

F-3

POSTED
12-1-66

ACTION

DATE

By COMMITTEE App 12-28-65

M.A.P.C. _____

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

January 14, 1966

Mrs. Leona O'Brien
1715 North Waco
Wichita, Kansas

Dear Mrs. O'Brien:

Re: Case No. BZA 42-65

We have completed the preparation of the Resolution adopted by the Board of Zoning Appeals in connection with the above-numbered case, which was heard by the Board on December 28, 1965, and which resolution has been signed by the Chairman and Secretary.

As indicated in our letter of January 5, 1966, we are now enclosing a copy of this Resolution for your information. A copy has also been provided the Central Inspection Division for their files.

If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:dar

cc: Grey Dresie, Attorney
412 Bitting Building

Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

R E S O L U T I O N N O . B Z A 4 2 - 6 5

WHEREAS, Leona O'Brien, 1715 North Waco, Wichita, Kansas, has requested a variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the construction of a garage which would extend beyond the front of the house and be between 3 and 4 feet in violation of Section 28.04.060, Code of the City of Wichita, on property zoned "RB" Four Family Dwelling, and legally described as:

Lots 20 and 22, on Elizabeth, Lawrence's 4th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Elizabeth between Burton and Maple; and

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, in regular meeting, consider said application on December 28, 1965; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for variance under provisions of Section 2.12.590.2, Code of the City of Wichita, Kansas; and

WHEREAS, the Board of Zoning Appeals determined that the variance requested arises from such condition which is unique to the property in question and 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 in that the two adjacent properties have porches 7 feet in depth which are attached to the dwellings and extend past the proposed garage - the porch to the north extends 3 feet beyond the front of the garage and the porch to the south extends 2 feet beyond the front of the garage, and the porches were evidently built when the houses were built and are so constructed that it is unlikely they will ever be removed; and

WHEREAS, the Board of Zoning Appeals determined that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents since the garage would be set back 25 feet from the street right-of-way, and the remaining portion of the house is set back some 40 feet from the street right-of-way; further, a carport would be permissible without a variance, and a garage which is enclosed would certainly have a better appearance for the adjacent property owners; and

WHEREAS, the Board of Zoning Appeals determined 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 since the garage and house are basically constructed at this time; the house has a full basement and, therefore, would be very difficult to move; and

WHEREAS, the Board of Zoning Appeals has determined that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare in that the proposed structure is still maintaining a 25-foot setback and the new residence will certainly be of benefit to the surrounding area; and


WHEREAS, the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance); and

WHEREAS, each of the five conditions required by Section 2.12.590, 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, Kansas, that a variance be granted for issuance of a permit for the garage to be constructed to within 25 feet of the east right-of-way line of Elizabeth Street, but that this variance shall apply only to the garage portion of the house now being built and any future construction or addition to the house shall comply with the setback as originally determined by the Superintendent of Central Inspection, all relating to property legally described as follows:


Lots 20 and 22, on Elizabeth, Lawrence's 4th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Elizabeth between Burton and Maple.

ADOPTED AT WICHITA, KANSAS, this 28th day of December, 1965.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith, Secretary

January 5, 1966

Mrs. Leona O'Brien
1715 North Waco
Wichita, Kansas

Dear Mrs. O'Brien:

Re: Case No. BZA 42-65

This is to advise you that at its regular meeting of December 28, 1965, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to permit an attached garage to extend 4½ feet into the required front yard setback, on property zoned "R2" Four Family and located generally on the east side of Elizabeth between Burton and Maple.

It was the action of the Board to approve this request and to authorize the issuance of a permit for the garage to be constructed to within 25 feet of the east right-of-way line of Elizabeth Street.

A resolution setting forth the official action of the Board is being prepared for the signatures of the Chairman and Secretary, and a copy thereof will be mailed to you soon.

If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:WV:ber
cc: Grey Drasie, Attorney
412 Bitting Building

Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. PVA 42-65

APPLICANT: Leona O'Brien, 1715 North Waco

AGENT: Gray Dresie, Attorney, 412 Bitting Building

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow an attached garage to extend 3 feet into the required front yard setback.

LOCATION: Generally located on the east side of Elizabeth between Burton and Maple.

LAND USE: Existing use on subject property is construction of a single family dwelling. To the north, south, east and west are single family dwellings.

ZONING: Existing zoning and zoning to the north, south, east and west is "RB" Four Family.

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita, and 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).

Page 2 - Secretary's Report
Case No. BZA 42-65

COMMENTS BY THE SECRETARY

At the present time construction has been stopped on subject property by the Division of Central Inspection until such time as a determination is made by the Board concerning this variance request. The house itself is essentially enclosed and roofed; however, the attached garage is not completely enclosed.

The garage portion, which is in violation, has a 25-foot setback from the street right of way line. However, the houses on either side maintain greater setbacks. The house to the south sets back 30 feet from the street right of way line and the house to the north sets back 29 feet from the street right of way line. In order to determine the setback for the lot in question, a straight line is projected between the nearest front corner of the building on each side of the lot in question and this line is then determined as the front setback line, provided, however, it does not increase the front yard setback a distance greater than 30 feet or reduce it less than 15 feet. This setback line places the garage approximately 4.5 feet in violation.

It should be pointed out, however, that the houses on both sides have large front porches which extend into the front setback area. It should also be noted that in the "RB" Four Family zoning district, the normal minimum building setback line is 20 feet.

UNIQUENESS

It is the opinion of the Secretary that this is a unique situation in that the two adjacent properties have porches 7 feet in depth which are attached to the dwellings and extend past the proposed garage. The porch to the north extends 3 feet beyond the front of the garage and the porch to the south extends 2 feet beyond the front of the garage. These porches evidently were built when the houses were built and are so constructed that it is unlikely that they will ever be removed.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of this variance would not affect the adjacent property since the garage would be set back 25 feet from the street right of way. The remaining portion of the house is set back some 40 feet from the street right-of-way.

It should also be pointed out that a carport would be permissible as long as it is never enclosed. However, a garage which is enclosed would certainly have a better appearance for the adjacent property owners.

Page 3 - Secretary's Report
Case No. BZA 42-65

HARDSHIP

It is the opinion of the Secretary that it would create an undue hardship by not granting the variance since the garage and house are basically constructed at this time. The house has a full basement and, therefore, would be very difficult to move.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance is in the public interest in that the proposed structure is still maintaining a 25-foot setback and that the new residence will certainly be of benefit to the surrounding area.

SPIRIT AND INTENT - TITLE 28

It is the opinion of the Secretary that the granting of the variance is within the spirit and intent of the Zoning Ordinance.

RECOMMENDATION

For the reasons outlined above, it is the recommendation of the Secretary that the variance be granted in order to permit the garage to be constructed to within 25 feet of the east right of way line of Elizabeth Street. This variance shall apply only to the garage portion of the house now being built and any future construction or addition to the house shall comply with the setback as originally determined by Central Inspection.

Enclosure: Statement of Justification

SECRETARY'S REPORT

CASE NO. BZA 42-65

APPLICANT: Leona O'Brien, 1715 North Waco

AGENT: Gray Dresie, Attorney, 412 Bitting Building

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the city of Wichita, to allow an attached garage to extend 3 feet into the required front yard setback.

LOCATION: Generally located on the east side of Elizabeth between Burton and Maple.

LAND USE: Existing use on subject property is construction of a single family dwelling. To the north, south, east and west are single family dwellings.

ZONING: Existing zoning and zoning to the north, south, east and west is "RB" Four Family.

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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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At the present time construction has been stopped on subject property by the Division of Central Inspection until such time as a determination is made by the Board concerning this variance request. The house itself is essentially enclosed and roofed; however, the attached garage is not completely enclosed.

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It should be pointed out, however, that the houses on both sides have large front porches which extend into the front setback area. It should also be noted that in the "RS" Four Family zoning district, the normal minimum building setback line is 20 feet.

UNIQUENESS

It is the opinion of the Secretary that this is a unique situation in that the two adjacent properties have porches 7 feet in depth which are attached to the dwellings and extend past the proposed garage. The porch to the north extends 3 feet beyond the front of the garage and the porch to the south extends 2 feet beyond the front of the garage. These porches evidently were built when the houses were built and are so constructed that it is unlikely that they will ever be removed.

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RECOMMENDATION

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Enclosure: Statement of Justification

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

42

December 2, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 42-65

An application has been filed by Leona O'Brien, 1715 North Waco, by Grey Dresie, Attorney, 412 Bitting Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a variance to permit the construction of a garage which would extend beyond the front of the house and be between 3 and 4 feet in violation of Section 28.04.060, Code of the City of Wichita, on property zoned "RB" Four Family Dwelling, and legally described as follows:

Lots 20 and 22, on Elizabeth, Lawrence's 4th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Elizabeth between Burton and Maple.

This application has been assigned Case No. BZA 42-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 28, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

27 Notices mailed December 2, 1965, plus 7 to Planning Commissioners

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

December 2, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

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Jack H. Galbraith
Secretary

PERMIT NUMBER

C180779

INSPECTION DEPARTMENT
CITY OF WICHITA, KANSAS
APPLICATION FOR RESIDENTIAL BUILDING PERMIT
AND CERTIFICATE OF OCCUPANCY

APPLICATION

No T 4843

(Groups H, I, J-1 and J-2)

Wichita, Kansas, 10-14-1965

Application is hereby made for a permit to erect a structure at
(Erect-Repair-Remodel-Wreck-Add To)

No. 320 So. Elizabeth Street
in accordance with the following description and in conformity with the provisions of all laws and ordinances pertaining thereto.

Use or Occupancy: 1-Family Dwelling Garage Detached
2-Family Dwelling Carport Garage Attached Number of Rooms in Dwelling 5
Multi-Family Garage or Shed Only

Multi-Family: Total Number of Family Units _____ Number of Baths 2 Number of Other Rooms _____

Extreme Dimensions: Frontage on Street 38' Depth 48.10' Stories 1

Size of Basement: full Foundation Wall: Concrete
Concrete Blocks Size of Joist: First Floor 2x10
Second Floor _____ Ceiling 9 inches

Exterior Wall: Frame Concrete Block Wood Shingles
Brick Veneer Brick Roof Material: Composition
Stone Veneer Tile

Heat: Blower Furnace Floor Closet Coal Wood
Gravity Pipe Attic Stoves Gas Oil Wood or Coal Fireplace

Brick Flues: Number _____ Patented Pipe Flues: Number 6 Walls: Plaster
Size _____ Dry Wall

New Plumbing: _____ New Electrical Work: _____ New Gas Fitting: _____

Area of Dwelling Space 114.35 sq. ft. 114.35 sq. ft. If Wrecking, Give
Garage, bsmt. etc. 122.8 sq. ft. 122.8 sq. ft. Square Feet of
Building: Accessory Street 262.0 sq. ft. 262.0 sq. ft. Floor Area:
Total Adj. 500.15 sq. ft. 500.15 sq. ft.

If repairing, remodeling, wrecking or adding to, state what improvements are to be made.

Estimate of Value: \$ 18767

Is work being done under a contract? _____ Structure has been occupied as _____

Owner L. F. Fosse Address 407 So. Mass

Builder _____ Address _____

Designer _____ Address _____

(Sign Below)

[Signature] (Licensed Contractor) _____ (Owner)

By _____ (Authorized Representative) By _____ (Agent)

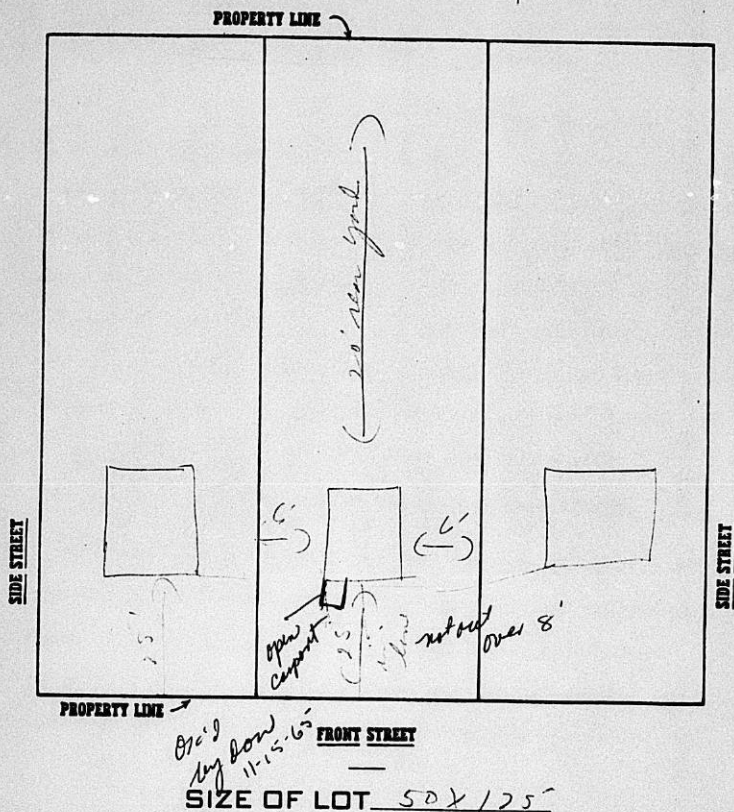
INSPECTION DEPARTMENT RECORD

Zoning Dist. AA A RB B BB LC Permit Refused Because _____

C D E F Permit Held Up for _____

Fire Zone 1 2 3 4 Application Taken by _____

PLOT PLAN



The undersigned hereby certifies:

1. That the structure covered by this application will be placed no closer to the lot lines than the dimension as indicated on the above plot plan and that the undersigned has full knowledge of these setbacks.
2. It is further certified that the undersigned has examined the recorded plats and other records of the land upon which this building is to be located and that it will not encroach upon any easement or be built over any public sewer or utility.
3. The undersigned also certifies that he has been apprized of the housing code of the city of Wichita and that the work included on this application will conform with the provisions hereof.

[Signature]
 Applicant

BOARD OF ZONING APPEALS

CASE NO. Lza 65-42

CITY OF WICHITA, KANSAS

FILED 11-29-65

APPLICATION FOR VARIANCE

I. Name of Applicant LEONA O'BRIEN
Mailing Address 1715 North Waco Phone AM 5-6851
Name of Authorized Agent Grey Dresie
Mailing Address 412 Bitting Bldg. Wichita, Kans. Phone AM 7-4231
Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other)

II. The variance requested is permission to build a garage which
would extend beyond the front of the house and be between 3 and 4
feet in violation of 28.04.060 paragraph 1.2 in re. front yard
setback
for property located 320 South Elizabeth, Wichita, Kansas
last side of Elizabeth bet. Hurton &
Maple
and legally described as: Lots 20 and 22, on Elizabeth, Lawrence's
4th Addition to Wichita, Sedgwick County, Kansas,
in the City of Wichita; and which is presently zoned RB-
(Give metes and bounds description below if appropriate):

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 appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Leona O'Brien

Applicant

Grey Dresie
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
11:00 (a.m. - p.m.), Nov 29, 1965, together with
appropriate fee of \$50.00.

T9-402

Jack Gulbraich S. Planner
Signed (ma)

STATEMENT OF OWNER

The zoning ordinance from which a variance is requested is 28.04.060, paragraph 1.2 in regard to front yard set back.

The variance requested is to allow the construction of an enclosed attached garage which would be 25 feet from the front property line but which would extend to within three feet east of the west or front of the covered porch on the house to the south of the subject property and within 2 feet east of the west of front of the property south of the subject property. The front of the house proper will be 9 feet back of the front of the house on the south and 10 feet back of the front of the house on the north. The surrounding area is all occupied by residences which were constructed apparently 40 to 60 years ago.

The two lots upon which this modern brick veneer residence is being constructed constituted the only vacant building site in the area. In the immediate area there are several variances. To place this house further back upon this site would literally bring it among the surrounding houses and would detract from the appearance of this house and the adjacent area. There is no room to put the garage on the side of the house or build a detached garage.

The residence being constructed is of such a nature that it will enhance the neighborhood and the variance requested is so minor that it will not in any way adversely affect the adjoining properties.

A strict application of the ordinance provisions first cited would mean that the property would be either buried between the other houses or that a carport would be constructed rather than an enclosed garage. A carport would cheapen the appearance of the house and would detract from the neighborhood generally but would be less desirable and less useable by the owner. This is a house with a full basement and the basement is in and for that reason the entire structure cannot be moved.

The variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare and will not be opposed to the general intent and spirit of the zoning ordinance.

OWNERSHIP LIST

<u>LOT</u>	<u>BLOCK OR STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
2	Elizabeth	Lawrence's 4th	✓ LeRoy Elbert Ross and Alice Louise Ross 344 S. Elizabeth
4	"	"	
6	"	"	✓ Everett C. Norton and Audrey M. Norton 342 S. Elizabeth
8	"	"	
10	"	"	Same
12	"	"	✓ Freida Kallail 334 S. Elizabeth
14	"	"	Same
16	"	"	✓ Ruth Marie Clark and Bernard F. Clark 601 S. Roosevelt
18	"	"	Same
20	"	"	✓ Leona O'Brien and Michael O'Brien
22	"	"	Same
24	"	"	✓ Ludie Hill, Bernice M. Bogue and Leroy O. Bogue 312 S. Elizabeth
26 (S½)	"	"	Same
26 (N½)	"	"	✓ Nella Atkins 308 S. Elizabeth
28	"	"	Same
30 (S.5')	"	"	Same
30, exc. S. 5 ft.	"	"	✓ Benjamin F. Patton and Dorothy E. Patton 306 S. Elizabeth
32	"	"	Same
34	"	"	✓ C. Wayne Stearns and Betty M. Stearns Haysville, Kansas.
36	"	"	Same

<u>LOT</u>	<u>BLOCK OR STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
3	Martinson	Lawrence's 4th	✓ St. Marys Syrian Orthodox Church 1318 Maple
5	"	"	✓ John E. Cousins and Hazel R. Cousins 716 E. 58th St. South
7	"	"	Same
9	"	"	Same
11	"	"	✓ James L. Flanigan and Marita V. Flanigan 325 S. Martinson
13	"	"	Same
15	"	"	✓ Bertie Megredy 321 S. Martinson
17	"	"	Same
19	"	"	✓ Kent Frizell and Shirley E. Frizell 319 S. Martinson
21	"	"	Same
23	"	"	Same
25	"	"	✓ John E. Mason and Veercella J. Mason 313 S. Martinson <i>notice returned</i>
27	"	"	✓ Same
29	"	"	✓ James McClain 307 S. Martinson
31	"	"	Same
33	"	"	✓ Mildred F. Sapp 301 S. Martinson
35	"	"	Same
4	16	Junction Town Co.	✓ Mary Good 305 S. Elizabeth
5	"	"	Same
6	"	"	✓ Mary L. Smith 309 S. Elizabeth
7	"	"	Same
8	"	"	Same

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
9	16	Junction Town Co.	✓ E. J. Nedeau and Margaret Nedeau 319 S. Elizabeth
10	"	"	✓ Same
11	"	"	✓ Mary E. Williams 323 S. Elizabeth
12	"	"	✓ Same
13	"	"	✓ Roy E. Carlson 1639 Garland
14	"	"	✓ Same
15	"	"	✓ Ward L. Anderson and Stella Anderson 331 S. Elizabeth
16	"	"	✓ Same
17	"	"	✓ H. Harold Frazier and Oneta Frazier 1502 W. Maple
18	"	"	✓ Same
19	"	"	✓ Simeon Thomas Priest 1509 W. Maple
20	"	"	✓ Same
21	"	"	✓ Howard B. Stanfield and Ruth Baker 1512 W. Maple

We hereby certify the foregoing to be a correct list of property owners within a radius of 200 feet of Lots 20 and 22 on Elizabeth Avenue, in Lawrence's 4th Addition to the City of Wichita, Kansas, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, this 17th day of November A. D. 1965 at 7 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Lucille Schreder*
Vice President.

Order No. 130581
(KPB)

FORM 223-021

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
-------------	--------

Bldg App. fees	
Variances	\$50.00
Name	L E Jensen Inc
Address	412 Butting Bldg
Type	R-712
Due Date	

Comments:

Date

11-29-65

By

Mata
Arrington

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

December 2, 1965

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Jack H. Galbraith
Secretary

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202



- 13012
- Moved, left no address
 - No such number
 - Moves, not forwardable
 - Addressee unknown

John E. & Veercella J. Mason
313 S. Martinson
Wichita, Kansas

URN
J
FER



*

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