

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. _____

December 20, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 54-88

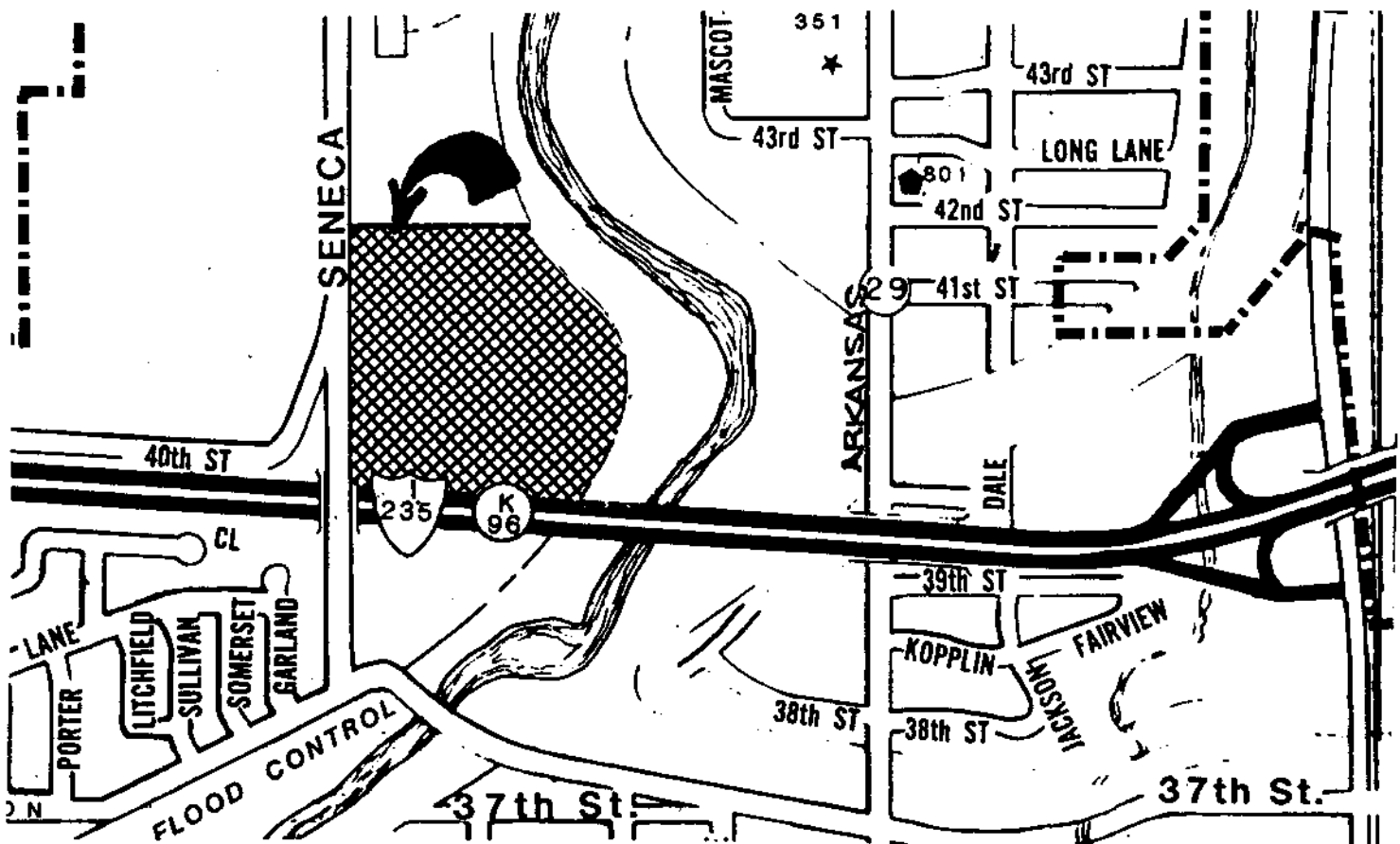
OWNER/APPLICANT/AGENT: Edgar & Janice Dwire (owners/applicants)
Lowell High, land surveyor (agent)

REQUEST: Exception to permit the extraction of raw materials (sand).

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 34.9 acres

LOCATION: East side of Seneca, north of I-235.



JURISDICTION: The Board has jurisdiction to consider this request under the provisions outlined in Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception, provided the conditions set out in Section 28.04.181.2 can be complied with.

BACKGROUND: The applicants are requesting permission to extract sand from an existing lake for a period of time not exceeding three years. The property is located east of Seneca and north of I-235. The site is approximately 35 acres in size and is currently being platted into one residential lot known as Shark's Nest Addition. The lake is a result of a prior "borrow" operation where fill dirt was obtained for construction of the interstate. The lake is approximately 1,800 feet long (north/south), but only the south portion (about 900 feet) is included in this application. The upper portions of the lake are divided into four separate ownerships.

The lake is shallow and has a history of problems associated with cat-tails and stagnant water. The applicants wish to deepen their portion of the lake to approximately 20 feet. Much of the raw materials (sand) extracted from the lake will be used on site to create a building pad for a future house and to fill low spots on the property. The excess will be sold, and it is because of this raw material sales that a BZA land use exception in the residential district is required. The applicant has estimated that the proposed deepening of the lake can be accomplished within three years.

As part of this land use exception request, the applicants want to have permission for a mobile home to be placed on site for use as a watchman's quarters. The applicants feel it is necessary to provide a night watchman to protect equipment. During the past few years while some dredging of the lake has occurred, vandalism and theft have been a problem. A mobile home has already been moved onto the site and the owner has been informed by Central Inspection that under the current situation ("AA" zoning and no recorded plat), a mobile home is not permitted here. The applicants also want to be able to build a pole barn at the north end of their property to store equipment, parts and tools (hi loader, dump truck with blade, irrigation pump, and irrigation pipe).

This application is somewhat different from most sand extraction requests in that a lake already exists. The lake will be deepened but, according to the application, will not be expanded outward. Most sand extraction operations are required to slope the banks no steeper than 5:1 (about a 12° slope) in order to provide for bank stabilization and future development around the lake. This applicant indicates a desire to create 30° to 45° slopes (approximately 2:1 and 1:1 ratios). The banks currently range from about 3.5:1 to 15:1. Since the redevelopment proposal is for only one residential building site, some increase in the steepness of the banks may be acceptable, but it is recommended that they not be permitted too steep in order that stability and ease of maintenance can be provided.

The only access to the site is from the west off of Seneca. A fence already exists adjacent to the interstate highway on the south and adjacent to the levee on the east.

Prior to release of a resolution authorizing the temporary use of this site for sand extraction, the applicants should be required to submit four copies of a revised site plan with the following information:

1. location of existing and proposed new fence;
2. location of the night watchman's mobile home;
3. location of the proposed equipment shed;
4. access road into the site and approximate location of operational roads on site;
5. setbacks from perimeter boundaries as required by the Board.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	Undeveloped
SOUTH	"R-5"	Highway
EAST	"AA"	Little Arkansas River and flood control levee
WEST	"C"	Softball diamonds and truck driving training grounds

RECOMMENDATION: Should the Board determine that a sand extraction operation is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicants shall submit a restrictive covenant, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, building rubble or other trash, shall be deposited on the application area or within the lake.
2. For those portions of the perimeter of the excavation area where fencing does not presently exist, fencing shall be constructed in accordance with the requirements of Section 5.34 of the City Code prior to any additional sand extraction occurring on this site.
3. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than three horizontal to one vertical.
5. No part of the sand extraction operation, including the stock-piling of sand or storage of equipment, shall occur within 50 feet of the north and east property lines or within 100 feet of the south and west property lines.
6. The sand extraction operation shall cease no later than December 31, 1991, unless the Board of Zoning Appeals grants an extension of time after proper notification and hearing.

SEDGWICK COUNTY

METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 288-4581

January 19, 1989

Edgar & Janice Dwire
2931 Benjamin
Wichita, KS, 67204

Re: BZA 54-88 - Exception to permit the extraction of raw materials (sand) for a period of 36 months, located on the east side of Seneca, north of I-235 (4130 N. Seneca).

Dear Mr. & Mrs. Dwire:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on December 20, 1988. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that conditions 1 and 14 have been completed.

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

Sincerely,

Louise Olivarez
Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

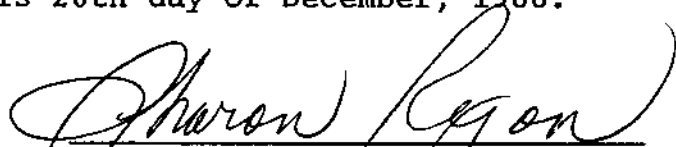
LO:jcm
Enclosure

cc: Lowell D. High, Land Surveyor, 1542 S. St. Francis, Wichita,
KS 67211
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

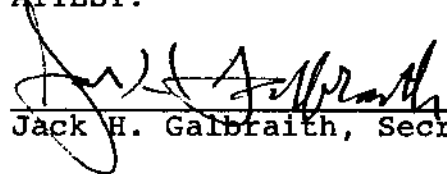
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ADOPTED AT WICHITA, KANSAS, this 20th day of December, 1988.


Sharon Ryan, President

ATTEST:


Jack H. Galbraith, Secretary

BZA RESOLUTION NO. 54-88

WHEREAS, Edgar W. and Janice M. Dwire, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the temporary extraction of raw materials (sand) on property zoned the "AA" One-Family Dwelling District and legally described as follows:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

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 December 20, 1988, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the temporary extraction of raw materials (sand) on property zoned the "AA" One-Family Dwelling District, subject to the conditions outlined in Section 28.04.181.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this application be approved to permit the temporary extraction of raw materials (sand) on property zoned the "AA" One-Family Dwelling District and legally described as follows:

SW/4 NW/4 Section 29, Township 26 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, lying west of the Wichita-Valley Center Flood Control right-of-way, except the north 1,000 feet thereof, and except the west 50 feet for street; AND

NW/4 SW/4 29-26S-1E except highway r.o.w. and except that part platted as Sherwood Village Addition; AND

NE/4 SW/4 29-26S-1E lying west of the Wichita-Valley Center Flood Control r.o.w., except highway r.o.w. Generally located on the east side of Seneca, north of I-235.

subject to the following conditions:

1. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicants shall submit a restrictive covenant, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, trees, car bodies, asphaltic concrete mix, building rubble or other trash, shall be deposited on the application area or within the lake.

2. Fencing shall be provided in accordance with the requirements of Section 5.34 of the City Code prior to any additional sand extraction occurring on this site.
3. The earth shall be extracted to at least a minimum depth of six feet below the normal water table as determined by the City-County Health Department.
4. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no steeper than three horizontal to one vertical.
5. No part of the sand extraction operation, including the stockpiling of sand or storage of equipment, shall occur within 50 feet of the north and east property lines or within 100 feet of the south and west property lines.
6. The sand extraction operation shall cease no later than December 31, 1991, unless the Board of Zoning Appeals grants an extension of time after proper notification and hearing.
7. Within 90 days following expiration of this use exception or cessation of the sand extraction operation, whichever occurs first, all equipment used in the operation, as well as all stockpiled material, shall be removed from the site and the site final graded to prepare it for residential development. All slopes shall be planted or seeded with a perennial drought-resistant grass or combination of grasses which will permit the establishment of a good sod cover to help prevent erosion.
8. A watchman's mobile home residence may occupy the property for as long as this use exception is valid. Within 30 days after final grading of this site, the mobile home shall be removed from the premises.
9. The applicants shall be responsible for maintaining all operational roads on site in a graveled condition to minimize blowing dust.
10. All the application area outside of the lake shall be graded so as to drain into the lake or as approved on the grading and drainage plan associated with the plat of Shark's Nest Addition.
11. No concrete or asphalt mixing plants or commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted in the area unless duly authorized under the provisions of the City Zoning Ordinance.
12. The applicant shall proceed in accordance with the operational plan and shall excavate the lake and form the banks as indicated on the approved plan.
13. Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a hearing.
14. Within 30 days following Board of Zoning Appeals approval and prior to the release of the resolution, the applicant shall submit 4 copies of a revised site plan which has the following information:
 1. location of existing and proposed new fence;
 2. location of the night watchman's mobile home;
 3. location of the proposed equipment shed;
 4. access road into the site and approximate location of operational roads on site;
 5. setbacks from perimeter boundaries as required by the Board.