

Case No. BZA 50-82 - Bank of Mid-America - requests a variance to eliminate the screening requirement adjacent to the residential zoning district on property zoned the "LC" Light Commercial District & generally

1-4-83
Checked 1-5-83
Shot 1-27-83
Recorded 1-31-83 ^{KE}

POSTED
12-2-82

ACTION

B.Z.A. 50-82 APPROVED 12-28-82
DATE

5541C

200'4Sec. 1-4-83
Checked 1-5-83
Shot 1-27-83
Recorded 1-31-83

Case No. BZA 50-82 - Bank of Mid-America - requests a variance to eliminate the screening requirement adjacent to the residential zoning district on property zoned the "M1" Light Commercial District & generally

Map No. 5541
 Sec. _____
 Twp. _____
 Range _____

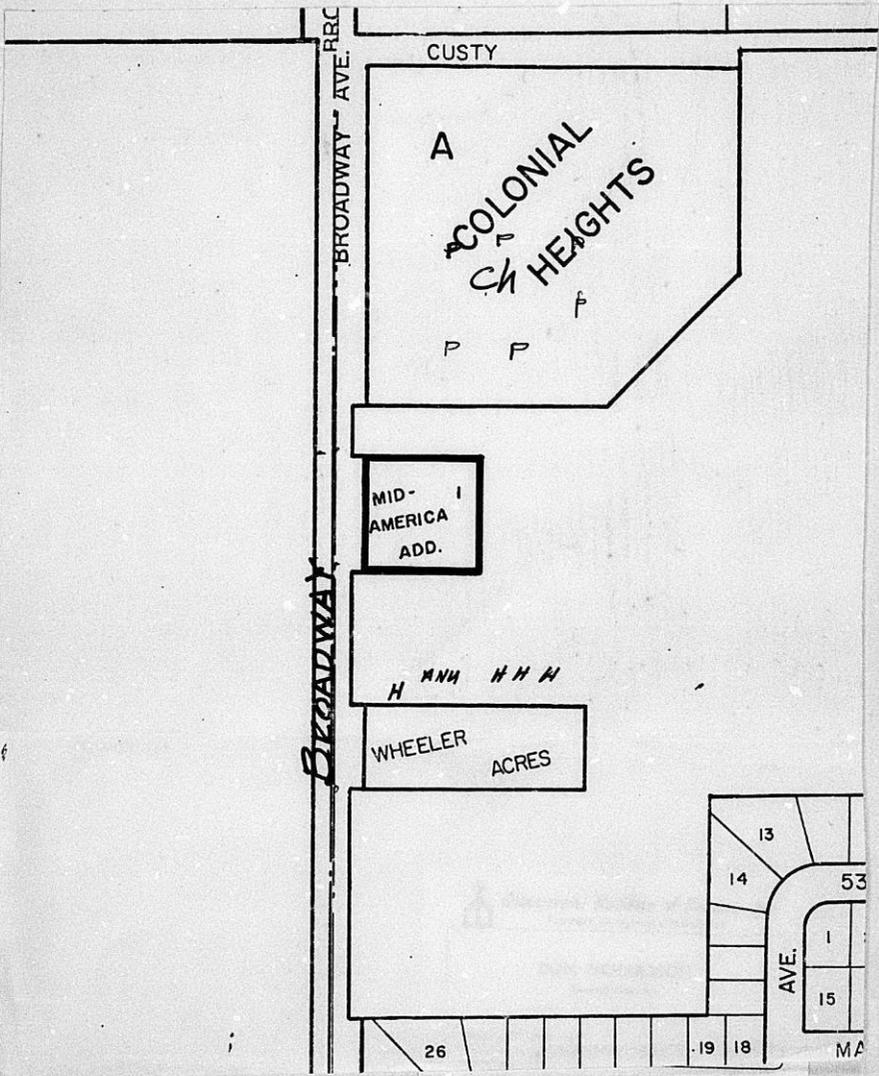
BZA- 50-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.9 (200 ft. by 200 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East UNDEVELOPED South UNDEVELOPED
 West UNDEVELOPED North CHURCH
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 _____



U.S. AND FOREIGN PATENT OFFICES, OHIO
 REGISTERED TRADEMARK SINCE 1908
 U.S.A.

Shepard
 No. 2-153C
 HASTINGS, MINN.

10-82

BZA 50-82

LOS ANGELES, CALIFORNIA, CA
MCGREGOR, TEXAS, MCGREGOR, TEXAS, GA
U S A

Shaw
No. 2453C



Commercial Builders of Kansas, Inc.
Planners, Designers and Builders

DON RICHARDSON
General Manager

450 North 159th East
Wichita, Kansas 67230 Phone (316) 733-2461

December 30, 1962

Bank of Mid-America
1193 South Seneca
Wichita, Ks. 67217

Re: BZA 50-52 - Request for Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 20, 1962.

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: Don Richardson, 450 North 159th Street East, Wichita, Ks.
Robert Feldner, Superintendent of Central Inspection (2)
Don Giesek, City Clerk

RESOLUTION NO. BZA 50-82

WHEREAS, the Bank of Mid-America, 3193 South Seneca, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the screening requirement adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

Mid-America Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway and south of Custy Street (5310 South Broadway).

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 December 28, 1982, 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 located in an area where a policy has been established to look with favor for commercial development which would void the screening requirement at the time the adjacent properties are zoned; 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 requirement for screening is to provide protection to residential development, which will not in all probability occur at this location, and the properties presently developed in the area are generally commercial or institutional;

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 requirement to construct a screening fence adjacent to vacant or farm land, that when developed will in all probability be developed for other than residential, would cause an undue expense to the applicant; 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 elimination of the screening should only encourage development of the adjacent properties with other compatible uses.

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 screening requirement is to protect residential development which should not occur on the adjacent properties; 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.

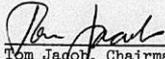
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the screening requirement adjacent to the residential zoning district on property zoned the "LC" Light Commercial District and legally described as:

Mid-America Addition to Wichita, Sedgwick
County, Kansas. Generally located on the
east side of Broadway and south of Custy
Street (5310 South Broadway).

be approved subject to the following condition:

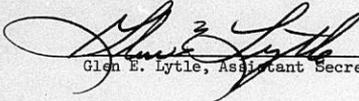
1. The applicant shall provide a landscaped yard of not less than 25 feet along the east property line or provide screening if residential development occurs at some time in the future. This shall be provided within 90 days of the completion of residential development on the property to the east.

ADOPTED AT WICHITA, KANSAS, this 28th day of December, 1982.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE December 21, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Robert Tillman, Administrative Aide III

SUBJECT BZA 50-82, Generally located
on the East side of Broadway
and South of Custy Street -
5310 South Broadway

At its Monday, December 20th meeting, CPD Neighborhood Council Area "C" considered the captioned case and voted 5-0 to recommend approval of BZA 50-82, a request for a variance to eliminate the screening requirement adjacent to the residential zoning district on property zoned "LC" Light Commercial District. It should be noted that the Council's recommendation for approval was made with the MAPD Secretary's recommendation and with a modification that the applicant provide a landscaped yard of not less than 25 feet along the east property line and provide screening if residential development occurs at some time in the future. This shall be provided within 90 days of the completion of residential development on the property to the east.

There were no area residents present to speak in support or opposition to the request for a variance. Don Richardson, agent for the applicant was present.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 50-82 is considered at its December 28th, meeting.



Robert Tillman
Administrative Aide III

RT:dm

SECRETARY'S REPORT
CASE NO. BZA 50-82

APPLICANT: Bank of Mid-America, 3193 South Seneca, Wichita, Kansas.

AGENT: Don Richardson, 450 North 159th Street East, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the screening requirement adjacent to a residential zoning district.

GENERAL LOCATION: On the east side of Broadway and south of Custy Street.

ZONING: Subject property is zoned "LC" Light Commercial. Property to the north, south and east is "AA" One-family Dwelling District. Property to the west, is zoned the "C" Commercial District.

LAND USE: Subject property is occupied by a new bank. Property to the east is vacant. To the north, south and west are a mixture of commercial and residential uses and vacant land.

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 of the screening that is required for all commercial or industrial development when located adjacent to any residential zoning district. In this particular case, the property is surrounded on both sides and rear by the "AA" One-family dwelling district which would require a screening fence on the north, south and east.

The property is located in an area where the policy is to look with favor for zoning adjacent to Broadway of some type of commercial zoning. Once this would occur on the adjacent properties, the screening to the north and south would not be a requirement. The site plan indicates that there is a distance of more than 50 feet to the property line that is vacant. This could be provided with landscaping of grass and trees that would be more desirable than a fence.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located in an area where a policy has been established to look with favor for commercial development which would void the screening requirement at the time the adjacent properties are zoned.

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 requirement for screening is to provide protection to residential development, which will not in all probability occur at this location, and the properties presently developed in the area are generally commercial or institutional.

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 requirement to construct a screening fence adjacent to vacant or farm land, that when developed will in all probability be developed for other than residential, would cause an undue expense to the applicant.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of the screening should only encourage the development of the adjacent properties with other compatible uses.

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 screening requirement is to protect residential development which should not occur on the adjacent properties.

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 condition:

1. The applicant shall provide a landscaped yard of not less than 25 feet along the east property line or provide screening if residential development occurs at some time in the future. This shall be provided within 90 days of the completion of residential development on the property to the east.

BZA CASE NO. 50-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

4 NOTICES SENT TO ADJOINING PROPERTY OWNERS

17 TOTAL NOTICES SENT 12-8-82

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

December 8, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 50-82

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 Bank of Mid-America, 3193 South Seneca, 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 screening requirement adjacent to the residential zoning district on property zoned "IC" Light Commercial District. A legal description of the applicant's property is as follows:

Mid-America Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway and south of Custy Street (5310 South Broadway).

This application has been assigned Case No. BZA 50-82. It will be considered by the Board of Zoning Appeals on December 28, 1982 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. 50-82

CITY OF WICHITA, KANSAS

FILED 11-18-82

APPLICATION FOR VARIANCE

I. Name of Applicant Bank of Mid-America

Mailing Address 3193 So. Seneca Phone 522-3481

Name of Authorized Agent Don Richardson

Mailing Address 450 North 159th East, W.K. 68230 Phone 733-2461

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

II. The variance requested is to eliminate the screening requirement to remove fence requirement for screening. The property to north and east is institutional

south is a street.

for property located on the east side of Broadway and south of Custy St. (5310 South Broadway.)

and legally described as: mid America Addition to Wichita, Sedgewick County, Kansas
A tract of land described as the south 200 feet of beginning 396 feet north of the southwest corner of the north half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 21, Township 28 South, Range 1 East of the 6th P.M., Sedgewick County, Kansas, thence north 303.43 feet thence north 400 feet to the north line of said SW $\frac{1}{4}$, thence east 989.75 feet to the west right of way line of the Riverside Drainage District, thence south along the west line of said right-of-way to a point east of beginning, thence west to beginning, except beginning 700 feet east of the northwest thence west 617.18 feet, thence north 30 feet to beginning dedicated for street.

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

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 Sedgewick 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 Bank of Mid-America

Authorized Agent Don Richardson

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:00 ~~6:00~~ p.m., Nov. 18, 1982 together with appropriate fee of 150.00.

Signed S. Lytle

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
SEDGWICK COUNTY) SS

The undersigned duly bonded and qualified abstractor 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:

*Now platted as
Mid America A004.*

Record Owners within 200 feet of: A tract of land described as the South 200 feet of the West 200 feet of beginning 396 feet North of the Southwest Corner of the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 21, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, thence North 303.43 feet, thence East 477.15 feet, thence Northeasterly 321.92 feet, thence North 400 feet to the North line of said SW $\frac{1}{4}$, thence East 989.75 feet to the West right of way line of the Riverside Drainage District, thence South along the West line of said right-of-way to a point East to beginning, thence West to beginning, except beginning 700 feet East of the Northwest corner of said SW $\frac{1}{4}$, thence East 617.18 feet, thence South 30 feet, thence West 617.18 feet, thence North 30 feet to beginning dedicated for street.



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.)

DESCRIPTIONS

RECORD OWNERS

A tract of land described as the South 200 feet of the West 200 feet of beginning 396 feet North of the Southwest Corner of the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 21, Township 28 South, Range 1 East, thence North 303.43 feet, thence East 477.15 feet, thence Northeasterly 321.92 feet, thence North 400 feet to the North line of said SW $\frac{1}{4}$, thence East 989.75 feet to the West right of way line of the Riverside Drainage District, thence South along the West line of said right-of-way to a point East to beginning, thence West to beginning, except beginning 700 feet East of the Northwest corner of said SW $\frac{1}{4}$, thence East 617.18 feet, thence South 30 feet, thence West 617.18 feet, thence North 30 feet to beginning dedicated for street.

D Bank of Mid America
3193 South Seneca
Wichita, Kansas 67217



DESCRIPTIONS

Beginning 395 feet North of the Southwest Corner of the North Half of the Southwest Quarter; thence North to Northwest Corner of the Southwest Quarter; thence East 1689.75 feet; thence South to a point East of beginning; thence West to beginning, except Colonial Heights Addition and except the South 200 feet of the West 200 feet and except Streets, Section 21, Township 28 South, Range 1 East.

Beginning 98 rods North of the Southwest Corner of the Southwest Quarter; thence North 6 rods; thence East 26 2/3 rods; thence South 6 rods; thence West to beginning, Section 21, Township 28 South, Range 1 East.



A tract in the South Half of the Northwest Quarter of the Southwest Quarter of Section 21, Township 28 South, Range 1 East, described as follows: Beginning at a point 89 rods North of the Southwest corner of the Southwest Quarter of said Section 21; thence North 9 rods; thence East 26 2/3 rods; thence South 9 rods; thence West 26 2/3 rods to place of beginning.

All that part of the Southwest Quarter of Section 20, Township 28 South, Range 1 East, lying East of abandoned Midland Valley Railroad Right of way, except the South 145 feet thereof.

Lot A, COLONIAL HEIGHTS,

RECORD OWNERS

✓ Colonial Heights Assembly of God Inc.
5220 South Broadway
Wichita, Kansas 67216

✓ Opal W. Wilderom
5326 South Broadway
Wichita, Kansas 67216

✓ Donald A. & Hildegard M. Evans
5330 South Broadway
Wichita, Kansas 67216

✓ Robbins Realty
5301 South Broadway
Wichita, Kansas 67216

✓ Colonial Heights Assembly of God Inc.
5220 South Broadway
Wichita, Kansas 67216

Dated in Wichita, Kansas, this 17th day of May, 1982 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *Dwayne A. Schultz*
Vice President

Tracer No. 58025



**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-21

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
City of Wichita	1500-

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

*

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

Roll # 2