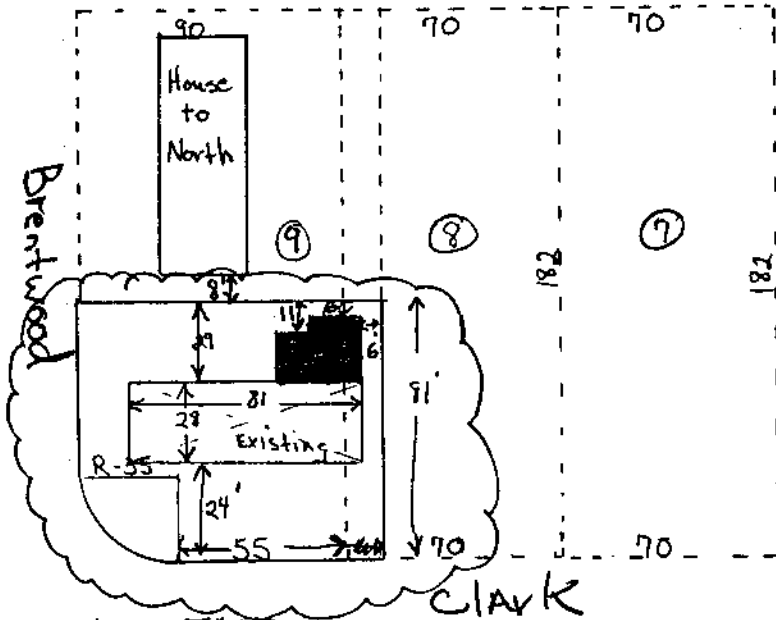


John Stark Residence
 2028 Brentwood
 Wichita, Ks

Legal

S-81' West 10' of Lot 8
 S-81' of Lot 9 Block B
 Mt. Vernon Hts. Addition

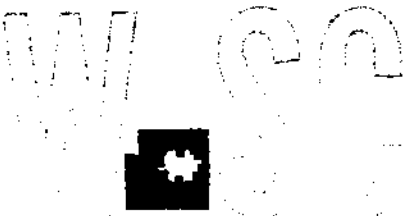


LEGEND

1. ← Area in Question
2. ← Proposed room addition

BZA 5-90

WICHITA SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

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

January 17, 1991


Mr. John Shark
2028 Brentwood
Wichita, KS 67218

Re: BZA 5-90 - Rear yard variance

Dear Mr. Shark:

I was recently cleaning out our 1990 BZA case files and discovered that a copy of the resolution granting your rear yard setback variance was never sent to you, even though the required lot split was approved on July 6, 1990. Enclosed is a signed copy of this resolution for your files. I apologize for the delay in getting it to you.

Sincerely,


Louise Olivarez
BZA Secretary

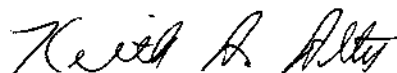
LO:jcm
Enclosure

cc: Mike Gehrer, Caro Construction, 1601 E. Harry, 67211
Paul Hays, OCI
Lance Flowers, OCI
Pat Burnett, Deputy City Clerk

subject to the following condition:

1. Within six months, and prior to release of the resolution authorizing this variance, the applicant shall file and complete an application for lot split approval so that this site becomes a legally-approved building site.

ADOPTED AT WICHITA, KANSAS, this 22nd day of May, 1990.



Keith A. Alter, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 5-90

WHEREAS, John Shark, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce a portion (east 40 feet) of the 20-foot rear yard setback to 6 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The south 81 feet of the west 10 feet of Lot 8 and the south 81 feet of Lot 9, Block B, Mt. Vernon Heights Addition, Sedgwick County, Kansas. Generally located at the northeast corner of Brentwood and Clark (south & east of Mt. Vernon & George Washington Blvd; 2028 Brentwood).

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 22, 1990, 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 as the depth of the property is less than the width and is only 81 feet; 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 proposed addition will be adjacent to the side yards of both abutting properties where only 6-foot setbacks are required; 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 any expansion of the house to the rear would be limited to only 9 feet; 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 existing or needed utility easements or street right-of-way would be encroached upon by this proposed addition; 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 will still be adequate separation between adjacent structures to provide for light, air, circulation and fire protection; 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 (east 40 feet) of the 20-foot rear yard setback to 6 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The south 81 feet of the west 10 feet of Lot 8 and the south 81 feet of Lot 9, Block B, Mt. Vernon Heights Addition, Sedgwick County, Kansas. Generally located at the northeast corner of Brentwood and Clark (south & east of Mt. Vernon & George Washington Blvd; 2028 Brentwood).

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no existing or needed utility easements or street right-of-way would be encroached upon by this proposed addition.

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 there will still be adequate separation between adjacent structures to provide for light, air, circulation and fire protection.

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. Within six months, and prior to release of the resolution authorizing this variance, the applicant shall file and complete an application for lot split approval so that this site becomes a legally-approved building site.

SECRETARY'S REPORT

CASE NUMBER: BZA 5-90

OWNER/APPLICANT/AGENT: John Shark (owner/applicant)
Caro Construction Co., Inc. (agent)

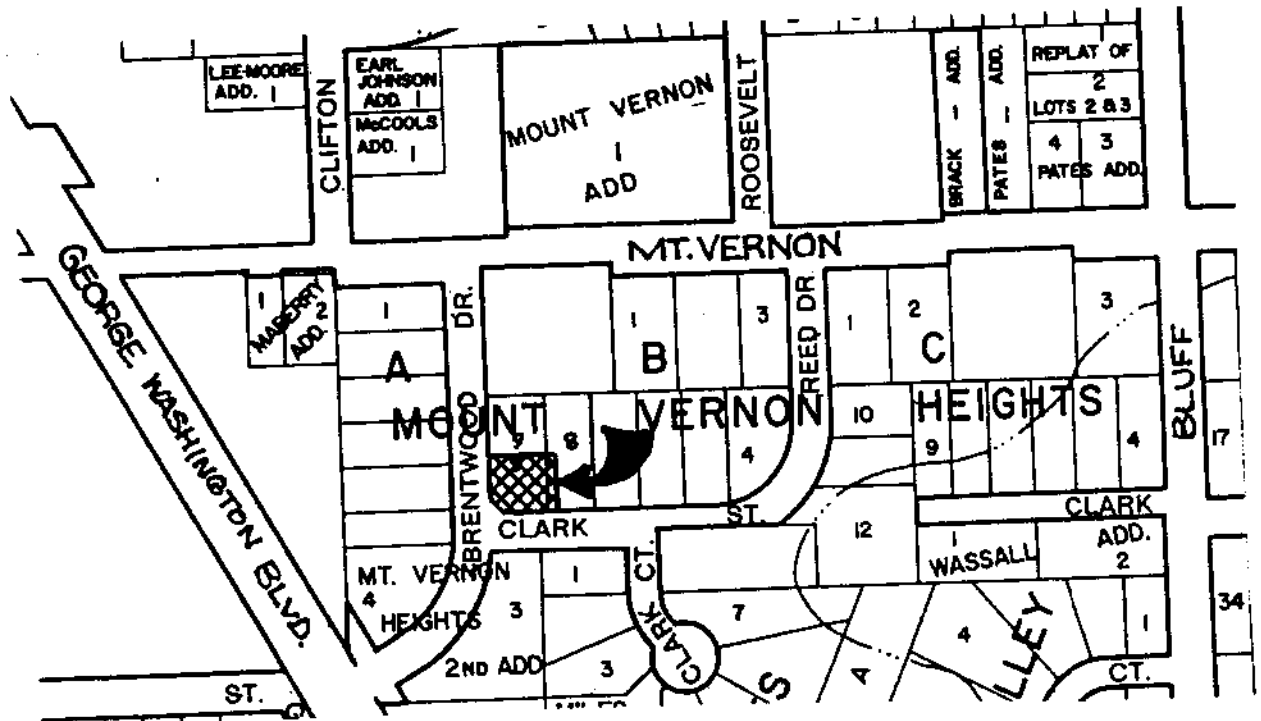
REQUEST: Variance to reduce a portion (east 40 ft.) of
the 20-foot rear yard setback to 6 feet.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 100 ft. x 81 ft.

LOCATION: Northeast corner of Brentwood & Clark (south
and east of Mt. Vernon and George Washington
Boulevard).

PROPOSED USE: A 23-ft. x 31-ft. proposed room addition



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 owns approximately the south half of a corner lot plus 10 feet of the lot to the east for a total property width of 100 feet, but a depth of only 81 feet. A 28-foot by 81-foot ranch-style house occupies the site and fronts on Clark, although for some unknown reason it has a Brentwood address. The north half of the lot is also occupied by a house which fronts on Brentwood. Houses to the east all front on Clark. This corner lot was divided many years ago, thus creating two sites of a size and shape unlike adjacent properties. It could be said that this corner site has two front yards and two rear yards, although each rear yard abuts the side yard of the adjacent site. It could also reasonably be argued that this site has two front and two side yards. However, considering the setbacks the existing house observes, it is evident that the south side was determined to be the front, the north was determined to be the rear, and the east and west were the side yards.

There is no record of an official lot split on this property, although a building permit was issued for construction of the house on only this portion of the platted lot in 1958. The area had been annexed into the City in 1951. Connection to the sanitary sewer, which is located along the north line of the platted lot, apparently crosses someone else's property. The City has no record of a private easement covering this sewer line.

Approval of this variance should be subject to the applicant filing and completing a lot split application in order to obtain an approved building site for which a building permit can be issued.

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 depth of the property is less than the width and is only 81 feet.

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 proposed addition will be adjacent to the side yards of both abutting properties where only 6-foot setbacks are required.

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 any expansion of the house to the rear would be limited to only 9 feet.