

Case No. EZA 25-81 - Steven L. McMillan requests a variance to reduce the required side yard from 6' to 3' on property zoned "A" Two-family Dwelling District and generally located on the west side of Pearce between 10th

*POSTED  
7-9-81*

**ACTION**

DATE 1-22-81

*621 A  
621 B*

COMMITTEE APPROVED

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

*75/81  
12/10/81  
12/12/81  
12/16/81  
Checked by  
S. Street  
Recorded 2/19/81*

*508D*



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

JULY 8, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. EZA 25-81

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 Steven L. McMillan, 1121 Pearce, 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 from 6' to 3' adjacent to the south property line on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 1028 and 1030 on Pearce in Greiffenstein's  
Thirteenth Addition to Wichita, Sedgwick County,  
Kansas. Generally located on the west side of  
Pearce between 10th Street and 11th Street.

This application has been assigned Case No. EZA 25-81. It will be considered by the Board of Zoning Appeals on July 28, 1981, 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

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Tenth Floor - City Hall  
455 North Main, Wichita, Kansas 67202

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Jack H. Galbraith  
Secretary

July 30, 1981

Steven L. McMillan  
1121 Pearce  
Wichita, Kansas 67203

Re: Case No. BZA 25-81  
Request for Variance

Dear Mr. McMillan:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 28, 1981.

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

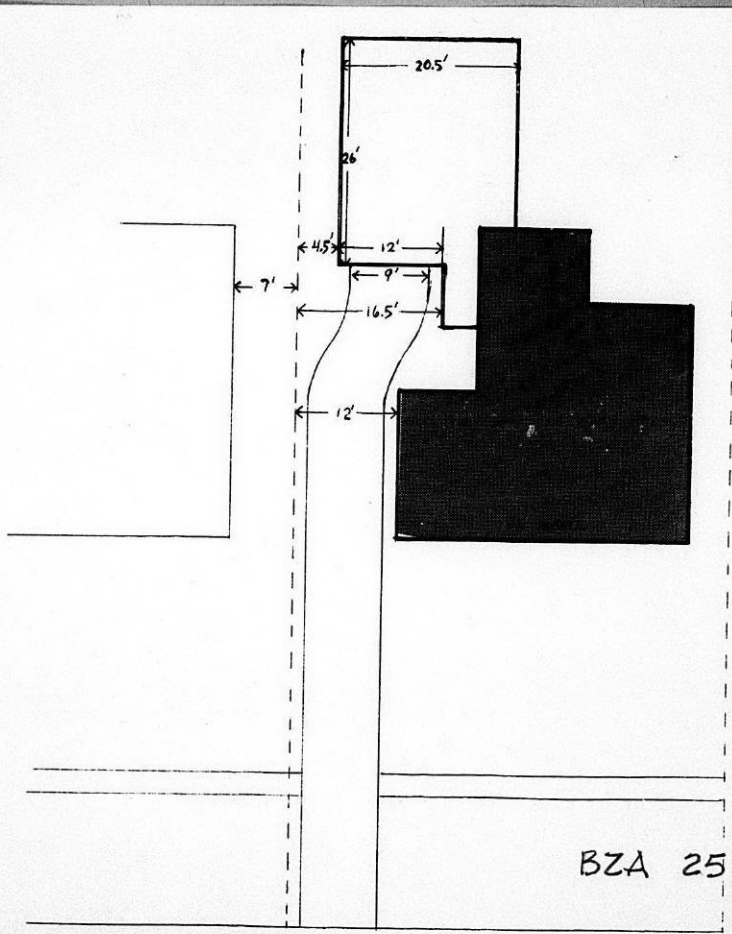
If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Enclosure

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



BZA 25-81

RESOLUTION NO. BZA 25-81

WHEREAS, Steven L. McMillan, 1121 Pearce, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the side yard setback adjacent to the south property line from 6' to 3' on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lots 1028 & 1030 on Pearce in Greiffenstein's Thirteenth Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Pearce between 10th Street and 11th Street.

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 28, 1981, 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 general area is developed on small lots and the location of the garage is dictated by the existing driveway; 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 adequate separation between structures will be maintained to provide adequate light and air; 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 garage would eliminate a larger portion of the back yard if it were not attached; 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 variance is between two properties and does not affect any easements or public right-of-way; 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 separation between the two structures on adjacent properties will be less than 1 foot short of the desired minimum; 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.

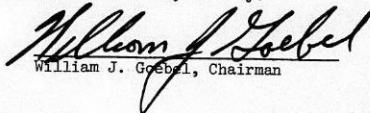
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the side yard setback adjacent to the south property line from 6' to 4- $\frac{1}{2}$ ' on property zoned the "A" Two-family Dwelling District and legally described as:

Lots 1028 & 1030 on Pearce in Greiffenstein's Thirteenth Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Pearce between 10th Street and 11th Street.

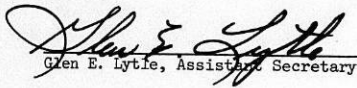
be approved subject to the following condition:

1. The reduction of the required side yard from 6' to 4- $\frac{1}{2}$ ' shall only be for the area as shown by the applicant's site plan for a one car garage adjacent to the south property line.

ADOPTED AT WICHITA, KANSAS, this 28th day of July.

  
William J. Gosbel, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

July 29, 1981

Steven L. McMillan  
1121 Pearce  
Wichita, Kansas 67203

Re: Case No. EEA 25-81  
Request for Variance

Dear Mr. McMillan:

At the regular meeting of the Board of Zoning Appeals on July 28, 1981, your request for a variance was considered.

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

1. The reduction of the required side yard from 6' to only be for the area as shown by the applicant's site plan for a one car garage adjacent to the south property line.

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.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary

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

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE July 22, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Stan Scott, Administrative Aide III

SUBJECT BZA 25-81: West Side of Pearce  
between 10th and 11th Streets  
(1121 Pearce)

On Monday, July 21st, CPO Neighborhood Council "L" considered the captioned case, a request for a variance to reduce the side yard from 6' to 3' adjacent to the south property line on property zoned "AA", Two-Family Dwelling District. Council "L" voted 8-0 to recommend approval of the requested variance subject to staff comments.

The applicant, Steve McMillan, 1121 Pearce, was present to describe plans for an attached garage at his home and respond to questions from the Council. Mr. McMillan indicated that his neighbors were not opposed to the variance. No area residents or property owners attended the meeting.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 25-81 is considered on July 28th.

  
Stan Scott  
Administrative Aide III

SS:dm

Noted:

  
Sarah Gilbert  
CP Coordinator

**RECEIVED**  
JUL 23 1981  
METROPOLITAN PLANNING  
ROUTE  1470

SECRETARY'S REPORT  
CASE NO. BZA 25-61

APPLICANT: Steven L. McMillan, 1121 Pearce, Wichita,  
Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code  
of the City of Wichita, to reduce the required  
side yard setback from 6 feet to 3 feet adjacent  
to the south property line

GENERAL LOCATION: On the west side of Pearce between 10th and  
11th Streets.

ZONING: Subject property is zoned "A" Two-family as are  
all adjacent properties.

LAND USE: Subject property is occupied by a One-family  
Dwelling as are all adjacent properties.

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 side yard from 6 feet to 3 feet adjacent to the south property line so that a single car attached garage may be constructed. Also the applicant wishes to enclose the stairwell to the basement. At the present time the property has a detached garage in the rear yard.

The location of the proposed garage as shown by the applicant's drawing will leave a distance of 10-1/2 feet between the garage and the house on the adjacent property to the south. This should provide adequate light and air to both properties to comply with the intent of the regulations.

UNIQUENESS:

It is the opinion of the Secretary that if this property is somewhat unique it would be due to the fact that the general area was developed on small lots and the location of the garage is dictated by the existing driveway location at the south of the house.

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 adequate separation between the properties will be maintained to provide adequate light and air.

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 garage would have to eliminate a larger portion of the back yard if it were not attached.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the variance will occur between two properties and will not affect any easements or public right-of-way.

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 separation between the two structures on adjacent properties will be less than 1 foot short of the minimum requirement.

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. The reduction of the required side yard from 6 feet to 3 feet shall only be for the area as shown by the applicant's site plan for a one car garage adjacent to the south property line.

BOARD OF ZONING APPEALS  
Tenth Floor - City Hall  
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JULY 8, 1981

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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

BZA CASE NO. 25-81

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

20 NOTICES SENT TO ADJOINING PROPERTY OWNERS

32 TOTAL NOTICES SENT 7-8-81

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 25-81  
FILED 6-26-81

APPLICATION FOR VARIANCE

- I. Name of Applicant Steven L. McMillan  
Mailing Address 1121 Pearce, Wichita, Ks. 67203 Phone 267-3027  
Name of Authorized Agent N/A  
Mailing Address N/A Phone \_\_\_\_\_  
Relationship of applicant to property is that of \_\_\_\_\_  
(Owner, Tenant, Lessee, Other)
- II. The variance requested is to reduce the required side ~~10~~ yard  
from 6 feet to 3 feet

for property located on the west side of Pearce between 10th  
street and 11th street. (1121 Pearce, Wichita, Kansas 67203)  
and legally described as: Lots 1028 and 1030 on Pearce in  
Greiffenstein's Thirteenth Addition to Wichita,  
Sedg Co. Ks

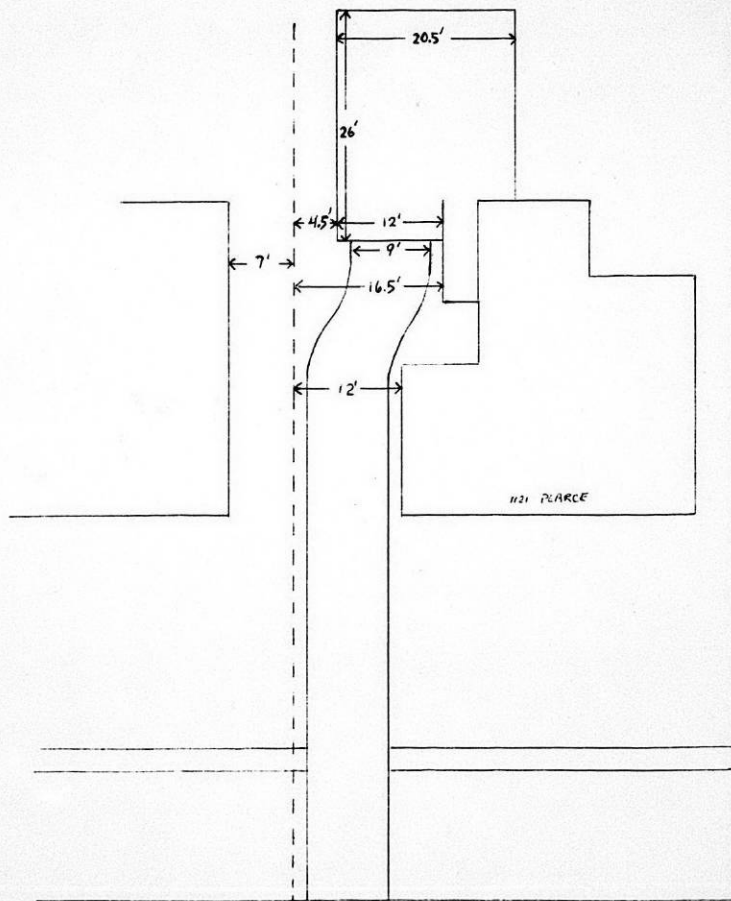
in the City of Wichita; and which is presently zoned "A".

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
  - 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;
  - 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.
  - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Steven L. McMillan  
Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:00 (~~noon~~-p.m.), June 26, 1981, together with appropriate fee of 75.00.

Signed S. Lytle



Steven L. McMillan  
1121 Pearce  
Wichita, Kansas 67209

June 25, 1981

Board of Zoning Appeals  
City of Wichita  
Wichita, Kansas

To Whom It May Concern:

A variance is requested to reduce the required side yard from 6 feet to 3 feet, in order that a single car attached garage can be added to the property of 1121 Pearce. The addition would not be possible with the 6 foot side yard requirement.

While a detached garage could be added in the back yard, I would prefer not to reduce the amount of yardage I have. I have a redwood deck, which overlooks the back yard, and I would rather the view be of a landscaped lawn, than of a detached garage.

Also, the attachment of the garage will allow for the enclosure of my basement stairwell, which is now open to the elements. Not only will the problem of rotting organic debris collecting in the stairwell be eliminated, but my basement workshop will be made more secure against ill-intentioned individuals. An attached garage will be better utilized and more functional than a detached garage.

*Steven L. McMillan*

OWNERSHIP LIST

<u>Lot</u>	<u>Street</u>	<u>Addition</u>	<u>Property Owner</u>
1013, 1015, 1017, & 1019	Pearce	Greiffenstein's 13th Addition	✓ Ronald L. Doty, 1104 Pearce, 67203
1021 & 1023	Pearce	"	✓ Robert Lee Johnson & Doris Lou Johnson, 1112 Pearce, 67203
1025, 1027, & the north 5 ft. of 1029	Pearce	"	✓ Matthew W. Totten & Karen J. Totten, 1116 Pearce, 67203
North 20 ft. of 1029, & all of 1031	Pearce	"	✓ Robert E. Steward & Faith C. Steward, 1124 Pearce, 67203
1033 & 1035	Pearce	"	<del>Michael D. Kirsch, Address Unknown</del>
1037 & 1039	Pearce	"	<del>Harry L. McKean &amp; Josephine M. McKean, Address Unknown</del>
1041 & the south 17 ft. of 1043	Pearce	"	✓ C.G. Heckman & Martye H. Heckman, 1138 Pearce, 67203
North 8 ft. of 1043, & all of 1045	Pearce	"	Loretta C. Shepard (Deceased)
1014	Pearce	"	<i>Back slip</i> ✓ City of Wichita, 455 N. Main, 67202
1016 & 1018	Pearce	"	✓ Joseph E. Angulo & Betty Angulo, 1103 Pearce, 67203
1020 & 1022	Pearce	"	✓ Linsey R. LeDou, 1115 Pearce, 67203
1024 & 1026	Pearce	"	✓ Janice Rombeck a/k/a Janice K. Rombeck, 1119 Pearce, 67203
1028 & 1030	Pearce	"	<i>Dub</i> ✓ Steven Leon McMillan, 1121 Pearce, 67203
1032, 1034 & 1036	Pearce	"	✓ Luther L. Cluck & Flora M. Cluck, 1123 Pearce, 67203
1038 & 1040	Pearce	"	✓ Lorrie M. LaBave, 1131 Pearce, 67203

page 2

<u>Lot</u>	<u>Street</u>	<u>Addition</u>	<u>Property Owner</u>
1042 & 1044	Pearce	Greiffenstein's 13th Addition	✓ Perry John Wood & Linda Sue Wood, 1133 Pearce, 67203
1046	Pearce	"	✓ Lewis A. Johnson & Bonnie L. Johnson, 2945 Bonn, 67217
1013	Forest	"	<i>sup.</i> ✓ City of Wichita, 455 N. Main, 67202
1015 & 1017	Forest	"	✓ Arthur D. Beckel & Dorothy M. Beckel, 1100 Forest, 67203
1019 & 1021	Forest	"	✓ James W. May & Cheryl F. May, 1110 Forest, 67203
1023 & 1025	Forest	"	✓ Jack D. Wilson & Evelyn M. Wilson, 1114 Forest, 67203
1027 & 1029	Forest	"	✓ Richard C. Swope & Mildred Ann Swope, 1120 Forest, 67203
1031 & 1033	Forest	"	✓ J.D. Cravens & Sylvia B. Cravens, 1124 Forest, 67203
1035 & 1037	Forest	"	✓ Wilda R. Connor, 1130 Forest, 67203
1039, 1041, 1043 & 1045	Forest	"	✓ Nicholas J. Mork & Marilyn F. Mork, 1144 Forest, 67203

page 3

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

Lots 1028 and 1030 on Pearce,-Greiffenstein's  
Thirteenth 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 23rd day of June, 1981, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Gable*

Vice-President

Order No. 299748  
GE

