

Case No. BZA 76-79 - Gaylan W. Nett & Gaylan W. Nett Jr. - requests a variance to reduce the required rear yard setback from 20' to 15' on property zoned "AA" One-family Dwelling District and generally located on the south side of Croyden Circle in an area east of Edgemoor Drive (5743 Croyden Circle)

Smead
No. 2-153C

HASTINGS, MN - LOS ANGELES
LOGAN, OH - McREGOR, TX U. S. A.

Posted
12-28-79
200' MPD 3-12-80
✓ 200' C1 3-12-80
200' 1/4 Sec. 3-12-80
Record

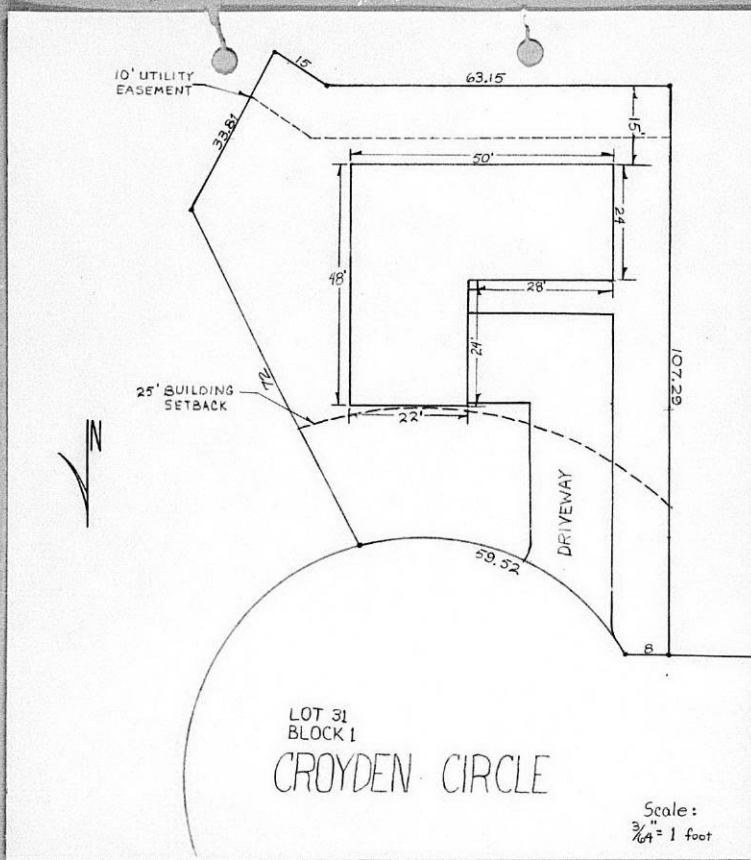
BZA 76-79

ACTION

COMMITTEE	DATE
<u>APPR.</u>	<u>1-22-80</u>
M.A.P.C.	_____
B.C.C./B. CO. C.	_____

Case No. BZA 76-79 - Gaylan W. Nett & Gaylan W. Nett Jr. - requests a variance to reduce the required rear yard setback from 20' to 15' on property zoned "A" One-family Dwelling





Map No. 5850
 Sec. _____
 Twp. _____
 Range _____

BZA- 76-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ 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 is for: _____
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



January 30, 1980

Gaylan W. Nett &
Gaylan W. Nett Jr.
3374 South Oak
Wichita, Kansas

Re: Case No. BZA 76-79
Request for Variance

Dear Mr. Nett:

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 required rear yard setback from 20' to 15' on property zoned the "AA" One-family Dwelling District and generally located on the south side of Croyden Circle in an area east of Edgemoor Drive (5743 Croyden Circle).

This Resolution reflects the official action of the Board to approve this request. 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 76-79

WHEREAS, Gaylan W. Nett & Gaylan W. Nett Jr., 3374 South Oak, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20' to 15' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 31; Block 1, Woodlawn Place 3rd Addition; Wichita, Sedgwick County, Kansas. Generally located on the south side of Croyden Circle in an area east of Edgemoor Drive (5743 Croyden Circle).

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 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 depth of the property is reduced to less than the minimum depth normally required by the subdivision regulations; 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 a separation to the dwelling on the south would still be a minimum of 35'; 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 they would be unable to complete the construction for which a permit had been issued; 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 rear yard is interiorly located; 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 there would still remain adequate distance between all structures to the south to provide light and air; and

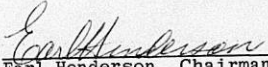
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

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 rear yard setback from 20' to 15' on property zoned the "AA" One-family Dwelling District and legally described as:


Lot 31; Block 1, Woodlawn Place 3rd Addition;
Wichita, Sedgwick County, Kansas. Generally
located on the south side of Croyden Circle
in an area east of Edgemoor Drive (5743 Croyden
Circle)

be approved.

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


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

January 24, 1980

Gaylan W. Nett &
Gaylan W. Nett Jr.
3374 South Oak
Wichita, Kansas

Re: Case No. BZA 76-79
Request for Variance

Dear Mr. Nett:

At the regular meeting of the Board of Zoning Appeals on Tuesday, January 22, 1980, your request for a variance to reduce the rear yard setback from 20' to 15' on property zoned "AA" Single-family Dwelling and generally located on the south side of Croyden Circle in an area east of Edgemoor Drive (5743 Croyden Circle) was considered.

It was the action of the Board to approve this request.

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

If you have any questions, please call our office.

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

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE January 18, 1980

TO Glen Lytle, Special Assistant for Zoning

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 76-79: 5743 Croyden Circle

On January 15, CPO Council "I" considered the captioned case and voted 5 to 0 to recommend approval of the requested variance.

Council members felt that the applicant, having begun construction on the basis of a permit issued by Central Inspection, should not be penalized by denial of the variance necessary to complete the structure, when the variance will not adversely affect the adjacent properties.

Please provide the Council's recommendation to the Board of Zoning Appeals for their consideration on January 22.

Gail Williams
Gail Williams
CPO Administrative Aide

GW:rs

NOTED:

Sarah Gilbert
Sarah Gilbert
Assistant CP Coordinator

RECEIVED
JAN 22 1980
METROPOLITAN PLANNING
ROUTE _____

SECRETARY'S REPORT
CASE NO. BZA 76-79

APPLICANT: Gaylan W. Nett & Gaylan W. Nett, Jr., 3374
So. Oak, Wichita, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the rear
yard setback from 20' to 15'.

GENERAL LOCATION: On the south side of Croyden Circle in an area
east of Edgemoor Drive (5743 Croyden Circle).

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

LAND USE: Subject property is being developed as a
single-family residence. Adjacent properties
are single-family dwellings.

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 76-79
BZA AGENDA
1-22-30

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the rear yard setback of 20' to 15' for the construction of a single-family dwelling. The applicant had started construction of the dwelling on the property on the basis of a permit issued by Central Inspection. Even though the permit was issued in error with a 15' rear yard, it is necessary for the applicant to receive a variance in order to continue construction.

The applicant points out that the area in which this lot is located has restrictive covenants requiring a minimum of 1200 square feet in the residence. The configuration of the property, due to its location on a cul-de-sac severely restricts the amount of the lot depth remaining for development when all setbacks are complied with. The house proposed consists of 1200 square feet of floor area on ground level and a double garage.

In reviewing the plot plan, it is apparent that the house under construction on the property could not be built within the required setback lines. It is however, the opinion of the secretary that there is sufficient lot area to provide the minimum 1200 square feet dwelling and comply with all the requirements of the zoning ordinance. This would, however, require that the house be designed to comply with the limitations of the property.

UNIQUENESS:

It is the opinion of the Secretary that the physical dimensions of the property make this somewhat of a unique situation inasmuch as the depth of the property is reduced to less than the minimum depth normally required by the subdivision regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance request would not adversely affect adjacent property owners inasmuch as a separation to the dwelling on the south would still be a minimum of 35'.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may create an unnecessary hardship upon the applicants inasmuch as they would be unable to complete the construction for which a permit had been issued.

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 reduction of the rear yard is interiorly located.

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BZA 7C-79
BZA AGENDA
1-22-80

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the requested variance would not be opposed to the spirit and intent of the zoning ordinance inasmuch as there would still remain adequate distance between all structures to the south to provide light and air.

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, therefore, it is recommended that the variance to reduce the rear yard from 20' to 15', be approved.

BZA CASE NO. 76-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

12 NOTICES SENT TO ADJOINING PROPERTY OWNERS

25 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 76-79

An application has been filed by Gaylan W. Nett & Gaylan W. Nett Jr., 3374 South Oak, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 20' to 15' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 31; Block 1, Woodlawn Place 3rd Addition; Wichita, Sedgwick County, Kansas. Generally located on the south side of Croyden Circle in an area east of Edgemoor Drive (5743 Croyden Circle).

This application has been assigned case No. BZA 76-79, 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

Variance Requested
Lot #31 Block #1
Woodlawn Place
3rd Addition

Dear Persons of the Board:

We would like to request a backyard setback variance. Due to the size, shape, and the 1200 square foot minimum restrictive covenant of the development, we found it virtually impossible to place a 1200 square foot home on this lot.

The house is exactly 1200 square foot, and is located as close to the frontyard setback as possible. The culdesak's radius extends 33.75 feet into this lot, which was not taken into consideration for the backyard setback. This leaves us with 5 foot into the backyard setback.

Although, we feel this shouldn't create much of a problem since there is a large side yard on the east. The house was put to scale exactly as described above, and submitted to the city. The city approved this plot plan so we proceeded with construction. We poured the foundation, and were then stopped with a correction notice. We would appreciate the granting of this variance so we can continue with the construction of the home.

Sincerely yours,

Gaylan W. Nett

Gaylan W. Nett

APPLICATION FOR VARIANCE

I. Name of Applicant Gaylan W. Nett + Gaylan W. Nett Jr. (Netco Coast)

Mailing Address 3374 So. Oak Phone 524-3446

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 vary backyard setback

OK to reduce the required rear yard setback
from 20 feet to 15 feet

for property located (5743 Crayden Circle)

South side of Crayden Circle in an area east of Edgemoor Drive ←

OK and legally described as: Lot 31, Block 1, Woodlawn

Place 3rd Addition; Wichita, Sedgwick County,
Kansas

OK 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.

Gaylan W. Nett
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:40 (a.m. - P.m.), December 20 19 79 together with appropriate fee of \$50.00.

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 SEDGWICK COUNTY) SS

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:

Lot 31, Block 1, WOODLAWN PLACE
 THIRD ADDITION, Wichita, Sedgwick
 County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>OWNERS</u>
Lot 15, Block 1,	WOODLAWN PLACE THIRD	✓ George H. Williams and Joan Smith 2323 North Woodlawn Boulevard Apt. 123 Wichita, Kansas 67220
Lot 16, Block 1,	WOODLAWN PLACE THIRD	✓ Samuel and Linda Paschae 2531 North Dellrose Avenue Wichita, Kansas 67220
Lot 17, 26, 29, 34, 44 and 45, Block 1,	WOODLAWN PLACE THIRD	✓ Fidelity Development Inc. Resident Agent H. Marvin Bastian 229 South Market Wichita, Kansas 67202
Lots 24 and 25, Block 1,	WOODLAWN PLACE THIRD	✓ General Contractors, Inc. 1541 South 151st West. Goddard, Kansas 67052



<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>OWNERS</u>
Lots 27, 28 and 30, Block 1,	WOODLAWN PLACE THIRD	Samuel and Linda D. Paschal 2531 North Dellrose Avenue Wichita, Kansas 67220
Lots 32 and 33, Block 1,	WOODLAWN PLACE THIRD	✓ Anthony P. and Julia A. Walsh 2122 South Vine Street Wichita, Kansas 67213
Lot 39, Block 1,	WOODLAWN PLACE THIRD	✓ Michael A. and Sue Christensen 2029 North Woodlawn Boulevard, Apt. 920 Wichita, Kansas 67208
Lots 40 and 41, Block 1,	WOODLAWN PLACE THIRD	✓ Gaylan W. and Linda S. Nett 3374 South Oak Wichita, Kansas 67217
Lot 42, Block 1,	WOODLAWN PLACE THIRD	✓ Landmark Construction Inc. 20 South Market Suite #504 Wichita, Kansas 67202 <i>address unknown</i>
Lot 43, Block 1,	WOODLAWN PLACE THIRD	✓ Eldon L. Baisseau and Lawrence E. Stoskopf ETAL 3333 East Central Wichita, Kansas 67208
Lot 46, Block 1,	WOODLAWN PLACE THIRD	✓ Stanley M. and Lynn D. Bates 5733 Kentford Lane Wichita, Kansas 67226
Lot 47, Block 1,	WOODLAWN PLACE THIRD	✓ Independent Construction Consultants Inc. 1723 Southwest Boulevard Wichita, Kansas 67213
Lot 48, Block 1,	WOODLAWN PLACE THIRD	Gregory T. and Linda M. Ayward Address Unknown
Lot 49, Block 1,	WOODLAWN PLACE THIRD	✓ Raymond E. and Janet Cotton 8325 Maple Street Wichita, Kansas 67209
Lots 7 through 11, inclusive, Block 1,	WOODLAWN PLACE FOURTH	Fidelity Development Co., Inc. Resident Agent H. Marvin Bastian 229 South Market Wichita, Kansas 67202 <i>Dup</i>



DATED AT WICHITA KANSAS THIS 18th DAY OF DECEMBER, 1979 @ 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

C.E. Bud Kelder
Vice President

Tracer No. 49572



MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 2. 21 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
624 V	5.00
627	

NAME: *Wichita*

ADDRESS: *3374 S. Park*

FUND: *16-40 71-113* DUE DATE: *1/15/79*

COMMENTS:

DATE: *12/20/78* BY: *[Signature]*

WICHITA - SEDGWICK COUNTY

W S C

76-79

BOARD OF ZONING APPEALS
 CITY HALL - TENTH FLOOR
 455 NORTH MAIN STREET
 WICHITA, KANSAS 67202

SEE OWN RETURN TO SENDER

WICHITA, KANSAS
 JAN 5 1980
 2 16 PM

WICHITA KANSAS
 DEC 3 1978
 POSTAGE
 15

ADDRESSEE UNKNOWN

OPENED by mistake

203 80
1-5-80
478

Landmark Construction Inc.
 120 South Market
 Suite #504
 Wichita, Kansas 67202