



METROPOLITAN AREA PLANNING
DEPARTMENT

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

February 25, 1998

Edwin H. And Sandra R. Hooper
4217 E. Douglas
Wichita, KS 67218

RE: BZA 2-98 - Variance to reduce the east cedarwood setback from six feet to three feet on property zoned "TF-3" Two-Family Residential and generally located on the south side of Douglas and east of Belmont (4217 E. Douglas)

Dear Mr. and Mrs. Hooper:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on February 24, 1998. 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. Also a motion was made and approved to refund the filing fee for your variance request. A refund request will be processed and a check will be issued to you within 10 working days.

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,

Keith Gooch, Assistant Secretary
Board of Zoning Appeals

KG/sah

cc: J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)



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BZA RESOLUTION NO. BZA 2-98

WHEREAS, Edwin H. And Sandra R. Hooper, 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 three feet on property zoned "TF-3" Two Family Residential and legally described as follows:

Lots 4, 5 and the west 15 feet of Lot 6, Block 1, Merriman Park Place addition to Wichita, Sedgwick, Kansas. Generally located south of Douglas and east of Belmont (4217 E. Douglas).

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 February 24, 1998, 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 the existing structure limits the location of a sun room addition which would be compatible with the existing floor plan of the home; 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 an additional 3 feet of setback will be created by the removal of the present open deck and a 6-foot wooden privacy fence is located along the common property line. Additionally, residents of the adjoining property have no objections to the construction proposed; and

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 there is no other suitable location to add the enclosed space onto the house; 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, inasmuch as there will be no encroachments into 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; 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 the zoning ordinance inasmuch as a reduced setback will continue to provide for fire protection, separation, light and air circulation as well as providing pedestrian access for maintenance.

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.

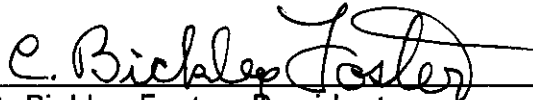
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the east side yard setback from six feet to three feet on property zoned "TF-3" Two Family Residential and legally described as follows:

Lots 4, 5 and the west 15 feet of Lot 6, Block 1, Merriman Park Place addition to Wichita, Sedgwick, Kansas.

subject to the following conditions:

1. The setback variance shall apply to only the east property line and shall begin 59 feet south of the property line fronting on Douglas and continuing south for approximately 24 feet, per the approved site plan.
2. The new construction within the reduced setback shall be limited in height to "one-story," with one story being no higher than the first story of the existing structure.
3. The applicant shall obtain all permits necessary to construct the sun room addition, and all improvements shall be completed within one year following BZA approval of the variance or the resolution authorizing this side yard variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 24th day of February, 1998.


C. Bickley Foster, President

ATTEST:


Dave L. Yearout, AICP, Interim Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 2-98

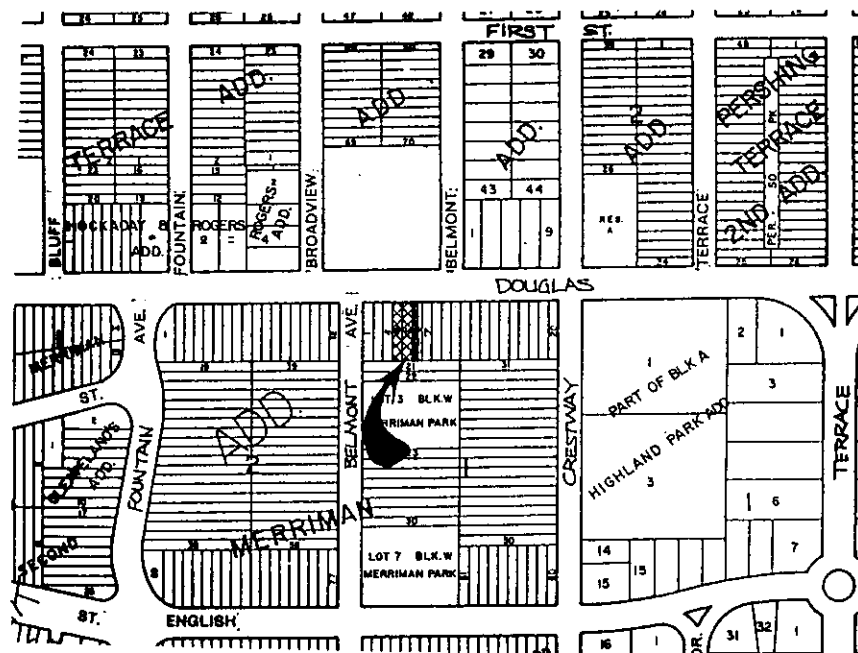
OWNER/APPLICANT: Edwin H. and Sandra R. Hooper

REQUEST: Variance to reduce the east sideyard setback from six feet to three feet.

CURRENT ZONING: "TF-3" Two Family Residential

SITE SIZE: .41 acres

LOCATION: South of Douglas and east of Belmont



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 is requesting a variance to reduce the east side yard setback from 6 feet to 3 feet for property located at 4217 East Douglas in order to replace an open deck with an enclosed sunroom. As indicated by the applicant, the existing structure, an open deck, is located where the proposed sunroom is to be constructed. Currently, the development on the adjoining property impacted by this request is located 12 feet from the common property line. The 12 feet between the common property line and the home on the east is the driveway access to the garage located at the rear of that lot. This would leave 15 feet of separation between the two houses if the variance is granted and the sunroom is constructed.

The current development (unenclosed deck) along the east property line is presently observing no side yard setback and is not required to do so because it is no more than 30" above grade. The applicant now desires to remove the deck and construct an enclosed sunroom to be attached to the house which would come to within 3 feet of the east property line. Because the sunroom is being attached to the principal residence on the lot, a side yard setback of 6 feet is required by the City zoning ordinance. Therefore, the applicant is requesting an east side yard setback variance from 6 feet to 3 feet so that a building permit can be issued to construct the sunroom.

This case was approved in 1996, however due to difficulties obtaining a contractor, the applicants were unable to build the sun room. The 1996 case was made null and void for failure to complete the construction within one year. Therefore, the applicants were required to resubmit the application.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6"	Single Family Homes
SOUTH	"TF-3 and SF-6"	Single Family Home
EAST	"TF-3"	Single Family Home
WEST	"SF-6"	Condominium complex

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the existing structure limits the location of a sunroom addition which would be compatible with the existing floor plan of the home.

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 an additional 3 feet of setback will be created by the removal of the present open deck and a 6-foot wooden privacy fence is located along the common property line. Additionally, residents of the adjoining property have no objections to the construction proposed.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant inasmuch as there is no other suitable location to add the enclosed space onto the house.

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 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 regulations inasmuch as a reduced setback will continue to provide for fire protection, separation, light and air circulation as well as providing pedestrian access for maintenance.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the 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 setback variance shall apply to only the east property line and shall begin 59 feet south of the property line fronting on Douglas and continuing south for approximately 24 feet, per the approved site plan.
2. The new construction within the reduced setback shall be limited in height to "one-story," with one story being no higher than the first story of the existing structure.
3. The applicant shall obtain all permits necessary to construct the sunroom addition, and all improvements shall be completed within one year following BZA approval of the variance or the resolution authorizing this side yard variance shall become null and void.

