

BZA 24-68 - Kathryn A. Slawson re-requests variance to reduce side and rear yard setback on property located on west side of Battin in an area south of Douglas.

*POSTED  
8-29-68*

**ACTION**

BZA COMMITTEE deferred <sup>DATE</sup> 2-24-68  
approved 10-1-68  
M.A.P.C. \_\_\_\_\_  
B.C.C./B. CO. C. \_\_\_\_\_

*ezm ✓  
PZM*



October 14, 1968

Mr. George Powers  
4th National Bank Bldg.  
Wichita, Kansas 67202

Subject: BZA 24-68 - Request for a  
Variance

Dear Mr. Powers:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 1, 1968, in connection with your request for a variance to reduce the rear yard and side yard setbacks on property zoned "AA" and generally located on the west side of Battin in an area south of Douglas.

This Resolution reflects the official action of the Board to approve the 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

cc: Mrs. Kathryn A. Slawson  
105 South Battin  
Wichita, Kansas 67218

Mr. R. F. Coulson  
1201 N. Mosley  
Wichita, Kansas 67214

Robert Feldner, Superintendent  
of Central Inspection

Ralph Eberly,  
City Clerk

R E S O L U T I O N No. BZA 24-68

WHEREAS, Kathryn A. Slawson, 105 South Battin, by George Powers, 4th National Bank Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the rear yard setback from 20 feet to 2 feet and a sideyard setback on the north side of the property from 6 feet to 2.6 feet (crally amended to 3 feet), on property zoned "AA" Single Family, and legally described as follows:

The south 67 feet of Lots 1 and 2, Rosecrest Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the west side of Battin in an area south of Douglas.

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 September 24, 1968, defer said application because of a lack of quorum; and

WHEREAS, the Board of Zoning Appeals did, in an adjourned meeting of October 1, 1968, 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 entire rear yard is bounded on three sides by a dense growth of trees and shrubs which, in essence, has eliminated the feeling of open space as it relates to abutting properties; 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 proposed structure would be almost completely hidden by the existing trees and shrubs; 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 applicant would be denied the year round use of the existing pool and cabanas; 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 variances requested are interiorly located; and

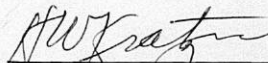
WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the enclosure of the pool would not affect the feeling of open space any more than would a solid wood fence constructed on the property lines; 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 of the north side yard setback from 6 feet to 3 feet for only that area proposed to be enclosed, and the request for a rear yard variance from 20 feet to 8 feet for only the area proposed to be enclosed, be approved on property zoned "AA" Single Family and legally described as follows:

The south 67 feet of Lots 1 and 2, Rosecrest  
Addition to Wichita, Sedgwick County, Kansas.

ADOPTED AT WICHITA, KANSAS, this 1st day of October, 1968.

  
\_\_\_\_\_  
H. W. KRATZER, Chairman

ATTEST:

  
\_\_\_\_\_  
JACK H. GALBRAITH, Secretary

October 2, 1968

Mr. George Powers  
4th Nat'l Bank Bldg.  
Wichita, Kansas 67202

Subject: BZA 24-68 - Request for a  
Variance

Dear Mr. Powers:

At the regular meeting of the Board of Zoning Appeals on October 1, 1968, your request for a variance to reduce the rear yard setback, and your oral amendment to request that the sideyard setback be varied from 6 feet to 3 feet rather than 2.6 feet as originally filed, on property zoned "AA", and generally located on the west side of Battin in an area south of Douglas, was considered.

The action of the Board was to approve the amended variance request of the north side yard setback from 6 feet to 3 feet for only that area proposed to be enclosed, and the request for a rear yard variance from 20 feet to 8 feet for only the area proposed to be enclosed.

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: Mrs. Kathryn A. Slawson, 105 South Battin, Wichita, Kansas 67218  
Mr. R. F. Coulson, 1201 North Mosley, Wichita, Kansas 67214  
Robert Feldner, Supt. of Central Inspection  
Ralph Eberly, City Clerk

September 24, 1968

Mrs. Kathryn A. Slawson  
105 South Battin  
Wichita, Kansas 67218

Subject: BZA 24-68 - Request for a  
Variance

Dear Mrs. Slawson:

Due to the fact that a quorum was not in attendance for the Board of Zoning Appeals meeting of September 24, 1968, your request for a variance to reduce the required rear yard and side yard setbacks was deferred.

This meeting was rescheduled for Tuesday, October 1, 1968, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas. If you have any questions concerning this matter, please contact our office.

Sincerely,

Jack H. Galbraith  
Secretary

JHG:js

cc: Mr. George Powers  
4th Nat'l Bank Bldg.  
Wichita, Kansas 67202

Mr. R. F. Coulson  
Coulson Const. Company  
1201 N. Mosley  
Wichita, Kansas 67214

SECRETARY'S REPORT  
CASE NO. BZA 24-68

**APPLICANT:** Kathryn A. Slawson, 105 South Battin, Wichita, Kansas.

**AGENT:** None

**REQUEST:** Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the rear yard setback from 20 feet to 2 feet; and the sideyard setback on the north side of the property from 6 feet to 2.6 feet.

**GENERAL LOCATION:** West side of Battin in an area south of Douglas.

**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 rear yard and the side yard setback on the north in order to enclose her swimming pool, for all weather use and to prevent leaves and dirt from entering the pool. Since the pool enclosure will be attached to the main structure it becomes a part of the main structure and according to the ordinance it must maintain a 20 foot rear yard setback and a 6 foot side yard setback.

It should be pointed out that the two existing cabanas were constructed without a building permit and are in violation of the setback requirements for accessory structures. The cabanas are within 2 feet of the rear property line whereas the ordinance requires 5 feet. It should also be pointed out that these structures extend 3 feet into a 5 foot private easement.

The contractor for the applicant indicates that the roof line of the proposed enclosure will extend to within 8 feet of the rear property line and to within 2 feet 6 inches of the north property line. It should be noted that the building code requires a one hour fire wall to be constructed adjacent to a side yard line when the building setback is less than 3 feet. The code further provides that the wall shall be void of any openings.

Uniqueness

Although there are no severe physical limitations on the site, it is the opinion of the Secretary that the site is unique in that the entire rear yard is bounded on three sides by a dense growth of trees and shrubs which, in essence, has eliminated the feeling of open space as it relates to abutting properties.

Adjacent Property

It is the opinion of the Secretary that the granting of the variances would not adversely affect the rights of the adjacent property owners or residents inasmuch as the proposed structure would in all probability be almost completely hidden by the existing trees and shrubs.

Page 3 - Secretary's Report  
Case No. BZA 24-68

Hardship

It is the opinion of the Secretary that it is difficult to find a hardship, however, if the variances are not granted the applicant would be denied the year round use of the existing pool and cabanas.

Public Interest

It is the opinion of the Secretary that the granting of the variances would not adversely affect the public interest inasmuch as the variances requested are interiorly located and would not in any way have an effect on the public interest.

Spirit and Intent

It is the opinion of the Secretary that the granting of the variances would not be opposed to the spirit and intent of Title 28 inasmuch as the enclosure of the pool would not affect the feeling of open space any more than would a solid wood fence constructed on the property lines.

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 requested for the side yard be granted for only that area proposed to be enclosed with the understanding that a one hour fire wall is required, and that the variance of the rear yard setback be granted from 20 feet to 8 feet for only the proposed enclosure.



*The* COLEMAN COMPANY, INC.

G. LAWRENCE KELLER  
CORPORATE COUNSEL

*General Offices* WICHITA, KANSAS 67201  
September 9, 1968  
AREA CODE 316 267-3211

Mr. Jack H. Galbraith  
Secretary, Board of Zoning Appeals  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas 67202

Dear Mr. Galbraith:

Case No. BZA 24-68

I have received your notice to adjoining property owners in the above referenced case involving an application filed by Kathryn A. Slawson, 105 South Battin, Wichita, Kansas.

I do not reside in the adjoining area but I do own an equity interest in property at 104 South Bleckley which immediately abuts the Slawson property to the back.

I have discussed this application with Kathryn Slawson, and I understand it involves a desire to cover a residential swimming pool.

Be assured, and for the record, that I have no objection to the application being granted .

The equity interest in the property at 104 South Bleckley is jointly owned by myself and Ann B. Keller, and she has asked me to assure the Board that she, too, has no objections to the granting of the request for variance as set forth in the application filed in this matter.

Yours very truly,

GLK:ld

cc: Kathryn A. Slawson

OVER **65** YEARS  
OF WORLD-WIDE PROGRESS



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

September 3, 1968

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 24-68

An application has been filed by Kathryn A. Slawson, 105 South Battin, 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 on the north side of property from 6 feet to 2.6 feet; and the rear yard setback from 20 feet to 2 feet, on property zoned "AA" Single Family District, and legally described as follows:

The south 67 feet of Lots 1 and 2, Rosecrest Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Battin in an area south of Douglas.

This application has been assigned Case No. BZA 24-68, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 24, 1968, 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

*32 Notices  
mailed 9-4-68*

BOARD OF ZONING APPEALS

CASE NO. 24-68

CITY OF WICHITA, KANSAS

FILED 8-28-68

APPLICATION FOR VARIANCE

1. Name of Applicant Kathryn A. Slawson  
 Mailing Address 105 S. Battin Phone MU66327  
 Name of Authorized Agent Attorney, - George Powers  
 Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Relationship of applicant to property is that of \_\_\_\_\_  
 (owner, tenant, lessee, other)

II. The variance requested is to put a roof over and  
enclose swimming pool  
Side Yard Setback from 6' to 2.6'  
Rear Yard Setback from 20' to 2'  
 for property located 105 S. Battin

and legally described as: Rose Crest addition  
South <sup>67</sup> feet of lots 1+2 + additional ~~feet~~ of lot 1+2  
 in the City of Wichita; and which is presently zoned AA.

(Give metes and bounds description below if appropriate):

- 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 appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
  - That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Kathryn A. Slawson  
 Applicant

\_\_\_\_\_  
 Authorized Agent

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

\_\_\_\_\_  
 Signed

# Coulson Construction Co.

WICHITA, KANSAS 67214

BUILDING: COMMERCIAL - RESIDENTIAL  
FULLY INSURED

R. F. 'BOB' COULSON

1201 NORTH MOSLEY  
AMherst 2-3417

August 28, 1968

Board of Zoning Appeals  
City Building Annex  
City of Wichita

Gentlemen:

Mr. & Mrs. Slawson are asking for variance to 2'-6" of the North property line. Also as they have the swimming pool and the cabanas at the west property line, they are asking for 18' variance on the West. This would enable them to cover the pool with plastic room and glass and screen sides.

The roof line could come to the cabanas only which would leave 8' set back from west line.

Thank you,

COULSON CONSTRUCTION CO.

  
R. F. Coulson

RFC/cfd



STATEMENT OF 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 67 ft of Lots 1 & 2, Block 2, Rosecrest  
 Addition, Wichita, Kansas.

  
 Fidelity  
 Title  
 Company.  
 inc.

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

LOT	BLK	ADDITION	OWNER
1 & 2 (S 60')	1	ROSECREST	✓ D. Keith Leshar & Barbara G. Leshar, ux 109 S. Pinecrest 67218
1 & 2, exc S 60'	1	"	✓ H. D. Brunson 5119 E. Douglas 67218
3 & 4 (N 65')	1	"	✓ Pamela McLaury Taylor & Ross McLaury Taylor, vir 102 S. Battin 67218
3 & 4 (S 60')	1	"	✓ Roy H. Wasson 106 S. Battin 67218
5 & 6	1	"	✓ Mary Jane Woodard 110 S. Battin 67218
7 & 8	1	"	✓ Gladys P. Willhite 120 S. Battin 67218
9 & 10	1	"	✓ Charles B. Young & Alice P. Young, ux 128 S. Battin 67218



LOT	BLK	ADDITION	OWNER
11 & 12	1	ROSECREST	✓ Mary C. & L. C. Jackson, jr 140 S. Battin 67218
33 & 34	1	"	✓ Richard L. & Sally A. West, 121 S. Pinecrest 67218ux
35 & 36	1	"	✓ E. J. Zongker 115 S. Pinecrest 67218
1 & 2 (N 58')	2	"	✓ Mary Elizabeth Newman & John A. Newman, vir 101 S. Battin 67218
1 & 2 (S 67')	2	"	✓ Charles J. Slawson & Kathryn A. Slawson, ux 105 S. Battin 67218
3 & 4 (N 65')	2	"	✓ Charles Kopper & C. Dolores Kopper, ux 102 S. Bleckley Dr. 67218
3 & 4 (S 60')	2	"	✓ G. Lawrence Keller & Ann B. Keller, ux 521 Brookfield 67206
5 & 6	2	"	✓ Leon K. & Lorene Whitton, ux 110 S. Bleckley Dr. 67218
7 & 8	2	"	✓ Hazel Herman 120 S. Bleckley Dr. 67218
9 & 10	2	"	✓ Randall O. Hudson & Mary H. Hudson, ux 130 S. Bleckley Dr. 67218
11 & 12	2	"	✓ Jay D. Swanson & Susan A. Swanson, ux 140 S. Bleckley Dr. 67218
29 & 30	2	"	✓ Kenneth R. Rupert & Lorene M. Rupert, ux 135 S. Battin 67218
31 & 32	2	"	✓ Duane R & Patricia Smith, ux 125 S. Battin 67218
33 & 34	2	"	✓ L. M. & Alma A. Divinia, ux 115 S. Battin 67218
35 & 36	2	"	✓ John A. Campbell & Amelia Jane Campbell, ux 109 S. Battin 67218
S 60' of Lot 11, & S 60' of E $\frac{1}{2}$ of vac Coronado Place adj S 60' Lot 11 on the West & S 60' Lot 10, exc E 30' for Street, Blk 1, Strieff Place.			✓ Alta L. Brown 101 N Battin 67208
Lots 10 & 11 & W 30' vac Coronado Place adj on the East, exc W 40' for Street, Blk 2, Strieff Place.			✓ Grace Presbyterian Church 5002 E. Douglas 67208
Lot 20, Battin Ave., Terrace Heights Add.			✓ Frederick J. Daves & Rosemary Daves, ux 102 N. Battin 67208

Dated at Wichita, Kansas this 29th day  
of August, 1968 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elice M. Farrell OEM  
Sec.

Tracer # 90762

STATUTORY WARRANTY DEED  
(Joint Tenancy)

1465 PAGE 24

AUG 22 1968  
17:31  
RUTH S. E. DEERING  
REGISTER OF DEEDS

FOR A VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the Seller(s) convey(s) and warrant(s) to Buyers the hereinafter described real estate.

SELLER(S): Mary Elizabeth Newman, formerly Mary Elizabeth Lassen, and John A. Newman, her husband This space for Reg. Deeds

BUYERS: Charles J. Slawson and Kathryn A. Slawson, his wife

This title is conveyed to Buyers as joint tenants with rights of survivorship and not as tenants in common.

LEGAL DESCRIPTION:

The South Twelve Feet (S 12') of the North Seventy Feet (N 70') of Lots One (1) and Two (2), in ROSECREST ADDITION to Wichita, Sedgwick County, Kansas.

THE FEE SIMPLE TITLE conveyed hereby is subject to the following encumbrances:  
Easements and Restrictions of record

EXECUTED this August 21, 1968.

Mary Elizabeth Newman

John A. Newman

STATE KANSAS  
17869

\*\*\*\*\*

STATE OF KANSAS, County of Sedgwick: SS

On this August 21, 1968, before me, the undersigned, a Notary Public in and for the county and state aforesaid, personally appeared:  
Mary Elizabeth Newman and John A. Newman, her husband

to me personally known to be the same person(s) who executed the within and foregoing instrument of writing and acknowledged to me that the same was executed as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal the day and year last above written.

My Commission Expires:

9-1-70

John Callahan, Notary Public



1465 PAGE 165

Call CALLAHAN GUARANTEE for title evidence.

August 19, 1968

Board of Zoning Appeals  
City Building Annex  
City of Wichita.

Gentlemen:-

My husband and I at 105 S. Battin wish to enclose our swimming pool, for all weather pleasure, but unfortunately are hemmed in, so to speak.

Our neighbors on the north, Mr. and Mrs. John Newman have an unusually large yard which they rarely use, are seldom in, so our request could not in any way adversely affect them or the public's health, safety, morals, convenience or general welfare of the neighbors.

As I mentioned before we are hemmed in and barely have walking space around the pool, which is a safety feature I am concerned about. There is very little chance or probability of anything being built on this vast expanse of yard on our north. So we cannot adversely affect the rights of the adjacent property owners or residents.

It is such a pleasure and joy to have the pool, but what a chore to keep the dirt and leaves out of it. In fact, there are many very large elm trees surrounding us, so you can imagine what an effort it is to keep them from blowing into our pool, which we jokingly claim attracts them.

Thank you for considering our request and sincerely hope that you can grant it.

Sincerely

*Kathryn A. Slawson*

Form 223-021

PAYMENT NOTICE

City of Wichita

AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cits	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		\$50.00

DESCRIPTION	AMOUNT
-------------	--------

BZA application

Name Carlson Const. Co.

Address 1201 N. Masley

Type R71C Due Date

Comments:

Date 8-28-68 By Joyce Smith

\*

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