

B3a COMMITTEE

DATE

Approach 2.25.75

M.A.P.C.

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

BZA 7-75 - Transamerican Investment Properties, Inc. requests variance of side yard setback on east side of Rock Road in an area north of Central.

POSTED
3-6-75
C.N.
M.P.C.
C.J.
C.N.
6-2-75

ACTION

B3a COMMITTEE Approach DATE 3.25.75

M.A.P.C. _____

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

BZA 7-75 - Transamerican Invest-
ment Properties, Inc. requests
variance of side yard setback on
east side of Rock Road in an
area north of Central.

Map No. 6048
 Sec. 17
 Twp. 37
 Range 2E

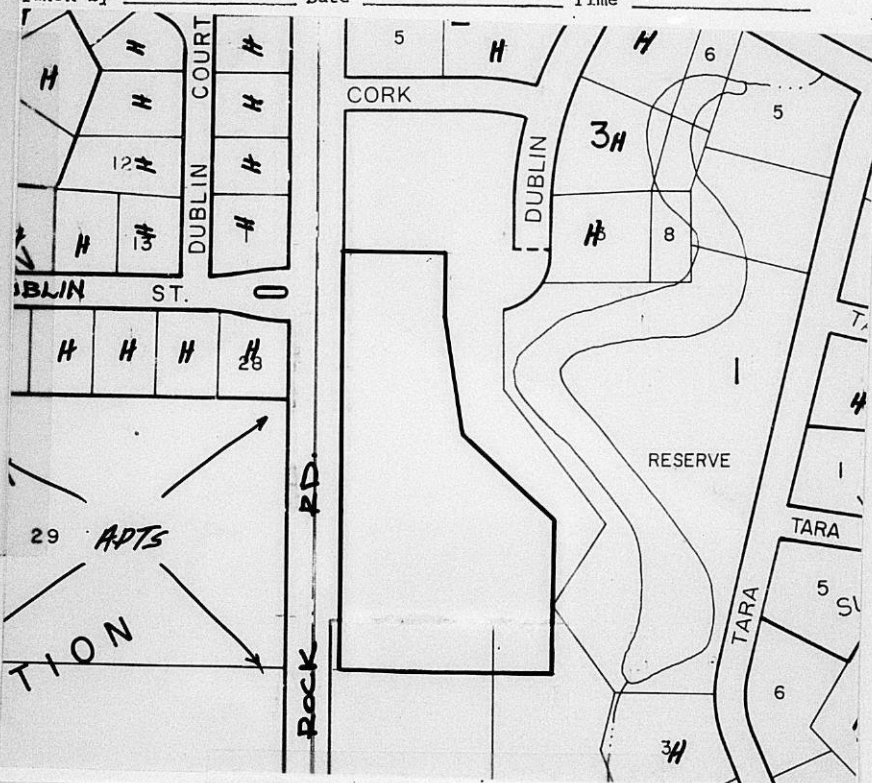
BZA- 7-75
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 5.22 (391 ft. by 756 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West APARTMENTS North UNDEVELOPED
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: UNDEVELOPED
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



SMITHSONIAN INSTITUTION
 WASHINGTON, D. C. 20540
 LOS ANGELES
 OFFICE OF THE ARCHITECT
 1100 G STREET, N.W.
 WASHINGTON, D. C. 20004

Smithsonian
 No. 2-153C

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

March 3, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 7-75

An application has been filed by Transamerican Investment Properties, Inc., 250 North Rock Road, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet on property zoned the "R-5" General Residence District and legally described as follows:

Lot 1, Block 1, Aulls First Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road in an area north of Central and south of Cork Street.

This application has been assigned Case No. BZA 7-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 25, 1975, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

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Room 402 City Building Annex
104 South Main Street
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Jack H. Galbraith
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ROOM 402 City Building Annex
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Jack H. Galbraith
Secretary

RESOLUTION NO. BZA 7-75

WHEREAS, Transamerican Investment Properties, Inc., 250 North Rock Road, Wichita, Kansas requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet on property zoned the "R-5" General Residence District and legally described as follows:

Lot 1, Block 1, Aulls First Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road in an area north of Central and south of Cork Street.

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, 1975, 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 owner or the applicant inasmuch as the lot is irregular in shape, is adjacent to "LC" on one side, and has the amenity of a small lake adjacent to the east, both of which influence the units location; 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 screening walls are proposed along both side yard lines; and the property adjacent to the south is the "LC" Light Commercial zoning district while the property to the north, although "AA" zoned, is undeveloped; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as this would force the applicant to either reduce the number of units or reduce the size of the units, which would reduce the quality of the proposed units; 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 due to the fact that the property would be developed at a much lower density than the "R-5" zoning would permit; also the variance requested is interiorly located; 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 Title 28 (Zoning Ordinance) inasmuch as adequate open space for passage of light and air would exist; and

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.

Resolution No. BZA 7-75
Page Two

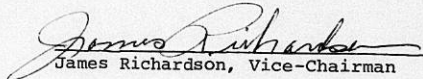
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet on property zoned the "R-5" General Residence District and legally described as:

Lot 1, Block 1, Aulls First Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road in an area north of Central and south of Cork Street.

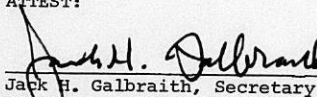
be approved subject to the following conditions:

1. A six to eight foot screening wall constructed of a combination of wood and brick shall be erected along the north and south property lines, with the provisions that no masonry or brick part of the screening and no footings be placed over the 20 foot sanitary sewer easement.
2. The development of subject property shall be limited to not more than a total of 24 dwelling units or 5 units per acre, whichever is greater.
3. That the side yards be reduced for only those three buildings as shown on the applicant's plot plan.

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1975.


James Richardson, Vice-Chairman

ATTEST:


Jack H. Galbraith, Secretary

April 28, 1975

Mr. Grey Dresie
Attorney at Law
815 Union National Building
Wichita, Kansas 67202

Subject: Case No. BZA 7-75
Request for Variance

Dear Mr. Dresie:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 25, 1975, in connection with your request for a variance to reduce the required side yard setback adjacent to both the north and south property line from 25 feet to 10 feet on property zoned the "R-5" General Residence District and generally located on the east side of Rock Road in an area north of Central and south of Cork.

This Resolution reflects the official action of the Board and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Robert Feldner, Subt. of Central Inspection
Don C. Gisick, City Clerk
Joe Donnelly, Central Inspection
Transamerican Investment Properties, Inc.
250 North Rock Road, 67206

March 31, 1975

Mr. Grey Dresie
Attorney at Law
815 Union National Building
Wichita, Kansas 67202

Subject: Case No. BSA 7-75
Request for Variance

Dear Mr. Dresie:

At the regular meeting of the Board of Zoning Appeals on March 25, 1975, your request for a variance to reduce the required side yard setback adjacent to both the north and south property line from 25 feet to 10 feet on property zoned the "R-5" General Residence District and generally located on the east side of Rock Road in an area north of Central and south of Cork was considered.

It was the action of the Board to approve this request subject to the following conditions:

1. A six to eight foot screening wall constructed of a combination of wood and brick shall be erected along the north and south property lines, with the provision that no masonry or brick part of the screening and no footings be placed over the 20 foot sanitary sewer easement.
2. The development of subject property shall be limited to not more than a total of 24 dwelling units or 5 units per acre, whichever is greater.
3. That the side yards be reduced for only those three buildings as shown on the applicant's plot plan.

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

Mr. Grey Dresie
March 31, 1975
Page 2

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:LD:eme

cc: Robert Feldner, Superintendent of Central Inspection
Don C. Gisick, City Clerk
Joe Donnelly, Central Inspection
Transamerican Investment Properties, Inc.
250 North Rock Road, 67206
Mr. & Mrs. Edwin Loeb sack, 7972 Dublin Court, 67206

P.O. BOX 523
WICHITA, KANSAS 67201

PHONE 265-5641
226 NORTH KANSAS

Building Specialties

and

Equipment Co., Inc.
March 6, 1975
Wichita, Kansas

Board of Zoning Appeals
Room 402 City Bldg Annex
104 S. Main
Wichita, Kansas 67202

Rel Case BZA-7-75
March 25, 1975

Gentlemen;

As in the past- we are still against the changing of the zoning for this area from the original zoning.

I will be out of town at this meeting date of March 25, 1975 but wanted to go on record of being against this change.

Sincerely Yours

E. G. Loeb
Mr. and Mrs. Edwin G. Loeb sack
7972 Dublin Court
Wichita, Kansas

67206



SECRETARY'S REPORT

CASE NO. EZA 7-75

APPLICANT: Transamerica Investment Properties, Inc., 250 North Rock Road, Wichita, Kansas

AGENT: Grey Dresie, 815 Union National Building, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet.

GENERAL LOCATION: East side of Rock Road in an area north of Central and south of Cork Street.

ZONING: Subject property is zoned the "R-5" General Residence District; south is the "LC" Light Commercial District; north and east are the "AA" Single Family Dwelling District; west is the "AA" and the "B" Multiple Family Dwelling District.

LAND USE: Subject property is undeveloped as are properties to the north, east and south; property to the west, across Rock Road, is developed with an apartment complex and a single family home.

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 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; and

Secretary's Report
Case No. BZA 7-75
Page Two

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 to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet for the purpose of developing a low density townhouse complex.

The applicant points out, in his letter of justification, that the project has been designed so that a maximum number of units will have an easterly view of an existing lake on the adjoining property. Subject property is an irregular shaped lot of approximately 5 acres with 756 feet of frontage on Rock Road. The applicant points out that the square footage of floor area for these units will range from 2,120 square feet to 2,600 square feet. The plot plan submitted with the application indicates that 24 units would be built on this property, whereas approximately 60 units would be permitted by the zoning ordinance. It is also proposed that both the north and south sides of the property will be screened by a combination of wood and brick wall, and the west side, which fronts on Rock Road will be screened by a solid masonry wall. It should be noted that a 20 foot sanitary sewer easement intersects the south property line, which would necessitate the wall along this property line be designed in such a way as to assure that no permanent masonry section of the wall be erected on this easement.

UNIQUENESS

It is the opinion of the Secretary that uniqueness may exist in this instance inasmuch as the lot is irregular in shape, is adjacent to "LC" on one side, and has the amenity of a small lake adjacent to the east, both of which influence the units location.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not adversely affect adjacent property owners inasmuch as screening walls are proposed along both side yard lines;

Secretary's Report
Case No. BZA 7-75
Page Three

and the property adjacent to the south is the "LC" Light Commercial zoning district while the property to the north, although "AA" zoned, is undeveloped. A ten foot setback under these conditions seems adequate.

HARDSHIP

It is the opinion of the Secretary that the strict application of the zoning ordinance may create an unnecessary hardship upon the applicant inasmuch as this would force the applicant to either reduce the number of units, which is not economically feasible or reduce the size of the units, which would reduce the quality of the proposed units.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as the property would be developed at a much lower density than the "R-5" zoning would permit; also the variance requested is interiorly located.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance would not be opposed to the spirit and intent of Title 28 inasmuch as adequate open space for passage of light and air would exist.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary for the granting of the variance can be found to exist and therefore it is recommended that the variance be granted to reduce the required side yard setback adjacent to both the north and south property lines from 25 feet to 10 feet, subject to the following conditions:

1. A six to eight foot screening wall constructed of a combination of wood and brick shall be erected along the north and south property lines, with the provision that no masonry or brick part of the screening and no footings be placed over the 20 foot sanitary sewer easement.

Secretary's Report
Case No. BZA 7-75
Page Four

2. The development of subject property shall be limited to not more than a total of 24 dwelling units or 5 units per acre, whichever is greater.
3. That the side yards be reduced for only those three buildings as shown on the applicant's plot plan.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

March 3, 1975

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Jack H. Galbraith
Secretary

3-4-75 - 10 Notices mailed to adjacent property owners
3-4-75 - 10 Notices mailed to MAPC

648
BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 7-75
FILED 2-25-75

APPLICATION FOR VARIANCE

I. Name of Applicant TRANSAMERICAN INVESTMENT PROPERTIES, INC.
Mailing Address 250 North Rock Road, phone 685-5355
Wichita, Kansas 67208
Name of Authorized Agent Grey Dresie
815 Union National Building
Mailing Address Wichita, Kansas 67202 phone 267-4231
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is A 10 foot minimum side yard on the
North and South sides of the property instead of that described by
Zoning Ordinance No. 28.04.065.

for property located on the East side of North Rock Road.

and legally described as: Lot 1, Block 1, Aulls First
Addition to Wichita, Sedgwick County, Kansas.

in the City of Wichita; and which is presently zoned R-5.

- 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 bring action in the District Court of Sedgwick County to appeal the decision of the Board.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

TRANSAMERICAN INVESTMENT PROPERTIES, INC.

By: Max E. Eberhart
Applicant

Grey Dresie
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 7:20 (a.m. - ~~pm~~), Feb 25 19 75 together with appropriate fee of \$50.00.

T9-402

James H. Jellison
Signed

S T A T E M E N T

The Variance requested is a Variance from Zoning Ordinance No. 28.04.065(C) (2) (b) "minimum Side Yard:

(1) Residential Buildings: 10 percent of the lot width, but not less than six feet. Residential buildings which have the entrances to two or more units facing the side yard shall have a minimum side yard of ten feet on the side of the building on which such entrances are located.

(2) All other permitted uses: 25 feet."

The foregoing is a specific quotation of the requirement from which a Variance is requested, as indicated by the accompanying sketches. The buildings will be so placed that the maximum number of units will have an easterly view of the existing lake. The units will be a minimum of 2,120 sq. ft. and a maximum of 2,600 sq. ft. In order for these units to be placed on the available land, it is necessary that the North and South minimum side yards of 10 feet be allowed, rather than the minimum side yard as set out by the Ordinance above referred to. The South and North sides of the property in question, will both be screened by a combination of wood and brick wall, and the west side, which fronts on Rock Road will be screened by a solid masonry wall. The property in question is now zoned R-5, which permits twelve (12) units per acre. Actually, the planned use of the property, even with the variance requested in the minimum side yard, will be only five (5) residential units per acre or less than half of that allowed by the zoning statute. Due to the lake existence on the East of the subject property, the situation is unique and is one which is not ordinarily found in the same zone or district, and also was not created by an action or actions of the property's owner who is the applicant. The lake, while improving the aesthetic quality of the property for the type of residences contemplated, does at the same time require a variance of the type requested, if the high type and roominess of living units are to be constructed on the property in such a manner as to render unit economically feasible.

That the granting of the permit for the variance will not adversely affect the rights of zoned property owners or residents because:

- (a) Of the screening as above set out;
- (b) Because of the high aesthetic values of the proposed construction.

That the application of the provisions of Title 28 of which variance is requested will create unnecessary hardship upon the property owner making this application for the reason that he will be forced to either reduce the size and thus the quality of the contemplated residential units or will be forced to reduce the number of residential units, which is not economically feasible.

STATEMENT
Page -2-

That the variance desired will not adversely affect the public health, safety, morals, orders, convenience, public safety because:

- (a) Of the screening above set out and,
- (b) Of the fact that only five (5) units per acre are contemplated in the R-5 zoning district, which actually permits twelve (12) units per acre.

That the applicant believes that granting the variance desired, will not be adversely opposed to the general spirit and intent in Title 28 (Zoning Ordinance).

O W N E R S H I P L I S T

Lot	Block	Addition	Property Owner
1	1	Aull's First Addition	Transamerican Investment Properties Inc. 250 N. Rock Road 67206
2	1	Same	Same
28	3	Woodlawn East Addition	Arthur J. Crowns Jr. & Joan C. 7917 Dublin 67206
29	3	Same	Horizons East Inc. 505 N. Rock Road 67206
N60' 30	3	Same	Same
30exc N60'	3	Same	Walter Morris Investment Co. 128 S. Dellrose 67218 Inc.
1	2	Same	Norton L. Francis and Geraldine M. Francis 7978 Dublin Court 67206
2	3	Same	Edwin G. Loeb sack & Jane B. 7972 Dublin Court 67206
3	1	Second Addition to Vickridge	Vera Mae Clark 543 Tara Lane 67206
Reserve, Blk 1		Same	Harry B. Brown Jr. 800 Dublin 67206
2	3	First Addition to Vickridge	Neil W. Murney & Cleo B. 820 Dublin 67206
3	3	Same	Harry B. Brown Jr. 800 Dublin 67206

Tract

Property Owner

A tract of land located in the Southwest Quarter of Section 17-27-2E described as: Beginning at the point of intersection of the South line of Cork with the East line of Rock Road as shown by the plat of First Addition to Vickridge, thence East a distance of 232.78 feet; thence on a curve to the right, said curve having a radius of 345.83 feet, a distance of 96.57 feet; thence Southerly on a curve to the left, said curve having a radius of 669.15 feet, a distance of 156.85 feet; thence South a distance of 81.20 feet; thence West a distance of 309.80 feet; thence North a distance of 250.01 feet to the pob.

Harry B. Brown Jr.
800 Dublin 67206

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners of:

A 200 foot radius of: Lot 1, Block 1,
Aull's First Addition to Wichita,
Sedgwick County, Kansas

as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 21st day of February, 1975 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Vice President

Order No. 222011
wh

Form 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.	Pibg Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
Name	
Address	
Type	Due Date
Comments:	
Date	By

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 1