

BZA 22-91 Secretary's Report

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SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the screening provision of the zoning ordinance is to protect residential properties physically and visually from adjacent non-residential uses and the concrete retaining wall provides part of this protection (physical) and the residential property owner does not want the visual protection.

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. A new 4-foot chainlink fence shall be installed along (or near) the east property line as a replacement for the existing fence within 60 days following approval of this variance by the Board of Zoning Appeals.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4

September 24, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 22-91

OWNER/APPLICANT/AGENT: Quik Trip Corp., ATTN: David Grooms (owner/
Gene Razook (agent) appl.)

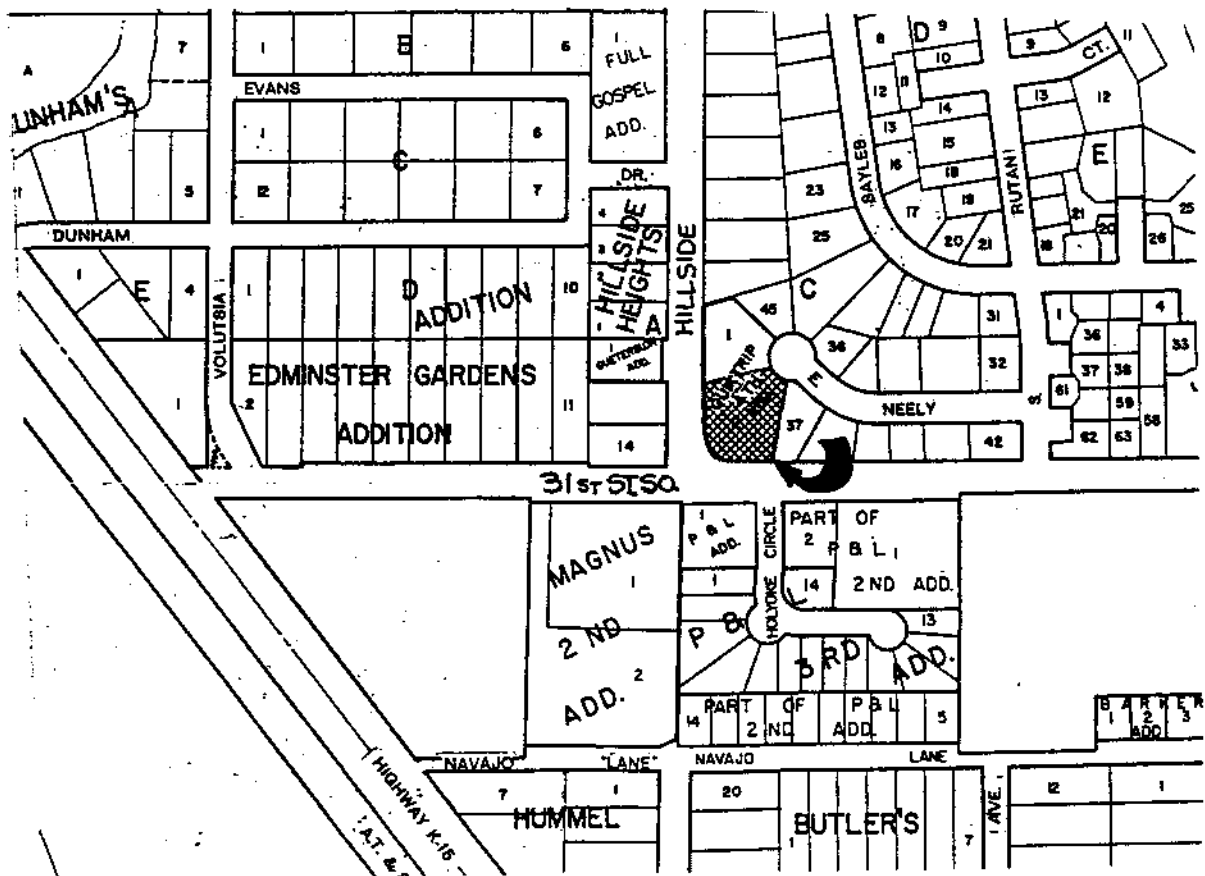
REQUEST: Variance to permit a 4-foot chainlink fence to be installed instead of a 6-foot screening fence, per adjacent landowner's request.

CURRENT ZONING: "LC" Light Commercial District

SITE SIZE: 0.7 acre

LOCATION: Northeast corner of Hillside & 31st St. So.
(3164 S. Hillside)

PROPOSED USE: Quik Trip



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.

BACKGROUND: A new Quik Trip is nearing completion at the northeast corner of Hillside and 31st Street South. Significant regrading of this commercial site has occurred and it is considerably lower (approximately 10 feet) in elevation than the adjacent residential property to the east. A concrete retaining wall has been constructed near the east property line. In accordance with the screening provisions of the zoning ordinance, a minimum 6-foot-tall solid fence or wall would also be required on or very near the east property line as a visual and physical separation between the two zoning districts.

The owner of the residence to the east has requested that the solid fence requirement be waived and a 4-foot chainlink fence be allowed instead. He has stated that a solid fence would block his breeze from the west and he believes that the retaining wall already serves the purpose of reducing noise and disruption from the Quik Trip site. He apparently does not mind looking down onto the commercial property with its rooftop mechanical equipment and its commercial traffic. A 4-foot chainlink fence now surrounds this neighbor's property and he much prefers that only a 4-foot chainlink fence separate his property from the Quik Trip property. Quik Trip has agreed to replace the chainlink fence along the common property line with a new one if the Board waives the requirement for a solid screening fence.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Undeveloped
SOUTH	"LC"	Former Quik Trip site
EAST	"RB"	One-family dwelling
WEST	"LC"	Service station with car wash

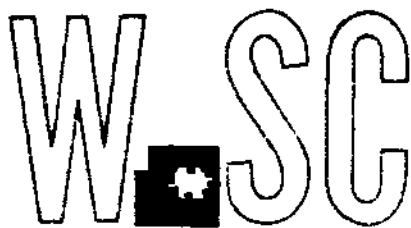
UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the change in grade between this commercial property and the residential property to the east makes a retaining wall necessary and this wall serves some of the same physical barrier purposes as the required screening fence.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the only owner affected is the one to the east, and he has asked Quik Trip to not install the required screening fence because it will block the breeze from the west.

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, and particularly upon the adjacent landowner to the east, inasmuch as neither wants or needs the fence and it may block the breeze from the west now enjoyed by the homeowner.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the fence, whether solid or chainlink, will not be situated so as to be a sight hinderance for vehicular traffic, due to the grade difference between the two properties.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4861

September 25, 1991

David Grooms
Quik Trip Corp.
P.O. Box 3475
Tulsa, OK 74101

Re: BZA 22-91 - Variance to permit a 4-ft. chainlink fence to be installed instead of a 6-ft. screening fence, per adjacent landowner's request, on property zoned "LC" Light Commercial, located on the northeast corner of Hillside and 31st Street South (3164 S. Hillside).

Dear Mr. Grooms:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 24, 1991. 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. The new chainlink fence is required to be installed by November 24, 1991.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,


Louise Olivarez, Secretary
Board of Zoning Appeals

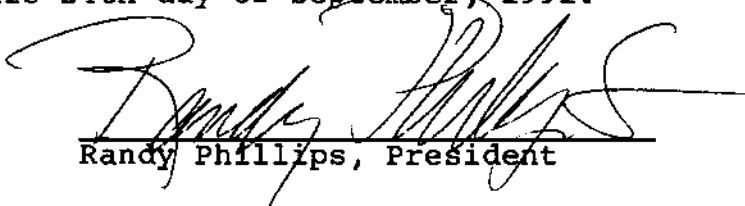
LO:jcm
Enclosure

cc: Gene Razook, 458 Lexington, 67218
Mr. & Mrs. Warren G. West, 3273 Neely, 67216
Paul Hays, OCI
J.R. Cox, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

subject to the following conditions:

1. A new 4-foot chainlink fence shall be installed along (or near) the east property line as a replacement for the existing fence within 60 days following approval of this variance by the Board of Zoning Appeals.

ADOPTED AT WICHITA, KANSAS, this 24th day of September, 1991.



Randy Phillips, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 22-91

WHEREAS, Quik Trip Corporation, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to permit a 4-foot chainlink fence to be installed instead of a 6-foot screening fence, per adjacent landowner's request on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Quik Trip Addition, Wichita, Sedgwick County, Kansas.
Generally located on the northeast corner of Hillside and
31st Street South (3164 S. 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 September 24, 1991, 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 change in grade between this commercial property and the residential property to the east makes a retaining wall necessary and this wall serves some of the same physical barrier purposes as the required screening fence; 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 only owner affected is the one to the east, and he has asked Quik Trip to not install the required screening fence because it will block the breeze from the west; 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 applicant, and particularly upon the adjacent landowner to the east, inasmuch as neither wants or needs the fence and it may block the breeze from the west now enjoyed by the homeowner; 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 fence, whether solid or chainlink, will not be situated so as to be a sight hinderance for vehicular traffic, due to the grade different between the two properties; 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 screening provision of the zoning ordinance is to protect residential properties physically and visually from adjacent non-residential uses and the concrete retaining wall provides part of this protection (physical) and the residential property owner does not want the visual protection; 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 be approved for a variance to permit a 4-foot chainlink fence to be installed instead of a 6-foot screening fence, per adjacent landowner's request on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Quik Trip Addition, Wichita, Sedgwick County, Kansas.
Generally located on the northeast corner of Hillside and
31st Street South (3164 S. Hillside).