

CASE NO. BZA 13-78 - PEGGY AND
ELVERT H. LAND, JR., request a
variance to waive the required
screening along the rear lot line
on property generally located on
the south side of Pawnee in an

ACTION

BZA 13-78 COMMITTEE

Approved

DATE

4-24-78

M.A.P.C. _____

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

*Revised
4-24-78
MADD
C.T.
5-6-78*

CASE NO. BZA 13-78 - PEGGY AND
EVERETT H. LAND, JR., request a
variance to waive the required
creeping along the rear lot line
in property generally located on
the south side of Pawnee in an

RESOLUTION NO. BZA 13-78

WHEREAS, Peggy F. and Elvert H. Land, Jr., 16205 East Pawnee, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to waive the screening requirement adjacent to the rear property line on property zoned the "LC" Light Commercial District and the "C" Commercial District and legally described as follows:

Lot 3, Block 3, W. P. Higgins Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Pawnee in an area between Glendale and the Kansas Turnpike.

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 April 25, 1978, 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 residentially zoned property adjacent to subject property is drainage right-of-way and then turnpike right-of-way; 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 is owned by the public and is not available for residential development; 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 owner represented in the application inasmuch as the screening would not screen subject property from any residential development; 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 it would help facilitate the maintenance of the drainage channel to not have a screening fence on the edge of the channel; 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 no residential development can occur to the east and south due to the drainage and turnpike rights-of-way; 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 waive the screening requirement adjacent to the rear property line on property zoned the "LC" Light Commercial District and the "C" Commercial District and legally described as follows:

Lot 3, Block 3, W. P. Higgins Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Pawnee in an area between Glendale and the Kansas Turnpike,

be approved.

RESOLUTION NO. BZA 13-78

ADOPTED AT WICHITA, KANSAS, this 25th day of April, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

5-3-78

May 3, 1978

Mr. John Gist
Oblinger-Smith Corporation
First National Bank Bldg.
Wichita, Kansas 67202

Re: Case No. BZA 12-78 - Request for Exception
Case No. BZA 13-78 - Request for Variance

Dear Mr. Gist:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on April 25, 1978, in connection with your request for an exception to permit the establishment of a trailer and vehicle rental business and a variance to waive the screening requirement adjacent to the rear property line on property zoned the "LC" Light Commercial District and generally located on the south side of Pawnee in an area between Glendale and the Kansas Turnpike.

These Resolutions reflect the official action of the Board to grant your requests and sets out the conditions of approval. They are forwarded to you for your files and information.

If you have any questions, please call our office.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:hh

cc: Peggy F. and Elvert E. Land, Jr., 16205 E. Pawnee, 67230
John T. Arnold, Sutton Place Bldg., 67202
Don Cisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

April 26, 1978

Mr. John Gist
Oblinger-Smith Corporation
First National Bank Bldg.
Wichita, Kansas 67202

Re: Case No. BZA 12-78 - Request for Exception
Case No. BZA 13-78 - Request for Variance

Dear Mr. Gist:

At the regular meeting of the Board of Zoning Appeals on Tuesday, April 25, 1978, your request for an exception to permit the establishment of a trailer and vehicle rental business and a variance to waive the screening requirement adjacent to the rear property line on property zoned the "LC" Light Commercial District and generally located on the south side of Pawnee in an area between Glendale and the Kansas Turnpike was considered.

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

1. All storage and display areas shall be paved with concrete, asphalt or other comparable material.
2. All lights shall be shielded to reflect or direct light away from adjoining property. No string-type lighting shall be permitted.
3. Any sign on the property shall comply with the provisions of the sign regulations of the City Code.
4. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
5. No repair work shall be conducted except in an enclosed building on the "C" zoned portion of the applicants' ownership.
6. The applicants shall plant trees on the public property located north of subject property. The City Forester shall be contacted relative to the size, type and location of said trees.

Mr. John Gist - April 26, 1978

7. Two copies of a revised site plan shall be submitted to the Secretary of the Board showing the type and size of plant materials proposed for the location designated as a low planter and shrubbery area.
8. A solid fence, 5 to 6 foot high and constructed of masonry, architectural tile, metal or wood shall be erected along the east 170 feet of the north property line.
9. Erection of the fence and planting of trees and landscaping shall be done prior to the occupancy of the property as a trailer and vehicle rental operation and within one year from the date of approval or the resolution of approval shall become null and void.
10. The plant materials specified for the low planter and shrubbery area shall be maintained in good condition and in the case of dead or dying materials, replaced with like kind.

It was the action of the Board to approve the variance as requested, to waive the screening requirement along the southeast property line.

These Resolutions are being prepared and you will be mailed copies when the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call.

Yours very truly,

Larry Dobson
Assistant Secretary

LD:bh

cc: Peggy F. and Elvart H. Land, Jr., 16235 E. Pawnee, 67230
John T. Arnold, Sutton Place Bldg., 67202
Don Cisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

SECRETARY'S REPORT
CASE NO. BZA 13-78

APPLICANT: Peggy F. and Elvert H. Land, Jr., 16205 E. Pawnee, Wichita, Kansas.

AGENT: John T. Arnold, Sutton Place Bldg., Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to waive the screening requirement adjacent to the rear property line.

GENERAL LOCATION: South side of Pawnee in an area between Glendale and the Kansas Turnpike.

ZONING: Subject property is zoned the "LC" Light Commercial and "C" Commercial Districts as is the property to the west. North, south and east are all zoned the "AA" Single Family Dwelling District.

LAND USE: Subject property contains a vacant commercial building, as does the property to the west. South and east is the Gypsum Creek Drainage channel. North is single family residential development.

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 the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning Ordinance).

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance to waive the screening requirement adjacent to the rear property line in connection with the proposed use of subject property as a trailer and vehicle rental operation.

Subject property is triangular in shape, located on the south side of Pawnee in the area immediately west of the Gypsum Creek drainage channel. The drainage channel is zoned the "AA" Single Family Dwelling District which creates a screening requirement along the east/south property line of subject property. This property line extends from the northeast corner of the property in a southwesterly direction for a distance of approximately 410 feet, all of which is common to the drainage channel. Beyond the drainage right-of-way is the Kansas Turnpike right-of-way.

The applicants state that inasmuch as the adjacent residentially zoned property is not available to be developed residentially, the variance requested would not adversely affect anyone.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness can be found to exist inasmuch as the residentially zoned property adjacent to subject property is drainage right-of-way and then turnpike right-of-way.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the rights of adjacent property owners inasmuch as the adjacent property is owned by the public and is not available for residential development.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as the screening would not screen subject property from any residential development.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest and may, in fact, be in the best interests of the public inasmuch as it would help facilitate the maintenance of the drainage channel to not have a screening fence on the edge of the channel.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired would not be opposed to the general spirit and

SECRETARY'S REPORT

CASE NO. BZA 13-78

Page 3

intent of the zoning ordinance inasmuch as no residential development can occur to the east and south due to the drainage and turnpike rights-of-way

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance can be found to exist and therefore, it is recommended that the requested variance be approved except for any requirement of screening imposed by the granting of the associated exception, BZA Case No. 12-78.

8 notices sent to applicant, agent and adjoining property owners

10 notices sent to MAPC members

1 notice sent to CPO, 3-30-78, BZA 13-78

19 total notices

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202

March 30, 1978

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 13-78

An application has been filed by Peggy F. and Elvert H. Land, Jr., 16205 E. Pawnee, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to waive the screening requirement adjacent to the rear property line on property zoned the "LC" Light Commercial District and the "C" Commercial District and legally described as follows:

Lot 3, Block 3, W. P. Higgins Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Pawnee in an area between Glendale and the Kansas Turnpike.

This application has been assigned case No. BZA 13-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 25, 1978, 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

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED March 27, 1978

13-78

APPLICATION FOR VARIANCE

I. Name of Applicant Peggy F. & Elvert H. Land, Jr.

Mailing Address 16205 E. Pawnee, 67230 Phone 733-0817

* Name of Authorized Agent John T. Arnold and John Gust

Mailing Address Sutton Place Bldg., 67202 Phone 263-7242

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

* Oblinger-Smith Corp./625 First Nat'l Bank Bldg/ 262-0451

II. The variance requested is to eliminate the screening along the rear lot
line required per Sect. 28.04.160.K of the Zoning Ordinance. (See attached sheet).

_____ for property located on S. side of Pawnee in an area E. of Glendale
Avenue.

_____ and legally described as: Lot 3, Block 3, W.P.Higgins Addition,
Wichita, Sedgwick-County, Kansas

_____ in the City of Wichita; and which is presently zoned "LC" & "C".

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.

Peggy F. &
Elvert H. Land, Jr.

Applicant

BY:

John T. Arnold
Authorized Agent, John T. Arnold

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 5:00 (a.m. - 3-27 p.m.), 1978 together with appropriate fee of \$50.00.

S. side of Pawnee in an area between Glendale Ave. T9-402 and the Kansas Turnpike

Larry Dobson
Signed

5844

The application for VARIANCE is to vary or eliminate the screening along the rear lot line of subject property, which is otherwise required per Section 28.04.160.K. of the Zoning Ordinance of the City of Wichita.

It is believed that the variance requested is justified for the following reasons:

1. The variance requested arises from the fact that while the land to the south of subject property is zoned "AA" Single-family and causes the screening requirement, the land to the south is not, and cannot, develop residentially because said area is occupied by drainage right-of-way and a drainage easement for Gypsum Creek, and by right-of-way for the Kansas Turnpike.
2. By virtue of the above stated physical conditions there are no residences to the south of subject property, and the granting of the variance will not adversely affect the right of adjacent property owner(s).
3. The strict application of the provisions of Title 28 of which this variance is requested would constitute an unnecessary hardship upon the property owner represented in the application.

It is further believed that by virtue of the existing physical conditions to the south of subject property, that;

4. 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 the Zoning Ordinance.

OWNERSHIP LIST

Lot	Property Owner
Part of lots 1 and 2, block 3, W. P. Higgins Addition, described as beg. at the NE corner of said lot 1; thence West along the North line of said lot 1, 56.74 feet; thence SEly parallel with the Easterly line of said lot 1, 300 feet; thence with an angle to the left of 22°19'25" a distance of 75.83 feet to the Southerly line of said lot 2, 28.86 feet to the Easterly line of lot 1, extended SEly; thence NEly along said Easterly line 347.39 feet to beginning	Wildwood Inc. c/o Ed Dwire 305 West Central 67202
All of lot 2, block 3, W. P. Higgins Addition, lying East of lot 1 and extended East line of said lot 1	Elvert H. Land Jr. and Peggy F. Land 16205 East Pawnee 67230
lot 3, block 3, W. P. Higgins Addition	Elvert H. Land Jr. and Peggy F. Land 16205 East Pawnee 67230
lot 2, block F McAdam Acres 2nd Add.	Gordon L. Qualls and Jewell D. Qualls 2339 South Ridgewood 67218
lot 18, block G Same	Richard Bruce Wilson and Carolyn S. Wilson 2336 South Ridgewood 67218
lot 19, block G Same	Sayler Construction, Inc. 1130 N. Wood Ave. 67212
Beg. at the SW corner of lot 31, thence NEly along the West line of lots 30 & 31, to a point on the West line of lot 30 which is 88.5 feet from the place of beginning, thence SEly to a point on the East line of lot 31, which is 49.5 feet North and East of the SE corner of lot 31, thence SWly along the East line of lot 31, to the SE corner, thence West along the South line of lot 31, to the point of beg, block J, McAdam Acres Second Addition	Ronald Ralph Howe and Mary Ella Howe 2342 McAdam Drive 67218
A part of lots 30 and 31, block J, McAdam Acres Second, described as: Beg. at a point on the West line of said lot 30, 88.5 feet NEly from the SW corner of said lot 31, thence NEly along the Westerly line of lot 30 to the NW corner of lot 30, thence SEly along North line of said lot 30, 169 feet more or less, to East line of said lot 30, thence SWly along East line of lots 30 and 31, 49.5 feet, thence NWly to beginning	Albert A. Causey and Maria J. Causey #12 Drury Lane 67207

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

A 200 foot radius of the North 50 feet of Lot 3, W. P. Higgins Addition, Sedgwick County, Kansas

as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 23rd day of March, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable
Vice President

Order No. 262633

jc

FORM 223-021

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
BZA Variance Application	750.00

NAME John T. Arnold

ADDRESS 301 S. 8th St. 5th Fl.

FUND 10-10-000-40071 DUE DATE 000-000-000

COMMENTS

DATE 3-27-78 BY CD

*

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

Roll # 1