

BZA 32-67 - Etheline Frances Hender-  
shot requests Variance for reduction  
of N and S sideyard setbacks to 3' on  
the west side of Main in an area bet.  
Funston and Skinner

*POSTED*  
*10-10-67*  
*H*

**ACTION**

*By a* COMMITTEE *Approved* *10-24-67*

CASE

M.A.P.C.

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

5445

November 14, 1967

Mrs. Etheline Frances Hendershot  
1839 South Main  
Wichita, Kansas

Dear Mrs. Hendershot:

Re: BZA 32-67 - Request for Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 24, 1967, in connection with your request for a variance on the north and south side yard setbacks on property zoned "A" Two-Family Residential and generally located on the west side of Main Street in an area between Funston and Skinner.

This Resolution reflects the official action of the Board and indicates the conditions to approval of your application. It is forwarded to you for your files.

If you have any question concerning this matter, please call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

R E S O L U T I O N N O . B Z A 3 2 - 6 7

WHEREAS, Etheline Frances Hendershot, 1839 South Main, Wichita, Kansas, requests a variance as provided in Section 2.12.590.2, Code of the City of Wichita, to reduce the side yard setback on the north side from 6 feet to 3 feet, and to reduce the side yard setback on the south side from 6 feet to 3 feet, on property zoned "A" Two-Family Residential and legally described as follows:

Lots 130 and 132 on Main Street, in Walter & Wrights Addition, Wichita, Sedgwick County, Kansas; (generally located on the west side of Main Street in an area between Funston and Skinner) and

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 consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals has jurisdiction to consider said request for variances under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "A" Two-Family Residential; and

WHEREAS, the Board of Zoning Appeals has found that the variance of the north side yard setback arises from such conditions which are unique to the property in question inasmuch as the existing house is located in an older part of town in which setback violations are not uncommon due to construction of the buildings prior to existing setback requirements and, further, that the variance of the south side yard setback arises from such condition which is unique to the property in question inasmuch as the variance request is only for the open and unenclosed carport, and in no event will any other structure or addition be allowed to be constructed in the setback area; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variances requested will not adversely affect the rights of adjacent property owners or residents inasmuch as the carport is unenclosed and would not prohibit sufficient amounts of light and air reaching the property to the south and, further, that the main structure is and has been for many years in violation of the setback on the north; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variances are requested, will constitute unnecessary hardship inasmuch as the main structure has been in its present location for a great number of years and the carport on the south side of the house is already constructed; and

WHEREAS, the Board of Zoning Appeals found the variances desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and


WHEREAS, the Board of Zoning Appeals found that the granting of the variances, as approved, will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance); and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance can be granted, has been found to exist;

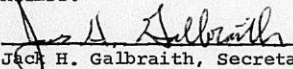
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for a variance of the north and south side yard setbacks from 6 feet as required in the Zoning Ordinance to 3 feet, to make conforming the existing dwelling and to allow for construction of a patio along the north side if the applicant so desires; and to allow the 14-foot by 20-foot carport to remain in its present location along the south side of subject property, but in no event shall it be so construed that this variance is granted to allow an enclosed garage to be constructed along the south side, or shall it be so construed as to permit any other addition to the house which would project into the side yard setback of 6 feet, all as related to property zoned "A" Two-Family Residential and legally described as follows:

Lots 130 and 132 on Main Street, in Water & Wrights Addition, Wichita, Sedgwick County, Kansas (generally located on the west side of Main Street in an area between Funston and Skinner).

ADOPTED AT WICHITA, KANSAS, this 24th day of October, 1967.

  
\_\_\_\_\_  
Harold Bauer, Vice Chairman

ATTEST:

  
\_\_\_\_\_  
Jack H. Galbraith, Secretary

October 25, 1967

Mrs. Etheline Frances Hendershot  
1839 South Main  
Wichita, Kansas

Dear Mrs. Hendershot:

Re: BZA 32-67 - Request for Variance

At the regular meeting of the Board of Zoning Appeals on October 24, 1967, your request for a variance of the north and south side yard setbacks from the required 6 feet to 3 feet, on property zoned "A" Two Family Residential, and generally located on the west side of Main Street in an area between Funston and Skinner, was considered.

It was the action of the Board to approve your request and to grant a reduction of the north side yard setback from the required 6 feet to 3 feet, to make conforming the existing dwelling and to allow for construction of a patio along the north side if you so desire; and to further approve a reduction of the south side yard setback from the required 6 feet to 3 feet to allow the 14-foot by 20-foot carport to remain in its present location, but in no event shall it be so construed that this variance is granted to allow an enclosed garage to be constructed along the south side, or shall it be so construed as to permit any other addition to the house which would project into the side yard setback of 6 feet.

A Resolution will be prepared setting forth the official action of the Board and a copy will be forwarded to you soon. If you have any questions, please call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 22-67

APPLICANT: Etheline Frances Hendershot, 1839 South Main, Wichita

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to reduce the north and south side yard setbacks from 6 feet to 3 feet

GENERAL LOCATION: West side of Main Street in an area between Funston and Skinner

ZONING: Subject property is zoned "A" Two Family Residential, as is that to the north, south, east and west

LAND USE: Subject property and adjacent properties are developed as single-family

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

COMMENTS BY THE SECRETARY

The applicant is requesting a variance of the required side yard setback from 6 feet to 3 feet on both the north and south sides of subject property. The main structure, which violates the

side yard setback requirement on the north, is in an older part of town and was constructed prior to the 6-foot side yard requirement. An unenclosed carport which was recently constructed to provide shelter for the applicant's automobile, violates the setback on the south. A detached garage presently exists on subject property but the applicant has pointed out that it is in extremely bad condition and too small to provide adequate protection for her automobile.

It should be pointed out that the carport was constructed prior to the applicant's unlicensed contractor applying for a building permit.

#### UNIQUENESS

It is the opinion of the Secretary that this is somewhat of a unique situation as applied to the request for the variance on the north inasmuch as the existing house is located in an older part of town in which setback violations are not uncommon due to construction of the buildings prior to existing setback requirements. However, it is also the opinion of the Secretary that if the applicant or her contractor had contacted the Central Inspection Office prior to construction of the carport, they would have been advised that a carport 14 feet in width would violate the side yard setback requirement on the south but a carport 11 feet in width could be constructed without violation.

#### ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variances would not have a particularly adverse effect on the adjacent property owners or residents inasmuch as the carport is unenclosed and would not prohibit sufficient amounts of light and air reaching the property to the south and, further, that the main structure is and has been for many years in violation of the setback on the north.

#### HARDSHIP

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variances were not granted inasmuch as the main structure has been in its present location for a great number of years and the carport is already constructed; however, this hardship has been created by the applicant and contractor themselves. However, it would be the opinion of the Secretary that the existing garage on the rear of this property could be remodeled or a new garage constructed which would provide protection for the applicant's automobile.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of both variances would not adversely affect the public interest.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance of the setback on the north would not be opposed to the spirit and intent of Title 28. It is the Secretary's further opinion that granting of the variance of the setback on the south would be opposed to the spirit and intent of Title 28 inasmuch as it would permit the applicant to develop her property to a greater extent than others in the same zoning district or classification.

RECOMMENDATION

Based on the foregoing comments, it is the opinion of the Secretary that it is very doubtful if sufficient justification for uniqueness can be found as applied to the request for the variance on the south. Therefore, it is recommended that the variance on the north be approved and the variance on the south be denied.

If it is the desire of the Board to approve the variance request on the south, it is recommended that it be subject to the following conditions:

1. The variance is hereby granted from 6 feet down to 3 feet to allow the carport to remain in its present location.
2. This variance is granted to allow the 14-foot by 20-foot carport to remain in its present location along the south side of the house located at 1839 South Main, and in no event shall it be so construed that this variance is granted to allow an enclosed garage to be constructed along the south side of the house, or shall it be so construed as to permit any other addition to the house which would project into the side yard setback of 6 feet.

Oct 11-67

Bga 32-67

To the City of Wichita  
Board of Zoning Appeals

To Jack H. Galbraith  
Secretary

Will you please check your records again  
Very Carefully.

I have been married to William Lawrence Shields 31 years & he has never been associated with this Hester E. Shields I'll assure you - as I am the only woman he has been married to & my name is Leona Bernice Shields and we don't own no property on Main Street nor near or between Funston & Skinner - never have. We own this property at 336 N. Millwood only, here in Wichita Kansas. So will you please be more careful next time as there is another Wm L Shields up on Main But we are not the one -

Mr + Mrs William Lawrence Shields  
336 N. Millwood  
Wichita Kansas  
67203



I do not find that the variance requested arises any condition that would be unique to the property in question.

The granting of the permit for the variance will not affect the rights of adjacent property owners or residents. My intent was not against the provisions of Title 28. To my knowledge, all contractors were to be licensed and obtain permits to build.

This is sure an injustice to me, and has brought about unpleasantness which I do not care for, furthermore it will be, and is already an expense. But now getting it taken off will be more hardship and expense. And will constitute more of a hardship, and loss if taken down, for I'll have no way for protection of my cars.

This variance desired will not affect the public health, safety, or morals, but rather an improvement to the look of the neighborhood, and general welfare.

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

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

October 9, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 32-67

An application has been filed by Etheline Frances Hendershot, 1839 South Main, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting reduction of north 6' side yard setback to 3', and the south side yard setback to 3' on property zoned "A" Two Family Residential and legally described as follows:

Lots 130 and 132 on Main Street, in Walter & Wrights Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Main Street in an area between Funston and Skinner.

This application has been assigned Case No. BZA 32-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 24, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

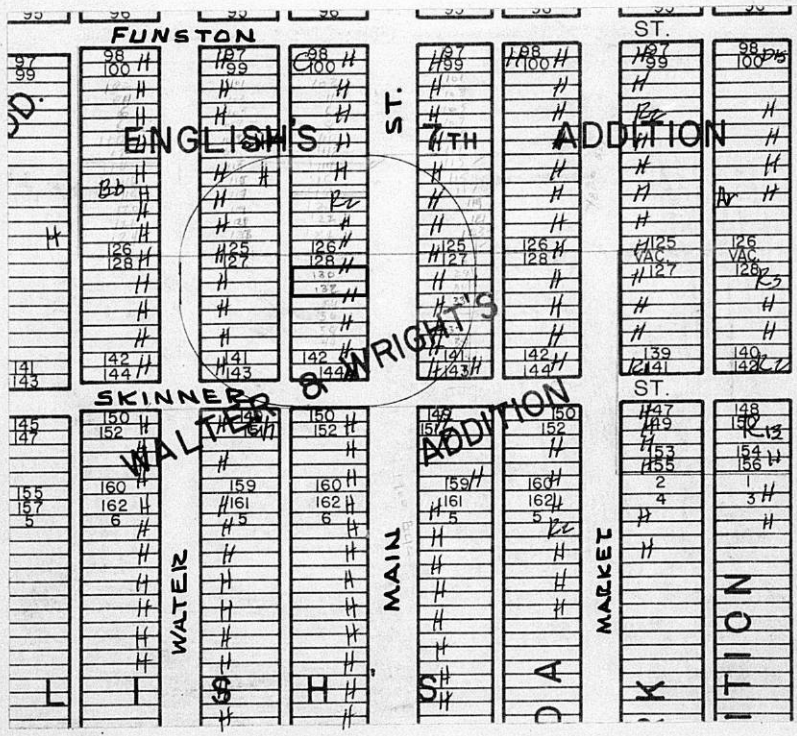
28 PON  
mhd  
10-10-67

Map No. 5445  
 Sec. 32  
 Twp. 27S  
 Range 1E

BZA 32-67  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 0.16 (50 ft. by 140 ft.)  
 2. Adjoining Zoning: E A S A W A N A  
 3. Land Use: East SINGLE FAM South SINGLE FAM  
 West SINGLE FAM North SINGLE FAM  
 4. Sketch Plan Land Use is for: RESIDENTIAL  
 5. Present Land Use is for: SINGLE FAM  
 6. Area (is) (~~is~~) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



BOARD OF ZONING APPEALS

CASE NO. 32-67

CITY OF WICHITA, KANSAS

FILED 9-25-67

APPLICATION FOR VARIANCE

I. Name of Applicant Etheline Frances Hendershot

Mailing Address 1839 South Main 67213 Phone AM2-1163

Name of Authorized Agent NONE

Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_

Relationship of applicant to property is that of \_\_\_\_\_  
(owner, tenant, lessee, other)

II. The variance requested is issuance of building permit to legalize

carport already constructed on applicants residence (Reduction of

north 6' side yard setback to 3' and the south side yard setback to

3')

for property located 1839 South Main (on the W side of

Main Street in area bet. Funston & Skinner

and legally described as: Lots 130 and 132 on Main Street,

WALTER & WRIGHT'S ADDITION

in the City of Wichita; and which is presently zoned "R" G-family

(Give metes and bounds description below if appropriate):

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 here-with tendered;
- c. That he has been advised of his right to appeal of the deci-sion of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions. Applicant was unaware of the necessity for a building permit and relied on her contractor. To deny this application would result in considerable loss to a person of limited means. Etheline Frances Hendershot  
Applicant

\_\_\_\_\_  
Authorized Agent

-----  
**OFFICE USE ONLY:** Received in office of Secretary, Board of Zoning Appeals,  
9:30 (a.m. - p.m.), Sept. 25, 1967, together with  
appropriate fee of \$50.00.

John D. List P.E.  
Signed

is to reduce the north 6' side yard  
setback to 3' and the south  
sideyard setback to 3'

32-67

CERTIFICATE OF OWNERSHIP

28 notices mailed 10-10-67

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CALLAHAN GUARANTEE TITLE CO. Inc., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, of the real estate within a radius of 200 feet of and including the following described property: Lots 130 and 132 on Main Street, in Walter & Wrights Addition, Wichita, Sedgwick County, Kansas.

DESCRIPTION	OWNER/OWNERS	ADDRESS
Walter & Wright's Add. Water St.		
Lot 127 ✓	Henrietta Bechtold Bilimek ✓	1309 Center, Lima, Ohio.
Lots 129-131 ✓	Laura B. Caldwell <sup>returned 10-17</sup> <sub>"at this add."</sub> ✓	c/o Hinshaw Realty, 227 South Minnesota 67211
Lots 133-135 ✓	Gary Lyle Coover ✓	208 Live Oak Lane Weatherford, Texas. 76086
Lots 137-139 ✓	Ruben A. Miller & Bessie ✓	1844 So. Water 67213
Lots 141-143 ✓	Minnie B. Longnecker ✓	1846 So. Water 67213
Main St.		
Lots 127-129 ✓	John W. Hall and Dorothy I. ✓	1840 South Main 67213
Lots 131-133 ✓ <sub>E. 48'</sub>	Clay A. Martin and A. Jean ✓	1824 No. Market 67214
Lots 135 and N/2 of Lot 137 ✓	Frank J. Miller ✓	1826 So. Main 67213
S/2 Lot 137 all of Lot 139 ✓	T. R. Burriss and Dorothy A. ✓	1850 So. Main 67213
Lots 131-143 exc. E. 48' ✓	Ethel M. Smith and John V. Coe ✓	548 No. Broadview 67208
E 48' of Lots 141 and 143 ✓	C. W. Bradshaw ✓	no address
Lot 128 ✓	Charley E. Turner and Helen ✓	1835 S. Main 67213
Lots 130-132 ✓	Etheline Frances Hendershot ✓	1839 South Main 67213
Lots 134 and 136, exc. S 2' E 57' ✓ Lot 136	Wm. L. Shields and Hester E. ✓	No address <sup>ret. 10-13-67</sup> <del>334 N. Millwood Ave.</del>
S 2' of E 57' of Lot 136, and all of Lot 138-140-exc. S 1' of Lot 140 ✓	Vernon W. Ward and Josephine ✓	1843 South Main 67213
S 1' of Lot 140, all of Lots 142-144 ✓	William M. Millspaugh and Alice T. ✓	1859 South Main 67213
English's Ninth Addition Water St.		
Lots 113-115 ✓ <sub>NOT IN 200 RADIUS</sub>	Arlie E. Waymire and Emily M. ✓	1822 South Water 67213
Lots 117-119 ✓	Minnie Hume and Sybil Harris ✓	1826 So. Water 67213
Lots 121-123 ✓	Earl C. Startzman and Gladys E. ✓	1828 So. Water 67213

771  
English's Ninth Addition-continued--  
Water St. *NOT IN 200' RADUS*

C	Lot 125 ✓	Henrietta Bechtold Lilimek ✓	1836 So. Water 67213
A	N 17½' of Lot 114 ✓	Glenn F. Bartlett & Regina ✓	<i>returned:</i> 18212 Garden View Ave. South Gate, Calif. 90280
L	<u>Main St.</u>		
L	S 7½' of Lot 114, all of 116 & N 12½' ✓	Eunice Hearing ✓	1817½ So. Main 67213
A	S/2 118, all 120 ✓	J. R. Hopkins ✓	1831 So. Main 67213
H	122-124 ✓	J. R. Hopkins and Opal A. ✓	1831 So. Main 67213
A	Lot 126 ✓	Charley E. Turner and Helen ✓	1835 So. Main 67213
N	<u>Main St.</u>		
	Lot 113 ✓	Emery R. Oakley and Edna V. ✓	1820 So. Main 67213
	Lots 115-117 ✓	George E. Patterson ✓	700 Alexander Drive, Haysville 67060
G	Lots 119-121 ✓	C. H. Gilliam and Irene ✓	220 W. Indianapolis 67213
U	Lots 123-125 ✓	James E. Kent and Glennys M. ✓	1828 So. Main 67213

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WITNESS our Hand and Seal this the 20th day of September, 1967  
at 7:00 o'clock A.M.

CALLAHAN GUARANTEE TITLE CO. Inc.

By *Nellie M. Leckner*  
Vice-President.

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Order No. 14063

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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.	Plbs. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Sign Variance</i>	<i>50<sup>00</sup></i>

Name: *Richard J. Thundershot*  
Address: *1839 W. Main*  
Type: *R-71-C* Due Date: *9-25-67*  
Comments:

Date: *9-25-67* BY: *B. Showers*

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



- no*
- Moved, left no address
  - No such number
  - Moved, not forwardable
  - Address unknown



*ps.* *32*

Glenn G. Bartlett and  
Regina Bartlett  
9212 Garden View Avenue  
South Gate, California 90280

*no city*

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



*not at this address*

*#32*

Laura B. Caldwell  
c/o Hinshaw Realty &  
227 South Minnesota  
Wichita, Kansas 67211

*no leads*

*[Handwritten scribble]*

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

October 9, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

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Jack H. Galbraith  
Secretary

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



32-67

Wm. L. Shields and Hester E. Shields

336 N. Millwood Avenue

Wichita, Kansas 67203