Lot 48, Block 1, Smithmoor 1st Addition, except the westerly 1 foot thereof. Generally located at the southwest corner of Countryside and Smithmoor (10715 E. Countryside).

ADOPTED AT WICHITA, KANSAS, this 22nd day of November, 1988.

Sharon Ryan, President

ATTEST:

Jack H. Galbraith, Secretary

BZA RESOLUTION NO. 53-88

WHEREAS, Ron Smith, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard (west side) from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

> Lot 48, Block 1, Smithmoor 1st Addition, except the westerly 1 foot thereof. Generally located at the southwest corner of Countryside and Smithmoor (10715 E. Countryside).

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 November 22, 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 lot is irregular in shape and its buildable area is limited by several easements and a 15-foot platted side yard setback line on the east; 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 this is a corner lot and the only property owner likely to be affected is the owner to the west. The applicant has been requested to furnish a letter of agreement from that owner; 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 house had already been completely framed, roofed, wired, plumbed and sided before the encroachment was discovered, and removal of the encroachment would be extremely expensive; 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 there is no side yard utility easement to be affected by a reduction of the building setback; 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 is adequate distance between roof overhangs. Although limited, there will still be sufficient room for light and air, especially since the 50-foot easement in the rear yard cannot be developed; 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 (west side) from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

WICHITA – SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1668
(316) 268-4561

November 23, 1988

R. L. Smith
Smith & Co.
Box 780595
Wichita, KS 67278

Re: BZA 53-88 - Variance to reduce the side yard setback from 6 feet to 4 feet (10715 E. Countryside).

Dear Mr. Smith:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on November 22, 1988. This resolution reflects the official action of the Board to grant your request. 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 any questions concerning this matter, please contact our office.

Sincerely,

Louise Olivarez

Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

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

FILE COPY

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 house had already been completely framed, roofed, wired, plumbed and sided before the encroachment was discovered and removal of the encroachment would be extremely expensive.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as there is no side yard utility easement to be affected by a reduction of the building setback.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as there is adequate distance between roof overhangs. Although limited, there will still be sufficient room for light and air, especially since the 50-foot easement in the rear yard cannot be developed.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted.

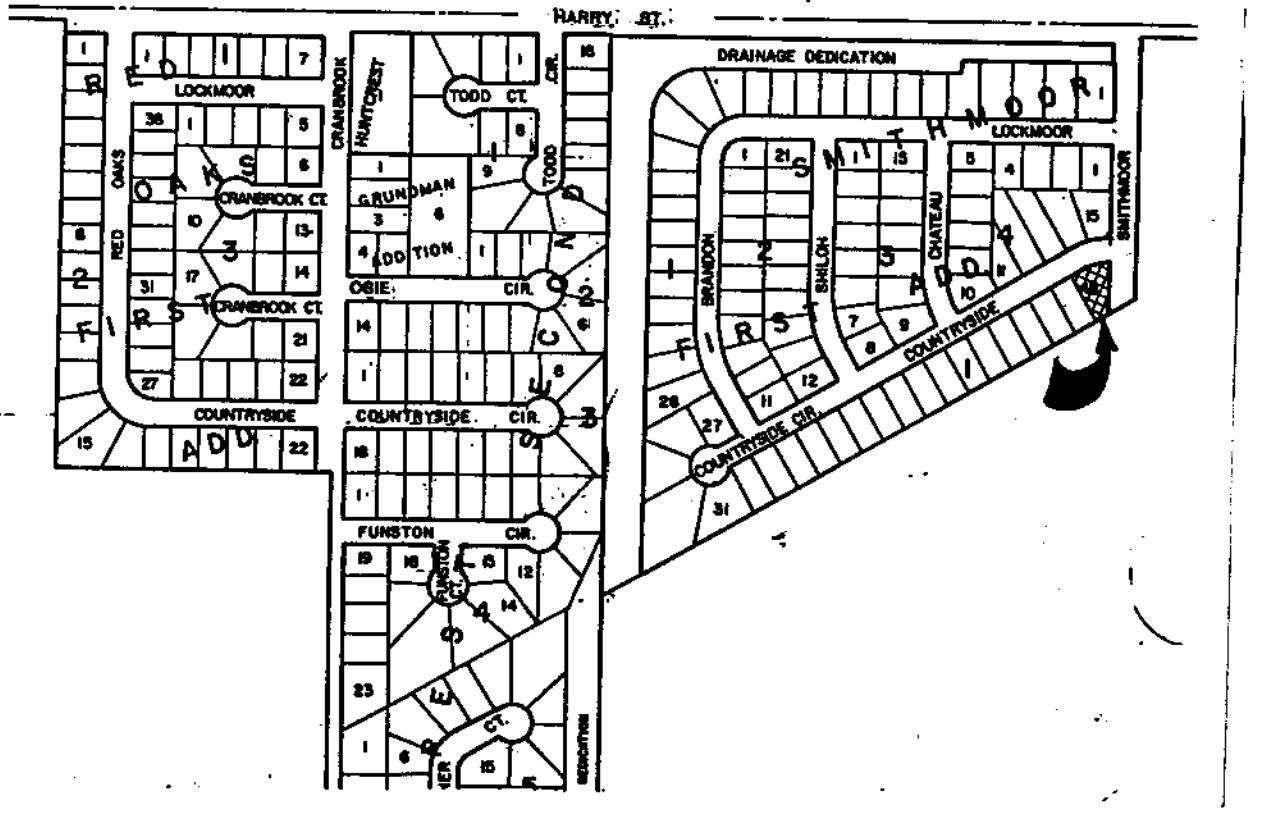
BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 5

November 22, 1988

SECRETARY'S REPORT

CASE NUMBER:	BZA 53-88
OWNER/APPLICANT/AGENT:	Ron Smith (owner/applicant)
REQUEST:	Variance to reduce the side yard (west side) from 6 feet to 4 feet.
CURRENT ZONING:	"AA" One-family dwelling district
SITE SIZE:	12,500 sq. ft.
LOCATION:	Southwest corner of Countryside and Smithmoor (10715 E. Countryside).
PROPOSED USE:	Single-family structure



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.

BACKGROUND: The applicant is requesting a reduction of the interior side yard setback on a corner lot from 6 feet to 4 feet in order to accommodate a cantilevered floor which runs the full length of the house. The applicant has stated that after the building permit was obtained, it was decided to build the house 2 feet wider. The contractor thought that cantilevered areas were permitted 2 feet into the yard, but this is true only of front yards. Due to the narrowness of side yards, bay windows and architectural design embellishments only, not cantilevered floors, are permitted and only for a distance of 1 foot (Section 28.04.188.2). Eaves may project 2.5 feet into any yard. The house was framed and sided prior to the encroachment being discovered. The applicant has stated that a dining room, kitchen, bedroom and bath are on this side of the structure and are already plumbed and wired.

The site plan showing the structure's position on the lot indicates 10 feet between structures; however, measurements indicate only 9 feet. Each house has an approximate 2-foot overhang and the distance between roof overhangs is approximately 5.5 feet. The plat indicates that there is limited buildable area on the lot, due to the irregular shape of the lot and the large easements. The north 3 feet of the 20-foot platted easement was vacated in 1987. Also, the westerly 1 foot of the lot is with the ownership to the west in order that that lot might maintain its required side yard.

Staff is concerned with the narrowness of the side yards between structures; however, the approximate 5.5 feet between roof overhangs presents no apparent fire safety problems.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwelling
SOUTH	"AA"	Undeveloped
EAST	"AA"*	Undeveloped
WEST	"AA"	One-family dwelling

*Approved for "R-6" zoning

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the lot is irregular in shape and its buildable area is limited by several easements and a 15-foot platted side yard setback line on the east.

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 this is a corner lot and the only property owner likely to be affected is the owner to the west. The applicant has been requested to furnish a letter of agreement from that owner.