

1. The zoning lot shall be permitted one identification sign not to exceed 72 square feet in gross surface area and shall be located not closer than 6 feet to public right-of-way.
2. The zoning lot shall be permitted two lighted directional signs not to exceed 8.3 square feet of gross surface area.

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5. Case No. BZA 59-81 - Miles Sand, Inc., 4852 North Meridian, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the modification of a previously approved operation for the extraction of raw materials on property zoned "AA" One-family Dwelling District and "LC" Light Commercial and legally described as follows:

The NW 1/4, Sec. 30, T26S, R1E, except the S. 200' and except the W. 200' S. of the N. line of 42nd St. N. extended E. and except R/W for Meridian on the W. side of said NW 1/4. Generally located at the southeast corner of Meridian and 45th Street.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant has filed this application in order to modify the conditions of approval for a sand and gravel extraction that were approved by the Board of Zoning Appeals on June 28, 1977. At that time, the Board established a period of 20 years for the completion of the extraction operation.

The applicant is requesting two basic changes to the conditions established by Resolution No. BZA 24-77. One is to eliminate the 20 year time frame for completion of the sand and gravel extraction operation. The second relates to the site plan which is a change in location of the connection between the operation to the north under 45th Street North. This request is being made in order to facilitate the use of existing equipment already located on the property to the north, which will permit the pumping of this property without additional equipment or moving the location of their present operation.

RECOMMENDATION:

If the Board of Zoning Appeals determines that the requested changes in the previously approved exception would be appropriate,

then it is recommended that it be approved subject to the following conditions:

1. Any permanent change in elevation by the removal of overburden (topsoil) shall only occur in that area designated as within the limits of excavation on the operation plan. Removal of fill material below the water table, shall be to a minimum of six feet below the water table so as to be of sufficient depth to retard algae growth in the lake. All areas depicted on the operational plan as outside of the excavation area shall remain in agricultural use during the removal of overburden in order to minimize wind and water erosion. Any removal of material outside the designated excavation area shall be replaced with materials so that the area can be utilized for normal farming operations.
2. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
3. The applicant shall proceed in accordance with the operational plan, and shall excavate the lake and form the banks as indicated on the approved plan.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than four horizontal to one vertical.
5. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
6. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
7. The applicant shall submit a restrictive covenant in a form satisfactory to the Board's Legal Counsel, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
8. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
9. Fencing shall be constructed in accordance with the requirements of Section 5.34 of the Code of the City of Wichita prior to the commencement of the sand extraction operation below the water table. The fence adjacent to Meridian shall be placed not closer than 50 feet to the Section line on Meridian.
10. No concrete or asphalt mixing plants or commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted in the area unless duly authorized under the provisions of the City Zoning Ordinance and amendments thereto.

11. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
12. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
13. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstructions or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Operations and Maintenance and the Department of Engineering, and shall be in accordance with the standards of these authorities.
14. At such time that it is intended to either excavate the lake under the 45th Street North right-of-way, or extend the excavation equipment under the street, approval shall be obtained from the appropriate governing body.
15. Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a hearing.
16. Resolution No. BZA 24-77 shall become null and void upon the release of this resolution.

LYTLE stated the CPO Council voted 5-1 to approve the request. The applicant stated when the first request was initiated, the plan was to leave it open ended so that easy access could be made to and from, rather than to relocate the plant or buy additional equipment when more area was needed. John Gist, Planning Development Services, speaking on behalf of the applicant stated five of those 20 years are already gone. HENDERSON asked if 45th Street was open to traffic? Gist replied the street is not open for traffic at this time. No one appeared in opposition.

MOTION: JACOB moved, HENDERSON seconded, that the exception to permit the modification of a previously approved operation for the extraction of raw materials be granted subject to the conditions furnished by the Secretary's Report. Motion passed 3-0 (SLAYMAKER and KOPIETZ absent).

The official action of the Board is reflected in the adoption of Resolution No. BZA 59-81 which includes the following conditions of approval:

1. Any permanent change in elevation by the removal of overburden (topsoil) shall only occur in that area designated as within the limits of excavation on the operation plan. Removal of fill material below the water table, shall be to a minimum of six feet below the water table so as to be of sufficient depth to retard algae growth in the lake. All areas depicted on the operational plan as outside of the excavation area shall remain in agricultural use during the removal of overburden in order to minimize wind and water erosion. Any removal of material outside the designated excavation area shall be replaced with materials so that the area can be utilized for normal farming operations.
2. No part of the sand plant operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of any property line or within 100 feet of any public right-of-way.
3. The applicant shall proceed in accordance with the operational plan, and shall excavate the lake and form the banks as indicated on the approved plan.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than four horizontal to one vertical.
5. All of the area outside of the sandpit lake shall be graded so as to drain into the lake.
6. Once the sand extraction operation has ceased, all foreign matter, such as rubbish, construction debris and equipment, shall be removed from the property within six months.
7. The applicant shall submit a restrictive covenant in a form satisfactory to the Board's Legal Counsel, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, car bodies, etc., shall be deposited within the excavation.
8. The applicant shall be responsible for maintaining all operational roads in a graveled condition.
9. Fencing shall be constructed in accordance with the requirements of Section 5.34 of the Code of the City of Wichita prior to the commencement of the sand extraction operation below the water table. The fence adjacent to Meridian shall be placed not closer than 50 feet to the Section line on Meridian.
10. No concrete or asphalt mixing plants or commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted in the area unless duly authorized under the provisions of the City Zoning Ordinance and amendments thereto.

11. All slopes shall have vegetative covering consisting of a perennial drouth-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
12. The property shall be platted prior to the issuance of any building permits, except those necessary for the sand excavation operation.
13. The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstructions or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Operations and Maintenance and the Department of Engineering, and shall be in accordance with the standards of these authorities.
14. At such time that it is intended to either excavate the lake under the 45th Street North right-of-way, or extend the excavation equipment under the street, approval shall be obtained from the appropriate governing body.
15. Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a hearing.
16. Resolution No. BZA 24-77 shall become null and void upon the release of this resolution.

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6. Case No. BZA 60-81 - Olivia P. W. Smith, 555 South Green Avenue, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the side yard setback for a detached accessory structure from six feet to .33 feet on property zoned "A" Two-family Dwelling District and legally described as follows:

Lots 23 and 25, Green Avenue, DIXON'S Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Green and Orme (555 South Green Avenue).

GALBRAITH showed slides of the application area and reviewed the following comments from the Secretary's Report.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.