

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

May 28, 1997

Larry and Esther Henderson
3452 Ida
Wichita, KS 67216

RE: BZA 9-97 - Request for a variance to reduce the front yard setback from 25 feet to 18.1 feet; and a variance to reduce the Galena street side yard setback from 15 feet to 1.85 feet on property zoned "SF-6" Single-Family Residential and generally located on the northeast corner of Ida and galenda (3452 Ida)

Dear Mr. and Mrs. Henderson:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 27, 1997. 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,


Lawrence P. Mitchell, Secretary
Board of Zoning Appeals

LPM/sah

cc: J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)



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BZA RESOLUTION NO. 9-97A

WHEREAS, Esther and Larry Henderson, 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 18.1 feet on property zoned "SF-6" Single-Family Residential and legally described as follows:

Lot 1, except the north 13 feet thereof, Block 6, Rainbow First Addition, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Ida and Galena (3452 Ida).

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 27, 1997, 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 lot has a unique shape and is a corner lot and that has frontage on two streets and the location of the structures on the site limit the location of a building addition; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents inasmuch it is on a corner lot and the adjacent dwelling to the rear faces in the opposite direction and there is no residential development across the street to the south and the only party that would be looking into this would be across the street to the west; 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 it would be an unnecessary hardship upon the applicant to locate a temporary structure on other locations on the property and locating the unit in the garage would not be practical; 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 general population is becoming older and there will be a greater need to provide for their unique housing needs and the locating of temporary units is one solution to address the problem; 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 spirit of the regulations are to provide appropriate protection to the public and that they have located the building addition in as much as possible to avoid any adverse situations.

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 18.1 feet on property zoned "SF-6" Single-Family Residential and legally described as follows:

Lot 1, except the north 13 feet thereof, Block 6, Rainbow First Addition,
Wichita, Sedgwick County, Kansas.

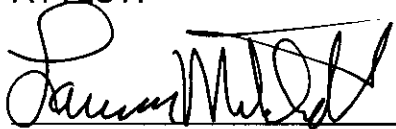
subject to the following conditions:

1. The front yard setback variance from 25 feet to 18.1 feet shall apply to only the requested portion of the front yard (beginning approximately 5 feet north of the south property line and extends to the north 20 feet) as shown on the site plan submitted with the application.
2. The applicant shall obtain a building permit for the building addition from the Office of Central Inspection and will comply with all building code requirements.
3. The building addition shall be completed and ready for occupancy within one year or the resolution granting this variance shall become null and void.
4. The building setback reduction shall only apply to a structure which is being occupied by a disabled individual. When the structure is no longer being occupied by a disabled individual, it must be removed from the site within 90 days. The applicant shall report to the Office of Central Inspection on a yearly basis, every May, the status of the occupancy of this building addition. Once the building addition is removed from the site the variance shall be null and void.
5. This resolution shall be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 27th day of May, 1997.


Keith A. Alter, President

ATTEST:


Lawrence Mitchell, Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 9-97

OWNER/APPLICANT: Esther and Larry Henderson

REQUEST:

- 1) Variance to reduce the front yard setback from 25' to 18.1'; and
- 2) Variance to reduce the Galena street side yard setback from 15' to 1.85'

CURRENT ZONING: "SF-6" Single-Family Residential

SITE SIZE: 0.19 acres

LOCATION: Northeast corner of Ida and Galena (3452 Ida)



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 applicants are requesting a reduction of the front yard setback from 25 feet to 18.1 feet and a reduction of the Galena street side yard setback from 15 feet to 1.85 feet to accommodate the construction of a structure. The structure would be used as an addition to the existing home on the site to provide separate living quarter for an elderly parent who needs assistance with her daily activities.

The applicants propose to lease a "temporary disability structure" from Mobile Care, Inc., to use as the living quarters for the elderly parent. These units are constructed off-site and are moved onto and "installed" on the lessee's property. The applicants have indicated that due to the existing structures and landscaping on the site the preferred location of the addition would be on the south side of the existing home which would place the proposed addition into the front yard setback and the street side yard setback.

The applicants did consider placing the unit in the double-car garage on the site, but rejected that option because they would have to rent a storage building for all the equipment now being stored in the garage and they would not have a protected place park their vehicles.

The applicants have indicated their willingness to remove the structure once it is no longer needed for its intended purpose and allow the setbacks to return to what is required by code. The Board should be aware that any variance granted runs with the property and not the owner.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6" Single-Family Home
SOUTH	"SF-6" Garvey YMCA Park
EAST	"SF-6" Single-Family Home
WEST	"SF-6" Single-Family Home

Request No. 1: Variance to reduce the front yard setback from 25 feet to 18.1 feet.

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as the property has an average width of 80 feet and 100 feet of depth. The tract is 8,000 square feet in area. Adjacent residentially developed properties have similar dimensions and area and are developed within the setbacks required by the code.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as placing a structure into the front yard setback will not be in character with the existing house on this lot or with other structures in the area.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations will not constitute an unnecessary hardship upon the applicant inasmuch as there is an alternative location on the site in the garage where the "temporary disability structure" could be located that would comply with all setback requirements.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest inasmuch as the sight lines of the intersection of Ida and Galena would be reduced and it may have a negative impact on the driving public. There will be no encroachment by the structure into utility easements or street right-of-way.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance as requested is not within the general spirit and intent of the zoning ordinance. The applicant's site is currently developed with structures found in typical residential development; dwelling, detach garage and accessory structures. Approval of this request would violate the spirit and intent of the ordinance by varying a setback requirement in order to allow a structure which duplicates the function of the existing dwelling.

RECOMMENDATION: Since all five conditions necessary for the granting of a variance cannot be found to exist it is recommended that the request be **DENIED**. However, 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 front yard setback variance from 25 feet to 18.1 feet shall apply to only the requested portion of the front yard (beginning approximately 5 feet north of the south property line and extends to the north 20 feet) as shown on the site plan submitted with the application.
2. The applicant shall obtain a building permit for the building addition from the Office of Central Inspection and will comply with all building code requirements.
3. The building addition shall be completed and ready for occupancy within one year or the resolution granting this variance shall become null and void.
4. This resolution shall be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

Request No. 2- Variance to reduce the Galena street side yard setback from 15 feet to 1.85 feet.

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as the property has an average width of 80 feet and 100 feet of depth. The tract is 8,000 square feet in area. Adjacent residentially developed properties have similar dimensions and area and are developed within the setbacks required by the code.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as placing a structure into the street side yard setback will not be in character with the existing house on this lot or with other structures in the area.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations will not constitute an unnecessary hardship upon the applicant inasmuch as there is an alternative location on the site in the garage where the "temporary disability structure" could be located that would comply with all setback requirements.

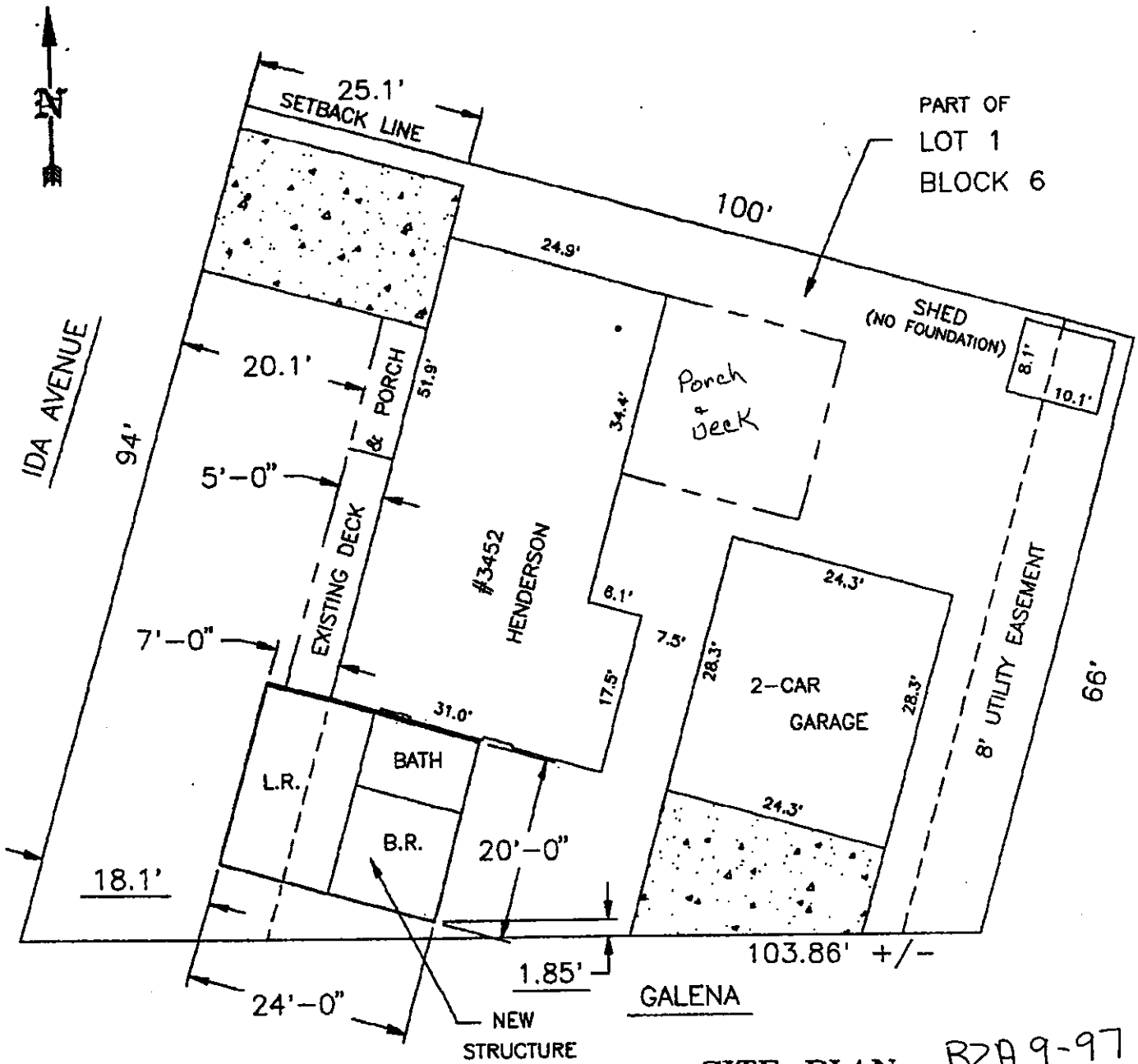
PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest inasmuch as the sight lines of the intersection of Ida and Galena would be reduced and it may have a negative impact on the driving public. There will be no encroachment by the structure into utility easements or street right-of-way.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance as requested is not within the general spirit and intent of the zoning ordinance. The applicant's site is currently developed with structures found in typical residential development; dwelling, detach garage and accessory structures. Approval of this request would violate the spirit and intent of the ordinance by varying a setback requirement in order to allow a structure which duplicates the function of the existing dwelling.

RECOMMENDATION: Since all five conditions necessary for the granting of a variance cannot be found to exist it is recommended that the request be **DENIED**. However, 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 street side yard setback variance from 15 feet to 1.85 feet shall apply only to that portion of the Galena side yard (beginning approximately 18.0 feet east of the west property line and continuing to the east 25 feet) as shown on the site plan submitted with the application.

2. The applicant shall obtain a building permit for the building addition from the Office of Central Inspection and will comply with all building code requirements.
3. The building addition shall be completed and ready for occupancy within one year or the resolution granting this variance shall become null and void.
4. This resolution shall be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.



SITE PLAN

B2A 9-97

NOTE:

THE ABOVE SITE PLAN INFORMATION WAS TAKEN FROM THE MORTGAGEE TITLE INSPECTION AND DOES NOT CONSTITUTE A BOUNDARY SURVEY.

(FOR VARIANCE FOR TEMPORARY DISABILITY STRUCTURE)

UNLESS SPECIFIED TOLERANCES ARE : ± 1/32" FRACTIONAL ± .015 DECIMAL ± 1/2" ANGLES - WELDS SHALL CONFORM TO AMERICAN WELDING SOCIETY CODE D1.1 - TOLERANCE FOR PLANE CUT ± 1/32" MIN. CORNER RADIUS .125

NO.	REVISION	DATE	APPROVALS	DATE
△			DRAWN BY: NEW DIMENSIONS & ASSOCIATES INC.	
△			DRAWING CHECKED: MOBILE CARE INC.	
△			APPROVED: MOBILE CARE INC.	
△			APPROVED: (CLIENT) ESTER HENDERSON	
△			APPROVED: SEDGWICK CO. PLANNING COMMISSION	



Mobile Care, Inc.

2901 Lakeview Rd. Lawrence, Kansas, 66044

(913) 838-3322 - 1-800-363-8090 - FAX (913) 838-3828

SIZE	PROJECT NO.	CLIENT:	REV
A		ESTHER HENDERSON SEDGWICK CO. WICHITA, KS.	
SCALE: 1/16"=1'-0"	PART NO.	DRAWING NO. MC-003	SHEET OF DWG. FILE: MC-003

NOTE: LOOK FOR OTHER REV. STAGGS