

BZA RESOLUTION NO. BZA2019-28

WHEREAS, Jose A Martine (owner); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the interior side yard setback from five feet to three feet; legally described as follows:

Lots 131-133 Emporia Street, Eagle 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 August 22, 2019, 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, there should not be any adverse harm to nearby properties. The construction will not alter the flow of water, and there is still a notable, if reduced, buffer between this structure and the adjacent property; and

WHEREAS, the variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community; 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 reduce the street side yard setback from 15 feet to six feet; generally located at the southeast corner of North Emporia Avenue and East 16th Street North (1632 N. Emporia Avenue) and legally described as follows:

Lots 131-133 Emporia Street, Eagle Addition, Wichita, Sedgwick County, Kansas

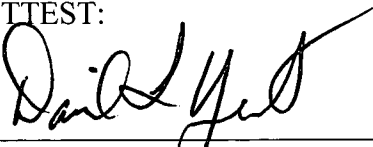
The variance is hereby **GRANTED**, subject to the following conditions:

1. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department.
2. The street side setback reduction shall only apply to the proposed new structure and be built in conformance of the approved site plan.
3. 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, 22nd Day of August, 2019


Cindy Miles,
BZA Board Chair

ATTEST:


David L. Yearout,
BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2019-00028

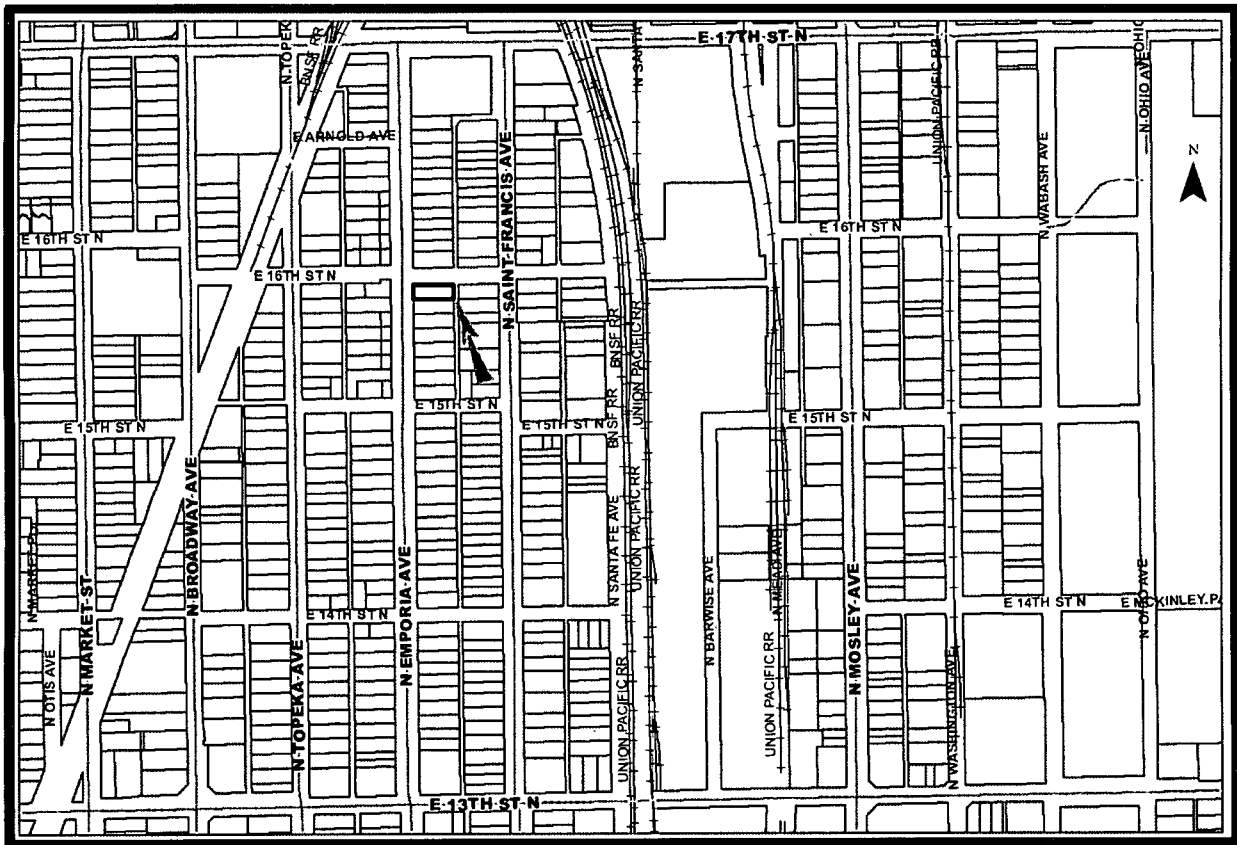
APPLICANT: Jose Marquez

REQUEST: Variance to reduce the street side building setback from 15 feet to six feet for construction of a single-family dwelling.

CURRENT ZONING: TF-3 Two-Family Residential

SITE SIZE: 0.16 acre

LOCATION: Generally located 850 feet south of East 17th Street North on the southeast corner of East 16th Street and North Emporia Avenue (1632 North Emporia Avenue).



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759. The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: This application requests the reduction of the street side building setback from 15 feet to six feet to allow construction of a single-family dwelling with an attached garage in a TF-3 Two-Family residential zoning district. The property is located approximately 850 feet south of East 17th Street North at the southeast corner of East 16th Street and North Emporia Avenue (1632 N. Emporia Ave.)

TF-3 development standards require a street side building setback be 15 feet from the property line. The 50-foot wide lot is too narrow to accommodate the 38-foot by 42-foot (1,243 sq. ft.) dwelling and maintain the 15-foot street side setback.

Staff has received one telephone call regarding this case. The person was opposed to the street building setback. The caller did not leave their name and telephone number for future contact. No other communications have been received.

ADJACENT ZONING AND LAND USE:

NORTH	TF-3	Duplex and Single-Family dwellings
SOUTH	TF-3	Single-Family dwellings
EAST	TF-3	Single-Family dwellings
WEST	TF-3	Single-Family dwellings

UNIQUENESS: The property is 50-feet wide and 142-feet deep. The residential character of the neighborhood is front gable residences oriented on the north/south streets (Topeka, Emporia and St. Frances) between East 13th Street North and East 17th Street North. The proposed single-family dwelling unit matches the existing character of the neighborhood. Complying with the 15-foot street side building setback would be out of character with the neighborhood.

ADJACENT PROPERTY: Residential structures surrounding the subject property have maintained the six foot street side building setbacks and have an average rear yard of 65-feet. The proposed single-family dwelling unit is consistent with adjacent property development.

HARDSHIP: The new dwelling unit would be reduced to 27-feet wide without the reduction of the street side setback. This site has been vacant for approximately five years, and the surrounding one-block area has only one vacant lot.

PUBLIC INTEREST: The reduction of the street yard building setback would maintain the development character of the neighborhood, which was developed between 1900s and 1930s. The Wichita-Sedgwick County *Community Investments Plan*, identifies the area in which the site is located as the Established Central Area and complies with the urban infill strategy area, where residential development is encouraged.

SPIRIT AND INTENT: The reduction of the street side building setback does not violate the spirit and intent of the code as other properties are not developed with the 15-foot building setback.

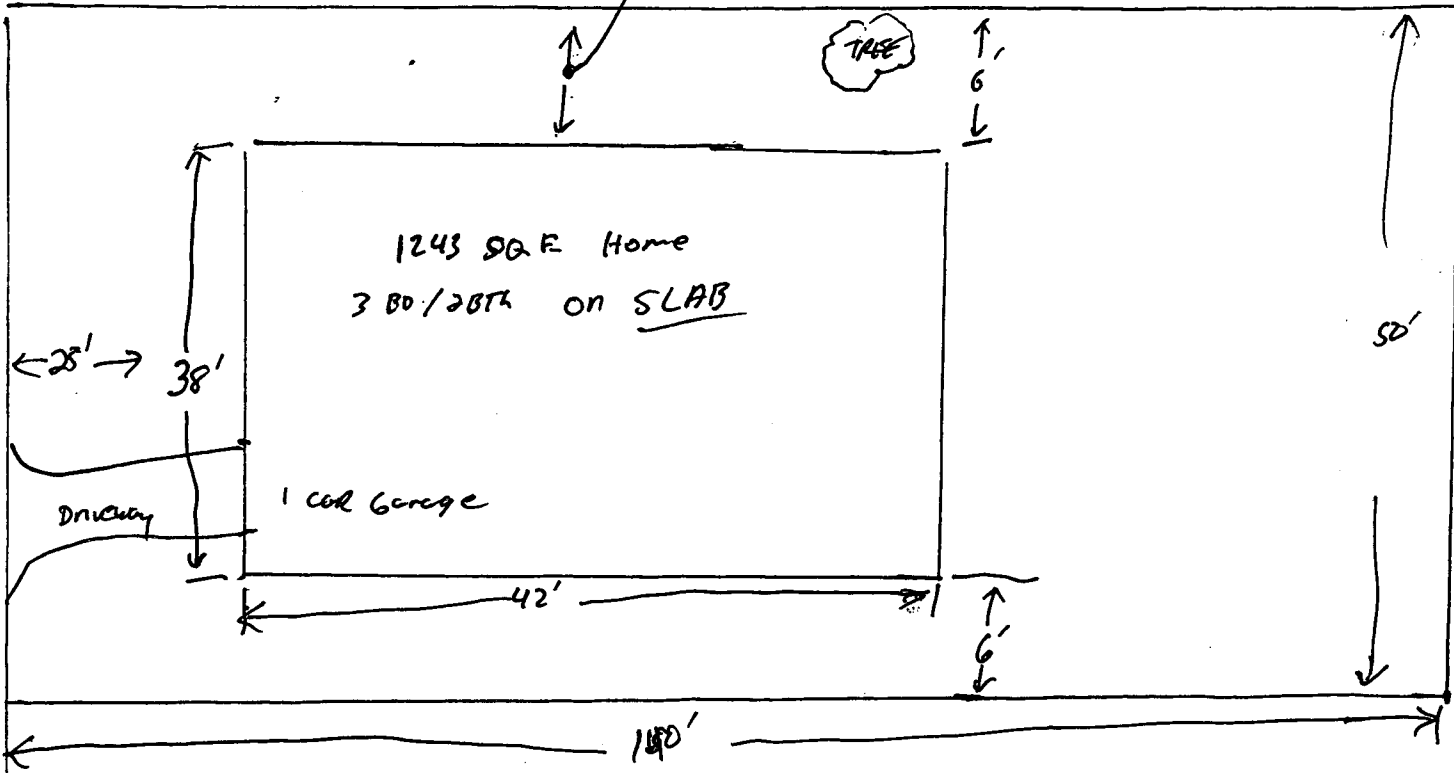
RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, the recommendation of Staff that the variance to reduce the street yard setback from 15 feet to six feet be GRANTED, subject to the following conditions:

1. All necessary permits for the structure shall be obtained from the Metropolitan Area Building and Construction Department (MABCD).
2. The street yard building setback reduction shall only apply to the proposed new structure and be built in conformance to the approved site plan.

Attachments: Applicant rationale for variance; Site Plan Site Plan

16th street N.

setback is 15'
would like to change to 6'



N. EMPORIA

SITE PLAN

APPROVED 1/20/19 BY

SET BACK VARIANCE
1632 N. Emporia