

6. Case No. BZA 12-87 - Donald F. McArthur, 928 St. James, Wichita, Kansas, and Peter Langenwaller, 354 Indiana, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an automobile sales business on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Block 1, Sixty-six Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Ash and First Street.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicants are requesting an exception in order to construct a new building, a portion of which will be used as an automobile sales business. The property is zoned the "LC" Light Commercial District, and in conformance with the zoning regulations. Vehicle sales or rental, whether within or outside a building must be approved as an exception by the Board of Zoning Appeals in the "LC" district.

In this case, the request is for an automobile sales business to be operated with all vehicles stored and displayed within an enclosed building. The business also operates primarily on an appointment basis so that there would never be a need for more than two off-street parking spaces for customers of the automobile sales portion of the building.

Case No. BZA 13-87 has been filed by the applicants to reduce the required number of off-street parking spaces for the proposed building. Consideration of this case should also include the variance request that will be required before the building can be constructed.

It has generally been the recommendation of the Secretary to not approve most automobile sales lots that are in close proximity of a residential area. In this case, it would be the Secretary's recommendation that the application be denied if it were to be an outdoor automobile sales lot. However, due to the method of operation proposed by the applicant, it appears to be one that could be compatible with the residential neighborhood.

RECOMMENDATION:

Should the Board determine that the proposed use is appropriate at this location, then it is the recommendation of the Secretary that the exception be approved subject to the following conditions:

1. All vehicles for sale on this property shall be displayed and stored within an enclosed building.
2. That portion of the building to be occupied by the automobile sales business shall not exceed 5000 square feet of floor area.
3. All parking spaces on the property shall be surfaced and designated as off-street parking for customers and employees and not used for display of company vehicles.
4. If lighting is provided on the exterior, it shall be installed so as to not illuminate the adjoining residential properties by shielding and directing the lights away from the residential properties.
5. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance, provided however, no string-type lighting or banners shall be permitted.
6. No sound projecting devices or loud speakers shall be used so as to be heard beyond the property lines.
7. All screening required by the zoning ordinance for the protection of adjacent residential properties shall be installed and maintained in good condition.
8. Any change of occupancy of this building, or change in the manner in which the automobile sales business is to be operated, shall null and void this resolution.
9. Any expansion of the building shall be subject to compliance with the requirements of the ordinance and must be reconsidered by the Board of Zoning Appeals.
10. Resolution No. BZA 68-83 shall become null and void upon the release of this resolution.

LYTLE stated that CPO recommended (7-1) to approve the request.

PARSONS stated that his only problem with the request was the encroachment of "LC" into the residential area, even though the "LC" already exists.

JENKINS asked if they would be selling new or used cars by appointment only.

RANDY HERSHORN, in partnership with PETER LANGENWALTER, replied that it would vary, basically late model import luxury and sports cars ranging in price from \$10,000 to \$150,000. Selling by appointment only would be for their protection as well as the privacy of the people purchasing the automobiles. He further stated that at their location on New York (also in a residential area) their facility appears to be an office building, rather than an automobile sales business.

No one appeared in opposition.

MOTION: PARSONS moved, JENKINS seconded, that the exception to permit the establishment of an automobile sales business be denied. Motion failed 2-3 (HENDERSON, JACOB, KOPIETZ).

JACOB stated that considering all the types of businesses that could go in under "LC" zoning without any restrictions, he felt that the proposed use with the restrictions imposed by the Board would be best for the area.

PARSONS concurred, since "LC" also allows for auto repair which would definitely be worse than the proposed use.

HENDERSON commented that he agreed with the point that auto repair would already be permitted, therefore he would be in favor of the proposed exception.

KOPIETZ stated she agreed with the points made favoring the exception, nevertheless she felt it was a difficult decision to make.

MOTION: JACOB moved, HENDERSON seconded, that the exception to permit the establishment of an automobile sales business be granted subject to the conditions as set out in the Secretary's Report. Motion passed 3-2 (JENKINS and PARSONS).

The official action of the board is reflected in the adoption of Resolution No. BZA 12-87 which includes the following conditions of approval:

1. All vehicles for sale on this property shall be displayed and stored within an enclosed building.
2. That portion of the building to be occupied by the automobile sales business shall not exceed 5000 square feet of floor area.
3. All parking spaces on the property shall be surfaced and designated as off-street parking for customers and employees and not used for display of company vehicles.

4. If lighting is provided on the exterior, it shall be installed so as to not illuminate the adjoining residential properties by shielding and directing the lights away from the residential properties.
5. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance, provided however, no string-type lighting or banners shall be permitted.
6. No sound projecting devices or loud speakers shall be used so as to be heard beyond the property lines.
7. All screening required by the zoning ordinance for the protection of adjacent residential properties shall be installed and maintained in good condition.
8. Any change of occupancy of this building, or change in the manner in which the automobile sales business is to be operated, shall null and void this resolution.
9. Any expansion of the building shall be subject to compliance with the requirements of the ordinance and must be reconsidered by the Board of Zoning Appeals.
10. Resolution No. BZA 68-83 shall become null and void upon the release of this resolution.

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7. Case No. BZA 13-87 - Donald F. McArthur, 928 St. James, Wichita, Kansas, and Peter Langenwalter, 354 Indiana, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, request variances to: (1) reduce the required number of off-street parking spaces from 41 spaces to 32 spaces; and (2) reduce the front yard setback adjacent to Minnesota from 20 feet to 0 feet for off-street parking purposes only on property zoned the "LC" Light Commercial District and the "B" Multiple-family Dwelling District and legally described as follows:

Lot 1, Block 1, Sixty-six Addition and Lots 38 and 40, Minneapolis Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of First Street between Ash and Minnesota Streets.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

JURISDICTION:

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