maximum utilization of applicant's property, without removing from use a significant portion of the rear yard not covered by utility easements; 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 east side yard setback from six feet to not less than six inches on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 9, Block 3, Arlington Place 2nd Addition.

subject to the following conditions:

1. The shed/doghouse shall not be enlarged, but is confined to its 5' 6" x 14' 6" size.

2. The shed/doghouse shall by not more than 1-foot exceed the height of the presently existing fence. If the shed/ doghouse were to become damaged, destroyed or removed, it shall not be reconstructed or repaired to exceed the height of the present fence.

3. The side yard setback variance only shall apply to that portion of the lot immediately adjacent to the shed/doghouse. The area of side yard variance begins approximately 80 feet south of the centerline of Harvest Lane Court, and continues in a southerly direction for approximately 15 feet. The remainder of side yard setback, north and south of the side yard variance area, is unaffected by this case.

4. There shall be a gutter installed along the east side to drain roof runoff to this applicant's property.

ADOPTED AT WICHITA, KANSAS, this 22nd day of June, 1993.

Keith A Alter

Keith Alter, Vice-President

ATTEST:

Louise Olivarez

Louise Olivarez, Secretary

BZA RESOLUTION NO. 13-93

WHEREAS, Blake LaMunyon, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the east side yard setback from six feet to not less than six inches on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 9, Block 3, Arlington Place 2nd Addition.

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 22, 1993, 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 the subject property is located near the end of a cul-de-sac, on the south borders a park, and taken together with the construction of a privacy fence will, to a large extent, shield from view the existence of the shed/doghouse from passers-by. As seen from eye-level, the only portion of the shed/doghouse that can be easily seen is the upper 1 foot (the roof and eaves). The large utility easement along the south line adds to this lot's uniqueness.

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 privacy fence will shield the shed/doghouse from view, and construction of this accessory structure includes substantial and permanent features (a concrete base, ground-up construction, guttering and drainage away from adjacent properties) that indicate a willingness to both make it appear solid and durable, and prevent it from appearing an eyesore; 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 there exists a 5-foot utility easement along the west property line and a 20-foot utility easement along the south property line restricting development of significant portions of applicant's 70' x 49' rear yard; 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 the proposed shed/doghouse will be screened by the privacy fence, and will have no adverse impact upon the neighborhood; 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 shed/doghouse will provide

SEDGWICK COUNTY

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

July 1, 1993

Mr. Blake LaMunyon
10729 W. Harvest Ct.
Wichita, KS 67212

Re: **BZA 13-93** - Variance of east side yard setback at 10729 W. Harvest Court.

Dear Mr. LaMunyon:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the County Board of Zoning Appeals on June 22, 1993. 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 now that the necessary signatures have been obtained.

Sincerely,

Louise Olivarez

Louise Olivarez, Secretary
Board of Zoning Appeals

LDO/prf
Enclosure

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

base, ground-up construction, guttering and drainage away from adjacent properties) that indicate a willingness to both make it appear solid and durable, and prevent it from appearing an eyesore.

HARDSHIP: It is the opinion of staff that the strict application of zoning code provisions may constitute an unnecessary hardship upon the applicant inasmuch as there exists a 5-foot utility easement along the west property line and a 20-foot utility easement along the south property line restricting development of significant portions of applicants 70' x 49' rear yard.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the proposed shed/doghouse will be screened by the privacy fence, and will have no adverse impact upon the neighborhood.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the shed/doghouse will provide maximum utilization of applicant's property, without removing from use a significant portion of the rear yard not covered by utility easements.

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 shed/doghouse shall not be enlarged, but is confined to its 5' 6'' x 14' 6" size.

2. The shed/doghouse shall by not more than 1-foot exceed the height of the presently existing fence. If the shed/doghouse were to become damaged, destroyed or removed, it shall not be reconstructed or repaired to exceed the height of the present fence.

3. The side yard setback variance only shall apply to that portion of the lot immediately adjacent to the shed/doghouse. The area of side yard variance beings approximately 80 feet south of the centerline of Harvest Lane Court, and continues in a southerly direction for approximately 15 feet. The remainder of side yard setback, north and south of the side yard variance area is unaffected by this case.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
JUNE 22, 1993

SECRETARY'S REPORT

CASE NUMBER: BZA 13-93

OWNER/APPLICANT: Blake LaMunyon
10729 W. Harvest Ct.
Wichita, Kansas 67212

REASON FOR REQUEST: Variance to reduce [east] side yard setback from 6 feet to not less than 6 inches for a detached accessory structure.

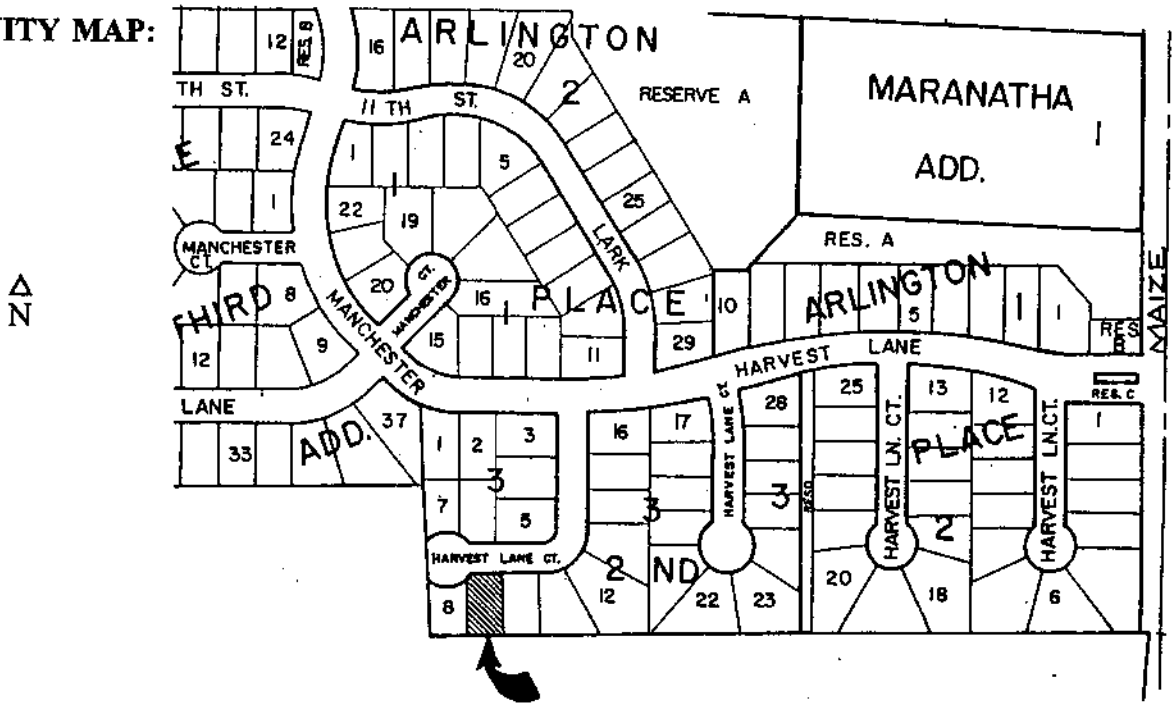
CURRENT ZONING: "AA" One-Family Dwelling.

SITE SIZE: 70' x 120'

LOCATION: West of Maize, and south of 13th Street North.

PROPOSED USE: To construct a shed along side of house.

VICINITY MAP:



JURISDICTION: The Board of Zoning Appeals has jurisdiction to consider the variance request under the provisions of the City of Wichita Zoning Ordinance, Section 2.12.590.B. The Board may grant the request when all five conditions required by State law are satisfied.

BACKGROUND: Applicant is constructing, or has constructed, an accessory structure along the east side of the property. This accessory structure is designed to be a shed and/or a doghouse. It is located along the side of the house - approximately 6½ feet from the house, and 6 inches from the side yard property line. Construction on the shed/doghouse began prior to application for the variance, and apparently has continued while the application has been processed. The variance is requested because applicant's property is located in a neighborhood designated a "AA" zoning district, for one-family homes, which requires that "there shall be a side yard on each side of not less than six feet in width" (City of Wichita Zoning Ordinance §28.04.040(C)(2.2). Under more typical situations, a building setback for a detached accessory structure may be reduced to only "three feet from an interior side lot line when all parts of the accessory structure are located more than one-half the depth of the lot" (City of Wichita Zoning Ordinance §28.04.040(C)(2.4). However, in this case, applicant has located the shed/doghouse within the front one-half of the lot, and within 6 inches of the side lot line.

Applicant also is erecting, or has erected, a wooden privacy-type fence, which appears to be approximately 6 feet in height, along a portion of the [east] side, front and rear yard which may surround and enclose the shed/doghouse, a portion of which will be used as a dog pen. According to the Office of Central Inspection, the policy regarding fences for residential properties is that fences may be constructed along the limits of the property boundaries, including setback and easement areas. There is an adjacent residential property to the east of applicant, with a side yard of about 7 feet. It appears that this neighboring house will be 7½ feet from the accessory structure (the shed/doghouse) on applicant's property. Though this neighboring house will be near the shed/doghouse, the privacy fence, which is permitted to extend to the limits of the property boundaries, should provide adequate visual protection, providing the shed/doghouse does not excessively protrude from above the fence.

ADJACENT ZONING AND LAND USE:

North: "AA" - Residential
East: "AA" - Residential
South: "AA" - Park
West: "R-1" - Residential

UNIQUENESS: It is the opinion of staff that the application property is unique inasmuch as the subject property is located near the end of a cul-de-sac, on the south borders a park, and taken together with the construction of a privacy fence will, to a large extent, shield from view the existence of the shed/doghouse from passers-by. As seen from eye-level, the only portion of the shed/doghouse that can be easily seen is the upper 1 foot (the roof and eaves).

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested for the application property will not adversely affect the rights of adjacent property owners inasmuch as the privacy fence will shield the shed/doghouse from view, and construction of this accessory structure includes substantial and permanent features (a concrete