

CASE No. 12-51

BOARD OF ZONING APPEALS

August 3, 1951

A meeting of the Board of Zoning Appeals was held on Friday, August 3, 1951, at 1:30 p.m. in the City Commission Room of the City Building. Members present were Chairman Herrman, Keeler and C. Smith. Others present were Secretary Smith, Maple and Gilbert.

CASE NO. 12-51

Applicant: Tom Kallail

Premises Affected: 765 Hendryx, southeast corner Hendryx and Osage

Zoning: "RB" Four-Family zoning district

Secretary Smith reviewed the case. He stated that the applicant desires to remodel and add approximately 12 feet to the east side of the legal non-conforming grocery store at this location; that the addition will be in line with the houses in the block; that the appellant feels there is a need to provide more room for the business.

Mr. Kallail stated that he bought the property in 1945 and the present tenant has been there for fifteen years; that the store was in operation prior to the zoning.

G. H. Vandenberg presented a protest petition signed by ten adjoining property owners stating that they opposed any additional extensions to this building; that they feel there are adequate commercial uses in the vicinity and no need for the expansion of this non-conforming use; that the expansion of this use will be of no advantage to them as property owners, and only create congestion; that the owner knew the building was non-conforming when he bought it, so it is not a hardship on him.

Mr. Kallail stated that he wanted to give the neighborhood a nice store that could stock the commodities they desire; that he will not change to another use.

In executive session, Keeler pointed out that this use is in opposition to the Zoning Ordinance and it would be perpetuating every other non-conforming use, if the variance is granted.

C. Smith stated that there is no apparent need for the use, as the neighborhood is definitely opposed to it.

After discussion, Smith Moved and Keeler seconded that the Board deny this appeal as there is no jurisdiction since the rights of the adjacent property owners would be adversely affected by the variance. The motion carried unanimously.

Wichita, Kansas  
July 30, 1951

TO: THE BOARD OF ZONING APPEALS

Gentlemen:

We, the residents of Osage Avenue, Hendryx Avenue and Dayton Avenue, do protest any addition, leanto or attachment to the building at 765 Hendryx Avenue. Knowing that the new West High School is coming here we would like to keep our part of town neat. In view of the fact that the building now on the ground at 765 Hendryx is old and out of date, nothing added to same could be of any civic benefit.

SIGNED:

*A.H. Vandenberg 805 Hendryx Ave.*  
*M. O. Norman 811 Hendryx -*  
*D.E. Knipp 815 Hendryx*  
*H.V. Kirkbright 804 Dayton*  
*Mrs. R. E. V. Duntire. 814 Dayton.*  
*Mrs. J. J. Applegate 751 Hendryx*  
*Theodore R King 755 Hendryx*  
*Mr. Mrs. T. J. Dreckline 636 S. Osage*  
*Charlie Hamm 802 Dayton*  
*Marguerite Showalter 646 So. Osage*

NOTES ON THE CONVERSATIONS OF RESIDENTS WHO  
SIGNED THIS PROTEST PETITION:

(The following statements were made as reasons for protesting any addition to the grocery store at 765 Hendryx.)

The store is adequate at present to care for all its trade territory; when the City took the ground for West High School, the store lost most of its neighborhood value.

We have plenty of commercial zones on Seneca Street and Maple Street; since residents of this entire area must walk to Seneca or Maple Streets for transportation via Wichita Transportation System, ample opportunity to shop in larger ~~stores~~ stores is afforded them.

We don't want a large store, as it might be turned into a High School gathering spot of evenings. This would work a hardship on most of us, as we are a neighborhood of working people. Here, it is early to bed and early to rise.

The street paving is not wide enough to carry the traffic of a big store, nor are there parking facilities.

We feel that with the new West High School crowding us on the south side and the new 54 Highway on the north of us, we don't need anything more added in the midst of us to cause congestion.

Some of us have owned homes here for a long time and would like to stay. We like it here as it is and has been. It is our place to rest after a day in all the turmoil that goes on in a big city.

And, finally, we feel that we are not working any hardship on the owner of 765 Hendryx Avenue, by protesting against any addition to the building already there, as he knew this was a non-conforming zone when he purchased the property.

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To Tommy Kallail Owner Address 110 S. Martinson  
To Same Applicant Address \_\_\_\_\_


Dear Sir:

Your Application Dated May 24, 1951  
For a Permit for the remodeling of and addition to grocery store building  
\_\_\_\_\_ at the premises designated as  
765 Hendryx

Is hereby refused on this 24th day of May, 19 51,  
Under Section Sec. 24, par. 1 and 3 of the Zoning Ordinance.

For the reason that this is a non-conforming use building and remodeling  
would be done that would change the general character of the building, and  
the floor area would be enlarged. The appellant desires to add approximately  
12' to the east side of the building. It will be necessary to practically  
demolish the present building in order that these changes may be made.

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.

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

NOTICE OF HEARING OF APPEAL

July 27, 1951

**Mr. Tom Kallail**

**Dear Sir** \_\_\_\_\_:

Your appeal, under the Zoning Ordinance, relative to premises at  
765 Hendryx

\_\_\_\_\_

has been given Board of Zoning Appeals Case No. 12-51.

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 3, 1951, 19\_\_\_\_, at 1:30 P.M.  
Room 201, City Building.

Respectfully,

Eugene N. Smith  
Secretary, Board of Zoning Appeals



**Post Office Department**  
OFFICIAL BUSINESS

PERALTY FOR PRIVATE USE TO AVOID AN ARREST OF POSTAGE, ETC.  
(870)

DEPARTMENT OF DEFENSE  
JUL 28 1951  
REGISTERED ARTICLES DIVISION

Return to City Planning Commission  
(NAME OF BENEFITARY)

Street and Number  
or Post Office Box 304 City Bldg.

REGISTERED ARTICLE  
No. 3313

INSURED PARCEL

**WICHITA,**  
**KANSAS.**

**RECEIPT FOR REGISTERED ARTICLE No. 3313**

Fee paid 75 108 728 13  
Class postage paid 108 Return receipt fee 05  
Declared value, \$ 20 Special delivery fee \_\_\_\_\_

Surcharge paid, \$ \_\_\_\_\_

Restricted delivery (Accepting employees will place initials in proper space) \_\_\_\_\_  
in person \_\_\_\_\_  
or order \_\_\_\_\_  
Fee paid \_\_\_\_\_

From City of Wichita  
(Postmaster)  
City Planning Com.  
(Post office name)

Addressed to Mrs. Gene Kellard  
(Addressee)  
110 S. Harrison  
(Street and number) Postmaster, per JK

DEC 6-10-18500-5 (Post office and State)

PS Form 3821  
Rev. 1-7-49

### RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 Tommy Kallail  
(Signature or name of addressee)

2 Mrs. Tommy Kallail  
(Signature of addressee's agent - Agent should indicate addressee's name on this ONE sheet)

Date of delivery 7-30, 1951

U. S. GOVERNMENT PRINTING OFFICE 10-12421-1

### RECEIPT FOR REGISTERED ARTICLE No. 3313

Fee paid 25 10¢ 7-28-51 19

Class postage paid 10¢ Return receipt fee 05

Declared value, \$ 2.00 Special delivery fee \_\_\_\_\_

Surcharge paid, \$ \_\_\_\_\_

Restricted delivery  in person \_\_\_\_\_  
(Accepting employee will place initials in proper space)  or order \_\_\_\_\_

Fee paid \_\_\_\_\_

From City of West Haven

Addressed to Mrs. Tommy Kallail

110 S. Main St. Postmaster, per HL

PS Form 3821  
Rev. 1-7-49



110 S. Martinson  
Wichita 12, Kansas  
June 11, 1951

Board of Zoning Appeals  
Wichita  
Kansas

The store building located at Hendrix and Osage is a stucco exterior, wooden house converted years ago. The building is 52½' x 21', has a north front and is set back 20½' from the front sidewalk and 10½' from the west side of the lot.

At the present time the property is not commercial, and I would like to remodel and enlarge the building making it a modern neighborhood store. I wish to put in a concrete floor and cement block walls and to widen the building 12 feet if allowed to build. As the building sets even with the houses in the same block, it will not obstruct anything.

Yours sincerely,

Tommy Kallail

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

NOTICE TO PROPERTY OWNERS

July 27, 1961

An appeal has been filed by Tom Kallall  
(Address) 110 S. Hartman on behalf of \_\_\_\_\_  
\_\_\_\_\_  
(Address) \_\_\_\_\_

as provided by Section 33 of the Zoning Ordinance. The appellant  
desires to ~~make an addition to the east side of a non-conforming~~  
~~commercial building~~ on the premises  
located at 765 Hendryx

This appeal has been given Case No. 12-61  
and a hearing will be held by the Board of Zoning Appeals on \_\_\_\_\_  
Friday, August 5, 1961 at 1:30 p.m.  
at which time you may appear, if you so desire, either in person or  
by agent or attorney.

**Room 301, City Building.**

By order of the Board of Zoning Appeals.

Eugene H. Smith  
Secretary.

Notices Mailed July 27, 1951

Raymond L. Weber	2114 N. Minneapolis
G. H. Vandenberg	805 Hendryx
C. V. Pearce	803 "
T. R. King	755 "
J. J. Applegate	751 "
Dan Fontz	Beacon Bldg.
Norman Carl Mueller	238 N. Meridian
Georgia Viola Stephens	744 Hendryx
Lois M. McIntire et al	814 Dayton
William V. Kirkbright	804 "
Charles E. Hamm	802 "
Dean U. Pakke	136 Cirlice Drive
A. J. Owen	734 Dayton
William Showalter	6464n S. Osage
Tony J. Stecklame	636 S. "
Arthur L. Baird	RFD 2 Wichita
J. P. Curnutt	742 Hendryx
O. E. Page	738 "

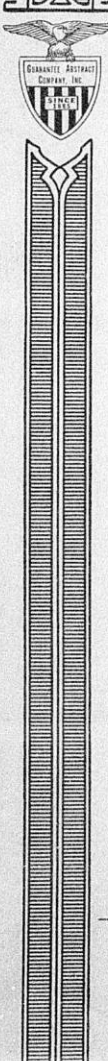
An appeal has been filed by \_\_\_\_\_ (Address) \_\_\_\_\_  
 on behalf of \_\_\_\_\_ (Address) \_\_\_\_\_  
 as provided by Section 32 of the zoning Ordinance. The applicant desires to \_\_\_\_\_  
 on the premises \_\_\_\_\_  
 located at \_\_\_\_\_  
 This appeal has been given case No. \_\_\_\_\_  
 and a hearing will be held by the Board of zoning Appeals on \_\_\_\_\_  
 at \_\_\_\_\_  
 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.

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C E R T I F I C A T E

THE GUARANTEE ABSTRACT COMPANY, INC., hereby certifies the following to be a true and correct list of the Property Owners within a radius of 200 feet from the property of Thomas Kallail, known as 765 Hendrix, or Lots 74 and 76, on Hendryx Avenue, in Glendale Addition to The City of Wichita, Sedgwick County, Kansas:

The following Lots in Glendale Addition to Wichita:



On Hendryx Avenue-

Owners

- Lots 62-64 ----- Raymond L. Weber & Mauda Weber;  
*2114 N. Minneapolis*
- Lots 66-68 ----- G. H. Vandenberg;  
*503 Hendryx*
- Lots 70-72 ----- C. V. & Ella M. Pearce;  
*503 Hendryx*
- Lots 74-76 ----- Thomas Kallail;
- Lots 78-80 ----- Theodore R. & Ellen King;  
*755 Hendryx*
- Lots 82-84 ----- Jacob J. & Florence F. Applegate;  
*751 Hendryx*
- Lots 86-88, ----- Dan Tontz & Mary Ellen Tontz;  
*Beacon Bldg*
- Lots 90-92, ----- Norman Carl Mueller;  
*238 A Meridian*
- Lot 85, ----- Georgia Viola Stephens;  
*744 Hendryx*
- Lots 87-89, ----- J. P. & Mabel Lorene Curnutt;  
*742 Hendryx*
- Lots 91-93 ----- O. E. Page;  
*738 Hendryx*

On Dayton Avenue-

- Lots 57-59-61-63 ----- Lois M. & June Rosetta McIntire & Fannie E. Waddington;  
*814 Dayton*
- Lots 65-67 ----- William V. & Rose D. Kirkbright;  
*904 Dayton*
- Lots 69-71 ----- Charles E. & Zelma Hamm;  
*802 Dayton*
- Lots 73-75-77-79 ----- Dean U. & Frances J. Bakka;  
*136 Circle Dr.*
- Lots 81-83 ----- John & Olive B. MacKay;
- Lots 85-87 ----- A. J. & Erma Owen;  
*734 Dayton*
- Lots 89-91 ----- Erman Owen;

On Osage Avenue-

- Lots 2-4 ----- William E. & Marguerite M. Showalter;
- ✓ Lots 6-8 ----- Ida Demuth;  
*446 S Osage*
- Lot 10 & S. 9' of Lot 12;---Tony J. & Georgia Ann Steckline;  
*436 S Osage*
- Lots 1-3-5-7, ----- Arthur L. & Luella Baird;  
*RFD 2*

Dated June 7, 1951.

THE GUARANTEE ABSTRACT COMPANY, INC,

Order No. 24601

By *John W. Fin* President

BOARD OF ZONING APPEALS

Case No. 12-51

Filed May 24, 1951

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, Tommy Kallail, hereby appeals  
from the decision of the Building Inspector wherein a Building Permit  
Is Refused For 765 Hendryx, the remodeling and addition to a  
grocery store building which is non-conforming use;

OR

Order Or Decision Rendered Because non-conforming use cannot be  
structurally enlarged

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.

Tommy Kallail  
Appellant.

NAMES AND ADDRESSES

Appellant	<u>Tommy Kallail</u>	Address	<u>110 S. Martinson</u>
Owner	<u>same</u>	Address	<u>same</u>
Lessee	<u></u>	Address	<u></u>

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.