

Case No. BZA 71-84 - R. A. Davenport - requests a variance to reduce the required side yard setback from 6' to 2' adjacent to the north property line on property zoned the "AM" One-family Dwelling District and generally located

Posted
9-21-84/mst.

200' 4 Sec 10-32-84
Shoh 11-14-80
Record ✓

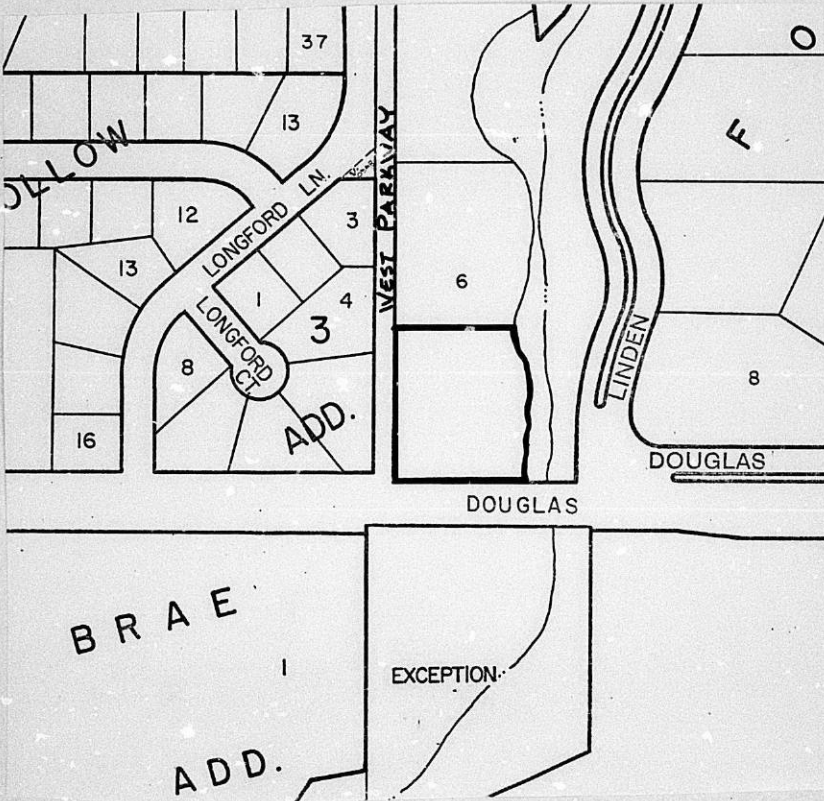
BZA 71-84
ACTION
APPROVED 10-23-84
DATE

Map No. 6047 A

BZA 71-84
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E AA S AA W AA N AA
3. Land Use: East 1-F South SWIM. POOL
West 1-F North 1-F
4. Area (is) (~~is not~~) platted.



HASTINGS, JIN
MORRISON, TALOCHEST GROVE, SA
U.S.A.

Standard
No. 2153C

October 25, 1984

R. A. Davenport
#60, West Parkway North
Wichita, Ks. 67206

Re: BZA 71-84 - Request for Variance

Dear Mr. Davenport:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 23, 1984.

This Resolution reflects the official action of the Board to approve 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,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 71-84

WHEREAS, R. A. Davenport, #60, West Parkway North, 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 from 6 feet to 2 feet adjacent to the north property line on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 6, except the north 295 feet thereof, Block 1, Forest Hills Addition, Sedgwick County, Kansas, together with the north 60 feet of vacated street adjoining Lot 6 on the south. Generally located on the northeast corner of Douglas and West Parkway (#60 West Parkway).

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 October 23, 1984, 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 the original structure was constructed on the highest elevation of the lot and as such is located in the far northeast corner of the property making it difficult to design a second floor addition above the garage without encroachment into the side yard setback; 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 distance between this dwelling and that to the north will maintain more than adequate open space; 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 original structure is so located on the property that is difficult to expand the structure within the setback limitations except to the west; 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 reduction of the side yard on the north will not interfere with any right-of-way or easements; 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 with the reduction of the side yard down to 3 feet, reasonable separation of the structures and an adequate side yard will permit the owner to maintain the property; 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.

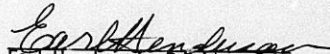
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback from 6 feet to 2 feet adjacent to the north property line on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 6, except the north 295 feet thereof, Block 1, Forest Hills Addition, Sedgwick County, Kansas, together with the north 60 feet of vacated street adjoining Lot 6 on the south. Generally located on the northeast corner of Douglas and West Parkway (#60 West Parkway).

be approved subject to the following conditions:

1. The side yard setback adjacent to the north property line shall be reduced from 6 feet to not less than 3 feet for an east-west dimension that does not exceed the dimension of the existing garage.
2. The addition shall not in anyway be a separate dwelling and shall at no time be rented as a dwelling unit.
3. This variance only applies to this addition and not to any future additions.

ADOPTED AT WICHITA, KANSAS, this 23rd day of October, 1984.


Earl Henderson, President

ATTEST:


Glen B. Lytle, Assistant Secretary

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE October 18, 1984

TO Glen Lytle, Special Assistant for Zoning
FROM Cindy Entriiken, Administrative Aide III

SUBJECT BZA 71-84 Generally located
on the northeast corner of
Douglas and West Parkway
(#60 West Parkway)

On Monday, October 15 CPO Council "H" considered the above
captioned case. The Council voted 6-0 to recommend approval,
subject to the conditions in the Secretary's report.

R.A. Davenport, applicant, was present to discuss the case
with the Council and to present site plans. There were no
area residents present.

Please present the Council's recommendation to the BZA when it
considers the case.

Cindy Entriiken / Stewart

Cindy Entriiken
Administrative Aide III

CE:dm

Noted:

Annie K. Montgomery

Annie K. Montgomery
CRS Director

RECEIVED

OCT 18 1984

METROPOLITAN PLANNING
ROUTE _____

RE: AGENDA ITEM NO.

SECRETARY'S REPORT CASE NO. BZA 71-84

APPLICANT: R. A. Davenport, #60, West Parkway North,
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 feet to 2 feet.

GENERAL LOCATION: On the northeast corner of Douglas and West
Parkway.

ZONING: Subject property is zoned the "AA" One-family
Dwelling District as are all adjacent properties.

LAND USE: Subject property is occupied by a one-family
dwelling as are all adjacent 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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required side yard setback adjacent to the north property line from 6 feet to 2 feet in order to construct an addition to the existing dwelling. The property is an area that exceeds one acre in size and the existing home is located in the extreme north-east corner of the lot. A previous variance has already been granted on this property to permit an addition to be located closer than 20 feet to the east property line. It included only the area that was at that time occupied by a patio and permitted the enclosure of the area as a part of the home.

It should be noted that the applicant constructed the home on the property at its present location and has created any hardship that might exist. It is also the Secretary's opinion that the proposed addition could be constructed in conformance with all regulations without benefit of any variances. Although an owner sometimes prefers one solution over another, it would appear that this owner could design an addition that would be aesthetically pleasing that would not encroach into the required side yard.

As in the past, and on those properties where zero lot line development has occurred, it has been required to provide a maintenance easement on the adjacent property. Although these properties are large, it is always possible that owners will change and the space between the two homes might develop. In this case, should the Board find the five conditions necessary to the granting of a variance to exist, a maintenance easement on the adjacent property should be obtained and recorded.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as it is of sufficient size to accommodate an addition as proposed without encroachment into the required side yard setback.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the distance presently separating the two structures is more than adequate to maintain the required open space.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the structure could be designed in conformance with requirements even though it may not be the design first conceived by the applicant.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the location of the addition will not interfere with any needed right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the side yard is to provide adequate space on a property to allow maintenance and separation between structures on adjoining properties.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and the application should be denied. However, should the Board determine that all five conditions can be found to exist, then it is the recommendation of the Secretary that any approval be subject to the following conditions:

1. The side yard setback adjacent to the north property line shall be reduced from 6 feet to not less than 3 feet and only for an addition that does not exceed an east-west dimension of 22 feet.
 2. The addition shall not in anyway be a separate dwelling and shall at no time be rented as a dwelling unit.
-

BZA CASE NO. 71-84

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>11</u>	TOTAL NOTICES SENT <u>10-3-84</u>

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

October 3, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 71-84

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 R. A. Davenport, #60, West Parkway North, Wichita, Kansas, 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 required side yard setback from 6 feet to 2 feet adjacent to the north property line on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 6, except the north 295 feet thereof, Block 1, Forest Hills Addition, Sedgwick County, Kansas, together with the north 60 feet of vacated street adjoining Lot 6 on the south. Generally located on the northeast corner of Douglas and West Parkway (#60 West Parkway).

This application has been assigned Case BZA 71-84. It will be considered by the Board of Zoning Appeals on October 23, 1984 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 or objections regarding 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.

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.

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

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 71-84

CITY OF WICHITA, KANSAS

FILED 9-21-84

APPLICATION FOR VARIANCE

I. Name of Applicant R. A. Davenport
 Mailing Address #60 West Parkway North Phone 685-7115
 Name of Authorized Agent Self
 Mailing Address Same Phone Same
 Relationship of applicant to property is that of Owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required side yard
to allow for an addition to the
existing garage within two feet of the north property line.
setback from 6 feet to 2 feet adjacent to the north property line.
 for property located (#60 West Parkway)
on the
 and legally described as: Lot 6, except the North 295 feet
thereof, Block 1, Forest Hills, Sedgwick County, Kansas
and the North 60 feet of vacated street adjoining Lot 6
on the South.

in the City of Wichita; and which is presently zoned Single Family
^{"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. 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.

See attached Addendum "A"

Applicant *R. A. Davenport*

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
1:30 ~~4:00~~ p.m.), Sept 21, 1984, together with
 appropriate fee of 75.00.

Signed *A. Lytle*

ADDENDUM "A" TO
APPLICATION FOR VARIANCE

This application for variance requests that this applicant be allowed a variance from the six foot sideyard provision of the zoning ordinance of the City of Wichita as set forth in the Code of the City of Wichita, as amended.

The applicant wishes to construct a second story addition above his garage with an enclosed stair and entrance on the north of his residence located at 60 West Parkway in the Forest Hills area of the City of Wichita. The Forest Hills area on West Parkway consists of large restricted lots with single family dwellings thereon, with the lots backing on a large flowing creek, running parallel and adjacent to Lyndon Drive. The residence of the applicant sets on a large rolling lot with a number of mature trees which were present on the lot at the time the residence was constructed. In order to make the best aesthetic use of the lot in question the residence of the applicant was placed on the northeast portion of the lot to take advantage of the natural terrain and many large trees on the lot.

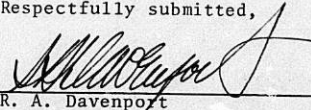
The desire of the applicant is to construct a guest/studio addition to his residence. Due to the unique architecture and structure of the residence the only logical space available for this addition is the area above the existing one-story garage. This addition would require an outside entrance with an enclosed stair which is proposed on the north of the existing

garage wall. Therefore, the applicant is requesting a variance from the sideyard setback to two feet. The residence adjoining this property to the north is approximately 100 feet north of the property line therefore in the opinion of the applicant, this variance does not violate the intent of sideyard setbacks

The scope of work involved to construct an outside entrance to the proposed guest/studio on the south of the garage would require removal of a two foot diameter Cottonwood tree, extensive rework to the existing stucco walls, brick walks and doors to garage and kitchen.

The applicant does not see any way how the variance will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare and the variance applied for will be in the general spirit and intent of Title 28 of the City Code.

Respectfully submitted,


R. A. Davenport

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lot 6, Block 1, except the North 295' and the North 60' of vacated street adjacent on South.		Forest Hills Addition	Richard A. Davenport Rosemary Davenport 60 West Parkway Wichita, KS 67206
The North 295' of Lot 6, Block 1.		"	✓ Dan Prater c/o Sandra Prater 44 West Parkway Wichita, KS 67206
Lot 8, Block 3, except a part described as beginning at the Southeast Corner of said Lot 8; thence Northeasterly along the East line of said lot 136.9 feet to the North- east Corner of said lot; thence Northwesterly along the North line of said lot 192.0 feet; thence Southerly 229.97 feet to a point on the South line of said lot, which is 118.0 feet West of the Southeast corner of said lot; thence East along the South line of said lot 118.0 feet to beginning.		"	✓ Paula Hicks Murdock #20 Linden Drive Wichita, KS 67206
Lot 1	Block 1	Bonnie Brae 3rd Addition	✓ Jean K. Garvey Revocable Trust, c/o E. Emmett Foley, R. H. Garvey Bldg 300 W. Douglas Wichita, KS 67202
Lot 1	Block 3	Brookhollow Third Addition	✓ Bill D. Capps Helen L. Capps 8725 Overbrook Wichita, KS 67206
Lot 2	"	"	✓ Ralph R. Hamilton Ann M. Hamilton 8715 Overbrook Wichita, KS 67206
Lot 3	"	"	✓ Gene G. Russell Nancy I. Russell 8705 Overbrook Wichita, KS 67206
Lot 4	"	"	✓ Jesus T. Suero Lea C. Suero 8629 Overbrook Wichita, KS 67206

Lot	Block	Addition	Property Owner
Lot 5	Block 3	Brookhollow Third Addition	Des Moines Development Corporation c/o Nolden, Gentry, Brick, Secingtor, Bowers, Swartz, Gentry, P.A. 550 39th St. Des Moines, Iowa 50312
Lot 6	Block 3	"	Allan S. Davis Cheryl E. Davis 8609 Overbrook Wichita, KS 67206

That part of Lot 1, PHI Addition, Wichita, Sedgwick County, Kansas, described as beginning at the Northwest corner of said Lot 1, thence South 0°09'01" East on the West line of said Lot 1 a distance of 389.26 feet to a corner in said West line of said Lot; thence North 65°21'40" East a distance of 109.88 feet; thence North 0°09'01" West a distance of 343.48 feet, more or less, to the North line of said Lot 1; thence South 89°58'59" West said North line a distance of 100 feet to the point of beginning.

Jean K. Garvey
Revocable Trust
c/o D. Emmett Foley
D R. H. Garvey Bldg.
300 W. Douglas
Wichita, KS 67202

Beginning at the Northwest corner of the Southeast Quarter of Section 20, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence N 89°58'59" E on the North line of said Quarter Section, a distance of 393 feet; thence S0°09'01" E, a distance of 439.26 feet; thence S65°11'40" W, a distance of 299.37 feet; thence S73°19'49" W, a distance of 125.63 feet, more or less to the West line of said Quarter Section; thence N 0°10'04" W, a distance of 600 feet, more or less to the point of beginning.

Same As Above

Page 3

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tract within a 200 foot radius of:

Lot 6, except the North 295 feet, Block 1,
Forest Hills, Sedgwick County, Kansas,
and the North 60 feet of vacated street
adjacent to Lot 6 on the South.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 19th day of September, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE
COMPANY, INC.

By
Sr. Vice President

Order No: 338619
ns

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-

PAYMENT NOTICE
 City of Wichita

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

DESCRIPTION	AMOUNT
CITY BZA VAIL	495.00

NAME R A DAVENPORT

ADDRESS 208 E DUALS

FUND 755-40071-00 DUE DATE

COMMENTS

DATE 5/21/84 BY H. Lytle

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2