

BZA 40-63 - Wm. L. Fry, atty for
Walter Morris request variance to
allow foundry on SS 10th St. east
of Wichita Street

Special Meeting - 1-17-64 - App.

January 28, 1964

Mr. William L. Fry, Attorney
300 North Broadway
Wichita, Kansas

Dear Mr. Fry:

Re: BZA Case No. 40-63

On January 20, 1964, we advised you that the Board of Zoning Appeals had approved subject application for location of a foundry on property generally located on the east side of Wichita Street just south of 10th Street.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before January 27, 1964. The City Clerk has advised that no appeal was filed on or before the date indicated, 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,

Robert A. Lakin
Secretary

RAL:JWH:ber
Attachment

cc: Walter Morse
603 South Main
Centerville, Iowa

Glen Lytle, Superintendent
of Central Inspection

Board of Zoning Appeals

January 21, 1964

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

Case No. BZA 40-63

Attached is a copy of BZA Resolution No. 40-63,
covering action taken by the Board of Zoning Appeals
on the above case.

This case was heard January 17, 1964 and an appeal
may be filed in your office on or before January 27,
1964.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

January 20, 1964

Mr. William L. Fry, Attorney
300 North Broadway
Wichita, Kansas

Dear Mr. Fry:

Re: BZA Case No. 40-63

This is to advise you that at a special meeting of the Board of Zoning Appeals of the City of Wichita, on January 17, 1964, the Board considered your request for a variance to permit the operation of a foundry on property legally described as:

Reserve B, except the south 40 feet thereof,
Wichita Street, Lewellen's 2nd Addition, in the
City of Wichita, Sedgwick County, Kansas,

generally located on the east side of Wichita Street just south of 10th Street. It was the decision of the Board to approve this request subject to all off-street parking and loading areas being paved with asphalt or asphaltic concrete, and off-street parking being provided in accordance with Section 28.04.140 of the ordinance.

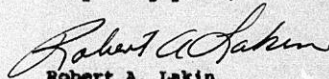
Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before January 27, 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 January 27, 1964, the decision of the Board will be final

Page 2 - William L. Fry
January 20, 1964

and the Superintendent of Central Inspection will be in a position
to issue the appropriate permit.

Very truly yours,



Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Walter Morse
603 South Main
Centerville, Iowa

Robert G. Finch
City Clerk

Glen Lytle, Superintendent
of Central Inspection

R E S O L U T I O N N O . B Z A 40-63

WHEREAS, Walter Morse, 603 South Main, Centerville, Iowa, by William L. Fry, 300 North Broadway, Wichita, Kansas, attorney, has filed an application for a variance, pursuant to Section 28.04.120.B, Code of the City of Wichita, Kansas, to permit a foundry in an area zoned "E" Light Industrial, on property described as:

Reserve B, except the south 40 feet thereof, Wichita Street, Lewellen's 2nd Addition, in the City of Wichita, Sedgwick County, Kansas.
Generally located on the east side of Wichita Street just south of 10th Street; and

WHEREAS, proper notices as required by ordinances and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, in a special meeting consider said application on January 17, 1964; and

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

WHEREAS, the property is zoned "E" Light Industrial; and

WHEREAS, the Board has determined that under the terms of Section 28.04.120, Code of the City of Wichita, Kansas, a foundry is not permitted as a "use by right" in the "E" Light Industrial District; and

WHEREAS, the Board of Zoning Appeals has found that the request for variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the use proposed is one which is not frequently established in the Community, and there are limited facilities of the size and type available in the City of Wichita for such use, and further because of the shape of the property and its location adjacent to the railroad tracks and to adjacent industrial uses which are compatible, such as the nearby cement and rock crushing plants; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not adversely affect the rights of adjacent property owners or residents in that the use proposed would be compatible with other uses in the area and no adjoining property owner or resident appeared in opposition; 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 because it would result in severe economic waste from the loss of rentals to the owner, and loss of a place of business for the applicant; and

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

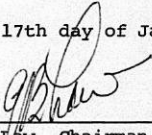
WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, Code of the City of Wichita, to be present before a variance can be granted, has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the request for a variance approving the operation of a foundry at property legally described as:

Reserve B, except the south 40 feet thereof,
Wichita Street, Lewellen's 2nd Addition, in
the City of Wichita, Sedgwick County, Kansas,

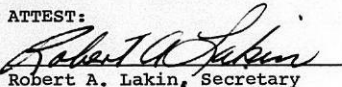
generally located on the east side of Wichita Street just south of 10th Street, be approved, subject to all off-street parking and loading areas being paved with asphalt or asphaltic concrete, and off-street parking being provided in accordance with Section 28.04.140 of the ordinance.

ADOPTED at Wichita, Kansas, this 17th day of January, 1964.



E. B. Law, Chairman

ATTEST:



Robert A. Lakin, Secretary

SECRETARY'S REPORT

CASE NO. BZA 40-63

GENERAL LOCATION

The property represented in this application is generally located on the south side of 10th Street and east of Wichita Street.

EXISTING ZONING

The property in question and all property in the surrounding area is zoned "E" Light Industrial.

EXISTING LAND USE

The property in question is currently occupied by two vacant buildings, which in the past were used by the Wichita Transportation Company. To the north are machine shops and a vending machine company; to the east is the Missouri Pacific Railroad and a cement plant; south is also the railroad and a heavy equipment operation. The property to the west is vacant.

REQUEST

This request is for a variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the operation of a foundry in the "E" Light Industrial zone.

COMMENTS BY THE SECRETARY

PART I

This request is based on the refusal of the Superintendent of Central Inspection to issue a permit for the operation of a foundry in the "E" Light Industrial zone. This determination was made on the basis that foundries are a prohibited use under the "C", "D"

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Case No. BZA 40-63

and "E" sections of the ordinance, and therefore permitted first in the "F" Heavy Industrial District.

In the applicant's statement of justification (See attachment #1 to this report), it is pointed out that all but one of the foundries he has listed are located in the "E" district. It appears that most of these foundries were permitted in the "E" zone by the past Building Inspection Superintendent. (Reasons for the issuance of the permits are unknown). There is no doubt, however, that foundries in the City of Wichita are only first permitted in the "F" district.

One of the obvious reasons that foundries are relegated to Heavy Industrial districts is the noise and smoke problem generated by them. A field trip around existing foundries will confirm this. Both the machinery and the furnaces are noisy. Smoke will depend on the processes being used and the types of control used on smoke stacks. Central Inspection has received many complaints on existing foundries in regard to fly ash settling on cars, and thereby ruining finishes.

Certainly with these type of adverse effects on adjacent property and with the original zoning ordinances permitting residential development in industrial areas, it is not difficult to see why foundries have been required to locate, at least from a theory standpoint, in a heavy industrial district. There is considerable

doubt whether without major controls being established on both noise and smoke emission, foundries are compatible even with the uses normally thought proper for light industrial areas, i.e. light manufacturing, warehousing, research facilities, etc.

The Planning Commission now has a consultant preparing prototype zoning regulations. As a part of the project, he will investigate the re-alignment of uses within districts and their compatibility, the creation of new districts, and new techniques of control, such as "performance zoning". This is a technique which allows a group of uses in more restrictive zones provided that the adverse effects created by them are mitigated. Examples are filtering or washing of smoke to remove odors and fly ash; construction techniques to reduce noise, shock absorbing devices on machinery to reduce vibration.

It is the Secretary's belief that the correct method of handling problems such as this is through the procedure of amending the zoning ordinance to allow foundries in light industrial, either as a use by right or subject to certain stated and specified conditions; or amending the district maps to establish heavy industrial zoning.

Based on the foregoing, it is recommended that the application be denied.

VARIANCE

PART II

In the event the Board of Zoning Appeals feels that the request for a variance is a proper approach to this problem, all four of

the following conditions must be found to exist before the variance can be granted:

1. That the variance desired arises from some condition which is not ordinarily found in the same zoning district.
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 enforcement provisions of this zoning ordinance would constitute an unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired is not against the public interest.

UNIQUENESS

The applicant has suggested that this case is unique inasmuch as there are several other foundries which are similar to the one being proposed in this instance, which have been permitted to locate in the "E" Light Industrial zoning district.

The Secretary has suggested that uniqueness shall refer to physical irregularity or differences as to the property, which set it apart from other properties in the same neighborhood or zone, i.e. rock outcroppings, unusual topographical characteristics, irregular or odd-shaped lots, drainage problems, etc. The Board on several occasions in the past few months has considered uniqueness as to the use of the property concerned. This interpretation, however, would make any property unique if a new use or non-permitted use is proposed. Also, this is a self-created situation, not one applicable to the property per se.

The Secretary is of the opinion that in this instance there is nothing that is particularly unique about the use of the property in question. However, the Secretary is of the opinion that the location of the property might be considered unique in that there are very few locations in the City of Wichita which are located next adjacent to the railroad and which have vacant buildings available of sufficient size to house a foundry.

ADJACENT PROPERTY

The Secretary concurs with the applicant in that the granting of the variance should in no way adversely affect the rights of adjacent property owners, in view of the existing industrial uses in the surrounding area.

The Secretary is of the opinion, from viewing several other foundries throughout the city, that there will probably be very few problems as far as odor and light are concerned. Smoke could be a problem, compounding an air pollution problem of a rock crushing plant to the east across the tracks. However, this assumption is made on the basis that this particular foundry will be operated in a manner similar to the way other foundries in the city are being operated.

The major problems associated with foundries seem to be the outdoor storage of forms, materials, sand, coke, etc. Noise is another problem which might also have some affect on adjacent property if it is not properly controlled.

HARDSHIP

The applicant has suggested that if the variance is not granted there will be a severe economic waste occurring from the loss of rentals to the owner and loss of a place of business for the applicant. He also suggests that the location and size of the building are uniquely suitable for the type of business to be engaged in by the applicant.

The Secretary is of the opinion that the reasons the applicant has offered for uniqueness come very close to justification for hardship in this case. This in view of the fact that several interpretations were made in the past to permit foundries to operate in the "E" zone district. Consequently, the Secretary is of the opinion that if the applicants are not allowed to operate a foundry at this particular location then the applicant will be burdened with a considerable injustice and hardship.

PUBLIC INTEREST

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

ADDITIONAL COMMENTS BY THE SECRETARY

In conversations with the attorney for the applicant, it was determined that most of the shipments in the way of metals, forms, etc. coming into the foundry would be by means of the railroad.

It was also determined that some of the finished product will also be shipped out to other towns by railroad. However, there will also be substantial local shipments to firms here in town

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Case No. BZA 40-63

(Boeing, Coleman plant, etc.). The local shipments will be handled by trucks.

Since most of the shipments from the foundry will be handled by the railroad, it seems apparent that there will be very little creation of heavy traffic, which is a problem associated with many foundries.

If the variance is approved, off-street parking will also have to be provided as in accordance with Section 28.04.140 of the ordinance.

It is the opinion of the Secretary that all four conditions necessary to the granting of a variance can be found to exist and it is recommended that the variance be granted, subject to all off-street parking and loading areas being paved with asphalt or asphaltic concrete, and off-street parking being provided in accordance with Section 28.04.140 of the ordinance.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan
- #3 - Variance vote sheet

JUSTIFICATION FOR VARIANCE

It is respectfully submitted that the Board of Zoning Appeals would be justified in granting a variance from the strict application of the zoning ordinances in a manner so as to permit the operation of a foundry on the described property.

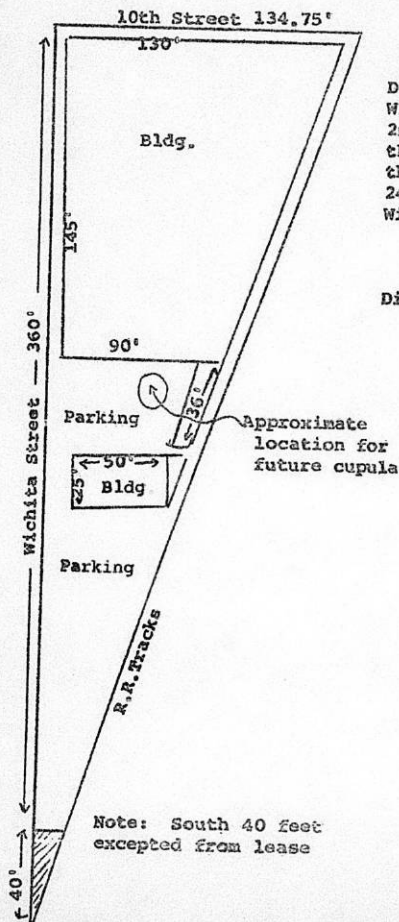
Each of the four conditions precedent appearing at Section 2.12, 590, of the Code of the City of Wichita are present.

- A. The variance desired is similar to the foundries operated at:
- 865 East Boston
 - 807 East Osie
 - 315 North Mead
 - 2487 North Hillside
 - 812 North Wichita
 - 702 East 2nd
 - 911 East 3rd
 - 340 North Rock Island
- B. Such variance would not adversely affect the adjacent property owners or residents. The land located across the street, west of the property is vacant. The land across the street north is manufacturing company, being E.J. Shurts Manufacturing Company. The railway tracks are adjacent to the east side of the property. There are cement plants adjacent to the railroad tracks on the north and south sides of 10th Street and on the east side of the railroad tracks.
- C. Unless such variance be granted, there will be a severe economic waste occurring from the loss of rentals to the owner and the loss of place of business for the applicant. The location and size of the buildings are uniquely suitable for the type business to be engaged in by the applicant. Applicant has not been able to find a suitable place in Wichita, Kansas for his business.
- D. Since operation of this business does not create any contamination of the air, nor is there involved any danger of fire or explosion, nor any unusual noise or vibration, there would be no ill effect upon the Public health safety morals, order, convenience, prosperity or general welfare. To the contrary, if such variance be granted, the prosperity and general welfare would be enhanced and such business would be an economic aid to the residents of Wichita, Kansas.

Respectfully submitted,

S/ William L. Fry, Authorized Agent

Case No. BEA 40-63
Attachment #1



Description: Reserve B, on
 Wichita Street, in Lewellen's
 2nd Addition, except south 40'
 thereof, with improvements
 thereon, commonly known as
 241-249 West 10th Street, in
 Wichita, Kansas

Distances are approximate.

Note: South 40 feet
 excepted from lease

BZA 40-63
 Attachment #2

BZA ACTION

Motion made by	Seconded by	Action
		<u>Jurisdictions</u>
		FINDINGS OF FACT 1. Variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
		2. Granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
		3. Strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
		4. Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
		Determination (Approve or Deny)

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
 Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
 Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
 Plan. Pib'g. _____ Pib'g. Cert. _____
 Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
 Street _____ Trailers _____

DESCRIPTION	AMOUNT
Boards of Zoning Appeals App.	50.00

Name William L. Fry
 Address 200 N. Broadway
 Type _____ Due Date 1-3-64

Comments: R-712
 Date 1-3-64 B. R. Ruck

CASE NO. BZA 40-63

NOTICES MAILED JANUARY 2, 1964 FOR MEETING ON JANUARY 17, 1964

Walter Morse
603 South Main
Centerville, Iowa

William L. Fry
300 North Broadway

Rebecca Kinnear
1029 North Wichita

Merle Eugene Kindred
825 North Battin

Fourth National Bank and Trust
Co., H. H. Heimple and Walter
R. Burdge as Co-trustees
200 East Douglas

Herbert C. Trapp
Ruth D. Trapp
1121 North Sheridan

Sanford A. Woolsey
Myrtle Woolsey
1107 North Fairview

R. C. Handcock
Ruie G. Handcock
1109 North Fairview

Missouri Pacific Railway
Co., Inc.
St. Louis, Missouri

Allen's Inc.
200 West 10th Street

Pearl H. Page
1021 North Water

B. V. Wilson
1027 North Water

Evan G. Orloske
2004 Hood

Edwin R. Orloske
4200 Brooks

Alex Mora
Dollie Mora
1033 North Water

Elmer Million
1817 Gold

Austin B. Craig
Mildred E. Craig
56 Stratford

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

January 2, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case BZA 40-63

An application has been filed by William L. Fry, attorney, on behalf of Walter Morse requesting a variance as provided in Section 2.12.590.2, Code of the City of Wichita, to allow a foundry in the "E" Light Industrial District on property legally described and generally located as follows:

Reserve B, on Wichita Street, except the south 40 feet thereof, Lewellen's 2nd Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at 241-249 West 10th Street, on the south side of 10th Street east of Wichita.

This application has been assigned Case No. BZA 40-63. A hearing will be held by the Board of Zoning Appeals on Friday, January 17, 1963, 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.

Robert A. Lakin
Secretary

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

January 2, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case BZA 40-63

An application has been filed by William L. Fry, attorney, on behalf of Walter Morse requesting a variance as provided in Section 2.12.590.2, Code of the City of Wichita, to allow a foundry in the "E" Light Industrial District on property legally described and generally located as follows:

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Robert A. Lakin
Secretary

JUSTIFICATION FOR VARIANCE

It is respectfully submitted that the Board of Zoning Appeals would be justified in granting a variance from the strict application of the zoning ordinances in a manner so as to permit the operation of a foundry on the described property.

Each of the four conditions precedent appearing at Section 2. 12. 590 of the Code of the City of Wichita are present.

A. The variance desired is similar to the foundries operated at:

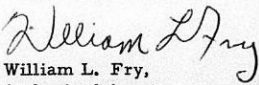
805 East Boston E
807 East Osie ANG
315 North Mead E
2487 North Hillside AA
812 North Wichita E
702 East 2nd E
911 East 3rd E
340 North Rock Island E

B. Such variance would not adversely affect the adjacent property owners or residents. The land located across the street, west of the property is vacant. The land across the street north, is manufacturing company, being E. J. Shurtz Manufacturing Company. The railway tracks are adjacent to the east side of the property. There are cement plants adjacent to the railroad tracks on the north and south sides of 10th Street and on the east side of the railroad tracks.

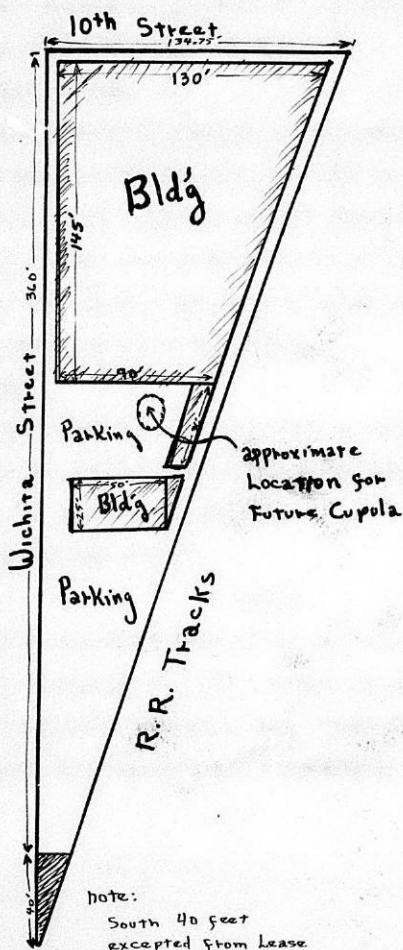
C. Unless such variance be granted, there will be a severe economic waste occurring from the loss of rentals to the owner and the loss of place of business for the applicant. The location and size of the buildings are uniquely suitable for the type business to be engaged in by the applicant. Applicant has not been able to find a suitable place in Wichita, Kansas for his business.

D. Since operation of this business does not create any contamination of the air, nor is there involved any danger of fire or explosion, nor any unusual noise or vibration, there would be no ill effect upon the Public Health safety morals, order, convenience, prosperity or general welfare. To the contrary, if such variance be granted, the prosperity and general welfare would be enhanced and such business would be an economic aid to the residents of Wichita, Kansas.

Respectfully submitted,


William L. Fry,
Authorized Agent.

N



Description:

Reserve B, on Wichita Street, in Jewellen's 2nd Addition, except South 40' thereof, with improvements thereon, commonly known as 241-249 West 10th Street, in Wichita, Kansas.

distances are approximate

SECRETARY'S REPORT**CASE NO. BZA 40-63****GENERAL LOCATION**

The property represented in this application is generally located on the south side of 10th Street and east of Wichita Street.

EXISTING ZONING

The property in question and all property in the surrounding area is zoned "E" Light Industrial.

EXISTING LAND USE

The property in question is currently occupied by two vacant buildings, which in the past were used by the Wichita Transportation Company. To the north are machine shops and a vending machine company; to the east is the Missouri Pacific Railroad and a cement plant; south is also the railroad and a heavy equipment operation. The property to the west is vacant.

REQUEST

This request is for a variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the operation of a foundry in the "E" Light Industrial zone.

COMMENTS BY THE SECRETARY**PART I**

This request is based on the refusal of the Superintendent of Central Inspection to issue a permit for the operation of a foundry in the "E" Light Industrial zone. This determination was made on the basis that foundries are a prohibited use under the "C", "D"

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Case No. BZA 40-63**

and "E" sections of the ordinance, and therefore permitted first in the "F" Heavy Industrial District.

In the applicant's statement of justification (See attachment #1 to this report), it is pointed out that all but one of the foundries he has listed are located in the "E" district. It appears that most of these foundries were permitted in the "E" zone by the past Building Inspection Superintendent. (Reasons for the issuance of the permits are unknown). There is no doubt, however, that foundries in the City of Wichita are only first permitted in the "F" district.

One of the obvious reasons that foundries are relegated to Heavy Industrial districts is the noise and smoke problem generated by them. A field trip around existing foundries will confirm this. Both the machinery and the furnaces are noisy. Smoke will depend on the processes being used and the types of control used on smoke stacks. Central Inspection has received many complaints on existing foundries in regard to fly ash settling on cars, and thereby ruining finishes.

Certainly with these type of adverse effects on adjacent property and with the original zoning ordinances permitting residential development in industrial areas, it is not difficult to see why foundries have been required to locate, at least from a ~~theoretical~~ standpoint, in a heavy industrial district. There is considerable

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doubt whether without major controls being established on both noise and smoke emission, foundries are compatible even with the uses normally thought proper for light industrial areas, i.e. light manufacturing, warehousing, research facilities, etc.

The Planning Commission now has a consultant preparing prototype zoning regulations. As a part of the project, he will investigate the re-alignment of uses within districts and their compatibility, the creation of new districts, and new techniques of control, such as "performance zoning". This is a technique which allows a group of uses in more restrictive zones provided that the adverse effects created by them are mitigated. Examples are filtering or washing of smoke to remove odors and fly ash; construction techniques to reduce noise, shock absorbing devices on machinery to reduce vibration.

It is the Secretary's belief that the correct method of handling problems such as this is through the procedure of amending the zoning ordinance to allow foundries in light industrial, either as a use by right or subject to certain stated and specified conditions; or amending the district maps to establish heavy industrial zoning.

Based on the foregoing, it is recommended that the application be denied.

VARIANCE

PART II

In the event the Board of Zoning Appeals feels that the request for a variance is a proper approach to this problem, all four of

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Case No. BZA 40-63

the following conditions must be found to exist before the variance can be granted:

1. That the variance desired arises from some condition which is not ordinarily found in the same zoning district.
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 enforcement provisions of this zoning ordinance would constitute an unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired is not against the public interest.

UNIQUENESS

The applicant has suggested that this case is unique inasmuch as there are several other foundries which are similar to the one being proposed in this instance, which have been permitted to locate in the "E" Light Industrial zoning district.

The Secretary has suggested that uniqueness shall refer to physical irregularity or differences as to the property, which set it apart from other properties in the same neighborhood or zone, i.e. rock outcroppings, unusual topographical characteristics, irregular or odd-shaped lots, drainage problems, etc. The Board on several occasions in the past few months has considered uniqueness as to the use of the property concerned. This interpretation, however, would make any property unique if a new use or non-permitted use is proposed. Also, this is a self-created situation, not one applicable to the property per se.

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The Secretary is of the opinion that in this instance there is nothing that is particularly unique about the use of the property in question. However, the Secretary is of the opinion that the location of the property might be considered unique in that there are very few locations in the City of Wichita which are located next adjacent to the railroad and which have vacant buildings available of sufficient size to house a foundry.

ADJACENT PROPERTY

The Secretary concurs with the applicant in that the granting of the variance should in no way adversely affect the rights of adjacent property owners, in view of the existing industrial uses in the surrounding area.

The Secretary is of the opinion, from viewing several other foundries throughout the city, that there will probably be very few problems as far as odor and light are concerned. Smoke could be a problem, compounding an air pollution problem of a rock crushing plant to the east across the tracks. However, this assumption is made on the basis that this particular foundry will be operated in a manner similar to the way other foundries in the city are being operated.

The major problems associated with foundries seem to be the outdoor storage of forms, materials, sand, coke, etc. Noise is another problem which might also have some affect on adjacent property if it is not properly controlled.

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Case No. BZA 40-63

HARDSHIP

The applicant has suggested that if the variance is not granted there will be a severe economic waste occurring from the loss of rentals to the owner and loss of a place of business for the applicant. He also suggests that the location and size of the buildings are uniquely suitable for the type of business to be engaged in by the applicant.

The Secretary is of the opinion that the reasons the applicant has offered for uniqueness come very close to justification for hardship in this case. This in view of the fact that several interpretations were made in the past to permit foundries to operate in the "E" zone district. Consequently, the Secretary is of the opinion that if the applicants are not allowed to operate a foundry at this particular location then the applicant will be burdened with a considerable injustice and hardship.

PUBLIC INTEREST

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

ADDITIONAL COMMENTS BY THE SECRETARY

In conversations with the attorney for the applicant, it was determined that most of the shipments in the way of metals, forms, etc. coming into the foundry would be by means of the railroad.

It was also determined that some of the finished product will also be shipped out to other towns by railroad. However, there will also be substantial local shipments to firms here in town

Page 7 - Secretary's Report
Case No. BZA 40-63

(Boeing, Coleman plant, etc.). The local shipments will be handled by trucks.

Since most of the shipments from the foundry will be handled by the railroad, it seems apparent that there will be very little creation of heavy traffic, which is a problem associated with many foundries.

If the variance is approved, off-street parking will also have to be provided as in accordance with Section 28.04.140 of the ordinance.

It is the opinion of the Secretary that all four conditions necessary to the granting of a variance can be found to exist and it is recommended that the variance be granted, subject to ~~the~~ off-street parking and loading areas being paved with asphalt or asphaltic concrete, and off-street parking being provided in accordance with Section 28.04.140 of the ordinance.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan
- #3 - Variance vote sheet

JUSTIFICATION FOR VARIANCE

It is respectfully submitted that the Board of Zoning Appeals would be justified in granting a variance from the strict application of the zoning ordinances in a manner so as to permit the operation of a foundry on the described property.

Each of the four conditions precedent appearing at Section 2.12. 590. of the Code of the City of Wichita are present.

- A. The variance desired is similar to the foundries operated at:

805 East Boston
807 East Osie
315 North Mead
2487 North Hillside
812 North Wichita
702 East 2nd
911 East 3rd
340 North Rock Island

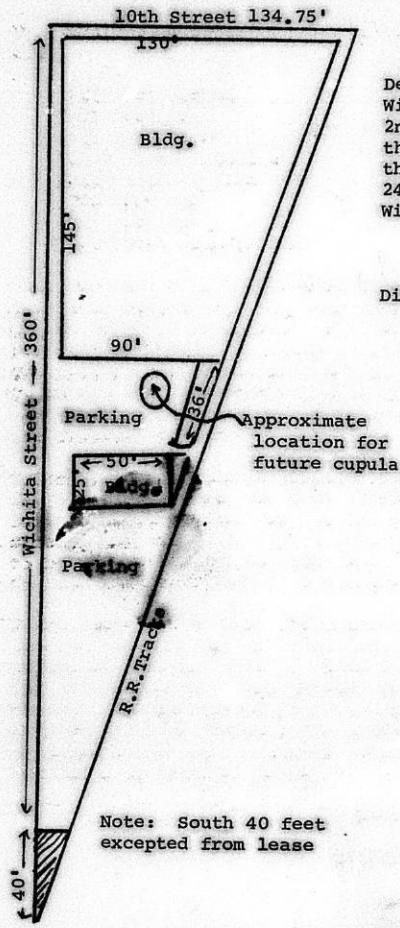
- B. Such variance would not adversely affect the adjacent property owners or residents. The land located across the street, west of the property is vacant. The land across the street north is manufacturing company, being E.J. Shurtz Manufacturing Company. The railway tracks are adjacent to the east side of the property. There are cement plants adjacent to the railroad tracks on the north and south sides of 10th Street and on the east side of the railroad tracks.
- C. Unless such variance be granted, there will be a severe economic waste occurring from the loss of rentals to the owner and the loss of place of business for the applicant. The location and size of the buildings are uniquely suitable for the type business to be engaged in by the applicant. Applicant has not been able to find a suitable place in Wichita, Kansas for his business.
- D. Since operation of this business does not create any contamination of the air, nor is there involved any danger of fire or explosion, nor any unusual noise or vibration, there would be no ill effect upon the Public health safety morals, order, convenience, prosperity or general welfare. To the contrary, if such variance be granted, the prosperity and general welfare would be enhanced and such business would be an economic aid to the residents of Wichita, Kansas.

Respectfully submitted,

S/ William L. Fry, Authorized Agent

Case No. BZA 40-63
Attachment #1

Faint, illegible text, likely bleed-through from the reverse side of the page.



Description: Reserve B, on Wichita Street, in Lewellen's 2nd Addition, except south 40' thereof, with improvements thereon, commonly known as 241-249 West 10th Street, in Wichita, Kansas

Distances are approximate

December 31, 1963

Mr. William L. Fry, Attorney
Suite 110
300 North Broadway
Wichita, Kansas

Dear Bill:

Re: BZA Case No. 40-63

We have set the proposed variance case for a special meeting on January 17, 1964, at 2 p.m. Attached are application forms and a copy of the Board's rules and regulations. Please note that we will need the following:

1. The completed application.
2. Filing fee of \$50.00.
3. An ownership list giving names and mailing addresses of all property owners within 200 feet. (This should be in our hands not later than Thursday noon).
4. A site plan showing location of the building and the proposed improvements or alterations. I would suggest also that off-street parking areas be shown and any other pertinent information which you feel should be brought to the Board's attention.
5. A statement of justification indicating in what manner you and your client believe that the four conditions as set forth under Section 2.12.590 (2) have been met. This is shown on page 3 of the Board's rules and regulations.

Page 2 - Mr. William L. Fry, Attorney
December 31, 1963

I have not been able to contact either the Chairman or Vice-Chairman of the Board as of this afternoon. They are both out of town and will be in their offices Thursday morning. I will attempt to contact them then.

If there are any questions, please call.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

Attachments

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Walter Morse
Mailing Address 603 South Main, Centerville, Iowa Phone Code 515 - 8566391
Name of Authorized Agent William L. Fry
Mailing Address 300 North Broadway, Wichita, Kansas Phone AMherst 7-6271
Relationship of applicant to property is that of Lessee
(owner, tenant, lessee, other)

II. The variance requested is to operate a foundry

for property located 241-249 West 10th Street

and legally described as: Reserve B, on Wichita Street, in Lewellen's 2nd Addition,
except the south 40 feet thereof.

in the City of Wichita; and which is presently zoned Light Industrial, "E".
(Give metes and bounds description below if appropriate):

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

Walter Morse
Applicant _____
By William L. Fry
Authorized Agent _____

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

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
910	Wichita St,	Lewellen's Add.	Marvin Lee Davis Address unknown <i>No address found</i>
912	"	"	Rebecca Kinneab 1029 N. Wichita
914	"	"	"
S 4' of 916	"	"	"
N 21' of 916	"	"	Merle Eugene Kindred 825 N. Battin
918	"	"	"
920	"	"	Fourth National Bank and Trust Co., H. H. Heimple and Walter R. Burdge as Co-trustees 200 E. Douglas
922	"	"	"
924	"	"	"
926	"	"	"
928	"	"	"
930	"	"	"
932	"	"	"
934	"	"	"
936	"	"	"
938	"	"	"
940	"	"	"
942	"	"	"
944	"	"	"
946	"	"	"
948	"	"	"
1002	"	"	Herbert C. Trapp Ruth D. Trapp 1121 N. Sheridan
1004	"	"	"

Continued page 2

Lot	Street	Addition	Property Owner
1006	Wichita St.	Lewellen's Add.	Sanford A. Woolsey Myrtle Woolsey 1107 N. Fairview
1008	"	"	"
1010	"	"	R. C. Handcock Luie G. Handcock 1109 N. Fairview
Reserve A.		Lewellen's 2nd Addition	Kansas-Colorado & Pacific Railway Co. Address unknown
Reserve B.		"	<i>No address found</i> Fourth National Bank and Trust Co., H. H. Heimle & Walter R. Burdge as Co-trustees 200 E. Douglas
1105	Wichita St.	"	C. M. McMullin Address unknown <i>No address found</i>
1107	"	"	"
1109	"	"	"
1111	"	"	"
1113	"	"	"
1115	"	"	"
175	Water	Martin's Sub. of N ^o of Block F, Ferrell's Add.	Missouri Pacific Railway Co., Inc. St. Louis, Missouri
177	"	"	"
179	"	"	"
181	"	"	"
183	"	"	"
185	"	"	"
187	"	"	"
189	"	"	"
191	"	"	"
193	"	"	"
195	"	"	"
197	"	"	"

Continued page 3

Lot	Street	Addition	Property Owner
N $\frac{1}{2}$ of Block E, lying East of the Missouri Pacific Railway right of way		Ferrell's Add.	Allen's Inc. 200 W. 10th St.
S $\frac{1}{2}$ of Block E, lying East of the Missouri Pacific Railway right of way		"	X Kansas Colorado & Pacific Railway Co. Address unknown
N 100' of S $\frac{1}{2}$ of Block E, lying East of Missouri Pacific Railway right of way		"	X Fourth National Bank and Trust Company, H. H. Heimple and Walter R. Burdge as Co-trustees 200 E. Douglas
S $\frac{1}{2}$ of Block E, lying East of the Missouri Pacific Railway right of way exc. the N 100 ft. thereof		"	- Cotto Wax Co. Address unknown <i>The address found</i>
S. 50' of E 168 1/3 ft of Block F		"	- Aurelia A. Prentice Address unknown <i>The address found</i>
N 50' of S. 100' of E. 168 1/3 ft of Block F		"	Pearl H. Page 1021 N. Water
N 50' of S. 150' of E. 168 1/3 ft. of Block F.		"	B. V. Wilson 1027 N. Water
N 54' of S. 204' of E. 168 1/3 ft of Block F.		"	Evan G. Orloske 2004 Hood Edwin R. Orloske 4200 Brooks
N 36 1/3 ft of S. 240 1/3 ft of E. 168 1/3 ft. of Block F.		"	Alex Mora Dollie Mora 1033 N. N. Water
N 36' of S. 276 $\frac{1}{2}$ ' of E. 168 1/3 ft of Block F		"	Elmer Million 1817 Gold
N 36' 2" of S 312 $\frac{1}{2}$ ' of E. 168 1/3' of Block F		"	Austin B. Craig Mildred E. Craig 56 Stratford

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 Reserve B, except the South 40 feet, in Lewellen's 2nd Addition to the City of 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 2nd day of January, 1964 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

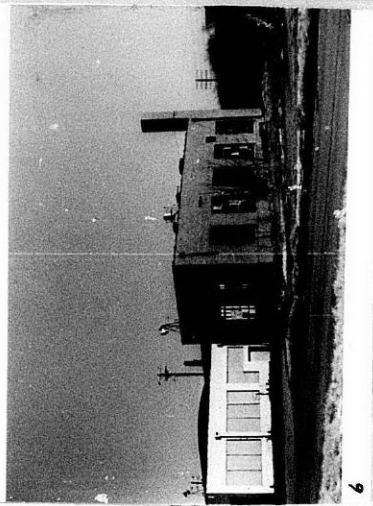
By

J. W. W. W.
Vice-President

Order No. 109930



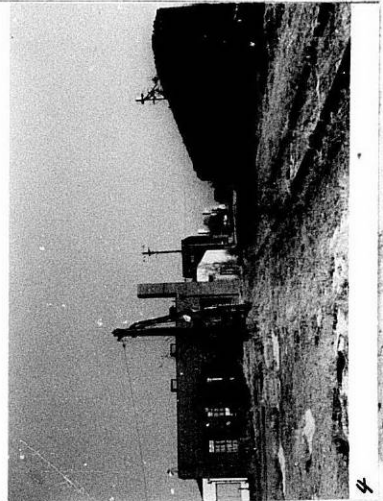
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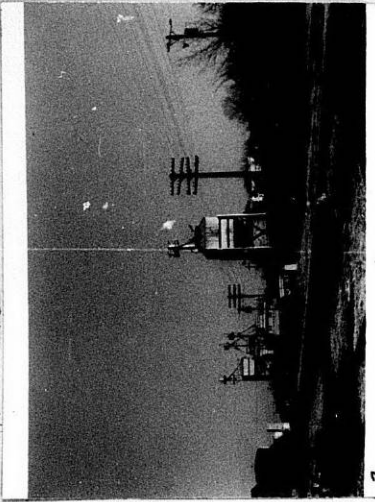
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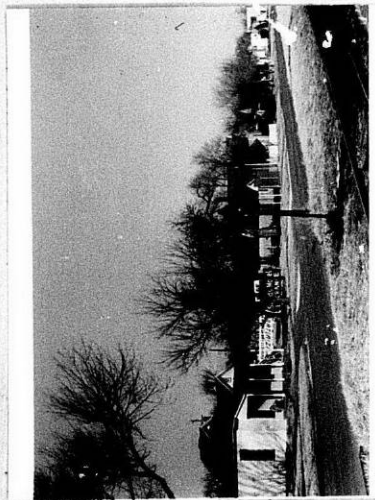
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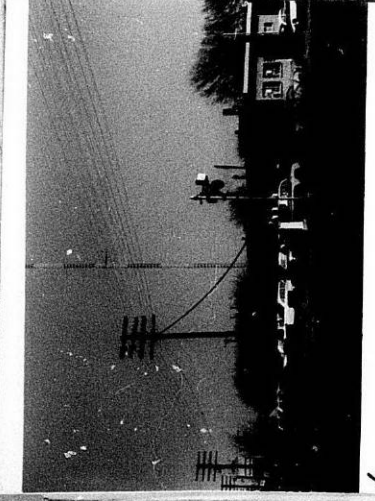
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