

All conditions of approval by the Board shall be complied with within 6 months or the application shall be null and void.

ADOPTED AT WICHITA, KANSAS, this 28th day of July, 1970.

SS/Norman N. Doke

NORMAN N. DOKE, Chairman

ATTEST:

SS/Jack H. Galbraith

JACK H. GALBRAITH, Secretary

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5. Case No. BZA 20-70 - Children's Center, 2308 East Central, Wichita, Kansas, requests a variance to reduce the required side yard setback adjacent to the north property line from 25 feet to 18 feet and the required side yard setback adjacent to the south property line from 25 feet to 14 feet on property zoned "AA" Single Family; and legally described as follows:

Beginning 30 feet west and 313 feet south of the northeast corner of the southeast quarter of Section 34, Township 27 south, Range 1 East of the 6th P.M. Sedgwick County, Kansas, thence west 382.5 feet; thence south 160 feet; thence east 382.5 feet; thence north 160 feet to the point of beginning. Generally located on the west side of Hillside in an area between Mt. Vernon Road and Clark Street.

GALBRAITH pointed out the area on the map and reviewed the following Secretary's Report:

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 of the following conditions are found to exist:

1. That the variance requested 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 residents.

3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

COMMENTS BY THE SECRETARY:

The applicant, Children's Center, Inc., is requesting a variance of the required side yard setback adjacent to the north property line from 25 feet to 18 feet and the required side yard setback from 25 feet to 14 feet adjacent to the south property line. Subject property is zoned "AA" Single Family and the applicant states that it is intended to utilize the existing residence as a private school having an enrollment of approximately 50 students.

Section 28.04.040.A.4 of the Zoning Ordinance permits this type of use in the "AA" Single Family zoning district, provided that private schools shall have a curriculum equivalent to and substantially the same as that of a public elementary school or high school. The ordinance further provides that a side yard width of not less than twenty-five (25) feet on the side of the lot adjoining another building site shall be provided for all schools, libraries, churches, community houses, and other public or semi-public buildings, used, constructed or enlarged in the "AA" Single Family Dwelling District.

It is the opinion of the Secretary that when the zoning ordinance was written permitting private schools in the "AA" zoning district, it was not necessarily the intent or the purpose to encourage the conversion of residential structures in the midst of areas zoned for residential purposes. It should be noted, however, that in this particular instance subject property is located adjacent to a major street (Hillside) and is bounded on the north by a church and parsonage which makes the proposed use compatible with existing development. There is also a church to the northeast. It should also be noted that the large size of the application (160 ft. x 382 ft.) area contains approximately 1.4 acres which is adequate to provide for off-street parking, playgrounds, etc.

UNIQUENESS

It is the opinion of the Secretary that this is somewhat of a unique situation in that the site has a 160 foot frontage and under ordinary circumstances 127 feet of this would not be occupied by a single structure.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variances should in no way adversely affect adjacent properties in that sufficient space exists between structures for adequate air and light.

HARDSHIP

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variances are not granted, in that both the north and south ends of the existing building would have to be restructured prior to its being utilized for a private school.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variances would not affect the public interest inasmuch as the variances requested are interiorly located.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variances would not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the same side yard setback will be maintained that presently exists.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary to the granting of the variances can be found to exist and, therefore, it is recommended that the request be granted to reduce the setback line on the north from 25 feet to 18 feet and the setback line on the south from 25 feet to 14 feet for only the west 85 feet of the east 184 feet subject to the following conditions:

The owner of the property submitting a letter to the Planning Department requesting that zone case Z-1026 be withdrawn and considered closed.

MRS. FRANK HOLMAN, secretary at the Children's Center, submitted the letter requested by the Secretary of the Board withdrawing zone case Z-1026.

No one appeared in opposition to this case.

MOTION: KENDALL moved, CUSICK seconded and it carried unanimously that this variance request be approved as justified in the Secretary's Report and as shown by the adoption of the following Resolution.

RESOLUTION BZA 20-70

WHEREAS, Mrs. Nedra Sandwich, Director, Children's Center, 2308 East Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the north property line from 25 feet to 18 feet and the required side yard setback adjacent to the south property line from 25 feet to 14 feet, on property zoned "AA" Single Family, and legally described as follows:

Beginning 30 feet west and 313 feet south of the northeast corner of the southeast quarter of Section 34, Township 27 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas, thence west 382.5 feet; thence south 160 feet; thence east 382.5 feet; thence north 160 feet to the point of beginning. Generally located on the west side of Hillside in an area between Mt. Vernon Road and Clark 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 meeting of July 28, 1970, 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

July 28, 1970

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 site has a 160 foot frontage and under ordinary circumstances 127 feet of this would not be occupied by a single structure; 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 sufficient space exists between structures for adequate air and light; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as both the north and south ends of the existing building would have to be restructured prior to its being utilized for a private school; 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 the variances requested are interiorly located; 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 same side yard setback will be maintained that presently exists; 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, have been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required side yard setback adjacent to the north property line from 25 feet to 18 feet and the required side yard setback adjacent to the south property line from 25 feet to 14 feet; on property zoned "AA" Single Family; and legally described as follows:

Beginning 30 feet west and 313 feet south of the northeast corner of the southeast quarter of Section 34, Township 27 South, Range 1 East of the 6th P.M. Sedgwick County, Kansas, thence west 382.5 feet; thence south 160 feet; thence east 382.5 feet; thence north 160 feet to the point of beginning. Generally located on the west side of Hillside in an area between Mt. Vernon Road and Clark Street.

be approved for only the west 85 feet of the east 184 feet.

ADOPTED AT WICHITA, KANSAS, this 28th day of July, 1970.

SS/Norman N. Doke

NORMAN N. DOKE, Chairman

ATTEST:

SS/Jack H. Galbraith

JACK H. GALBRAITH, Secretary

6. Case No. BZA 11-70 - Jen-Rentals, Inc., 127 South Edgemoor, Wichita, Kansas, requests a variance to reduce the required rear yard setback from 15 feet to 12 feet, pursuant to Section 2.12.590.B, Code of the City of Wichita, on property zoned "BB" Office District, and legally described as follows:

The south 130 feet of Lot 1, Block 1, Wade and David's 1st Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Hillside in an area north of Lincoln.

GALBRAITH pointed out the area on the map and reviewed the following Secretary's Report:

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 of the following conditions are found to exist.