

CITY OF DE SOTO
BOARD OF ZONING APPEALS
City Hall, 32905 West 84th Street
Monday, September 13th, 2004, 6:30 P.M.

MINUTES

1. The meeting was called to order by Chairman Joe Webb at 6:30 p.m.
2. Roll Call: Sedgwick Present
 Zimmerman Present
 Webb Present

3. Agenda Items:

A. Consider a variance to Article 4, Paragraph 6 of the “R-H” Residential – Historic “Old Town” District Zoning Regulations defining minimum side yard setback requirements for a parcel located at 8360 Peoria Street.

Chairman Webb opened the public hearing. The applicant, Mike Feldman, 2111 E. Santa Fe, Ste. 291, Olathe, Kansas, stated that the lot was purchased in April of 2004 with the intent to demolish the structure and replace it with something more desirable. After receiving a building permit, it was discovered that substantial discrepancies existed with the lot lines. He would like to resolve this problem without having to tear fences down and disrupt the neighbors. He needs a variance in order to center the house between the neighbor’s fences. Feldman’s business partner, Cole Coombs, said that they have discussed doing a quick claim deed to resolve the dispute.

City Engineer Mike Brungardt stated that staff suggested a variance because the distance between the fences is 47-feet across, while a minimum of 50-feet is required in Residential-Historic zoning district. The survey commissioned by the applicant was very difficult to perform but did establish the most accurate lot lines possible. The surveyor chose to show lines based upon monuments that were the least encroaching upon Oswald’s property. The applicant could easily assert that the new construction would meet the setbacks and demolish the neighbor to the north, Oswald’s, fence. The variance of just over 5-feet to the side yard setbacks is being requested along the south of the applicant’s property.

Pam Oswald, 8350 Peoria St., said that she would be agreeable to the quick claim deed. She doesn’t have a problem with centering the house between the fences. Gordon Whitmill, 8380 Peoria St., stated that he is concerned if he sells the applicant part of his land, his property will then be nonconforming. Brungardt

responded that only a variance is needed to the south; Mr. Whitmill will not lose any of his property. The new residence will be placed approximately 1.8 feet from the property line, and 6-feet away from the fence.

Webb said he is hesitant to grant a variance before the quick claim is accomplished. City Attorney Patrick Reavey responded that the Board could condition the variance on the quick claim deed. Mr. Whitmill noted that the plans call for the garage to be placed in front of the neighbor's houses. He asked that the front facade be set back equally. Brungardt said that the submitted site plan is in conformance with the regulations. Mr. Coombs stated that they could bump the garage back 5 or 6-feet for the benefit of the neighbors. Webb clarified exactly what granting the variance would accomplish and explained the Board's decision making process.

Chairman Webb closed the public hearing and read the criteria aloud for the Board.

- A. Uniqueness: Sedgwick Yes
Zimmerman Yes
Webb Yes
- B. Adjacent Property: Zimmerman Yes
Sedgwick Yes
Webb Yes
- C. Hardship: Sedgwick Yes
Zimmerman Yes
Webb Yes
- D. Public Interest: Webb Yes
Sedgwick Yes
Zimmerman Yes
- E. Spirit and Intent: Sedgwick Yes
Zimmerman Yes
Webb Yes
- F. Minimum Variance: Sedgwick Yes
Webb Yes
Zimmerman Yes

Motion by Mr. Sedgwick to grant the variance based upon an agreement between the applicant and Pam Oswald with assurances that the public interest concerning the supply of light and air on adjacent properties is considered; second by Zimmerman.

Sedgwick asked that the deed or agreement be made part of the record before the variance is granted. The applicant agreed to provide staff with a copy.

Motion by Mr. Sedgwick amended to grant the variance based upon a property line agreement between the applicant and Pam Oswald with assurances that the public interest concerning the supply of light and air on adjacent properties is considered and referring to the site plan dated August 16, 2004; second by Zimmerman.

Roll call:	Sedgwick	Yes
	Zimmerman	Yes
	Webb	Yes

Motion carried.

4. Motion for adjournment by Mr. Sedgwick at 7:22 p.m.; second by Webb. All approved by "ayes".

Respectfully submitted:

Kim Gordanier
Planning Coordinator