

AGENDA

CITY OF BASEHOR BOARD OF ZONING APPEALS

August 20th, 2015

6:00 P.M.

Basehor City Hall

A. Call to Order

B. Roll Call

C. Approval of the Minutes of the January 15th, 2015 BZA Meeting.

- I. Please review the Minutes from this meeting and make any changes you feel necessary.

D. New Business

- I. **Public Hearing**—A request for variance from the rear yard setback as stated in the Prairie Lake Estates Subdivision of thirty feet (30') to allow for the encroachment of a previously constructed covered patio located on a single family residence located at 15006 Josh Street.

E. Old Business

None

F. Open Agenda

G. Reports from Special Committees

H. Notices and Communications

I. Adjournment

**Minutes of the
January 15th, 2015
Board of Zoning Appeals Meetings**

Minutes
Basehor Board of Zoning Appeals
January 22, 2015
Basehor City Hall

A. Call To Order

Chair Jeff Scherer called the meeting to order at 6:00 p.m.

B. Roll Call

Present: Ken Massingill, Bill Robinson, Kevin Jones and Jeff Scherer

Absent: John Dockendorff

Staff: Mark Lee, Building Inspector and Connie Leggett, Utility Billing Clerk.

C. Approval of Minutes

A motion from Bill Robinson to approve the December 12, 2013 minutes and Ken Massingill seconded. Voting members approving in favor of the motion, the majority vote rules and the motion passed 4-0.

D. New Business

- 1. Public Hearing - A request for variance from the southern front yard setback as stated on the approved plat of the High Point Downs Subdivision of thirty-five feet (35') to twenty-five (25') allow for a similar style home to be constructed on Lot 11, Block 1.**

Bill Robinson made the motion to accept the request for variance and Ken Massingill seconding the motion. Voting members approving in favor of the motion, the majority vote rules and the motion passed 4-0.

- 2. A request for variance from the front yard setback as approved by the City of Basehor in the High Point Downs Subdivision for the following lots: Lots 12 and 13 of Block 8.**

Kevin Jones made the motion to accept the request for variance and Mr. Robinson seconded the motion. Voting members approving in favor of the motion, the majority vote rules and the motion passed 4-0.

E. Old Business – None

F. Open Agenda – None

G. Reports from Special Committees – None

H. Notices and Communications – None

I. Adjournment

Ken Massingill made the motion to adjourn with Kevin Jones seconding. There being no further business, Voting members approving in favor of the motion, the majority vote rules and the motion passed 4-0 and the meeting adjourned at 6:10 p.m.

Submitted for approval with/without additions or corrections this 20th day of August 2015.

Jeff Scherer, Chairman

Connie Leggett, Utility Billing Clerk, BZA Secretary

New Business

STAFF REPORT

Date: August 20th, 2015

Subject: Request for variance from the platted rear yard setback in Prairie Lake Estates Phase 3.

File Number: V-2-15

GENERAL INFORMATION

Applicant: C.L. Conus Builders (Casey Conus; Builder)
Address: 18090 Evans Road
Tonganoxie, KS 66086

Owner: Doug & Shannon Davis
Address: 2023 East 26th Street
Lawrence KS 66046

Agent: None

STAFF ANALYSIS

Site Characteristics

Location: 15006 Josh Street
Lot 64, Prairie Lake Estates Phase 3

Area of Property: 23,073 Square Feet

Zoning: R-1 Single Family Residential

Future Land Use Map: Low Density Residential

Adjacent Property:

	ZONING	USE
North:	R-1	Single Family Residential
South:	R-1	Single Family Residential
East:	R-1	Single Family Residential
West:	R-1	Single Family Residential

Narrative/Background

C.L. Conus Builders has submitted an application for a variance on behalf of the new property owners; Doug & Shannon Davis, for the property located at 15006 Josh Street (Lot 64, Prairie Lake Estates Phase 3). The requested variance is to allow the encroachment of a newly constructed covered patio into the rear yard setback. This encroachment would allow for the newly constructed covered patio to remain covered in full. With an existing stone retaining wall located on the east side of the lot, the builder determined in the preconstruction phase that the home should face the south as to alleviate the necessity to remove and/or disturb the retaining wall for placement of a driveway. When the home was turned to face south it left approximately fifty-five feet (55') of buildable space on the lot. The home itself measures roughly forty-seven feet (47') deep with the covered patio extending another twelve feet (12') from the home. As shown in the "As-built" plot plan, the covered porch structure encroaches into the rear yard setback 10.33 feet in turn making the rear yard setback 19.67 feet. The approved plot plan indicated a scaled distance between the rear of the home and the rear property of thirty-seven (37') feet. The building plans did indicate a covered porch however the porch was not conveyed to the approved plot plan and does not give permission to construct over the building setback lines.

The new homeowners have also provided a signed letter from the homeowners that live directly north, this letter states they do not see the encroachment as taking away from the aesthetics of their home or the surrounding area.

The property is zoned R-1, Single Family Residential and consists of approximately 23,073 square feet. All other aspects of this home should comply with the Zoning Regulations and all applicable Building Codes adopted by the City of Basehor.

The applicant feels that if the setback variances are not granted, the removal of the covered porch would most likely cost the new residents more to modify the structure than it was to construct it. Certain home sizes are required in this subdivision to meet the minimum square footage requirements as per the plat and City regulations.

The Prairie Lake Estates Phase 3 plat was approved by the City Council in April 2006. The plat established side-yard setbacks of ten (10') feet, front yard setbacks of thirty-five (35') feet and rear yard setbacks of thirty (30') feet, of which all are consistent with the Zoning Ordinances as adopted. No yard reductions were asked for in the platting of Prairie Lakes Phase 3.

Conformance with the Zoning Ordinance

Section 17 states: *The board shall have the power to hear and decide variances from the specific terms of this Ordinance in an individual case provided that the spirit and intent of this Ordinance be observed, public safety and welfare are secured, adjoining property owners are not adversely affected and the strict application of the Zoning Ordinance will result in an unnecessary hardship on the property owner/applicant. Such variance shall not permit any use not permitted in the Zoning Ordinance in such district.*

A variance may be granted in each case, upon finding by the board that all of the following conditions have been met:

- 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 zoning district; and is not created by an action or actions of the property owner or the applicant.**

Several subdivisions in the City of Basehor have setbacks that are less than what is required by the Zoning Ordinance. This is not the case in Prairie Lake Estates though, which can prove to be a disadvantage for the builder and property owner, because there is less buildable area for each property. The setbacks in Prairie Lake Estates Phase 3 have not been reduced below the city requirements of thirty-five feet (35') and thirty feet (30') respectfully as stated in the Zoning Ordinance. It cannot be determined by staff that the variance arises from any unique condition in this zoning district.

- 2. The granting of the variance request will or will not adversely affect the rights of the adjacent property owners or residents.**

Granting the variance would not directly harm any of the surrounding homeowners or property owners. The required rear yard setback is thirty (30') feet, but due to the placement of the home to the north' 1306 N. 150th Terrace (Lot 65), and its distance from its southern side yard setback line (eighteen feet at its closest and twenty-three feet at its farthest) it is virtually impossible to visually determine an encroachment is occurring.

- 3. That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Staff finds that the potential exists for a hardship to result from the denial of this variance request. If the Zoning Ordinances were to be followed the homeowners/builder would be forced to remove a portion of the covered patio and reconstruct the pillars and roof line potentially costing the homeowners several thousand dollars or more.

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, the general welfare or the harmonious development of the city.**

Granting the variance will not adversely affect the health, safety, morals or general welfare of the public in any way. The setbacks set forth by the Zoning Ordinance or plat restrictions are intended to 1) provide sufficient open spaces between structures; and 2) provide sufficient separation between structures for emergency purposes (fire fighting). In the event that a variance is granted, the required spaces will not be intruded upon.

- 5. That granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.**

Granting the variance from the required yard setbacks may be opposed to the general spirit and intent of the Zoning Ordinance. The Zoning Ordinance provides setback requirements in all zoning districts that are intended to 1) provide sufficient open spaces between structures; and 2) provide sufficient separation between structures for emergency purposes (fire fighting). In the event that this variance is granted the intent of the Zoning Ordinance shall not be affected.

- 6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions, which are in question.**

The requested variance shall be the minimum variance required to remedy the situation as it relates to the proposed home and lot.

Conformance with the Future Land Development Plan:

The Future Development Plan identifies this area as "Low Density Residential". This property is typical of other lots in the area and is in conformance with the density shown on the Future Development Plan.

Traffic Impact:

The proposed variance request will have no impact on the current street network.

Drainage Impact:

The proposed variance request will have no impact on drainage.

STAFF RECOMMENDATION:

With the distance between this home and the home located directly to the north and the signed letter provided by those neighbors from the north, staff recommends the approval of this particular variance request as follows:

Staff recommends that the rear yard setback line of Lot 64, 15006 Josh Street, be reduced to nineteen (19') feet in order to allow for the covered patio to remain intact.

BOARD OPTIONS

- 1. Approve the variance request, with or without conditions/changes.**
- 2. Deny the variance request**
- 3. Continue the Public Hearing to another date, date, time, and/or place**

54.64'

LOT 63

S 01°52'19" E 183.00'

124'

120.31'

N 88°07'41" E

189.97'

LOT 62 R 23' L 21.03'

130.05

130.04
LOT 64

35' BLDG LINE

15' U/E

189.97'

20' R

100.31'

56.29'

50th TERRACE
W 257.50' S 2°19' E

25' 125'

100.31'

56.29'

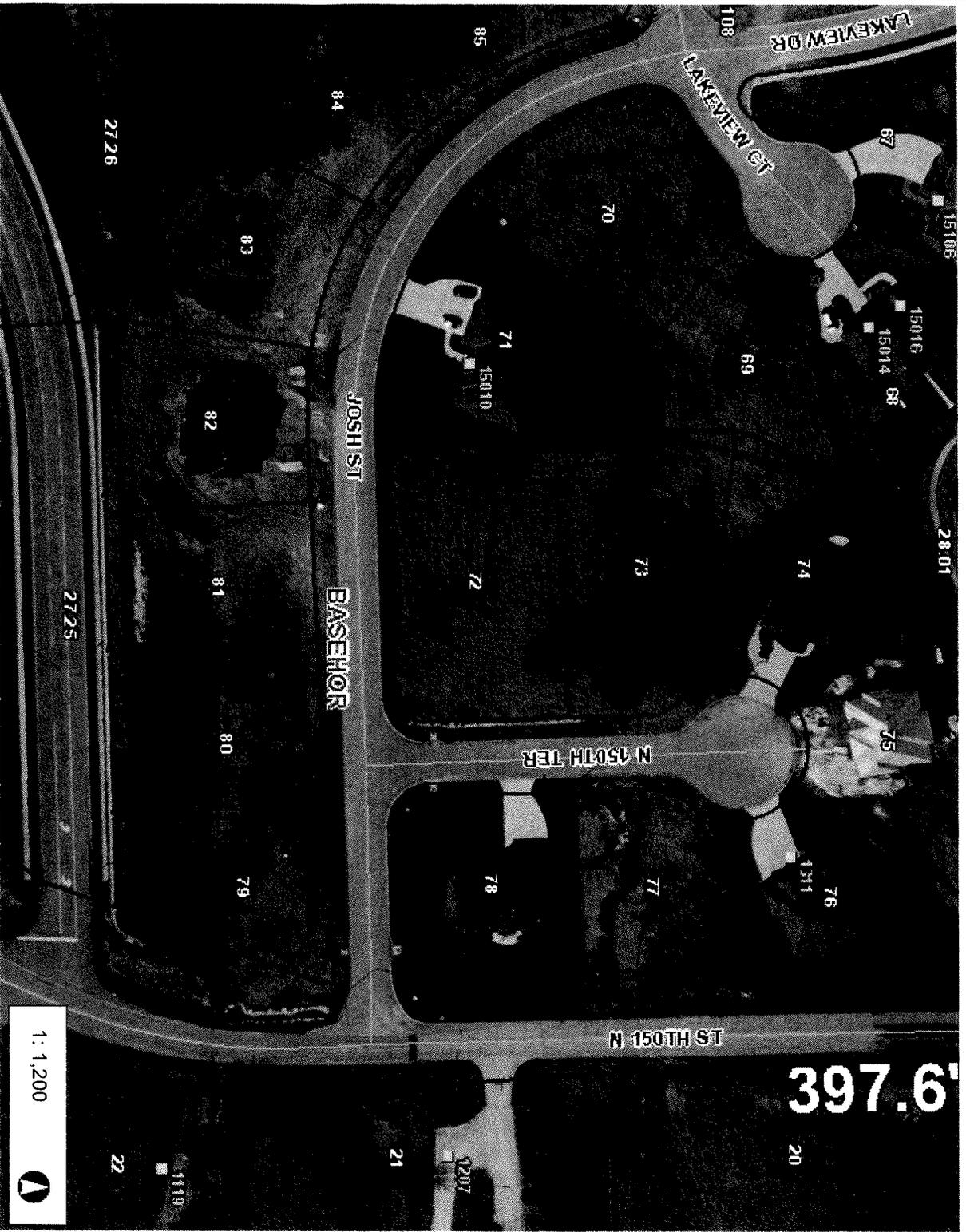
JOSH STREET

N 88°07'41" E 395.44'

110.00'

100.00'

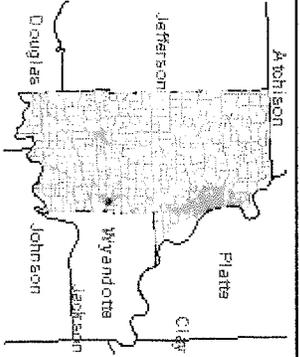
15006 Josh Street



1 : 1,200

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

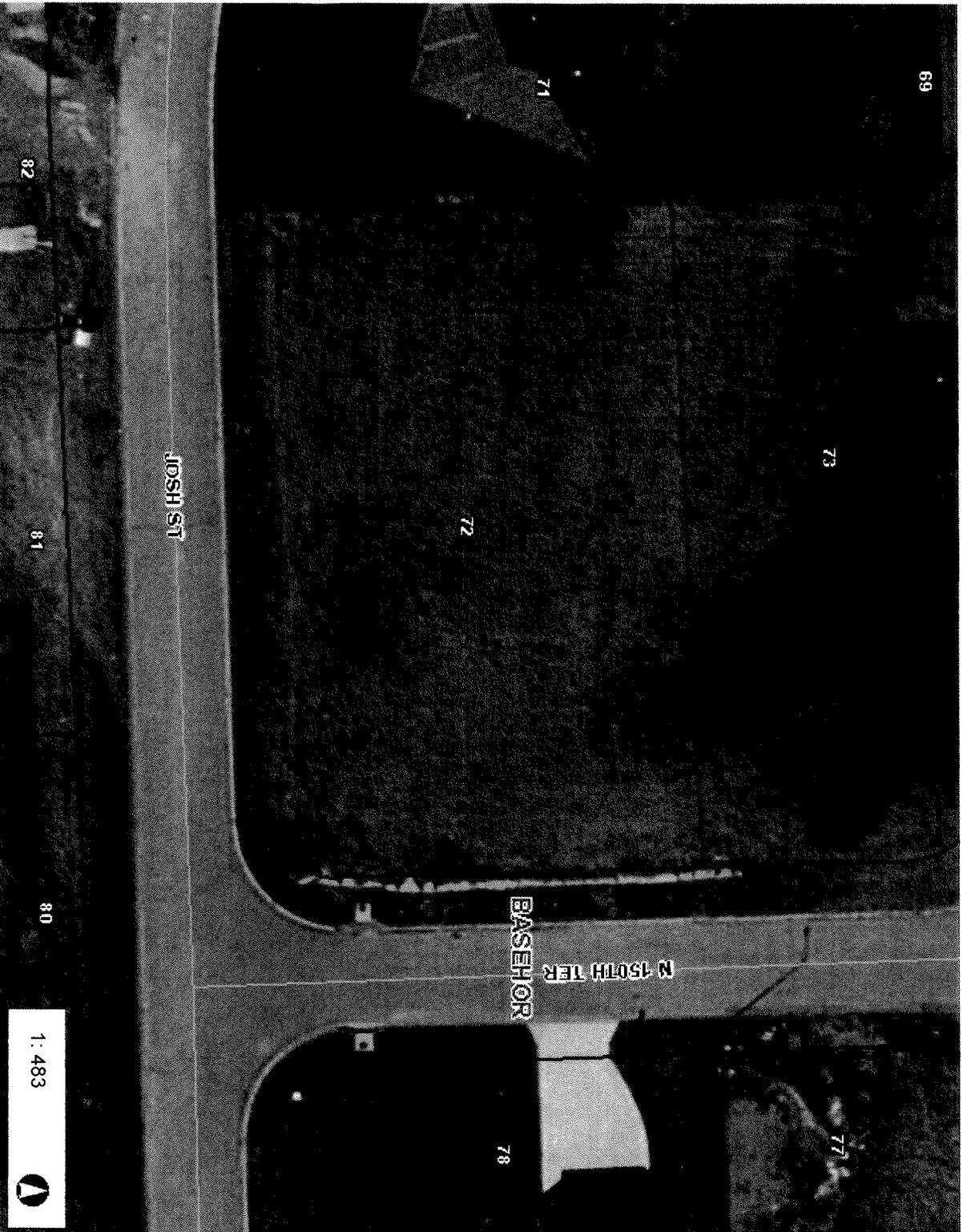
THIS MAP IS NOT TO BE USED FOR NAVIGATION



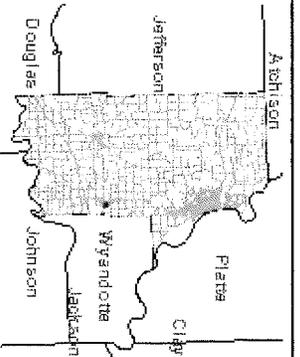
- Legend**
- Address Point
 - Address Points Leavenworth
 - Parcel
 - Parcel Number
 - Subdivisions
 - Lot Line
 - City Limit Line
 - Major Road
 - 70 <all other values>
 - Road
 - + Railroad
 - Section
 - County Boundary

Notes

15006 Josh Street



1:483



Legend

- Address Point
- Address Points Leavenworth
- Parcel
- Parcel Number
- Subdivisions
- Lot Line
- City Limit Line
- Major Road
- Road
- Railroad
- Section
- County Boundary

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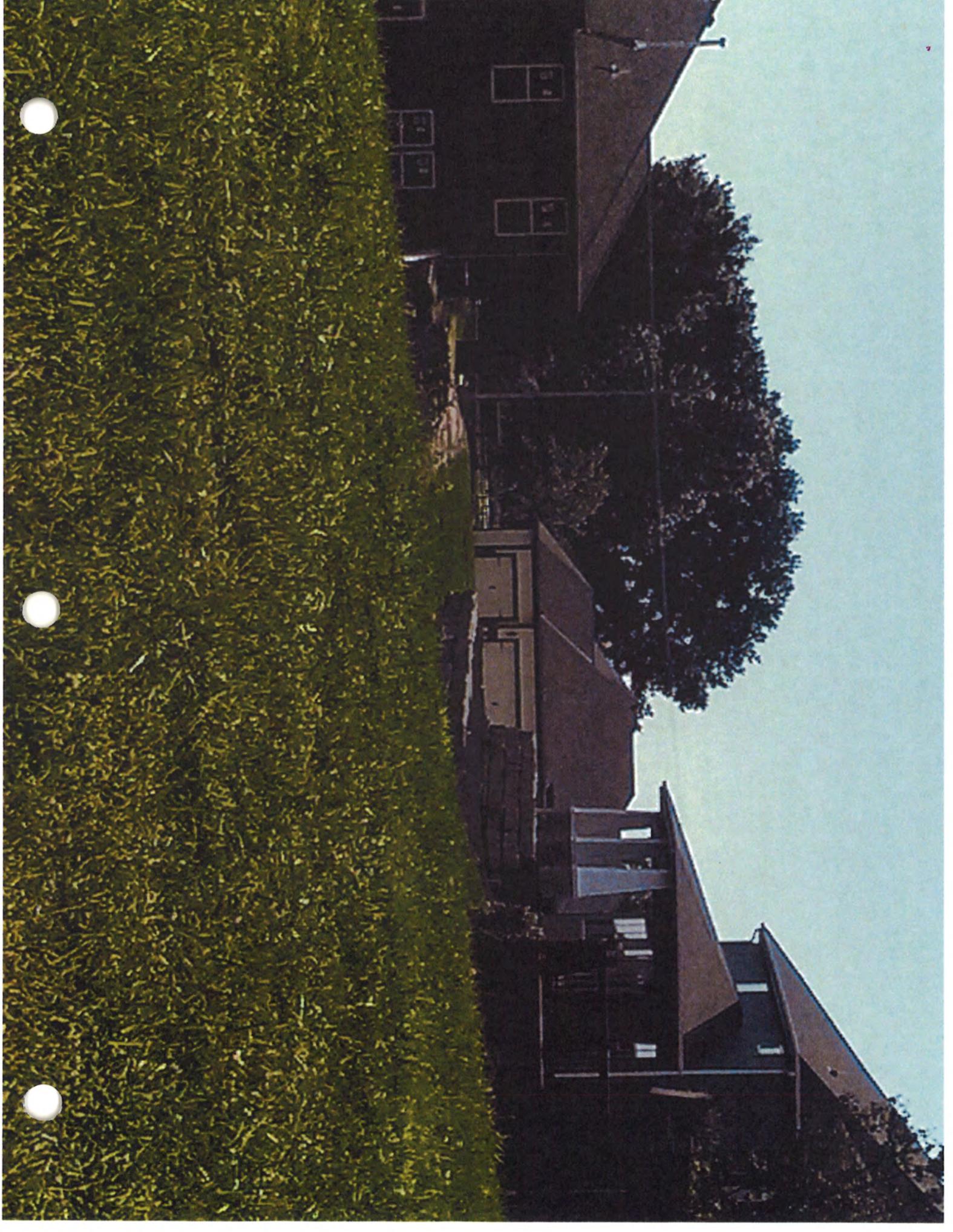
Notes



R28212







The following are plot plans that have been submitted, I am including a brief synopsis of each for your informational use.

- 1) The following plot plan is what was submitted at the time of permit application for the property in question, it includes notes that were placed on the plot plan during the review process.
- 2) The following plot plan is the "As-built" provided by the surveyor and shows the encroachment of the covered porch as it sits now.
- 3) This plot plan is of the lot located directly north of the home in question, as indicated on this plot plan the home was held eighteen (18') feet from the property line at the front of the garage and twenty-three (23') feet from the property at the offset behind the garage.
- 4) This image was put together using the two individual plot plans, the scale for both was the same 1"=30', I have lined up the property lines, the centerlines of 150th Terrace and the thirty-five (35') front building setback lines, this image shows the approximate location the covered porch in question in regards to the home located to the north.

1

PLOT PLAN

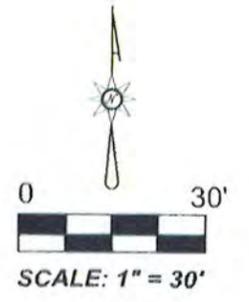
PREPARED FOR: C.L. CONUS BUILDERS
LOT 64
PRAIRIE LAKE ESTATES PHASE 3
CITY OF BASEHOR
STATE OF KANSAS
DATE: SEPTEMBER 28, 2014

*Erosion Control
measures shall
be placed per
City standards*

*Reviewed for Compliance
OCT 01 2014
City of Basehor*

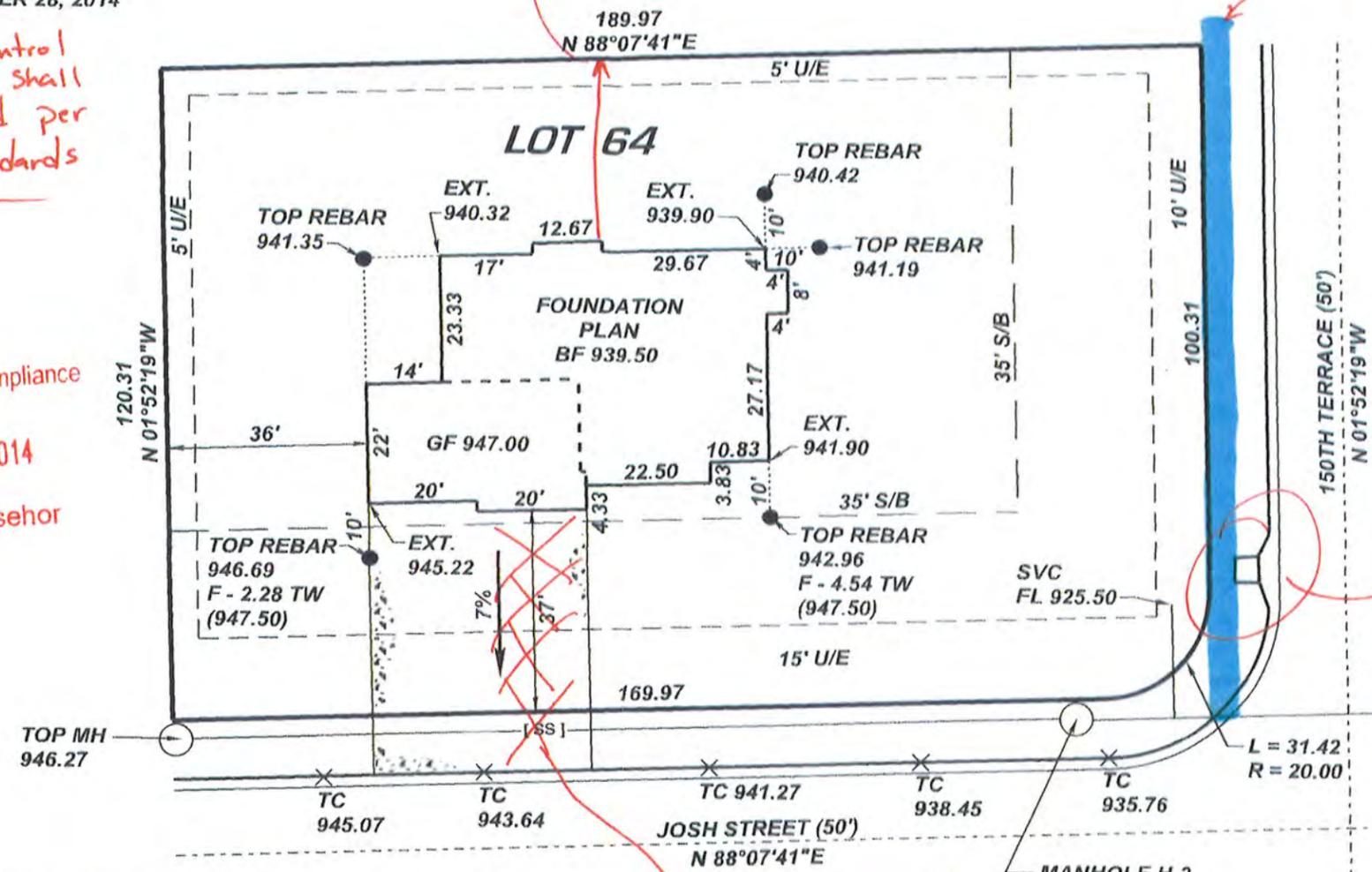
*near yard
Setback?
57' per Surveyor*

4' sidewalk



LEGEND

TC	TOP OF CURB
TW	TOP OF WALL
GF	GARAGE FLOOR
BF	BASEMENT FLOOR
EXT.	EXISTING ELEVATION



*Protect curb
inlet during
construction*



*temporary gravel
construction drive*

- NOTES:
1. THIS PLOT PLAN WAS PREPARED FOR FOUNDATION CONSTRUCTION ONLY.
 2. ALL DIMENSIONS TO BE VERIFIED BY BUILDER.
 3. NO TITLE INFORMATION WAS PROVIDED ON THIS DRAWING.
 4. ALL ELEVATIONS ARE NAVD 1988.

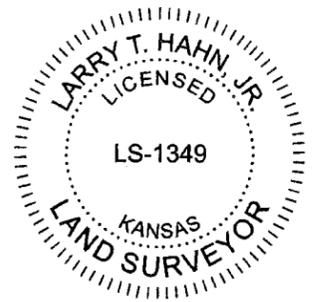
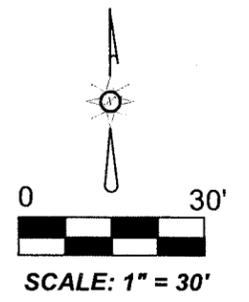
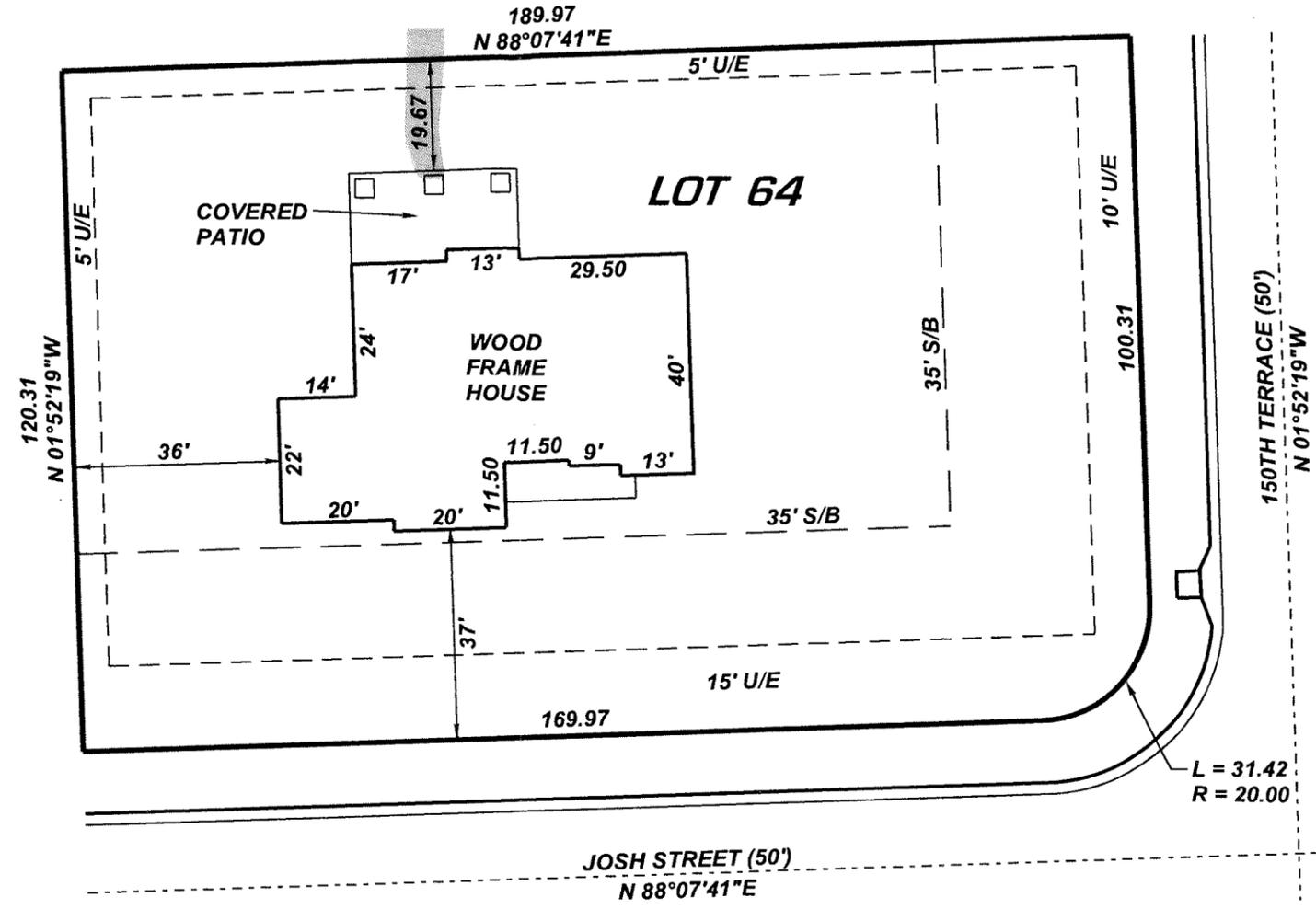


Hahn Surveying
PO BOX 41
LANSING, KANSAS 66043
(913) 727-1007 (913) 547-3405
lhahn3@kc.rr.com

2

AS-BUILT

PREPARED FOR: C.L. CONUS BUILDERS
LOT 64
PRAIRIE LAKE ESTATES PHASE 3
CITY OF BASEHOR
STATE OF KANSAS
DATE: JULY 30, 2015



HAHN SURVEYING
PO BOX 41
LANSING, KANSAS 66043
(913) 727-1007 (913) 547-3405
lhahn3@kc.rr.com

(3)

PLOT PLAN

This Plot Plan should not be used to establish any fences, buildings, or other structures except as shown on this original copy. This does not constitute a boundary survey. No property corners were set. This is a pre-construction Plot Plan, only.

Job No. 14-92

ORDERED BY: Pfannes Homes, Inc.; 23808 W. 51st Lane; Shawnee, KS 66226

DESCRIPTION: Lot 65, Prairie Lake Estates Phase 3, a subdivision of land in the City of Basehor, Leavenworth County, Kansas. Subject to any easements, restrictions, or reservations of record or fact.

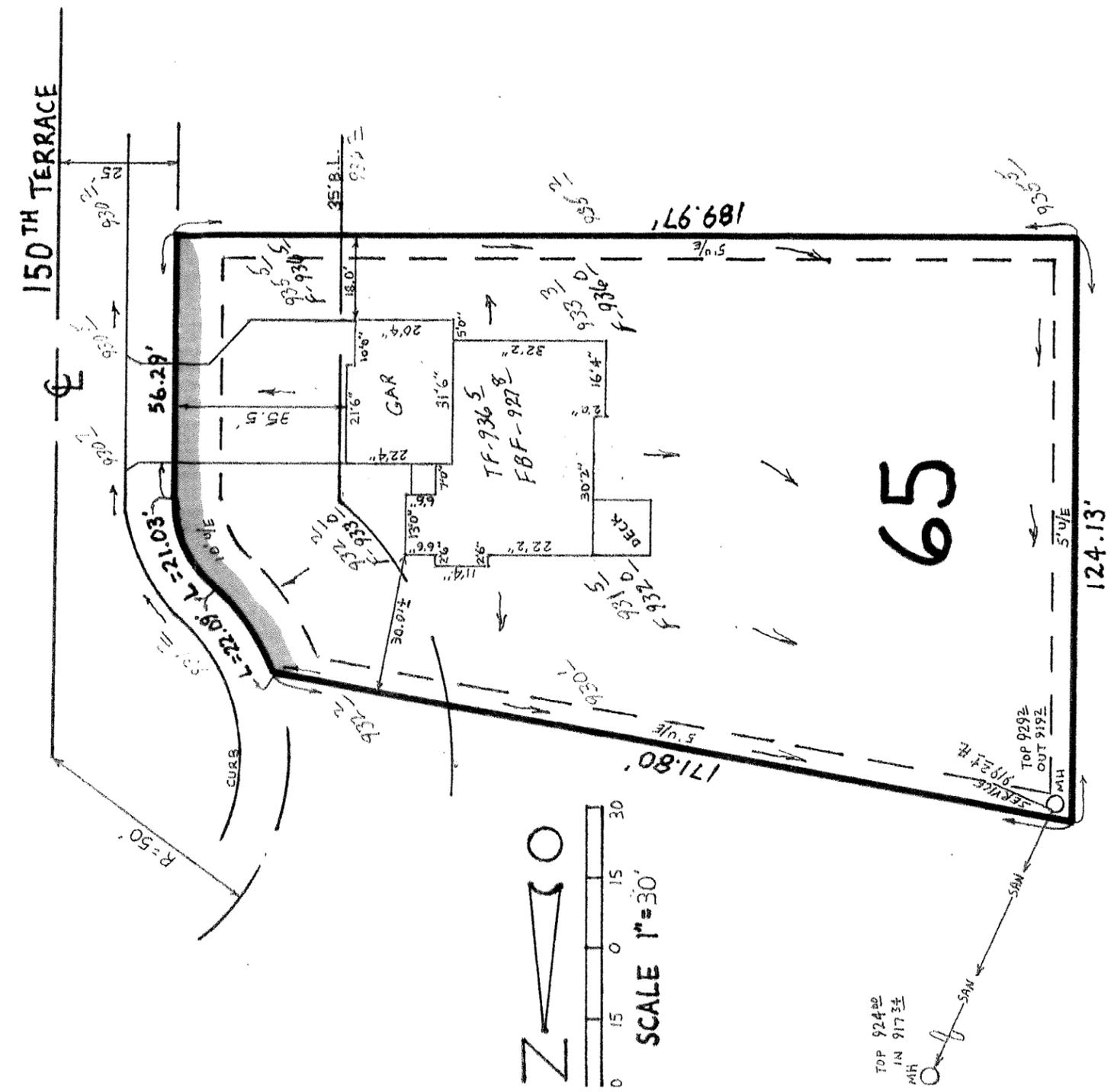
NOTES: Legal description provided by client.

All sewer information shown was taken from plans. Builder responsible to verify any sewer information prior to construction.

Reviewed for Compliance

OCT 13 2014

City of Basehor



Richard D. Moore Land Survey, Inc. (913) 334-3888
7540 Leavenworth Rd. Kansas City, KS 66109
9-29-14

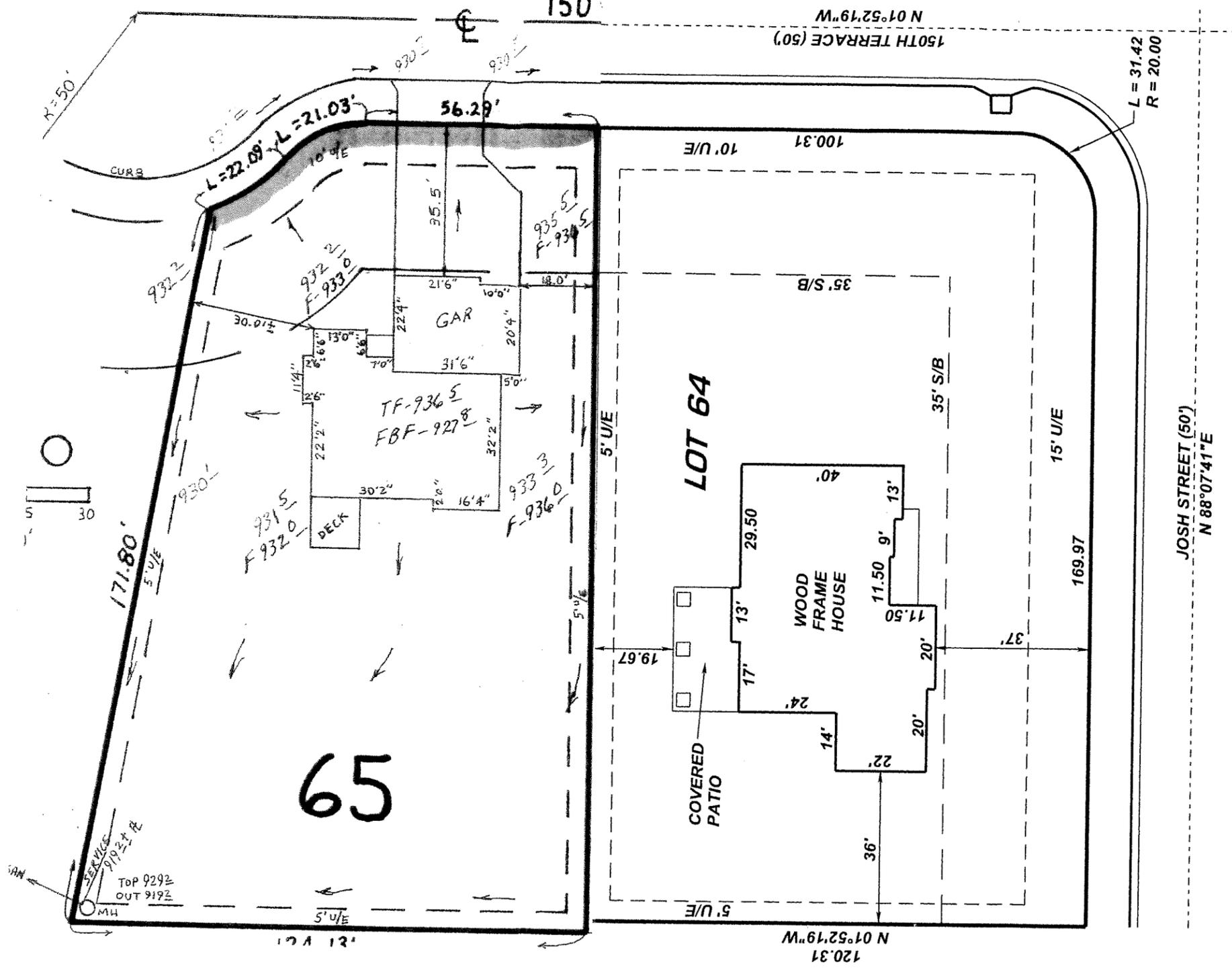
LS-1394

SEPTEMBER 29 2014

Date

RICHARD D. MOORE — L.S. 1394

4



**Information Supplied
By
Applicant**

8/3/15

To Whom It May Concern:

As the neighbors directly north of the Davis household located at 15006 Josh Street in Basehor, Kansas, we share the property line on the side of the house with the covered porch in question.

We are aware that the covered porch extends into the city required 30' rear yard setback, but do not consider it to be an aesthetic, financial, or emotional burden. Therefore, since we have no problems with the covered porch, we are willingly supporting our neighbors and requesting that the variance for the covered porch be approved.

Thank you for your consideration.

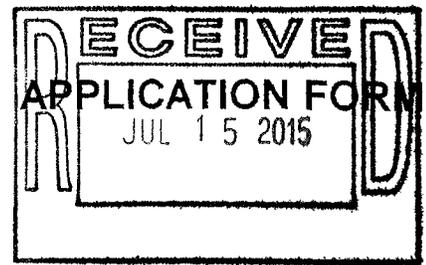
Sincerely,



George and Joyce Scheckter

CITY OF BASEHOR

Planning & Zoning Department
 2620 N. 155th Street, PO Box 406, Basehor, KS 66007
 Phone: 913-724-1370 Fax: 913-724-3388
 www.basehor.org



Project Name & Description Davis Residence		Total Site Acreage .529	Present Zoning Residential
Legal Description (May be attached as separate sheet) S2, T11, R22E Lot 64		Proposed Zoning	
Project Address / General Location 15006 Josh St., Basehor, KS		Presubmittal Date	
Parcel ID Number (CAMA Number) 181020000072060		Floor Area Classification	
Property Owner Name Doug and Shannon Davis	Phone	Fax	
Property Owner Address 2023 E 26th St.	City Lawrence	State KS	Zip 66046
Applicant's Name (if different from above) C.L. Conus Builders	Phone 913-961-0567	Fax	
Applicant's Address 18000 Evans Rd	City Tonganoxie	State KS	Zip 66080
Applicant's mobile phone 913-961-0567	Property Owner and/or Applicant's E-mail address cconus@clconusbldrs.com		

APPLICATION TYPE	
<input type="checkbox"/> Annexation	<input type="checkbox"/> Preliminary Development Plan (Submit Sheet A)
<input type="checkbox"/> Rezoning (Submit Sheet A)	<input type="checkbox"/> Final Development Plan (Submit Sheet A)
<input type="checkbox"/> Conditional Use Permit (Submit Sheet A)	<input type="checkbox"/> Lot Split
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Preliminary Plat
<input checked="" type="checkbox"/> Variance (Submit Sheet B)	<input type="checkbox"/> Final Plat / Replat

PROJECT INFORMATION	
Existing Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Office <input type="checkbox"/> Agriculture <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____	
Proposed Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Office <input type="checkbox"/> Agriculture <input type="checkbox"/> Other _____	

COMPLETE THIS AREA IF APPLYING FOR SITE PLAN, CONDITIONAL USE PERMIT, AND PRELIMINARY OR FINAL DEVELOPMENT PLANS (in acres)			
Total Site Area	Existing Floor Area	Existing Building Footprint	Open Space Area
No. of Buildings	Proposed Floor Area	Proposed Building Footprint	Pavement Coverage

COMPLETE THIS AREA IF SUBDIVIDING PROPERTY			
Proposed Number of Lots	Maximum Lot Size	Minimum Lot Size	Average Lot Size

Property Owner/Agent Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

x *[Signature]* 7/15/15
 Signature Date

Office Use Only	JUL 20 2015
<input checked="" type="checkbox"/> Filing Fee \$ <u>150.00</u>	<input type="checkbox"/> Received by <u>Cal</u> <input type="checkbox"/> # of Plans _____
<input type="checkbox"/> Attached Legal Description	<input checked="" type="checkbox"/> Property Ownership List

4-3-15

CITY OF BASEHOR

Planning & Zoning Department
 2620 N. 155th Street, PO Box 406, Basehor, KS 66007
 Phone: 913-724-1370 Fax: 913-724-3388
 www.basehor.org



GENERAL REASON FOR APPEAL, EXCEPTION, OR INTERPRETATION

REASON FOR REQUEST

Is this a request for:

- an interpretation of the zoning ordinance text, maps, or boundaries according to Article 17(6)A?
 (Includes appeals from decisions of any officer administering the provisions of the Zoning Ordinance as allowed in Article 17(11)A.)
- a special exception as allowed in Article 17(10)A in the Zoning Ordinance?
- a request for a variance from the Zoning ordinance as allowed in Article 17(14)A?

Explain, including the interpretation, exception or applicable section of the Zoning Ordinance.

I would like a variance pertaining to Article 7, Section 2.e.3
to allow the covered patio to stay as built per plans.

REQUEST FOR VARIANCE

A request for a variance from the zoning ordinance may be granted upon the finding of the board that all of the following conditions have been met: (Explain in detail how each of the following conditions have been met)

- a. 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 or actions of the property owner or the applicant. Due to the shape and slope of this lot it was necessary to place the house as we did to ensure proper drainage.
- b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The granting of this variance does not affect the adjacent property owners.
- c. That the strict application of the provisions of the Zoning Ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application. The cost to modify or remove the covered patio would cost the homeowners more than it costed to build originally.
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare or the harmonious development of the city. This variance will not affect the public health, safety, morals, order, convenience, prosperity, general welfare or the harmonious development of the city.
- e. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance. Since this lot is wider than most, they will have plenty of green space on the sides that more than make up the variance required for the rear yard.
- f. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions which are in question. Basically, the Article is question requires the rear yard to be 20% of lot depth or 30', whichever is greater. The distance from the lot to the patio is 23' and 20% of the lot depth is 24'. I am requesting that the rear yard set back for this lot be changed to 23'.

Old Business

Open Agenda
(Discussion)

Reports from Special Committees

Notice and Communications

Adjournment