

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as the property is 60 feet in width and 100 feet in depth. The tract is 6,000 sq. ft. in area. Adjacent properties to the east and west have 50-foot frontages with similar structures built on 5,000-sq.-ft. lots. Few homes on the shared block face have either garages or carports, and those that have have constructed them in the rear half of the property.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the adjacent property owner's use and enjoyment of his side yard will be greatly diminished, due to the reduced separation between structures, and consequently the reduced light, air, circulation and fire safety.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance will not constitute an unnecessary hardship upon the applicant inasmuch as there are sufficient alternatives in design to provide protection from inclement weather and still observe the required 6-foot side yard setback.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no utility easement or street right-of-way would be encroached by the proposed structure.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance as requested is not within the spirit and intent of the zoning ordinance because light, circulation between structures, and fire safety would be affected by the granting of the variance and specifically because the variance is not needed to construct a coverage which will provide adequate protection from inclement weather.

RECOMMENDATION: Since all five conditions necessary for the granting of a variance cannot be found to exist, it is recommended that the application be denied.

**BOARD OF ZONING APPEALS
WICHITA, KANSAS**

AGENDA ITEM NO. 6

January 23, 1990

SECRETARY'S REPORT

CASE NUMBER: BZA 50-89

OWNER/APPLICANT/AGENT: Robert Dakin (owner/applicant)
Alan Disney (agent)

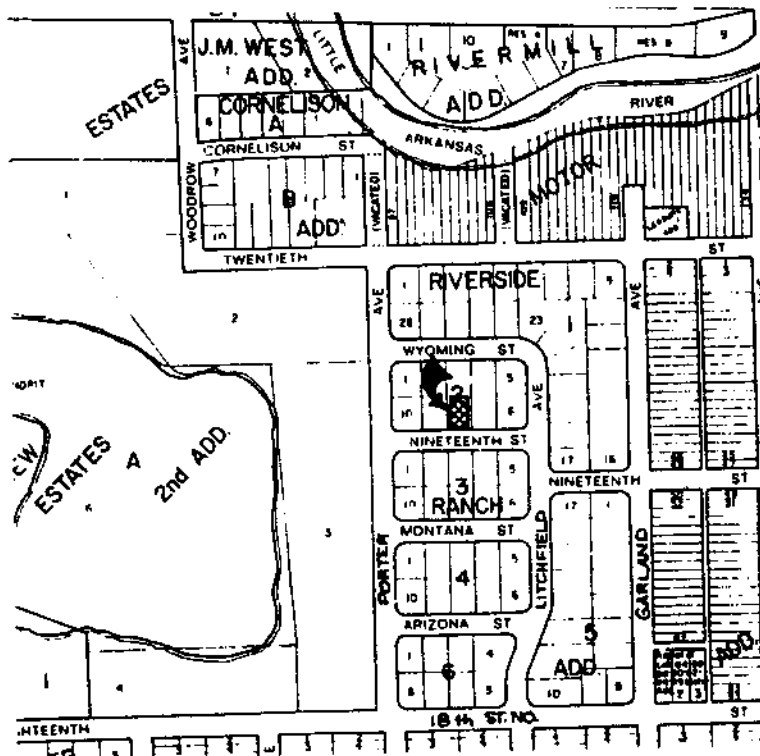
REQUEST: Variance to reduce the west side yard setback
from 6 feet to 0 feet.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 60 ft. x 100 ft.

LOCATION: North side of 19th St. North in an area east
of Porter.

PROPOSED USE: Garage or carport



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 variance of the west side yard setback from 6 to 0 feet to permit construction of a garage which would be attached to an existing dwelling. The west face of the dwelling is now 12 feet from the property line. The property adjacent to the west has only a 6-foot east side yard. The applicant's original desire was to construct a 10-foot-wide open carport which would have support posts 2 feet from the property line. The agent was advised by Central Inspection that any structure (including support posts) closer than 3 feet to the property line must be constructed with a one-hour firewall rating. The room for maneuverability, the need for which shall be made apparent, within an enclosed structure became an issue if a firewall was to be required. The agent therefore proposed building to the lot line to provide space within a partially enclosed structure. The applicant now intends to construct a garage 12 feet wide and 29 feet in depth. The west side of the garage is to be fully enclosed and, for the time being, the north and south sides are to remain open. The west wall will be constructed with a one-hour firewall rating. No roof overhang is proposed for that portion of the garage adjacent to the west line of the property.

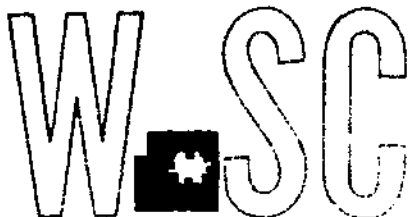
The applicant has recently sustained a severe injury to his lower extremities resulting in mid-thigh amputations bilaterally. The agent for the applicant has stated that if the variance is not granted, the applicant would have to get in and out of vehicles in rain, sleet and snow. The agent for the applicant has indicated that a carport or garage would best protect the applicant and his wheelchair from any bad weather.

Central Inspection has proposed, as an alternative to the garage (and required firewall), a carport which would have posts set 3 feet from the property line with a maximum 1-foot roof overhang. CID's proposal would require a variance of the west side yard setback from 6 feet to 3 feet. Planning staff would note that the zoning ordinance provides that a canopy may project into the required side yard setback a distance of 2 feet. A canopy attached to this main dwelling will afford a coverage of 8 feet within the existing 12-foot side yard. Planning staff's proposal would not require any variance of the required side yard setback. All of these alternatives have been discussed with agents of the applicant, but as of the writing of this report (1/11/90) no final decision has been made by them as to which of the proposals they prefer.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One Family Dwelling
SOUTH	"AA"	One Family Dwelling
EAST	"AA"	One Family Dwelling
WEST	"AA"	One Family Dwelling

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4661

July 25, 1990

Mr. & Mrs. Roger Dakin
1520 W. 19th St.
Wichita, KS 67203

Re: BZA 50-89

Dear Mr. & Mrs. Dakin:

The Board of Zoning Appeals, at its meeting of July 24, 1990, amended its previous conditions of approval for your side yard variance case to permit a flat-roofed carport. A copy of their amended resolution is enclosed for your files. You still need to obtain a building permit for this carport, even though it is already constructed. Please contact the Central Inspection Division as soon as possible regarding this permit. Their phone number is 268-4461.

Sincerely,


Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Alan Disney, 2745 Exchange, 67217
J.W. Russell, P. O. Box 9007, 67277
Paul Hays, CID
Lance Flowers, CID
Pat Burnett, Deputy City Clerk

Lot 8, except the east and west 5 feet thereof,
Block 2, Riverside Ranch Addition to Wichita,
Sedgwick County, Kansas. Generally located on
the north side of 19th St. N. in an area east of
Porter (1520 W. 19th St. N.).

subject to the following conditions:

1. This setback reduction to 0 feet applies only if no wall is constructed as part of the carport.
2. The proposed carport shall have a gabled roof which directs runoff to the north and south and not to the west, or shall have a flat roof which slopes in such a manner that runoff is collected in gutters and directed in downspouts to the front and/or rear yard(s) of the application lot and not to the property adjacent on the west.
3. The proposed carport shall be built within six months or this variance and authorizing resolution shall be null and void.

ADOPTED AT WICHITA, KANSAS, this 24th day of July, 1990.



Keith Alter, President

ATTEST:



Louise Olivarez, Secretary

AMENDED BZA RESOLUTION NO. 50-89

WHEREAS, Robert Dakin, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the west side yard setback from 6 feet to 0 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 8, except the east and west 5 feet thereof,
Block 2, Riverside Ranch Addition to Wichita,
Sedgwick County, Kansas. Generally located on
the north side of 19th St. N. in an area east of
Porter (1520 W. 19th St. N.).

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 23, 1990, consider and approve said application; and did, at the meeting of July 24, 1990, reconsider and revise their previous action regarding the type of roof to be constructed; 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 only exterior door which provides wheelchair access to the house is the west door and thus, the only possible location for covered vehicular access and storage is in the west side yard; 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 building code must be observed and therefore adjacent properties will be protected; 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 physical handicap of the applicant is such that any side yard reduction of less than the entire 6 feet will be insufficient to provide for the opening of vehicle doors wide enough to accommodate a wheelchair; 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 no utility easement or street right-of-way would be encroached by the proposed structure; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance as requested is within the general spirit and intent of the Zoning Ordinance because light, circulation between structures, and fire safety will not be affected by the granting of the variance, since a condition of the variance approval is that no wall be permitted; 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 west side yard setback from 6 feet to 0 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows: