

CASE NO. 7-55

GEO. E. HARRIS  
& CO., INC.

CASE 7-55

*Re: Notify Harris & Co. will talk about Monday 8-23-55 - Told Chas. Harris by phone*

**THE CITY OF WICHITA, KANSAS**



FRED W. ALEY  
CITY ATTORNEY  
LAWRENCE E. CURFMAN  
PAUL J. DONALDSON  
ROBT. B. MORTON  
DOUGLAS E. SHAY  
THEODORE H. HILL  
ROBERT C. HELMBL  
ASSISTANT CITY ATTORNEYS

DEPARTMENT OF LAW

OFFICE OF CITY ATTORNEY

WICHITA 2, KANSAS

August 10, 1955

Board of Zoning Appeals of the  
City of Wichita, Kansas  
City Building  
Wichita, Kansas



FACTS

The George E. Harris & Co., Inc., a local corporation is the owner of real property located at 1821 South Hillside, Wichita, Kansas. This corporation acts as sales and engineering representatives, principally in the brokerage of aircraft parts and components. They propose to use the premises as an office for conducting such operation. In such operation, there would be no inventory kept on the premises and there would be no physical trans-shipment of merchandise, goods or wares through said office, and no physical sales or deliveries would be made at said premises.

Said premises are now zoned "B" residential. The George E. Harris & Co., Inc., on July 19, 1955, made application to the City Building Inspector for a permit to use said premises for said purpose and to do some remodeling of said premises. Said application for permit was denied by the City Building Inspector on the ground that such use was not allowed under the strict application of the provisions of the zoning ordinances of the City of Wichita. The George E. Harris & Co., Inc. filed an appeal for variance or exception, being Board of Zoning Appeals Case No. 7-55.

QUESTIONS SUBMITTED

May the Board of Zoning Appeals assume jurisdiction to determine whether an exception or variance from the strict application of the zoning ordinance of the City of Wichita in regard to the use and remodeling of such premises for the purposes stated?

OPINION

The ordinance setting forth the jurisdiction of the Board of Zoning Appeals is ordinance number 19-725, sec. 21, the applicable

portion of which is as follows:

"1. Jurisdiction

2. Exceptions and Variances:

Further, the board shall have jurisdiction and power to grant exceptions and variances from the strict application of the provisions of this article; provided, however, that in the matter of granting exceptions and variances the board shall not assume jurisdiction unless it first finds that the following conditions are present:

2.1 That the exception or variance desired arises from some condition which is not ordinarily found in the same zoning district;

2.2 That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

2.3 That the strict application of the terms of this article will constitute unnecessary hardship upon the property owner represented in the appeal;

2.4 That the exception or variance desired is not against the public interest."

The proposed use is unique in that the specific uses to be made of the premises entail no immediate physical contact with customers, clients, the public in general, the business community, or the neighborhood at the described premises, and constitutes a condition which is not ordinarily found in the same zoning district. It does not appear that the use of the premises would be observable to the adjacent property owners or residents as significantly different than the use of the property as a residence, or under other uses specifically permitted in the "B" residence zone, and therefore the proposed use would not adversely affect the rights of adjacent property owners or residents. A strict application of the terms of the zoning ordinance would preclude this property owner from a reasonable use proposed to be made of the said premises, and would constitute an unnecessary hardship on the property owner represented in the appeal, forcing him to secure other property for this purpose. None of the facts stated indicate that the exception or variance desired is against the public interest.

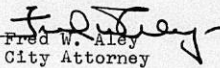
SUMMARY

It is, therefore, the opinion of the Department of Law that the Board of Zoning Appeals has jurisdiction and may properly assume jurisdiction under the specific facts as stated to determine

Board of Zoning Appeals of the  
City of Wichita, Kansas  
Page 3, August 10, 1955

strict application of the provisions of the zoning ordinance for  
the proposed use and remodeling of the said premises.

Respectfully submitted,

  
Fred W. Aley  
City Attorney

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To Geo. E. Harris & Co. Owner Address 1734 N. Hillside  
To Charles W. Harris Applicant <sup>HO 41376</sup> Address 830 First Nat'l. Bank Bldg.

Dear Sir:

Your application Dated 7-19-55

For a Permit for the remodeling of a structure  
\_\_\_\_\_ at the premises designated as  
1821 So. Hillside

Is hereby refused on this 19th day of July, 1955,  
Under Section 5-A <sup>21-11A</sup> of the Zoning Ordinance.

For the reason that offices are not permitted in the "A" zone. On July 19, the City Commission concurred with the Planning Commission in refusing the application for a change of zoning to a "LC" use but that it be changed to "E" residential. Even though this change is made to the "B" district, offices would not be permitted.

*Motion - Do not  
take jurisdiction -  
pending opinion  
by City Atty*

Respectfully,

  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

Case No. 7-55

ZONING APPEALS PETITION

Accepted as to form

Date July 20, 1955

Receipt No. 31854  
(from Purchasing Dept.)

WICHITA BOARD OF ZONING APPEALS

BY [Signature]

*Don Ball*

Case No. 7-55

Filed 7-20-55 19

APPEAL FOR VARIANCE OR EXCEPTION

TO: The Board of Zoning Appeals  
Room 205, City Building  
Wichita, Kansas

The undersigned GEORGE E. HARRIS & CO., INC. hereby appeals from the decision of the Building Inspection Superintendent wherein a Building Permit is refused under Section 5-A of the Zoning Ordinance to remodel a structure for the use as an office by the owner and petitioner, at the premises located at 1821 South Hillside. This permit was denied for the reason that proposed use not technically within Section 5-A of the Zoning Ordinance.

The plans, application, and all data heretofore filed with said Building Inspection Superintendent are attached hereto and made a part of this appeal, also, see Exhibit "A" attached hereto, made a part hereof and incorporated herein.

I have not made a previous application or appeal under the Zoning Ordinance affecting these premises.

I hereby declare that all the statements contained in all of the information transmitted herewith are true.

Appellant GEORGE E. HARRIS & CO., INC.  
By Charles W. Harris  
CHARLES W. HARRIS, Its Attorney

Appellant GEORGE E. HARRIS & CO., INC. Address 1734 North Hillside

Owner GEORGE E. HARRIS & CO., INC. Address 1734 North Hillside

Lessee N O N E Address \_\_\_\_\_

(This appeal shall be filed with a \$15.00 fee within ninety days after the date of the decision of the Building Inspector.)

EXHIBIT "A"

SUPPLEMENT TO APPEAL STATEMENT ON APPEAL FOR VARIANCE OR  
EXCEPTION TO THE BOARD OF ZONING APPEALS, WICHITA, KANSAS

The petitioner, GEORGE E. HARRIS & CO., INC. proposed to use said property in its business as brokers and engineering representatives in the sale of aircraft parts and components. The function of this company is to serve as the intermediary between manufacturing companies (principally airplane manufacturing companies) and subcontractors in first determining the needs of the manufacturing companies for parts and components and filling that need by arranging for the subcontractors to produce or supply such parts or components.

This company would not keep any inventory on its premises; would not have any walk-in trade; but the premises would be used as an office for telephone calls and correspondence in relation to its work as described above. There would be no advertising other than the name of the company on the outside of the building and there would be no trans-shipment of merchandise through said office. Very minor remodeling would be entailed, consisting principally of redecorating the interior of the building and possibly the construction of a car port comparable to that found in the construction of contemporary residences. } X

The building inspector felt constrained to issue a refusal under Section 5-A of the Zoning Ordinance because the use of the structure proposed by the petitioner was not technically within the uses provided in the Zoning Ordinance. } X

Petitioner submits that the Board of Zoning Appeals should assume jurisdiction of this appeal on the following grounds:

*No answer*

1. The exception or variance desired by the petitioner arises from a condition not ordinarily found in the same zoning district in that the appearance of the premises will remain essentially residential in character and the only changes to be made in the premises would enhance and improve the residential characteristics of the premises.

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. An adjacent property owner or resident will be unable to discern any significant difference than would be found in the use of the premises as a residence. The few employees will merely enter the premises at the beginning of the working day and leave the premises at the close of the working day, conducting their business by telephone and correspondence without vehicular or walk-in traffic, without deliveries or dispatches of merchandise and without noise or other disturbance of the area.

3. The strict application of the terms of the ordinance will constitute unnecessary hardship upon the property owners represented in the appeal.

The property owner now conducts its business from an office located at 1734 North Hillside, Wichita, Kansas. This

property is under lease which will expire in the very near future  
which will require the property owner to move its place of business X  
at that time.

The property owner discussed the proposed use of the property with the Director of the Planning Commission and petitioned the Planning Commission and City Commission to change the zoning of this property from "A" to "LC" zoning. All of these indicated that the use to be made of the property was appropriate but stated that "LC" zoning would allow a later change in use which might be objectionable.

At the meeting of the City Commission on July 19, 1955, several of the City Commissioners indicated that this petitioner should perfect this appeal to the Board of Zoning Appeals for a variance or exception which would allow the use of the property by the Petitioner while at the same time precluding some other and possibly objectionable use. The City Commission at said meeting voted to change the zoning to "B" zoning. Several commissioners stated that the circumstances in this matter pointed out the pressing need for a revision of the use regulations under "B" zoning. The City Commission immediately thereafter adopted a resolution requesting that the Planning Commission conduct hearings in regard to such a change in the use regulations and tacitly indicated that they consider the use proposed by the petitioner should be a use allowed under "B" zoning. A glance

at the present ordinance which allows cemeteries, boat houses green houses, hotels, nurseries, homes for the aged, private clubs and storage garages, clearly shows that the proposed use of the premises would be considerably less objectionable than any of said uses. The commissioners indicated that it would probably take some time to revise said zoning ordinance and if the petitioner is required to await such change, he will be evicted from his present office and will be forced to secure some other location which will entail considerable cost in the changes of all letter-heads and stationery and changing telephone connections not to mention the inconvenience and expense incurred in a number of unnecessary moves about the city, all of which could be prevented by the granting of a variance or exception. X

4. The variance or exception requested is not against the public interest. This petitioner serves an important part, although on a somewhat minor scale, to the airplane industry which has been so largely responsible for the growth of our city, and in also serving the small manufacturers without whom the city can not reach a commercial or industrial stability. It is submitted that it is very definitely in the public interest that the premises be used in the performance of those functions by the petitioner, particularly when the use of the premises in such a way will not interfere or disturb the neighborhood but will serve as a buffer between the shopping center to the north and the super market across the street to the east and the residential area to the south and west. X

As indicated above, most of the remodeling will consist of redecorating the interior which will not require plans or architectural drawings and therefore plans are not available at this time. However, as soon as available they will be furnished to the Board as well as photographs of the premises.

Respectfully submitted

GEORGE E. HARRIS & CO., INC., Petitioner

By *Charles W. Harris*

CHARLES W. HARRIS, Its Attorney

No 588790

RECEIPT FOR CERTIFIED MAIL—15¢

SENT TO George E. Harris & Co., Inc	POSTMARK OR DATE
STREET AND NO. 1734 North Hillside	
CITY AND STATE Wichita, Kansas	
If you want a return receipt, check which <input checked="" type="checkbox"/> It shows to whom and when delivered <input type="checkbox"/> It shows to whom, when, and address where delivered	

POD Form 3900  
Apr. 1955

POST OFFICE OFFICIAL BUSINESS	1. WATER LINE TO AVENUE U.S. POSTAGE, 2900
REGISTERED NO. JUL 23 588790 KANSAS	GIVE MENT HEAR FUNS
CERTIFIED NO.	
INSURED NO.	
RETURN TO →	NAME OF BENEFITARY Geo. J. Fisher
	STREET AND NO. OR P.O. BOX 205 City Building
	POST OFFICE Wichita 2, Kansas
	STATE

POD Form 3811  
Apr. 1955

No 588790

RECEIPT FOR CERTIFIED MAIL—15¢

SENT TO George E. Harris & Co., Inc.	POSTMARK OR DATE
STREET AND NO. 1734 North Hillside	
CITY AND STATE Wichita, Kansas	
<small>If you want a return receipt, check which</small> <input checked="" type="checkbox"/> <small>76 shows to whom and when delivered</small>	<input type="checkbox"/> <small>76 shows to whom, when, and address where delivered</small>

POD Form 3800  
Apr. 1955

DELIVERING EMPLOYEE  Deliver ONLY to addressee  
 Show address where delivered.



Received from the postmaster the registered, certified, or insured article, the number of which appears on the face of this return receipt.

1. George E. Harris & Co.  
(Signature or name of addressee)

2. Lola A. Finley  
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of Delivery 7-27-52

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

*file copy*

July 27, 1955

George E. Harris & Co., Inc.  
1734 North Hillside  
Wichita, Kansas

Gentlemen \_\_\_\_\_:

Your appeal, under the Zoning Ordinance, relative to premises at  
\_\_\_\_\_ 1821 South Hillside \_\_\_\_\_

has been given Board of Zoning Appeals Case No. 7-55.

All inquiries and references should always be made to that Case  
Number when you seek information from the Secretary.

Further, you are notified to appear before the Board of Zoning  
Appeals either in person, or by agent or attorney, for a hearing of  
your case on Friday, August 5, 1955, at 1:30 p.m.  
In Room 201, City Building

Respectfully,

Geo. J. Fisher

Secretary, Board of Zoning Appeals

cc: Chas. W. Harris, Attorney  
830 1st Natl Bank Bldg  
Wichita 2, Kansas

*file copy*

BOARD OF ZONING APPEALS  
Room 205, City Building  
Wichita 2 Kansas

NOTICE TO PROPERTY OWNERS

July 27, 1955

An appeal has been filed by Chas. W. Harris, Attorney,  
(address) 830 First National Bank Building, on behalf of  
George E. Harris & Co., Inc. (address) 1734 North Hillside  
as provided by Section 21-27 of Vol. I of the Wichita City Code.  
~~the 1955 City Code~~ The appellant  
desires to remodel a structure for the use as an office by the  
owner and petitioner  
on the premises located at 1821 South Hillside

This appeal has been given Case No. 7-55 and a hear-  
ing will be held by the Board of Zoning Appeals on Friday,  
August 5, 1955, at 1:30 p.m. in Room 201 of the City Building,  
at which time you may appear, if you so desire, either in person or  
by agent or attorney.

By order of the Board of Zoning Appeals.

Geo. J. Fisher  
Secretary, Board of Zoning Appeals

Case 7-55

ms  
Mule  
Beard  
45th S. Park  
3103

Petition  
Wichita, Kansas August 3, 1955

We the undersigned object to any change in the zoning status on the property owned by George E. Harris & Co. 1734 North Hillside, which is located between Funston and Mt. Vernon Road, on the West side of Hillside and which is referred in an appeal for rezoning as case #7-55

The views of the bearer of this petition are unaniously endorsed by the signers of this petition.

- Mrs Opal M. Harris 1855 S. Hillside MU 2-6809
- Homer + Jessie Loney 1834 So. Chautauque MU 2-6329
- Harold and Jona Paul 1841 So. Volusia MU 2-7558
- George + Mildred Stanley 1850 So. Poncho MU 4-2604
- Elizabeth Warden 1222 Pearce 704-7583
- Robert Warden 1222 Pearce
- Rose + Leonard Fergies 1830 S. Chautauque
- J.A. Hadriks 1835 So. Hillside
- Morothy M. Hadriks 1835 S. Hillside
- Res. of Mrs. Ken S. Armstrong 2207 S. Wichita

Presented to  
8/15/55  
1.05

NAMES AND ADDRESSES OF THE OWNERS

Robert L. & Elizabeth S. Worden	-	1222 Pearce Avenue
George N. & Mildred M. Stanley	-	2239 Laura Avenue
Ralph A. & Ruth L. Davis	-	3025 East Funston
Kenneth E. & L. Ruth Littell	-	3031 East Funston
Homer R. & Josie Ireta Loney	-	1834 South Chautauqua Avenue
Leonard & Permelia May Fuqua	-	1830 South Chautauqua Avenue
Harold R. & Zona B. Paul	-	821 South Volutsia
Homer R. & Josie Ireta Loney	-	1834 South Chautauqua Avenue
T. A. & Dorothy M. Hadicke	-	1835 South Hillside Avenue
Leon F. & Opal Mae Harris	-	Unknown
George E. Harris & Co., Inc.	-	1734 North Hillside Avenue
A. E. & C. I. Amend	-	1805 South Hillside Avenue
Merl & Della Beard	-	1538 South Pershing Avenue
Safeway Stores, Inc.	-	307½ Laura

STATEMENT OF OWNERSHIP

STATE OF KANSAS }  
 SEDGWICK COUNTY } SS:

The undersigned, duly bonded and qualified abstractor 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:

Property within 200' of:

A tract in the NE $\frac{1}{4}$  of Section 34, Township 27, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as follows:

Beginning 356 feet South of the NE corner of the S $\frac{1}{2}$  of the NE $\frac{1}{4}$  of said Section 34, thence West 237 feet and 4 inches, thence North 150 feet; thence East 237 feet and 4 inches, thence South 150 feet to the place of beginning, in the City of Wichita, Kansas.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

LOTS	ADDITION	OWNER
1	Acker Addition	Robert L. & Elizabeth S. Worden
2	" "	George N. & Mildred M. Stanley
1 (exc. E 54')	Glenwood Addition	Ralph A. & Ruth L. Davis
1 (E. 54')	" "	Kenneth E. & L. Ruth Littell
4 (S. 31')	" "	Homer R. & Josie Ireta Loney
4 (exc. S 31')	" "	Leonard & Permelia May Fuqua
5 (E 172.5' of S 70')	" "	Harold R. & Zona B. Paul

  
**Fidelity**  
**Title**  
**Company,**  
*inc.*



LOTS	ADDITION	OWNER
(N. 46 <sup>5</sup> )	Glenwood Addition	Homer R. & Josie Ireta Loney

Beginning 356' S of NE Corner S $\frac{1}{2}$  NE $\frac{1}{4}$  34-27-1E, W 356', S 118'8", E 356', N 118'8" to beginning T. A. & Dorothy M. Hadicke

The North 81'4" of:  
Beginning 474'8" S of NE corner S $\frac{1}{2}$  NE $\frac{1}{4}$  34-27-1E, W 356', S 118'8", E 356', N 118'8" to beginning Leon F. & Opal Mae Harris

Beginning 356' S of NE corner S $\frac{1}{2}$  NE $\frac{1}{4}$  34-27-1E, W 237'4", N 150', E 237'4", S 150' to beginning George E. Harris & Co., Inc.

Beginning NE corner S $\frac{1}{2}$  NE $\frac{1}{4}$  34-27-1E S 206', W 237'4", N 206', E 237'4" to beginning A. E. & C. I. Amend

Beginning 237'4" W of NE corner of S $\frac{1}{2}$  NE $\frac{1}{4}$  34-27-1E, S 356', W 118'8", N 356', E 118'8" to beginning Merl & Della Beard

N 530' of that part of N $\frac{1}{2}$  of SW $\frac{1}{4}$  NW $\frac{1}{4}$  lying E of Hillside & W of Geo Washington Blvd. in 34-27-1E Safeway Stores, Inc.

Dated April 25, 1955; 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

BY Elsie M. Farrell  
Sec.

  
Fidelity  
Title  
Company,  
inc.

