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 allow the construction of accessory structures (garages) closer to the front lot line than the main structures and to allow the accessory structures within 4 feet of the front property line, rather than 25 feet on property zoned the "R-5" General Residence District and legally described as follows:

> Lots 1 through 12 and Reserves A through E, Block 1, Rolling Hills Country Club Estates Fourth Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Maize Road in an area north of Maple Street.

subject to the following conditions:

1. The applicant shall complete the vacation of the utility and drainage easements within Reserves B, C and D prior to requesting building permits within these reserves (V-1713).

2. The only structures authorized by this variance are three detached garages (or carports) accommodating up to 12 vehicles each. They shall be located substantially in compliance with the revised site plan submitted to and approved by the Board on August 27, 1991, and no closer to the Maize Road property line than four feet.

3. Prior to or at the time of construction of each proposed garage which eliminates a 9-car parking bay, an alternate and equal number of visitor parking spaces shall be provided along the west side of the access road by widening the road to a minimum driving surface width of 26 feet (excluding curb and gutter). This will permit parallel parking along the west side. Parking shall be prohibited along the east side of the access road, and the homeowners' association shall post fire lane signs in accordance with applicable fire codes. The location of visitor parking shall be substantially in compliance with the revised site plan submitted to and approved by the Board on August 27, 1991, which includes the option to leave a 6-car parking bay south of the proposed south garage.

4. The proposed garages and alternate visitor parking shall be constructed within two years following variance approval by the Board, or this variance shall be considered null and void, unless additional time is granted by the Board.

5. This resolution supersedes the previous resolution for BZA 8-91, which was adopted May 28, 1991.

ADOPTED AT WICHITA, KANSAS, this 27th day of August, 1991.

Milton Parsons, Vice President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 8-91 (REVISED)

WHEREAS, Rolling Hills Country Club Estates Fourth Addition Homeowners' Association, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to allow the construction of accessory structures (garages) closer to the front lot line than the main structures and to allow the accessory structures within 4 feet of the front property line, rather than 25 feet on property zoned the "R-5" General Residence District and legally described as follows:

> Lots 1 through 12 and Reserves A through E, Block 1, Rolling Hills Country Club Estates Fourth Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Maize Road in an area north of Maple Street.

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 meetings of July 23 and August 27, 1991, 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 it is a "private" community with no public streets coming into or through this development and it is already partially screened from view by a six-foot-tall concrete wall and evergreen trees paralleling Maize Road for the entire frontage of this development (except for the two access drives); 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 proposed garages would be partially screened by an existing six-foot concrete wall and evergreen trees and they would be located more than 100 feet from any other private property; 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 requested garage locations are the only possible locations for accessory structures within this entire development and if not permitted at these locations, the condominium owners would have to continue to park their second vehicles out in the open, where they are subject to the abuses of the weather; 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 once the utility and drainage easements are vacated, the garages will not encroach any public easements or right-of-way, nor will they create any sight distance problems for drivers of vehicles exiting the area onto Maize Road because of their distances from the drives; 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 the intent is to preserve some degree of uniformity in structure locations on adjacent, separately owned residential lots, but this application area is a private, residential condominium community isolated from other residential areas by golf courses, commercial/office development, and a major public street; 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.

WICHITA — SEDGWICK COUNTY

W-SC

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

August 27, 1991

Don Hill
120 S. Maize Rd., Apt. #11
Wichita, KS 67209

Re: BZA 8-91 - Variance to allow the construction of accessory structures (garages) closer to the front lot line than the main structures and to allow the accessory structures within 4 feet of the front property line, rather than 25 feet, on property zoned the "R-5" General Residence District, located on the east side of Maize Road in an area north of Maple St.

Dear Mr. Hill:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on August 27, 1991. 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 contact our office.

Sincerely,

Louise Olivarez

Louise Olivarez Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Brent Wooten, Baughman Co., 315 Ellis, 67211
Paul Hays, OCI
Lance Flowers, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as once the utility and drainage easements are vacated, the garages will not encroach any public easements or right-of-way, nor will they create any sight distance problems for drivers of vehicles exiting the area onto Maize Road because of their distances from the drives.

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 the intent is to preserve some degree of uniformity in structure locations on adjacent, separately owned residential lots, but this application area is a private, residential condominium community isolated from other residential areas by golf courses, commercial/office development, and a major public street.

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 applicant shall complete the vacation of the utility and drainage easements within Reserves B, C and D prior to requesting building permits within these reserves (V-1713).

2. The only structures authorized by this variance are three detached garages (or carports) accommodating up to 12 vehicles each. They shall be located substantially in compliance with the site plan submitted with this application and no closer to the Maize Road property line than six feet.

3. The proposed garages shall be constructed within two years following variance approval by the Board, or this variance shall be considered null and void.

At the applicant's request, recommended condition #2 was changed to allow the garages within 4 feet of the front property line, rather than 6 feet, as indicated on the site plan and in the Secretary's Report.

A copy of Robert Camfield's memorandum is attached to this report. Minutes of the May 28 BZA hearing are included in this agenda packet mailout to BZA members.

**BOARD OF ZONING APPEALS**
**WICHITA, KANSAS**

AGENDA ITEM NO. 4

July 23, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 8-91

OWNER/APPLICANT/AGENT: Rolling Hills Country Club Estates Fourth Addition Homeowners' Association (owner/appl.)

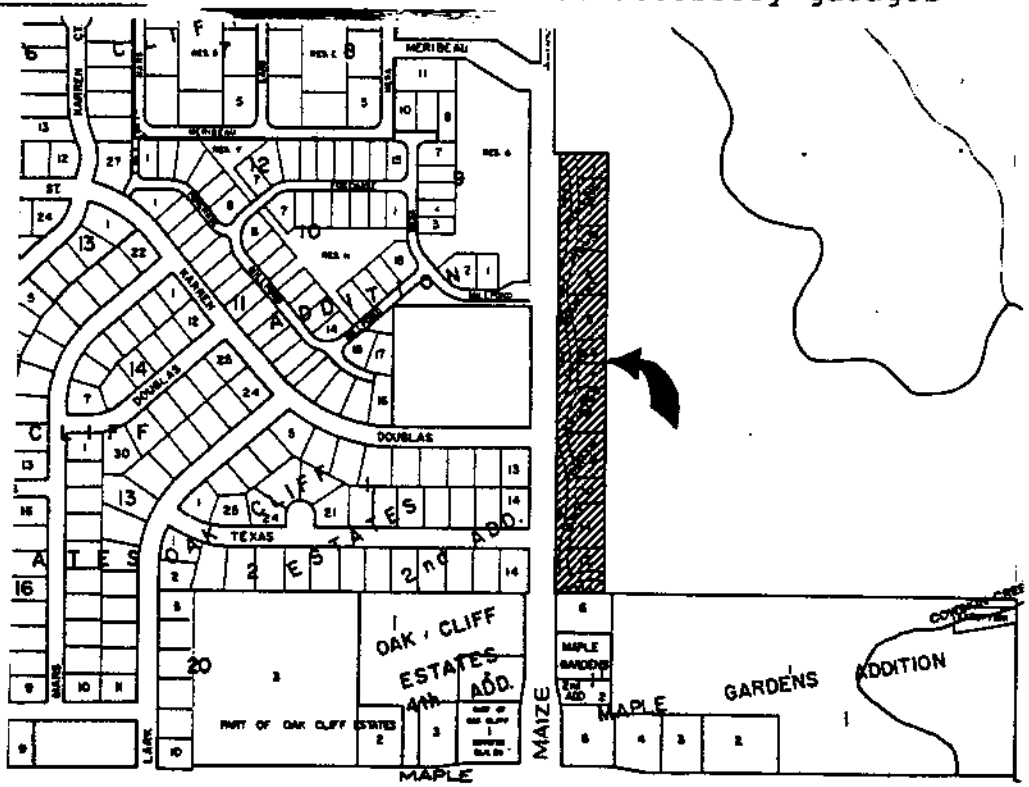
REQUEST: Variance to allow the construction of accessory structures (garages) closer to the front lot line than the main structures and to allow the accessory structures within 4 feet of the front property line, rather than 25 feet.

CURRENT ZONING: "R-5" General Residence District

SITE SIZE: 6.75 acres

LOCATION: East side of Maize Road in an area north of Maple.

PROPOSED USE: Residential accessory garages




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: This variance request was considered and approved by the BZA on May 28, 1991. The main issue discussed at the hearing was visitor parking and whether there would be sufficient visitor parking if the existing surface parking lots are almost entirely deleted by the construction of garages for the residents. The need to maintain access for emergency vehicles, especially fire trucks, was also discussed. One of the conditions of approval of this variance as established by the Board read as follows:

"Parking on the private street shall be permitted on the west side only. The homeowners' association shall post fire lane signs on the east side in accordance with City Code and Fire Department regulations."

Several weeks after the May hearing, Robert Camfield, Chief Fire Inspector, sent a memo to the BZA Secretary, pointing out that The Uniform Fire Code, adopted by the City of Wichita, requires that the unobstructed width of a fire apparatus access road shall not be less than 20 feet. Allowing parking on one side of the private street (which has a driving surface width of only 22 feet 9 inches) would reduce the unobstructed width to less than the 20 feet required by the Fire Code. As the BZA has no authority to vary the requirement of any city code except the zoning code, the condition allowing parking on the west side of the private street is invalid. The variance request has been scheduled for rehearing in order to address this issue. The case was readvertised and new notices were sent to all property owners within 200 feet.

The following information was provided in the original Secretary's Report:

The Rolling Hills Country Club Estates Fourth Addition Homeowners' Association consists of the owners of the 36 condominium dwelling units located on the east side of Maize Road in an area north of Maple. The units overlook the Rolling Hills Golf Course to the east and are separated from Maize Road by a private drive and three reserves. The reserves are currently platted for parking, open space, and utility and drainage easements. There are three small surface parking lots within the reserves, accommodating about 36 cars. The Association has filed a related case to vacate the utility and drainage easement uses of these reserves (V-1713). These easements now act to prohibit the construction of buildings within the reserves. The other restriction prohibiting buildings, specifically detached residential accessory garages, within these reserves is the requirement in the zoning ordinance that accessory structures not be closer to the front property line than the main use. This variance request, if approved as submitted, would allow garages closer to Maize Road than the existing dwelling units. It would also essentially permit a six-foot front yard setback, rather than the 25-foot setback specified by the zoning ordinance.

Each of the 36 dwelling units now has one attached garage. There is insufficient room between the dwelling structures to add additional garages. Adding garages east of the dwelling units would be totally unacceptable, even if there were adequate access, because the orientation and view from these units is to the east, toward the golf course. The only other option is to locate them closer to Maize Road than the dwelling units.

Recently, a six-foot-tall poured concrete wall was constructed at approximately the front property line parallel to Maize Road. Since the grade elevation of this private property is several feet above the elevation of Maize Road, the wall appears even taller. Any structures permitted within the reserves would already be partially screened by this concrete wall. There are also a number of evergreen trees outside of the wall which provide additional screening and visual relief.

The condominium owners are desirous of constructing three 12-car enclosed garage structures, one in each reserve, which would give each owner one additional covered parking space. They state they believe that enclosed parking would improve the aesthetics of their development. The driveways in front of their existing attached garages could then be available for guest parking.

ADJACENT ZONING AND LAND USE:

| | | |
|---|---|---|
| NORTH | "AA" | Golf course |
| SOUTH | "LC" | Offices |
| EAST | "AA" | Golf course |
| WEST | "AA", "R-6" & "BB" | Fourplexes; undeveloped; open space |

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is a "private" community with no public streets coming into or through this development and it is already partially screened from view by a six-foot-tall concrete wall and evergreen trees paralleling Maize Road for the entire frontage of this development (except for the two access drives).

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 proposed garages would be partially screened by an existing six-foot concrete wall and evergreen trees and they would be located more than 100 feet from any other private property.

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 requested garage locations are the only possible locations for accessory structures within this entire development and if not permitted at these locations, the condominium owners would have to continue to park their second vehicles out in the open, where they are subject to the abuses of the weather.