

BZA RESOLUTION NO. 2006-00052

WHEREAS, Marc Bachrodt, (Owner/Applicant); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the street-side setback to zero in TF-3 Two-family Residential zoning for a screened-in porch structure for a single family residence.

Lot 1 and the N 25 feet of lot 2 and the W 1/2 of Reserve A adjacent of the Knoll Subdivision Addition to Wichita, Sedgwick County, Kansas. Generally located southeast of English and Clifton (300 S. Clifton).

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 August 22, 2006, 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, inasmuch as the property was platted in 1909; the residence on the lot was constructed in 1912 with a 10-foot street side setback, conforming to the zoning code at that time. The zoning regulations that established the 15-foot street side setback did not exist until 1996, long after the property had been developed. This property is also unique in that the property line is eight feet south of the sidewalk (most property lines are at the sidewalk) and 25 feet south of the street, with landscaping between the property line and the street. The proposed structure is unique in that it is a covered/screened porch, and less permanent than most residential construction.

WHEREAS, the Board of Zoning Appeals has found that the granting the requested variance would not adversely affect the rights of adjacent property owners. The proposed setback variance is for the street side setback, therefore not abutting any property, the proposed structure will be a landscaped 25 feet from the street. The proposed structure will utilize the existing cedar fence for the north and east walls, therefore public view of the property will not change.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the zoning regulations constitutes an unnecessary hardship upon the applicant, as requiring the applicant to comply with the 15-foot street side setback will prevent the applicant from improving his property with no corresponding public benefit.

WHEREAS, the Board of Zoning Appeals has found that requested variance would not adversely affect the public interest, as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common. The proposed structure will utilize the existing cedar fence for the north and east walls, therefore public view of the property will not change.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations, as the primary intent of the street side setback is to maintain sufficient separation between structures and the residential street right-of-way for public safety reasons. The requested variance does not negatively impact this intent. English Street is a local residential street, serving

the immediate area. The placement of the covered porch structure as proposed, 25 feet from the street, will have no impact on safe vehicular and pedestrian traffic along this portion of English Street.

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.

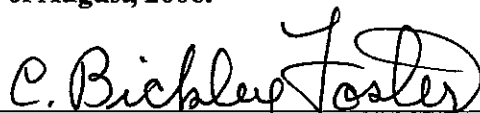
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, variance be granted to reduce the street side yard setback from 15 feet to zero feet on property zoned "TF-3" Two-family Residential legally described as follows:

Lot 1 and the N 25 feet of lot 2 and the W 1/2 of Reserve A adjacent of the Knoll Subdivision Addition to Wichita, Sedgwick County, Kansas

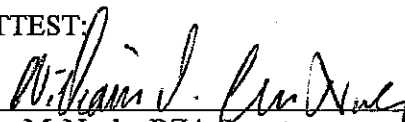
The variance is hereby **GRANTED**, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback reduction shall apply only to the "covered/screened porch" structure as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.
3. The "covered/screened porch" structure shall utilize the existing cedar fence for the north and east walls, thereby not changing the public view of the site from English Street.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22nd Day of August, 2006.



BZA Board Chair, Bickley Foster

ATTEST:


Jess McNeely, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
August 22, 2006

SECRETARY'S REPORT

CASE NUMBER: BZA2006-52

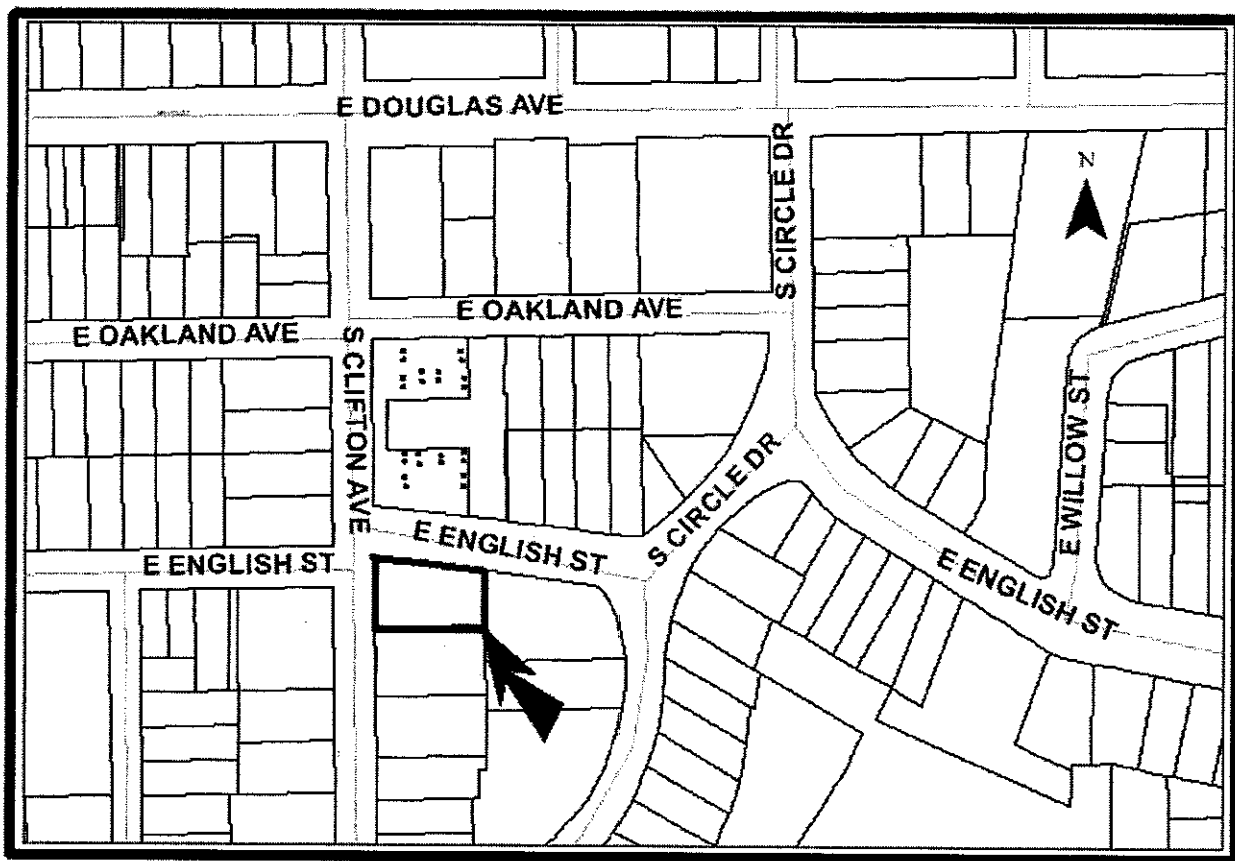
APPLICANT/AGENT: Marc Bachrodt (Owner/Applicant)

REQUEST: Variance to reduce the street side setback from 15 feet to zero feet

CURRENT ZONING: "TF-3" Two-family Residential

SITE SIZE: 0.24 acres

LOCATION: Southeast of English and Clifton (300 S. Clifton)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The

Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant requests a variance to reduce the street-side setback to zero for a covered, screened porch structure in the applicant's back yard. The proposed structure is to utilize an existing cedar fence for the north and east walls, thereby not changing the public view of the property. The Unified Zoning Code (UZC) requires a 15-foot street side setback in TF-3 zoning. The applicant's lot is unique in that the north property line is eight feet from the English Street sidewalk, most property lines are at the sidewalk. Likewise, the property was developed in 1912, prior to the current UZC setback requirements, and the house on the property does not meet the UZC 15-foot setback requirement.

The proposed covered porch is to be placed on a foundation, enclosed on the north and east sides by the existing cedar fence, and enclosed on the south and west sides with wood and screening. Any form of uncovered deck or porch may be built up to the property line, the proposed structure requires a variance specifically because it is covered, although it is of a less permanent nature than typical residential structures. Because the application area is within the environs of a registered historic structure, the Wichita Historic Preservation Board will review this project before a building permit may be issued.

The application area is developed with a single-family house, a detached garage, a back yard swimming pool and pergola structure. North of the site is a "B" Multi-family zoned apartment complex, south of the site is a TF-3 zoned single-family house. East and west of the site are "SF-5" Single-family Residential zoned single-family residences. The application area was platted in 1909 within Block D, of the Knoll Addition.

ADJACENT ZONING AND LAND USE:

NORTH	"B"	Multi-family residences
SOUTH	"TF-3"	Single-family residences
EAST	"SF-5"	Single-family residences
WEST	"SF-5"	Single-family residences

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property was platted in 1909; the residence on the lot was constructed in 1912 with a 10-foot street side setback, conforming to the zoning code at that time. The zoning regulations that established the 15-foot street side setback did not exist until 1996, long after the property had been developed. This property is also unique in that the property line is eight feet south of the sidewalk (most property lines are at the sidewalk) and 25 feet south of the street, with landscaping between the property line and the street. The proposed structure is unique in that it is a covered/screened porch, and less permanent than most residential construction.

ADJACENT PROPERTY: It is the opinion of staff that granting the requested variance would not adversely affect the rights of adjacent property owners. The proposed setback variance is for the street side setback, therefore not abutting any property, the the proposed structure will be a landscaped 25 feet from the street. The proposed structure will utilize the existing cedar fence for the north and east walls, therefore public view of the property will not change.

HARDSHIP: It is the opinion of staff that the strict application of the zoning regulations constitutes an unnecessary hardship upon the applicant, as requiring the applicant to comply with the 15-foot street side setback will prevent the applicant from improving his property with no corresponding public benefit.

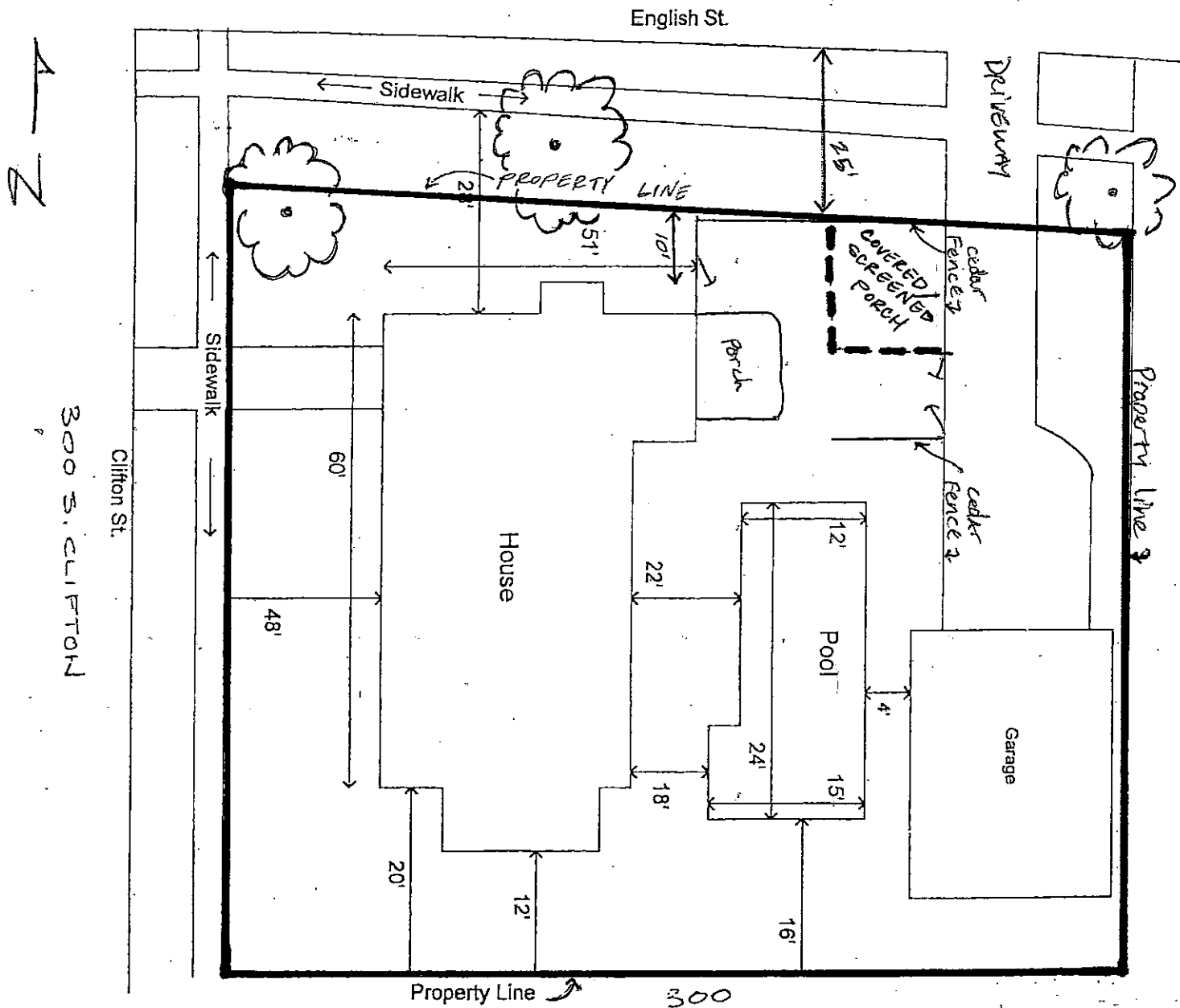
PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, as the public has an interest in supporting the logical development of residential properties, including permitting upgrades and redevelopment of existing properties through the approval of variances in areas where non-conformities with the current zoning regulations are common. The proposed structure will utilize the existing cedar fence for the north and east walls, therefore public view of the property will not change.

SPIRIT AND INTENT: It is the opinion of staff that granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations, as the primary intent of the street side setback is to maintain sufficient separation between structures and the residential street right-of-way for public safety reasons. The requested variance does not negatively impact this intent. English Street is a local residential street, serving the immediate area. The placement of the covered porch structure as proposed, 25 feet from the street, will have no impact on safe vehicular and pedestrian traffic along this portion of English Street.

RECOMMENDATION: Staff finds that the requested variance meets the five conditions necessary for a variance. Should the Board concur and determine that all five conditions necessary for a variance exist, then the Secretary recommends that the variance to reduce the street side setback from 15 to zero feet be **GRANTED**, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The setback reduction shall apply only to the "covered/screened porch" structure as illustrated on the approved site plan. All other structures or additions on the subject property shall conform to the setbacks permitted by the Unified Zoning Code unless a separate Zoning Adjustment or Variance is granted.

3. The "covered/screened porch" structure shall utilize the existing cedar fence for the north and east walls, thereby not changing the public view of the site from English Street.
4. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be constructed within one year of the granting of the variance.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.





Wichita-Sedgwick County Metropolitan Area Planning Department

August 22, 2006

Charisse Bachrodt-Frisch
Marc Bachrodt
300 S Clifton
Wichita KS 67218

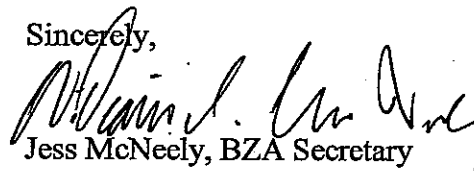
RE: BZA2006-0052 – Variance request to reduce the street-side setback to zero in TF-3 Two-family Residential zoning for a porch structure for a single family residence, generally located southeast of English and Clifton (300 S Clifton).

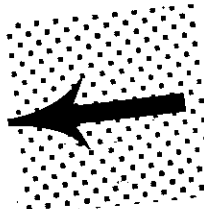
Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on August 22, 2006. This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,


Jess McNeely, BZA Secretary
Current Plans Division



JM/ya

Cc: Sharon Dickgrafe, Law Dept, 1-132
Herb Shaner, OCI, 1-72
Susan Schlapp, WCC District II, 1-13