

CASE NO. 8-52

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING COMMISSION

CITY BUILDING ANNEX 104 S. MAIN STREET WICHITA 2, KANSAS

November 6, 1958

Mrs. Florence V. Gearhart
1643 South Emporia Street
Wichita 11, Kansas

Subject: ^{file in} ~~BZA 8-52~~ and
BZA 9-54

Dear Mrs. Gearhart:

This will acknowledge receipt of your letter of October 27, 1958. The letter was addressed to Mr. George J. Fisher, Secretary of the Board of Zoning Appeals. In as much as Mr. Fisher is no longer employed by the City of Wichita, the letter has come to my attention as the new Secretary of the Board of Zoning Appeals.

Examination of the records on subject cases indicates that at their meeting of September 17, 1954, the Board of Zoning Appeals took action as follows:

"Now, therefore, be it resolved by the Board Of Zoning Appeals that an extension be granted to a variance given on November 10, 1952 for the use of the premises at 1643 South Emporia as a Child Day Care Center for a period of two (2) years under the conditions that the maximum number of children not exceed (20); that the appellant must fully comply with the requirements of the City Building Code and State Board of Health; and that this variance can be extended at the end of two (2) years and each year thereafter by the Secretary of the Board of Zoning Appeals upon written request from the appellant as long as said appellant owns and operates this Child Day Care Center."

Further examination of the minutes of this meeting indicate that it was the intention of the Board of Zoning Appeals that the Secretary should issue such an extension only after the premises had been duly inspected by the Health Department and be the Building Inspection Superintendent; to verify that all conditions are still being met.

Copies of this letter are being forwarded to Mr. Aiken of the City-County Health Department and to Mr. Maple of the Building Inspection Superintendent's office. By this copy, each of them is being requested to conduct the investigation considered appropriate.

Mrs. Florence V. Gearhart-----Page 2

and forward their replies to me at their earliest convenience. When replies have been received from these departments, you shall be notified of their findings and of the action which it will be possible for me to take as Secretary of the Board of Zoning Appeals.

Very truly yours,

Leland R. Edmonds
Secretary of the
Board of Zoning Appeals

LRE:hp
cc: Mr. Jim Aiken
City-County Health Department
1900 East Ninth Street
Wichita, Kansas

Mr. S. B. Maple
Building Inspection Superintendent
104 South Main
Wichita, Kansas

BOARD OF ZONING APPEALS

The applicant in this case desires to attach the following written statement to Petition heretofore filed.

The business being operated by the petitioner is one that normally is carried on by an individual in their home and is not such operation as is ordinarily found in a zoning district outside the residential area. It would not be a satisfactory operation to try to hold the same in an area zoned other than for residential purposes. Applicant believes that the exception and variance should be granted in this case for the following reasons:

1. The school has been operated in this district for several years without complaint from the neighbors and is one that normally falls within a residential area.
2. The children attending this nursery school are not permitted to leave the premises except as they are called for by their parents or guardians. Most of the time that they are present at the school they are inside the house and do not create any large amount of noise so as to affect the rights of the adjacent property owners or residences.
3. The applicant for this exception and variance has been operating the school for several years, has expended a large amount of money in equipment to make the school a success and for the best interests of the children attending the school. The applicant has studied, and is still studying at Wichita University in the evenings to enable her to better perform duties of the leader of such a school. Applicant has expended considerable money in materials with which to operate said school and on the prices that she charges can not maintain the school with as few as ten children. In order for the school to not be a losing proposition she must have at least twenty to twenty-five children.
4. This exception and variance is not against public interest because more and more mothers of small children are finding it necessary, for various reasons, to work and must have some economical and safe places

to leave their children during their working hours. The applicant charges a very low rate for the care and attention given these children. The location is favorable to the persons using her services in that the location is on Harry Street, one of the main arteries used by persons working at the airplane factories. In fact, applicant makes but very little in the operation of the school because she employs additional help and there is attached to its operation considerable expenses. The charges made by applicant are less per hour than other schools.

Applicant does not ask this exception and variance on a permanent basis and only seeks the same to her personally and not on such a basis as would permit her on the sale of the property to sell the nursery school. Applicant would be satisfied with being guaranteed the right to continue the operation of this school on such a basis as would give to her only the right to continue such operation.

Mrs. Florence V. Leach

BOARD OF ZONING APPEALS

The applicant in this case desires to attach the following written statement to Petition heretofore filed.

The business being operated by the petitioner is one that normally is carried on by an individual in their home and is not such operation as is ordinarily found in a zoning district outside the residential area. It would not be a satisfactory operation to try to hold the same in an area zoned other than for residential purposes. Applicant believes that the exception and variance should be granted in this case for the following reasons:

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3. The applicant for this exception and variance has been operating the school for several years, has expended a large amount of money in equipment to make the school a success and for the best interests of the children attending the school. The applicant has studied, and is still studying at Wichita University in the evenings to enable her to better perform duties of the leader of such a school. Applicant has expended considerable money in materials with which to operate said school and on the prices that she charges can not maintain the school with as few as ten children. In order for the school to not be a losing proposition she must have at least twenty to twenty-five children.
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Applicant does not ask this exception and variance on a permanent basis and only seeks the same to her personally and not on such a basis as would permit her on the sale of the property to sell the nursery school. Applicant would be satisfied with being guaranteed the right to continue the operation of this school on such a basis as would give to her only the right to continue such operation.

Mrs. Florence V. Garland

ZONING PETITION

ACCEPTED AS TO FORM

Date 7-1-52

Mrs. Deurhart

WICHITA CITY PLANNING COMMISSION

By *M. Spangler*

~~#~~ 73

INSTRUCTIONS TO PETITIONERS

1. This petition must be completely filled in before it will be considered by the City Planning Commission.
2. Obtain an expression of opinion from all property owners within 200 feet on all sides of the proposed change. If the property owner favors the change, he will so indicate by signing the petition. If he does not favor the proposed change, you will indicate his name, address and his objections.
3. The City Planning Commission considers zoning petitions on the first Tuesday of every month. This petition must be filed in the City Planning Office, 304 City Building by 12:00 p.m. of the Saturday, ten days preceding the regular Tuesday meeting of the City Planning Commission, so that the requested change can be studied and notices mailed to all interested persons.
4. A certificate from an abstract company giving the names and addresses of the owners of all property within a radius 200 feet of the proposed change in zoning must be submitted with the petition.
5. A filing fee of ten dollars (\$10) and a publication fee of (\$20) to cover the cost of processing and publication must be submitted with the petition at the time of filing. Should the requested change be denied by the governing body prior to publication, the twenty dollars (\$20) publication fee will be refunded.

A BRIEF SUMMARY OF ZONING DISTRICT REGULATIONS*

"AA" DISTRICT permits one family dwellings.

"A" DISTRICT permits one and two family dwellings.

"RB" DISTRICT permits one, two, three and four family dwellings.

"B" DISTRICT permits all types of dwellings, apartment houses, boarding houses, hotels, parking garages and club houses.

"LC" DISTRICT permits all residential uses, retail businesses, offices, theatres or other places of entertainment, filling stations, motor courts and small shops such as printing shops, bakeries, and cleaning establishments employing not more than five persons. In brief, the "LC" DISTRICT permits all usual neighborhood shopping businesses.

"C" DISTRICT permits all residential uses, all retail businesses most wholesale businesses, larger shoe shops, cleaning establishments, bakeries, public garages where body and fender work is done, welding shops, tourist camps, used car lots, and mortuaries.

"D" DISTRICT (Central Business District) excludes only establishments which might be objectional because of the emission of smoke, odor or noise.

"E" DISTRICT permits any residential use, and light industrial use, salvage or auto wrecking establishments, flour mills, etc.

"F" DISTRICT permits anything which may lawfully be done anywhere.

*The Zoning Ordinance should be consulted for complete zoning district regulations. For any additional information inquire at the Planning Department, Room 304 City Building, or call 2-6441 and ask for the Planning Department.

PETITION FOR A CHANGE IN ZONING

To the City Planning Commission and
the Board of City Commissioners,
City of Wichita, Kansas

Gentlemen:

We, the undersigned property owners owning property affected by the proposed zoning change, have read the preceding page and understand what such a change would mean. We do, therefore, hereby respectfully petition your Honorable Bodies to take such steps as are necessary to make the following changes in the present zoning ordinance to change the property described as follows:

1643 So. Emporia^{2nd} lot adjoining
on South.

from the existing A Zoning District to the B

Zoning District. The circulator of this petition, _____

D.V. Shank, 1643 So. Emporia, 4-9524
(name) (address) (telephone)

states that the reasons for this requested change are as follows:

We would like to be permitted to con-
tinue operation of our Day Nursery at said
address and feel free to make improvements
and additions to it.

The following property is within 200 feet of the proposed change and all owners must be approached for an expression of opinion:

ADDITION	LOT NO.	NAME	ADDRESS

8676 9-11-13 15x17
Emporia Ave in
Kernig Old City #10
Seaf. B. Ks

August 1, 1952

We, the undersigned, as adjoining property owners to lots 9, 11, 13, 15, and 17, address 1643 So. Emporia Ave., Koenig's Addition, are opposed to the petition for having the zoning of these lots changed from existing A district to B district.

NAME	ADDRESS
Mr + Mrs Bert Chilcoat	1651 So Emporia
Mr + Mrs G.R. Porterfield	1645 S. Emporia
Mr + Mrs Ralph Carrell	1625 S. Emporia
Miss Alicia Chase + Winifred Chase	1654 S. Emporia
Mr + Mrs D. Kennedy	1656 So Topeka
Chas. R. Bendure	1654 S. Topeka
Paul G. Boylan	1630 S. Topeka
Con + Loolin	1634 S. Topeka
Robert Bricker	1630 South Topeka
Mr + Mrs Earl Sweet	1658 South Topeka
Mr + Mrs David Padman	1647 So Emporia
Mr + Mrs Archie Pichio	1642 So. Emporia
Mrs Maude Fanning	1637 So Emporia
Mr + Mrs J.W. Laughlin	1657 So Emporia
Mr + Mrs J.J. K. K. K.	1610 S Topeka
Mr + Mrs Lester E. Rall	1646 S. Topeka
Mr + Mrs Paul D. White	1623 So Emporia

CITY PLANNING COMMISSION

City of Wichita, Kansas

NOTICE TO ADJOINING PROPERTY OWNERS

July 26, 1952

A petition has been filed by D. V. Gearhart
(Address) 1643 S. Emporia, Wichita, Kansas
for a change in zoning on the property located at (Address) 1643 S. Emporia, and described
as Lots 9, 11, 13, 15 & 17 on Emporia Avenue in Koenig's Addition
to the City of Wichita, Sedgwick County, Kansas

from the existing A District to the B District.

This petition will be considered by the City Planning Commission at a hearing to be held on August 5, 1952 at 3:30 p.m., Room 201 City Building, at which time you may appear, if you so desire, either in person or by agent or attorney.

J. Thomas Via
Secretary, City Planning Commission

Notices sent out to property owners on July 26, 1952

Mr. Darl G. White & Winnie White, 1623 S. Emporia, Wichita, Ks.
Ralph E. & Martha L. Carrell, 1625 S. Emporia, Wichita, Ks.
Denver V. & Florence V. Gearhart, 1643 S. Emporia, Wichita, Ks.
J. J. & Dorothy Labat, 1610 S. Topeka, Wichita, Kansas
Faith Baptist Church, 1400 S. Broadway, Wichita, Kansas
Mr. Robert Bricker, 1630 S. Topeka, Wichita, Kansas
Ruth Doolin, 1630 S. Topeka, Wichita, Kansas
James A. & Ravie Mae McMahon, 1616 S. Topeka, Wichita, Kansas
Miss Maude Fanning, 1632 S. Emporia, Wichita, Kansas
Oscar E. & Oma Hendren, 1640 S. Emporia, Wichita, Kansas
Vern J. & Jennie J. McCaslin, 1744 Park Place, Wichita, Kansas
Mr. Harold E. Powell, 1611 S. Emporia, Wichita, Kansas
Mr. W. A. Shrum & Roberta Shrum, 5617 Rockwood, Wichita, Kansas
Robert J. & Alberta M. Hein, 1608 S. Topeka, Wichita, Kansas
Mr. N. R. Longnecker, 1610 S. Emporia, Wichita, Kansas
Archie M. & Dorothy A. Ailshie, 1642 S. Emporia, Wichita, Kansas
W. P. & Helena B. Page, 1652 S. Emporia, Wichita, Kansas
Mr. Elliott Chase, 1654 S. Emporia, Wichita, Kansas
Gray R. & Opal C. Porterfield, 1645 S. Emporia, Wichita, Kansas
Romana Boyd, 1649 S. Emporia, Wichita, Kansas
Mr. B. R. Chilcoat, 1651 S. Emporia, Wichita, Kansas
Mr. Joe W. Laughlin, 1657 S. Emporia, Wichita, Kansas
Edna E. & Richard C. Boylan, 1650 S. Topeka, Wichita, Kansas
A. L. & Loula M. Bendure, 1654 S. Topeka, Wichita, Kansas
D. O. Kennedy & Rose Kennedy, 1656 S. Topeka, Wichita, Kansas
Mr. Richard E. Sweet, 1658 S. Topeka, Wichita, Kansas

*Zoning Change
requested in July 1952*

CITY OF WICHITA
BUILDING INSPECTION DIVISION

To Mrs. Florence V. Gearhart Owner Address 1643 S. Emporia
To Same Applicant Address _____

Dear Sir:

Your Application Dated 30th day of Oct. 1952
For a Permit for the use of a structure
_____ at the premises designated as
1643 South Emporia

Is hereby refused on this 30th day of October, 1952,
Under Section 16 (2) of the Zoning Ordinance.

For the reason that it is desired to use this building as a Child Care Center.

The ordinance does not permit the use of a building in the "A" district for more than ten children and it is desired to accommodate from 20 to 25 children.

This is a wood frame building and even though the zoning variance is granted the building code does not permit more than ten students in a wood frame building.

Respectfully,

S. B. Maple
S. B. Maple
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.

BOARD OF ZONING APPEALS

Case No. _____

Filed _____, 19__

A P P E A L U N D E R T H E Z O N I N G O R D I N A N C E

TO THE BOARD OF ZONING APPEALS
Room 304, City Hall
Wichita, Kansas

The undersigned, Mrs. E. M. D. Gearhart, hereby appeals
from the decision of the Building Inspector wherein a Building Permit
Is Refused For 1643 South Emporio to continue
as a Day Child Care Home.

OR

Order Or Decision Rendered Because of zoning, of frame
construction.

The Plans, application, and all data heretofore filed with said Building
Inspector are attached hereto and made a part of this appeal.

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.

Mrs. Florence V. Gearhart
Appellant.

NAMES AND ADDRESSES

Appellant Mrs. E. M. D. Gearhart Address 1643 So. Emporio
Owner " " " " Address 1643 So. Emporio
Lessee _____ Address _____

INSTRUCTIONS

1. This appeal must be typewritten and filed within ninety (90) days after the date of the decision of the Building Inspector from which this appeal is taken.
2. The appellant must file an explicit Typewritten statement setting forth:
 - (a) The principal points on which this appeal is made. These points shall be the same as those under which the Building Inspector issued a refusal, order, or decision.
 - (b) A clear and accurate description of proposed work or use.
 - (c) Specific reference to that Section of the Zoning Ordinance under which it is claimed permit should be issued.
 - (d) Names and addresses of all owners and residents within a distance of 200 feet of the property concerned.

BOARD OF ZONING APPEALS

Case No. _____

Filed _____, 19____

A P P E A L U N D E R T H E Z O N I N G O R D I N A N C E

TO THE BOARD OF ZONING APPEALS
Room 304, City Hall
Wichita, Kansas

The undersigned, Mr. & Mrs. D. V. Gearhart, hereby appeals
from the decision of the Building Inspector wherein a Building Permit
Is Refused For 1643 South Emporia to continue
as a Day Child Care Home.

OR

Order Or Decision Rendered Because of Zoning, and frame
construction.

The Plans, application, and all data heretofore filed with said Building
Inspector are attached hereto and made a part of this appeal.

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.

Mrs. Florence V. Gearhart
Appellant.

NAMES AND ADDRESSES

Appellant Mr. & Mrs. D. V. Gearhart Address 1643 South Emporia
Owner " " " " Address 1643 South Emporia
Lessee _____ Address _____

INSTRUCTIONS

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after the date of the decision of the Building Inspector from
which this appeal is taken.
2. The appellant must file an explicit Typewritten statement setting
forth:
 - (a) The principal points on which this appeal is made. These
points shall be the same as those under which the Building
Inspector issued a refusal, order, or decision.
 - (b) A clear and accurate description of proposed work or use.
 - (c) Specific reference to that Section of the Zoning Ordinance
under which it is claimed permit should be issued.
 - (d) Names and addresses of all owners and residents within a
distance of 200 feet of the property concerned.

BOARD OF ZONING APPEALS
Room 304, City Hall
Wichita, Kansas

NOTICE TO PROPERTY OWNERS

October 31, 1952

An appeal has been filed by D. V. Gearhart
(Address) 1645 S. Emporia on behalf of _____

(Address) _____

as provided by Section 33 of the Zoning Ordinance. The appellant
desires to continue operating a day nursery in A zone, and also can
not provide the proper side yard requirements on the premises
located at 1645 S. Emporia

This appeal has been given Case No. 8-52
and a hearing will be held by the Board of Zoning Appeals on _____
November 10, 1952 at 2:30 p.m.
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.

E. N. Smith
Secretary.

Notices sent out on October 31, 1952 to following property owners:

Darl G. White & Winnie White, 1623 S. Emporia, Wichita, Kansas
Ralph E. & Martha L. Carrell, 1625 S. Emporia, Wichita, Kas.
Denver V. & Florence V. Gearhart, 1643 S. Emporia, Wichita
J. J. & Dorothy Labat, 1610 S. Topeka, City
Faith Baptist Church, 1400 S. Broadway, City
Mr. Robert Bricker, 1630, S. Topeka, City
Ruth Doolin, 1630 S. Topeka, City
Mr. Lester E. Roll, 1646 S. Topeka, City
Mr. James A. McMahan & Ravie Mae McMahan, 1616 S. Emporia, City
Maude Fanning, 1632 S. Emporia, City
Oscar E. & Oma Hendren, 1640 S. Emporia, City
Vern J. McCaslin & Jennie J. McCaslin, 1744 Park Place, City
Mr. Harold E. Powell, 1611 S. Emporia, City
W. A. Shrum & Roberta Shrum, 5617 Rockwood, City
Robert J. & Alberta M. Hein, 1608 S. Topeka, City
N. R. Longnecker, 1610 S. Emporia, City
Archie M. & Dorothy A. Ailshie, 1642 S. Emporia, City
W. F. & Helena B. Page, 1652 S. Emporia, City
Elliott Chase, 1654 S. Emporia, City
Gray R. & Opal C. Porterfield, 1645 S. Emporia, City
Romana Boyd, 1647 S. Emporia, City
B. R. Chilcoat, 1651 S. Emporia, City
Mr. Joe W. Laughlin, 1657 S. Emporia, City
Edna E. & Richard G. Boylan, 1650 S. Topeka, City
A. L. Bendure & Loula M. Bendure, 1654 S. Topeka, City
D. C. Kennedy & Rose Kennedy, 1656 S. Topeka, City
Richard E. Sweet, 1658 S. Topeka, City

November 1, 1952

Board of Zoning Appeals:

My appeal is concerning the property at 1643 South Emporia, Wichita, Kansas. It has been for nearly five years, and is now being, used for a Child Day Care Center. We are located one half block south of Harry Street, and on two bus routes. We have two fenced playgrounds, with adequate equipment for entertainment, and the children are well supervised at all times. We are open from six o'clock a.m. to six o'clock p.m., with a "workable" routine which includes a two and one half hour nap each afternoon.

The strict application of the terms of this ordinance will constitute a hardship, as we have invested in two movie projectors, film, records, two record players, air purifiers, playground equipment, inside slides, swings, exerciser, and additional equipment, such as tables, chairs, cots, bedding, and eating utensils, etc.

There are numerous reasons for my desire to continue my work where I am now located. First, to be forced to discontinue operation would bring financial difficulties, leave a great amount of equipment without further use, not to mention the sincere effort and conscientious labor I have put into this endeavor.

I really enjoy my work and I feel I have the respect and confidence of all my customers. My request for a variance is not against the public interest. On the contrary, I believe a decent, respectable and reliable day care center is essential to the future of our little ones. Because of the desire for more than the "bare necessities" of life, more women are seeking, and finding employment. I do not advertise, my clients are from "word of mouth" testimony of satisfied past and present, mothers and fathers of the children in the care center.

I will be humbly grateful for any consideration shown me in this matter. My desire is to be allowed the privilege of continued operation in my present location, and my chosen life's work.

*Mrs. Florence V. Spurlant
1643 South Emporia
Wichita, Kansas*

Thank you, sincerely