

BZA 14-71 - George Laham requests
Variance to reduce rear yard set
back from 10 ft to 8 ft at SE
corner of 13th and Jackson

10-19-71
P. J. T. E. D.

BZA 11-23-71 *Denny*

Map No. 5408
 Sec. 17
 Twp. 27
 Range 1E

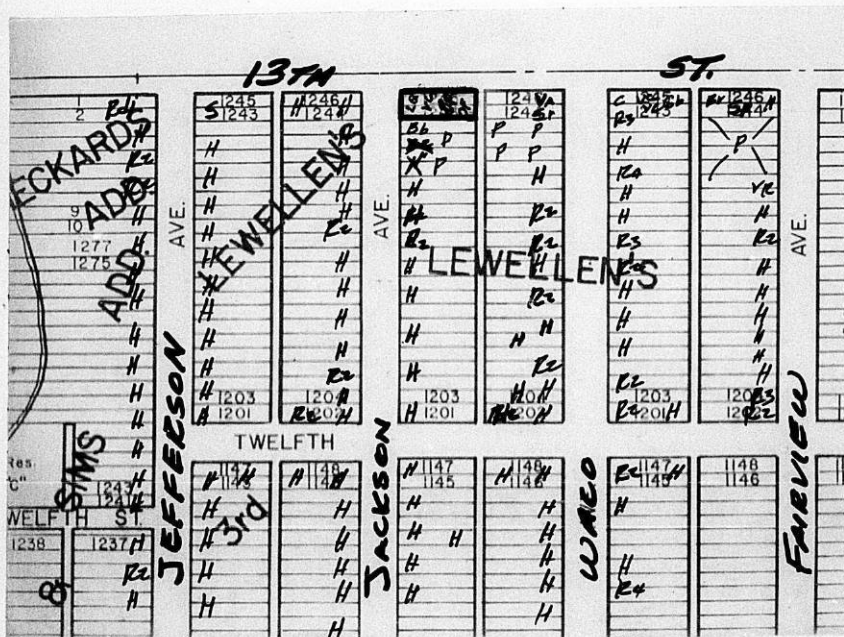
BZA- 1A-71
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.16 (50 ft. by 140 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South _____
 West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: LIQUOR STORE
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



RESOLUTION NO. BZA 14-71

WHEREAS, George E. and Mary Ann Laham, 4210 West 18th Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 10 feet to 8 feet, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 1243 and 1245 on Jackson Avenue, in Lewellens Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of 13th and Jackson.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of November 23, 1971, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that no uniqueness exists inasmuch as the property is adjacent to a substandard alley and the owner simply wants to overbuild the site; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect adjacent properties inasmuch as it would restrict traffic flow to and from 13th Street by persons utilizing the parking lots to the south; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will not constitute unnecessary hardship upon the property owner represented in the application inasmuch as denial of the variance will only eliminate 2 feet of frontage on 13th Street; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as a building constructed to the property line would present a sight conflict which would be dangerous for both pedestrians and vehicles; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (zoning ordinance) inasmuch as the four previous requirements cannot be met; and

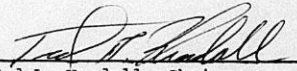
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, cannot be found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required rear yard setback from 10 feet to 8 feet, on property zoned "LC" Light Commercial, and legally described as follows:

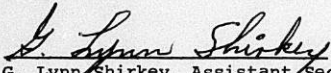
Lots 1243 and 1245 on Jackson Avenue, in Lewellens Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of 13th and Jackson.

be denied.

ADOPTED AT WICHITA, KANSAS, this 23rd day of November, 1971.


Ted A. Kendall, Chairman

ATTEST:


G. Lynn Shirkey, Assistant Secretary

December 16, 1971

Mr. George E. Laham
4210 West 18th Street
Wichita, Kansas 67203

Subject: Case No. BZA 14-71
Request for Variance

Dear Mr. Laham:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 23, 1971, in connection with your request for a variance to reduce the required rear yard setback from 10 feet to 8 feet, on property zoned "LC" Light Commercial, and generally located at the southeast corner of 13th and Jackson.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls

Enclosure

cc Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

November 26, 1971

Mr. George E. Laham
4210 West 18th Street
Wichita, Kansas 67212

Subject: Case No. BZA 14-71
Request for Variance

Dear Mr. Laham:

At the regular meeting of the Board of Zoning Appeals on November 23, 1971, your request for a variance to reduce the required rear yard setback from 10 feet to 8 feet, was considered.

It was the action of the Board to deny this request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Assistant Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

G. Lynn Shirkey
Assistant Secretary

GLS:ls

cc Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 14-71

APPLICANT: George E. & Mary Ann Laham, 4210 West 18th Street,
Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the
City of Wichita, to reduce the required rear yard set-
back from 10 feet to 8 feet

GENERAL LOCATION: At the southeast corner of 13th and Jackson

ZONING: Subject property is zoned "LC" Light Commercial as are
those properties to the north, east, south and west

LAND USE: Subject property is occupied by offices, liquor store
and beauty shop, to the north is Sandy's Drive-in and
off-street parking lot for Dillon's food store, to the
south is parking, east is variety store and single
family is to the west.

JURISDICTION:

The Board has jurisdiction to consider the variance request
under the provisions outlined in Section 2.12.590.B, Code of
the City of Wichita. The Board may grant the request when all
five of the following conditions are found to exist:

1. That the variance requested arises from such condition which
is unique to the property in question and which is not
ordinarily found in the same zone or district; and is not
created by an action or actions of the property owner or
the applicant.
2. That the granting of the permit for the variance will not ad-
versely affect the rights of adjacent property owners or
residents.
3. That the strict application of the provisions of Title 28 of
which variance is requested will constitute unnecessary hard-
ship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the pub-
lic health, safety, morals, order, convenience, prosperity
or general welfare; and

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance.)

Comments by the Secretary:

The applicant is requesting a variance of the rear yard setback from 10 feet to 8 feet to add an 18 foot extension onto an existing building adjacent on the west. The situation, briefly, is that at the time the building to the west was constructed it was necessary to leave an 18 foot strip of land adjacent on the east for off-street parking in order to meet the required number of off-street spaces as provided by the Zoning Ordinance. The applicant has since obtained additional land to the south which is used for off-street parking and, therefore, this 18 foot is no longer needed for parking purposes.

The Zoning Ordinance states on lots used for commercial purposes in the "LC" Light Commercial District, the rear yard depth shall be not less than 10 feet. Inasmuch as the application area abutts a platted alley, one-half of the alley right-of-way is considered part of the rear yard. In this instance the adjacent alley is only 16 feet in width whereas 20 feet is now the required standard.

Uniqueness:

It is the opinion of the Secretary that it is difficult to find uniqueness in instances such as this where properties are adjacent to substandard alleys and the owners simply want to overbuild the site.

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance request would not adversely affect adjacent properties inasmuch as there is an existing commercial building to the east and the land to the south is utilized for off-street parking.

Hardship:

It is the opinion of the Secretary that no hardship can be found to exist in that denial of the variance will only eliminate 2 feet of frontage on 13th Street.

Page 3 - Secretary's Report
Case No. 14-71

Public Interest:

It is the opinion of the Secretary that the granting of the variance would affect the public interest inasmuch as it would be difficult to ever provide a standard 20 foot alley if new buildings are permitted to be constructed with a lessor rear yard setback.

Spirit and Intent:

It is the opinion of the Secretary that the granting of the variance would be opposed to the spirit and intent of Title 28 inasmuch as the four previous requirements cannot be met.

Recommendation:

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance cannot be found to exist and, therefore, it is recommended that the request not be approved.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

November 3, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 14-71

An application has been filed by George E. Laham, 4210 West 18th Street, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 10 feet to 8 feet, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 1243 and 1245 on Jackson Avenue, in Lewellens Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of 13th and Jackson.

This application has been assigned Case No. BZA 14-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, November 23, 1971, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

16 Notices Mailed 11-3-71

1. If the lot had been platted so that the orientation had been to 13th St. instead of to Jackson St. then this condition would not have arisen, as there is no required side yard set back for light commercial.
2. The granting of the variance will not in anyway adversely effect the rights of the adjacent property owners or residents.
3. The strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application for the following reason:
 - a. Owner was planning to build a building 18 x 50 on the property and will not be able to do so unless variance is granted.
4. The variance desired will not adversely effect the Public Health, Safety, Morals, Order, Convenience, Prosperity, or General Welfare as the variance requested is internally located.
5. The granting of this variance will not be apposed to the general spirit and intent of Title 28 (zoning ordinance) in anyway.

When the building (just west of the subject 18') was first built the 18' was left on the East side of building for customer parking. Later adequate parking was acquired just south of the building and the 18' was no longer needed for that purpose. Now the best use of the 18' would be for the construction of a commercial building.

If a building permit were granted to build this building it would add to the tax rolls, It would serve a public purpose and there is a need for additional rental space in the area. The tenants would not use the alley for loading or unloading as the rear door is planned at gouth end of the building.

George E. Schar
Mary Ann Schar
OWNER

BOARD OF ZONING APPEALS

CASE NO. 14-71

CITY OF WICHITA, KANSAS

FILED 10-4-71

APPLICATION FOR VARIANCE

I. Name of Applicant George E. and Mary Ann Laham

Mailing Address 4210 W. 18th, Wichita, Kansas / ⁶⁷²¹² Phone 942-4067

Name of Authorized Agent None

Mailing Address N/A Phone N/A

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is Reduce the required rear yard set back from
10 feet to 8 feet.

for property located on the South side of 13th Street in the area between
Waco and Jackson Streets.

and legally described as: Lots 1243 and 1245 on Jackson Avenue, in
Lewellens Addition to the City of Wichita, Sedgwick County, Kansas.

in the City of Wichita; and which is presently zoned Light Commercial

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

George E. Laham
Mary Ann Laham
Applicant

None
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:35 (a.m. - p.m.), October 4, 1971 19 71 together with appropriate fee of \$50.00.

T9-402

MAP # 5448

G. Lynn Shirkley
Signed

CERTIFICATE OF OWNERSHIP

GUARANTEE TITLE CO. Inc., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, Kansas, of

Lots 1243 and 1245 on Jackson Avenue,
in Lewellens Addition to the City of
Wichita, Sedgwick County, Kansas,

together with all lots lying within a 200 foot radius thereof.

DESCRIPTION	OWNER/OWNERS	ADDRESS	
<u>Lewellens Add.</u>			
<u>Jackson Ave.</u>			
Lots 1225-1227-1229	✓Walter H. Hartman and Mary A.	1340 Jackson	67203
Lots 1231-1233	✓Lowell Wayne Sexton and Connie	1346 Jackson	67203
Lots 1235-1237	✓Katie Lansdowne	1350 Jackson	67203
Lots 1239-1241-1243-1245	DGeorge E. Laham and Mary Ann	4210 W. 12TH ST. N. 110 N. Vine St.	67203 67203
<u>Waco</u>			
Lots 1226-1228	✓Gladys L. Brown Hodge (now wife of James C. Squier)	Beaumont, Ks.	67012
Lots 1230-1232	✓Arthur M. Maddox and Charlotte	1341 No. Waco	67203
Lots 1234-1236	✓Darrell H. Leason	18 E. Lynwood Blvd.	67207
Lots 1238-1240-1242 & S 5' of 1244	✓Dunn Investment Co.	4 Park Ave.	67206
N 20' of Lot 1244 and all of Lot 1246	D Dunn Mercantile Co.	4 Park Ave.	67206
<u>Lewellens 3rd Addition to Wichita</u>			
<u>Jackson</u>			
S 12½' of Lot 1228	✓Daisy L. Hayes	1919 Wassall	67211
S 6" of N/2 of Lot 1228	✓William L. Graham	211 N. Broadway	67202
N 12' of Lot 1228, all of Lot 1230	✓Aleda M. Schuckman and Frank J. Schuckman	1331 Jackson	67203
Lots 1232 and 1234	✓Milo Norris and Bernice	1335 Jackson	67203
Lots 1236 and 1238	✓Harry W. Hill and Ida Mae	1337 Jackson	67203
Lots 1240-1242-1244-1246	✓Mrs. E. V. Whistler a/k/a E. Virginia Whistler, now decd. Irma W. Spero (pays taxes)	1341 Jackson	34608

Sherwood's Addition
13th St.

Lots 1-3-5

✓ Barnard J. Markoski, John C. Totten
Donald E. Ashley-Co-trustees
"Wichita Trust"

501 Clara St.
Peoria, Ill 62614

Lot 7

✓ Dillion Investment Co.

2700 E. 4th St.
Hutchinson, Ks. 67501

Lots 9-11-13-15-17

✓ The J. S. Dillon & Son Stores

2700 E. 4th St.
Hutchinson, Kansas 67501

WITNESS our Hand and Seal this the 31st day of August, 1971 at 7 A.M.

GUARANTEE TITLE CO. Inc.

By

Nellie M. Kestinger

Vice-President.

Order No. 33358

Form 021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Handwritten description</i>	<i>Handwritten amount</i>

Name

Address

Type

Due Date

Comments:

Date

By

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1