

BZA Case No. 51-84 - C. Q.
Chandler - requests a variance
to eliminate the required screen-
ing fence adjacent to the res-
idential zoning district along
the west, north & south property
lines on property zoned the R-1

Sent 9-18
Recorded

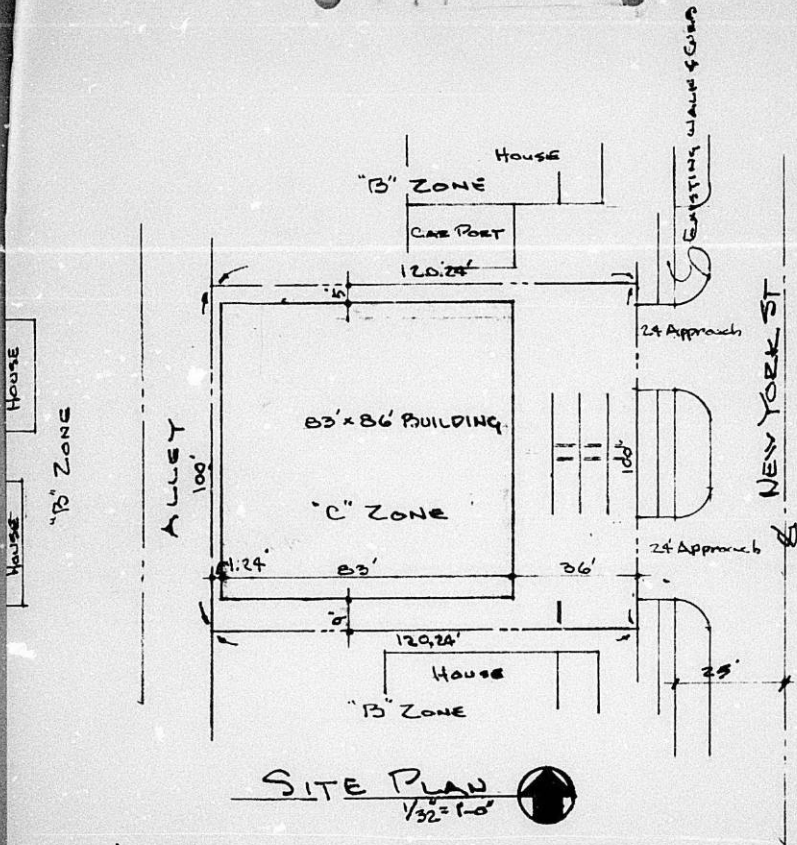
POSTED 2-28-84

ACTION

BZA 51-84 Approved 8-28-84
DATE

200' B Sec 9-7-84
Sent 9-16
Recorded

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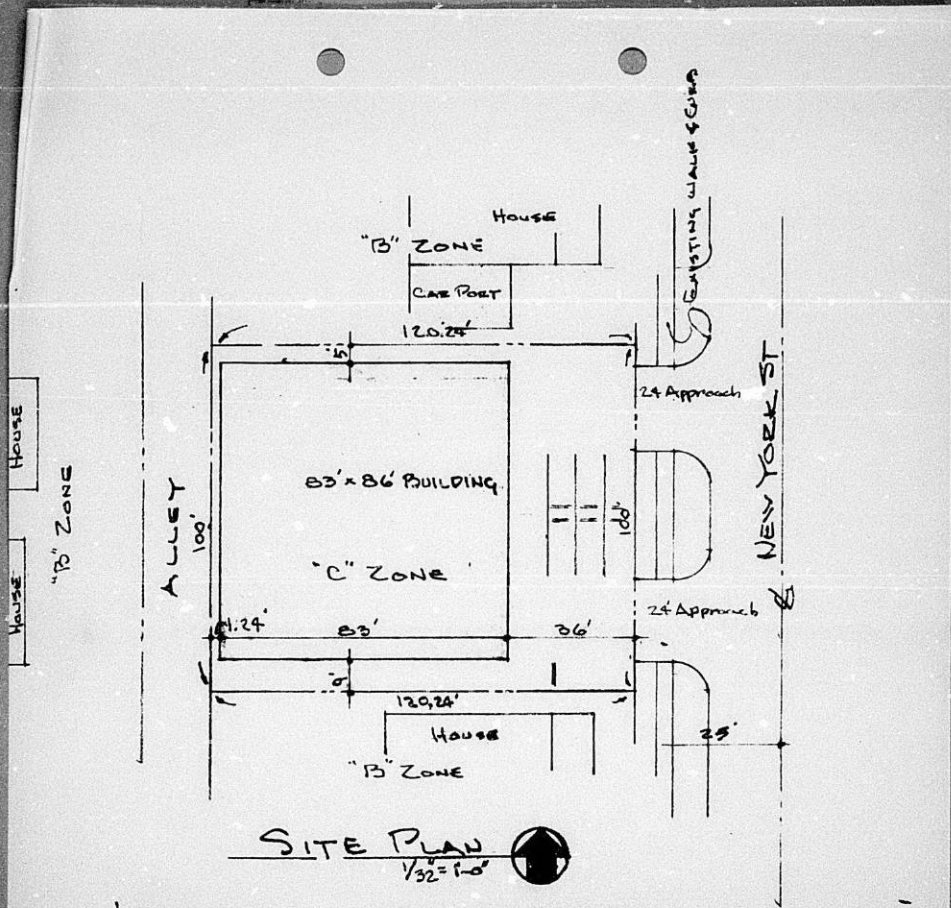
SITE PLAN
 1/32" = 1'-0"

LEGAL:
 LOT 2 - ANNA
 MARIA ADD.

STREET ADDRESS:
 343/345 NEW YORK

NO OUTSIDE STORAGE

SAM L. MOBLEY
 ARCHITECT
 420 SO RIDGE RD.
 WICHITA, KANSAS
 913-5480



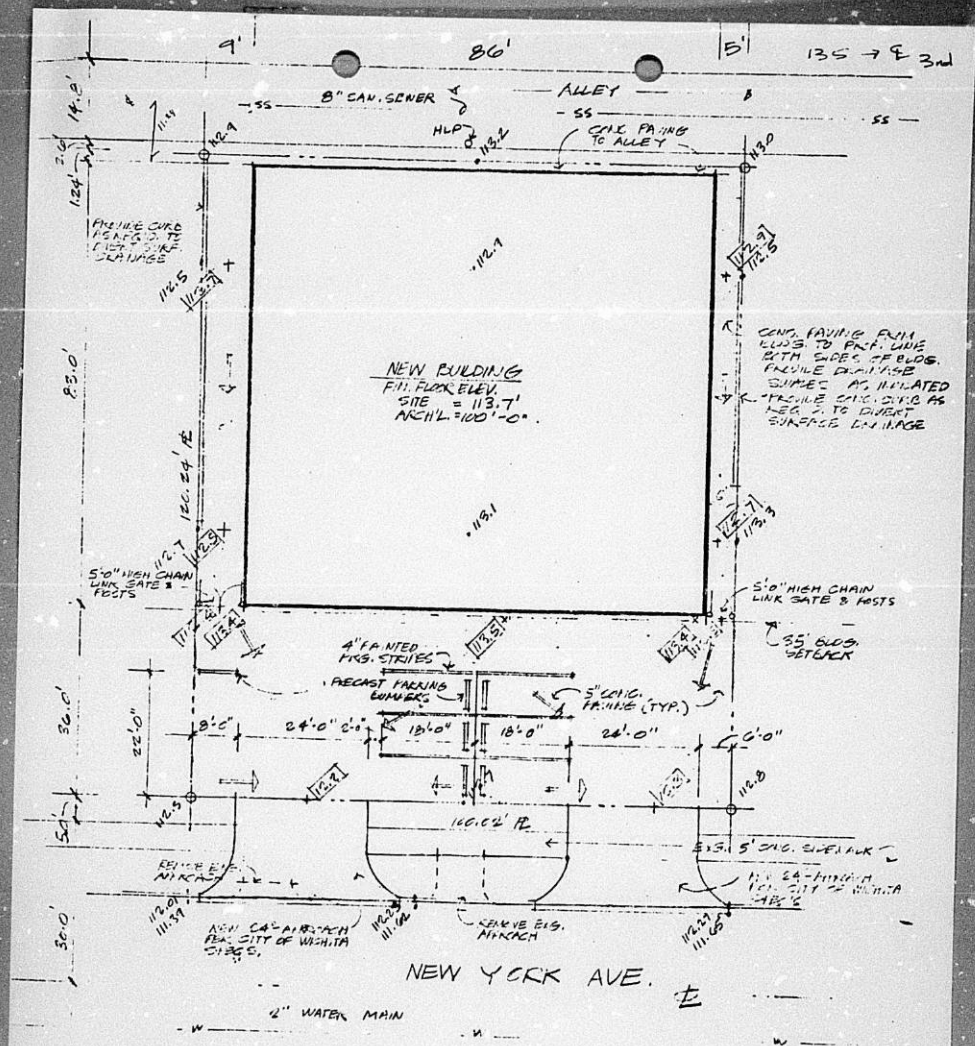
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 MARIA ADD.

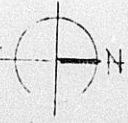
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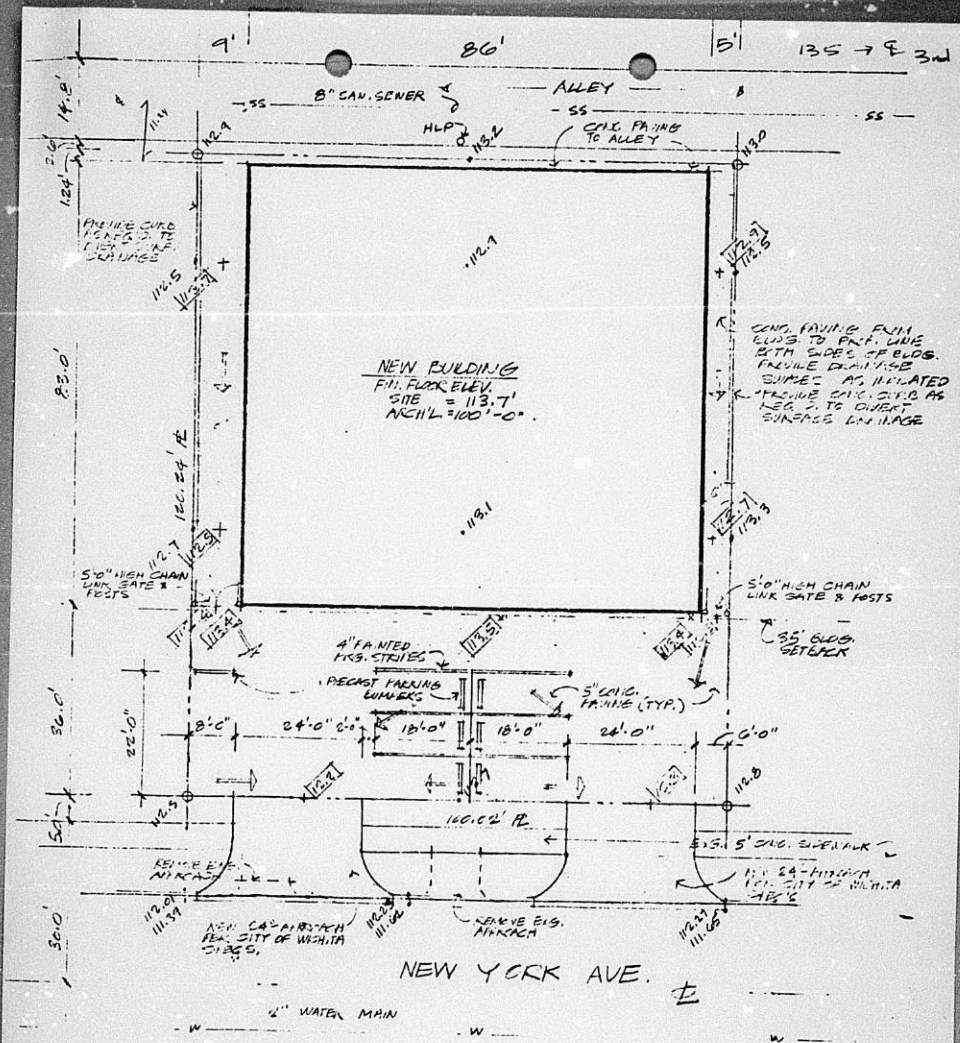
SAM L. MOBLEY
 ARCHITECT
 420 SO RIDGE RD.
 WICHITA, KANSAS
 943-5480



SITE PLAN
 1/8" = 1'-0"



MICROFILMED
 FROM THE BEST
 AVAILABLE COPY



SITE PLAN
110' x 140'



MICROFILMED
FROM THE BEST
AVAILABLE COPY

September 4, 1984

Mr. Sam Mobley
420 South Ridge Road
Wichita, Ks.

Re: BZA 51-84 - Request for Variance

Dear Mr. Mobley:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 28, 1984.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition of approval. It is forwarded to you for your information and files.

As there were questions raised as to the accuracy of the north, south and west setbacks as they now relate with the building, would you please submit three copies of the corrected site plan for our files and also indicate paved area and the proposed location of the security fence.

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: C. Q. Chandler, Box One, Wichita
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 51-84

WHEREAS, C. Q. Chandler, Box One, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence for commercial development adjacent to a residential zoning district on property zoned the "C" Commercial District and legally described as follows:

Lot 2, Ana Maria Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of New York and south of 3rd Street.

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, at the meeting of August 28, 1984, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property as it lies within an area where there is a policy to look with favor on requests for "C" Commercial zoning.

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the applicant has agreed to not have outside storage.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the installation of a screening fence for a short period of time until the adjacent properties are changed to commercial could be an undue expense; 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 due to the fact that the difference between a screening fence and a security fence is insignificant as far as public right-of-way is concerned; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as it is the applicant's intent to not have outside storage.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted have been found to exist.

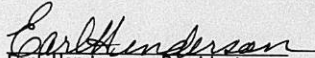
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence for commercial development adjacent to a residential zoning district on property zoned the "C" Commercial District and legally described as:

Lot 2, Ana Maria Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of New York and south of 3rd Street.

be approved subject to the following condition:

1. Should outside storage ever occur, then fencing along the north and south property lines shall be in accordance with the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 28th day of August, 1984.


Earl Henderson, President

ATTEST:


Jack H. Calbreith, Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE August 28, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Cindy Entriiken, Administrative Aide III

SUBJECT BZA 51-84: Generally located on
the west side of New York and
south of 3rd Street

On Tuesday, August 21, CPO Council "K" considered the above captioned case. The Council voted 7-0 to recommend that the Council follow the Secretary's comments and to deny the request.

Sam Mobley, agent for this case, appeared before the Council to discuss this case. No area residents were present.

Please present the Council's comments to the Board of Zoning Appeals when it meets to consider this case.

Cindy Entriiken
Cindy Entriiken
Administrative Aide III

CE:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

RE: AGENDA ITEM NO. 4

SECRETARY'S REPORT
CASE NO. BZA 51-84

APPLICANT: C. Q. Chandler, Box One, Wichita, Kansas.

AGENT: Sam L. Mobley, 420 South Ridge Road, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening of a commercial development adjacent to a residential zoning district.

GENERAL LOCATION: On the west side of New York and south of Third Street.

ZONING: Subject property is zoned the "C" Commercial District. Properties to the north, south and west are the "B" Multiple-family Dwelling District.

LAND USE: Subject property is being developed with a warehouse building. To the south, north and west are residential.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to eliminate the required screening fences along the north, south and west property lines that are adjacent to the "B" Multiple-family Dwelling District. The Zoning Ordinance requires that when office or commercial development occurs adjacent to any residential district that screening must be provided by the developer.

In this case, the area is a mixture of commercial and residential uses that is a result of a number of zoning changes that have been approved, one of which is the applicant's property. This would indicate that the area is in a stage of transition, however, a number of residences in the area are well maintained. A current zone change request in the general area is being opposed by the neighborhood.

It should be noted that other development that has occurred in the area adjacent to residential development have provided the required screening fences. Until such time that the zoning on the adjacent properties is changed, it would appear that compliance with the regulations should be obtained.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as this regulation was in effect at the time the zoning request was made and numerous properties in the city are adjacent to residential zoning that must provide screening.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the development in the "C" Commercial District will permit outdoor storage and to protect the adjacent residences screening should be provided.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the installation of a screening fence for a short period of time until the adjacent properties are changed to commercial could be an undue expense.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the difference between a screening fence and a security fence is insignificant as far as public right-of-way or easements are concerned.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulation is to provide protection to residential properties from commercial development.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and the application should be denied.

BZA CASE NO. 51-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>14</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>17</u>	TOTAL NOTICES SENT <u>8-7-84</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

August 7, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 51-84

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by C. Q. Chandler, Box 1, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to eliminate the required screening fence adjacent to the residential zoning district along the west, north and south property lines, on property zoned the "C" Commercial District. A legal description of the applicant's property is as follows:

Lot 2, Ana Maria Addition to Wichita, Sedgwick County, Kansas.
Generally located on the west side of New York and south of 3rd
Street.

This application has been assigned Case BZA 51-84. It will be considered by the Board of Zoning Appeals on August 28, 1984 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 51-84

CITY OF WICHITA, KANSAS

FILED 7-23-84

APPLICATION FOR VARIANCE

I. Name of Applicant C. A. Chandler

Mailing Address ~~1414 Main~~ Box One Phone _____

Name of Authorized Agent Sam L. Mobley

Mailing Address 410 S Ridge Rd Phone 9435480

Relationship of applicant to property is that of Architect
(Owner, Tenant, Lessee, Other)

II. The variance requested is to eliminate the
required screening fence adjacent to
the residential zoning district on the N. 350.
for property located on the west side of New York
and south of 3rd Street.
and legally described as: LOT 2, ANA MARIA
ADDITION TO WICHITA, SEDG.
Co., KS.

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

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. 36-596); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant _____

Authorized Agent Sam L. Mobley

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
11:30 (a.m.), July 23, 1984, together with
appropriate fee of 11.00.

Signed H. Lytle

STATEMENT

To: Board of Zoning Appeals
City of Wichita, Ks.

From: C. Q. Chandler
Owner of property located at 343/345 New York Street,
Wichita, Kansas

As required, the following is the owners statement justifying
the variance requested:

- A. The Zoning Ordinance required screening of industrial
development under Section 28.04.160K
1. The variance requested (omission of the screening
fence) is based on the fact that the area is in flux
and changing from residential to industrial use, thus
making this unique condition.
 2. Since all adjacent property will eventually be used
for industrial purposes in the near future, the granting
of a screening fence waiver would not adversely affect
the adjoining property owners.
 3. The strict application of the provisions of Title 28
(specifically the screening provision) will constitute
unnecessary hardship on the owner due to the expense
involved in the erection of a security fence (a must
in the area) and then fronting it with a board fence
for screening purposes.
 4. The omission of a screening fence on applicant's property
will in no way adversely affect the public health, safety,
morals, order, convenience, prosperity or general welfare.
 5. The granting of the screening variance will not be
opposed to the general spirit and intent of Title 28
(Zoning Ordinance). In fact, it will be in keeping
with the City Commission policy of converting the area
to commercial use.

In view of the foregoing, it is respectfully requested that the
variance be granted.

Signed

C. Q. Chandler

C. Q. Chandler

by: Sam M. Maly
Arthur R. Ragan

STATEMENT

To: Board of Zoning Appeals
City of Wichita, Ks.

From: C. Q. Chandler
Owner of property located at 343/345 New York Street,
Wichita, Kansas

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 2. Since all adjacent property will eventually be used for industrial purposes in the near future, the granting of a screening fence waiver would not adversely affect the adjoining property owners.
 3. The strict application of the provisions of Title 28 (specifically the screening provision) will constitute unnecessary hardship on the owner due to the expense involved in the erection of a security fence (a must in the area) and then fronting it with a board fence for screening purposes.
 4. The omission of a screening fence on applicant's property will in no way adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 5. The granting of the screening variance will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance). In fact, it will be in keeping with the City Commission policy of converting the area to commercial use.

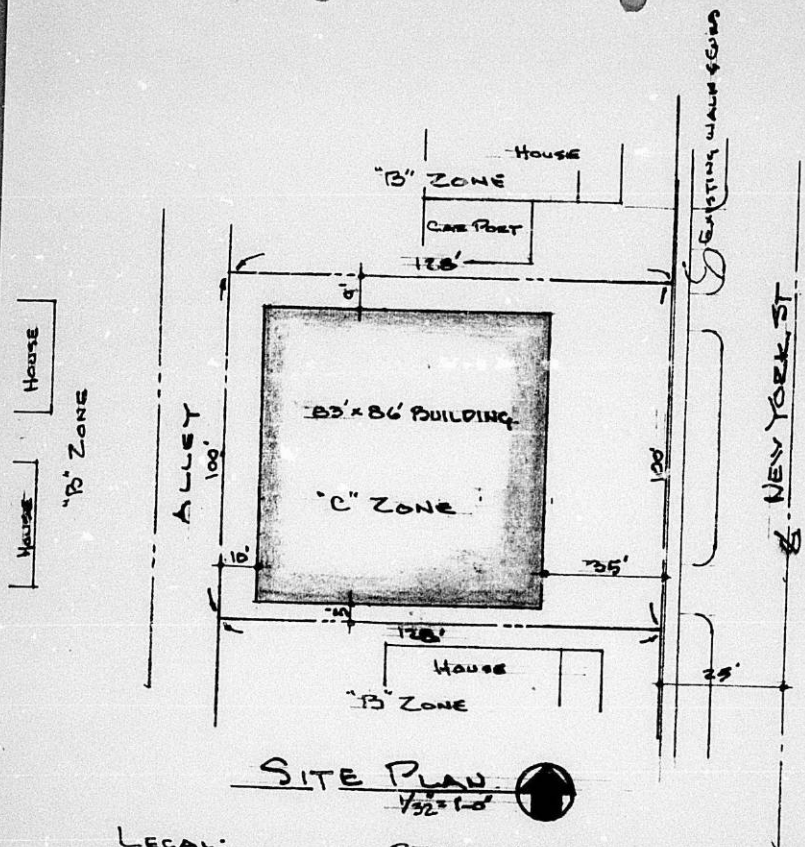
In view of the foregoing, it is respectfully requested that the variance be granted.

Signed

C. Q. Chandler

C. Q. Chandler

by: Sam S. W. Abbey
Dist. Agent



SITE PLAN
 1/32 = 1" = 0'

LEGAL:
 LOT 2 - ANNA
 MARIA ADD.

STREET ADDRESS:
 343/345 NEW YORK

SAM L. MOBLEY
 ARCHITECT
 420 SO RIDGE RD.
 WICHITA, KANSAS
 943-5480

BZA 51-84

CERTIFICATE OF OWNERSHIP

GUARANTEE TITLE COMPANY, INC. has searched the public records and finds the following to be a true and correct list of the property owners as evidenced by the last deed of record within a 200 foot radius of and including the following described property, viz:

Lots One (1) and Two (2), Ana Maria Addition, Sedgwick County, Kansas.

NOTE: Addresses are furnished as a courtesy only and are not certified.

DESCRIPTION	OWNER/ADDRESS	ZIP CODE
<u>Mathewson's 4th Addn.</u>		
<u>Mathewson Ave.</u>		
Lots 33 and 35	✓ Ferdinand Foergg and Rosina 1510 E. 2nd Street Wichita	67214
Lots 37	✓ W. H. Swan & M. Madeline 330 Mathewson Ave., Wichita	67214
Lot 39	✓ Cary Nietfield 340 N. Mathewson Wichita	67214
Lot 41	D Cary L. Nietfield 340 N. Mathewson Wichita	67214
Lot 43	✓ Western Properties 1406 West 2nd Street Wichita	67203
Lot 45	D Western Properties 1406 W. 2nd Street Wichita	67203
Lot 47	✓ Charles M. Brackeen & Elizabeth A. #5 Wells Drive Rose Hill	67133
<u>New York Ave.</u>		
Lot 33	✓ Maurice F. Beliveau & Laura M. 320 New York Wichita	67214
Lot 35	D Maurice F. Beliveau & Laura M. Wichita	67214
Lot 37	D Maurice Ferdinand Beliveau & Laura M. 320 New York Wichita	67214

New York Ave. Cont'd.

DESCRIPTION	OWNER/ADDRESS	ZIP CODE
Lot 39	D Roy N. Wisecarver 16054 Citation Wichita	67230
Lot 41	✓ Roy N. Wisecarver & Norma Lee P. O. Box 2794 Wichita	67201
Lot 43	✓ Bob Loepf & Grace F. 753 Woodrow Wichita	67203
Lot 36 7 So. 3' Lot 38	Guy W. Aistrup & Georgia E. 4202 Vesta Drive - 4107 W. 19th Wichita <i>Returned 8-20-54 recent list</i>	67208
The N. 47' of Lot 38 & the So. 5' of Lot 40	✓ Jim R. Albertson, Jr. 8305 Tamarac Lane Wichita	67206
The No. 45' of Lot 40	✓ Roger L. Magdaleno & Lee Lucille 339 New York Wichita	67214
Lot 42	✓ Peter E. Kilissanly & Jihad J. Beyrouti 2109 Menlo Drive Wichita	67211
Lot 44	A Peter E. Kilissanly & Jihad J. Beyrouti 2109 Menlo Drive Wichita	67211
Lot 46	✓ David Duane Thomas & Carol Elaine 347 New York Wichita	67214
Lot 48	D Jihad J. Beyrouti 2109 Menlo Drive Wichita	67211

Mathewson Manor 2nd Addn.Block B

Lots 1, 2, 6, 7, & 8

✓ Graham Investment Company, a
Partnership composed of Rebecca Joy Dorian,
Constance Kay Culley, Marjorie March Stevens,
Theodore Lyman Graham, William Lyman
Graham, Jr. & Jack Lyman Graham
211 No. Broadway
Wichita 67202

Block C

Lots 8 & 9

D Rebecca Joy Dorian & William
Lyman Graham, Jr.
211 No. Broadway
Wichita 67202

NEW YORK 3rd ADDN.

Lot 1

A Roy N. Wisecarver & Norma L
Z Wisecarver Dental Lab
P. O. Box 2794
Wichita 67201

Dated this 27th day of July, 1984 at 7:00 A.M.

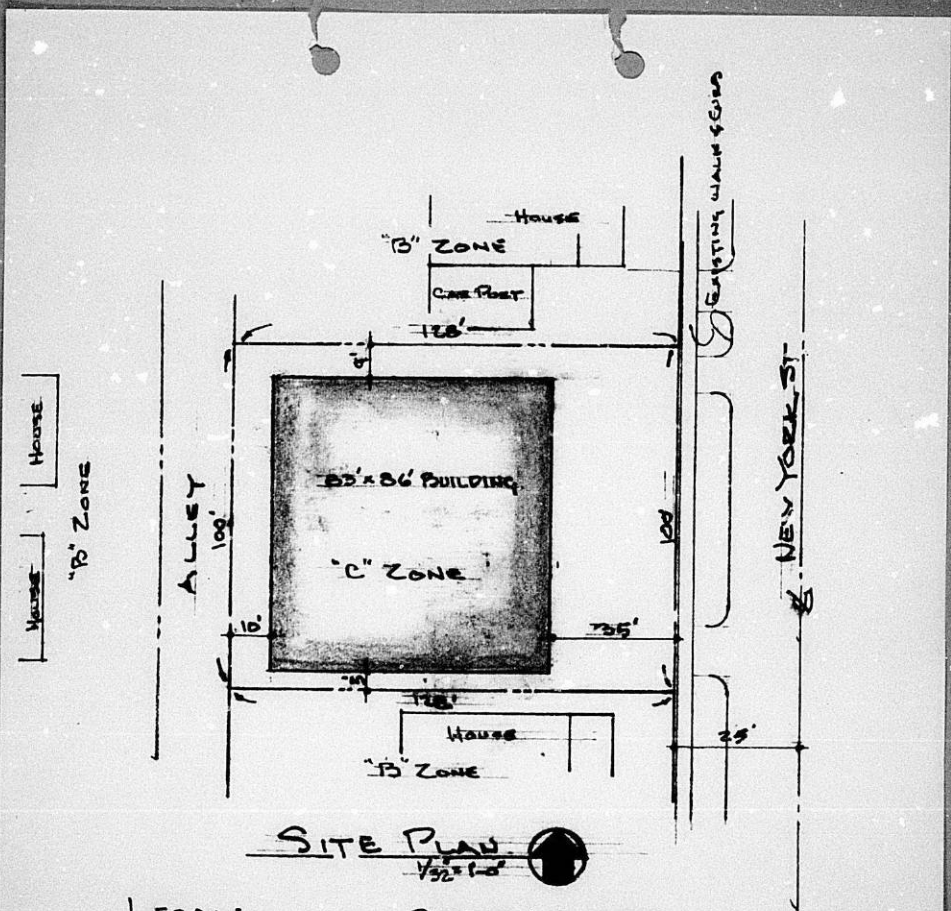
No. 5386 - A


GUARANTEE TITLE CO., INC.

BY:

Connie L. Douthitt

Connie L. Douthitt, Vice-President



SITE PLAN 

LEGAL:
 LOT 2 - ANNA
 MARIA ADD.

STREET ADDRESS:
 343/345 NEW YORK

BZA 51-84

SAM L. MOBLEY
 ARCHITECT
 420 SO. RIDGE RD.
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BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

August 7, 1984

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Jack H. Galbraith
Secretary

