

USA 23-157 - Bureau of Reclamation
Division of Administration
Low electrical contracting at
NW corner of Lincoln & Governor

Smead
No. 103½C

HASTINGS, MINN. - LOGAN, OHIO U.S.A.

Form 223-021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
<i>Plan Applications</i>	<i>50.00</i>

Name *Wichita & Co.*

Address *217 1st National Bank Bldg*

Type *R-712* Due Date

Comments:

Date *6-30-65* By *B. Shuman*

August 9, 1965

Mr. Donald Ziegler
7038 East Lincoln
Wichita, Kansas

Dear Mr. Ziegler:

Re: Case No. BZA 23-65

On July 29, 1965, we advised you that the Board of Zoning Appeals had upheld your appeal from the decision of the Superintendent of Central Inspection, who had issued a cease and desist order for the activities related to the electrical contracting business, as now generally located at the northwest corner of Lincoln and Gouverneur Road.

We also advised that the Board's decision might be appealed to the City Commission, provided that such appeal was filed on or before August 6, 1965. The City Clerk has advised that no appeal was filed, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber
Attachment

cc: Higgins and Brimer, Attorneys
817 First National Bank Building

Glen Lytle, Superintendent
of Central Inspection

R E S O L U T I O N N O . B Z A 2 3 - 6 5

WHEREAS, Donald Ziegler, 7038 East Lincoln, Wichita, Kansas, by Higgins & Brimer, Attorneys, 817 First National Bank Building, Wichita, Kansas, has appealed from the decision of the Superintendent of Central Inspection, as provided in Section 2.12.590.1, Code of the City of Wichita, in that the Superintendent of Central Inspection has issued an order for the applicant to cease and desist the operation of activities related to the electrical contracting business located in an area zoned "LC", and legally described as follows:

Reserve G in Replat of Part of Eastridge, an Addition to Wichita, Sedgwick County, Kansas;

generally located at the northwest corner of Lincoln and Gouverneur; and

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, in regular meeting, consider said application on the 27th day of July, 1965; and

WHEREAS, the applicant desires to continue the operation of his business which involves the retail sales of electrical materials and supplies; repair and maintenance service for small appliances; small storage area for retail items sold and used in the repair and maintenance service; and office facilities in which he meets prospective clients and figures estimates for jobs, and the outside storage of two pickup trucks used for service and maintenance; and

WHEREAS, all large quantities of supplies and materials purchased from wholesalers will be delivered directly to the job site; and

WHEREAS, the retail sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc., will also be conducted as a part of this business; and

WHEREAS, there is a significant difference between the types of activity carried on in electrical sales, appliance repair and an office, as opposed to the type of activity carried on in general contractors' yards, equipment storage yards and similar heavy uses; and

WHEREAS, the light uses mentioned above are similar to uses permitted in the "LC" District and create about the same amount, or in some cases, less traffic than certain uses permitted in the "LC" zone; and

WHEREAS, only two pickup trucks will be stored on the premises, although vehicle storage is a practice commonly found in the Light Commercial Districts, and further, a "B" zoning permits off-street parking and vehicle storage, which pertains to automobile class vehicles not including dump trucks, heavy equipment, etc.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the Superintendent of Central Inspection is hereby directed to issue the appropriate permit to allow the applicant to continue the operation of his business as now being conducted, on property zoned "LC" and legally described as follows:

Reserve G in Replat of Part of Eastridge, an
Addition to Wichita, Sedgwick County, Kansas;

generally located at the northwest corner of
Lincoln and Gouverneur.

ADOPTED AT WICHITA, KANSAS, this 27th day of July, 1965.

Harold Bauer
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith
Jack H. Galbraith, Secretary

July 29, 1965

Mr. Donald Siegler
7038 East Lincoln
Wichita, Kansas

Dear Mr. Siegler:

Re: Case No. BEA 23-65

At its regular meeting of July 27, 1965, the Board of Zoning Appeals of the City of Wichita considered your appeal from the decision of the Superintendent of Central Inspection, who had issued a cease and desist order for the activities related to the electrical contracting business, as now generally located at the northwest corner of Lincoln and Gouverneur Road.

It was the decision of the Board of Zoning Appeals to uphold your appeal and to direct the Superintendent of Central Inspection to issue the appropriate permit for the continuation of your business for the retail sales of various electrical materials and supplies, maintenance and repair service, office use, and the storage of two pickup trucks.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before August 6, 1965.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If none has been filed on or before August 6, 1965, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Jack E. Galbraith
Secretary

JES:JWH:ber

cc: Higgins and Brimer, Attorneys, 817 First National Bank Building
Glen Lytle, Superintendent of Central Inspection
Robert Finch, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 23-65

APPLICANT: Donald Ziegler, 7038 East Lincoln

AGENT: Higgins & Brimer, Attorneys, 817 First National Bank Building

GENERAL LOCATION: Northwest corner of Lincoln and Gouverneur

LAND USE: Subject property is retail electrical sales, repairing and contracting. North and west - triplex. South and east - Vacant.

ZONING: Subject property is "LC". South and east is "LC". North is "B" and west is "RB".

REQUEST: The applicant has filed an appeal pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has issued an order for the applicant to cease and desist the operation of activities related to the electrical contracting business. The applicant has submitted a statement of justification which is included as Attachment #1 to this report.

COMMENTS BY THE SECRETARY

The Superintendent of Central Inspection has pointed out that it is his interpretation of the ordinance that any type of contractor's business is first permitted in the "C" Commercial district and not permitted in the "LC" Light Commercial district.

The applicant, in his statement of justification, points out that his business is involved in the retail sales of electrical materials and supplies; repair and maintenance service for small appliances; small storage area for retail items sold and used in the repair and maintenance service; and an office in which the applicant meets prospective clients and figures estimates for jobs. The applicant further states that in no case is there any outside storage of materials or equipment, other than two pickup trucks used for service and maintenance. No wholesale business is carried on at this location and all materials used in the contracting business are delivered to the location of the construction site.

The applicant is of the contention that to include a small electrical business in the same category as "any contractor" is not justified because of the fact that his use does not encompass any outside storage as compared to building and construction contractors who store a multitude of materials and equipment on the property, as well as accumulated materials from previous jobs.

It should also be pointed out that the applicant is leasing only a portion of a building in which other businesses are located and also that there is not sufficient room on the property for outdoor storage even if the applicant desired a storage area.

It is the opinion of the Secretary that there is a significant difference between the types of activity carried on in electrical sales, appliance repair and an office, as opposed to the type of activity carried on in general contractors' yards, equipment storage yards and similar heavy uses.

The light uses mentioned above are similar to uses permitted in the "LC" district and create about the same amount or, in some cases, less traffic than certain uses permitted in the "LC" zone. Normally, a drive-in restaurant, which is permitted in the "LC" zone, is more obnoxious to the surrounding area than the use being carried on by the applicant.

The applicant also states that no vehicles are stored on the property, although vehicle storage is a practice commonly found in the "LC" zones. However, "B" zoning permits off-street parking and vehicle storage (which pertains to automobile class vehicles and not dump trucks, heavy equipment, etc.)

The Secretary is of the opinion that the storage of two pickup trucks would not be objectionable on the premises. Many homes in "AA" and "A" districts have small trucks parked on the premises. However, if storage includes such things as trenching equipment, large trucks, etc., it becomes clear that the operation would include a contractor's storage yard, which is only first permitted in the "C" Commercial zone.

RECOMMENDATION OF THE SECRETARY

The Secretary is of the opinion that if the applicant uses the building for retail sales of various electrical materials and supplies, maintenance and repair service, office use, and the storage of the two pickup trucks, the business is permissible in the "LC" district and, consequently, it is recommended that the appeal be granted.

Attachment #1 - Statement of Justification

SECRETARY'S REPORT

CASE NO. BZA 23-65

APPLICANT: Donald Ziegler, 7038 East Lincoln

AGENT: Higgins & Brimer, Attorneys, 817 First National Bank Building

GENERAL LOCATION: Northwest corner of Lincoln and Gouverneur

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Case No. BZA 23-65

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Attachment #1 - Statement of Justification

BZA CASE NO. 23-64 - 10 NOTICES MAILED FOR JULY 27, 1965 MEETING

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

July 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 23-65

An application has been filed by DONALD ZIEGLER, dba Ziegler Electric Service, 7038 East Lincoln, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has issued an order for the applicant to cease and desist the operation of activities related to the electrical contracting business, on property zoned "LC" - Light Commercial, and legally described as follows:

Reserve G, in Replat of Part of Eastridge, an Addition to Wichita, Sedgwick County, Kansas.

Generally located at the northwest corner of Lincoln and Gouverneur.

This application has been assigned Case No. BZA 23-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 27, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

10

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

July 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 23-65

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Reserve G, in Replat of Part of Eastridge, an Addition to Wichita, Sedgwick County, Kansas.

Generally located at the northwest corner of Lincoln and Gouverneur.

This application has been assigned Case No. BZA 23-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 27, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

*10 notices mailed
July 8, 1965*

THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS
CENTRAL INSPECTION DIVISION
AMHERST 2-8211 — AREA CODE 316
CITY BUILDING ANNEX
104 S. MAIN — WICHITA, KAN. 67202

May 12, 1965

Mr. Donald Ziegler
Ziegler Electric Service
7038 E. Lincoln
Wichita, Kansas

Re: Violation of "LC"
Light Commercial Zoning
at 7038 East Lincoln

Dear Sir:


Following a complaint filed in this office relative to the usage of 7038 East Lincoln, an inspection was made on May 7, 1965 at which time it was verified that you are operating an electrical contracting business at the subject address.

Title #28, which is known as the Zoning Ordinance, places subject address in the "LC" Light Commercial Zone. The usage in "LC" Zone is for purely retail business. The Zoning Ordinance first permits your type of operation in the "C" Commercial Zone.

In view of the above, please consider this formal notice to cease and desist in the operation of your electrical contracting business from 7038 East Lincoln.

Another inspection will be made on or after June 11, 1965, at which time we shall expect to find the subject property in full compliance with the Zoning Ordinance. Your cooperation in resolving this matter will be appreciated.

Sincerely,


Edward Zenner
Zoning Inspector

EZ:rs



ALL-AMERICA CITY

FO-37592

REC'D MAY 19 1965

BOARD OF ZONING APPEALS

CASE NO. 23-65

CITY OF WICHITA, KANSAS

FILED 6-30-65

APPEAL FROM ORDER OR DECISION OF THE
SUPERINTENDENT OF CENTRAL INSPECTION ✓

- I. Name of Appellant Donald Ziegler d/b/a Ziegler Electric Service
Mailing Address 7038 East Lincoln, Wichita Phone MU-4-7642
Name of Agent Higgins & Brimer ✓
Mailing Address 817 First National Bank Bldg. Phone Forest 3-6148
Relationship of applicant to property is that of tenant
(owner, tenant, lessee, other).

- II. The appellant herein appeals from a decision, determination or an order of the Superintendent of Central Inspection, as follows:

Letter dated May 12, 1965, to cease and desist

for property located 7038 East Lincoln, Wichita

and legally described as Rearue G, in Replat of Part of Eastridge, an Addition to Wichita

in the City of Wichita; and which is presently zoned LC. The decision was rendered 5-12-65, and refers to Section 28.04.090, of the Code of the City of Wichita.

- III. The appellant hereby declares that he has submitted the following required material, together with and as part of the appeal:

- A. A clear and accurate description of the proposed work or use.
B. The order, requirement, decision or determination by the Superintendent of Central Inspection which the appellant believes to be in error, and the principal points supporting the appellant's allegation of errors;
C. Specific reference to that section of the Zoning Ordinance under which it is claimed the permit should be issued;
D. Drawings or plans for the proposed work or use in relation to the adjacent buildings and property;
E. A certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of 200 feet of the property affected by the appeal.

Applicant Donald Ziegler
Authorized Agent _____

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 1:30 (a.m. ~~(p.m.)~~), June 30, 1965, together with appropriate fee of \$50.00.

Signed Walbraith, Senior Planner

A.

Appellant carries on a strictly retail business at the location described as 7038 East Lincoln, and also has an office for a commercial contracting business, but does not carry on any of the functions of the contracting business from this location; he sees prospective clients in his office, makes arrangements and figures specifications, price lists, et cetera, but beyond this point, no actual work in connection with the contracting business is carried on in this location.

There are storage facilities at the rear of the retail sales room which houses by and large only materials and items held for sale to the general public. All materials and supplies which are used in the electrical contracting business are delivered by the jobbers directly to the construction site and are not held at the East Lincoln location. There is a service business maintained in connection with the business which is operated from these premises. This is not a contracting operation in any sense of the word, but merely a small appliance and maintenance business, for which the Owner and Appellant keeps two small pick-up trucks and two repairmen at all times.

Materials which are used in this repair business are stored at the captioned location but are also items which are kept for sale to the general public; the pick-up trucks used in this operation are not stored nor do they remain for any length of time at these premises.

A short period of time during the business hours are used to load the necessary supplies but this is for the most part a once-a-day operation which occurs during the early morning business hours.

Delivery of all retail sales items are made at the store infrequently, which will average no more than one delivery a day, and at no time are there more than three deliveries in any one day.

It is Appellant's position this does not constitute a violation of the zoning regulations for "LC" zoning and Appellant denies that this operation is in violation applicable zoning regulations.

B.

The Order to cease and desist by the Superintendent of Central Inspection directed to Appellant is in error in that Appellant is not conducting nor does he intend to conduct an electrical contracting business from the location at 7038 East Lincoln. He emphatically states all applicable restrictions concerning "LC" zoning have been complied with by Appellant, and Appellant will continue to abide by said rules and regulations and current orders.

We, The Security Abstract and Title Company, Inc.,
hereby certify the foregoing to be a true and correct list of property
owners within a 200 foot radius of Reserve G, in Replat of Part of
Eastridge, an Addition to Wichita, Sedgwick County, Kansas, as shown
by the deeds on file in the Office of the Register of Deeds of Sedgwick
County, Kansas, on this 18th day of June, 1965 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

J. R. W. Wain
Vice-President

Order No. 125874

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Reserve G		Replat of part of Eastridge, an Addition	✓ William E. Walker ^{a 729 So. Hydraulic} Address unknown
1	18	Eastridge 4th Add.	✓ Ridgewood Development, Inc. 1905 Southwest Boulevard
2	"	"	"
3	"	"	"
4	"	"	"
5	"	"	"
6	"	"	"
7	"	"	"
8	"	"	"
9	"	"	"
10	"	"	"
10 exc. W 16' for St.	F	Eastridge 6th Add.	✓ William Victor Wright, Jr. Alma D. Wright 808 Gouverneur Rd.
11 exc. W 16' for St.	"	"	✓ Byron F. Hess Marie Hess 814 Gouverneur Rd.
12 exc. W 16' for St.	"	"	✓ Ivan S. McGrew F. Vioma McGrew 820 Gouverneur Rd.
13 exc. W 16' for St.	"	"	⊕ Ridgewood Development, Inc. 1905 Southwest Blvd.
1	8	Eastridge 8th Add.	✓ William C. Merrill Hildegard Merrill 7002 Castle Drive.
N 13.65' of 2	"	"	"
S. 40.95' of 2	"	"	✓ J. W. Arnold Delta J. Arnold 2114 S. Oliver
6	"	"	⊕ Ridgewood Development, Inc. 1905 Southwest Blvd.
1	1	Eastridge 9th Add.	✓ Ralph E. Lightner Retta E. Lightner 115 S. Rutan