

BZA case No. 25-76 - Johansen, Inc., requests variance to reduce landscaping area from 50' to 20' on drive way entrance to off-street parking on property generally located in an area south of 10 on the west side of Topeka.

Foster
7-13-76
MARD
C.I.
8-13-76

Jerry
317

ACTION

BZA 25-76 COMMITTEE approved DATE 7-27-76

M.A.P.C. _____

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

ACTION

B2A25-76 COMMITTEE approved DATE 7-27-76

M.A.P.C. _____

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

Posted
7-13-76

MARON
C.I.
8-13-76

Case No. 25-76 - Johnson, Inc., requests variance to reduce landscaping area from 50' to 20' on drive way entrance to off-street parking on property generally located in an area south of 10 on the west side of Topeka.

3-14
Send letter to
Muller
Coker
John Estlin Alder
6-23-76

Map No. 5548
 Sec. 16
 Twp. 27
 Range 1E

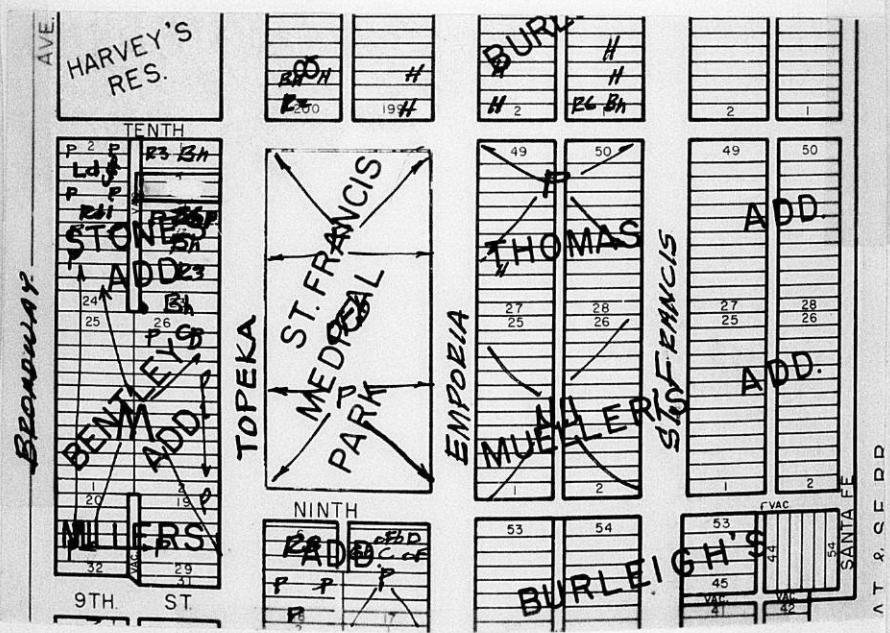
BZA- 25-76
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: .16 (50 ft. by 145 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East MEDICAL BLDG South PARKING LOT
 West PARKING LOT North BOARDING HOUSE
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: BOARDING HOUSE
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



SHIMBEL
 No. 2153C
 HASTING, INC., LOS ANGELES
 LOAN - AMERIGO, T. U. S. A.

A T R C C E D D

RESOLUTION NO. BZA 25-76

WHEREAS, Johansen, Inc., 1050 North Broadway, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required landscaping adjacent to the north property line from a 20 x 50 foot rectangular landscaped area to a 20 x 20 foot landscaped area on property zoned the "B" Multiple Family Dwelling District and legally described as follows:

The south 15 feet of Lot 5, all of Lot 7, and the north 10 feet of Lot 9 on Topeka, Stone's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka in an area south of Tenth Street.

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 July 27, 1976, 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 lot cannot be utilized to its full potential without access to Topeka Avenue and the narrow width of the lot prevents compliance with the 50 foot landscaped area if a driveway is to be provided; 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 sufficient landscaping and screening are being proposed to protect the rights of the property owners to the north; 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 owner represented in the application inasmuch as they are attempting to design their parking and circulation system to alleviate some of the congestion in the area and would not be able to accomplish this without access to this lot; 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 there will be adequate screening and landscaping separating subject property from the residence to the north; 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 appropriate screening along with the proposed 20 x 20 foot landscaped area will provide a buffer to the adjacent residential property; 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 reduce the required landscaping adjacent to the north property line from a 20 x 50 foot rectangular landscaped area to a 20 x 20 foot landscaped area on property zoned the "B" Multiple Family Dwelling District, and legally described as follows:

The south 15 feet of Lot 5, all of Lot 7, and the north 10 feet of Lot 9 on Topeka, Stone's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka in an area south of Tenth Street.

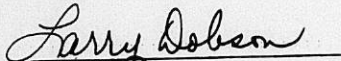
be approved, subject to the following conditions:

1. The applicants shall comply with the screening requirements of the zoning ordinance as it applies to the north property line.
2. The 20 x 20 foot landscaped area adjacent to the north property line shall be landscaped with grass and trees or shrubs and shall be maintained in good condition.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1976.


Marjorie L. Taylor
Chairman

ATTEST:


Larry Dobson
Assistant Secretary

August 6, 1976

Mr. Russell G. Johansen
916 S. Broadway
Wichita, Kansas 67211

Subject: Case No. BEA 25-76
Request for Variance

Dear Mr. Johansen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 27, 1976, in connection with your request for a variance to reduce the required landscaping adjacent to the north property line from a 20 x 50 foot rectangular landscaped area to a 20 x 20 foot landscaped area on property zoned the "B" Multiple Family Dwelling District, and generally located on the west side of Topeka Avenue in an area south of 10th Street.

This Resolution reflects the official action of the Board to approve the request 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.

Sincerely,



Larry Dobson
Assistant Secretary

LD:bh

cc: Johansen, Inc., 1050 N. Broadway, 67214
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE July 22, 1976



TO Larry Dobson, Metropolitan Area Planning Department

FROM David Furnas, Citizen Participation Coordinator

SUBJECT Board of Zoning Appeals Case No.
BZA 25-76 and BZA 21-76

Council Area "L" reviewed BZA 25-76 and BZA 21-76 at its meeting July 19, 1976, and chose not to take any official action on these two cases because area residents did not appear and request action by the Council. The Council does not think a position can be justified without area residents input.

David L. Furnas
David Furnas
Citizen Participation Coordinator

DF:WG :sm



July 29, 1976

Mr. Russell G. Johansen
916 S. Broadway
Wichita, Kansas 67211

Subject: Case No. BZA 25-76
Request for Variance

Dear Mr. Johansen:

At the regular meeting of the Board of Zoning Appeals on July 27, 1976, your request for a variance to reduce the required landscaping adjacent to the north property line from a 20 x 50 foot rectangular landscaped area to a 20 x 20 foot landscaped area on property zoned the "B" Multiple Family Dwelling District, and generally located on the west side of Topeka Avenue in an area south of 10th Street, was considered.


It was the action of the Board to approve this request subject to the following conditions:

1. The applicants shall comply with the screening requirements of the zoning ordinance as applies to the north property line.
2. The 20 x 20 foot landscaped area adjacent to the north property line shall be landscaped with grass and trees or shrubs and shall be maintained in good condition.

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.

Yours very truly,


Larry Dobson
Assistant Secretary

LD:bh

cc: Johansen, Inc., 1050 N. Broadway, 67214
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

SECRETARY'S REPORT
CASE NO BZA 25-76

APPLICANT: Johansen, Inc., 1050 N. Broadway, Wichita, Kansas.

AGENT: Russell G. Johansen, 916 S. Broadway, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required landscaping adjacent to the north property line from a 20 x 50 foot landscaped area to a 20 x 20 foot landscaped area.

GENERAL LOCATION: West side of Topeka Avenue in an area south of 10th Street.

ZONING: Subject property is zoned the "B" Multiple Family Dwelling District as are the properties to the north and south. Properties to the east and west are zoned the "LC" Light Commercial District.

LAND USE: Subject property is vacant except for a double car garage that remains. South, east and west are parking lots. North is a multiple family dwelling residence.

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 of the following conditions are found to exist:

1. That the variance requested 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.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicants, in connection with a proposed off-street parking lot, are requesting a variance to reduce the required landscaping adjacent to a residential zoning district from a 50 x 20 foot landscaped area to a 20 x 20 foot area.

Section 28.04.160(K) of the City Code requires commercially developed property to be landscaped a depth equal to the front yard required of an adjacent residential district (in this case 20 feet) and extended for a distance of 50 feet along the frontage, from the common property line. The applicants request a variance of this provision based upon their stated need to locate a driveway in this required landscaping area. The parking lot is proposed as additional parking for a McDonald's restaurant located to the west, on Broadway. Subject property lies adjacent to an existing McDonald's parking lot and the site plan indicates ingress from Topeka Avenue to the proposed new lot and egress to Topeka from the existing parking lot. The applicants believe the design of this proposed change in parking will help to alleviate the congestion in the area during peak periods of business.

It should be noted that the Planning Commission recently reviewed the landscaping and screening provisions of the zoning ordinance and recommended changes to the City Commission which would have the effect on this case of requiring a 21 x 20 foot landscaped area or the option of extending a 3 foot high fence on the north property line in the 20 foot front yard area. This item is scheduled for City Commission consideration on July 27, 1976, which is also the Board of Zoning Appeals meeting date.

The applicants propose to landscape the front 20 feet of this property except for the width of the driveway necessary to provide access to the lot. The applicants contend that the 20 x 20 foot landscaped area and the screening along the north property line will provide adequate protection to the adjoining property owners.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the lot cannot be utilized to its full potential without access to Topeka Avenue and the narrow width of the lot prevents compliance with the 50 foot landscaped area if a driveway is to be provided.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance may not adversely affect the rights of adjacent property

owners inasmuch as sufficient landscaping and screening are being proposed to protect the rights of the property owners to the north.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the zoning ordinance may constitute an unnecessary hardship upon the property owners inasmuch as they are attempting to design their parking and circulation system to alleviate some of the congestion in the area and would not be able to accomplish this without access to this lot.

PUBLIC INTEREST:

It is the opinion of the Secretary that the desired variance would not adversely affect the public interest inasmuch as there will be adequate screening and landscaping separating subject property from the residence to the north.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as appropriate screening along with the proposed 20 x 20 foot landscaped area will provide a buffer to the adjacent residential property.

RECOMMENDATION:

If the Board finds the five conditions necessary to the granting of a variance to exist, it is recommended that the request be approved subject to the following conditions:

1. The applicants shall comply with the screening requirements of the zoning ordinance as applies to the north property line.
 2. The 20 x 20 foot landscaped area adjacent to the north property line shall be landscaped with grass and trees or shrubs and shall be maintained in good condition.
-

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

July 12, 1976

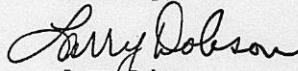
BZA 25-76

TO David L. Furnas, CPO Coordinator
FROM Larry Dobson, Assistant Secretary, BZA
SUBJECT Notice of upcoming Board of Zoning Appeals cases.

Attached are notices of six new cases to be considered at the Board of Zoning Appeals meeting of July 27, 1976.

The sketch maps of the area, which are normally provided with the notices, have not been prepared as of this date but will be available to the area coordinators upon request.

Sincerely,


Larry Dobson
Assistant Secretary

LD:el
Att.

BOARD OF ZONING APPEALS
TENTH FLOOR, CITY HALL
455 North Main, Wichita, Kansas 67202

July 6, 1976

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 25-76

An application has been filed by Johansen, Inc., 1050 N. Broadway, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required landscaping adjacent to the north property line from a 20 x 50 foot rectangular landscaped area to a 20 x 20 foot landscaped area on property zoned the "B" Multiple Family Dwelling District, and legally described as follows:

The south 15 feet of Lot 5, all of Lot 7, and the north 10 feet of Lot 9 on Topeka, Stone's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka in an area south of 10th Street.

This application has been assigned Case No. BZA 25-76, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 27, 1976, at 1:30 p.m., in the Public Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

10 notices sent to adjoining property owners
10 notices sent to MAPC members
20 notices sent on 7-6-76

1 notice to Gerry Cole - Midtown Assoc

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ JOHANSEN, INC.

Mailing Address 1050 N. Broadway Phone 267-8701

Name of Authorized Agent Russell G. Johansen

Ted Tarrice

Mailing Address 916 S. Broadway Phone 267-0384

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

II. The variance requested is To make a landscaped area 20 feet wide
between the adjacent Zone B multi dwelling property and our proposed
one way drive entrance off Topeka onto our off street parking instead of the
required 50 feet.
for property located 1063 N. Topeka

and legally described as: The South 15 feet of lot 5, all of lot 7,
and the north 10 feet of lot 9 on Topeka, Stones Addition to the City of

Wichita, Sedgwick County, Kansas

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

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

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. 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;
- c. 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.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

JOHANSEN, INC.

Applicant

Russell G. Johansen
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:00 (a.m. - p.m.), 6-29 19 76 together with appropriate fee of \$50.00.

T9-402

Larry Dobson
Signed



McDONALD'S MGT.
PHONE 316.267.0384

916 S. BROADWAY

WICHITA, KANSAS 67211

Board of Zoning Appeals
City of Wichita, Kansas

June 29, 1976

Dear Sirs,

There is an ordinance specifying a 50 foot landscaped area between a drive entrance and any Zone B residential property. We would like to request a variance be granted to McDonald's at 1050 N. Broadway to change this to 20 feet in order to have a better traffic flow through our additional off street parking lot located at 1063 N. Topeka. We are remodeling this store and adding on a dining room and drive thru window. As you know traffic has a tendency to back up on Broadway during our noon rush. We feel that this driveway would help relieve some of this congestion.

If this variance is granted we will continue to keep the high standards of landscaping and cleanliness that our stores are known for. We feel that the beauty of the neighborhood and the City of Wichita will be improved once we have completed our remodel job. We have always been very proud of our restaurants and believe that their appearance has always reflected our desire to meet the cities standards.

Sincerely,

Mr. Russell G. Johansen

A handwritten signature in cursive script that reads "Russell G. Johansen".

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the office of the Register of Deeds, Sedgwick County, Kansas, of:

The south 15 feet of Lot 5, all of Lot 7, and the north 10 feet of Lot 9, on Topeka Avenue, in Stone's Addition to the City of Wichita, Sedgwick County, Kansas,

together with all real estate lying within a 200 foot radius thereof.

DESCRIPTION	OWNER & ADDRESS
<u>Stone's Addition to the City of Wichita</u>	
On Topeka Avenue:	
Lots 1, 3, and N 10' of Lot 5	Benjamin Schick and Martha Schick ✓ 1065 North Topeka Wichita, Kansas 67214
S 15' of Lot 5, all of Lot 7, and N 10' of Lot 9	D Johansen, Inc. 916 South Broadway Wichita, Kansas 67211
S 15' of Lot 9, all of Lots 11 and 13, and N 22' of Lot 15	✓ McDonald's Corporation 916 South Broadway Wichita, Kansas 67211
S 3' of Lot 15, all of Lots 17 and 19, and N 7' of Lot 21	Motel Enterprises, Inc. ✓ c/o Bill Mesker International Flying Building Municipal Airport Wichita, Kansas 67209
S 18' of Lot 21 and all of Lot 23	D Motel Enterprises, Inc. Address shown above
On Broadway Avenue:	
Lots 2, 4, and 6, and W 10' of vacated alley, except W 15' for street	Francis L. Jehle ✓ Helen M. Jehle 8 East Lynwood Boulevard Wichita, Kansas 67207
Lots 8, 10, 12, 14, 16, 18, and N 16.7' of Lot 20, and W 10' of vacated alley, except W 15' for street	✓ Paul Revere Life Insurance Co. 1900 North Amidon Wichita, Kansas 67203
S 8.3' of Lot 20, all of Lots 22 and 24	✓ J. J. Thompson, Inc. 1042 North Broadway Wichita, Kansas 67214
<u>Staffords and Wright's Addition to Wichita</u>	
Harvey's Reserve:	
N 70' of S 148' of E 150'	+ Charles A. Loop and Carolyn J. Loop (Address not found)

DESCRIPTION

OWNERS & ADDRESSES

Stafford and Wright's Addition

Harvey's Reserve (continued)

Beginning 15' N and 45' E of SW corner of
NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16-27-1E, thence E 150';
N 125'; W 154'; S 125' to beginning.

E. G. Weathers and
Etta A. Weathers and
C. C. Weathers and
Edra M. Weathers
c/o Phillip F. Farha
438 South Oliver
Wichita, Kansas 67218

On Topeka Avenue:

Lots 200, 202, 204, 206 and 208

St. Francis Hospital & School
of Nursing, Inc.
929 North St. Francis
Wichita, Kansas 67214

St. Francis Medical Park

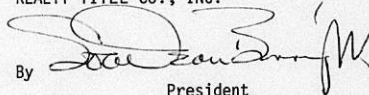
Lot 1, Block A

St. Francis Hospital & School
of Nursing, Inc.
Address shown above

WITNESS our Hand and Seal at Wichita, Kansas, this 28th day of
June, 1976, at 7:00 o'clock A. M.

REALTY TITLE CO., INC.

By



President

S29676

Form 22 11

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT

Name

Address

Type

Due Date

Comments:

Date

BY

*

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

Roll # 1