

0250
ES-8-4
H
R

ACTION

B.Z.A. 1583 APPROVED 4-20-83
DATE

5748 C

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

Case No. BZA 15-83 - Wesley Medical
Endowment Foundation; the Wesley Med-
ical Center; and Kroh Brother Develop-
ment Company; all v. Boyer, Don, Olson
& Stewart, Attorneys - requests variances
to (1) increase the permitted height of
any building at the setback line from 55'

April 29, 1983

Wesley Medical Endowment Foundation
The Wesley Medical Center
Kroh Brother Development Company
& Boyer, Donaldson & Stewart, Attorneys
1030 First National Bank Building
Wichita, Kansas 67202

Re: BZA 15-83 Request for Variances

Dear Mr. Stewart:

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 requests, 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: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 15-83

WHEREAS, Wesley Medical Endowment Foundation; The Wesley Medical Center; and Kroh Brother Development Company; all § Boyer, Donaldson & Stewart, Attorneys, 1030 First National Bank Building, Wichita, Kansas, requests variances as provided in Section 2.12.590.B, Code of the City of Wichita, to (1) increase the permitted height of any building at the setback line from 55' to 80'; and (2) increase the permitted land coverage by buildings from one-third to one-half; on property zoned the "BB" Office District and legally described as follows:

All of Wesley Medical Center Addition; all of Wesley Medical Center Second Addition; all of Wesley Medical Center Third Addition; and Wesley Endowment Addition; all additions to Wichita, Sedgwick County, Kansas. Generally located to the north and east of Hillside and Central and bounded on the north by Murdock and on the east by Vassar and excluding those parcels not listed in the legal description above.

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 to increase the height of any building at the setback line from 55' to 80' 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 critical height limitation relates primarily to the property lines adjacent to the park property on the north side of Edgemont Place between Vassar and Rutan or the property line on Hillside which is across the street from "LC" zoning. When this is considered open space providing separation from adjoining properties, the heights of the proposed building is not significant; 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 distance to adjacent properties wherein the increased height would be permitted is protected by the open space; 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 parking garage would have to be moved to the north and the future tower floor additions would be restricted; 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 height of the structures will not interfere with the location of 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 buildings exceeding the basic height limitations will not be located near any residential structures; 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 increase the permitted height of any building at the required setback line from 55' to 80' on property zoned the "BB" Office District and legally described as:

All of Wesley Medical Center Addition; all of Wesley Medical Center Second Addition; all of Wesley Medical Center Third Addition; and Wesley Endowment Addition; all additions to Wichita, Sedgwick County, Kansas. Generally located to the north and east of Hillside and Central and bounded on the north by Murdock and on the east by Vassar and excluding those parcels not listed in the legal description above.

be approved subject to the following conditions:

1. The increased height at the setback line from 55' to 80' shall only apply to the perimeter of the zoning lot, not including Wesley Endowment Addition, and beginning at the south property line at Vassar, thence west along the park and continuing along the perimeter to the northwest corner of Lot 1, Wesley Medical Center Addition.
2. All other heights shall be limited by a height of 55' at the normal setback lines of the perimeter of the total zoning lot as owned by the three applicants.

AND, WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance to increase the permitted lot coverage from one-third to one-half 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 over 170,000 square feet of lot coverage is taken up by multi-story parking structures which is not ordinarily found in the "BB" 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 majority of the total Medical Center Complex is set back a greater distance from the perimeter boundary lines than is required by the "BB" district; 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 percentage of lot coverage would prevent the applicant from providing adequate off-street parking without the use of multi-story parking structures which creates the excessive lot coverage; 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 lot coverage 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 lot coverage provision was primarily to create open space, and this complex more than complies with all minimum setbacks but has less than normal surface parking to dictate the lot coverage normally found for office 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.

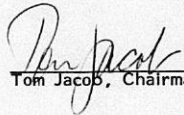
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to increase the permitted lot coverage from one-third to one-half on property zoned the "BB" Office District and legally described as:

All of Wesley Medical Center Addition; all of Wesley Medical Center Second Addition; all of Wesley Medical Center Third Addition; and Wesley Endowment Addition; all additions to Wichita, Sedgwick County, Kansas. Generally located to the north and east of Hillside and Central and bounded on the north by Murdock and on the east by Vassar and excluding those parcels not listed in the legal description above.

be approved subject to the following condition:

1. The lot coverage may be increased from 33.3% to 50% for the larger of the two contiguous areas included in the legal description above and Wesley Endowment Addition may be increased to a 40% lot coverage.

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 Kruthof, Administrative Aide III

SUBJECT BZA 15-83, Wesley Medical Center
Addition

At its April 19th meeting, CPO Neighborhood Council Area "I" considered the captioned application requesting variances to (1) increase the permitted height of any building at the setback line from 55' to 80' and (2) increase the permitted land coverage by buildings from 33.3% to 50% on property zoned "BB" Office District. Leland Cox was present representing the applicant. No area residents attended the meeting concerning the case.

The Council made two recommendations on the variance requests. In regard to permitted building height, the Council voted 5-2 to recommend that the increased height at the setback line from 55' to 80' shall only apply to the perimeter of the zoning lot, not including Wesley Endowment Addition, and beginning at the south property line at Vassar, thence west along the park and continuing along the perimeter to a point equal to the center line of vacated Pine Street. The Council's motion concerning height is designed to prevent the variance from applying to the existing parking lot at Hillside and Murdock. It was the consensus of the Council that an increase in the height of the existing parking lot be considered at a later date as a separate variance request.

As related to the increase in permitted lot coverage from 33.3% to 50%, the lot definitions were unclear and the material presented by the BZA Secretary conflicted with information provided by Cox. For the purpose of its motion, the Council defined the larger of the two contiguous areas as bounded by Hillside, Murdock, Rutan, and Central. The Wesley endowment addition, the smaller area, was defined as being bounded by Rutan, Edgemont, Vassar, and Murdock.

The Council voted unanimously, 7-0, to recommend 35% coverage for the Wesley endowment addition and 45% for the larger area. The Council commented that the applicant should not be granted an allowed building coverage which exceeds the minimum needs.

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


Dean Kruthof
Administrative Aide III

DK:dm

SECRETARY'S REPORT
CASE NO. BZA 15-83

APPLICANT: Wesley Medical Endowment Foundation; The Wesley Medical Center; and Kroh Brothers Development Company; % Kenneth P. Stewart, 1030 First National Bank Bldg., Wichita, Kansas.

AGENT: Kenneth P. Stewart, (Boyer, Donaldson & Stewart), 1030 First National Bank Bldg., Wichita, Kansas.

REQUEST: Variances pursuant to Section 2.12.590.B, Code of the City of Wichita, to (1) increase the permitted height of any building at the setback line from 55' to 80'; and (2) increase the permitted land coverage by buildings from one-third to one-half.

GENERAL LOCATION: In the area north of Central and east of Hillside and bounded on the north by Murdock and on the east by Vassar and excluding those properties in the area not owned by the applicants.

ZONING: Subject property is zoned the "BB" Office District. The adjacent properties are zoned "C" Commercial, "LC" Light Commercial, "BB" Office, "B" Multiple-family and the "A" Two-family Dwelling Districts.

LAND USE: Subject property is occupied by a Medical Center, including medical offices and other associated uses. Adjacent properties are developed with commercial, offices and residential uses.

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 two separate variances in order to develop the area west of Vassar Avenue and south of Murdock with a medical office building and a parking garage. In the preliminary review of the proposed construction, it was determined that the overall zoning lot, as owned by the three applicants; exceeded the permitted 33-1/3% land coverage and the need to raise the height limitation of 55' at the building setback lines to accommodate one of the proposed buildings of the immediate project. Also, in the review of the total complex, it was determined that additional height was needed to accommodate the possible additional floors to the "House Tower".

It should be noted that the basic height permitted by the "BB" Office zoning district is 55' at any building setback line. Whenever a building, or portion of a building, is set back from the required building setback line, the height may be increased one foot for each additional foot of setback. In this overall project, it appears that the only critical heights are those previously stated. The new parking garage is proposed to be a height of 76' and is located at the required setback along the south. This property line is adjacent to a public park which is open space that should not be affected by an increased height. The additional floors of the "House Tower" at some future date will approach a height of 220'. The location of this tower is generally in the center of the total complex and could be built to the proposed height without a variance except for the proximity to the property line now located at the center line of vacated Rutan Street.

The problem with the maximum lot coverage is related primarily to the Wesley Medical Center area complex. None of the present coverage exceed 43.3%, and with the elimination of the parking garage structures, the

percentage would be under the permitted 33.3%. The limitation of lot coverage area in the "BB" district is primarily to make it compatible with adjacent properties. In many cases, the "BB" district is in close proximity to residential neighborhoods.

As related to the requested variance to increase the permitted height at the setback lines from 55' to 80' the following justification is submitted:

UNIQUENESS:

It is the opinion of the Secretary that the requested variance arises from a condition unique to the property inasmuch as the critical height limitation relates primarily to the property lines adjacent to the park property on the north side of Edgemont Place between Vassar and Rutan or the property line on Hillside which is across the street from "LC" zoning. When this is considered open space providing separation from adjoining properties, the heights of the proposed building is not significant.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance would not adversely affect the rights of adjacent property owners inasmuch as the distance to adjacent properties wherein the increased height would be permitted is protected by the open space.

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 parking garage would have to be moved to the north and the future tower floor additions would be restricted.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest inasmuch as the height of the structures will not interfere with the location of any right-of-way or easements.

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 the zoning ordinance inasmuch as the buildings exceeding the basic height limitations will not be located near any residential structures.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance can be found to exist and it is the Secretary's recommendation that the variance be granted subject to the following conditions:

1. The increased height at the setback line from 55' to 80' shall only apply to the perimeter of the zoning lot, not including Wesley Endowment Addition, and beginning at the south property line at Vassar, thence west along the park and continuing along the perimeter to the northwest corner of Lot 1, Wesley Medical Center Addition.
2. All other heights shall be limited by a height of 55' at the normal setback lines of the perimeter of the total zoning lot as owned by the three applicants.

As related to the requested variance to increase the permitted lot coverage from 33.3% to 50% the following justification is submitted:

UNIQUENESS:

It is the opinion of the Secretary that the requested variance arises

from a condition unique to this property inasmuch as over 170,000 square feet of lot coverage is taken up by multi-story parking structures which is not ordinarily found in the "BB" district.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance would not adversely affect the rights of adjacent property owners inasmuch as the majority of the total Medical Center Complex is set back a greater distance from the perimeter boundary lines than is required by the "BB" district.

HARDSHIP:

It is the opinion of the Secretary that a hardship may exist if the strict application of the zoning ordinance is applied inasmuch as the percentage of lot coverage would prevent the applicant from providing adequate off-street parking without the use of multi-story parking structures which creates the excessive lot coverage.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not be opposed to the public interest inasmuch as the lot coverage will not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the lot coverage provision was primarily to create open space, and this complex more than complies with all minimum setbacks but has less than normal surface parking to dictate the lot coverage normally found for office uses.

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. The lot coverage may be increased from 33.3% to 50% for the larger of the two contiguous areas in the application and Wesley endowment addition may be increased to a 40% lot coverage.

BZA CASE NO. 15-83

2 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

51 NOTICES SENT TO ADJOINING PROPERTY OWNERS

66 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 15-83

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 Wesley Medical Endowment Foundation; The Wesley Medical Center; and Kroh Brother Development Company; all & Boyer, Donaldson & Stewart, Attorneys, 1030 First National Bank Building, Wichita, Kansas, requesting variances.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting variances to (1) increase the permitted height of any building at the setback line from 55' to 80'; and (2) increase the permitted land coverage by buildings from one-third to one-half; on property zoned "BB" Office District. A legal description of the applicant's property is as follows:

All of Wesley Medical Center Addition; all of Wesley Medical Center Second Addition; all of Wesley Medical Center Third Addition; and Wesley Endowment Addition; all additions to Wichita, Sedgwick County, Kansas. Generally located to the north and east of Hillside and Central and bounded on the north by Murdock and on the east by Vassar and excluding those parcels not listed in the legal description above.

This application has been assigned Case BZA 15-83. 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 variances 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. 15-83

CITY OF WICHITA, KANSAS

FILED 3-28-83

APPLICATION FOR VARIANCE

I. Name of Applicant Wesley Medical Endowment Foundation
The Wesley Medical Center
 Kroh Brother Development Company
 Mailing Address c/o Boyer, Donaldson & Stewart Phone 264-7321
1030 First National Bank Building, Wichita, Kansas 67202
 Name of Authorized Agent Kenneth P. Stewart (Boyer, Donaldson & Stewart)
1030 First National Bank Building
 Mailing Address Wichita, Kansas 67202 Phone 264-7321

Relationship of applicant to property is that of owner
 (Owner, Tenant, Lessee, Other) See Exhibit "1"

see working on admin.

II. The variance requested is regulation (Code Section 28.04.080B; and (2) to increase building coverage of land area from one-third to one-half (Code Section 28.04.080C 4.2)

see legal and general location as shown by atlas.

for property located South of Murdock, East of Hillside, West of Vassar, and North of Central Avenue, except tract dedicated as public park lying between Rutan and Vassar Avenue and North of Edgemont Place and miscellaneous lots in Blazer's Addition in Southeast corner and legally described as: all of Wesley Medical Addition; all of Wesley Medical Center Second Addition; all of Wesley Medical Center Third Addition and Wesley Endowment Addition

in the City of Wichita; and which is presently zoned "BB"

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.

WESLEY MEDICAL ENDOWMENT FOUNDATION
 THE WESLEY MEDICAL CENTER
 Applicant KROH BROTHERS DEVELOPMENT COMPANY

cc: A. B. Davis, Jr. (WMC)
 Duane L. Dyer (WMEF)
 Kroh Brothers Development

Authorized Agent Kenneth P. Stewart
 Kenneth P. Stewart
 of Boyer, Donaldson & Stewart

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4.30 ~~6~~-p.m.), MARCH 28, 1983, together with appropriate fee of 300

Signed D. Lytle

EXHIBIT "1" Property Descriptions and Ownership
EXHIBIT "2" Location Map
EXHIBIT "3" Computation of Building Area
EXHIBIT "4" Statement in Support of Variance
EXHIBIT "5" Ownership List

LAW OFFICES OF
BOYER, DONALDSON & STEWART

1030 FIRST NATIONAL BANK BUILDING

WICHITA, KANSAS 67202

March 28, 1983

JOHN E. BOYER
KENNETH P. STEWART
JAMES R. HANSON
ROBERT L. SMITH
JOHN H. GIBSON
MICHAEL L. NORTH
LELAND E. COX

GEORGE J. HONDROS (1910-1962)
PAUL J. DONALDSON (1911-1978)

264-7321
AREA CODE 316

Mr. Jack Galbraith
Chief Planner, Current Plans
Metropolitan Area Planning Department
City Building
Wichita, Kansas 67202

Mr. Glen E. Lytle
Special Assistant for Zoning
Metropolitan Area Planning Department
City Building
Wichita, Kansas 67202

Re: Wesley Medical Endowment Foundation,
The Wesley Medical Center, and Kroh
Brothers Development Company Application
for Variance - 1983
Our File: EF-022(d)

Gentlemen:

We are hand-carrying for filing the enclosed Application for Variance (without Exhibit "5"). This letter is being written to explain the reason for enlarging the area and also for combining the request for variance from the area requirement to include a request for variance from the height regulations.

When we gave closer examination to the Medical Center Campus, we noted that it did include as well the property on Central at the Northeast corner of the intersection of Central and Rutan Avenue now occupied by the Wesley Endowment Foundation Addition and improvements to include --

- (1) Endowment Foundation Office; and
- (2) Ronald MacDonald House owned by Accent on Kids, Inc., under a Ground Lease from the Endowment Foundation.

It appears that this tract may also be in technical violation of the area regulations, so we elected to include it.

Mr. Jack Galbraith
Mr. Glen E. Lytle

March 28, 1983

Page 2

In order to be sure that we had before the Board of Zoning Appeals in this time line any question concerning a possible violation of height regulations, we have also included a request for variance from height regulations for any existing or planned structures which might lie within the "zoning lot."

The ownership list will supplement this application by its filing not later than Thursday of this week. In the event that there are any questions or additional exhibits are needed for a full consideration of the presentation, it is respectfully requested that you will indulge me until later this week, inasmuch as I have to be absent from the City until Friday morning.

Thanks very much for your cooperation the other day and for this additional cooperation.

Very truly yours,

BOYER, DONALDSON & STEWART

By *Kenneth P. Stewart*
by John H. Gibson

KPS:cpf
Enclosures

cc: Ms. Delores E. Mast

LAW OFFICES OF
BOYER, DONALDSON & STEWART

1030 FIRST NATIONAL BANK BUILDING
WICHITA, KANSAS 67202

GEORGE J. HONDROS (1910-1982)
PAUL J. DONALDSON (1911-1978)

JOHN E. BOYER
KENNETH P. STEWART
JAMES R. HANSON
ROBERT L. SMITH
JOHN H. GIBSON
MICHAEL L. NORTH
LELAND E. COX

264-7321
AREA CODE 316

March 28, 1983

Security Abstract and Title Co., Inc.
434 North Main
Wichita, Kansas 67202

Attention: Mrs. Mary Gable

Dear Mary:

Attached is a copy of the Application for Variance which is being filed with the Metropolitan Area Planning Department March 28 and which requires an ownership list to be furnished at least by Thursday and then filed with the Metropolitan Area Planning Department. Please furnish a duplicate list to the undersigned. The list should be completed in accordance with the following instruction:

"Applicant must submit a certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of two-hundred(200) feet of property involved in the application. Mailing addresses submitted without ZIP CODES will be returned to the applicant."

Your cooperation in this matter is much appreciated.

Very truly yours,

BOYER, DONALDSON & STEWART

By

Kenneth P. Stewart
John H. Gibson

KPS:cpf
Enclosures

cc: Metropolitan Area Planning Department

APPLICATION VARIANCE NO.

LEGAL DESCRIPTION:

All that portion of real estate lying East of Hillside, West of Vassar Avenue, North of Central and South of Murdock, which is platted as:

Wesley Medical Center Addition
Wesley Medical Center Second Addition
Wesley Medical Center Third Addition
Wesley Endowment Addition

owned as follows:

"A" ALL OF WESLEY MEDICAL CENTER ADDITION

Owner: The Wesley Medical Center

"B" WESLEY MEDICAL CENTER SECOND ADDITION, EXCEPT S/D 80-81
(pending plat Wesley Medical Center Fourth Addition)

Owner: The Wesley Medical Center

"C" S/D 80-81

Owner: Wesley Medical Endowment Foundation

SUBJECT TO:

Ground Lease to The Wichita Clinic Building Company, a Kansas limited partnership, covering proposed plat description except the West 45 feet thereof and also except the South 244 feet thereof.

"D" WESLEY MEDICAL CENTER THIRD ADDITION

Lots One, Three and Four:

Owner: The Wesley Medical Center

Lot Two:

Owner: Kroh Brothers Development Company

"E" WESLEY ENDOWMENT ADDITION

Owner: Wesley Medical Endowment Foundation

SUBJECT TO:

Ground Lease to Accent on Kids, Inc., Lessee, covering the East 50 feet of the South 148.875 feet of Lot One (1) on Rutan Avenue.

EXHIBIT "1"

THOMAS, HARRIS, ASH & MASON, P.A. ▲ Architects & Engineers



3-24-83 / Revised 3-28-83

WESLEY MEDICAL CENTER / SITE PLAN / AREA CALCULATIONS
THAM Project #8303
Wesley Medical Center

LOCATION	BUILDINGS	SITE	%
1. Rutan - Vassar - Murdock - Park	98,269 S.F.	282,248 S.F.	0.348
2. Hillside - Rutan - Murdock - Central	316,897	731,281	0.433
3. Hillside - Lorraine - Murdock - Elm	7,000	162,031	0.043
4. Electron Microscope Facility	2,440	32,915	0.074
5. Endowment Foundation Offices/ AOK Ronald McDonald House	6,829	19,871	0.34
TOTALS	431,435	1,228,346	0.351

Exhibit 3

262 NORTH WACO ▲ WICHITA, KANSAS 67202 ▲ (316) 262-5463

STATEMENT IN SUPPORT OF VARIANCE UNDER CODE SECTION 2.12.590B

I. Applicant requests variance pursuant to Code Section 2.12.590B (Code, page 64) from the strict application of:

A. Code Section 28.04.080 "BB" Office District Regulations, subsection "B", Height Regulations:

"No building shall exceed fifty-five feet in height at the required front side and rear yard lines, but above the height permitted at such yard lines, one foot may be added to the height of the building for each one foot that the building or portion thereof is set back from the required yard lines."

(Code, page 1037)

for all buildings located on property described as follows, to-wit:

SEE EXHIBIT "1"

hereinafter "zoning lot" (Code Section 28.04.020, Definition, Lot Zoning, page 1024), which exceed fifty-five feet in height and are deemed to be in non-compliance with said section together with proposed structures as described below.

B. Code Section 28.04.080, "BB" Office District Regulations, subsection "C", Area Regulations, providing in part:

"4. LOT AREA PER FAMILY:

4.1 The lot area per family for single-family dwellings shall be not less than two thousand five hundred square feet; for two-family dwellings, not less than two thousand square feet per family; and for multiple-family dwellings, no less than five hundred eighty square feet per family; provided that the application of this rule shall not reduce the yard requirements, and provided, further, that this regulation shall not apply to motels or hotels which do not provide cooking facilities in the individual rooms or living units.

4.2 The maximum building coverage of land area shall not exceed more than one-third of the total land area. (Ord. No. 33-588, (part); Ord. No. 30-556, Section 1, as amended by Ord. No. 31-224, Section 4; prior Ord. No. 29-211, Section 2)"

(Code, page 1039).

Applicant submits a location map (Exhibit "2") which shows the location and building site size of all structures on the zoning lot, together with a Computation of Building Area (Exhibit "3").

Exhibit "4"

In addition to structures which are identified and computations which are included, it is noted that the proposed Wichita Clinic structure is presently planned for four stories and that the proposed parking garage is planned for four levels with foundation sufficient to accommodate two additional levels.

Variance from the applicable sections of the zoning code is requested under conditions of Code Section 2.12.590B as follows:

(1) Uniqueness exists because:

- (a) Subject property in the aggregate is the site of the Medical Center Campus by its Master Development Plan originally authorized in November 1968;
- (b) Multiple ownership has resulted from the requirements of financial feasibility to achieve needed health facilities and corporate reorganization of The Wesley Medical Center.
- (c) The City of Wichita, upon proper planning and zoning, has invested significantly through Hospital Revenue Bonds in the development and use of subject property.

(2) Rights of adjacent property owners are not adversely affected under applicable planning/zoning regulations and previous approvals and development because:

- (a) Traffic circulation in and around the campus has been planned for future needs.
- (b) Off-street parking exceeds code requirements and proposed improvements are consistent with adequate parking.
- (c) No change in the nature and use of the land area is planned.

(3) Strict application will cause the applicant unnecessary hardship because:

- (a) A denial of the variance would require the acquisition of additional residential area for off-street surface parking, contrary to the Master Development Plan and adverse to the interests of the surrounding residential neighborhood.

(4) Granting a variance will not adversely affect the public interest because:

- (a) Use of the property is to serve the public interest as a tertiary acute general hospital and the granting of a variance will permit an extension/expansion of such public use.

(5) Granting a variance is not opposed to general spirit and intent of the Zoning Code because:

- (a) Code Section 28.04.010 suggests that the Zoning Code is to promote "the public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. This is both an intent to protect the public as well as protect the private person with respect to property right. The Wesley Medical Center is a quasi-public institution and serves the public interest by the provision of health care in a not-for-profit voluntary health care delivery system.
- (b) As a matter of interpretation it is submitted that Section 4.2 of Section 28.04.080 is intended to apply only to residential areas. This interpretation is extended for three reasons:
- (i) The opening language, as well as the section heading, refers to "lot area per family", "single-family dwellings," "two-family dwellings", "multiple-family dwellings."
 - (ii) The proviso in Section 4.1 speaks in terms of "yard requirements" and states that it shall not apply to "motels or hotels which do not provide cooking facilities in the individual rooms or living units;"
 - (iii) Section 4.2 immediately follows Section 4.1 under the same topic heading and in the same context of "family" and "dwellings."

CONCLUSION:

For the maximum building coverage of land area restriction to be applied requires a very strict construction of the ordinance which is contrary to the intent and purpose of the Zoning Code. There is a very serious question whether this subsection ought to be applied except to residential areas. In any event, an interpretation to allow variance from the strict interpretation is believed to be consistent with the intent, purpose and application of the Zoning Code to the zoning lot in question.

BZA 15-83

OWNERSHIP LIST

<u>Lots</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1 & 2	-	Wesley Medical Center Addition	<i>dup</i> City of Wichita, 455 N. Main, 67202
1 exc. that part replatted as Wesley Medical Center 3rd Addition	-	Wesley Medical Center 2nd Addition	"
2 & 3	-	"	"
1	-	Wesley Endowment Addition	✓ Wesley Medical Endowment Foundation, 3306 E. Central, 67208
1	-	Wesley Medical Center 3rd Addition	<i>dup</i> City of Wichita, 455 N. Main, 67202
3 & 4	-	"	"
Office 1	-	Wesley Medical Arts Towers, a Condominium situated on Lot 2 in Wesley Medical Center 3rd Addition	"
Office 2	-	"	"
Office 3-1	-	"	✓ BOFEM Associates, c/o Orval J. Kaufman, Suite 611, 105 N. Main, 67202
Office 3-2	-	"	✓ Wesley Building Co., c/o Thomas C. Triplett, 300 Page Ct., 67202
Office 3-3	-	"	"
Office 3-4	-	"	"
Office 3-5	-	"	<i>dup</i> BOFEM Associates, c/o Orval J. Kaufman, Suite 611, 105 N. Main, 67202
Office 3-6	-	"	<i>dup</i> Wesley Building Co., c/o Thomas C. Triplett, 300 Page Ct., 67202
Office 3-7	-	"	✓ Medical Computer Services, 200 S. Hillside, 67211
Office 3-8	-	"	<i>dup</i> Wesley Building Co., c/o Thomas C. Triplett, 300 Page Ct., 67202
Office 4-1	-	"	✓ Virginia G. Mastio, 14 St. James Place, 67206

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Office 4-2	-	Wesley Medical Arts Towers, a Condominium situated on Lot 2 in Wesley Medical Center 3rd Addition	✓ M & W Co., c/o Nestor Weigand Jr., 150 N. Market, 67202
Office 4-3	-	"	✓ BKM Investments, Suite 200, 3243 E. Murdock, 67208
Office 5-1	-	"	✓ VMB Investments, Suite 300, 3243 E. Murdock, 67208
Office 5-2	-	"	✓ The Wesley Medical Center, 550 N. Hillside, 67208
Office 6-1	-	"	✓ IMA Investments, Suite 500, 3243 E. Murdock, 67208
Office 6-2	-	"	✓ B & R Associates, Suite 500, 3243 E. Murdock, 67208
Office 6-3	-	"	✓ Garry L. Porter, 1313 N. Emporia, 67214
Office 6-4	-	"	✓ Medical Properties, Suite 401, 3243 E. Murdock, 67208
Office 7-1	-	"	IMA Investments, Suite 500, 3243 E. Murdock, 67208
Office 7-2	-	"	"
Office 8-1	-	"	✓ Dorothy H. Langenwalter, 1201 Charlotte, 67208 AND ✓ Bobbie J. Bastian, 62 Norfolk Dr., 67206
Office 8-2	-	"	✓ Ronald D. Linhardt, Suite 603, 3243 E. Murdock, 67208
Office 8-3	-	"	Dup Dorothy H. Langenwalter, 1201 Charlotte, 67208 AND D Bobbie J. Bastian, 62 Norfolk Dr., 67206
Office 8-4	-	"	"
Office 8-5	-	"	Dup Ronald D. Linhardt, Suite 603, 3243 E. Murdock, 67208
Office 8-6	-	"	✓ Michael A. Reisman, Suite 600, 3243 E. Murdock, 67208
Office 8-7	-	"	Dup Dorothy H. Langenwalter, 1201 Charlotte, 67208 AND Dup Bobbie J. Bastian, 62 Norfolk Dr., 67206

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
5 thru 10	-	Blazer's Addition	✓Ralph A. Shenk & Ina M. Shenk, 1405 Willow Rd., 67208
11 exc. the east 15 ft.	-	"	"
18 & 19	-	"	✓Sammy Harry Kouri & Jacqueline Minnie Kouri, 619 N. Armour, 67206
20 & 21	-	"	"
22 & 23	-	"	✓Automobile Club of Kansas Inc., 3340 E. Central, 67208
24, 25, & the west 20 ft. of 26	-	"	"
West 20 ft. of 29, & all of 30 & 31	-	"	"
South 70 ft. of 44 exc. the east 15 ft., & the South 70 ft. of 45, 46, & 47	-	"	D Ralph A. Shenk & Ina M. Shenk, 1405 Willow Rd., 67208
5	-	Howard's Addition to College Hill	William M. Mack, Trustee of National Investment Trust, Address Unknown
East 56.75 ft. of 6	-	"	"
West 45 ft. of the East 101.75 ft. of 6	-	"	James S. Hibbard, Address Unknown AND Cora L. Hibbard, Address Unknown And Ellen M. Hibbard (Deceased)
West 50 ft. of 6	-	"	Theresa Marie Foltz, Address Unknown AND ✓Earl Richard Goodin, 18 Cypress, 67206 AND Helen Margaret Fine, Address Unknown
7	-	"	W.A. Loshbough (Deceased) & Vera Loshbough (Deceased)

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Part of 8 beg. 74.62 ft. south of the NW corner; then south 49.93 ft.; then east 151.74 ft.; then north 49.93 ft.; then west to beg.	-	Howard's Addition to College Hill	William M. Mack, Trustee of National Investment Trust, Address Unknown
8 exc. that part described immediately above	-	" <i>not correct</i>	Unknown ^{12644 Bennett - 67207 or} Kathleen Ann Tucker, <u>Address</u> 6635 AND Clayton St. 67206 Unknown Ronald Earl Klaus, <u>Address</u> Unknown AND Paul Jerome Klaus, <u>Address</u> Unknown
1	A	Central Bank & Trust Addition	Central Bank & Trust, 3433 E. Central, 67208
Reserve H	-	Maple Grove Addition	Paul C. Scott, Address Unknown
4 & the north 26 ft. of 5	-	Hodson's 2nd Addition	Roy Hawk & Cleora R. Hawk, 2533 N. Belmont, 67220
West 60 ft. of the south 24 ft. of 5	-	"	Cleora R. Hawk, 2533 N. Belmont, 67220
South 24 ft. of 5 except the west 60 ft.	-	"	"
West 60 ft. of 6	-	"	"
6 exc. the west 60 ft.	-	"	"
Odd lots 39 thru 47 on Hillside	-	Resurvey of Buck's 2nd Addition	The Wesley Medical Center, 550 N. Hillside, 67208
49 & 51 on Hillside	-	"	Mary J. Blood, 647 N. Hill- side, 67214
53 & 55 on Hillside	-	"	"
57 & 59 on Hillside	-	"	"
61 & 63 on Hillside	-	"	"

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Odd lots 65 thru 79 & the north 15 ft. of 81 on Hillside	-	Resurvey of Buck's 2nd Addition	✓ D The Wesley Medical Center, 550 N. Hillside, 67208
81 exc. the north 15 ft., & all of 83, 85 & 87 on Hillside	-	"	✓ Fourth National Bank & Trust Co., 100 N. Broadway, 67202
89 & 91 on Hillside	-	"	✓ D The Wesley Medical Center, 550 N. Hillside, 67208
93, 95, 97, & 99 on Hillside	-	"	"
101, 103, 105 & 107 on Hillside	-	"	✓ Brown's Grill East, Inc., 545 N. Hillside, 67214 AND William Michael Williams, Address Unknown (Notice of Interest in property filed)
109 & 111 on Hillside	-	"	✓ Richard J. Brown, 322 S. Terrace, 67218 AND ✓ Larry D. Brown, 939 Porter, 67203 AND ✓ Charles D. Brown, 5826 N. Hillside, 67220 AND D William Michael Williams, Address Unknown (Notice of Interest in property filed)
1 thru 7 on Hillside	-	Schuckman's Addition	D Brown's Grill East Inc., 545 N. Hillside, 67214 AND D William Michael Williams, Address Unknown (Notice of Interest in property filed)
8 & 9, & the north 24.44 ft. of 10 on Hillside	-	"	✓ Herman W. Beuttel & Helen G. Beuttel, Apt. 3-C, 115 S. Rutan, 67218
South 0.54 ft. of 10 on Hillside	-	"	✓ D Roy Hawk & Cleora R. Hawk, 2533 N. Belmont, 67220

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	-	Gerald Rupert Addition	<input checked="" type="checkbox"/> D Nestor R. Weigand Jr., 150 N. Market, 67202 AND <input checked="" type="checkbox"/> Leslie J. Rudd, 3641 N. Hillside, 67219 AND <input checked="" type="checkbox"/> D Luann H. Weigand, 20 Norfolk Dr., 67208 AND <input checked="" type="checkbox"/> Highland House Partnership, 150 N. Market, 67202
35 & 36 on Murdock	-	Myers Subdivision of Lots 1 & 3 in Block 6 of Frisco Heights Addition	<input checked="" type="checkbox"/> D Luann H. Weigand, 20 Norfolk Dr., 67208
2 & 4 on Murdock	-	Grandview Sub-division of Lots 2 & 4 in Block 6 of Frisco Heights	<input checked="" type="checkbox"/> Nestor R. Weigand Jr. & Luann H. Weigand, 20 Norfolk Dr., 67208
6 & 8 on Murdock	-	"	<input checked="" type="checkbox"/> D Highland House Partnership, 150 N. Market, 67202
10 & the west 15.5 ft. of 12 on Murdock	-	"	"
East 9.5 ft. of 12 on Murdock	-	"	"
14 & the west 5.7 ft. of 16 on Murdock	-	"	"
East 19.3 ft. of 16 & all of 18 on Murdock	-	"	"
26 & 28 on Murdock	-	Grandview Terrace Addition	<input checked="" type="checkbox"/> Fred E. Meisinger & Dorothy C. Meisinger, 218 N. Pershing, 67208
30 & 32 on Murdock	-	"	<input checked="" type="checkbox"/> Louis H. Ross & Audrey B. Ross, 3407 E. Murdock, 67208
34 & 36 on Murdock	-	"	<input checked="" type="checkbox"/> Richard Brown & Emma Brown, 720 N. Vassar, 67208
25 & 27 on Pine	-	"	<input checked="" type="checkbox"/> Gordon N. Jones & Edna M. Jones, 3416 E. Pine, 67208
29, 31, 33 & 35 on Pine	-	"	<input checked="" type="checkbox"/> Harmon M. Holladay & June M. Holladay, 3402 E. Pine, 67208

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
26 & 28 on Pine	-	Grandview Terrace Addition	Edward H. Graham & Julia N. Graham, <u>Address Unknown</u>
30 & 32 on Pine	-	"	✓Mae Moyer, 3407 E. Pine, 67208
34 & 36 on Pine	-	"	✓Manty Harris, 3403 E. Pine, 67208 AND Virginia Gates, <u>Address Unknown</u>
25 & 27 on Elm	-	"	✓Daniel W. Oungst, 3414 Sleepy Hollow Ct., 67208
29 & 31 on Elm	-	"	✓John Timothy Lewis & Molly Lynn Pearson Lewis, 3404 Sleepy Hollow Ct., 67208
33 & 35 on Elm	-	"	✓Myron S. Hull & Betty L. Hull, 3402 Sleepy Hollow Ct., 67208
29 & 31 on Central	-	"	✓J.R. Vosburgh & Mary K. Vos- burgh, 7611 Donegal, 67206
33 & 35 on Central	-	"	✓ James R. Vosburgh, 7611 Donegal, 67206
30 & 32 on Edgemont Place	-	Woodford's Replat of Part of Grand- view Terrace Add- ition	✓Wesley R. Johnson & Avice E. Johnson, 3411 Edgemont Place, 67208
34 & 36 on Edgemont Place	-	"	✓Robert F. Vosburgh, 3407 Edge- mont Place, 67208
Odd lots 19 thru 29 on Orchard	-	Sunrise Park Addition	✓Wichita Children's Home, 810 N. Holyoke, 67208
Odd lots 31 thru 53 on Orchard	-	"	"
Even lots 20 thru 54 on Murdock	-	"	"
2 & 4 on Murdock	-	Country Club Place Addition	✓U.S.D. #259, 428 S. Broadway, 67202
6, 8, & 10 on Murdock	-	"	"
Reserve B exc. the north 90 ft.	-	Nob Hill Addition	✓ City of Wichita, 455 N. Main, 67202

page 8

We hereby certify the foregoing to be a true and correct list of the property owners within a 200 foot radius of

Lots 1 and 2, in Wesley
Medical Center Addition, Wichita,
Sedgwick County, Kansas

AND

Lots 1, 2 and 3, Wesley Medical Center
Second Addition, Wichita, Sedgwick
County, Kansas, except that part replatted
as Wesley Medical Center Third Addition

AND

Lots 1, 2 and 3, Wesley Medical Center
Third Addition, Wichita, Sedgwick
County, Kansas

AND

Lot 1, Wesley Endowment Addition, Wichita,
Sedgwick County, Kansas

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

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Vice-President

Order No. 318246
ge

Don —
W.M.C.

4-11-83

Hgt. West Bldg. — per. 73.4'
pent house 100'-10"

Pkg. gar news — HAR — 56'

pass. addn. — ? 2 Fl. 76'

Pkg. gar episty. — M.H. — 43'

pass. addn. ? 1 Fl. 55'

House Tower — 204.9

Pent House 219.9

LAW OFFICES OF
BOYER, DONALDSON & STEWART

1030 FIRST NATIONAL BANK BUILDING

WICHITA, KANSAS 67202

JOHN E. BOYER
KENNETH P. STEWART
JAMES R. HANSON
ROBERT L. SMITH
JOHN H. GIBSON
MICHAEL L. NORTH
LELAND E. COX

GEORGE J. MONDROS (1910-1962)
PAUL J. DONALDSON (1911-1978)

March 28, 1983

264-7321
AREA CODE 316

Mr. Jack Galbraith
Chief Planner, Current Plans
Metropolitan Area Planning Department
City Building
Wichita, Kansas 67202

Mr. Glen E. Lytle
Special Assistant for Zoning
Metropolitan Area Planning Department
City Building
Wichita, Kansas 67202

Re: Wesley Medical Endowment Foundation,
The Wesley Medical Center, and Kroh
Brothers Development Company Application
for Variance - 1983
Our File: EF-022(d)

Gentlemen:

We are hand-carrying for filing the enclosed Application for Variance (without Exhibit "5"). This letter is being written to explain the reason for enlarging the area and also for combining the request for variance from the area requirement to include a request for variance from the height regulations.

When we gave closer examination to the Medical Center Campus, we noted that it did include as well the property on Central at the Northeast corner of the intersection of Central and Rutan Avenue now occupied by the Wesley Endowment Foundation Addition and improvements to include --

- (1) Endowment Foundation Office; and
- (2) Ronald MacDonald House owned by Accent on Kids, Inc., under a Ground Lease from the Endowment Foundation.

It appears that this tract may also be in technical violation of the area regulations, so we elected to include it.

Mr. Jack Galbraith
Mr. Glen E. Lytle

March 28, 1983

Page 2

In order to be sure that we had before the Board of Zoning Appeals in this time line any question concerning a possible violation of height regulations, we have also included a request for variance from height regulations for any existing or planned structures which might lie within the "zoning lot."

The ownership list will supplement this application by its filing not later than Thursday of this week. In the event that there are any questions or additional exhibits are needed for a full consideration of the presentation, it is respectfully requested that you will indulge me until later this week, inasmuch as I have to be absent from the City until Friday morning.

Thanks very much for your cooperation the other day and for this additional cooperation.

Very truly yours,

BOYER, DONALDSON & STEWART

By

Kenneth P. Stewart
Glen E. Lytle

KPS:cpf
Enclosures

cc: Ms. Delores E. Mast

LAW OFFICES OF
BOYER, DONALDSON & STEWART

1030 FIRST NATIONAL BANK BUILDING

WICHITA, KANSAS 67202

JOHN E. BOYER
KENNETH P. STEWART
JAMES R. HANSON
ROBERT L. SMITH
JOHN H. GIBSON
MICHAEL L. NORTH
LELAND E. COX

GEORGE J. HONDROS (1910-1962)
PAUL J. DONALDSON (1911-1978)

March 28, 1983

264-7321
AREA CODE 316

Security Abstract and Title Co., Inc.
434 North Main
Wichita, Kansas 67202

Attention: Mrs. Mary Gable

Dear Mary:

Attached is a copy of the Application for Variance which is being filed with the Metropolitan Area Planning Department March 28 and which requires an ownership list to be furnished at least by Thursday and then filed with the Metropolitan Area Planning Department. Please furnish a duplicate list to the undersigned. The list should be completed in accordance with the following instruction:

"Applicant must submit a certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of two-hundred(200) feet of property involved in the application. Mailing addresses submitted without ZIP CODES will be returned to the applicant."

Your cooperation in this matter is much appreciated.

Very truly yours,

BOYER, DONALDSON & STEWART

By *Kenneth P. Stewart*

KPS:cpf
Enclosures

cc: Metropolitan Area Planning Department

55 feet to ?

atbid. \$150⁰⁰
feeling fee.

Bob-Harris

IMPORTANT MESSAGE

FOR John
DATE 3-29 TIME 11/6 A.M.
P.M.

WHILE YOU WERE AWAY

OF John Gibson

PHONE No. 264 7321

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE Long call Bob Harris
on Kellogg variance
55 ft. to

SIGNED E

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Wesley Medical Endowment Foundation
The Wesley Medical Center
Kroh Brother Development Company
Mailing Address c/o Boyer, Donaldson & Stewart Phone 264-7321
1030 First National Bank Building, Wichita, Kansas 67202
Name of Authorized Agent Kenneth P. Stewart (Boyer, Donaldson & Stewart)
1030 First National Bank Building
Mailing Address Wichita, Kansas 67202 Phone 264-7321

Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other) See Exhibit "1"

II. The variance requested is regulation (Code Section 28.04.080B; and (2) to
increase building coverage of land area from one-third to one-half (Code
Section 28.04.080C 4.2)

for property located South of Murdock, East of Hillside, West of Vassar,
and North of Central Avenue, except tract dedicated as PUBLIC park lying
between Rutan and Vassar Avenue and North of Edgemont Place and miscellaneous
lots in Blazer's Addition in Southeast corner
and legally described as: all of Wesley Medical Addition; all of Wesley
Medical Center Second Addition; all of Wesley Medical Center Third
Addition and Wesley Endowment Addition

file

in the City of Wichita; and which is presently zoned "BB"

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.

WESLEY MEDICAL ENDOWMENT FOUNDATION
THE WESLEY MEDICAL CENTER
Applicant KROH BROTHERS DEVELOPMENT COMPANY

cc: A. B. Davis, Jr. (WMC)
Duane L. Dyer (WMEF)
Kroh Brothers Development

Authorized Agent

Kenneth P. Stewart

Kenneth P. Stewart
of Boyer, Donaldson & Stewart

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, _____ (a.m.-p.m.), _____, 19____, together with appropriate fee of _____.

Signed _____

EXHIBIT "1" Property Descriptions and Ownership
EXHIBIT "2" Location Map
EXHIBIT "3" Computation of Building Area
EXHIBIT "4" Statement in Support of Variance
EXHIBIT "5" Ownership List

APPLICATION VARIANCE NO.

LEGAL DESCRIPTION:

All that portion of real estate lying East of Hillside, West of Vassar Avenue, North of Central and South of Murdock, which is platted as:

Wesley Medical Center Addition
Wesley Medical Center Second Addition
Wesley Medical Center Third Addition
Wesley Endowment Addition

owned as follows:

"A" ALL OF WESLEY MEDICAL CENTER ADDITION

Owner: The Wesley Medical Center

"B" WESLEY MEDICAL CENTER SECOND ADDITION, EXCEPT S/D 80-81
(pending plat Wesley Medical Center Fourth Addition)

Owner: The Wesley Medical Center

"C" S/D 80-81

Owner: Wesley Medical Endowment Foundation

SUBJECT TO:

Ground Lease to The Wichita Clinic Building Company, a Kansas limited partnership, covering proposed plat description except the West 45 feet thereof and also except the South 244 feet thereof.

"D" WESLEY MEDICAL CENTER THIRD ADDITION

Lots One, Three and Four:

Owner: The Wesley Medical Center

Lot Two:

Owner: Kroh Brothers Development Company

"E" WESLEY ENDOWMENT ADDITION

Owner: Wesley Medical Endowment Foundation

SUBJECT TO:

Ground Lease to Accent on Kids, Inc., Lessee, covering the East 50 feet of the South 148.875 feet of Lot One (1) on Rutan Avenue.

EXHIBIT "1"



3-24-83 / Revised 3-28-83

WESLEY MEDICAL CENTER / SITE PLAN / AREA CALCULATIONS
THAM Project #8303
Wesley Medical Center

LOCATION	BUILDINGS	SITE	%
1. Rutan - Vassar - Murdock - Park	98,269 S.F.	282,248 S.F.	0.348
2. Hillside - Rutan - Murdock - Central	316,897	731,281	0.433
3. Hillside - Lorraine - Murdock - Elm	7,000	162,031	0.043
4. Electron Microscope Facility	2,440	32,915	0.074
5. Endowment Foundation Offices/ AOK Ronald McDonald House	6,829	19,871	0.34
TOTALS	431,435	1,228,346	0.351

Exhibit 3

STATEMENT IN SUPPORT OF VARIANCE UNDER CODE SECTION 2.12.590B

I. Applicant requests variance pursuant to Code Section 2.12.590B (Code, page 64) from the strict application of:

A. Code Section 28.04.080 "BB" Office District Regulations, subsection "B", Height Regulations:

"No building shall exceed fifty-five feet in height at the required front side and rear yard lines, but above the height permitted at such yard lines, one foot may be added to the height of the building for each one foot that the building or portion thereof is set back from the required yard lines."

(Code, page 1037)

for all buildings located on property described as follows, to-wit:

SEE EXHIBIT "1"

hereinafter "zoning lot" (Code Section 28.04.020, Definition, Lot Zoning, page 1024), which exceed fifty-five feet in height and are deemed to be in non-compliance with said section together with proposed structures as described below.

B. Code Section 28.04.080, "BB" Office District Regulations, subsection "C", Area Regulations, providing in part:

"4. LOT AREA PER FAMILY:

4.1 The lot area per family for single-family dwellings shall be not less than two thousand five hundred square feet; for two-family dwellings, not less than two thousand square feet per family; and for multiple-family dwellings, no less than five hundred eighty square feet per family; provided that the application of this rule shall not reduce the yard requirements, and provided, further, that this regulation shall not apply to motels or hotels which do not provide cooking facilities in the individual rooms or living units.

4.2 The maximum building coverage of land area shall not exceed more than one-third of the total land area. (Ord. No. 33-588, (part); Ord. No. 30-556, Section 1, as amended by Ord. No. 31-224, Section 4: prior Ord. No. 29-211, Section 2)"

(Code, page 1039).

Applicant submits a location map (Exhibit "2") which shows the location and building site size of all structures on the zoning lot, together with a Computation of Building Area (Exhibit "3").

Exhibit "4"

In addition to structures which are identified and computations which are included, it is noted that the proposed Wichita Clinic structure is presently planned for four stories and that the proposed parking garage is planned for four levels with foundation sufficient to accommodate two additional levels.

Variance from the applicable sections of the zoning code is requested under conditions of Code Section 2.12.590B as follows:

(1) Uniqueness exists because:

- (a) Subject property in the aggregate is the site of the Medical Center Campus by its Master Development Plan originally authorized in November 1968;
- (b) Multiple ownership has resulted from the requirements of financial feasibility to achieve needed health facilities and corporate reorganization of The Wesley Medical Center.
- (c) The City of Wichita, upon proper planning and zoning, has invested significantly through Hospital Revenue Bonds in the development and use of subject property.

(2) Rights of adjacent property owners are not adversely affected under applicable planning/zoning regulations and previous approvals and development because:

- (a) Traffic circulation in and around the campus has been planned for future needs.
- (b) Off-street parking exceeds code requirements and proposed improvements are consistent with adequate parking.
- (c) No change in the nature and use of the land area is planned.

(3) Strict application will cause the applicant unnecessary hardship because:

- (a) A denial of the variance would require the acquisition of additional residential area for off-street surface parking, contrary to the Master Development Plan and adverse to the interests of the surrounding residential neighborhood.

(4) Granting a variance will not adversely affect the public interest because:

- (a) Use of the property is to serve the public interest as a tertiary acute general hospital and the granting of a variance will permit an extension/expansion of such public use.

(5) Granting a variance is not opposed to general spirit and intent of the Zoning Code because:

- (a) Code Section 28.04.010 suggests that the Zoning Code is to promote "the public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. This is both an intent to protect the public as well as protect the private person with respect to property right. The Wesley Medical Center is a quasi-public institution and serves the public interest by the provision of health care in a not-for-profit voluntary health care delivery system.
- (b) As a matter of interpretation it is submitted that Section 4.2 of Section 28.04.080 is intended to apply only to residential areas. This interpretation is extended for three reasons:
- (i) The opening language, as well as the section heading, refers to "lot area per family", "single-family dwellings," "two-family dwellings", "multiple-family dwellings."
- (ii) The proviso in Section 4.1 speaks in terms of "yard requirements" and states that it shall not apply to "motels or hotels which do not provide cooking facilities in the individual rooms or living units;"
- (iii) Section 4.2 immediately follows Section 4.1 under the same topic heading and in the same context of "family" and "dwellings."

CONCLUSION:

For the maximum building coverage of land area restriction to be applied requires a very strict construction of the ordinance which is contrary to the intent and purpose of the Zoning Code. There is a very serious question whether this subsection ought to be applied except to residential areas. In any event, an interpretation to allow variance from the strict interpretation is believed to be consistent with the intent, purpose and application of the Zoning Code to the zoning lot in question.

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 021

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.P.

Planning

DESCRIPTION	AMOUNT
Planning	7.00

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2