CITY OF TOPEKA

AGENDA
BOARD OF ZONING APPEALS

Monday, September 9, 2019
5:30 P.M.

Holliday Building
620 SE Madison, 1st Floor Holliday Conference Room

MEMBERS OF THE BOARD

Walter Schoemaker – Chairperson
Tim Carkhuff – Vice Chairperson
Toni Beck
Barbara Boudreaux
Helen Crow
Carole Jordan
Travis Thomas

- The Topeka Board of Zoning Appeals holds a public hearing on the second Monday of each month to consider certain appeals, variances, and exceptions as may be granted by the Comprehensive Zoning Regulations of the City of Topeka, Kansas.
- The following agenda identifies and describes each proposal to be considered by the Board.
- Each item to be considered by the Board will be introduced by the Planning Department Staff. The Board will then hear and consider arguments both for and against each proposal.
- Individuals wishing to address the Board are requested to state their name and address for the official hearing record.
- Motions on all matters, which require a decision by the Board, are made in the affirmative. On a roll call vote, Board members then vote yes, no, or abstain based on the affirmative motion.
- Any person, official or government agency dissatisfied with any order or determination of the Board may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.

ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

CITY OF TOPEKA

BOARD OF ZONING APPEALS

Agenda for Monday, September 9, 2019

A. Call to Order

B. Approval of Minutes from May 13, 2019

C. Declaration of Ex Parte Communications

D. Public Hearings

1. **BZA19V/04 by Brad and Sharon Avery,** requesting a variance to the minimum building setbacks required by section 18.60.020 of the Topeka zoning regulations for the construction of a detached carport at the rear of an existing residence at 1254 SW Randolph Avenue. The requested variance applies to the required 10' minimum building setback from the rear property line and alley right-of-way.

E. Adjournment

ADA Notice: For special accommodations for this event, please contact the Planning Department at 785-368-3728 at least three working days in advance.

CITY OF TOPEKA
BOARD OF ZONING APPEALS

M I N U T E S

Monday, May 13, 2019

5:30PM - Holliday Building 1st Floor Holliday Conference Room

Members present:	Toni Beck, Barbara Boudreaux, Tim Carkhuff (2019 Vice Chair), Helen Crow, Carole Jordan, Walter Schoemaker (2019 Chair) (6)
Members Absent:	(0)
Staff Present:	Mike Hall, Current Planning Manager; Mary Feighny, Deputy City Attorney; Kris Wagers, Administrative Officer

Call to Order

The meeting was called to order by Walter Schoemaker, Chair. Roll was taken with 6 members present for a quorum.

Approval of Minutes from January 14, 2019

Motion by Mr. Carkhuff to approve, second by Ms. Beck. **APPROVAL 4-0-0**

Declaration of Ex Parte Communications

Mr. Schoemaker called for declarations of ex parte communications.
Ms. Beck – none
Mr. Carkhuff – none
Ms. Jordan - none
Mr. Schoemaker – none

Mr. Schoemaker called the case, **BZA19V/03 by Topeka Healthcare, LLC / The University of Kansas Health System – St. Francis Campus** requesting variances to the maximum height and sign area of a monument sign within the MS-1 Medical Service District as permitted by section 18.20.020 (d) of the Topeka zoning regulations for the installation of a monument-type sign, including electronic message center (EMC), to be located at the southwest corner of the intersection of SW 6th Avenue and SW Horne Street. Requested variances apply to the maximum permitted sign height of 10 feet (sign height of 25 feet proposed); and maximum permitted sign area of 50 square feet per sign face (sign area of approximately 228 square feet per sign face proposed).

Ms. Crow arrived at 5:34PM and Ms. Boudreaux arrived at 5:35PM. Mr. Schoemaker inquired of both regarding ex parte communications and each stated they had none to declare.

Mike Hall, Staff Planner, presented the Variance Evaluation (staff report) and findings, then took questions from board members.

Mr. Carkhuff asked for clarification concerning the applicant's ability to place their sign as proposed on the east side of SW Horne. Mr. Hall explained that the zoning of that property would allow for the size of sign the applicant is requesting. The applicant owns the property and it is used as a parking lot that serves the hospital, so it would not be considered as off-premise signage.

Greg Schwerdt of Schwerdt Design Group (SDG) made a presentation as the applicant's representative. With him was Beth Valdivia, also of SDG.

Mr. Schwerdt presented PowerPoint slides, a copy of which is available in the case file. He expressed concern about (especially) emergency room visitors not being able to easily find the ER and also spoke to the ways the EMC could be used for messages such as Amber Alerts, community health awareness, announcements regarding new physicians and hospital programming. He explained that the hospital intends to remove the current sign, which is located in the right of way and hinders visibility, and the new sign that would be located on hospital property.

Questions by board members to Mr. Schwerdt included whether the hospital had considered leaving the current sign and adding another, smaller sign if additional room for information is needed, and whether anyone had complained about not being able to find the way to the ER. Mr. Schwerdt explained that the applicant does not wish to leave the sign in the right of way as it adversely impacts drivers' visibility when trying to turn onto 6th Street. He also explained that internal research has shown that there is a need to better identify the hospital and health center. Toward that goal, other new signs have also been installed.

Ms. Boudreaux asked if there is a master sign plan in place. Mr. Schwerdt explained that while there may not be one on file with the Planning & Development Department, he's certain the hospital has an overall plan for signage and this (proposed) sign would basically be the capstone. He was uncertain of exactly how many signs the hospital campus has.

Mr. Schoemaker invited the public to come forward to speak.

Dr. Nason Lui came forward to speak in opposition of the variance. Dr. Lui explained that his medical practice is located across the street from the St. Francis campus. He and his partners have been in that location for 35 years. He stated he has never heard complaints about people not being able to locate the ER. He is opposed to the size of the sign, stating it is unnecessarily large and doesn't make sense for the community as a whole. He is concerned that a sign larger than what the city currently allows would be a detriment to the neighborhood and wonders if others on the street would come forward to request variances for larger signs. He referenced the large number of pedestrians crossing 6th Street and has real concerns that the EMC portion of the sign would be a distraction to both pedestrians and drivers. He noted there have been a number of serious accidents in the area, some resulting in death and great bodily harm, and he believes additional distractions will cause more accidents.

Ms. Boudreaux noted that she too knows firsthand that there is a great deal of pedestrian traffic crossing 6th Street, both in and outside of the crosswalks.

Mr. Schwerdt was asked to respond. He noted that while the hospital understands the dilemma, they are allowed to have an EMC.

Nobody else came forward to speak.

Ms. Crow stated that she is familiar with the new St. Francis Campus signage and noted that the signage added to the building itself would make it difficult to miss the fact that it's a hospital. She believes the size of the

sign and EMC are likely more for marketing than for identifying the location of the ER. She doesn't believe that the request meets the standards necessary for the board to grant the variance.

In response to Mr. Schoemaker's question concerning the findings that the Board would have to make in order to grant the variance, Deputy City Attorney Feighny advised that the Board would have to determine that all of the conditions in the ordinance were met.

Motion by Mr. Carkhuff to adopt the findings as set for by staff in the Variance Evaluation (staff report) and disapprove the requested variance.

Mr. Carkhuff noted that state law and city ordinance require the board to make findings that each of the 5 conditions be met in order to allow and grant the variance; the applicant has not met those conditions. **Second** by Ms. Jordan. **APPROVAL** (6-0-0)

The meeting adjourned at 6:28PM

VARIANCE EVALUATION
CITY OF TOPEKA PLANNING DEPARTMENT
FOR
TOPEKA BOARD OF ZONING APPEALS

Date of BZA Meeting: September 9, 2019 Case No.: BZA19V/04

Applicant Name: Brad and Sharon Avery
Address of Property: 1254 SW Randolph Avenue
Parcel ID No.: 1410201004003000
Zoning of Property: "R-2" Single-Family Dwelling District

Regulations from which a Variance is Requested: The applicant is requesting a variance to the minimum building setback required by section 18.60.020 of the Topeka zoning regulations for the construction of a detached garage and storage shed at the rear of an existing residence at 1011 SW 16th Street. The requested variance applies to the required 10' setback from the alley at the rear property line. The variance application requests consideration of "Plan A" and "Plan B".

The following table describes proposed and required setbacks.

Location of Setback	Setback Required per Section 18.60.020	Setback Proposed Plan A 13' x 22' Carport (See note)	Setback Proposed Plan B 15' x 22' Carport (See note)
Alley (east) Property Line	10 feet	5 feet (allows for eave 2' 6" from property line)	3 feet (allows for eave 6" from property line)

Note: Building setbacks are typically measured from exterior walls to the property line, with the eaves allowed to extend 30 inches into the required building setback [TMC 18.230.040(b)].

Other Applicable Standards:

	Coverage Limits per Section 18.60.020	Coverage with Proposed Building
% of Principal Building Coverage (sf of accessory buildings divided by sf of principal building footprint)	90% maximum	25% (Plan A) 28% (Plan B)
% Building Coverage (sf all buildings footprint divided by sf of zoning lot)	50% maximum	30% (Plan A) 31% (Plan B)

Project and Property Data:

Proposed Garage / Shed:	Custom carport to be constructed on site. Exterior wall dimensions are 13' x 22' (286 sf) for Plan A, and 15' x 22' (330 sf) for Plan B. Gable Roof Design: Height not indicated on application but will be much less than the maximum 15' height allowed for detached accessory buildings under the R-2 zoning classification.
Size of Principal Dwelling:	1,165 sf ground floor building footprint (County Appraiser)
Property Dimensions:	37.5 feet wide x 127 feet long
Size:	4,763 sf
Property Description:	South ½ of Lot 148 and all of Lot 150, Block 4, Millers College Park
Existing Land Use and Property Characteristics:	A rectangular lot containing a Tudor-style single family residence with 1 ½ stories built in 1929 (Shawnee County Appraiser). The property has a small back yard enclosed by a fence. There is space between the fence and the alley – 16 to 18 feet - for parking three small to mid-size cars (sedans) perpendicular to the alley.
Surrounding Land Uses:	Detached Single-Family Dwellings on all sides.
Zoning of Property:	R-2 Single Family Dwelling District
Zoning of Surrounding Property:	R-2 Single Family Dwelling District
Neighborhood:	Not in a designated neighborhood but located in Central Topeka one block north of Randolph Elementary School.
Neighborhood Health:	In area designated "Healthy" on the Neighborhood Health Map.

Applicant's Stated Grounds for Variances

Per the application received December 4, 2018 addressed the findings as follows.

> Conditions Unique to the Property, etc. (finding a): *The garage* (previous garage) *foundation was not built deep enough by original builders – 1929.*
>
> Effect of the Variances on Adjacent Property Owners (finding b): *Our property value will be maintained. Shade from our structure will keep their yards cooler.*
>
> Application of Zoning Requirements Constitute an Unnecessary Hardship (finding c): *Our property value will go down since we had a garage when we bought it.*
>
> Potential for Adverse Effect on the Public Health, Safety, Morals, Order, Convenience, Property, and General Welfare (finding d): *It will be better for the neighborhood and property values.*
>
> Variances is not in Conflict with the General Spirit and Intent of the Regulations (finding e): *It will be an attractive structure with architecture compatible with our Tudor style house.*

The applicant purchased the house in 1989 and at that time it included a garage with access from the alley and with little or no setback from the alley and south property line. The foundation was deteriorated and so needed to be removed. A carport similar to the carport of the adjoining neighbor to the south is desired. The applicant claims that parking on Randolph Street is dangerous due to proximity to Randolph School and Huntoon Street. The applicant also claims shade is better for the environment and they want to maintain the property's value by having a carport as do the surrounding homes.

Summary of Analysis:

The applicant is requesting a variance to allow construction of a carport for the parking of two cars. Based on an analysis of the proposal and the conditions of the property and neighborhood, staff is recommending approval of a variance to the required 10' rear setback to allow a 3' rear setback.

At the time the applicant purchased the property in 1989 it contained a garage at the alley. According to the applicant the garage had a deteriorated foundation and thus had to be removed.

The placement and dimensions of the house, and the small distance between the house and fence from the rear property line are unusual. The proposed carport is of a depth that is minimally necessary to provide protective shelter for small to midsized cars.

Locating the carport further west to comply with required rear setback of 10 feet would require relocation of the fence and a reduction of the already small rear yard (between the fence and the house) to a depth of 8 feet. Therefore, adherence to the required 10' rear setback constitutes an unnecessary hardship.

The proposed variance has no adverse effect on adjacent properties. The properties to the east are separated from the subject property by an alley, a fence, and a building at or near the property line.

While a variance to the required 10' setback from the alley is justified, some setback is necessary to allow for turning a vehicle into and out of the carport. A setback of 3 feet will allow at least 19 feet for vehicle ingress and egress and is thus considered adequate for the proposed carport. The neighbor's fence on the east side of the alley appears to be located at least 1 foot from the alley, possibly increasing the width for turning vehicles to 20 feet or more.

Findings

Pursuant to K.S.A. 12-759, and as set forth in TMC 2.45.110, the Board of Zoning Appeals shall find that **all** of the following conditions are met before a variance may be granted.

a. That the variance request arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by action of the property owner or applicant;

The placement and dimensions of the house, and the small distance between the house and fence from the rear property line are unusual and not ordinarily found in the R-2 zoning district. The house has an unusually long dimension measuring west to east, leaving less space between the rear of the house and the alley than what is typical in this and other Central Topeka neighborhoods. The existing fence, which appears to have been built or rebuilt within the past few years, encloses a small rear yard and well-maintained garden. The fence is only 16 to 18 feet from the rear property line leaving limited space for a garage or carport that meets required setbacks.

In conclusion, the restrictive distance between the rear of the house and the rear property line, and the location of the fence are unique conditions that provide some support for a variance to the rear setback. The proposed carport is to be located less than 14 feet from the house and less than one foot from the fence. The house was built in 1929 and if there were additions to it they occurred many years ago and are not by recent actions of the current owner and applicant.

b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residences;

The applicant's investment in a new detached garage is expected to bolster the value of the property and thus have a positive effect on adjacent property owners, as well. In general, residents have a reasonable expectation to have shelter for their vehicles from the weather and other elements. The lack of such shelter may negatively affect the value of the property, thereby having a similar effect on neighboring properties. For this reason the variance will not adversely affect the rights of adjacent property owners or the value of their homes.

Because the properties to the east are separated from the subject property by an alley, fence, and a building at or near the property line, a substandard setback will have no adverse effect on those properties.

Maintaining sufficient space for turning vehicles into and out of the carport is also a consideration. The alley has a width of 16 feet and thus a setback of at least 3 feet is considered by Planning staff to be necessary to allow adequate ingress and egress into and out of a carport, considering also the use of the carport for small to mid-sized cars. The neighbor's fence on the east side of the alley appears to be located at least 1 foot from the alley, possibly increasing the width for turning vehicles to 20 feet or more. A greater setback would likely be needed for larger vehicles.

In conclusion, no adverse effects on adjacent property owners are anticipated as a result of a variance to the rear setback. Adequate distance is needed for turning to prevent damage to fences and other property on the east side of the alley and a 3 foot setback is expected to be sufficient for the applicant's intended use.

c. That the strict application of the provisions of this chapter of which the variance is requested will constitute an unnecessary hardship upon the property owner represented in the application;

The applicant's request for relief from setbacks to provide shelter for the owner's vehicles is reasonable. The depth of the proposed carport is what is minimally necessary to shelter the applicant's cars. The depth of the proposed carport is 13 feet for Plan A and 15 feet for Plan B. The zoning regulations allow eaves to encroach up to 30 inches into a required setback, which provides for the potential for more shelter by increasing the depth an additional 2.5 feet (total depth of 15.5 feet for Plan A and 17.5 feet for Plan B. In comparison, City of Topeka off-street parking requirements require a minimum of 18' of depth for a parking space, and typical one-car garages have an interior depth of 20 to 24 feet.

The applicant purchased the property in 1989 and at that time it included a garage located along the alley in the same general location as the proposed carport. The foundation of the garage had deteriorated and thus the garage was removed. A carport is desired to maintain the property's value, and surrounding homes contain garages or carports.

In conclusion, denial of a variance to the alley setback constitutes an unnecessary hardship for the owner. Reducing the depth of the proposed carport is not a reasonable or practical alternative. Requiring the carport to be located 10 feet from the rear property line would require the fence to be relocated an additional 5 feet to the west and reduce the rear yard between the fence and house to 8 feet.

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

Granting relief from required setbacks, allowing in particular a variance to the required setback from the alley, is warranted as it will allow the owner to build a reasonably sized garage for parking and storage. The benefit that accrues to the property owner is also a positive outcome for the neighborhood and community

providing standards directly related to public safety, such as those standards in the City's building code, are met.

e. That granting the variance desired would not be opposed to the general spirit and intent of this chapter.

Granting a variance to the required setback from the alley is not opposed to the general spirit and intent of the City's variance provisions in Chapter 2.45 nor does such a variance conflict with the spirit and intent of the zoning regulations in Title 18 of the city code. The unique conditions of the property are documented herein and, therefore, approval of the variances requested does not necessarily set a precedent for future administration and enforcement of setback standards.

Planning Staff Recommendation

Based on the above findings staff recommends the Board of Zoning Appeals **APPROVE** a variance to the required 10' setback from the east property line at the alley right-of-way, allowing for a setback of 3 feet.

Staff met with the applicant at the site and reviewed the Plat of Survey (from January 24, 1940). The south property line can be readily determined from the available information. The rear property line is more difficult to determine. It is staff's opinion that the existing concrete slab shown on the applicant's site plan encroaches 1 to 1.5 feet into the alley right-of-way. If the slab encroaches 1.5 feet into the right-of-way, a 3 foot setback will accommodate a carport with a depth of 13.5 feet, and not 15 feet as is proposed for Plan B.

Staff recommends the following as conditions of approval.

Conditions of Variance Approval

1. Maintain a setback of 3 feet from the rear property line at the alley right-of-way. The setback shall be determined by either locating the outside of the supports (posts) for the carport no closer to the edge of the slab than 4' 6". Alternatively, the owner may engage a professional surveyor to identify the location of the rear property line and place the building a minimum of 3 feet from the property line as determined by the surveyor.
2. The eave of the carport roof may encroach no more than 30 inches into the required setbacks.

Staff Report by: Michael Hall, AICP, Current Planning Manager

Exhibits:

A. Variance Application
B. Site Plans, Survey, Etc. by Applicant
C. Zoning Map
D. Aerial Map
E. Photo of Rear Yard
F. Property and Alley

EXHIBIT A

APPLICATION TO THE BOARD OF ZONING APPEALS VARIANCE / EXCEPTION

CITY OF TOPEKA PLANNING DIVISION
620 SE MADISON, 3RD FLOOR (UNIT #11) I TOPEKA, KS 66607-1118
PHONE 785.368.3728 I EMAIL: PLANNING@TOPEKA.ORG

Pd via

Applicant Information

Name: BRAD + SHARON AVERY

Address: 1254 SW RANDOLPH AVE

Phone: 785 215 2198 Email: sharonavery@cox.net

Property Information

Location of property: 1254 SW Randolph Ave

Legal description of property: (attach additional sheets if necessary)

Lot 148 1/2 plus all Lot 150 in Millers College Park Topeka

Action Sought:

☑ **A variance** from a provision of the Zoning Ordinance - PER CONVERSATION W/ APPLICANT AND IN PARTICULAR THE REAR SETBACK FROM ALLEY.

(Section to be appealed: 18.60.020)

☐ **An exception** from a provision of the Zoning Ordinance

(Section to be appealed: _____)

Description of Action Sought:

House purchased in 1989 included garage near alley. Foundation deteriorated and needed to be torn down. We want a carport (like the neighbors.) Parking on the Randolph street is dangerous due to proximity to school + Huntoun St. Shade would also be better for the environment. We want to keep our property the same value as we purchased. The houses on the north + south have garages/carports.

See page 2

For Planning & Development Use Only

Case # B2A19 v/04

Hearing Date: 9/9/19

Legal Ad Date: 8.19.19

Zoning District:

Building Height:

Number of Stories:

Parcel Size: .11 ACRE ~~11 ACRE~~ (4,782 SF)

Lot Dimensions: 127' x 37.5'

Applicant offers the following as grounds for this action:

In accordance with Section 2.45.110 of the Topeka Municipal Code, the Board of Zoning Appeals must determine that **ALL** of the following conditions governing unnecessary hardship have been met before a variance may be granted.

All items must be addressed or the application will be deemed incomplete.

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action of the property owner or applicant *(The problem must relate to the land. Community needs or personal hardships do not qualify as legitimate grounds for issuing a variance.)*;

   The garage foundation was not built deep enough by original builders - 1929.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

   Our property value will be maintained. Shade from our structure will keep them yards cooler.

3. That the strict application of the provisions of this chapter of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

   Our property valve will go down since we had a garage when we bought it.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, property, or general welfare;

   It will be better for the neighborhood and property values.

5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.

   It will be an attrative structure with architecture compatible with our tudor style house.

PAGE 2 cont APPLICATION Brad Sharon AVERY

We have submitted Plan A and Plan B

- Plan A has a 5' eastment from the alley. This will make the structure only 13' deep. Our cars are 15' long. Part of our cars will protrude, and the property value will go down?

- Plan B has 3' easement. Our cars will fit. Vision is not abstructed because the areas to the north & south are open.. There will be no closed sides.

Authorization

Property Owner(s):

I/We the undersigned owner(s) of record hereby authorize the filing of this application and declare that all required materials are submitted along with this application and that the information and material is complete and accurate. I/We hereby acknowledge that all appropriate procedures, policies, and regulations have been reviewed and also understood that this application will be processed in sequence with respect to other submittals.

Brad Avery
Owner Name (print)

Owner Signature

Sharon Avery
Owner Name (print)

Sharon Avery
Owner Signature

Owner Name (print)

Owner Signature

Authorized Agent:

If the owner(s) of record are to be represented by legal counsel or an authorized agent, please complete the following information so that communications and correspondence pertaining to this application may be forwarded to such individual.

Authorized Agent Name (print)

Signature – Authorized Agent

Mailing Address: _____
STREET ADDRESS CITY STATE ZIP

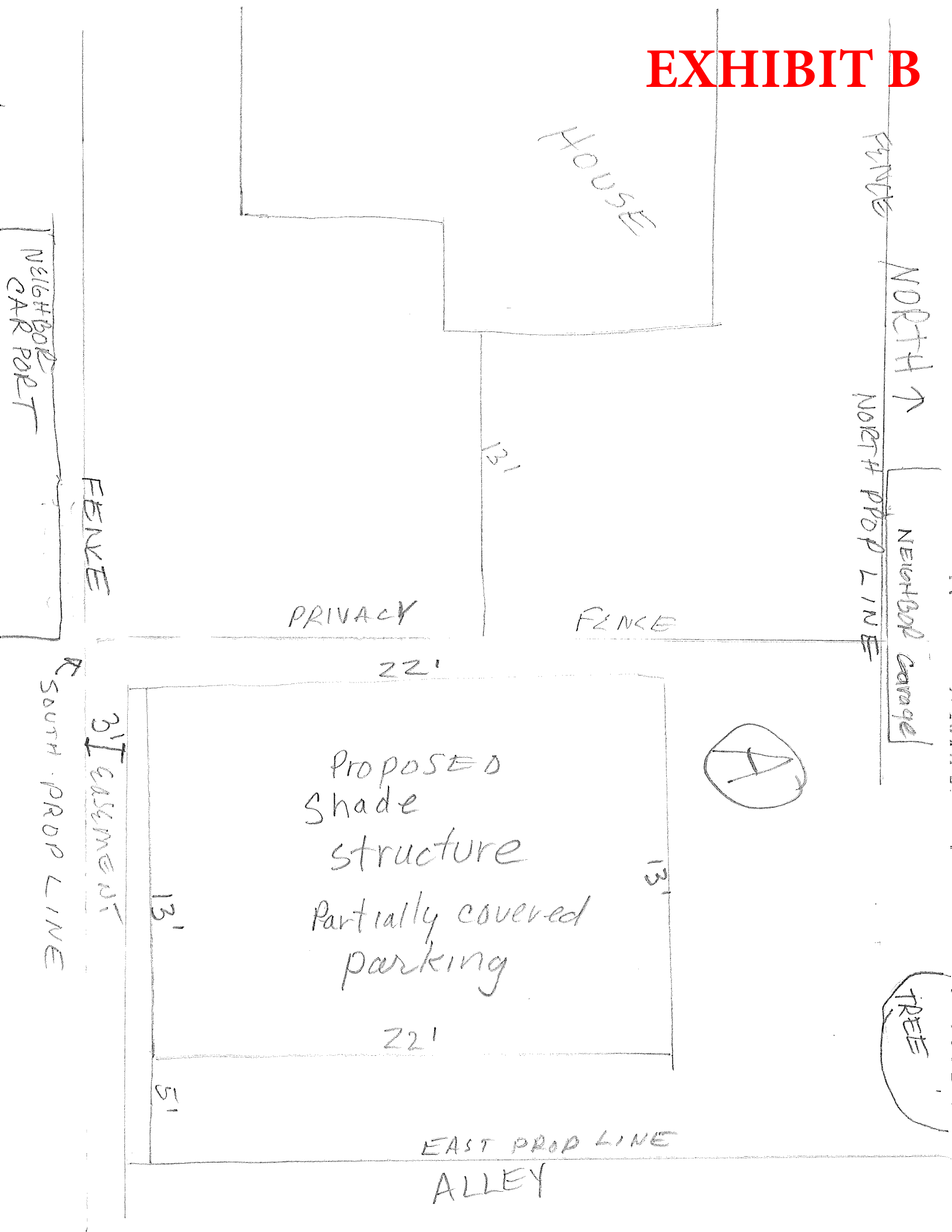
Phone: _____ Email: _____

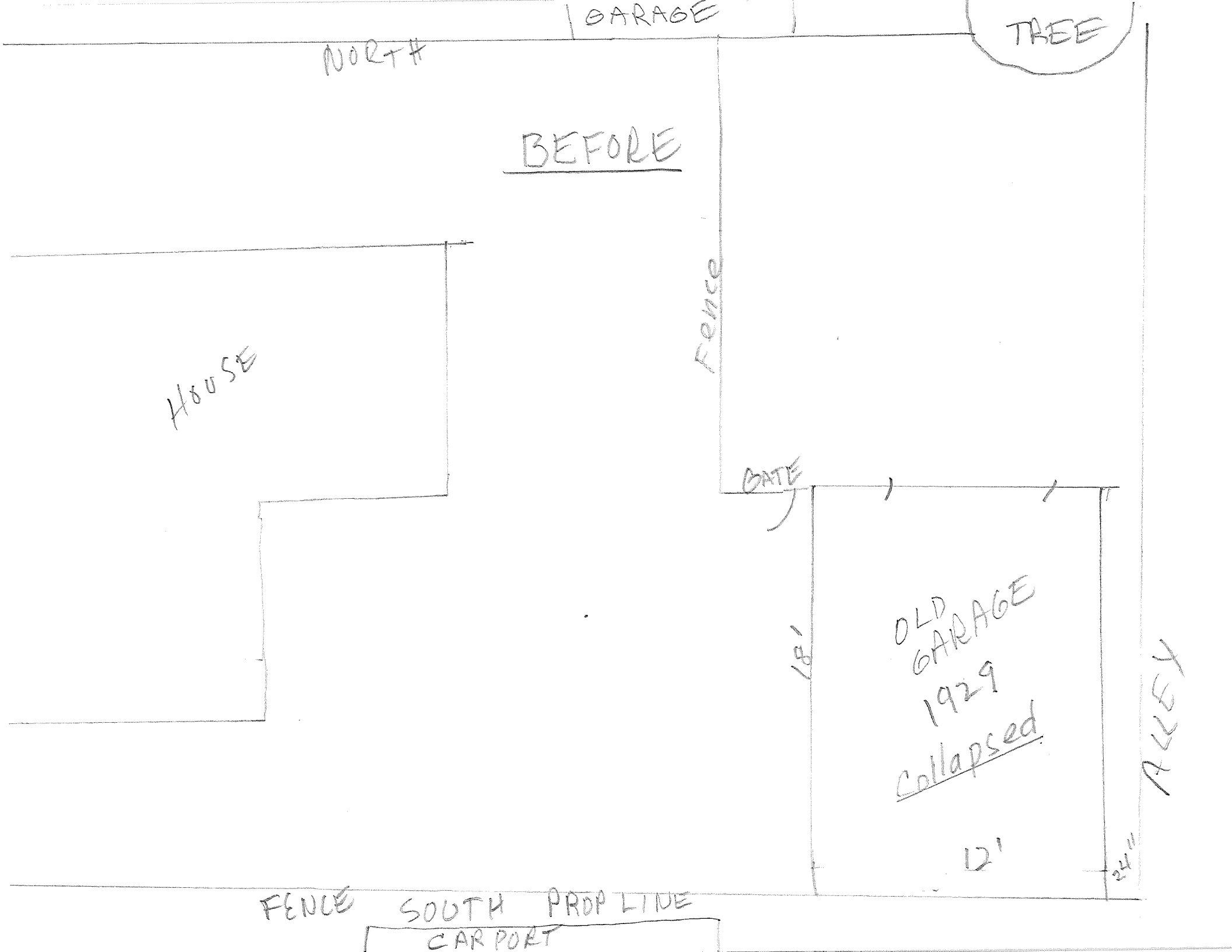
Applicant:

Sharon Avery
Applicant Name (print)

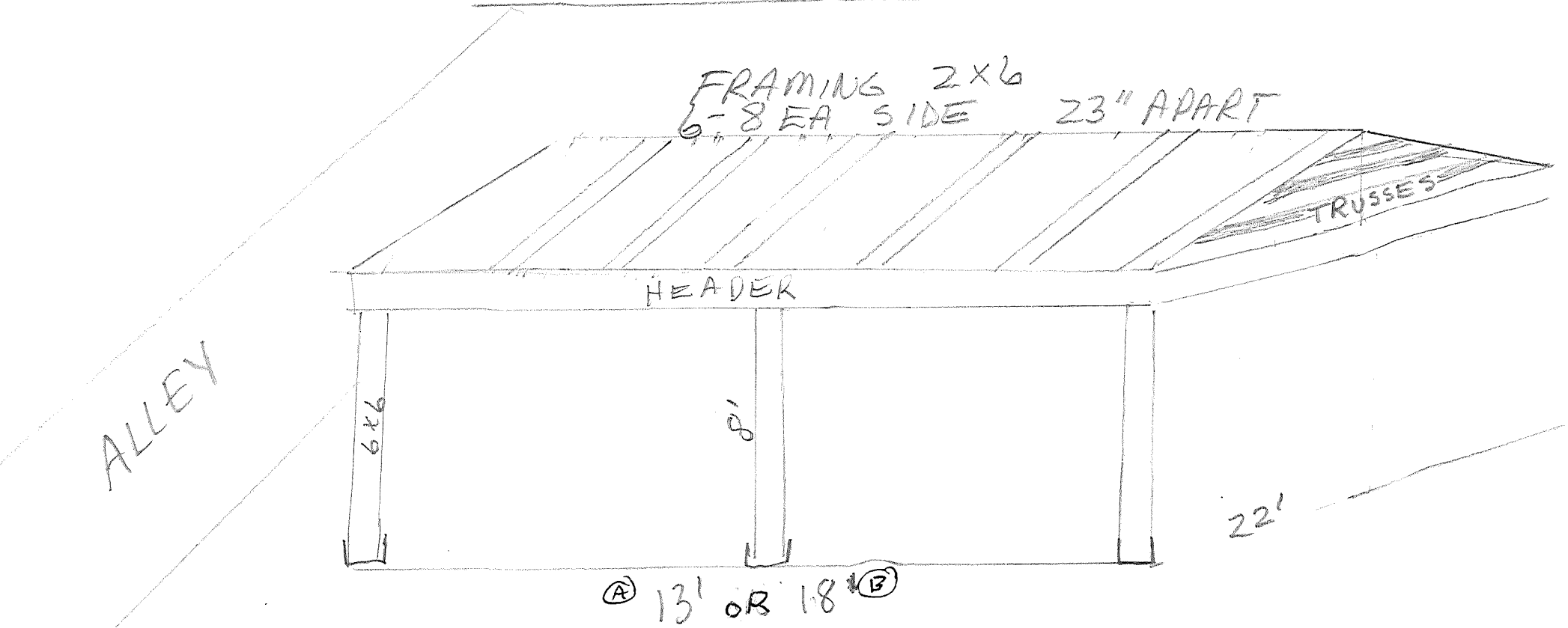
Sharon Avery
Applicant Signature

EXHIBIT B


HOUSE
FENCE
NORTH
NORTH PROP LINE
NEIGHBOR Garage
NEIGHBOR CAR PORT
FENCE
121'
PRIVACY
FENCE
22'
A
Proposed
Shade
structure
Partially covered
parking
3'
13'
22'
5'
3' easement
SOUTH PROP LINE
TREE
EAST PROP LINE
ALLEY


GARAGE
TREE
NORTH
BEFORE
HOUSE
Fence
GATE
OLD
GARAGE
1929
Collapsed
12'
ALLEY
FENCE
SOUTH PROP LINE
CARPORT

PROPOSED ROOF
CARPORT OR SHADE STRUCTURE

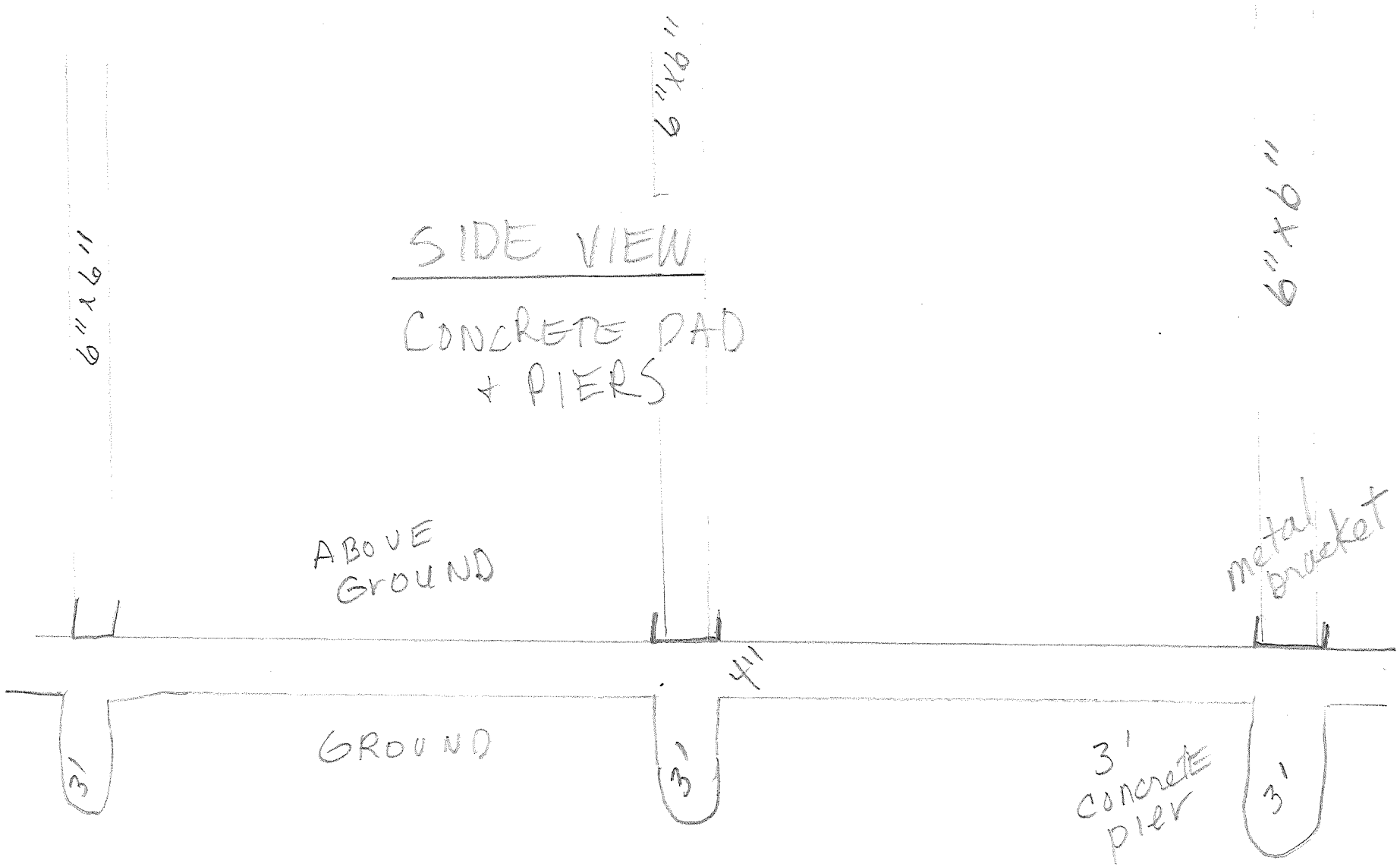


Headers 4x12

Plywood ROOF .483 Thick - NOT SHOWN

Shingles

ROOF TRUSSES 2x6"


6"x6"
6"x6"
6"x6"
SIDE VIEW
CONCRETE PAD
+ PIERS
ABOVE
GROUND
metal bracket
4'
GROUND
3'
3'
3'
3' concrete pier

#900

SHAWNEE COUNTY

OFFICE OF COUNTY SURVEYOR

TOPEKA, KANSAS

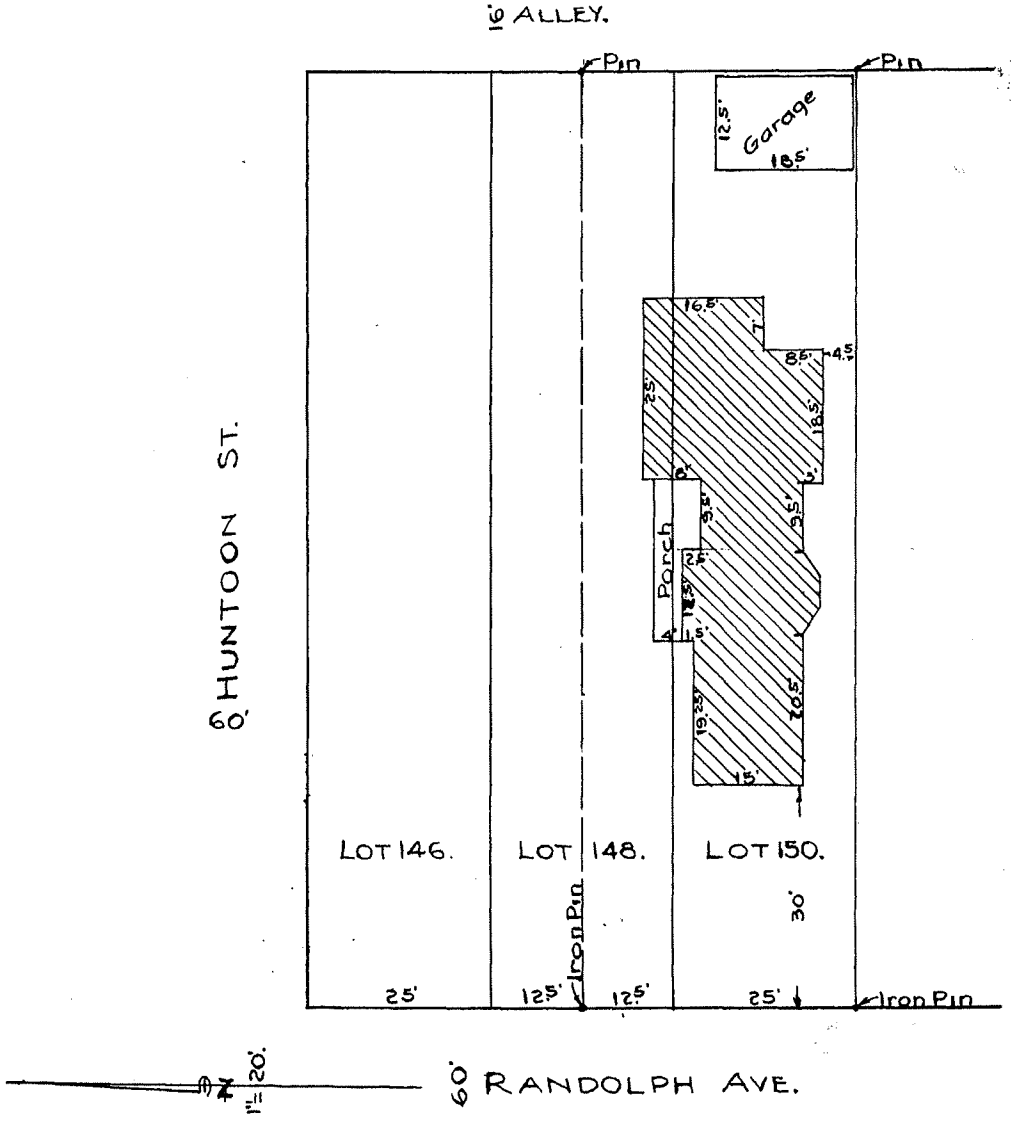
January 24,1940.

GRANT R. SMITH
SURVEYOR

PLAT OF SURVEY
OF
LOT 150 & S½ LOT 148 RANDOLPH AVENUE,
MILLER'S CODLEGE PARK ADDITION,
TOPEKA, KANSAS.
FOR: RUSSEL R. BROWN.
CERTIFICATE:

I hereby certify that I have this day made a survey of the above described property and also certify that the improvements are located thereon as are shown by this plat.

Grant R. Smith
County Surveyor,
Shawnee County, Kansas.



Russell R. Brown
S½ Lot 148 & Lot 150
Randolph - Miller's College Park
1/24/40
7°6 clockwise
Alley
Randolph
127'
12.4
18.4
4.5
18.6
9.5
20.5
30'
94
19.35
52
8.8
30.25
PIW

#23507-88 M **28478**

WARRANTY DEED (Statutory) — Joint Tenancy

Columbian National Title Insurance of Topeka, Inc.
POST OFFICE BOX 1515
TOPEKA, KANSAS 66612

COLUMBIAN NATIONAL
TITLE INSURANCE OF TOPEKA, INC.

Entered in Transfer Record in my office this 17954
day of DEC 30 1988 A.D. 19___

Patsy A. McDonald
County Clerk

Register of Deeds

STATE OF KANSAS } ss
COUNTY
RECORD

Dec 30 9 55 AM '88

FEE
NUMBER

Fees $

Mail Tax Statement to:
Columbian Sup. Assn.
P.O. Box 2048
Lawrence, Ks. 66044
1254 Randolph

THE GRANTOR, William L. Pardue and Patricia L. Pardue, husband and wife

OF THE County of Shawnee, State of Kansas hereby CONVEYS AND WARRANTS to

Brad E. Avery and Sharon R. Avery, husband and wife

as joint tenants with full rights of survivorship and not as tenants in common, of the County of Shawnee State of Kansas the following described real estate, situate in the County of Shawnee State of Kansas, to-wit:

The South half of Lot 148 and all of Lot 150 on Randolph Avenue, in Miller's College Park Addition to the City of Topeka, Shawnee County, Kansas.

for the sum of One Dollar and Other Valuable Considerations---$1.00

Dated this 27th day of Dec A.D. 1988

William L. Pardue
William L. Pardue

Patricia L. Pardue
Patricia L. Pardue

STATE OF KANSAS, Shawnee COUNTY, ss

BE IT REMEMBERED, That on this 27th day of Dec A.D. 1988 before me, the undersigned a Notary Public in and for the County and State aforesaid, came

William L. Pardue and Patricia L. Pardue, husband and wife

who are personally known to me to be the same person s who executed the within instrument of writing, and such person s duly acknowledged the execution of the same

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

My Term expires: 7/15/92

Matt A. Moore
Notary Public

Matt A. Moore
NOTARY PUBLIC
STATE OF KANSAS

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BZA19V/04 By: Brad and Sharon Avery

BZA19V/04 By: Brad and Sharon Avery

EXHIBIT E

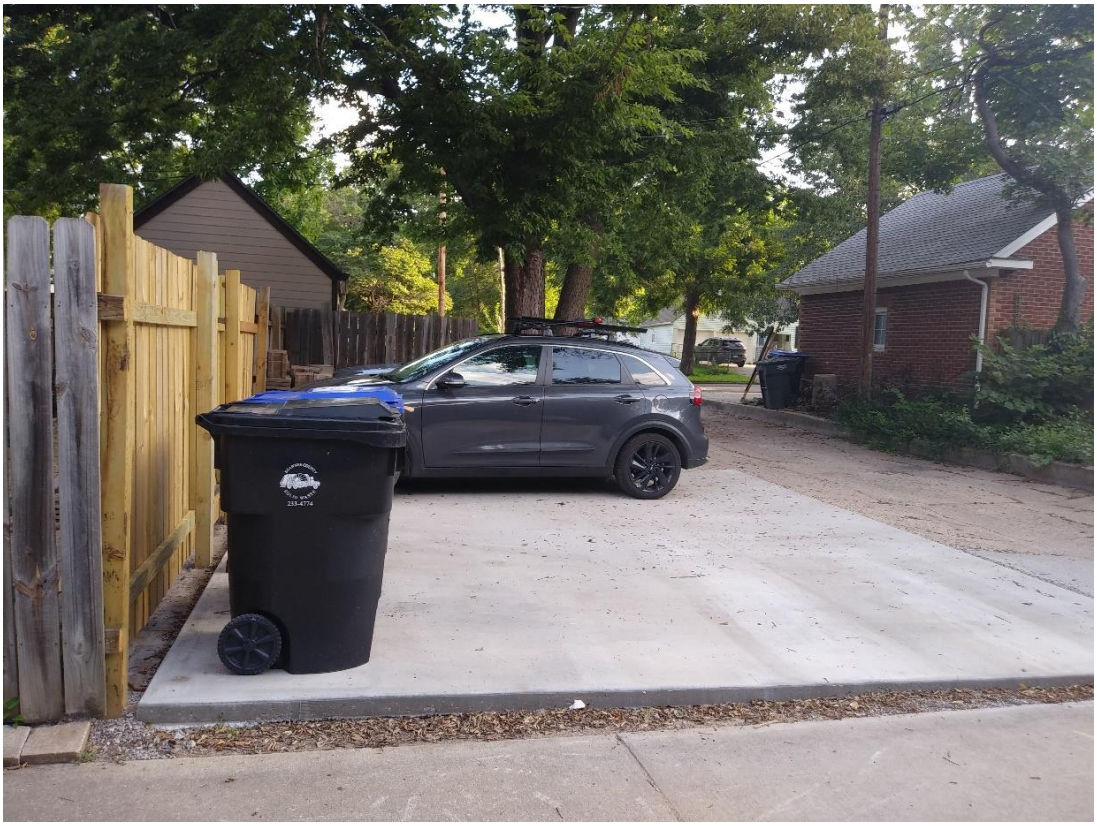
Rear Yard between House and Fence

BZA19V_04 by Brad and Sharon Avery

EXHIBIT F

Proposed Location of Carport and Alley

BZA19V_04 by Brad and Sharon Avery



Proposed Location of Carport and Alley

BZA19V_04 by Brad and Sharon Avery