

BZA 27-66 - Clifford M. Shiblom re-
quests variance of side yard setback
on the west side of Arkansas Avenue
in an area north of 43rd Street North

5462

P.C.
B.I.

DATE 10-25-66
H. Shiblom

ACTION

By a COMMITTEE Approved

M.A.P.C. _____

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

RESOLUTION NO. BZA 27-66

WHEREAS, Clifford M. Shiblom, 4459 North Arkansas Avenue, Wichita, Kansas, by Mark A. Wood, 1624 Gold, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, requests a variance of the regulations of Section 28.04.040.C.2, Code of the City of Wichita, ("AA" Single Family Residential District), to reduce the side yard setback on the north side from the required 6 feet to 0.8 feet for the existing structure in order that the applicant may obtain a permit for expanding and remodeling the structure; and

WHEREAS, this request pertains to property legally described as follows:

The north 52 feet of that part of the south 20 acres of Government Lot 5, Section 29, Township 26 South, Range 1 East, lying northeast of the abandoned A.V.I. Railroad, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Arkansas in an area north of 43rd Street North; and

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

WHEREAS, the Board of Zoning Appeals did, in regular, meeting, consider said application on October 25, 1966; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for variance under provisions of Section 2.12.590.2, Code of the City of Wichita, Kansas; and

WHEREAS, the Board of Zoning Appeals has found that the variance requested arises from such condition which is unique and not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant inasmuch as the structure was built prior to any regulations and that through no fault of the applicant the building was built in violation of the setback requirements which were established at a later date; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect adjacent property owners or residents in view of the fact that the property is utilized as a recreational facility and is actually an open park area; 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 property owner represented in the application inasmuch as he would have to invest a substantial amount of money in order to move the house south 5.2 feet so that it would comply with the Ordinance; 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; and

WHEREAS, the Board of Zoning Appeals has found that the request is not opposed to the spirit and intent of Title 28 inasmuch as the structure was built prior to any regulations being adopted and the building is in violation of requirements which were established after the completion of construction; and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita, necessary to be present before a variance can be granted, has been found to exist; and

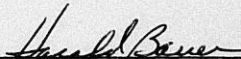
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the request be approved granting a variance of the regulations of Section 28.04.040.C.2, Code of the City of Wichita, ("AA" Single Family Residential District), to reduce the side yard setback on the north side from the required 6 feet to 0.8 feet for the existing structure only, all relating to property legally described as:

The north 52 feet of that part of the south 20 acres of Government Lot 5, Section 29, Township 26 South, Range 1 East, lying northeast of the abandoned A.V.I. Railroad, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Arkansas in an area north of 43rd Street North,

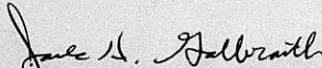
subject to the following conditions:

1. The variance be granted for the existing structure only and that all additions, expansions or enlargements be in conformance with the required 6 foot side yard setback.
2. In the event the building is razed or destroyed more than 50% or is removed or replaced the new or rebuilt structure shall maintain the required 6 foot setback.

ADOPTED AT WICHITA, KANSAS, this 25th day of October, 1966.


Harold Bauer, Chairman

ATTEST:


Jack H. Galbraith, Secretary

November 3, 1966

Mr. Clifford M. Shiblem
4459 North Arkansas Ave.
Wichita, Kansas

Dear Mr. Shiblem:

Re: Case No. BZA 27-66 - Request
for a Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 25, 1966, in connection with your application for Variance of the set back requirements on property zoned "AA" and generally located on the west side of Arkansas Avenue in an area north of 43rd Street North. This Resolution reflects the official action of the Board and sets out the conditions of approval.

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

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kjg

Attachment

cc: Mark A. Wood, 1624 Gold
Glen Lytle, Superintendent of Central Inspection
L. L. Binkley, Maintenance Inspection Supervisor
Ralph Eberly, City Clerk

October 26, 1966

Mr. Clifford M. Shiblem
4459 North Arkansas Ave.
Wichita, Kansas

Dear Mr. Shiblem:

Re: Case No. BEA 27-66 - Request for a
Variance of the side yard setback.

At the regular meeting of the Board of Zoning Appeals on October 25, 1966, your request for a Variance of the side yard setback on property zoned "AA" Single Family Residential and located on the west side of Arkansas Avenue in an area north of 43rd Street North, was considered.

It was the action of the Board to approve a variance of the side yard setback from the required 6 feet to 0.8 feet adjacent to the north side of subject property subject to the following conditions:

1. The variance be granted for the existing structure only and that all additions, expansions or enlargements be in conformance with the required 6 foot side yard setback.
2. In the event the building is razed or destroyed more than 50% or is removed or replaced the new or rebuilt structure shall maintain the required 6 foot setback.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy thereof as soon as the Chairman and Secretary of the Board have signed it. If you have any questions, please call.

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kkj

cc: Mark A. Wood
Glen Lytle
L. L. Binkley
Ralph Eberly

JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas)
County of Sedgwick) SS

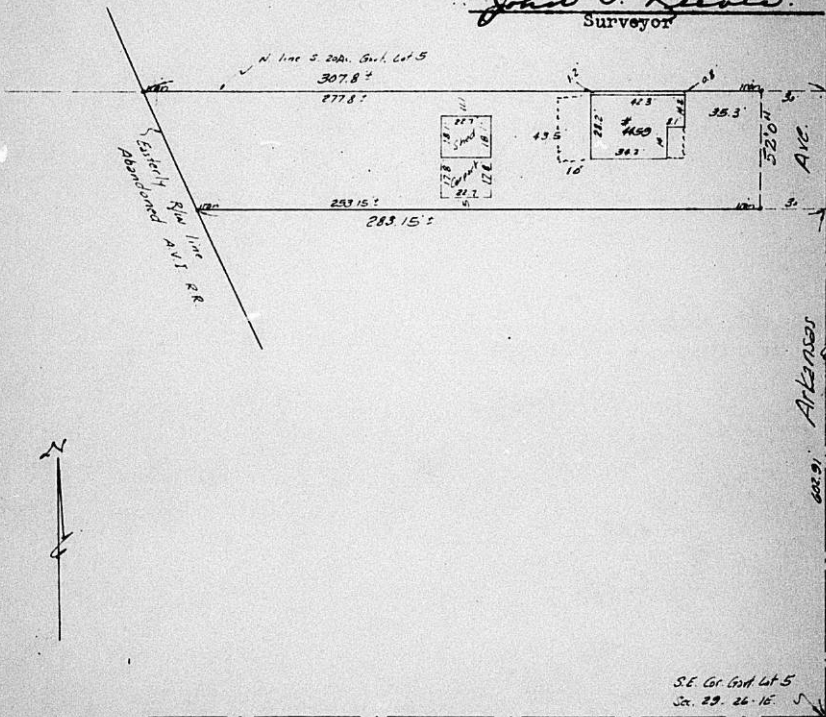
September 23, 1966

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 23rd day of September, 1966, survey the north 52 feet of that part of the south 20 acres of Govt. Lot 5, Sec. 29, Twp. 26-S, R-1-E, lying northeast of the Abandoned A. V. I. railroad, Sedgwick County, Kansas.

On said tract is house No. 4459 and a building which are in the clear of all boundary lines. There are no encroachments on said tract by buildings on the adjacent tracts.

The accompanying plat is a true and correct exhibit of said survey.

John T. Reeves
Surveyor



SECRETARY'S REPORT

CASE NO. BZA 27-66

APPLICANT: Clifford M. Shiblom, 4459 North Arkansas Avenue,
Wichita, Kansas

AGENT: Mark A. Wood, 1624 Gold, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City
of Wichita, to reduce the side yard setback on the north
side from the required 6 feet to 0.8 feet.

GENERAL LOCATION: West side of Arkansas Avenue in an area north of
43rd Street North

ZONING: Subject property is zoned "AA" as is that property to the
north, east, south and west.

LAND USE: Subject property is single-family as well as is that to
the south and east, to the north is Ripley Park and to
the west is Earhart Elementary School

JURISDICTION:

The Board has jurisdiction to consider the variance request
under the provisions outlined in Section 2.12.590.2, 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 ad-
versely 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 effect 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

The applicant is requesting a variance from the required 6 foot side yard setback to 0.8 feet. The applicant points out in his statement of justification that the house was built prior to annexation and, therefore, was not built according to the City Ordinance. It appears that the house was actually built prior to zoning regulations in the 3-mile ring and, therefore, no regulations were in effect. The applicant now desires to add on to the rear of the structure as well as enclose the front porch and rebuild the roof and is unable to do so since the structure is in violation. It should also be noted that according to the ordinance, the roof of the structure can overhang two feet into the side yard setback and in this case it would permit an intrusion of over a foot into the adjoining property to the north.

Attached is the statement of justification as submitted by the applicant.

Uniqueness

It is the opinion of the Secretary that this is a unique situation inasmuch as the structure was built prior to any regulations and that through no fault of the applicant the building was built in violation of the setback requirements which were established at a later date.

Adjacent Property

It is the opinion of the Secretary that the granting of the variance would not adversely affect the adjacent property to the north inasmuch as that property is utilized as a recreational facility and is actually an open park area.

Hardship

It is the opinion of the Secretary that the applicant would suffer an undue hardship if the variance is not granted inasmuch as he would have to invest a substantial amount of money in order to move the house south 5.2 feet so that it would comply with the Ordinance.

Public Interest

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

Spirit and Intent

It is the opinion of the Secretary that the request is not opposed to the spirit and intent of Title 28 inasmuch as the structure was built prior to any regulations being adopted and the building is in violation of requirements which were established after the completion of construction.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance of the side yard setback from 6 feet to 0.8 feet can be found to exist and, therefore, it is recommended that the variance be granted subject to the following conditions:

1. The variance be granted for the existing structure only and all additions expansions or enlargements be in conformance with the required 6 foot side yard setback.
2. In the event the building is razed or destroyed more than 50% or is removed or replaced the new or rebuilt structure shall maintain the required 6 foot setback.

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

October 14, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 27-66

An application has been filed by Clifford M. Shiblom, 4459 North Arkansas Avenue, Wichita, Kansas, by Mark A. Wood, 1624 Gold, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a variance of the side yard setback from the required six (6) feet to 0.8 feet, on property zoned "AA" One Family Residential and legally described as follows:

The north 52 feet of that part of the south 20 acres of Government Lot 5, Section 23, Township 26 South, Range 1 East, lying northeast of the abandoned A.V.I. Railroad, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Arkansas in an area north of 43rd Street North.

This application has been assigned Case No. BZA 27-66, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 25, 1966, 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

City of Wichita
Board of Zoning appeals

Gentlemen:

We are asking that a variance from the normal setback be granted so that we may proceed with the addition and improvements to this property as outlined below.

The variance requested arises from the fact that the house was built before the area was taken into the city and like a great many houses built around our city before the area was annexed we find things that do not fit as we would like for them to, this is one of those cases, the property directly to the north is part of a park owned by Kansas Gas and Electric Company and used as a recreation area for their employees, there is ample space to the south. If we are required to conform strictly to the letter of the provisions of Title 28 the owner will be unable to repair a roof that is in bad shape now and of course the addition under consideration, which is needed for a growing family will be out of the question. The Variance asked in no way will be detrimental to the public health, safety etc. in fact it will improve the livability of the entire area.

The dotted lines in ink on the Surveyors Certificate indicate the addition contemplated, the owner ~~xxxxxx~~ wants to remove the entire present roof above the top of the Ceiling Joists and rebuild it.

x Clifford M. Shiblom
Clifford M. Shiblom

Mark A. Wood

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

1. Name of Applicant Clifford M. Shiblem

Mailing Address 4459 North Arkansas Ave. Wichita, Ks Phone TE 8-6177

Name of Authorized Agent Mark A. Wood

Mailing Address 1624 Gold, Wichita, Kansas Phone FO 3-5001

Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is waiver of the six foot sideline setback
regulation, since the house was built before the area was taken into
the City and it would now require the wrecking of the house to comply
for property located 4459 North Arkansas Ave. - on the west
side of Arkansas Ave in an area N of 43rd St. 76.
and legally described as: see attached Surveyors Certificate - 07

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.

x Clifford M. Shiblem
Applicant

Mark A. Wood
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeal
10-30 (a.m. - 9-30 p.m.), 1966, together with
appropriate fee of \$50.00.

Ronald A. Williamson
Signed

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 North 52 ft of the South 20 Acres of Lot
5, lying North & East of the abandoned A. V. I.
Railway ROW, in Sec 29, Twp 26, R 1 East.


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:

A-338 UP

The North 12 Acres of Lot 5, Sec 29, Twp 26, R 1 E.,
exc Fldway CCA 39338.

X Kansas Gas & Electric Company,
201 N. Market St.

A-297 UP

The North 52 ft of the South 20 Acres of Lot 5, lying
N & E of AVI ROW, Sec 29, Twp 26, R 1 E.

D C. M. & Christine Shiblom, ux
4459 Arkansas Ave.

A-298 UP

The South 70 ft of the North 122 ft of the South 20
Acres of Lot 5, East of AVI ROW. Sec 29-26-1E.

X Albert Ray & Violet M. Alway, ux
4457 Arkansas Ave.



A-299 UP

The South 20 ft & 4 inches of the North 142 ft & 4 inches of the South 20 Acres of Lot 5, lying N & E of AVI ROW, Sec 29-26-1E.

X R. A. & Violet Margaret Alway, ux
4457 N. Arkansas Ave.

A-296 UP

The South 20 Acres of Lot 5 lying E of AVI ROW, exc the North 142 ft & 4 inches, Sec 29-26-1E.

X J. S. & Mary M. Dillon, ux
4451 N. Arkansas Ave.

A-339 UP

Beg 1862.64 ft N of SW cor NE $\frac{1}{4}$; E 726 ft; S 240 ft; E to a pt 690 ft W of E line NE $\frac{1}{4}$; th NE to a pt 2139.1 ft N & 658 ft W of SE cor NE $\frac{1}{4}$; th W 130 ft; N 16 rds; W 31 rds; S 10 rds; W 80 rds; S to beg, exc 40 ft Spur of KG & E & exc Fldwy CCA 41035. Sec 29-26-1E.

X William Robert Sullivan, Jr.
Letitia Weggly, R. J. Sullivan &
Susie Vanderhoff
4502 N. Arkansas Ave.

A-290 UP

Beg 1802.64 ft N of SW cor NE $\frac{1}{4}$; N 60 ft; E 726 ft; S 60 ft; W to beg. Sec 29-26-1E.

X Susie & Leonard Vanderhoff, vir.
4510 N. Arkansas Ave.

A-289 UP

Beg 1742.64 ft N of SW cor NE $\frac{1}{4}$; N 60 ft; E 726 ft; S 60 ft; W 726 ft to beg. Sec 29-26-1E.

X Don E. & Mildred Kallenbach, ux
4500 Arkansas Ave. *Returned*
9715 N. Edwys ⁽¹⁰⁻¹⁹⁻⁶⁶⁾ 10-19-66

A-292 UP

Beg 1682.64 ft N of SW cor of NE $\frac{1}{4}$; N 60 ft; E 726 ft; S 60 ft; W to beg. Sec 29-26-1E.

X Jesse P. & L. Winifred Wisdom, ux
4458 Arkansas Ave.

Lots 1, 2, 3, 4, Block A, Edwards Gardens. (Now Vacated)

North Riverside School District #170

Dated at Wichita, Kansas this 11th day of
October, 1966 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Grant R. Hawkins _{V. P.} OEM

Form 223-021

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	<u>Plan.</u>	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>variance</i>	<i>\$50.00</i>

Name *Mark H. Wood*

Address *1624 Gold*

Type _____ Due Date _____

Comments: *T-91 R-712*

Date *9-30-66* BY *KH*

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202



- Moved, left no address
- No such number
- Moved, new address
- Address unknown

Don E. & Mildred Kallenbach

4500 Arkansas Ave.

Wichita, Kansas

9715 N. Bdwy

