



Wichita-Sedgwick County Metropolitan Area Planning Department

11/29/2007

Marjorie Jennings
1149 Green
Wichita KS 67214

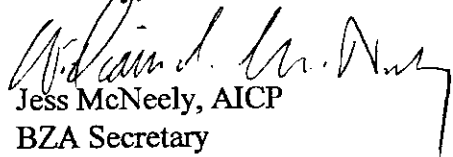
RE: BZA2007-63 Variance to reduce the front setback from 25 feet to five feet for an existing carport on property zoned "TF-3" Two-family Residential.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on November 27, 2007. 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, AICP
BZA Secretary
Current Plans Division

JM/ya

Cc Sharon Dickgrafe, Law Dept, 1-132
 Herb Shaner, OCI, 1-72
 Lavonta Williams, WCC District I, 1-13
 Kurt Schroeder, OCI, 1-72

BZA RESOLUTION NO. 2007-63

WHEREAS, Marjorie Jennings (owner/applicant); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to the Unified Zoning Code to reduce the front setback for an existing carport from 25 feet to 5 feet, generally located west of North Green and south of 11th Street North (1149 N. Green).

Lots 103 and 105 of the Fairmont Park 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 November 27, 2007, 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 conditions that are unique, as the property was platted and developed prior to the current zoning code standards, with no other options for a carport location. This property is also unique in that the property to the north is developed with a house over 32 feet from the property line. The carport structure is unique in that it is an open-air carport, not enclosed living space.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not adversely affect the rights of adjacent property owners. The carport is approximately 40 feet from the adjacent residences and therefore does not block their view of the street. Likewise, the carport is an open structure within the front setback, and is therefore not visually obtrusive.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the zoning regulations would constitute an unnecessary hardship upon the applicant, as requiring the applicant to comply with the 25-foot front setback will prevent the applicant from improving her property with a carport with no corresponding public benefit.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest at this location, 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 granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations. The primary intent of the front setback is to maintain sufficient separation between structures and public right-of-way. The requested variance does not negatively impact this intent, as the carport is an open-air structure, and does not impede street visibility for the adjacent properties.

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,

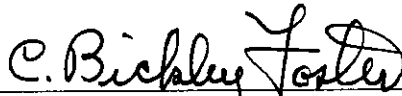
Code of the City of Wichita, a variance to the Unified Zoning Code to reduce the front setback for an existing carport from 25 feet to five feet, generally located west of North Green and south of 11th Street North (1149 N. Green).

Lots 103 and 105 of the Fairmont Park Addition, Wichita, Sedgwick County, Kansas.

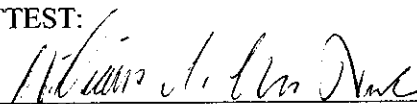
The variance is hereby GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback reduction shall apply only to the "carport" 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.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 27th Day of November 2007.


BZA Board Chair, C. Bickley Foster

ATTEST:


Jess McNeely, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2007-63

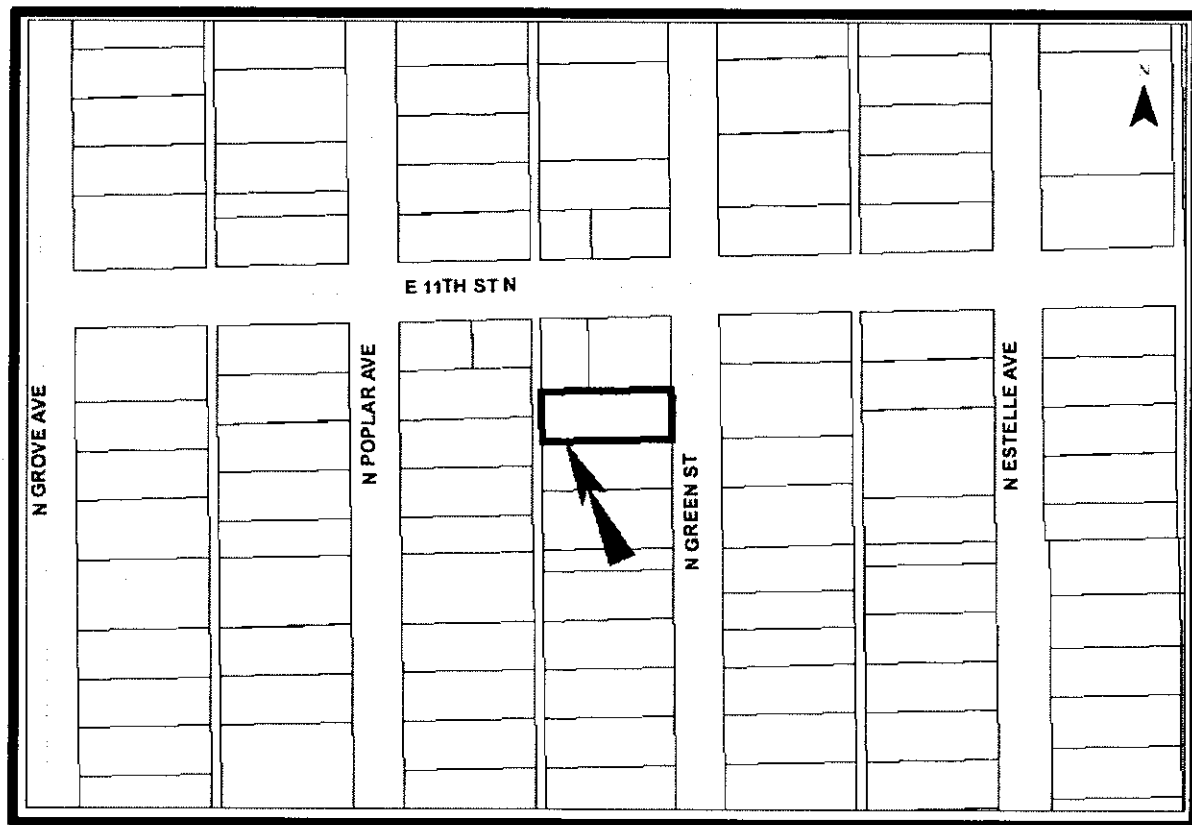
APPLICANT/AGENT: Marjorie Jennings (Owner/Applicant)

REQUEST: Variance to reduce the front setback for an existing carport from 25 feet to five feet

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

SITE SIZE: 0.16 acres

LOCATION: West of North Green and south of 11th Street North (1149 N. Green)



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 requests a variance to reduce the front building setback from 25 to five feet for an existing carport in front of the applicant's house, over the existing 11-foot driveway. The Unified Zoning Code (UZO) requires a 25-foot front setback in TF-3 zoning. The existing carport is within 5 feet of the front property line, where it has existed for over 12 years. The applicant's lot is unique in that it is two 25-foot wide lots platted in 1909; the house was built in 1944 within 25 feet of the front property line, and within 6 feet of the north property line. No other options exist on this property for a carport location. Likewise, the property north of the site has a 32-foot side yard, adjacent to the carport. North, south, east and west of the site are single-family residences.

ADJACENT ZONING AND LAND USE:

NORTH	"TF-3"	Single-family residences
SOUTH	"TF-3"	Single-family residences
EAST	"TF-3"	Single-family residences
WEST	"TF-3"	Vacant, single-family residences

The five criteria necessary for approval as they apply to the variance requested.

UNIQUENESS: It is staff's opinion that this property is unique, as it was platted and developed prior to the current zoning code standards, with no other options for a carport location. This property is also unique in that the property to the north is developed with a house over 32 feet from the property line. The carport structure is unique in that it is an open-air carport, not enclosed living space.

ADJACENT PROPERTY: It is staff's opinion that granting the requested setback reduction variance will not adversely affect the rights of adjacent property owners. The carport is approximately 40 feet front the adjacent residences, and therefore does not block their view of the street. Likewise, the carport is an open structure within the front setback, and is therefore not visually obtrusive.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the zoning code would constitute an unnecessary hardship upon the applicant, as requiring the applicant to comply with the 25-foot front setback will prevent the applicant from improving her property with a carport with no corresponding public benefit.

PUBLIC INTEREST: It is staff's opinion that the requested variance of the front building setback would not adversely affect the public interest, 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 staff's opinion that granting the requested variance of the front building setback would not oppose the general spirit and intent of the zoning regulations, as the primary intent of the front setback is to maintain sufficient separation between structures and public right-of-way. The requested variance does not negatively impact this intent, as the carport is an open-air structure, and does not impede street visibility for the adjacent properties.

RECOMMENDATION: Staff finds that the requested variance meets the five conditions necessary for a variance. Should the Board concur and determine that all five conditions necessary for a variance exist, then the Secretary recommends that the variance to reduce the front setback from 25 to five feet be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback reduction shall apply only to the "carport" 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.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

