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 no building expansion can occur without an approved lot split, and no lot split application can be approved without compliance with all zoning setbacks.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no street or alley right-of-way and no utility easements are being diminished.

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 building setback requirements is to separate buildings on adjacent properties for fire protection and for ease of access and circulation, but all of these needs can still be met because the adjacent property is developed with a parking lot which will probably remain for many years to come.

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. Any additions to the existing building which are within ten feet of the rear property line shall be limited to the area south of the existing building.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 7
September 28, 1993

SECRETARY'S REPORT

CASE NUMBER: BZA 25-93

OWNER/APPLICANT: Sunflower Kabota, Inc.
AGENT: Nick Belcher

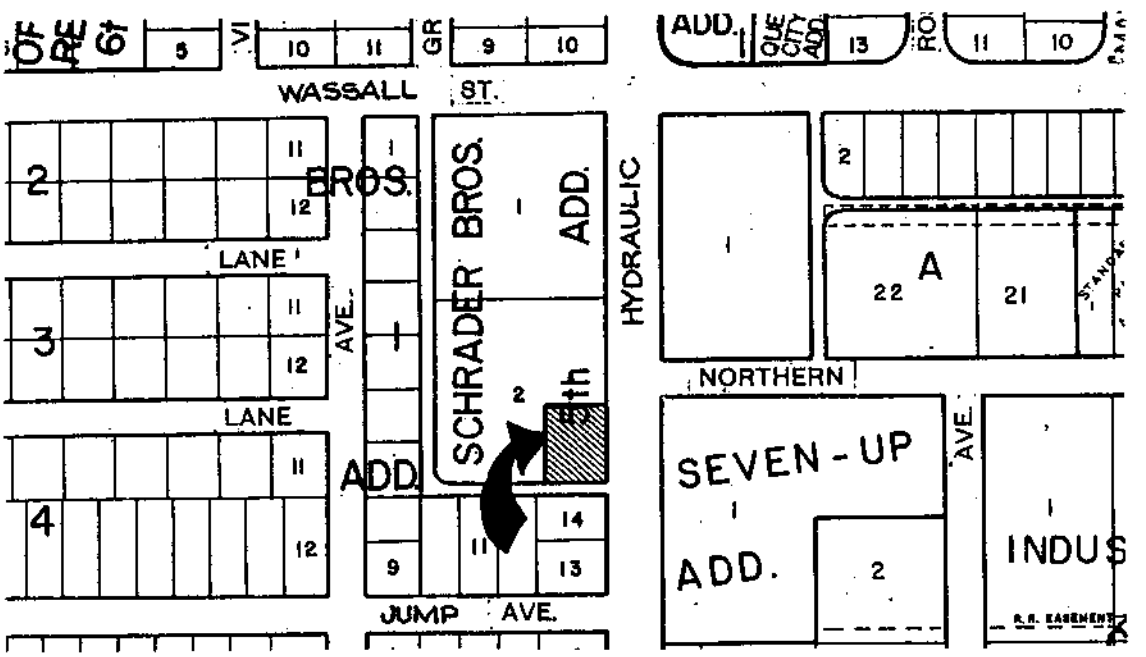
REQUEST: Variance to reduce the rear yard setback from ten feet to no less than one foot.

CURRENT ZONING: "LC" Light Commercial District

SITE SIZE: 100' x 125'

LOCATION: West side of Hydraulic in an area south of Wassall (2855 S. Hydraulic).

PROPOSED USE: Expansion of existing pawn shop.



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: The applicant is owner of a 100' x 125' tract of land which has apparently been in this configuration and under separate ownership from adjacent tracts since 1955. The original portion of the existing building was constructed in 1954 as a service station. All other buildings in the strip center located on the balance of this platted lot were also constructed in the early 1950's. When the split in ownership occurred in 1955, apparently neither the seller nor buyer thought to make sure that all required building setbacks from property lines were being observed. No lot split application was processed in 1955. The zoning code now, and even back in 1955, required a 10-foot minimum rear yard in the "LC" district. The ownership split is along a line just slightly more than one foot from the rear property line.

The present owner operates a 1370-square-foot pawn shop at this location and he wishes to expand it about 200% to a 4,108-square-foot shop. The new additions would be to the east and south of the existing building. Parking for the adjacent strip center is located to the north and west of this site. It is doubtful any more buildings would be added to the south end of the strip center due to poor visibility for Hydraulic and the probable deficiency in parking. If the reduced rear yard setback is justifiable for the existing 50-foot-long building, it is probably also justifiable for a 28-foot expansion to the south.

Because no official lot split has ever been processed and approved for this tract, it is not an approved building site and no building permit can be obtained until a lot split application is approved. One has been filed but cannot be approved unless all building setbacks as required by the zoning ordinance are correct. Thus the request for a rear yard setback variance has been filed.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Strip center parking lot
SOUTH	"B"	Fourplexes
EAST	"E"	Full Service Beverage Company of Kansas
WEST	"LC"	Strip center parking lot

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it has been in a separate ownership from surrounding property for almost 40 years and the existing building has been just over one foot from the rear property line all during this same time without causing any apparent problems.

ADJACENT PROPERTY: It is the opinion of staff that the granting of a parking variance will not adversely affect the rights of adjacent property owners inasmuch as a parking lot is the only use existing adjacent to subject rear yard and will probably continue to be the only use adjacent thereto.

SEDGWICK COUNTY

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

October 6, 1993

Sunflower Kabota, Inc.
Attn: Nick Belcher
2855 S. Hydraulic
Wichita, KS 67216

Re: **BZA 25-93** - Variance to reduce the rear yard setback from 10 feet to no less than 1 foot.

Dear Mr. Belcher:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 28, 1993. 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 necessary signatures have been obtained.

Sincerely,

Louise Olivarez

Louise Olivarez, Secretary
Board of Zoning Appeals

LDO/prf
Enclosure

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Max Christensen, 1532 S. Washington, 67211

ADOPTED AT WICHITA, KANSAS, this 28th day of September, 1993.

Keith A. Alter, President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 25-93

WHEREAS, Sunflower Kabota, Inc., pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 10 feet to no less than 1 foot on property zoned the "LC" Light Commercial District and legally described as follows:

> The East 100 ft. of the South 125 ft. of Lot 2, Schrader Bros. 5th Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Hydraulic in an area south of Wassall (2855 S. Hydraulic).

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 28, 1993, 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 it has been in a separate ownership from surrounding property for almost 40 years and the existing building has been just over one foot from the rear property line all during this same time without causing any apparent problems; and

WHEREAS, the Board of Zoning Appeals has found the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as a parking lot is the only use existing adjacent to subject rear yard and will probably continue to be the only use adjacent thereto; 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 no building expansion can occur without an approved lot split, and no lot split application can be approved without compliance with all zoning setbacks; 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 no street or alley right-of-way and no utility easements are being diminished; 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 intent of the building setback requirements is to separate buildings on adjacent properties for fire protection and for ease of access and circulation, but all of these needs can still be met because the adjacent property is developed with a parking lot which will probably remain for many years to come; 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 reduce the rear yard setback from 10 feet to no less than 1 foot on property zoned the "LC" Light Commercial District and legally described as follows:

> The East 100 ft. of the South 125 ft. of Lot 2, Schrader Bros. 5th Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Hydraulic in an area southof Wassall (2855 S. Hydraulic).

subject to the following condition:

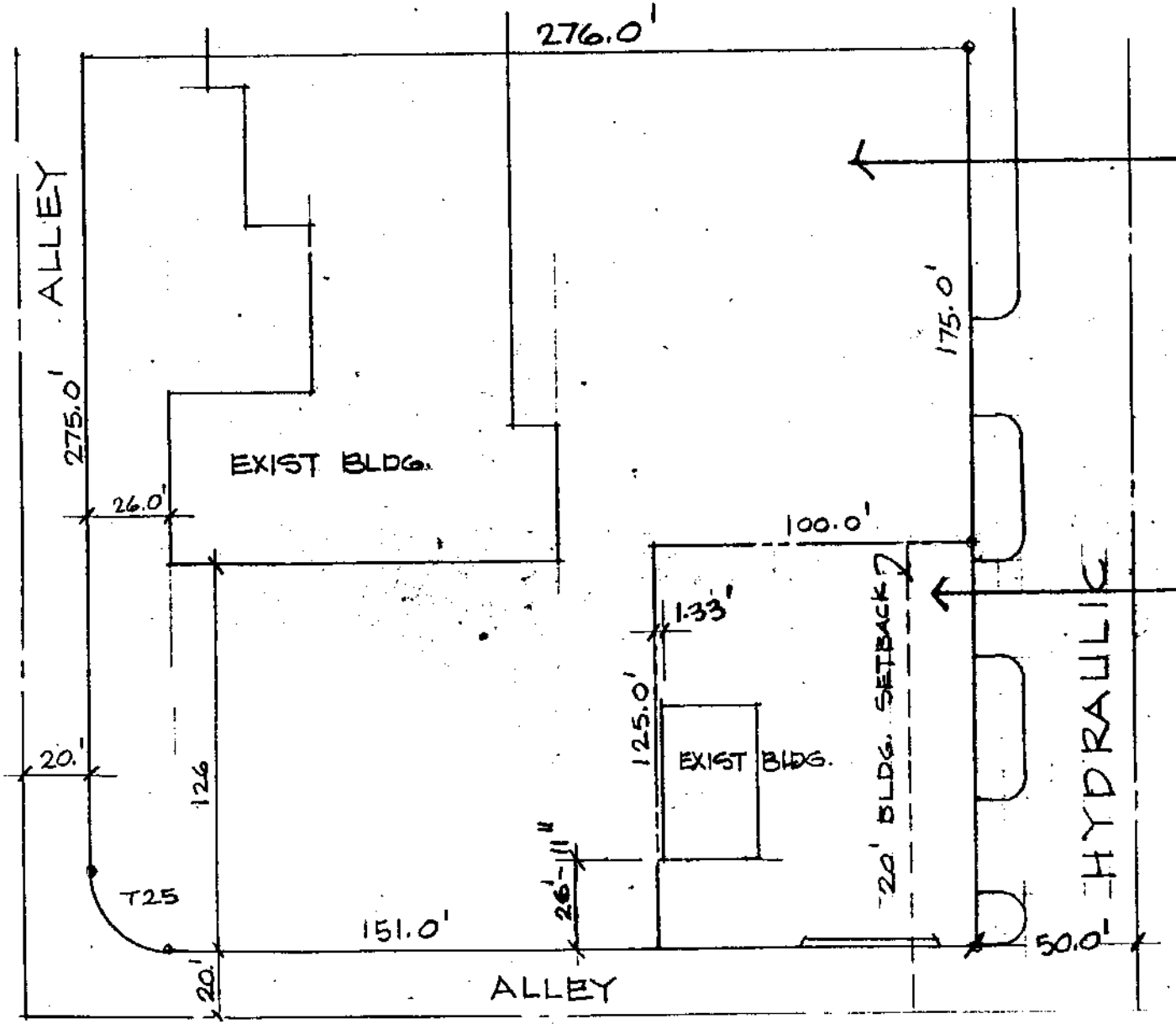
1. Any additions to the existing building which are within ten feet of the rear property line shall be limited to the area south of the existing building.

LOT SPLIT

SITE PLAN

SCALE 1" = 50.0'

NORTH



PARCEL I

Schrader 5th Addition, Lot 2 except, the East One Hundred (100) feet of the South One Hundred Twenty-five (125) fee of Lot Two (2) in Schrader Br Fifth Addition to the City of Wichita.

AREA = 70,166 SQ.FT.

PARCEL II

The East One Hundred (100) feet of the South One Hundred Twenty-five (125) fee of Lot Two (2) in Schrader Br Fifth Addition to the City of Wichita.

AREA = 12,500 SQ.FT.

BZA 25-93