

# LEAVENWORTH BOARD OF ZONING APPEALS

MONDAY, November 18, 2019 – 6:00 P.M.

COMMISSION ROOM, CITY HALL

LEAVENWORTH, KANSAS

## AGENDA

### CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: September 16, 2019 **Action:** Motion

### OLD BUSINESS:

**None**

### NEW BUSINESS:

#### 1. **2019-11 BZA – 114 N. 18<sup>TH</sup> STREET**

Hold a public hearing for Case No. 2019-11 BZA, wherein the applicant, Michael Minard, is requesting a variance from section 4.03 of the adopted Development Regulations to allow an accessory structure within the required side yard setback.

#### 2. **2019-12 BZA – 721 MIAMI STREET**

Hold a public hearing for Case No. 2019-12 BZA, wherein the applicants, Mark Bisbee and Edwina Tate, are requesting a variance from section 4.04 of the adopted Development Regulations to allow a home occupation in a detached garage.

#### 3. **2019-13 BZA – 1116 N. BROADWAY**

Hold a public hearing for Case No. 2019-13 BZA, wherein the applicant, Russell Hopper, is requesting a variance from section 4.03 and 1.05 of the adopted Development Regulations to allow an expansion of a nonconforming structure and increase the maximum allowable lot coverage.

#### 4. **2019-14 BZA – 1400 SANDERS**

Hold a public hearing for Case No. 2019-14 BZA, wherein the applicants, James and Tammy Pike, are requesting a variance from section 4.04 of the adopted Development Regulations to allow a detached garage greater than 1,200 square feet.

ADJOURN



**BOARD OF ZONING APPEALS MINUTES**  
**MONDAY, September 16, 2019, 6:00 P.M.**  
**COMMISSION ROOM, CITY HALL**  
**LEAVENWORTH, KANSAS**

The Leavenworth Board of Zoning Appeals (BZA) met Monday, September 16, 2019. It was determined a quorum was met with the following board members present: Dick Gervasini, Jan Horvath and Kathy Kem. Mike Bogner and Ron Bates were absent. Staff members City Planning Director Julie Hurley and Administrative Assistant Michelle Baragary were present.

Vice Chairman Gervasini called the meeting to order at 6:00 p.m. and called for the first item on the agenda – approval of minutes from April 22, 2019. Ms. Kem moved to accept the minutes as presented, seconded by Mr. Horvath and approved by a vote of 3-0.

The Vice Chairman called for the next item on the agenda – **Case No. 2019-10 BZA – 5000 10<sup>th</sup> Avenue – Variance Request** - and requested the staff report.

Planning Director Julie Hurley addressed the board stating the applicant is requesting an appeal to allow more than one sign on a wall for a property zoned GBD, General Business District. The existing Walmart store is located at 5000 10<sup>th</sup> Avenue in an area zoned GBD, General Business District. The applicant has submitted a sign application to install a “FedEx Office” sign on the east side of the building. The Development Regulations were updated in 2016 to limit the number of wall signs allowed for each side of a structure or part of a structure clearly identified as a storefront to one sign. Previously, there was no limit on the number of wall signs allowed. Original signage was installed correctly per the regulations in effect at the time and is considered to be legal-nonconforming. Any new signage proposed requires approval of a variance. A sign variance was previously approved by the City Commission on May 23, 2017 to allow installation of “Vision Center” and “Pickup” signs, both on the east side of the building.

Planning Director Julie Hurley further stated at some point in the past, staff started sending sign variance requests to the City Commission. The current City Attorney pointed out the City Commission does not have jurisdiction to make a decision on variances, regardless of what the variance is for. The City Attorney directed staff to bring variance requests back to the Board of Zoning Appeals.

Ms. Kem asked if the placement of the FedEx sign is closest to where the FedEx location is within Walmart.

Tony Russell, Midwest Sign Company, approached the board. Mr. Russell stated he is not familiar with this particular Walmart but generally the signs are being installed on the side of the building near the FedEx location.

Mr. Gervasini asked if when the sign codes were rewritten in 2016, was any consideration given to the size of the building.

Ms. Hurley responded that was intentionally not included. Staff's thinking was that the codes were being written to cover for 95% of the buildings in town knowing there is always be a case that we cannot account for, which is why the variance process is in place.

Ms. Kem asked if the FedEx sign is located on the other side of the Walmart building for some stores.

Mr. Russell stated it depends on the location of the FedEx office inside the Walmart.

Ms. Kem asked if the FedEx sign is the same size as all other FedEx signs installed on Walmart buildings.

Mr. Russell stated they are all about the same size; anywhere between 10 – 18 sqft.

Mr. Horvath stated one of the criteria is that the variance will not adversely affect the rights of adjacent property owners or residents. Mr. Horvath asked if Walmart looked into this with the adjacent property owners.

Ms. Hurley responded that the city mailed certified letters to all property owners within 200' of the subject property. No property owner contacted the city after receipt of the notification.

With no other questions, Vice Chairman Gervasini opened the public hearing.

Mr. Russell stated there are numerous cities that have the same regulation allowing only one sign per façade. Mr. Russell asks the board to take into consideration that FedEx is a separate company from Walmart. This is just a separate space for FedEx inside of Walmart.

Mr. Gervasini asked if the sign will be mounted on the façade of the building.

Mr. Russell stated the sign will be to the right of the current Grocery & Pharmacy sign and will be parallel with that sign.

Ms. Kem asked if it will be a box sign or individual letters.

Mr. Russell responded they are individual channel letters mounted on a raceway. The raceway will be painted the same color as the building.

With no further discussion among the commissioners, Vice Chairman Gervasini closed the public hearing and read the following criteria regarding the Board's authority and reviewed each item.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article 11 (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in

such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.

a) *That the variance requested arises from such condition which is unique to the property in question and 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.*

**Vote 3-0**

**All board members voted in the affirmative.**

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

**Vote 3-0**

**All board members voted in the affirmative.**

c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

**Vote 3-0**

**All board members voted in the affirmative.**

d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*

**Vote 3-0**

**All board members voted in the affirmative.**

e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*

**Vote 3-0**

**All board members voted in the affirmative.**

3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.



Ms. Kem stated she does not have any conditions other than the sign should be installed according to the plans submitted, particularly the raceway color match so it does not contrast with the light color behind it.

Vice Chairman Gervasini stated the variance is approved to allow to installation of a FedEx Office sign on the east side of the Walmart store located at 5000 10<sup>th</sup> Avenue.

With no further business, Vice Chairman Gervasini called for a motion to adjourn. Mr. Horvath moved to adjourn, seconded by Ms. Kem and passed by a unanimous vote 3-0.

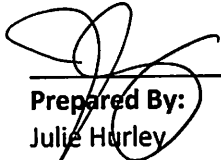
The meeting adjourned at 6:19 p.m.

JH:mb

DRAFT

**Board of Zoning Appeals Agenda Item  
Variance Request  
2019-11-BZA  
114 N. 18<sup>th</sup> Street**

**NOVEMBER 18, 2019**



**Prepared By:**  
Julie Hurley  
Director of Planning and  
Community Development



**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting a variance from section 4.03 of the adopted Development Regulations to allow an accessory structure within the required side yard.

**DISCUSSION:**

The applicant, Michael Minard, is requesting a variance from section 4.03 of the adopted Development Regulations to allow a detached garage within the required side yard. The subject property is a corner lot zoned R1-9, Medium Density Single Family Residential District, with an existing single family home on the lot. The subject property is surrounded by other single family homes of a similar size and nature.

The R1-9 zoning district requires a minimum setback of 25' in both the front and street-side yards on corner lots. The existing house has a side setback of 16' on the Seneca Street side, and is considered legal non-conforming. The applicant is proposing to construct a 720 square foot detached garage behind the existing home, in line with the north wall of the home, resulting in a 16' corner side yard setback, as opposed to the required 25'. The proposed garage will meet the required rear yard setback of 3'.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the

terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.

2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
  - a) *That the variance requested arises from such condition which is unique to the property in question and 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.*
  - b) *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*
  - c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*
  - d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*
  - e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*
3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

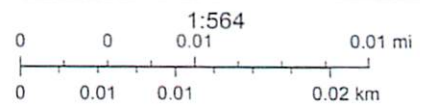
**ACTION:**

Approve or deny the request for a variance from section 4.03 of the Development Regulations to allow a corner side yard setback of less than 25' for a detached garage.

2019-11-BZA



10/17/2019, 11:39:17 AM



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



Case No. 2019-11 BZA

BOARD OF ZONING APPEALS  
CITY OF LEAVENWORTH, KANSAS

Application No. 6419  
Fee (non-refundable) \$350.00  
Filing Date 9.6.19  
Fee Paid 350.00 - MJK

Property Zoning R1-9

PETITION

Petitioner: Michael J Minard  
(name typed or printed)

Petitioner Address: 114 N. 18th St.

Email: mminard@FirstCity.org Telephone: 913 758-1132

Location of Property Involved: LEAVENWORTH KS 66048

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE or a TITLE COMPANY)

Petitioner's Interest in Property: Residence

Purpose of Petition: Requesting to build a detached garage <sup>24'x30' (720sqft)</sup> in the required setback <sup>corner side yard setback</sup>

- Appeal of Administration Decision Section 11.03.A
- Variance: Section 11.03.B
- Exception: Section 11.03.C

Site Plan or drawing attached: Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Michael J Minard  
(print name)

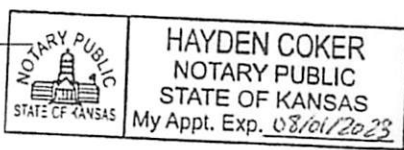
Signature: [Signature] Date: 9/5/2019

State of Kansas )  
County of Leavenworth )

Signed or attested before me on September 5, 2019 by Michael J. Minard

[Signature]  
(Signature of Notary Public)

My commission expires: 08/01/2023 (Seal)



FOR OFFICE USE ONLY:	
Date of Publication	<u>Sept 26, 2019</u> Date of Hearing: <u>Oct 21, 2019</u>
Supporting documentation:	Site plan, plot plan, a drawing and any other pertinent data
City to provide:	Current list of names and addresses of the owners and the tax identification number of all properties within 200'
A filing fee of Three Hundred- fifty dollars (\$350)	

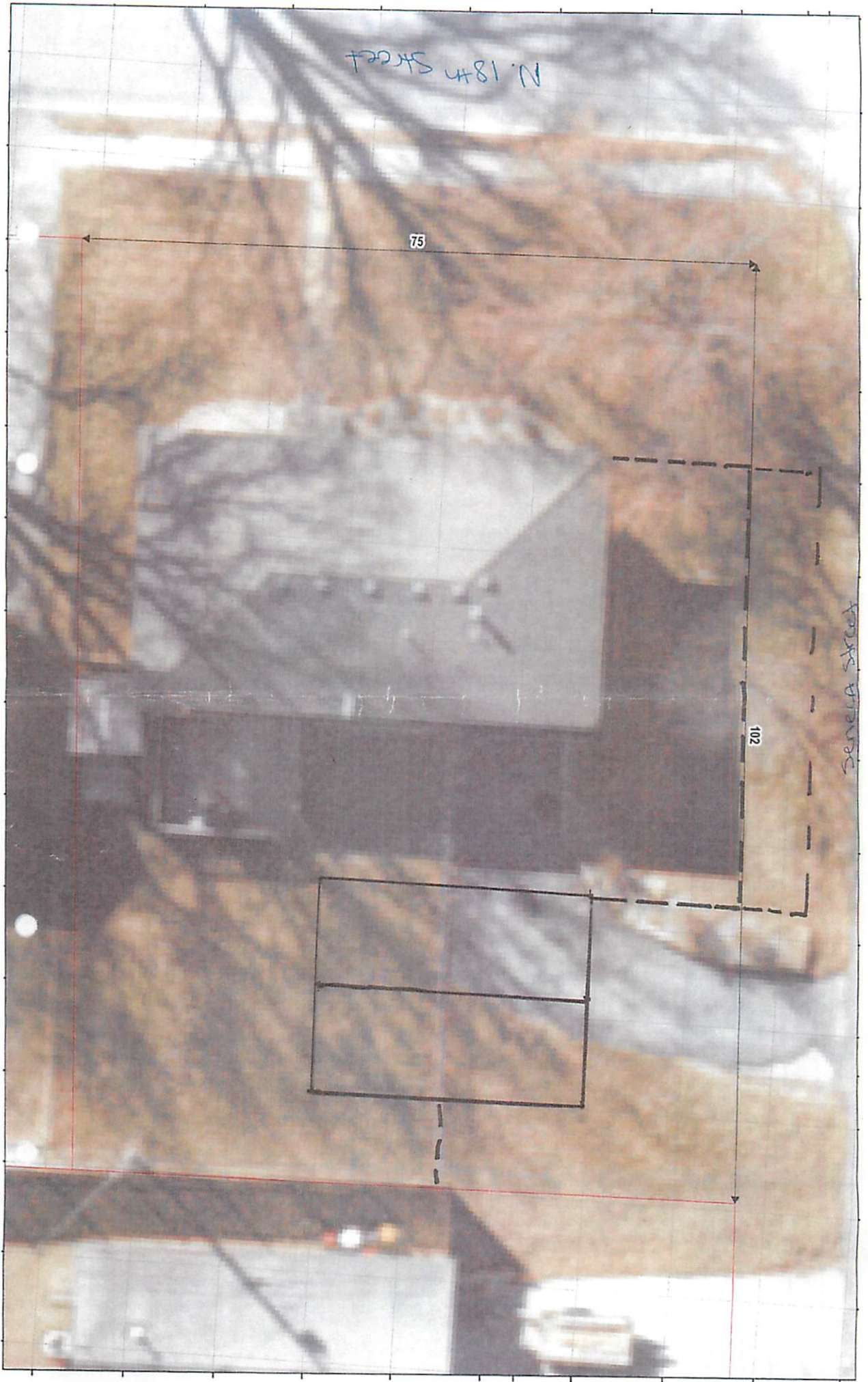


N. 18th Street

75

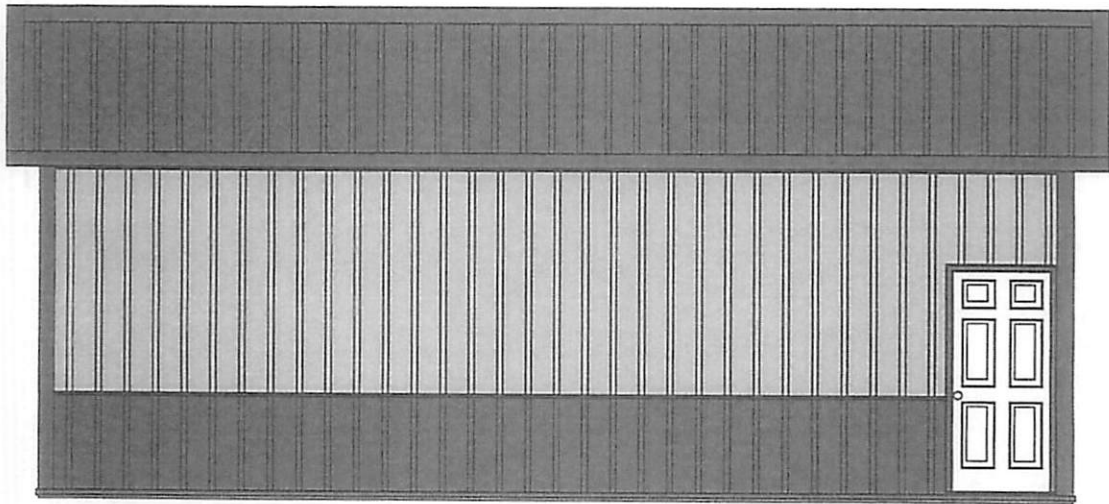
102

Denise Street





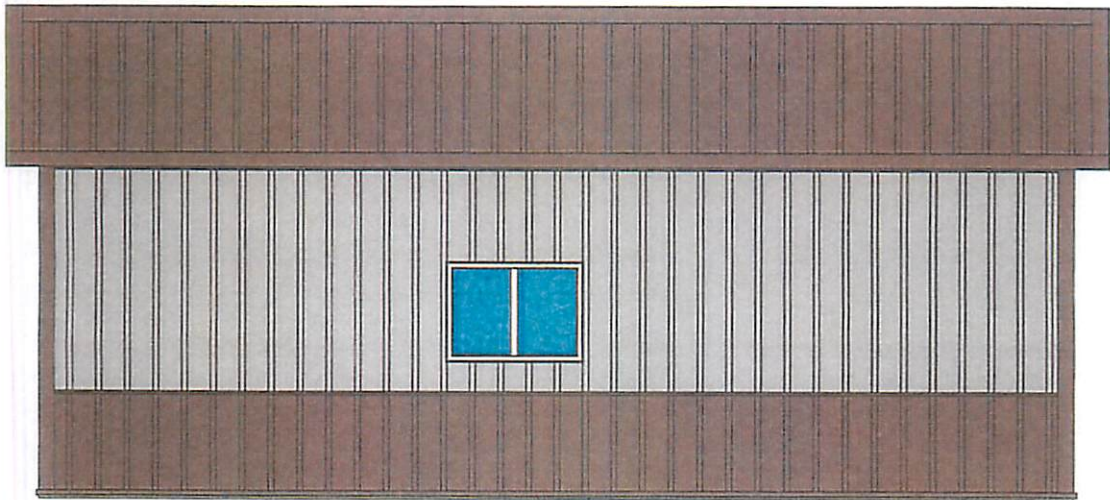
## WEST SIDE-EAVE SIDE 2 ELEVATION



Mike Minard  
Estimate Number: 1375  
8/8/2019



### EAST SIDE-EAVE SIDE 1 ELEVATION



Mike Minard  
Estimate Number: 1375  
8/8/2019





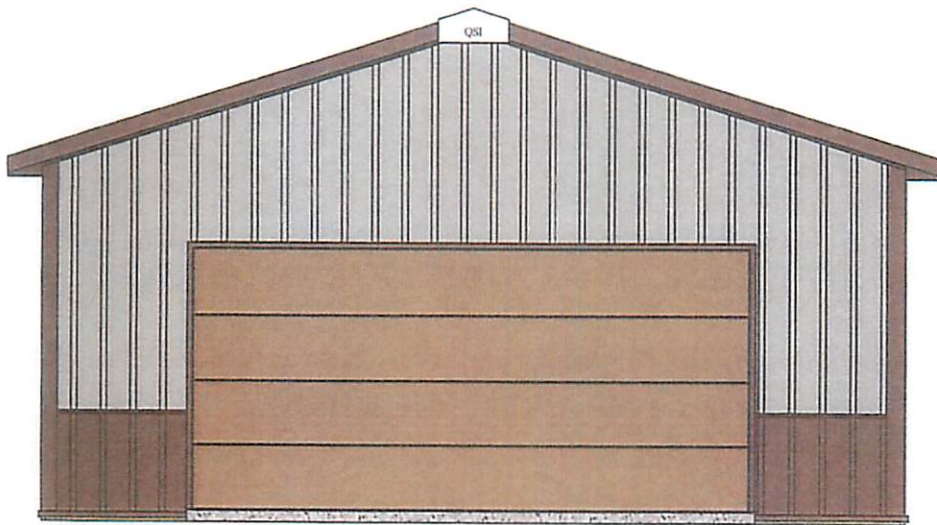
## SOUTH SIDE-GABLE SIDE 2 ELEVATION



Mike Minard  
Estimate Number: 1375  
8/8/2019



### NORTH SIDE-GABLE SIDE 1 ELEVATION



Mike Minard  
Estimate Number: 1375  
8/8/2019

**Board of Zoning Appeals Agenda Item  
Variance Request  
2019-12-BZA  
721 Miami**

**NOVEMBER 18, 2019**

  
\_\_\_\_\_  
**Prepared By:**  
Julie Hurlley  
Director of Planning and  
Community Development

  
\_\_\_\_\_  
**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting a variance from section 4.04 of the adopted Development Regulations to allow a home occupation in a detached garage.

**DISCUSSION:**

The applicants, Mark Bisbee and Edwina Tate, are requesting a variance from section 4.04 of the adopted Development Regulations to allow operation of a home occupation in a detached garage. The subject property is zoned R1-6, Low Density Single Family Residential District, with an existing single family home on the lot. The subject property is surrounded by other single family homes of a similar size and nature directly to the east and west. To the north is St. Joseph church, and to the south across the alley are several multi-family structures. The properties on either end of the block are zoned Office Business District and Central Business District. Properties to the west, along Broadway Street, are occupied with commercial uses, and the property at the east end of the block is occupied by a day care.

Section 4.04 of the Development Regulations states that "a carport, garage, or any accessory structure may not be used for home occupations", and that "the home occupation shall be conducted entirely within the principal residential building". The applicants are proposing to conduct a small engine repair and tune-up business in their recently constructed detached garage. The business focuses on small engines, such as lawn mowers, and does not involve automobile repair.

The applicants obtained a building permit in July, 2019 to construct the detached garage for the sole purpose of conducting their home occupation in the structure. Prior to constructing the garage, the applicants contacted the City regarding requirements for their business. Through discussions with city staff in other departments, the applicants were under the impression that their home occupation would be allowed in the detached garage.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variations:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
  - a) *That the variance requested arises from such condition which is unique to the property in question and 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.*
  - b) *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*
  - c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*
  - d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*
  - e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*
3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

**ACTION:**

Approve or deny the request for a variance from section 4.04 of the Development Regulations to allow a home occupation in a detached garage.

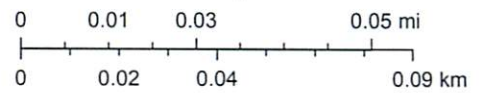


# 2019-12-BZA 721 Miami



11/14/2019, 9:55:02 AM

1:2,257

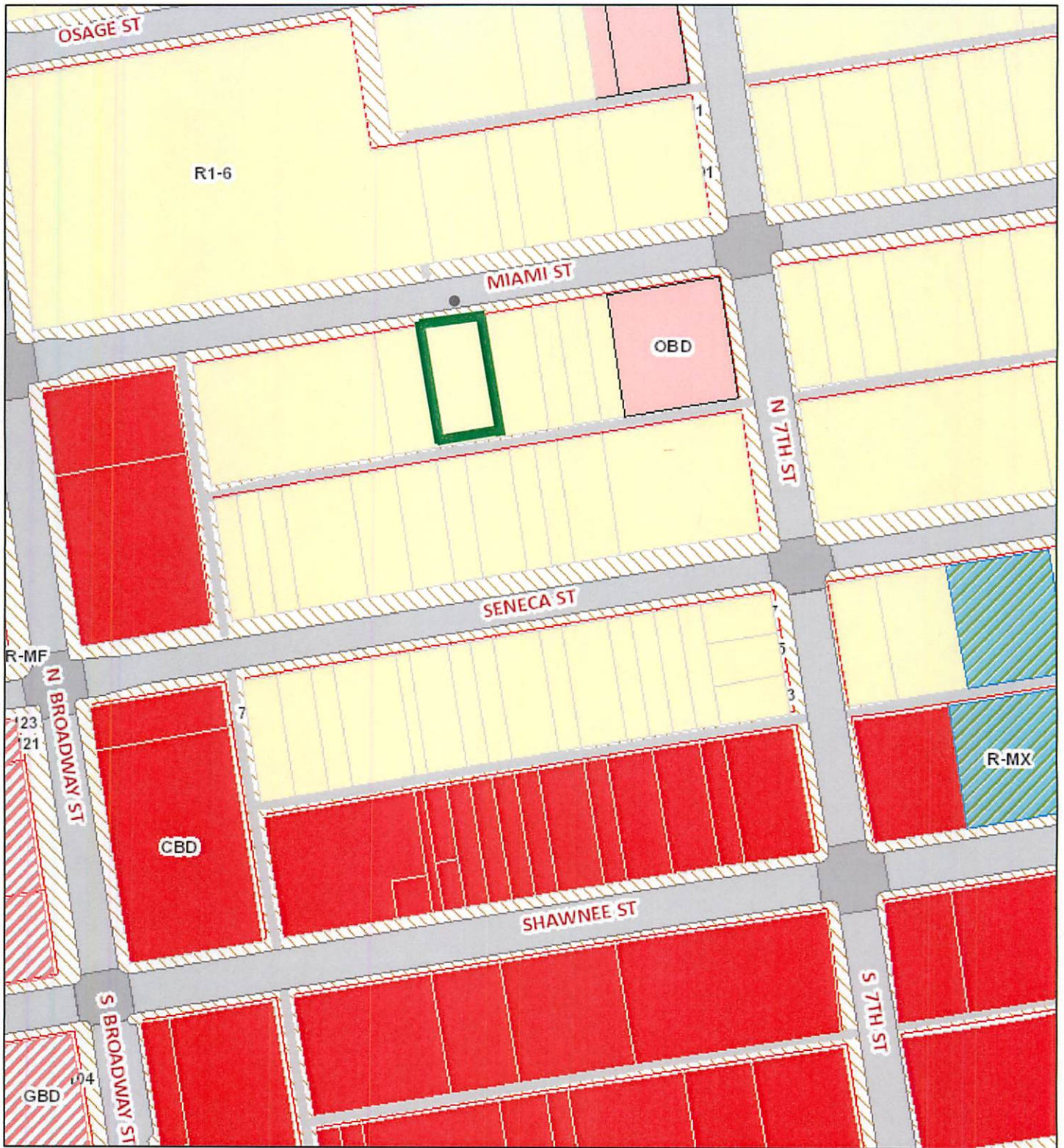


Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

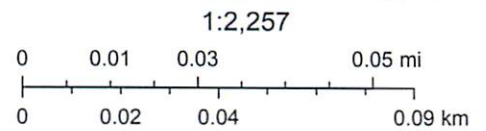
Web AppBuilder for ArcGIS



# 2019-12-BZA 721 Miami



11/14/2019, 9:57:47 AM



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

Web AppBuilder for ArcGIS





Case No. 2019-12 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Application No. 6501  
Fee (non-refundable) \$350.00  
Filing Date 9-20-19 mb  
Fee Paid waived per JH

Property Zoning R1-L6

**PETITION**

Petitioner: Mark Bisbee + Edwina Tate  
(name typed or printed)

Petitioner Address: 721 Miami Street

Email: bisbee.mark37@gmail.com Telephone: 816-482-1486

Location of Property Involved: 721 Miami near shop

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)

Petitioner's Interest in Property: Small Engine Repair - tune ups

Purpose of Petition: Small Engine Repair - tune ups in accessory structure

- Appeal** of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance:**  
Section 11.03.B
- Exception:**  
Section 11.03.C

Site Plan or drawing attached (hard & digital copy): Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Edwina Tate Mark Bisbee  
(print name)

Signature: Edwina Tate Mark Bisbee Date: 9-20-2019

State of KANSAS )

County of Leavenworth )

Signed or attested before me on Sept. 20, 2019 by Edwina Tate + Mark Bisbee

Michelle Baragary  
(Signature of Notary Public)



My commission expires: 8-16-20

(Seal)

<b>FOR OFFICE USE ONLY:</b>	
Date of Publication	<u>10-25-19</u> Date of Hearing: <u>11-18-19</u>
<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data <u>Legal description</u>
<input type="checkbox"/>	Current list of names and addresses of the owners and the tax identification number of all properties within 200'
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)

A. **Such variance would not be contrary to the health, safety or best interest of the public;**

The variance request would provide a service that does not currently exist in the general area for people of a socio-economic class that desperately need it. The applicant's intent is to help those who may not be able to maintain equipment necessary to maintain homes and yards. The variance if approved would promote the health, safety and best interest of the community not be contrary to it.

B. **A literal enforcement of the provision will result in an unnecessary hardship to the property owner;**

In the absence of a variance, the applicant cannot provide the service. The requests were the defining reason to construct the accessory structure that was recently built on site. The intention of that construction was to have a place in which to provide the service without impact to surrounding properties. Literal enforcement does not allow an avenue to pursue the intended use.

C. **There is a condition unique to the property which was not created by the property owner;**

The property is in an area that has commercial generally located in the same area but devoid of any similar uses with a substantial amount of need. The applicant proposes a use that will both fill a niche in the community and contribute to the health, safety and interest of the general public.

D. **There is no adverse effect on surrounding properties;**

Given the minor amount of business anticipated by the applicant, given the nature of the business and no outside storage of materials, no adverse effect is anticipated to adjoining properties.

E. **The variance would not be contrary to the general spirit or intent of this article.**

The parcel is zoned as a higher density residential designation. In the communities Comprehensive Plan neighborhood commercial is encouraged in higher density residential. Traditionally, neighborhood commercial uses provide centers for convenience shopping in residential neighborhoods, planned and controlled to the extent that any such use will perform a vital service to the neighborhood in which it is located.

The variance if granted would be generally compliant with the general spirit and intent of the article and the comprehensive plan



# Approval names for 721 Miami Street Accessory Shop

Case # 2019-12

Edyrisina	Jate	721	Miami
Mani	Suber	721	MIAMI
Dani	Sexton		
Carole	Bagley	725 Deerfield St	
Mamey	Denney	301 N 4th St	LV, KS 66048
Kyle	Greer	301 N 4th St	LV, KS 66048
Dawn	Denney	301 N 4th St	LV, KS 66048
Abbott	Willie	19516 Shawnee	LV, KS 66048
Paulette	Abbott	630 Shawnee	LV, KS 66048
Henry	Ritterman	2600 S 16th Terr	LV, KS 66048
Est	Tate	732 SENECA APT 1	LV, KS 66048
Rex	Fernd	724 SENECA APT 2	LV, KS 66048
Ricardo	Nelson	714 MIAMI ST	KS 66048
William	PARIEK	913 MIAMI ST	KS 66048
Emanuel	Bradly	715 MIAMI	LV, KS 66048
Fate	Bushy	711 MIAMI	LEAV. KS
MGH	Diddle	723 MIAMI	Leavenworth, KS
Lisa	Diddle	723 MIAMI	Leavenworth, KS
Chelsea	Berman	1201 Delaware	Leavenworth, KS
Dominic	Don	1022 NE Lindbergh	Kansas City, MO
Monica	Nguyen		KC MO
Danielle	Mahn	1501 S 8th St.	Atchison, KS
Mike	Corbet	619 S 5th	LV, KS
Andria	Kelley	606 Kickapoo	LV, KS 66048
Lois	Robertson	617 N. 8th St	LVN, KS 66048
GARY	Emler	818 S. 6th St.	Leavenworth KS
Misty	Tracy	414 W. 7th	Leavenworth KS 66048
COPE	WATSON	1912 Grand	Leavenworth, KS
Dibole	Swamy	704 Olive	Leavenworth, KS
Wesley	Hoskins	715 Dakota	LV, KS 66048
Jennifer	Lemons	210 N 7th St	LV, KS 66048
Matthew	Denney	718 Miami St	LV, KS 66048
Temira	Davis	718 Miami St	LV, KS 66048
Empty premises		716 Miami	LV, KS 66048
Empty premises		712 Miami	LV, KS 66048
Empty premises		717 Miami	LV, KS 66048
Donna	Lee	216 N Broadway	LV, KS 66048
MONTÉ W	Wright	710 SENECA ST	LV, KS 66048
BOBARA	CROSS	718 SENECA	LV, KS 66048
Diana	Beetha	725 Service	LV, KS 66048
Louise	Cassandra	913 240-4519	LV, KS 66048
Megan	Collin	913 240-1943	LV, KS 66048
William	Wayne	913 547-2627	LV, KS 66048
Bullock	Will	913 240-2767	LV, KS 66048
WILLIAM	HAYNES	1500 CHETAN ST	LV, KS 66048
William	Adyrea	534 Isabelle	Leav, KS 66048





MIAMI ST

723

721

719

717 APT 1

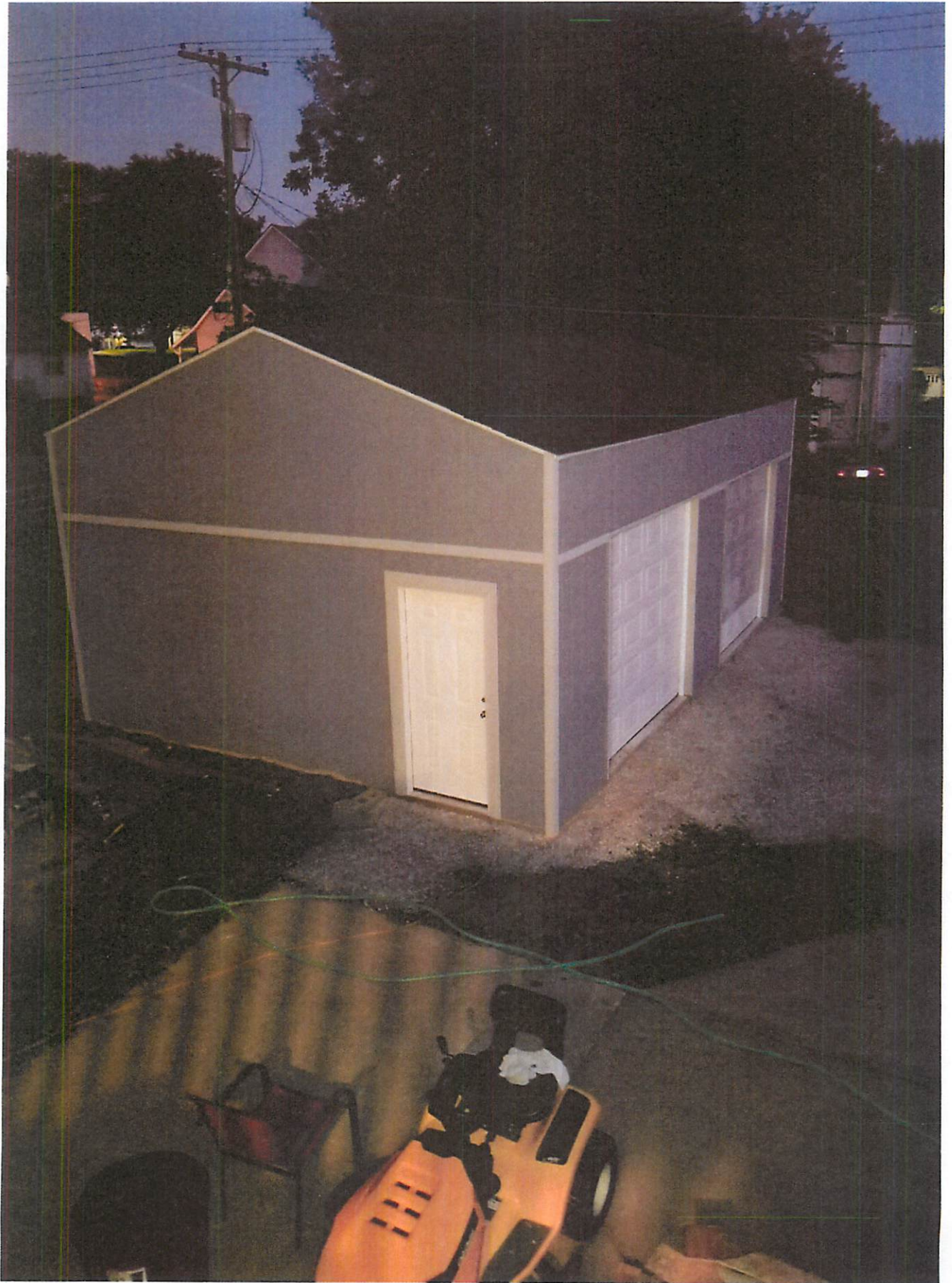
717 APT 2

715

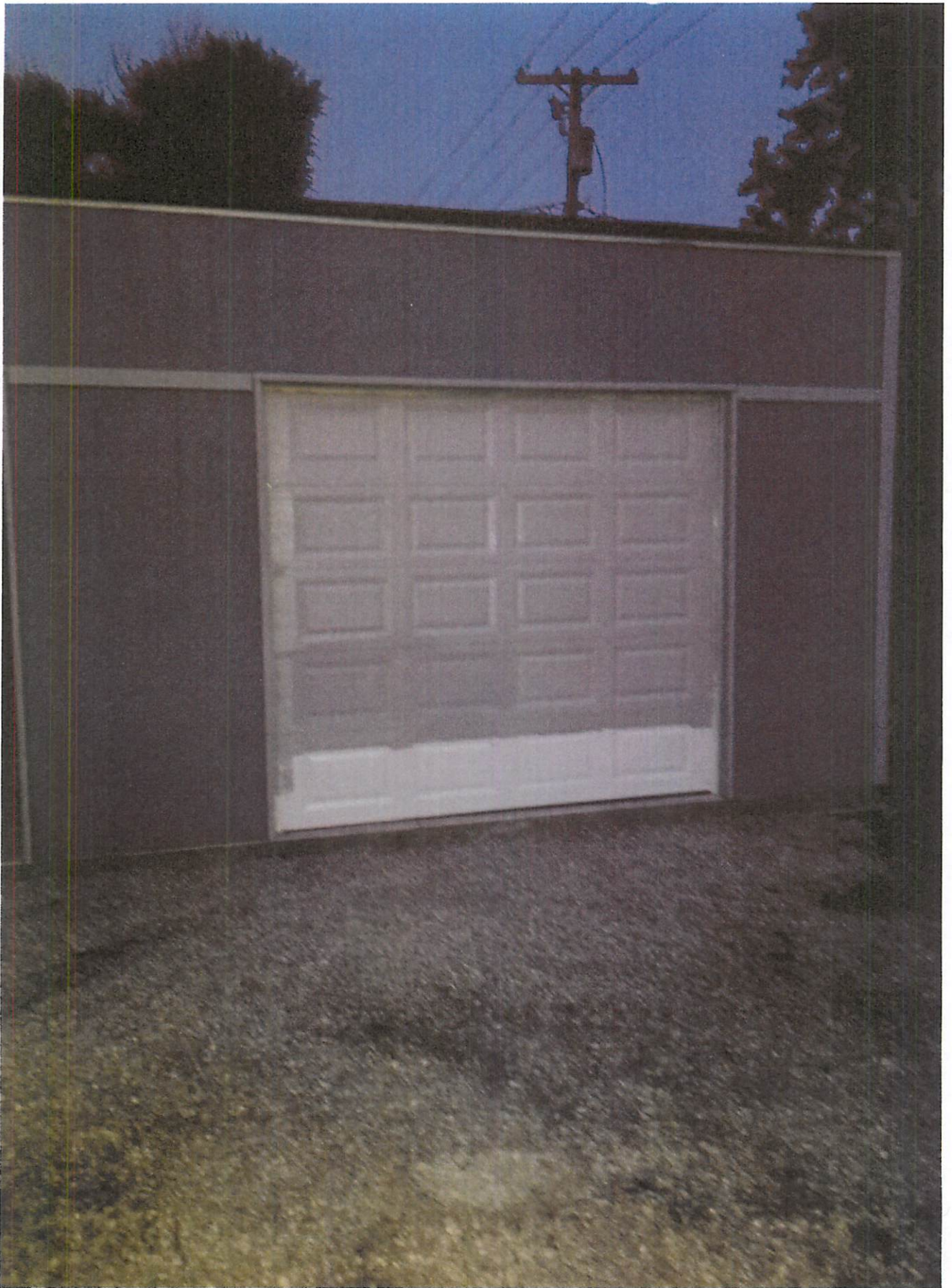
713

→ 20' x 30'

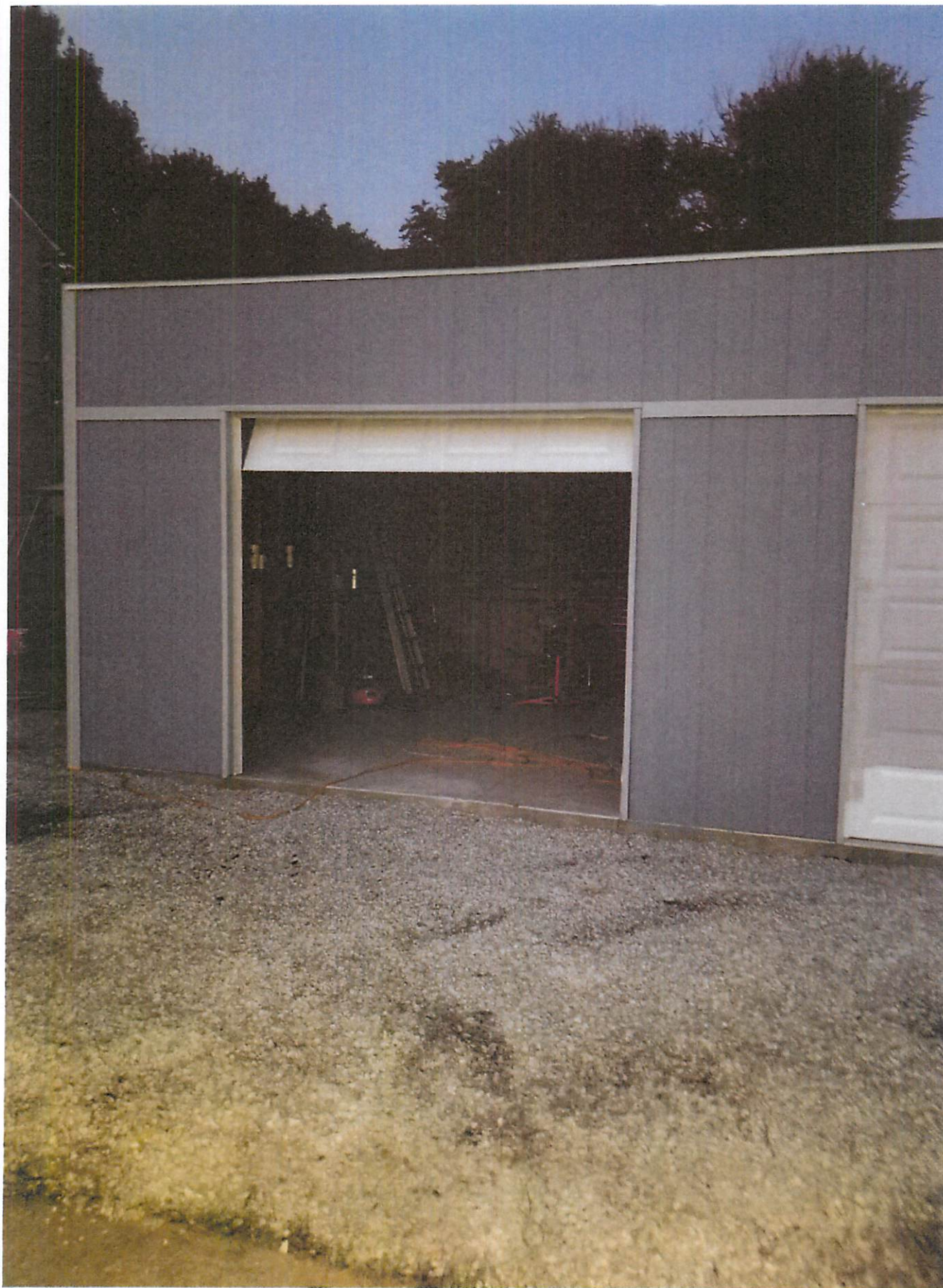




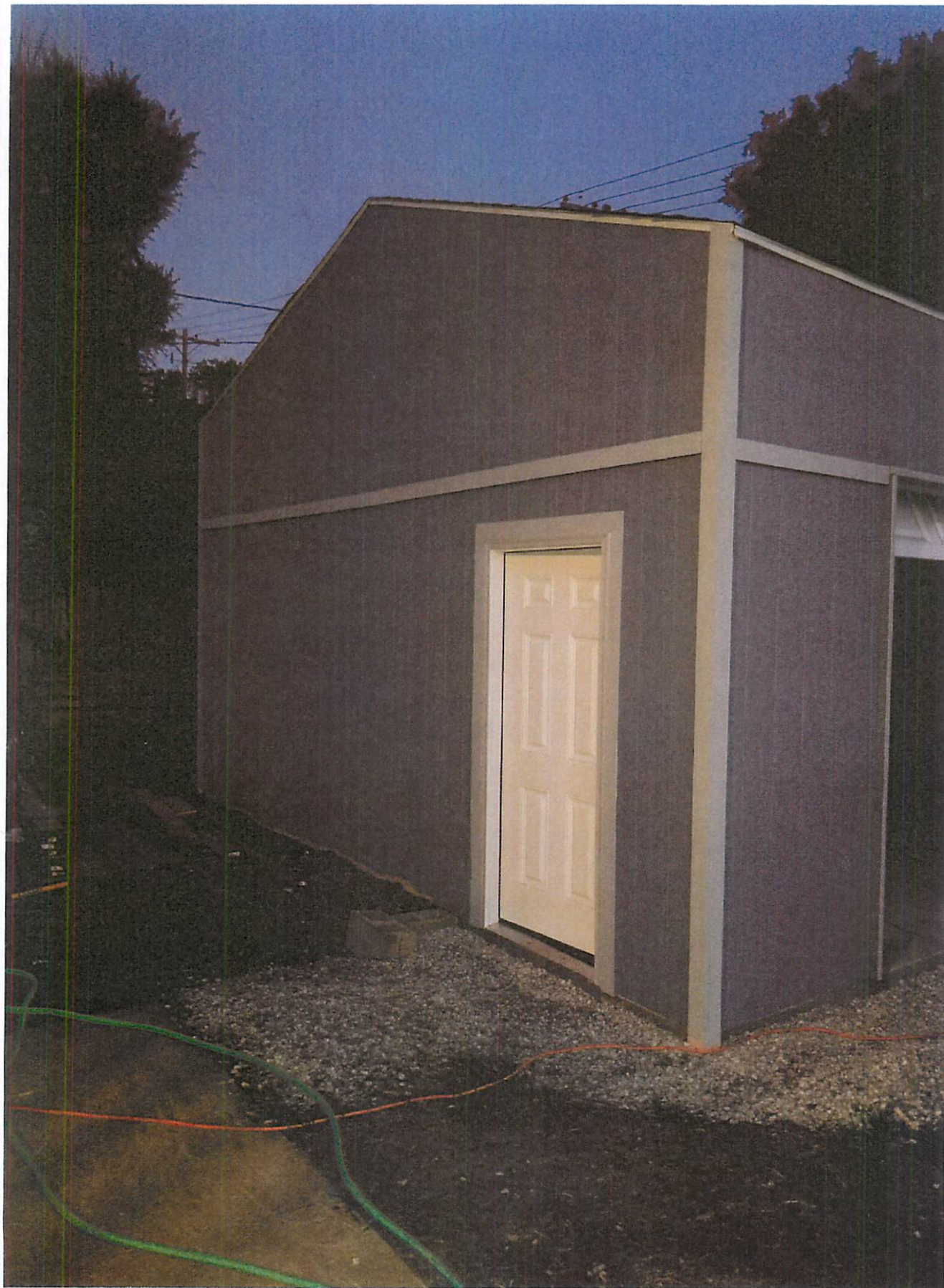











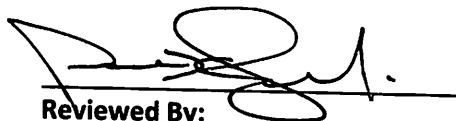


**Board of Zoning Appeals Agenda Item  
Variance Request  
2019-13-BZA  
1116 N Broadway**

**NOVEMBER 18, 2019**



**Prepared By:**  
Jacquelyn Porter  
City Planner



**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting a variance from section 4.03 and 1.05 of the adopted Development Regulations to allow an expansion of a nonconforming structure and increase of the maximum allowable lot coverage.

**DISCUSSION:**

The applicant, Russell Hopper, is requesting a variance from section 4.03 and 1.05 of the adopted Development Regulations to expand a nonconforming structure and increase the maximum lot coverage. The property currently exceeds the maximum lot coverage area but is considered a legal nonconforming structure. The lot is located at 1116 N Broadway which is currently zoned as General Business District occupied by "Popcorn Pit Stop". The subject property is surrounded by properties to the North and East zoned as General Business District and the properties adjacent to the South and West are zoned R1-6, High Density Single-Family Residential District.

The General Business District requires a 50% maximum coverage of the lot. Current impervious surface is 8716 square foot, or 83.4%. The applicant is proposing to construct a 744 square foot addition to the east side of the building, and remove the 404 square foot concrete slab located in the southeast corner of the property. The proposal of the 744 square foot addition and the removal of the concrete slab increases the impervious surface by 340 square foot, or 3.25%, resulting in a total lot coverage of 86.65%.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the

terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.

2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
  - a) *That the variance requested arises from such condition which is unique to the property in question and 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.*
  - b) *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*
  - c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*
  - d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*
  - e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*
3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

**ACTION:**

Approve or deny the request for a variance from section 1.05 and 4.03 of the Development Regulations to allow an increase of a nonconforming structure and lot coverage over 50%.

**ACTION:**

- Attachment A: Staff's Calculations
- Attachment B: BZA Application

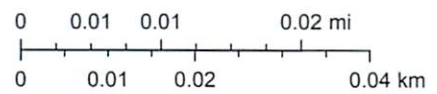


# 2019-13-BZA 1116 N. Broadway



11/14/2019, 10:03:23 AM

1:1,128



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



Attachment A: Staff's Calculations

1116 N Broadway Lot Size: .24 acres =10,454.4 square feet

Image 1= 8,241.44 square feet

Image 2= 403.99 square feet

+ Image 3= 70.73 square feet

---

8,716.16 square feet

**Percentage of Coverage**

8,241.44 square feet/10,454.4 square feet

**83.37%**



Image 1: Building, Parking lot, patio, and sidewalk





Image 2: Concrete Slab



Image 3: Building





Case No. 2019-13 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Property Zoning CARD

Application No. 6547  
Fee (non-refundable) \$350.00  
Filing Date 9/30/19  
Fee Paid \$350.00 09/30/19

**PETITION**  
Petitioner: Russell Hopper

Petitioner Address: 1963 LeCompton Rd. Leavenworth  
Email: onbroadway1116@yahoo.com Telephone: 918-424-1094  
Location of Property Involved: 1116 N. Broadway St. Leavenworth KS.  
Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)

Petitioner's Interest in Property: OWNER

Purpose of Petition: Variances - A. Lot coverage over 50% - B. rear setback < 25'

- Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance:  
Section 11.03.B
- Exception:  
Section 11.03.C

Site Plan or drawing attached (hard & digital copy): Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: Russell Hopper

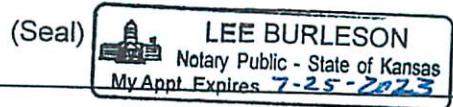
Signature: Russell W. Hopper (print name) Date: 9/30/19

State of Kansas  
County of Leavenworth

Signed or attested before me on 9/30/19 by Lee Burleson

Lee Burleson  
(Signature of Notary Public)

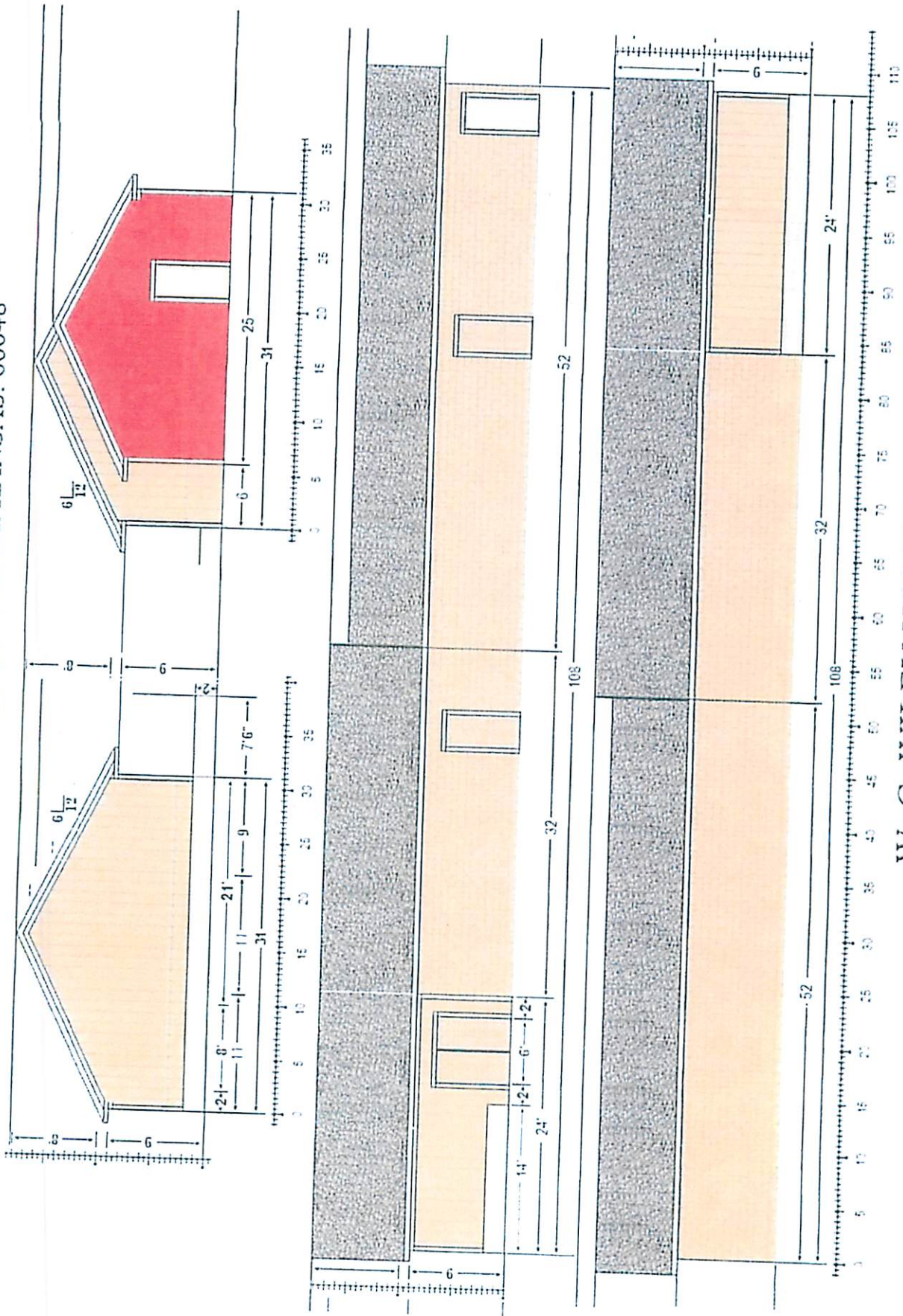
My commission expires: 7-25-2023



<b>FOR OFFICE USE ONLY:</b>	
Date of Publication <u>10-25-19</u>	Date of Hearing: <u>11/18/19</u>
Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data	
Current list of names and addresses of the owners and the tax identification number of all properties within 200'	
A filing fee of Three Hundred- fifty dollars (\$350)	



POP CORN PIT STOP  
 RUSSELL HOPPER AND DOLLI RICHARDSON  
 1116 N BROADWAY LEAVENWORTH, KANSAS. 66048

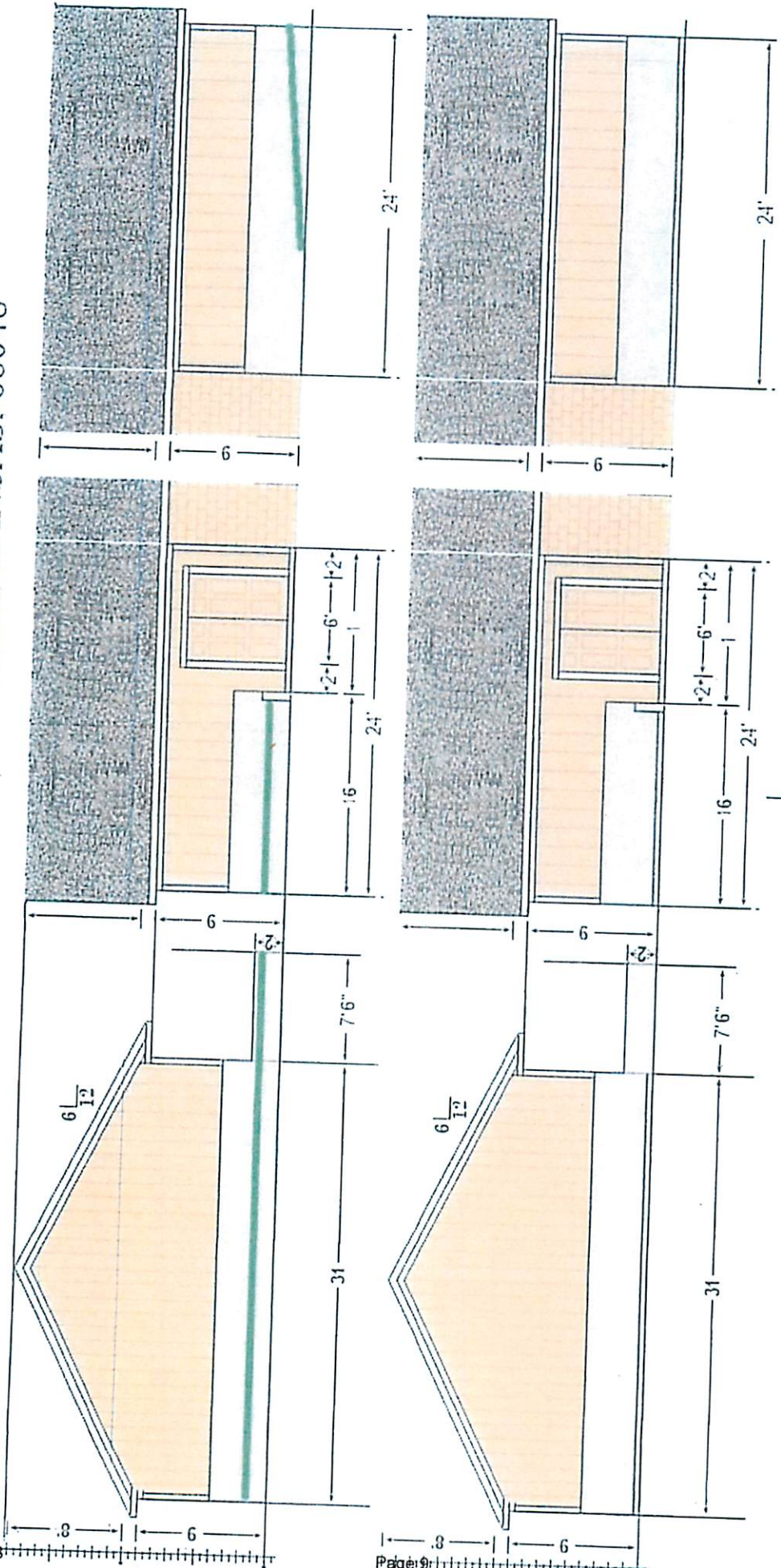


W. G. WILEY HOMES

1827 EDGEWOOD CT. LEAVENWORTH, KANSAS. 66048  
 913-682-6369 CELL 913-775-2305 WGWILEYHOMESLVKS@GMAIL.COM



POP CORN PIT STOP  
RUSSELL HOPPER AND DOLLI RICHARDSON  
1116 N BROADWAY LEAVENWORTH, KANSAS. 66048



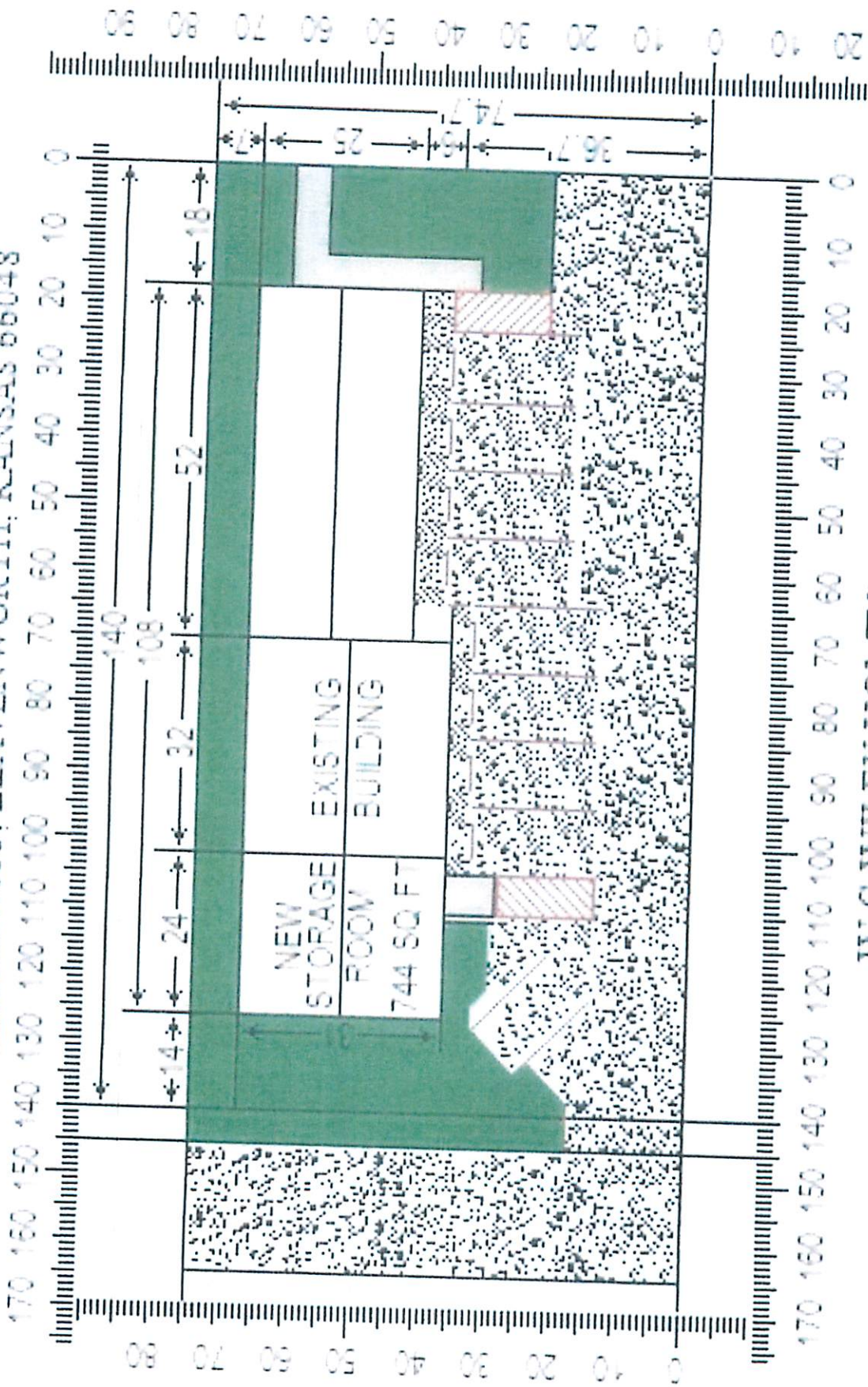
W. G. WILEY HOMES  
1827 EDGEWOOD CT. LEAVENWORTH, KANSAS. 66048  
913-682-6369 CELL 913-775-2305 WGWILEYHOMESLVKS@GMAIL.COM



RUSSEL HOPPER AND DOLLI RICHARDSON  
1963 Lecompton Rd. Leavenworth, Kansas, 66048

### POP CORN PIT STOP

1116 N BROADWAY, LEAVENWORTH, KANSAS 66048

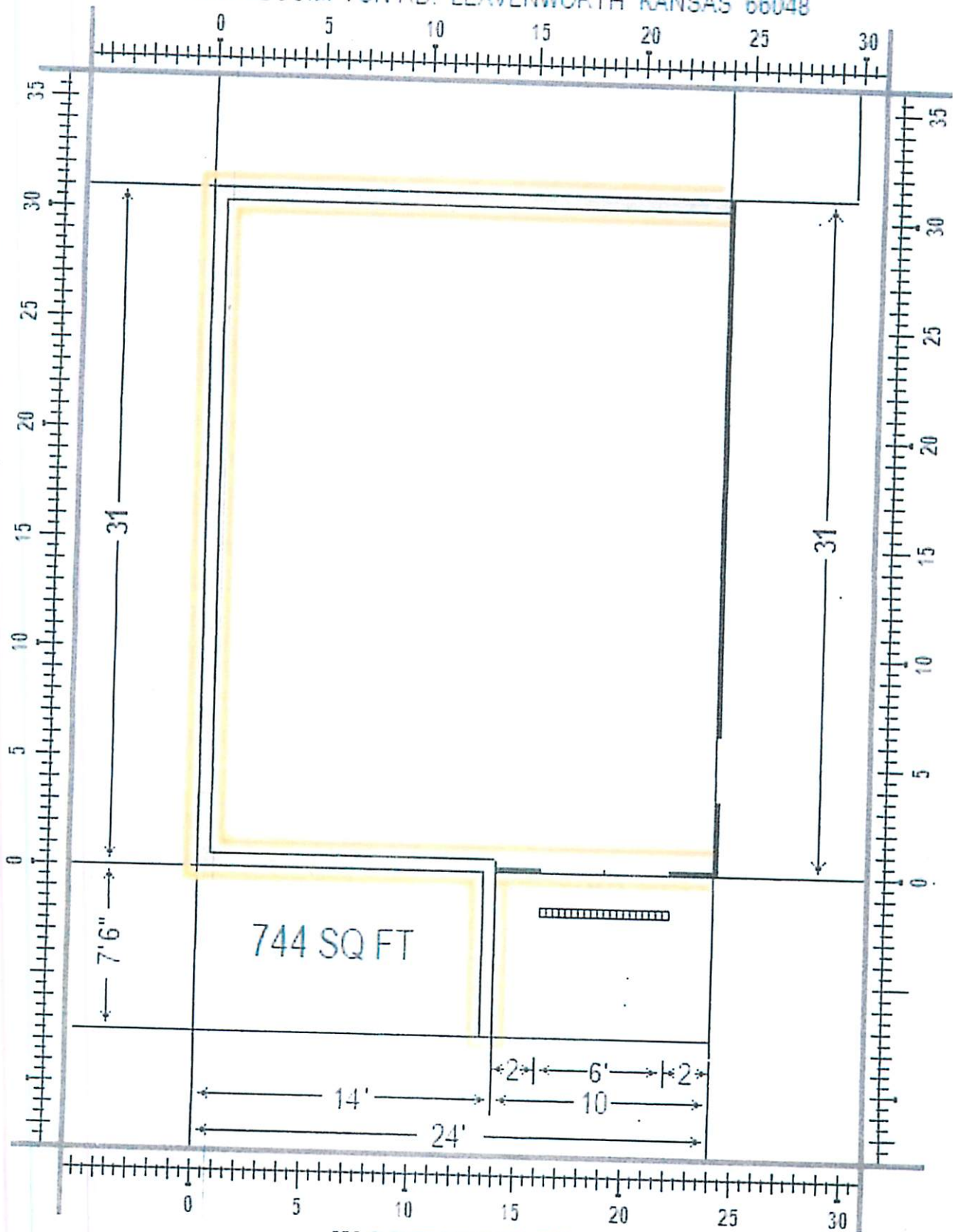


W.G WILEY HOMES

1827 EDGEWOOD CT. LEAVENWORTH, KANSAS, 66048

CELL 913-775-2305 EMAIL WGWILEYHOMESLVKS@GMAIL.COM

POP CORN PIT STOP  
1116 N BROADWAY LEAVENWORTH KASAS 66048  
RUSSEL HOPPER AND DOLLI RICHARDSON  
1963 LECOMPTON RD. LEAVENWORTH KANSAS 66048



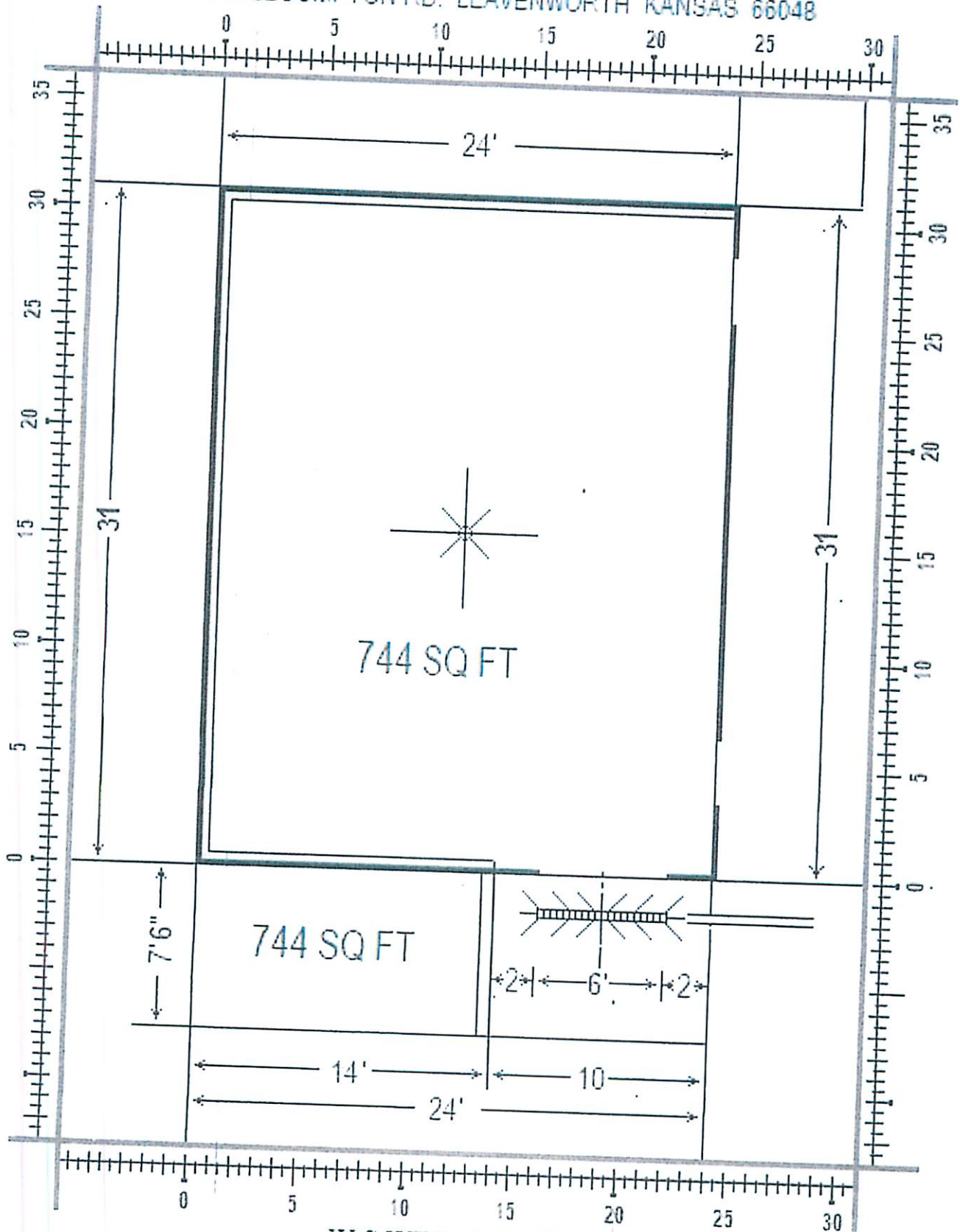
W.G WILEY HOMES

1827 EDGEWOOD CT. LEAVENWORTH, KANSAS, 66048

CELL 913-775-2305 EMAIL WGWILEYHOMESLVKS@GMAIL.COM



POP CORN PIT STOP  
1116 N BROADWAY LEAVENWORTH KASAS 66048  
RUSSEL HOPPER AND DOLLI RICHARDSON  
1963 LECOMPTON RD. LEAVENWORTH KANSAS 66048



W.G WILEY HOMES

1827 EDGEWOOD CT. LEAVENWORTH, KANSAS, 66048

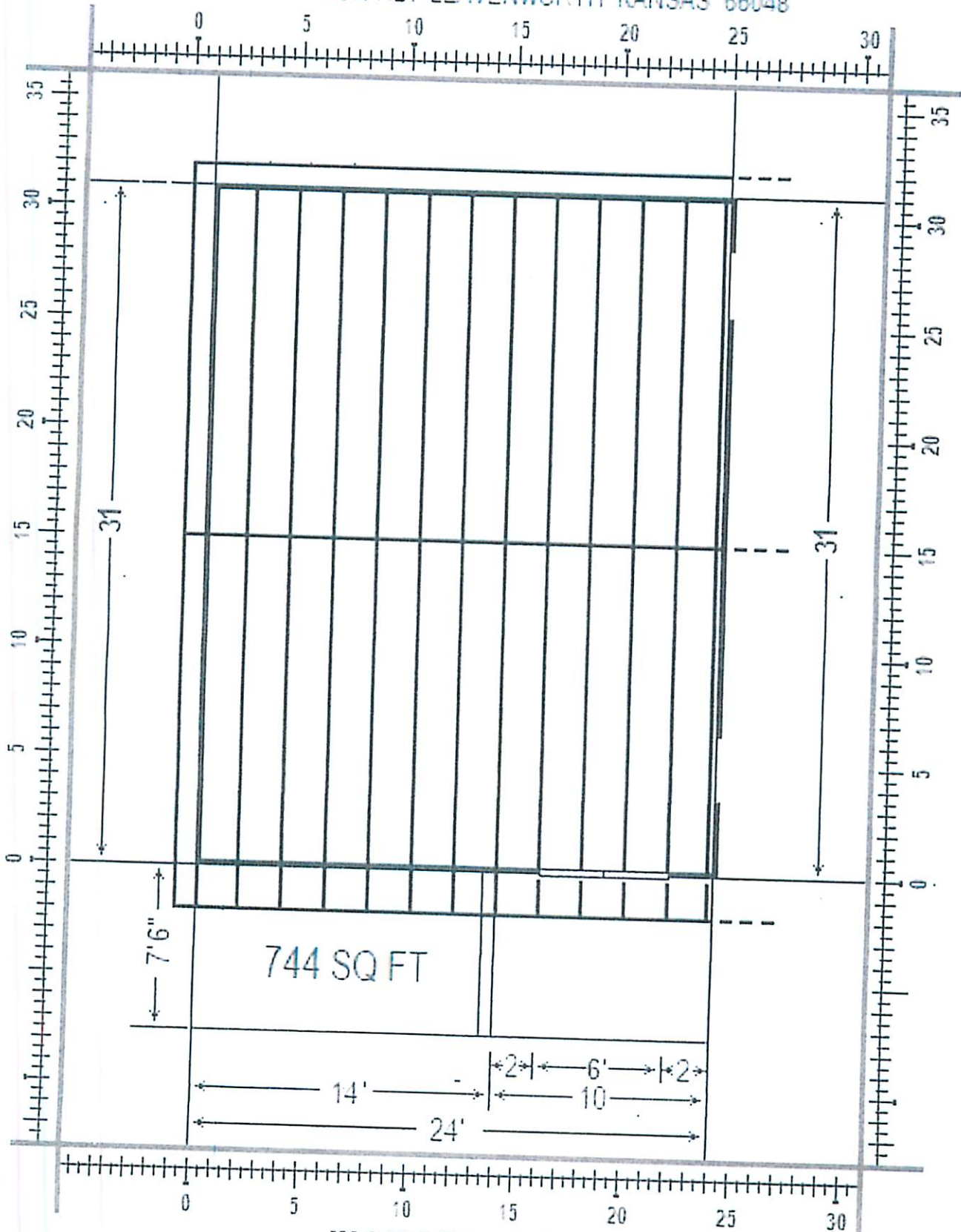
CELL 913-775-2305 EMAIL WGWILEYHOMESLVKS@GMAIL.COM

# POP CORN PIT STOP

1116 N BROADWAY LEAVENWORTH KASAS 66048

RUSSEL HOPPER AND DOLLI RICHARDSON

1963 LECOMPTON RD. LEAVENWORTH KANSAS 66048



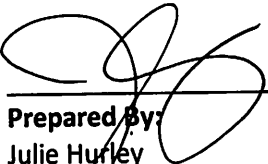
W.G WILEY HOMES

1827 EDGEWOOD CT. LEAVENWORTH, KANSAS, 66048

CELL 913-775-2305 EMAIL WGWILEYHOMESLVKS@GMAIL.COM

**Board of Zoning Appeals Agenda Item  
Variance Request  
2019-14-BZA  
1400 Sanders**

**NOVEMBER 18, 2019**

  
\_\_\_\_\_  
**Prepared By:**  
Julie Hurley  
Director of Planning and  
Community Development

  
\_\_\_\_\_  
**Reviewed By:**  
Paul Kramer  
City Manager

**SUMMARY:**

The applicant is requesting a variance from section 4.04 of the adopted Development Regulations to allow a detached garage greater than 1,200 square feet.

**DISCUSSION:**

The applicants, James and Tammy Pike, are requesting a variance from section 4.04 of the adopted Development Regulations to allow a detached garage larger than 1,200 square feet. The subject property is a 1.01 acre corner lot zoned R1-6, Low Density Single Family Residential District, with an existing single family home on the lot. The subject property is surrounded by other single family homes of a similar size and nature. The applicants also own three additional lots directly to the north of their home totaling approximately 3.5 acres. The additional lots are separated from the subject property by the right-of-way for Sherman Avenue, which is not currently developed as a street, but is dedicated right-of-way.

Section 4.04 of the Development Regulations states that for single-family residences, detached garages on parcels one acre or larger may not exceed 1,200 square feet. The applicants are proposing to install a 2,400 square foot detached garage on their property. Construction of any detached garage would require installation of a paved driveway, regardless of the size of the garage.

**BOARD OF ZONING APPEALS AUTHORITY:**

The Board's authority in this matter is contained in Article XV (Board of Zoning Appeals), Section 11.03.B (Powers and Jurisdictions – Variances)

**Variances:** To authorize in specific cases a variance from the specific terms of these Development Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Development Regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these Development Regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Development Regulations of the City of Leavenworth, Kansas in such district. Rather, variances shall only be granted for the detailed requirements of the district such as area, bulk, yard, parking or screening requirements.

1. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of



the effective date of the Zoning Ordinance, or where by reason of exceptional topographical conditions or other extra-ordinary or exceptional circumstances that the strict application of the terms of the Development Regulations of the City of Leavenworth, Kansas actually prohibits the use of his property in the manner similar to that of other property in the zoning district where it is located.

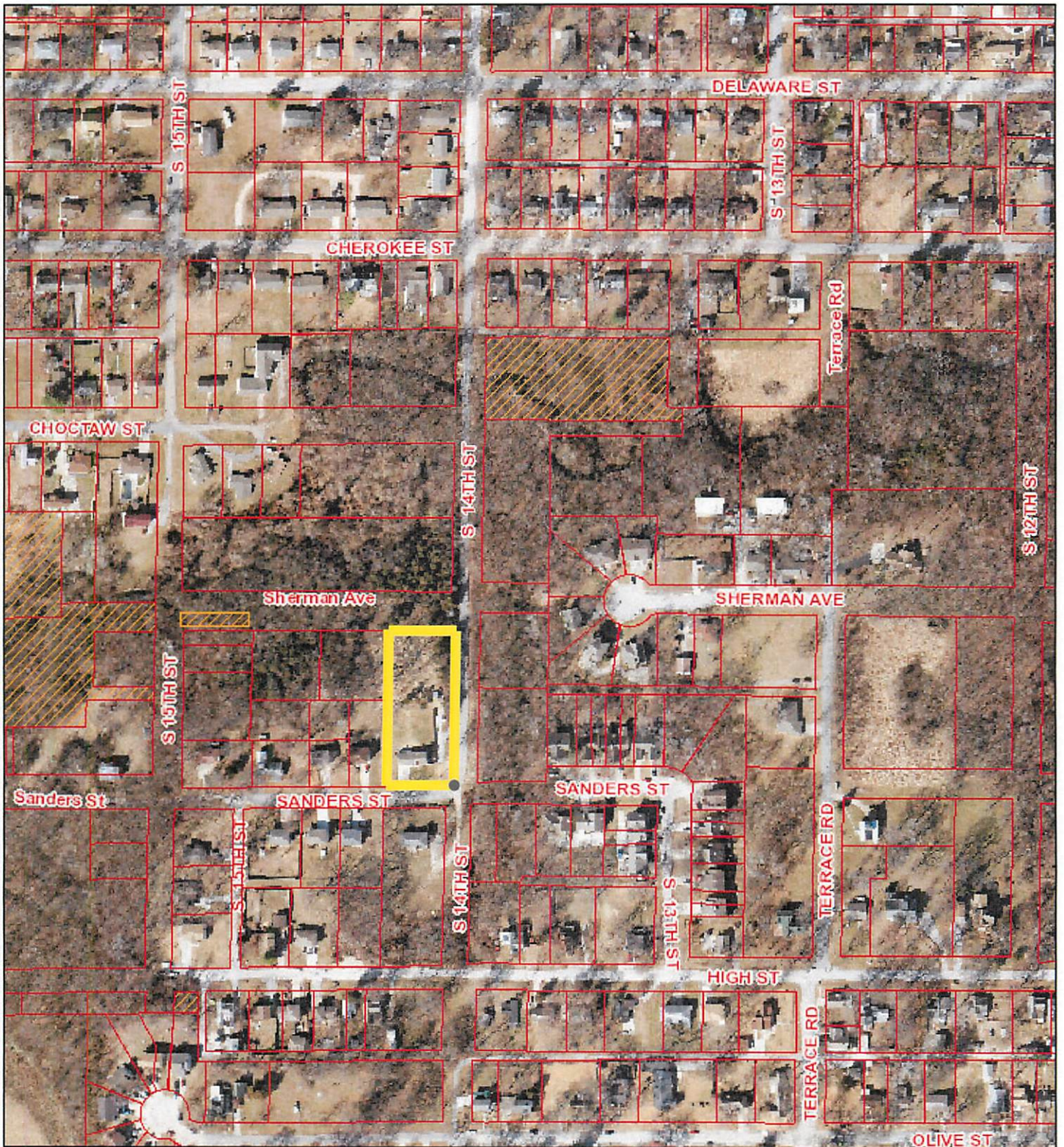
2. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
  - a) *That the variance requested arises from such condition which is unique to the property in question and 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.*
  - b) *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*
  - c) *That the strict application of the provisions of the Development Regulations from which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*
  - d) *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;*
  - e) *That granting of the variance desired will not be opposed to the general spirit and intent of the Development Regulations.*
3. In granting a variance, the Board may impose such conditions, safeguards, and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Development Regulations.

**ACTION:**

Approve or deny the request for a variance from section 4.04 of the Development Regulations to allow a detached garage of greater than 1,200 square feet.

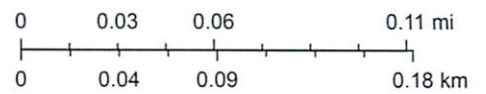


# 2019-14-BZA 1400 Choctaw



11/14/2019, 10:01:28 AM

1:4,514



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community





Case No. 2019-14 BZA

**BOARD OF ZONING APPEALS**  
CITY OF LEAVENWORTH, KANSAS

Application No. 6568  
Fee (non-refundable) \$350.00  
Filing Date 10-4-19  
Fee Paid cash on 10/2/19

Property Zoning R1-6e

**PETITION**

Petitioner: James Pike & Tammy Pike  
(name typed or printed)

Petitioner Address: 1400 Sanders St Leavenworth KS

Email: pikejames@att.net Telephone: 8169180891

Location of Property Involved: \_\_\_\_\_

Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)

Petitioner's Interest in Property: \_\_\_\_\_

Purpose of Petition: Building a larger garage / greater than 1200 sq ft. Section 4.04(B)(3)

- Appeal of Administration Decision \_\_\_\_\_ Date of Decision \_\_\_\_\_  
Section 11.03.A
- Variance:  
Section 11.03.B
- Exception:  
Section 11.03.C

Site Plan or drawing attached (hard & digital copy): Yes  No

I, the undersigned, certify that I am the legal owner of the property described above and that if this request is granted, I will proceed with the actual construction in accordance with the plans submitted within four (4) months from the date of filing or request in writing an extension of time for the Board's consideration

Property Owner Name: James Pike James Pike  
(print name)

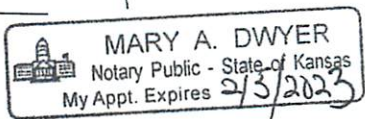
Signature: James Pike Tammy Pike Date: 10/4/19

State of Kansas )  
County of Leavenworth )

Signed or attested before me on 10/4/19 by Mary A. Dwyer

(Signature of Notary Public)

My commission expires: 2/5/2023 (Seal)



FOR OFFICE USE ONLY:	
Date of Publication	<u>10-25-19</u> Date of Hearing: <u>11-18-19</u>
<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<input checked="" type="checkbox"/>	Current list of names and addresses of the owners and the tax identification number of all properties within 200'
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)

10-3-19

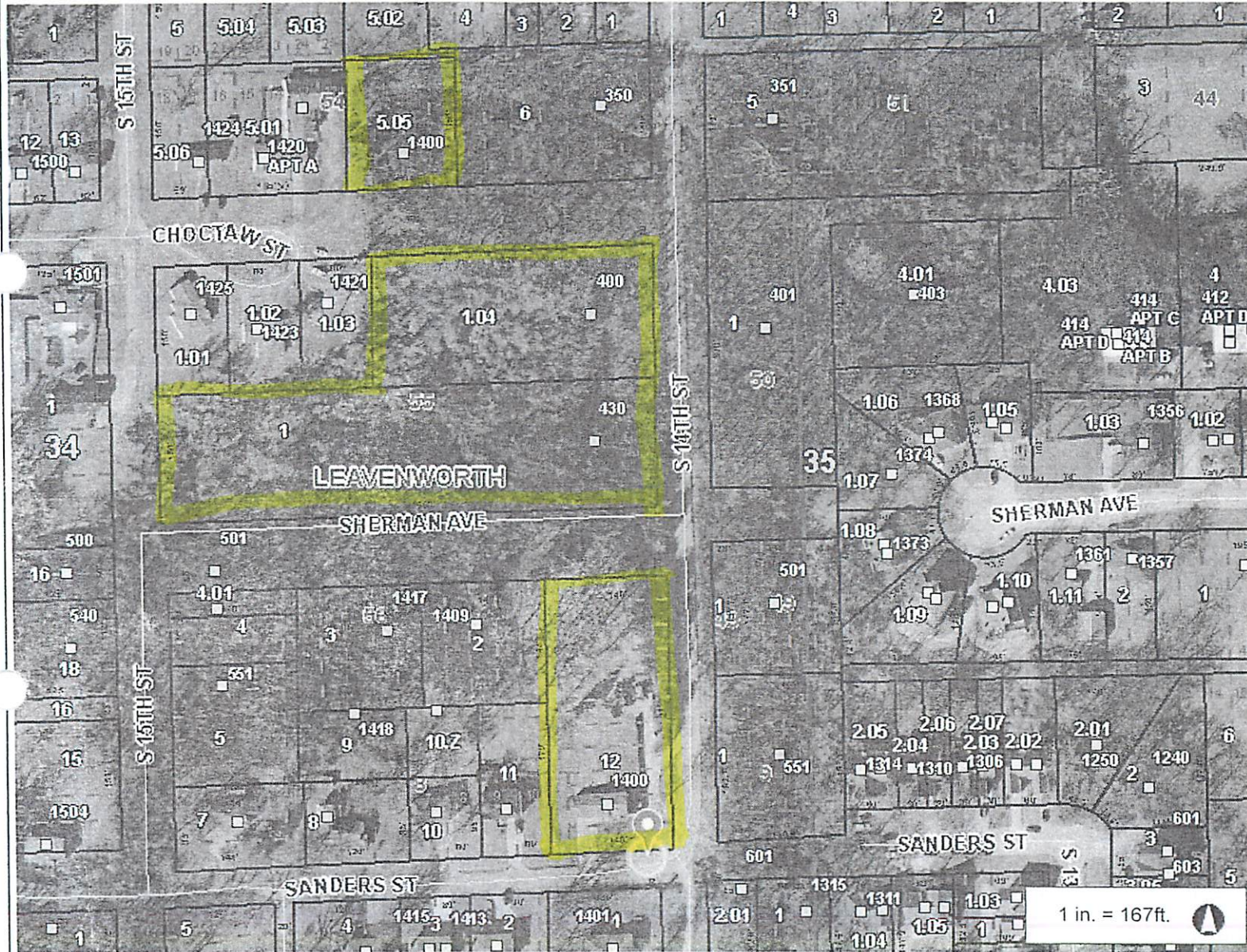
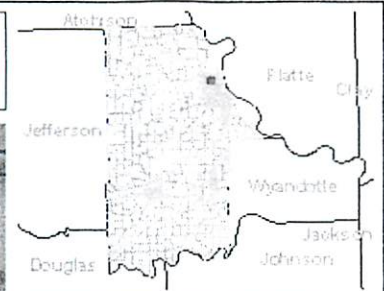
We are looking for approval on putting up a 40x10 garage behind our house. We have 4.5 acres behind our house. On our property we have a house with attached garage. We went around and got approval of our neighbors on the 40x10 garage.

Thanks  
James & Tang  
Pike

James Pike  
816 918 0891



# Leavenworth County, KS



**Legend**

- Address Point
- Parcel
- Parcel Number
- Lot Line
- City Limit Line
- == Major Road
- <all other values>
- == 70
- Road
- + Railroad
- Section
- Section Boundaries
- County Boundary

**Notes**



This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

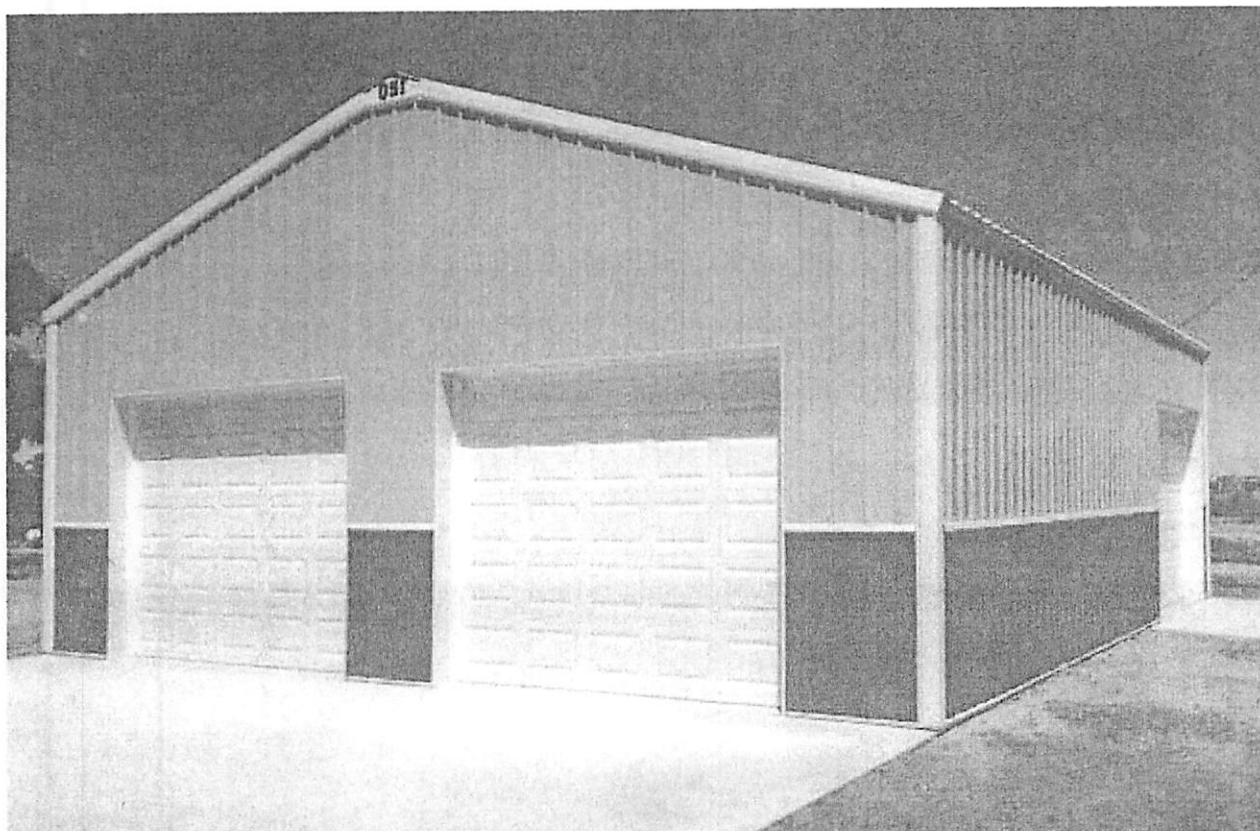
THIS MAP IS NOT TO BE USED FOR NAVIGATION



## Tammy Pike

---

**From:** Tammy Wardlow <tammy.wardlow@gmail.com>  
**Sent:** Sunday, September 29, 2019 7:51 PM  
**To:** Tammy Pike  
**Subject:** part0.jpg

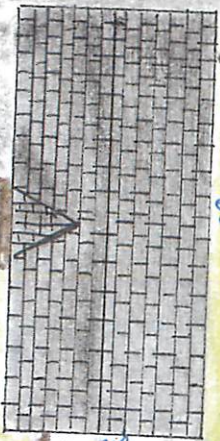


Sent from my iPhone



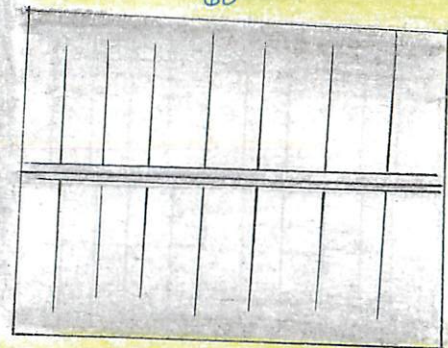
Sanders St

140'



60'

ee



60'

100'

321'

S. 14<sup>th</sup> St.



# Approval for building a separate garage behind our house.

Approval Summary: James and Tamara Pike 1400 Sanders Street, Leavenworth, KS 66048

Action Petitioned for: We are proposing to build a 40x60 garage. We are requesting your support for this improvement to our home.

Date	Signature	Printed Name	Address	Comment
9/29/19	Cindy Hobelman	Cindy Hobelman	1413 Sanders	okay.
9-29-19	Shawn Berg	Shawn Berg	1419 Sanders	OK
9-29-19	Mary Stevens	Mary Stevens	1408 Sanders	okay
9-29-19	Heather Turner	Heather Turner	1401 Sanders	Okay
09/29/19	Cornel Miliam	Cornel Miliam	1409 Sanders	okay