

WICHITA -- SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL -- TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 298-4561

September 27, 1990

Jeffrey Karst
Frontier Construction
4159 S. Tyler Road
Wichita, KS 67215


Re: BZA 19-90 - Variance to reduce the south side yard setback from 6 ft. to 3 ft. for a detached accessory structure (garage) which is not totally within the rear half of the lot on property zoned the "A" Two-Family Dwelling District, located on the west side of Palisade in an area south of Osie.

Dear Mr. Karst:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 25, 1990. 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.

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, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Orval E. Wright, 1234 S. Santa Fe, 67211
Paul Hays, CID
Lance Flowers, CID
Pat Burnett, Deputy City Clerk
Mark Janzen, CID

subject to the following condition:

1. This variance shall apply to only the new 16-foot by 20-foot detached garage which is situated between 65 feet and 85 feet back of the front lot line. Any other structures shall observe the required setbacks.

ADOPTED AT WICHITA, KANSAS, this 25th day of September, 1990.



Keith Alter, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 19-90

WHEREAS, Orval E. Wright, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the south side yard setback from 6 ft. to 3 ft. for a detached accessory structure which is not totally within the rear half of the lot on property zoned the "A" Two-Family Dwelling District and legally described as follows:

Lots 41 and 43, Palisade Avenue, Eureka or Rock Island Addition to the City of Wichita, Kansas. Generally located on the west side of Palisade in an area south of Osie (1703 S. Palisade).

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 September 25, 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 a previous detached garage existed for many years at the same location and 3/4 of the 20-foot-deep structure meets the setback requirements; 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 new garage is no closer to the side property line than was the previous garage which existed for many, many years; 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 this new garage would have to be moved 5 feet back on the lot, which would require the pouring of additional concrete and require significant time and expense to accomplish this minor site location change; 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 easements are being encroached upon by this garage being located within 3 feet of the south 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 this variance is only a slight deviation from the requirements for side yards, since 3/4 of the garage is within the rear half of the yard and is already permitted a 3-foot side yard; 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 south side yard setback from 6 ft. to 3 ft. for a detached accessory structure which is not totally within the rear half of the lot on property zoned the "A" Two-Family Dwelling District and legally described as follows:

Lots 41 and 43, Palisade Avenue, Eureka or Rock Island Addition to the City of Wichita, Kansas. Generally located on the west side of Palisade in an area south of Osie (1703 S. Palisade).

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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. This variance shall apply to only the new 16-foot by 20-foot detached garage which is situated between 65 feet and 85 feet back of the front lot line. Any other structures shall observe the required setbacks.

September 25, 1990

SECRETARY'S REPORT

CASE NUMBER: BZA 19-90

OWNER/APPLICANT/AGENT: Orval E. Wright (owner/applicant)
Jeffrey Karst, Frontier Construction (agent)

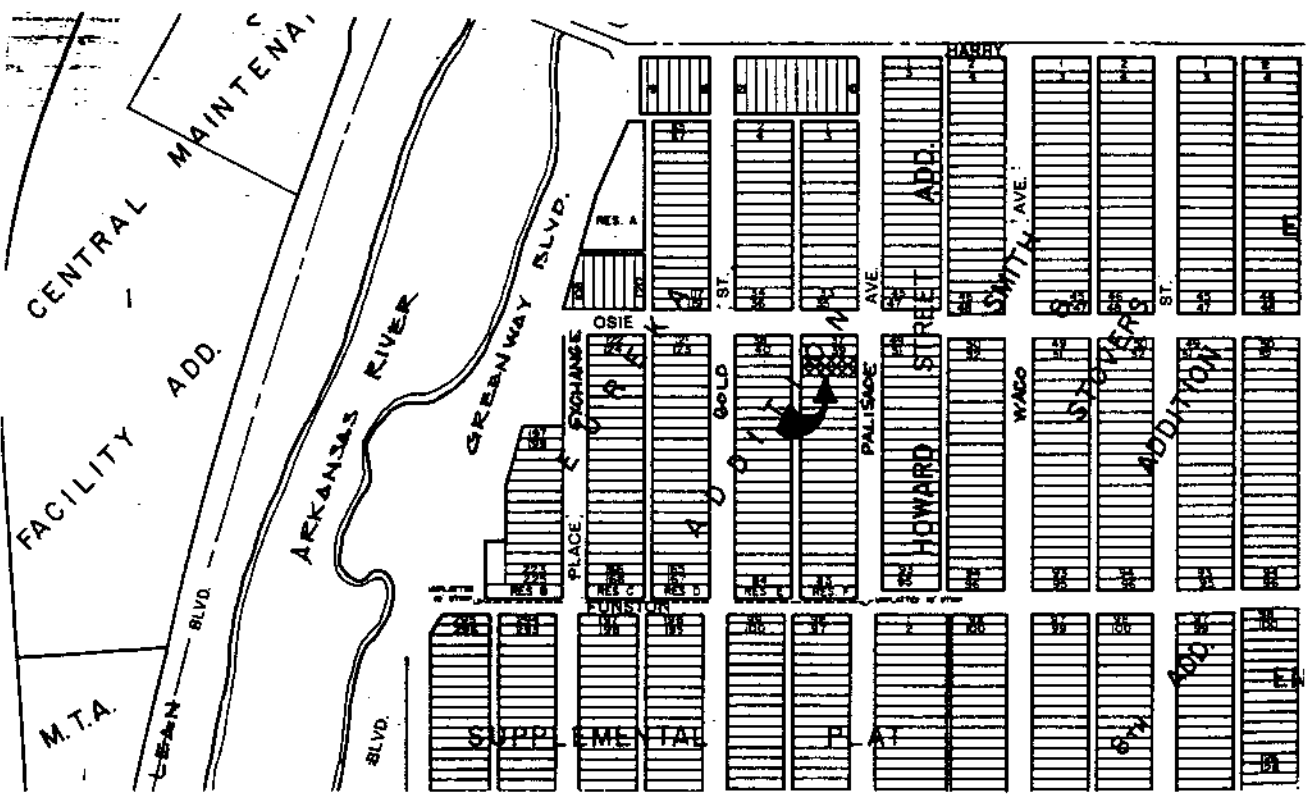
REQUEST: Variance to reduce the south side yard set-back from 6 ft. to 3 ft. for a detached accessory structure which is not totally within the rear half of the lot.

CURRENT ZONING: "A" Two-Family Dwelling District

SITE SIZE: 50 ft. x 140 ft.

LOCATION: West side of Palisade in an area south of Osie.

PROPOSED USE: 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 applicant is requesting a variance of the south side yard setback from 6 feet to 3 feet for a detached garage which is not totally within the rear half of the lot. For an accessory structure to qualify for the reduced (3-foot) side yard, all parts of the accessory structure must be located more than one-half the depth of the lot behind the front property line (See 28.04.050[2.4]). The garage encroaches 5 feet into the front half of this 140-foot-deep lot. The contractor states in the application that the owner removed an old garage from the same spot and he, the contractor, built the new garage without realizing that the old one had not been located in full compliance with the current setback requirements. This area was platted in 1886, but was not annexed to Wichita until the second decade of the century. If the original garage was built prior to annexation, there would have been no setback requirements.

ADJACENT ZONING AND LAND USE:

NORTH	"A"	One-family dwelling
SOUTH	"A"	One-family dwelling
EAST	"A"	One-family dwelling
WEST	"A"	One-family dwellnig

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as a previous detached garage existed for many years at the same location and 3/4 of the 20-foot-deep structure meets the setback requirements.

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 this new garage is no closer to the side property line than was the previous garage which existed for many, many years.

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 garage would have to be moved 5 feet back on the lot, which would require the pouring of additional concrete and require significant time and expense to accomplish this minor site location change.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no utility easements are being encroached upon by this garage being located within 3 feet of the south property line.

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 this variance is only a slight deviation from the requirements for side yards, since 3/4 of the garage is within the rear half of the yard and is already permitted a 3-foot side yard.