

ROUTED
4-7-83
[Signature]

ACTION

B.Z.A. 2-83 Approved 4-26-83
DATE

Case No. BZA 9-83 - Dennis R. Stebens
requests a variance to reduce the
required lot area per dwelling unit
from 1,500 sq. ft. to 1,393 sq. ft. on
property zoned the "R-6" General

5780 C

200 '4 Sec. 5-3-83
Checked 5-17-83
Shot 5-17
Recorded 5-18-83

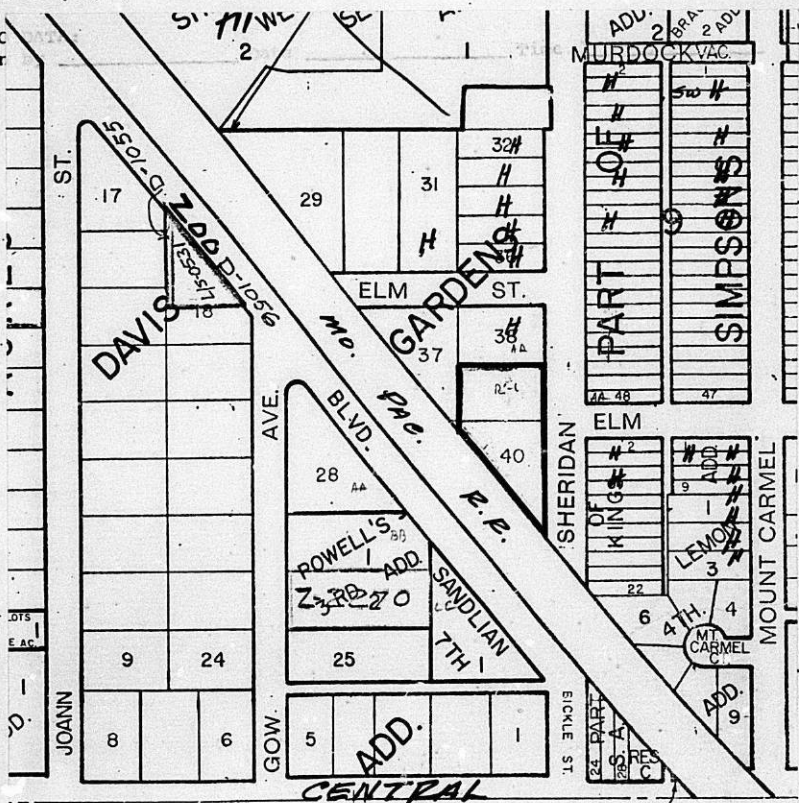
p No. 5248
 Ac. 13
 Twp. 27
 Range 1W

BZA- 9-83
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.92 (195 ft. by 207 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South MO. PAC. R.R.
 West MO. PAC. R.R. North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: UNDEVELOPED
6. Area (is) (is not) platted.

PHOTO
Taker



LORANGE, ESSEX, CHOCOMAQUAN, OH
 MCGREGOR, 7700 ST. SHELTON, GA
 U.S.A.

No. 2-153C
 Hastings, MN
 Silliman

April 29, 1983

Dennis R. Nieuens
2823 Wilmore, R.R.#9
Wichita, Ks. 67223

Re: BZA 9-83 - Request for Variance

Dear Mr. Nieuens:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 26, 1983.

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: Tim Ewald, 3705 East Douglas, Wichita 67218
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 9-83

WHEREAS, Dennis R. Niedens, 2823 Wilmore, R.R.#9, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet on property zoned the "R-6" General Residence District and legally described as follows:

Lots 39 and 40 of Davis Gardens Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Sheridan and north of Zoo Boulevard (739 North Sheridan).

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 April 26, 1983, 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 site is irregular in shape and the site is surrounded on approximately 70% of the perimeter by street or railroad right-of-way providing for increased open space; 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 the site is bounded primarily by public right-of-way and the buildings and parking are located to provide protection to the adjacent residential properties to the north; 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 owners represented in the application inasmuch as the applicant would be unable to complete and occupy two of the units that can be accommodated by the designed structures; 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 increased number of permitted dwelling units will not increase the amount of structures on the property so will not interfere with any right-of-way or easements or reduce any setbacks presently provided; 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 the amount of open space adjacent to the property would compensate for the slight increase in density; 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.

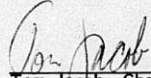
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet on property zoned the "R-6" General Residence District and legally described as:

Lots 39 and 40 of Davis Gardens Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Sheridan and north of Zoo Boulevard (739 North Sheridan).

be approved subject to the following condition:

1. No additional structures shall be constructed on the property other than permitted accessory structures.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1983.



Tom Jacobb, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE April 21, 1983

TO Glen Lytle, Special Assistant for Zoning

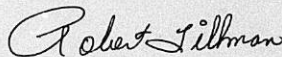
FROM Robert Tillman, Administrative Aide III

SUBJECT BZA 9-83: Generally located on
the West side of Sheridan and
North of Zoo Boulevard
(739 North Sheridan)

At its Wednesday, April 20th meeting, CPO Neighborhood Council Area "N" voted 4-0 to recommend denial of BZA 9-83; a request for a variance to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet on property zoned "R-6" General Residence District at 739 N. Sheridan.

The Council noted that the applicant; Dennis Niedens was aware when zoning case No. Z-2431 was approved, that it would only allow 22 units and not 24. Neither the applicant nor area residents were present to speak to the Council. William Keigh, 750 N. Sheridan, called the CP Office to voice his opposition to the request.

Please provide the Council's recommendation, and comment to the Board of Zoning Appeals when BZA 9-83 is considered at its Tuesday, April 26th meeting.



Robert Tillman
Administrative Aide III

SECRETARY'S REPORT
CASE NO. BZA 9-83

APPLICANT: Dennis R. Niedens, 2823 Wilmore, R.R.#9, Wichita, Kansas.

AGENT: Tim Ewald, 3705 East Douglas, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet.

GENERAL LOCATION: On the west side of Sheridan and north of Zoo Boulevard (739 North Sheridan).

ZONING: Subject property is zoned the "R-6" General Residence District. To the east, north and west is "AA" One-family Dwelling District. To the south and southwest is "LC" Light Commercial and "BB" Office District.

LAND USE: Subject property is being developed as apartments. To the east, north and west are one-family dwellings. To the south and southwest are apartments across Zoo Boulevard.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required lot area per dwelling unit to complete a two-story, two building apartment complex that is under construction on the property. The property was recently zoned "R-6" from "AA" by the applicant and at that time the applicant indicated he would not build any more units on the property than that permitted by the "R-6" District. Plans were subsequently submitted to Central Inspection and a permit was issued to the applicant for only 22 apartments which required that two of the 24 units on the plans could not be occupied as dwelling units and would be used as tenant storage. The design of the structures are for 12 dwelling units in each building.

The applicant indicates that no additional expansion of the existing structures will be necessary as the variance will only permit the completion of all 24 dwelling units for occupancy. It is also pointed out that the site is a large irregular shaped lot that is adjacent to the railroad right-of-way and Zoo Boulevard that creates some uniqueness. With nearly 70% of the perimeter of the site adjacent to street or railroad right-of-way the slight increase should be justification for the increased density.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the site is irregular in shape and the site is surrounded on approximately 70% of the perimeter by street or railroad right-of-way providing for increased open space.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the site is bounded primarily by public right-of-way and the buildings and parking are located to provide protection to the adjacent residential properties to the north.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be unable to complete and occupy two of the units that can be accommodated by the designed structures.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the increased number of permitted dwelling units will not increase the amount of structures on the property so will not interfere with any right-of-way or easements or reduce any setbacks presently provided.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the amount of open space adjacent to the property would compensate for the slight increase in density.

RECOMMENDATION:

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

1. No additional structures shall be constructed on the property other than permitted accessory structures.

BZA CASE NO. 9-83

2 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

17 NOTICES SENT TO ADJOINING PROPERTY OWNERS

29 TOTAL NOTICES SENT 4-6-83

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

April 6, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 9-83

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Dennis R. Niedens, 2823 Wilmore, R.R. 9, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet on property zoned "R-6" General Residence District. A legal description of the applicant's property is as follows:

Lots 39 and 40 of Davis Gardens Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Sheridan and north of Zoo Boulevard (739 North Sheridan).

This application has been assigned Case BZA 9-83. It will be considered by the Board of Zoning Appeals on April 26, 1983, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 9-83

CITY OF WICHITA, KANSAS

FILED 2-28-83

APPLICATION FOR VARIANCE

I. Name of Applicant Dennis R Niedens

Mailing Address 2823 Wilmore, RR9 67223 Phone 722-8541

Name of Authorized Agent Tim Ewald

Mailing Address 3705 E. Douglas 67218 Phone 681-1661

Relationship of applicant to property is that of Other
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required lot area per dwelling unit from 1,500 square feet to 1,393 square feet

on the west side of Sheridan and north of Zoo Blvd.
for property located (739th Sheridan)

and legally described as: Lots 39 & 40 of Davis Gardens Addition to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned R-6.

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. 36-596); and that the appropriate fee is herewith tendered;
- c. 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.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Dennis R. Niedens

Authorized Agent Tim Ewald
Tim Ewald

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10⁰⁰ (a.m. ~~2:00~~), Feb 28, 1983, together with appropriate fee of 75⁰⁰.

Signed L. Lytle



Ray Trimble and Associates
Commercial and Investment Real Estate

February 28, 1983

Board of Zoning Appeals
City Hall
455 N. Main
Wichita Kansas

Dear Board:

The current Zoning, R-6, allows 1 dwelling unit per each 1500 square feet. I would like to request a variance to allow 1 dwelling unit per each 1,393 square feet.

I feel this variance should not have any adverse effects on the neighborhood because the structure is already in place. The neighborhood is not currently densely built. Also there are adjoining green areas to the west of the project, created by the railroad right-of way.

Thank you for considering my request.

Sincerely,

Tim Ewald
Sales Associate

OWNERSHIP LIST

BZA 9-83

Legal DescriptionOwner/Address

Lot 28, Davis Gardens

✓ Samuel T. and Helen L. Luinstra
1102 N. Gow
Wichita, Kansas 67203

Lot 30, Davis Gardens

✓ Carl Z. Anderson
3228 W. Elm
Wichita, Kansas 67203The West Half of Lot 31,
Davis Gardens✓ Larry S. and Sharon Ann Stockton
1550 Joann
Wichita, Kansas 67203The East Half of Lot 31,
Davis GardensD ✓ Carl Z. and Lola A. Anderson
3228 W. Elm
Wichita, Kansas 67203

Lot 36, Davis Gardens

✓ Louis R. and Josephine Lamb
1732 High
Wichita, Kansas 67203

Lot 37, Davis Gardens

✓ Roger and A. Lorraine Frank
No Address Available 2556 S. Spruce
67214

Lot 38, Davis Gardens

✓ Kelsey K. and Iris E. Leidy
6529 Marion Drive
Wichita, Kansas 67217

Lots 39 and 40, Davis Gardens

✓ Prairie Homes, Inc.
950 N. Tyler
Wichita, Kansas 67212

Lot 1, Powell's 3rd Addition

P & P Co., Inc.
No Address Available

Lot 1, Sandlian 7th Addition

~~P & P Co., Inc.~~
No Address AvailableLots 26 and 28, Block 9,
Simpson's Addition✓ James J. & Marsha R. Dolenz
754 N. Sheridan
Wichita, Kansas 67203Lots 30 and 32, Block 9,
Simpson's Addition✓ Betty Jo Wenke
748 N. Sheridan
Wichita, Kansas 67203Lots 34 and 36, Block 9,
Simpson's Addition✓ William E. and Charmaine A. Keith
750 N. Sheridan
Wichita, Kansas 67203Lots 38 and 40, Block 9,
Simpson's Addition✓ Randy V. and Marla S. Ford
746 N. Sheridan
Wichita, Kansas 67203Lots 42 and 44, and the North 1.6
feet of Lot 46, Block 9,
Simpson's Addition✓ Mark R. and Karen S. Stolz
744 N. Sheridan
Wichita, Kansas 67203Lot 46, except the North 1.6 feet
of Lot 48, Block 9,
Simpson's Addition✓ John R. Ingram
740 N. Sheridan
Wichita, Kansas 67203

Lots 2 and 4, S.A. King's Addition

✓ Jerry D. Fomey, trustee for the
Jerry D. Fomey Trust
2534 Benjamin
Wichita, Kansas 67204

(Continued on Page 2)

Lots 6 and 8, S.A. King's Addition

Benjamin and Lucila Padilla
732 N. Sheridan
Wichita, Kansas 67203

Lots 10, 12, 14, 16, 18, 20 and 22,
S.A. King's Addition

Frank and Amanda L. Attebery
728 N. Sheridan
Wichita, Kansas 67203

Lot 6, Lemon Fourth Addition

Steven S. Schaapveld
775 N. Mt. Carmel
Wichita, Kansas 67203

Columbian National Title Insurance of Wichita, Inc., hereby certifies the foregoing to be a true and correct list of property owners located within a 200 foot radius of Lots 39 and 40, Davis Gardens, Sedgwick County, Kansas, as shown by the last deeds of record in the Register of Deeds office, Sedgwick County, Kansas, as of March 15, 1983, at 7:00 A.M.

Columbian National Title Insurance
of Wichita, Inc.

By: *Dwayne A. Schulke*
Dwayne A. Schulke U.P.

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 20-21

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT

NAME NEED

ADDRESS NEED

FUND NEED DUE DATE NEED

COMMENTS

DATE NEED BY NEED

*

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

Roll # 2