



Wichita-Sedgwick County Metropolitan Area Planning Department

August 3, 2015

Raul Castillo Hernandez
Hortencia Castillo
2083 N. Market
Wichita, KS 67214

RE: BZA2015-00026 – City variance request to reduce the interior side yard setback to zero feet (south property line) to allow an existing carport to remain on site, located south and west of the intersection of 21st Street North and North Wellington Place (2143 N. Wellington Pl.)

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **July 23, 2015**. This resolution reflects the official action of the Board, it is forwarded for your information and files.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick Slocum', with a long horizontal line extending to the right.

Derrick Slocum
Asst. BZA Secretary

cc: Tom Stolz, MABCD
Mike Gable, MABCD
JR Cox, MABCD
Janet Miller, WCC VI CM
Martha Sanchez, CL VI

BZA RESOLUTION NO. BZA2015-00026

WHEREAS, Raul Castillo Hernandez and Hortencia Castillo (Owner, Applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, request to reduce the Zoning Code required minimum interior side setback from 6 feet to 0 feet for a carport; generally located south and west of the intersection of 21st Street North and North Wellington Place (2143 Wellington Pl.)

Legal Description: Part of Lots 21 and 23, on Water Street, now Wellington Place, Gossard's Subdivision of Gossard's Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Beginning at the Northeast corner of said Lot 21; thence West along the North line said Lot 21, 106.5 feet; thence South to a point on the South line of said Lot 23, said point being 106.5 feet West of the Southeast corner of said Lot 23; thence East 106.5 feet to the Southeast corner of said Lot 23; thence North to the place of beginning.

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 July 23, 2015, 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 Board of Zoning Appeals has found that this property is unique as the existing carport has been in place since before the current property owners purchased the property. The applicants just want to keep the carport as is with no modifications.

WHEREAS, the Board of Zoning Appeals has found that the requested variances would not adversely affect the rights of adjacent property owners, provided that the property owner to the south of the site does not desire to build at the normally required six foot building setback. The applicants will be required to file a signed legal assurance with the register of deeds regarding any future improvements on either property that 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 would constitute a hardship upon the applicant, as the applicant would have to remove a structure that came with the property and was one of the main selling points of the property for the applicants.

WHEREAS, the Board of Zoning Appeals has found that the requested variances for a side setback reduction from six to zero 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 granting the requested variance for a side setback reduction from six to zero feet does not oppose the general spirit and intent of the Zoning Code,

especially provided that the adequate separation between buildings is maintained and utilities, rights-of-way and easements would not be affected.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

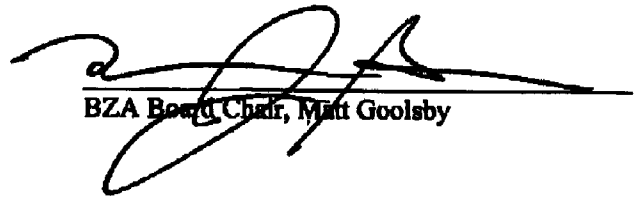
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, request to reduce the Zoning Code required minimum interior side setback from 6 feet to 0 feet for a carport; generally located south and west of the intersection of 21st Street North and North Wellington Place (2143 Wellington Pl.)

Legal Description: Part of Lots 21 and 23, on Water Street, now Wellington Place, Gossard's Subdivision of Gossard's Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Beginning at the Northeast corner of said Lot 21; thence West along the North line said Lot 21, 106.5 feet; thence South to a point on the South line of said Lot 23, said point being 106.5 feet West of the Southeast corner of said Lot 23; thence East 106.5 feet to the Southeast corner of said Lot 23; thence North to the place of beginning.

The variance is hereby **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 above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 23th Day of July, 2015.


BZA Board Chair, Matt Goolsby

ATTEST:


Derrick Sloeum
Asst. BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00026

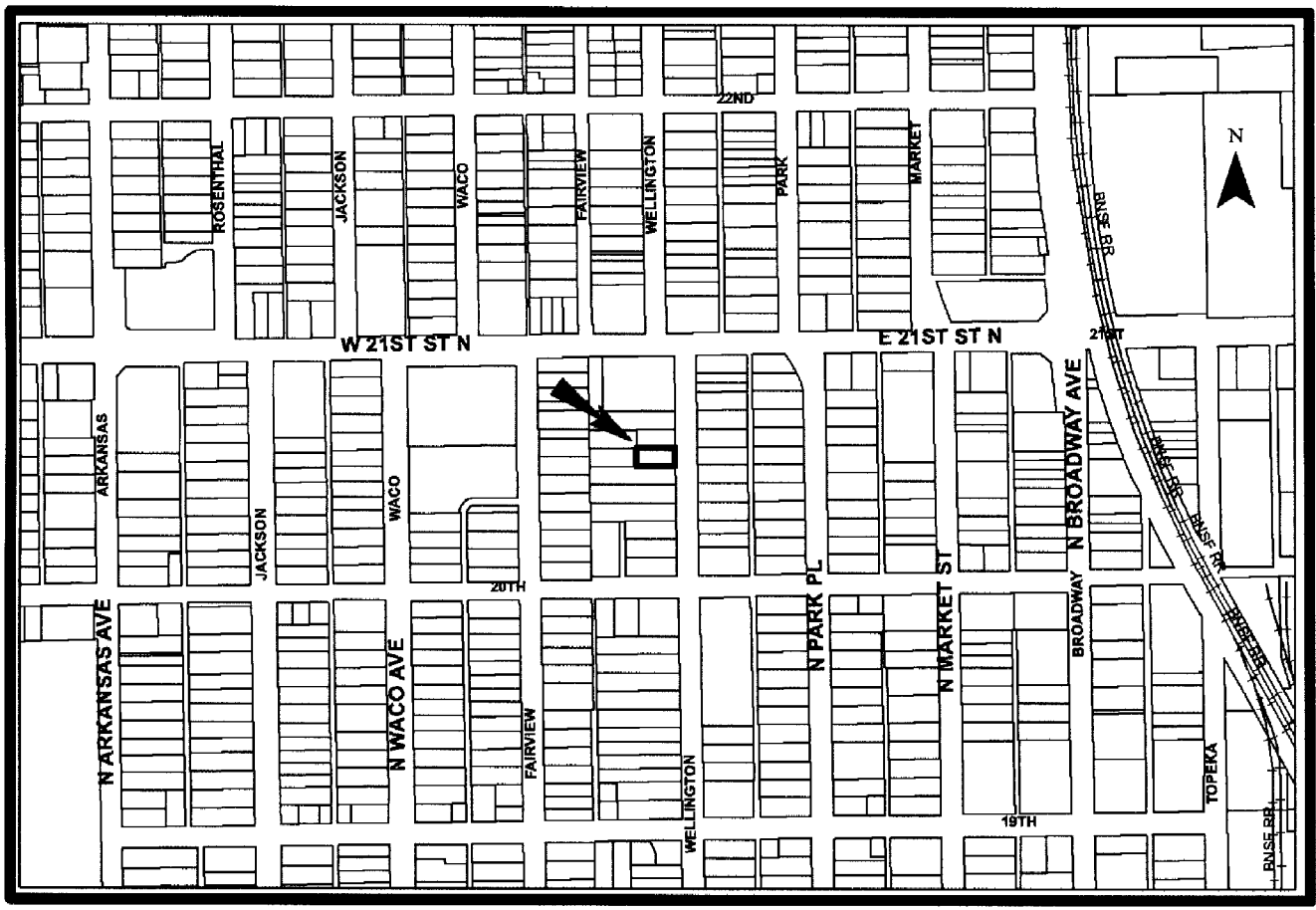
APPLICANT/AGENT: Raul Castillo Hernandez and Hortencia Castillo (Owner, Applicant)

REQUEST: Variance to reduce the interior side setback from 6 feet to 0 feet.

CURRENT ZONING: MF-29 Multi-family Residential ("MF-29")

SITE SIZE: 0.12 acres

LOCATION: Generally located at the south and west of the intersection of 21st Street North and North Wellington Place (2143 Wellington Pl.)



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 reduce the Zoning Code required interior side building setback from six feet to zero feet in order to keep an existing carport on the site. The zoning code requires a six-foot interior side yard building setback in the MF-29 Multi-family Residential ("MF-29") zoning district. The application area is developed with a home, an attached carport along the south side of the house and two accessory structures in the rear part of the property. According to the applicant, the carport was existing when the house was purchased. When the applicant tried to make changes to the carport in the past, he was told to leave the carport alone and that it would be fine. This current variance application is the case of the property owner to the north of the subject site wanting to place a carport on his property similar to the applicants. The neighbor then reported the applicants existing carport when they were notified that they could not put up a carport of their own.

Currently, separation between the existing attached carport and the residential structure to the south is 7'-3". Building and fire code would require a minimum six-foot separation between buildings, unless the buildings have increased fire-rated walls and roofs. The only legal assurance of this building separation would be to record a joint setback agreement with the property owner to the north, ensuring that any future improvements on either property would maintain a minimum of six feet between buildings. All surrounding properties are also zoned MF-29 and developed with single-family residences, except for the property directly west of the subject site and it is developed with a parking lot.

ADJACENT ZONING AND LAND USE:

NORTH	MF-29	Single-family Residence
SOUTH	MF-29	Single-family Residences
EAST	MF-29	Single-family Residences
WEST	MF-29	Church Parking Lot

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 existing carport has been in place since before the current property owners purchased the property. The applicants just want to keep the carport as is with no modifications.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for an interior side setback reduction may not adversely affect the rights of adjacent property owners, provided that the property owner to the south of the site does not desire to build at the normally required six foot building setback. The applicants will be required to file a signed legal assurance with the register of deeds regarding any future improvements on either property that would maintain a minimum of six feet between buildings.

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 applicant would have to remove a structure that came with the property and was one of the main selling points of the property for the applicants.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a side setback reduction from six to zero 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 zero feet does not oppose the general spirit and intent of the Zoning Code, especially provided that the adequate separation between buildings is maintained and utilities, rights-of-way and easements would not be affected.

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 interior side setback reduction from six to zero 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 (south property), and prior to receiving 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.

