

CASE NO. 1-47

S T A T U S   S H E E T

Board of Appeals Case No. 1-47

409-11 East Harry Premises in Question  
Herbert E. Marshall Appellant's Name  
452 Indiana Appellant's Address  
Same Owner's Name  
Same Owner's Address

Building or Zoning Application Received by Building Inspector  
1-20-47

Decision of Building Inspector refused under Section 19 (c)  
of the Zoning Ordinance

Appeal filed with Bond of Zoning Appeals January 21, 1947

Hearing notice and receipt Mailed January 21, 1947

The variance or exception desired arises from some condition  
which is not uniform in similiar districts.

The granting of the permit for the variance will not prejudice  
the rights of adjacent property owners or residents.

Adjoining Property Owners Notified mailed Jan. 21, 1947

Protests Received none

Consents Received none

Prior Cases on These Premises none

Case Hearings January 27, 1947

Case Decided Jan. 27, 1947 Action of Board Appeal granted

Notice of Decision Sent

Court Cases

In re: Appeal of Herbert E. Marshall to  
Board of Zoning Appeals, Premises  
Known as 409-411 East Harry, Wichita,  
Kansas; Case Number 47-1

To The Board of Zoning Appeals  
Room 203, City Hall  
Wichita, Kansas

The undersigned, Herbert E. Marshall, has appealed from the decision of the Building Inspector wherein a Building Permit has been refused for the erection of a commercial building at 409-411 East Harry Street, Wichita, Kansas, for the reason, as assigned by him, that the plans do not provide for a rear yard of sufficient depth as required in Section 19 (c) of the Zoning Ordinance Number 14-432.

The undersigned, pursuant to instructions, submits this typewritten statement setting forth the reasons why he has requested and requests the Board of Zoning Appeals to grant an exception and variance from the strict application of the provisions of said ordinance, as follows:

1. That the exception or variance desired arises from a condition which is not uniform in the same and similar district in that in the block immediately east of the property involved herein, to-wit: between South Emporia and South St. Francis Avenues and on the south side of Harry Street in said block, the ownership of the lot abutting Harry Street and facing west on Emporia is owned by two different persons and is now occupied and has been occupied for nearly a year last past by two brick business buildings without provision for any rear yard between said buildings and that the lot immediately north and across the street from the property involved herein is now and for some time past has been occupied by brick business buildings without provision for any rear yard or as provided by Section 19 (c) of the Zoning Ordinance above referred to;

2. That the granting of the permit for the variance will not prejudice the rights of adjacent property owners and residents and in this connection; you are respectfully advised that the brick building immediately west of the property involved has no rear entrance but has an entrance on Harry Street near the rear of said building and has no present use nor probable use in the future for a rear yard as provided by said ordinance, and that there are no other buildings, temporary or permanent, located in or near the property involved herein which will in any way be prejudiced by the granting of this exception or variance;

3. That the strict application of the terms of this ordinance will constitute unnecessary hardship upon the property owner represented in this appeal for the reason that this property has a frontage of only 50feet on Harry Street, which is a principal thoroughfare running east and west through the City of Wichita, Kansas, occupied for the most part by business buildings and business institutions for a number of blocks east and west of the property involved

herein and that said property abuts on the alley on the east; that to deprive this appellant of his use of 10 feet of said property on the west end thereof would in effect deprive him of the use of the most valuable 10 feet of the entire 50 foot tract, and would amount to a confiscation thereof, would be unjust, unequitable and would deprive him of said rights without consideration and without due process of law;

4. That this appellant has already furnished to your board the names and addresses of all owners and residents within a distance of 200 feet of the property concerned.

Respectfully submitted,

*Harold W. Marshall*

In re: Appeal of Herbert E. Marshall to  
Board of Zoning Appeals, Premises  
Known as 409-411 East Harry, Wichita,  
Kansas; Case Number 47-1

To The Board of Zoning Appeals  
Room 203, City Hall  
Wichita, Kansas

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1. That the exception or variance desired arises from a condition which is not uniform in the same and similar district in that in the block immediately east of the property involved herein, to-wit: between South Emporia and South St. Francis Avenues and on the south side of Harry Street in said block, the ownership of the lot abutting Harry Street and facing west on Emporia is owned by two different persons and is now occupied and has been occupied for nearly a year last past by two brick business buildings without provision for any rear yard between said buildings and that the lot immediately north and across the street from the property involved herein is now and for some time past has been occupied by brick business buildings without provision for any rear yard or as provided by Section 19 (c) of the Zoning Ordinance above referred to;

2. That the granting of the permit for the variance will not prejudice the rights of adjacent property owners and residents and in this connection; you are respectfully advised that the brick building immediately west of the property involved has no rear entrance but has an entrance on Harry Street near the rear of said building and has no present use nor probable use in the future for a rear yard as provided by said ordinance, and that there are no other buildings, temporary or permanent, located in or near the property involved herein which will in any way be prejudiced by the granting of this exception or variance;

3. That the strict application of the terms of this ordinance will constitute unnecessary hardship upon the property owner represented in this appeal for the reason that this property has a frontage of only 50 feet on Harry Street, which is a principal thoroughfare running east and west through the City of Wichita, Kansas, occupied for the most part by business buildings and business institutions for a number of blocks east and west of the property involved

herein and that said property abuts on the alley on the east; that to deprive this appellant of his use of 10 feet of said property on the west end thereof would in effect deprive him of the use of the most valuable 10 feet of the entire 50 foot tract, and would amount to a confiscation thereof, would be unjust, unequitable and would deprive him of said rights without consideration and without due process of law;

4. That this appellant has already furnished to your board the names and addresses of all owners and residents within a distance of 200 feet of the property concerned.

Respectfully submitted,

Murphy

DIAL 2-3100

**Orpheus**  
CLEANERS  
117 CLEVELAND AVE.  
WICHITA, KANSAS

Mr. Roland:

I do not think I included the L wing on ~~the~~ South East Corner on the application. I did not know exactly how to describe it.

North line of Bldg to be 38'  
So. of Center line of Street.

H. E. M.

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To Herbert E. Marshall Owner Address 452 Indiana  
To Same Applicant Address "

Dear Sir:

Your Application Dated 1-20-47  
For a Permit for the erection of a commercial building  
at the premises designated as  
409-411 East Harry

Is hereby refused on this 20th day of January, 1947,  
Under Section 19 (c) of the Zoning Ordinance.  
For the reason that an insufficient rear yard would be provided.

Respectfully,

*J. B. Maple*  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 203, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 203, City Hall.

Filed January 21, 1947

APPEAL UNDER THE ZONING ORDINANCE

TO THE BOARD OF ZONING APPEALS  
Room 203, City Hall  
Wichita, Kansas

The undersigned, Herbert E. Marshall, hereby appeals from the decision of the Building Inspector wherein a Building Permit Is Refused For the erection of a commercial building at 409-411 E. Harry St. for the reason that the plans do not provide for a rear yard of sufficient depth as required in Sec. 19 (c) of the Zoning <sup>OR</sup> Ordinance, No. 14-432. Order Or Decision Rendered Because \_\_\_\_\_

The Plans, application, and all data heretofore filed with said Building Inspector are attached hereto and made a part of this appeal.

I have not made a previous application or appeal under the Zoning Ordinance affecting these premises.

I hereby declare that all the statements contained in all of the information transmitted herewith are true.

  
Appellant.

NAMES AND ADDRESSES

Appellant Herbert E. Marshall Address 452 Indiana  
Owner Same Address \_\_\_\_\_  
Lessee \_\_\_\_\_ Address \_\_\_\_\_

INSTRUCTIONS

1. This appeal must be typewritten and filed within ninety (90) days after the date of the decision of the Building Inspector from which this appeal is taken.
2. The appellant must file an explicit Typewritten statement setting forth:
  - (a) The principal points on which this appeal is made. These points shall be the same as those under which the Building Inspector issued a refusal, order, or decision.
  - (b) A clear and accurate description of proposed work or use.
  - (c) Specific reference to that Section of the Zoning Ordinance under which it is claimed permit should be issued.
  - (d) Names and addresses of all owners and residents within a distance of 200 feet of the property concerned.

Marshall

HERBERT E. MARSHALL ✓  
REAL ESTATE -- LOANS  
452 INDIANA AVE.  
PHONE 2-1724  
WICHITA 7, KANSAS  
1/18/47

mailed  
1-20-47

Property owners within 200 feet of property of Herbert E. Marshall  
409-13 E. Harry Street, Wichita, Kansas.

M. N. Lygrisse, 155 North Pershing Avenue  
Glen & Ollie Jones, 1604½ South Topeka Avenue  
O. E. Keifer, 1601 South Emporia Avenue  
Vic Hodgkin, 1849 South Broadway Avenue  
G. W. Edwards, 1605 South Emporia Avenue  
W. A. Shrum, 1606 South Topeka Avenue  
J. Howard Kennedy 1608 South Topeka Avenue  
Edna E. Boylan 1650 South Topeka Avenue  
Faith Baptist Church 1400 South Broadway Avenue  
Sam White, 1539 South Emporia Avenue  
H. V. Fairbank, 1541 South Emporia Avenue  
Dunn Inv. Co. 125½ North Topeka Avenue  
Harold Powell, 1611 South Emporia Avenue  
J. D. Liming, 1615 South Emporia Avenue  
G. W. Harvey, 1542 South Broadway Avenue  
William E. Lawson, 1601 South Topeka Avenue  
Lila Hobaugh, 1425 S. Dodge Avenue  
Glen F. Bartlett, 1607 South Topeka Avenue  
Frank Bartlett 1611 South Topeka Avenue  
Earl LePlant, 905 South Terrace  
W. O. Pierce 1545 South Topeka Avenue  
No addresses could be found for the following who own property  
at extreme edge of this area:  
Vernon S. Ayer, Ralph E. Carrell, Addie Bryan, Ruby Temple.  
(1527 Fairbank) (1739 So. Hydraulic)

alley E. of Topoca

E. Hwy 23

