CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

10/29/2007

Greg Montgomery
3641 N Litchfield
Wichita KS 67204

Rob Monson
1008 S Santa Fe
Wichita KS 67211

RE: BZA2006-00052 Variance request to eliminate the landscape screening requirement.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **October 23, 2007.** This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Jess McNeely, BZA Secretary
Current Plans Division

JM/ya

Cc Sharon Dickgrafe, Law Dept, 1-132
Herb Shaner, OCI, 1-72
LaVonta Williams, WCC I, 1-13
Kurt Schroeder, OCI, 1-72

BZA RESOLUTION NO. 2007-00052

WHEREAS, Wichita Door Controls c/o Greg Montgomery, variance request to eliminate the landscape-screening requirement.

Lots 1, 3, 5, 7, 9 and 11, Washington Avenue, Kelsch's 3rd 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 October 23, 2007, 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 of the Zoning 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, inasmuch as the property is an older commercial property that was developed at a time when screening was not required. While the property has been improved to an extent that conformance with current regulations is required, the addition will not require any demolition or a complete redevelopment of the site. The addition to connect the two existing structures is not out of character for General Commercial zoning and the new addition would be spaced from the rear property line by 36 feet, while the existing structures are only spaced 18 to 21 feet. The property is in a unique situation that was not contemplated by the non-conformity requirements of the zoning regulations, which requires full conformance with current, more suburban, regulations. There is no change in use and it is anticipate that the rear side of the building will continue to be utilized as a loading area, but the screening requirement will negatively impact how trucks utilize the loading area.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not adversely affect the rights of adjacent property owners, inasmuch as the property has existed in the proposed condition since the late 1940's with no apparent adverse affects on adjacent properties. The existing businesses along this block do not provide screening along the alleyway, with no apparent adverse affects on properties in the area.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the of the zoning code would constitute an unnecessary hardship upon the applicant, inasmuch as complying with the screening regulations would entail demolishing parts of the existing structure to completely redevelop the rear loading area so that the trucks would not block the alleyway, thus severely reducing the size of the structure and causing a significant expense to the property owners. The business uses the overhead doors on the alley side to load and off load materials into work trucks at the beginning and end of the workday and not the front entry doors. If a screen fence were required, the work trucks would be blocking the alley for portions of the day.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely

affect the public interest, inasmuch as the public has an interest in maintaining the character of the area. The area is developed with commercial structures built near or right up to the property lines with minimal parking that is located in the side and front of the properties and without screening or landscaping, except in the right of way. Complying with zoning regulations in regards to screening would depart from character of the commercial business that are along the alley and the traffic circulation and sight lines would be obstructed for the applicants business and other businesses that utilize the alley for loading purposes.

WHEREAS, the Board of Zoning Appeals has found that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as among the stated intentions of the regulations is to encourage orderly growth and enhance the quality of life. Requiring compliance with the zoning regulations would result in blocking an alleyway and creating a possible challenge to emergency personnel during an emergency situation, which is contrary to the intent of the regulations.

WHEREAS, each of the five conditions required by Section 2.12.590.B of the Zoning 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, pursuant to Section 2.12.590.B of the Zoning Code, City of Wichita, variance be granted to eliminate the landscape-screening requirement legally described as follows:

> Lots 1,3,5,7,9 and 11, Washington Avenue, Kelsch's 3rd Addition, Wichita, Sedgwick County, Kansas. Generally located northeast of the intersection of Washington andGilbert (734 S. Washington)

The variance is hereby GRANTED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year of the granting of this variance, unless such time period is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 23rd, Day of October, 2007.

C. Bickley Foster

BZA Board Chair, C. Bickley Foster

ATTEST:

Jess McNeely, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
October 23, 2007

SECRETARY'S REPORT

CASE NUMBER: BZA2007-00052

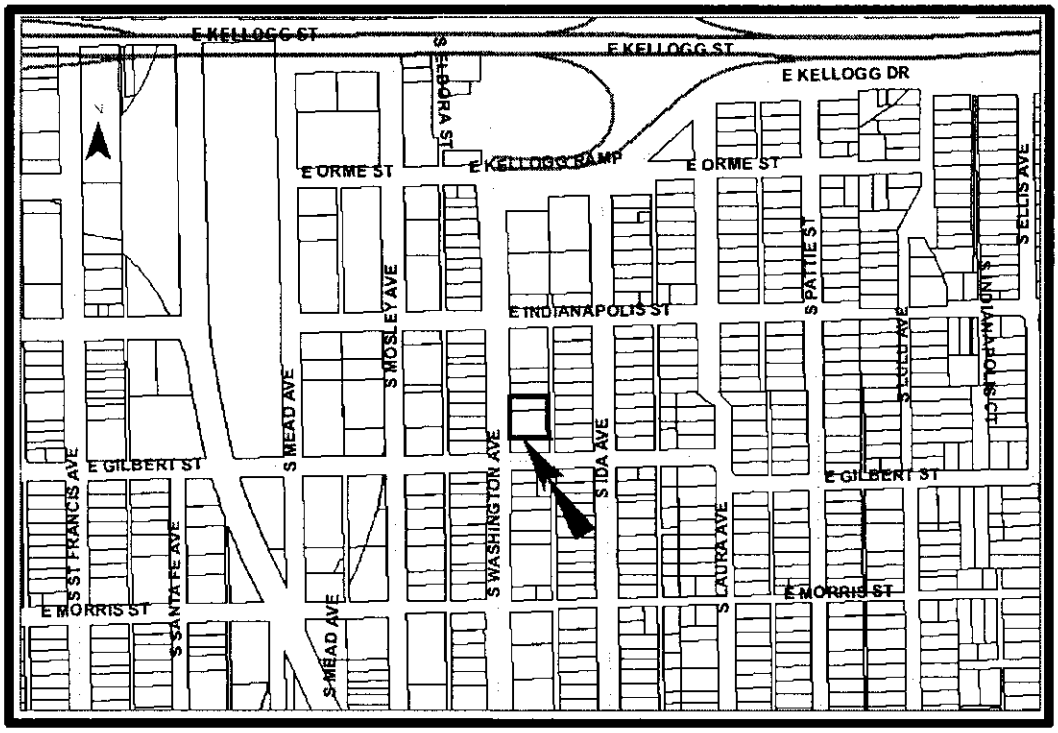
OWNER/APPLICANT: Wichita Door Controls c/o Greg Montgomery

AGENT: Commerce Construction Services, Inc. c/o Rob Monson

REQUEST: Variance request to eliminate the landscape-screening requirement.

CURRENT ZONING: "GC" General Commercial

LOCATION: Generally located northeast of the intersection of Washington and Gilbert (734 S. Washington)



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: A commercial warehouse building was constructed on the subject property at the northeast corner of S. Washington and E. Gilbert in the late 1940's. At the time the building was constructed, the zoning regulations did not require screening from adjacent residential properties. Recently, the original two buildings on the lot have been connected with a new addition, and the value of the remodel to the business exceeds 50 percent of the value of the existing structure. Therefore, Section VII.C.2 of the Unified Zoning Code (UZC) requires the subject property to come into compliance with existing zoning and landscape regulations as part of the proposed remodeling. The applicant is requesting the variance on the zoning regulations for the screening requirements.

Section IV-B.3 of the UZC requires that screening be provided along the east property line because the property across the alley is residentially zoned. Since the entire property is used for either the building, parking and loading, there is no place on the subject property that screening can be located while still providing some parking and loading on-site. Therefore, the applicant is requesting a variance to waive the screening requirement.

ADJACENT ZONING AND LAND USE:

NORTH	"GC"	Warehouse
SOUTH	"GC"	Warehouse
EAST	"B"	Single-family Residence
WEST	"GC"	Retail Store

The five conditions necessary for approval apply to all variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property is an older commercial property that was developed at a time when screening was not required. While the property has been improved to an extent that conformance with current regulations is required, the addition will not require any demolition or a complete redevelopment of the site. The addition to connect the two existing structures is not out of character for General Commercial zoning and the new addition would be spaced from the rear property line by 36 feet, while the existing structures are only spaced 18 to 21 feet. The property is in a unique situation that was not contemplated by the non-conformity requirements of the zoning regulations, which requires full conformance with current, more suburban, regulations. There is no change in use and it is anticipate that the rear side of the building will continue to be utilized as a loading area, but the screening requirement will negatively impact how trucks utilize the loading area.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the property has existed in the proposed condition since the late 1940's with no apparent adverse affects on adjacent properties. The existing businesses along this block do not provide screening along the alleyway, with no apparent adverse affects on properties in the area.

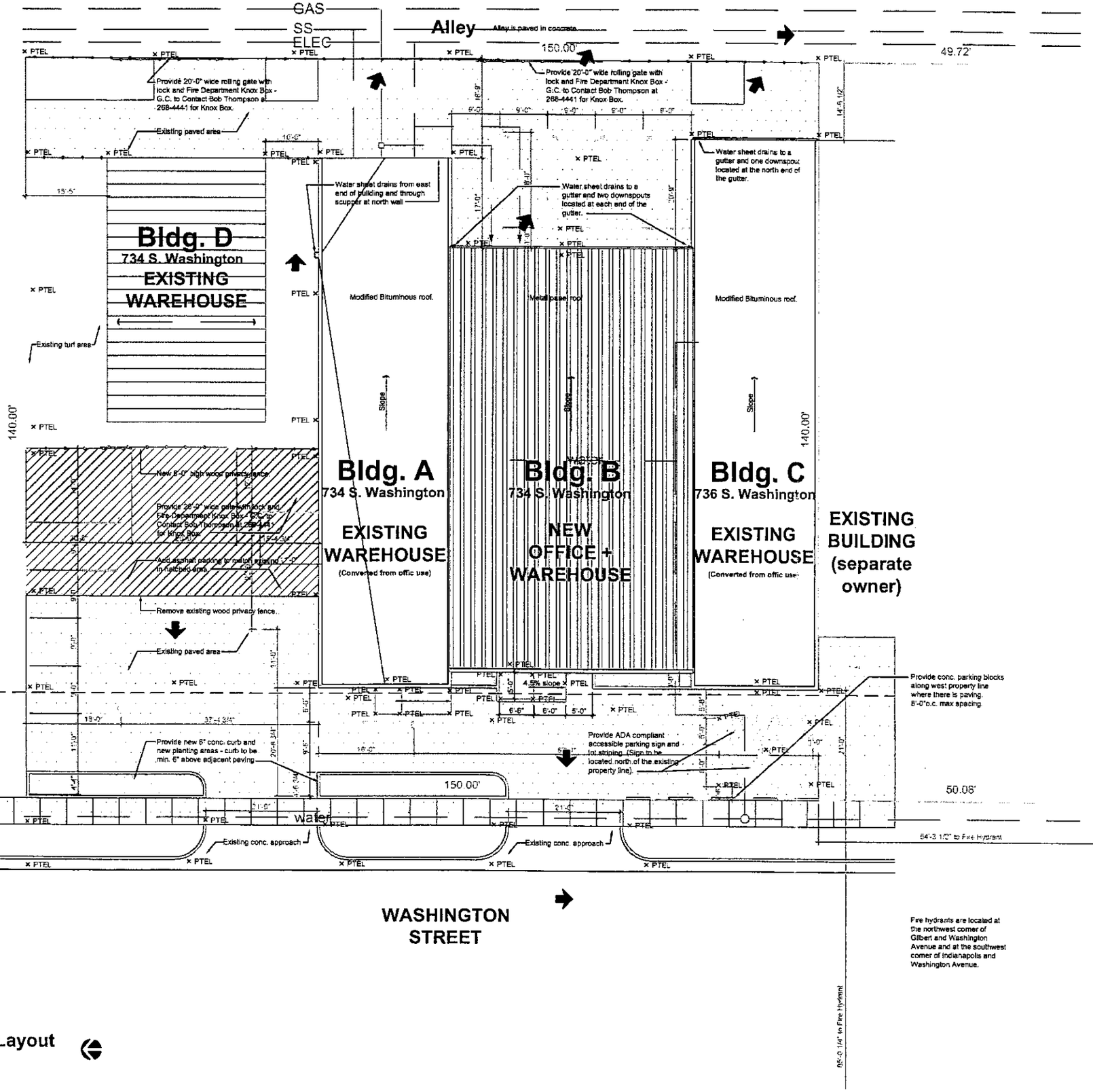
HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the screening regulations would entail demolishing parts of the existing structure to completely redevelop the rear loading area so that the trucks would not block the alleyway, thus severely reducing the size of the structure and causing a significant expense to the property owners. The business uses the overhead doors on the alley side to load and off load materials into work trucks at the beginning and end of the workday and not the front entry doors. If a screen fence were required, the work trucks would be blocking the alley for portions of the day.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the public has an interest in maintaining the character of the area. The area is developed with commercial structures built near or right up to the property lines with minimal parking that is located in the side and front of the properties and without screening or landscaping, except in the right of way. Complying with zoning regulations in regards to screening would depart from character of the commercial business that are along the alley and the traffic circulation and sight lines would be obstructed for the applicants business and other businesses that utilize the alley for loading purposes.

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 regulations, inasmuch as among the stated intentions of the regulations is to encourage orderly growth and enhance the quality of life. Requiring compliance with the zoning regulations would result in the possibility blocking an alleyway and creating a possible challenge to emergency personnel by accessing the fence during an emergency situation, which is contrary to the intent of the regulations.

RECOMMENDATION: Should the Board determine that the conditions necessary for the granting of the variances exist, then it is the recommendation of the Secretary that the variances to waive the screening requirement be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year of the granting of this variance, unless such time period is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.



Site Layout
1"=10'-0"

LEGAL DESCRIPTION

Lots 1, 3, 5, 7, 9, and 11, Block 1, Williams 3rd Addition to the City of Wichita, Sedgwick County, Kansas.

APPROVED
BZA 2007-52 SITE PLAN
Date: 10-29-07

Wichita Door Controls
wichita kansas

COMMERCE CONSTRUCTION SERVICES, INC.
1008 S. SANTA FE
WICHITA, KS. 67211
(316) 262-6654

CATHCART ARCHITECTS
843 CYPRESS COURT
DERBY KANSAS 67037
316 708 0991

07011

30 May 2007
6.27.7 City Review
7.18.7 Resubmittal
8.6.7

Site Grading

A1.2