

BZA 19-88-Henry J. Jacobs req. VARIANCE  
to waive screening requirement on east line  
on prop, zoned "LC" Lite Comm adjacent to  
"AA" 1-Fam. DD (4320 W. Central).

*no more review*

**ACTION**

BZA. 19-88 approve 5/24/88  
DATE

*6148B*

200'4 Sac 9-9-88

Checked 70

Shot 9-21-88

Record 9-21-88

DATA SHEET

MAP NO.: 5148B

CASE NO. BZA 19-88

(CPO 5B, 5/18/88)

REQUEST: Variance to waive the screening requirement along the east line.

EXISTING ZONING: "LC" Light Commercial District (adjacent to property zoned the "AA" One-Family Dwelling District)

GENERAL LOCATION: North side of Central in an area west of Nevada Street (4320 W. Central).\*

APPLICANT: Henry J. Jacobs  
 ADDRESS: 9314 Harvest Lane  
 Wichita, KS 67212

PHONE: 722-0443

AGENT: None  
 ADDRESS:

PHONE:

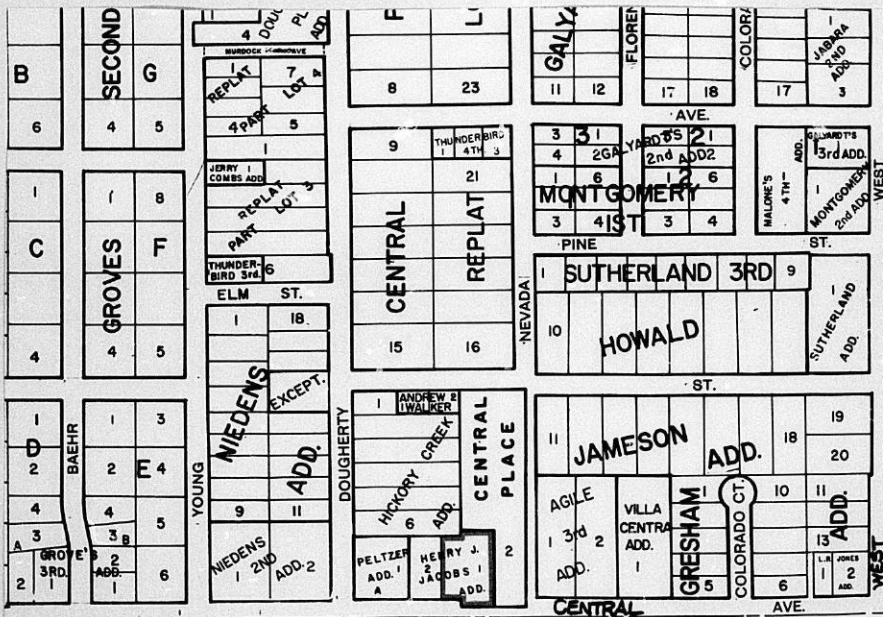
AREA DATA

Acres: (100 ft. by 190 ft.)

Adjacent Zoning and Land Use:

North "AA"  
 South "LC"  
 East "AA"  
 West "LC"

STANDARD  
 No. 2-153C  
 WASHINGTON, MINN.  
 LOS ANGELES, CHICAGO, LOGAN, OH  
 MOORESBOROUGH, 17 LOCUST GROVE, GA  
 U.S.A.



\* (5-9-88) 4408 W. Central is address for new building according to C.I.D.  
 PL1-0409

BZA INSPECTION SHEET

MAP NO.: 5148B

CASE NO. BZA 19-88

REQUEST: Variance to waive the screening requirement along the east line.

EXISTING ZONING: "LC" Light Commercial District (adjacent to property zoned the "AA" One-Family Dwelling District)

GENERAL LOCATION: North side of Central in an area west of Nevada Street

APPLICANT: Henry J. Jacobs  
ADDRESS: 9314 Harvest Lane  
Wichita, KS 67212

PHONE: 722-0443

AGENT: None  
ADDRESS:

PHONE:

-----  
HEARING DATE: 5/24/88

BZA ACTION: Approve

FOLLOW-UP DATE: None

PL1-0414

THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

May 25, 1988

Henry J. Jacobs  
9314 Harvest Lane  
Wichita, KS 67212

Re: BZA 19-88 - Variance to waive the screening requirement along the east property line of Lot 1, Henry J. Jacobs Addition.

Dear Mr. Jacobs:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 24, 1988. This Resolution reflects the official action of the Board to approve your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm  
Enclosure

cc: Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

RESOLUTION NO. BZA 19-88

WHEREAS, Henry J. Jacobs, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and which is adjacent to property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 1, Henry J. Jacobs Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Central in an area west of Nevada Street.

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 May 24, 1988, 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 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 inasmuch as the property adjacent to the east which is zoned "AA" and which causes the screening requirement is actually developed with a legal, nonconforming commercial use (auto repair shop); and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the only property affected by the waiver of the screening is the property to the east which is developed with a legal, nonconforming commercial use; 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 constitute unnecessary hardship upon the property owners represented in the application inasmuch as it is unnecessary to require screening of one commercial use from another commercial use and it is probable that the property to the east will become zoned "LC" in the near future. It would be an unnecessary financial burden to require the applicant to screen along his east property line under these circumstances; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, due to the fact that the requested variance relates only to the fence being deleted between two private property owners, both of whom will operate commercial businesses; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the intent of the ordinance in requiring screening between commercial and residential districts is to protect residential uses from the possible adverse effects of commercial development, but in this case the adjacent residential zoning is occupied by a commercial use; 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 has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and which is adjacent to property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 1, Henry J. Jacobs Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Central in an area west of Nevada Street.

be approved, subject to the following condition:

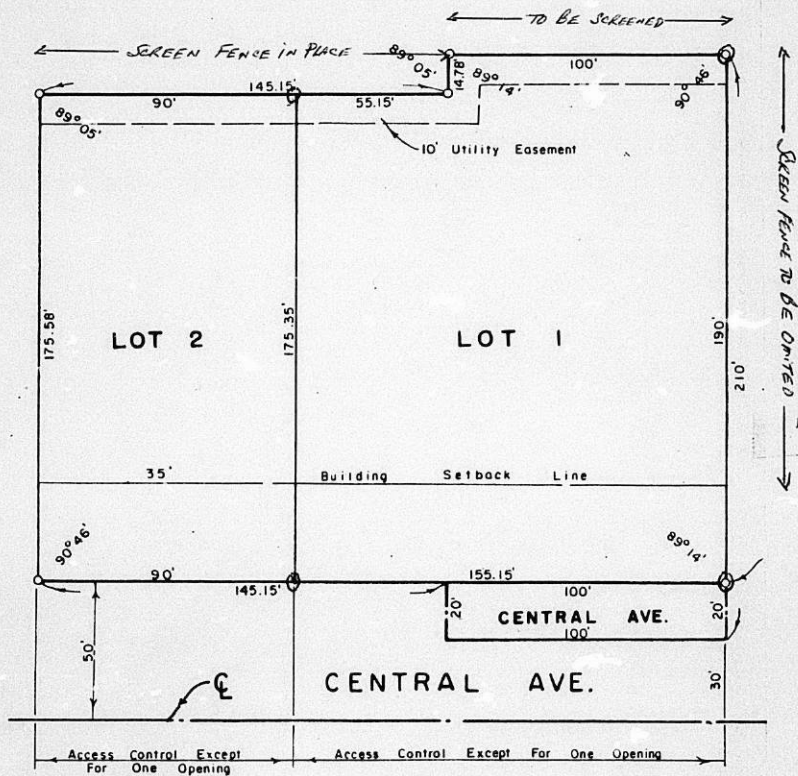
1. The variance to eliminate the screening fence adjacent to the residential zoning district shall be granted only along the east property line.

ADOPTED AT WICHITA, KANSAS, this 24th day of May, 1988.

  
President

ATTEST:

  
Louise Olivarez, Assistant Secretary



BZA 19-88

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE    May 20, 1988

TO            Louise Oliverez, Principal Planner

FROM        Stanley J. Scott, CP Coordinator *Stan Scott*

SUBJECT     BZA 19-88: North side of  
              Central in an Area West of  
              Nevada Street (4320 West  
              Central)

On Wednesday, May 18, 1988, CPO Northwest Neighborhood Council 5B considered the captioned case, a request for a zoning variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and adjacent to property zoned the "AA" One Family Dwelling District. Following discussion, the Council voted 9-0 to recommend approval of the requested variance.

The applicant, Henry J. Jacobs, was present to describe the request and respond to questions. He noted that the property adjacent to the east is used as a nonconforming commercial use (auto repair) on property zoned "AA". Council members were provided the notice of public hearing, a map of the area, and MAPD staff comments. No area residents or property owners were present to address the requested variance.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 19-88 is considered on Tuesday, May 24, 1988.

SJS:dm

May 24, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 19-88

OWNER/APPLICANT/AGENT: Henry J. Jacobs (owner/applicant)

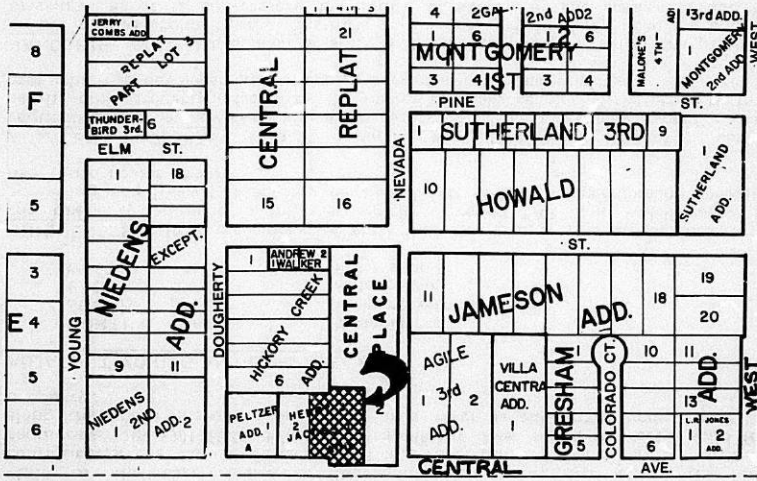
REQUEST: Variance to eliminate the required screening fence along the east property line adjacent to the "AA" zoning district

CURRENT ZONING: "LC" Light Commercial

SITE SIZE: 100 ft. x 190 ft.

LOCATION: North side of Central in an area west of Nevada Street

PROPOSED USE: Offices and retail



**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 conditions, as required by the State Statutes, are found to exist.

**BACKGROUND:** The applicant is requesting a variance to eliminate the required screening fence along the east property line of Lot 1, Henry J. Jacobs Addition, adjacent to the "AA" district. There is a legal, nonconforming auto repair shop on the lot to the east. The property is at a location on west Central where the adopted zoning policy is to favor "LC" zoning. Prior to the recent rezoning to "LC" of the east portion of the application area, the lot in its former configuration as Lot 2, Peltzer Addition, received a variance on the screening requirement in 1981 (BZA 8-81). The applicant does intend to erect a solid fence along the north line of the application area which is adjacent to undeveloped "AA" property.

**ADJACENT ZONING AND LAND USE:**

NORTH	"AA"	Undeveloped
SOUTH	"LC"	Strip commercial
EAST	"AA"	Auto repair
WEST	"LC"	Print shop

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the property adjacent to the east which is zoned "AA" and which causes the screening requirement is actually developed with a legal, nonconforming commercial use (auto repair shop).

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the only property affected by the waiver of the screening is the property to the east which is developed with a legal, nonconforming commercial use.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as it is unnecessary to require screening of one commercial use from another commercial use and it is probable that the property to the east will become zoned "LC" in the near future. It would be an unnecessary financial burden to require the applicant to screen along his east property line under these circumstances.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the requested variance relates only to the fence being deleted between two private property owners, both of whom will operate commercial businesses.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the ordinance in requiring screening between commercial and residential districts is to protect residential uses from the possible adverse effects of commercial development, but in this case the adjacent residential zoning is occupied by a commercial use.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following condition:

1. The variance to eliminate the screening fence adjacent to the residential zoning district shall be granted only along the east property line.

BZA 19-88 SR

BZA CASE NO. 19-88

15 LEGAL ADVERTISEMENT SENT TO MAPC & BZA

1 NOTICES SENT TO APPLICANT/AGENT

23 NOTICES SENT TO ADJOINING PROPERTY OWNERS

5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 5/2/88

1 NOTICES SENT TO CPO

2 NOTICES SENT TO CITY MANAGER & CITY  
COUNCIL REPRESENTATIVE TO DISTRICT

4 NOTICES TO MAPD STAFF

Jack Galbraith  
Louise Olivarez  
Barbara Harris  
Karen Crook

PL1-0062

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

April 29, 1988

**NOTICE OF PUBLIC HEARING:**

CASE NO. BZA 19-88

As required by law, all property owners of record within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals are to be notified of the public hearing. An application has been filed by Henry J. Jacobs, requesting a variance.

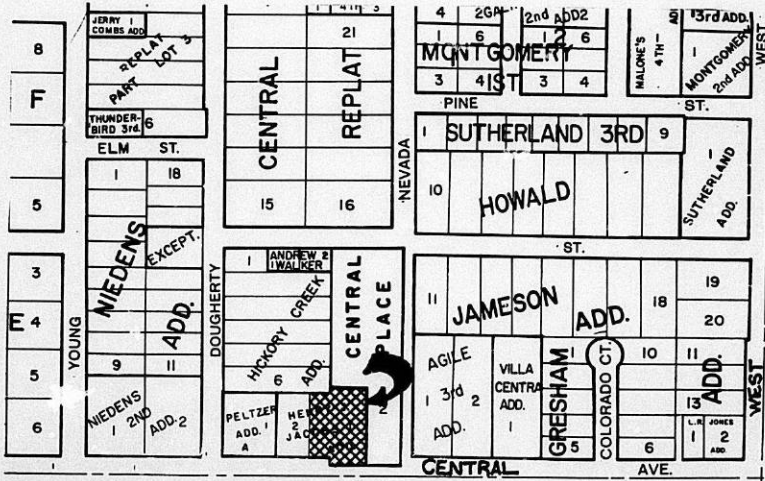
Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to waive the screening requirement along the east line of property zoned the "LC" Light Commercial District and which is adjacent to property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

Lot 1, Henry J. Jacobs Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Central in an area west of Nevada Street (4320 W. Central).

This application has been assigned Case No. BZA 19-88. It will be considered by the Board of Zoning Appeals on Tuesday, May 24, 1988, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest in or objections to the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so either in person or by agent or attorney.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Northwest Neighborhood Council "5B" will consider this case at their meeting to be held on Wednesday, May 18, 1988, at 7:15 p.m., at the Orchard Park Community Center, 4808 West 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



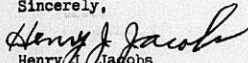
April 21, 1988

BOARD OF ZONING APPEALS  
CITY OF WICHITA KANSAS

RE: APPLICATION FOR VARIANCE

1. The unique situation concerning the property in question, which is Lot 1, Henry J. Jacobs Addition, is that the property directly east which is owned by Mr. Price, is zoned residential even though Mr. Price owns and operates a three bay auto repair shop at that location. There are no residential buildings located directly east of Lot 1, Henry J. Jacobs Addition.
2. I have visited with Mr. Price, the owner of the property directly east of Lot 1, Henry J. Jacobs Addition. Mr. Price stated that he has no objections to omitting the wooden screen fence between Lot 1, Henry J. Jacobs Addition and Mr. Price's property.
3. The property belonging to Mr. Price will probably be zoned light commercial within the next few years, therefore I see no reason to spend money on a wooden screen fence, just to have it removed at a later date.
4. I see no reason that omitting the wooden screen fence, would affect the public health, safety, morals, order, convenience, prosperity or general welfare in any way.
5. Granting the variance desired, will not be opposed to the general spirit and intent of title 28 (zoning ordinance), because there are no residential buildings located directly east of Lot 1, Henry J. Jacobs Addition.

Sincerely,

  
Henry J. Jacobs  
9314 Harvest Lane  
Wichita, Kansas 67212

APPLICATION FOR VARIANCE

I. Applicant HENRY J. JACOBS  
 Address 9314 HARVEST LANE, WICHITA, KANSAS Zip Code 67212 Phone 722-0443  
 Agent NONE  
 Address \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone \_\_\_\_\_  
 Relationship of applicant to property is that of OWNER  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is a waiver of the screening requirement  
THAT A WOODEN SCREEN FENCE NOT BE REQUIRED BETWEEN  
LOT 1, HENRY J. JACOBS ADDITION AND THE PROPERTY DIRECTLY EAST, OWNED BY MR. PRICE,  
along the east line  
 of property zoned LC LIGHT COMMERCIAL and which is adjacent to property, zoned "AA" One Family District which is located  
100 ft by 190 ft (or \_\_\_\_\_ acres) in size, legally described as: LOT 1  
HENRY J. JACOBS ADDITION.

and located AT 4320 W. CENTRAL

in the City of Wichita.

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. 39-285); 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.

Applicant Henry J. Jacobs

Authorized Agent NONE

OFFICE USE ONLY:

Map No. 514813 Zoning: (N) AA (S) LC (E) AA (W) LC CPO 5B 5-18


Received in Office of Secretary, Board of Zoning Appeals, \_\_\_\_\_ (a.m./p.m.),  
April 21, 1988, together with appropriate fee of 303.00.

Signed Louise Oliver

WICHITA - SEDGWICK COUNTY

**W SC**

BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

  
FORWARDING ORDER  
EXPIRED

BZA 19-88

PRESORTED  
FIRST-CLASS

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



F.O.C.

1708

Billy J. & Donna M. Lee  
3010 Euclid  
Wichita, KS 67217

**RECEIVED**

MAY 04 1988

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_



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

April 29, 1988

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CASE NO. BZA 19-88

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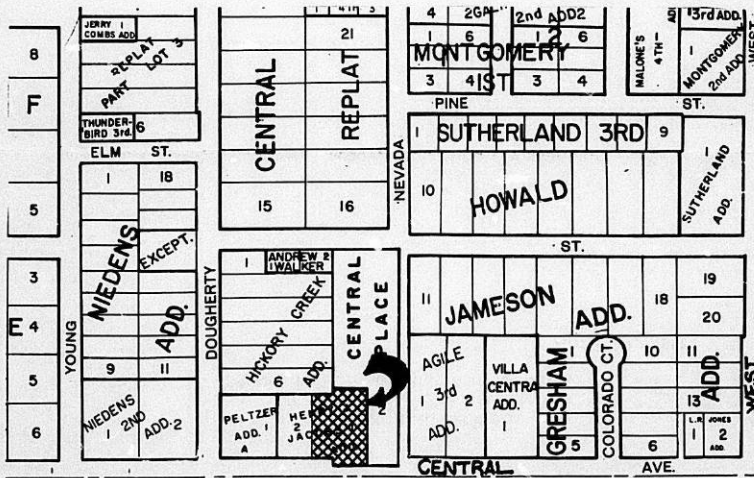
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from Z-2873

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
The East 87 feet of Lot 2		Hickory Creek	Robert T. Anderson Kimberly Faith Anderson X 4405 W. Elm Wichita, KS 67212
Lot 2 except the East 87 feet		"	Melvin G. Newman Brenda J. Newman X 732 Dougherty Wichita, KS 67212
Lot 3		"	Larry R. Todd Patricia J. Todd X 728 Dougherty Wichita, KS 67212
Lot 4		"	Thomas E. Gillett X 724 Dougherty Wichita, KS 67212
Lots 5 & 6		"	Eugene M. Seely X Florine M. Seely 859 Redbarn Lane Wichita, KS 67212
Lot 1	Block 1	Andrew Walker Addition	X Joyce A. Loewen 4409 W. Elm Wichita, KS 67212
Lot 2	Block 1	"	dup Robert T. Anderson Kimberly Anderson 4405 W. Elm Wichita, KS 67212
Lot 1 & the West 0.1 feet of Lot 2		Westex Addition	X Jon E. Miller Rose Mary Miller Box 159 203 W. 26th North Newton, KS 67117
Lot 2 except the West 0.1 feet		"	X Donald R. Rubottom Dorothy A. Rubottom 469 N. Westfield Wichita, KS 67212
The East 61.5 feet of Lot 1 & all of Lot 2		West City Addition	X Retail Building, Inc. P.O. Box 20482 Oklahoma City, OK 73156 AND Donald R. Rubottom dup Dorothy A. Rubottom 469 N. Westfield Wichita, KS 67212
Lot 1, except the East 61.5 feet		"	dup Donald R. Rubottom Dorothy A. Rubottom 469 N. Westfield Wichita, KS 67212 AND X Billy J. Lee Donna M. Lee 3010 Euclid Wichita, KS 67217

Lot	Block	Addition	Property Owner
Lots 1, 2 and 3		Alton Powell's First Addition	Theodore W. Maisch Sr. Marjorie Maisch X 447 Windsor Wichita, KS 67218
Lots 1 & 2	Block A	Agile Third Addition	Leo A. Borst Kathleen A. Borst X 5118 S. Broadway Wichita, KS 67216 AND Jeckle Investment Co. Address Unknown
Lot 11		Howald-Jameson Addition	David E. Harris Karen S. Harris X 4223 W. Elm Wichita, KS 67212
Lot 12		"	Dale M. Smith Patricia A. Smith X 4215 W. Elm Wichita, KS 67212
Lot 1	Block A	Peltzer Addition	Henry J. Jacobs 9314 Harvest Lane Wichita, KS 67212 Madleine M. Jacobs 9314 Harvest Lane Wichita, KS 67212
Lot 2	Block A	"	
Lot 1		Villa Centra Addition	Leo A. Borst Kathleen A. Borst X 5118 S. Broadway Wichita, KS 67216
The South 52.6 feet of the North 323.6 feet of the East 187.5 feet of Lot 2, except the East 30 feet for road.		Central Place Addition	Melvin J. Allender X Doris Allender 727 N. Nevada Wichita, KS 67212
The West 100 feet of the South 210 feet of the following: Beginning 80 feet West of the SE/c of Lot 2; th. North 326.7 feet; th. West 107.15 feet; th. South 326.17 feet; th. East 107.15 feet to the p.o.b.		"	Henry J. Jacobs Madeline M. Jacobs X 9314 Harvest Lane Wichita, KS 67212
The South 52 feet of the North 219 feet of the East 187.15 feet of Lot 2, except the East 30 feet.		"	Leonard Rains X Luella Rains 733 N. Nevada Wichita, KS 67212

*24-1-12  
Wichita*

Resent 5-10 to  
Price Automotive Repair  
4300 W. Central

WICHITA - SEDGWICK COUNTY

**W.S.C.**

BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

ASN  
1322  
SHT  
5/3/88

PRESORTED  
FIRST-CLASS



Floyd F. & Margie M. Price  
1509 S. Elizabeth  
Wichita, KS 67213

**RECEIVED**

MAY 04 1988

METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_

BZA 19-88

Lot	Block	Addition	Property Owner
Beginning 80 feet West of the SE/c of Lot 2; th. North 326.7 feet; th. West 107.15 feet; th. South 326.7 feet; th. East 107.15 feet to the p.o.b., EXCEPT the West 100 feet of the South 210 feet thereof.		Central Place Addition	Wilbur D. Van Etten Dolores W. Van Etten X 1058 N. Hoover Wichita, KS 67212
The South 326.7 feet of the East 80 feet of Lot 2		"	<i>letter returned</i> X Floyd F. Price Margie M. Price <del>1509</del> S. Elizabeth Wichita, KS 67213
The South 52 feet of the North 271 feet of the East 187.15 feet of Lot 2, except the East 30 feet for street.		"	Violet L. Matthews Joseph Matthews X 3731 Zoo Blvd. Wichita, KS 67203
The South 52 feet of the North 167 feet of the East 187.15 feet of Lot 2, except the East 30 feet for street.		"	Elmer E. Jones Inez E. Jones X 737 N. Nevada Wichita, KS 67212
The South 55 feet of the North 115 feet of the East 187.15 feet of Lot 2, except the East 30 feet for street.		"	James Roger Van Huss X Janice I. Van Huss 737 N. Nevada Wichita, KS 67212
E $\frac{1}{2}$ of Lots 1 and 3	Block 3	Parkwilde Addition	Samuel R. Dillon X Judith Ann Dillon 2018 Pepper Corn Derby, KS 67037
E $\frac{1}{2}$ of the W $\frac{1}{2}$ of Lots 1 & 3	Block 3	"	Harlin R. Gray X Janet L. Gray 623 N. Tracy Wichita, KS 67212
The W $\frac{1}{2}$ of the E $\frac{1}{2}$ of Lots 1 and 3	Block 3	"	Same As Above

Page 4

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 350 foot radius of:

The West 100 feet of the South 210 feet of the following described parcel: Beginning at a point 80 feet west of the Southeast corner of Lot 2, Central Place, Sedgwick County, Kansas; thence North 326.7 feet; thence West 107.15 feet; thence South 326.7 feet; thence East 107.15 feet to the place of beginning.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 2nd day of September, 1987, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.



By

Sr. Vice-President

Order No. 385582  
nj

NY 00134

METROPOLITAN AREA PLANNING DEPARTMENT

Description BZA Variance & one sign

Name Henry Jacobs

Address 9314 Harvest Lane 67212

Fund No. (circle one) 755-40710-003 (fees) 755-40710-004  
(books, xerox) 755-40710-026 (microfilm)

Amount 9303<sup>00</sup>

Date 4-21 88 Due Date 4-21 88 By LC

Form 00-000