WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

FILE COPY

April 28, 1999

John Baker
2641 N. Bluff
Wichita, KS 67220

RE: Variance to permit the expansion of a legal nonconforming use by more than 30%, on property generally located at the Southwest corner of 26th Street North and Hillside.

Dear Mr. Baker:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on April 27, 1999. 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 call our office.

Sincerely,

Dale Miller
Secretary
Board of Zoning Appeals

DM/rs

cc: J. R. Cox, OCI
Paul Hayes, OCI
Ray Sledge, OCI
Pat Burnett, City Clerk
Yolanda Anderson, MAPC (resolution only)
File

BZA RESOLUTION NO. 13-99

WHEREAS, John E. Baker, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to permit the expansion of a legal nonconforming use by more than 30% on property zoned "SF-6" Single-family Residential and legally described as follows:

> Lots 37, 39, 41, 43, 45 and 47, Block 1, Post & Christy's College Crest Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located at the Southwest corner of 26th Street North and Hillside.

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 April 27, 1999, 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 owners or the applicant. It is the opinion of staff that this property is unique inasmuch as the site is an 18,000 square foot lot containing a nonconforming use that has been in operation for the last 15 years.

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. 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 applicant could continue to use the site as a nonconforming use. He has been at this site for 15 years. Approval of this variance will allow the applicant to improve the quality of the existing building and would allow him to have enough room to store equipment indoors that is currently stored outside. Improving the current building and moving the equipment inside will improve the neighborhood in general.

subject to the following conditions:

1. The existing building and its expansion shall be bricked and the expansion shall be completed as indicated by the attached building site plan. The remodeling project shall be completed with one year.

2. No outside storage is permitted.

3. The east and south sides shall be screened with code approved fencing materials or landscaping material providing year-round screening or a combination of those materials along the .

4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 27th day of April, 1999.

C. Bickley Foster

C. Bickley Foster, President

ATTEST:

Dale Miller

Dale Miller, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. _____
April 27, 1999

SECRETARY'S REPORT

CASE NUMBER: BZA 13-99

OWNER/APPLICANT: John E. Baker (owner/applicant)

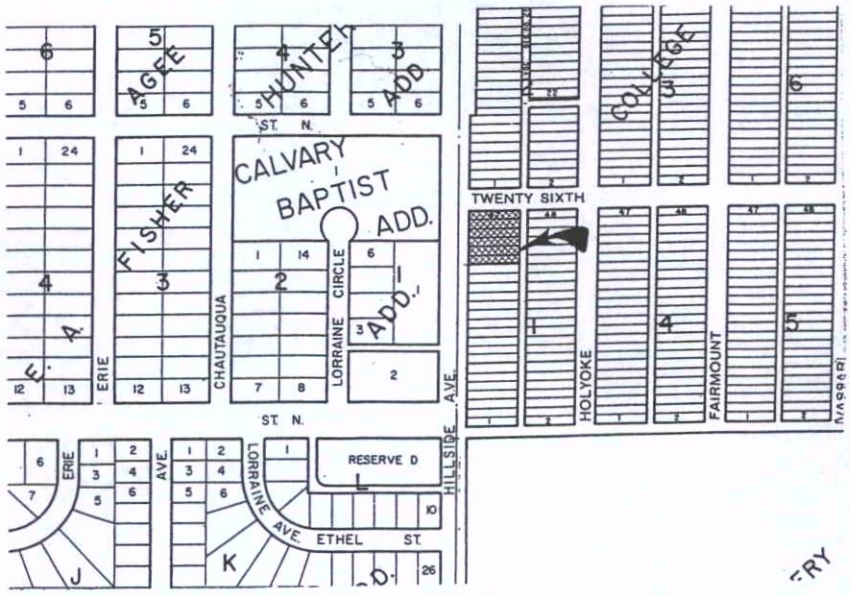
AGENT: N/A

REQUEST: Variance to permit the expansion of a legal nonconforming use by more than 30%

CURRENT ZONING: "SF-6", Single-family Residential

SITE SIZE: 18,000 square feet

LOCATION: Southwest corner of 26th Street North and Hillside



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 State Statutes, are found to exist.

BACKGROUND: The applicant operates a nonconforming drywall and construction business office on property located at the southeast corner of 26th Street North and Hillside. The applicant indicates he has been at this location for over 15 years. When he purchased the site, the location had been used as a service station. The applicant converted the service station to his construction business office. (The code permits nonconforming uses to be changed to a new use provided the new use is the same character or is a less intensive use than the nonconforming use.) Recently, when the applicant attempted to obtain a building permit to expand his office and indoor storage area, he discovered that the site was still zoned "SF-6", Single-family Residential which does not permit an office. "Office" uses are first permitted in the "NO", Neighborhood Office district. Rather than recommend that the applicant request "NO" zoning at this location, staff recommended that he seek this variance. There is not any other office zoning in the immediate area, and surrounding areas are residential uses.

The applicant intends to add on to the existing building and brick the exterior so that he can have more indoor area for his office and an expanded area in which to his house his equipment. The site is surrounded by a chain link fence, and there is substantial deciduous vegetation growing on the south fence. The applicant currently has vehicles and construction materials stored outside. Outside storage is not a permitted use in either the "SF-6" or "NO" zoning districts, and it is staff's understanding that the applicant intends to move these items indoors if this variance is approved.

All properties adjoining this site are zoned "SF-6", Single-family Residential and are developed with single-family residences or a church. The property north of 26th Street is screened from view of the application area by a solid row of evergreen trees.

Access to the site is off of Hillside Avenue which is designated by the "2020 Transportation Plan" as a 4-lane arterial. Public services are available to the site.

With a remodel project of this size (an addition of 1,769 square feet to a 2,493 square foot building), the applicant should be advised that landscaping consistent with the Landscape Ordinance will be triggered and a landscape plan will need to be submitted and approved.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6", Single-family Residential; Single-family residence
SOUTH	"SF-6", Single-family Residential; Single-family residence
EAST	"SF-6", Single-family Residential; Single-family residence
WEST	"SF-6", Single-family Residential; Single-family residence and church

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the site is an 18,000 square foot lot containing a nonconforming use that has been in operation for the last 15 years.

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 applicant could continue to use the site as a nonconforming use. He has been at this site for 15 years. Approval of this variance will allow the applicant to improve the quality of the existing building and would allow him to have enough room to store equipment indoors that is currently stored outside. Improving the current building and moving the equipment inside will improve the neighborhood in general.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the applicant is trying to improve his businesses appearance and expand the facility so that he can store equipment inside. Without approval, the applicant can not expand the structure housing his nonconforming use.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch it is in the public's interest to preserve and promote businesses that are willing to make an investment to improve their facilities. This applicant is willing to make a significant investment to upgrade his property.

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 regulations, inasmuch as the uses had been here for 15 years. The purpose of the code is to promote compatible land uses. Apparently this use is operated in such a fashion that it is compatible with surrounding neighboring uses.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The existing building and its expansion shall be bricked and the expansion shall be completed as indicated by the attached building site plan. The remodeling project shall be completed with one year.

2. No outside storage is permitted.

3. The east and south sides shall be screened with code approved fencing materials or landscaping material providing year-round screening or a combination of those materials along the .

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

4242
1769 addition
2493 existing building

