

BZA 7-67 - Lillie A. McKay requests
Variance of the side yard setback at
the southwest corner of St. Louis &
Richmond Avenue

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

~~5297~~
5297
Pasadena
4-25-67

ACTION

By COMMITTEE *Denied* DATE 4-25-67

M.A.P.C. _____

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

BZA 7-67 - Lillie A. McKay requests
Variance of the side yard setback at
the southwest corner of St. Louis &
Richmond Avenue

May 15, 1967

Mrs. Lillie A. McKay
449 North Richmond
Wichita, Kansas 67203

Dear Mrs. McKay:

Re: Case No. BZA 7-67 - Request for
a Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 25, 1967, in connection with your application for Variance of the sideyard setback from 6 feet to 3 feet 8 inches on property zoned "A" Two Family Residential and generally located on the southwest corner of St. Louis and Richmond Avenue. This Resolution reflects the official action of the Board of Zoning Appeals.

It was the action of the Board to deny this request as pointed out in the signed Resolution enclosed.

If you have any questions concerning this matter, please call.

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kgg

Attachment

cc: Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

R E S O L U T I O N N O . B Z A 7-67

WHEREAS, Lillie A. McKay, 449 North Richmond, Wichita, Kansas, requests a variance as provided in Section 2.12.590.2, Code of the City of Wichita, to reduce the sideyard setback from 6 feet to 3 feet 8 inches on property zoned "A" Two Family Residential and legally described as follows:

Lots 1, 3, and 5, in Block 16, J. O. Davidson's Second Addition, to Wichita, Kansas. Generally located on the southwest corner of St. Louis and Richmond Avenue.

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 consider said application on April 25, 1967; and

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

WHEREAS, the property is zoned "A" Two Family Residential; and

WHEREAS, the Board of Zoning Appeals has found that the variance requested does not arise from such a condition which is unique and not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant inasmuch as there are no severe physical limitations on this site and, therefore, there is not sufficient justification to find that the condition of uniqueness exists; 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 garage is located at the extreme rear of the property and that in the rear half of the lot a garage may set within 3 feet of the side property line; and

WHEREAS, the Board of Zoning Appeals did not find that the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application inasmuch as any hardship that exists is financial in nature only and financial hardship has not generally been accepted by the courts as sufficient justification to demonstrate hardship; and

WHEREAS, the Board of Zoning Appeals found the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare inasmuch as it would not conform to the fire safety regulations; and

WHEREAS, the Board of Zoning Appeals found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (zoning ordinance); and

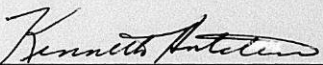
WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita, necessary to be present before a variance can be granted, have not been found to exist; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for a variance of the sideyard setback from 6 feet to 3 feet 8 inches adjacent to the south property line on property zoned "A" Two Family Residential and legally described as follows:

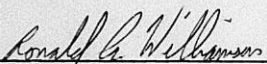
Lots 1, 3, and 5, in Block 16, J. O. Davidson's Second Addition, to Wichita, Kansas. Generally located on the southwest corner of St. Louis and Richmond Avenue.

not be approved.

ADOPTED AT WICHITA, KANSAS, this 25th day of April, 1967.


Kenneth Hartstein, Chairman

ATTEST:


Ronald A. Williamson
Assistant Secretary

April 26, 1967

Mrs. Lillie A. McKay
449 North Richmond
Wichita, Kansas

Dear Mrs. McKay:

Re: Case No. BZA 7-67 - Request for
variance of the sideyard setback

This is to advise you that at its meeting of April 25, 1967, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of the sideyard setback from 6 feet to 3 feet 8 inches on property zoned "A" Two Family Residential and located generally on the southwest corner of St. Louis and Richmond Avenue.

It was the action of the Board to deny this request inasmuch as it did not find that all five of the conditions necessary to granting of the variance exist.

A Resolution setting forth the official action of the Board is being prepared for the signatures of the Chairman and Secretary and a copy will be mailed to you soon.

If you have any questions concerning this matter, please call.

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kkg

cc: Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2322 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 5-7431

State of Kansas }
County of Sedgwick }

SS

March 14, 1967

I, Fred J. Doane, Surveyor in aforesaid county and state do hereby certify that I did on this 14th day of March, 1967, survey Lots 1-3-5, Block 16, J. O. Davidson's Second Addition to Wichita, Kansas.

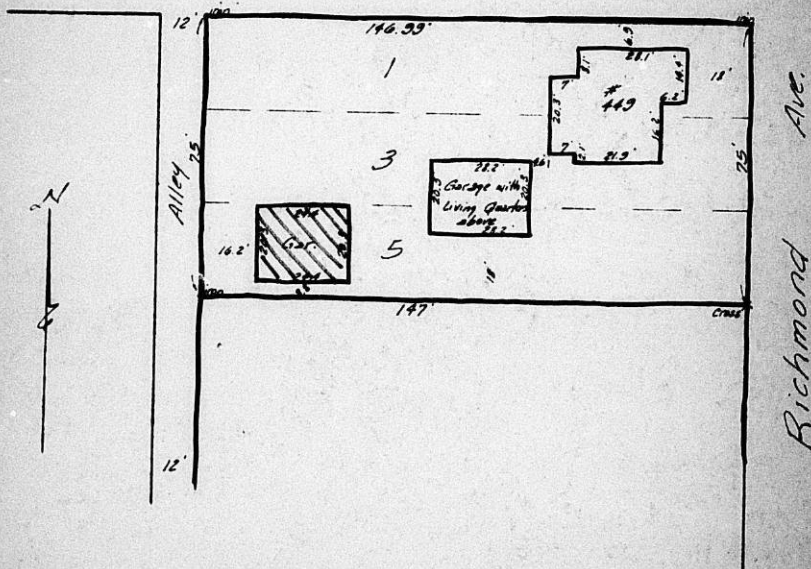
On said Lots is house No. 449 and 2 garages which are in the clear of all boundary lines. There are no encroachments on said lots by buildings on the adjacent lots.

The accompanying plat is a true and correct exhibit of said survey.

Fred J. Doane
Surveyor

St Louis

Ave.



SECRETARY'S REPORT

CASE NO. BZA 7-67

APPLICANT: Lillie A. McKay, 449 North Richmond, Wichita

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit variance of the required sideyard setback from 6 feet to 3 feet 8 inches adjacent to the south property line

GENERAL LOCATION: Southwest corner of St. Louis and Richmond Avenue

ZONING: Subject property as well as all surrounding property is zoned "A" Two Family Residential

LAND USE: Subject property and that to the east, west and south are single-family, and to the north is a duplex

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

1. That the variance requested 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 owner or the applicant.
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 provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

Comments by the Secretary

The applicant is requesting a variance of the required sideyard setback from 6 feet to 3 feet 8 inches for an existing garage which he intends to convert to a residence. There are three structures on subject property; the first is the original dwelling unit; the second is a garage which has living quarters above it; and the third is an additional garage which is on the rear portion of the lot and is presently utilized for garage purposes. The applicant is proposing three residential living units in three separate structures on subject property.

In reviewing this application with Central Inspections, it was pointed out that on lots which have more than one residential structure there must be a distance of twenty feet between each building. There is only 4.6 feet between the two residential structures now occupied on the site and, therefore, these two structures are in violation of the ordinance. Even if the variance were granted for the third structure, the applicant could not get a building permit at this time until the violation on the other two structures has been corrected. The only logical way for the applicant to correct this violation is to attach the two structures, therefore, making them one structure under the ordinance.

Attached is a copy of the survey submitted by the applicant showing the three existing structures.

Uniqueness

Uniqueness is a condition which is unusual to the property in question as to limitations caused by odd-shaped lots, severe topography, drainage easements, and other similar circumstances, and which is not ordinarily found in the same zone or district; and is not created by the action or actions of the property owner or applicant. There are no severe physical limitations on this site and, therefore, it is the opinion of the Secretary that there is not sufficient justification to find that the condition of uniqueness exists.

Adjacent Property

It is the opinion of the Secretary that inasmuch as the garage is located at the extreme rear of the property and that in the rear half of the lot a garage may set within 3 feet of the side property line, the granting of the variance would not have an adverse affect on adjacent property owners.

April 25, 1967

Hardship

It is the opinion of the Secretary that if a hardship exists it is financial in nature only and financial hardship has not generally been accepted by the courts as sufficient justification to demonstrate hardship. It should be emphasized that the applicant already has two dwellings on a site which is zoned two family and in the opinion of the Secretary is utilizing the site to its maximum at this time.

Public Interest

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public interest.

Spirit and Intent

It is the opinion of the Secretary that the granting of this variance would be opposed to the spirit and intent of Title 28 inasmuch as it is the intent of the ordinance that residential structures maintain a six foot sideyard setback and further emphasizes the problems that arise in the administration of the ordinance when conversions are permitted to take place.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance cannot be found to exist and therefore it is recommended that the variance request to reduce the sideyard setback from 6 feet to 3.8 feet not be approved.

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

April 5, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 7-67

An application has been filed by Lillie A. McKay, 449 North Richmond, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting variance of the required side-yard setback from 6 feet to 3 feet 8 inches adjacent to the south property line on property zoned "A" Two Family Residential and legally described as follows:

Lots 1, 3, and 5, in Block 16, J. O. Davidson's Second Addition, to Wichita, Kansas. Generally located on the southwest corner of St. Louis and Richmond Avenue.

This application has been assigned Case No. BZA 7-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 25, 1967, 2:00 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

*Mailed 22 copies plus 7 for
Planning Commissioners*

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Lillie a McKay
Mailing Address 44970 Richmond Phone wh 2.5110
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 side
yard set back from 6 feet to 3 ft 8 in.
for property located behind property of 4517 Richmond

and legally described as: Lots 1-3-5, Block 16,
J C Davidson Second Addition,
in the City of Wichita; and which is presently zoned "A".

(Give metes and bounds description below if appropriate):

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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;
 - 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;
 - That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Lillie a McKay
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeal
4:15 (~~5:15~~ - p.m.), March 27, 1967, together with
appropriate fee of \$50.00.

T9-402

Lynn Whiskey Planner I
Signed By SA

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 Sedgwick County,)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft. of:
 Lots 1, 3, & 5, in Block 16, J. O. Davidson's Second Addition, to Wichita, Kansas.


Fidelity
Title
Company,
inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

LOT	BLK	ADDITION	OWNER
1, 3, 5,	16	J. O. DAVIDSON'S 2nd.	✓ John W. & Lillie A. McKay, ux 461 Country Acres 67212
7 & 9,	16		✓ Carrie O. Charter 721 Coats, Kiowa, Ks.
15 & 17,	16		✓ Reece Swiger, Oliver Swiger & Pearl Swiger, R # 4, Los Animas, Colo.
19 & 21,	16		✓ Charles J. Walterscheid, % John Malone, 2715 W. 3rd St.
2, 4, 6, 8,	16		✓ Ralph N. & Hazel Miller, ux 848 S. Millwood 67213
10 & 12,	16		✓ Harry Street Improvement Co. 208 N. Broadway 67202 Inc.



LOT	BLK.	ADDITION	OWNER
J. O. DAVIDSON'S 2nd.			
14 & 16,	16		✓ Harley R. & Juanita E. Weese, ux 455 N. Edwards 67203
18 & 20,	16		✓ Walter C. Watkins & Opal Watkins 434 N. Edwards 67203
22 & 24,	16		✓ Herbert D. & Ruth M. Bradrick, ux 430 N. Edwards 67203
2, 4, & 6,	15		✓ Lew H. & Doris H. Akin, ux 2321 Palisade 67213
8 & 10,	15		✓ Pearl M. Mann, sgle. 456 N. Richmond 67203
12 & 14,	15		✓ Irene E. & Norman E. Doll, vir. 448 N. Richmond 67203 rec. 4-11-67
16 & 18,	15		resent 2826 W. Douglas ✓ Farnell B. & Virginia C. Broome, ux 719 E. Boston 67211
20 & 22,	15		✓ Will G. & Muriel C. Dyck, ux 444 N. Richmond 67203
36 & 38,	14		✓ H. Harold & Letha I. Shomber, ux 33 N. Florence 67212 rec. 4-11-67
26 & N 23' 28, 13			X U. H., Jr. & Betty L. Wittmeyer, ux No Address Available
S 2' of 28, all	13		✓ Sherrill E. Boucher, 601 S. Clifton 67218
30 & 32, _{33 & 25}	13		✓ John C. & Agatha E. Malone, ux 133 N. Glenn 67203
34 & 36,	13		
1 & 3,	17		✓ Harley R. & Juanita E. Weese, ux 455 N. Edwards 67203
5 & 7,	17	wrong person does not own any property	Helen Margaret Smith rec 4-10-67 903 N. Edgemoor 67208
9 & 11,	17		4249 Cumberland Charles G. & Geneva M. Patten, ux 449 N. Edwards 67203
13 & 15,	17		Glenna I. Burton Freeport, Ks. 67049

Dated at Wichita, Kansas this 23rd day
of March, 1967 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elmer M. Jassecc
Sec. OEM

(4249 Cumberland)
Helen Margaret Smith
Phoned 4-12-67 at 3:50
pm & stated she does
not now or has ever
owned any property in
the City.
Betty

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

April 5, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 7-67

An application has been filed by Lillie A. McKay, 449 North Richmond, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting variance of the required side-yard setback from 6 feet to 3 feet 8 inches adjacent to the south property line on property zoned "A" Two Family Residential and legally described as follows:

Lots 1, 3, and 5, in Block 16, J. O. Davidson's Second Addition, to Wichita, Kansas. Generally located on the southwest corner of St. Louis and Richmond Avenue.

This application has been assigned Case No. BZA 7-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 25, 1967, 2:00 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

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202



H. Harold & Letha I. Shomber
33 N. Florence
Wichita, Ks. 67212



- Moved, left no address
 No such number
 Moved, not forwardable
 Addressee unknown
- 128 //

FORM 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hee, Mvr.	Hse. Moving	LICSE.	Mech.
Oil Well	Pav. Cuts	Plans	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer	<i>\$ 50.00</i>	

DESCRIPTION	AMOUNT
<i>FZA Application</i>	
<i>Original</i>	
Name <i>Billie R. Mc Kay</i>	
Address <i>449 So. Richmond</i>	
Type <i>R-71-C</i>	Due Date <i>3-27-67</i>
Comments:	

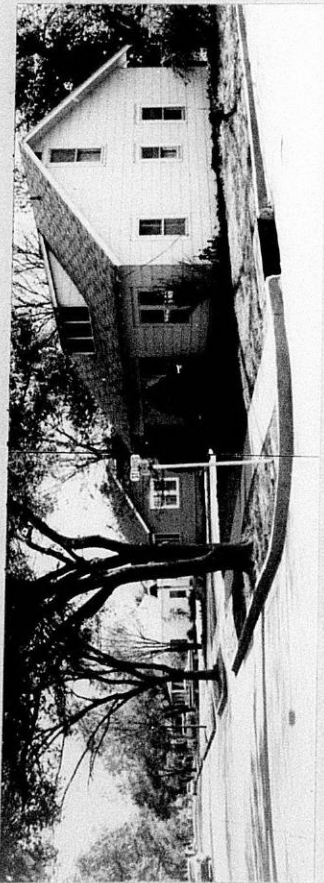
Date *3-27-67* By *Scayot*



2



5



1



4



3

Map No. 5
Sec. _____
Twp. _____
Range _____

AREA DATA:
1. Acres: _____
2. Adjoining _____
3. Land Use: _____
4. Sketch Pl. _____
5. Present _____
6. Area (is) _____

PHOTO DATA:
Taken by _____

Map No. 5247
 Sec. _____
 Twp. _____
 Range _____

E2A 7-67
 SC2- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East Single Family South Single Family
 West Single Family North Duplex
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: Residential
Single Family
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____

