

BZA 52-75 - C.C.R. & G Agency  
Variance to reduce side yard  
setback from 25' to 6' in  
an area generally located east  
of Dalton between Lincoln and  
the Kansas Turnpike

POSTED  
12-1-75  
*[Signature]*  
12-1-75

ACTION

DATE  
12/16/75

*Approved*

BZA COMMITTEE

M.A.P.C.

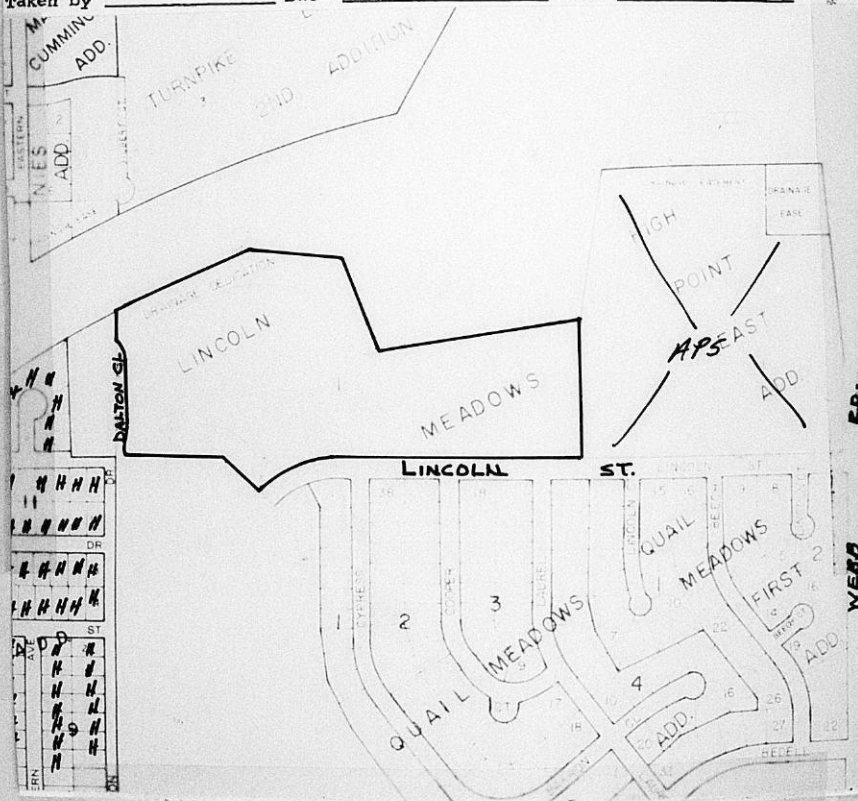
F.C.C./B. CO. C.

Map No. 6046  
 Sec. 29  
 Twp. 27  
 Range 2E

BZA- 52-75  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

- AREA DATA: (IRREGULAR)
1. Acres: 22.1 ( 900 ft. by 1559 ft.)
  2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
  3. Land Use: East APARTMENTS South \_\_\_\_\_  
 West SINGLE FAM North KANS. TURNPIKE
  4. Sketch Plan Land Use is for: \_\_\_\_\_
  5. Present Land Use if for: APARTMENTS
  6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



SHIMMERS  
 No. 2151C  
 HASTINGS, MINN. 55113 ANDERSON  
 LOGAN OH - BRIDGEPORT, TX U. S. A.

BOARD OF ZONING APPEALS

Fourth Floor, City Hall  
455 North Main, Wichita, Kansas  
67202

November 24, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 52-75

An application has been filed by C.C.R. and G. Agency, Inc., 3841 W. 13th, 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 adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and legally described as follows:

Lot 1, Block 1, Lincoln Meadows Addition, Sedgwick County, Kansas. Generally located on the east side of Dalton Circle between Lincoln Street and the Kansas Turnpike.

This application has been assigned Case No. BZA 52-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 16, 1975, at 1:30 p.m., in the Public Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, if you so desire, you may appear, either in person, or by agent, or attorney.

Jack H. Galbraith  
Secretary

RESOLUTION NO. BZA 52-75

WHEREAS, C. C. R. and G. Agency, Inc., 3841 West 13th Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and legally described as follows:

Lot 1, Block 1, Lincoln Meadows Addition, Sedgwick County, Kansas. Generally located on the east side of Dalton Circle between Lincoln Street and the Kansas Turnpike.

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 December 16, 1975, 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 adjacent property to the requested variance has existing carports six feet from the same property line; 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 only potential affect would be to the property to the east which already has carports built to within six feet of this property line; 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 there is no alternative location for the carports and to eliminate them would reduce the overall quality of the development; 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 request is 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 request is for detached carports, not the main apartment structure; also the minimum six foot setback will be maintained; 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.

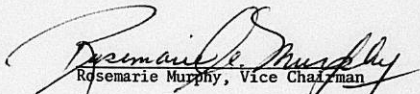
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and legally described as follows:

Lot 1, Block 1, Lincoln Meadows Addition, Sedgwick County, Kansas. Generally located on the east side of Dalton Circle between Lincoln Street and the Kansas Turnpike.

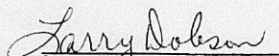
be approved, subject to the following condition:

1. The variance shall apply only to the accessory structures shown on the applicants' site plan, namely carports and a trash gazebo.

aADOPTED AT WICHITA, KANSAS, this 16th day of December, 1975.

  
Rosemarie Murphy, Vice Chairman

ATTEST:

  
Larry Dobson  
Assistant Secretary

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-----  
455 North Main  
Wichita, Kansas

January 7, 1976

Mr. Santo M. Cantanese  
3841 West 13th Street  
Wichita, Kansas 67203

Subject: Case No. BZA 52-75  
Request for Variance

Dear Mr. Cantanese:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 16, 1975, in connection with your request for a variance to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and generally located on the east side of Dalton Circle between Lincoln and the Kansas Turnpike.

This Resolution reflects the official action of the Board to grant your request and sets out the condition of approval. 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:bh

Enclosure

cc: C. C. R. and G. Agency, Inc. 3841 W. 13th, 67203  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Central Inspection  
Donald Gisick, City Clerk

Tenth Floor  
455 North Main

December 18, 1975

Mr. Santo M. Cantanese  
3841 West 13th Street  
Wichita, Kansas 67203

Subject: Case No. BEA 52-75  
Request for Variance

Dear Mr. Cantanese:

At the regular meeting of the Board of Zoning Appeals on December 16, 1975, your request for a variance to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and generally located on the east side of Dalton Circle between Lincoln and the Kansas Turnpike was considered.

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

The variance shall apply only to the accessory structures shown on the site plan, namely carports and a trash garage.

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.

Very truly yours,

Larry Dobson  
Assistant Secretary

LD:zh

cc: C.C.R. and G. Agency, Inc., 3841 W. 13th, 67203  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Central Inspection  
Donald Glasick, City Clerk

SECRETARY'S REPORT  
CASE No. BZA 52-75

APPLICANT: C. C. R. and G. Agency, Inc., 3841 West 13th, Wichita, Kansas.

AGENT: Santo M. Catanese, 3841 West 13th, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet.

GENERAL LOCATION: East side of Dalton Circle between Lincoln and the Kansas Turnpike.

ZONING: Subject property and property to the east is zoned the "R-6" General Residence District. South is the "A" Two Family Dwelling District. West and north is the "AA" Single Family Dwelling District.

LAND USE: Subject property is under construction as an apartment complex. Property to the east is an existing apartment complex. North is the Kansas Turnpike. West is vacant. South is vacant and single family residence development.

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 applicants are requesting a variance to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet for the purpose of constructing carports for an apartment complex.

The applicants point out in their letter of justification that the plans for the apartment complex were designed and laid out so that carports could be located along the east property line. The plat of this property, Lincoln Meadows Addition, has a platted 25 foot building setback along the east property line. The applicants say they were led to believe a vacation of this platted setback would enable them to construct their carports, and they subsequently were successful in getting this platted setback vacated. However, the area regulations of the "R-6" General Residence District requires a minimum side yard of 10 percent of the lot width, but not less than six feet nor more than 25 feet. In this instance, the maximum 25 foot requirement would apply inasmuch as the lot is much wider than 250 feet.

The adjacent property to the requested variance is developed also as an apartment complex and has existing carports six feet from this common property line. The site plan of subject property indicates that the closest apartment building is approximately 80 to 85 feet from the property line. The applicants point out that their project is 50 percent complete and that the physical limitations of the site would not permit the relocation of these carports.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the adjacent property to the requested variance has existing carports six feet from the property line.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance will not have an adverse affect on the rights of adjacent property owners inasmuch as the only potential affect would be to the property to the east which already has carports built to within six feet of this property line.

HARDSHIP:

It is the opinion of the Secretary that the strict enforcement of the zoning ordinance would create an unnecessary hardship upon the applicants inasmuch as there is no alternative location for the carports and to eliminate them would reduce the overall quality of the development.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public interest inasmuch as the request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance would not be opposed to the spirit and intent of Title 28 inasmuch as the request is for detached carports, not the main apartment structure; also the minimum six foot setback will be maintained.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary for the granting of the variance can be found to exist; and therefore, it is recommended that the variance be granted to reduce the required side yard setback adjacent to the east property line from 25 feet to 6 feet, subject to the following condition:

1. The variance shall apply only to the accessory structures shown on the applicants' site plan, namely carports and a trash gazebo.

BZA 52-75 8 notices to adjoining property owners  
9 notices to MRPC members

BOARD OF ZONING APPEALS

Fourth Floor, City Hall  
455 North Main, Wichita, Kansas  
67202

November 24, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 52-75

An application has been filed by C.C.R. and G. Agency, Inc., 3841 W. 13th, 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 adjacent to the east property line from 25 feet to 6 feet on property zoned the "R-6" General Residence District, and legally described as follows:

Lot 1, Block 1, Lincoln Meadows Addition, Sedgwick County, Kansas. Generally located on the east side of Dalton Circle between Lincoln Street and the Kansas Turnpike.

This application has been assigned Case No. BZA 52-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 16, 1975, at 1:30 p.m., in the Public Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, if you so desire, you may appear, either in person, or by agent, or attorney.

Jack H. Galbraith  
Secretary

November 14, 1975

Board of Zoning Appeals  
City of Wichita  
City Building  
204 S. Main  
Wichita, Kansas 67201

Dear Sirs:

We are requesting a variance for the side-yard building setback required with R6 zoning as set out in the Code of the City of Wichita, 28.04.067, paragraph (C), subparagraph (2), subparagraph (B)(1).

We have vacated the platted 25' side-yard setback on the east property line of Lot 1, Block 1, Lincoln Meadows Addition to Wichita and are requesting a 6' side-yard setback to allow the building of carports to be used in conjunction with the apartment project presently under construction. The Code of the City of Wichita, 28.04.067, subparagraph (B)(1) allows a minimum setback of six feet for the side-yard setback. The adjacent property owners have 6' side-yard setbacks and have built carports within six feet of our property line. We are requesting to be allowed the same privilege.

The plans for the apartment were designed and laid out so that the carports could be located along the east property line. However, in order for us to obtain a building permit for the construction of the carports, we have been informed by Central Inspection that a variance would be necessary.

We submit that the variance desired will not adversely effect the public health, safety, morals, order, convenience, prosperity, or general welfare and will not be opposed to the general spirit and intent of Title 28.

Granting of the permit for the variance will not adversely effect the rights of the adjacent property owners or residents inasmuch as the adjacent property owners have been granted a 6' setback on the same property line for which we are requesting a variance.


It would work a hardship on the owner/applicant to have strict application of the provisions of Title 28 for which the variance is requested because we were led to believe at the time that we submitted the plans to the City for approval and issuance of the building permits that the carports could be located within six feet of the property line if the 25' setback was vacated. The

November 14, 1975  
Page Two

25' setback has been vacated and we are now told that we must have a variance to locate the carports within six feet of the property line. At this time, the total project consisting of 296 units, is more than 50% completed and it would be impossible to relocate the carports because of site restrictions.

Your favorable consideration of this matter will be greatly appreciated.

Very truly yours,

  
Santo M. Catanese, Secretary  
C. C. R. & G. AGENCY, INC.  
SMC:kf

BOARD OF ZONING APPEALS

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

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant  C.C.R. & G. AGENCY, INC.

Mailing Address 3841 West 13th Street Phone 942-7481

Name of Authorized Agent  Santo M. Catanese

Mailing Address 3841 West 13th Street Phone 942-7481

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

II. The variance requested is for a six feet side yard building set  
back line to allow the construction of carports.

*REDUCE SIDE YARD SETBACK FROM 25' TO 6'*

for property located at 9000 East Lincoln, west of Webb Road  
on the north side of Lincoln Street.

and legally described as: Lot 1, block 1, Lincoln Meadows  
addition to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned R-6.

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.

C.C.R. & G. AGENCY, INC.

Santo M. Catanese  
Applicant Santo M. Catanese, Sec.

Santo M. Catanese  
Authorized Agent Santo M. Catanese

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:00 (a.m. - p.m.), 11/17 1975 together with appropriate fee of \$50.00.

*(Need receipt made out)*

T9-402

Larry Dobson  
Signed

Map 6046

## STATEMENT OF OWNERSHIP

STATE OF KANSAS )  
 ) SS:  
 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,

Record ownerd within 200 feet of:

Lot 1, Block 1, LINCOLN MEADOWS ADDITION,  
 Sedgwick County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER &amp; ADDRESS</u>
1	1	LINCOLN MEADOWS	C. C. R. & S. Agency, Inc. 3841 West 13th Wichita, Kansas 67203
2		HIGH POINT EAST	Financial Realty Corporation of North 1907 Grand Avenue Kansas City, Missouri 64108
1, 2, & 3	3	QUAIL MEADOWS FOURTH ADDITION	Land Enterprises Company P.O. Box 18358 Wichita, Kansas 67218
1, 2, 3, 4 & 42 & 43	2	QUAIL MEADOWS FOURTH ADDITION	Land Enterprises Company P.O. Box 18358 Wichita, Kansas 67218
1 & 2	1	QUAIL MEADOWS THIRD ADDITION	Land Enterprises Company P.O. Box 18358 Wichita, Kansas 67218
1 & 2	2	QUAIL MEADOWS THIRD ADDITION	Casado McKay Inc. 302 North Main Wichita, Kansas 67202

Fidelity  Title  
 COMPANY, INC.

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER &amp; ADDRESS</u>
37 & 38	2	QUAIL MEADOWS THIRD ADDITION	Land Enterprises Company P.O. Box 18358 Wichita, Kansas 67218
1	3	QUAIL MEADOWS THIRD ADDITION	Donald L. Jr. & Dorothy Sue Lantz 909 Laurel Wichita, Kansas 67206
3	3	QUAIL MEADOWS THIRD ADDITION	Smith & Co. Inc. 838 South Edgemoor Wichita, Kansas 67218
17 & 18	3	QUAIL MEADOWS THIRD ADDITION	Land Enterprises Company P.O. Box 18358 Wichita, Kansas 67218
1 & 2	4	QUAIL MEADOWS THIRD ADDITION	Smith & Co. Inc. 838 South Edgemoor Wichita, Kansas 67218
1 & 2	1	QUAIL MEADOWS FIRST ADDITION	Roger L. Harter 733 North Baltimore Derby, Kansas 67037



Dated at Wichita, Kansas, this 12th day of November, 1975, at 7:00 o'clock A.M.

FIDELITY TITLE COMPANY, INC.

By  *Anita Gray*   
Asst. Sec. ag

Tracer No. 30819



\*

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