

Case No. BZA 28-85 - Roy Alladawi - requests a variance to reduce the required rear yard setback from 10' to 5' on property zoned the "LC" Light Commercial District and generally located on the northwest corner of

SGAO

200 1/4 Sec 10-24-85

Sheet 10-31-85

Record ✓

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: January 22, 1986

TO: Monty Robson, Superintendent of Central Inspection

FROM: Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals

SUBJECT: BZA 28-85 - Variance of rear yard setback

On September 19, 1985 a resolution authorizing a variance of the rear yard setback from 10 feet to 8 feet was released to your office and to the applicant.

One of the conditions established by the Board was the relocation of one driveway adjacent to Edgemoor and the closing and reconstruction of the curb on the east driveway approach to Lincoln. I notice that the applicant has occupied the property and he has made no attempt to comply with the provisions established by the Board relative to the driveways.

Since there have been instructions by the City Commission to provide better follow up of BZA conditions, I believe it would be appropriate to contact Mr. Alladawi on this matter. It is unfortunate that the past three weeks of ideal construction weather have not been used to complete these requirements.

If you do not have a copy of the plan approved by the Traffic Engineer, please advise.

Glen E. Lytle
Assistant Secretary
Board of Zoning Appeals

GEL/lw

cc: Bill McKinley, Traffic Engineer

September 19, 1985

Roy Alladawi
5530 East Lincoln
Wichita, Kansas 67218

Re: BZA 28-85 - Request for Variance

Dear Mr. Alladawi:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 23, 1985, in connection with your request for a variance on property zoned "LC" Light Commercial and generally located on the northwest corner of Lincoln and Edgemoor.

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

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:lw
Encl.

cc: Dean Felt, 715 West 13th Street, Wichita, KS 67203
Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 28-85

WHEREAS, Roy Alladawi, 5530 East Lincoln, 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 10 feet to 5 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 11 and 12, Block 11, Beverly Manor Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Lincoln and Edgemoor.

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 April 23, 1985, 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 property is served by a sewer that is located approximately six feet to the west of the west property line and with the granting of an additional 3 feet of utility easement there should be adequate distance to service all underground utilities satisfactorily; 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 building addition will maintain adequate distance to not interfere with the light and air of adjacent residences; 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 the applicant would be unable to provide adequate building area to house the number of laundry equipment units to make the project feasible; 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 with the granting of an additional 3 feet of easement for utility purposes, there should not be a need for additional easements; 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 reduction is insignificant as to the general requirement for a rear yard in the "LC" Light Commercial District; 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 for a variance to reduce the required rear yard setback from 10 feet to 5 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 11 and 12, Block 11, Beverly Manor Addition
to Wichita, Sedgwick County, Kansas. Generally
located on the northwest corner of Lincoln and
Edgemoor.


be approved only to eight feet subject to the following conditions:

1. Prior to the release of the resolution authorizing a reduction of the rear yard setback from 10 feet to 8 feet, the owner shall dedicate by separate instrument an additional 3 feet for utility easement purposes, for the area adjoining the existing easement along the entire west property line.
2. The applicant shall submit 3 copies of a site plan to be approved by the Traffic Engineer showing driveway approaches in conformance with City standards, and the applicant shall remove or reconstruct all approaches not in conformance with the approved plan.

ADOPTED AT WICHITA, KANSAS, this 23rd day of April, 1985.


William Goebel, Vice President

ATTEST:


Glen E. Lytle, Assistant Secretary

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

April 3, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 28-65

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Roy Alladawi, 5530 East Lincoln, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required rear yard setback from 10 feet to 5 feet on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 11 and 12, Block 11, Beverly Manor Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Lincoln and Edgemoor.

This application has been assigned Case BZA 28-85. It will be considered by the Board of Zoning Appeals on April 23, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

April 3, 1985

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Jack H. Galbraith
Secretary

April 25, 1985

Roy Alladawi
5530 East Lincoln
Wichita, Ks. 67218

Re: Case No. BZA 28-85 - Request for Variance

Dear Mr. Alladawi:

At the regular meeting of the Board of Zoning Appeals on April 23, 1985, your request for a variance to reduce the rear yard setback was considered. It was the action of the Board to partially approve your request, but you will be required to maintain an eight foot rear yard to the west of the building to be constructed on the northwest corner of Lincoln and Edgemoor. The Board approval was subject to the following conditions:

1. Prior to the release of the resolution authorizing a reduction of the rear yard setback from 10 feet to 8 feet, the owner shall dedicate by separate instrument an additional 3 feet for utility easement purposes, for the area adjoining the existing easement along the entire west property line.
2. The applicant shall submit 3 copies of a site plan to be approved by the Traffic Engineer showing driveway approaches in conformance with City standards, and the applicant shall remove or reconstruct all approaches not in conformance with the approved plan.

As you will note, condition number one requires you to dedicate an additional 3 feet for utility purposes along the west portion of your property. I have enclosed a dedication form for your convenience. In addition, condition number two will require the submission of a revised site plan to be approved by the Traffic Engineer.

The Resolution setting forth the official action of the Board is being prepared and you will be furnished a copy when you have complied with the above conditions. Any building permit authorizing the construction within eight feet of the west property line is subject to the release of the resolution by this office.

BZA 28-85 - Page 2

If you have any questions on this matter, please give me a call.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad

Encl.

cc: Dean Felt, 715 West 13th Street, Wichita
Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk
Darrell Brewer, Superintendent of Sewer Maintenance
William McKinley, Traffic Engineer

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE April 23 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 28-85 Northwest corner of
Lincoln and Edgemoor

CPO Council "G" considered the captioned case at its April 22nd meeting and voted 4-2 to recommend that the variance to reduce the required rear yard setback from 10 feet to 5 feet be approved pending Traffic Engineer's approval of the driveway approaches on the property.

Dean Felt, the applicant's agent was present and discussed the case with the Council. No adjoining property owners or area residents were present concerning the case.

Please advise the Board of Zoning Appeals of the Council's recommendation when the case is considered at the April 23rd meeting.

Shirley Mast
Shirley Mast
Administrative Aide

SM:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

EASEMENT

THIS EASEMENT made this ____ day of _____,
19__, by and between _____
of the first part and the City of Wichita, of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual right-of-way and easement for the purpose of constructing, maintaining, and repairing sewer and all other public utilities, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

The east 3 feet of the west 8 feet of Lots 11 and 12, Block 11, Beverly Manor Addition, Sedgwick County, Kansas.

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining, and repairing such sewer and all other public utilities.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Be it remembered that on this ____ day of _____,
19__, before me, a notary public in and for said County and State,
came _____
to me personally known to be the same person(s) who executed the
foregoing instrument of writing and duly acknowledged the execution
of same. In testimony whereof I have hereunto set my hand and af-
fixed my notarial seal the day and year above written.

SEAL

Notary Public

My Commission expires: _____

RE: AGENDA ITEM NO. 14

SECRETARY'S REPORT
CASE NO. BZA 28-85

APPLICANT: Roy Alladawi, 5530 East Lincoln, Wichita, Kansas.

AGENT: Dean Felt, 715 W. 13th Street, 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 10 feet to 5 feet.

GENERAL LOCATION: On the northwest corner of Lincoln and Edgemoor.

ZONING: Subject property is zoned the "LC" Light Commercial District as is the property to the east. To the north, west and south properties are zoned the "A" Two-family Dwelling District.

LAND USE: Subject property is occupied by a former service station that has been converted to a hamburger restaurant. To the east is commercial. To the north and west are one-family dwellings and to the south a high school.

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.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required rear yard setback from 10 feet to 5 feet in order to construct an addition to the existing building for a new use on the property, a self service laundromat.

When the office was first contacted about this variance, the designer was advised that where existing utility easements are involved that do not conform to the minimum standards of the present subdivision regulations, such variances are difficult to justify and the staff could not support the request.

However, in reviewing the existing conditions of the location and depth of the sanitary sewer with Darrell Brewer, Superintendent of Sewer Maintenance, he agreed to allow a reduction of 2 feet, providing the applicant dedicates the additional 3 feet as a utility easement.

The Secretary advised the applicant and his agent of this and agreed that the staff would support a reduction of the required rear yard to eight feet. As you will note the applicant and his agent have not agreed with the recommendation of the Superintendent of Sewer Maintenance and have requested a variance down to 5 feet.

It is the Secretary's opinion that there is nothing unique about this property in anyway as there are numerous properties all over the City in the "LC" district that are located adjacent to residential properties that are required to maintain ten foot rear yards. There are also many properties in the older areas that only have 5 foot utility easements dedicated on the property.

It should also be noted that the property is now completely being redeveloped away from the original service station design and the driveway approaches should be reconstructed to conform to the present standards. This is an extremely busy intersection and the approaches should conform to the Traffic Engineer's standards.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as it is located on a corner and all the lots in the block have a rear yard adjacent to the easement that runs through the center of the block from the north to south.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the construction of a commercial building closer to a residence than is generally permitted by the ordinance could do nothing but add to the problems of commercial adjacent to residences.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the property has more than enough land area to accommodate a building of this size without any reduction of the rear yard setback.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance will adversely affect the public interest inasmuch as the construction of a building into the area needed for utility easements based on today's standards is inappropriate.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance is specific and concise that a ten foot rear yard is required at the rear of a commercial structure in the "LC" Light Commercial District.

RECOMMENDATION:

It is the Secretary's opinion that all five conditions necessary to the granting of a variance can not be found to exist and the variance should be denied.

BZA CASE NO. 20-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>19</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>22</u>	TOTAL NOTICES SENT <u>4-3-85</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

April 3, 1985

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This application has been assigned Case BZA 28-85. It will be considered by the Board of Zoning Appeals on April 23, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 28-85
FILED 3-25-85

APPLICATION FOR VARIANCE

- I. Name of Applicant ROY ALLADDAWI
Mailing Address 5530 E. LINCOLN, WICHITA 67218 Phone 682-6002
Name of Authorized Agent DEAN W. FELT, FELT/KINGDOM ASSOCIATES, INC.
Mailing Address 715 W. 13TH WICHITA 67203-3499 Phone 264-3248
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)
- II. The variance requested is to reduce the rear yard setback from 10 feet to 5 feet. A REDUCTION IN THE BUILDING SETBACK LINE ON THE WEST PROPERTY LINE.

on the northwest corner of Lincoln
for property located (5530 E. LINCOLN) WICHITA, KANSAS 67218 and Edgemoor

and legally described as: LOTS 11 & 12, BLOCK 11, BEVERLY MANOR ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

in the City of Wichita; and which is presently zoned LC.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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. 36-596) and that the appropriate fee is herewith tendered;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant X Roy A. Alladdawi

Authorized Agent Dean W. Felt

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:07 (a.m.-p.m.), Mar 25, 1985 together with appropriate fee of 150.00.

Signed [Signature]


FELT/KINGDOM ASSOCIATES
I N C O R P O R A T E D

25, March 1985

Board of Zoning Appeals
City Hall - Tenth Floor
455 North Main Street
Wichita, Kansas 67202

Re: Application for Variance 5530 E. Lincoln
Wichita, Kansas

Gentlemen,

We request a reduction of the minimum Rear Yard Set Back requirement of the ten feet (10') as stated in Ordinance 28.04.90.3.1 of Title 28 (zoning ordinance), to five feet (5'), for the reasons specifically stated herein.

1. The property being located on a corner is unique in itself, along with depth of the lots being only one hundred thirty four feet (134'), where most lots range from one hundred forty feet (140'), to one hundred fifty feet (150').
2. The rights of adjacent property owners will not be affected with the granting of this variance as adequate parking will provide and a six foot (6') screening fence will be installed at the north and west property lines.
3. If the ten foot (10') Rear Yard Set Back is enforced the property owner that our firm represents would have to reduce the size of the proposed new facility (addition), down to sixty two feet, ten inches (62'-10"), from the sixty seven feet, ten inches (67'-10"), needed to install all equipment required for a profitable self-service laundromat.
4. The granting of this variance will not adversely effect the public health, safety, morals, order, convenience, prosperity, or general welfare of adjacent property owners due to its location on a corner and with Southeast High School being on the south, across Lincoln.
5. The spirit and intent of Title 28 (zoning ordinance), was not to reduce new business growth, but to help. As it was not meant to impose undue hardship or cost on a property owner or to the public which will utilize this facility on the property in question.

715 West Thirteenth Street,

Wichita, Kansas 67208

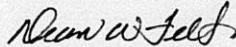
(316) 264-3248

Board of Zoning Appeals
25, March 1985
Page two

Should this variance be granted, all improvements required for the construction of an assembly building shall be provided prior to any occupancy of the building. This shall include surfaced off-street parking based on the maximum capacity of an assembly building as well as all other requirements of the applicable codes of the City of Wichita, including, but not limited to, health, safety, building, fire, plumbing, etc.

Sincerely yours,

FELT/KINGDOM ASSOCIATES, INC.
ARCHITECTS & PLANNERS



Dean W. Felt, PBD, AIBD
President

DWF/jdf

cc: Mr. Roy Alladdawi
Project file

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lot 9	Block 10	Beverley Manor Addition	William L. Lewis Joyce Wilbur Lewis 908 Denmark Wichita, KS 67212
Lot 10	Block 10	"	Hazen I. Dool Virginia Dool 847 Marcilene Wichita, KS 67218
Lot 11	Block 10	"	LeRoy W. Pringle Eleanor V. Pringle Address Unknown
Lot 12	Block 10	"	Hugh Robinson Betty F. Robinson 857 Marcilene Wichita, KS 67218
Lot 6	Block 11	"	Mary M. Parrott 827 S. Edgemoor Wichita, K 67218 AND Bernice E. Tarrant Same Address
Lot 7	Block 11	"	Ray E. Rutledge Avis Rutledge 833 S. Edgemoor Wichita, KS 67218
Lot 8	Block 11	"	George V. Dean Florence Dean 839 S. Edgemoor Wichita, KS 67218
Lot 9	Block 11	"	Jonathan P. Brock Phyllis E. Brock Address Unknown
Lot 10	Block 11	"	David T. M. Wong Eleanor H. Y. Wong 847 S. Edgemoor Wichita, KS 67218
Lots 11 & 12	Block 11	"	Roy A. Alladdawi 5530 E. Lincoln Wichita, KS 67218
Lot 13	Block 11	"	Capitol Federal Savings & Loan Association 130 N. Market Wichita, KS 67202
Lot 14	Block 11	"	Clarence L. Coulson Mary L. Coulson 852 Marcilene Wichita, KS 67212

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 15	Block 11	Beverly Manor Addition	Lillian E. Fromm Carol Ann Fromm ✓ 848 Marcilene Wichita, KS 67318
Lot 16	Block 11	"	✓ Frances Irene McCoy 842 Marcilene Wichita, KS 67218
Lot 17	Block 11	"	✓ Dennis Craig Thomas Mardith E. Thomas 836 Marcilene Wichita, KS 67218
Lot 18	Block 11	"	✓ Esther Emma Schildknecht Esther Lois Schildknecht 832 Marcilene Wichita, KS 67218
Lot 19	Block 11	"	✓ Lyndon A. Symes Juanita E. Symes 826 Marcilene Wichita, KS 67218
Lot 6	Block 3	Christy Manor	✓ Donald Wayne Goff Nedia M. Goff 832 Edgemoor Wichita, KS 67218
Lot 7	Block 3	"	✓ Smith & Co., Inc. P.O. Box 8595 Wichita, KS 67218
Reserve		"	✓ Edgemoor Partnership c/o Leslie Rudd 3641 N. Hillside Wichita, KS 67219
Reserve C		Replat of Part of Block 1, Purcell's 5th Addition	Joseph P. Snavelly ✓ Address Unknown
Lot 1		Southeast High Addition	✓ U.S.D. # 259 428 S. Broadway Wichita, KS 67202

Page 3

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lots 11 and 12, Block 11, Beverley Manor,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 21st day of March, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND
TITLE COMPANY, INC.

By

Mary Gable

Sr. Vice-President

Order No: 344069
ns

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-02 PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
CITY OZA VAR.	\$150.00

NAME Roy A. Alladdawi
 ADDRESS 202 N. ROCK RD.
 FUND 755-40710-00 DUE DATE
 COMMENTS
 DATE MARCH 25 1973 BY [Signature]

*

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

Roll # 2