

CASE NO. 4-47

S T A T U S   S H E E T

Board of Appeals Case No. 4-47

<u>1851<math>\frac{1}{2}</math> North Broadway</u>	_____	Premises in Question
<u>S. L. Welch &amp; Son</u>	_____	Appellant's Name
<u>1103 S. Hydraulic</u>	_____	Appellant's Address
<u>Frank Laughlin</u>	_____	Owner's Name
<u>1134 East Douglas</u>	_____	Owner's Address

\_\_\_\_\_ Building or Zoning Application Received by Building Inspector  
January 21, 1947

\_\_\_\_\_ Decision of Building Inspector refused under Section 28 of  
the Zoning Ordinance

\_\_\_\_\_ Appeal filed with Bond of Zoning Appeals  
January 24, 1947

\_\_\_\_\_ Hearing notice and receipt mailed January 21, 1947

\_\_\_\_\_ The variance or exception desired arises from some condition  
which is not uniform in similar districts

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

\_\_\_\_\_ Adjoining Property Owners Notified mailed January 21, 1947

\_\_\_\_\_ Protests Received none

\_\_\_\_\_ Consents Received none

\_\_\_\_\_ Prior Cases on These Premises none

\_\_\_\_\_ Case Hearings January 27, 1947 , February 5, 1947

\_\_\_\_\_ Case Decided February 5, 1947 Action of Board appeal granted

\_\_\_\_\_ Notice of Decision Sent

\_\_\_\_\_ Court Cases

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To Frank Laughlin Owner Address 1134 E. Douglas  
To S. L. Welch & Son Applicant Address 1103 S. Hydraulic

Dear Sir:

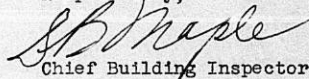
Your Application Dated January 21, 1947

For a Permit for the erection of a business building  
\_\_\_\_\_ at the premises designated as  
1851 1/2 N. Broadway

Is hereby refused on this 21st day of January, 1947,  
Under Section 28 of the Zoning Ordinance.

For the reason that there will not be a setback of thirty-eight feet from  
the center line of Broadway as required by the Zoning Ordinance.

Respectfully,

  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of  
Zoning Appeals (Room 203, City Hall) within ninety (90) days after  
the date of this refusal. For further information, take this notice  
to the Planning Department, Room 203, City Hall.

Weld Jackson agreement

From the desk of

DAVID D. ROWLANDS

B.D. of yours  
affidavit

2-20-47

L  
Lover

To - Lawrence Crawford

Gene Smith wanted your  
opinion as to whether this  
waiver in its present form  
is protecting the city's interest  
in any respect. No

For example, do you think  
it is necessary to state some-  
thing like this -

"Whereas, this waiver will be  
effective for all time regardless of  
what building is located on property."

Personally, I think that is

Clearly stated in the main, I do,  
also, doesn't the last paragraph  
(before signature) make this  
main binding upon anyone who  
might purchase the property at  
some future date? Yes

Please let me know what  
you think about the above  
raised questions. Thank you!

Dear R.

L. G. G.

447

JOCHEMS, SARGENT & BLAES  
ATTORNEYS AT LAW

305 FARMERS & BANKERS LIFE BUILDING

WICHITA, KANSAS

2

PHONE 2-8448

W. D. JOCHEMS  
J. WIRTH SARGENT  
EMMET A. BLAES  
ROETZEL JOCHEMS  
ROBERT G. BRADEN

18 February 1947

City Planning Commission  
City Building  
Wichita, Kansas

Attention: Mr. Rowlands

Gentlemen:

Enclosed is the waiver of building damage executed by the owners of the property at 1851 $\frac{1}{2}$  North Broadway, concerning which an appeal was recently passed upon by the Board of Zoning Appeals.

This waiver has been approved as to form by the City Attorney, and if it meets with your approval and you return it to me, I will see that it is recorded in the office of the Register of Deeds of Sedgwick County, and thereafter returned to you for your permanent file.

At this time, I wish to thank you for your consideration in arranging for the second meeting of the Board of Zoning Appeals at such an early date, and to assure you that your courtesy was fully appreciated by the citizens involved.

Very truly yours,

JOCHEMS, SARGENT & BLAES

By *Roetzel Jochems*  
Roetzel Jochems

RJ:wb  
Enc.

*Bd of Appeals*

*File with 77-4*

Planning and Research

January 29, 1947

Lawrence Curfman, Assistant City Attorney

David D. Rowlands, Planning and Research Assistant

Request for Variance -  
1851½ North Broadway

On Monday, January 27, the Board of Zoning Appeals had its first formal meeting. Four appeals were considered, with decisions being rendered on three of them, and with final action being deferred on the last petition until more members of the Board were present.

There was a division of opinion among the members of the Board relative to the appeal submitted by Mr. S. H. Welch, contractor, who expects to build a structure at the premises known as 1851½ North Broadway. One of the members of the Board believed that the Appeals Board could not assume jurisdiction since, in his opinion, the variance desired did not arise from some condition which is not uniform in similar districts. Briefly, the appellant did not wish to observe the 36' setback which is required of new buildings located on our major streets. This particular block on North Broadway was not a part of our major street setback system prior to the adoption of our revised zoning ordinance which occurred last August. All of the buildings north of 1851½ North Broadway for about a block and a half are built out to the property line. It is the opinion of the appellant that the strict application of the terms of this ordinance, requiring him to establish his building line 8' back of the existing buildings to his north, would constitute an unnecessary hardship on this property.

Most of the other buildings in this block on North Broadway are residential in character and do observe a substantial setback. However, it should be pointed out that both sides of Broadway south to 13th Street are located in a commercial zone.

It was the opinion of some of the other Board members present that the primary objective of the major street setback plan was to protect the public's interest in that future street widenings could be realized at a minimum of unnecessary expense. Mr. Roetsel Jochems, Counsel for the appellant, declared that

Page 2 - Lawrence Curfman  
January 28, 1947

his client would be willing to enter into a contractual arrangement with the City and to prepare the necessary legal instruments assuring to the City that if and when Broadway is ever widened in this block, the owner of the property in question at that time would be solely responsible for any expense entailed in the removing of the building, or parts thereof, to permit the widening of the street.

The members of the Board would like for you to answer the following questions at your earliest convenience:

1. In your opinion, is it possible for the Board to assume jurisdiction in this particular case?
2. If the authority to assume jurisdiction has been established, would an instrument prepared as above described be legally binding indefinitely?

David D. Rowlands  
Planning and Research  
Assistant

DDR:la  
CC: Fred W. Aley  
E. N. Smith

BOARD OF ZONING APPEALS

Case No. 4-47

Filed \_\_\_\_\_, 19\_\_\_\_

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 203, City Hall  
Wichita, Kansas

The undersigned, S. L. Welch & Son, hereby appeals  
from the decision of the Building Inspector wherein a Building Permit  
Is Refused For There will not be a setback of 38 feet from the  
center line of Broadway as required by the Zoning 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.

\_\_\_\_\_  
Appellant.

NAMES AND ADDRESSES

Appellant	<u>S. L. Welch &amp; Son</u>	Address	<u>1103 S. Hydraulic</u>
Owner	<u>Frank Laughlin</u>	Address	<u>1134 East Douglas</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.