BOARD OF ZONING APPEALS CITY OF PRAIRIE VILLAGE, KANSAS AGENDA July 10, 2018 **MULTI-PURPOSE ROOM" 6:30 P.M.

- I. ROLL CALL
- II. APPROVAL OF MINUTES June 5, 2018
- III. PUBLIC HEARINGS

BZA2018-02 Variance from Section 19.06.030(a) "Side Yard" of the Zoning

Ordinances to reduce the west side yard setback from 7 feet to

5 feet

4815 West 63rd Terrace

Zoning: R-1b Single Family Residential District Applicant: Spencer Thielmann & Alexis Kuklenski

- IV. OTHER BUSINESS
- V. ADJOURNMENT

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

BOARD OF ZONING APPEALS CITY OF PRAIRIE VILLAGE, KANSAS MINUTES TUESDAY, JUNE 5, 2018

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, June 5, 2018 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, and Nancy Wallerstein. Also present in their advisory capacity to the Board of Zoning Appeals were: Chris Brewster, Planning Consultant; Jamie Robichaud, Assistant City Administrator and Joyce Hagen Mundy, Board Secretary. Ron Nelson, City Council Liaison, was also present.

APPROVAL OF MINUTES

Jonathan Birkel clarified the motion on page 3 was to deny. Gregory Wolf noted the vote should be 5 to 1 as he was not in attendance. Nancy Wallerstein moved for the approval of the minutes of the March 6, 2018 meeting as corrected. The motion was seconded by Jonathan Birkel and passed 4 to 0.

Chairman Gregory Wolf announced that BZA2018-03 had been withdrawn by the applicant.

BZA2018-02 Variance from Section 19.08.030(a) "Side Yard" of the Zoning Ordinances to reduce the west side yard setback from 7 feet to 5 feet 4815 West 63rd Terrace

Jamie Robichaud announced the applicant had been called out of town and requested if the application could not be acted upon in her absence that it be continued to July 10th.

Chris Brewster stated the applicant is requesting a variance from Section 19.08.030 to allow a side addition to the existing building to extend up to 2 feet into the required 7 foot side yard setback. This lot is 85 feet wide and is approximately 138 feet deep. It has a slightly irregular shape as it is wider at the rear (90.5 feet), creating a slight skew in the lot lines. Other lots on this block have a similar condition to varying degrees due to the curve of West 63rd Terrace.

The applicant is proposing to add a 2-car garage in place of the existing 1-car garage on the west side of the home. The front, west corner of the expanded garage would be 5 feet from the side lot line. This would allow the proposed garage to be approximately 15.9 feet from the existing home to the west at the closest point (the forward corner west corner due to the skew of both lots.)

The proposed garage addition is a single-story addition with a hipped roof, indicating that the side elevation with the variance will be single-story to an eave line along the west side and located approximately 20 feet from the existing home to the west. The majority of the front elevation on the street would remain unchanged with the exception of an additional garage door (the new garage proposes two bays separated by a pillar and including decorative columns), a new gable porch roof and brackets, and a 2-car driveway tapered to the existing curb cut. Mr. Brewster noted this property is subject to private covenants which require 1.5 story structures.

Mr. Brewster stated all of the proposed addition complies with the R-1A zoning standards except for the proposed location 5 feet from the west property line. The applicant has submitted dimensions showing that a stairway and chimney on the west wall of the living space is located within the garage area, resulting in the existing garage having 13.5 feet of width. Expansion of the home to the required 7-feet setback line would add 3.5 feet of width, and a usable space of 17-feet. The requested variance would allow a usable space of approximately 19' wide, more typical of a smaller 2-car garage.

Gregory Wolf confirmed the appropriate notices to the neighbors were sent and that staff has not heard any objections to the requested variance. It was noted that the applicant had received approval from the homes association for the proposed expansion of the garage.

Nancy Wallerstein noted the similarity to a previous application related to the appropriate interior space for a garage which was denied and asked Board members if they felt the garage could be constructed without the requested variance.

Jonathan Birkel expressed concern with the information provided does not reflect a clear scale on the size of the chimney intrusion and stairs. He noted in some remodel situations stairways have been relocated. Based on the information provided, he cannot determine if there is sufficient interior space without the variance. Mr. Birkel noted it would be helpful to have photos of the interior of the garage to provide a better perspective.

Melissa Brown stated she shared Mr. Birkel's concerns and felt additional information was needed. Gregory Wolf asked what additional information the Board would like presented. Mr. Birkel responded the following information would be helpful: 1) photographs of the inside of the garage (particularly the chimney and stair area); 2) actual dimensions of the chimney and stairway and 3) inside dimensions to and from the stairway.

Patrick Lenahan arrived to the meeting.

Chairman Gregory Wolf opened the public hearing.

Jonathan Birkel moved to continue application BZA2018-02 and the public hearing to the July meeting of the Board of Zoning Appeals with the request for additional

information stipulated to be presented. The motion was seconded by Nancy Wallerstein and passed by a vote of 4 to 0 with Mr. Lenahan abstaining.

OLD BUSINESS

There was no Old Business to come before the Board.

NEXT MEETING

Board Secretary Joyce Hagen Mundy noted the July meeting would be held on Tuesday, July 10th in the Multi-Purpose Room at City Hall instead of July 3rd due to the July 4th holiday.

ADJOURNMENT

Chairman Gregory Wolf adjourned the meeting of the Board of Zoning Appeals at 6:47 p.m.

Gregory Wolf Chairman

STAFF REPORT

TO: Prairie Village Board of Zoning Appeals

FROM: Chris Brewster, Gould Evans, Planning Consultant

DATE: June 5, 2018

Application: BZA 2018-02

Request: Variance for Side Yard Setback from 7 feet, and 20% of the lot

width, to 5 feet with 20% of lot width

Action: A variance request requires the Board of Zoning Appeals to

evaluate facts and weigh evidence, and a majority of the Board must find that all 5 criteria for a variance have been met in order to

approve the request.

Property Address: 4815 West 63rd Terrace

Applicant: Spencer Thielmann and Alexis Kuklenski

Current Zoning and Land Use: R-1A Single-Family Residential - Single-Family Dwelling

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

and Church

East: R-1A Single-Family Residential - Single-Family DwellingsSouth: R-1A Single-Family Residential - Single-Family DwellingsWest: R-1A Single-Family Residential - Single-Family Dwellings

Legal Description: COUNTRYSIDE-EAST LT 21 BLK 7 EX ELY 5 FT PVC 422B 8

Property Area: 0.28 acres (12,061.59 s.f.)

Related Case Files: None

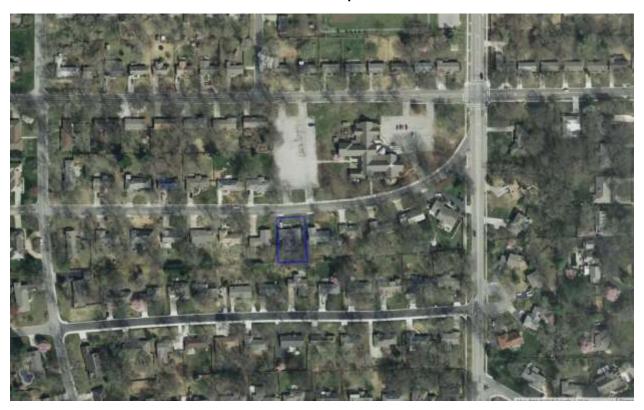
Attachments: Application, site plan and building plans

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General Location Map



Aerial Map



June 5, 2018

Aerial Site



Street Views



Street view - front

June 5, 2018



Street view looking at the west lot line where variance requested



Bird's eye view

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COMMENTS:

The applicant is requesting a variance from Section 19.08.030 to allow a side addition to the existing building to extend up to 2 feet into the required 7 feet side yard setback. The lot is zoned R-1A, on West 63rd Terrace. The R-1A district requires lots to be at least 80 feet wide and 120 feet deep (10,000 s.f.). This lot is 85 feet wide and is approximately 138 feet deep. It has a slightly irregular shape as it is wider at the rear (90.5 feet), creating a slight skew in the lot lines. Other lots on this block face have a similar condition to varying degrees due to the curve of West 63rd Terrace.

The applicant is proposing to add a 2-car garage in place of the existing 1-car garage on the west side of the home. The front, west corner of the expanded garage would be 5 feet from the side lot line. This would allow the proposed garage to be approximately 15.9 feet from the existing home to the west at the closest point (the forward corner west corner due to the skew of both lots.)

The applicant has included concept plans showing the garage addition a single-story addition with a hipped roof, indicating that the side elevation on the side with the variance will be single-story to an eave line along the west side. This west elevation would be placed approximately 20 feet from the existing home to the west, which is set back from this lot line approximately 15 feet. The majority of the front elevation on the street would remain unchanged with the exception of: an additional garage door (the new garage proposes two bays separated by a pillar and including decorative columns), a new gable porch roof and brackets, and a 2-car driveway tapered to the existing curb cut..

All of the proposed addition would comply with the R-1A zoning standards except for the proposed location 5 feet from the west property line. R-1a requires a side setback of 7 feet minimum each side, and a total of 20% of the front lot width, and adjacent structures may be no closer than 14 feet. The standard applied to this lot to require at least 16' between both sides of this lot and no less than 7' on either side. The east side has a setback of approximately 14.19' to 14.88', so the 20% requirement would be met whether the variance is granted or whether the addition was built meeting the 7' setback. However, a building at the proposed location could affect the setback required on the lot to the west.

ANALYSIS:

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 slightly larger than required by the R-1A zoning district (85 feet wide, rather than 80 feet minimum; and 12,061 square feet, rather than the 10,000 square feet minimum). This is comparable to other lots on the block, as most have a width between 85 feet and 95 feet. The Block does have a curve as it approaches Roe Avenue to the east resulting in irregular lots, and the end lot on the opposite block face is a larger institutional property used as a church. The existing home is slightly off-center on the lot with the east side setback at 14.2 to 15 feet and the west side setback at 10.6 to 11.2 feet (varies due to skew of lot and home). A single-car garage is on the west lot line, where the variance is requested. Most homes on this block face have a two-car garage on the west lot line.

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 existing home is approximately 26 feet from the home to the west, and approximately 22 feet from the home to the east. Granting the variance would allow the west elevation to be located slightly

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over 20 feet from the home to the west. This elevation would be a single-story elevation (8 to 12 feet feet above actual grade), and with an expansion of the existing hipped roof would have a single-story eave line along this elevation. A concept plan has been submitted showing a similar massing and scale as the existing home. However, if the variance is granted, in order to maintain the required 14 feet building separation, future development on the lot to the west would require at least 9 feet from this property line as opposed to the minimum of 7 feet. Like most homes on this block the home on this lot is off-center to the west, so its closest relationship to a side lot line is on the opposite boundary.

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 meets the R-1A minimum area standards, and the existing home is within all of the setback and area coverage requirements allowing some room for expansion. However, as an addition to an existing structure, the location of the garage is somewhat fixed by the current garage and driveway. The applicant has submitted dimensions showing that a stairway and chimney on the west wall of the living space is located within this area, resulting in the existing garage having 13.5 feet of width. Expansion of the home to the required 7-feet setback line would add 3.5 feet of width, and a usable space of 17-feet wide. The requested variance would allow a usable space of approximately 19' wide, more typical of a smaller 2-car garage.

D. Public Interest

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

The concept plan shows the proposed addition complying with all other setback and building coverage standards, and it is a continuation of the single-story design which is under all of the height standards. The proposed addition is consistent with the architectural character of the existing building, is of a similar scale to other buildings in the vicinity, and proposal reflects investment in existing buildings in the neighborhood.

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 intent of the R-1A zoning side setback is to manage the relationship of adjacent buildings, and to permit building footprints in scale with the lot size. This section of the ordinance was amended in 2016 to deal with the scale and massing of additions and new homes which were being built to the extent of the previous side setback (5', 14'minimum between buildings), and near the extent of the 2-story height limit at the side setback. The requested deviation is modest compared to the permitted building footprint and height along this elevation (29' at a 7' setback; vs. 8' to 12' at a 5' setback). Therefore, the relationship to the existing building on the west side is comparable or less than what could be built under the R-1A standards, other than the 2 feet encroachment.

EFFECT OF DECISION:

After reviewing the information submitted and considering 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 conditions:

- 1. That the variance be granted only to the extent shown on the submitted concept plans, and specifically only to allow a side setback of 5 feet for the proposed single-story garage addition.
- 2. The applicant shall receive approval of any necessary drainage permits from public works prior to issuance of any building permits.
- 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 P	RAIRIE VILLAGE, KANSAS	For Office Use Only Case No: PC-2018 - 02 Filing Fee: Deposit: Date Advertised: 5/15/15 Public Hearing Date: 6/5/18
APPLICANT: Spencer Thielmann & Alexis Kuklenski PHONE: 608-320-6200 ADDRESS: 4815 W 63rd Terrace ZIP: 66208 OWNER: Spencer Thielmann & Alexis Kuklenski PHONE: 608-320-6200 ADDRESS 4815 W. 63rd Terrace ZIP: 66208 LOCATION OF PROPERTY: 4815 W 63rd Terrace LEGAL DESCRIPTION: COUNTRYSIDE-EAST LT 21 BLK 7 EX ELY 5 FT PVC 422B 8		
Variance F	Requested Variance for the we	st sideyard setback to 5 feet
ADJACEN ⁻ North South East West	T ZONING AND LAND USE: Land Use Parking Lot of Church Singel Family Residence Single Family Residence Single Family Residence	Zoning R1-A Single family residential R1-A Single family residential R1-A Single family residential R1-A Single family residential
	e of Property: <u>Single family reside</u> Use of Property: <u>Single family resi</u>	
None. The	or easements that would restrict requested variance would go up to.	but not into the 5' utility easment.
Please com	plete 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 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** x 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** _v_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 x Yes No Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.

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

SIGNATURE:

DATE Muy 3 2018

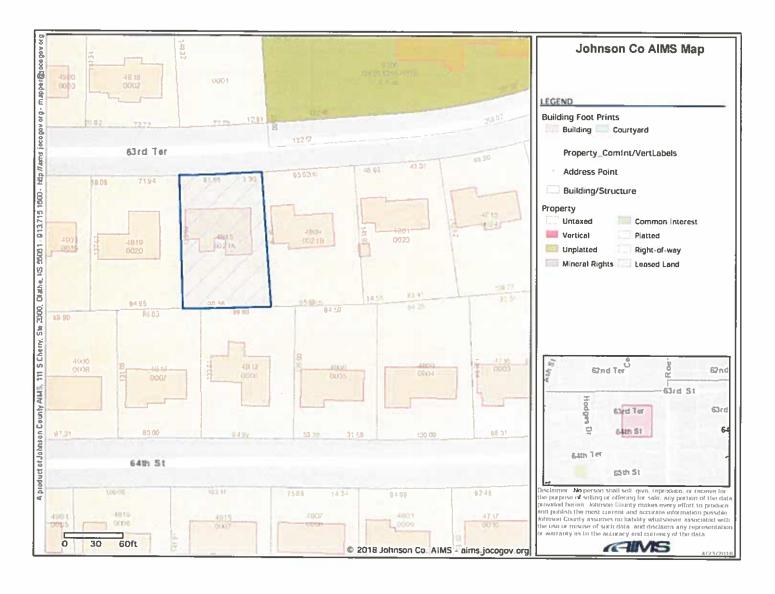
BY:

TITLE:

x Yes No

6.

MINIMUM VARIANCE



Thielmann Variance Request - 4815 W 63rd Terrace

Request:

We are requesting that the side yard setback requirement on the west side of the property be decreased from 7 feet to 5 feet to allow for the construction of a two-car garage with a total width of 22.5 feet and a useable parking space of 19 feet.

The final garage design would be in keeping with the neighborhood, including the use of two single car garage doors. The roof design would likely be a continuation of the current hip design, or a single front peak like the properties on either side. The existing deteriorating single-car asphalt driveway will be removed and reconstructed to a double car width. A front porch will also be added to the structure. The design of the porch will be coordinated with the garage reconstruction to ensure a cohesive final project. It is our intent to complete all this work at the same time, and in a manner that conforms to all of the current building requirements. The only exception being the 5' side setback variance being requested.

Criteria #1

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 applicant.

The variance must arise from a condition of the property. That condition must be unique to the property. That does not mean that the condition is "unique" but rather that it is "unique to the property;" that is, the condition relates solely to the property and not to external factors, structures, etc. The condition must not be ordinarily found in the zone or district; i.e., the condition must not exist with respect to a number of properties. Its occurrence must be infrequent. The owner/applicant cannot have done anything to the property which caused the condition. This does not refer to what the owner proposes with the variance, but some act done with the property; for example, subdivide for example, subdividing a lot, that causes the condition from which relief is sought.

This structure was constructed off of the center of the parcel, and built with the need for external access to the basement via the garage. Both of these elements are beyond my control, as it was built more than 60 years ago and changing these elements are not feasible.

A variance would not be needed to construct a 19 foot wide garage were there not the need to maintain access the basement via the stairway in the garage. The same is true of the orientation of the structure; had the home been constructed on the center of the property a variance would not be needed.

Access to the basement via the garage is atypical in this neighborhood. Thus, this limiting variable is unique to the structure.

Criteria #2

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

The variance may not adversely affect the rights of adjacent property owners. The crucial terms here are "adversely" and "rights". While objections of adjacent property holders will be heard and

considered, the variance proceeding is not a plebiscite. The Board will consider whether or not any impact on adjacent property holders constitutes an adverse affect on their rights.

Granting the variance will not adversely affect the right of the adjacent property owners. The adjoining structure is set approximately 20 feet from the property line in discussion. This portion of the neighboring house contains long narrow transom windows along the upper portions of the rooms; not traditional windows. The creation of the two-car garage will not impact the sight lines of the structure on the adjoining property. The adjoining parcel has a steep downhill grade toward the proposed two-car garage and will not have any drainage impact from the project. Granting the variance does not limit or impact the rights of the adjacent property owners.

We have spoken to all adjoining property owners and all have been in support of the project. The property owner on the side adjoining the garage has expressed that it is preferable to them that the structure have a two-car garage.

Criteria #3

That the strict application of the provisions of this title of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

A variance may be granted where strict application will result in unnecessary hardship. Unnecessary hardship shall be considered to mean that the property owner cannot do with his property that which others can ordinarily do and/or that which is a reasonable expectation for a similar property owner and /or where special circumstances of the particular property exist.

Granting the variance will allow for 19 feet of useable space, which is the generally agreed upon minimum internal width of a two-car garage for modern sized vehicles. The strict application of the previsions of the zoning code will limit the garage width to 17 feet of useable space and prohibit the creation of a 2-car garage. It is reasonable to expect to be able to accommodate such a structure on a property in the R-1A district as evidenced by the presence of a two-car garage on nearly every other structure on the street. Thus, this request meets the hardship criteria.

Criteria #4

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

The variance may not adversely affect the public interest. The Board shall consider the impact of the requested variance upon the concerns of the public; such as fire protection, environmental impact, police protection, vision, safety and morals.

Granting this variance will not adversely affect the public interest. The remaining space between adjoining structures is 25 feet, thus there is no impact to fire protection. The expansion will meet all the grading and drainage requirements. Buildings and structures will not cover more than 30% of the net lot area. Thus, granting the variance will not pose an environmental impact. The variance would allow for construction up to, but not into the existing utility easement so there would be no impact on convenience or the general welfare of the community. Eighteen of twenty other properties on the street have two-car garages and two car garages are the norm in this district. Thus, granting this variance will not pose a negative vision impact.

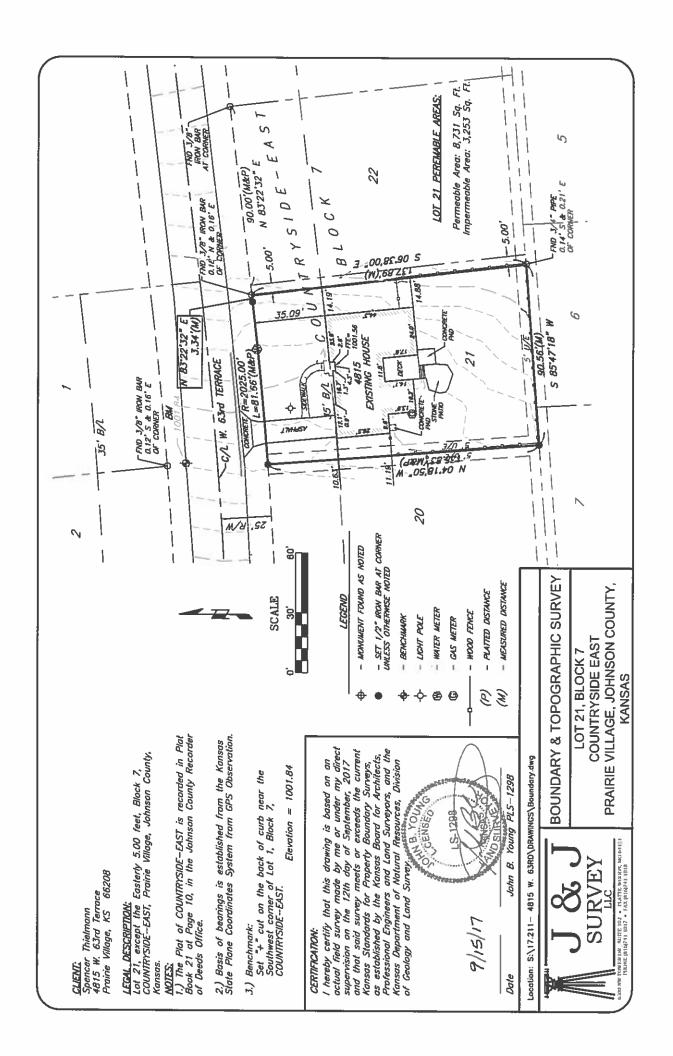
Criteria #5

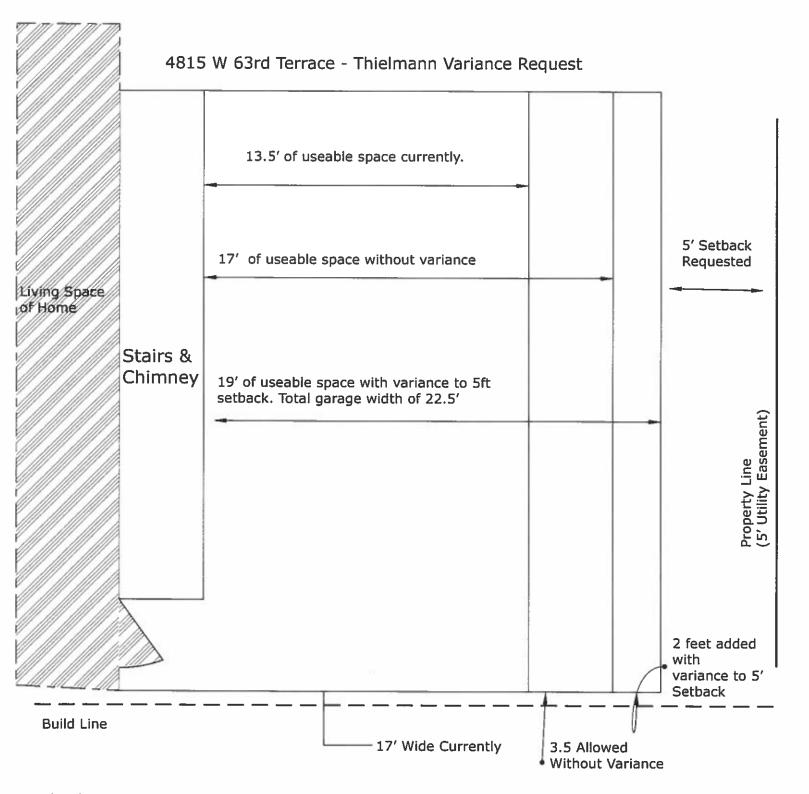
That granting the variance desired will not be opposed to the general spirit and intent of this title.

The variance must not conflict with the intent and spirit of the zoning regulation. The Board shall consider that the zoning regulation was adopted for a purpose; such as, green space, traffic safety, light and air, neighborhood conformity, etc. Therefore, the Board will evaluate whether or not the variance requested will conflict with that purpose.

Granting this variance will not conflict with the intent and spirit of the zoning regulation. This variance will allow for the creation of a two-car garage, which is in keeping with the neighboring structures. This is directly in line with the zoning regulation's purpose of maintaining neighborhood conformity.

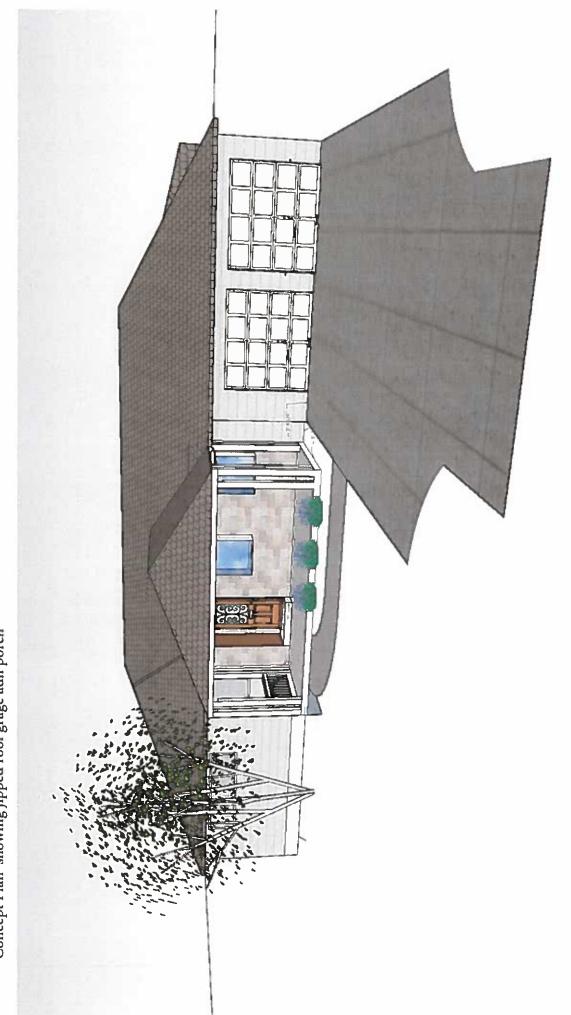
In addition, even with the variance, more than 23% of the overall lot width will be maintained in side setback which meets the green space, light, and air considerations of the zoning regulation.





Thielmann request for a variance to allow for a 5' setback to accommodate the creation of a two-car garage. The home has a stairway in the garage that impedes upon the useable space. The variance would allow for the creation of a 22.5 ft wide garage, with 19 ft of useable parking space. The existing drive will be removed and a new double drive added.

The design of the garage would be in keeping with the neighborhood. Including the use of two single garage doors.



Concept Plan showing jipped roof grage adn porch



Concept showing peak roof on porch and garage

