

HARDSHIP: Staff is unable to find that the applicant would be caused a hardship by having to comply with the side yard requirements of the zoning ordinance, due to the fact that there is access to the rear half of the lot where there is sufficient area to construct a two-car garage or carport with proper setbacks or there is sufficient width beside the house to accommodate a one-car garage or carport and still observe the required six-foot side yard.

PUBLIC INTEREST: It is the opinion of staff that the granting of the variances would not directly affect the public interest inasmuch as no utility easement or street right-of-way would be encroached by the proposed structure.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances as requested is not within the spirit and intent of the zoning ordinance because light, circulation and fire safety would be affected by the granting of these variances and more specifically because the variance to one-half foot for the roof overhang would be in violation of the Uniform Building Code.

RECOMMENDATION: Since the five conditions necessary for the granting of a variance cannot be found to exist, it is recommended that the application be denied.

April 25, 1989

SECRETARY'S REPORT

CASE NUMBER: BZA 11-89

OWNER/APPLICANT/AGENT: Fred J. Pray (owner/applicant)

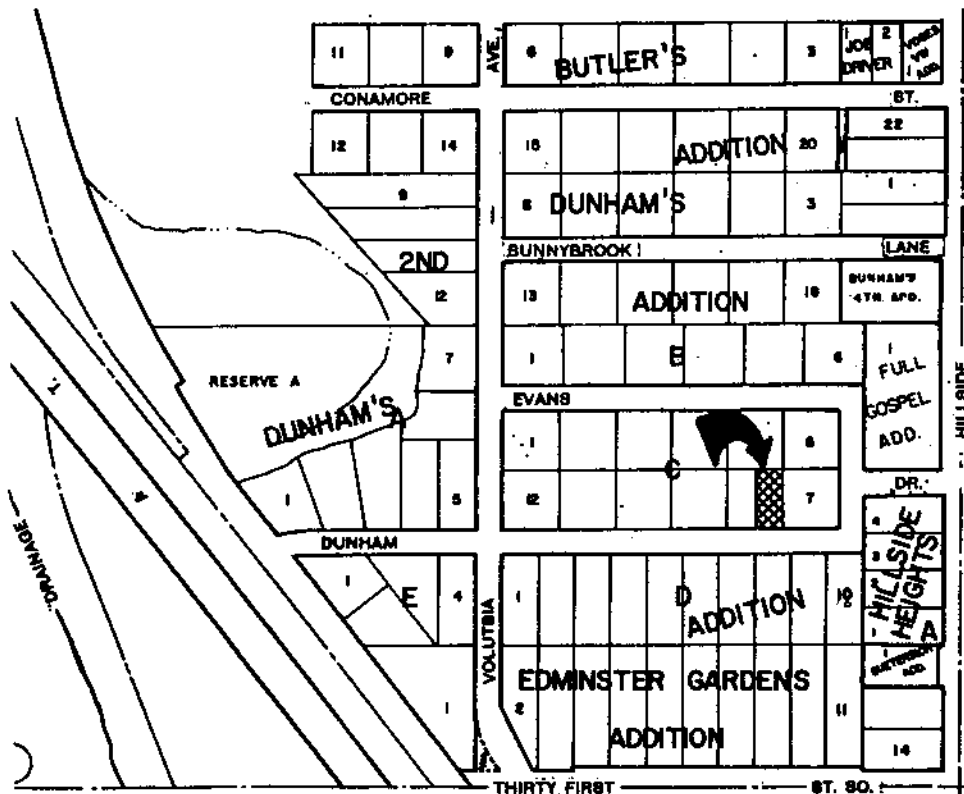
REQUEST: Variance to reduce the west side yard from 6 feet to 2 feet for a structure and to 1/2-foot for the roof overhang.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 60 ft. x 146 ft.

LOCATION: North side of Dunham in an area west of Hillside (3026 E. Dunham).

PROPOSED USE: Garage



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 conditions, as required by the State Statutes, are found to exist.

**BACKGROUND:** The applicant is requesting a variance of the west side yard setback from 6 to 2 feet to permit construction of a garage which would be attached to the existing dwelling. A paved driveway now exists at this location. Although the applicant's site plan refers to the proposed structure as a "carport" rather than a "garage", the west side is to be fully enclosed (see Left Elevation drawing) and therefore is not, by definition, a carport. The north and south sides are to remain open, at least for the present time. According to the applicant's plan, the structure would be 16 feet wide with a 14-foot-wide entranceway. He has stated he wants to provide space for 2 cars within the garage. The roof overhang is proposed to be 18 inches into the 2-foot remaining side yard. Signed statements from the adjacent owners to the west and east and four owners on the south side of Dunham supporting this variance request have been submitted. The property to the west is the one most affected by this proposal. That house is approximately 20 feet from the side property line and there is a paved driveway, similar to Mr. Pray's driveway, within that east side yard.

Central Inspection advises that in accordance with Table 5A of the Uniform Building Code, any exterior wall located closer than 3 feet to the property line must be constructed with a one-hour firewall rating. In accordance with Section 504 of the UBC, a roof overhang can encroach no more than one-third the setback distance permitted for an unrated wall ( $1/3 \times 3$  feet = 1 foot). Since the proposed wall would be at 2 feet, there would be no roof overhang allowed. If the applicant builds a carport (open on all sides) rather than a garage, and if it is constructed of combustible materials, it must also be fire rated if closer than 3 feet to the property line.

**ADJACENT ZONING AND LAND USE:**

|       |      |                     |
|-------|------|---------------------|
| NORTH | "AA" | One-family dwelling |
| SOUTH | "AA" | One-family dwelling |
| EAST  | "AA" | One-family dwelling |
| WEST  | "AA" | One-family dwelling |

**UNIQUENESS:** It is the opinion of staff that this property is not unique as there is access to the rear half of the lot and sufficient undeveloped area in the rear yard to support an accessory garage which, if detached and totally within the rear half of the lot, would have only a 3-foot side yard requirement.

**ADJACENT PROPERTY:** Although the property owner adjacent to the west has submitted a letter supporting this variance request and therefore must feel that he will not be adversely affected, the granting of this variance might adversely affect what that owner or a future owner would be able to do with his side yard, due to the reduced separation between structures, and consequently the reduced light, air, circulation and fire safety.

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4561

April 26, 1989

Fred J. Pray  
3026 E. Dunham  
Wichita, KS 67216

Re: BZA 11-89 - Variance to reduce the west side yard from 6 to 3 feet for a structure and to 2 feet for the roof overhang (as amended), located at 3026 E. Dunham.

Dear Mr. Pray:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on April 25, 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.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,

*Louise Olivarez*  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

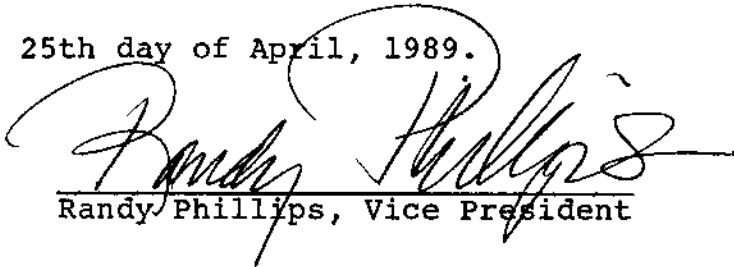
cc: Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

The East 60 feet of Lot 8, Block C, Dunham Addition, Sedgwick County, Kansas. Generally located on the north side of Dunham in an area west of Hillside (3026 E. Dunham).

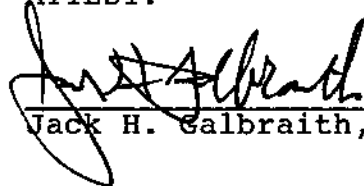
subject to the following condition:

1. This setback variance shall apply only to an area not exceeding 30 feet in length adjacent to the west side of the house and extending no closer to the street than the front of the existing house.

ADOPTED AT WICHITA, KANSAS, this 25th day of April, 1989.

  
Randy Phillips, Vice President

ATTEST:

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

BZA RESOLUTION NO. 11-89

WHEREAS, Fred J. Pray, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard setback from 6 feet to 3 feet for a garage and to 2 feet for the roof overhang (as amended) on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The East 60 feet of Lot 8, Block C, Dunham Addition, Sedgwick County, Kansas. Generally located on the north side of Dunham in an area west of Hillside (3026 E. Dunham).

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 April 25, 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 the paved driveway is already in place at the location of the desired garage; existing trees in the rear yard would make it difficult to locate an attached two-car garage behind the house; and a detached garage in the rear half of the lot could be constructed with the same setbacks as requested by this amended variance application; 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 only property which would be affected by this side yard setback variance is the property to the west and that owner has submitted a written statement supporting the variance; 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 only a one-car attached garage could be constructed if a 6-foot side yard is required; 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 no utility easement or street right-of-way would be encroached by the proposed structure; 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 there will still be sufficient setback for circulation and fire safety and due to the distance between the house to the west and this proposed garage, there should still be adequate separation for light and air for each structure; 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 amended request be approved for a variance to reduce the side yard setback from 6 feet to 3 feet for a garage and to 2 feet for the roof overhang on property zoned the "AA" One-Family Dwelling District and legally described as follows: