CITY OF WICHITA

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

February 28, 2011

Sedgwick County
Attn: Robert Lawrence
538 N. Main St.
Wichita, KS 67203

**RE: BZA2011-00001 – City variance request to reduce the side yard street setback from 10 feet to 5 feet on property zoned LC Limited Commercial; generally located on the northeast corner of Central and Chautauqua (3002 E. Central)**

Dear Ladies and Gentlemen:

At its regular meeting on **February 22, 2011**, the Wichita Board of Zoning Appeals considered the above captioned request. The action of the Board was to **APPROVE** the request, subject to the following conditions:

1. Development of the subject property shall comply with all building, zoning, and landscape code requirements; except that the street side setback along Chautauqua Avenue shall be reduced from 10 feet to five feet.

2. The applicant shall obtain all permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.

3. 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.

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

Sincerely,

Derrick Slocum
Assistant Secretary to the Board of Zoning Appeals
Current Plans Division

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
February 22, 2011

**SECRETARY'S REPORT**

CASE NUMBER: BZA2011-00001

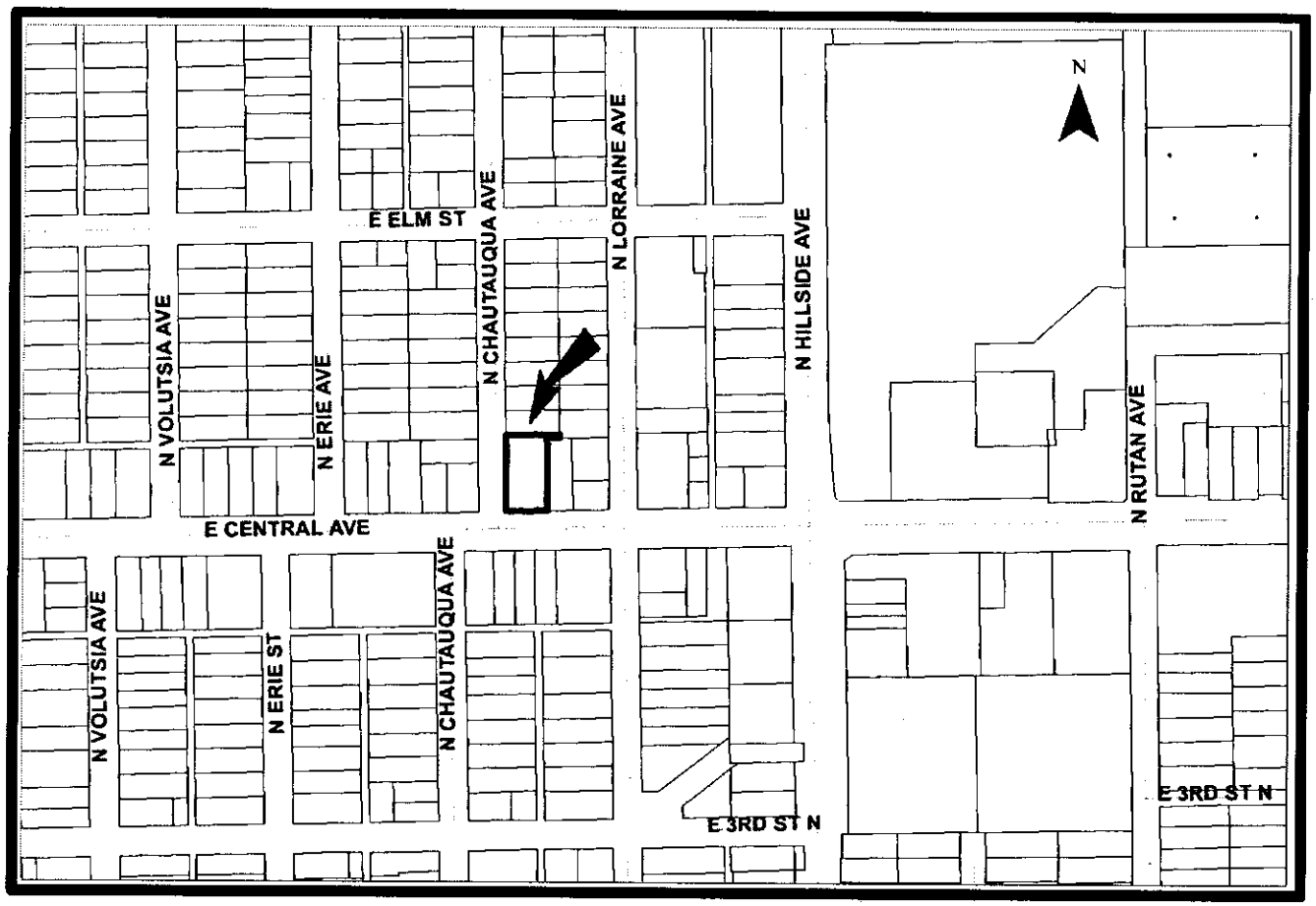
APPLICANT/AGENT: Sedgwick County, c/o: Robert Lawrence (owner/applicant)

REQUEST: City variance request to reduce the side yard street setback from 10 feet to 5 feet on property zoned LC Limited Commercial ("LC").

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 0.30 acres

LOCATION: Generally located on the northeast corner of Central and Chautauqua (3002 E. Central)




**JURISDICTION:** The Board has jurisdiction to consider the Variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

**BACKGROUND:** The applicant requests a Variance to the Unified Zoning Code ("UZC") to reduce the LC Limited Commercial ("LC") street side setback from 10 feet to five feet. The applicant is proposing to construct a new EMS facility on the subject property, located at the northeast corner of East Central Avenue and North Chautauqua Avenue. The EMS building is proposed to be set back five feet from Chautauqua Avenue. The zoning regulations for the LC zoning district require a 10-foot street side building setback along Chautauqua Avenue. Therefore, the applicant is requesting a variance to reduce the street side building setback along Chautauqua Avenue from 10 feet to five feet.

The applicant originally planned to construct the EMS facility so that the east side of the building was to sit along the east property line, which is permitted by the Unified Zoning Code ("UZC") (Article III, Section B.14(d.5)) and thus conforming to the street side setback of 10-feet along Chautauqua. The applicant then tried to negotiate with the adjacent property owner to the east for a five-foot temporary construction easement. Unfortunately, this temporary easement would impact the parking capacity for the property owner's business, thus denying the request for the easement. In order to satisfy the five-feet needed for construction, the site plan was adjusted to shift the building to the west five feet, which would then satisfy the five-foot side yard setback requirement for the LC zoning district. However, shifting the structure to the west five-feet then reduces the street side setback from the required 10-feet to five-feet. The applicant is applying for a variance to permit this setback reduction since such a reduction is not allowed by an administrative adjustment, which only allows for a 20% reduction in the street side setback, or two-feet (Article V, Section I.2(a)).

The majority of the surrounding properties are zoned LC; however, there is some property near the site zoned NR Neighborhood Retail ("NR") and TF-3 Two-family Residential ("TF-3"). Property north of the subject site is zoned LC and TF-3 and is developed, or will be developed, with accessory uses to the proposed EMS facility in the LC zoning and residences in the TF-3 zoning. Property south of the subject site, across Central Avenue, is zoned LC and is developed with a medical office, general office and strip retail stores. Property east of the subject site is zoned LC and NR and is developed with a retail store in the LC zoning and strip retail stores in the NR zoning. Property to the west of the subject site, across Chautauqua Avenue, is zoned LC and is developed with medical offices.

**ADJACENT ZONING AND LAND USE:**

| | | |
|---|---|---|
| NORTH | TF-3 | Single-family Residences |
| SOUTH | LC | Strip Store, Office, Medical Office |
| EAST | LC | Strip Store, Retail Store |
| WEST | LC | Medical Office |

The five criteria necessary for approval as they apply to Variances requested.

**UNIQUENESS**: It is the opinion of staff that this property is unique inasmuch as the building design meets the minimum requirements for a Sedgwick County EMS facility. The building may be constructed on the east property line in the LC zone district; however, due to the inability to obtain a five foot temporary construction easement with the adjacent property owner, the building has been moved five feet to the west to obtain the five foot need for construction. This five foot shift to the west reduces the street side yard setback from ten feet to five feet along Chautauqua Avenue.

**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 only the street side setback along Chautauqua would be affected. No additional encroachment would occur along the north, south and east boundaries of the subject property. Property along the west side of Chautauqua Avenue should

not be affected negatively due to the five foot reduction, since there is no access point at that location and no pedestrian or traffic circulations that would be affected. The property to the east will actually get an additional five feet of setback from the subject site that was not originally proposed.

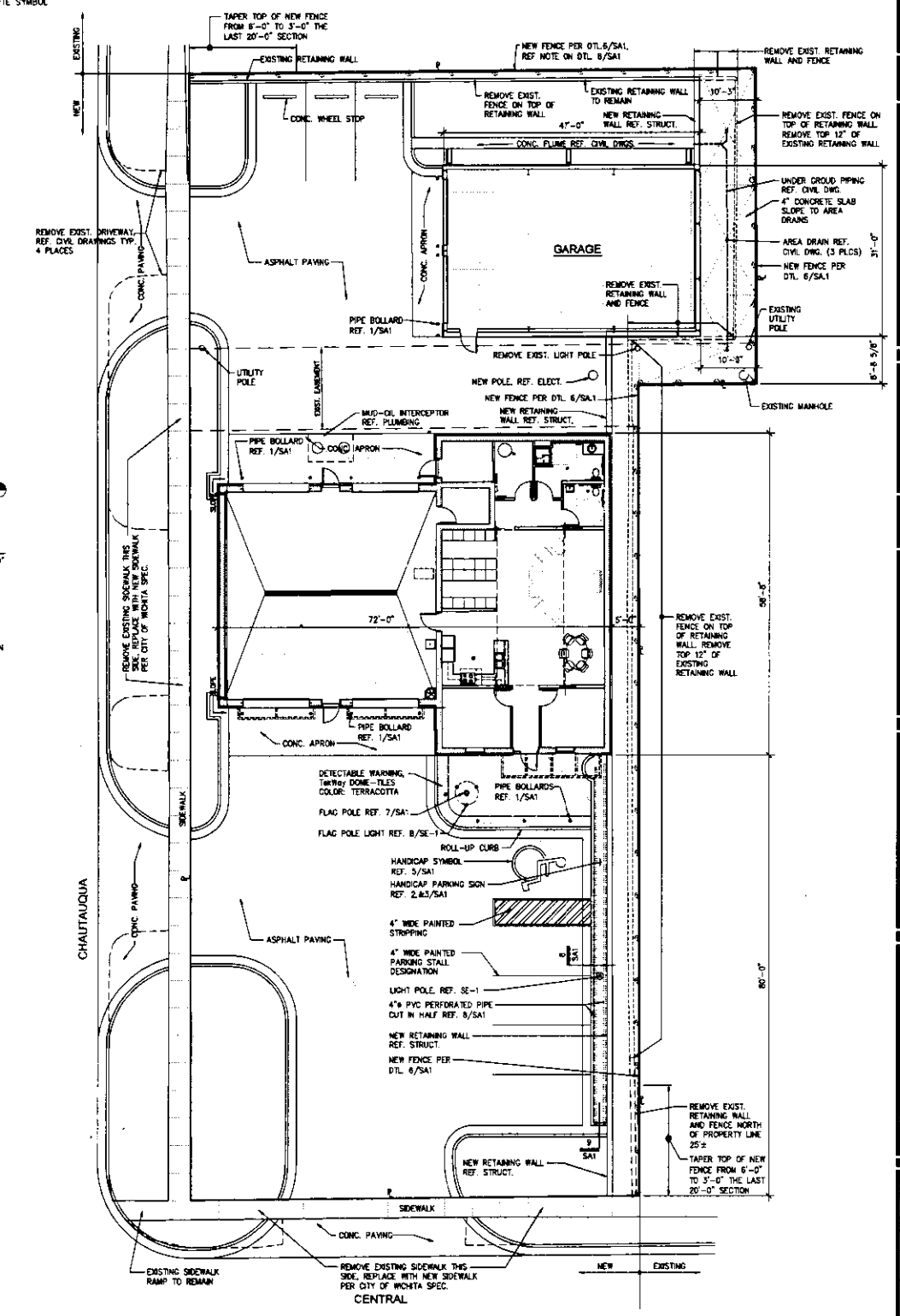
**HARDSHIP**: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the applicant to comply with the setback would cause the property owner to continue to pursue the temporary construction easement on the adjacent property. Pursuing the temporary construction easement would add substantial cost to the project, and would negatively impact the neighbor by reducing their available parking for a period of time.

**PUBLIC INTEREST**: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the building setback and therefore there will be no adverse 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 setback will continue to provide for fire protection, separation, light and air circulation, and pedestrian access.

**RECOMMENDATION**: 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 Variance to reduce the street side setback from 10 feet to five feet be GRANTED, subject to the following conditions:

1. Development of the subject property shall comply with all building, zoning, and landscape code requirements; except that the street side setback along Chautauqua Avenue shall be reduced from 10 feet to five feet.
2. The applicant shall obtain all permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
3. 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.




# A SITE ARCHITECTURAL PLAN

3/32" = 1'-0"

FOR CONSTRUCTION:

REVISIONS

| DATE | ITEM |
|---|---|

LAW/KINGDON, INC.
ARCHITECTS & ENGINEERS
345 RIVERVIEW, WICHITA, KS 67
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| DRAWN | CHECKED |
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RELATED DRAWINGS

| | |
|---|---|
| SHELL | |
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| STRUCTURE | |
| MECHANICAL | |
| ELECTRICAL | |
| OTHER | |

SEQUENCE NUMBER

OF ____ SHEE

**SEDGWICK COUNTY EMS POST #3**
**CENTRAL and CHAUTAUQU**
**WICHITA, KS**

PROJECT NUMBER 08374

KEY PLAN

SITE ARCHITECTURAL PLAN
SITE ARCHITECTURAL DETAILS
SHEET TITLE

SHEET NUMBER

**SA1**

OF ____ SHEE

BZA 2011-01