CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

May 25, 2011

Michael and Tavane Gerber
608 S. Terrace Dr.
Wichita, KS 67218

RE: BZA2011-00023 – Variance to reduce the side setback by 50% and to reduce the front setback by 20%; generally located at the southeast corner of E. Orme St. and S. Terrace Dr. (608 S. Terrace Dr.)

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
Pete Meitzner WCC II Mailstop 1-13
Antione Sherfield, WCC II NA, Mailstop 1-13

BZA RESOLUTION NO. BZA2011-00023

WHEREAS, Michael and Tavane Gerber (Owner, Applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section III-B.6.d (3 & 5) of the Unified Zoning Code to reduce the front and interior side setbacks on property zoned "TF-3" Two-family Residential; generally located at the southeast corner of E. Orem St. and S. Terrace Dr. (608 S. Terrace Dr.)

Lots 6 and 8 on Terrace Drive in Bluegrass Subdivision, Blocks C & F in Browns Subdivision, College Hill 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 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 size of the existing attached garage is too small for vehicles to fit inside. The applicants have been making renovations to the home, enhancing the value and the neighborhood in the process. One particular valuable vehicle that was recently purchased by the applicants does not fit in the existing garage. The applicants wish to enlarge the garage to protect their vehicle from weather elements and vandalism.

WHEREAS, the Board of Zoning Appeals has found that the granting the requested variance for a side and front setback reduction may not adversely affect the rights of adjacent property owners, provided that the property owner to the north (side setback) of the site does not desire to build at the normally required six foot building setback. The property to the north (side setback) is developed with a single-family residence with a six foot interior side setback separating the two properties. The applicants will be required to file a signed legal assurance with the register of deeds regarding any future improvements on either property would maintain a minimum of 6 feet between buildings.

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, as continued monetary damage would occur on the applicants property and having a garage large enough to fit the vehicles would drastically reduce any future monetary hardships to the applicant.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a side setback reduction from six to three feet and a front setback reduction from 25 to 20 feet 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 codes are followed.

WHEREAS, the Board of Zoning Appeals has found that the granting the requested variance for a side setback reduction from six to three feet and a front setback reduction from 25 to 20 does not oppose the

general spirit and intent of the Zoning Code, especially provided that the required six foot separation between buildings is maintained and that the 20% reduction of the front setback could have been done through an administrative adjustment.

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.6.d (3 & 5) of the Unified Zoning Code to reduce the front and interior side setbacks on property zoned "TF-3" Two-family Residential; generally located at the southeast corner of E. Orem St. and S. Terrace Dr. (608 S. Terrace Dr.)

Lots 6 and 8 on Terrace Drive in Bluegrass Subdivision, Blocks C & F in Browns Subdivision, College Hill Addition, Wichita, Sedgwick County, Kansas.

The variance is hereby <u>GRANTED</u>, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The applicant shall obtain all permits necessary for any improvements, and any improvements shall be completed within one year of the granting of the variance.
3. The applicant shall file a joint building setback agreement, ensuring a minimum six foot separation between buildings on adjoining lots (north property) , prior to recieving a building permit or certificate of occupancy for the proposed structure.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

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

BZA Board Chair, Dwight Greenlee

ATTEST:

Derrick Slocum
Assistant BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3
May 24, 2011

SECRETARY'S REPORT

CASE NUMBER: BZA2011-00023

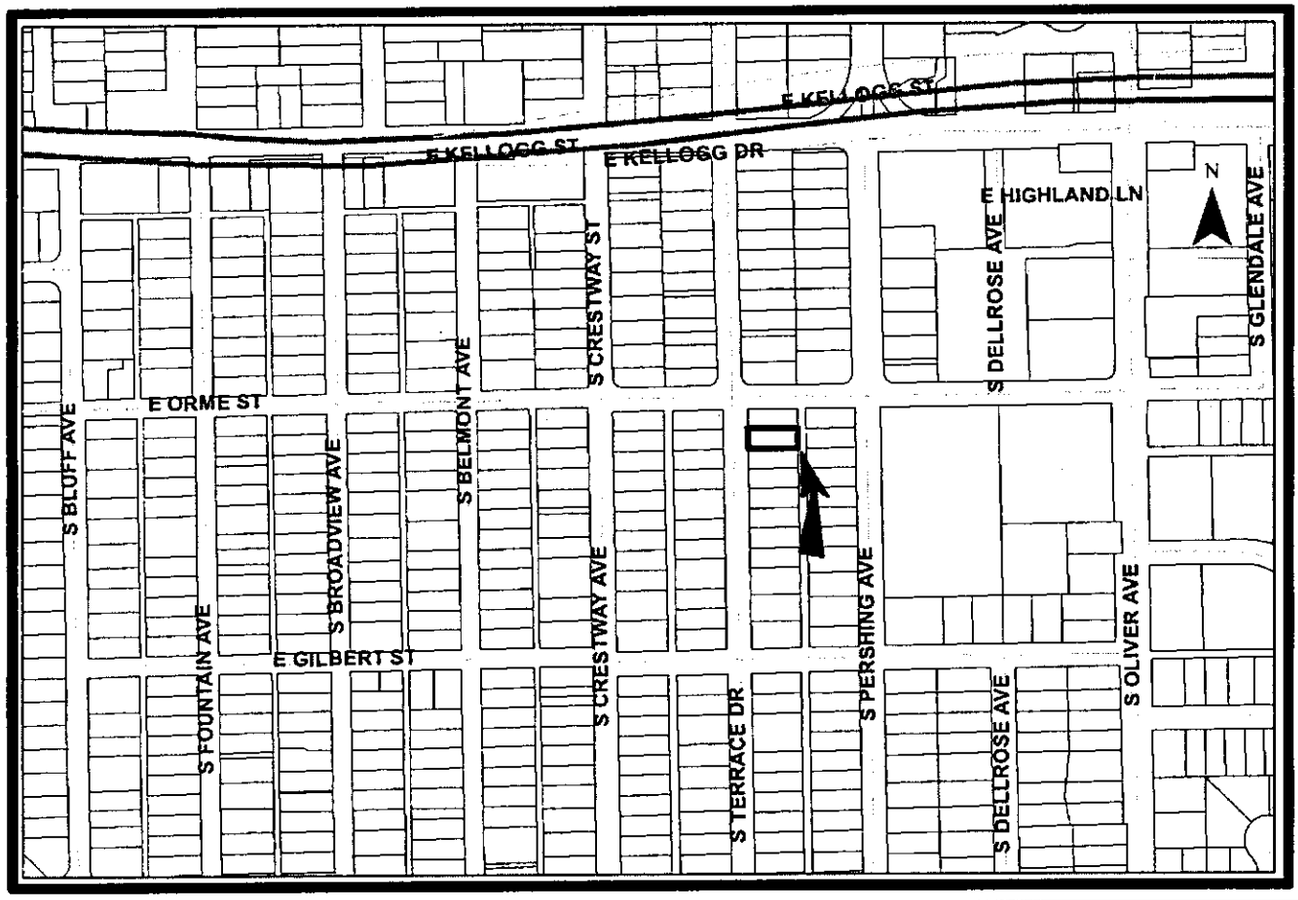
APPLICANT/AGENT: Michael and Tavane Gerber (Owner, Applicant)

REQUEST: Variance to reduce the side setback by 50% and to reduce the front setback by 20%.

CURRENT ZONING: TF-3 Two-family Residential ("TF-3")

SITE SIZE: 0.15 acres

LOCATION: Generally located at the southeast corner of E. Orem St. and S. Terrace Dr. (608 S. Terrace Dr.)



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.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a side setback reduction from six to three feet and a front setback reduction from 25 to 20 feet 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 codes are followed.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a side setback reduction from six to three feet and a front setback reduction from 25 to 20 does not oppose the general spirit and intent of the Zoning Code, especially provided that the required six foot separation between buildings is maintained and that the 20% reduction of the front setback could have been done through an administrative adjustment.

RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance, and recommends that the variance be APPROVED. Should the Board determine that the conditions necessary for the granting of a variance exist; the Secretary then recommends that the variance for a side setback reduction from six to three feet and a front setback reduction from 25 to 20 feet be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The applicant shall obtain all permits necessary for any improvements, and any improvements shall be completed within one year of the granting of the variance.
3. The applicant shall file a joint building setback agreement, ensuring a minimum six foot separation between buildings on adjoining lots (north property) , prior to recieving a building permit or certificate of occupancy for the proposed structure.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.