

Case No. BZA 44-82 - Robert D. Burton - requests a variance to reduce the required front yard setback from 25' to not less than 20' on property zoned the "AA" One-family Dwelling District and generally located on the south side of

200' 4 Sec 12-8-82
Checked 12-10
Shot 12-13-82
Recorded 12-17
RE

B.Z.A.
44-82

ACTION
~~APPROVED~~

11-23-82
DATE

POSTED
11-5-82

4846C

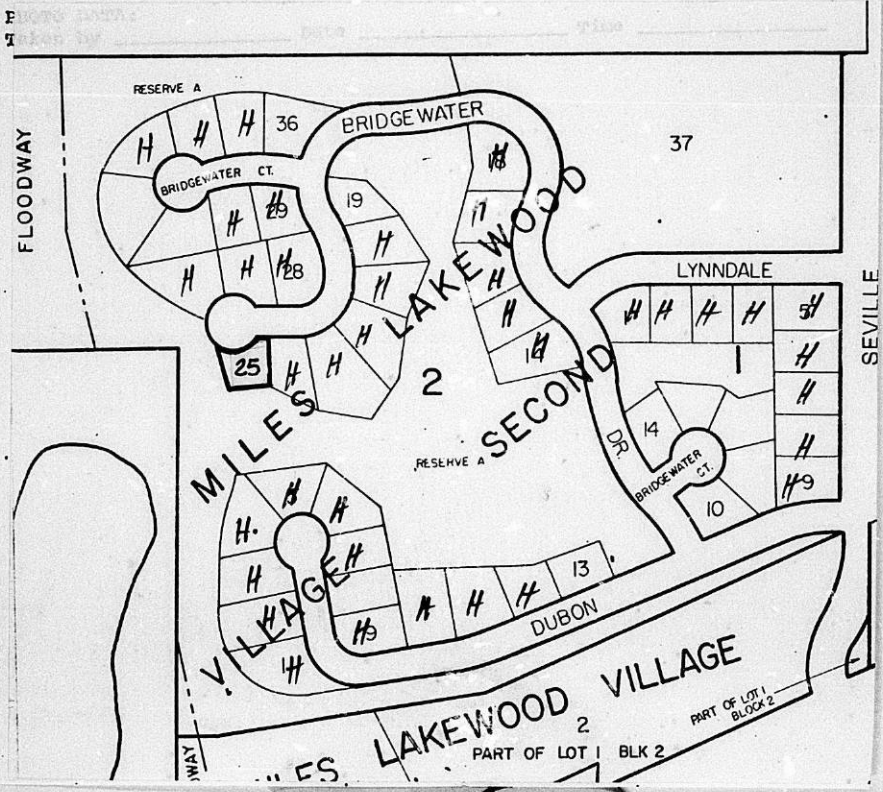
200' 4 Sec 12-8-82
Checked 12-10
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Case No. BZA 44-82 - Robert D. Burton - requests a variance to reduce the required front yard setback from 25' to not less than 20' on property zoned the "AA" One-family Dwelling District and generally located on the south side of

Map No. 4846
 Sec. 29
 Twp. 27
 Range 1W

BZA- 44-82
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA: (IRREGULAR)
1. Acres: 0.16 (70 ft. by 89 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East SINGLE FAM South UNDEVELOPED
 West FLOODWAY DRAINAGE North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: SINGLE FAM
 6. Area (is) (is not) platted.



LOS ANGELES, CHICAGO, LODAN, OH
 McMINN, TX, LOCUST GROVE, GA
 U.S.A.

Shaw
 No. 2153C

November 24, 1982

Robert D. Burton
Box 742
Goddard, Ks. 67052

Re: Case No. BZA 44-82
Request for Variance

Dear Mr. Burton:

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

GEL:sad
Enclosure

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

RESOLUTION NO. BZA 44-82

WHEREAS, Robert D. Burton, Box 742, Goddard, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to not less than 20 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 25, Block 2, Miles Lakewood Village 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Bridgewater (1301 Bridgewater).

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 on a cul-de-sac which limits the buildable area of the lot and also the property is located adjacent to another lot only on one side yard; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the proposed structure will still be located farther north than what is permitted on the adjacent property; 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 owner represented in the application inasmuch as the lot is insufficient in depth to accommodate the floor area of a dwelling to be commensurate with the general area; 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 structure 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 reduction of the front yard on the cul-de-sac will not interfere with the intended separation between structures or project in front of the front yard of the adjacent property; 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.

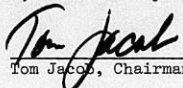
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard from 25 feet to not less than 20 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 25, Block 2, Miles Lakewood Village 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Bridgewater (1301 Bridgewater).

be approved subject to the following condition:

1. The reduction of the required front yard setback to 20 feet shall only be for a portion of the front yard as shown by the applicant's site plan. This reduction shall not exceed 36 square feet of the front yard.

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



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE November 19, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Dean Kruihof, Administrative Aide III

SUBJECT BZA 44-82, 1301 Bridgewater

At its November 17th meeting, CPO Neighborhood Council Area "A" considered the captioned request for a variance to reduce the required front yard setback to not less than 20 feet on property zoned "AA" One-Family Dwelling District. Robert Burton was present representing the applicant. No area residents attended the meeting concerning the case.

The Council voted unanimously (5-0) to recommend that the variance be approved.

Please inform the Board of Zoning Appeals of the Council recommendation when the case is considered on November 23rd.



Dean Kruihof
Administrative Aide III

DK:dm

SECRETARY'S REPORT
CASE NO. BZA 44-82

APPLICANT: Robert D. Burton, Box 742, Goddard, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 20 feet.

GENERAL LOCATION: On the south side of Bridgewater on the cul-de-sac (1301 Bridgewater).

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

LAND USE: Subject property is vacant. Adjacent properties are developed as one-family dwellings. Property to the west is a dike adjacent to the Cowskin Creek area.

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 front yard setback from 25 feet to 20 feet in order to develop the property with a one-family dwelling. The property is located on a cul-de-sac that reduces considerably the buildable area of the lot. The applicant proposes a ranch style home that will project only partially into the 25 foot setback. These areas will be two triangular projections that will not be more than 5 feet into the required front yard and should not interfere in anyway with the adjacent property to the east. The garage portion of the house will maintain the required setback.

The property to the west is open space and contains a dike to protect the area. The reduction of the front yard setback from 25 feet to 20 feet should have no effect on the area. It should be noted that the board has varied two rear yard setbacks in the area due to the lack of depth of the lots and the common open space to the rear. The applicant in this case prefers to maintain the required 20 foot rear yard.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the lot is located on a cul-de-sac that limits the buildable area of the lot. Also, only one side yard of the property is adjacent to another lot in the subdivision.

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 proposed structure will still be located further south than what is permitted on the adjacent property.

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 lot is insufficient in depth to accommodate the floor area of a dwelling to be commensurate with the general area.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the structure 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 reduction of the front yard on the cul-de-sac will not interfere with the intended separation between structures or project in front of the front yard of the adjacent property.

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 front yard setback to 20 feet shall only be for a portion of the front yard as shown by the applicant's site plan. This reduction shall not exceed 36 square feet of the front yard.

BZA CASE NO. 44-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

11 NOTICES SENT TO ADJOINING PROPERTY OWNERS

23 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 44-82

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 Robert D. Burton, Box 742, Goddard, 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 front yard setback from 25 feet to not less than 20 feet on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 25, Block 2, Miles Lakewood Village Addition
to Wichita, Sedgwick County, Kansas. Generally
located on the south side of Bridgewater (1301
Bridgewater).

This application has been assigned Case No. BZA 44-82. 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 CFO 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. 44-82

CITY OF WICHITA, KANSAS

FILED 10-25-82

APPLICATION FOR VARIANCE

I. Name of Applicant ROBT. D. BURTON
Mailing Address Box 742 102 W. South St. GODDARD 67052 Phone 794-8072

Name of Authorized Agent _____

Mailing Address _____ Phone _____

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

II. The variance requested is to reduce the front yard setback from 25 feet to not less than 20 feet

for property located on the south side of Bridgewater (1301 Bridgewater)

and legally described as: Lot 25, Block 2, Miles Lakewood Village Addition to WICHITA, SEDGWICK COUNTY, 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 Robert D. Burton

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:00 ~~a.m.~~-p.m.), OCT 25, 1982 together with appropriate fee of 25.00.

Signed A. Lytle

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

APPLICATION FOR VARIANCE

ROBERT D BURTON
BOX 742 102 W SOUTH ST. Ph. 794-8072
GODDARD, KANSAS 67052

PROPERTY LOCATED: Lot 25 Block 2 Miles Lakewood 2nd Addition
Wichita, Sedgwick County, Kansas.

1. This request is made for a variance "to reduce the front yard setback from 25 ft. to 20 ft." The request is made in order to construct a single family dwelling of approximately 1300 sq.ft. However due to the small size of the lot, the customary setbacks and utility easements have reduced the building area of the lot to a size which will not accommodate a reasonable size ranch style dwelling. The reduced area is caused by: the lot setting on a cul-de-sac, which causes the front setback (25 ft.) to reduce the construction area (in the front) dramatically. With the 20 ft Utility easement in the rear yard and 10 ft Utility easement on the East side, plus the 20 ft rear yard setback causes the building area through the center to be a maximum of 26 ft. The East side of the lot will allow a 32 ft area but the two areas (as noted on the drawing) these include the dining and bath areas, would protrude into the front setback area. These two areas are vital to the planned area of the dwelling. The rear area is limited due to common area, a 20 ft Utility easement and the normal 20 ft rear yard setback.
2. The request to reduce the front setback will still allow the dwelling to be to the rear of the 25 ft setback of the adjoining dwelling to the East. No dwellings are to the West of lot 25, as there is a flood control dyke there. Important to this request is that the garage and parking area will comply with the original setback of 25 ft which will allow for normal parking. This request should not adversely affect the area or adjoining dwelling in anyway.
3. Strict application of title 28 would constitute a hardship on the property owner, would not allow the planned property to be built. It would almost be necessary to build a bi or tri level dwelling if the request is turned down. The owners sold a tri level dwelling in order

Continued from page 1

to secure a ranch style home due to problems resulting from major back surgery.

4. The variance should have no affect what ever on the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. It is believed that the variance will in no way oppose the general spirit and intent of Title 28.

Thank you for your consideration for the approval of this request.

Albert D. Burton

O W N E R S H I P L I S T

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 4	2	Miles Lakewood Village Second Addition	✓ Domenico Seminara Joanna L. Seminara 9925 Dubon St. 67209 <i>ret. 11-9-82</i>
Lot 5	2	"	✓ Gene Miles Development Inc. 10711 West Kellogg 67207 <i>ret. 11-9-82</i>
Lot 6	2	"	✓ Jon A. Lofgreen Linda Lofgreen 9924 Dubon St. 67209
Lot 20	2	"	<i>D</i> Dennis R. Niedens Rosemary Niedens 2823 Wilmohr 67223
Lot 21	2	"	Same as above
Lot 22	2	"	✓ William Grier Pattie M. Grier 1322 Bridgewater Ct. 67209
Lot 23	2	"	✓ Paul Elwin Nichols Marilyn Louise Nichols 1309 Bridgewater Ct. 67209
Lot 24	2	"	✓ John P. Budinger Patti J. Budinger 1305 Bridgewater 67209
Lot 25	2	"	<i>D</i> Robert D. Burton Janet S. Burton P. O. Box 742 102 West South St. Goddard, 67052

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 26	2	Miles Lakewood Village Second	✓ Dennis R. Niedens Rosemary Niedens 2823 Wilmohr 67223
Lot 27	2	"	✓ Prairie Homes Inc. 950 Tyler 67203
Lot 28	2	"	✓ Donald D. Roehrman Karen R. Roehrman 1318 Bridgewater 67209
Lot 29	2	"	⤵ J. William Grier Patti M. Grier 1322 Bridgewater 67209
Lot 30	2	"	✓ Gerald L. Powell Sharon M. Powell 1326 Bridgewater 67209
Lot 31	2	"	✓ Michael L. Debacker Colleen A. Debacker 1330 Bridgewater 67209
Reserve A		"	⤵ Gene Miles Development Inc. 10711 West Kellogg 67209

Tract Description

A tract in the SW $\frac{1}{4}$ of Section 29, Township 27 South, Range 1 West of the 6th P.M., described as:
 Beginning at the intersection of a line 560 feet East of and parallel with the West line of said SW $\frac{1}{4}$, with the Northerly right of way line of U.S. Highway (Case A-38302); thence North parallel with the West line of said SW $\frac{1}{4}$, 415 feet; thence East parallel with the South line of said SW $\frac{1}{4}$, 350 feet for a place of beginning; thence continuing East parallel with the South line of said SW $\frac{1}{4}$, 505.8 feet; thence North with an angle to the left of 89°44' a distance of 850.3 feet; thence West with an angle to the left of 90°28'30" a distance of 347 feet; thence North with an angle to the right of 90°00' a distance of 521 feet to the South line of the North 20 acres of the West half of said SW $\frac{1}{4}$; thence West along the South line of said North 20 acres to a point 270 feet East of the West line of said SW $\frac{1}{4}$; thence South parallel with the West line of said SW $\frac{1}{4}$, 1090 feet; thence East parallel with the South line of the North 20 acres of the West half of said SW $\frac{1}{4}$, 40 feet; thence North parallel with the West line of said SW $\frac{1}{4}$, 20 feet; thence East parallel with the South line of the North 20 acres of the West half of said SW $\frac{1}{4}$, 600 feet; thence South parallel with the West line of said SW $\frac{1}{4}$, 301.17 feet to the place of beginning, except a tract beginning at a point on the South line of the North 20 acres of the West half of the SW $\frac{1}{4}$ of Section 29, said point being 270 feet East of the SW corner of said 20 acres; thence South parallel with the West line of said SW $\frac{1}{4}$, 1090 feet; thence East parallel with the South line of said North 20 acres 40 feet; thence North parallel with the west line of said SW $\frac{1}{4}$, 20 feet; thence East parallel with the South line of said North 20 acres, 130 feet; thence North parallel with the West line of said SW $\frac{1}{4}$ 310 feet; thence description continued on following page ---

Property Owner

Lloyd Kruckenberg
 1446 S. Maize Road
 Box 13303

67213

Page 4

(Description continued from
previous page --)

Northeast 179.7 feet more or less to
a point 260 feet East and 605 feet
South of beginning; thence North
parallel with the West line of said
SW $\frac{1}{4}$ 605 feet to the South line of
said North 20 acres, thence West
260 feet to beginning.

We hereby certify the foregoing to be a true and
correct list of the property owners of the hereinbefore described
lots and tracts within a 200 foot radius of:

Lot 25, Block 2, Miles Lakewood Village
Second Addition, Wichita, Sedgwick
County, Kansas

as shown by the last deed of record on file in the Office of the
Register of Deeds, Sedgwick County, Kansas, on the 28th day of
October, 1982 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Vice-President

Order No: 313771
ap

WICHITA - SEDGWICK COUNTY

W S C

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

ATTEMPTED
NOSE KNOWN
RETURN TO SENDER

Shirley
44-82

2052
WICHITA, KS
PM
1982
NOV 4



SEM 23 050429N1 11/04/82

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

~~Domenico & Joanne L. Seminara
9923 Dubon Street
Wichita, Ks. 67209~~

WICHITA - SEDGWICK COUNTY

W S C

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

NO SUCH
NUMBER
RETURN TO SENDER

BZA
44-82

WICHITA, KS
PM
1982
NOV 12



2099
11-9-82

Gene Miles Development Inc.
10711 West Kellogg
Wichita, Ks. 67207

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 25 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

NAME

ADDRESS

FUND DUE DATE

COMMENTS

DATE BY

*

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

Roll # 2