

BACKGROUND: The applicant is requesting three variances of yard requirements for residential structures which have been in existence for more than 30 years. The applicant is the new owner of this residence and desires to clear up these encroachments to assure that there will be no future cloud on the title. The requested variances are: (1) a reduction of the front yard from 25 ft. to 23 ft. (only the southeast corner of the house encroaches the setback); (2) a reduction of the south side yard for accessory structures from 3 ft. to 1½ ft.; and (3) a reduction of the rear yard for an accessory structure from 5 ft. to 4 ft.

ADJACENT ZONING AND LAND USE:

NORTH	"A"	One-family dwelling
SOUTH	"A"	One-family dwelling
EAST	"A"	One-family dwelling
WEST	"A"	One-family dwelling

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the structures which are not in conformance with the setback requirements of the zoning ordinance have existed for approximately 30 years and are located in a neighborhood with many similar setback encroachments.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the alignment of Ferrell Drive is such that each house with its accessory structures in this block is uniquely situated in relation to adjacent structures so that the "normal" setbacks are not readily apparent anyway.

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 structures have existed at these locations for approximately 30 years and a failure to obtain the requested variances may cloud the title to the property and create undesirable delays in obtaining future mortgage funds or in later disposition of the property.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as none of the structures encroach into existing or proposed street right-of-way or utility easements.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as adequate separations still exist between adjacent structures to provide for light, air and access.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variances can be found to exist, then it is the recommendation of the Secretary that the variances be granted, subject to the following condition:

1. Any future additions to the house or any new accessory structures located elsewhere in the yard shall observe the setbacks required by the zoning ordinance.

SECRETARY'S REPORT

CASE NUMBER: BZA 35-88

OWNER/APPLICANT/AGENT: Frances Louise Brinegar (owner/applicant)
Wayne L. Brinegar (agent)

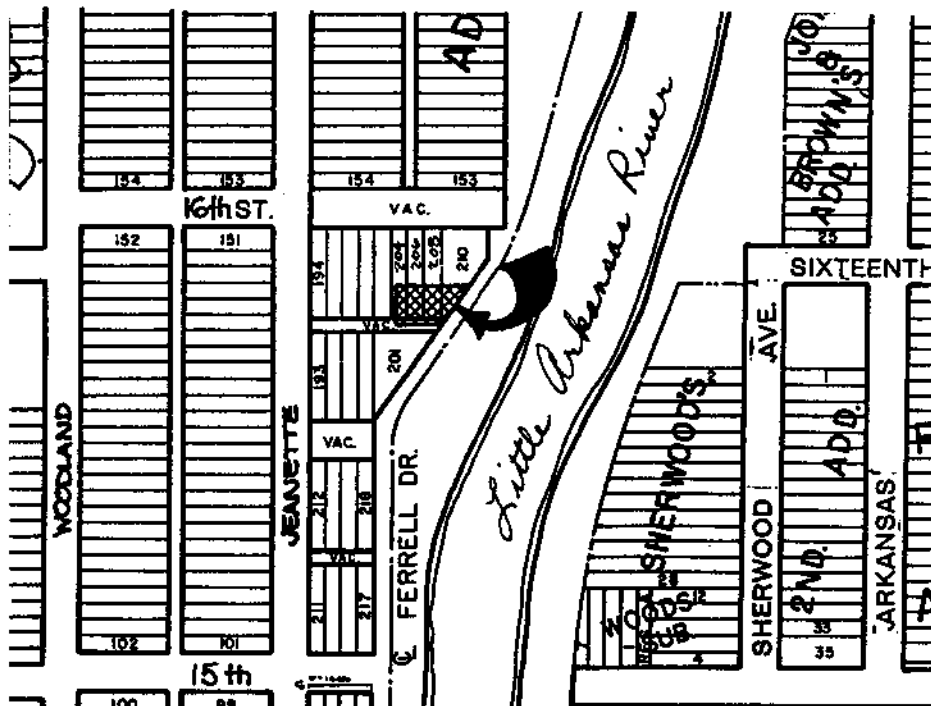
REQUEST: Variances to reduce the front yard setback from 25 feet to 23 feet; reduce the side yard setback for a detached accessory structure from 3 feet to not less than 1½ feet; and reduce the rear yard setback for a detached accessory structure from 5 feet to 4 feet.

CURRENT ZONING: "A" Two-Family Dwelling District

SITE SIZE: 5,760± sq. ft.

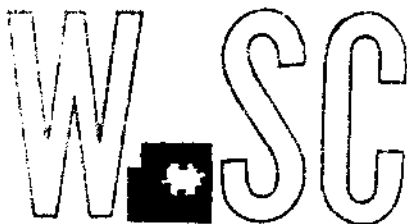
LOCATION: West side of Ferrell Drive between 15th & 17th Streets (1643 Ferrell Drive)

PROPOSED USE: Single-family residence (existing)



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.

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

July 27, 1988

Wayne L. Brinegar
7700 E. 13th, #12
Wichita, KS 67206

Re: BZA 35-88 - Variances on front yard, side yard and rear yard
setbacks at 1643 Ferrell Drive

Dear Mr. Brinegar:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on July 26, 1988. This resolution reflects the official action of the Board to 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,


Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO/jcm
Enclosure

cc: Frances L. Brinegar, 1848 Fairview, Wichita, KS, 67203
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

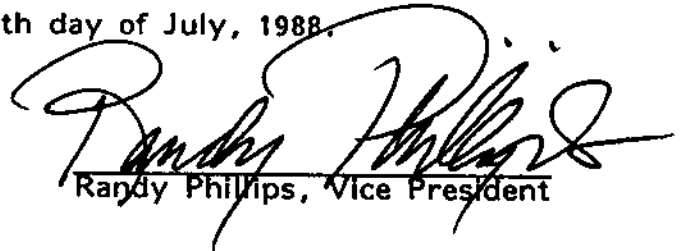
rear yard setback for a detached accessory structure from 5 ft. to 4 ft. on property zoned the "A" Two-Family Dwelling District and legally described as follows:

That portion of the East 15 feet of Lot 204 and that portion of Lots 206, 208 and 210 on Sixteenth Street which lies South of a line running East and West, exactly 50 feet North of the South line of Lot 204, such line extending on East and West through each of the lots mentioned, all in Rich's Addition to the City of Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley adjoining said property on the South, and located on the West side of Ferrell Drive in an area south of 17th Street (1643 Ferrell Drive).

subject to the following condition:

1. Any future additions to the house or any new accessory structures located elsewhere in the yard shall observe the setbacks required by the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 26th day of July, 1988.


Randy Phillips, Vice President

ATTEST:


Louise Olivarez, Assistant Secretary

*original signature
page of resolution
sent to 7/26/88
because he wants to
record it with the Registrar
of Deeds*

RESOLUTION NO. BZA 35-88

WHEREAS, Frances Louise Brinegar, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variances to reduce the front yard setback from 25 ft. to 23 ft.; reduce the side yard setback for a detached accessory structure from 3 ft. to not less than 1½ ft.; and reduce the rear yard setback for a detached accessory structure from 5 ft. to 4 ft. on property zoned the "A" Two-Family Dwelling District and legally described as follows:

That portion of the East 15 feet of Lot 204 and that portion of Lots 206, 208 and 210 on Sixteenth Street which lies South of a line running East and West, exactly 50 feet North of the South line of Lot 204, such line extending on East and West through each of the lots mentioned, all in Rich's Addition to the City of Wichita, Sedgwick County, Kansas, together with the North Half of the vacated alley adjoining said property on the South, and located on the West side of Ferrell Drive in an area south of 17th Street (1643 Ferrell Drive).

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 July 26, 1988, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for variances 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 variances arise from such conditions which are unique to the property in question and which are not ordinarily found in the same zone or district and are not created by an action or actions of the property owner or the applicant inasmuch as the structures which are not in conformance with the setback requirements of the zoning ordinance have existed for approximately 30 years and are located in a neighborhood with many similar setback encroachments; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variances will not adversely affect the rights of adjacent property owners or residents inasmuch as the alignment of Ferrell Drive is such that each house with its accessory structures in this block is uniquely situated in relation to adjacent structures so that the "normal" setbacks are not readily apparent anyway; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variances are requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the structures have existed at these locations for approximately 30 years and a failure to obtain the requested variances may cloud the title to the property and create undesirable delays in obtaining future mortgage funds or in later disposition of the property; and

WHEREAS, the Board of Zoning Appeals has found that the variances desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, due to the fact that none of the structures encroach into existing or proposed street right-of-way or utility easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variances desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as adequate separations still exist between adjacent structures to provide for light, air and access; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before variances 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 variances to reduce the front yard setback from 25 ft. to 23 ft.; reduce the side yard setback for a detached accessory structure from 3 ft. to not less than 1½ ft.; and reduce the