

BZA 10-66 - Oak, Inc. by Harold Pease
request variance of setback line on
south side of River Blvd. between
Buffum and Faulkner

3348
RC-
B-1.

ACTION

DATE

6-28-66
7-26-66

By COMMITTEE *Deferred*
Approved

M.A.P.C.

R.C.C./B. CO. C.

RESOLUTION NO. BZA 18-66

WHEREAS, Oaks, Inc., pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, requests a variance of the regulations of Section 28.04.070, Code of the City of Wichita ("B" Multiple Family Dwelling District), to reduce the front yard setback from 15 feet to 3 feet on property legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and Reserve A, in Cox's 2nd Addition, Generally located on the north side of River Boulevard in an area between Buffum and Faulkner; and

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 June 28, 1966, and at that time the application was continued until July 26, 1966; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on July 26, 1966; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance requested arises from such condition which is unique and not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant inasmuch as the carport is already built and would be costly for them to tear it down; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect adjacent property owners or residents in view of the fact that no one has appeared in opposition, and Mr. Pike, the only adjacent property owner who was present at the hearings, agreed that he does not object as long as the variance is only for the carport under consideration; 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 property owner represented inasmuch as the cost of tearing down the structure and revamping it would be considerable; 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.

WHEREAS, the Board of Zoning Appeals has determined that the variance desired will not be opposed to the general spirit and intent of Title 28, Code of the City of Wichita; 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, has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the request be approved to permit the variance of the required 15-foot front yard setback to 3 feet on property zoned "B" along the north side of Harrison in an area between Buffum and Faulkner, for only that portion presently occupied by the carport in question, and being located on property legally described as follows:

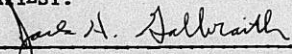
Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and Reserve A, in Cox's 2nd Addition. Generally located on the north side of River Boulevard in an area between Buffum and Faulkner.

ADOPTED AT WICHITA, KANSAS, this 26th day of July, 1966.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith, Secretary

August 17, 1966

Oaks, Inc.
1201 West River Boulevard
Wichita, Kansas

Attention: Norman Behmeyer

Gentlemen:

Re: Case No. BSA 18-66 - Request for
Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 26, 1966, in connection with your application for variance of the setback requirements on property zoned "B" and generally located on the north side of Harrison in an area between Buffum and Faulkner. 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,

Jack H. Galbraith
Secretary

JHG:her
Attachment

cc: Norman Behmeyer, 1201 North River Boulevard
Harold Pease, Apt. B-208, 1201 West River Boulevard
Glen Lytle, Superintendent of Central Inspection
L. L. Binkley, Maintenance Inspection Supervisor
Ralph Eberly, City Clerk
Gerald W. Pike, 1301 West River Boulevard

July 29, 1966

Oaks, Inc.
1201 West River Boulevard
Wichita, Kansas

Attention: Norman Bekemeyer

Gentlemen:

Re: Case No. BEA 18-66 - Request for
Variance

At the regular meeting of the Board of Zoning Appeals on July 26, 1966, the above application was considered for variance of the setback requirements with respect to an existing carport which encroaches into the front setback area on the north side of Harrison in an area between Buffum and Faulkner.

It was the action of the Board of Zoning Appeals to approve and permit reduction of the front yard setback from 15 feet to 3 feet along Harrison Avenue for only that portion presently occupied by the CARPORT in question.

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

Very truly yours,

Ronald A. Williamson
Secretary pro-tem

BAW:hkg

cc: Norman Bekemeyer
Harold Pease
Glen Lytle
Ralph Eberly
L. L. Binkley
Gerald W. Pike

SECRETARY'S REPORT

CASE NO. BZA 18-66

APPLICANT: Oaks, Inc., 1201 ^{West} North River Boulevard

AGENT: Harold Pease, 1201 ^{West} North River Boulevard, Apartment B208

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita to reduce the front yard setback from 15 feet to 3 feet.

GENERAL LOCATION: South side of River Boulevard between Buffum and Faulkner

ZONING: Subject property is zoned "B" Multiple family and all surrounding property is zoned "A" Two Family Dwelling

LAND USE: Subject property has an apartment complex and all surrounding use is either single family or duplex, except that area to the north which is the Little Arkansas River

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 it is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

SECRETARY'S COMMENTS

The applicant has constructed a carport without obtaining a building permit and has constructed the carport in violation of the setback requirements. The carport extends into the required front yard setback to within 3 feet of the property line adjacent to Harrison Avenue.

A variance request was filed on this property in October of 1962 (BZA 5-62). At this time the applicant was granted variances of the front yard setback requirements from 20 feet to 15 feet adjacent to Harrison Avenue, from 20 feet to 10 feet adjacent to Faulkner Avenue, from 20 feet to 10 feet adjacent to Buffum Avenue, and was also permitted to park in the front yard setback adjacent to Harrison Avenue.

The applicant is, therefore, requesting a reduction of the front yard setback from 15 feet to 3 feet for that portion of the carport which is in violation.

UNIQUENESS

It is the opinion of the Secretary that the property in question is somewhat unique inasmuch as it encompasses an entire block bounded by four streets, thereby creating four front yard areas and, therefore, the setbacks are greater than that normally required of a property which has tracts adjoining it. It should also be noted that parking was permitted within the front yard setback where the carport is located. It should be emphasized, however, that the condition which now exists was created by the property owner by not obtaining a building permit for the construction of the carport.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of this variance would not adversely affect the adjacent property owners inasmuch as the applicants own the entire block.

HARDSHIP

It has been the position of the Secretary that "hardship" should be so construed as to mean that the property could not be used for the purpose for which zoned and would be a right of use not accessible to him which is normally enjoyed by the rest of the property owners in the same district or area under similar circumstances.

If the carport had not been constructed in violation of the resolution previously adopted by the Board of Zoning Appeals there would be no problem. The applicant will not lose any parking spaces nor will he lose the use of the property as now permitted.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not have an adverse affect on the public interest inasmuch as the entire block is under one ownership and development and the existing carport is designed in such a manner that it does not obstruct the view for traffic and its appearance is not objectionable from a design standpoint.

SPIRIT AND INTENT

It is the opinion of the Secretary that the variance request is opposed to the general spirit and intent of Title 26, which provides that structures shall maintain adequate setbacks from property lines; and obviously is opposed to the previous "Board's" action on the variance request in 1962.

It is difficult to understand how or why the carport was constructed without a building permit from the Central Inspection office or why the carport was constructed in violation of the Board's previous action to grant a variance to reduce the required setback of 20 feet to 15 feet.

RECOMMENDATION

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

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

June 30, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 18-66

An application has been filed by Oaks, Inc., 1201 West River Boulevard, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a variance of the front yard setback from 15 feet to 3 feet adjacent to Harrison Avenue, to retain a carport which was constructed in violation of the setback requirements, on property zoned "B" Multiple Family and legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 and Reserve A, in Cox's 2nd Addition to Wichita, Sedgwick County, Kansas - generally located on the south side of River Boulevard between Buffum and Faulkner.

This application has been assigned Case No. BZA 18-66, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, July 26, 1966, at 2 P.M., in Room 401 of the 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

June 30, 1966

Oaks, Inc.
1201 West River Boulevard
Wichita, Kansas

Attention: Norman Bekemeyer

Gentlemen:

Re: Case No. BEA 18-66

At the regular meeting of the Board of Zoning Appeals on June 28, 1966, the above numbered application, a request for reduction of the front yard setback from 15 feet to 3 feet to accommodate an existing carport, was considered. The property is generally located on the north side of Harrison in an area between Buffum and Faulkner.

The motion was made and seconded that the Board approve the request and permit reduction of the front yard setback from 15 feet to 3 feet along Harrison for only that portion presently occupied by the carport in question. Two members voted in favor of the motion and one voted in opposition.

The Chairman referred to Article VII.C of the Rules and Regulations of the Board, which states:

"An affirmative vote of three Board members shall be necessary for any action finally disposing of any application. In case of failure to reach a decision, the matter shall be presented at the next meeting."

The Chairman declared the above motion lost and stated that this application would be reconsidered at the meeting of the Board on July 26, 1966.

Page 2 - Oaks, Inc.
June 30, 1966

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

Very truly yours,

Jack H. Galbraith
Secretary

JHG:HW:bor

cc: Norman Bekemeyer
1201 North River Boulevard

Harold Fosse
Apt. B-208
1201 West River Boulevard

Glen Lytle, Superintendent
of Central Inspection

L. L. Binkley, Maintenance
Inspection Supervisor

Ralph Eberly
City Clerk

Gerald W. Pike
1301 West River Boulevard

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

June 3, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 18-66

An application has been filed by Oaks, Inc., 1201 North River Boulevard, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a variance of the front yard setback from 15 feet to 3 feet adjacent to Harrison Avenue., to retain a carport which was constructed in violation of the setback requirements, on property zoned "B" Multiple Family and legally described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 and Reserve A, in Cox's 2nd Addition to Wichita, Sedgwick County, Kansas - generally located on the south side of River Boulevard between Buffum and Faulkner.

This application has been assigned Case No. BZA 18-66, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 28, 1966, 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

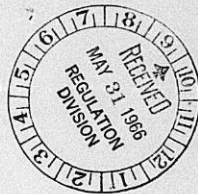
OAKS, INC.

RIVERSIDE OAKS APARTMENTS

3305 E. Douglas
SUITE # 7

MU 4-0143
WICHITA, KANSAS 67202

May 28, 1966



Board of Zoning Appeals
Room 402
City Bldg Annex
104 S. Main
Wichita, Kansas

Gentlemen:

We are requesting a zoning variance and to support this request we are enclosing, a duplicate sketch of the area involved, an application for variance, a list of property owners within 200 feet and a check for 50.00.

We are requesting a variance so that the carport roof extending over the present setback line will be in compliance with a new setback line. The granting of the requested permit for variance will not adversely effect the rights of any property owner and will not in any way adversely effect the public health, safety or general welfare of any other property owners or the general public. We feel that our request does not oppose the general spirit or intent of title 28.

Our request is unique to the property in question and the same situation should not be found in the same area. The strict application of title 28 will constitute unnecessary hardship on this applicant. The granting of this request will in no way adversely effect the rights of any property owner.

Thank you for your consideration.

Yours very truly,

Harold Case
Oaks, Inc.
Manager

April 28, 1966

Mr. Bill Mesker
1500 Airport Road
Wichita, Kansas



Dear Mr. Mesker:

Some time ago we had a conversation relative to the construction of the carports at River Oaks, 1201 West River Boulevard. It was my understanding that you were coming into the office to discuss this matter.

It appears that there is violation of the city ordinances and also of the Board of Zoning Appeals, Case No. 5-65, in that the structure was built beyond the setback line established by said Board of Zoning Appeals.

The structure was built without a building permit. Such a permit cannot be issued for a noncomplying structure. It will therefore be necessary that the portion of the structure extending into the yard area beyond the established setback line be removed, and also that your contractor obtain a building permit.

You might be able to refile with the Board of Zoning Appeals and get a change of the front yard setback line.

Unless this matter is taken care of or a case filed with the Board of Zoning Appeals within ten days from this date, this division will have no alternative but to take appropriate action.

Sincerely,

C. L. McCaig
Construction Inspection Supervisor

CLMc:ml

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

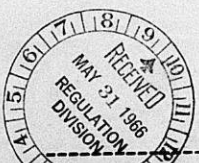
APPLICATION FOR VARIANCE

I. Name of Applicant OAKS INC.
 Mailing Address 1201 W RIVER BLVD Phone 703945
 Name of Authorized Agent AROLD PEASE
 Mailing Address 1201 W RIVER BLVD Phone 703945
APT B 208
 Relationship of applicant to property is that of OWNER
 (owner, tenant, lessee, other)

II. The variance requested is CARPENT ROOF IS EXTENDING A
FEW FEET BEYOND SET BACK LINE - REQUEST A
NEW SET BACK LINE
 for property located 1201 W RIVER BLVD.

and legally described as: LOTS 1 THRU 9 + RESERVE "A"
COX'S 2ND ADD TO WICHITA
 in the City of Wichita; and which is presently zoned _____.
 (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 here-with tendered;
 - c. That he has been advised of his right to appeal of the deci-sion 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.



OAKS INC.
 Applicant
Harold Pease Mgr.
 Authorized Agent

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

Signed _____

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
1		Cox's 2nd Add.	✓ Oaks, Inc. 1201 W. River Blvd.
2		"	"
3		"	"
4		"	"
5		"	"
6		"	"
7		"	"
8		"	"
9		"	"
Reserve A		"	"
87	Buffum	Riverside Add.	✓ Lauren F. Burnett Carrie M. Burnett 957 Buffum
89	"	"	"
91	"	"	"
93	"	"	"
95	"	"	"
88	Faulkner	"	✓ Howard L. Evans Doris A. Evans 950 Faulkner
90	"	"	✓ Elmer W. Martin Mildred L. Martin 950 Faulkner
92	"	"	"
94	"	"	✓ Harold A. Graham Gladys N. Graham 956 Faulkner
96	"	"	"
87	"	"	✓ James A. Hollingsworth Carolyn S. Hollingsworth 945 Faulkner
89	"	"	✓ Chester F. Miller Lydia H. Miller 947 Faulkner
91	"	"	"

Continued page 2

Lot	Street	Addition	Property Owner
93	Faulkner	Riverside Add.	✓ Pearl S. Burgerhoff 953 Faulkner
95	"	"	"
97	"	"	X Richard A. Kuhn, Jr. Jane Louise Kuhn Address unknown <i>no address found</i>
99	"	"	"
101	"	"	"
103	"	"	✓ Beatrice Brown Carroll P. Brown 1007 Faulkner
105	"	"	"
107	"	"	✓ Union National Bank Union Center Building
109	"	"	"
124	River Blvd.	"	✓ John W. Pearson <i>1638 Burnside</i> Olga E. Pearson Address unknown
126	"	"	✓ Earl G. Teubner Viola M. Teubner 1311 W. River Blvd.
128	"	"	"
130	"	"	✓ Gerald W. Pike Mona C. Pike 1305 W. River Blvd.
132	"	"	"
134	"	"	"
1		Flat Iron Add.	✓ Florence G. Tucker Address unknown <i>1020 Buffum Ave</i>
2		"	"
3		"	✓ T. T. Brady Loretta C. Brady 1711 W. River Blvd.
4 exc. S. 5'		"	✓ Klon Randle Genevieve I. Randle 1018 Buffum
S. 5' of 4		"	✓ Gary Lee Ashford Jo Ann Ashford 1016 Buffum
5		"	"

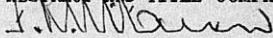
Continued page 3

Lot	Addition	Property Owner
6	Flat Iron Add.	✓ Joe J. Stevens, Jr. Edgenie M. Stevens 1224 Riverside
7	"	"
8	"	✗ Zoda Cain Address unknown

no address found

We, The Security Abstract and Title Company, Inc., hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 and Reserve A, in Cox's 2nd Addition to Wichita, Sedgwick County, Kansas, as shown by the deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 23rd day of May, 1966 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.



By

Vice-President

Order No. 135763

Form 223-021

PAYMENT NOTICE

City of Wichita

Pay AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION

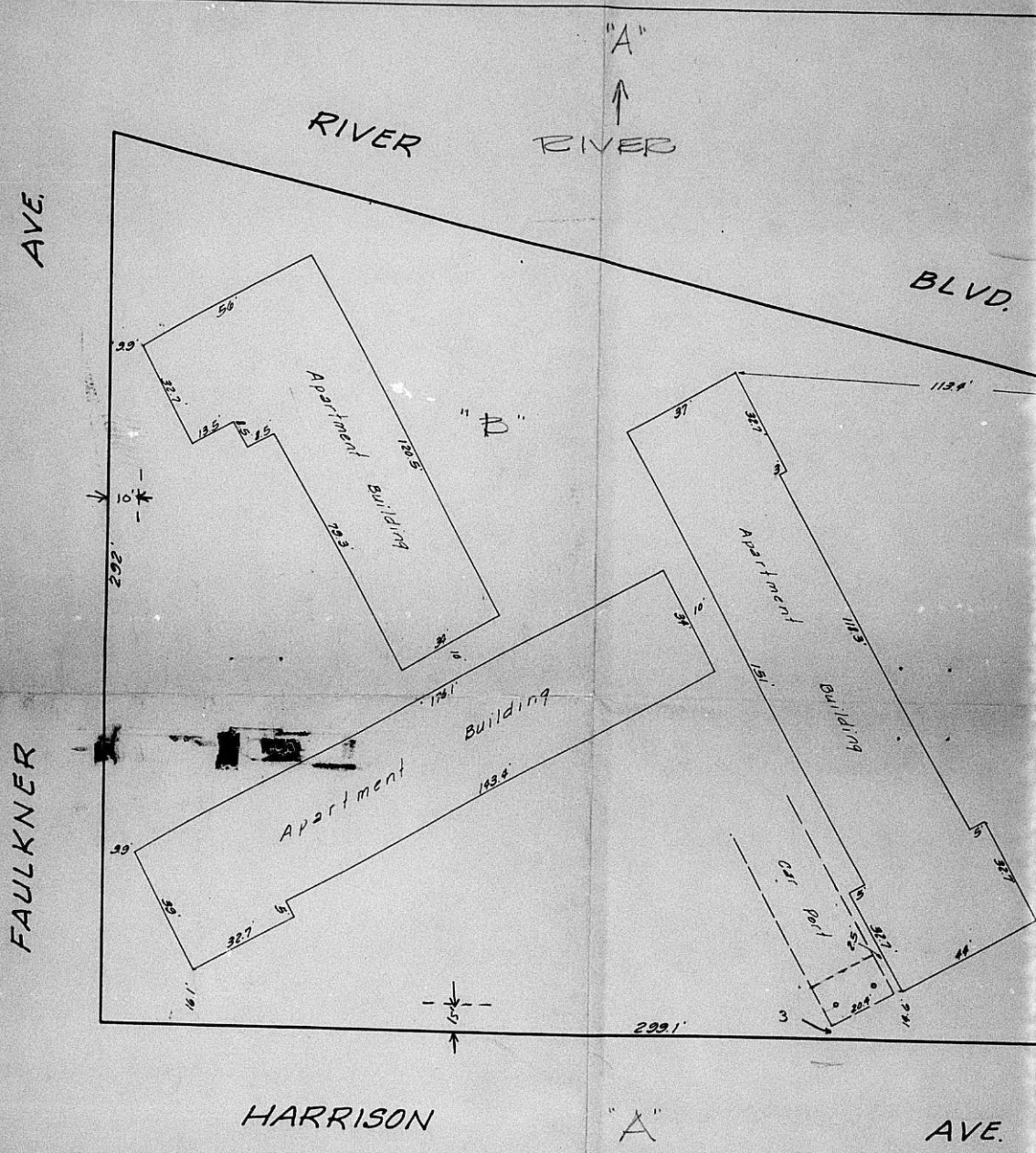
AMOUNT

Exp. Application 50.00

Name *Riverside Park*
Address *1201 W. River Blvd.*
Type *R-712* Due date *5-31-66*

Comments:

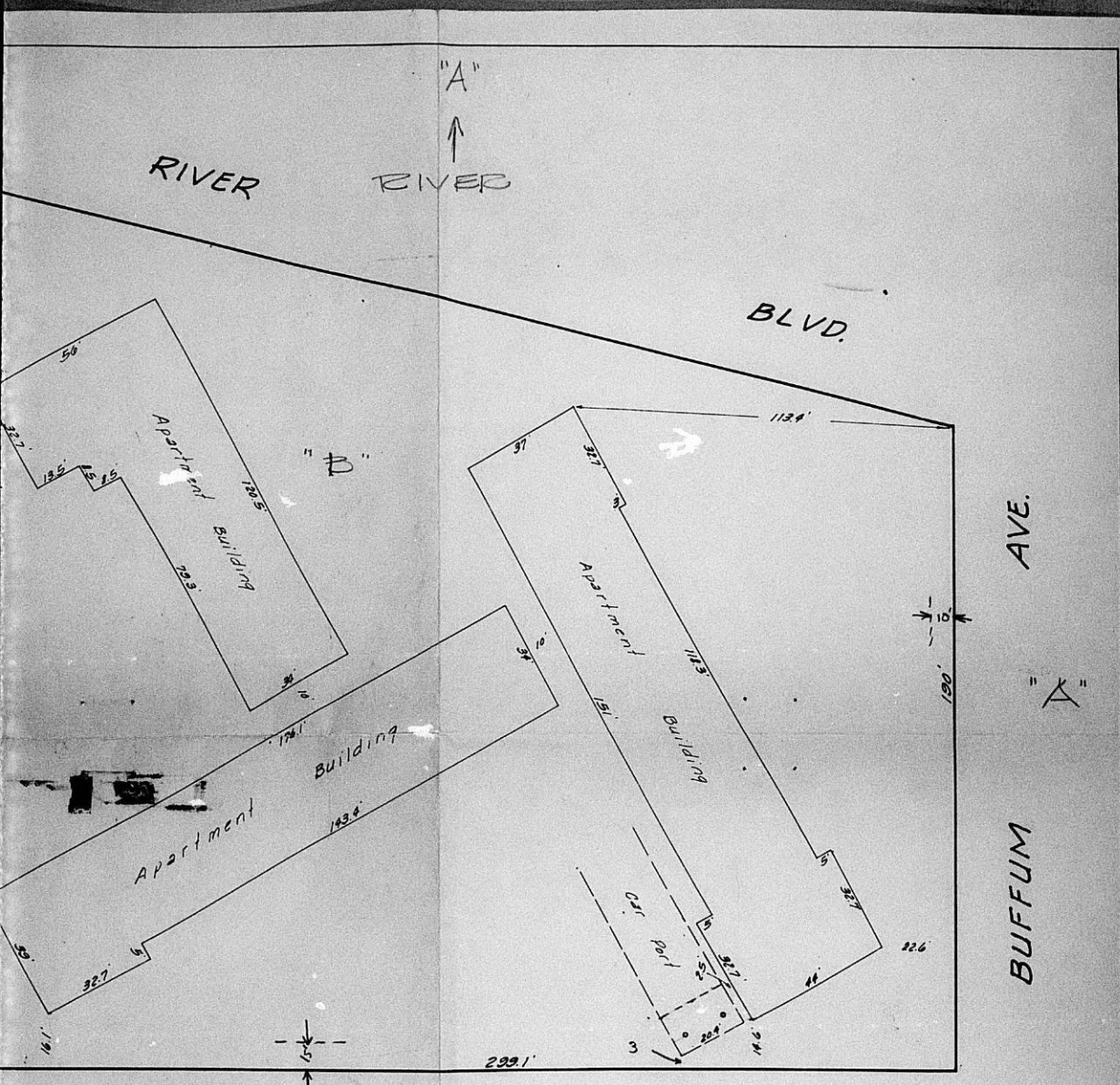
Date *5-31-66* By *Edlowers*



Lots 1 thru 9 & Res. A, Cox's 2nd Addition

RIVERSIDE OAKS
1201 W. River Blvd.

surrounding area consists
of single family & duplex



RIVER

"A"
↑
RIVER

BLVD.

AVE.

BUFFUM

HARRISON

"A"

AVE.

*surrounding area comprised
of single family & duplex*



1 thru 9 & Res. A, Cox's 2nd. Addition

RIVERSIDE OAKS
1201 W River Blvd.

Baughman Co. 5-25-66