

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 with regard to the variance from 17 feet to 15 feet for the deck roof and supports, but HAS NOT been found to exist with regard to the variance from 17 feet to 9 feet for the carport.

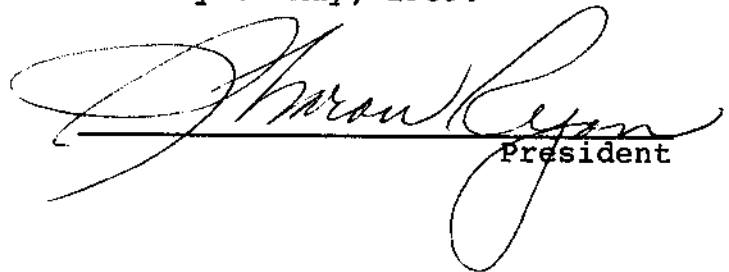
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that the request for a variance from 17 feet to 9 feet for a carport be denied and that the request for a variance from 17 feet to 15 feet for the deck roof and supports be approved on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 24, Block 13, Downtain's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of St. Paul in an area north of May (1934 S. St. Paul).

subject to the following conditions:

1. The edge of the roof shall extend no more than ten feet beyond the existing front face of the house and the deck shall not be extended closer to the front property line than its current location, which is nine feet beyond the existing front face of the house.
2. The roofed deck shall not be enclosed with any materials other than railing or screen wire.

ADOPTED AT WICHITA, KANSAS, this 23rd day of May, 1989.


President

ATTEST:


Jack H. Galbraith, Secretary

BZA RESOLUTION NO. 18-89

WHEREAS, William Murphy, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 17 to 15 feet for a covered but unenclosed deck and from 17 to 9 feet for a carport on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 24, Block 13, Downtain's First Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of St. Paul in an area north of May (1934 S. St. Paul).

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 May 23, 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 this property IS unique as it relates to the deck roof and supports inasmuch as the deck was permitted to be built without any limitation on the amount of encroachment into the front yard and the proposed roof will overhang the deck only one foot. The Board of Zoning Appeals has found that this property IS NOT unique as it relates to the carport inasmuch as the lot size and shape and the house are similar to other lots and houses in this subdivision and a previous garage was converted into living space by this property owner; and

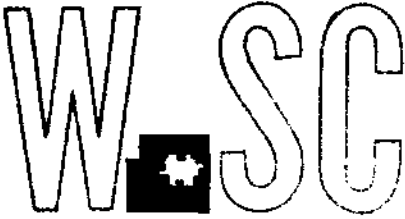
WHEREAS, the Board of Zoning Appeals has found that the granting of the variance from 17 feet to 15 feet as requested for the deck roof and supports WILL NOT adversely affect the rights of adjacent property owners inasmuch as the deck is in the center of the lot and when roofed, will not obstruct the view from any adjacent property, as the front and sides must remain open. It is the opinion of staff that the granting of the variance from 17 feet to 9 feet for a carport WILL adversely affect the property owner to the north inasmuch as the carport would be only six feet from the north property line and would substantially obstruct the view from the house located adjacent to the north; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the deck would have to remain uncovered or the deck and/or roof would have to be reduced in size to come within the 8-foot encroachment permitted for a porch and a carport of sufficient length to protect a car from the weather could not be constructed; 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 easements or street right-of-way would be altered or encroached by these proposed structures; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance from 17 feet to 15 feet as requested for the deck roof and supports WOULD NOT be opposed to the general spirit and intent of the zoning ordinance inasmuch as the proposed structure could be built to the 15-foot setback line if the roof supports were at the 17-foot setback line, and therefore the proposed construction is only a slight deviation from what is permitted by the ordinance. It is the opinion of staff that the granting of the variance from 17 feet to 9 feet as requested for the carport WOULD be opposed to the general spirit and intent of the zoning ordinance inasmuch as it is a substantial increase in the front yard encroachment permitted by the ordinance and does not meet the intent of the ordinance, which is to maintain some degree of uniformity on lots in the same zoning district; and

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4561

May 23, 1989

William K. Murphy
1934 S. St. Paul
Wichita, KS 67213

Re: BZA 18-89 - Variance to reduce the front yard setback from 17 to 15 ft. for a covered but unenclosed deck and from 17 to 9 ft. for a carport, located on the east side of St. Paul in an area north of May (1934 S. St. Paul).

Dear Mr. Murphy:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on May 23, 1989. This resolution reflects the official action of the Board to ~~grant~~ your request to reduce the front yard setback from 17 to 15 feet for a covered but unenclosed deck and sets out the conditions of approval. It is forwarded to you for your information and files. As you know, the Board ~~denied~~ your request to reduce the front yard setback from 17 to 9 feet for a carport.

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
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Jerry Brown, Jerry Brown Construction, 539 N. Rutgers, 67212
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

FILE COPY

front and sides must remain open. It is the opinion of staff that the granting of the variance from 17 feet to 9 feet for a carport WILL adversely affect the property owner to the north inasmuch as the carport would be only six feet from the north property line and would substantially obstruct the view from the house located adjacent to the north.

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 the deck would have to remain uncovered or the deck and/or roof would have to be reduced in size to come within the 8-foot encroachment permitted for a porch and a carport of sufficient length to protect a car from the weather could not be constructed.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no utility easements or street right-of-way would be altered or encroached by these proposed structures.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance from 17 feet to 15 feet as requested for the deck roof and supports WOULD NOT be opposed to the general spirit and intent of the zoning ordinance inasmuch as the proposed structure could be built to the 15-foot setback line if the roof supports were at the 17-foot setback line, and therefore the proposed construction is only a slight deviation from what is permitted by the ordinance. It is the opinion of staff that the granting of the variance from 17 feet to 9 feet as requested for the carport WOULD be opposed to the general spirit and intent of the zoning ordinance inasmuch as it is a substantial increase in the front yard encroachment permitted by the ordinance and does not meet the intent of the ordinance, which is to maintain some degree of uniformity on lots in the same zoning district.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance for the deck roof and supports can be found to exist, then it is the recommendation of the Secretary that this variance be granted, subject to the following conditions:

1. The edge of the roof shall extend no more than ten feet beyond the existing front face of the house and the deck shall not be extended closer to the front property line than its current location, which is nine feet beyond the existing front face of the house.
2. The roofed deck shall not be enclosed with any materials other than railing or screen wire.

Should the Board find that all five conditions necessary to the granting of a variance for the carport do exist, then consideration should be given to appropriate conditions for that variance.

May 23, 1989

SECRETARY'S REPORT

CASE NUMBER: BZA 18-89

OWNER/APPLICANT/AGENT: William K. Murphy (owner/applicant)
Jerry Brown Construction Co. (agent)

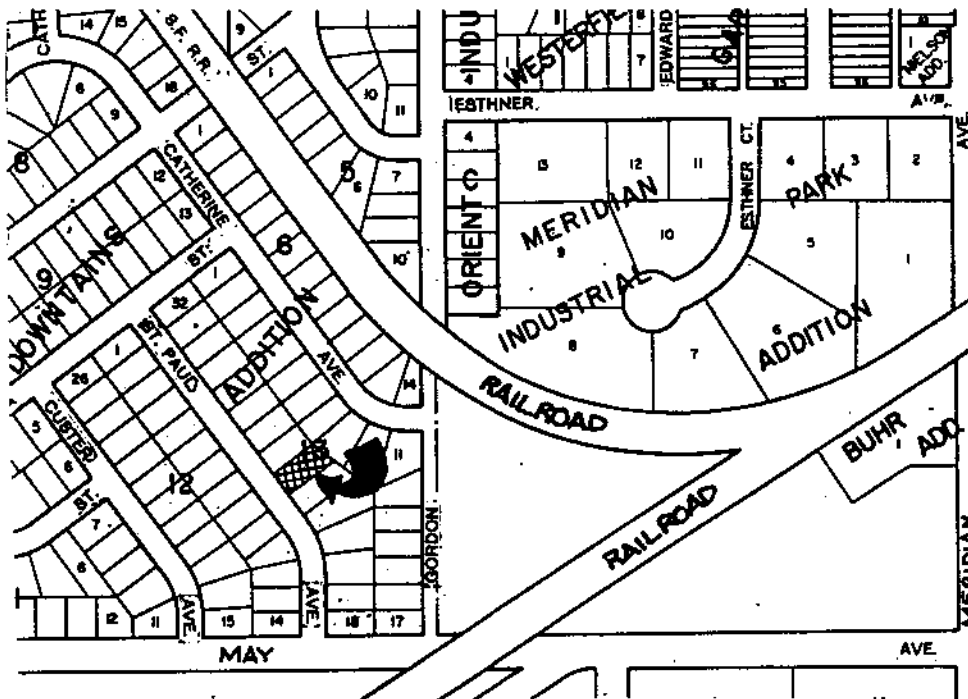
REQUEST: Variance to reduce the front yard setback from 17 to 15 feet for a covered but unenclosed deck and from 17 to 9 feet for a carport.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 60 ft. x 138 ft.

LOCATION: East side of St. Paul in an area north of May

PROPOSED USE: Covered wood deck and carport



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 applicants are requesting a reduction of the front yard setback requirement to permit construction of a carport and construction of a roof over an existing redwood deck. The 9-foot-wide deck did not require a building permit because it is elevated less than 30 inches above the ground. There is currently no limit on the distance a deck can encroach into a required yard. However, if a roof and its supporting members are added to the deck, it becomes a "porch" and is permitted to encroach only 8 feet into a front yard, although the roof overhang can extend another 30 inches. The zoning text's definition of "porch" is as follows: "A roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosing features except roof supports, railing, or screen wire." Because of this definition, a carport is also considered a porch and is subject to the same 8-foot permitted encroachment. Any further encroachment requires a variance. These two roofed structures are proposed to be connected to each other and both will join the roof lines of the existing house. A former attached garage has previously been converted into living space, thus eliminating the protection for a car. Although there is ample rear yard for a garage, there is only a 6-foot clearance for each side yard, making it impossible to have vehicular access to the rear yard.

Staff can justify the five conditions as they relate to the variance for the deck roof, but it is difficult to find that the variance needed for the carport is within the spirit and intent of the ordinance, that it will not adversely affect the adjacent property to the north, and that there is a uniqueness not brought about by a previous action of the applicant.

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 unique as it relates to the deck roof and supports inasmuch as the deck was permitted to be built without any limitation on the amount of encroachment into the front yard and the proposed roof will overhang the deck only one foot. It is the opinion of staff that this property IS NOT unique as it relates to the carport inasmuch as the lot size and shape and the house are similar to other lots and houses in this subdivision and a previous garage was converted into living space by this property owner.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance from 17 feet to 15 feet as requested for the deck roof and supports WILL NOT adversely affect the rights of adjacent property owners inasmuch as the deck is in the center of the lot and when roofed, will not obstruct the view from any adjacent property, as the