



Wichita-Sedgwick County Metropolitan Area Planning Department

April 25, 2002

FILE COPY

John M. Roberts
%David and Susan Saidian
7610 Foster
Wichita, KS 67206-3811

RE: BZA 2002-00015 – Variance to reduce the front building setback from 20 feet to 10 feet for an expansion of Line Medical, Inc. Generally located north of Murdock and west of Mosley.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on April 23, 2002, this resolution reflects the official action of the Board to grant your requests 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 at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Knebel'.

Scott Knebel
Assistant BZA Secretary

SK/rms

cc: Hutton Construction, %Douglas Rupe, and Tom Saffel, 2233 S. West St.
Wichita, KS 67213
Les Mock, 105 N. Washington, Wichita, KS 67202
City Council Member District VI, Sharon Fearey, Mail Stop 1-13
D.A.B. VI, Terri Dozal, Mail Stop 1-135
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

BZA RESOLUTION NO. 2002-00015

WHEREAS, David and Susan Saidian, (applicant); and Hutton Construction Corporation c/o Douglas G. Rupe (Agent), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front building setback from 20 feet to 10 feet for an expansion of Line Medical Inc., on property zoned "LI" Limited Industrial and legally described as follows:

Lots 16, 18, 20, 22, & 24 Jones 1st Addition (Suppl), Wichita, Sedgwick County, Kansas. Generally located north of Murdock and west of Mosley (810 E. Murdock).

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 April 23, 2002, 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. It is the opinion of the Board that this property is unique inasmuch as the property is located in area where nearly all of the structures were constructed under zoning regulations that did not require a front building setback. Over the years the zoning regulations have changed to require a 20-foot front building setback in the subject property's "LI" Limited Industrial zoning district; however, most of the structures in this area, including the existing structure on the subject property, do not provide a 20-foot front building setback.

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. It is the opinion of the Board that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the addition to the structure would be internal to the subject property. No additional encroachment would occur along the south boundary of the subject property that is in excess of the placement of the existing structure. The addition to the structure would abut Murdock, and sufficient building setback to allow for landscaping, fire protection, separation, light and air circulation, and pedestrian access will remain.

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. It is the opinion of the Board that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, inasmuch as the lot space is limited and any logical addition to the structure would require building into the existing zoning setback. Additionally, the 20-foot front building setback is a change to the zoning regulations since the structure being expanded was constructed.

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. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the front building setback and therefore there will be no effect on the general public.

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. It is the opinion of the Board that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access. Additionally, the changes in the zoning regulations to require a 20-foot front building setback in the "LI" Limited Industrial zoning district are intended to provide a landscaped front yard for industrial parks in suburban locations and are not intended to change the character of inner-city industrial areas where buildings are constructed close to the front property line, which is typically allowed to continue through the setback averaging provisions of the zoning regulations.

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.

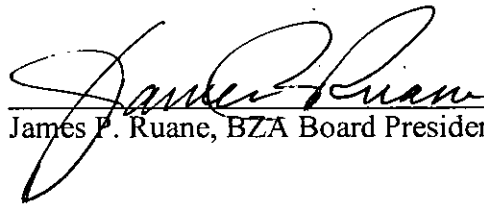
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance to Sec. III-B.19.d.(3) of the Unified Zoning Code to reduce the front building setback from 20 feet to 10 feet is hereby granted on property zoned "LI" Limited Industrial and legally described as follows:

Lots 16, 18, 20, 22, & 24 Jones 1st Addition (Suppl), Wichita, Sedgwick County, Kansas.
Generally located north of Murdock and west of Mosley (810 E. Murdock).

The variance is hereby 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 front building setback shall be reduced from 20 feet to 10 feet. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition shall be constructed in general conformance with said site plan.
2. Existing trees in the landscaped street yard shall be replaced by a like number of trees if they are removed during construction.
3. The applicant shall obtain all local permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
4. 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 23rd DAY of APRIL, 2002.


James P. Ruane, BZA Board President

ATTEST:


Scott Knebel, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2002-00015

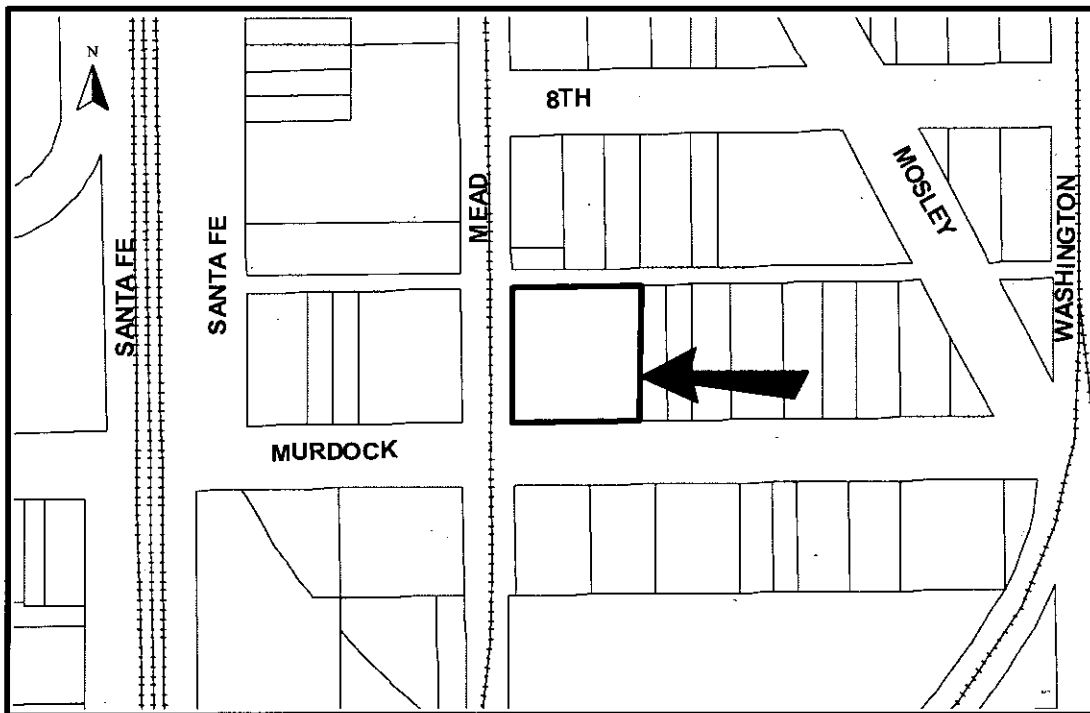
OWNER/APPLICANT: David and Susan Saidian

AGENT: Hutton Construction Corporation c/o Douglas G. Rupe

REQUEST: Variance to reduce the front building setback from 20 feet to 10 feet for an expansion of Line Medical, Inc.

CURRENT ZONING: "LI" Limited Industrial

LOCATION: Generally located north of Murdock and west of Mosley (810 E. Murdock)



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 applicants are requesting a variance to reduce the front building setback from 20 feet to 10 feet for a proposed expansion of the building housing Line Medical, Inc. located on the subject property. The subject property is generally located north of Murdock and west of Mosley (810 E. Murdock) and is zoned "LI" Limited Industrial. The zoning regulations require a 20-foot front building setback in the "LI" Limited Industrial, and a reduction of the front building setback by greater than 20% requires a variance. The zoning regulations also allow "setback averaging" whereby a building can be setback a distance equal to the average front building setback of the existing structures on the within the block on the same side of the street. In the case of the subject property, the average front building setback of structures on the north side of this block of Murdock is greater than 10 feet.

The existing structure on the subject property currently provides only a 10-foot front building setback. The existing structure was built in 1974. In 1974, the "E" Light Industrial zoning district (equivalent to "LI" Limited Industrial) did not require a front building setback. The applicants request to expand the existing structure to the west and to maintain the existing 10-foot front building setback as shown on the attached site plan. The applicants' justification (see attached) indicates that the business needs to expand at the current location due to a need to be in close proximity to the community's hospitals and medical clinics and due to the existing investment the applicants' have made in the current property. The subject property is not of sufficient size for the proposed expansion if a 20-foot front building setback is provided. As shown in attached pictures, most of the structures in this area, including the existing structure on the subject property, do not provide a 20-foot front building setback.

ADJACENT ZONING AND LAND USE:

NORTH	"LI"	Vacant
SOUTH	"LI"	Warehouse
EAST	"LI"	Warehouse
WEST	"LI"	Hospital parking lot

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property is located in area where nearly all of the structures were constructed under zoning regulations that did not require a front building setback. Over the years the zoning regulations have changed to require a 20-foot front building setback in the subject property's "LI" Limited Industrial zoning district; however, most of the structures in this area, including the existing structure on the subject property, do not provide a 20-foot front building setback.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the addition to the structure would be internal to the subject property. No additional encroachment would occur along the south boundary of the subject property that is in excess of the placement of the existing structure. The addition to the structure would

abut Murdock, and sufficient building setback to allow for landscaping, fire protection, separation, light and air circulation, and pedestrian access will remain.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Zoning Code constitutes an unnecessary hardship upon the applicant, inasmuch as the lot space is limited and any logical addition to the structure would require building into the existing zoning setback. Additionally, the 20-foot front building setback is a change to the zoning regulations since the structure being expanded was constructed.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this reduction of the front building setback and therefore there will be no effect on the general public.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the reduced setbacks will continue to provide for fire protection, separation, light and air circulation, and pedestrian access. Additionally, the changes in the zoning regulations to require a 20-foot front building setback in the "LI" Limited Industrial zoning district are intended to provide a landscaped front yard for industrial parks in suburban locations and are not intended to change the character of inner-city industrial areas where buildings are constructed close to the front property line, which is typically allowed to continue through the setback averaging provisions of the zoning regulations.

RECOMMENDATION: Should the Board determine that conditions necessary grant the variance exist, then it is the recommendation of the Secretary that the variance to reduce the front building setback from 20 feet to 10 feet 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 front building setback shall be reduced from 20 feet to 10 feet. This setback reduction shall apply only to the improvements shown on the site plan approved by the Board of Zoning Appeals. The addition shall be constructed in general conformance with said site plan.
2. Existing trees in the landscaped street yard shall be replaced by a like number of trees if they are removed during construction.
3. The applicant shall obtain all local permits necessary to construct the indicated improvements, and all improvements shall be completed within one year following the BZA approval of the variance unless such time period is extended by the BZA.
4. 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.

