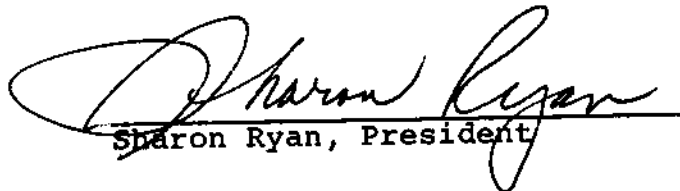


Lot 1, Eighth Addition to Cherry Creek Hills,  
Wichita, Kansas. Generally located on the east  
side of Rock Road in an area between Pawnee and  
Bluestem.

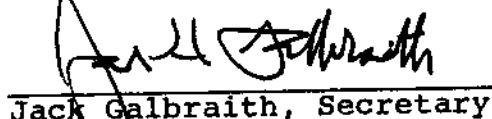
subject to the following conditions:

1. As part of the construction of the proposed office building, the applicant shall provide an appropriate type of flashing to weatherproof the small space which will exist between this office building's south wall and the adjacent commercial building's north wall.
2. The applicant shall install a screening fence along his north property line prior to occupancy of his proposed office building. The fence shall be 5 to 6 feet in height, except within the front 35-foot setback area, where it shall be reduced to 4 feet in height.

ADOPTED AT WICHITA, KANSAS, this 19th day of December, 1989.

  
Sharon Ryan, President

ATTEST:

  
Jack Galbraith, Secretary

BZA RESOLUTION NO. 46-89

WHEREAS, Ted R. Milligan, D.D.S., pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the south side yard setback from 5 feet to 0 feet on property zoned the "BB" Office District and legally described as follows:

Lot 1, Eighth Addition to Cherry Creek Hills, Wichita, Kansas. Generally located on the east side of Rock Road in an area between Pawnee and Bluestem.

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 December 19, 1989, 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 a platted 20-foot utility easement exists along its entire north line (reduced to 15 feet by Vacation Order recorded on Film 733 at Page 1280 in the Sedgwick County Register of Deeds' Office) prohibiting structures within this 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 only the property to the south would be affected and that property has already developed with a commercial building which has no openings in its north wall; 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 a wasted, unusable 5-foot space would be left between buildings and the proposed office building would have to be reduced in width or moved north 5 feet, which would reduce the width of the access drive to the rear parking area; 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 all construction and fire codes can still be complied with and no public access would be deleted by the granting of this variance; 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 side yard setbacks is to maintain adequate building separation for light, air and circulation, but building walls constructed without doors and windows need no light or air and in this instance the vehicular and pedestrian circulation is to be on the other side of the proposed building; 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 reduce the south side yard setback from 5 feet to 0 feet on property zoned the "BB" Office District and legally described as follows:

# SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4561

December 21, 1989

Ted R. Milligan, D.D.S.  
1652 S. Rock Road  
Wichita, KS 67207

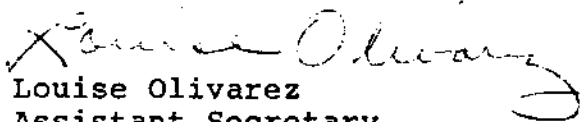
Re: BZA 46-89 - Variance to reduce the south side yard setback  
from 5 ft. to 0 ft., located on the east side of Rock Road  
in an area between Pawnee and Bluestem.

Dear Dr. Milligan:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on December 19, 1989. 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.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,

  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

cc: Paul Hays, CID  
Lance Flowers, CID  
Dale Rea, Deputy City Clerk

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 side yard setbacks is to maintain adequate building separation for light, air and circulation, but building walls constructed without doors and windows need no light or air and in this instance the vehicular and pedestrian circulation is to be on the other side of the proposed building.

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. As part of the construction of the proposed office building, the applicant shall provide an appropriate type of flashing to weatherproof the small space which will exist between this office building's south wall and the adjacent commercial building's north wall.

December 19, 1989

SECRETARY'S REPORT

CASE NUMBER: BZA 46-89

OWNER/APPLICANT/AGENT: Ted R. Milligan, D.D.S. (owner/applicant)

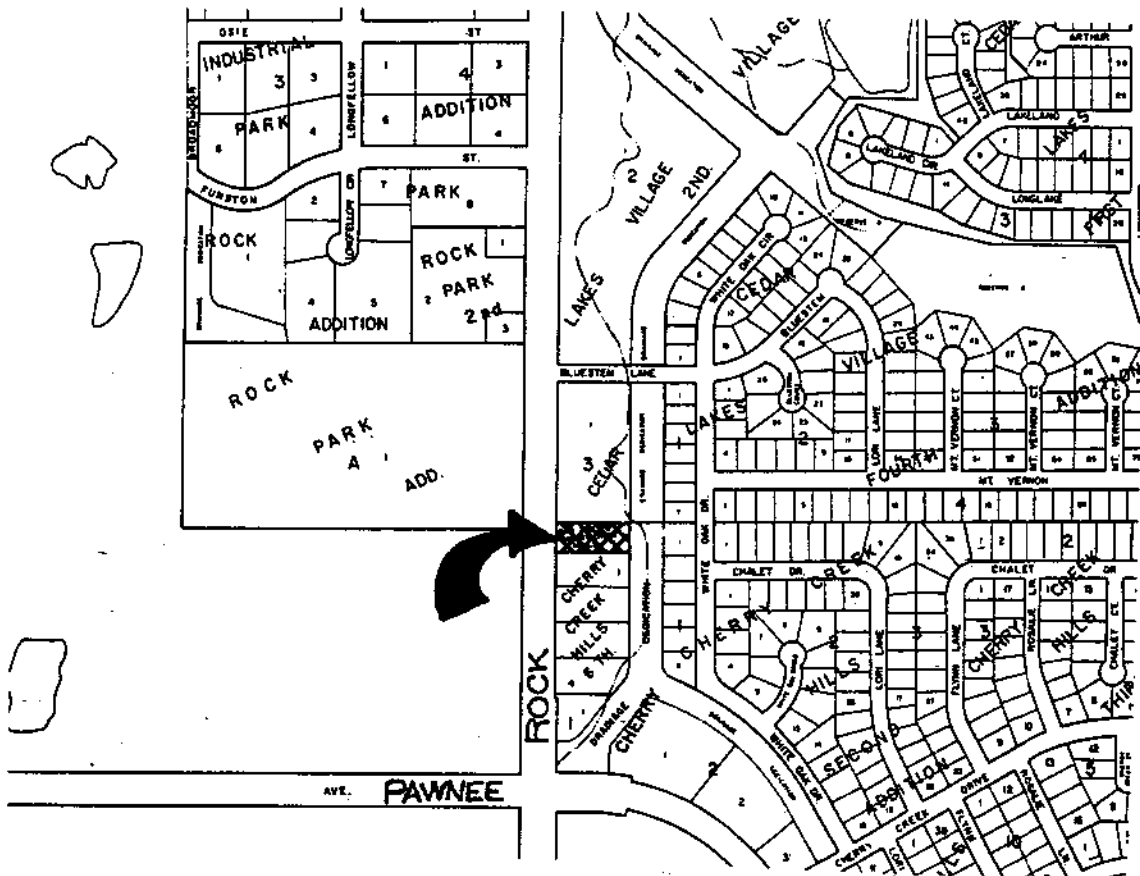
REQUEST: Variance to reduce the south side yard set-back from 5 ft. to 0 ft.

CURRENT ZONING: "BB" Office District

SITE SIZE: 110 ft. x 280 ft.

LOCATION: East side of Rock Road in an area between Pawnee and Bluestem.

PROPOSED USE: Office building



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.

**BACKGROUND:** The applicant is owner of Lot 1, Eighth Addition to Cherry Creek Hills on which he wishes to construct an office building. The lot is 110 feet wide with a 20-foot-wide utility easement along the north side and a 30-foot-wide access easement shared with the property to the south. On this south property is a commercial building constructed to its north property line as is permitted in the "LC" district. The "BB" district, in which the application lot is located, has a 5-foot-wide side yard requirement. The applicant prefers to construct his office building abutting the commercial building to the south rather than leave an unusable 5-foot side yard which would be difficult to keep free of trash and other debris. Since the commercial building was constructed without openings on its north wall, another building could be constructed on the common property line without violating any construction codes. It is recommended, however, that the applicant contact the owner to the south and obtain permission to install some type of roofing material to cover the very small space (measured in inches or fractions of an inch) which will exist between the buildings.

**ADJACENT ZONING AND LAND USE:**

NORTH	"BB"	Apartments
SOUTH	"LC"	Commercial strip center
EAST	"AA"	Drainage ditch
WEST	"E"	Undeveloped

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as a platted 20-foot utility easement exists along its entire north line prohibiting structures within this area which constitutes 18% of the total lot width.

**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 only the property to the south would be affected and that property has already developed with a commercial building which has no openings in its north wall.

**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 a wasted, unusable 5-foot space would be left between buildings and the proposed office building would have to be reduced in width or moved north 5 feet, which would reduce the width of the access drive to the rear parking area.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as all construction and fire codes can still be complied with and no public access would be deleted by the granting of this variance.