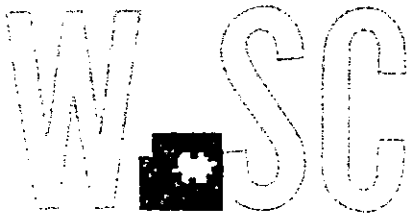


WICHITA SEDGWICK COUNTY



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

March 4, 1999

Roy A Alexander
P O Box 781601
Wichita KS 67278

RE: BZA 2-99 - Variance to reduce the compatibility setback requirements from 25 feet to 5 feet on the north property line on property zoned "LC" Limited Commercial

Dear Mr. Alexander:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on February 23, 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 yours,

Keith Gooch, Assistant Secretary
Board of Zoning Appeals

KG/rs

cc: Don Folger Jr.
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, City Clerk
Yolanda Anderson, MAPC (resolution only)

BZA RESOLUTION NO. BZA 2-99

WHEREAS, Roy A. Alexander, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the compatibility setback requirements from 25 feet to 5 feet on the north property line on property zoned "LC" Limited Commercial District and legally described as follows:

Lot 11 and 12, Block 11, Beverly Manor Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Lincoln and Edgemoor (5520 E. Lincoln).

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 February 23, 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 inasmuch as the existing building was constructed to match the setback requirements in effect at the time it was built. Those setbacks permitted the building to be 5 feet off the north property line, which provided adequate room for the parking and still have a building large enough to accommodate a business; 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 existing building will remain and the new addition will be no closer to the adjacent properties; and,

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Unified Zoning Code of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the higher setback requirement would make it near impossible to construct any building addition onto the property; which would impose a hardship on the applicant; 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, inasmuch as no encroachments into any public easements or any other public areas; 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 the Unified Zoning Code inasmuch as the reduced setback will permit the applicant to construct the new building addition and provide an overall improvement to the property.

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 compatibility setback requirements from 25 feet to 5 feet on the north property line on property zoned "LC" Limited Commercial District and legally described as follows:

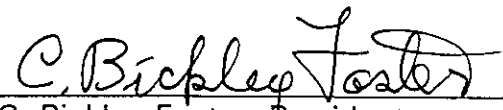
Lot 11 and 12, Block 11, Beverly Manor Addition, Wichita, Sedgwick County, Kansas.

subject to the following conditions:

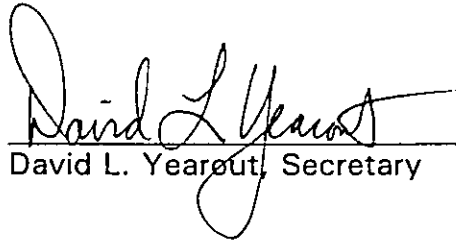
1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility setback on the north property line shall be reduced from 25 feet to 5 feet.
2. The applicant shall be required to construct a new wood screening fence, six feet in height, along the north and west property line.
3. The applicant shall install gates between the building and the fence on the northeast and southwest corners of the building to improve the security of the area behind and along the side of the building.
4. The applicant shall prepare a revised site plan showing the location of the trash receptacle and the manner in which screening of said trash receptacle will be made. Also, the revised site plan shall show how the property will be brought into compliance with the Landscape Ordinance of the City of Wichita. The revised site plan and landscaping plan shall be submitted for approval by the Secretary and the building addition shall be constructed in conformance with the revised site plan approved by the Secretary.

5. The applicant shall confer with the City Engineer's Office on the necessity of retaining the northern driveway along Edgemoor and, in the event the driveway is to be closed, shall close the driveway in conformance with the requirements of the City of Wichita and shall bear all costs associated therewith.
6. The applicant shall obtain all local permits necessary to construct the building addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
7. 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 23rd day of February, 1999.


C. Bickley Foster, President

ATTEST:


David L. Yearout, Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 2-99

OWNER/APPLICANT: Roy A. Alexander, P.O. Box 781601, Wichita, KS, 67278
(Owner)

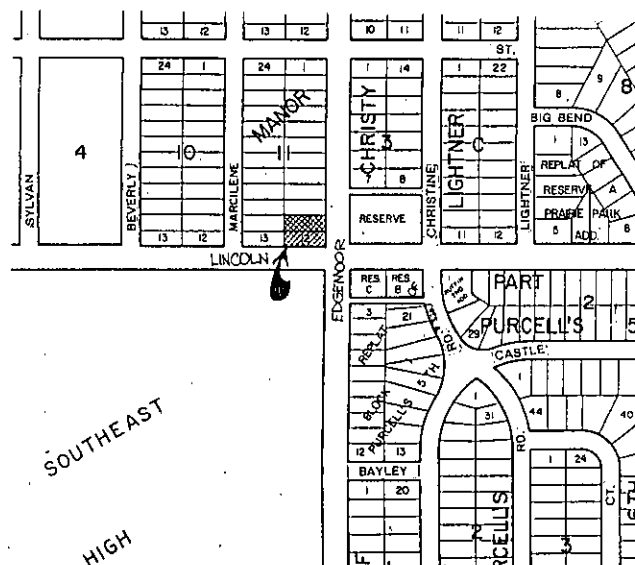
AGENT: Don Folger, Jr., 234 S. Topeka, Wichita, KS, 67202 (Agent)

REQUEST: Variance to reduce required compatibility setback from 25 feet to 5 feet in order to permit addition on to an existing building.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: .3 Acres

LOCATION: Northwest corner of Lincoln and Edgemoor (5520 E. Lincoln)



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 presently owns the building on the northwest corner of Lincoln and Edgemoor (5520 E. Lincoln) which is currently occupied by the Lincoln East Laundry and the Southeast Carry Out restaurant. This is a 2,923 square foot building (33'-4" by 84'-8") that is presently 5 feet from the north property line and 8'-2" from the west property line. The overall lot size is 13,400 square feet (100' by 134') and has the existing parking located to the south and east side of the building.

The applicant proposes to removed the east 20 feet of the existing building and construct an addition on that would add 40'-4" onto the east end of the building. This would place the east face of the building 20'-10" from the east property line. A total of 24 parking spaces would be provided along the south side of the building.

The applicant requests a variance of the setback requirements along the north property line in order to construct the building addition. The Unified Zoning Code would impose a normal 15 foot setback along this property line; but with the property to the north zoned "TF-3" Two-Family Residential, the compatibility setback would increase that setback to a total of 25 feet. The applicant wishes to construct the building addition equal to the width of the existing building and keep the existing setback along the north property line of 5 feet.

One letter has been received prior to the preparation of the staff report from the person purchasing the single-family residence at 847 S. Edgemoor, immediately to the north of the applicant's property. That individual raises concerns about the condition of the fencing and the location of the trash dumpster.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3" - Single-Family Residence
SOUTH:	"TF-3" - Southeast High School
EAST:	"LC" - Retail business
WEST:	"TF-3" - Single-Family Residence

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the existing building was constructed to match the setback requirements in effect at the time it was built. Those setbacks permitted the building to be 5 feet off the north property line, which provided adequate room for the parking and still have a building large enough to accommodate a business.

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 existing building will remain and the new addition will be no closer to the adjacent properties.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Unified Zoning Code may constitute an unnecessary hardship upon the applicant inasmuch as the higher setback requirement would make it near impossible to construct any building addition onto the property; which would impose a hardship on the applicant.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no encroachments into any public easements or any other public areas.

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 Unified Zoning Code inasmuch as the reduced setback will permit the applicant to construct the new building addition and provide an overall improvement to the property.

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 site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility setback on the north property line shall be reduced from 25 feet to 5 feet.
2. The applicant shall be required to construct a new wood screening fence, six feet in height, along the north and ^{west} east property line.
3. The applicant shall prepare a revised site plan showing the location of the trash receptacle and the manner in which screening of said trash receptacle will be made. Also, the revised site plan shall show how the property will be brought into compliance with the Landscape Ordinance of the City of Wichita. The revised site plan and landscaping plan shall be submitted for approval by the Secretary and the building addition shall be constructed in conformance with the revised site plan approved by the Secretary.
4. The applicant shall obtain all local permits necessary to construct the building addition and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
5. 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.

