

CASE 10-55

RAINBO BAKING CO.

R. R. VERMILION
1852-1936
EARLE W. EVANS
1873-1940
JOSEPH G. CAREY
1874-1948
W. F. LILLESTON
GEORGE C. SPRADLING
HENRY V. GOTT
GEORGE STALLWITZ
RALPH M. HOPE
RICHARD W. STAVELY
CHARLES S. LINDBERG

LILLESTON, SPRADLING, GOTT & STALLWITZ

923 FIRST NATIONAL BANK BUILDING

WICHITA 2, KANSAS

December 13, 1955

Mr. George J. Fisher, Secretary
Board of Zoning Appeals
City Building
Wichita, Kansas

Dear Mr. Fisher:

In re: Petition for Rehearing of
Case No. 10-55, Rainbo Baking
Company of Wichita

Rainbo Baking Company of Wichita respectfully requests a rehearing and reconsideration of its Appeal for Variance or Exception heretofore filed with the Board of Zoning Appeals and heard by the Board on August 26, 1955, as a result of which hearing a permit was granted to Rainbo Baking Company of Wichita under the conditions set forth in the resolution of the Board granting such permit.

In support of this request for a rehearing applicant states that there is new evidence which could not reasonably have been presented at the previous hearing, which evidence should now be considered by the Board of Zoning Appeals, such evidence being that there was a miscalculation by the Board of the size of the area of property involved in the appeal and to be used by applicant in connection with the construction and operation of its bakery and, also, in the nature and use to be made by applicant of the area involved. There is attached hereto a copy of a letter to applicant's attorney from the general counsel of Campbell Taggart Associated Bakeries, Inc., which is the parent company of applicant and which will build the building to be used in applicant's operations, which letter sets forth the facts concerning the size of the area of the property and of the building involved, and the nature of the use to be made of applicant's property and building, and the needs of applicant in connection therewith.

In view of the above, applicant requests a rehearing and reconsideration of its appeal and the resolution entered by the Board in this proceeding, and further requests that upon such rehearing further relief be granted to applicant in accordance with the evidence to be submitted at such rehearing.

RAINBO BAKING COMPANY OF WICHITA

By Ralph M. Hope
Its Attorney

December 13, 1955

STATE OF KANSAS }
SEDGWICK COUNTY } ss.

Ralph M. Hope, being first duly sworn, upon his oath deposes and says that he is the attorney for Rainbo Baking Company of Wichita in connection with the Appeal for Variance or Exception, Case No. 10-55, referred to above; that he has read the above application and knows the contents thereof, and that said application and the statements contained therein are true.

Ralph M. Hope

SUBSCRIBED AND SWORN TO before me this 13th day of December, 1955.

Walter V. Woodman
Notary Public

My commission expires November 17, 1956.

COPY

CAMPBELL TAGGART ASSOCIATED BAKERIES, INC.

6211 Lemmon Avenue
P.O.Box 2640
DALLAS, TEXAS

LAW DEPARTMENT

December 5, 1955

Mr. Ralph M. Hope
Lilleston, Spradling, Gott & Stallwitz
923 First National Bank Building
Wichita 2, Kansas

RE: Zoning -- Rainbo Baking Company of Wichita

Dear Ralph:

After talking to you on the telephone this morning, I believe I have a better picture, or should I say "feel", of the zoning situation there in Wichita with respect to the property recently acquired by the Rainbo Baking Company. It looks like our problem now is to see if we can get one major modification in the ruling of your Board of Zoning Appeals and two others which are more minor in nature, especially the last one that will be mentioned.

After going over the copy of the property survey we have here in Dallas, our engineering department advises that the area restrictions are such that future improvements would practically be prohibited. It appears that this fact results from a difference in the calculations made by the Board and those made by us here. According to the Board minutes, it was figured that the entire land area of the Rainbo purchase is 203,212 square feet. The area of the building proper was figured at 40,920 square feet. Looking at these two figures, there shouldn't seem to be much difficulty, but paragraph numbered 2 of resolution 10-55 reads as follows:

"The building area shall not exceed twenty five percent (25%) of the total net area (not including streets and alleys)."

When our engineers eliminate the streets and alleys from the overall area, they come up with the figure of 173,400 square feet. Taking 25% of that figure, we get a permitted 43,350 square feet upon which to build. Actually, the building in contemplation will take over 45,000 square feet. When I was discussing this with Mr. Votteler, the head of our engineering department, I asked him what limitation along this line would he consider acceptable. His answer was 33 1/3% of the area their figures showed to be available, namely, 173,400.

The next thing we come to, Ralph, is the requirement that the bakery erect a "brick or natural stone wall" along any property line next to or facing a residential area. The objection to this is the expense if any such wall had to be built around a substantial portion of the tract. Ted Votteler tells me that the only place where there will be any considerable number of vehicles moving will be at the end of the building in the garage area. In other words, I am really moving to make paragraph 3 of resolution 10-55 more definite and certain. It would be expensive indeed if, after getting the bakery built, it could be successfully urged that this particular restriction compelled the company to put a brick or stone wall all around its property.

The next thing is really minor but if any correction is needed now is the time. Pat tells me that it was definitely understood at the hearing that the limitation providing that there should not be "more than 15 employees per acre of net land area in any one shift" was intended to apply to only the employees in the production department. If this is true, Pat and our folks here in Dallas feel that there should be no difficulty in compliance. On the other hand, if it is possible to construe this to mean that there shan't be more employees than this in the building then we would be in trouble. Therefore, could we have this restriction amended so as to make it clear that it is only to be applied to employees in the production department?

After you have had an opportunity to check into this with Pat Hammond and the city representatives, I'll appreciate it, Ralph, if you will let me know what you think can be done and the proper method of handling.

With kindest personal regards I am,

Very truly yours,

FRAZOR
Frazor T. Edmondson

FTE:me

CASE NO. 10-55

Date Dec 28-1955

ZONING APPEALS PETITION

ACCEPTED AS TO FORM by the WICHITA BOARD OF ZONING APPEALS

Receipt No. 26095
(Purchasing Department)

by Catherine Tompkins

CASE NO. 10-55

Date Aug 17, 1955

ZONING APPEALS PETITION

ACCEPTED AS TO FORM by the WICHITA BOARD OF ZONING APPEALS

Receipt No. 32240
(Purchasing Department)

by Gerald M. George

To GWF

Date 8-17-55 Time 1:30

WHILE YOU WERE OUT

Mr. Calph M. Hope ^(Atty. for) _(Kainbo)

of 923 1st Natl Bank Bldg

Phone EO 3-8218

TELEPHONED	PLEASE CALL HIM
CALLED TO SEE YOU	WILL CALL AGAIN
WANTED TO SEE YOU	RUSH

Message Please call him Friday
if appeal statement is not
detailed enough.

43

Operator

CITY OF WICHITA
BUILDING INSPECTION DIVISION

To Rainbo Baking Co. of Wichita Owner Address 535 South Main

To Same Applicant Address _____

Dear Sir:

Your application Dated August 15, 1955

86,400 sq ft not correct

For a Permit for the erection of a bakery 384' x 225' in size
_____ at the premises designated as
2530 Southeast Drive

Is hereby refused on this 15th day of August, 1955,

Under Section 21-14, A of ~~the Zoning Ordinance~~
Vol. 1 of the Code of the City of Wichita
For the reason that bakeries employing more than five people are not permitted

in a Light Commercial zone, in which this property is located.

Handwritten calculations:
384
225

19200
7680

86400
345600

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.

Case No. 10-55

Filed Aug. 17 19 55

APPEAL FOR VARIANCE OR EXCEPTION

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

The undersigned Rainbo Baking Company of Wichita hereby appeals from the decision of the Building Inspection Superintendent where-
in a Building Permit is refused under Section 21-14, A
to Rainbo Baking Company of Wichita
at the premises located at 2530 Southeast Drive
This permit was denied for the reason that bakeries employing more than five people are not permitted in a Light Commercial zone.

The plans, application, and all data heretofore filed with said Building Inspection Superintendent 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.

Appellant Rainbo Baking Company of Wichita

FC 3-1131

By George P. Hammond

President & General Manager
Address 535 South Main

Appellant Rainbo Baking Company
of Wichita

Owner Rainbo Baking Company
of Wichita

Address 535 South Main

Lessee _____

Address _____

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

APPEAL STATEMENT

(a) The proposed use of the property and the building to be erected thereon by appellant is the operation of a bakery.

(b) The Building Inspector refused to issue a building permit to appellant for the reason that Section 21-14, A of Volume 1 of the Code of the City of Wichita in effect on August 15, 1955, the date of such refusal, did not permit the location and operation of bakeries employing more than five people in a Light Commercial zone. Since the date of the refusal of such permit Section 21-14, A has been amended (such amendment being effective August 25, 1955) to permit the Board of Zoning Appeals to authorize the location and operation of bakeries employing more than five people in Light Commercial zones or districts under certain conditions and requirements specified in such amendment, which conditions and requirements can and will be complied with by appellant.

(c) 1. The exception or variance arises because a bakery employing more than five people is not permitted in a Light Commercial zone or district under Section 21-14, A, but will be permitted under certain conditions and requirements under the amendment of that section and because this is the first time such a condition has arisen under the newly amended ordinance.

2. The granting of the permit applied for by appellant will not adversely affect the rights of adjacent property owners or residents because the conditions and requirements accompanying the permit will protect adjacent property owners and residents by proper screening and compatibility of construction to that of adjoining property and the surrounding neighborhood and there will be no noxious odors or undue noise.

3. The strict application of the terms of the present ordinance and a denial of the permit under the amended ordinance will constitute unnecessary hardship upon appellant because appellant will not be able to expand and use a piece of ground that is very suitable for appellant's purpose.

4. The exception or variance desired by appellant is not against the public interest because appellant's business involves the production of a very necessary commodity.

RAINBO BAKING COMPANY OF WICHITA

By

George P. Hammond
President and General Manager

POST OFFICE DEPARTMENT OFFICIAL BUSINESS		PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, 30¢ (GPO)	
REGISTERED NO.		POSTMARK OF DELIVERING OFFICE APR 22 1955 WICHITA, KANSAS	
CERTIFIED NO.	727305		
INSURED NO.			
RETURN TO →	NAME OF SENDER	Geo. J. Fisher	
	STREET AND NO. OR P.O. BOX	205 City Building	
	POST OFFICE	Wichita 2	
	STATE	Kansas	
POD Form 3811 Apr. 1955			

No 727305	RECEIPT FOR CERTIFIED MAIL—15¢		POSTMARK OR DATE
	SENT TO	Mr. George Hammond	
	STREET AND NO.	Rainbo Baking Co. 535 South Main	
	CITY AND STATE	Wichita, Kansas	
If you want a return receipt, check which		<input checked="" type="checkbox"/> 7c shows to whom and when delivered	<input type="checkbox"/> 31c shows to whom, when, and address where delivered
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. Geo. P. Hammond
 (Signature or name of addressee)

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

Date of Delivery _____

★ U. S. GOVERNMENT PRINTING OFFICE : 1955 16-71588-1

RECEIPT FOR CERTIFIED MAIL—15¢

No 72730E

SENT TO Mr. George Hammond	POSTMARK OR DATE
STREET AND NO. Rainco Baking Co. 535 South Main	
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 3800
Apr. 1959

Case 10-55

file copy

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

August 19, 1955

Mr. George P. Hammond
Pres. & General Manager
Rainbo Baking Co.
535 South Main
Wichita, Kansas

Dear Mr. Hammond :

Your appeal, under the Zoning Ordinance, relative to premises at
2530 Southeast Drive

has been given Board of Zoning Appeals Case No. 10-55.

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 26, 1955, 85, at 1:30 p.m.

In Room 201 of the City Building

Respectfully,

Geo. J. Fisher

Secretary, Board of Zoning Appeals

GJF:gg

cc: Mr. Ralph M. Hope, Attorney
923 First National Bank Building
Wichita 2, Kansas

Case 10-55
file copy

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

NOTICE TO PROPERTY OWNERS

August 19, 1955

An appeal has been filed by Rainbo Baking Co. of Wichita
(address) 535 South Main on behalf of
(address)
Vol. I of the City Code.
as provided by Section 21-14A ~~of the City Code~~. The appellant
desires to erect a bakery which would employ more than 5 people
(not permitted in a Light Commercial Zone)
on the premises located at 2530 Southeast Drive.

This appeal has been given Case No. 10-55 and a hear-
ing will be held by the Board of Zoning Appeals on Friday,
August 26, 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

BOARD OF ZONING APPEALS

Room 205, City Building
Wichita 2 Kansas

NOTICE TO PROPERTY OWNERS

January 18, 1956

A request for a re-hearing ~~has~~ has been filed by Ralph M. Hope

(address) First National Bank Building on behalf of

Rainbo Baking Company (address) 535 S. Main, Wichita

as provided by Section 21-141d ~~of the City Code~~ Vol. I. of the City Code. The appellant

desires ~~to~~ a re-hearing & reconsideration of its appeal due to new
evidence which was not presented at the previous hearing.

on the premises located at 2530 Southeast Drive, Wichita, Ks.

This ~~appeal~~ re-hearing has been given Case No. 10-55 and a hear-

ing will be held by the Board of Zoning Appeals on Friday,

January 27, 1956, 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

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
FORFEITURE OF POSTAGE

REGISTERED NO. 1458
CERTIFIED NO. 727330

INSURED NO.

NAME OF SENDER
Geo. J. Fisher
STREET AND NO. OR P.O. BOX
205 City Building
POST OFFICE
Wichita 2
STATE
Kansas

WICHITA
JAN 19
10 AM

POSTMARK OF RECEIVING OFFICE

RETURN TO →

POD Form 3911
Apr. 1955

RECEIPT FOR CERTIFIED MAIL—15¢

No. 727310

SENT TO
Mr. George Hammond

STREET AND NO. Rainbo Baking Co.
535 South Main

CITY AND STATE Wichita, Kansas

POSTMARK OR DATE

If you want a return receipt, check which It shows to whom and when delivered It shows to whom, when, and address where delivered

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 P. Hammond
 (Signature or name of addressee)

2. _____
 (Signature of addressee or should enter addressee's name on this receipt above)

Date of Delivery JAN 14 1954
11 07 AM
ST. LOUIS

U. S. GOVERNMENT PRINTING OFFICE : 1953 16-71248-1

RECEIPT FOR CERTIFIED MAIL—15¢

No. 727310.

SENT TO Mr. George Hammond	POSTMARK OR DATE
STREET AND NUMBER Rainbo Baking Co. 535 South Main	
CITY AND STATE ichita, Kansas	
If you want a return receipt, <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 3800
Apr. 1952

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

January 18, 19 56

Mr. George P. Hammond
Pres. & General Manager
Rainbo Baking Co.
535 South Main
Wichita, Kansas

Dear Mr. Hammond :

Your ~~appeal~~ ^{request for a re-hearing}, under the Zoning Ordinance, relative to premises at
2530 Southeast Drive

has been given Board of Zoning Appeals Case No. 10-55.

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~~ ^{re-hearing} of your case on Friday, January 27, 1955, 19 56, at 1:30 p.m.
In room 201 of the City Building

Respectfully,

Geo. J. Fisher
Secretary, Board of Zoning Appeals

GJFict

cc: Mr. Ralph M. Hope Attorney
923 First National Bank Building
Wichita 2, Kansas

*Miss 70
replies
file*

December 20, 1955

Mr. Ralph M. Hope
923 First National Bank Building
Wichita 2, Kansas

Dear Mr. Hope:

The Board of Zoning Appeals at its meeting of December 16, 1955 considered your petition for a re-hearing of Case No. 10-55, Rainbo Baking Company.

The Board realized the need for a new hearing because of the error in the net area of the land to be used and because of the other questions raised by Campbell Taggart Associated Bakeries, Inc. Consequently, the Board approved the petition for re-hearing to be held in approximately 30 days.

In accordance with the regulations it will be necessary for you to come to this office to pay the fee necessary for the re-hearing.

Sincerely yours,

Geo. J. Fisher, Secretary
Board of Zoning Appeals

GJF:ct
cc: J. Lisle Morris, Chairman
S. B. Maple, Chief Bldg. Insp.

1-4-56 - Mr. Hope has paid \$5.00 filing fee for a re-hearing. We need to set a date for the re-hearing. *How about 1/27?*

1-11-56 - Called Mr. Hope to *to 3 8218-* meet him meeting set for 1-27-56 at 1:30 p.m.

December 20, 1955

Mr. Ralph M. Hope
923 First National Bank Building
Wichita 2, Kansas

Dear Mr. Hope:

The Board of Zoning Appeals at its meeting of December 16, 1955 considered your petition for a re-hearing of Case No. 10-55, Rainbo Baking Company.

The Board realized the need for a new hearing because of the error in the net area of the land to be used and because of the other questions raised by Campbell Taggart Associated Bakeries, Inc. Consequently, the Board approved the petition for re-hearing to be held in approximately 30 days.

In accordance with the regulations it will be necessary for you to come to this office to pay the fee necessary for the re-hearing.

Sincerely yours,

Geo. J. Fisher, Secretary
Board of Zoning Appeals

GJF:ct

cc: J. Lisle Morris, Chairman
S. B. Maple, Chief Bldg. Insp.

BOARD OF ZONING APPEALS ²³

AGENDA ⁶

AUGUST 26, 1955

There will be a meeting of the Board of Zoning Appeals on Friday, August 26, 1955, at 1:30 p.m. in Room 201 of the City Building, at which time the following item will be heard:

CASE NO. 10-55:

Ralph M. Hope, Attorney, on behalf of RAINBO BAKING COMPANY OF WICHITA, 535 South Main, appeals from the decision of the Superintendent of Building Inspection, who has formally denied issuance of a permit to erect a bakery 384' x 225' in size at 2530 SOUTHEAST DRIVE under Section 21-14, A, Volume I of the Wichita City Code, for the reason that bakeries employing more than five people are not permitted in a Light Commercial zone, in which this property is located.

NOTE: PLEASE REFER TO ATTACHED APPEAL STATEMENT FOR MORE DETAILED INFORMATION RE ABOVE CASE.

Geo. J. Fisher
Geo. J. Fisher
Secretary

99
8-19-55

*Ord 21-245
Passed 9/23/55*

6. Conditional uses in "LC" districts:

The Board of Zoning Appeals may by special permit authorize the uses specified below in "LC" light commercial districts subject to the following conditions and requirements.

6.1 Such location shall first be approved in writing by the planning commission who shall find such use is desirable and essential and is in harmony with the various elements or objectives of the master or comprehensive plan.

6.2 The minimum land area - two (2) acres.

6.3 The maximum building coverage of land area shall be one (1) square foot of building to three (3) square feet of land area.

6.4 The minimum setback of any building from the property line shall be thirty (30) feet; however the Board of Zoning Appeals may grant a variance to this requirement in unusual conditions.

6.5 All materials shall be within a completely enclosed building (no outside storage).

6.6 All parking and loading areas shall be paved with concrete or asphalt and must not cover more than one-half of required open space.

6.7 The maximum number of employees shall be fifteen (15) per acre of net land area in any one shift.

6.8 No noxious odors or undue noise shall be detectable from the property line.

6.9 The Board of Zoning Appeals must find that the plans assure the proper treatment of screening and compatibility of such construction to the adjoining property and surrounding neighborhood.

6.10 Uses that may be so authorized are: (a) Bakery, and (b) Bottling Works.

*Case
10-55*

WICHITA CITY PLANNING COMMISSION

CITY BUILDING

PHONE AMherst 2-6441

WICHITA, KANSAS

August 26, 1955



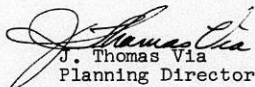
Board of Zoning Appeals
City Building
Wichita, Kansas

Gentlemen:

At its meeting on August 16, 1955, the Planning Commission considered the location of a bakery on Lot 10, Mosteller Addition. The proposal of such construction was reviewed by representatives of the Rainbo Baking Company. The site relationship for this proposed use was considered in conjunction with the surrounding area.

After discussion, it was moved, seconded and carried unanimously that Lot 10, Mosteller Addition be approved for the location of a proposed Rainbo Bakery. Such use, if properly treated, would be in harmony with the elements or objectives of the Master or Comprehensive Plan.

Sincerely,


J. Thomas Via
Planning Director

JTV:br

CERTIFICATE OF OWNERSHIP
* * *

THE GUARANTEE ABSTRACT COMPANY, INC., hereby certifies the following to be the last owners as shown by the records in the office of the Register of Deeds, Sedgwick County, Kansas, of the LOTS surrounding and within a radius of 200 feet of Lot 10, in Fred P. Mosteller Addition, Sedgwick County, Kansas.

FRED P. MOSTELLER ADDITION

<u>Lot No.</u>	<u>Owner</u>
5-6-7-8 & 9	Sunnyside, Inc. 1901 East Pawnee ✓

MURPHY ADDITION

<u>Block 1</u>	
1-2-3-4-5-6	Geneva H. Murphy (s), Betty Mosteller (s) and Betty Mosteller, as Guardian of the Person and Estate of Jeanne Suzanne Mosteller, a minor. 1901 East Pawnee ✓

<u>Block 2</u>	
1-2-3-11-12-13	Do

<u>Block 3</u>	
1 & 15	Do

RED ARROW 2nd ADDITION

<u>Block 1</u>	
5-6-7-8-9-10-11-) 12-14-15- & 16)	Red Arrow Sales, Inc. 2021 South Hillside ✓
13	Donald B. Williams and Darlene M. 5136 East Zimmerly ✓

* * * * *

WITNESS our Hand and Seal this the 16th day of August, 1955.

THE GUARANTEE ABSTRACT COMPANY, INC.

By  President

Order No. 39154-A