legally described as follows:

Lot 1, Block 1, Valley Park Addition, Wichita, Kansas. Generally located north of 27th Street, east of Bullinger. (2742 W. 27th Street North)

subject to the following conditions:

1. This west side yard setback variance shall apply to only the existing home as shown on the survey submitted with this application. The variance shall begin 26 feet north of the property line fronting on 27th Street North and continue north 22.3 feet.

2. Any other additions to the existing home or detached structures shall observe all zoning code setbacks.

ADOPTED AT WICHITA, KANSAS, this 24th day of January 1995.

Susan Osborne-Howes, President

ATTEST:

Lawrence P. Mitchell, Assistant Secretary

BZA RESOLUTION NO. 42-94

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

> Lot 1, Block 1, Valley Park Addition, Wichita, Kansas. Generally located north of 27th Street, east of Bullinger. (2742 W. 27th Street North)

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 24, 1995, 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 it is located adjacent to Kansas Department of Transportation (KDOT) Interstate 235 which is not a building site and the site was developed based on a perceived property line defined by a KDOT fence.

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 property impacted by the west side yard setback variance is not a building site, therefore no structures will be constructed which would be affected by this variance.

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 west side yard setback variance, the existing room addition would have to be removed which may compromise the structural integrity of the dwelling.

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 onto 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.

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 separation between structures for light and circulation as well as provide pedestrian access because the adjoining I-235 right-of-way is not a building site and no structures will be allowed to be constructed to the west.

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 and

WICHITA — SEDGWICK COUNTY

W-SC

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

January 25, 1995

Gerry & Linda Dreiling
2742 W. 27th North
Wichita, KS 67204

Re: BZA 42-94 - Variance to reduce the west side yard setback from 6 feet to 0 feet.

Dear Mr. & Mrs. Dreiling:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on January 24, 1995. 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
LPM/hm

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yoland Anderson, MAPD

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 west side yard setback variance, the existing room addition would have to be removed which may compromise the structural integrity of the dwelling.

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 onto 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 separation between structures for light and circulation as well as provide pedestrian access because the adjoining I-235 right-of-way is not a building site and no structures will be allowed to be constructed to the west.

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. This west side yard setback variance shall apply to only the existing home as shown on the survey submitted with this application. The variance shall begin 26 feet north of the property line fronting on 27th Street North and continue north 22.3 feet.

2. Any other additions to the existing home or detached structures shall observe all zoning code setbacks.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
January 24, 1995

SECRETARY'S REPORT

CASE NUMBER: BZA 42-94

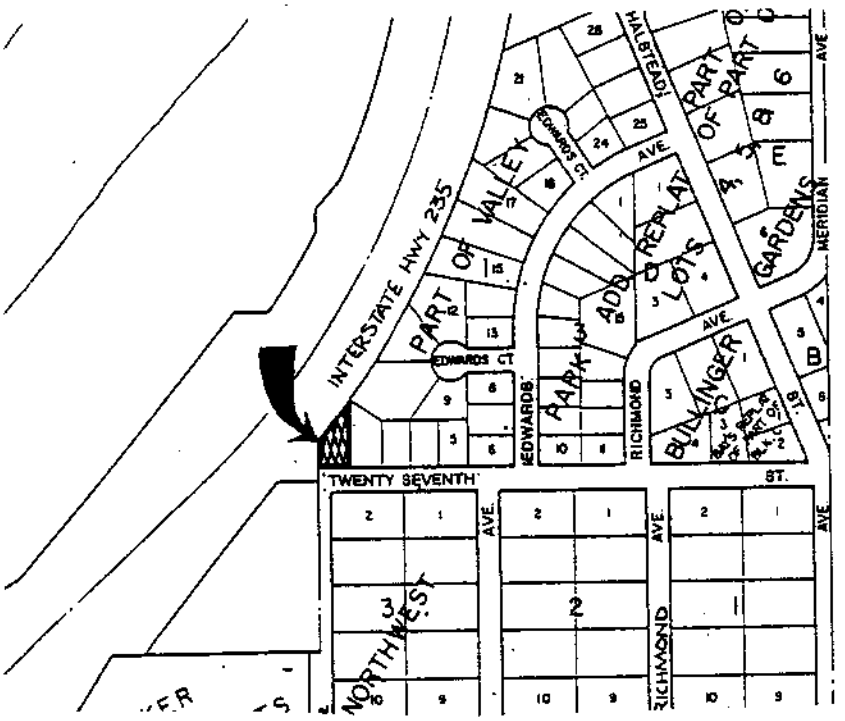
OWNER/APPLICANT: Gerry and Linda Dreiling

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

CURRENT ZONING: "AA" One-Family Dwelling

SITE SIZE: 0.20 Acres

LOCATION: North of 27th Street and east of Bullinger, if extended from the south. (2742 W. 27th Street North)



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 applicants, Gerry and Linda Dreiling, are requesting a variance to reduce the west side yard setback from 6 feet to 0 feet for property located at 2742 West 27th Street North. The applicants have been living at this location since 1977 and are in the process of selling their home. It was determined during the closing process that an addition to the home, which was constructed in 1983, was placed over a platted utility easement as well as being constructed within 0.7 foot of the west property line. The west property line of the application area is adjacent to the I-235 Kansas Department of Transportation (KDOT) right-of-way. The previous owners of the property had constructed a wooden privacy fence next to the chain link fence constructed by KDOT and the current owners thought that the fence defined the west edge of their property. When the applicants constructed a room addition to their home in 1983, plans were approved and a permit was issued based on the wooden fence being the west property line. The applicants are in the process of vacating the platted utility easement and as part of the process were directed to seek a side yard setback variance in order to comply with zoning setback requirements.

KDOT has been contacted regarding the wooden privacy fence and deck which was constructed on their I-235 right-of-way. They are in the process of reviewing the matter and will contact the applicants to resolve the problem. KDOT will determine if they still need the right-of-way. If they do, the applicants will be required to remove the fence and deck. If the right-of-way is not needed, the applicants may purchase the property from KDOT. The existing home and addition is not located within the KDOT right-of-way. The area west of the application area is reserved for highway purposes and is not considered at this time to be a building site.

ADJACENT ZONING AND LAND USE:

NORTH:	"AA"	Single-Family Home
SOUTH:	"AA"	Single-Family Home
EAST:	"AA"	Single-Family Home
WEST:	"AA"	Interstate 235

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is located adjacent to Kansas Department of Transportation (KDOT) Interstate 235 which is not a building site and the site was developed based on a perceived property line defined by a KDOT fence.

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 property impacted by the west side yard setback variance is not a building site, therefore no structures will be constructed which would be affected by this variance.