VAC2018-00009: City vacation of platted 30-foot building setback for a carport, are reduction from 30 feet to 24 feet, on property zoned SF-5, generally located east of North Woodlawn Boulevard and south of East 9th Street North (6520 East Marjorie Lane).

The applicant is seeking the reduction of the platted building setback from 30 feet to 24 feet to allow for the construction of a carport structure. The proposed carport would then project further into the platted setback, but would be allowed to project up to eight additional feet into the setback. Features allowed within Setbacks per Section III-E.1.e.(1)(i):

Open, unenclosed Porches and carports that do not project more than eight feet into a required Front Setback nor more than five feet into a required Rear Setback.

The site plan and legal description provided by the applicant (see attached) indicates that this Vacation, combined with the above referenced provision, should allow for the proposed carport to comply with the Zoning Code.

This property is a part of the Woodlawn Village 1st Addition, which was platted on 17 April 1954.

Update: During the Subdivision Hearing on 29 March 2018, it was discussed that the carport was already constructed at the time of application, and that this application would not be for future construction. It was also stated that no building permits were attained for the construction of the carport. The applicant stated that it was not her intention to violate any building or zoning code requirements and that she was unaware that she had done so.

The Subdivision Committee discussed the matter and, with the recommendation for approval failing due to a tie vote of 3-3, the application will go before the Planning Commission as a recommendation for denial by default.

Deborah Legge, Neighborhood Housing Director stated, “The case was started in December of last year because of the carport illegally installed in the front yard setback. They were initially given until 1/8 to resolve it. That deadline was extended until 2/12. The case was started as a result of a complaint.” The vacation application was filed on 14 February. However, the applicant discussed requirements for application with staff over a week prior to the application being filed.

There are no public utilities present within the proposed vacation area. No property will be denied access to public street right-of-way if the vacation is approved. Staff has not received comments from franchised utilities in opposition to this vacation, though both Cox Communication and Westar Energy have stated that they do not oppose this vacation.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted setback.

The Subdivision Committee recommends denial of the application.
If the Metropolitan Area Planning Commission sees fit to recommend approval of this application, the MAPC should approve based on the following conditions:

1. The applicant shall acquire a building permit from the Metropolitan Area Building and Construction Department (MABCD) and be subject to any and all relevant inspections and fees as required by MABCD. These permits are to be completed and issued prior to the vacation case going before the Wichita City Council for approval.

2. If needed, provide Public Works with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide approved project number(s) to Planning prior to the case going to City Council for final action.

Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

KYLE KOBE, planning staff, presented the staff report. He noted that the carport was already in place and constructed without a building permit and inspections. He pointed out that the purpose of the vacation was to allow the carport to remain. He also pointed out that one of the recommended conditions of approval requires the applicant to obtain a building permit and required inspections.

In response to a question by DAILEY, KOBE clarified that the property owner would not be able to apply for a building permit without approval of the vacation application.

FOSTER noted that absent the platted 30-foot building setback, the setback would be the standard zoning setback of 25 feet. He also asked if staff could explain the 30-foot setback instead of the 25-foot zoning setback. Staff advised they did not know the reason.

NORA YOUNG, APPLICANT, indicated that she did not know there was a requirement for a building permit or that there were building setbacks. She is willing to do whatever she needs to do to resolve the matter. She noted that the brick is actually red to match the brick on the home but she has not done the acid wash to remove the mortar from the face of the brick which makes it look gray. She noted that she has a difficult time parking here large vehicle inside the garage. The vehicle does not easily fit inside the garage is why she wanted the carport.

JOHN SEEBER, 6603 MARJORIE LANE, noted that MABCD started a housing case on the carport back in December of 2017, because of a neighborhood complaint. Mr. SEEBER provided four photographs of the applicant’s home and carport that he had taken. It was his opinion that the color of the brick did not match the brick on the home. He did not want the request to be approved.

YOUNG noted that it took four to five weeks for the carport to be finished she did not understand why neighbors would wait until it was finished to complain. She reiterated that she did not know she was violating code. The builder was a licensed electrician. It was not her intent to violate any rules.
RICHARSON commented that he thinks the builder as a licensed electrician would know he needed a building permit and it was the builder who should have informed her of the need for a permit, not her neighbors.

FOSTER at what stage of construction was the carport when she got the notice from MABCD.

YOUNG responded that it had been completed by the time she got the notice.

B. JOHNSON commented that he made a motion at Subdivision Committee to approve the request. There are instances where setbacks have been reduced to as little as 20 feet.

**MOTION:** Approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, GREENE seconded the motion, and it carried (9-2-1). Deny- FOSTER and RICHARDSON; Abstained-BLICK, arrived just before the vote and missed the testimony.