



Wichita-Sedgwick County Metropolitan Area Planning Department

June 9, 2017

Matthew Kingery
10813 Carr
Wichita, KS 67209

RE: BZA2017-00016 – City variance to reduce the required side street setback to 6” to allow a carport to remain at 10813 Carr Avenue

Dear Applicant:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on June 8, 2017. This resolution reflects the official action of the Board and 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 cursive script that reads 'D.M. Clements'.

David M. Clements, AICP
BZA Secretary

DMC/mc
Attachment - Resolution

cc: MABCD

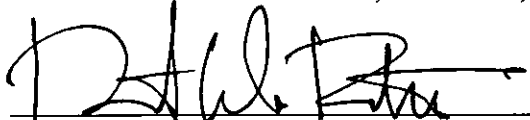
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, approves a Variance at 10813 W. Carr Avenue as noted herein;

Legal Description: Lot 4, Block 2 in Lark Third Addition, Wichita, Sedgwick County, Kansas.

The variances are hereby GRANTED, subject to the following conditions:


1. The new carport can remain as constructed, but not expanded or enlarged in any manner. The structure shall be in compliance with the applicant's site plan.
2. The interior side setback reduction shall only apply to the carport on the site plan.
3. The applicant shall obtain an encroachment agreement with the property owner to the west.
4. Gutters and downspouts shall be added to the carport to control run-off onto the adjacent property.
5. The applicant shall obtain all permits necessary to construct the improvements, and the carport is subject to all required inspections and code requirements, including fire rated wall construction.
6. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 8th Day of June 2017.



BZA Board Chair, David W. Foster

ATTEST:



David M. Clements, AICP
BZA Secretary

BZA RESOLUTION NO. BZA2017-00016

WHEREAS, Matthew Kingery, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, requests a Variance to reduce the interior side setback at 10831 W. Carr Ave, to allow a carport to be remain;

Legal Description: Lot 4, Block 2 in Lark Third 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 8 2017, 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 Board of Zoning Appeals found that the conditions of the request are also somewhat unique to the subject property, there is no location on the property where a carport or garage addition could be constructed without the need to encroach in the required front or interior side yard. Additionally, the applicant did not create the need for the variance, they were relying on a contractor that failed to obtain the required permits, placing them in an unfortunate situation.

WHEREAS, The proposed 6-inch interior side setback does not provide a sufficient minimum amount of open space between properties. Stormwater run-off from the carport roof could discharge directly onto the neighboring property.

The property owner to the west, Jana Fabor, provided staff with correspondence stating “I do not have a problem with the neighbor’s carport being next to my property.”

WHEREAS, the Board of Zoning Appeals has found that removing the existing carport would be a financial hardship and great inconvenience for them. The carport was constructed to provide more storage at the residence, and is necessary to meet the space needs of the applicant.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest, health, safety or welfare.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations. There is a certain reasonableness to allowing the new carport to remain considering the circumstances of its construction. The carport does not detract from the attractiveness of the neighborhood.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

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: This application was filed in order to reduce the 6-foot interior side setback to 6-inches in order to allow a carport to remain at 10813 West Carr Avenue. The applicant explains that they entered into a contract with a builder to construct a new carport at their home. The carport was constructed on the side of their home, in the required interior side setback. The *Unified Zoning Code (UZC)*, requires a 6-foot interior side setback in a SF-5 Single-Family Residential District, the carport was constructed 6-inches from the property line. The builder did not obtain a permit for the carport, and the structure was completed without permit review or inspections. The applicants were contacted by the Metropolitan Area Building and Construction Department and were advised that a variance was necessary in order to allow the carport to remain as constructed.

The applicant explains that the carport was constructed to provide more storage at their home so they could remain in the neighborhood. They point out that removing the carport would cause a financial hardship and considerable inconvenience. Please see the attached narrative from the applicant addressing the five required conditions for a variance.

The new carport is enclosed by a privacy fence with a swing out gate for access. The structure has wood siding, and is painted to match the house.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Single Family Residence
SOUTH	SF-5	Single-Family Residence
EAST	SF-5	Single Family Residence
WEST	SF-5	Single-Family Residence

UNIQUENESS: The conditions of the request are also somewhat unique to the subject property, there is no location on the property where a carport or garage addition could be constructed without the need to encroach in the required front or interior side yard. Additionally, the applicant did not create the need for the variance, they were relying on a contractor that failed to obtain the required permits, placing them in an unfortunate situation.

ADJACENT PROPERTY: The proposed 6-inch interior side setback does not provide a sufficient minimum amount of open space between properties. Stormwater run-off from the carport roof could discharge directly onto the neighboring property.

The property owner to the west, Jana Fabor, provided staff with correspondence stating *"I do not have a problem with the neighbor's carport being next to my property."*

HARDSHIP: The applicant explains that removing the existing carport would be a financial hardship and great inconvenience for them. The carport was constructed to provide more storage at the residence, and is necessary to meet the space needs of the applicant.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, health, safety or welfare. Allowing the new carport to remain would not be contrary to the public interest.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations. There is a certain reasonableness to allowing the new carport to remain considering the circumstances of its construction. The carport does not detract from the attractiveness of the neighborhood.

RECOMMENDATION: 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 interior side setback from six feet to 6-inches be **GRANTED**, subject to the following conditions:

1. The new carport can remain as constructed, but not expanded or enlarged in any manner. The structure shall be in compliance with the applicant's site plan.
2. The interior side setback reduction shall only apply to the carport on the site plan.
3. The applicant shall obtain an encroachment agreement with the property owner to the west.
4. Gutters and downspouts shall be added to the carport to control run-off onto the adjacent property.
5. The applicant shall obtain all permits necessary to construct the improvements, and the carport is subject to all required inspections and code requirements, including fire rated wall construction.
6. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

Report Attachments:

1. Site Plan
2. Applicants Narrative

10013 W Carr. Site

