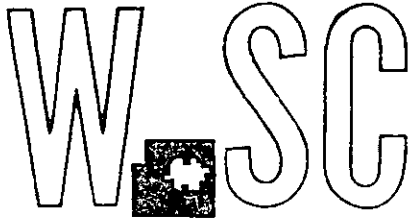


WICHITA — SEDGWICK COUNTY



July 28, 1999

METROPOLITAN AREA PLANNING
DEPARTMENT

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

Country Acres Baptist Church
Kelly Randolph (Pastor)
7315 W. 13th
Wichita, KS 67212

**RE: BZA- 20-99 – Variance to reduce a front yard setback from 5 feet to 0 feet.
On property generally located east of Morgantown and south of 13th Street
North. (7315 W. Ridge Road)**

Dear Ladies and Gentleman:

At its regular meeting on July 27, 1999, the Board of Zoning Appeals considered the above-captioned request. The action of the BZA was to APPROVE the request.

The action of the BZA is FINAL. Enclosed is a signed copy of the above-referenced BZA Resolution No. 20-99. If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,

Dale Miller
BZA Secretary

DM/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. 20-99

WHEREAS, Country Acres Baptist Church(applicant/owner), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce a front yard setback from 5 feet to 0 feet on property zoned "SF-6" Single-family Residential and legally described as follows:

Lots 6, 7 & 8, Block c, country Acres 3rd Addition, an Addition in Sedgwick County, Kansas. Generally located east of Morgantown and south of 13th Street North.

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 July 27, 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 site is already developed with the church and the parking lot in question. The parking lot has been there since 1984.

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 will not adversely affect the rights of adjacent property owners, inasmuch as the parking lot already exists and has since 1984. At the time of preparation of this staff report, there had not been any complaints to staff from neighbors. Churches are permitted uses in the zoning district surrounding the site so a church and its related parking are not abnormal uses in this type of situation. The question is, does the lack of a five foot setback from the property line negatively impact nearby properties. The proposed landscape plan will screen and soften the view and somewhat reduce noise from the lot.

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 site is already developed with this encroachment. Additional expense would be incurred by the applicant if five feet of existing paving had to be removed and new paving placed to maintain current parking capacity.

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 the parking lot does not encroach upon public right-of-way. The City's Traffic Engineer has approved the planting of landscape materials in the street right-of-way, subject to conditions.

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 the purpose of the setbacks is to provide light, air and open space. Those elements will not be compromised by the continued use of this area by a surface parking lot.

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 a front yard setback from 5 feet to 0 feet on property zoned "SF-6" Single-family Residential and legally described as follows:

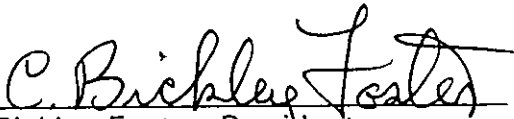
Lots 6, 7 & 8, Block c, country Acres 3rd Addition, an Addition in Sedgwick County, Kansas. Generally located east of Morgantown and south of 13th Street North.

subject to the following conditions:

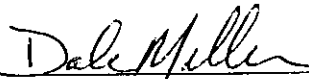
RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. Landscaping is to be installed according to a plan approved by the Director of Planning and the Traffic Engineer that contains planting materials one and one-half times the minimum size specified in the city's landscape ordinance (e.g. shade trees-3 inch caliper, ornamental trees-1.5 inch caliper, conifer trees-7.5 feet in height, shrubs 3 gallons).
2. The parking area shall be striped and maintained in accordance with approved site plan within three months of the approval of this request.
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 or the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1999.


C. Bickley Foster, President

ATTEST:


Dale Miller, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 6

SECRETARY'S REPORT

CASE NUMBER: BZA 20-99

OWNER/APPLICANT: Country Acres Baptist Church

AGENT: Kelly Randolph (Pastor)

REQUEST: Variance to reduce a front yard setback from 5 feet to 0 feet

CURRENT ZONING: "SF-6", Single-family Residential

SITE SIZE: .519 acre

LOCATION: East of Morgantown and south of 13th Street North



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: A building addition is being constructed to the south of the existing church. As part of the site plan review for the new construction, it was discovered that the southern most parking lot, located south of the existing church and west of the addition, encroaches five feet into a five foot sideyard setback that was established by a 1984 Board of Zoning Appeals case (BZA 71-83). BZA 71-83 contained a provision that reduced the setback for the parking lot located along this portion of Morgantown from 25 feet to five feet. The other conditions of approval associated with that BZA case are attached. According to the applicants, this parking lot has been in this configuration and location since 1984. The parking lot is paved, but not striped.

There are single-family residences located west of the parking lot, across Morgantown. There are also single-family homes located to the south, however the lot immediately south of the parking lot appears to be developed with a fenced swimming pool and is identified as "Fort Harshbarger". The church owns the lots to the east and north of the three lots containing the parking lot in question.

The church's building additon is of sufficient size that it triggers the need for compliance with the city's landscaping ordinance. A landscape plan has been submitted and is approvable, subject to conditions listed below (the plan is attached). The landscaping will have to be located in the street right-of-way if this variance is approved. The Traffic Engineer has approved plantings in this area, subject to certain conditions.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6", Single-family; church
SOUTH	"SF-6", Single-family; swimming pool and single-family residences
EAST	"SF-6", Single-family residence; church
WEST	"SF-6", Single-family residence; single-family residences

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the site is already developed with the church and the parking lot in question. The parking lot has been there since 1984.

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 parking lot already exists and has since 1984. At the time of preparation of this staff report, there had not been any complaints to staff from neighbors. Churches are permitted uses in the zoning district surrounding the site so a church and its related parking are not abnormal uses in this type of situation. The question is, does the lack of a five foot setback from the property line

negatively impact nearby properties. The proposed landscape plan will screen and soften the view and somewhat reduce noise from the lot.

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 site is already developed with this encroachment. Additional expense would be incurred by the applicant if five feet of existing paving had to be removed and new paving placed to maintain current parking capacity.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the parking lot does not encroach upon public right-of-way. The City's Traffic Engineer has approved the planting of landscape materials in the street right-of-way, subject to conditions.

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 the purpose of the setbacks is to provide light, air and open space. Those elements will not be compromised by the continued use of this area by a surface parking lot.

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. Landscaping is to be installed according to a plan approved by the Director of Planning and the Traffic Engineer that contains planting materials one and one-half times the minimum size specified in the city's landscape ordinance (e.g. shade trees-3 inch caliper, ornamental trees-1.5 inch caliper, conifer trees-7.5 feet in height, shrubs 3 gallons).
2. The parking area shall be striped and maintained in accordance with approved site plan within three months of the approval of this request.
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 or the foregoing conditions.

5. Prior to the release of resolution authorizing the installation of the parking within the setbacks, the applicant shall submit a detailed landscape plan to the Secretary for approval of the remaining front yard setbacks and the public right-of-way adjacent to Morgantown Avenue. This shall include the use of street trees and other plant material to soften the affect of the parking areas.
-

LYTLE stated the CPO Council voted 7-0 to approve the requested variance. He passed out a letter to the Board that had been received which indicated forms were already set up, parking lot was poured, etc. and the applicant was proceeding on the basis of approval by the Board. LYTLE stated that the facts are spelled out in the staff report.

The applicant was not present, no one appeared in opposition. GALBRAITH stated that the letter does not have anything to do with this case but is primarily a way for the writer to voice his opinion on matters related primarily to the Planning Commission and the City Commission.

MOTION: KOPIETZ moved, JACOB seconded, that the variance to reduce the front yard setback from 30' to 0' for off-street parking purposes only be granted subject to the conditions set out in the Secretary's Report. Motion passed 5-0.

The official action of the Board is reflected in the adoption of Resolution No. BZA 71-83 which includes the following conditions of approval:

1. The reduction of the front yard setback from 30' to 0' shall only apply to the existing parking lot that is constructed within the front yard setback on Morgantown and within 80' of the 13th Street right-of-way line.
2. The reduction of the front yard for additional parking adjacent to Morgantown shall not be located closer than 5' to the street right-of-way line.
3. Reduction of the front yard setback shall only apply to the off-street parking area. All structures shall comply with the 30 foot platted setback.
4. The installation of the parking area shall comply with the surfacing, marking, barriers and adequate circulation aisles in conformance with Section 28.04.140, 28.04.141 and 28.04.143 of the zoning ordinance.
5. Prior to the release of resolution authorizing the installation of the parking within the setbacks, the applicant shall submit a detailed landscape plan to the Secretary for approval of the remaining front yard setbacks and the public right-of-way adjacent to Morgantown Avenue. This shall include the use of street trees and other plant material to soften the affect of the parking areas.

