

Case No. BZA 53-82 - Kimbell Small  
Animal Hospital - requests an excep-  
tion to permit the construction of a  
small animal hospital and clinic on  
property zoned the "BB" Office District  
and generally located on the east side

5849D

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

ACTION

BZA. 53-82 APPROVED 12-28-82  
DATE

POSTED  
12/3/82  
[Signature]

5849D

200' 4 Sec 1-2-83  
Checked 1-5-83  
Sob 1-27-83  
Recorded 1-31-83

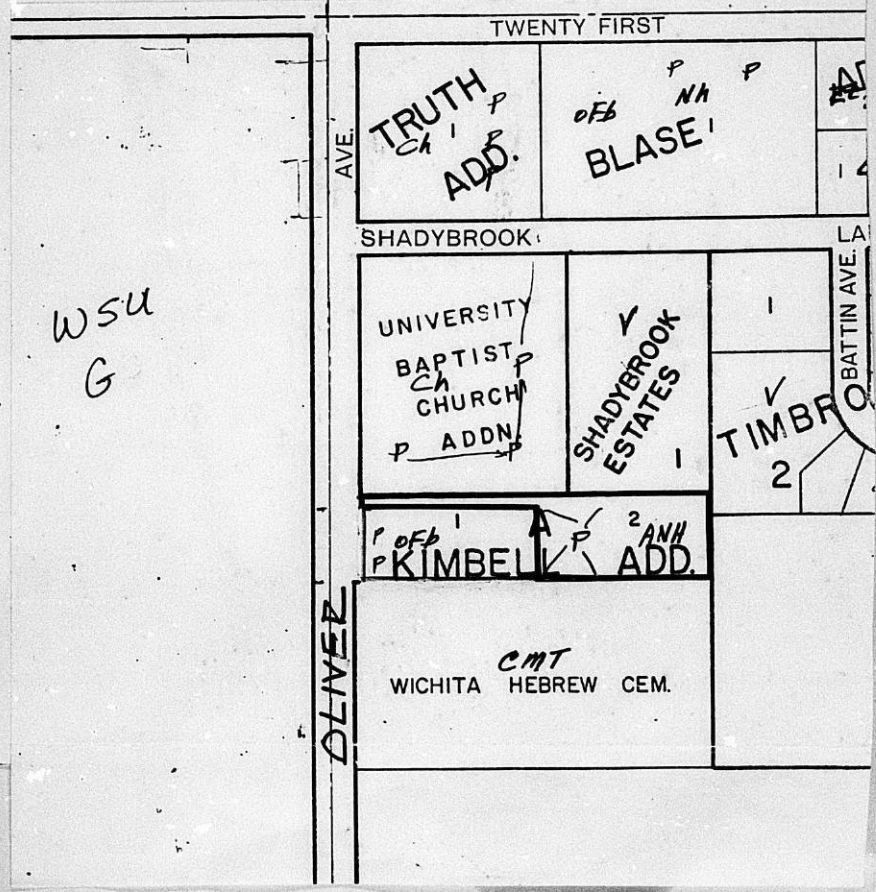
Case No. BZA 53-82 - Kimball Small  
Animal Hospital - requests an except-  
ion to permit the construction of a  
small animal hospital and clinic on  
property zoned the "Bp" Office District  
and generally located on the east side

Map No. 5849  
 Sec. 17  
 Twp. 27  
 Range 1E

BZA- 53-82  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

- AREA DATA:  
 1. Acres: 0.89 ( 130 ft. by 300 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East SMALL ANIMAL HOSPITAL South CEMETERY  
 West WSU GOLF COURSE North CHURCH PARKING LOT  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use is for: OFFICE  
 6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



**Standard**  
 No. 2153C  
 HARTING, INC.  
 LOS ANGELES, CALIF. OR  
 MEMPHIS, TENNESSEE, U.S.A.

5. Landscaped yards required by this section of the code shall not be used for driveways, parking, loading, outdoor storage, displays, work areas, signs or similar uses.

**L. MAINTENANCE.**

It shall be the responsibility of the owner to maintain in good condition all of the required improvements on his property. This shall include, but not be limited to, fences, screening, landscaping, off-street parking and off-street loading areas.

When it is determined by the superintendent of central inspection that improvements required by this title are not being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The property owner shall have not less than thirty days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal, within the thirty-day period, with the secretary of the board of zoning appeals.

If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the board of zoning appeals, then the superintendent of central inspection shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the superintendent of central inspection to the city clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made. (Ord. No. 38-113, (part); Ord. No. 36-107; Ord. No. 34-714, (part); Ord. No. 33-272; Ord. No. 27-551, § 10.)

**28.04.170 Nonconforming use regulations.** A. Registration of Nonconforming Uses. A determination by the superintendent of central inspection shall be made of all nonconforming uses and a record kept of all occupancy changes, expansions or reconstructions. Such list shall include only those uses that have been deemed to be legal nonconforming uses. Such uses shall be deemed legal nonconforming uses for one of the following reasons:

1. A use or building that was established prior to the adoption of zoning in the city of Wichita and has been continued as a legal nonconforming use.

2. A use or building that was established in conformance with the applicable zoning regulations and became nonconforming due to an amendment to the zoning ordinance and has been continued as a legal nonconforming use.

3. A use or building that was established outside the city of Wichita and was subsequently annexed into the city of Wichita, became nonconforming at that time and has been continued as a legal nonconforming use.

B. Continued Existence. Any legal nonconforming use at the time of the adoption of the ordinance codified in this section may be continued indefinitely, although such use or building does not conform to the provisions hereof.

28.04.170 ZONING

C. Loss from Natural Disaster. Any legal nonconforming use structure destroyed by fire, wind, tornado, earthquake or other natural disaster except flooding may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the building code of the city of Wichita, Kansas related to construction in flood hazard areas.

D. Repair or Alteration of Original Structure. Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in paragraph C.

E. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:

1. Expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time said use became nonconforming.

2. Nonconforming uses in the AA, A, RB, R-5, R-6, B and G zoning districts when the use:

a. Does not increase the number of dwelling units, when residential.

b. Does not exceed fifty percent of the floor area of the original use or if not a structure, not over fifty percent of the lot area originally used; provided however, that the board of zoning appeals may allow a variance, as set forth in Section 2.12.590B of the Code, to permit expansion by not more than one hundred percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which the use is located.

c. Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

d. Provides for off-street parking and loading as required by Sections 28.04.140, 28.04.141, 28.04.142 and 28.04.143.

e. Provides for advertising signs only in accordance with the requirements of the district in which the use is first permitted as a conforming use.

3. Nonconforming uses in nonresidential zoning districts when the use:

a. Does not exceed one hundred percent of the floor area, or if a structure is not involved not over one hundred percent of the land area involved; provided however, the board of zoning appeals may allow as a variance, as set forth in Section 2.12.590B of the Code, to permit expansion by not

GENERALLY 28.04.170

more than two hundred percent when the board determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection.

b. Does not intrude into a residential zoning district.

c. Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

d. Provides for off-street parking and loading as required by Sections 28.04.140, 28.04.141, and 28.04.142 and 28.04.143.

e. Provides for advertising signs only in accordance with the requirements of the district in which the use is first permitted as a conforming use.

4. Conversion to other uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the superintendent of central inspection based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use is prohibited.

5. Expansion not applicable to all uses. The provisions of these regulations are not applicable to the expansion of nonconforming home occupations or to the expansion of nonconforming signs.

F. Compliance with All Regulations. Any legal nonconforming use that is expanded or reconstructed under the terms of this regulation shall comply with all conditions that would normally be required for the expansion or reconstruction to have been permitted in the proper zoning district. Whenever the building and related technical codes require greater setbacks or height restrictions, then the most restrictive provision of those codes would be applicable.

G. Abandonment of Nonconforming Uses.

1. A nonconforming use shall be considered to be abandoned when any of the following shall occur:

a. The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.

b. A more restrictive use shall have supplanted the original nonconforming use.

c. The building or structure shall have been removed as a result of condemnation as an unsafe structure.

d. The owner shall have changed physically the building or structure or its permanent equipment in such a manner as to clearly indicate an abandonment of the nonconforming use.

e. The property is vacant for twenty-four consecutive months and the owner has failed to maintain said property as required by applicable regulations.

2. Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.

December 30, 1982

Kimbell Small Animal Hospital  
2046 North Oliver  
Wichita, Ka. 67208

Re: EEA 53-82 - Request for Exception

Dear Dr. Kimbell:

Enclosed is a signed copy of the Resolution adopted by the Board of Hearing Appeals on December 28, 1982.

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  
Enclosure

cc: Hartman Homes, Inc., Wink Hartman, 6200 East Central, Wichita 67208  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 53-82

WHEREAS, Kimbell Small Animal Hospital, 2046 North Oliver, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the construction of a small animal hospital and clinic on property zoned the "BB" Office District and legally described as follows:

Lot 2, Block A, Kimbell Addition to  
Wichita, Sedgwick County, Kansas.  
Generally located on the east side of  
Oliver approximately 400 feet south of  
Shadybrook (2046 North Oliver).

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 an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the construction of a small animal hospital and clinic on property zoned the "BB" Office District subject to the conditions outlined in Section 28.04.182.2, Code of the City of Wichita.

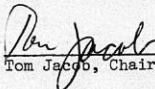
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the construction of a small animal hospital and clinic on property zoned the "BB" Office District legally described as follows:

Lot 2, Block A, Kimbell Addition to  
Wichita, Sedgwick County, Kansas.  
Generally located on the east side of  
Oliver approximately 400 feet south of  
Shadybrook (2046 North Oliver).

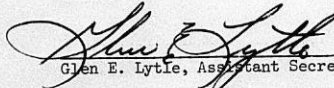
subject to the following conditions:

1. Treatment of animals shall be limited to dogs, cats and other small animals.
2. All animals shall be harbored within the building.
3. The building shall be constructed so that no noise or odors shall be discernible at the exterior of the building.

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 27, 1982

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

**FROM**      Dean Kruthof, Administrative Aide III

**SUBJECT**      BZA 53-82, 2046 North Oliver

At its December 21st meeting, CPO Neighborhood Council Area "I" considered the captioned request for an exception to permit the construction of a small animal hospital and clinic on property zoned "BB" Office District.

Ken Kimbell, the applicant, was present to discuss the request with the Council. No area residents were present concerning the case.

The Council voted unanimously, 5-0, to recommend approval of the requested exception. Please provide the Board of Zoning Appeals with the Council's recommendation when it considers the case on December 28th.

*Dean Kruthof*

Dean Kruthof  
Administrative Aide III

DK:dm

SECRETARY'S REPORT  
CASE NO. EZA 53-82

APPLICANT: Kimbell Small Animal Hospital, 2046 North Oliver, Wichita, Ks.

AGENT: Hartman Homes, Inc., (Wink Hartman), 6200 East Central, Wichita, Ks.

REQUEST: Exception pursuant to Section 28.04.182.2, Code of the City of Wichita to permit the construction of a small animal hospital and clinic in the "BB" Office District.

GENERAL LOCATION: On the east side of Oliver approximately 400 feet south of Shadybrook.

ZONING: Subject property is zoned the "BB" Office District as is the property to the west. To the north and east is "B" Multiple-family. To the south is "AA" One-family Dwelling District.

LAND USE: Subject property is occupied by an existing small animal hospital. Property to the south is a cemetery, to the west an office building. To the east and north is residential.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.182.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to permit the construction of a small animal hospital and clinic in the "BB" Office District. This would be to replace the existing hospital that was originally constructed in the county prior to annexation into the City.

The present structure is considered a nonconforming use since it was existing prior to annexation and does not conform to the requirements of the "BB" Office District. Any small animal hospital located in this district must not have outside runs, and must be totally within a structure where no noise or odor are discernable outside the building.

The applicant proposes to construct a new hospital and upon completion will remove the existing hospital and outside runs. The applicant has adequate land to construct the new small animal hospital and still provide more than adequate space for off-street parking on the property.

RECOMMENDATION:

Should the Board determine that the use is appropriate at this location, it is the recommendation of the Secretary that the exception be approved subject to the following conditions:

1. Treatment of animals shall be limited to dogs, cats and other small animals.
2. All animals shall be harbored within the building.
3. The building shall be constructed so that no noise or odors shall be discernible at the exterior of the building.

BZA CASE NO. 53-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

8 NOTICES SENT TO ADJOINING PROPERTY OWNERS

21 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 53-82

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 Kimbell Small Animal Hospital, 2046 South Oliver, Wichita, Kansas, requesting an exception.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to permit the construction of a small animal hospital and clinic on property zoned "BB" Office District. A legal description of the applicant's property is as follows:

Lot 2, Block A, Kimbell Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Oliver approximately 400 ft. south of Shadybrook (2046 South Oliver).

This application has been assigned Case No. BZA 53-82. 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 exception 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  
CITY OF WICHITA, KANSAS

CASE NO. 53-82  
FILED 11-29-82

APPLICATION FOR EXCEPTION

I. Name of Applicant KIMBELL SM. ANIM. HOSP  
Mailing Address 2046 N. OLIVER Phone 686-8516  
Name of Authorized Agent HARTMAN HOMES, INC. (WINK HARTMAN)  
Mailing Address 6200 E. CENTRAL Phone 685-8731  
Relationship of applicant to property is that of OWNER  
(Owner, Tenant, Lessee, Other)

II. Application is made for an exception as provided in Section  
2.12.590.C, Code of the City of Wichita, Kansas, to permit  
the establishment of a small animal hospital  
and veterinarian clinic

on property zoned the "BB" Office District,  
located on the east side of Oliver approx. 400 ft. south  
of Shady Brook  
and legally described as: Lot 2, Block A, KIMBELL ADDN.  
to WICHITA, SEDGWICK CO., KS.

\_\_\_\_\_ , in the City of Wichita.

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

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- That he has been advised of the fee requirements established by Section 2.12.590 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions;
- 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.

Applicant KIMBELL SM. ANIM. HOSP.

Authorized Agent W. Hartman

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:30 (4:00 p.m.), Nov. 29, 1982 together with appropriate fee of 200.00.

Signed A. Lytle

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	A	Kimbell Addition	✓ Andeel & Andeel Properties, Suite 201, 5900 E. Central, 67208
2	A	"	D Kenneth R. Kimbell & Vicky J. Kimbell, 2046 N. Oliver, 67208
1	-	University Baptist Church Addition	✓ University Baptist Church of Wichita, 2130 N. Oliver, 67208
1		Shadybrook Estates	✓ Gerontol Investments Ltd., Suite 210, 434 N. Market, 67202
2 & 3	2	Timbrook 2nd Addition	✓ Daniel M. Carney, 6572 E. Central, 67206

Tract

Tract in the NE $\frac{1}{4}$  of 11-27-1E beg. at the NE corner thereof; then west 75 ft.; then south 250 ft.; then sely to a pt. 350 ft. south & 50 ft. west of the NE corner of the NE $\frac{1}{4}$ ; then south to a pt. 250 ft. north of the SE corner of the NE $\frac{1}{4}$ ; then swly to a pt. on the south line of the NE $\frac{1}{4}$ , 75 ft. west of the SE corner thereof; then east to the east line of the NE $\frac{1}{4}$ ; then north along the east line to pt. of beg.

The east 300 ft. of the south 750 ft. of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of 11-27-1E, except that part of this tract described immediately above

Tract beg. at the SW corner of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of 12-27-1E; then north 165 ft.; then east 660 ft.; then south 165 ft.; then west 660 ft. to beg.

Tract beg. at the SW corner of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of 12-27-1E; then north 330 ft.; then east 660 ft.; then south 330 ft.; then west 660 ft. to beg., except that part described immediately above

Property Owner

✓ Board of Trustees of Wichita  
State University, Morrison  
Hall, 1845 N. Fairmount, 67208

✓ Wichita Public Building Comm-  
ission, c/o City Department of  
Housing & Economic Development,  
455 N. Main, 67202

✓ The Hebrew Congregation of  
Wichita, 1850 N. Woodlawn,  
67208

✓ Ahavath Achim Hebrew Con-  
gregation, 1850 N. Woodlawn,  
67208

page 2

Tract

Property Owner

Tract beg. 660 ft. east of the SW corner of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of 12-27-1E; then north to the south line of Timbrook 2nd Addition; then east 300 ft.; then south to the south line of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$ ; then west to beg.

Daniel M. Carney, 6572 E. Central, 67206

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

Lot 2, Block A, Kimbell 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 of Sedgwick County, Kansas, on the 29th day of November, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Stahl*  
Vice-President

Order No. 314690  
GE

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 25-21

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 67A E. 1st	200.00

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

\*

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

Roll # 2