

POSTED  
10-27-81  
*[Signature]*

Case No. BZA 46-81 - Duane Patton - requests a variance to reduce the required 6000 sq. ft. to 5873 sq. ft. for the construction of a four-family dwelling on property zoned the "RB" Four-family Dwelling District and generally located on the north side of

# ACTION

*BZA 81*  
*46* COMMITTEE Approved DATE 10-27-81

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

*S446 B r n c*

*900* *11-4-81*  
*11-5-81*  
*11-9-81*  
*11-19-81*  
*Shut*  
*Revised*

Map No. 5446  
 Sec. 29  
 Twp. 27  
 Range 1E

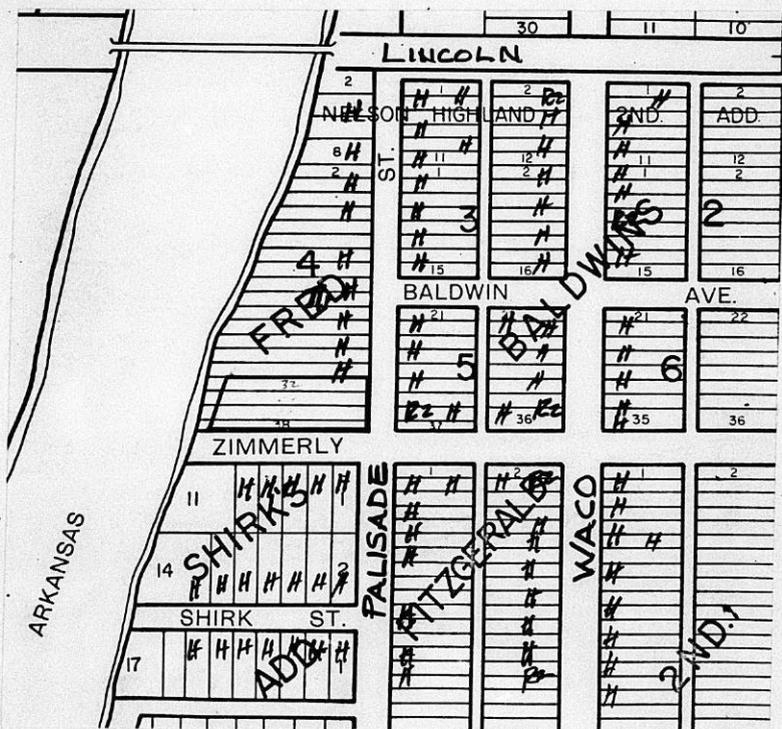
BZA- 46-81  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( 102 ft. by 257 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East SINGLE & TWO FAM South SINGLE FAM  
 West ARKANSAS RIVER North SINGLE FAM
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use if for: \_\_\_\_\_ ?
6. Area (is) (is not) platted. \_\_\_\_\_

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



LOS ANGELES, CALIFORNIA  
 HASTINGS, MINNESOTA  
 MCGREGOR, TEXAS  
 LUCAS GROVE, CALIFORNIA  
 U.S.A.

**Shirland**  
 No. 2153C

and R.B.  
 81

October 30, 1981

William L. Korber  
330 Laura  
Wichita, Kansas 67211

Re: Case No. MEA 46-51  
Request for Variance

Dear Mr. Korber:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 27, 1981.

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

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

Sincerely,

Glen H. Lytle  
Assistant Secretary

GHL:sd  
Enclosure

cc: Duane Patton, 1341 South 119th Street West, Wichita 67209  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 46-81

WHEREAS, Dwane Patton, 1341 South 119th Street West, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required lot area from 6,000 square feet to 5,873 square feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Part of Lots 32-34-36-38 on Palisade, Fred Baldwin's Addition to Wichita, Kansas, described as beginning at a point 185.54 feet west of the S.E. corner of said Lot 38; thence west 74.46 feet; thence north-easterly 101.37 feet to a point 232 feet west of the N.E. corner of said Lot 32; thence east 46.46 feet; thence south 97.14 feet to beginning, being platted as Lot 1, Patton Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Zimmerly west of Palisade.

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 October 27, 1981, 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 lot is adjacent to the river which provides a great amount of open space; 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 lot area will not interfere with the setbacks or open space of the adjacent property; 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 will not be able to complete the plat as four lots for the development of the project; 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 applicant will maintain the riverbank easement as a driveway on the property; 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 lot area reduction of 2% will be offset by the open space provided by the river; and

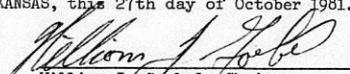
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

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 lot area from 6000 square feet to 5873 square feet on property zoned the "RB" Four-family Dwelling District and legally described as:

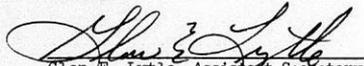
Part of Lots 32-34-36-38 on Palisade, Fred Baldwin's Addition to Wichita, Kansas, described as beginning at a point 185.54 feet west of the S.E. corner of said Lot 38; thence west 74.46 feet; thence north-easterly 101.37 feet to a point 232 feet west of the N.E. corner of said Lot 32; thence east 46.46 feet; thence south 97.14 feet to beginning, being platted as Lot 1, Patton Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Zimmerly west of Palisade.

be approved.

ADOPTED AT WICHITA, KANSAS, this 27th day of October 1981.

  
\_\_\_\_\_  
William J. Goebel, Chairman

ATTEST:

  
\_\_\_\_\_  
Glen E. Lytle, Assistant Secretary

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE October 26, 1981

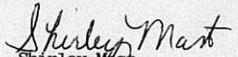
TO Glen Lytle, Special Assistant for Zoning  
FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 46-81: North Side Of  
Zimmerly, West Of Palisade

CPO Council "E" considered the captioned case at their October 21st meeting and voted 5-0 to recommend denial of the variance request to reduce the required lot area from 6,000 square feet to 5,873 square feet for the construction of a four-family dwelling on property zoned the "RB" Four-family dwelling District. The members expressed they were of the opinion that the variance would interfere with easements and result in additional paving cost for adjoining property owners. The members noted that if there are any paving cost for accessibility to the structure, the cost should be assumed by the developer.

No one was present to speak in support or opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their October 27th meeting.

  
Shirley Mast  
Administrative Aide III

SECRETARY'S REPORT  
CASE NO. BZA 46-81

APPLICANT: Duane Patton, 1341 South 119th Street West,  
Wichita, Kansas 67209

AGENT: William L. Korber, 330 Laura, Wichita, Ks. 67211

REQUEST: Variance pursuant to Section 2.12.590.B, Code of  
the City of Wichita, to reduce the required lot  
area from 6000 square feet to 5873 square feet.

GENERAL LOCATION: On the north side of Zimmerly west of Palisade.

ZONING: Subject property is zoned "RB" Four-family Dwelling  
District as are all adjacent properties.

LAND USE: Subject property is vacant. Adjacent properties  
are developed as residential. The Arkansas River  
is to the west.

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 of the required lot area from 6000 square feet to 5873 square feet in order to construct a four-family dwelling. This request is necessitated by the applicant due to the requirement for dedication of additional riverbank in the replating of the property into four lots for redevelopment. The only lot of the four which is not 6000 square feet, is the one adjacent to the riverbank.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the lot is adjacent to the river which provides a great amount of open space to the property.

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 variance will not interfere in anyway with the open space or setbacks affecting the adjacent properties.

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 applicant will not be able to complete the plat as four lots for development of the project.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the variance will not interfere with any easements as the applicant will maintain the riverbank easement as a driveway on 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 lot area reduction is approximately 2% and is offset by the open space provided by the river.

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.

BZA CASE NO. 46-81

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

15 NOTICES SENT TO ADJOINING PROPERTY OWNERS

28 TOTAL NOTICES SENT 10-7-81

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 46-81  
FILED 9-28-81

APPLICATION FOR VARIANCE

I. Name of Applicant ✓ Duane Patton  
Mailing Address 1341 S. 119th St. West 67209 Phone 722-3470  
Name of Authorized Agent ✓ William L. Korber  
Mailing Address 330 Laura 67211 Phone 262-7271  
Relationship of applicant to property is that of Owner  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required 6000 sq. Ft. for  
construction of a 4-plex to 5873 Sq. Ft. for the construction  
of a four-family dwelling.  
for property located on the north side of Zimmerly west of Palisade.

and legally described as: Part of Lots 32-34-36-38 on Palisade, Fred  
Baldwins Addition to Wichita, Kansas, described as beginning at a point  
185.54 feet west of the S. E. Corner of said Lot 38; thence west 74.46 feet;  
thence northeasterly 101.37 feet to a point 232 feet west of the N. E. Corner  
of said Lot 32; thence east 46.46 feet; thence south 97.14 feet to beginning,  
Being platted as Lot 1, Patton Addition, Wichita, Kansas.

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

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 2.12.530 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 Duane Patton

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of  
Zoning Appeals, 2:15 (a.m.-p.m.), Sept 28, 1981,  
together with appropriate fee of 75.00.

Signed Shirley Lytle

September 21, 1981

Baughman Company  
330 Laura  
Wichita, Kansas 67211

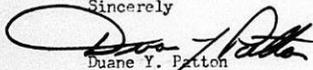
Re: Request for Variance

Gentlemen:

Following are the justifications for the five conditions specified in the request for variance.

1. The request for variance arises from the unique location of this particular plat and the cities planned future development of the Arkansas River bank area. Because of this future planning the city requested an outright dedication of a portion of the land along the river bank. This outright dedication request rather than the usual easement left the west most lot with less than 6000 sq. ft. of area. In as much as the other three lots in the plat were only 6000 sq. ft. each no allowances could be made in them to compensate for this deficiency.
2. Since this request for variance is with land adjoining the river which the city owns or will own, no property owner or residents rights will be adversely affected.
3. If this request for variance is not approved undue hardship will be placed on the property and the developer. The land was originally purchased as four fourplex lots and development plans established accordingly. Replatting was necessary to reorient the lots to make them suitable for construction. Sight arrangement and building plans for four fourplexes have been developed at considerable expense. Changes to this would require additional development and architectural expense. In addition total revenue producing capability of the land would be decreased.
4. The general public welfare will not be affected by this variance. Conversely it will actually be enhanced through the dedication of the river bank area which will ultimately be enjoyed by the general public.
5. The general spirit and intent of title 28 will not be opposed by granting of this variance. The actual land area available to the occupants of the dwelling for recreation, parking, enjoyment, etc. still exists. The area to the west all the way to the river will be open.

Sincerely

  
Duane Y. Patton  
Land Owner

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
14	4	Fred Baldwin's Addition	Robert L. Stoltenberg, 1403 S. Wichita, 67213
16, 18, & the north 15 ft. of 20	4	"	Opal M. Thompson, 1333 Palisade, 67213
South 10 ft. of 20, all of 22	4	"	Roy L. Penix & Jamie L. Penix, 1917 S. Emporia, 67211
24 & 26	4	"	Eunice M. Myers, 1303 North 14th, Arkansas City, 67005
28 & 30	4	"	J.H. Fiscus & Nora Fiscus, 2245 S. Broadway, 67211
Part of lots 32, 34, 36, & 38 beg. 185.54 ft. west of the SE corner of lot 38; then west 74.46 ft.; then nely 101.37 ft. to a pt. 232 ft. west of the NE corner of lot 32; then east 46.46 ft.; then south 97.14 ft. to beg., being platted as Lot 1, Patton Addition	4	"	D Duane Y. Patton & Vicki L. Patton, 1341 South 119th St. West, 67209
32, 34, 36, & 38 exc. that portion described immediately above	4	"	"
1 on Zimmerly	-	Shirk's 4th Addition	L. Marie Shearhod, 501 W. Zimmerly, 67213 AND Betty Hazen, Address Unknown AND A.M. Green Jr. 3402 E. 103 <sup>rd</sup> S. <del>Kenneth L. 415 So. St. Clair</del> K. Lannette Green, Address Unknown
3 on Zimmerly	-	"	C.G. Miller Jr. & Mary Lois Miller, 515 W. Zimmerly, 67213

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
5 on Zimmerly	-	Shirk's 4th Addition	Clifford L. Schornick & Pauline L. Schornick (Deceased), 508 Shirk, 67213 ✓
West 2.5 ft. of 7, & the east 37.5 ft. of 9 on Zimmerly	-	"	Frank E. Hagan (Deceased) & Juanita Hagan, 521 W. Zimmerly, 67213 ✓
East 37.5 ft. of 7 on Zimmerly	-	"	D C.G. Miller Jr. & Mary Lois Miller, 515 W. Zimmerly, 67213
West 2.5 ft. of 9, all of 11 on Zimmerly	-	"	Kim Dumford, 1112 West 2nd, 67203 ✓
6 on Shirk	-	"	<del>Lester W. Goebel (Deceased)</del> & Edith O. Goebel, 508 Shirk, 67213 ✓
4 on Shirk	-	"	Glen L. Boman & Frances I. Boman, 502 Shirk, 67213 ✓
8 on Shirk	-	"	Delbert E. Wharton & JoAnn Wharton, Address Unknown
10 on Shirk	-	"	Dale Francis Burger & Esther Sophia Burger, 706 N. Goddard Rd., Goddard, 67052 ✓
12 on Shirk	-	"	D Kim Dumford, 1112 West 2nd, 67203
14 on Shirk	-	"	James R. Baker & Rachel D. Baker, 526 Shirk, 67213 ✓

page 3

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

Part of Lots 32, 34, 36 and 38, Block 4, Fred Baldwin's Addition to Wichita, Sedgwick County, Kansas, described as beginning at a point 185.54 feet west of the SE corner of Lot 38; thence west 74.46 feet; thence northeasterly 101.37 feet to a point 232 feet west of the NE corner of Lot 32; thence east 46.46 feet; thence south 97.14 feet to the point of beginning, Being platted as Lot 1, Patton Addition, Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 21st day of September, 1981, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Gable*  
Vice-President

Order No. 303005  
GE

**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.	Fav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
<i>178 1/2</i>	<i>95.2</i>

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

FUND \_\_\_\_\_ DUE DATE \_\_\_\_\_

COMMENTS \_\_\_\_\_

DATE *2/11/11* BY *[Signature]*

\*

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

Roll # 2