

Case No. BZA 16-78 - R. A. Davenport requests a variance to reduce the 20' rear yard setback to the east side of the existing masonry wall which falls 3' from the established property line.

ACTION

Posted
4-28-78
C.I.
7-3-78

BZA 15-78 COMMITTEE Approved DATE 5-29-78

M.A.P.C. _____

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

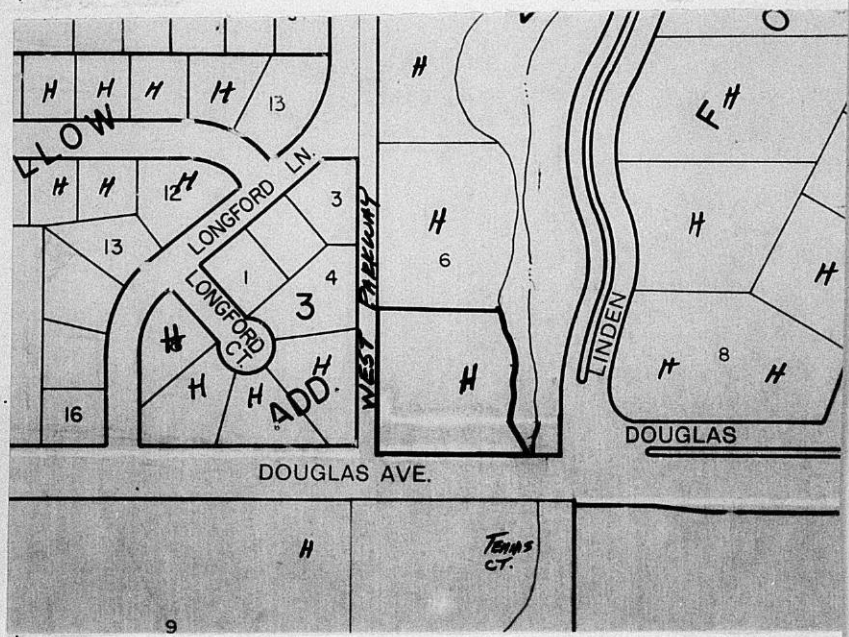
Case No. BZA 15-78 - R. A. Davenport requests a variance to reduce the 20' rear yard setback to the east side of the existing masonry wall which falls 3' from the established property line on

Map No. 6047
 Sec. 20
 Twp. 27
 Range 2E

BZA- 16-78
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 1.4 (237 ft. by 265 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East CREEK & SINGLE FAM South TENNIS COURT
 West SINGLE FAM North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: Single Fam
 6. Area (is) (is not) platted. _____

PHOTO DATA:
 Taken by _____ Date _____ Time _____



No. 2153C
 Sinead
 MAPPING, INC. LOS ANGELES
 LOGAN ON - INDEPENDENCE, TX U. S. A.

RESOLUTION NO. BZA 16-78

WHEREAS, R. A. Davenport, 60 West Parkway North, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to 3 feet on property zoned the "AA" Single Family Dwelling District, and legally described as follows:

Lot 6, Block 1 and the north 60 feet of vacated street adjoining Lot 6 on the south, except the north 295 feet thereof, Forest Hills Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Douglas and West Parkway 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 did, at the meeting of May 23, 1978, 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 applicant's house was constructed near the property line of this large lot, to benefit from the natural terrain and existing trees; and the proposed addition, although close to the property line, is adjacent to wooded Gypsum Creek; 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 adjacent property is undeveloped public land which provides a buffer from the residential area on to the east; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as he would be deprived of the most functional and logical method of adding on to his home; 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 access to the creek for maintenance or cleaning purposes can be accomplished from the street side of the creek; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as adequate open space will still exist; and

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

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 rear yard setback from 20 feet to 3 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 6, Block 1 and the north 60 feet of vacated street adjoining Lot 6 on the south, except the north 295 feet thereof, Forest Hills Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Douglas and West Parkway North,

RESOLUTION NO. BZA 16-78
Page 2

be approved subject to the following condition:

1. The variance shall apply to only that portion of the rear yard within the confines of the existing patio wall.

ADOPTED AT WICHITA, KANSAS, this 23rd day of May, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

June 6, 1978

R. A. Davenport
#60 West Parkway North
Wichita, KS 67206

Subject: Case No. BIA 16-78
Request for Variance

Dear Mr. Davenport:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 23, 1978, in connection with your request for a variance to reduce the required rear yard setback from 20 feet to 3 feet on property zoned the "AA" Single Family Dwelling District and generally located at the northeast corner of Douglas and West Parkway North.

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

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:vn

Enclosure

cc: Don Gisick, City Clerk
Robert Feldner, Superintendent, Central Inspection
Joe Donnelly, Housing and Zoning Administrator

May 23, 1978

Mr. R. A. Davenport
#60 West Parkway North
Wichita, Kansas 67206

Re: Case No. BZA 16-78
Request for Variance

Dear Mr. Davenport:

At the regular meeting of the Board of Zoning Appeals on Tuesday, May 23, 1978, your request for a variance to reduce the required rear yard setback from 20 feet to 3 feet on property zoned the "AA" Single Family Dwelling District and generally located at the northeast corner of Douglas and West Parkway North was considered.

It was the action of the Board to grant this request subject to the following condition:

1. The variance shall apply to only that portion of the rear yard within the confines of the existing patio wall.

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 pertaining to this matter, please contact our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bh

cc: Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 19, 1978

TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 16-78 (Northeast Corner of
Douglas and West Parkway North

On May 15, 1978, CPO Council "H" considered the captioned case. The Council voted 6-0 to recommend approval of the proposed variance subject to the condition that it apply only to the area within the existing patio wall.

The Council noted that no one was present to speak in opposition to the proposal.

Bill Morris
Bill Morris
CPO Administrative Aide

BM:sm

Noted:

David L. Furnas
David Furnas
Citizen Participation Coordinator



SECRETARYS REPORT
CASE NO. BZA 16-78

APPLICANT: R. A. Davenport, 60 West Parkway North,
Wichita, Kansas.

AGENT: Same.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required rear yard setback from 20 feet to
3 feet.

GENERAL LOCATION: Northeast corner of Douglas and West Parkway
North.

ZONING: Subject property and all surrounding prop-
erties are zoned the "AA" Single Family
Dwelling District.

LAND USE: Subject property is developed as a single
family residence as are properties to the
north and west. East is drainage right-of-
way. South across Douglas Avenue is a pri-
vate tennis court.

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 to reduce the required rear yard setback on subject property for the purpose of constructing a room addition to his existing home.

SECRETARY'S REPORT
Case No. BZA 16-78
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Subject property is a large corner lot, backing into the East Branch of Gypsum Creek on the east. When the applicant built his residence, he located the house toward the east or rear portion of the property to take advantage of the natural terrain and many large trees on the lot. The original structure included a large patio at the rear of the house with a 3 to 6 foot wall around it. The closest portion of this patio wall comes within approximately 3 feet of the east property line, which is the highest bank of Gypsum Creek. The applicant states that the intended or anticipated use of the patio has not materialized and he is now desirous of enclosing the patio area with a "sunroof type" structure, within the confines of the originally designed patio area. The applicant points out that he is in the interior design business, using his home as a showplace, and believes the proposed addition will enhance the original architecture and style of the house.

As previously mentioned, the requested variance is adjacent to Gypsum Creek. The nearest residential property to the east is approximately 150 to 200 feet away, across the creek and Linden Drive. The creek area is heavily wooded and provides an effective screen of subject property when viewed from the east.

Flood Hazard Maps for the City of Wichita reflect that the applicant's property is in a flood hazard area. With respect to this, the Public Works Department points out that there are federal regulations and guidelines now in effect that were not applicable when the applicant's home was built. This is simply pointed out so that the applicant can be aware that there may be complications and problems in the building permit process even though a variance of the setback is approved.

UNIQUENESS:

It is the opinion of the Secretary that the variance desired arises from a condition unique to subject property inasmuch as the applicant's house was constructed near the property line of this large lot, to benefit from the natural terrain and existing trees; and the proposed addition, although close to the property line, is adjacent to wooded Gypsum Creek.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the rights of adjacent property owners or residents inasmuch as the adjacent property is undeveloped public land which provides a buffer from the residential area on to the east.

HARDSHIP:

It is the opinion of the Secretary that it is difficult to determine if a hardship exists, but that if a hardship can be found it may be due to the fact that the applicant would be deprived of the most functional and logical method of adding on to his home.

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Case No. BZA 16-78
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PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance may not adversely affect the public interest inasmuch as access to the creek for maintenance or cleaning purposes can be accomplished from the street side of the creek.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as adequate open space exists.

RECOMMENDATION:

If the Board determines that the above five conditions necessary to the granting of a variance can be found to exist, it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The variance shall apply to only that portion of the rear yard within the confines of the existing patio wall.
-

11 notices sent to agent, applicant and adjacent property owners
10 notices sent to MAPC
1 notice to CPO
22 total notices on BZA 16-78, 4-27-78

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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 16-78

An application has been filed by R. A. Davenport, 60 West Parkway North, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 20 feet to 3 feet on property zoned the "AA" Single Family Dwelling District, and legally described as follows:

Lot 6, Block 1 and the north 60 feet of vacated street adjoining Lot 6 on the south, except the north 295 feet thereof, Forest Hills Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Douglas and West Parkway North.

This application has been assigned Case No. BZA 16-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 23, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ R. A. DAVENPORT

Mailing Address #60 West Parkway North, Wichita, Kansas phone 685-7115

Name of Authorized Agent Self *67206*

Mailing Address Same Phone Same

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

II. The variance requested is to reduce the 20 foot rear yard setback to

the east side of the existing masonry wall which falls approximately ^{3 FEET} 2 to 5
feet from the high bank of the creek. (ESTABLISHED PROPERTY LINE)

for property located at No. #60 West Parkway North

and legally described as: Forest Hills, Lot 6, Block 1, and the
North 60 feet of vacated street adjacent on South except the North 295
feet thereof.

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

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.

See attached Addendum "A"

R. A. Davenport
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals ~~2:15 P.M.~~ (a.m. - P.M.), 4-21 1978
together with appropriate fee of \$50.00.

6047

T9-402

*N/E corner
Douglas & West Parkway*

Larry Dobson
Signed

ADDENDUM "A" TO
APPLICATION FOR VARIANCE

This application for variance requests that this applicant be allowed a variance from the rearyard setback provision of 28.04.040 of the zoning ordinance of the City of Wichita as set forth in the Code of the City of Wichita, as amended.

The applicant wishes to construct a unique glass sunporch on the rear of his residence located at 60 West Parkway in the Forest Hills area of the City of Wichita. The Forest Hills area on West Parkway consists of large restricted lots with single family dwellings thereon, with the lots backing on a large flowing creek, running parallel and adjacent to Linden Drive. The residence of the applicant sets on a large rolling lot with a number of large mature trees which were present on the lot at the time the residence was constructed. In order to make the best aesthetic use of the lot in question the residence of the applicant was placed to the east or rear most portion of the lot to take advantage of the natural terrain and many large trees on the lot.

The original structure of the house anticipated the use of a large patio at the rear of the residence which is the contemplated area of construction regarding this variance application. The patio area does not function as intended or anticipated by the applicant at the time of design and construction of the house. The variance is wholly intended to place a sunroof type structure within the confines of the originally designed patio area and will enhance the original architecture and style of the house to better function as a showplace for applicant's interior design firm, and to that degree is unique to those conditions ordinarily found in the same zone or district.

The property variance necessary for the construction contemplated is contained within the architectural style and perimeter of the residence itself and does not encroach or intrude into adjacent

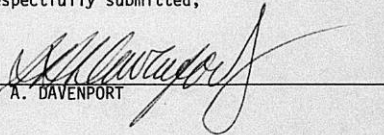
property lines or boundaries, nor adversely affects the rights of adjacent property owners or residents in any manner whatsoever.

The variance contemplated concerns the rear setback line of the property in question which lies adjacent to a large flowing creek. There are no other residences between the rear of the residence and Linden Drive, which lies approximately 50' to 60' to the East of the rear property line.

If the variance is not granted upon application, the applicant will be deprived of an aesthetic and functional asset to his property which likewise affects his livelihood as an interior designer, as the house is used to attract clientele to applicant's interior design firm. The applicant does not see any way how the variance will adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and the variance applied for will be in the general spirit and intent of Title 28 of the City Code.

In addition, the design of the sunporch incorporates an energy-saving passive solar system.

Respectfully submitted,


R. A. DAVENPORT

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 6, block 1 and the N 60 feet of vacated street adj on South except the N 295 feet thereof	Forest Hills	Richard A. Davenport & Rosemary Davenport 60 W Parkway N 67206
North 295 feet of lot 6, block 1	same	Daniel Prater and Sandra Prater 44 W Parkway 67206
lot 8, block 3, except beg at the SE corner of lot 8, thence NEtrly to the NE corner, thence NWtrly along North line of said lot, 118 feet West of the SE corner of said lot, thence East 118 feet to beginning	same	Paula Hicks Murdock 20 N. Linden Dr. 67206
That portion of lot 7, block 3, described as follows; beg at the SW corner of lot 7, thence North along front lot line of lot 7, 4.8 feet to SE corner of lot, thence West to point of beginning	same	Lloyd E. Forsse and Virginia F. Forsse 450 N. Brookside Dr. 67208
lot 7, except beg at the SW corner of said lot 7; thence North along the front line of lot 7, 4.8 feet; thence East to the SE corner of lot 7; thence West to the place of beginning, block 3	same	S. A. Ammar and Violette F. Ammar 18 N Linden Dr. 67206
lot 1, block 3	Brookhollow Fourth	J. Quentin Brasted 148 N. Yale 67208
lot 2, block 3	same	D. L. VanBuskirk, Inc. 360 N. Rock Rd 67206
lot 3, block 3	same	Douglas Development, Inc % Luis Casado, Pres. 14 English Ave 67207
lot 4, block 3	same	D. L. VanBuskirk, Inc. 360 N. Rock Rd 67206
lot 5, block 3	same	Gerald T. Kennedy and Angela J. Kennedy 2916 E Central 67214

Lot	Addition	Property Owner
lot 6, block 3	Brookhollow Fourth	D. L. Van Burkirk, Inc. 360 N. Rock Rd 67206
lot 9, block 17	Bonnie Brae	Jean K. Garvey Revocable Trust R. H. Garvey Bldg 300 W Douglas 67202

Tract	Property Owner
Beginning at the Northwest corner of said lot 1, Phi Addition; thence South 0°09'01" East on the West line of said lot 1 a distance of 389.26 feet to a corner in said West line of said lot; thence North 65°21'40" East a distance of 109.88 feet; thence N 0°09'01" West a distance of 343.48 feet, more or less, to the North line of said lot 1; thence South 89°58'59" West on said North line a distance of 100 feet to the point of beginning	Jean K. Garvey Revocable Trust R. H. Garvey Bldg 300 W. Douglas 67202

Beginning at the Northwest corner of the Southeast Quarter of Section 20, T27S, R2E, thence N 89°58'59" East on the North line of said Quarter Section, a distance of 393 feet; thence South 0°09'01" East, a distance of 439.26 feet; thence S 64° 21'40" a distance of 299.37 feet; thence S 73°19'49" West, a distance of 125.63 feet, more or less to the West line of said Quarter Section; thence North 0°10'04" West, a distance of 600 feet, more or less to the point of beginning	same as above
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We hereby certify the foregoing to be a true and correct list of the property owners of a 200 foot radius of Lot 6, Block 1 and the North 60 feet of vacated street adjoining lot 6 on the South except the North 295 feet, Forest Hills Addition, Wichita, Sedgwick County, Kansas, as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 12th day of April, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Eable
Vice President

Order No. 263206

jc

FORM 021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
BZA variance	\$50.00

Appl.

Name RA Davenport

Address 3208 E. Douglas

Type 116-00-02-40071-003

Due Date 00-00

Comments:

Date 4-21-78 by [Signature]

*

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