

Case No. 17-48

S T A T U S   S H E E T

Board of Appeals Case No. 17-48

<u>545 1/2 North Spruce</u>	Premises in Question
<u>L. L. Herman</u>	Appellant's Name
<u>147 South Kansas</u>	Appellant's Address
<u>Same</u>	Owner's Name
<u>Same</u>	Owner's Address

11/26/48 Building or Zoning Application Received by Building Inspector  
Remodeling of a garage into an apartment

11/26/48 Decision of Building Inspector ~~Refused~~: 6' side yard will not  
be maintained. Sec. 16, par. 5(b) Revised Zoning Ordinance.

12/14/48 Appeal filed with Bond of Zoning Appeals

Hearing notice and receipt

The variance or exception desired arises from some condition  
which is not uniform in similiar districts

The granting of the permit for the variance will not prejudice  
the rights of adjacent property owners or residents

Adjoining Property Owners Notified

Protests Received

Consents Received

Prior Cases on These Premises

Case Hearings

Case Decided                      Action of Board

Notice of Decision Sent

Court Cases

Case No. 17-48

# The City of Wichita

City Planning Commission

205 CITY BUILDING  
WICHITA 2, KANSAS

April 9, 1949

Mr. L. L. Herman  
147 South Kansas  
Wichita, Kansas

Dear Mr. Herman

At the meeting of the Board of Zoning Appeals on March 8, 1949, your appeal, Case No. 17-48, was presented. This was an appeal from the Building Inspector's refusal to grant a permit for the remodeling of a garage on the premises located at 545 1/2 North Spruce because said building would not maintain the 6 foot side yard setback on the south as required by Section 16, paragraph 5(b) of the Zoning Ordinance.

After careful consideration it was the unanimous decision of the Board that this appeal be denied because of lack of jurisdiction since the exception or variance desired does not arise from some condition which is not ordinarily found in the same zoning district.

If there are any questions concerning the decision of the Board, please feel free to call the Planning Office, room 304 of the City Building.

Very truly yours,

Eugene N. Smith  
Secretary



TO THE BOARD OF ZONING APPEALS:

As per your request the following information regarding the property at 549½ N. Spruce is enclosed.

After structural, electrical, plumbing and major changes had been made to the garage at the above address, with the intention to rent it as living quarters, the city building inspector notified me to discontinue all work until arrangements were made through him as to disposition of same.

This was done, and after discussing the matter with the inspector, an application for permit to cover work done was filed and paid for, on Aug. 8, 1948. On August 23, 1948, a permit was issued (# B 2626) to cover the above work.

Since then the housing situation has become very acute, thus resulting in many apartment seekers asking to rent the property as living quarters, which is cause on my behalf to call for appeal to allow tenants to live in the quarters.

The dimensions of the structure before work was started were 14' X 25' inside; cement block construction, ceiling of 1" sheet rock, rock wool insulation, electricity, water, and gas already in the building. A room 12' X 13' was then added on the west side, a side entrance was cut, and large windows were installed. The new addition was then wired and plumbing and fixtures for bath and kitchen were installed.

The building now has a 13' X 14' living room, 8' X 11' dinette, 6' X 6' bath, 12' X 13' bedroom with a 2' X 7' closet, and an 8' X 8' kitchen. The ceiling and walls are fully insulated. All that remains to make it suitable for tenants is decoration.

The structure can no longer be used as an automobile garage, thus it is an idle investment and lost floor space.

With the above description and proposed use in view I make appeal to allow tenants in the property at 549½ N. Spruce.

Please give this your utmost consideration.

Enclosed is the list of owners within 200' of this property.

Sincerely,

*L. L. Herman*

BOARD OF ZONING APPEALS

Case No. 17-48

Filed 11-30, 19 48

A P P E A L U N D E R T H E Z O N I N G O R D I N A N C E

TO THE BOARD OF ZONING APPEALS  
Room 304, City Hall  
Wichita, Kansas

The undersigned, L. L. Herman, hereby appeals  
from the decision of the Building Inspector wherein a Building Permit  
at 545<sup>1/2</sup> North Spruce  
Is Refused For remodeling of a structure/without observing the  
required 6' side yard on the south as required by ordinance.

OR

Order Or Decision Rendered Because \_\_\_\_\_  
\_\_\_\_\_

The Plans, application, and all data heretofore filed with said Building Inspector are attached hereto and made a part of this appeal.

I have not made a previous application or appeal under the Zoning Ordinance affecting these premises.

I hereby declare that all the statements contained in all of the information transmitted herewith are true.

*L. L. Herman*

Appellant.

NAMES AND ADDRESSES

Appellant	<u>L. L. Herman</u>	Address	<u>147 South Kansas</u>
Owner	<u>L. L. Herman</u>	Address	<u>147 South Kansas</u>
Lessee	_____	Address	_____

INSTRUCTIONS

1. This appeal must be typewritten and filed within ninety (90) days after the date of the decision of the Building Inspector from which this appeal is taken.
2. The appellant must file an explicit Typewritten statement setting forth:
  - (a) The principal points on which this appeal is made. These points shall be the same as those under which the Building Inspector issued a refusal, order, or decision.
  - (b) A clear and accurate description of proposed work or use.
  - (c) Specific reference to that Section of the Zoning Ordinance under which it is claimed permit should be issued.
  - (d) Names and addresses of all owners and residents within a distance of 200 feet of the property concerned.

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To L. L. Herman Owner Address 147 S. Kansas

To L. L. Herman Applicant Address 147 S. Kansas

Dear Sir:

Your Application Dated November 26, 1948

For a Permit for the remodeling of a structure

\_\_\_\_\_ at the premises designated as

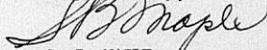
545 1/2 N. Spruce

Is hereby refused on this 26th day of November, 1948,

Under Section 16, Paragraph 5-b of the Zoning Ordinance.

For the reason that the required 6' side yard will not be maintained on the south  
as required by ordinance.

Respectfully,



S. B. MAPLE  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To L. L. Herman Owner Address 147 South Kansas

To L. L. Herman Applicant Address 147 South Kansas

Dear Sir:

Your Application Dated November 26, 1948

For a Permit for the remodeling of a structure

at the premises designated as  
545½ North Spruce

Is hereby refused on this 26th day of November, 1948,  
Under Section 16, Paragraph 5 (b) of the Zoning Ordinance.

For the reason that the required 6' side yard will not be maintained on the  
south as required by ordinance.

Respectfully,

*S. B. Maple*

S. B. Maple  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To L. L. Herman Owner Address 147 South Kansas  
To L. L. Herman Applicant Address 147 South Kansas

Dear Sir:

Your Application Dated November 26, 1948  
For a Permit for the remodeling of a structure  
\_\_\_\_\_ at the premises designated as  
545 1/2 North Spruce

Is hereby refused on this 26th day of November, 1948,  
Under Section 16, Paragraph 5 (b) of the Zoning Ordinance.

For the reason that the required 6' side yard will not be maintained on the  
south as required by ordinance.

Respectfully,

S. B. Maple  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

March 3, 1949

L. L. Herman:

Your appeal, under the Zoning Ordinance, relative to premises at  
545 $\frac{1}{2}$  N. Spruce

has been given Board of Zoning Appeals Case No. 17-48.

All inquiries and references should always be made to that Case  
Number when you seek information from the Secretary.

Further, you are notified to appear before the Board of Zoning  
Appeals either in person, or by agent or attorney, for a hearing of  
your case on Tuesday, March 8,, 1949, at 3:30 P.M.  
in the basement room of the Library.

Respectfully,

Eugene N. Smith  
Secretary, Board of Zoning Appeals

PERMIT NUMBER

B2626

INSPECTION DEPARTMENT CITY OF WICHITA, KANSAS APPLICATION FOR RESIDENTIAL BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

APPLICATION

Copy of A1690

No. 4-3834

(Groups H, L, I-1 and I-2)

Wichita, Kansas, 8-23, 1948

Application is hereby made for a permit to Add to a structure at

No. 545 N Spruce Street in accordance with the following description and in conformity with the provisions of all laws and ordinances pertaining thereto.

Use or Occupancy: 1-Family Dwelling, 2-Family Dwelling, Multi-Family, Garage Detached, Garage Attached, Garage or Shed Only, Number of Rooms in Dwelling

If Multi-Family: Total Number of Family Units, Number of Baths, Number of Other Rooms

Extreme Dimensions: Frontage on Street, Depth, Stories

Size of Basement, Foundation Wall, Concrete, Concrete Blocks, Size of First Floor, Second Floor, Ceiling, Jolst

Exterior Wall: Frame, Brick Veneer, Stone Veneer, Concrete Block, Brick, Tile, Roof Material: Wood Shingles, Composition

Heat: Blower Furnace, Gravity Pipe, Floor, Attic, Closet, Stoves, Coal, Gas, Wood, Oil, Wood or Coal Fireplace

Brick Flues: Number, Size, Patented Pipe Flues: Number, Size, Walls: Plaster, Dry Wall

New Plumbing, New Electrical Work, New Gas Fitting

Area of Building: Dwelling Space, Garage, Total, sq. ft., If Wrecking, Give Square Feet of Floor Area

If repairing, remodeling, wrecking or adding to, state what improvements are to be made

Add 12 x 13 on west side of private use garage not to be used for living quarters. (Check this with the description as has given in his letter)

Applicant's Estimate of Value of Improvements: \$ 300.00, Inspection Department's Estimate of Value: \$

Is work being done under a contract? No, Structure has been occupied as

Owner: L.L. Herman, Address: 147 S Kansas

Builder: Daywork, Address:

Designer, Address:

(Sign Below) L.L. Herman (Owner)

By (Authorized Representative), By (Agent)

INSPECTION DEPARTMENT RECORD

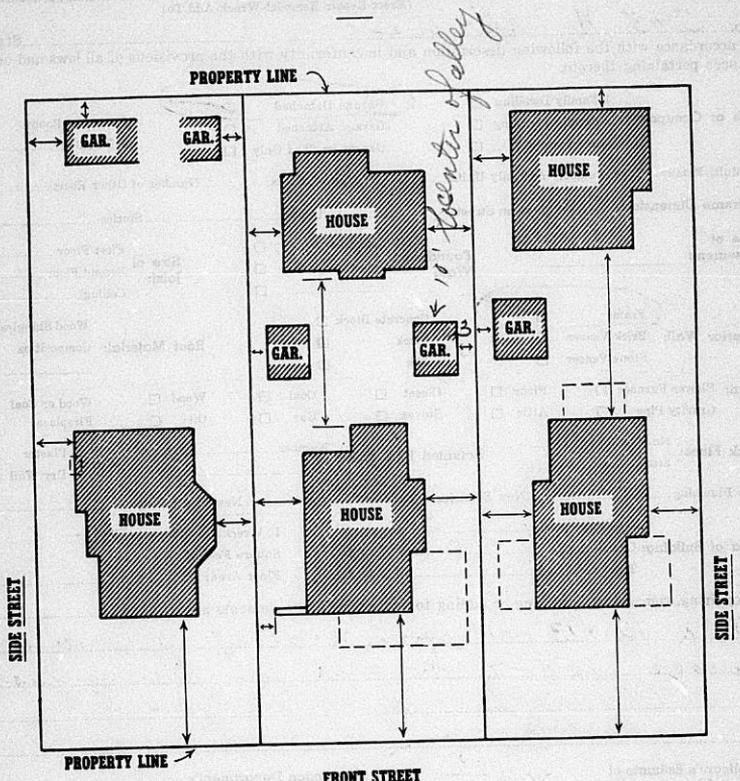
Zoning Dist. AA A RB B LC Permit Refused Because, C D E F Permit Held Up for

Fire Zone 1 2 3 4 Application Taken by James

PS. He does not have enough lot area. (See plat book from S. Maple for the housing)

Handwritten note: He does this without a permit

## PLOT PLAN



SIZE OF LOT \_\_\_\_\_

PERMIT NUMBER

B2626

INSPECTION DEPARTMENT  
CITY OF WICHITA, KANSAS  
APPLICATION FOR RESIDENTIAL BUILDING PERMIT  
AND CERTIFICATE OF OCCUPANCY

APPLICATION

Copy of A1690  
N° 1-3334

(Groups H, L, J-1 and J-3)

Wichita, Kansas, 8-23, 1948

Application is hereby made for a permit to Add to a structure at  
(Erect-Repair-Remodel-Wreck-Add To)

No. 545 N Spruce Street  
in accordance with the following description and in conformity with the provisions of all laws and ordinances pertaining thereto.

Use or Occupancy: 1-Family Dwelling  Garage Detached  Number of Rooms \_\_\_\_\_  
2-Family Dwelling  Garage Attached  in Dwelling \_\_\_\_\_  
Multi-Family  Garage or Shed Only

If Multi-Family: Total Number of Family Units \_\_\_\_\_ Number of Baths \_\_\_\_\_ Number of Other Rooms \_\_\_\_\_

Extreme Dimensions: Frontage on Street \_\_\_\_\_ Depth \_\_\_\_\_ Stories \_\_\_\_\_

Size of Foundation: Concrete  First Floor \_\_\_\_\_  
Basement: Concrete Blocks  Joints: Second Floor \_\_\_\_\_  
Wall: \_\_\_\_\_ Ceiling \_\_\_\_\_

Exterior Wall: Frame  Concrete Block  Wood Shingles   
Brick Veneer  Brick  Roof Material: Composition   
Stone Veneer  Tile

Heat: Blower Furnace  Floor  Closet  Coal  Wood  Wood or Coal  
Gravity Pipe  Attic  Stoves  Gas  Oil  Fireplace

Brick Flues: Number \_\_\_\_\_ Patented Pipe Flues: Number \_\_\_\_\_ Walls: Plaster   
Size \_\_\_\_\_ Size \_\_\_\_\_ Dry Wall

New Plumbing: \_\_\_\_\_ New Electrical Work: \_\_\_\_\_ New Gas Fitting: \_\_\_\_\_

Area of Building: Dwelling Space \_\_\_\_\_ sq. ft. If Wrecking, Give  
Garage \_\_\_\_\_ sq. ft. Square Feet of  
Total \_\_\_\_\_ sq. ft. Floor Area: \_\_\_\_\_

If repairing, remodeling, wrecking or adding to, state what improvements are to be made.

Add 12 x 13 in. west side of private use garage not to be used for living quarters.

Applicant's Estimate of Value of Improvements: \$ 300.00 Inspection Department's Estimate of Value: \$ \_\_\_\_\_

Is work being done under a contract? No. Structure has been occupied as \_\_\_\_\_

Owner: L L Hermann Address: 147 S Kansas

Builder: Depue Address: \_\_\_\_\_

Designer: \_\_\_\_\_ Address: \_\_\_\_\_

(Sign Below)

(Licensed Contractor) \_\_\_\_\_ (Owner) L L Hermann

By \_\_\_\_\_ (Authorized Representative) By \_\_\_\_\_ (Agent)

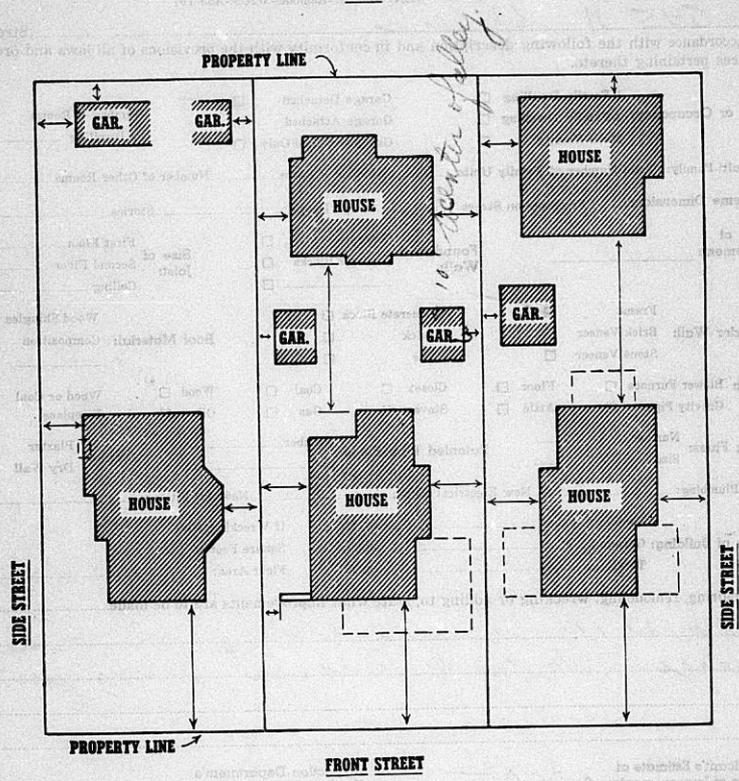
INSPECTION DEPARTMENT RECORD

Zoning Dist. AA (A) RB B LC Permit Refused Because \_\_\_\_\_

C D E F Permit Held Up for \_\_\_\_\_

Fire Zone 1 2 3 4 Application Taken by \_\_\_\_\_

# PLOT PLAN



SIZE OF LOT \_\_\_\_\_

BOARD OF ZONING APPEALS  
Room 304, City Hall  
Wichita, Kansas

NOTICE TO PROPERTY OWNERS

March 3, 1949

An appeal has been filed by L. L. HERMAN  
(Address) 147 South Kansas on behalf of same  
(Address)

as provided by Section 33 of the Zoning Ordinance. The appellant  
desires to remodel a structure without maintaining the required  
6-foot side yard on the premises  
located at 545 1/2 North Spruce.

This appeal has been given Case No. 17-48  
and a hearing will be held by the Board of Zoning Appeals on Tuesday,  
March 8, 1949, in basement of the Library at 3:30 P.M.  
at which time you may appear, if you so desire, either in person or  
by agent or attorney.

By order of the Board of Zoning Appeals.

Eugene N. Smith  
Secretary.

<u>LOT</u>	<u>STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
7	Spruce	Stites Bros 2nd	Marie Elizabeth Basom
9	"	"	Hazel & Alice Tomlin
11	"	"	" 517 N. Spruce
13	"	"	Frank A. & Vera M. Albright
15	"	"	" 553 N. Spruce
17	"	"	Katherine Weiss
19 (S 16½')	"	"	" 541 N. Spruce
19 (N 8½')	"	"	Home Owners Loan Corp
21	"	"	"
23 (S 8')	"	"	"
23 (N 17')	"	"	Leonard L. & Celesta A. Herman 545 N. Spruce
25	"	"	"
27	"	"	Mrs. Nettie M. Moulton
29	"	"	Harold R. & Ruth I. Clayton
31	"	"	" 551 N. Spruce
33	"	"	E. L. Tweedy
35	"	"	" 2216 E. Elm
37	"	"	Dana M. & Frances Marie Mendenhall 607 N. Spruce
8	"	"	Oscar M. Dane, Jr. & Marjorie C. Dane 522 N. Spruce
10	"	"	Earl E. & Velma Lee Collins
12	"	"	" 524 N. Spruce
14	"	"	C. R. & Mamie E. Ragan
16	"	"	" 530 N. Spruce
18	"	"	Geneva E. & W. W. Penrose
20	"	"	" 538 N. Spruce
22	"	"	William A. & S. Lula Hunting
24	"	"	" 1506 d. Perkins

<u>LOT</u>	<u>STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
26	Spruce	Stites Bros 2nd	Delia Lahey
28	"	"	" 550 N. Spruce
30	"	"	Troy J. & Gertrude J. Groves
32	"	"	" #43 556 N. Madison's Co. Spruce
34	"	"	Aleta L. Steck
36	"	"	" 144 S. Washington
38	"	"	C. E. Colgan 608 N. Spruce
8	Madison	"	Ira E. & Beulah M. Belden 518 N. Madison
10	"	"	Henry M. Klenda
12	"	"	" 1005 1st Natl. Bank
14	"	"	Thomas J. & Juanita L. Hillig
16	"	"	" 522 N. Madison
18	"	"	Dean S. & Beulah M. Glenn
20	"	"	" 1908 S. America
22	"	"	J. Frank Myers & Lora Mabel Myers
24	"	"	" 532 N. Madison
26	"	"	Philip J. & Merle R. Sherlock
28	"	"	" 546 N. Madison
30	"	"	T. B. Spencer
32	"	"	" 554 N. Madison
34	"	"	Bert R. & Ruth A. Evans
36	"	"	" 620 N. Madison
38	"	"	John A. & Velma V. Brown 608 N. Madison

THE MIDLAND ABSTRACT COMPANY hereby certifies: That the foregoing is a true and correct list of the owners of the various lots and/or tracts lying within a radius of 200 feet from Lot 25 and N 17' of Lot 23, Spruce Street, Stites Brothers Second Addition to the City of Wichita, Sedgwick County, Kansas, as shown by the deed records in the office of the Register of Deeds of Sedgwick County, Kansas, on this date.

Witness our hand and seal this 3 day of December, 1948, at 7:00 o'clock A. M.

THE MIDLAND ABSTRACT COMPANY

By *E. L. Mason*  
President

Order No. 65224  
(GEP)

*Planning Board*

BUILDING INSPECTION DIVISION

April 13, 1949

S. B. Maple, Chief Building Inspector

W. V. Street, Jr., Building Inspector

545 $\frac{1}{2}$  North Spruce

On August 20, 1948, while on a routine inspection tour of the City in the vicinity of the 5th block on North Spruce, certain evidence of construction work was noted in a building at the rear of 545 North Spruce. Upon investigation of said building, I found that it was being remodeled and that an addition of about 10' x 12' was being built on the west side. Mr. L. L. Herman, who is the owner of said property, was notified this same date by official notice #5252 to "Stop all work at once and do not use said building for anything other than an accessory building." The building was not occupied at that time.

On August 23, 1948, Mr. Herman made application in this office for a permit to "add to a frame detached garage," Appl. A 1690, Permit B 2626. On this application, over Mr. Herman's signature, was the following statement: "Add 12' x 13' on West side of private garage. Not to be used for living quarters."

On November 26, 1948, Mrs. L. L. Herman made application No. A 3724 to this office for the purpose of "installing plumbing and finish building for a 1-fam. residence," said building to be known as 545 $\frac{1}{2}$  North Spruce, this being the same building at the rear of 545 North Spruce. As you will no doubt recall, you denied this application on this same date, on the grounds that the required 6' side yard would not be maintained on the south, as required by ordinance.

Mr. Herman appealed this case to the Board of Zoning Appeals November 30, 1948. The Board of Zoning Appeals met March 8, 1949, and after considerable discussion, during which you stated that if Mr. Herman were allowed to use this building as living quarters he would also be in violation of the area and rear yard set-back requirements of the zoning ordinance, the Zoning Board unanimously denied the appeal. This denial was due to lack of jurisdiction since the exception or variance desired does not arise from some condition which is not ordinarily found in the same zoning district.

On April 9, 1949, a letter was written to Mr. Herman by Eugene N. Smith, Secretary of the Board of Zoning Appeals, notifying him of the Board's decision. On April 13, 1949, another inspection of the building in question was made, at which time said building was found to be occupied. Since Mr. Herman's action in permitting the above building to be occupied shows lack of willingness to cooperate or obey city ordinances, I feel justified in asking that legal action be taken in the form of an injunction immediately.

*W. V. Street Jr.*  
W. V. Street, Jr.

WVS MG