

public utility easements or street right-of-way as a result of this side yard request 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 adequate separation will be maintained for the protection of adjacent properties and the general public.

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 condition:

1. This variance shall apply to only that portion of the east side yard setback adjacent to the existing house which is currently within the 6-foot side yard setback and begins approximately 51 feet north of the south property line and extends for approximately 24 feet.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3
April 25, 1995

SECRETARY'S REPORT

CASE NUMBER: BZA 7-95

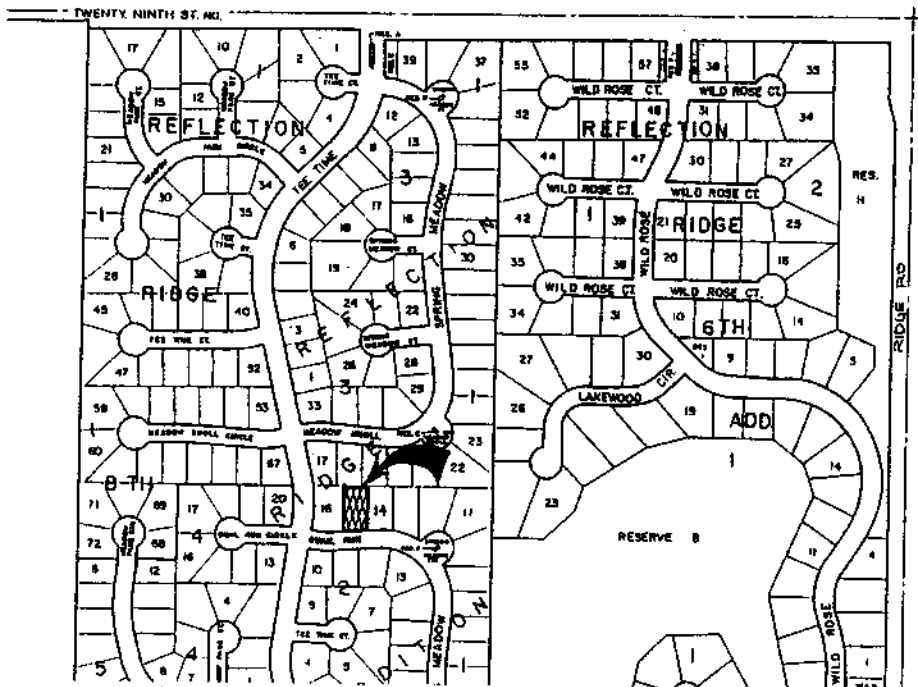
OWNER/APPLICANT: David B. McKinney
AGENT: Mark Savoy

REQUEST: Variance to reduce the east side yard setback from 6.0 feet to 4.4 feet.

CURRENT ZONING: "AA" One-Family Dwelling.

SITE SIZE: 80' x 147'

LOCATION: North of 21st Street North and west of Ridge Road (7710 Quail Run).



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, David McKinney, desires to correct an east side yard encroachment of his home which is located at 7710 Quail Run. The existing home was constructed with a 4.4 foot east side yard setback in the "AA" Single-Family Dwelling zoning category, which required a 6-foot side yard setback. The encroachment was caused by an error in the location of the property corners of the applicant's lot. The home was constructed based on the incorrect property corners and the result was that the home was built within the required east side yard setback. The home currently observes a 11.3 foot west side yard setback and a 4.4 foot east side yard setback.

The survey error was not detected until after the construction of the home was completed and the home was occupied. It is now the intention of the owner to bring the application area into compliance with the zoning ordinance by seeking an east side yard variance.

ADJACENT ZONING AND LAND USE:

NORTH:	"AA" -	Single-Family Dwelling
SOUTH:	"AA" -	Single-Family Dwelling
EAST:	"AA" -	Undeveloped
WEST:	"AA" -	Undeveloped

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as there is an existing home on the site that was constructed in relation to erroneously located property corners which caused the home to be built into the east side yard setback.

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 there currently are no structures on the lot to the east that will be impacted by the requested east side yard setback variance. If required side yard setbacks are observed during the development of the adjacent lot, sufficient space will still exist between adjacent structures for light, air and pedestrian circulation.

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 if the existing home is required to observe a 6-foot east side yard setback, the east side of the home would have to be reduced in size by 19.2 inches which would impact the structural integrity of the home and reduce its overall size and appearance.

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

SEDGWICK COUNTY



**METROPOLITAN AREA PLANNING
DEPARTMENT**

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

May 24, 1995

**Mr. David B. McKinney
7710 Quail Run
Wichita, KS 67205**

RE: BZA 7-95 - Variance to reduce the east side yard setback from 6.0 feet to 4.4 feet on property zoned "AA" One-Family Dwelling District. (7710 Quail Run)

Dear Mr. McKinney:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 23, 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: Mark Savoy, 924 N. Main, Wichita, KS 67203
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD**

setback from 6.0 feet to 4.4 feet on property zoned the "AA" One-Family Dwelling and legally described as follows:

Lot 15, Block 1, Reflection Ridge 7th Addition, Wichita, Kansas.
Generally located north of 21st Street North and west of Ridge Road
(7710 Quail Run).

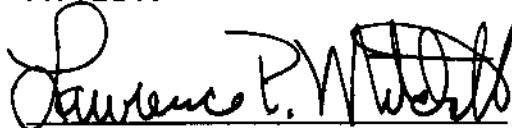
subject to the following condition:

1. This variance shall apply to only that portion of the east side yard setback adjacent to the existing house which is currently within the 6-foot side yard setback and begins approximately 51 feet north of the south property line and extends for approximately 24 feet.

ADOPTED AT WICHITA, KANSAS, this 23rd day of May 1995.


Susan Osborne-Howes, President

ATTEST:


Lawrence P. Mitchell, Secretary

BZA RESOLUTION NO. 7-95

WHEREAS, David B. McKinney, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the east side yard setback from 6.0 feet to 4.4 feet on property zoned the "AA" One-Family Dwelling and legally described as follows:

Lot 15, Block 1, Reflection Ridge 7th Addition, Wichita, Kansas.
Generally located north of 21st Street North and west of Ridge Road
(7710 Quail Run).

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 April 25, 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 there is an existing home on the site that was constructed in relation to erroneously located property corners which caused the home to be built into the east side yard setback.

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 there currently are no structures on the lot to the east that will be impacted by the requested east side yard setback variance. If required side yard setbacks are observed during the development of the adjacent lot, sufficient space will still exist between adjacent structures for light, air and pedestrian circulation.

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 if the existing home is required to observe a 6-foot east side yard setback, the east side of the home would have to be reduced in size by 19.2 inches which would impact the structural integrity of the home and reduce its overall size and appearance.

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 request and therefore there will be no effect on the general public.

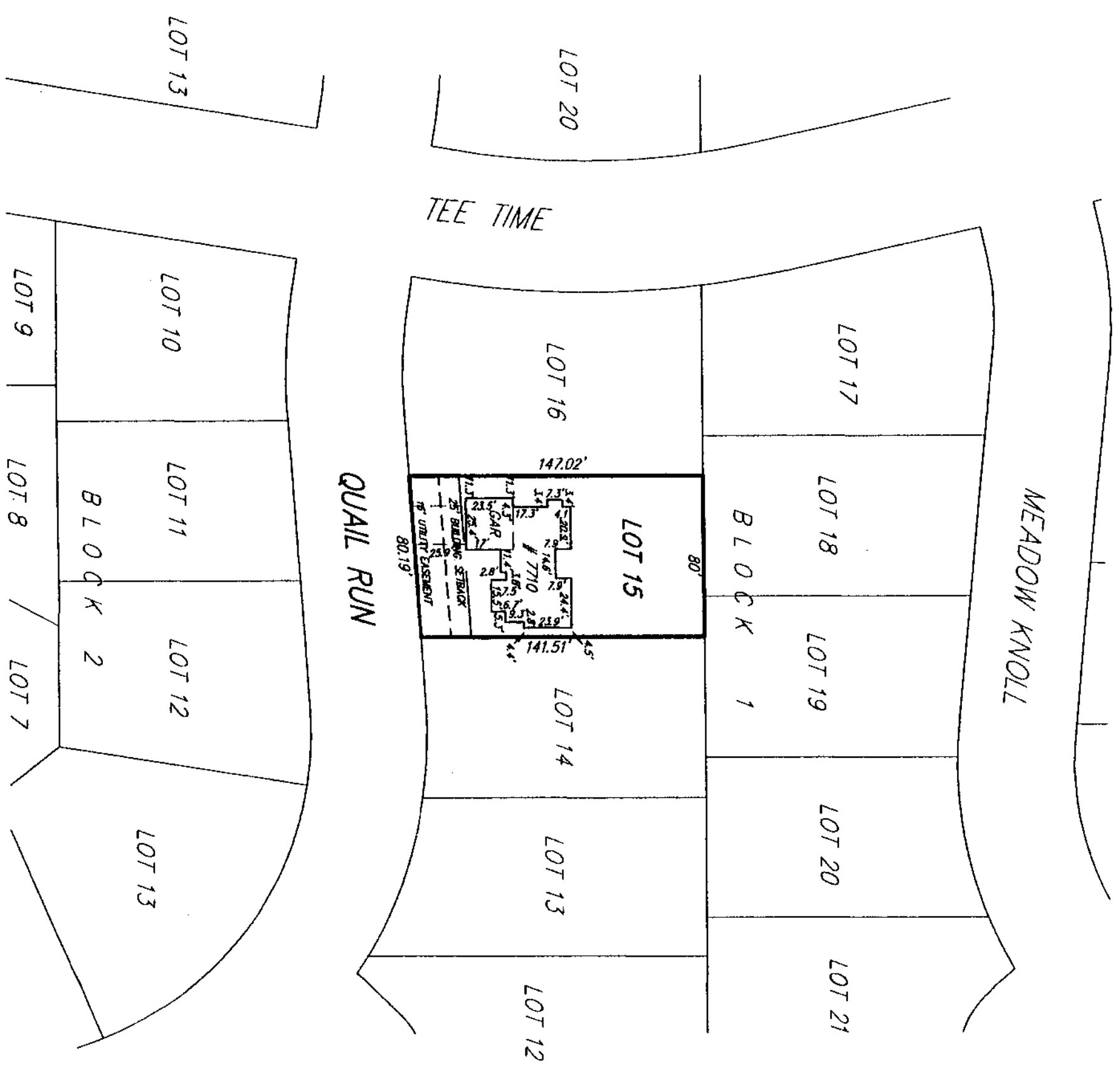
WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as adequate separation will be maintained for the protection of adjacent properties and the general public.

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 east side yard

BZA EXHIBIT

LOT 15, BLOCK 1,
REFLECTION RIDGE 7TH ADDITION
TO
WICHITA, SEDGWICK COUNTY, KANSAS.



BZA 7-95

SRB
SAVOY, RUGGLES & BOHM, P.A.
ENGINEERING & SURVEYING
924 NORTH MAIN WICHITA, KANSAS 67203
316-264-8008 FAX 264-4621