

for the purpose of erecting a pole sign on property zoned the "LC" Light Commercial District and legally described as:

Lot 1, in "Lark Lane Addition" to Wichita, Sedgwick County, Kansas. Generally located on the north side of Central Avenue, approximately 200 feet east of Caddy Lane (9502-4-6 W. Central)

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of July, 1979.

Mary L. Kopietz, Chairman

ATTEST:

Glen E. Lytle, Assistant Secretary

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5. Case No. BZA 31-79 - S. T. Hartnett, 4100 East English, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita requests a variance to reduce the required front yard setback from 20 feet to 2 feet 10 inches on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

Lot 31, and the north 23 feet of Lot 33, except for the east 20 feet condemned for street, on Hillside Avenue, Maple Grove Addition, Wichita, Kansas. Generally located at the southwest corner of Hillside and 3rd Street (357 North Hillside).

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LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report:

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

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 or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will 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; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required front yard setback, adjacent to Hillside, from 20 feet to 2 feet 10 inches for the purpose of enclosing an existing front porch to provide a reception area for a physical therapy treatment facility located on the premises.

In his statement of justification, the applicant points out that the variance request arises due to the east 20 feet of the property being condemned by the City to widen Hillside and prior to the condemnation the porch could have been enclosed and the required 20 foot front yard setback maintained.

In viewing the area in the field, it was seen that the building to the north sits approximately 18 inches from the property line on Hillside. It was also noted that the building to the south maintains what appears to be a 5 foot setback, however, the front porch has been enclosed with a rock facing to within approximately 18 inches of the porch roof line and, therefore, is located closer to the front property line than the applicant's building.

UNIQUENESS:

It is the opinion of the Secretary that the variance requested arises from an unique situation inasmuch as enclosure of the porch could have been accomplished prior to the condemnation of 20 feet of street right-of-way for Hillside without a variance.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the buildings to the north and south sit closer to the front property line than the addition proposed by the applicant.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship inasmuch as the applicant is in need of a reception area and the existing porch serves no practical purpose for the intended use of the property.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest inasmuch as the enclosure of the porch should in no way create a sight hazard or in any other way interfere with the general public interest.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance as uniformity within the area is created by the existing structures being at the reduced setback line.

RECOMMENDATION:

If the Board finds the five conditions necessary to the granting of a variance to exist, it is recommended that the variance be granted subject to the following condition:

1. The variance shall apply only to the enclosure of the existing porch as a reception area.

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LYTLE stated CPO had not provided any comment to staff on this request.

S. T. HARTNETT, applicant, spoke to the Board stating that he had attended two CPO meetings and that they had recommended approval of the request. He continued that even should this porch be enclosed it would still be back further than the structures on either side. He then indicated to the Board on the site plan that should the request be denied it would inhibit his operation by cutting in half the amount of floor

space available for therapy use.

No one else appeared in behalf of the application.  
No one appeared in opposition.

MOTION: SQUIRES moved, HENDERSON seconded and it carried unanimously that the five conditions necessary for the granting of a variance had been found to exist and that a variance be granted subject to the conditions as set out in the Secretary's Report. (TAYLOR and JACOB were absent.)

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The variance was granted as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 31-79

WHEREAS, S. T. Hartnett, 4100 East English, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 2 feet 10 inches, on property zoned the "B" Multiple Family District and legally described as follows:

Lot 31, and the north 23 feet of Lot 33, except for the east 20 feet condemned for street, on Hillside Avenue, Maple Grove Addition, Wichita, Kansas. Generally located at the southwest corner of Hillside and 3rd Street (357 North Hillside).

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of July 24, 1979, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance 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 inasmuch as enclosure of the porch could have been accomplished prior to the condemnation of 20 feet of street right-of-way for Hillside without a variance; and

WHEREAS, the Board of Zoning Appeals has found that the

granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the buildings to the north and south are closer to the front property line than the addition proposed by the applicant; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant is in need of a reception area and the existing porch serves no practical purpose for the intended use of the property; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as the enclosure of the porch should in no way create a sight hazard or in any other way interfere with the general public interest; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as uniformity within the area is created by the existing structures being at the reduced setback line.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 20 feet to 2 feet 10 inches on property zoned the "B" Multiple Family District and legally described as:

Lot 31, and the north 23 feet of Lot 33,  
except for the east 20 feet condemned for  
street, on Hillside Avenue, Maple Grove  
Addition, Wichita, Kansas. Generally  
located at the southwest corner of Hillside  
and 3rd Street (357 North Hillside)

be approved subject to the following condition:

1. The variance shall apply only to the enclosure of the existing porch as a reception area.

ADOPTED AT WICHITA, KANSAS, this 24th day of July, 1979.