

POSTED
5-8-85

ACTION

BZA 3385 APPROVED 5-22-85
DATE

Case No. BZA 33-85 - American National Property Partnership - requests a variance to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west, on pro-

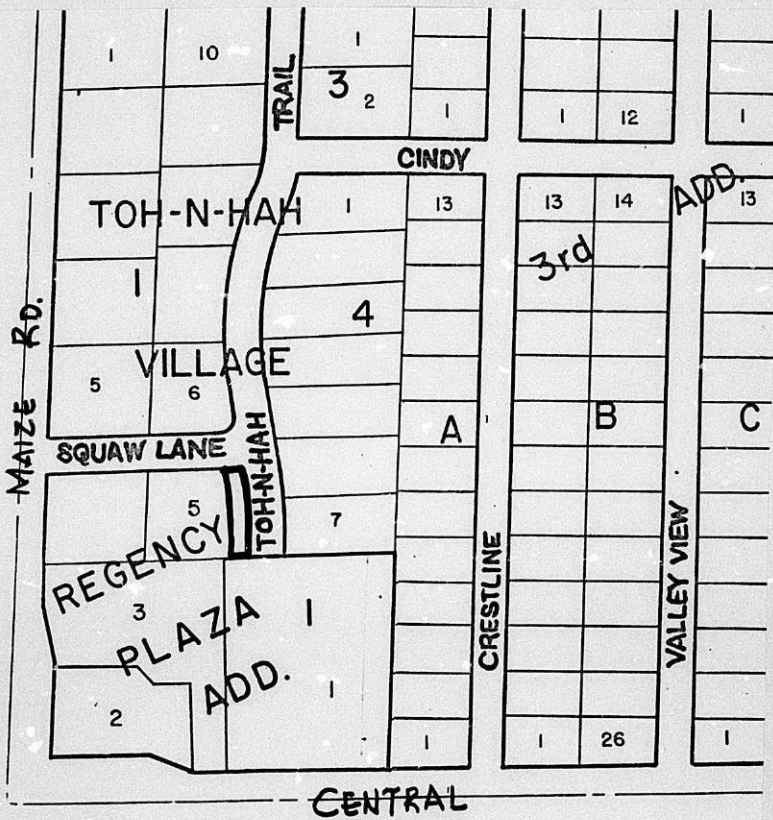
200'4 Sec 8-27-85
Shot 9-5-85
Record ✓

Map No. 4848 C

BZA 33-85
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E AA S LC W R-5 N AA
3. Land Use: East 1-F South Bank
West Vacant North 1-F
4. Area (is) (~~is not~~) platted.



LOS ANGELES, CHICAGO, LOGAN, OH
MCKINNEY, TX, LOCUST GROVE, GA
U.S.A.

Shirley
No. 2153C

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

May 8, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 33-85

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 American National Property Partnership, 2707 West Douglas, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west, on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

The west 30 feet of Lot 5, Block 1, Regency Plaza
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the southwest corner of To-
n-hah and Squaw Lane.

This application has been assigned Case BZA 33-85. It will be considered by the Board of Zoning Appeals on May 28, 1985 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.

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.

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

Jack H. Galbraith
Secretary

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
435 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4421

June 4, 1985

Paul V. Dugan
American National Property Partnership
2707 West Douglas
Wichita, Ks.

Re: BZA 33-85 - Request for Variance

Dear Mr. Dugan:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 28, 1985.

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

Encl.

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 33-85

WHEREAS, American National Property Partnership, 2707 West Douglas, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west and located on property zoned the "LC" Light Commercial District and legally described as follows:

The west 30 feet of Lot 5, Block 1, Regency Plaza
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the southwest corner of Toh-
n-hah and Squaw Lane.

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 28, 1985, 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 it is located adjacent to a vacant residentially zoned property, and the owners of this property have indicated that it will not be developed under the present zoning; 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 undeveloped, and until such time that development occurs, the screening would serve no useful purpose; 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 to protect a vacant property would be an undue expense at this time; 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 elimination of screening will not interfere with any 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 the intent of the regulations is to provide a separation between commercial and residential development; 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.

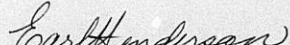
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west and located on property zoned the "LC" Light Commercial District and legally described as follows:

The west 30 feet of Lot 5, Block 1, Regency Plaza
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the southwest corner of Toh-
n-hah and Squaw Lane.

be approved subject to the following conditions:

1. The screening shall not be required along the west property line as long as the adjacent property remains vacant.
2. At any time a permit is issued for a residential use on the adjacent property, then the applicant shall provide screening within 60 days in conformance with the ordinance.

ADOPTED AT WICHITA, KANSAS, this 28th day of May, 1985.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE May 20, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 33-85 Southwest corner of
 Toh-n-Han and Squaw Lane

On Wednesday, May 15, CPO Council "A" considered the above captioned case, a request to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west, on property zoned "LC" Light Commercial District. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. After extensive discussion, the Council voted 7-0 to recommend approval of the request. The agent, Paul V. Dugan was not present.

Council members discussed the request and saw not problems with the proposal as presented.

Please provide the Council's recommendation to the MAPC and City Commission when case BZA 33-85 is considered.

Barry L. Carroll

Barry L. Carroll
Administrative Aide III

BLC:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

RE: AGENDA ITEM NO. 8

SECRETARY'S REPORT CASE NO. BZA 33-85

APPLICANT: American National Property Partnership,
2707 West Douglas, Wichita, Kansas.

AGENT: Paul V. Dugan, American National Property
Partnership, 2707 West Douglas, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to eliminate
the required screening of a commercial
development adjacent to the west property
line along the driveway to Squaw Lane.

GENERAL LOCATION: On the southwest corner of Squaw Lane and
Toh-N-Hah.

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

LAND USE: Subject property is providing an ingress &
egress drive to a bank located adjacent to
Central. Property to the west is vacant.
Properties to the north and east are one-
family dwellings.

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 applicants are requesting a variance to eliminate the required screening fence along the west property line along the ingress-egress drive that leads to Squaw Lane from the Bank located on the property adjacent to Central. The applicant recently acquired the 30 foot strip of property and obtained "LC" Light Commercial zoning to provide this driveway. This property line is required to be screened since it has become part of the zoning lot of the bank and it is adjacent to the "R-5" General Residence District.

It is the opinion of the applicant that the vacant property will not be developed residentially, but is more likely that the property will be rezoned for office or commercial development. Should this happen, then the screening of this property line would not be required. In discussing this with the applicant's agent, it is agreed that until such determination on the zoning is made, the screening fence would serve no useful purpose. However, should residential development occur, the applicant should be required to provide the screening.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located adjacent to a vacant residentially zoned property, and the owners of this property have indicated that it will not be developed under the present zoning.

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 property is undeveloped, and until such time that development occurs, the screening would serve no useful purpose.

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 the installation of a screening fence to protect a vacant property would be an undue expense at this time.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of a screening fence will not interfere with any 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 the intent of the regulations is to require screening between commercial uses and residential development.

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 screening shall not be required along the west property line as long as the adjacent property remains vacant.
 2. At any time a permit is issued for a residential use on the adjacent property, then the applicant shall provide screening within 60 days in conformance with the ordinance.
-

BZA CASE NO. 33-85

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>11</u>	TOTAL NOTICES SENT <u>5-8-85</u>

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

May 8, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 33-85

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 American National Property Partnership, 2707 West Douglas, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening between development of a commercial driveway and the residentially zoned property on the west, on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

The west 30 feet of Lot 5, Block 1, Regency Plaza
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the southwest corner of Toh-
n-hah and Squaw Lane.

This application has been assigned Case BZA 33-85. It will be considered by the Board of Zoning Appeals on May 28, 1985 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.

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.

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

Jack H. Galbraith
Secretary

APPLICATION FOR VARIANCE

- I. Name of Applicant AMERICAN NATIONAL PROPERTY PARTNERSHIP
Mailing Address 2707 W. DOUGLAS Phone 943-2325
Name of Authorized Agent PAUL V. DUGAN
Mailing Address 2707 W. DOUGLAS Phone 943-2325
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)
- II. The variance requested is to eliminate the required
screening between the commercial development
and the residential zoning on the west
for property located on the southwest corner of
Snow Lane and TOH-N-HAN in the LC District
and legally described as: The East 30 feet of Lot 5,
Block 1, REGENCY PLAZA ADDITION TO WICHITA
SEDGWICK COUNTY, KANSAS
- 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 the County Zoning Resolution; 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.

AMERICAN NATL. PROP. PARTNERSHIP
Applicant

Paul V. Dugan
Authorized Agent

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals 8:15 (a.m./p.m.), APRIL 30, 1985 together with appropriate fee of \$ 1500.

Signed [Signature]

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 200 feet of:
East 30 feet of Lot 5, Block I, REGENCY
PLAZA ADDITION to Wichita, Sedgwick
County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>DESCRIPTIONS</u>	<u>RECORD OWNERS</u>
East 30 feet of Lot 5, Block 1, REGENCY PLAZA ADDITION,	American National Property Partnershi %Paul Dugan 2707 W. Douglas Wichita, Kansas 67213
Lot 1, Block 1, REGENCY PLAZA ADDITION,	American National Property Partnershi %Paul Dugan 2707 W. Douglas Wichita, Kansas 67213
Lot 2, Block 1, REGENCY PLAZA ADDITION,	Anchor Savings Association 8200 State Avenue Kansas City, Missouri
Lots 4, Block 1, and Lot 5, EXCEPT the East 30 feet, Block 1, and Lot 3, Block 1, EXCEPT for: beginning at the Northwest corner of Lot 3, Block 1; thence bearing North 86° 07' 10" E along the North line of Lot 3 a distance of 120.28 feet; thence bearing South 0° 00' 00" East a	Slawson Investment Corporation 200 Douglas Building 104 South Broadway Wichita, Kansas 67202

(Cont'd Page 2)

Fidelity  Title
COMPANY, INC.

DESCRIPTIONS

RECORD OWNERS

(Cont'd from page 1)
 distance of 178.51 feet to a point
 in the South line of said Lot 3;
 thence along said South line bearing
 South 86° 09' 20" West a distance
 of 95.21 feet to the West Southwest
 corner of said Lot 3; thence bearing
 North 0° 00' 00" East along the West
 line of said Lot 3 a distance of 9.63
 feet; thence along said West line
 bearing North 14° 02' 11" West a
 distance of 103.08 feet; thence
 continuing along said West line bearing
 North 0° 00' 00" East a distance of
 67.12 feet to the point of beginning,
 all in REGENCY PLAZA ADDITION,

Part of Lot 3, Block 1, REGENCY PLAZA ADDITION, described as: Beginning at
 the Northwest corner of Lot 3; thence
 bearing North 86° 07' 10" E along
 the North line of Lot 3, a distance
 of 120.28 feet; thence bearing South
 0° 00' 00" East a distance of 178.51
 feet to a point in the South line of
 said Lot 3; thence along said South
 line bearing South 86° 09' 20" West
 a distance of 95.21 feet to the West
 Southwest corner of said Lot 3; thence
 bearing North 0° 00' 00" East along the
 West line of said Lot 3 a distance of
 9.63 feet; thence along said West
 line bearing North 14° 02' 11" West a
 distance of 103.08 feet; thence continuing
 along said West line bearing North 0°
 00' 00" East a distance of 67.12 feet
 to the point of beginning.

Thurman W. Smith and Donald
 C. Slawson
 200 Douglas Building
 104 S. Broadway
 Wichita, Kansas 67202



- Lot 5, Block 1, TOH-N-HAH VILLAGE, Barbara L. Oliphant
 802 N. Maize Road
 Wichita, Kansas 67217
- Lot 6, Block 1, TOH-N-HAH VILLAGE, Randall D. & Carol A. Lorenz
 801 Toh-N-Hah
 Wichita, Kansas 67212
- Lot 4, Block 4, TOH-N-HAH VILLAGE, Leonard W. & Shirley M.
 Mainzer
 802 Toh-N-Hah
 Wichita, Kansas 67212
- Lot 5, Block 4, TOH-N-HAH VILLAGE, Russell T. & Elaine Burrow
 760 Toh-N-Hah
 Wichita, Kansas 67212
- Lot 6, Block 4, TOH-N-HAH VILLAGE, Norman H. & Shirley S.
 Fitzsimons
 745 Toh-N-Hah
 Wichita, Kansas 67212

Fidelity  **Title**
 COMPANY, INC.

DESCRIPTIONS

Lot 7, Block 4, TOH-N-HAH VILLAGE,

RECORD OWNERS

James A. & Louise H. Dooling
744 Toh-N-Hah
Wichita, Kansas 67212

Dated at Wichita, Kansas, this 10th day of January,
1984 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *Madeline A. Sutter*
Assistant Secretary

Tracer No. 68232



Fidelity  Title
COMPANY, INC.

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-02

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.F.
	Planning		

DESCRIPTION		AMOUNT
City of Wichita		7150.00
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	