

Case No. BZA 5-79 - Little Pal's Day Care Center, requests variance to waive screening requirement on property zoned "LC" & generally located on the S/W corner of Hillside & 27th

Revised 3-6-79

ACTION

DATE *3-27-79*

COMMITTEE

BZA 5-79

M.A.P.C.

*✓ C.I. 4-27-79 MR
✓ MAPD 4-30-79 MR*

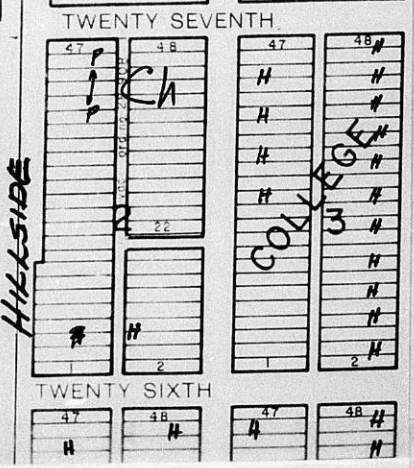
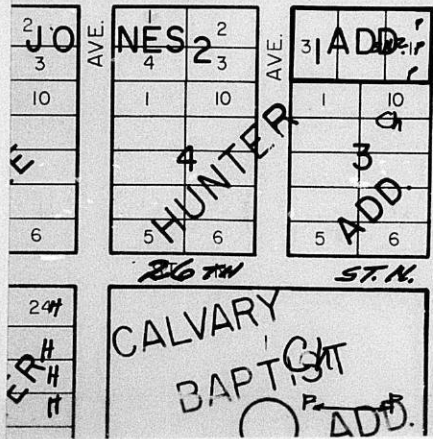
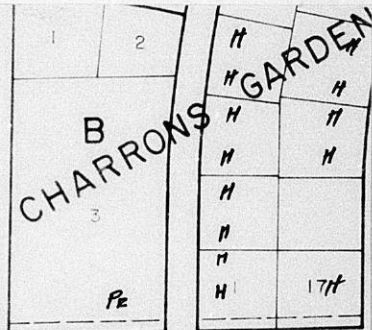
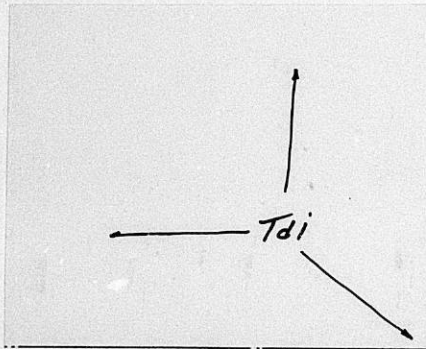
B.C.C./B. CO. C.

Map No. 5650
 Sec. 3
 Twp. 27
 Range 1E

BZA- 5-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.7 (130 ft. by 250 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East CHURCH South CHURCH
 West UNDEVELOPED North DRIVE-IN THEATER
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: NURSERY SCHOOL
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



Stevens
 No. 2-153C
 HASTINGS, MIN. LOS ANGELES
 LOGAN OH. MCGREGOR, TX U. S. A.

April 9, 1979

Juanita Hayes
2431 N. Belmont
Wichita, Kansas 67219

Re: Case No. BZA 5-79
Request for Variance

Dear Ms. Hayes:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 27, 1979, in connection with your request for a variance to waive the required screening along the south property line on property zoned the "LC" Light Commercial District and generally located at the southwest corner of Hillside and 27th St. North.

This Resolution reflects the official action of the Board to approve the request and sets out the condition of approval. It is forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Larry Dobson
Assistant Secretary

LD:bbc
Enclosure

cc: Little Pal's Day Care Center-Cradle Rock, Inc.,
2739 N. Hillside 67219
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisiok, City Clerk

RESOLUTION NO. BZA 5-79

WHEREAS, Little Pal's Day Care Center-Cradle Rock, Inc., 2739 N. Hillside, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to waive the screening requirement along the south property line on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 1, 2 and 3, Block 1, Bruce Jones Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Hillside and 27th St. North (2739 N. 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 March 27, 1979, 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 property to be screened is also developed with an institutional use which has existed as a neighbor for eleven years with only a chain link fence separating the properties; 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 child care center has hours of operation that do not coincide with the hours the church is being utilized; 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 property owners represented in the application inasmuch as they are not changing the use of the property from its existing use and it would seem that this child care center will continue to be compatible as a neighbor to a church without the benefit of screening; 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 request is located along an interior lot line; 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 both subject property and the adjacent property are developed as "institutional" uses. It is the further opinion of the Secretary that it is not the intent of the ordinance to require screening of one institutional use from another; 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.

Case No. BZA 5-79
Resolution
Page 2

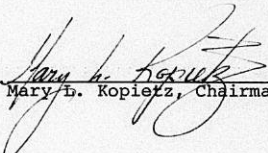
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to waive the screening requirement along the south property line on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 1, 2 and 3, Block 1, Bruce Jones Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Hillside and 27th St. North (2739 N. Hillside).


be approved subject to the following condition:

1. The granting of this variance shall apply only to the applicants child care center operation and any future use of the property shall comply with the screening requirements, if applicable, or receive a variance of same on its own merit.

ADOPTED AT WICHITA, KANSAS, this 27th day of March, 1979.


Mary B. Kopietz, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE MARCH 16, 1979

TO Larry Dobson, Secretariat of BZA

FROM Sarah Gilbert, CPO Administrative Aide

SUBJECT BZA5-79 (2739 N. Hillside)

The Area "J" CPO Council considered the above case at its March 15 meeting. The Chairperson had spoken to the day care center operator and the church's minister, and neither reported any problems with the current lack of screening.

The Council voted 5-0 to recommend that the application for a variance to waive the screening requirement on the south property line of the Little Pal's Day Care Center be approved.

Please advise the BZA of the Council's recommendation when the case is considered on March 27.

Sarah Gilbert
Sarah Gilbert
CPO Administrative Aide

SG:ml

NOTED

Evelyn Pittman
Evelyn Pittman
Assistant CP Coordinator



March 28, 1979

Juanita Hayes
2431 N. Belmont
Wichita, Kansas 67219

Re: Case No. BEA 5-79
Request for Variance

Dear Ms. Hayes:

At the regular meeting of the Board of Zoning Appeals on March 27, 1979, your request for a variance to waive the required screening along the south property line on property zoned the "LC" Light Commercial District and generally located at the southwest corner of Hillside and 27th St. North was considered.

It was the action of the Board to approve this request subject to the following condition:

1. The granting of this variance shall apply only to the applicants child care center operation and any future use of the property shall comply with the screening requirements, if applicable, or receive a variance of same on its own merit.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bbc

BEA 5-79

cc: Little Pal's Day Care Center-Cradle Rock, Inc.,
2739 N. Hillside 67219
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 5-79

APPLICANT: Little Pal's Day Care Center-Cradle Rock, Inc.,
2739 N. Hillside, Wichita, Kansas.

AGENT: Juanita Hayes, 2431 N. Belmont, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of
the City of Wichita, to waive the required
screening along the south property line.

GENERAL
LOCATION: Southwest corner of Hillside and 27th St. North.

ZONING: Subject property is zoned the "LC" Light Commercial
District. Properties to the north, east and south
are all zoned the "AA" Single Family Dwelling
District. Land to the west is zoned the "RB" Four
Family Dwelling District.

LAND USE: Subject property is developed with a child care
center. North is a drive-in theatre; churches
are located on properties to the east and south;
land to the west is undeveloped.

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 of the following conditions are found to exist:

1. That the variance requested 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.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

Case no. BZA 5-79
3-27-79
Page 2

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance to waive the required screening along the south property line, in connection with the construction of a new child care center facility on subject property.

A child care center has been in operation on subject property for a number of years, housed in a converted residential structure. The applicants are now planning a new facility which will replace the existing building.

A child care center, when it is the principal use of the property, is defined as an institutional use and is, therefore, required to be screened along side and rear lot lines when they are adjacent to a residential zoning district, as provided in Section 28.04.160K of the City Code. Adjacent property to the south is a church facility, developed on property that is zoned the "AA" Single Family Dwelling District. It is along this common boundary between the church and the child care center that the variance is being requested. The applicants point out that their child care center has been in operation at this location for eleven years, with a chain link fence separating their property from the church. The applicants explain that this is a unique situation in that the child care center is in operation Monday through Friday between the hours of 6:30 a.m. to 5:30 p.m., and the church is in operation primarily on Sundays and sometimes evenings during the week.

It should be noted that a church is also an institutional use, and as such is required to screen in the same manner described above when adjacent to a residential zoning district. It is interesting to note that if the child care center was developed on residentially zoned property, instead of "LC", then both the church and the child care center could theoretically be required to screen from each other.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the property to be screened is also developed with an institutional use which has existed as a neighbor for eleven years with only a chain link fence separating the properties.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the rights of adjacent property owners or residents inasmuch as the child care center has hours of operation that do not coincide with the hours the church is being utilized.

Case no. BZA 5-79
3-27-79
Page 3

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicants inasmuch as they are not changing the use of the property from its existing use and it would seem that this child care center will continue to be compatible as a neighbor to a church without the benefit of screening.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the public interest inasmuch as the request is located along an interior lot line.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as both subject property and the adjacent property are developed as "institutional" uses. It is the further opinion of the Secretary that it is not the intent of the ordinance to require screening of one institutional use from another.

RECOMMENDATION:

It is the opinion of the Secretary that the above five conditions can be found to exist and it is, therefore, recommended that the requested variance be granted subject to the following condition:

1. The granting of this variance shall apply only to the applicants child care center operation and any future use of the property shall comply with the screening requirements, if applicable, or receive a variance of same on its own merit.

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

March 5, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 5-79

An application has been filed by Little Pal's Day Care Center-Cradle Rock Inc., 2739 N. Hillside, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to waive the screening requirement along the south property line on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 1, 2 and 3, Block 1, Bruce Jones Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Hillside and 27th St. North (2739 N. Hillside).

This application has been assigned case No. BZA 5-79 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 27, 1979, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

BZA CASE NO. 5-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

7 NOTICES SENT TO ADJOINING PROPERTY OWNERS

20 TOTAL NOTICES SENT 3-5-79

FORM 29-021

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M. Exp.
	Planning		

APD
182370
M. Exp.
TTL #1
CITY OF WICHITA

DESCRIPTION	AMOUNT
BZA Variance Application	\$ 50.00
NAME Little Pal's Day Care Center	
ADDRESS 2739 N. Hillside	
FUND 110-00-000-40071-203-000-000	
COMMENTS	

DATE 2-23-79 BY [Signature]

BOARD OF ZONING APPEALS

CASE NO. 579

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Little Pal's Day Care Center - Cradle Rock Inc.

Mailing Address 2739 N. Hillside 67219 Phone 684-3862

Name of Authorized Agent Juanita Hayes

Mailing Address 2431 N. Belmont Phone 682-3512

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is (waive screening requirement along south property line)
for us to be allowed to put in a chain-
link fence, in place of the required wooden fence between our
new Day Care Center and the adjacent church.

for property located 2739 North Hillside
Wichita, Kansas 67219

and legally described as: Lots 1, 2, and 3, Block 1, Bruce
Jones Addition to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned Light Commercial

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Little Pal's Day Care Ctr. - Cradle Rock Inc.
Applicant

Juanita Hayes
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:00 (a.m.) - p.m., 2-22 19 79
together with appropriate fee of \$50.00.

s/w corner of Hillside and
27th St. North, (2739 N. Hillside)
T9-402

Larry Dobson
Signed

AA
AB-2-AA
AA

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

All the owners within 200 feet of
Lots 1, 2 and 3 in Block 1, Bruce
Jones Addition to Wichita, Sedgwick
County, Kansas



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

LOTS	BLOCK	ADDITION	OWNER
1, 2 & 3	1	Bruce Jones Add	Cradle Rock Inc. C/O G.E. Hayes 2225 East 21st 67214
1	2	" " "	Esther Mitchell 1055 S. Green 67214
2, 3 & 4	"	" " "	Bruce W. Jones 410 S. Walnut McPherson Ks 67460
1, 2, 3, 4 7, 8, 9 & 10	3	Agee Hunter Add	Church of Living God 2725 N. Hillside 67219
1 & 2	4	" " "	Lynn Lowry & Myrtle 115 S. Rutan apt 1 B Wichita, Ks 67218
7, 8, 9 & 10	"	" " "	Willie Alford 2713 N. Estelle Ave 67219



LOTS	BLOCK	ADDITION	OWNER
23 thru 47	2	Post & Christy's College Crest Add.	Grant Chapel African Methodist Episcopal Church 2750 N. Hillside 67219
S 150' of Lot 3	B	Charron's Garden Estates	Weaver Peacock Press Inc 2259 N. Hillside 67202
Lot 3 Exc N 75' & the S 150'	B	" "	City of Wichita
NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of 3-27-1E			Commonwealth Theatres Kansas Inc 215 W 8th St Kansas City Mo 64152



Dated at Wichita, Kansas this 7th day of February
1979 at 7:00 A.M.

FIDELITY TITLE COMPANY INC

By C. E. Bud Fisher
VP

No. 46073

Fidelity  Title
COMPANY, INC.

Sobson

Little Pal's Day Care Center
2739 N. Hillside
Wichita, Kansas 67219

February 16, 1979

Office of the Secretary
Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main
Wichita, Kansas

Gentlemen;

Enclosed please find Application for Variance, Certified Listing from Abstract Company of the names and current addresses of owners of all property within (200) two hundred feet of property involved, Statement justifying the variance, check for \$50.00, for filing fee.

The sketch of the proposed facility is in your planning office, there at the City Building.

If any additional information is needed, please contact me.

Sincerely,

Juanita Hayes
Juanita Hayes,
Director

Incls.



Statement - Justifying Variance Request

We are requesting a variance from the City's requirement of screening light commercial property from residential property by the use of wooden fence (6 ft.). We are requesting this variance because our Day Care Center has been in operation for eleven (11) years, with the use of a chain-link fence separating our property from the adjacent property which is a church. Our situation is unique in that we operate Monday thru Friday, hours 6:30 a.m. to 5:30 p.m. and the church is in operation primarily on Sundays, and a few evenings a week. There is absolutely no interference of either place for we operate at different times, and different days.

We can re-use our present chain link fence on our new facility. Our Building cost have already gone much higher than we expected, and we have had to cut down on our new facility in order for it to be constructed for the amount of funds available. This variance is very important to us, for it could mean the difference of providing space for a few more children, or having to cut down on our new facility again. In granting this variance, it will not adversely affect the rights of adjacent property owners or residents, and will greatly benefit the community.

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

March 5, 1979

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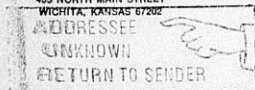
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Jack H. Galbraith
Secretary

WICHITA - SEDGWICK COUNTY

W.S.C.

BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202



Commonwealth Theatres Kansas, Inc.
215 W. 8th St.
Kansas City, Mo. 64152



BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

March 5, 1979

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Jack H. Galbraith
Secretary

WICHITA - SEDGWICK COUNTY

W S C

BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202



5-79
Bruce W. Jones
410 S. Walnut
McPherson, Ks. 67460



MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

FORM 21-1

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
BZA Variance Application	\$50.00
NAME Little Park Day Care Center	
ADDRESS 2757 N. Hillside	
FUND 41-000-000-40071-000	DUE DATE 1-1-79
COMMENTS	
DATE 2-23-79	BY [Signature]

