

BZA 13-66 E. R. Hershey requests variance for reduction of side-yard setback on the west side of Parkwood between-Douglas and English

M.A.P.C.

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

F-8
W
5847

Post 100
5-3-66

ACTION

DWIG

Bza COMMITTEE App 5-24-66

M.A.P.C. _____

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

BZA 13-66 E. R. Hershney requests variance for reduction of side-yard setback on the west side of Parkwood between Douglas and English

RESOLUTION NO. BZA 13-66

WHEREAS, E. R. Hershey, 117 South Parkwood Lane, Wichita, Kansas, requests variance of the regulations of Section 28.04.040, Code of the City of Wichita, ("AA" One Family Dwelling District), to reduce the required 6-foot side yard setback to 5 feet on property legally described as follows:

The south 45 feet of Lot 2 and the north 20 feet of Lot 3, Block B, El Rancho Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Parkwood in an area between Douglas and English; 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 May 24, 1966; 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, and is not created by an action or actions of the property owner or the applicant inasmuch as the homes in this area were all constructed with the similar problems of side yard setbacks in that they are situated such that they have basically a minimum setback on one side and approximately 10 feet on the other, which creates a problem in adequately allowing sufficient room to construct a useable garage; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect adjacent property owners or residents inasmuch as a 5-foot side yard setback would still remain and the distance between the extended garage and the house to the north would have a 15½ foot clearance; 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 inasmuch as the applicant's house has a brick fireplace that protrudes 14 inches into his garage and the protrusion creates a substantial difficulty in getting into and out of the car; 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 an adequate distance would be maintained between dwellings; and

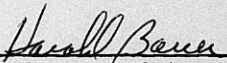
WHEREAS, the Board of Zoning Appeals has determined that the variance desired will not be opposed to the general spirit and intent of Title 28, Code of the City of Wichita; and

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, has been found to exist;

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the request be approved to permit a side yard setback of 5 feet instead of the required 6 feet along the north property line for the depth of the house only, on property zoned "AA" Single Family Residential, and legally described as follows:

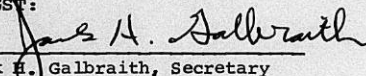
The south 45 feet of Lot 2 and the north 20 feet of Lot 3, Block B, El Rancho Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Parkwood in an area between Douglas and English.

ADOPTED AT WICHITA, KANSAS, this 24th day of May, 1966.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith, Secretary

June 10, 1966

Mr. E. F. Hershey
117 South Parkwood Lane
Wichita, Kansas

Dear Mr. Hershey:

Re: BZA 13-66 - Request for Variance

We have completed the preparation of the Resolution adopted by the Board of Zoning Appeals in connection with the abovenumbered case, which was heard by the Board on May 24, 1966, which Resolution has been signed by the Chairman and Secretary.

As indicated in our letter of June 7, 1966, we are enclosing a copy of this Resolution for your information and files. A copy has also been provided the Central Inspection Division and you may now obtain the appropriate permit with respect to enlargement of your garage on property generally located on the west side of Parkwood in an area between Douglas and English.

Please let us know if you have any questions concerning this case.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:RW:ber
Attachment

cc: Glen Lytle, Superintendent of Central Inspection
L. L. Hinkley, Maintenance Inspection Supervisor
Ralph Eberly, City Clerk

June 7, 1966

Mr. E. R. Hershey
117 South Parkwood Lane
Wichita, Kansas

Dear Mr. Hershey:

Re: BZA 13-66 - Request for Variance

This is to advise you that at its regular meeting on May 24, 1966, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of the required 6-foot side yard setback to 5 feet on property located generally on the west side of Parkwood in an area between Douglas and English.

It was the action of the Board to approve this request and to permit a reduction of the 6-foot side yard setback to 5 feet along the north property line for the depth of the house only.

A resolution effectuating the action of the Board will be mailed to you as soon as it is prepared and signatures of the Chairman and Secretary of the Board obtained.

Please contact our office if you have any questions concerning this matter.

Very truly yours,

Jack H. Galbraith
Secretary

JHS:W:ber

cc: Glen Lytle, Superintendent of Central Inspection
L. L. Binkley, Maintenance Inspection Supervisor
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BEA 13-66

APPLICANT: E. R. Hershey, 117 S. Parkwood Lane, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to reduce the required 6-foot side yard setback to 5 feet.

GENERAL LOCATION: West side of Parkwood in an area between Douglas and English

ZONING: Subject property and all surrounding property is zoned "AA"

LAND USE: Subject property and all surrounding property is single family.

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; 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 states in his letter of justification that he intends to enlarge his garage located on the north side of his house. This proposed expansion results in an extension of 1' 10 $\frac{1}{2}$ " and will leave a distance of 5 feet between the north property line and the extended garage. In the "AA" district, the required minimum side

yard is 6 feet and, therefore, the enlarging of his garage would reduce the setback to 5 feet, or one foot less than the requirement.

This expansion will make his garage approximately 12.8 feet in width and will enable better circulation into, out of, and around the automobiles.

UNIQUENESS

It is the opinion of the Secretary that this is a unique situation in that the homes in this area were all constructed with the similar problems of side yard setbacks. The houses are situated such that they have basically a minimum setback on one side and approximately 10 feet on the other. This creates a problem of adequately allowing sufficient room to construct a really useable garage. The applicant wishes to enlarge his garage to a more efficient standard and is caught in a situation of too great a setback on one side and not quite enough on the other.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of this variance would not adversely affect the adjacent property owners inasmuch as a 5-foot side yard setback would still remain and the distance between the extended garage and the house to the north would have a 15 $\frac{1}{2}$ -foot clearance.

HARDSHIP

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variance is not granted. The hardship results from the fact that the applicant's house has a brick fireplace that protrudes 14 inches into his garage and the protrusion creates a substantial difficulty in getting into and out of the car.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not have an adverse effect on the public interest inasmuch as an adequate distance would be maintained between dwellings.

SPIRIT AND INTENT

It is the opinion of the Secretary that the variance request is not opposed to the spirit and intent of the zoning ordinance.

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Case No. BZA 13-66

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all five conditions necessary to the granting of this variance have been found to exist and, therefore, it is recommended that the side yard variance from 6 feet to 5 feet along the north property line for the length of the garage only, be granted.

April 11, 1966

Board of Zoning Appeals
Planning Department
104 South Main
Wichita, Kansas

Attention: Mr. Jack H. Galbraith

Gentlemen:

- A. My garage is twenty (20) feet in length and ten and nine-tenths (10.9) feet in width.

I have a brick fire place that protrudes into my garage fourteen (14) inches making it impossible to a-light from the car on the driver's side.

This is not a satisfactory arrangement as it necessitates getting in and out of the car, opposite from the driver's side.

These conditions have been corrected by other property owners in the block by the remodeling of their homes.

When these houses, with the attached garages, were constructed in 1942 they were reduced in size to conserve lumber and other rationed materials due to the war effort.

- B. The adjacent property owner to the north and myself are in agreement that this will not adversely affect our properties as the distance between the houses will be in excess of fifteen (15) feet, if the one foot ten and one-half (1' 10½") is granted for the extension of my garage.
- C. If the application for the enlargement of my garage is not granted the utilization of my garage will be negligible as it has been in the past.
- D. The variance desired by the extension of my garage will in no way affect the public health, safety, morals, order, convenience, prosperity, or general welfare of the property in the surrounding community.

Board of Zoning Appeals
page 2

April 11, 1966

- E. In accordance with the zoning ordinance a set back of six (6) feet is required from the property line or a distance of twelve (12) feet between houses. The granting of this variance will allow me a five (5) foot set back from my north line and the adjacent property on the north will have a ten and one half ($10\frac{1}{2}$) foot set back from his south line, making a distance of fifteen and one half ($15\frac{1}{2}$) feet between the houses, if the variance of one foot ten and one half inches ($1' 10\frac{1}{2}"$) is granted.

The distance between my property and the property on the south is eighteen feet and one inch ($18' 1"$).

Thank you,

E. R. Hershey

E. R. Hershey
117 So. Parkwood Lane
Wichita, Kansas 67218

JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3.7431

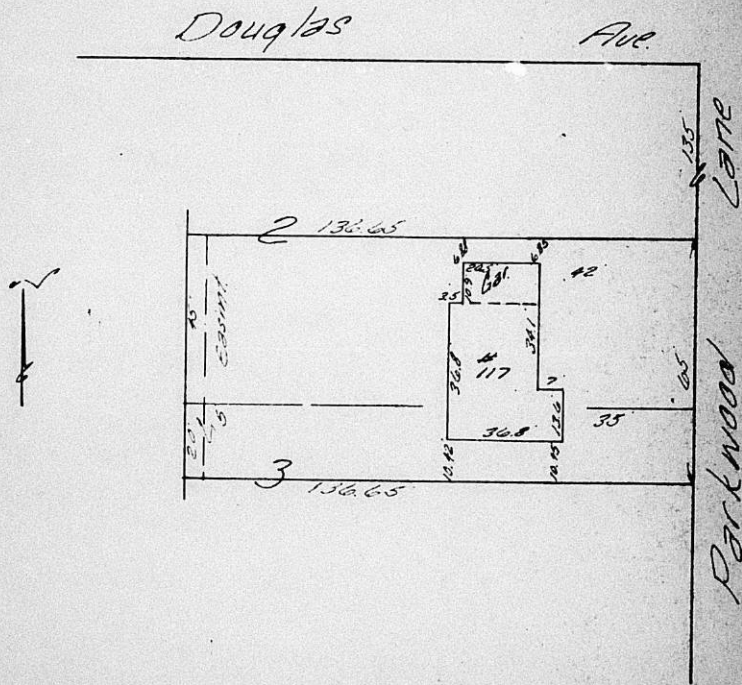
State of Kansas }
County of Sedgwick) SS

March 31, 1966

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 31st day of March, 1966, survey the south 45 feet of Lot 2 and the north 20 feet of Lot 3, Block B, El Rancho an Addition to Wichita, Sedgwick County, Kansas.

On said lot is house No. 117 which is as shown on the accompanying plat. The accompanying plat is a true and correct exhibit of said survey.

John T. Reeves
Surveyor



BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant E. R. Hershey ✓
Mailing Address 117 S Parkwood Lane Phone MU. 34022
Name of Authorized Agent _____
Mailing Address _____ Phone _____
Relationship of applicant to property is that of _____
(owner, tenant, lessee, other)

II. The variance requested is for the reduction of the six foot
side yard to five feet

for property located 117 S. Parkwood Lane
The West side of Parkwood Lane between Douglas and English
and legally described as: The South 45 feet of Lot 2 & the North
20 feet of Lot 3 Block B, C. L. Ranch Addition to Wichita 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.

E. R. Hershey
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
1:15 (a.m. - p.m.), 4-8, 1966, together with
appropriate fee of \$50.00.

Jack H. Galbraich SP
Signed _____ (ma)

STATEMENT OF RECORD 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: The South 45 ft of Lot 2 & the North 20 ft
 of Lot 3, Block B, El-Rancho Addition to Wichita,
 Kansas.


Fidelity
Title
Company,
inc.

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

LOT	BLK	OWNER
<u>EL-RANCHO ADDITION</u>		
1	A	✓ Harold F. & Eva V. R. Brown, ux 115 S. Old Manor
2 & N 20' Lot 3	A	⊗ Harold F. & Eva V. R. Brown, ux 115 S. Old Manor
3 (S 60' & N 15' Lot 4)	A	✓ William J. & Mary C. Knightley, ux 123 S. Old Manor
1 (N 70')	B	✓ Rosalina B. Phares 103 S. Parkwood Lane
1 (S 30' & N 35' Lot 2)	B	✓ R. A. & Alta Mae Bothwell, ux 109 S. Parkwood Lane
2 (S 45' & N 20' Lot 3)	B	✓ Estel R. & Ivah Lucille Hershey, ux 117 S. Parkwood Lane
3 (S 60' & N 5' Lot 4)	B	✓ Donald M. & Pauline S. Rice, ux 125 S. Parkwood Lane



LOT	BLK	OWNER
<u>EL-RANCHO ADDITION</u>		
4 (exc N 5' & exc S 10')	B	✓ Richard C. & Patricia Rutledge Hite, ux 133 S. Parkwood Lane
4 (S 10') & N 70' of Lot 5	B	✓ R. A. & Rosenna Teichgraeber, ux 139 S. Parkwood Lane
8 (N 60')	B	✓ Marie Doughman 102 S. Old Manor
8 (S 40' & N 20' Lot 9)	B	✓ Arthur W. & Alpha W. Gill, ux 108 S. Old Manor
9 (S 60' & N 40' Lot 10)	B	✓ John D. & Marcella J. Harness, ux 116 S. Old Manor
10 (S 40' & N 68' Lot 11)	B	✓ Elliott A. & Eloise M. Levand, ux 124 S. Old Manor
11 (S 12') & all Lot 12)	B	✓ Raymond R. & Anita Wallace, ux 140 S. Old Manor.

<u>BELLAIR ADDITION</u>		
1 & N 10' Lot 2	A	✓ Oscar B. & Iva I. Erich, ux 104 S. Parkwood Lane
2 (S 65')	A	✓ Carl H. & Ida P. Lundberg, ux 112 S. Parkwood Lane
3 & N 15' Lot 4	A	✓ David G. & Beverly Jean Arst, ux 120 S. Parkwood Lane
4 (S 60') & N 30' Lot 5	A	✓ Walter E. & Ruie P. Reddick, ux 5713 Chadowes
5 (S 45') & N 45' Lot 6	A	✓ Louis A. Baker 138 S. Parkwood Lane
9 & N 65' Lot 10	A	✓ John H. & Shirley M. Zakas, ux 5702 Chadowes
10 (S 5') all Lots 11 & 12	A	✓ Stella Shawver 115 S. Ridgewood

Dated at Wichita, Kansas this 4th day
of April, 1966 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elvie M Farrell Sec, OEM

FORM 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
Variance Application	\$50.00

Name *E R Hershey*

Address *117 So. Fairbairn*

Type *R-712*

Due Date

Comments:

Date *4-8-66*

By *Matt Carrington*