



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

July 18, 2006

Steven C. Barber  
5501 Annapolis  
Clearwater, KS 67026


Re: **VAC2006-00009** - Request to vacate multiple encroachments into platted setbacks, generally located north of 55<sup>th</sup> Street South, east of 167<sup>th</sup> Street West, on the southeast corner of Kingsbury Lane & Annapolis Avenue.

Dear Mr. Barber:

At its regular meeting on Wednesday, June 21, 2006, the Board of County Commission considered request. The action of the Board of County Commissioners was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,



Bill Longnecker  
Senior Planner

BL:le

cc: Glen Wiltse, Sedgwick County Code Enforcement, 1144 S Seneca, Wichita, KS, 67213  
Jim Weber, Sedgwick County Engineer, Public Works Department, 1144 S. Seneca, Wichita, KS 67213  
Laura J. Williams, %Benjamin E. & Gloria A. Coble, Rt 1, Box 217, Clearwater, KS 67026  
Jimmy D. & Diana S. Renfro, 16405 W. Kingsbury Lane, Clearwater, KS 67026  
Rodney & Delma J. Gerberding, 5421 Annapolis, Clearwater, KS 67026  
Michael Dale & Heather Lea Campbell, 5416 Skyline Drive, Clearwater, KS 67026  
Randy D & Sheila M Grim, 16418 Kingsbury, Clearwater, KS 67026  
Kenneth F & Alice M Long, Box 223, RR-1, Clearwater, KS 67026

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BEFORE THE COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF )  
PORTIONS OF PLATTED SETBACKS )  
 )  
GENERALLY LOCATED )  
NORTH OF 55<sup>TH</sup> STREET SOUTH, EAST OF 167<sup>TH</sup> )  
STREET WEST, ON THE SOUTHWEST CORNER OF )  
KINGSBURY LANE & ANNAPOLIS AVENUE )  
 )  
 )  
 )

CASE NO. VAC2006-00009

VACATION ORDER

NOW on this 21<sup>st</sup> day of June 2006, at 9:00 o'clock A.M., comes the petition filed by Steven C.

Barber, praying for the vacation of the following-described portions of platted setbacks, to-wit:

Commencing at the Northeast corner of Lot 3, Block 15, "K-42 ESTATES": Sedgwick County, Kansas; thence westerly, on the north line of said Lot 3, on an assumed bearing of North 90°00'00" West, a distance of 69.67 feet; thence South 00' East, a distance of 13.72 feet to the POINT OF BEGINNING; thence South 36'40" East, a distance of 36.29 feet to a point on the foot building setback line; thence North 90°00'00" West, on said setback line, a distance of feet; thence North 38'49" West, a distance of feet, thence North 88°23'06" East, a distance of feet to the POINT OF BEGINNING.

Commencing at the Northeast corner of Lot 3, Block 15, "K-42 ESTATES": Sedgwick County, Kansas; thence westerly, on the north line of said Lot 3, on an assumed bearing of North 90°00'00" West, a distance of feet; thence South 00'00" East, a distance of feet to the POINT OF BEGINNING; thence South 01'56" East, a distance of feet; thence South 87°58'04" West, a distance of 6.49 feet to a point on the feet building setback line, said line

being a with a radius of feet and a chord bearing and distance of North 03'14" feet; thence northerly, on said setback line, an arc distance of 50.48 feet; thence North 87°58'04" East, a distance of 7.39 feet to the POINT OF BEGINNING.

WHEREUPON, it is shown that proper notice has been given by publication once at least 20 days prior to the date of hearing in the official county newspaper, such publication having occurred on March 16, 2006; and it is further shown that proper proof of such publication has been filed herein. The Board finds that such notice is in lawful form and that it conforms to K.S.A. 58-2613, and amendments thereto.

THEREAFTER, the Board, being duly advised in the premises, finds and determines that no private rights will be injured or endangered by such vacation; that the public will suffer no loss or inconvenience thereby; that no written objections hereto have been filed with the Sedgwick County Clerk; and that, in justice to the petitioner, the petition's prayer should be granted, subject to the following conditions; No expansion is allowed on the current garage/shop structure. If 50% or more of the current garage/shop structure is destroyed, it cannot be rebuilt on this site and the 50-foot setback line will be reinstated.

The Board further finds that the Metropolitan Area Planning Commission held a public hearing on the 6<sup>th</sup> day of April 2006 and recommended that the vacation petition herein be approved.

THEREFORE, IT IS ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that the portions of platted setbacks hereinabove described be and the same is hereby vacated.

DATED this \_\_\_\_\_ day of \_\_\_\_\_.

**BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS**

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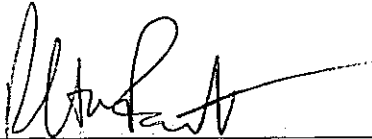
Ben Sciortino, Chairman  
Fifth District

ATTEST:

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Don Brace, County Clerk

APPROVED AS TO FORM:



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Robert W. Parnacott  
Assistant County Counselor

STAFF REPORT

CASE NUMBER: VAC2006-00009 Request to vacate multiple encroachments into platted setbacks

APPLICANTS/OWNERS: Steven C Berber

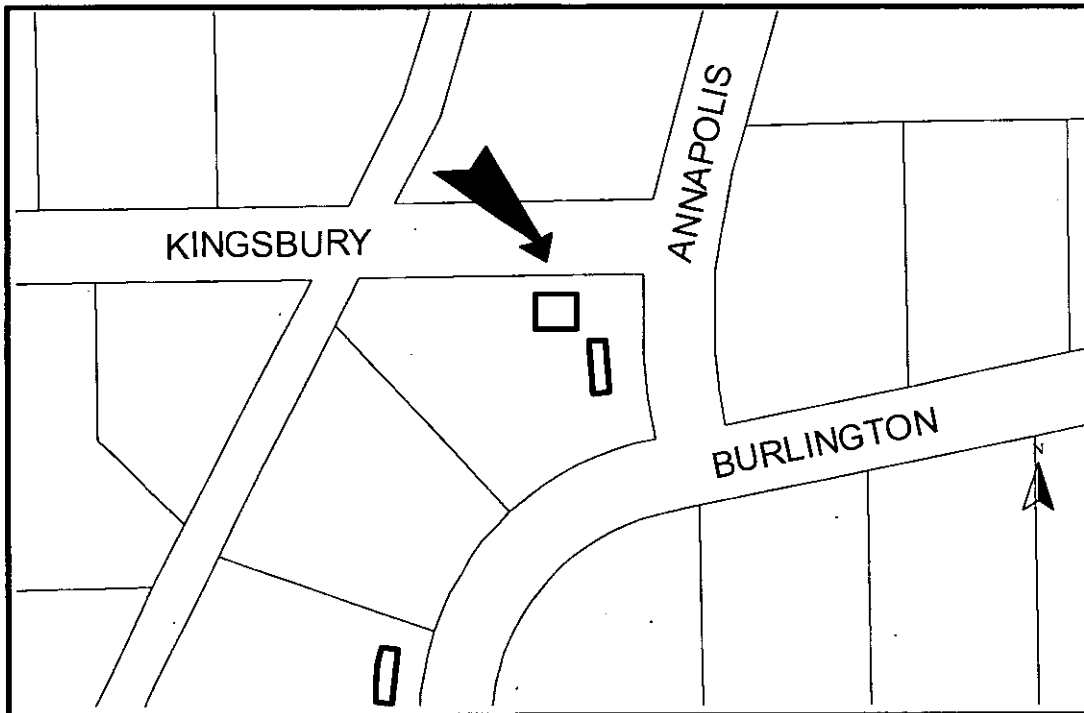
LEGAL DESCRIPTION: Generally described as approximately 36.29-feet (the deepest point of a garages/shop's length of 41.98-feet) of the platted 50-foot setback that runs parallel to Kingsbury Lane and the north lot line of Lot 3, and 7.39-feet (the deepest point of a single-family residence's length of 50.46-feet) of the platted 50-foot setback that runs parallel to Annapolis Avenue and the east lot line of Lot 3, all in Block 15, the K-42 Estates Addition, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of 55<sup>th</sup> Street South, east of 167<sup>th</sup> Street West, on the southeast corner of Kingsbury Lane & Annapolis Avenue.  
(BOCC #3)

REASON FOR REQUEST: Remove existing encroachments

CURRENT ZONING: Site and all property in the area are zoned "RR" Rural Residential.

VICINITY MAP:



The applicant is constructing a 40.2-foot (x) 41.98-foot garage/shop on the site where it appears that a garage/shop had previously stood (see County 2000 aerial). County OCI inspection of the garage/shop revealed the building was encroaching into the north platted 50-foot street side yard setback that runs parallel to Kingsbury Lane. The encroachment left the garage/shop 13.71-feet from the street side yard property line. A subsequent survey of the site also showed encroachment of the primary residence into the east platted 50-foot front yard setback that runs parallel to Annapolis Avenue. The encroachment left the residence 42.61-feet from the front yard property line. The survey also showed a shed covering the site's well to be completely in the same setback.

Per the Unified Zoning Code (UZC) the "RR" zoning district has a minimum 30-foot front yard setback and a minimum 20-foot street side yard setback. If the site's front yard setback was per the UCZ, 30-feet, the residence would not be encroaching; currently 42.61-feet from the front yard property line. If the site's street side yard setback were per the UCZ, 20-feet, the residence would be encroaching. The UZC allows, via an Administrative Adjustment, a 20% reduction of front, side and rear yard setbacks that have been established by the UZC. A 20% reduction of the UZC's 20-foot street side yard setback leaves it at 16-feet, which means the garage/shop would still be encroaching; currently 13.71-feet from the street side yard property line. If the street side yard setback was per the UZC, the applicant would have to apply for a variance to remove the encroachment, which is self induced.

There are no public utilities in the setbacks. The site is served by well and septic. The K-42 Estates Addition was recorded with the Register of Deeds July 21, 1969.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of this portion of platted 50-foot setbacks as described.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Derby Reporter, of notice of this vacation proceeding one time March 16, 2006, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted setbacks and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the portion of the platted 50-foot setbacks, described in the petition should be approved with conditions;

- (1) Vacate the only that portion of the platted 50-foot street side setback, running parallel to the north lot line of Lot 3, Block 15, as recorded with Wichita, Sedgwick County, Kansas, where the garage /shop encroaches. No expansion is allowed on the current structure. If 50% or more of the current

structure is destroyed, it cannot be rebuilt on this site and the 50-setback line will be reinstated. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.

- (2) Vacate only that portion of the platted 50-foot setback, running parallel to the east lot line of Lot 3, Block 15, as recorded with Wichita, Sedgwick County, Kansas, where the primary residence encroaches. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.
- (3) If the shed housing the site's water well is a permanent structure, vacate only that portion of the setback where the shed is located. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (5) All improvements shall be according to County Standards, including all the required County permits and inspections.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the only that portion of the platted 50-foot street side setback, running parallel to the north lot line of Lot 3, Block 15, as recorded with Wichita, Sedgwick County, Kansas, where the garage /shop encroaches. No expansion is allowed on the current structure. If 50% or more of the current structure is destroyed, it cannot be rebuilt on this site and the 50-setback line will be reinstated. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.
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UALZ006-09

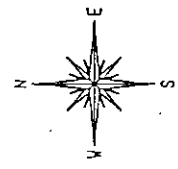
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Wichita, KS 67204  
(316) 267-2900  
Fax: (316) 795-2588

Griffiths & Associates, Inc.  
Land Surveyors



KINGSBURY LANE

N 90°00'00"E(A) 264.45'(P) 264.46'(M)



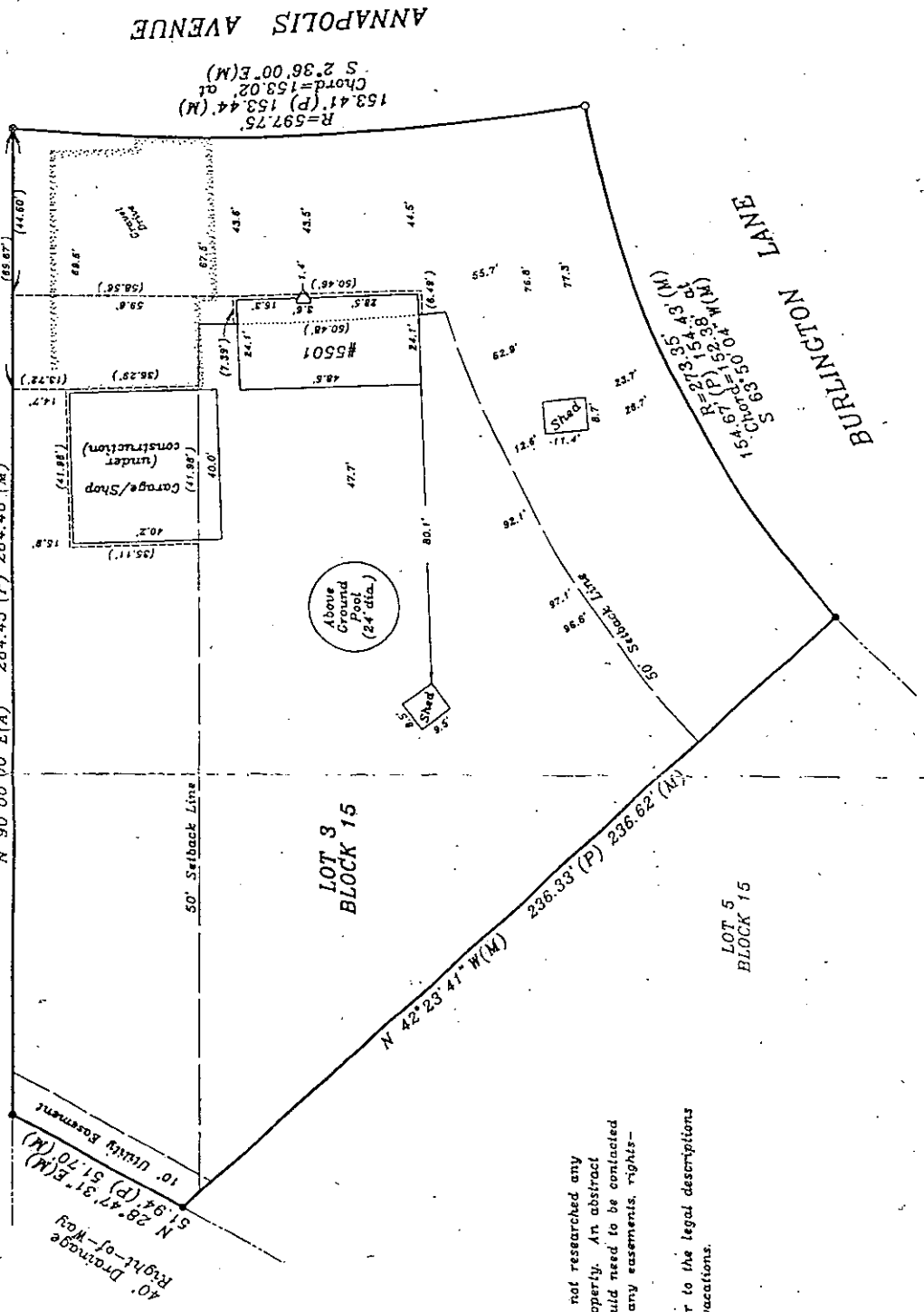
SCALE: 1" = 30'

- LEGEND:
- = #4 Rebar, found
  - = 3/4" Iron pipe, found
  - ⊙ = 1/4" Iron bar, found
  - (A) = Assumed bearing basis
  - (M) = Measured
  - (P) = Plat information
  - R = Radius

File #060007  
February 4, 2006

NOTE:  
Griffiths & Associates, Inc. has not researched any title examination of subject property. An abstract or title insurance company would need to be contacted to research and provide to us any easements, rights-of-way or dedications.

Dimensions in parentheses refer to the legal descriptions for proposed building setback vacations.



ANNAPOLIS AVENUE

BURLINGTON LANE

LOT 3  
BLOCK 15

LOT 5  
BLOCK 15