

BZA 10-72 - Robert B. Kitchen
requests Variance of Side Yard
Setback from 3'to0' On W side of
Hampton bet. Rockwood & Central

~~Pos 760
4-5-72~~

~~MMPV
C.I.V.
5-11-72~~

BZA 4-25-72 Approved

RESOLUTION NO. BZA 10-72

WHEREAS, Robert B. Kitchen, 335 Hampton, Wichita, Kansas, by J. N. Davis, 5126 North Seneca, 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 from 3 feet to 0 feet, on property zoned "AA". Single Family, and legally described as follows:

Lot 15, Block B, Cresthill Manor Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Hampton in an area between Rockwood and Central.

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 25, 1972, 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 pumps for the swimming pool were placed less than 3 feet from the property line and in order for them to be enclosed, a variance is necessary; 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 accessory structure is located on the rear half of the lot and there is approximately 25 feet separating the structure from the house to the north; and

WHEREAS, the Board of Zoning Appeals has found 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 the north 3 feet of the existing structure would have to be removed leaving the pumps exposed to the elements; 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 inasmuch as 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 the accessory structure, as a part of the fence, does not affect the feeling of openness any more than does a solid fence; and

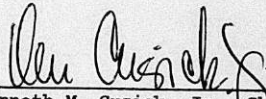
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

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 side yard setback from 3 feet to 0 feet, on property zoned "AA" Single Family, and legally described as follows:

Lot 15, Block B, Cresthill Manor Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Hampton in an area between Rockwood and Central.


be approved for only that area presently occupied by the existing accessory structure.

ADOPTED AT WICHITA, KANSAS, this 25th day of April, 1972.



Kenneth M. Cusick, Jr., Chairman

ATTEST:



Jack H. Galbraith, Secretary

May 24, 1972

Mr. J. N. Davis
5126 North Seneca
Wichita, Kansas 67204

Subject: Case No. BZA 10-72
Request for Variance

Dear Mr. Davis:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 25, 1972, in connection with your request for a variance to reduce the required side yard setback from 3 feet to 0 feet, on property zoned "AA" Single Family and generally located on the west side of Hampton in an area between Rockwood and Central.

This Resolution reflects the official action of the Board to approve your request for only that area presently occupied by the existing accessory structure. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls

cc Robert E. Kitchen, 335 Hampton 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

April 26, 1972

Mr. J. W. Davis
5126 North Seneca
Wichita, Kansas 67204

Subject: Case No. BZA 10-72
Request for Variance

Dear Mr. Davis:

At the regular meeting of the Board of Zoning Appeals on April 25, 1972, your request for a variance to reduce the required side yard setback from 3 feet to 0 feet, on property zoned "AA" Single Family and generally located on the west side of Hampton in an area between Rockwood and Central, was considered.

It was the action of the Board to approve this request for only that area presently occupied by the existing accessory structure.

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.

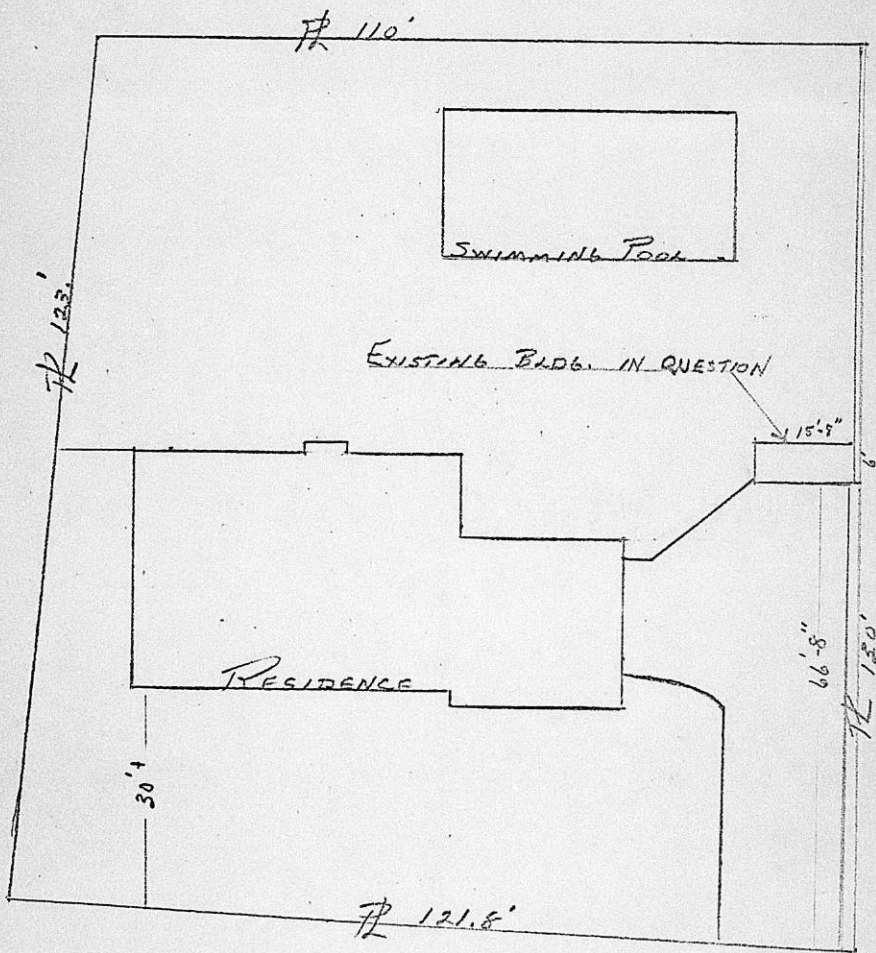
If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls

cc Robert B. Kitchen, 335 Hampton 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk



SECRETARY'S REPORT
CASE NO. BZA 10-72

APPLICANT: Robert B. Kitchen, 335 Hampton, Wichita, Kansas 67206

AGENT: J. N. Davis, 5126 North Seneca, Wichita, Kansas 67204

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback from 3 feet to 0 feet

GENERAL LOCATION: On the west side of Hampton in an area between Rockwood and Central

ZONING: Subject property is zoned "AA" Single Family as are those properties to the north, south, east and west

LAND USE: Subject property is occupied by a single family residence as are those properties to the north, south, east and west

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
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 side yard setback adjacent to the north property line from 3 feet to 0 feet. The situation, briefly, is that the applicant had his contractor construct an enclosure to house pumping and other equipment utilized for his swimming pool. In the construction, the contractor utilized an existing fence located on the property line for the north wall. Inasmuch as the structure is completely enclosed, it is considered an accessory structure, and being that it is located on the rear half of the lot requires a 3 foot side yard setback.

UNIQUENESS:

It is the opinion of the Secretary that this is somewhat of a unique situation in that the pumps for the swimming pool were placed less than 3 feet from the property line and in order for them to be enclosed, a variance is necessary.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the adjacent properties inasmuch as the accessory structure is located on the rear half of the lot and there is approximately 25 feet separating the structure from the house to the north.

HARDSHIP:

It is the opinion of the Secretary that an unnecessary hardship would be placed upon the applicant if the variance were not granted inasmuch as the north 3 feet of the existing structure would have to be removed leaving the pumps exposed to the elements.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not affect the public interest inasmuch as 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 general spirit and intent of Title 28, inasmuch as the accessory structure, as a part of the fence, does not affect the feeling of openness any more than does a solid fence.

Page 3 - Secretary's Report
Case No. BZA 10-72

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted for only that area presently occupied by the existing accessory structure.

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

April 5, 1972

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. FZA 10-72

An application has been filed by Robert B. Kitchen, 335 Hampton, 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 from 3 feet to 0 feet, on property zoned "AA" Single Family, and legally described as follows:

Lot 15, Block B, Cresthill Manor Addition to Wichita,
Sedgwick County, Kansas. Generally located on the
west side of Hampton in an area between Rockwood and
Central.

This application has been assigned Case No. BZA 10-72, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 25, 1972, 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

24 notices mailed 4-5-72 for Bza 4-25-72

WE, THE UNDERSIGNED SEE NO OBJECTION TO THE PRESENT LOCATION OF AN ACCESSORY BUILDING PROTECTING SWIMMING POOL EQUIPMENT ON LOT 15, BLOCK B, OF CRESTHILL MANOR ADDITION OTHERWISE ADDRESSED AS 335 NORTH HAMPTON, WICHITA, KANSAS, THE PRIVATE RESIDENCE AND PROPERTY OF DR. AND MRS. ROBERT R. KITCHEN.

Haward R. Mizener } 401 No Hampton
 Helen C. Mizener }

Tom Lindall } 323 N. Hampton
 Jane Kendall }

Walter Larson } 328 Hampton
 Evelyn Larson }

Jim A. See } 322 N. Hampton
 Jane K. See }

Mark H. Nicholson } 402 N. Hampton
 Bernice N. Nicholson }

Thomas A. O'Leary } 407 N. Hampton
 Julie O'Leary }

Wesley H. Ulrich } 329 N. Hampton
 Robert F. Smith }

William C. Colby } 408 N Hampton
 Bernice M. Colby }

Robert O. Towell
 Jane O. Towell

WE, THE UNDERSIGNED SEE NO OBJECTION TO THE
PRESENT LOCATION OF AN ACCESSORY BUILDING
PROTECTING SWIMMING POOL EQUIPMENT ON LOT 15,
BLOCK B, OF CRESTHILL MANOR ADDITION, OTHER-
WISE ADDRESSED AS 335 NORTH HAMPTON, WICHITA,
KANSAS, THE PRIVATE RESIDENCE AND PROPERTY OF
DR. AND MRS ROBERT R. KITCHEN.

Jane E. Mohr } 334 St. James
Harold W. Mohr }

Leta J. Shroyer } 328 St. James
Mary A. Kincode }

Ray and Ethel Brown - 408 St. James.

E. W. Mollohan } 414 St. James
Michael Mollohan }

Albert M. Andrews } 402 St. James
Patricia L. Andrews }

BOARD OF ZONING APPEALS

CASE NO. 10-72

CITY OF WICHITA, KANSAS

FILED 3-28-72

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ Robert B. Kitchen
Mailing Address 335 Hampton 67206 Phone 683-0603
Name of Authorized Agent ✓ J. N. Davis
Mailing Address 5126 N. Seneca 67204 Phone 838-5855
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is side yard set back to be change
from three feet to zero feet.

for property located 335 N. Hampton

and legally described as: Lot 15 Blk B Crest Hill Addition

in the City of Wichita; and which is presently zoned AA.

- 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.

Robert B. Kitchen

Applicant

J. N. Davis

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3 PM (a.m. - p.m.), March 28 19 72 together with appropriate fee of \$50.00.

T9-402

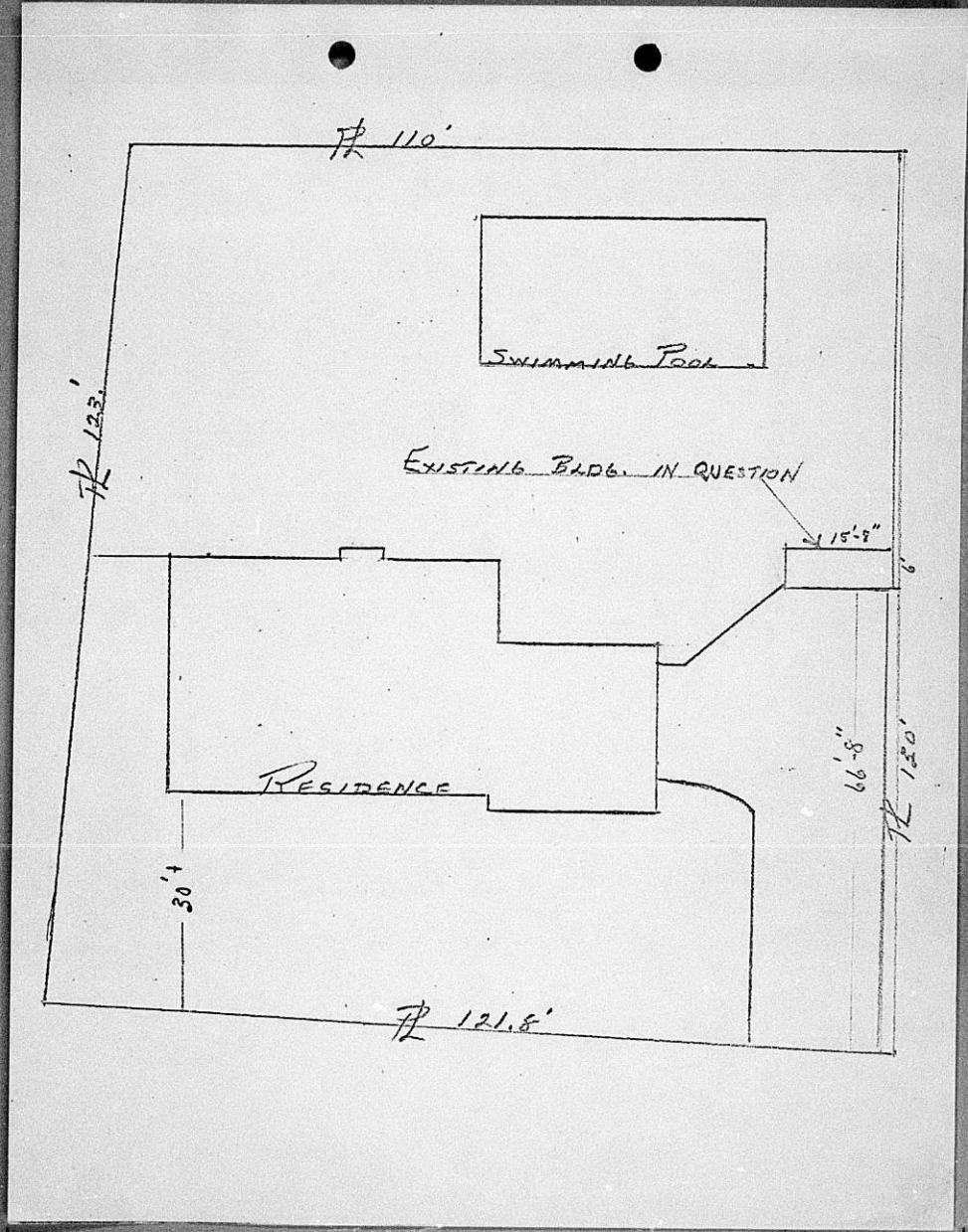
Curtis L. Newby
Signed

Map #5947

I, the undersign, hereby make application for a variance under the 2.12.590 B requirement.

- (1.) The condition arised because the contractor that installed the fence also put the roof upon the building, at the time it was built said contractor didn't tell me there couldn't be a roof put over the equipment.
- (2.) Please see enclosed signed petition of acceptances by the neighbors.
- (3.) Owner needs roof over equipment to protect it from the elements.
- (4.) As variance is only a roof over part of a fence it shouldn't effect public health, safety, morals, order, convenience, prosperity, or general welfare.
- (5.) In my opinion I don't believe that the roof on the building is not opposed to the spirit and intent to Title 28

Robert H. Kallen




STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 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:
 Lot 15, Block "B", Cresthill Manor, an Addition
 to Wichita, Sedgwick County, 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: (Addresses as given are furnished as a service and not certified.)

LOT	BLK	ADDITION	OWNER
6	A	<u>CRESTHILL MANOR</u>	✓ John Paul Woolf Mary L. Woolf, ux 401 St. James 67206
7	A		✓ Floyd E. Turner Virginia S. Turner, ux 341 St. James 67206
8	A		✓ Alfred B. Beard Mabel A. Beard, ux 335 St. James 67206
3	B		✓ Eugene W. Mollohan Mildred Mollohan, ux 414 St. James 67206
4	B		✓ Ray K. Brown Ethyl L. Brown, ux 408 St. James 67206
5	B		✓ Albert M. Andrews Patricia L. Andrews, ux 402 St. James 67206
6	B		✓ Arnold M. Mohn Jane E. Mohn, ux 334 St. James 67206



LOT	BLK	ADDITION	OWNER
7	B	<u>CRESTHILL MANOR</u>	✓Hubert H. Shryock Leta V. Shryock, ux 328 St. James 67206
8	B		✓A. W. Kincade, Jr. Mary Kincade, ux 322 St. James 67206
13	B		✓Tommy E. Kendall Ima Jane Kendall, ux 1214 N. Pinecrest 67208
14	B		✓Wesley H. Werth Robert F. Werth, ux 329 N. Hampton 67206
15	B		✓Robert B. Kitchen Irene V. Kitchen, ux 335 N. Hampton 67206
16	B		✓Howard N. Mizener LaVern C. Mizener, ux 401 N. Hampton 67206
17	B		✓Thomas A. O'Gara Julianne M. O'Gara, ux 407 N. Hampton 67206
3	C		✓W. C. Cohen, Jr. Pennie Cohen, ux 408 N. Hampton 67206
4	C		✓Merle H. Nicholson Berniece N. Nicholson, ux 402 N. Hampton 67206
5	C		✓Robert A. Powell June L. Powell, ux 233 N. Old Manor 67208
6	C		✓M. Dale Larsen Evelyn A. Larsen, ux 328 N. Hampton 67206
7	C		✓John A. See Jane K. See, ux 322 N. Hampton 67206

Beg at a pt 93' Nly of SE cor Lot 12, th Nly 90.62' to a pt 92' Sly of the NE cor Lot 13; th Wly to a pt on W line of sd Lot 13; 92' Sly from NW cor Lot 13; th Sly approximately 74.5' along sd line to a pt 93' Nly of SW cor Lot 12; th Ely to pt of beg. Being a part of Lots 12 & 13, Blk C, Cresthill Manor Add.

North 92 ft of Lot 13, Blk C, Cresthill Manor Add. ✓John Barnett Smith
Katharine C. Smith, ux
355 N. Mission 67206

Lot 14, exc N 55 ft., Blk C, Cresthill Add. ✓Garland M. Hattan
Freida C. Hattan, ux
401 N. Mission 67206

North 55 ft of Lot 14 & Lot 15, except N 94 ft, Block C, Cresthill Manor Add. ✓L. E. Forss, Inc.
1000 Park Lane 67218

-3-

Dated at Wichita, Kansas this 27th day
of March, 1972 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Oliver M. Farrell Sec. OEM

Tracer # 13695

FORM 22-021

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	\$50.00	

DESCRIPTION	AMOUNT
<i>Bd of zoning appeals -</i>	
<i>application for variance</i>	

<i>Bd of zoning appeals -</i>	
<i>application for variance</i>	

Name *J. H. Davis*

Address *5126 N. Seneca*

Type *AA--407103* Due Date

Comments:

Date *3-28-72* BY *Curt Newby*