

BZA 17-60 12-27-60

17-60 - HOMER R. MOSLEY REQUESTS A VARIANCE TO CHANGE FRONT & REAR YARD SETBACKS AT SW CORNER OF TOPEKA & KELLOGG

ACTION

COMMITTEE	DATE
NAFPC	12-22-60
B.C.C./B. CO. C.	

BZA Refer 12-27-60

Closed
no action taken.

MAY 9, 1961

MR. HOMER R. MOBLEY
726 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. MOBLEY:

SUBJECT: BZA 17-60

INASMUCH AS ALL OF THE MATTERS PERTAINING TO YOUR REQUEST FOR VARIANCES IN BZA 17-60, HAVE BEEN REFERRED TO THE BOARD OF CITY COMMISSIONERS THROUGH THE METROPOLITAN AREA PLANNING COMMISSION, AND DISPOSED OF EITHER BY ZONE CHANGES OR BY CHANGES IN THE TEXT OF THE ZONING ORDINANCE, I HAVE RETURNED THIS CASE TO THE BOARD OF ZONING APPEALS FOR FINAL ACTION. IN REPORTING THE PREVIOUS ACTIONS TO THE BOARD OF ZONING APPEALS, I RECOMMENDED THAT THEY DECLARE THE CASE CLOSED WITHOUT ACTION.

IN THAT THIS CASE IS NOW COMPLETELY DISPOSED OF THROUGH OTHER FORMS OF ACTION, THIS CASE WAS DECLARED CLOSED IN THAT NO FURTHER ACTION IS REQUIRED OR NEED BE TAKEN.

IN ACCORDANCE WITH ORAL AGREEMENTS WITH THE METROPOLITAN AREA PLANNING COMMISSION, I AM ENCLOSED A LIST OF EXPENSES INCURRED BY THIS DEPARTMENT IN THE PROCESSING OF THE CHANGES IN ZONING FOR THE SOUTH PORTION OF THE LOT BOUNDED BY BROADWAY AND TOPEKA, KELLOGG AND ORME. IF YOU WILL PLEASE REMIT TO THIS DEPARTMENT A CHECK PAYABLE TO THE CITY OF WICHITA IN THE AMOUNT SHOWN ON THE ATTACHED STATEMENT, THE ENTIRE PROCEEDING WILL BE COMPLETE.

I SINCERELY HOPE THAT EVERYTHING NECESSARY TO THE COMPLETION OF YOUR PROJECT HAS BEEN TAKEN CARE OF IN A MANNER SATISFACTORY TO BOTH YOU AND THE CITY. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CALL.

SINCERELY YOURS,

ROBERT A. LAKIN
SECRETARY

RAL:BER

ATTACHMENT

MARCH 2, 1961

MR. HOMER R. MOSLEY
726 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. MOSLEY:

RE: BZA 17-60

YOU WILL RECALL THAT ON DECEMBER 27, 1960, THE ABOVE CASE WAS DEFERRED BY THE BOARD OF ZONING APPEALS FOR 60 DAYS.

THE BOARD AT ITS FEBRUARY 28, 1961 MEETING DEFERRED THE CASE AGAIN UNTIL:

1. FINAL ACTION HAS BEEN TAKEN BY THE PLANNING COMMISSION AND CITY COMMISSION ON YOUR REZONING AND DEFINITION CHANGE REQUESTS RELATED TO THE PROPERTY IN QUESTION.
2. YOU REQUEST FINAL ACTION BY THE BOARD OF ZONING APPEALS ON BZA 17-60.

VERY TRULY YOURS,

ALVIN J. KARETSKI
SECRETARY

AJK:BER

RE: ACQUISITION NO.



Broadway and Kellogg
Wichita 2, Kansas
Phone AMherst 2-7211
TWX-WI-83
December 29, 1960

Wichita Metropolitan Area Planning Commission
City Building Annex
104 South Main Street
Wichita, Kansas

Gentlemen:

I would like to request that the planning commission consider amending Sec. 28. 04. 110 D-3 of the city code, "rear yard set back requirements" to delete the rear yard set back.

This would then be the same as the front yard set back requirement which is no set back.

The reason for my request is to further expand the Town House Motor Hotel in the general vicinity of Broadway and Kellogg here in Wichita.

As you know, the set backs from the alley requirements in the "D" zone requires 15' from the center of the alley and only refers to dwelling units.

I believe that at the time the code was written, it was especially directed toward home dwelling units that might be in the "D" zone.

As you know, the motor hotel operation cannot be and has not been classified as dwelling units. In most areas they are considered commercial enterprises along with hotels and other business enterprises.

Your consideration in amending this portion of the city code rear yard set back requirements, would be greatly appreciated.

Yours very truly,

Homer R. Mosley
President
TOWN HOUSE MOTOR HOTEL, INC.



HRM/mf

Rest and Relax in Air-conditioned Comfort / Enjoy Fine Food / Private Dining Rooms / Refreshing Pool

DECEMBER 28, 1960

MR. HOMER R. MOSLEY
726 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. MOSLEY:

RE: BZA 17-60

AT ITS REGULAR MEETING ON DECEMBER 27, 1960, THE BOARD OF ZONING APPEALS DEFERRED ACTION ON YOUR REQUEST FOR VARIANCE OF FRONT AND REAR YARD SETBACKS FOR PROPERTY AT THE SOUTHWEST CORNER OF TOPEKA AND KELLOGG, AND LEGALLY DESCRIBED AS LOTS 5, 7, 9, AND 11, ON TOPEKA AVENUE, ORME AND PHILLIPS ADDITION.

YOUR CASE WILL NOT BE SCHEDULED FOR FURTHER CONSIDERATION UNTIL THE BOARD OF CITY COMMISSIONERS HAVE HAD AN OPPORTUNITY TO CONSIDER A ZONE CHANGE APPLICATION TO "D" FOR THE SUBJECT AREA. YOU WILL BE NOTIFIED PRIOR TO THIS MATTER AGAIN BEING CONSIDERED BY THE BOARD OF ZONING APPEALS.

IF YOU HAVE ANY QUESTION, PLEASE CALL.

VERY TRULY YOURS,

ROBERT A. LAKIN
ACTING SECRETARY

RAL:BER

THE CITY OF WICHITA

OFFICE OF Assistant City Attorney

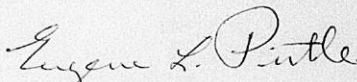
DATE December 27, 1960

TO Al Karetski, Secretary, Board of Zoning Appeals

FROM Eugene L. Pirtle, Assistant City Attorney

SUBJECT BZA - Max A. Noble
17-60

Attached hereto are legal citations relative to the limitations of the Board of Zoning Appeals in allowing variances based upon "hardship".



Eugene L. Pirtle,
Assistant City Attorney

ELP:kla

Att:

BZA "VARIANCES"
"Hardship"

The following citations are submitted as a guide for the Board of Zoning Appeals in its deliberations upon applications for variances from the building and zoning regulations.

"An Indiana court has emphasized that a zoning board does not have power to grant variances which constitute substantial changes in the master zoning plan. Says the Court:

'...any variance is required to be in harmony with with the general spirit and intent of the ordinance. Any variation which so changes the character of an area so that it is not in harmony with the general purpose and intent of the zoning ordinance must be effected by an amendment of the zoning ordinance of which the master plan is a part. . .the legislative intent is clear that where any considerable change is to be made, it must be made by ordinance. . . The zoning board does not have the power to grant variances which constitute a substantial change in the master zoning plan. . .To permit Boards of Zoning Appeals to change substantially the master zoning plans in use districts would constitute an improper delegation of powers of the legislative body of the municipality. . .'

Other courts have demanded proof that the variance will be in harmony with a general plan and with the spirit of the zoning ordinance.

The judicial attitude opposed to the reckless or even liberal grant of variances is well illustrated by a quotation from the Maryland court which uses the term 'exception' for what we are here discussing as a 'variance'. The Court indicates:

'The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant, inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. The expression (practical) difficulties or unnecessary hardships) means difficulties or hardships which are peculiar to the situation of the applicant for the permit and are of such a degree of severity that their existence is not necessary to carry out the spirit of the ordinance, and amounts to a substantial and unnecessary injustice to the applicant. Exceptions on the ground of (practical difficulties and unnecessary hardships) should not be made except where the burden of the general rule upon the individual property would not, because of its unique situation and the singular circumstances, serve the essential legislative policy, and so would constitute an entirely unnecessary and unwarranted invasion of the basic right of private property.'

---Aniteau on Municipal Corporation Law, Vol.1, Sec. 7.09

"In Fleming v. Prospect Park Board of Adjustment, 318 Pa. 582, 178 A. 813, it was held that it is not an abuse of the Board's discretion to refuse a variance to permit a non-conforming use of the premises when the sole ground for such a variance is the added advantage to be gained by or through an increase in the rents of the premises."

"In Lee v. Board of Adjustment, 226 N.C. 107, 37 S.E. 2d 128, 168 A.L.R. 1, the court at P. 5, said:

'The financial situation or pecuniary hardship of a single owner affords no adequate grounds for putting forth this extraordinary power affecting other property owners as well as the public. Appeal of Parker, supra; Prusik v. Board of Appeal, 262 Mass. 451, 160 N.E. 312.'

***The power of the board of adjustment to authorize a variance in the zoning regulations is limited to those cases in which the restrictions place hardship upon the owner of a particular piece of property (italics in opinion) because of a situation or condition peculiar to his property alone (italics in opinion). The board of adjustment does not possess any legislative powers; its powers are only administrative. Therefore, when the situation, or conditions, is general, and when it affects other properties within the same zone, in the same manner and to the same extent that it affects the lot, or plot of land in question, the board of adjustment does not possess the power to grant a variance. The proper remedy for relief in a matter of that nature lies with the governing body of the municipality to amend the zoning ordinance (R.S. 40:55-35 (N.J.S.A.); Brandon v. (Board of Comm'rs of Town of) Montclair, 124 N.J.L. 135, 11 A.2d 304)."

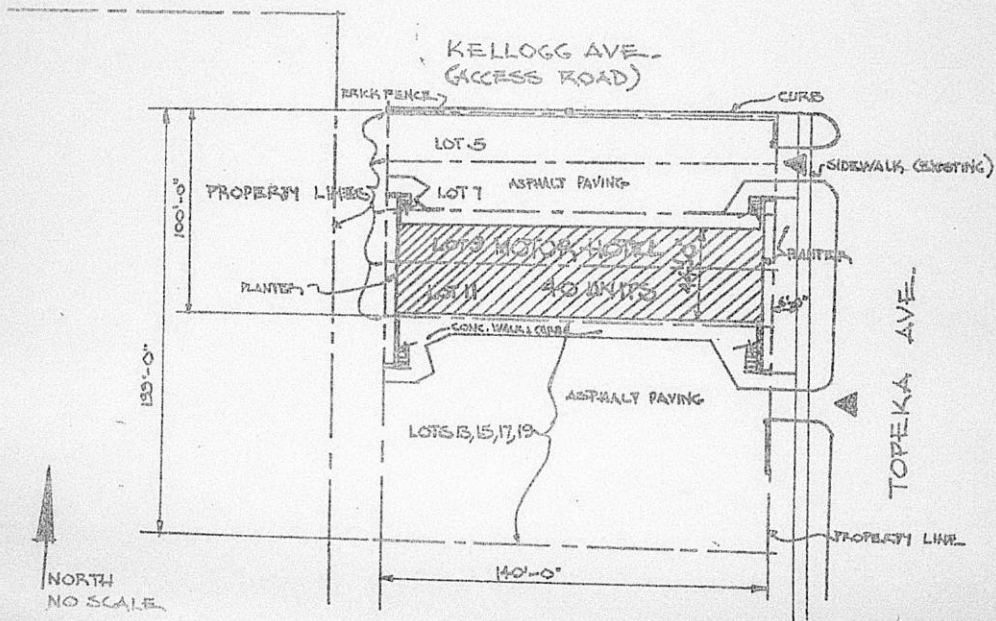
---Rathkopf, The Law of Zoning and Planning, Vol. 2, Pp. 106-111.

"If the hardship or difficulty is due to conditions common to the other property in the same zoned district or neighborhood, the remedy is by legislative action for a rezoning and not by a grant of variance, a special privilege to a single owner. The board can grant relief only when the hardship or difficulty is special to and affects specific property so that the applicant suffers a singular disadvantage concerning said property. See Aniteau, Municipal Corporation Law, Vol. 1, Sec. 7.09; 8 McQuillin, Municipal Corporations (3d Ed.), Sec. 25.167."

"If there be a hardship, which * * * is common to the whole neighborhood, the remedy is to seek a change in the zoning ordinance itself, Arverne Bay Construction Co. v. Thatcher, 278 N.Y. 222, 223, 15 N.E. 2d 587, 592 117 A.L.R. 1110."

---Rathkopf, The Law of Zoning and Planning, Vol. 1, Pp. 737, 738.

BZA 17-60



BZA 17-60
12-27-60

HISTORY

MAY 21, 1959 - REQUEST BY MR. MAX A. NOBLE THAT LOTS 5, 7, 9, AND 11 OF THE ORME AND PHILLIPS ADDITION BE CHANGED FROM "B" TO "C" ZONING WAS APPROVED UNANIMOUSLY BY THE WICHITA-SEDEWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION AND FORWARDED TO THE BOARD OF CITY COMMISSIONERS. THERE WAS NO OPPOSITION TO THE REQUEST.

JULY 7, 1959 - CASE WAS APPROVED BY THE BOARD OF CITY COMMISSIONERS.

CASE DESCRIPTION

APPLICANT DESIRES OMISSION OF FRONT AND REAR SETBACK REQUIREMENTS FOR A PROPOSED MOTEL SOUTH OF KELLOGG AVENUE BETWEEN TOPEKA AVENUE AND THE ALLEY IMMEDIATELY WEST OF TOPEKA. PRESENT SETBACK REQUIREMENTS ARE:

FRONT YARD - 15 FEET
REAR YARD - 15 FEET FROM CENTER OF THE ALLEY

(ZONING ORDINANCE SECTION 28.04.100, PART D.1.2. AND 3. SECTION 28.04.010 - DEFINITION OF YARD, REAR)

EXISTING LAND USE AND ZONING - SEE AERIAL PHOTO, ZONING MAP AND SKETCH OF PROPOSED BUILDING

FACTS TO CONSIDER:

- NO DEVELOPMENT PROBLEMS CAUSED BY IRREGULAR PROPERTY LINES OR PHYSICAL BARRIERS ARE PRESENT.
- RESIDENCES SOUTH OF THE PROPOSED BUILDING ARE SET BACK.

BOARD'S CHOICE OF ACTION

BOARD HAS JURISDICTION (SECTION 2.12.590 WICHITA CITY CODE) TO GRANT VARIANCES FROM SETBACK REQUIREMENTS PROVIDED THE BOARD HAS DETERMINED ALL THE FOLLOWING CONDITIONS ARE PRESENT:

- VARIANCE ARISES FROM A UNIQUE CONDITION, NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT.
- GRANTING OF THE VARIANCE WILL NOT ADVERSELY AFFECT RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS.
- STRICT APPLICATION OF ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP UPON THE PROPERTY OWNER.
- VARIANCE WILL NOT AFFECT ADVERSELY PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.

APPLICANT'S ARGUMENTS FOR GRANTING OF VARIANCE

SEE LETTER SUBMITTED BY APPLICANT ON DECEMBER 6, 1950

SECRETARY'S OPINION

IT IS THE SECRETARY'S OPINION AND SUGGESTION THAT THE BOARD:

1. DENY THE VARIANCE REQUESTED SINCE THE FOUR REQUIRED POINTS CANNOT BE SATISFIED AND MORE SPECIFICALLY, SINCE:
 - NO IRREGULAR PROPERTY LINES OR PHYSICAL BARRIERS ARE PRESENT TO CONSTITUTE A HARDSHIP;
 - THE PROPERTY OWNER MUST CONFORM TO THE CONDITIONS OF THE ZONING ORDINANCE UNLESS THE IMPOSITION OF THE ORDINANCE CREATES HARDSHIPS. IN VARIANCE CASES, INABILITY TO USE PROPERTY MORE INTENSIVELY IS NOT IN ITSELF A SUFFICIENT REASON TO BE CONSIDERED A HARDSHIP BY THE COURTS.

2. REQUEST THAT THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION:
 - RE-STUDY ZONING IN THE AREA BOUNDED BY KELLOGG AND EMPORIA AVENUES AND ORME AND WICHITA STREETS. RECENT PHYSICAL AND ZONING DEVELOPMENTS IN THIS AREA HAVE AND WILL CONTINUE TO CREATE PROBLEMS BETWEEN COMMERCIAL AND RESIDENTIAL USES.
 - RE-STUDY THE DEFINITION OF DWELLINGS. A QUESTION THAT SHOULD BE RESOLVED IS WHETHER A MOTEL IN A COMMERCIAL DISTRICT SHOULD BE CONSIDERED A COMMERCIAL USE OR A DWELLING IN THE SAME SENSE AS A RESIDENCE.

CITY OF WICHITA
BOARD OF ZONING APPEALS

ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

DECEMBER 9, 1960

AN APPLICATION FOR A VARIANCE HAS BEEN FILED BY _____

HOMER P. MOSLEY, 726 SOUTH BROADWAY, WICHITA, KANSAS.

AS PROVIDED BY SECTION 2.12.590 OF THE CODE OF THE CITY OF WICHITA.

THE APPLICANT DESIRES TO _____

CHANGE THE FRONT AND REAR YARD SETBACKS

ON PROPERTY LOCATED AT


THE SOUTHWEST CORNER OF TOPEKA AND KELLOGG.

AND LEGALLY DESCRIBED AS:

LOTS 5, 7, 9, AND 11, ON TOPEKA AVENUE, ORME AND
PHILLIPS ADDITION.

SAID PROPERTY IS CURRENTLY ZONED "C".

THIS APPLICATION HAS BEEN ASSIGNED CASE No. 17-60. A HEARING
WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, DECEMBER 27,
1960, 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.


ALVIN J. KARETSKI, SECRETARY

CITY OF WICHITA
BOARD OF ZONING APPEALS

ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

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WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER
IN PERSON OR BY AGENT OR ATTORNEY.


ALVIN J. KARETSKI, SECRETARY

BZA 17-60 NOTICE MAILED DECEMBER 9, 1960

HOMER R. MOSLEY
726 SOUTH BROADWAY

EDWARD A. ROBINSON
410 SOUTH CUSTER

OPAL M. HALL
722 SOUTH TOPEKA

FRED RIFFEL
ALICE A. RIFFEL
1541 SOUTH TOPEKA

CHARLES E. BARE
BEULAH M. BARE
1849 BURNS

BLANCH MELICK
706 SOUTH TOPEKA

MARY MARGARET MORRIS BOYD
208 NORTH BROADWAY

MAX A. NOBLE TRUSTEE
#5 PEACH TREE LANE

CARL E. FORBES
ERVA J. FORBES
926 WEST 77TH STREET NORTH

S. A. MEYER
FAYE TOWNSLEY
145 NORTH BYRON

CITY OF WICHITA
BOARD OF ZONING APPEALS

ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

DECEMBER 9, 1950

AN APPLICATION FOR A VARIANCE HAS BEEN FILED BY _____
HOMER P. MOSLEY, 726 SOUTH BROADWAY, WICHITA, KANSAS.
AS PROVIDED BY SECTION 2.12.590 OF THE CODE OF THE CITY OF WICHITA.
THE APPLICANT DESIRES TO _____
CHANGE THE FRONT AND REAR YARD SETBACKS

ON PROPERTY LOCATED AT

THE SOUTHWEST CORNER OF TOPEKA AND KELLOGG.

AND LEGALLY DESCRIBED AS:

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1950, 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.

Alvin J. Karetzki
ALVIN J. KARETSKI, SECRETARY

RECEIPT FOR CERTIFIED MAIL—20¢

No. 648235

SENT TO <i>Harold R. Mosley</i>	POSTMARK OR DATE
STREET AND NO. <i>726 So Broadway</i>	
CITY AND STATE <i>Wichita Kansas</i>	
If you want a return receipt, check which <input type="checkbox"/> 10¢ shows to whom and when delivered <input type="checkbox"/> 35¢ shows to whom, when, and address where delivered <input type="checkbox"/> 50¢ fee	
If you want restricted delivery, check here	
FEES ADDITIONAL TO 20¢ FEE PD Form 3800 SEE OTHER SIDE Jul 1957	

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

- Deliver ONLY to addressee
 Show address where delivered
 (Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Harold R. Mosley

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Micki Folge

DATE DELIVERED

ADDRESS WHERE DELIVERED (only if requested in item #1)

DEG 1 0 1900

RECEIPT FOR CERTIFIED MAIL—20¢

No. 648235

SENT TO <i>Norman R. Dooly</i>	POSTMARK OR DATE
STREET AND NO. <i>726 So. Broadway</i>	
CITY AND STATE <i>Wichita Kansas</i>	
If you want a return receipt, check which <input type="checkbox"/> 10¢ shows to whom and when delivered <input type="checkbox"/> 35¢ shows to whom, when, and address where delivered	If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee

FEEs ADDITIONAL TO 20¢ FEE
 POD Form 3800 Jul 1957 SEE OTHER SIDE

POST OFFICE DEPARTMENT
 OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
 PAYMENT OF POSTAGE, \$300



INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisture, gummed ends and scratch to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN TO

POD Form 3811 Jan 1958

REGISTERED NO.	NAME OF SENDER <i>Board of Zoning Appeals</i>
CERTIFIED NO. <i>648235</i>	STREET AND NO., CITY & BOX <i>403 City Bldg. Annex</i>
INSURED NO.	CITY, ZONE AND STATE <i>Wichita Kansas</i>

CS-16-7184-4

DECEMBER 7, 1960

MR. HOMER R. MOSLEY
726 SOUTH BROADWAY
WICHITA, KANSAS

DEAR MR. MOSLEY:

YOUR APPLICATION FOR A VARIANCE UNDER PROVISIONS OF PARAGRAPH 2, SECTION 2.12.590, CODE OF THE CITY OF WICHITA, AND RELATING TO PREMISES LOCATED AT THE SOUTHWEST CORNER OF KELLOGG AND TOPEKA, AND LEGALLY DESCRIBED AS LOTS 5, 7, 9, AND 11, ON TOPEKA AVENUE, ORME AND PHILLIPS ADDITION, HAS BEEN GIVEN BOARD OF ZONING APPEALS CASE No. BZA 17-60.

ALL INQUIRIES AND REFERENCES SHOULD ALWAYS BE MADE TO THAT CASE NUMBER WHEN YOU SEEK INFORMATION FROM THE SECRETARY.

FURTHER, YOU ARE NOTIFIED THAT YOU MAY APPEAR BEFORE THE BOARD OF ZONING APPEALS EITHER IN PERSON, OR BY AGENT OR ATTORNEY, FOR A HEARING OF YOUR CASE ON DECEMBER 27, 1960, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS.

VERY TRULY YOURS,

ALVIN J. KARETSKI
SECRETARY

AJK:BER

CERTIFIED MAIL



Broadway and Kellogg
Wichita 2, Kansas
Phone AMherst 2-7211
TWX-WI-83

December 6, 1960

Board of Zoning Appeals
City of Wichita, Kansas

Gentlemen:

I wish to appeal for variance concerning setbacks on Lots 5, 7, 9, and 11, on Topeka Avenue in the Orme and Phillips addition to the city of Wichita.

At present, the lots are zoned C and because of B zoning in the rest of the block, the front setback requirements are 15 feet and the back yard requirements are a setback of 15 feet from the center of the alley.

These lots adjoin the central business district to the north, directly across Kellogg. We also have under 60 year lease, the next four lots to the south of them making a total of 200 foot frontage on Topeka. Altogether, with lots owned in fee and under longtime lease including streets, the Town House has about 900 feet of frontage on Topeka Avenue. The corresponding lots facing on Broadway are either owned in fee, leased, or under negotiations for a long term lease. Corner Broadway lots would be developed with service and parking facilities that would not come up to the alley lines with buildings.

The granting of the permit for variance would not in my opinion, adversely affect the rights of adjacent property owners or residents. The Town House has already spent in excess of \$1,000,000.00 in improvements in an otherwise substandard district. Property values in the area have risen sharply since the building of the Town House. In addition, contrary to the other blocks to the north, there is a 6 foot front setback from the sidewalk to the property lines. The manner in which the building is to be built as shown on the plot plan, noise or other disturbances could not possibly affect adjacent properties.



Rest and Relax in Air-conditioned Comfort / Enjoy Fine Food / Private Dining Rooms / Refreshing Pool



Broadway and Kellogg
Wichita 2, Kansas
Phone AMherst 2-7211
TWX-WI-83

The Town House proposes to construct a 40 room addition exactly like the building directly across Kellogg to the north. That building is 44 X 140 feet. It is felt that the building to be built on subject lots should be of the same appearance and size to tie into the whole Town House Project. In addition, if the setbacks are enforced, it will be necessary to eliminate 8 guest rooms from the building. This will cost approximately, \$20,000.00 per year in gross room revenue.

In the opinion of the writer, the variance desired will not adversely affect the public health, safety, morals order, convenience, prosperity or general welfare of the area. On the contrary, the variance will increase the beauty and prosperity of the area and bring at least 50 more people per day to the heart of the city.

Thanking you for your consideration, I am,

Yours very truly,

A handwritten signature in cursive script that reads 'Homer R. Mosley'.

Homer R. Mosley
TOWN HOUSE MOTOR HOTEL

HM/mf



Rest and Relax in Air-conditioned Comfort / Enjoy Fine Food / Private Dining Rooms / Refreshing Pool

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mer. _____ Hse. Moving _____
Licse _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan P/b'g _____ P/b'g Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
LA 11/1/60	
Monthly	2.00

Name 440 S. Broadway

Address 426 S. Broadway

Type _____ Due Date 1-6-61

Comments: _____

Date 1-1-61 By _____

APPLICATION FOR VARIANCE

I. NAME OF APPLICANT HOMER R. HOSLEY
MAILING ADDRESS 726 S. BROADWAY PHONE AM 2-5941
NAME OF AUTHORIZED AGENT _____
MAILING ADDRESS _____ PHONE _____
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF LESSEE
(OWNER, TENANT, LESSEE, OTHER).

II. THE VARIANCE REQUESTED IS CHANGE FRONT AND REAR YARD
SETBACKS

FOR PROPERTY LOCATED AT SW CORNER TOPEKA & KELLOGG
AND LEGALLY DESCRIBED AS LOT(S) LOTS 5, 7, 9, 11
Block(s) ON TOPEKA AVE, ORME AND PHILLIPS.
ADDITION TO THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED C.
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT, HEREBY 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 24-606); AND THAT THE APPROPRIATE FEE IS HEREWITH TENDERED;
- C. THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THAT DECISION;
- D. THAT A STATEMENT IS ATTACHED HERETO JUSTIFYING THIS REQUEST AS NOTED IN PARAGRAPH 3 OF THE INSTRUCTIONS AND IN SECTION 2.12.590.2 OF THE CODE OF THE CITY OF WICHITA.

Homer R. Hosley
APPLICANT

AUTHORIZED AGENT

OFFICE USE ONLY

RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, 11
(A.M.-P.M.) 12-6-60, 1960, TOGETHER WITH APPROPRIATE
FEE OF \$30.00

Alvin J. Karotaki
SIGNED (Ben)

OWNERSHIP LIST

LOT	BLOCK	ADDITION	OWNER	ADDRESS
2	1	Orme and Phillips	Sylvia Gore Anita Levine Nathan Lahn	none
4	"	"	"	"
6	"	"	S. A. Meyer Faye Townsley	145 N. Byron
8	"	"	"	"
10	"	"	Homer R. Mosley	none
12	"	"	"	"
14	"	"	Carl E. Forbes Erva J. Forbes	926 W. 77th N.
16	"	"	"	"
18	"	"	"	"
20	"	"	"	"
22	"	"	Carl E. Forbes	"
24	"	"	"	"
5	"	"	Max A. Noble Trustee	#5 Peach Tree Ln.
7	"	"	"	"
9	"	"	"	"
11	"	"	"	"
13	"	"	"	"
15	"	"	"	"
17	"	"	"	"
19	"	"	"	"
21	"	"	Mary Margaret Morris Boyd	208 N. Broadway
23	"	"	"	"
6exc-	6	"	Blanch Melick	706 S. Topeka
beg NW cor, E 30', SW to pt on S line which is 14' E of SW cor W 14', N to beg.				
8 exc-	6	Orme and Phillips	Blanch Melick	"
beg NW cor, E 14', SW to pt 5' E of SW cor. W 5', N to beg.				

PAGE- 2

LOT	BLOCK	ADDITION	OWNER	ADDRESS
10 exc W 5'	6	Orme and Phillips	Charles E. Bare Beulah M. Bare	1849 Burns
12 exc W 5'	"	"	"	"
14	"	"	Fred Riffel Alice A. Riffel	1541 S. Topeka
N 7' of 16"	"	"	"	"
S 18' of 16	"	"	Opal M. Hall	722 S. Topeka
N ½ of 18	"	"	"	"
S ½ of 18	"	"	Harley H. Hardesty Goldie I. Hardesty	none
20	"	"	"	"
N ½ 22	"	"	"	"
S ½ 22	"	"	Edward A. Robinson	410 S. Custer
24	"	"	"	"

We hereby certify the foregoing to be a true and correct List of Property Owners within a 200 foot radius of Lots 5 and 7, Block 1, Orme and Phillips Addition, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas on this the 2 day of December A. D. 1960 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE CO INC.

By



Vice President

Order No 79144
NF

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