

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
AGENDA
May 2, 2017
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF MINUTES - April 4, 2017

III. ACTION ITEM

BZA2017-02 Request for a Variance from PVMC 19.08.025(A) to decrease the side yard setback from 6 feet to 4'8"
7136 Village Drive
Zoning: R-1b Single Family Residential District
Applicant: O'Neill Construction for Adam & Brooke Santa

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, APRIL 4, 2017**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, April 4, 2017 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: Jonathan Birkel, Melissa Brown, Jeffrey Valentino, James Breneman, 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; Mitch Dringman, City Building Official; Serena Schermoly, Council Liaison and Joyce Hagen Mundy, Board Secretary.

APPROVAL OF MINUTES

Nancy Wallerstein moved the approval of the minutes of the July 12, 2016 meeting as presented. The motion was seconded by James Breneman and passed by a vote of 5 to 0 with Patrick Lenahan abstaining.

**BZA2017-01 Request for a Variance from PVMC 19.08.030 to allow the
reduction of the rear yard setback from 25 feet to 14 feet 5 inches
4510 West 71st Terrace**

Steve Noll, 4500 West 71st Terrace, stated they are seeking a variance to allow an addition to the existing structure to be placed closer than 25 feet to the rear property line. He noted the existing building encroaches into the required rear yard slightly on the northeast corner (approximately 2' to 3'). An existing screened porch is off-set from this corner to the south, but due to the angle of the lot also encroaches into the required rear yard on the northeast corner of the screened porch (approximately 2' to 3'). The odd shape of the lot makes it very difficult to add to the existing structure. Mr. Noll noted that a similar variance was needed several years ago for his home at 4500 West 71st Terrace. They are proposing to replace the screened porch with an enclosed addition and new balcony, that would encroach into the required rear yard approximately 10'7" at the deepest point (northeast corner), but is in compliance at the southeast corner.

Chris Brewster noted the addition is 1.5 stories with a gabled roof facing the rear lot line, and with dormers facing both the side lot line and interior of the lot. A proposed balcony on the upper level also encroaches into the setback and is centered on the addition, but due to the angle of the lot, it does not encroach as much as the deepest point at the northeast corner of the proposed addition. Some dormers are also proposed on the front and rear elevations with these elements meeting all applicable standards.

Chairman Gregory Wolf opened the public hearing on application BZA2017-01. With no one wishing to address the Board the public hearing was closed at 6:35.

James Breneman asked if there had been any opposition expressed regarding the application. Joyce Hagen Mundy noted that the City had received communication from three property owners stating they had no objection to the requested variance. Wes Jordan reported that the adjacent property owner had come into city hall to review the plans and was not supportive of the variance but would be unable to attend this meeting.

Steve Noll stated that he met with that neighbor over the weekend and discussed the requested variance. He felt the addition planned was beautiful and asked that the property not be rented out. Their concerns were with the potential impact the addition would have to their property value and property taxes.

The Board reviewed the criteria required for granting a variance as presented in the staff report.

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.

This lot is located on an exterior curve of a street. It produces a long and curved front lot line, but a short rear lot line due to the "pie-shaped" lot resulting from this curve. Further, due to the lot configurations within this block, the rear lot line of this lot and the lot immediately to the south and east is on an angle. For the subject lot, this results in a longer side lot line on the southeast side of the lot and a shorter lot line on the northwest side of the lot. As a result the rear lot line and rear setback line created by definition is not parallel to the front building line and street, but rather is skewed on the lot. The affect of this is that the north rear setback line impacts the buildable footprint more substantially than the west portion.

James Breneman moved the Board finds favorably on Criteria A "Uniqueness". The motion was seconded by Nancy Wallerstein and passed unanimously.

B. Adjacent Property

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

Although this is a rear setback variance request, the proposal impacts the buildings to the north most significantly - at location where the side setback controls the relationship of these two buildings. The proposed addition meets all required side setbacks. The closest portion of the building to the structure to the north is the southeast portion of the existing building (approximately 13' 10" between structures at the closest point, but further in most other areas due to the angle of each building and the varied massing and

offsets in each building footprint.) The requested variance encroachment to the rear may also impact the lot that shares a rear lot boundary with the subject lot. It too has an angled rear lot line resulting in a skewed building footprint. The existing structure is substantially further from the subject house and due to the configuration of all lots on this block and corner, the side setbacks will enable structures to be nearer to one another than would the rear setbacks. (for example, the lot immediately to the north is approximately 10' from its rear lot line due to its corner orientation, resulting in these two homes being much closer than the impact of the subject request - this having a more of a side-side orientation, rather than rear-side orientation)

James Breneman moved the Board find favorably on Criteria B "Adjacent Property". The motion was seconded Nancy Wallerstein and passed unanimously.

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.

This is a "pie-shaped" lot with approximately 95' of frontage along the front lot line, but approximately 37' of lot line along the rear lot line, resulting in a skewed permitted building footprint for this lot. The existing building footprint is typical of homes in the area but smaller than most, and due to its orientation and the configuration on this lot, it does not fit within the permitted building footprint (a small portion of the northeast corner encroaches into the setback). Therefore, any addition to the existing building would not be possible without increasing this encroachment into the required setbacks in some manner.

James Breneman moved the Board find favorably on Criteria C "Hardship". The motion was seconded by Nancy Wallerstein and passed unanimously.

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 and is consistent with the architectural character of the existing building and enhances the character of the neighborhood, as it is representative of many buildings in the vicinity.

James Breneman moved the Board find favorably on Criteria D "Public Interest". The motion was seconded by Jonathan Birkel and passed unanimously.

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 extent of the deviation is modest compared to the shape of the lot and the resulting permissible building footprint. The addition is centered on the back of the home (off set from the prevailing side building line at the corner), and tapers to where it is fully compliant with the required rear setback towards the center of the lot. Further, the offsets in the building footprint do not place any portion of the proposed addition closer to

the nearest adjacent building than the northeast corner of the existing building, which will remain the closest point between two buildings. The addition ties into the rooflines of the existing building with a gable running perpendicular to the ridge line of the existing roof, matching the current building heights. The angles of the roof of the addition and dormers also place the highest point of the addition at a more central portion of the lot where the encroachment into the required rear setback is slight.

Jonathan Birkel moved the Board find favorably on Criteria E “Spirit and Intent of the Regulation”. The motion was seconded by James Breneman and passed unanimously.

Chairman Gregory Wolf asked the applicant if he had reviewed conditions of approval recommended by staff and was in agreement with them. Mr. Noll stated they had and are in agreement with the conditions.

Nancy Wallerstein moved that the Board having found all criteria to have been met approve BZA 2017-01 the staff criteria and approve BZA 2016-05 granting a variance for a reduction of the rear yard setback from 25 feet to 14 feet 5 inches only for the extent shown on the plans, specifically only to allow an encroachment of up to 10’ 7” at the northeast corner of the proposed addition and that the variance be recorded with the County Register of Deeds with one year of approval. The motion was seconded by Melissa Brown and passed unanimously.

OLD BUSINESS

There was no Old Business to come before the Board.

NEXT MEETING

Board Secretary Joyce Hagen Mundy reported an application for a variance has been filed and the Board will meet May 2, 2017.

ADJOURNMENT

Chairman Gregory Wolf adjourned the meeting of the Board of Zoning Appeals at 6:45 p.m.

Gregory Wolf
Chairman

STAFF REPORT

TO: Prairie Village Board of Zoning Appeals
FROM: Chris Brewster, AICP, Gould Evans, Planning Consultant
DATE: May 2, 2017

Application: BZA 2017-02

Request: Variance from Side Yard Setback

Property Address: 7136 Village Drive

Applicant: O'Neill Construction, LLS

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 5 BLK 28 PVC-1200

Property Area: 0.23 acres (10,187.3 s.f)

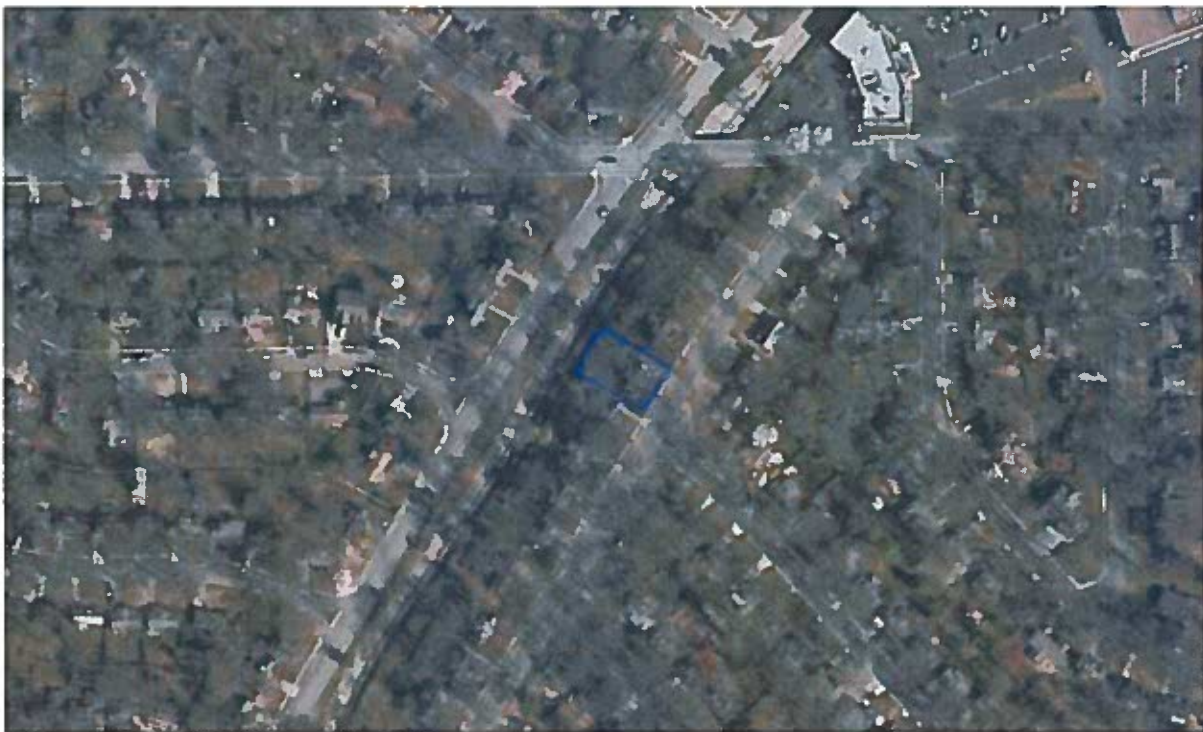
Related Case Files: None

Attachments: Application, Site Plan and elevations

General Location Map



Aerial Map



Aerial Site



Street View



SUMMARY:

The applicant is requesting a variance from Section 19.08.025. to allow an addition to the existing structure closer than 6' to the northeast property line. An existing one-car garage is located on this side and a two-car driveway ends at the front building line, part entering the one-car garage and part ending at the access gate to the rear yard.

The lot is 80' x 125'. The existing building is approximately 15' from the side lot line on each side of the lot. There is currently approximately 33' between the northeast edge of the existing structure and the adjacent house to the northeast. The applicant is planning a home addition into the rear of the lot and is requesting to expand the garage on the northeast edge of the existing building. The proposed plans would locate the new northeast edge of the proposed building 4' 8" from the property line.

ANALYSIS:

This variance request affects the side yard setback for the R-1B zoning district. Section 19.08.025. reads as follows:

19.08.025 Side Yard.

- A. A side yard shall be provided on each side of the lot. Such side yard on interior lots shall not be less than 20% in total of the lot width, but not less than six (6) feet on each side, and there shall not be less than twelve (12) feet between a dwelling on said lot and the dwelling located on adjacent property.
- B. Side yards on the street side of corner lots shall be not less than fifteen (15) feet or not less than one half of the depth of the front yard on any adjacent lot which faces on the same street, whichever provides the greater setback.

In this case the applicant is proposing that the northeast edge of the building be located 4' 8" from the property line rather than the 6' required by 19.08.025 A. The additional requirement of 20% of the lot frontage (80' frontage in this case, so 16' combined side setbacks) would be met as the southwest lot has a larger setback.

Section 19.54.030 of the Zoning Ordinance requires the Board to find that all five of the following conditions are met in order to grant a 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.

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.

This lot is located on a diagonal street that backs to Tomahawk Drive and the drainage channel, however all lots on this side of the block have a similar orientation to Village Drive. The opposite side of the street are the "end grain" of blocks with streets connecting into Village Drive and has some different block and lot configurations. The subject lot is larger than required by the R-1B zoning district (60' x 100', required; lot is 80' x 125'), but is similar in configuration, orientation and size to other lots on this side of Village Drive (all rectangular, all orienting directly to Village Drive, and all between 70' and 90' wide.

B. Adjacent Property

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

Due to the larger lot sizes in this area, most homes are separated by more than is required by the zoning ordinance. Granting the variance would still result in the proposed home and the existing

home having greater than the required separation (approximately 23' as opposed to 12' required). However it would mean that the adjacent lot would not be able to build to the required 6' setback line and still maintain a 12' separation (instead would be limited to 7' 4" from the side setback).

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 lot is rectangular and wider than required for the R-1B zoning ordinance, resulting in a large buildable footprint. However the existing structure is located with the one-car garage on the northeast side and expansion of the existing structure and garage is limited by the setbacks. The plans submitted do not show the exact dimensions of the proposed garage, so it is unclear of what the specific impact on compliance with the required setback would be on the applicant's concept plan.

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, and other portions of the required setback. The variance only affects the relationship of this building to the adjacent building and lot on the northeast lot line.

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 side setback standards are intended to regulate the scale and mass of buildings (building footprint) and the relationship of buildings to adjacent lots (setbacks). This section of the ordinance was recently amended (Ord. 2350, 2016) to emphasize these aspects of the zoning ordinance and to implement a sliding scale proportional to the lot width. This change increased the minimum setback from 4' to 6' in R-1B, and added a sliding scale based on the width of the lot. In this manner, the required setback increased the wider the lot, but also allowed some flexibility in building placement by allowing that percentage to come from either side, provided the minimum setback be met. The minimum setback was changed to 6' to account for situations on smaller lots where larger homes and larger sidewall masses were perceived as too close with infill development, and to ensure that the minimum building separation (12') did not depend on what an adjacent property owner did on their own lot.

EFFECT OF DECISION:

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 and Section 19.54.030 of the Prairie Village Zoning Ordinance, 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 only to the extent shown on the submitted plans, and specifically only to allow an encroachment of up to 4' 8" at the northeast lot line.
2. A survey be submitted for verification of building location, lot lines and all other setback requirements are met prior to building permits being issued.
3. The variance, if approved, be recorded with the County Register of Deeds within 1 year of approval.

VARIANCE APPLICATION
BOARD OF ZONING APPEALS

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No: BZA 2017-01

Filing Fee: \$75

Deposit: 4/11/17

Date Advertised: 4/11/17

Public Hearing Date: 5/2/17

APPLICANT: O'Neill Construction LC PHONE: 816-456-4345

ADDRESS: 1600 Genesee, # 824 KCMO ZIP: 64102

OWNER: Adam & Brooke Santa PHONE: 262-620-1807

ADDRESS 7136 Village Drive ZIP: 66208

LOCATION OF PROPERTY: _____

LEGAL DESCRIPTION: PRAIRIE VILLAGE LOT 5 BIK 28 PVC-1200

Variance Requested From 6' to 4' 8" setback on North
Property Line, in lieu of the current 6'

ADJACENT ZONING AND LAND USE:

	<u>Land Use</u>	<u>Zoning</u>
North	_____	_____
South	_____	_____
East	_____	_____
West	_____	_____

Present use of Property: Residential

Proposed Use of Property: Residential

Utility lines or easements that would restrict proposed development:

Please complete both pages of the form and return 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.

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 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**

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

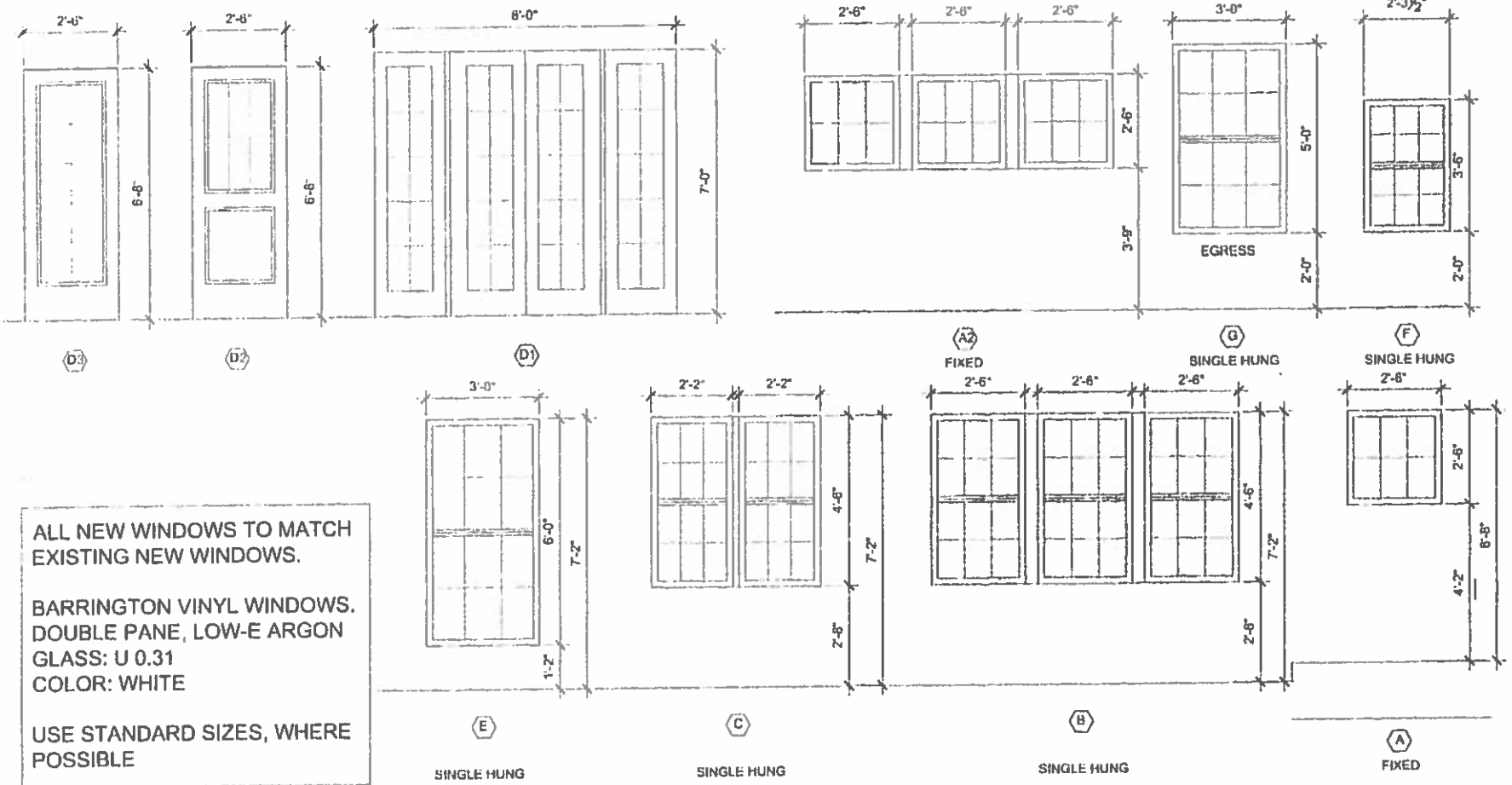
The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

SIGNATURE: Deb Martin DATE 4.4.2017

BY: Deb Martin
TITLE: Office Manager

Explanations:

1. The variance requested arises from conditions which are unique to the property in question because it is wider than a typical lot in the neighborhood. This lot is 80' wide and a typical lot in this area is 60' wide. This allows the homeowner to create a two car garage where it would not fit on a typical lot. With the exception that the homeowner request a variance on the North side setback changing it from 6' to 4' 8".
2. Proposal will not be materially detrimental to the rights of adjacent property Owners.
3. The property Owner has designed this project before changes to the zoning were made, from 6' to 4'. The property Owner wants to improve the value of its real property and surrounding properties by increasing from a single car garage to a two car garage. The customer is unable to do so without a 1 foot 4 inch variance. This 1' 4" variance would still leave more than 23 feet in between structures.
4. The variance desired will not adversely affect the community, however it will increase property values by increasing value of the residence.
5. Yes.
6. Yes.



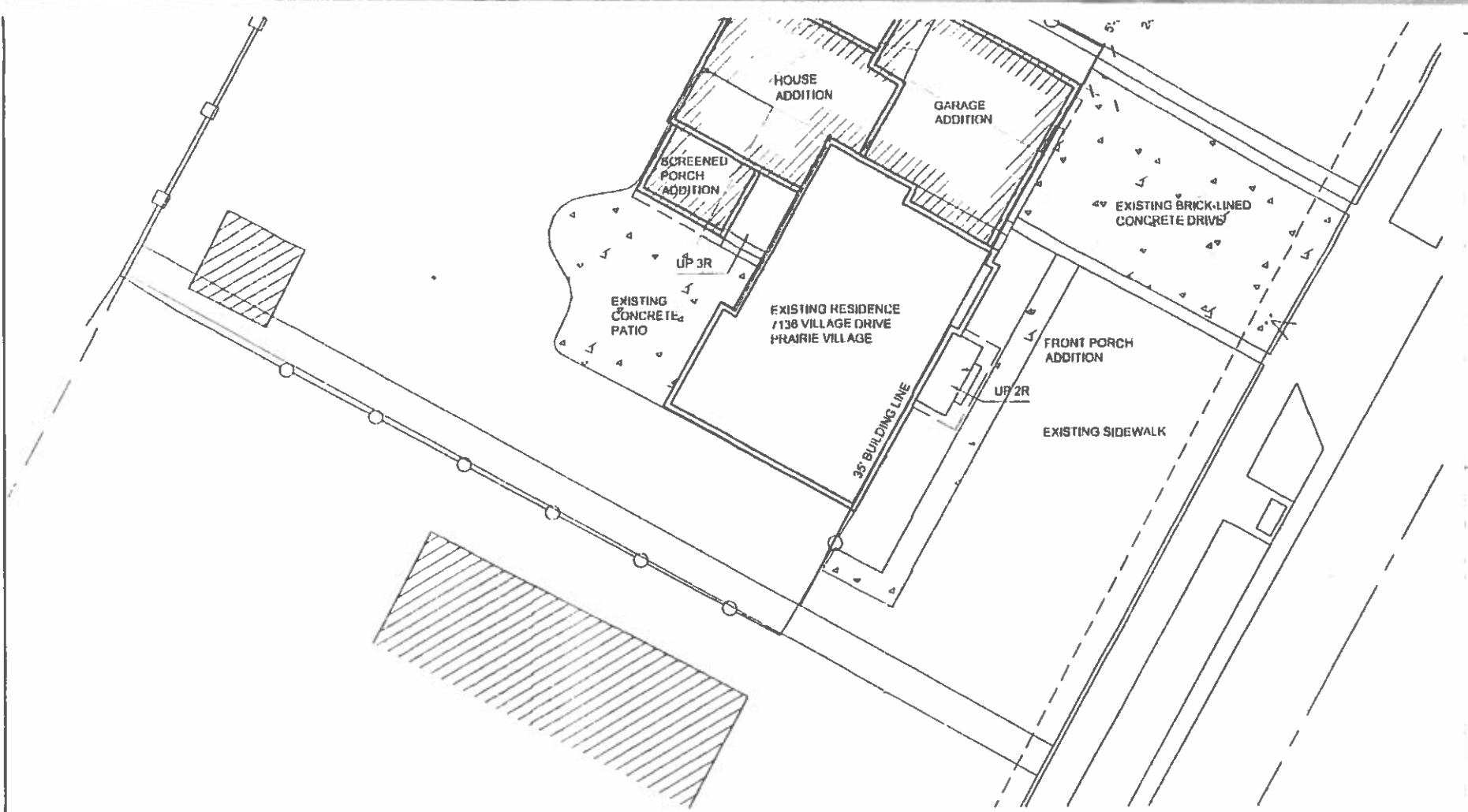
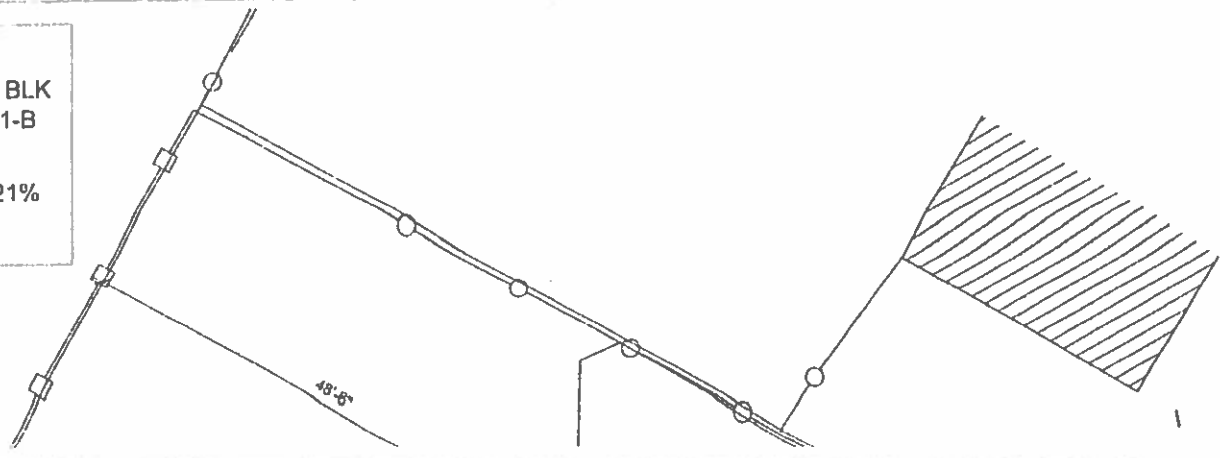
ALL NEW WINDOWS TO MATCH EXISTING NEW WINDOWS.

BARRINGTON VINYL WINDOWS.
DOUBLE PANE, LOW-E ARGON
GLASS: U 0.31
COLOR: WHITE

USE STANDARD SIZES, WHERE POSSIBLE

GENERAL NOTE:
PLEASE REFER TO ATTACHED SURVEY PREPARED BY JASON ROUBEUSH/LUTJEN, INC.

LEGAL DESCRIPTION:
PRAIRIE VILLAGE LOT 5 BLK 28
PVC-1200 ZONING: R1-B
LOT AREA: 10,187.3 SF
FOOTPRINT: 2120 SF [21% COVERAGE]



1 ARCHITECTURAL SITE PLAN
Scale: 1/8"=1'-0"
NORTH

SITE/WINDOW ELEVATIONS
PERMIT SET
JULY 8, 2016

Architect **it**, LLC

Katie Trenkle, RA, LEED AP
4319 W 69 ST | Prairie Village, KS | 66208
913.209.4460

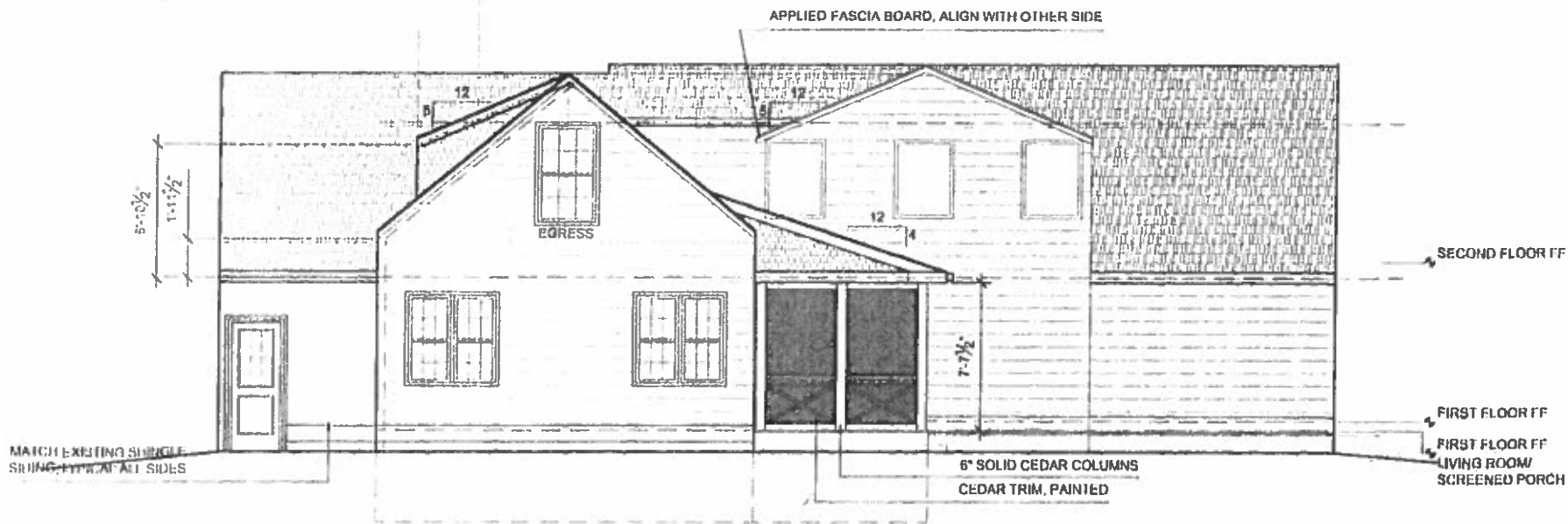
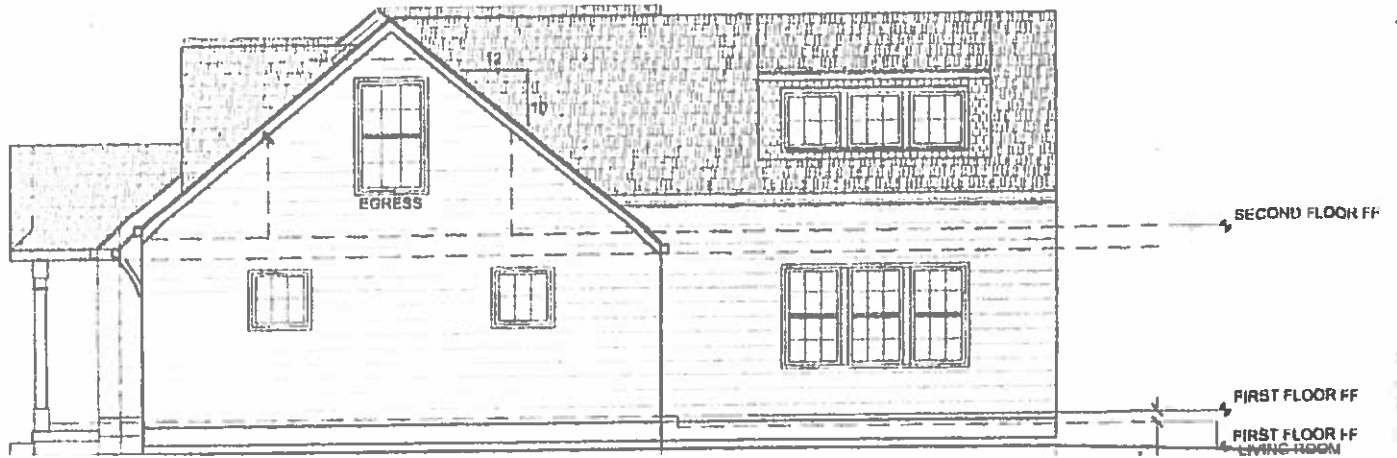
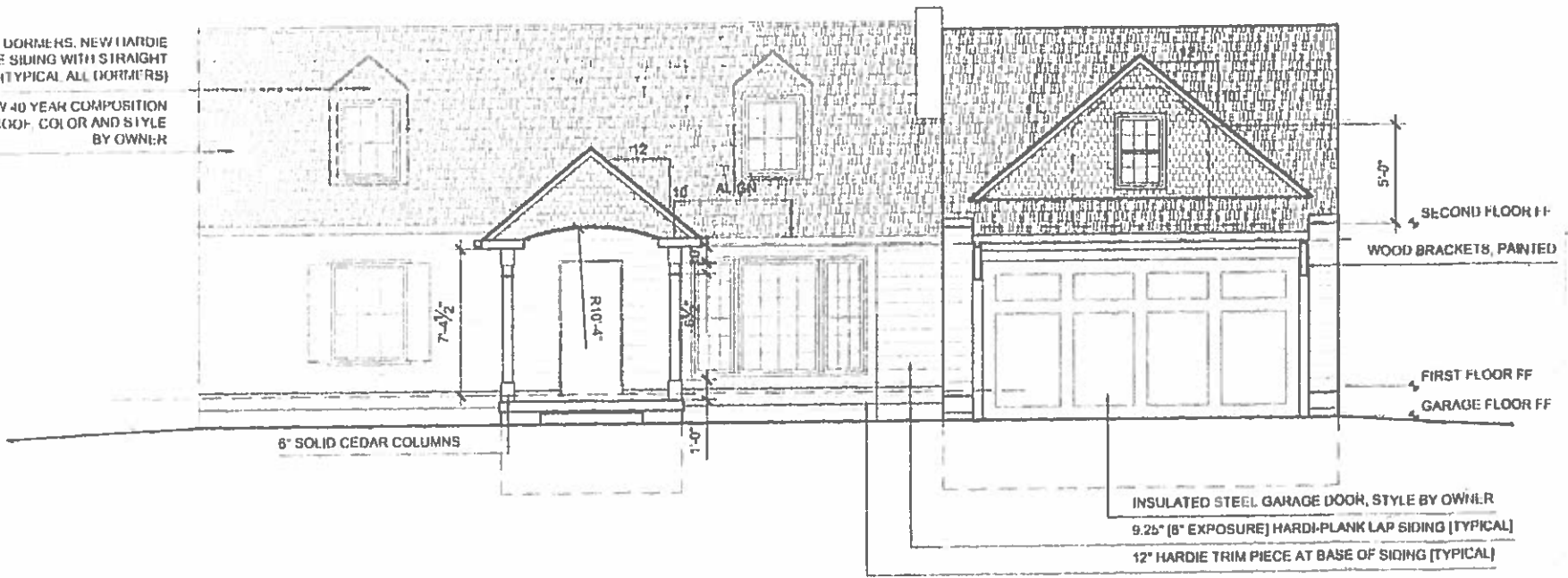
SANTA RESIDENCE
7136 VILLAGE DRIVE
PRAIRIE VILLAGE, KS 66208

C1

4664

EXISTING DORMERS, NEW HARDIE SHINGLE SIDING WITH STRAIGHT EDGE (TYPICAL ALL DORMERS)

NEW 40 YEAR COMPOSITION ROOF, COLOR AND STYLE BY OWNER



ELEVATIONS
DOOR TYPES
PERMIT SET
JULY 8, 2016

Architect **it**, LLC

Katie Trenkle, RA, LEED AP
4319 W 69 ST | Prairie Village, KS | 66208
913.209.4460

SANTA RESIDENCE
7136 VILLAGE DRIVE
PRAIRIE VILLAGE, KS 66208

A3