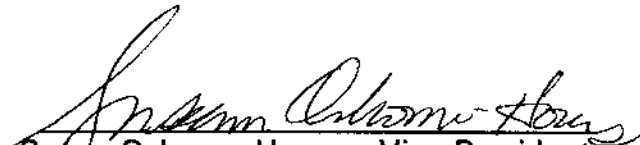


Lots 1 and 2, Replat of Lots 23, 24, 26 and 28, Guthrie's
Subdivision of the E/2 SE/4 of Section 6-T27S-R1E,
Sedgwick County, Kansas(2358 Somerset)

subject to the following conditions:

1. The applicant shall obtain a permit from Central Inspection and shall construct the proposed carport addition within one year following approval by the Board of Zoning Appeals, or the resolution granting this variance shall be declared null and void unless additional time is requested by the applicant and granted by the Board.
2. The carport shall be open sided and constructed over the existing concrete drive.
3. The front yard setback variance shall apply only to the portion of the property to be encroached by this proposed carport, described as beginning approximately 43 feet south of the north line of Lot 1 and continuing south approximately 17 feet 2 inches.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1994.


Susan Osborne-Howes, Vice-President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 5-94

WHEREAS, Michael Villegas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 25 feet to 9 feet on property zoned the "AA" and legally described as follows:

Lots 1 and 2, Replat of Lots 23, 24, 26 and 28, Guthrie's Subdivision of the E/2 SE/4 of Section 6-T27S-R1E, Sedgwick County, Kansas.

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 26, 1994, 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 owners or the applicant inasmuch as the location of the dwelling on the site has no entrance on the north side, therefore, in order to provide the closest protected parking to the existing entrance for a handicapped individual, it would be necessary to construct the protected parking adjacent to the entrance on the west side of the dwelling; 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 requested carport location will be at least 50 feet from the house to the north and at least 100 feet from the house to the south; the carport will be open; and a sight line through the structure will be maintained; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as constructing a carport behind the required 25-foot front setback would not provide direct covered access into the house as necessary to accommodate the needs of a physically handicapped resident; 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, inasmuch as the carport will be open and will not adversely impair sight lines nor will it encroach any public easements or right-of-way; 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 the zoning ordinance inasmuch as the general appearance along the street will not be substantially changed because the proposed carport will be required to maintain a sight line through the 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 request be approved for a variance to reduce the front yard setback from 25 feet to 9 feet on property zoned the "AA" and legally described as follows:

SEDGWICK COUNTY



**METROPOLITAN AREA PLANNING
DEPARTMENT**

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4421

April 27, 1994

Mr. Michael Villegas
2358 Somerset
Wichita, KS 67204

RE: BZA 5-94 Variance to reduce the front yard setback from 25 feet to 9 feet.
(2358 Somerset)

Dear Mr. Villegas:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on April 26, 1994. 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 call our office.

Sincerely yours,

A handwritten signature in black ink that reads "Lawrence P. Mitchell". The signature is written in a cursive style.

Lawrence P. Mitchell, Sr. Planner
Board of Zoning Appeals

Enclosure
LPM/hm

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
CAMA Files

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the carport will be open and will not adversely impair sight lines nor will it encroach any public easements or right-of-way.

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 general appearance along the street will not be substantially changed because the proposed carport will be required to maintain a sight line through the structure.


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 a permit from Central Inspection and shall construct the proposed carport addition within one year following approval by the Board of Zoning Appeals, or the resolution granting this variance shall be declared null and void unless additional time is requested by the applicant and granted by the Board.
2. The carport shall be open sided and constructed over the existing concrete drive.
3. The front yard setback variance shall apply only to the portion of the property to be encroached by this proposed carport, described as beginning approximately 43 feet south of the north line of Lot 1 and continuing south approximately 17 feet 2 inches.

SECRETARY'S REPORT

CASE NUMBER: BZA 5-94

OWNER/APPLICANT: Michael Villegas, Rudy Villegas, et al
Rudy Villegas

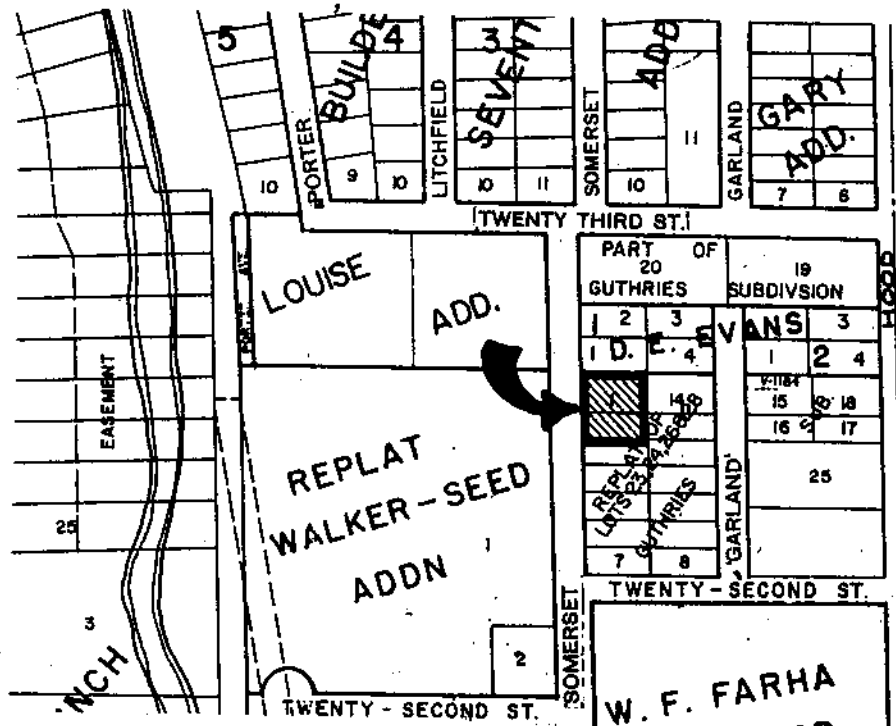
AGENT: 

REQUEST: Variance to reduce the front yard setback from 25 feet to 9 feet

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 1/2 Acre

LOCATION: South of 23rd Street North on the east side of Somerset (2358 Somerset)



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 State Statutes, are found to exist.

BACKGROUND: Michael and Rudy Villegas, the owners and occupants of the property, are requesting a variance to reduce the front yard set back from 25 feet to 9 feet on the application area located at 2358 Somerset. The reduced front yard setback is being requested in order that a covered carport could be constructed as close to the front entrance of the dwelling as possible. The applicants have indicated that due to the medical condition of Michael Villegas, which limits his mobility, it is desirable to have a covered carport located close to the front door.

The dwelling on the application area at one time did have an attached garage but that has been converted to living space. A sliding glass door provides at-grade access between the converted garage and the driveway where the carport will be constructed, if this variance is granted. There is sufficient space on the north yard to observe all setbacks and still construct a carport but this would increase the walking distance to either of the existing front entrances.

ADJACENT ZONING AND LAND USE:

NORTH:	"A"	Two Family Dwellings
SOUTH:	"AA"	Single Family Dwellings
EAST:	"AA"	Single Family Dwellings
WEST:	"B"	Multi Family Complex

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the location of the dwelling on the site has no entrance on the north side, therefore, in order to provide the closest protected parking to the existing entrance for a handicapped individual, it would be necessary to construct the protected parking adjacent to the entrance on the west side of the dwelling.

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 requested carport location will be at least 50 feet from the house to the north and at least 100 feet from the house to the south; the carport will be open; and a sight line through the structure will be maintained.

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 constructing a carport behind the required 25-foot front setback would not provide direct covered access into the house as necessary to accommodate the needs of a physically handicapped resident.