

Case No. BZA 49-79 Capitol
Fed. S&L requests variance to
the screening requirement ad-
jacent to residential zoning
on prop. zoned "LC" & gen. loc.
at the northeast corner of Rock

BZA
49-79

ACTION

DATE

10-23-79

POSTED
10-1-79

COMMITTEE

APPROVED

M.A.P.C.

B.C.C./B. C.C.

✓ 200' MAPD 10-31-79
✓ 200' CI 10-31-79

— RECORDED

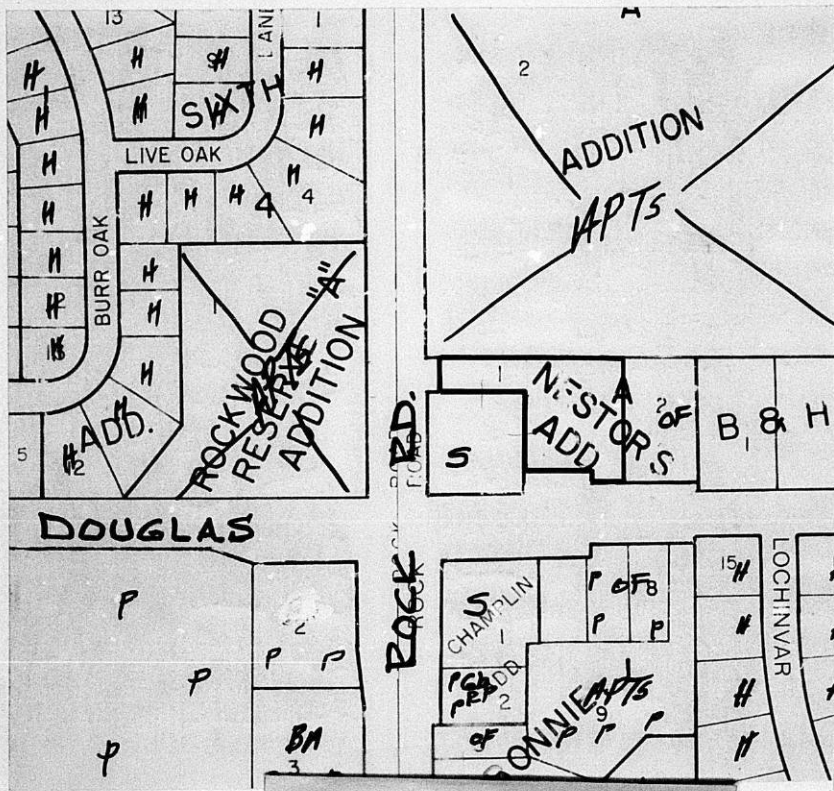
Case No. BZA 49-79 Capitol
Fed. S&L requests variance to
the screening requirement ad-
jacent to residential zoning
on prop. zoned "1C" & gen. loc.
at the northeast corner of Rock

Map No. 6047
 Sec. 20
 Twp. 27
 Range 2E

BZA- 49-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA: (IRREGULAR)
 1. Acres: 1.0 (225 ft. by 335 ft.)
 2. Adjoining Zoning: E BB S _____ W _____ N _____
 3. Land Use: East OFFICE South OFFICE
 West SERV. STAT. North APARTMENTS
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: ?
 5. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



Smyland
 No. 2-153C
 HASTINGS, MN - LOS ANGELES
 LOGAN, OH - MEMPHIS, TX U. S. A.

BZA 49-79

November 6, 1979

Donald L. Dillon, Vice President
Capitol Federal Savings & Loan Association
700 Kansas Avenue
Topeka, Kansas 66603

Re: Case No. BZA 49-79
Request for Variance

Dear Mr. Dillon:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 23, 1979, in connection with your request for a variance of the screening requirement adjacent to residential zoning on property zoned "LC" Light Commercial and generally located at the northeast corner of Rock Road and Douglas.

This Resolution reflects the official action of the Board to approve this request, 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:bbc
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO. BZA 49-79

WHEREAS, Capitol Federal Savings & Loan Association, 700 Kansas Avenue, Topeka, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to vary the screening requirement adjacent to the residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Block A, Nestor's Addition to
Wichita, Sedgwick County, Kansas.
Generally located at the northeast
corner of Rock Road and Douglas.

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 October 23, 1979, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the development on the "AA" Single-family property is a commercial business; 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 they have agreed that the variance to remove the screening requirement would be in their best interest; 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 installation of a screening fence between commercial properties is not an appropriate location and the cost would be wasted; 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 inasmuch as the visual appearance should be enhanced without the screening; 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 ordinance is to provide protection to residential properties from the adverse affects of commercial development; 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.

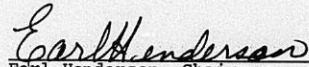
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to vary the screening requirement adjacent to the residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Block A, Nestor's Addition to
Wichita, Sedgwick County, Kansas.
Generally located at the northeast
corner of Rock Road and Douglas


be approved subject to the following condition:

1. Approval shall be for only that part of the application area adjacent to the "AA" Single family zoning on the south and west.

ADOPTED AT WICHITA, KANSAS, this 23rd day of October,
1979.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

October 24, 1979

Donald L. Dillon, Vice President
Capitol Federal Savings and Loan Association
700 Kansas Avenue
Topeka, Kansas 66603

Re: Case No. BZA 49-79
Request for Variance

Dear Mr. Dillon:

At the regular meeting of the Board of Zoning Appeals on Tuesday, October 23, 1979, your request for a variance of the screening requirement adjacent to residential zoning on property zoned the "LC" Light Commercial District, and generally located at the northeast corner of Rock Road and Douglas was considered.

It was the action of the Board to approve this request subject to the following condition:

1. Approval shall be for only that part of the application area adjacent to the "AA" Single Family zoning on the south and west.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:bhc

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 19, 1979

TO Jack Galbraith, Chief Planner, Current Plans

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 49-79 (Northeast corner of Rock
Road and Douglas)

On October 15, CPO Council "H" voted 6-0 to recommend approval of the captioned case. The Council agreed with the applicant that, it is unlikely that the Vicker's property will develop residentially, therefore the Council felt that a screening fence is not needed. No one was present to protest the case.

Bill Morris

Bill Morris
CPO Administrative Aide

BM:ml

Noted:

Sarah Gilbert

Sarah Gilbert
Assistant CP Coordinator

RECEIVED

OCT 22 1979

METROPOLITAN PLANNING

ROUTE _____

SECRETARY'S REPORT
CASE NO. BZA 49-79

APPLICANT: Capitol Federal Savings & Loan Association,
700 Kansas Avenue, Topeka, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to vary the
screening requirement adjacent to the
residential zoning district.

GENERAL LOCATION: At the northeast corner of Road Road
and Douglas.

ZONING: Subject property is zoned "LC" Light
Commercial as is the property to the
east. Property to the north is "B"
multiple family. South and west is
"AA" single family.

LAND USE: Subject property has a financial office
under construction, to the north an
apartment complex, to the south and west
a nonconforming service station.

JURISDICTION:

The Board has jurisdiction to consider the variance request
under the provisions outlined in Section 2.12.590.B, Code of the
City of Wichita. The Board may grant the request when all five
of the following conditions are found to exist:

1. That the variance requested arises from such condition
which is unique to the property in question and which
is not ordinarily found in the same zone or district;
and is not created by an action or actions of the prop-
erty owner or the applicant.
2. That the granting of the permit for the variance will
not adversely affect the rights of adjacent property
owners or residents.
3. That the strict application of the provisions of Title 28
of which variance is requested will constitute unnecessary
hardship upon the property owner represented in the appli-
cation.

Case No. BZA 49-79
BZA AGENDA
10-23-79
Page 2

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the screening requirement adjacent to the residentially zoned property located to the south and west of the application area. The ordinance required that a screening fence be located at any side or rear property lines of commercial, industrial or institutional development when adjacent to a residential zoning district.

The application area is an "L" shaped lot adjacent to the "B" multiple family district on the north and the "LC" light commercial district to the east. Within the "L" shaped portion of the lot is "AA" single family district, occupied by a nonconforming service station. The owner of the service station has indicated that a variance of the screening between the service station and the adjacent development would be in the best interest of both parties.

UNIQUENESS:

It is the opinion of the Secretary that the requested variance arises from a unique situation inasmuch as the development on the "AA" Single-family property is a commercial business.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of the adjacent property owner inasmuch as they have agreed that the variance to remove the screening requirement would be in their best interest.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may create an unnecessary hardship upon the applicant inasmuch as the installation of a screening fence between commercial properties is not an appropriate location and the cost would be wasted.

Case No. BZA 49-79
BZA AGENDA
10-23-79
Page 3

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public interest inasmuch as the visual appearance should be enhanced without the screening.

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 ordinance is to provide protection to residential properties from the adverse affects of commercial development.

RECOMMENDATION:

If the Board determines that the five conditions necessary to the granting of the variance can be found to exist, it is the Secretary's recommendation that the variance requested be granted and that no screening be required adjacent to the residential zoning to the south and west.

BZA CASE NO.

49-79

1

NOTICES SENT TO APPLICANT/AGENT

10

NOTICES SENT TO MAPC

1

NOTICES SENT TO CPO

13

NOTICES SENT TO ADJOINING PROPERTY OWNERS

25

TOTAL NOTICES SENT

10-3-79

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

October 3, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 49-79

An application has been filed by Capitol Federal Savings and Loan Association, 700 Kansas Avenue, Topeka, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance of the screening requirement adjacent to residential zoning on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Block A, Nestor's Addition to Wichita,
Sedgwick County, Kansas. Generally located
at the northeast corner of Rock Road and Douglas.

This application has been assigned case No. BZA 49-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 23, 1979, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 49-79

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

Attn: Donald L. Dillon, VP

I. Name of Applicant Capitol Federal Savings and Loan Association
700 Kansas Avenue
Mailing Address Topeka, Kansas 66603 Phone (913) 235-1341

Name of Authorized Agent N/A

Mailing Address N/A Phone N/A

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is partial relief of requirement for
a variance of the screening requirement
erecting of screening fence (see attached letter and exhibit)
adjacent to residential zoning

for property located at the northeast corner of Rock Road and Douglas
8000 block of East Douglas Avenue
1

and legally described as: Lot 1, Block A, Nestor's Addition to

Wichita, Sedgwick County, Kansas

LC light
in the City of Wichita; and which is presently zoned commercial.

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. 24-606); 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.

(913) 235-1341

are attached hereto as noted in paragraphs the instructions.

DONALD L. DILLON
FIRST VICE PRESIDENT

CAPITOL FEDERAL SAVINGS AND LOAN ASSOCIATION
700 KANSAS AVENUE
TOPEKA, KANSAS 66608

Capitol Federal Savings
and Loan Association

Applicant By *Donald L. Dillon*
Donald L. Dillon

N/A First Vice President
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10:25 (a.m. - p.m.), September 20 19 79 together with appropriate fee of \$50.00.

J. Lynn Shirley Signed

Capitol Federal Savings

AND LOAN ASSOCIATION

700 KANSAS AVENUE
TOPEKA, KANSAS 66603
PHONE (913) 235-4341



September 7, 1979
Capitol Federal's 86th Year

DONALD L. DILLON
FIRST VICE PRESIDENT

Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main
Wichita, Kansas 67202

in re: Lot 1, Block A, Nestor's
Addition to Wichita,
Sedgwick County, Kansas

Gentlemen:

Capitol Federal Savings is preparing to construct a branch office on the subject site which abuts to residentially zoned property on both the north and west, as shown on the attached site plan identified as Exhibit A.

On the north, the residentially zoned property is an apartment complex. We will construct and maintain a screening fence along this property line in accordance with the requirements of Title 28.

On the west, the residentially zoned property is a retail gasoline service station owned by Vickers Petroleum Corporation. Inasmuch as Vickers Petroleum Corporation prefers that no screening fence be installed along our property lines that abut theirs, as evidenced by the attached letter identified as Exhibit B, and inasmuch as there is no probability that their property will ever be utilized for residential purposes, we request that we be granted a variance from the provisions of Title 28 that require the installation of a screening fence along our property lines that abut the property owned by Vickers Petroleum Corporation.

Sincerely,

Donald L. Dillon
First Vice President

DLD:JW

MEMBER FEDERAL HOME LOAN BANK SYSTEM
MEMBER FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION



1201 TOPEKA BLVD.
2100 FAIRLAWN RD.
TOPEKA, KANSAS

6TH AVENUE & COMMERCIAL
EMPORIA, KANSAS

IOWA & HARVARD
11TH & VERMONT
LAWRENCE, KANSAS

14TH & POYNTZ
MANHATTAN, KANSAS

5251 JOHNSON DR.
MISSION, KANSAS

SANTA FE & BURCH
OLATHE, KANSAS

95TH & NALL
87TH & SANTA FE
OVERLAND PARK, KANSAS

76TH TERRACE & STATE LINE
PRAIRIE VILLAGE, KANSAS

5700 NIEMAN ROAD
SHAWNEE, KANSAS

HENRY A. RUBB, CHAIRMAN
JOHN C. DICUS, PRESIDENT

EXHIBIT B



VICKERS PETROLEUM CORPORATION

VICKERS-KSB&T BUILDING / AC 316-267-0311
P. O. BOX 2240 / WICHITA, KANSAS 67201

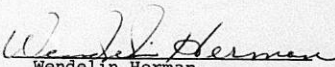
September 10, 1979

To the Board of Zoning Appeals of
the City of Wichita:

Please be advised that after careful consideration,
Vickers Petroleum Corporation consents to a fence variance
being granted to Capitol Federal Savings & Loan Association
by the Board of Zoning Appeals. Such a variance in this
case would be in the best interest of both parties.

VICKERS PETROLEUM CORPORATION

By:


Wendelin Herman
Vice President

REFINERS AND MARKETERS OF PETROLEUM PRODUCTS

EXHIBIT B

September 18, 1979

Metropolitan Area Planning Commission
City Hall--10th Floor
455 North Main
Wichita, Kansas 67202

OWNERSHIP LIST

Re: Ownership of properties adjacent to,
and within a 200 foot radius of:
Lot 1, Block "A", Nestor's Addition.

<u>LOT & BLOCK</u>	<u>ADDITION</u>	<u>PROPERTY OWNERS</u>
Lot 1, Block A	Nestor's Addition	Capitol Federal Savings and Loan Association 700 Kansas Topeka, Kansas 66601
Lot 2, Block A Undivided $\frac{1}{2}$ interest	"	Nestor R. Weigand, Jr. #12 Colonial Wichita, Kansas 67207
Lot 2, Block A Undivided $\frac{1}{2}$ interest	"	Karl Solomon 1102 Whitfield Lane Wichita, Kansas 67206
Lot 1	B & H Addition	Harvey W. & Merle J. Hefley 1441 N. Rock Road Wichita, Kansas 67206
Lot 2, Block A	Rockborough Addition	Windsor at Rockborough, a limited partnership consisting of: (1) Elise R. Wallace Little Pond, South Street Sherborn, Massachusetts 01770 (2) James J. O'Brien 100 Federal Street Boston, Massachusetts 02110 (3) Anne H. Wallace 256 Chestnut Hill Road Chestnut Hill, Massachusetts 02167 (4) Sean Cummings #9 Patriots Way Hingham, Massachusetts 02043 (5) Stuart R. Johnson 3 Big Rock Road Manchester, Massachusetts 01944 (6) Windsor at Rockborough, Inc. 202 N. Rock Road Wichita, Kansas 67206
Lot 1	Champlin Addition	Champlin Petroleum Company, Inc. Box 9365 Pt. Worth, Texas 76107 Attn: Richard Cartlidge
Lot 6	Bonnie Brae 2nd Addition	Willard W. & Regina B. Watson 201 South Terrace Wichita, Kansas 67218
Lots 7 & 8	"	O'Donnell Corporation c/o Don Lambdon 301 North Market Wichita, Kansas 67202

OWNERSHIP LIST

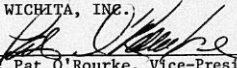
Page 2

Beginning 50 feet East and 40 feet North of
Southwest Corner of Northwest Quarter, thence
North 175 feet, thence East 175 feet, thence
South 175 feet, thence West 175 feet to the
POINT OF BEGINNING, Section 20, Township 27,
Range 2 East, Sedgwick County, Kansas.

J. A. Vickers
c/o Vickers Refining Co., Inc.
P. O. Box 2240
Wichita, Kansas 67201

Columbian National Title Insurance of Wichita, Inc., hereby certifies the foregoing to be a true and correct list of property owners of the herein described parcels, as shown by the last deeds of record in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 13th day of September, 1979 at 7:00 A.M.

COLUMBIAN-NATIONAL TITLE INSURANCE
OF WICHITA, INC.


By: Pat O'Rourke, Vice-President

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-21

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
EZAV	50

NAME _____

ADDRESS _____

FUND _____ DUE DATE _____

COMMENTS _____

DATE 1/2/79 BY [Signature]

*

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

Roll # 2