

*23-80
6-24-80
5-15-80*

ACTION

*23-80
6-24-80*

DATE 6-24-80
COMMITTEE _____
M.A.P.C. _____
B.C.C./B. CO. C. _____

Case No. BZA 23-80 - Star Lumber & Supply Co., requests a variance to eliminate the screening type fence adjacent to the residential zoning district on property zoned "E" Light Industrial

*14 Sec 7-10-80
checked*

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

June 4, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 23-80

An application has been filed by Star Lumber and Supply Co., 325 South West Street, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to eliminate the screening type fence adjacent to the residential zoning district on property zoned the "E" Light Industrial District and legally described as follows:

Lot 1, Goebel Brothers Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the south side of McCormick approximately 1500' east of West Street (3505 McCormick).

This application has been assigned case No. BZA 23-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 24, 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

BOARD OF ZONING APPEALS
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Jack H. Galbraith
Secretary

July 3, 1980

William J. Goebel
Star Lumber & Supply Co.
325 South West Street
Wichita, Kansas 67213

Re: BZA 23-80
Request for Variance

Dear Mr. Goebel:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 24, 1980, in connection with your request for a variance to eliminate the screening type fence adjacent to the residential zoning district on property zoned "E" Light Industrial District and generally located on the south side of McCormick approximately 1500 feet east of West Street (3505 McCormick).

This Resolution reflects the official action of the Board to approve 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

GEL:sad
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 23-80

WHEREAS, Star Lumber & Supply Co., 325 South West Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the screening type fence adjacent to residential zoning on property zoned the "E" Light Industrial District and legally described as follows:

Lot 1, Goebel Brothers Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the south side of McCormick approximately 1500' east of West Street (3505 McCormick).

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 June 24, 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 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 adjacent institutional use occupies residentially zoned property and also industrially zoned property; 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 adjacent property is occupied by an institutional use that is also required to be screened when adjacent to residentially zoned property; 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 the fence required by ordinance would only partially screen the adjacent use; 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 screening would be interiorly located between two private ownerships; 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 it was not the intent of the ordinance to screen between an industrial and institutional use; and

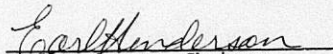
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the screening along the east property line adjacent to the "AA" One-family Dwelling District on property zoned the "E" Light Industrial District and legally described as:

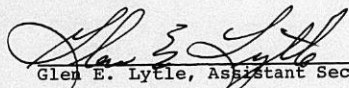
Lot 1, Goebel Brothers Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the south side of McCormick approximately 1500' east of West Street (3505 McCormick).

be approved.

ADOPTED AT WICHITA, KANSAS, this 24th day of June, 1980.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

June 26, 1980

William J. Goebel
Star Lumber & Supply Co.
325 South West Street
Wichita, Kansas 67213

Re: BZA 23-80
Request for Variance

Dear Mr. Goebel:

At the regular meeting of the Board of Zoning Appeals on June 24, 1980, your request for a variance to eliminate the screening type fence adjacent to the residential zoning district on property zoned "E" Light Industrial District and generally located on the south side of McCormick approximately 1500 feet east of West Street (3505 McCormick) was considered.

It was the action of the Board to approve this 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: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 23-80

APPLICANT: Star Lumber & Supply Co., 325 South West Street, Wichita, Kansas.

AGENT: William J. Goebel, 325 South West Street, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence adjacent to residentially zoned property.

GENERAL LOCATION: On the south side of McCormick approximately 1500 feet east of West Street (3505 McCormick).

ZONING: Subject property is zoned "E" Light Industrial as are the properties to the north, west and south. To the east "E" and "AA".

LAND USE: Subject property is occupied by a warehouse and storage facility. To the west is the Santa Fe Railroad and to the east the athletic field for Sacred Heart College.

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.
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).

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BZA 23-80
BZA AGENDA
6-24-80

COMMENTS BY THE SECRETARY:

The applicant is requesting that the screening fence required by the ordinance to be erected between an industrial development and a residential zoning district be eliminated. In this particular instance, only a portion of the property is adjacent to a residential zoning district, even though the adjacent use to the east of the applicant's property is all institutional.

It is the opinion of the Secretary that the intent of the screening provision is to provide a visual screen between commercial, industrial and institutional development and that of residences. In this particular situation, the only area required by ordinance to have a screening fence is a portion of the lot lines between an industrial use and an institutional use.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the adjacent institutional use occupies residentially zoned property and also industrially zoned property.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of the adjacent property owners inasmuch as it is an institutional use that also requires screening when adjacent to residentially zoned property.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the installation of the fence as required by ordinance would only partially screen the adjacent institutional use to the east.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the request is interiorly located between two private owner-ships.

Page 3
BZA 23-30
BZA AGENDA
6-24-80

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as it was not the intent of the ordinance to screen between uses that are required to be screened from residential uses.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist it is recommended that the requested variance be granted.

BZA CASE NO. 23-80

1 NOTICES SENT TO APPLICANT/AGENT

~~X29~~ NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

13 NOTICES SENT TO ADJOINING PROPERTY OWNERS

~~25~~²⁴ TOTAL NOTICES SENT 6-4-80

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

June 4, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 23-80

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This application has been assigned case No. BZA 23-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 24, 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

Star LUMBER & SUPPLY CO., INC.

325 SOUTH WEST STREET

PHONE: 942-2221 AREA CODE 316

WICHITA, KANSAS 67213

RECEIVED

MAY 5 1980

METROPOLITAN PLANNING

ROUTE Lytle

May 2, 1980

METROPOLITAN PLANNING COMMISSION
BOARD OF ZONING APPEALS
ATTN: GLEN LYTLE
455 N. Main
Wichita, Kansas 67203

Dear Sir,

In answer to the Application for Variance filed with your office
May 22nd 1980 at 2:20 pm.

Item 1 - The fence is already constructed as chain link. With the zoning as it originally was and the shape of the lot makes it intermittently boarding A.A. The use on the A.A. is institutional use as a baseball field and most likely will stay that way.

Item 2 - No residents in area. Mostly non-conforming use.

Item 3 - Security reasons and fire protection would be much easier with chain link fence.

Item 4 - No residents in area. Mostly non-conforming use.

Item 5 - No residents in area. Mostly non-conforming use.

Sincerely,

Robert L. Goebel
Robert L. Goebel
Executive Vice-President

ca

VARIANCES

The Board may authorize in specific cases a variance from the specific terms of Title 28 which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of Title 28 will, in an individual case, result in unnecessary hardship, and provided that the spirit of Title 28 shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by Title 28 (zoning ordinance) in such zoning district. A request for a variance may be granted upon a finding by the Board that all of the following conditions have been met:

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.
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).

Copy

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 23-80
FILED 5-2-80

APPLICATION FOR VARIANCE

I. Name of Applicant Star Lumber & Supply Co.,
Mailing Address 325 South West Street Phone 942-2221
Name of Authorized Agent William J. Goebel
Mailing Address same Phone same
Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to eliminate the screening type
fence adjacent to the residential zoning district.

for property located in an area on the south side of
McCormick approximately 1500' east of West St. (3505 McCormick).
and legally described as: Lot 1, Goebel Brothers Addition
to Wichita, Sedgwick County, Kansas.

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

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. 36-596); 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 STAR LUMBER & SUPPLY CO.

Authorized Agent William J. Goebel

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:20 (~~term~~-p.m.), May 2, 1980 together with appropriate fee of .

Signed Alan E. Lytle

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter 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:

Beginning at a point on the North line of the Southwest Quarter of Section 25, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, said point being 1070 Feet West of the Northeast Corner thereof, thence South parallel with the East line of said Southwest Quarter, 760 Feet, thence East parallel with the North line of said Southwest Quarter, 305 Feet, thence South parallel with the East line of said Southwest Quarter to a point on the Northeasterly Right-of-Way line of the Atchison Topeka and Santa Fe Railroad; thence Northwesterly along said Railroad Right-of-Way to a point 1360 Feet West of the East line of said Southwest Quarter; thence North parallel with the East line of said Southwest Quarter; thence North parallel with the East line of said Southwest Quarter; to a point 330 Feet South of the North line of said Southwest Quarter; thence East parallel with the North line of said Southwest Quarter, 140 Feet; thence North parallel with the East line of said Southwest Quarter, 330 Feet to a point on the North line of said Southwest Quarter; thence East along the North line of said Southwest, 150 Feet to the 113.6 Point of beginning.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

TRACT

OWNERS AND ADDRESSES

<p>Caption, and Beginning 1360 Feet West of Northeast Corner of the Southwest Quarter, East 100 Feet, South to Railroad Right-of-Way, Northwest along Right-of-Way to Point South of Beginning thence North to Beginning, EXCEPT North 30 Feet for Street & EXCEPT North 330 Feet, Sec. 25-27-1W and Beginning 1260 West and 660 Feet south of Northeast Corner of the Southwest Quarter, Section 25, South to North line of Railroad Right-of-Way, Southeasterly to North line of Walker Street East to point 990 Feet West of East line of Southwest Quarter, North to point East of Beginning. West 360 Feet to Beginning, EXCEPT North 100 Feet of East 37½ Feet, Sec. 25-27-1W. and Beginning 900 Feet West of Northeast Corner of Southwest Quarter, South 660 Feet East to Beginning, EXCEPT North 30 Feet for Street and EXCEPT North 330 Feet of West 40 Feet, EXCEPT East 170 Feet, Sec. 25-27-1W.</p>	<p>Adorers of The Blood of Christ of Wichita, Ks. Inc. 1400 South Sheridan Wichita, Kansas 67213</p>
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TRACT

OWNERS AND ADDRESSES

Beginning 660 Feet South of the Northeast Corner of Southwest Quarter, South to North Line Walker Avenue, West 990 Feet North to point West of Beginning, East to Beginning, EXCEPT East 310 Feet and EXCEPT North 100 Feet, Sec. 25-27-1W.

Adorers of The Blood of Christ of Wichita, Kansas, Inc.
1400 South Sheridan
Wichita, Kansas 67213

and

South 17.1A Southwest Quarter lying East of Right-of-Way, EXCEPT East 310 Feet North 631.25 Feet of South Half, Sec. 25-27-1W

Beginning 900 Feet West of Northwest Quarter of Southwest Quarter, South 660 Feet, West 170 Feet, North 660 Feet East to Beginning, EXCEPT North 30 Feet for Road, Sec. 25-27-1W

✓ Kansas Newman College
✓ 3100 McCormick
Wichita, Kansas 67213

and

North 100 Feet of East 37.5 Feet of a Tract Beginning 1260 Feet West and 660 Feet South of Northeast Corner of Southwest Quarter South to North Line of Right-of-Way South and East to North line of Walker Street East to point 990 Feet, West of East line Southwest Quarter, North to point East of Beginning West 360 Feet to Beginning, Sec. 25-27-1W

and

North 100 Feet of a Tract Beginning 660 Feet South of Northeast Corner of Southwest Quarter, South to North line Walker Avenue West 990 Feet North to point West of Beginning East to Beginning, EXCEPT East 330 Feet, Sec. 25-27-1W.

and

Beginning at Northeast Corner of Southwest Quarter, South 660 Feet, West 540 Feet, North 660 Feet, East to Beginning, EXCEPT North 280 Feet of East 360 Feet and EXCEPT Beginning 30 Feet South and 360 Feet West of Northeast Corner of Southwest Quarter, South 250 Feet, West 15 Feet, North 250 Feet, East 15 Feet in Sec. 25-27-1W.

and

Beginning 900 Feet West of Northeast Corner of Southwest Quarter, South 660 Feet, East 360 Feet, North 660 Feet, West to Beginning, Sec. 25-27-1W, EXCEPT North 30 Feet for Street

Lot 22 LOS COYAS ADDITION

✓ Albertson & Hein, Inc.
3617 Walker
Wichita, Kansas 67213

Lot 23, EXCEPT LOS COYAS ADDITION

Beginning 100 Feet North of Southeast Corner of Lot 19, North to West line Right-of-Way, Southeast-erly along Right-of-Way to point East of Beginning, West to Beginning.

✓ H. Stan Chilton
300 S. Main
Wichita, Kansas 67202



<u>LOTS</u>	<u>ADDITION</u>	<u>OWNERS AND ADDRESSES</u>
Parts of Lots 19 and 23, Beginning at point 135.3 Feet North of Southwest Corner of said Lot 19, thence East parallel with South line of said Lot 19, 439.4 Feet More or less to the Easterly line of said Lot 23, thence Northwesterly along the Easterly line of said Lots 23 & 19, 391.8 Feet more or less to the Northeast Corner of said Lot 19, thence West 205.9 Feet to Northwest Corner of said Lot 19, thence South 314.7 Feet to the point of beginning.	LOS COYAS	✓ Sheldon J. & Janice Kame: Kamen Iron & Metal Co, Inc. 601 N. Longford Lane Wichita, Kansas 67206
1, 2, and 3 Block 1	ESPERANZA	✓ Graves Truck Lines 3402 W. Harry Street Wichita, Kansas 67213
1 and 2, Block 2	ESPERANZA <i>X Returned - no other add.</i>	✓ Graves Realty, Inc. P. O. Box #839 Wichita, Kansas
18	LOS COYAS	✓ The Atchison, Topeka and Santa Fe Railway Company 425 E. Waterman Street Wichita, Kansas 67202
20	LOS COYAS	✓ Audio Visual Product, In 1050 S. McComas Wichita, Kansas 67213
1	PARKWAY SECOND	✓ Berry Properties P. O. Box 829 Wichita, Kansas 67201
1	SAUDER	✓ Norman E. & Faye W. Saude 1335 Chipper Lane Wichita, Kansas 67212
32, Block 3	EUREKA GARDENS	Taken by Condemnation #A-29960 <i>X</i> City of Wichita 455 N. Main Wichita, Kansas 67202
33 and 34, Block 3; 15, EXCEPT North 50 Feet and All of Lots 16, 17, 33 and 34, Block 4	EUREKA GARDENS <i>residents to 5932 W 93rd North P.O. Valley Center, 67147</i>	✓ Mary L. Tideman <i>rel. in personal</i> Address Unknown <i>5932 W 93rd St No Returns July 67236</i>
32, EXCEPT North 25 Feet Block 4	EUREKA GARDENS	✓ L.W. & Florence E. Noble 1/2 Vernon McCune 2239 NW 39th Street Oklahoma City, Okla. 73112
South 25 Feet of Lot 13, All of Lot 14, North 50 Feet of 15, All of 30 & 31, & North 25 Feet of 32, Block 4	EUREKA GARDENS	Taken by Condemnation. <i>X</i> A-29960 City of Wichita 455 N. Main Wichita, Kansas 67202



<u>LOTS</u>	<u>ADDITION</u>	<u>OWNERS AND ADDRESSES</u>
13, 14 and North 25 Feet of Lot 15 & North 33.6 Feet of Lot 18 also Tract Adjacent Lot 18 & South 50 Feet South of Wichita & Western Railroad(Tracts 14-15-16-17)Block 5:	EUREKA GARDENS	Condemnation #A-29960 City of Wichita 455 N. Main Wichita, Kansas 67202
All of 16, 19 & 20 Lots 15 & 18 EXCEPT part taken by Condemna- tion, Block 5	EUREKA GARDENS <i>no other add.</i>	<input checked="" type="checkbox"/> Murel F. & Grace Koon 3506 McCormick Wichita, Kansas 67213
17, Block 5	EUREKA GARDENS	<input checked="" type="checkbox"/> Arthur W & Goldie M Roll 1825 N. St. Clair Avenue Wichita, Kansas 67203

Dated at Wichita, Kansas this 20th day of June, 1979; 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *Peter M. Drier*
Vice-President

Tracer No. 46593



**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29 1

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
5-478 4/10	1500

NAME Starbuck's Coffee House

ADDRESS 25 S. WOOD ST

FUND 11-01-000-41071-503

DUE DATE 5/53

COMMENTS

DATE 7/27/72

BY [Signature]

*

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

Roll # 2