

Case No. BZA 13-83 - Fong Ng - requests a variance to eliminate the required screening fence adjacent to the residential zoning district along the south property line, on property zoned the "LC" Light Commercial District.

5947
200' 4 Sec. 6-5-83
Checked 5-17-83
Shot 5-17
Recorded 5-18-83

ACTION

B.Z.A. 13-83 APPROVED 4-26-83
DATE

POSTED
4-9-83

5949 B

200' 4 Sec. 5-5-83
Checked 5-17-83
Shot 5-17
Recorded 5-18-83

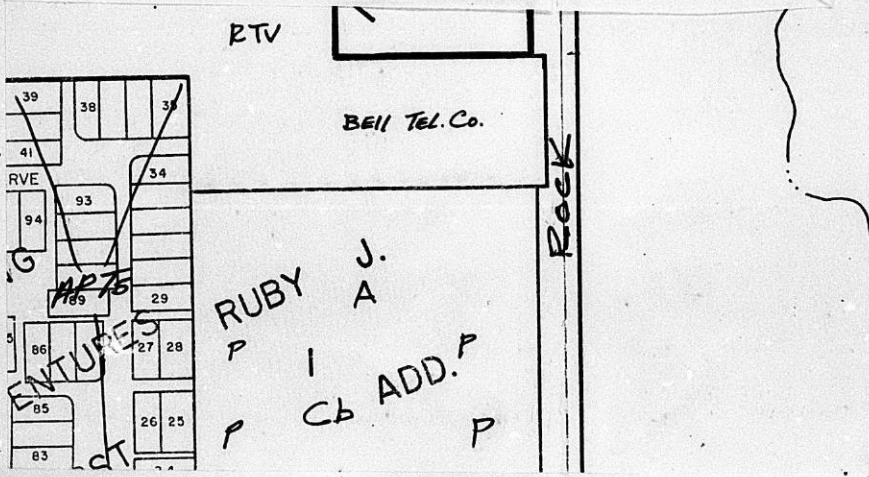
Case No. BZA 13-83 - Fond No. - requests
a variance to eliminate the required
screening fence adjacent to the
residential zoning district along
the south property line, on property
zoned the "LC" Light Commercial District

Map No. 5940
 Sec. 7
 Twp. 27
 Range 2E

BZA- 13-83
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA: _____ (_____ ft. by _____ ft.)
1. Acres: 0.8 (100 ft. by 350 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East UNDEVELOPED South BELL TELEPHONE GARAGE
 West TELEVISION TOWER North UNDEVELOPED
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: UNDEVELOPED
 6. Area (is) (is not) platted.

P
T



Standard
 No. 2133C
 HASTINGS, MINNESOTA, U.S.A.
 LOS ANGELES, CALIFORNIA, U.S.A.
 MEMPHIS, TENNESSEE, U.S.A.

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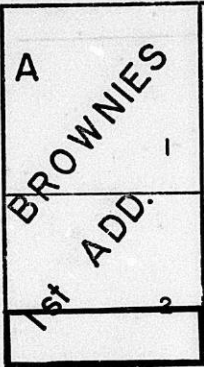
PHOTO ZONE
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S. F. E.R.

ROCK ROAD

RD

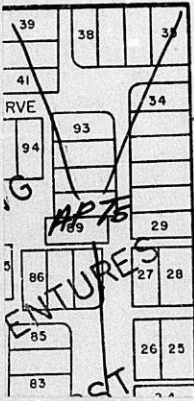
Rock



T T

RTV

BELL TEL. Co.



RUBY J. A
P I
P CB ADD. P
P

LOG ANGLE
MEMPHIS, TENNESSEE
U.S.A.

Standard
No. 2153C

HASTINGS, MINN.

April 29, 1983

Fong Ng
1549 Ida
Wichita, Ks. 67211

Re: BZA 13-83 - Request for Variance

Dear Ms. Fong Ng:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 26, 1983.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition 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: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 13-83

WHEREAS, Fong Ng, 1549 Ida, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

South 100' of Lot 2, Brownies 1st Addition, Sedgwick County, Kansas. Generally located on the west side of Rock Road and approximately 1400' north of 13th Street (1605 North Rock Road).

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 26, 1983, 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 is adjacent to a use that is not residential, but the zoning ordinance requires a screening fence on all commercial development adjacent to a residential 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 adjacent use is not residential and should not be affected by a commercial neighbor; 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 cost of providing 350' of fence that is required to provide protection to a use that in all probability will never be residential, is unreasonable; 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 the fence along the south property line should not in any way be detrimental to any property owner in the area; 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 regulation is to provide screening between commercial and residential development, and in this case, both properties are developed commercially; 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.

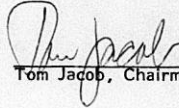
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as:

South 100' of Lot 2, Brownies 1st Addition, Sedgwick County, Kansas. Generally located on the west side of Rock Road and approximately 1400' north of 13th Street (1605 North Rock Road).

be approved subject to the following condition:


1. Only the screening fence along the south property line shall be eliminated by this variance.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1983.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE April 22, 1983

TO Glen Lytle, Special Assistant For Zoning

FROM Dean Kruihof, Administrative Aide III

SUBJECT BZA 13-83, 1605 North Rock Road

At its April 19th meeting, CPO Neighborhood Council Area "I" considered the captioned request for a variance to eliminate the required screening fence adjacent to a residential zoning district. Fred Steele and Fong Ng were present representing the applicant. No area property owners attended the meeting concerning the case.

The Council voted unanimously, 7-0, to recommend approval of the variance subject to the BZA Secretary's recommendations.

Please provide the Council's recommendation to the BZA when it considers the case on April 26th.


Dean Kruihof
Administrative Aide III

DK:dm

SECRETARY'S REPORT
CASE NO. BZA 13-83

APPLICANT: Fong Ng, 1549 Ida, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence adjacent to a residential zoning district.

GENERAL LOCATION: On the west side of Rock Road approximately 1400 feet north of 13th Street (1605 North Rock Road).

ZONING: Subject project is zoned "LC" Light Commercial as is the property to the north. Properties to the east, west and south are "AA" One-family Dwelling District.

LAND USE: Subject property is occupied by a restaurant under construction. Property to the east, north and west are vacant. Property to the south is a Telephone Maintenance Facility.

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 eliminate the required screening fence adjacent to the residential zoning district on the south. The adjacent property is occupied by a telephone company garage and maintenance facility that was established by special permit a number of years ago when the property was in the county.

The screening provision of the zoning ordinance is to protect residential properties from the adverse affect of commercial or industrial development. In this case, if the telephone company were to vacate the property, it is likely that the zoning would be changed so that commercial development could be maintained.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is adjacent to a use that is not residential, but the zoning ordinance requires a screening fence on all commercial development adjacent to a residential district.

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 use is not residential and should not be affected by a commercial neighbor.

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 cost of providing 350 feet of fence that is required to provide protection to a use that in all probability will never be residential, is unreasonable.

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 the fence along the south property line should not in any way be detrimental to any property owner in the area.

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 regulation is to provide screening between commercial and residential development, and in this case, both properties are developed commercially.

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 condition:

1. Only the requirement for the screening fence along the south property line shall be eliminated by this variance.

BZA CASE NO. 13-83

- 1 NOTICES SENT TO APPLICANT/AGENT
- 2 NOTICES SENT TO MAPC
- 1 NOTICES SENT TO CPO
- 6 NOTICES SENT TO ADJOINING PROPERTY OWNERS
- 17 TOTAL NOTICES SENT 4-6-83

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

April 6, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 13-83

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 Fong Ng, 1549 Ida, 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 fence adjacent to the residential zoning district along the south property line, on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

South 100' of Lot 2, Brownies 1st Addition, Sedgwick County, Kansas. Generally located on the west side of Rock Road and approximately 1400' north of 13th Street (1605 No. Rock Road).

This application has been assigned Case BZA 13-83. It will be considered by the Board of Zoning Appeals on April 26, 1983, 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

BOARD OF ZONING APPEALS

CASE NO. 13-83

CITY OF WICHITA, KANSAS

FILED 3-28-83

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ Fong Ng

Mailing Address 1549 Ida 67211 Phone 262-8383

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 eliminate the required screening fence adjacent to the residential zoning district along the south property line.
To delete screening requirement at the south property line.

for property located on the west side of Rock Road and approximately 1470 feet north of 13th Street 1605 N. Rock Road

and legally described as: South 100 ft of Lot 2 Brownies 1st

Addition to Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned L.C.

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.

Applicant Chai Fong Ng

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4-15 (a.m.-p.m.), MAR. 28, 1983, together with appropriate fee of 150.00.

Signed [Signature]

The property adjacent to the south is zoned residential, but is being used by the telephone company as a maintenance facility. There is a large brick structure close to the property line, and a contingent street dedication. I do not think the screening requirement should apply in this situation.

OWNERSHIP LIST

BZA 13-83

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
The South 100 feet of Lot 2	A	Brownie's 1st Addition	✓ Choi Fong Ng Raymond K. Ng 8601 Brookhollow 67206
Lot 2 except the South 100 feet	A	"	✓ Lavern L. Brown Rt. # 1, Goddard 67052
Lot 1	A	"	Same as above

Tract Description

Property Owner

The South 20 acres of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 7, Township 27 South Range 2 East, except the East 400 feet and except the South 25 feet of the East 400 feet		✓ Radio Station K.F.H. Co. 104 S. Emporia 67202
The North 200 feet of the East half of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 7, Township 27 South Range 2 East of the 6th P.M.		✓ Southwestern Bell Telephone Co. 154 N. Broadway 67202
All of the SW $\frac{1}{4}$ of Section 8 Township 27 South, Range 2 East of the 6th P.M.; except that portion of the Quarter beginning at the SW corner of the Quarter section; thence East along the South line of the Quarter Section 1470.05 feet, thence at an angle to the left 91° 32'47" a distance of 660.25 feet along the east edge of an existing concrete driveway, thence easterly 660 feet, thence southerly 660.25 feet to a point on the south line of the Quarter which is 541.28 feet west of the SE corner, thence westerly 660 feet to the pob, and except the railroad right of way		✓ Fred Koch, dec. ✓ Charles G. Koch ($\frac{1}{2}$ int.) 4111 E. 37th St. North 67220 ✓ Mary R. Koch (life Estate interest) 8500 East 13th 67206

Page 2

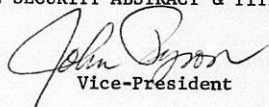
We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tracts within a 200 foot radius of:

The South 100 feet of Lot 2,
Block A, Brownies 1st
Addition, Sedgwick County,
Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 28th day of March, 1983, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By


Vice-President

Order No: 318204
ap

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-11 PAYMENT NOTICE
 City of Wichita

Blg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT

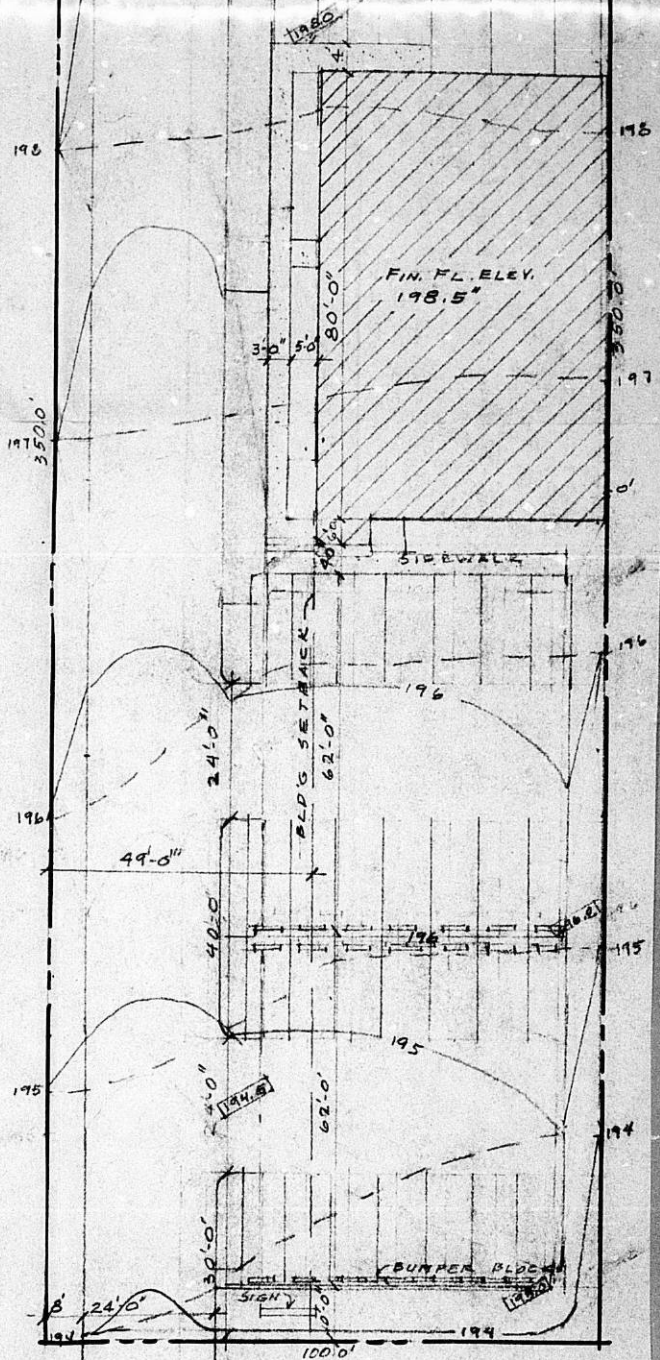
NAME _____

ADDRESS _____

FUND	DUE DATE
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COMMENTS _____

DATE	BY
------	----



APPROACH TO CITY
OF WICHITA STANDARDS
H.C.P.

193
CULVERT
193
H.C.P.

B.M. RIM 193.64
FL. 181.49

SITE PLAN

1" = 20'-0"

