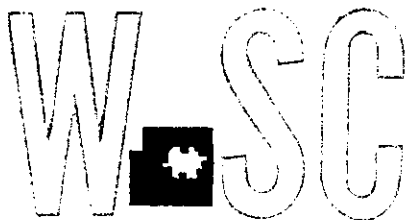


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

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

March 26, 1997

Verlin L. and Laura E. Harmon  
3232 Downtain  
Wichita, Ks 67207

**RE: BZA 3-97 - Request for two variances, 1) to reduce the north side yard setback from 6 feet to 0 feet; and 2) to reduce the front yard setback from 25 feet to 4 feet on property zoned "SF-6" Single-Family Residential and generally located south of 31st Street South on the west side of Downtain (3232 Downtain)**

Dear Mr. and Mrs. Harmon:

Enclosed is a signed copy of the above-referenced BZA Resolutions approved by the Board of Zoning Appeals on March 25, 1997. These resolutions reflect the official action of the Board to grant your requests 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)

## **BZA RESOLUTION NO. BZA 3-97A**

**WHEREAS**, Laura E. & Verlin L. Harmon, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the north side yard setback from 6 feet to 0 feet on property zoned "SF-6" Single Family Residential and legally described as follows:

Lot 6, Block 3, Jenkins 2nd Addition, Wichita, Sedgwick County, Kansas.  
Generally located south of 31st Street South on the west side of  
Downtain (3232 Downtain).

**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 March 25, 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 situation of the house on this lot and the earlier conversion of the garage to living space. Due to the close placement of the home to the north property line, in comparison to other homes in this area, there is no way possible to construct this carport on the north side of the house; 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 carport is relatively unobtrusive, blends in with the character of the neighborhood and was constructed to be compatible with the existing house on this lot; 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 owner doesn't have the ability to provide protected parking for their vehicles otherwise; 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 no public right-of-way or utility easements are being affected by the reduction in this side yard setback; 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 light, air and pedestrian circulation between structures on adjacent properties will be adequate, due to the unenclosed character of the structure for which this variance is granted.

**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 6 feet to 0 feet on property zoned "SF-6" Single Family Residential and

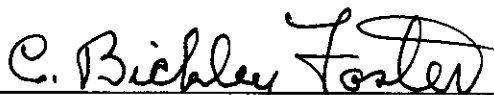
legally described as follows:

Lot 6, Block 3, Jenkins 2nd Addition, Wichita, Sedgwick County, Kansas.

subject to the following conditions:

1. This side yard setback variance from 6 feet to 0 feet shall apply to only the north side yard adjacent to the existing carport, which is approximately 20 feet in length, beginning at a point 4 feet east of the west property line, as shown on the site plan submitted with this application.
2. The applicant shall obtain a building permit from the Office of Central Inspection for the carport within 30 days following the release of the resolution.
3. This variance is for an unenclosed carport only with no walls, and any other structures shall comply with all applicable setback requirements.
4. The carport shall be maintained as currently exists and the paint color shall remain the same as that of the main dwelling on this site.
5. This resolution may 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 25th day of March, 1997.

  
Bickley Foster, First Vice-President

ATTEST:

  
Lawrence Mitchell, Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA 3-97

OWNER/APPLICANTS: Laura E. & Verlin L. Harmon

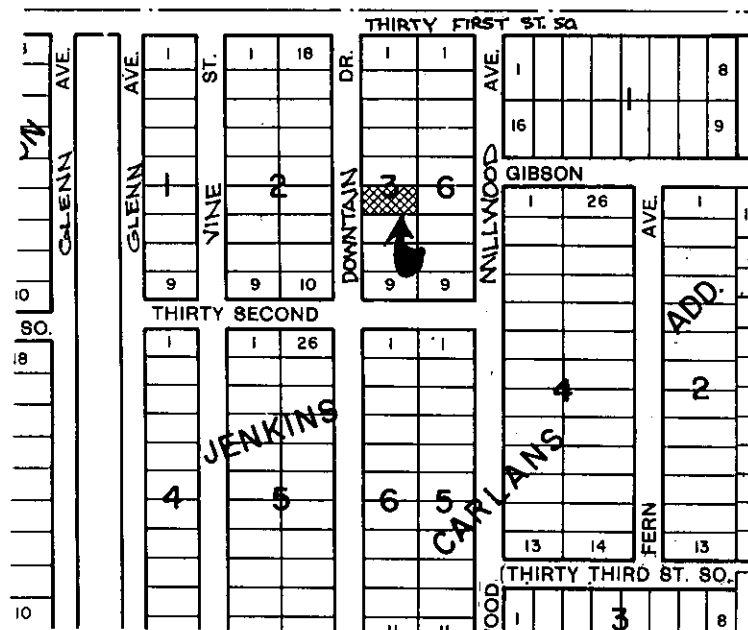
REQUEST:

- 1) Variance to reduce the north side yard setback from 6' to 0'; and
- 2) Variance to reduce the front yard setback from 25' to 4'

CURRENT ZONING: "SF-6" Single Family Residential

SITE SIZE: 60' x 120'

LOCATION: South of 31st Street South on the west side of Downtain (3232 Downtain)



**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 north side yard setback from 6 feet to zero feet and a reduction of the front yard setback from 25 feet to 4 feet to accommodate an attached carport. The applicants have indicated that they constructed the carport to provide protection for themselves and their vehicles. There are no other facilities available on this site to provide protection and shelter for the applicant's vehicles. The carport was constructed approximately 1 1/2 years ago. The applicant hired a contractor to construct the carport and was under the impression that the contractor would obtain all necessary permits for construction. OCI records indicate that no permit was issued to construct the carport. Therefore, the applicants were issued a notice of violation by the code enforcement office.

The contractor built the carport on the north side property line and did not observe the required 6-foot setback. The carport was built four feet from the front property line and is not observing the required 25-foot setback. The carport was constructed with an integral rain gutter, so that run-off stays on the applicant's property.

The Office of Central Inspection has indicated that for structures closer than 3 feet to the side property line a firewall is required by the building code. To construct a firewall would entail enclosing the carport which would make the encroachment much more noticeable and have more effect on the property to the north. The applicant has been advised of this building code requirement and intends to request permission from the building code appeals board to permit the carport to remain as constructed.

When initially constructed this home did have an attached one-car garage. However, this garage had already been converted to living space when the applicant's purchased the home in 1954. Most of the homes in this immediate neighborhood were built at about the same time (1950s) and most have or had one-car attached garages, although a number of the garages have been converted to living space. The uniqueness of this situation relates to the garage having already been converted to living space when the applicants took ownership, and the lack of opportunity to build the carport on the side of the house, as a number of other residents in the area have been able to do.

**ADJACENT ZONING AND LAND USE:**

|        |        |                           |
|--------|--------|---------------------------|
| NORTH: | 'SF-6' | Single family residential |
| SOUTH: | 'SF-6' | Single family residential |
| EAST:  | 'SF-6' | Single family residential |
| WEST:  | 'SF-6' | Single family residential |

Request No. 1 - Variance to reduce the north side yard setback from 6' to 0'

**UNIQUENESS:** It is the opinion of staff that this property is somewhat unique due to the situation of the house on this lot and the earlier conversion of the garage to living space. Due to the close placement of the home to the north property line, in comparison to other homes in this area, there is no way possible to construct this carport on the north side of the house.

**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 carport is relatively unobtrusive, blends in with the character of the neighborhood and was constructed to be compatible with the existing house on this lot.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning code may constitute an unnecessary hardship upon the applicant inasmuch as the owner doesn't have the ability to provide protected parking for their vehicles otherwise.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no public right-of-way or utility easements are being affected by the reduction in this side yard setback.

**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 light, air and pedestrian circulation between structures on adjacent properties will be adequate, due to the unenclosed character of the structure for which this variance is granted.

**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 in reduction of the side yard setback be granted, subject to the following conditions:

1. This side yard setback variance from 6 feet to 0 feet shall apply to only the north side yard adjacent to the existing carport, which is approximately 20 feet in length, beginning at a point 4 feet east of the west property line, as shown on the site plan submitted with this application.
2. The applicant shall obtain a building permit from the Office of Central Inspection for the carport within 30 days following the release of the resolution.
3. This variance is for an unenclosed carport only with no walls, and any other

structures shall comply with all applicable setback requirements.

4. The carport shall be maintained as currently exists and the paint color shall remain the same as that of the main dwelling on this site.
5. This resolution may 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 front yard setback from 25' to 4'

**UNIQUENESS:** It is the opinion of staff that this property is somewhat unique due to the situation of the house on this lot and the earlier conversion of the garage to living space. Due to the close placement of the home to the north property line, in comparison to other homes in this area, there is no way possible to construct this carport on the north side of the house.

**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 carport is relatively unobtrusive, blends in with the character of the neighborhood and was constructed to be compatible with the existing house on this lot.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning code may constitute an unnecessary hardship upon the applicant inasmuch as the owner doesn't have the ability to provide protected parking for their vehicles otherwise.

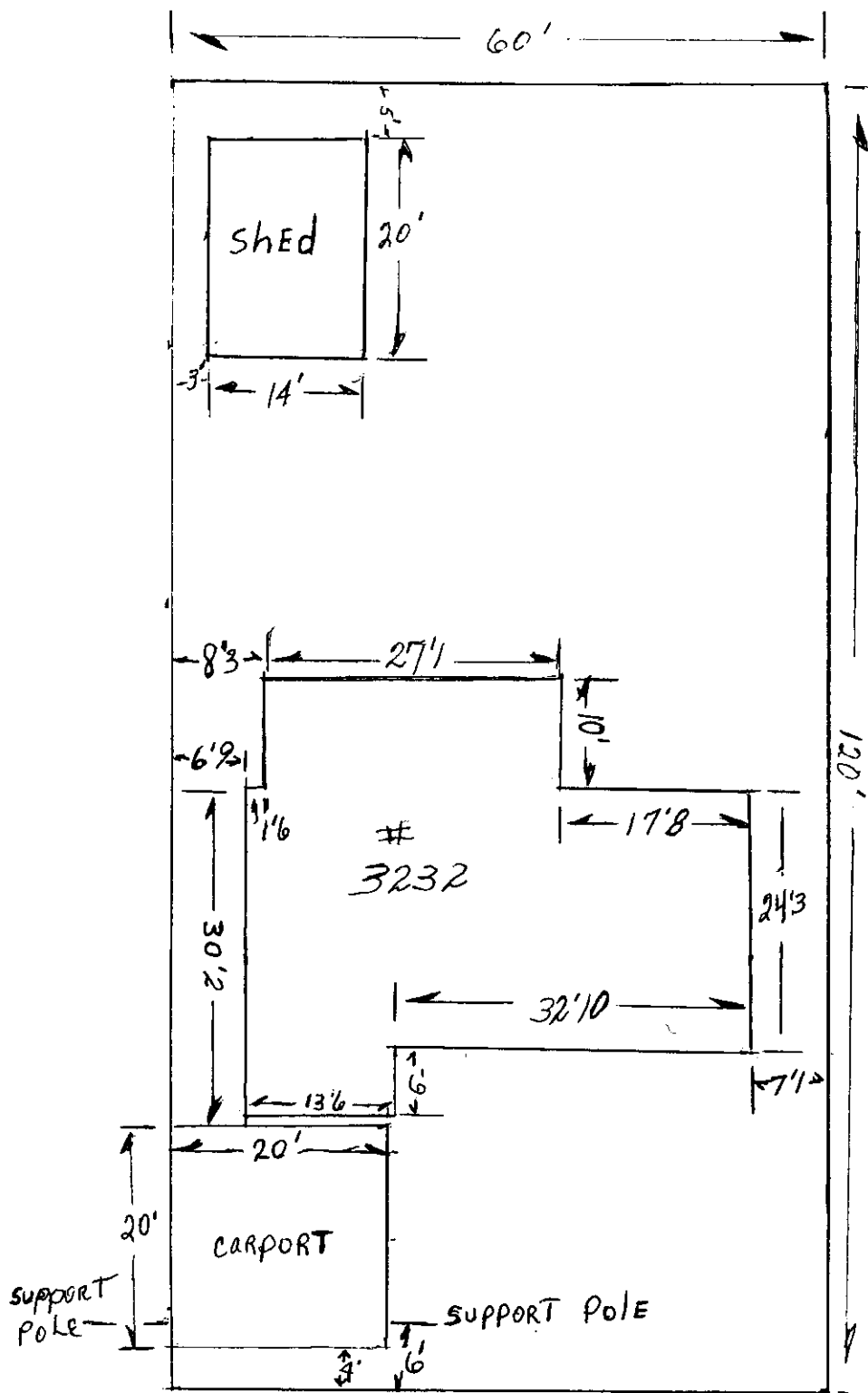
**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no public right-of-way or utility easements are being affected by the reduction in this side yard setback.

**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 light, air and pedestrian circulation between structures on adjacent properties will be adequate, due to the unenclosed character of the structure for which this variance is granted.

**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 in reduction of the front yard setback be granted, subject to the following conditions:

1. This front yard setback variance from 25 feet to 4 feet shall apply to only the west front yard adjacent to the existing carport, which is approximately 20 feet in length, beginning at a point 0 feet south of the north property line, as shown on the site plan submitted with this application.
2. The applicant shall obtain a building permit from the Office of Central Inspection for the carport within 30 days following the release of the resolution.
3. This variance is for an unenclosed carport only with no walls, and any other structures shall comply with all applicable setback requirements.
4. The carport shall be maintained as currently exists and the paint color shall remain the same as that of the main dwelling on this site.
5. This resolution may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.





1/4" = 4'



DOWNTAIN DR.

LOT 6, BLOCK 3, JENKINS 2nd ADDITION

BZA 3-97