

POTPD  
11-19-85 ADL

ACTION

B.Z.A. 67-85 Approved 12/19/85  
DATE

5047D

200' Sec 1-15-86

Shot 1/16/86

Record ✓

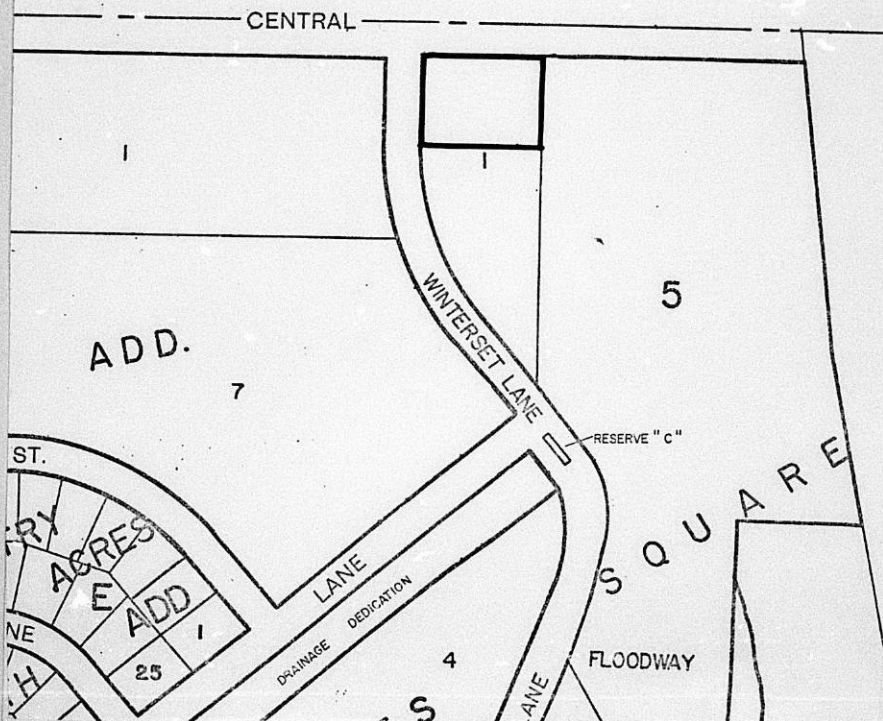
Case No. BZA 67-85 - Angelo R. Fasciano requests a variance to reduce the required rear yard setback from 10 feet to not less than 3 feet on property zoned the "LC" Light Commercial District & generally located on the southeast corner of Winter St. & Central (6613-4)

Map No. 5047D

BZA 67-85  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: E AA S LC W LC N LC
3. Land Use: East Floodway South Vac.  
West Comm North Vac.
4. Area (is) (~~to not~~) platted.



LOS ANGELES COUNTY  
PLANNING DEPARTMENT  
100 SOUTH MAIN STREET, SUITE 100  
LOS ANGELES, CALIFORNIA 90012  
U.S.A.

**Star.**  
No. 2153C

December 26, 1985

Confederated Builders  
Attn: Gary Burris  
503 Buckner  
Derby, Kansas 67037

Re: BZA 67-85 - Request for Variance  
(6617 West Central)

Dear Mr. Burris:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 17, 1985.

This Resolution reflects the official action of the Board to grant, 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:lw  
Encl.

cc: Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk  
Angelo R. Fasciano, 8225 Overbrook, Wichita, KS 67206

RESOLUTION CASE NO. 67-85

WHEREAS, Angelo R. Fasciano, 8225 Overbrook, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required rear yard setback from 10 feet to not less than 3 feet on property zoned the "LC" Light Commercial District and legally described as follows:

The north 160 feet of Lot 1, Block 5, Farmington Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Winterset Lane and Central (6617 West Central).

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 December 17, 1985, 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 it is adjacent to a dedicated floodway that is not a building site and as such should not be required to be protected by a setback designed to provide separation between adjoining properties; 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 adjacent site is not a developable tract of land and the reduction of the required yard area should not be of any significance; 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 applicant would be unable to locate the refrigerators on the east adjacent to the kitchen and service area of the restaurant; 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 reduction of the rear yard will not interfere with any needed right-of-way or easements; 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 yard requirements are designed to protect adjacent development from the service area of a commercial structure, whereas this would be adjacent to an undevelopable tract of land; 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 reduce the required rear yard setback from 10 feet to not less than 3 feet on property zoned the "LC" Light Commercial District and legally described as follows:

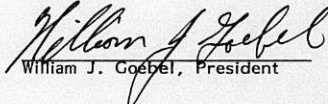
The north 160 feet of Lot 1, Block 5, Farmington Square Second Addition to Wichita, Sedgwick County,

Kansas. Generally located on the southeast corner of  
Winterset Lane and Central (6617 West Central).

be approved subject to the following conditions:

1. The reduction of the rear yard from 10 feet to not less than 3 feet shall only apply to refrigeration equipment and not for the construction of additional habitable floor area.

ADOPTED AT WICHITA, KANSAS, this 17th day of December,  
1985.

  
William J. Goebel, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE    December 12, 1985

TO      Glen Lytle, Special Assistant for Zoning

FROM    Barry L. Carroll, Administrative Aide III

SUBJECT    BZA 67-85: Southeast Corner of  
              Winterset Lane and Central  
              (6617 West Central)

On December 11, 1985, CPO Council "A" considered the captioned case, a request for a "variance" to reduce the required rear yard setback from 10 feet to not less than 3 feet on property zoned the "LC" Light Commercial District. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments.

The agent, Kendall Wooten, was present to describe the request and respond to questions from the Council. There were no area residents present. Mr. Wooten explained that the developer wished to install coolers that would encroach somewhat upon the City's ten (10) feet drainage easement. Additionally, the agent stated that fencing would be installed around these coolers in order to make the development more esthetically pleasing.

Council members were shown a drawing of the development and were able to ask questions. After extensive discussion, Council members stated that they had no problems with the request and voted 8-0 to recommend approval of the request.

Please provide this information to the Board of Zoning Appeals when BZA 67-85 is considered.

*Barry L. Carroll*

Barry L. Carroll  
Administrative Aide III

BLC:dm

Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director



RE: AGENDA ITEM NO 6

SECRETARY'S REPORT  
CASE NO. BZA 67-85

APPLICANT: Angelo R. Fasciano, 8225 Overbrook, Wichita, KS 67206

AGENT: Gary Burris, c.o Confederated Builders, 503 Buckner, Derby, KS 67037

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 10 feet to not less than 3 feet.

GENERAL LOCATION: On the southeast corner of Winterset Lane and Central (6617 West Central)

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the north, west and south. To the east is "AA" One-family Dwelling District.

LAND USE: Subject property is being developed as a restaurant. To the north and west is commercial development and to the south is vacant. To the east is dedicated floodway adjacent to the Wichita-Valley Center Flood Control right-of-way.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required rear yard setback from 10 feet to not less than 3 feet for the construction of walk-in coolers to be located on the east side of the building. This yard is considered a rear yard with the front adjacent to Winterset Lane which provides the vehicular access to the property.

The east property line is adjacent to a floodway that has been dedicated as a part of the plat. The adjacent property is not a building site and thus creates a certain uniqueness to the applicant's property.

In addition to the natural drainage along the east property line, the applicant has tried to provide a maximum amount of off-street parking for the restaurant. In so doing, the walk-in refrigerators encroach into the rear yard from zero feet to approximately seven feet for a portion of the required yard. The applicant proposes to screen and landscape this part of the property.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is adjacent to a dedicated floodway that is not a building site and as such should not be required to be protected by a setback designed to provide separation between adjoining properties.

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 adjacent site is not a developable tract of land and the reduction of the required yard area should not be of any significance.

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 applicant would be unable to locate the refrigerators on the east adjacent to the kitchen and service area of the restaurant.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the rear yard will not interfere with any needed right-of-way or easements.

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 yard requirements are designed to protect adjacent development from the service area of a commercial structure, whereas this would be adjacent to an undeveloped tract of land.

RECOMMENDATION:

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

1. The reduction of the rear yard from 10 feet to not less than 3 feet shall only apply to refrigeration equipment and not for the construction of additional habitable floor area.

BZA CASE NO. 67-85

<u>2</u>	NOTICES SENT TO APPLICANT/ACENT
<u>15</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>6</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>9</u>	TOTAL NOTICES SENT <u>12/2/85</u>

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

November 25, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 67-85

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 Angelo R. Fasciano, 8225 Overbrook, Wichita, Kansas, 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 reduce the required rear yard setback from 10 feet to not less than 3 feet on property zoned the "LC" Light Commercial. A legal description of the applicant's property is as follows:

The north 160 feet of Lot 1, Block 5, Farmington Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Winterset Lane and Central (6617 West Central).

This application has been assigned Case No. BZA 67-85. It will be considered by the Board of Zoning Appeals on December 17, 1985 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.

Glen E. Lytle  
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 67-85

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

- I. Name of Applicant Angelo R. Fasciano  
Mailing Address 8225 Overbrook, W.K., Phone 683-3683  
67206  
Name of Authorized Agent Conted. Builders, % Gary Burris  
Mailing Address 503 Buckner, Perly, Ks 67037 Phone 788-3701  
Relationship of applicant to property is that of owner  
(Owner, Tenant, Lessee, Other)

- II. The variance requested is to reduce the rear yard  
setback from 10 feet to not less than 3 feet

\_\_\_\_\_

\_\_\_\_\_

for property located on the southeast corner of Winterset Lane  
and Central (6617 West Central)  
and legally described as: The north 160 feet of Lot 1,  
Block 5, Farmington Square Second Addition  
to Wichita, Sedgwick County, Kansas

\_\_\_\_\_

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

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
  - That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 39-285); and that the appropriate fee is herewith tendered;
  - 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.
  - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant \_\_\_\_\_

Authorized Agent Gary Burris

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:45 (a.m./p.m.), NOVEMBER 18, 1985, together with appropriate fee of 300.00.

Signed [Signature]

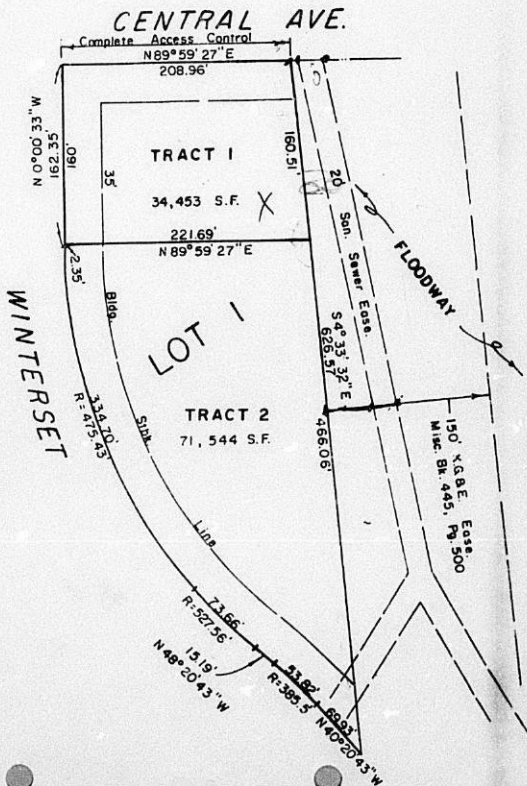
LOT SPLIT

Tract 1  
The North 160 feet of Lot 1, Block 5, Farmington Square  
2nd Addition, Wichita, Kansas.

Tract 2  
Lot 1, Block 5, Farmington Square 2nd Addition, Wichita,  
Kansas, EXCEPT the North 160 feet, thereof,

Prepared by:

Lowell D. High, L.S.  
September 13, 1985



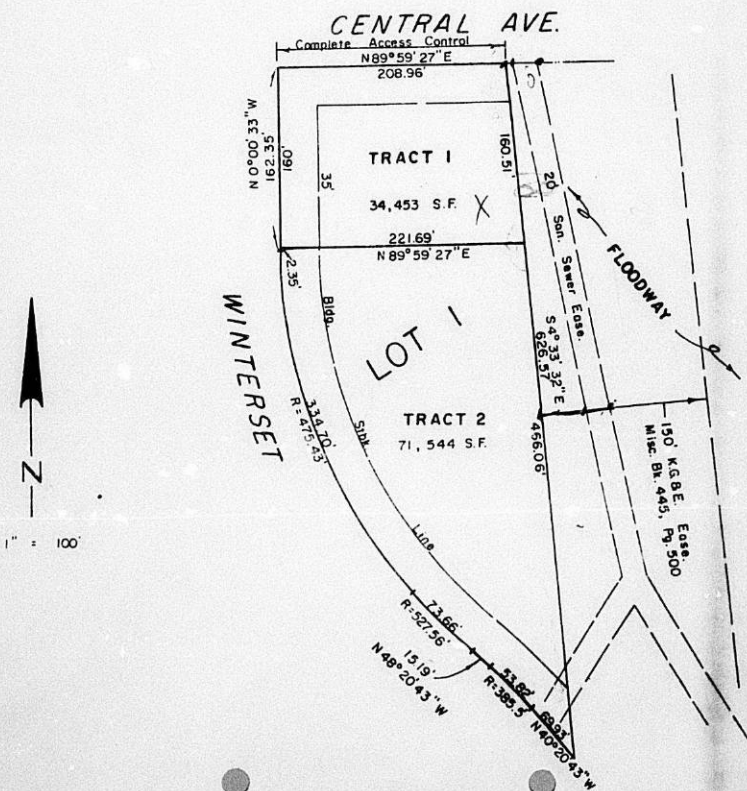
LOT SPLIT

Tract 1  
The North 160 feet of Lot 1, Block 5, Farmington Square  
2nd Addition, Wichita, Kansas.

Tract 2  
Lot 1, Block 5, Farmington Square 2nd Addition, Wichita,  
Kansas, EXCEPT the North 160 feet, thereof,

Prepared by:

Lowell D. High, L.S.  
September 13, 1985



**Confederated Builders, Inc.** 503 N. Buckner / Derby, Kansas 67037 / (316) 788-3913

November 18, 1985

City of Wichita  
Wichita, Kansas

Re: Variance of easement.


Confederated Builders, Inc. requests a variance of encroachment, by walk-in coolers, on a 10 ft. side yard easement.

Ample rear yard set back was not obtainable due to building design revisions and parking lot requirements for seating.

Confederated Builders, Inc. justifies this request as follows: Adjacent property is designated to be a density area and to remain undeveloped. Beyond the density area is a floodway. Therefore, this variance would not create a future development problem.

The contractor intends to enclose the coolers with a fence and planting, the same as used in landscaping the building.

CONFEDERATED BUILDERS, INC.

  
Gary E. Burris

**Confederated Builders, Inc.** 503 N. Buckner / Derby, Kansas 67037 / (316) 788-3913

November 18, 1985

City of Wichita  
Wichita, Kansas

Re: Variance of easement.

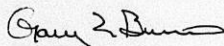
Confederated Builders, Inc. requests a variance of encroachment, by walk-in coolers, on a 10 ft. side yard easement.

Ample rear yard set back was not obtainable due to building design revisions and parking lot requirements for seating.

Confederated Builders, Inc. justifies this request as follows: Adjacent property is designated to be a density area and to remain undeveloped. Beyond the density area is a floodway. Therefore, this variance would not create a future development problem.

The contractor intends to enclose the coolers with a fence and planting, the same as used in landscaping the building.

CONFEDERATED BUILDERS, INC.



Gary E. Burris

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, Of:

The north 160 feet of Lot 1, Block 5, Farmington Square 2nd Addition to Wichita, Sedgwick County, Kansas.

together with all real estate lying within a 200-foot radius thereof.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>FARMINGTON SQUARE 2ND ADDITION</u>	
<u>BLOCK 5</u>	
The North 160 feet of Lot 1	✓ Angelo R. Fasciano and Anna Fasciano 8225 Overbrook Wichita, Kansas 67206
Lot 1, except the north 160 feet	✓ Robert G. Bundy and Philip A. Bundy 9427 Provincial Wichita, Kansas 67212
<u>ROBERT HAYES ADDITION</u>	
Lot 1	✓ H.R. Hutchison and Shirley Hutchison 6730 W. Central Wichita, Kansas 67212
That part of Lot 3, Robert Hayes Addition, Wichita, Sedgwick County, Kansas, described as beginning at the Northeast corner thereof; thence west along the North line of said Lot 3, 85.69 feet; thence south at right angles, 36 feet; thence east at right angles, 12.33 feet; thence southeasterly, 94.87 feet to a point on the southerly line of said Lot 3, said point being 79.42 feet westerly of the S.E. Corner of said Lot 3; thence easterly 79.42 feet to the S.E. Corner of said Lot 3; thence northwesterly, 122.50 feet to the place of beginning.	✓ James D. Miner and Lelia M. Miner 6606 W. Central Wichita, Kansas 67212
Lot 3, Robert Hayes Addition, Wichita, Sedgwick County, Kansas, except that part described as beginning at the N.E. Corner thereof; thence west, along the north line of said Lot 3, 85.69 feet; thence south at right angles, 36 feet; thence east at right angles, 12.33 feet; thence southeasterly, 94.87 feet to a point on the southerly line of said Lot 3, said point being 79.42 feet westerly of the S.E. Corner of said Lot 3; thence easterly, 79.42 feet to the S.E. Corner of said Lot 3; thence northwesterly 122.50 feet to the place of beginning.	✓ Ronald E. Helten and Dorothy C. Helten 6630 W. Central Wichita Kansas 67212

DESCRIPTIONOWNERS AND ADDRESSESCENTRAL-RIDGE ADDITION  
BLOCK 1

A tract of land in Lot 1, described as beginning at the Northeast Corner of said Lot 1; thence along the East line of said Lot 1, a distance of 317.28 feet to a point common to lots 1 and 7, in said Central-Ridge Addition; thence along the South line of said Lot 1, a distance of 434.25 feet; thence north perpendicular to said South line a distance of 315 feet to a point in the North line of said Lot 1; thence east along said North line a distance of 411 feet to the point of beginning.

✓ Falley's Inc.  
Profit Sharing Plan Trust  
3120 S. Kansas Avenue  
Topeka, Kansas 66611

Lot 7

✓ Young Men's  
Christian Association  
P.O. Box 3636  
Wichita, Kansas 67202

Dated this 23rd day of October, 1985, at 7:00 A.M.

REALTY TITLE CO., INC.

By: Judy Cachard  
Judy Cachard

F851118

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29-0

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
City 124 V. 10	\$300.00
NAME	CONCRETE BUILDING CO
ADDRESS	281 Eastway, Dwyer Bldg
FUND	750-40710-001
COMMENTS	DUE DATE
DATE	BY
10/12/85	[Signature]

\*

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

Roll # 2