

Case No. BZA 8-80 - Harvey W. Hefley - requests a variance to vary the fence requirement adjacent to residential zoning on property zoned "BB" Office District Regulations and generally

Handwritten signature

ACTION

*BZA
8-80*

COMMITTEE Deny DATE 8-25-80

M.A.P.C. _____

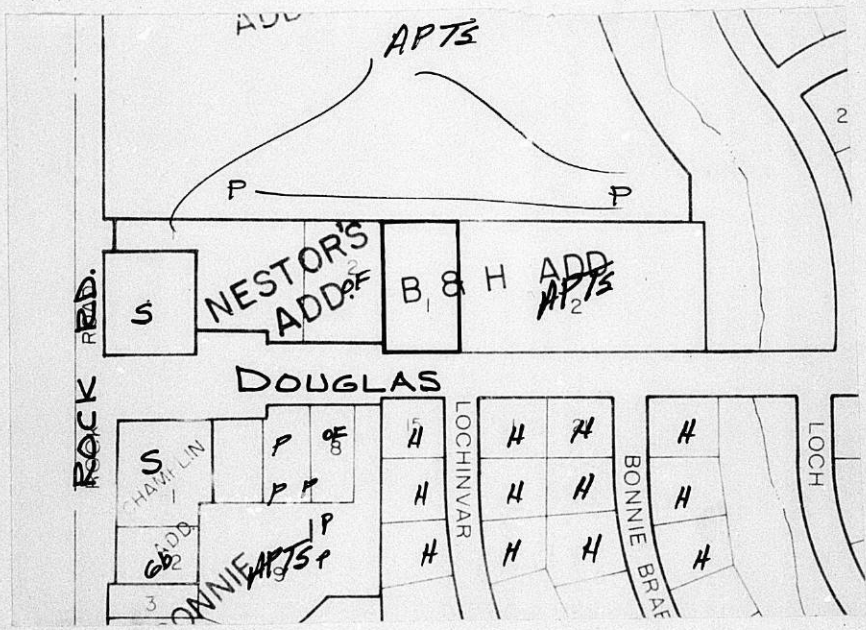
B.C.C./B. CO. C. _____

Map No. 6047
 Sec. 20
 Twp. 27
 Range 2E

BZA- B-80
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.75 (140 ft. by 235 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East MULTI FAM South SINGLE FAM
 West OFFICE North MULTI FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: UNDEVELOPED
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



April 2, 1980

G. Don Shirkey
5711 East 45th North
Wichita, Kansas 67220

Re: Case No. BEA 6-80
Request for Variance

Dear Mr. Shirkey:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 25, 1980, in connection with your request for a variance to vary the screening fence requirement adjacent to the residential zoning district on the north on property zoned "BB" Office District and generally located on the north side of Douglas approximately 600' east of Rock Road (8150 East Douglas).

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

CEL:sad
Enclosure

cc: Harvey W. Hefley, 8150 East Douglas, Wichita, Ka. 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO. BZA 8-80

WHEREAS, Harvey W. Hefley, 8150 East Douglas, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence along the north property line adjacent to a residential zoning district on property zoned the "BB" Office District and legally described as follows:

Lot 1, B & H Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Douglas approximately 600 feet east of Rock Road (8150 East Douglas).

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, 1980, 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 does not arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as the adjacent property owners request that the fence be installed for security purposes; 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 not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the required fence in question is only 140 feet in length; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the fence is being requested to be installed by the property owner to the north as a safety precaution; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the intent of this provision of the ordinance is to provide protection to residential property from office and commercial uses; and

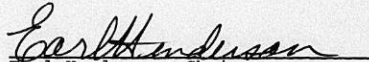
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted have not been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence along the north property line adjacent to a residential zoning district on property zoned the "BB" Office District and legally described as:

Lot 1, B & H Addition to Wichita, Sedgwick
County, Kansas. Generally located on the
north side of Douglas approximately 600
feet east of Rock Road (8150 East Douglas).

be denied.

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1980.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

March 26, 1980

G. Don Shirkey
5711 East 45th North
Wichita, Kansas 67220

Re: Case No. BZA 8-80
Request for Variance

Dear Mr. Shirkey:

At the regular meeting of the Board of Zoning Appeals on March 25, 1980, your request for a variance to vary the screening fence requirement adjacent to the residential zoning district on the north on property zoned "BB" Office District and generally located on the north side of Douglas approximately 800' east of Rock Road (8150 East Douglas) was considered.

It was the action of the Board to deny your request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: Harvey W. Hefley, 8150 East Douglas, Wichita, Ks. 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE March 20, 1980

TO Glen Lytle, Special Assistant for Zoning

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 8-80: 8150 East Douglas

On March 17, 1980, CPO Council "B" was scheduled to consider the captioned case. However, since a quorum was not present, no formal Council recommendation could be made.

The four Council members who were present discussed the case with the applicant, Dr. Harvey Hefley. It was their feeling that the proposed variance is reasonable for the following reasons:

- 1) A good quality landscaped area is aesthetically preferable to a wooden fence.
- 2) The land immediately north of the applicant's property is used as a parking lot.
- 3) Residents of the apartments to the north sometimes walk to the applicant's office and the most direct route would be blocked if the wooden fence were constructed.

Bill Morris

Bill Morris
CPO Administrative Aide

BM:m1

Noted:

Sarah Gilbert

Sarah Gilbert
Assistant CP Coordinator

RECEIVED

MAR 20 1980

METROPOLITAN PLANNING
ROUTE Lytle

SECRETARY'S REPORT
CASE NO. BZA 3-80

APPLICANT: Harvey W. Hefley, 8150 East Douglas,
Wichita, Kansas.

AGENT: G. Don Shirkey, 5711 East 45th North, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to vary the
screening fence requirement adjacent to the
residential zoning district on the north.

GENERAL LOCATION: On the north side of Douglas approximately 600'
east of Rock Road (2150 E. Douglas).

ZONING: Subject property is zoned the "BB" Office
District. Property to the north is "B"
Multiple-family, to the west "LC" Light
Commercial and to the east is "R-5" General
Residence District.

LAND USE: Subject property is occupied by an office
building. Property to the north is developed
as apartments as is the property to the east.
Property to the west is being developed as
commercial and offices.

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 of the following conditions are found to exist:

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.

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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).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance from the requirement of the zoning ordinance that a screening fence be placed on the property line between any office, commercial and industrial development when adjacent to a residential zoning district. The subject property is adjacent to the residential zoning districts on the east and the north and the applicant indicates that the fence to the east will be installed as required, but is requesting a variance on the fence to the north.

In accordance with the site plan submitted by the applicant, the property to the north is developed as an apartment complex and along the south a continuous carport is erected approximately 16 feet north of the applicant's property. The applicant has parking immediately adjacent to the north property line.

It should be noted that the permit to construct the office building was issued nearly 3 years ago and the applicant has never complied with the screening requirements of the original permit and now is requesting the variance.

The carport to the north is unenclosed and therefore provides no screening affect from the office and commercial development to the south. The development to the west is required a screening fence and the continuation of said fence would be appropriate at this location. The original plans for the building were marked out due to the parking spaces failing to comply with the minimum standards. The applicant has surfaced the area and has indicated that damage to the fence by cars utilizing the parking spaces will create a hardship due to the maintenance of the fence.

UNIQUENESS:

It is the opinion of the Secretary that the requested variance does not arise from a unique situation inasmuch as there are not significant physical barriers to create a screening effect between the office development and the residential development to the north.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of the adjacent

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3-25-80

property owners or residents inasmuch as there is approximate a 90' separation between the office building and the apartment structures used almost entirely for parking and circulation.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance will not create an unnecessary hardship upon the applicant inasmuch as the fence would not be required had the applicant maintained a landscaped yard of 25' on the north side of the building.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not adversely affect the public interest inasmuch as the request is interiorly located.

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 intent of this provision of the ordinance is to provide protection to residential property from office and commercial uses.

RECOMMENDATION:

It is the opinion of the Secretary that it is difficult to find all five conditions necessary for the granting of the variance, however, if the Board can find them to exist, it is recommended that the variance be granted subject to the following conditions:

1. The fence along the east property line be installed prior to the release of the resolution or within 30 days from the date of approval by the Board of Zoning Appeals or the Resolution shall become null and void.
2. The applicant shall work out an agreement with the adjoining property owner to the north to create a landscaped area consisting of evergreen vegetation to provide a visual screen between the two properties. Said landscape plan shall be approved by the Secretary of the Board.

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

March 3, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 8-80

An application has been filed by Harvey W. Hefley, 8150 East Douglas, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to vary the fence requirement adjacent to residential zoning on property zoned the "BB" Office District and legally described as follows:

Lot 1, B & H Addition to Wichita,
Sedgwick County, Kansas. Generally
located on the north side of Douglas
approximately 600 feet east of Rock
Road (8150 East Douglas).

This application has been assigned case No. BZA 8-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 25, 1980, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney. If you have any questions about this application, please call 268-4390 and ask for Lynn Shirkey or 268-4394 and ask for Glen Lytle.

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.

Jack H. Galbraith
Secretary

BZA CASE NO. 8-80

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

7 NOTICES SENT TO ADJOINING PROPERTY OWNERS

20 TOTAL NOTICES SENT 3-3-80

B & H Development
8150 East Douglas
Wichita, Kansas 67206

Attention: Board of Zoning Appeals

1. Variance requested per: 28.04.160 arises from the unique situation whereas we would be screening a parking lot from a parking lot.
2. Granting of the variance will not affect the rights of adjacent owners or residents as our lot is only a visual continuation of parking lots.
3. Strict application of title 28 would constitute a maintenance hardship of mowing a 1.48 foot strip of grass and/or automobile bumper overhang could cause the fence to be pushed over and become a perpetual building program.
4. Proximity of Rockbough Townhouse to our lot is some fifty feet away with no windows looking onto said lot. Screening by fence would be so far away no adverse side yard affects would be in force.
5. Granting of this variance due items one through four does not oppose the intent of title 28 of the zoning ordinance.
6. If variance is granted the applicant does desire to plant on the 1.48 foot strip of ground long life, live screening and will do so.

APPLICATION FOR VARIANCE

I. Name of Applicant Harvey W. Hefley
 Mailing Address 8150 East Douglas, Wichita, Ks 67206 Phone (316) 686-7395
 Name of Authorized Agent G. Don Shirkey
 Mailing Address 5711 East 45th North Phone 744 1989
 Relationship of applicant to property is that of Owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to vary the fence requirement to delete 140 feet of 6 foot high fence screening along north line of said lot 1, B & H addition
adjacent to residential zoning

on the north side of Douglas approximately 600 feet east of Rock Road
 for property located (8150 East Douglas)

and legally described as: Lot 1, B & H Addition to Wichita, Sedgwick County, Kansas

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

- III. The applicant herein, or his authorized agent, 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 No. 24-606); and that the appropriate fee is herewith tendered;
 - c. 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.
 - d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Harvey W. Hefley
 Applicant
G. Don Shirkey
 Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10:30 (a.m. - ~~p.m.~~), FEB 19 19 80 together with appropriate fee of \$50.00.

G. Lytle
 Signed

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 2, Block A	Rockborough Addition	✓ Windsor at Rockborough 230 North Rock Road 67206
lot 1, Block A	Nestor's Addition	✓ Capitol Federal Savings and Loan Association 700 Kansas Avenue Topeka, Kansas 66603
lot 2, Block A	Same	✓ Karl Solomon 5900 East Central 67208
lot 1	B & H Addition	D ✓ Merle J. Hefley & Harvey W. 8150 East Douglas 67206
lot 2	Same	Merle J. Hefley & Harvey W. ✓ J. Victor Benton and Helen 8150 East Douglas 67206
lot 15, Block 1	Bonnie Brae	Anna Lee Halbower Address Unknown
lot 1, Block 14	Same	✓ Luther C. Gartin 102 Lochinvar 67207
lot 21, Block 14	Same	✓ Levada Ruth Armstrong 101 Bonnie Brae 67207
lots 7 and 8	Bonnie Brae 2nd Addition	✓ O'Donnell Corporation 8033 East Douglas 67207



SECURITY IS KNOWING
Title Insurance • Escrow Closings • Abstracts

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of: Lot 1,
B & H Addition, Wichita, Sedgwick
County, Kansas

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 16th day of October, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Vice President

Order No. 282333
wh

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 021 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 of Wichita	\$ 500.00

NAME: HARVEY W. HETLEY
ADDRESS: 2150 E. Douglas W.K. 17206
FUND: 110-20-000-40071-005-000-002 DUE DATE:
COMMENTS:
DATE: 7/17/80 BY: [Signature]

DOUGLAS AVENUE

225'

140'

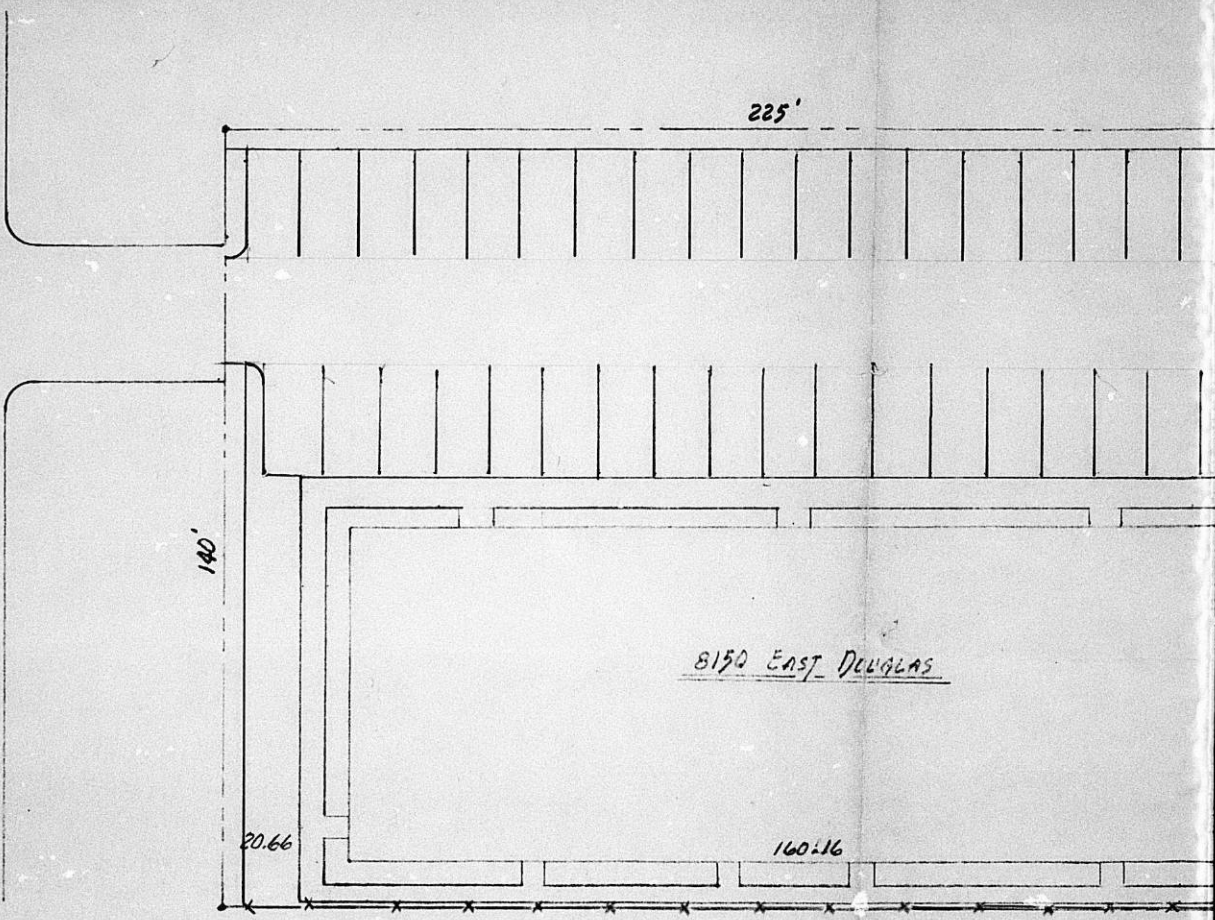
20.66

8150 EAST DOUGLAS


160.16

225'

FENCE TO BE BUILT



225'

 NORTH
SCALE 1" = 20'

REQUEST TO DELETE
THIS FENCE

ROUGH CARRIAGE

PRIVATE DRIVE

8150 EAST DUNGLAS

160.16

5.0

140'

37.70

1.28 BACK CURB TO P.

225'

FENCE TO BE BUILT

LOT 1. B&H ADDITION

2-13-80
gds

225'

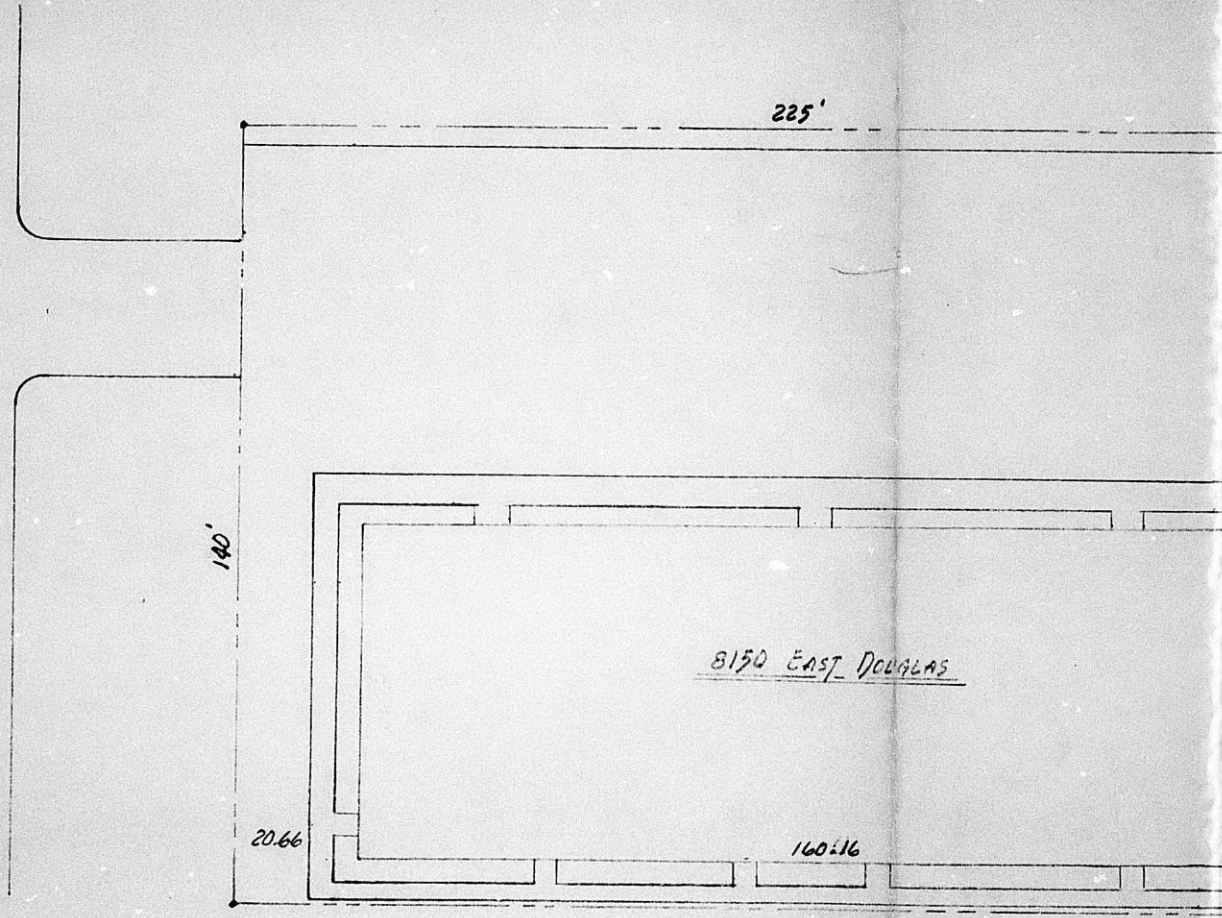
140'

20.66


8150 EAST DOUGLAS

160.16

225'



225'

 NORTH
SCALE 1"=20'

140'

8150 EAST DOUGLAS

160.16

5.0

37.70

1.48 BACK CURB TO R.

225'

LOT 1. B&H ADDITION

2-13-80
925

225'

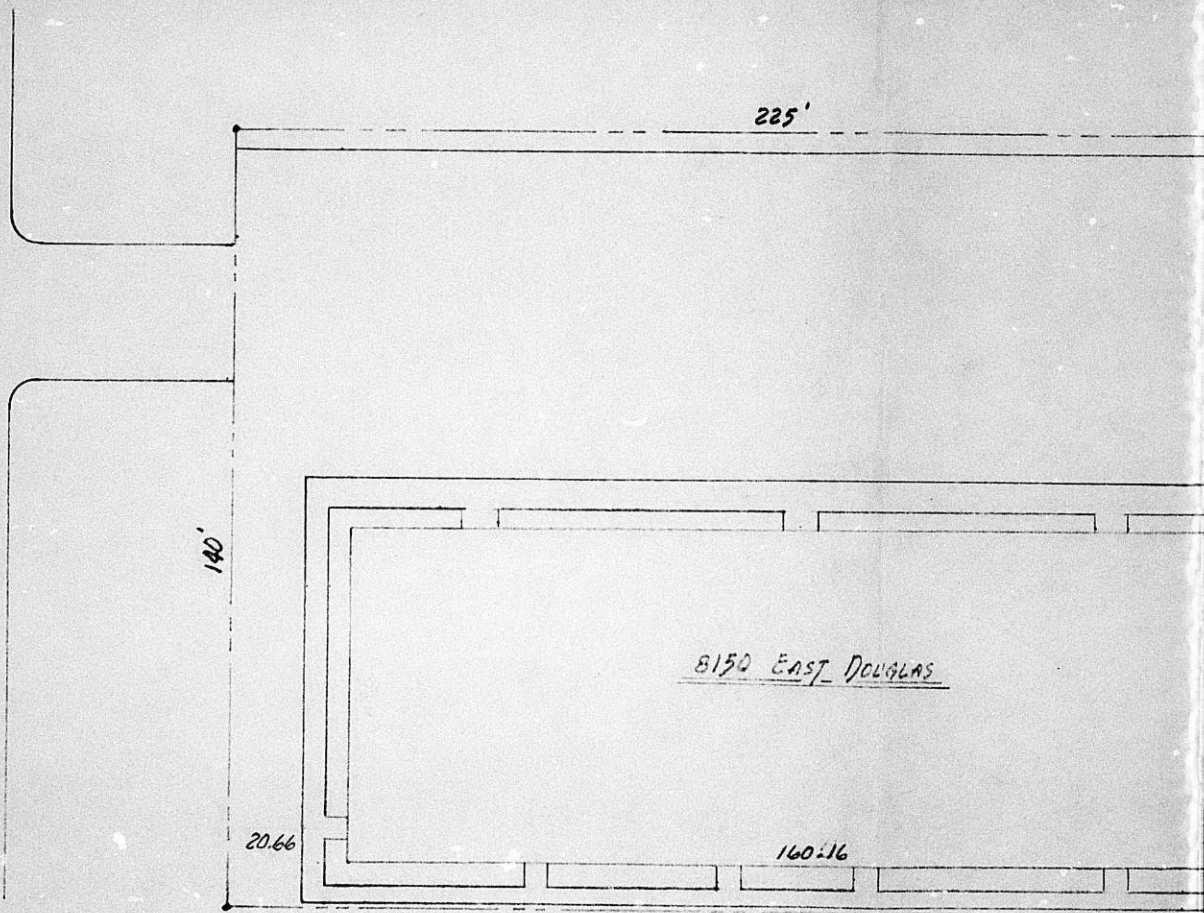
140'

8150 EAST DOUGLAS


20.66

160.16

225'



225'

 NORTH
SCALE 1"=20'

8150 EAST DOUGLAS

160.16

50

37.70

1.48 BACK CURB TO E.

190'

225'

LOT 1. B&H ADDITION

2-13-80
gds