

BZA 17-71 - Harrell Investments,  
Inc. requests Variance of rear  
Yd setback from 15 to **8** ft. at  
NE corner of Seneca & Seneca Ct.

POSTED

11-15-71

~~C.I.V.~~

~~W.H.C.~~

~~2-16-72~~

BZA 12-14-71 *Approve*

Map No. 5445  
 Sec. 32  
 Twp. 27  
 Range 1E

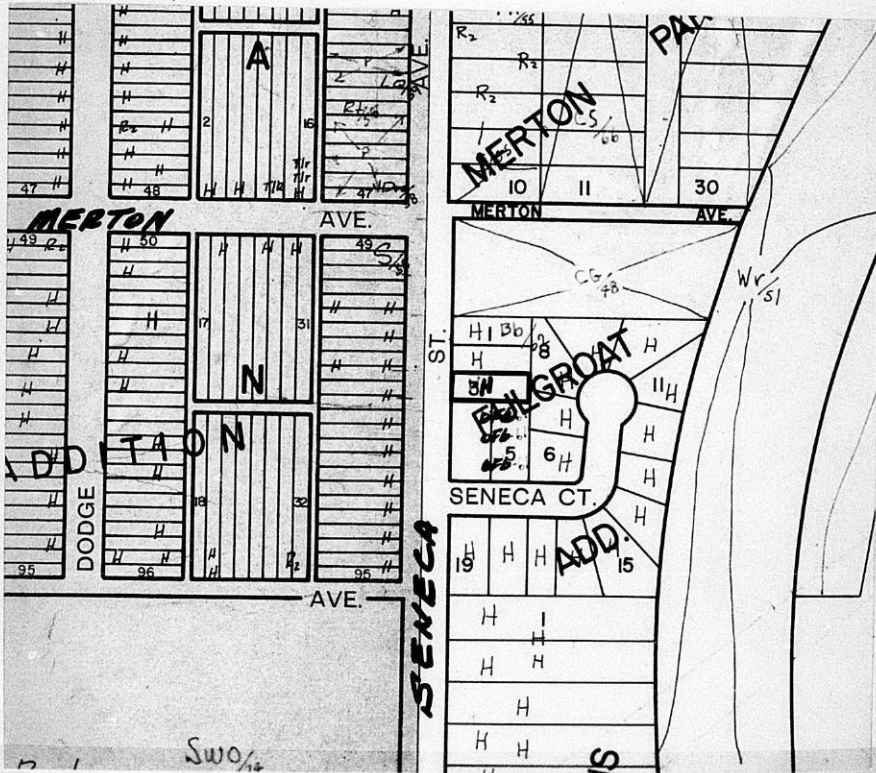
BZA- 17-71  
 SC2- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( 50 ft. by 139 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East SINGLE FAM South OFFICE  
 West SINGLE FAM North SINGLE FAM
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use if for: SINGLE FAM
6. Area (is) (is not) platted. \_\_\_\_\_

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

December 3, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 17-71

An application has been filed by Harrell Investments, Inc. 1726 South Seneca, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 15 feet to 8 feet, on property zoned "BB" Office District, and legally described as follows:

Lot 3, Fulgroat Addition to Wichita, Kansas. Generally located on the east side of Seneca in an area north of Seneca Court.

This application has been assigned Case No. BZA 17-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 14, 1971, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

RESOLUTION NO. BZA 17-71

WHEREAS, Harrell Investments, Inc., 1726 South Seneca, Wichita, Kansas, by Roy Parker, 8200 West Irving, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 15 feet to 8 feet, on property zoned "BB" Office District, and legally described as follows:

Lot 3, Fulgroat Addition to Wichita, Kansas. Generally located on the east side of Seneca in an area north of Seneca Court.

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 14, 1971, 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; 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 a sufficient amount of open space will remain to provide adequate light and air; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as denial of the request for a variance will reduce the proposed structure by 7 feet, thereby precluding the use of the rear portion being entered by vehicles; 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 inasmuch as the applicant will be required to provide the required number of off-street parking spaces prior to the issuance of a building permit; 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 four previous requirements can be found to exist; and

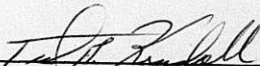
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required rear yard setback from 15 feet to 8 feet, on property zoned "BB" Office District, and legally described as follows:

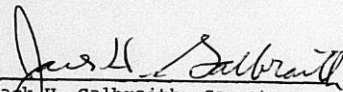
Lot 3, Fulgroat Addition to Wichita, Kansas. Generally located on the east side of Seneca in an area north of Seneca Court.

be approved.

ADOPTED AT WICHITA, KANSAS, this 14th day of December, 1971.

  
\_\_\_\_\_  
Ted A. Kendall, Chairman

ATTEST:

  
\_\_\_\_\_  
Jack H. Galbraith, Secretary

February 4, 1972

Mr. Roy Parker  
8200 West Irving  
Wichita, Kansas 67209

Subject: Case No. BZA 17-71  
Request for Variance

Dear Mr. Parker:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 14, 1971, in connection with your request for a variance to reduce the required rear yard setback from 15 feet to 8 feet, on property zoned "BB" Office District, and generally located on the east side of Seneca in an area north of Seneca Court.

This Resolution reflects the official action of the Board to approve your request. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith  
Secretary

JHG:ls

Enclosure

cc Harrell Investments, Inc., 1726 South Seneca 67213  
Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Central Inspection  
Ralph Eberly, City Clerk

December 16, 1971

Robert Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner

Case No. BEA 17-71 - Rear Yard Variance from 15 feet to 8 feet for Harrell Investments, Inc., 1726 South Seneca

The Board of Zoning Appeals at its regular meeting on December 14, 1971, considered the above captioned request for a rear yard variance so that the applicant could expand their present office building. In the review of the request and the submitted plot plan, we raised several questions which the Board did not take into consideration as the applicant argued that they realized that they would have problems, but that they would have to resolve the problems at the time building permits were requested. The applicant also offered that they had already reviewed the plans with your office and no one had raised questions concerning building coverage and not having adequate off-street parking.

The first problem we raised was that the permitted maximum building coverage shall not exceed more than 1/3 of the total land area and the plans indicated that this was being exceeded by 487 square feet. The area of the building should be reduced to comply with the 1/3 coverage factor.

The second question raised was relative to required off-street parking. As we calculated the area, we believe that 37 parking spaces are required and only 33 spaces are shown on the plan. We were also advised by the Traffic Engineering Department that at least 7 of the designated spaces would not comply with their standards. Again, the applicant argued that there was adequate room to provide the parking and that they would have to comply prior to the issuance of building permits.

The last problem is one of use. A large area of the new addition was stated to be used for company trucks and cars which are used in the business of inspecting their properties, as the applicant is in the property management business. Although I would concur

Page 2 - Robert Feldner  
December 16, 1971

that "storage garages" are permitted in the "BB" Office District, permitting the storage of vehicles, the storage of equipment for building repairs is not a permitted use and this has been a problem on this property in the past.

Inasmuch as the Board of Zoning Appeals granted the variance request, they emphasized that questions we raised would be reviewed by the Office of Central Inspection at the time building plans are submitted for approval. This is provided for your information and files.

JHG:ls

cc Paul Graves, Traffic Engineer  
Joe Donnelly, Central Inspection  
Tom Byrnes, Central Inspection

December 15, 1971

Harrell Investments, Inc.  
1726 South Seneca  
Withita, Kansas 67213

Subject: Case No. BZA 17-71  
Request for Variance

Dear Mr. Harrell:

At the regular meeting of the Board of Zoning Appeals on December 14, 1971, your request for a variance to reduce the required rear yard setback from 15 feet to 8 feet, on property zoned "BB" Office District, and generally located on the east side of Seneca in an area north of Seneca Court, was considered.

It was the action of the Board to approve this request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith  
Secretary

JHG:ls

cc Roy Parker, 8200 West Irving 67209  
Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Central Inspection  
Ralph Eberly, City Clerk

SECRETARY'S REPORT  
CASE NO. BZA 17-71

APPLICANT: Harrell Investments, Inc., 1726 South Seneca, Wichita, Kansas

AGENT: Roy Parker, 8200 West Irving, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 15 feet to 8 feet

GENERAL LOCATION: East side of Seneca in an area north of Seneca Court

ZONING: Subject property is zoned "BB" Office District as are those properties to the north and south; East is "A" Two Family Dwelling District; west is "RB" Four Family Dwelling District.

LAND USE: Subject property is occupied by a single family home as are those properties to the north, east and west, south is office

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 of the following conditions are found to exist:

1. That the variance requested 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.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY

The applicant is requesting a variance of the required rear yard setback from 15 feet to 8 feet in order to construct an addition to an existing office facility located to the south.

In his statement of justification the applicant points out that at the time subject property and the two lots to the south were zoned the "BB" Office Classification, it was intended that all the lots be developed as a whole.

Subject property when combined with the two lots to the south contains a total of 26,460 square feet. The Zoning Ordinance provides that in the "BB" Office District "the maximum building coverage of land shall not exceed more than one-third of the total land area" which in this instance would be 8,820 square feet. The plot plan submitted with the application indicates that the existing and proposed building will contain a combined total of 9,307 square feet or an excess of 487 square feet over that allowed by ordinance.

The zoning ordinance also provides that a minimum of one off-street parking space for every 250 square feet of floor area shall be provided in the "BB" zoning classification when developed for office use. Based on this minimum the applicant would be required to provide 37 off-street parking spaces based on the plan submitted. The plan indicates a total of 33 spaces, however, a representative of the Traffic Engineers office, in a brief review of the plan, stated that it appeared that seven of the spaces would have to be deleted as they did not meet the requirements.

The Office of Central Inspection also advises that in the past there have been problems with subject property being used for storage and that a sign exceeds the size permitted in the "BB" District. In the review of the plans, the use of a large portion of the proposed structure is not indicated and there is a 10 x 12 over hanging door indicated which would again appear that a portion of the new building is proposed for storage purposes.

Uniqueness

It is the opinion of the Secretary that no uniqueness can be found in instances such as this where the property owners simply want to overbuild the site.

Adjacent Property

It is the opinion of the Secretary that the granting of the variance request would adversely affect adjacent properties inasmuch as the feeling of open space would be reduced.

Hardship

It is the opinion of the Secretary that no hardship can be found to exist in that denial of the request for a variance will only reduce the proposed structure by 7 feet.

Public Interest

It is the opinion of the Secretary that the granting of the variance would have an adverse affect on the public interest inasmuch as the applicant cannot provide the required number of off-street spaces which would result in on-street parking.

Spirit and Intent

It is the opinion of the Secretary that the granting of the variance would be opposed to the spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the four previous requirements cannot be met.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance cannot be found to exist, and, therefore, it is recommended the request not be approved.

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

December 3, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 17-71

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Lot 3, Fulgroat Addition to Wichita, Kansas. Generally located on the east side of Seneca in an area north of Seneca Court.

This application has been assigned Case No. BZA 17-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 14, 1971, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

*13 notices mailed 12-3-71 for 12-14-71*

HARRELL INVESTMENTS, INC.

1726 S. SENECA  
WICHITA, KANSAS 67213

(316) AM 4-46 42

November 2, 1971

City of Wichita  
Metropolitan Area Planning Commission  
City Building Annex  
104 South Main  
Wichita, Kansas

Gentlemen:

We have requested variance for the following reasons:

1. 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 of the applicant;

The variance arises because of 2 lots facing one street and another lot facing a different street which prevents development of the parcel as a whole.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

due to the fact that a utility easement of eight feet is being maintained.

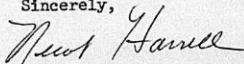
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application; because we cannot develop the parcel as a whole.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance) due to the fact that all of the lots were zoned BB at one time with the full intent of total development.

For the above reasons we would appreciate the granting of the variance from 15' setback to 8' rear setback.

Sincerely,



Newt Harrell  
Certified Property Manager

NH:gh  
encls.

BOARD OF ZONING APPEALS

CASE NO. 17-71

CITY OF WICHITA, KANSAS

FILED 11-5-71

APPLICATION FOR VARIANCE

I. Name of Applicant HARRELL INVESTMENTS, INC.

Mailing Address 1726 S <sup>Seneca</sup> Wichita 67213 Phone 264 6306

Name of Authorized Agent Roy Parker

Mailing Address 8200 W Irving 67209 Phone 722 2521

Relationship of applicant to property is that of owner  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required rear yard  
setback from 15 feet to 8 feet  
so that property can be developed in conjunction with existing  
development on which the variance doesn't exist

for property located at 1724 S. Seneca

and legally described as: Lot 3, Fulgroat Addition

in the City of Wichita; and which is presently zoned BB

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

HARRELL INVESTMENTS, INC.

Applicant

Roy Parker  
Authorized Agent Roy Parker

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:30 (a.m. - p.m.), Nov 5 1971 together with appropriate fee of \$50.00.

T9-402

Jack W. Galbraith  
Signed

map #5445

*Consolidated Services, Inc.*

ENGINEERING - ARCHITECTURAL - PLANNING CONSULTANTS

2009 EAST CENTRAL - HD BART 4-4853  
WICHITA 7, KANSAS

STATE OF KANSAS }-SS  
COUNTY OF SEDGWICK

OCT. 1, 1958

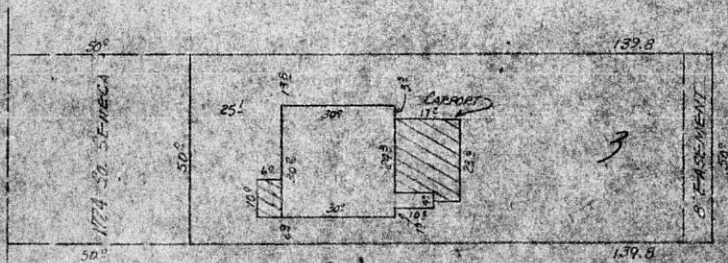
I, HOWARD A. RISHEL, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF KANSAS DO HEREBY CERTIFY THAT I DID ON THE DAY AND YEAR ABOVE WRITTEN SURVEY THE FOLLOWING DESCRIBED PROPERTY:

LOT 3, FULBROAT ADDITION TO WICHITA, KANSAS

ON THE ABOVE DESCRIBED PROPERTY IS A HOUSE WHICH IS IN THE CLEAR OF ALL BOUNDARY LINES AND EASEMENTS. THERE ARE NO ENCROACHMENTS ON SAID PROPERTY BY BUILDINGS ON ADJACENT PROPERTIES. THIS HOUSE HAS CARPORT

THE ACCOMPANYING PLAT IS A TRUE AND CORRECT EXHIBIT OF SAID SURVEY. THE ABOVE PROPERTY IS BUILT IN ACCORDANCE WITH APPROVED DRAINAGE PRINCIPLES.

*Howard A. Rishel*  
HOWARD A. RISHEL



PROJECT ANALYSTS R-2257 106659

## OWNERSHIP LIST

<u>LOT</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
1	Fulgroat Add	✓Virgil H. Bryant Lucile L. Bryant 1716 S. Seneca 67213
2	"	✓Clarence Ralph Sowers 3844 E. 2nd St. 67208
3	"	ΔHarrell Investments, Inc. 1728 S. Seneca 67213
4	"	✓Catha E. Harrell 1728 S. Seneca 67213
5	"	Same
6	"	✓Marjorie Marshall 1736 S. Seneca 67213
7	"	Dorothy J. Staunton Unknown <i>none found</i>
8	"	✓Robert L. Vail Janie E. Vail 1744 Seneca Ct. 67213
9	"	✓Wayne E. Gilmore Stephanie D. Gilmore 1748 Seneca Ct. 67213
10	"	✓E. H. Galloway Joan Galloway 1752 Seneca Ct. 67213
11	"	✓Eugene N. Potter Anna L. Potter 1756 Seneca Ct. 67213
12	"	✓Helen Louise Newman 1760 Seneca Ct. 67213
13	"	Joseph E. Medcalf Margaret E. Medcalf Address unknown <i>none found</i>
18	"	✓Larry Duane Dall Pamela Sue Dall 1784 Seneca Ct. 67213

Page 2

DESCRIPTION

PROPERTY OWNER

Beginning 660 ft. S. of NW cor.  
Sec. 32-27-1 E., thence E. to W.  
line of Midland Valley R.R.;  
thence SW along R/W to A. T. Sayers  
tract; thence West to West line  
said 1/4 Section; thence N. to beg.

Cities Service Gas Co.  
4002 S. Seneca 67217

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We hereby certify the foregoing to be a correct list of  
property owners within a radius of 200 feet of the Rear or  
East 15 feet of Lot 3, Fulgroat Addition, to Wichita, Kansas,  
as shown by the records in the office of the Register of Deeds  
of Sedgwick County, Kansas, this 1st day of November A. D. 1971,  
at 7 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

*Kenneth P. Brown*

Vice President.

Order No. 183899.  
(KPB)

Form 223-021

**PAYMENT NOTICE**  
City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>By a Variance 50</i>	

Name *Harold ...*

Address *1426 ...*

Type *AA-105109* Due Date

Comments:

Date *11-5-71* By *[Signature]*

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1