

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, subject to the following conditions:

1. The setback variance shall apply to only the existing garage and the garage extension. The variance shall begin 72 feet west of the property line fronting on Perry and continuing west for 31 feet only per the approved site plan.
2. The applicant shall obtain all permits necessary to construct the garage extension and addition, and all improvements shall be completed within one year following BZA approval of the variance or the resolution authorizing this side yard variance shall become null and void.

BOARD OF ZONING APPEALS
SEDGWICK COUNTY, KANSAS

AGENDA ITEM NO. 3

SECRETARY'S REPORT

CASE NUMBER: BZA 15-94

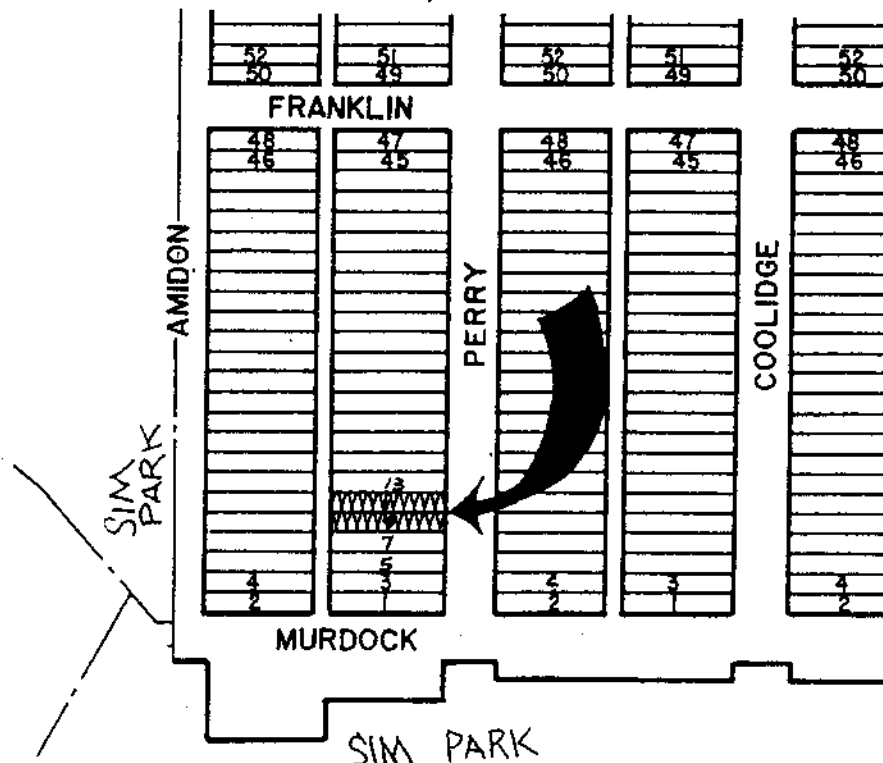
OWNER/APPLICANT: Diane Overstreet
AGENT: None

REQUEST: Variance to reduce the side yard setback from 6 feet to 2 1/2 feet.

CURRENT ZONING: "A" Two Family Dwelling District

SITE SIZE: .16 Acres

LOCATION: On the west side of Perry in an area north of Murdock.
(811 Perry)



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 is requesting a variance to reduce the south side yard setback from 6 feet to 2 1/2 feet for property located at 811 Perry in order to attach an existing garage to the residence. As indicated by the applicant the existing detached accessory structure (garage) is located in the rear half of the lot which required a 3 foot side yard set, but when it was constructed in 1928 it observed only a 2 1/2 foot side yard setback, making it a legal non-conforming use. The applicant now desires to add twelve feet to the existing garage and attach the garage to the dwelling with a building addition to the home in order to provide an enclosed safe and secure way of access directly from the garage into the main residence. Because the garage is being attached to the principal residence on the lot, a side yard setback of 6 feet is required by the City zoning ordinance. Therefore, the applicant is requesting a south side yard setback variance from 6 feet to 2 1/2 feet so that a building permit can be issued to construct the garage extension and the new addition which will tie the garage to the residence.

ADJACENT ZONING AND LAND USE:

NORTH:	"A"	- Single Family Dwelling
SOUTH:	"A"	- Single Family Dwelling
EAST:	"A"	- Single Family Dwelling
WEST:	"A"	- Single Family Dwelling

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the existing structure which will be attached to the residence is presently observing a 2 1/2 foot side yard setback on the south side of the property.

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 the height and the roofline of the garage will not change and the extension of the garage will be to the rear of the lot away from the residence on the adjoining property therefore the property should not be adversely affected.

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 without the side yard setback variance the existing garage would have to be moved or reconstructed in order to provide an enclosed way of access between the garage and the main residence.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this side yard adjustment and therefore, there will be no effect on the general public.

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 reduced setback will continue to provide for fire protection, separation light and air circulation as well as providing pedestrian access for maintenance.



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4421

June 30, 1994

Note: 2-21-95 - Interpretation
that if garage is necessary to
have footing to meet code
garage could be reconstructed
to comply with code at
BZA approved set back.
CPM

Diane Overstreet
811 Perry
Wichita, KS 67203

Re: BZA 15-94 - Variance to reduce the south side yard setback from 6 feet to 2 1/2 feet on property zoned "A" Two-Family Dwelling.

Dear Ms. Overstreet:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on June 28, 1994. This resolution reflects the official action of the Board to grant 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 any questions concerning this matter, please call our office.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure
LO/hm

cc:

Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
CAMA Files

cc to Bob Marsh, 1326 Penny Wichita KS 67203

Lots 9 and 11, Perry Avenue, Riverside Addition, Wichita, Sedgwick County, Kansas. (Generally located at 811 Perry.)

subject to the following conditions:

1. The setback variance shall apply to only the existing garage and the garage extension. The variance shall begin 72 feet west of the property line fronting on Perry and continuing west for 31 feet only per the approved site plan.
2. The applicant shall obtain all permits necessary to construct the garage extension and addition, and all improvements shall be completed within one year following BZA approval of the variance or the resolution authorizing this side yard variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 28th day of June 1994.


Susan Osborne-Howes, Vice-President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 15-94

WHEREAS, Diane Overstreet, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the south side yard setback from 6 feet to 2 1/2 feet on property zoned the "A" Two-Family Dwelling District and legally described as follows:

Lots 9 and 11, Perry Avenue, Riverside Addition, Wichita, Sedgwick County, Kansas. (Generally located at 811 Perry.)

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, 1994, 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 owners or the applicant inasmuch as the existing structure which will be attached to the residence is presently observing a 2 1/2 foot side yard setback on the south side of the property; 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 height and the roofline of the garage will not change and the extension of the garage will be to the rear of the lot away from the residence on the adjoining property therefore the property should not be adversely affected ; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as without the side yard setback variance the existing garage would have to be moved or reconstructed in order to provide an enclosed way of access between the garage and the main residence; 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, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this side yard adjustment and therefore, there will be no effect on the general public; 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 the zoning ordinance inasmuch as a reduced setback will continue to provide for fire protection, separation light and air circulation as well as providing pedestrian access for maintenance ; 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 south side yard setback from 6 feet to 2 1/2 feet on property zoned the "A" Two Family Dwelling District and legally described as follows: