

BZA 35-67 - E. H. Henry requests variance of front yard setback on the west side of Battin between Murdock and 8th Street

*POSTED
10-12-67*

ACTION

By COMMITTEE *Approved* *10-31-67*

M.A.P.C. _____

B.C.C./B. CO. C. _____

5848

November 14, 1967

Mr. Theodore H. Hill
810 West Douglas
Wichita, Kansas 67203

Dear Mr. Hill:

Re: BZA 35-67 - Request for Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 24, 1967, in connection with your request for a variance of the front yard setback from 25 feet to 23 feet on property zoned "AA" Single-Family Residential and generally located on the west side of Battin between Murdock and 8th Street.

This Resolution reflects the official action of the Board and indicates the conditions and reasons for approval. It is forwarded for your information and files.

If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ber

cc: E. H. Henry, 127 North Sycamore 67203
Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

RESOLUTION NO. BZA 35-67

WHEREAS, E. H. Henry, 127 North Sycamore, Wichita, Kansas, by Theodore H. Hill, Attorney, 810 West Douglas, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requests a variance of the required front yard setback from 25 feet to 23 feet, on property zoned "AA" Single-family Residential and legally described as follows:

Lot 15, Block 7, East Highlands North Addition, in the City of Wichita, Sedgwick County, Kansas (generally located on the west side of Battin between Murdock and 8th Street); and

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 consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals has jurisdiction to consider said request for variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "AA" Single-family Residential; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question in that the enclosed porch only extends into the required 25-foot front yard setback two feet, whereas many instances of greater encroachment can be found in the same zoning district and areas of comparable age inside the City due to the lack of front yard requirements at the time of construction; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance as requested will not adversely affect the rights of adjacent property owners or residents inasmuch as the actual violation of the front yard setback requirement has existed for some three to four years in this fully developed addition without complaint from adjacent property owners; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship inasmuch as it would deprive her of living conditions to which she has become accustomed over the past years without being aware of this violation; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance); and


WHEREAS, each of the five conditions required by Section 2.12.590.2, 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 that the request for a variance of the front yard setback from the required 25 feet to 23 feet for the front yard setback on property zoned "AA" Single-Family Residential and legally described as follows:

Lot 15, Block 7, East Highlands North Addition,
in the City of Wichita, Sedgwick County, Kansas
(generally located on the west side of Battin
between Murdock and 8th Street),

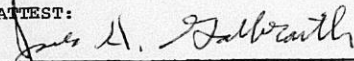
be approved for only that portion now in violation.

ADOPTED AT WICHITA, KANSAS, this 24th day of October,
1967.



Harold Bauer, Vice Chairman

ATTEST:



Jack H. Galbraith, Secretary

RESOLUTION NO. BZA 35-67

WHEREAS, E. H. Henry, 127 North Sycamore, Wichita, Kansas, by Theodore H. Hill, Attorney, 810 West Douglas, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requests a variance of the required front yard setback from 25 feet to 23 feet, on property zoned "AA" Single-family Residential and legally described as follows:

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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 consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals has jurisdiction to consider said request for variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "AA" Single-family Residential; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question in that the enclosed porch only extends into the required 25-foot front yard setback two feet, whereas many instances of greater encroachment can be found in the same zoning district and areas of comparable age inside the City due to the lack of front yard requirements at the time of construction; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance as requested will not adversely affect the rights of adjacent property owners or residents inasmuch as the actual violation of the front yard setback requirement has existed for some three to four years in this fully developed addition without complaint from adjacent property owners; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship inasmuch as it would deprive her of living conditions to which she has become accustomed over the past years without being aware of this violation; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance); and


WHEREAS, each of the five conditions required by Section 2.12.590.2, 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 that the request for a variance of the front yard setback from the required 25 feet to 23 feet for the front yard setback on property zoned "AA" Single-Family Residential and legally described as follows:

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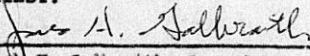
be approved for only that portion now in violation.

ADOPTED AT WICHITA, KANSAS, this 24th day of October,
1967.



Harold Bauer, Vice Chairman

ATTEST:



Jack H. Galbraith, Secretary

October 26, 1967

Mr. Theodore H. Hill
810 West Douglas
Wichita, Kansas 67203

Dear Mr. Hill:

Re: BZA 35-67 - Request for Variance

At the regular meeting of the Board of Zoning Appeals on October 24, 1967, the request for a variance of the required front yard setback from 25 feet to 23 feet, on property zoned "AA" Single-Family Residential and generally located on the west side of Battin between Murdock and 8th Street, was considered.

It was the action of the Board to approve the variance as requested for only that portion now in violation.

A Resolution setting forth the official action of the Board is being prepared and a copy will be mailed to you as soon as the signatures of the Chairman and Secretary are obtained.

If you have any questions, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ber
cc: E. H. Henry
127 North Sycamore 67203

Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 25-67

APPLICANT: E. H. Henry, 127 North Sycamore, Wichita, Kansas.

AGENT: Theodore H. Hill, Attorney, 810 West Douglas, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 23 feet.

GENERAL LOCATION: The west side of Battin between Murdock and 8th Street.

ZONING: Subject property is zoned "AA" Single-Family Residential, as is that to the north, south, east and west.

LAND USE: Subject property is occupied by a single-family residence as are those properties to the north, south, east and west.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, 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 from 25 feet to 23 feet in order to obtain a building permit for, and legalize, an existing enclosed porch which extends two feet into the required front yard setback.

In his statement of justification, the applicant points out that at the time the porch was enclosed some three to four years ago, neither he nor the owner were aware that they were violating a City ordinance or that a building permit was necessary. As a result of a recent complaint filed with the Central Inspection Division, the applicant and owner have been advised that a building permit must be obtained or the porch restored to its original condition (unenclosed).

UNIQUENESS:

It is the opinion of the Secretary that this particular situation is somewhat unique in that the enclosed porch only extends into the required 25-foot front yard setback two feet, whereas, many instances of greater encroachment can be found in the same zoning district and areas of comparable age inside the City due to the lack of front yard setback requirements at the time of construction.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance should in no way affect the rights of adjacent property owners inasmuch as the actual violation of the front yard setback requirement has existed for some three to four years in this fully developed addition without complaint from adjacent property owners.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the enforcement provisions of the Zoning Ordinance will constitute an unnecessary hardship on the owner for the reason that it would deprive her of living conditions to which she has become accustomed over the past years without being aware of this violation until a complaint was filed.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not affect the public interest.

Page 3 - Case No. BZA 35-67
October 24, 1967

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance would not be opposed to the general spirit and intent of Title 28.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can be found to exist and it is, therefore, recommended that the variance to reduce the front yard setback from 25 feet to 23 feet be approved for only that portion now in violation.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas 67202

October 10, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. 35-67

An application has been filed by E. H. Henry, 127 North Sycamore, Wichita, Kansas, by Theodore H. Hill, Attorney, 810 West Douglas, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a reduction of the required front yard setback from 25 feet to 23 feet on property zoned "AA" Single-Family Residential and legally described as follows:

Lot 15, Block 7, East Highlands North Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Battin between Murdock and 8th Street.

This application has been assigned Case No. BZA 35-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 24, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

September 26, 1967

Mr. C. Bickley Foster
Director of Planning
Wichita-Sedgwick County
Metropolitan Area Planning Department
City Building Annex
104 South Main
Wichita, Kansas 67202



Dear Mr. Foster:

In reviewing the property which is located at 829 North Battin, Wichita, Kansas, we are asking for a waiver of 2 ft. of the front yard set back for the following reasons:

1. The condition now existing is unique to the property in question; and it is not created by an action or actions of the property owner or the applicant due to the misunderstanding of requirements.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. 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. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

Mr. C. Bickley Foster
September 26, 1967
Page two

5. Granting the variance desired will not be opposed to the general spirit of Title 28 (zoning ordinance).

We would like to set this on the City Planning Commission as soon as possible as we are anxious to obtain a building permit.

Yours truly,



E. H. Henry
Agent

EHH:cs

BOARD OF ZONING APPEALS

CASE NO. 25-67

CITY OF WICHITA, KANSAS

FILED 7-26-67

APPLICATION FOR VARIANCE

1. Name of Applicant E. H. Henry

Mailing Address 127 North Sycamore 67203 Phone FO 3-3175

Name of Authorized Agent Theodore H. Hill, Attorney 67203

Mailing Address 810 West Douglas-Ste. D Phone AM 5-3247

Relationship of applicant to property is that of agent
(owner, tenant, lessee, other)

II. The variance requested is to reduce the required front yard
a waiver of 2 ft. of the front yard
set back. setback from 25' to 23'.

for property located 829 North Battin, Wichita, Kansas. On the W
side of Battin between Murdock & 8th Street
and legally described as: Lot 15, Block 7, East Highlands North
Addition.

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

(Give metes and bounds description below if appropriate):

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. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

E. H. Henry
Applicant

Theodore H. Hill, City
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
1:25 (a.m. - p.m.), Sept 26, 1967, together with
appropriate fee of \$50.00.

Jack H. Silbrath
Signed

~~Certain-teed~~ ROOF ESTIMATE SHEET

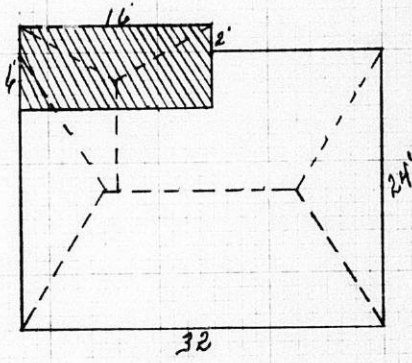
Certain-teed

Superior Products
through Creative Research

Name of Job _____ Date _____
Address 829 No B-2 Hn Bids Due _____
Architect _____ Address _____
Plan No. and Date _____
Spec. Date and Page No. _____
Estimated by: _____

DESCRIPTIVE SKETCH

East.



35-67

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
Sedgwick County,)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
Lot 15, Block 7, East Highlands North Addition,
Wichita, Kansas.


Fidelity
Title
Company.
inc.

*29 notices
mailed
15-10-67*

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

LOT	BLK.	ADDITION	OWNER
<u>EAST HIGHLANDS NORTH</u>			
1 ✓	7	X	John H. & Orrilla M. Anderson, ux No Address Available 13 <i>524 Maple City</i>
2 ✓	7	X	George M. & Marie M. Carpenter, ux No Address Available 06 <i>732 N. Birch</i>
3 ✓	7	X	Maud Oliver & Eva Wanda Reed No Address Available
4 ✓	7		Mary A. Ludlow, wdo. 830 N. Harding 67208
5 ✓	7		Vergil O. & Harriett E. O'Donnell, 506 S. Seneca 67213 ux
6 ✓	7		Clifford E. & Lily Mae Jordan, ux Roger A. & Cynthia C. Clawson, ux Life Est: Augusta Clawson 822 N. Harding 67208



LOT	BLK.	ADDITION	OWNER
<u>EAST HIGHLANDS NORTH</u>			
7 ✓	7		✓ Darrell W. & Clara M. Barksdale, ux 816 N. Harding 67208
8 ✓	7		✓ L. A. & Dorothy M. Parsons, ux 3404 Countryside 67218
11 ✓	7		✓ Darrell J. Crocker, sgle 809 N. Battin 67208
12 ✓	7		✓ Phillip Anderson Little & Doris Lorena Little, ux 815 N. Battin 67208
13 ✓	7		✓ Audrey Harrell, sgle. 821 N. Battin 67208
14 ✓	7		✓ Merle E. & Lorraine C. Kindred, jt 825 N. Battin 67208
15 ✓	7		✓ Julia E. Huffman, sgle. 829 N. Battin 67208
16 ✓	7		✓ Margaret M. Bennett, sgle. 835 N. Battin 67208
17 ✓	7		✓ H. Herold Plunkett, sgle. 736 S. Chautauqua 67214
18 ✓	7		✓ Cecil E. & Betty J. Henderson, ux 845 N. Battin 67208
1 ✓	8		✓ Roe E. & Carol M. Palmer, ux 846 N. Battin 67208
2 ✓	8		✓ Neal C. & Barbara E. Weckworth, ux 840 N. Battin 67208
3 ✓	8		✓ Horst Klaus Miller, sgle. 836 Battin (North) 67208
4 ✓	8		✓ Arne A. & Betty B. Anderson, ux 830 N. Battin 67208
5 ✓	8		✓ Donald H. & Vivian Shuman, ux 4910 E. Gilbert 67218
6 ✓	8		✓ Reece E. & Clara E. Day, ux 822 N. Battin 67208
7 ✓	8		✓ Jerry Don Hollingsworth & Barbara Joyce Hollingsworth, ux 816 N. Battin 67208
8 ✓	8		✓ Don & Romane Hollingsworth, ux 810 N. Battin 67208
?	12	<u>COUNTRY SIDE</u>	✓ James H. & Mildred M. Harrison, ux 851 N. Pinecrest 67208
?	13		✓ Betty L. Kiddoo 845 N. Pinecrest 67208
?	14		✓ Michael D. & Edna M. Schuessler, ux 839 N. Pinecrest 67208
?	15		✓ George John & Sarah Alla Hart, ux 833 N. Pinecrest 67208

? 12 NOT WITHIN 200' RADIUS

? 13 } 200' RADIUS
PARCELS ON WEST
LINE

? 14 }

? 15 NOT WITHIN 200' RADIUS

Dated at Wichita, Kansas this 29th
day of August, 1967 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elvin M. Farrell OEM
Sec.

Tracer # 83897

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas 67202

October 10, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. 35-67

An application has been filed by E. H. Henry, 127 North Sycamore, Wichita, Kansas, by Theodore H. Hill, Attorney, 810 West Douglas, Wichita, Kansas, pursuant to Section 2.12.390, Code of the City of Wichita, requesting a reduction of the required front yard setback from 25 feet to 23 feet on property zoned "AA" Single-Family Residential and legally described as follows:

Lot 15, Block 7, East Highlands North Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Battin between Murdock and 8th Street.

This application has been assigned Case No. BZA 35-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 24, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

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This application has been assigned Case No. BZA 35-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 24, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas 67202

October 10, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. 35-67

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Jack H. Galbraith
Secretary

Certain-lead ROOF ESTIMATE SHEET



Name of Job _____ Date _____

Address 829 No B-st'n Bids Due _____

Architect _____ Address _____

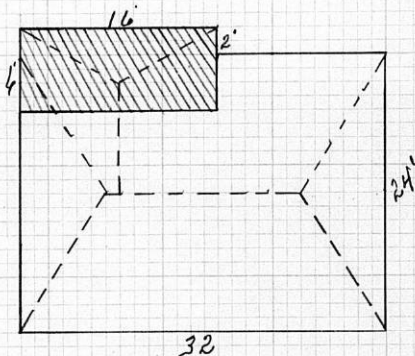
Plan No. and Date _____

Spec. Date and Page No. _____

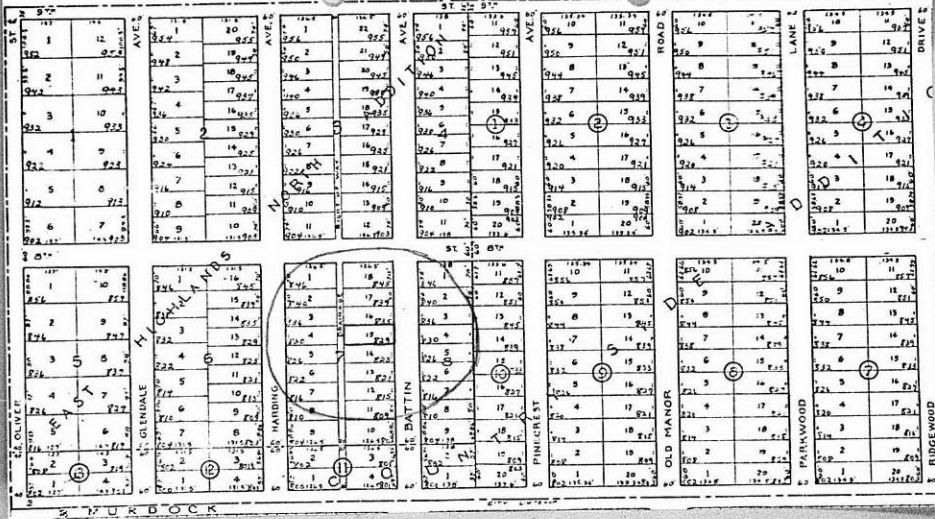
Estimated by: _____

DESCRIPTIVE SKETCH

East.



S.W. 1/4 SEC. 13, TWP. 27, R. 1 E.



Form 273-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg. & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licns.	Mech.
Oil Well	Pav. Cuts	Sign	Plng. Cert.
Sanitation	Sewer	Stamps	Sidewalk
Street	Trailer		

\$ 50.00

DESCRIPTION AMOUNT

BIA Application

E. H. Henry Company

127 So. Spear

R-71-C 9-26-67

Comments:

Date 9-26-67 BY [Signature]