

BZA 51-64 - Catholic Diocese of
Wichita Inc. requests variance of
front and side yard setback at SW
corner of Seneca and Regal Street

POSTED
11-3-64
1-3

ACTION

Dya COMMITTEE App DATE 11-24-64
no appeal filed
M.A.P.C. _____
B.C.C./~~B.C.C.~~ _____

R E S O L U T I O N N O . B Z A 5 1 - 6 4

WHEREAS, Catholic Diocese of Wichita, Inc., 445 North Emporia, Wichita, Kansas, by George D. McCarthy, Attorney, 800 Beacon Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the CITY OF Wichita, Kansas, has requested a variance for complete waiver of the required front yard setback of 25 feet and for complete waiver of the required side yard setback of 12½ feet as required in Section 28.04.040 of the Code of the City of Wichita, so that these areas can be utilized for off-street parking, all relating to property legally described as follows:

Lot 21, Block 2, Replat of Iva Fultz Gardens,
in the City of Wichita, Sedgwick County, Kansas,
generally located at the southwest corner of
Seneca and Regal Street; 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 November 24, 1964; 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 all of the residential lots adjacent to the south line of the church property front onto the residential street to the south of the church, which is a unique situation that is not commonly found in most residential zoning districts and, further, the church has for some time been utilizing the front and side yard setback areas for off-street parking, so consequently, it would seem somewhat unreasonable to deprive the church the right to use these setback areas; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect the rights of adjacent property owners inasmuch as adequate controls will be exercised which should help protect the adjacent properties; 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 inasmuch as this particular church is similar to other churches throughout the city in that they are experiencing a parking problem which cannot be alleviated unless they are allowed to gain maximum utilization of their property; and

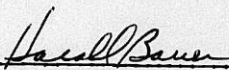
WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

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 the variance requested be approved and the Superintendent of Central Inspection be authorized to issue the appropriate permit, subject to the following conditions:

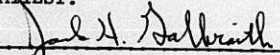
1. The front yard setback of 25 feet and the side yard setback is hereby waived so that these areas may be utilized for off-street parking. In no event shall a permit for any structure be issued for these setback areas.
2. Bumper guards shall be installed along the south and east property lines so as to prevent the extension or overhang of vehicles beyond property lines, parking spaces, or sidewalks. Said bumper guards shall be installed 2½ feet in back of the property lines.
3. All parking areas and all driveways providing ingress and egress to said parking area shall be hardsurfaced with asphalt, concrete or concrete and asphalt, and shall be kept free of all weeds, trash and blowing debris.
4. The drainage grading shall be so accomplished as to allow proper and full drainage in a manner that does not adversely affect the neighboring property.

ADOPTED AT WICHITA, KANSAS, this 24th day of November, 1964.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith, Secretary

December 7, 1964

Mr. George D. McCarthy, Attorney
800 Beacon Building
Wichita, Kansas

Dear Mr. McCarthy:

Re: Case No. BZA 51-64

On November 25, 1964, we advised you that the Board of Zoning Appeals had approved subject application for a variance to permit off-street parking in front and side yard setback areas, subject to certain conditions, on church property located generally at the southwest corner of Seneca and Regal.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before December 4, 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: Catholic Diocese of Wichita, 445 North Emporia
Glen Lytle, Superintendent of Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 51-64

APPLICANT: Catholic Diocese of Wichita, 445 North Emporia

AGENT: George D. McCarthy, 800 Beacon Building

REQUEST: Variance for complete waiver of the required front yard setback of 25 feet and for complete waiver of the required side yard setback of 12½ feet as required in Section 28.04.040 of the Code of the City of Wichita, so that these areas can be utilized for off-street parking.

GENERAL LOCATION: Generally located at the southwest corner of Seneca and Regal Street.

ZONING: Property in question - "AA"
North - "AA"
East - "AA"
South - "AA"
West - "AA"

LAND USE: Property in question - Church
North - Church
East - Single family
South - Single family
West - Single family

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the variance requested under the provisions as outlined under Section 2.12.590 of the Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and 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 the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The statement of justification is included as Attachment #1 to this report. A plot plan will be available at the hearing for the Board's review.

UNIQUENESS

All of the residential lots adjacent to the south line of the church property all front onto the residential street to the south of the church. It is the Secretary's opinion that this is somewhat of a unique situation which is not commonly found in most residential areas. The church is at present using the front and side yard for off-street parking and they desire to pave their parking area. Because of this rather unique situation, there appears to be no reason why the side and front yard setbacks of the church property cannot be used for off-street parking.

ADJACENT PROPERTY

Because of the unique situation outlined above, there appears to be no reason why the granting of the variance would adversely affect any adjacent property owners.

HARDSHIP

This church is similar to other churches throughout the city in that they are experiencing a parking problem which cannot be alleviated unless they are allowed to gain the maximum utilization of their property. Consequently, it is the opinion of the Secretary that the church would be burdened with an unnecessary hardship if the variance is not granted.

PUBLIC INTEREST

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

RECOMMENDATION

Based upon the foregoing review of this case, it is the recommendation of the Secretary that all four conditions necessary to the granting of a variance have been found to exist. Therefore, it is recommended that the variance be granted, subject to the following conditions:

1. The front yard setback of 25 feet and the side yard setback is hereby waived so that these areas may be utilized for off-street parking. In no event shall a permit for any structure be issued for these setback areas.

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Case No. BZA 51-64

2. Bumper guards shall be installed along the south and east property lines so as to prevent the extension or overhang of vehicles beyond property lines, parking spaces, or sidewalks. Said bumper guards shall be installed 2½ feet in back of the property lines.
3. All parking areas and all driveways providing ingress and egress to said parking area shall be hardsurfaced with asphalt, concrete or concrete and asphalt, and shall be kept free of all weeds, trash and blowing debris.

Attachment #1 - Statement of justification

November 25, 1964

Mr. George D. McCarthy, Attorney
800 Beacon Building
Wichita, Kansas

Dear Mr. McCarthy:

Re: Case No. BZA 51-64

This is to advise you that at its regular meeting of November 24, 1964, the Board of Zoning Appeals of the City of Wichita, considered your request for a variance to permit off-street parking in the front and side yard setback areas on church property located generally at the southwest corner of Seneca and Regal.

It was the action of the Board of Zoning Appeals to approve this request, subject to the following:

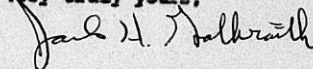
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3. All parking areas and all driveways providing ingress and egress to said parking area shall be hardsurfaced with asphalt, concrete or concrete and asphalt, and shall be kept free of all weeds, trash and blowing debris.
4. The drainage grading shall be so accomplished as to allow proper and full drainage in a manner that does not adversely affect the neighboring property.

Page 2 - Mr. George D. McCarthy
November 25, 1964

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 December 4, 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 by that time, 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: Catholic Diocese of Wichita
445 North Emporia

Robert G. Finch
City Clerk

Glen Lytle, Superintendent
of Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 51-64

APPLICANT: Catholic Diocese of Wichita, 445 North Emporia

AGENT: George D. McCarthy, 800 Beacon Building

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All of the residential lots adjacent to the south line of the church property all front onto the residential street to the south of the church. It is the Secretary's opinion that this is somewhat of a unique situation which is not commonly found in most residential areas. The church is at present using the front and side yard for off-street parking and they desire to pave their parking area. Because of this rather unique situation, there appears to be no reason why the side and front yard setbacks of the church property cannot be used for off-street parking.

ADJACENT PROPERTY

Because of the unique situation outlined above, there appears to be no reason why the granting of the variance would adversely affect any adjacent property owners.

HARDSHIP

This church is similar to other churches throughout the city in that they are experiencing a parking problem which cannot be alleviated unless they are allowed to gain the maximum utilization of their property. Consequently, it is the opinion of the Secretary that the church would be burdened with an unnecessary hardship if the variance is not granted.

PUBLIC INTEREST

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

RECOMMENDATION

Based upon the foregoing review of this case, it is the recommendation of the Secretary that all four conditions necessary to the granting of a variance have been found to exist. Therefore, it is recommended that the variance be granted, subject to the following conditions:

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Case No. BZA 51-64

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CASE NO. BZA 51-64

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AGENT: George D. McCarthy, 800 Beacon Building

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Page 2 - Secretary's Report
Case No. BZA 51-64

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Case No. BZA 51-64

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Attachment #1 - Statement of justification

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

November 5, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 51-64

An application has been filed by Catholic Diocese of Wichita, Inc., 445 North Emporia, Wichita, Kansas, by George D. McCarthy, Attorney, 800 Beacon Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting complete waiver of required front yard setback of 25 feet and complete waiver of required side yard setback of 12½ feet, as required in Section 28.04.040, Code of the City of Wichita, on property zone; "AA" One Family Dwelling District, and legally described as follows:

Lot 21, Block 2, Replat of Iva Fultz Gardens, in the City of Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Seneca and Regal Street.

This application has been assigned Case No. BZA 51-64, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, November 24, 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

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

50

November 5, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

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Jack H. Galbraith
Secretary

CASE NO. BZA 51-64 - ⁴¹~~36~~ NOTICES MAILED 11-5-64 FOR
MEETING ON NOVEMBER 24, 1964

BOARD OF ZONING APPEALS

CASE NO. 51-64

CITY OF WICHITA, KANSAS

FILED 10-29-64

APPLICATION FOR VARIANCE

I. Name of Applicant CATHOLIC DIOCESE OF WICHITA, INC.

Mailing Address 445 North Emporia, Wichita, Kansas Phone EO-3-6262

Name of Authorized Agent George D. McCarthy

Mailing Address 800 Beacon Building, Wichita, Kansas Phone AM-2-1861

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

II. The variance requested is Complete waiver of required front yard
setback of 25' and side yard setback of 12 1/2' as provided in section

2.12.590 of the code of the City of Wichita, so that these areas can be utilized
for off-street parking for the Church.

for property located 1101 Regal, Wichita, Kansas

SW corner of Seneca & Regal St.

and legally described as: Lot 21 Block 2, Replat of IVA FULTZ

GARDENS, Sedgwick County, Kansas.

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

(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.

CATHOLIC DIOCESE OF WICHITA, INC.

Applicant

By: George D. McCarthy

Authorized Agent
George D. McCarthy

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
(a.m. - p.m.), 10-29-64, 1964, together with
appropriate fee of \$50.00.

T21-402

Jack Galbraith & Jim
Signed Hoover

Board of Zoning Appeals
Wichita, Kansas

Gentlemen:

The property described in the petition is located on the southwest corner of Regal and Seneca Streets. On it are constructed the church, grade school and rectory which serve St. Anne's Parish. All of the property abutting on the south side are lots with single family residences. These lots all face the south, including the corner lot on Seneca. On the north side of Regal street is located the Assembly of God-Bethel Church which has utilized the south portion of its property for off-street parking.

The property involved is zoned "AA", one-family dwelling district. Under the applicable zoning regulations, the minimum front yard set-back is twenty-five feet and the side yard set-back is twenty-five feet. There are approximately seven hundred families in this parish and all available off-street parking needs to be utilized. Since this is a "AA" area, off-street parking is unique and a condition which is not ordinarily found in such a zoning district.

The granting of the variance will not adversely affect the rights of adjacent property owners. All of the lots abutting on the south face the south and consequently back up to applicant's property. There is a sixteen foot utility easement along the complete south side of applicant's property eight feet of which is on applicant's property and eight feet on the rear of each lot abutting on the south. In addition, the rear property lines of the abutting properties are all fenced with chainlink fencing and there is a partial screening effect due to many trees and shrubs planted along the property lines.

As stated above, there are approximately seven hundred families in the parish with the consequent problem of available parking space for those using the premises. A strict application of the enforcement provisions of the

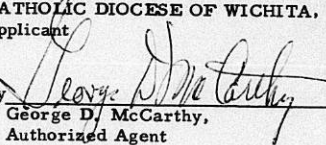
zoning ordinance will constitute unnecessary hardship as every bit of the area available is needed for off-street parking.

The granting of the variance will not adversely affect public health, safety, morals, order, convenience, prosperity or general welfare. The area involved is now either dirt or clay which has been covered with chat or rock. Should the variance be granted the applicant intends to blacktop the area thereby eliminating a source of dust in dry weather and mud in wet weather. The anticipated pavement will improve the appearance of the whole area and be of benefit to the adjacent property owners as well as this applicant.

Respectfully submitted,

CATHOLIC DIOCESE OF WICHITA, INC.
Applicant

By


George D. McCarthy,
Authorized Agent

OWNERSHIP LIST

LOT	BLOCK	ADDITION	PROPERTY OWNER
1	2	Replat of Iva Fultz Gardens	Administrator of Veterans Affairs ✓ <i>5500 E. Kellogg</i>
2	"	"	"
3	"	"	"
4	"	"	"
5	"	"	A. O. Howard ✓ Patricia Howard 2922 S. Martinson
6	"	"	C. A. Elpers ✓ Ann Elpers 2930 S. Martinson
7	"	"	Ross Tyson ✓ 2938 S. Martinson
8	"	"	Russell E. Cole ✓ N. Grace Cole 1240 W. 29th St. So.
9	"	"	Bernard J. Danler ✓ Gertrude Louise Danler 3045 S. Vine
10	"	"	Phillip Everett Chambers ✓ Ladean Chambers 1228 W. 29th St. So.
11	"	"	Merle A. Bates ✓ Phyllis Bates 1222 W. 29th St. So.
12	"	"	Viking Sales Inc. ✓ 1812 W. Douglas
13	"	"	Harold E. Miller ✓ Barbara J. Miller 1210 W. 29th St. So.
14	"	"	Melvin Helm ✓ Mary Alice Helm 1204 W. 29th St. So.
15	"	"	Amos D. Chrisco Jr. ✓ Sue Chrisco 1909 S. Vine
16	"	"	Catholic Diocese of Wichita Inc. 445 N. Emporia <i>D</i>
17	"	"	Administrator of Veterans Affairs <i>B</i>
18	"	"	Edmund I. Neufeld <i>no address</i> Doris M. Neufeld No Address Available

Continued -2-

19	2	Replat of Iva Fultz Gardens	James F. Schuelke Marcia B. Schuelke No Address Available	<i>no address</i>
20	"	"	Warren W. Parker Darlene Parker 2935 S. Seneca	✓
21	"	"	Catholic Diocese of Wichita Inc. 445 N. Emporia	✓
3	3	"	Robert S. Fogg Jr. Martha Ann Fogg No Address Available	<i>no address</i>
4	"	"	Lillie M. Corn 1215 W. 29th St. So. Goldie Ernestine Marshall Peter L. Marshall Herbert D. Marshall LaRilla Ann Burkhardt No Addresses Available	✓ 1215 ✓ W. 29th So <i>no add</i>
5	"	"	Herman Smith Ruth H. Smith 1209 W. 29th St. So.	✓
6	"	"	Harold V. Hopkins Mary E. Hopkins 1203 W. 29th St. So.	✓
7	"	"	John B. Shepherd Gladys B. Shepherd 1133 W. 29th St. So.	✓
8	"	"	Eugene C. McNutt ImoLea McNutt 1127 W. 29th St. So.	✓
9	"	"	Jack M. Lowe Ruth E. Lowe No Address Available	<i>no address</i>
10	"	"	Ralph W. Kirk Bonnie M. Kirk 1115 W. 29th St. So.	✓
11	"	"	Mary M. Suter 7417 Galoway	✓
12	"	"	Everett Leon Kelley Marian A. Kelley 1103 W. 29th St. So.	✓
1	-	Martinsons 10th	Bethel Assembly of God Church 2801 S. Seneca	✓
2		"	"	
3	E 35' of N 148'	"	"	
3	ex N 148'	"	"	

Continued -3-

3 N 148' ex E 35'	Martinson's 10th	Charles G. Martinson ✓ Mabel Martinson ✓ 1121 W. 27th St. So.
4 ex S 30' & ex N 148'	"	Raymond S. Vaught ✓ Mildred E. Vaught ✓ 1120 Regal
4 N 148'	"	Charles G. Martinson Mabel Martinson 1121 W. 27th St. So.
5 ex N 148'	"	Andrew W. Kowal ✓ Norma J. Kowal ✓ 1927 Jeannette
5 N 148'	"	Garold C. Hammer ✓ Anna Louise Hammer ✓ 1201 W. 27th St. So.
6 N 148'	"	"
6 ex N 148'	"	Gerald J. Kass ✓ Phyllis Elaine Kass ✓ 1308 Lydia
7 N 148'	"	Floyd D. Fawcett Janice N. Fawcett ✓ 1211 W. 27th St. So.
7 ex S 30' & ex N 148'	"	Bill Shively ✓ 1206 Regal
8	"	Justin J. Olivier ✓ Estella E. Olivier ✓ 1210 Regal
9 S $\frac{1}{2}$	"	Carl M. Meitner ✓ Sue Jane Meitner ✓ 1214 Regal
9 N $\frac{1}{2}$	"	Zeulah Myers ✓ 1225 W. 27th St. So.
10 S $\frac{1}{2}$	"	Alphons J. Knoblauch ✓ Elvera R. Knoblauch ✓ 1302 Regal
10 N $\frac{1}{2}$	"	Kenneth W. Rouse ✓ Elizabeth L. Rouse ✓ 2602 Classen
11	"	Clifford T. Shockey Belva J. Shockey No Address Available
12 S 148.69'	"	Federal Housing Commissioner ✓ <i>no address</i> Farmers & Bankers Bldg.

Continued -4-

12 ex S 148.69'		Martinson's 10th	John W. Bland Jr. ✓ Burma Jean Bland ✓ 1311 W. 27th St. So.
13 S½		"	Thomas A. Birmingham ✓ Margaret M. Birmingham 1716 W. 30th St. So. Ella Powers ✓ 1316 Regal
13 N½		"	Cecelia Ann Krampe ✓ 1317 W. 27th St. So.
1	Block A	F. A. Brown	Emmett H. Gold ✓ Hilda E. Gold 2860 S. Seneca
1 E 140'	D	"	John A. McQuiston ✓ Ruth A. McQuiston 1035 Barbara
2 E 140'	"	"	"
1 ex E 140'	"	"	Clayton T. Sherry ✓ Ruth P. Sherry 2910 S. Seneca
2 ex E 140'	"	"	"
Beg at the NW/c SW½ 5-28-1E; th S 466.69'; th E 466.69'; th N 466.9'; th W to beg.			Marinus Heersche ✓ Edith Heersche 1027 W. 27th St. So.
Beg 466.69' S of NW/c of NW½ SW½ 5-28-1E; th E 466.69'; th S 109.76'; th W 466.69'; th N 109.76' to beg.			Raymond Harold Taton ✓ Dorothy H. Taton RR 8 Wichita 15, Kansas

*Ret 11-8-64
Revert to
2858 So.
Seneca*

We hereby certify the foregoing to be a true and correct List of Property Owners within a two hundred foot radius of Lot 21, Block 2, in Replat of Iva Fultz Gardens, Sedgwick County, Kansas, as shown by the records in the Office of the Register of Deeds of Sedgwick County, Kansas, on this the 27th day of October, A.D., 1964 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE CO., INC.

By

J. N. M. Moun
Vice President

Order No. 118987
(ct-rnb)

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

441 per Variance 50.00

Name *George M. Curky*

Address *800 Beacon Bldg.*

Type *P. 712* Due Date

Comments:

Date *10-29-64* BY *Mrs. Arington*

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

2858 So. Seneca

RECEIVED
 NOV 9 1964
 METROPOLITAN
 PLANNING

51-64

WICHITA NOV 6 PM 1964 KANS.

Wichita 15, Kansas

REASON CHECKED
 Unclaimed..... Refused.....
 Unknown.....
 Insufficient address.....
 Moved, left no address.....
 No such office in city.....

TURN TO RITER

RHW

*

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