



## PLANNING COMMISSION JUNE 22, 2021 MEETING

City Hall – 131 N Main St

June 22, 2021 at 7:00 PM

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### AGENDA

#### CALL TO ORDER

#### ROLL CALL

1. J. Albers \_\_\_\_ B. Albers \_\_\_\_ Block \_\_\_\_ Henson \_\_\_\_ Gile \_\_\_\_ Harrison \_\_\_\_ Kutilek \_\_\_\_  
Olthoff \_\_\_\_ Rich \_\_\_\_ Runnells \_\_\_\_ Scott \_\_\_\_ Woodard

#### OTHERS PRESENT

#### AGENDA ADDITIONS

#### APPROVAL OF MINUTES

2. Planning Commission Minutes February 22, 2021

Commission member \_\_\_\_\_ moved to approve the minutes of the February 22, 2021 Planning Commission meeting.

Commission member \_\_\_\_\_ seconded the motion.

#### CITIZEN COMMENTS (Limited to items not on the agenda)

#### OLD BUSINESS

#### NEW BUSINESS

##### Business Items

3. OATH OF OFFICE - Melissa Olthoff

4. **ELECTION OF OFFICERS**

Officers of the Commission shall be elected at the first regular meeting following the first of May.

Commissioner \_\_\_\_\_ moved to appoint \_\_\_\_\_ as Chairman.

Commissioner \_\_\_\_\_ seconded the motion.

Commissioner \_\_\_\_\_ moved to appoint \_\_\_\_\_ as Vice Chairman.  
Commissioner \_\_\_\_\_ seconded the motion.

Commissioner \_\_\_\_\_ moved to appoint \_\_\_\_\_ as Secretary.  
Commissioner \_\_\_\_\_ seconded the motion.

**Open Public Hearing**

**5. PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION AT 811 N LINCOLN TO BUILD A GARAGE WITHIN 25' PLATTED BUILDING SETBACK**

Property owner, Dan Fouquet, 811 N. Lincoln has requested to build a 14' x 48' attached garage on the south side of their house/existing garage with driveway access off of 7th Ave. The garage will be 20' wide at the west end and wrap-around behind the house 6'. The garage will be 6' from the west property line. A variance is required because the garage will encroach into the platted 25' setback on the southern portion of the lot. Notices were sent to properties within 200'.

**Consideration**

**6. CONSIDERATION OF VARIANCE FOR 811 N LINCOLN**

Zoning Code 5.33 states a Variance can be granted if the following conditions are met:

1. That the variance requested arises from such condition which is unique to the property in question, 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.
2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
5. That granting the variance will not be opposed to the general spirit and intent of this ordinances.

**ADJOURN**



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### AGENDA

#### CALL TO ORDER

#### ROLL CALL

Members Present:

David Woodard, Bret Albers, Melanie Block, Steve Gile, Chad Harrison, David Rich, Ryan Runnells (phone), Bryan Mason. Staff Present- Danielle Young, City Admin/Clerk

**OTHERS PRESENT** - Roger Zerener and Lisa Meintner

#### APPROVAL OF MINUTES

Planning Commission Minutes January 6, 2021

Motion: Approve the minutes of the January 6, 2021 Planning Commission meeting.

Motion made by Planning Commission member Melanie Block, Seconded by member Bret Albers.

Motion passed 8-0.

#### CITIZEN COMMENTS

Roger Zerener addressed the Planning Commission and proposed the idea of using apartment 204 at 229 N Main as a full-furnished short term rental.

Roger Zerener stated he currently rents his 4 apartments on a 6-12 month lease and hopes to work with the White Barn venue or thought relatives in town could benefit have a place to rent on a short basis. In other communities, he's seen nicer homes and nicer areas of town with short term rentals. He has been pleased with his vacancy, but would like to try a short-term rental for 6 months and if it's doesn't work, he'll change it back to a longer lease.

#### NEW BUSINESS

##### DISCUSSION OF SPECIAL USE PERMIT AT 229 N MAIN

There are currently 4 apartments. Block asked why he was changing the length of term and Zerener stated there could possibly be an increase in revenue.

Administrator Young stated that the current Special Use Permit at 229 N Main allowed for 4 residential apartments to be built and was asking the Planning Commission for clarification if a short-term rental fell under the current Special Use Permit. Young reviewed that other neighboring towns such as Wichita, Goddard, Kingman and Lindsborg did not regulate them. Young reviewed the definitions from the Cheney Zoning Code

regarding “Apartment” and “Motel” and stated that the definition of “Apartment” did not define the length of lease.

Albers thought it was a great way to keep people in town. Harrison thought it was a great idea for the community and family members and saw no need for a new special use permit to be issued.

There was a consensus amongst members that the current special use permit was valid.

David Rich didn’t think there should be any additional restrictions in place on length of terms for leasing. He thought the City could keep it on the horizon and regulate at a later time if issues came up, such as several within the city.

### **ADJOURN**

Motion to adjourn the meeting at 7:30 pm.

Motion made by Planning Commission member David Rich. Seconded by Planning Commission member Bret Albers. Motion carried 8-0.

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Planning Commission Chair, David Woodard

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Danielle Young, Secretary



P.O. Box 1 • 131 N. Main • Cheney, KS 67025-0997 • (316) 542-3622 • Fax (316) 542-0185

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To:

Owner of Property Located within 200 feet of proposed application for variance of property.

From: Danielle Young, Secretary of the Cheney Planning Commission

Date: May 24, 2021

Hearing Date: **Thursday, June 22, 2021 at 7 pm**

Re: Notice of Public Hearing to Property Owners within 200 feet of 811 N. Lincoln and legal description listed below.

Lot 6 Block 1 Stoll Addition

Dan Fouquet has applied for a variance to build a 14' x 48' attached garage on the south side of their house/existing garage with driveway access off of 7<sup>th</sup> Ave. The garage will be 20' wide at the west end and wrap-around behind the house 6'. The garage will be 6' from the west property line. A variance is required because the garage will encroach into the platted 25' building setback on the southern portion of the lot.

The City of Cheney Planning Commission will be holding a public hearing to discuss this application on **June 22nd, 2021** at 7:00 pm at Cheney City Hall 131 N. Main St., Cheney, KS 67025. Public comments will be heard at this time.

If you have questions or concerns about this application, you can either attend the public hearing or you can contact me at City Hall during regular business hours to learn more about the application or the variance permitting process.

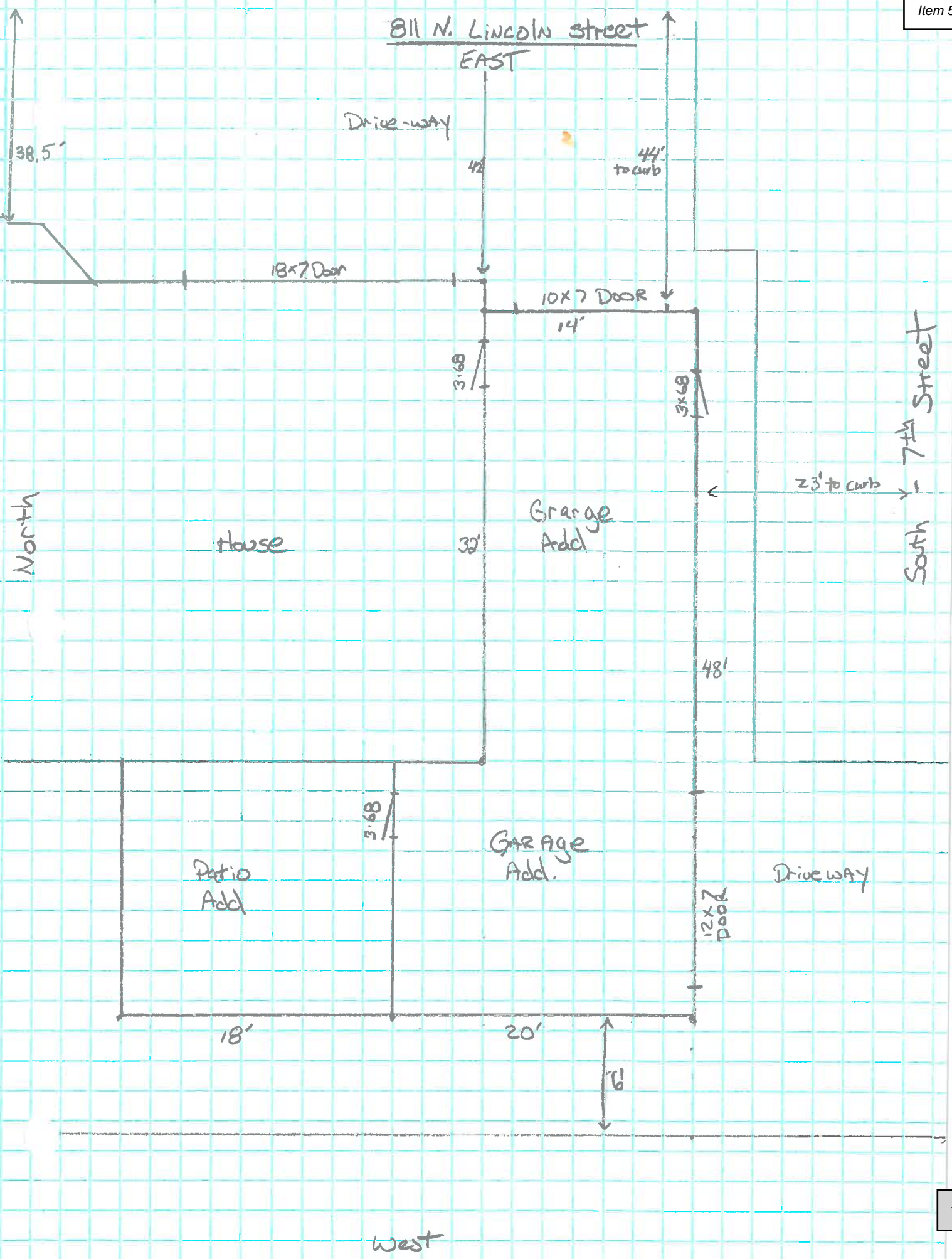
Following a decision by the City of Cheney Planning Commission on this application, the owners of property within 200 feet of this property may submit a protest petition, in conformance with the City of Cheney Zoning Code, filed with the City Clerk within fourteen (14) days of the conclusion of the public hearing.

Again, if you have questions about this application or process, I encourage you to contact me prior to the hearing at 316-542-3622.

Sincerely,

Danielle Young  
Planning Commission Secretary





**--Applicant hereby requests a variance for the following reasons:**

We are proposing to build a third garage stall onto our garage on the side of the house. The additional garage space is needed to house vehicles, so they are not parked on the street and equipment such as lawn mowers are not kept in the back yard, allowing more space for our children to play while keeping the neat and orderly quality of the neighborhood.

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Our lot is approximately 115 feet by 75.9 feet. Currently Cheney Code Section 10.02 provides for side yard setbacks of 25 feet from the right of way. The current house is set back 37 feet from the curb along 7<sup>th</sup> Avenue on the side of our house. However, our house is 44 feet off Lincoln in the front yard. I am proposing a set-back of 23 feet from the curb along 7<sup>th</sup> Avenue.

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**--Variance request arises from such a condition which is unique to the property in question, is not ordinarily found in the same zone or district and is not created by an action or actions of the property owners or applicants.**

We did not build or plat our home originally, thus did not cause the current condition. We understand that the plat was designed so that the home was going to face 7<sup>th</sup> Avenue. However, the home was built to face Lincoln and thus a large portion of our lot is used as front yard. The home was built back off Lincoln more than the set-back requirements. This was likely done to conform to the other front yards in the neighborhood. This condition is unique to the property in question.

**--Granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

The neighborhood is made up of homes. Many of them have larger garages or sheds. We will ensure that the addition matches the home and will not change the character of the neighborhood. The home directly west of my property has a large garage in the lot on the other side of it. The home across 7<sup>th</sup> Avenue has a three-car garage facing 7<sup>th</sup> Avenue. One of the homes across Lincoln already has a three-car garage.

**--Strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner represented in the application.**

The setbacks as currently contained in the plat and code coupled with the actual placement of the home on the lot provide for a disproportional area of the lot that is unusable. If we cannot build, we will be forced to move and there are not many homes for sale.



**--Granting the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

The garage will improve the health of my family, freeing up backyard space for the kids to play. There will be no adverse effects on the welfare of the community. The only possible issue with safety would be the traffic site lines. The existing house is set back onto the property with a large front yard. Building the garage onto the existing house will not affect traffic site lines. In addition, neither 7<sup>th</sup> Avenue nor Lincoln are through streets, so the traffic is slowed down on this corner naturally.

**--Granting the variance is not opposed to the general spirit and intent of the ordinance.**

Because the house was built on the land differently than originally planned for in the plat, the spirit of the ordinances is not opposed. My home is 44 feet from Lincoln across the front of the house to the curb. This is much greater than the suggested front yard setbacks. The purpose of setback requirements is to prevent houses from being built too close, maintain neighborhood quality, providing a place for utilities, etc. The proposed setbacks will not affect these purposes.

### **12.02 Height And Area Regulations For R-4 Developments**

The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for parking/paving and yards, and the minimum site area per dwelling unit permitted on any lot shall be as follows, except as provided in Height and Area Exceptions and Subdivision and Lot Splits:

1. Minimum lot area per dwelling unit – Eight thousand four hundred (8,400) square feet, this district shall also include lots platted prior to adoption of these codes which have a minimum lot area prior dwelling unit of 7,000 square feet
2. Maximum height:

Residences – two (2) stories, not exceeding thirty-five (35) feet from finished grade

3. Minimum front yard – twenty-five (25) feet from street right-of-way
4. Minimum side yard:
  1. Total side yards shall be twenty (20) percent of lot width. No side yard shall be less than six (6) feet from property line
  2. Corner Lots – twenty-five (25) feet from front street right-of-way and fifteen (15) feet from side right-of-way.
5. Minimum rear yard:
 

Twenty (20) feet from property line
6. Minimum lot width – Seventy (70) feet
7. Minimum lot depth – One hundred twenty (120) feet

### **26.03 Yard Exceptions; Platted Setback Lines**

Where a setback line for a front yard, side yard or rear yard is established on any plat approved by the City, which platted setback is more restrictive than the yard requirements set forth in this title, such setbacks shall control. Building permits shall not be issued for any building or structure outside of such platted setback.