

BZA 8-61-61 BOARD OF EDUCATION  
APPEALS FROM DECISION OF BLDG. SUPT.  
RE SETBACK REQUIREMENTS AT MUELLER  
SCHOOL

Meeting 7-25-61

RESOLUTION NO. 8-61B

WHEREAS, THE BOARD OF EDUCATION, 428 SOUTH BROADWAY, WICHITA, KANSAS, BY L. E. WILBUR, SECRETARY-TREASURER, HAS REQUESTED A VARIANCE OF SETBACK REQUIREMENTS TO PERMIT THE CONSTRUCTION OF SCHOOL FACILITIES TO WITHIN 6 FEET OF THE EAST SIDE OF ESTELLE AVENUE RATHER THAN 25 FEET AS REQUIRED BY THE ZONING ORDINANCE, ON PROPERTY LEGALLY DESCRIBED AS

RESERVE E, AUDREY MATLOCK HEIGHTS 1ST  
ADDITION, CITY OF WICHITA, SEDGWICK  
COUNTY, KANSAS.

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, IN REGULAR MEETING CONSIDER SAID APPLICATION FOR VARIANCE ON AUGUST 22, 1961; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS DETERMINED THAT IT HAS JURISDICTION TO CONSIDER SAID REQUEST FOR VARIANCE UNDER THE PROVISIONS OF SECTION 2.12.590, CODE OF THE CITY OF WICHITA; AND

WHEREAS, THE PROPERTY IS ZONED "AA" AND REQUIRES A FRONT YARD SETBACK OF 25 FEET; AND

WHEREAS, AFTER DUE CONSIDERATION AND AFTER HEARING ARGUMENTS FROM BOTH THE ATTORNEY AND ARCHITECT FOR THE APPLICANT; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THE VARIANCE DESIRED ARISES FROM SUCH CONDITION WHICH IS UNIQUE SINCE IT DOES CONCERN A PUBLIC BUILDING IN A "AA" ZONING DISTRICT WHICH TRACT IS BOUNDED BY STREETS ON ALL SIDES AND IS USED ENTIRELY AS A SCHOOL FACILITY; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THE GRANTING OF THE VARIANCE REQUESTED WOULD NOT ADVERSELY AFFECT THE RIGHTS OF ADJACENT PROPERTY OWNERS INASMUCH AS SEVERAL OF THE PROPERTY OWNERS TO THE WEST OF ESTELLE AVENUE HAVE EVIDENCED THEIR APPROVAL OF THE PLAN AS PROPOSED BY THE APPLICANT, AND FURTHER, THE ELIMINATION OF THE BARRACK LIKE TEMPORARY UNITS AT THIS SCHOOL SITE WOULD BE AN IMPROVEMENT OF THE NEIGHBORHOOD, AND FURTHER, THE CONSTRUCTION AS PROPOSED, ALTHOUGH TWO STORY, BECAUSE OF THE TOPOGRAPHY OF THE SITE, WOULD BE ONLY SLIGHTLY HIGHER THAN THE PRESENT SINGLE STORY STRUCTURE ON THE PREMISES; AND THAT IF THE STRUCTURE WERE CONSTRUCTED WITH A 25 FOOT SETBACK INSTEAD OF A 6 FOOT SETBACK THERE WOULD BE A DIFFERENCE OF ONLY TWO DEGREES IN THE LINE OF RIGHT ANGLE FROM THE PROPERTIES TO THE WEST, AND FURTHER, THE PLAYGROUND ACTIVITY WOULD BE SHIELDED FROM THE RESIDENTIAL AREA BY CONSTRUCTION OF THE ADDITION AS PROPOSED; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THE STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP UPON THE APPLICANT IN THAT THE ARCHITECT HAS TESTIFIED AND THE BOARD AGREES WITH SUCH TESTIMONY, THAT ONLY BY DESIGNING THE BUILDING TO USE A SIX FOOT SETBACK CAN MAXIMUM EFFICIENCY AND UTILIZATION BE GAINED IN THE EXISTING AND PROPOSED STRUCTURES WITHOUT UNDULY BURDENING THE PUBLIC WITH EXCESSIVE COSTS OF ADDITIONAL LAND ACQUISITION OR INEFFICIENT UTILIZATION OF EXISTING STRUCTURES; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THIS VARIANCE DESIRED WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE, BUT RATHER WOULD SERVE AS A BETTERMENT TO THE GENERAL PUBLIC SINCE SUCH VARIANCE WILL FACILITATE THE EXPANSION OF SCHOOL FACILITIES; AND

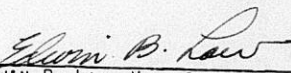
WHEREAS, AS SHOWN ABOVE, EACH OF THE FOUR CONDITIONS REQUIRED BY SECTION 2.12.590.2 OF THE CITY CODE OF WICHITA TO BE PRESENT BEFORE A VARIANCE CAN BE GRANTED, HAS BEEN FOUND TO EXIST;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, THAT THIS REQUEST FOR A VARIANCE FROM THE STRICT ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE TO LESS FRONT YARD SETBACK THAN REQUIRED BY THE ZONING ORDINANCE ON PROPERTY LEGALLY DESCRIBED AS

RESERVE E, AUDREY MATLOCK HEIGHTS 1ST  
ADDITION, CITY OF WICHITA, SEDGWICK COUNTY,  
KANSAS,

AND GENERALLY KNOWN AS THE MUELLER ELEMENTARY SCHOOL LOCATED AT THE SOUTHEAST CORNER OF ESTELLE AVENUE AND 24TH STREET NORTH, BE AND THE SAME IS HEREBY APPROVED, AND THE SUPERINTENDENT OF BUILDING INSPECTION IS AUTHORIZED TO ISSUE A PERMIT FOR THE CONSTRUCTION OF THE SCHOOL FACILITIES WITH A SIX FOOT SETBACK FROM ESTELLE AVENUE BETWEEN A POINT 25 FEET SOUTH OF THE SOUTH LINE OF 24TH STREET NORTH AND 25 FEET NORTH OF THE NORTH LINE OF ARLENE AVENUE.

ADOPTED AT WICHITA, KANSAS, THIS 22ND DAY OF AUGUST,  
1961.

  
EDWIN B. LAW, VICE CHAIRMAN

ATTEST:

  
ROBERT A. LAKIN, SECRETARY

RESOLUTION N O. 8-61A

WHEREAS, THE BOARD OF EDUCATION, 428 SOUTH BROADWAY, WICHITA, KANSAS, BY L. E. WILBUR, SECRETARY-TREASURER, HAS APPEALED AN ADMINISTRATIVE DECISION BY THE SUPERINTENDENT OF BUILDING INSPECTION CONCERNING SETBACK REQUIREMENTS AT MUELLER ELEMENTARY SCHOOL AT 2821 EAST 24TH STREET NORTH, SAID PROPERTY BEING LEGALLY DESCRIBED AS:

RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION, CITY OF WICHITA, SEDGWICK COUNTY, KANSAS.

WHEREAS, PROPER NOTICE AS REQUIRED BY ORDINANCE AND BY THE RULES OF THE BOARD OF ZONING APPEALS HAS BEEN GIVEN; AND

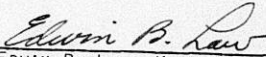
WHEREAS, THE BOARD OF ZONING APPEALS DID, IN REGULAR MEETING CONSIDER SAID APPLICATION FOR APPEAL, ON AUGUST 22, 1961; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS DETERMINED THAT IT HAS JURISDICTION TO CONSIDER SAID APPEAL UNDER THE PROVISIONS OF SECTION 2.12.590, CODE OF THE CITY OF WICHITA; AND

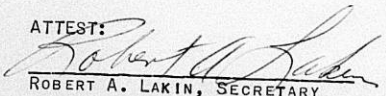
WHEREAS, THE BOARD AGREES WITH THE BUILDING INSPECTION SUPERINTENDENT THAT SUCH LAND IS OF SUCH CONFIGURATION AND IS LOCATED IN SUCH A MANNER THAT IT MAY BE CONSIDERED AS HAVING A REVERSAL OF FRONTAGE, PARTICULARLY INsofar AS THAT PART WHICH ABUTS ESTELLE AVENUE.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, THAT THE APPEAL OF THE BOARD OF EDUCATION BE DENIED AND THE RULING OF THE BUILDING INSPECTION SUPERINTENDENT THAT THE PROPERTY IN RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION, CITY OF WICHITA, KANSAS, WHICH ABUTS ESTELLE AVENUE, BE CONSIDERED AS A FRONT YARD AND SUBJECT TO ALL REQUIREMENTS AND REGULATIONS OF THE ZONING DISTRICT IN WHICH LOCATED.

ADOPTED AT WICHITA, KANSAS, THIS 22ND DAY OF AUGUST, 1961.

  
EDWIN B. LAW, VICE CHAIRMAN

ATTEST:

  
ROBERT A. LAKIN, SECRETARY

BOARD OF ZONING APPEALS

SEPTEMBER 6, 1961

C. L. McCAIG, Ass't BLDG. INSP. SUPT.

ROBERT A. LAKIN, SECRETARY

BZA 8-61B

ATTACHED IS A CARBON COPY OF RESOLUTION No.  
8-61B ADOPTED BY THE BOARD OF ZONING APPEALS  
ON AUGUST 22, 1961.

THE APPEAL PERIOD FOR THIS PARTICULAR CASE  
ENDED ON SEPTEMBER 1, 1961, AND INASMUCH AS NO  
APPEAL WAS FILED WITH THE CITY CLERK ON OR  
BEFORE THAT DATE, THE BOARD'S DECISION IS  
FINAL.

ROBERT A. LAKIN  
SECRETARY

RAL:BER

ATTACHMENT - 1

SEPTEMBER 6, 1961

THE BOARD OF EDUCATION  
428 SOUTH BROADWAY  
WICHITA, KANSAS

GENTLEMEN:

RE: BZA 8-61A AND 8-61B

ON AUGUST 23, 1961, WE ADVISED YOU THAT THE BOARD OF ZONING APPEALS HAD APPROVED YOUR REQUEST FOR VARIANCE OF SETBACK REQUIREMENTS ON THE MUELLER SCHOOL PROPERTY AT THE SOUTHEAST CORNER OF ESTELLE AND 24TH STREET NORTH. WE ALSO ADVISED THAT THE BOARD'S DECISION MIGHT BE APPEALED TO THE CITY COMMISSION ON OR BEFORE SEPTEMBER 1, 1961.

THE CITY CLERK HAS ADVISED THAT NO APPEAL WAS FILED ON OR BEFORE THE DATE INDICATED, AND THE DECISION OF THE BOARD OF ZONING APPEALS IS, THEREFORE, FINAL.

A COPY OF THE RESOLUTION SETTING FORTH THE ACTION OF THE BOARD IS ATTACHED FOR YOUR INFORMATION AND FILES.

VERY TRULY YOURS,

ROBERT A. LAKIN  
SECRETARY

RAL:BER

ENCLOSURE - 1

CC: J. ASHFORD MANKA  
COLORADO DERBY BUILDING

C. L. McCAIG  
ASS'T BLDG. INSP. SUPT.

BOARD OF ZONING APPEALS

AUGUST 25, 1961

*File*

C. H. FUNK, CITY CLERK

ROBERT A. LAKIN, SECRETARY

BZA 8-61A AND 8-61B

ATTACHED IS ONE COPY OF THE RESOLUTION RELATED TO EACH OF THE ABOVE NUMBERED BOARD OF ZONING APPEALS CASES.

THE BOARD OF ZONING APPEALS DENIED THE APPEAL FROM AN ADMINISTRATIVE DECISION OF THE BUILDING INSPECTION SUPERINTENDENT AS REQUESTED UNDER BZA 8-61A, AND APPROVED THE REQUEST FOR VARIANCE UNDER BZA 8-61B.

THE DECISION OF THE BOARD IN EACH CASE CAN BE APPEALED TO THE CITY COMMISSION ON OR BEFORE SEPTEMBER 1, 1961.

ROBERT A. LAKIN  
SECRETARY

RAL:BER

ATTACHMENT - 2

August 23, 1961

THE BOARD OF EDUCATION  
428 SOUTH BROADWAY  
WICHITA, KANSAS

GENTLEMEN:

RE: BZA 8-61A AND 8-61B

THIS IS TO ADVISE YOU THAT AT ITS REGULAR MEETING OF AUGUST 22, 1961, THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA CONSIDERED YOUR APPEAL FROM AN ADMINISTRATIVE DECISION BY THE SUPERINTENDENT OF BUILDING INSPECTION AND YOUR REQUEST FOR A VARIANCE OF SETBACK REQUIREMENTS ON THE MUELLER SCHOOL PROPERTY AT THE SOUTHEAST CORNER OF ESTELLE AND 24TH STREET NORTH. THE BOARD HAS APPROVED YOUR REQUEST FOR A VARIANCE.

SECTION 2.12.610 OF THE CODE OF THE CITY OF WICHITA PROVIDES THAT THE DECISION OF THE BOARD OF ZONING APPEALS SHALL BE FINAL UNLESS IT IS APPEALED TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN DAYS OF THE DATE OF THE BOARD'S ACTION. ACCORDINGLY, AN APPEAL COULD BE FILED IN THIS CASE ON OR BEFORE SEPTEMBER 1, 1961.

SUBSEQUENT TO THE EXPIRATION OF THE APPEAL PERIOD, YOU WILL BE ADVISED WHETHER OR NOT AN APPEAL HAS BEEN FILED. IF NO APPEAL HAS BEEN FILED ON OR BEFORE SEPTEMBER 1, 1961, THE DECISION OF THE BOARD WILL BE FINAL AND THE SUPERINTENDENT OF BUILDING INSPECTION WILL BE IN A POSITION TO ISSUE THE APPROPRIATE PERMIT.

VERY TRULY YOURS,

ROBERT A. LAKIN  
SECRETARY

RAL:BER

CC: J. ASHFORD MANKA  
COLORADO DERBY BUILDING

C. H. FUNK  
CITY CLERK

August 21, 1961  
2407 N. Estella  
Wichita, Ks.

Dear Sirs:

I have seen the proposed plans for building addition to Mueller School. As a home-owner across the street from this proposed building I am not opposed to this building.

I feel this building is needed and I hope you will see fit to grant the variance to allow a six foot setback so this building can be completed as soon as possible.

Sincerely,  
Mrs. Dan E. Peluso



Dear Sirs -

We, as residents of the  
Muellet school community  
are highly in favor of the  
proposed new building to be  
erected directly across the  
street from our home.

We feel it will truly  
enhance and improve the  
beauty of our community.

Mrs. + Mrs. J. J. Lesher  
2455 N. Estelle



Wichita City Board  
of  
Planning Approval



I, Mrs. Brian Hull, as a  
resident across the street  
from the building (Mueller School)  
am not opposed to the  
proposed building & I  
feel it is desirable.  
Mrs. Brian S. E. Hull  
2443 N. Estelle  
Wichita

BZA CASE NO. 8-61A AND 8-61B NOTICES MAILED AUGUST 3, 1961:

MILBROOK CHRISTIAN CHURCH  
NOW UNIVERSITY CHRISTIAN CHURCH  
4401 EAST 17TH STREET

FRANCIS P. AND ZELMA P. CRONE  
2819 ELLEN

FEDERAL HOUSING COMMISSIONER  
WASHINGTON, D. C.

LEAMON V. McDONALD  
2730 NORTH MERIDIAN

MILTON D. AND HAZEL HILYARD  
2715 EAST 24TH STREET

LORENZ J. AND FLOTILLA FOX  
2461 NORTH ESTELLE

DON AND CLARA GOODEN  
L. E. AND INA E. BEAMAN  
2048 ELLIS

DAN G. AND BARBARA A. PELUSO  
2449 NORTH ESTELLE

ROGER W. AND MARY M. EVANS  
2437 NORTH ESTELLE

RANDALL A. AND GLADYS M. WAHL  
2431 NORTH ESTELLE

GEORGE J. AND FLORENCE M. SETTLE  
2425 NORTH ESTELLE

ADMINISTRATOR OF VETERANS AFFAIRS  
5500 EAST KELLOGG

ALVIN A. AND FLORENTINE ZIMMERMAN  
2415 NORTH ESTELLE

JOHN C. AND MARGUERITE M. FINN  
6314 JACQUELINE

CHARLES A. AND MARGARET F. STRICKLER  
2526 PRINCE STREET

LEE P. AND BETTY DOHERTY  
2432 PRINCE STREET

ADELINE L. AND JARREL B. WOOD  
2438 PRINCE STREET

RALPH L. STEVENSEN  
2505 NORTH ESTELLE

WILLIAM L. AND CONSTANCE OEHLERT  
2816 EAST 24TH STREET

GEORGE F. AND VELMA B. JUMP  
2810 EAST 24TH STREET

BOARD OF EDUCATION  
428 SOUTH BROADWAY

*Returned  
unclaimed  
8-7-61*

BOARD OF ZONING APPEALS  
Room 402 CITY BUILDING ANNEX  
104 SOUTH MAIN  
WICHITA, KANSAS

AUGUST 3, 1961

NOTICE TO ADJOINING PROPERTY OWNERS

AN APPEAL FROM A DECISION OF THE BUILDING INSPECTION SUPERINTENDENT IN ENFORCING SECTIONS 28.04.020 AND 28.04.040 OF THE CODE OF THE CITY OF WICHITA, AND RELATING TO PREMISES OF THE BOARD OF EDUCATION AT 2821 EAST 24TH STREET, ON PROPERTY LEGALLY DESCRIBED AS

RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION,  
BEING MUELLER ELEMENTARY SCHOOL SITE,

HAS BEEN FILED BY L. E. WILBUR, SECRETARY-TREASURER OF THE BOARD OF EDUCATION. THIS APPEAL HAS BEEN ASSIGNED CASE No. 8-61A.

IN THE EVENT THE DECISION OF THE SUPERINTENDENT OF BUILDING INSPECTION IS UPHELD BY THE BOARD OF ZONING APPEALS, THE BOARD WILL CONSIDER A SUPPLEMENTAL APPLICATION BY THE BOARD OF EDUCATION FOR THE GRANTING OF A VARIANCE TO ALLOW A SIX FOOT SETBACK ON THE WEST SIDE OF RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION (BEING THE EAST SIDE OF ESTELLE AVENUE). THIS SUPPLEMENTAL REQUEST FOR A VARIANCE HAS BEEN ASSIGNED CASE No. 8-61B.

SUBJECT PROPERTY IS PRESENTLY LOCATED IN AN "AA" ZONING DISTRICT.

A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, AUGUST 22, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.

  
ROBERT A. LAKIN, SECRETARY  
BOARD OF ZONING APPEALS

NOTE: THIS CASE WAS NOT HEARD  
ON JULY 25, 1961, DUE TO A LACK  
OF A QUORUM.

POST OFFICE DEPARTMENT  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE, \$300

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

REGISTERED NO. \_\_\_\_\_

CERTIFIED NO. **731368**

INSURED NO. \_\_\_\_\_

NAME OF SENDER  
*Board of Zoning Appeals*

STREET AND NO. OR P. O. BOX  
*City Bldg. Annex, 104 S. Main*

CITY, ZONE AND STATE  
*Wichita, Kansas*

POSTMARK OR DATE  
AUG 4 1961  
KANS.

RETURN TO

POD Form 3811 Jan. 1958

CBS-16-11548-4

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO  
*L. E. Wilbur*

STREET AND NO.  
*428 So. Broadway*

CITY AND STATE  
*Wichita, Kansas*

POSTMARK OR DATE

If you want a return receipt, check which:

10¢ shows to whom and when delivered

50¢ shows to whom, when, and address where delivered

If you want restricted delivery, check here

50¢ fee

FEEs ADDITIONAL TO 20¢ FEE

POD Form 3800  
Jul 1957

SEE OTHER SIDE

No. 731368

**#1-INSTRUCTIONS TO DELIVERING EMPLOYEE**

Deliver **ONLY** to addressee  Show address where delivered  
*(Additional charges required for these services)*

**RETURN RECEIPT**  
 Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)  
*L. E. Wilbur*

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY  
*Margie Seeger*

DATE DELIVERED: *8/4/61* ADDRESS WHERE DELIVERED (only if regulated by law):  
 AUG 7 1961  
 MISSOURI DEPT. OF REVENUE  
 WINNING

**RECEIPT FOR CERTIFIED MAIL—20¢**

No. 731368

SENT TO: *L. E. Wilbur* POSTMARK OR DATE

STREET AND NO.: *428 So. Broadway*

CITY AND STATE: *Wichita, Kansas*

If you want a return receipt, check which:  
 10¢ shows to whom, and when delivered  
 25¢ shows to whom, what, and address where delivered  
 If you want restricted delivery, check here:  
 50¢ fee

**FEES ADDITIONAL TO 20¢ FEE**

POD Form 3800  
 Jul 1957 SEE OTHER SIDE

AUGUST 3, 1961

CERTIFIED MAIL

MR. L. E. WILBUR, SECRETARY-TREASURER  
BOARD OF EDUCATION  
428 SOUTH BROADWAY  
WICHITA, KANSAS

DEAR MR. WILBUR:

Re: BZA 8-61A AND 8-61B

YOUR APPLICATION ON AN APPEAL OF AN ADMINISTRATIVE DECISION BY THE SUPERINTENDENT OF BUILDING INSPECTION CONCERNING SETBACK REQUIREMENTS AT MUELLER ELEMENTARY SCHOOL AT 2821 EAST 24TH STREET, UNDER PROVISIONS OF PARAGRAPHS 28.04.020 AND 28.04.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, HAS BEEN GIVEN BOARD OF ZONING APPEALS CASE No. 8-61A

YOUR SUPPLEMENTAL REQUEST FOR CONSIDERATION OF A VARIANCE TO ALLOW THE CONSTRUCTION OF A BUILDING WITHIN SIX FEET OF ESTELLE AVENUE IN THE EVENT THE DECISION OF THE SUPERINTENDENT OF BUILDING INSPECTION IS UPHeld BY THE BOARD, HAS BEEN ASSIGNED BOARD OF ZONING APPEALS CASE No. 8-61B.

FURTHER, YOU ARE NOTIFIED THAT YOU MAY APPEAR BEFORE THE BOARD OF ZONING APPEALS FOR A HEARING OF THIS CASE ON TUESDAY, AUGUST 22, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS.

THE MEETING OF JULY 25, 1961, FOR WHICH THIS CASE WAS ORIGINALLY SCHEDULED, WAS NOT HELD INASMUCH AS A QUORUM OF THE MEMBERS OF THE BOARD WAS NOT PRESENT.

YOURS VERY TRULY,

ROBERT A. LAKIN  
SECRETARY

RAL:BER

CASE BZA 8-61-A

CASE DESCRIPTION

THE BOARD OF EDUCATION DESIRES TO BUILD AN ADDITION TO THE MUELLER ELEMENTARY SCHOOL (2821 EAST 24TH STREET). THE TRACT ON WHICH THE SCHOOL IS LOCATED IS SURROUNDED ON ALL SIDES BY STREETS. THE BUILDING INSPECTION SUPERINTENDENT HAS RULED THAT IN THIS PARTICULAR INSTANCE, THE CONSTRUCTION PROPOSED FOR THE WEST SIDE OF THE LOT MUST ADHERE TO A FRONT YARD SETBACK REQUIREMENT OF 25 FEET. THE BOARD OF EDUCATION FEELS THAT THE SETBACK SHOULD BE MADE AS A SIDE YARD SETBACK, OR 5 FEET. (SEE ATTACHMENT A FOR REASONS SUBMITTED BY THE BOARD OF EDUCATION TO SUPPORT THIS POSITION).

LAND USE

THE TRACT IN QUESTION IS OCCUPIED BY A SCHOOL BUILT AND ORIENTED TO THE NORTH WITH ITS FRONT TOWARDS 24TH STREET. SOUTH OF THE PERMANENT STRUCTURE IS A GROUP OF PORTABLE STRUCTURES WHICH ARE TO BE REMOVED UPON COMPLETION OF THE NEW ADDITION. THERE ARE SINGLE FAMILY RESIDENCES ACROSS THE STREET IN ALL DIRECTIONS FROM THE SCHOOL. WEST OF THE MAIN BUILDING IS OFF-STREET PARKING FOR THE SCHOOL. (NOTE: THIS IS TO BE RELOCATED TO THE NORTH IN FRONT OF THE EXISTING BUILDING).

JURISDICTION

THE BOARD HAS THE JURISDICTION TO HEAR AND DECIDE APPEALS OF DECISIONS OR DETERMINATIONS MADE BY THE SUPERINTENDENT OF BUILDING INSPECTION. (SECTION 2.12.590.1 OF THE CITY CODE).

SECRETARY'S COMMENTS AND OPINION

THE BUILDING INSPECTION SUPERINTENDENT'S DECISION IS BASED ON THE PART OF THE CITY CODE WHICH DEFINES "REVERSAL OF LOT FRONTAGE". THIS SECTION READS AS FOLLOWS:

"REVERSAL OF LOT FRONTAGE. LOTS IN ANY BLOCK WHICH ARE PLATTED FACING MORE THAN TWO STREETS SO THAT SOME OF THE PLATTED LOTS HAVE THEIR FRONTAGE APPROXIMATELY AT RIGHT ANGLES TO OTHER PLATTED LOTS IN THE SAME BLOCK SHALL BE CONSTRUED AS HAVING A REVERSAL OF FRONTAGE; PROVIDED, HOWEVER, THAT IF A CORNER LOT ADJOINING LOTS ON EITHER SIDE HAVING THIS REVERSAL OF FRONTAGE IS PLATTED OF SUFFICIENT DEPTH IN BOTH DIMENSIONS TO APPROXIMATELY EQUAL THE DEPTH OF THE LOTS ADJACENT TO EACH OF THE INTERIOR BOUNDARY LINES, BOTH STREET LINES OF SUCH LOT SHALL BE CONSTRUED AS FRONT LINES OF THE LOT AND FRONT YARD REQUIREMENTS SHALL BE REQUIRED ON BOTH STREET FRONTAGES".

IT IS THE FEELING OF THE SECRETARY THAT THE GOVERNING BODY, IN ADOPTING THIS ORDINANCE, INTENDED TO INSURE THAT STRUCTURES BUILT ON CORNER LOTS WOULD NOT:

1. INFRINGE UPON THE RIGHTS OF NEIGHBORING PROPERTY OWNERS AND PARTICULARLY THE LIGHT, AIR AND VIEW OF THE PROPERTY OWNERS;
2. IMPAIR THE PUBLIC SAFETY BY BEING BUILT TOO CLOSE TO STREETS, THEREBY CONTRIBUTING TO HAZARDOUS TRAFFIC MOVEMENT.

IT IS ALSO THE SECRETARY'S FEELING THAT, AS A GENERAL RULE, ANY LOT ABUTTING A STREET SHOULD BE CONSIDERED AS HAVING A REVERSAL OF FRONTAGE AND, THEREFORE, SHOULD REQUIRE A FRONT YARD SETBACK.

FOR THESE REASONS, IT IS THE OPINION OF THE SECRETARY THAT THE DECISION OF THE BUILDING INSPECTION SUPERINTENDENT SHOULD BE UPHELD.

CASE BZA 8-61A

APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT -  
FILED BY BOARD OF EDUCATION

III. THE CODE OF THE CITY OF WICHITA (ZONING ORDINANCE) DOES NOT REQUIRE A FRONT YARD SETBACK ON ALL FOUR SIDES OF A PROPERTY. A SIX FOOT SIDE YARD SETBACK IS BEING PROVIDED ON THE WEST SIDE OF THE PROPERTY ALONG ESTELLE AVENUE. 25 FOOT SETBACKS OR MORE ARE BEING PROVIDED AT THE CORNERS OF THE SITE. THIS IS IN EXCESS OF NORMAL CORNER REQUIREMENTS, BUT IS BEING PROVIDED AS A SAFETY FACTOR.

ENTRANCES TO THE BUILDING ARE ALL SET BACK 25 FEET OR MORE.

ON THE NORTH SIDE OF THE PROPERTY ALONG 24TH STREET, PERMISSION IS REQUESTED TO PARK AUTOMOBILES UP TO A SIX FOOT SETBACK LINE. THERE ARE NO BUILDINGS OTHER THAN THE MUELLER ELEMENTARY SCHOOL IN THIS BLOCK.

THIS APPEAL IS MADE IN ORDER TO PROVIDE THE MAXIMUM PLAYGROUND SPACE WITHIN THE LIMITS OF SATISFACTORY PLANNING IN ALL RESPECTS. PRESENT AND ANTICIPATED ENROLLMENT AT THIS SCHOOL MAKES EFFICIENT SITE PLANNING A VERY IMPORTANT AND CRITICAL MATTER.

ATTACHMENT A

CASE BZA 8-61-B

CASE DESCRIPTION

IN THE EVENT THE APPEAL OF THE BOARD OF EDUCATION IN BZA CASE 8-61-A IS DENIED, THE BOARD OF EDUCATION REQUESTS A VARIANCE TO THE STRICT ENFORCEMENT PROVISION OF THE CITY CODE RELATIVE TO THE FRONT YARD SETBACK OF 25 FEET ON THE WEST SIDE OF RESERVE E, AUDREY MATLOCK HEIGHTS FIRST ADDITION TO WICHITA. AS DESCRIBED IN 8-61-A, THE BOARD OF EDUCATION DESIRES TO BUILD AN ADDITION TO THE SCHOOL, REMOVE EXISTING PORTABLES, AND PROVIDE MAXIMUM PLAYGROUND AREA. SCHEMATIC DRAWINGS OF THE ADDITION HAVE ALREADY BEEN DEVELOPED BY THE ARCHITECT, BASED ON A LOCATION FOR THE BUILDING USING A SIX FOOT SETBACK RATHER THAN A 25 FOOT SETBACK LINE. SITE PLANS AND ELEVATIONS OF THE PROPOSED ADDITION WILL BE SHOWN AT THE BOARD OF ZONING APPEALS MEETING.

THE REASONS GIVEN BY THE BOARD OF EDUCATION TO SUPPORT THE VARIANCE ARE SUBMITTED AS ATTACHMENT A.

JURISDICTION

THE BOARD HAS JURISDICTION (SECTION 2.12.590, WICHITA CITY CODE) TO GRANT VARIANCES FROM SETBACK REQUIREMENTS, PROVIDED THAT THE BOARD HAS DETERMINED THAT ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

1. THAT THE VARIANCE DESIRED ARISES FROM SUCH CONDITION WHICH IS UNIQUE AND WHICH IS NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT;
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 ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP UPON THE PROPERTY OWNER REPRESENTED IN THE APPEAL;
4. THAT THE VARIANCE DESIRED WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.

SECRETARY'S OPINION

THE SECRETARY'S OPINION ON THE FOUR CONDITIONS LISTED ABOVE IS AS FOLLOWS:

POINT 1

ALTHOUGH THE TRACT IS A LARGE, UNDIVIDED TRACT LOCATED IN A FULLY DEVELOPED RESIDENTIAL DISTRICT, THE REASONS SUBMITTED BY THE APPLICANT RELATIVE TO THE UNIQUENESS OF THE TRACT DO NOT PARTICULARLY RELATE TO THE PHYSICAL CHARACTERISTICS OF THE LAND BUT TO THE USE TO WHICH THE LAND IS PUT.

POINT 2

THE ARGUMENT SUBMITTED BY THE APPLICANT RELATIVE TO THE VARIANCE AND ITS AFFECT ON ADJACENT PROPERTY OWNERS IS CORRECT INSOFAR AS IT RELATES TO THE USE OF THE STRUCTURE, BUT IS NOT NECESSARILY APPLICABLE WHEN RELATED TO THE STRUCTURE'S LOCATION. THE HOUSES IMMEDIATELY WEST OF THE PROPOSED SCHOOL BUILDING HAVE BEEN CONSTRUCTED WITHIN THE REGULAR 25 FOOT FRONT YARD SETBACK PROVISION. CONSTRUCTION OF A TWO STORY STRUCTURE HAVING A SIX FOOT SETBACK AND BEING LOCATED DIRECTLY OPPOSITE FROM THESE RESIDENCES WILL HAVE A DETRIMENTAL EFFECT ON THE RESIDENCES. IT IS THE SECRETARY'S FEELING THAT A SIX FOOT SETBACK FOR THE STRUCTURE WOULD RESULT IN LOSS OF AIR AND VIEW, REFLECTION OF LIGHT AND HEAT AND LOSS OF DESIRABLE ASTHETIC QUALITIES.

IT IS APPARENT THAT THE ADVERSE EFFECT WOULD BE LESSENERD IN DIRECT PROPORTION TO THE DISTANCE THE BUILDING IS SET BACK FROM THE PROPERTY LINE. THEREFORE, ALTHOUGH A SIX FOOT SETBACK SEEMS UNDESIRABLE, A SETBACK OF 15 OR 20 (OR A VARIANCE OF 5 FEET) WOULD NOT BE DETRIMENTAL TO THE ADJACENT PROPERTIES AND WOULD ENABLE THE BOARD OF EDUCATION TO RETAIN AS MUCH PLAYGROUND AS POSSIBLE.

POINT 3

THE SITE CAN BE USED FOR THE PURPOSE FOR WHICH INTENDED, I.E. THE CONSTRUCTION OF A SCHOOL BUILDING. THE ONLY HARDSHIP IS THE POSSIBLE LOSS OF A STRIP OF GROUND ABOUT 20 FEET IN WIDTH WHICH WOULD BE UTILIZED FOR PLAYGROUND. THE BOARD SHOULD DECIDE WHETHER THIS IS SUFFICIENT HARDSHIP TO MEET THE REQUIREMENTS OF THE ORDINANCE.

POINT 4

THE GRANTING OF A REASONABLE VARIANCE WOULD NOT BE AGAINST THE PUBLIC INTEREST UNLESS IT IS DETERMINED THAT THE PROPERTY OWNERS TO THE WEST SUFFER LOSS OF PROPERTY VALUE AND NEIGHBORHOOD DEPRECIATION DUE TO CONSTRUCTION OF THE BUILDING WITH INSUFFICIENT SETBACK.

PAGE 3 - CASE BZA 8-61-B

IT IS THE SECRETARY'S OPINION THAT IF THE BOARD CAN BE SATISFIED THAT A VARIANCE WILL NOT ADVERSELY AFFECT THE ADJACENT PROPERTIES, THEN A MINIMUM VARIANCE (A REDUCTION OF THE REQUIRED 25 FEET TO 20 OR 15 FEET) BE APPROVED.

IT IS FURTHER RECOMMENDED THAT AS A RESULT OF THE BOARD OF EDUCATION POLICY CHANGE FROM SMALL TO LARGE ADMINISTRATIVE UNITS, THAT THE METROPOLITAN AREA PLANNING COMMISSION CONSIDER THE ADVISABILITY OF A JOINT STUDY WITH THE ADMINISTRATIVE OFFICIALS OF THE BOARD OF EDUCATION TO PRESENT DESIRABLE COVERAGE AND SPACE STANDARDS FOR ELEMENTARY SCHOOLS.

VARIANCE REQUEST

BOARD OF EDUCATION OF THE CITY OF WICHITA, KANSAS

THE PUBLIC SCHOOL SITE (RESERVE "E" AUDREY MATLOCK HEIGHTS FIRST ADDITION) IS A SQUARE BLOCK AREA WITH THE PRESENT SCHOOL BUILDING FRONTING ON 24TH STREET, AND IT IS SUGGESTED THE 25 FEET BUILDING SETBACK LINE FOR IMPROVEMENTS ON THE AREA ALSO APPLIES TO THE REMAINING THREE STREET BOUNDARIES OF THE TRACT UNDER SECTION 28.04.040 OF THE CODE OF THE CITY OF WICHITA (ZONING ORDINANCE); AND THE APPLICANT MEETS THE REQUIREMENTS OF SECTION 2.12.590.2 OF THE CODE OF THE CITY OF WICHITA FOR THE REASONS STATED BELOW.

THE EXCEPTION OR VARIANCE DESIRED ARISES FROM CONDITIONS NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT, THE PROPERTY IN QUESTION BEING DEVOTED EXCLUSIVELY TO PUBLIC SCHOOL PURPOSES IS IN AN AREA WHICH HAS RAPIDLY DEVELOPED AND EXTREME NEED EXISTS FOR ENLARGING THE EXISTING SCHOOL BUILDING ON SAID AREA AND THAT IN CONSIDERATION OF MEETING THE PUBLIC NEEDS, THE MOST PRACTICAL AND FEASIBLE WAY TO ENLARGE SUCH PUBLIC SCHOOL IS BY THE PLANNED ADDITION THERETO FOR WHICH EXCEPTION AND VARIANCE TO BUILDING SETBACK LINES IS DESIRED AND SIMILAR IMPROVEMENTS DO NOT EXIST IN THE IMMEDIATE NEIGHBORHOOD.

THE PLANNED AND PROPOSED ENLARGEMENT OF THE EXISTING PUBLIC SCHOOL AND GRANTING OF THE BUILDING LINE SETBACK EXCEPTION AND VARIANCE DOES NOT ADVERSELY AFFECT THE RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS, BUT AN ADEQUATE SCHOOL FACILITY IS A BENEFIT TO SUCH OWNERS AND RESIDENTS. THE PROPOSED ENLARGEMENT IS IN PART DESIGNED SO AS TO PRESERVE ADEQUATE PLAYGROUND AREA AND FACILITIES, THE IMPROVEMENTS AS SO PLANNED REMOVING FROM THE PLAY AREA ACCESS TO ONE OF THE PUBLIC STREETS - ESTELLE AVENUE - AND THUS PROVIDING BETTER SAFETY FOR SCHOOL GROUND PLAY. THE BUILDING PLAN ALSO RETAINS MORE THAN 25 FEET SETBACK AT EACH OF THE STREET INTERSECTIONS ADJACENT THERETO AND ENTRANCES TO THE EXISTING AND PROPOSED ENLARGEMENT OF PUBLIC SCHOOL BUILDING.

THE APPLICATION OF POSSIBLE SETBACK BUILDING LINE RESTRICTIONS CONSTITUTE UNNECESSARY HARDSHIP UPON THE APPLICANT AS A PUBLIC AGENCY. NO FEASIBLE ALTERNATIVE EXISTS FOR ENLARGING THE EXISTING PUBLIC SCHOOL WITHOUT EXTREME SACRIFICE OF GOOD SCHOOL PLANNING AND EXTREME INCREASE IN COSTS OF IMPROVEMENT AND ENLARGEMENT AND THE PLAN OF DEVELOPMENT ALSO PRESERVES A MAXIMUM PLAYGROUND AREA SO IMPORTANT TO ELEMENTARY SCHOOL FUNCTIONS AND RESPONSIBILITIES. AS STATED ABOVE, THE PLAN ALSO PROVIDES ADDED SAFETY FACTORS FOR SCHOOL AND PLAYGROUND USES.

THE VARIANCE AND EXCEPTION SOUGHT IS NOT AGAINST PUBLIC INTEREST, BUT SERVES THE PUBLIC INTEREST FOR THE NUMEROUS REASONS STATED ABOVE. ANY OTHER PLAN OF MEETING THE SCHOOL NEEDS OF THE AREA IN QUESTION OR ENLARGING THE EXISTING PUBLIC SCHOOL BUILDING WOULD RESULT IN SUBSTANTIAL ADDED EXPENSE TO THE PUBLIC AND LOSS IN THE EFFICIENT DEVELOPMENT AND MAINTENANCE OF NEEDED PUBLIC SCHOOL FACILITIES - THUS WORKING AGAINST THE PUBLIC INTEREST.

ATTACHMENT A

BZA NOTICES MAILED 19

FRANCIS P. & ZELMA P. CRONE  
2819 ELLEN

FEDERAL HOUSING COMMISSIONER  
WASHINGTON D.C.

MILTON D. & HAZEL HILYARD  
2715 E. 24TH STREET

LORENZ J. & FLOTILLA FOX  
2461 N. ESTELLE

DON & CLARA GOODEN  
L. E. & INA E. BEAMAN  
2048 ELLIS

DAN G. & BARBARA A. PELUSO  
2449 N. ESTELLE

ROGER W. & MARY M. EVANS  
2437 N. ESTELLE

RANDALL A. & GLADYS M. WAHL  
2431 N. ESTELLE

GEORGE J. & FLORENCE M. SETTLE  
2425 N. ESTELLE

ADMINISTRATOR OF VETERANS AFFAIRS  
6500 E. KELLOGG

ALVIN A. & FLORENTINE ZIMMERMAN  
2415 N. ESTELLE

JOHN C. & MARGUERITE M. FINN  
6314 JACQUELINE

CHARLES A. & MARGARET F. STRICKLER  
2526 PRINCE ST.

LEE P. & BETTY DOHERTY  
2432 PRINCE ST.

ADELINE L. & JARREL B. WOOD  
2438 PRINCE ST.

RALPH L. STEVENSEN  
2505 N. ESTELLE

WILLIAM L. & CONSTANCE OEHLERT  
2816 E. 24TH ST.

GEORGE F. & VELMA B. JUMP  
2810 E. 24TH ST.

BOARD OF EDUCATION  
428 S. BROADWAY

MILBROOK CHRISTIAN CHURCH  
NOW UNIVERSITY CHRISTIAN CHURCH  
4401 E. 17TH ST.

LEAMON V. McDONALD  
2730 N. MERIDIAN

*Ret  
undaimed  
27/1/68*

BOARD OF ZONING APPEALS  
ROOM 402 CITY BUILDING ANNEX  
104 SOUTH MAIN  
WICHITA, KANSAS

JULY 7, 1961

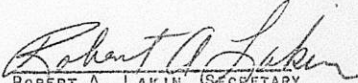
NOTICE TO ADJOINING PROPERTY OWNERS

AN APPEAL FROM A DECISION OF THE BUILDING INSPECTION SUPERINTENDENT IN ENFORCING SECTIONS 28.04.020 AND 28.04.040 OF THE CODE OF THE CITY OF WICHITA, AND RELATING TO PREMISES OF THE BOARD OF EDUCATION AT 2821 EAST 24TH STREET, ON PROPERTY LEGALLY DESCRIBED AS RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION, BEING MUELLER ELEMENTARY SCHOOL SITE, HAS BEEN FILED BY L. E. WILBUR, SECRETARY-TREASURER OF THE BOARD OF EDUCATION. THIS APPEAL HAS BEEN ASSIGNED CASE No. 8-61A.

IN THE EVENT THE DECISION OF THE SUPERINTENDENT OF BUILDING INSPECTION IS UPHeld BY THE BOARD OF ZONING APPEALS, THE BOARD WILL CONSIDER A SUPPLEMENTAL APPLICATION BY THE BOARD OF EDUCATION FOR THE GRANTING OF A VARIANCE TO ALLOW A SIX FOOT SETBACK ON THE WEST SIDE OF RESERVE E, AUDREY MATLOCK HEIGHTS 1ST ADDITION (BEING THE EAST SIDE OF ESTELLE AVENUE). THIS SUPPLEMENTAL REQUEST FOR A VARIANCE HAS BEEN ASSIGNED CASE No. 8-61B.

SUBJECT PROPERTY IS PRESENTLY LOCATED IN AN "AA" ZONING DISTRICT.

A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, JULY 25, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.

  
ROBERT A. LAKIN, SECRETARY  
BOARD OF ZONING APPEALS

POST OFFICE DEPARTMENT  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID  
PAYMENT OF POSTAGE, \$300

POST OFFICE OF  
SEATTLE, WASH.

JUL 7 1961

KANS.

RETURN TO

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REGISTERED.

REGISTERED NO. NAME OF SENDER  
190763 David Manning Appeals

CERTIFIED NO. STREET AND NO. OR P.O. BOX  
190763 402 City Bldg Canal, Train 104 St

INSURED NO. CITY, ZONE AND STATE  
Wichita Kansas

POD Form 3811 Jan. 1958

CS-18-71548-1

RECEIPT FOR CERTIFIED MAIL—20¢

No. 190763

SENT TO  
L. E. Wilbur

STREET AND NO.  
428 So. Broadway

CITY AND STATE  
Wichita, Kansas

POSTMARK OR DATE

If you want a return receipt, check which  
 10¢ shows to whom and when delivered  
 5¢ shows to whom, when, and address where delivered

If you want restricted delivery, check here  
 50¢ fee

FEES ADDITIONAL TO 20¢ FEE

POD Form 3803  
April 1959

SEE OTHER SIDE

**#1-INSTRUCTIONS TO DELIVERING EMPLOYEE**

Deliver **ONLY** to addressee  Show address where delivered  
(Additional charges required for these services)

---

**RETURN RECEIPT**  
 Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)  
*L. E. Wilbur*

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY  
*Margie Savers*

DATE DELIVERED *7 July 48* ADDRESS WHERE DELIVERED (only if requested in item #1)

CS-16-71848-4 GPO

**RECEIPT FOR CERTIFIED MAIL—20¢**

POSTMARK OR DATE

No. 190763

SENT TO <i>L. E. Wilbur</i>	
STREET AND NO. <i>428 So. Broadway</i>	
CITY AND STATE <i>Wichita, Kansas</i>	
<small>If you want a return receipt, check which</small> <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered	<small>If you want restricted delivery, check here</small> <input type="checkbox"/> 50¢ fee
<input type="checkbox"/> 35¢ shows to whom, when, and address where delivered	
<b>FEE ADDITIONAL TO 20¢ FEE</b>	
<small>FCD Form 3500 Apr 1953</small>	<small>SEE OTHER SIDE</small>

JULY 7, 1961

CERTIFIED MAIL

MR. L. E. WILBUR, SECRETARY-TREASURER  
BOARD OF EDUCATION  
428 SOUTH BROADWAY  
WICHITA, KANSAS

DEAR MR. WILBUR:

RE: BZA 8-61A AND 8-61B

YOUR APPLICATION ON AN APPEAL OF AN ADMINISTRATIVE DECISION BY THE SUPERINTENDENT OF BUILDING INSPECTION CONCERNING SETBACK REQUIREMENTS AT MUELLER ELEMENTARY SCHOOL AT 2821 EAST 24TH STREET, UNDER PROVISIONS OF PARAGRAPHS 28.04.020 AND 28.04.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, HAS BEEN GIVEN BOARD OF ZONING APPEALS CASE No. 8-61A.

YOUR SUPPLEMENTAL REQUEST FOR CONSIDERATION OF A VARIANCE TO ALLOW THE CONSTRUCTION OF A BUILDING WITHIN SIX FEET OF ESTELLE AVENUE IN THE EVENT THE DECISION OF THE SUPERINTENDENT OF BUILDING INSPECTION IS UPHeld BY THE BOARD, HAS BEEN ASSIGNED BOARD OF ZONING APPEALS CASE No. 8-61B.

ALL INQUIRIES AND REFERENCES SHOULD BE MADE TO THE ABOVE CASE NUMBERS WHEN YOU SEEK INFORMATION FROM THE SECRETARY.

FURTHER, YOU ARE NOTIFIED THAT YOU MAY APPEAR BEFORE THE BOARD OF ZONING APPEALS FOR A HEARING OF YOUR CASE ON TUESDAY, JULY 25, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS.

YOURS VERY TRULY,

ROBERT A. LAKIN  
SECRETARY

RAL:BER

June 20, 1961

Glenn E. Benedick  
254 Laura  
Wichita, Kansas

Re: Addition to Charles Mueller  
School--2821 East 24th Street

Dear Glenn:

I have seriously considered the matter of the setback off of Estelle Avenue for the proposed addition to this school.

It is my interpretation of the Zoning Ordinance that a front setback is required on all four sides of this plot of ground and, therefore, it is my interpretation of the ordinance that a setback as indicated on Estelle would not be in keeping with the provisions of the same.

It is believed that it is the intent of the ordinance to require a setback in a case such as this, and especially so when there are houses on the opposite side of the street which front in this direction.

As I indicated to you in our conversation, any decision that I make in the interpretation of the Zoning Ordinance may be appealed to the Board of Zoning Appeals either as a variance of the application of the ordinance or as an appeal from my interpretation.

Sincerely,

S. B. Maple  
Superintendent of Building Inspection

SMB:ml

cc: Richard Holstead, Board of Education  
Robert Lakin, Secretary of Board of Zoning Appeals

APPLICATION FOR VARIANCE

I. Name of Applicant Board of Education of the City of Wichita, Kansas  
Mailing Address 428 South Broadway Phone AM 7-8311  
Name of Authorized Agent Lawrence E. Wilbur, Secretary-Treasurer  
Mailing Address 428 So. Broadway, Wichita 2, Kans. Phone AM 7-8311  
Relationship of Applicant to Property is that of Owner (Public School  
Property)  
(Owner, Tenant, Lessee, Other).

II. The variance requested is for a side yard or Estelle Street set back  
building line of six (6) feet for part of frontage area shown on attached  
plat to permit enlargement of existing Mueller Elementary School Building  
instead of a possible 25 feet set back building line as may be inferred  
applicable to this tract bounded by four streets.

For Property Located at 2821 East 24th Street, Wichita, Kansas

And Legally Described as Block or Reserve "E" Audrey Matlock Heights

First Addition to Wichita, Sedgwick County, Kansas.

Addition to the City of Wichita; and which is presently zoned "AA".

(Give metes and bounds description below if appropriate):

III. The applicant herein, or his authorized agent, hereby acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right of appeal of the decision of the Board of City Commissioners within ten (10) days of that decision;
- d. That a statement is attached hereto justifying this request as noted in paragraph 3 of the instructions and in Section 2.12.590.2 of the Code of the City of Wichita.

Board of Education  
Applicant

L. E. Wilbur  
Authorized Agent

OFFICE USE ONLY

Received in office of Secretary, Board of Zoning Appeals,  
(A.M. - P.M.) \_\_\_\_\_, 19\_\_\_\_, together with appropriate  
fee of \$30.00

\_\_\_\_\_  
Signed

VARIANCE REQUEST

BOARD OF EDUCATION OF THE CITY OF WICHITA, KANSAS

The public school site (Reserve "E" Audrey Matlock Heights First Addition) is a square block area with the present school building fronting on 24th Street, and it is suggested the 25 feet building setback line for improvements on the area also applies to the remaining three street boundaries of the tract under Section 28.04.040 of the Code of the City of Wichita (Zoning Ordinance); and the applicant meets the requirements of Section 2.12.590.2 of the Code of the City of Wichita for the reasons stated below.

The exception or variance desired arises from conditions not ordinarily found in the same zoning district, the property in question being devoted exclusively to public school purposes is in an area which has rapidly developed and extreme need exists for enlarging the existing school building on said area and that in consideration of meeting the public needs, the most practical and feasible way to enlarge such public school is by the planned addition thereto for which exception and variance to building set back lines is desired and similar improvements do not exist in the immediate neighborhood.

The planned and proposed enlargement of the existing public school and granting of the building line setback exception and variance does not adversely affect the rights of adjacent property owners or residents, but an adequate school facility is a benefit to such owners and residents. The proposed enlargement is in part designed so as to preserve adequate playground area and facilities, the improvements as so planned removing from the play area access to one of the public streets - Estelle Avenue - and thus providing better safety for school ground play. The building plan also retains more than 25 feet setback at each of the street intersections adjacent thereto and entrances to the existing and proposed enlargement of public school building.

The application of possible setback building line restrictions constitute unnecessary hardship upon the applicant as a public agency. No feasible alternative exists for enlarging the existing public school without extreme sacrifice of good school planning and extreme increase in costs of improvement and enlargement and the plan of development also preserves a maximum playground area so important to elementary school functions and responsibilities. As stated above, the plan also provides added safety factors for school and playground uses.

The variance and exception sought is not against public interest, but serves the public interest for the numerous reasons stated above. Any other plan of meeting the school needs of the area in question or enlarging the existing public school building would result in substantial added expense to the public and loss in the efficient development and maintenance of needed public school facilities - thus working against the public interest.

8-61A

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT

I. Name of Appellant Board of Education of the City of Wichita, Kansas  
Mailing Address 428 South Broadway Phone Am 7-8311  
Name of Agent L. E. Wilbur, Secretary-Treasurer  
Mailing Address 428 South Broadway, Wichita 2, Kansas Phone AM 7-8311  
Relationship of Appellant to property is that of Owner  
(Owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination, or an  
order of the Building Inspection Superintendent, as follows: an administrative  
decision by the Superintendent of Building Inspection on a situation not specifically  
covered by the Code. This decision is set forth in a letter to Glenn E. Benedick,  
Architect, employed by the Board of Education to prepare plans and specifications  
for an addition to the Mueller Elementary School at 2821 E. 24th Street. The admini-  
strative decision determines that there must be a front yard set back of 25 feet on  
all four sides of the above-mentioned property.

The decision was rendered on 6-20-61 (date) and refers to Section  
28.04.040 of the Code of the City of Wichita (Zoning Ordinance).

III. The appellant hereby declares that he believes the order, decision or  
determination of the Building Inspection Superintendent in enforcing  
Section 28.04.040 of the Code of the City of Wichita (Zoning Ordinance)  
is incorrect for the following reasons:

See attached sheet

IV. The appellant herein, or his authorized agent, hereby acknowledges:

- a. That he has received an instruction sheet pertaining to the filing of this appeal.
- b. That he has been advised of his rights of appeal of the decision of the Board of Zoning Appeals to the Board of City Commissioners within ten (10) days of the date of that decision.

Board of Education of the City of Wichita,  
Applicant Kansas  
L. E. Wilbur  
Authorized Agent Secretary-Treasurer

OFFICE USE ONLY

This appeal was received in the office of the Secretary, Board of Zoning Appeals, at \_\_\_\_\_ a.m., p.m. \_\_\_\_\_ (date).

\_\_\_\_\_  
Signed

APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT - filed by Board of Education

- III. The Code of the City of Wichita (Zoning Ordinance) does not require a front yard set back on all four sides of a property. A six-foot side yard set back is being provided on the west side of the property along Estelle Avenue. 25-foot set backs or more are being provided at the corners of the site. This is in excess of normal corner requirements, but is being provided as a safety factor.

Entrances to the building are all set back 25 feet or more.

On the north side of the property along 24th Street, permission is requested to park automobiles up to a six-foot set-back line. There are no buildings other than the Mueller Elementary School in this block.

This appeal is made in order to provide the maximum playground space within the limits of satisfactory planning in all respects. Present and anticipated enrollment at this school makes efficient site planning a very important and critical matter.

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bld'g & Elev. \_\_\_\_\_ Elec. \_\_\_\_\_ Elev. Insp. \_\_\_\_\_  
Exam Fees \_\_\_\_\_ Hse. Mvr. \_\_\_\_\_ Hse. Moving \_\_\_\_\_  
Licse. \_\_\_\_\_ Mech. \_\_\_\_\_ Oil Well \_\_\_\_\_ Pav. Cuts \_\_\_\_\_  
Plan X \_\_\_\_\_ Plb'g. \_\_\_\_\_ Plb'g Cert. \_\_\_\_\_  
Sanitation \_\_\_\_\_ Sewer \_\_\_\_\_ Signs 5 1961 \_\_\_\_\_ Sidewalk \_\_\_\_\_  
Street \_\_\_\_\_ Trailers \_\_\_\_\_

<i>R-712</i>	DESCRIPTION	AMOUNT
	<i>Board of zoning Appeals application</i>	<i>30.00</i>

Name Board of Education  
Address 428 S Broadway  
Type \_\_\_\_\_ Due Date 7-2-61  
Comments: \_\_\_\_\_

Date 7-5-61 By Rathkes

STATEMENT OF OWNERSHIP

STATE OF KANSAS }  
Sedgwick County, }

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property within a radius of 200 ft of:  
The West 30 ft of Reserve E, except the South 63½ ft thereof, and except the North 74½ ft thereof, in Audrey Matlock Heights First Addition to Wichita, Kansas.

**3**  
Fidelity  
Title  
Company,  
inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

Lot	Blk	Addition	Owner
21	N	Audrey Matlock Heights 1st.	Milbrook Christian Church now University Christian Church 4401 East 17 <sup>th</sup> St. Wichita, Ks.
23	N	" "	Francis P. & Zelma P. Crone, ux 2819 Ellen, Wichita
25	N	" "	Federal Housing Commissioner Washington, D.C.
27	N	" "	Leamon Vernon McDonald, sgle 2730 N. Meade
3 (exc W 1/2')	O	" "	Milton D. & Hazel Hilyard, ux 2715 E. 24 <sup>th</sup> St. Wichita
4	O	" "	Lorenz J. & Flotilla Fox, ux 2461 N. Estelle, Wichita
5	O	" "	Don & Clara Gooden, ux L. E. & Ina E. Beaman, ux 2048 Ellis Ave., Wichita
6	O	" "	Dan G. & Barbara A. Peluso, ux 2449 N. Estelle, Wichita
7	O	" "	D. H. & Maxine M. Carney, ux Chickering - Walnut
8	O	" "	Roger W. & Mary M. Evans, ux 2437 N. Estelle, Wichita
9	O	" "	Randall A. & Gladys M. Wahl, ux 2431 N. Estelle, Wichita



Lot	Blk	Addition	Owner
10	O	Audrey Matlock Heights 1st.	George J. & Florence M. Settle, ux 2425 N. Estelle, Wichita
11	O	" " " "	Administrator Of Veterans Affairs Washington, D.C.
12	O	" " " "	Alvin A. & Florentine Zimmerman, ux 2415 N. Estelle, Wichita
13	O	" " " "	John C. & Marguerite M. Finn, ux 6314 Jacqueline, Wichita
19	O	" " " "	Charles A. Margaret F. Strickler, ux 2426 Prince St. Wichita
20	O	" " " "	Lee P. & Betty Doherty, ux 2437 Prince St. Wichita
21	O	" " " "	Adeline L. Wood, wdo. Jarrel B. Wood, sgle. 2438 Prince St., Wichita
22	O	" " " "	C. H. Hiebert
23	O	" " " "	Checked - Unlisted Federal Housing Commissioner Washington, D.C.
9	P	" " " "	Ralph L. Stevens, sgle. 2505 N. Estelle, Wichita
30	J	" " " "	William Lester Oehlert Constance Oehlert, ux 2816 E. 24th St., Wichita
32	J	" " " "	George F. & Velma B. Jump, ux 2810 E. 24th St., Wichita
34	J	" " " "	Administrator Of Veterans Affairs Washington, D.C.

Reserve E, exc the West 80 ft, in Audrey Matlock Heights 1st Addition. Board of Education of City of Wichita, School District # 1

The West 80 ft of Reserve E, exc the South 63 1/2 ft & exc the North 74 1/2 ft., in Audrey Matlock Heights 1st Add. Board of Education of City of Wichita, School District # 1.

The South 63 1/2 ft of the West 80 ft. and the North 74 1/2 ft of the West 80 ft of Reserve E, in Audrey Matlock Heights 1st Addition. Board of Education of City of Wichita, School District # 1.

Dated at Wichita, Kansas, this 11th day of July, 1961 at 7:00 A. M.

FIDELITY TITLE CO., INC.

By Chie M Farrell  
Sec. OEM

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This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1