



Wichita-Sedgwick County Metropolitan Area Planning Department

December 18, 2012

Seven Hills, LLC
2924 N. Pepper Ridge CT.
Wichita, KS 67205

Mary L. Traffas
131 N. Chautauqua
Wichita, KS 67214

RE: BZA2012-65 – City variance request of the Zoning Code to reduce the side yard setback from three to zero feet on two properties to rebuild a garage with a common wall in TF-3 Two-family Residential ("TF-3") zoning; generally located west of Chautauqua and north of Douglas (131 and 135 N. Chautauqua).

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the City Board of Zoning Appeals on December 18, 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,

A handwritten signature in black ink, appearing to read 'Jess McNeely'.

Jess McNeely, AICP
BZA Secretary
Current Plans Division

cc: Rick Stubbs, Office of Central Inspections
JR Cox, Office of Central Inspection
Mike Gable, Office of Central Inspection
LaVonta Williams, WCC I CM
LaShonda Gaines, WCC I NA

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www.wichita.gov

BZA RESOLUTION NO. BZA2012-65

WHEREAS, Seven Hills, LLC; Mary L. Traffas, Trustee of the Mary L. Traffas Revocable Trust (owners), request a variance of the Zoning Code to reduce the side yard setback from three to zero feet on two properties to rebuild a garage with a common wall in TF-3 Two-family Residential ("TF-3") zoning; generally located west of Chautauqua and north of Douglas (131 and 135 N. Chautauqua).

Legal Description: LOTS 25, 26 & 27 CHAUTAUQUA AVE. OLIVER'S SUB. BLK 7 CHAUTAUQUA ADD.

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 18, 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 houses built on these sites existed prior to a zoning code in the City; the site was developed with one driveway serving both properties with a common garage. A common garage easement filed in 1963 makes the site further unique. This property is also unique in that it is within the Wichita/Sedgwick County Comprehensive Plan designated "Revitalization" area. The Plan recommends flexible building setback requirements in this area to encourage infill development and redevelopment.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a side yard setback reduction would not adversely affect the rights of adjacent property owners. The application area has existed with a common garage for approximately 90 years with no apparent impact on adjacent properties.

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 applicants. Without the requested side yard setback variance, the applicants would be required to reconstruct a separate garage each, losing open space in their respective back yards, and requiring additional concrete driveway construction.

WHEREAS, the Board of Zoning Appeals has found 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. The Wichita/Sedgwick County Comprehensive Plan specifically recommends building setback flexibility in this neighborhood to accommodate redevelopment that serves the public interest.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance does not oppose the general spirit and intent of the Code. Side yard building setbacks are intended to ensure separation between structures. If the garage remains a common structure between the two properties, a setback is not necessary.

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.

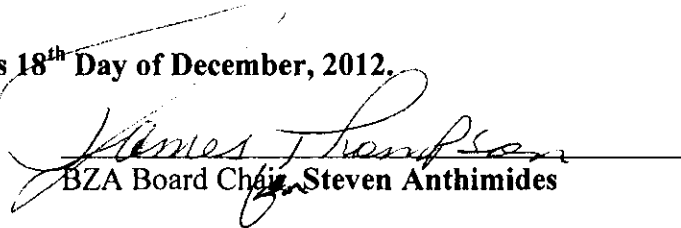
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance of the Zoning Code to reduce the side yard setback from three to zero feet on two properties to rebuild a garage with a common wall in TF-3 Two-family Residential ("TF-3") zoning; generally located west of Chautauqua and north of Douglas (131 and 135 N. Chautauqua).

Legal Description: LOTS 25, 26 & 27 CHAUTAUQUA AVE. OLIVER'S SUB. BLK 7 CHAUTAUQUA ADD.

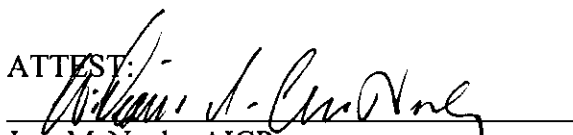
The variance is hereby GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The side building setback reduction shall apply to the detached garage 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 garage shall meet building code, fire code and all other applicable code requirements. The applicant shall obtain all permits necessary to build the 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 18th Day of December, 2012.


BZA Board Chair, Steven Anthimides

ATTEST:


Jess McNeely, AICP
BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2012-65

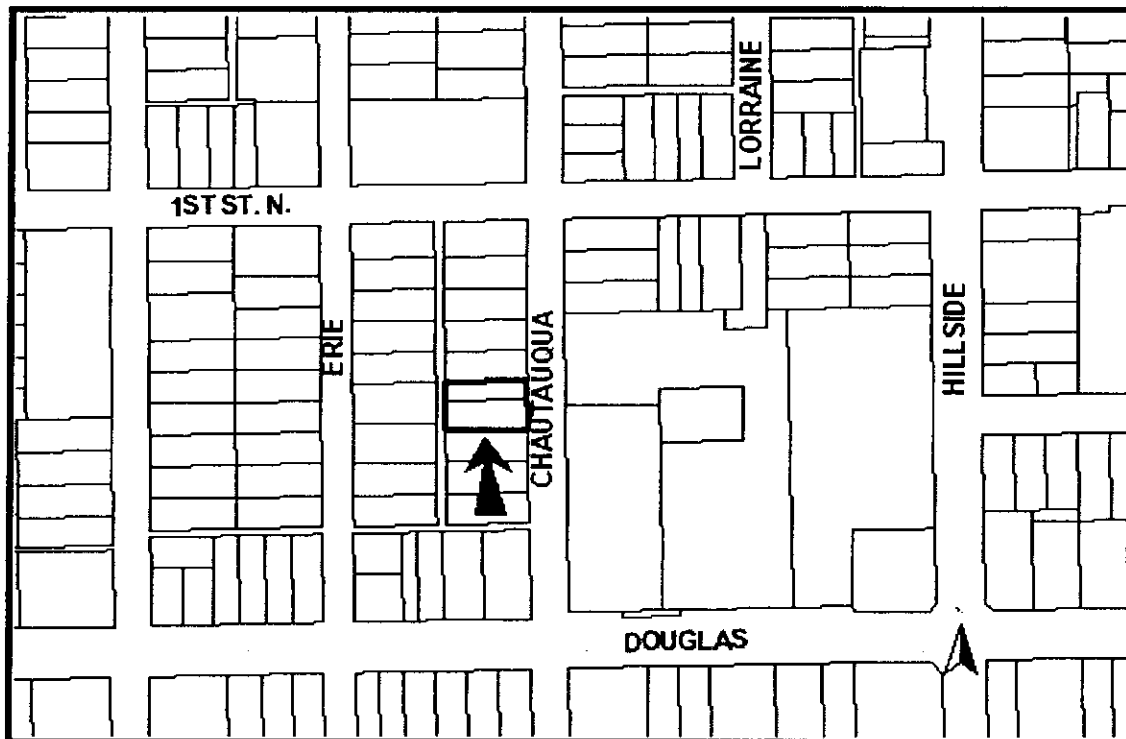
APPLICANT/AGENT: Steven Hills, LLC; Mary L. Traffas, Trustee of the Mary L. Traffas Revocable Trust (owners)

REQUEST: City BZA Variance request to reduce the side yard setback from three to zero feet on two properties to rebuild a garage with a common wall

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

SITE SIZE: .22 acres

LOCATION: West of Chautauqua and north of Douglas (131 and 135 N. Chautauqua)



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 subject properties share a common driveway and garage, both are divided down the middle by the common property line. Houses on the sites were built in 1910, the garage construction date is unknown but assumed to be in the 1920s, a common garage easement was filed on the properties in 1963. The common garage has become structurally unsound. The applicants desire to rebuild it as it has stood for many years, see the attached site plan and applicant's letter. The Zoning Code requires a minimum side setback of three feet in the TF-3 zoning district for accessory structures on the rear half of the lot. To rebuild the common garage as it currently stands requires a variance of the side setback on both properties. The applicant consulted with the Office of Central Inspections permitting staff, who confirmed that with a variance, the garage could be rebuilt with a fire rated common wall separating the two properties. This type of construction is not uncommon between "zero lot line" commercial buildings in downtown areas with no setback requirements.

All properties north, south and west of the site are zoned TF-3 and developed with single and two-family residences. Property east of the site is zoned LC Limited Commercial ("LC") and developed with a grocery store. Chautauqua is a paved, two-lane local street with a 60-foot right of way.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single and two-family residences
SOUTH:	TF-3	Single and two-family residences
EAST:	LC	Grocery store
WEST:	TF-3	Single and two-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 houses built on these sites existed prior to a zoning code in the City; the site was developed with one driveway serving both properties with a common garage. A common garage easement filed in 1963 makes the site further unique. This property is also unique in that it is within the Wichita/Sedgwick County Comprehensive Plan designated "Revitalization" area. The Plan recommends flexible building setback requirements in this area to encourage infill development and redevelopment.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for a side yard setback reduction would not adversely affect the rights of adjacent property owners. The application area has existed with a common garage for approximately 90 years with no apparent impact on adjacent properties.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants. Without the requested side yard setback variance, the applicants would be required to reconstruct a separate garage each, losing open space in their respective back yards, and requiring additional concrete driveway construction.

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. The Wichita/Sedgwick County Comprehensive Plan specifically recommends building setback flexibility in this neighborhood to accommodate redevelopment that serves the public interest.

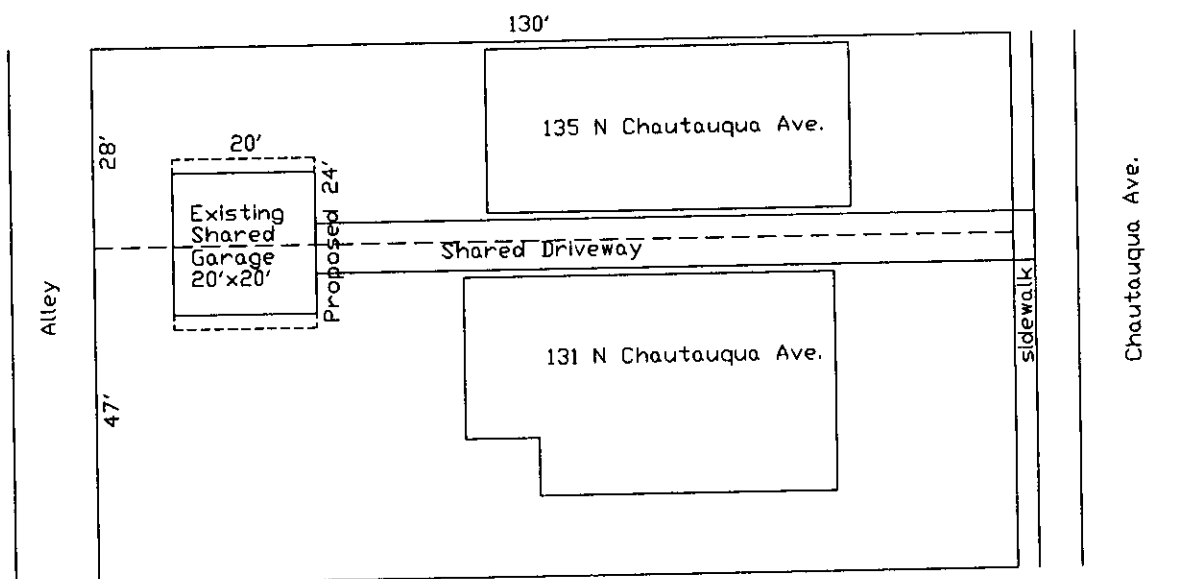
SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a setback reduction does not oppose the general spirit and intent of the Zoning Code. Side yard building setbacks are intended to ensure separation between structures. If the garage remains a common structure between the two properties, a setback is not necessary.

RECOMMENDATION: It is staff's opinion that the requested variance of the Zoning Code to reduce the side setback requirement from three feet to zero feet is appropriate for this site. Should the Board determine that the criteria necessary to grant a variance exists, 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 building setback reduction shall apply to the detached garage 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 garage shall meet building code, fire code and all other applicable code requirements. The applicant shall obtain all permits necessary to build the 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.



Scale: 1"=20'



APPROVED

BZA 2012-65 SITE PLAN

William J. McGee

Date: 12-18-12