COM

CHANGE TO SETBACKS VARIANCE REQUEST

FOR

MANUEL URBINA



SITE PLAN

SCALE 1/8" = 1'-0"