

BZA 5-71 - JACK R. PRIDEAUX
requests VARIANCE to reduce side
yard setback - WS Salina in an
area N of 31st Street North

POSTED
6-2-71
C.I. ✓
W.M. ✓
7-6-71

BZA 6-22-71 Approved

Map No. 5451
Sec. 32
Twp. 26
Range 1E

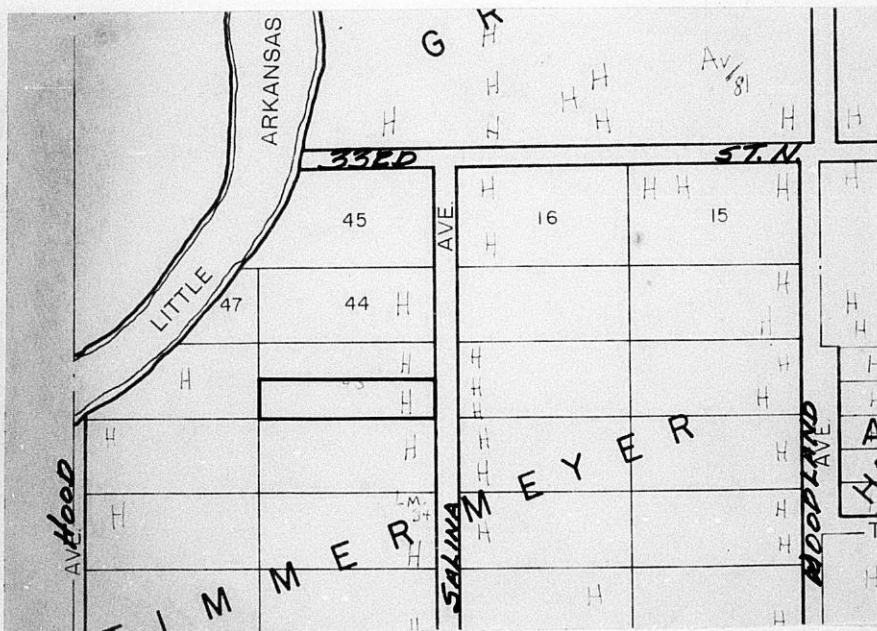
BzA 5-71
GCZ--
CU--
Filed

AREA DATA:

1. Acres: 0.4 (66 ft. by 309 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South SINGLE FAM
West SINGLE FAM North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: SINGLE FAM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



RESOLUTION NO. BZA 5-71

WHEREAS, Jack R. Prideaux, 3333 Salina, 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 south property line from 6 feet to 4 feet 7 inches, on property zoned "A" Two Family, and legally described as follows:

The South half of Lot 43, Timmermeyer Gardens, Wichita, Sedgwick County, Kansas. Generally located on the west side of Salina in an area north of 31st Street North.

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, 1971, 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 existing house is located in an older part of town in which nonconforming setbacks are not uncommon due to construction of the buildings prior to existing setback requirements; 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 the same feeling of open space will be maintained that presently exists; 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 the existing structures have been nonconforming for years and the applicant desires to expand the home so as to provide better living conditions for his family; 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 variance request is 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 setbacks will be maintained that presently exist; and

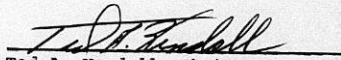
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

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 south property line from 6 feet to 4 feet 7 inches, on property zoned "A" Two Family, and legally described as:

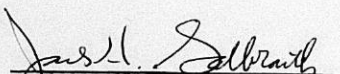
The South half of Lot 43, Timmermeyer Gardens, Wichita, Sedgwick County, Kansas. Generally located on the west side of Salina in an area north of 31st Street North.

be approved.

ADOPTED AT WICHITA, KANSAS, this 22nd day of June, 1971.


Ted A. Kendall, Chairman

ATTEST:


Jack H. Galbraith, Secretary

June 29, 1971

Mr. Jack R. Prideaux
3333 Salina
Wichita, Kansas 67204

Subject: Case No. BZA 5-71
Request for Variance

Dear Mr. Prideaux:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 22, 1971, in connection with your request for a variance to reduce the required side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches, on property zoned "A" Two Family, and generally located on the west side of Salina in an area north of 31st Street North.

This Resolution reflects the official action of the Board to approve your request. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ls

Enclosure

cc Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

June 23, 1971

Mr. Jack R. Prideaux
3333 Salina
Wichita, Kansas 67204

Subject: Case No. BZA 5-71
Request for Variance

Dear Mr. Prideaux:

At the regular meeting of the Board of Zoning Appeals on June 22, 1971, your request for a variance to reduce the required side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches, on property zoned "A" Two Family, and generally located on the west side of Salina in an area north of 31st Street North, was considered.

It was the action of the Board to approve this request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ls

cc Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 5-71

APPLICANT: Jack R. Prideaux, 3333 Salina, Wichita, Kansas

AGENT: Fidelity Title, 221 North Market, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches

GENERAL LOCATION: On the west side of Salina in an area north of 31st Street North.

ZONING: Subject property is zoned "A" Two Family; properties to the north, east, south and west are zoned "AA" Single Family.

LAND USE: Subject property is occupied by a single family residence as are those properties to the north, east and west; to the south is a vacant lot.

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).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches. The residence and detached garage, both of which are nonconforming because of the side yard setback requirement, were constructed in 1947 prior to the existing setback requirements.

The situation, briefly, is that the applicant's family has grown and additional living space to provide better living conditions is needed. The applicant points out in his statement of justification that he is requesting this variance to eliminate an off-set between the existing and proposed structures which he feels would not be complimentary to the property.

In the latter part of 1964, this applicant was granted a change in zoning on subject property from "AA" Single Family to the "A" Two Family classification so that an exception application to permit a mobile home, could be filed before the Board of Zoning Appeals. The Board in considering the request (BZA Case No. 43-64) at their meeting on October 27, 1964, found that a hardship existed and the request was approved. It should be noted that, in viewing the area in the field, the mobile home is no longer located on the property.

UNIQUENESS:

It is the opinion of the Secretary that this is somewhat of a unique situation inasmuch as the existing house is located in an older part of town in which nonconforming setbacks are not uncommon due to construction of the buildings prior to existing setback requirements.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would not have an adverse effect on the adjacent property owners or residents inasmuch as the same feeling of open space will be maintained that presently exists.

HARDSHIP:

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as the existing structures have been nonconforming for years and the applicant desires to expand the home so as to provide better living conditions for his family.

Page 3 - Secretary's Report
Case No. BZA 5-71

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 request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance would not be opposed to the spirit and intent of Title 28 inasmuch as the same setbacks will be maintained that presently exist.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted. to reduce the side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

May 28, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 5-71

An application has been filed by Jack R. Prideaux, 3333 Salina, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance of the required side yard setback adjacent to the south property line from 6 feet to 4 feet 7 inches, on property zoned "A" Two Family and legally described as follows:

The south half of Lot 43, Timmermeyer Gardens, Wichita, Sedgwick County, Kansas. Generally located on the west side of Salina in an area north of 31st Street North.

This application has been assigned Case No. BZA 5-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 22, 1971, at 1:30 p.m. in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH
Secretary

17 Notices mailed May 28, 1971

BOARD OF ZONING APPEALS

CASE NO. 5-71

CITY OF WICHITA, KANSAS

FILED 5-26-71

APPLICATION FOR VARIANCE

I. Name of Applicant Jack R. Prideaux
 Mailing Address 3333 S. Selina 67204 Phone TE83500
 Name of Authorized Agent Fidelity Title
 Mailing Address 221 N. Market Phone AM 28261

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

II. The variance requested is to reduce the required setback
to reduce the required setback from 1 ft (from 6' 5")
setback adjacent to the south property line from 6 feet to 4 feet
to make the addition the same distance from the boundary as the house
 for property located 3333 Selina

and legally described as: South 1/2
Lot 43 of the Zimmerman
Gardens.

in the City of Wichita; and which is presently zoned duplex-"A"

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Jack R. Prideaux
 Applicant

 Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:30 (a.m. - p.m.), May 26 1971 together with appropriate fee of \$50.00.

B. Lynn Shirey
 Signed B.R.

#1. This house and garage were built in 1947 before this area was annexed into the city. At which time there was no specification for boundary limitations. To have to set the addition in 1 ft to comply with this city specification now would not be complementary to the property. This is an older neighborhood and no two properties have the same frontage - side yards etc. We have recently adapted two young children to add to the four already in the home and must have additional space.

~~Unpleasant~~. All of our neighbors are ~~set in the~~ very friendly and are not opposed to this improvement. It will not be obstructing anyone's view.

3. If this is permitted we will be able to use three already existing walls if not it will be extremely hard to financially make the structure.

4. The proposed addition, ~~can~~ in no way affect public health, welfare, safety etc in any way.

5. The presently existing setbacks will be maintained.

Mr. Jack Fidians

April 27-5-55

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

APPLICATION FOR VARIANCE

INSTRUCTIONS TO APPLICANT

1. Applicant must complete attached application form. All blanks should be filled in and those not applicable should be noted as N/A.
2. Applicant must submit a certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of two-hundred (200) feet of property involved in the application. Mailing addresses submitted without ZIP CODES will be returned to the applicant.
3. The applicant must submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning ordinance from which variance is requested; and outlining in detail the manner in which it is believed that this application will meet the requirements of Section 2.12.590.B, Code of the City of Wichita.
4. The applicant must submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; the structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions should be included and any other information which would be helpful to the Board of Zoning Appeals in consideration of the application.
5. The above noted forms and documents shall be submitted, together with the fee of \$50.00 established by Section 2.12.580.2, Code of the City of Wichita. In the event the request contains more than one variance request, an additional \$50.00 filing fee shall be required. The fee should be made by check, payable to the City of Wichita.
6. All documents and the fee shall be submitted to the office of the Secretary, Board of Zoning Appeals, Room 402, City Building Annex, 104 South Main, Wichita, Kansas; by 5:00 p.m. on the designated closing date as established by the Board. Incomplete applications will be returned to the applicant.

The Board of Zoning Appeals meets on the fourth Tuesday of each month at 1:30 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas.

C E R T I F I C A T E

STATE OF KANSAS)
) SS:
SEDGWICK COUNTY)

The undersigned duly bonded and qualified Abstractor within and for the State and County aforesaid, does hereby certify:

That we have examined the records in the Office of the Register of Deeds with reference to the following described property, viz:

The South Half of Lot 43, in
Timmermeyer Gardens, Sedgwick
County, Kansas.

And from such examination find that the foregoing property was split off of the original Lot on the 24th day of July, 1947, this being the date the property was deeded as the South Half of Lot 43 and said Deed was acknowledged on that date.

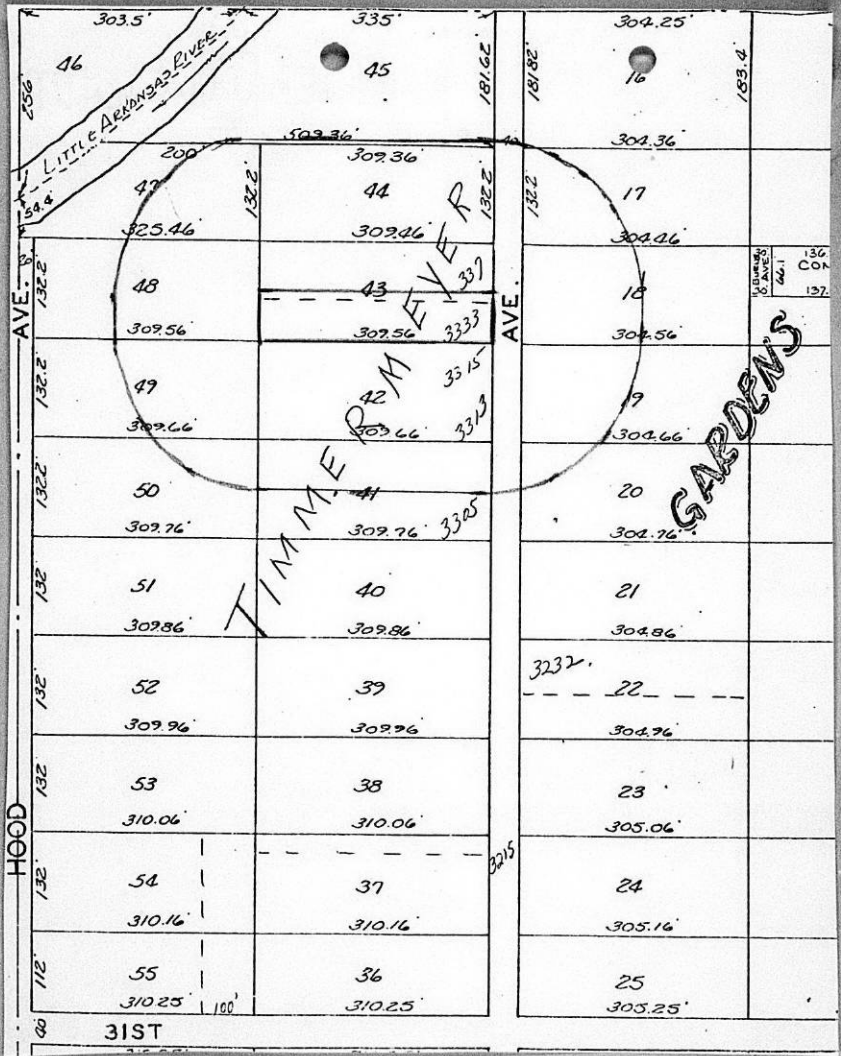
Dated this 14th day of April, 1971.

THE FIDELITY TITLE COMPANY INC.

By *Frank R. Hawkins* Vice-Pres. FH


Fidelity
Title
Company,
inc.





STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
 South One-Half (S $\frac{1}{2}$) of Lot 43, Timmermeyer Gardens,
 Sedgwick County, Kansas.


 Fidelity
 Title
 Company.
 inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

| LOT | ADDITION | OWNER |
|-----------------------|----------------------------|---|
| 16 (S 65' of W 157') | <u>TIMMERMEYER GARDENS</u> | ✓ Naomi L. Palmer 3352 Salina 67204 |
| 17 | | ✓ E. A. Gregg 51 Buttonwood Rd., S. Dartmouth, Mass. |
| 18 (N $\frac{1}{2}$) | | ✓ Elza T. Harris. Mildred L. Harris, ux 3336 Salina 67204 |
| 18 (S $\frac{1}{2}$) | | ✓ Jack R. Prideaux Marcheta K. Prideaux, ux 3333 Salina 67204 |
| 19 (N $\frac{1}{2}$) | | ✓ Paul V. Lirley Grace V. Lirley, ux 3324 Salina 67204 |
| 19 (S $\frac{1}{2}$) | | ✓ Eugene C. Romine Gladys L. Romine, ux 3318 Salina 67204 |
| 20 | | ✓ Gary J. & Mary B. Steger 3302 Salina 67204 ux |

| LOT | ADDITION | OWNER |
|-------------------------------|------------------------------|---|
| 41 (S 67.5' of E 133 1/3') | <u>TIMMERMEYER GARDENS</u> ✓ | C. V. & Vena Humbarger, ux 3305 Salina 67204 |
| 41, exc S 67.5' of E 133 1/3' | ✓ | Orval Swain 3315 Salina 67204 |
| 42 | ✓ | O. A. Swain 3315 Salina 67204 |
| 43 (S 1/2) | ✓ | Jack R. Prideaux Marchete K. Prideaux, ux 3333 Salina 67204 |
| 43 (N 1/2) | ✓ | J. W. & Merle E. Roberts, 3337 Salina 67204 ux |
| 44, 45 & 47, exc N. W. D. | ✓ | Dennis O. Fuller Ernestine V. Fuller, ux 3345 Salina 67204 |
| 48 & N 1/2 Lot 49, | ✓ | R. E. & Alice V. Angle, ux 3330 Hood 67204 |
| 49 (S 1/2) | ✓ | Estellee J. Follmer 3326 Hood 67204 |
| 50 (N 1/2) | ✓ | Estellee J. Smith % William Perry 3326 Hood 67204 |
| 50 (S 1/2) | ✓ | Estellee J. Follmer % William Perry 3326 Hood 67204 |

Dated at Wichita, Kansas this 15th day of
April, 1971 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elaine M. Farrell Sec. OEM

Tracer # 9470

FORM 021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

| | | | |
|--------------|-------------|-------------|-------------|
| Bldg & Elev. | Elec. | Elev. Insp. | Exam. Fees |
| Hse. Mvr. | Hse. Moving | Licse. | Mech. |
| Oil Well | Pav. Cuts | Plan. | Pigs. Cert. |
| Sanitation | Sewer | Signs | Sidewalk |
| Street | Trailer | | |

| DESCRIPTION | AMOUNT |
|-----------------|--------|
| K/A Application | 50.00 |

Name Harold Briden

Address 2322 Lakota

Type AA - -407103 Due Date 5-26-71

Comments:

Date 5-26-71 By B.R.