

~~POSTED~~
4-9-81

ACTION

B.S. COMMITTEE Approved DATE 4-28-81

M.A.P.C. _____

B.C.C./B. CO. C. _____

received to post 5-7-81

300' 4 sec 5-7-81
Checked 5-8-81 out
Shot 5-13-81
Recorded 5-15-81

5148B

BZA 8-81 - Madeline Jacobs - request a variance to eliminate the screening fence along the east property line adjacent to the residential zoning district on property zoned "LC" Light Commercial and located

Map No. 5148 B
 Sec. 14
 Twp. 27
 Range 1W

BZA- 8-81
 SCZ- _____
 CU- _____
 Filed _____

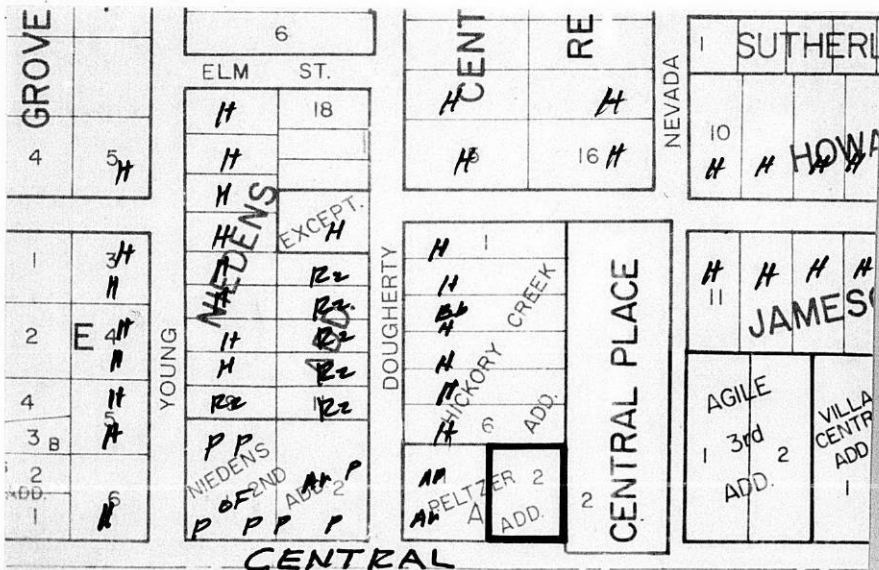
AREA DATA:

1. Acres: 0.54 (140 ft. by 170 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South CENTRAL AVE.
 West AUTO REPAIR North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: UNDEVELOPED
6. Area (is) (is not) platted. _____

UPDATE LAND USE IN FIELD

PHOTO DATA:

Taken by _____ Date _____ Time _____



BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

APRIL 6, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 8-81

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Madeline Jacobs, 4410 West Central, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening fence along the east property line adjacent to the residential zoning district on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 2, Block A, Peltzer Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Central and east of Dougherty (4406 West Central).

This application has been assigned Case No. BZA 8-81. It will be considered by the Board of Zoning Appeals on April 28, 1981, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

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Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

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APRIL 6, 1981

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Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening fence along the east property line adjacent to the residential zoning district on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 2, Block A, Peltzer Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Central and east of Dougherty (4406 West Central).

This application has been assigned Case No. BZA 8-81. It will be considered by the Board of Zoning Appeals on April 28, 1981, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

May 6, 1981

Madeline Jacobs
4410 West Central
Wichita, Kansas 67212

Re: Case No. EZA 8-81
Request for Variance

Dear Ms. Jacobs:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 28, 1981.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition of approval. It is forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Giesick, City Clerk

RESOLUTION NO. EZA 8-81

WHEREAS, Madeline Jacobs, 4410 West Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence along the east property line adjacent to the residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Block A, Peltzer Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Central and east of Dougherty (4406 West Central).

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 April 28, 1981, 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 owner or the applicant inasmuch as the property adjacent to the east is the only property in the area west of West Street that would cause the fencing requirement to be applicable and the adopted zoning policy in that area would be to look with favor on any "LC" Light Commercial zoning requests; 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 property owner to the east has indicated his preference of no screening fence being installed and other property owners should not be affected by the variance; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the fence will not be required at any time the adjacent property would become Light Commercial; 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 due to the fact that the requested variance only relates to the fence being deleted between two private property owners; 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 Title 28 (Zoning Ordinance) inasmuch as the required screening fence is to protect adjacent residential property from the effects of commercial development which in this case would be eliminated with the concurrence of the adjacent property owner; and

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.

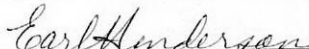
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence adjacent to the residential zoning district to the east on property zoned the "LC" Light Commercial District and legally described as:

Lot 2, Block A, Peltzer Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Central and east of Dougherty (4406 West Central).

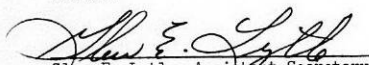
be approved subject to the following condition:

1. The variance to eliminate the screening fence adjacent to the residential zoning district be granted only along the east property line.

ADOPTED AT WICHITA, KANSAS, this 28th day of April, 1981.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

April 30, 1981

Madeline Jacobs
4410 West Central
Wichita, Kansas 67212

Re: Case No. EZA 8-81
Request for Variance

Dear Ms. Jacobs:

At the regular meeting of the Board of Zoning Appeals on April 27, 1981, your request for a variance to eliminate the screening fence adjacent to residential zoning along the east property line was considered.

It was the action of the Board to approve your request subject to the following condition:

1. The variance to eliminate the screening fence adjacent to the residential zoning district be granted only along the east property line.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE April 16, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Bill Morris, Administrative Aide III

SUBJECT BZA Case No. 8-81: North of
Central, East of Dougherty

CPO Council "N" considered the captioned case on April 16, 1981. The Council voted 5-0 to recommend approval of the requested variance to eliminate the required fence. No one was present to protest the variance. The applicant was present in support of the case.

It was the Council's opinion that the fence is not necessary because it is likely that the property to the east will be rezoned to a business use.



Bill Morris
Administrative Aide III

BM:ml

RECEIVED

APR 17 1981

METROPOLITAN PLANNING

ROUTE

SECRETARY'S REPORT
CASE NO. BEA C-31

APPLICANT: Madeline Jacobs, 4410 West Central, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the screening fence adjacent to residential zoning along the east property line.

GENERAL LOCATION: Subject property is located on the north side of Central approximately 150 feet east of Dougherty.

ZONING: Subject property is zoned "LC" Light Commercial as are the properties to the south and west. Properties to the east and north are zoned the "AA" One-family Dwelling District.

LAND USE: Subject property is occupied by a commercial building as is the property to the west. Properties to the east and north are occupied with one-family dwellings.

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 is requesting a variance to eliminate the screening fence adjacent to the east property line which is zoned the "AA" One-family Dwelling District. The applicant states that the owner of the property to the east prefers that no fence be installed along the property line. This is also the only property owner that would be affected in any way in the granting of the requested variance. The adjacent property is the only property west of West Street on the north side of the street that is not zoned Light Commercial. Also, the established policy is to look with favor on requests for Light Commercial zoning.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the property adjacent to the east is the only property in the area west of West Street that would cause the fencing requirement to be applicable and the adopted zoning policy in that area would be to look with favor on any "LC" Light Commercial zoning requests.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the property owner to the east has indicated his preference of no screening fence being installed and other property owners should not be affected by the variance.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the fence will not be required at any time the adjacent property would become Light Commercial.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the requested variance only relates to the fence being deleted between two private property owners.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the required screening fence is to protect adjacent residential property from the effects of commercial development which in this case would be eliminated with the concurrence of the adjacent property owner.

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:

1. The variance to eliminate the screening fence adjacent to the residential zoning district be granted only along the east property line.

BZA CASE NO. 8-81

1 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

10 NOTICES SENT TO ADJOINING PROPERTY OWNERS

21 TOTAL NOTICES SENT 4-6-81

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
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APRIL 6, 1981

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Sedgwick County, Kansas. Generally located
on the north side of Central and east of
Dougherty (4406 West Central).

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If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 8-81
FILED 3-23-81

APPLICATION FOR VARIANCE

I. Name of Applicant MADELINE JACOBS

Mailing Address 4410 WEST CENTRAL Phone 942-8285

Name of Authorized Agent _____

Mailing Address _____ Phone _____

Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. The variance requested is TO ELIMINATE THE SCREENING REQUIREMENT ^{FENCE}

ALONG THE EAST PROPERTY LINE, ADJACENT TO THE RESIDENTIAL

ZONING DISTRICT

on the north side of Central and east of Dougherty
for property located (4406 WEST CENTRAL)

and legally described as: KEY # D29511-0001 LOT 2 BLOCK A

PELTZER ADDITION, TO WICHITA, SEDGWICK COUNTY, KANSAS

in the City of Wichita; and which is presently zoned LC.

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Madeline M Jacobs
Henry Jacobs
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:30 (~~am~~ - p.m.), March 23 1981 together with appropriate fee of \$50.00.

T9-402

[Signature]
Signed

Board of Zoning Appeals
City of Wichita Kansas
City hall 455 North Main
Wichita Kansas 67202

3-20-81

Dear Sirs,

I would like to request a variance to eliminate the screening requirement along the east property line of lot 2, block A Peltzer addition, owned by Madeline Jacobs 4406 West Central Wichita, 67212.

It seems to be very likely that the adjoining lot will be zoned light commercial in a short time. In addition the Van Etten's that own the adjoining lot would prefer not having a fence on the line. They sited ease of doing lawn work in the area as one reason, and air circulation as another.

Henry Jacobs

Henry Jacobs

Henry Jacobs
4410 West Central
Wichita, Kansas 67212

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 200 feet of:
 Lot 2, Block A, PELTZER ADDITION,
 Sedgwick County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>DESCRIPTIONS</u>	<u>ADDITION</u>	<u>OWNERS</u>
Lot 2, Block A,	PELTZER	<i>Dup</i> Madeline M. Jacobs 4410 West Central Wichita, Kansas 67212
Lot 1, Block A,	PELTZER	<i>Dup</i> Henry J. Jacobs 4410 West Central Wichita, Kansas 67212
The South 52 feet of the the North 219 feet of the East 187.15 feet of the Lot 2, except the East 30 feet for Road,	CENTRAL PLACE	Howard W. & Mary I. Miller ✓ 360 Brown Thrush Lane Wichita, Kansas 67212
Beginning 80 feet West of the Southeast Corner of Lot 2; thence North 326.7 feet; thence West 107.15 feet; thence South 326.7 feet; thence East 107.15 feet,	CENTRAL PLACE	Wilbur D. & Eldon L. Van Etten ✓ 4316 West Central Wichita, Kansas 67212

Fidelity  Title
 COMPANY, INC.



<u>DESCRIPTIONS</u>	<u>ADDITION</u>	<u>OWNERS</u>
South 326.7 feet of the East 80 feet of Lot 2,	CENTRAL PLACE	Floyd E. & Margie M. Price ✓ 2101 Walker Avenue Wichita, Kansas 67213
South 52 feet of the North 271 feet of the East 187.15 feet of Lot 2, except the East 30 feet for Road,	CENTRAL PLACE	✓ Violet L. & Joseph Matthews 3731 West Zoo Boulevard Wichita, Kansas 67203
Lot 3,	HICKORY CREEK	✓ Ruby Mae & John B. Stuart 728 Dougherty Avenue Wichita, Kansas 67212
Lot 4,	HICKORY CREEK	✓ Dale E. & Donna J. Reed 4108 Edminster Street Wichita, Kansas 67212
Lot 5,	HICKORY CREEK	✓ S. G. Glaves %Warner Moore #1 Willowbrook Road Wichita, Kansas 67207
Lot 6,	HICKORY CREEK	✓ Home Savings Association 716 Dougherty Wichita, Kansas 67212
East quarter of Lots 1 and 3, Block 3,	PARKWILDE	✓ Harlan R. & Janet L. Gray 623 North Tracy Avenue Wichita, Kansas 67212
East half of the West half and West half of the East half of Lots 1 and 3, Block 3,	PARKWILDE	✓ Harlan R. & Janet L. 623 North Tracy Avenue Wichita, Kansas 67212
Lots 1, 2 and 3,	ALTON POWELL'S FIRST	✓ Progress Builders Inc. Resident Agent Owen J. Redmond, Jr. 619 West Douglas Wichita, Kansas 67213



Dated at Wichita, Kansas, this 17th day of March, 1981 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *Dwight A. Schulte*
Vice President

Tracer No. 54458

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-L

**PAYMENT NOTICE
City of Wichita**

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION		AMOUNT
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2