

Case No. BZA 25-84 - James E. Sparr -
810 Amidon - requests a variance to
reduce the required front yard setback
from 25' to 16' on property zoned the
"A" Two-family Dwelling District and
generally located on the east side of
Franklin Street, between Franklin and Franklin

Permed
#25-84 ael

ACTION

B.Z.A. 25-84 APPROVED 5-22-84
DATE

300' Sec. 6-14-84
Soot 79
Brand ✓

May 24, 1984

James E. Sparr
810 Amidon
Wichita, Ks. 67203

Re: BZA 25-84 - Request for Variance

Dear Mr. Sparr:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 22, 1984.

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 25-84

WHEREAS, James E. Sparr, 810 Amidon, 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 25' to 16' on property zoned the "A" Two-family Dwelling District and legally described as follows:

North 12½' of Lot 18, all of Lot 20 and the south 12½' of Lot 22 on Amidon, Riverside Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Amidon between Murdock and Franklin (822 Amidon).

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 22, 1984, 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 structure is located on a lot between two structures that have excessive side yards which reduces the effect of a reduced setback on this property; 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 structures are separated by driveways and are at least 30' from the location of the portion of the structure not complying with the 25' setback; 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 owners represented in the application inasmuch as the applicant would be required to remove any portion of the structure in violation of the setback; 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 the reduction of the front yard setback will not interfere with any right-of-way or easements; 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 excessive distance to the adjoining properties will prevent the reduction of the front yard setback from interfering with the light and air to any property; 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.

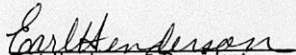
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 25' to 16' on property zoned the "A" Two-family Dwelling District and legally described as follows:

North 12½' of Lot 18, all of Lot 20 and the south 12½' of Lot 22 on Amidon, Riverside Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Amidon between Murdock and Franklin (822 Amidon).

be approved subject to the following conditions:

1. Only the structure as now exists may be located in front of the 25' setback line.
2. Any open porch, steps or canopy shall not project closer than 15' to the front property line.

ADOPTED AT WICHITA, KANSAS, this 22nd day of May, 1984.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION DATE May 16, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 25-84 East side
 of Amidon between
 Murdock and Franklin
 822 Amidon

CPO Council "N" considered the captioned case at its May 14th meeting and voted 5-0 to recommend approval of the variance to reduce the required front yard setback from 25' to 16' on property zoned the "A" Two Family Dwelling District at 822 Amidon.

The applicant, James E. Sparr was present to speak in support of the application. No one was present to speak in opposition.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered on May 22nd.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:sm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

1. The uniqueness of the property in question lies in the fact that the two adjacent properties on either side are at least 30 ft. away from the property at 822. To wit, the property to the south is 36 ft. away from 822 and the property to the north is 30 ft. away. For example, the remainder of the properties are on the average 15 ft. away from side yard distances. The original front portion of the house is 11 inches into the front 25 ft. setback. The 8 ft. unenclosed porch (which with removable thermo windows and solid walls now qualify it as an enclosed porch), therefore constitutes an intrusion of 9 ft. into the 25 ft. front setback. Further as evidenced by an area drain to the sump rather than a drain going back to the sanitary line, also the lack of electrical sockets clearly indicate the original intention of the area to be a porch or sun room not for permanent habitation. It should also be mentioned the original reason for building close to the front setback line was to save two 30 ft. red cedar trees.
2. This will not adversely affect the rights of the property owners particularly from an aesthetic point of view in that it does not inhibit the view. (see pictures or slides) Further, owner to the north concurs with this application request by affixed signature.
3. The unnecessary hardship is created because of the potential loss of the aesthetic beauty of the property. Also after having two buyers, the last of which requested the thermo windows, this brought us to the current position. *Handwritten signature: Randy S. Chew*
4. The variance would not adversely affect the health, safety and convenience of the general public because of the remaining distance from general public traffic nor does it intrude in any street right-of-way. The prosperity of neighboring areas is affected in a positive sense in that the property is the most valuable structure in the area and as stated by neighbors, it enhances surrounding property values.
5. The general intent of 25' setbacks is to provide front uniformity and allow clear view of adjacent houses. Since the houses along the block are not in complete uniformity, the house at 822 Amidon blends with the area and is not obtrusive. Further, as previously mentioned the view from adjacent areas is not adversely affected.

SECRETARY'S REPORT
CASE NO. BZA 25-84

APPLICANT: James E. Sparr, 810 Amidon, Wichita, Kansas.

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 25' to 16'.

GENERAL LOCATION: On the east side of Amidon between Murdock and Franklin.

ZONING: Subject property is zoned the "A" Two-family Dwelling District as are all adjacent properties.

LAND USE: Subject property is being developed as a one-family dwelling. To the south is a two-family dwelling and to the north and east are one-family dwellings. To the west is the Sim Park Golf Course.

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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required front yard setback from 25' to 16' in order to complete the house that is presently under construction. The house is being constructed on a lot between a two-family dwelling on the south and a one-family dwelling on the north, both of which are at a greater distance away than is generally found in the area. This is due to the fact that the driveway serving each are adjacent to the applicant's property leaving at least 30' from the structures on each side.

The applicant has stated that the house was originally located on the property as far forward as possible to save the two 30' cedar trees immediately to the east. There was an error made in the original location of the structure as it was constructed at a 24+ foot setback. During construction, there was an enclosure of what was originally designed to be an unenclosed porch which creates a further encroachment into the required front yard.

It should be noted that the major part of the encroachment into the front yard setback is not the full height of the house and does not create an effect of being completely out of character to the neighborhood. The major portion of the house is near compliance with the required setback.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located on a lot between two structures that have excessive side yards adjacent to this property which eliminates the effect of a lessor setback on this property.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the adjacent structures are separated by driveways and are at least 30' from the location of the portion of the structure not complying with the 25' setback.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be required to remove any portion of the structure in violation of the setback.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the front yard setback will not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the excessive distance to the adjoining properties will prevent the reduction of the front yard setback from interfering with the light and air to any property.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. Only the structure as now exists may be located in front of the 25' setback line.
 2. Any open porch, steps or canopy shall not project closer than 15' to the front property line.
-

BZA CASE NO. 25-84

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>16</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>18</u>	TOTAL NOTICES SENT <u>5-1-84</u>

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

May 1, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 25-84

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by James E. Sparr, 810 Amidon, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required front yard setback from 25' to 16' on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

North 12½' of Lot 18, all of Lot 20 and the south 12½' of Lot 22 on Amidon, Riverside Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Amidon between Murdock and Franklin (822 Amidon).

This application has been assigned Case BZA 25-84. It will be considered by the Board of Zoning Appeals on May 22, 1984 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

B937

BOARD OF ZONING APPEALS

CASE NO. 25-84

CITY OF WICHITA, KANSAS

FILED 4-19-84

APPLICATION FOR VARIANCE

I. Name of Applicant James E. Sparr

Mailing Address 810 Amidon Phone 263-6599

Name of Authorized Agent _____

Mailing Address _____ Phone _____

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

II. The variance requested is to reduce the required front yard setback from 25 feet to 16 feet

for property located on the east side of Amidon between Murdock and Franklin (822 Amidon)

and legally described as: North 12 1/2 feet of Lot 18, all of Lot 20 and the south 12 1/2 feet of Lot 22 on Amidon, Riverside Addition to Wichita, Sedgwick County, Kansas.

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

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. 36-596); 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.

Applicant James E. Sparr

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:30 p.m.), April 19, 1984 together with appropriate fee of 75.00.

Signed [Signature]

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRENT WOOTEN, P.E.



BAUGHMAN COMPANY, P.A.

SURVEYING & ENGINEERING

316-262-7271 • 330 LAURA • WICHITA, KANSAS 67211

State of Kansas)
) SS
County of Sedgwick)

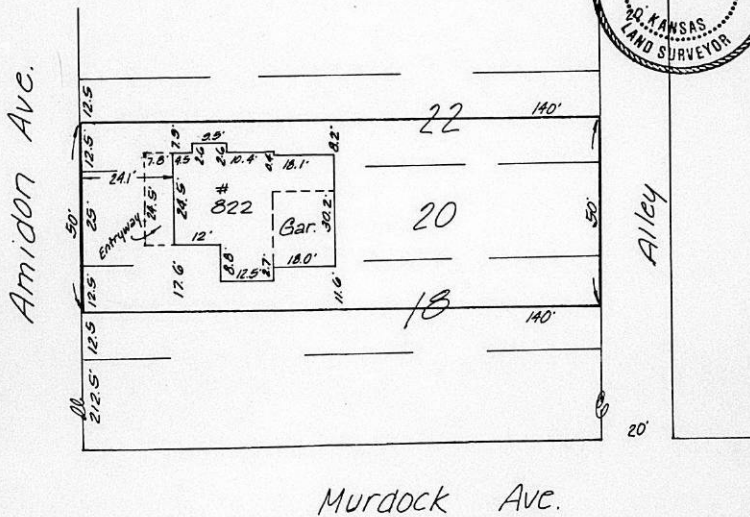
April 18, 1984

We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we did on this 18th day of April, 1984, survey the N $\frac{1}{2}$ of Lot 18, all of Lot 20, and the S $\frac{1}{2}$ of Lot 22, on Amidon, Riverside Addition to Wichita, Kansas.

On said Lots is house No. 822 with an attached garage which is in the clear of all boundary lines. There are no encroachments on said Lots by buildings on the adjacent lots.

The accompanying plat is a true and correct exhibit of said survey for mortgagee title insurance.

William L. Korber
Surveyor



2511

OWNERSHIP LIST

Property Description

Property Owner

Lots 10 & 12, Amidon, Riverside Addition

James E. Sparr
810 Amidon
67203

Lots 14 & 16, Amidon, Riverside Addition.

Joseph R. Kerley (dec.)

The North 12 1/2 feet of lot 18, all of lot 20 & the south 12 1/2 feet of lot 22, Amidon, Riverside Addition

James E. Sparr
810 Amidon
67203

Lot 18, except the north 12 1/2 feet; lot 22, except the south 12 1/2 feet; all of lots 24 & 26, Amidon, Riverside Addition

~~F. V. Tankersley (dec.)~~

Lot 28 & 30, Amidon, Riverside Addition

✓ Phil W. Blanton
2125 Palisade
67213

✓ Steve Beard
3608 S. Hoover
67215

✓ Clell Posey
811 W. 54th N.
67204

X Lots 32 & 34, & Lot 36, Amidon, Riverside Addition

~~F. V. Grim Dec.~~
✓ Nellie Irene Grim
842 Amidon
67203

X Lots 38 & 40, Amidon, Riverside Addition

✓ Leonard G. Hope
852 Amidon
67203

Lots 42 & 44, Amidon, Riverside Addition

~~Leonard G. Hope~~
D Margaret Hope (dec.)
852 Amidon
67203

Lots 46 & 48, Amidon, Riverside Addition

✓ Franklin F. Harris II
Bobbie J. Harris
858 Amidon
67203

Lot 9 & 11, Perry Ave., Riverside Addition

✓ Leslie Forward
Lula E. Forward
811 Perry Ave.
67203

Property DescriptionProperty Owner

X Lots 13 & 15, Perry, Riverside Addition	✓ Matthew J. McGuire 819 Perry Ave. 67203
Lot 17 & 19, Perry Ave., Riverside Addition	? Helen L. Pinnell Address unknown
Lots 21 & 23, Perry, Riverside Addition	✓ Warren E. Groves 313 N. Seneca 67203
Lots 25 & 27, Perry, Riverside Addition	✓ Duane E. Schowalter Marjorie E. Schowalter 833 Perry Ave. 67203
Lots 29 & 31, Perry, Riverside Addition	✓ Philip C. Hastings 837 Perry Ave. 67203
Lots 33 & 35, Perry, Riverside Addition	? Garnett L. Nance address unknown
Lots 37 & 39, Perry, Riverside Addition	✓ William C. Paulson, Jr. Pamela S. Paulson 839 Perry Ave. 67203
Lots 41 & 43, Perry, Riverside Addition	✓ Paul W. Roark, Jr. Betty S. Roark 849 Perry Ave. 67203
Lots 45 & 47, Perry, Riverside Addition	? Robert Y. Evans address unknown
A portion of Sim Memorial Golf Course being in the SW $\frac{1}{4}$ of Section 18-27-1E.	✓ Ronaldo Cruz Katherine R. Cruz 853 Perry Ave. 67203
	✓ Leo B. Jacks Dorothy F. Davis 857 Perry 67203
	✓ City of Wichita 455 N. Main 67202

Page 3

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tracts within a 200 foot radius of:

Lots 28 & 30, Amidon, Riverside
Addition to Wichita, Sedgwick
County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 12th day of January, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Shible
Vice President

Order No: 329235
cf

UPDATE & AMEND
OWNERSHIP LIST #329235

We hereby extend and amend to include additional property the foregoing ownership list of the hereinbefore described lots and tracts from the 12th day of January, 1984, at 7:00 o'clock A.M. to the 18th day of April, 1984, at 7:00 o'clock A.M. without change except:

Lot 18, except the north 12½ feet;
lot 22, except the south 12½ feet;
all of lots 24 & 26, Amidon,
Riverside Addition

J. R. Kerley (dec.)

Additional Property

Lots 2, 4, 6, & 8, Amidon,
Riverside Addition

City of Wichita
455 N. Main
67202

Lots 1 & 3, Perry Ave., Riverside
Addition

Same as above

Lots 5 & 7, Perry Ave., Riverside
Addition

John H. Littleton
Lorena E. Littleton
807 Perry Ave.
67203

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Stubble

Sr. Vice President

Order No: 332957
cf

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRENT WOOTEN, P.E.



BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
316/262-7271 • 330 LAURA • WICHITA, KANSAS 67211

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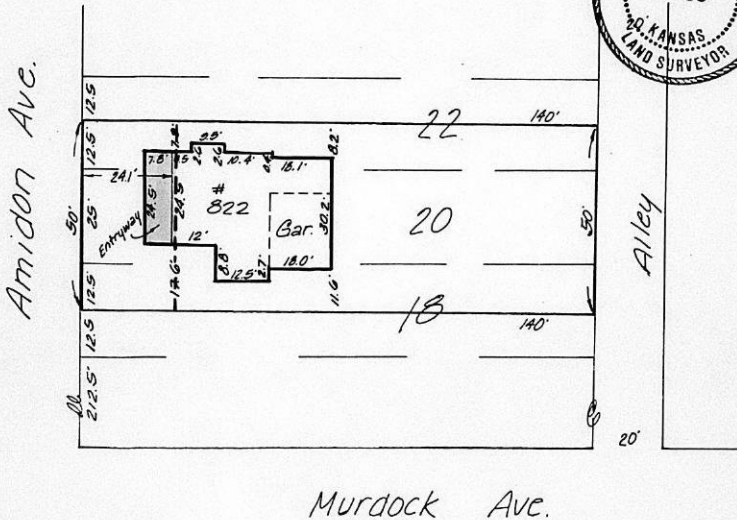
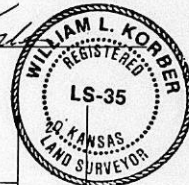
April 18, 1984

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The accompanying plat is a true and correct exhibit of said survey for mortgagee title insurance.

William L. Korber
Surveyor



1. The uniqueness of the property in question lies in the fact that the two adjacent properties on either side are at least 30 ft. away from the property at 822. To wit, the property to the south is 36 ft. away from 822 and the property to the north is 30 ft. away. For example, the remainder of the properties are on the average 15 ft. away from side yard distances. The original front portion of the house is 11 inches into the front 25 ft. setback. The 8 ft. unenclosed porch (which with removable thermo windows and solid walls now qualify it as an enclosed porch), therefore constitutes an intrusion of 9 ft. into the 25 ft. front setback. Further as evidenced by an area drain to the sump rather than a drain going back to the sanitary line, also the lack of electrical sockets clearly indicate the original intention of the area to be a porch or sun room not for permanent habitation. It should also be mentioned the original reason for building close to the front setback line was to save two 30 ft. red cedar trees.
2. This will not adversely affect the rights of the property owners particularly from an aesthetic point of view in that it does not inhibit the view. (see pictures or slides) Further, owner to the north concurs with this application request by affixed signature.
3. The unnecessary hardship is created because of the potential loss of the aesthetic beauty of the property. Also after having two buyers, the last of which requested the thermo windows, this brought us to the current position.
4. The variance would not adversely affect the health, safety and convenience of the general public because of the remaining distance from general public traffic nor does it intrude in any street right-of-way. The prosperity of neighboring areas is affected in a positive sense in that the property is the most valuable structure in the area and as stated by neighbors, it enhances surrounding property values.
5. The general intent of 25' setbacks is to provide front uniformity and allow clear view of adjacent houses. Since the houses along the block are not in complete uniformity the house at 822 Amidon blends with the area and is not obtrusive. Further, as previously mentioned the view from adjacent areas is not adversely affected.

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 20 21 PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	<u>Planning</u>		

DESCRIPTION	AMOUNT
City 770 Vols.	175.00

NAME James E. Spauld

ADDRESS 210 American

FUND 22-40071-003 DUE DATE

COMMENTS

DATE April 11 1984 BY J. Lytle