

**CITY OF DE SOTO**  
**BOARD OF ZONING APPEALS**  
City Hall, 32905 West 84<sup>th</sup> Street  
Monday, December 22<sup>nd</sup>, 2003, 6:30 P.M.

**MINUTES**

1. The meeting was Called to Order by Chairman Joe Webb at 6:45 p.m.
  
2. Roll Call:     Sedgwick             Present  
                  Zimmerman         Present  
                  Webb                    Present

Richard and Debra Lynn, the applicants, were present. Patrick Reavey, City Attorney; Sean Ackerson, City Planner with Bucher, Willis & Ratliff Corp., and Kim Gordanier, Planning Coordinator, were also present.

**3. Agenda Items:**

- A.** Consider a variance to Article 4, Paragraph 6(A) on page 21 of the Zoning Regulations defining minimum setback requirements in the "R-O" Residential-Suburban District. Property generally located at Lot 56 in Oak Country Estates, 1.33 acres on West 91<sup>st</sup> Ter.

Ackerson reviewed his staff report dated November 17, 2003 and read aloud his findings on the six approval criteria. He found the criteria for uniqueness and hardship to be negative based upon the ability to redesign the house or shift it to another location on the lot. He found the minimum variance to be positive if the Board could narrowly define the variance and not grant a 40-foot setback for the entire property.

Chairman Webb reviewed the six criteria and opened the public hearing. The applicant, Richard Lynn, stated that the variance is requested due to an exposed rock ledge running through the middle of the property. It would be expensive to build the back corner of the house over this ledge, and they would like to preserve the natural beauty of the ledge itself. He plans on excavating an area under the garage to store his boat, which would be more aesthetically pleasing for the neighborhood than storing it outside. A driveway running behind the house to this area would have too steep a grade if moved. The home has been centered on the property to keep as much distance as possible between the houses. The variance is for 100 square feet of the garage area. If the garage were to be shifted to a 90-degree angle with the house, it would be a less interesting design.

Sedgwick asked if the applicant had knowledge of the rock ledge before the property was purchased. Mrs. Lynn indicated that they were aware, but thought there was less of a setback required. Reavey asked the applicant to describe the dimensions of the requested variance for the record. Mr. Lynn stated, upon measuring, that it is 68'10.5" from the road centerline to the west corner of the house. It is 49'10.25" from the centerline to the east corner of the house. Sedgwick asked if the applicants are excavating the rock ledge for the foundation, and what the additional cost would be to excavate part of the ledge if the house is shifted behind the setback. Mr. Lynn responded that they will be excavating for the foundation, and he doesn't know what the cost of this or further excavation will be yet. Chairman Webb asked if the angle of the garage could be changed slightly to meet the setbacks. Mrs. Lynn replied that the angle could be changed, but all of the architectural design would have to be changed as well and this would be costly. The applicants estimated that the additional architectural work and drawings could cost in the neighborhood of two thousand dollars.

Melvin Fischer, 32715 W. 91<sup>st</sup> Ter., stated that he has no objections to the variance, he understands the topographical problems with the lot. Chairman Webb closed the public hearing. He stated that while the topography of the lot may be a factor, additional cost is not necessarily a hardship. Cases like this are difficult in that they can set a precedent for others. Mr. Lynn said that they are fine with the Board narrowly defining the variance as Ackerson suggested.

A.	Uniqueness:	Sedgwick	Yes
		Zimmerman	Yes
		Webb	Yes
B.	Adjacent Property:	Sedgwick	Yes
		Zimmerman	Yes
		Webb	Yes
C.	Hardship:	Sedgwick	No
		Zimmerman	Yes
		Webb	No
D.	Public Interest:	Sedgwick	Yes
		Zimmerman	Yes
		Webb	Yes
E.	Spirit and Intent:	Sedgwick	Yes
		Zimmerman	Yes
		Webb	Yes
F.	Minimum Variance:	Sedgwick	Yes
		Zimmerman	Yes
		Webb	No

Motion by Mr. Sedgwick to not grant the variance based upon the vote of the Board; second by Zimmerman.

Roll call:	Sedgwick	Yes
	Zimmerman	Yes
	Webb	Yes

Motion carried.

4. Motion for adjournment by Mr. Zimmerman at 7:25 p.m.; second by Sedgwick. All approved by "ayes".

Respectfully submitted:

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Kim Gordanier, Planning Coordinator