

Case No. BZA 70-79 - Norman Fuqua
Requests a variance to reduce the
required side yard from 6' to 3'
on property located on the east
side of Erie south of Clark
(2108 South Erie) and legally

~~70-79~~
~~12/22/80~~

ACTION

**BZA
70-79**

DATE 1/22/80

COMMITTEE Amiel 5-0

M.A.P.C. _____

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

Map No. 5645
 Sec. _____
 Twp. _____
 Range _____

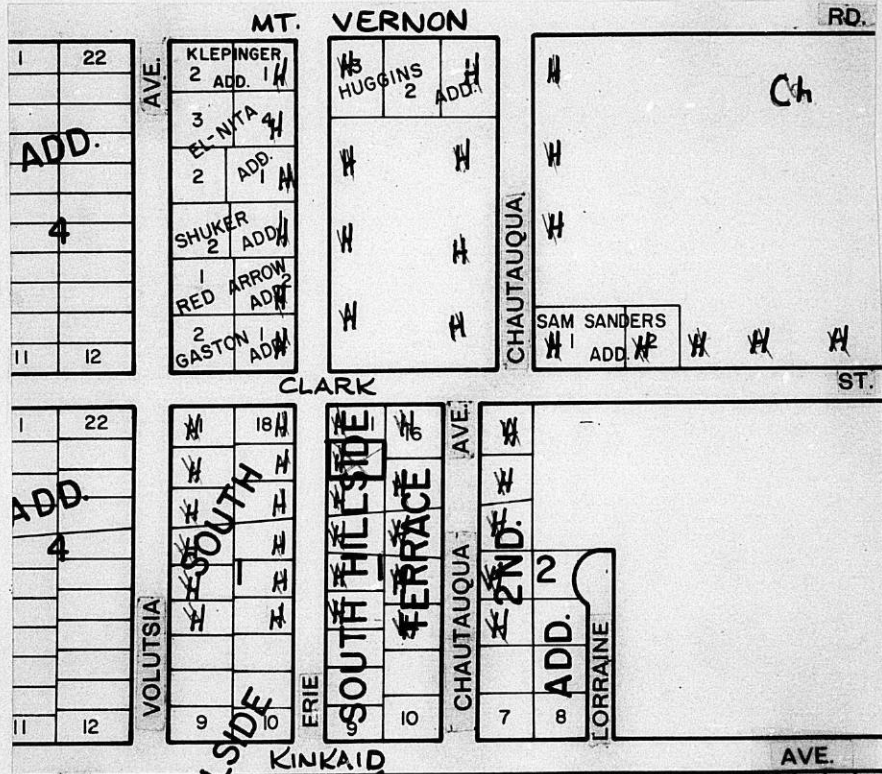
BZA- 70-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: _____ (65 ft. by 109 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South _____
 West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: _____
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



BZA 70-79

Sth *Standard*
 No. 2-153C
 HASTINGS, SAN-LOS ANGELES
 LOS AN - INDEPENDENCE, TX U.S.A.

February 27, 1980

Mr. Norman Fuqua
2108 South Erie
Wichita, Kansas 67211

Re: Case No. BZA 70-79
Request for Variance

Dear Mr. Fuqua:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on January 22, 1980, in connection with your request for a variance to reduce the side yard setback from 6 feet to 3 feet on property zoned "AA" Single-family and generally located on the east side of Erie south of Clark (2108 South Erie).

This Resolution reflects the official action of the Board to deny your request to reduce the required side yard. It is forwarded to you for your information and files.

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO., BZA 70-79

WHEREAS, Norman W. Fuqua, 2108 South Erie, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the north property line from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 2, Block 1, South Hillside Terrace 2nd
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the east side of Erie
south of Clark (2108 South Erie).

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 January 22, 1980, 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 does not arise 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 this is in an area that has been developed under the provisions of the existing ordinance and the houses are all in conformance to the required side yard setbacks, and further, there is sufficient area on the lot to add a family room of the size proposed without violating the required setbacks; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as the addition would be in close proximity to the windows of the adjacent residence to the north;

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 not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the actions of the owner to proceed without benefit of a permit in conformance with the regulations are a self created hardship; 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 the request is interiorly located and would not affect public improvements or utility easements.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired would be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the required setbacks are to provide light and air to all properties; and

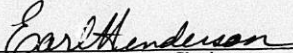
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has not been found to exist.

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 side yard setback adjacent to the north property line from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 2, Block 1, South Hillside Terrace 2nd
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the east side of Erie
south of Clark (2108 South Erie).

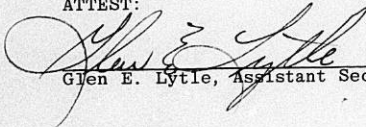
be denied.

ADOPTED AT WICHITA, KANSAS, this 22nd day of January, 1980 .



Earl Henderson, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

ETA 70-79

WILLIAM L. KOEHLER

JOHN E. LUNDLADE

JAMES E. JORDAN



BAUGHMAN COMPANY, P.A.

S U R V E Y O R S

316/262-7271 • 330 LAURA • WICHITA, KANSAS 67211

State of Kansas)
County of Sedgwick)

SS

July 24, 1979

We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we did on this 24th day of July, 1979, survey Lot 2, Block 1, South Hillside Terrace 2nd Addition to the City of Wichita, Sedgwick County, Kansas.

On said lot is house No. 2108 with an attached garage which is in the clear of all boundary lines. There are no encroachments on said lot by buildings on the adjacent lots.

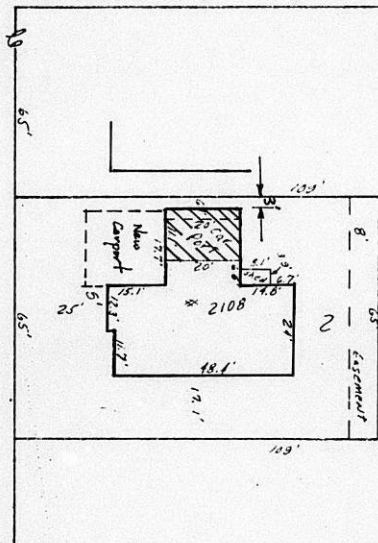
The accompanying plat is a true and correct exhibit of said survey for mortgage title insurance.

William L. Koehler
Surveyor

Clark St.

Erie

Ave.



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

January 2, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 70-79

An application has been filed by Norman Fuqua, 2108 South Erie, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 2, Block 1, South Hillside Terrace
2nd Addition to Wichita, Sedgwick County,
Kansas. Generally located on the east
side of Erie south of Clark (2108 South
Erie).

This application has been assigned case No. BZA 70-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, January 22, 1980, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney. If you have any questions about this application, please call 268-4421 and ask for Lynn Shirkey or Glen Lytle.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE January 22, 1980

TO Glen Lytle, Special Assistant for Zoning

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 70-79: 2108 South Erie

At their meeting last evening, CPO Council "F" discussed the captioned case and voted 7-1 to take no action other than receive and file the application and Planning Department staff comments. A motion was made to recommend denial of the requested variance, but was not seconded.

The applicant was present, and was urged to consider revising his plans to minimize the nonconformity of his residence. Council members were also aware of neighbors' objections to the applicant's request; invasion of privacy and the option of utilizing the back yard of the subject property had been cited by residents of the area as grounds for denying the request.

However, Council members noted that the windows of the adjacent residence to the north are relatively high, which would minimize any invasion of privacy resulting from the proposed addition. Also, the Council members felt that the applicant's financial investment in the addition should be considered.

Therefore, in light of the arguments both for and against the requested variance, the Council chose to remain neutral on the case by receiving and filing the application and staff comments.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:gw

NOTED:

Sarah Gilbert
Assistant CP Coordinator

RECEIVED

JAN 22 1980

METROPOLITAN PLANNING
ROUTE _____

January 23, 1980

Mr. Norman Fuqua
2108 South Erie
Wichita, Kansas 67211

Re: BZA 70-79
Request for Variance

Dear Mr. Fuqua:

At the regular meeting of the Board of Zoning Appeals on Tuesday, January 22, 1980, your request for a variance to reduce the side yard setback from 6 feet to 3 feet on property zoned "AA" Single-family, and generally located on the east side of Erie south of Clark (2108 South Erie) was considered.

It was the action of the Board by a 5-0 vote to deny your request to reduce the required side yard.

The action of the Board will require the removal of the existing violation created by the recent enclosure of the carport within the required sideyard setback.

If you have any questions, please give me a call at 268-4384.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 70-79

APPLICANT: Norman W. Fuqua, 2108 S. Erie, Wichita,
Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the required
side yard setback adjacent to the north property
line from 6' to 3'.

GENERAL LOCATION: East side of Erie south of Clark (2108 South
Erie).

ZONING: Subject property is zoned "AA" Single-family
as are all surrounding properties.

LAND USE: Subject property is developed with a single-
family residence as are all surrounding
properties.

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).

PAGE 2
BZA 70-79
BZA AGENDA
1-22-80

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required side yard on the north side of the applicant's property from six feet to 3 feet in order to convert the existing carport to a family room and add an additional carport to the west of the existing structure. The existing carport maintains a six foot side yard and the applicant wishes to expand the carport area 3 feet to the north, thereby requiring this variance.

The property to the north is a single-family dwelling and is constructed at the required 6 foot setback line. This is also the long dimension of the adjacent house and will therefore tend to interfere with the purpose of yard requirements and open space of the adjacent property.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to find inasmuch as this is in an area that has been developed under the provisions of the existing ordinance and the houses are all in conformance to the required side yard setbacks, and further, there is sufficient area on the lot to add a family room of the size proposed without violating the required setbacks.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would adversely affect the rights of adjacent property owners inasmuch as the addition would be in close proximity to the windows of the adjacent residence to the north.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance did not constitute an unnecessary hardship, but the actions of the owner to proceed without benefit of a permit in conformance with the regulations are a self created hardship.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the request is interiorly located and would not affect public improvements or utility easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the required setbacks are to provide light and air to all properties.

PAGE 3
EZA 70-79
EZA AGENDA
1-22-80

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary for granting of the variance have not been found to exist, and it is recommended that the request be denied.

COMMENTS BY THE SECRETARY:

C.I.P.
2108 So. Erie (Fugus) ●
started without a permit

Took out a permit (legwork)
to build patio & storage.

Red tagged - side yd. violation

as per Tel conversation - 1-10-80
of Sam Mobley

BZA CASE NO. 70-79

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

23 NOTICES SENT TO ADJOINING PROPERTY OWNERS

35 TOTAL NOTICES SENT 1-2-80

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

January 2, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 70-79

An application has been filed by Norman Fuqua, 2108 South Erie, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 2, Block 1, South Hillside Terrace
2nd Addition to Wichita, Sedgwick County,
Kansas. Generally located on the east
side of Erie south of Clark (2108 South
Erie).

This application has been assigned case No. BZA 70-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, January 22, 1980, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney. If you have any questions about this application, please call 268-4421 and ask for Lynn Shirkey or Glen Lytle.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

RECEIVED

DEC 18 1979

METROPOLITAN PLANNING

ROUTE Lytle

Board of Zoning Appeals
City of Wichita, Kansas

December 12, 1979

Gentlemen:

My plea is for a variance on the set back line
on my property from 6 foot to 3 foot on the

North line of Lot 2, Block 1,
South Hillside Gardens 2nd
Addition, Wichita, Sedgwick
County, Kansas.

The variance will allow the enlargement of the
present single car-port which is to be converted
into a family room, measuring 14.1' x 20'
and the construction of a double car-port in
front measuring 20.7' x 20.1'.

Respectfully submitted for your approval.

Norman W. Fuqua
(Norman W. Fuqua)

APPLICATION FOR VARIANCE

I. Name of Applicant NORMAN W. Fuqua
 Mailing Address 2108 South ERIE Phone 688-5024
 Name of Authorized Agent N/A
 Mailing Address N/A Phone N/A
 Relationship of applicant to property is that of OWNER
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required side yard from 6 feet to 3 feet.

for property located on the east side of Erie south of Clark (2108 South ERIE)

and legally described as: Lot 2 Bl. 1, South Hillside Terrace 2nd Add. to Wichita, Ks.

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

- 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 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.

Norman W. Fuqua
 Applicant
N/A
 Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10:30 (a.m. ~~p.m.~~), Dec. 12 1979 together with appropriate fee of \$50.00.

[Signature]
 Signed



SECURITY ABSTRACT AND TITLE CO. INC.
434 North Main • Wichita, Kansas 67202
Telephone (316) 267-6371

TITLE INSURANCE — ABSTRACTING ORDER AND INVOICE

Billing Date **11-27-79**

Order Date **11-26-79**

No 283629

Wanted

CHARGE TO: **Norman W. Fuqua**
2108 S. Erie

DESCRIPTION

200 ft Radius of: Lot 2, Block 1, South Hillside Terrace
2nd Addition

Papers Left

Com/Ins.

Extend. Spec. Cf. Cf. Ownership Pl. of Title Pay Taxes

New Abst. Supl. Comply with Req. Hold/Rel.

Owner's

Mtgee's

Deliver to

Abstracting Charges

Entries
Certification
Dist. Court Proceedings
Prob. Court Proceedings
Plat
Cf. of Title
Judg't Search
Contract
Req.

TOTAL

N/C

OLD ORDER NO

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 1	Gaston Addition	✓ Raymond P. Stephenson and Anna Jean Stephenson 2059 South Erie 67211
lot 1, Blk 1	South Hillside Terrace	✓ Wayne J. Alexander & Holly 2102 South Volutsia 67211
lot 2, Blk 1	Same	✓ Park R. Mix and Opal C. 2108 South Volutsia 67211
lot 3, Blk 1	Same	✓ William S. Pepper IV and Sandra G. Pepper 2114 South Volutsia 67211
lot 4, Blk 1	Same	✓ James M. Parks & Cynthia E. 2120 South Volutsia 67211
lot 14, Blk 1	Same	✓ Brent L. Hoben & Elvira 1859 South Erie 67211
lot 15, Blk 1	Same	✓ Robert M. Reynolds & Doris M. 2121 South Erie 67211
lot 16, Blk 1	Same	✓ L. B. Youngers and A. L. Youngers 2115 South Erie 67211
lot 17, Blk 1	Same	✓ Joseph Bruggeman and Mary 2107 South Erie 67211
lot 18, Blk 1	Same	✓ Ben Deines and Irene C. 2101 South Erie 67211
lot 1, Blk 1	South Hillside Terrace 2nd Addition	✓ Charles A. Bell & Lorene P. 2903 East Clark 67211
lot 2, Blk 1	Same	<i>Dup</i> ✓ Norman W. Fuqua & Nancy Rae 2108 South Erie 67211
lot 3, Blk 1	Same	✓ Tom Farris & Lillian 2114 South Erie 67211
lot 4, Blk 1	Same	✓ Victor A. Fitz & Nancy J. 2122 South Erie 67211
lot 5, Blk 1	Same	✓ Janice C. Perry 2128 South Erie 67211
lot 13, Blk 1	Same	✓ Roger W. Wait and Icel E. 2150 South Erie 67211

Lot	Addition	Property Owner
lot 14, Blk 1	South Hillside Terrace 2nd Addition	✓ Claud H. Osborn & Kathleen 2123 South Chautauqua 67211
lot 15, Blk 1	Same	✓ Barbara Jean Scott 2115 South Chautauqua 67211
lot 16, Blk 1	Same	✓ I. D. Barber and Reba M. 2105 South Chautauqua 67211
lot 1, Blk 2	Same	✓ Robert D. Shannon & Norma Jeanne 2104 South Chautauqua 67211
lot 2, Blk 2	Same	✓ Robert M. Bonar & Jessie C. 2114 South Chautauqua 67211
lot 3, Blk 2	Same	✓ Chester R. Richards & Rhoma M. 2122 South Chautauqua 67211
Beginning 742 feet west and 473 feet south of the NE corner of the SE $\frac{1}{4}$ of Section 34-27-1E thence west 300 feet, south 160 feet, east 300 feet, north to beginning, except the east 150 feet		✓ Francis W. Ferguson 2046 South Erie 67211
Beginning 742 feet west and 473 feet south of the NE corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 34-27-1E, west 150 feet, south 160 feet, thence east 150 feet, thence north 160 feet to pob.		✓ Dwight Patton Jr. & Kay B. 2045 South Chautauqua 67211

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of: Lot 2, Block 1,
South Hillside Terrace 2nd Addition

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 26th day of November, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Hable

Vice President

Order No. 283629
wh

