

CASE NO. 1-51

CASE NO. 9-51

Secretary Smith, reviewed Case No. 9-51, an appeal by Herman Wolf to construct a commercial building at 1460 N. Broadway to the

property line without maintaining the required 38-foot setback from the center of Broadway. The appeal pointed out that the owner is submitting a waiver of condemnation rights on the building to be recorded; that the owner wishes to use the building for a retail liquor store and does not wish to attach to the residence building on the lot.

Grey Dresie, representing Mr. Wolf, stated that the owner intends to build a 20 foot by 22 foot cement block building; that this is a heavy commercial zoning district which would allow building to the property line except for the major street setback requirement.

J. F. Lumbert stated that he owns property north of this proposed building that the intersection of 14th Street and Broadway is very hazardous and a building to the property line would be added danger.

Mr. Overby stated that the other property owners in the block to the south have set back the 38 feet; that he also represents Mr. Schule and Mr. O'Dell who set their property back the required distance.

J. F. Pickett stated he represented himself and five other owners who are opposed to this variance as it would be a hazard to safety.

Mr. Dresie stated that the owner would have to connect his building to the house or move the house but he wanted a drive between the two buildings to be used for off-street parking.

In executive session, after considerable discussion, Keeler moved and Smith seconded that the Board not take jurisdiction as conditions one and three of the Ordinance have not been met in that this is not an unusual condition as the other store buildings have maintained the required setback and from the stand point of traffic safety, the variance would be against the public interest. The motion carried unanimously.

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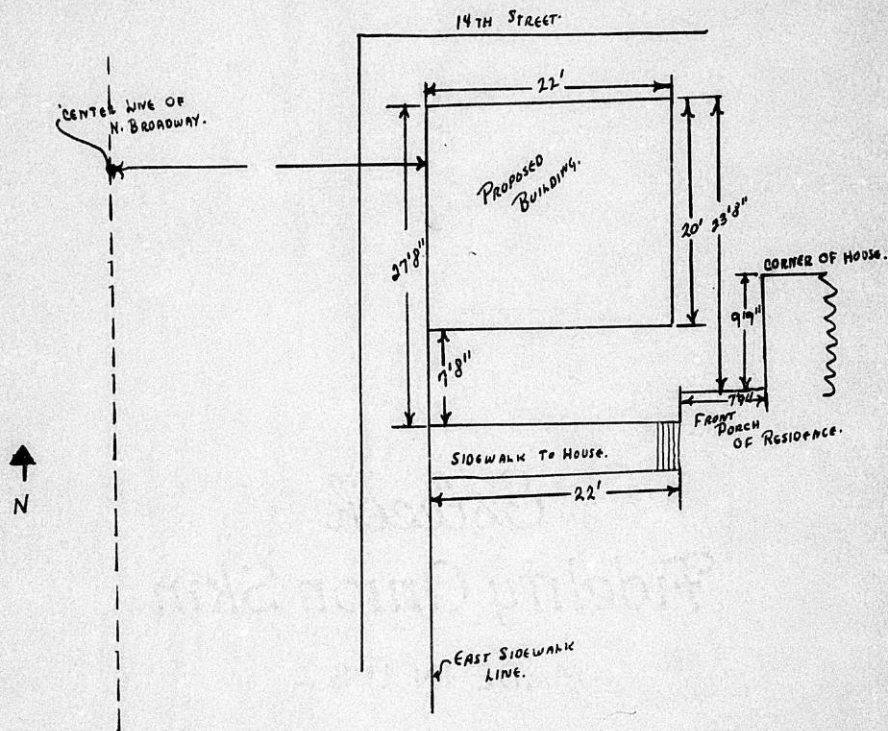
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DRAWING OF PROPOSED BUILDING, IN RELATION TO N. BROADWAY
AND 14TH STREET, AND THE RESIDENCE ON
THE REALTY.

To the Board of Zoning Appeals,
City of Wichita,
Sedgwick County, Kansas

STATEMENT OF APPELLANT

I.

On the 27th day of March, 1951, Mr. Herman Wolf made written application to the Building Inspection Division of the City of Wichita for permission to construct a brick front, concrete block building, 20' x 22', designated as 1460 North Broadway. This application was refused by S. B. Maple, Chief Building Inspector, under Section 29 of the Zoning Ordinance for the reason that a ³38 feet setback from the center of the right-of-way of Broadway will not be maintained. The reason for such setback being the proposed future widening of North Broadway. The appellant desired to build on the property line. A copy of the written refusal above mentioned is herewith made a part of this appeal.

The appellant, Herman Wolf, is appealing from the above ruling of the Chief Building Inspector.

II.

The work for which the permit in question is desired is the erection of a brick front, concrete block building 20 feet in front and 22 feet in depth. The building would be situated at the southeast corner of the intersection of Fourteenth Street and North Broadway. The appellant desires to construct such building on the present property line on Broadway and such building would, consequently, encroach some 8 feet over the present 38 feet setback line. The building will be used as a retail liquor store. The appellant asks that the Board reverse the decision of the Chief Building Inspector and direct that permission be granted for him to build 8 feet closer to the center of the right-of-way of North Broadway than is allowed under Section 29 of the revised Zoning Ordinance.

III.

The appellant prosecutes this appeal under Section 34 of

the revised Zoning Ordinance and states that the following conditions are present:

- (1) While it would be impossible for this appellant to state, with any certainty, that the exception or variance desired arises from some condition which is not ordinarily found in the same zoning district, the appellant would call to the Board's attention the fact that he is submitting a waiver of his right to hold the City liable for any portion of the intended building that may encroach over the setback line and that such waiver should render this particular jurisdictional ground nugatory. He further states that in all probability this same condition will be found in the same zoning district as far as this setback line is concerned, but believes that if the City is released from liability as to any building placed over the setback line, this condition should be overlooked.
- (2) That the granting of the permit for the variance of 8 feet will not adversely affect the rights of adjacent property owners or residents. We call to your attention the fact that the appellant owns the property which will be immediately south and immediately east of the proposed building. It is believed that this variance will not, in any manner, affect the rights of any property owners as to the use and occupancy of their property.
- (3) That the strict application of the terms of this ordinance will constitute unnecessary hardship upon the property owner represented in this appeal. Should the appellant be required to observe the setback line in question, it would mean that he must either connect the proposed building to his residence which is situated on the same building site or that he must move his residence or that he must diminish the size of the proposed building to the point where it would not

serve the purpose for which it is intended. The appellant points out that this hardship is unnecessary in view of the fact that he is willing to release the City from all liability as to the variance requested.

- (4) That the exception or variance requested is not against the public interest. The appellant submits that the public interest will not be harmed as long as the City is released from liability as to this variance in the event that North Broadway Street is widened in the future. He further states that the public interest will not be harmed as far as obstruction of the street or sidewalk is concerned as the proposed building will, in no manner, interfere with the use of these public thoroughfares.

IV.

Attached to this statement is a certificate of ownership of all of the property within a 200 feet radius of the area in question, as prepared on the 28th day of March, 1951 by The Security Abstract and Title Company, Inc. of Wichita, Kansas. Also, attached are the post office addresses of said property owners.

For all of the above reasons and under the ordinance above referred to, this appellant prays that the Board of Zoning Appeals reverse the decision of the Chief Building Inspector of March 27, 1951 refusing a permit to build on the west property line of that tract of land known as

The West 22 feet of the North 20 feet of the West 80 feet of Lots 46 and 48 on Broadway Avenue, Wells Addition to the City of Wichita, Sedgwick County, Kansas and that said Board order that permission be granted to this appellant to build as asked for in his application of March 27, 1951.

Norman Wolf
Appellant

Presie & Bell
412 Bitting Building
Attorneys for Appellant

Case 9-51

CITY OF WICHITA
BUILDING INSPECTION DIVISION

To Herman Wolf Owner Address 1804 McKee
To Same Applicant Address _____

Dear Sir:

Your Application Dated March 27, 1951
For a Permit for the erection of a building
_____ at the premises designated as
1460 North Broadway

Is hereby refused on this 27th day of March, 1951,
Under Section 29 of the Zoning Ordinance.

For the reason that a 38' setback from the center of the right of way of
Broadway will not be maintained. It is desired to build to the property line,
which will lack 8' of providing the required setback.

Respectfully,

S. B. Maple
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

CORRECT POST OFFICE ADDRESS
OF PROPERTY OWNERS SHOWN
ON THE ATTACHED LIST

23

<u>OWNER</u>	<u>ADDRESS</u>
Shuey - William H. and Leona M.	1510 North Broadway
Hilton, Elsie Gardner, Clint W. and Fannie	1519 North Broadway
Lumbert, J. F. and House, Frank	1502 North Broadway
Pizinger, James V. and Grace	Address unknown
Clark, B. J. and V. L.	827 South Dodge
Overby, J. M. and Emma May	1450 North Broadway
McKenzie, Leo L. and Sadie M.	117 West First Street
Pickett, James F.	1442 North Broadway
Wolf, Henry H. and Marie M.	1434 North Broadway
Finley, Elmer E. and Carrie B.	1507 North Topeka
Trail, Susie R.	1503 North Topeka
Pond, Renee and Edward	1457 North Topeka
Halkney, Veda L.	848 South Madison
Martin, Elmer and Caroline	1449 North Topeka
Stephenson, C. G. and Gladys A.	1822 East Lewis
Boothe, Lewis J. and Nellie M.	1629 South Broadway
Sarford, Fannie F.	616 North Market
O'Dell, Garvin L. and Joan	1511 North Broadway
Frees, Clarence G. and Florence D.	1510 North Market
Hartle, Maude M.	1503 North Broadway
Bowles, Betty H. and Roy L.	Address unknown
Routon, Paul F.	1217 North Topeka
Denny, John Milton	1451 North Broadway
Weaver, Dorothy K.	1447 North Broadway

NAMES AND ADDRESSES OF PERSONS WHO
RESIDE WITHIN 200 FEET
PROPOSED VARIATION

NORTH BROADWAY

OCCUPANT

1436	Jack Williams
1439	James W. Buzard
1442	James F. Pickett - owner
1446	Rummell Motor Company - Story Motor
1447	Mrs. Dorothy K. Weaver - owner
1450	Jessie M. Overby - owner
1451	Mrs. Mary A. Denny - owner
1457	Vacant
1458	Glen M. Fields, owner
1459	Glen R. Smith and Albert C. Reese
1502	House & Lumbert Used Car (House, owner)
1503	Mrs. Maude M. Hartle - owner
1506	Apartments
1509	Free's Radio
1510	William N. Shuey - owner
1511	A & B Sewing Machine - Garvin L. O'Dell
1512	Ralph Jenzen
1513	Vacant
329 East 14th St.	Cecil J. Wieter
1457 North Topeka	Edward Pond - owner
	John D. Swanson

LIST OF PROPERTY OWNERS

<u>LOT</u>	<u>STREET</u>	<u>ADDITION</u>	<u>OWNER</u>
8	Broadway	A. T. Carpenter's	William H. and Leona M. Shuey
10-12	"	"	Elsie Hilton, Clint W. Gardner and Fannie Gardner
14-16-18	"	"	J. F. Lumbert and Frank House
46 and 48 except West 80 feet	"	Well's Addition	James V. and E. Grace Pizinger
West 80' of 46 and 48	"	"	B. J. and V. L. Clark
44-42	"	"	J. M. and Emma May Overby
40-38	"	"	Leo L. and Sadie M. McKenzie
36-34	"	"	James F. Pickett
32-30	"	"	Henry H. and Marie M. Wolf
9-11	Topeka	A. T. Carpenter's	Elmer E. and Carrie B. Finley
13-15-17	"	"	Susie R. Trail
47-45 and North Half of 43	"	Well's Addition	Renee and Edward Pond
South Half of 43, all 41-39	"	"	Veda L. Halkney
North Half of 33, all of 35 and 37	"	"	Elmer and Caroline Martin
North Half of 29 all of 31 and South Half of 33	"	"	C. G. and Gladys A. Stephenson
South Half of 29	"	"	Lewis J. and Nellie M. Boothe

Continued

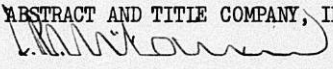
Page 2

<u>LOT</u>	<u>STREET</u>	<u>ADDITION</u>	<u>OWNER</u>
North Half of Lot H	Broadway	Plummer's	Fannie F. Sanford
South Half of Lot H	"	"	Garvin L. and Joan O'Dell
North Half of Lot I	"	"	Clarence G. and Florence D. Frees
South Half of Lot I	"	"	Maude M. Hartle
15	"	Hartle	Betty H. and Roy L. Bowles
14	"	"	Paul F. Routon
13	"	"	John Milton Denny
12	"	"	Dorothy K. Weaver

We hereby certify the foregoing to be a true and correct List of Property Owners as above described as shown by the records in the Office of the Register of Deeds of Sedgwick County, Kansas this 28th day of March, 1951.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.,

BY:



President

Order No. 66498

To the Board of Zoning Appeals,
City of Wichita
Sedgwick County, Kansas

We, Herman Wolf and Nellie Wolf, husband and wife, as the owners in fee simple of the following described real property:

The West 22 feet of the North 20 feet of the West 80 feet of Lots 46 and 48 on Broadway Avenue, Wells Addition to the City of Wichita, Sedgwick County, Kansas

by these presents do hereby waive whatever right we have, or may acquire in the future to proceed at law or equity against the City of Wichita as to any building erected by me on the above described lots that may be closer than 38 feet from the center line of North Broadway, Wichita, Kansas, it being my specific intention to release the said City from any liability as to any building erected on the said lots that may encroach upon the 38 foot setback line on North Broadway as established by the revised Zoning Ordinance, as of this date, and we do hereby release the said City from any liability that may incur by reason of any future widening of North Broadway Avenue as to the 38 foot setback line above referred to, with particular reference to the proposed construction known as 1460 North Broadway.

Herman Wolf
Herman Wolf

Nellie Wolf
Nellie Wolf

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, That on this 2nd day of April, 1951, there personally appeared before me, a notary public in and for said County and State, HERMAN WOLF and NELLIE M. WOLF, his wife, who are personally known by me to be the same persons who executed the above and foregoing waiver and such persons do hereby acknowledge the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto signed my name and affixed my notarial seal the day and year first above written.

B. H. Lambert
Notary Public

(My commission expires July 25, 1953)

Form 3806-9 (Rev. 3-40)

1922

Receipt for Registered Article No. _____

Postmaster pay 1.00

Fee paid 25 cents. Class postage 1st

POSTMARK

Declared value 1.00 Surcharge paid, \$ _____

Return Receipt for 1.00 Spl. Del'y fee _____

Delivery restricted to address: _____

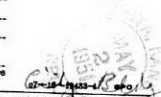
In person _____ or order _____ Fee paid _____

Acceptance employee will place his initials in space indicating restricted delivery.

NOTICE TO SENDER—Enter below name and address of addressee as an identification. Preserve and submit to receipt in case of inquiry or application for indemnity.

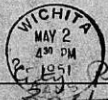
Herman Wolf 5th Street Avenue

(Name of addressee)

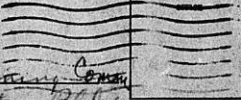


Post Office Department
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, 100
(50%)



POSTMARK OF DELIVERING OFFICE



Return to _____

Street and Number,
or Post Office Box, _____

(NAME OF SENDER)

304 City Bldg

REGISTERED ARTICLE

No. 1922

INSURED PARCEL

WICHITA,

KANSAS.

Form 3806-98 (Rev. 3-40)

44292
8222

Receipt for Registered Article No. _____

Postmaster pay _____

Fee paid 25 cents. Class postage 100

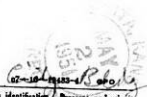
POSTMARK

Declared value 1.00 Surecharge paid, \$ _____

Return Receipt fee 25 Spl. Del'y fee _____

Delivery restricted to addressee: _____

In person _____ or order _____ Fee paid _____
Accepting employee will place his initials in space
indicating restricted delivery.



NOTICE TO SENDER: Enter below name and address of addressee as an identification. Preserve and submit
this receipt in case of inquiry or application for indemnity.

Herman Holt & Co. Dry Goods
(Name of addressee) 100 W. 4th St.
(P. O. and State of address)

Form 3811
Rev. 1-4-40

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original
number of which appears on the face of this Card.

1 [Signature]
(Signature or name of addressee)

2 _____
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery MAY 2 1951, 1951

CITY OF WICHITA
BUILDING INSPECTION DIVISION

To Herman Wolf Owner Address 1804 McKee
To Same Applicant Address _____

Dear Sir:

Your Application Dated March 27, 1951
For a Permit for the erection of a building
_____ at the premises designated as
1460 North Broadway

Is hereby refused on this 27th day of March, 1951,
Under Section 29 of the Zoning Ordinance.

For the reason that a 38' setback from the center of the right of way of
Broadway will not be maintained. It is desired to build to the property line,
which will lack 8' of providing the required setback.

Respectfully,


S. B. Maple
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of
Zoning Appeals (Room 304, City Hall) within ninety (90) days after
the date of this refusal. For further information, take this notice
to the Planning Department, Room 304, City Hall.

BOARD OF ZONING APPEALS
Room 304, City Hall
Wichita, Kansas

NOTICE TO PROPERTY OWNERS

~~May 1~~, 19~~51~~

An appeal has been filed by Herman Wolf
(Address) 1884 Hokes on behalf of same
(Address) _____

as provided by Section 33 of the Zoning Ordinance. The appellant
desires ~~to erect a commercial building without maintaining the 50-foot~~
~~setback from the center of Broadway~~ on the premises
located at 1450 N. Broadway

This appeal has been given Case No. 9-51
and a hearing will be held by the Board of Zoning Appeals on _____
Monday, May 7, 1951 at 1:50 P.M.
at which time you may appear, if you so desire, either in person or
by agent or attorney. **Room 301, City Building**

By order of the Board of Zoning Appeals.

Eugene H. Smith
Secretary.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

_____ May 1, _____, 1951

Mr. Herman Wolf
1804 McKee
Wichita, Kansas

Dear Mr. Wolf _____:

Your appeal, under the Zoning Ordinance, relative to premises at
1460 North Broadway

has been given Board of Zoning Appeals Case No. 2-51.

All inquiries and references should always be made to that Case
Number when you seek information from the Secretary.

Further, you are notified to appear before the Board of Zoning
Appeals either in person, or by agent or attorney, for a hearing of
your case on Monday, May 1, 1951, 19____, at _____

1:30 p.m., Room 201, City Building

Respectfully,

Eugene N. Smith
Secretary, Board of Zoning Appeals

BOARD OF ZONING APPEALS

Case No. 9-51

Filed 3-27, 1951

A P P E A L U N D E R T H E Z O N I N G O R D I N A N C E

TO THE BOARD OF ZONING APPEALS
Room 304, City Hall
Wichita, Kansas

The undersigned, Herman Wolf, hereby appeals
from the decision of the Building Inspector wherein a Building Permit
Is Refused For 1460 North Broadway

OR

Order Or Decision Rendered Because 38-foot setback from the center
of Broadway will not be mainted. Desire to build to build
property line, which will lack 8 feet

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.

Herman Wolf
Appellant.

NAMES AND ADDRESSES

Appellant Herman Wolf Address 1804 McKee
Owner same Address same
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.

STATUS SHEET

Board of Appeals Case No. 9-51

1460 N. Broadway Premises in Question

Herman Wolf Appellant's Name

1804 McKee Appellant's Address

same Owner's Name

Owner's Address

3-27-51 Building or Zoning Application Received by Building Inspector

3-28-51 Decision of Building Inspector refused

3-27-51 Appeal filed with Bond of Zoning Appeals

Hearing notice and receipt

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

Protests Received

Consents Received

Prior Cases on These Premises

Case Hearings

Case Decided Action of Board

Notice of Decision Sent

Court Cases