



Wichita-Sedgwick County Metropolitan Area Planning Department

March 31, 2006

Jesus R. Reyes-Seanez
1156 Silverdale Court
Wichita, KS 67218

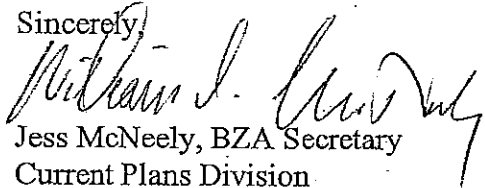
RE: Case No. BZA 2006-00016 -Variance request to reduce the street side setback from 15 feet to 11 feet for an accessory structure. Generally located north of Boston and east of Silverdale (1156 S. Silverdale Ct.) (District III)

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **March 28, 2006**. 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,


Jess McNeely, BZA Secretary
Current Plans Division

JM/yja

Cc: Russ Ewy, Baughman Company, 315 Ellis, Wichita, KS. 67211
Sharon Dickgrafe, Law Department, Mail Stop 1-132
Herb Shaner, OCI, Mail Stop, 1-72
Jim Skelton, District III, 1-13

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.

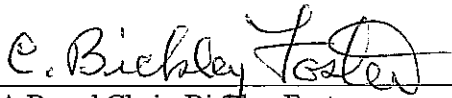
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, variance be granted to reduce the street side yard setback from 15 feet to 11 feet on property zoned "SF-5" Single-family Residential legally described as follows:

Lot 37, Block 3, Purcell's 7th Addition to Wichita, Sedgwick County, Kansas. Generally located north of Boston and east of Silverdale Ct.

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

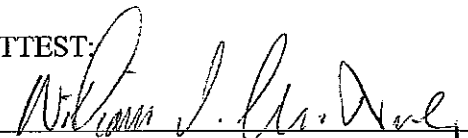
1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The applicant shall submit building elevations to planning staff no later than 60 days after approval of the variance. The building elevations require approval by planning staff, and shall demonstrate that the accessory structure is compatible with the surrounding residential neighborhood in terms of exterior wall texture and color, roofing design, and roofing material.
3. The setback reduction shall apply only to the "34.7-foot by 21.6-foot detached accessory structure" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
4. 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.
5. 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 28th Day of March, 2006.



BZA Board Chair, Bickley Foster

ATTEST:



Jess McNeely, BZA Secretary

BZA RESOLUTION NO. 2006-00016

WHEREAS, Jesus R. Reyes-Seanez, (Owner/Applicant); Russ Ewy, Baughman Company, (Agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the street side setback from 15 feet to 11 feet on property zoned "SF-5" Single-family Residential legally described as follows:

Lot 37, Block 3, Purcell's 7th Addition to Wichita, Sedgwick County, Kansas. Generally located north of Boston and east of Silverdale Ct.

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 March 28, 2006, 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. It is the opinion of the Board that this property is unique inasmuch as the property was platted and developed in 1950; the residence on the lot was constructed in 1950 at approximately the requested 11 -foot street side setback. Residences and accessory structures within this same block of Boston Street have less street side setback than this variance request. The zoning regulations that established the 15 -foot street side setback did not exist until 1996, long after the property had been developed. This property is also unique in that it is a 52-foot wide corner lot, with little room to develop an accessory structure.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance would not adversely affect the rights of adjacent property owners, inasmuch as all properties within the same block of Boston Street are developed with similar encroachments into the currently required setbacks. The development of the neighborhood still largely reflects the setback requirements that were in effect prior to 1996, when the adoption of the revised zoning code made some of the residential structures and their accessory structures legally nonconforming encroachments.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the applicant to comply with the street side setback requirements will prevent the applicant from improving his property with no corresponding public benefit.

WHEREAS, the Board of Zoning Appeals has found that the variance desired would not adversely affect the public interest, inasmuch as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the street side setback requirement is to maintain sufficient separation between structures and residential street right-of-way for public safety reasons, and the requested variance does not negatively impact this intent. Boston Street is a local residential street, serving the immediate area. The placement of the accessory structure as proposed will have no impact on safe vehicular and pedestrian traffic along this portion of Boston Street.

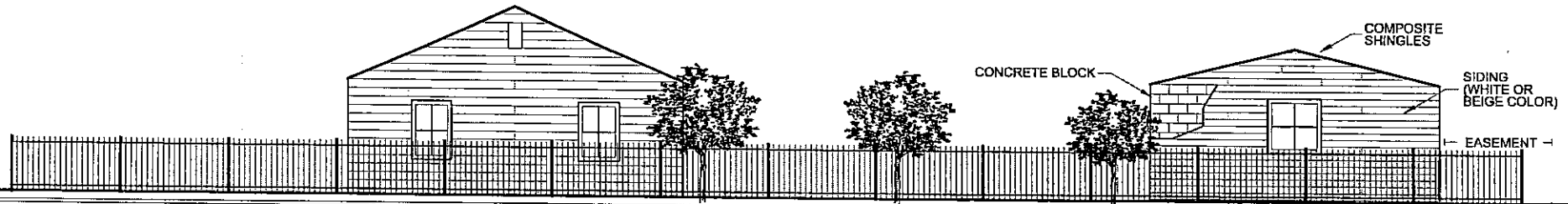
52.20'(M)(P)
N00°00'00"E

APPROVED

ELEVATION

William L. Smith

Date: 4-4-06



SOUTH ELEVATION EXHIBIT B

BZA2006-16



NOT TO SCALE

B
Baughman
ENGINEERING | SURVEYING | PLANNING
LANDSCAPE ARCHITECTURE

3. The setback reduction shall apply only to the "34.7-foot by 21.6-foot detached accessory structure" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
4. 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.
5. 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.

SECRETARY'S REPORT

CASE NUMBER: BZA2006-16

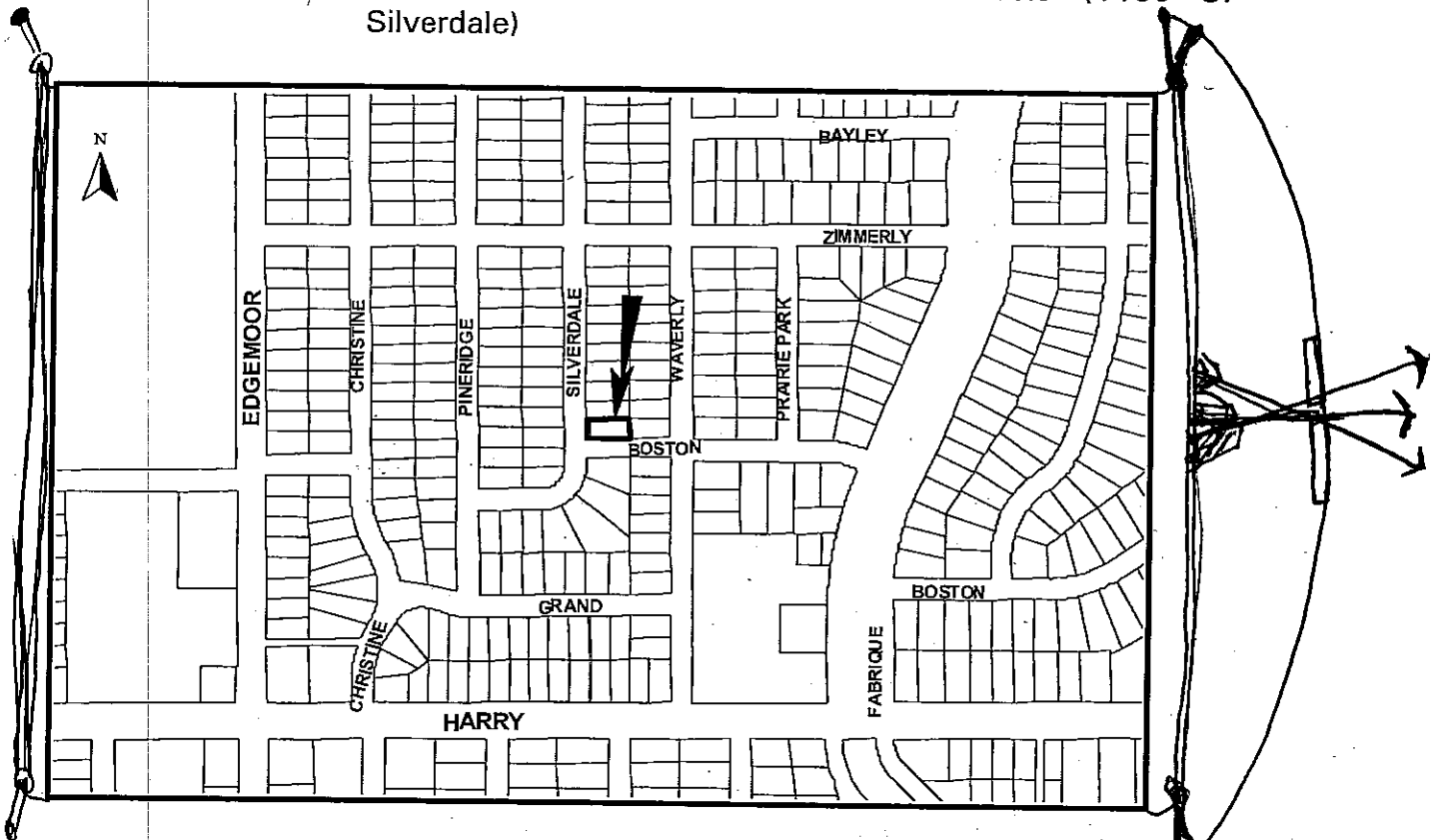
APPLICANT/AGENT: Jesus Seanez (Owners/Applicants)

REQUEST: Variance to reduce the street side setback from 15 feet to 11 feet

CURRENT ZONING: "SF-5" Single-family Residential

SITE SIZE: 0.13 acres (6,003-square feet)

LOCATION: Northeast corner of Boston & Silverdale (1156 S. Silverdale)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant placed a 34.7-foot by 21.6-foot detached accessory structure on the subject corner lot with an 11-foot street side setback (see the attached site plan). The Unified Zoning Code (UZH) requires a 15-foot street side setback in SF-5 zoning, and allows for administrative adjustments of 20%, resulting in a 12-foot setback. The applicant is one foot short of eligibility for an administrative adjustment, and now requests a variance to permit the accessory building with an 11-foot street side setback.

The accessory structure is built of concrete block and is currently unfinished with no roof. The accessory structure currently has no opening large enough for a vehicle garage door. The applicant could use the structure for permitted accessory uses in SF-5 zoning, which includes storage, hobby workshops, etc. This variance request is for a street side setback reduction only, and does not address the use of the structure. If the applicant wishes to use the structure as a dwelling, he will be required to request a Conditional Use permit for an accessory apartment, which may or may not be approved by the Metropolitan Area Planning Commission.

The existing primary structure on the site, and the abutting residence to the east, are approximately 11 feet from the street side property line. The two residences and detached garages south of the application area, also along Boston Street, have street side setbacks varying from five to ten feet. The application area, and all surrounding lots, were platted in 1950 as Purcells 7th Addition. Minimum streetside setbacks at the time of platting were six feet.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-5"	Single-family residences
SOUTH	"SF-5"	Single-family residences
EAST	"SF-5"	Single-family residences
WEST	"SF-5"	Single-family residences

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property was platted and developed in 1950; the residence on the lot was constructed in 1950 at approximately the requested 11-foot street side setback. Residences and accessory structures within this same block of Boston Street have less street side setback than this variance request. The zoning regulations that established the 15-foot street side setback did not exist until 1996, long after the property had been developed. This property is also unique in that it is a 52-foot wide corner lot, with little room to develop an accessory structure.

ADJACENT PROPERTY: It is the opinion of staff that granting the requested variance would not adversely affect the rights of adjacent property owners, inasmuch as all properties within the same block of Boston Street are developed with similar encroachments into the currently required setbacks. The development

of the neighborhood still largely reflects the setback requirements that were in effect prior to 1996, when the adoption of the revised zoning code made some of the residential structures and their accessory structures legally nonconforming encroachments. Conditions of this variance could be used to ensure that the accessory building is compatible in character with the adjacent properties.

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 street side setback requirements will prevent the applicant from improving his property with no corresponding public benefit.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common.

SPIRIT AND INTENT: It is the opinion of staff that granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the primary intent of the street side setback requirement is to maintain sufficient separation between structures and residential street right-of-way for public safety reasons, and the requested variance does not negatively impact this intent. Boston Street is a local residential street, serving the immediate area. The placement of the accessory structure as proposed will have no impact on safe vehicular and pedestrian traffic along this portion of Boston Street.

RECOMMENDATION: Staff acknowledges that the purpose of a variance is not for correcting mistakes that cause a property to become non-compliant with a Code requirement. Staff finds that in this case, a staff recommendation for approval would have been given had this request come before the subject structure was built. 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 15 feet to 11 feet 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 applicant shall submit building elevations to planning staff no later than 60 days after approval of the variance. The building elevations require approval by planning staff, and shall demonstrate that the accessory structure is compatible with the surrounding residential neighborhood in terms of exterior wall texture and color, roofing design, and roofing material.