

1967
ZONING COMMITTEE APPROVED

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA 16-67 - Dr. J. Paul Carver requests Variance of rear yard setback in "A" at the northeast corner of Orme and Dellrose

5796
P15500
5-14-67

ACTION

By COMMITTEE Approved DATE 6-27-67

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA 16-67 - Dr. J. Paul Garver requests Variance of rear yard setback in "A" at the northeast corner of Orme and Deillrose

July 21, 1967

Mr. Sidney Brick, Attorney
Coombs, Brick, Dye & Reiff
725 Sutton Place
Wichita, Kansas 67202

Dear Mr. Brick:

Re: Case No. BZA 16-67 - Request for
variance of rear yard setback

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 27, 1967, in connection with your application for variance of the rear yard setback from 20 feet to 5 feet on property zoned "A" Two Family Residential and generally located on the northeast corner of Orme and Dellrose. This Resolution reflects the official action of the Board and sets out the conditions of approval.

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

Very truly yours,

Ronald A. Williamson
Assistant Secretary

RAW:kkg

Attachment

cc: Ralph Eberly, City Clerk
Glen Lytle, Superintendent of Central Inspection
Dr. J. Paul Carver, 556 South Dellrose

R E S O L U T I O N N O . B Z A 1 6 - 6 7

WHEREAS, Dr. J. Paul Carver, 556 South Dellrose, Wichita, Kansas, by Sidney Brick, Coombs, Brick, Dye & Reiff, 725 Sutton Place, Wichita, Kansas, requests a variance as provided in Section 2.12.590.2, Code of the City of Wichita, to reduce the rear yard setback from 20 feet to 5 feet on property zoned "A" Two Family Residential and legally described as follows:

The South 9 feet of Lot 18 and all of Lot 19, Block 1, in Kellogg Heights, an Addition to Wichita, Kansas. Generally located at the northeast corner of Orme and Dellrose.

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 consider said application on June 27, 1967; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found 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 it is not created by an action or actions of the property owner or applicant inasmuch as there was a misunderstanding between himself and public officials as to what is required in the conversion of a garage and as to the meaning of a rear yard setback; 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 a detached accessory structure could be placed in the same location also due to the fact that no one appeared in opposition; 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 failure to approve the variance would cause the loss of a substantial financial investment made in the construction of the "office"; 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 is for a rear yard setback on a corner lot; 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 first four requirements can be met; and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita, necessary to be present before a variance can be granted, have been found to exist; and

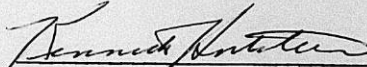
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for a variance of the rear yard setback from 20 feet to 5 feet on property zoned "A" Two Family Residential and legally described as follows:

The South 9 feet of Lot 18 and all of Lot 19, Block 1, in Kellogg Heights, an Addition to Wichita, Kansas. Generally located at the northeast corner of Orme and Dellrose.


be approved subject to the following conditions:

1. That the remodeled garage structure be connected to the existing main structure (the house) as required by Central Inspections Division, Department of Public Works.
2. That such connection and construction to be completed within a period of six months from the date of approval by the Board.

ADOPTED AT WICHITA, KANSAS, this 27th day of June, 1967.


Kenneth Hartstein, Chairman

ATTEST:


Robert A. Lakin
Secretary Pro Tem

June 28, 1967

Mr. Sidney Brick, Attorney
Coombs, Brick, Dye & Reiff
725 Sutton Place
Wichita, Kansas 67202

Dear Mr. Brick:

Re: Case No. BZA 16-67 - Request for
variance of rear yard setback

At the regular meeting of the Board of Zoning Appeals on June 27, 1967, your request for a variance of the rear yard setback from 20 feet to 5 feet on property zoned "A" Two Family Residential and located on the northeast corner of Orme and Dellrose, was considered.

It was the action of the Board to approve a variance of the rear yard setback from the required 20 feet to 5 feet subject to the following conditions:

1. That the remodeled garage structure be connected to the existing main structure (the house) as required by Central Inspections Division, Department of Public Works.
2. That such connection and construction to be completed within a period of six months from the date of approval by the Board.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy thereof as soon as the Chairman and Secretary of the Board have signed it. If you have any questions, please call.

Very truly yours,



Robert A. Lakin
Secretary Pro Tem.

RAL:kkq

cc: Ralph Eberly, City Clerk
Glen Lytle, Superintendent of Central Inspection
Dr. J. Paul Carver, 556 South Dellrose

SECRETARY'S REPORT

CASE NO. BZA 16-67

APPLICANT: Dr. J. Paul Carver, 556 South Dellrose, Wichita

AGENT: Coombs, Brick, Dye & Reiff, 725 Sutton Place, Wichita

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit reduction of the rear yard setback from 20 feet to 5 feet

GENERAL LOCATION: Northeast corner of Orme and Dellrose

ZONING: Subject property as well as that to the north, south, and west is zoned "A" Two Family to the east is "RB" Four family

LAND USE: Subject property as well as that to the north, east, and west is single family, to the south is a school

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, 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 effect the public health, safety, morals, order, convenience, prosperity or general welfare.
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 a chiropractor and conducts his profession as a home occupation. His office is located in a detached structure which is in the rear portion of the lot and according to Central Inspections the office building must maintain the same rear yard side yard setbacks as the dwelling unit. It appears that the applicant has converted a garage into an office structure, and in so doing by building code, has converted an accessory structure into a main structure. The Department of Central Inspections states that reconstruction modifications of the accessory building have made it a main structure and, therefore, the home occupation is no longer permitted to utilize this structure unless it would be connected to the main residential structure on the property. The office portion will then become a part of the main structure and the 20 foot rear yard is required. The applicant has provided only a 5 foot rear yard and is, therefore, asking for a variance from the required 20 foot rear yard down to 5 foot.

It should be noted that at such time as the applicant obtained a building permit, it was pointed out that a 20 foot rear yard setback was required and the applicant signed the permit agreeing to provide the required setbacks.

Attached is the applicants statement of justification.

Uniqueness

It is the opinion of the Secretary that there are no significant physical features which deprive the applicant of the normal use of his property, and, therefore, there is not sufficient justification to find that the condition of uniqueness exists.

Adjacent Property

It is the opinion of the Secretary that the granting of the variance would not have a particularly adverse effect on the adjacent property owners or residents inasmuch as a detached accessory structure could be placed in the same location.

Hardship

It is the opinion of the Secretary that if a hardship exists in this case it is financial in nature only and it has been held by the courts that financial hardship alone is not sufficient justification to grant the condition of hardship.

Public Interest

It is the opinion of the Secretary that inasmuch as the variance requested is for a rear yard setback it would not have any effect on the public interest.

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 it would permit the applicant to develop his property to a much greater extent than others in the same zoning district or classification.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can not be found to exist and, therefore, it is recommended that the variance to reduce the rear yard setback from 20 feet to 5 feet not be approved.

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

June 7, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-67

An application has been filed by Dr. J. Paul Carver, 556 South Dellrose, Wichita, by Coombs, Brick, Dye & Raiff, 725 Sutton Place, Wichita, Kansas, pursuant to Section 2.12.590.3, Code of the City of Wichita, requesting a variance of the rear yard setback from 20 feet to 5 feet on property zoned "A" Two Family Residential and described legally as follows:

The South 9 feet of Lot 18 and all of Lot 19, Block 1, in Fallogg Heights, an Addition to Wichita, Kansas. Generally located at the northeast corner of Orme and Dellrose.

This application has been assigned Case No. BZA 16-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 27, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

LAW OFFICES OF
COOMBS, BRICK, DYE & REIFF
SUITE 728 SUTTON PLACE
WICHITA, KANSAS 67202
DING FOREST 2-2221

EUGENE G. COOMBS
DAVID J. BRICK
WILLIAM H. DYE
JOHN H. REIFF

April 26, 1967

City of Wichita
Board of Zoning Appeals
Wichita, Kansas

Gentlemen:

Filed herewith is Application for Variance requesting the continued maintenance of a rear yard set back of five (5) feet at 556 South Dellrose, legally described as:

South 9 feet of Lot 18, and
all of Lot 19, Block 1, Kellogg
Heights Addition to the City of
Wichita, Sedgwick County, Kansas.

Applicant requests the following findings in accordance with Board of Zoning Appeals Regulation 2.12.590 paragraph 2:

- (a) The requested 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.

The condition arose purely through a misunderstanding between owner and personnel in the Inspection Department

City of Wichita
Page 2
April 26, 1967

some six years ago under the definition of "rear yard". The inspector asked the owner if his rear yard was as much as twenty feet. The owner replied that it was, under the misapprehension that the twenty foot distance commenced at the rear of his house, rather than the rear lot line. Applicant intended to connect the rear building with the dwelling, but was instructed not to do so until this variance had been granted.

- (b) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The rear building is for use of the occupant in his practice as a chiropractic physician, which is his home occupation. If his practice were to be moved into the dwelling house proper, his patients would enter from Dellrose, which would create more traffic on Dellrose, and perhaps would more nearly affect adjacent property owners and residents. By use of the rear building, a two-car parking driveway is available and accesses from Orme, upon which are no front yards in the block involved.
- (c) 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 in that it would require the removal and loss of use of the rear building, would require him to follow his practice in his home, rather than in the rear building, and would represent not only a severe capital loss, but also affect his means of earning a livelihood.

City of Wichita
Page 3
April 26, 1967

- (d) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, since it creates no condition adversely affecting these factors.
- (e) Granting the desired variance will not be opposed to the general spirit and intent of the zoning ordinance Title 28, in that it will provide for the applicant's continuing to earn his livelihood as a chiropractic physician as a home occupation strictly in accordance with the spirit and intent of the ordinance with respect to "A" zoning districts in which the property is located.

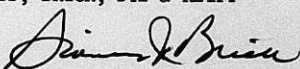
Applicant intends and will connect the dwelling house with the rear building by means of a roofed breeze-way in accordance with the understanding reached between the Superintendent of Central Inspection and applicant's attorney, it being the requirement of the Superintendent of Central Inspection that this variance first be granted.

Attached is plat of Baughman Co.

Respectfully submitted,

COOMBS, BRICK, DYE & REIFF

By


Sidney J. Brick
Attorneys for Applicant

SJB:pw
Enc.

JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas }
County of Sedgwick }

SS

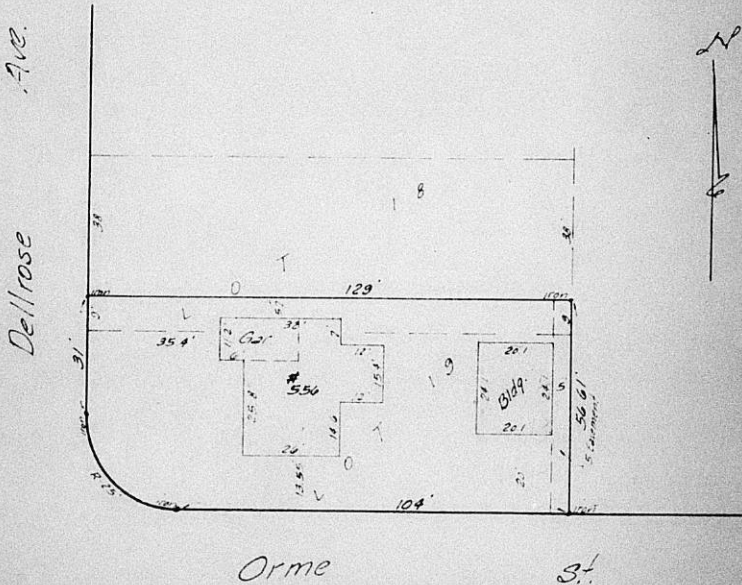
April 20, 1967

I, Fred J. Doane, Surveyor in aforesaid county and state do hereby certify that I did on this 20th day of April, 1967, survey the south 9 feet of Lot 18 and all of Lot 19, Block 1, Kellogg Heights Addition to Wichita, Kansas.

On said lot is house No. 556 with an attached garage and a building which are in the clear of all boundary lines. There are no encroachments on said lot by buildings on the adjacent lots.

The accompanying plat is a true and correct exhibit of said survey.

Fred J. Doane
Surveyor



BOARD OF ZONING APPEALS

CITY OF WICHITA, KANSAS

CASE NO. 16-67

FILED 4-28-67

APPLICATION FOR VARIANCE

1. Name of Applicant Dr. J. Paul Carver

Mailing Address 556 South Dellrose Phone MU 4-8623

Name of Authorized Agent Coombs, Brick, Dye & Reiff

Mailing Address 725 Sutton Place, Wichita Phone FO 3-2261

Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other)

II. The variance requested is maintenance of five (5) foot rear yard
set back instead of twenty (20) foot

for property located 556 South Dellrose, Wichita, Kansas

NE corner of Ames & Dellrose

and legally described as: South 9 feet of Lot 18, and all of Lot
19, Block 1, Kellogg Heights Addition

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

(Give metes and bounds description below if appropriate):

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

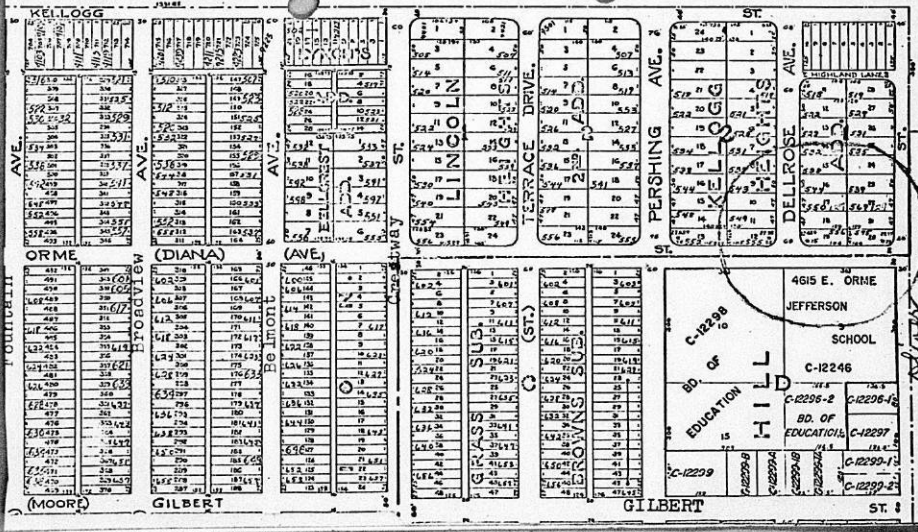
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Dr. J. Paul Carver
Applicant Dr. J. Paul Carver
COOMBS, BRICK, DYE & REIFF
By Sidney J. Brick
Authorized Agent Sidney J. Brick

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeal
3:15 (a.m. - ~~p.m.~~), April 28, 19 67, together with
appropriate fee of \$50.00.

Ronald A. Williamson
Signed

N.E. 1/4 SEC. 26 TWP. 27 R. 1 E.




STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
Sedgwick County,)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
The South 9 ft. of Lot 18 & all Lot 19, Block 1, in
Kellogg Heights, an Addition to Wichita, Kansas.


Fidelity
Title
Company,
inc.

And from such examination find that the owners there-
of are as set opposite the description of the property below, viz:

S 30 ft of Lot 14 & N 20 ft of Lot 15,
Blk 1, Kellogg Heights Add.

X Theodore E., Jr. & Arvilla J. Hanson,
No Address Available ux
NONE FOUND

S 30 ft of Lot 15 & N 25 ft of Lot 16,
Blk 1, Kellogg Heights Add.

✓ F. S. & Beulah M. Metcalf, ux
538 S. Dellrose 67218

S 25 ft of Lot 16 & N 30 ft of Lot 17,
Blk 1, Kellogg Heights Add.

✓ Aurelio R. & Angela G. Aguilera, ux
544 S. Dellrose 67218

S 17 ft of Lot 17 & N 38 ft of Lot 18,
Blk 1, Kellogg Heights Add.

✓ O. W. & Alma Bristow, ux
550 S. Dellrose 67218

S 9 ft of Lot 18 & all Lot 19, Blk 1,
Kellogg Heights Add.

✓ Leonard A. Farris, Olen R. Farris &
Lloyd N. Farris
% Dr. Paul Carver
556 S. Dellrose 67218



Lot 20 & S 24 ft of Lot 21, Blk 1, in Kellogg Heights Add.

✓ Harold D. & Lois Lucille Jackson, ux
575 S. Oliver 67218

N 23 ft of Lot 21 & S 30 ft of Lot 22, in Blk 1, Kellogg Heights Add.

✓ H. B. & Mary E. Cleghorn, ux
567 S. Oliver 67218

N 17 ft of Lot 22 & S 36 ft of Lot 23, in Blk 1, Kellogg Heights Add.

X Charles K. & Mary B. Foote, ux
No Address Available
NOTE FOUND

N 14 ft of Lot 23 & S 37 ft of Lot 24, Blk 1, Kellogg Heights Add.

✓ Charles E. & Gwendolyn I. Proffitt, ux
6045 E. Bayley 67218

N 13 ft of Lot 24 & S 38 ft of Lot 25, Blk 1, Kellogg Heights Add.

✓ W. H. & Norma Moelling, ux
535 S. Oliver 67218

S 35 ft of Lot 7 & N 20 ft of Lot 8, Blk 2, Kellogg Heights Add.

✓ Ralph F. & Marguerite Snow, ux
951 Apache Rd. 67207

S 30 ft Lot 8 & N 25 ft Lot 9, Blk 2, Kellogg Heights Add.

✓ Jimmie D. & Bettie M. Gillenwater, ux
537 S. Dellrose 67218

S 25 ft Lot 9 & N 30 ft of Lot 10, in Blk 2, Kellogg Heights Add.

✓ W. H. & Lillian M. Nicholas, ux
543 S. Dellrose 67218

Lot 10, exc N 30 ft & N 38 ft of Lot 11, Blk 2, Kellogg Heights Add.

X Ernest J. & Freda H. Barani, ux
549 S. Dellrose 67218

S 9 ft of Lot 11, all Lot 12, Blk 2, in Kellogg Heights Add.

ret. 6-12-67 no address found

✓ Mark Edward & Fannie M. Tyson, ux
555 S. Dellrose 67218

Lot 13 & S 11 ft of Lot 14, Blk 2, in Kellogg Heights Add.

✓ Robert E. & June Worsham Standley, ux
8210 Levitt 67207

N 36 ft of Lot 14 & Lot 15, exc N 23 ft. Blk 2, Kellogg Heights Add.

✓ Rex V. & LaVern L. Thompson, ux
548 S. Pershing 67218

N 23 ft of Lot 15, & S 37 ft of Lot 16, Blk 2, Kellogg Heights Add.

Dale W. & Thelma L. Scott, ux
544 S. Pershing 67218

Lots 9 & 10, Blk D, Brown's Sub of College Hill Addition.

Board of Education, City of Wichita.
428 S. Broadway 67202

Dated at Wichita, Kansas this 27th day
of April, 1967 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Edwin M. Farrell Sec. OEM

Tracer # 81566

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

June 7, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-67

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This application has been assigned Case No. BZA 16-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 27, 1967, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

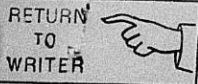
THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202



- Moved, left no address
- No such number
- Moved, not forwardable
- Addressee unknown

1809
H.W.

Ernest J. & Freda H. Barani
549 South Bellrose
Wichita, Kansas 67218



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	License	Mech.
Oil Well	Pav. Cuts	Plan.	Pibg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION

AMOUNT

BZA Clearance \$50

Name *Coombs, Brick, Dyer, Leiff*

Address *Suite 725 Sutton Place*

Type *R-71-C*

Due Date

Comments:

Date *4-28-67*

Salisbury

1.



2.

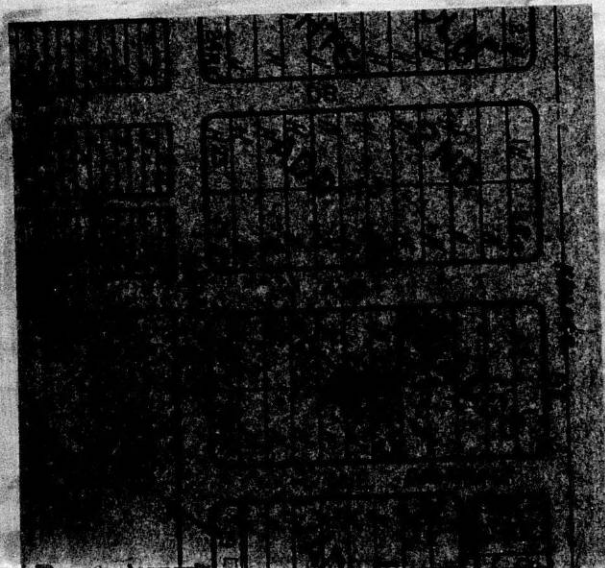


Map No. 5746
Sec. _____
Twp. _____
Range _____

AREA DATA:

1. Acres: _____ ft. by _____
2. Adjoining Zoning: E _____ S _____ W _____
3. Land Use: East Single Family South Sch
West Single Family North Single
4. Sketch Plan Land Use is for: Residential
5. Present Land Use is for: Single Family
6. Area (is) (is not) platted.

PHOTO DATA:
Taken by _____ Date _____ Time _____



SC
CC
FILE

Map No. 5746
Sec. _____
Twp. _____
Range _____

SEA 16-67
SCE _____
CU _____
Filed _____

AREA DATA:
1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East Single family South School
West Single family North Single family
4. Sketch Plan Land Use is for: Residential
5. Present Land Use is for: Single family
6. Area (is) (is not) platted.

PHOTO DATA:
Taken by _____ Date _____ Time _____



2.

