

Case No. BZA 30-83 - Mr. & Mrs. Harold Perry, 355 North Waco, request variances to (1) reduce the required front yard setback from 20' to 0' for off-street parking purposes only and (2) reduce the side yard setback from 5' to 0'

POSTED
6-8-83
SRL

ACTION

BZA. 30-83 APPROVED 6-28-83
DATE

~~SUB~~

200'4 Sec. 7-18-83

Checked 729 art

SKN 8-2-83

Recorded 8-4-83

Map No. 4 5/48 B
 Sec. _____
 Twp. _____
 Range _____

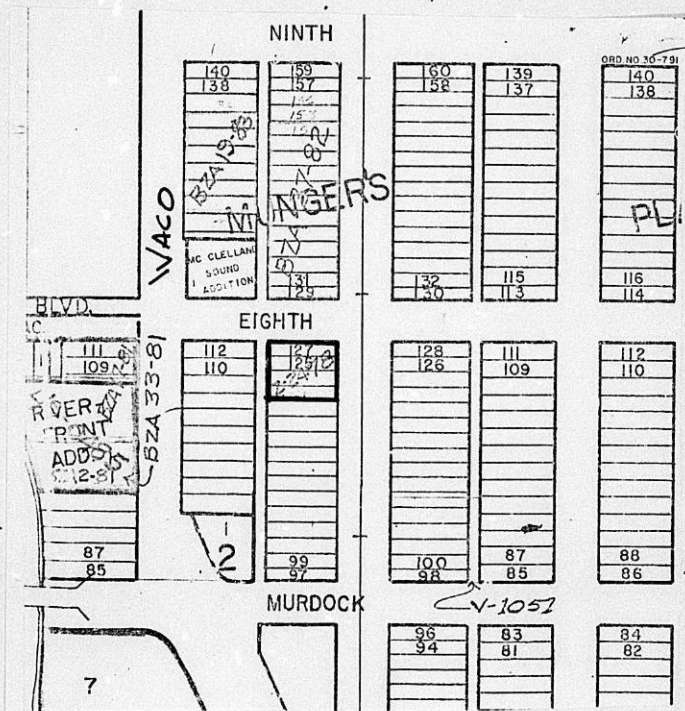
BZA- 30-83
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E E S E W C N B
3. Land Use: East duplex South duplex
 West apts North apts
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



STANDARD
 No. 2153C
 HASTINGS, MN
 LOS ANGELES, CHICAGO, LOGAN, OH
 McNEGOR, TX, LOCUST GROVE, GA
 U.S.A.

RESOLUTION NO. BZA 30-83

WHEREAS, Mr. & Mrs. Harold Perry, 355 North Waco, Wichita, Kansas, requests variances as provided in Section 2.12.590.B, Code of the City of Wichita, to (1) reduce the front yard setback from 20' to 0'; and (2) reduce the side yard setback adjacent to 8th Street from 5' to 0'; both for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

Lots 121, 123, 125 and 127 on Wichita Street in Mungers Original Town, Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 8th Street and Wichita 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 June 28, 1983, 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 is in an area that is adjacent to the "E" Light Industrial District to the south and the "C" Commercial District to the west, neither of which require setbacks for off-street parking purposes; 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 adjacent properties are either industrial or owned by the applicant and developed in the same manner; 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 applicant would be unable to continue the project on the same basis as the development to the north; 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 use of the setbacks for parking will not interfere with any right-of-way or easements; 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 setbacks in residential areas are to provide open space, and protection to adjacent properties, whereas this property is nearly surrounded by industrial use; 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 variances to (1) reduce the front yard setback from 20' to 0'; and (2) reduce the sideyard setback adjacent to 8th Street from 5' to 0'; both for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as:


COPY

Lo's 121, 123, 125 and 127 on Wichita Street in Munge.s
Original Town, Wichita, Sedgwick County, Kansas. Generally
located on the southwest corner of 8th Street and Wichita
Street.

be approved subject to the following conditions:

1. The applicant shall provide and maintain a six foot screening wall along the east property line with no driveway access to Wichita Street.
2. All parking spaces shall be in conformance to the off-street parking standards as established by the Traffic Engineer.
3. The applicant shall submit a landscape plan, of the public right-of-way, along 8th Street and Wichita Street to the Secretary for approval prior to the release of the Resolution. This plan shall include street trees of sufficient size to not interfere with pedestrian or vehicular traffic.

ADOPTED AT WICHITA, KANSAS, this 28th day of June 1983.


John Slaymaker, Chairman

ATTEST:


Clem E. Lytle, Assistant Secretary

July 1, 1983

Mr. & Mrs. Harold Perry
355 North Waco
Wichita, Kansas 67202

Re: BZA 30-83 - Request for Variances

Dear Mr. & Mrs. Perry:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 28, 1983.

This Resolution reflects the official action of the Board to approve your requests, and sets out the conditions 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
Encl.

cc: Jeff Krehbiel, Associates, 1300 East Lewis, Wichita
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

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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.

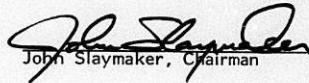
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ADOPTED AT WICHITA, KANSAS, this 28th day of June 1983.


John Slaymaker, Chairman

ATTEST:


Glen E. Lylie, Assistant Secretary

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

June 8, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 30-83

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 Mr. & Mrs. Harold Perry, 355 North Waco, Wichita, Kansas, requesting variances.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting variances to (1) reduce the required front yard setback from 20' to 0' for off-street parking purposes only, and (2) reduce the side yard setback from 5' to 0' for off-street parking purposes only, on property zoned "B" Multiple-family Dwelling District. A legal description of the applicant's property is as follows:

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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

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

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Jack H. Galbraith
Secretary

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE June 21, 1983

TO Glen Lytle, Special Assistant for Zoning

FROM Stan Scott, Administrative Aide III

SUBJECT BZA 30-83: Southwest Corner
of 8th and Wichita Streets

On Monday, June 20th, CPO Neighborhood Council "L" considered the captioned case, a request by Mr. and Mrs. Harold Perry for variances to 1) reduce the required front yard setback from 20' to 0' for off-street parking purposes only, and 2) reduce the side yard setback from 5' to 0' for off-street parking purposes only on property zoned "B" Multiple-Family Dwelling District. The Council voted 7-0 to recommend approval of the requested variances, subject to MAPD staff comments.

Neither the applicant, area residents, nor adjoining property owners were in attendance. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 30-83 is considered on Tuesday, June 28th.



Stan Scott
Administrative Aide III

RECEIVED

JUN 21 1983

METROPOLITAN PLANNING

ROUTE _____

SECRETARY'S REPORT
CASE NO. BZA 30-83

APPLICANT: Mr. & Mrs. Harold Perry, 355 North Waco, Wichita, Kansas.

AGENT: Jeff Krehbiel, Associates, 1300 East Lewis, Wichita, Kansas.

REQUEST: Variances pursuant to Section 2.12.590.B, Code of the City of Wichita, to (1) reduce the required front yard setback from 20' to 0'; and (2) reduce the side yard setback from 5' to 0', both for off-street parking purposes only.

GENERAL LOCATION: On the southwest corner of 8th Street and Wichita Street.

ZONING: Subject property is zoned the "B" Multiple-family district as is the property to the north. Property to the west is "C" Commercial. Properties to the south and east are "E" Light Industrial.

LAND USE: Subject property is vacant. To the west and north are the applicant's apartments. To the south and east is industrial.

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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting two separate variances in order to continue development of an apartment complex in the same manner as the previous parcels. Several of the other parcels have had similar variances in order to fully utilize the property for off-street parking purposes and to be able to screen the property from the railroad in Wichita Street.

This property is immediately adjacent to "E" Light Industrial zoning on the south and across Wichita Street from "E" Light Industrial zoning which does not have any limitation of setbacks for use of the property for off-street parking. It would also seem appropriate to vary the setback for off-street parking purposes adjacent to 8th Street to conform to previously approved variances to permit the full utilization of the property by the applicant.

It is recommended that the public property be landscaped in the same manner as was approved for BZA 37-82 to provide continuity to the project.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is adjacent to the "E" Light Industrial District to the south and the "C" Commercial District to the west, neither of which require setbacks for off-street parking purposes.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variances requested will not adversely affect the rights of adjacent property owners inasmuch as the adjacent properties are either industrial uses or are owned by the applicant and developed in the same manner as requested for this property.

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 applicant would be unable to continue the project on the same basis as the development to the north, by the utilization of the setbacks for parking and the overall continuity of the project design.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variances would not adversely affect the public interest inasmuch as the use of the setbacks for parking will not interfere with any right-of-way or utility easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the setbacks in residential areas are to provide open space, and protection to adjacent properties, whereas this property is nearly surrounded by industrial uses.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variances be granted subject to the following conditions:

1. The applicant shall provide and maintain a six foot screening wall along the east property line with no driveway access to Wichita Street.
2. All parking spaces shall be in conformance to the off-street parking standards as established by the Traffic Engineer.
3. The applicant shall submit a landscape plan, of the public right-of-way, along 8th Street and Wichita Street to the Secretary for approval prior to the release of the Resolution. This plan shall include street trees of sufficient size to not interfere with pedestrian or vehicular traffic.

BZA CASE NO. 30-83

2 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

6 NOTICES SENT TO ADJOINING PROPERTY OWNERS

10 TOTAL NOTICES SENT 6-8-83

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

June 8, 1983

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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

CASE NO. 30-83

CITY OF WICHITA, KANSAS

FILED 5-27-83

APPLICATION FOR VARIANCE

I. Name of Applicant Mr. and Mrs. Harold Perry

Mailing Address 355 N. Waco, Wichita, Ks 67202 Phone 267-5367

Name of Authorized Agent Jeff Krehbiel Associates, AIA

Mailing Address 1300 E. Lewis, Wichita, Ks 67211 Phone 267-8233

Relationship of applicant to property is that of Owner under contract (Owner, Tenant, Lessee, Other) to urban renewal with the City of Wichita.

II. The variance requested (1) To reduce the required front yard set

back on Wichita street from 20 ft. to zero ft. and (2) to reduce

the side yard setback on 8th street from 5 ft. to zero ft. both for the purpose of off-street parking purposes only.

for property located _____

On the southwest corner of 8th Street and Wichita street.

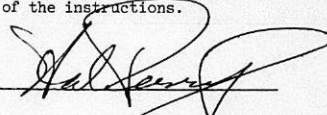
and legally described as: Lots 121, 123, 125, and 127 on Wichita street

in Mungers Original Town, 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. 36-596); 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.

Applicant 

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3.00 (a.m.-p.m.), MAY 27, 1983 together with appropriate fee of 150.00.

Signer 



**JEFF KREHBIEL
ASSOCIATES, inc**
architecture · planning

May 26, 1983

Mr. Glen Lytle
City of Wichita
Planning Department
455 North Main
Wichita, Kansas 67202

RE: Board of zoning Appeals
Wichita and Eighth Street

Dear Glen,

The intent of this requested variance is to gain relief from Section 28.04.140 restricting parking in the front and side yard setbacks and 28.04.070 requiring screen fences to be no closer to the property lines than the setback lines.

The variance requested arises from conditions unique to our property which are not ordinarily required in adjacent property due to current zoning. Our property is located in an area zoned predominately "E" Light Industrial which permits buildings and parking in front yard setbacks up to the property lines. Many adjacent buildings are located such that the buildings are constructed on the property line. The property is also located in an area with an active railroad track operating in Wichita Street, which necessitates effective screening of our building both visually and acoustically.

The granting of this variance will not adversely affect the rights of adjacent property owners because most are commercial and industrial type areas which will not affect their property by granting this variance.

Strict application of the provisions of Title 28 will constitute unnecessary hardship upon the owner because it would greatly reduce the permitted density allowed by the "B" zoning and would be less compatible with buildings to the north and west which have proven successful in the area.

The variance will not adversely affect the public health, safety, morals, owners convenience, prosperity or general welfare if approved as requested.

1300 east lewis

wichita, kansas 67211

(316) 267-8233

Mr. Glen Lytle
Board of Zoning Appeals
May 26, 1983

Granting the variance desired will not oppose the intent of Title 28 because multi-family housing is permitted in BB, LC, C and D zoning districts which require no setbacks, and are probably more appropriate zoning for districts similar to this location.

The intent of the owner is to provide compatible multi-family housing with his project to the north and west of the property under consideration. The owners intent is to improve the architectural character of the area and provide a more viable project. By placing the screen wall and parking east of the bulding, more effective sound and visual isolation can take place from vehicular and railroad traffic along Wichita Street.

Should you have any questions, do not hesitate to contact me.

Sincerely,

JEFF KREHBIEL ASSOCIATES, AIA



Jeffrey L. Krehbiel, AIA
cc: Hal Perry

OWNERSHIP LIST

MAY 27 1983

Property Description

Property Owner

Lot 1, McClelland Sound Addition

D
Harold Perry
Shirley Ann Perry
6406 E. 11th
Wichita, Kansas
67206

Lots 94 & 96, on Waco, Mungers Original Town

La Verne N. Lambertz
Mary Jane Lambertz
812 N. Waco
Wichita, Kansas
67203

Lot 98 & 100, on Waco, Mungers Original Town

Same as above

Lots 102 & 104, on Waco, Mungers Original Town

Same as above

Lot 106 & 108, on Waco, Mungers Original Town

D
Harold Perry
Shirley Ann Perry
6406 E. 11th
Wichita, Kansas
67206

Lot 110 & 112, on Waco, Mungers Original Town

Same as above

The north 15 feet of lot 120 & all of lot
122, on Waco, Mungers Original Town
odd

Same as above

Lots 105 through 115, on Wichita, Mungers
Original Town, inclusive

Decorative Decor Inc.
300 W. Murdock
Wichita, Kansas
67203

Lots 117 & 119, on Wichita, Mungers Original
Town

D
LaVern N. Lambertz
Jane Lambertz
812 N. Waco
Wichita, Kansas
67203

Odd

Lots 121 through 139, inclusive, on Wichita,
Mungers Original Town

D
Harold Perry
Shirley Ann Perry
6406 E. 11th
Wichita, Kansas
67206

Lot 124, on Wichita, Mungers Original Town

~~J. B. Alberta
Address unknown~~

Lots 126 & 128, on Wichita, Mungers Original Town

Church of God in Christ
840 N. Wichita
Wichita, Kansas
67203

Lots 130 & 132, on Wichita, Mungers Original Town

D
LaVerne N. Lambertz
Mary Jane Lambertz
812 N. Waco
Wichita, Kansas
67203

Lot 134, on Wichita, Mungers Original Town

Robert C. Osby
Cleodene Osby
918 N. Wichita
Wichita, Kansas
67203

Property Description

Property Owner

Lot 136, on Wichita, Mungers Original Town

Harold Perry
Shirley Ann Perry
D 6406 E. 11th
Wichita, Kansas
67206

Lot 138, on Wichita, Mungers Original Town

L. Ray Berry (deceased)
~~Rosalba Berry (deceased)~~

East 43 feet of Lots 108, 110, & 112;
& The south 4 feet of the East 43 feet
of lot 114, on Wichita, Mungers Original Town

Columbian Title
Building Limited
Partnership
✓ 216 W. Murdock
Wichita, Kansas
67203

Lots 108, 110 & 112, except the east 43 feet;
Lot 114, except the south 4 feet of the east
43 feet, on Wichita, Mungers Original Town

Alan G. Whetzel
Roberta A. Whetzel
✓ 2401 N. 135th St. West
Wichita, Kansas
67223

Page 3

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lots 121, 123, 125 & 127 on Wichita Street in Mungers Original Town of Wichita, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 26th day of May, 1983, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Vice President

Order No: 320670
cf

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

Roll # 2