

Case No. BZA 26-87 - Universal Motor Fuels, Inc. requests a variance to reduce the required rear yard setback from 10 feet to 0 feet on property zoned the "LC" Light Commercial District & generally located on the NE corner of West Street and Second Street (302-308 N. West Street).

POSTED 4-27-87 GEL

ACTION

BZA 26-87 Approved 5/26/87
DATE

2nd Sec 9-23-87

Shot 10-22

Record

5717D

September 16, 1987

Hugh Moxley
902 East Indianapolis
Wichita, Kansas 67211

Re: BZA 26-87 - Variance of rear yard setback (302-308 N. West St.)

Dear Mr. Moxley:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 26, 1987. This Resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that condition #4 has been completed.

We have no record yet of a five-foot maintenance easement on adjoining property as required by condition #3. If you choose to locate a building at the east property line rather than five or more feet west of the line, you must obtain this maintenance easement prior to issuance of a building permit.

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

Sincerely,

Louise Olivarez
Assistant Secretary

LO/lw

Enclosure

cc: Universal Motor Fuels, Inc., P. O. Box 2920, Wichita, KS 67201
Dennis Gillen, Depew, Gillen & Rathbun, 1st Nat'l Bank Bldg.,
Suite 621, Wichita, KS 67202
Monty Robson, Superintendent of Central Inspection (2)
Dale Rea, Deputy City Clerk

RESOLUTION CASE NO. 26-87

WHEREAS, Universal Motor Fuels, Inc. P. O. Box 2920, Wichita, Kansas 67201, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests a variance to reduce the required rear yard setback from 10 feet to 0 feet on property zoned the "LC" Light Commercial District and legally described as follows:

*(New platted on
Lot 1, Universal
3rd Addition)*

Lot 40, except the east 246 feet, Knight Acres Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of West Street and Second Street (302-308 N. West Street).

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 26, 1987, 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 was originally developed under one ownership and now has been divided, which establishes requirements not previously applicable to the application area; 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 adjacent property is partially owned by the applicant and would not object to the variance request; 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 there would not be sufficient area within the building to be utilized for the full service carwash without the variance and this would cause the complete reconstruction of the existing facility without the granting of the variance; 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 reduction of the rear yard setback will not interfere with any needed right-of-way or easements; 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 there will be adequate separation maintained between the two existing uses to provide light and air to both properties and the north-south easement is over 100 feet to the east so this reduced rear yard will not interfere with the utilities in any 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 reduce the required rear yard setback from 10 feet to 0 feet on property zoned the "LC" Light Commercial District and legally described as follows:

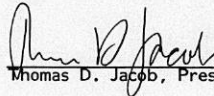
Lot 40, except the east 246 feet, Knight Acres Addition to Wichita, Sedgwick County, Kansas. Generally

located on the northeast corner of West Street and
Second Street (302-308 N. West Street).

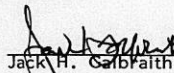
be approved subject to the following conditions:

1. The variance to reduce the rear yard setback from 10 feet to 0 feet shall only apply to the north 135 feet.
2. Any structure shall be constructed on the east property line or be located at least 5 feet from the property line.
3. The applicant shall obtain a five-foot maintenance easement on the adjoining property for that portion of the property where the setback is 0 feet. This shall be obtained no later than at the time the property is platted.
4. Resolution No. BZA 25-87, authorizing the expansion of the carwash, shall become effective prior to the release of this resolution.

ADOPTED AT WICHITA, KANSAS, this 26th day of May, 1987.


Thomas D. Jacob, President

ATTEST:


Jack H. Galbraith, Secretary

May 28, 1987

Hugh Moxley
902 East Indianapolis
Wichita, Kansas 67211

Re: BZA 25-87 - Request for Exception and BZA 26-87 - Request for
Variance (On the northeast corner of Second and West Streets,
302-308 N. West Street)

Dear Mr. Moxley:

At the regular meeting of the Board of Zoning Appeals on May 26, 1987, your requests for an exception to permit the establishment of a full service automatic car wash and a variance to reduce the required rear yard setback from 10 feet to 0 feet were considered. It was the action of the Board to approve the exception (BZA 25-87) subject to the following conditions:

1. The layout of the property shall be in general conformance to the plan submitted with the application, and prior to the issuance of a building permit, the final site plan shall be approved by the Traffic Engineer and a copy furnished to the Secretary to be placed in the file.
2. Under no circumstances shall the lot area be less than required by Section 28.04.183.4 of the zoning ordinance.
3. All areas to be utilized off-street parking, holding spaces, drying spaces, and ingress and egress drives shall be surfaced with asphalt, concrete or asphaltic concrete.
4. No sign shall exceed a height of 25 feet and no sign shall be placed to project over public right-of-way. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance for the "LC" Light Commercial District. No portable sign shall be permitted within 35 feet of the west property line and 15 feet of the south property line.
5. All lights shall be shielded to reflect or direct light away from adjacent property. No string-type lighting or banners shall be permitted.

PL/0174/1

May 28, 1987

6. No sound-projecting devices or loudspeakers shall be used so as to be heard outside of any structures.
7. Off-street holding, drying, and parking spaces shall be provided on the property in the following ratio:

There shall be not less than three holding spaces for each 20 linear feet of the automatic car washing aisle.

There shall be not less than two drying spaces for each automatic car washing aisle.

There shall be not less than one off-street parking space for each two employees and not less than five additional parking spaces for customer parking.

8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces.
9. All drainage, both natural and that created by the operation, shall be handled in such a manner satisfactory to the Superintendent of Sewer Maintenance.
10. The area shall be properly policed, by inspection, by the owner or operator for proper maintenance and removal of trash.
11. The car wash shall have facilities to dry the vehicles prior to departure from the site.
12. Prior to the release of the resolution authorizing the expansion of the existing carwash facility, the property owner shall replat the property in accordance with the subdivision rules and regulations.
13. Conditions 1 and 12 above must be complied with within 12 months from the date of approval of this application or the application shall be considered denied and closed.
14. The release of this resolution shall null and void Resolution BZA 27-67.

The Board has also approved the variance (BZA 26-87) subject to the following conditions:

1. The variance to reduce the rear yard setback from 10 feet to 0 feet shall only apply to the north 135 feet.
2. Any structure shall be constructed on the east property line or be located at least 5 feet from the property line.

*Universal
3rd ed.
recorded
9-3-87*

May 28, 1987

3. The applicant shall obtain a five-foot maintenance easement on the adjoining property for that portion of the property where the setback is 0 feet. This shall be obtained no later than at the time the property is platted.

4. Resolution No. BZA 25-87, authorizing the expansion of the carwash, shall become effective prior to the release of this resolution.

Release of these resolutions authorizing the exception and the variance is pending compliance with conditions 1 and 12 of the exception (BZA 25-87) and condition 3 of the variance (BZA 26-87).

If you have any questions, please call our office.

Sincerely yours,

Jack H. Galbraith
Secretary

GEL:lw

cc: Universal Motor Fuels, Inc. P. O. Box 2920, Wichita, KS 67201
Dennis Gillen, Depew, Gillen & Rathbun, 1st National Bank Building
Suite 621, Wichita, KS 67202
Monty Robson, Superintendent of Central Inspection (2)
Dale Rea, Deputy City Clerk

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE May 22, 1987

TO Glen Lytle, Special Assistant for Zoning

FROM Stanley J. Scott, CP Coordinator *[Signature]*

SUBJECT BZA 25-87/BZA 26-87: Northeast
corner of West and Second Street
(302-308 North West Street)

On Wednesday, May 20, 1987, CPO Neighborhood Council 5B considered the captioned cases:

- 1) BZA 25-87: A request for a zoning exception to permit the establishment of a full service automatic car wash on property zoned "LC" Light Commercial District; and
- 2) BZA 26-87: A request for a zoning variance to reduce the required rear yard setback from 10 feet to 0 feet on property zoned "LC" Light Commercial District.

After discussion, the Council voted 8-0 to recommend approval of BZA 25-87 and BZA 26-87 subject to the recommendations of the MAPD Secretary's report.

Hugh Moxley was present to describe the requests and respond to questions from the Council and area residents. No area residents were in attendance regarding the cases. Council members were provided the notice to adjoining property owners, a map of the area, and the MAPD Secretary's report.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 25-87 and BZA 26-87 are considered.

SJS:dm

RECEIVED

MAY 22 1987

METROPOLITAN PLANNING
ROUTE _____

SECRETARY'S REPORT
CASE NO. BZA 26-87

APPLICANT: Universal Motor Fuels, Inc., P. O. Box 2920, Wichita, KS 67201

AGENT: Hugh Moxley, 902 E. Indianapolis, Wichita, KS 67211

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 10 feet to 0 feet.

GENERAL LOCATION: On the northeast corner of West Street and Second Street (302-308 N. West Street).

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the west, north and east. To the south is the "C" Commercial District.

LAND USE: Subject property is presently used as a convenience store, service station and automatic carwash. To the east are apartments and to the north a skating rink. To the west and south are commercial developments.

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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required rear yard setback from ten feet to 0 feet in order to construct an addition to the existing building right on the property line on the east. The applicant is expanding the existing carwash to provide a full service-type facility. In order to provide this service, it is proposed to expand the existing carwash building. In order to provide adequate area within the building for service and turning movements, it will require the building to be extended to the east property line.

A rear yard of ten feet is normally required for a utility and service area for commercial structures. In this case, the utility easement is located approximately 100 feet to the east. This property to the east is now under separate ownership from the application area. It is the Secretary's understanding that the owner to the east will not oppose the requested variance. Since the area immediately to the east is the off-street parking for the apartments, it should not create any problem if drainage can be controlled. The property is no longer exempt from the requirements of the subdivision rules and regulations and should be replatted. This might include the dedication of additional right-of-way for West Street. Even though it appears that the property observes the 50-foot of half-street right-of-way for West Street, the ownership list does not indicate that the street dedication has been made.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property was originally developed under one ownership and now has been divided, it establishes requirements not previously applicable to the application area.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the adjacent property is partially owned by the applicant and would not object to the variance request.

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 applicant inasmuch as there would not be sufficient area within the building to be utilized for the full service carwash and would cause the complete reconstruction of the existing facility without the granting of the variance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the rear yard setback will not interfere with any needed right-of-way or easements.

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 there will be adequate separation maintained between the two existing uses to provide light and air to both properties and the north-south easement is over 100 feet to the east so will not interfere with the utilities in any way.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The variance to reduce the rear yard setback from 10 feet to 0 feet shall only apply to the north 135 feet.
2. Any structure shall be constructed on the east property line or be located at least 5 feet from the property line.
3. The applicant shall obtain a five-foot maintenance easement on the adjoining property for that portion of the property where the setback is 0 feet.
4. Resolution No. BZA 25-87, authorizing the expansion of the carwash, shall become effective prior to the release of this resolution.

BZA CASE NO. 26-87

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>15</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>18</u>	TOTAL NOTICES SENT <u>5/6/87</u>

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

May 1, 1987

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 26-87

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Universal Motor Fuels, Inc. P. O. Box 2920, Wichita, Kansas 67201, requesting a variance.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required rear yard setback from 10 feet to 0 feet on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 40, except the east 246 feet, Knight Acres Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of West Street and Second Street (302-308 N. West Street).

This application has been assigned Case No. BZA 26-87. It will be considered by the Board of Zoning Appeals on May 26, 1987 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Council "5B" will consider this case at their meeting to be held on Wednesday, May 20, 1987, at 7:00 p.m., at the Orchard Park Community Center, 4808 West 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.

Glen E. Lytle
Assistant Secretary

APPLICATION FOR VARIANCE

I. Name of Applicant Universal Motor Fuels, Inc.
Mailing Address P.O. Box 2920, Wichita, KS 67201 Phone 832-0151
Name of Authorized Agent HUGH MOXLEY
Mailing Address 902 E. INDIANAPOLIS, WK 67211 Phone _____
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required rear yard setback from 20'
to 0'

for property located on the northeast corner of Second Street and West Street

and legally described as: All of Lot 40, except the east 246 feet, Knight Acres,
Wichita, Kansas, commonly referred to as 302 North West Street and 308 North
West Street, Wichita, Kansas

in the City of Wichita; and which is presently zoned "LC" - light commercial.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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. 36-596); and that the appropriate fee is herewith tendered;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

UNIVERSAL MOTOR FUELS, INC.

Applicant

Gerald Maloney, Pres.

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
12 noon (a.m./p.m.), APR. 27, 1982, together with appropriate
fee of 300.

Signed

[Signature]

APPLICATION FOR VARIANCE

I. Name of Applicant Universal Motor Fuels, Inc.
Mailing Address P.O. Box 2920, Wichita, KS 67201 Phone 832-0131
Name of Authorized Agent _____
Mailing Address _____ Phone _____
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

ii. The variance requested is to reduce the required rear yard setback from 20'
to 0'

for property located on the northeast corner of Second Street and West Street

and legally described as: All of Lot 70, except the east 276 feet, Knight Acres,
Wichita, Kansas, commonly referred to as 302 North West Street and 308 North
West Street, Wichita, Kansas

in the City of Wichita; and which is presently zoned "LC" - 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. 36-596); 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.

UNIVERSAL MOTOR FUELS, INC.

Applicant Gerald Maloney, Pres.

Gerald Maloney, Pres.

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
(a.m./p.m.), _____, 19____, together with appropriate
fee of _____.

Signed _____

APPLICATION FOR VARIANCE

I. Name of Applicant Universal Motor Fuels, Inc.
Mailing Address P.O. Box 2920, Wichita, KS 67201 Phone 832-0151
Name of Authorized Agent _____
Mailing Address _____ Phone _____
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required rear yard setback from 20'
to 0'

for property located on the northeast corner of Second Street and West Street

and legally described as: All of Lot 40, except the east 2/6 feet, Knight Acres,
Wichita, Kansas, commonly referred to as 302 North West Street and 308 North
West Street, Wichita, Kansas

in the City of Wichita; and which is presently zoned "LC" - 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. 36-596); 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.

UNIVERSAL MOTOR FUELS, INC.
Gerald Maloney, Inc.
Applicant Gerald Maloney, Inc.
Gerald Maloney, Pres.
Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
(a.m./p.m.), _____, 19____, together with appropriate
fee of _____.

Signed _____

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-1

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
Car Wash	7.30

NAME: Paul Carter Car Wash
 ADDRESS: 725 E. Lincoln St.
 FUND: 75-0030-003 DUE DATE:
 COMMENTS:
 DATE: 02 27 1967 BY: [Signature]