

8-58 - John Bozeman, appellant
By Port Early, attorney
Premises at 3357 W. Central

April 21, 1958

Board of Zoning Appeals
Wichita, Kansas

Attention: Mr. Robert M. Moore, Chairman

Gentlemen:

We, the undersigned, are owners of property within 200 feet of the following described property,

All of Lot 2, except the West 13 feet of the North 170 feet of said Lot 2;

The East 83.89 feet of Lot 23, all of Lot 24, and the West 25 feet of Lot 25;

And beginning at the Northwest corner of the South 1/2 of Lot 1; thence South to the Southwest corner of Lot 1; thence East 163.25 feet; thence North to a point 22.5 feet South of the North line of the South 1/2 of Lot 1; thence West 133 feet; thence North 22.5 feet; thence West to point of beginning, all in Knight Acres, an addition to Sedgwick County, Kansas.

And we are not opposed to Mr. John Bozeman, known by the stage name of Mack Sanders, erecting radio towers (approximately 308 feet high), together with the operation of a radio station, transmitters and studios on the above-described property. By signing this petition we are signifying that we have no objection to you gentlemen making a variance in the zoning of the above-described property to permit the erection of radio towers, transmitters, studios and allied equipment on the above-described property.

OWNER

ADDRESS

| | |
|---------------------|-----------------|
| Mrs. Gen J. Edwards | 3320 Newell |
| Mr. Kelvin K. Davis | 3327 Newell |
| Ed Parker | 3316 St Louis |
| Jim Coyle | 3322 St. Louis |
| Helmi Walker | 3305 St. Louis |
| Bill Rucker | 3405 St. Louis |
| C W McClure | 503 N Sheridan |
| Mary Coyne | 509 N. Sheridan |
| Clark G. Hidders | 513 N. Sheridan |
| Alfred Lee Wroner | 601 N. Sheridan |
| Harold S. Swisher | 615 N. Sheridan |
| Ray H. Myers | 625 N. Sheridan |
| Ethel Sheall | 627 N. Sheridan |
| Arthur B. Miller | 635 W. Sheridan |
| Frederick N. Albert | 3203 W Central |
| Carl Finane | 3401 W Central |

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Wichita, Kansas

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OWNER

ADDRESS

| | |
|---|-------------------|
| Q. E. McDonald | 3305 W. Central |
| Mrs. G. W. Hulseapple | 521 N. Sheridan |
| Mr. Stone J. Mc Coy | 517 N. Sheridans |
| Mrs. R. D. Hogan | 625 W. Sheridan |
| Guanta Sandhian | 2045 So. Voltaire |
| Lena Mercer | 425 No Broadway |
| E. J. Thompson | 3422 W. Central |
| A. A. Collins | 3317 St. Louis |
| Mrs. O. R. Davidson | 1835 Payne |
| Roy Gordon | 1307 S. Epworth |
| Joseph B. Abbas | 2850 W. Central |
| Alan Jontz | 145 No. Pinecrest |
| Oliver Weitzel (by Mr. Muller) | 5310 W. Central |
| Nellie Hatfield / Trustee John Hatfield | 2406 W. Douglas |
| John Hatfield | 2406 W. Douglas |
| Oden J. Sewell | 3357 N. Central |

TELEPHONE COMMENTS OF TOM WOOD, ASSISTANT CITY ATTORNEY
RELATIVE TO BOARD OF ZONING APPEAL CASES AS PRESENTED ON
APRIL 25, 1958

CASE NO. 8-58

Mr. Wood notes two major questions:

1. Is it proper to consider the matter on April 25 because notices were mailed less than 10 days prior to the meeting.
2. Should the Board take jurisdiction in this case.

Mr. Wood notes in respect to question No. 1 that there is no ordinance or statutory requirement for notice and that the 10 day notice requirement is contained only in the rules and regulations of the Board itself. The ordinance says that notice shall be given if practical, and in this particular case notice has been given, although it is a 3 day notice rather than a 10 day notice.

Mr. Wood states that it is, in his opinion, proper for the Board to consider the matter on April 25 on the basis of the notice which has been given.

In answer to question No. 2, it is his opinion that the Board can take jurisdiction. He believes that only the first of the 4 conditions of jurisdiction is in any way questionable and he believes that the situation is sufficiently unique that the case qualifies under the provisions of No. 1.

CASES NO. 3-58 and 6-58

In both of these cases the question is one of jurisdiction. Mr. Wood made the following points relative to this matter:

1. It cannot be assumed that this use is against the best interest of the public welfare merely and solely because it is non-conforming.
2. Each case must be considered according to its affect upon the specific neighborhood in which it is located. He indicated that sign boards in one neighborhood might be against the public welfare because of the character of the neighborhood, whereas in a different neighborhood the signs would not be in opposition to the public welfare. The Board must determine in which of two categories these cases fall:

- (a) Is this an appeal from an order or determination by the Building Inspection Superintendent which would in essence only question the interpretation of the zoning ordinance as applied by the Building Inspection Superintendent?
- (b) Is this a request for an exception or variance to the provisions of the zoning ordinance?

If this is considered as a question of the correctness of interpretation, then the Board has the right to take jurisdiction under the provisions of 21-27 C1. If, on the other hand, this is a request for an exception or variance, then the Board would have jurisdiction only under 21-27 C2, which requires the findings as set forth in 21-27 C2, sub-paragraphs 1, 2, 3, and 4.

CASE NO. 7-58

With respect to this case, Mr. Wood made the following comments:

1. The extent of the enlargement which has been requested necessitates consideration of this as a request for an exception or variance.
 2. The first of the four facts which must be found in order to take jurisdiction "probably is made by the fact that it is a non-conforming use."
 3. The question of jurisdiction probably will have to be resolved on the basis of findings of fact related to conditions 2 and 4 as set forth in 21-27 C2.
-

PAY AT CITY TREASURER'S OFFICE—FIRST FLOOR

TO: RALPH EBERLY, City Treasurer
FROM: LEROY L. LITTLE, Director of Planning

ITEM NO. _____

paid

Please collect from Mr(s) Law Ryzeman
whose mailing address is 3 Lehigh Lane
the sum of \$ 5000 which is the fee required for zoning appeal

Please retain this memorandum for your records.

NOTICE TO PATRONS: No Petition
associated with this memorandum will be
processed until the fee is paid.

PLANNING DEPARTMENT

By: W. Rothke
Title: Asst. Dir.

No. 5386329

RECEIPT FOR CERTIFIED MAIL—15¢

| | |
|--|--|
| SENT TO <i>Mr. Post Early</i> | POSTMARK OR DATE |
| STREET AND NO. <i>Insurance Building</i> | |
| CITY AND STATE <i>Wichita Kansas</i> | |
| <input type="checkbox"/> If you want a return receipt, check which of the following: <input type="checkbox"/> It shows to whom and when delivered | <input type="checkbox"/> It shows to whom, when, and address where delivered |
| <input type="checkbox"/> If you want restricted delivery, check here | <input type="checkbox"/> 20¢ fee |

POD Form 3800 July 1955 Replaces previous editions of this form which MAY be used.

INSTRUCTIONS TO DELIVERING EMPLOYEE

- DELIVER ONLY TO ADDRESSEE (dit additional)
- SHOW ADDRESS WHERE DELIVERED IN ITEM 4 BELOW (dit additional)

RECEIPT

Received from the Postmaster the Registered, Certified, or Insured Article, the number of which appears on the face of this return receipt.

1. SIGNATURE OR NAME OF ADDRESSEE

Post Early

2. SIGNATURE OF ADDRESSEE'S AGENT (Agent should affix addressee's name in item 1 above)

J. Edwards

3. DELIVERY DATE
APR 23 1958

4.

15-7124b-2

No 5386329

RECEIPT FOR CERTIFIED MAIL—15¢

| | | |
|--|--|--|
| SENT TO <i>Mr. Pitt Early</i> | | POSTMARK OR DATE |
| STREET AND NO. <i>Insurance Building</i> | | |
| CITY AND STATE <i>Wichita, Kansas</i> | | |
| <input type="checkbox"/> If you want a return receipt, check which of the following: <input type="checkbox"/> It shows to whom and when delivered <input type="checkbox"/> It shows to whom, when, and address where delivered | | <input type="checkbox"/> If you want restricted delivery, check here <input type="checkbox"/> 20¢ fee |

POD Form 3800 July 1955 Replaces previous editions of this form which MAY be used.

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

REGISTRY FOR REGISTERED MAIL TO AVOID
PENALTY FOR FAILURE TO REGISTER

APR 23 1958
KANSAS RETURNED

INSTRUCTIONS—Show name, address and number of article below. Complete "Instructions to Delivering Employees" on other side, when applicable. Remove damaged ends and securely attach to back of article. Enclose front of article RETURN RECEIPT REQUESTED.

| | |
|--------------------------|--|
| REGISTERED NO. | NAME OF SENDER Metropolitan Area Planning Commission |
| CERTIFIED NO. 6386329 | STREET AND NO. OR P. O. BOX 104 S. Main |
| INSURED NO. | CITY, TOWN, AND STATE Wichita, Kansas |

POD Form 3817, Dec. 1955

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

April 22, 1958

**Mr. Port Early
Insurance Building
Wichita, Kansas**

Dear Mr. Early :

Your appeal, under the Zoning Ordinance, relative to premises at
3357 West Central, Wichita, Kansas

has been given Board of Zoning Appeals Case No. 8-58.

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, April 25, 1958, at 1:30 p.m.
4th Floor, City Building Annex, 104 South Main, Wichita, Kansas

Respectfully,

Secretary, Board of Zoning Appeals

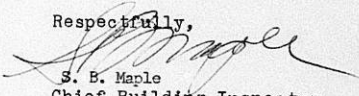
CITY OF WICHITA
BUILDING INSPECTION DIVISION

To John Bozeman Owner Address 8 Plum Lane
To Same Applicant Address _____

Dear Sir:

Your application Dated April 21, 1958
For a Permit for the erection and remodeling of a structure
_____ at the premises designated as
3357 West Central
Is hereby refused on this 21st day of April, 1958,
Under Section 21-10 of the Zoning Ordinance.
For the reason that this property lies within the "AA" residential district
and since this is a commercial use, such use is not permitted.

Respectfully,


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.

April 23, 1958

Mr. Robert M. Moore
Chairman
Board of Zoning Appeals
4740 East Mt. Vernon Road
Wichita, Kansas

Dear Mr. Moore:

We have been informed by Mr. Port Early, attorney, that you have sanctioned an exception to the Board of Zoning Appeals rules to permit the hearing of a case in which Mr. Early is interested without the requisite 10 days notice to adjoining property owners. We are further informed that Mr. Wood of the Department of Law, has indicated that this will not in any way be in violation of the statutes or of the City Code, provided that a notice is sent to each of the individuals prior to the meeting.

In accordance with the information outlined above, notices dated April 22, 1958, were mailed to property owners within 200 feet of the property involved in Case No. 8-58, which Mr. Early has filed. This case will be added to the Board of Zoning Appeals agenda for April 25, 1958, and the adjacent property owners will have received approximately 3 or 4 days notice of the hearing.

A copy of this letter is being forwarded to Mr. Tom Wood, Assistant City Attorney. I will very much appreciate any comments you may make concerning any misunderstanding or inaccuracies in the material presented in the preceding paragraphs.

Very truly yours,



Leland R. Edmonds
Senior Planner

LRE:br

cc: Tom Wood
Port Early

BOARD OF ZONING APPEALS
FOURTH FLOOR, CITY BUILDING ANNEX
104 South Main
Wichita, Kansas


April 22, 1958

NOTICE TO ADJOINING PROPERTY OWNERS

An appeal has been filed by John Bozeman, 8 Plum Lane,
Wichita, Kansas, by Port Early, attorney
as provided by Section 21-27, Volume I of the City Code. The
appellant desires to erect and remodel a structure
on the premises designated as 3357 West Central, Wichita, Kansas

This appeal has been given Case No. 8-58, and a
hearing will be held by the Board of Zoning Appeals on Friday
April 25, 1958, at 1:30 p.m. in the meeting room on
the 4th Floor of the City Building Annex, 104 South Main,
Wichita, Kansas, at which time you may appear, if you desire,
either in person or by agent or attorney.

By order of the Board of Zoning Appeals.


Leland R. Edmonds, Secretary
Board of Zoning Appeals

NOTICES MAILED TO ADJOINING PROPERTY OWNERS ON APRIL 22, 1958

| | |
|---|--|
| John Bozeman 8 Plum Lane | Eva Gilhan 1146 N. Topeka |
| Allmon A. & Iva M. Collins 3317 St. Louis | Richard D. & Zetra E. Hogan 1719 Mission Rd. |
| Faith Temple, Inc. 3161 South Hydraulic | Roy E. & Emma M. Gordon 248 N. Young |
| Clyde D. & Juanita Sandlian 2045 South Volutsia | Ethel Sheall 627 N. Sheridan |
| John Weitzel, Inc. 3310 W. Central | Arthur C. & Carolyn F. Miller 635 N. Sheridan |
| Thomas J. & Myrtle Thompson 3422 W. Central | D. F. Rose 601 N. Sheridan |
| Goldie P. & James W. Hulsopple 521 N. Sheridan | Goley L. & Orben J. Sewell 3357 W. Central |
| Dan Tontz 145 N. Pinecrest | Carl J. & Maxine Pinaire 3401 W. Central |
| Olin Randolph & Pauline Davidson 1835 Payne | Nellie Hatfield 2406 W. Douglas |
| Mary V. Coyle 509 N. Sheridan | Toler Hatfield 2406 W. Douglas |
| E. C. M. Corp., Inc. c/o Walter Morris 208 N. Broadway | James O. & Nellie G. Cox 3322 St. Louis |
| W. Gardner c/o H. A. Stutsman Beacon Building | Benjamin J. & Crystal V. Edwards 3320 Newell |
| Carl A. & Floy O. Pyle 1300 Sunrise Dr. | Kelvin K. & Norma Davis 3322 Newell |
| Mary Margaret Morris Boyd c/o Walter Morris 208 N. Broadway | Ervin R. & neita Parker 3316 St. Louis |
| Fred W. Ablah 2850 W. Central | C. W. & Oleta A. McClure 503 N. Sheridan |
| Aron E. & Agnes C. McDonald 835 Dayton Ave. | Bill Rucker 3405 W. St. Louis |
| Frederick W. Albert 809 W. Central | T. F. & Helen R. Walker 3305 St. Louis |