

BZA 15-71 - Frank Laughlin req.
Variance of side yd. adj. to N
prop. line from 5 feet to 0 feet

POSTED
4/501
10/28/01
[Signature]
M.H.V.
S.I.V.
12-20-71

BZA 11-23-71 Appr
[Signature]

RESOLUTION NO. BZA 15-71

WHEREAS, Frank Laughlin, 1416 East First Street, Wichita, Kansas, by Robert H. Nelson, Suite 630-200 West Douglas, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "C" Commercial, and legally described as follows:

Lot 33, on Cleveland Avenue, Mathewson's Fourth Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Cleveland in an area between 2nd and 3rd Streets.

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 the variance 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 inasmuch as it is conceivable that the land adjacent to the north may be rezoned "C" at some future date, thereby eliminating the 5 foot sideyard setback now required; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the contract purchaser and the legal owner of the lot to the north have expressed they do not oppose construction of the building to the applicant's property line; 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 constitute unnecessary hardship upon the property owner represented in the application inasmuch as the existing footings would have to be removed and reconstructed not less than 5 feet from the north property line; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as the variance request is interiorly located; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance) inasmuch as the application does meet the four previous requirements; 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, have been 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 side yard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "C" Commercial, and legally described as follows:

Lot 33, on Cleveland Avenue, Mathewson's Fourth Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Cleveland in an area between 2nd and 3rd Streets.

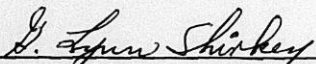
be approved.

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



Ted A. Kendall, Chairman

ATTEST:



G. Lynn Shirkey, Assistant Secretary

December 17, 1971

Mr. Frank Laughlin
1416 East First Street
Wichita, Kansas 67214

Subject: Case No. BEA 15-71
Request for Variance

Dear Mr. Laughlin:

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 side yard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "C" Commercial, and generally located on the east side of Cleveland in an area between 2nd and 3rd Streets.

This Resolution reflects the official action of the Board to approve 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
Robert H. Nelson, Suite 680-200 West Douglas

November 26, 1971

Mr. Robert H. Nelson
Suite 630-200 West Douglas
Wichita, Kansas 67202

Subject: Case No. BZA 15-71
Request for Variance

Dear Mr. Nelson:

At the regular meeting of the Board of Zoning Appeals on November 23, 1971, your request for a variance to reduce the required side yard setback adjacent to the north property line from 5 feet to 0 feet, on property zoned "C" Commercial, and generally located on the east side of Cleveland in an area between 2nd and 3rd Streets, was considered.

It was the action of the Board to approve 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 Frank Laughlin, 1416 East First Street 67214
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 15-71

APPLICANT: FRANK LAUGHLIN, 1416 East First Street, Wichita, Kansas

AGENT: Robert H. Nelson, Suite 630, 200 West Douglas, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the north property line from 5 feet to 0 feet

GENERAL LOCATION: On the east side of Cleveland in an area between 2nd and 3rd Streets

ZONING: Subject property is zoned "C" Commercial as is that property to the south; west is "E" Light Industrial; north and east is "B" Multiple Family

LAND USE: Subject property is undeveloped as is that to the south, north is multiple and single family, east and west is single family

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 adversely 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 hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public 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 required side-yard setback adjacent to the north property line from 5 feet to 0 feet in order to proceed with the construction of a warehouse for which footings were poured on the north property line due to an error by the contractor.

Subject property is bounded on the south by "C" Commercial zoning, on the west by "B" Light Industrial Zoning and on the north and east by "B" Multiple Family Zoning. The Zoning Ordinance states under the area requirements in the "C" Commercial District; that "no side yard is required for buildings erected, enlarged, converted for other than dwelling uses excepting at the boundary line of the "C" district and any dwelling district, in which case there shall be a side yard adjoining the dwelling district of not less than five (5) feet."

It should be pointed out that the contract purchaser of the property to the north has submitted a letter to the Secretary indicating she has no objections to approval of the variance request. The applicants attorney states that the legal owner of said property to the north has indicated to him that he also has no objections to the variance.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify because of error only, however, inasmuch as applications for "C" Commercial zoning have been looked upon with favor in the block and inasmuch as it is conceivable that the land adjacent on the north may be rezoned to "C" at some future date thereby eliminating the 5 foot sideyard setback now required, the Secretary feels that uniqueness can be found to exist.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance should not adversely affect adjacent properties inasmuch as the contract purchaser and the legal owner of the lot to the north have expressed they do not oppose construction of the building to the applicants property line

Page 3 - Secretary's Report
Case No. 15-71

HARDSHIP:

It is the opinion of the Secretary that an unnecessary hardship would be placed upon the applicant if the variance were not granted inasmuch as the existing footings would have to be removed and reconstructed not less than 5 feet from the north property line.

PUBLIC INTEREST:

It is the opinion of the Secretary that there should be no adverse effect on the public interest inasmuch as the variance request is interiorly located.

SPIRIT AND INTENT:

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

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted to reduce the sideyard setback adjacent to the north property from 5 feet to 0 feet.

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 15-71

An application has been filed by Frank Laughlin, 1416 East First Street, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback adjacent to the north property line from 5 to 0 feet, on property zoned "C" Commercial, and legally described as follows:

Lot 33, on Cleveland Avenue, Mathewson's Fourth Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Cleveland in an area between 2nd and 3rd Streets.

This application has been assigned Case No. BZA 15-71, 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

20 notices mailed 11-3-71

KAHRS, NELSON, FANNING, HITE & KELLOGG

ATTORNEYS AT LAW

SUITE 630 - 200 WEST DOUGLAS AVENUE

WICHITA, KANSAS 67202

AREA 316
262-3777

AUSTIN M. COWAN (1885-1848)

W. A. KAHRS

ROBERT H. NELSON

H. W. FANNING

RICHARD C. HITE

DARRELL D. KELLOGG

ROGER M. SHERWOOD

RICHARD L. HONEYMAN

LARRY A. WITHERS

GARY A. WINFREY

October 21, 1971

Board of Zoning Appeals
City of Wichita
104 South Main
Wichita, Kansas

Re: Application for Variance, Lot 33, Mathewson's Fourth
Addition, Cleveland Avenue

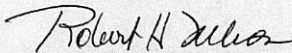
Gentlemen:

I am enclosing herewith application for variance of the side yard set back on the north side of Lot 33, Mathewson's Fourth Addition, Cleveland Avenue, together with check in the amount of \$50 in payment of the filing fee. This is being filed under Section 2.12.590.B Code of the City of Wichita.

Also enclosed is statement of applicant by his attorney justifying said variance request and copy of letter from the equitable owner of Lot 35 stating in substance that it is agreeable with her that said five foot side yard setback be eliminated.

Please advise when this matter will be heard before the Board of Zoning Appeals.

Yours very truly,



Robert H. Nelson

OF KAHRS, NELSON, FANNING, HITE & KELLOGG

RHN:kp

Enclosure

cc: Mr. Frank Laughlin

KAHRS, NELSON, FANNING, HITE & KELLOGG
ATTORNEYS AT LAW

SUITE 630 • 200 WEST DOUGLAS AVENUE
WICHITA, KANSAS 67202

AUSTIN M. COWAN (1885-1948)
W. A. KAHRS
ROBERT H. NELSON
H. W. FANNING
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DARRELL D. KELLOGG
ROGER M. SHERWOOD
RICHARD L. HONEYMAN
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GARY A. WINFREY

AREA 316
262-3777

October 21, 1971

Board of Zoning Appeals
City of Wichita
104 South Main
Wichita, Kansas 67202

Gentlemen:

Applicant is the owner of Lots 29, 31 and 33 on Cleveland Avenue, Mathewson's Fourth Addition. On September 28 the property was rezoned to a "C" classification. The owner of the property, at the present time, Mr. Laughlin, is engaged in the construction of a building that is to be used for warehouse purposes approximately 100 x 100, being 10,000 square feet. The owner desires a waiver of the five yard setback as between Lots 33 and 35 so that the North side of the building can be built on the property line.

The Metropolitan Area Planning Commission at the time the zoning was considered indicated that it would look with favor on the rezoning of the property on Cleveland to an "LC" or "C" classification to Central Avenue, inasmuch as Cleveland is developing into a warehouse area. If the property immediately to the north was rezoned in accordance with the MAPC's suggestion there would be no side yard setback required and it appears that within the very near future such rezoning will be effected.

To leave a five foot side yard setback from the north side of Lot 33 and if the property to the north is eventually zoned to a higher classification, this would leave five foot of unusable property which would be an area that would be conducive to debris gathering therein and constitute an unsightly situation. It is our opinion that the granting of such variance would not adversely affect the rights of adjacent property owner and will

Board of Zoning Appeals
Page Two
October 21, 1971

not affect the public's health and general welfare of the community.

The legal title in Lot 35 stands in the name of Dale M. Bryant and said property is being sold to Lucille Lichy under contract of sale. Attached hereto is a statement in writing from Lucille Lichy advising that it is agreeable with her that the five foot side yard setback be not required.

Mr. Dale Bryant, the legal owner of the property, has indicated to this writer, that it is agreeable with him also.

Yours very truly,



Robert H. Nelson
OF KAHR, NELSON, FANNING, HITE & KELLOGG
ATTORNEYS FOR FRANK LAUGHLIN

RHN:kp

I am purchasing the Property known as Lot #35 -
Mathewson's 4th Addition to the City of Wichita -
Sedgwick County, Kansas.

It will be agreeable with me for Mr. Frank Laughlin
to build to his North Property line of Lot #33 and
my South Property line of Lot #35.

Lucille Lichty Lot 35
LUCILLE LICHTY

OCTOBER 20, 1971

BOARD OF ZONING APPEALS

CASE NO. 15-71

CITY OF WICHITA, KANSAS

FILED 10-26-71

APPLICATION FOR VARIANCE

I. Name of Applicant Frank Laughlin

Mailing Address 1416 East First, Wichita 67214 Phone 263-9783

Name of Authorized Agent Robert H. Nelson

Mailing Address Suite 630, 200 W. Douglas Phone 262-3777

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

II. The variance requested is ~~a waiver of the five yard setback for property located on the east side of North Cleveland~~ To reduce the required sideyard setback adjacent to the north property line from 5 feet to 0 feet.
for property located on the E side of Cleveland in an area bet. 2nd + 3rd

and legally described as: Lot 33, Mathewson's Fourth Addition

in the City of Wichita; and which is presently zoned "X" "C".

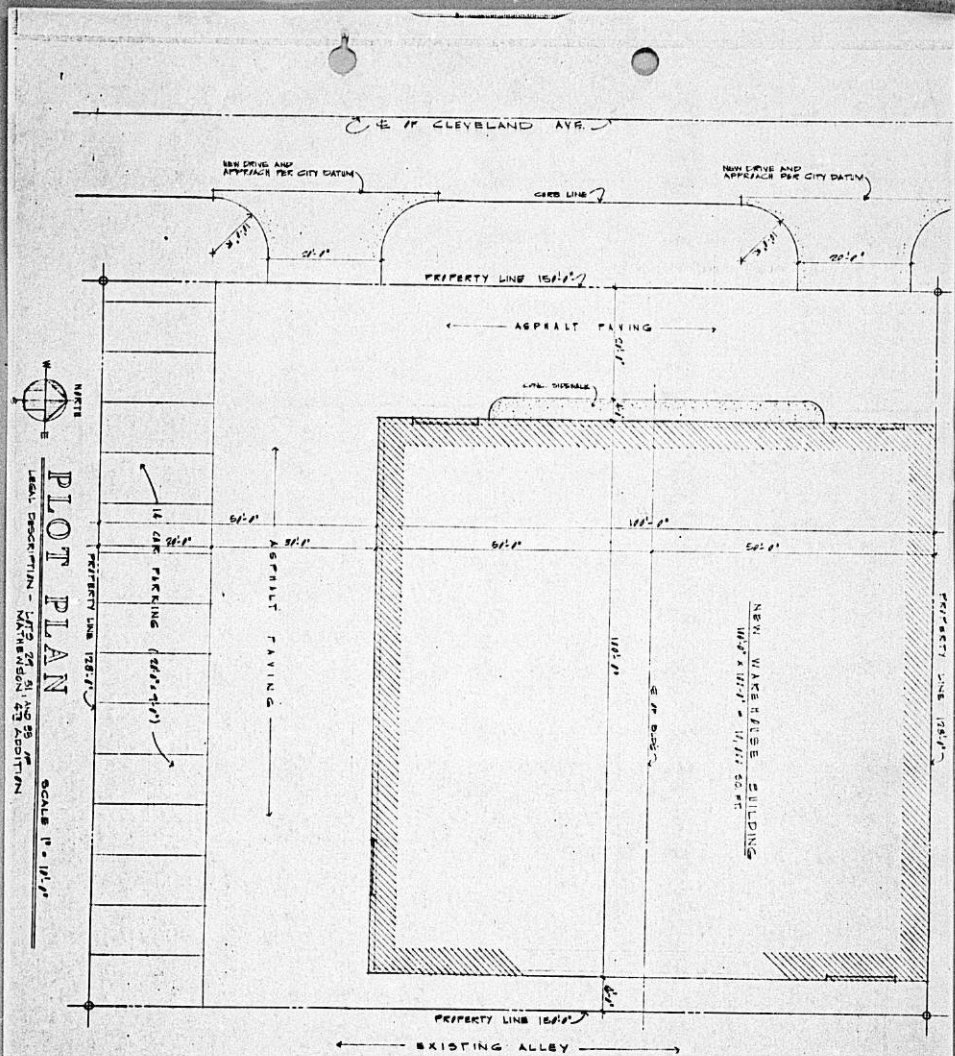
- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Frank Laughlin
Applicant
By: Robert H. Nelson
Authorized Agent Robert H. Nelson

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 9:00 (a.m.) - p.m.), October 26 19 71
together with appropriate fee of \$50.00.

S. Lynn Shirley
Signed

T9-402
Map # 5547
2-1315 Assoc. zone case



NORTH
 PLAT PLAN
 LEGAL DESCRIPTION - W1/2 27' 41' AND 28' 7" N1/2 SECTION 27 MATHEWSON 27' ADDITION
 SCALE 1" = 10'

NEW ADDRESS
FRANK LAUGHLIN
 1416 EAST FIRST
 WICHITA, KANSAS 67214
 AC 316 - 263-9783

NO. OF SHEETS	1	OF	1
DATE	1978		
BY	W.W.C.		
FOR	MR. FRANK LAUGHLIN		
	516 CLEVELAND AVE WICHITA, KANSAS		

W.W. CHAMBERS	
ARCHITECT	A. I. A.
2312 WEST 31ST STREET NORTH WICHITA KANSAS	



OWNERSHIP LIST

Lot	Street	Addition	Property owner
W50' of 26	Cleveland	Mathewson's 3rd Addition	✓Christian E. Legleiter & Margaret Legleiter, 1310 E. 2nd St. Wichita, Kansas, 67214
26 exc W. 50'	"	"	✓B. C. Wickham & Violet A. Wickham 317 N. Brookfield, Wichita, Kansas 67206
28	"	"	"
30	"	"	✓B. C. Wickham, V. A. Wickham, Gary Wickham & Ronald Wickham, dba Wickham Glass Co., 1320 E. 2nd Wichita, Kansas, 67214
32	"	"	Forrest D. Lynch & Lora Jean Lynch Address unknown <i>none found</i>
34	"	"	✓Ted Brim & Josephine Brim, 323 N. Cleveland, Wichita, Kansas, 67214
36	"	"	✓Myrtle E. Stewart, 344 N Cleveland Wichita, Kansas, 67214
38	"	"	✓Max L. McMillen & Loal E. Mc Millen 331 N. Cleveland, Wichita, Kansas, 67214
40	"	"	✓Denver V. Gearhart, Sr. & Florence V. Gearhart, 1803 S. Main St. Wichita, Kansas, 67211
42	"	"	✓Maude M. Thompson, 337 N Cleveland Wichita, Kansas, 67214
25	"	Mathewson's 4th Addition	✓Jewel Joan Hurst, 221 Hillsdale Wichita, Kansas, 67230
S8' of 27	"	"	"
N 42' of 27	"	"	✓Errol Wayne Williams & Roseana J. Williams, 553 N. Oliver Wichita, Kansas, 67208
29	"	"	○ Frank Laughlin, 4670 E. Mt Vernon Wichita, Kansas, 67218 <i>1716 E. FIRST</i>
31	"	"	"
33	"	"	"
35	"	"	✓Dale M. Bryant, 1811 McKee Wichita, Kansas, 67203
37	"	"	✓Harry Wayne Bentley & Laura Mae Bentley, 330 N. Cleveland Wichita, Kansas, 67214
41	"	"	"

Continued page 2

Lot	Street	Addition	Property Owner
26	Mathewson	Mathewson's 4th Addition	✓ Lucie I. Neely, 1414 E. 2nd Wichita, Kansas, 67214
28	"	"	"
S2' of 30	"	"	"
30 exc. S 2'	"	"	✓ W. J. Winey & Ruby Winey 303 N. Market St., Wichita, Kansas 67219
32	"	"	Roy M. Smith & Allie M. Smith Address unknown <i>none found</i>
34	"	"	Gladys Faust, Address unknown <i>none found</i>
36	"	"	✓ Dale Samuel Williams & Dorothy M. Williams, 6828 Farmview Lane Wichita, Kansas, 67206
38	"	"	✓ Joe A. Sommer & Cahterine L. Sommer 329 Mathewson, Wichita, Kansas 67214
40	"	"	✓ Hugh J. McDonald & Nellie G. McDonald, 1221 Carlos, Wichita, Kansas, 67203
42	"	"	✓ Floyd L. Southerland and Ella A. Southerland, 343 N. Mathewson Wichita, Kansas, 67214

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 foot radius of Lot 33, on Cleveland Avenue, in Mathewson's 4th Addition to the City of Wichita, as shown by the last deeds of record in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 21st day of October, 1971 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Certice Johnson

Vice-President

Order No. 183681

Form 223-021

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>BZA</i>	<i>50.00</i>
<i>Variance</i>	

Name *Robert H. Nelson*
 Address *630 Olive St. Harvey Bldg.*

Type *AA--407103* Due Date

Comments:

Date *10-26-71* By *smc*