

SEA 6-65 - D. W. Hitter request variance of front yard setback on WS of Hartinson N of Third Street

F-38
Memo
2-8-65

ACTION

DATE 2-23-65

By COMMITTEE Approve

M.A.P.C.

B.C.C./B. CO. C.

March 8, 1965

Mr. D. W. Etter
529 North Martinson
Wichita, Kansas

Dear Mr. Etter:

Re: Case No. BZA 6-65

On March 1, 1965, we advised you that the Board of Zoning Appeals had approved your application for a variance of the front yard setback on property zoned "A" Two Family Dwelling District, and generally located on the west side of Martinson in an area north of Third Street.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before March 5, 1965. The City Clerk has advised that no appeal was filed and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber
Attachment

cc: Glen Lytle, Superintendent
of Central Inspection

R E S O L U T I O N N O . B Z A 6 - 6 5

WHEREAS, D. W. Etter, 529 North Martinson, Wichita, Kansas, has requested a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow a reduction of a requirement for a 25 foot front yard setback to be reduced to 18 feet, on property zoned "AA" Two Family Dwelling District, and legally described as follows:

Lots 173, 175, 177 on Martinson Avenue, in
McCormick's Second Addition to Wichita,
Sedgwick County, Kansas,

generally located on the west side of Martinson in an area north of Third Street; and

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, in regular meeting, consider said application on February 23, 1965; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for variance under provisions of Section 2.12.590.2, Code of the City of Wichita, Kansas; and

WHEREAS, the Board of Zoning Appeals has found that the variance requested arises from such condition which is unique and not ordinarily found in the same zoning district in that the property is located in an older area in Riverside where many of the homes were constructed prior to the time the setback provisions were incorporated within the ordinance, and many of the homes in the Riverside area do not have 25 foot front yard setbacks; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not adversely affect adjacent property owners or residents inasmuch as the dwelling presently located on subject property is already within 18 feet of the front yard property line, and to construct the addition in the same alignment would result in a more attractive dwelling than if the applicant were required to observe a 25 foot front yard setback; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner represented in that a portion of the foundation of the addition proposed has already been constructed and, further, the aesthetic appearance of the house would not be as good if the new addition is required to set back five feet from the front of the existing house; 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.

WHEREAS, each of the four conditions required by Section 2.12.590.2, 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 a variance be granted to permit the front yard setback to be reduced from 25 feet to a north-south

line parallel to and immediately adjacent to the front of the existing house on said property, but in no case less than 18 feet, on property legally described as:

Lots 173, 175, 177 on Martinson Avenue, in McCormick's Second Addition to Wichita, Sedgwick County, Kansas,

generally located on the west side of Martinson in an area north of Third Street.

ADOPTED AT WICHITA, KANSAS, this 23rd day of February, 1965.

Harold Bauer
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith
Jack H. Galbraith, Secretary

March 1, 1965

Mr. D. W. Etter
529 North Martinson
Wichita, Kansas

Dear Mr. Etter:

Re: Case No. BZA 6-65

This is to advise you that at its regular meeting of February 23, 1965, the Board of Zoning Appeals of the City of Wichita, considered your request for a variance of the front yard setback on property zoned "A" Two Family, and generally located on the west side of Martinson in an area north of Third Street.

It was the action of the Board to approve your request to permit the front yard setback to be reduced from 25 feet to a north-south line parallel to and immediately adjacent to the front of the existing house on said property, but in no case less than 18 feet.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board shall be final unless it is appealed to the Board of City Commissioners within ten days after the date of the Board's action. Accordingly, an appeal could be filed in this case on or before March 5, 1965.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If none has been filed on or before that date, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber
cc: Glen Lytle, Superintendent
of Central Inspection

Robert G. Finch
City Clerk

SECRETARY'S REPORT

CASE NO. BZA 6-65

APPLICANT: D. W. Elter

GENERAL LOCATION: West side of Martinson north of Third

ZONING: The entire area is zoned "A" Two Family

LAND USE: The existing lot as well as those to the north, east, south and west have developed as single family.

REQUEST: Variance to reduce the front yard setback requirement from 25 feet to 18 feet to permit the addition to the front of an existing single family home.

JURISDICTION:

The Board has jurisdiction to consider the variance under the provisions of Section 2.12.590, Code of the City of Wichita and may grant the variance when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicant is requesting this variance inasmuch as it is his intention to construct an addition to his existing home which will be parallel to the front and south of the existing house. The existing house is located 18 feet back of the front property line and the new addition will also be back 18 feet from the front property line. However, due to the application of the front yard setback formula in the "A" Two Family district, the applicants are required to maintain a 25 foot setback. The

25-foot setback is determined by drawing a straight line from the nearest corner of the house located to the north to the nearest corner of the house located south of the property included in this application.

UNIQUENESS

It is the opinion of the Secretary that this request is somewhat unique inasmuch as this property is located in an older area in Riverside where many of the homes were constructed prior to the time the setback provisions were incorporated within the ordinance. Many of the homes in the Riverside area do not have 25 foot front yard setbacks.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

HARDSHIP

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as a portion of the foundation has already been constructed. Further, the aesthetic appearance of the house would not be as good if the new addition has to be set back five feet from the front of the existing house.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION

Based upon the foregoing comments, it is the recommendation of the Secretary that the front yard setback be reduced from 25 to 18 feet.

SECRETARY'S REPORT

CASE NO. BZA 6-65

APPLICANT: D. W. Elter

GENERAL LOCATION: West side of Martinson north of Third

ZONING: The entire area is zoned "A" Two Family

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The Board has jurisdiction to consider the variance under the provisions of Section 2.12.590, Code of the City of Wichita and may grant the variance when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

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Case No. BZA 6-65

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PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION

Based upon the foregoing comments, it is the recommendation of the Secretary that the front yard setback be reduced from 25 to 18 feet.

CASE NO. BZA 6-65
17 NOTICES MAILED FEBRUARY 8, 1965
FOR MEETING FEBRUARY 23, 1965

BOARD OF ZONING
BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

February 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-65

An application has been filed by D. W. Elter, 529 North Martinson, Wichita, Kansas, pursuant to Section 2.12.590. Code of the City of Wichita, Kansas, requesting a Variance of required front yard setback from 25 feet down to 18 feet, as provided in Section 2.12.590. 2, Code of the City of Wichita, on property zoned "A" Two Family and legally described as follows:

Lots 173, 175, 177, on Martinson Avenue, in McCormick's Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Martinson in an area north of Third Street.

This application has been assigned Case No. BZA 6-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 23, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

BOARD OF ZONING
BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

February 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

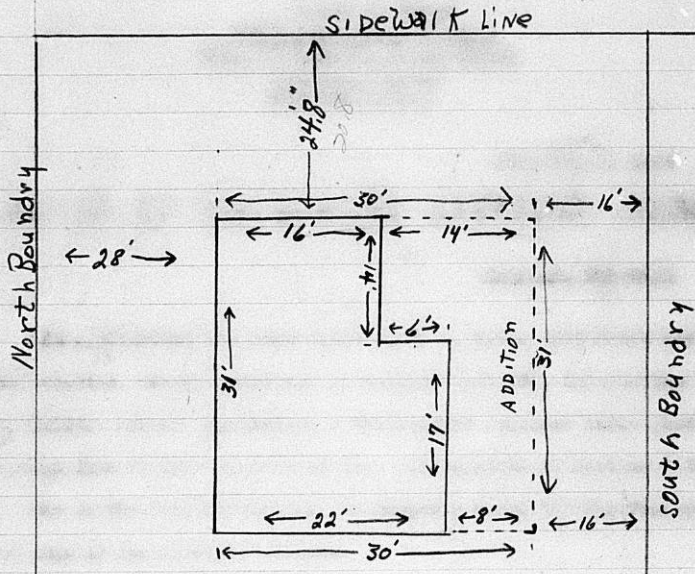
Case No. BZA 6-65

An application has been filed by D. W. Elter, 529 North Martinson, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, Kansas, requesting a Variance of required front yard setback from 25 feet down to 18 feet, as provided in Section 2.12.590. 2, Code of the City of Wichita, on property zoned "A" Two Family and legally described as follows:

Lots 173, 175, 177, on Martinson Avenue, in McCormick's Second Addition to Wichita, Sedwick County, Kansas. ~~Plotted on the west side of Martinson in an area south of Third Street.~~

This application has been assigned Case No. BZA 6-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 23, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary



BOARD OF ZONING APPEALS

CASE NO. 6-65

CITY OF WICHITA, KANSAS

FILED 2-5-65

APPLICATION FOR VARIANCE

I. Name of Applicant D. W. Etter
Mailing Address 529 N. Martinson Phone A.M. 4-6948
Name of Authorized Agent _____
Mailing Address _____ Phone _____
Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is variance of required front
yard setback - reduction from 25 feet to
18 feet as provided in Section 2.12.590.2 of City Code
for property located 529 N. Martinson

and legally described as: Lots 173, 175, 177 on Martinson
Avenue, in Mc Cormick Second Addition to Wichita, Sedgewick
County, Kansas
in the City of Wichita; and which is presently zoned _____.

(Give metes and bounds description below if appropriate):

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
 - b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
 - c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
 - d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

D. W. Etter
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
8:15 (a.m.) - p.m.), 2-5, 1965, together with
appropriate fee of \$50.00.

T21-402

J. Horne & Bellowers
Signed

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
158	Elizabeth	McCormick's 2nd Add.	The Full Gospel Institute, Inc. Address unknown <i>no address</i>
160	"	"	"
162	"	"	"
164	"	"	"
166	"	"	Erwin E. Egbert ✓ Marian I. Egbert 408 N. Elizabeth
168	"	"	"
170	"	"	Maurice E. Knost ✓ 426 N. Elizabeth
172	"	"	"
174	"	"	B. K. M. Corp., Inc. ✓ 208 N. Broadway
176	"	"	"
178	"	"	Albert S. Barnard ✓ 729 N. Porter
180	"	"	"
182	"	"	"
184	"	"	"
186	"	"	"
188 exc. part dedeed to city	"	"	"
190 exc. part dedeed to City	"	"	"
157	Martinson	"	Pearl Dickerson ✓ 509 N. Martinson
159	"	"	"
161	"	"	Bertha L. Johnson ✓ 517 N. Martinson
163	"	"	"
165	"	"	Gertrude C. Grubb ✓ 521 N. Martinson
167	"	"	"
169	"	"	Edwin B. Littlejohn ✓ Lila Lee Littlejohn 525 N. Martinson
171	"	"	"

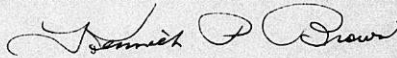
Continued page 2

Lot	Street	Addition	Property Owner
173	Martinson	McCormick's 2nd Add.	L. W. Etter ✓ Emma Etter 529 N. Martinson
175	"	"	"
177	"	"	"
179	"	"	Max E. Schultz ✓ Mary M. Schultz 528 N. Martinson
183 exc. part dedeed to city	"	"	"
168	"	"	Elaine A. Robbins, Jr. ✓ Gwinetha Robbins 510 N. Martinson
160	"	"	"
162	"	"	R. E. Farrington ✓ Charlotte Elizabeth Farrington 516 <i>North Martinson</i>
164	"	"	"
166	"	"	"
168	"	"	Ray H. Myers ✓ Florence E. Myers 524 N. Martinson
N $\frac{1}{2}$ of 170	"	"	Orval G. Smith ✓ Francis Smith 526 N. Martinson
172	"	"	"
174	"	"	Max E. Shults ✓ Mary M. Shults 528 N. Martinson
176	"	"	"
178	"	"	Edna R. Bense ✓ Eunice Bense 532 N. Martinson
180 exc. part dedeed to city	"	"	"

We, The Security Abstract and Title Company, Inc., hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of: Lots 173, 175 and 177, on Martinson Avenue in McCormick's 2nd Addition to Wichita, as shown by the deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 5th day of February, 1965 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By



Vice-President

Order No. 121477

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Exp. Application</i>	<i>50⁰⁰</i>

Name *840 St*

Address *29th Street*

Type *C-712* Due Date

Comments:

Date *2-5-15* By *[Signature]*