

ACTION

BZA 53-88 Approved 11-22-88
DATE

6145A

2nd Sec 11-30-88

Checked LC

Shot 1-10-89

Record ✓

BZA 53-88 - SMITH & COMPANY request a variance to reduce the side yard setback from 6 to 4 ft. on prop. zoned the "AA" One-Family Dwelling District on SW corner of Countryside & Smithway (10715 p.

DATA SHEET

MAP NO.: 6145A

CASE NO. BZA 53-88

(CPO 2B, 11-21-88)

REQUEST: Variance to reduce the side yard setback from 6 ft. to 4 ft.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: Southwest corner of Countryside and Smithmoor (10715 E. Countryside).

APPLICANT: Smith & Company
ADDRESS: P. O. Box 780595
Wichita, KS 67278

PHONE: 685-1401

AGENT: R. L. Smith
ADDRESS: Same as above

PHONE: Same as above

AREA DATA

Acres: ft. by ft.

Adjacent Zoning and Land Use:

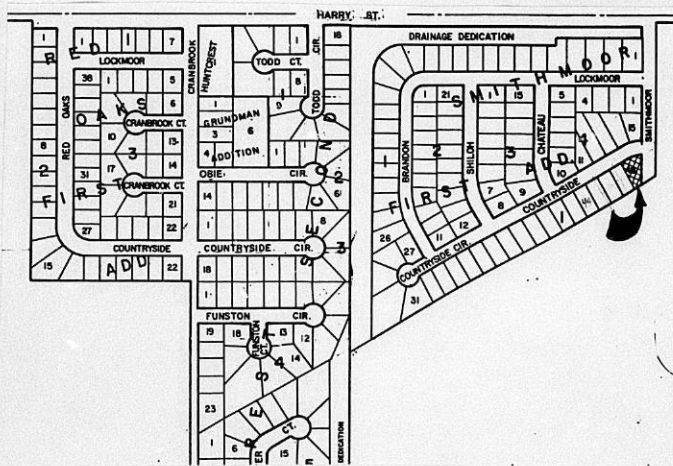
North "AA"

South "AA"

East "AA"*

West "AA"

*Approved for "R-6"



LOS ANGELES: CHICAGO: LOGAN, OH
HOUSTON: TAMPA: MIAMI: MOBILE, GA
U.S.A.

Smithland
No. 2-153C

BZA INSPECTION SHEET

MAP NO.: 6145A

CASE NO. BZA 53-88

REQUEST: Variance to reduce the ^{west} side yard setback from 6 feet to 4 feet.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: Southwest corner of Countryside and Smithmoor (10715 E. Countryside).

APPLICANT: Smith & Company
ADDRESS: P. O. Box 780595
Wichita, KS 67278

PHONE: 685-1401

AGENT: R. L. Smith
ADDRESS: Same as above

PHONE: Same as above

HEARING DATE: 11/22/88

BZA ACTION: *Approved.*

FOLLOW-UP DATES: *None*

RESPONSE BY MAPD:

RESPONSE BY CID:

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 266-4561

November 23, 1988

R. L. Smith
Smith & Co.
Box 780595
Wichita, KS 67278

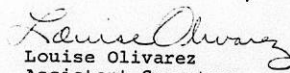
Re: BZA 53-88 - Variance to reduce the side yard setback from 6 feet to 4 feet (10715 E. Countryside).

Dear Mr. Smith:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on November 22, 1988. This resolution reflects the official action of the Board to grant your request. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,


Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

FILE COPY

BZA RESOLUTION NO. 53-88

WHEREAS, Ron Smith, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard (west side) from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 48, Block 1, Smithmoor 1st Addition, except the westerly 1 foot thereof. Generally located at the southwest corner of Countryside and Smithmoor (10715 E. Countryside).

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 November 22, 1988, 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 lot is irregular in shape and its buildable area is limited by several easements and a 15-foot platted side yard setback line on the east; 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 this is a corner lot and the only property owner likely to be affected is the owner to the west. The applicant has been requested to furnish a letter of agreement from that owner; 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 house had already been completely framed, roofed, wired, plumbed and sided before the encroachment was discovered, and removal of the encroachment would be extremely expensive; 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 there is no side yard utility easement to be affected by a reduction of the building setback; 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 there is adequate distance between roof overhangs. Although limited, there will still be sufficient room for light and air, especially since the 50-foot easement in the rear yard cannot be developed; and

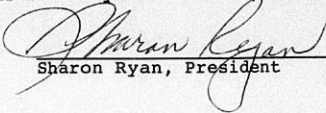
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the side yard (west side) from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

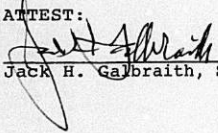
Resolution No. BZA 53-88
Page 2

Lot 48, Block 1, Smithmoor 1st Addition, except
the westerly 1 foot thereof. Generally located
at the southwest corner of Countryside and
Smithmoor (10715 E. Countryside).

ADOPTED AT WICHITA, KANSAS, this 22nd day of November, 1988.


Sharon Ryan, President

ATTEST:


Jack H. Galbraith, Secretary

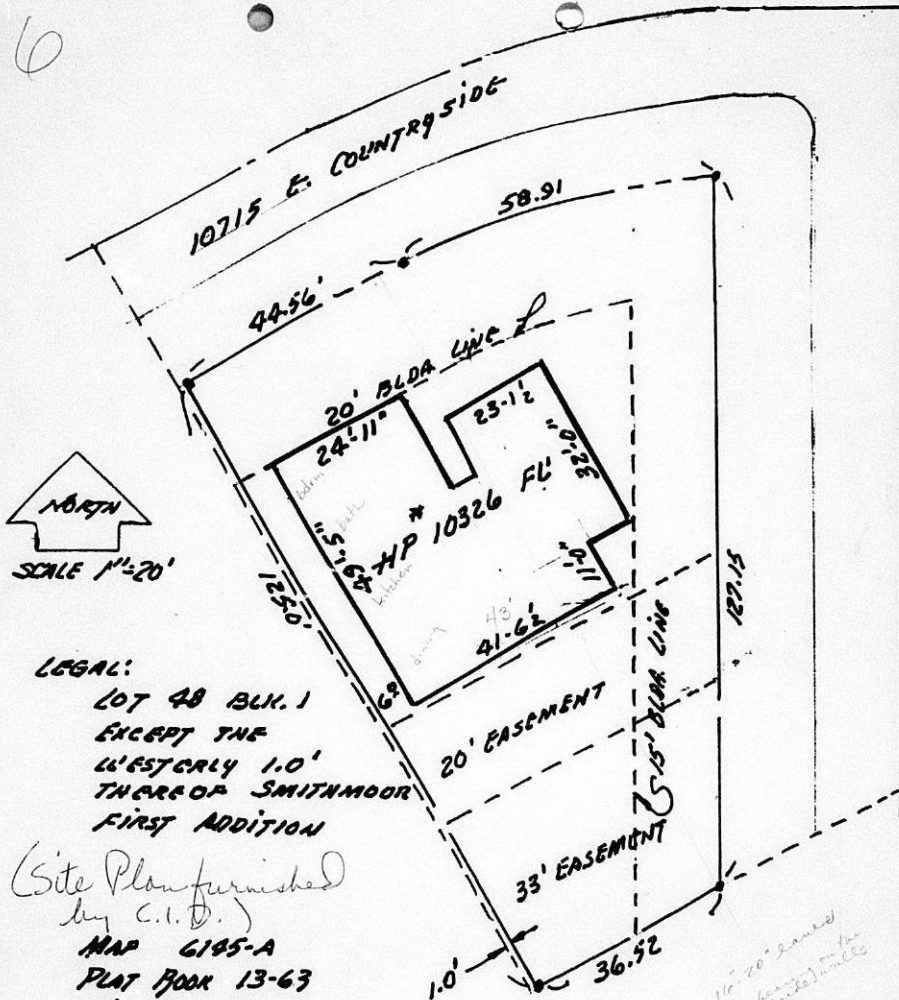
PETITION IN SUPPORT OF
ZONING VARIANCE OF 10715 EAST COUNTRYSIDE

WE, THE UNDERSIGNED, do hereby acknowledge that we are aware of the two foot encroachment of the side yard setback of 10715 East Countryside. We find that condition acceptable and do further request that the members of the Board of Zoning appeals do grant a variance for this condition.

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE</u>
Mr & Mrs John & Barbara	10710 Countryside	Nov 03, 1988
Mr & Mrs Tony & Cyra	10714 E. Countryside	11-3-88
Mr & Mrs Randy & Leah	10702 E. Countryside	Nov 3- 88
Dennis Abdallah	1702 Chateau	11-3-88
Russell & Goni	10706 E. Countryside	11-3-88
Karen Fitzpatrick	10715 E. Lockwood	11-3-88
Mr & Mrs Mark & Barbara	10627 E Countryside	11-3-88
Janis & Rowley	10703 E. Countryside	11-5-88
Tom Hunt	10711 Countryside	11-5-88
Mr & Mrs Jim & Murray	10707 E. Countryside	11-6-88

D 99524

6



NORTH
SCALE 1"=20'

LEGAL:

LOT 48 BLK. 1
EXCEPT THE
WESTERLY 1.0'
THERE OF SMITHMOOR
FIRST ADDITION

(Site Plan furnished
by C.I.D.)

MAP 6195-A
PLAT BOOK 13-63
ZIP CODE 67207
CONT. LIC. NO. C00536

[Handwritten signature]

PLOT PLAN

Approx 12,500 sq ft

BZA 53-88

*10' 20" easement
from
front
yard
setback*

THE CITY OF WICHITA

TO: Louise Olivarez, Principal Planner

DATE: November 22, 1988

FROM: Barry L. Carroll, Administrative Aide III ^{BLC}

SUBJECT: BZA 53-88: SE Corner of
Countryside & Smithmoor (10715 E.
Countryside)

On Monday, November 21 1988 , CPO East Side Neighborhood Council 2B considered the captioned case, a request for a variance to reduce the west side yard setback from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District. Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments. After a brief discussion, the CPO Council voted 7-0 to recommend approval of the request, subject to MAPD staff's comments.

Ron Smith, applicant, was present to explain the specifics of the request and respond to questions. Mr. Smith opened the discussion and stated that he had made a mistake in the layout of the house in question. Mr. Smith displayed a site plan for members to review that indicated where the errors were made. Additionally, Mr. Smith presented the members with a copy of a petition from adjoining neighbors signatures stating that they were supportive of the request.

Please forward the Council's recommendation to the Board of Zoning Appeals when BZA 53-88 is considered.

BLC:blc
22-Nov-1988 08:49

**BOARD OF ZONING APPEALS
WICHITA, KANSAS**

AGENDA ITEM NO. 5

November 22, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 53-88

OWNER/APPLICANT/AGENT: Ron Smith (owner/applicant)

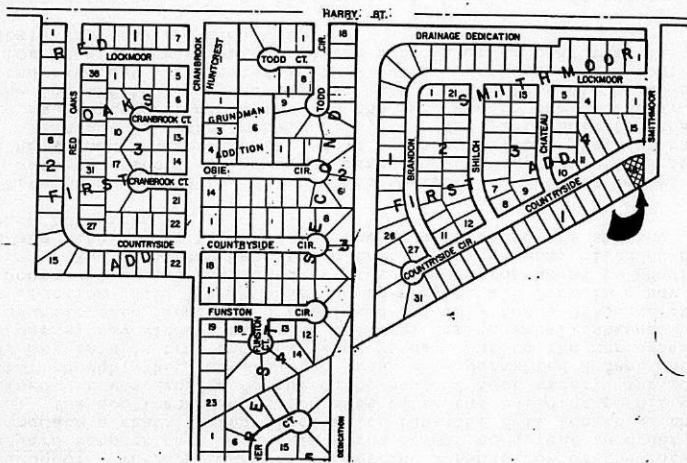
REQUEST: Variance to reduce the side yard (west side) from 6 feet to 4 feet.

CURRENT ZONING: "AA" One-family dwelling district

SITE SIZE: 12,500 sq. ft.

LOCATION: Southwest corner of Countryside and Smithmoor (10715 E. Countryside).

PROPOSED USE: Single-family structure



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.

BACKGROUND: The applicant is requesting a reduction of the interior side yard setback on a corner lot from 6 feet to 4 feet in order to accommodate a cantilevered floor which runs the full length of the house. The applicant has stated that after the building permit was obtained, it was decided to build the house 2 feet wider. The contractor thought that cantilevered areas were permitted 2 feet into the yard, but this is true only of front yards. Due to the narrowness of side yards, bay windows and architectural design embellishments only, not cantilevered floors, are permitted and only for a distance of 1 foot (Section 28.04.188.2). Eaves may project 2.5 feet into any yard. The house was framed and sided prior to the encroachment being discovered. The applicant has stated that a dining room, kitchen, bedroom and bath are on this side of the structure and are already plumbed and wired.

The site plan showing the structure's position on the lot indicates 10 feet between structures; however, measurements indicate only 9 feet. Each house has an approximate 2-foot overhang and the distance between roof overhangs is approximately 5.5 feet. The plat indicates that there is limited buildable area on the lot, due to the irregular shape of the lot and the large easements. The north 3 feet of the 20-foot platted easement was vacated in 1987. Also, the westerly 1 foot of the lot is with the ownership to the west in order that that lot might maintain its required side yard.

Staff is concerned with the narrowness of the side yards between structures; however, the approximate 5.5 feet between roof overhangs presents no apparent fire safety problems.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwelling
SOUTH	"AA"	Undeveloped
EAST	"AA"*	Undeveloped
WEST	"AA"	One-family dwelling

*Approved for "R-6" zoning

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the lot is irregular in shape and its buildable area is limited by several easements and a 15-foot platted side yard setback line on the east.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested may not adversely affect the rights of adjacent property owners inasmuch as this is a corner lot and the only property owner likely to be affected is the owner to the west. The applicant has been requested to furnish a letter of agreement from that owner.

BZA 53-88

Page 3

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the house had already been completely framed, roofed, wired, plumbed and sided before the encroachment was discovered and removal of the encroachment would be extremely expensive.

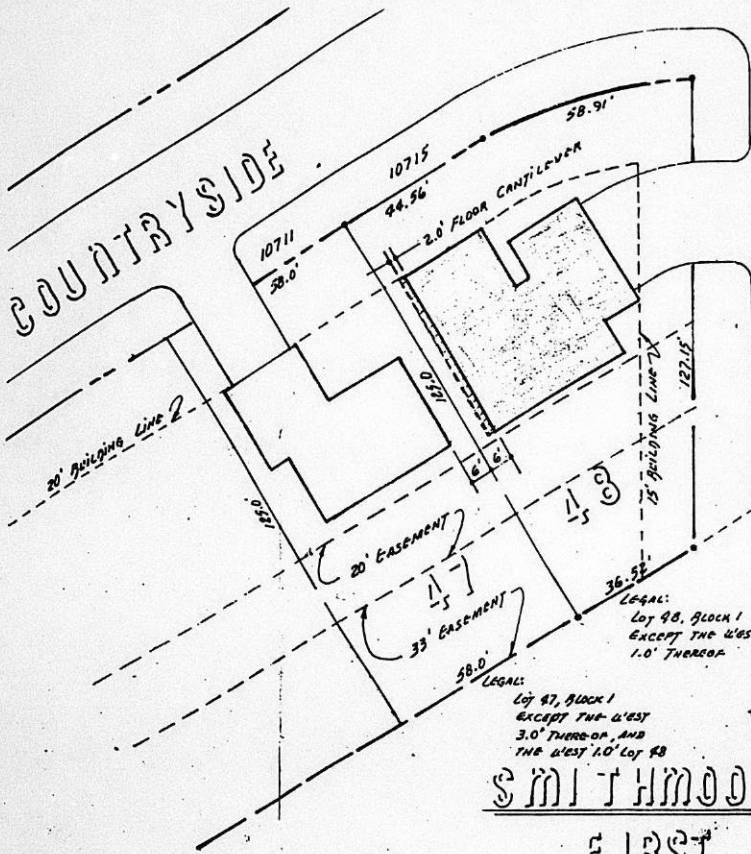
PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as there is no side yard utility easement to be affected by a reduction of the building setback.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as there is adequate distance between roof overhangs. Although limited, there will still be sufficient room for light and air, especially since the 50-foot easement in the rear yard cannot be developed.

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.

COUNTRYSIDE

SMITHMOOR



LEGAL:
 Lot 48, Block 1
 EXCEPT THE WEST
 1.0' THEREOF



LEGAL:
 Lot 47, Block 1
 EXCEPT THE WEST
 3.0' THEREOF, AND
 THE WEST 1.0' Lot 48

BZA 53-88

SMITHMOOR
FIRST

BZA CASE NO. 53-88

- 15 LEGAL ADVERTISEMENTS SENT TO MAPC & BZA
- 1 NOTICES SENT TO APPLICANT/AGENT
- 9 NOTICES SENT TO ADJOINING PROPERTY OWNERS
- 5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 10/28/88

- 1 NOTICE SENT TO CPO
- 2 NOTICES SENT TO CITY MANAGER & CITY COUNCIL REPRESENTATIVE TO DISTRICT
- 5 NOTICES TO MAPD STAFF -

Jack Galbraith
Louise Olivarez
Bob Young
Forrest Nagley
Karen Crook

Official Notice
Page 2

3. Case No. BZA 53-88 - Smith & Company, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the side yard setback from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 48, Block 1, Smithmoor 1st Addition,
except the westerly 1 foot thereof.

Generally located at the southwest corner of
Countryside and Smithmoor (10715 E.
Countryside).

As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions and the variances will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 28th day of October, 1988.

Jack Galbraith, Secretary
Board of Zoning Appeals

(_____) Published in The Daily Reporter, 10/28/88

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 22nd day of November, 1988, the Board of Zoning Appeals of the City of Wichita, Kansas, meeting in the Board Room, First Floor, City Hall, 455 N. Main, Wichita, Kansas, will consider the following applications beginning at 1:30 p.m.

1. Case No. BZA 51-88 - Cornerstone Church of God, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 20 feet to 8 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lots 1 and 2, Block A, Replat of Sowers Gardens, Sedgwick County, Kansas. Generally located at the southeast corner of Glenn and Crawford (2706 S. Glenn).

2. Case No. BZA 52-88 - Security Storage Properties, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the expansion of self-service storage facilities on property zoned or approved for the "BB" Office and "LC" Light Commercial Districts and legally described as follows:

Lot 1, Security Storage Properties 2nd Addition, Wichita, Kansas, except the south 15 ft. of the west 250 ft. thereof; AND beginning at a point on the west line of Lot 7 in the SW 1/4 of Section 32, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, and 268.77 ft. south of the northwest corner of said Lot 7; south along the west line of said Lot 7 a distance of 76.08 ft.; thence east parallel with the north line of said Lot 7 a distance of 601.79 ft. more or less to the west line of the Midland Valley Railroad right-of-way; thence in a northwesterly direction along west line of said right-of-way to a point 268.77 ft. south of the north line of said Lot 7; thence west 597.23 ft. more or less to the point of beginning, except the west 300 ft. thereof; being platted as Lot 1, Security Storage Properties 3rd Addition. Generally located on the east side of Seneca in an area between Jewell and May.

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

October 31, 1988

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 53-88

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 Smith & Company, requesting a variance.

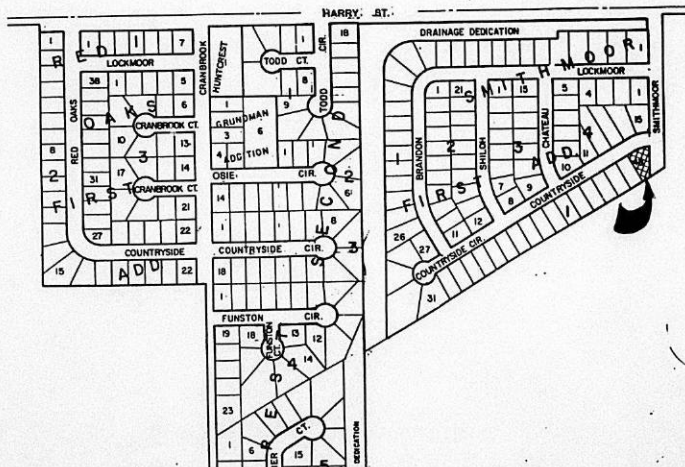
Pursuant to Section 2.12.590.B, Code of the City of Wichita, the applicant is requesting a variance to reduce the west side yard setback from 6 feet to 4 feet on property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

Lot 48, Block 1, Smithmoor 1st Addition,
except the westerly 1 foot thereof.
Generally located at the southwest corner of
Countryside and Smithmoor (10715 E.
Countryside).

This application has been assigned Case No. BZA 53-88. It will be considered by the Board of Zoning Appeals on Tuesday, November 22, 1988, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main, Wichita, Kansas. If you have no interest in or objections to 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.

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

NOTE: We have been advised by the Citizen Participation Organization staff that CPO East Side Neighborhood Council "2B" will consider this case at their meeting to be held on Monday, November 21, 1988, at 7:00 p.m. at the Capitol Federal Savings and Loan Building, 8040 East Douglas. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



APPLICATION FOR VARIANCE

I. Applicant Smith & Company, Inc
 Address P.O. Box 280595 Zip Code 67218 Phone 685/401
 Agent R.W. Smith
 Address same Zip Code _____ Phone _____
 Relationship of applicant to property is that of Owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is a reduction of the side yard set back
6 ft to 4 ft
 on property zoned AA which is
 _____ ft by _____ ft (or _____ acres) in size, legally described as:
Lot 48, BIC, Smith Manor 1st Addn.
except the west 1/4, 1 foot thereof
at the southeast corner of Countryside and Smithman
 and located A (10715 E. Countryside)
 in the City of Wichita.

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- 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. 39-285); and that the appropriate fee is herewith tendered;
- 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.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

ck. V-1143

Applicant Smith & Company, Inc
 Authorized Agent R.W. Smith

OFFICE USE ONLY:
 Map No. 6145A Zoning: (N) AA (S) AA (E) AA (W) AA CPO 2B 11-21
 Received in Office of Secretary, Board of Zoning Appeals, 3 (a.m./p.m.),
10-20, 1988, together with appropriate fee of _____.

Signed Terence Olmstead, P. Planner

Ownership list to come
Site plan to come

OWNERSHIP LIST

Property Description			Property Owner
Lot 44	Block 1	Smithmoor First Addition	Mark S. Barker Cristie D. Barker 10627 E. Countryside Wichita, KS 67207
Lot 45 except the East 2 feet	Block 1	"	Donna L. Rowley 10703 E. Countryside Wichita, KS 67207
The East 2 feet of Lot 45, all of Lot 46 and the West 3 feet of Lot 47	Block 1	"	Jimmy R. Murray Christel Murray 10707 E. Countryside Wichita, KS 67207
Lot 47, except the West 3 feet	Block 1	(10711 E. Countryside)	Smith and Company Inc. P.O. Box 780595 Wichita, KS 67278
<i>Verified by Norma at Security Abstract 10-23-88</i> → Lot 48	Blk 1	"	David O. Fitzpatrick Karen S. Fitzpatrick 10715 E. Lockmoor Wichita, KS 67207
Lot 1	Block 4	"	Smith and Company, Inc. P.O. Box 780595 Wichita, KS 67278
Lot 2	Block 4	"	Khalil Abdallah Gail Denise Abdallah 1702 S. Chateau Wichita, KS 67207
Lot 10	Block 4	"	Smith and Company, Inc. P.O. Box 780595 Wichita, KS 67278
Lot 11	Block 4	"	Randy L. Isham Mary J. Isham 10702 Countryside Wichita, KS 67207
Lot 12	Block 4	"	Russell E. Gowin Connie J. Gowin 10706 Countryside Wichita, KS 67207
Lot 13	Block 4	"	John R. Harford Marcia L. Harford 10710 Countryside Wichita, KS 67207
Lot 14	Block 4	"	Tony R. Ozbun Shirley A. Ozbun 10714 Countryside Wichita, KS 67207
Lot 15	Block 4	"	

<u>Property Description</u>	<u>Property Owner</u>
The NE $\frac{1}{4}$ of Section 33, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except that part platted as Smithmoor First Addition, and except the North 40 feet and the East 50 feet.	<i>dup</i> Smith and Company, Inc. P.O. Box 780595 Wichita, KS 67278

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

Lot 48, Block 1, Smithmoor First Addition, 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 21st day of October, 1988, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND-TITLE COMPANY, INC.

Mary Noble

By

Sr. Vice-President

10-28-88 Norma at Security Abstract also verified that there is one mortgage on "lot 47 except the west 3 feet and including the west 1 foot of lot 48"; a separate mortgage on "lot 48 except the westerly 1 foot" (which is the actual application area).

Order No. 400701
nj

L.O.

Nº 00421

METROPOLITAN AREA PLANNING DEPARTMENT

Description BZA variance + 2 signs
Name Smith & Company
Address P.O. Box 780595
Fund No. (circle one) 755-40710-003 (fees) 755-40710-004
(books, xerox) 755-40710-026 (microfilm)
Amount \$206⁰⁰
Date 10-20 88 Due Date 10-20 88 By L.P.

Form 00-000

*

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

Roll # 3