

Case No. BZA 23-82 - Cherokee Enterprises - requests a variance to reduce the required lot area per dwelling unit for the construction of a two-family dwelling on property zoned "RB" Four-family Dwelling District and gen-

Rooted
7-9-82

ACTION

BZA COMMITTEE *APPROVED* DATE *7-27-82*

23-82
X

~~M.A.P.C.~~

~~B.C.C./B.C.C.C.~~

11-1-82
to be approved
to be approved
to be approved
to be approved

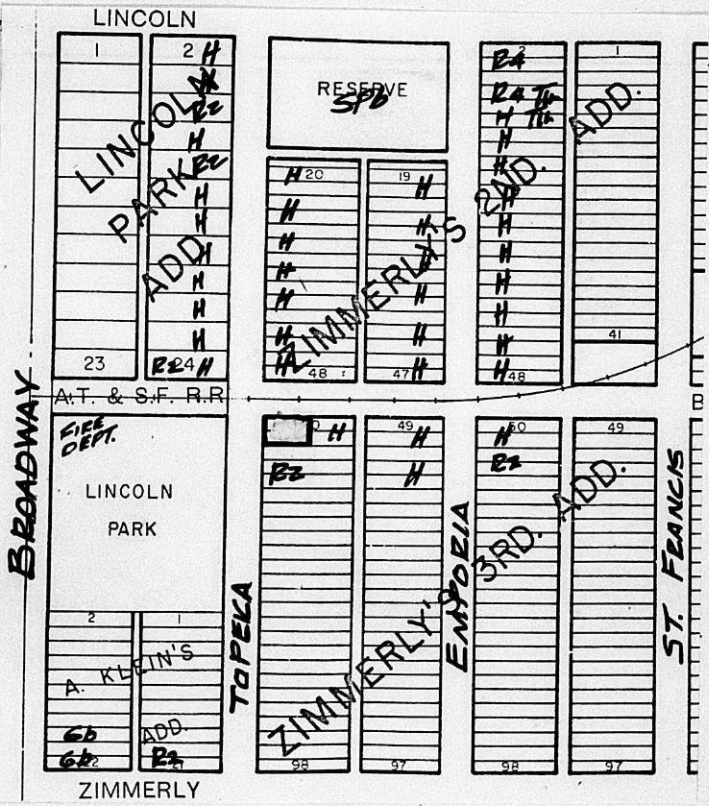
Map No. 5546
 Sec. 28
 Twp. 27
 Range 1E

BZA- 23-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.08 (50 ft. by 75 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South TWO FAM
 West CITY PARK North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: TWO FAM
6. Area (is) (is not) platted. _____

PHOTO DATA
 Taken by _____



LOS ANGELES, CHICAGO, LOGAN, OH
 McCREGON, TX, UCCREST GROVE, GA
 U.S.A.

Standard
 No. 2153C
 HASTINGS, MN

rather be playing golf.

SHIRLEY:

Action letter only
Resol. to be released
pending lot split approval

23-82

11-1-83

LOT SPLIT
NEVER COMPLETED

H. E. Lyth

RESOLUTION NO. BZA 23-82

WHEREAS, Cherokee Enterprises, Inc., 105 North Market, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

The west 1/2 of lots 50 and 52 of Zimmerly's Third Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Topeka and Bayley (1302 South Topeka).

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, 1982, 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 was previously occupied by a two-family dwelling and this will not increase the density from the previous occupancy; 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 structure will be located in accordance with all setback regulations and provide the required off-street parking spaces; 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 permitted only a one-family dwelling unless the variance is granted to reduce the required lot area by approximately 6%; 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 property will be placed on the tax rolls as an improved property and should be an asset to the neighborhood; 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 reduction in lot area is minimal and should not impact the general area; 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.

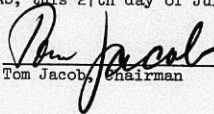
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property zoned the "RB" Four-family Dwelling District and legally described as:

The west 1/2 of lots 50 and 52 of Zimmerly's Third Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Topeka and Bayley (1302 South Topeka).

be approved subject to the following conditions:

1. The reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1982.


Tom Jacob, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

RESOLUTION NO. BZA 23-82

WHEREAS, Cherokee Enterprises, Inc., 105 North Market, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

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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, 1982, 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 was previously occupied by a two-family dwelling and this will not increase the density from the previous occupancy; 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 structure will be located in accordance with all setback regulations and provide the required off-street parking spaces; 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 permitted only a one-family dwelling unless the variance is granted to reduce the required lot area by approximately 6%; 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 property will be placed on the tax rolls as an improved property and should be an asset to the neighborhood; 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 reduction in lot area is minimal and should not impact the general area; 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 lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property zoned the "RB" Four-family Dwelling District and legally described as:

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ATTEST:



Glen E. Lytle, Assistant Secretary

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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, 1982, 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 was previously occupied by a two-family dwelling and this will not increase the density from the previous occupancy; 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 structure will be located in accordance with all setback regulations and provide the required off-street parking spaces; 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 permitted only a one-family dwelling unless the variance is granted to reduce the required lot area by approximately 6%; 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 property will be placed on the tax rolls as an improved property and should be an asset to the neighborhood; 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 reduction in lot area is minimal and should not impact the general area; 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.

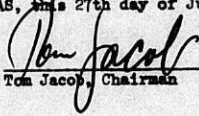
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be approved subject to the following conditions:

1. The reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1982.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

RESOLUTION NO. BEA 23-82

WHEREAS, Cherokee Enterprises, Inc., 105 North Market, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property soned the "RB" Four-family Dwelling District and legally described as follows:

The west 1/2 of lots 50 and 52 of Zimmerly's Third Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Topeka and Bayley (1302 South Topeka).

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, 1982, 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 was previously occupied by a two-family dwelling and this will not increase the density from the previous occupancy; 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 structure will be located in accordance with all setback regulations and provide the required off-street parking spaces; 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 permitted only a one-family dwelling unless the variance is granted to reduce the required lot area by approximately 6%; 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 property will be placed on the tax rolls as an improved property and should be an asset to the neighborhood; 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 reduction in lot area is minimal and should not impact the general area; 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.

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1. The reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1982.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

RESOLUTION NO. BZA 23-82

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WHEREAS, the Board of Zoning Appeals did, at the meeting of July 27, 1982, 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

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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 lot area per dwelling unit from 2,000 square feet to 1,875 square feet on property zoned the "RB" Four-family Dwelling District and legally described as:

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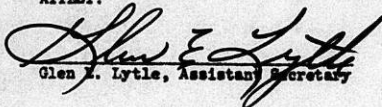
be approved subject to the following conditions:

1. The reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1982.


Tom Jacob, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

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

July 7, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 23-82

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 Cherokee Enterprises, Inc., 105 North Market, 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 lot area per dwelling unit from 2,000 square feet to 1,875 square feet per dwelling unit for the construction of a two-family dwelling on property zoned "RB" Four-family Dwelling District. A legal description of the applicant's property is as follows:

The west 1/2 of lots 50 and 52 of Zimmerly's Third Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Topeka and Bayley (1302 South Topeka).

This application has been assigned Case No. BZA 23-82. It will be considered by the Board of Zoning Appeals on July 27, 1982 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

Cherokee Enterprises, Inc.

Suite 816, 105 N. Market / Wichita, Kansas 67202
Telephone (316) 262-3594

June 28, 1982

Mr. Glen E. Lytle
Special Assistant for Zoning
Metropolitan Area Planning Dept.
City Hall-Tenth Floor
455 N. Main St.
Wichita, Ks. 67202

Re: BZA Case No. 23-82

Dear Sir:

Enclosed for your consideration is a copy of revised plot plan indicating two off-street parking spaces in back of the 20 foot setback adjacent to Topeka and the 6 foot side yard adjacent to Bayley.

Thank you for the advance notice of this requirement. If there are additional requirements, please let us know.

Sincerely,



Ronald D. Blades
President

RECEIVED

JUN 30 1982

METROPOLITAN PLANNING
ROUTE Lytle



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL - TENTH FLOOR
435 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

June 23, 1982

Mr. Ronald D. Blades
Cherokee Enterprises, Inc.
105 North Market
Wichita, Kansas 67202

Re: BZA Case No. 23-82

Dear Mr. Blades:

I am in receipt of an application for a variance of the required lot area per family from 2,000 square feet to 1,875 square feet in order to construct a two-family dwelling at the southeast corner of Topeka and Bayley on a 3,750 square foot property.

Included with the application was a copy of a site plan showing the location of the proposed structure. I am returning a copy of this site plan marked in red the area that is not permitted to be used for the required two off-street parking spaces. A new site plan should be prepared providing the two off-street parking spaces in back of the 20 foot setback adjacent to Topeka and the 6 foot side yard adjacent to Bayley.

Also in checking the records, I find that this property was deeded separately from the east half of the lots in 1978. Should the Board determine that the variance be granted it will also be necessary to replat the property or secure a lot split in conformance to the subdivision rules and regulations prior to the issuance of any building permit.

If you have any questions, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:sad

Encl.

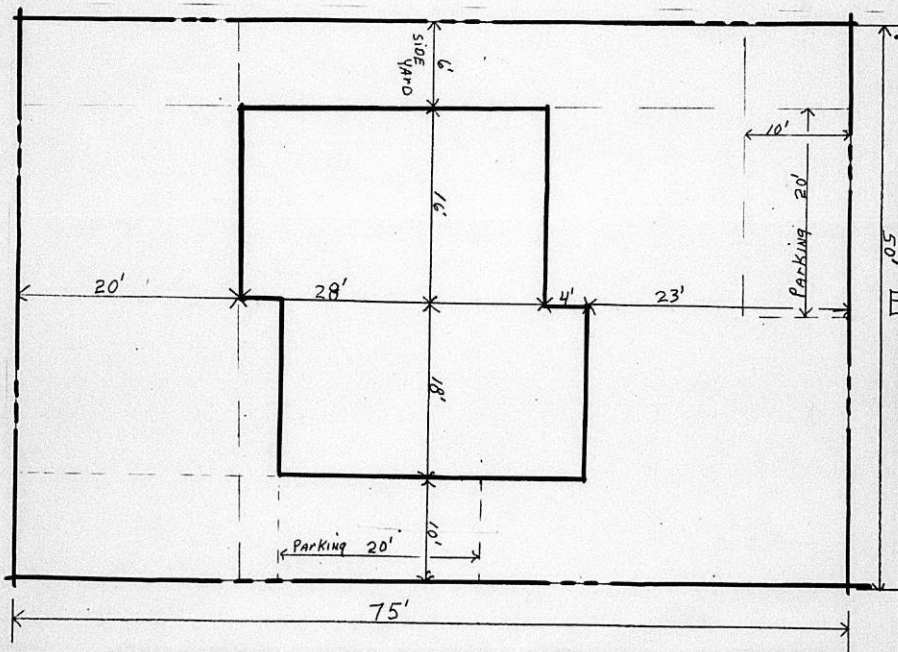
CC: Robert Feldner, Superintendent of Central Inspection

RESIDENTIAL PLOT PLAN

ADDRESS: 1302 So. Topeka

LOTS: W. 1/2 50&52 BLK. _____ OF Zimmerlys Third Addition

Bayley N



BZA 23-82

S

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
COMMISSION

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

August 19, 1982

Mr. Ronald D. Blades
2312 Glen Oaks Drive
Wichita, Kansas 67216

Re: Revised approval conditions for L/S-0549 - Request
for lot split approval of the west 1/2 of Lots 50
and 52, Zimmerly's Third Addition

Dear Mr. Blades:

As a result of the numerous meetings, we have had over the last week regarding my August 10th letter to you, I would like to provide you with the following revised approval conditions for your lot split:

- A. On revised lot split drawings, indicate a 10-foot building setback from Bayley and a 10-foot building setback from the required street dedication for Topeka.
- B. By separate instrument, dedicate the west 10 feet of this property for street purposes (proper form enclosed). Indicate this street dedication on revised lot split drawings with the note: "To be dedicated by separate instrument 90 days after the date of lot split approval." This unusual wording has been worked out by Glen Lyle with Central Inspection so you will not have to initiate a corrected Board of Zoning Appeals case as a result of reduced square footage caused by the required street dedication for Topeka. It is imperative, although, that you obtain all necessary permits for your planned duplex prior to the recording of the street dedication. Otherwise, a new BZA case will be required at your expense.
- C. Regarding the requirement to assure that 407 Bayley will continue to have water service (see item C of my 8-10-82 letter), Dick McClintock of Water Engineering has advised that a 5-foot private water line easement across your property to Topeka is acceptable. Please provide us a copy of this private easement. Revised lot split drawings shall indicate the easement and reference its recording data.

Mr. Ronald D. Bl... - Page 2
August 19, 1982

It is also required that you provide this office with a letter from the owner of 407 Bayley stating that satisfactory arrangements have been made with him for relocating his water line on your property.

- D. Submit a revised site development plan showing the 10-foot building setbacks, the Topeka Street dedication, the location of the planned duplex and required parking to Glen Lytle for your associated BZA file.

Once the above-outlined revised approval conditions have been met, we can approve this lot split request. Should you have any questions, please advise.

Sincerely,

Forrest L. Nagley
Junior Planner

FLN:bh

Enclosure

cc: Cherokee Enterprises, Inc., Attention: Bruce Cameron,
Suite 816, 105 N. Market, 67202
Baughman Company, P.A., 330 Laura, 67211
X BZA 23-82 file

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

August 10, 1982

Mr. Ronald D. Blades
2312 Glen Oaks Drive
Wichita, Kansas 67216

Re: L/S-0549 - Request for lot split approval of the west 1/2
of Lots 50 and 52, Zimmerly's Third Addition

Dear Mr. Blades:

We have completed our review of the above-referenced request for lot split approval and find that approval can be granted subject to the following conditions:

- A. Submit four copies of revised lot split drawings which indicate a 12-foot setback from Bayley and a 20-foot setback from Topeka.
- B. Dedicate by separate instrument the west 10 feet of these lots as additional street right-of-way for Topeka. This is required since Topeka is classified as an arterial street. Revised drawings should note that this additional right-of-way is being dedicated by separate instrument.
- C. The records in the Water Department indicate that the home addressed as 407 Bayley is connected to a water meter on Topeka which is located 35 feet south of your north property line. Given this information, it is necessary for you to have the private water line serving 407 Bayley precisely located in order to grant a 10-foot private easement to cover this existing line. This document needs to be drafted and submitted for our review and approval. After our approval, the document will have to be recorded so the easement and recording data can be shown on revised lot split drawings. An option to granting a private easement to cover the existing line would be to extend public water in Bayley to serve the subject home.

Once revised drawings have been submitted, the additional street right-of-way dedicated and arrangements made for 407 Bayley to continue to have water service, we can approve this lot split request. Should you have any questions, please call me at 268-4421.

Sincerely,

Forrest L. Nagley
Forrest L. Nagley
Junior Planner

Mr. Ronald D. Blades
August 10, 1982
Page 2

FLN:bh

cc: Cherokee Enterprises, Inc., Attention: Bruce Cameron, 105
N. Market, 67202
Baughman Co., P.A., 330 Laura, 67211
Mike Lindebak/Larry Henry, City Engineering
Dick McClintock, Water Engineering

July 28, 1982

Ronald D. Blades
Cherokee Enterprises, Inc.
105 North Market
Wichita, Ks.

Re: Case No. BEA 23-82
Request for Variance

Dear Mr. Blades:

At the regular meeting of the Board of Zoning Appeals on July 27, 1982 your request for a variance was considered.

It was the action of the Board to approve your request subject to the following conditions:

1. The reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as condition number three has been complied with.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:rsd

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

THE CITY OF WICHITA

OFFICE OF

CITIZEN PARTICIPATION

DATE July 22, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 23-82 Southeast corner
of Topeka and Bayley (1302
South Topeka)

CPO Council "E" considered the captioned case at their July 21st meeting and voted 5-0 to recommend approval of the variance to reduce the required lot area per dwelling unit from 2,000 square feet to 1,875 square feet per dwelling unit for the construction of a two-family dwelling on property zoned the "RB" Four-Family Dwelling District.

Bruce Cameron, representative for Cherokee Enterprises, was present and spoke in support of the variance. No one was present to speak in opposition.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their July 27th meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

Sarah Gilbert
Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT
CASE NO. BZA 23-82

APPLICANT: Cherokee Enterprises, Inc., 105 North Market,
Wichita, Kansas

AGENT: Ronald D. Blades, Cherokee Enterprises, Inc.,
105 North Market, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the required
lot area per dwelling unit from 2,000 square
feet to 1,875 square feet per dwelling unit.

GENERAL LOCATION: On the southeast corner of Topeka and Bayley.

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

LAND USE: Subject property is vacant. Properties to the
north, east and south are residential. Property
to the west is a small City Park.

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 and 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 of the required lot area in order to construct a two-family dwelling on a small property that is 50' by 75'. The request is for a reduction from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.

It should be noted that this is for a parcel of ground that formerly was the site of a two-family dwelling. The entire property was under one ownership until 1978 when the east and west half of the properties were deeded separately. The structure formerly on the application area was removed because of the deteriorated condition.

Under the zoning ordinance limitations, a one-family dwelling could be constructed without any variance being granted. It would, however, require a lot split approval since the property has been subdivided since January 1, 1948, for either a one or two-family dwelling. It would appear that as an in-fill property, the structure can be located in accordance with all setbacks as required by the zoning ordinance, including the required off-street parking.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property was previously occupied by a two-family dwelling and this will not increase the density from the previous occupancy.

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 structure will be located in accordance with all setback regulations and provide the required off-street parking spaces.

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 permitted only a one-family dwelling unless the variance is granted to reduce the required lot area by approximately 6%.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the property will be placed on the tax rolls as an improved property and should be an asset to the neighborhood.

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 reduction in lot area is minimal and should not impact the general area.

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 reduction of lot area shall be from 2,000 square feet per dwelling unit to 1,875 square feet per dwelling unit.
2. The applicant shall provide surfaced off-street parking in accordance with the site plan submitted on June 28, 1982.
3. The resolution effectuating the variance shall not be released until a lot split approval has been obtained.

BZA CASE NO. 23-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

21 NOTICES SENT TO ADJOINING PROPERTY OWNERS

33 TOTAL NOTICES SENT 7-7-82

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

July 7, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. EZA 23-82

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 Cherokee Enterprises, Inc., 105 North Market, 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 lot area per dwelling unit from 2,000 square feet to 1,875 square feet per dwelling unit for the construction of a two-family dwelling on property zoned "RB" Four-family Dwelling District. A legal description of the applicant's property is as follows:

The west 1/2 of lots 50 and 52 of Zimmerly's Third Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Topeka and Bayley (1302 South Topeka).

This application has been assigned Case No. EZA 23-82. It will be considered by the Board of Zoning Appeals on July 27, 1982 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

June 23, 1982

Mr. Ronald D. Blades
Cherokee Enterprises, Inc.
105 North Market
Wichita, Kansas 67202

Re: BZA Case No. 23-82

Dear Mr. Blades:

I am in receipt of an application for a variance of the required lot area per family from 2,000 square feet to 1,875 square feet in order to construct a two-family dwelling at the southeast corner of Topeka and Bayley on a 3,750 square foot property.

Included with the application was a copy of a site plan showing the location of the proposed structure. I am returning a copy of this site plan marked in red the area that is not permitted to be used for the required two off-street parking spaces. A new site plan should be prepared providing the two off-street parking spaces in back of the 20 foot setback adjacent to Topeka and the 6 foot side yard adjacent to Bayley.

Also in checking the records, I find that this property was deeded separately from the east half of the lots in 1978. Should the Board determine that the variance be granted it will also be necessary to replat the property or secure a lot split in conformance to the subdivision rules and regulations prior to the issuance of any building permit.

If you have any questions, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:sad
Encl.

CC: Robert Feldner, Superintendent of Central Inspection

BOARD OF ZONING APPEALS

CASE NO. 23-82

CITY OF WICHITA, KANSAS

FILED 6-23-82

APPLICATION FOR VARIANCE

I. Name of Applicant CHEROKEE ENTERPRISES, INC.

Mailing Address 105 North Market, Wichita Phone 262-3594

Name of Authorized Agent Ronald D. Blades

Mailing Address 105 North Market, Wichita Phone 262-3594

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

II. The variance requested is To reduce the required lot area per dwelling
to permit construction of a duplex

building containing approximately 1904 square feet of space
unit from 2,000 square feet to 1,875 square feet per dwelling
unit for the construction of a two-family dwelling.

for property located at (1302 South Topeka) Wichita, Kansas
on the southeast corner of Topeka and Bayly

and legally described as: the west 1/2 of lots 50 and 52 of
Zimmerley's Third Addition to Wichita, Sedgwick Co., 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 CHEROKEE ENTERPRISES, INC.

Authorized Agent Ronald D. Blades

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:30 (a.m.), June 23, 1982, together with appropriate fee of 75.00

Signed G. Lynn Shockey

VARIANCES

The Board may authorize in specific cases a variance from the specific terms of Title 28 which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of Title 28 will, in an individual case, result in unnecessary hardship, and provided that the spirit of Title 28 shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by Title 28 (zoning ordinance) in such zoning district. A request for a variance may be granted upon a finding by the Board that all of the following conditions as set forth in Section 2.12.590.B have been met:

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).
- CHEROKEE ENTERPRISES REQUEST FOR VARIANCE ON west ½ of lots 50 & 52 Zimmerly's 3rd. addition.

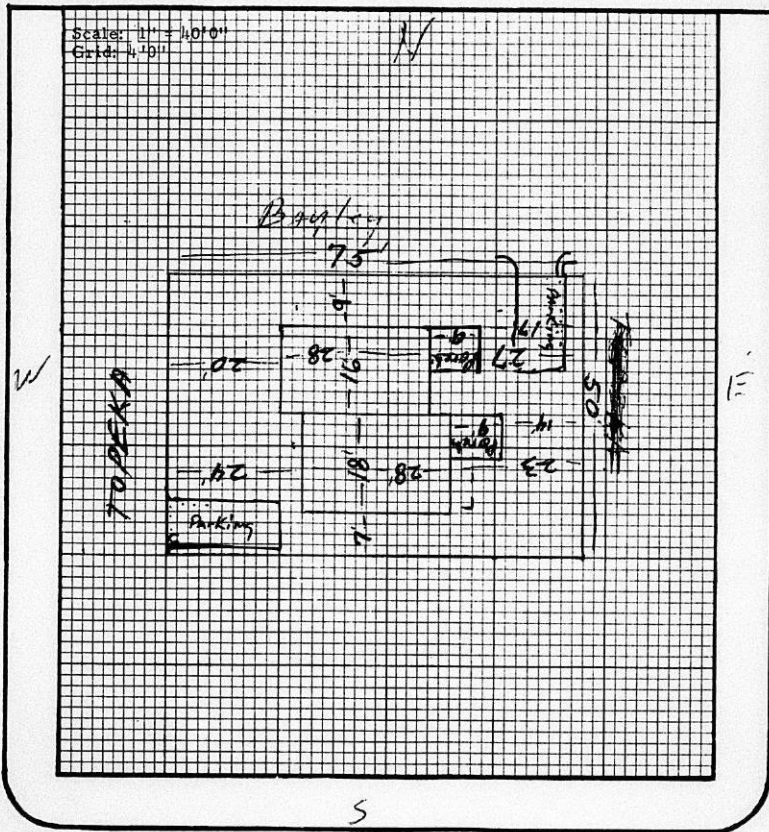
EXPLANATION

- Item #1: The area is 3,500 square feet which is 250 square feet less than the minimum required under its present "RB" zoning, chapter 28.04.60 of Title 28. The area would permit a single family residence of 1,900 square feet which is the total size of the duplex planned for this location.
- Item #2. The requested variance has no adverse effect on any of the rights of the owners of adjacent lots.
- Item #3. In our opinion, the highest and best use of the subject lot is low-cost multi-family occupancy. The lot is within the "Program Area" as designated under the recent City Bond Issue. A single-family dwelling unit would produce substantially lower rental income, and therefore, work an unnecessary hardship on the owner.
- Item #4
and #5 The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and it is in keeping with the spirit and intent of Title 28.

RESIDENTIAL PLOT PLAN

ADDRESS: 1302 S Topoka PERMIT NO. _____

W 1/2 LOT(S): 50+52 BLK. _____ OF Zimmerly's third AddZoning



I certify that the above plat complies with applicable zoning setbacks and subdivision covenants and restrictions.

Signed: Stuart B. Hill
(Applicant)

White Copy - File Yellow Copy - Applicant Pink Copy - Hold

Form No. KA-345 (2/76)

1978 Split

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRENT WOOTEN, P.E.



BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
316 262-7271 • 330 LAURA • WICHITA, KANSAS 67211

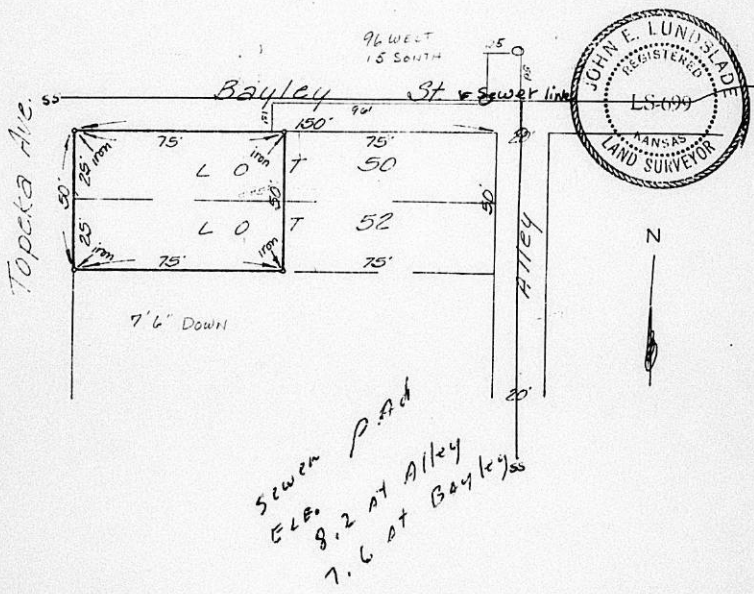
State of Kansas)
) SS
County of Sedgwick)

May 14, 1982

We, Baughman Company, P.A., Surveyors in afore-
said county and state do hereby certify that we did on this 14th day
of May, 1982, survey the W $\frac{1}{2}$ of Lots 50 and 52 on Topeka, Zimmerlys
Third Addition to the City of Wichita, Kansas.

The accompanying plat is a true and correct ex-
hibit of said survey.

John E. Lundblade
Surveyor



32A 23-82

OWNERSHIP LIST

<u>Lot</u>	<u>Street</u>	<u>Addition</u>	<u>Property Owner</u>
20	-	Lincoln Park Addition	Irwin L. Root & Pauline Root (Deceased) ; Address Unknown
22	-	"	Stephen Allen Webb, 550 Nims, 67203
24	-	"	Bill Gilstrap & Lena Faye Gilstrap ; Address Unknown 1203 S. Street
38	Topeka	Zimmerly's 2nd Addition	Julio Villa Jr. & Judy Ann Villa, 1240 S. Topeka, 67211
40, 42, 44 & the north 1/2 of 46	Topeka	"	Kenneth C. Waddle & Dorothy M. Waddle ; Address Unknown
South 1/2 of 46 & all of 48	Topeka	"	Joseph P. Olden & Marilyn A. Olden, 12540 E. Mt. Vernon, 67207
37	Emporia	"	A. B. Kenyon & Inez S. Kenyon (Deceased) ; 3908 Edgemont Place, 67208
39 & 41	Emporia	"	Anna L. Lytle, 1243 S. Emporia, 67211
43, 45, & 47	Emporia	"	Harry H. Pilkington & Anna Pilkington, 1245 S. Emporia, 67211
<i>Plot</i> (176-98) West 1/2 of 50 & 52	Topeka	Zimmerly's 3rd Addition	<i>D</i> Cherokee Enterprises Inc., Suite 816, 105 N. Market, 67202
East 1/2 of 50 & 52	Topeka	"	Delney, Inc., 2534 Benjamin Dr., 67204
54 & 56	Topeka	"	Glenn E. Holmes & Carolyn M. Holmes, 320 Seville, 67209 AND Kenneth R. Holmes & Bonnie J. Holmes, 2246 Columbine, 67204
58 & 60	Topeka	"	Nicolasa Jiminez, 1310 S. Topeka, 67211
62 & 64	Topeka	"	Paul M. Kennedy & Neola G. Kennedy, 1316 S. Topeka, 67211

<u>Lot</u>	<u>Street</u>	<u>Addition</u>	<u>Property Owner</u>
66 & 68	Topeka	Zimmerly's 3rd Addition	✓ Harry Lee Shuler, <u>Address Unknown</u> <i>418 Dover St. Valleycenter, KS.</i>
49 & 51	Emporia	"	✓ Santiago A. Conchola & Hallie Conchola, 1301 S. Emporia, 67211
53, 55, & 57	Emporia	"	✓ Glenn Sutton, 1307 S. Emporia, 67211
59 & 61	Emporia	"	✓ Glenn W. Mishler & Natalie Mishler, 1311 S. Emporia, 67211
63 & 65	Emporia	"	Elmer B. Hobson, 1400 S. Topeka, 67211 <i>Returned</i> AND ✓ Herbert W. Hobson, 2314 N. Richmond, 67204 AND ✓ Agnes L. Davenport, <u>Address Unknown</u> AND ✓ Evelyn L. Drake, 1315 S. Emporia, 67211
67	Emporia	"	✓ Woodrow L. Rush & Lucy A. Rush, 1317 S. Emporia, 67211

Tract

Tract in the SW $\frac{1}{4}$ of 28-27-1E beg. at the intersection of the south line of Bayley Street and the east line of Broadway Avenue; then south along said east line of Broadway to the north line of Klein's Addition; then east along said north line of Klein's Addition to the west line of Topeka Ave.; then north along said west line of Topeka to the south line of Bayley Street; then west along said south line of Bayley to the pt. of beg., said tract known as Lincoln Park

Property Owner

✓ City of Wichita, 455 N. Main, 67202

page 3

We hereby certify the foregoing to be a true and correct list of the property owners within a 200 foot radius of

The West Half of Lots 50 and 52, on Topeka Avenue, in Zimmerly's Third Addition to the City of Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas on the 21st day of June, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Kalle
Vice President

Order No. 310273
GE

WICHITA - SEDGWICK COUNTY

W SC

BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

FORWARDING
ORDER EXPIRED
RETURN TO SENDER

*BZA
23-82
11172*

WICHITA, KS
1982
JUL 13
PM

HOB 00 121227N1 07/12/82
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

Elmer B. Hobson
1400 South Topeka
Wichita, Ks. 67211

WICHITA, KANS. JUL 7 1982
U.S. POSTAGE
20
ED. 3-1926

RECEIVED

JUL 26 1982

WICHITA - SEDGWICK COUNTY

W SC

BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

METROPOLITAN PLANNING
ROUTE _____

BZA 23-82

Bill & Lena F. Gilstrap
1503 South Battin
Wichita, Ks.

WICHITA, KS
PM
19 JUL
1982

U.S. POSTAGE
20
ED. 3-1926

*1810
7-22-82
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FOR
ORD
RET

1810

