

Case No. BZA 44-85 - Broadway Christian Church - requests a variance to reduce the required setbacks adjacent to the street from 20' and 5' to 0' for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and the "C" Commercial

POSTED  
7-20-85 KOL

**ACTION**

BZA 44-85 Approved on 8-27-85  
DATE  
Recommended

546D

2004 Sec 10-24-85

Shot 1-16-86

Record ✓

make new base

Map No. 5546 D

BZA 44-85  
Filed \_\_\_\_\_

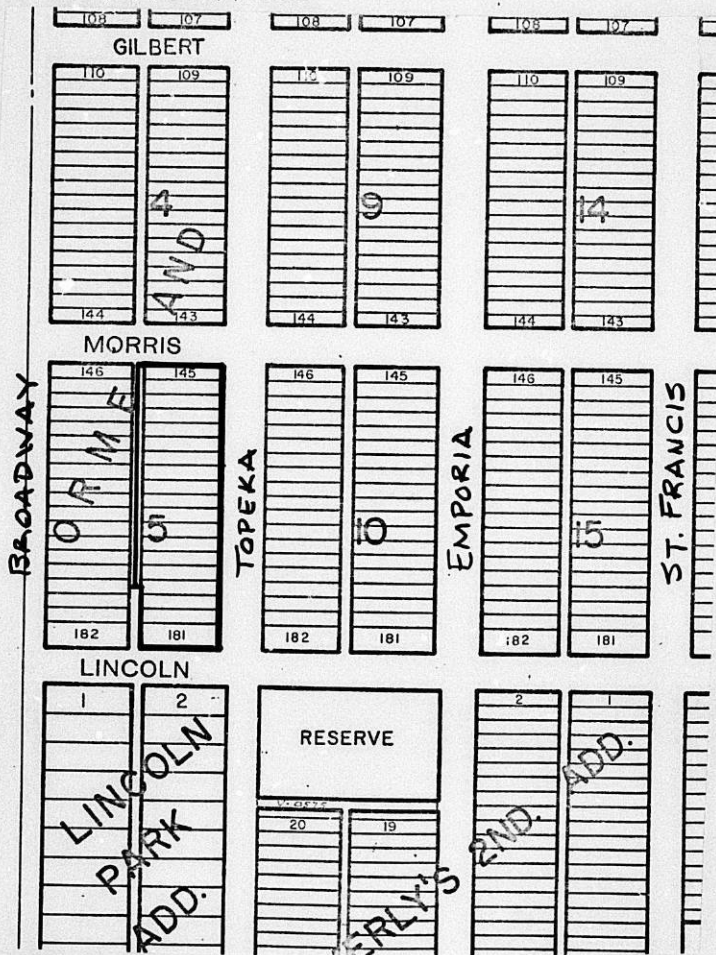
AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)

2. Adjoining Zoning: E B S RB W LC & C N B

3. Land Use: East Plg & Res. South I-F  
West Church & Comm North Res.

4. Area (is) (~~is not~~) platted.



LOS ANGELES REGISTERED PROFESSIONAL SURVEYOR  
No. 2153C  
MARTINDALE, INC.  
1000 WEST 19TH AVENUE, SUITE 100  
DENVER, CO 80202, U.S.A.

**Standard**  
No. 2153C

September 20, 1985

Mr. Jeff Harrison  
Spangenberg & Associates, Architects  
7701 East Kellogg, Suite 600  
Wichita, Kansas 67207

RE: BZA 44-85 - Request for Variance

Dear Jeff:

Attached hereto is a copy of Resolution BZA 44-85 setting forth the official action of the Board of Zoning Appeals on August 27, 1985. This Resolution is for the variance of the required front yard setback and is applicable for off-street parking purposes only. This resolution will supersede Resolution BZA 53-81 which also was for a variance of the setback for off-street parking purposes only, but included only a portion of the property in the block.

As you will note, condition number 2 refers to the vacation of the alley. Rather than amending the resolution to eliminate this condition, we will accept the fact that you have now chosen to close the alley vacation case (V-1332) and maintain the alley in its present configuration.

The site plan indicates the retaining of a number of existing trees and the planting of several new trees. The plan is approved subject to the approval by the Department of Forestry (Park) of the type of trees on public right-of-way. Should at any time it become necessary to remove any of the older trees, it will be required to replace the trees with new trees.

If you have any questions, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL/lw  
Attachment

cc: Broadway Christian Church, 1130 S. Broadway, Wichita, KS 67213  
Don Gisick, City Clerk  
Monty Robson, Superintendent of Central Inspection (2)

RESOLUTION NO. BZA 44-85

WHEREAS, The Broadway Christian Church, 1130 South Broadway, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required setbacks adjacent to the streets from 20 feet and 5 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

All odd lots from 159 thru 181, Block 5, Orme and Phillips Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka Avenue between Morris Street and Lincoln Avenue (1100 block South Topeka).

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 August 27, 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 it is located adjacent to two arterial streets and is in close proximity to commercial zoning and development that does not require setbacks for off-street parking; 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 reduction of the front yard setback is adjacent to major streets and will not be adjacent to residential properties that the ordinance is designed to provide protection from the encroachment of parking lots immediately adjacent to 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 restriction on the full utilization of the property for off-street parking purposes would only create an odd traffic circulation pattern on the property since the majority of the property has been approved for the variance requested; 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 reduction of the setback for off-street parking and circulation drive purposes only will not interfere with any needed right-of-way or 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 ordinance is designed to provide landscaped yards for properties developed in residential neighborhoods, whereas this block is now fully void of residential development; 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 setbacks adjacent to the streets from 20 feet and 5 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple-family Dwelling District and legally described as follows:

All odd lots from 159 thru 181, Block 5, Orme and Phillips Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka Avenue between Morris Street and Lincoln Avenue (1100 block South Topeka).

be approved subject to the following conditions:

1. Prior to the release of the resolution, the applicant shall submit 3 copies of a landscape plan to the Secretary for approval. This landscape plan shall show the type and size of the plant material to be planted in the street rights-of-way adjacent to Morris and Topeka to replace the trees being removed.
2. A new site plan showing the new alignment of an east-west alley that is to be dedicated to comply with (V-1332) shall be submitted in triplicate to the Secretary. Such plan shall be approved by the Traffic Engineer.
3. All improvements shall be in conformance with the off-street parking standards of the City of Wichita as established by the Traffic Engineer including the installation of appropriate curbs or barriers adjacent to the public sidewalks.

ADOPTED AT WICHITA, KANSAS, this 27th day of August, 1985.

  
William J. Goebel, President

ATTEST:

  
Jack H. Galbraith, Secretary

**SPANGENBERG  
& ASSOCIATES ARCHITECTS**

September 5, 1985

Mr. Forrest L. Nagley  
Senior Planner  
Wichita - Sedgwick County  
Metropolitan Area Planning Dept.  
City Hall, Tenth Floor  
455 N. Main Street  
Wichita, KS 67202

RE: BZA 44-85  
Request for Variance  
Broadway Christian Church

Dear Forrest:

In answer to the letter dated August 28, 1985 from Jack Galbraith, concerning the above referenced request, I am enclosing three (3) copies of the revised site plan.

Please note that we no longer plan to remove the existing trees along Topeka and Lincoln, but are planting some new trees at Mr. Galbraith's request along Topeka and Morris.

In addition, we would hereby like to withdraw the application for Alley Vacation and leave the alley as it now exists.

Thank you for your assistance and please call, if you require any additional information.

Kindest regards,

  
Jeff Harrison

JH/ao

Enclosures

**RECEIVED**

SEP 09 1985

METROPOLITAN PLANNING

ROUTE

August 28, 1985

Jeff Harrison  
Spangenberg & Associates, Architects  
7702 East Kellogg #660  
Wichita, Ks.

Re: BZA 44-85 - Request for Variance

Dear Mr. Harrison:

At the regular meeting of the Board of Zoning Appeals on August 27, 1985, your request for a variance was considered. It was the action of the Board to approve your request subject to the following conditions:

1. Prior to the release of the resolution, the applicant shall submit 3 copies of a landscape plan to the Secretary for approval. This landscape plan shall show the type and size of the plant material to be planted in the street rights-of-way adjacent to Morris and Topeka to replace the trees being removed.
2. A new site plan showing the new alignment of an east-west alley that is to be dedicated to comply with (V-1332) shall be submitted in triplicate to the Secretary. Such plan shall be approved by the Traffic Engineer.
3. All improvements shall be in conformance with the off-street parking standards of the City of Wichita as established by the Traffic Engineer including the installation of appropriate curbs or barriers adjacent to the public sidewalks.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as you have complied with conditions number one above.

*and two*  
If you have any questions, please call our office.

Sincerely yours,

Jack H. Galbraith  
Chief Planner

GEL:sad

cc: Broadway Christian Church, 1130 South Broadway, Wichita  
Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

## RE: AGENDA ITEM NO. 2

### SECRETARY'S REPORT CASE NO. BZA 44-85

APPLICANT: Broadway Christian Church, 1130 South Broadway, Wichita, Kansas.

AGENT: Jeff Harrison/Spangenberg & Associates, Architects, 7701 East Kellogg, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet and 5 feet to 0 feet for off-street parking and circulation drive purposes only.

GENERAL LOCATION: On the west side of Topeka Avenue between Morris Street and Lincoln Avenue (1100 Block S. Topeka).

ZONING: Subject property is zoned the "B" Multiple-family Dwelling District and the "C" Commercial District. Property to the north and east is "B" Multiple-family and to the west is "LC" Light Commercial and "C" Commercial.

LAND USE: Subject property is being developed so that the entire east half of the block is off-street parking. To the west is the church and commercial. To the south, north and east is residential and additional off-street parking.

### 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 setbacks adjacent to the streets from 20 feet adjacent to Topeka and 5 feet adjacent to Morris and Lincoln so that off-street parking and circulation aisles may be located within the setbacks. It should be noted that a portion of the property is zoned the "C" Commercial District which does not require any variance to fully utilize the property for parking. The property zoned the "B" Multiple-family Dwelling District, does however, require the variance of the setbacks to surface the area to the property lines.

It should be noted that a major portion of the block has already been approved for variance of the setbacks and improved for off-street parking and circulation drives adjacent to the public right-of-way on Topeka and Morris. The church has now acquired the remaining property in the block and has recently requested a vacation of the majority of the north-south alley (V-1332). Although this vacation case has not been completed, it has been approved by the Subdivision Committee and the Planning Commission subject to a number of conditions, including the dedication of an east-west alley to create an L-alley at the south end of the block.

In this case, and in previous cases, the uniqueness to the property is in its location between two arterial streets and the proximity of the adjacent commercial zoning. The public right-of-way adjacent to Topeka has a number of mature trees that are proposed to be removed. The previous BZA Case No. 53-81 required that if the existing trees died or were removed, new street trees shall be planted.

### UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located adjacent to two arterial streets and is in close proximity to commercial zoning and development that does not require setbacks for off-street parking.

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 reduction of the front yard setback is adjacent to major streets and will not be adjacent to residential properties that the ordinance is designed to provide protection from the encroachment of parking lots immediately adjacent to residences.

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 restriction on the full utilization of the property for off-street parking purposes would only create an odd traffic circulation pattern on the property since the majority of the property has been approved for the variance requested.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the setback for circulation drive purposes only will not interfere with any needed right-of-way or easements.

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 ordinance is designed to provide landscaped yards for properties developed in residential neighborhoods, whereas this block is now fully void of residential development.

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 conditions:

1. Prior to the release of the resolution, the applicant shall submit 3 copies of a landscape plan to the Secretary for approval. This landscape plan shall show the type and size of the plant material to be planted in the street rights-of-way adjacent to Morris and Topeka to replace the trees being removed.
  2. A new site plan showing the new alignment of an east-west alley that is to be dedicated to comply with (V-1332) shall be submitted in triplicate to the Secretary. Such plan shall be approved by the Traffic Engineer.
  3. All improvements shall be in conformance with the off-street parking standards of the City of Wichita as established by the Traffic Engineer including the installation of appropriate curbs or barriers adjacent to the public sidewalks.
-

BZA CASE NO. 4485

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>17</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>20</u>	TOTAL NOTICES SENT <u>8-7-85</u>

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

August 7, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 44-85

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 Broadway Christian Church, 1130 South Broadway, 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 setbacks adjacent to the street from 20 feet and 5 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple-family Dwelling District. A legal description of the applicant's property is as follows:

All odd lots from 159 thru 181, Block 5, Orme and Phillips Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Topeka Avenue between Morris Street and Lincoln Avenue (1100 block South Topeka).

This application has been assigned Case BZA 44-85. It will be considered by the Board of Zoning Appeals on August 27, 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

CASE NO. 44-85

CITY OF WICHITA, KANSAS

FILED 7-15-85

APPLICATION FOR VARIANCE

I. Name of Applicant Broadway Christian Church  
 Mailing Address 1130 S. Broadway Phone 262-3425  
 Name of Authorized Agent Jeff Harrison/Spangenberg & Assoc., Architects  
 Mailing Address 7701 E. Kellogg, #600 Phone 687-3575  
 Relationship of applicant to property is that of Owner  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is To reduce the required setbacks adjacent to the streets from 20 feet to 0 feet for off-street parking purposes only.  
to zero (0) feet, zero (0) inches.

for property located between Morris Street and Lincoln Avenue on the west side and just west of Topeka Avenue.

and legally described as: All odd lots from 159 thru 181; Block 5, Orme and Phillips addition; not previously granted variance. to Wichita, Sedgewick County, Kansas

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

- 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 Sedgewick 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 Broadway Christian Church

Authorized Agent Jeff Harrison  
 Jeff Harrison

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:45 (a.m./p.m.), July 15, 1985, together with appropriate fee of 150.00.

Signed [Signature]

SPANGENBERG  
& ASSOCIATES ARCHITECTS

June 18, 1985

This request for an exception to Section 28.04.140, Sub-section 1, of the Zoning Ordinance, City of Wichita, is justifiable b. the fact that such exception has been previously granted to intermingled lots with the same frontage.

In granting the variance the number of cars parking on Topeka would be lessened, but without such variance, off-street parking would be considerably reduced, forcing more parking on the street which would cause hardship for church members, neighbors and general traffic on Topeka.

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Odd Lots 145-181, inclusive	Block 5	Orme & Phillips, on Topeka	Broadway Avenue Christian Church of Wichita 1130 S. Broadway Wichita, KS 67211
Even Lots 146-176, inclusive	Block 5	Orme & Phillips, on Broadway	Same As Above
Lot 178	Block 5	"	Fredda Virginia Hendry Leonard O. Hendry 7515 Tanglewood Lane Wichita, KS 67206
Lots 180 & 182	Block 5	"	Walter W. White 4510 S. Broadway Wichita, KS 67216  Affidavit of Interest: Kenneth R. Newton Esther M. Newton 448 Maple Wichita, KS 67213
Lots 146 & 148	Block 10	Orme & Phillips, on Topeka	George R. Strauch Joan F. Strauch 2101 Bullinger Dr. Wichita, KS 67203  Affidavit of Interest: Diana E. Jones <del>Address Unknown</del>
Lots 150 & 152	Block 10	"	Joyce A. Chewning 1448 S. Topeka Wichita, KS 67211 AND Boyce A. Tomek 5701 S. <del>Address Unknown</del> Hoover AND Patsy Lee V. Dreiling <del>Address Unknown</del>  Affidavit of Interest: Albert E. McIver Louise M. McIver <del>Address Unknown</del>
Lots 154 & 156	Block 10	"	Robert L. Hutson Lois C. Hutson 1638 N. West Wichita, KS 67203  Affidavit of Interest Clifford S. Gundersen Catherine Gundersen <del>Address Unknown</del>

Lot	Block	Addition	Property Owner
Lots 158 & 160	Block 10	Orme & Phillips on Topeka	John C. Malone <del>Address Unknown</del>
Lots 162 & 164	Block 10	"	Ray K. Clark ✓ Brenda L. Clark 1456 Morgantown Wichita, KS 67212
Lots 166 & 168	Block 10	"	Larry E. Bottenberg Barbara L. Bottenberg ✓ 2052 Westridge Dr. Wichita, KS 67203
Lots 170 & the N. 9.34' of Lot 172	Block 10	"	Raul E. Torronex ✓ Cindy A. Terronez 1125 S. Topeka Wichita, KS 67211
Lot 172 exc. the N. 9.34' & all of Lot 174	Block 10	"	J. Lynn Burnett ✓ Dixie F. Burnett 718 Woodrow Ave. Wichita, KS 67203
Lots 176 & 178	Block 10	"	Raymond E. Aitken ✓ Marcelle Aitken 1223 W. 34th St. South Wichita, KS 67217
E. 59' of Lots 180 & 182	Block 10	"	John F. McGee ✓ 1217 Jackson Ave. Wichita, KS 67206
Lots 180 & 182 exc. the E. 59'	Block 10	"	Leslie B. Bower ✓ Maxine L. Bower 1125 S. Market Wichita, KS 67211
Lots 1, 3 & 5		Lincoln Park Addition on Broadway	✓ Richard L. Kunkle 724 Maize Wichita, KS
Lots 2, 4 & 6		Lincoln Park Addition on Topeka	✓ Earl A. Hunston Audra M. Hunston 1205 S. Topeka Wichita, KS 67211
School Reserve		Zimmerly's 2nd Addition	✓ U.S.D. #259 Board of Education of City of Wichita 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 159, 161, 163 and 165, on Topeka Avenue and Lot 181, on Topeka Avenue, all in Block 5, Orme and Phillips Addition to the City of Wichita, 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 27th day of June, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

  
Sr. Vice-President

Order No: 347877  
nj

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

August 7, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 44-85

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This application has been assigned Case BZA 44-85. It will be considered by the Board of Zoning Appeals on August 27, 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

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29-

**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 BZA Van	\$150.00
NAME <i>Spencer E. Hellock Assoc.</i>	
ADDRESS <i>701 E. Kellogg</i>	
FUND <i>75-40710-00</i>	DUE DATE
COMMENTS	
DATE <i>Nov 15 1985</i>	BY <i>[Signature]</i>

\*

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

Roll # 2