

ACTION

DATE

By COMMITTEE *App.* 11/11/63

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA 33-63 - Robert R. Purcell request
variance to allow mobile home court
in LC on E side of Seneca in an area
bet. 43rd & 44th Streets South

December 31, 1963

Mr. Kenneth P. Stewart, Attorney
340 South Broadway
Wichita, Kansas

Dear Mr. Stewart:

Re: BZA 33-63 - Request for Variance

On December 23, 1963, we advised you that the Board of Zoning Appeals had denied your request for a variance to allow a mobile home court in an "LC" District on property legally described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, generally located on the east side of Seneca in an area between 43rd and 44th Streets South.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before December 30, 1963. The City Clerk has advised that no appeal was filed on or before the date indicated, 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,

Robert A. Lakin
Secretary

RAL:ber
Attachment

cc: Robert R. Purcell, 230 North Crestway
Glen Lytle, Superintendent of Central Inspection

RESOLUTION NO. BZA 33-63

WHEREAS, Robert R. Purcell, 230 North Crestway, Wichita, Kansas, has, as provided in Section 2.12.590.2, Code of the City of Wichita, requested a variance to allow a mobile home court in the "LC" Light Commercial zoning district on property legally described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, in the City of Wichita, Sedgwick County, Kansas,

generally located on the east side of Seneca in an area between 43rd and 44th Streets South; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, it was determined by the Board that it had jurisdiction; and

WHEREAS, this specific property does not display any characteristics substantially different from other property similarly zoned or sized or similarly located adjacent to major traffic streets and adjacent residential areas; and

WHEREAS, the applicant did not submit adequate proof that no adverse affects would be established, and further that objectors did appear before the Board stating that property values would be lessened should the variance requested be granted, and further objecting to the proposed mobile home park layout relating to the handling of refuse collection; and

WHEREAS, the strict enforcement of the zoning ordinance will not constitute unnecessary hardship on the property owner in that the property can be properly developed for light commercial or residential purposes under the zoning now in affect, and further, the property owner had opportunities to develop said property and did not do so, and further that adequate relief is being proposed through action of the Planning Commission in the creation of a specific mobile home zoning district classification and mobile home code; and

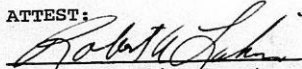
WHEREAS, the general welfare of the community will be adversely affected in the event the variance is granted in that the regulation of orderly development in the community will be disrupted if "use variances" are granted when the zoning ordinance specifically provides that such uses shall not be established in that particular zoning district; and

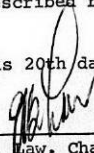
WHEREAS, the Board determined that none of the four requirements were found to exist which must be found to exist before a variance can be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the above described request for variance be denied.

ADOPTED AT WICHITA, KANSAS, this 20th day of December, 1963.

ATTEST:


Robert A. Lakin, Secretary


E. B. Law, Chairman

Board of Zoning Appeals

December 27, 1963

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

BZA 33-63

Attached is a copy of BZA Resolution NO. 33-63,
covering action taken by the Board of Zoning Appeals
on the above case.

This case was heard December 20, 1963, and an appeal
may be filed in your office on or before December 30,
1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

December 23, 1963

Mr. Kenneth P. Stewart, Attorney
340 South Broadway
Wichita, Kansas

Dear Mr. Stewart:

Re: BZA 33-63 - Request for Variance

This is to advise you that at its meeting of December 20, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to allow a mobile home court in an "LC" District on property legally described as:

Lot 8, Block 1, except the south 100 feet of the
west 100 feet, in Purcell's 10th Addition,

generally located on the east side of Seneca in an area between 43rd
and 44th Streets South.

After due consideration and discussion of this application, it was the action of the Board of Zoning Appeals to deny the request.

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 December 30, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before December 30, 1963, the decision of the Board will be final.

Very truly yours,

Robert A. Lakin
Secretary

RAL:JWH:ber
cc: Robert G. Finch, City Clerk
Glen Lytle, Superintendent of Central Inspection
Robert R. Purcell, 230 North Crestway

December 5, 1963

Mr. Robert R. Purcell
230 North Crestway
Wichita, Kansas

Dear Mr. Purcell:

Re: Case No. BZA 33-63

Because of a delay in the legal advertising of new Board of Zoning Appeals cases, the meeting of the Board which was scheduled for December 17, 1963, has been re-scheduled for Friday, December 20, 1963, at 2 p.m. in the Planning Commission meeting room, 401 City Building Annex, 104 South Main, Wichita, Kansas.

This is to advise, therefore, that the above numbered case which was continued from the November 26, 1963, meeting, will be placed on the agenda for December 20, 1963.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

cc: Kenneth P. Stewart, Attorney
340 South Broadway
Wichita, Kansas

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

December 5, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 33-63

An application has been filed by Robert R. Purcell, 230 North Crestway, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, to allow a mobile home court in an "LC" Light Commercial zoning district, on property legally described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Seneca in an area between 43rd and 44th Street South.

This application has been assigned Case No. BZA 33-63 and will be reconsidered by the Board of Zoning Appeals on Friday, December 20, 1963, 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.

Robert A. Lakin
Secretary

THE SECURITY OIL COMPANY

920 EAST NINETEENTH STREET • WICHITA, KANSAS

November 25, 1963

Board of Zoning Appeals
Room 402, City Building Annex
104 South Main
Wichita, Kansas

Attention: Mr. Robert A. Lakin

Dear Sir:

Would you please correct our mailing
address?

Our correct mailing address is:

Security Oil Company
Box 2591, Hillside, Station
Wichita 11, Kansas,

Not Kansas City, Missouri.

Yours truly,

SECURITY OIL COMPANY



Robert Dickenson

RD/b



December 2, 1963

Mr. Robert R. Purcell
230 North Crestway
Wichita, Kansas

Dear Mr. Purcell:


Re: BZA 33-63 - Request for
Variance

This is to advise you that at its regular meeting of November 26, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to permit the establishment of a mobile home park on property described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition. Generally located on the east side of Seneca in an area between 43rd and 44th Streets South.

At the request of Kenneth P. Stewart, your attorney, the Board took action to defer consideration of this application until the meeting of December 17, 1963.

Very truly yours,


Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Kenneth P. Stewart, Attorney
340 South Broadway

SECRETARY'S REPORT

CASE NO. BZA 33-63

GENERAL DESCRIPTION

The property represented in this application is generally located on the east side of Seneca between 43rd and 44th Streets South.

The property in question is zoned "LC" Light Commercial. To the west is "LC" Light Commercial; north is "AA" Single Family; east is "AA" Single Family; and south is "AA" Single Family.

To the west is a service station, trailer house, auto repair shop and animal hospital; north is single family, laundry and a duplex; east is single family; and south is single family and a church. All of the property in question is vacant.

REQUEST

The request is for a variance pursuant to Section 2.12.590.2, of the Code of the City of Wichita, to allow a mobile home court to be located in a light commercial zone.

HISTORY

The same application was before the Board of Zoning Appeals on September 24, 1963, as Case No. BZA 23-63. The action of the Board was not to take jurisdiction in view of the fact that the present ordinance does not permit mobile home courts in the Light Commercial district. (Mobile home courts are first permitted as a "use by right" in the "C" Commercial district).

Following the decision of the Board, the applicant filed an appeal pursuant to Section 2.12.610 of the Code of the City of Wichita, requesting that the Board of City Commissioners overrule the decision of the Board of Zoning Appeals. The City Commission referred the appeal back to the Board of Zoning Appeals for its report.

In the meantime, the applicant filed an application for re-hearing pursuant to Section 2.12.600 requesting that the Board of Zoning Appeals formally reconsider the question. The Board, on October 22, 1963, granted the applicant the right to a rehearing.

The applicant has filed a new statement of justification, which is included as attachment #1 to this report.

COMMENTS BY THE SECRETARY ON JURISDICTION

The applicant claims in his statement that "jurisdiction of the Board of Zoning Appeals is based upon that part of the ordinance stating 'the Board shall have jurisdiction to grant variances from the strict application of the enforcement provisions-----' as distinguished from the jurisdiction granted to a physical requirement". He further states that, "this distinction is justified on the basis that the terms of the ordinance uses the conjunction "and", indicating authority to the Board of Zoning Appeals to deal with subject matter broader than variances based solely upon physical characteristics of land".

The definition of a conjunction is a connective having the special function of joining together sentences, clauses, phrases, or

words and can be either co-ordinating (and, but, or) and subordinating (though, if, as, since). From this definition taken from Webster's New Collegiate Dictionary, it is apparent that the conjunction "and" is a co-ordinating conjunction. A co-ordinating conjunction is one which joins words or groups of words of the same rank. In other words, each part of the sentence joined by the conjunction are separate and of equal importance.

The Secretary concurs in Mr. Stewart's position that if the ordinance adequately states what the jurisdiction is, no attempt should be made to read something into it that is not there. If the ordinance has been misread in the past, and if it is the position of the governing body that such jurisdiction be limited, then the ordinance should be corrected.

In the past, although Mr. Stewart shows that it was not a grammatically correct interpretation, it was felt that the second clause referred to was in the nature of an explanation of what enforcement provisions of the ordinance could be altered. It can be stated that both the attorney and planning department member who prepared the ordinance intended it to be this way. What the legislative intent of the governing body was in the adoption of this ordinance cannot be determined. Thus, as the applicant's attorney points out

the words in the ordinance must be interpreted to mean "what they say".

Another interesting viewpoint is that the Board is a quasi-judicial body rather than an administrative or legislative body.

If the act of permitting a use which is otherwise not permitted can

properly be termed a legislative act (and this is what happens when the City Commission adopts or legislates an ordinance changing or establishing use categories in the zoning code), then what right does the Board have in performing the same function as the governing body? The statutes clearly provide for the manner in which zoning ordinance and district classifications and amendments thereto can be established. Is the act of granting a "use variance" a quasi-judicial act?

The applicant also claims that the Board has jurisdiction on the basis of precedents which have been set by the Board in approving several "use variances" in the past two or three years. The Secretary doubts whether this should be used as the basis for the Board to make its decision.

Arthur Johnson, attorney for the Board, was asked to review the points raised by Mr. Stewart. He has advised us that in his opinion, based on the wording involved and on the latest leading Kansas case on this subject, that the Board has the jurisdiction to grant use variances. However, the legislation on which that case was based has since been amended in an attempt to clarify the matter of use variances. No new cases have been determined under the new legislation.

Since reasonable doubt has been established as to this particular question of jurisdiction, it is recommended that the Board take jurisdiction. It is still the feeling of the Secretary should the Board make the finding that it has jurisdiction in these matters, action should be taken to revise the Board of Zoning Appeals ordinance.

In the event the Board does take jurisdiction in this case, the Board must find that all four of the following conditions are present before granting the request of the applicant:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district;
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

UNIQUENESS

The applicant is of the contention that uniqueness exists because of a rare combination of numerous factors. He has stated that the land is zoned "LC" Light Commercial since it was platted in 1952 and that the land is surrounded by a major street on the west and residential development on the other sides.

It should be noted that the property was not zoned until 1958 because zoning was not established in the county until that time. The property in question was annexed to the city in 1962. As to the applicant's opinion that this property is unique in view of the fact that it is zoned "LC" and bounded on one side by a major street and on the other sides by residential use, it is the Secretary's opinion that this is no justification for uniqueness in consideration of the

fact that there are many areas in the City of Wichita which are so situated.

The applicant feels that the size and shape of the land makes it especially suitable for mobile home development and that other "LC" areas are not of sufficient size to permit this type of development. However, there are several large "LC" areas around the city which are undeveloped and which would be as suitable for mobile home development if "LC" permitted such a use.

The applicant also contends that since all utilities suitable for mobile home development are available to the property that this is justification for uniqueness. There are many areas around the city which have the utilities available for development.

It is also suggested that the property is unique because it is located in an area more suitable for residential development than for commercial development. If this is true then should not the property be zoned for residential use rather than for light commercial uses?

Another reason contended is that the land has been undeveloped for a long period of time, thus remaining unproductive and a tax burden on the owner. Although this is a true statement, no evidence has been submitted to show that reasonable attempts have been made to develop the property for other than the use proposed in this application.

The applicant points out that the proposed use of the land is in accord with anticipated mobile home code and current theory that

the mobile home court is a commercial rather than a residential use. The Secretary agrees that a mobile home court would be a reasonable use for the property.

It is the feeling of the Secretary that uniqueness has not been adequately established.

ADJACENT PROPERTY

It is doubtful if the granting of the variance would have any adverse affects upon the surrounding property if the mobile home court is properly developed under conditions similar to those established in the County Trailer Code.

HARDSHIP

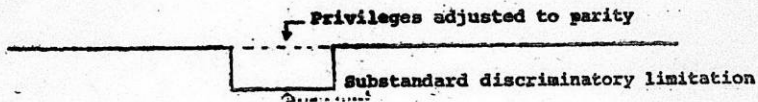
The applicant suggests that "in view of the uniqueness of the circumstances under conditions where the economic utility of the land is apparently impossible, enforcement of the zoning ordinance requiring permanent or residential or commercial development, constitutes an immediate hardship upon the owner of the property."

The Secretary has taken the position that hardship exists if the property cannot be used for the purpose for which it is zoned. Gordon Whitnall, one of the foremost planning authorities on the proper use of the variance, has suggested that the proper use of the variance can be ^{shown} graphically in the three following graphs:

"This straight line represents by its evenness and level character the privileges of a number of parcels of land in a given

area which are similarly classified under a zoning ordinance. They are all equally affected under similar circumstances. This is as it should be."

The next graph Mr. Whitnall shows as follows:



"This graph is similarly represented by a straight, horizontal line except that near its center is a depression. The depressed portion represents a piece of property which, because of circumstances peculiar to it alone, such as size, shape, specific dimensions, slope, depression or elevation, cannot literally conform to the provisions of the ordinance as can the neighboring property similarly classified. Thus, this piece of property is represented graphically as a depression that connotes substandard privileges. This is a situation that warrants the consideration of a variance adjustment. The variance is employed and the adjustment is made, but with certain limitations and conditions that will assure that the adjustment conveys no more than that amount of privilege which will bring this piece of property to a parity with its neighbors. This adjustment is graphically represented by the dotted line which bridges across the depression."

The last graph Mr. Whitnall shows in this manner:



"We find in this graph another example of a straight, horizontal line representing equal privileges to all properties in the same vicinity and under the same classification. But a particular piece of property, differing in no essential respects from all of the others, through its owner requests to be permitted some modification of the requirements of the zoning ordinance through the medium of a variance. The privileges of this property are initially on a parity with the others. What the owner of the property is actually asking is that he be permitted some additional privileges denied to the other properties. If the variance be granted, it constitutes a grant of a special privilege as represented by the bulge shown by the dashed line. Such an act not only destroys the integrity and effectiveness of the zoning program as a whole, but raises very serious questions as to constitutionality because it involves using the police power in a discriminatory manner through granting a special privilege to one piece of property denied to others under similar circumstances." *

It is the Secretary's opinion that if the variance is granted that the applicant would be enjoying a privilege that would not be mutually enjoyed by other property owners in the same zoning district since mobile home courts are not permitted as a "use by right" in the "LC" district.

*Proper Use of Variance. Gordon Whitnall of the office of Gordon Whitnall and Associates, Los Angeles 8, California

PUBLIC INTEREST

The Secretary agrees with the applicant in that the granting of the variance should in no way adversely affect the public interest.

It is the Secretary's opinion that all four conditions necessary to the granting of a variance (uniqueness and hardship) have not been found to exist. Therefore, it is recommended that the variance be denied in that an adequate showing has not been made by the applicant in his justification of uniqueness and hardship.

However, in the event the Board takes jurisdiction and finds all four conditions to exist and wishes to approve the variance, the Secretary recommends that the variance be approved, subject to the following conditions and requirements:

1. Each mobile home or trailer space shall contain a minimum of fifteen hundred (1,500) square feet with the boundaries properly marked. Mobile homes and trailers shall be so situated on each space so that there shall be no less than twenty (20) feet of clearance between such homes and trailers and that clearance between rears of homes or trailers shall be no less than twelve (12) feet.
2. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a side yard of no less than five (5) feet from any side space line.

3. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a front setback of no less than twenty (20) feet from the center line of the roadway; and in no instance shall such setback be less than five (5) feet from the edge of the roadway. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a front setback of no less than twenty-five (25) feet from the street line of any public street or highway.
4. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a setback of no less than five (5) feet from the rear of the trailer or mobile home space.
5. All mobile home and trailer spaces shall abut upon a roadway of not less than thirty (30) feet in width.
6. All roadways, trailer and mobile home spaces shall be clearly identified with letters or numerals of a light reflecting material; such letters or numerals to be a minimum of two (2) inches in height.
7. Each mobile home space shall be provided with one off-street parking space, measuring no less than ten (10) feet in width by no less than twenty-five (25) feet in

- length; such parking space to be parallel to the adjacent roadway and located in the front portion of the mobile home or trailer space. Said parking space may include any part of the front yard setback.
8. All roadways shall be lighted at night with fifty (50) watt lamps at intervals of two hundred (200) feet located approximately twenty (20) feet from the ground, provided that all lights shall be so arranged as to reflect the light away from adjoining properties.
 9. Compliance with such other requirements as may be deemed necessary by the Wichita-Sedgwick County Health Department, the Engineering Department, the Central Inspection Division, the Fire Department and the Water Department.
 10. If use as a mobile home court is discontinued for a period longer than six months, the permit shall be revoked and the owner of the land shall restore the property to its unimproved condition.
 11. The mobile home park shall be occupied by mobile homes containing individual toilet, bath, cooking and refrigeration facilities and in no event shall trailer houses without these facilities be allowed.
 12. A final plot plan showing the layout of the mobile home court as finally approved by the Wichita-Sedgwick County Health Department, Engineering Division, Central Inspection Division, Fire Department and Water Department shall be filed with the Secretary of the Board of Zoning Appeals.

LAW OFFICES OF
BOYER, DONALDSON, BECK & STEWART

WICHITA FEDERAL SAVINGS BUILDING

340 SOUTH BROADWAY

WICHITA 2, KANSAS

JOHN E. BOYER
GEORGE J. HONDROS (1910-1962)
PAUL J. DONALDSON
HAROLD T. BECK
KENNETH R. STEWART
JAMES R. HANSON
JAMES M. CORRIGAN

November 19, 1963

AMHERST 4-7321
AREA CODE 316

Mr. Robert A. Lakin
Secretary
Board of Zoning Appeals
Wichita, Kansas

Re: BZA 23-63.

Dear Mr. Lakin:

We enclose the original and one copy of Statement of Justification filed on behalf of applicant, Robert R. Purcell, in connection with re-hearing of the Application set for November 26, 1963.

Yours very truly,

BOYER, DONALDSON, BECK & STEWART

By: 

KPS:jsb

Enclosures

c.c. Mr. Robert R. Purcell

STATEMENT OF JUSTIFICATION

Re: BZA 23-63
Applicant - Robert R. Purcell
Property - Lot 8, Block 1
except South 100 feet of
West 100 feet, Purcell's
10th Addition; East side
of Seneca between 43rd and
44th Street South.

JURISDICTION:

Applicant's claim of jurisdiction in the Board of Zoning Appeals is based upon that part of the Ordinance stating "the Board shall have jurisdiction to grant variances from the strict application of the enforcement provisions of the Zoning Ordinance . . ." as distinguished from the jurisdiction granted to vary physical requirements. This distinction is justified on the basis that the terms of the Ordinance uses the conjunction "and" indicating authority to the Board of Zoning Appeals to deal with subject matter broader than variance based solely upon physical characteristics of land (Municipal Code 2.12.590-2).

Jurisdiction is further claimed by the applicant on the basis of precedent before the Board of Zoning Appeals as exemplified by the application of Jess L. Graham, et al., BZA 2-60, The Wichita Community Theater, applicant, BZA 4-62, and Knapp Outdoor Advertising Corporation and Wesley Motor Hotel, Inc., applicant, BZA 16-63. In each of the above cases over the period covered, as well as with other decisions of the Board of Zoning Appeals, the Board has made an interpretation of the Ordinance respecting its jurisdiction, sufficient to permit jurisdiction in the instant case.

It is applicant's contention that the Board of Zoning Appeals is asked to exercise a quasi-judicial function in hearing this application as distinguished from a legislative function and that this exercise of authority is justified under the terms of the Ordinance and its prior interpretation.

The Board is requested to exercise its quasi-judicial function to vary the strict application of the enforcement provisions of the Ordinance based not only upon the existence of conditions hereafter stated, but also because this is a peculiar problem where the land is obviously ideally situated for mobile home development and would certainly be qualified for such zoning and use if and when the mobile home code and health code provisions take effect.

EXISTENCE OF CONDITIONS:

The conditions necessary to be present should be determined as follows:

Uniqueness: For this tract of vacant unimproved land exists because of the rare combination of numerous factors:

(1) Zoning--land is zoned light commercial since original platting of the property in approximately 1952.

(2) Use--land is surrounded by major street on the West and basically residential development on the other sides.

(3) Physical characteristics--size and shape of the land is especially suitable for mobile home development; other existing light commercial areas are not of sufficient size to permit this development.

(4) Utilities--there is available to the land all City utilities suitable for mobile home development.

(5) Sociological--land is located in an area more suitable for "residential-type" development and less suitable for "commercial-type" development.

(6) Economic--land has been undeveloped for a long period of time, thus remaining unproductive and a tax burden to the owner.

(7) Land use--in the area of location, the market for permanent residential homes is relatively saturated; but the general area has a relative need for upgraded mobile home district.

(8) Planning--projected use of the land is in accord with anticipated mobile home code and current theory that the mobile home is a residential use rather than a commercial use.

ADJACENT PROPERTY:

Under the submitted proposal which is in substantial compliance with proposed mobile home and health codes, the rights of adjacent property owners will not be adversely affected; the contemplated development should be preferable to land vacancy or possible future light commercial development and use.

HARDSHIP:

In view of the uniqueness of these circumstances, under conditions where the economic utility of the land is apparently impossible, enforcement of the Zoning Ordinance requiring either

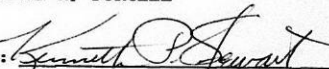
permanent residential or commercial development constitutes an immediate hardship upon the owner of the property.

PUBLIC INTEREST:

The property is zoned and could be developed for commercial purposes which could adversely affect the public interest in a predominantly residential area. On the other hand, mobile home development is more consistent with the already existing residential use and also with the proposed mobile home and health code requirements.

ROBERT R. PURCELL

By:


of Boyer, Donaldson, Beck
& Stewart, attorneys
for Applicant.

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

November 7, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 33-63

An application has been filed by Robert R. Purcell, 230 North Crestway, Wichita, Kansas, requesting a variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, to allow a mobile home court in an "LC" Light Commercial zoning district, on property legally described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Seneca in an area between 43rd and 44th Streets South.

This application has been assigned Case No. BZA 33-63 and will be considered by the Board of Zoning Appeals on Tuesday, November 26, 1963, 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.

Robert A. Lakin
Secretary

BZA Case No. ³³~~23~~-63 - ~~REMOVED~~ - NOTICES MAILED NOVEMBER 7, 1963 for
HEARING ON NOVEMBER 26

Robert R. Purcell
230 North Crestway

Robert H. and Marie L. Funke
3301 South Handley

Clifford Hefner and Barbara Nell Hefner
4409 South Handley

John C. and Agatha E. Malone
2715 West 3rd Street

Paul J. and Dorothy C. Johnson
4421 South Handley

John W. and Dorothy A. Jaerger
4427 South Handley

Fred W. and Mary C. Spencer
4433 South Handley

L. C. and Mary Tallman
900 West 44th Street South

Robert R. and Betty Jean Purcell
Laura P. Purcell
230 North Crestway

Harold E. and Nancy V. Frey
4516 South Seneca

Ronald F. and Dorothy M. Johnson
4515 South Walnut

The South Seneca Baptist Church
4502 South Seneca

Robert H. and Bonnie M. Ivy
4502 South Walnut

Dale Francis and Betty June Boden
4508 South Walnut

Kenneth E. and Imogene Corn
4514 South Walnut

Billy D. and Linda Ann Johnson
4509 South Handley

Federal Housing Commissioner
Washington, D. C.

A. Cecil and Mary S. Kasterke
4400 South Handley

R. A. and Laura K. Wolfe
4416 South Handley

Clarence E. and Florence m. Field
4422 South Handley

Norris H. and Dorothy L. Pitts
4428 South Handley

Martin Lewis and Jo Ann Allen
4434 South Handley

Sherman L. and Lola Campbell
1530 Webster

George K. and Delores Downs
5330 East 72nd Street South

Security Oil Company
605 West 47th Street
Kansas City, Missouri

Jesse L. and Villa Horn, Jr.
5160 South Seneca

Walter, Jr., and Jean Ann Powell
4345 South Handley

Arnold Lee and Virginia Lee Hole
4357 South Handley

Ray M. and May Holder
4360 South Seneca

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. NAME OF APPLICANT Robert R. Purcell
MAILING ADDRESS 230 North Crestway PHONE MU 2-1638
NAME OF AUTHORIZED AGENT None
MAILING ADDRESS _____ PHONE _____
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF _____
(OWNER, TENANT, LESSEE, OTHER)

II. THE VARIANCE REQUESTED IS Allow mobile home court in light
Commercial zone

FOR PROPERTY LOCATED AT East side of Seneca in an area between
43rd and 44th Streets South
AND LEGALLY DESCRIBED AS: Lot 8, Block 1, except the south
100 feet of the west 100 feet in Purcell's 10th Addition
IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED "LC"
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

- 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. 24-606); AND THAT THE APPROPRIATE FEE IS HEREWITH TENDERED;
 - THAT HE HAS BEEN ADVISED OF HIS RIGHT TO APPEAL OF THE DECISION OF THE BOARD TO THE CITY COMMISSION WITHIN TEN (10) DAYS OF THAT DECISION;
 - THAT ALL DOCUMENTS ARE ATTACHED HERETO AS NOTED IN PARAGRAPHS 3 AND 4 OF THE INSTRUCTIONS.

Robert R. Purcell
APPLICANT

AUTHORIZED AGENT

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING
APPEALS, 11 (A.M. - P.M.), July 2, 1961,
TOGETHER WITH APPROPRIATE FEE OF \$50.00.

James W. Wheeler P.H.
SIGNED

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 Sedgwick County,)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of: Lot 8, Block 1, except the South 100 ft of the West 100 ft., in Purcell's 10th Addition to Sedgwick County, Kansas.

Fidelity
 Title
 Insurance
 Co.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

Lot	Block	Addition	Owner
1	1	Purcell's 10th	Robert H. & Marie L. Funke, ux 4401 S. Handley
2	1	" "	Clifford Heiner & Barbara Nell Heiner, ux 4409 S. Handley
3	1	" "	John C. & Agatha E. Malone, ux 2715 West 3rd St.
4	1	" "	Paul J. & Dorothy G. Johnson, 4421 S. Handley
5	1	" "	John W. & Dorothy A. Jaeger, ux 4427 S. Handley



Lot	Block	Addition	Owner
6	1	Purcell's 10th	Fred W. & Mary C. Spencer, ux 4433 S. Handley
7	1	" "	L. G. & Mary Tallman, ux 900 West 44th St. South
8 (S 100' or 1 W 100')		" "	W. H. Rex No address available
8 (exd S 100' 1 W 100')		" "	Robert E. & Betty Jean Purcell, Laura P. Purcell 230 N. Crestway
1	2	" "	Harold E. & Nancy V. Frey, ux 4516 S. Seneca
20	2	" "	Ronald P. & Dorothy M. Johnson, 4515 S. Walnut
21	2	" "	The South Seneca Baptist Church 4502 S. Seneca
1	3	" "	Robert E. & Bonnie M. Ivy, ux 4502 S. Walnut
2	3	" "	Dale Francis & Betty June Boden, 4508 S. Walnut
3	3	" "	Kenneth E. & Imogene Goro, ux 4514 S. Walnut
24	3	" "	Edgar Lee & Mabel Ann McKenzie, No address available
25	3	" "	Billy D. & Linda Ann Johnson, ux 4509 S. Handley
26	3	" "	Federal Housing Commissioner Washington, D. C.
1	4	" "	A. Cecil & Mary S. Kaaterba, ux 4400 S. Handley
2	4	" "	Federal Housing Commissioner Washington, D. C.
3	4	" "	R. A. & Laura K. Wolfe, ux 4416 S. Handley
4	4	" "	Clerence E. & Florence M. Field, ux 4422 S. Handley
5	4	" "	Norris H. & Dorothy L. Pires, ux 4428 S. Handley
6	4	" "	Marlin Lewis & Jo Ann Allen, ux 4434 S. Handley
7	4	" "	Sherman L. & Lora Campbell, ux 4430 Webster

Sec	Tract	Section	Owner
1	B	Wils. Sanders and	David D. & Mary E. Proctor, et al No address available
14	B	" " "	George K. & Delores Downe, et al 5330 East 72nd St. South
3	D	" " "	Security Oil Company 605 Wichita St., N. C. Mo.
4	D	" " "	Elsie Floyd Sipes & Irene Eva Sipes No address available
7	D	" " "	Jesse L., Jr. & Viola Kern, et al 2140 S. Seneca
12	E	Barlow	Walter, Jr. & Jean Ann Powell, et al 4365 S. Sandley
31	E	"	Arnold Lee & Virginia Lee Blair, et al 4357 S. Sandley

The South 200 ft of the following described tract: Sec 30 T. East of the SW cor of the NW 1/4 of Sec 17, Twp 23, R 1 East; th N 400 ft, E 400 ft, S 400 ft, & 400 ft to beg.

Ray H. & May Holder, et al
4360 S. Seneca

Dated at Wichita, Kansas this 29th day of August, 1963 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

Chas W Farrell
Sec. OFM

*Shows for copy
of ownership list
taken from BPA
23-63*

PAYMENT NOTICE
 City of Wichita
 PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
 Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
 Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
 Plan. Pib'g. _____ Pib'g. Cert. _____
 Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
 Street _____ Trailers _____

DESCRIPTION	AMOUNT
6323	

Name _____

Address _____

Type _____ Due Date _____

Comments _____

Date _____ By _____