

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there should be no effect on the general public.

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 regulations, inasmuch as this variance will not impact traffic patterns or neighbors adjacent to this property. Therefore, the granting of this variance will not be opposed to the purpose of the Unified Zoning Code to maintain harmonious development within Sedgwick County with limited impact on adjacent properties.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the 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 site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the rear yard setback shall be reduced from 25 feet to 10 ½ feet for a 8,600 square foot addition. The church addition shall be constructed in general conformance with the site plan approved by the Board of Zoning Appeals.
2. The applicant shall obtain all local permits necessary to construct the church addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

SECRETARY'S REPORT

CASE NUMBER: BZA 22-98

OWNER/APPLICANT: St. Mary Orthodox Church, c/o Eric Namee

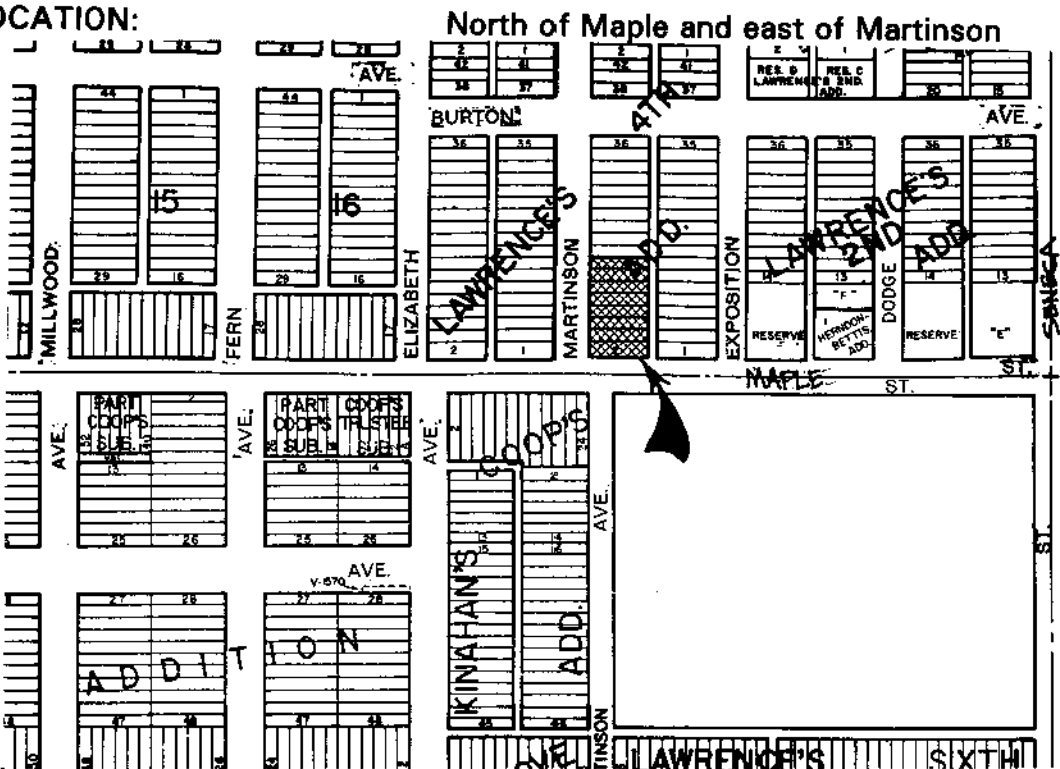
AGENT: PEC, c/o Rob Hartman

REQUEST: Variances 1) to reduce the front yard setback from 20 feet to 0 feet and 2) to reduce the rear yard setback from 15 feet to 3 feet

CURRENT ZONING: "B" Multi-family

SITE SIZE: .6 acre

LOCATION:



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: The applicant is requesting two variances, one to reduce the front setback from 25 feet to 0 and to reduce the rear setback from 15 feet to 3 feet to allow the expansion of an existing church on-site. The .6 acre tract is located north of Maple and east of Martinson and is zoned "B" Multi-family.

The church is proposing to construct a 908 square foot addition along the front of the existing church (5,680 square feet), facing Martinson. This addition would consist of a foyer and entry (see attached site plan). The main facade of the building would be 9 feet back from the property line with a 6 foot walkway down to the sidewalk on Martinson. Open stairs are permitted in the setback area if they do not protrude further than five feet into the setback. Therefore due to the sidewalk protruding farther than five feet into the building setback, the Office of Central Inspection has indicated that the applicant is required to obtain a variance to reduce the setback to 0.

The church is proposing to construct a 7,700 square foot addition north of the existing church. This addition will consist of offices, work rooms, library, meeting room, class rooms and storage area. Six parking spaces will be located just north of this addition. There will be a 20 foot setback from the single-family homes to the north. The compatibility setback requirement will not apply because these homes are all zoned "B" Multi-family. However, there is a screening requirement along the rear property line which may be waived because the two homes across the alley have solid screening fences in place. The applicant will be responsible to meet the screening requirement on the church property, if the fences on the single family homes across the alley are ever removed.

This addition will also be built approximately 3 feet from the rear property line. The Unified Zoning Code has a provision which allows for half of a platted or dedicated alley to be counted as a portion of a rear yard setback. There is a 15 foot alley platted behind the church. Therefore, the variance request is actually to reduce the rear setback from 15 feet to 10 ½ feet and not three feet. The Landscape Ordinance will requires a landscaped buffer yard when nonresidential property abuts a residential district. The applicant will have to ask for a waiver of this landscaped buffer yard because there is no room to plant these trees along the rear property line.

The applicants will be required to pave the alley from Maple to the north line of their property because they intend to use this alley for access to their parking lot north of the new addition and also to a parking lot on the east side of the alley.

There are single family homes located north of this site. East of this site there are four lots, two of which are owned by the church and two with single family homes. One of these lots owned by the church is currently used as a parking lot. A church owned parking lot is also located just west of this site. Another church and the Masonic

Home is located to the south across Maple.

ADJACENT ZONING AND LAND USE:

NORTH	"B"	Single family homes
SOUTH	"B"	Masonic home and church
EAST	"B"	Parking lot, vacant lot and single family homes
WEST	"MF-29"	Parking lot

Request No. 1: Variance to reduce the front yard setback from 20 feet to 0.

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as this is an old church developed in an established neighborhood. The needs of today's churches have changed considerably since the time this church was originally built. Therefore to allow this church to meet the changing lifestyles of today's churchgoers the church needs to enlarge the existing church and the only possible way to fit all the proposed uses is to expand into the front and rear yard setbacks.

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 there is a parking lot owned by the church to the west and a single family home directly to the north. The church addition will remain 20 feet south of this single family home and should not affect this property.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as without the ability to expand into the front setback the church will be unable to meet the changing demands of this ministry. If the church is not allowed to expand at this location, it could possibly have to relocate to a developing area of the City. Churches are important institutions that help to anchor existing older neighborhoods, and should be encouraged to remain in these neighborhoods.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there should be no effect on the general public.

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 regulations, inasmuch as this variance will not impact traffic patterns or neighbors adjacent to this property. Therefore, the granting of this variance will not be opposed to the purpose of the Unified Zoning Code to maintain harmonious development within Sedgwick County with limited impact on adjacent property owners.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the 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 site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the front yard setback shall be reduced from 25 feet to 0 for a 8,600 square foot addition. The church addition shall be constructed in general conformance with the site plan approved by the Board of Zoning Appeals.
2. The applicant shall obtain all local permits necessary to construct the church addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

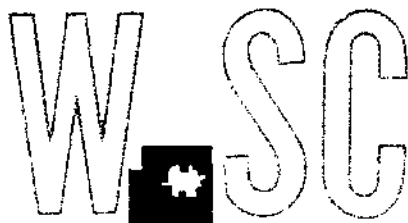
Request No. 2: Variance to reduce the rear yard setback from 15 feet to 10 and a half feet.

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as this is an old church developed in an established neighborhood. The needs of today's churches have changed considerably since the time this church was originally built. Therefore to allow this church to meet the changing lifestyles of today's churchgoers the church needs to enlarge the existing church and the only possible way to fit all the proposed uses is to expand into the front and rear yard setbacks.

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 rear addition will match the existing church facade to the south which has been in place for a number of years. The church owns two of the lots east of the alley and is attempting to purchase the two remaining. Only one of the single-family homes will be impacted by this expansion. The home at the southern entrance to the alley is located just east of the church which is built 3 ½ feet from the property line.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as without the ability to expand into the rear setback the church will be unable to meet the changing demands of this ministry. The applicants will also provide a handicapped ramp with this expansion.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

Y
FILE COPY

September 22, 1998

St. Mary Orthodox Church
Attention: Eric Namee
344 S. Martinson
Wichita, KS 67213

RE: BZA 22-98 - Variance to reduce the front yard setback from 20 feet to 0 feet & reduce the rear yard setback from 15 feet to 10 ½ feet on property zoned "B" Multi-Family and generally located on the northeast corner of Martinson & Maple.

Dear Mr. Namee:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on September 22, 1998. 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,

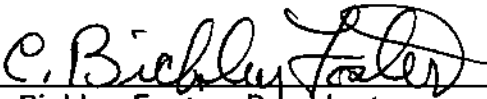
David L. Yearout, AICP, Secretary
Board of Zoning Appeals

DLY/le

cc: Professional Engineering Consultants, c/o Rob Hartman, 303 S. Topeka, Wichita, KS 67202
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22nd day of September, 1998.


C. Bickley Foster, President

ATTEST:


David L. Yearout, AICP, Secretary

BZA RESOLUTION NO. 22-98A

WHEREAS, St. Mary Orthodox Church, c/o Eric Namee, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 20 feet to 0 feet on property zoned "B" Multi-Family and legally described as follows:

Lots 2, 4, 6, 8, 10, 12, 14, & 16, Martinson Avenue, Lawrence's 4th Addition, Wichita, Sedgwick County, Kansas. Generally located northeast corner of Martinson and Maple (344 S. Martinson).

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 September 22, 1998, 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 this is an old church developed in an established neighborhood. The needs of today's churches have changed considerably since the time this church was originally built. Therefore to allow this church to meet the changing lifestyles of today's churchgoers the church needs to enlarge the existing church and the only possible way to fit all the proposed uses is to expand into the front and rear yard setbacks.

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 there is a parking lot owned by the church to the west and a single family home directly to the north. The church addition will remain 20 feet south of this single family home and should not affect this property.

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 without the ability to expand into the front setback the church will be unable to meet the changing demands of this ministry. If the church is not allowed to expand at this location, it could possibly have to relocate to a developing area of the City. Churches are important institutions that help to anchor existing older neighborhoods, and should be encouraged to remain in these neighborhoods.

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 there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there should be no effect on the general public.

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 this variance will not impact traffic patterns or neighbors adjacent to this property. Therefore, the granting of this variance will not be opposed to the purpose of the Unified Zoning Code to maintain harmonious development within Sedgwick County with limited impact on adjacent property owners.

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.

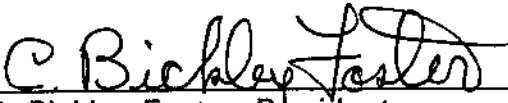
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the front yard setback from 20 feet to 0 on property zoned "B" Multi-Family and legally described as follows:

Lots 2, 4, 6, 8, 10, 12, 14, & 16, Martinson Avenue, Lawrence's 4th Addition, Wichita, Sedgwick County, Kansas. Generally located northeast corner of Martinson and Maple (344 S. Martinson).

subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the front yard setback shall be reduced from 25 feet to 0 for a 8,600 square foot addition. The church addition shall be constructed in general conformance with the site plan approved by the Board of Zoning Appeals.
2. The applicant shall obtain all local permits necessary to construct the church addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22nd day of September, 1998.


C. Bickley Foster, President

ATTEST:


David L. Yearout, AICP, Secretary

BZA RESOLUTION NO. 22-98B

WHEREAS, St. Mary Orthodox church, c/o Eric Namee, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 15 feet to 3 feet on property zoned "B" Multi-Family and legally described as follows:

Lots 2, 4, 6, 8, 10, 12, 14, & 16, Martinson Avenue, Lawrence's 4th Addition, Wichita, Sedgwick County, Kansas. Generally located northeast corner of Martinson and Maple (344 S. Martinson).

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 September 22, 1998, 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 this is an old church developed in an established neighborhood. The needs of today's churches have changed considerably since the time this church was originally built. Therefore to allow this church to meet the changing lifestyles of today's churchgoers the church needs to enlarge the existing church and the only possible way to fit all the proposed uses is to expand into the front and rear yard setbacks.

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 rear addition will match the existing church facade to the south which has been in place for a number of years. The church owns two of the lots east of the alley and is attempting to purchase the two remaining. Only one of the single-family homes will be impacted by this expansion. The home at the southern entrance to the alley is located just east of the church which is built 3 ½ feet from the property line.

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 without the ability to expand into the rear setback the church will be unable to meet the changing demands of this ministry. The applicants will also provide a handicapped ramp with this expansion.

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 there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there should be no effect on the general public.

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 this variance will not impact traffic patterns or neighbors adjacent to this property. Therefore, the granting of this variance will not be opposed to the purpose of the Unified Zoning Code to maintain harmonious development within Sedgwick County with limited impact on adjacent properties.

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 rear yard setback from 15 feet to 3 feet on property zoned "B Multi-Family and legally described as follows:

Lots 2, 4, 6, 8, 10, 12, 14, & 16, Martinson Avenue, Lawrence's 4th Addition, Wichita, Sedgwick County, Kansas. Generally located northeast corner of Martinson and Maple (344 S. Martinson).

subject to the following conditions:

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2. The applicant shall obtain all local permits necessary to construct the church addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.



MAPLE

