

Case No. BZA 47-85 - Charles D. Sutherland Jr. - requests a variance to reduce the required setback adjacent to Handley from 30' to 20' & adjacent to 31st Street South from 35' to 0', both for off-street parking purposes only on property zoned the "R" Multiple-family

POSTED  
7-30-85 GEC

**ACTION**

BZA. 47-85 Approved Date 8-27-85  
DATE  
to conditions as recommended

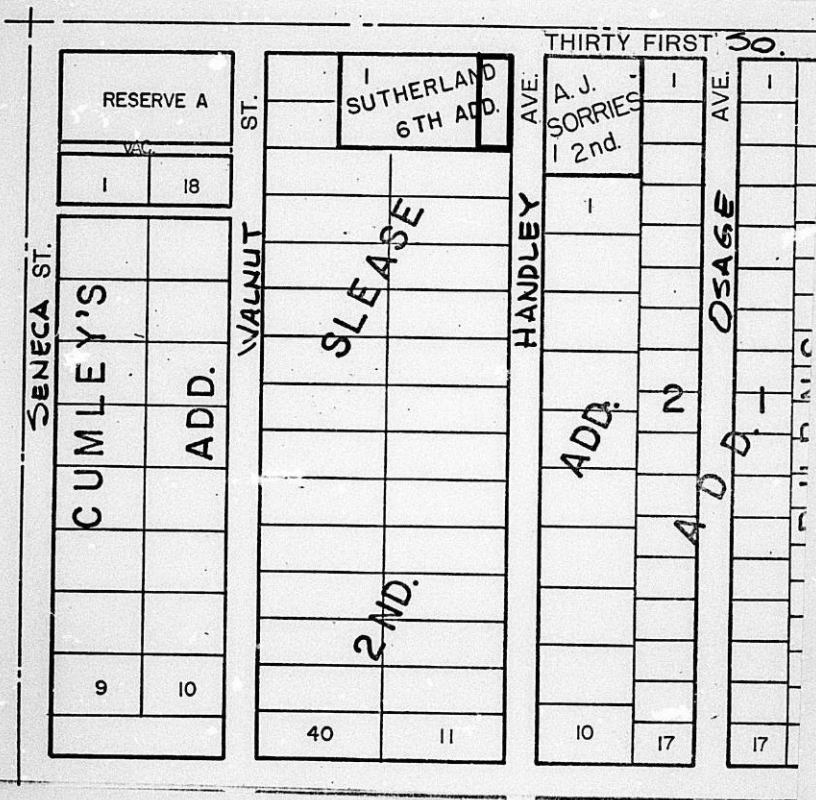
200'4 Sec 10-10-85  
Shot 10-31-85  
Record

Map No. 5443D

BZA 47-85  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: E R-5 S AA W DC&LC N AA
3. Land Use: East Apts South I-F  
West Comm North Church
4. Area (is) (~~is not~~) platted.



LOS ANGELES COUNTY  
REGISTERED PROFESSIONAL  
LAND SURVEYOR  
11000 WILSON BOULEVARD, SUITE 100  
LOS ANGELES, CALIFORNIA 90024  
U.S.A.

**Shaw**  
No. 2-153C

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

August 7, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 47-85

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 Charles D. Sutherland, Jr., 917 West 31st Street South, 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 reduce the required setback adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District. A legal description of the applicant's property is as follows:

The east 60 feet of Lot 1, Sutherland 6th Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Handley and 31st Street South (903 West 31st Street South).

This application has been assigned Case BZA 47-85. It will be considered by the Board of Zoning Appeals on August 27, 1985 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

August 28, 1985

Charles D. Sutherland, Jr.  
917 West 31st Street  
Wichita, Ks. 67217

Re: BZA 47-85 & BZA 48-85 -  
Requests for variances

Dear Mr. Sutherland:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on August 27, 1985.

These Resolutions reflect the official action of the Board to approve the requests and set out the conditions of approval. These are forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith  
Senior Planner

GEL:sad  
Enclosures

cc: Charles E. Sutherland, 112 East 2nd Street, Wichita  
Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE      August 15, 1985

TO      Glen Lytle, Special Assistant for Zoning

FROM      Shirley Mast, Administrative Aide III

SUBJECT      BZA 47-85: Southwest corner of  
Handley and 31st Street South  
(903 West 31st Street South)

CPO Council "C" considered the captioned case at its August 12th meeting and voted 5-0 to recommend approval of the variance to reduce the required set back adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only on property located at the aforementioned location.

The applicant and agent were present to describe the request and respond to questions from the Council. No adjoining property owners or area residents were present concerning the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 47-85 is considered at the August 27th meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

Attachments  
Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director

**RECEIVED**

AUG 19 1985

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

RESOLUTION NO. BZA 47-85

WHEREAS, Charles D. Sutherland, Jr., 917 West 31st Street South, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required setback adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

The east 60 feet of Lot 1, Sutherland 6th Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Handley and 31st Street South (903 West 31st Street South).

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 August 27, 1985, 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 setbacks established on the plat exceed the normal setback in the "B" district, and the normal setback is being maintained as a landscaped yard adjacent to Handley. Also, the zoning to the west is commercial which has no limitation and the property is adjacent to an arterial street on the north; 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 applicant is maintaining a twenty foot landscaped area adjacent to Handley which should provide protection to the residences to the south and east, and the parking adjacent to an arterial across the street from an institutional use should not be inappropriate; 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 improvements have been made after the issuance of the building permit based on the plans submitted, and to remove the parking and driveways from the setback would not provide the number of parking spaces required by the ordinance; 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 reduction of the platted setbacks for off-street parking purposes only 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 applicant will be maintaining the landscaped areas on Handley that are adjacent to the residential area and street; 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.

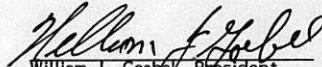
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required setback adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

The east 60 feet of Lot 1, Sutherland 6th Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Handley and 31st Street South (903 West 31st Street South).

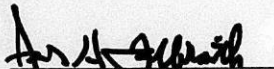
be approved subject to the following conditions:

1. The applicant shall maintain a 20 foot landscaped yard for the entire frontage on Handley except for the ingress and egress driveways.
2. The reduction of the setbacks from 30 feet to 20 feet adjacent to Handley and from 35 feet to 0 feet adjacent to 31st Street South shall be for off-street parking and circulation drive purposes only.

ADOPTED AT WICHITA, KANSAS, this 27th day of August, 1985.

  
William J. Coehey, President

ATTEST:

  
Jack H. Galbreath, Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE    August 15, 1985

TO      Glen Lytle, Special Assistant for Zoning

FROM    Shirley Mast, Administrative Aide III

SUBJECT    BZA 47-85: Southwest corner of  
              Handley and 31st Street South  
              (903 West 31st Street South)

CPO Council "C" considered the captioned case at its August 12th meeting and voted 5-0 to recommend approval of the variance to reduce the required set back adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only on property located at the aforementioned location.

The applicant and agent were present to describe the request and respond to questions from the Council. No adjoining property owners or area residents were present concerning the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 47-85 is considered at the August 27th meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

Attachments  
Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director

RECEIVED

AUG 19 1985

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

# RE: AGENDA ITEM NO. 4

SECRETARY'S REPORT  
CASE NO. BZA 47-85

APPLICANT: Charles D. Sutherland, Jr., 917 West 31st Street South, Wichita, Kansas.

AGENT: Charles E. Sutherland, 112 East 2nd, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required setback adjacent to Handley from 30 feet to 20 feet and adjacent to 31st Street South from 35 feet to 0 feet, both for off-street parking purposes only.

GENERAL LOCATION: On the southwest corner of Handley and 31st Street South.

ZONING: Subject property is zoned the "B" Multiple-family Dwelling District. Property to the north and south is "AA" One-family Dwelling District and to the east is the "R-5" General Residence District. To the west is "OC" Office Commercial District.

LAND USE: Subject property is off-street parking for commercial development to the west. To the south are one-family dwellings and to the east are apartments. To the north is a church.

## 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 of the required setbacks from 30 feet to 20 feet adjacent to Handley and from 35 feet to 0 feet adjacent to 31st Street South for off-street parking purposes only. Off-street parking is permitted in the "B" Multiple-family Dwelling District provided the parking and circulation drives must not occupy the front yard setbacks. In this case, there is a 30 foot platted setback adjacent to Handley and a 35 foot platted setback adjacent to 31st Street South. This property is a portion of a zoning lot that is developed with commercial uses to the west. Central Inspection has issued permits for the development of the property and had erred in the issuance of the permit for the parking lot in violation of the setbacks. Although the applicant has maintained the normal 20 foot setback generally required by the "B" district adjacent to Handley, parking is provided to the property line adjacent to 31st Street South.

It is the Secretary's opinion that the maintaining of the twenty foot setback adjacent to Handley generally complies with the intent of the zoning ordinance. Unfortunately the lot was platted with 30 foot and 35 foot setbacks creating greater restrictions. The entire use of the setback adjacent to 31st Street South where the property to the west for approximately a quarter of a mile permits parking to the property line since it is zoned commercially and there is no restriction.

## UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the setbacks established on the plat exceed the normal setback in the "B" district, and the normal setback is being maintained as a landscaped yard adjacent to Handley. Also, the zoning to the west is commercial which has no limitation and the property is adjacent to an arterial street on the north.

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 applicant is maintaining a twenty foot landscaped area adjacent to Handley which should provide protection to the residences to the south and east, and the parking adjacent to an arterial across the street from an institutional use should not be inappropriate.

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 improvements have been made after the issuance of the building permit based on the plans submitted, and to remove the parking and driveways from the setback would not provide the number of parking spaces required by the ordinance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the platted setbacks for off-street parking purposes only will not interfere with any right-of-way or easements.

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 applicant will be maintaining the landscaped areas on Handley that are adjacent to the residential area and street.

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 conditions:

1. The applicant shall maintain a 20 foot landscaped yard for the entire frontage on Handley except for the ingress and egress driveways.
2. The reduction of the setbacks from 30 feet to 20 feet adjacent to Handley and from 35 feet to 0 feet adjacent to 31st Street South shall be for off-street parking and circulation drive purposes only.

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BZA CASE NO. 47-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>16</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>19</u>	TOTAL NOTICES SENT <u>8-7-85</u>

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

August 7, 1985

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CASE NO. BZA 47-85

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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. 47-85

*use amended plat from 46-85*

CITY OF WICHITA, KANSAS

FILED 7-24-85

APPLICATION FOR VARIANCE

I. Name of Applicant CHAS. D. SUTHERLAND, JR.  
 Mailing Address 917 W. 31<sup>ST</sup> STREET Phone 529-2620  
 Name of Authorized Agent CHAS. E. SUTHERLAND  
 Mailing Address 112 E. 2<sup>ND</sup> Phone 263-8308  
 Relationship of applicant to property is that of OWNER  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce required setback from 35 feet to 0 feet adjacent to 31<sup>ST</sup> STREET and from 30 feet to 20 feet adjacent to Handley, for off-street parking purposes only.  
for property located on the southwest corner of Handley and 31<sup>ST</sup> Street So. (900 blk. W. 31<sup>ST</sup> St. So.)  
 and legally described as: \* Lot 1, Sutherland 6<sup>th</sup> Addn., to Wichita, Sedgwick County, Kansas  
\* The east 60 feet of

In the City of Wichita; and which is presently zoned "B".

- 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 Charles D. Sutherland, Jr.

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,  
9:00 (a.m./p.m.), July 24, 1985, together with  
 appropriate fee of 150.00.

Signed A. J. Lytle

**MICROFILMED**  
 FROM THE BEST  
 AVAILABLE COPY

FORM 29-021	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
(2) BZA VAR. CIST	\$ 300 <sup>00</sup>
(1) BZA EXCEPT	200 <sup>00</sup>
	\$ 500 <sup>00</sup>
NAME CHAS. D. SUTHERLAND, JR.	
ADDRESS 717 W. 31 <sup>ST</sup> ST. SO.	
FUND 755-46710-003	DUE DATE
COMMENTS	
DATE JULY 23, 1925	BY <i>[Signature]</i>

\*

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

Roll # 2