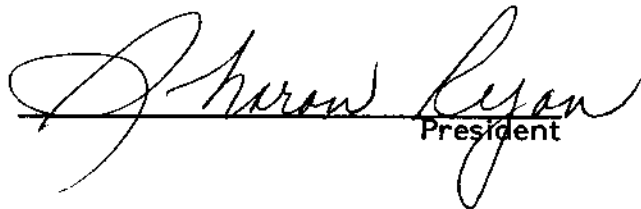


be approved, subject to the following condition:

1. The variance to eliminate the screening fence adjacent to the residential zoning district shall be granted only along the east property line.

ADOPTED AT WICHITA, KANSAS, this 24th day of May, 1988.



President

ATTEST:



Louise Olivarez, Assistant Secretary

RESOLUTION NO. BZA 19-88

WHEREAS, Henry J. Jacobs, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and which is adjacent to property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 1, Henry J. Jacobs Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Central in an area west of Nevada Street.

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 May 24, 1988, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or the applicant inasmuch as the property adjacent to the east which is zoned "AA" and which causes the screening requirement is actually developed with a legal, nonconforming commercial use (auto repair shop); 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 only property affected by the waiver of the screening is the property to the east which is developed with a legal, nonconforming commercial use; 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 it is unnecessary to require screening of one commercial use from another commercial use and it is probable that the property to the east will become zoned "LC" in the near future. It would be an unnecessary financial burden to require the applicant to screen along his east property line under these circumstances; 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 requested variance relates only to the fence being deleted between two private property owners, both of whom will operate commercial businesses; 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 in requiring screening between commercial and residential districts is to protect residential uses from the possible adverse effects of commercial development, but in this case the adjacent residential zoning is occupied by a commercial use; 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 be approved for a variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and which is adjacent to property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 1, Henry J. Jacobs Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Central in an area west of Nevada Street.

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4421

May 25, 1988

Henry J. Jacobs
9314 Harvest Lane
Wichita, KS 67212

Re: BZA 19-88 - Variance to waive the screening requirement along the east property line of Lot 1, Henry J. Jacobs Addition.

Dear Mr. Jacobs:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 24, 1988. This Resolution reflects the official action of the Board to approve your 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,

Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO/jcm
Enclosure

cc: Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

BACKGROUND: The applicant is requesting a variance to eliminate the required screening fence along the east property line of Lot 1, Henry J. Jacobs Addition, adjacent to the "AA" district. There is a legal, nonconforming auto repair shop on the lot to the east. The property is at a location on west Central where the adopted zoning policy is to favor "LC" zoning. Prior to the recent rezoning to "LC" of the east portion of the application area, the lot in its former configuration as Lot 2, Peltzer Addition, received a variance on the screening requirement in 1981 (BZA 8-81). The applicant does intend to erect a solid fence along the north line of the application area which is adjacent to undeveloped "AA" property.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	Undeveloped
SOUTH	"LC"	Strip commercial
EAST	"AA"	Auto repair
WEST	"LC"	Print shop

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property adjacent to the east which is zoned "AA" and which causes the screening requirement is actually developed with a legal, nonconforming commercial use (auto repair shop).

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the only property affected by the waiver of the screening is the property to the east which is developed with a legal, nonconforming commercial use.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as it is unnecessary to require screening of one commercial use from another commercial use and it is probable that the property to the east will become zoned "LC" in the near future. It would be an unnecessary financial burden to require the applicant to screen along his east property line under these circumstances.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the requested variance relates only to the fence being deleted between two private property owners, both of whom will operate commercial businesses.

SPIRIT AND INTENT: It is the opinion of staff 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 in requiring screening between commercial and residential districts is to protect residential uses from the possible adverse effects of commercial development, but in this case the adjacent residential zoning is occupied by a commercial use.

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 variance to eliminate the screening fence adjacent to the residential zoning district shall be granted only along the east property line.

May 24, 1988

SECRETARY'S REPORT

CASE NUMBER:

BZA 19-88

OWNER/APPLICANT/AGENT:

Henry J. Jacobs (owner/applicant)

REQUEST:

Variance to eliminate the required screening fence along the east property line adjacent to the "AA" zoning district

CURRENT ZONING:

"LC" Light Commercial

SITE SIZE:

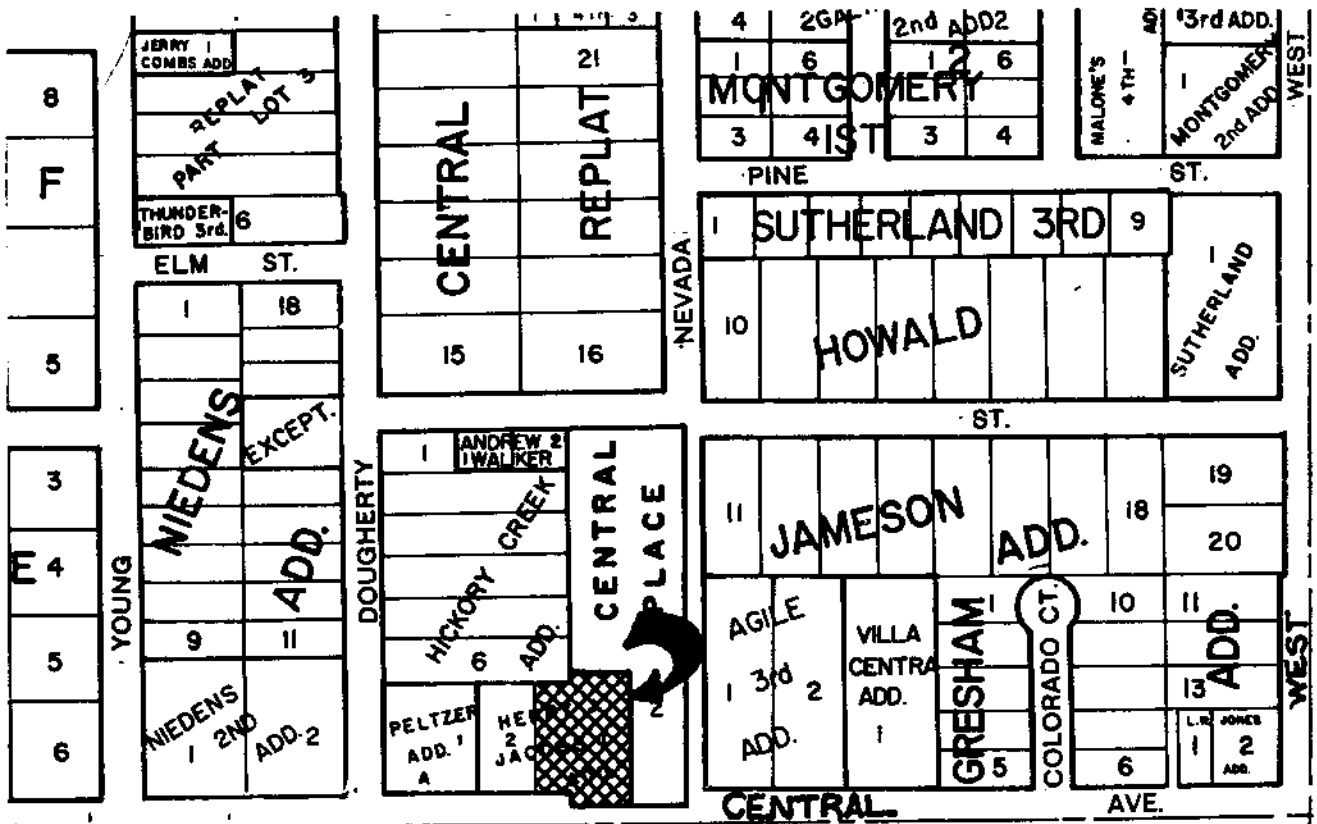
100 ft. x 190 ft.

LOCATION:

North side of Central in an area west of Nevada Street

PROPOSED USE:

Offices and retail



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.