

**BACKGROUND:** The applicant is requesting a variance of the side yard setback from 25 ft. to 12 ft. along a 31'-4" portion of the east property line for purposes of constructing a covered drive in conjunction with a new addition to the church. Churches and other institutional uses in the "AA" district are required to have a 25-foot yard on the side of their lot if it adjoins another building site. The existing church building sits more than 50 feet from the east property line and the new addition will be more than 40 feet from the east property line, except for the covered drive-thru. To the east of this property is another church which is about 30 feet from the common property line.

**ADJACENT ZONING AND LAND USE:**

NORTH	"AA"	Single-family and duplex
SOUTH	"AA"	Church
EAST	"AA"	Church
WEST	"AA" & "A"	Single-family dwellings

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as it adjoins another church to the east which is located more than 25 feet from the common property line, thus maintaining substantial separation between buildings, and the proposed covered drive is across the property line from the parking lot for the adjacent church.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as adequate separation will still exist for light, air and circulation between adjacent properties.

**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 a 25-foot side yard requirement would make it physically impossible to construct the much needed and much desired covered drive.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the proposed covered drive would barely be visible from the public streets and would not encroach any existing or needed utility easement.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the 25-foot side yard setback for institutional uses in the "AA" district was mainly established to protect single-family uses from having to be in very close proximity to much larger institutional uses, but in this case, the application area is adjacent to another church.

**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, subject to the following condition:

1. The reduction of the side yard setback along the east side of the application area shall be applicable for only a covered vehicular drive-thru area of approximately the size and at approximately the location shown on the site plan submitted with the application.

May 24, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 21-88

OWNER/APPLICANT/AGENT: East Heights United Methodist Church  
(owner/applicant)

Ron Harnden, attorney (agent)

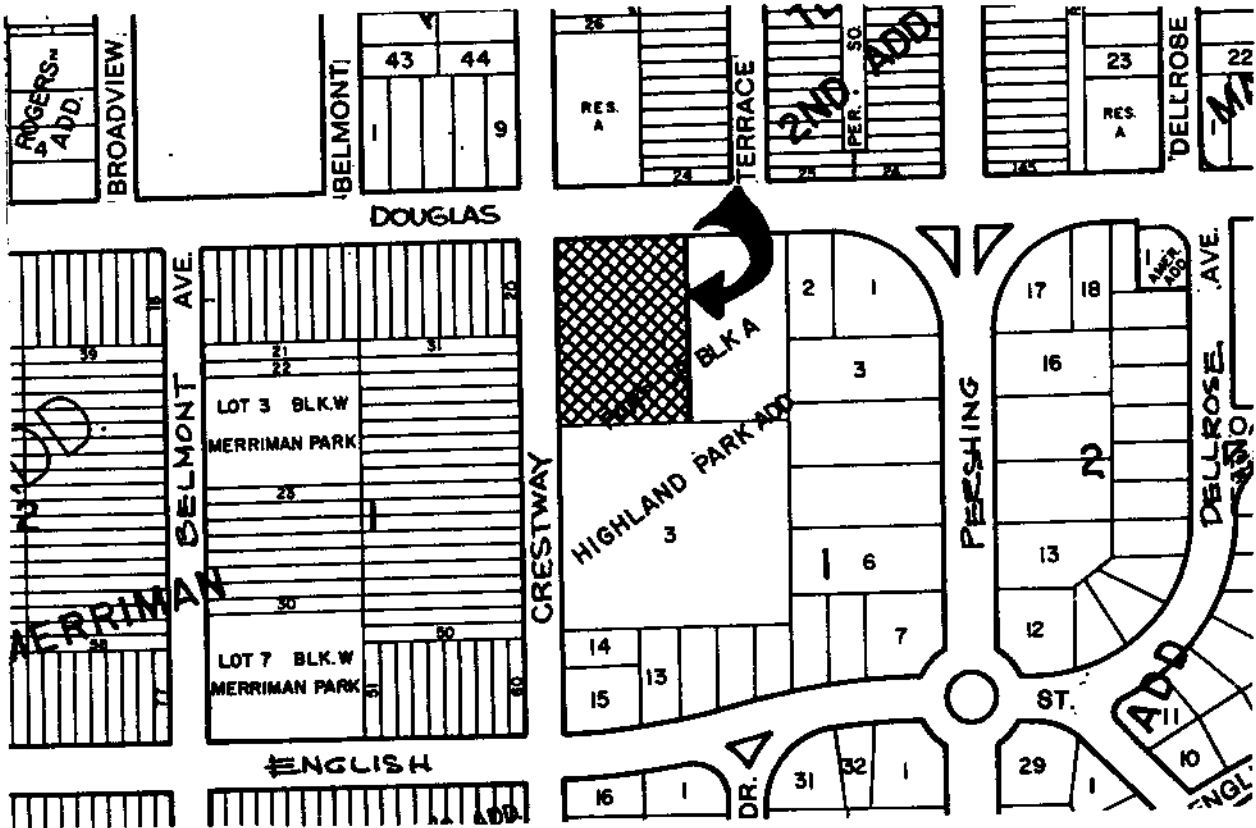
REQUEST: Variance to reduce the side yard setback (on the east) from 25 feet to 12 feet

CURRENT ZONING: "AA" One-family Dwelling District

SITE SIZE: 216 ft. x 307 ft.

LOCATION: Southeast corner of Douglas and Crestway

PROPOSED USE: Covered drive for the church



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.

# THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

May 25, 1988

Ron H. Harnden, Attorney  
Triplett, Woolf & Garretson  
151 N. Main, Suite 800  
Wichita, KS 67202-1409

Re: BZA 21-88 - Variance to reduce a portion of the required 25-ft. side yard setback along the least property line to 12 feet (4407 E. Douglas).

Dear Mr. Harnden:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 24, 1988. This Resolution reflects the official action of the Board to approve your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm  
Enclosure

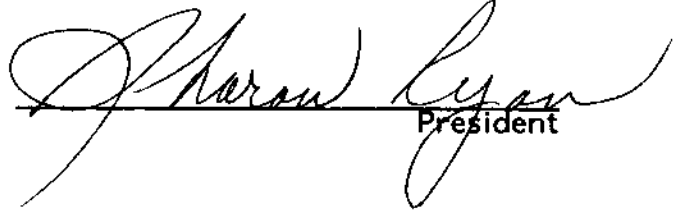
cc: East Heights United Methodist Church, 4407 E. Douglas, Wichita, KS  
67208  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

Lot 1, except the East 150 feet, Block A, Highland Park, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Douglas and Crestway (4407 E. Douglas).

subject to the following condition:

1. The reduction of the side yard setback along the east side of the application area shall be applicable for only a covered vehicular drive-thru area of approximately the size and at approximately the location shown on the site plan submitted with the application.

ADOPTED AT WICHITA, KANSAS, this 24th day of May, 1988.

  
President

ATTEST:

  
Louise Olivarez, Assistant Secretary

RESOLUTION NO. BZA 21-88

WHEREAS, East Heights United Methodist Church, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce a portion of the required 25-foot side yard setback along the east property line to 12 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 1, except the East 150 feet, Block A, Highland Park, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Douglas and Crestway (4407 E. Douglas).

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 May 24, 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 it adjoins another church to the east which is located more than 25 feet from the common property line, thus maintaining substantial separation between buildings, and the proposed covered drive is across the property line from the parking lot for the adjacent church; 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 adequate separation will still exist for light, air and circulation between adjacent properties; 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 a 25-foot side yard requirement would make it physically impossible to construct the much needed and much desired covered drive; 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 proposed covered drive would barely be visible from the public streets and would not encroach any existing or needed utility easement; 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 25-foot side yard setback for institutional uses in the "AA" district was mainly established to protect single-family uses from having to be in very close proximity to much larger institutional uses, but in this case, the application area is adjacent to another church; 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 a portion of the required 25-foot side yard setback along the east property line to 12 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows: