



**Wichita-Sedgwick County Metropolitan Area Planning Department**

December 3, 2021

Anthony and Emily Marchetti  
254 N. Yale Avenue  
Wichita, KS 67208

**RE: BZA2021-00058 –Variance in the City to reduce the street side building setback for an in-ground swimming pool; generally located at the southeast corner of Yale Avenue and East 2nd Street (254 N. Yale Ave.)**

Dear Applicant,

The official action of the Board of Zoning Appeals was to grant the requested variance. The BZA2021-00058. The Resolution adopted by the Board of Zoning Appeals will follow under separate cover. The approval of the request is subject to the following conditions.

1. The reduction of setback shall only apply to the existing structure and the 16-foot by 20-foot in-ground swimming pool as described on the attached site plan.
2. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department to construct the in-ground pool.

If you have any questions concerning this matter, please call our office at (316)-268-4421.

Sincerely,

A handwritten signature in blue ink that reads 'Kathy L. Morgan'.

Kathy L. Morgan, Senior Planner  
Metropolitan Area Planning Department  
271 West 3<sup>rd</sup> Street, Room 203  
Wichita, KS 67202

Copies to: MABCD  
Brandon Johnson, WCC District I, mail stop 1-13  
Tasha Hayes, CRS District I, mail stop 1-135

**BZA RESOLUTION NO. BZA2021-00058**

**WHEREAS**, Anthony and Emily Marchetti (Owners); pursuant to Kansas Statutes Annotated 12-759, requests by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to allow a reduction in the street side setback from 15 feet to six (6) feet; and generally located at the southeast corner of Yale Avenue and East 2nd Street (254 N. Yale Ave.) Described as described as follows:

Lots 2, 4, and 6, on Yale Avenue, in Roberson & Smith Subdivision of Lot 3 and Part of Lot 4 on Block 6, College Hill Addition to the City of 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 December 2, 2021, 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 conditions of the request are unique to the subject property; and

**WHEREAS**, waving the requirements will not adversely affect the rights of adjacent property owners; and

**WHEREAS**, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner.

**WHEREAS**, it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare; and

**WHEREAS**, It is the opinion of Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case; and

**WHEREAS**, each of the five conditions required by Kansas Statutes Annotated 12-759, 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, a Variance to allow a reduction in the street side setback from 15 feet to six (6) feet; and generally located at the southeast corner of Yale Avenue and East 2nd Street (254 N. Yale Ave.) Described as described as follows:

Lots 2, 4, and 6, on Yale Avenue, in Roberson & Smith Subdivision of Lot 3 and Part of Lot 4 on Block 6, College Hill Addition to the City of Wichita, Sedgwick County Kansas

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

1. The reduction of setback shall only apply to the existing structure and the 16-foot by 20-foot in-ground swimming pool as described on the attached site plan.
2. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department to construct the in-ground pool.

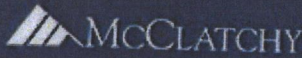
Adopted this 11<sup>th</sup> Day of AUGUST, 2023.

  
\_\_\_\_\_  
Ann M. Fox, BZA Board Chair

ATTEST:

  
\_\_\_\_\_  
Scott Wadle, BZA Secretary

BZA 2021-00058  
KM



Beaufort Gazette  
Belleville News-Democrat  
Bellingham Herald  
Bradenton Herald  
Centre Daily Times  
Charlotte Observer  
Columbus Ledger-Enquirer  
Fresno Bee

The Herald - Rock Hill  
Herald Sun - Durham  
Idaho Statesman  
Island Packet  
Kansas City Star  
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el Nuevo Herald - Miami  
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### AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	168364	WIC-11-11-21	OCA 150004	\$26.00	1	15.00 in

Attention: Betsy Pagán  
CITY OF WICHITA/PLANNING DEPT  
271 WEST THIRD ST., 2ND FL, SU 203  
WICHITA, KS 67202

Copy of ad content  
is on the next page

In The STATE OF KANSAS  
In and for the County of Sedgwick

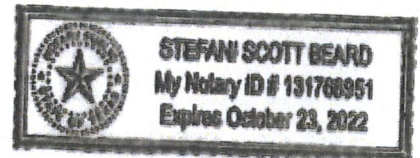
No. of Insertions: 1  
Beginning Issue of: 11/11/2021  
Ending Issue of: 11/11/2021

STATE OF KANSAS)  
SS  
County of Sedgwick)

Hayley Martin, of lawful age, being first duly sworn, deposes and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 11/11/2021 to 11/11/2021.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.  
DATED: 12/20/2021

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.  
Legal document please do not destroy!







**BACKGROUND:** The applicant desires to reduce the street side building setback along East 2<sup>nd</sup> Street on property zoned SF-5 Single-Family Residential, and generally located at the southeast corner of Yale Avenue and East 2nd Street (254 N. Yale Ave). The application was originally filed as an Administrative Adjustment; however, Section III-B.5.d (6) of the Unified Zoning Code requires minimum street side setbacks to be 15 feet in an SF-5 zoning district and therefor cannot be administratively adjusted. The applicant plans to build an in-ground swimming pool in the back half of the lot. A variance is required to reduce the street side building setback from 15 feet to 6 feet. The property has a six-foot privacy fence with a secured gate.

The applicant is requesting the following variance:

1. Variance to reduce the street side setback from 15 feet to 6 feet along East 2<sup>nd</sup> Street North.

The property to the north is zoned SF-5 and developed with a single-family residence. Property east of the subject site is zoned B Multifamily and is the National Register listed Allen House. South of the subject property is zoned SF-5 and developed with a single-family residence. West of the subject property is SF-5 and TF-3 Two-Family Residential zoned properties and are developed with a single-family residences.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-Family Residence
SOUTH:	SF-5	Single-Family Residence
EAST:	B	Allen House Museum
WEST:	SF-5, TF-3	Single-Family Residences

**CASE HISTORY:** In 1908, the property was platted as the Robertson and Smiths Subdivision. No other cases are associated with this property.

**UNIQUENESS:** The applicant has indicated that the existing layout of the property prevents the construction of the pool in another location on the lot. Staff analysis finds that the existing home was built in 1919 prior to adoption of the zoning code. The current setback requirements were not applicable at the time. The existing home is 10 feet from the property line. The in-ground pool will encroach nine (9) feet into the street side setback, and will be 6 feet from the property line.

**ADJACENT PROPERTY:** ~~The applicant did not submit any information about how this condition exists. The applicant has indicated that the pool will not be visible to the neighbors and will be located behind a privacy fence.~~

Staff analysis is that granting the variance is not likely to adversely affect the rights of adjacent property owners. The existing home was built in 1919 prior to the introduction of the street side setbacks. The in-ground pool is screened by a solid six foot fence with gated, controlled access into the backyard.

**HARDSHIP:** The applicant has indicated that the existing layout of the property prevents the construction of the pool in another location on the lot. Staff analysis finds that street side yard setbacks are established by the Unified Zoning Code at 15 feet from the property line. The setback can be administratively adjusted by up to 20 percent (allowing a 3 foot reduction in this case). Since the property owners would like the pool to be located closer than 12 feet from the property line, a variance is necessary. The property was developed in 1919 with a house and detached garage. There are other locations on the property where the pool can fit.

**PUBLIC INTEREST:** The applicant indicates the project will increase the value and use of the property.

Staff analysis finds that the requested variance would not adversely affect the public interest, health, safety or welfare. The in-ground pool will be built according to building code standard, which require a security fence.

**SPIRIT AND INTENT:** The applicant indicates the proposed project will not be obtrusive to the neighborhood and will allow them to fully utilize their property. Staff analysis finds that granting the requested variance would not oppose the general spirit and intent of the Unified Zoning Code. The existing home was built in 1919, prior to the introduction of the street side yard setback. The home addition will increase the encroachment into the setback, but not affect the existing privacy fence.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variances can be found to exist, then it is the recommendation of the Secretary to impose the following conditions:

1. The reduction of setback shall only apply to the existing structure and the 16-foot by 20-foot in-ground swimming pool as described on the attached site plan.
2. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department to construct the in-ground pool.

**Report Attachments:**

1. Aerial Map
2. Growth Map
3. Zoning Map
4. Site Plan
5. Photos
6. Variance Justification Letter

Aerial Map



Future Growth Map

2035 Wichita  
Future Growth  
Concept Map

- Legend**
- Established Central Area
  - Residential and Employment Mix
  - New Employment
  - New Residential
  - Wichita City Limits
  - Other Cities
  - Northwest Bypass Right-of-Way
- Statistical Development Areas**
- Other Urban Growth Areas 2014
  - Other Urban Growth Areas 2014
  - Rural Growth Areas 2014
- LAND USE**
- Residential
  - Commercial
  - Industrial
  - Major Air Transportation & Military
  - Parks and Open Space
  - Agricultural or Vacant
  - Major Institutional
  - Nighbd\_Plan\_Areas







Photos





# Zoning Code Variance Request

Dear City of Wichita:

We are writing this letter to request a street setback variance for the unified zoning code to add a swimming pool to an existing property located at 254 N. Yale Ave., Wichita, KS 67208. The swimming pool proposed is to be located on the NE corner of the property behind a privacy fence. The swimming pool to be constructed is steel/vinyl style, in-ground and would be 16' x 20'. The square footage of the property is 9,909.

Below are justifications for approval of the street setback variance request.

1. The location of the proposed swimming pool will be in the backyard of the property next to the garage;
2. Due to the layout of the property, there is no other location to construct it;
3. Noise from the pool would be non-obtrusive to neighbors;
4. The swimming pool will not be visible to neighbors as it will be behind a privacy fence;
5. The pool will improve the property and its value by creating a functional recreation and gathering space.

With the information provided, we request your approval for the street setback variance for the installation of a swimming pool.

Sincerely,

Anthony & Emily Marchetti  
254 N. Yale Ave.

