CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

4/28/2010

Patrick Teschke
5713 E 19th
Wichita KS 67208

RE: BZA2010-16

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the City Board of Zoning Appeals on **April 27, 2010.** This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Donna Goltry, Principal Planner
Current Plans Division

DG/yja

Cc: Kurt Schroeder, Office of Central Inspections
Paul Hays, Office of Central Inspections
J R Cox Office of Central Inspection
LaVonta Williams, WCC I

BZA RESOLUTION NO. 2010-00016

WHEREAS, Patrick O. Teschke and Ginna L. Weeks (owners), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance of the Zoning Code to reduce the rear yard setback from 20 feet to 11 feet and adjustment to reduce the street side yard setback from 15 feet by up to 20 percent, generally located west of Woodlawn Boulevard, south of 21st Street North, southwest corner of 19th Street North and Beaumont Street (5713 East 19th Street North).

Lot 6; Block 12, 2nd Addition Crestview Heights Addition, Segwick County, Kansas.

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 April 27, 2010, 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 conditions that are unique. The property was platted in 1957 when street side setbacks were six feet and rear setbacks were 20 feet, and before a standard designation was made for which side of the lot would be the front yard. A review of the corner lots in Crestview Heights 2nd Addition shows that the designation varied from lot-to-lot and did not necessarily choose the narrower frontage as would be the case under today's zoning code. Both houses on this block face between 19th Street North and Charlotte Street use Beaumont Street as the front yard and treat the common property line as an interior side setback.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not adversely affect the rights of adjacent property owners. The rear setback for which the variance is requested functions more like a side yard setback and provides more than the customary six-foot interior side yard setback. The encroachment of the addition into the street side setback technically could be approved via an administrative adjustment. It will project about the same amount as the sides of the two homes across Beaumont Street, but it will encroach into the line of sight of the abutting residence by about one and one-half feet beyond the normal range. The neighbor's house has a generous side yard area (about 45 feet) so that the houses will still be amply separated with a 10-foot addition.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the code could constitute a hardship upon the applicant. Requiring the applicant to comply with the rear yard setback would make the addition too narrow to pursue but without resulting in significant public benefit.

WHEREAS, the Board of Zoning Appeals has found that the variance request for a front setback reduction does not adversely affect the public interest. The public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where nonconformities with the current

zoning regulations are common. In this case, the nonconformity is not common but is one of the variety of ways corner lots have been developed in this subdivision.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a front setback reduction does not oppose the general spirit and intent of the Zoning Code. The reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access. The reduced rear yard setback functions more like the side yard for both the lot in question and for the abutting residence. The street side setback may impact the neighbor's line of sight. It is, however, within the nine feet allowed by the original development covenants and above the six feet that would have been in effect in the 1958 zoning code, thus aligned with the original spirit and intent for the subdivision.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, are found to be present for a variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance of the Zoning Code to reduce the rear yard setback from 20 feet to 11 feet and adjustment to reduce the street side yard setback from 15 feet by up to 20 percent, generally located west of Woodlawn Boulevard, south of 21st Street North, southwest corner of 19th Street North and Beaumont Street (5713 East 19th Street North).

Lot 6; Block 12, 2nd Addition Crestview Heights Addition, Segwick County, Kansas.

The variance is hereby GRANTED, subject to the following conditions:

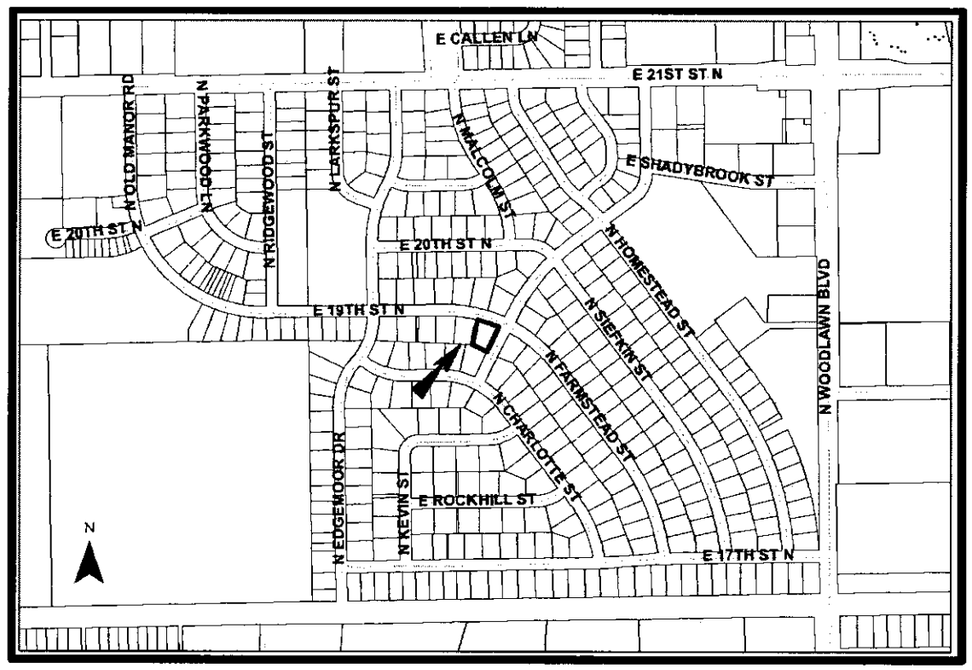
1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The setback reduction shall apply only to the "addition" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. _____
April 27, 2010

SECRETARY'S REPORT

CASE NUMBER:	BZA2010-00016
APPLICANT/AGENT:	Patrick O. Teschke and Ginna L. Weeks (owners)
REQUEST:	Variance of the Zoning Code to reduce the rear yard setback from 20 feet to 11 feet and adjustment to reduce the street side yard setback from 15 feet by up to 20 percent
CURRENT ZONING:	SF-5 Single-Family Residential ("SF-5")
SITE SIZE:	0.3 acres
LOCATION:	Generally located west of Woodlawn Boulevard, south of 21st Street North, southwest corner of 19th Street North and Beaumont Street (5713 East 19th Street North)



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 State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to the Unified Zoning Code to reduce the rear yard setback from 20 feet to 11 feet and an adjustment to reduce the street side yard setback from 15 feet by up to 20 percent on a 0.3 acre site zoned SF-5 Single-Family Residential ("SF-5"). The property is located in the vicinity west of Woodlawn Boulevard and south of 21st Street North, and more specifically located at the southwest corner of 19th Street North and Beaumont Street (5713 East 19th Street North). The applicant has requested the variance to add a 10-foot building addition onto the south façade of the existing residence. The application area, as well as the surrounding area, is developed with exclusively with single-family residences on property zoned SF-5.

The residence was built in 1958 according to GIS. It is on a corner site located in Crestview Heights 2nd Addition, recorded March 7, 1957. Restrictive covenants filed in 1958 with the Sedgwick County Register of Deeds (Miscellaneous Book 427 Page 461 Paragraph "C" of Subsection IV) included the following language, since rescinded in 1966 (Miscellaneous Book 580 Page 22). However, the covenant explains some of the original development pattern of the subdivision.

> "No part of any single-family dwelling shall be less than nine (9) feet from any side building site line. The main body of any single-family dwelling, including attached garages, breezeways, attached greenhouses, wall and porches, enclosed or unenclosed, erected or maintained on any building site, shall not occupy more than eighty percent (80%) of the width of the respective building site on which it is erected, measured in each case on the front street building setback line, except with the written approval of the Architectural Committee, but in each case such single-family dwellings shall still be located at least nine (9) feet from the side building site line or lines and within the side street building setback line, if contiguous to a side street.

Based on this original restriction, the home was oriented slightly on the diagonal across a corner lot (Beaumont Street functions as the front of the house). Because of the diagonal orientation, the house sets well behind the customary front yard setback line except where it narrowed to only 20 feet at the southeast corner of the house along Beaumont Street. It appears the south edge of the house was treated as a side setback and based on the original covenant would have required setback of nine feet although the zoning code would only have required six feet if it were considered a side yard. The variance request is for 11 feet.

The zoning code considers it a rear setback (and the reason for the variance request), requiring a minimum depth of 20 feet. According to the zoning code, the shortest street frontage is deemed to be the front of the lot and the longer street frontage is a street side setback. The interior property line opposite the front of the lot is the rear yard.

The setback reduction on Beaumont Street would reduce the setback from 15 feet to 13 feet six inches, within the 20 percent reduction that can be granted administratively.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Single-family residences
SOUTH	SF-5	Single-family residences
EAST	SF-5	Single-family residences
WEST	Sf-5	Single-family residences

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property was platted in 1957 when street side setbacks were six feet and rear setbacks were 20 feet, and before a

standard designation was made for which side of the lot would be the front yard. A review of the corner lots in Crestview Heights 2nd Addition shows that the designation varied from lot-to-lot and did not necessarily choose the narrower frontage as would be the case under today's zoning code. Both houses on this block face between 19th Street North and Charlotte Street use Beaumont Street as the front yard and treat the common property line as an interior side setback.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the rear setback for which the variance is requested functions more like a side yard setback and provides more than the customary six-foot interior side yard setback. The encroachment of the addition into the street side setback technically could be approved via an administrative adjustment. It will project about the same amount as the sides of the two homes across Beaumont Street, but it will encroach into the line of sight of the abutting residence by about one and one-half feet beyond the normal range. The neighbor's house has a generous side yard area (about 45 feet) so that the houses will still be amply separated with a 10-foot addition.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the applicant to comply with the rear yard setback would make the addition too narrow to pursue but without resulting in significant public benefit.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where nonconformities with the current zoning regulations are common. In this case, the nonconformity is not common but is one of the variety of ways corner lots have been developed in this subdivision.

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 regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access. The reduced rear yard setback functions more like the side yard for both the lot in question and for the abutting residence. The street side setback may impact the neighbor's line of sight. It is, however, within the nine feet allowed by the original development covenants and above the six feet that would have been in effect in the 1958 zoning code, thus aligned with the original spirit and intent for the subdivision.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to reduce the rear yard setback from 20 feet to 11 feet and the street side setback by 20 percent be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan and elevation drawings.
2. The setback reduction shall apply only to the "addition" as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.

3. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

Note: Engr. & Bohm had surveyer stake the property at its corner's = House orientation is per stakes

