

Case No. BZA 57-79 - Ali Baba Bakery requests variance to elim. the north 90' of req. screening on west prop. line adj. to res. zoning on prop. zoned "IC" & gen. loc. at the

POSTED
10-4-79

ACTION

BZA
COMMITTEE APPROVED *10-23-79*

M.A.P.C. _____

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

10-31-79

✓ 200, NMAPD
✓ 200, CI 10-31-79
RECORDED

November 6, 1979

Don Abraham
Ali Baba Bakery, Inc.
1025 W. 29th Street North
Wichita, Kansas 67204

Re: Case No. BEA 57-79

Dear Mr. Abraham:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 23, 1979, in connection with your request for a variance to waive the screening requirement on the north 90' of the west property line adjacent to residential zoning on property zoned "LC" Light Commercial and generally located at the southwest corner of 29th Street North and Salina.

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:bbc
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Giesick, City Clerk
Dean Felt, 715 West 13th, Wichita, Kansas

RESOLUTION NO. BZA 57-79

WHEREAS, Ali Baba Bakery, Inc., 1025 W. 29th Street North, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to vary the screening requirement for commercial development adjacent to residential zoning on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Feller's Addition to Wichita, Kansas. Generally located at the southwest corner of 29th Street North and Salina (1025 W. 29th Street North).

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 October 23, 1979, 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 in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the adjacent property is owned by the applicant's mother; and

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 adjacent property owner desires the screening fence not be constructed; and

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 fence would be constructed in the middle of a family ownership; 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 two owners are in agreement of the variance; 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 the intent of this provision of the ordinance is to provide protection to residential property from the adverse affects of commercial uses, whereas the residential use in this case would prefer the screening fence not be erected at this time; and

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 has been found to exist.

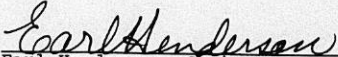
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to vary the screening requirement for commercial development adjacent to residential zoning on property zoned the "LC" Light Commercial District and legally described as:

Lot 1, Feller's Addition to Wichita, Kansas.
Generally located at the southwest corner of
29th Street North and Salina (1025 W. 29th
Street North)

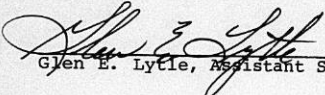
be approved subject to the following conditions:

1. The north 90 feet of the required screening fence may be deleted as long as the properties remain in the same family ownership.
2. Should changes in zoning delete the screening requirement, this resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 23rd day of October,
1979 .


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

October 24, 1979

Don Abraham
Ali Baba Bakery, Inc.
1025 W. 29th Street North
Wichita, Kansas 67204

Re: Case No. BZA 57-79
Request for Variance

Dear Mr. Abraham:

At the regular meeting of the Board of Zoning Appeals on Tuesday, October 23, 1979, your request for a variance to waive the screening requirement on the north 90 feet of the west property line adjacent to residential zoning on property zoned the "IC" Light Commercial District, and generally located at the southwest corner of 29th Street North and Salina was considered.

It was the action of the Board to approve this request subject to the following conditions:

1. The north 90 feet of the required screening fence may be deleted as long as the properties remain in the same family ownership.
2. Should changes in zoning delete the screening requirement, this resolution shall become null and void.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:bbc

cc: Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk & Dea. Felt, 715 W. 12 Wichita, Kan.

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 19, 1979

TO Glen Lytle, Special Assistant for Zoning

FROM Ginny Schrag, CPO Administrative Aide

SUBJECT BZA 52-79, BZA 53-79, and BZA 57-79

Council "J" did not have a quorum at their scheduled meeting of October 18.

The captioned cases, therefore, were not considered.

Ginny Schrag

Ginny Schrag
CPO Administrative Aide

GS:lw

NOTED:

Sarah Gilbert

Sarah Gilbert
Assistant CP Coordinator

RECEIVED

OCT 23 1979

METROPOLITAN PLANNING

ROUTE 4115

SECRETARY'S REPORT
CASE NO. BZA 57-79

APPLICANT: Ali Baba Bakery, Inc., 1025 W. 29th Street North, Wichita, Kansas

AGENT: Dean Felt, 715 W. 13th, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the screening requirement on the north 90 feet of the west property line adjacent to residential zoning.

GENERAL LOCATION: On the southwest corner of 29th Street North and Salina Avenue.

ZONING: Subject property is "LC" light commercial as is the property to the east. Properties to the west and south are "AA" single-family.

LAND USE: A bakery is located on the subject property. Single-family homes to the west, east and north, and two-family dwellings to the south.

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 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 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; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

Case No. BZA 57-79
BZA AGENDA
10-23-79
Page 2

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the screening requirement to eliminate the north 90 feet of screening adjacent to the "AA" Single-family zoning district along the west property line. The applicant has indicated that his mother owns the property to the west and resides therein. She has indicated her desire to not have a fence at this location so that she may retain at least a portion of the view to the east and also to be able to see the new building.

It should be noted that the bakery building is approximately 34 feet east of the west property line and this yard area is not surfaced. The front of the building is 55 feet south of 29th Street North which is for the most part south of the residential structure to the west. This general area along 29th Street North has a number of nonconforming uses, however the zoning policy in this general area is for "R-5" or "R-6" General Residence Zoning to permit multiple-family dwellings.

UNIQUENESS:

It is the opinion of the Secretary that the requested variance may arise from a unique situation inasmuch as the adjacent property is owned by the applicant's mother.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of the adjacent property owner or resident inasmuch as the adjacent property owner desires the screening fence not be constructed.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance will not create an unnecessary hardship upon the applicant.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not adversely affect the public interest inasmuch as the two parties involved are in agreement of the variance.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general

Case No. BZA 57-79
BZA AGENDA
10-23-79
Page 3

spirit and intent of the zoning ordinance inasmuch as the intent of this provision of the ordinance is to provide protection to residential property from the adverse affects of commercial uses, whereas the residential use in this case would prefer the screening fence not be erected at this time.

RECOMMENDATION:

If the Board determines that the five conditions necessary to the granting of the variance be found to exist, it is the Secretary's recommendation that the requested variance be granted subject to the following conditions:

1. The north 90 feet of the required screening fence may be deleted as long as the mother of the applicant resides in the residence adjacent thereto; or
2. Should changes in zoning delete the screening requirement, this resolution shall become null and void.

BZA CASE NO. 57-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

9~~10~~ NOTICES SENT TO ADJOINING PROPERTY OWNERS

22 TOTAL NOTICES SENT 10-3-79

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

October 3, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 57-79

An application has been filed by Ali Baba Bakery, Inc., 1025 W. 29th Street North, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to waive the screening requirement on the north 90 feet of the west property line adjacent to residential zoning, on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1, Feller's Addition to Wichita, Kansas.
Generally located at the southwest corner of
29th Street North and Salina (1025 W. 29th
Street North).

This application has been assigned case No. BZA 57-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 23, 1979, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 57-79

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Don Abraham, Ali Baba Bakery, Inc.

Mailing Address 1025 W. 29th St. North Phone 832-0712 67204

Name of Authorized Agent Dean W. Felt d/b/a/ Felt Design Service

Mailing Address 715 W. 13th St. Phone 264-3248 67203

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

II. The variance requested is Setting aside screening requirement
to eliminate the north 90 feet of
required screening fence on the west prop. line. adj. to resid. zng.

at the southwest corner of 29th St. North and Saline
for property located (1025 W. 29th St. North)

OKAY
and legally described as: Lot 1, Feller's Addition to Wichita, KS

in the City of Wichita; and which is presently zoned "L.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. 24-606); 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.

Don Abraham
Applicant
Dean W. Felt
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:30 (~~5~~ - p.m.), SEPT 24 19 79
together with appropriate fee of \$50.00.

Alan E. Lytle
Signed

FELT DESIGN SERVICE

715 W. Thirteenth St. Wichita, KS 67203

316/264-3248



September 24, 1979

Board of Zoning Appeals
City of Wichita
455 N. Main
Wichita, KS 67201

Re: Ali Baba Bakery
1021 W. 29th St.
Wichita, KS 67203

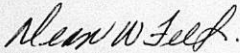
We ask for a variance of screening requirements along a portion of the west property line of above referenced property, and feel we meet the five (5) requirements set forth in Title 28 as listed below.

1. The applicant's Mother owns and lives in the property west of afore mentioned property and wishes to view the new building and surrounding neighborhood; furthermore, the applicant owns and lives in the house west of his Mother's residence.
2. The granting of the variance will not adversely affect the rights of the adjacent property owners, as his Mother, Mrs. Abraham is the one who has shown and made known her disapproval of the fencing requirement on this property.
3. The strict application of the provision, Title 28, will cause the property owner to expend monies we feel are not required due to the request of Mrs. Abraham (Mother) that screening be eliminated.
4. The omission of the fence will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; because Mr. Abrahaam (Owner) will maintain the property in trimmed and mowed condition; and plans to landscape in front set back.

5. The granting of the variance will not be opposed to the intent of the provision, Title 28, as it will, in fact, meet the adjoining property owner's request.

In conclusion: since Mr. Abraham owns the Bakery property and his residence property; and Mrs. Abraham (Mother) owns and resides in adjoining property, as well as owns and operates the Abe's Club across the street north, we feel that this variance request is not out of context and should be granted.

Sincerely,



Dean W. Felt

DWF:mkf

cc: Don Abraham, Owner
Mrs. Abraham, Mother

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. ✓ Name of Applicant Don Abraham, Ali Baba Bakery, Inc.

Mailing Address 1025 W. 29th St. North Phone 832-0712

✓ Name of Authorized Agent Dean W. Felt d/b/a/ Felt Design Service

Mailing Address 715 W. 13th St. Phone 264-3248

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

II. The variance requested is Setting aside screening requirement

for property located 1025 W. 29th St. North

and legally described as: Lot 1, Feller's Addition to Wichita, KS

in the City of Wichita; and which is presently zoned "L.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. 24-606); 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.

Don Abraham
Applicant

Dean W. Felt
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.

FELT DESIGN SERVICE

715 W. Thirteenth St. Wichita, KS 67203

316/264-3248



September 24, 1979

Board of Zoning Appeals
City of Wichita
455 N. Main
Wichita, KS 67201

Re: Ali Baba Bakery
1021 W. 29th St.
Wichita, KS 67203

We ask for a variance of screening requirements along a portion of the west property line of above referenced property, and feel we meet the five (5) requirements set forth in Title 28 as listed below.

1. The applicant's Mother owns and lives in the property west of afore mentioned property and wishes to view the new building and surrounding neighborhood; furthermore, the applicant owns and lives in the house west of his Mother's residence.
2. The granting of the variance will not adversely affect the rights of the adjacent property owners, as his Mother, Mrs. Abraham is the one who has shown and made known her disapproval of the fencing requirement on this property.
3. The strict application of the provision, Title 28, will cause the property owner to expend monies we feel are not required due to the request of Mrs. Abraham (Mother) that screening be eliminated.
4. The omission of the fence will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; because Mr. Abrahaam (Owner) will maintain the property in trimmed and mowed condition; and plans to landscape in front set back.

5. The granting of the variance will not be opposed to the intent of the provision, Title 28, as it will, in fact, meet the adjoining property owner's request.

In conclusion: since Mr. Abraham owns the Bakery property and his residence property; and Mrs. Abraham (Mother) owns and resides in adjoining property, as well as owns and operates the Abe's Club across the street north, we feel that this variance request is not out of context and should be granted.

Sincerely,

Dean W. Felt

Dean W. Felt

DWF:mkf

cc: Don Abraham, Owner
Mrs. Abraham, Mother

OWNERSHIP LIST

Lot	Addition	Property Owner
1, Reserve A and Reserve B	Warenfelt Addition	✓ Wayne Donald Warenfelt & Lorraine O. Warenfelt 3659 Payne Ave., 67204
1, Blk A	Toepke Addition	✓ Roger E. Sowders & Jo Anne Sowders 809 S. Woodlawn, 67218
2 & 4 Salina Ave.	F. Schnitzlers Addition	✓ Donald L. Somers & Audrey A. Somers 956 W. 29th St. No., 67204
6 & 7, Blk A	Mileen Acres	✓ Junior W. Watson & Alice G. Watson 1943 S. Water, 67213
W 25' of 13, all of 14 & E. 10.04' of 14, Blk B	Mileen Acres	✓ Schafer Abraham & Mabel C. Abraham 1033 W. 29th St. No., 67204
W 75' of 15, Blk B	Same	✓ Donald G. Abraham & Sherry Abraham 1043 W. 29th St. No., 67204
1, 2, 3, 4, & 5, Blk 1 and 1, 2, 3, & 4, Blk 2	Mileen Acres 2nd Addition	✓ Donald D. Hollar 1309 Charlotte St., 67208
1	Fellers Addition	✓ Donald G. Abraham & Sherry L. Abraham, 1043 W. 29th St., No. 67204
1	Abraham Addition	✓ Schafer Abraham & Mabel C. Abraham 1033 W. 29th St. No., 67204
The South Acres of the E½ of the W½ of the SW¼ of the SW¼ of Sec. 32-26-1E, except the S. 150' of the E. 125' thereof		✓ Clyde W. Noell & Cora E. Noell 1029 W. 29th St. No., 67204

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:

Lot 1, Fellers Addition, Wichita, Kansas.

as shown by the last deeds of record in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 26th day of September, 1979 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Mary Gable
Vice-President

Order No. 281573

CT

FORM 9-021 PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
Planning			

DESCRIPTION	AMOUNT
VCA Version - City	\$50.00

NAME: DEAN FELT
ADDRESS: 715 W. 13th
FUND: 110-00-000-400 DUE DATE: 11-003-100-000
COMMENTS:
DATE: 10/24/79 BY: H. Little

WICHITA - SEDGWICK COUNTY
W S C
BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
555 NORTH MAIN STREET
WICHITA, KANSAS 67202

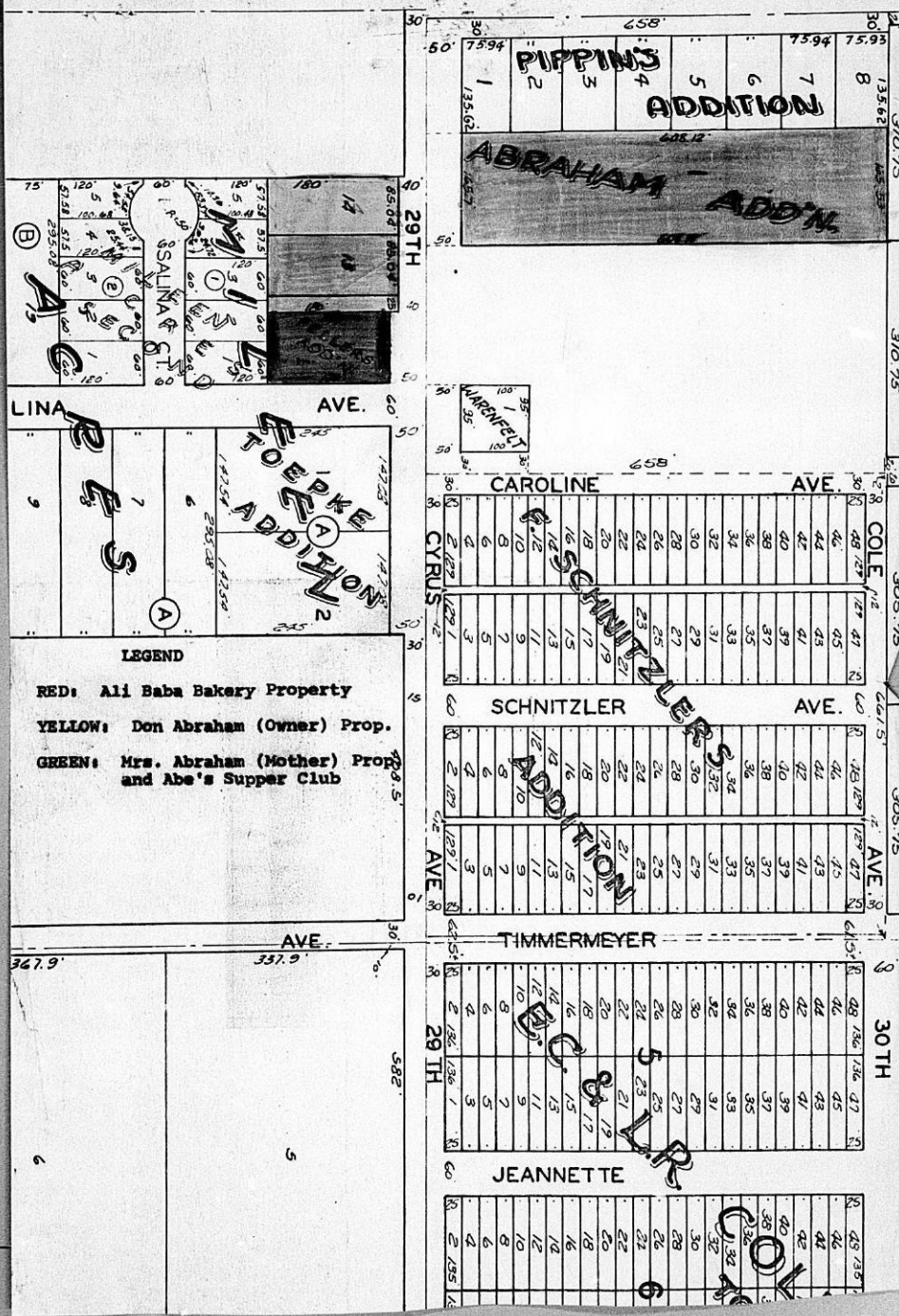
Shirley B2A57-79
~~57089~~
182-4-79
JK

Roger E. Sowders & Jo Anne Sowders
809 S. Woodlawn
Wichita, KS 67218

WICHITA, KS
OCT 5 1979
P.M.

WICHITA KANSAS
OCT 3 1979
15:00
PB 650924

OWN OWN
RETURN TO SENDER



LEGEND

RED: Ali Baba Bakery Property

YELLOW: Don Abraham (Owner) Prop.

GREEN: Mrs. Abraham (Mother) Prop and Abe's Supper Club

30	135.62	75.93	75.94	75.94	135.62	30	135.62	75.93	75.94	75.94	135.62	30	135.62	75.93	75.94	75.94	135.62
8	44	44	44	44	44	8	44	44	44	44	8	44	44	44	44	44	44
7	42	42	42	42	42	7	42	42	42	42	7	42	42	42	42	42	42
6	40	40	40	40	40	6	40	40	40	40	6	40	40	40	40	40	40
5	38	38	38	38	38	5	38	38	38	38	5	38	38	38	38	38	38
4	36	36	36	36	36	4	36	36	36	36	4	36	36	36	36	36	36
3	34	34	34	34	34	3	34	34	34	34	3	34	34	34	34	34	34
2	32	32	32	32	32	2	32	32	32	32	2	32	32	32	32	32	32
1	30	30	30	30	30	1	30	30	30	30	1	30	30	30	30	30	30
8	48	48	48	48	48	8	48	48	48	48	8	48	48	48	48	48	48
7	46	46	46	46	46	7	46	46	46	46	7	46	46	46	46	46	46
6	44	44	44	44	44	6	44	44	44	44	6	44	44	44	44	44	44
5	42	42	42	42	42	5	42	42	42	42	5	42	42	42	42	42	42
4	40	40	40	40	40	4	40	40	40	40	4	40	40	40	40	40	40
3	38	38	38	38	38	3	38	38	38	38	3	38	38	38	38	38	38
2	36	36	36	36	36	2	36	36	36	36	2	36	36	36	36	36	36
1	34	34	34	34	34	1	34	34	34	34	1	34	34	34	34	34	34
8	48	48	48	48	48	8	48	48	48	48	8	48	48	48	48	48	48
7	46	46	46	46	46	7	46	46	46	46	7	46	46	46	46	46	46
6	44	44	44	44	44	6	44	44	44	44	6	44	44	44	44	44	44
5	42	42	42	42	42	5	42	42	42	42	5	42	42	42	42	42	42
4	40	40	40	40	40	4	40	40	40	40	4	40	40	40	40	40	40
3	38	38	38	38	38	3	38	38	38	38	3	38	38	38	38	38	38
2	36	36	36	36	36	2	36	36	36	36	2	36	36	36	36	36	36
1	34	34	34	34	34	1	34	34	34	34	1	34	34	34	34	34	34
8	48	48	48	48	48	8	48	48	48	48	8	48	48	48	48	48	48
7	46	46	46	46	46	7	46	46	46	46	7	46	46	46	46	46	46
6	44	44	44	44	44	6	44	44	44	44	6	44	44	44	44	44	44
5	42	42	42	42	42	5	42	42	42	42	5	42	42	42	42	42	42
4	40	40	40	40	40	4	40	40	40	40	4	40	40	40	40	40	40
3	38	38	38	38	38	3	38	38	38	38	3	38	38	38	38	38	38
2	36	36	36	36	36	2	36	36	36	36	2	36	36	36	36	36	36
1	34	34	34	34	34	1	34	34	34	34	1	34	34	34	34	34	34

*

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

Roll # 2