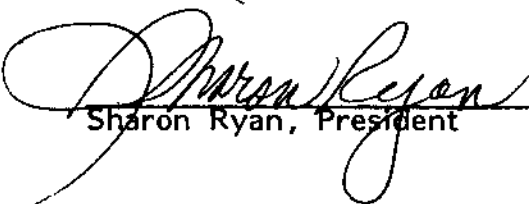


subject to the following conditions:

1. The applicant shall obtain a building permit from Central Inspection and shall comply with all building code requirements.
2. The existing lattice shall be removed and the roof cut back so as to maintain a minimum 1-foot clearance between the east property line and the roof overhang.
3. No additional roof shall be added to the deck, unless it complies with the setback requirements of the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 28th day of June, 1988.

  
Sharon Ryan, President

ATTEST:

  
Louise Olivarez, Assistant Secretary

RESOLUTION NO. BZA 25-88

WHEREAS, Rocky L. and Terry L. Wilburn, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the side yard setback from 6 feet to 1½ feet for a deck and reduce to 1 foot the setback for the roof over the deck on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 8, Murray's 3rd Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Pawnee and Pawnee Court (3860 E. Pawnee Court).

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 June 28, 1988, 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 design of the house and its location on the lot makes the east side of the property the "back yard" or livable outdoor area, and its narrow width of less than 12 ft. makes full utilization of the site desirable; 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 owner of the lot to the east, which is the only adjacent property really affected by this variance, has given her approval of the requested variance; 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 deck and its roof have already been constructed and a requirement to modify these structures enough to comply with the setback requirements of the zoning ordinance may be an economic hardship and a reduced deck area with partial cover would leave a less "livable" yard area for the applicants; 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 deck and its roof are barely visible from the public streets, due to the distance from the streets and the existing 6-ft. fence around the lot; 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 a covered deck without side enclosures still permits sufficient light, air, drainage and access between adjacent houses; 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 be approved for a variance to reduce the side yard setback from 6 feet to 1½ feet for a deck and reduce to 1 foot the setback for the roof over the deck on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 8, Murray's 3rd Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Pawnee and Pawnee Court (3860 E. Pawnee Court).

# THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

July 1, 1988

Rocky L. & Terry L. Wilburn  
3860 E. Pawnee Court  
wichita, KS 67218

Re: BZA 25-88 - Variance to reduce side yard setback (3860 E. Pawnee Ct.)

Dear Mr. & Mrs. Wilburn:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on June 28, 1988. 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.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have questions concerning this matter, please call our office.

Sincerely yours,

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm

cc: Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

**BACKGROUND:** The applicant is requesting a variance of the 6-ft. side yard setback down to 1½ ft. to accommodate a deck AND down to 1 ft. to accommodate the roof over the deck. The area regulations of the zoning ordinance permit an open outside terrace to project no more than 2 ft. into a required side yard and permit roof overhangs to project no more than 2½ ft. into the yard (28.04.188). Thus, the deck could legally go to within 4 ft. of the side property line with the roof overhang 3½ ft. from the side property line. The lot is a corner lot with the narrow or front dimension being on Pawnee to the south. The house, however, faces west to Pawnee Court with the rear of the house and its patio doors being to the east. The south end of the house, facing Pawnee and the largest open lawn area on the lot, is solid brick. Thus, the area used as a typical "back yard" is the area to the east which is slightly less than 12 ft. wide. A 40-ft. long deck has already been constructed, without a permit, which goes to within 2 ft. of the east property line. Over the south 20 ft. of this deck is a roof with an overhang which goes to the property line. Lattice connects the roof rafters to the top of the 6-ft. wood fence which is on the property line. The owner has stated, however, that if this variance is approved, he will remove the lattice and alter the deck cover so that it maintains at least a 1-ft. setback from the east property line.

#### ADJACENT ZONING AND LAND USE:

|       |      |                      |
|-------|------|----------------------|
| NORTH | "AA" | One-family dwelling  |
| SOUTH | "RB" | Four-family dwelling |
| EAST  | "AA" | One-family dwelling  |
| WEST  | "AA" | One-family dwelling  |

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the design of the house and its location on the lot makes the east side of the property the "back yard" or livable outdoor area, and its narrow width of less than 12 ft. makes full utilization of the site desirable.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested may not adversely affect the rights of adjacent property owners inasmuch as the owner of the lot to the east, which is the only adjacent property really affected by this variance, has given her approval of the requested variance.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the deck and its roof have already been constructed and a requirement to modify these structures enough to comply with the setback requirements of the zoning ordinance may be an economic hardship and a reduced deck area with partial cover would leave a less "livable" yard area for the applicants.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the deck and its roof are barely visible from the public streets, due to the distance from the streets and the existing 6-ft. fence around the lot.

**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 ordinance inasmuch as a covered deck without side enclosures still permits sufficient light, air, drainage and access between adjacent houses.

SECRETARY'S REPORT

CASE NUMBER: BZA 25-88

OWNER/APPLICANT/AGENT: Rocky & Terry Wilburn (owner/applicant)

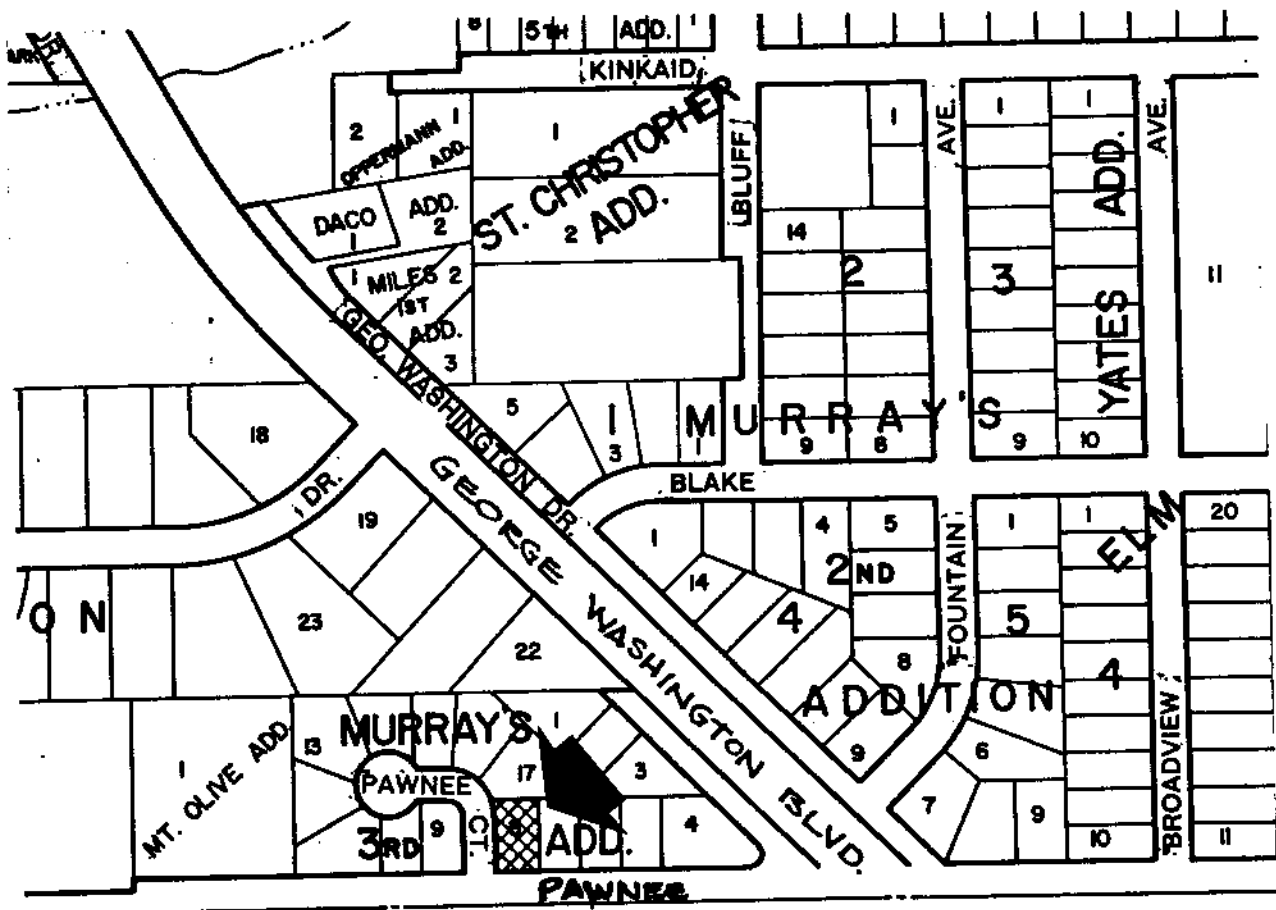
REQUEST: Variance to reduce the side yard setback from 6 ft. to 1½ ft. for a deck and reduce the side yard setback for the roof over the deck to 1 ft.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 74.2 ft. x 115 ft.

LOCATION: Northeast corner of Pawnee and Pawnee Court (west of George Washington Boulevard and north of Pawnee)

PROPOSED USE: Deck, partially covered



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.