ADJACENT ZONING AND LAND USE:

NORTH:	"C"	Undeveloped
SOUTH:	"R-1"	Sedgwick County Park
EAST:	"C"	Undeveloped
WEST:	"R-1" & "R-5"	Single-Family Dwelling and Undeveloped

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the present machine shop has existed adjacent to a single-family dwelling for a long period of time and the development of the area has been toward more non-residential uses.

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 there is only one property owner that is affected by the screening and that individual has stated he does not think the screening is necessary.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as the screening would be an unnecessary expense and the property is presently screened from the residential property by a dense row of trees along the north property line of the residential lot and the west side of the machine shop, having no doors and very few windows, provides somewhat of a screen already.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the screening requirement is along interior lot lines and, although somewhat visible from 21st Street, the location is far enough back from the street so as to have little visual impact on the public travelling on 21st Street.

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 screening ordinance is designed to protect residential areas physically and visually from non-residential uses, but in this particular case the adjacent residential property does not desire the screening and the area is in transition toward non- residential uses, therefore it would not be necessary to provide screening.

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 that the variance be granted subject to the following condition:

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
April 26, 1994

SECRETARY'S REPORT

CASE NUMBER: BZA 8-94

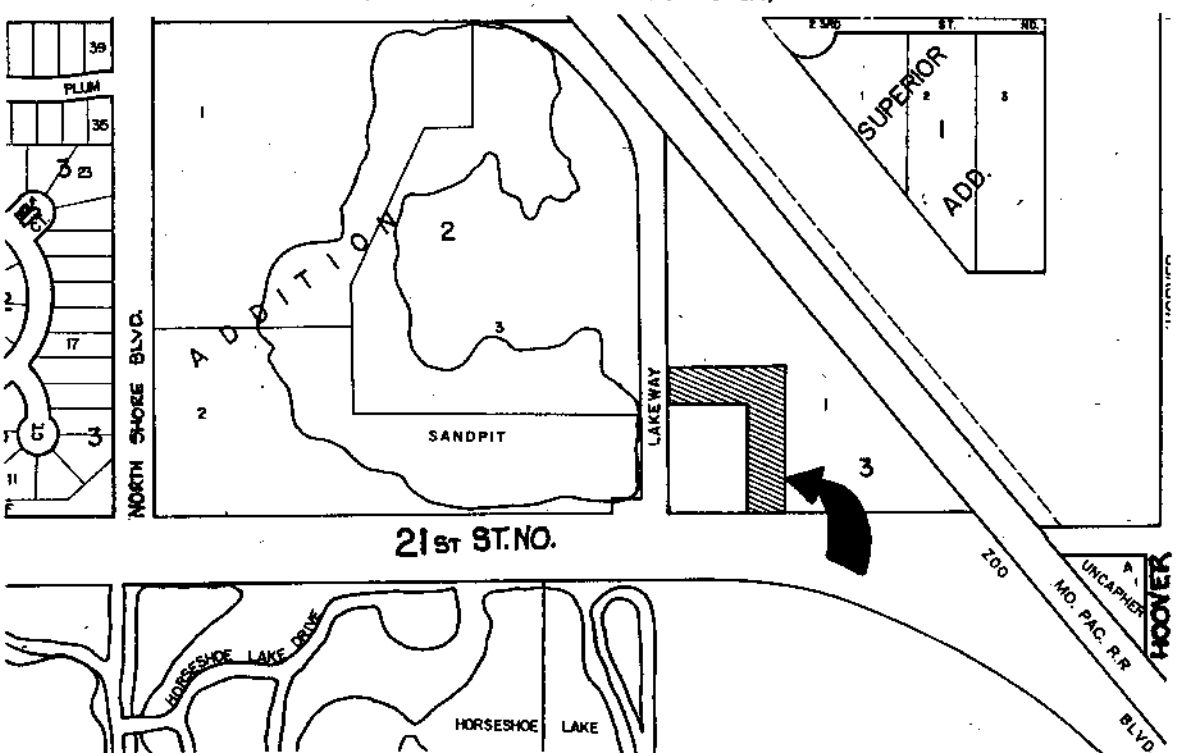
OWNER/APPLICANT: Ernest E. Cox
AGENT: Mark Savoy

REQUEST: Variance to eliminate the screening requirement adjacent to residential zoning.

CURRENT ZONING: "E" Light Industrial and "AA" One-Family Dwelling District (to be rezoned "E").

SITE SIZE: 1.5 Acres

LOCATION: North of 21st Street North, 1/4-mile west of Hoover (5920 W. 21st Street North)



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 State Statutes, are found to exist.

BACKGROUND: The applicant, Ernest Cox, is requesting a variance to eliminate the screening requirement adjacent to residential zoning on a 1 1/2 acre L-shaped tract zoned "E" Light Industrial and "AA" One-Family Dwelling District. The northwest portion of the application area is presently being considered for rezoning from "AA" Single Family Dwelling District to "E" Light Industrial District. The entire application area is in the process of being platted as Lot 1, Cox Machine Addition. The property is located at 5920 W. 21st Street North and is presently being used as a machine shop which the owner desires to expand with a 2,400 square foot building addition.

The applicant's property is located in an area which is in transition to non-residential uses. "C" Commercial Zoning has already been approved to the north and east although that land is currently undeveloped. Located to the south and west of this application site is a single-family dwelling still in the County's "R-1" Suburban Residential District. This 1.6 acre residential site is the only unannexed tract on the north side of 21st Street in this immediate area. Considering the zoning of adjacent properties and the great amount of development activity in this general area, it is expected that the residential classification will change in the near future. Both the single family dwelling and the machine shop were constructed in 1954. The Wichita Sedgwick County Comprehensive Plan, Land Use Guide indicates that the area north of 21st Street north and east of the platted street, Lakeway, be developed with commercial uses.

The zoning ordinance requires that "Screening shall be provided along all side or rear lot lines adjacent to a residential zoning district to extend to within twenty feet of each street right-of-way." The residential dwelling affected by this variance fronts onto 21st Street North and has windows which provide a view to the applicant's property to the north and east.The existing machine shop building was constructed before the property was annexed into the City of Wichita and the County had no screening requirements between residential and non-residential uses. There presently exists a board fence in front of the machine shop on the common property line and there is existing vegetation along the rear property line of the residential lot which currently provides good screening. The west side of the existing machine shop is mostly a solid wall with few openings which provides a screening effect. The applicant has indicated that the existing chain link fence separating the two properties would have to be removed if solid screening would be required. Mr. Posey Daniels, the owner of the single-family dwelling, has indicated that he does not desire to have his property screened from the "E" Light Industrial District.

SEDGWICK COUNTY

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

May 3, 1994

Mr. Ernest E. Cox
5920 W. 21st St. North
Wichita, KS 67212

Re: BZA 8-94

Dear Mr. Cox:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on April 26, 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.

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 call our office.

Sincerely yours,

Lawrence Mitchell, Senior Planner
Board of Zoning Appeals

LM/hm

Enclosure

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
CAMA Files

and visually from non-residential uses, but in this particular case the adjacent residential property does not desire the screening and the area is in transition toward non- residential uses, therefore it would not be necessary to provide screening; 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 eliminate the screening requirement adjacent to residential zoning on property zoned "E" and "AA" (to be rezoned "E") and legally described as follows:

Beginning 230 feet East of the SW/C of the E1/2 of the SE1/4 of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 450 feet; thence East 100 feet; thence South 450 feet; thence West to beginning, except the South 80 feet for 21st Street North; and

Beginning 30 feet East and 350 feet North of the SW/c of the E1/2 of the SE1/4 of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 100 feet; thence East 200 feet; thence south 100 feet; thence West to beginning.

Being platted as Lot I, Cox Machine Addition to Wichita, Sedgwick County, Kansas.(5920 W. 21st North)

subject to the following condition:

1. No accessory buildings, mechanical units, trash receptacles or stored items of any kind shall be placed within the west and south side yard unless they are screened with at least a six-foot-tall solid fence or wall or an approved landscape screen.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1994.

Susan Osborne-Howes, Vice President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 8-94

WHEREAS, Ernest E. Cox, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to eliminate the screening requirement adjacent to residential zoning on property zoned "E" and "AA" (to be rezoned "E") and legally described as follows:

> Beginning 230 feet East of the SW/C of the E1/2 of the SE1/4 of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 450 feet; thence East 100 feet; thence South 450 feet; thence West to beginning, except the South 80 feet for 21st Street North; and
>
> Beginning 30 feet East and 350 feet North of the SW/c of the E1/2 of the SE1/4 of Section 3, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 100 feet; thence East 200 feet; thence south 100 feet; thence West to beginning.
>
> Being platted as Lot I, Cox Machine Addition to Wichita, Sedgwick County, Kansas. (5920 W. 21st Street North)

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 April 26, 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 the present machine shop has existed adjacent to a single-family dwelling for a long period of time and the development of the area has been toward more non-residential uses; 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 there is only one property owner that is affected by the screening and that individual has stated he does not think the screening is necessary; 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 screening would be an unnecessary expense and the property is presently screened from the residential property by a dense row of trees along the north property line of the residential lot and the west side of the machine shop, having no doors and very few windows, provides somewhat of a screen already; 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, inasmuch as the screening requirement is along interior lot lines and, although somewhat visible from 21st Street, the location is far enough back from the street so as to have little visual impact on the public travelling on 21st Street; 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 the zoning ordinance inasmuch as the screening ordinance is designed to protect residential areas physically