



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

Ryan and Erin Potter
240 North Dellrose Avenue
Haysville, KS 67208

January 23, 2025

RE: BZA2024-00080 – Variance request in the City to reduce the side setback to 0 feet and rear setback to 1.4 feet to build a two-car garage in the back, generally located on the east side of North Dellrose, within 100 feet south of East 2nd Street North (240 North Dellrose).

Dear applicant;

At its regular meeting on **January 23, 2025**, the official action of the Board of Zoning Appeals was to **GRANT** the requested Variance. The approval of the request is subject to the following conditions:

1. The garage shall be constructed in substantial conformance with the site plan that demonstrates the granted setbacks.
2. The height of the accessory structure shall conform to all development standards of the Unified Zoning Code unless a separate action is taken.
3. The applicant shall have a recorded deed showing ownership of the south 3 feet of the property to the north prior to the issuance of building permits.
4. Vacation application to reduce the utility easement or a Use of Easement Permit must be obtained from Public Works and Utilities prior to the issuance of building permits.
5. Building permits shall be obtained from MABCD for the construction of the garage.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

A handwritten signature in cursive script that reads 'Christina Rieth'.

Christina Rieth
Current Plans
Associate Planner

CC: MABCD

BZA RESOLUTION NO. BZA2024-00080

WHEREAS, Ryan and Erin Potter (owners); pursuant to Kansas Statutes Annotated 12-759, requests Variances to reduce the side setback to 0 feet and rear setback to 1.4 feet to build a two-car garage, generally located on the east side of North Dellrose, within 100 feet south of East 2nd Street North; legally described as follows:

The North 20 feet of 68 68, and all of Lot 69, and the South 15 feet of Lot 70, on Dellrose Avenue, in East Lawn Addition to 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 January 23, 2025, 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 conditions of the request are unique to the subject property; and

WHEREAS, waiving the requirements will not adversely affect the rights of adjacent property owners; and

WHEREAS, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner; and

WHEREAS, it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare; and

WHEREAS, it is the opinion of Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case; 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, Variances to reduce the side setback to 0 feet and rear setback to 1.4 feet to build a two-car garage, generally located on the east side of North Dellrose, within 100 feet south of East 2nd Street North; legally described as follows:

The North 20 feet of 68 68, and all of Lot 69, and the South 15 feet of Lot 70, on Dellrose Avenue, in East Lawn Addition to Wichita, Sedgwick County, Kansas.

The Variances are hereby **GRANTED**, subject to the following conditions:

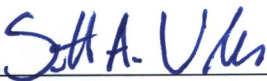
1. The garage shall be constructed in substantial conformance with the site plan that demonstrates the granted setbacks.
2. The height of the accessory structure shall conform to all development standards of the Unified Zoning Code unless a separate action is taken.
3. The applicant shall have a recorded deed showing ownership of the south 3 feet of the property to the north prior to the issuance of building permits.
4. Vacation application to reduce the utility easement or a Use of Easement Permit must be obtained from Public Works and Utilities prior to the issuance of building permits.

5. Building permits shall be obtained from MABCD for the construction of the garage.

ADOPTED AT WICHITA, KANSAS, this 27 day of Feb., 2025.


Bryan Frye, BZA Board Chair

ATTEST:



Scott Wadle,
BZA Secretary



The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenot Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
Fort Worth Star-Telegram
The Fresno Bee
The Island Packet
The Kansas City Star
Lexington Herald-Leader
The Telegraph - Macon
Merced Sun-Star
Miami Herald
El Nuevo Herald

The Modesto Bee
The Sun News - Myrtle Beach
Raleigh News & Observer
Rock Hill | The Herald
The Sacramento Bee
San Luis Obispo Tribune
Tacoma | The News Tribune
Tri-City Herald
The Wichita Eagle
The Olympian

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	620514	Print Legal Ad-IPL02086590 - IPL0208659	MAPC/BZA Jan. 9, 2025	\$73.33	2	61 L

Attention: Mandy Hebert
CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

OCA 150004
Published in The Wichita Eagle on December 18, 2024
(One Time Only)

MAPC/BZA January 9, 2025
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, January 9, 2025, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421. Full notice can be found at www.wichita.gov/LegalNotices.

BZA2024-00080: Variance request in the City to reduce the side and rear setbacks to 0 feet to build a two-car garage on the rear half of the property, generally located on the east side of North Dellrose, within 100 feet south of East 2nd Street North (240 North Dellrose).

CON2024-00259: Conditional Use request in the City to allow an Accessory Apartment on property zoned SF-5 Single-Family Residential District, generally located on the north side of East Gilbert Street, within 400 feet west of South Armour Drive (7310 East Gilbert Street).

CON2024-00273: Conditional Use request in the City to permit a drinking establishment on property zoned CBD Central Business District located at the northwest corner of East Waterman Street and South Hydraulic Avenue (1640 E Waterman).

CON2024-00275: Conditional Use request in the City to allow a Tavern and Drinking Establishment on property zoned LI Limited Industrial District, generally located on the northeast corner of East 35th Street North and North Oliver Avenue.

CUP2024-00046: CUP Amendment request in the City to amend CUP DP-86 to allow an off-site billboard, generally located on the west side of North Seneca Street, north of I-235 (4121 North Seneca Street).

VAC2024-00054: Vacation request in the City of platted access control; generally located on the east side of North Rock Road and within 200 feet north of East 35th Street North (3718 North Rock Road).

VAC2024-00055: Vacation request in the City for a portion of platted front setbacks; generally located on the north side of North Reece Street and within 650 feet south of West 21st Street North.

VAC2024-00056: Vacation request in the City to vacate a portion of the 30 foot front yard setback to allow for the creation of a garage addition on property zoned SF-5 Single-Family and located less than 200 feet south of the intersection of W. Columbine Ln. and N. Richmond Ave. (2380 N. Richmond Ave.)

VAC2024-00057: Vacation request in the City to vacate McLean Boulevard right-of-way and drainage facilities on property zoned LI Limited Industrial District, generally located at the intersection of South McLean Boulevard and West 47th Street South.

VAC2024-00058: Vacation request in the City to vacate a 20-foot utility easement and a portion of a 25-foot sewer easement for the development of a multi-family residential building on property zoned PUD #61, generally located on the northwest corner of West Maple Street and North McLean Boulevard.

ZON2024-00057: Zone Change request in the City from SF-5 Single-Family Residential to MF-29 Multi-Family Residential; generally located on the west side of South Handley Street and within 600 feet of South Seneca Street (4301 South Handley Street).

ZON2024-00058: Zone Change request in the City from TF-3 Two-Family Residential District to NR Neighborhood Retail, generally located on the west side of North Chautauqua Avenue and within 150 feet north of East Douglas Avenue (117 North Chautauqua Avenue).

IPL0208659
Dec 18 2024

In The STATE OF KANSAS

In and for the County of Sedgwick

1 insertion(s) published on:

12/18/24

STATE OF KANSAS)

SS

County of Sedgwick)

Mary Castro, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 12/18/2024 to 12/18/2024.

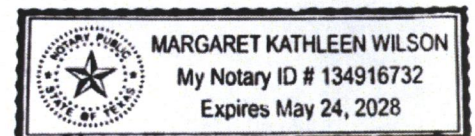
Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 12/18/2024

Margaret K. Wilson

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

SECRETARY'S REPORT

CASE NUMBER: BZA2024-00080 (City)

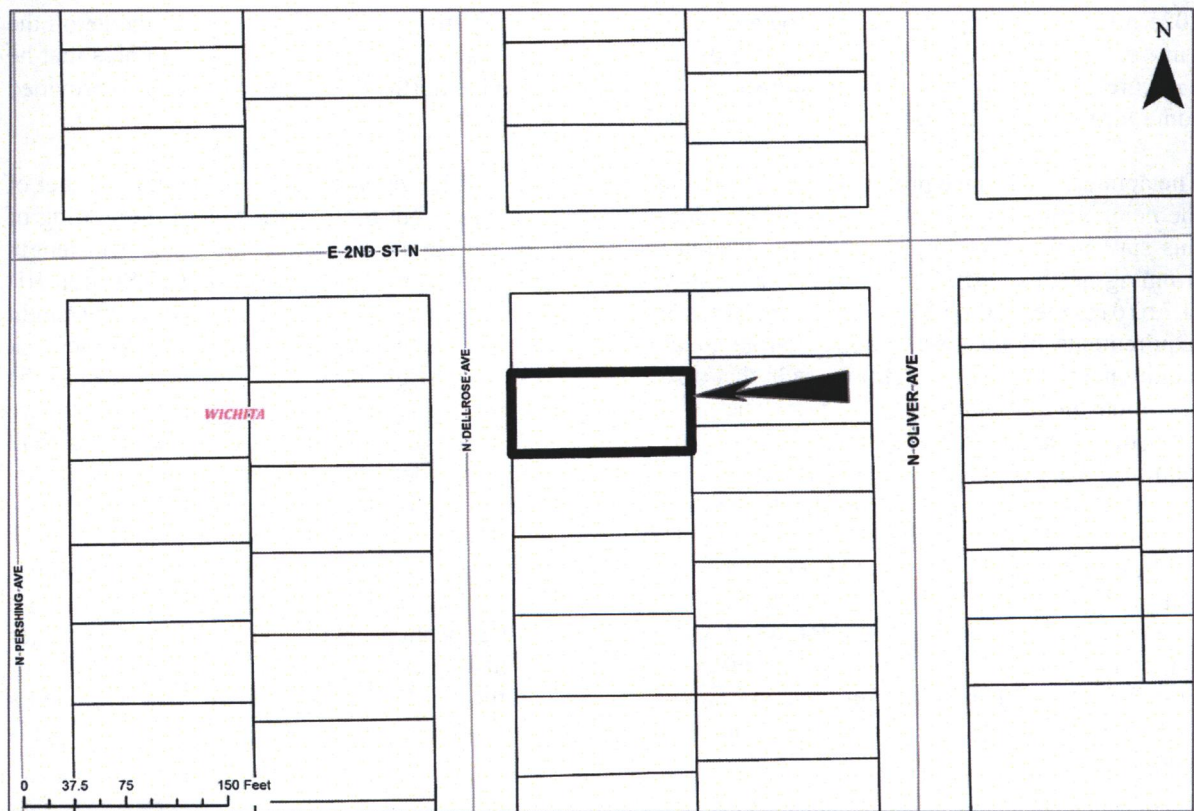
APPLICANT: Ryan and Erin Potter (Applicants)

REQUEST: Reduce the side setback to zero (0) feet and rear setback to 1.4 feet

CURRENT ZONING: SF-5 Single-Family Residential District

SITE SIZE: 0.18 acres

LOCATION: Generally located on the east side of North Dellrose, within 100 feet south of East 2nd Street North (240 North Dellrose Avenue).



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: The applicant is requesting a Variance to reduce the side (north) setback to zero (0) feet and the rear (east) setback to 1.4 feet for a garage on property zoned SF-5 Single-Family Residential District. The property is 0.18 acres in size and is located on the east side of North Dellrose Avenue, within 100 feet south of East 2nd Street North (240 North Dellrose Avenue). The property is developed with a single-family dwelling and detached two-car garage built in 1929. The existing two-car detached garage is non-conforming structure because at the time it was built, the development standards were different for accessory structure setbacks. It does not meet the current development standards which require a three-foot interior side setback along the north property line and a five-foot rear setback along the east property line. It currently is located approximately 18 inches from the north property line and 18 inches from the east property line. If the structure is removed, it cannot be built within its current footprint without modifying the setbacks accordingly.

The applicant is requesting the Variance to remove the existing garage and construct a new, two-car garage near the existing footprint. The site plan indicates the new garage would shift closer to the north property line than the current footprint. The new garage is larger than the existing garage, therefore the amount of the structure encroaching into the east rear setback would increase. However, the depth of the encroachment along the rear property line would be unchanged. On January 9, 2025, the Variance request was first heard by the Board of Zoning Appeals (BZA). The action of the BZA was to defer the request to the January 23, 2025 meeting. During the hearing, the applicant asked to modify his request to build a new garage on the same rear setback, which is 1.4 feet from the property line. He also relayed to the commissioners that he had purchased the south three feet of his neighbor's property to the north. The applicant has since provided some further clarification points and documentation of the purchase.

The applicant has since provided documentation to Planning staff that he purchased the south three feet of the neighboring property to the north. The documentation is signed but not recorded as of the writing of this staff report. The applicant also indicated that the proposed garage shall measure 32 feet in length (running north-south), 22 feet in width (east-west), and 30'-8" feet in height. According to Section III-D.7.e.(6) of the Unified Zoning Code, no accessory structure shall exceed 60 percent of the allowable height requirements of the base zoning district unless the accessory structure conforms to all of the setback requirements for principal structures in that district. The maximum height in SF-5 zoning is 35 feet, so the maximum height allowed is 21 feet. The applicant may increase the height through an Administrative Adjustment up to 20 percent, which brings the maximum height to 25 feet. Any further increases shall require a separate Variance. At this time, the request being considered is for the setbacks only. Any requested modification to the height standards must be a separate application.

To the east, there is a sewer line that runs through the rear of the adjacent neighbor's property. The plat's text in the East Lawn Addition subdivision plat indicates the City of Wichita was granted a five-foot easement on each side of the rear lot for all public utilities. The adjacent property owners also have garages that do not appear to comply with the Unified Zoning Code setback requirements. Those garages sit on or near their rear property line. Aerial photography indicates that the shortest distance between the applicant's existing garage on the east property line and the adjacent neighbor's garage on their west property line is four (4) feet.

Section III-D.7.e.(3) of the Unified Zoning Code allows accessory structures to be up to three (3) feet from the side property line and Section III-D.7.e.(1) allows accessory structures to be up to five (5) feet from the rear property line, provided they are in the back half of the property. Section III-D.7.e.(5) does not allow accessory structures to be placed over any known utility. A Vacation application through the Planning Department or a Use of Easement permit through the Public Works and Utilities Department is required to build in the utility easement. The setbacks can be reduced by up to 50 percent if the area of the building that encroaches into the reduced setback does not exceed 300 square feet. Any further reduction in setbacks requires a Variance.

SURROUNDING DEVELOPMENT: Properties to the north, south, and west are zoned SF-5 and developed with single-family dwellings. Properties to the east are zoned TF-3 Two-Family Residential District and are developed with single-family dwellings.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family dwelling
SOUTH:	SF-5	Single-family dwelling
EAST:	TF-3	Single-family dwellings
WEST:	SF-5	Single-family dwelling

CASE HISTORY: On June 19, 1919, the subject site was platted as part of the East Lawn Addition. In 2022, the applicant was granted an Administrative Adjustment to reduce the interior (north) side setback for the accessory structure from 3 feet to 18 inches for the construction of a new garage (BZA2022-00003).

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

Criterion 1. The Variance requested arises from condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action of the property owner or the applicant.

Applicant Narrative

The applicant states: "When my home was built in 1929, cars were not prevalent and garages not well contemplated. Now in 2022, cars are larger and thus garages need to adapt. When the garage was built on my property, it was positioned behind my house, making it difficult to maneuver cars into the garage."

Staff Analysis

Staff agrees with the above statement from the standpoint that the applicant is requesting to rebuild a detached garage in the general location of the existing footprint. The current detached garage was built under different development standards. The applicant has documentation that shows he has purchased additional property to the north so that the building will not be directly on the north property line.

Criterion 2. The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents.

Applicant Narrative

The applicant states: "Moving my garage will not impede on my neighbors because it will still allow for the current fence line between us to remain unchanged and water flow from rain off my garage will be directed down my driveway and through a French drain currently installed."

Staff Analysis

Staff agrees with the above statement. The applicant's purchase of the south three feet of his neighbor's property creates a buffer between the two properties and allows for maintenance without crossing into his neighbor's property.

Criterion 3. The strict application of the provisions of the applicable Code from which a Variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

Applicant Narrative

The applicant states: "If I can move my garage, 3 feet to the east and 1.5 feet to the west, it will make getting cars in and out of my garage safer."

Staff Analysis:

Staff agrees with the above statement from the standpoint that the applicant is requesting to rebuild a detached garage in the general location of the existing footprint. The current detached garage was built under different development standards. The applicant has documentation that shows he has purchased additional property to the north so that the building will not be directly on the north property line.

Criterion 4. The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community.

Applicant Narrative

The applicant states that, "Further, allowing me to construct the new garage will enhance the appeal of the home, increase the appeal of the street, continue to preserve the value of an important neighbor in Wichita (College Hill), and increase the property tax revenue."

Staff Analysis:

Staff agrees with the above statement. Because the applicant intends to rebuild an existing garage in nearly the same footprint and additionally purchase the south three feet of his neighbor's property, it is staff's opinion that the Variance request will not adversely affect the criteria above. The conditions of approval require additional action for the applicant to gain approval to rebuild the garage within the utility easement.

Criterion 5. The granting of the Variance will not be opposed to the general spirit and intent of the Code.

Applicant Narrative

The applicant states: "Improvements like I am proposing, do not harm anyone and will add value to many stakeholders, thus creating an all-around positive situation."

Staff Analysis:

Staff agrees with the above statement. The applicant's request is in the spirit of reducing the side setback when adjacent to open space. The applicant's proposed garage would abut the adjacent property owner's open space to the north, and the applicant has purchased the south three feet of his neighbor's property.

LEGAL CONSIDERATIONS: The Board of Zoning Appeals has the following options for actions.

1. Approval – The Board of Zoning Appeals can find that all five conditions necessary to the granting of a Variance exists and can approve the requested Variance. Any vote by the BZA to approve a Variance requires eight (8) votes per the BZA bylaws.
2. Denial – The Board of Zoning Appeals can find that the requested Variance does not meet the five criteria required to grant a Variance. Any vote by the BZA to deny a Variance requires a single majority of members present and voting.

RECOMMENDATION:

1. The recommendation of Staff is that the Variance to reduce the side (north) setback to zero (0) feet and the rear (east) setback to 1.4 feet for a garage meets the five criteria required to grant a Variance. The recommendation of the Secretary that the following Variance for the reduction in setbacks is granted with the following conditions:
 - a. The garage shall be constructed in substantial conformance with the site plan that demonstrates the granted setbacks.
 - b. The height of the accessory structure shall conform to all development standards of the Unified Zoning Code unless a separate action is taken.

- c. The applicant shall have a recorded deed showing ownership of the south 3 feet of the property to the north prior to the issuance of building permits.
- d. Vacation application to reduce the utility easement or a Use of Easement Permit must be obtained from Public Works and Utilities prior to the issuance of building permits.
- e. Building permits shall be obtained from MABCD for the construction of the garage.

Staff Report Attachments:

- 1. Applicant-Submitted Variance Justification Letter
- 2. Copy of Signed Warranty Deed
- 3. Elevation Drawing
- 4. Revised Site Plan
- 5. Aerial Map
- 6. Zoning Map
- 7. Land Use Map
- 8. Site Photos

Applicant-Submitted Justification Letter

To the Metro Area Planning Department,

I'd like to make many repairs to my current garage as well as upgrades, however, given the current condition of the garage it is recommended by construction contractors to rebuild the garage for a better situation.

I live at 240 N. Dellrose in Wichita Kansas. And because of the recommendation to rebuild my garage, I'm, at this time, requesting an administrative variance to allow me to rebuild my detached garage 18 inches to the east of where it currently sits on the property. This would put the garage 0 inches from the property line.

I wish to do this because, when my home was built in 1929, cars were not prevalent and garages not well contemplated. Now in 2022, cars are larger and thus garages need to adapt. When the garage was built on my property, it was positioned behind my house, making it difficult to maneuver cars into the garage. If I can move my garage, 3 feet to the east and 1.5 feet to the west, it will make getting cars in and out of my garage safer.

Moving my garage will not impede on my neighbors because it will still allow for the current fence line between us to remain unchanged and water flow from rain off my garage will be directed down my driveway and through a French drain currently installed.

Further, allowing me to construct the new garage will enhance the appeal of the home, increase the appeal of the street, continue to preserve the value of an important neighbor in Wichita (College Hill), and increase the property tax revenue.

Improvements like I am proposing, do not harm anyone and will add value to many stakeholders, thus creating an all-around positive situation.

Thank you for your thoughtful consideration!

Regards,

Ryan Potter
240 N. Dellrose
Wichita KS 67208
316-737-9898

Copy of General Warranty Deed

GENERAL WARRANTY DEED

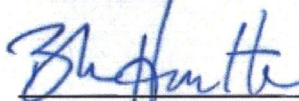
Effective January 10, 2025, Blake Andrew Hamilton, a single individual, ("Grantor") conveys and warrants to Ryan M. Potter, an individual ("Grantee"), all of the following real estate in Sedgwick County, Kansas:

The South 3 feet of the North 10 feet of Lot 70, Dellrose Avenue, in East Lawn Addition to Wichita, Sedgwick County, Kansas

for the sum of ten dollars (\$10.00) and other good and valuable consideration,

EXCEPT AND SUBJECT TO: easements, rights-of-way, restrictions, reservations and other matters of record; and taxes and assessments of record which are not yet due and payable.

GRANTOR:

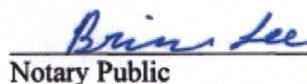
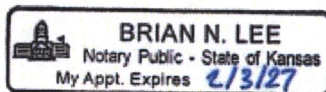


Blake Andrew Hamilton

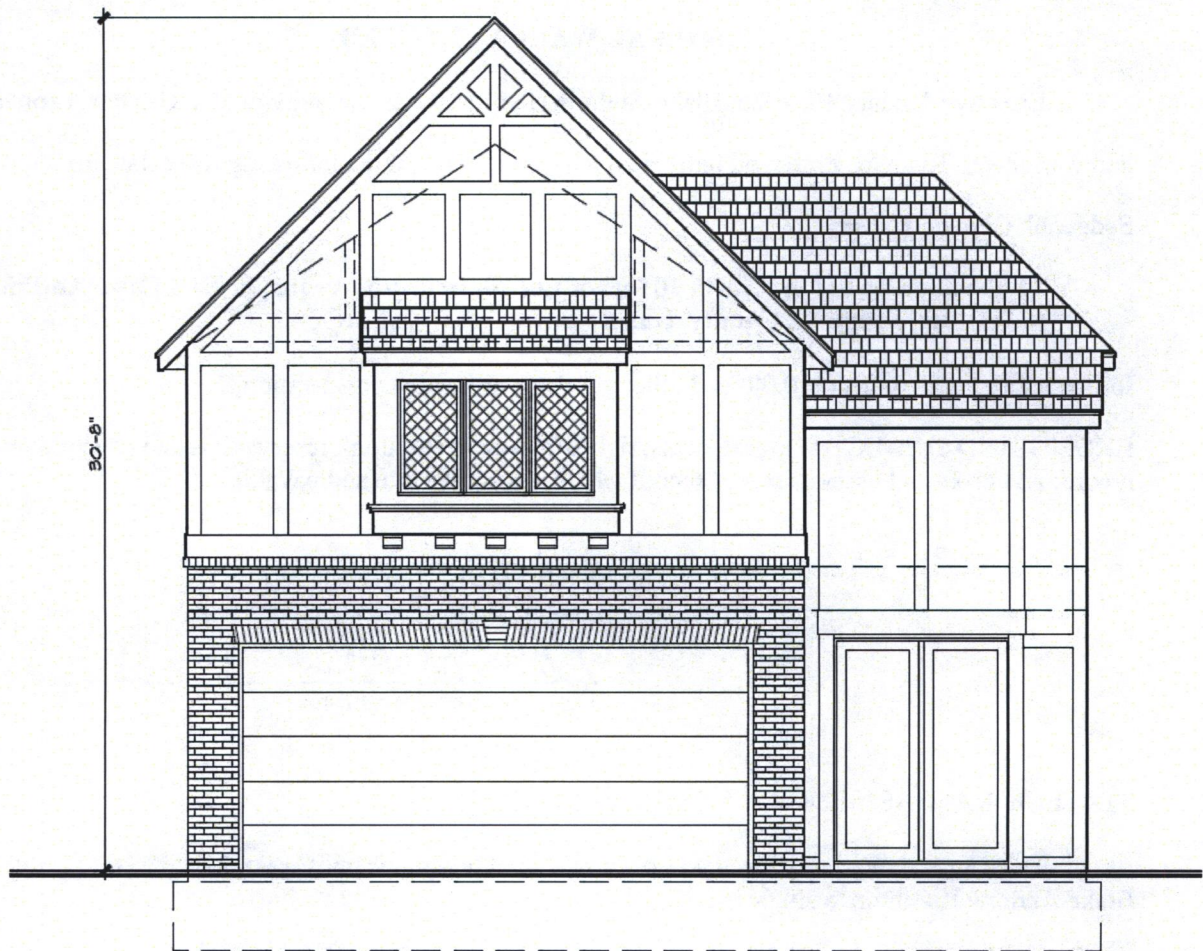
STATE OF KANSAS, SEDGWICK COUNTY) ss:

This General Warranty Deed was acknowledged before me on December 30, 20 24 by Blake Andrew Hamilton, a single individual.

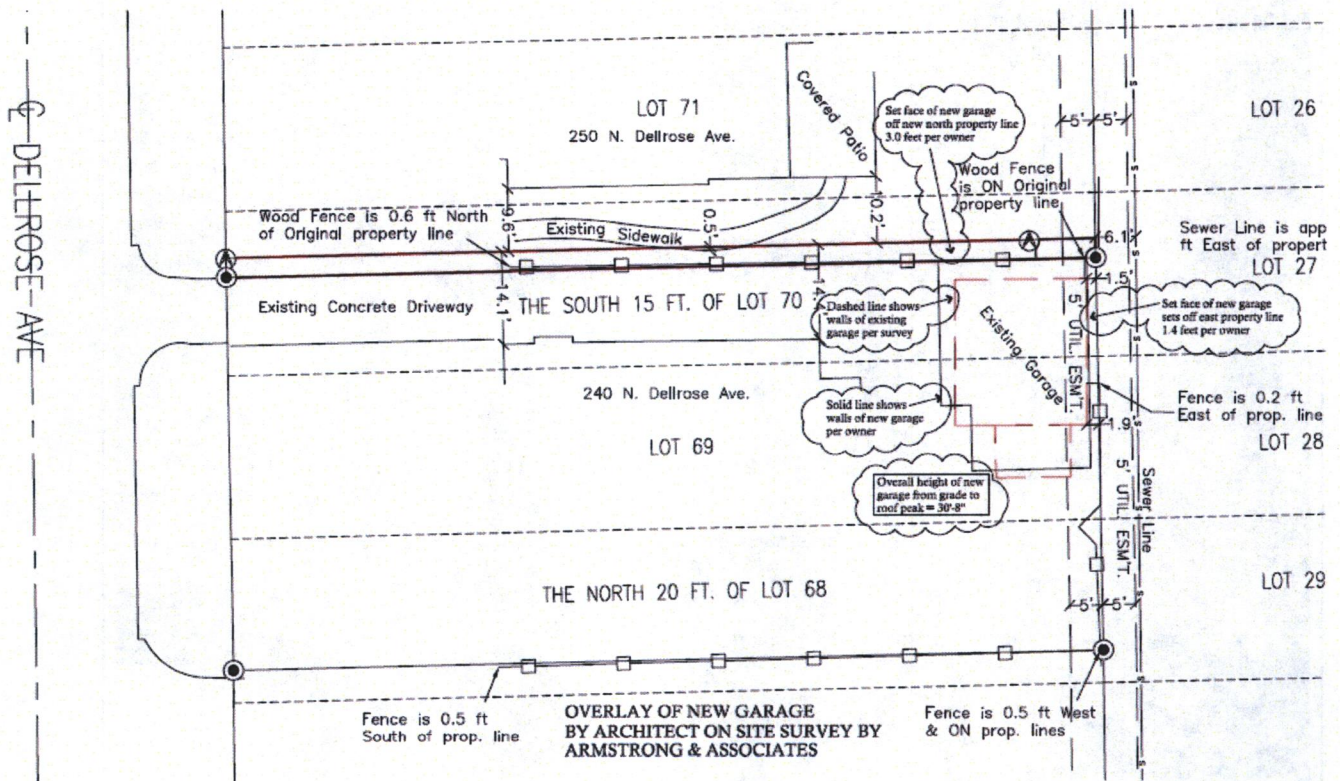
My appointment expires:


Notary Public

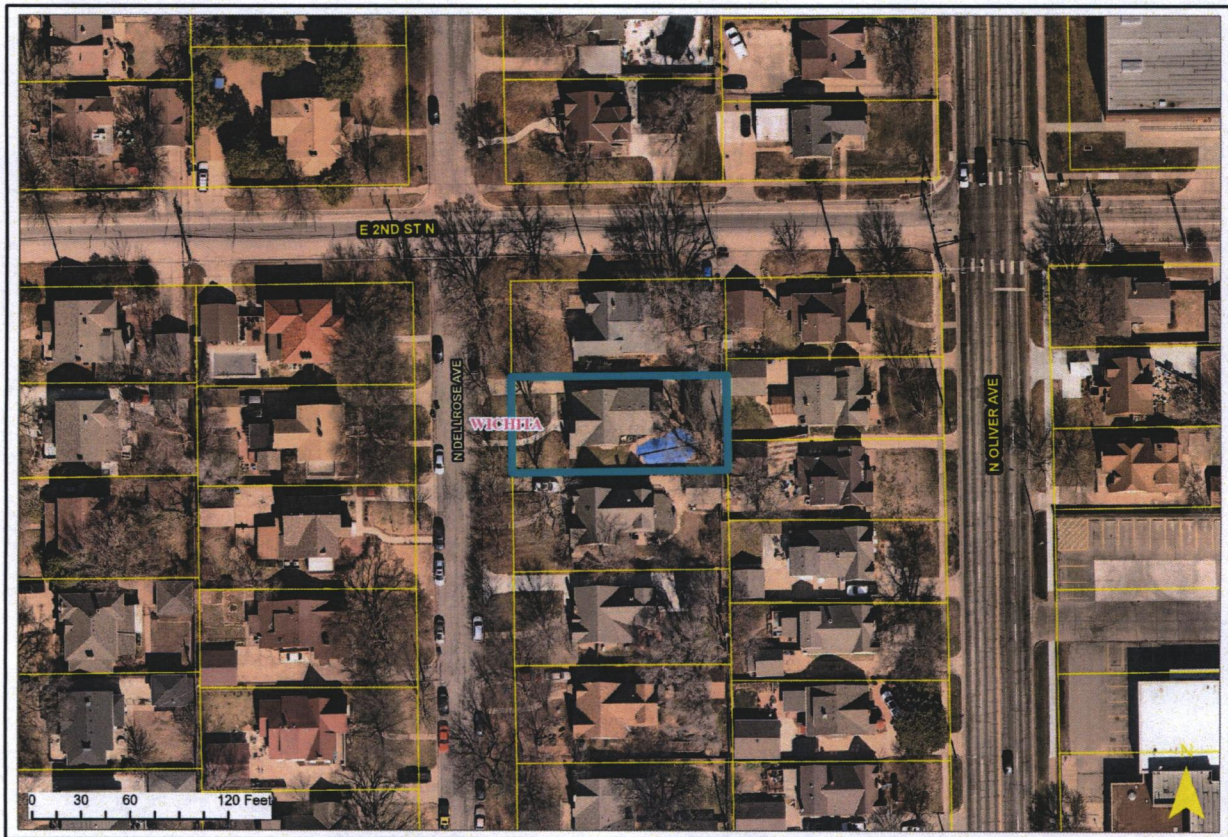
Elevation Drawing



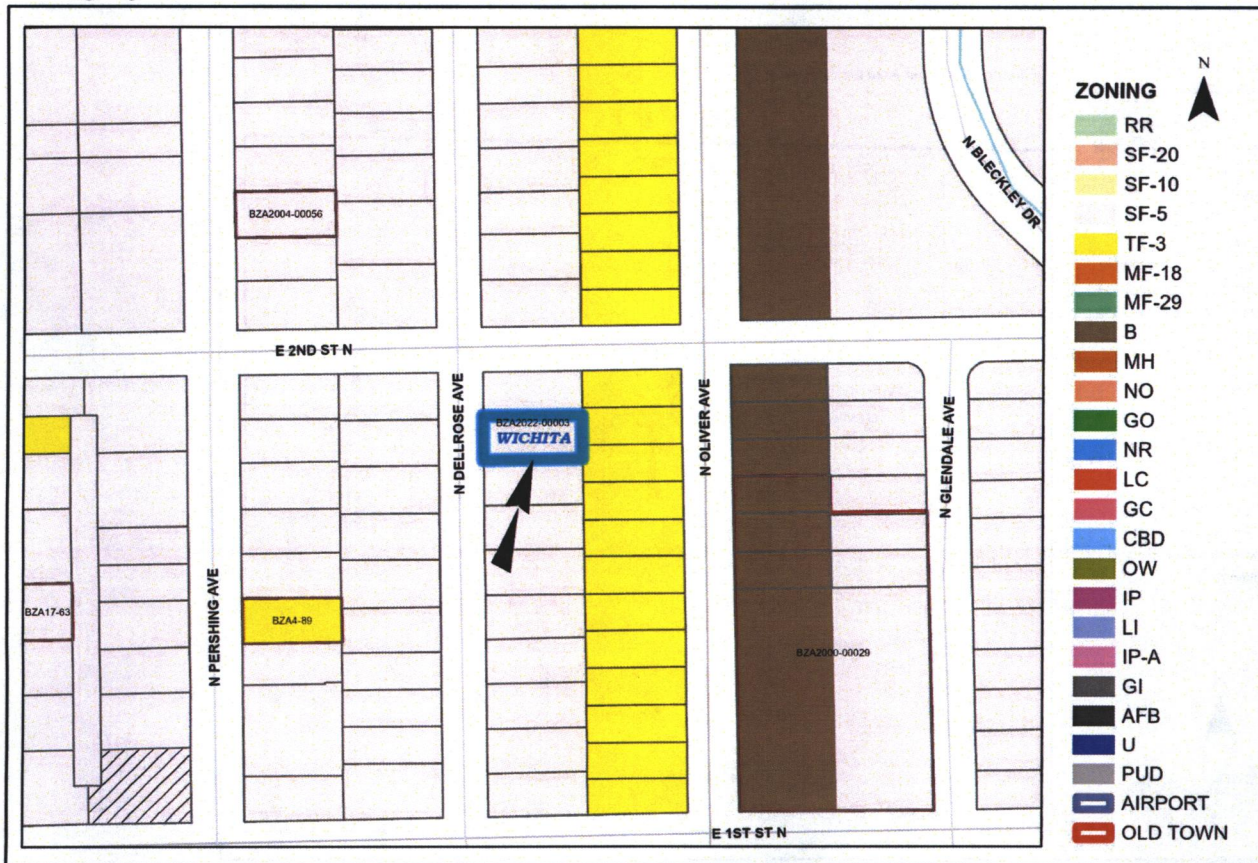
Revised Site Plan



Aerial Map



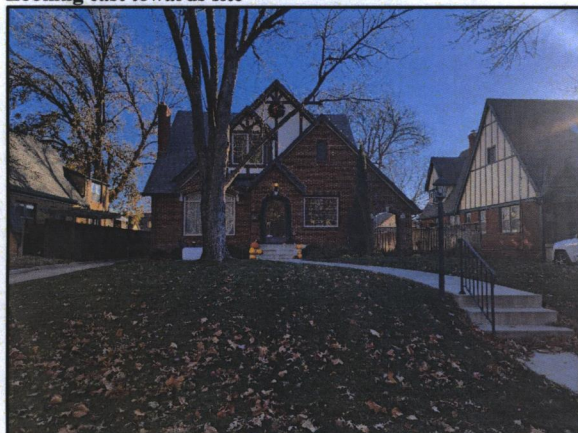
Zoning Map



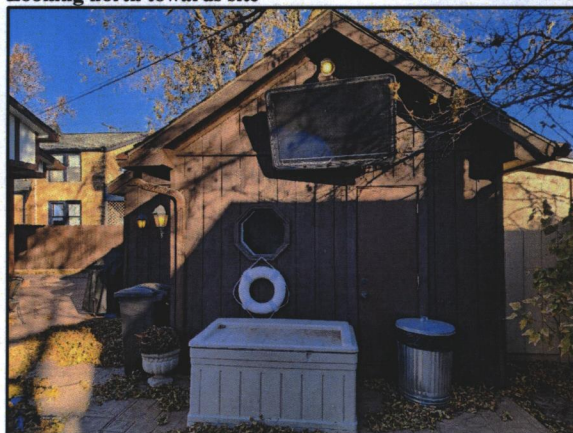
Future Growth Map



Looking east towards site



Looking north towards site



Looking east towards site



Looking south away from site



Looking south away from site



Looking west away from site



Looking north towards site



Looking west towards site



APPROVED 1/29 BY CMR

