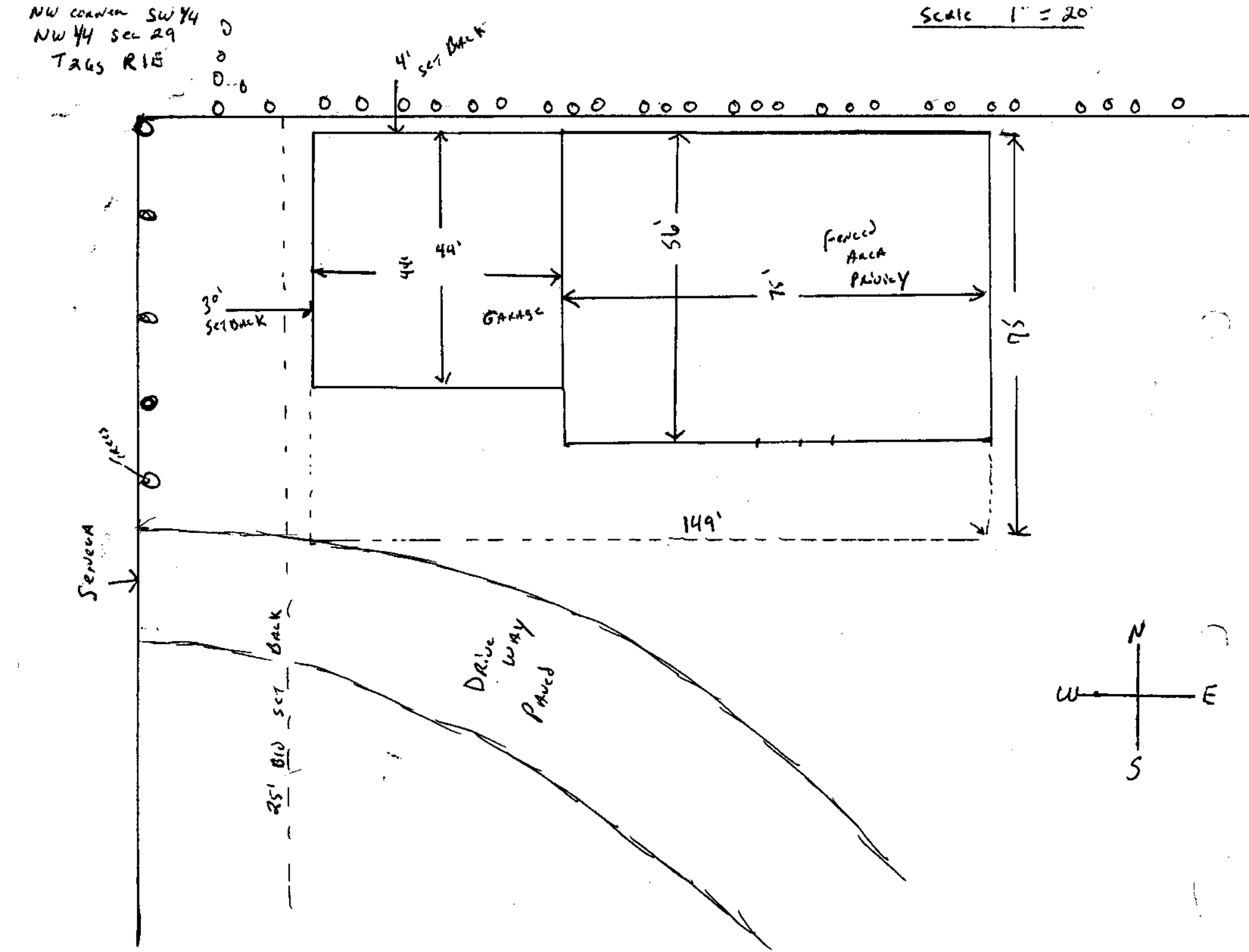

NW corner SW¼
NW¼ Sec 29
T26S R1E
Scale 1" = 20'
4' set Back
44'
49'
56'
75'
Fenced Area Privacy
30' Setback
Garage
75'
149'
Sewer
Drive way Paved
25' Bld set Back
N
W
E
S

WICHITA — SEDGWICK COUNTY

W-SC

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

June 26, 1998

Michael L. Patterson
4254 N. Seneca
Wichita, KS 67204

RE: BZA 9-98 - Variance to reduce the compatibility setback requirement from 25 feet to 4 feet on the north property line on property generally located north of 37th Street North and east of Seneca (4254 N. Seneca).

Dear Mr. Patterson:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on June 23, 1998. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Keith Gooch

Keith Gooch
Assistant Secretary
Board of Zoning Appeals

KG/sah

cc: J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, City Clerk
Yolanda Anderson, MAPC (resolution only)

2. The applicant shall store all vehicles and equipment within the six foot tall solid screening fence shown on the site plan.

3. The applicant shall not provide any sewage facilities to the building in which the repair business will take place, in accordance with the requirements of the Health Department.

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 the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 23rd day of June, 1998.

C. Bickley Foster

C. Bickley Foster, President

ATTEST:

David L Yearout

David L. Yearout, Secretary

BZA RESOLUTION NO. BZA 9-98

WHEREAS, Mike Patterson, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the compatibility setback requirement from 25 feet to 4 feet on the north property line on property zoned "GC" General Commercial and legally described as follows:

> The north 75 feet of the west 149 feet of Lot 1, Patterson Lake Addition to Wichita, Sedgwick County, Kansas. Generally located north of 37th Street North and east of Seneca (4254 N. Seneca).

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 June 23, 1998, 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 the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as the bulk of the surrounding properties are zoned "LC" Limited Commercial and "GC" General Commercial, and the predominate land use in the area is commercial or industrial. The remaining single-family lots in the area are anticipated to eventually rezone to more intensive zoning consistent with the Land Use Guide of the Comprehensive Plan; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the property is buffered along the north side by an existing row of evergreen trees, and the applicant will be required to meet the screening requirements of the Unified Zoning Code. The applicant will also be required to keep all vehicles behind a screening fence east of the building used for the business. Finally, the home to the north is approximately 150 feet northeast of the applicant's property and will be buffered by the required screening and landscaping; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Unified Zoning Code of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would be required to move the existing structure or tear it down and rebuild in conformance with the compatibility setback requirements. Either alternative would be an unnecessary economic burden on the applicant; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction, therefore resulting in no affect on the general public; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the Unified Zoning Code inasmuch as the compatibility standards are designed to preserve and protect residential neighborhoods. The application area is primarily surrounded by commercial and industrial uses except for one residential home on the north. This general area will eventually rezone and develop to more intensive uses, and the compatibility standards would not be required on the property at that time.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the compatibility setback requirement from 25 feet to 4 feet on the north property line on property zoned "GC" General Commercial and legally described as follows:

> The north 75 feet of the west 149 feet of Lot 1, Patterson Lake Addition to Wichita, Sedgwick County, Kansas. Generally located north of 37th Street North and east of Seneca (4254 N. Seneca).

subject to the following conditions:

1. The site shall be developed in conformance with a revised site plan approved by the secretary that shows required off-street parking, and shall be required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north property line may be reduced to no less than 4 feet for the structure currently on-site as shown on the site plan.

regulations, inasmuch as the compatibility standards are designed to preserve and protect residential neighborhoods. The application area is primarily surrounded by industrial uses except for one residential home on the north. This general area will probably be rezoned to more intensive uses in the near future and therefore the compatibility standards would not be required on the property.

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 be granted, subject to the following conditions:

1. The site shall be developed in conformance with a revised site plan approved by the secretary that shows required off-street parking, and shall be required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north property line may be reduced to no less than 4 feet for the structure currently on-site as shown on the site plan.

2. The applicant shall store all vehicles and equipment within the six foot tall solid screening fence shown on the attached site plan.

3. The applicant shall not provide any sewage facilities to the building in which the repair business will take place as per the Health Department.

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 the foregoing conditions.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3
June 23, 1998

SECRETARY'S REPORT

CASE NUMBER: BZA 9-98

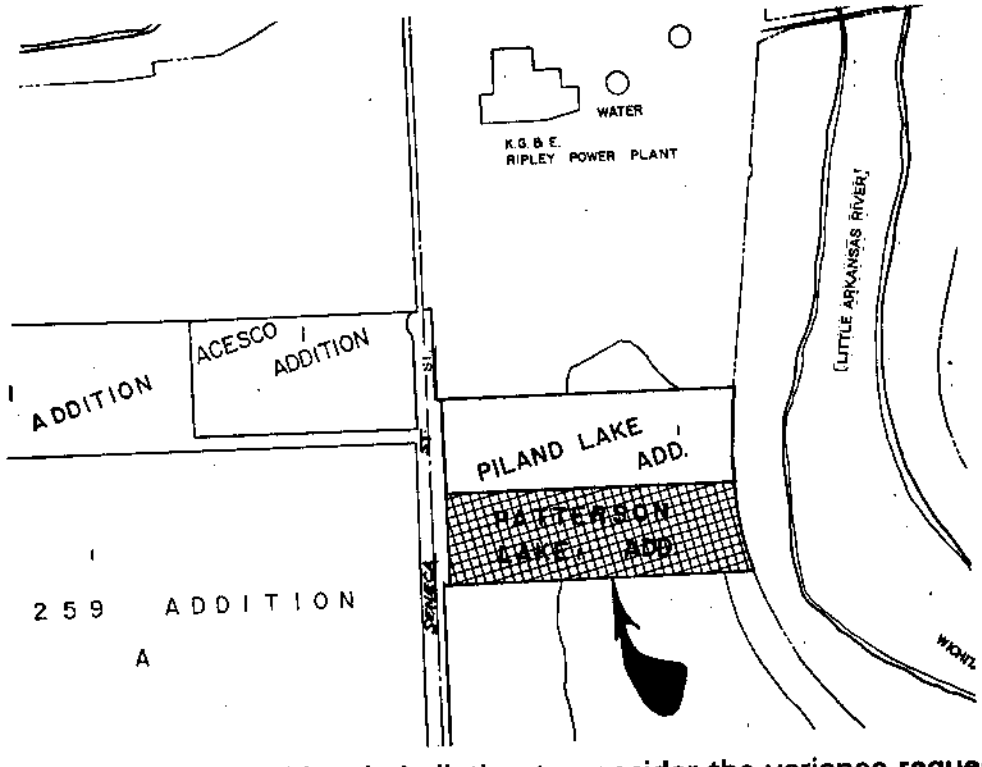
OWNER/APPLICANT: Mike Patterson (Owner/Applicant)

REQUEST: Variance to reduce the compatibility setback requirement from 25 feet to 4 feet on the north property line.

CURRENT ZONING: "GC" General Commercial

SITE SIZE: 75' by 149'

LOCATION: North of 37th St. North and east of Seneca (4254 N. Seneca)



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 is requesting a variance to reduce the compatibility setback standard on the north property line from 25 feet to 4 feet on 11,175 square feet of Lot 1 of the Patterson Lake Addition located north of 37th St. North and east of Seneca. The application area (.25 acre) is located in the northwest corner of the applicant's property (a total of 5 acres). A 1,936 square foot building is located on this section of property, which the applicant currently uses as a vehicle repair shop, typically body and paint work and some small engine work. The applicant has stated that he buys vehicles and repairs these vehicles. After the vehicle is repaired, the applicant attempts to resell the vehicle by advertising in local newspapers. The applicant has stated that the vehicles which are being worked on, as well as the ones for sale, will be stored in the fenced area shown on the site plan submitted by the applicant. The Wichita City Council approved "GC" General Commercial zoning on this small tract to permit this use on May 12, 1998.

A setback of 25 feet from the north property line is required by the compatibility setback standards, because the property to the north is zoned "SF-6" Single-Family. The applicant's garage already exists with only a four foot setback, therefore a variance to the setback requirement will be required.

The Landscape Ordinance will require the equivalent of one shade tree per 40 linear feet when nonresidential uses are adjacent to residential uses. These trees must be planted within 15 feet of the common property line. A very dense row of evergreens exist north of the application area, which appear to be located on the north neighbor's property and could be considered in a request to waive or modify the buffering requirement.

The applicant requested the zone change for several reasons. First, in order to obtain a dealers license, the address which will be placed on the dealer's license must be properly zoned. Second, the dealer's license allows him to gain entry into auctions that otherwise he would not be allowed to attend. Next, with a license the applicant will not be required to tag and insure each vehicle, instead the applicant will be able to fleet insure all of the vehicles. Finally, the applicant feels the State will in the near future require the applicant to obtain a dealer's license, due to the fact he has begun selling more than 3 vehicles per year.

The Unified Zoning Code requires parking for general vehicle repair shops, which is defined as a shop primarily engaged in painting of or body work to motor vehicles or heavy equipment, at one parking space per 500 square feet plus 3 additional parking spaces. Therefore, the applicant is required to have a total of 7 parking spaces for customers and employees.

Surrounding land uses include the USD 259 Vocational School, including a truck training school to the west, and a single-family home to the north. Farther to the north

is a KG&E power plant. The site is buffered on the east by a lake and the Little Arkansas River. The area to the south is unplatted and undeveloped land.

The Wichita-Sedgwick County Health Department is requesting the applicant not provide sewage facilities to the building in which the repair service will be located. This will decrease the opportunity for the chemicals used in this operation from mixing with groundwater, as well as having to replace the on-site septic system.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Single-Family Residence and electric generating plant
SOUTH:	"SF-6"	Single-Family Residence
EAST:	"LI" and "LC"	USD 259 Vocational School and Truck Driver School
WEST:	"SF-6"	Little Arkansas River

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the area surrounding the residential properties is zoned "LC" Limited Commercial and "GC" General Commercial. The remaining single-family lots in the area will probably be rezoned to more intensive zoning in the future, consistent with the Land Use Guide of the Comprehensive Plan.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the property is buffered on the north by a row of evergreen trees as well as the applicant will be required to meet the screening requirements of the Unified Zoning Code. The applicant will also be required to keep all vehicles behind the fence just east of the building shown on the attached site plan. Finally, the home to the north is approximately 150 feet northeast of this property and should be buffered by the screening and landscaping required.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the applicant would be required to tear down the existing structure and rebuild it 25 feet south of the north property line. This would not be economical feasible for the applicant.

PUBLIC INTEREST: It is the opinion of staff that the requested variance 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 and therefore there will be no effect on the general public.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning