

Case No. BZA 2-80 - Fred Berry, Jr. - requests a variance to reduce the required sideyard setback from 6' to 3' on property zoned "AA" One-family Dwelling District and generally

*Post 105 100
2-21-80*

*BZA
2-80*

ACTION

DATE *2-26-80*

Case withdrawn by applicant

COMMITTEE

By phone - 10:45 am. - S. Longino

M.A.P.C.

B.C.C./B. CO. C.

RECEIVED

BJA 2-80

JAN 31 1980

METROPOLITAN PLANNING

ROUTE Lytle

537 Tallyrand Road
Wichita, Kansas 67206

January 30, 1980

Mr. Glen Lytle
Special Ass't for Zoning
Board of Zoning Appeals
City Hall, 10th Floor
455 North Main
Wichita, Kansas 67202

Dear Mr. Lytle:

This statement is to justify the variance from Title 28 being requested for the garage construction at my home at 537 Tallyrand Road.

The addition of a new attached three-car garage at the north end of our home will still leave 30 ft. between our structure and the home of our neighbor on the north, Mr. and Mrs. Tom Woehlke. The Woehlkes are in full agreement with the design of our project. We plan a common landscaping area adjacent to the new structure.

The design is by architect Robert Schaefer, who also designed the original house and the separate pool house at the rear.

The roof lines will be an extension of the original lines and, with this variance, the end line of the structure will align with the existing pool house.

The addition of a three-car garage will allow us to garage a third car now being parked in the driveway.

The variance will not adversely affect the adjacent property owner's rights, nor will it adversely affect the health, safety or general welfare of the neighborhood. The variance does not oppose the spirit or intent of Title 28.

We respectfully request the approval of this variance.

Sincerely,


Mr. & Mrs. Fred F. Berry, Jr.

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

February 6, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 2-80

An application has been filed by Fred Berry, Jr., 537 Tallyrand, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required sideyard setback from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 12, Block T, Second Addition to Woodlawn Village, Sedgwick County, Kansas. Generally located on the west side of Tallyrand approximately 600' north of Central.

This application has been assigned case No. BZA 2-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 26, 1980, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney. If you have any questions about this application, please call 268-4390 and ask for Lynn Shirkey or 268-4394 and ask for Glen Lytle.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

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Jack H. Galbraith
Secretary

SECRETARY'S REPORT
CASE NO. BZA 2-80

APPLICANT: Fred Berry Jr., 537 Tallyrand, Wichita, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required sideyard setback from 6' to 3'.

GENERAL LOCATION: West side of Tallyrand approximately 600' north of Central (637 Tallyrand).

ZONING: Subject property is zoned "AA" One-family as are all surrounding properties.

LAND USE: Subject property is occupied by a single-family home as are all surrounding properties.

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 owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent 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).

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BZA 2-80
BZA AGENDA
2-26-80

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required sideyard setback from 6' to 3' adjacent to the north property line in order to construct an attached 3-car garage and convert the existing garage to a family room.

In his statement of justification, the applicant points out that the construction of the new garage will still leave a 30' distance between the applicant's structure and the residence to the north. He also indicates that his neighbors to the north, Mr. & Mrs. Tom Woehlke, are in full agreement with the applicant's request and they plan a common landscape area between the two properties.

It should be noted that the new 3-car garage is attached to the main structure by a breezeway five foot in width. It appears to the Secretary that the applicant could design the addition in compliance with the yard requirements of the zoning ordinance. There is also another remedy that could possibly be explored, and that being the purchase of 3' of Lot 13, which would permit the structure to be built as designed without a variance from the zoning requirements.

UNIQUENESS:

It is the opinion of the Secretary that it is somewhat difficult to justify uniqueness inasmuch as the applicant has sufficient property to add a three-car garage in conformance with the regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of the adjacent property owners or residents provided there remains a distance of 30' between the proposed addition and the residence to the north.

HARDSHIP:

It is the opinion of the Secretary that it is difficult to justify hardship inasmuch as there are at least two ways in which the applicant can construct the proposed garage in compliance with the regulations without a variance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not affect the public interest inasmuch as the variance requested is interiorly located and no public improvements or utilities would be affected.

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BZA AGENDA
2-26-80

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the Zoning Ordinance inasmuch as there is no assurance that any future owner to the north might wish to add to his property and violate the intent of the ordinance.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary for the granting of a variance are not present and the application be denied. Should the Board determine that the five conditions necessary for the granting of the variance be found to exist, then some condition guaranteeing that the property to the north will not build within 9' of the property should be provided.

RECEIVED

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Sincerely,

Fred F. Berry, Jr.

Mr. & Mrs. Fred F. Berry, Jr.

BZA CASE NO. 2-80

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

17 NOTICES SENT TO ADJOINING PROPERTY OWNERS

29 TOTAL NOTICES SENT 2-6-80

BOARD OF ZONING APPEALS
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February 6, 1980

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Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 2-80

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant FRED BERRY, JR.

Mailing Address 537 TALLYRAND Phone 264-8290

Name of Authorized Agent _____

Mailing Address _____ Phone _____

Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required
sideyard setback from 6 feet to 3 feet

for property located on the west side of Tallyrand
approximately 600 feet north of Central
and legally described as: Lot 12, Block T, Second Addition to
Woodlawn Village, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned "M".

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filling and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Fred Berry, Jr.
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:00 (~~1:00~~ - p.m.), Jan 28 1980 together with appropriate fee of \$50.00.

T9-402

Allen E. Lytle
Signed

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 1, Blk T	Second Addition to Woodlawn Village	✓ Alvin C. Burton & Verna M. 550 Rutland 67206
lot 2, Blk T	Same	✓ Joseph H. Brown and Frances S. Brown 542 Rutland 67206
lot 3, Blk T	Same	✓ Don Schmid & Frankie 534 Rutland 67206
lot 4, Blk T	Same	✓ Max C. McConachie 526 Rutland 67206
lot 5, Blk T	Same	✓ Ray C. Fleming & Myra I. 520 Rutland 67206
lot 10, Blk T	Same	✓ Barbara A. Pfister 517 Tallyrand 67206
lot 11, Blk T	Same	✓ Robert J. Piller and Eileen O. Piller 525 Tallyrand 67206
lot 12, Blk T	Same	D Fred F. Berry Jr. and Suzanne N. Berry 537 Tallyrand 67206
lot 13, Blk T	Same	✓ Thomas E. Woehlke and Marie D. Woehlke 541 Tallyrand 67206
lot 14, Blk T	Same	✓ Melvin L. Davis and Barbara L. Davis 549 Tallyrand 67206
lot 1, Blk U	Same	✓ Ross Wheeler & Harriett E. 550 Tallyrand 67206
lot 2, Blk U	Same	✓ David M. Dayvault and Rachel Lou Dayvault 542 Tallyrand 67206
lot 3, Blk U	Same	✓ John M. Reiff and Victoria H. Reiff 534 Tallyrand 67206
lot 4, Blk U	Same	✓ LeRoy E. Dietrich Jr. and Gail Dietrich 526 Tallyrand 67206
lot 5, Blk U	Same	✓ Raymond F. Connor and Shirley G. Connor 518 Tallyrand 67206

Lot	Addition	Property Owner
lot 10, Blk G	First Addition to Woodlawn Village	✓ M. F. Bear and Mildred L. 545 Rutland 67206
lot 11 except N 7 ft. Blk G	Same	✓ Dale D. Allen and Margaret Lynd Allen 557 Rutland 67206
north 7 ft lot 11, all lot 12, Blk G	Same	✓ Robert B. Gorrill 569 Rutland 67206

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of: Lot 12, Block T,
Second Addition to Woodlawn Village

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 25th day of January, 1980 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable

Vice President

Order No. 285080
wh

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-0 PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
City Plan	\$500

NAME FRED PERRY, JR.
 ADDRESS 737 TALL PINE
 FUND 110-00-001-40071- DUE DATE 03-000-000
 COMMENTS _____
 DATE Jan 27, 1980 BY [Signature]

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2