

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no utility easement or street right-of-way will be altered or encroached upon as a result of this variance.

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 intent with regard to side and rear yard setbacks is to maintain some separation between properties for purposes of fire protection, air, light and circulation, and this variance will not reduce the existing separation in any way.

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 garage shall not be converted to any dwelling purpose unless the setbacks for a principal structure can be complied with.

June 25, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 13-91

OWNER/APPLICANT/AGENT: Donald L. & Virginia A. Berryhill (owners)
Baughman Company (Brent Wooten) (agent)

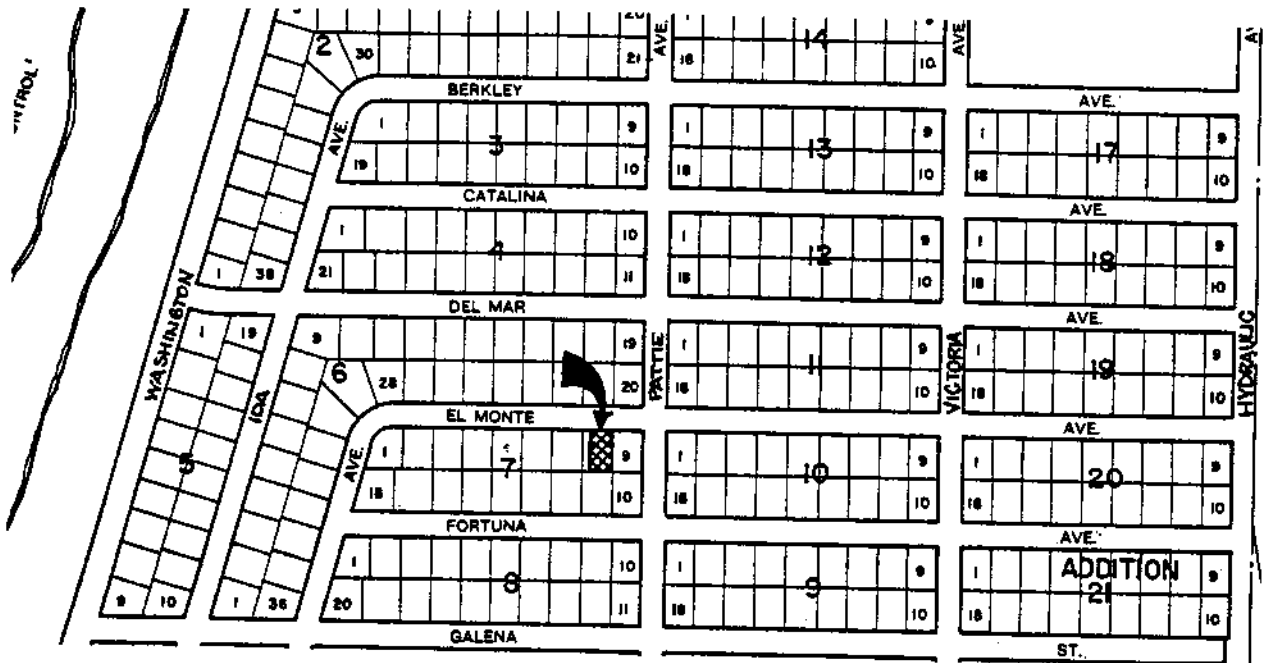
REQUEST: Variance to reduce the rear yard setback from 20 ft. to 8.1 ft. for the west 20 feet of the lot and reduce the west side yard setback from 6 ft. to 3 ft. for the south 33 ft. of the lot.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 59.2 ft. x 102 ft.

LOCATION: South side of El Monte in an area west of Pattie (west of Hydraulic, south of 31st St. S.)

PROPOSED USE: Attached house/garage



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 applicants are requesting a reduction in a portion of the rear and west side yards to accommodate a garage which was attached to the residence by the former owner without benefit of a building permit. When the garage was a detached accessory structure, it complied with the setback requirements, but as an attached garage it becomes a part of the main structure, which is required to observe a 20-foot rear yard and a 6-foot side yard. This variance request is for only the west 20 feet of the south 33 feet of the property, where the garage is located.

The Berryhills purchased the property late in 1990, aware of the setback violation, but required the sellers to place money in escrow to cover the costs involved in this variance application. The Berryhills want the problem taken care of before they try to sell the property at some future date.

The Board has reviewed a number of requests over the years for similar variances, usually in the older areas of town where garages were almost always detached. Since the connection between house and garage is usually near the center of the lot, the construction to join the two structures rarely ever affects adjacent properties or the general public. In this particular case, a 6-foot cedar screening fence exists along both sides and the rear of this lot. To assure that the garage will not be converted to a dwelling use in the future, the Board should establish a condition of approval prohibiting any future conversion.

ADJACENT ZONING AND LAND USE:

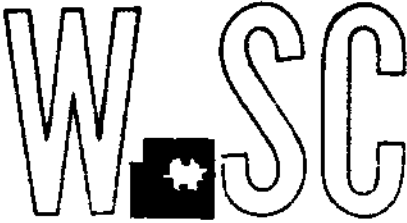
NORTH	"AA"	One-family dwelling
SOUTH	"AA"	One-family dwelling
EAST	"AA"	One-family dwelling
WEST	"AA"	One-family dwelling

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the garage which has existed for several years met the setback requirements for a detached accessory structure, but because it was later connected to the principal structure, it no longer complied with the setback requirements because the setbacks are greater for the principal structure on a residential lot.

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 the variance request area is confined to the existing garage location and therefore no additional setback encroachments will be authorized, and there exist adequate setbacks for the passage of light, air and pedestrian circulation.

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 property would continue to be in violation of the setback requirements, which may become a problem at the time of sale of the property.

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

July 1, 1991

Brent Wooten
Baughman Co.
315 Ellis
Wichita, KS 67211

Re: BZA 13-91 - Variance to reduce the rear yard setback from 20 feet to 8.1 feet for the west 20 feet of the lot and to reduce the west side yard setback from 6 feet to 3 feet for the south 33 feet of the lot, zoned "AA" One-Family Dwelling District and located on the south side of El Monte in an area west of Pattie Avenue (1251 El Monte).

Dear Brent:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on June 25, 1991. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

Sincerely,


Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Donald L. & Virginia A. Berryhill, 1251 El Monte, 67216
Paul Hays, OCI
Lance Flowers, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

The east 59.2 feet of Lot 8, Block 7, Rainbow First Addition to Wichita, Kansas. Generally located on the south side of El Monte in an area west of Pattie Avenue (1251 El Monte).

subject to the following condition:

1. The garage shall not be converted to any dwelling purpose unless the setbacks for a principal structure can be complied with.

ADOPTED AT WICHITA, KANSAS, this 25th day of June, 1991.



Keith A. Alter, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 13-91

WHEREAS, Donald & Virginia Berryhill, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the rear yard setback from 20 feet to 8.1 feet for the west 20 feet of the lot and to reduce the west side yard setback from 6 feet to 3 feet for the south 33 feet of the lot on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The east 59.2 feet of Lot 8, Block 7, Rainbow First Addition to Wichita, Kansas. Generally located on the south side of El Monte in an area west of Pattie Avenue (1251 El Monte).

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 June 25, 1991, 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 garage which has existed for several years met the setback requirements for a detached accessory structure, but because it was later connected to the principal structure (by the former owner without a building permit), it no longer complied with the setback requirements because the setbacks are greater for the principal structure on a residential lot; 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 variance request area is confined to the existing garage location and therefore no additional setback encroachments will be authorized, and there exist adequate setbacks for the passage of light, air and pedestrian circulation; 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 property would continue to be in violation of the setback requirements, which may become a problem at the time of sale of the property; 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 no utility easement or street right-of-way will be altered or encroached upon as a result of this variance; 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 intent with regard to side and rear yard setbacks is to maintain some separation between properties for purposes of fire protection, air, light and circulation, and this variance will not reduce the existing separation in any way; 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 rear yard setback from 20 feet to 8.1 feet for the west 20 feet of the lot and to reduce the west side yard setback from 6 feet to 3 feet for the south 33 feet of the lot on property zoned the "AA" One-Family Dwelling District and legally described as follows: