

Case No. BZA 72-85 - Bruce B. Oschner
requests a variance to eliminate the re-
quired screening fence between an office
development & the adjoining residentially
zoned properties to the east & north on
property zoned "B" Multiple-family
Dwelling District & generally located

POSTED
12-31-85 REC

ACTION

B.Z.A. 72-85 APPROVED

1/28/86
DATE

200' Use 2-13-86
Shot 2-27-86
Record ✓

February 5, 1986

Bruce B. Oschner, M.D.
1035 North Emporia
Wichita, Kansas 672014

Re: BZA 72-85. On the northeast corner of 10th Street and Topeka.

Dear Dr. Oschner:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on January 28, 1986.

This Resolution reflects the official action of the Board to grant, your request and sets out the conditions of approval. It is forwarded to you for your information and files.

It is noted on the plans submitted with the application that the signs to be located adjacent to the corner exceed the gross surface area permitted by the "BB" Office District. Please see that these signs are not installed in violation of the zoning limitation.

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL/lw

Enclosure

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION CASE NO. 72-85

WHEREAS, Bruce B. Oschner, M.D., 1035 N. Emporia, Suite 235, Wichita, Kansas, requests a variance to eliminate the required screening fence between an office development and the adjoining residentially zoned properties to the east and north, on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

Lots 200, 202, 204 and 206 on Topeka Avenue in Stafford and Wrights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Tenth Street and Topeka.

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 January 28, 1986, 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 developed area is surrounded by existing offices and off-street parking that are of the same general character as the development of the application area and is not a residential area; 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 property to the east is an existing parking lot and the property to the north is an office facility and parking which is the same use as is proposed for this property; 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 installation of a screening fence along the north property line separating two office uses, and the installation of a screening fence along the alley property line would not serve the intent of the screening and would interfere with the parking circulation for the spaces adjacent to the alley; 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 elimination of the screening fence will not interfere with any needed right-of-way or easement; 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 screening requirement is to provide separation and protection from the possible adverse affect caused by commercial and institutional uses when located immediately adjacent to residential uses; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.


NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence between an office development and the adjoining residentially zoned properties to the east and north, on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

Lots 200, 202, 204 and 206 on Topeka Avenue in Stafford and Wrights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Tenth Street and Topeka.

be approved subject to the following conditions:

1. The required screening fence may be eliminated along the north and east property line.
2. Only such signs permitted by Section 28.04.239 of the zoning ordinance shall be installed to designate the use of the property and the control of the parking spaces.

ADOPTED AT WICHITA, KANSAS, this 28th day of January, 1986.


William J. Coebel, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

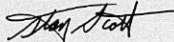
OFFICE OF CITIZEN RIGHTS AND SERVICES DATE January 10, 1986

TO Glen Lytle, Special Assistant for Zoning

FROM Stanley J. Scott, CP Coordinator

SUBJECT BZA 72-85: Northeast Corner
of 10th and Topeka

Due to scheduling of CPO meetings, CPO Neighborhood Council "L" will not be able to provide a recommendation to the Board of Zoning Appeals regarding the captioned case, BZA 72-85.



Stanley J. Scott
CP Coordinator

SJS

RECEIVED

JAN 10 1986

METROPOLITAN PLANNING

ROUTE

RE: AGENDA ITEM NO. 5

SECRETARY'S REPORT
CASE NO. BZA 72-85

APPLICANT: Bruce B. Oschner, M.D., 1035 N. Emporia,
Suite 235, Wichita, KS 67214

AGENT: None.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to eliminate the
required screening fence adjacent to the
north and east property lines.

GENERAL LOCATION: On the northeast corner of 10th Street and
Topeka.

ZONING: Subject property is zoned the "B"
Multiple-family District as are the properties
to the north and east. To the west is "BB"
Office District and to the south is "C"
Commercial.

LAND USE: Subject property is being developed as a
medical office. Property to the north and
west are offices and to the east is a parking
lot. To the south is the St. Francis Regional
Medical Complex.

JURISDICTION:

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

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to eliminate the required screening fence that is required to be installed on properties being developed as commercial and institutional uses when located adjacent to any residential zoning district. In this case the application area is adjacent to property located in the "B" Multiple-family Dwelling District on the north and the east. Both properties are developed other than with residential uses and the requirement for screening of the property would not serve the intended purpose.

The property to the north is an existing office use and the property to the east is an off-street parking lot. These uses are compatible with the uses being established on the application area and as such should not be affected by the elimination of the screening fence.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the developed area is surrounded by existing offices and off-street parking that are of the same general character as the development of the application area and is not a residential area.

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 property to the east is an existing parking lot and the property to the north is an office facility and parking which is the same use as is proposed for this property.

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 installation of a screening fence along the north property line separating two office uses, and the installation of a screening fence along the alley property line would not serve the intent of the screening and would interfere with the parking circulation for the spaces adjacent to the alley.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of the screening fence will not interfere with any needed right-of-way or easement.

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 screening requirement is to provide separation and protection from the possible adverse affect caused by commercial and institutional uses when located immediately adjacent to residential 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 conditions:

1. The required screening fence may be eliminated along the north and east property line.
2. Only such signs permitted by Section 28.04.239 of the zoning ordinance shall be installed to designate the use of the property and the control of the parking spaces.

BZA CASE NO. 72-85

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>15</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>10</u>	TOTAL NOTICES SENT <u>1/7/86</u>

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

January 6, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 72-85

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 Bruce B. Oschner, M.D., 1035 N. Emporia, Suite 235, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening fence between an office development and the adjoining residentially zoned properties to the east and north, on property zoned the "B" Multiple-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 200, 202, 204 and 206 on Topeka Avenue in Stafford and Wrights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Tenth Street and Topeka.

This application has been assigned Case No. BZA 72-85. It will be considered by the Board of Zoning Appeals on January 28, 1986 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.

Glen E. Lytle
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 72-85

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Bruce B. Ochsner, M.D.
Mailing Address 1035 N. Emporia STE 235 Phone 316-263-0322
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 for approval of site plan in particular the screening required per Section 28.04.160(K) of the Wichita Zoning Ordinance for the north and east property lines.
for property located on the ^{northwest} corner of Topeka and Tenth Street
North.
and legally described as: all of lots 200,202,204,206 on Topeka Avenue in Stafford and Wrights Addition, City Of Wichita, County of Sedgwick, Kansas.

in the City of Wichita; and which is presently zoned 'B' Multiple-Family.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Bruce B. Ochsner MD

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:30 (a.m./p.m.), DEC. 30, 1985, together with appropriate fee of 300.00.

Signed A. Lytle

December 23, 1985

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

RE: Application for Variance

This application for variance is being submitted for approval in response of Section 28.04.160(k) of the Wichita Zoning Ordinance. This section states the requirement of screening of office, commercial, institutional and industrial development. The north side yard is adjacent to an office building containing no south side yard screening. The adjacent building has also received a variance for parking off the alley thus staying with the context of the surroundings; we have also designed with this in mind. The attached site plan shows a secondary access from the alley with six off-street parking spaces, adjacent to that alley. The site design shows a consistency with the existing surroundings.

 *Ben Oberman* MD



ST. FRANCIS REGIONAL MEDICAL CENTER

December 30, 1985

Board of Zoning Appeals
% Metropolitan Area Planning Department
45 W. Main
Wichita KS 67202

ATTN: Mr. Glen Lytle

RE: BZA Variance even Lots 200 thru
206, Stafford & Wrights Addition
on Topeka - Dr. Bruce B. Oschner

Dear Mr. Lytle:

We are the owners of property in the area of 10th & Topeka. Our property is north, east, and south of the above referenced property which has filed for a Variance with the Board of Zoning Appeals. It is our understanding that they are requesting a drive entry off the alley to the rear of their property.

Please be advised that, as adjacent property owners, we have no objection to the requested Variance and are in support of the efforts of the property owner toward the development of their property including the requested Variance. Should you have any questions, please feel free to call me.

Very truly yours,

St. Francis Regional Medical Center

By: 
Director, Real Estate Development &
Property Management

cc: Dr. Bruce B. Oschner

OWNERSHIP LIST

Lot	Addition	Property Owner
Lots 200, 202, 204 & 206	Stafford & Wright's on Topeka	Bruce B. Ochsner 1035 N. Emporia Wichita, KS 67214
Lots 208, 210, 212, 214, 216, 218, 220 & 222	"	City of Wichita 455 N. Main Wichita, KS 67202
Lots 215, 217, 219 & 221, except any portion of the E½ of vacated alley which has or may accrue in future.	"	Tyrone D. Artz 1125 N. Topeka Wichita, KS 67214
The North 50 feet of the East 150 feet of Harvey's Reserve.	"	J. W. Johnson Mattie Johnson 1113 N. Topeka Wichita, KS 67214
Lots 199, 201, 203, 205, 207, 209, 211, 213, 215, 217 & 219	Stafford & Wright's on Emporia	City of Wichita 455 N. Main Wichita, KS 67202
Lot 221	"	Petronilla V. Steiner 1127 N. Emporia Wichita, KS 67214
Lots 1, 3 and the North 10 feet of Lot 5	Stone's Addition on Topeka	Topeka Street Properties No. 1 c/o Remco 100 S. Main, Suite 135 Wichita, KS 67202
South 15 feet of Lot 5, all of Lot 7 & the North 10 feet of Lot 9	"	Johansen, Inc. c/o Russell G. Johansen Rt. 2, Augusta KS 67010
South 15 feet of Lot 9 and all of Lot 11	"	McDonald's Corp. Box 66207 AMF O'Hare Chicago, IL 60666
Lots 1 & 2 Block A	Frazey Addition	Topeka Street Properties No. 2 1109 N. Topeka Wichita, KS 67214
That part of Lot 1, Block 1, St. Francis Regional Medical Center Addition, formerly platted as Lot 1, Block A, St. Francis Medical Park	St. Francis Regional Medical Center Addition	St. Francis Hospital & School of Nursing, Inc. n/k/a St. Francis Hospital of Wichita, Inc. 929 N. St. Francis Wichita, KS 67214

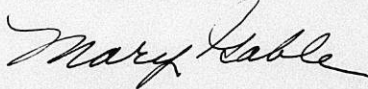
Page 2

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

Lots 200, 202, 204 and 206, on Topeka,
Stafford & Wright's Addition to Wichita,
Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 26th day of December, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.



By
Sr. Vice-President

Order No: 354594
nj

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-02

PAYMENT NOTICE
City of Wichita

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

Planning

DESCRIPTION	AMOUNT
CITY 224 VAC	1300.00
NAME <i>THOMAS B. WILSON M 12</i>	
ADDRESS <i>435 N. E. 22ND</i>	
FUND <i>4070-03</i>	DUE DATE
COMMENTS	
DATE <i>DEC 28 1975</i>	BY <i>[Signature]</i>

*

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

Roll # 2