

Case No. BZA 48-84 - Jerry V. Johnston  
requests a variance to reduce the  
front yard setback from 20 feet to 5'  
on property zoned the "BB" Office  
District and the "LC" Light Commercial  
District and generally located on the  
southeast corner of Morris and W111<sup>th</sup> Sts.

2004 Sec 9-4-84  
Shot 2/18 ✓  
Recorded

Pasted 6-28-84

ACTION

B.Z.A. 48-84 **APPROVED** 7-24-84  
DATE

200' Sec 9-4-84  
Sheet 9-18  
Recorded ✓

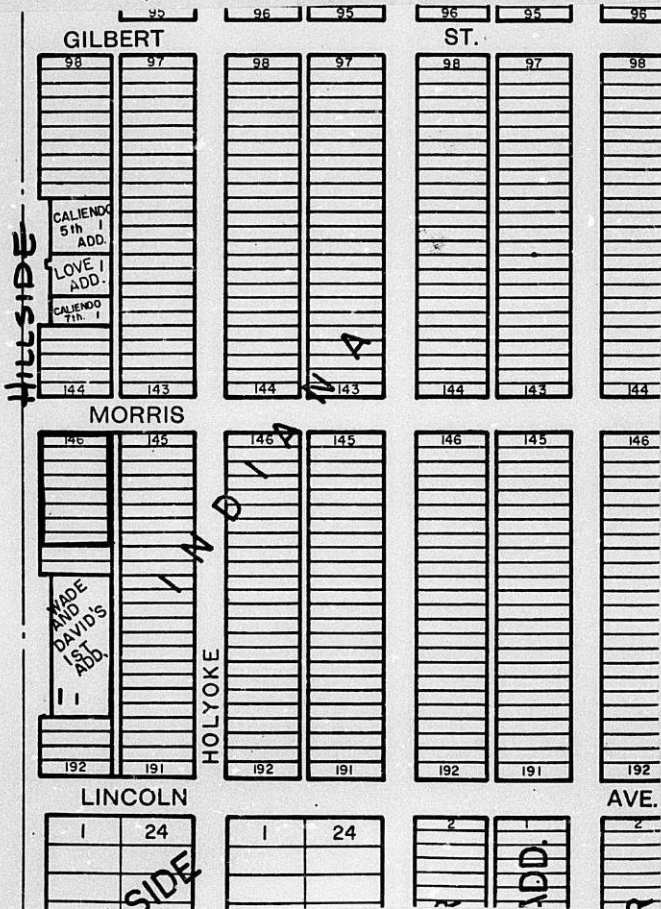
Case No. BZA 48-84 - Jeff V. Johnston requests a variance to reduce the front yard setback from 20 feet to 5' on property zoned the "18" Office District and the "LC" Light Commercial District and generally located on the southeast corner of Morris and Hillside

Map No. 5746 C

BZA 48-84  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)  
2. Adjoining Zoning: E A S RB W LC & DB N LC  
3. Land Use: East \_\_\_\_\_ South \_\_\_\_\_  
West \_\_\_\_\_ North \_\_\_\_\_  
4. Area (is) (~~is not~~) platted.



**Shiloh**  
No. 2-153C  
HARTING, INC.  
LOS ANGELES OFFICE  
17100 GARDEN GROVE, CA  
REGISTERED PROFESSIONAL ARCHITECT  
U.S.A.

July 27, 1984

Jerry V. Johnson  
3108 Wilma  
Wichita, Ks. 67211

Re: BZA 48-84 - Request for Variance

Dear Mr. Johnson:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 24, 1984.

This Resolution reflects the official action of the Board to approve your 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:sad  
Encl.

cc: William L. Korber, 330 Laura, Wichita 67211  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 48-84

WHEREAS, Jerry V. Johnson, 3108 Wilma, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 5 feet on property zoned the "LC" Light Commercial and the "BB" Office Districts and legally described as follows:

Even Lots 146 thru 160 on Hillside, Indiana Subdivision in Vincennes Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Morris and Hillside.

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 24, 1984, 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 front yard setback for the building to be located in the "LC" Light Commercial District is determined by the one remaining 50 feet in the block that is zoned "RB" Four-family; and the distance from this parcel to the building will be separated by 110 feet of parking south of the proposed building; 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 building will be located near the north property line and should not create any sight distance obstruction to the property to the south; and it will be located on the same line as the building 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 owners represented in the application inasmuch as the setback based strictly on an existing residential parcel that is located in an area that the policy favors zoning other than residential creates an undue restriction on the use of the property; 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 reduction of the front yard in an area where street improvements have been made and the use of the setback area for anything except landscaping or other amenities is impossible; 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 policy to look with favor on zoning other than residential in the block would indicate that the one remaining parcel will eventually be rezoned and developed other than residential; 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.

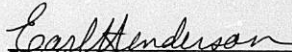
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 20 feet to 5 feet on property zoned the "LC" Light Commercial and the "BB" Office Districts and legally described as follows:

Even Lots 146 thru 160 on Hillside, Indiana Subdivision in Vincennes Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Morris and Hillside.

be approved subject to the following conditions:

1. The front yard setback on lots 146, 148, 150 and 152 shall be not less than 5 feet from the right-of-way of Hillside Avenue after the owner dedicates an additional 10 feet of right-of-way on these same lots.
2. The release of the resolution authorizing the issuance of a building permit shall be contingent upon the dedication of the additional right-of-way for Hillside.
3. No ground sign shall be permitted on the property closer than 6 feet to the front property line.

ADOPTED AT WICHITA, KANSAS, this 24th day of July, 1984.

  
Earl Henderson, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

**THE CITY OF WICHITA**

**OFFICE OF CITIZEN PARTICIPATION**

**DATE July 17, 1984**

**TO Glen Lytle, Special Assistant for Zoning**

**FROM Mary L. Moore, Administrative Aide III**

**SUBJECT BZA 48-84 Generally located  
on the southeast corner of  
Morris and Hillside**

On Monday, July 16th, CPO Council "F" considered the above captioned case. After discussion, the Council voted 5-2 to recommend approval of the request subject to the conditions in the Secretary's report.

Please present the Council's recommendations to the BZA on July 24, 1984 for their consideration of this case.

*Mary L. Moore*

Mary L. Moore  
Administrative Aide III

MLM:sm

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Jerry V. Johnston and Marianne T. Johnston, his wife

being the owners of the following described real estate in Sedgwick County, Kansas, to wit:

the east 10 feet of the west 20 feet of Lots 146-148-150-152 on Hillside, Indiana Subdivision in Vincennes Addition to Wichita, Kansas

does hereby dedicate the above described real estate to the public for Street purposes.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

Jerry V. Johnston  
Jerry V. Johnston

Marianne T. Johnston  
Marianne T. Johnston

*Forced M.  
Planning Ded.*

STATE OF KANSAS )  
SEDGWICK COUNTY ) ss

BE IT REMEMBERED, that on this 20th day of July, 1984,

came Jerry V. Johnston and Marianne T. Johnston, his wife

to me personally known to be the same persons who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,  
this \_\_\_\_\_  
City Clerk

Robin K. Pinkerton  
Notary Public  
Robin K. Pinkerton

My Commission Expires: October 13, 1984

ROBIN K. PINKERTON  
NOTARY PUBLIC  
STATE OF KANSAS  
My Appt. Exp. 10-15-84

SECRETARY'S REPORT  
CASE NO. BZA 48-84

APPLICANT: Jerry V. Johnson, 3108 Wilma, Wichita, Kansas.

AGENT: William L. Korber, 330 Laura, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20' to 5'.

GENERAL LOCATION: On the southeast corner of Morris and Hillside.

ZONING: Subject property is zoned the "LC" Light Commercial and the "BB" Office District. Properties to the north and west are "LC". To the east is the "A" Two-family Dwelling District. To the south is the "RB" Four-family Dwelling District.

LAND USE: Subject property is to be developed with a retail clothing store and associated parking. Property to the east is residential and to the north commercial. Property to the west is commercial and office and to the south is a 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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required front yard setback from 20 feet to 5 feet in order to construct a new building on the property at the same setback as the building across Morris Street to the north. The 20 foot setback on this property is established by the one parcel in the block that is zoned the "RB" Four-family Dwelling District.

The applicant's site plan indicates that he is proposing to construct the front of the building at a line 15 feet from the existing west property line. He has also indicated that he will dedicate an additional 10 feet of right-of-way for Hillside which would then put the building within 5 feet of the new west property line.

The proposed building setback line is in line with the building located north across Morris Street. Hillside has been improved in this area, so it would not be contemplated that further improvements would occur for some time. The front of the building would be approximately 27 feet from the new curb line on Hillside so the building should not create a site distance problem at this intersection. It should also be noted that other buildings in the block are also located closer than 20 feet to the right-of-way of Hillside.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the front yard setback for the building to be located in the "LC" Light Commercial District is determined by the one remaining 50 feet in the block that is zoned "RB" Four-family; and the distance from this parcel to the building will be separated by 110 feet of parking south of the proposed building.

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 building will be located near the north property line and should not create any sight distance obstruction to the property to the south; and it will be located on the same line as the building to the north.

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 setback based strictly on an existing parcel that is located in an area that the policy favors zoning other than residential creates an undue restriction on the use of the property.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the front yard in an area where street improvements have been made and the use of the setback area for anything except landscaping or other amenities is impossible.

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 policy to look with favor on zoning other than residential in the block would indicate that the one remaining parcel will eventually be rezoned and developed other than residential.

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 variance be granted subject to the following conditions:

1. The front yard setback on lots 146, 148, 150 and 152 shall be not less than 5 feet from the right-of-way of Hillside Avenue after the owner dedicates an additional 10 feet of right-of-way on these same lots.
2. The release of the resolution authorizing the issuance of a building permit shall be contingent upon the dedication of the additional right-of-way for Hillside.

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BZA CASE NO. 48-84

<u>3</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>24</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>27</u>	TOTAL NOTICES SENT <u>7-5-84</u>

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

July 4, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 48-84

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 Jerry V. Johnston, 3108 Wilma, 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 reduce the front yard setback from 20 feet to 5 feet on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Even Lots 146 thru 160 on Hillside, Indiana Subdivision  
in Vincennes Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the southeast corner of Morris and  
Hillside.

This application has been assigned Case BZA 48-84. It will be considered by the Board of Zoning Appeals on July 24, 1984 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

BOARD OF ZONING APPEALS

CASE NO. 48-84

CITY OF WICHITA, KANSAS

FILED 6-23-84

APPLICATION FOR VARIANCE

I. Name of Applicant  Jerry V. Johnston  
 Mailing Address 3108 Wilma Phone 683-7281  
 Name of Authorized Agent  William L. Korber  
 Mailing Address 330 Laura Phone 262-7271  
 Relationship of applicant to property is that of Owner  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce front yard setback from  
20 feet to 5 feet.

*use legal adv. info*

for property located at the S. E. Corner of Morris & Hillside

and legally described as: Lots 146-148-150-152-154-156-158-160  
on Hillside, Indiana Subdivision in Vincennes Addition  
to Wichita, Kansas.

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

- 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 William L. Korber

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:00 (a.m. p.m.), JUNE 25, 1984 together with appropriate fee of 150.00.

Signed [Signature]

OWNERSHIP LIST

Property Description

Property Owner

Lots 146, 148, 150, 152, 154,  
and 156, except the west 10 feet  
thereof, on Hillside, Indiana  
Sub. in Vincennes Addition

D Jerry V. Johnson  
Marianne T. Johnson  
3108 Wilma  
67211

Lots 158 & 160, on Hillside, Indiana  
Sub. in Vincennes Addition

— Dorothy J. Ramsey  
814 S. Hillside  
67211

Lots 162 & 164, on Hillside,  
Indiana Sub. in Vincennes Addition

Charles D. Whitcher  
Rosalea A. Whitcher  
— 816 S. Hillside  
67211

Lots 145 & 147, Holyoke, Indiana  
Sub. in Vincennes Addition

*returned 7-16-84*  
— Jack E. Milburn *assent to*  
~~2619 S. Erie~~ *616 N. Bluff*  
~~67211~~ *67208*

— Larry Milburn  
643 S. Holyoke  
67218

— Higinio Anaya  
801 S. Holyoke  
67218

Lots 149 & 151, Holyoke, Indiana Sub.  
in Vincennes Addition

— William T. Dolan  
June L Dolan  
8210 Limerick Lane  
67206

Lots 153 & 155, Holyoke, Indiana Sub.  
in Vincennes Addition

— Jack C. Prothero  
Ernestine M. Prothero  
815 S. Holyoke  
67218

Lots 157 & 159, Holyoke, Indiana Sub.  
in Vincennes Addition

Willard L. Bentley  
Ollie M. Bentley  
Address unknown

Lot 161, and the north 20 feet of lot  
163, Holyoke, Indiana Sub. in Vincennes  
Addition

— Irena Deeter  
Donald William Deeter  
819 S. Holyoke  
67218

The south 5 feet of lot 163, all of  
lot 165, and the north 15 feet of lot  
167, Holyoke, Indiana Sub. in Vincennes  
Addition

— Martin E. Gasser  
Janet Gasser  
825 S. Holyoke  
67218

The South 10 feet of lot 167 and  
Lots 169, 171 and 173, Holyoke,  
Indiana Sub. in Vincennes Addition

— W. A. Michaelis  
211 N. Broadway  
67202

— H. R. Michaelis  
620 Westmore Drive  
67209

<u>Property Description</u>	<u>Property Owner</u>
Lots 175, & 177, Holyoke, Indiana Sub. in Vincennes Addition	Bertha E. Veal <u>address unknown</u>
	Znobia J. Cook Wallace H. Cook 832 S. Holyoke 67218
Lots 49, 51, 53, 55 and 57, Hillside, Second Sunnyside Addition	John W. Steele 1632 West Lynn 67212
Lots 71 and 73, Hillside, Second Sunnyside Addition	Harold E. Lange <u>Address unknown</u>
	Pauline M. Tobias 130 N. Young 67212
	Fred J. Lange <u>address unknown</u>
Lot 1, Wade and David's 1st Addition	W. A. Michaelis 211 N. Broadway 67202
	H. R. Michaelis 820 Wetmore Drive 67209
Lot 1, Wade and David 2nd Addition	Same as above
Lot 1, Lies-Squire Addition	M. J. Lies 1222 St. Andrews 67230
	Charles F. Squire 208 Penrose Drive 67206
Lots 132 & 134, Hillside, Indiana Sub. in Vincennes	Efton P. Gray Oleva B. Gray 1116 Apache Rd. 67207
Lots 136 & 138, Hillside, Indiana Sub. in Vincennes	S. H. Brown Ruby Ione Brown <u>address unknown</u>
Lots 140, 142 & 144, Hillside, Indiana Sub. in Vincennes	Frank K. Galbraith 758 S. Hillside 67218

<u>Property Description</u>	<u>Property Owner</u>
Lots 133 & 135, Holyoke, Indiana Sub. in Vincennes	✓ Ray E. Dick Pearl E. Dick 747 S. Holyoke 67218
Lots 137 & 139, Holyoke, Indiana Sub. in Vincennes	✓ Virginia E. Vertreese 5400 N. Santa Fe Oklahoma City, Oklahoma 73118
Lots 141 & 143, Holyoke, Indiana Sub. in Vincennes	✓ Arthur McNeal Brasfield Mary Ruth Brasfield 755 S. Holyoke 67218
Lots 37 & 39, Hillside, Second Sunnyside Addition	✓ LeRoy Stucky Darlene J. Stucky 6111 Clarendon 67220
Lots 41 & 43, Hillside, Second Sunnyside Addition	✓ Arnold Frederick Anderson Esther Anderson 753 S. Hillside 67218
Lots 45 & 47, Hillside, Second Su-nyside Addition	✓ Matilda Kuechenmeister Denton 4640 E. Mt. Vernon 67218

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

Even lots 146 through 160, inclusive,  
Hillside Avenue, Indiana Subdivision  
in Vincennes Addition to Wichita,  
Kansas, 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 this  
26th day of June, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Sable*  
Sr. Vice President

Order No: 335877  
cf

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 29- PAYMENT NOTICE  
City of Wichita

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

Planning

DESCRIPTION	AMOUNT
<i>City BZA var</i>	<i>7.15000</i>

NAME *SAUCHMAN CO.*  
 ADDRESS *330 LAURA*  
 FUND *2037-40071-013* DUE DATE \_\_\_\_\_  
 COMMENTS \_\_\_\_\_  
 DATE *7/16/84* BY *J. E. Milburn*

WICHITA - SEDGWICK COUNTY  
**W S C**  
 BOARD OF ZONING APPEALS  
 CITY HALL - TENTH FLOOR  
 455 NORTH MAIN STREET  
 WICHITA, KANSAS 67202

**RECEIVED**  
 JUL 16 1984  
 METROPOLITAN PLANNING  
 ROUTE  \_\_\_\_\_

WICHITA KANSAS  
 JUL 5 1984  
 U.S. POSTAGE  
 20

*BZA 48-84*  
*67208*  
*67208*  
*Jack E. Milburn*  
 1619 S. Erie  
 Wichita, Ks. 67211

*sent*  
*RF 1129*  
*CH*

MIL 19 290929N1 07/09/84

ATTEMPTED  
 NOT KNOWN  
 RETURN TO SENDER

RETURN TO SENDER  
 NOT DELIVERABLE AS ADDRESSED  
 UNABLE TO FORWARD

\*

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

Roll # 2