

HAYS AREA BOARD OF ZONING APPEALS MEETING AGENDA
CITY COMMISSION CHAMBERS
1507 MAIN, HAYS, KS
MARCH 9, 2016
8:15 A.M.

1. **CALL TO ORDER BY CHAIRMAN.**

2. **CONSENT AGENDA.**

A. Minutes of the regular meeting of February 10, 2016.

Action: Consider approving the minutes of the February 10, 2016 meeting.

3. **PUBLIC HEARING ITEMS.**

A. None.

4. **NON-PUBLIC HEARING ITEMS.**

A. Variance request by Dan Meyerhoff for a 3 ½ foot variance to reduce the east side yard building setback from the required 8 ½ feet to 5 feet to construct a detached garage at 414 Autumn Lane. (Case # 03-16)

Action: Consider setting a public hearing for a 3 ½ foot variance to reduce the east side yard building setback from the required 8 ½ feet to 5 feet to construct a detached garage at 414 Autumn Lane.

5. **OFF AGENDA ITEMS/COMMUNICATIONS.**

A. Update on the rewrite of the Uniform Development Code.

6. **ADJOURNMENT.**

**DRAFT
HAYS AREA BOARD OF ZONING APPEALS
COMMISSION CHAMBERS IN CITY HALL
MINUTES
FEBRUARY 10, 2016**

1. CALL TO ORDER: The Hays Area Board of Zoning Appeals met at their regularly scheduled meeting on Wednesday February 10, 2016 at 8:15 a.m. in Commission Chambers at City Hall

Roll Call:

Present: Lou Caplan
Gerald Befort
Jerry Sonntag
Tom Lippert
Rich Sieker

City Staff Present: Jesse Rohr, Superintendent and Linda Bixenman, Administrative Assistant of Planning, Inspection and Enforcement.

2. CONSENT AGENDA:

A. Minutes: Jerry Sonntag moved, Rich Sieker seconded the motion to approve the minutes from the January 13, 2016 meeting. There were no corrections or additions to those minutes.

Vote: Ayes: Lou Caplan
Gerald Befort
Jerry Sonntag
Tom Lippert
Rich Sieker

3. PUBLIC HEARING ITEMS:

A. CASE # 01-16 PUBLIC HEARING ON A REQUEST FROM JAMES AND SHAWN MULKEY FOR A TWO FOOT VARIANCE TO REDUCE THE EAST SIDE YARD BUILDING SETBACK FROM THE REQUIRED SEVEN FEET TO FIVE FEET AND REDUCE THE DISTANCE BETWEEN STRUCTURES FROM THE REQUIRED FIVE FEET TO ONE FOOT TO CONSTRUCT A 15 FOOT BY 20 FOOT CARPORT AT 210 E 17TH STREET: Jesse Rohr presented a power point presentation with the information, location and site plan for the above case on the overhead visual for the public hearing. The existing carport is located on the east side of the home that faces north.

This is an existing carport that was constructed over the driveway that did not adhere to the building setbacks due to the owner unaware of the building setback requirements. After visiting with city staff, they decided to come before the board to apply for a variance. There is no garage on the property. Because it is already constructed should not be considered when determining if the variance should be granted or not.

City Staff had measured for the property lines. They have no reason to believe that the setbacks and property lines are not as they are stated on the drawing submitted with the application.

He explained the options to the board:

1. They can approve as submitted
2. Not approve
3. Approve with conditions
4. Other Options

Based on the review and measurements, city staff would recommend approving the variance requests as submitted with the condition the carport never be enclosed at any point in the future.

He asked if there were any questions from staff or the owner.

Tom Lippert asked for the photo of the existing carport to be shown again on the overhead visual asking how far down on the sides is it determined if the carport is enclosed or partially enclosed. The top portion of the carport is enclosed.

Jesse Rohr answered that was a good question. He suggested a condition to stipulate that the carport never be enclosed any further than it is at any point in the future if that is a concern. He would not consider this enclosed in any way. It does come down the side slightly to tie the side into the roof of the carport.

Lou Caplan asked if there were any comments from the audience. James Mulkey, applicant, stated that his neighbor was in attendance with him and he had no problem with the carport.

Lou Caplan entertained a motion.

Rich Sieker moved, Gerald Befort seconded the motion to grant the two foot variance to reduce the east side yard building setback from the required seven feet to five feet and reduce the distance between structures from the required five feet to one foot to construct a 15 foot by 20 foot carport at 210 E 27th based on the consideration that it does meet the five statutory requirements with the condition the carport is to never be enclosed any further that it is at any point in the future.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Tom Lippert
Rich Sieker

A. WITHDRAWN - CASE # 02-16 PUBLIC HEARING ON A REQUEST FROM BRENT & JILL GOERTZEN FOR A 2 ½' VARIANCE TO REDUCE THE EAST SIDE YARD BUILDING SETBACK FROM THE REQUIRED 7 ½' TO 5' TO CONSTRUCT A 20' BY 24' SHED AT 1310 W 44TH STREET: Jesse Rohr explained that the owner had withdrawn his application after the publication notice because they had changed plans.

4. NON-PUBLIC HEARING ITEMS: - None

5. OFF AGENDA ITEMS:

A. UPDATE ON THE REWRITE OF THE ZONING AND SUBDIVISION REGULATIONS: Jesse Rohr provided the update and the tentative schedule to the rewrite of the zoning and subdivision regulations for discussion. The board had questions and discussion.

The working draft of the rewrite of the regulations was complete by January, 2016. The consultant Bret Keast of Kendig Keast Collaborative will present the draft regulations at the Planning Commission meeting on March 21, 2016. He will inform the board of the agenda for that evening.

The tentative schedule is

- April 2016 – Planning Commission would set the public hearing
- May 2016 – Public Hearing
- June 2016 – City Commission work session
- July 2016 - City Commission adoption

Tom Lippert asked if there was anyone or group opposed to the rewrite. Jesse Rohr answered that he had met with some of the realtors and contractors after the update and they seem to be acceptable to changes that have been made to the rewrite.

B. EDUCATIONAL TRAINING: Jesse Rohr informed the board that an educational training session will be set up for the Planning Commission and Board of Zoning Appeals Members.

The educational training will be conducted by a land use attorney from Lee Summit Missouri that will cover zoning law, conducting a public hearing etc.

He asked if the board had any preference as to the time of day for the training. Most preferred an evening training session.

C. OTHER:

6. ADJOURNMENT: Lou Caplan adjourned the meeting at 8:59 a.m.

Submitted by: Linda K. Bixenman, Administrative Assistant
Planning, Inspection and Enforcement

Board of Zoning Appeals Action Report

AGENDA ITEM: Setback Variance Application #03-16
 ADDRESS: 414 Autumn Lane
 OWNER: Dan Meyerhoff
 TYPE OF REVIEW: Variance
 PRESENTED BY: Jesse Rohr, P.I.E. Superintendent
 DATE PREPARED: February 29, 2016
 MEETING DATE: March 9, 2016

SUMMARY AND RECOMMENDED ACTION:

The applicant is requesting a variance to reduce the east side yard setback from 8 ½ feet to 5 feet', a variance of 3 ½ feet to allow the construction of a detached garage on the property located at 414 Autumn Ln. (see further details below and attached site drawing). Staff recommends setting a public hearing for the April 13, 2016 Board of Zoning meeting for the request as submitted if it is found to be warranted based on discussion.

BACKGROUND:

- The applicant is requesting a variance on 1 side:
 - East Side – 8 1/2' to 5'
- Applicant wishes to construct a detached garage on the property

	Setback Required	Applicant Proposed
Front Yard	N/A	N/A
Side Yard	8 ½'	5'
Rear Yard	5'	5'
Other Structures	5'	>5'

STANDARDS OF EVALUATION:

Per State Statute 12-759 and City Ordinance Sec. 71-1250

- The BZA has the authority to grant a variance if a literal enforcement of the provisions of the adopted regulations, will, in an individual case, result in unnecessary hardship, provided:
 - The spirit of the regulations shall be observed
 - Public safety and welfare secured
 - Substantial justice shall be done
- The applicant must show that the property was acquired in good faith and that the variance is needed due to extraordinary or exceptional circumstances of the property such as exceptional narrowness, shallowness, or shape of the lot
- Before granting a variance on the basis of unusual difficulty or unreasonable hardship, there must be finding by the Board that all of the following conditions exist:
 - a. Uniqueness of the property not ordinarily found in the same zone or district and not created by willful action of the owner

Staff Analysis: *It is not immediately clear what is unique about this property. This lot is very typical of others in the area regarding lot size. The applicant states that a large existing tree and an existing gas line has been a determining factor in placement of the proposed garage.*

- b. The granting of the variance will not adversely affect the rights of adjacent property owners

Staff Analysis: *It does not seem that the 3 ½ foot variance being requested would adversely affect nearby property owners.*

- c. The strict application of the code will constitute unnecessary hardship upon the property owner

Staff Analysis: *This is a lot that is very consistent with others in the neighborhood. However, the variance being requested is minimal in the grand scheme of things, AND is consistent with several past variances granted for a reduced side yard of 5' for an accessory structure. It is important to note that the draft Unified Development Code will make the minimum side yard setback for detached structures 5 feet which would put this proposed garage into compliance.*

- d. The variance will not adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare

Staff Analysis: *It is unlikely that the variance would adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare.*

- e. The granting of the variance desired will not be opposed to the general spirit and intent of the regulations

Staff Analysis: *The granting of a variance for the proposed garage, with approval of a variance as submitted, would not likely be opposed to the general spirit and intent of the zoning regulations.*

RECOMMENDED ACTION:

After discussion about these items with the owner, and if the BZA feels a hearing is warranted, a hearing may be set for the April 13, 2016 Board of Zoning Appeals meeting.

OPTIONS:

- Set a public hearing for the April 13, 2016 BZA meeting
- Do not move this forward for a public hearing

ATTACHMENTS:

- Variance application
- Variance justification and site drawing(s) from owner
- Images/Maps/Photos

APPLICATION FOR VARIANCE

I. Name of Applicant Dan Meyerhoff Phone 650-1330

Mailing Address 414 Autumn Lane, Hays KS

Name of Owner (if different from applicant) Same Phone _____

Mailing Address -

Name of Authorized Agent - Phone _____

Mailing Address -

Relationship of applicant to property is that of Owner

Request a 3 1/2' variance to reduce the east side yard building setback from the required

II. The variance is requested To reduce the side setback to facilitate
8 1/2' to 5' to construct a 20' X 26' detached garage with a 10' by 14' extension to the
garage construction of a garage in the back yard

on property located at 414 Autumn Lane and legally described as: _____

Lot 11, Block 2, Seven Hills 7th Addition

in the City of Hays and which is presently zoned R-1

Give metes and bounds description below or on attached sheet: (required only if property is not part of a legally recorded plat)

III. The applicant and owner herein, or authorized agent and owner:

- A. Acknowledges receipt of an instruction sheet concerning the filing and hearing of this variance request.
- B. Acknowledges the fee requirements established; and that the appropriate fee is herewith tendered.
- C. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
- D. Acknowledges right to appeal the decision of the board to the District Court.

APPLICANT

AUTHORIZED AGENT (IF ANY)

OWNER

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, ENFORCEMENT DIVISION ON February 23, 2016

TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00 Receipt # 612043

Suzie Bixman, Administrative Assistant

NAME AND TITLE

Lot Size 85' x 125'

Computation Sheet

NPCS-ENG-523A Rev. 6-2002

U.S. Department of Agriculture
Natural Resources Conservation Service

State _____

Project: _____

By _____

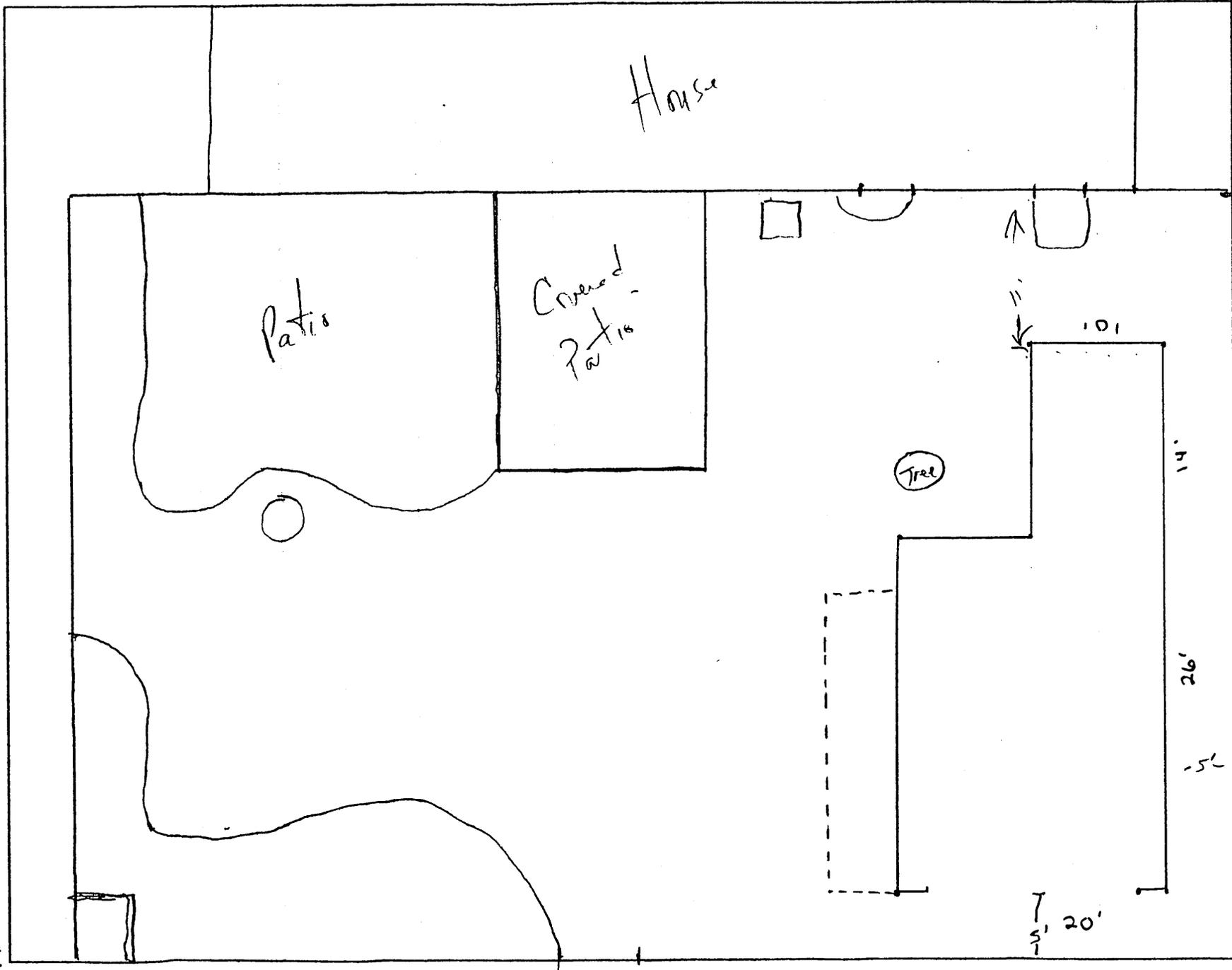
Date _____

Checked by _____

Date _____

Job No. _____

Subject _____ Sheet _____ of _____



DATE: 2/18/2016

TO: Hays Area Board of Zoning

FROM: Dan Meyerhoff

RE: I am requesting to reduce the setback to accommodate a garage in the SE corner of my backyard. Request a 3 ½ ' variance to reduce the east side yard building setback from the required 8 ½' to 5' to construct a 20' X 26' detached garage with a 10' by 14' extension to the garage.

A. Uniqueness

I am trying to fit the garage around an existing tree and a gas line that is west of the proposed structure. I am also trying to minimize obstructing the view from two bedroom windows. I have already reduced the desired width of the garage from 24' to 20' but need the extra 3.5' to minimize this.

B. Adjacent Property

The change in the setback will not have an adverse effect on the neighbor and he is ok with it being built in the proposed location.

C. Hardship

If we cannot get this variance it will reduce the view of the bedroom windows and will also cause us to more severely trim the tree, reducing the aesthetic appeal in the backyard.

D. Public Interest

Building the garage in the proposed location, which our neighbors are ok with, will still maintain a visually appealing and functional backyard and will increase the market value of the property.

E. Spirit and Intent of the Zoning Regulations

My understanding is that the standard setback in the city of Hays will be going to the same setback I am requesting so I do not see that this.



414 Autumn Ln.

HILLCREST DR

J.P. DR

AUTUMN LN

SUMMER LN

CANAL BLVD

W 37TH ST

CANAL BLVD

W 36TH ST

HILLCREST DR

LINCOLN DR

LINCOLN DR

SUMMER LN



0 0.0001 0 0.002111 SE

AUTUMN LN



416

414

412

Proposed Garage

TREE

0.008 0.015 0

0.003 Miles



