

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 variance requested is between two similar 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 Title 28 (Zoning Ordinance) inasmuch as it is expected that the property to the north will not be developed for residential uses; 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 permit a nonscreening fence to be located along the north property line on property zoned the "A" Two Family Dwelling District and legally described as:

Lots 11 & 12, Block 1, Whispering Pines Estates,
Wichita, Kansas. Generally located at the north-
west corner of Woodchuck and Country Acres.

be approved subject to the following condition:

1. A 6 to 8' high solid fence of redwood or rough sawed cedar shall be provided along the west property line to within 25' of the south property line thence reduced to 3' in height and extended to the south property line.

ADOPTED AT WICHITA, KANSAS, this 27th day of November, 1979.

Earl Henderson, Chairman

ATTEST:

Glen E. Lytle, Assistant Secretary

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4. Case No. BZA 61-79 - Builders Inc., 1000 Parklane, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required lot area per family from 1500 square feet to 1390 square feet on property zoned "LC" Light Commercial and legally described as follows:

Lot 19, Block 1, Builder's Fourteenth
Addition to Wichita, Sedgwick County, Kansas.
Generally located at the northwest corner of
31st Street and Meridian South.

LYTLE showed slides of the area and reviewed the following comments from the Secretary's Report.

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 property 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 application.
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 applicant is requesting a variance to reduce the lot area per family from 1500 square feet to 1390 square feet on a tract of land zoned "LC" Light Commercial containing approximately 4.61 acres located at the northwest corner of 31st Street South and Meridian.

Section 28.04.090.C.4.3 of the zoning ordinance provides that "In those portions of the "LC" district which adjoin and front upon the same street as the "RB" dwelling district, the minimum lot area per family shall be one thousand five hundred square feet". The applicant points out in the statement of justification submitted with the application that the property could be rezoned from "LC" to "B" Multiple Family or "BB" Office, both districts of which require only 580 square feet

of lot area per family and would permit the construction of 346 dwelling units as opposed to 144 should this variance request be granted.

UNIQUENESS:

It is the opinion of the Secretary that this is somewhat of a unique situation inasmuch as 134 dwelling units could now be constructed on the site whereas 346 dwelling units would be permitted should the applicant apply for and receive approval of a zone change to either the "B" or "BB" zoning district.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the same building setbacks will be maintained that would be required without the granting of the variance.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may create an unnecessary hardship upon the applicant inasmuch as a change of zoning would be necessary to construct the additional 10 dwelling units proposed above the number permitted in the present zoning.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not adversely affect the public interest inasmuch as adequate off-street parking will be provided for the proposed development.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance would not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as appropriate building setbacks and off-street parking spaces will be provided for.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, it is recommended that the application to reduce the lot area per family from 1500 square feet to 1390 square feet be approved subject to the following conditions:

1. That the property will not be used for any business except that as permitted under the home occupation provisions of the Zoning Ordinance in the "B" Multiple-family zoning district.

2. That the applicant shall attempt to either submit a valid petition for the pavement of the alley, or submit an application from all abutting property owners to vacate the alley.

LYTLE stated the CPO Council voted 6-0 to approve the application.

Alexander Dean, agent, appeared before the board and stated he did not have any additional comments.

KOPIETZ asked Dean if he understood the conditions set out and if he was agreeable. Dean stated he did and was agreeable. He also stated it would be their preference to vacate the alley.

HENDERSON asked Dean is that all they are going to construct on the property. Dean answered yes.

No one appeared in opposition.

MOTION: GOEBEL moved, KOPIETZ seconded and it carried unanimously that the five conditions set out in Section 2.12.590.B of the Code necessary for the granting of the variance had been found to exist and that the variance be granted subject to the conditions set out in the Secretary's Report.

The official action of the Board is reflected in the adoption of the following Resolution:

RESOLUTION NO. BZA 61-79

WHEREAS, Builder's Inc., 1000 Parklane, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area per family from 1500 square feet to 1390 square feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 19, Block 1, Builder's Fourteenth Addition to Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of 31st Street South and Meridian.

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 November 27, 1979, 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 134 dwelling units could now be constructed on the site whereas 346 dwelling units would be permitted should the applicant apply for and receive approval of a zone change to either the "B" or "BB" zoning district; 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 same building setbacks will be maintained that would be required without the granting of the variance; 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 a change of zoning would be necessary to construct the additional 10 dwelling units proposed above the number permitted in the present zoning; 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 adequate off-street parking will be provided for the proposed development; 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 appropriate building setbacks and off-street parking spaces will be provided for; 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 lot area per family from 1500 square feet to 1390 square feet on property zoned the "LC" Light Commercial District and legally described as:

Lot 19, Block 1, Builder's Fourteenth Addition
to Wichita, Sedgwick County, Kansas. Generally
located at the northwest corner of 31st Street
South and Meridian.

be approved subject to the following conditions:

1. That the property will not be used for any business except that as permitted under the home occupation provisions of the Zoning Ordinance in the "B" Multiple-family zoning district.
2. That the applicant shall attempt to either submit a valid petition for the pavement of the alley, or submit an application from all abutting property owners to vacate the alley.

ADOPTED AT WICHITA, KANSAS, this 27th day of November, 1979 .

Earl Henderson, Chairman

ATTEST:

Glen E. Lytle, Assistant Secretary

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5. Case No. BZA 62-79 - Victor C. Hecht, 2045 S. Greenwich Road, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the number of off-street parking spaces for commercial use from 8 to 4 on property zoned "LC" Light Commercial and legally described as follows:

South 90' of Lots 3 and 4, Merrill's Sub Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Douglas east of Volutsia (2808 E. Douglas).

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

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: