

Case No. BZA 5-85 - Steve H. Gille  
- requests a variance to reduce the  
required rear yard setback from 15'  
to not less than 10' on property zoned  
the "RB" Four-family Dwelling District  
and generally located on the east side

POSTED  
1-28-85 952

ACTION

BZA-5-85 APPROVED 2-26-85  
DATE

20' Sec 4-7-85  
Slot 5-2  
Record ✓



March 4, 1985

Steve H. Gile  
622 South Fern  
Wichita, Ks. 67213

Re: BZA 5-85 - Request for Variance

Dear Mr. Gile:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 26, 1985.

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

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

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Encl.

cc: Jim Jorgensen, Acting Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 5-85

WHEREAS, Steve H. Gile, 622 South Fern, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 15 feet to 10 feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

The south 13 feet of Lot 77; Lots 79 and 81 on Fern Avenue, University Place Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Fern and south of University (622 South Fern).

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 26, 1985, 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 depth of the lots in the block are greater than normal residential lots which will provide separation between structures on adjacent properties that is more than the minimum requirement; 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 distance to the residential structure to the east, that would be most generally affected by a reduction of the rear yard of the applicant's property, is such that any variance to convert the existing garage to living space should not change the general character of the property; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would be unable to complete the project that was started with full intentions of being a dwelling, even though the original permit was for a garage that can be located closer to the rear property line than can a main structure; 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 due to the fact that the location of the structure and further construction to convert the property to a four-family dwelling will not interfere with any needed right-of-way or easements; 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 structure will be located a sufficient distance from any adjoining structure so as to provide adequate separation for light and air to all properties; 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 has been found to exist.

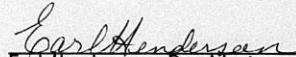
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard setback from 15 feet to 10 feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

The south 13 feet of Lot 77; Lots 79 and 81 on Fern Avenue, University Place Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Fern and south of University (622 South Fern).


be approved subject to the following conditions:

1. The rear yard shall be reduced from 15 feet to 10 feet only for the existing garage, and all additions to connect and convert the structure to a dwelling shall comply with the normal setbacks of the "RB" Four-family Dwelling District.
2. The applicant shall connect the existing detached garage to the main structure, thereby creating only one main residential structure on the zoning lot.
3. The applicant shall provide four off-street parking spaces on the property in compliance with the City of Wichita standards.
4. All construction to convert the existing garage and the connecting garage and breezeways shall be completed within one and one-half years and prior to occupancy.

ADOPTED AT WICHITA, KANSAS, this 26th day of February, 1985.

  
Earl Henderson, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE      February 25, 1985

TO      Glen Lytle, Special Assistant for Zoning

FROM      Shirle Mast, Administrative Aide III

SUBJECT      BZA 5-85 East Side of Fern and  
South of University-622 South Fern

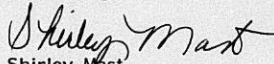
CPO Council "O" considered the captioned case at its February 21st meeting and voted 8-0 to recommend that the variance to reduce the required rear yard setback from 15 feet to 10 feet be approved subject to conditions number 1 and 3 as recommended in the MAPD Secretary's report:

- "1. The rear yard shall be reduced from 15 feet to 10 feet only for the existing garage, and all additions to connect and convert the structure to a dwelling shall comply with the normal setbacks of the "RB" Four-family Dwelling District."
- "3. The applicant shall provide four off-street parking spaces on the property in compliance with the city of Wichita standards."

The Council noted it objected to conditions #2 and #4 of the Secretary's report because connecting the existing detached garage to the main structure would make such a large structure it would interfere with the air flow to adjoining structures; and regarding the one year time limit to convert and connect the garage, the Council stated such condition is unreasonable because the applicant's financial situation has to be considered.


The applicant was present to discuss the requested variance and respond to questions. No adjoining property owners or area residents were present concerning the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at the February 26th meeting.

  
Shirley Mast  
Administrative Aide III

SM:dm

Noted:

  
Annie K. Montgomery  
CRS Director

RE: AGENDA ITEM NO 5

SECRETARY'S REPORT  
CASE NO. BZA 5-85

APPLICANT: Steve H. Cile, 622 South Fern, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 15 feet to 10 feet.

GENERAL LOCATION: On the east side of Fern and south of University (622 South Fern).

ZONING: Subject property is zoned the "RB" Four-family Dwelling District as are adjacent properties.

LAND USE: Subject property is presently a three-family dwelling. Most adjacent properties are developed with one-family dwellings.

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 the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required rear yard setback from 15 feet to 10 feet in order to convert an existing garage structure to a dwelling unit. It is proposed by the applicant to connect the existing three-family dwelling and the garage with an additional garage structure and thus the property would be occupied by one structure containing four dwellings.

It should be noted that the applicant secured a permit to construct a garage on the property and has indicated that he advised Central Inspection that it would eventually be converted to a dwelling. If this is the case, the applicant should not have been issued the permit with this in mind as only one main residential structure is permitted on a zoning lot in the "RB" Four-family Dwelling District.

It is difficult to find any uniqueness to the property other than the depth of the lots in the block are in excess of normal residential lots, and the residence to the east being located 60 feet or more to the east of the property line. This leaves more than adequate separation between structures so as not to interfere with light or air to either property.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the depth of the lots in the block are greater than normal residential lots which will provide separation between structures on adjacent properties that is more than the minimum requirement.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the distance to the residential structure to the east, that would be most generally affected by a reduction of the rear yard of the applicant's property, is such that any variance to convert the existing garage to living space should not change the general character of the property.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be unable to complete the project that was started with full intentions of being a dwelling, even though the original permit was for a garage that can be located closer to the rear property line than can a main structure.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the location of the structure and further construction to convert the property to a four-family dwelling will not interfere with any needed right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as structure will be located a sufficient distance from any adjoining structure so as to provide adequate separation for light and air to all properties.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a 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 rear yard shall be reduced from 15 feet to 10 feet only for the existing garage, and all additions to connect and convert the structure to a dwelling shall comply with the normal setbacks of the "RB" Four-family Dwelling District.
  2. The applicant shall connect the existing detached garage to the main structure, thereby creating only one main residential structure on the zoning lot.
  3. The applicant shall provide four off-street parking spaces on the property in compliance with the City of Wichita standards.
  4. All construction to convert the existing garage and the connecting garage and breezeways shall be completed within one year and prior to occupancy.
-

BZA CASE NO. 5-85

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>1</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>24</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>27</u>	TOTAL NOTICES SENT <u>2-5-85</u>

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

February 5, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 5-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Steve H. Gile, 622 South Fern, Wichita, Kansas requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required rear yard setback from 15 feet to not less than 10 feet on property zoned the "RB" Four-family Dwelling District. A legal description of the applicant's property is as follows:

The south 13 feet of Lot 77; Lots 79 and 81 on Fern Avenue, University Place Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Fern and south of University (622 South Fern).

This application has been assigned Case BZA 5-85. It will be considered by the Board of Zoning Appeals on February 26, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

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 CPC Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS

CASE NO. 5-85

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant STEVE H. GILE 67213  
Mailing Address 622 S. FERN Phone 2657560  
Name of Authorized Agent N/A  
Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_  
Relationship of applicant to property is that of OWNER  
(Owner, Tenant, Lessee, Other)

x II. The variance requested is 4.05 FEET ON  
BACK LOTS WITH NEW STRUCTURE  
EXISTING AT 10.95 FEET FROM EASEMENT  
for property located 622 S. FERN WICHITA  
KS. 67213  
and legally described as: LOTS 79 & 81 AND  
THE SOUTH 13 FEET OF LOT 77 ON  
FERN AVENUE, UNIVERSITY PLACE ADDITION  
TO WICHITA KS.

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

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

- a. That he has received an instruction sheet concerning the filing 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. 36-596); 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.

Applicant [Signature]

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,  
1.00 (a.m.p.m.), JAN 21, 1985, together with  
appropriate fee of 75.00.

Signed [Signature]

January 10, 1985

State of Kansas )  
County of Sedgwick) SS

RE: 620 & 622 S. Fern

I, Lowell D. High, Land Surveyor in the State of Kansas do hereby certify that I did on the 10th day of January, 1985, survey the following described property:

Lots 79 and 81, and the south 13 feet of Lot 77, on Fern Avenue, University Place Addition to Wichita.

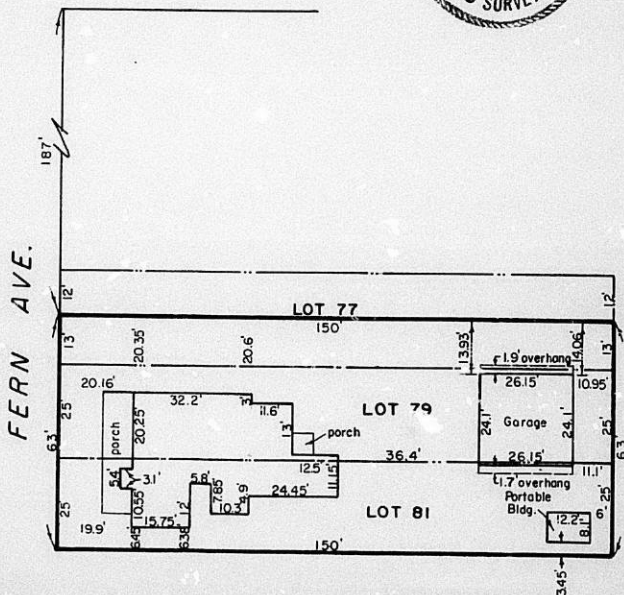
On said property is a multi-family dwelling, a detached garage with an upstairs dwelling, and a portable building which are clear of all boundary lines. There are no encroachments on said property by buildings on adjacent properties.

The accompanying plat is a true and correct exhibit of said survey.

*Lowell D. High*  
Lowell D. High, L.S.



UNIVERSITY AVE.



January 21, 1985

Board of Zoning Appeals  
Tenth Floor/City Hall  
Wichita, Ks. 67202

RE: Application for Variance

Dear Sirs,

In April of 1981 I went to Central Inspection of Wichita, Ks. to acquire a complete permit to construct an additional two story dwelling on the property of 622 So. Fern.

I was requested to submit a completion date which was impossible for me to submit at that time. Without a date, I was informed that the permit would be for partial completion, and I was issued a garage and storage permit with setback from easement of minimum 6.0 ft. (Bldg. Permit No. D50098).

The two story structure was constructed 10.95 ft. from easement. Upon applying for permit to complete said structure, I was informed that legal setback from easement for a dwelling structure is to be not less than 15.0 ft.

After speaking with adjacent property owners, I have found that no objections by them are forthcoming in any form. I see no reason that the variance desired will affect the public health, safety, morals, order, convenience, prosperity, or general welfare of adjoining property owners.

In plans being submitted for said permit, please be informed that all permanent structures on said property shall be attached.

Respectfully,



Steve H. Gile  
622 So. Fern  
Wichita, Ks. 67213

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies that the following to be the true and correct property owners, within a 200 foot radius from the South 12 feet of Lot 77, all of Lots 79 and 81, on Fern, University Place Addition, as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>University Place Addition</u>	
Lots 78 and 80, on Elizabeth	✓ Max D. Ellis, Sr., and Leona Ellis 621 South Elizabeth Wichita, KS 67213
Lots 82 and 84, on Elizabeth	✓ Daniel C. Rogers and Debbie Rogers 623 South Elizabeth Wichita, KS 67213
Lots 86 and 88, on Elizabeth	✓ Harley Mock and Bly Mock 625 South Elizabeth Wichita, KS 67213
Lots 90, 92, 94, and 96, on Elizabeth	✓ Richard G. Noell and Crystal K. Noell 629 South Elizabeth Wichita, KS 67213
The North 13 feet of Lot 77, on Fern; and the South 37.5 feet of Lots 17, 19, 21, and 23, on University Avenue	✓ fee: Craig A. Swann c/o American Landmark Corp. 838 South Edgemoor Wichita, KS 67218  equitable: Charles Louis Deitchler and Pamela Jean Deitchler 618 South Fern Wichita, KS 67213
The South 12 feet of Lot 77, and all of Lots 79 and 81, on Fern	D Steve H. Gile and Cindy A. Gile 622 South Fern Wichita, KS 67213
Lots 83 and 85, on Fern	D Ach Bleakley and LaDonna Bleakley 626 South Fern Wichita, KS 67213
Lots 87 and 89, on Fern	✓ Acheson G. Bleakley, Jr., and LaDonna G. Bleakley 626 South Fern Wichita, KS 67213

CERTIFICATE OF OWNERSHIP  
(cont'd)

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>University Place Addition (cont'd)</u>	
Lots 91 and 93, on Fern	✓ Daniel A. Neifert and Mildred Neifert 628 South Fern Wichita, KS 67213
Lot 95, on Fern	✓ Francis W. Hoover 630 South Fern Wichita, KS 67213
The South 5 feet of Lot 78, all of Lots 80 and 82, on Fern	✓ Paul R. Schulze and Barbara J. Schulze 621 South Fern Wichita, KS 67213
Lots 84 and 86, on Fern	✓ Ronald T. Gerant and Donna K. Gerant 625 South Fern Wichita, KS 67213
Lots 88 and 90, on Fern	✓ Truman Fisher and Christine D. Fisher 627 South Fern Wichita, KS 67213
Lots 92 and 94, on Fern	✓ Johnnie Bell and Laurestine Bell 801 West Douglas Wichita, KS 67213
Lots 96 and 98, on Fern	✓ William E. Bean and Helen M. Bean 631 South Fern Wichita, KS 67213
Lot 100, on Fern, except part taken in A-56857	✓ H.C. Shafer c/o Hazel H. Hoff, et al, Friends university 2100 University Wichita, KS 67213
Lots 1, 3, and 5, except the South 75 feet, on University	✓ David K. Oxley and Melea G. Banman 1403 University Wichita, KS 67213
Lots 7, 9, and 11, on University	✓ Richard F. Thome and Rene Jane Thome 1407 West University Wichita, KS 67213

CERTIFICATE OF OWNERSHIP  
(cont'd)

DESCRIPTION	OWNERS AND ADDRESSES
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University Place Addition (cont'd)

Lots 13 and 15, on University	✓ Patsy B. Allan 1415 University Wichita, KS 67213
The North 100 feet of Lots 21 and 23, on University	✓ Fred M. Hardin and Ruth M. Hardin 1421 University Wichita, KS 67213
The North 100 feet of Lots 17 and 19, on University	✓ Billy M. Glass and M. Glass 1417 West University Wichita, KS 67213
The North 37.5 feet of the South 75 feet of Lots 17, 19, 21, and 23, on University	✓ Larry J. Billinger 1637 Park Place Wichita, KS 67203
Lots 25, 27, and 29, on University	✓ Olive L. Crawford and Schuyler Crawford 1603 University Wichita, KS 67213
Lots 31 and 33, and the East Half of Lot 35, on University	✓ Arlene Trebbe Fowler and John A. Fowler 1615 University Avenue Wichita, KS 67213
The West Half of Lot 35	✓ Thomas L. Goranson and Marna K. Goranson 1617 University Wichita, KS 67213

DATED at Wichita, Kansas, this December 28, 1984.

REALTY TITLE CO., INC.

BY:

*Judy Cochard*

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29-001

PAYMENT NOTICE  
 City of Wichita

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

DESCRIPTION	AMOUNT
City 17A Var.	75.00

NAME STEVE H GALE

ADDRESS 822 S. FEAN

FUND 155-40712-012 DUE DATE \_\_\_\_\_

COMMENTS \_\_\_\_\_

DATE JAN 21 1975 BY [Signature]

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

February 5, 1985

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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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith  
Secretary

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Jack H. Galbraith  
Secretary

\*

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

Roll # 2