

POSTED
6-11-74

BZA 14-74 - Dale Fair requests
Variance to reduce front yard
setback located between Richmond
and Meridian in area south of

ACTION

BZA COMMITTEE Deferred - no variance 6-25-74
DATE
deferred 7-1-74
M.A.P.C.

B.C.C./B. CO. C. _____
BZA Comm. Stricken from 7.23.74
agenda at applicant
request to be readjusted

BZA Comm. Deferred 8-27-74
BZA Comm. denied 9-24-74

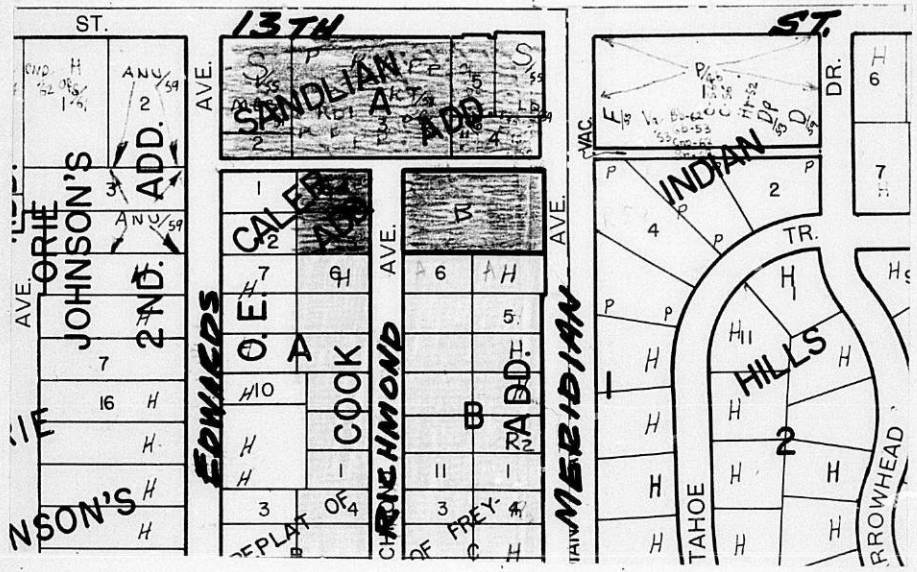
244

Map No. 5248
Sec. 13
Twp. 27
Range 1W

BZA- 14-74
SCZ- _____
CU- _____
Filed _____

AREA DATA:
1. Acres: 0.9 (150 ft. by 264 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East FORKING South SINGLE FAM
West REPAIR SHOP North FURNITURE SUPPLY/REPAIR SECT/STRT
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 _____



RESOLUTION NO. BZA 14-74

WHEREAS, Dale Fair, 320 Page Court, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

Beginning 831.76 feet north of the southeast corner of the northeast quarter of the northeast quarter of Section 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence west parallel with the south line of said northeast quarter of the northeast quarter, 334 feet, thence north parallel with the east line of said quarter section, 150 feet, thence east 334 feet, thence south 150 feet to the place of beginning, except the east 40 feet and the west 30 feet thereof for public road. Generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

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, at the meeting of August 27, 1974, considered said application; and did, because a motion to approve the request failed to receive a second, defer this case until September 24, 1974; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of September 24, 1974, 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 requested does not arise 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 in fact created by an action or actions of the property owner or the applicant inasmuch as a comparable project could be designed for subject property which would conform to all zoning requirements; 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 a setback would be maintained for an area adjacent to the property to the south based on a straight line projection of the 20 foot setback required on that property. The other properties on the cul-de-sac may park to the property line and would not be affected by the granting of this variance; 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 not constitute unnecessary hardship upon the property owner represented in the application inasmuch as it is not considered a hardship to not be able to build to the maximum densities permitted by a zoning classification; and

WHEREAS, the Board of Zoning Appeals did not find that the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as adequate area exists for the proposed development and required parking without the benefit of a variance; and

WHEREAS, three 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 not 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 front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District and legally described as:

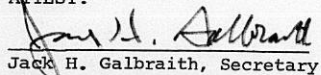
Beginning 831.76 feet north of the southeast corner of the northeast quarter of the northeast quarter of Section 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence west parallel with the south line of said northeast quarter of the northeast quarter, 334 feet, thence north parallel with the east line of said quarter section, 150 feet, thence east 334 feet, thence south 150 feet to the place of beginning, except the east 40 feet and the west 30 feet thereof for public road. Generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of September, 1974.


James Richardson, Chairman

ATTEST:


Jack H. Galbraith, Secretary

October 4, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Subject: Case No. BZA 14-74
Request for Variance

Dear Mr. Fair:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 24, 1974, in connection with your request for a variance to reduce the required front yard setback on property zoned the "B" Multiple Family Dwelling District and generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

This Resolution reflects the official action of the Board to deny your request. 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:js

Encl.

cc: Jerrold Feldman, c/o Bill Bachman Realtors, 1901 W. 13th St.
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

September 25, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Subject: Case No. EZA 14-74
Request for Variance

Dear Mr. Fair:

At the regular meeting of the Board of Zoning Appeals on September 24, 1974, your request for a variance to reduce the required front yard setback on property zoned the "B" Multiple Family Dwelling District and generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North, was considered.

It was the action of the Board to deny this request.

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, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Jerrold Feldman, c/o Bill Bachman Realtors, 1901 W. 13th St.
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 14-74

APPLICANT: Dale Fair, 320 Page Court, Wichita, Kansas 67202.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 0 feet for off-street parking purposes only.

GENERAL LOCATION: Between Richmond Avenue and Meridian Avenue in an area south of 13th Street.

ZONING: Subject property is zoned the "B" Multiple Family Dwelling District, to the north is "LC" Light Commercial District, to the east is the "R-5" General Residence District, south is the "A" Two Family Dwelling District and west is the "LC" Light Commercial District and the "BB" Office District.

LAND USE: Subject property is vacant; north is a post office, doctor's offices and a restaurant; east is the parking lot; south is a single family home and a duplex; west is a gymnastics school and a vacant area.

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.

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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 required front yard setback from 20 feet to 0 feet for off-street parking purposes only, in conjunction with a proposed apartment complex.

Subject property is platted as one lot, having frontage on both Meridian and Richmond. The requested variance is for the front yard on Richmond. The applicant, as a condition of platting for Dale Fair Addition was required to terminate dead-ended Richmond Avenue by a cul-de-sac. The applicant in his statement of justification points out that the cul-de-sac requirement has created a unique situation inasmuch as if they are required to set back 20 feet there will not be sufficient space for the proposed multi-family buildings and parking. It should be noted that the plat vacated Richmond Avenue north of the cul-de-sac, and therefore half the street right-of-way was returned to subject property.

The applicant's original request before the Board was for a reduction of the front yard setback from 20 feet to 5 feet, and his plot plan showed 40 apartment units with 60 off-street parking spaces. The applicant's revised application requests a reduction to 0 feet for off-street parking only. He has submitted a revised plot plan showing only off-street parking occupying the front yard setback area. Other changes include a reduction of apartment units from 40 to 36, a reduction of parking spaces from 60 to 52 and the addition of a swimming pool. This revised plan shows parking to the property line, except for an area between the south property line and the cul-de-sac which is proposed to be maintained as yard area based on a straight line projection of the 20 foot setback required on the property to the south.

In reviewing both plot plans it still appears that an apartment project could be designed for this property that violates none of the setback requirements. For example, 5 parking spaces

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could be eliminated from the revised plot plan and all setback requirements would be met. This would still leave 47 parking spaces for 36 units. Another example would be to take the dimensions of the apartment buildings as shown on the revised plot plan and utilize them on the layout of the original plot plan. This design would not violate any setback requirements with the exception of one parking space that would need to be eliminated. This example would provide 59 parking spaces for 36 units. These examples are used only to visualize the possibility of a redesign that complies with all zoning requirements.

UNIQUENESS

It is the opinion of the Secretary that uniqueness is difficult to justify, but that uniqueness may exist inasmuch as the other two lots on the west side of the cul-de-sac are permitted to park in their front yards as one of the lots is zoned "LC" and the other is the "BB" Office District.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not have an adverse effect on adjacent property owners inasmuch as a setback would be maintained for an area adjacent to the property to the south based on a straight line projection of the 20 foot setback required on that property. As mentioned previously, the other properties on the cul-de-sac may park to the property line and would not be affected by the granting of this variance.

HARDSHIP

It is the opinion of the Secretary that it is difficult to determine that a hardship exists as it is not considered a hardship to not be able to build to the maximum densities permitted by a zoning classification.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

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SPIRIT AND INTENT

It is difficult, in the opinion of the Secretary, to determine if the granting of the desired variance would be opposed to the spirit and intent of the zoning ordinance, inasmuch as adequate area exists for the proposed development and required parking and yet the variance request is for the purpose of providing additional off-street parking for the development.

RECOMMENDATION

If the Board finds that all five conditions necessary to the granting of a variance can be found to exist, it is the recommendation of the Secretary that approval be made subject to the following conditions:

1. That the variance be granted for off-street parking purposes only, and no permanent structures shall be erected thereon.
2. The front yard setback from Richmond Avenue shall be reduced to 0 feet except that area between the south property line and the cul-de-sac shall be retained as front yard based on a straight line projection of the 20 foot setback required on adjacent property to the south (as shown on the revised plot plan).

This front yard setback area shall be landscaped with a combination of plant materials, such as grass, shrubs, trees and ground cover, and shall be maintained in good condition.

3. Since this variance is being granted based on providing additional parking spaces, the development of subject property shall provide 1.4 parking spaces per apartment unit.

August 27, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Subject: BZA 14-74 - Request
for Variance

Dear Mr. Fair:

At the regular meeting of the Board of Zoning Appeals on August 27, 1974, your request for a variance to reduce the required front yard setback on property zoned the "B" Multiple Family Dwelling District and generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North, was considered.

Inasmuch as a motion to approve the request failed to receive a second, and after further discussion, the action of the Board was to defer this case until their next regular meeting.

This matter will be scheduled for the regular meeting of the Board of Zoning Appeals on September 24, 1974, the meeting to begin at 1:30 p.m. in Room 401 City Building Annex, 104 South Main.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Jerrold Feldman, c/o Bill Bachman Realtors, 1901 W. 13th St.

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

August 7, 1974

CORRECTED NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 14-74

Our notice to you of August 6, 1974 advised you that an application had been filed by Dale Fair, requesting a variance to reduce the required front yard setback from Richmond Avenue as being platted as Dale Fair Addition, from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

Beginning 831.76 feet north of the southeast corner of the northeast quarter of the northeast quarter of Sec. 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence west parallel with the south line of said northeast quarter of the northeast quarter, 334 feet, thence north parallel with the east line of said quarter section, 150 feet, thence east 334 feet, thence south 150 feet to the place of beginning, except the east 40 feet and the west 30 feet thereof for public road: (Being replatted as Lot 1, Dale Fair Addition to Wichita, Sedgwick County, Kansas). Generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

This notice was in error in that it advised you the case would be heard by the Board of Zoning Appeals at their regular meeting of September 27, 1974. This notice is to advise you that this meeting will be held on Tuesday, August 27, 1974, at 1:30 p.m. in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas.

JACK H. GALBRAITH
Secretary

THIS NOTICE MAILED ON THIS DATE TO 18 ADJACENT PROPERTY OWNERS & 10 MAPC members.

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

August 6, 1974

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 14-74

An application has been filed by Dale Fair, 320 Page Court, Wichita, Kansas pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

Beginning 831.76 feet north of the southeast corner of the northeast quarter of the northeast quarter of Sec. 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence west parallel with the south line of said northeast quarter of the northeast quarter, 334 feet, thence north parallel with the east line of said quarter section, 150 feet, thence east 334 feet, thence south 150 feet to the place of beginning, except the east 40 feet and the west 30 feet thereof for public road: (Being replatted as Lot 1, Dale Fair Addition to Wichita, Sedgwick County, Kansas).
Generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

This application has been assigned Case No. BZA 14-74, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 27, 1974, 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

NOTICES MAILED ON THIS DATE TO 18 ADJACENT PROPERTY OWNERS AND
10 MAPC MEMBERS.

July 24, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Subject: BZA 14-74 - Request for
Variance of front yard
setback - between Richmond
and Meridian in an area
south of 13th Street.

Dear Mr. Fair:

At the regular meeting of the Board of Zoning Appeals on July 23, 1974, your request for a variance to reduce the required front yard setback on property zoned the "B" Multiple Family Dwelling District and generally located between Richmond Avenue and Meridian Avenue in an area south of 13th St. North, was considered.

Since you requested that this matter be deferred so that the case could be readvertised for public hearing, the action of the Board was to strike the matter from their agenda. Therefore, based on this action, and inasmuch as you are changing your request, we would appreciate receiving a letter from you requesting that the case be readvertised and justifying the five conditions of approval. We would appreciate having this information by July 30, 1974, so that this case could be readvertised for their regular meeting of August 27, 1974.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Jerrold Feldman, c/o Bill Bachman, Realtors, 1901 W. 13th St.

July 19, 1974

Board of Zoning Appeals

Jack H. Galbraith, Secretary

Case No. BEA 14-74

Attached is the Secretary's Report regarding a revised plot plan submitted by the applicant, Dale Fair, concerning the above-captioned case.

This matter is to be considered by the Board at its regular meeting on Tuesday, July 23, 1974.

JHG:js

CASE NO. BZA 14-74

SECRETARY'S COMMENTS (Revised)

The applicant has submitted a revised plot plan showing only off-street parking occupying the front yard setback area. Other changes include a reduction of apartment units from 40 to 36, a reduction of parking spaces from 60 to 52 and the addition of a swimming pool. This revised plan shows 5 parking spaces occupying the 20 foot setback area adjacent to Richmond Avenue, and as submitted, would require a reduction of the setback to 0 feet except for an area between the south property line and the cul-de-sac, which would maintain a setback based on a straight line projection of the 20 foot setback required on the property to the south.

This case has been legally advertised as a request for a variance to reduce the required front yard setback from Richmond Avenue from 20 feet to 5 feet. Therefore a reduction to 0 feet cannot be considered unless an amended application is submitted and the case is readvertised for a public hearing.

In reviewing both plot plans it still appears that an apartment project could be designed for this property that violates none of the setback requirements. For example, 5 parking spaces could be eliminated from the revised plot plan and all setback requirements would be met. This would still leave 47 parking spaces for 36 units. Another example would be to take the dimensions of the apartment buildings as shown on the revised plot plan and utilize them on the layout of the original plot plan. This design would not violate any setback requirements with the exception of one parking space that would need to be eliminated. This example would provide 59 parking spaces for 36 units. These examples are used only to visualize the possibility of a redesign that complies with all zoning requirements.

The following review of the five conditions necessary for the granting of a variance is based on reducing the front yard setback from Richmond Avenue from 20 feet to 5 feet for off-street parking purposes only.

UNIQUENESS

It is the opinion of the Secretary that uniqueness is difficult to justify, but that uniqueness may exist inasmuch as the other two lots on the west side of the cul-de-sac are permitted to park in their front yards as one of the lots is zoned "LC" and the other is the "BB" Office District.

Secretary's Comments (Revised)
Case No. BZA 14-74

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not have an adverse effect on adjacent property owners inasmuch as a setback would be maintained for an area adjacent to the property to the south based on a straight line projection of the 20 foot setback required on that property. As mentioned previously, the other properties on the cul-de-sac may park to the property line and would not be affected by the granting of this variance.

HARDSHIP

It is the opinion of the Secretary that it is difficult to determine that a hardship exists as it is not considered a hardship to not be able to build to the maximum densities permitted by a zoning classification.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

SPIRIT AND INTENT

It is difficult, in the opinion of the Secretary, to determine if the granting of the desired variance would be opposed to the spirit and intent of the zoning ordinance, inasmuch as adequate area exists for the proposed development and required parking and yet the variance request is for the purpose of providing additional off-street parking for the development.

RECOMMENDATION

If the Board finds that all five conditions necessary to the granting of a variance can be found to exist, it is the recommendation of the Secretary that approval be made subject to the following conditions:

Secretary's Comments (Revised)
Case No. BZA 14-74

1. That the variance be granted for off-street parking purposes only, and no permanent structures shall be erected thereon.
2. The front yard setback from Richmond Avenue shall be reduced to 5 feet except that area between the south property line and the cul-de-sac, which shall also be retained as front yard based on a straight line projection of the 20 foot setback required on adjacent property to the south (as shown on the revised plot plan).
3. The front yard setback area shall be landscaped with a combination of plant materials, such as grass, shrubs, trees and ground cover, and shall be maintained in good condition.
4. Since this variance is being granted based on providing additional parking spaces, the development of subject property shall provide 1.4 parking spaces per apartment unit.

LAW OFFICES OF
MARTIN, PRINGLE, SCHELL & FAIR

320 PAGE COURT

WICHITA, KANSAS 67202

AREA CODE 316
265-9311

WILLIAM PORTER
OF COUNSEL

ROBERT MARTIN
K. W. PRINGLE, JR.
WILLIAM F. SCHELL
DALE FAIR
WILLIAM L. OLIVER, JR.
THOMAS C. TRIPLETT
WAYNE W. WALLACE
JOHN P. WOOLF
DOUGLAS K. DUSENBURY
PAUL B. SWARTZ
DWIGHT C. WALLACE
THOMAS P. GARRETSON
J. TAYLOR NEUSCHWANDER

July 16, 1974

Mr. Jack H. Galbraith
Secretary
Metropolitan Area Planning Commission
Board of Zoning Appeals
104 South Main Street
Wichita, Kansas 67202

Re: Zoning Appeal
Dale Fair Addition

Dear Jack:

Enclosed is an alternative site plan on the captioned property. I would suggest that the setback line for the duplexes on the property South of my lot on the East side of Richmond be extended to the North until the 20 foot setback line touches the Eastern edge of the curve of the property line of the cul-de-sac. I would like to be able to use the area within the 20 foot setback line around the curve of the cul-de-sac except in the area that is crosshatched. This would keep all of the parking on the South part of the lot outside of the 20 foot setback line extending to the South where the duplexes are built. Then on the North side of the cul-de-sac, this right would be no different than the rights of the property owners on the West of my lot since they are zoned LC and BB. I request the right to use the setback area, not crosshatched, only for parking and driveway.

If you have any questions or suggestions, please call me. If you would like I will have the architect make the changes that I have drawn on the site plan in pencil so that you will have a better copy of the site plan.

Very truly yours,

MARTIN, PRINGLE, SCHELL & FAIR

Dale
By: Dale Fair

DF/rm
Encl.



SECRETARY'S REPORT

CASE NO. BZA 14-74

APPLICANT: Dale Fair, 320 Page Court, Wichita, Kansas 67202.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 5 feet.

GENERAL LOCATION: Between Richmond Avenue and Meridian Avenue in an area south of 13th Street.

ZONING: Subject property is zoned the "B" Multiple Family Dwelling District, to the north is "LC" Light Commercial District, to the east is the "R-5" General Residence District, south is the "A" Two Family Dwelling District and west is the "LC" Light Commercial District and the "BB" Office District.

LAND USE: Subject property is vacant; north is a post office, doctor's offices and a restaurant; east is a parking lot; south is a single family home and a duplex; west is a gymnastics school and a vacant area.

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.

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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 required front yard setback from 20 feet to 5 feet in order to construct a proposed apartment complex.

Subject property is platted as one lot, having frontage on both Meridian and Richmond. The requested variance is for the front yard on Richmond. The applicant, as a condition of platting for Dale Fair Addition was required to terminate dead-ended Richmond Avenue by a cul-de-sac. The applicant in his statement of justification points out that the cul-de-sac requirement has created a unique situation inasmuch as if they are required to set back 20 feet there will not be sufficient space for the proposed multi-family buildings and parking. It should be noted that the plat vacated Richmond Ave. north of the cul-de-sac, and therefore half the street right-of-way was returned to subject property.

The applicant has submitted a plot plan showing 40 living units and 60 off-street parking spaces. The required number of parking spaces would be 40. The applicant is to be commended for proposing more parking than required by the ordinance, however, if the front yard setback has to be waived for the apartment structure so that additional parking can be provided, it then appears that subject site is being overdeveloped.

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UNIQUENESS

It is the opinion of the Secretary that this is not a unique situation in that the condition has been created by an act of the applicant, in designing a development which violates a required setback and could be alleviated by a redesign of the project or a reduction of dwelling units.

ADJACENT PROPERTY

It is the opinion of the Secretary that it is difficult to determine if the granting of the variance would have an adverse effect on adjacent property owners inasmuch as the proposed development would not extend closer to a projected straight line of Richmond than does the duplex to the south, however the adjacent property on the cul-de-sac has a platting requirement to maintain a 20 foot building setback line.

HARDSHIP

It is the opinion of the Secretary that, if a hardship can be found to exist in the event the variance were not granted, it would be because the applicant could not build the proposed apartment complex as originally intended and designed.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public health, safety morals, order, convenience, prosperity or general welfare.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance eliminating the normal landscaped yard would be opposed to the spirit and intent of the Ordinance inasmuch as adequate area exists for the proposed development and required parking.

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 request be denied.

July 3, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Subject: BZA 14-74 - Request for
Variance of front yard
setback - Between Richmond
and Meridian in an area
south of 13th Street

Dear Mr. Fair:

At the deferred meeting of the Board of Zoning Appeals on July 1, 1974, your request for a variance to reduce the required front yard setback from 20 feet to 5 feet on property zoned the "B" Multiple Family Dwelling District and generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North, was considered.

It was the action of the Board, at your request, to defer this case until the July 23, 1974, Board of Zoning Appeals meeting. This deferral was granted to permit you time to submit a redesign of your project and to perhaps revise your request to a reduction of the frontyard setback for parking purposes only.

We would appreciate receiving your redesign as soon as possible, but by July 18, 1974 at the latest. If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:LD:js

cc: Jerrold Feldman, c/o Bill Bachman
1901 W. 13th St.
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

June 25, 1974

Mr. Dale Fair
320 Page Court
Wichita, Kansas 67202

Re: BZA 14-74 - Request for
variance of front yard
setback - Between Richmond
and Meridian in an area
south of 13th Street

Dear Mr. Fair:

Due to lack of a quorum, the regular meeting of the Board of Zoning Appeals which was scheduled for June 25, 1974, was deferred to Monday, July 1, 1974. The meeting will be held in Room 401 City Building Annex, 104 South Main Street, at 1:30 p.m.

At that time, the above-captioned case will be considered by the Board. If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith
Secretary

JHG:LD:ber

cc: Jerrold Feldman, c/o Bill Bachman, Realtors
1901 West 13th Street 67203

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

June 4, 1974

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 14-74

An application has been filed by Dale Fair, 320 Page Court, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from Richmond Avenue, as being platted as Dale Fair Addition, from 20 feet to 5 feet on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

Beginning 831.76 feet north of the southeast corner of the northeast quarter of the northeast quarter of Section 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence west parallel with the south line of said northeast quarter of the northeast quarter, 334 feet, thence north parallel with the east line of said quarter section, 150 feet, thence east 334 feet, thence south 150 feet to the place of beginning, except the east 40 feet and the west 30 feet thereof for public road; (Being replatted as Lot 1, Dale Fair Addition to Wichita, Sedgwick County, Kansas). Generally located between Richmond Avenue and Meridian Avenue in an area south of 13th Street North.

This application has been assigned Case No. BZA 14-74, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 25, 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.

*18 Notices mailed
to adjacent property
owners + 10 to map
on 6-4-74*

JACK H. GALBRAITH
Secretary

BOARD OF ZONING APPEALS

CASE NO. B2A 14-74

CITY OF WICHITA, KANSAS

FILED 5-30-74

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ Dale Fair ✓ ✓

Mailing Address 320 Page Court, Wichita, Kansas 67204 Phone 265-9311

Name of Authorized Agent N/A

Mailing Address N/A Phone N/A

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

II. The variance requested is (see attached sheet)

for property located south of commercial area facing 13th street;
this property faces Meridian on the east and Richmond on the west.

and legally described as: A tract beginning 831.76' N. of the SE cor. of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 13-27-1W, th. W. par. with the S. line of said NE $\frac{1}{4}$ of NE $\frac{1}{4}$, 33 $\frac{1}{4}$ ', th. N. par with the E. line of said Quarter Section, 150', thence E. 33 $\frac{1}{4}$ ', th. S. 150' to p.o.b., exc. E. 40' and W. 30' therefor for road presently being platted as Lot 1; Dale Fair Addition.

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

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 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.

Dale Fair
Applicant

for Gerald Feldman
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:00 (a.m. - p.m.), 5/30 1974 together with appropriate fee of \$50.00.

T9-402

Larry Dobson
Signed

II. The variance requested is a variance of building setback requirements from 20' to 5' at the closest point of the proposed cul de sac to allow a building to be constructed which would overlap the 20' setback and also to allow one parking place to be constructed on up to 10' of said setback.

Board of Zoning Appeals
City of Wichita, Kansas

Gentlemen:

I hereby request a variance of up to 15 feet of the 20 foot building setback around a proposed cul de sac located at the proposed northern end of Richmond as a dead end street just south of the commercial area facing 13th street.

This variance which I am requesting arises from a condition which is unique to the property in question and which is not ordinarily found in the same zone or district because Richmond was platted dead-ending into an alley on the north with no provisions for a cul de sac and then the alley was subsequently vacated, leaving a completely dead-end street. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents as all property adjacent to said proposed cul de sac is already zoned either LC or BB, therefore requiring no building setback.

The strict application of the Provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the applicant due to the fact that the applicant was required to dedicate all of the right-of-way for the cul de sac on the plat and if required to set back 20 feet, applicant will not have sufficient ground for proposed multi family building and parking.

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare because Richmond will be a dead end street with no through traffic and terminating with said proposed cul de sac and further, applicant's property would be only property tangent to proposed cul de sac with set back requirements. The granting of the variance desired will not be opposed to the general spirit and intent of Title 28 as the set back requirements on the east side of applicants property are to be observed completely and furthermore, areas of building set back, not required by variance, will be landscaped and beautified and no entrance to said building will be on any part of variance requested.

Very truly yours,

Dale Fair

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

Lot	Block	Addition	Property Owner
N 100' of 1	A	Sandlian's Add.	✓ Blanche M. Jabara, 2104 Bella Vista St. Wichita, Kansas, 67203 ✓
S. 72.7' of 1	"	"	✓ Walter K. Jabara, 2104 Bella Vista St. Wichita, Kansas, 67203 and ✓ Virgil L. Nimrod, 1957 Jeanette ✓ Wichita, Kansas, 67203
2	"	"	"
W. 140' of 3	"	"	✓ McDonalds Corporation Address unknown 1634 So. Hillside 67211 ✓
3 exc. W. 140'	"	"	✓ Indian Hills Development Co., Inc. ✓ 1905 Southwest Boulevard Wichita, Kansas, 67213
4	"	"	"
5	"	"	✓ Harpool Brothers, Inc. 447 N. Rock Island ✓ Wichita, Kansas, 67202
1		Caler Addition	○ Walter K. Jabara, 2104 Bella Vista St. Wichita, Kansas, 67203 and ○ Virgil L. Nimrod, 1957 Jeanette Wichita, Kansas, 67203
2		"	"
3		"	"
4		"	returned 8-9-74 Pauline E. Baysinger, 7043 School St. ✓ Wichita, Kansas, 67212
4	A	O. E. Cook Add.	returned 8-13-74 George W. McClellan & Wanda S. McClellan ✓ 5301 N. Hydraulic, Wichita, Kan. 67219
5	"	"	✓ McClellan Construction, Inc. ✓ 9505 W. Central, Suite # 101 ✓ Wichita, Kansas, 67212
6	"	"	✓ Herman W. Franz & Janet S. Franz ✓ 1305 N. Richmond, Wichita, Kans. 67203
7	"	"	✓ Exie Marie Keller, 1306 N. Edwards / Wichita, Kansas, 67203
8	"	"	✓ R. P. Braitsch & Venita A. Braitsch ✓ 1304 N. Edwards, Wichita, Kans. 67203
4	B	"	X Philip V. Fleming & Catherine Fleming Address unknown

Continued page 2

Lot	Block	Addition	Property Owner
5	B	O. E. Cook Add.	✓ Edith F. Endres & Robert G. Endres ✓ 1313 N. Meridian, Wichita, Kan., 67203
6	"	"	✓ Dale W. Roach, Address unknown ✓ <i>2715 W. 14th St. 67203</i>
7	"	"	✓ Gary E. Weber & Paula S. Weber ✓ 1639 Garland, Wichita, Kansas, 67203
8	"	"	◇ George W. McClellan & Wanda S. McClellan 5301 N. Hydraulic, Wichita, Kans. 67219
1	1	Indian Hills 2nd Addition	◇ Indian Hills Development Company, Inc. 1905 Southwest Blvd., Wichita, Kansas 67213
2	"	"	"
3	"	"	"
4	"	"	"
5	"	"	"
6	"	"	✓ Joseph W. Ford & Pearl Ford ✓ 1337 Tahoe Trail, Wichita, Kans. 67203

A tract beginning 831.76' N. of the SE cor. of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 13-27-1W, th. W. par. with the S. line of said NE $\frac{1}{4}$ of NE $\frac{1}{4}$, 334', th. N. par with the E. line of said Quarter Section, 150', thence E. 334', th. S. 150' to p.o.b., exc. E. 40' and W. 30' thereof for road

◇ Dale Fair, 320 Page Court
Wichita, Kansas, 67202

Beg. 831.76' N & 40' W. of SE cor. of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 13-27-1W, th. W. 139', 1315 N. Meridian, Wichita, Kans. 67203
th. S. 69', th. E. 139', th. N. to beg.

◇ Willard Dale Ritchie & Faye E. Ritchie ✓

Beg. 40' S. & 30' W. of NE cor. of NE $\frac{1}{4}$ of Sec. 13-27-1W, th. W. 100', th. S. 150', th. E. 100', th. N. 150' to beg.

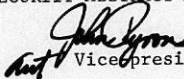
◇ Harpool Brothers, Inc., 447 N. Rock Island
Wichita, Kansas, 67202

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 foot radius of the following property to-wit:

Beginning 831.76 feet North of the Southeast corner of the Northeast quarter of the Northeast quarter of Section 13, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, thence West parallel with the South line of said Northeast quarter of the Northeast quarter, 334 feet, thence North parallel with the East line of said Quarter Section, 150 feet, thence East 334 feet, thence South 150 feet to the place of beginning, except the East 40 feet and the West 30 feet thereof for public road. as shown by the last deeds of record in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 24th day of May, 1974 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By


Vice president

Order No. 213942

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY BUILDING ANNEX
104 S. MAIN ST.
WICHITA, KANSAS 67202



NOT DELIVERABLE AS ADDRESSED
NO FORWARDING ORDER ON FILE
DELANO



14-74

Pauline E. Baysinger
7043 School Street
Wichita, Kansas 67212



PLEASE SAY YES
TO THE NEW
MARCH OF DIMES

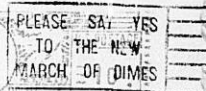
THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY BUILDING ANNEX
104 S. MAIN ST.
WICHITA, KANSAS 67202



NOT DELIVERABLE AS ADDRESSED
NO FORWARDING ORDER ON FILE
DELANO



B2A 14-74

Pauline E. Baysinger
7043 School St.
Wichita, Kansas 67212



FORM 223-

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		

DESCRIPTION	AMOUNT
324 WINDMILL	200.00

Name: DALE FAIR

Address: 6706 WEST WICHITA

Type: AA 407103 Due Date:

Comments:

Date: 5/25/74 By: ed

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1