BOARD OF ZONING APPEALS CITY OF PRAIRIE VILLAGE, KANSAS AGENDA January 5, 2016 6:30 P.M.

- I. ROLL CALL
- II. APPROVAL OF MINUTES November 3, 2015
- III. ACTION ITEM

BZA2016-01 Request for a Variance from PVMC 19.08.030 to encroach the

rear yard setback by approximately 17 feet

7044 Cedar

Zoning: R-1a Single Family Residential District

Applicant: James Marten

- 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, November 3, 2015

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, November 3, 2015 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Gregory Wolf called the meeting to order at 6:30 p.m. with the following members present: Jim Breneman, Jonathan Birkel, Jeffrey Valentino, Melissa Brown, Patrick Lenahan and Nancy Wallerstein. Also present in their advisory capacity to the Board of Zoning Appeals were: Chris Brewster, Planning Consultant; Wes Jordan, Assistant City Administrator, Eric Mikkelson, Council Liaison, Mitch Dringman, Building Official and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Nancy Wallerstein moved the moved the minutes of the August 4, 2015 meeting of the Board of Zoning Appeals be approved as written. The motion was seconded by James Breneman and passed by a vote of 5 to 0 with Melissa Brown and Jeffrey Valentino abstaining as they were not in attendance.

BZA2015-05 Request for an Exception from PVMC 19.44.035 to increase lot coverage by 1.1% by enclosing an existing porch 8400 Somerset

David Cooley, 8400 Somerset Drive, stated there back porch is faces west and they have few shade trees making the porch very hot during the summer months. They are proposing to cover the unenclosed porch to provide the shade necessary for them to get more use from the porch in the summer. While an unenclosed porch can project into a rear yard up to twelve feet, a porch is defined as a structure and the covered area counts towards lot coverage requirements. With the covered proposed unenclosed porch area, the lot coverage increases to 31.1% or 1.1% over the 30% lot coverage requirement. Mr. Cooley noted that if the exception were denied, the porch would need to be shortened by five feet.

Nancy Wallerstein asked if there were other covered patios in the area. Mr. Cooley replied there are some screened and enclosed porches to the south. Many of the neighboring residents have shade tree coverage or umbrellas for their porch or patio areas.

Mrs. Wallerstein asked if Homes Association approval was required and had been received. Mr. Brewster responded the city does not require Homes Association approval. Mr. Cooley replied that his homes association had review and approved the proposed plan.

Chairman Gregory Wolf opened the public hearing for comments on the application. No one was presented to address the Board on the application and the public hearing was closed at 6:36.

Chris Brewster noted the applicant is proposing to add an unenclosed porch to the rear of an existing house. The existing footprint of the house is 3,190.3 square feet (according to AIMS online mapping) and the proposed footprint of the porch roof is 400 square feet.

The coverage percentages are as follows:

- Existing home = 28.48%
- Existing home with proposed porch = 32.05%:

[Note: the applicant's information indicates that the building coverage is 3,080 square feet, and therefore the proposal is only at 31.1% coverage or 1.1% / 123 square feet over the requirement.]

Mr. Brewster reviewed the following criteria required for granting of an exception per Section 19.44.035 of the Zoning Regulations:

A. The site is capable of accommodating the building(s), parking areas and drives with appropriate open space.

The lot is relatively flat and has no topographic features that are particularly unique. The lot also is rectangular in shape which is similar to other lots in the area. Building patterns in the area include variations and projects that create unique spaces on the lots. The proposed porch is a small projection, and only minimally exceeds the coverage requirement. The encroachment is in the rear area and will create a quality relationship and potential enhancement to the existing open space.

B. The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health and safety.

The lot area is 11,200 square feet which is consistent with all of the lots on this block face. Lots backing to this lot on the same block are much larger and therefore have a larger buildable area. Lots across the street are substantially larger to account for different land uses and building patterns as a transition to commercial areas to the north.

The proposed porch enclosure will not adversely impact any open space benefits of the 30% coverage relative to surrounding property because:

- 1. It is a transition area to different development patterns to the front and back;
- 2. it is a small percentage, so relationships to similarly situated side properties is minimal:
- 3. it is being placed over a patio that is already paved so landscape or storm water will not be negatively impacted by what is existing and currently allowed; and

4. it is within the encroachment allowances for the zoning district, so the relationship of the structure to adjoining property is already permitted.

C. The plan provides adequate management of storm water runoff.

A storm water study has not been submitted with this project. However the proposed enclosure will not increase the impervious surface of the lot. The applicant has explained that the structure will shed water in a similar manner to the existing impervious surface, and that downspouts can potentially improve the direction and drainage of the runoff relative to structures and adjacent property.

D. The plan is consistent with good land planning and site engineering design principles; and

The plan does propose a more useable outdoor space with a better relationship to existing open space and landscape areas.

E. An appropriate degree of compatibility will prevail between the architectural quality of the existing building and the proposed building expansion.

Plans have been submitted to show compatibility of the proposed roof with the existing building architecture, including roof slope, materials, and ornamentation of foundation posts.

Nancy Wallerstein moved the Board find favorably on the required criteria and grant the requested exception allowing for the proposed construction of an unenclosed covered porch increasing lot coverage to 31.1%. The motion was seconded by Patrick Lenahan and passed unanimously.

OLD BUSINESS

There was no Old Business to come before the Board.

ADJOURNMENT

Chairman Gregory Wolf adjourned the meeting of the Board of Zoning Appeals at 6:36 p.m.

Gregory Wolf Chairman

STAFF REPORT

TO: Prairie Village Board of Zoning Appeals

FROM: Chris Brewster, AICP, Gould Evans, Planning Consultant

DATE: January 5, 2016

Application: BZA 2016-01

Request: Variance from Rear Yard Setback of 25' to approximately 7'6" at

the closest location; AND associated request for review to raise

first floor elevation 12"

Property Address: 7044 Cedar Street

Applicant: Andrew Marten

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

Surrounding Zoning and Land Use: North: R-1B Single-Family Residential - Single-Family Dwellings

East: R-1B Single-Family Residential - Single-Family Dwellings South: R-1B Single-Family Residential - Single-Family Dwellings West: R-1B Single-Family Residential - Single-Family Dwellings

Legal Description: PRAIRIE VILLAGE LOT 2 BLK 53 PVC-1938

Property Area: 10,310.21 sq. ft.

Related Case Files: None

Attachments: Application, Drawings & Photos

General Location Map



Aerial Map



SUMMARY:

The applicant is requesting a variance from Section 19.08.030 to place a new home closer than 25' to the rear lot line. In association with this application, the applicant is requesting that the new home have a first floor elevation at 12" higher than the current first floor elevation, which requires and exception from section 19.44.030 of the zoning ordinance. The variance has the more strict standards, so that portion of the application is taken first.

ANALYSIS:

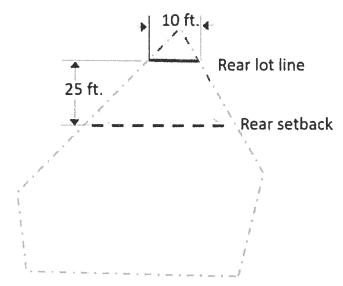
The lot is located on the end grain of a block formed by Cedar Street, 71st Street, Fonticello St. and W. 70th Terrace. The lot fronts on Cedar street along with the adjacent lot to the south, and two corner lots face Cedar but have a corner orientation (two front setbacks, two side setbacks, but no rear setback). The two interior lots fronting on Cedar (the subject lot and the lot to the south) have irregular rear lot lines that deepen at a severe angle when compared to the front lot line, resulting in one side yard being substantially shorter (88') than the other (172'). The existing home is a small footprint (1,383 s.f.) single-story home. The home is situated on an angle on the lot – not parallel to the street – possibly due to the angled configuration of the rear lot line and setback.

This application is to tear down the existing home and place it with a larger footprint (approximately 1,800 s.f.) two-story home, and to orient the home parallel to Cedar Street. A single-car front-loaded garage will be kept, but the driveway will also provide access to a detached garage at the farthest depth of the lot along the south lot line. This configuration will place the principle structure approximately 7'6"" from the closest lot line on the northwest corner of the structure. This lot line is most easily interpreted as a rear lot line which would require a 25' setback.

The zoning ordinance provides the following definition for "Rear Yard" (19.02.525):

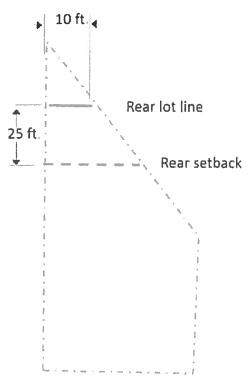
"Rear yard" means an open space, unoccupied, except as hereinafter provided on the same lot with a building between the rear line of a building and that line extended, the side lines of the lot and the rear line of the lot. Where no rear line exists, a line parallel to the front street line and distanced as far as possible therefrom entirely on such lot and not less than ten feet lot shall be deemed the rear line. The depth of the rear yard shall be the distance between the nearest point of the rear wall of the building and the rear line of the lot, or that line produced, measured at right angles to the rear line of the lot. [emphasis added.]

This interpretation is to deal with oddly configured lots where no rear lot line exists, and would have this effect:



Effect of 19.02.525 interpretation on rear setback.

While this interpretation is not clearly applicable to the subject lot, as it does appear to clearly *have* a rear lot line, it is included to put some perspective on the magnitude of this variance request. On its face, a variance from 25' to approximately 7'6" seems substantial. However, where this interpretation applied on the subject lot, the lot line and setback interpretations would be as shown below (the lot lines not shown in red would be "side lot lines" requiring a 4' setback in R-1B.)



Effect of 19.02.525 interpretation if it could be applied to the subject lot.

Again, it is not suggested that this interpretation be applied to this lot, nor have the calculations of this interpretation applied to the proposed building done. However, this does show that the proposed building still is situated in a manner that is contemplated by the zoning ordinance for odd-shaped lots, and the review of the proposed variance at the closest location could be compared to a side setback relationship.

The proposed home violates the rear setback at its closest point on the north west corner at approximately 7'6". Because the rear lot line falls away quickly at an angle, the bulk of the principle structure becomes more closely compliant with the required 25' setback internal to the lot, and is fully compliant beyond the first 15' of the structure. This portion is also the deepest portion of the structure. While it could be argued to "flip" the plan and footprint of the house to align the deepest part of the structure with the deepest part of the lot, the benefit of the detached rear garage and single-car front-loaded garage on the front streetscape would be lost.

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 lot has an irregular shape on the end-grain of a block, with corner-oriented homes on either side of it. It has a very shallow side lot line on the north (88') and a very deep side lot line on the south (172'), compared to the required depth of 100' for a standard lot. This produces a sharp angle of the rear lot line and an atypical buildable footprint on the 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 property that could be most affected by this application is the lot to the north and north west. However this is the rear of each of these homes and lots, and they already have a close association of buildings due to the "corner orientation" of the lot immediately to the north (where it has two front yards and two side yards for purposes of setbacks, but no rear yard — placing the structures closer together.) however, only a portion of the proposed garage extension would project further than the home to the north. This extension would be approximately 10 feet from the north property line.

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 proposed addition allows the homeowner to have a reasonable use of the house, with driveway access and garage parking that is compatible with the predominant character of the neighborhood. Applying the rear setback strictly would significantly impact the proposed plan, as it has also impacted to location and orientation of the smaller footprint existing home (which also violates a rear setback line applied on the north west corner.

D. Public Interest

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

The proposed building complies with all other setback and building coverage standards for this district and has a similar orientation and arrangement as other homes in the area. While the proposed home is larger than the existing home, the footprint is not out of scale with others in the area.

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 variance would be for only a portion home closes to the north west corner, and after 15' the principle building is compliant. The ordinance does provide for different interpretations of oddly configured lots to treat some areas as side setbacks instead of rear. While this lot is not clearly eligible for that interpretation, it does demonstrate the spirit of the ordinance, and the proposed building does comply with all side setback locations.

VARIANCE RECOMMENDATION:

After reviewing the information submitted and consideration of the testimony during the public hearing, if the Board finds that all five conditions can be met as required by state statutes, then it can grant the variance. If the Board does approve the variance, it should be subject to the following condition:

- 1. That the variance be granted for only to the extent shown on the submitted plans, and only for that portion of the structure in the closest 15' to the north lot line.
- 2. The variance be conditioned on an exception to the building elevation provisions of 19.44.030 (discussed below), OR if an exception is not given the proposed home would need to be built to the

plans show except for the first-floor elevation. All other changes to the plans, setback, building orientation or design would require a new application.

3. The variance, if approved, be recorded with the County Register of Deeds within 1 year of approval.

BUILDING ELEVATION EXCEPTION:

This application also proposes that the first floor elevation of the new home be 12" higher than the existing home. Section 19.44.030 of the zoning ordinance requires that all new homes be built at the same or lower elevation, or increase the side setback by 5' for each additional 6" of elevation. This provision is an attempt to regulate out of scale homes and to prevent grading up of sites to allow larger out-of-scale homes.

The proposed building is more than double the required side setback on the south elevation, so it would be fully compliant with Section 19.440030 and the exceptions built into these provisions. However the south elevation is at between 5' and 7'6" from the side setbacks if approved as displayed above in the variance request. While it is more than the required 4' side setback with R-1B it does require and additional exception since the additional setback area is not more than 5' for each 6" of elevation.

The application includes building elevations. Of note are the fact that this building is smaller than would be allowed by zoning (approximately 28' at its highest point). Additionally it is reduced in scale closer to the sides where it will relate to adjacent buildings (Note: the front elevation appears reversed in the packet and the part to the left may be the portion that will be nearest the lot – Left Side Elevation).

Additionally, the front façade of the building includes many single and 1.5 story elements that reduce the scale of this building in relation to the streetscape and surrounding areas.

Therefore the proposed design is more than meeting the intent of the building elevation standards in 19.44.030 since it (a) proposes a height significantly below what is allowed by zoning; (b) has additional setbacks on the south side; and (c) uses design elements that break up the massing and reduce the scale of the building.

Should the Board find favorably on the criteria for the variance, the exception to raise the first floor elevation 12" above the existing building elevation should be approved, conditioned on all of the plans and elevations provided with the application.





VARIANCE APPLICATION BOARD OF ZONING APPEALS

CITY OF PR	RAIRIE VILLAGE, KANSAS	For Office Use Only Case No: B2A 20/1-0/ Filing Fee: *95- Deposit: Date Advertised: /2/15//5 Public Hearing Date: //5//6
	: Andrew Marten	PHONE: 913-952-0061
	7044 Cedar Street	ZIP: 66208
	arten Real Estate Holdings LLC	
The state of the s	3965 W. 83rd Street, Suite 2	
	OF PROPERTY: 7044 Cedar Str	
LEGAL DES	CRIPTION: PRAIRIE VILLAGE LO	T 2, BLOCK 53 PVC-1938
and to rais	zequested To encroach on the Zee the elevation of the top of ZONING AND LAND USE: Land Use	foundation wall 12". Zoning
North	Residential	R1-B
South	Residential	R1-B
East	Residential	R1-B
West	Residential	R1-B
Present use	of Property: Residential R1-B	
Proposed Us	se of Property: Residential R1-E	3
Utility lines o	r easements that would restrict p	roposed development:
Please comp	plete both pages of the form and r	eturn to:

City Clerk 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.

*********	is round to be met.					
1.	UNIQUENESS	X	_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	X	_Yes	_No		
	The granting of the variance will not be materially detrimental of adversely affect the rights of adjacent property owners or residents.					
3.	HARDSHIP	Х	_Yes	_No		
	The strict application of the provision 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 sufficient reason by itself to justify the variance.					
4.	PUBLIC INTEREST	Х	_Yes	_No		
	The variance desired will not adversely affect the public health, safety, mo order, convenience, or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent proposed substantially increase the congestion in the public streets, increase the darfire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.					
5.	SPIRIT AND INTENT	X	_Yes	_No		
	Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.					
6.	MINIMUM VARIANCE	X	_Yes	_No		
	The variance requested is the minimum variance that will mareasonable use of the land or structure.	ake	possible	e the		
SIGNATURE: DATE 12/04/2015						
D.V. 7	NDREW MARTEN					

TITLE: President, Marten Real Estate Holdings LLC

Exhibit A

Request for Variance – 25' Minimum Setback for Property – 7044 Cedar Street, Prairie Village, KS 66208

1. Response to Criteria #1:

The purpose of this variance request is to overcome current zoning regulation that requires a minimum 25' rear yard setback, in order for the lot to be redeveloped. The property currently in its place is essentially an inhabitable three bedroom house, with severe foundation issues as well and structural issues with the structure itself. The only logical solution is allowing some sort of redevelopment, whether it is this proposed project or any other. The current zoning regulation would limit the depth of any new structure to less than twenty-two feet is strictly applied. It is also worth noting that the existing structure currently significantly encroaches the 25' minimum rear yard setback.

The property currently does not meet minimum requirements set forth in PV Zoning Regulations, Section 19.08.035, which states a lot shall have a depth of no less than one hundred feet. The North property line (also the side property line) of this property is approximately only eighty-eight feet, and the West property line (rear yard property line) sits at an extreme angle in relation to the side property lines, representing a condition unique to the property. This occurs infrequently throughout the zoning district, and the same proposed project, if applied to a typical lot within the same zoning district would not cause a need for special consideration by the Board of Zoning Appeals.

2. Response to Criteria #2:

Not only would the redevelopment of the property not adversely affect surrounding properties, it would have the opposite effect in terms of property value in the area. The current structure would be replaced with a much more aesthetically pleasing building. As the property currently sits, it is not feasible to recondition the existing structure.

3. Response to Criteria #3:

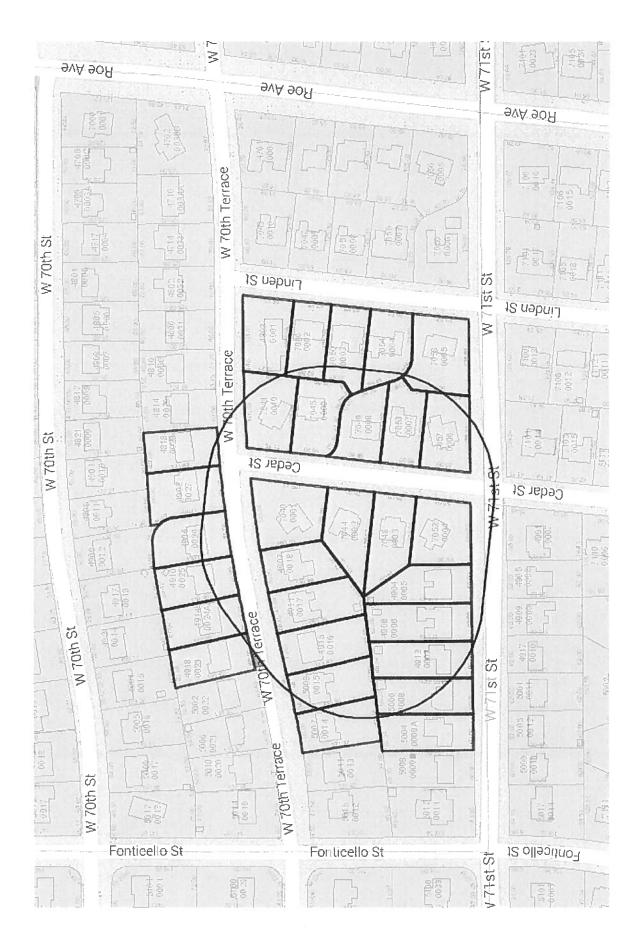
Strict application of the zoning restriction would cause an undue hardship on the property owner due to the fact that the existing structure is an unusable building, and in order to rebuild a new structure, it wouldn't be feasible to build something less than 22' deep, and the same proposed plan on a typical lot in the zoning district would cause no undue hardship on the property owner.

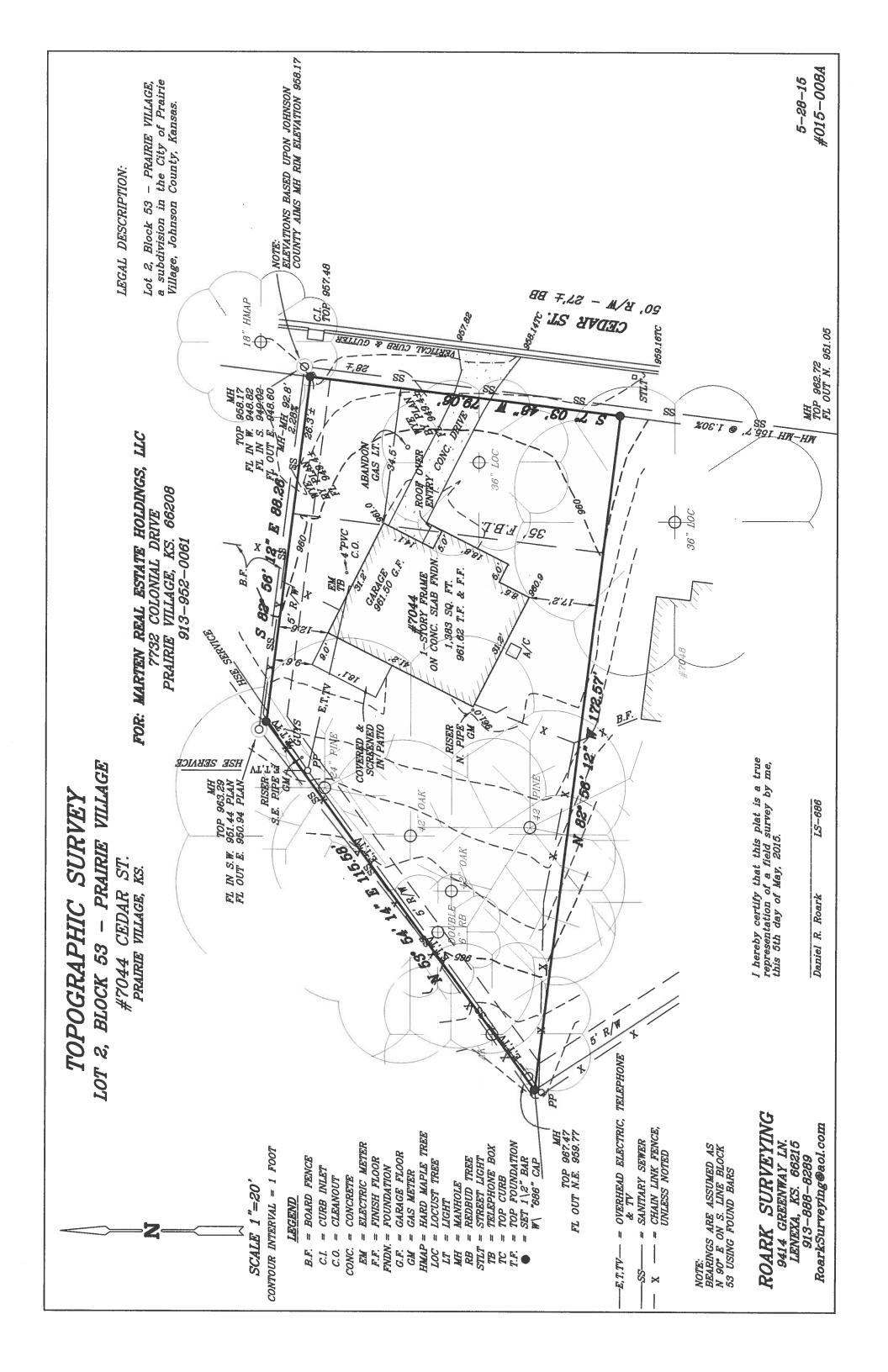
4. Response to Criteria #4:

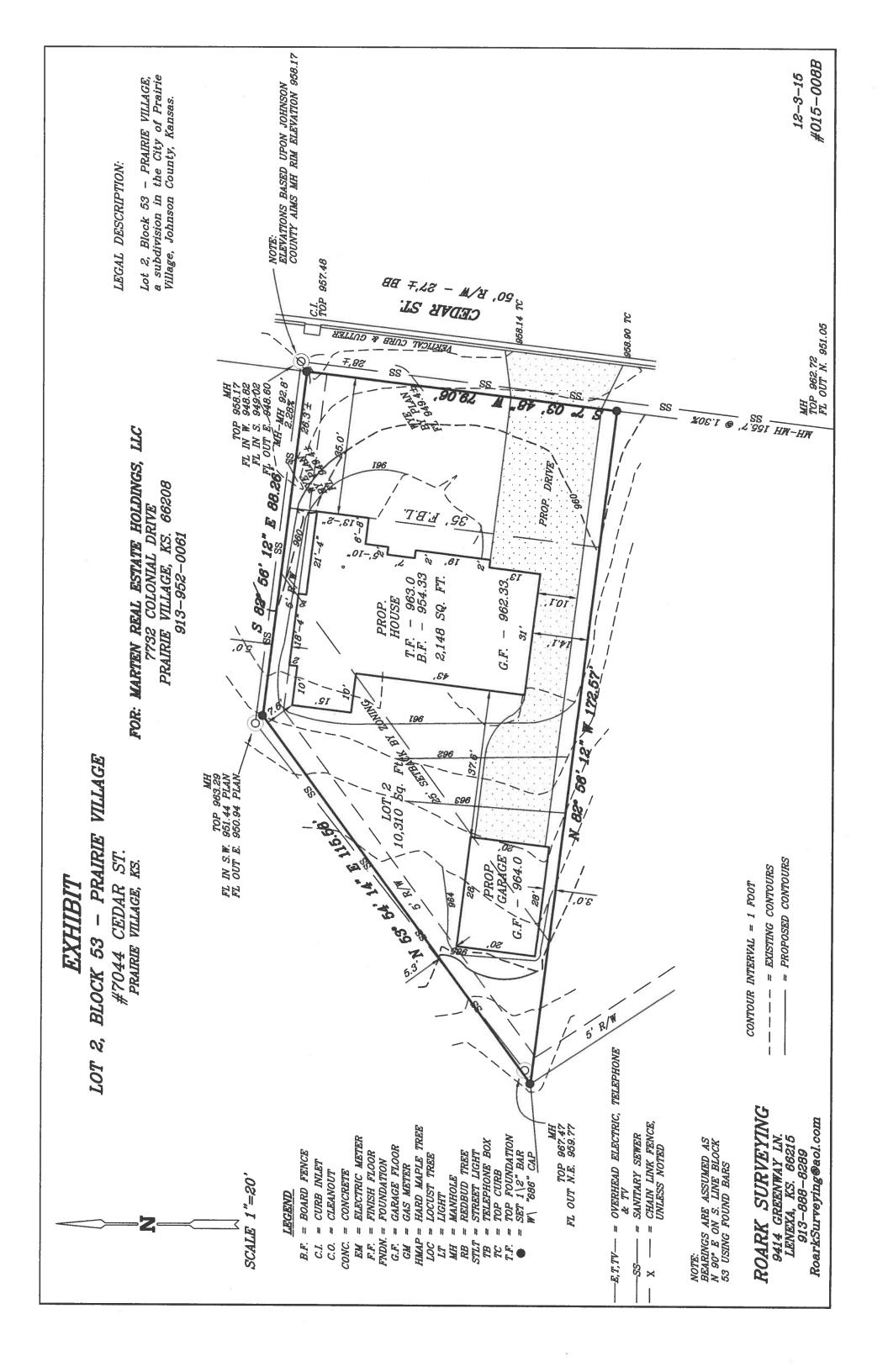
There is no known aspect of the proposed project that would cause adverse effects to the public health, safety, morals, order, convenience, prosperity, general welfare or otherwise. Additionally, new construction of a more modern, more energy efficient, more aesthetically pleasing structure that meets or exceeds all current building codes and standards would be beneficial to both surrounding property owners, as well as the general public.

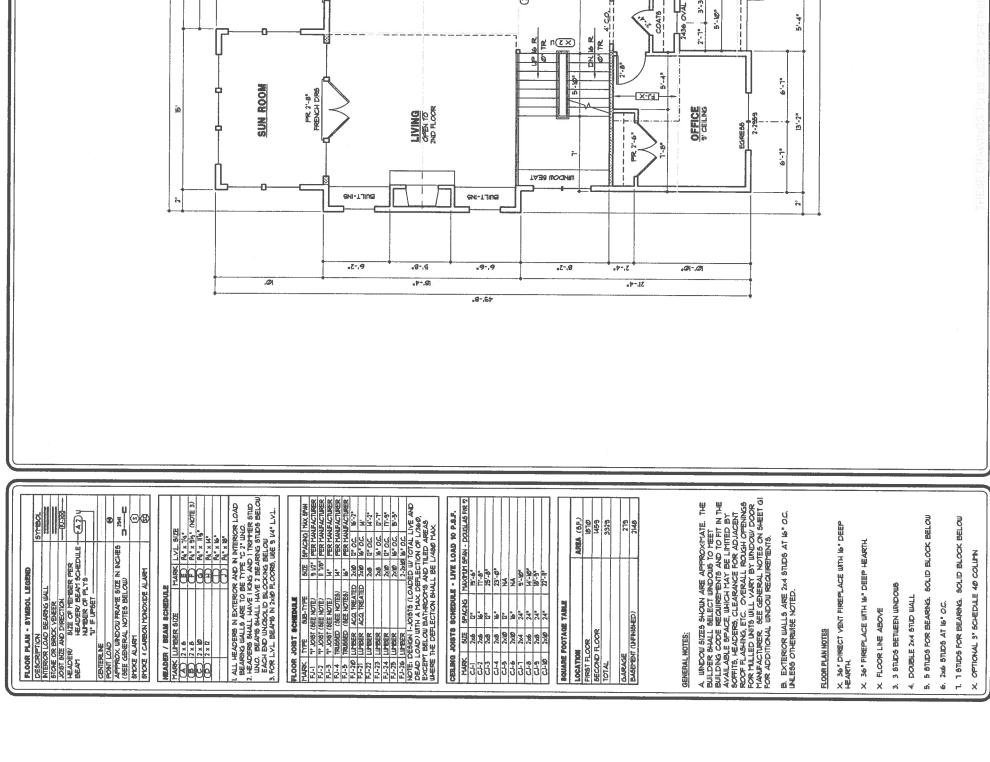
5. Response to Criteria #5:

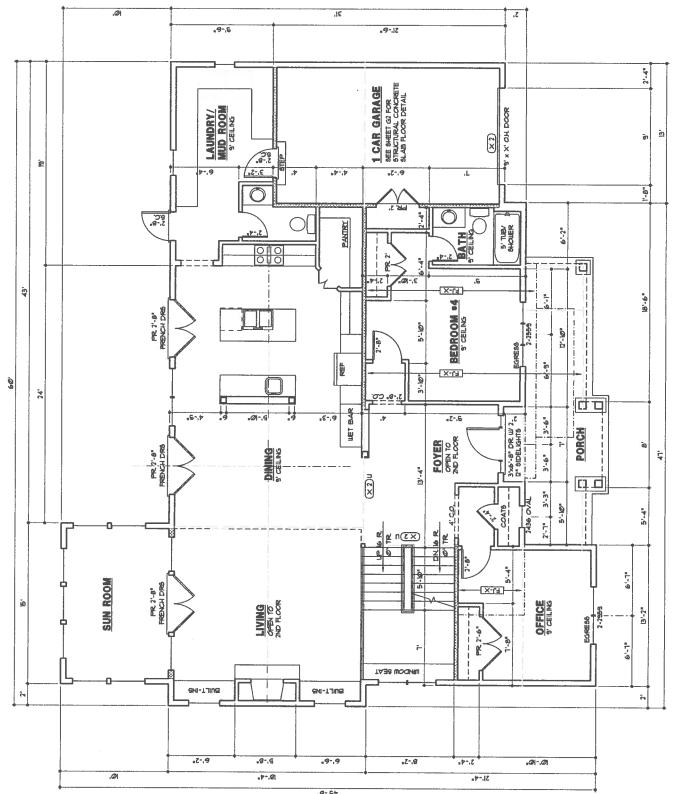
The proposed project will not be opposed to spirit and intent of the zoning regulation, as it seems that the 25' rear setback is to create greenspace or otherwise in the rear of the property. This space still exists on the property, but not in the Northwest corner, where the proposed variance is being requested.

























FIRST FLOOR PLAN



ANDY MARTEN
PRAIRIE VILLAGE, KS

