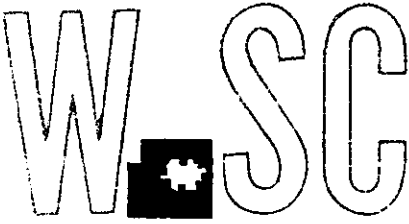


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4421  
FAX (316) 268-4390

May 28, 1998

Ralph and Dolores Rudy  
715 N. Gow  
Wichita, KS 67203

**RE: BZA 6-98 - Variance to allow the compatibility standards on the north portion of the property be reduced from a 25 foot setback to a 10 foot setback on property zoned "SF-6" Single-Family Residential and generally located north of Central on the west side of Gow.**

Dear Mr. Rudy:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 5, 1998. 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.

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

Sincerely yours,

A handwritten signature in cursive script that reads 'Keith Gooch'.

Keith Gooch  
Assistant Secretary  
Board of Zoning Appeals

KG/sah

cc: Bill Johnson, Evans Building Company, Inc., 9801 W. York, P.O. Box 12086, Wichita, KS 67215  
James Burleson, 723 N. Gow, Wichita, KS 67203  
J. R. Cox, OCI  
Paul Hays, OCI  
Ray Sledge, OCI  
Pat Burnett, City Clerk  
Yolanda Anderson, MAPC (resolution only)



## **BZA RESOLUTION NO. 6-98**

**WHEREAS**, Ralph and Dolores Rudy, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the compatibility setback along a side yard from 25 feet to 10 feet on property zoned "SF-6" Single-Family Residential and legally described as follows:

Lot 22, Davis Gardens, Sedgwick County, Kansas; and,

**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 5, 1998, 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 owners or the applicant inasmuch as the proposed building complies with the underlying setbacks of the zoning district and it will be a part of an overall complex of buildings serving the business interests located on this property, the design of which is best served by locating the building as proposed for on-site traffic circulation; 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 arrangement of the building has been reviewed and accepted by the owners of the adjacent property who prefer the proposed location better than having a parking area adjacent to their property; and,

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as building design and on-site traffic circulation would be hampered if the building was moved to the south side of the lot; 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, inasmuch as the proposed building location serves the stated interests of the applicant and the neighboring property owners by moving the internal traffic away from the residential uses; 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 the zoning ordinance inasmuch as the building meets the established setbacks of the underlying zoning district and the relief from the compatibility standards will accomplish the desires of the applicant and the neighboring property owners with respect to the construction of the new building; 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 the request for a variance to reduce the compatibility setback on a side lot line from 25 feet to 10 feet on property zoned LC and legally described as follows:

Lot 22, Davis Gardens, Sedgwick County, Kansas;


be approved subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north property lines may be reduced to no less than 10 feet on the north.
2. The height of the warehouse from grade to the roof lines shall not exceed 14 feet; the height from grade to the peak of the roof shall not exceed 16 feet 6 inches.
3. The applicant shall obtain all local permits necessary to construct the warehouse and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
4. The applicant shall complete the requirements of the zone change (Z-3216) in order to have this ordinance published and the rezoning completed.
5. A perpetual cross-lot parking and circulation agreement by and between Lots 22, 23 and 24, Davis Gardens, Sedgwick County, Kansas, and which runs with the land, shall be executed and recorded before this Resolution shall be effective.
6. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**ADOPTED AT WICHITA, KANSAS, this 5th day of May, 1998.**

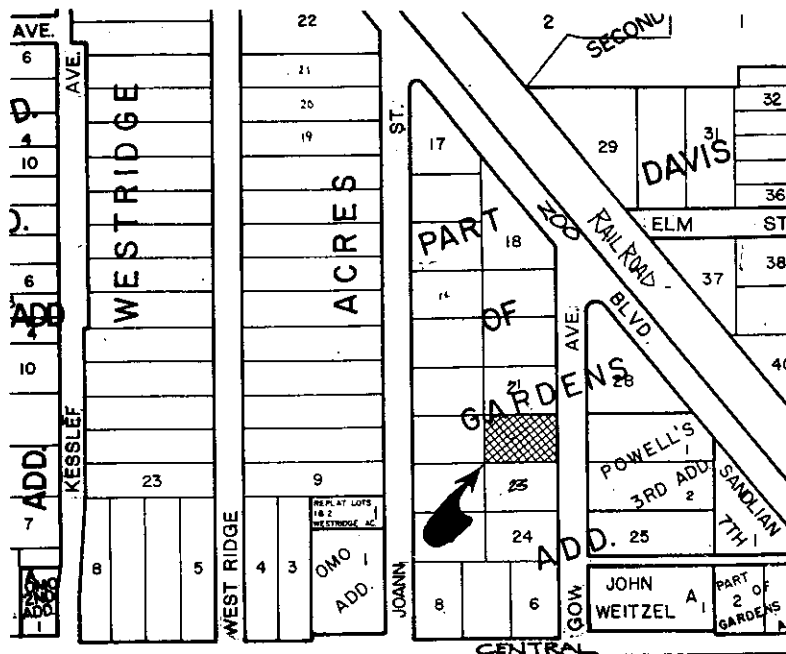
  
C. Bickley Foster, President

ATTEST:

  
David L. Yearout, ACP, Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA 6-98  
OWNER/APPLICANT: Ralph and Dolores Rudy  
AGENT: James Burleson  
REQUEST: Variance to reduce the compatibility setback on the north side from 25 feet to 10 feet.  
CURRENT ZONING: "SF-6" Single-Family  
SITE SIZE: .34 acres  
LOCATION: North of Central south of Zoo Boulevard



**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 State Statutes, are found to exist.

**BACKGROUND:** The applicant is requesting a variance to reduce the compatibility setback standards on the north side of their property from 25 feet to 10 feet. This 150 foot by 100 foot platted lot is currently zoned "SF-6" Single-Family and located north of Central and south of Zoo Boulevard. A zone change was submitted on this site in February, 1997, which changed the zoning from "SF-6" to "OW" Office Warehouse. This case was approved subject to the following conditions: 1) the applicant granting an additional 5 feet of utility easement along the west property line and 2) limiting access to only one opening along Gow, by separate instrument. These conditions were to be met prior to the publication of the zoning ordinance. Neither of these conditions have been met, and therefore the ordinance establishing this zone change has not been published. However, the BZA is still able to hear this case pending the completion of the zone change.

The proposed use for this lot is an expansion of the applicant's existing business, which is currently located to the south and southwest of the application area. The applicant intends to construct a commercial building on this lot. The proposed building for this site would be similar to the existing buildings that the applicant owns to the south. This building would be constructed of steel and be approximately 60' by 100'. The building would be 14 feet tall from grade to the roof line and 16 feet 6 inches at the peak. Currently the existing buildings for the parking lot maintenance and janitorial service business are non-conforming uses in the "LC" Limited Commercial zoning district. These were interpreted as legal uses when the buildings were permitted and constructed in 1972 and added on to in 1978.

The applicants have stated that to reduce noise and impact on the properties to the north, they would like to develop the site in the manner as shown on the site plan. The applicant has also stated the neighbor to the north is in favor of this request. However based on UZC requirements, if the parking lot and building were switched the applicant would meet the compatibility standards and not need a variance. Staff also feels to protect the neighborhood now and in the future this building should be located on the south portion of this property, and the parking lot be located just south of the residential property to the north. If the parking lot was located south of the residential area the building would be located approximately 40 feet south of the residential property and therefore lessen the visual impact on the neighbors. The area to the north is not zoned commercial or industrial, nor have any plans been submitted to rezone this property. No matter how the site is developed, the applicant will be required to provide screening and buffering on the north and west property lines.

This application area is currently undeveloped and being used for outside storage purposes. There are residences located to the north and west of the application area which are zoned "SF-6" Single-Family Residential. To the south of the application area, is a commercial building owned by the applicants and used for a parking lot maintenance and janitorial service business. To the east of the application area is an

apartment building within the "GO" General Office zoning district. Further to the south of the site, at the corner of Gow and Central, is located a machine shop within the "LI" Limited Industrial district.

There have been a number of zoning cases in the vicinity of the application area which have allowed commercial and industrial uses. Currently the highest intensity zoning district allowed as far north as the application area along Gow is "GO" General Office, on which is located apartment buildings directly to the east of the application area.

**ADJACENT ZONING AND LAND USE:**

NORTH	"SF-6"	Single-Family Residence
SOUTH	"LC"	Commercial Building
EAST	"GO"	Apartment Building
WEST	"SF-6"	Single-Family Residence

**UNIQUENESS:** It is the opinion of staff that this property is not unique since it is not of an unusual shape or size, has no unusual topography, and has no known peculiarities in terms of the surrounding uses.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners, inasmuch as staff feels the building as shown on the attached site plan will have a severe visual impact on the neighbor to the north. If the parking lot and building were switched the building would be located approximately 40 feet south of the north property line, as well as the parking lot would provide a buffer between the uses of the building and the neighborhood to the north.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations will not constitute an unnecessary hardship upon the applicant, inasmuch as if the applicant reversed the site plan and placed the parking lot to the north of the building a variance of the zoning regulations would not be required, and the applicant has not asserted that this reversal would hinder the functioning of their current operations.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would adversely affect the public interest, inasmuch as staff believes the parking lot would have less of an impact on the neighbor to the north than the proposed 14 foot tall, 100 foot long building located 10 feet south of the property line.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would be opposed to the general spirit and intent of the compatibility standards in zoning regulations, which is to "preserve and protect residential

neighborhoods.”

**RECOMMENDATION:** Since all five conditions necessary for the granting of a variance cannot be found to exist, it is recommended that the application be DENIED. However, should the Board determine that all five conditions necessary to the granting of the 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 site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north property lines may be reduced to no less than 10 feet on the north.
2. The height of the warehouse from grade to the roof lines shall not exceed 14 feet; the height from grade to the peak of the roof shall not exceed 16 feet 6 inches.
3. The applicant shall obtain all local permits necessary to construct the warehouse and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
4. The applicant shall complete the requirements of the zone change (Z-3216) in order to have this ordinance published and the rezoning completed.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.