

ACTION

BZA COMMITTEE Approved DATE 9.26.72

~~MARC~~

~~B.C.C./B.C.C.G.~~

BZA 25-72 D. B. Dinning requests variance to reduce required setbacks on the West side of Broadway between Harry and Osie.

POSTED  
9-13-72  
MADU  
C.I. ✓  
11-14-72

### ACTION

	DATE
BZA COMMITTEE <u>Approved</u>	<u>9.26.72</u>
<del>M.A.P.C.</del> _____	_____
<del>B.C.C./B. CO. C.</del> _____	_____

BZA 25-72 D. B. Dining requests  
variance to reduce required set-  
backs on the West side of Broad-  
way between Harry and Osie.



October 18, 1972

Mr. and Mrs. D. B. Dinning  
3900 East Harry  
Wichita, Kansas 67218

Subject: Case No. BZA 25-72 - Request for variance

Dear Mr. and Mrs. Dinning:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 26, 1972, in connection with your request to reduce the required frontyard setback from 38 feet to 34 feet; the required rearward setback from 15 feet to 10 feet; and the required sideyard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned LC" Light Commercial, and generally located on the West side of Broadway between Harry and Osie.

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 any questions concerning this matter, please call our office.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:rw

enclosure

cc: Robert Feldner, Supt. of Central Inspection  
Ralph Eberly, City Clerk  
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 25-72

WHEREAS, D. B. Dinning and Muriel E. Dinning, 3900 East Harry, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required frontyard setback from 38 feet to 34 feet; the required rearward setback from 15 feet to 10 feet; and the required sideyard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 14, 16, 18, and 20 on Broadway, English's Sixth Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the West side of Broadway between Harry and Osie.

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 September 26, 1972, 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 most of the existing commercial structures do not appear to maintain the required 38 foot setback measured from the center-line of Broadway, but rather, maintain approximately a 34 foot setback as does the existing building; 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 they are maintaining or may observe the same side or rearward setbacks as the applicant is requesting; and

WHEREAS, the Board of Zoning Appeals has found 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 inasmuch as the applicant would be deprived of the right to utilize his land in the same manner as many existing commercial uses in the general area; 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 inasmuch as the proposed addition will maintain the same setbacks as other existing buildings; 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 application does meet the four previous requirements and provided the proposed addition complies with the provisions for the required fire wall and other conditions of the Building Code; and

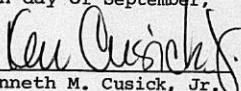
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required frontyard setback from 38 feet to 34 feet; the required rearyard setback from 15 feet to 10 feet; and the required sideyard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "LC" Light Commercial, and legally described as follows:

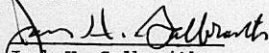
Lots 14, 16, 18, and 20 on Broadway, English's Sixth Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the West side of Broadway between Harry and Osie,

be approved.

ADOPTED AT WICHITA, KANSAS, this 26th day of September, 1972.

  
Kenneth M. Cusick, Jr.  
Chairman

ATTEST:

  
Jack H. Galbraith  
Secretary

September 26, 1972

Mr. and Mrs. D. B. Dinning  
3900 East Harry  
Wichita, Kansas 67218

Subject: Case No. EZA 25-72 - Request for Exception <sup>Variance</sup>

Dear Mr. and Mrs. Dinning:

At the regular meeting of the Board of Zoning Appeals on September 26, 1972, your request for a variance to reduce the required frontyard setback from 38 feet to 34 feet; the required rearward setback from 15 feet to 10 feet; and the required side yard setback adjacent to the north property line from 5 feet to 0 feet on property zoned "LC" Light Commercial and generally located on the West side of Broadway between Harry and Osie 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.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:rv

cc: Robert Feldner, Supt. of Central Inspection  
Ralph Eberly, City Clerk  
Joe Donnelly, Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 75-72

APPLICANT: D. B. Dinning and Muriel E. Dinning

AGENT: D. B. Dinning

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required frontyard setback from 38 feet to 34 feet; the required rear-yard setback from 15 feet to 10 feet; and the required side-yard setback adjacent to the north property line from 5 feet to 0 feet.

GENERAL LOCATION: On the West side of Broadway between Harry and Osie.

ZONING: Subject property is zoned "LC" Light Commercial as are those properties to the north, south and east. Property to the west is zoned "A" Two Family Dwelling.

LAND USE: Subject property is occupied by a motel and a mobile home. To the north is a restaurant, south is a duplex, east is a parking lot and west is single family.

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).

Comments by the Secretary:

The applicant is requesting a variance of the frontyard setback from 38 feet to 34 feet; the rearyard setback from 15 feet to 10 feet and the sideyard setback adjacent to the north property line from 5 feet to 0 feet in order to construct an additional 9 units to a motel that presently occupies a portion of the application area.

Subject property is located in an older part of town and from viewing the area in the field it may be seen that some of the commercial structures observe no setback from the front property lines while others, for the most part, vary from 1 to 5 feet. This, in all probability, is due to their construction prior to the adoption of the zoning ordinance.

It should be pointed out that under the terms of the zoning ordinance buildings erected, enlarged, converted or structurally altered for dwelling purposes, including motor courts, shall maintain a 5 foot sideyard setback and a 15 foot rearyard setback while other uses permitted in the "LC" zoning district need not maintain any sideyard, when adjacent to "LC" zoning and a rearyard of only 10 feet.

A plot plan has been submitted with the application showing existing and proposed structures and off-street parking spaces which has been approved by the office of the City Traffic Engineer. It should be pointed out that the plan does not provide for an additional 20 feet of street right-of-way inasmuch as only 30 feet of half-street right-of-way exists whereas 50 feet of half-street right-of-way is the standard for all major streets. It should be noted, however, that only 60 feet of street right-of-way exists in this area from Harry to Kinkaid.

Uniqueness:

It is the opinion of the Secretary that uniqueness exists inasmuch as most of the existing commercial structures do not appear to maintain the required 38 foot setback measured from the centerline of Broadway, but rather, maintain approximately a 34 foot setback as does the existing building.

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the adjacent properties inasmuch as they are maintaining or may observe the same side or rear yard setbacks as the applicant is requesting.

Hardship:

It is the opinion of the Secretary that an unnecessary hardship would be placed upon the applicant if the variances were not granted inasmuch as the applicant would be deprived of the right to utilize his land in the same manner as many existing commercial uses in the general area.

Public Interest:

It is the opinion of the Secretary that the granting of the variances would not adversely affect the public interest inasmuch as the proposed addition will maintain the same setbacks as other existing buildings.

Spirit and Intent:

It is the opinion of the Secretary that the granting of the variances would not be opposed to the general spirit and intent of Title 28 inasmuch as the application does meet the four previous requirements and provided the proposed addition comply with the provisions for the required fire wall and other conditions of the Building Code.

Recommendation:

It is the opinion of the Secretary that all five conditions necessary for the granting of the variances can be found to exist and, therefore, it is recommended that the variances be granted to reduce the frontyard setback from 38 feet to 34 feet, the rearyard setback from 15 feet to 10 feet and the sideyard setback adjacent to the north property line from 5 feet to 0 feet.

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

September 8, 1972

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 25-72

An application has been filed by D. B. Dinning and Muriel E. Dinning, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required frontyard setback from 38 feet to 34 feet; the required rear yard setback from 15 feet to 10 feet; and the required sideyard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "LC" Light Commercial District, and legally described as follows:

Lots 14, 16, 18, and 20 on Broadway, English's Sixth Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the West side of Broadway between Harry and Osie.

This application has been assigned Case No. BZA 25-72, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 26, 1972, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

*12 Copies sent to Property Owners and 8 Copies  
sent to MAPC members 9/8/72.*

BOARD OF ZONING APPEALS

CASE NO. 25-72

CITY OF WICHITA, KANSAS

FILED 8-14-72

APPLICATION FOR VARIANCE

I. Name of Applicant  D.B. DINNING and MURIEL E. DINNING

Mailing Address 3900 East Harry, Wichita, 67218 Phone 684-0526

Name of Authorized Agent D. B. Dinning

Mailing Address 3900 East Harry Phone 684-0526

Relationship of applicant to property is that of owner  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to the required front, back and North side yard setbacks making possible the construction of a 9 unit addition to the Frontier Motel, 1623 S. Broadway, for reasons as stated on the attached sheet  
for property located 1623 S. Broadway, Wichita, Kansas

and legally described as: Lots 14, 16, 18 and 20 on Broadway, English's Sixth Addition to the City of Wichita, Sedgwick County, Kansas

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

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.

D. B. Dinning  
Applicant D. B. Dinning

D. B. Dinning  
Authorized Agent D. B. Dinning

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 12:45 (a.m.), August 14 1972  
together with appropriate fee of \$50.00.

T9-402

L. Lynn Shirley  
Signed

BOARD OF ZONING APPEALS

CITY OF WICHITA, KANSAS

Continuation of Application for Exception

- A. The required 5 foot side yard set back adjacent to the North property line be changed to zero (0) feet.
- B. The required 15 foot rear yard set back be reduced to 10 feet.
- C. The required 38 feet front yard set back be reduced to 34 feet.

FOLLOWING ARE CONDITIONS WE THINK MERIT THIS REQUEST:

(1) This requested variance arises from the fact that the South half of this motel was constructed when only a 34 foot set back was required from the center of the street in front - this portion of the motel now sets back 4 feet from the front property line.

While it is true that the present south half of the motel sets 5 feet in from the side yard, subsequent increases in the space required for parking make it impossible to complete the north half and provide enough parking space by present standards.

We are asking a variance be granted in order that we may build the north half of this motel and utilize the 100 feet of ground which was originally planned to be used in this way. With this variance we can add 9 units to this motel and meet the requirements for off street parking. Under present side yard and front and back set back requirements it is not feasible to complete the motel and the land can only be used as it is presently to park two house trailers, one for a rental and the other for the managers living quarters. We believe completing the 9 units on the north and the removal of the mobile homes will be an improvement to the area.

(2) The granting of the variance will not adversely affect the rights of adjacent property owners or residents as the highest and best use is for commercial purposes. The ground to the north is already zoned commercial and that to the south probably will ultimately go commercial.

(3) The strict application of present zoning setback requirements will constitute unnecessary hardship on us as we can't economically complete the north half of the motel with less than 9 additional units.

(4) This variance will not in any way adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The fact is that it will be a general all around improvement. Both the north and south portions of the motel will look better with equal setbacks.

(5) The granting of this variance will not be opposed to the general spirit and intent of the zoning ordinance. Enclosed please find 2 copies of the plot plan which has been approved by the Traffic Engineers Department.

CERTIFICATE OF OWNERSHIP  
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GUARANTEE TITLE CO. Inc., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, Kansas, lying within 200 foot radius and including the following described real estate:

Lots 14, 16, 18 and 20, on Lawrence Avenue  
now Broadway, in Englishe's Sixth Addition  
to the City of Wichita, Sedgwick County, Kansas.

DESCRIPTION	Owner/Owners	Address	
<u>Strong and Rogers Addn.</u>			
Lots 12 and 14	✓ Harry Street Realty Co. Inc.	3837 W. Pine Boulevard St. Louis, Mo.	13108
<u>Koenigs Addition Broadway</u>			
Lots 2 thru 18 even	do	Do	
<u>Cottingham's South Lawrence Avenue Addn.</u>			
Lots 1-2-3	✓ Wichita Builders, Inc.	1206 East Lincoln	67212
<u>Englishe's Sixth Addition Broadway</u>			
Lots 2-4	✓ John W. Witbeck, C. Witbeck and Anna Witbeck Simpson	c/o Patricia F. Johnston 1601 So. Broadway	67211
Lots 6-8	✓ M. Wyatt	c/o First National Bank and Trust Company, (Trust Dept.)	67202
Lots 10 and 12	✓ Martin K. Welch and Ethel D.	1202 Schweiter Drive	67211
Lots 14 thru 20 even	Ⓟ D. B. Dinning and Muriel E.	3900 E. Harry	67213
Lots 22-24-26-28	✓ Lewis J. Boothe and Nellie M.	1629 So. Broadway	67211
Lots 30 and 32	✓ Walter C. Stahl and Lucille C.	1640 So. Market	67211
Lots 34-36-38	✓ Larry Earl Henderson & Jacqueline	1643 So. Broadway	67211
Lots 1-3-5-7-9-11	✓ Beth-Eden Baptist Church	211 E. Harry	67211
Lots 13-15-17-19	✓ Dewey L. Buhner and Marjorie C.	1618 So. Market	67211
Lots 21-23-25 and North Half of 27	Ⓟ Beth Eden Baptist Church	211 E. Harry	67211
S/2 of Lot 27, all of 29	✓ Loyd Carpenter & Margaret C.	1636 So. Market	67211
Lots 31-33-35-37	Ⓟ Walter O. Stahl and Lucille C.	1640 So. Market St.	67211

Dated this 31st day of July, 1972 at 7:00 o'clock A.M.

GUARANTEE TITLE CO. Inc.

By *Nellie M. Leshinger*  
Vice-President.

Order No. 39832

FORM 22-21

**PAYMENT NOTICE**  
City of Wichita

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

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
43A Applications	50 <sup>00</sup>

Name Don Harrison

Address 3900 E. Harvey

Type \_\_\_\_\_ Due Date \_\_\_\_\_

Comments:

AA--407103

Date 8-14-72 By BR

WS of Biology  
Act  
and Site

ELC+C  
WA  
NC  
SLC

1895  
32  
27  
H-4

\*

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