

Case No. BZA 43-82 - Mr. & Mrs. Paul J. Becker - request a variance to reduce the required rear yard setback from 20' to 6' on property zoned the "AA" One-family Dwelling District and generally located on the southwest corner of Park and Fountain (1027 P. E. Dist)

Posted
11-5-82

B.Z.A. 1/3-82
ACTION
Approved 11-23-82
DATE

5747B

2004 Sec. 12-10-82
Checked 12-10
shot 12-13-82
Recorded 12-17
AC

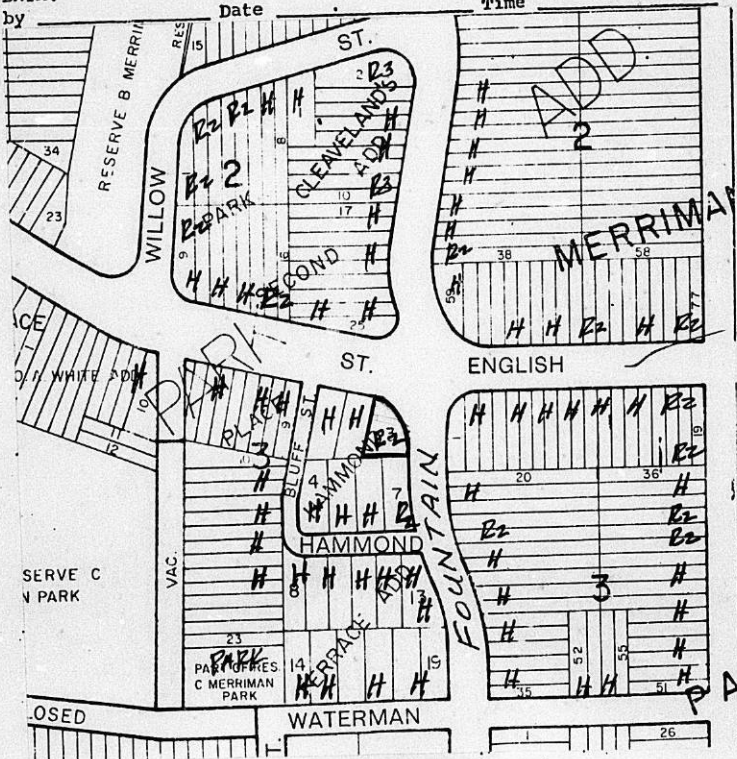
Map No. 5747
 Sec. 23
 TWP. 27
 Range 7E

BZA- 43-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.14 (IRREGULAR) 90 ft. by 115 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East SINGLE FAM South TWO FAM
 West SINGLE FAM 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 _____ Date _____ Time _____



LOS ANGELES COUNTY PLANNING DEPARTMENT
 1100 WEST 10TH STREET, SUITE 100
 LOS ANGELES, CALIFORNIA 90015
 U.S.A.

Standard
 No. 2153C

November 24, 1982

Mr. & Mrs. Paul J. Becker
4037 East English
Wichita, Ka. 67218

Re: Case No. EEA 43-82
Request for Variance

Dear Mr. & Mrs. Becker:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 23, 1982.

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

SEL:ead
Enclosure

cc: Jeff L. Krebbiel, 1021-1 East Waterman, Wichita 67211
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 43-82

WHEREAS, Mr. & Mrs. Paul J. Becker, 4037 East English, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to 6 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 3, Hammond Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of English and Fountain (4037 East English).

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 November 23, 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 lot is located in an older neighborhood on a corner with the corner being a large radius which limits the buildable area of the lot and the only usable area is to the rear yard which is not large enough for a double garage without the variance; 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 applicant will remove an older detached garage now located in the general area proposed for the new addition; 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 not be able to add to the structure in a suitable manner without seeking variances of the front yards that would be far more undesirable in the neighborhood; 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 addition will not interfere with any public right-of-way or utility easements; 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 structure will still maintain more than is normally required for side yards between two structures, and in this case, the yard in question is adjacent to a side yard of the adjacent dwelling; 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.

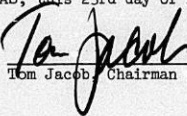
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard from 20 feet to 6 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 3, Hammond Terrace Addition to Wichita,
Sedgwick County, Kansas. Generally located
on the southwest corner of English and
Fountain (4037 East English).

be approved subject to the following condition:

1. The reduction of the rear yard setback from 20 feet to 6 feet shall only be for the attached garage and addition as shown by the applicant's site plan dated 10-18-82.

ADOPTED AT WICHITA, KANSAS, this 23rd day of November, 1982.



Tom Jacoby, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE November 16, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 43-82 (Southwest corner of
English and Fountain - 4037 E. English)

CPO Council "G" considered the captioned case at their November 15th meeting and voted 6-1 to recommend approval of the variance to reduce the required rear yard setback from 20 feet to 6 feet.

No one was present to speak in opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their November 23rd meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

SECRETARY'S REPORT
CASE NO. BZA 43-82

APPLICANT: Mr. & Mrs. Paul J. Becker, 4037 East English,
Wichita, Kansas

AGENT: Jeff Krehbiel, 1031-1 East English, Wichita,
Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the rear yard
setback from 20 feet to 6 feet.

GENERAL LOCATION: On the southwest corner of English and Fountain
(4037 East English).

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

LAND USE: Subject property is occupied by a two-family
dwelling. Adjacent properties are all developed
residential.

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 rear yard of 20 feet in order to construct an attached garage to the existing house to within 6 feet of the rear property line. The applicant will be removing an existing detached garage that is located in the same general area as the proposed addition.

The property is located in the College Hill area and the applicant is desirous of remaining in the area. Additional space is necessary within the structure and also there is a need for an attached garage. As are many properties in the older areas of the city built prior to the 1940's, they are constructed with detached garages and if a two car garage is attached, a distance separation cannot comply with the zoning ordinance requirements.

The removal of the existing garage and the replacement of a new addition should be an improvement to the property. This should also have no adverse affect to the adjacent property owners. The property is a legal nonconforming use and may be expanded under the terms of the zoning ordinance as long as the number of dwelling units is not increased.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the lot is located in an older neighborhood on a corner with the corner being a large radius which limits the buildable area of the lot. The only usable area is to the rear yard which is not large enough for a double garage without the variance.

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 applicant will remove an older detached garage now located in the general area proposed for the new addition.

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 not be able to add to the structure in a suitable manner without seeking variances of the front yards that would be far more undesirable in the neighborhood.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the addition will not interfere with any public right-of-way or utility easements.

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 structure will still maintain more than is normally required for side yards between two structures, and in this case, the yard in question is adjacent to a side yard of the adjacent dwelling.

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 rear yard setback from 20 feet to 6 feet shall only be for the attached garage and addition as shown by the applicant's site plan dated 10-18-82.

BZA CASE NO. 43-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

25 NOTICES SENT TO ADJOINING PROPERTY OWNERS

38 TOTAL NOTICES SENT 11-3-82

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

November 3, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 43-82

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 Mr. & Mrs. Paul J. Becker, 4037 East English, 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 rear yard setback from 20 feet to 6 feet on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 3, Hammond Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of English and Fountain (4037 East English).

This application has been assigned Case No. BZA 43-82. It will be considered by the Board of Zoning Appeals on November 23, 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

BOARD OF ZONING APPEALS

CASE NO. 43-82

CITY OF WICHITA, KANSAS

FILED 10-25-82

APPLICATION FOR VARIANCE

I. Name of Applicant Mr. & Mrs. Paul J. Becker
Mailing Address 4037 E. English Phone 682-8994
Name of Authorized Agent Jeffrey L. Krehbiel
Mailing Address 1021-1 E. Waterman, Wichita, #8 Phone 267-8233
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the rear yard setback
from 20 feet to six (6) feet to construct an attached
garage
on the southwest corner of English and
for property located (4037 E. English)

and legally described as: Lot 3, Hammond Terrace an addition
to Wichita, Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 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 _____

Authorized Agent Jeffrey L. Krehbiel

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:30 (1:30 P.M.), Oct 25, 1982 together with appropriate fee of 75.

Signed A. Lyth



JEFF KREHBIEL
ASSOCIATES. aia
architecture · planning

October 25, 1982

Board of Zoning Appeals
Metropolitan Area Planning Dept.
City of Wichita
455 North Main St.
Wichita, Ks. 67202

Att: Mr. Glen Lytle

RE: Requested Variance
4037 E. English

Dear Glen,

This variance is requested in order to reduce the rear yard setback from twenty (20) feet to six (6) feet as required under Section 28.04.040 B3.1 in the 'AA' single-family zoning district. Although this property is zoned 'AA', the structure existing on the property has always been maintained as a duplex residence. This condition existed prior to the present zoning designation.

It is the owners desire to demolish a two-car garage now located approximately 1.0 feet from the south property and within a five (5) feet utility easement and reconstruct a new two-car garage with additional habitable space above the garage. This would allow the owner to expand the living area of the upper level in which they currently reside.

This property is unique to the area that it is a corner lot with both streets being of equal importance to the structure. The structure is addressed from English Street with current driving off of Fountain Avenue. Therefore the structure has the appearance of two side yards and two front yards.

Allowing a reduced setback to allow construction of a new garage/living area will not cause any hardship to the adjacent property owners. Currently the three adjacent lots contiguous at the southwest corner of lot 3 all have existing garage structures located adjacent to this property. Therefore none of the property owners are being denied any impairment of visibility or aesthetic relief.

1021-1 east waterman wichita, kansas 67211 (316) 267-8233

Glen Lytle
October 25, 1982
Page 2

Strict application of the provisions of Title 28 will constitute an unnecessary hardship on the owners in that it will not allow them to expand their residence in order to accomodate their family and remain in this neighborhood.

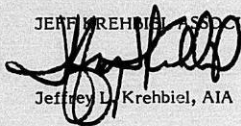
Granting this variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare of the community or City. It will in fact allow the owners to correct an existing violation by allowing them to demolish the existing garage which now encroaches into a public easement.

Considering the above information and unique conditions which presently exist at this location, the general spirit and intent of Title 28 of the Zoning Ordinance are most certainly not violated.

If any additional information can be provided, please contact our office.

Sincerely,

JEFF KREHBIEL ASSOCIATES, AIA



Jeffrey L. Krehbiel, AIA

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 200 feet of: Lot
 3, HAMMOND TERRACE ADDITION, Sedgwick
 County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>RECORD OWNERS</u>
Lot 3,	HAMMOND TERRACE	Paul J. & Sharon H. Becker 4037 East English Wichita, Kansas 67218
Lot 1,	HAMMOND TERRACE	Ben F. & Dorothy Copley 4003 East English Wichita, Kansas 67218
Lot 2,	HAMMOND TERRACE	Darrell L. & Mary Kathryn McBride 4007 East English Wichita, Kansas 67218
Lot 4,	HAMMOND TERRACE	Robert D. Clark 4000 Hammond Drive Wichita, Kansas 67218
Lot 5,	HAMMOND TERRACE	R. Paul & M. Burnice Ellis 4004 Hammond Drive Wichita, Kansas 67218

Fidelity  **Title**
 COMPANY, INC.

<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>RECORD OWNERS</u>
Lot 6,	HAMMOND TERRACE	✓ Hugh I. & Dorothy J. Sell 4012 East English Wichita, Kansas 67218
Lot 7,	HAMMOND TERRACE	✓ Steven J. Dirks 219 South Fountain Wichita, Kansas 67218
Lot 8 and the West 10 feet of Lot 9,	HAMMOND TERRACE	✓ Patricia K. McClain 4001 East English Wichita, Kansas 67218
Lot 9 except the West 10 feet and Lot 10 except the East 14 feet,	HAMMOND TERRACE	✓ Henry M. Helgerson 4009 East English Wichita, Kansas 67218
West 36 feet of Lot 11 and the East 14 feet of Lot 10,	HAMMOND TERRACE	✓ Donald H. & Joan M. Somes 4011 East English Wichita, Kansas 67218
East 7 feet of Lot 11 and all of Lot 12,	HAMMOND TERRACE	✓ William Thomas & Constance Lynn Buser 4015 Hammond Wichita, Kansas 67218
Lot 13 except the South 1½ feet,	HAMMOND TERRACE	✓ James R. & Carolyn J. Balt 233 South Fountain Wichita, Kansas 67218
Lots 1, 2, 3 and 4, Block 3,	MERRIMAN PARK PLACE	✓ Minnie Mead and David B. Marteny 4103 East English Wichita, Kansas 67218
Lots 5 and 6, Block 3,	MERRIMAN PARK PALCE	✓ Phyllis J. Beachman 4111 East English Wichita, Kansas 67218
Lots 20 and 21, and the North half of Lot 22, Block 3,	MERRIMAN PARK PLACE	✓ William H. Comley 220 South Fountain Wichita, Kansas 67218
South Half of Lot 22 and all of Lots 23 and 24, Block 3,	MERRIMAN PARK PLACE	✓ Walter R. Fleck 226 South Fountain Wichita, Kansas 67218
Lots 25 and 26, Block 3,	MERRIMAN PARK PLACE	✓ Ralph E. & Margaret W. Graves 228 South Fountain Wichita, Kansas 67218



LOTS AND BLOCKS

ADDITION

RECORD OWNERS

Lots 59, 60, 61,
62, 63 and 64,
except the North
50 feet, Block 2,

MERRIMAN PARK PLACE ✓ Jackie and Linda Davidson
4100 East English
Wichita, Kansas 67218

South Half of
Lot 23 and all of
Lots 24 and 25,
except the West
53 feet, Block 2,

MERRIMAN PARK
2ND PLACE ✓ James C. & Elizabeth A.
McClure
171 South Fountain
Wichita, Kansas 67218

West 53 feet of
Lots 23, 24 and
25, Block 2,

MERRIMAN PARK
2ND PLACE ✓ Phillip W. & Linda K. Smith
4026 East English
Wichita, Kansas 67218

Lot 7, Block 3,

MERRIMAN PARK
2ND PLACE ✓ Harry G. & Evar N. Lankford
3921 East English
Wichita, Kansas 67218

Lots 8 and 9,
Block 3,

MERRIMAN PARK
2ND PLACE ✓ Harold B. & Sandra K. Malone
3923 East English
Wichita, Kansas 67218



Beginning at a point on
the West line of Bluff
Avenue, 4 feet South of
said Lot 11; thence West
parallel with and 4 feet
distant from the South
line of said Lot 11, a
distance of 97.05 feet;
thence North 60.35 feet
to the North line of
said Lot 10; thence
Southeasterly on the
North line of Lot 10,
105.75 feet to the West
line of Bluff Avenue;
thence Southwesterly
along West line of Bluff
Avenue, 41 feet to point
of beginning, except that
portion condemned by City
of Wichita, in Case No.
C-12370, Block 3,

MERRIMAN PARK
2ND PLACE ✓ Douglas E. Mould
2155 Bluff
Wichita, Kansas 67218

The East Half of Lot 12,
except the North 4 feet
thereof and the East
Half of Lot 13, Block
3,

MERRIMAN PARK
2ND PLACE ✓ Thomas L. & Nancy L. Goodson
217 South Bluff
Wichita, Kansas 67218

East Half except the
West 5 feet of Lot
14 and 15, Block 3,

MERRIMAN PARK
2ND PLACE ✓ Carolyn Stika
225 South Bluff
Wichita, Kansas 67218

-4-

LOTS AND BLOCKS

East Half of Lots
16 and 17, Block 3,

ADDITION

MERRIMAN PARK
2ND PLACE

RECORD OWNERS

✓ Glen P. & Carolee Skolich
227 South Bluff
Wichita, Kansas 67218

Dated in Wichita, Kansas, this 20th day of October, 1982
at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

Medvia A. Suttler
By Assistant Secretary

Tracer No. 58605



Fidelity  Title
COMPANY, INC.

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-1 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
PLANNING	752

NAME: OFF KENNEL

ADDRESS: 112-40071-0A

FUND: DUE DATE:

COMMENTS:

DATE: 11-25-40 BY: [Signature]

*

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

Roll # 2