

BZA 20-75 - Munn-Eby requests  
VARIANCE of required landscaping  
and screening at SW corner Pawnee  
and Custer.

100100  
5-13-75

MAP ✓  
C.I. ✓  
6-16-75

ACTION

BZA COMMITTEE Approved DATE 5-21-75

M.A.P.C.

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

Map No. 5244  
 Sec. 1  
 Twp. 28  
 Range 1W

BZA- 20-75  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

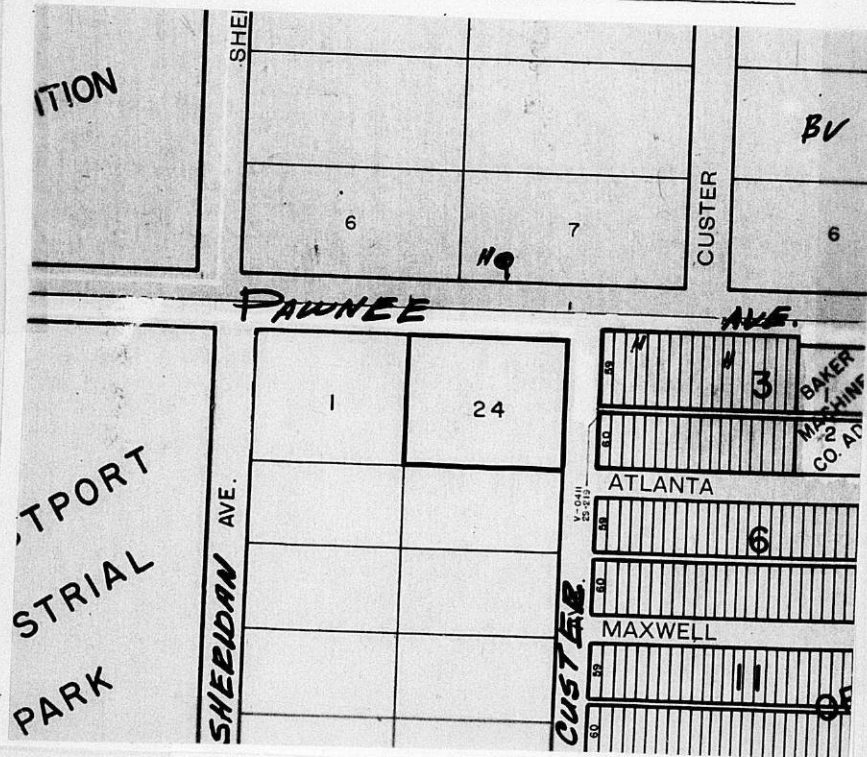
AREA DATA:

1. Acres: \_\_\_\_\_ ( 230 ft. by 280 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East SINGLE FAM South UNDEVELOPED  
 West UNDEVELOPED North HEAVY EQUIPMENT SALES
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use is for: UNDEVELOPED
6. Area (is) (is not) platted. \_\_\_\_\_

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

LAND USE  
NEEDS UPDATE



HASTINGS, MINN. LOS ANGELES, CALIF. OHIO - WOODBRIDGE, TX U. S. A.

Shimoda  
No. 2153C

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

May 5, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 20-75

An application has been filed by Munn-Eby Developers, Inc., 800 East Mt. Vernon, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to remove the landscaping and the screening requirements adjacent to Custer Avenue on property zoned the "E" Light Industrial District and legally described as follows:

Lot 24, Block 1, Wichita Builder's 3rd Addition,  
Wichita, Sedgwick County, Kansas. Generally  
located at the southwest corner of Pawnee and Custer.

This application has been assigned Case No. BZA 20-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 27, 1975, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

RESOLUTION NO. BZA 20-75

WHEREAS, Munn-Eby Developers, Inc., 800 East Mt. Vernon, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita to remove the landscaping and the screening requirements adjacent to Custer Avenue on property zoned the "E" Light Industrial District and legally described as follows:

Lot 24, Block 1, Wichita Builder's 3rd Addition,  
Wichita, Sedgwick County, Kansas. Generally  
located at the southwest corner of Pawnee and Custer.

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 May 27, 1975, 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 residential district which creates this requirement is an area that fronts on an arterial street and judging from past Commission action on zone change requests on the south side of Pawnee, the area to the east would probably be favorably considered for commercial zoning in the future; 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 applicant must maintain a 60-foot platted building setback line adjacent to Custer, and that along with 60 feet of street right of way would place the side of the industrial building no closer than 120 feet to the residential property line; 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 he would be required to screen and landscape across from property which, although presently zoned residential, will in all probability be zoned to a commercial zoning classification prior to further development of the area; 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 proposed design of the project would present a more pleasing appearance to the public with frontage on Pawnee than would a design oriented toward Custer; and

Resolution No. BZA 20-75  
Page Two

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 it is expected that the property to the east will not be redeveloped as residential housing; and

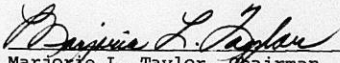
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to remove the landscaping and the screening requirements adjacent to Custer Avenue on property zoned the "E" Light Industrial District and legally described as follows:

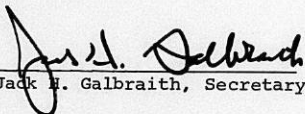
Lot 24, Block 1, Wichita Builder's 3rd Addition,  
Wichita, Sedgwick County, Kansas. Generally  
located at the southwest corner of Pawnee and  
Custer.

be approved.

ADOPTED AT WICHITA, KANSAS, this 27th day of May, 1975.

  
Marjorie L. Taylor, Chairman

ATTEST:

  
Jack H. Galbraith, Secretary

June 16, 1975

Gerry E. Munn  
Munn-Eby Developers, Inc.  
800 East Mt. Vernon  
Wichita, Kansas 67211

Subject: Case No. BEA 20-75  
Request for Variance

Dear Mr. Munn:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 27, 1975, in connection with your request for a variance to remove the landscaping and screening provisions adjacent to Custer Street, on property zoned "E" Light Industrial District, and generally located at the southwest corner of Pawnee and Custer.

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

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

Sincerely,

Jack H. Galbraith  
Secretary

JHS:js

cc: Dean Felt, 1931 Gary Drive, 67219  
Robert Feldner, Supt. of Central Inspection  
Donald Giesick, City Clerk  
Joe Donnelly, Central Inspection

800 EAST MT. VERNON / WICHITA, KANSAS 67211 / (316) 262-3041



munn building inc.

May 27, 1975

Mr. Jack Galbraith - Board of Zoning Appeals  
Planning Dept.  
104 S. Main  
Wichita, Kansas 67202

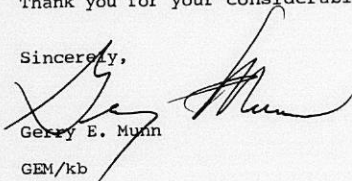
Dear Sir:

Pursuant to case #BZA 20-75, I would like to express my appreciation for your action.

I was pleased to find the information obtained by your secretary was completely accurate and unbiased. I commend this arm of the City Planning Department for their professional method of handling this item.

Thank you for your considerable time and effort.

Sincerely,



Gerry E. Munn

GEM/kb



"Build The American Way"

May 30, 1975

Gerry E. Munn  
Munn-Eby Developers, Inc.  
800 E. Mt. Vernon  
Wichita, Ks. 67211

Subject: Case No. BEA 20-75  
Request for Variance

Dear Mr. Munn:

At the regular meeting of the Board of Zoning Appeals on May 27, 1975, your request for a variance to remove the landscaping and screening requirements adjacent to Custer Street, on property zoned "E" Light Industrial District, and generally located at the southwest corner of Pawnee and Custer, was considered.

It was the action of the Board to approve this request. 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,

Jack H. Galbraith  
Secretary

JHG:js

cc: Dean Felt, 1931 Gary Drive, Wichita, Ks. 67219  
Robert Feldner, Supt. of Central Inspection  
Donald Gisick, City Clerk  
Joe Donnelly, Central Inspection

SECRETARY'S REPORT

CASE NO. BEA 20-75

APPLICANT: Munn-Eby Developers, Inc., 800 East Mt. Vernon, Wichita, Kansas.

AGENT: Dean Felt, 1931 Gary Drive, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to remove the landscaping and screening requirements adjacent to Custer Street.

GENERAL LOCATION: Southwest corner of Pawnee and Custer.

ZONING: Subject property is zoned the "E" Light Industrial District as is the property to the south, north and west. Property to the east is the "AA" Single Family Dwelling District.

LAND USE: Subject property is vacant as is the property to the north. East is a single family dwelling and vacant. South and west are developed with industrial buildings.

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)

COMMENTS BY THE SECRETARY

The applicant is requesting a variance to set aside or remove the landscaping and screening requirements from his "E" Light Industrial zoned property which lies across the street from "AA" Single Family zoned property.

Section 28.04.160.K. of the zoning ordinance requires that "Where the rear or side wall of any structure used for office, commercial, institutional or industrial use lies across the street from the front yard or the side yard of a residential zoning district, then screening shall be provided along such rear or side wall and shall be not less than twenty feet from the street right-of-way line. The twenty foot setback shall be landscaped." The applicant proposes to construct an industrial building on subject property fronting on Pawnee, thereby creating the situation where the side wall of his building would be across the street from the side yard of a residential zoning district. In his statement of justification he points out that when this property was platted, complete access control on Pawnee Avenue was taken, thus allowing only access from Custer Street. This, along with the aesthetic value of having the building front on Pawnee has dictated the design and placement of the proposed building as shown on the submitted plot plan.

The residential zoning district which lies across the street (Custer) from subject property is what is known as Orienta Park. This is a mostly undeveloped tract of land that over the years has been the subject of several renewal plans, but has thus far been left largely undeveloped. The few residences that have been built in this area are small homes that have not been maintained in good repair. The house that sits directly across Custer from subject property is the only home within the general proximity of subject property.

It should be noted that the Planning and City Commissions have approved "C" Commercial zoning for three separate applications along Pawnee between subject property and Meridian, one in the first block east and the other two in the second block east from subject property. The Secretary is of the opinion that the Planning Commission has an informal policy of favoring "c" zoning on the south side of Pawnee for a block in depth.

Secretary's Report  
Case No. BZA 20-75  
Page Three

UNIQUENESS

It is the opinion of the Secretary that uniqueness may exist in this instance inasmuch as the residential district which creates this requirement is an area that fronts on an arterial street and judging from past Commission action would be favorably considered for Commercial zoning in the future.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not adversely affect the rights of adjacent property owners inasmuch as the applicant must maintain a 60-foot platted building setback line adjacent to Custer, and that along with 60 feet of street right of way would place the side of the industrial building no closer than 120 feet to the residential property line.

HARDSHIP

It is the opinion of the Secretary that the strict application of the zoning ordinance could constitute an unnecessary hardship upon the applicant inasmuch as he would be required to screen and landscape across from property which, although presently zoned residential, will in all probability be zoned to a commercial zoning classification prior to further development of the area.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as the proposed design of the project would present a more pleasing appearance to the public with frontage on Pawnee than would a design oriented toward Custer.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the requested variance would not be opposed to the general spirit and intent of Title 28 (zoning ordinance) inasmuch as it is expected that the property to the east will not be redeveloped as residential housing.

RECOMMENDATION

Should the Board determine that all five conditions can be found to exist, it is recommended that the application to remove the landscaping and screening requirements adjacent to Custer Street be approved.

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

May 5, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 20-75

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Lot 24, Block 1, Wichita Builder's 3rd Addition, Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Pawnee and Custer.

This application has been assigned Case No. BZA 20-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 27, 1975, at 1:30 p.m., in Room 401, City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

7 notices mailed to adjacent property owners on 5-6-75  
10 notices mailed to MAPC on 5-6-75

BOARD OF ZONING APPEALS

CASE NO. 20-75

CITY OF WICHITA, KANSAS

FILED 4-29-75

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ Munn - Eby Developers, Inc.

Mailing Address 800 E. Mt. Vernon Phone 262-3041

Name of Authorized Agent ✓ Dean Felt (Felt Design Service)

Mailing Address 1931 Gary Drive Phone 744-2516

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

II. The variance requested is The setting aside of ordinance

No. 33-272 an ordinance relating to landscaping and screening.

of commercial and industrial development when adjacent to any  
residential zoning district.

for property located Southwest corner of the intersection  
of Pawnee Ave. and Custer Street.

and legally described as: Lot No. 24 in block No. 1 of builders

third addition to city of Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned E (light Ind.)

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.

[Signature]  
Applicant

[Signature]  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:30 (a.m. - (p.m.)), 4/29 19 75 together with appropriate fee of \$50.00.

[Signature]  
Signed



munn building inc.

April 28, 1975

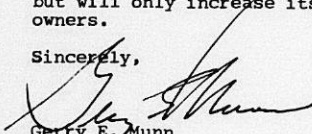
Board of Zoning Appeals  
City of Wichita, Kansas

Dear Sir,

We ask for the setting aside of ordinance No. 33-272 for the following reasons:

1. The property plated so as to give complete access control on Pawnee Ave. thus allowing only access from Custer St.
2. In order to use the property to its most value (land cost and ground cover) buildings must face Pawnee Ave.
3. The residential zoned property on the southeast corner of the intersection of Pawnee Ave. and Custer St. will possibly soon be rezoned to a commercial or industrial use.
4. That this ordinance would reduce the useful land area by 7.2% just for screening 20' x 225' along Custer St. which does not take into account the loss due to redesign and location of buildings to coincide with screening.
5. With buildings oriented to face Pawnee it will give a good look to the industrial area, as opposed to a 190' long 20' high sidewall at Pawnee, which is now along the west line of our property.
6. We feel that the setting aside of said ordinance will not in adversely effect the adjacent residential zoned property but will only increase its end value to said owner and/or owners.

Sincerely,



Gerry E. Munn

GEM/ Kb



"Build The American Way"

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
6	7	Southwest Industrial Add.	✓ Builders Inc. R. H. Garvey Bldg. 67202
7	7	Same	Same
24	1	Wichita Builders 3rd Add.	✓ Wichita Builders, Inc. 1206 East Lincoln 67211
1	1	Same	✓ Clinton Max Miller & Mary Jane Address Unknown
54	3	Oriente Park 2nd Addition	✓ Harold D. Mills & Joyce J. Mills Route 2 Clearwater, Ks. 67026
56	3	Same	Same
58	3	Same	Same
60 & 1/2 vac. alley adj. said lots	3	Same	Same
49	3	Same	✓ Rock Oil Co., Inc. c/o Sam Pack Fourth National Bank & Trust co. 67202
51	3	Same	Same
53	3	Same	✓ Virgil W. Shipman & Bonnie L. 2002 N. Sunrise 67212
55	3	Same	Same
57	3	Same	Same
59	3	Same	Same

The Security Abstract & Title Company, Inc.,  
hereby certifies the foregoing to be a true and correct list  
of property owners of:

A 200 foot radius of: Lot 24, Block 1,  
Wichita Builder's 3rd Addition, Sedgwick  
County, Kansas

as shown by the records on file in the Office of the Register of  
Deeds of Sedgwick County, Kansas, on this 22nd day of April, 1975  
at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

*Mary Gable*

Vice President

Order No. 223887  
wh

FORM 223-021

**PAYMENT NOTICE**  
City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION AMOUNT

Name

Address

Type

Due Date

Comments:

Date

By

\*

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

Roll # 1