

Case No. BZA 38-79 - Fireball Industries of Ks., Inc., requests variance to waive the screening requirements adjacent to residentially zoned property

ACTION

BZA
38-79

DATE

Appr. 9-25-79
4-0

9-25-79

POSTED
8-10-79

COMMITTEE

M.A.P.C.

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

RE
10-16

WARD

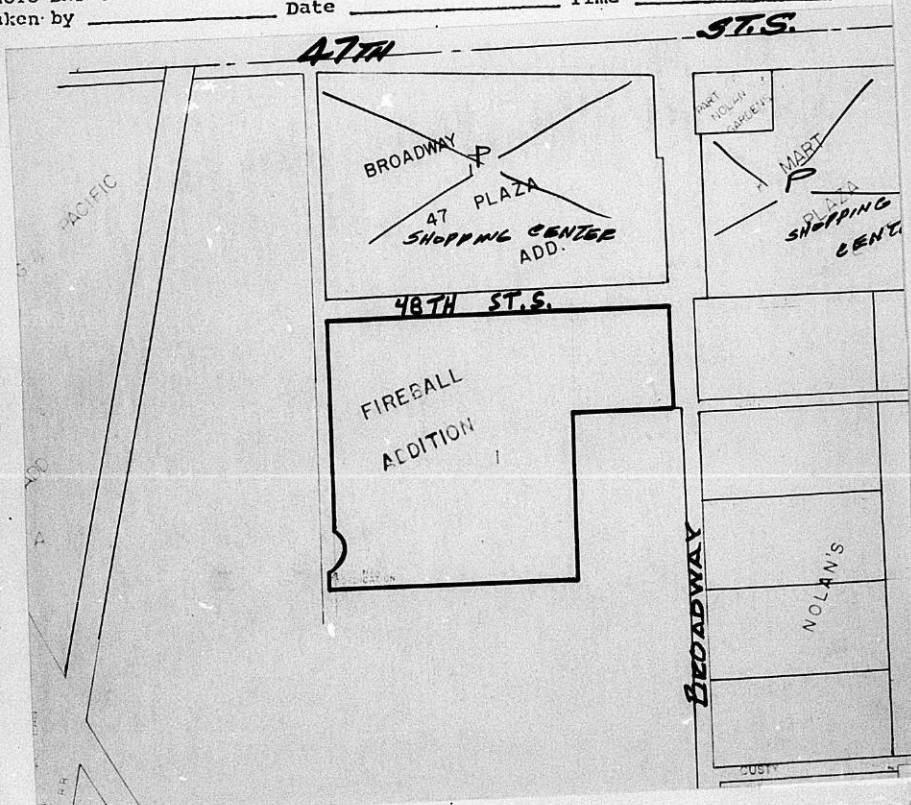
✓ 300 c1 10-16
✓ 200

Map No. 5441
 Sec. 20
 Twp. 28
 Range 1E

BZA- 38-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA: (IRREGULAR)
 1. Acres: 22.5 (960 ft. by 1240 ft.)
 2. Adjoining Zoning: E AA S AA W AA N LC
 3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West UNDEVELOPED North SHOPPING CENTER
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: UNDEVELOPED
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



Shimada
 No. 2153C
 HASTINGS, MN - LOS ANGELES
 LOGAN OH - MADISON TX U. S. A.

October 10, 1979

Ron Kresnicka
Vice President
Fireball Industries of Kansas, Inc.
100 W. 48th Street South
Wichita, Kansas 67217

Re: Case No. BZA 38-79
Request for Variance

Dear Mr. Kresnicka:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 25, 1979, in connection with your request for a variance to waive the screening requirements adjacent to residentially zoned property on property zoned the "E" Light Industrial District and generally located on the southwest corner of Broadway and 48th Street South (100 W. 48th Street South).

This Resolution reflects the official action of the Board to approve this request, 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:bbc
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO. BZA 38-79

WHEREAS, Fireball Industries of Kansas, Inc., 100 W. 48th St. South, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to waive the screening requirements adjacent to residentially zoned property, on property zoned the "E" Light Industrial District and legally described as follows:

Lot 1, Fireball Addition to Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Broadway and 48th Street South.

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 25, 1979, 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 surrounding properties are undeveloped and it is anticipated that when development does occur, it will not be residential uses; 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 owner is providing a security fence at the property line and the screening of industrial use from agricultural land is meaningless if it remains agricultural; 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 to require screening that, when development occurs in the future, will not be required; 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 majority of the area that will be visible from Broadway will be a surfaced employee parking lot and not dissimilar to other uses not required to be screened from public right-of-way; 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 intent of the zoning ordinance is to provide protection and separation between commercial and industrial uses and residential development; 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 waive the screening requirements adjacent to residentially zoned property, on property zoned the "E" Light Industrial District and legally described as:

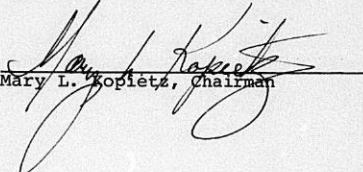
Resolution No. BZA 38-79
Page 2

Lot 1, Fireball Addition to Wichita, Sedgwick
County, Kansas. Generally located at the south-
west corner of Broadway and 48th Street South

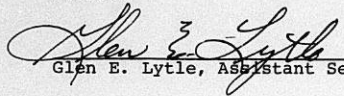
be approved subject to the following condition:

1. If at any time the adjacent property is platted and developed for any residential use, the property shall be screened in accordance with Section 28.04.160.K of the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 25th day of September, 1979.


Mary L. Koppitz, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

September 26, 1979

Ron Kresnicka
Vice President
Fireball Industries of Kansas, Inc.
100 W. 48th Street South
Wichita, Kansas 67217

Re: Case No. BZA 33-79
Request for Variance

Dear Mr. Kresnicka:

At the regular meeting of the Board of Zoning Appeals on September 25, 1979, your request for a variance to waive the screening requirements adjacent to residentially zoned property on property zoned the "LC" Light Commercial District and generally located on the southwest corner of Broadway and 48th Street South (100 W. 48th St. South) was considered.

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

1. If at any time the adjacent property is platted and developed for any residential use, the property shall be screened in accordance with Section 28.04.160.K of the zoning ordinance.

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:bbc

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

Send cc: to.

Linda Tinsley,
Indus. Dev. off.

ok
RC
9-26

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE September 18, 1979

TO Jack Galbraith, Chief Planner
FROM Ginny Schrag, CPO Administrative Aide

SUBJECT BZA 38-79 (Southwest corner of
Broadway and 48th Street South,
100 West 49th Street South)

At its meeting of September 17, 1979, CPO Council "C" considered the captioned case. The Council voted unanimously, 4-0, to recommend denial of the request for a variance by Fireball Industries to waive the screening requirements adjacent to residentially zoned property, on property zoned "E", Light Industrial.

Please advise the Board of Zoning Appeals of the Council's recommendation when the case is considered at the September 25 meeting.

Ginny Schrag

Ginny Schrag
CPO Administrative Aide

GS:lw

NOTED:

Sarah Gilbert
Sarah Gilbert
Assistant CP Coordinator

RECEIVED

SEP 21 1979

METROPOLITAN PLANNING
ROUTE *SB*

SECRETARY'S REPORT
CASE NO. BZA 33-70

APPLICANT: Fireball Industries of Kansas, Inc., 100 W. 48th St. South, Wichita, Kansas

AGENT: Ron Kresnicka, Vice President, 100 W. 48th St. South, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to waive the screening requirements adjacent to residentially zoned property.

GENERAL LOCATION: Southwest corner of 48th Street South and Broadway (100 West 48th St. South).

ZONING: Subject property is zoned "E" Light Industrial. East, west and south is "AA" Single Family; north is "LC" Light Commercial.

LAND USE: Properties to the west and south are undeveloped. North is commercial; east is undeveloped and nursery.

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 23 (zoning ordinance).

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EZA AGENDA
9-25-79

COMMENTS BY THE SECRETARY:

The applicant has requested a variance of the screening requirements for a recently completed manufacturing facility. This facility is located west of Broadway on 43th Street South and is situated on a 22.5 acre site zoned "E" Light Industrial.

The ordinance requires screening of all institutional, commercial and industrial development when such is located adjacent to any residentially zoned property. In this particular instance, the development has occurred in an undeveloped area and the majority of the surrounding property is zoned "AA" Single Family. There has been a request for "E" Light Industrial zoning for the property to the west and extending south to the 1/4 section line. A portion of the property to the south has been purchased by a church for future development. The remaining property adjacent to the application area is adjacent to Broadway and the adopted policy of the MAPC and the City Commission is to look with favor on zoning to permit highway oriented uses.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the surrounding properties are undeveloped and it is anticipated that when development does occur, it will not be residential uses.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the variance requested may not adversely affect the rights of adjacent property owners inasmuch as the owner is providing a security fence at the property line and the screening of industrial use from agricultural land is meaningless if it remains agricultural.

HARDSHIP:

It is the opinion of the Secretary that it is somewhat of an unnecessary hardship to require screening that, when development occurs in the future, will not be required.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest inasmuch as the majority of the area that will be visible from Broadway will be a surfaced employee parking lot and not dissimilar to other uses not required to be screened from public right-of-way.

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EZA 33-70
EZA AGENDA
9-25-70

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the zoning ordinance is to provide protection and separation between commercial and industrial uses and residential development.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is the Secretary's recommendation that the variance be approved subject to the following condition:

1. If at any time the adjacent property is platted and developed for any residential use, the property shall be screened in accordance with Section 23.04.160.K of the zoning ordinance.

BZA CASE NO. 38-79

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPG

4 NOTICES SENT TO ADJOINING PROPERTY OWNERS

16 TOTAL NOTICES SENT 9-5-79

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

September 5, 1970

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 38-70

An application has been filed by Fireball Industries of Kansas, Inc., 100 W. 48th Street South, Wichita, Kansas, pursuant to Section 2.12.500.B, Code of the City of Wichita, requesting a variance to waive the screening requirements adjacent to residentially zoned property, on property zoned the "E" Light Industrial District and legally described as follows:

Lot 1, Fireball Addition to Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Broadway and 48th St. South (100 West 49th St. South).

This application has been assigned case No. BZA 38-70, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 25, 1970, at 1:30 p.m., in the Board 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.

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.

Jack E. Galbraith
Secretary

August 9, 1979

Ron Kresnicka
Vice President
Fireball Industries of Kansas, Inc.
100 W. 48th Street South
Wichita, Kansas 67217

Re: Case No. BZA 38-79
Request for Variance

Dear Mr. Kresnicka:

Enclosed is receipt for the \$50.00 fee paid in regard to the above captioned case. This case will be heard by the Board of Zoning Appeals at their regularly scheduled meeting of September 25, 1979. You will receive an agenda and staff report prior to this meeting.

Yours very truly,

Lynn Shirkey
Junior Planner

LS:bbc
Encl.

BOARD OF ZONING APPEALS

CASE NO

38-79

CITY OF WICHITA, KANSAS

FILED

APPLICATION FOR VARIANCE

I. Name of Applicant Fireball Industries of Kansas, Inc.
100 W. 48th Street So.
Mailing Address Wichita, Kansas 67217 Phone 529-2111

Name of Authorized Agent Ron Kresnicka Vice President
Mailing Address same Phone same

Relationship of applicant to property is that of Tenant under
(Owner, Tenant, Lessee, Other) Industrial Revenue Bond Offering

II. The variance requested is to deferr or waive landscaping
(screening) requirements

to waive the screening requirements adjacent to residentially
zoned property
for property located 100 W. 48th Street So. Wichita, Kansas
SW cor of Blding + 48th St S

*See
ownership list
for legal*

and legally described as: FIREBALL ADDITION - Lot 1

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

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.

FIREBALL INDUSTRIES OF KANSAS, INC.

Applicant

Ron Kresnicka

Authorized Agent Ron Kresnicka

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10:30 (a.m. - p.m.), August 9 19 79
together with appropriate fee of \$50.00.

L. Lynn Shirkley Signed



SECURITY IS KNOWING

The Insurance • Escrow Closings • Abstracts

OWNERSHIP LIST

Tract	Property Owner
A tract of land in the NE $\frac{1}{4}$ of Section 20, Township 28 South, Range 1 East, desc. as: Beginning at a point 1300 feet south of the NE corner of said NE $\frac{1}{4}$; thence west parallel with the north line of said NE $\frac{1}{4}$, 400 feet; thence south parallel with the east line of said NE $\frac{1}{4}$, 606 feet; thence west parallel with the north line of said NE $\frac{1}{4}$, 924 feet more or less to the west line of the east one-half of said NE $\frac{1}{4}$ thence south along the west line of said east half of NE $\frac{1}{4}$ 30 feet more or less to a point 1936 feet south of the north line of said NE $\frac{1}{4}$; thence east parallel with the north line of said NE $\frac{1}{4}$, 1324 feet more or less to a point on the east line of said NE $\frac{1}{4}$, thence north 636 feet to the pob.	Bill Bachman & Associates Inc. 1901 West 13th St. 67203
That part of the west half of the NE $\frac{1}{4}$ of Section 20-28-1E, desc. as: Beginning at the NE corner of said west half of NE $\frac{1}{4}$; thence west along the north line of said west half of NE $\frac{1}{4}$ for a distance of 211 feet; thence south parallel with the east line of said west half of NE $\frac{1}{4}$ for a distance of 719.46 feet; thence west parallel with the north line of said west half of NE $\frac{1}{4}$ for a distance of 201.57 feet; thence south parallel with the east line of said west half of NE $\frac{1}{4}$ for a distance of 1921.02 feet, more or less, to the south line of said west half of NE $\frac{1}{4}$, thence east 412.57 feet to the SE corner of said west half of NE $\frac{1}{4}$; thence north along the east line of said west half of NE $\frac{1}{4}$ for a distance of 2639.47 feet more or less to the point of beginning	Grey Dresie, Nominee 433 North Broadway 67202
Block 1	Broadway 47 Plaza Traborn Investment Company Ltd. an Oklahoma Ltd. Partnership
lot 1	Fireball Addition City of Wichita 455 North Main 67202
lot 1	K-Mart Plaza South E. N. Maisel & Associates 17356 Northland Park Court Southfield, Michigan 48075
lots 6 and 11	Nolan's Gardens Fourth Natl. Bank & Trust Co. of Wichita, Trustee Broadway & Douglas 67202

Lytle
Fireball Industries of Kansas, Inc.

*Travel
Trailers*

100 West 48th Street So.
Wichita, Kansas 67217
(316) 529-2111

*Motor
Homes*

August 8, 1979

RECEIVED

Secretary
Board of Zoning Appeals
10th Floor, City Hall
455 No. Main
Wichita, Kansas 67202

AUG 9 1979
METROPOLITAN PLANNING
ROUTE

Gentlemen:

We are requesting that all screening and/or landscaping requirements designated for the Fireball Addition in Wichita, Kansas be waived at this time.

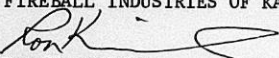
Fireball Industries would like to bring to your attention that the property north of us is the back-end of a TG & Y shopping center. The property to the west is currently vacant farm land. The property east would be across Broadway (Highway 81), and that also is vacant farm land or nursery area. The area south of us is currently owned by a church group and they have yet to decide if they will build on the property, so it also is currently vacant.

Due to the above possibility that the majority of property surrounding us will some day be zoned either commercial or light industrial, we feel justifiably that the screening requirements be eliminated. We are willing to agree to do minimal screening should it become necessary down the road some day.

It should also be mentioned that Fireball Industries is in the recreational vehicle industry and at this present time such industry is in a depressed state due to energy and economic upheaval. We would also like to have the screening situation waived from a purely financial hardship standpoint which would only weaken our situation.

We await your decision on the enclosed. Time is of the essence so we can get final approval for occupancy from the city inspector.

Very truly yours,
FIREBALL INDUSTRIES OF KANSAS, INC.


Ron Kresnicka
Vice President/General Manager
RK/nk
enclosures

CC: Wichita Industrial Development Office
RECREATIONAL VEHICLES SINCE 1953

AN EQUAL OPPORTUNITY EMPLOYER

RECEIVED

AUG 9 1979

METROPOLITAN PLANNING

ROUTE

We hereby certify the foregoing to be a true and correct list of the property owners of:

Use for legal A 200 foot radius of: Lot 1, Fireball Addition to Wichita, Sedgwick County, Kansas

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 6th day of August, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Hable

Vice President

Order No. 279877

wh

*

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

Roll # 2