

BZA 36-82 - Dr. Kernie W. Binyon - requests a variance to eliminate the required screening fence adjacent to a residential property along the west edge of an off-street parking lot on property zoned the "A" Two-family

*Posted
9-9-82*

ACTION

B.Z.A. APPROVED 9-28-82
DATE

36-82

*Two '1 Sec 11-3-82
Checked 11-8-82-ent
Shot 11-10
Recorded 11-17-82*

September 30, 1982

Dr. Kerner W. Binyon
4618 East Central
Wichita, Ks. 67208

Re: BEA 35-82 & BEA 36-82
Request for Exception & Variance

Dear Dr. Binyon:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on September 28, 1982.

These Resolutions reflect the official action of the Board to approve the requests and set out the conditions of approval. These are forwarded to you for your information and files.

Please note that the approval for an off-street parking lot was only for the east 60 feet of the property. The attached site plan is just an indication how the property could best be used under the Board of Zoning Appeals approval.

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEK:sd
Enclosures

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 36-82

WHEREAS, Dr. Kernie W. Binyon, 4618 East Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence along the west side of the off-street parking lot as set forth in BZA 35-82 on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lots 127 & 128, Overlook Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Pershing and north of Central (518 North Pershing).

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 September 28, 1982, 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 screening required is dividing the owners property and the adjacent property to the north is protected by a screening fence; 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 required screening fence not being provided would only screen the owner's property from effects of the parking area and the owner desires not to provide the fence; 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 installation of the fence would only create an additional cost and maintenance not necessary to protect adjacent property; 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 the elimination of the fence should not set a precedent due to the ownership of both properties; 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 fence to be eliminated is being compensated by a fence along the north property line of the property that should provide the protection to adjacent properties; 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.

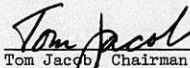
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening along the west side of the off-street parking lot approved by Resolution BZA 35-82 on property zoned the "A" Two-family Dwelling District and legally described as:

Lots 127 & 128, Overlook Addition to Wichita,
Sedgwick County, Kansas. Generally located
on the east side of Pershing and north of
Central (518 North Pershing).

be approved subject to the following condition:


1. The applicant shall maintain a 6 foot fence along the north and east property lines as required by Case No. BZA 35-82.

ADOPTED AT WICHITA, KANSAS, this 28th day of September, 1982.



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

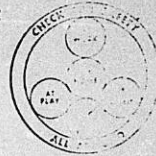
OFFICE OF CITIZEN PARTICIPATION

DATE September 23, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Dean Kruihof, Administrative Aide III

SUBJECT EZA 35-82 and EZA 36-82
518 North Pershing



At its September 21st meeting, CPO Neighborhood Council Area "T" considered the captioned cases requesting an exception to permit the establishment of an off-street parking lot and a variance to eliminate the required screening fence adjacent to residential property on property zoned "A" Two Family Dwelling District at the Captioned location. The applicant was invited to discuss the cases with the Council, however, he did not attend the meeting. A representative of Sleepy Hollow Inc. was present in opposition to the requested variance and exception.

The Council voted unanimously, 6-0, to recommend that both cases be denied. The Council cited the commercial encroachment in the residential area and lack of screening as reasons for the recommendation.

Please inform the Board of Zoning Appeals of the Council's recommendation when these cases are considered on September 28th.


Dean Kruihof
Administrative Aide III

DK:dm

SECRETARY'S REPORT
CASE NO. EZA 36-82

APPLICANT: Dr. Kernie W. Binyon, 4618 East Central, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence along the west side of an off-street parking lot adjacent to residential zoning.

GENERAL LOCATION: On the east side of Pershing and north of Central.

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

LAND USE: Subject property is occupied by a one-family dwelling as are the properties to the east, north and west. Property to the south is developed with offices and commercial development.

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 and 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 eliminate the required screening fence adjacent to a residential zoning district. This would be the required fence along the west line of the area that will be used for off-street parking as set forth in Case No. EZA 35-82. Although the parking area and the residential structure will be located on the same ownership, the fence is still required.

It should be noted that the parking for the two-family dwelling will be located in the rear yard adjacent to the office parking area. It would appear that the applicant could reasonably maintain and control the property without the fence, particularly since the property is fenced all along the north property line.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the screening as required is dividing the owners property and the adjacent property to the north is protected by a screening fence.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the required screening fence would only screen the owner's property from the effects of the parking area and the owner desires not to provide the fence.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the installation of the fence would only create an additional cost and maintenance that would not screen any adjacent property from the view of the parking area.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of the fence in this case should not set a precedent of any kind due to the ownership of the property.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the fence to be eliminated is being replaced by a fence along the entire north property line that should provide the protection to adjacent property owners.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The applicant shall maintain a 6 foot fence along the north and east property lines as required by Case No. BZA 35-82.

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

September 8, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 36-82

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 Dr. Kernie W. Binyon, 4618 East Central, 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 eliminate the required screening fence adjacent to a residential property along the west edge of an off-street parking lot on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lots 127 & 128, Overlook Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Pershing and north of Central (518 North Pershing).

This application has been assigned Case No. BZA 36-82. It will be considered by the Board of Zoning Appeals on September 28, 1982 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

BZA CASE NO. 36-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

23 NOTICES SENT TO ADJOINING PROPERTY OWNERS

35 TOTAL NOTICES SENT 9-8-82

BOARD OF ZONING APPEALS

CASE NO. 36-82

CITY OF WICHITA, KANSAS

FILED 8-17-82

APPLICATION FOR VARIANCE

I. Name of Applicant DR. KERNIE W. BINYON, M.D.
 Mailing Address 4618 E. CENTRAL Phone 316 684 2819
P.O. BOX 8125
WICHITA, KS. 67208
 Name of Authorized Agent _____
 Mailing Address _____ Phone _____
 Relationship of applicant to property is that of _____
 (Owner, Tenant, Lessee, Other)

II. The variance requested is TO ELIMINATE THE REQUIRED
SCREENING FENCE ADJACENT TO A RESIDENTIAL PROPERTY

for property located on the east side of Pershing and north of Central.
(518 NORTH PERSHING)

LOTS 127 and 128 OVERLOOK ADDITION TO THE CITY OF WICHITA,
SEDGWICK COUNTY, KANSAS
 and legally described as: Lots 127 and 128 Overlook Addition to
the city of Wichita, Sedgwick County Kansas

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

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. 36-596); 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.

Applicant K.W. Binyon M.D.

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:00 Aug. 17, 1982
 together with appropriate fee of 75.00

Signed A. Lytle

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRETT WOOTEH, P.E.

BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
316 262-7211 • 330 LAURA • WICHITA, KANSAS 67211

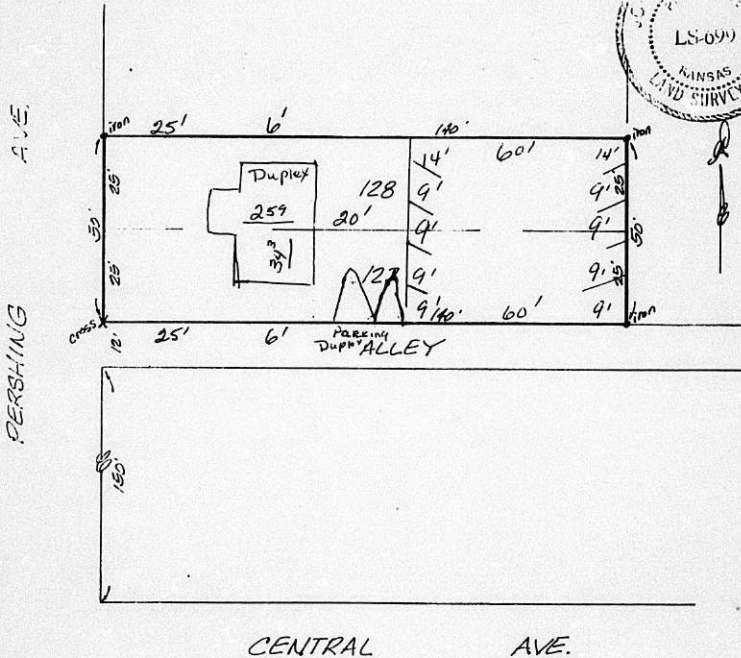
State of Kansas)
) SS
County of Sedgwick)

August 9, 1982

We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we did on this 9th day of August, 1982, survey Lots 127 and 128, Overlook Addition to Wichita, Kansas.

The accompanying plat is a true and correct exhibit of said survey.

John E. Lundblade
Surveyor



WILLIAM L. KORDER, L.S.
JOHN E. LUNDBLAD, L.S.
N BRENT WOOTEH, P.E.

BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
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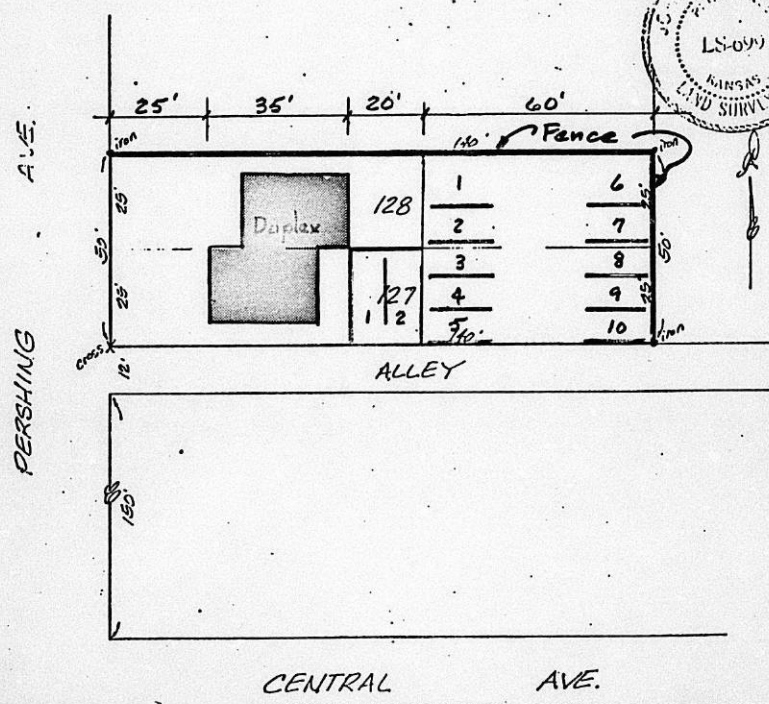
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316 262-7211 • 330 LAURA • WICHITA, KANSAS 67211

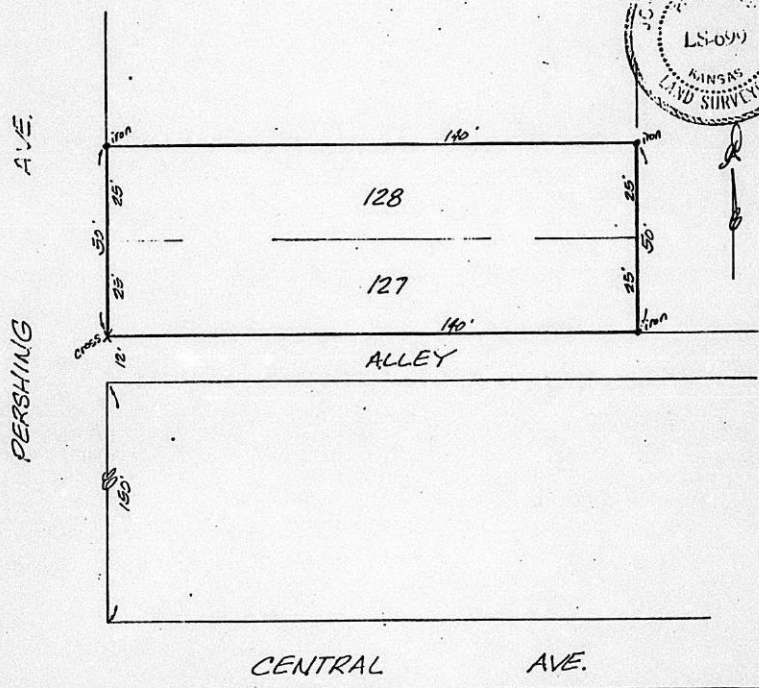
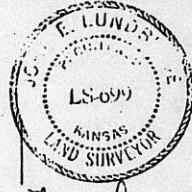
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CENTRAL AVE.

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLAD, L.S.
H. BREIT WOOTEN, P.E.

BAUGHMAN COMPANY, P.A.

SURVEYING & ENGINEERING
316 262-7271 • 330 LAURA • WICHITA, KANSAS 67211

State of Kansas)
County of Sedgwick)

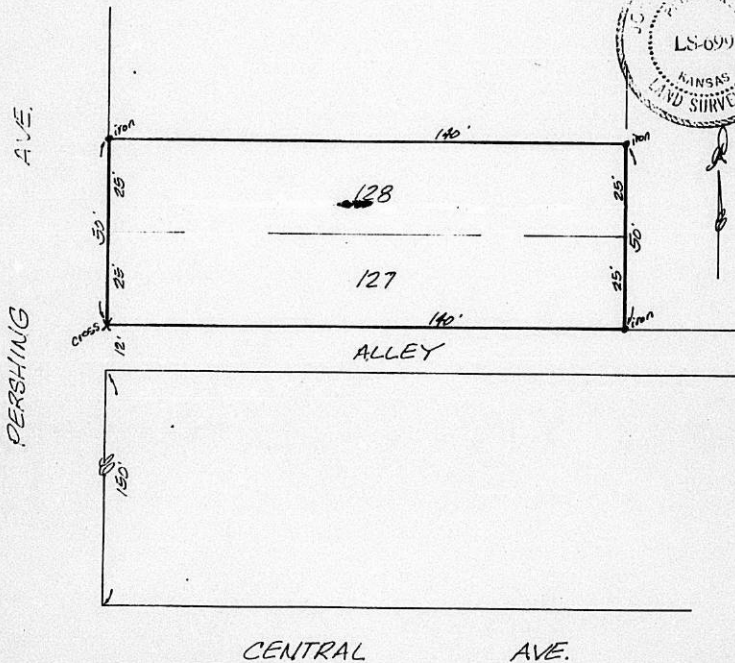
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**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 25 1

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 172A 4-26	25.00

NAME L. W. Fournier

ADDRESS 4016 E. Central

FUND 11-1071-100 DUE DATE _____

COMMENTS _____

DATE 11/19/82 BY [Signature]