

as the house to the north is approximately 17.5 feet from the common side property line and there is a street on the south separating subject property from the next lot south, therefore adequate separation exists between structures on adjacent lots to provide for light, air, pedestrian circulation and protection from fire.

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 architectural line of the north wall face could not be maintained and the air conditioning condenser unit would have to be located an undesirably long distance from the interior unit if these side yard variances are not granted.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest inasmuch as no utility easements, street right-of-way, or sight distances on this corner property will be affected in any way by the proposed construction of a room addition to the rear of the existing house or the location of an air conditioning condenser unit south of the house.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as adequate separation will be maintained for the protection of adjacent properties and the general public.

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 variances be granted, subject to the following condition:

1. Within one year and prior to beginning construction of the proposed addition, the property owner (or contractor) shall obtain the necessary building permits from the City and shall comply with all applicable building code requirements.

SECRETARY'S REPORT

CASE NUMBER: BZA 27-93

OWNER/APPLICANT: Thomas F. Miller
AGENT: A & R Renovations (Alan D. Reimer)

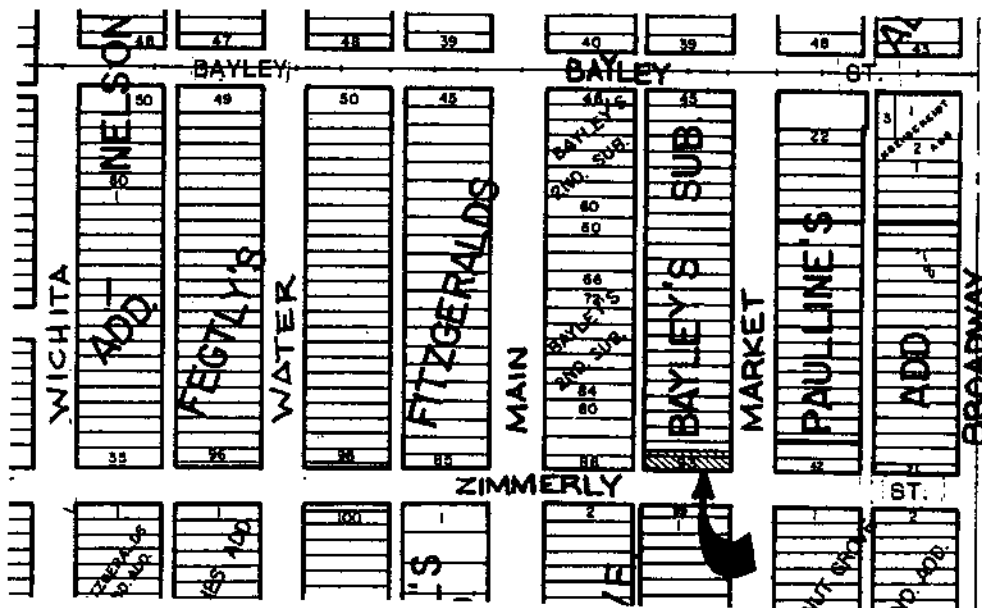
REQUEST: Variance to reduce the north side yard setback from 3' to 0.95' and to reduce the south side yard setback from 3' to 2'.

CURRENT ZONING: "RB" Four-Family Dwelling District

SITE SIZE: 3,696 square feet

LOCATION: On the NW corner of Market & Zimmerly (1353 S. Market).

PROPOSED USE: A room addition with a covered patio area.



JURISDICTION: The Board has jurisdiction to consider the variances requested under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the requests when all five conditions, as required by the State Statutes, are found to exist.

BACKGROUND: This 3,696 square-foot site is part of a subdivision of 25-foot-wide lots platted in 1886. In 1903, several lots and portions of lots to the south were acquired for Zimmerly right-of-way. In 1908, this 26.4-foot width of what was by then a corner property was separated in ownership from additional platted lots to the north. The house was constructed in 1920. Therefore, this narrow building site has a side yard setback requirement of only three feet, not the usual six feet, because it existed as a separate building site prior to adoption of the 1928 Wichita Zoning Ordinance. (See Section 28.04.060[C2.2].

The existing house is already situated closer to the north side property line than three feet. A survey shows the north side yard setback ranging from 0.45 feet at the front corner to 0.95 feet at the rear corner. Because this house was constructed on this narrow site prior to any zoning regulations specifying certain setbacks, the structure is a legal, non-conforming structure. Any additions to the house must comply with current setback regulations, however, unless varied by this Board. A room addition to the rear of the house is now proposed and, in order to maintain the architectural lines of the house, the owner and contractor desire to have the same setback for the addition as exists today, which would be not less than 0.95 feet. A 17-foot-wide yard with no structures is immediately adjacent to this house on the lot to the north.

The required south side yard setback is also three feet. On corner lots, even accessory structures must observe the full side yard requirement on the street side of the lot. The room addition will observe almost a five-foot setback but the 32-inch air conditioning condenser unit will need to be placed beside the house, thus encroaching about one-foot into the required three-foot setback. The unit could be placed to the west of the new room and patio addition but that location would be considerably removed from the inside air conditioning equipment. As the south side is a street side of this corner lot, the noise of the air conditioning unit should not be a problem to neighbors and, since the lot is fenced, the unit's proximity to the sidewalk on Zimmerly also should not be a problem.

ADJACENT ZONING AND LAND USE:

NORTH	"RB"	One-Family Dwelling
SOUTH	"RB"	One-Family Dwelling
EAST	"RB"	One-Family Dwelling
WEST	"RB"	One-Family Dwelling

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the narrow property existed as a separate building site and the house was constructed prior to the adoption of Wichita's first zoning code which required minimum setbacks.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the side yard variances will not adversely affect the rights of adjacent property owners inasmuch

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

October 27, 1993

Thomas F. Miller
1353 S. Market
Wichita, KS 67211

Re: **BZA 27-93** - Variance to reduce the North side yard setback from 3' to 0.95'
and to reduce the South side yard setback from 3' to 2'.

Dear Mr. Miller:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on October 26, 1993. 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,

Louise Olivarez, Secretary
Board of Zoning Appeals

LDO/prf
Enclosure

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Alan Reimer, A & R Renovations, 1714 Faulders Lane, 67218

subject to the following condition:

1. Within one year and prior to beginning construction of the proposed addition, the property owner (or contractor) shall obtain the necessary building permits from the City and shall comply with all applicable building code requirements.

ADOPTED AT WICHITA, KANSAS, this 26th day of October, 1993.



Keith A. Alter, President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 27-93

WHEREAS, Thomas F. Miller, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the North side yard setback from 3 feet to 0.95 feet and to reduce the South side yard setback from 3 feet to 2 feet on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

The South 5 feet of Lot 91 and all of Lot 93 on Market Street, Bayley's Subdivision in Fitzgerald's Addition to the City of Wichita, Kansas. Generally located on the Northwest corner of Market and Zimmerly (1353 S. Market).

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 October 26, 1993, 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 the narrow property existed as a separate building site and the house was constructed prior to the adoption of Wichita's first zoning code which required minimum setbacks, thus giving the existing house a legal, non-conforming status; and

WHEREAS, the Board of Zoning Appeals has found the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the house to the north is approximately 17.5 feet from the common side property line and there is a street on the south separating subject property from the next lot south, therefore adequate separation exists between structures on adjacent lots to provide for light, air, pedestrian circulation and protection from fire; 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 the architectural line of the north wall face could not be maintained and the air conditioning condenser unit would have to be located an undesirably long distance from the interior unit if these side yard variances are not granted; 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, as no utility easements, street right-of-way, or sight distances on this corner property will be affected in any way by the proposed construction of a room addition to the rear of the existing house or the location of an air conditioning condenser unit south of the house; 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 adequate separation will be maintained for the protection of adjacent properties and the general public; 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 North side yard setback from 3 feet to 0.95 feet and to reduce the South side yard setback from 3 feet to 2 feet on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

The South 5 feet of Lot 91 and all of Lot 93 on Market Street, Bayley's Subdivision in Fitzgerald's Addition to the City of Wichita, Kansas. Generally located on the Northwest corner of Market and Zimmerly (1353 S. Market).

BZA 27-93