CITY OF WICHITA

FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

December 17, 2003

West Side Church of God
Donald L. Wagner
1900 McCormick
Wichita, KS 67213

RE: Variances to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet. Generally located at the southwest corner of Munnell and Glenn. (District IV)

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on **December 16, 2003**, this resolution reflects the official action of the Board to grant your requests and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421

Sincerely,

Scott Knebel
Senior Planner

SK/rs

Cc: Paul Gray, WCC, District IV, Mail Stop 1-13
Brandon Kauffman, N.A. IV, e-mail
Sharon Dickgrafe, Law Department, Mail Stop 1-132
Herb Shaner, OCI, 1-72

BZA RESOLUTION NO. 2003-00065

WHEREAS, West Side Church of God (owner/applicant); %Donald L. Wagner, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests Variances to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet on property zoned "MF-29" Multi-family Residential and legally described as follows:

> The North 50 feet of the East 128 feet of Lot 6, Glenn Avenue, Lawnfield Addition to Wichita, Sedgwick County, Kansas; and The South 50 feet of the East 128 feet of Lot 6, Glenn Avenue, Lawnfield Addition to Wichita, Sedgwick County, Kansas; and The North 50 feet of the East 128 feet of Lot 4, Glenn Avenue, Lawnfield Addition to Sedgwick County, Kansas. Generally located at the southwest corner of Munnell and Glenn.

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 December 16, 2003, 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. It is the opinion of the Board that this property is unique, inasmuch as the property is located in an area where the existing structures were constructed under zoning regulations that required significantly less setbacks that currently required. Over the years the zoning regulations have changed to require a 25-foot front and 20-foot street side setback for the subject property; however, the overwhelming majority the structures in this area (and none of the structures within this block) do not provide such setbacks.

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 the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the new structure would be internal to the subject property. No additional encroachment would occur along the north and east boundaries of the subject property that is in excess of the placement of the existing structures within the block.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, inasmuch as the 25-foot front and 20-foot street side setbacks are a change to the zoning regulations since the property was originally developed and requiring conformance with current regulations would significantly limit the ability to redevelop the property.

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. It is

the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the building setbacks and therefore there will be no adverse effect on the general public.

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 zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access.

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, pursuant to Section 2.12.590.B, Code of the City of Wichita, that Variances be granted to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet on property zoned "MF-29" Multi-family Residential and legally described as follows:

> The North 50 feet of the East 128 feet of Lot 6, Glenn Avenue, Lawnfield Addition to Wichita, Sedgwick County, Kansas; and The South 50 feet of the East 128 feet of Lot 6, Glenn Avenue, Lawnfield Addition to Wichita, Sedgwick County, Kansas; and The North 50 feet of the East 128 feet of Lot 4, Glenn Avenue, Lawnfield Addition to Sedgwick County, Kansas. Generally located at the southwest corner of Munnell and Glenn.

The variances are hereby GRANTED, subject to the following conditions:

1. Development of the subject property shall comply with all building, zoning, and landscape code requirements, except that the front building setback along Glenn shall be reduced from 25 feet to 12 feet and the street side setback along Munnell shall be reduced from 20 feet to 7 feet.
2. The applicant shall obtain all permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
3. The resolution authorizing this variances 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 16th DAY of DECEMBER 2003.

James Ruane, BZA Board Chair

ATTEST:

Scott Knebel, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
December 16, 2003

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00065

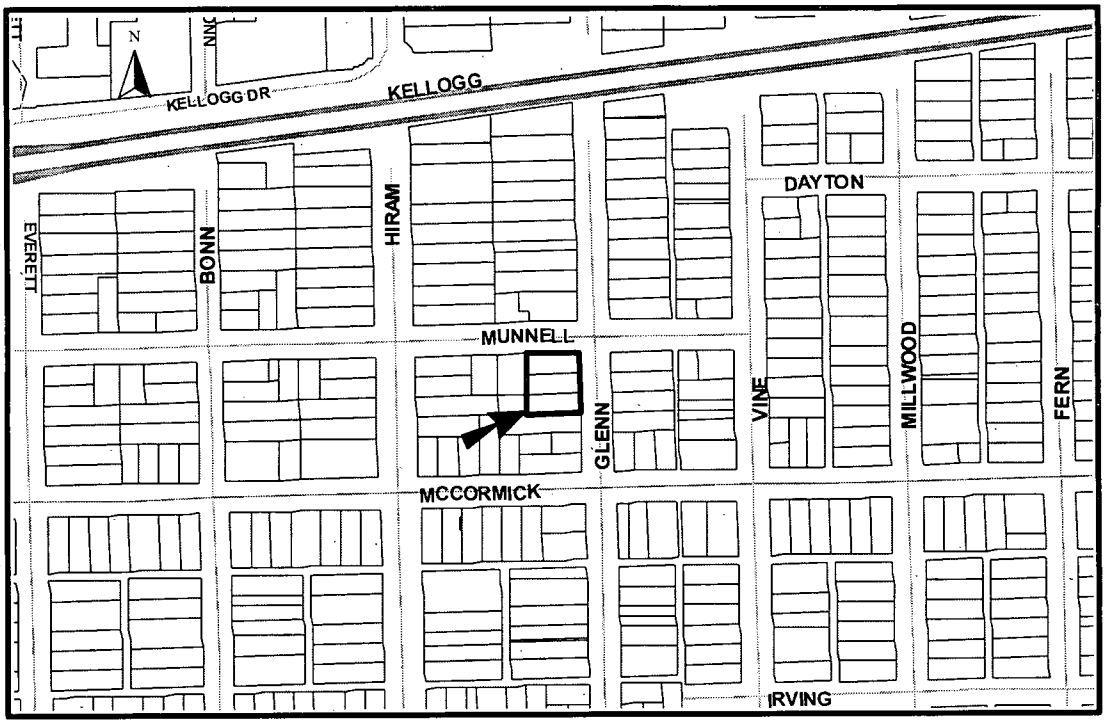
OWNER/APPLICANT: West Side Church of God c/o Donald L. Wagner

AGENT: n/a

REQUEST: Variances to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet

CURRENT ZONING: "MF-29" Multi-Family Residential

LOCATION: Southwest corner of Munnell and Glenn



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 is proposing to demolish three existing houses on the subject property and construct a multipurpose building to serve the West Side Church of God, which is located immediately south of the subject property at 1900 W. McCormick. The subject property is located at the southwest corner of Munnell and Glenn and is zoned "MF-29" Multi-Family Residential.

The multi-purpose building is proposed to be set back 12 feet from Glenn and 7 feet from Munnell. The zoning regulations for the "MF-29" Multi-Family Residential zoning district require a 25-foot front building setback along Glenn and a 20-foot street side building setback along Munnell. Therefore, the applicant is requesting variances to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet.

A reduction of building setbacks by greater than 20% requires a variance. The zoning regulations also allow "setback averaging" whereby the front building setback can be reduced to a distance equal to the average building setback of the existing structures within the same block and on the same side of the street. However, the setback averaging provisions for residentially zoned property do not permit including non-residential structures when calculating the average setback, and since the only structure other than the houses to be demolished within the block is a church, a variance is required to permit the proposed setback along Glenn. Also, the setback averaging provisions do not permit the reduction of a street side setback; therefore, a variance is required to permit the proposed setback along Munnell.

The applicant proposes the 12-foot setback along Glenn and 7-foot setback along Munnell to match the setback of the existing church to the south along Glenn and existing houses to the west along Munnell. The applicant also indicates that reduced setbacks are needed to preserve as much land as possible for parking and for an annual living nativity held in the parking lot each Christmas. The applicant submitted the attached justification outlining how the requests meets the requirements for granting the variances. The applicant also submitted the attached site plan illustrating the proposed multipurpose building and reduced setbacks.

ADJACENT ZONING AND LAND USE:

NORTH	"MF-29"	Single-family
SOUTH	"LC"	Church
EAST	"MF-29"	Single-family
WEST	"MF-29"	Single-family

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property is located in an area where the existing structures were constructed under zoning regulations that required significantly less setbacks that currently required. Over the years the zoning regulations have changed to require a 25-foot front and 20-foot street side setback for the subject property; however, the overwhelming majority the

structures in this area (and none of the structures within this block) do not provide such setbacks.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variances requested would not adversely affect the rights of adjacent property owners, inasmuch as the new structure would be internal to the subject property. No additional encroachment would occur along the north and east boundaries of the subject property that is in excess of the placement of the existing structures within the block.

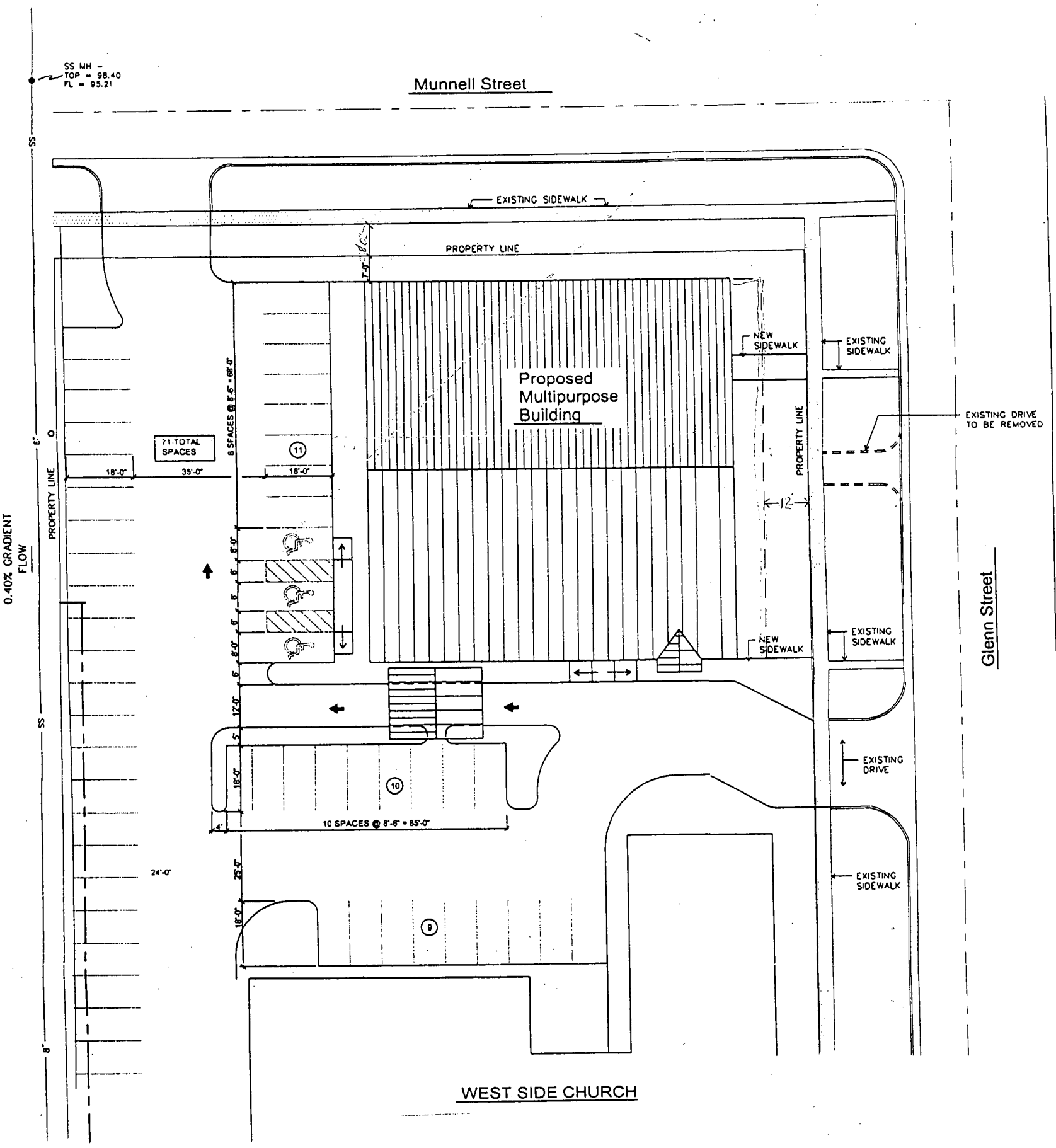
HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, inasmuch as the 25-foot front and 20-foot street side setbacks are a change to the zoning regulations since the property was originally developed and requiring conformance with current regulations would significantly limit the ability to redevelop the property.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the building setbacks and therefore there will be no adverse effect on the general public.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access.

RECOMMENDATION: Should the Board determine that conditions necessary grant the variances exist, then it is the recommendation of the Secretary that variances to reduce the front building setback along Glenn from 25 feet to 12 feet and to reduce the street side setback along Munnell from 20 feet to 7 feet be GRANTED, subject to the following conditions:

1. Development of the subject property shall comply with all building, zoning, and landscape code requirements, except that the front building setback along Glenn shall be reduced from 25 feet to 12 feet and the street side setback along Munnell shall be reduced from 20 feet to 7 feet.
2. The applicant shall obtain all permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
3. The resolution authorizing this variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.



Variance #1

To locate the new building 15 feet from the existing sidewalk on the north side of the property.

Variance #2

To locate the new building 12 feet from the existing sidewalk on the east side of the property.

B2A2003-0065
SITE PLAN
APPROVED 12-16-03 BY BZA