

POSTED
11-22-78
W. J. King
C. J. King
04-6-79

Case No. BZA 52-78 Ellen King
request for variance to reduce
required front yard setback from
25 to 6 1/2 ft. on property zoned
"A" located on the east side of
Waco in an area between Mt.

ACTION

DATE 12-19-78

COMMITTEE approved

BZA
52-78

M.A.P.C. _____

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

January 5, 1979

Fritzie J. Boisen
2026 S. Waco
Wichita, Kansas 67213

Re: Case No. BEA 52-78
Request for Variance

Dear Ms. Boisen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 19, 1978, in connection with your request for a variance to reduce the required front yard setback from 25 feet to 6½ feet on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco).

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

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

Sincerely,

Larry Dobson
Assistant Secretary

LD:bbc
Enclosure

cc: Ellen King, 2026 S. Waco, 67213
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO. BZA 52-78

WHEREAS, Ellen King, 2026 S. Waco, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit reduction of the required front yard setback from 25 feet to 6½ feet on property zoned the "A" Two Family Dwelling District and legally described as follows:

Lots 61 and 63, Waco Ave., English's 9th Addition, Wichita, Kansas. Generally located on the east side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco.

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 19, 1978, 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 this elderly applicant has no other practical means of protecting her car and walking path during bad weather; also the carport was apparently built without the applicant's knowledge; 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 structure is open sided and does not obstruct vision; 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 she does need protection for herself and her car from the weather, with no other practical way to provide it on this site; 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 structure is open and unenclosed while still maintaining a 6½ foot setback from the property line; 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 four previous conditions have been found to exist; and the previous conversion of the garage, the age of the applicant and limitations of this given site all contribute to the finding of this condition; 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 permit reduction of the required front yard setback from 25

Resolution No. BZA 52-78
Page 2

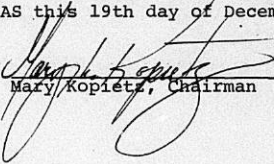
feet to 6½ feet on property zoned the "A" Two Family Dwelling District and legally described as:

Lots 61 and 63, Waco Avenue, English's 9th Addition, Wichita, Kansas. Generally located on the east side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco).

be approved subject to the following conditions:

1. The variance shall be approved for an open, unenclosed carport only, and for only that portion of the front yard presently occupied by the existing carport.

ADOPTED AT WICHITA, KANSAS this 19th day of December, 1978.


Mary Kopietz, Chairman

ATTEST:

Larry Dobson, Assistant Secretary



December 20, 1978

Fritzie J. Boisen
2026 S. Waco
Wichita, Kansas 67213

Re: Case No. BZA 52-78
Request for Variance

Dear Ms. Boisen:

At the regular meeting of the Board of Zoning Appeals on Tuesday, December 19, 1978, your request for a variance to reduce the required front yard setback from 25 feet to 6-1/2 feet on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco), was considered.

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

1. The variance shall be approved for an open, unenclosed carport only, and for only that portion of the front yard presently occupied by the existing carport.

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,

Larry Dobson
Assistant Secretary

LK:bbc

cc: Ellen King, 2026 S. Waco, 67213
T. P. Mueller, 2040 S. Waco, 67213
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE December 7, 1978

TO Larry Dobson, Assistant Secretary, Board of Zoning Appeals

FROM Deanna Patton, CPO Administrative Aide

SUBJECT BZA 52-78 (East Side of Waco between
Mt. Vernon and Clark)

At its December 6, 1978 meeting, CPO Council E considered the captioned case. After discussing this request for a variance to permit reduction of the required front yard setback from 25 feet to 6.5 feet with the applicant's daughter, the Council unanimously voted (9-0) to recommend approval of this variance.

The Council stated that the applicant's age was an important factor in its favoring the variance, for her age interferes with her ability to scrape snow and ice off her car. Council members who had driven by the site felt that the carport added to the house's attractiveness. It appeared to certain Council members that there was no standard front yard setback distance on the block surrounding the applicant's property at the captioned location.

Please provide this information to the Board of Zoning Appeals when it considers this case on December 19, 1978.

Deanna Patton
Deanna Patton
CPO Administrative Aide

Noted:

David Furness
David Furness
CP Coordinator



SECRETARY'S REPORT
CASE NO. BZA 52-78

APPLICANT: Ellen King, 2026 S. Waco, Wichita, Kansas.

AGENT: Fritzie J. Boisen, 2026 S. Waco, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 6-1/2 feet.

GENERAL LOCATION: East side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco).

ZONING: Subject property and all surrounding properties are zoned the "A" Two Family Dwelling District.

LAND USE: Subject property and all surrounding properties are developed with single family residences.

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 to permit an open carport structure to extend to within 6-1/2 feet of the front property line. The required front yard setback is 25 feet, with the provision that an open, unenclosed porch or carport may encroach not more than eight feet into that setback. This

would permit subject structure to be no closer than 17 feet to the front property line as opposed to the 6-1/2 feet clearance presently maintained by the carport.

The applicant is reportedly a 71 year old widow who is troubled with arthritis. Many years ago the attached garage of her home was converted into a room, necessitating that her car be left unprotected from the various elements of the weather. The applicant's daughter who is now living with her mother states that she (the daughter) was continually chopping ice or shoveling snow last winter to keep someone from falling; and she also covered her mother's car regularly so that snow and ice would not accumulate on it. The daughter is planning on moving from her mother's home in the very near future, so without the applicant's knowledge, while she was gone on a trip, the daughter and son-in-law erected a carport attached to the front of the house so that the applicant's car and driveway would not be covered with ice and snow during the winter. They are also in the process of constructing an awning over the porch and front steps for the applicant's convenience and protection.

A permit was not issued for the construction of the carport and the violation of the setback was brought to the applicant's attention by notice from a representative of the Office of Central Inspection. Unless a variance is granted, the applicant will be required to remove that part of the structure closer than 17 feet to the front property line.

There is not sufficient room for vehicular access to the side yards and although access to the rear yard could be obtained from an alley, the alley is unpaved and would not provide adequate year round access, especially for an elderly person.

Adjacent homes to the north and south both have open unenclosed porches that probably extend 5 to 10 feet in front of the front face of the applicant's home, but are still 10 to 15 feet behind the front edge of the applicant's carport. This is an older neighborhood in the city with many well-maintained homes and others that are in a deteriorating condition.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify in an after-the-fact case such as this. If uniqueness can be found, it may be due to the fact that this elderly applicant has no other practical means of protecting her car and walking path during bad weather; also the carport was apparently built without

the applicant's knowledge.

ADJACENT PROPERTY:

It is the opinion of the Secretary that it is difficult to determine that the granting of the variance requested would not adversely affect the rights of adjacent property owners or residents. The structure extends much further into the front yard than any other structure along this block, however, it is open and does not obstruct vision.

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 she does need protection for herself and her car from the weather, with no other practical way to provide it on this site.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the public interest inasmuch as the structure is open and unenclosed while still maintaining a 6-1/2 foot setback from the property line.

SPIRIT AND INTENT:

It is the opinion of the Secretary that it is difficult to determine that the granting of this variance would not be opposed to the general spirit and intent of the zoning ordinance. The previous conversion of the garage, age of the applicant and limitations of this given site may be considered in favor of justifying this condition if the four previous conditions have been determined to exist.

RECOMMENDATION:

If the Board should determine that the five conditions necessary to the granting of a variance exist, the following conditions are suggested as possible conditions of approval;

1. The variance shall be approved for an open, unenclosed carport only, and for only that portion of the front yard presently occupied by the existing carport.

NOTE: If the age and physical condition of this applicant are determining factors in approving a variance, the Board may want to include a condition that would limit the variance for this applicant only, to be void upon the applicant no longer residing on subject property.

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

November 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 52-78

An application has been filed by Ellen King, 2026 S. Waco, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to permit reduction of the required front yard setback from 25 feet to 6½ feet on property zoned the "A" Two Family Dwelling District and legally described as follows:

Lots 61 and 63, Waco Ave., English's 9th Addition, Wichita, Kansas. Generally located on the east side of Waco in an area between Mt. Vernon and Clark (2026 S. Waco).

This application has been assigned case No. BZA 52-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 19, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BZA CASE NO. 52-78

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

~~26~~ NOTICES SENT TO ADJOINING PROPERTY OWNERS

42 TOTAL NOTICES SENT 11-27-78

BOARD OF ZONING APPEALS

CASE NO. 52-78

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant ELLEN KING
 Mailing Address 2026 S. Waco Phone 264-2956
 Name of Authorized Agent Fritz J. Boisen
 Mailing Address 2026 S. Waco Phone 264-2956

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

II. The variance requested is OPEN CARPORT

Variance to
6 1/2'

EXTENDING FROM GARAGE WHICH IS
CONVERTED INTO A ROOM. THE CARPORT IS 11 FT. LONG
AND LEAVES 6 FT. 2 EE-WAY.

for property located at 2026 S. Waco

and legally described as: LOTS 61-63 WACO AVE.
ENGLISH 9TH

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. 24-606); and that the appropriate fee is herewith tendered;
 - c. That he has been advised of his right to bring action in the Sedgwick County to appeal the decision of



Plans are attached hereto as noted in paragraphs of the instructions.

Ellen King
Applicant
Fritz J. Boisen
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:55 (a.m.) - p.m.), 1/20 1978 together with appropriate fee of \$50.00.

5445 E. side of Waco
T9-402 in area between
Mt Vernon & Clark

Larry Johnson
Signed

Nov 20, 1948

Dear Sir,

My mother, whom I live with at 2026 S. who is a widow, seventy one years of age. She has arthritis, and shoveling snow makes it much worse. The contractor who roofed the house did not fix the corners of the house properly so the water was running on the porch and freezing, also on the driveway, so we had to chop and beat ice all of last winter, to keep some one from falling. We had to cover her car every day so snow would not accumulate on it. I do not intend to live with my mother past Feb., so my brother-in-law, and I erected a carport while my mother was on a fishing trip. It is 17 ft. long and leaves 6 ft. of lee-way. It is built out to the front of the garage, which was converted into a room many years ago. There is not room enough on either side of the house to build a carport. We are also putting up an awning for her, so ice and snow will not accumulate on the porch. The carport is open on both sides and does not block any ones vision. There are many other such

structures all over town
with the same amount of
see-saw, and I see no
reason for us to tear her
down.

My mother's house and
yard are very well kept,
while some of the houses
on the same block are a
disgrace. The house directly
across the street has an
old car port with strips of
wood hanging down from
it. In our block about
5 houses need painted or
repaired very badly. I
think some thing should
be done about them, instead
of some one complaining
about some thing that
improves a house. Our
country is no longer free
when a person can not build
any thing on their own
property, especially older
people, when it benefits
them.

Sincerely
Britzie Boisen

I also think it's wrong for
an old person on a fixed
income, having to pay \$75.00
to go through all of this,
plus the stress she has
gone through.

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, of:

Lots 61 and 63, English's Ninth Addition
to Wichita, Sedgwick County, Kansas

together with all real estate lying within a 200 foot radius thereof.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>ENGLISH'S NINTH ADDITION</u> <u>TO WICHITA, KANSAS</u> <u>ON WACO AVENUE</u>	
Lots 45 and 47	✓ Vance Lee Harrington Brenda Lynn Harrington 2006 S. Waco Avenue Wichita, Kansas 67213
Lots 46, 48, 50 & 52	✓ Carl A. Ryan Charlene A. Ryan 2005 S. Waco Avenue Wichita, Kansas 67213
Lots 49 and 51	✓ Lon A. Paulk Clara Paulk 2012 S. Waco Avenue Wichita, Kansas 68213
Lots 53 and 55	✓ Ralph H. Meister Franklin M. Meister 2016 S. Waco Avenue Wichita, Kansas 67213
Lots 54 and 56	✓ Donald Lee Dukes 2017 S. Waco Avenue Wichita, Kansas 67213
Lots 57 and 59	✓ Kenneth Wayne Clark Mary L. Clark 11201 E. Waterman St. 2022 S. Waco Wichita, Kansas 67207 13
Lots 58 and 60	✓ Marie Schamber Executor of the Estate of Fred V. Trowbridge, Deceased 2215 Laura Avenue Wichita, Kansas 67211
Lots 61 and 63	✓ Theo R. King Ellen King 2026 S. Waco Avenue Wichita, Kansas 67217
Lots 62 and 64	✓ Hugh E. Richards Helen B. Richards 411 Rutland Road Wichita, Kansas 67206
Lots 65 and 57	✓ Jim Robert Amos Susan Joy Amos 2032 S. Waco Avenue Wichita, Kansas 67213
Lots 66 and 68	✓ Glenn E. Holmes Carolyn A. Holmes 320 Seville Avenue Wichita, Kansas 67209

DESCRIPTION	OWNERS AND ADDRESSES
<u>ENGLISH'S NINTH ADDITION</u>	
<u>TO WICHITA, KANSAS</u>	
<u>ON WACO AVENUE</u>	

Lots 66 and 68, cont'd	Kenneth R. Holmes Bonnie Jo Holmes 2246 Columbine Lane Wichita, Kansas 67204
Lots 69 and 71	Truman P. Mueller LeHurl Mueller 2040 S. Waco Avenue Wichita, Kansas 67213
Lots 70 and 72	Charles W. Orindgrett 2039 S. Waco Avenue Wichita, Kansas 67213
Lots 73 and 75	Mary Myrtle Lord No address found <i>deceased</i> <i>J.G. & Dora Wiley 2042 S. Waco 13</i>
Lots 74 and 76	John B. Shepherd Gladys B. Shepherd 1133 W. 29th St. So. Wichita, Kansas 67204
Lots 77 and 79	Leola Marie Livingston 2044 S. Waco Avenue Wichita, Kansas 67213
Lots 78 and 80	Benjamin L. Breese Moris L. Breese 2047 S. Waco Avenue Wichita, Kansas 67213
<u>ON WICHITA STREET</u>	
Lots 42,44, 46, and 48	Larry P. Watson c/o Mid Kansas Federal Savings and Loan Association 230 S. Market Wichita, Kansas 67202
Lots 50 and 52	Earl Lee Baker Japet E. Baker 2013 S. Wichita Street Wichita, Kansas 67213
Lots 54 and 56	Robert M. Wagner Floria M. Wagner 7600 Laura Avenue Wichita, Kansas 67233
	Wanda E. Lamm Kendall E. Lamm 2017 S. Wichita Street Wichita, Kansas 67213
Lots 58 and 60	David P. Ulrich Terry A. Ulrich 1141 S. Emporia Wichita, Kansas 67214
Lots 62 and 64	Lunion E. Doshier 6921 Maple Street Wichita, Kansas 67209
Lots 66 and 68	Mabel E. Brasier No address found <i>Brasier 2031 S. Wichita 13</i>

DESCRIPTION
ON WICHITA STREET

OWNERS AND ADDRESSES

Lots 70 and 72

Mildred C. Beckham
2033 S. Wichita Street
Wichita, Kansas 67213

Lots 74 and 76

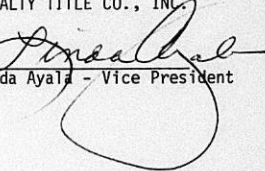
Clarence W. Simpson
2041 S. Wichita Street
Wichita, Kansas 67213

Lots 78 and 80

Wilbur W. Johnson
Beth C. Johnson
1112 S. Dodge
Wichita, Kansas 67213

Dated at Wichita, Kansas
this 9th day of November, 1978

REALTY TITLE CO., INC.

By 
Linda Ayala - Vice President

E91178



FORM 223-

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Signs	Cement	M.S.P.

DESCRIPTION	AMOUNT
Wichita BZA	\$ 50 ⁰⁰
Vananna Appl.	
NAME Ellen King	
ADDRESS 2026 S. Waco	
FUND 110-00-00-4007	DATE -003-000-000
COMMENTS	
DATE 11/20/73	BY ED