

Case No. BZA 67-79 - Ford M. Duke
request variance to reduce to
required side yard setback
adjacent to south property line
from 6' to 5.8' zoned "AA"
located at 1202 Clara

1202

|

ACTION

BZA
67-79

COMMITTEE

Approved 3-0

DATE

12-18-79

POSTED
11-15-79

M.A.P.C. _____

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

✓ 200' MAPD 12-28-79
✓ 200' C1 3-12-80
✓ 200' 1/2 Sec 3-12-80

Case No. BZA 67-79 - Ford M. Duke
request variance to reduce to
required side yard setback
adjacent to south property line
from 6' to 5.8' zoned "AA"
located at 1202 Clara

December 21, 1979

Ford M. Duke
1602 West Lynn
Wichita, Kansas

Re: Case No. BZA 07-79
Request for Variance

Dear Mr. Duke:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 18, 1979, in connection with your request for a variance to reduce the required side yard setback adjacent to the south property line from 6' to 5.5' on property zoned the "AA" Single-family Dwelling District and generally located at the northeast corner of 11th Street and Clara (1202 Clara).

This Resolution reflects the official action of the Board to approve this 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
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk
Vern Vogel, 1615 N. Clarence, Wichita, Kansas

RESOLUTION NO. BZA 67-79

WHEREAS, Ford M. Duke, 1602 West Lynn, Wichita, Kansas requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the south property line from 6' to 5.8' on property zoned the "AA" Single-family Dwelling District and legally described as follows:

Lot 7, Block 2, replat of Lot 22 and Part of Lot 21, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 11th Street and Clara (1202 Clara).

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 December 18, 1979, 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 an error was made by the sub-contractor and the applicant is desirous that the house be conforming so that clear title may be obtained; 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 variance request is adjacent to street right-of-way; 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 structure will be a non-conforming use which poses problems in obtaining a clear title; 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; and that

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 request is so minor that the effect of the reduction of the side yard is insignificant; 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.

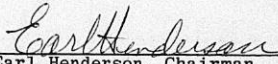
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback adjacent to the south property line from 6' to 5.8' on property zoned the "AA" Single-family Dwelling District and legally described as:

Lot 7, Block 2, replat of Lot 22 and Part
of Lot 21, R. A. Morris Tracts to Wichita,
Sedgwick County, Kansas. Generally located
at the northeast corner of 11th Street and
Clara (1202 Clara).

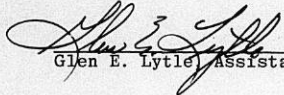
be approved subject to the following condition:

1. Approval shall be for only that portion presently in violation.

ADOPTED AT WICHITA, KANSAS, this 18th day of December,
1979 .


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE December 7, 1979

RECEIVED

DEC 10 1979

TO Jack Galbraith, Chief Planner, Current Plans

METROPOLITAN PLANNING

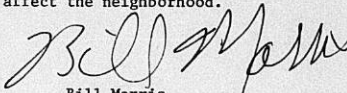
ROUTE ~~1~~

~~2~~

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 67-79 (Northeast corner of
11th and Clara)


On December 6, 1979, CPO Council "N" voted 8-0 to recommend approval of the captioned case. The Council members felt the proposed set back variance is so minor that it will not adversely affect the neighborhood.



Bill Morris
CPO Administrative Aide

BM:ml

Noted:


Sarah Gilbert
Assistant CP Coordinator

SECRETARY'S REPORT
CASE NO. EZA 67-79

APPLICANT: Ford M. Duke, 1602 West Lynn, Wichita, Kansas

AGENT: Vern Vogel, 1615 N. Clarence, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the south property line from 6' to 5.8'.

GENERAL LOCATION: Northeast corner of 11th Street and Clara (1202 Clara).

ZONING: Subject property is zoned "AA" Single Family as are those properties to the north, south, east and west.

LAND USE: Subject property is occupied by a single family residence as are the properties to the south and east; north and west is undeveloped.

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. 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).

Page 2
Case No. BZA 67-79
BZA AGENDA
12-13-79

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required side yard adjacent to the south property line from 6' to 5.8' for property occupied by a single-family residence located on the northeast corner of 11th Street and Clara. The existing house was constructed in violation of the 6' side yard required by ordinance due to an error by the sub-contractor in pouring the foundation.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify because of error only, however, due to the fact that an error was made by the sub-contractor and since the applicant is desirous that the house be conforming so that clear title may be obtained, the Secretary feels that uniqueness can be found to exist.

ADJACENT PROPERTY:

It is the opinion of the Secretary that inasmuch as the variance request is adjacent to street right-of-way there would be no adverse affect on adjacent property owners or residents.

HARDSHIP:

It is the opinion of the Secretary that the applicant will be burdened with an unnecessary hardship if the variance is not granted inasmuch as the structure will be a non-conforming use which poses problems in obtaining a clear title.

PUBLIC INTEREST:

It is the opinion of the Secretary that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance would not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) as the request is so minor that the effect of the reduction of the side yard is insignificant.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted to reduce the side yard setback adjacent to the south property line from 6' to 5.8' for only that portion presently in violation.

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

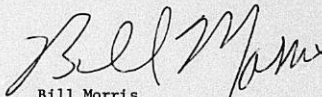
DATE November 26, 1979

TO Jack Galbraith, Chief Planner

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 67-79 (Northeast corner of 11th
Street and Clara)


Due to the short notification period (November 20 to November 27), CPO Council "N" will not make a recommendation on the captioned case. If for some reason this is deferred, please notify this office and it will be placed on the Council "N" agenda.



Bill Morris
CPO Administrative Aide

EM:lw

NOTED:



Sarah Gilbert
Assistant CP Coordinator



BZA CASE NO. 67-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

19 NOTICES SENT TO ADJOINING PROPERTY OWNERS

32 TOTAL NOTICES SENT 11-26-79

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

November 26, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 67-79

An application has been filed by Ford M. Duke, 1602 West Lynn, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard set back adjacent to the south property line from 6' to 5.8' on property zoned "AA" Single family Dwelling District and legally described as follows:

Lot 7, Block 2, replat of Lot 22 & Part of Lot 21, R. A. Morris Tracts to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of 11th Street and Clara (1202 Clara).

This application has been assigned Case No. BZA 67-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 18, 1979, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

Air Capitol Land Surveyors

BZA 67-79

1525w. Twenty-ninth Street North
Wichita, Kansas 67204 (316) 838-9071

68

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

August 9, 1979

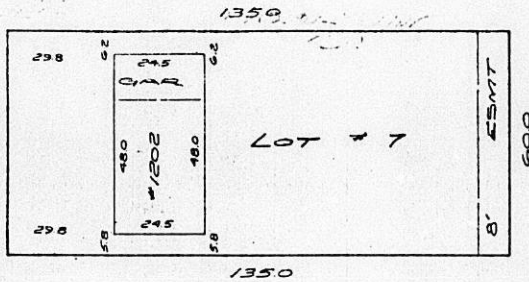
I, Arthur G. Griffiths, a licensed land surveyor in the aforesaid County and State, do hereby certify that on August 8, 1979, I caused the following described tract of land to be surveyed, to-wit: Lot 7, Block 2, Replat of Lot 22 and Part of Lot 21, R. A. Morris Tracts, to Wichita, Sedgwick County, Kansas.

In said tract was house #1202 with an attached garage which was clear of all boundary lines. There were no encroachments on said tract by structures on the adjoining tracts.

Said survey and the accompanying exhibit are true and correct to the best of my knowledge and information available and were prepared for identification purposes only. It is not intended or represented to be a land or property line survey; no property corners were set, and it is not to be used or relied upon for the establishment of any fence, structure or other improvement lines. No responsibility is extended herein to the present or future land owner or occupant.

Arthur G. Griffiths
Arthur G. Griffiths LS#244

CLARA ST.



11TH STREET NO.

APPLICATION FOR VARIANCE

OK I. Name of Applicant FORD M. DUKE
Mailing Address 1602 WESTLYNN, WICHITA phone 942-5014
Name of Authorized Agent VERN VOGEL
Mailing Address 1615 N. CLARENCE WICHITA phone 943-9133

Relationship of applicant to property is that of FORMER OWNER
(Owner, Tenant, Lessee, Other) & BUILDER OF HOME ON LOT

OK II. The variance requested is to reduce the required
side yard set back adjacent to South property
line from 6ft to 5.8ft

OK for property located 1202 CLARA WICHITA, KANS
Northeast corner of 11th St. + Clara

OK and legally described as: LOT 7 BLOCK 2 REPLAT OF
LOT 22 & PART OF LOT 21, R.A. MORRIS TRACTS
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:

- 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. 24-606); 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.

FORD DUKE Ford M. Duke
Applicant
VERN VOGEL (Vern Vogel)
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning
Appeals 1:50 (a.m. - p.m.); November 1 19 79
together with appropriate fee of \$50.00.

E. Lynn Shirkley
Signed

October 31, 1979

Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main
Wichita, Kansas 67203

Variance Request from Specific Terms of Title 28

This Variance is requested as a result of survey showing that a new home was built on this property 5.8 feet from property line, when the minimum distance should have been 6 Ft. A difference of approximately two inches.

The granting of this ordinance should not adversely affect the rights of adjacent property owners as it is on the corner next to ~~the~~ Street; and therefore will not affect the public health, safety, convenience or prosperity or general welfare of adjacent property owners.

The granting of this Variance will not be opposed to the general spirit and intent of Title 28.

Sincerely,

Applicant

Agent

Ford M. Duke
Ann Vogel

1.2
2.4

CERTIFICATE OF OWNERSHIP

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, Kansas, within a 200 foot radiud of and including the following described property, viz:

Lot Seven (7), Block Two (2), Replat of Lot 22 and part of Lot 21, R. A. MORRIS TRACTS to Wichita, Sedgwick County, Kansas.

NOTE: Addresses are furnished as a service only, and are not certified.

DESCRIPTION	OWNER/ADDRESS	ZIP CODE
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Replat of Lot 22 and part of Lot 21, R. A. MORRIS TRACTS

Block 1

Lot 5	✓ William D. & Georgina M. Keiter 1214 No. Doris Wichita, Kansas	67212
Lot 6	✓ Dennis D. & Connie E. Leierer 1208 No. Doris Wichita, Kansas	67212
Lot 7	✓ Ken W. & J. Dianne Ellard 1202 No. Doris Wichita, Kansas	67212
Lot 8	✓ Willard B. & Dixie L. Androes 5102 W. 11th Wichita, Kansas	67212
Lot 9	✓ Michael J. & Maria E. Hood 1209 No. Clara Wichita, Kansas	67212
Lot 10	✓ John R. & Rita M. Weber 1215 No. Clara Wichita, Kansas	67212
Lot 11	✓ Richard Douglas McFall and Donna Lepper McFall 1221 No. Clara Wichita, Kansas	67212
Lot 12	✓ Jin-shou & Jean Hseu 1227 No. Clara Wichita, Kansas	67212

Block 2

Lot 3	△ Ford M. Duke 1602 West Lynn Wichita, Kansas	67212
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DESCRIPTION	OWNER/ADDRESS	ZIP CODE
Lot 4	✓ Richard L. & Janice L. Cooley 3105 Palisade Wichita, Kansas	67217
Lot 5	✓ Robert G. & Betty L. Brunton 2251 Westport Wichita, Kansas	67203
Lot 6	✓ Marlin D. & Sharon K. Bruce 1208 Clara Wichita, Kansas	67212
Lot 7	✓ Gary K. & Marie A. Stewart 9806 N. Westport 1202 Clara Wichita, Kansas	67212
Lot 8	D Ford M. Duke 1602 West Lynn Wichita, Kansas	67212
Lot 9	✓ Jan Jeffers 1209 No. Smith Wichita, Kansas	67212
Lot 10	✓ Darrell L. & Christina M. Houser 1215 Smith Wichita, Kansas	67212
Lot 11	✓ Alfred W. & Virginia F. Stude 1908 No. Kessler Wichita, Kansas	67212
Lot 12	✓ Patrick Earnest & Donna G. Moore 1227 No. Smith Wichita, Kansas	67212

R. A. MORRIS TRACTS

E. 77' of W. 490' of the No. 180' of Lot 23, exc. No. 30' for road	✓ Calvin R. & Marilyn K. Herrill 4909 W. 11th Wichita, Kansas	67212
W. 413' of No. 180' of Lot 23, exc. the No. 30' for Street	D Ford M. Duke 1602 West Lynn Wichita, Kansas and ✓ Carl F. Smith 1630 Lynnhurst Wichita, Kansas	67212
W/2 of Lot 31	✓ Charles R. Gaddy 1230 Smith Wichita, Kansas	67212

No. 5133

GUARANTEE TITLE CO., INC.

BY:

Ernie L. Douthett
Vice-President

jlm

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 2 21

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	