

Case No. EZA 42-81 - Furr's Cafeteria Inc. - Request a variance to increase the number of permitted pole signs on the property and increase the permitted area of the pole signs on the property on property zoned the

*Rooted*  
*9-2-81*

**ACTION**

*B2A*  
*42-81*

DATE *2-22-81*  
COMMITTEE *Appears*

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

*5146 A*

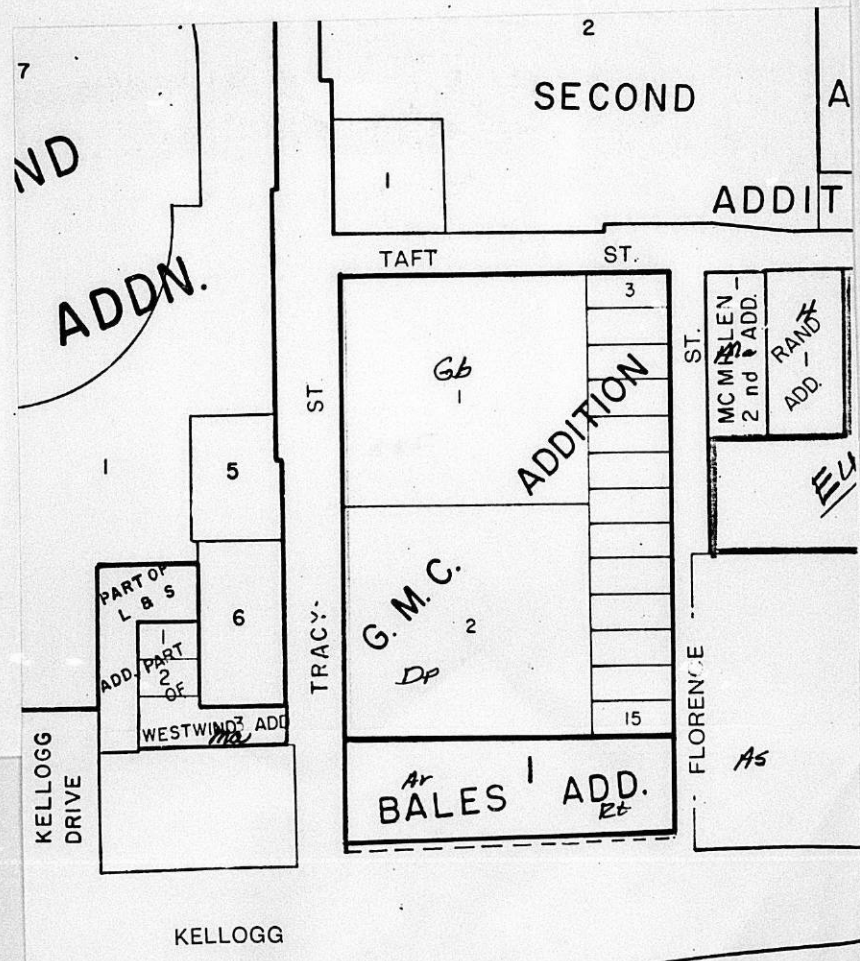
*10-15-81*  
*10-10-81*  
*10-19-81*  
*10-20-81*  
*10-22-81*  
*11 Sec*  
*check*  
*Shubert*  
*Receivable*

Map No. 5146  
 Sec. \_\_\_\_\_  
 Twp. \_\_\_\_\_  
 Range \_\_\_\_\_

BZA- 4281  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 1.3 ( 585 ft. by 990 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East MACHINE SHOP South US-54 HWY  
 West MACHINE SHOP; SHOOTING CENTER North \_\_\_\_\_  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use is for: GEN. BUSINESS, DEPT. STORE, AUTO PARTS SA  
RESTAURANT  
 6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



September 22, 1981

Furr's Cafeterias, Inc.  
3703 Avenue A  
Lubbock, Texas 79404

Re: Case No. BEA 42-81  
Request for Variance

Dear Mr. Vinson:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 22, 1981.

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,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Enclosure

cc: Tesco Signs, Inc., 2905 East Highway 80, Odessa, Texas 79761  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisiok, City Clerk

RESOLUTION NO. EZA 42-81

WHEREAS, Furr's Cafeterias, Inc., 3703 Avenue A, Lubbock, Texas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to increase the number of permitted area of pole signs on the zoning lot on property zoned the "E" Light Industrial District and legally described as follows:

Lots 1 through 15, G M C Addition to Wichita, Sedgwick County, Kansas and Lot 1, Bales Addition, to Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg between Tracy and Florence (4200 West Kellogg).

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 22, 1981, 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 frontage of the zoning lot adjacent to Kellogg is only 600 feet, whereas the depth of the zoning lot is approximately 1,000 feet and Kellogg is the logical location for identification signs; 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 proposed sign near Tracy Street would not be an interference to any sign on adjacent 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 only other means of signage would be a sign adjacent to the building that would be nearby 300 feet from the centerline of Kellogg; 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 sign will not be located on an easement or public right-of-way; 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 sign will be located approximately 350 feet from any other pole sign on the property; 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.

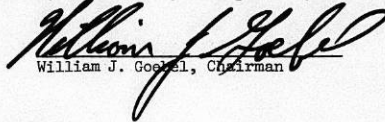
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to permit the increase in the number of pole signs on the zoning lot and to permit the increase in the gross area of pole signs on the zoning lot on property zoned the "E" Light Industrial District and legally described as:

Lots 1 through 15, G M C Addition to Wichita, Sedgwick County, Kansas and Lot 1, Bales Addition, to Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg between Tracy and Florence (4200 West Kellogg).


be approved subject to the following conditions:

1. The one additional sign permitted by the variance shall not exceed 150 square feet in gross surface area and shall not exceed 30 feet in height.
2. The additional sign shall be located near the Tracy-Kellogg right-of-way lines.

ADOPTED AT WICHITA, KANSAS, this 22nd day of September, 1981.

  
William J. Goebel, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA  
OFFICE OF CITIZEN PARTICIPATION

DATE September 21, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 42-81 (North side of Kellogg  
between Tracy and Florence)

CPO Council "0" considered the captioned case at their September 17th meeting and voted 7-0 to recommend denial of the variance request to increase the number of permitted pole signs and to increase the permitted area of pole signs on the property zoned "E", Light Industrial District, at the captioned location. It was the Council's opinion that the two existing signs on the property should be brought into accordance with the zoning ordinance, then there would be no need for a variance for the additional pole sign.

No one was present to speak in support or opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their September 22nd meeting.

  
Shirley Mast  
Administrative Aide III

SM:m1

Noted:

  
Sarah Gilbert  
CP Coordinator

SECRETARY'S REPORT  
CASE NO. BZA 42-81

APPLICANT: Furr's Cafeteria, Inc., 3703 Avenue A, Lubbock, Texas

AGENT: Tesco Signs, Inc., 2905 East Highway 80, Odessa, Texas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to increase the number of permitted pole signs and to increase the permitted area of pole signs on the property.

GENERAL LOCATION: On the north side of Kellogg between Tracy and Florence

ZONING: Subject property is zoned "E" Light Industrial as are all adjacent properties except to the west which a portion is zoned "LC" Light Commercial.

LAND USE: Subject property is developed commercially as are all adjacent properties.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the zoning ordinance related to the limitation on the number and area of ground and pole signs that can be placed on a property. The requested variance is to place one additional pole sign adjacent to the Kellogg frontage of 145 square feet in area.

The ordinance provides that the maximum height of the permitted signs shall not exceed 30 feet; provided, however, whenever the number of permitted ground or pole sign is reduced, one sign may be increased in height five feet for each sign reduction. This provision shall not increase any sign to height greater than 45 feet.

On this particular property, one sign is 52 feet in height which exceeds this maximum. The frontage along Kellogg is 600 feet which would permit a maximum of 3 pole signs adjacent to Kellogg. With only two signs on the property adjacent to Kellogg, one sign would be permitted to be 35 feet in height. By another provision of the ordinance, the larger sign should not exceed 225 square feet in area. It is actually 350 square feet in area.

Several methods of resolving the signage on the property to permit a sign for the applicant were suggested, however none of the suggestions were apparently satisfactory and the variance request was filed.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the frontage adjacent to Kellogg is only 600 feet, whereas the depth of the property is nearly 1000 feet and Kellogg is the logical location for identification signs.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the sign is to be installed near Tracy Street and would not be interfering with signs on adjacent 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 only other means for signage

Page 2  
EZA 42-81  
EZA AGENDA  
9-22-81

would be a sign adjacent to the building which is nearly 300 feet from the centerline of Kellogg, or to lower the K-Mart sign and reduce it in total surface area.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the sign would not be located near easements or public right-of-way.

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 the sign will be located approximately 350 feet from any other pole sign on the property.

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 conditions:

1. The one additional sign permitted by the variance shall not exceed 150 square feet in gross surface area and shall not exceed 30 feet in height.
2. The additional sign shall be located near the Tracy-Kellogg right-of-way lines.

BZA CASE NO. 42-81

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

9 NOTICES SENT TO ADJOINING PROPERTY OWNERS

22 TOTAL NOTICES SENT 9-4-81

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

9-04-81

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 42-81

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 Furr's Cafeterias, Inc., 3703 Avenue A, Lubbock, Texas, 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 increase the number of permitted pole signs on the property and to increase the permitted area of the pole signs on the property, on property zoned the "E" Light Industrial District. A legal description of the applicant's property is as follows:

Lots 1 through 15, G M C Addition to Wichita, Sedgwick County, Kansas and Lot 1, Bales Addition, to Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg between Tracy and Florence (1200 West Kellogg).

This application has been assigned Case No. BZA 42-81. It will be considered by the Board of Zoning Appeals on September 22, 1981, 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 or objections regarding 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.

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.

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

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 42-81  
FILED 8-24-81

APPLICATION FOR VARIANCE

I. Name of Applicant Furr's Cafeterias, Inc.  
Mailing Address 3703 Ave. A Lubbock, Texas 79404 Phone 806/763/6062  
Name of Authorized Agent Tesco Signs, Inc. ATTN: Bill Suggs  
Mailing Address 2905 East Hwy 80 Odessa, TX 79761 Phone 915/332/5422  
Relationship of applicant to property is that of Tenant Lessee  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to increase the number of permitted pole signs on the property and to increase the permitted number of the pole signs on the property  
is from limit of total sign area allowed on this property, per attached drawing on sketch #0287 and plot plan indicating location of requested sign, on the north side of Kellogg between Tracy & Thomas for property located (4200 West Kellogg)

\*  
see  
ownership  
lot.

and legally described as: ~~That part of lot 2, G.M.C. addition to Wichita, Sedgwick County, Kansas, described as commencing at the S.W. corner thereof; thence north along the West line of said lot 2, 30 feet; thence East a right angles, 43 feet for a place described in line, 208 feet; thence North at right angles, Cont. on attached sheet. 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 *Richard L. Furr*  
Furr's Cafeterias, Inc.  
Authorized Agent *Bill Suggs*  
Tesco Signs, Inc.

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:30 (~~7:00~~-p.m.), 8/24/81 together with appropriate fee of 750.00

Signed *R. Lytle*

## OWNERSHIP LIST

RECEIVED APR 2 4 1981

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	-	G M C Addition	Julia Frances Lygrisse, 3727 Sleepy Hollow, 67208
2	-	"	<i>recent 9-9-81 to 9628 See Dub</i> William E. Bales & Ruth N. Bales, RFD Goddard, 67052
3 thru 8, odd & even inclusive	-	"	67212 Julia Frances Lygrisse, 3727 Sleepy Hollow, 67208
9 exc. the south $\frac{1}{2}$ thereof	-	"	"
South $\frac{1}{2}$ of 9	-	"	<i>Dub</i> William E. Bales & Ruth N. Bales, RFD Goddard, 67052
10 thru 15, odd & even inclusive	-	"	"
1	-	Bales Addition	"
1	-	Westport 2nd Addition	Southwest National Bank, 400 E. Douglas, 67202
2	-	"	Dayton-Hudson Corp., 777 Nicollet Mall, Minneapolis, Minnesota, 55402
1	-	McMillen 2nd Addition	Ralph Vautravers & Donna Vautravers, 11126 Hidden Lake Rd., 67209
1	-	Rand Addition	"
3	-	Westwind Addition	H. Russell Bomhoff & Elgeva I. Bomhoff, 3030 Bluebird Dr., 67204
1, 5, & 6	-	Towne West Square 2nd Addition	Towne West Mall Co., 1712 N. Meridian, Indianapolis, Indiana, 46202
Tract in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of 26-27-1W beg. at the NE corner of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ ; then south along the east line of the NE $\frac{1}{4}$ 532 ft.; then west parallel to the south line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ 660 ft.; then north parallel to the east line of the NE $\frac{1}{4}$ to the south line of the north $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ ; then east along said south line to a pt. (conclusion on next page)			Slawson Investment Corp., 200 Douglas Bldg., 67202

Tract

Property Owner

395.88 ft. west of the east line of the NE $\frac{1}{4}$ ;  
then north parallel to the east line of the  
NE $\frac{1}{4}$  330.29 ft. more or less to the north line  
of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$ ; then east along said  
north line 395.88 ft. to beg.

Tract beg. at the SW corner of the south  $\frac{1}{2}$  of Julia Frances Lygrisse,  
the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of 26-27-1W; then 3727 Sleepy Hollow, 67208  
north 122 ft.; then east 357 ft.; then south  
122 ft.; then west to pt. of beg.

Tract in the NE $\frac{1}{4}$  of 26-27-1W beg. at a pt.  
40 rods north of the SE corner of the NE $\frac{1}{4}$ ;  
then west parallel to the south line of the  
NE $\frac{1}{4}$  660 ft.; then south parallel to the east  
line of the NE $\frac{1}{4}$  to the north line of U.S.  
Highway 54; then east along north highway line  
to a pt. 284 ft. west of the east line of the  
NE $\frac{1}{4}$ ; then north to a pt. 31 ft. south of and  
284 ft. west of pt. of beg.; then east 284  
ft.; then north 31 ft. to pt. of beg.

~~Southern Kansas Development  
Inc., Address Unknown~~

Tract in the NE $\frac{1}{4}$  of 26-27-1W beg. on the  
east line of the east  $\frac{1}{2}$  of the east  $\frac{1}{2}$  of  
the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  and 278.8 ft. north of  
the SE corner thereof; then westerly 330 ft.  
more or less to a pt. on the west line  
of the east  $\frac{1}{2}$  of the east  $\frac{1}{2}$  of the SW $\frac{1}{4}$   
of the NE $\frac{1}{4}$ , 271.8 ft. north of the SW  
corner thereof; then north 185 ft.; then  
east to a pt. on the east line 185 ft. north  
of beg.; then south to pt. of beg.

✓ Kansas State Highway  
Commission, 4448 W. Kellogg,  
67209

page 3

We hereby certify the foregoing to be a true and correct list of the property owners within a 200 foot radius of

*use for legal.*

[ Lots 1 through 15, G M C Addition to Wichita, Sedgwick County, Kansas AND Lot 1, Bales Addition, to Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 21st day of April, 1981, at 7:00 A.M.

The Security Abstract & Title Co., Inc.

By

*Mary Hable*  
Vice-President

Order No. 297620  
GE

**Furr's**  
CAFETERIAS, INC.

April 29, 1981

Board of Zoning Appeals  
City of Wichita  
455 North Main  
Wichita, Kansas

Re: Furr's Cafeteria #200  
4200 West Kellogg  
Wichita, Kansas

**RECEIVED**

MAY 5 1981  
METROPOLITAN PLANNING  
ROUTE  17

Gentlemen:

We respectfully request that a variance be granted for the allowable limit of total sign area allowed on this property.

This variance is requested because of a situation unique to this property. Our building is located to the North of Kmart's Tire, Battery, and Automotive store and visibility from U.S. Hwy 54 will be practically blocked.

The granting of this variance will not adversely affect the rights of adjacent property owners, as our sign is generally smaller than other signs in the vicinity.

We feel that the granting of this variance is extremely vital to the success of our business. Due to the fact that we are located behind the Kmart T.B.A. and the major traffic artery is U.S. Hwy 54. The granting of this variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. Our sign will not interfere with the visibility of other signs in this area.

The granting of this variance will not oppose the general spirit and intent of Title 28 (Zoning Ordinance).

con't.....

6901 QUAKER AVENUE • P.O. BOX 6747 • LUBBOCK, TEXAS 79413 • (806) 792-7151

Board of Zoning Appeals  
City of Wichita  
455 North Main  
Wichita, Kansas

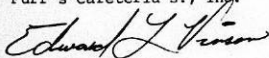
Re: Furr's Cafeteria #200  
Wichita, Kansas

page 2

We thank you for the consideration of our case and will be  
happy to answer any questions that you might have.

Respectfully,

Furr's Cafeteria's., Inc.



Edward L. Vinson  
Manager  
Furr's Engineering Department

ELV/sc

FORM 28-21

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.
	<u>Planning</u>		

DESCRIPTION	AMOUNT
City BZA Var.	\$150.00

NAME CLAUDE FED. SIGN CO.  
 ADDRESS 7450 So. MOSLEY  
 FUND 110-40071-003 DUE DATE 1220-000  
 COMMENTS \_\_\_\_\_  
 DATE Aug 24, 1981 BY H. Lytle

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688



REASON CHECKED

Undelivered  Return

Address unknown

Not in delivery area

No post office

Do not deliver at this time

BZA  
4-81



William E. & Ruth N. Bales  
RFD  
Goddard, Kansas 67052

received back  
9-9-81  
resent  
9-9-81

7 9628 Tee  
67212

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 2