CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

May 25, 2011

Lorena Sanchez
6508 Renee Ct.
Wichita, KS 67212

RE: BZA2011-00021 – Variance request to reduce the separation between building from 6 feet to 4 feet; generally located at the northwest corner of W. McCormick Ave and S. Millwood Ave. (1704 W. McCormick Ave.)

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the City Board of Zoning Appeals on **MAY 24, 2011.** This resolution reflects the official action of the Board. 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,

Derrick Slocum, Asst BZA Secretary
Current Plans Division

cc: Kurt Schroeder, Office of Central Inspections, 1-72
Paul Hays, Office of Central Inspections, 1-72
J R Cox Office of Central Inspection, 1-72
Michael O'Donnell WCC IV Mailstop 1-13
Kelli Geier, WCC IV NA, Mailstop 1-13

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, are found to be present for a variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance to Section III-B.14.d (4 & 5) of the Unified Zoning Code to reduce the rear and interior side setbacks on property zoned "LC" Limited Commercial; generally located at the northwest corner of W. McCormick Ave. and S. Millwood Ave. (1704 W. McCormick Ave.)

Lots 1 and 3 on Millwood Avenue, Lawrence's 7th Addition to Wichita, Sedgwick County, Kansas.

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

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The two structures shall conform to all other codes, to include but not limited to building and fire codes.
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.

ADOPTED AT WICHITA, KANSAS, this 24th Day of May, 2011.

BZA Board Chair, Dwight Greenlee

ATTEST:

Derrick Slocum
Assistant BZA Secretary

BZA RESOLUTION NO. BZA2011-00021

WHEREAS, Lorena Sanchez (Owner/Applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section III-B.14.d (4 & 5) of the Unified Zoning Code to reduce the rear and interior side setbacks on property zoned "LC" Limited Commercial; generally located at the northwest corner of W. McCormick Ave. and S. Millwood Ave. (1704 W. McCormick Ave.)

> Lots 1 and 3 on Millwood Avenue, Lawrence's 7th 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 May 24, 2011, 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 this property is unique, inasmuch as the property was developed in this manner back in the 1920's, before the current owners owned the property. The applicant plans to keep the buildings as they are, with the only change being that the proposed lot split will split the two structures up onto two separate properties.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch that the setback reductions will not affect any other property owners other than the owner of the subject property.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Code will constitute an unnecessary hardship upon the applicant, inasmuch as the structures have been separated by four feet for over 85 years. Without the lot split, the two structures would be allowed to be separated by at least three feet (Article III, Section D.7e (7)). With the proposed lot split on this property, applying the rear and side yard setback would constitute a hardship on the applicant by changing how the property has been used for over 85 years, and by requiring the applicant to demolish some portion of the existing building(s) in order to conform to the setback requirements.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a side setback reduction from five to zero feet and a rear setback reduction from 10 to 1'5" will not adversely affect the public interest, as no public right-of-way is affected by the proposed setback reductions, and provided that building and fire officials are notified of the reduced space between the two structures.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as sufficient separation between structures will be provided to maintain fire safety and to provide for the circulation of light and air.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
May 24, 2011

SECRETARY'S REPORT

CASE NUMBER: BZA2011-00021

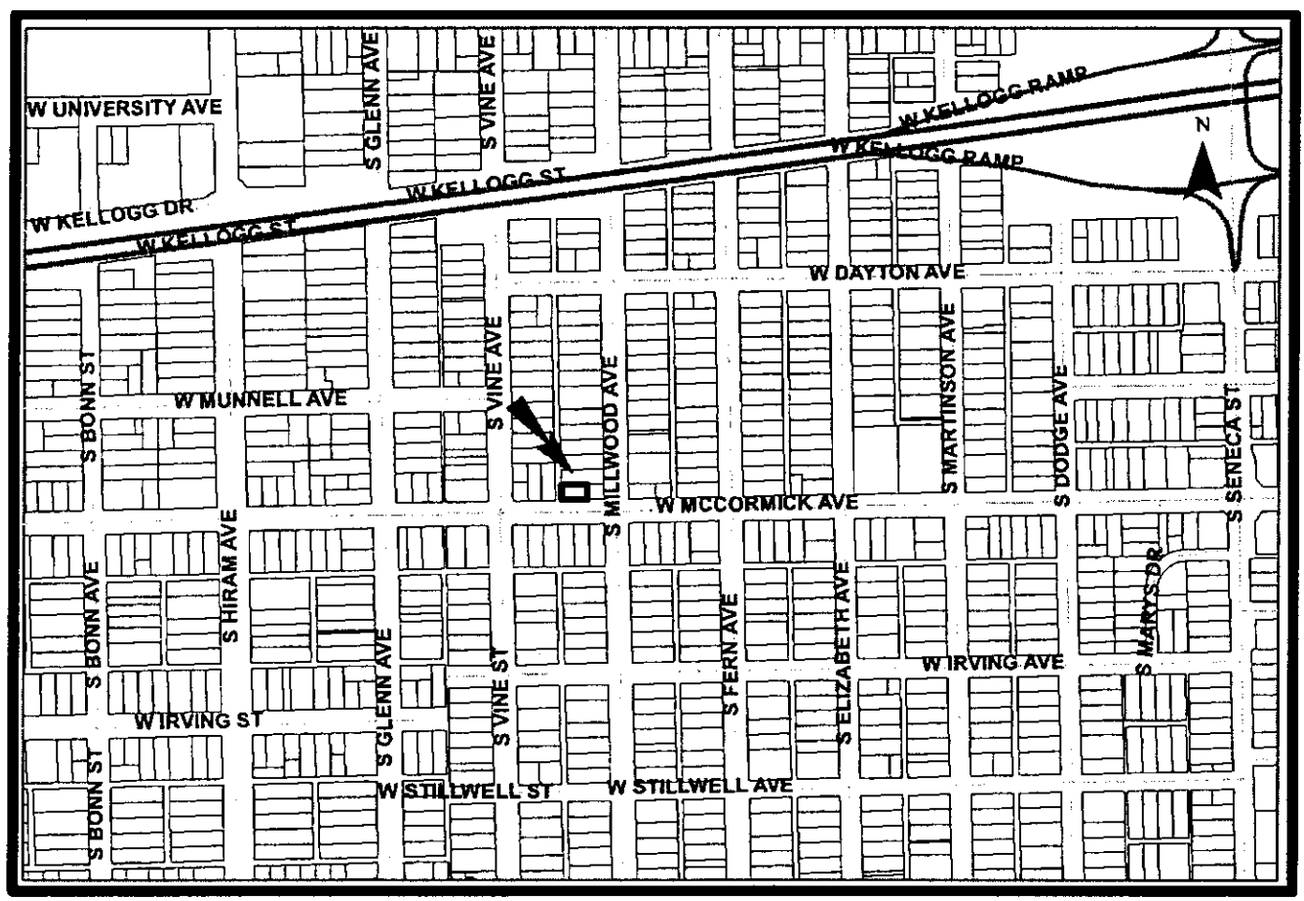
APPLICANT/AGENT: Lorena Sanchez (Owner, Applicant)

REQUEST: Variance to reduce the separation between buildings from 6 feet to 4 feet.

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 0.15 acres

LOCATION: Generally located at the northwest corner of W. McCormick Ave. and S. Millwood Ave. (1704 W. McCormick Ave.)



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 originally requested a variance to reduce the building separation between two buildings from six feet to four feet. Since the building separation is not regulated by the Unified Zoning Code, a variance to the building separation would not be valid. This circumstance arose from the applicant requesting a lot split on their property. The applicant was advised that there would need to be at least six feet separating the buildings to be separated by the lot split. This policy is regulated by Building and Fire Codes. However; due to the proposed lot split, the setbacks to the proposed common property line will need to be reduced. Thus, this variance will be for the reduction of a rear setback and the reduction of an interior side setback.

The subject site is fronted by Millwood Avenue on the east and McCormick Avenue on the south, with an alley running along the west side of the property. The variance request of the setback reductions will be the result of a lot split which will split the property into two properties and separating two existing structures (built in 1920 and 1925) on the site. As per the proposed lot split, the proposed property with the Millwood Avenue frontage will need a rear setback reduction from ten feet to 1'-5". The property with the McCormick and alleyway frontage will need to have its interior side setback reduced from five feet to 2'-7". The interior side setback for the LC Limited Commercial ("LC") zone district is actually zero feet, but if a side setback is provided it must be at least five feet (Article III, Section B.14d(5)).

All surrounding properties are zoned LC Limited Commercial ("LC") except for the property to the east across Millwood Avenue, which is zoned MF-29 Multi-family Residential ("MF-29"). Property north of the subject site is zoned LC and is developed with a single-family residence. Property south of the subject site, across McCormick Avenue, is zoned LC and is developed with a single-family residence. Property east of the subject site, across Millwood Avenue, is zoned MF-29 and is developed with a single-family residence. Property to the west of the subject site, across the alleyway, is zoned LC and is developed with a single-family residence.

ADJACENT ZONING AND LAND USE:

NORTH	LC	Single-family Residence
SOUTH	LC	Single-family Residences
EAST	MF-29	Single-family Residences
WEST	LC	Single-family Residences

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 property was developed in this manner back in the 1920's, before the current owners owned the property. The applicant plans to keep the buildings as they are, with the only change being that the proposed lot split will split the two structures up onto two separate properties.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a side and rear setback reduction may not adversely affect the rights of adjacent property owners, inasmuch that the setback reductions will not affect any other property owners other than the owner of the subject property.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant, as the structures have been separated by four feet for over 85 years. Without the lot split, the two structures would be allowed to be separated by at least three feet

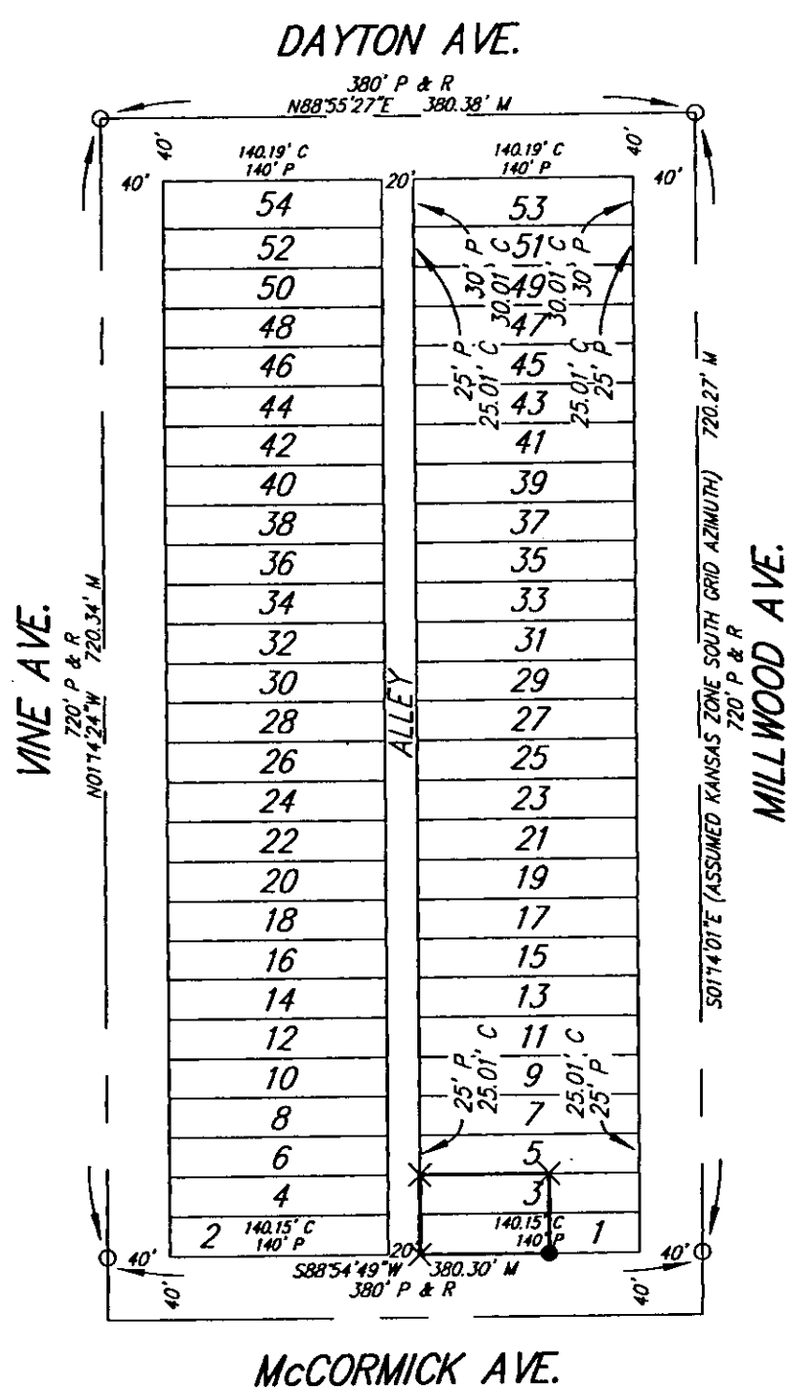
(Article III, Section D.7e (7)). With the proposed lot split on this property, applying the rear and side yard setback would constitute a hardship on the applicant by changing how the property has been used for over 85 years, and by requiring the applicant to demolish some portion of the existing building(s) in order to conform to the setback requirements.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a side setback reduction from five to zero feet and a rear setback reduction from 10 to 1'5" will not adversely affect the public interest, as no public right-of-way is affected by the proposed setback reductions, and provided that building and fire officials are notified of the reduced space between the two structures.

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 sufficient separation between structures will be provided to maintain fire safety and to provide for the circulation of light and air.

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 interior side setback from five feet to zero feet and the rear yard setback on the west property line from 10 feet to 1'-5" be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The two structures shall conform to all other codes, to include but not limited to building and fire codes.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the Variance.
4. 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.



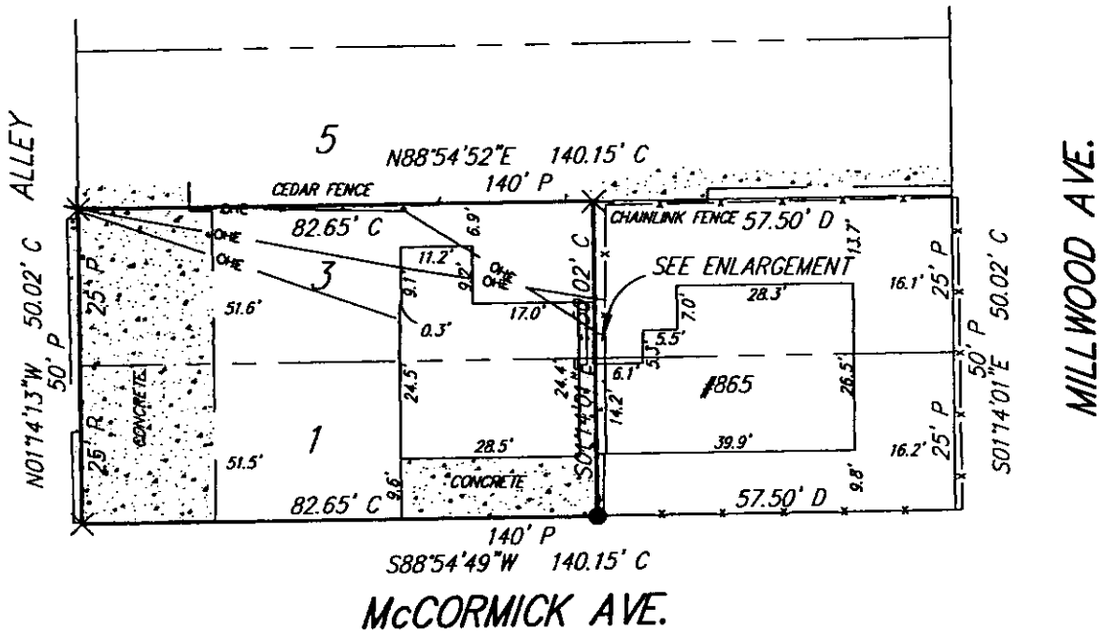
1" = 120'

SURVEY MARKER LEGEND

P = Platted
M = Measured
C = Calculated
R = Resurvey

○ ..... 3/4" IRON PIPE IN THIMBLE (FOUND, ORIGIN UNKNOWN)
× ..... CHISELED CROSS (SET)
● ..... 1/2" REBAR W/RUGGLES & BOHM CAP (SET)

DWG FILE: SURVEY BASE2
PROJECT NO. 3792S





1" = 30'

SURVEY MARKER LEGEND

P = Platted
C = Calculated
D = Described

X.....CHISELED CROSS (SET)
●.....1/2" REBAR W/RUGGLES & BOHM CAP (SET)

DWG FILE: SURVEY BASE3
PROJECT NO. 3792S

