

LEAVENWORTH BOARD OF ZONING APPEALS

Monday, June 21, 2021 – 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS

AGENDA

CALL TO ORDER:

1. Roll Call/Establish Quorum
2. Approval of Minutes: April 19, 2021 **Action:** Motion

OLD BUSINESS:

1. 2021-09 BZA – 1008 QUINCY STREET

Hold a public hearing for Case No. 2021-09 BZA – 1008 Quincy Street, wherein the applicant is requesting a variance to allow a detached garage greater than 900 sqft on a parcel less than one acre in the R1-6 zoning district (High Density Single Family Residential District). This item was tabled at the April 19, 2021 Board of Zoning Appeals meeting for additional information/consideration.

NEW BUSINESS:

2. 2021-16 BZA – 1187 RANDOLPH STREET

Hold a public hearing for Case No. 2021-16 BZA – 1187 Randolph Street, wherein the applicant is requesting a variance to allow a detached garage greater than 900 sqft on a parcel less than one acre in the R1-6 zoning district (High Density Single Family Residential District) and to allow a reduction to the required side yard setback.

ADJOURN



**BOARD OF ZONING APPEALS MINUTES
MONDAY, April 19, 2021, 6:00 P.M.
COMMISSION ROOM, CITY HALL
LEAVENWORTH, KANSAS**

CALL TO ORDER:

Board Members Present

Mike Bogner
Ron Bates
Kathy Kem

Board Member(s) Absent

Dick Gervasini
Jan Horvath

City Staff Present

Jackie Porter
Michelle Baragary

Mike Bogner, Ron Bates, Jackie Porter and Michelle Baragary were present in the Commission Chambers. Kathy Kem participated remotely. Dick Gervasini and Jan Horvath were absent.

Chairman Bogner called the meeting to order at 6:00 p.m. and noted a quorum was present.

APPROVAL OF MINUTES: March 15, 2021

Chairman Bogner asked for comments, changes or a motion on the minutes presented for approval: March 15, 2021. Mr. Bates moved to approve the minutes as presented, seconded by Ms. Kem and approved by a vote of 3-0.

OLD BUSINESS:

None

NEW BUSINESS:

1. CASE NO. 2021-19 BZA – 1008 QUINCY STREET

Hold a public hearing for Case No. 2021-19 BZA – 1008 Quincy Street, wherein the applicant is requesting a variance to allow a detached garage greater than 900 sqft on a parcel less than one acre in the R1-6 zoning district, High Density Single Family Residential District.

Chairman Bogner called for the staff report.

City Planner Jackie Porter stated the applicant and owner Bill Seber is requesting a variance from sections 4.04.B.3 of the adopted Development Regulations.

- 4.04.B.3 – For single-family residences: a garage not to exceed 900 sqft on parcels less than one acre, and 1,200 sqft on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.

The proposed accessory structure is going to be located at the Northwest corner of the lot. The lot is located at 1008 Quincy Street, which is currently zoned as High Density Single Family Residential District, R1-6, with a single-family dwelling and an accessory structure located on the Northeast corner of the lot. The subject property is surrounded by properties that are zoned R1-6, High Density Single Family Residential District, and the property to the East and Southeast are zoned Multiple Family Residential District, R-MF.

The applicant wants to build a 1,200 sqft accessory structure with the intent to have an 810 sqft loft to display years of collectibles: toys, signs, cars, motorcycles, G scale train and track and other types of collectibles, as well as storage of parts for the 1955 Chevy that will be built in the garage.

We received one comment from a neighbor located at 1016 Quincy in favor of the variance request.

Chairman Bogner asked for questions about the staff report.

Mr. Bogner asked what the total square footage is to include the loft.

Ms. Porter responded the total accessibility is 2,010 sqft.

Mr. Bogner stated that exceeds the square footage of the main residence based on the tax records. Mr. Bogner asked if there is an issue with an accessory structure being larger than the principle dwelling.

Ms. Porter stated it is based on the footprint of the accessory structure, which is 1,200 sqft, not the total square footage.

Mr. Bogner stated there will be a second floor that is going to be habitable.

Ms. Porter stated her understanding is that it is just the footprint of the accessory structure not the actual usable space exceeding the primary dwelling.

Mr. Bogner stated there are two different matters: 1) the accessory structure exceeds 900 sqft and 2) since it is going to have a habitable space above it, the total square foot of that structure is larger than the principle structure.

Ms. Porter stated to make it habitable would require water. The loft will be to store collectibles.

Mr. Bogner stated the accessory structure will still exceed the square footage of the main dwelling unit. Furthermore, there is already two sheds on the property and the maximum number of accessory structures is limited to two.

Bill Seber, applicant, stated he plans on installing a foundation where the patio is in the backyard to add a dining room and a bathroom.

Mr. Bogner asked if the garage will be a standalone garage or will it somehow be attached to the house.

Mr. Seber responded the garage would not be attached to the house. Furthermore, the dining room addition would be approximately 14' x 26'.

Mr. Bogner asked if there would be plumbing (bathroom, sinks, etc.) in the loft area of the detached accessory structure.

Mr. Seber responded there would be a toilet, urinal and sink.

Referring to the GIS map, Ms. Porter stated it appears there is only one other accessory structure on the subject property.

Mr. Bogner and Ms. Kem stated they drove by the subject property and there are two existing sheds on the property.

Ms. Porter stated that triggers an additional variance that would need to be applied for. A new application would be required in order to send notification of the additional variance to property owners within 200' of the subject property. Ms. Porter further informed the Mr. Seber an additional variance would not be required if he removed one of the existing sheds.

Mr. Bogner stated rather than a second variance, the board could make the approval contingent upon one of the existing accessory structures being removed prior to building the proposed detached garage.

Ms. Kem asked if the issue of the square footage of the detached garage and loft in relation to the square footage of the house has been resolved.

After reviewing the Development Regulations section 4.04.B.2.e, Ms. Porter responded the unfinished portion, which is the loft, would not be considered toward the total square footage of the detached garage.

Mr. Bogner stated the loft is finished space because it will have a bathroom.

Ms. Porter stated the bathroom would be in the downstairs portion of the garage.

Mr. Seber confirmed this.

Mr. Bogner asked what the definition is of unfinished space.

Referring back to section 4.04.B.2.e of the Development Regulations, Mr. Bates stated the unfinished space refers to the principle dwelling:

“In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted”.

Mr. Bates further stated he feels as though the square footage of the loft should be included in the total square footage of the accessory structure. Much like the square footage of the second level of a two-story house would be included in the total square footage of the house, not just the footprint of the house.

Ms. Porter stated the intent is the intensity of use; how large the structures footprint is in itself. Ms. Porter stated her interpretation is ground coverage versus total square footage.

Mr. Bogner stated that is not how the tax assessor measures it. The tax assessor measures livable finished space.

Ms. Porter stated she only deals with exterior footprint.

Mr. Bogner stated that is incorrect.

Ms. Kem asked what the size of the house is.

Mr. Bogner stated according to county records, the calculated area and main floor living area are listed as the same at 1,114 sqft. The requested detached garage would be 1,200 sqft plus 810 sqft for the loft.

Ms. Kem asked if the detached garage will be heated.

Mr. Seber responded in the affirmative.

Ms. Kem asked if the requested detached accessory structure will need to go through a site plan review.

Ms. Baragary stated a site plan review would be required before issuance of a building permit.

Ms. Kem stated her concern about the steep grade that would need to disappear to get the structure back there and what that will do to water runoff.

Ms. Porter stated that would go through Building Inspections and Public Works.

Mr. Seber stated he has already contacted the City about looking at the alley because there are problems with runoff coming out of the alley. Mr. Seber would like to install a curb when he installs the detached garage so the water stays in the alley instead of crossing over into his yard.

Ms. Porter stated the requested variance will include 4.04.B.3 and 4.04.B.2.e to allow for the requested detached structure to be larger than the principle dwelling.

Ms. Kem asked how the board can include an additional variance if it was not included in the original application. Legal requirements will not allow the board to add to a variance application. New notifications would need to be sent/published in order to meet state statute requirements.

Ms. Baragary stated the board can add the additional variance request for the accessory structure to be larger than the principal dwelling because the request is for the same accessory structure and the intent has not changed.

Mr. Bates stated he feels this item should be tabled because the applicant would need to submit a new variance request to allow the accessory structure to be larger than the main building; and the new variance request would need to be advertised.

Ms. Kem stated the board could proceed with the case but would not approve the structure for the full 1,200 sqft. Instead, the accessory structure would be approved for the number of square feet the board finds permissible on however they interpret this ordinance.

Ms. Porter explained to the applicant, the board can move forward with the variance request but the accessory structure would need to be under 1,100 sqft.

Mr. Bates stated that is assuming they are not counting the loft area as a part of the total square feet of the building.

Mr. Seber asked if a 30' x 30' accessory structure with a loft be allowed.

Staff stated if the loft space is included in the total square footage, then a variance would be required.

Ms. Kem stated most jurisdictions she has worked in typically uses the footprint of the accessory structure and does not count the loft as part of the square footage.

Mr. Bogner stated if that area was not heated, cooled and had electricity that the definition of a loft would be different in this particular case.

After some research, Ms. Porter stated the board may continue with the two variances: 1) an accessory structure larger than 900 sqft and 2) an accessory structure larger than the main structure. The reasoning is the second variance is for the same accessory structure and not a different accessory structure. The intent is still to have a 1,200 sqft accessory structure with an 810 sqft loft.

Mr. Bogner and Ms. Kem stated they are not comfortable moving forward with the second variance request since it was not included on the application.

Mr. Bogner called for a motion.

Ms. Kem moved to table the item for additional information/consideration, specifically whether or not the square footage of the loft is counted toward the square footage of the accessory structure, if an accessory structure can ever be larger than the principal building and even if it's permitted would an additional variance be required to allow an accessory structure bigger than the principal structure. Mr. Bogner seconded the motion and the motion to table the item was approved by a vote of 3-0.

Ms. Kem also requested a scale drawing of how the accessory structure is going to fit on that site to include distance from the principal structure, shed and property lines.

Mr. Seber stated the garage will not have windows.

Mr. Bogner requested a more accurate picture depicting what the accessory structure will look like.


Mr. Bates moved to adjourn, seconded by Ms. Kem and approved by a vote of 3-0.


The meeting adjourned at 6:46 p.m.

Minutes taken by Administrative Assistant Michelle Baragary.

Board of Zoning Appeals Agenda Item
Variance Request
2021-09 BZA
1008 Quincy Street

JUNE 21, 2021


Prepared By:
Jacquelyn Porter
City Planner


Reviewed By:
for Paul Kramer
City Manager

SUMMARY:

The applicant is requesting a variance from sections 4.04.B.2 and 4.04.B.3 of the adopted Development Regulations to allow an accessory structure greater than the square footage of the primary use, and in excess of 900 square feet.

DISCUSSION:

The applicant and owner, Bill Seber, is requesting a variance from the above noted sections of the adopted Development Regulations to allow construction of a detached garage that is larger in square footage than the primary structure, and that is greater than 900 square feet.

- *4.04.B.2-The total square footage of all detached structures functioning as accessory use in residential districts shall be less than the square footage of the primary use on the parcel. In determining square footage of the primary use (residential), attached garages and unfinished space shall not be counted. No more than two detached accessory structures shall be allowed per building lot or parcel whichever is larger in area.*
- *4.04.B.3-For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.*

The applicant proposes to construct a 2,010 square foot detached garage at the northwest corner of the property, with direct access off the adjacent alley. The property is currently zoned as High-Density Single-Family Residential District, R1-6 with a single-family dwelling and two accessory structures. The applicant has agreed to remove one of the existing accessory structures prior to construction of the proposed garage in order to comply with the maximum number of accessory structures permitted on one residential lot.

The proposed garage has a footprint of 1,200 square feet with an 810 square foot second story, for a total of 2,010 square feet, which is in excess of the existing 1,114 square foot home on the property. The proposed use of the structure is to display years of collectables: toys, signs, cars, motorcycles, G scale train and track and other types of collectables, as well as storage of parts for the 1955 Chevy that will be built in the garage.

After the required notice was published, staff received one comment from a neighbor located at 1016 Quincy in favor of the variance request.

This item was previously heard at the April 19, 2021 BZA meeting and was tabled in order to provide clarification on the specific sections of the Development Regulations requiring a variance, and for clarification on the notification procedure. KSA 12-759 states that:

The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning ordinance or resolution as hereinafter provided. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper in the case of a city and in the official county newspaper in the case of a county at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the appropriate planning commission.

Staff has determined that the statutory notification requirements were met.

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.

Clarification of section 4.04.B.2 on the calculation of the total square footage, "to include second stories of all detached structures", is part of the 2021 text amendments to the Development Regulations that are being presented to the City Commission on May 25th.

ACTION:

Approve or deny the request for a variance from section 4.04.B.2 and 4.04.B.3 of the Development Regulations to allow a 2,010 square foot accessory structure at 1008 Quincy with the following condition:

1. One of the existing accessory structures shall be removed prior to the issuance of a building permit for the proposed detached accessory structure.

ATTACHMENTS:

- Letter of Intent submitted by Bill Sever
- 1016 Quincy email correspondence
- Aerial and Zoning Maps
- Application

**Bill Seber
1008 Quincy St
Leavenworth, Ks 66048
913-704-9005**

Garage Height as follows:

On the east and south side of the garage is 26 feet tall. On the west and north side (alley) it will be around 20 feet tall, for it is set down 8 feet in the ground.

Loft size is 810 square feet.

My intentions for the Loft:

I am planing on useing this space to display all my years of collecables, toys, signs, cars, motorcycles, G scale train and track and many other types of collecables. Also for storage of parts for my 1955 Chevy that I plan on building in my garage.

Michelle Baragary

From: gfevurly@gmail.com
Sent: Tuesday, March 2, 2021 12:54 PM
To: Michelle Baragary
Subject: Re: Bill Seber

Yes I'm in favor of the garage being built.

Sent from my iPhone

> On Mar 2, 2021, at 12:32, Michelle Baragary <mbaragary@firstcity.org> wrote:

>
> Gary,
> The garage will be 30' x 40' (not 20'x30'). Please let us know if you are still in favor of the variance request.
> Thank you,

>
> Michelle Baragary
> Administrative Assistant
> City of Leavenworth
> 100 N. 5th Street
> Leavenworth, KS 66048
> (913) 680-2626
> www.leavenworthks.org

> -----Original Message-----

> From: gfevurly@gmail.com <gfevurly@gmail.com>
> Sent: Tuesday, March 2, 2021 6:58 AM
> To: Michelle Baragary <mbaragary@firstcity.org>
> Subject: Bill Seber

>
> I spoke with my neighbor, Bill Seber about a garage he is wanting to build. He told me it would be 20x30, and 26 feet tall. I am okay with this.

> Thanks, Gary Fevurly
> 1016 Quincy St.
> Leavenworth, Kansas

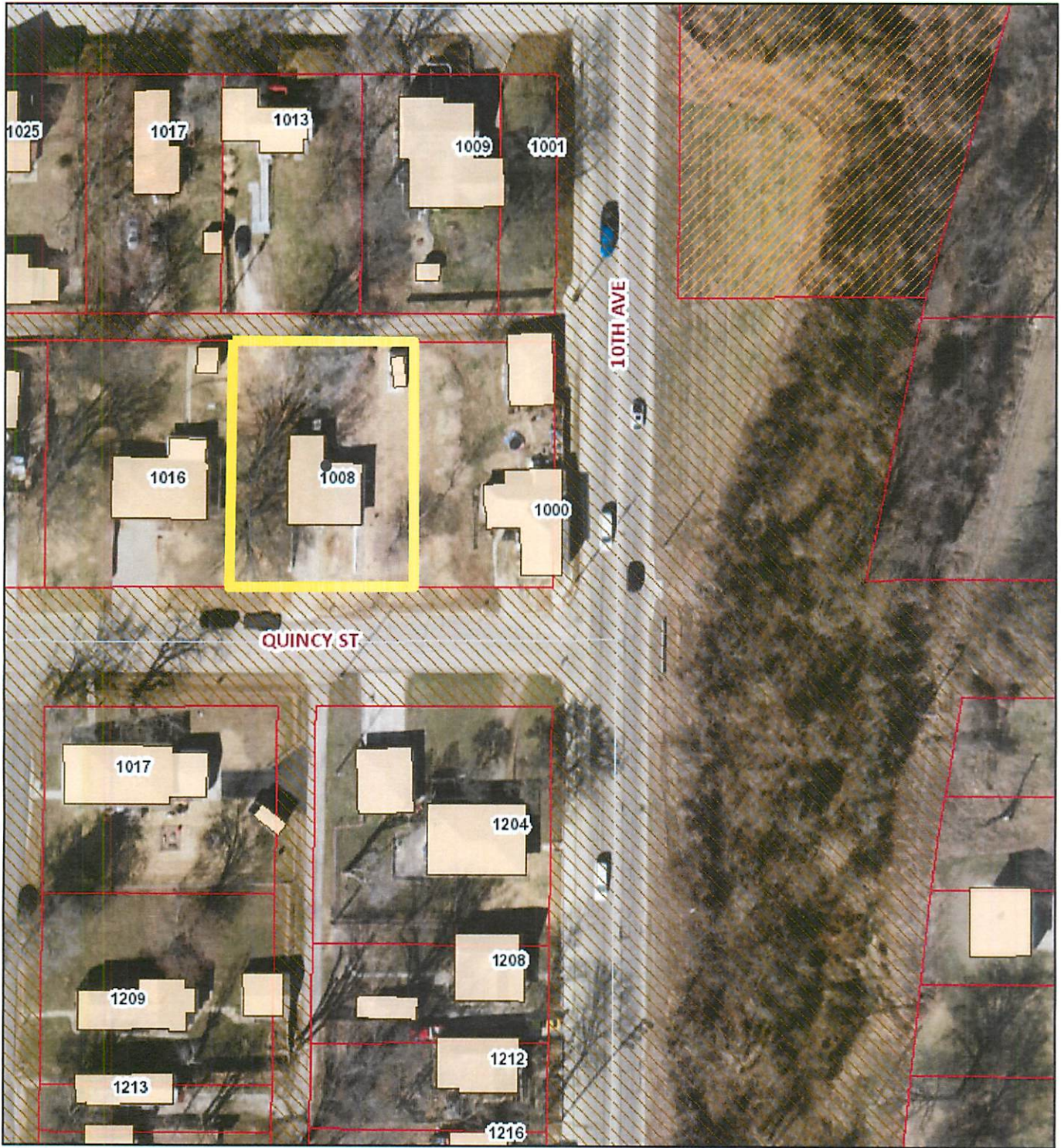
>
> Sent from my iPhone

> *** THIS EMAIL CAME FROM AN EXTERNAL SOURCE. PLEASE BE CAUTIOUS WHEN CLICKING ON LINKS OR ATTACHMENTS.

> ***The message and documents transmitted with this e-mail contain confidential or privileged information belonging to the sender and it is intended only for the individual or entity to whom it is addressed. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you are not an intended recipient you must not use, disclose, disseminate, copy or print its contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy the message and any attachments. ***

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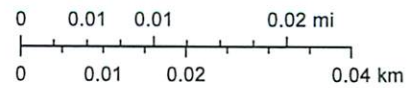
1008 Quincy St Aerial Map



4/13/2021, 10:47:27 AM

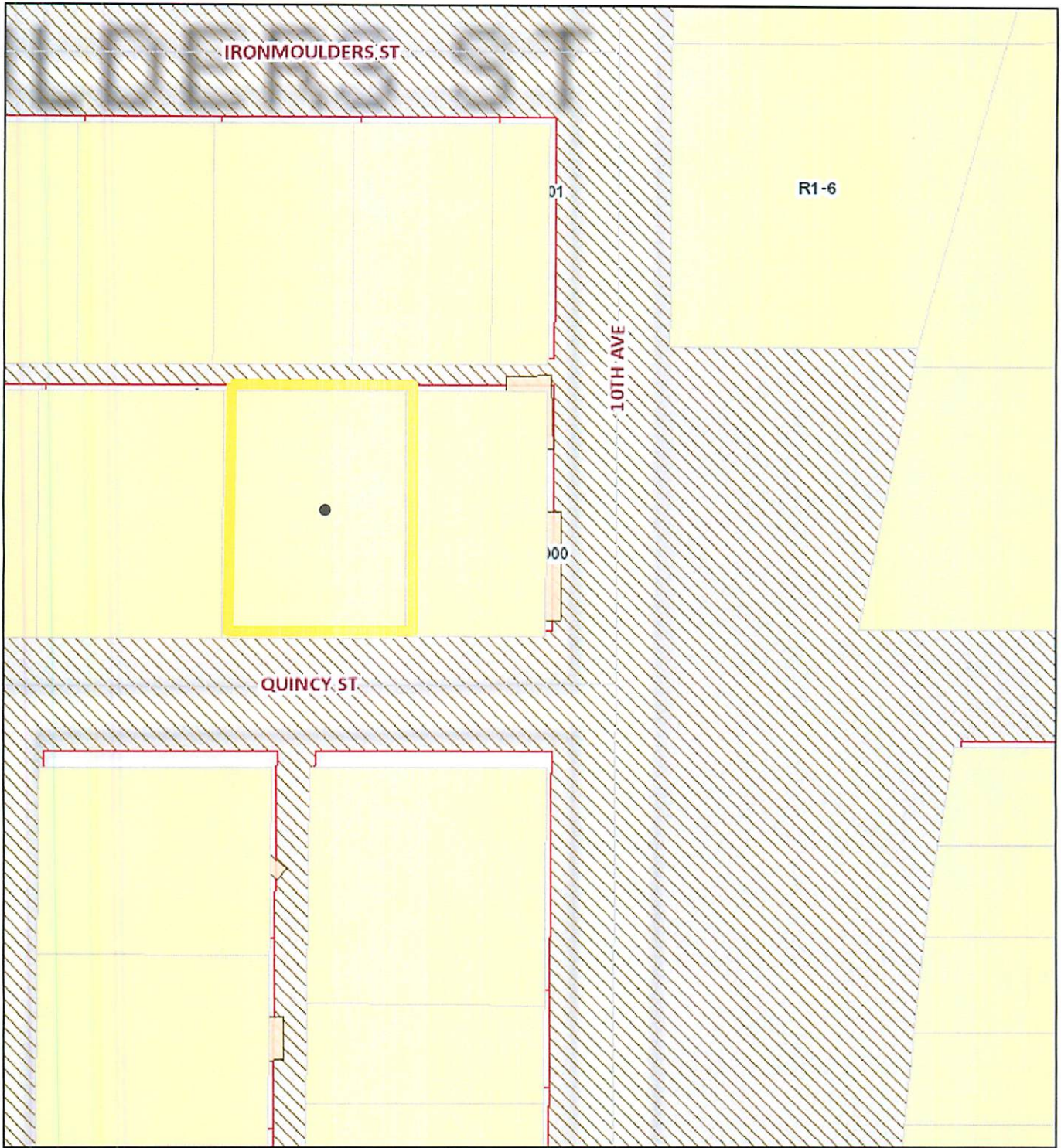
1:1,128

- Override 1
- Parcels (City Owned)
- Parcels_Current
- Buildings
- Address (Points)
- Missouri River
- Lansing City Limits
- Ft Leavenworth Military Installation
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline



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

1008 Quincy St Zoning Map



4/13/2021, 10:48:35 AM

- | | |
|-----------------------|------|
| Override 1 | MP |
| Zoning_CURRENT | NBD |
| CBD | OBD |
| GBD | PUD |
| I-1 | R-MF |
| I-2 | |

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BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

Case No.: 2021-09 BZA
Application No. 8926
Fee (non-refundable) \$350.00
Filing Date 2-26-21
Hearing Date 4-19-21
Publication Date 3-24-21

PETITION

Property Zoning: Residential
Location of Subject Property: 1008 QUINCY ST., Leavenworth, Kansas 66048
Legal Description: (Attach full legal description provided by the REGISTER OF DEEDS OFFICE)
Petitioner: Bill Seber
Petitioner Address: 1008 QUINCY ST., Leavenworth, Kansas 66048
Email: billseber@yahoo.com Telephone: 913-704-9005
Petitioner's Interest in Property: owner
Purpose of Petition: _____

- Appeal of Administration Decision _____ Date of Decision _____
Section 11.03.A
- Variance: Requesting a Variance for 30'x40' detached garage - 300 sq.ft. larger than the allowed 900 sq.ft. garage
Section 11.03.B
- Exception: 4.04.B.3
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 (print): BILL SEBER

Signature: [Signature] Date: 2-26-21

State of Kansas)

County of Leavenworth)

Signed or attested before me on 2-26-21 by Bill Seber

Notary Public: Michelle Baragary

My appointment expires: 8-16-24 (Seal)



NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized. Check list below...

- Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
- Full legal description of subject property obtained from the Register of Deeds Office (913-684-0424)
- Certified list of property owners within two hundred (200) feet of the subject property – County GIS Department 913-684-0448
- A filing fee of Three Hundred- fifty dollars (\$350)

CITY OF LEAVENWORTH BOARD OF ZONING APPEALS

APPLICATION AND PROCEDURES (Applicant please read carefully)

- 1. Applications for hearings may be obtained at the office of the Secretary, Board of Zoning Appeals, Community Development Department, City Hall.**
- 2. The applicant is responsible for completing the application in full.**
- 3. The application must be accompanied by a plot plan, a drawing and any other pertinent data which would assist the Board of Zoning Appeals in understanding what the applicant desires.**
- 4. The application must be accompanied by a current list of names and addresses of the owners and the tax identification number of all properties within 200 ft. of the exterior boundaries of the property considered in the application. If the property is adjacent to the city limits, the area shall be expanded to 1,000 ft. of property owners outside the city limits. The applicant shall obtain a certified ownership list from the GIS Department of Leavenworth County (913-684-0448).**
- 5. An application for an appeal to an administrative decision, interpretation or determination must be filed within ten (10) days after the decision, interpretation or determination has been rendered and furnished to the appellant in writing.**
- 6. A filing fee of three hundred fifty dollars (\$350) shall be paid to the City Clerk at the time the application is filed.**
- 7. Upon receipt of the properly executed petition with accompanying documents, the City Clerk shall forward the same to the Board of Zoning Appeals Secretary, who will schedule the hearing for the next regular meeting of the Board of Zoning Appeals and publish the legal notice for this hearing.**
- 8. The appellant and all property owners within 200' of the property subject to the variance or appeal will be notified in writing of the date of the public hearing by the BZA Secretary.**
- 9. Petitions will take a minimum of 45 days for complete action. The amount of time will depend on when the petition is filed in respect to the Board of Zoning Appeals' regularly scheduled meeting.**

In granting a variance the Board must find as follows: (from the Development Regulations under Section 11.03.B.2)

1. *The applicant must show that his property was acquired in good faith and whereby 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 whereby reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the Zoning Ordinance 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.*

- a. *The Board shall make a determination on each condition, and the finding shall be entered in the record.*
- b. *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;*
- c. *That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;*
- d. *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;*
- e. *That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;*
- f. *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.*

In addition to the above requirements, certain applications require additional information as follows:

1. Appeals

	a. An application for an appeal shall be filed within ten (10) days after a ruling has been made by an administrative official and furnished to the appellant in writing.
	b. A copy of the written ruling of the administrative official which the applicant believes to be in error shall be submitted.
	c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
	d. Where necessary, a plot plan, drawn to scale, in duplicate, showing existing and proposed plans for the area in question shall be submitted.

2. Variances

	a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating the enforcement provisions of the specific regulations from which the variance is requested, and outline in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 11.03.B.2 (a)-(f) of this article.
	b. The applicant shall submit two (2) hard copies and one (1) digital copy of a sketch drawn to scale and showing the lot or lots included in the application, the structure existing thereon, and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

3. Exceptions

	a. The applicant shall submit a statement in writing justifying the exception applied for and indicating under which article and section of the Zoning Ordinance the Board of Zoning Appeals is believed to have jurisdiction.
	b. The applicant shall prepare and submit at the time of filing the application: two (2) hard copies and one (1) digital copy of a detailed site plan drawn to scale showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the Board in consideration of the application.

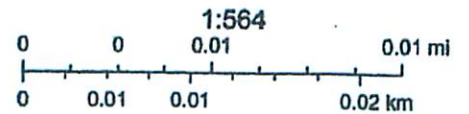
ArcGIS Web Map



2/4/2021, 1:28:29 PM

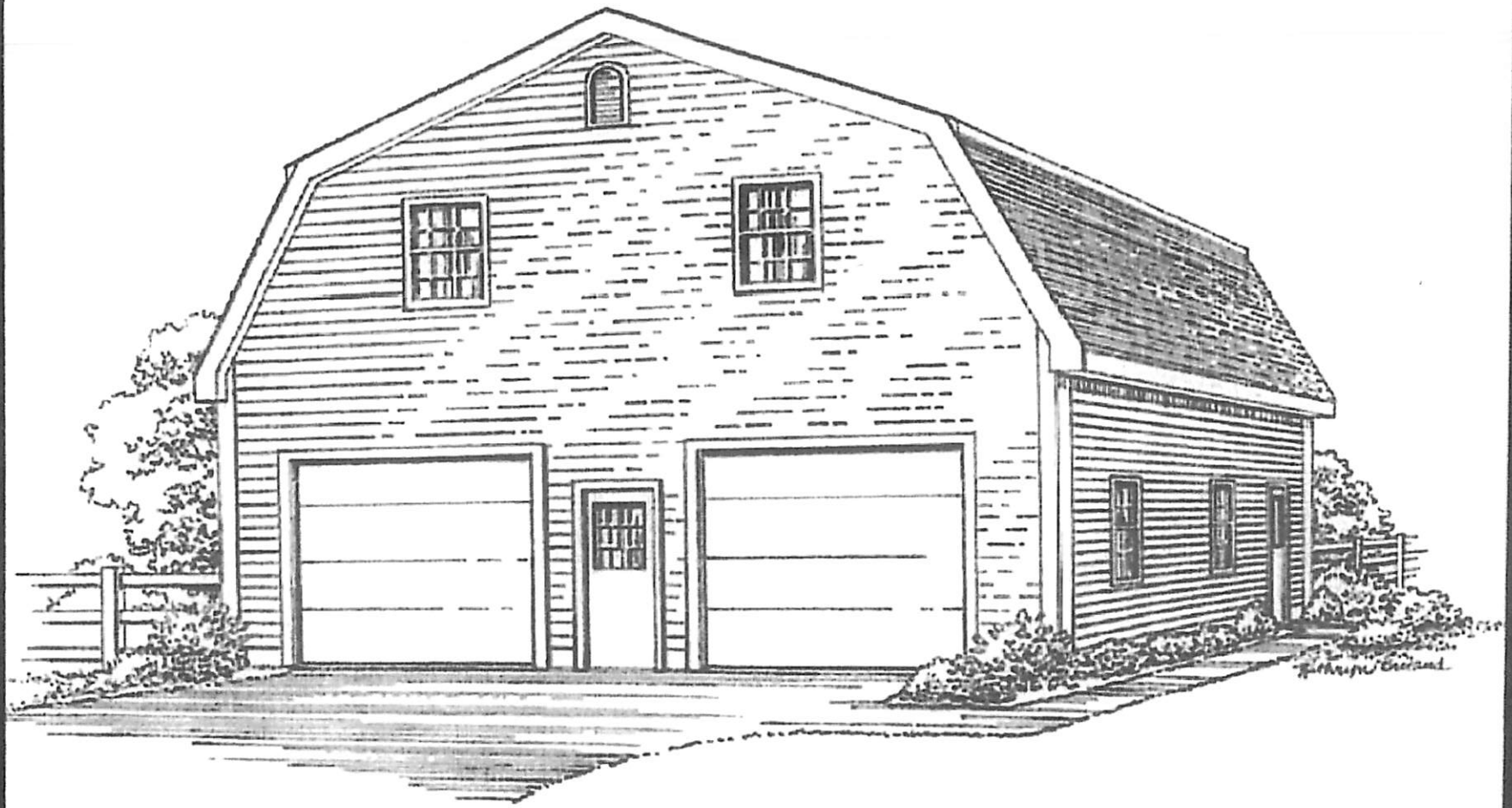
• 11,721 sq ft

-  Parcels (City Owned)
-  Parcels_Current
-  Buildings
-  Address (Points)
-  Missouri River
-  Lansing City Limits
-  Ft Leavenworth Military Installation
-  Leavenworth City Limits
-  City Right-of-Way



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

Web AppBuilder for ArcGIS



30 x 40 2 Stall Gambrel Garage Building Plans
w/ loft

8921

McCAFFREE-SHORT TITLE COMPANY, INC.
4th & Delaware Streets
Leavenworth, Kansas

DEED—GENERAL WARRANTY—PHOTOSTATIC

P-1-2TW

FROM

THIS DEED, Made this 1st day of July

TO

19 77, between
Thomas E. Dillon and Carmel R. Dillon husband and wife

Entered in Transfer Record, 57 in
my office, this 5th day of
July 19 77
Shirley Gregory
County Clerk

of Leavenworth County, in the State of Kansas

of the first part, and
Billy John Seber, a single person

STATE OF KANSAS, County, } ss.

of Leavenworth County, in the State of Kansas

of the second part,

This instrument was filed for record on the
day of
19 at o'clock M. and
duly recorded in Book of Deeds,
at page

WITNESSETH, That parties of the first part, in consideration of

the sum of One and no/100-----and no/100 Dollars,

the receipt of which is hereby acknowledged, do by these presents

By _____ Register of Deeds
Deputy

convey and warrant unto party of the second part,

FEES
Register of Deeds, for recording: \$ 5.00
County Clerk, for transfer: \$
Total \$

heirs and assigns, all the following-described real estate situated in the County
of Leavenworth and State of Kansas, to-wit:

Lots 41 through 44 inclusive, Block, 10 STILLINGS' SUBDIVISION, City of Leavenworth,
Leavenworth County, Kansas.

STATE OF KANSAS
COUNTY OF LEAVENWORTH
FILED FOR RECORD

1977 JUL 5 PM 2 06

Rosa Palmer
DEBRA L. PALMER
REGISTER OF DEEDS
DEP.

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances
thereunto belonging or in anywise appertaining, forever.

And party of the first part, for themselves, their heirs, executors and administrators, do
hereby covenant, promise and agree to and with party of the second part that at the delivery of these presents
lawfully seized in his own right, of an absolute and indefeasible estate of inheritance, in fee
simple, of and in all and singular the above granted and described premises, with the appurtenances; that the same are free,
clear, discharged and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assess-
ments and incumbrances of what nature or kind soever except:

and that they will warrant and forever defend the same unto party of second part,
heirs and assigns, against parties of the first part, their heirs, and all and every person or persons
whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, parties of the first part have hereunto subscribed their name, the day
and year first above written.

Thomas E. Dillon
Carmel R. Dillon
Carmel R. Dillon

STATE OF KANSAS, LEAVENWORTH COUNTY, ss.
BE IT REMEMBERED, That on this 1st day of July, 19 77, before me, the
undersigned, in and for the County and State aforesaid, came

SHIRLEY GREGORY
STATE NOTARY PUBLIC
LEAVENWORTH COUNTY, KANSAS
My Appt. Exp. 11-6-80

Thomas E. Dillon and Carmel R. Dillon, husband and wife
who are personally known to me to be the same persons who executed the foregoing
deed, and duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official
seal on the day and year last above written.

My commission expires 19

Shirley Gregory Notary Public.

ATTY. REV. 10/75
22909 SM 10-75

BOOK 528 PAGE 1670

Property Radius Search



Legend

- City Limits
- 200' Buffer
- Parcel Searched
- Parcels in Buffer (19)
- Parcel Boundaries

Board of Zoning Appeals Agenda Item
Variance Request
2021-16 BZA
1187 Randolph Street

JUNE 21, 2021



Prepared By:
Jacquelyn Porter
City Planner



Reviewed By:
for Paul Kramer
City Manager

SUMMARY:

The applicant is requesting a variance from sections 4.03.E and 4.04.B.3 of the adopted Development Regulations to allow a reduction to the required accessory structure setback, and to allow an accessory structure larger than 900 square feet.

DISCUSSION:

The applicant and owner, Tom Roemer, is requesting a variance from sections 4.04.E and 4.04.B.3 of the adopted Development Regulations.

- 4.03.E- *No accessory buildings shall be erected in any required front or side yard, or at any other place forward of the main building line.*
- 4.04.B.3-*For single-family residences: a garage not to exceed 900 square feet on parcels less than one acre, and 1,200 square feet on parcels one acre or larger. Detached garages require construction of driveways to provide access in conformance with the parking provisions of the code.*

There currently exists a 900 square foot garage located at the Southwest corner of the lot. It is currently a legal nonconforming structure that encroaches the required setback of 25 feet. It current sets roughly 13 feet from the property line. Section 1.05.E of the Development Regulations states:

A structure which is in nonconformance with respect to a side or rear yard setback shall not use the existing setback in expanding or enlarging but may be enlarged if the new part of the structure complies with the setbacks of the district.

The proposed changes involve an addition on the south side of the existing accessory structure to allow additional covered parking. The lot is located at 1187 Randolph Street which is currently zoned as High-Density Single-Family Residential District, R1-6. The subject property is surrounded by properties that are zoned R1-6, High-Density Single-Family Residential District.

The applicant is proposing to add on an additional single car space to accommodate the additional car that was recently purchased. This proposed addition will result the accessory structure being roughly 1,260 square feet overall. It will also increase the existing nonconformity of the structure, since the addition will be built at the existing 13 foot setback and not meet the required 25 foot setback.

Staff has received one comment from a neighbor located at 1140 Ironmoulders St. in favor of the variance request.

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.E and 4.04.B.3 of the Development Regulations to allow a reduction in the required setback for an accessory structure and to allow a 1,260 square foot accessory structure at 1187 Randolph.

ATTACHMENTS:

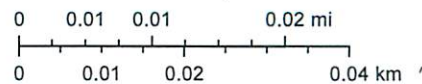
- Aerial and Zoning Map
- Application with the Letter of Intent submitted by Tom Roemer
- 1140 Ironmoulders St. email correspondence

1187 Randolph St Aerial Map



5/11/2021, 12:36:21 PM

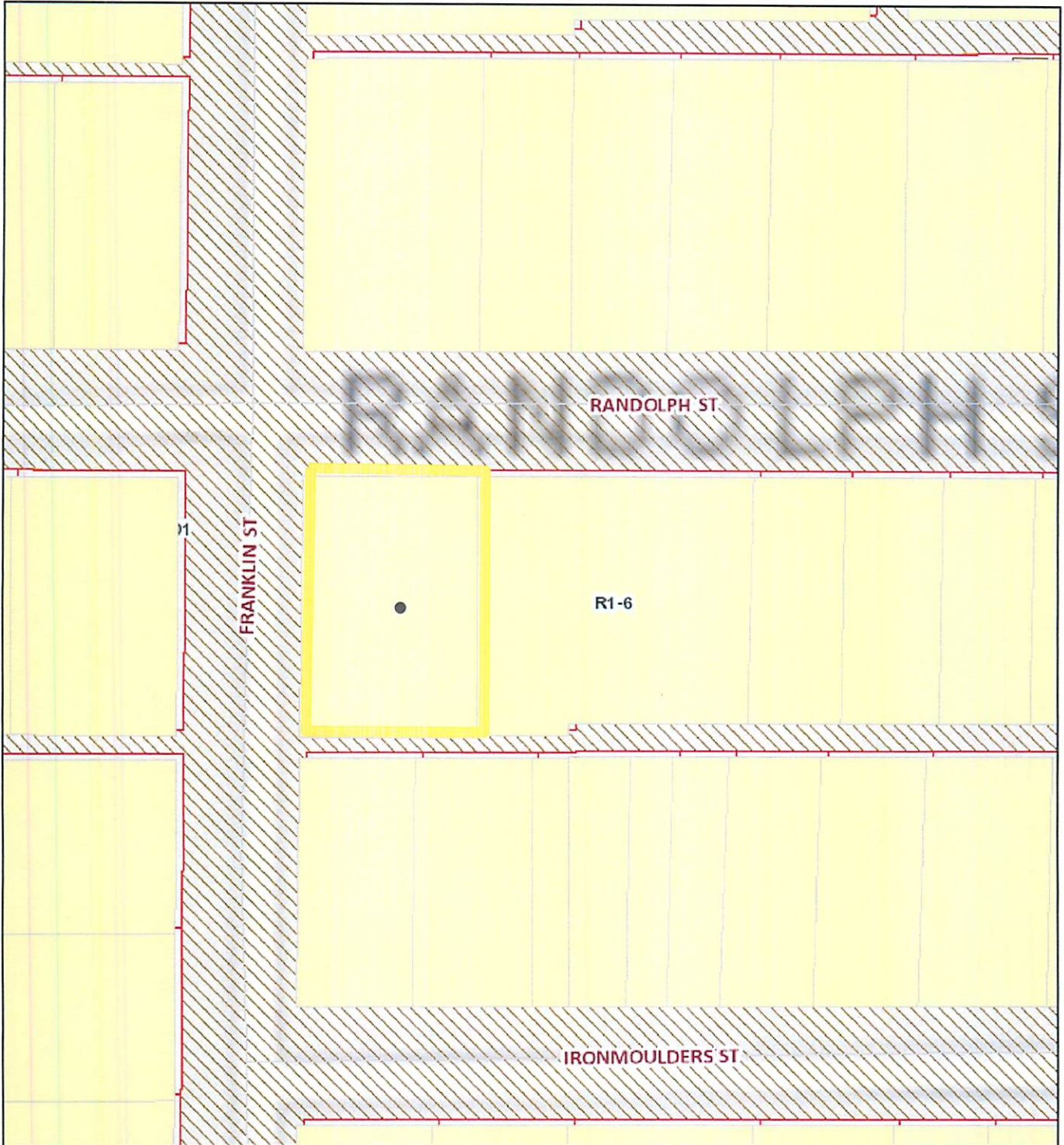
1:1,128



- Override 1
- Missouri River
- Parcels (City Owned)
- Lansing City Limits
- Parcels_Current
- Ft Leavenworth Military Installation
- Buildings
- Leavenworth City Limits
- Address (Points)
- City Right-of-Way
- RoadCenterline

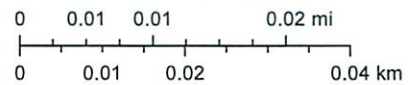
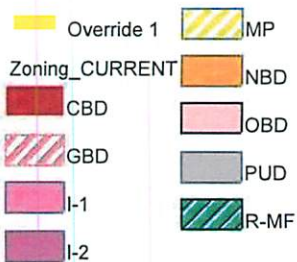
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

1187 Randolph St Zoning Map



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



BOARD OF ZONING APPEALS
CITY OF LEAVENWORTH, KANSAS

OFFICE USE ONLY

Case No.:	<u>2021-16</u>	BZA
Application No.	<u>9119</u>	
Fee (non-refundable)	<u>\$350.00</u>	
Filing Date	<u>4-1-21</u>	
Hearing Date	<u>5-17-21</u>	
Publication Date	<u>4-22-21</u>	

PETITION

Property Zoning: R1-L

Location of Subject Property: 1187 Randolph

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

Petitioner: THOMAS E. ROEMER KATHLEEN M ROEMER

Petitioner Address: 1187 RANDOLPH LEAVENWORTH KANSAS

Email: KT ROEMER@AOL.COM Telephone: 913 927 0804

Petitioner's Interest in Property: OWNERS

Purpose of Petition: I seek a variance to build a lean to type carport on the side of my existing garage to house a 2nd vehicle

- Appeal of Administration Decision _____ Date of Decision _____
Section 11.03.A
- Variance: Section 4.04.B.3 detached garage larger than 900 sqft.
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 (print): THOMAS E. ROEMER

Signature: Thomas E. Roemer Date: 3/31/2021

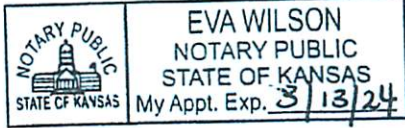
State of Kansas)

County of Leavenworth)

Signed or attested before me on 31st March 2021 by Thomas Roemer

Notary Public: Eva Wilson

My appointment expires: 3/13/24 (Seal)



NOTE: All signatures must be in black or blue ink. Signature of owner(s) must be secured and notarized. Check list below...

<input checked="" type="checkbox"/>	Supporting documentation: Site plan, plot plan, a drawing and any other pertinent data
<input checked="" type="checkbox"/>	Full legal description of subject property obtained from the Register of Deeds Office (913-684-0424)
<input checked="" type="checkbox"/>	Certified list of property owners within two hundred (200) feet of the subject property – County GIS Department 913-684-0448
<input checked="" type="checkbox"/>	A filing fee of Three Hundred- fifty dollars (\$350)

In addition to the above requirements, certain applications require additional information as follows:

1. Appeals

	a. An application for an appeal shall be filed within ten (10) days after a ruling has been made by an administrative official and furnished to the appellant in writing.
	b. A copy of the written ruling of the administrative official which the applicant believes to be in error shall be submitted.
	c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
	d. Where necessary, a plot plan, drawn to scale, in duplicate, showing existing and proposed plans for the area in question shall be submitted.

2. Variances

	a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating the enforcement provisions of the specific regulations from which the variance is requested, and outline in detail the manner in which it is believed that this application will meet each of the five conditions as set out in Section 11.03.B.2 (a)-(f) of this article.
	b. The applicant shall submit two (2) hard copies and one (1) digital copy of a sketch drawn to scale and showing the lot or lots included in the application, the structure existing thereon, and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

3. Exceptions

	a. The applicant shall submit a statement in writing justifying the exception applied for and indicating under which article and section of the Zoning Ordinance the Board of Zoning Appeals is believed to have jurisdiction.
	b. The applicant shall prepare and submit at the time of filing the application: two (2) hard copies and one (1) digital copy of a detailed site plan drawn to scale showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the Board in consideration of the application.



City of Leavenworth,

Board of Zoning Appeals

3/31/2021

Ladies and Gentlemen,

My, name is Tom Roemer, my wife Kathy and I own the property at 1187 Randolph Street in Leavenworth.

We first bought this corner lot in or around 1993. The lot was purchased on contract and deeded to us approximately 12-15 years later.

I have included a picture of the original structure at the time of purchase. We immediately gutted the existing structure and re-built and remodeled to its current appearance.

Thru the years we, have added a two car garage and a storage shed. Pictures also included !!

This past year we have purchased an additional vehicle. Also pictured.

We respectfully request a variance from the board for a building permit to build a lean to type addition to the south side of our garage to house this vehicle and protect our investment from the extreme Leavenworth, Kansas seasonal weather and storms.

The structure would be stick framed with a low sloped roof and sided with the same type of siding which will match the current garage. I would like to frame two garage door openings (front and back) to allow access thru the new structure for my mower and to allow access to my fenced green space. The addition would be approximately 12' wide by 28-30' long.

This addition will not impede site lines for the neighbors. It also will not affect the access to the alley and onto or off of Franklin street.

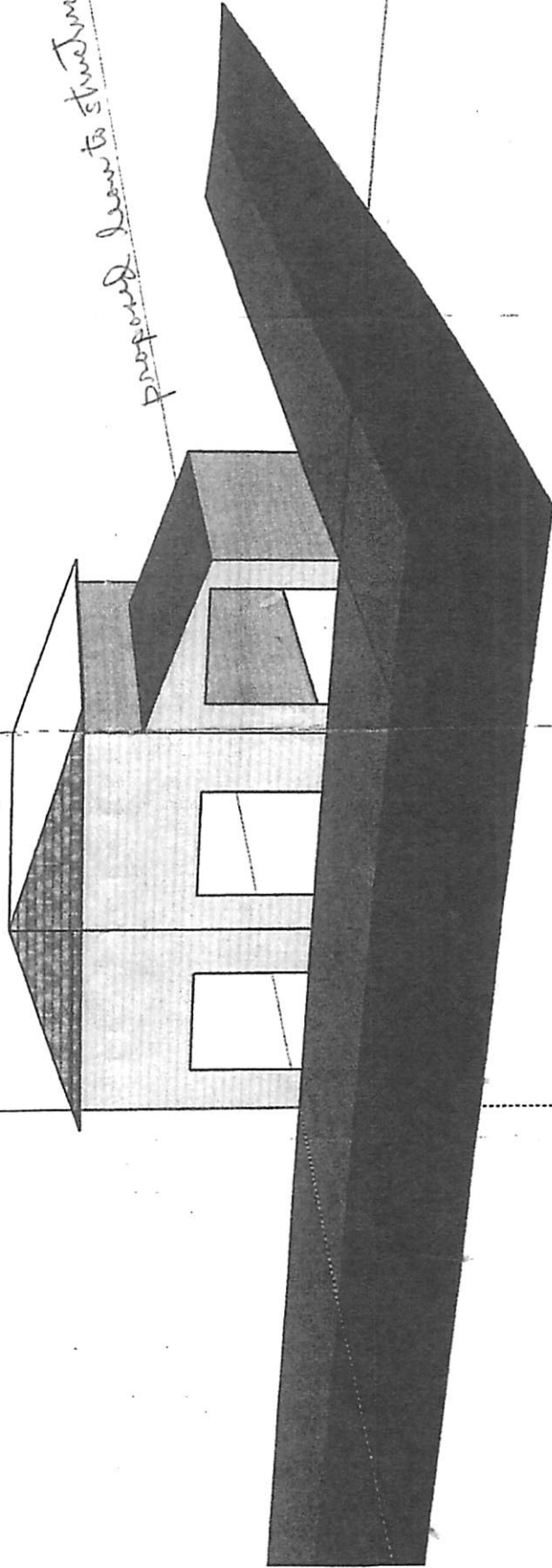
This addition will add to the value of our property that we have worked very hard to improve through the years.

Thank you for considering our request!!

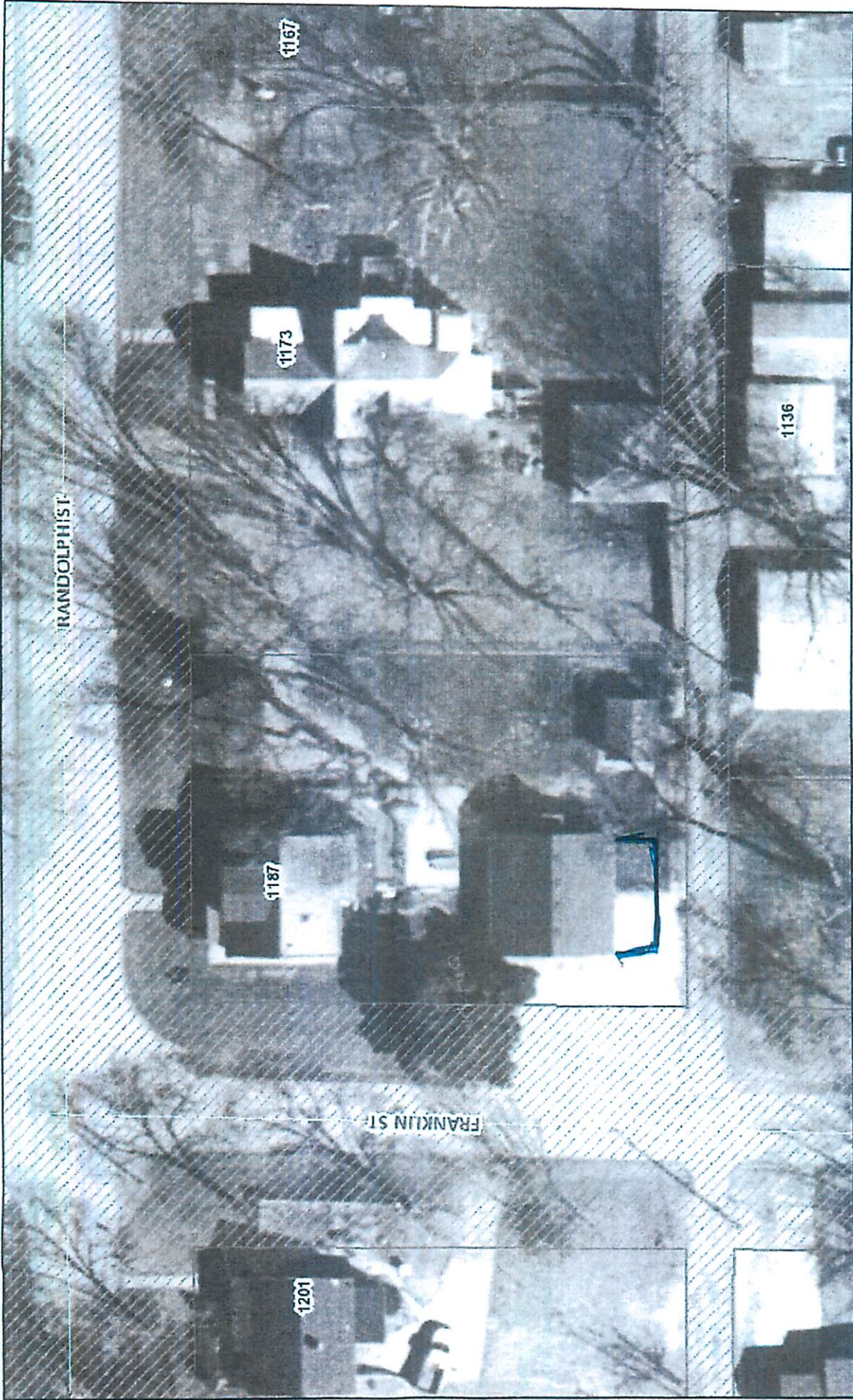
Tom & Kathy Roemer

Existing
Garage

Proposed beam to structure



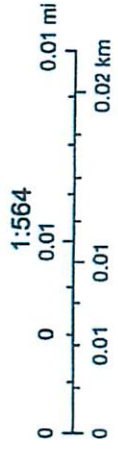
ArcGIS Web Map



3/30/2021, 3:13:09 PM

Proposed Leavens addition 12 x 30

- Parcels (City Owned)
- Parcels_Current
- Address (Points)
- Missouri River
- Lansing City Limits
- Ft Leavenworth Military Installation
- Leavenworth City Limits
- City Right-of-Way
- RoadCenterline

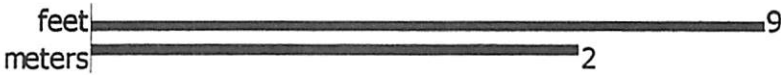


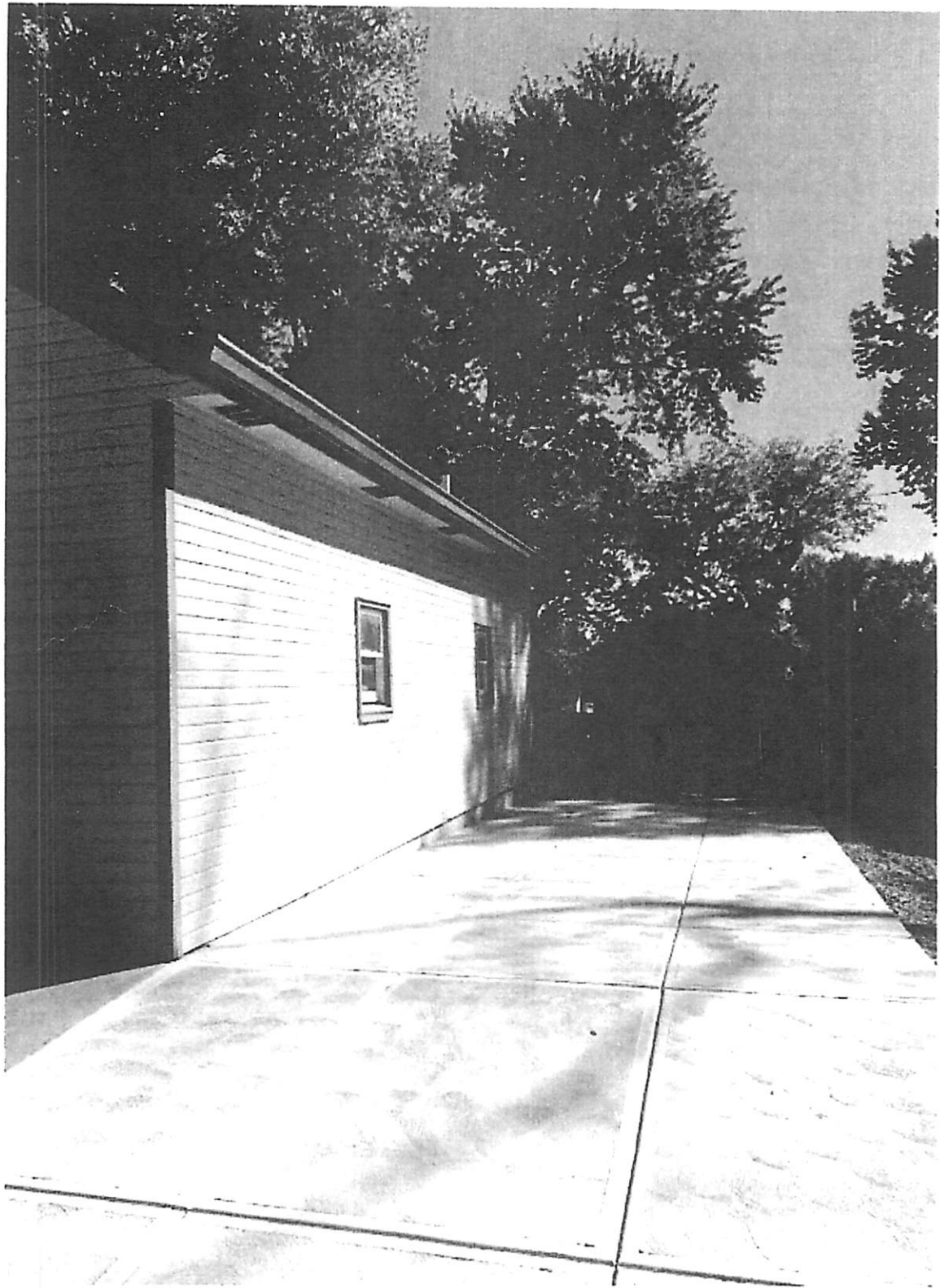
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

Web AppBuilder for ArcGIS

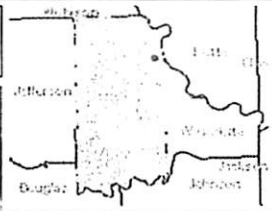
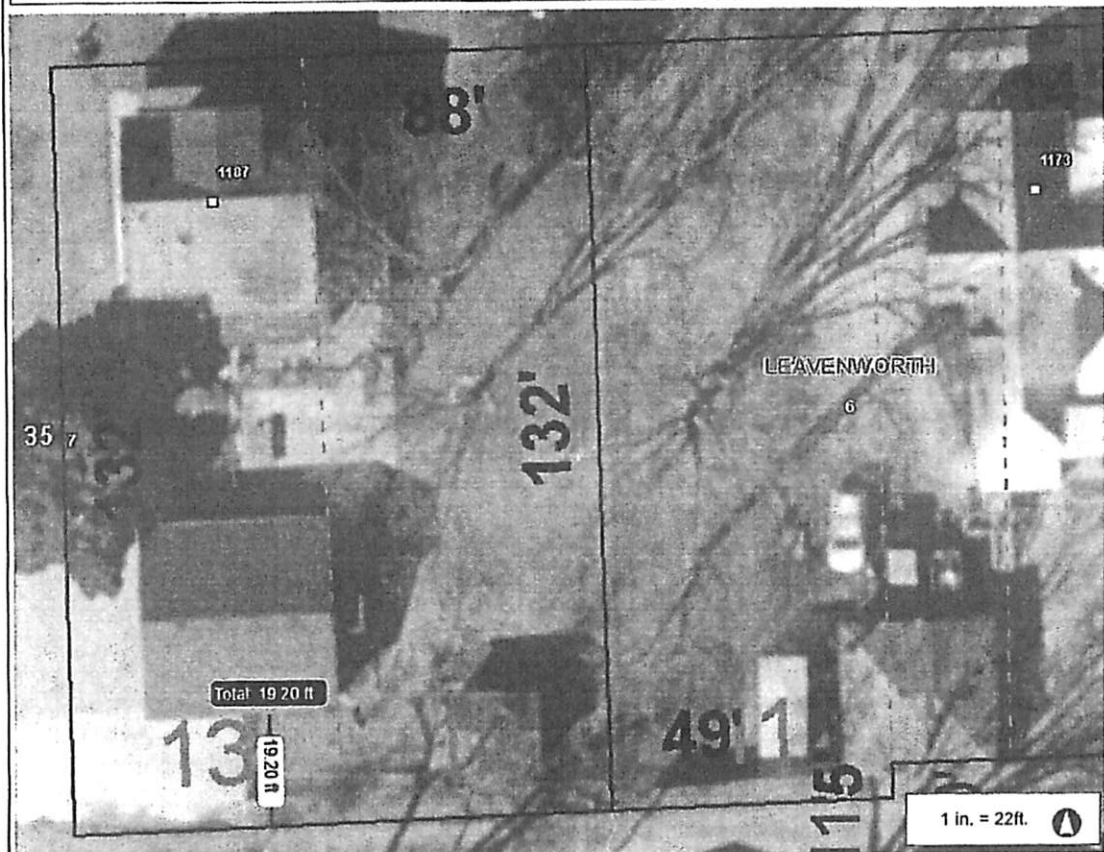


Google earth





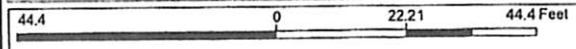
Leavenworth County, KS



Legend

- Address Point
- Parcel Number
- Lot Line
- Parcel
- ⋯ 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

6/00
1/1
1/2

GENERAL WARRANTY DEED

This 6th day of November, 2006

Property Management & Maintenance, Inc

STATE OF KANSAS
COUNTY OF LEAVENWORTH-SS
FILED FOR RECORD

CONVEY(S) AND WARRANT(S) TO:

2006 NOV -6 P 12: 14 8

STACY R. DRISCOLL
REGISTER OF DEEDS

Tom & Kathy Roemer

their heirs and assigns, all the following described REAL ESTATE in the County of Leavenworth, State of Kansas, to-wit:

(Almae)
Subd - NORTON, WILLIAMS & T, Blk 10 Lot 12 & 13, City of
Leavenworth, Leavenworth County, Kansas

For the sum of Forty Thousand Dollars and other Good and Valuable Consideration.

EXCEPT AND SUBJECT TO:

Easements, restrictions, reservations, and covenants now of record, all taxes,
both general and special not now due and/or payable.


Property Management & Maintenance, Inc
Michael Greenamyre, President

Entered in the transfer record in my office this
6th day of November, 2006

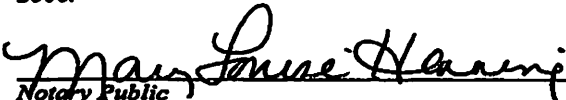
County Clerk

STATE OF KANSAS

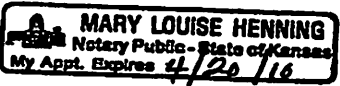
COUNTY OF LEAVENWORTH

I, Mary Louise Henning, a Notary Public of the County and State
first above written, do hereby certify that Michael Greenamyre, an officer of Property Management &
Maintenance, Inc. personally appeared before me this day and acknowledged the due execution of the
forgoing instrument.

Witness my hand and official seal, this 6th day of November
2006.


Notary Public

My Commission Expires:



April 26, 2021

City of Leavenworth Planning Commission


Ref case 2021-16-BZA Thomas Roemer

Dear Sirs

I own the property across the alley from 1187 Randolph St. (1140 Ironmoulders st). I have no reason to oppose this garage being built. The Roemer's have always been outstanding neighbors. They keep the property up very well, which cannot be said of all the neighbors.

If I can be of any other service to you please don't hesitate to contact me.

Robert J. Harris



913-683-2358

774 Limit St.

Leavenworth, Kansas 66048