Wichita-Sedgwick County Metropolitan Area Planning Department

REVISED

January 9, 2019

Via Fone, Inc.
Attn: Al Wakil
PO BOX 12207
Wichita, KS 67217

RE: BZA2018-00053 – City Variance to permit a Tattoo and Body Piercing Facility within 200 feet of residential zoning (associated with ZON2018-00037 a zone change to GC General Commercial) generally located on the northeast corner of East Murdock Avenue and North Broadway Avenue (312 E. Murdock).

Dear Applicant:

At its regular meeting on September 20, 2018, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request in accordance with the attached revised resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: MABCD

BZA RESOLUTION NO. 2018-00053

WHEREAS, Via Fone, Inc., by Al Wakil, President (Owner); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section III-D.6.ee. of the Unified Zoning Code to permit a Tattooing and Body Piercing Facility on property zoned "GC" General Commercial within 200 feet of residentially zoned property legally described as follows:

> Lots 1, 2, 3, 4, 5, and 6 of Andrew's Resurvey of Lots 69, 71 and 73 Lawrence Avenue of J.P. Hilton's Addition to Wichita, Sedgwick County, Kansas, Generally located north of East Murdock Avenue between Broadway Avenue and Topeka Avenue (312 East Murdock Avenue).

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 September 20, 2018, 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 he applicant has invested a great deal of resources into rehabilitating the building. Parking has been updated, as has the tenant spaces inside of the building. The building was rehabilitated to accommodate commercial development, which the Board feels supports this variance.

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 all of the neighbors are businesses, and that even the residentially zoned lot that is triggering the need for this variance is only being used as a parking lot for the hospital nearby. Property values will not be negatively affected and this should be a net benefit to the surrounding businesses.

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, inasmuch as the applicant has invested a significant amount of time and money rehabilitating this property and is seeking to fill the building with viable tenants. Not allowing this tenant to occupy the building would represent a loss of potential return on that investment.

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 the tattoo business has established itself as a successful, high quality, and clean business; the nature of the business in general has changed a great deal over time and is no longer of interest to specific fringe groups, but are common amongst people of a variety of backgrounds. The business will be subject to all forms of regulation and monitoring that is typical of such businesses.

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 Code inasmuch as the tattoo business has changed since the underlying premise of the zoning code was established. It is the finding of the Board this use will not offend or harm anyone, which is the basis for the provision of the zoning code.

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 a variance be granted to SecIII-D.ee of the Unified Zoning Code to permit a Tattoo and Body Piercing Facility within 200 feet of residential zoning:

> Lots 1, 2, 3, 4, 5, and 6 of Andrew's Resurvey of Lots 69, 71 and 73 Lawrence Avenue of J.P. Hilton's Addition to Wichita, Sedgwick County, Kansas, Generally located north of East Murdock Avenue between Broadway Avenue and Topeka Avenue (312 East Murdock Avenue).

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

1. The Tattooing and Body Piercing Facility shall not expand beyond the existing building on the site.
2. The applicant shall obtain all permits and licenses necessary to operate on site, to include certification of occupancy by the Metropolitan Area Building and Construction Department.
3. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 20th DAY of SEPTEMBER, 2018.

Cindy Miles, BZA Board Chair

ATTEST:

David L. Yearout, BZA Secretary

The Wichita Eagle
Kansas.com
825 E. Douglas | Wichita, KS 67202 | 316-268-6000



LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
453868	0003827029	Published in The Wichita Eagle on August 30, 201		$30.00	1	50

Attention: Ana Lopez

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

In The STATE OF KANSAS
In and for the County of Sedgwick
AFFIDAVIT OF PUBLICATION

1 Insertions

Beginning issue of: 08/30/2018

Ending issue of: 08/30/2018

STATE OF KANSAS)
.SS
County of Sedgwick)

Dale Seiwert, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from **8/30/2018** to **08/30/2018**.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dale Seiwert
(Signature of Principal Clerk)
DATED: 8/30/2018

Notary Public Sedgwick County, Kansas

JENNIFER RAE BAILEY
Notary Public - State of Kansas
My Appt. Expires 6/14/2021

LEGAL PUBLICATION

Published in The Wichita Eagle on
August 30, 2018
(One Time Only) (3827029)

BZA September 20, 2018
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on **Thursday, September 20, 2018 no earlier than 1:30 p.m.**, the Wichita-Sedgwick County Board of Zoning Appeals will consider the following applications in the Planning Commission Conference Room, 271 West Third Street, 2nd Floor, Ste #203, Wichita, Kansas. **If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Board of Zoning Appeals at (316) 268-4421.**

BZA2018-00053 - City Variance to permit a Tattoo and Body Piercing Facility within 200 feet of residential zoning (associated with ZON2018-00037 a zone change to GC General Commercial) generally located on the northeast corner of East Murdock Avenue and North Broadway Avenue (312 E. Murdock).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 West Third St., Ste #201. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said Wichita-Sedgwick County Board of Zoning Appeals, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the Wichita-Sedgwick County Board of Zoning Appeals as by law provided.

WITNESS MY HAND on August 27, 2018
David L. Yearout, Secretary
Wichita-Sedgwick County Board of Zoning Appeals