

BZA 17-75 - Richard Rudzinski
requests variance to reduce re-
quired 25-ft. side yard setback
to 6 ft adjacent to the north
property line & to 25 ft adjacent
to the so. property line on the

*Rest P
5-12-75*

ACTION

BZA COMMITTEE *withdrawn & 5-27-75*
DATE *5-27-75*
M.A.P.C. *closed at appl.*
cont's request

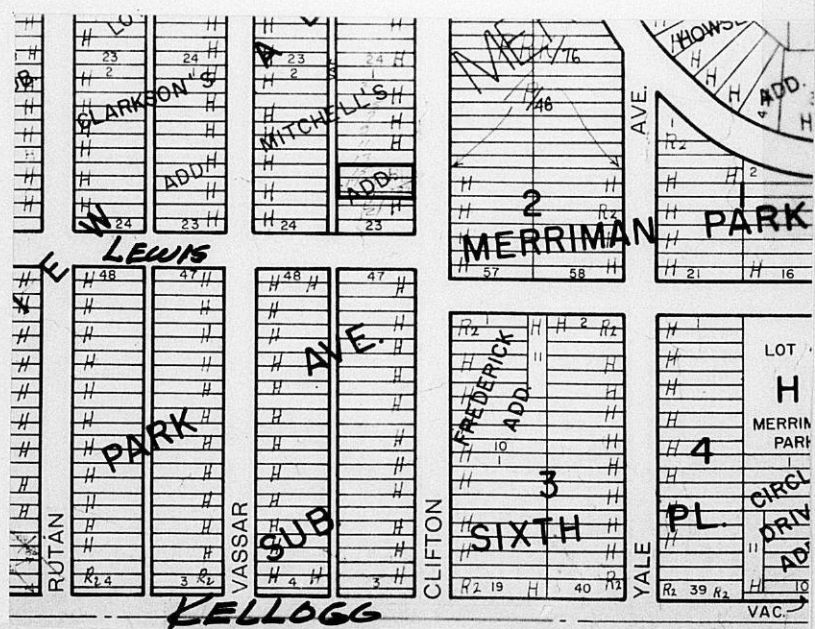
B.C.C./B. CO. C. _____

Map No. 5747
 Sec. 23
 Twp. 27
 Range 1E

BZA- 17-75
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.2 (62 ft. by 140 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 if for: BOE
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



HASTINGS, INC. - LOS ANGELES
 LOS AN, CA - ABERGON, TX U. S. A.
 No. 2153C
S

May 30, 1975

Richard Rudzinski
5825 Oakwood
Wichita, Kansas 67208

Subject: Case No. BEA 17-75
Request for Variance

Dear Mr. Rudzinski:

At the regular meeting of the Board of Zoning Appeals on Tuesday, May 27, 1975, your request for a variance to reduce the required side yard setback adjacent to the north property line from 25 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 25 feet to 24 feet, was to be considered by the Board. However, following the Board's action of denying your request for a Child Care Center exception, you indicated that it was your desire to withdraw this variance request from further consideration.

It was the action of the Board to accept your withdrawal request and Case No. BEA 17-75 is now considered withdrawn and closed.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Ronald D. Chambers, 382 S. Clifton, 67218
Ms. Josephine Ann Robertson, 355 S. Clifton, 67218
Robert Feldner, Supt. of Central Inspection
Donald C. Gisick, City Clerk
Joe Donnelly, Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 17-75

APPLICANT: Richard Rudzinski, 5825 Oakwood, Wichita, Kansas

AGENT: N/A

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 25 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 25 feet to 24 feet.

GENERAL LOCATION: West side of Clifton in an area north of Lewis.

ZONING: Subject property and all surrounding properties are zoned the "AA" Single Family Dwelling District.

LAND USE: Subject property and all surrounding properties are developed as single family residences. College Hill Park is in close proximity to the northeast.

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 23 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

Secretary's Report
Case No. EZA 17-75
Page Two

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 property and applicant involved in this case are the same as those in the previous case (EZA 16-75) where you considered the request for an exception for a child care center. The request before you now deals with the area regulations in the "AA" Single Family Residence District. The applicant proposes to establish a Montessori school for children between the ages of three and nine. The children from the ages of six through nine would, by definition be classified as a private elementary school. The "AA" zoning district permits this type of use, but provides that "A side yard width of not less than twenty-five feet on the side of the lot adjoining another building site shall be provided for all schools, libraries, churches, community houses and other public and semi-public buildings used, constructed or enlarged in the "AA" One-Family Dwelling District". This is the requirement from which the applicant is asking for a variance. He is requesting that the required side yard setback adjacent to the north property line be reduced from 25 feet to 6 feet and adjacent to the south property line from 25 feet to 24 feet. These reduced side yards, if granted, would correspond to what now exists on subject property and would not involve additional construction or adding on to the existing house. Subject property is a 62½ ft. by 132 ft. lot situated between two similar sized lots. All are developed as single family dwellings.

The applicant has submitted a letter of justification that goes into detail in attempting to justify his request and this letter is attached as a part of this report. The elementary age level of the school would enroll three or four first graders the first year and would each year hope to enroll three or four more to a maximum of twelve to fourteen children. This, in addition to the ten children in the child care center age level (if approved) would make a total of 22 to 24 children at capacity. It is the general opinion of the Secretary that the 25-foot side yard requirement is for the purpose of assuring that adequate sized lots are used for schools, so that they do not become an infringement upon the residential neighborhood where lot size and layout were planned and designed solely for single family dwellings.

Secretary's Report
Case No. BZA 17-75
Page Three

UNIQUENESS

It is the opinion of the Secretary that it is difficult to determine that uniqueness exists in this situation inasmuch as the property conforms with setback requirements as a single family dwelling, but is simply an undersized lot for the use desired.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance could have an adverse effect on adjacent property owners inasmuch as the driveway servicing subject property is a shared driveway with the property to the south. Also, the utilization of a home for a private school accommodating 22-24 children may also have an adverse effect on the other homes in the neighborhood designed for single family use.

HARDSHIP

It is the opinion of the Secretary that it is difficult to determine that an undue hardship would be placed upon the applicant if the variance were not granted inasmuch as he would still have the utilization of the house for a child care center.

PUBLIC INTEREST

It is the opinion of the Secretary that it is again difficult to determine whether the granting of the requested variance would adversely affect the public health, safety, general welfare, etc. but that an increase of traffic flow to and from subject property could have an adverse effect on the neighborhood.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance desired would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the greater side yard requirement for schools helps to assure adequate lot size for the use and provides buffer space adjacent to residentially developed property.

RECOMMENDATION

It is the opinion of the Secretary that all five of the conditions necessary to the granting of a variance cannot be found to exist and therefore it is recommended that the request be denied.

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

May 5, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 17-75

An application has been filed by Richard Rudzinski, 5825 Oakwood, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback from 25 feet to 6 feet adjacent to the north property line and from 25 feet to 24 feet adjacent to the south property line on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lots 15 and 17 and the north one-half of Lot 19, Mitchell's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Clifton in an area north of Lewis.

This application has been assigned Case No. BZA 17-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 27, 1975, 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

21 notices to adjoining property owners mailed 5-6-75
10 notices to MAPC mailed 5-6-75

5747

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 17-75
FILED 4-29-75

APPLICATION FOR VARIANCE

I. Name of Applicant Richard Rudzinski
Mailing Address 5825 Oakwood, Wichita, Kansas Phone 686-8613
Name of Authorized Agent N/A
Mailing Address N/A Phone N/A
Relationship of applicant to property is that of purchaser
(Owner, Tenant, Lessee, Other)

alter II. The variance requested is to Section 28.04.040 paragraph 2.3
Code of the City of Wichita which requires a 25' minimum. *reduce the*
side yard for any school located in a "AA" zoned area. *to 6'*
for property located at 351 S. Clifton *adj. to the north*
property line and to 24' adj.
to the south property line.

and legally described as: Lot 15-17 and the north 1/2 of Lot 19,
Mitchells Addition to Wichita, Kansas

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 2, 3, 4, and 5 of the instructions.

Richard Rudzinski
Applicant
N/A
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:30 (a.m. - p.m.), 4/29 19 75
together with appropriate fee of \$50.00.

Larry Dobson
Signed

Copy for Dick

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
43	2	Merriman Park Sixth Place	Zoel J. Parenteau & Gay Billie 372 S. Clifton 67218
45	2	Same	Same
47	2	Same	J. T. Wilkinson & Dorothy E. 378 S. Clifton 67218
49	2	Same	Same
51	2	Same	Ronald D. Chambers and Elizabeth Ann Chambers 382 S. Clifton 67218
53	2	Same	Same
55	2	Same	Stephen A. Schroeder & Marsha 384 S. Clifton 67218
57	2	Same	Same
27 thru 41	2	Same	City of Wichita 204 S. Main 67202 (College Hill Park)
1	Clifton	Mitchell's Addition	Anna J. Ketteman 343 S. Clifton 67218
3	Same	Same	Same
5	Same	Same	Alice P. Hereford 345 S. Clifton 67218
7	Same	Same	Same
9	Same	Same	Greg D. Kelley & Diana K. Kelley 347 S. Clifton 67218
11	Same	Same	Same
13	Same	Same	Same
15	Same	Same	Marilyn K. Clous 351 S. Clifton 67218
17	Same	Same	Same
N $\frac{1}{2}$ 19	Same	Same	Same

Lot	Street	Addition	Property Owner
S $\frac{1}{2}$ 19	Clifton	Mitchell's Addition	Charles W. Robertson Sr. and Josephine Ann Robertson 355 S. Clifton 67218
21	Same	Same	Same
23	Same	Same	Same
2	Madison now Vassar	Same	Phillip J. Carrillo and Susan L. Carrillo 332 S. Vassar 67218
4	Same	Same	Same
6	Same	Same	C. E. Jacobs & Yvonne Jacobs 338 S. Vassar 67218
8	Same	Same	Same
10	Same	Same	Rhona K. Adams 344 S. Vassar 67218
12	Same	Same	Same
14	Same	Same	Frank M. Kruske Jr. & Helen C. 348 S. Vassar 67218
16	Same	Same	Same
18	Same	Same	James Merle Schaper & C. Ann 352 S. Vassar 67218
20	Same	Same	Same
22	Same	Same	John I. Paugh & Ruth H. Paugh 4635 E. Bayley 67218
24	Same	Same	Same
23		Humble's Sub of Lot 1	Harold Gates & Adelpia Gates 326 S. Vassar 67218
24	Same	Same	William L. Cummings 7339 Tanglewood Court 67206
41		Park Avenue Sub	Isadore R. Lambert and Phyllis Elaine Lambert 1702 S. Clifton 67218
43		Same	Same
45		Same	M. Kathryn Tyler Address Unknown
47		Same	Same

*Robert Wm. Contelou
358 S. Vassar 67218*

Lot	Addition	Property Owner
E $\frac{1}{2}$ lots 42, 44, 46, 48	Park Avenue Subdivision	Rosalie Shreffler 3507 E. Lewis 67218
W $\frac{1}{2}$ lots 42, 44, 46, 48	Same	Ruth L. Jones 3505 E. Lewis 67218

The Security Abstract & Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners of:

A 200 foot radius of: Lots 15 and 17
and the North Half of Lot 19, Mitchell's
Addition to Wichita, Kansas, Sedgwick
County, Kansas

as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 25th day of April, 1975 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

John Lyson
Vice President

Order No. 224035
wh

TO: THE BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

RE: APPLICATION FOR VARIANCE

My wife and I are presently in the process of purchasing the property at 351 S. Clifton. The building itself is a three story dwelling with a full basement. Our intent is to use the upper two stories of the building as our personal residence and to use the first floor to house a Montessori school for children between the ages of three and nine. The first year enrollment of the elementary school would be three to four children who would be following a curriculum equivalent to that offered in the public schools; these children would attend school on much the same schedule as the children in public school.

As you know schools offering a curriculum equivalent to that of the public schools may in fact be located within a "AA" zoning as long as the property satisfies the requirements as stated in the city code. One of the stipulations of the code as set forward by Section 28.04.040 paragraph 2.3, Code of the City of Wichita is that such an establishment provide a minimum of a 25' side yard. As can be seen from the enclosed drawing of the property, the south side yard falls short of the minimum by but a few feet; however, the north side yard falls far short of the minimum.

At least three factors prompt us to feel justified in requesting a variance to the section of the city code sighted above:

1.) The very nature of the type of school we wish to establish and the nature of the relationship we want between ourselves and the school has determined that we choose a house such as the one in question, a house large enough to house both us and the school and beautiful enough to be acceptable as a school for children. It is a place where we can create a comfortable and stimulating environment for children which will be both attractive and conducive to their learning. Also, we feel that we can offer a needed service to the community at large without adversely effecting the surrounding neighborhood because the scale of operation of the school will be small and because we deeply care for the children put in our charge and we have an abiding concern for the rights and courtesies due to others, in particular our neighbors. We feel it is our duty to communicate this same sense of responsibility to the children put in our care.

2.) Since the children will spend a good portion of their day at work in the school and since the number of children involved is small (with three or four added each year), we feel that the granting of this variance will neither jeopardize the well-being of the children nor adversely effect the adjacent property owners since the children will be well cared for and the hours of operation of the school will be during normal school hours. It should also be noted that the property to the north is in fact shielded by a garage and that 351 S. Clifton itself has an adequate back yard to provide for the children's play.

3.) There is no reason to believe that the nearness of the adjacent property should in any way distract from

the learning of the children themselves since our children are remarkably well self-disciplined and love their work.

It is our understanding from discussions with officials in Central Inspection and Planning that this is the only requirement for a school in a "AA" zoned area which 351 S. Clifton does not and cannot conform to. Your thoughtful consideration is much appreciated.

Sincerely,

Richard Rudzinski

Richard Rudzinski

TO: THE BOARD OF ZONING APPEALS
THE CITY OF WICHITA, KANSAS

RE: AN ADDITION TO AN APPLICATION FOR A VARIATION

We have been actively seeking a property to house the school for over a month now. Our conditions were: 1) a house large enough to be used as our personal residence and as a school. 2) a property within our reach monetarily. 3) a building which could satisfy the governmental requirements. 4) a place suitable as a school environment. 5) a location reasonably accessible to parents who have already committed themselves to the school and to those who might be potential supporters of the school. No property, as yet, has conformed to all of the conditions. The property at 351 S. Clifton is deficient only in that it does not conform to the requirement of a 25' minimum side yard. However, because of the situation of the neighboring houses on their respective lots, it is our feeling that the spirit of the law will not be broken through a grant of variance since the separation between dwellings is well over the 25' mark.

In a sense, the strict application of the law will in fact cause us a great hardship; for the possibility of our ever finding a building in a suitable neighborhood with a 25' side yard and within our reach economically is surely almost non-existent.

Possibly the most serious change to come to the neighborhood as a consequence of our establishing a school there will be the increase in vehicular traffic. However, it is our feeling that the extra traffic in the neighborhood will not make an impact significant enough on the present

traffic pattern through the neighborhood to adversely affect public safety or the general welfare. As has been stated in the letter enclosed with our application for zoning exception, we feel that the parents associated with this school are of a very special sort. It is our hope that they will in fact observe common rules of safety and courtesy when entering the neighborhood as well as at all other times. Also, we would make special efforts to direct parents not to abuse other peoples rights or property by parking in driveways or using drives as turn-arounds. There is no physical reason why the traffic pattern through the neighborhood should not be smooth and insure the well-being of all concerned.

As to the question of public health, morals, and order, we firmly state that it is our expressed intent to strongly affirm healthy standards of conduct on the part of our children, their parents and ourselves.

Thus, we feel our presence in the neighborhood need not be in any way distressing to those whose neighbors we hope to be. Not only is it our sincere desire to be unobjectionable members of the community, but we wish to provide a needed service and take an active part in maintaining the high quality and character of the neighborhood as it now is.

Sincerely,

Richard Rudzinski

Richard Rudzinski

FORM 223-021

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
34 W. 10th St	850.00

Name _____

Address _____

Type 14-7102 Due Date _____

Comments: _____

Date 7/1/10 By _____