

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
AGENDA
March 4, 2014
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF MINUTES - January 7, 2014

III. ACTION ITEM

- BZA2014-02 Request for a Variance from P.V.M.C. 19.06.041 "Lot Size"**
To decrease the width of the lot from 125' to 108.9'
5015 West 67th Street
Zoning: R-1a Single Family Residential District
Applicant: James Porter
- BZA2014-03 Request for a Variance from P.V.M.C. 19.06.035 "Rear Yard"**
To reduce the rear yard setback from 25' to 19'
5336 West 67th Street
Zoning: R-1a Single Family Residential District
Applicant: Weston Bennett on behalf of Don & Katie Calderon

IV. OTHER BUSINESS

V. OLD BUSINESS

VI. ADJOURNMENT

If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, JANUARY 7, 2014**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, January 7, 2014 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Randy Kronblad called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, Nancy Vennard, Gregory Wolf and Ken Vaughn. Also present in their advisory capacity to the Board of Zoning Appeals were: Ron Williamson, Planning Consultant, Kate Gunja, Assistant City Administrator; Danielle Dulin, Assistant to the City Administrator; Jim Brown, Building Official and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Ken Vaughn moved the minutes of the August 6, 2013 meeting of the Board of Zoning Appeals be approved as written. The motion was seconded by Gregory Wolf and passed unanimously.

**BZA2014-01 Request for a Variance from P.V.M.C. 19.44.015C
To increase the height of the steeple from 75 feet to 106 feet
6641 Mission Road**

Chairman Randy Kronblad reviewed the procedures for the public hearing. The Secretary confirmed that the Notice of Public Hearing was published in the Johnson County Legal Record on Tuesday, December 17, 2013 and all property owners within 200' were mailed notices of the hearing.

Randy Kronblad called upon the applicant to present the application.

Brian Rathsam, with Mantel Teter representing Village Presbyterian Church stated the Village Presbyterian Church is proposing to build an addition of the west side of the church. As part of the new addition the applicant proposes to remove the existing church steeple and replace it with a new steeple on the south end of the proposed addition. The maximum height permitted for a steeple is 75 feet. The height of the existing steeple is 99.81 feet and the applicant is requesting a height of 99 feet. The height of the ridgeline of the roof of the proposed addition in this area is approximately 32 ft. and the proposed steeple would extend 67 ft. taller.

Ron Williamson stated Section 19.44.015.C allows cupolas, domes, spires, etc. not to exceed a maximum height of seventy-five feet. The proposed height is 99 ft. which would be a variance of 24 ft.

Mr. Williamson stated staff reviewed copies of the original plans which were prepared in 1947. At that time, the steeple was designed, and assumed built, to a height of about 87 ft. The brick tower base was 33.5 ft. in height, a mid-section was 5.5 ft., and the steeple portion was 48 ft. In 1952 an expansion was designed and the steeple was relocated. The top 48 ft. of the steeple was relocated. The mid-section was increased in height from 5.5 ft. to 16 ft. and the base tower was increased from 33.5 ft. to 36 ft. The total steeple was increased in height from 87 ft. to approximately 100 ft. in height. This height was verified by a survey that determined the height at 99.81 ft.

At the time the steeple was constructed in 1954, the zoning ordinance did not have a height limitation of steeples. In 1971, an ordinance was adopted, but it was very vague and in 1995 when the zoning ordinance was amended, and a height for steeples was set at 75 ft. Therefore, the existing steeple is a legal nonconforming structure and can be maintained and repaired but cannot be relocated unless it conforms to the required maximum height.

The applicant has amended its request from 106 ft. to 99 ft. to keep the same steeple height as currently exists. Because the current steeple is nonconforming and is being relocated, a variance must be granted in order for it to be built to the 99 ft. height.

The applicant held a neighborhood meeting on November 25, 2013 in accordance with the Citizen Participation Policy. Four neighbors attended and the questions primarily dealt with the noise of the cooling tower, parking, stormwater, and landscaping. There were no comments regarding the steeple height.

Gregory Wolf asked if there were any objections to the new location. Mr. Rathsam replied none that he was aware of. Mr. Williamson noted an e-mail had been received opposing the 31 feet increase in height; however, the neighbor was not aware that the existing steeple is nearly 100 feet in height and that the applicant amended the variance request to 99 feet, the height of the existing steeple.

With no one present to speak on this application, the public hearing was closed at 6:42

Chairman Randy Kronblad led the Board in the following review of the findings required for the variance:

A. Uniqueness

That the variance requested arises from such 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 or actions of the property owner or the applicant.

There is nothing unique about this property in terms of topography, grade, shape or size. The existing steeple is located approximately 91 ft. from Mission Road and is 99.81 ft. in height, while the proposed steeple will be 35 ft. from Mission Road and 99 ft. in height.

The only uniqueness for this site is that the church steeple has been approximately 100 ft. in height for nearly 60 years and is in scale with the rest of the church complex. The new addition will enlarge the church and the steeple will be in scale with the size of the building. It should also be noted that if the steeple remained in its current location, it could be maintained and left in that location forever.

Bob Lindeblad noted the change in the code after the existing steeple was constructed was not an action created by the applicant and moved the Board find that the variance does arise from a condition unique to this property. The motion was seconded by Greg Wolf and passed by a vote of 5 to 0.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residences.

The church is the only use on the east side of Mission Road from 66th Street to Tomahawk Drive. The Prairie Elementary School is across the street to the west. There are single-family dwellings on the east side of the church, but they are far enough away that they should not be affected. The variance would not have an adverse effect on the rights of adjacent property owners or residents.

Gregory Wolf moved the Board find that the variance does not adversely affect the rights of adjacent property owners or residences. The motion was seconded by Ken Vaughn and passed by a vote of 5 to 0.

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

The steeple has been at approximately 100 ft. in height for nearly 60 years, and has been an aesthetic and defining feature of the church. The church is a large building and the steeple is in scale with the rest of the building. Based on the size of this church complex, the proposed steeple is in proportion to the size of the church and the reduction in its size would constitute an unnecessary hardship on the applicant.

Nancy Vennard stated the proposed steeple is in proportion to the size of the church and to deny the variance would constitute an unnecessary hardship upon the property owner. The motion was seconded by Ken Vaughn and passed by a vote of 5 to 0.

D. Public Interest

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare

The proposed steeple is still going to be a significant distance from any other dwelling and it is not going to adversely affect views or aesthetics and therefore, it will not

adversely affect public health, common morals, common order, common convenience, common prosperity, or general welfare.

Ken Vaughn moved the Board find that the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The motion was seconded by Gregory Wolf and passed by a vote of 5 to 0.

E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

The applicant is requesting a 32% increase in the height of the steeple which is very significant. The intent of the ordinance is to keep building heights and appurtenances in scale with other development in the City. This is a large building and the steeple has been of this height for sixty years, and therefore, it is not opposed to the spirit and intent of the ordinance.

Ken Vaughn moved that the Board find that the variance is not opposed to the general spirit and intent of these regulations. The motion was seconded by Gregory Wolf and passed by a vote of 5 to 0.

Bob Lindeblad moved that the Board having found all five of the conditions being met grant a variance from 75 feet to 99 feet in height for the proposed steeple on the Village Presbyterian Church at 6641 Mission Road. The motion was seconded by Gregory Wolf and passed by a vote of 5 to 0.

OTHER BUSINESS

Election of Officers

Gregory Wolf moved Randy Kronblad be elected as Chairman of the Board of Zoning Appeals. The motion was seconded by Bob Lindeblad and passed 5 to 0.

Bob Lindeblad moved Nancy Vennard be elected as Vice-Chairman of the Board of Zoning Appeals. The motion was seconded by Gregory Wolf and passed 5 to 0.

ADJOURNMENT

Chairman Randy Kronblad adjourned the meeting of the Board of Zoning Appeals at 6:50 p.m.

Randy Kronblad
Chairman

STAFF REPORT

TO: Prairie Village Board of Zoning Appeals
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
DATE: March 4, 2014

Project # 000009686

Application: BZA 2014-02

Request: Variance of Lot Depth from 125 ft. to 108.9 ft.

Property Address: 5015 W. 67th St.

Applicant: James Porter

Current Zoning and Land Use: R-1a Single-Family Residential – Single-Family Dwellings

Surrounding Zoning and Land Use: North: R-1a Single-Family Residential – Single-Family Dwellings
East: R-1a Single-Family Residential – Single-Family Dwellings
South: R-1a Single-Family Residential – Single-Family Dwellings
West: R-1a Single-Family Residential – Single-Family Dwellings

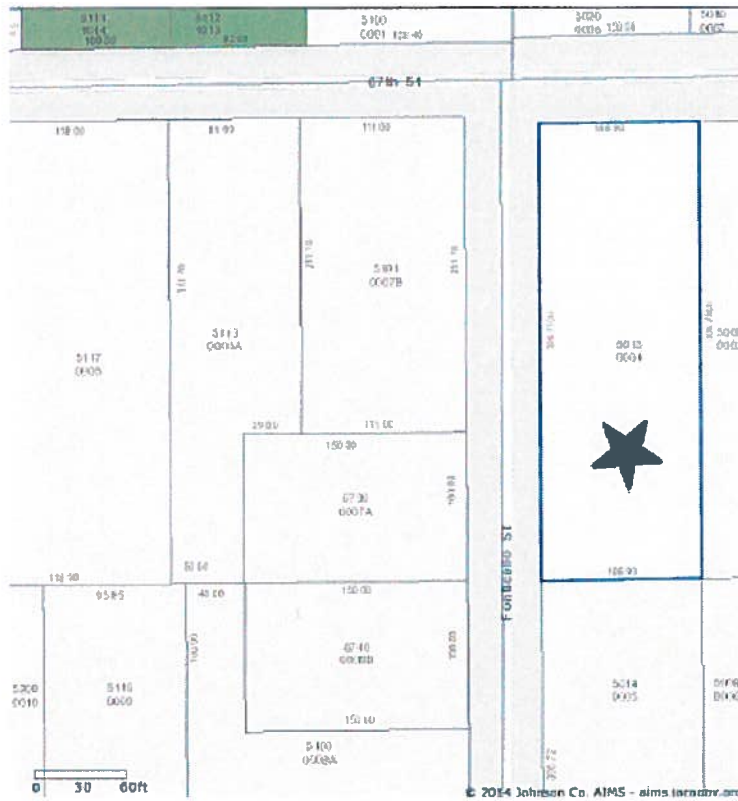
Legal Description: Prairie Woods, Lot 4

Property Area: 33,402 sq. ft.

Related Case Files: PC 2014-105 Lot Split

Attachments: Drawings, Photos

General Location Map



Aerial Map



STAFF COMMENTS:

The applicant owns a lot that is 306.7 feet long and 108.9 feet wide. The lot sides on Fonticello St. The applicant is proposing to split off the south 100 feet of the lot to create a separate building site that would have an area of 10,890 sq. ft.

Several similar large lots have been subdivided on Fonticello St. between 67th St. and 69th St., but primarily on the west side of the street. All of those lots have met the required 125 ft. lot depth either because the original lots were wider or additional land was acquired. The two lots directly across the street are 150 ft. in depth as the result of the acquisition of additional land from the adjacent lot. Those lots have 100 ft. frontage on Fonticello and are 15,000 sq. ft. in area. It should be pointed out that smaller lots have been platted on Fonticello St., south of 68th Street. They have 80 ft. of frontage and 127 ft. in depth for an area of 10,160 sq. ft., which is smaller than the proposed lot.

Initially the applicant proposed a wider frontage on Fonticello Street, but there is a sanitary sewer line crossing the lot approximately 95 ft. north of the south property line. Also, the existing house sets back approximately 70 ft. from 67th Street and the depth of the house and garage access would not leave much area for a back yard.

The applicant personally contacted each neighbor by phone to explain his proposal. It did not appear that the neighbors had any significant objections. A copy of the memo from the applicant is included.

In considering a request for a variance the Board may grant such a variance on the finding that all the five following conditions have been met:

A. Uniqueness

That the variance requested arises from such 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 or actions of the property owner or the applicant.

In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.

The residence on the lot was built in 1939 and, therefore, the lot was platted prior to that. The City was not incorporated at that time and no City regulations were in effect to regulate how subdivisions were platted. All the lots facing on 67th St. were platted at the same width as this lot. Typically, corner lots are at least 10 feet wider in order to accommodate side yard setbacks. However, those concepts were not considered at that time.

The uniqueness is that this lot was platted prior to the City being incorporated and is only 108.9 ft. wide which will be the lot depth after it is split. The applicant could attempt to purchase an additional 16.1 feet from the neighbor to the east but that may not be practical and would leave an odd shaped lot.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.

The lots to the east and south have the same lot width and would not be affected by the granting of the variance. There have been a number of similar sell offs on Fonticello St. in this area.

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

If the applicant is required to meet the 125 ft. lot depth, additional land would need to be acquired from the property to the east. The proposed lot would then be made up of parts of two lots and platting would be required rather than filing a lot split. The applicant would be subjected to significant time and cost increases. The proposed lot will exceed the minimum R-1A lot width requirements by 20 ft. and will be 10,890 sq. ft., which exceeds the minimum lot area requirements.

D. Public Interest

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The reduction of the lot depth from 125 ft. to 108.9 ft. will not adversely affect the public health, safety, morals, order, convenience, or general welfare because the size of the lot will still meet the minimum lot area of the R-1A District.

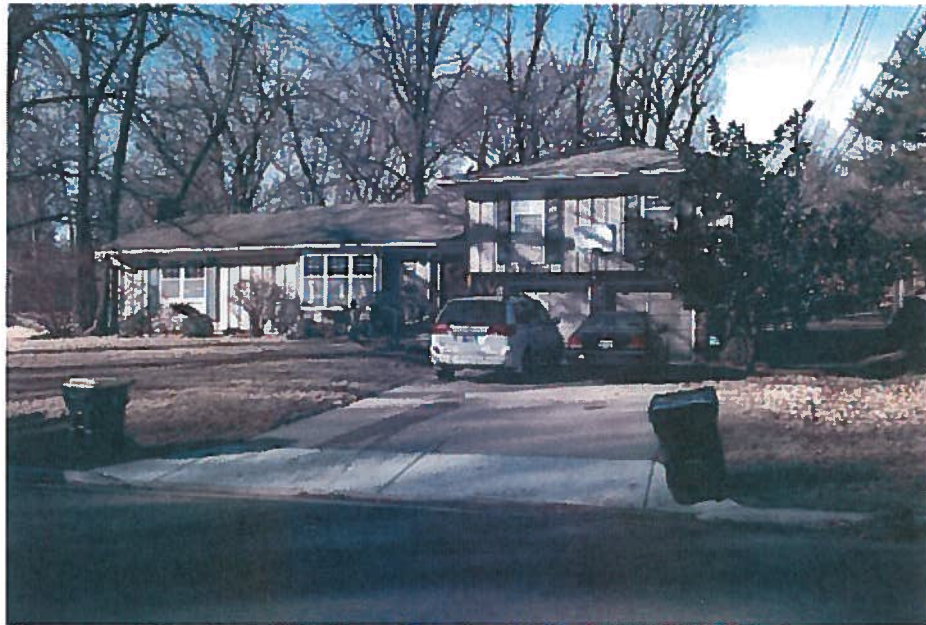
E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

The granting of the variance would not be opposed to the general spirit and intent of the regulations. This area was platted prior to the incorporation of the City and the proposed lot area will exceed 10,000 sq. ft. So even though minimum lot depth would not be met, the minimum lot area would be met, which is the more critical factor.

RECOMMENDATION:

It is the opinion of Staff that the variance requested does meet all five findings as required by State Statutes and, therefore, it is recommended that the Board of Zoning Appeals grant the variance request of lot depth from 125 feet to 108.9 feet.



West Side of Fonticello



West Side of Fonticello



Proposed Lot



Existing Residence

VARIANCE APPLICATION
BOARD OF ZONING APPEALS

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: BZA 2014-02

Filing Fee: \$75

Deposit: _____

Date Advertised: _____

Public Hearing Date: 2/4/14

APPLICANT: James H. Porter Molly W. Porter PHONE: (419) 913-384-6761
(608) 16-412-1524
ADDRESS: 5015 W. 67th Prairie Village, Ks ZIP: 66208
OWNER: J (Same) PHONE: _____
ADDRESS: (Same) ZIP: _____
LOCATION OF PROPERTY: 5015 W. 67th Prairie Village, Ks 66208
LEGAL DESCRIPTION: Prairie Woods, Lot 4, PVC-8817

ADJACENT ZONING AND LAND USE:

	Land Use	Zoning
North	<u>Residential</u>	<u>R-1a</u>
South	↓	↓
East		
West		

Present Use of Property: Residential

Proposed Use of Property: Residential

Utility lines or easements that would restrict proposed development:

N.A.

Please complete both pages of the form and return to:

Codes Administrator
City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208

Please indicate below the extent to which the following standards are met, in the applicant's opinion. Provide an explanation on a separate sheet for each standard which is found to be met.

1. *UNIQUENESS* Yes No

The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

2. *ADJACENT PROPERTY* Yes No

The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. *HARDSHIP* Yes No

The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

4. *PUBLIC INTEREST* Yes No

The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. *SPIRIT AND INTENT* Yes No

Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

6. *MINIMUM VARIANCE* Yes No

The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

SIGNATURE: James H. Porter

DATE: 01/03/2013

BY: Owner

TITLE: Owner

January 2, 2014

VARIANCE RESPONSES

In order to split our lot and sell a piece of it with the dimensions 100' x 108.9', we request a variance of 16.1' in depth. The 100' width would face Fonticello.

A) Prairie Woods properties facing Fonticello have a depth of only 108.9 feet when they were platted and registered in 1939. These dimensions have not been altered by us or previous owners.

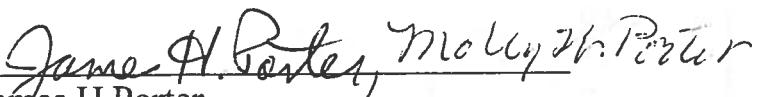
B) We don't believe that rights of adjacent owners would be adversely affected by this variance.

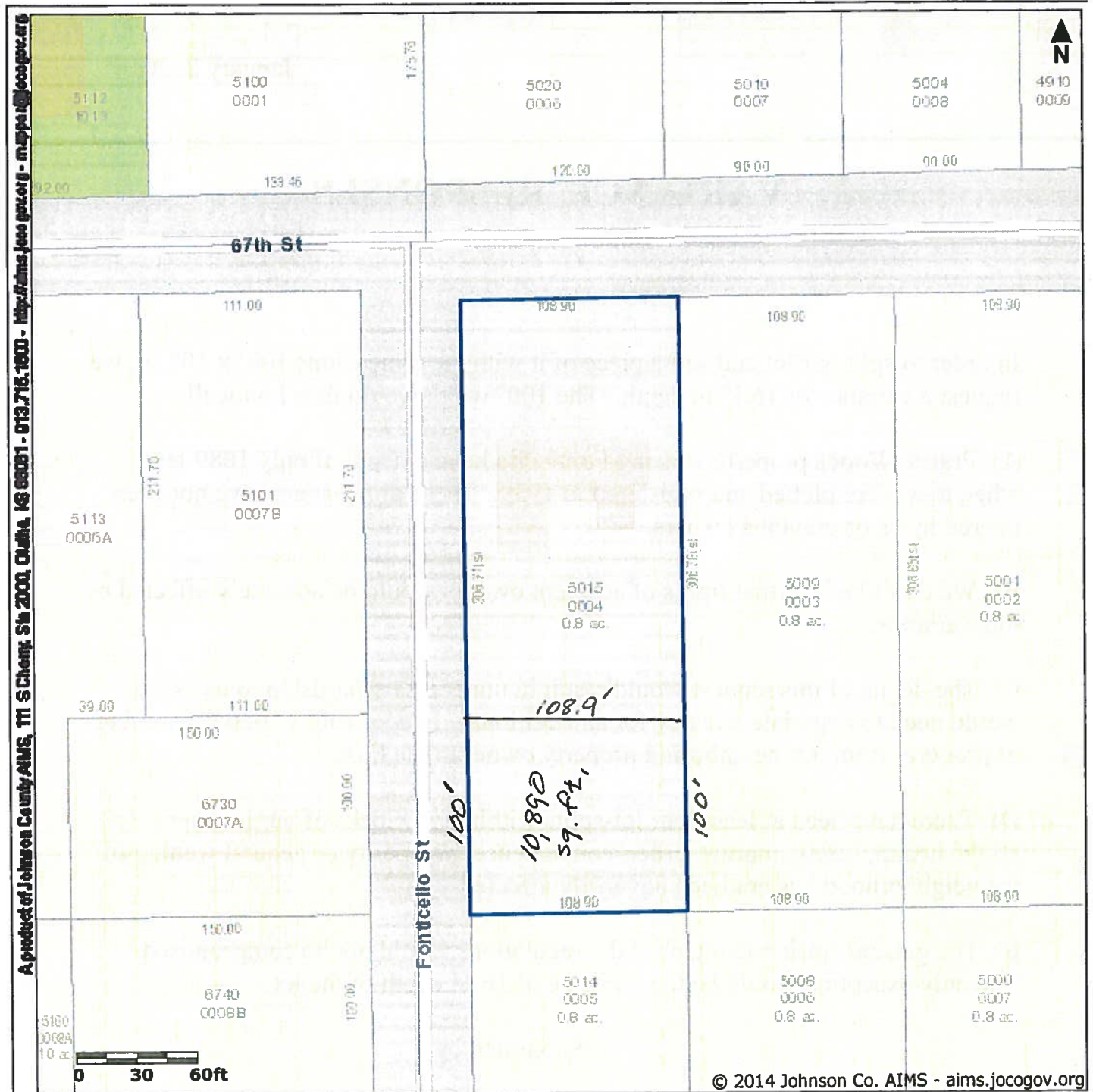
C) The denial of this request would result in unnecessary hardship to us as we would need to negotiate and pay for an additional (16.1' x 100') 1620 square feet of property from our neighboring property owner to the East.

D) There have been at least four lot-splits within two blocks of our location. The public health, safety, morals, order, convenience, prosperity or general welfare of the neighborhood has not been adversely affected.

E) The general spirit and intent of the regulations would not be compromised. The only exception would be the variance of 16.1' depth of the lot.

Submitted by.


James H Porter
Molly W Porter



Johnson Co AIMS Map

LEGEND

Building Foot Prints

- Building
- Courtyard

Address Point

- Building/Structure

Property

- Untaxed
- Common Interest
- Vertical
- Platted
- Unplatted
- Right-of-way



Joyce Hagen Mundy

From: James H. Porter [jhporter42@hotmail.com]
Sent: Wednesday, January 29, 2014 9:57 AM
To: Ron Williamson
Cc: Joyce Hagen Mundy
Subject: Lot-Split Summary 5015 W. 67th St.

Ron- There are 16 owners within 200' of my property. I have been unable to reach 2 of them via phone calls and dropping by their homes. These are William Skelly at 5112 W. 67th, & Robert and Diane young at 5004 W. 67th. I have visited personally with 7 owners and visited via phone with the other 7 owners. An absentee owner, 2 doors to the east at 5001 W. 67th (Dorothy Seitz) would like to see a cul-de-sac someday so would not be in favor of my lot-split. Also, my next door neighbor on my east (Bobbie Perkins) said she did not want to sell any of her property to me as it would make her realign her fence. The 12 others have been supportive. I would like to point out the lot split in the next block south at 6804 & 6808 Fonticello, with homes built in 1988 has fewer square footage (10,173' & 10,170.7') than my lot with the variance which would offer 10,890'. Molly & I look forward to the Feb 4th Board of Zoning Appeals Hearing. Respectfully- Jim Porter

Joyce Hagen Mundy

From: Danielle Dulin
 Sent: Friday, January 10, 2014 4:41 PM
 To: Joyce Hagen Mundy
 Subject: RE: 5015 West 67th Street

No.	Property ID	Area (ft ²)	Acres	Situs Address	Owner Address	City, State Zip
1	OP72000000 0008B	14,810	0.34	6740 FONTICELLO ST	6740 FONTICELLO ST	PRAIRIE VILLAGE, KS 66208
2	OP56000000 0006	33,541	0.77	5008 W 68TH ST	5008 W 68TH ST	PRAIRIE VILLAGE, KS 66208
3	OP56000000 0007	33,541	0.77	5000 W 68TH ST	5000 W 68TH ST	PRAIRIE VILLAGE, KS 66208
4	OF251216-1013	20,909	0.48	5112 W 67TH ST	5112 W 67TH ST	PRAIRIE VILLAGE, KS 66208
5	OP77000000 0009	13,939	0.32	4910 W 67TH ST	4910 W 67TH ST	PRAIRIE VILLAGE, KS 66208
6	OP72000000 0007A	14,810	0.34	6730 FONTICELLO ST	6730 FONTICELLO ST	PRAIRIE VILLAGE, KS 66208
7	OP56000000 0004	33,541	0.77	5015 W 67TH ST	5015 W 67TH ST	PRAIRIE VILLAGE, KS 66208
8	OP72000000 0008A	42,689	0.98	5100 W 68TH ST	5100 W 68TH ST	PRAIRIE VILLAGE, KS 66208
9	OP56000000 0003	33,541	0.77	5009 W 67TH ST	5009 W 67TH ST	PRAIRIE VILLAGE, KS 66208
10	OP72000000 0006A	23,958	0.55	5113 W 67TH ST	5113 W 67TH ST	PRAIRIE VILLAGE, KS 66208
11	OP77000000 0006	20,473	0.47	5020 W 67TH ST	5020 W 67TH ST	PRAIRIE VILLAGE, KS 66208
12	OP78000000 0001	22,651	0.52	5100 W 67TH ST	5100 W 67TH ST	PRAIRIE VILLAGE, KS 66208
13	OP72000000 0007B	23,522	0.54	5101 W 67TH ST	5101 W 67TH ST	PRAIRIE VILLAGE, KS 66208
14	OP56000000 0002	33,541	0.77	5001 W 67TH ST	6333 ABERDEEN RD	MISSION HILLS, KS 66208
15	OP56000000 0005	33,541	0.77	5014 W 68TH ST	5014 W 68TH ST	PRAIRIE VILLAGE, KS 66208
16	OP77000000 0008	14,375	0.33	5004 W 67TH ST	5004 W 67TH ST	PRAIRIE VILLAGE, KS 66208
17	OP77000000 0007	14,810	0.34	5010 W 67TH ST	5010 W 67TH ST	PRAIRIE VILLAGE, KS 66208

Total Area of Parcels: 9.83 acres (428,195 ft²)

1 Mary & Alexander Wooldridge

2 Suzanne Jianas

3 Matthew & Susan Robinson

4 William Skelly

5 Karen Kenney

6 Paige Kelly Price

7 James & Molly Porter

8 Louie & Amy Culp

9 Bobbie Perkins

10 Chad & Jennifer Sanborn

11 Edward & Sara Jo William

12 John & Mary Oman

13 Stephen & Kim Rich

14 Dorothy Seitz

15 Velma Ballentine

16 Robert & Dianne Young

17 Kathleen Hillman



STAFF REPORT

TO: Prairie Village Board of Zoning Appeals
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
DATE: March 4, 2014

Project # 000009686

Application: BZA 2014-03

Request: Variance of Rear Yard Setback from 25 ft. to 19 ft.

Property Address: 5336 W. 67th Street

Applicant: Bennett Home Improvement & Building

Current Zoning and Land Use: R-1A Single-Family District – Vacant Lot

Surrounding Zoning and Land Use: North: R-1A Single-Family District – Single Family Dwellings
East: R-1A Single-Family District – Single Family Dwellings
South: R-1A Single-Family District – Church
West: R-1A Single-Family District – Single Family Dwellings

Legal Description: Metes & Bounds

Property Area: 11,316 sq. ft.

Related Case Files: None

Attachments: Plot Plan, Photos

General Location Map



Aerial Map



STAFF COMMENTS:

This tract is unplatted and is a legal nonconforming lot of record. The two tracts to the west are also unplatted and the houses were built in 1925 and 1934. This tract has never been built upon. There are two houses to the north on flag lots which are not permitted now. The flag lots are served by a 12-ft. wide driveway adjacent to the east side of this tract. Several of the houses in the immediate area were built prior to the incorporation of the City.

This tract is 148 ft. deep and 76.46 ft. wide, for an area of 11,316 sq. ft. The tract meets the minimum requirements for lot depth and area, but is slightly less than the required 80-ft. lot width in the R-1A District. Many of the houses in this area were built on deep tracts or lots and the houses set back much further than the 30-ft. front yard required by the ordinance. There are 17 developed parcels on the north side of 67th St. between Nall Ave. and Hodges Dr.; and the setbacks range from 30 ft. to 140 ft., with the average being approximately 54 ft. Because the front yards are greater in this area than the ordinance requires, the front yard setback is determined by the following section:

19.44.020 Yard Exceptions.

- A. In districts R-1A through R-4 inclusive, where lots comprising forty (40) percent or more of the frontage, on the same side of a street between two intersecting streets (excluding reverse corner lots), are developed with buildings having front yards with a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage; except that where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this title, yet is less than the established setback for the block as provided above, such setback line shall apply.

The front yard setback for this tract will be in line with the two houses to the west. The house adjacent to the east sets back approximately 93 ft.

Because of the greater than normal front yard setback requirement, the applicant is requesting a variance of the required rear yard to accommodate the proposed new home.

In reviewing the original proposed site plan, the applicant has also exceeded the 30% maximum lot coverage permitted by ordinance. The proposed footprint of the building is 3,174.5 sq. ft. rather than 3,058.6 sq. ft. as shown on the plan and the covered porch is 1,488.2 sq. ft. rather than 1,483.7 sq. ft.; for a total lot coverage of 4,552.2 sq. ft. or 40.2%. Staff has visited with the applicant and the area of the structure will need to be reduced to a maximum of 3,394.8 sq. ft. The applicant has revised the plans for the house.

The applicant met with neighbors on February 22nd and 23rd, 2014. No concerns were expressed. A summary provided by the applicant is attached.

In considering a request for a variance the Board may grant such a variance on the finding that all the five following conditions have been met:

A. Uniqueness

That the variance requested arises from such 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 or actions of the property owner or the applicant.

In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.

The unique factor about this property is that the surrounding lots and tracts were developed with greater front yard setbacks than are normally required in the R-1A District. This has increased the front yard setback more than 24 ft. over the basic requirement.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.

The properties to the south and east would not be affected by the granting of the variance. A detached garage is on the lot to the west and the garage side of the dwelling to the north is next to the north property line, so neither of these dwellings should be adversely affected.

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

The applicant has stated that this is the best scenario for the plan the homeowner wants to build on this tract. It needs to be pointed out that this is a vacant lot and a floor plan for a residence that meets the homeowner's needs should be able to be designed for the site. There is ample area for the house to be increased in width by reconfiguring the large covered porch on the east and north sides. The condition of the hardship cannot be found to exist.

D. Public Interest

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The reduction of the rear yard setback will not adversely affect the public health, safety, morals, order, convenience, or general welfare because the size of the lot will still meet the minimum lot area of the R-1A District and it is in the rear of the lot, away from view of the general public.

E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

The granting of the variance would not be opposed to the general spirit and intent of the regulations. This tract was laid out prior to the incorporation of the City and the proposed lot area will exceed 10,000 sq. ft. The larger than normal front yard setback would be retained.

RECOMMENDATION:

If the Board decides that the request does meet all five findings as required by State Statutes, the Board of Zoning Appeals can grant the variance request of the rear yard setback from 25 ft. to 19 ft.



VARIANCE APPLICATION
BOARD OF ZONING APPEALS

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: BZA 2014-03

Filing Fee: \$95

Deposit: _____

Date Advertised: 2/11/14

Public Hearing Date: 3/4

APPLICANT: Weston Bennett w/ Bennett Home Improvement + Building PHONE: 816-564-1251
 ADDRESS: 708 NW RD. Mize rd Blue Springs Mo ZIP: 64015
 OWNER: Don + Katie Calderon PHONE: 913-669-3696
 ADDRESS: 4100 Wyoming Kansas City mo ZIP: 64111
 LOCATION OF PROPERTY: 5336 67th st
 LEGAL DESCRIPTION: All of the part of the NW 1/4 Section 16, Township 12, Range 25

ADJACENT ZONING AND LAND USE:

	<u>Land Use</u>	<u>Zoning</u>
North	<u>RESIDENTIAL</u>	<u>R-1a</u>
South	<u>"</u>	<u>"</u>
East	<u>"</u>	<u>"</u>
West	<u>"</u>	<u>"</u>

Present Use of Property: Residential

Proposed Use of Property: Same - Residential

Utility lines or easements that would restrict proposed development:

None

Please complete both pages of the form and return to:

Codes Administrator
City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208

Please indicate below the extent to which the following standards are met, in the applicant's opinion. Provide an explanation on a separate sheet for each standard which is found to be met.

1. *UNIQUENESS* Yes No

The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district, and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape, or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.

2. *ADJACENT PROPERTY* Yes No

The granting of the variance will not be materially detrimental or adversely affect the rights of adjacent property owners or residents.

3. *HARDSHIP* Yes No

The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.

4. *PUBLIC INTEREST* Yes No

The variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

5. *SPIRIT AND INTENT* Yes No

Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

6. *MINIMUM VARIANCE* Yes No

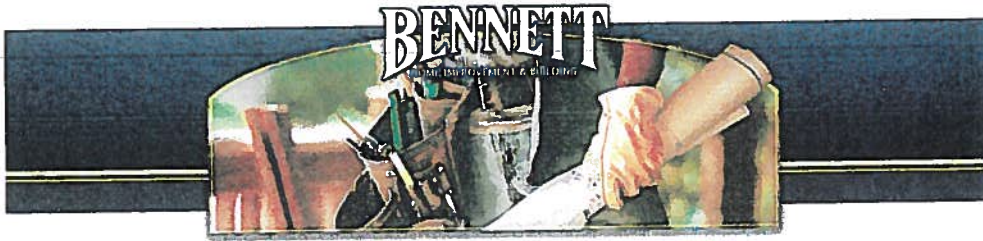
The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

SIGNATURE: WB

DATE: 02-06-14

BY: Wesley Bennett

TITLE: President



February 6, 2014

To: City of Prairie Village Kansas
Board of Zoning Appeals

Re: Application for appeal/Variance/Exception

Re: Dan and Katie Calderon
5336 67th St
Prairie Village KS

Criteria #1: The house that we want to build is unique in the sense that we are building on an existing nonconforming lot. We are six feet too deep which is putting us six feet too close to the back property line. We are asking for a six foot variance.

Criteria # 2: We are not adversely affecting the rights of adjacent property owners or residents.

Criteria #3: There will be no hardships upon the property owner represented in this application. This is the best scenario for the plan the homeowner wants to build on this nonconforming lot.

Criteria #4: This variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Criteria #5: This variance will not be opposed to the general spirit and intent of this title.

February 27, 2014

City of Prairie Village
7700 Mission Rd
Prairie Village, KS 66208

Re: Variance for Property Located at 5336 W. 67th St.

To Whom It May Concern:

Per instructions received from our builder, Weston Bennett of Bennett Home Improvement and Building, we are enclosing information evidencing our efforts to both notify our future neighbors of the variance hearing scheduled for March 4, 2014, and allow them an opportunity to review the proposed plans.

On February 13, 2014, we sent a letters to each of the addresses provided by the City of Prairie Village. A sample of the February 13 correspondence is enclosed herein as Enclosure "A". The list of recipients is enclosed as Enclosure "B".

On February 23, 2013, my wife, Katie Gates Calderon, and I personally visited each of the houses listed on Enclosure "B". If nobody was available at the house, we left the flier attached to Enclosure "B" as Exhbit "B". We allowed those who were home to review our full plans, (attached to Enclosure "B" as Exhibit "C") and explained the variance request using the survey contained on the last page.

We obtained signatures from all the individuals with whom we spoke about the matter. Those signatures are contained on Enclosure "B". We spoke to Rich Murrell of the Nall Avenue Baptist Church over the phone on February 26, 2014 and he supplied email confirmation of his receipt and approval of the proposed plan (Exhibit "A" to Enclosure "B").

Please feel free to contact us directly at 913-669-3696 or pdcalderon@gmail.com if there are any questions regarding the above, or if the City of Prairie Village requires any additional efforts on our part.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Katie Gates Calderon', with a long horizontal flourish extending to the left.

P. Daniel Calderon & Katie Gates Calderon

February 13, 2014

Murray and Julie Levin
5312 W 67th St.
Prairie Village, KS 66208

Re: Variance for Property Located at 5336 W. 67th St.

Dear Murray and Julie Levin:

I would like to first introduce myself. My name is Dan Calderon. My wife, Katie Gates Calderon, and I are the new owners of the land located at the above-referenced address (the "Property"), which currently exists as a vacant lot located just North of the Nall Avenue Baptist Church. We purchased the Property with the specific intent of building a permanent home for our family. In doing so, we have meticulously designed a floor plan and layout for the lot.

It has recently come to our attention that our building plans will require our house to sit 19 feet from the back Property line (located on the North side of the lot). Unfortunately, the current zoning regulations for this area of Prairie Village require our house to be a minimum of 25 feet from the back Property line.

As such, we have applied for a variance from this particular zoning regulation. And while we are obligated to inform you of the application, it is certainly our preference that you, as our future neighbors, have a voice in the issuance of the variance. It is imperative to us that we get off on the right foot as new members of your community, and we welcome you to express any concerns about the project that you may have. So please feel free to do so by either contacting us directly or by presenting comments on the matter at the scheduled public hearing, which will take place on March, 4, 2014 at 6:30 p.m. in the Council Chambers of the Municipal Building.

Enclosed, you will find information on the public hearing on this matter. If you have any questions or concerns about this variance or the project as a whole, please feel free to contact me directly by phone (913-669-3696) or email (pdcalderon@gmail.com). Otherwise, we would welcome your comments on the date of the hearing.

Thank you in advance for your attention to this matter, and we look forward to being your neighbors in the very near future.

Sincerely,

P. Daniel Calderon

Enclosure "A"

To All Property Owners within 200' of 5336 W. 67th St.

CITY OF PRAIRIE VILLAGE, KANSAS NOTICE OF HEARING BOARD OF ZONING APPEALS

The Board of Zoning Appeals will hold a public hearing on Tuesday, March 4, 2014, at 6:30 p.m. in the Council Chambers in the Municipal Building at 7700 Mission Road, Prairie Village, Kansas, on the following application:

BZA 2014-03 Variance from Section 19.06.035 "Rear Yard" of the Zoning Ordinances to reduce the rear yard setback from 25' to 19' 5336 West 67th Street
Zoning: R-1a Single Family Residential District
Applicant: Weston Bennett on behalf of Don & Katie Calderon

The property legally described as follows: All the part of the NW ¼ Section 16, Township 12, Range 25, being more particularly described as follows: Beginning a a point 316.45 feet East of the West line of said ¼ and 25.0 feet North of the South line of said ¼; then West and parallel to the South line of said ¼ 76.45 feet; thence North and parallel to the West line of said ¼ 148 feet; thence East and parallel to the South line of said ¼, 76.47 feet; thence South 148 feet to the point of beginning, in Johnson County, Kansas, subject to that part, if any, in streets, roadways, highways or other public rights-of-way.

The applicant is requesting a variance to allow for a reduction in the rear yard setback from 25 feet to 19 feet. .

At the time of the scheduled public hearing, all interested parties may present their comments. Prior to the date of the scheduled hearing, plans, drawings, additional information and a complete copy of the legal description are available for public inspection in the Office of the Secretary to the Board of Zoning Appeals. If you have a disability and need assistance to participate in any city meeting or program, contact Joyce Hagen Mundy by e-mail at jhmundy@pvkansas.com or at 381-6464 or TDD 1-800-766-3777.

Randy Kronblad
Chairman

5336 W. 67th Street

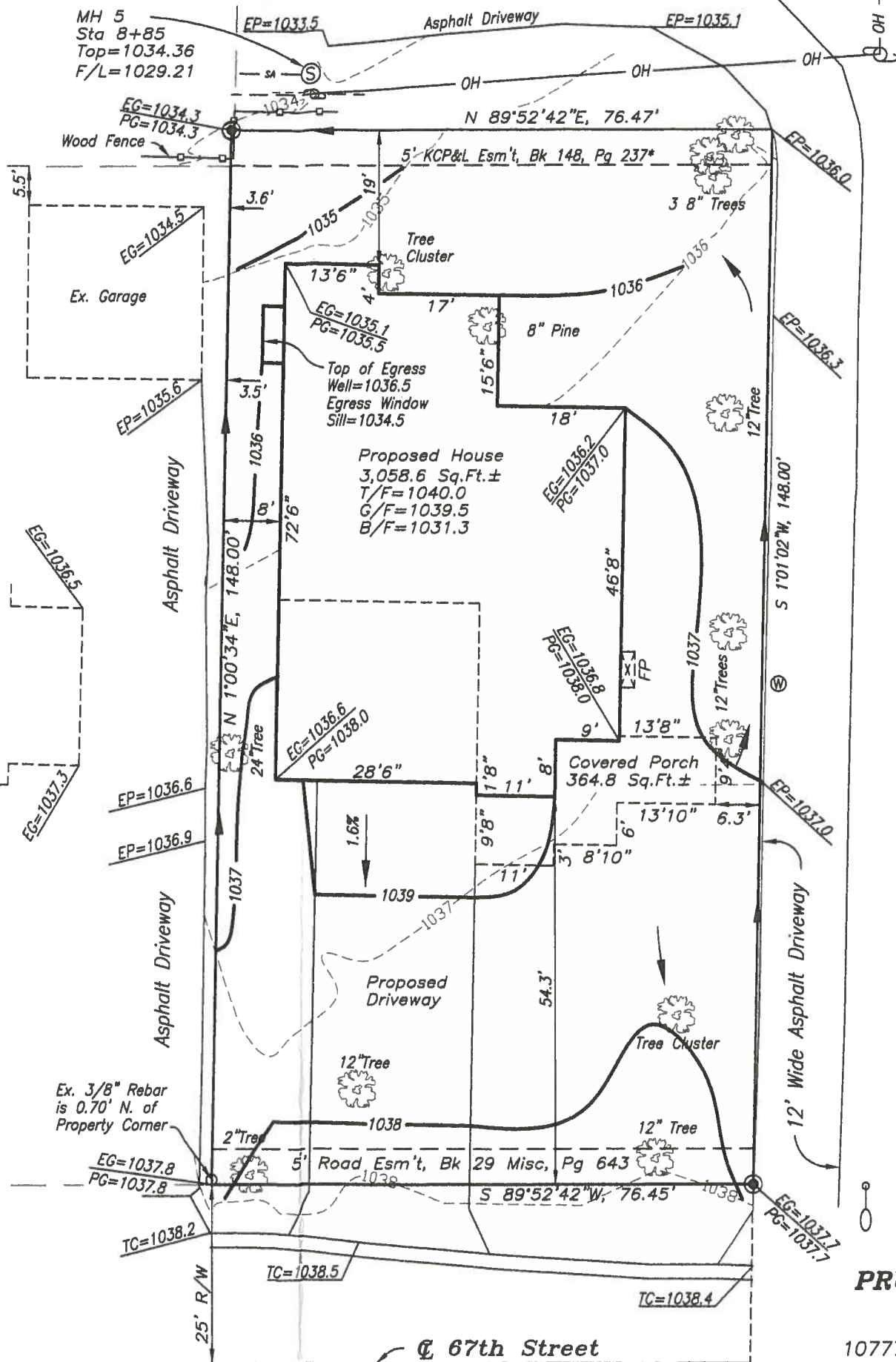
DESCRIPTION (Kansas General Warranty Deed filed Dec. 23, 2013 in Bk. 201313 at Pg. 006250):

All the part of the NW 1/4 Section 16, Township 12, Range 25, being more particularly described as follows:

Beginning at a point 316.45 feet East of the West line of said 1/4 and 25.0 feet North of the South line of said 1/4; thence West and parallel to the South line of said 1/4 76.45 feet; thence North and parallel to the West line of said 1/4 148 feet; thence East and parallel to the South line of said 1/4, 76.47 feet; thence South 148 feet to the point of beginning, in Johnson County, Kansas, subject to that part, if any, in streets, roadways, highways or other public rights-of-way. Containing

Easements are based on Title Commitment File No. 01109-16254, issued December 23, 2013 by Stewart Title Guaranty Company.

It is this surveyor's belief that the Kansas City Power and Light Company Easement filed in Book 148 at Page 237 has an erroneous description based on the property dimensions and the location of the power line. It is this surveyor's opinion that it is shown on this plot plan where it was intended to be located.



PLOT PLAN

LEGEND

- Street Light
- Water Meter
- Utility Pole
- Sanitary Sewer Manhole
- F - Fill
- EG - Existing Grade
- PG - Proposed Grade
- TC - Top of Curb
- FF - Finished Floor
- T/F - Top of Foundation
- G/F - Garage Floor
- B/F - Basement Floor
- FP - Fire Place
- SA - Sanitary Sewer Line
- OH - Overhead Utility Lines
- EP - Edge of Pavement
- Denotes existing 1/2" Rebar with KS LS 872 Cap

To the best of my knowledge and belief, this plot plan portrays the proposed size and location of a foundation on the above described property. February 26, 2014
Jerald W. Pruitt, PLS 814

REVISED

RECEIVED
FEB 26 2014
By _____

FOR: Bennett Home Improvement & Building, Inc.
708 NW RD Mize Road
Blue Springs, MO 64015
Job No. 13-1203

Scale 1" = 20'



SCALE IN FEET

PRUITT AND DOOLEY SURVEYING, LLC

7912 Elm, Raytown, MO 64138

816-699-4239

10777 Barkley, Suite 220-I, Overland Park, KS 66211

913-652-9002

16-12-25 PP-2.dwg

This plot plan shows the proposed size and location of the foundation on the lot, along with the proposed elevations. It is not to be used for a boundary survey. The builder should verify all grades and dimensions to insure proper position, drainage and sewer fit. No title information has been furnished for the preparation of this plot plan.