



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

June 26, 2012

Randall Schrag  
1814 W. Harborlight  
Wichita, KS 67204

**RE: BZA2012-33 – City variance request to reduce the side yard building setback from six to zero feet in SF-5 zoning for a detached garage; generally located north of Harborlight Street and east of Meridian (1814 W. Harborlight).**

Dear Applicant:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the City Board of Zoning Appeals on June 26, 2012. 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,

Jess McNeely, AICP  
BZA Secretary  
Current Plans Division

cc: Riek Stubbs, Office of Central Inspections, 1-72  
JR Cox, Office of Central Inspection, 1-72  
Mike Gable, Office of Central Inspection, 1-72  
Janet Miller, WCC VI Mailstop 1-13  
Terri Dozal, WCC VI NA, Mailstop 1-134

**BZA RESOLUTION NO. BZA2012-33**

**WHEREAS**, Marilyn K. Schrag Revocable Trust c/o Randall Schrag (owner), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance of the Unified Zoning Code to reduce the side yard building setback from six to zero feet, in SF-5 zoning adjacent to floodway, for a detached garage; generally located north of Harborlight Street and east of Meridian (1814 W. Harborlight Street).

Lot 33, Block 1, Harbor Isle 2nd 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 June 26, 2012, 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 this property is unique. The site is not in the mapped flood-plain, but the rear half of the lot regularly floods, rendering it unusable. Also, the site is unique in that it is adjacent to the Little Arkansas River floodway, land which cannot be platted or built upon.

**WHEREAS**, the Board of Zoning Appeals has found that granting the requested variance will not adversely affect the rights of adjacent property owners. Property adjacent to the proposed building is unzoned floodway land containing the Little Arkansas River; no structures can be built in this floodway. Therefore a side setback reduction will have no impact on the adjacent property owner or future use of that property. The City Stormwater Engineer has no objection to the requested setback reduction.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the Code would constitute an unnecessary hardship upon the applicant. The application area is large enough for an accessory structure, but property behind the existing house is unusable due to flooding. Also, because land southeast of this site is unzoned and unplatted floodway, this property owner does not have the opportunity to establish a building setback on the adjacent property ensuring 10 feet between structures. Without the requested setback variance, the applicant cannot feasibly improve their property with an accessory structure.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance will not adversely affect the public interest, as further improving this property is in the public interest. And, the local Home Owners Association design review will require that the accessory structure is visually consistent with the established neighborhood.

**WHEREAS**, the Board of Zoning Appeals has found that granting the requested variance does not oppose the general spirit and intent of the Zoning Code. Side building setbacks are intended to ensure

separation between structures; adjacent land is unbuildable floodway, ensuring that structure separation will never be an issue.

**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.

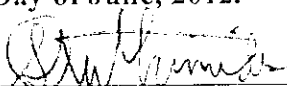
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance of the Unified Zoning Code to reduce the required side yard building setback from six to zero feet for a detached garage; generally located north of Harborlight Street and east of Meridian (1814 W. Harborlight Street).

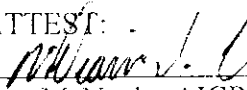
Lot 33, Block 1, Harbor Isle 2nd Addition, Wichita, Sedgwick County, Kansas.

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 side setback reduction shall apply to the accessory structure shown on the site plan only. Any future buildings on this site shall conform to Zoning Code required setbacks unless a separate Administrative Adjustment or Variance is approved.
3. The applicant shall obtain all permits necessary to build the accessory structure within one year of variance approval, unless such time is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 26th Day of June, 2012.

  
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BZA Board Chair, Steve Anthimides

ATTEST: -  
  
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Jess McNeely, AICP  
BZA Secretary

BOARD OF ZONING APPEALS  
WICHITA, KANSAS

AGENDA ITEM NO. 2  
June 26, 2012

SECRETARY'S REPORT

CASE NUMBER: BZA2012-33

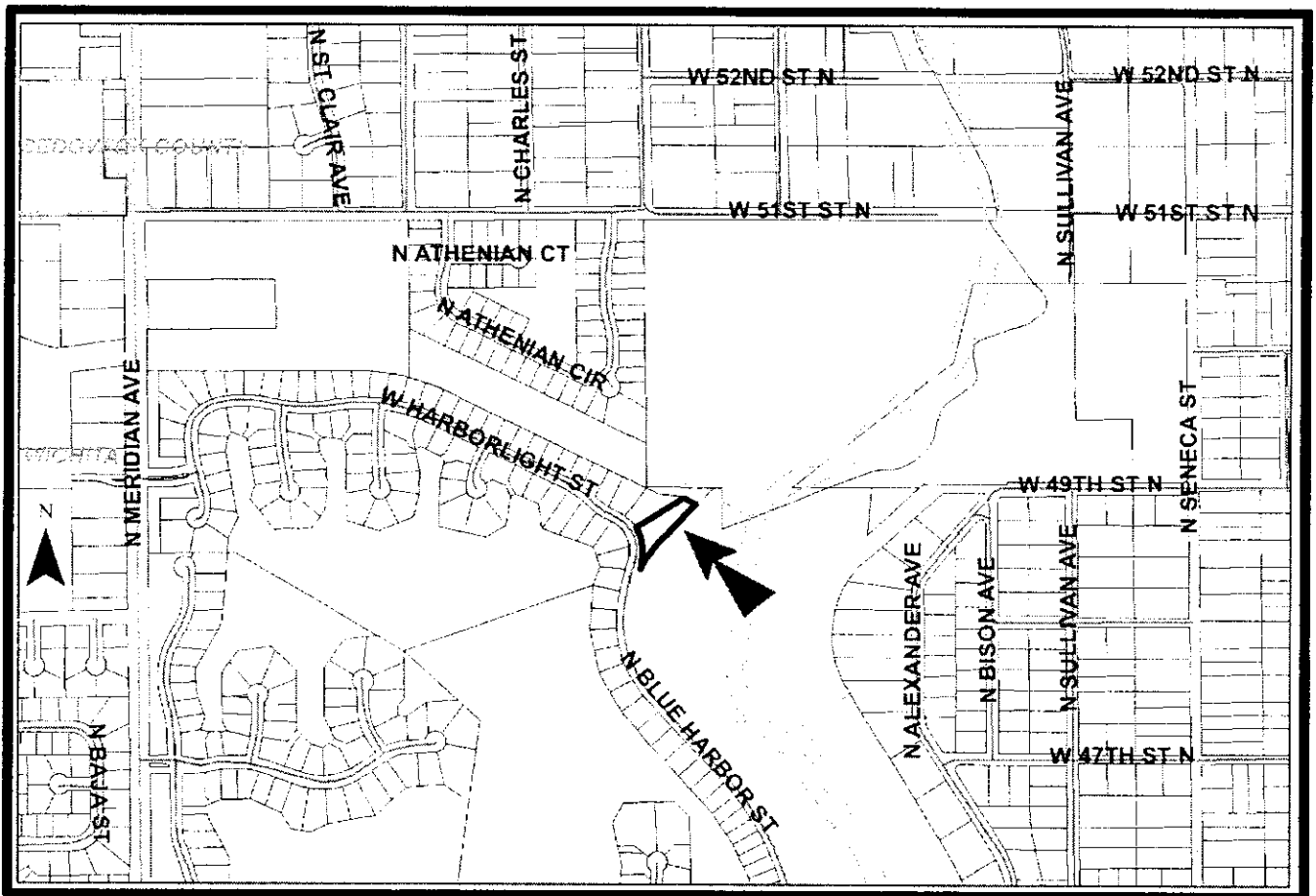
APPLICANT/AGENT: Randall Schrag (owner)

REQUEST: City variance of the Zoning Code required side building setback adjacent to floodway for a detached garage

CURRENT ZONING: SF-5 Single-family Residential

SITE SIZE: .72 acres

LOCATION: Generally located north of Harborlight Street and east of Meridian (1814 W. Harborlight Street)



**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 side yard setback requirement in SF-5 zoning from six feet to zero feet adjacent to a floodway for an accessory structure (detached garage), see the attached site plan and elevation drawing. The Zoning Code requires a minimum side setback of six feet in the SF-5 zoning district, or five feet if the lot is smaller than 6,000 square feet (the application area is larger than 6,000 square feet); the side setback can be reduced to zero if setback lines are established to ensure a minimum of ten feet between structures. The subject property is adjacent to unplatted floodway, therefore establishing a building setback on the adjacent property is not possible. Also, the Zoning Code would allow reduction of the side setback to three feet for an accessory structure if the subject structure is located on the rear half of the property, the submitted site plan demonstrates the proposed accessory structure on the front half of the property. The subject property is within a Home Owners Association with architectural design requirements. The rear half of the subject property regularly floods, limiting options on this site for an accessory structure. This property sought and received a Zoning Administrative Adjustment to place the proposed accessory structure in front of the primary structure.

Property north of this site is zoned SF-5 and utilized for a drainage ditch, further north is B Multi-family ("B") zoned property developed with Camp Hiawatha. East and south of the site is unzoned land containing the Little Arkansas River and overseen by the Wichita – Valley Center Flood Control. West of the site are SF-5 zoned lots within the Harbor Isle 2<sup>nd</sup> Addition. The adjacent lot to the west is undeveloped; further west, across Harborlight Street, are developed single-family lots. Harborlight Street is a two-lane residential street with a 64-foot right-of-way.

**ADJACENT ZONING AND LAND USE:**

NORTH	SF-5, B	Drainage, children's camp
SOUTH	unzoned	Floodway, Little Arkansas River
EAST	unzoned	Floodway, Little Arkansas River
WEST	SF-5	Vacant, single-family residences

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

**UNIQUENESS:** It is staff's opinion that this property is unique. The site is not in the mapped flood-plain, but the rear half of the lot regularly floods, rendering it unusable. Also, the site is unique in that it is adjacent to the Little Arkansas River floodway, land which cannot be platted or built upon.

**ADJACENT PROPERTY:** It is staff's opinion that granting the requested variance for a setback reduction would not adversely affect the rights of adjacent property owners. Property adjacent to the proposed building is unzoned floodway land containing the Little Arkansas River; no structures can be built in this floodway. Therefore a side setback reduction will have no impact on the adjacent property owner or future use of that property. The City Stormwater Engineer has no objection to the requested setback reduction.

**HARDSHIP:** It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicant. The application area is large enough for an accessory structure, but property behind the existing house is unusable due to flooding. Also, because land southeast of this site is unzoned and unplatted floodway, this property owner does not have the opportunity to establish a building setback on the adjacent property ensuring 10 feet between structures. Without the requested setback variance, the applicant cannot feasibly improve their property with an accessory structure.

**PUBLIC INTEREST:** It is staff's opinion that the requested variance for a setback reduction will not adversely affect the public interest, as further improving this property is in the public interest. And, the local Home Owners Association design review will require that the accessory structure is visually consistent with the established neighborhood.

**SPIRIT AND INTENT:** It is staff's opinion that granting the requested variance for a setback reduction does not oppose the general spirit and intent of the Zoning Code. Side building setbacks are intended to ensure separation between structures; adjacent land is unbuildable floodway, ensuring that structure separation will never be an issue.

**RECOMMENDATION:** It is staff's opinion that the requested variance of the Zoning Code to reduce the side setback requirement from six feet to zero feet is appropriate for this site. Should the Board determine that the criteria necessary to grant a variance exist, then the Secretary recommends that the variance be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The side setback reduction shall apply to the accessory structure shown on the site plan only. Any future buildings on this site shall conform to Zoning Code required setbacks unless a separate Administrative Adjustment or Variance is approved.
3. The applicant shall obtain all permits necessary to build the accessory structure within one year of variance approval, unless such time is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

