

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

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

2. **CONSENT AGENDA.**

A. Minutes of the regular meeting of April 13, 2016.

Action: Consider approving the minutes of the April 13, 2016 meeting.

3. **PUBLIC HEARING ITEMS.**

A. Public hearing on a request by Michael McIntyre for a 4 1/2 foot variance to reduce the south side yard building setback from the required 9 1/2 feet to 5 feet to construct a detached garage at 2003 Lincoln Drive. (Case # 05-16)

Action: Consider approving a request for a 4 1/2 foot variance to reduce the south side yard building setback from the required 9 1/2 feet to 5 feet to construct a detached garage at 2003 Lincoln Dr.

4. **NON-PUBLIC HEARING ITEMS.** None

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

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

6. **ADJOURNMENT.**

Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting.

**DRAFT
HAYS AREA BOARD OF ZONING APPEALS
COMMISSION CHAMBERS IN CITY HALL
MINUTES
APRIL 13, 2016**

1. CALL TO ORDER: The Hays Area Board of Zoning Appeals met at their regularly scheduled meeting on Wednesday April 13, 2016 at 8:15 a.m. in Commission Chambers at City Hall

Roll Call:

Present: Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

Absent: Tom Lippert

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 March 9, 2016 meeting. There were no corrections or additions to those minutes.

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

B. No Changes to the Agenda

3. 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) Jesse Rohr presented a power point presentation with the information, location and site plan on the overhead visual. The applicant would like to construct a detached garage with an offset to be constructed five feet from the east side yard property line. The property is located between 37th and 41st on Autumn Lane backed up to Lincoln Draw ditch. The house faces north. The applicant was in attendance.

A large tree and gas line in the back yard are the reasons for the location of the proposed garage; thus the reason for the variance.

There have been variance cases approved for other properties that requested to construct a garage five feet from the side yard property line.

The five foot building setback from the side yard would meet the new regulations without a variance.

The dotted line on the drawing next to the proposed garage is a dog run.

Jesse Rohr explained the options for a motion:

1. Approve the variance as submitted
2. Do not approve the variance
3. Provide options to the applicant

This is a lot that is consistent with others in the neighborhood. Based on the information provided, and past cases, and where the city is going with new zoning regulations, staff recommends approval of the variance request.

Lou Caplan asked if there were any comments from the audience or board. There were none.

Rich Sieker moved, Jerry Sonntag seconded the motion to set the public hearing for April 13, 2016 to hear the 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 because it is in compliance with the draft Unified Development Code.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

B VARIANCE REQUEST BY KEITH & CINDY PFEIFER FOR A 10 FOOT VARIANCE TO REDUCE THE WEST SIDE YARD BUILDING PLATTED SETBACK FROM THE REQUIRED 25 FEET TO 15 FEET TO CONSTRUCT A DETACHED GARAGE AT 414 AUTUMN LANE: (Case #04-16)

Jesse Rohr presented a power point presentation with the information, location and site plan for the above case on the overhead visual. The applicants, Keith and Cindy Pfeifer were in attendance.

This is a corner lot located at 33rd and Hillcrest. This property is unique in that the side yard platted setback exceeds the setback in the zoning regulations. With the variance, it would meet the setback requirement in the current and proposed new zoning regulations. He pointed out other similar variances against the platted setbacks.

The reason the garage could not be built on the east side of the yard is because there is a significant grade drop off.

The drive entrance would be to the street.

He explained the options to the board:

1. Approve the variance as submitted
2. Do not approve the variance
3. Provide options to the applicant

Based on past cases and the fact that the platted setback exceeds the minimum zoning regulations, staff recommends approval of the variance.

Lou Caplan asked if there were any comments from the board or audience. There were none.

Gerald Befort moved, Jerry Sonntag seconded the motion to grant the 10 foot variance to reduce the west side yard building setback from the platted 25' to the required minimum 15 feet per zoning regulations to construct a detached garage at 328 W 33rd.

Vote: Ayes:

Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker

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 to the rewrite of the zoning and subdivision regulations for discussion.

He invited the board to attend the Planning Commission meeting on April 18, 2016 for the discussion and potential for setting the public hearing.

Members of the Tri-State Sign Association will be meeting with City Staff to go over the sign regulations.

C. OTHER: - None

6. ADJOURNMENT: Lou Caplan adjourned the meeting at 8:25 a.m.

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

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Board of Zoning Appeals Action Report

AGENDA ITEM: Setback Variance Application #05-16
 ADDRESS: 2003 Lincoln Dr.
 OWNER: Michael McIntyre
 TYPE OF REVIEW: Variance
 PRESENTED BY: Jesse Rohr, P.I.E. Superintendent
 DATE PREPARED: May 31, 2016
 MEETING DATE: June 8, 2016

SUMMARY AND RECOMMENDED ACTION:

The applicant is requesting a variance to reduce the south side yard setback from 9 ½ feet to 5 feet, a variance of 4 ½ feet to allow the construction of a detached garage on the property located at 2003 Lincoln Dr. (see further details below and attached site drawing). Staff recommends setting a public hearing for the July 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:
 - South Side – 9 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	9 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. However, there is no rear alley access to this property therefore the location of the garage is dependent on a location where front access can be achieved.*

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

Staff Analysis: *It does not seem that the 4 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 July 13, 2016 Board of Zoning Appeals meeting.

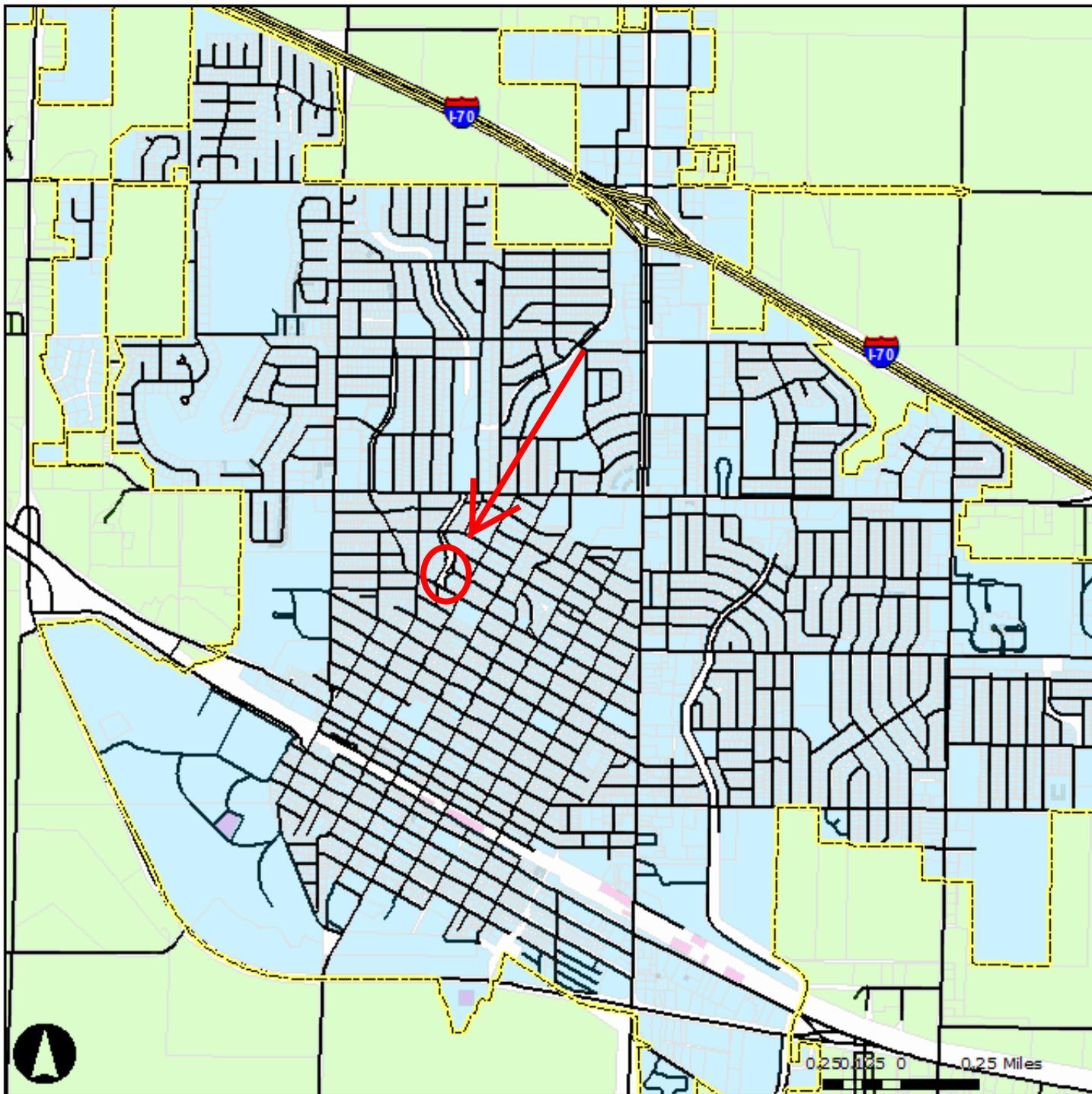
OPTIONS:

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

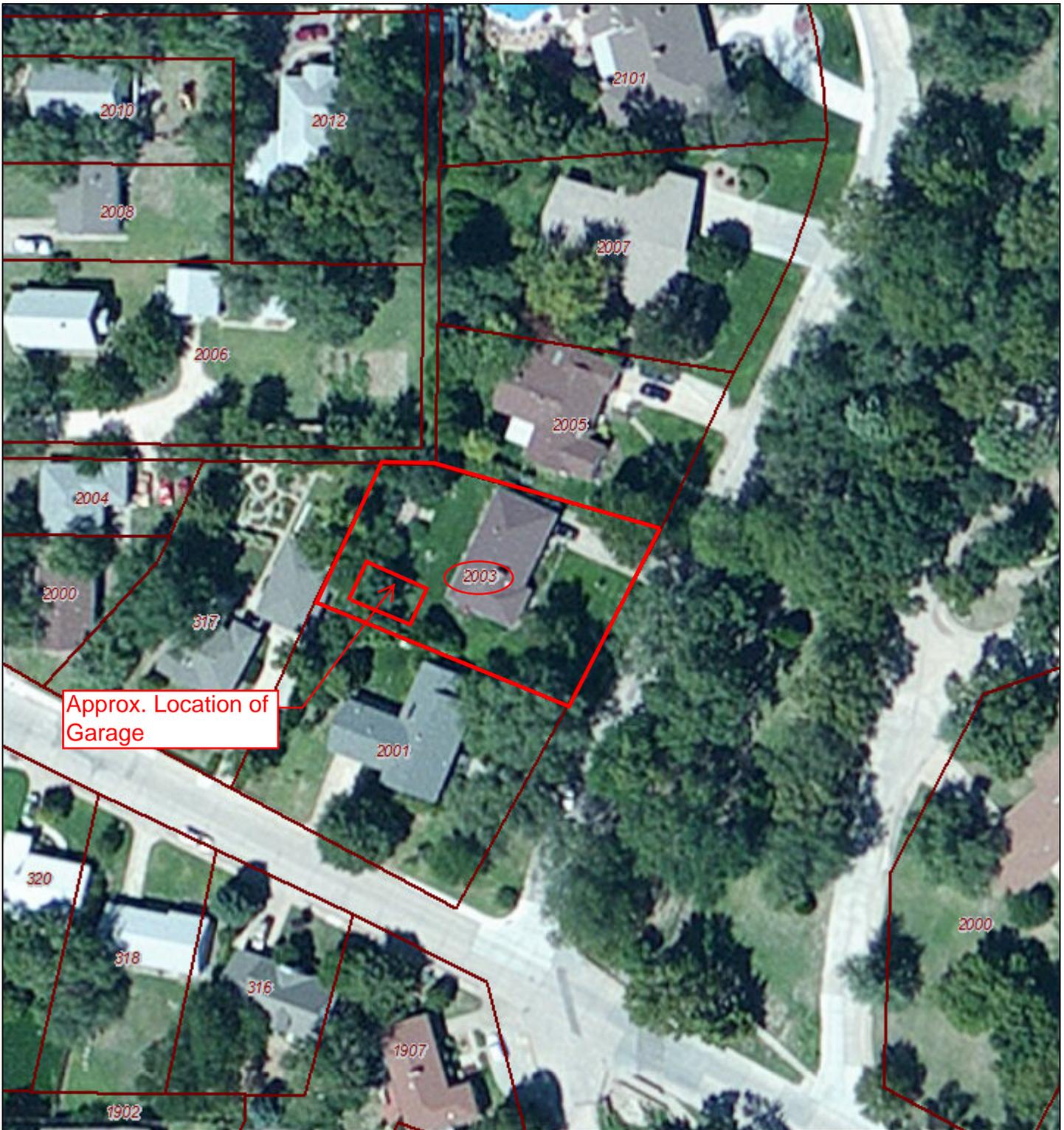
ATTACHMENTS:

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

2003 Lincoln Dr.

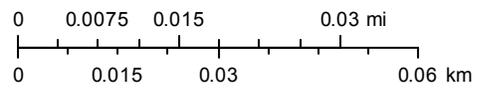


Ellis County Mobile Parcel Viewer



June 1, 2016

1:1,128



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

APPLICATION FOR VARIANCE

I. Name of Applicant Michael McIntyre Phone 620-791-7519

Mailing Address 2003 Lincoln Drive

Name of Owner (if different from applicant) Michael Kevin McIntyre Phone 620-791-7519

2003 Lincoln Drive

Mailing Address Hays Kansas 67601

Name of Authorized Agent Signature Builders Phone (785) 623-8472

Mailing Address 2744 Thunderbird Circle Hays, KS 67601

Relationship of applicant to property is that of Builders
(Owner, tenant, lessee, other)

II. The variance is requested Reduce south side yard building setback from the required 9 1/2 feet to 5 feet, a 4 1/2 foot variance to construct a 26 X 30 detached garage

on property located at 2003 Lincoln Dr. and legally described as: HIVK House SE Subdivision, S33, T13, R18, LOT 6 S E 20 LOT 14

in the City of Hays and which is presently zoned R 3

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
Michael McIntyre
Michael McIntyre

AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, ENFORCEMENT DIVISION ON May 31, 2016
TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00 Receipt # 612055
Sunda Bjorkman, Administrative Assistant
NAME AND TITLE

Lot size 95' x 132'

Date: 5/27/16

To: Hays Area Board of Zoning

From: Michael McIntyre

Re: 2003 Lincoln Drive

Hays, Kansas

We hereby request a setback from an existing garage to allow for a new garage which will be 26x30.

A. Uniqueness:

Due to the fact our property is small and irregularly shaped the garage will not allow enough backyard space.

B. Adjacent Property:

The set back will affect only one neighbor to the south of us and he has no problem with the new garage being built. There is a fence between us.

C. Hardship:

Placing the building on the lot as required by zoning regulations would place the building in the middle of the backyard. The building in this location will block the view and airflow from the rear windows on the west side of the house and cut down on the functional greenspace of our limited backyard.

D. Public Interest:

Our goal in requesting this setback variance is to allow building a new garage in a location that our neighbors also agree on, and still maintain visual appeal and functionality of the limited backyard space. It will also improve the neighborhood and improve the fair market value of the real estate with the new garage.

E. Spirit and Intent of the Zoning Regulations:

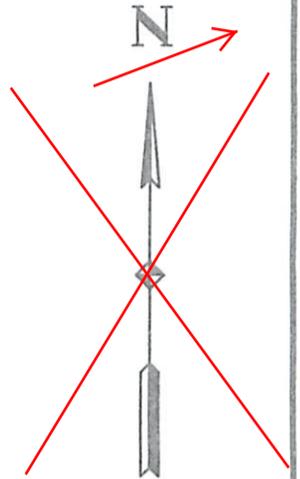
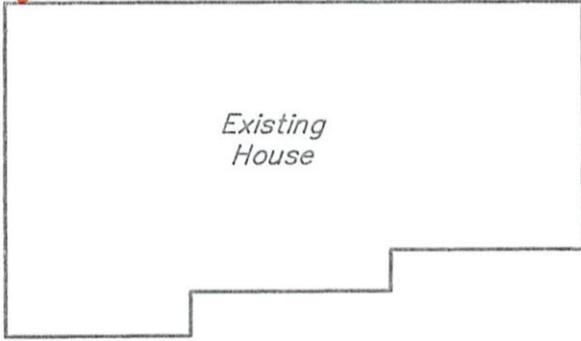
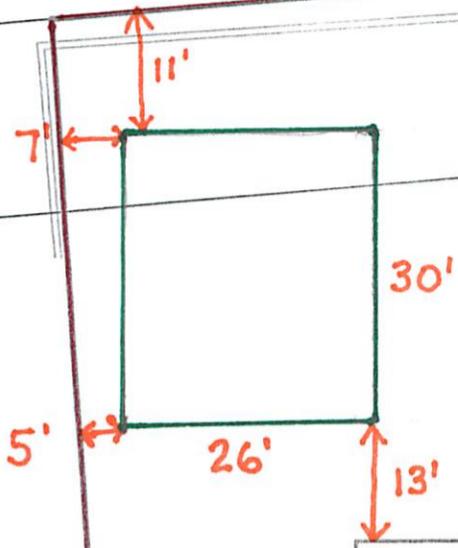
Granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations. The garage will not be in the way of utilities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael McIntyre", with a horizontal line extending to the right.

Michael McIntyre

- PROPERTY LINE
- PROPOSED GARAGE (SIZE/LOCATION)
- DIMENSIONS



**RUDER ENGINEERING
& SURVEYING, LLC**

1376 Butterfield Trail Rd.
Hays, Kansas 67601
785-259-1382



