

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest inasmuch a reduction of the required setback to 0 feet would provide no area on which landscaping could be placed to screen the parking lot from public view as required in the landscape ordinance. However, a variance to between 3 and 5 feet would provide the required landscaped screening area along Hillside.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance to 0 feet would be opposed to the general spirit and intent of the the zoning ordinance and landscape ordinance inasmuch as no area would be left on site to provide screening of the lot from the Street. However, maintaining a 3 to 5 foot setback would permit a vegetative screen which will soften the effect of the parking lot when viewed from Hillside, a major street.

RECOMMENDATION: Not all five conditions can be justified for granting a variance to 0 feet but they can be justified for granting a variance to between 3 and 5 feet. Therefore, it is the recommendation of the Secretary that a variance to 3 to 5 feet be granted, subject to the following conditions:

1. The front yard setback reduction from 25 feet to between 3 and 5 feet applies only to the north 300 feet of the east side of the site and is for parking and circulation purposes only.
2. Screening fences as required by code shall be installed along the common property line with the residential development on the west side of the site.
3. Within 60 days after approval by the Board, and prior to release of the resolution authorizing this variance, the applicant shall submit a landscape plan to the Secretary for review and approval. The landscaping materials and plan shall comply with the City's landscape ordinance.
4. This parking lot shall be constructed in accordance with all applicable City codes and shall be striped in accordance with the approved site plan and landscaped in accordance with the approved landscape plan within one year following approval of this variance by the Board of Zoning Appeals. (The landscaping shall be installed prior to use of the parking lot.)
5. The resolution authorizing this variance may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

FILE COPY

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3
May 24, 1994

SECRETARY'S REPORT

CASE NUMBER: BZA 9-94

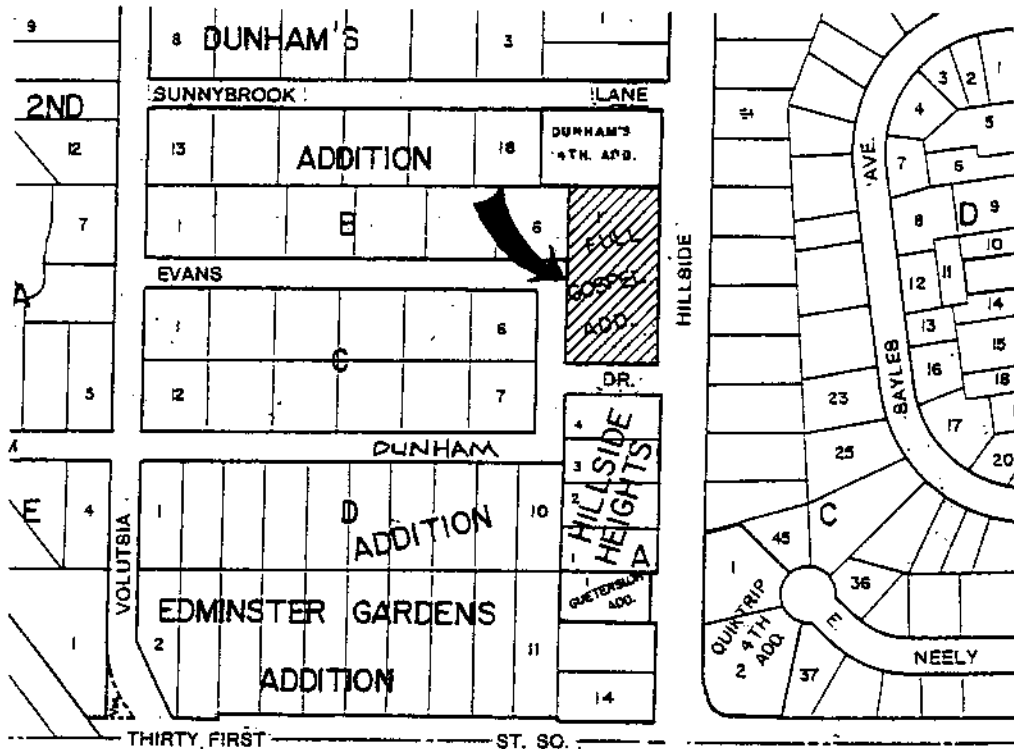
OWNER/APPLICANT: Herb Hudson/Living Word Outreach
AGENT: Garrett Addison/ Smith Construction

REQUEST: Variance to reduce the front yard setback from 25 feet to 0 feet for parking purposes only.

CURRENT ZONING: "RB" Four Family Dwelling

SITE SIZE: 1.58 Acres

LOCATION: Northwest corner of Hillside and Dunham.
(3033 S. Hillside)



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 State Statutes, are found to exist.

BACKGROUND: The applicant, Living Word Outreach, owns property that fronts on Hillside Ave. They desire to construct a new addition onto the current building which occupies the site and is being used as a church. The construction plans include expanding the existing parking lot to the north to meet the parking requirements for the new addition. In order to accomplish this expansion a single family dwelling which presently exists on the northern portion of the site will be removed. To maximize the parking spaces on the new parking area and the area currently being used for parking the applicant requests that the front yard setback be reduced from 25 feet to 0 feet for parking and circulation purposes. The applicant has pointed out that their ownership is the only "RB" zoning lot along the west side of Hillside between Wassall and 31st St. The other lots fronting on to Hillside are zoned "LC" and have parking allowed in the front yard setback.

When this site was originally developed with the church, before platting the ownership, the existing building was constructed and parking developed within the building setback on the south and west sides of the property. Therefore, those encroachments were acknowledged during the platting process and will be allowed to continue as long as the structure exists. In accordance with the City's landscape ordinance, any new parking area is required to be screened when within 150 feet of a major street or a residential zoning district. Sufficient area should be retained as a setback to accommodate this screening which shall be provided by a hedge (5 foot minimum setback needed) or a combination of fence and vines or fence and shrubs (3 foot minimum setback needed).

ADJACENT ZONING AND LAND USE:

NORTH: "LC" - Fast Food (Dairee Freeze) vacant.
SOUTH: "LC" - Office (Schendel Pest Control)
EAST: "LC" - Auto Repair
WEST: "AA" - Single Family Residential

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the properties to the north, south and east of the site are currently zoned "LC" and parking is permitted in the front yard setback.

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 adjacent property owners along Hillside are parking in their front yard setbacks.

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 the additional parking spaces provided in the setback are necessary to meet the number of parking spaces required for the existing building and proposed building addition per parking regulations. These spaces will provide on site parking and alleviate any on street parking which the neighborhood might otherwise experience with the new building addition.

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

July 6, 1994

Herb Hudson/Living Word Outreach
3033 S. Hillside
Wichita, KS 67216

Re: BZA 9-94 - Variance to reduce the front yard setback at 3033 S. Hillside

Dear Mr. Hudson:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on May 24, 1994. 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 now that the landscape plan, as required by condition three, has been submitted and approved.

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

Sincerely,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

cc: Garrett Addison, Smith Construction, P.O. Box 13213, Wichita, KS 67213
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

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 front yard setback from 25 feet to a minimum of 3 feet on property zoned the "RB" and legally described as follows:

Lot 1, Full Gospel Addition, Wichita, Sedgwick County, Kansas.

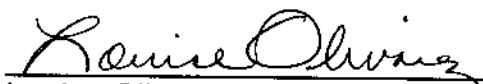
subject to the following conditions:

1. The front yard setback reduction from 25 feet to a minimum of 3 feet applies only to the north 300 feet of the east side of the site and is for parking and circulation purposes only.
2. Screening fences as required by code shall be installed along the common property line with the residential development on the west side of the site.
3. Within 60 days after approval by the Board, and prior to release of the resolution authorizing this variance, the applicant shall submit a landscape plan to the Secretary for review and approval. The landscaping materials and plan shall comply with the City's landscape ordinance.
4. This parking lot shall be constructed in accordance with all applicable City codes and shall be striped in accordance with the approved site plan and landscaped in accordance with the approved landscape plan within one year following approval of this variance by the Board of Zoning Appeals. (The landscaping shall be installed prior to use of the parking lot.)
5. The resolution authorizing this variance may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 24th day of May 1994.


Susan Osborne-Howes, Vice President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 9-94

WHEREAS, Herb Hudson/Living Word Outreach, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback on Hillside from 25 feet to 0 feet on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

Lot 1, Full Gospel Addition, Wichita, Sedgwick County, Kansas.

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, 1994, 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 owners or the applicant inasmuch as the properties to the north, south and east of the site are currently zoned "LC" and parking is permitted in the front yard setback; 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 adjacent property owners along Hillside are parking in their front yard setbacks; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the additional parking spaces provided in the setback are necessary to meet the number of parking spaces required for the existing building and proposed building addition per parking regulations. These spaces will provide on site parking and alleviate any on street parking which the neighborhood might otherwise experience with the new building addition; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a reduction of the required setback to 0 feet would provide no area on which landscaping could be placed to screen the parking lot from public view as required in the landscape ordinance. However, a variance to a minimum of 3 feet would provide the required landscaped screening area along Hillside; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of the zoning ordinance and landscape ordinance inasmuch as a reduction of the required setback to 0 feet would provide no area on which landscaping could be placed to screen the parking lot from public view as required in the landscape ordinance. However, a variance to a minimum of 3 feet would provide the required landscaped screening area along Hillside; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita were not found to exist at the requested "0" foot front yard setback before a variance can be granted, but the required five conditions were found to exist at a setback of a minimum of 3 feet.