satellite antenna from complete screening to screening to a height of 8 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 13, 15, 17, 19, 21, and 23 on Jewett, now Waco, in Judson's Addition, Wichita, Sedgwick County, Kansas.

subject to the following conditions:

1. The base of the antenna shall be screened to the height of eight feet with a solid wood or masonry fence.

2. A landscape plan shall be submitted to the Board of Zoning Appeals for review and approval within 60 days following BZA approval of the variance and prior to release of the resolution. The landscape plan shall include the placement of ornamental trees along 21st Street and Waco, adjacent to the antenna.

3. The antenna and required screening and landscaping shall be installed within one year after approval of this resolution authorizing the variance or the resolution shall become null and void. (The screening and landscaping must be provided at such time as the antenna is installed.)

ADOPTED AT WICHITA, KANSAS, this 24th day of May 1994.

Susan Osborne-Howes, Vice-President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO.12-94

WHEREAS, KPTS Channel 8, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to waive the screening requirements of a satellite antenna on property zoned the "LC" Light Commercial District and legally described as follows:

> Lots 13, 15, 17, 19, 21, and 23 on Jewett, now Waco, in Judson's Addition, Wichita, Sedgwick County, Kansas.

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 May 24, 1994, 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 owners or the applicant inasmuch as there is no location on the site that would provide the required distance to permit the antenna without having to provide for screening and, due to the nature of the equipment and the need for unobstructed access between the antenna and a satellite above the earth, screening much taller than 8 feet would interfere with this access; and

WHEREAS, the Board of Zoning Appeals has found that the granting of a total waiver of the screening requirements may adversely affect the rights of adjacent property owners but if screening to a height of about 8 feet is provided, the visual impact on adjacent property owners will be reduced so that there will be no adverse affect; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the antenna would not function properly if the required full screening would have to be provided; and

WHEREAS, the Board of Zoning Appeals has found that a total waiver of the screening requirements may adversely affect the public interest but if screening to a height of about 8 feet is provided and all portions of the antenna and enclosure are no closer to 21st Street than the existing building, then the driving or walking public should not be adversely affected, visually, by the granting of the variance; and

WHEREAS, the Board of Zoning Appeals has found that a total waiver of the screening requirements would be opposed to the general spirit and intent of the zoning ordinance but that a variance of the screening to a height of about 8 feet would not be opposed to the spirit and intent inasmuch as the general appearance along the streets will not be substantially changed because the lower support of the antenna will be screened; 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 not been found to exist for a total waiver of the screening requirement but has been found to exist for a partial waiver of the screening requirement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that a variance be approved to reduce the screening requirements of a

SEDGWICK COUNTY

METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

July 7, 1994

Dale Heckel
KPTS Channel 8
320 W. 21st Street
Wichita, KS 67203

Re: BZA 12-94 - Variance to waive the screening requirements of a satellite antenna

Dear Mr. Heckel:

Enclosed is a signed copy of the above referenced BZA resolution adopted by the Board of Zoning Appeals on May 24, 1994. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that the landscape plan as required by condition two, has been submitted and approved. I have also enclosed a copy of the approved landscape plan for your records.

If you have any questions concerning this matter, please call our office.

Sincerely,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the antenna would not function properly if the required full screening would have to be provided.

PUBLIC INTEREST: It is the opinion of staff that a total waiver of the screening requirements may adversely affect the public interest but if screening to a height of about 8 feet is provided and all portions of the antenna and enclosure are no closer to 21st Street than the existing building, then the driving or walking public should not be adversely affected, visually by the granting of the variance.

SPIRIT AND INTENT: It is the opinion of staff that the granting of a total waiver of the screening requirements would be opposed to the general spirit and intent of the zoning ordinance but that a variance of the screening to a height of about 8 feet would not be opposed to the spirit and intent inasmuch as the general appearance along the streets will not be substantially changed because the lower support of the antenna will be screened.

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 a reduction of the screening to a height of 8 feet be granted, subject to the following conditions:

1. The base of the antenna shall be screened to the height of eight feet with materials determined by the Board of Zoning Appeals to be appropriate.

2. A landscape plan shall be submitted to the secretary for review and approval within 60 days following BZA approval of the variance and prior to release of the resolution. The landscape plan shall include the placement of ornamental trees along 21st Street and Waco, adjacent to the antenna.

3. The antenna and required screening shall be installed within one year after approval of this resolution authorizing the variance or the resolution shall become null and void.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 6
May 24, 1994

FILE COPY

SECRETARY'S REPORT

CASE NUMBER: BZA 12-94

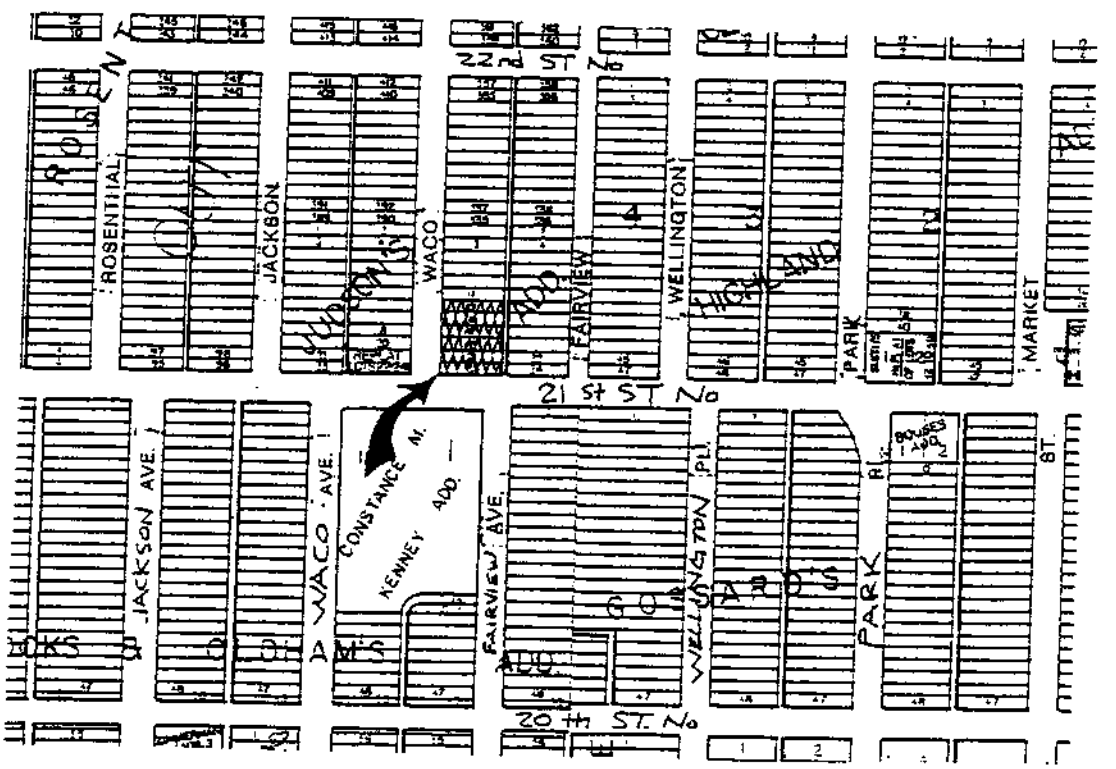
OWNER/APPLICANT: KPTS Channel 8
AGENT: Dale Heckel

REQUEST: Variance to waive the screening requirement of a satellite antenna.

CURRENT ZONING: "LC" Light Commercial

SITE SIZE: 0.44

LOCATION: Northeast corner of Waco and 21st St. North.



JURISDICTION: The Board has jurisdiction to consider this 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 State Statutes, are found to exist.

BACKGROUND: The applicant, KPTS, is requesting that the screening requirements for a proposed satellite antenna be waived. The antenna is considered mechanical equipment and as such the zoning ordinance requires that screening be provided to reasonably hide the equipment from ground level view from any residential zoning district or public street right - of - way located within 150 feet of such uses. The proposed location of the antenna is within 150 feet of Waco and 21st North as well as residential zoning to the north and northwest. Therefore, the screening requirements are applicable to the antenna.

KPTS is presently receiving its program signals from a C-band antenna located north of the City. Due to changes in technology and changes in program requirements, the applicant desires to develop the most efficient and cost effective approach to provide their programming. This appears to be accomplished by receiving the signal directly from the satellite to the existing programming control equipment located on the northeast corner of Waco and 21st St. North. The applicant's site plan indicates that a security fence, chain link with slats eight feet high, will be constructed around the base of the antenna. The total height of the antenna will be 23 feet. The applicant has indicated that if the antenna were to be completely screened per the zoning ordinance, the antenna would not function properly. The Board of Zoning Appeals should determine the type of material that should be used in constructing the screenings of the proposed antennas base.

It should be noted that an antenna tower presently exists on the northern portion of the applicant's site. This 70 foot antenna tower was constructed prior to the current code requirement that equipment must be screened.

ADJACENT ZONING AND LAND USE:

NORTH:	"B"	- Residential (Single Family)
SOUTH:	"LC"	- Retail (Quik Trip)
EAST:	"LC"	- Residential (Single Family)
WEST:	"LC"	- Retail

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as there is no location on the site that would provide the required distance to permit the antenna without having to provide for screening and, due to the nature of the equipment and the need for unobstructed access between the antenna and a satellite above the earth, screening much taller than 8 feet would interfere with this access.

ADJACENT PROPERTY: It is the opinion of staff that the granting of a total waiver of the screening requirements may adversely affect the rights of adjacent property owners but if screening to a height of about 8 feet is provided, the visual impact on adjacent property owners will be reduced so that there will be no adverse affect.