

HAYS AREA BOARD OF ZONING APPEALS MEETING AGENDA
CITY COMMISSION CHAMBERS
1507 MAIN, HAYS, KS
July 13, 2016
8:15 A.M.

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

2. **CONSENT AGENDA.**

A. Minutes of the regular meeting of June 8th, 2016.

Action: Consider approving the minutes of the June 8, 2016 meeting.

3. **PUBLIC HEARING ITEMS**

A. Public hearing 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 ½ foot variance to reduce the south side yard building setback from the required 9 ½ 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.**

**DRAFT
HAYS AREA BOARD OF ZONING APPEALS
COMMISSION CHAMBERS IN CITY HALL
MINUTES
JUNE 8, 2016**

1. CALL TO ORDER: The Hays Area Board of Zoning Appeals met at their regularly scheduled meeting on Wednesday June 8th, 2016 at 8:15 a.m. in Commission Chambers at City Hall. Chairman Lou Caplan declared a quorum was present and called the meeting to order.

Roll Call:

Present: Lou Caplan
Gerald Befort
Jerry Sonntag
Rich Sieker
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 April 13, 2016 meeting. There were no corrections or additions to those minutes.

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

B. No Changes to the Agenda

3. PUBLIC HEARING ITEMS: None

4. NON-PUBLIC HEARING ITEMS:

A. VARIANCE REQUEST BY MICHAEL MCINTYRE FOR A 4 ½ FOOT VARIANCE TO REDUCE THE SOUTH SIDE YARD BUILDING SETBACK FROM THE REQUIRED 9 ½ FEET TO 5 FEET TO CONSTRUCT A DETACHED GARAGE AT 2003 LINCOLN DRIVE. (Case # 05-16) Jesse Rohr presented a power point presentation with the information, location and site plan on the overhead visual on the above. The property is located on the west side of Lincoln Draw and north of 20th Street. The applicant was in attendance.

The applicant would like the variance to construct a detached garage behind the house and access from the street. There is part of a platted alley although it is not improved so there is no rear access. There was additional property that was deeded to this lot.

The applicant had a survey done by Ruder Engineering and Surveying so there are property pins set.

Jesse Rohr listed the options available to the board:

- Set a public hearing
- Not set a public hearing
- Provide other options

He pointed out that if the Unified Development Code is adopted a five foot setback from the side yard property line would be allowed without a variance.

Based on the survey and proposed new regulations, city staff would recommend setting a public hearing for July 13, 2016 meeting.

Lou Caplan asked if there were any restrictions on the height of a garage in the proposed new regulations. Jesse Rohr answered that there were height restrictions and explained them to the board. He pointed out that the board could place a height restriction on the proposed detached garage since the new regulations would not be enforceable at that time. There is generally no concern on the size of a garage; the concern is the height of a garage.

The applicant, Mike McIntyre, explained that the height of the 26 foot by 30 foot detached garage would not be any higher than the home. He would bring the plans to be submitted for the public hearing.

Rich Sieker moved, Jerry Sonntag seconded the motion to set a public hearing for July 13, 2016 for a 4 ½ foot variance request to reduce the south side yard building setback from the required 9 ½ feet to 5 feet to construct a detached garage at 2003 Lincoln Drive.

Vote: Ayes:

- Lou Caplan
- Gerald Befort
- Jerry Sonntag
- Rich Sieker
- Tom Lippert

5. OFF AGENDA ITEMS:

A. UPDATE ON THE PROPOSED UNIFIED DEVELOPMENT CODE: Jesse Rohr provided the update on the proposed Unified Development Code. It was recommended by the Planning Commission to go before the City Commission work session on July 21, 2016. The consultant will provide the presentation.

Jerry Sonntag asked how the Unified Development Code was viewed by the public, particularly the realtors, developers and contractors. Jesse Rohr answered that many of them attended the public hearing and Doug Williams, broker representing the Hays Board of Realtors, acknowledged the work that had been done on the document, while admitting it is not a perfect plan; although they are willing to continue to work with City Staff. Mr. Rohr pointed out that since this is a living document, necessary changes can still be made after adoption.

Jesse Rohr explained that one contentious item is the restricted length of a cul-de-sac which is 150 feet. Currently they are allowed to be 600 feet in length maximum. Jerry Sonntag asked how that was determined. He asked what other places are doing. Jesse Rohr answered that per the fire code, the Fire Chief recommended the 150 foot length. At that length the firemen do not have to enter the cul-de-sac. They can drag their hose to the location of the fire. In part it is to discourage cul-de-sacs. The original draft of the regulations did not allow cul-de-sacs and has changed to allow the 150 foot cul-de-sac. Upon measuring the shortest 20 cul-de-sacs within the City of Hays, the average of those 20 cul-de-sacs is 230 feet.

The development gains more lots having cul-de-sacs in a development.

Tom Lippert explained that fire trucks cannot get through a cul-de-sac if there is parking on both sides of the street, although with a through street, the fire truck could come in from the other side. Jesse Rohr and Tom Lippert noted that the benefit of a through street is having two points of access. Jerry Sonntag thought if the streets were wider it would not pose as great a problem.

Jerry Sonntag stated that the proposed Unified Development Code is a good document.

B. OTHER: - None

6. ADJOURNMENT: Lou Caplan adjourned the meeting at 8:41 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: July 6, 2016
 MEETING DATE: July 13, 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 approval of the request as submitted.

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:

Staff recommends approval of the variance request as submitted.

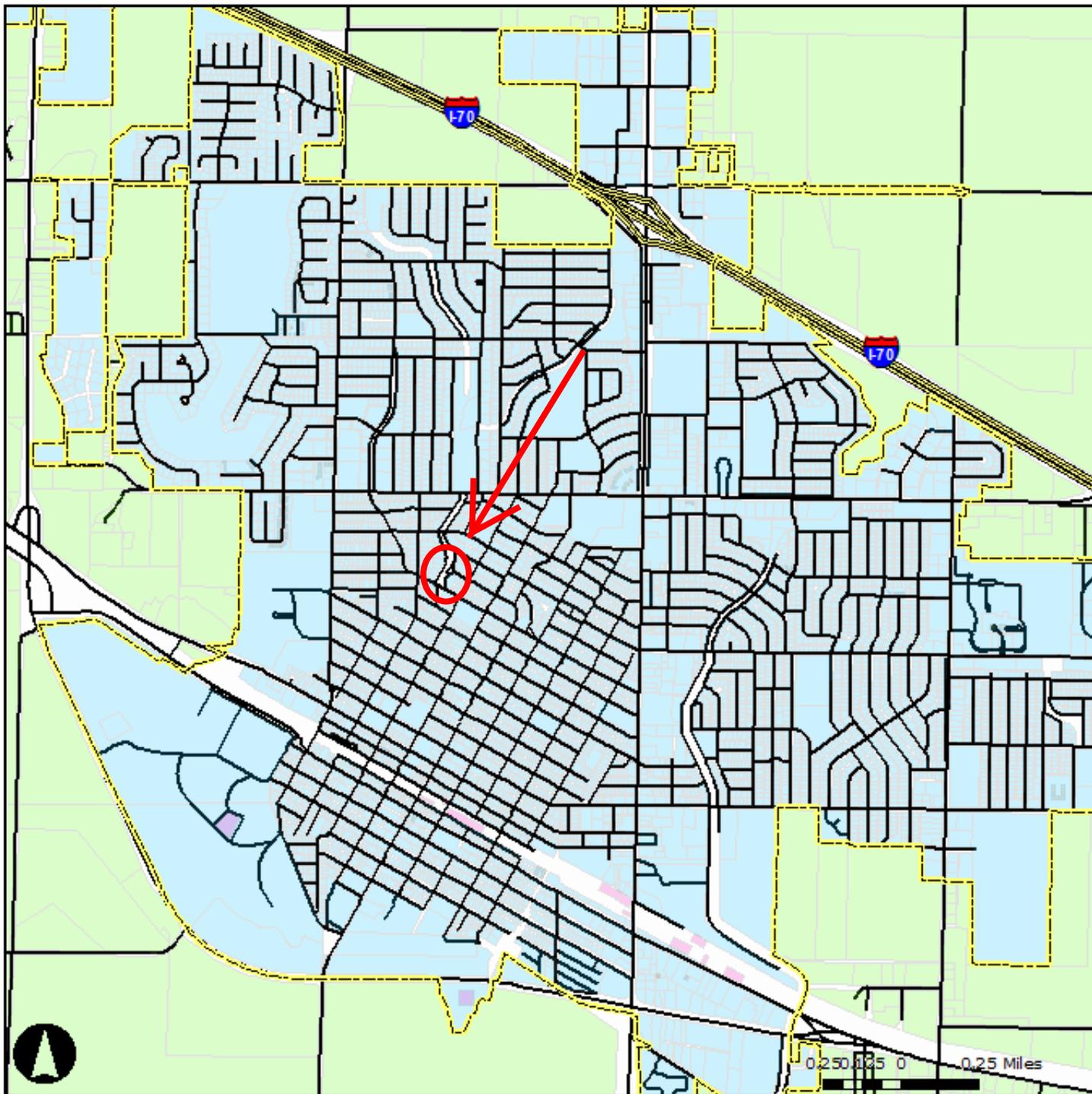
OPTIONS:

- Approve the variance as submitted
- Do not approve the variance
- Provide alternative options to the applicant

ATTACHMENTS:

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

2003 Lincoln Dr.



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:

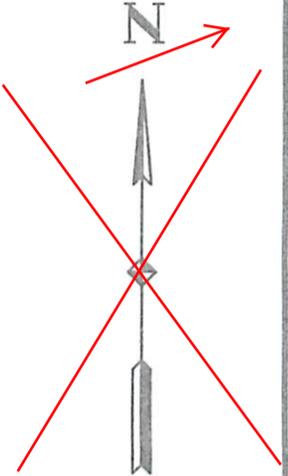
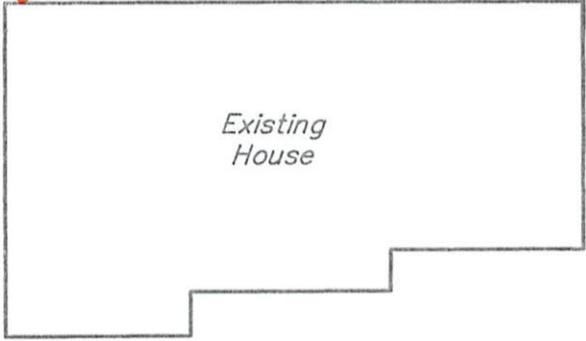
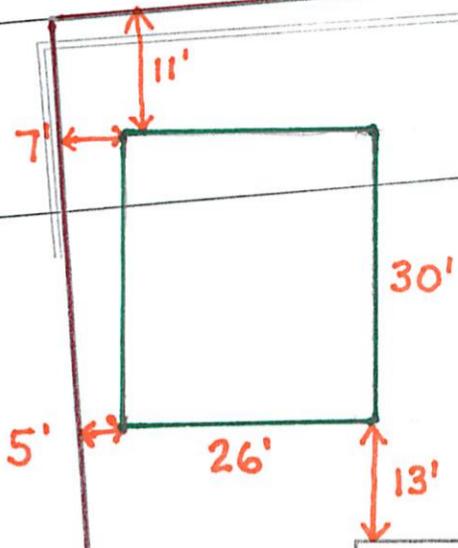
Granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations. The garage will not be in the way of utilities.

Sincerely,

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

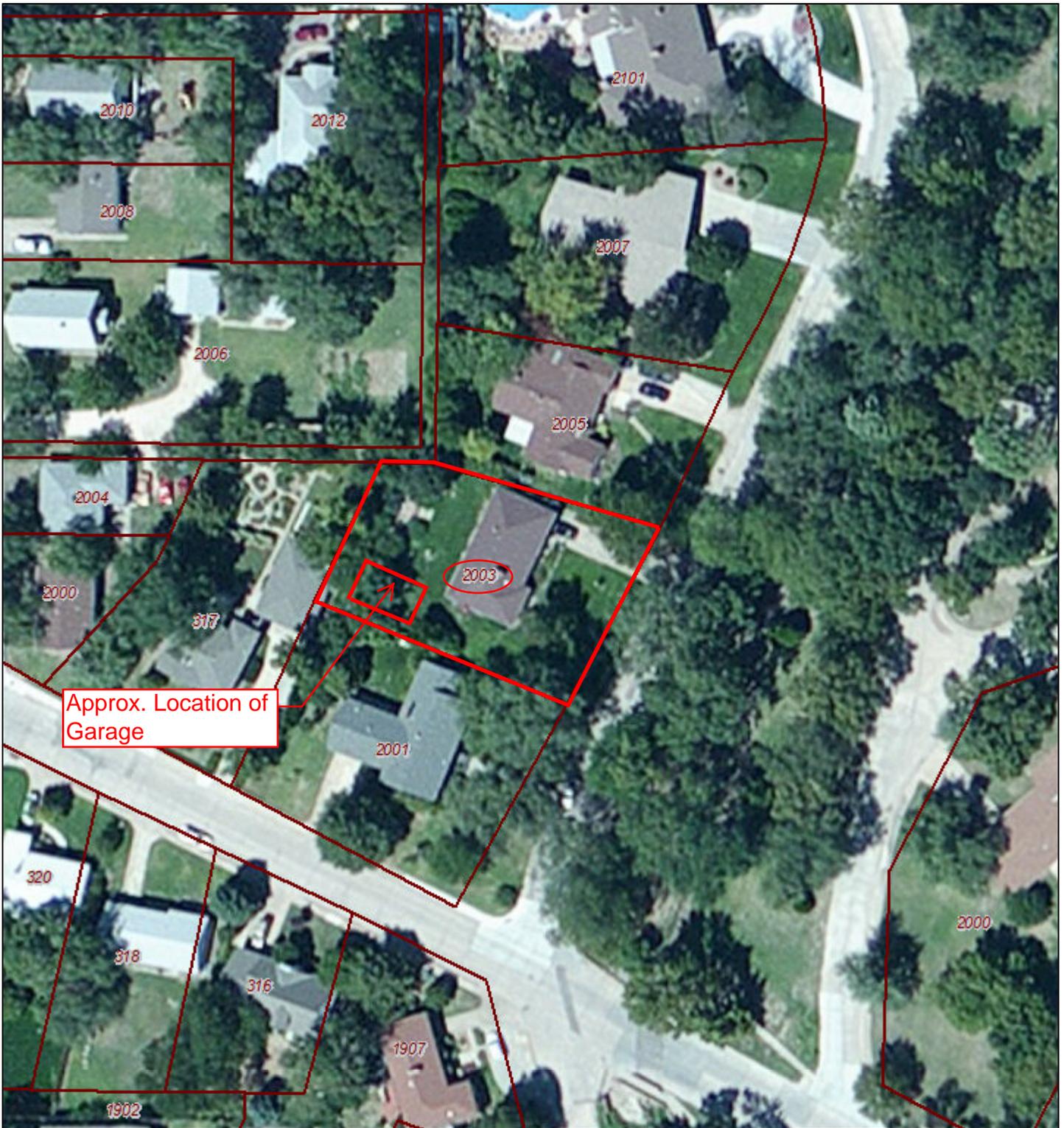
Michael McIntyre

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



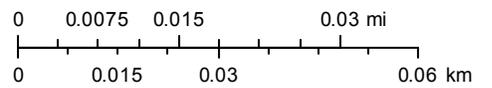
**RUDER ENGINEERING
& SURVEYING, LLC**
1376 Butterfield Trail Rd.
Hays, Kansas 67601
785-259-1382

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







THIS IS A LIST OF PROPERTY OWNERS THAT OWN PROPERTY ABUTTING THE SUBJECT PROPERTY THAT WERE MAILED THE NOTIFICATION OF THE PUBLIC HEARING.

Property Address	Parcel	First Name	Last Name	Address	City	State	Zip
2003 Lincoln Dr	026-138-33-0-20-11-019.00-0	Michael K	McIntyre	2003 Lincoln Dr	Hays	KS	67601
2006 Walnut St	026-138-33-0-20-11-014.00-0	Vernon J & Charmaine L	Morris	2006 Walnut St	Hays	KS	67601
2005 Lincoln Dr	026-138-33-0-20-11-020.00-0	Mark R.	Heimerman	2005 Lincoln Dr	Hays	KS	67601
309 W 21st St	026-138-33-0-20-17-004.00-0	Applegate Joint Trust		309 W 21st St	Hays	KS	67601
2000 Pershing Dr	026-138-33-0-20-20-004.00-0	Jeffrey & Rebekah	Baier	2000 Pershing Dr	Hays	KS	67601
2001 Lincoln Dr	026-138-33-0-20-11-018.00-0	John S	Gatschet	2001 Lincoln Dr	Hays	KS	67601
317 W 20th St	026-138-33-0-20-11-017.00-0	Michael F & Joyce S	Jilg	317 W 20th St	Hays	KS	67601

(Published in The Hays Daily News June 13, 2016)

BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE

TO: Michael K McIntyre
The Hays Area Planning Commission
The City of Hays, Kansas, and all other persons concerned

You are hereby notified that pursuant to the provisions of K.S.A. 12-716 through K.S.A. 12-724 et seq. as amended, and Ordinance 3721 of the Code of Ordinances of the City of Hays, and Resolution 2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by Michael K McIntyre.

The subject of the hearing shall be a request by Michael K McIntyre for a variance as may be deemed by the Hays Area Board of Zoning Appeals of said City, from existing legal requirements for a four and one-half foot (4 1/2') variance to reduce the south side yard building setback from the required nine and one-half feet (9 1/2') to five feet (5') to construct a detached garage at 2003 Lincoln Dr, Hays, KS in Ellis County, Kansas.

You are hereby notified that a hearing will be had upon said appeal on the 13th day of July 2016 at 8:15 a.m. in the City Commission Chambers of City Hall, in the City of Hays, Kansas, at which time said appeal will be determined.

Lou Caplan, Chairman
Hays Area Board of
Zoning Appeals