

Case No. BZA 6-80 - Kenneth  
Meredit & Milo M. Unruh  
Co-Trustee % Leonard A. Garnett  
Testametary Trust #2, requests  
a variance to eliminate the  
requirement for a screening fence

*POSTED*  
*4-25-80*  
*9-22-80*

*BZA*  
*6-80*

**ACTION**

DATE 3-25-80

COMMITTEE Approved

M.A.P.C. \_\_\_\_\_

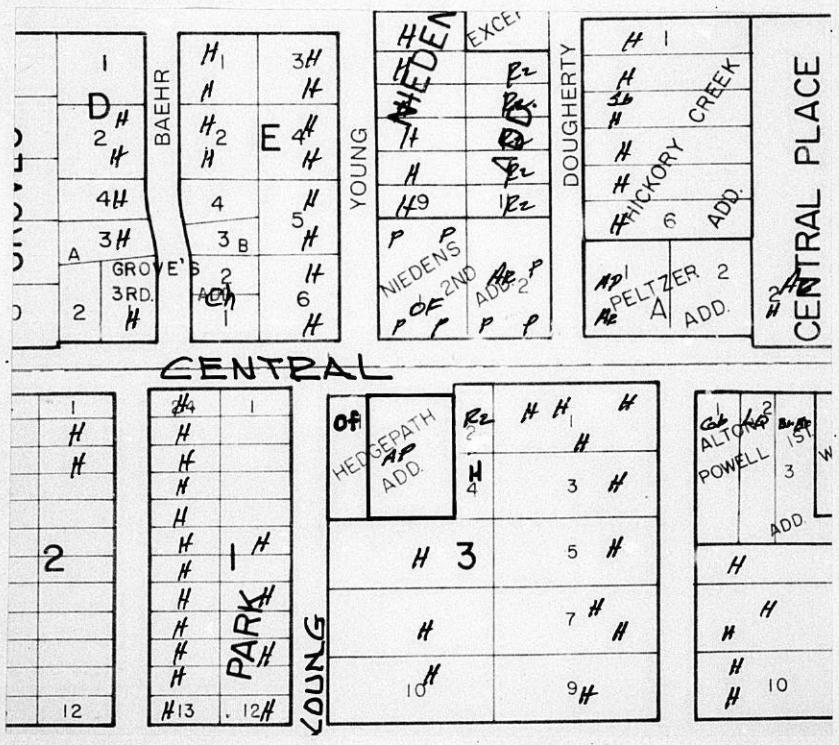
B.C.C./B. CO. C. \_\_\_\_\_

Map No. 5147 NE  
 Sec. 23  
 Twp. 27  
 Range 1W

BZA- 6-80  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 0.92 ( 150 ft. by 240 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East SINGLE & TWO FAM South SINGLE FAM  
 West UNDEVELOPED North OFFICE  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use is for: RETAIL AUTO PARTS  
 6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



April 2, 1980

Kenneth Meredith &  
Milo M. Unruh, Co-Trustee  
& Leonard A. Garnett Testamentary Trust #2  
4545 West Central  
Wichita, Kansas

Re: Case No. BZA 6-80  
Request for Variance

Dear Mr. Unruh:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 25, 1980, in connection with your request for a variance to eliminate the requirement for a screening fence on the east property line on property zoned "LC" Light Commercial and generally located on the south-east corner of Central and Young (4545 West Central).

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

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

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

RESOLUTION NO. BZA 6-80

WHEREAS, Kenneth Meredith and Milo M. Unruh, Co-Trustee & Leonard A. Garnett Testamentary Trust #2, 4545 West Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence along the east property line adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

The east 150' of Lot 1, Hedgepath Addition to Wichita, Sedgwick County, Kansas. Generally located at 4545 West Central.

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 25, 1980, 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 adjacent property to the east is proposed for commercial development and in accordance with the adopted zoning policy of the MAPC would be looked on with favor; 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 adjacent property owner has agreed that the requested variance to remove the screening requirement would be in their best interest; 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 the installation of a screening fence between commercial properties is unnecessary and the cost would be wasted; 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 property to the east is proposed for future commercial development and the visual appearance should be enhanced without the screening; 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 the intent of the ordinance is to provide protection to residential properties from the adverse affects of commercial uses, whereas the residential use in this case would prefer the screening fence not be erected; 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.

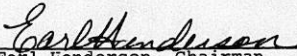
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the screening fence along the east property line adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as:

The east 150' of Lot 1, Hedgepath Addition  
to Wichita, Sedgwick County, Kansas. Generally  
located at 4545 West Central.

be approved subject to the following conditions:

1. The applicant shall submit two revised copies of the site plan to the Secretary of the Board indicating a 6 foot high screening fence adjacent to the south property line.
2. The fence in condition #1 above shall be installed prior to the release of the resolution and within 30 days from the date of approval by the Board of Zoning Appeals or the Resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1980.

  
Earl Henderson, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

March 26, 1980

Kenneth Meredith &  
Milo H. Unruh, Co-Trustee  
% Leonard A. Garnett Testamentary Trust #2  
4545 West Central  
Wichita, Kansas

Re: Case No. BZA 6-80  
Request for Variance

Dear Mr. Unruh:

At the regular meeting of the Board of Zoning Appeals on March 25, 1980, your request for a variance to eliminate the requirement for a screening fence on the east property line on property zoned "LC" Light Commercial and generally located on the southeast corner of Central and Young (4545 West Central) was considered.

It was the action of the Board to approve your request subject to the following conditions:

1. The applicant shall submit two revised copies of the site plan to the Secretary of the Board indicating a 6 foot high screening fence adjacent to the south property line.
2. The fence in condition #1 above shall be installed prior to the release of the resolution and within 30 days from the date of approval by the Board of Zoning Appeals or the Resolution shall become null and void.

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,

Glen E. Lytle  
Assistant Secretary

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GEL:sad

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE March 24, 1980

TO Glen Lytle, Special Assistant for Zoning

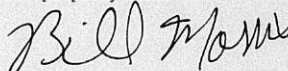
FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA Case 6-80: 4545 W. Central

CPO Council "N" considered the captioned case on March 20, 1980.

Council members were very concerned that the required screening fences were not constructed 3 years ago at the time the property was developed. Consequently, the Council was reluctant to support the variance for the property owner. However, the Council recognized that the property to the east is likely to be rezoned to light commercial and felt it would be pointless to require the construction of the east screening fence.

The Council voted 7-0 to recommend approval of the variance subject to the construction of a screening fence on the south property line.



Bill Morris  
CPO Administrative Aide

BM:m1

Noted:



Sarah Gilbert  
Assistant CP Coordinator

**RECEIVED**

MAR 25 1980

METROPOLITAN PLANNING

ROUTE

SECRETARY'S REPORT  
CASE NO. BZA 6-80

APPLICANT: Kenneth Meredith and Milo M. Unruh, Co-Trustee  
% Leonard A. Garnett Testamentary Trust #2,  
4545 West Central, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code  
of the City of Wichita, to eliminate the re-  
quirement for a screening fence on the east  
property line.

GENERAL LOCATION: Southeast corner of Central and Young (4545 W.  
Central).

ZONING: Subject property is zoned "LC" Light Commercial  
as are those properties to the north and west,  
South is zoned "R-6" General Residence. East  
is zoned "AA" Single-family.

LAND USE: Subject property is occupied by an auto parts  
store; north is an office; south is single-  
family; east is single-family home and duplex;  
west is office building.

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).

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BZA 6-80  
BZA AGENDA  
3-25-80

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to eliminate the screening requirement along the east property line which is adjacent to the "AA" Single-family dwelling district.

The owners of the property to the east have indicated by letter that it is their intent to file an application for light commercial zoning in the near future and they would prefer that no fence be installed on this property line. It should be pointed out this is an area on Central where the Planning Commission and City Commission have an adopted policy of looking with favor on requests for "LC" Light Commercial zoning.

UNIQUENESS:

It is the opinion of the Secretary that the requested variance arises from a unique situation inasmuch as the adjacent property is proposed for future commercial development.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of the adjacent property owner inasmuch as they have agreed that the variance to remove the screening requirement would be in their best interest.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the Zoning Ordinance may create an unnecessary hardship upon the applicant inasmuch as the installation of a screening fence between commercial properties is not an appropriate location and the cost would be wasted.

PUBLIC INTEREST:

It is the opinion of the Secretary that granting of the variance would not affect the public interest inasmuch as the property to the east is proposed for future commercial development and the visual appearance should be enhanced without the screening.

SPIRIT AND INTENT:

It is the opinion of the Secretary 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 ordinance is to provide protection to residential properties from the adverse affects of commercial uses, whereas the residential use in this case would prefer the screening fence not be erected.

Page 3  
BZA 6-80  
BZA AGENDA  
3-25-80

RECOMMENDATION:

Due to the fact that the building on the property has been completed for approximately 3 years, and the owner has not complied with the conditions of the original building permit to install the screening fence even on the south property line, it is recommended that any approval should be dependent upon some action by the owner to first comply with the regulations.

Therefore, if the Board determines that the five conditions necessary to the granting of the variance can be found to exist, it is the Secretary's recommendation that the variance requested be granted subject to the following conditions:

1. The applicant shall submit two revised copies of the site plan to the Secretary of the Board indicating a 6 foot high screening fence adjacent to the south property line.
2. The fence in condition #1 above shall be installed prior to the release of the resolution and within 30 days from the date of approval by the Board of Zoning Appeals or the Resolution shall become null and void.

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

March 3, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 6-80

An application has been filed by Kenneth Meredith and Milo M. Unruh Co-Trustee % Leonard A. Garnett Testamentary Trust #2, 4545 West Central, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to eliminate the requirement for a screening fence on the east line of the lot on property zoned the "LC" Light Commercial and legally described as follows:

The east 150' of Lot 1, Hedgepath Addition  
to Wichita, Sedgwick County, Kansas. Generally  
located at 4545 West Central.

This application has been assigned case No. BZA 6-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 25, 1980, 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. If you have any questions about this application, please call 268-4390 and ask for Lynn Shirkey or 268-4394 and ask for Glen Lytle.

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. 6-80

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

15 NOTICES SENT TO ADJOINING PROPERTY OWNERS

27 TOTAL NOTICES SENT 3-3-80

BOARD OF ZONING APPEALS

CASE NO. \_\_\_\_\_

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant Kenneth Meredith and Milo M. Unruh Co-Trustee  
& Leonard A. Garnett Testamentary Trust #2

Mailing Address 4545 West Central, Wichita, Ks. 67211 Phone 943-0259

Name of Authorized Agent Eugene J. Koenigs

Mailing Address Box 11125, Wichita, Ks. 67211 Phone 267-4393

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

II. The variance requested is Eliminate the requirement for a screening fence  
on the East line of the lot in question.

for property located at 4545 West Central, Wichita, Ks.

and legally described as: The East 150 feet of lot One (1) Hedgepath  
Addition to Wichita, Sedgwick County, Kansas, commonly known as  
4545 West Central, Wichita, 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.

\_\_\_\_\_  
 Applicant

Eugene J. Koenigs  
 Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:45 (a.m. - ~~p.m.~~), April 31 1980 together with appropriate fee of \$50.00.

[Signature]  
 Signed

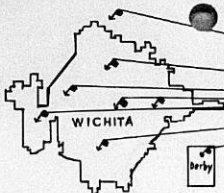
January 23, 1980

We understand that there is a requirement for screening, per the provisions of title 28, or the line between the properties located at 4545 West Central and 4503 West Central.

We, Kenneth R. and Ethel J. Young, the owners of the property at 4503 West Central have purchased said property for light commercial use. It is our intention to apply for light zoning in the near future. A screening fence installed between the above described properties would be, a deterrent to proper excavating for light commercial use. We would prefer that no fence be installed on this property line.

*Kenneth R. Young*  
Kenneth R. Young

*Ethel J. Young*  
Ethel J. Young



**GARNETT**   
**auto supply inc.**

8 WICHITA LOCATIONS

JANUARY 28, 1980

This application for variance from the provision of Title 28 is submitted by Eugene J. Koenigs agent for Kenneth Meredith and Milo M. Unruh, Co-Trustees of the Leonard A. Garnett Testamentary Trust #2 for the property located at 4545 West Central with legal description:

The East 150 feet of lot One (1) Hedgepath Addition to Wichita, Sedgwick County, Kansas, Commonly known as 4545 West Central, Wichita Kansas.

The property located at 4503 West Central has been purchased by Kenneth R. and Ethel J. Young to be used for light commercial business. It is their intention to apply for a zoning change from Residential to light commercial. (See enclosed letter signed by the Youngs).

We agree that a screening fence between these properties would serve no useful purpose, and would be a deterrent in the near future.

We are requesting that a variance be granted to eliminate the requirement for screening the East line of the above described property, and consider approval of screening as shown on the enclosed sketch.

EJK:ks

*Eugene J. Koenigs*  
Eugene J. Koenigs  
President of Garnett Auto Supply



MAILING ADDRESS  
P. O. BOX 11125 WICHITA, KANSAS 67211

TELEPHONE  
AREA CODE 316 - 267-4393



OWNERSHIP LIST

Lot	Addition	Property Owner
S $\frac{1}{2}$ lot 6 Block E	Groves 2nd Addition	✓ Jerry L. Dean and Phyllis M. Dean 701 North Young 67212
N $\frac{1}{2}$ lot 6 Block E	Same	✓ Raymonde R. Barnhizer David Christian George 705 North Young 67212
lot 1	Niedens 2nd Addition	✓ Donald E. Hunt & Wilma J. 4510 West Central 67212
lot 2	Same	✓ Unruh Alignment Service Inc. 4500 West Central 67212
West 75 ft lot 1	Headgepath Addition	✓ Jack D. Delmar & Margaret G. 10921 Hidden Lake 67209
East 150 ft lot 1	Same	✓ Kenneth Meredith and Milo M. Unruh, Co-Trustees of the Leonard A. Garnett Testamentary Trust #2 4545 West Central 67212
lots 1,2,3,4 Block 1	Orchard Park	✓ Howard D. Ricketts 1224 Chipper 67212
lots 5,6,7 Block 1	Same	✓ Leo J. Landwehr & Marie K. 627 North Young 67212
lot 8, Blk 1	Same	✓ Gerald G. Levelle and Llewellyn N. Levelle 623 North Young 67212
West $\frac{1}{4}$ of lots 1 & 3, Blk 3	Parkwilde Addition	✓ Clara Moore 4425 West Central 67212
E $\frac{1}{2}$ of W $\frac{1}{2}$ of lots 1 & 3, Block 3	Same	✓ Harlin R. Gray and Janet L. Gray 623 North Tracy 67212
East $\frac{1}{4}$ of lots 2 & 4, Block 3	Same	✓ Kenneth R. Young and Ethel J. Young 748 North Anna 67212
N $\frac{1}{2}$ lot 5 Block 3	Same	D Harlin R. Gray & Janet L. 623 North Tracy 67212
S $\frac{1}{2}$ lot 5, Block 3	Same	D Harlin R. Gray 623 North Tracy 67212
N $\frac{1}{2}$ lot 7 Block 3	Same	D Harlin R. Gray & Janet L. 623 North Tracy 67212



## SECURITY IS KNOWING

Title Insurance • Escrow Closings • Abstracts

Lot	Addition	Property Owner
S $\frac{1}{2}$ lot 7 Block 3	Parkwilde Addition	✓ Mary D. Etter 7711 Cottontail Lane 67212
N $\frac{1}{2}$ lot 6 Block 3	Same	✓ William J. Kropp & Neola 4139 East English 67218
S $\frac{1}{2}$ lot 6 Block 3	Same	✓ Kenneth S. Stewart and Phyla M. Stewart 3901 North Harding 67220
N $\frac{1}{2}$ lot 8 Block 3	Same	✓ Paul E. Naselroad & Lelia B. 606 North Young 67212
S $\frac{1}{2}$ lot 8 Block 3	Same	Ⓟ Paul Naselroad & Lelia B. 606 North Young 67212

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of: The east 150 feet  
of Lot 1, Headgepath Addition to Wichita,  
Sedgwick County, Kansas

as shown by the last deeds of record on file in the Office of the Register  
of Deeds of Sedgwick County, Kansas, on the 21st day of January, 1980 at  
7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

*Mary Gable*

Vice President

Order No. 284906

wh

**MICROFILMED**  
 FROM THE BEST  
 AVAILABLE COPY

FORM 2 021      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.S.P.

Planning

DESCRIPTION	AMOUNT
CITY DZA Case	\$50 <sup>00</sup>

NAME GARNETT Auto Supp #5

ADDRESS Box 11125, W. K. 17<sup>th</sup> St

FUND 40-00-000-40071-000-000-000      DUE DATE

COMMENTS

DATE Jan 31, 1980      BY [Signature]

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm

Roll # 2