

Case No. BZA 21-78 - VICKERS
PETROLEUM COMPANY requests a
variance for the reduction of the
front yard building setback from
20 feet to 10 feet on property
generally located at the south-

Posted
6-9-78
C.I.V.
MAYOR
7-13-78
(9-17)
JD

ACTION

DATE *6-27-78*

BZA 21-78 COMMITTEE

Approved

M.A.P.C.

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

RESOLUTION NO. BZA 21-78

WHEREAS, Vickers Petroleum Corporation, P. O. Box 2240, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to reduce the required front yard setback from 20 feet to 10 feet on property zoned the "LC" Light Commercial District and legally described as follows:

The north 100 feet of Lots 34, 36, 38, 40, 42, and 44, on Central Avenue, in Central Avenue Subdivision of Prospect Place Addition to the City of Wichita, Kansas. Generally located at the southwest corner of Pershing and Central (4525 East 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 June 27, 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 all "LC" zoned properties east of subject property on the south side of Central (from Pershing to Bleckley) have no setback requirement adjacent to Central. This permits not only what the applicant is requesting but also permits the building itself to be erected on the property line; 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 residentially zoned property is developed with a medical office building, which should not be affected by a 14 foot high canopy erected 40 feet from the common 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 the applicants are desirous of providing canopies for all their stations which are full self-service stations, and the pump island locations for this station are already established; 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 support columns would maintain a 17 foot setback and the canopy would have a height clearance of 14 feet; 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 residential property which creates the 20 foot front setback for subject property is not residentially developed; 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 reduce the required front yard setback from 20 feet to 10 feet on property zoned the "LC" Light Commercial District and legally described as follows:

The north 100 feet of Lots 34, 36, 38, 40, 42 and 44, on Central Avenue, in Central Avenue Subdivision of Prospect

Place Addition to the City of Wichita, Kansas. Generally located at the southwest corner of Pershing and Central (4525 East Central).

be approved subject to the following conditions:

1. The variance shall apply to only that portion of the front yard shown on the applicant's submitted site plan.
2. The variance shall be for the sole purpose of erecting a canopy structure as indicated on the submitted plans, and shall not be construed to permit an enclosed building any closer than 20 feet to the north property line.
3. The variance shall apply to a service station use only, and should the use of the property change, the Resolution shall become null and void.


James Richardson, Chairman

ATTEST:


Larry Dobsen, Assistant Secretary

July 6, 1978

Virgil A. Musil
P. O. Box 2240
Wichita, Kansas

Re: Case No. BZA 21-78
Request for Variance

Dear Mr. Musil:

Enclosed is a signed Resolution adopted by the Board of Zoning Appeals on June 27, 1978, in connection with your request for a variance to reduce the required front yard setback from 20 feet to 10 feet on property zoned the "LC" Light Commercial District, and generally located at the southwest corner of Pershing and 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 any questions concerning this matter, please contact our office.

Sincerely yours,



Larry Dobson
Assistant Secretary

LD:hbh
cc: Vickers Petroleum Corp., P.O. Box 2240
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

June 28, 1978

Virgil A. Musil
P.O. Box 2240
Wichita, Kansas

Re: Case No. BZA 21-78
Request for Variance

Dear Mr. Musil:

At the regular meeting of the Board of Zoning Appeals on Tuesday, June 27, 1978, your request for a variance to reduce the required front yard setback from 20 feet to 10 feet on property zoned the "LC" Light Commercial District, and generally located at the southwest corner of Pershing and Central was considered.

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

1. The variance shall apply to only that portion of the front yard shown on the applicant's submitted site plan.
2. The variance shall be for the sole purpose of erecting a canopy structure as indicated on the submitted plans, and shall not be construed to permit an enclosed building any closer than 20 feet to the north property line.
3. The variance shall apply to a service station use only, and should the use of the property change, 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 concerning this matter, please call.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bbh
cc: Vickers Petroleum Corporation, P.O. Box 2240, Wichita, Kansas
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE June 20, 1978

TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Deanna K. Patton, CPO Administrative Aide

SUBJECT BZA 21-78 (Southwest corner of Pershing and Central)

At their June 19, 1978, meeting, CPO Council "G" considered the captioned case. The Council voted 8-0 to recommend approval of the proposed variance. Adjacent property owners were present at the meeting and expressed no opposition to the proposed variance.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered on June 27.

Thank you.

Deanna Patton
Deanna Patton
CPO Administrative Aide

DP:sm

Noted:

David Furnas
David Furnas
Citizen Participation Coordinator



SECRETARY'S REPORT
CASE NO. BZA 21-78

APPLICANT: Vickers Petroleum Corporation, P.O. Box 2240,
Wichita, Kansas

AGENT: Virgil A. Musil, P.O. Box 2240, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce
the required front yard setback from
20 feet to 10 feet.

GENERAL LOCATION: Southwest corner of Pershing and Central

ZONING: Subject property is zoned the "LC" Light
Commercial District as are the properties
to the south and east. Properties to the
north and west are zoned the "B" Multiple
Family Dwelling District.

LAND USE: Subject property is developed with a service
station as is the property to the east.
South is a paved parking area and then single
family residential development. West is a
medical office building. North is a single
family dwelling.

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 prop-
erty 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 appli-
cation.

SECRETARY'S REPORT
Case No. BZA 21-78
Page 2

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 applicants are requesting a variance of the required front yard setback, adjacent to Central, from 20 feet to 10 feet for the purpose of erecting a free standing canopy over gasoline pump islands, to within 6 feet of the north property line, in connection with the remodeling of an existing service station.

The property is located at the southwest corner of Central and Pershing and is zoned the "LC" Light Commercial District. The west half of this block is zoned the "B" Multiple Family Dwelling District. Whenever "LC" zoning fronts on the same side of the street with a residential zoning district in any given block, the front yard setback for the residential district is applicable to the commercial district. In this instance the front yard setback for the "B" district, 20 feet, applies to subject property. Section 28.04.188(3) of the Code of the City of Wichita permits "open outside stairways, entrance hoods, terraces, canopies and balconies" to project into a required front or rear yard by as much as 5 feet. Therefore, the requested variance to 10 feet would, if approved, allow a canopy to extend to within 5 feet of the front property line. As previously stated, it is the applicant's intent to build a canopy 6 feet from the front property line.

The site plan submitted with the application indicates that the two front support columns for the canopy would be located 17 feet from the front property line. It is also noted that the canopy would be no closer than 40 to 45 feet from the west property line. The property to the west, although zoned "B," is developed with a medical office building. A service station located east of subject property has an existing canopy that extends to the front property line. The applicant points out that the proposed canopy would have a clearance height of 14 feet above finished grade.

Uniqueness:

It is the opinion of the Secretary that it is difficult to determine that this request arises from a condition unique to the property, but if uniqueness can be found it may be due to the fact that all "LC" zoned properties east of subject property on the south side of Central (from Pershing to Bleckley) have no setback requirement adjacent to Central. This permits not

only what the applicant is requesting but also permits the building itself to be erected on the property line.

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the rights of adjacent property owners or residents inasmuch as the adjacent residentially zoned property is developed with a medical office building, which should not be affected by a 14 foot high canopy erected 40 feet from the common property line.

Hardship:

It is the opinion of the Secretary that if hardship can be found to exist it may be due to the fact that the applicants are trying to project uniformity of design for all of their stations, which includes the canopy.

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 support columns would maintain a 17 foot setback and the canopy would have a height clearance of 14 feet.

Spirit and Intent:

It is the opinion of the Secretary that the granting of the variance desired may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the adjacent residential property which creates the 20 foot front setback for subject property is not residentially developed.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is recommended that the variance be approved subject to the following conditions:

1. The variance shall apply to only that portion of the front yard shown on the applicant's submitted site plan.
2. The variance shall be for the sole purpose of erecting a canopy structure, as indicated on the submitted plans, and shall not be construed to permit an enclosed building any closer than 20 feet to the north property line.



VICKERS PETROLEUM CORPORATION

VICKERS-KSB&T BUILDING / AC 316-267-0311
P. O. BOX 2240 / WICHITA, KANSAS 67201

May 25, 1978

Board of Zoning Appeals
City of Wichita, Kansas
455 N. Main
Wichita, Kansas

Re: 4525 E. Central
Wichita, Kansas

Gentlemen:

We have purchased the existing service station at the above referenced location and intend to do major remodeling work on the existing improvements, including the installation of a free standing canopy over the gasoline dispenser islands. The property is zoned "Light Commercial" which carries a front yard setback dimension of 0 feet. However, since the adjacent property on the west is zoned "B-Multi Family", the setback requirements for this zoning applies to our property. As a result, we cannot install a canopy over our gasoline dispenser islands without encroaching into the setback dimensions. Therefore, we are hereby requesting a variance of 10' on the front yard setback (from 20' to 10').

Since no building setback distances are required in "Light Commercial" zoning, a unique situation results from the fact that our property happens to be adjacent to residential zoning. Several other businesses in the immediate area along east Central are built to the front property line or very near to it. We do not feel that granting of the variance will adversely affect the rights of the adjacent property owners, particularly since the adjacent property is currently being used as a commercial business (medical office building). We feel that a literal and strict application of the zoning ordinance will result in an unnecessary hardship being placed on our attempt to upgrade the existing condition and appearance of this business and to better serve the public. Granting the variance will not adversely affect the public health, safety, morals, order, convenience, property, or general welfare. We do not feel that granting the variance will be opposed to the general spirit and intent of

Vickers Petroleum Corp.

Board of Zoning Appeals
Page Two
May 25, 1978

the zoning ordinance. The proposed canopy will be supported by four columns to a clear height of 14' above finished grade. Therefore, visibility and congestion within the setback area will be minimal and of no consequence.

Sincerely,



Virgil A. Musil

VAM/kt

18 notices to applicant and/or agent and adja. property owners
10 notices to MAPC members
1 notice to CPO
19 total notices sent on BZA 21-78, June 2, 1978

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

June 2, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 21-78

An application has been filed by Vickers Petroleum Corporation, P.O. Box 2240 Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 20 feet to 10 feet on property zoned the "LC" Light Commercial District and legally described as follows:

The north 100 feet of Lots 34, 36, 38, 40, 42, and 44, on Central Avenue, in Central Avenue Subdivision of Prospect Place Addition to the City of Wichita, Kansas. Generally located at the southwest corner of Pershing and Central #525 East Central.

This application has been assigned Case No. BZA 21-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 27, 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 _____

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ VICKERS PETROLEUM CORPORATION

Mailing Address P. O. BOX 2240, WICHITA, KANSAS phone 267-0311

Name of Authorized Agent ✓ Virgil A. Musil

Mailing Address P. O. Box 2240, Wichita, KS Phone 267-0311

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

II. The variance requested is A reduction in the front yard
building setback of 10'. (from 20' to 10')

for property located 4525 East Central

and legally described as: The North 100 feet of Lots 34, 36,
38, 40, 42, and 44, on Central Avenue in CENTRAL AVENUE Subdivision
of PROSPECT PLACE addition to the City of 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.

VICKERS PETROLEUM CORPORATION

Applicant

Virgil A. Musil

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 1:30 (a.m. ~~(p.m.)~~), May 25 19 78 together with appropriate fee of \$50.00. ✓

S/W corner Pendling & Central

T9-402

Map 5747

G. Lynn Shirley

Signed

OWNERSHIP LIST

Lot	Addition	Property Owner
lots 1 & 3, on Burnett, now Terrace Drive	Central Avenue Subdivision of Prospect Place	Francis L. Kelly Barbara J. Kelly ✓ 442 N. Terrace Dr. 67208
lots 5 & 7, on Burnett, now Terrace Drive	same	Howard S. Brodsky Georgia E. Brodsky ✓ 436 N. Terrace Drive 67208
lots 9 & 11, on Burnett, now Terrace	same	Rodney H. Busey Janice E. Busey ✓ 1111 N. Coolidge 67203
lots 2, 4 & 6, on Lucile, now Pershing	same	B-R-D, a partnership ✓ 460 N. Terrace Drive 67208
lots 8 & 10, on Lucile, now Pershing	same	Virgil T. Mourning Fred H. Mourning ✓ Valdyne Mourning 243 N. Hillside 67208
lot 12, on Lucile, now Persing	same	Eilert A. Schroeder Jeane E. Schroeder ✓ 429 N. Persing 67208
lots 2,4,6,8 & 10, except the West 18.75 feet thereof and except the North 4.3 feet of Lot 10, on Brooks, now Dellrose	East Lawn Second	Getty Refining & Marketing Co. X address unknown <i>not in phone book not in CD not in SD</i>
The West 18.75 feet of lots 2,4,6,8 & 10 and the North 4.3 feet of lot 10, on Brooks, now Dellrose	same	Beard Oil Co., Inc. ✓ 6402 E. Central 67206
lot 12, on Brooks, now Dellrose	same	Jacob T. Whallon ✓ 445 N. Dellrose 67208
lots 1,3,5,7 & N 4.3' lot 9, on Lucile, now Pershing	same	D Beard Oil Co., Inc. 6402 E. Central 67206
S 20.7' lot 9, all lot 11 & N 4.3' lot 13, on Lucile, now Pershing	same	✓ Helen M. Hartshorn S. James Hartshorn 169 S. Belmont 67218

Lot	Addition	Property Owner
S 20.7' lot 13, all lot 15, & N 9.3' lot 17, on Lucile now Pershing	East Lawn Second	Theodore Allen Moller Judith Clark Moeller ✓ 442 N. Pershing 67208
S 15.7' of lot 17, all lot 19 & n 14.3' lot 21, on Lucile, now Pershing	same	Raymond Finkenbinder Clarence Finkenbinder ✓ 436 N. Pershing 67208
S 10.7' lot 21, on Lucile, now Pershing	same	<i>not in place</i> Rollo O. Thompson Candita A. Thompson X address unknown <i>not in SD</i>
n 75.5' of lot 22, on Central	Central Avenue Subdivision of Prospect Place	Charles M. Downs, Jr. Joan W. Downs ✓ 360 N. Crestway 67208
S 42.5 feet lot 22, on Central	same	George C. Ash Joan M. Ash ✓ 451 N. Terrace Drive 67208
lot 22, except N 75.5' and except S 42.5' on Central	same	<i>not in place</i> X Josephine Ackley address unknown <i>not in SD</i>
lots 24,26,28,30,32 & S 40' of lots 34,36,38,40,42 & 44, on Central	same	B-R-D, a partnership D 460 N. Terrace Drive 67208
N 100' of lots 34,36,38,40, 42 & 44, on Central	same	Vickers Petroleum D Corporation KSB&T Building 67202
lots 652,653,654,655 & 656 on Central	Overlook	Kernie W. Binyon Hilda N. Binyon ✓ 4618 E. Central 67208
lots 657 & 658, on Central	same	Rene M. Gouldner Bertha S. Gouldner ✓ 139 Courtleigh Dr. 67218
lots 659 & 660, on Central	same	Charles M. Downs, Jr. D Joan W. Downs 360 N. Crestway 67208
lots 661 & 662, on Central	same	McClaren & McClaren P.A., a Kansas ✓ Professional Corp. 4520 E. Central 67208
lots 663 & 664, on Central	same	✓ Charles E. Mitchell, Jr. 419 Rutland 67206

Lot	Addition	Property Owner
lots 665, 666, 667, 668 and 669, on Central	Overlook	Charles E. Mitchell, Jr. & Wanda M. Mitchell 419 Rutland 67206

We hereby certify the foregoing to be a true and correct list of the property owners of a 200 foot radius of the North 100 feet of lots 34, 36, 38, 40, 42 and 44, on Central Avenue, in Central Avenue Subdivision of Prospect Place Addition to the City of 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 16th day of May 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Stable

Vice President

Order No. 264212

jc

FORM 223-1

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 Base	Cement	M.S.P.

DESCRIPTION	AMOUNT
021 V. <i>[unclear]</i>	50-

NAME *Vail Co.*

ADDRESS *701 East 46th*

FUND *110-40071-003* DUE DATE *1-20-00*

COMMENTS

DATE *2/5/00* BY *[signature]*

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1