Wichita-Sedgwick County Metropolitan Area Planning Department

Jose Huerta
212 North Elizabeth Street
Wichita, KS 67203

December 1, 2023

RE: BZA2023-00028 – Variance request in the City to reduce the side and the rear setback to bring carport into compliance and permit an addition on the rear, on property zoned SF-5 Single-Family; located within one-block north of West 1st Street North and one-quarter mile west of North Seneca (212 N Elizabeth).

Dear applicant;

At its regular meeting on **November 9, 2023**, the official action of the Board of Zoning Appeals was to **GRANT** the requested variance. The approval of the request is subject to the following conditions:

1. The building addition shall be in substantial conformance with the approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the rear addition.

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

Sincerely,

Christina Rieth

Christina Rieth
Current Plans
Associate Planner

CC: MABCD

BZA RESOLUTION NO. BZA2023-00028

WHEREAS, Jose and Angela Huerta (owners); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the side setback to 3.4 feet and reduce the rear setback to 0.3 feet to bring a carport and rear addition into compliance, generally located on the east side of North Elizabeth Street, within 150 feet north of West 1st Street North (212 North Elizabeth Street); legally described as follows:

Lots 40 and 42, on Elizabeth Avenue, Farmer & Thomas' 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 November 9, 2023, 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; and

WHEREAS, waiving the requirements will not adversely affect the rights of adjacent property owners; and

WHEREAS, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner; and

WHEREAS, it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare; and

WHEREAS, it is the opinion of Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case; and

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 setback to 3.4 feet and reduce the rear setback to 0.3 feet to bring a carport and rear addition into compliance, generally located on the east side of North Elizabeth Street, within 150 feet north of West 1st Street North (212 North Elizabeth Street), legally described as follows:

Lots 40 and 42, on Elizabeth Avenue, Farmer & Thomas' Addition to Wichita, Sedgwick County, Kansas.

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

1. The building addition shall be in substantial conformance with the approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the rear addition and carport.

ADOPTED AT WICHITA, KANSAS, this 23rd day of FEBRUARY, 2024.

Robert Dool, BZA Board Chair

ATTEST:

Scott Wadle,
BZA Secretary

McClatchy

Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee
The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald
el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi
Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	479165	Print Legal Ad-IPL01439210 - IPL0143921	OCA 150004-MAPC/BZA	$154.35	2	92 L

Attention: MANDY HEBERT

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

LEGAL PUBLICATION

OCA 150004
Published in The Wichita Eagle on October 19, 2023
(One Time Only)
MAPC/BZA November 9, 2023
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, November 9, 2023, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.

BZA2023-00028: Reconsideration of Variance request in the City to reduce the side and the rear setback to bring carport into compliance and permit an addition on the rear, on property zoned SF-5 Single-Family; located within one-block north of West 1st Street North and one-quarter mile west of North Seneca (212 N. Elizabeth).

BZA2023-00058: Variance request in the City to allow a sign to extend over the sidewalk and be less than 10 feet above the sidewalk; located on the southwest corner of South Broadway at East English Street (303 South Broadway).

CUP2023-00033: CUP minor amendment in the City to amend the proposed uses of subject parcel to include "Vehicle and Equipment Sales" to allow the rental of moving trucks from self-storage facility; located approximately 875 feet west of North Maize Road, on West 21st Street North (10625 West 21st Street North).

VAC2023-00042: Vacation request in the City to vacate a drainage easement to allow for proposed site and building improvements on property zoned LC Limited Commercial, generally located on the northeast corner of East Harry Street and South Oliver Avenue.

ZON2023-00058: Zone change request in the City from SF-5 Single Family Residential to GC General Commercial for a restaurant located on the east side of South Ridge Road and within one block south of West Taft (526 South Ridge Road).

ZON2023-00059: Zone change request in the City from TF-3 to MF-29 to allow for multiple duplexes; generally located two blocks west of South Meridian and one-quarter mile south of West Kellogg (1021 South Edwards).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate (see below):
1) Attend in-person at the Ronald Reagan Building
2) Submit comments ahead of time

Attend In-Person
You may also participate in the hearing in-person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202.The in-person option is primarily intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5pm, 3 days prior to the meeting.

Submit Comments Ahead of Time
You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) – using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting. Planning Departments staff make efforts to share all comments, but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery.

Written Comments
Written comments should be submitted by 5 pm the day before the meeting.

Video and Audio Comments
Comments in video or audio message (mp3, etc.) formats should be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

Email
Planning@wichita.gov

Mailing Address
Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: Scott Wadle
271 W. 3rd Street – Suite 201
Wichita, KS 67202

Phone
316.268.4421

Fax
316.858.7764

Option to View Remotely (Not Participate)
The meeting will be streamed live and recorded. Virtual comment is not available. To view the live stream or recording, follow the link: https://www.wichita.gov/Planning.

WITNESS MY HAND on October 19, 2023
Scott Wadle, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
IPL0143921
Oct 19 2023

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:
10/19/23

STATE OF KANSAS)
SS
County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 10/19/2023 to 10/19/2023.

Stefani Beard

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 10/19/2023

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County

STEPHANIE HATCHER
My Notary ID # 133534406
Expires January 14, 2026

Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

McClatchy

Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee
The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald
el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi
Sun News - Myrtle Beach
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The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	462011	Print Legal Ad-IPL01378290 - IPL0137829		$239.08	3	95 L

Attention: MANDY HEBERT

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

LEGAL PUBLICATION

OCA 150004
Published in The Wichita Eagle on September 7, 2023
(One Time Only)
MAPC/BZA September 28, 2023
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, September 28, 2023, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation may also occur through virtual methods (specified at the end of this notice). If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.
BZA2023-00028: Variance request in the City to reduce the side and the rear setback to bring carport into compliance and permit an addition on the rear, on property zoned SF-5 Single-Family; located within one-block north of West 1st Street North and one-quarter mile west of North Seneca (212 N Elizabeth).
BZA2023-00048: Variance request in the City to allow side setback reduction to 7.5 feet to allow carport; generally located on the southeast corner of North Volutsia Avenue and East Mossman Avenue (2803 East Mossman Avenue).
CON2023-00042: Conditional Use request in the City to allow for Vehicle Sales on the front one-third of the lot fronting West 21st Street; located approximately 450 feet east of the intersection of North Tyler Road and West 29th Street North (8620 West 21st Street North).
CON2023-00043: Conditional Use request in the City for Vehicle and Equipment Sales, Outdoor on property zoned LC Limited Commercial District; generally located on the west side of North Hillside Avenue, within 500 feet south of East 13th Street North (1305 North Hillside Avenue).
CON2023-00044: Amendment to existing Conditional Use permitted through BZA 12-93 in the City, to increase number of cars that can be displayed at the site, in a property zoned LC Limited Commercial; generally located on the southwest corner of the East 13th Street North and North Dellrose Avenue (4615 East 13th Street North).
CON2023-00045: Conditional Use request in the City to permit an Accessory Dwelling Unit, zoned TF-3 Two Family Residential; generally located to the east of South Belmont Avenue and 125 feet south of East Lewis Street (408 South Belmont Avenue).
CON2023-00047: Conditional Use request in the City for a Mobile Food Unit in the City (with ZON2023-00050 to LC); generally located on the west side of North Hillside Avenue, within 275 feet south of East 2nd Street North (233 North Hillside Avenue).
CUP2023-00029: CUP Minor Amendment in the City to CUP DP-164 to allow Vehicle and Equipment Sales on Parcels 5A and 5B; generally located on the south side of West 21st Street North, within one-quarter mile east of North Tyler Road (8515 & 8535 West 21st Street North).
VAC2023-00033: Request in the City to vacate the East Boston Avenue right-of-way between Market and Broadway; generally located 360 feet north of East Harry Street.
VAC2023-00034: Request in the City to vacate a portion of a floodway easement and a platted 10-foot utility easement for expansion of the existing warehouse, on a LI Limited Industrial zoned parcel; generally located Northeast of South Hoover Road and K-42 (2820 S Hoover Road).
VAC2023-00035: Request in the City to vacate a portion of complete access control on property zoned GI General Industrial, generally located on the southeast corner of East 29th Street North and North Mead Street.
VAC2023-00036: Request in the City to vacate a Drainage and Utility Easement, Utility Easement, and Building Setback at Harbor Isle Commercial 2nd Addition on property zoned GC General Commercial District; generally located north of West 40th Street North and east of North Seneca Street.
ZON2023-00050: Zone change in the City from GO General Office District to LC Limited Commercial District for a Mobile Food Unit in the City; generally located on the west side of North Hillside Avenue, within 275 feet south of East 2nd Street North (233 North Hillside Avenue).
Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.
Options to participate (see below):
1) Participate virtually
2) Attend in-person at the Ronald Reagan Building
3) Submit comments ahead of time
Participate Virtually
Join Zoom Meeting
https://us06web.zoom.us/j/4089866967?pwd=a0k3bW0ySlBNbFJQTDFyV0xPVDBXUT09
Meeting ID: 408 986 6967
Passcode: 094136
One tap mobile
+16699006833,,4089866967#,,,,*094136# US (San Jose)
+17193594580,,4089866967#,,,,*094136# US
Meeting ID: 408 986 6967
Passcode: 094136
Find your local number: https://us06web.zoom.us/u/kc65codfb1
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Email: Planning@wichita.gov
Mailing Address:
Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: Scott Wadle
271 W. 3rd Street – Suite 201
Wichita, KS 67202
Phone: 316.268.4421
Fax: 316.858.7764
WITNESS MY HAND on September 7, 2023
Scott Wadle, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
IPL0137829
Sep 7 2023

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:
09/07/23

STATE OF KANSAS)
SS
County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 09/07/2023 to 09/07/2023.

Stefani Beard

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 09/07/2023

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County

STEPHANIE HATCHER
My Notary ID # 133534406
Expires January 14, 2026

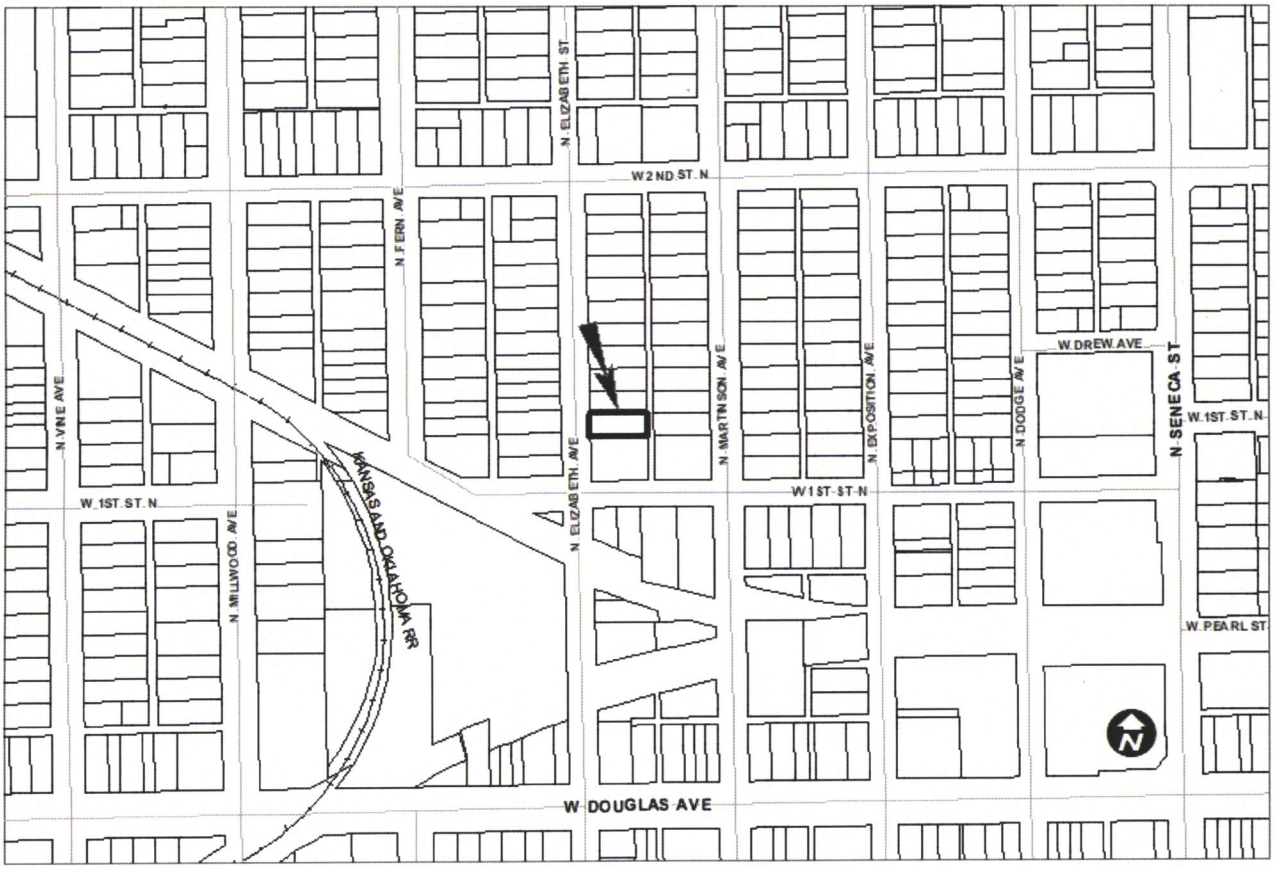
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Wichita-Sedgwick County Zoning Board of Appeals
September 28, 2023

AGENDA ITEM NO:

SECRETARY'S REPORT

CASE NUMBER:	BZA2023-00028 (City)
OWNER/APPLICANT:	Jose Huerta (Applicant)/Bradley Ozbun (Agent)
REQUEST:	Variance to reduce rear setback to 0.3 feet for shed addition to garage on the rear; Variance to reduce side setback to three feet to bring an existing carport into compliance
CURRENT ZONING:	SF-5 Single-Family Residential District
SITE SIZE:	0.14 acres
LOCATION:	Located within one-block north of West 1st Street North and one-quarter mile west of North Seneca Street (212 North Elizabeth Avenue)



JURISDICTION: The Board has jurisdiction to consider the Variance request under the provisions of the Unified Zoning Code (UZC) for the City of Wichita, and as outlined in Kansas Statutes Annotated 12-759 *et. seq.* 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 Variance to the Unified Zoning Code for two things:

- to reduce the rear setback from five feet to 16 inches for a rear addition on a detached garage for a property in the SF-5 Single-Family Residential District; and
- to reduce the side setback from six feet to three feet to bring an existing carport and rear addition into compliance for a property in the SF-5 Single-Family Residential District.

Article III, Section 5.d(6) of the Unified Zoning Code states that the interior side setback in SF-5 zoning is six feet, and the rear setback is 20 feet.

The applicant first requested a Variance on June 8, 2023. The Board of Zoning Appeals (BZA) voted to defer the case to July 27, 2023 (10-0). However, the applicant submitted the survey after July 27, and the meeting was deferred to September 28, 2023. Minutes to the June 8 meeting are attached to the end of this report.

The property is developed with a single-family dwelling, a carport, a formerly detached garage now connected to the principal structure via breezeway, and a rear addition off the garage. The site plan shows that the rear addition is 3.4 feet from the south property line at its closest point and 0.3 feet from the eastern property line at its closest point. The survey indicates that the south building line of the garage and new addition is at an angle. The nearest point of the new addition to the property line is 3.4 feet, but the survey does not indicate the nearest point of the existing detached garage from the property line. It is unknown if the existing garage is three feet from the property line or less.

Historic aerial maps show the carport has been on the property since at least 2003, and the rear addition was recently constructed. No building permits were obtained for the rear addition. The Unified Zoning Code requires a minimum of a twenty-foot rear setback and a six-foot side setback in SF-5 Single-Family Residential District zoning.

Purpose

The applicant states that the purpose of the Variance request for reducing the rear and side setbacks is to bring a rear addition and carport into compliance.

Surrounding Context

The character of the neighborhood is mostly residential. Properties to the north, south, and east are zoned SF-5 Single-Family Residential District and are developed with single-family dwellings. Property to the west is zoned GC General Commercial District and is developed with an auto repair shop.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residence
SOUTH:	SF-5	Single-family residence
EAST:	SF-5	Single-family residence
WEST:	GC	Auto repair shop

CASE HISTORY: On February 4, 1909, the Farmer and Thomas Addition subdivision was created. There are no zoning cases associated with this property.

THE FIVE CRITERIA FOR GRANTING A VARIANCE: CARPORT

1. Criteria: The request is unique to this property and was not created by the applicant. The applicant did not specify how the request is unique to this property nor created by the applicant. However, historic aerials show that the carport has been on the property since 2003.

   Staff analysis:
   Staff is in agreement with the applicant's statement. Historic aerials show that the carport has been on site since 2003, and therefore the request was not created by the applicant.

2. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents. The applicant states that the reduction in setbacks for the carport will have no adverse effect on the rights of the adjacent property owners because they are built within the property lines.

   Staff analysis:
   Staff is in agreement with the applicant's statement. Historic aerials show that the carport has been on site since 2003 without detrimental impacts to the surrounding properties.

3. Criteria: The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant. The applicant states that the strict application of the code will result in an unnecessary hardship because it would not allow the opportunity for the applicant to enlarge his home to make it more accommodating.

   Staff analysis:
   Staff is in agreement with the above statement. Because of the small size of the lot, the applicant has limited options for expanding upon the property.

4. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. The applicant states that there is no adverse effect to the items listed in this criterion. The addition was built with utmost craftsmanship to match the existing property to continue harmonious development within the community.

   Staff analysis:
   Staff is in agreement with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The carport is architecturally compatible with the principal structure and continues the harmonious development of the community.

5. Criteria: The granting of the Variance will not be opposed to the general spirit and intent of the code. The applicant states that the addition to the property will be done in a manner that does not interfere with the applicable code.

   Staff analysis:
   Staff is in agreement with the applicant's statement. The Variance request is being considered because the existing carport, which has been on the property since 2003, is out of compliance with the code. Approval of the Variance would reduce the side setback from six feet to three feet on the south side to accommodate the existing carport. Building setbacks can be reduced by 50 percent by Administrative Adjustment if the area of reduction is less than 300 square feet.

THE FIVE CRITERIA FOR GRANTING A VARIANCE: GARAGE ADDITION

1. Criteria: The request is unique to this property and was not created by the applicant. The applicant states that a unique condition exists due to the sewer line on the north side that would have to be replaced before any addition to the north could be constructed.

   Staff analysis:
   Staff is not in agreement with the applicant's statement. The applicant has not illustrated in the site plan where the sewer line runs on the property. Therefore, staff cannot conclude that this request was not created by the applicant.

2. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents. The applicant states that the reduction in setbacks for the rear addition will have no adverse effect on the rights of the adjacent property owners because they are built within the property lines.

   Staff analysis:
   Staff agrees with the applicant's statement. The alley serves as a buffer between the subject site and the property to the east.

3. Criteria: The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant. The applicant states that the strict application of the code will result in an unnecessary hardship because it would not allow the opportunity for the applicant to enlarge his home.

   Staff analysis:
   Staff is not in agreement with the above statement. The applicant did not construct the addition within the setbacks and did not demonstrate why the rear addition was the only option. Staff does not know where the sewer service line to the house is located and cannot conclude the strict application of the code would constitute an unnecessary hardship on the applicant.

4. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. The applicant states that there is no adverse effect to the items listed in this criterion. The rear addition was built with utmost craftsmanship to match the existing property to continue harmonious development within the community.

   Staff analysis:
   Staff agrees with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The addition is architecturally compatible with the principal structure and continues the harmonious development of the community.

5. Criteria: The granting of the Variance will not be opposed to the general spirit and intent of the code. The applicant states that the addition to the property will be done in a manner that does not interfere with the applicable code.

   Staff analysis:
   Staff is not in agreement with the applicant's statement. The Variance request is being considered because the addition has already been built without building permits and is out of compliance with the Unified Zoning Code. Had the addition been a detached accessory structure, being built on the back one-half of the property, the standard setback is three feet from the side property line. Because this is an addition to an existing garage that is attached to the house by a breezeway, the principal setback of six-feet is required.

RECOMMENDATIONS: The recommendation of Staff is that the Variance to reduce the side setback from six feet to three feet to bring a carport into compliance **meets** the five criteria required to grant a Variance.

The recommendation of Staff is that the Variance to reduce the rear setback from 20 feet to 16 inches **does not meet** the five criteria required to grant a Variance.

Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the following Variance for the reduction in the rear setback is granted with the following conditions:

1. The building additions and carport shall be in substantial conformance with the approved site plan.

2. Building permits shall be obtained from MABCD for the construction of the rear addition and carport.

Report Attachments:

- June 8, 2023 MAPC Minutes
- Applicant's letter requesting Variance
- Site Plan
- Aerial Map
- Zoning Map
- 2035 Future Growth Concept Map
- Site Photos

WICHITA-SEDGWICK COUNTY
BOARD OF ZONING APPEALS
MINUTES

June 8, 2023

The virtual meeting of the Metropolitan Area Planning Commission was held on April 7, 2022 starting at 1:30 PM in the City Hall Building, 1st floor - City Council Chambers, 455 N. Main, Wichita, Kansas. The public was allowed to participate in person in the City Council Chambers. The following members were present **in-person**: Ann Fox, Chair; John McKay, Mike Greene; Bill Johnson; Joshua Blick; Debra Foster; Chuck Warren; Cindy Miles; and John Williams-Bey. The following members were present **online:** Joe Johnson. The following members were **absent:** Bob Dool, Vice Chair; Hugh Nicks; Rob Hartman; and Bob Aldrich. Staff members present were: Scott Wadle, Planning Director; JR Cox, Zoning Administrator; Philip Zevenbergen, Current Plans Division Manager; Neil Strahl, Senior Planner; Christina Rieth, Associate Planner; Eryn Ebach-Freund, Associate Planner; Erik Houghton, Deputy City Attorney; and Justin Waggoner, Deputy County Counselor.

1. Approval of the May 25, 2023 BZA minutes.

   MOTION: Approve the May 25, 2023 minutes.

   MILES moved, **WILLIAMS-BEY** seconded the motion and it carried (7-0-3), **FOX, BLICK and FOSTER abstained.**

2. **BZA2023-00028:** Variance request in the City to reduce the side and the rear setback to bring carport into compliance and permit an addition on the rear, on property zoned SF-5 Single-Family; located within one-block north of West 1st Street North and one-quarter mile west of North Seneca (212 N Elizabeth).

JURISDICTION: The Board has jurisdiction to consider the Variance request under the provisions of the Unified Zoning Code (UZC) for the City of Wichita, and as outlined in Kansas Statutes Annotated 12-759 *et. seq.* 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 Variance to the Unified Zoning Code for two things:

- to reduce the rear setback from five feet to 16 inches for a rear addition on a detached garage for a property in the SF-5 Single-Family Residential District; and
- to reduce the side setback from six feet to three feet to bring an existing carport and rear addition into compliance for a property in the SF-5 Single-Family Residential District.

The property is developed with a single-family dwelling, a carport, a formerly detached garage now connected to the principal structure via breezeway, and a rear addition off the garage.

Historic aerial maps show the carport has been on the property since at least 2003, and the rear addition was recently constructed. No building permits were obtained for the rear addition. The carport is situated 3'-4" from the south property line, and the rear addition is situated 3'-7" from the south property line. The Unified Zoning Code requires a minimum of a twenty-foot rear setback and a six-foot side setback in SF-5 Single-Family Residential District zoning.

Purpose

The applicant states that the purpose of the Variance request for reducing the rear and side setbacks is to bring a rear addition and carport into compliance.

Surrounding Context
The character of the neighborhood is mostly residential. Properties to the north, south, and east are zoned SF-5 Single-Family Residential District and are developed with single-family dwellings. Property to the west is zoned GC General Commercial District and is developed with an auto repair shop.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residence
SOUTH:	SF-5	Single-family residence
EAST:	SF-5	Single-family residence
WEST:	GC	Auto repair shop

CASE HISTORY: On February 4, 1909, the Farmer and Thomas Addition subdivision was created. There are no zoning cases associated with this property.

THE FIVE CRITERIA FOR GRANTING A VARIANCE: CARPORT

6. Criteria: The request is unique to this property and was not created by the applicant. The applicant did not specify how the request is unique to this property nor created by the applicant. However, historic aerials show that the carport has been on the property since 2003.

   Staff analysis:
   Staff is in agreement with the applicant's statement. Historic aerials show that the request was not created by the applicant.

7. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents. The applicant states that the reduction in setbacks for the carport will have no adverse effect on the rights of the adjacent property owners because they are built within the property lines.

   Staff analysis:
   Staff is in agreement with the applicant's statement. Historic aerials show that the carport has been on site since 2003 without detrimental impacts to the surrounding properties.

8. Criteria: The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant. The applicant states that the strict application of the code will result in an unnecessary hardship because it would not allow the opportunity for the applicant to enlarge his home to make it more accommodating.

   Staff analysis:
   Staff is in agreement with the above statement. Because of the small size of the lot, the applicant has limited options for expanding upon the property.

9. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. The applicant states that there is no adverse effect to the items listed in this criterion. The addition was built with utmost craftsmanship to match the existing property to continue harmonious development within the community.

   Staff analysis:
   Staff is in agreement with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The carport is architecturally compatible with the principal structure and continues the harmonious development of the community.

10. Criteria: The granting of the Variance will not be opposed to the general spirit and intent of the code. The applicant states that the addition to the property will be done in a manner that does not interfere with the applicable code.

    Staff analysis:
    Staff is in agreement with the applicant's statement. The Variance request is being considered because the existing carport, which has been on the property since 2003, is out of compliance with the code. Approval of the Variance would reduce the side setback from six feet to three feet on the south side to accommodate the existing carport. Building setbacks can be reduced by 50 percent by Administrative Adjustment if the area of reduction is less than 300 square feet.

THE FIVE CRITERIA FOR GRANTING A VARIANCE: GARAGE ADDITION

6. Criteria: The request is unique to this property and was not created by the applicant. The applicant states that a unique condition exists due to the sewer line on the north side that would have to be replaced before any addition to the north could be constructed.

    Staff analysis:
    Staff is not in agreement with the applicant's statement. The applicant has not illustrated in the site plan where the sewer line runs on the property. Therefore, staff cannot conclude that this request was not created by the applicant.

7. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents. The applicant states that the reduction in setbacks for the rear addition will have no adverse effect on the rights of the adjacent property owners because they are built within the property lines.

    Staff analysis:
    Staff agrees with the applicant's statement. The alley serves as a buffer between the subject site and the property to the east.

8. Criteria: The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant. The applicant states that the strict application of the code will result in an unnecessary hardship because it would not allow the opportunity for the applicant to enlarge his home.

    Staff analysis:
    Staff is not in agreement with the above statement. The applicant did not construct the addition within the setbacks and did not demonstrate why the rear addition was the only option. Staff does not know where the sewer line is located and cannot conclude the strict application of the code would constitute an unnecessary hardship on the applicant.

9. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. The applicant states that there is no adverse effect to the items listed in this criterion. The rear addition was built with utmost craftsmanship to match the existing property to continue harmonious development within the community.

    Staff analysis:
    Staff agrees with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community. The addition is architecturally compatible with the principal structure and continues the harmonious development of the community.

10. Criteria: <u>The granting of the Variance will not be opposed to the general spirit and intent of the code.</u> The applicant states that the addition to the property will be done in a manner that does not interfere with the applicable code.

    Staff analysis:
    Staff is not in agreement with the applicant's statement. The Variance request is being considered because the addition has already been built without building permits and is out of compliance with the Unified Zoning Code.

<u>RECOMMENDATIONS</u>: The recommendation of Staff is that the Variance to reduce the side setback from six feet to three feet **<u>meets</u>** the five criteria required to grant a Variance.

The recommendation of Staff is that the Variance to reduce the rear setback from 20 feet to 16 inches **<u>does not meet</u>** the five criteria required to grant a Variance.

Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the following Variance for the reduction in the rear setback is granted with the following conditions:

3. The building additions and carport shall be in substantial conformance with the approved site plan.
4. Building permits shall be obtained from MABCD for the construction of the rear addition and carport.

CHRISTINA RIETH, PLANNING STAFF: Presented the staff report.

FOSTER: What is the adjacent building along the alley directly to the south of the garage?

RIETH: Directly south of the garage, I'm not sure.

FOSTER: But that long building along the alley there, is it effectively at a zero setback on the alley right-of-way, did you notice?

RIETH: It appears that way.

GREENE: The drawing that we have that was in our agenda packet – I'm not in favor of granting or denying either one of these requests without having a more accurate detailed survey of the property. The drawing is not to scale – you don't really know where any of the buildings are related to the property line. Also, if you look at the aerial – and I realize it's GIS, the mobile land records – it appears as though there is a lot of overlapping of structures both to the north of this property and to the south of this property. We don't know where the sewer line is. I think it would be beneficial we grant either one of these or deny either one of these – we need to have a licensed land survey done on this property. Sometimes, it's safe to assume that fences are where the right-of-way line is and other times fences are not, and I don't know that any of this drawing was done with relations to the fence or if they actually pulled the property iron, so I don't know if this is the time to make a motion to defer until we get that survey done. In fact, I would make a motion to defer until we get a survey.

FOX: I have a motion to defer for a complete land survey.

WILLIAMS-BEY seconded the motion.

FOX: I guess I would have a clarification from legal, do we want to call for public comment for anyone who may have come on this case and for the agent, or can we just proceed with the deferral?

ERIK HOUGHTON, DEPUTY CITY ATTORNEY: Probably recommend public comment then make the motion after that.

FOX: Then we'd vote after the public comment. At this point, we will give the agent or applicant the opportunity to give their testimony.

ANGEL HUERTA, 212 NORTH ELIZABETH, WICHITA, APPLICANT: This addition is being added to accommodate my mom and dad as they are getting a little elder. Every measurement that we had as far as that site plan that was put in was measured with our own measuring tape. And as far as the sewer line, I could point that out for you and show you exactly where that's at if need be to kind of speedy this up a little bit. I'm totally with getting a survey done if that's what you really need, but those things I did not know were needed, so I apologize for that. If we need to get a survey for you to determine that'd be great and we can get that done for you.

GREENE: I guess my biggest concern is that on one side (inaudible) 16 inches from the property line and we have no verification that it really is 16 inches, or if it may even be overlapping the property line, so that's why I'm kind of looking for a licensed land surveyor.

HUERTA: Gotcha, totally understandable. Like I said, those measurements were pulled off fence lines that we had already in place.

MILES: So, you said structure is going to be used for your parents – is it just a shed or is it a living quarters?

HUERTA: What we want to do is make it a living quarters. My mom currently, right now, is having knee issues and our steps at the front of the house are a little high for her to go up and down, so we're just trying to make it a little bit more convenient for her to be able to get around is what it is. I know it's noted in the paperwork as far as pulling permits, which we have no problem doing.

FOX: And you recognize that getting a building permit is a requirement for this project?

HUERTA: That is correct.

FOX: And you agree that you'll need to do that?

HUERTA: Yes.

MILES: Scott, if this is going to be living quarters, is it then need to be an accessory dwelling?

FOX: Conditional Use.

PHILIP ZEVENBERGEN, CURRENT PLANS DIVISION MANAGER: Yes, so there could be a two-part thing here if they get building permits and they plan to finish it out as living quarters then they would also need to follow up with a Conditional Use for an accessory apartment.

FOX: About how long do you think it would take you to get a survey so we could make a date certain for this to come back to the Commission?

HUERTA: As soon as I get back to the office after this, I can make phone calls to get that arranged.

FOX: So, can we defer this to the first meeting of July? Too quick? 30 days?

ZEVENBERGEN: We have the first meeting of July is July 13th, otherwise we have July 27th.

FOX: July 27th feels safer for surveying to get ordered and completed?

ZEVENBERGEN: Possibly.

FOX: We have a motion to defer this case for acquisition of a land survey and we have a second with a date of July 27th, tentative.

MCKAY: In the motion, you said just a survey, or do you want building locations on that survey because a survey is just property lines – we need identification where everything's at.

GREENE: Absolutely.

HOUGHTON: Mr. Greene, would you consider an amendment to your motion to make it clear?

GREENE: Sure, yeah, I'll amend it to include that all structures on the lot are included in and located in the survey that will be provided to us.

FOX: Thank you. Our second, are you agreeable to the amendment.

WILLIAMS-BEY: Yes.

WARREN: Do we need to put anything in about the accessory apartment regulations as a part of this or is that separate?

SCOTT WADLE, PLANNING DIRECTOR: We've got Christina working with him on this case. After this meeting, they'll have an opportunity to talk about maybe what the next steps might be in order to handle the zoning and having a second dwelling unit on the site.

> **MOTION:** To defer until a survey is completed, tentatively scheduled for July 27, 2023.
>
> **GREENE** moved, **WILLIAMS-BEY** seconded the motion and it carried (10-0).

3. Adjournment

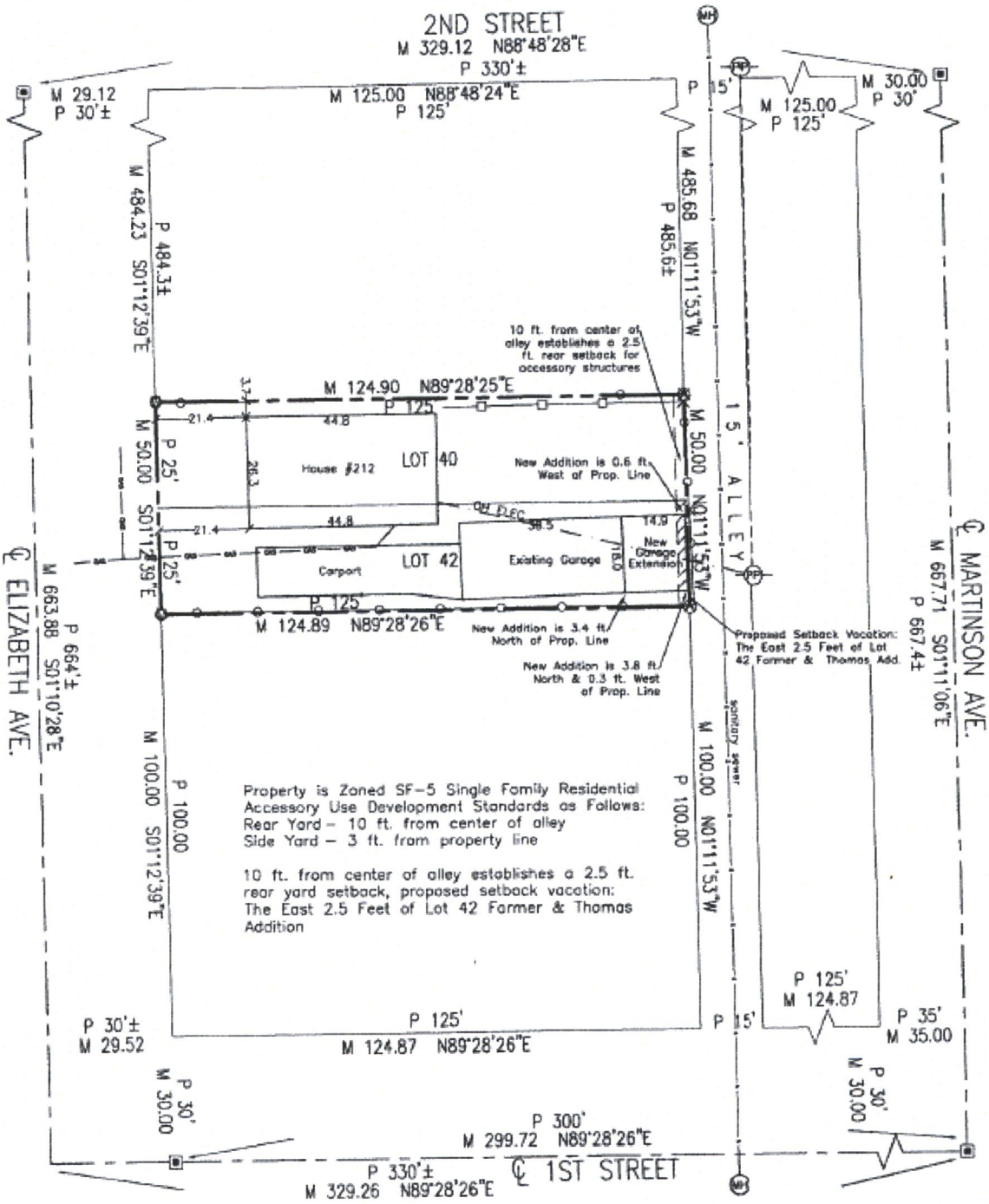
I was aplliying for a variance because of the addition to the property, would be to the East of the property, only because any addition to the North would need to have the whole sewer line replaced before anything else could be added to the property.

The granting of the variance would not affect any neighbors, as the addition would be done within the owners property lines.

An unnecessary hardship would be caused if a variance is not granted in a sense that it would not allow for the home owner(Jose Huerta) a chance to enlarge the home to make it more accommodating, as the home owners are getting older in age and would like to prepare for the future.

The addition will be crafted with the upmost craftsmanship as to match the existing property and to have a very eye pleasing look as to not be a sight for sore eyes.

The addition to the property will be done in a manner as to not interfere with the applicable code. The home owner simply seeks to have the addition to the property, the proper way.



– subject property line
– center line
– overhead electric line
– sanitary sewer line
– gas line
(NH) – manhole
(PP) – power pole
(A) – "ARMSTRONG" capped rebar set
(■) – iron pipe in thimble found
(●) – chiseled "V" in concrete set

NOTE From Quarter Section Resurvey:
FARMER AND THOMAS Addition platted distance E & W shortage is thrown into Elizabeth ave. Platted Distance N & S shortage goes in the north tier of lots

NOTE: Fences are measured at the center of fence posts.

N MARTINSON AVE
W 1ST ST N
N ELIZABETH AVE


ZONING
RR
SF-20
SF-10
SF-5
TF-3
MF-18
MF-29
B
MH
NO
GO
NR
LC
GC
CBD
OW
IP
LI
IP-A
GI
AFB
U
PUD
AIRPORT
OLD TOWN
HISTORICAL
DELANO
N
BZA9-85
H82-1
BZA2004-00091
N ELIZABETH ST
W 2ND ST N
N FERN AVE
N MARTINSON AVE
N EXPOSITION AVE
N ELIZABETH AVE
W 1ST ST N
N MILLWOOD AVE
W 1ST ST N
DR 03-09
DR 03-09
PUD-101
PUD-101
CON2019-00032
KANSAS AND OKLAHOMA RR

2035 Wichita Future Growth Concept Map

Legend

- Established Central Area
- Residential and Employment Mix
- New Employment
- New Residential
- Wichita City Limits
- Other Cities
- Northwest Bypass Right-of-Way

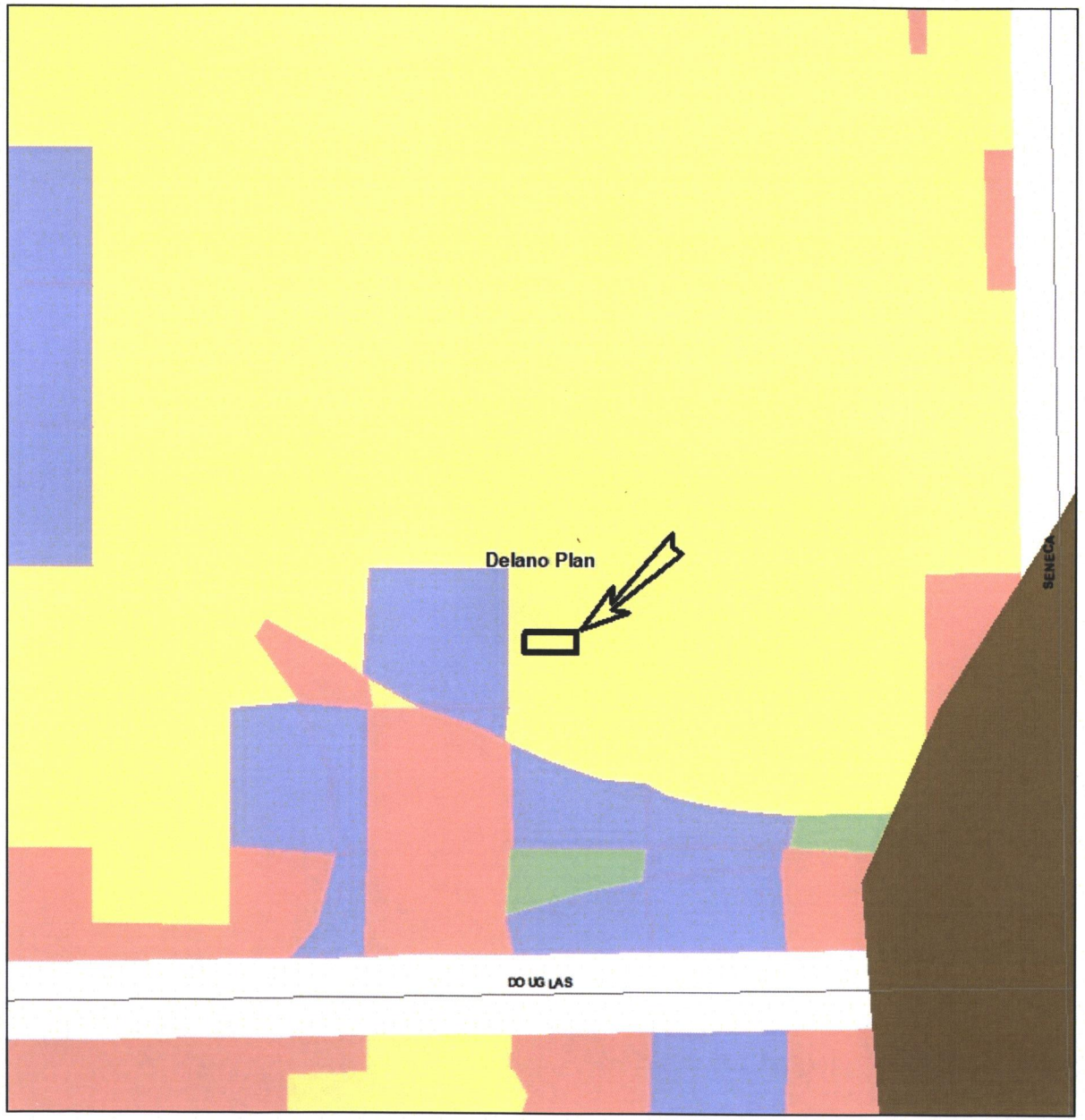
Statistical Development Areas

- Other Urban Growth Areas 2014
- Other Urban Growth Areas 2014
- Rural Growth Areas 2014

LAND USE

- Residential
- Commercial
- Industrial
- Major Air Transportation & Military
- Parks and Open Space
- Agricultural or Vacant
- Major Institutional
- Nghbd_Plan_Areas

N



Looking east towards site



Looking north towards site



Looking east away from site



Looking north away from site



Looking west towards site



Looking west away from site

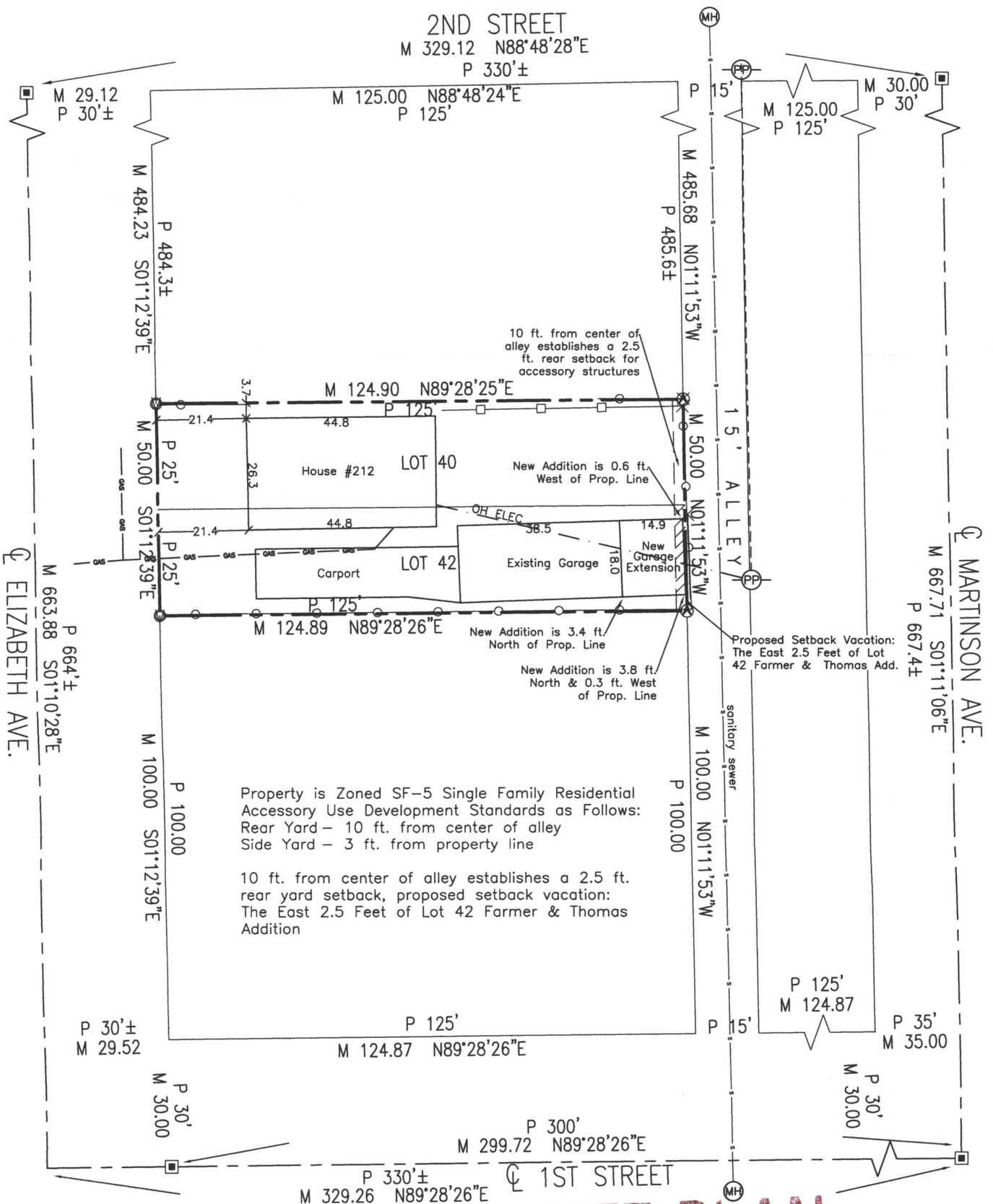


Looking south towards site



Looking south away from site





SITE PLAN

APPROVED 12/1 BZA CMR

B2A23-28

N

SCALE : 1" = 30'

0' 15' 30'

– subject property line
– center line
– overhead electric line
– sanitary sewer line
– gas line

(MH) – manhole
(PP) – power pole
(A) – "ARMSTRONG" capped rebar set
■ – iron pipe in thimble found
▼ – chiseled "V" in concrete set
M – measured distance
P – plat distance

NOTE From Quarter Section Resurvey:
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NOTE: Fences are measured at the center of fence posts.

W.O. #42448
Page 2 of 2

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