

## BZA RESOLUTION NO. 2007-69

**WHEREAS**, Whispering Lakes LLC c/o Joe Kramer (Owner/Applicant); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to the Unified Zoning Code to reduce the Zoning Code parking requirement from 10 to 8 spaces for a neighborhood swimming pool in SF-5 Single-family Residential zoning, and variance request to allow parking within the front setback, generally located ½ mile south of Harry and ½ mile west of 159<sup>th</sup> Street East (15314 E. Rosewood St.).

Lot 12, Block 5, Whispering Lakes Estates Addition 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 29, 2008, 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 the variance arises from such conditions that are unique, as it is a platted residential lot, not originally intended for a neighborhood swimming pool, and therefore not sized to accommodate the code required parking for a swimming pool. It is also unique among the other lots within this subdivision, with platted reserves or a pipeline easement on three sides, making it the optimal lot within the subdivision for a neighborhood pool. The property is unique as a lot within a residential subdivision where most homeowners will be within walking distance of the proposed pool, minimizing the need for parking.

**WHEREAS**, the Board of Zoning Appeals has found that granting the requested variance would not adversely affect the rights of adjacent property owners. No residences exist on the platted lots adjacent to this site. The reduction of two parking spaces, from 10 to 8, should have no negative effect on future adjacent homeowners. This site has 85 feet of street frontage that will allow for on street parking, should the 8 parking spaces be occupied. Permitting parking within the front setback should not have a negative effect on adjacent property owners, as a landscape buffering plan will be required, buffering the parking from the street and adjacent properties.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the zoning regulations would constitute an unnecessary hardship upon the applicant, as compliance with the parking requirements would prevent the applicant from developing the desired 1,000 square foot pool on this site, with no corresponding public benefit.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest at this location. A reduction of two parking spaces, and permitting parking within the front setback but no closer than 8 feet from the property line, are minimal variances from the code standards. And, the public has an interest in the development of neighborhoods with quality of life amenities such as swimming pools.

**WHEREAS**, the Board of Zoning Appeals has found that granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations. The intent of the zoning code parking standards is to ensure that adequate off-street parking is provided. The intent of prohibiting parking within building setbacks is to ensure adequate separation of parking from property lines, and ensuring space for landscaping. Both of these objectives can still be met with the requested variance.

**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 to the Unified Zoning Code to reduce the Zoning Code parking requirement from 10 to 8 spaces for a neighborhood swimming pool in SF-5 Single-family Residential zoning, and variance request to allow parking within the front setback, generally located ½ mile south of Harry and ½ mile west of 159<sup>th</sup> Street East (15314 E. Rosewood St.).

Lot 12, Block 5, Whispering Lakes Estates Addition Sedgwick County, Kansas.


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

1. The site shall be developed in substantial conformance with the approved site plan.
2. All parking on the site shall be marked and paved in conformance with City standards.
3. Prior to the issuance of building permits, the applicant shall have a landscape plan approved by planning staff. The landscape plan shall be consistent with Landscape Ordinance requirements.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.
5. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

**ADOPTED AT WICHITA, KANSAS, this 29<sup>h</sup> Day of January 2008.**

  
\_\_\_\_\_  
BZA Board Chair, C. Bickley Foster

ATTEST:

  
\_\_\_\_\_  
Jess McNeely, BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2007-69

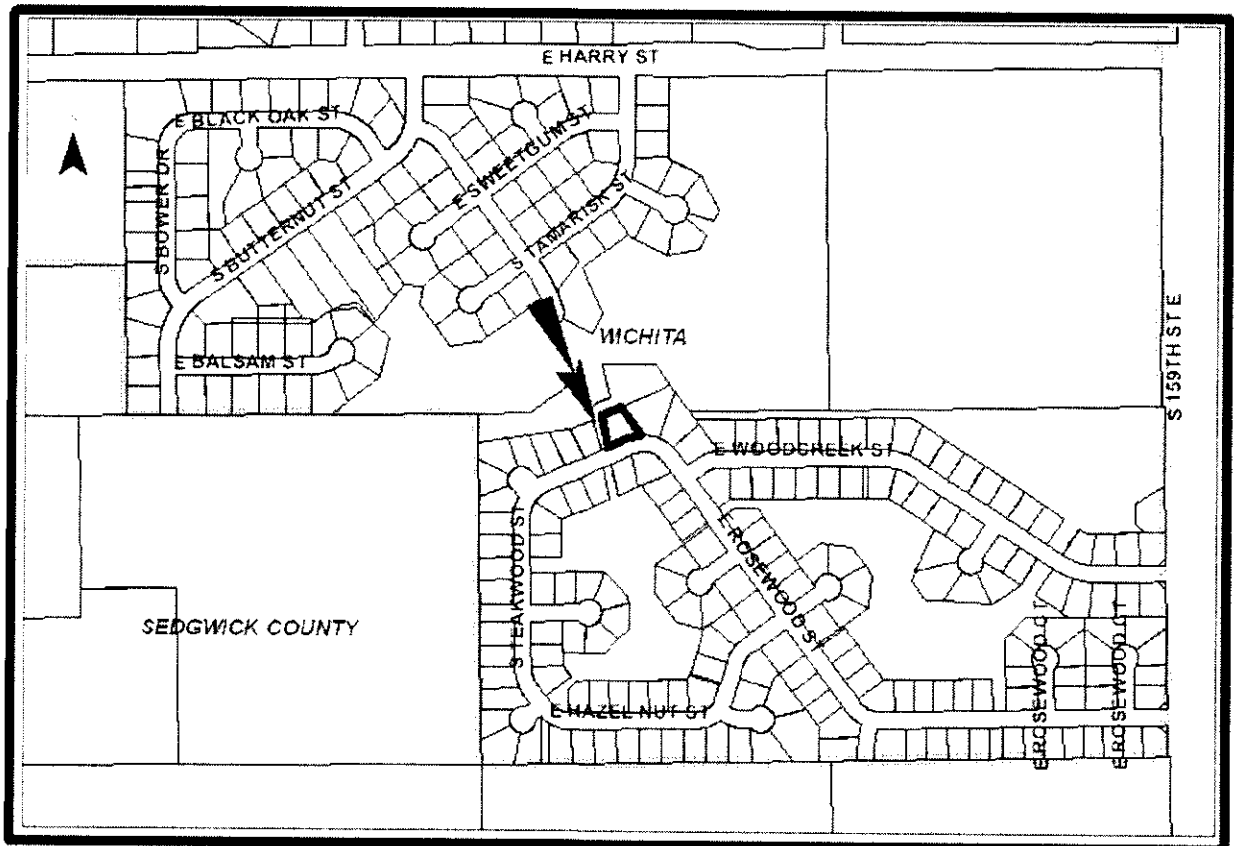
APPLICANT/AGENT: Whispering Lakes LLC c/o Joe Kramer (Owner/Applicant); Ruggles & Bohm c/o Terry Smythe (Agent)

REQUEST: Variance request to reduce the Zoning Code parking requirement from 10 to 8 spaces for a neighborhood swimming pool in SF-5 Single-family zoning, and variance request to allow parking within the front setback.

CURRENT ZONING: "SF-5" Single-family Residential

SITE SIZE: 0.5 acres

LOCATION: ½ mile south of Harry and ½ mile west of 159<sup>th</sup> Street East (15314 E. Rosewood St.)



**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 MAPC recently approved a Conditional Use on this site to permit a neighborhood swimming pool. The Unified Zoning Code (UZC) would required 10 parking spaces for the proposed 1,000 square foot pool, and the UZC prohibits parking within the front building setback. The platted lot has space for only 8 parking spaces, partially within the 25-foot building setback. Therefore, the applicant has requested a variance to reduce the parking requirement from 10 to 8 spaces on this site, and to permit parking within the 25-foot building setback, but no closer than 8 feet from the property line (see the attached site plan).

It should be noted that a 10% parking reduction, or one space in this case, could be approved through an administrative adjustment. Likewise, parking within the 25-foot building setback, but not within 8 feet of the propety line, could also be approved through an administrative adjustment. The need to reduce parking by two spaces required this variance request.

North and west of the site is a platted reserve; east, west and south of the site are platted, vacant, residential lots. The code requires a landscape street yard and buffer landscaping; outdoor light that employs cut-off luminaries and light mounting standards that are not higher than one-half the distance to SF-5 zoned property. The 27-foot wide platted reserve west of the site, and 50-foot pipeline easement east of the site should ensure adequate separation from future residences.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Platted reserve
SOUTH:	SF-5	Vacant residential lots
EAST:	SF-5	Vacant residential lots
WEST:	SF-5	Vacant residential lots

*The five conditions necessary for approval apply to all variances requested.*

**UNIQUENESS:** It staff's opinion that this property is unique as it is a platted residential lot, not originally intended for a neighborhood swimming pool, and therefore not sized to accommodate the code required parking for a swimming pool. It is also unique among the other lots within this subdivision, with platted reserves or a pipeline easement on three sides, making it the optimal lot within the subdivision for a neighborhood pool. The property is unique as a lot within a residential subdivision where most homeowners will be within walking distance of the proposed pool, minimizing the need for parking.

**ADJACENT PROPERTY:** It is staff's opinion that granting the requested variance will not adversely affect the rights of adjacent property owners. No residences exist on the platted lots adjacent to this site. The reduction of two parking spaces, from 10 to 8, should have no negative affect on future adjacent homeowners. This site has 85 feet of street frontage that will allow for on street parking, should the 8 parking spaces be occupied. Permitting parking within the front setback should not have a negative effect on adjacent property owners, as a landscape buffering plan will be required, buffering the parking from the street and adjacent properties.

**HARDSHIP:** It is staff's opinion that the strict application of the zoning regulations could constitute an unnecessary hardship upon the applicant. Compliance with the parking requirements would prevent the applicant from developing the desired 1,000 square foot pool on this site, with no corresponding public benefit.

**PUBLIC INTEREST:** It is staff's opinion that the requested variance would not adversely affect the public interest. A reduction of two parking spaces, and permitting parking within the front setback but no closer than 8 feet from the property line, are minimal variances from the code standards. And, the public has an interest in the development of neighborhoods with quality of life amenities such as swimming pools.

**SPIRIT AND INTENT:** It is staff's opinion that granting the requested variances would not be opposed to the general spirit and intent of the zoning regulations. The intent of the zoning code parking standards is to ensure that adequate off-street parking is provided. The intent of prohibiting parking within building setbacks is to ensure adequate separation of parking from property lines, and ensuring space for landscaping. Both of these objectives can still be met with the requested variance.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to grant the variances exist, the Secretary recommends that a variance to reduce the parking requirement from 10 to 8 spaces for a neighborhood swimming pool, and a variance to permit within the front building setback but no closer than 8 feet from the property line, be GRANTED, subject to the following conditions:

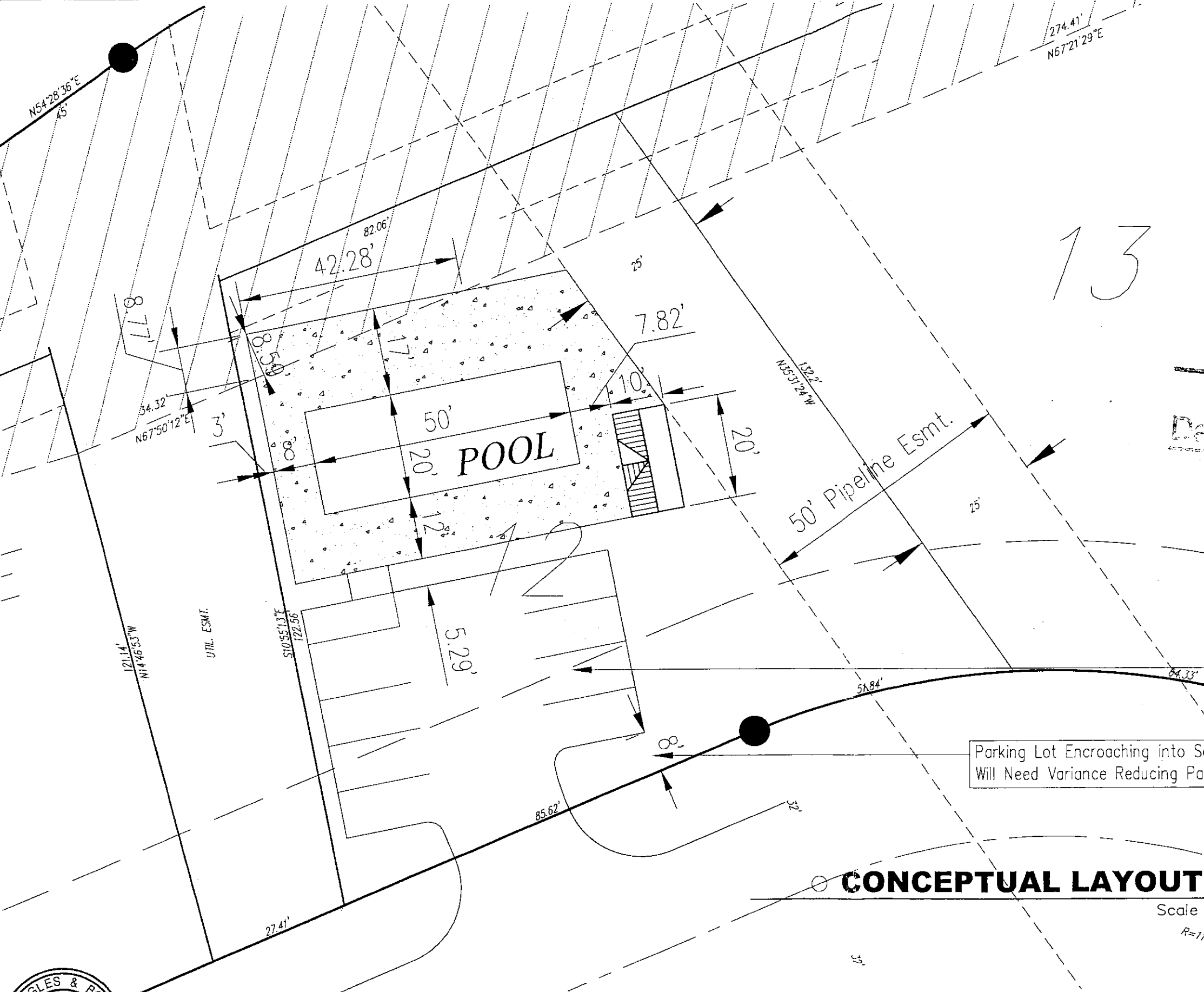
1. The site shall be developed in substantial conformance with the approved site plan.
2. All parking on the site shall be marked and paved in conformance with City standards.
3. Prior to the issuance of building permits, the applicant shall have a landscape plan approved by planning staff. The landscape plan shall be consistent with Landscape Ordinance requirements.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.
5. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

274.41'  
N67°21'29"E

N54°28'36"E  
45'

13

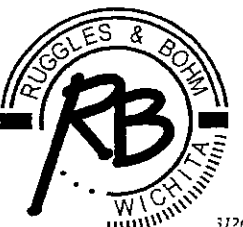
**APPROVED**  
SITE PLAN BZA 2007-69  
*William J. McNeely*  
Date: 1-29-08



8 Parking Spaces. Will Need Variance Since 10 Spaces are Required (1 Space per 100 SF of Pool Area)

Parking Lot Encroaching into Setback. Will Need Variance Reducing Parking Setback to 8'.

**CONCEPTUAL LAYOUT PLAN**  
Scale 1" = 20'-0"  
R=118



# Whispering Lakes Pool



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

1/29/2008

Whispering Lakes LLC c/o Joe Kramer  
1999 N Amidon #375  
Wichita KS 67203

Ruggles & Bohm PA attn: Terry Smythe  
924 N Main  
Wichita, KS 67203

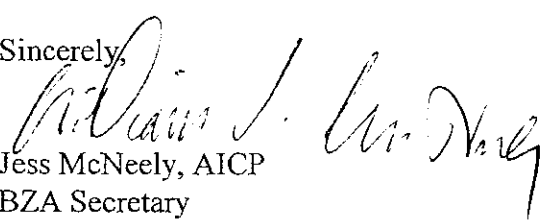
**RE: BZA2007-69** Variance request to reduce the Zoning Code parking requirement from 10 to 8 spaces for a neighborhood swimming pool in SF-5 Single-family zoning, and variance request to allow parking within the front setback.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on January 29, 2008. This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

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

Sincerely,

  
Jess McNeely, AICP  
BZA Secretary  
Current Plans Division

JM/ya

Cc Sharon Dickgrafe, Law Dept, 1-132  
Herb Shaner, OCI, 1-72  
Sue Schlapp, WCC District II, 1-13  
Kurt Schroeder, OCI, 1-72