

BZA 6-71 - Marty Breth requests
VARIANCE to red. side yd setback
adj. to N property line from 6' to
4' on W side of Harvest Ct in area

Pos T&O
6-15-71
MRS
6/15/71

BZA 7-27-71 Approve

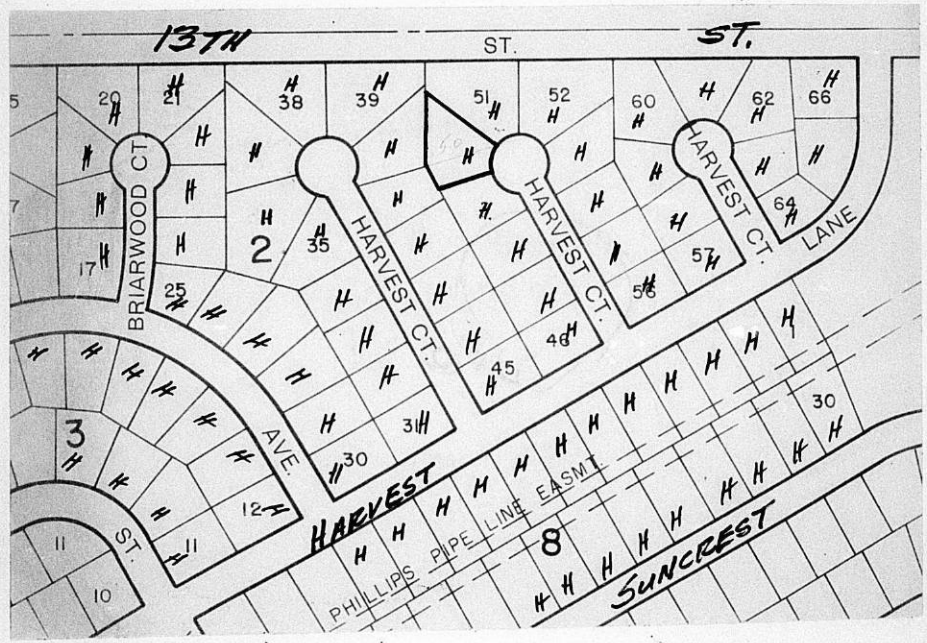
7-27-71

Map No. 4848
Sec. 17
Twp. 27S
Range 1W

BZA 6-71
SCZ- _____
CU- _____
Filed _____

AREA DATA:
1. Acres: .4 (IRREGULAR ft. by _____ 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 6-71

WHEREAS, Marty Breth, 2435 Porter, 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 6 feet to 4 feet, on property zoned "AA" Single Family, and legally described as follows:

Lot 50, Block 2, Westlink Village Fifth Addition, Sedgwick County, Kansas. Generally located on the west side of Harvest Court in an area between 13th and Harvest Lane.

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 27, 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 an error was made by the surveyor and inasmuch as only the front portion of the house violates the setback due to the pie shaped size of the lot; 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 light and air; 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 that part of the structure which violates the setback will have to be removed which would appear to make the garage unusable; 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 adequate space exists between dwellings; and

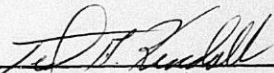
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

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 6 feet to 4 feet, on property zoned "AA" Single Family, and legally described as:

Lot 50, Block 2, Westlink Village Fifth Addition,
Sedgwick County, Kansas, Generally located on the
west side of Harvest Court in an area between 13th
and Harvest Lane.

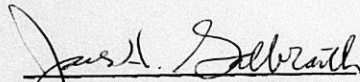
be approved for only that portion presently in violation.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1971.



Ted A. Kendall, Chairman

ATTEST:



Jack H. Galbraith, Secretary

August 4, 1971

Mr. Marty Breth
2435 Porter
Wichita, Kansas 67204

Subject: Case No. BZA 6-71
Request for Variance

Dear Mr. Breth:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 27, 1971, in connection with your request for a variance to reduce the required side yard setback adjacent to the north property line from 6 feet to 4 feet, on property zoned "AA" Single Family and generally located on the west side of Harvest Court in an area between 13th and Harvest Lane.

This Resolution reflects the official action of the Board to approve this request for only that portion presently in violation. It is forwarded to you for your information and files.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls

Enclosure

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

July 28, 1971

Mr. Marty Breth
2435 Porter
Wichita, Kansas 67204

Subject: Case No. BZA 6-71
Request for Variance

Dear Mr. Breth:

At the regular meeting of the Board of Zoning Appeals on July 27, 1971, your request for a variance to reduce the required side yard setback adjacent to the north property line from 6 feet to 4 feet, on property zoned "AA" Single Family and generally located on the west side of Harvest Court in an area between 13th and Harvest Lane, was considered.

It was the action of the Board to approve this request for only that portion presently in violation.

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 6-71

APPLICANT: Marty Breth, 2435 Porter, 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 north property line from 6 feet to 4 feet.

GENERAL LOCATION: On the west side of Harvest Court in an area between 13th and Harvest Lane.

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

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

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 of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

The applicant is requesting a variance of the required side yard setback adjacent to the north property line from 6 feet to 4 feet. It was pointed out in the applicant's statement of justification that the house was constructed in violation of the 6 foot side yard setback required by ordinance due to an error in the survey of the lot.

In viewing the area in the field, it may be seen that the house to the north sets approximately 8 to 10 feet from the south property line thereby separating the two structures by 12 to 14 feet which is adequate to provide for sufficient light and air.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify because of error only, however, due to the fact that an error was made by the surveyor and since only the front portion of the house violates the setback due to the pie shaped size of the lot, the Secretary feels that uniqueness can be found to exist.

ADJACENT PROPERTY:

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

HARDSHIP:

It is the opinion of the Secretary that the applicant will be burdened with an unnecessary hardship if the variance is not granted inasmuch as that part of the structure which violates the setback will have to be removed which would appear to make the garage unusable.

PUBLIC INTEREST:

It is the opinion of the Secretary that there should be no adverse effect on 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 this variance would not be opposed to the general spirit and intent of Title 28 inasmuch as adequate space exists between dwellings.

Page 3 - Secretary's Report
Case No. BZA 6-71

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary for 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 from 6 feet to 4 feet for only that portion presently in violation.

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

July 7, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-71

An application has been filed by Marty Breth, Contractor, 2435 Porter, Wichita, Kansas, pursuant to Section 2.12.530.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback adjacent to the north property line from 6 feet to 4 feet, on property zoned "AA" Single Family, and legally described as follows:

Lot 50, Block 2, Westlink Village Fifth Addition,
Sedgwick County, Kansas. Generally located on the
west side of Harvest Court in an area between 13th
and Harvest Lane.

This application has been assigned Case No. BZA 6-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 27, 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

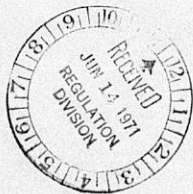
26 Notices mailed 7-7-71

Board of Zoning Appeals:

Gentlemen:

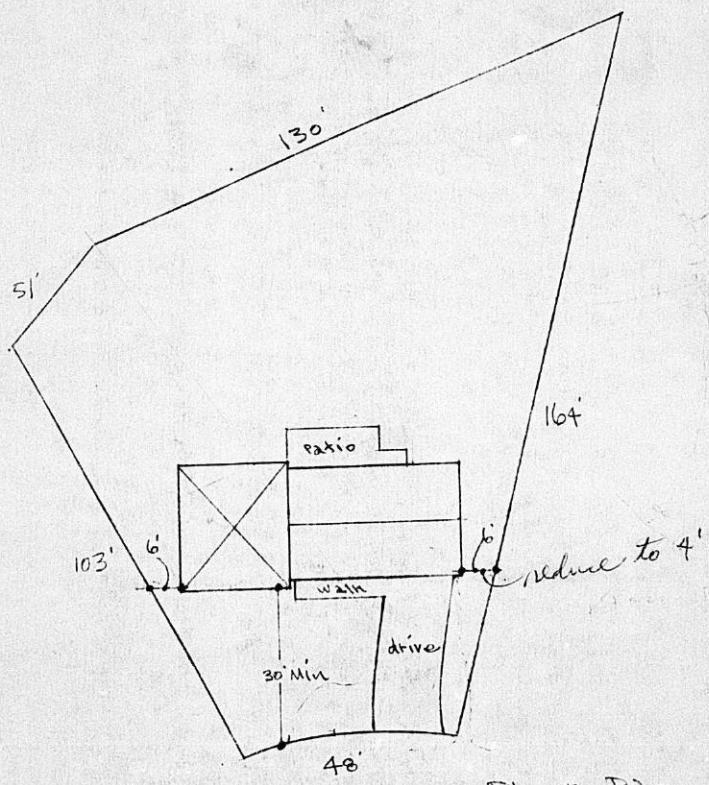
The reason for this request is that for some unknown reason my foreman apparently made a mistake when he staked out the house to be built.

The mistake could have been in the survey because there wasn't any other houses or street in the area at the time and we had to have the lot surveyed twice because of work outs.



Marty Brett

8381846



MARTY BRETH CONSTRUCTION CO
 BEACON BUILDING
 WICHITA KANSAS
 AM 79712 or AM 54841

Phot Plan
 Lot 50 Block 2
 Westlink Village 5th Add

9-19-61

BOARD OF ZONING APPEALS

CASE NO. 6-71

CITY OF WICHITA, KANSAS

FILED 6-14-71

APPLICATION FOR VARIANCE

I. Name of Applicant Marty Brtth
Mailing Address 2435 Porter ⁶⁷²⁰⁴ Phone 838846
Name of Authorized Agent _____

Mailing Address _____ Phone _____

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

II. The variance requested is to reduce the required sidewalk setback adjacent to the north property line from 6 feet to 4 feet

for property located at 9062 Harvest Ct
on the w side of Harvest Ct
bet 13 & Harvest St

and legally described as: Lot 50 Block 2
Westlink 5th Addition

in the City of Wichita; and which is presently zoned aa

- 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. 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 3, 4, and 5 of the instructions.



Marty Brtth
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10 (a.m. - p.m.), June 11 19 71 together with appropriate fee of \$50.00.

T9-402
4848 Map #

Jack H Galbraith
Signed (ls)

CERTIFICATE OF OWNERSHIP

GUARANTEE TITLE CO. Inc., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, Kansas, of

Lot 50, Block 2, in Westlink Village Fifth
Addition, Sedgwick County, Kansas,

together with all lots lying within a 200 foot radius thereof.

G	DESCRIPTION	OWNER/OWNERS	ADDRESS
U	Westlink Village Fifth Block 2		
A	part of Lots 35 & 36: That part of Lot 36, S & E of a line:		
R	Beg. at pt. on E lot line of Lot 35, 95.63' Nwerly from SE/c		
A	Lot 35, SW to pt. on SWerly line of Lot 36, sd pt. being 107'		
N	Nwerly from NW/cor Lot 34; and all of Lot 35, exc. that part		
T	No. of a line: Beg. on Eerly front line of Lot 35, 95.63'		
E	NW from SE/cor Lot 35, SW to pt. on S/l Lot 36, sd pt. being		
E	107' NW from NW/c Lot 34.		
T		✓Max W. Crawford and Mary Ellen	9144 Harvest Court North 67212
E	part of Lots 35 & 36: That part of Lot 36, lying North of		
E	a line: Beg. at pt. on E/l Lot 35, 95.63' Nwerly from SE/c		
T	Lot 35, SW to pt. on SWerly line of Lot 36, sd pt being		
I	107' Nwerly from NW/cor Lot 34; and that part of Lot 35,		
T	lying North of a line: Beg. on Eerly front line of Lot 35,		
L	95.63' NW from SE/c Lot 35, SW to pt. on S/l Lot 36, sd		
E	pt. being 107' NW from NW/c Lot 34.		
C		✓Charles E. Thomas and Dorothy H.	9140 Harvest Court North 67212
O.	Lot 34	✓Romas Thaddeus Gabrys and Joyce E.	9148 Harvest Court North 67212
I	Lot 38	✓Joseph B. Bertholet & Miriam E.	9132 Harvest Court North 67212
L	Lot 39	✓Sidney L. Stark and Linda	9128 Harvest Court North 67212
E	Lot 40	✓Arnold J. Eck and Mary Ann	9124 Harvest Court North 67212
O.	Lot 41	✓Don P. Woosley and Vivian S.	9120 Harvest Court North 67212
I	Lot 42	✓Spencer Leader & Lenore K.	9116 Harvest Court North 67212
N	Lot 43	✓Robert F. Hamm and Betty L.	9112 Harvest Court North 67212
C.	Lot 44	✓Archie R. Ritter and Georgia L.	9108 Harvest Court North 67212
	Lot 47	✓William H. Petersen and Billie G.	9074 Harvest Court North 67212
	Lot 48	✓Jon Howard Hunsberger & Jalayne D.	9070 Harvest Court North 67212
	Lot 49	✓A. C. Baldwin and Verona S.	9066 Harvest Court North 67212
	Lot 50	✓C. Earl Reavis and Beverly I.	4471 Elmhurst 67216

Westlink Village Fifth-continued
Block 2

Lot 51	✓ James D. Matheson and Judith K.	9058 Harvest Court North	67212
Lot 52	✓ Kenneth R. Swenson & Leora P.	9054 Harvest Court North	67212
Lot 53	✓ James Leo Skolaut and Sheila M.	9050 Harvest Court North	67212
Lot 54	✓ Daniel L. McNatt and Laura	9046 Harvest Court North	67212
Lot 55	✓ John W. Kaley and Adrienne C.	9042 Harvest Court North	67212

G

Westlink Village Sixth
Block 2

U

A

R

A

N

T

E

E

Lot 1	✓ Wendell W. Bell and Nelda Jean	1401 Byron Road	67212
Lot 2	✓ J. D. Wintz and Barbara J.	1407 Byron Road	67212
Lot 11	✓ David A. Flory and Carole J.	1406 N. Westfield	67212
<u>Block 3</u>			
Lot 5	✓ Ronald H. Morrison and Lois P.	1408 Byron Road	67212
Lot 6	✓ M & B. Investment, Inc.	9103 W. Central	67212
SE/4 8-27-1 W, exc. S. 23 Ac. of N. 80 Acres.			
	✓ Roetzel Jochems	Farmers & Bankers Bldg.	67202

T

WITNESS our Hand and Seal this the 7th day of June, 1971 at 7:00 o'clock A.M.

I

T

L

E

GUARANTEE TITLE COMPANY, Inc.

By *Nellie M. Leasinger*
Vice-President.

Order No. 31480

C

O.,

I

N

C.

Form 273-021

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.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION AMOUNT

Name Marty Breth

Address _____

Type _____ Due Date _____

Comments: _____

Date 1-14-91 By LC