

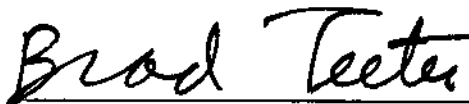
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to allow the replacement of a required solid screening fence with a wrought iron fence on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, except the north 640 feet thereof, Block 1, Cherry Creek Hills, an addition to Wichita, Sedgwick County, Kansas, together with that portion of vacated drainage dedication recorded on film 257 at page 1152. Generally located on the east side of Rock Road in an area north of Pawnee. (2106 South Rock Road)

subject to the following conditions:

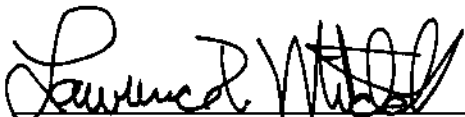
1. The wrought iron fence shall have a maximum of 3.75 inches of separation between vertical bars.
2. The wrought iron fence shall be installed immediately after the removal of the solid wooden fence.
3. Any future service or outside storage areas located on the south or east sides of the site shall be fully screened per code requirements.
4. The three parking stalls facing the southeast, on the site plan, shall be designated as employee parking only and reserved for that purpose.
5. The turf area located south of the building between the fence and the sidewalk shall be landscaped and maintained with plant materials that provides a light barrier that is at a minimum of three foot in height.
6. This resolution 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 28th day of December 1994.



Brad Teeter, Vice President

ATTEST:



Lawrence P. Mitchell, Assistant Secretary

BZA RESOLUTION NO. 38-94

WHEREAS, QuikTrip Corporation pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to allow the replacement of a required solid screening fence with a wrought iron fence on property zoned "LC" Light Commercial District and legally described as follows:

Lot 1, except the north 640 feet thereof, Block 1, Cherry Creek Hills, an addition to Wichita, Sedgwick County, Kansas, together with that portion of vacated drainage dedication recorded on film 257 at page 1152. Generally located on the east side of Rock Road in an area north of Pawnee. (2106 South Rock Road)

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 28, 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 property lies adjacent to a drainage dedication which provides for a minimum of 76 feet of separation between properties to the east and south.

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 closest property to the fence is buffered by 76 feet of a drainage dedication, therefore, the adjacent property should not be adversely affected by replacing the existing solid fence with a wrought iron fence.

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 existing wood fence is not perceived as being as aesthetically pleasing with the development on the site, and the maintenance associated with a wooden fence is greater than a wrought iron fence.

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 adequate screening will be provided by a wrought iron due to the separation of the property from adjacent public areas by a drainage dedication and the wrought iron fence.

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 the zoning ordinance inasmuch as the screening requirement is designed to protect residential areas physically and visually from non-residential uses, but in this particular case the adjacent residential properties are at a sufficient distance that a non-solid fence would provide adequate protection.

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.

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

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

December 29, 1994

Quik Trip Corporation
Atten: David Grooms
P.O. Box 3475
Tulsa, OK 74104

RE: BZA 38-94 Variance to allow the replacement of a required solid screening fence with a wrought iron fence.

Dear Mr. Grooms:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on December 28, 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.

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 call our office.

Sincerely,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

LPM/le

cc: Thomas R. Powell, 301 N. Main, Suite 2000, Wichita, KS 67202
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

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 screening requirement is designed to protect residential areas physically and visually from non-residential uses, but in this particular case the adjacent residential properties are at a sufficient distance that a non-solid fence would provide adequate protection.

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 wrought iron fence shall have a maximum of 3.75 inches of separation between vertical bars.
2. The wrought iron fence shall be installed immediately after the removal of the solid wooden fence.
3. Any future service or outside storage areas located on the south or east sides of the site shall be fully screened per code requirements.
4. This resolution 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.

BACKGROUND: The applicant, QuikTrip Corporation, is requesting that the screening requirements for their existing business located at 2106 S. Rock Road be modified. Currently, the applicant is providing a solid wooden fence as screening, which is required by the zoning ordinance, to buffer the use from adjacent residential development. The applicant desires to remove the existing solid wooden screening fence and replace it with a wrought iron fence. The applicant believes that the change in material from wood to wrought iron would reduce their required fence maintenance. They have also indicated that a wrought fence would be more aesthetically pleasing than the existing wooden fence.

The applicant's site is buffered from the adjacent residential development on the east and south by a drainage dedication which provides for a minimum of 76 feet of separation between property lines. The multi-family housing to the south of the site is located south of the drainage area as well as being south of Pawnee Avenue.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Retail Center (Cedar Cove Plaza)
SOUTH:	"AA" & "B"	Drainage Area and Apartments
EAST:	"AA" & "B"	Drainage Area and Horizon Speciality Hospital
WEST:	"E"	Undeveloped

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property lies adjacent to a drainage dedication which provides for a minimum of 76 feet of separation between properties to the east and south.

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 closest property to the fence is buffered by 76 feet of a drainage dedication, therefore, the adjacent property should not be adversely affected by replacing the existing solid fence with a wrought iron fence.

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 existing wood fence is not perceived as being as aesthetically pleasing with the development on the site, and the maintenance associated with a wooden fence is greater than a wrought iron fence.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as adequate screening will be provided by a wrought iron due to the separation of the property from adjacent public areas by a drainage dedication and the wrought iron fence.