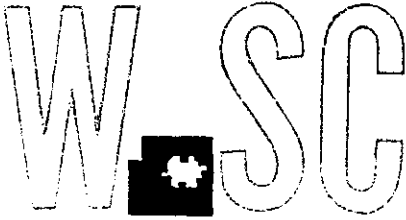


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

March 30, 1998

Leon Lungwitz
7232 W. 18th St. N.
Wichita, KS 67212

RE: BZA 3-98 - Variance to reduce the compatibility standards from 25 feet to 10 feet on the south side and from 25 feet to 5.25 feet on the north side property lines on property zoned "LI" Limited Industrial and generally located south of Harry and east of I-235 (1600 Block of South Baehr).

Dear Mr. Lungwitz:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on March 24, 1998. 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,

Keith Gooch
Assistant Secretary
Board of Zoning Appeals

KG/sah

cc: Rob Hartman, PEC, PA, 303 S. Topeka, Wichita, KS 67202
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, City Clerk
Yolanda Anderson, MAPC (resolution only)

BZA RESOLUTION NO. BZA 3-98A

WHEREAS, Leon Lungwitz, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the compatibility standards from 25 feet to 5.25 feet on the north property line on property zoned "LI" Limited Industrial and legally described as follows:

The east 130.6 feet of the south 138 feet of Lot 1, M&B Second Addition, Wichita, Sedgwick County, Kansas. Generally located south of Harry and east of I-235 (1600 S. Baehr)

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 March 24, 1998, 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 area surrounding the residential properties is zoned "LI" Limited Industrial. The remaining single-family lots in the area will probably be rezoned to "LI" Limited Industrial in the future, consistent with the Land Use Guide of the Comprehensive Plan; 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 adjoining properties have resided with warehouses and other industrial uses for several years, the owner to the north has submitted a letter approving the request, and screening/landscaping still will be required. The new construction of this warehouse will not substantially change the character of the neighborhood; 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 if this variance is not granted then the applicant will not be able construct a 9700 square foot warehouse facility. If the entire area was zoned "LI" Limited Industrial then the owner would not be required to meet the compatibility standards and would not have any interior side setback requirements. This would allow the owner to construct an even larger facility than the applicant is asking for today; 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 area is surrounded by industrial zoning and this request will not alter the neighborhood substantially; 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 general area is designated in the Comprehensive Plan for industrial use, and is already characterized by industrial uses and zoning. The few remaining homes in the area will probably be rezoned in the near future and, therefore the setback requirements will be removed once this occurs; 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.

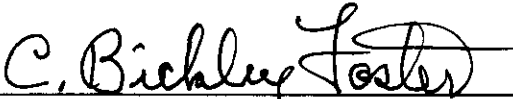
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the compatibility standards from 25 feet to 10 feet on the south side and from 25 feet to 5.25 feet on the north on property zoned "LI" Limited Industrial and legally described as follows:

The east 130.6 feet of the south 138 feet of Lot 1, M&B Second Addition,
Wichita, Sedgwick County, Kansas.

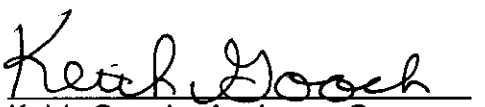
subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north property line may be reduced to no less than 5.25 feet.
2. The height of the warehouse from grade to the roof lines shall not exceed 16 feet; the height from grade to the peak of the roof shall not exceed 20 feet.
3. The applicant shall obtain all local permits necessary to construct the warehouse and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 24th day of March, 1998.


C. Bickley Foster, President

ATTEST:


Keith Gooch, Assistant Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 3-98

OWNER/APPLICANT: Leon Lungwitz

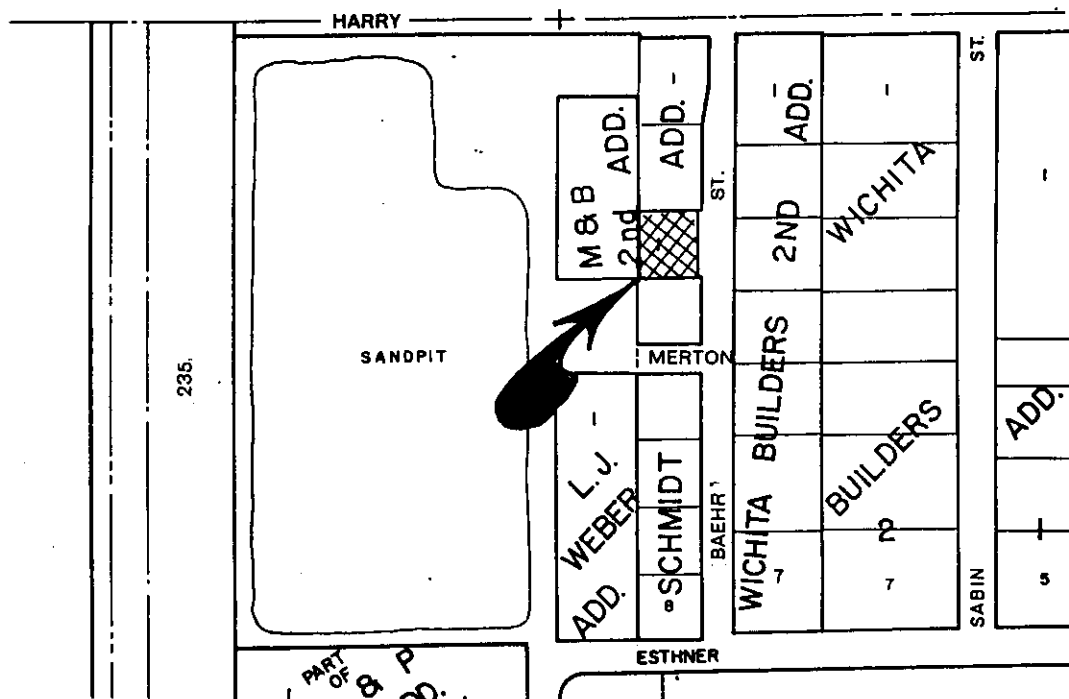
AGENT: PEC c/o Rob Hartman

REQUEST: Variance to reduce the compatibility standards from 25 feet to 10 feet on the south side and from 25 feet to 5.25 feet on the north.

CURRENT ZONING: "LI" Limited Industrial

SITE SIZE: 0.41 acres

LOCATION: South of Harry and east of I-235 (1600 S. Baehr)



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 is proposing to develop a piece of property on a .41 acre tract located south of Harry and west of Baehr, which is zoned "LI" Limited Industrial. A warehouse will be constructed, much like the warehouse located just east of this site. The area is characterized by industrial uses and single-family uses. The two lots to the north of the subject tract and the unplatted lot along Harry Street are zoned "SF-6" Single-Family, while the lot to the south of this tract as well as the lot at the southwest corner of Baehr and Merton are also zoned "SF-6" Single-Family. All other lots in the vicinity are zoned "LI" Limited Industrial. Therefore, due to this site being adjacent to residential zoning, the compatibility standards will be triggered by this development. The compatibility standards established by the Unified Zoning Code are intended to preserve and protect residential neighborhoods.

Currently to the south of the property in question, a home sits approximately 6 feet south of the property line, while the home north of this site is located approximately 100 feet north of the property line. The attached site plan shows a 16 foot tall structure with a metal facade. The applicant is also showing landscaping on the south side of the building.

The applicant is asking for this variance to reduce the compatibility setback requirements on the north from 25 feet to 5.25 feet and from 25 feet to 10 feet on the south side. The variance would allow the applicant to build a 9,400 square foot warehouse, otherwise the applicant states he would only be able to build a 6,700 square foot building.

The Unified Zoning Code Article IV-C.2 states, "Compatibility standards for setbacks and height shall apply to all uses in MF-18 and less restrictive base zoning districts when such uses are located on sites across the street from or adjacent to property zoned TF-3 or more restrictive, except, however, that when the separating street is a freeway or expressway, compliance with the compatibility standards shall not be required." The Unified Zoning Code Article IV-C.4 explains the setback requirements for nonresidential uses adjacent to residential uses as "the minimum compatibility (building) setback shall be 15 feet plus one foot for each five feet of (subject tract) lot width over 50 feet. In no case shall the compatibility setback standards alone require more than a 25-foot setback." Therefore, due to the lot width being 138 feet, the setback requirements for this warehouse would be 25 feet along the north and south portions of this tract.

If this commercial site is to develop adjacent to residential zoning, the current zoning and landscape codes will require landscaping and screening regardless of the building setbacks. The landscape code will require a buffer of one shade tree or two ornamental trees per forty lineal feet of property line abutting the residential area. These trees must be planted within 15 feet of the residential property line. The Unified Zoning Code will impose screening and lighting requirements on the north and south

sides of the site since it is developing adjacent to residential zoning. The applicant will be responsible for constructing and maintaining a minimum 6 foot solid screening fence or equivalent vegetation, along his property line adjacent to residential zoning. All outdoor lights will be required to be cut-off luminaires mounted at a height not exceeding one-half the distance from the residential district. (Note: if evidence is provided to the satisfaction of the Zoning Administrator the light source will be aimed or shielded from the neighboring lot such that light trespass and glare are minimized, these standards may be modified.) The Board may require additional screening, landscaping or other site development standards above the minimum required by the codes if it is deemed necessary to protect and preserve the adjoining residential area.

A zone change was approved in 1979 (Z-2132), which changed this site from "AA" (SF-6) Single-Family Zoning District to "E" (LI) Limited Industrial. This was approved by the Board of County Commissioners subject to replatting and a drainage lake to the west of the property.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6"	Single-Family Residence
SOUTH	"SF-6"	Single-Family Residence
EAST	"LI"	Industrial uses and storage facilities
WEST	"LI"	Undeveloped land

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the area surrounding the residential properties is zoned "LI" Limited Industrial. The remaining single-family lots in the area will probably be rezoned to "LI" Limited Industrial in the future, consistent with the Land Use Guide of the Comprehensive Plan.

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 adjoining properties have resided with warehouses and other industrial uses for several years, the owner to the north has submitted a letter approving the request, and screening/landscaping still will be required. The new construction of this warehouse will not substantially change the character of the neighborhood.

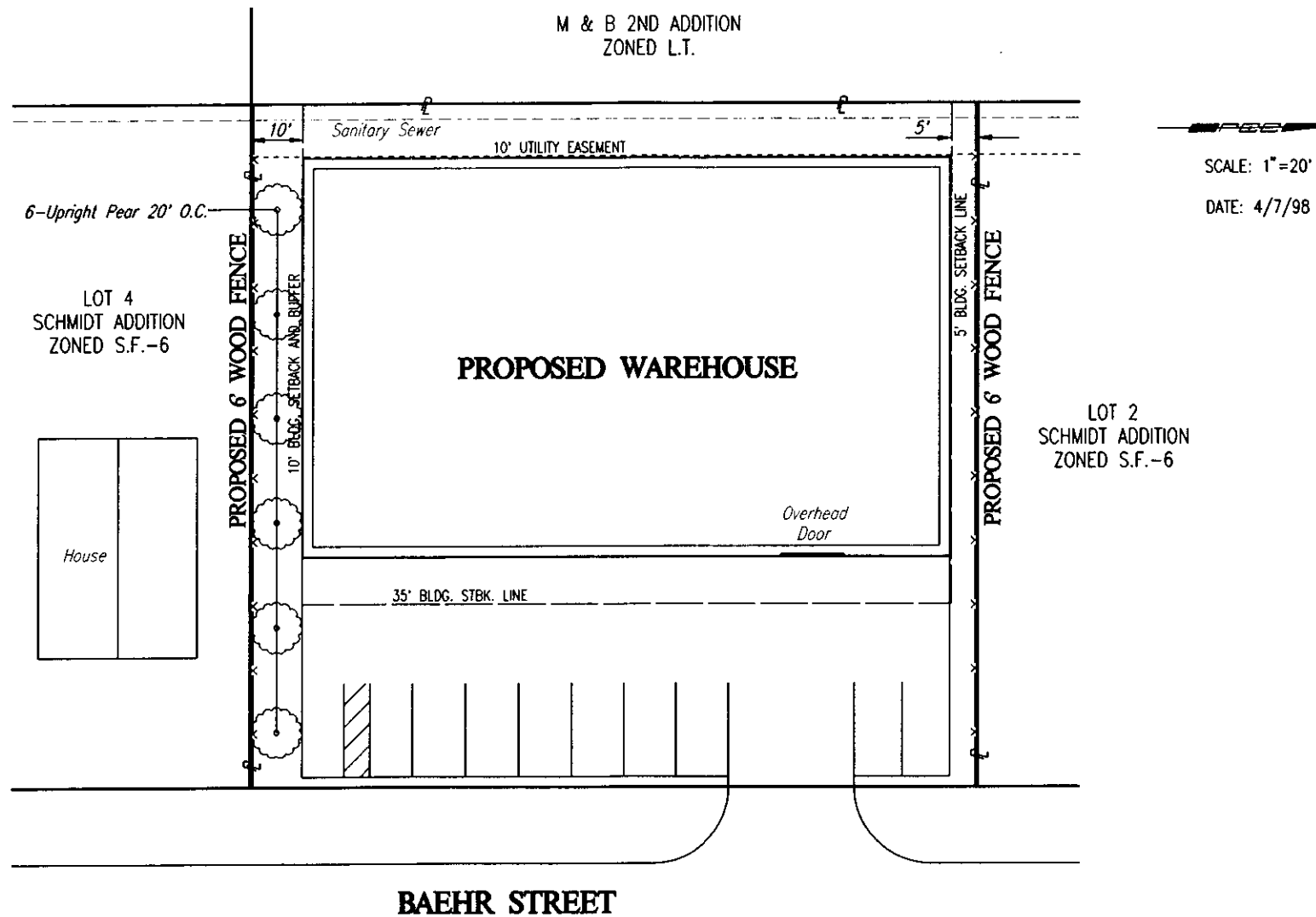
HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant inasmuch as if this variance is not granted then the applicant will not be able construct a 9700 square foot warehouse facility. If the entire area was zoned "LI" Limited Industrial then the owner would not be required to meet the compatibility standards and would not have any interior side setback requirements. This would allow the owner to construct an even larger facility than the applicant is asking for today.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the area is surrounded by industrial zoning and this request will not alter the neighborhood substantially.

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 the general area is designated in the Comprehensive Plan for industrial use, and is already characterized by industrial uses and zoning. The few remaining homes in the area will probably be rezoned in the near future and, therefore the setback requirements will be removed once this occurs.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the 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. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north and south property lines may be reduced to no less than 5.25 feet on the north and 10 feet on the south.
2. The height of the warehouse from grade to the roof lines shall not exceed 16 feet; the height from grade to the peak of the roof shall not exceed 20 feet.
3. The applicant shall obtain all local permits necessary to construct the warehouse and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.



REVISED SITE PLAN
E. 130.6' M & B 2ND ADDITION