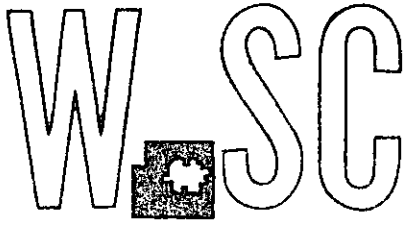


WICHITA — SEDGWICK COUNTY



November 29, 1999

METROPOLITAN AREA PLANNING
DEPARTMENT

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

Deborah L. & James W. Cain
4815 E. Orme
Wichita KS 67218

RE: BZA 25-99 – Variance to reduce the rear yard setback from 20 feet to 8 feet. Generally located east of Oliver Avenue on the south side of Orme Street (4815 E. Orme).

Dear Deborah and James Cain:

At its regular meeting on November 23, 1999, the Board of Zoning Appeals considered the above-captioned requests. The action of the BZA was to APPROVE the variance request.

The action of the BZA is FINAL. Enclosed is a signed copy of the above-referenced BZA Resolution No. 25-99. If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,

Lisa Verts
BZA Assistant Secretary

LV/rs

Cc: Kurt Schroeder, Office of Central Inspection
Randy Sparkman, Office of Central Inspection
Paul Hays, Office of Central Inspection
J.R. Cox, Office of Central Inspection
Yolanda Anderson
File

FILE COPY



BZA RESOLUTION NO. 25-99

WHEREAS, Deborah and James Cain pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 20 feet to 8 feet on property zoned "MF-29" Multi-Family Residential and legally described as follows:

Lot 3, Block 3, Mission Heights an Addition to Sedgwick County, Kansas.
Generally located East of Oliver Avenue on the south side of Orme Street
(4815 E. Orme).

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 November 23, 1999, 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. It is the opinion of staff that this property is unique inasmuch as the accessory garage is already built. The lot is very compact and any additions to the home would have to occur in the requested location.

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. It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the room addition would be internal to the property and between the two existing buildings on the property. No new encroachments would occur to the perimeter of the property that would be adjacent to surrounding 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. 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 The applicants feel that, without the variance, they would have to build a building that is structurally inferior and potentially more susceptible to crime. With the variance, their hardship would be avoided.

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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. It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as no public utilities or rights-of-way are being infringed upon; all public utility easements are being honored.

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. 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 the project does not negatively impact adjacent property.

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 20 feet to 8 feet on property zoned "MF-29" Multi-Family Residential and legally described as follows:

Lot 3, Block 3, Mission Heights an Addition to Sedgwick County, Kansas.
Generally located East of Oliver Avenue on the south side of Orme Street
(4815 E. Orme).

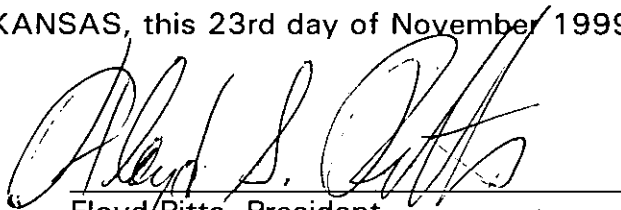
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RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease a rear yard setback be GRANTED, subject 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 to 8 feet. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition shall be constructed in general conformance with said site plan.
2. The applicant shall obtain all local permits necessary to construct the indicated improvements and all improvements shall be completed within one year following the 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 if the applicant has fails to comply with any of the foregoing conditions.

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ADOPTED AT WICHITA, KANSAS, this 23rd day of November 1999.


Floyd/Pitts, President

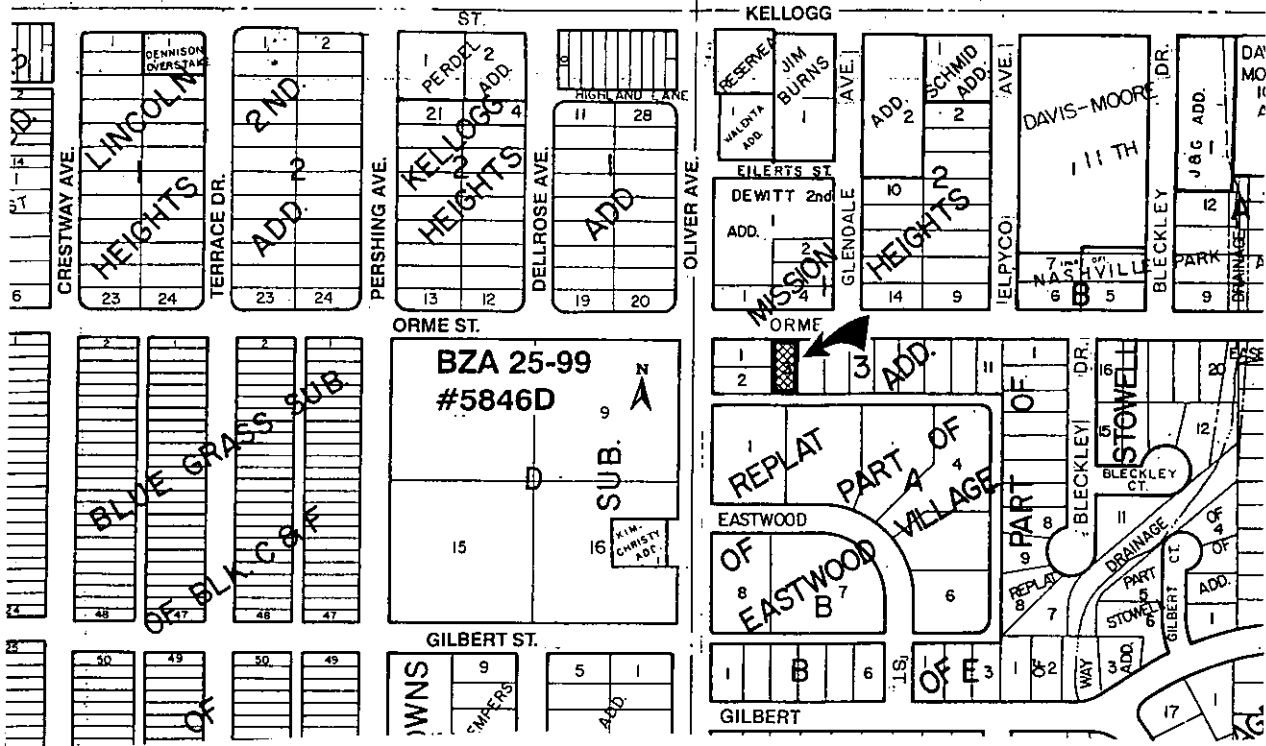
ATTEST:


Lisa Verts, Assistant Secretary

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SECRETARY'S REPORT

CASE NUMBER: BZA 25-99
OWNER/APPLICANT: Deborah and James Cain (owners/applicants)
AGENT: N/A
REQUEST: Variance to reduce the rear yard setback from 20 feet to 8 feet.
CURRENT ZONING: "MF-29" - Multi-Family Residential
SITE SIZE: 0.15 Acres
LOCATION: East of Oliver Avenue on the south side of Orme Street (4815 E. Orme)



JURISTITION: 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 a variance for a decrease in the required rear yard setback from 20 feet to 8 feet. The reason for the variance request arises from the applicant wishing to connect his existing home to the existing rear-lot on-alley garage by building additional living space between the two; essentially making one large primary structure out of an existing primary structure and accessory structure. The additional living space will be used as a master bedroom, which will contain a "safe room" for emergency weather situations.

The garage is considered a residential accessory use under the Unified Zoning Code. According to Section III-D.7.f(1), "accessory structures shall be set back at least ten feet from the centerline of any platted or dedicated alley." In addition to this zoning setback requirement there is an 8-foot utility easement along the rear and side (west) property line. The existing garage is in compliance with the aforementioned easements and setbacks. By making the existing structures one structure, thus the primary structure, the rear yard setback requirement increases to 20 feet for a primary residential structure, necessitating this request for a variance. Another option for the applicant is to leave a 3-foot separation between the new addition and the existing garage, with a connecting roof, creating a breezeway between the two buildings. In this case, the existing garage would still be an accessory structure and still be in compliance with all setback and easements. The applicants do not think this is the best or safest option.

According to the applicants, the creation of a breezeway between the garage and home introduces safety and structural problems to the site and home. The breezeway would offer potential intruders a convenient place to hide. Additionally, the applicant feels that a stronger roof can be built if the two structures share the same wall.

The surrounding uses are primarily residential, both single- and multi-family units, on property zoned "MF-29" and "B" Multi-Family Residential. There are commercial uses to the west and all along Oliver Avenue.

ADJACENT ZONING AND LAND USE:

NORTH	"MF-29" – Single-Family Residence
SOUTH	"B" – Apartment Complex
EAST	"MF-29" – Single-Family Residence
WEST	"LC" – Commercial (Oak Merchant)

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the accessory garage is already built. The lot is very compact and any additions to the home would have to occur in the requested location.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the room addition would be internal to the property and between the two existing buildings on the property. No new encroachments would occur to the perimeter of the property that would be adjacent to surrounding 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 the applicants feel that, without the variance, they would have to build a building that is structurally inferior and potentially more susceptible to crime. With the variance, their hardship would be avoided.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as no public utilities or rights-of-way are being infringed upon; all public utility easements are being honored.

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 the project does not negatively impact adjacent property.

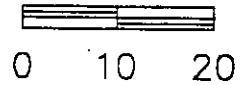
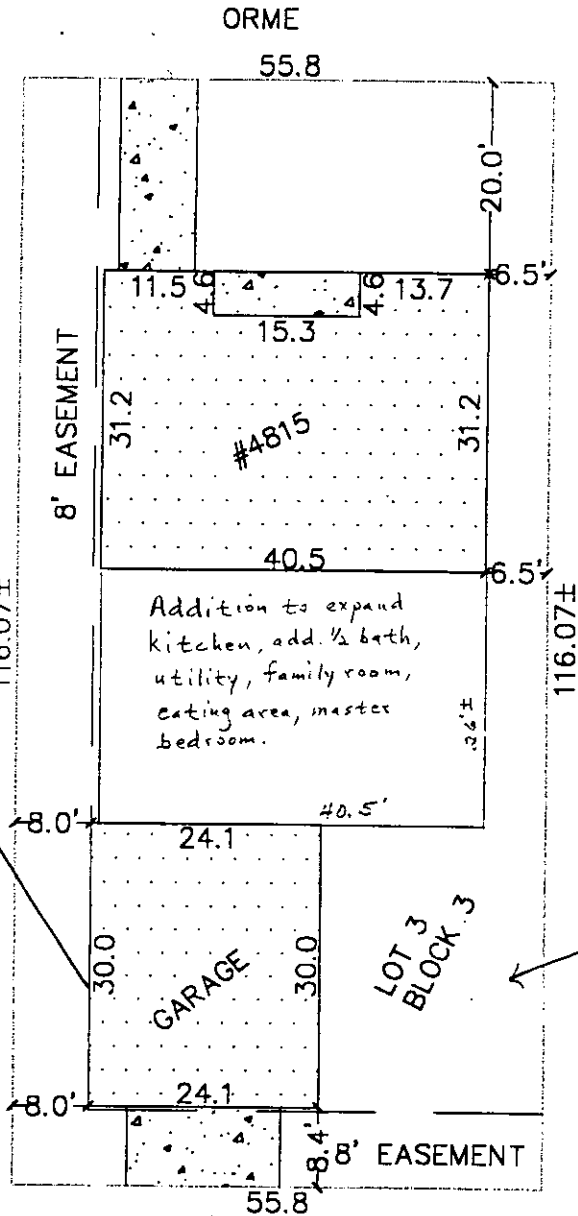
RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to decrease a rear yard setback be GRANTED, subject to the following conditions:

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 to 8 feet. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition shall be constructed in general conformance with said site plan.
2. The applicant shall obtain all local permits necessary to construct the indicated improvements and all improvements shall be completed within one year following the 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 if the applicant has fails to comply with any of the foregoing conditions.

MORTGAGEE TITLE INSPECTION

(THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY!)

GARAGE APPEARS TO BE ON THE 8' EASEMENT LINE. HOWEVER, A BOUNDARY SURVEY WOULD BE NECESSARY TO DETERMINE THE PRECISE LOCATION



- = BUILDING
- = CONCRETE

NOTE: ALL OFFSET DIMENSIONS HOLD A TOLERANCE OF 0.4'±

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approximately 23' x 44' to have flower garden & such.