

Bza COMMITTEE
Case (see Resolution) Feb 14
no appeal filed

M.A.P.C. _____
B.C.C./B. CO. C. _____

BZA 17-64 - Wakeem R. & Ada J. Azim
request variance to use property for
residence & photo studio on E side
of Oliver bet. Lewis & Kellogg

ACTION

DATE

Bya COMMITTEE *App (see Resolution) 4-28-64*
no appeal filed

M.A.P.C. _____

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

BZA 17-64 - Wakeem R. & Ada
request variance to use prop
residence & photo studio on
of Oliver bet. Lewis & Kellie

May 11, 1964

Mr. Calvin McMillan, Attorney
430 North Market
Wichita, Kansas

Dear Mr. McMillan:

Re: Case No. BZA 17-64 - East
side of Oliver between
Lewis and Kellogg

On April 30, 1964, we advised you that the Board of Zoning Appeals had approved your request to hire a receptionist in connection with a home occupation located generally on property on the east side of Oliver in an area between Lewis and Kellogg. On May 6, 1964, we advised you further that the approval included the right to hire one paid assistant for any home occupation. We also advised that the Board's decision might be appealed to the City Commission, provided that such appeal was filed on or before May 8, 1964.

The City Clerk has advised that no appeal was filed on or before that date, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber
Attachment

cc: Wakeem R. and Ada Jerrine Azim
442 South Oliver

Glen Lytle, Superintendent of
Central Inspection

R E S O L U T I O N N O . B Z A 1 7 - 6 4

WHEREAS, Wakeem R. and Ada Jerrine Azim, 442 South Oliver, Wichita, Kansas, by Calvin McMillan, attorney, 430 North Market, Wichita, Kansas, requests a variance to permit use of property for a residence and for a photographic studio or any other professional use for which the premises may be adaptable, as provided in Section 2.12.590.2, Code of the City of Wichita, Kansas, on property generally located on the west side of Oliver between Lewis and Kellogg, and legally described as:

The North 15 feet of Lot 46 and all of Lot 48 on Oliver Street, and the South 30 feet of vacated Lewis Street adjacent on the north of Lot 48, all in Highland View Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Oliver between Lewis and Kellogg.

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, in regular meeting consider said application on the 28th day of April, 1964; and

WHEREAS, the Board of Zoning Appeals has found that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the property in question is located on a major thoroughfare and in a residential neighborhood which is only 1/2 block from a light commercial area, and further, the applicants' home is an attractive home-office combination, which was built at an approximate cost of \$40,000 and which is very compatible with the surrounding neighborhood and it was further determined that this particular area along Oliver is somewhat unique inasmuch as several of the homes are used for offices; however, it is recognized that rezoning of this area should not be done at this time inasmuch as the present ordinance regulating office type uses does not contain adequate controls for low-intensity office uses; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance should not adversely affect the rights of adjacent property owners inasmuch as there will be no outward change of the structural appearance of the building and there will be no change in the manner in which the applicant conducts his business; and

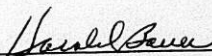
WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the applicant in that approximately two years ago the applicant was forced to move to his present location because of the threatened condemnation of his home on South Minnesota for the Canal Route, and is just beginning to recover from the expenses incurred as a result of the move; and

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

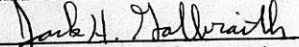
WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance can be granted, has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that a variance be granted to allow the applicant, or any of his heirs, successors, or assigns, to hire one paid assistant for any home occupation use; however, it was also determined that the applicant should not be granted a variance to allow him to utilize his property for the full scope of office use.

ADOPTED AT WICHITA, KANSAS, this 28th day of April, 1964.


Harold Bauer, Chairman

ATTEST:


Jack H. Galbraith, Secretary

Board of Zoning Appeals

May 7, 1964

Robert G. Finch, City Clerk
Jack H. Galbraith, Secretary

Case No. BZA 17-64

Attached is a copy of Resolution No. BZA 17-64, covering action taken by the Board of Zoning Appeals in connection with the above-numbered case, which case was heard by the Board on April 28, 1964. An appeal may be filed in your office on or before May 8, 1964. If an appeal is filed, please advise.

Jack H. Galbraith
Secretary

JHG:ber

Attachment

May 6, 1964

Mr. Calvin McMillan, Attorney
430 North Market
Wichita, Kansas

Dear Mr. McMillan:

Re: Case No. BZA 17-64

After checking the minutes of the above captioned Board of Zoning Appeals case, I have found that our letter of April 30, 1964, was in error. The action of the Board should have read as follows:

"It was moved, seconded and carried unani-
mously that the request of the applicant to
hire a paid assistant for any home occupa-
tion use be approved (such approval also
includes the rights of any of the applicants'
heirs, successors or assigns to hire one paid
assistant for a home occupation use), and that
the applicants' request for a full range of
office use be denied".

Please accept our sincere apology for this error. We have changed the resolution effectuating the action of the Board, in accordance with the above action of the Board.

If you have any questions, please feel free to call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber

cc: Wakeem R. & Ada Jerrine Azim
442 South Oliver

Glen Lytle, Superintendent of Central Inspection
Robert G. Finch, City Clerk

April 30, 1964

Mr. Calvin McMillan, Attorney
430 North Market
Wichita, Kansas

Dear Mr. McMillan:

Re: Case No. BZA 17-64

This is to advise you that at its regular meeting of April 28, 1964, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to permit property generally located on the east side of Oliver between Lewis and Kellogg, to be used for a residence and photographic studio, and any other professional use for which the premises might be adaptable.

The action of the Board was to approve the request of the applicant to hire a receptionist. The Board denied the applicant's request for a variance to allow the property to be used for a full range of office uses.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before May 8, 1964.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before May 8, 1964, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber

cc: Wakeem R. & Ada Jerrine Azim
442 South Oliver
Glen Lytle, Superintendent of Central Inspection
Robert G. Finch, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 17-64

APPLICANT: Wakeem Azim and Ada Jerrine Azim, 422 South Oliver

AGENT: Calvin McMillian, 430 North Market

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita to allow the applicant to use his residence as a photographic studio or any other professional use for which the premises are adaptable.

ZONING: The property in question and all property in the surrounding area is zoned "A" Two Family.

LAND USE: The property in question is occupied by a single family home and photographic studio. The existing land use to the north is single family; east is single family; south is an office and duplex; and west are duplexes.

JURISDICTION: The Board has jurisdiction under Section 2.12.590.2, Code of the City of Wichita, to consider the variance request. The Board has the authority to grant the variance when all four of the following conditions are found to exist:

1. Uniqueness
2. Affect on adjacent property
3. Hardship
4. Public interest.

COMMENTS BY THE SECRETARY:

The applicant has submitted a statement of justification and plot plan which are included as Attachments #1 and #2 to this report.

The applicant has for some time used his residence for a photographic studio which is a permitted use under "home occupation" clause of the zoning ordinance. The "home occupation" clause provides in general that any private dwelling in any residential zoning district may be used for any occupation or profession, provided such occupation or profession is engaged in only by the occupants of the dwelling; and further provided that such occupation or profession does not involve the conduct of a retail business, manufacturing business or repair business of any kind on the premises. Home occupations in general include such personal services as those engaged in by a physician, dentist, musician, artist, barber, beauty operator, seamstress, etc. It should be made clear that such occupation or profession may not include the employment of any persons outside of the private dwelling.

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Case No. BZA 17-64

It is pointed out in the statement of justification that it is the desire of the applicant to obtain a variance so that he can hire a receptionist to replace his wife, who just recently gave birth to a baby girl. The applicant has also asked that he be given permission to use his residence for any other professional use for which the premises may be adaptable so that in the event of his death, his wife would be able to obtain a fair price for the residence and the associated office facilities.

UNIQUENESS

The attorney for the applicant suggests that the variance desired arises from a condition which is unique and not ordinarily found in the same zoning district inasmuch as the property in question is located on a major thoroughfare and on a residential neighborhood which is only 1/2 block from a light commercial zoning district. He also states that the applicants' home is an attractive home-office combination which was built at an approximate cost of \$40,000 and which is very compatible with the surrounding neighborhood. It is also pointed out that the residence immediately south of the applicants' home is used as a residence and chiropractor's office. In essence, the attorney for the applicant is contending that it is the combination of all of these factors which is unique and uncommon to most other residential areas throughout the city.

The Secretary is of the opinion that there is nothing about the property which is unique from a physical standpoint. On some occasions in the past, the Board has considered uniqueness as to the use of the property concerned. However, if this criteria is used almost any property in the city could be considered unique as to its use.

The Secretary is of the opinion that from the evidence submitted that there is very little which can be found to be unique about the property represented in this application. There are several nice residential areas (containing spotted home occupation uses) throughout the City of Wichita which are located on a major street and are near a light commercial area.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should have no adverse affects on adjacent property owners inasmuch as there will be no outward change of the structural appearance of the building and there will be no change in the manner in which the applicant conducts his business.

HARDSHIP

The attorney for the applicant is of the opinion that hardship exists in that approximately two years ago the applicant was forced to

Page 3 - Secretary's Report
Case No. BZA 17-64

move to his present location because of the threatened condemnation of his home on South Minnesota for the Canal Route, and is just beginning to recover from the expenses incurred as a result of the move. It is also suggested that if a variance is not granted to allow utilization of the present structure for uses other than photography, that a further hardship would be placed on the applicant in that even though the applicant has no intention of vacating or selling his present structure, his untimely death could saddle his widow with a property that would be difficult to sell if its use were limited to that of a photographic studio.

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if he were not allowed to hire a receptionist for a temporary period of time to take over the duties that his wife had previously been performing. However, the Secretary is also of the opinion that no hardship exists as far as allowing the applicant to utilize his present structure for uses other than photography. The "home occupation" clause in the ordinance would automatically allow the applicants' home to be used for any use which is primarily a personal service as long as no one is employed outside of the home. If the applicant desires to obtain the full range of privileges as far as office use is concerned, the proper procedure would be to apply for a change of zoning to an office district classification which would permit him to have these additional privileges.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION:

It is the opinion of the Secretary that it is very doubtful if uniqueness can be found to exist from the evidence that has been submitted by the attorney for the applicant and, therefore, it is recommended that the variance be denied. However, if the attorney for the applicant in his presentation to the Board can submit additional evidence which will meet the requirement of uniqueness, and if the Board should determine that all four requirements necessary to the granting of a variance can be found to exist, then it is recommended that a variance be granted to allow the applicant to hire a receptionist. It is also the opinion of the Secretary that hardship cannot be found to exist as far as allowing the applicant to utilize his property for uses other than a photography shop since he is already permitted to do this under the home occupation clause of the ordinance, as long as the service offered is a personal service and so long as no one is employed outside of the home. It is, therefore, recommended that the applicant not be granted variance in this respect. If the

Page 4 - Secretary's Report
Case No. BZA 17-64

applicant should desire a full range of use as far as office use is concerned, the proper procedure is to apply for a change of zoning to an office district classification.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan

SECRETARY'S REPORT

CASE NO. BZA 17-64

APPLICANT: Wakeem Azim and Ada Jerrine Azim, 422 South Oliver

AGENT: Calvin McMillian, 430 North Market

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita to allow the applicant to use his residence as a photographic studio or any other professional use for which the premises are adaptable.

ZONING: The property in question and all property in the surrounding area is zoned "A" Two Family.

LAND USE: The property in question is occupied by a single family home and photographic studio. The existing land use to the north is single family; east is single family; south is an office and duplex; and west are duplexes.

JURISDICTION: The Board has jurisdiction under Section 2.12.590.2, Code of the City of Wichita, to consider the variance request. The Board has the authority to grant the variance when all four of the following conditions are found to exist:

1. Uniqueness
2. Affect on adjacent property
3. Hardship
4. Public interest.

COMMENTS BY THE SECRETARY:

The applicant has submitted a statement of justification and plot plan which are included as Attachments #1 and #2 to this report.

The applicant has for some time used his residence for a photographic studio which is a permitted use under "home occupation" clause of the zoning ordinance. The "home occupation" clause provides in general that any private dwelling in any residential zoning district may be used for any occupation or profession, provided such occupation or profession is engaged in only by the occupants of the dwelling, and further provided that such occupation or profession does not involve the conduct of a retail business, manufacturing business or repair business of any kind on the premises. Home occupations in general include such personal services as those engaged in by a physician, dentist, musician, artist, barber, beauty operator, seamstress, etc. It should be made clear that such occupation or profession may not include the employment of any persons outside of the private dwelling.

It is pointed out in the statement of justification that it is the desire of the applicant to obtain a variance so that he can hire a receptionist to replace his wife, who just recently gave birth to a baby girl. The applicant has also asked that he be given permission to use his residence for any other professional use for which the premises may be adaptable so that in the event of his death, his wife would be able to obtain a fair price for the residence and the associated office facilities.

UNIQUENESS

The attorney for the applicant suggests that the variance desired arises from a condition which is unique and not ordinarily found in the same zoning district inasmuch as the property in question is located on a major thoroughfare and on a residential neighborhood which is only 1/2 block from a light commercial zoning district. He also states that the applicants' home is an attractive home-office combination which was built at an approximate cost of \$40,000 and which is very compatible with the surrounding neighborhood. It is also pointed out that the residence immediately south of the applicants' home is used as a residence and chiropractor's office. In essence, the attorney for the applicant is contending that it is the combination of all of these factors which is unique and uncommon to most other residential areas throughout the city.

The Secretary is of the opinion that there is nothing about the property which is unique from a physical standpoint. On some occasions in the past, the Board has considered uniqueness as to the use of the property concerned. However, if this criteria is used almost any property in the city could be considered unique as to its use.

The Secretary is of the opinion that from the evidence submitted that there is very little which can be found to be unique about the property represented in this application. There are several nice residential areas (containing spotted home occupation uses) throughout the City of Wichita which are located on a major street and are near a light commercial area.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should have no adverse effects on adjacent property owners inasmuch as there will be no outward change of the structural appearance of the building and there will be no change in the manner in which the applicant conducts his business.

HARDSHIP

The attorney for the applicant is of the opinion that hardship exists in that approximately two years ago the applicant was forced to

move to his present location because of the threatened condemnation of his home on South Minnesota for the Canal Route, and is just beginning to recover from the expenses incurred as a result of the move. It is also suggested that if a variance is not granted to allow utilization of the present structure for uses other than photography, that a further hardship would be placed on the applicant in that even though the applicant has no intention of vacating or selling his present structure, his untimely death could saddle his widow with a property that would be difficult to sell if its use were limited to that of a photographic studio.

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if he were not allowed to hire a receptionist for a temporary period of time to take over the duties that his wife had previously been performing. However, the Secretary is also of the opinion that no hardship exists as far as allowing the applicant to utilize his present structure for uses other than photography. The "home occupation" clause in the ordinance would automatically allow the applicants' home to be used for any use which is primarily a personal service as long as no one is employed outside of the home. If the applicant desires to obtain the full range of privileges as far as office use is concerned, the proper procedure would be to apply for a change of zoning to an office district classification which would permit him to have these additional privileges.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION:

It is the opinion of the Secretary that it is very doubtful if uniqueness can be found to exist from the evidence that has been submitted by the attorney for the applicant and, therefore, it is recommended that the variance be denied. However, if the attorney for the applicant in his presentation to the Board can submit additional evidence which will meet the requirement of uniqueness, and if the Board should determine that all four requirements necessary to the granting of a variance can be found to exist, then it is recommended that a variance be granted to allow the applicant to hire a receptionist. It is also the opinion of the Secretary that hardship cannot be found to exist as far as allowing the applicant to utilize his property for uses other than a photography shop since he is already permitted to do this under the home occupation clause of the ordinance, as long as the service offered is a personal service and so long as no one is employed outside of the home. It is, therefore, recommended that the applicant not be granted variance in this respect. If the

Page 4 - Secretary's Report
Case No. BZA 17-64

applicant should desire a full range of use as far as office use is concerned, the proper procedure is to apply for a change of zoning to an office district classification.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan

CASE NO. BZA 17-64

22 NOTICES MAILED APRIL 9, 1964 FOR MEETING APRIL 28, 1964

Wakeem R. and Ada Jerrine Azim
422 South Oliver

Mrs. Hulda C. Beckett
433 South Oliver

Calvin McMillan
430 North Market

Darrell I. and Mary W. DeNeen
1316 North St. Paul

L. N. and Ruth M. Cook Long
210 South Dellrose

Katherine Jennings
442 South Dellrose

Wilma L. and Verda Grace Riller
434 South Oliver

Neav G. Sutton
434 South Dellrose

Walter E. and Doris R. Varenhorst
428 South Oliver

Reuben P. and Marian E. Hotchkiss
430 South Dellrose

Robert Gerald and Joan Jenkins Endres
437 South Glendale

Raymond D. and Gladys M. Miller
424 South Dellrose

Ralph Luther and Dixie A. Palmer
433 South Glendale

Charles Edward, Jr. and Eugenia Ruth Mitchell
924 North Terrace

M. Virginia Ellis
419 South Glendale

Robert R. and Idella Jo Strickler
402 South Oliver

W. A. and Beatrice Mae Bonwell
3255 East Pine

Bill J. and Barbara Gene Parker
4815 East Lewis

Carl L. and Mavis B. Buck
4707 East Lewis

Wichita Builders, Inc.
1206 East Lincoln

Wessie A. Schmidt
421 South Oliver

Otto H. and Helen P. Schnepel
146 South Ridgewood

25

BOARD OF ZONING APPEALS
Room 401 City Building Annex
104 South Main
Wichita, Kansas

April 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 17-64

An application has been filed by **William E. and Ada Jurrins Aale**, 443 South Oliver, Wichita, Kansas, by **Galvin McMillan**, 430 North Market, Wichita, Kansas, for a Variance, pursuant to Section 2.12.509.2, Code of the City of Wichita, Kansas, to use property for a residence and for a photographic studio or any other professional use for which the premises may be adaptable, all on property zoned "A" Two Family Residential, and legally described as follows:

The North 15 Feet of Lot 46 and all of Lot 48 on Oliver Street, and the South 20 Feet of vacated Louis Street adjacent on the north of Lot 48, all in Highland View Addition, in the City of Wichita, Sedgewick County, Kansas. Situated between the south side of Oliver between Louis and Hallway.

This application has been assigned Case No. BZA 17-64, and will be considered by the Board of Zoning Appeals at its meeting on **Monday, April 20, 1964, at 2 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

Case No. 22 4

Case No. 22 4
The undersigned, Calvin ...
of the City ...
and for a plot ...
the ...

The ...
and the ...
in the ...
...

This application has been assigned Case No. 22 4 and will
be ...
in Room 402 City Building ...
at ...
...

Jack H. ...
Secretary

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

April 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 17-64

An application has been filed by Waiseem R. and Ada Jerriene Azim, 442 South Oliver, Wichita, Kansas, by Calvin McMillan, 430 North Market, Wichita, Kansas, for a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, to use property for a residence and for a photographic studio or any other professional use for which the premises may be adaptable, all on property zoned "A" Two Family residential, and legally described as follows:

The North 15 feet of Lot 46 and all of Lot 48 on Oliver Street, and the south 30 feet of vacated Lewis Street adjacent on the north of Lot 48, all in Highland View Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Oliver between Lewis and Kelloug.

This application has been assigned Case No. BZA 17-64, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 28, 1964, at 2 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 E. Galbraith
Secretary

LAW OFFICES
KAPLAN AND MCMILLAN
ROBERT W. KAPLAN
CALVIN L. MCMILLAN

LAW BUILDING
430 NORTH MARKET
WICHITA 2, KANSAS
AMHERST 2-5175

March 31, 1964

Metropolitan Planning Commission
City Building
Wichita, Kansas

ATTENTION: Jim Howe

RE: Variance Request for Dick Azim

Dear Jim:

Please find enclosed herewith a plot plan for Dick Azim's house which I would appreciate your filing with the case. If you have any questions regarding the application or statement of justification, please let me know and I will be happy to discuss them with you.

Thanking you for your cooperation in this matter, I remain,

Very truly yours,

KAPLAN AND MCMILLAN

BY: Calvin McMillan
Calvin McMillan

CM/cb
Enc.



BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant WAKEEM R. AZIN and ADA JERRINE AZIN

Mailing Address 422 South Oliver Phone _____

Name of Authorized Agent Calvin McMillan

Mailing Address 430 North Market, Wichita, Kan. Phone AMherst 25175

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

II. The variance requested ^{is pursuant to Section 2.12.590.2 of the Code of the City of Wichita} to use the property for a residence

and for a photographic studio or any other professional use

for which the premises may be adaptable.

for property located at 422 South Oliver

and legally described as: The North 15 feet of Lot 46 and all of Lot 48 on Oliver Street and the South 30 ft. of vacated Lewis Street adjacent on the North of Lot 48, all in Highland View Addition to the ~~XXXX~~ 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. (Being submitted under separate cover)

Applicant

Calvin McMillan
Authorized Agent - CALVIN MCMILLAN

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

STATEMENT OF JUSTIFICATION

RE: Case No.
Applicants: Wakeem R. Azim & Ada Jerrine Azim
Property: The North 15 Feet of Lot 46 and all
of Lot 48 on Oliver Street and the
South 30 ft. of vacated Lewis St.
adjacent on the North of Lot 48, all
in Highland View Addition to the
City of Wichita
Zoning: "A" Two-Family Dwelling District

JURISDICTION

Jurisdiction is granted to the Board of Zoning Appeals to act upon this application for variance under Section 2.12.590-2 of the Code of the City of Wichita which provides that "The Board shall have jurisdiction to grant variances from the strict application of the enforcement provisions of the Zoning Ordinance..." In the past the applicants have used their property for a home and photographic studio under the Home Occupation Exception allowed in any Zoning Classification. This exception provides, among other things, that no person outside the home can be employed by the homeowner. For some years now the applicant has been operating a one man business with his wife serving as receptionist. Recently the applicant's wife gave birth to a baby girl and it has since become impossible for her to continue her duties as receptionist. Applicant must now seek to employ outside help, hence, this need for a variance.

STATEMENT OF CONDITIONS

- A. Unique and not ordinarily found in the same zoning district.

The property is zoned "A" and is a tract having 70 ft. of frontage on Oliver Avenue. Immediately to the south is a white frame home serving as an office and home for a local chiropractor. South of the chiropractor's home are several duplexes and south of the duplexes we have the beginning of light commercial zoning and the establishment of several businesses, i.e., Shipley's Donut Shop, Dairy Queen, liquor store and on the northeast corner of Kellogg and Oliver, the King's X Restaurant.

Case No. BZA 17-64
Attachment #1

To the north and across the street west of the concerned property there is "A" type zoning which is improved by large, substantial older type but well kept residences. The applicant's home was built two years ago at an approximate cost of \$40,000.00 and is an attractive home-office structure which is a definite credit to the neighborhood.

The concerned property is unique in a neighborhood which is essentially residential and yet is only one-half block from the light commercial zoning. It is also situated on a major thoroughfare in the City.

In view of the foregoing, applicant submits that his situation is unique for seldom will a tract be found in an "A" zoning district where the combination of factors hereinabove outlined can be found and where granting of a variance for the use proposed will have the effect of fortifying property values in the area and at the same time serve the critical needs of the applicant.

B. No Adverse affect on the rights of adjacent property owners.

Unlike the usual proposal for a variance to do some changing or building, the applicant's structure already exists and no request is being made to change it outwardly. The structure is purely residential in character and constitutes one of the most attractive homes in the area. Adjacent property owners would not be adversely affected by the granting of a variance because there would be no outward change of conditions. Applicant's home will remain as it is structurally and so will the manner in which he conducts his business. Allowing him to hire an outside receptionist to replace his wife would probably go unnoticed by his neighbors and would certainly not affect them adversely. The applicant conducts his business on an appointment basis as a private photographer and rarely has more than one customer at a time. Ample parking space is provided for customers in front of his home and by a circular drive which allows easy access on and off of Oliver Street.

It is also contended that the granting of a variance sufficient to meet the needs of the applicant would be better planning than attempting to obtain either strip or spot zoning. A variance may contain certain built in protective conditions which will insure the status quo whereas a rezoning to light commercial would open up this area to some businesses which would not be beneficial to the neighborhood.

Mention should also be made of a study which was recently made of Oliver Street which is a narrow four lane street slated to carry more traffic in the future than it does now. It is the understanding of this writer that the variance requested for a home-office combination utilizing the property for a professional type use is consistent with the long range plans for Oliver Street.

C. Hardship upon the property owner if enforcement provisions of zoning ordinance are strictly applied.

The applicant formerly practiced out of his home on South Minnesota and was forced to move approximately two years ago because of the threatened condemnation of this home for the proposed canal route. The applicant then moved his business to its present location at 422 South Oliver where he is now just beginning to recover fully from the adverse effects of the business move. If the variance is not granted it becomes obvious that a real, substantial and unnecessary hardship will result on the applicant.

Furthermore, and very important to the applicant, is the granting of a variance to allow the utilization of the present structure for professional uses other than photography in the event of the applicant's death. While the applicant has no intention of vacating or selling the present structure, his untimely death could saddle his widow with a property that would be difficult to sell if its use were limited to that of a photographic studio. However, if a variance was granted for professional uses such as medical, dental, legal, accounting or architecture, the widow would then be in a better position to obtain a fair price for the property. The said home has a full basement and approximately 2/3rds of the space is devoted to residential use and 1/3 to office use. It is doubtful that the physical limitations would lend the use of this property to more than a single practitioner. If there is any question in this regard, a restriction limiting its use to a single practitioner of any of the above enumerated professions could be imposed. The restriction on its use by a member of any of the above mentioned professions would help preserve the property as it is and fit in very well with the future plans for this area.

D. No adverse affect upon public health, safety, morals, order, convenience, prosperity or general welfare.

It is self-evident from what has already been stated that the fourth condition has been met.

By reasonof the foregoing, applicants respectfully request that the Board of Zoning Appeals act favorably upon this application for a variance and grant a variance permitting the hiring of a receptionist and permitting the use of the property for a residence and for professional offices contiguous to the residence.

WAKEEM R. and ADA JERRINE AZIM

BY: _____

Calvin McMillan

CALVIN MCMILLAN,
Their Attorney

STATEMENT OF JUSTIFICATION

RE: Case No.
Applicants: Wakeem R. Azim & Ada Jerrine Azim
Property: The North 15 Feet of Lot 46 and all
of Lot 48 on Oliver Street and the
South 30 ft. of vacated Lewis St.
adjacent on the North of Lot 48, all
in Highland View Addition to the
City of Wichita
Zoning: "A" Two-Family Dwelling District

JURISDICTION

Jurisdiction is granted to the Board of Zoning Appeals to act upon this application for variance under section 2.12.590-2 of the Code of the City of Wichita which provides that "The Board shall have jurisdiction to grant variances from the strict application of the enforcement provisions of the Zoning Ordinance..." In the past the applicants have used their property for a home and photographic studio under the Home Occupation Exception allowed in any Zoning Classification. This exception provides, among other things, that no person outside the home can be employed by the homeowner. For some years now the applicant has been operating a one man business with his wife serving as receptionist. Recently the applicant's wife gave birth to a baby girl and it has since become impossible for her to continue her duties as receptionist. Applicant must now seek to employ outside help, hence, this need for a variance.

STATEMENT OF CONDITIONS

- A. Unique and not ordinarily found in the same zoning district.

The property is zoned "A" and is a tract having 70 ft. of frontage on Oliver Avenue. Immediately to the south is a white frame home serving as an office and home for a local chiropractor. South of the chiropractor's home are several duplexes and south of the duplexes we have the beginning of light commercial zoning and the establishment of several businesses, i.e., Shipley's Donut Shop, Dairy Queen, liquor store and on the northeast corner of Kellogg and Oliver, the King's X Restaurant.

To the north and across the street west of the concerned property there is "A" type zoning which is improved by large, substantial older type but well kept residences. The applicant's home was built two years ago at an approximate cost of \$40,000.00 and is an attractive home-office structure which is a definite credit to the neighborhood.

The concerned property is unique in a neighborhood which is essentially residential and yet is only one-half block from the light commercial zoning. It is also situated on a major thoroughfare in the City.

In view of the foregoing, applicant submits that his situation is unique for seldom will a tract be found in an "A" zoning district where the combination of factors hereinabove outlined can be found and where granting of a variance for the use proposed will have the effect of fortifying property values in the area and at the same time serve the critical needs of the applicant.

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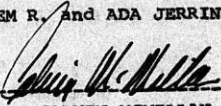
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WAKEEM R. and ADA JERRINE AZIM

BY:



CALVIN MCMILLAN,
Their Attorney

LIST OF PROPERTY OWNERS

<u>LOT</u>	<u>STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
30	Oliver	Highland View	L. N. Long and Ruth M. Cook Long 210 S. Dellrose
32	"	"	Same
34	"	"	Wilma L. Riller and Verda Grace Riller 434 S. Oliver
36	"	"	Same
38	"	"	Walter E. Varenhorst and Doris R. Varenhorst 428 S. Oliver
40	"	"	Same
42	"	"	✓ Adolph A. Stephens and Frances E. Stephens <i>no address</i>
44	"	"	Same
46 (S 10')	"	"	Same
46 (N 15')	"	"	✓ Wakeem Richard Azim and Ada Jerine Azim 422 S. Oliver
48	"	"	Same
30' vacated St. adjacent to Lot 48 on North	"	"	Same
29 (S 15')	Glendale	"	✓ Thomas W. McCarty Dianne McCarty <i>no address</i>
29 (N 10')	"	"	Robert Gerald Endres and Joan Jenkins Endres 437 S. Glendale
31	"	"	Same
33	"	"	Same
35	"	"	Ralph Luther Palmer and Dixie A. Palmer 433 S. Glendale
37	"	"	Same
39 (S 10')	"	"	Same

<u>LOT</u>	<u>BLOCK STREET</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
39 (N 15')	Glendale	Highland View	Charles Edward Mitchell Jr. Tugenia Ruth Mitchell 924 N. Terrace
41	"	"	Same
43	"	"	Same
45	"	"	M. Virginia Ellis 419 S. Glendale
47	"	"	Same
1	2	Lincoln Terrace	Robert R. Strickler and Idella Jo Strickler 402 S. Oliver
2	2	"	✓ Norris L. Reiney <i>no address</i>
3 (S 62.5')	2	"	W. A. Bonwell and Beatrice Mae Bonwell 3255 E. Pine
3 (N 10')	2	"	Bill J. Parker and Barbara Gene Parker 4815 E. Lewis
4	2	"	Same
2	13	Lincoln Heights	Carl L. Buck and Mavis B. Buck 4707 E. Lewis
3	"	"	Wichita Builders Inc. 1206 E. Lincoln
4	"	"	Same
5	"	"	Wilma L. Riller and Verde Grace Riller 434 S. Oliver
6	"	"	Wessie A. Schmidt 421 S. Oliver
7	"	"	Otto H. Schneepel and Helen P. Schneepel 146 S. Ridgewood
8	"	"	Mrs. Hulda C. Beckett 433 S. Oliver
9 (W 53')	"	"	Frank L. Rearick and Gladys Z. Rearick <i>no address</i>

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>PROPERTY OWNER</u>
9 (Exc W 53')	13	Lincoln Heights	Darrell I. De Neen and Mary W. De Neen 1316 N. St. Paul
10	13	"	Katherine Jennings 442 S. Dellrose
11 (S 10')	13	"	Same
11 (Exc S 10')	13	"	Neva G. Sutton 434 S. Dellrose
12	13	"	Reuben P. Hotchkiss and Merien E. Hotchkiss 430 S. Dellrose
13	13	"	Raymond D. Miller and Gledye M. Miller 424 S. Dellrose

We hereby certify the foregoing to be a correct list of property owners within a radius of 200 feet of the following described property to-wit:

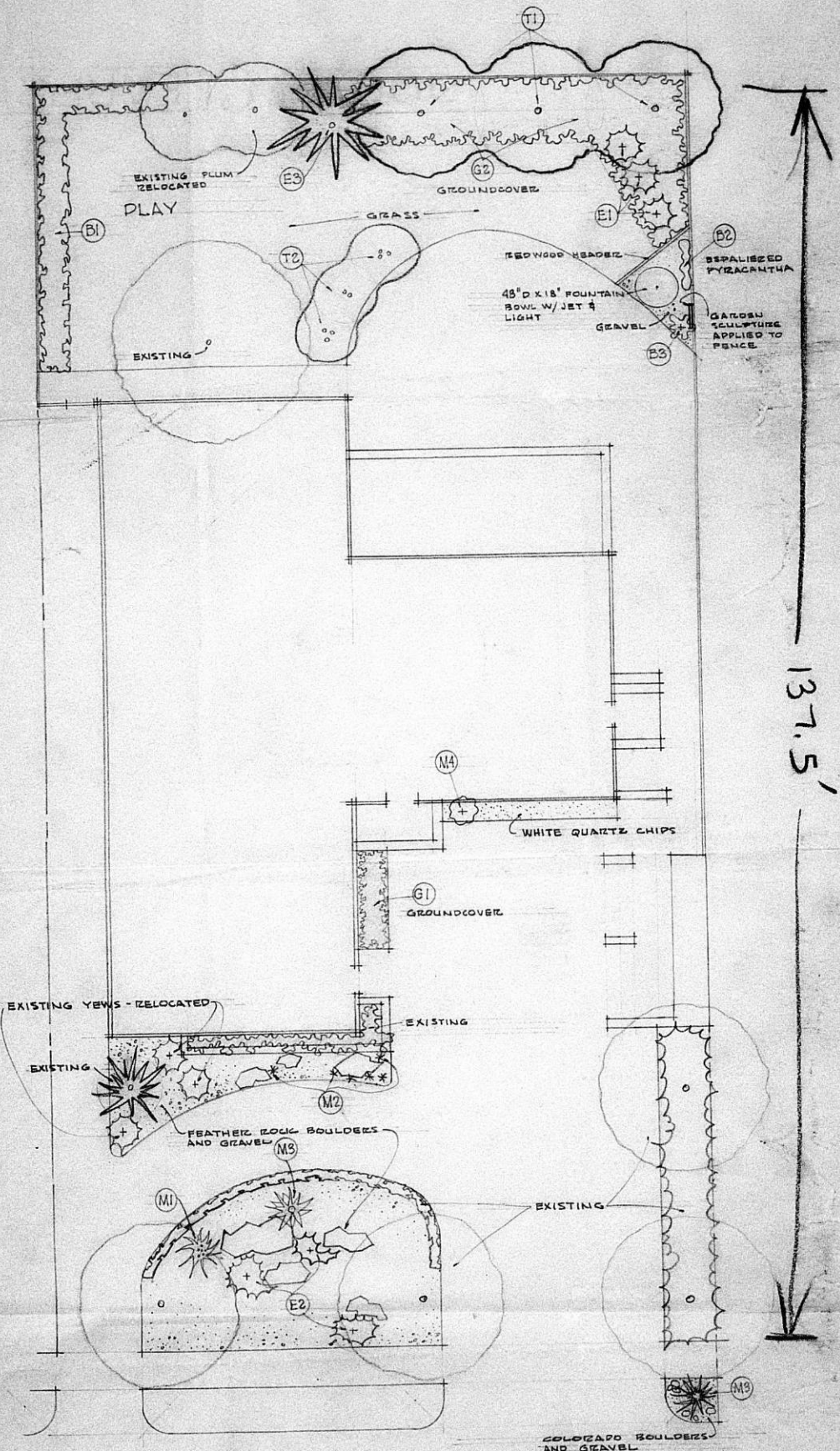
The North 15 feet of Lot 46, all of Lot 43, on Oliver Street, and the South 30 feet of vacated Street adjacent on the North of said Lot 43, all in Highland View Addition to Wichita,

as shown by the records in the office of the Register of Deeds of Sedgewick County, Kansas, this 27th day of December A. D. 1963 at 7 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

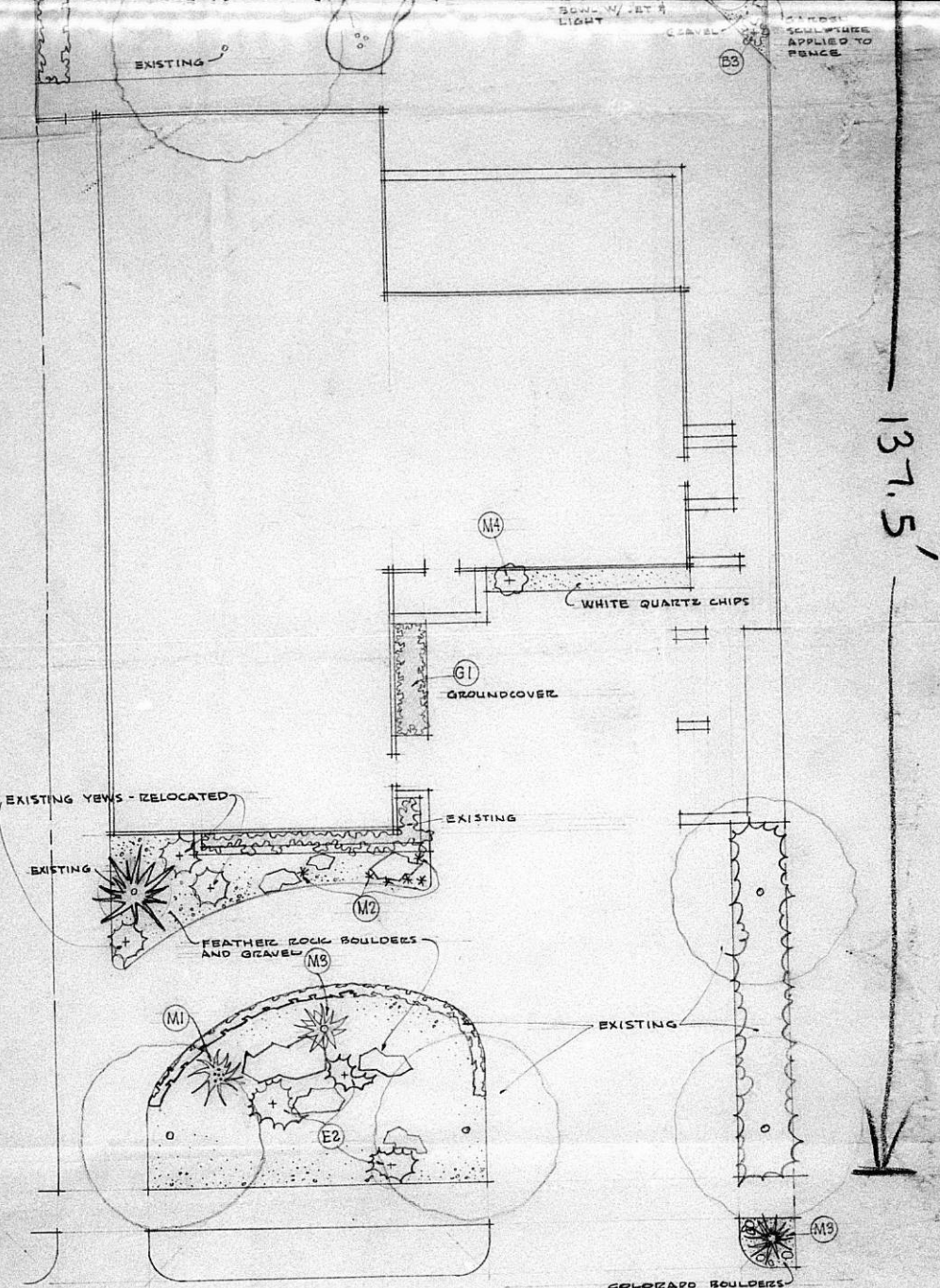
By *Mary Eable*
asst. Secy. Vice President

Order No. 109355
(KPB)



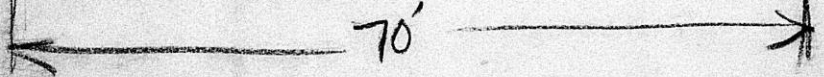
137.5'

LANDSCAPE PLAN FOR THE DICK AZIM RESIDENCE.



LANDSCAPE PLAN FOR THE DICK AZIM RESIDENCE.
 SCALE 1"=10' 422 SO. OLIVER.

KELLY NURSERY



742 N.W. 1st
 WH 36963

FORM 223-021

PAYMENT NOTICE
City of Wichita

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>
<i>Handwritten description</i>	<i>Handwritten amount</i>

Name *Handwritten name*

Address *Handwritten address*

Type *Handwritten type* Due Date *Handwritten date*

Comments: *Handwritten comments*

Handwritten line

Date *Handwritten date* By *Handwritten signature*