CITY OF WICHITA

**Wichita-Sedgwick County Metropolitan Area Planning Department**

EVERGY Kansas South, Inc.
818 S. Kansas Ave.
Topeka, KS 66612

January 24, 2020

Professional Engineering Consultants. P.A.
303 S. Topeka
Wichita, KS 67202

**RE:** **BZA2019-00052 –** City Variance to permit 9-foot tall screening wall within the building setback (associated with CON2019-54 for Utility, Major) on property zoned SF-5 Single Family Residential and generally located approx.. 800 feet east of South Seneca and ½ mile south of West Pawnee (behind 835 W. 26th St. S.)

Dear Applicant,

At its regular meeting on **January 9, 2020**, the Wichita - Sedgwick County Board of Zoning Appeals considered the above captioned request. The action of the BZA was to **APPROVE** the request.

Enclosed is a signed copy of the above referenced BZA Resolution adopted by the Board of Zoning Appeals. This resolution reflects the official actions of the Board and is forwarded for your information and files.

Part of the resolution indicates two conditions that must be met in order for the variance to take effect.

1. **The site is to be developed as shown on the Seneca Substation Site Plan dated 11/2019 by PEC, PA**
2. **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.**

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Matthew Williams, AICP
Associate Planner

Copies to: MABCD

**BZA RESOLUTION NO. BZA2019-00052**

**WHEREAS**, EVERGY Kansas South, Inc. (Applicant) Professional Engineering Consultants, P.A. (Agent); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to permit a 9-foot tall screening wall within the building setback (associated with CON2019-54 for Utility, Major) on property behind 835 West 26th Street South and legally described as follows:

> Legal Description: BEGINNING 723.4 FEET EAST AND 530 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, THENCE NORTH 125 FEET, THENCE EAST 191.3 FEET, THENCE SOUTH 125 FEET, THENCE WEST 191.3 FEET TO BEGINNING; ENCOMPASSING 23,964 SQUARE FEET (0.55 ACRE), MORE OR LESS.

**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 January 9, 2020, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

**WHEREAS,** the conditions of the request are unique to the subject property. In this case, the new solid screening wall will be replacing an existing chain link fence and thus screen the existing utility in a more thorough manner; and

**WHEREAS,** the new wall will decrease the impacts of the electrical substation to the surrounding properties and not impact the use and enjoyment of those properties; and

**WHEREAS,** the wall is being built to lessen the impact of the existing utility, is being built within the setback due to limitations on the parcel, and acquiring more land to build the wall out of the setback would be an adverse hardship to the applicant; and

**WHEREAS,** it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare. Allowing this wall to be built will improve the overall quality and value of the property and, by extension, the neighborhood; and

**WHEREAS,** It is the opinion of Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case.; and

**WHEREAS,** each of the five conditions required by Kansas Statutes Annotated 12-759, are found to be present for a variance to be granted.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to permit a 9-foot tall screening wall within the building setback (associated with CON2019-54 for Utility, Major) on property behind 835 West 26th Street South and legally described as follows:

> Legal Description: BEGINNING 723.4 FEET EAST AND 530 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, THENCE NORTH 125 FEET, THENCE EAST 191.3 FEET, THENCE SOUTH 125 FEET, THENCE WEST 191.3 FEET TO BEGINNING; ENCOMPASSING 23,964 SQUARE FEET (0.55 ACRE), MORE OR LESS.

The variance is hereby GRANTED, subject to the following conditions:

1. The site is to be developed as shown on the Seneca Substation Site Plan dated 11/2019 by PEC, PA
2. 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 9th Day of January 2020.

Chuck Warren, BZA Board Chair

ATTEST:

David L. Yearout,
BZA Secretary

Wichita-Sedgwick County Zoning Board of Appeals
January 9, 2020

AGENDA ITEM NO. 2

**SECRETARY'S REPORT**

**CASE NUMBER:** BZA2019-00052

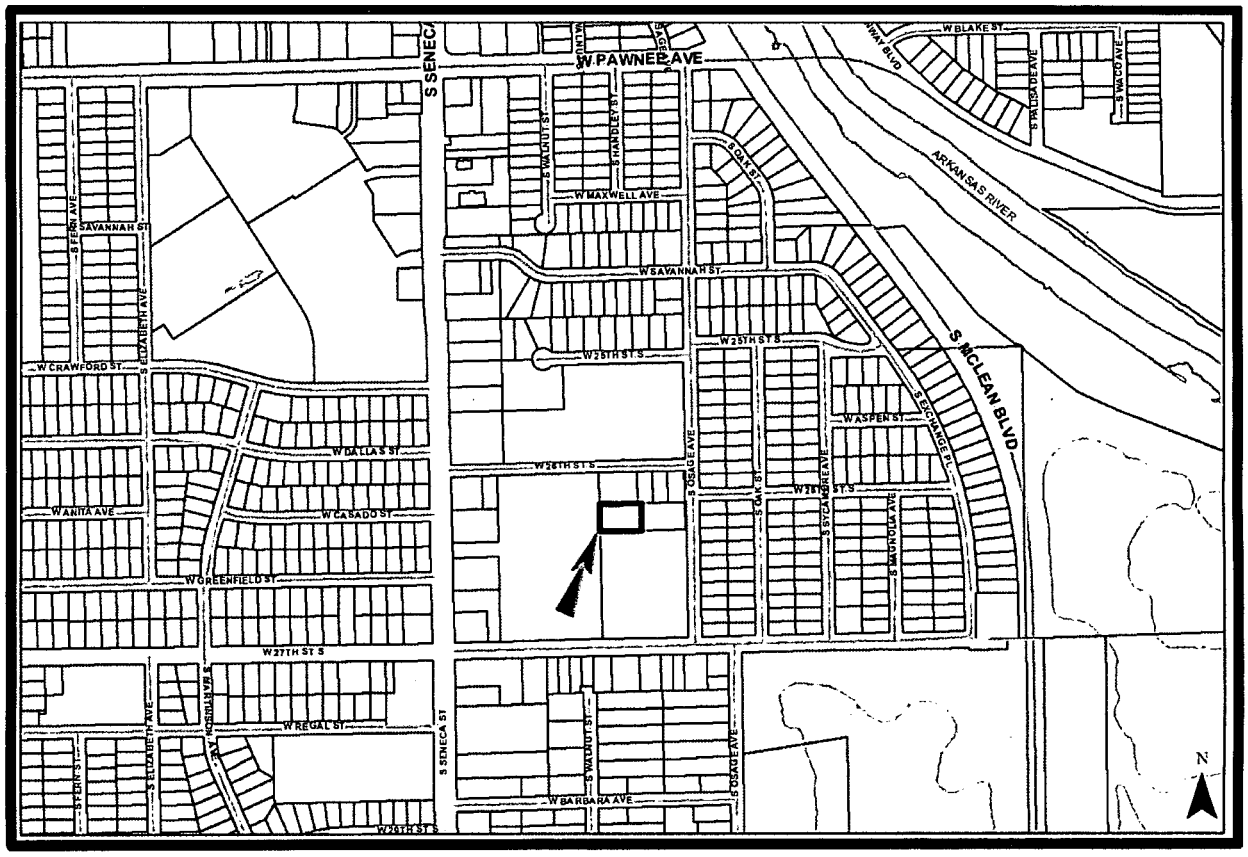
**APPLICANTS:** Evergy Kansas South, Inc. / Professional Engineering Consultants, Charlie Brown

**REQUEST:** Permit a nine-foot tall screening wall within the building setback (associated with CON2019-54)

**CURRENT ZONING:** SF-5 Single Family

**SITE SIZE:** 0.55 acres

**LOCATION:** Generally located approximately 800 feet east of South Seneca and one-half mile south of West Pawnee (behind 835 W. 26th Street South)



**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759. The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

**BACKGROUND:** The applicant is requesting a variance to allow a nine-foot tall screening wall within the building setback, generally located approximately 800 feet east of South Seneca and one-half mile south of West Pawnee. The site is zoned SF-5 Single Family. This case is being heard concurrently with CON2019-00054- a request for a Conditional Use Permit for the expansion of an existing electrical substation.

The applicant is in the process of expanding the Seneca Substation and replacing the current chain link fence with a nine-foot tall pre-cast screening wall system. The wall is being built within the rear building setback on the east side of the lot and the interior side setback on the south side of the lot. The purpose of this application is to allow a nine-foot tall wall when the Unified Zoning Code states that within a setback, only screening walls with a maximum height of eight feet are allowed.

**SURROUNDING DEVELOPMENT:** To the north and west are apartment buildings with B-Multi Family zoning. To the east is an empty lot with SF-5 Single Family zoning. To the south is a church with SF-5 Single Family zoning.

**CASE HISTORY:** The property is being platted as the Seneca Substation Addition, SUB2019-00060. The property has also filed for a Conditional Use Permit for the expansion of an existing electrical substation, CON2019-00054. The existing electrical substation is a non-conforming use.

**ADJACENT ZONING AND LAND USE:**

| | | |
|---|---|---|
| NORTH: | B Multi Family | Apartments |
| SOUTH: | SF-5 Single Family | Church |
| EAST | SF-5 Single Family | Vacant Lot |
| WEST: | B Multi Family | Apartments |

**UNIQUENESS**: The applicant states the following regarding the uniqueness of the use on the subject property: "The existing zoning on the parcel is SF-5 and the existing use is an electric substation, which is classified as a Utility, Major. Electric substations are not typically located within SF-5 districts and are only allowed as Conditional Uses. The proposed screening wall will replace an existing chain link fence. The chain link fence on the south side is currently within the interior side setback. The proposed screening wall will reduce negative visual and noise impacts to the adjacent uses to the south and east, which are both zoned SF-5 Single Family."

**ADJACENT PROPERTY**: The applicant states that "the variance will not adversely affect the rights of the adjacent property owners. The additional height of the proposed screening wall will not inhibit the use of adjacent parcels, infringe on the rights of adjacent property owners, and it will reduce negative visual and noise impacts of the electric substation on the adjacent parcels. The proposed screening wall will be within the rear setback (east side of the parcel) and the interior side setback (south side of the parcel). The adjacent parcel to the south is a place of worship. The nearest structure on the parcel to the south is the school building, which is located over 130 feet from the property line of the electric substation. There is an open space between the structures and the electric substation. The property to the east is owned by the place of worship and is currently undeveloped open space."

**HARDSHIP**: The applicant states that "the existing electric substation serves the community with needed electric power. The proposed screening wall must be located within the rear and interior side setbacks due to space limitations on the parcel. The additional height of the screening wall is needed to enhance the visual and noise buffer between the electric substation and the adjacent parcels."

**PUBLIC INTEREST**: The applicant states that "the additional height of the proposed screening wall within the setback will not adversely affect public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. In fact, it will enhance the harmonious development of the community by providing an additional barrier of the electric substation from the adjacent residential zoning districts to further reduce negative visual and noise impacts. It will not create an undesirable large vertical wall directly adjacent to pedestrian access routes or structures on adjacent properties."

**SPIRIT AND INTENT**: The applicant states that "the Zoning Code, in part, is intended to protect residential districts from adverse visual impacts associated with non-residential development. Screening of non-residential uses as well as mechanical equipment from residential uses is a requirement of the Zoning Code. The additional height of the proposed screening wall will reduce negative visual and noise impacts to the adjacent uses. The electric substation helps to achieve the purpose of the Zoning Code by helping to *provide the highest quality utility services to the public*. The additional height of the proposed screening wall will achieve the purpose of the Zoning Code by helping to *protect and preserve the human-made and natural elements which support human habitation, add to the community's quality-of-life, and create a unique living environment*."

**RECOMMENDATION**: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, the recommendation of Staff is that the variance to allow a nine-foot screening wall within the setback be ***GRANTED***, subject to the following conditions:

1. The site is to be developed as shown on the Seneca Substation Site Plan dated 11/2019 by PEC, PA
2. 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.

Staff Report Attachments:

1. Aerial Map
2. Land Use Map
3. Zoning Map
4. Conditional Use Site Plan
5. Landscaping Plan

# SITE PLAN

30.0' R.O.W. EASEMENT (VACATED HANDLEY STREET)
10" Bush
Sign
Kingsborough Apartments LLC
1300 Soveriegn Row
Oklahoma City, OK 73108-1825
Asphalt
8.0' EASEMENT
Concrete Pad=1289.3'
P/L
ELR
Post
BM-202
Westar
Chainlink Fence
EXTEND ACCESS EASEMENT TO R.O.W.
LP
RELOCATE UTILITY POLE
25.0' ACCESS EASEMENT
51.5'
20' DOUBLE LEAF CHAIN LINK GATE
BASEBALL FIELD BACKSTOP
Baseball Fence
OVERHEAD ELECTIC CLEAR PLANTING ZONE
20.0' (TYP)
Concrete Electrical Box
BM-20
18" Cedar
16.4'
40.0'
11.7'
65.4' ACCESS EASEMENT
EDGE OF AGGREGATE PAD (TYP)
5" Bush
REMOVEABLE PANELS AND COLUMN FOR FUTURE ACCESS
18" Deciduous
25.0' ACCESS EASEMENT
Kingsborough Apartments LLC
1300 Soveriegn Row
Oklahoma City, OK 73108-1825
Grass
KS Gas & Electric CO
P.O. Box 208
Wichita, KS 67201-0208
KS Seventh Day
Adventist Cont. Assoc.
820 W 27TH. ST. S.
Wichita, KS 67217-3018
20' DOUBLE LEAF CHAIN LINK GATE
PROPOSED PRE-CAST SCREENING WALL SYSTEM (9'-0")
20' ORNAMENTAL SWING GATE
76.9' ACCESS EASEMENT
36" Deciduous
Chainlink Fence
Do Not Block Drive Sign
EXISTING SUBSTATION FENCE, TO BE REMOVED
104.8' F.C.
10.0' T.C.E.
P/L
4.8'
4.0' CLEAR
2" Cedar
Gravel
18" Cedar
20.0'
65.2'
Grass
PROPOSED CONCRETE ACCESS DRIVE
Asphalt
HCP 127
Juniper
20.0" (TYP)
18" Cedar
5" Bush
12" Cedar
121.5' F.C.
3.8'
S.W. CORNER
HCP 128
P/L
OVERHEAD ELECTIC CLEAR PLANTING ZONE
Chainlink Fence
20.0' UTILITY EASEMENT
10.0' KG&E EASEMENT
10.0' KG&E UTILITY EASEMENT
KS Seventh Day
Adventist Cont. Assoc.
820 W 27TH. ST. S.
Wichita, KS 67217-3018
APPROVED 12/4/2020 BY Mark Williams
N
10 0 5 10 20
( IN FEET )

| LEGEND | | |
|---|---|---|
| F.C. | = | FENCE CORNER |
| R.O.W. | = | RIGHT OF WAY |
| P/L | = | PROPERTY LINE |
| T.C.E. | = | TEMPORARY CONSTRUCTION EASEMENT |

## LEGAL DESCRIPTION

SUBJECT PROPERTY:

"SUBJECT PROPERTY" INCLUDES ALL THE LAND DESCRIBED BY SECURITY 1ST TITLE, LLC, IN OWNERS AND ENCUMBRANCES REPORT FILE NUMBER: 2333520, WHICH IS AN UNPLATTED TRACT OF LAND.

"EAST ADJOINER" INCLUDES THE UNPLATTED LAND DESCRIBED IN REPORT FILE NUMBER: 2333522, WHICH ABUTS THE EAST LINE OF SUBJECT PROPERTY, BUT IS NOT PART OF SUBJECT PROPERTY.

LAND DESCRIPTION OF SUBJECT PROPERTY
PER REPORT FILE NUMBER: 2333520.

BEGINNING 723.4 FEET EAST AND 530 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, THENCE NORTH 125 FEET, THENCE EAST 191.3 FEET, THENCE SOUTH 125 FEET, THENCE WEST 191.3 FEET TO BEGINNING.

LAND DESCRIPTION OF EAST ADJOINER
PER REPORT FILE NUMBER: 2333522.

BEGINNING 914 FEET EAST AND 530 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE 6TH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS, THENCE NORTH 125 FEET; THENCE EAST 191.7 FEET; THENCE SOUTH 125 FEET; THENCE WEST TO THE POINT OF BEGINNING.

NOTE: THE DESCRIPTION IN FILE NUMBER 2333522 DOES NOT INCLUDE THE STRIP OF LAND ADJOINING ON THE EAST SIDE OF THIS TRACT, SAID STRIP OF LAND DESCRIBED AS "BLOCK 8 EXCEPT THE SOUTH 490 FEET AND EXCEPT THE NORTH 5 FEET, FRANCIS HARVEY 2ND ADDITION TO WICHITA, KANSAS." THE EAST LINE OF THIS STRIP OF LAND IS THE WEST LINE OF THE RIGHT OF WAY FOR OSAGE STREET.

PEC #: 199030-058
PEC PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
400 S KANSAS AVE. #200
TOPEKA, KS 66603
785-233-8300
www.pec1.com

| REV. | REVISION DESCRIPTION | DATE | BY/CK |
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DRAWN BY MDL - PEC DATE 11/2019
DESIGNED BY CRG - PEC DATE 11/2019
APPROVED BY RAK - PEC DATE 11/2019
SCALE: NONE
W.R. NO. ####

evergy.

TITLE: SENECA SUBSTATION PERMITTING PLAN

DWG. NO. SK9400_PM01
SHEET NO. 1 OF 1
REV. 0

GROUP: ESUB

CAD FILE NO.: SENECA SITE PLAN.DWG