

BZA 24-91 Secretary's Report

Page 3

provisions of the zoning ordinance is to protect residential properties physically and visually from adjacent non-residential uses, but in this particular case the adjacent residential property cannot be developed, due to its floodway designation, and therefore it has no need of this 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. No accessory buildings, mechanical units, trash receptacles or other structures shall be placed within the east side yard unless they are screened with at least a six-foot-tall solid fence or wall or an approved landscape screen.

September 24, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 24-91

OWNER/APPLICANT/AGENT: J. Larry Fugate

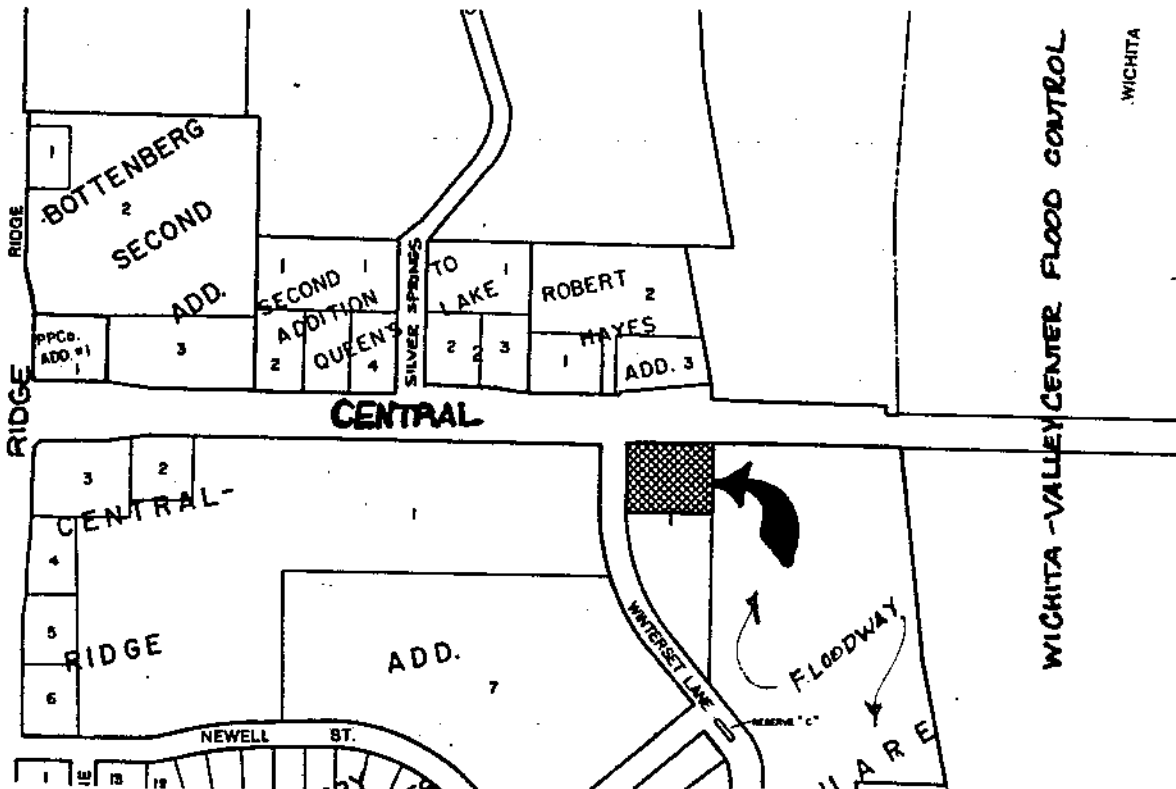
REQUEST: Variance to eliminate the requirement for a 6-foot screening fence along the east property line.

CURRENT ZONING: "LC" Light Commercial District

SITE SIZE: 3/4 acre

LOCATION: Southeast corner of Central and Winterset (6617 W. Central)

PROPOSED USE: Blockbuster Video store



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 requesting a waiver of the screening requirement along the east line of the property at 6617 W. Central, former site of Angelo's Restaurant which is currently being remodeled for a Blockbuster Video store. The property to the east is zoned the "A" Two-Family Dwelling District, but is platted as a 450-foot-wide floodway. Adjacent to the east of the platted floodway is the right-of-way for the Wichita-Valley Center Flood Control project. The nearest buildable site to the east is 1,700 feet away and is zoned "LC". Although the east facade of the building is visible to westbound traffic on Central, after remodeling it will contain only one emergency exit door and no other openings. There are no accessory structures or mechanical units proposed to be located in this east side yard and the trash receptacles located in the southeast corner of the site will remain screened as before.

**ADJACENT ZONING AND LAND USE:**

NORTH	"LC"	Offices
SOUTH	"LC"	Offices
EAST	"A"	Floodway
WEST	"LC"	Grocery store/shopping center

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the residential property which it abuts on the east is restricted to floodway uses and is therefore an unbuildable site.

**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 is the property to the east, which cannot be developed because it is platted as a floodway.

**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 solid six-foot fence would reduce the visibility of the building and of the front yard on Central for customers approaching from the east.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as there are no accessory structures or mechanical units proposed to be located within the east side yard and the trash receptacles will continue to be screened. Thus, the only feature which will not be screened is the east facade of the building, which will be solid except for one emergency access door.

**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 screening

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1888  
(316) 268-4561

September 25, 1991

J. Larry Fugate  
208 S. Maize Rd.  
Wichita, KS 67209

Re: BZA 24-91 - Variance to eliminate the requirement for a 6-foot screening fence along the east property line of property zoned "LC" Light Commercial, located on the southeast corner of Central and Winterset (6617 W. Central).

Dear Mr. Fugate:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 24, 1991. 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. If landscaping is used as a screen for the utility and mechanical units on the east side of the building, a landscape plan must be submitted to the Superintendent of Central Inspection and the Director of Planning for review and approval. The proposed plants must be evergreen.

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*  
Louise Olivarez, Secretary  
Board of Zoning Appeals

LO:jcm  
Enclosure

cc: Paul Hays, OCI  
J.R. Cox, OCI  
Ray Sledge, OCI  
Pat Burnett, Deputy City Clerk


BZA Resolution No. 24-91

Page 2

subject to the following condition:


1. No accessory buildings, mechanical units, trash receptacles or other structures shall be placed within the east side yard unless they are screened with at least a six-foot-tall solid fence or wall or an approved landscape screen.

ADOPTED AT WICHITA, KANSAS, this 24th day of September, 1991.



Randy Phillips, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 24-91

WHEREAS, Larry Fugate, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to eliminate the requirement for a 6-foot screening fence along the east property line on property zoned the "LC" Light Commercial District and legally described as follows:

The north 160 feet of Lot 1, Block 5, Farmington Square 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Central and Winterset (6617 W. Central).

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 September 24, 1991, 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 residential property which it abuts on the east is restricted to floodway uses and is therefore an unbuildable site; 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 is the property to the east, which cannot be developed because it is platted as a floodway; 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 solid six-foot fence would reduce the visibility of the building and of the front yard on Central for customers approaching from the east; 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 accessory structures and mechanical units proposed to be located within the east side yard, and the trash receptacles, will be required to be screened; 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 screening provisions of the zoning ordinance is to protect residential properties physically and visually from adjacent non-residential uses, but in this particular case the adjacent residential property cannot be developed, due to its floodway designation, and therefore it has no need of this protection; 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 eliminate the requirement for a 6-foot screening fence along the east property line on property zoned the "LC" Light Commercial District and legally described as follows:

The north 160 feet of Lot 1, Block 5, Farmington Square 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Central and Winterset (6617 W. Central).