



STAFF REPORT

City of Arkansas City Neighborhood Services Division

Josh White, Principal Planner

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CASE NUMBER
BZA-2023-211

APPLICANT/PROPERTY OWNER
Marcela Jimenez

PUBLIC HEARING DATE
June 13, 2023

PROPERTY ADDRESS/LOCATION
1020 W 5th Ave

BRIEF SUMMARY OF REQUEST

Marcela Jimenez has requested a variance to allow the construction of a home 1.75 feet below the required elevation of 1071.0 feet at 1020 W 5th Avenue. The property is currently developed with one home. The area surrounding the property is residential. Due to an error in measuring, the home was built lower than required. The required elevation is one foot above the base flood elevation of 1070.0 feet. The options to remedy this situation are limited. The first option is to elevate the home. The second option is to relocate the home to a site that is not in the floodplain. The homeowner has been made aware that if the variance is approved, the house will remain in non-conformance with FEMA regulations, and this will require a much higher premium on flood insurance. Based on site observations and historical knowledge, it appears likely that the base flood elevation is too high and should be adjusted downward which may mean the property will be brought into compliance administratively in the future, but staff must enforce current regulations including the current base flood elevation regardless of that.



Map data ©2023 Esri World Topographic map

EXISTING ZONING R-1 Low Density Residential District	EXISTING LAND USE Single Family Residential	SURROUNDING ZONING North-R-1 South-R-1 West-R-1 East-R-2	SITE IMPROVEMENTS Single Family Dwelling and pasture	SIZE OF PROPERTY 350' X 350' 2.81 acres
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STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

Based on FEMA and National Floodplain Insurance Program (NFIP) regulations, staff cannot recommend approval of this variance but does recognize that there may be issues with the current mapping including that the historical flood depth has been well below the base flood elevation in this area.

DOES STRICT ADHERANCE TO THE REGULATIONS REPRESENT AN UNNECESSARY HARSHIP ON THE APPLICANT?

The home is currently completed. Elevating the structure to the required elevation is technically possible but will be a significant cost for the homeowner. The only other option would be demolition of the structure or relocation to another site not within the floodplain.

PROPERTY HISTORY

There was a previous home on the site that was demolished in 2022 in preparation for the building of this home. That house was at a lower elevation than the current house. No other land use records were found.

RELIEF SOUGHT:

- A variance to allow construction of a home 1.75 feet below the required elevation of 1071.0 feet at 1020 W 5th Avenue.

Findings

In order to consider a request for a variance, the Board of Zoning Appeals must make written findings of facts that the following conditions apply to the property in question.

1. Will granting this variance cause danger to life or property?

No. While this home will be below the base flood elevation, it should not negatively impact other properties. It is a common belief that the base flood elevation on NFIP maps is too high. Flood depths have not been known to be as high as the base flood elevation.

2. Would there be a danger of materials being swept onto adjacent property?

No, this flood zone is static and does not involve flowing water. Also, the home is anchored to a slab foundation.

3. What is the susceptibility of the proposed development to flood damage if a variance is granted?

Since the structure will be below the base flood elevation, there is a chance it will experience flood damage but the flood depths historically have not been high enough to cause any damage to a structure built at this height.

4. Are the services provided by the facility important to the community?

Not really, however there is a housing shortage in the community.

5. Are alternate sites, not subject to flood damage, available?

Not that this property owner owns. The entire property is located within the floodplain so a different placement on the same property will not eliminate the need for a variance without elevating the structure.

6. Is the proposed use compatible with the neighborhood?

Yes, this is a residential neighborhood.

7. Is the proposed use compatible with the comprehensive plan and any floodplain management program for the area?

The Comprehensive Plan does call for residential development for this area with caution due to the floodplain. While the floodplain management ordinance does typically dictate that homes be elevated to 1 foot above the base flood elevation, the historical flood depths in this area have been well below the base flood elevation and therefore, the likelihood of flood damage remains low.

8. How will the property be accessed during a flood event?

The property can be accessed from 9th Street or 5th Avenue

9. Anticipated costs of government services, including roads and utilities, during and after flood conditions?

The granting of this variance should not increase the cost of government services as many of the neighboring homes are also below the required base flood elevation.

10. Is the property or structure listed on any Historic Registry? No

11. What is the size of the lot? 2.8 acres

12. Is the proposed variance site located in a floodway? No

13. Is the proposed variance minimum necessary?

In order for the home to remain at its existing elevation, a variance would be required. A variance would not be required if the home were to be elevated.

14. Will the proposed variance cause an increase in flood heights? No

15. Will the variance conflict with other state or local laws? No

16. Explain any exceptional hardship created should the variance not be granted?

The home is currently completed. Elevating the structure to the required elevation is technically possible but will be a significant cost for the homeowner. The only other option would be demolition of the structure or relocation to another site not within the floodplain.

17. The recommendations of professional staff;

Based on FEMA and National Floodplain Insurance Program (NFIP) regulations, staff cannot recommend approval of this variance but does recognize that there may be issues with the current mapping including that the historical flood depth has been well below the base flood elevation in this area.

If approved, in accordance with the Floodplain Management Ordinance staff will provide the homeowner with a Notice of Risk with the following text:

FLOODPLAIN VARIANCE NOTICE OF RISK FOR ARKANSAS CITY

A Variance (BZA-2023-211) was issued by the Arkansas City Board of Zoning Appeals for Lots 1-28 and all of Vacated 10th Street adjacent, Block 5, Love's 1st Addition commonly known as 1020 W 5th Ave on _____, 2023.

Marcela Jimenez is hereby notified that:

- (1) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and
- (2) Such construction below the base flood level increases risks to life and property.

Dated this ____ day of _____, 2023

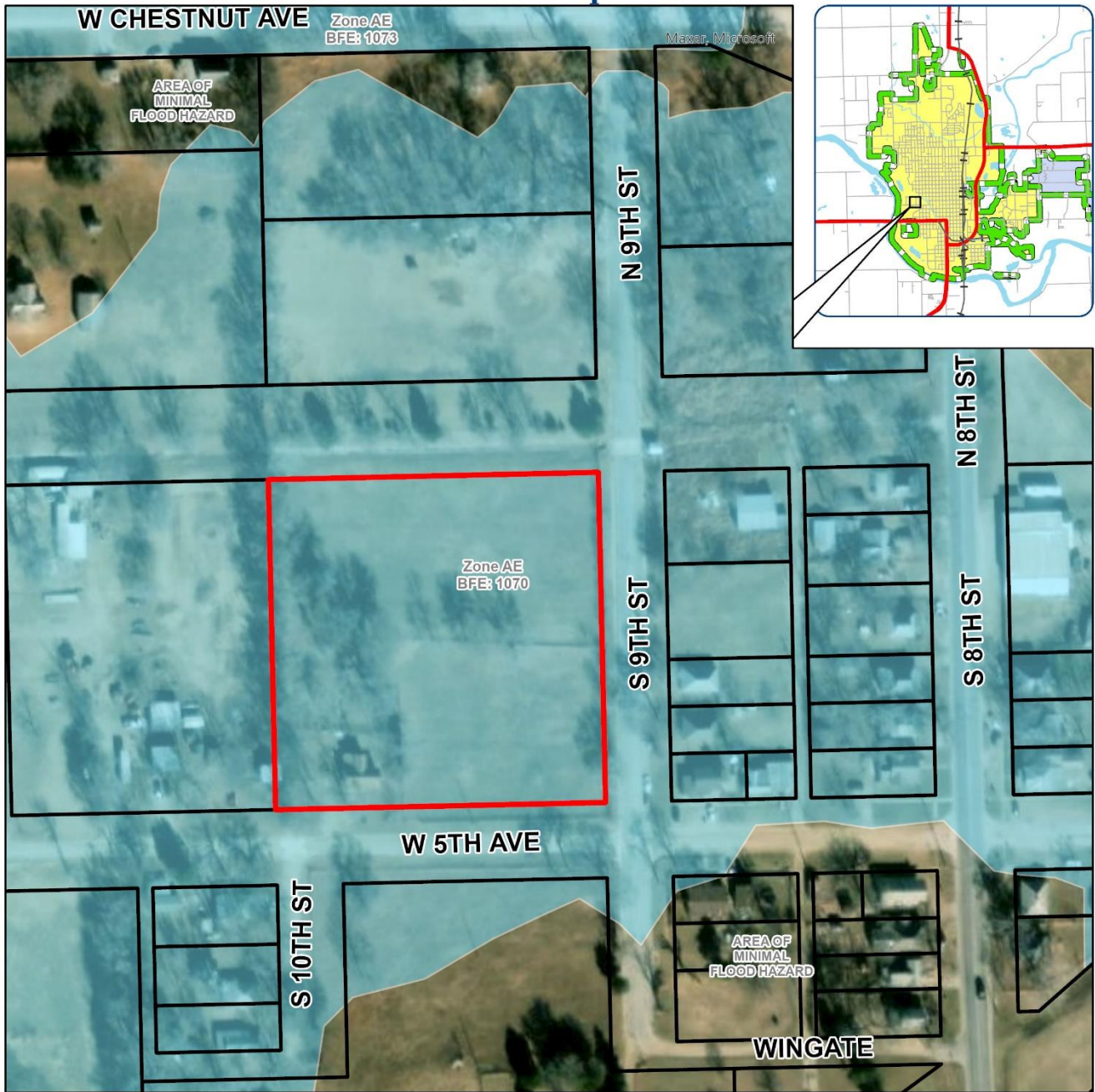
Arkansas City Floodplain Administrator

This notice would also be filed with the Cowley County Register of Deeds and with the Kansas Department of Agriculture Division of Water Resources.

If not approved, the house will be required to be elevated to the proper elevation or relocated to an area that is not within the floodplain.

Area map

Variance Request



A request for a variance to the floodplain management regulations to allow construction of a home below the base flood elevation.

- City Limits
- BZA-Variance
- Property Lines
- Floodway
- 1% Annual Flood Chance (100 Year) Flood Zones
Zone A
- Zone AE
- Zone AO
- 0.2% Annual Flood Chance (500 year) Flood Zones
- Area with Reduced Flood Risk Due to Levee-Zone X

Produced by the City of Arkansas City GIS using the best available data to date.
Created: May 04, 2023

Base Flood Elevation: 1070.0 ft
Required Elevation; 1071.0 ft
Variance Elevation: 1069.25 ft



Neighborhood Photos



The subject property-1020 W 5th Ave



House with orange cross showing required height



Close up view of orange cross marking required elevation



Bottom of stick shows required elevation at road level



Bottom of stick shows required elevation in relation to mailbox

Photos provided by Kings Construction