

BZA 26-64 - Frank T. Priest, Jr.  
requests variance of 4' sideyard  
setback at 229 N. Terrace Drive

W.A.P.C.  
B.C.C./B. CO. C. \_\_\_\_\_

4630

# ACTION

*Bja* COMMITTEE App. DATE 5-26-64

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

4630

BZA 26-64 - Frank T. Priest, Jr.  
requests variance of 4' sideyard  
setback at 229 N. Terrace Drive

June 8, 1964

Mr. Frank T. Priest, Jr.  
229 North Terrace Drive  
Wichita, Kansas

Dear Mr. Priest:

Re: Case No. BZA 26-64

On May 27, 1964, we advised you that the Board of Zoning Appeals had approved your request for a Variance to allow the construction of a fireplace flue into the side yard setback area on property legally described as:

The South 2½ feet of Lot 11 and all of Lots 12 and 13,  
Block 1, Marsh Manor Addition, in the City of Wichita,  
Sedgwick County, Kansas,

generally located on the west side of Terrace Drive in an area between First and Second Streets. We also advised that the Board's decision might be appealed to the City Commission, provided that such appeal was filed on or before June 5, 1964.

The City Clerk has advised that no appeal was filed on or before that date, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber  
Attachment

cc: Glen Lytle, Superintendent  
of Central Inspection

R E S O L U T I O N N O . B Z A 2 6 - 6 4

WHEREAS, Frank T. Priest, Jr., 229 North Terrace Drive, Wichita, Kansas, has requested a Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, to allow the construction of a fireplace flue in conjunction with an addition to the house, to extend two feet into the side yard setback area on property legally described as follows:

The south 2½ feet of Lot 11 and all of Lots 12 and 13, Block 1, Marsh Manor Addition, in the City of Wichita, Sedgwick County, Kansas,

and generally located on the west side of Terrace Drive in an area between First and Second Streets; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on the 26th day of May, 1964; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for a variance under the provisions of Section 2.12.590, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the proposed construction complies with all requirements with the exception of the 2 by 5 foot fireplace which must necessarily be located in this position if it is to be constructed; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the rights of adjacent property owners inasmuch as a variance of the nature requested is very minor and no adjoining property owners have evidenced any objection; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the applicant inasmuch as he will be unable to proceed with the construction of an addition to his residence without the variance requested; and

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

WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, 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 a variance be granted for that portion of the side yard setback which will be occupied by the fireplace flue (as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals), on property legally described as follows:

The south 2½ feet of Lot 11 and all of Lots 12 and 13, Block 1, Marsh Manor Addition, in the City of Wichita, Sedgwick County, Kansas,

generally located on the west side of Terrace Drive in an area between First and Second Streets, subject to the construction being completed within two years from the effective date of this approval.

DATED AT WICHITA, KANSAS, this 26th day of May, 1964.

Harold Bauer  
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith  
Jack H. Galbraith, Secretary

Board of Zoning Appeals

June 4, 1964

Robert G. Finch, City Clerk  
Jack H. Galbraith, Secretary

Case No. BZA 26-64

Attached is a copy of Resolution No. BZA 26-64, covering action taken by the Board of Zoning Appeals in connection with the above-numbered case, which case was heard by the Board on May 26, 1964. An appeal may be filed in your office on or before June 5, 1964. If an appeal is filed, please advise.

Jack H. Galbraith  
Secretary

JHG:ber

Attachment

May 27, 1964

Mr. Frank T. Priest, Jr.  
229 North Terrace Drive  
Wichita, Kansas

Dear Mr. Priest:

Re: Case No. BZA 26-64

This is to advise you that at its regular meeting of May 26, 1964, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to allow the construction of a fireplace flue into the side yard setback area on property legally described as:

The south 2½ feet of Lot 11 and all of Lots 12 and 13, Block 1, Marsh Manor Addition, in the City of Wichita, Sedgwick County, Kansas,

generally located on the west side of Terrace Drive in an area between First and Second Streets.

It was the action of the Board to approve this request for that portion of the side yard setback which will be occupied by the flue (as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals,) subject to construction being completed within two years from the effective date of the approval of this application.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before June 5, 1964.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If none has been filed on or before the above date, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

*Jack H. Galbraith*  
Jack H. Galbraith  
Secretary

JHG:JWH:ber

cc: Glen Lytle, Superintendent  
of Central Inspection

Robert G. Finch, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 26-64

APPLICANT: Frank T. Priest, Jr., 229 North Terrace Drive

GENERAL LOCATION: Generally located on the west side of Terrace Drive in an area between First and Second Streets.

LAND USE: The property in question is presently occupied by a single family home and an unattached garage. The existing land use to the north, east, south and west is single family homes.

EXISTING ZONING: The property in question is zoned "AA" Single Family. The existing zoning to the north, east, south and west is "AA" Single family.

REQUEST: The request is for a variance to allow the construction of a fireplace flu in conjunction with an addition to the house. The fireplace flu would be the only structure located within the required side yard of six feet and would occupy two feet of the required six foot side yard setback. The variance is within the jurisdiction of the Board to grant provided all four of the following conditions are found to exist:

1. The variance desired arises from such condition which is unique and not ordinarily found in the same zoning district;
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners;
3. The strict application of the enforcement provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant represented in the appeal;
4. The variance desired is not against the public interest.

The applicant has submitted a plot plan and a statement of justification which are included as Attachments #1 and #2 to this report.

COMMENTS BY THE SECRETARY

The applicant has requested that he be allowed to utilize two feet of the required side yard setback of six feet, for the construction of a fireplace in conjunction with an addition to the house. The proposed addition to the house will comply with the side yard requirement but due to a second story bedroom, the fireplace necessitates an additional two feet of the side yard to allow construction.

UNIQUENESS

The present house and proposed addition complies with all requirements with the exception of the 2 by 5 foot fireplace which must necessarily be located in this position if it is to be constructed. Consequently, it is the opinion of the Secretary that the request is somewhat unique.

ADJACENT PROPERTY

It is felt there will be no adverse affect on adjacent property as the request is rather insignificant.

HARDSHIP:

It is recommended that hardship be found to exist due to the conditions mentioned above.

GENERAL WELFARE

It is the opinion of the Secretary that granting the variance will not adversely affect the general health, welfare, and prosperity of the community.

Based on the foregoing, it is the recommendation of the Secretary that this application be approved and that the Superintendent of Central Inspection be instructed to issue a building permit for the construction of the fireplace flu in conjunction with an addition to the house; and that the permit be issued for the fireplace with a setback of not less than four feet, subject to construction being completed within two years from the effective date of this approval of this application.

Attachments - #1 - Statement of justification  
#2 - Plot Plan

**APPLICANT'S NAME**

**ADDRESS**

**ADDRESS:** South D. Street, 27., 283 South Ocean Drive

**GENERAL LOCATION:** Generally located on the west side of Ocean Drive in an area between First and Second Streets.

**LAND USE:** The property in question is presently occupied by a single family home and an unattached garage. The existing land use to the north, east, south and west is single family home.

**EXISTING ZONING:** The property in question is zoned "A1" Single Family. The existing zoning to the north, east, south and west is "A1" Single Family.

**REASON:** The request is for a variance to allow the construction of a fireplace in conjunction with an addition to the house. The proposed fireplace would be built on the property structure located within the required side yard of six feet and would occupy two feet of the required six foot side yard setback. The variance is within the jurisdiction of the board to grant provided all four of the following conditions are found to exist:

1. The variance desired arises from such condition which is unique and not ordinarily found in the same zoning district;
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners;
3. The strict application of the enforcement provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant represented in the appeal;
4. The variance desired is not against the public interest.

The applicant has submitted a plot plan and a statement of justification which are included as Attachments #1 and #2 to this report.

**CONCISE BY THE SECRETARY**

The applicant has requested that he be allowed to utilize two feet of the required side yard setback of six feet, for the construction of a fireplace in conjunction with an addition to the house. The proposed addition to the house will comply with the side yard requirement but due to a second story bedroom, the fireplace necessitates an additional two feet of the side yard to allow construction.

Page 2 - Case No. 228 25-44

**REMARKS:**  
The present house and proposed addition comply with all requirements with the exception of the 2 by 3 foot chimney which must necessarily be located in this position if it is to be constructed. Consequently, it is the opinion of the Secretary that the project is somewhat unique.

**ADJACENT PROPERTY:**

It is felt there will be no adverse effect on adjacent property as the request is rather insignificant.

**ROADS:**

It is recommended that hardship be found to exist due to the conditions mentioned above.

**GENERAL REMARKS:**

It is the opinion of the Secretary that granting the variance will not adversely affect the general health, welfare, and prosperity of the community.

Based on the foregoing, it is the recommendation of the Secretary that this application be approved and that the Superintendent of Central Inspection be instructed to issue a building permit for the construction of the fireplace fix in conjunction with an addition to the house; and that the permit be issued for the fireplace with a setback of not less than four feet, subject to construction being completed within two years from the effective date of this approval of this application.

Attachments - #1 - Statement of justification  
                  #2 - Plot Plan

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

May 7, 1964

**NOTICE TO ADJOINING PROPERTY OWNERS**

**Case No. BZA 26-64**

An application has been filed by Frank T. Priest, Jr., 229 North Terrace Drive, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a VARTANCE to allow a 4 foot side yard setback instead of required 6 foot for flue and chimney projection, on property legally described as follows:

The south 2½ feet of Lot 11 and all of Lots 12 and 13, Block 1, Marsh Manor Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Terrace Drive in an area between First and Second Streets.

This application has been assigned Case No. BZA 26-64 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 26, 1964, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

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

May 7, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 26-64

An application has been filed by Frank T. Priest, Jr., 229 North Terrace Drive, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a VARIANCE to allow a 4 foot side yard setback instead of required 6 feet for flue and chimney projection, on property legally described as follows:

The south 2½ feet of Lot 11 and all of Lots 12 and 13, Block 1, Marsh Manor Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Terrace Drive in an area between First and Second Streets.

This application has been assigned Case No. BZA 26-64 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 26, 1964, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

CASE NO. BZA 26-64

25 NOTICES MAILED 5-8-64 FOR MEETING MAY 26, 1964

Payne H. & Adelaide S. Ratner  
227 North Crestway

Ada U. Leapley  
231 North Crestway

Philip Charles & Margaret C. McKnight  
250 North Terrace

Forest G. Beal  
240 North Terrace

Carl B. & Dorothy A. Hall  
234 North Terrace

Carl B. & Dorothy A. Hall  
852 North Crestway

Herbert P. & Barbara B. Lindsley  
230 North Terrace

Penrose S. & Mary Lucas Albright  
220 North Terrace

C. Robert Bell & Janice L.  
216 North Terrace

C. Robert & Janice L. Bell  
3532 Del Sienno

A. F. & Ardeen B. Casado  
202 North Terrace

D. R. Lauck  
254 North Crestway

Fred B. & Marian Anschutz  
236 North Crestway

Robert R. & Betty Jean Purcell  
230 North Crestway

Mrs. Dasena Kingsbury  
224 North Crestway

Eunice McIntosh Merrill  
210 North Crestway

J. D. & Lena W. Dameron  
207 North Terrace

Roy C. Kinkaid  
215 North Terrace

William F. & Martha Lou Binter  
221 North Terrace

Linus J. & Angela G. Brungardt  
225 North Terrace

Frank T. Priest, Jr.  
229 North Terrace

Glenn M. & Mary M. Dunne  
4421 East 2nd Street

Frank B. Jacobshagen  
237 North Terrace

Ruth Oard  
233 North Terrace

Frank T. & Mary Lynn Priest  
4802 East Central

May 5, 1964

Board of Zoning Appeals  
City of Wichita, Kansas

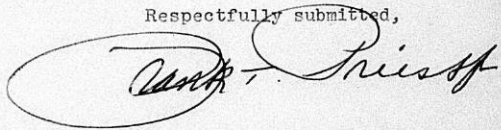
Gentlemen:

In connection with the proposed addition to our home at 229 North Terrace Drive, as per sketch, it is our desire to have the room proper extend to within 6' (six feet) of our south property line.

Under this arrangement it will necessitate extension of 24" (twenty-four inches) for the fireplace flue to the south bringing the maximum extension to within 4' (four feet) of the south property line. The one story house located to the south extends deeper than our proposed addition by approximately 6' (six feet) and sits within 6' (six feet) of their north property line.

It will be impossible to run the flue within the wall area because of the bedroom above. Therefore this 24" (twenty-four inch) extension becomes necessary.

Respectfully submitted,

A handwritten signature in cursive script, enclosed in a large, hand-drawn oval. The signature appears to read "Carl F. Triest".

BOARD OF ZONING APPEALS

CASE NO. \_\_\_\_\_

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant FRANK T. PRIEST, JR  
Mailing Address 229 No. TERRACE DR. Phone MW 43883  
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 UNDER SECTION 2.12.590.2  
CODE OF THE CITY OF WICHITA, TO ALLOW VARIANCE  
OF 4'0" SIDEYARD SETBACK INSTEAD OF REQUIRED 6'0" FOR  
FLU PROJECTION.  
for property located 229 No. TERRACE DR

and legally described as: SOUTH 2 1/2 FEET OF LOT 11 AND ALL  
LOTS 12 AND 13, BLOCK 1, MARSH MANOR ADDN TO THE CITY OF  
WICHITA, SEDGWICK COUNTY, KANSAS  
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:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Frank T. Priest, Jr.  
Applicant

N.A.  
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.

STATEMENT OF RECORD OWNERSHIP

STATE OF KANSAS        )  
                               )  
 SEDGWICK COUNTY        )

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft.  
 of: The South 2.5 ft of Lot 11, all Lots  
 12 & 13, Block 1, Marsh Manor Addition to  
 Wichita, Kansas.

  
**Fidelity**  
**Title**  
**Company,**  
**inc.**

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

Lot	Blk	Addition	Owner
3, 4, 5, 6,	1	Marsh Manor	Glenn M. Dunne, Jr. & Mary M. Dunne, ux 4421 E. 2nd St.
7, 8 & N $\frac{1}{2}$ 9	1	" "	Frank B. Jacobshagen 237 N. Terrace
S $\frac{1}{2}$ 9, all 10 & ) N 22.5' Lot 11)	1	" "	Ruth Oard, sgle. 233 N. Terrace
S 2 $\frac{1}{2}$ ' Lot 11, all 1 Lots 12 & 13	1	" "	Frank T. Priest, Jr. & Mary Lynn Priest, ux 4802 E. Central
14 & 15	1	" "	Linus J. & Angela G. Brungardt 225 N. Terrace ux
16 & 17	1	" "	William F. & Martha Lou Binter, 221 N. Terrace ux



Lot	Blk	Addition	Owner
18, 19 & N 20' Lot 20,	1	Marsh Manor	<i>Roy C. Kinkaid</i> Grace E. Frost 215 N. Terrace
s 5' Lot 20,) 1 All Lot 21,		" "	J. D. & Lena W. Demeron, ux. 207 N. Terrace
28, 29 & 30	1	" "	Eunice McIntosh Merrill, sgle 210 N. Crestway
31, 32, 33 & 34	1	" "	<i>Mrs. Doreen Kingsbury</i> <del>Florence N. Evans</del> No Address Available <i>224 N. Crestway</i>
35, 36, 37, & 38	1	" "	Robert R. & Betty Jean Purcell, ux 230 N. Crestway
39, 40, 41, 42 & 43	1	" "	Fred B. & Marian Anschutz, ux 236 N. Crestway
44, 45, 46,	1	" "	D. R. Lauck 254 N. Crestway
25, 26, & , 27 & 4/48 int in Pershing Pk.		Terrace Dr. Pershing Terrace	A. F. & Ardeen B. Casado, ux 202 N. Terrace
29, 30 & 31 & 19.1' x 75' adj. on East	"	" " "	C. Robert & Janice L. Bell, ux 3532 Del Sienna <i>216 N Terrace</i>
32, 33 & 34	"	" " "	Penrose S. Albright & Mary Lucas Albright, ux 220 N. Terrace
35, 36 & 37	"	" " "	Herbert P. Lindsley & Barbara B. Lindsley, ux 230 N. Terrace
38, 39, 40 & 41	"	" " "	Carl B. & Dorothy A. <del>Hull</del> ux 852 N. Crestway <i>234 N. Terrace</i>
42, 43, 44 & int in Pershing Park	"	" " "	<del>Leah A. Seif</del> <i>Forest G. Beal</i> 240 N. Terrace
45 & 46	"	" " "	Philip Charles McKnight, Sr. & Margaret C. McKnight, ux 250 N. Terrace
18 & N 20' Lot 20	Crestway	Sargent's	Payne H. Ratner, Jr. & Adelaide S. Ratner, ux 227 N. Crestway
S $\frac{1}{2}$ Lot 14, All 16	"	"	<del>Arthur R.</del> & Ada U. Leapley, ux 231 N. Crestway

Dated at Wichita, Kansas this 4th day  
of May, 1964 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By *Edwin M. Farrell* Sec. OEM

# 60316

\*

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

Form 223-021

**PAYMENT NOTICE**  
City of Wichita

AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
<i>5000</i>	<i>50.00</i>

Name

*John T. ...*

Address

*...*

Type

Due Date

Comments:

Date

*5-5-14*

By

*...*