

Case No. BZA 20-84 - Kelsey Construction Inc., P. O. Box 12523, requests a variance to reduce the required side yard setback from 9.25' to 6' adjacent to the east property line, on property zoned the "R-5" General Residence

Posteo  
3-21-84  
582

**ACTION**

BZA. 20-84 APPROVED 4-24-84  
DATE

POSTED 5-9-84

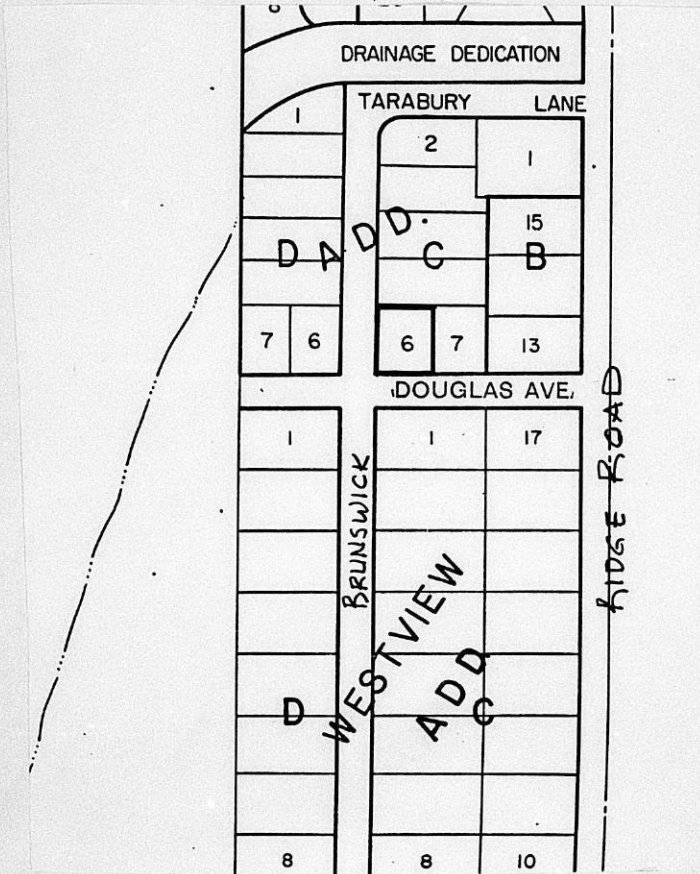
2004 Sec. 5-9-84  
SHOT 512  
RECORD ✓

Map No. 4947 B

BZA 20-84  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: E R-5 S AA W R-5 N R-5
3. Land Use: East 4-F South 1-F  
West vacant North 4-F
4. Area (is) (~~is not~~) platted.



HASTINGS, MN  
LOS ANGELES, CHICAGO, LOGAN, OH  
MCREGOR, TX, LOCUST GROVE, GA  
U.S.A.

**Standard**  
No. 2-153C

April 25, 1984

Paul E. Kelsey  
Kelsey Construction, Inc.  
P. O. Box 12523  
Wichita, Kansas

Re: BZA-19-84 & BZA 20-84  
Requests for Variances

Dear Mr. Kelsey:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on April 24, 1984.

These Resolutions reflect the official action of the Board to approve the requests and set out the conditions of approval. These are 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  
Enclosures

cc: Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 20-84

WHEREAS, Kelsey Construction, Inc., P. O. Box 12523, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required interior side yard setback from 9.25 feet to 6 feet on property zoned the "R-5" General Residence District and legally described as follows:

Lot 6, Block C, Hecox Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Douglas and Brunswick (7210 West Douglas).

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 April 24, 1984, 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 property is located on a corner lot that has a 15 foot platted setback on the street with an interior side yard that is adjacent to an existing structure that has a 9 foot  $\pm$  side yard; 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 between structures on this and the adjoining property will exceed the normal setbacks between two structures on the same property or that of the "RB" Four-family District; 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 development of the general area is of the same type of dwellings oriented to the south and it would be advantageous to all property owners to continue the same type of development which requires some adjustment in the regulations; 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 setback between structures on adjoining properties will still be adequate to provide light and air to all properties; 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 dwellings to be constructed on the property will not exceed that permitted by the district and will generally conform to most other requirements for residential development; 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.

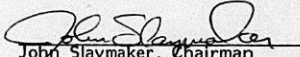
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required interior side yard from 9.25 feet to 6 feet on property zoned the "R-5" General Residence District and legally described as:

Lot 6, Block C, Hecox Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Douglas and Brunswick (7210 West Douglas).

be approved subject to the following condition:

1. Only the interior side yard on the east may be reduced to 6 feet in lieu of the required 9.25 feet.

ADOPTED AT WICHITA, KANSAS, this 24th day of April, 1984.

  
John Slaymaker, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN RIGHTS & SERVICES      DATE      April 23, 1984

TO      Glen Lytle, Special Assistant for Zoning

FROM      Cindy Entriiken, Administrative Aide III

SUBJECT      BZA 20-84 Generally Located on  
the Northeast Corner of Douglas  
and Brunswick (7210 West Douglas)

On Wednesday April 18, CPO Area A considered an application for a variance to reduce the required side yard setback from 9.25 feet to 6 feet on property zoned "R-5" General Residence District at the captioned location. The applicant was not present to address the Council.

Two residents, Paul Drouhard and Richard Breer, from the neighborhood were present to ask questions regarding the request, and to express their opposition.

Mr. Drouhard stated that he was unclear as to what the applicant was proposing. He stated that he objected to the request if the builder was proposing to put in anything more or larger than 1 four-plex per lot. He stated that if the builder plans only 1 four-plex on the property, and if the building would be comparable to the other four-plexes in the area, then he would have no objection to the request. If, however, the plans call for 4 four-plexes, he would be opposed to the request because there is not enough room.

Council members also expressed concern that the applicant was not present to explain his plans for the property.

The Council voted 7-0 to recommend not granting a variance until the builder makes a presentation to the Council.

Please provide the Council's recommendation to the BZA when it considers the case.

*Cindy Entriiken*  
Cindy Entriiken  
Administrative Aide III

CE/lw

NOTED:

*Annie Montgomery*  
Annie Montgomery, CRS Director

SECRETARY'S REPORT  
CASE NO. BZA 20-84

APPLICANT: Kelsey Construction, Inc., P. O. Box 12523,  
Wichita, Kansas.

AGENT: Paul E. Kelsey, Kelsey Construction, Inc.,  
P. O. Box 12523, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code  
of the City of Wichita, to reduce the required  
side yard setback from 9.25 feet to 6 feet  
adjacent to the east property line.

GENERAL LOCATION: On the northeast corner of Douglas Avenue and  
Brunswick (7210 West Douglas).

ZONING: Subject property is zoned the "R-5" General  
Residence District as are the properties to  
the north, east and west. Property to the  
south is "AA" One-family Dwelling District.

LAND USE: Subject property is being developed with a  
four-family dwelling as are the adjacent  
properties to the east, west and north.  
Properties to the south 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 interior side yard from 9.25 feet to 6 feet. The "R-5" General Residence District requires that a side yard shall not be less than 10% of the lot width, but shall not require the yard to be more than 25 feet or less than 6 feet. This lot is on a corner that has a platted 25 foot setback on Douglas and a 15 foot setback on Brunswick.

The applicant considered the possibility of reducing the platted setback adjacent to Brunswick but in discussing it with staff, it was felt that a reduction of the interior side yard would be the most appropriate method of solving the problem. With a reduction of the interior side yard, the distance between adjoining structures will still be approximately 15 feet. It should also be noted that the applicant could rezone the property to the "RB" Four-family Dwelling District and the side yard would then only be required to be 6 feet.

The site is more than adequate in size to accommodate four dwellings as designed and facing Brunswick without the variance. It is, however, the applicant's feeling that the units being faced toward Douglas, as are the existing adjacent dwellings, would provide a better overall appearance to the neighbors.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located on a corner lot that has a 15 foot platted setback on the street side with an interior side yard that is adjacent to an existing structure that has a 9 foot ± side yard.

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 between structures on this and the adjoining property will exceed the normal setbacks between two structures on the same property or that of the "RB" Four-family District.

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 development of the general area is of the same type of dwellings oriented to the south and it would be advantageous to all property owners to continue the same type of development which requires some adjustment in the regulations.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the setback between structures on adjoining properties will still be adequate to provide light and air to all properties.

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 the dwellings to be constructed on the property will not exceed that permitted by the district and will generally conform to most other requirements for residential development.

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 condition:

1. Only the interior side yard on the east may be reduced to 6 feet in lieu of the required 9.25 feet.

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BZA CASE NO. 20-84

|           |   |
|-----------|---|
| <u>1</u>  | NOTICES SENT TO APPLICANT/AGENT           |
| <u>10</u> | LEGAL ADVERTISEMENT SENT TO MAPC          |
| <u>1</u>  | NOTICES SENT TO CPO                       |
| <u>16</u> | NOTICES SENT TO ADJOINING PROPERTY OWNERS |
| <u>18</u> | TOTAL NOTICES SENT <u>4-4-84</u>          |

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

April 4, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 20-84

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 Kelsey Construction Inc., P. O. Box 12523, 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 side yard setback from 9.25 feet to 6 feet adjacent to the east property line, on property zoned the "R-5" General Residence District. A legal description of the applicant's property is as follows:

Lot 6, Block C, Hecox Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Douglas and Brunswick (7210 West Douglas).

This application has been assigned Case BZA 20-84. It will be considered by the Board of Zoning Appeals on April 24, 1984 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 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

BOARD OF ZONING APPEALS

CASE NO. 20-84

CITY OF WICHITA, KANSAS

FILED 3-19-84

APPLICATION FOR VARIANCE

I. Name of Applicant KELSEY CONST INC  
 Mailing Address P.O. Box 12523 Wichita, KS Phone 721-0457  
 Name of Authorized Agent Paul Kelsey  
 Mailing Address P.O. Box 12523 Wichita, KS Phone 721-0457  
 Relationship of applicant to property is that of Owner  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required side yard setback from 9.25 feet to 6 feet adjacent to be 6' instead of 9.25' (This would still allow 16' between buildings) the east property line  
 for property located N.E. corner of Douglas & Brunswick (7210 W. Douglas)  
 and legally described as: LOT 6 blk C Hexco addn. 7210 W Douglas to Wichita, Sedg Co., Ks.

in the City of Wichita; and which is presently zoned R-5.

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 Paul Kelsey

Authorized Agent Paul Kelsey

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:00 p.m.), MAR. 19, 1984, together with appropriate fee of \$75.00.

Signed [Signature]

FORM 2001

PAYMENT NOTICE  
City of Wichita

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

| DESCRIPTION | AMOUNT            |
|-------------|-------------------|
| 2 B7A Val   | 150 <sup>00</sup> |
| CITY -      |                   |

NAME KELSEY CONSTR INC  
ADDRESS P.O. Box 12523 W. K  
FUND 155-40071-003 DUE DATE \_\_\_\_\_  
COMMENTS \_\_\_\_\_

DATE Mar 19 1984 BY [Signature]

\*

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

Roll # 2