

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 reduced 25-foot setback is still more than the 20-foot setback normally required in the "RB" district and the proposed construction rehabilitates the dwelling, which is a purpose of the Historic Preservation Ordinance; 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.

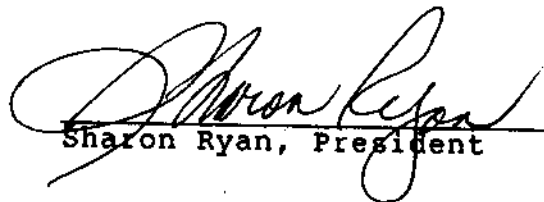
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the front yard setback from 30 feet to 25 feet on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

Lot 30 on Fairview Avenue in Sherwood's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fairview in an area south of 14th Street (1449 Fairview).

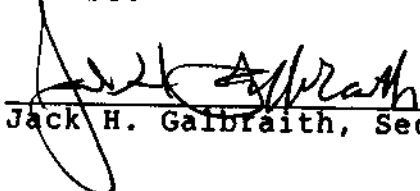
subject to the following conditions:

1. The applicant shall obtain the necessary building permits for the porch enclosure and shall comply with all requirements of the building code.
2. No encroachments shall be permitted into the new 25-foot required front yard, except for the covered steps as shown on site plan and elevation drawings submitted with the application.
3. The proposed construction shall be in accordance with the plans submitted with this application, said plans having been approved by the Historic Preservation Board. No further enclosure of the porch shall be permitted in the future.

ADOPTED AT WICHITA, KANSAS, this 28th day of February, 1989.

  
Sharon Ryan, President

ATTEST:

  
Jack H. Galbraith, Secretary

**BZA RESOLUTION NO. 2-89**

WHEREAS, Mary Edna Tucker, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 30 feet to 25 feet on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

Lot 30 on Fairview Avenue in Sherwood's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fairview in an area south of 14th Street (1449 Fairview).

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 February 28, 1989, 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 most front yard setbacks in the "RB" district require only a 20-foot setback, but because of the setbacks of two adjacent houses, the required setback for the application lot is much greater; 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 enclosed structure will not project any further into the front yard than the unenclosed porch, a substantial structure, projected for many decades and numerous houses in this neighborhood have similar, rather massive porches; 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 owners had no notice of this property being in an historic district prior to purchasing the house and a great deal of time and expense have already been expended in this matter and to require all enclosed portions of the dwelling to maintain a 30-foot setback would prohibit use of the original foundation for a new, glass-enclosed porch; 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 a reduction of the front yard from 30 feet to 25 feet will in no way interfere with existing or needed easements or streets; and

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4581

March 9, 1989


Ronald L. Charles  
P. O. Box 34  
Sedgwick, KS 67135

Re: BZA 2-89 - Variance to reduce the front yard setback from 30  
to 25 ft. at 1449 N. Fairview.

Dear Mr. Charles:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on February 28, 1989. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

Sincerely,

  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

cc: Mary Edna Tucker, 1449 N. Fairview, Wichita, KS, 67203  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the reduced 25-foot setback is still more than the 20-foot setback normally required in the "RB" district.

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 conditions:

1. The applicant shall obtain the necessary building permits for the porch enclosure and shall comply with all requirements of the building code.
2. No encroachments shall be permitted into the new 25-foot required front yard, except for the covered steps as shown on site plan and elevation drawings submitted with the application.

**BACKGROUND:** The applicant recently purchased the two-story house at 1449 N. Fairview, which is located within an historic district, and removed the deteriorated front porch. Plans were to reconstruct the porch on the original foundation and enclose it with glass. Preliminary contacts were made with Central Inspection and a Certificate of Appropriateness was obtained from the Historic Preservation Board before it was discovered that an enclosed porch would encroach the required front yard setback. Unenclosed porches are allowed to encroach 8 feet into required front yards, but once they are enclosed, they become part of the main structure and must observe the setbacks established for main dwellings. Front yard setbacks in the "RB" district are only 20 feet unless the houses on either side maintain greater setbacks and are within 100 feet of each other, as is the case here. An average setback is then determined for the center structure and in this case it is 30 feet, the maximum which can be required by the use of this averaging formula. An enclosed porch on the existing foundation can maintain only a 25-foot setback and therefore requires a variance.

**ADJACENT ZONING AND LAND USE:**

NORTH	"RB"	One-family dwelling
SOUTH	"RB"	One-family dwelling
EAST	"RB"	One-family dwelling
WEST	"B"	Nursing-home

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as most front yard setbacks in the "RB" district require only a 20-foot setback, but because of the setbacks of two adjacent houses, the required setback for the application lot is much greater.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the enclosed structure will not project any further into the front yard than the unenclosed porch, a substantial structure, projected for many decades and numerous houses in this neighborhood have similar, rather massive porches.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as a great deal of time and expense have already been expended in this matter and to require all enclosed portions of the dwelling to maintain a 30-foot setback would prohibit use of the original foundation for a new, glass-enclosed porch.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as a reduction of the front yard from 30 feet to 25 feet will in no way interfere with existing or needed easements or streets.