

5546A

200' 4" Sec 9-23-87

Reshot 1-27-88 Shot 10-23-87

Record     

Case No. BZA 33-87 - Tom J. Olivier, requests a variance to reduce the side yard setback from 36" to 32" for a detached residential garage on property zoned the "LC" Light Commercial District and generally located at the northeast corner of Mt. Vernon and Washington.

Posted

# ACTION

B.Z.A. 33-87 approved 7/28/87  
DATE

SSASA

200'4Sec 9-23-87  
Reshot 1-27-88 Shot 10-20-87  
Record ✓

CITE No. BZA 33-87 - Tom J. Olszky, requests  
a variance to reduce the side yard setback from  
36' to 32' for a detached residential garage  
on property zoned the "Low Light Commercial  
District and generally located at the northeast  
corner of W. Vernon and Washington.



July 29, 1987

Johnny J. Lee  
Lee's Construction Company  
10759 E. 101st Street North  
Valley Center, Kansas 67147

Re: BZA 33-87 - Request for Variance (Northeast corner of Mt. Vernon  
and Washington)

Dear Mr. Lee:

Enclosed is a signed copy of the Resolution adopted by the Board of  
Zoning Appeals on July 28, 1987.

This Resolution reflects the official action of the Board to grant your  
request and sets out the conditions of approval. It is forwarded to you  
for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Jack H. Galbraith  
Secretary

GEL/lw

Enclosure

cc: Tom J. Olivier, 1010 E. Mt. Vernon, Wichita, KS 67211  
Monty Robson, Superintendent of Central Inspection (2)  
Dale Rea, Deputy City Clerk

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE      July 16, 1987

TO      Louise Oliverez, Principal Planner

FROM      CPO Office <sup>BLC</sup>

SUBJECT      BZA 33-87: Northeast corner  
of Vernon and Washington

On Wednesday, July 15, Mid-South Neighborhood Council 3A considered the captioned case, a request for a variance to reduce the side yard setback from 36 inches to 32 inches for a detached residential garage on property zoned the Light Commercial District. Council members were provided the notice to adjoining property owners and a map of the area. After extensive discussion, the Council voted 8-0 to recommend approval of the request.

The applicant, Tom J. Olivier, was present to describe the request and respond to questions from the Council members and area residents. According to Mr. Olivier, he wants to receive the requested variance to eliminate confusion between his contractor, City officials, and a certified surveyor over the exact measurements of the garage in question. Mr. Olivier explained the controversy surrounding the building of his garage and expressed his frustration over the entire matter.

Please provide these comments to the Board of Zoning Appeals when Case BZA 33-87 is considered.

BLC:dm

**BACKGROUND:** The applicant is requesting a variance to reduce the side yard setback from 36 inches to 32 inches for a detached garage located to the east of the house. The north property line is the side line of the property based on the way the property was platted. When a residence is built in the "LC" district, the side yard setback is the same as required in the "B" district (3 feet for an accessory structure).

The 24-foot by 34-foot detached garage encroaches into the 36-inch side yard setback on the north by approximately 4 inches according to the applicant's agent. There is a parking lot for the electronics store just north of the garage and the owner of the property to the north has advised us, in writing, that he has no objections to this variance. His property would be the only property directly affected by this variance.

**ADJACENT ZONING AND LAND USE:**

NORTH	LC	Electronics sales & service
SOUTH	LC	Strip commercial
EAST	A	Single-family house
WEST	LC	Kwik Shop

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the platted north-south dimension of the property is 59.4 feet while the measured dimension is only 57.5 feet.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the 4-inch encroachment of the existing garage into the side yard setback to the north will not in any way interfere with the use of the adjacent property to the north and the owner of the adjacent property has submitted a letter supporting the variance.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the garage is already constructed and it would be a financial burden to have to relocate it.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the reduction of the side yard setback will not interfere with any needed easements or the need for separation to comply with fire or building codes.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as adequate space will be provided between the existing garage and the adjacent property to provide for with drainage, light, air, and space for maintenance.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The north side yard setback shall be reduced to not less than 32 inches and only for the length of the detached garage.

RESIDENTIAL PLOT PLAN

BZA 33-87

ADDRESS: 1010 E Mt. Vernon

PERMIT NO. \_\_\_\_\_

LOT(S): 190 & 192 BLK. \_\_\_\_\_

OF Forest Park Add.

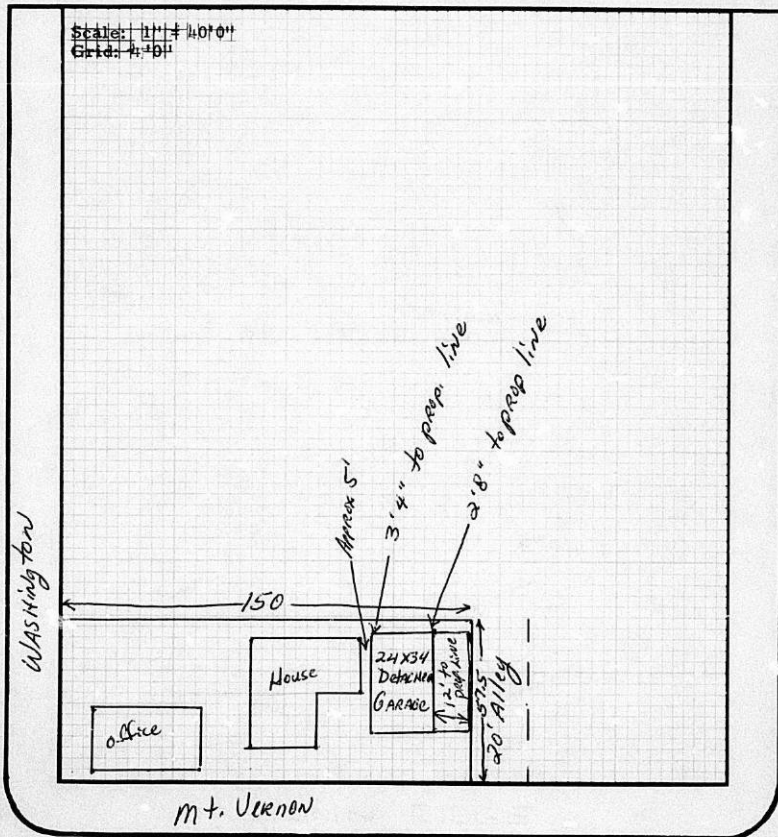
ZONING L.C.C.

REQUIRED SETBACKS: FRONT \_\_\_\_\_

SIDE \_\_\_\_\_

SIDE \_\_\_\_\_

REAR \_\_\_\_\_



I certify that the above plat complies with applicable zoning setbacks and subdivision covenants and restrictions.

Signed: \_\_\_\_\_

*Johnny A. Lee*

Applicant

White Copy - File

Yellow Copy - Applicant

BZA 33-87

RESOLUTION CASE NO. 33-87

WHEREAS, Tom J. Olivier, 1010 E. Mt. Vernon, Wichita, Kansas 67211, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard setback from 36 inches to 32 inches for a detached residential garage on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 190 and 192, Forest Park Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Mt. Vernon and Washington.

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 28, 1987, 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 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 the platted north-south dimension of the property is 59.4 feet while the measured dimension is only 57.5 feet; 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 4-inch encroachment of the existing garage into the side yard setback to the north will not in any way interfere with the use of the adjacent property to the north and the owner of the adjacent property has submitted a letter supporting the variance; 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 garage is already constructed and it would be a financial burden to have to relocate it; 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 due to the fact that reduction of the side yard setback will not interfere with any needed easements or the need for separation to comply with fire or building codes; 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 adequate space will be provided between the existing garage and the adjacent property to provide for drainage, light, air, and space for maintenance; and

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.

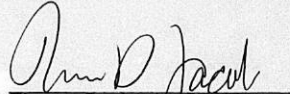
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the side yard setback from 36 inches to 32 inches for a detached residential garage on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 190 and 192, Forest Park Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Mt. Vernon and Washington.

be approved subject to the following condition:

1. The north side yard setback shall be reduced to not less than 32 inches and only for the length of the detached garage.

ADOPTED AT WICHITA, KANSAS, this 28th day of July, 1987.

  
Thomas D. Jacob, President

ATTEST:

  
Jack H. Galbraith, Secretary

BOARD OF ZONING APPEALS  
Tenth Floor - City Hall  
455 North Main, Wichita, Kansas 67202

July 6, 1987

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 33-87

As required by law, all property owners of record within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals are to be notified of the public hearing. An application has been filed by Tom J. Olivier, 1010 E. Mt. Vernon, Wichita, Kansas 67211, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the side yard setback from 36 inches to 32 inches for a detached residential garage on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 190 and 192, Forest Park Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Mt. Vernon and Washington.

This application has been assigned Case No. BZA 33-87. It will be considered by the Board of Zoning Appeals on July 28, 1987, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest in or objections to the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so either in person or by agent or attorney.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Council "3A" will consider this case at their meeting to be held on Wednesday, July 15, 1987, at 7 p.m., in the Linwood Community Center, 1901 South Kansas. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.

Jack H. Galbraith  
Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 33-87

OWNER/APPLICANT/AGENT: Tom J. Olivier (owner)  
Johnny J. Lee, Lee's Construction Co. (agent)

REQUEST: Variance to reduce the side yard setback from 36 inches to 32 inches for a detached garage.

CURRENT ZONING: "LC" Light Commercial

SITE SIZE: 0.2 acres (57.5' x 150')

LOCATION: Northeast corner of Washington and Mt. Vernon.  
(1010 E. Mt. Vernon)

PROPOSED USE: Detached residential garage (already constructed).



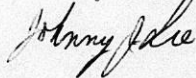
JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

LEE'S CONSTRUCTION CO.  
10759 E. 101st N.  
Valley Center, KS 67147

Board of Zoning Appeals  
City of Wichita, Kansas

1. The variance requested arises from the N.E. corner of the garage being 4" into the side yard setback of 36". Since just the one corner projects into the sideyard setback, only 11' of the North wall beginning 4" on the N.E. corner to nothing approx. 11' in because the N.W. corner of the garage is 3'6" from the property line.
2. The encroachment of the N.E. corner of the garage in the North side yard should not effect any property owners since there is only a parking lot adjacent to this lot. There is only a 12" overhang on the roof so there will not be any run-off problems.
3. Moving the N.E. corner of the garage just 4" would present a severe financial hardship on myself the contractor.
4. The garage being 4" into the 36" sideyard setback should not create any type of safety on public health problems since the garage and roof line are still well within the property line. The East side of the garage is 12' in from the East property line so this should not present any convenience problems for anyone who wants to use the alley for access.
5. The granting of this specific variance will not in any way encroach upon any adjacent property owner rights or access to his property. There will be no health problems because all water from the East side of the roof will drain to the east and down the alley because the roof line of the garage runs North and South.

Johnny J. Lee



BZA CASE NO. 33-87

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>18</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>21</u>	TOTAL NOTICES SENT <u>7/6/87</u>

**HEPHNER TV & Electronics, Inc.**

737 So. Washington  
Wichita, Kansas 67211  
(316) 264-3284

July 10, 1987

**RECEIVED**  
JUL 13 1987  
METROPOLITAN PLANNING  
ROUTE  Louise

Board of Zoning Appeals  
Tenth Floor City Hall  
455 North Main  
Wichita, Kansas 67202

To Whom It May Concern:

Re: Case No. EZA 33-87

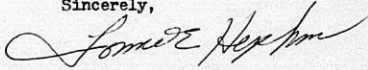
Request for variance to reduce  
side yard set back from 36" to  
32" for a detached garage.

I own the only property that is directly adjacent to the property  
of Mr. Tom Olivier. My property is the only property that will be  
directly affected by this variance, since he is on the corner  
and the other three sides are streets or alley.

I have no objection whatsoever to this variance, and I think  
that Mr. Olivier should be commended for the way he maintains his  
property, and continues to improve it.

I recommend the passage of this variance.

Sincerely,



Lonnie E. Hephner

LEH:bj

 company



APPLICATION FOR VARIANCE

I. Name of Applicant Tom J. Olivier  
 Mailing Address 1010 E Mt. Vernon Phone 262-1256  
 Name of Authorized Agent Johnny J. Lee - Lee's Const. Co.  
 Mailing Address 10759 E. 101st N. Valley Center, Mo. Phone 744-0045  
 Relationship of applicant to property is that of Contractor  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is Reduction of setback at the N.E. corner of detached GARAGE from 36" to 32"

for property located N. E. CORNER of Mt. Vernon & Washington

and legally described as: lots 190 + 192 Forest Park Add.

in the City of Wichita; and which is presently zoned light commercial.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant \_\_\_\_\_

Authorized Agent Johnny J. Lee

344  
215  
557  
4150

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,  
4:55 (a.m./p.m.), 6-29, 1987, together with appropriate  
 fee of 200.00.

Signed Tom J. Olivier

CPO 3A 7-15-87



DESCRIPTIONS

RECORD OWNERS

Lots 173 and 175, Washington Avenue, FOREST PARK ADDITION	Larry R. Taylor & Candice E. Watt 1937 S. Washington Avenue Wichita, Kansas 67211
Lots 177 and 179, Washington Avenue, FOREST PARK ADDITION,	Raymond W. & Teresa M. Reyes 2653 Porter Avenue Wichita, Kansas 67204
Lots 181, 183, 185 and 187, Washington Avenue, FOREST PARK ADDITION,	Dillon Real Estate Co., Inc. 734 E. 4th Street Hutchinson, Kansas 67501
Lots 189 and 191, Washington Avenue, FOREST PARK ADDITION,	Dillon Real Estate Co., Inc. 734 E. 4th Street Hutchinson, Kansas 67501
Lots 173 and 175, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Barbara N. Hefner 1933 Ida Avenue Wichita, Kansas 67211
Lots 177 and 179, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Maynard D. & Margaret Bechtel 1935 Ida Avenue Wichita, Kansas 67211
Lots 181 and 183, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Bruce Waring & Nancy L. Johnston 1937 S. Ida Avenue Wichita, Kansas 67211
Lots 185 and 187, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Saralee Strain 1939 S. Ida Avenue Wichita, Kansas 67211
Lots 189 and 191, EXCEPT the West 50 feet, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Marie T. Pool 1947 S. Ida Avenue Wichita, Kansas 67211
West 50 feet of Lots 189 and 191, Ida Avenue, RANSON AND KAY'S THIRD ADDITION,	Bill C. McLaren 1000 E. Mt. Vernon 943 W. Sunrise Street Wichita, Kansas 67217-5123
Lots 1, 3, 5 and 7, Ida Avenue, CAMPBELL'S ADDITION,	James O. & Evelyn M. Trenary 2001 S. Ida Avenue Wichita, Kansas 67211
Lots 9 and 11, Ida Avenue, CAMPBELL'S ADDITION,	Howard R. & Carol J. Yale 2013 S. Ida Avenue Wichita, Kansas 67211
Lots 2, 4, 6, 8, 10 and 12, Washington Avenue, CAMPBELL'S ADDITION,	Hershel B. Cook 1501 Woodrow Avenue Wichita, Kansas 67203
Lots 2, 4, 6 and 8, LEVY STREET SUBDIVISION OF LOTS 1, 2, 3 AND 4, BLOCK 4, IN KINKAID'S SECOND ADDITION, EXCEPT the East 7.4 feet of Lot 2; the East 7.3 feet of Lots 4 and 6, and the East 7.2 feet of Lot 8, condemned for street purposes in Case No. 65040.	Bruce L. & Debra H. DeWitt 5512 E. Mt. Vernon Wichita, Kansas 67218



DESCRIPTIONS

RECORD OWNERS

Lots 10 and 12, Washington Avenue, LEVY STREET SUBDIVISION OF LOTS 1, 2, 3 AND 4, BLOCK 4, IN KINKAID'S SECOND ADDITION,      Earl V. & Maudie L. Neice 3417 E. Skinner Street Wichita, Kansas 67218 X

Dated at Wichita, Kansas, this 25th day of June, 1987 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

*Medina L. Sutter*  
By  
Administrative Secretary

Tracer No. 73923



**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29 1

PAYMENT NOTICE  
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Li
Mach	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
62A Invoice	
NAME	
ADDRESS	
FUND	DUE DATE
COMMENTS	
DATE	BY