

Case No. BZA 71-85 - Ernest H. Doyon requests a variance to reduce the required front yard setback from 25 feet to 10 feet on property zoned the "LC" Light Commercial District & generally located on the south side of Kellogg & west of Bluff (3935 E. Kellogg).

BZA 71-85 Water 1-2-86
DATE

BZA Motion to Appr. 2-2 2/25/86
Moot. - Will be reconsidered next mtg.

BZA APPROVED 4-1 3/25/86
Subj. to subm. of comment
for removal of bldg. if needed.

200' 10-31-86
SPR 11-18-86
Record ✓

POSTED
12-19-85 GEL

ACTION

B.Z.A. 71-85 ~~Dater~~ Lema 1/28/86
4-1 DATE

BZA Motion to Appr. 2-2 2/25/86
Moot. - Will be reconsidered next mtg.

BZA APPROVED 4-1 3/25/86
Subj. to subm. of covenant
for removal of bldg. if needed.

200' 4 Sec 10-31-86
Shot 11-18-86
Record ✓

Case No. BZA 71-85 - Ernest R. Dorton
requests a variance to reduce the re-
quired front yard setback from 25 feet
to 10 feet on property zoned the "LC"
Light Commercial District & generally
located on the south side of Kellors &
west of Bluff (3935 E. Kellors).

Map No. 5746 D

BZA 71-85
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E "LC" S "B2A" W "B" N "LC"
3. Land Use: East Phg. Lot South Phg. Lot
West Apts. North Ret. Comm.
4. Area (is) (~~is not~~) platted.



LOS ANGELES COUNTY
HARTING, JR
MORRISON, TRACLOCUST GROVE, CA
U.S.A.

Standard
No. 2-153C

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: June 6, 1986

TO: Jim Jorgensen, Building Code Engineer
Office of Central Inspection

FROM: Jack H. Galbraith, Chief Planner
Current Plans Division

SUBJECT: Vacation Case V-1380 and Board of Zoning Appeals Case
BZA 71-85

Please be advised that the two above-referenced cases are near completion. We have been advised by Operations and Maintenance that the sanitary sewer abandonment and man-hole construction required by the vacation case are nearing completion. We plan on scheduling the vacation case for final public hearing before the Board of City Commissioners at their July 8, 1986 meeting. We anticipate no objections to the vacation case. Upon approval of the vacation case by the City Commission, this will complete the vacation requirement of the BZA case. Therefore, we believe that issuance of the building permit at this time would be acceptable.

Jack H. Galbraith
Chief Planner

JHG:blw

cc: Jim Sparr, Fire Chief

June 4, 1986

Robert W. Kaplan, Attorney
430 North Market
Wichita, Kansas 67202

RE: Case No. BZA 71-85 Request for Variance

Dear Mr. Kaplan:

Attached hereto is a copy of Resolution No. BZA 71-85 authorizing the variance to reduce the required front yard setback on the property located at 3935 and 3941 East Kellogg. The release of this resolution should authorize Central Inspection to issue a building permit for construction within the normal setback on Lot 3, Block A, Longview Terrace Addition.

Mike Hampel has informed me that the minor street permit has not been completed, but I understand that Sam Mobley will pursue this upon his return from vacation next week.

It should be noted that the additional street dedication, contingent dedication and covenant will be processed for acceptance by the City Commission. Rather than delaying this project any longer, it is hoped that we can continue to complete the requirements of the Resolution as soon as possible now that the documents are on file in this office.

I again want to apologize for any inconvenience and delay that my service on a jury might have created last week. If you have any questions, please give me a call.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL/lw
Attachment

cc: Ernest H. Doyan, Sr., 3941 E. Kellogg, Wichita, KS 67218
Monty Robson, Superintendent of Central Inspection
Don Gisick, City Clerk
Sam Mobley, 420 S. Ridge Rd., Wichita, KS 67209
Mike Hampel, Operations & Maintenance, Street Services

RESOLUTION CASE NO. 71-85

WHEREAS, Ernest H. Doyon, 3941 East Kellogg, Wichita, Kansas, requests a variance to reduce the required front yard setback from 25 feet to 10 feet and from 25 feet to 0 feet on property zoned the "LC" Light Commercial and the "A" Two-family Dwelling Districts and legally described as follows:

Lots 2, 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Bluff (3935 and 3941 E. Kellogg).

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 March 25, 1986, 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 applicant is attempting to tie in their proposed construction and in line with existing construction; 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 property owner immediately to the west was not opposed to the variance and the property owners to the east have court yards and fences adjacent to Kellogg generally in line with the proposed addition; 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 have full visibility of his property without the variance; 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 widening of the highway will necessitate the removal of the building or access to the building at no expense to the City or State; 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 applicant is willing to remove any portion of the building, at no expense to the City, should the right-of-way for Kellogg be needed; 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 front yard setback from 25 feet to 10 feet and from 25 feet to 0 feet on property zoned the "LC" Light Commercial and the "A" Two-family Dwelling Districts and legally described as follows:

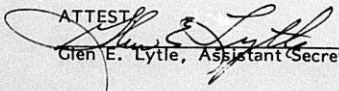
Lots 2, 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Bluff (3935 and 3941 E. Kellogg).

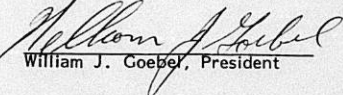
be approved subject to the following conditions:

1. The applicant shall dedicate an additional 12 feet of street right-of-way adjacent to Kellogg on Lot 4, Block A, Longview Terrace Addition and an additional 10 feet of street right-of-way adjacent to Kellogg and a contingent dedication of an additional two feet on Lot 3, Block A, Longview Terrace Addition.
2. The applicant shall furnish a new site plan in triplicate drawn to scale showing all the required off-street parking spaces for all uses on the entire zoning lot in full compliance with all requirements as set forth in the zoning ordinance. The parking layout including vehicular circulation created by the use of the property shall be approved by the Traffic Engineer and be in compliance with the off-street parking standards and in conformance with any minor street permit.
3. Should the applicant require any additional minor street privilege for use of the property for parking purposes, the applicant shall comply with all conditions established by the permit. The applicant shall guarantee the removal of any construction or uses within the street right-of-way at no expense to the City or State.
4. The applicant shall submit a covenant for the removal or all, or any portion of the building, that has been or will be constructed as the result of any variance being granted to reduce the setback adjacent to Kellogg. Such covenant shall guarantee the removal of the structure at no cost to the City or State in the event additional right-of-way for street improvements are needed. Such covenant shall be approved by the Director of Law.
5. Prior to the release of the Resolution authorizing Central Inspection to issue any building permit for the construction of any structure closer than 22 feet to the existing right-of-way of Kellogg. The applicant shall dedicate the additional right-of-way as set forth in condition number 1; submit a new site plan as set forth in condition number 2; secure the minor street privilege as set forth in condition number 3; and the applicant shall record the covenant with the Register of Deeds as set forth in condition number 4.
6. The applicant shall complete the vacation case (V-1380) as applied for on February 3, 1986 in conformance with all conditions established by the Governing Body.
7. The applicant shall complete the zoning change application (Z-2747) filed on February 3, 1986. Should the zoning be denied, the applicant shall remove all structures or uses in violation of the ordinances.
8. The reduction of the front yard setback (after street dedication) shall be zero feet, but shall only apply only to Lots 2 and 3, Block A, Longview Terrace Addition, and shall only be for a one story addition not to exceed 600 square feet to the building located on Lot 3, and for the existing one story structure of approximately 600 square feet that is located on Lot 2, both in Block A, Longview Terrace Addition.
9. The applicant shall complete conditions numbered 1 through 7 within 180 days of the date of the action taken by the Board or the resolution shall be declared null and void.
10. The release of this Resolution shall null and void Resolution BZA 27-83.

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1986.

ATTEST


Glen E. Lytle, Assistant Secretary


William J. Goebel, President

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: June 4, 1986

TO: Forrest L. Nagley, Senior Planner
FROM: Glen E. Lytle, Special Assistant for Zoning
SUBJECT: BZA 71-85

Attached is the original of the additional street dedication and two contingent dedications for street right-of-way that have been submitted as a condition to a variance granted by the Board of Zoning Appeals on March 25, 1986.

Please process these dedications and see that they are filed of record.

Glen E. Lytle
Special Assistant for Zoning

Attachment

CONTINGENT DEDICATION

" WHEREAS, GLEN N. RUPE is the owner of the following described real property, to-wit:

Lot 2, Block A, Longview Terrace Addition to
Wichita, Sedgwick County, Kansas.

and has made application to the Board of Zoning Appeals for approval of a variance on the above-described real estate; and

WHEREAS, the City of Wichita anticipates the future need for additional street right-of-way for Kellogg adjacent to said property, which additional right-of-way will include a portion of the above-described real property; and

WHEREAS, said GLEN N. RUPE desires to continue the use of said additional street right-of-way pending the requirement of the dedication as hereinafter stated:

NOW, THEREFORE, in consideration of the premises GLEN N. RUPE does hereby dedicate to the public for street purposes the following described real property, to-wit:

South 2 feet of the North 20 feet of Lot 2,
Block A, Longview Terrace Addition to Wichita,
Sedgwick County, Kansas.

The undersigned does further covenant for the consideration herein stated that in the event the City of Wichita proceeds with an improvement of Kellogg Street requiring the taking of the property herein contingently dedicated, and in the further event the undersigned shall have caused improvements to be constructed upon, over or under said property so required and so taken, the undersigned shall at his sole cost and expense remove that portion of the improvement which encompasses the South 12 feet of the North 20 feet of Lot 2, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas, and shall further hold the City of Wichita harmless from all liability to the undersigned in the event the City of Wichita is required, by reason of applicant's failure, to remove improvements from the South 12 feet of the North 20 feet of Lot 2, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas.

PROVIDED, HOWEVER:

1. Except as above stated, neither the public nor the City of Wichita shall be privileged nor entitled to the use of the property hereinabove dedicated for street purposes until the existing building on the property being dedicated is removed.
2. That until such time as the existing building is removed, GLEN N. RUPE and all persons claiming by, through or under him, shall be permitted the continued use of said additional right-of-way.

Upon the recording hereof, this instrument shall constitute a public dedication and a covenant running with the land binding upon GLEN N. RUPE, his heirs, successors and assigns, and all persons claiming by, through or under him, conditioned as aforesaid. Acceptance by the City of Wichita of this Contingent Dedication and the recording of same shall denote its acquiescence and agreement to all terms and provisions thereof.

IN WITNESS WHEREOF, GLEN N. RUPE has executed this instrument on this 23 day of May, 1986.

Glen N. Rupe
GLEN N. RUPE

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

BE IT REMEMBERED that on this 23 day of May, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came GLEN N. RUPE, who is personally known to me to be the same person who executed the above foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my Notarial Seal on the day and year last above mentioned.

MARCIA SPICER
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 10-17-89

Marcia Spicer
Notary Public

My Appointment expires:

IN WITNESS WHEREOF, CAROLINE W. RUPE, wife of GLEN N. RUPE has executed this instrument on this 23 day of May, 1986.

Caroline W. Rupe
CAROLINE W. RUPE

STATE OF KANSAS)
SEDGWICK COUNTY) ss:

BE IT REMEMBERED that on this 23 day of May, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came CAROLINE W. RUPE, who is personally known to me to be the same person who executed the above foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my Notarial Seal on the day and year last above mentioned.

MARCIA SPICER
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 10-17-89

Marcia Spicer
Notary Public

My Appointment expires: 10-17-89

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, ERNEST H. DOYON, SR., being the sole remaining partner of Casa Loma Properties, a general partnership, and on behalf of the said general partnership is the owner of the following described real property, to-wit:

South 10 feet of the North 18 feet of Lot 3,
Block A, Longview Terrace Addition to Wichita,
Sedwick County, Kansas.

does hereby dedicate the above-described real estate to the public for street purposes.

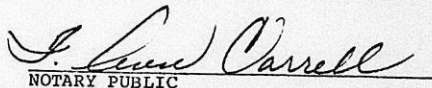
Executed this 2nd day of June, 1986.


ERNEST H. DOYON, SR.

STATE OF KANSAS)
SEDGWICK COUNTY)

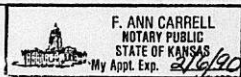
BE IT REMEMBERED that on this 2d day of June, 1986, came Ernest H. Doyon, Sr., of Casa Loma Properties, to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same on behalf of Casa Loma Properties.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year first above written.


NOTARY PUBLIC

My Appointment Expires:

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the city of Wichita, Kansas, and approved by said Board of Commissioners of the city of Wichita, Kansas,



This _____ day of _____, 1986

City Clerk

CONTINGENT DEDICATION

WHEREAS, ERNEST H. DOYON, SR., being the sole remaining partner of Casa Loma Properties, a general partnership, and on behalf of the said general partnership is the owner of the following described real property, to-wit:

Lot 3, Block A, Longview Terrace Addition to
Wichita, Sedgwick County, Kansas.

and has made application to the Board of Zoning Appeals for approval of a variance on the above-described real estate; and

WHEREAS, the City of Wichita anticipates the future need for additional street right-of-way for Kellogg adjacent to said property, which additional right-of-way will include a portion of the above-described real property; and

WHEREAS, said ERNEST H. DOYON, SR., desires to continue the use of said additional street right-of-way pending the requirement of the dedication as hereinafter stated:

NOW, THEREFORE, in consideration of the premises ERNEST H. DOYON, SR., does hereby dedicate to the public for street purposes the following described real property, to-wit:

South 2 feet of the North 20 feet of Lot 3,
Block A, Longview Terrace Addition to Wichita,
Sedgwick County, Kansas.

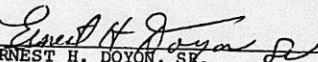
The undersigned does further covenant for the consideration herein stated that in the event the City of Wichita proceeds with an improvement of Kellogg Street requiring the taking of the property herein contingently dedicated, and in the further event the undersigned shall have caused improvements to be constructed upon, over or under said property so required and so taken, the undersigned shall at his sole cost and expense remove that portion of the improvement which encompasses the South 12 feet of the North 20 feet of Lot 3, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas, and shall further hold the City of Wichita harmless from all liability to the undersigned in the event the City of Wichita is required, by reason of applicant's failure, to remove improvements from the South 12 feet of the North 20 feet of Lot 3, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas.

PROVIDED, HOWEVER:

1. Except as above stated, neither the public nor the City of Wichita shall be privileged nor entitled to the use of the property hereinabove dedicated for street purposes until the existing building on the property being dedicated is removed.
2. That until such time as the existing building is removed, ERNEST H. DOYON, SR., and all persons claiming by, through or under him, shall be permitted the continued use of said additional right-of-way.

Upon the recording hereof, this instrument shall constitute a public dedication and a covenant running with the land binding upon ERNEST H. DOYON, SR., his heirs, successors and assigns, and all persons claiming by, through or under him, conditioned as aforesaid. Acceptance by the City of Wichita of this Contingent Dedication and the recording of same shall denote its acquiescence and agreement to all terms and provisions thereof.

IN WITNESS WHEREOF, ERNEST H. DOYON, SR., as the sole remaining partner of Casa Loma Properties, a general partnership, and having been so authorized by the said general partnership to act, has executed this instrument for and on behalf of said partnership, the record title owner of all of the property herein referenced, this 23 day of May, 1986.


ERNEST H. DOYON, SR.

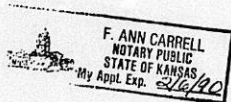
STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED that on this 23 day of May, 1986, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came ERNEST H. DOYON, SR., who is personally known to me to be the same person who executed the above foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my name and affixed my Notarial Seal on the day and year last above mentioned.


Notary Public

My Appointment expires:



LAW OFFICES
KAPLAN, MCMILLAN AND HARRIS

ROBERT W. KAPLAN
CALVIN MCMILLAN
CHARLES F. HARRIS
JEFF DEWEY

LAW BUILDING
430 NORTH MARKET
WICHITA, KANSAS 67202
316-262-5175

IRREVOCABLE LETTER OF CREDIT

May 7, 1986

Mr. Monty Robson
Administrative Division
Department of Central Inspection
City of Wichita
455 North Main
Wichita, Kansas 67202

Re: Ernest C. Doyon, Sr.
3941 East Kellogg
Wichita, Kansas

Dear Mr. Robson:

ALL DRAFTS DRAWN MUST BE MARKED: DRAWN UNDER THE FARMERS &
MERCHANTS STATE BANK, LETTER OF CREDIT NO. _____.

We hereby establish our irrevocable Letter of Credit No. _____ in
favor of the City of Wichita, Kansas, for the account of Ernest C.
Doyon, Sr., up to the aggregate amount of SEVEN THOUSAND FIVE
HUNDRED AND 00/100 DOLLARS (\$7,500.00) available by your drafts
drawn at sight.

REQUIREMENTS are by virtue of the City of Wichita vacation pro-
ceeding No. V-1380, Ernest C. Doyon, Sr., was granted a vacation
of that certain utility easement serving lots 1, 2, and 3, except
the East 10 feet of thereof, and lots 13 and 14, Block A, in
Longview Terrace Addition to Wichita, Kansas, and,

WHEREAS, such vacation was approved subject to:

- a) The abandonment of the sanitary sewer lateral located in
the utility easement being vacated.
- b) Guarantee by Letter of Credit for the construction of a
new sanitary sewer manhole to terminate the existing sanitary
sewer line coming from the west.
- c) The Applicant providing the recording information for the
easement granting the said utility easement for inclusion and
reference in the vacation order.

Mr. Monty Robson
May 7, 1986
Page 2

d) All reorganization or reconstruction of utilities necessitated by the vacation being at the sole expense of the applicant.

e) Submission of a covenant tying lots 1, 2, 13, and 14 together for the purpose of single service from one sanitary sewer service line prohibiting the sale of single lots until such time as each separate lot can be served by sanitary sewer.

f) Excluding from the vacation order "The West 10 feet" of the vacation area.

In the event of the failure of the applicant to comply with the aforementioned conditions on or before August 1, 1986, the City of Wichita, Kansas, may draw upon this Letter of Credit for the purpose of the completion of such conditions, but upon applicant obtaining satisfactory completion of the conditions whereupon stated, this Letter of Credit shall become null and void and shall be released.

Drafts drawn on this Letter of Credit must be drawn and negotiated by August 1, 1986.

The amount under this Letter of Credit, but concurrently with negotiation, be endorsed on the reverse side hereof, and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

Except so far as otherwise expressly stated herein, this Credit is subject to the "Uniform Customs and Practice for Documentary Credits, 1974 Revision, International Chamber of Commerce Brochure No. 290."

We hereby agree with the drawers, endorsers, and bona fide holders of drafts under and in compliance with the terms of this Credit that the same shall be duly honored on due presentation and delivery to drawee of documents as specified.

Yours truly,

FARMERS & MERCHANTS STATE BANK

By _____

LAW OFFICES
KAPLAN, McMILLAN AND HARRIS

ROBERT W. KAPLAN
CALVIN McMILLAN
CHARLES F. HARRIS
JEFF DEWEY

LAW BUILDING
430 NORTH MARKET
WICHITA, KANSAS 67202

316-262-5175

May 9, 1986

Mr. Monty Robson
Administrative Division
Department of Central Inspection
City of Wichita
455 North Main Street
Wichita, KS 67202

RE: Ernest H. Doyon, Sr.
3941 East Kellogg, Wichita, Kansas
Case No. V-1380

Dear Monty:

Enclosed is a letter of credit required in City of Wichita Case No. V-1380 guaranteeing the construction of a manhole to serve the Scotch and Sirloin restaurant at Bluff and Kellogg. I will appreciate your filing the letter of credit, and I am advising Mr. Lytle by copy of this letter of compliance with this particular requirement.

Very truly yours,

KAPLAN, McMILLAN AND HARRIS

By Robert W. Kaplan

RWK/js
Enclosure

cc: Mr. Glen Lytle
Mr. Sam Mobley
Mr. Ernest H. Doyon, Sr.

RECEIVED

MAY 12 1986

METROPOLITAN PLANNING

ROUTE _____

LAW OFFICES
KAPLAN, MCMILLAN AND HARRIS

ROBERT W. KAPLAN
CALVIN MCMILLAN
CHARLES F. HARRIS
JEFF DEWEY

LAW BUILDING
430 NORTH MARKET
WICHITA, KANSAS 67202
316-262-5175

IRREVOCABLE LETTER OF CREDIT

May 7, 1986

Mr. Monty Robson
Administrative Division
Department of Central Inspection
City of Wichita
455 North Main
Wichita, Kansas 67202

Re: Ernest H. Doyon, Sr.
3941 East Kellogg
Wichita, Kansas

Dear Mr. Robson:

ALL DRAFTS DRAWN MUST BE MARKED: DRAWN UNDER THE FARMERS &
MERCHANTS STATE BANK, LETTER OF CREDIT NO. 182.

We hereby establish our irrevocable Letter of Credit No. 182 in favor of the City of Wichita, Kansas, for the account of Ernest H. Doyon, Sr., up to the aggregate amount of SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$7,500.00) available by your drafts drawn at sight.

REQUIREMENTS are by virtue of the City of Wichita vacation proceeding No. V-1380, Ernest H. Doyon, Sr., was granted a vacation of that certain utility easement serving lots 1, 2, and 3, except the East 10 feet of thereof, and lots 13 and 14, Block A, in Longview Terrace Addition to Wichita, Kansas, and,

WHEREAS, such vacation was approved subject to:

- a) The abandonment of the sanitary sewer lateral located in the utility easement being vacated.
- b) Guarantee by Letter of Credit for the construction of a new sanitary sewer manhole to terminate the existing sanitary sewer line coming from the west.
- c) The Applicant providing the recording information for the easement granting the said utility easement for inclusion and reference in the vacation order.

Mr. Monty Robson
May 7, 1986
Page 2

d) All reorganization or reconstruction of utilities necessitated by the vacation being at the sole expense of the applicant.

e) Submission of a covenant tying lots 1, 2, 13, and 14 together for the purpose of single service from one sanitary sewer service line prohibiting the sale of single lots until such time as each separate lot can be served by sanitary sewer.

f) Excluding from the vacation order "The West 10 feet" of the vacation area.

In the event of the failure of the applicant to comply with the aforementioned conditions on or before August 1, 1986, the City of Wichita, Kansas, may draw upon this Letter of Credit for the purpose of the completion of such conditions, but upon applicant obtaining satisfactory completion of the conditions whereupon stated, this Letter of Credit shall become null and void and shall be released.

Drafts drawn on this Letter of Credit must be drawn and negotiated by August 1, 1986.

The amount under this Letter of Credit, but concurrently with negotiation, be endorsed on the reverse side hereof, and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

Except so far as otherwise expressly stated herein, this Credit is subject to the "Uniform Customs and Practice for Documentary credits, 1974 Revision, International Chamber of Commerce Brochure No. 290."

We hereby agree with the drawers, endorsers, and bona fide holders of drafts under and in compliance with the terms of this Credit that the same shall be duly honored on due presentation and delivery to drawee of documents as specified.

Yours truly,

FARMERS & MERCHANTS STATE BANK

By 

C O V E N A N T

The undersigned fee simple owner of lots 1, 2, 13, and 14, Block A, in Longview Terrace Addition to Wichita, Sedgwick County, Kansas, hereby imposes upon said lots the following restriction to run with the land. Lots 1, 2, 13 and 14 shall be jointly served by a single sanitary sewer service line and one sewer tap and said lots are restricted to one sewer tap and one service line under the express prohibition that none of said lots be separately sold or improved until such time as the sanitary sewer lateral is extended so as to provide individual service thereto.

As and when an easement is granted therefore and the sanitary sewer lateral is extended to the extent that it touches each or all of the said lots to which this restrictive covenant applies, such lot as may be individually served thereby shall be released thereunder and no longer burdened with this restrictive covenant. This Covenant shall run with the land and shall bind the undersigned, his heirs, successors and assigns.

IN WITNESS WHEREOF, Ernest H. Doyon, Sr., has executed this Restrictive Covenant the _____ day of _____, 1986.

ERNEST H. DOYON, SR.

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

BE IT REMEMBERED that on this _____ day of _____, 1986, came ERNEST H. DOYON, SR., to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

NOTARY PUBLIC

My commission expires:

Re: V-1380

March 31, 1986

Robert W. Kaplan
430 North Market
Wichita, Kansas 67202

Re: BZA 71-85 - Request for Variance (3925 E. Kellogg)

Dear Mr. Kaplan:

At the regular meeting of the Board of Zoning Appeals on March 25, 1986, your request for a variance was considered. It was the action of the Board to grant the variance subject to the following conditions:

1. The applicant shall dedicate an additional 12 feet of street right-of-way adjacent to Kellogg on Lot 4, Block A, Longview Terrace Addition and an additional 10 feet of street right-of-way adjacent to Kellogg and a contingent dedication of an additional two feet on Lot 3, Block A, Longview Terrace Addition.
2. The applicant shall furnish a new site plan in triplicate drawn to scale showing all the required off-street parking spaces for all uses on the entire zoning lot in full compliance with all requirements as set forth in the zoning ordinance. The parking layout including vehicular circulation created by the use of the property shall be approved by the Traffic Engineer and be in compliance with the off-street parking standards and in conformance with any minor street permit.
3. Should the applicant require any additional minor street privilege for use of the property for parking purposes, the applicant shall comply with all conditions established by the permit. The applicant shall guarantee the removal of any construction or uses within the street right-of-way at no expense to the City or State.
4. The applicant shall submit a covenant for the removal or all, or any portion of the building, that has been or will be constructed as the result of any variance being granted to reduce the setback adjacent to Kellogg. Such covenant shall guarantee the removal of the structure at no cost to the City or State in the event additional right-of-way for street improvements are needed. Such covenant shall be approved by the Director of Law.
5. Prior to the release of the Resolution authorizing Central Inspection to issue any building permit for the construction of any structure

- closer than 22 feet to the existing right-of-way of Kellogg. The applicant shall dedicate the additional right-of-way as set forth in condition number 1; submit a new site plan as set forth in condition number 2; secure the minor street privilege as set forth in condition number 3; and the applicant shall record the covenant with the Register of Deeds as set forth in condition number 4.
6. The applicant shall complete the vacation case (V-1380) as applied for on February 3, 1986 in conformance with all conditions established by the Governing Body.
 7. The applicant shall complete the zoning change application (Z-2747) filed on February 3, 1986. Should the zoning be denied, the applicant shall remove all structures or uses in violation of the ordinances.
 8. The reduction of the front yard setback (after street dedication) shall be zero feet, but shall only apply only to Lots 2 and 3, Block A, Longview Terrace Addition, and shall only be for a one story addition not to exceed 600 square feet to the building located on Lot 3, and for the existing one story structure of approximately 600 square feet that is located on Lot 2, both in Block A, Longview Terrace Addition.
 9. The applicant shall complete conditions numbered 1 through 7 within 180 days of the date of the action taken by the Board or the resolution shall be declared null and void.
 10. The release of this Resolution shall null and void Resolution BZA 27-83.

Release of the resolution is subject to compliance with the above conditions of approval. When you are ready to draft the covenant as required by condition number four, I would appreciate a call so that I can set up of appointment with the Department of Law. The issuance of any building permits will be subject to the release of the resolution.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:lw

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk
Ernest H. Doyon, 3941 E. Kellogg, Wichita, KS 67218
Sam Mobley, 420 S. Ridge Rd., Wichita, KS 67209
H. R. Kuhn, Asst. City Attorney, R. H. Carvey Bldg., 300 W.
Douglas, Wichita, KS 67202

March 31, 1986

Robert W. Kaplan
430 North Market
Wichita, Kansas 67202

Re: BZA 71-85 - Request for Variance (3925 E. Kellogg)

Dear Mr. Kaplan:

At the regular meeting of the Board of Zoning Appeals on March 25, 1986, your request for a variance was considered. It was the action of the Board to grant the variance subject to the following conditions:

1. The applicant shall dedicate an additional 12 feet of street right-of-way adjacent to Kellogg on Lot 4, Block A, Longview Terrace Addition and an additional 10 feet of street right-of-way adjacent to Kellogg and a contingent dedication of an additional two feet on Lot 3, Block A, Longview Terrace Addition.
2. The applicant shall furnish a new site plan in triplicate drawn to scale showing all the required off-street parking spaces for all uses on the entire zoning lot in full compliance with all requirements as set forth in the zoning ordinance. The parking layout including vehicular circulation created by the use of the property shall be approved by the Traffic Engineer and be in compliance with the off-street parking standards and in conformance with any minor street permit.
3. Should the applicant require any additional minor street privilege for use of the property for parking purposes, the applicant shall comply with all conditions established by the permit. The applicant shall guarantee the removal of any construction or uses within the street right-of-way at no expense to the City or State.
4. The applicant shall submit a covenant for the removal or all, or any portion of the building, that has been or will be constructed as the result of any variance being granted to reduce the setback adjacent to Kellogg. Such covenant shall guarantee the removal of the structure at no cost to the City or State in the event additional right-of-way for street improvements are needed. Such covenant shall be approved by the Director of Law.

5. Prior to the release of the Resolution authorizing Central Inspection to issue any building permit for the construction of any structure closer than 22 feet to the existing right-of-way of Kellogg. The applicant shall dedicate the additional right-of-way as set forth in condition number 1; submit a new site plan as set forth in condition number 2; secure the minor street privilege as set forth in condition number 3; and the applicant shall record the covenant with the Register of Deeds as set forth in condition number 4.
6. The applicant shall complete the vacation case (V-1380) as applied for on February 3, 1986 in conformance with all conditions established by the Governing Body.
7. The applicant shall complete the zoning change application (Z-2747) filed on February 3, 1986. Should the zoning be denied, the applicant shall remove all structures or uses in violation of the ordinances.
8. The reduction of the front yard setback (after street dedication) shall be zero feet, but shall only apply only to Lots 2 and 3, Block A, Longview Terrace Addition, and shall only be for a one story addition not to exceed 600 square feet to the building located on Lot 3, and for the existing one story structure of approximately 600 square feet that is located on Lot 2, both in Block A, Longview Terrace Addition.
9. The applicant shall complete conditions numbered 1 through 7 within 180 days of the date of the action taken by the Board or the resolution shall be declared null and void.
10. The release of this Resolution shall null and void Resolution BZA 27-83.

Release of the resolution is subject to compliance with conditions of approval. The issuance of any building permits will be subject to the release of the resolution.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:lw

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk
Ernest H. Doyon, 3941 E. Kellogg, Wichita, KS 67218

SECRETARY'S REPORT
CASE NO. BZA 71-85

REVISED
3/14/86

APPLICANT: Ernest H. Doyon, 3941 E. Kellogg, Wichita,
KS 67218

AGENT: Robert W. Kaplan, 430 N. Market, Wichita,
KS 67202

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required front yard setback from 25 feet to
10 feet and from 25 feet to 0 feet.

GENERAL LOCATION: On the south side of Kellogg and west of
Bluff (3925 E. Kellogg).

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

LAND USE: Subject property is occupied by a former
multiple-family dwelling that is being
converted to commercial purposes and has
been connected to the adjacent restaurant
building. Property to the west is
multiple-family and to the south and east is
off-street parking for the uses on the zoning
lot. To the north is a motel and pawn shop.

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:

This application was discussed at the meeting of January 28, 1986, and was deferred four weeks so that the applicant could file the necessary applications to eliminate violations on the property. This included an application for a zoning change and an application for the vacation of a portion of the utility easement on the property. In addition, this application was readvertized to include that portion of the existing restaurant that was expanded in violation of BZA 27-83.

At the meeting of February 25, 1986, there was a moot vote (2-2) to approve the requested variance. Since that date the Secretary has again discussed the possibility of the applicant submitting a covenant for the removal of the building at no cost to the City should the right-of-way be needed for street purposes. The Law Department has now agreed that a properly drawn covenant could possibly assure that the improvements could be required to be removed at no expense to the City.

It is still the Secretary's opinion that it is difficult to find any uniqueness to the property other than that created by the construction of the previous addition at a setback less than normally required. It should be noted that for properties in the area that have obtained "LC" zoning, it has been a requirement to dedicate additional street right-of-way and establish a 35 foot building setback line on the property. It is also the Secretary's opinion on this request that the

granting of a variance to 0 feet is contrary to policies adopted by the Governing Body for construction adjacent to a major street. In this area, it is contemplated that Kellogg will be a high priority for improvement with the funds provided by the recent sales tax increase.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as the property is located in a block where the remainder of the block is in a residential district that determines the setback for the entire block; and in the event the remainder of the block would be granted "LC" Light Commercial zoning, a platted setback of 35 feet adjacent to a major street would be established.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the remainder of the block is still maintained as residential uses.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the applicant may still convert the existing structure at the present setback to commercial purposes as permitted by the "LC" District without the granting of a variance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would adversely affect the public interest inasmuch as the location of a structure at a zero setback is not in conformance with established policies and regulations for buildings adjacent to major streets.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance is specific in that the setback on commercial property located in a block with residential must comply with the setback required by the residential district.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and it is recommended that the variance be denied. However, should the Board find that all five conditions necessary to the granting of a variance can be found to exist, then the following conditions are recommended to be a part of the approval:

1. The applicant shall dedicate an additional 12 feet of street right-of-way adjacent to Kellogg on Lot 4, Block A, Longview Terrace Addition and an additional 10 feet of street right-of-way adjacent to Kellogg and a contingent dedication of an additional two feet on Lot 3, Block A, Longview Terrace Addition.
2. The applicant shall furnish a new site plan in triplicate drawn to scale showing all the required off-street parking spaces for all uses on the entire zoning lot in full compliance with all requirements as set forth in the zoning ordinance. The parking layout including vehicular circulation created by the use of the property shall be approved by the Traffic Engineer and be in compliance with the off-street parking standards and in conformance with any minor street permit.
3. Should the applicant require any additional minor street privilege for use of the property for parking purposes, the applicant shall comply with all conditions established by the permit. The applicant

shall guarantee the removal of any construction or uses within the street right-of-way at no expense to the City or State.

4. The applicant shall submit a covenant for the removal or all, of any portion of the building, that has been or will be constructed as the result of any variance being granted to reduce the setback adjacent to Kellogg. Such covenant shall guarantee the removal of the structure at no cost to the City or State in the event additional right-of-way for street improvements are needed. Such covenant shall be approved by the Director of Law.
5. Prior to the release of the Resolution authorizing Central Inspection to issue any building permit for the construction of any structure closer than 22 feet to the existing right-of-way of Kellogg. The applicant shall dedicate the additional right-of-way as set forth in condition number 1; submit a new site plan as set forth in condition number 2; secure the minor street privilege as set forth in condition number 3; and the applicant shall record the covenant with the Register of Deeds as set forth in condition number 4.
6. The applicant shall complete the vacation case (V-1380) as applied for on February 3, 1986 in conformance with all conditions established by the Governing Body.
7. The applicant shall complete the zoning change application (Z-2747) filed on February 3, 1986. Should the zoning be denied, the applicant shall remove all structures or uses in violation of the ordinances.
8. The reduction of the front yard setback (after street dedication) shall be zero feet, but shall only apply only to Lots 2 and 3, Block A, Longview Terrace Addition, and shall only be for a one story addition not to exceed 600 square feet to the building located on Lot 3, and for the existing one story structure of approximately 600 square feet that is located on Lot 2, both in Block A, Longview Terrace Addition.
9. The applicant shall complete conditions numbered 1 through 7 within 180 days of the date of the action taken by the Board or the resolution shall be declared null and void.
10. The release of this Resolution shall null and void Resolution BZA 27-83.

THE CITY OF WICHITA

OFFICE OF Citizen Rights & Services DATE February 19, 1986

TO Glen Lytle, Special Assistant for Zoning
FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 71-85: South Side of
Kellogg and West of Bluff

On Monday, February 17, CPO Council "F" considered the above captioned case, a request for a variance to reduce the required front yard setback from 25 feet to 10 feet and from 25 feet to 0 feet on property zoned the "LC" Light Commercial District and "A" Two Family Dwelling District. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. After extensive discussion, the Council voted 7-0 to recommend denial of the request.

The agent, Sam Mobley, was present to describe the request and respond to questions from the Council members and area residents. This case was initially heard by the Council on January 27; the Council recommended 6-0 to deny the request at that time as well. Mr. Mobley, former employee of the City's Central Inspection Division, stated that he had been hired by the applicant to "straighten things out". Mr. Mobley displayed a set of blueprints for Council members and the area resident in attendance. Mr. Mobley acknowledged that the development had presented "problems" to the neighborhood.

Council members explained to Mr. Mobley that they had received numerous complaints from the neighborhood regarding this development. Additionally, construction work at night and trash pick-up at 3:30 a.m. in the morning were listed among the many problems associated with the development. In summary, the Council did not feel that the project was "compatible" with the neighborhood.

Please provide these comments to the Board of Zoning Appeals when Case BZA 71-85 is considered.

Barry L. Carroll
Barry L. Carroll
Administrative Aide III

BLC:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

RECEIVED

FEB 19 1986

METROPOLITAN PLANNING

ROUTE _____

RE: AGENDA ITEM NO 3

SECRETARY'S REPORT
CASE NO. BZA 71-85

REVISED
2/14/86

APPLICANT: Ernest H. Doyon, 3941 E. Kellogg, Wichita,
KS 67218

AGENT: Robert W. Kaplan, 430 N. Market, Wichita,
KS 67202

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required front yard setback from 25 feet to
10 feet and from 25 feet to 0 feet.

GENERAL LOCATION: On the south side of Kellogg and west of
Bluff (3925 E. Kellogg).

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

LAND USE: Subject property is occupied by a former
multiple-family dwelling that is being
converted to commercial purposes and has
been connected to the adjacent restaurant
building. Property to the west is
multiple-family and to the south and east is
off-street parking for the uses on the zoning
lot. To the north is a motel and pawn shop.

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:

This application was discussed at the meeting of January 28, 1986, and was deferred four weeks so that the applicant could file the necessary applications to eliminate violations on the property. This included an application for a zoning change and an application for the vacation of a portion of the utility easement on the property. In addition, this application was readvertized to include that portion of the existing restaurant that was expanded in violation of BZA 27-83.

This variance request is to permit the construction of an addition on the same line with the building that was constructed under BZA 27-83. It will also legalize the second addition that was constructed to the east. On Lot 1 and 2 the additional ten feet of right-of-way has been dedicated for street purposes. Any consideration of this request should be subject to an additional ten feet of dedication on Lots 3 and 4 for street purposes.

The previous variance was granted by the Board on the basis that the footings foundations and floor were already in place. It was pointed out by the Secretary at that time that the architect had been advised that the variance would not be supported by the staff. It is also the Secretary's opinion on this request that the granting of a variance to 0 feet is contrary to policies adopted by the Governing Body for construction adjacent to a major street.

It is the Secretary's opinion that it is difficult to find any uniqueness to the property other than that created by the construction of the previous addition at a setback less than normally required. It should be noted that for properties in the area that have obtained "LC" zoning, it has been a requirement to dedicate additional street right-of-way and establish a 35 foot building setback line on the property. In this area, it is contemplated that Kellogg will be a high priority for improvement with the funds provided by the recent sales tax increase.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as the property is located in a block where the remainder of the block is in a residential district that determines the setback for the entire block; and in the event the remainder of the block would be granted "LC" Light Commercial zoning, a platted setback of 35 feet adjacent to a major street would be established.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the remainder of the block is still maintained as residential uses.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the applicant may still convert the existing structure at the present setback to commercial purposes as permitted by the "LC" District without the granting of a variance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would adversely affect the public interest inasmuch as the location of a structure at a zero setback is not in conformance with established policies and regulations for buildings adjacent to major streets.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance is specific in that the setback on commercial property located in a block with residential must comply with the setback required by the residential district.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and it is recommended that the variance be denied. However, should the Board find that all five conditions necessary to the granting of a variance can be found to exist, then the following conditions are recommended to be a part of the approval:

1. The applicant shall dedicate an additional 10 feet of street right-of-way adjacent to Kellogg on Lots 3 and 4, Block A, Longview Terrace Addition.
2. The applicant shall furnish a new site plan in triplicate drawn to scale showing all the required off-street parking spaces for all uses on the entire zoning lot in full compliance with all requirements as set forth in the zoning ordinance. The parking layout including vehicular circulation created by the use of the property shall be approved by the Traffic Engineer and be in compliance with the off-street parking standards and in conformance with any minor street permit.

3. Should the applicant require any additional minor street privilege for use of the property for parking purposes, the applicant shall comply with all conditions established by the permit. The applicant shall guarantee the removal of any construction or uses within the street right-of-way at no expense to the City or State.
4. Prior to the release of the Resolution authorizing Central Inspection to issue any building permit for the construction of any structure closer than 22 feet to the existing right-of-way of Kellogg. The applicant shall dedicate the additional right-of-way as set forth in condition number 1; submit a new site plan as set forth in condition number 2; and secure the minor street privilege as set forth in condition number 3.
5. The applicant shall complete the vacation case (V-1380) as applied for on February 3, 1986 in conformance with all conditions established by the Governing Body.
6. The applicant shall complete the zoning change application (Z-2747) filed on February 3, 1986. Should the zoning be denied, the applicant shall remove all structures or uses in violation of the ordinances.
7. The reduction of the front yard setback (after street dedication) shall be zero feet, but shall only apply only to Lots 2 and 3, Block A, Longview Terrace Addition, and shall only be for a one story addition not to exceed 600 square feet to the building located on Lot 3, and for the existing one story structure of approximately 600 square feet that is located on Lot 2, both in Block A, Longview Terrace Addition.
8. The applicant shall complete conditions numbered 1 through 6 within 180 days of the date of the action taken by the Board or the resolution shall be declared null and void.

BZA CASE NO. 71-85

2 NOTICES SENT TO APPLICANT/AGENT
15 LEGAL ADVERTISEMENT SENT TO MAPC & BZA
1 NOTICES SENT TO CPO
20 NOTICES SENT TO ADJOINING PROPERTY OWNERS
23 TOTAL NOTICES SENT 2-4-86

21 Corrected notices sent 2/5/86

2 - applicant/agent

1 - CPO

18 - adjoining property owners

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

CORRECTED NOTICE

February 4, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 71-85

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 Ernest H. Doyon, 3941 E. Kellogg, 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 front yard setback from 25 feet to 10 feet and from 25 feet to 0 feet on property zoned the "LC" Light Commercial District and the "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 2, 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Bluff (3935 and 3941 E. Kellogg).

This application has been assigned Case No. BZA 71-85. This application was deferred at the meeting of January 28, 1986 and will be reconsidered by the Board of Zoning Appeals on February 25, 1986 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.

Glen E. Lytle
Assistant Secretary

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

February 4, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 71-85

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 Ernest H. Doyon, 3941 E. Kellogg, 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 front yard setback from 25 feet to 10 feet and from 25 feet to 0 feet on property zoned the "LC" Light Commercial District and the "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 2, 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Bluff (3935 and 3941 E. Kellogg).

This application has been assigned Case No. BZA 71-85. This application was deferred at the meeting of January 28, 1986 and will be reconsidered by the Board of Zoning Appeals on February 4, 1986 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.

Glen E. Lytle
Assistant Secretary

January 29, 1986

Mr. Sam Mobley
420 South Ridge Road
Wichita, Kansas 67209

RE: BZA 71-85 Request for Variance

Dear Sam:

As per our conversation this date, we are re-advertising BZA Case No. 71-85 to include Lot 2, Block "A" Longview Terrace Addition along with Lots 3 and 4. This will then permit the Board to grant the variance of that building area that was constructed in violation of Resolution BZA 27-83.

I would also point out that the existing ownership list is sufficient to use for the necessary zoning and vacation applications on the property. This should permit the immediate filing of these applications to start the proceedings to resolve the Board's concern.

Please feel free to contact me at your convenience, but I would point out that the next closing date for MAPC matters is February 5, 1986.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL/lw

cc: Robert W. Kaplan, 430 N. Market, Wichita, KS 67202

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

January 28, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 71-85

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 Ernest H. Doyon, 3941 E. Kellogg, 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 front yard setback from 25 feet to 10 feet on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Bluff (3935 E. Kellogg).

This application has been assigned Case No. BZA 71-85. It will be considered by the Board of Zoning Appeals on January 28, 1986 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.

Glen E. Lytle
Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE January 28, 1986

TO Glen Lytle, Special Assistant for Zoning
FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 71-85: South Side of
 Kellogg and West of Bluff

On January 27, CPO Council "F" considered the above captioned case, a request for a variance to reduce the required front yard setback from 25 feet to 10 feet on property zoned the "LC" Light Commercial District.

The agent, Robert Kaplan, although invited to appear was not present to describe the request and respond to questions from the Council and area residents.

Sid Brinkman, who was present representing his mother-in-law who lives at 3906 Longview Lane, opposed the request. According to Mr. Brinkman approval of the variance would: 1) create a sight obstruction to the intersection in question, 2) increase lighting in the neighborhood and 3) permit further business "encroachment" into the neighborhood.

Council members were generally in agreement with Mr. Brinkman's concerns. A motion was made by Kale (Grund) that CPO Area "F" concur with the City Staff's report denying the applicant's request for a variance.

Please provide these comments to the Board of Zoning Appeals when Case BZA 71-85 is considered.

Barry L. Carroll
Barry L. Carroll
Administrative Aide III

BLC:dm

Noted:

Stanley J. Scott

Stanley J. Scott
CP Coordinator

RECEIVED

JAN 28 1986

METROPOLITAN PLANNING

ROUTE _____

RE: AGENDA ITEM NO. 4

SECRETARY'S REPORT
CASE NO. BZA 71-85

APPLICANT: Ernest H. Doyon, 3941 E. Kellogg, Wichita, KS 67218

AGENT: Robert W. Kaplan, 430 N. Market, Wichita, KS 67202

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 10 feet.

GENERAL LOCATION: On the south side of Kellogg and west of Bluff (3925 E. Kellogg).

ZONING: Subject property is zoned the "LC" Light Commercial and the "A" Two-family Dwelling District. Property to the east is "LC" Light Commercial and "BB" Office District and to the west and south is the "B" Multiple-family Dwelling District "A" Two-family Dwelling District.

LAND USE: Subject property is occupied by a former multiple-family dwelling that is being converted to commercial purposes. Property to the west is residential. To the south is off-street parking and to the east is a restaurant. To the north is a motel and pawn shop.

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 front yard setback from 25 feet to 10 feet for the construction of an addition to the existing building. This addition is proposed to be in line with the addition that was constructed on the Scotch and Sirlon approximately two years ago. The Board granted a variance for the construction of a 32 x 12 foot addition to be located at a zero foot setback after the owners dedicated an additional ten feet for Kellogg Street right-of-way. This variance was granted in contradiction of the recommended action by the Secretary to deny the request.

The previous variance was granted by the Board on the basis that the footings foundations and floor were already in place. It was pointed out by the Secretary at that time that the architect had been advised that the variance would not be supported by the staff. It should also be noted that a second addition was also constructed to the east that exceeds the construction permitted by Resolution BZA 27-83.

It should be noted that the request at the present time is for the addition of a commercial business in what was previously an apartment building. In this conversion, the applicant has expanded the restaurant into this building and has also converted a portion of the building into a retail sales area. In this conversion, they have converted the use of the lot in the "A" Two-family Dwelling District into a parking lot for the commercial business. In addition, the applicant has installed refrigeration units in the easement and extends into the "B" Multiple-family Dwelling District to the south.

At the time of the last BZA hearing on the parking lot the south, the agent, architect and owner agreed to take the necessary legal steps to resolve any violations that existed on the property. To this date, no applications have been filed on the property to resolve the zoning or the easement violations. They are now asking for additional concessions from the requirements of the zoning regulations.

It is the Secretary's opinion that it is difficult to find any uniqueness to the property other than that created by the construction of the previous addition at a setback less than normally required. It should be noted that for properties in the area that have obtained "LC" zoning, it has been a requirement to dedicate additional street right-of-way and establish a 35 foot building setback line on the property. In this area, it is contemplated that Kellogg will be a high priority for improvement with the funds provided by the recent sales tax increase. It is the Secretary's opinion that no variance should be granted on any property until the right-of-way requirements for Kellogg have been determined. At that time, variances of the setbacks should be granted only when all five conditions clearly can be found to exist.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as the property is located in a block where the remainder of the block is in a residential district that determines the setback for the entire block; and in the event the remainder of the block would be granted "LC" Light Commercial zoning, a platted setback adjacent to a major street would be established or it will still require at least a 10 foot setback from the new right-of-way line by the zoning regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the remainder of the block is still maintained as residential uses.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the applicant may still convert the existing structure at the present setback to commercial purposes as permitted by the "LC" District.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would adversely affect the public interest inasmuch as the location of a structure at a zero setback is not in conformance with established policies and regulations for buildings adjacent to major streets.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance is specific in that the setback on commercial property located in a block with residential must comply with the setback required by the residential district.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and it is recommended that the variance be denied.

BZA CASE NO. 71-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>15</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>20</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>22</u>	TOTAL NOTICES SENT <u>1/7/86</u>

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lots 1 & 2, exc. the North 8 feet for Highway	Block A	Longview Terrace	G. N. Rupe 3 Linden Drive Wichita, KS 67206
Lots 3 & 4 exc. the North 8 feet for Highway	Block		Casa Loma Properties 3935 E. Kellogg Wichita, KS 67218
Lot 5 exc. the North 8 feet for Highway	Block	<i>Lots 9 & 10 Ours Addn</i>	Z. G. Razook Mary Pauline Razook 3915 E. Kellogg Wichita, KS 67218
Lot 6 exc. the North 8 feet for Highway	Block	<i>Max Eaton Addn</i>	Susie H. Badeen George P. Badeen 3911 E. Kellogg Wichita, KS 67218
Lot 8, Block A, except commencing at the SW Lot 9, Blk. A; th. N 25 feet on a curve following the SW line of I th. NE'ly in a straight line to the NW/c of Lot 9; th. South to beg:		<i>16-17-118 Lots 16-20</i>	James Douglas Bearden 3902 Longview Wichita, KS 67218
Beginning at the SW Lot 9, Blk. A; th. 25 feet on a curve following the SW line in th. NE in a straight line to the NW/c of Lot 9; th. South to p.o.b.		<i>38-40 Memorial Park Place 5th</i>	Edward W. Sutherland Helen M. Sutherland Address Unknown
Lots 8 & 9	Blk	<i>NJ. Norma Jansen 352931</i>	Affidavit of Notice of Interest: Joe Parmele Renate Parmele 3904 Longview Wichita, KS 67218
Lot 10	Blk		Charles M. Walz Emily O. Walz Address Unknown
All of Lot 3, Block E and Lot 5, Blk. E, exc. beginning at the SE/c of Lot 5; th. NW'ly along the East line 37½ feet; th. SW'ly to a point 17½ feet North of the SW/c; th. South to the SW/c; th. along the S'ly line to p.o.b.			Ronald E. Heller Deanna K. Heller 529 S. Quentin Wichita, KS 67218

Lot	Block	Property Owner
Lots 1 & 2, exc. the North 8 feet for Highway	Block A	L. N. Rupe Linden Drive Wichita, KS 67206
Lots 3 & 4 exc. the North 8 feet for Highway	Block A	Casa Loma Properties 3935 E. Kellogg Wichita, KS 67218
Lot 5 exc. the North 8 feet for Highway	Block A	" W. G. Razook Mary Pauline Razook 3915 E. Kellogg Wichita, KS 67218
Lot 6 exc. the North 8 feet for Highway	Block A	" Susie H. Badeen George P. Badeen 3911 E. Kellogg Wichita, KS 67218
Lot 8, Block A, except commencing at the SW/c of Lot 9, Blk. A; th. NW'ly 25 feet on a curve follow- ing the SW line of Lot 8; th. NE'ly in a straight line to the NW/c of Lot 9; th. South to beginning.		" James Douglas Bearden 3902 Longview Wichita, KS 67218
Beginning at the SW/c of Lot 9, Blk. A; th. NW'ly 25 feet on a curve follow- ing the SW line in Lot 8; th. NE in a straight line to the NW/c of Lot 9; th. South to p.o.b.		Edward W. Sutherland Helen M. Sutherland Address Unknown
Lots 8 & 9	Block A	" Affidavit of Notice of Interest: Joe Parmele Renate Parmele 3904 Longview Wichita, KS 67218
Lot 10	Block A	" Charles M. Walz Emily O. Walz Address Unknown
All of Lot 3, Block E and Lot 5, Blk. E, exc. beginning at the SE/c of Lot 5; th. NW'ly along the East line 37½ feet; th. SW'ly to a point 17½ feet North of the SW/c; th. South to the SW/c; th. along the S'ly line to p.o.b.		" Ronald B. Heller Deanna K. Heller 529 S. Quentin Wichita, KS 67218

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Beginning at the SE/c of Lot 5, Blk. E; th. NW'ly along the East line 37½ feet; th. SW'ly to a point 17½ feet North of the SW/c; th. South to the SW/c; th. along the S'ly line to p.o.b. and all of Lot 7, Blk. E.		Longview Terrace	James R. Allred Marie I. Allred 533 S. Quentin Wichita, KS 67218
Lot 1	Block F	"	Paul M. McFarland Joan McFarland Address Unknown
Lot 3 & the N½ of Lot 5	Block F	"	Eldridge M. Summers Rosalie E. Summers 8325 Stoneridge Wichita, KS 67206
Lot 2	Block F	"	Carl D. Keith Lyla Keith 532 S. Quentin Wichita, KS 67208
Lot 4 & the N½ of Lot 6	Block F	"	Patrick C. Woodward Mahala S. Woodward 534 S. Quentin Wichita, KS 67218
S½ of Lot 6	Block F	"	Kenyon J. Blunt Maribeth Blunt 538 S. Quentin Wichita, KS 67218
Lots 682 & 683		Fairfax Addition	Vera Good Williams Address Unknown Affidavit of Notice of Interest: Ernie C. Doyon 8411 E. Mount Vernon Wichita, KS 67207
Lots 684 & 685		"	Marvin E. Dick 536 S. Bluff Wichita, KS 67218 Affidavit of Notice of Interest: Mark W. Schuyler Erin S. Schuyler 536 S. Bluff Wichita, KS 67218
South 20 feet of Lot 686		"	Marvin E. Dick Emma L. Dick 536 S. Bluff Wichita, KS 67218 Affidavit of Notice of Interest: Mark W. Schuyler Erin S. Schuyler 536 S. Bluff Wichita, KS 67218

Lot	Block	Addition	Property Owner
North 5 feet of Lot 686, and all Lots 687, 688 and 689		Fairfax Addition	C. Lee Tade Violet M. Tade 641 S. Terrace Wichita, KS 67218
Lots 690, 691 & 692		"	Marc C. Hiller Horst K. Hiller 1515 Goebel Circle Wichita, KS 67207
Lots 693, 694, 695, 696, 697 & 698, exc. the North 8 feet for Highway		"	Horst K. Hiller 1515 Goebel Circle Wichita, KS 67207
Lot 18 exc. the East 5 feet		Merriman Park Fifth Place	Central Steel Products, Inc. 240 W. 10th Wichita, KS 67203
Lots 19 & 20 and a 9.9 foot wide Strip adjacent to and adjoining Lot 20 on South		"	Scotch & Sirloin, Inc. 3941 E. Kellogg Wichita, KS 67218
All of Lots 36 & 37 and the North 1 foot of Lot 38		"	Robert E. Wells Cathie A. Wells 215 E. 27th St. South Wichita, KS 67216 AND Richard H. Wells Marilyn R. Wells 1201 N. Armour Wichita, KS 67206
West 82 feet of Lot 38, exc. a strip on the North 1 foot wide and the West 82 feet of Lots 39 & 40, an 82 foot strip adjacent to Lot 40 on the South, vacated off North side of Kellogg street by Ord. 5525.		"	Affidavit of Notice of Interest: Ernie C. Doyon, Jr. 8411 E. Mount Vernon 67207
West 82 feet of Lot 38, exc. a strip on the North 1 foot wide and the West 82 feet of Lots 39 & 40, an 82 foot strip adjacent to Lot 40 on the South, vacated off North side of Kellogg street by Ord. 5525.		"	Central Steel Products, Inc. 240 W. 10th Wichita, KS 67203
Lot 8	Block 7	Merriman Park Place	Dorothy Marie Russell Mary Jack Young Address Unknown
Lots 9 & 10	Block 7	"	Benny F. Hurlock Violet E. Hurlock 4116 E. Kellogg Wichita, KS 67218

<u>Lot</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 1	Fountain Park	Ronald L. Miller Janice C. Miller 2930 Cornelison Wichita, KS 67203 AND Michael H. Wilson Natalie S. Wilson 2317 Cardinal Dr. Wichita, KS 67204
North 150 feet of the West 100 feet of Lot 1, Block G	Fee's Subdivision	Z. G. Razook 3915 E. Kellogg Wichita, KS 67218
South 50 feet of the North 150 feet of Lot 10, Block M	Merriman Park	Alan R. Zimmerman Marlene J. Zimmerman 8818 Roland Wichita, KS 67212

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 1 through 4, inclusive; Lots 11 through 14, inclusive; All in Block A, Longview Terrace, an Addition to Wichita, Kansas, 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 1st day of November, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Mary Gable
Sr. Vice-President

Order No: 352931
nj

BOARD OF ZONING APPEALS

CASE NO. 71-85

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant ERNEST H. DOYON
Mailing Address 3941 E. Kellogg, W.K. Phone 685-8701
Name of Authorized Agent Robt. W. Kaplan
Mailing Address 430 N. Market, W.K. Phone 262-5775
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the front yard setback from 25 feet to 10 feet

for property located on the south side of Kellogg and west of Bluff (3935 E. Kellogg)
and legally described as: Lots 3 and 4, Block A, Longview Terrace Addition to Wichita, Sedgwick County, KS

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

- 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. 39-285); 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 _____
Authorized Agent Robt. W. Kaplan

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 11:30 (~~a.m.~~ p.m.), Dec. 2, 1985, together with appropriate fee of 300.00.

Signed [Signature]

VARIANCES

The Board may authorize in specific cases a variance from the specific terms of Title 28 which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of Title 28 will, in an individual case, result in unnecessary hardship, and provided that the spirit of Title 28 shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by Title 28 (zoning ordinance) in such zoning district. A request for a variance may be granted upon a finding by the Board that all of the following conditions as set forth in Section 2.12.590,B have been met:

1. That the variance requested 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.
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 provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

O W N E R S H I P L I S T

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lots 1 & 2, except the North 8 feet for Highway	Block A	Longview Terrace	✓ G. N. Rupe 3 Linden Drive Wichita, KS 67206
Lots 3 & 4, except the North 8 feet for Highway	Block A	"	✓ Casa Loma Properties 3935 E. Kellogg Wichita, KS 67218
Lot 5 except the North 8 feet for Highway	Block A	"	✓ Z. G. Razook Mary Pauline Razook 3915 E. Kellogg Wichita, KS 67218
Lot 6 except the North 8 feet for Highway	Block A	"	Susie H. Badeen George P. Badeen ✓ 3911 E. Kellogg Wichita, KS 67218
Lot 8, Block A, except commencing at the SW/c of Lot 9, Blk. A; th. NW'ly 25 feet on a curve following the SW line of Lot 8; th. NE'ly in a straight line to the NW/c of Lot 9; th. South to beginning.		"	✓ James Douglas Bearden 3902 Longview Wichita, KS 67218
Beginning at the SW/c of Lot 9, Blk. A; th. NW'ly 25 feet on a curve following the SW line in Lot 8; th. NE'ly in a straight line to the NW/c of Lot 9; th. South to p.o.b. and all of Lot 9, Blk. A.		"	Edward W. Sutherland Helen M. Sutherland Address Unknown
Lots 8 & 9	Block A	"	Affidavit of Notice of Interest: Joe Parmele ✓ Renate Parmele 3904 Longview Wichita, KS 67218
Lot 10	Block A	"	Charles M. Walz Emily O. Walz Address Unknown
North 21 feet of Lots 11 & 12	Block A	"	✓ Casa Loma Properties 3935 E. Kellogg Wichita, KS 67218
Lot 11 except the North 21 feet	Block A	"	✓ Ernie Doyon dba Ernie Doyon Investments 610 S. Fabrique Wichita, KS 67218

Lot	Block	Addition	Property Owner
Lot 12 except the North 21 feet	Block A	Longview Terrace	Scotch & Siroloin, Inc. ✓ 3941 E. Kellogg Wichita, KS 67218
Lot 13	Block A	"	✓ Glen N. Rupe a/k/a G. N. Rupe 3 Linden Drive Wichita, KS 67206
Lot 14	Block A	"	✓ Ernest H. Doyon 610 S. Fabrique Wichita, KS 67218
All of Lot 3, Block E and Lot 5, Block E, except beginning at the SE/c of Lot 5; th. NW'ly along the East line 37½ feet; th. SW'ly to a point 17½ feet North of the SW/c; th. South to the SW/c; th. along the S'ly line to p.o.b.		"	✓ Ronald B. Heller Deanna K. Heller 529 S. Quentin Wichita, KS 67218
Beginning at the SE/c of Lot 5, Block E; th. NW'ly along the East line 37½ feet; th. SWly to a point 17½ feet North of the SW/c; th. South to the SW/c; th. along the S'ly line to p.o.b. and all of Lot 7, Block E.		"	✓ James R. Allred Marie I. Allred 533 S. Quentin Wichita, KS 67218
Lot 1	Block F	"	Paul M. McFarland Joan McFarland Address Unknown
Lot 3 & the N½ of Lot 5	Block F	"	Eldridge M. Summers Rosalie E. Summers 8325 Stoneridge Wichita, KS 67206
S½ of Lot 5	Block F	"	Henry Leben Nathan Leben 1030 N. Market Wichita, KS 67214
Lot 2	Block F	"	✓ Carl D. Keith Lyla Keith 532 S. Quentin Wichita, KS 67208
Lot 4 & the N½ of Lot 6	Block F	"	Patrick C. Woodward Mahala S. Woodward 534 S. Quentin Wichita, KS 67218
S½ of Lot 6	Block F	"	Kenyon J. Blunt Maribeth Blunt 538 S. Quentin Wichita, KS 67218
Lots 682 & 683		Fairfax Addition Affidavit Notice of Interest:	Vera Good Williams Address Unknown Mark W. & Erin S. Bluff Schuyler 536 S. Bluff Wichita, KS 67218

Lot	Block	Addition	Property Owner
Lots 684 & 685		Fairfax Addition	Marvin E. Dick 536 S. Bluff Wichita, KS 67218 Affidavit of Notice of Interest: Mark W. Schuyler Erin S. Schuyler 536 S. Bluff Wichita, KS 67218
South 20 feet of Lot 686		"	Marvin E. Dick Emma D. Dick 536 S. Bluff Wichita, KS 67218 Affidavit of Notice of Interest: Mark W. Schuyler Erin S. Schuyler 536 S. Bluff Wichita, KS 67218
North 5 feet of Lot 686, and all of Lots 687, 688 and 689		"	C. Lee Tade Violet M. Tade 641 S. Terrace Wichita, KS 67218
Lots 690, 691 & 692		"	Marc C. Hiller Horst K. Hiller 1515 Goebel Circle Wichita, KS 67207
Lots 693, 694, 695, 696, 697, 698, except the North 8 feet for Highway		"	Horst K. Hiller 1515 Goebel Circle Wichita, KS 67207
Lot 16		Merriman Park Fifth Place	Alan E. Stickley Susan A. Stickley 437 S. Bluff Wichita, KS 67218
Lot 17 and Lot 18, except the East 5 feet		"	Central Steel Products, Inc. 240 W. 10th Wichita, KS 67203
Lots 19 & 20 and a 9.9 foot wide strip adjacent to and adjoining Lot 20 on South.		"	Scotch & Sirloin, Inc. 3941 E. Kellogg Wichita, KS 67218
All of Lots 36 & 37 and the North 1 foot of Lot 38		"	Robert E. Wells Cathie A. Wells 215 E. 27th St. South Wichita, KS 67216 AND Richard H. Wells Marilyn R. Wells 1201 N. Armour Wichita, KS 67206 Affidavit of Notice of Interest: Ernie C. Doyon, Jr. 8411 E. Mount Vernon Wichita, KS 67207

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
The West 82 feet of Lot 38, except a strip on the North, 1 foot wide and the West 82 feet of Lots 39 & 40, an 82 foot strip adjacent to Lot 40 on the South, vacated off North side of Kellogg Street by Ord. 5525.		Merriman Park Fifth Place	Central Steel Products, Inc. 240 W. 10th Wichita, KS 67203
The East 50 feet of Lot 38, except the North 1 foot and the East 50 feet of Lots 39 & 40 and vacated strip adjoining South, on Bluff Ave.		"	Robert E. Wells Cathie A. Wells 215 E. 27th St. South Wichita, KS 67216 AND Richard H. Wells Marilyn R. Wells 1201 N. Armour Wichita, KS 67206
		Affidavit of Notice of Interest:	Ernie C. Doyon Jr. 8411 E. Mount Vernon Wichita, KS 67207
The North 150 feet of the West 100 feet of Lot 1, Block G.		Fee's Subdivision	Z. G. Razook 3915 E. Kellogg Wichita, KS 67218
Lot 1		Fountain Park	Ronald L. Miller Janice C. Miller 2930 Cornelison Wichita, KS 67203 AND Michael H. Wilson Natalie S. Wilson 2317 Cardinal Dr. Wichita, KS 67204
Lot 1	Block A	Max Eaton Addition	EME Inc. One Villas Drive Villas at Crestview Wichita, KS 67230
South 41.12 feet of Lot 9 and the North 8.88 feet of Lot 10		Orr's Addition	Glen R. Patton Jill A. Patton 2716 W. Central Wichita, KS 67203
North 8.88 feet of Lot 9 and Lot 8		"	Martha R. Hodges 436 S. Roosevelt Wichita, KS 67218
South 60 feet of Lot 10		"	Anna M. Conwell Address Unknown

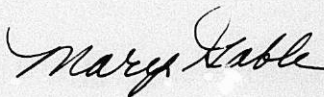
Page 5

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 1 through 4, inclusive; Lots 11 through 14, inclusive; All in Block A, Longview Terrace, an Addition to Wichita, Kansas, 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 1st day of November, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.



By

Sr. Vice-President

Order No: 352931-A
nj

The Board of Zoning Appeals has jurisdiction of the attached application pursuant to Section 2.12.590.B of the Code of the City of Wichita, and the conditions applicable to approval of the request are shown to exist as follows:

1. Uniqueness. The property is unique in the sense that it is a portion of an adjoining property for which a waiver has been previously granted, and applicant's inability to render the two buildings compatible architecturally and functionally will substantially hinder and impair the value of the property to the applicant.
2. Hardship. The failure to grant the requested variance would cause a hardship to the applicant, preventing his use of the property to its fullest advantage for retail sales for which the property is zoned since entryways and access could not be provided as are customarily available to retail and commercial buildings.
3. Adjacent Property. The requested variance will not affect adjacent property owners as a parking lot buffers this property from the adjacent property.
4. Public Interest. The public interest will not be affected as the exception, if granted, can be made subject to a covenant by the owner to remove improvements at the owner's expense in the event the City of Wichita should require the right of way for actual highway improvement.
5. Spirit and Intent. The request meets the spirit and intent of the ordinance as the purpose of the ordinance is to permit exceptions when neither the public nor the private interest is adversely affected and the property has a unique quality which cannot be addressed except by the granting of an exception.



DELIVER TO: Metro Area Planning
10th Floor

ATTN: Glen Lytle

This is to replace ownership
list #352931.

SECURITY ABSTRACT AND TITLE CO., INC.
434 North Main • Wichita, Kansas 67202 • Telephone (316) 267-8371
SECURITY IS KNOWING

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 201

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 870 Vard	340.00

NAME
 KADIAN & McPHERSON

ADDRESS
 510 N. 17th

FUND
 73-4191-003

DUE DATE

COMMENTS

DATE
 Dec 1 1955

BY
 [Signature]

*

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

Roll # 2