

POSTED
3-14-77
CIV
MAY 2
C. J. [unclear]

Case No. BZA 6-77 - Eby Const. Co.
req. Variance to reduce req. park-
ing spaces and reduce required
front yard setback in an area
lying between Elm and Pine, Market
& Main

ACTION

BZA 6-77 COMMITTEE Approval DATE 3-22-77

M.A.P.C.

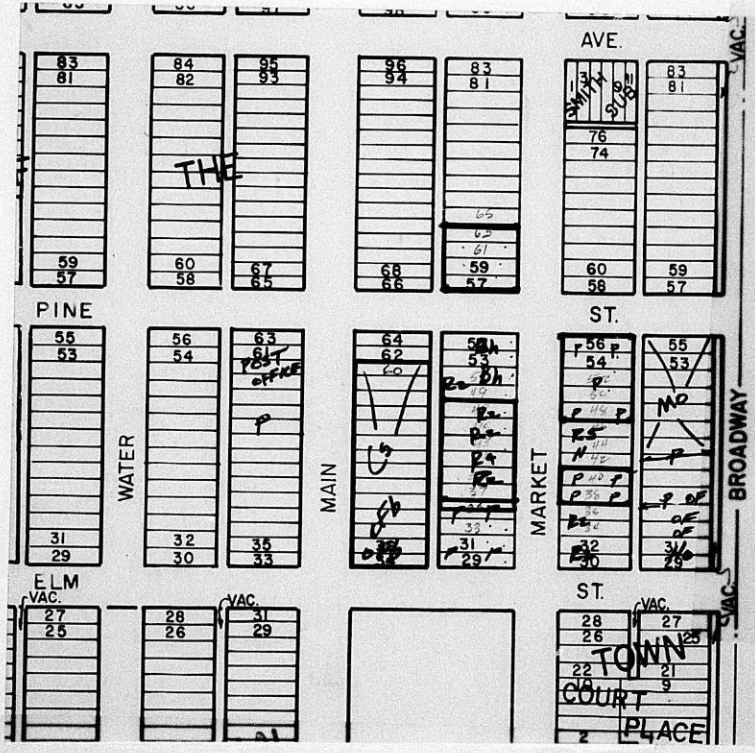
B.C.C./B. CO. C.

Map No. 5448
 Sec. 17
 Twp. 27
 Range 1E

BZA- 6-77
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 2.7 (135 (IRREGULAR) ft. by 875 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East MORTGAGE & PARKING LOT South PARKING LOT
 West PARKING LOT North BOARDING HOUSE, PARK
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: OFFICE BLDG., PARKING LOTS, MORTGAGE, MILI
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



HASTINGS INN-LOT ANGLES
 No. 2-153C
 S. H. H. S. H.
 LOOK ON ANGLE ROOM: TR. U. S. A.

BZA 6-77 ϕ 25 through 34 minute book

existing bldg	89 sp.	89	
basement of new bldg	48	48	} 298
each floor	50 x 5	250	
		<u>387</u>	

employees riding to work with others who parked elsewhere

employees riding mass transit

employees who carpool

how much designed work space

downtown location is unique

No work stations in basement (48 spaces)

previously had 95 employees
now have 101 "

inner loop now killed by City Comm.

cont. desire to provide one off-street parking space for each employee

RESOLUTION NO. BZA 6-77

WHEREAS, Martin K. Eby Construction Company, Inc., 610 North Main, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only for that portion of the application area located at the northwest corner of Market and Pine Streets, all on property zoned the "B" Multiple Dwelling District, "LC" Light Commercial District, and "C" Commercial District, and legally described as follows:

Even numbered lots 34 through 60 on Main Street, the N 1/2 of Lot 35, and all odd numbered lots 37 through 47 and odd numbered lots 57 through 63 on Market Street, and lots 38, 40, and all even numbered lots 48 through 56 on Market Street, all in Munger's Original Town, Sedgwick County, Kansas. Generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine Street, on the east by Market Street, and also the northwest and southeast corners of Market and Pine Streets.

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 March 22, 1977, 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 for the reduction of parking spaces inasmuch as the applicants have demonstrated that 254 parking spaces are adequate to serve the existing and future parking needs of the two buildings based on the designed capacity of the buildings and the close proximity to rental parking and mass transit service as provided in the Central Business District; and for the reduction of front and side yard setbacks inasmuch as the only adjacent property that is not zoned to permit parking in the setback areas is the property to the north which, due to the condition of the existing residence thereon and the surrounding land uses, could be expected to redevelop as parking, or with a change of zoning to some office or commercial use; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance to reduce the number of required off-street parking spaces would not have an adverse affect on adjacent property owners or residents inasmuch as 254 parking spaces will provide a minimum ratio of 1 space for each employee working in both buildings; and the setback variance for off-street parking would not adversely affect adjacent property owners due to existing and expected future land use and zoning in the area which permits parking to the property line; 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 owner represented in the application inasmuch as compliance with the total parking requirement

RESOLUTION NO. BZA 6-77

Page 2

would provide a surplus of parking not needed to serve these buildings; and the unavailability of land in this area makes it necessary that they be permitted to fully utilize the setback areas for off-street parking purposes; 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 due to the fact that sufficient parking is provided to meet the parking needs generated by these buildings; and the variance to reduce the side yard and front yard setbacks for parking would not adversely affect the public interest at this intersection where three of the corner properties are already permitted to park to the property lines; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance to reduce the number of off-street parking spaces will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the basement of the new building will be without assigned employee work space and rental parking space is available nearby if needed; and also the setback variance for off-street parking purposes would not be opposed to the spirit and intent inasmuch as this neighborhood is in the process of transition from a residential neighborhood to an office and commercial area, where the requested variance will not conflict with existing and future land uses.

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.

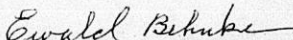
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only, for that portion of the application area located at the northwest corner of Market and Pine Streets on property zoned the "B" Multiple Family Dwelling District, "IC" Light Commercial District, and "C" Commercial District, and legally described as follows:

Even numbered lots 34 through 60 on Main Street, the N 1/2 of Lot 35, and all odd numbered lots 37 through 47 and odd numbered lots 57 through 63 on Market Street, and lots 38, 40, and all even numbered lots 48 through 56 on Market Street, all in Munger's Original Town, Sedgwick County, Kansas. Generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine Street, on the east by Market Street, and also the northwest and southeast corners of Market and Pine Streets,


be approved subject to the following condition:

1. The basement area of the new building shall not be utilized as assigned work space for employees.

ADOPTED AT WICHITA, KANSAS, this 22nd day of March, 1977.


Ewald Behnke, Chairman

ATTEST:


Jack H. Galbraith, Secretary

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX

April 4, 1977

455 North Main Street
Tenth Floor, City Hall

Mr. Jess Myers
c/o Eby Construction Company
610 North Main
Wichita, Kansas 67203

Re: Case No. BZA 6-77
Request for Variance

Dear Mr. Myers:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 22, 1977, in connection with your request for a variance to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only, on property zoned the "B" Multiple Family Dwelling District, "LC" Light Commercial District, and "C" Commercial District, generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine Street, on the east by Market Street, and also the northwest and southeast corners of Market and Pine Streets.

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

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

Yours very truly,

Jack H. Galbraith
Secretary

JHG:bh
Encl.

cc: Jim Greer, III, c/o Eby Const. Company, 610 N. Main, 67203
Warner Moore, Century Plaza Bldg., 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Maintenance, Central Inspection

March 23, 1977

Mr. Jess Myers
c/o Eby Construction Company
610 North Main
Wichita, Kansas 67203

Re: Case No. BZA 6-77
Request for Variance

Dear Mr. Myers:

At the regular meeting of the Board of Zoning Appeals on Tuesday, March 22, your request for a variance to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only, on property zoned the "B" Multiple Family Dwelling District, "IC" Light Commercial District, and "C" Commercial District, generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine Street, on the east by Market Street, and also the northwest and southeast corners of Market and Pine Streets was considered.

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

1. The basement area of the new building shall not be utilized as assigned work space for employees.

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.

Yours very truly,

Jack H. Galbraith
Secretary

JHG:LD:bh

cc: Jim Greer, III, c/o Eby Construction Company, 610 N. Main, 67203
Warner Moore, Century Plaza Building, 67202
Don Gisick, City Clerk

Mr. Jess Myers
c/o Eby Construction Company

March 23, 1977

cc: Robert Feldner, Supt., Central Inspection
Joe Donnelly, Maintenance, Central Inspection

SECRETARY'S REPORT
CASE NO. BZA 6-77

APPLICANT:

Martin K. Eby Construction Co., Inc., 610
N. Main, Wichita, Kansas.

AGENT:

Jess Myers, 610 N. Main, Wichita, Kansas.

REQUEST:

Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
number of required off-street parking spaces
from 387 spaces to 254 spaces; and to reduce
the required front yard setback from 20 feet
to 0 feet and the required side yard setback
from 5 feet to 0 feet for off-street parking
purposes only, for that portion of the ap-
plication area located at the northwest cor-
ner of Market and Pine Streets.

GENERAL LOCATION:

An area bordered on the south by Elm Street,
on the west by Main Street, on the north by
Pine Street, on the east by Market Street,
and also the northwest and southeast cor-
ners of Market and Pine Streets.

ZONING:

Subject property is zoned the "B" Multiple
Family Dwelling District, "LC" Light Com-
mercial District and the "C" Commercial
District. All surrounding properties are
also zoned a combination of "B", "LC" and
"C".

LAND USE:

Subject property is developed with an of-
fice building and associated off-street
parking. South is the old County Court-
house; north is office buildings and single
family residences; west is off-street park-
ing and a vacant office building; east is
off-street parking, single family and multi-
ple family residential development.

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 prop-
erty 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.

SECRETARY'S REPORT

Case No. BZA 6-77

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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).

COMMENTS BY THE SECRETARY:

This request is for a variance to reduce the required number of off-street parking spaces from 387 spaces to 254 spaces associated with the construction of a new corporate headquarters facility for the Martin K. Eby Construction Company. To provide 254 spaces, the applicants also need and are requesting a variance of a 20 foot front yard and 5 foot sideyard down to 0 feet for off-street parking purposes only at the northwest corner of Pine and Market Streets.

On August 24, 1976, the Board of Zoning Appeals considered a similar request by this applicant (BZA 31-76) to reduce the required number of off-street parking spaces from 387 spaces to 141 spaces. It was the action of the Board to approve the variance, on a temporary basis, as long as the 3rd, 4th and 5th floors of the new 5 story building remained unfinished and unoccupied. (Attached for your review is an excerpt of the August 24, 1976 minutes concerning this previous case). Since that meeting the applicants have acquired three separate parcels of additional land sufficient for an increase of 113 parking spaces, bringing the total number of spaces they can provide to 254 spaces.

Some of the questions that were raised at the previous meeting included: how many employees ride to work with people who park elsewhere; how many are in carpools; how many ride the bus (or have other means of arriving at work than by driving a personal automobile). Other information which would seem helpful to the Board would be: how much work station space is designed for the new structure and how much is in the existing building (how many people are both buildings designed to accommodate at capacity?); what are the employment projections for the company over the next several years; what are the plans for utilization of the existing building, will it be utilized by Eby, sold, or torn down. The applicant has submitted statements in support of both variance requests and these are attached for your review. The applicants will hopefully have additional information to present at the meeting which will provide answers to these and other questions.

As mentioned, a variance is also requested for that portion of the application area located at the northwest corner of Market and Pine Streets, to permit the full utilization of the property for off-street parking. The property is zoned the "B" Multiple Family Dwelling District which does not permit the 20 foot front yard setback or

SECRETARY'S REPORT
Case No. BZA 6-77
Page 3

the 5 foot side yard setback adjacent to Pine Street to be paved for parking. North of subject property is other "B" zoned property which contains a badly deteriorated single family home, while all other surrounding properties are zoned the "LC" or "C" districts which permit parking to the property lines. If this request is not approved, the total number of spaces that could be provided would be reduced by approximately 17 spaces.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that a unique situation exists for the reduction of 133 required off-street parking spaces based on the information now available, however, uniqueness may exist if the applicants can answer the questions raised, to show that 254 spaces will adequately serve the existing and future parking needs of the two buildings involved.

It is the opinion of the Secretary that the request to reduce the front and side yard setbacks at the N/W corner of Pine and Market may be a unique situation inasmuch as the only adjacent property that is not zoned to permit parking in the setback areas is the property to the north which, due to the condition of the existing residence thereon and the surrounding land uses, could be expected to redevelop as parking, or with a change of zoning to some office or commercial use.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance to reduce the number of required off-street parking spaces would not have an adverse affect on adjacent property owners if it can reasonably be determined that 254 parking spaces will provide a minimum ratio of 1 space for each employee working in both buildings.

It is the opinion of the Secretary that the setback variance for off-street parking would not adversely affect adjacent property owners due to existing and expected future land use and zoning in the area which permits parking to the property line.

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 applicants if they are required to provide a surplus of parking which is not needed to serve the needs of these buildings.

It is the opinion of the Secretary that a hardship may also exist if the applicants are not permitted to utilize the full potential of the land they do own for off-street parking purposes.

PUBLIC INTEREST:

It is the opinion of the Secretary that the public interest would not be adversely affected by the reduction of the required

SECRETARY'S REPORT

Case No. BZA 6-77

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number of off-street parking spaces as long as sufficient parking is provided to meet the parking needs generated by these buildings.

It is the opinion of the Secretary that the granting of the variance to reduce the side yard and front yard setbacks for parking would not adversely affect the public interest.

SPIRIT AND INTENT:

It is the opinion of the Secretary that it is difficult to determine that the granting of the requested variance of off-street parking spaces would not be opposed to the general spirit and intent of the zoning ordinance, but that if the above four conditions could be found to exist it would not be opposed to the general spirit and intent.

It is the opinion of the Secretary that the granting of the setback variance for parking would not be opposed to the general spirit and intent of the ordinance inasmuch as this neighborhood is in the process of transition from a residential neighborhood to an office and commercial area, where the requested variance will not conflict with existing and future land uses.

RECOMMENDATION:

As in the discussion of the above five conditions, it is difficult for the Secretary to recommend that the variance to reduce the number of required off-street parking spaces from 387 to 254 spaces be granted. This is not to say that evidence could not be presented to support a 113 space reduction in parking, but rather the information supplied thus far does not, in the opinion of the Secretary, meet the five conditions necessary to the granting of a variance.

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance can be found to reduce the required front yard setback from 20 feet to 0 feet and the south side yard setback from 5 feet to 0 feet for off-street parking purposes at the northwest corner of Pine and Market Streets. Therefore, it is recommended that this part of the variance request be granted.

26 notices sent to applicant and/or agent and adjoining property owners

10 notices sent to MAPC members

1 notice sent to CPO-Furnas

37 Total notices sent on BZA 6-77, 2-28-77

24

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main Street, Wichita, Kansas 67202

February 28, 1977

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-77

An application has been filed by the Martin K. Eby Construction Company, Inc., 610 North Main, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only for that portion of the application area located at the northwest corner of Market and Pine streets, all on property zoned the "B" Multiple Dwelling District, "LC" Light Commercial District, and "C" Commercial District, and legally described as follows:

Even numbered lots 34 through 60 on Main Street, the N 1/2 of Lot 35, and all odd numbered lots 37 through 47 and odd numbered lots 57 through 63 on Market Street, and lots 38, 40 and all even numbered lots 48 through 56 on Market Street, all in Munger's Original Town, Sedgwick County, Kansas. Generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine St., on the east by Market Street and also the northwest and southeast corners of Market and Pine Streets.

This application has been assigned Case No. BZA 6-77, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 22, 1977, 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

JESS MYERS
ATTORNEY AT LAW
P.O. BOX 1679, 610 NORTH MAIN
WICHITA, KANSAS 67201
(316) 267-1371

February 22, 1977

Board of Zoning Appeals
City Hall
455 North Main
Wichita, Kansas 67202

Re: Variance Request of Martin K. Eby Construction Co., Inc.

Gentlemen:

We request that a variance be granted from Chapter 28.04.141.3.9 to Martin K. Eby Construction Co., Inc., hereinafter referred to as Eby. Eby contemplates the erection of a five-story office building at 610 North Main Street, Wichita, Kansas. The above-mentioned paragraph of Title 28 to the Code of the City of Wichita requires owners of office buildings to provide, "...one space for each two hundred fifty square feet of floor area or one space for every three employees in the largest working shift in a twenty-four hour period, whichever is the greater." We presently exceed the "one-for-three" requirement of the ordinance by each employee having an individual parking space. However, literal enforcement of the "whichever is the greater" portion of the ordinance will result in unnecessary hardship to Eby. Accordingly, we request that we only be required to provide ~~256~~ parking spaces for our new facility. ²⁵⁴

This variance is requested for the following reasons:

1. We believe the variance requested arises from a condition that is unique to the use we are making of our property. As you are aware, we are building a five-story office complex which will ultimately serve as our corporate headquarters. We now have 101 employees in the largest working shift working in our existing building. We presently have parking facilities for 168 vehicles. This is more than ample parking to meet the parking requirements of our present staff. Since our variance case, BZA 31-76, acted upon by the Board of Zoning Appeals on August 24, 1976, we have attempted to purchase additional land for the singular purpose of providing sufficient parking space to meet our anticipated future needs. At the time of BZA case No. 31-76, we only had 141 parking spaces. Since that time we have purchased whatever land has been made available to us and now have land sufficient for 254.

vehicles. The purchase of this additional property has cost us in excess of \$140,000. This has had the effect of causing land prices to increase dramatically in this area and makes it much more difficult for us to acquire property at reasonable prices. In addition, we will be required to expend considerable funds to pave and prepare all of the land we presently own for parking lot use. We believe that 25 parking spaces adequately provide ample parking for corporate expansion and that a variance from the harsh requirements of Title 28 should be granted.

2. The granting of the permit for variance will not adversely affect the rights of adjacent property owners or residents in that the land on which the off-street parking will be located is adjacent to other commercial uses of property. Much of the land on which the off-street parking is located is presently in use as Eby Company parking.
3. We believe strict application of the provisions of Title 28 constitutes an unnecessary hardship upon Eby since the ordinance requires the parking lot computation to be based upon the square footage of floor area in the office facility and not upon actual need. Strict application of the ordinance requires us to provide 387 off-street parking stalls. Not only do we not have this many employees, but we do not anticipate the need to hire so many employees in our corporate office facility. The ordinance does not make allowance for square footage taken up by "common areas" in the building such as stairways, restrooms, storage areas, elevators, hallways and mechanical spaces. For instance, while the basement of the new building contains approximately 12,000 square feet, there will not be any work stations there. Although the basement will contain meeting rooms, the employees' lounge and other common use areas, strict application of Title 28 requires that square footage be included in the off-street parking computation. We are presently able to provide more than one parking stall for each corporate office employee and anticipate we will continue this practice.
4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. Our present parking areas do not adversely affect any of these matters and all future parking facilities will be designed and constructed in such a way as to not adversely affect any of the enumerated items.

Board of Zoning Appeals
Page -3-

5. The granting of this variance will not be opposed to the general spirit and intent of Title 28. We believe the Code intent is to require Eby to provide adequate parking for its employees. Our desire is to provide a good working environment for each of our employees. Providing them their individual off-street parking stall is part of our company's overall concern for each employee's welfare and protection. We believe this is consistent with the general spirit and intent of this section of Title 28.

We believe the requested variance should be granted for the above reasons. If further information concerning this matter is required, please advise.

Sincerely,

Jess Myers

Jess Myers

JM:jm

JESS MYERS
ATTORNEY AT LAW
P.O. BOX 1679, 610 NORTH MAIN
WICHITA, KANSAS 67201
(316) 267-1271

February 23, 1977

Board of Zoning Appeals
City Hall
455 North Main
Wichita, Kansas 67202

Re: Variance Request of Martin K. Eby Construction Co., Inc.

Gentlemen:

In addition to the variance requested from the hardship imposed by the literal enforcement of Title 28.04.141.3.9, we hereby request that a variance be granted from Title 28, Sections 28.04.070 C.1 and 28.04.070 C.2 for parking lot purposes only on that property legally described as:

Lots 57, 59, 61 and 63 on Chisholm, now Market Street, in Munger's Original Town, now City of Wichita, Sedgwick County, Kansas

to Martin K. Eby Construction Co., Inc., hereinafter referred to as Eby. This variance is requested for the following reasons:

1. As you are aware, Eby is required to provide sufficient off-street parking for employees to meet the requirements of Title 28, except as such requirements may be varied by the Board of Zoning Appeals. By companion letter of this date, we have requested that Eby be relieved from the unnecessary hardship to provide approximately 387 off-street parking spaces required by the literal enforcement of Title 28. The above described property is part of the land that we propose to use to meet the off-street parking requirements. In order to maximize off-street parking facilities, it is necessary that the front yard and side yard set back lines be reduced to zero (0) feet. As stated in the companion letter of this date, land prices have increased dramatically and we need to use all available land to meet the parking space requirements of Title 28.

2. The granting of the permit for variance will not adversely affect the rights of adjacent property owners or residents in that much of the land adjacent to the above

described property is presently used for commercial purposes. It appears that a similar variance has been granted to the property which is across Market Street to the east. We would expect to install whatever screening is required between our property and the residents located immediately to the north.

3. The strict application of the set back requirements will reduce the number of parking spaces which we can place on the above described property and thereby impose an unnecessary hardship upon Eby. As previously stated, land costs are increasing dramatically and economic factors dictate that all land we have purchased for parking lot use be used in that manner to meet the requirements of the Board of Zoning Appeals.

4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. Other parking areas are located in the general vicinity and most of the area is used for one commercial purpose or another.

5. The granting of this variance will not oppose the general spirit and intent of Title 28. The granting of this variance will assist Eby in meeting the requirements imposed by the Board of Zoning Appeals' application of Title 28 to the Eby five-story office building located at 610 North Main Street, Wichita, Kansas. It is our continuing desire to provide a good working environment for each of our employees by providing each one an off-street parking space.

We believe the requested variance should be granted for the above reasons. If further information is required, please advise.

Sincerely,



Jess Myers

JM:jm

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Martin K. Eby Construction Co., Inc.

610 North Main, P. O. Box 1679,
Mailing Address Wichita, Kansas 67201 Phone 267-1371

Name of Authorized Agent Jess Myers

Mailing Address Same as above Phone 267-1371

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

II. The variance requested is to relieve Applicant from the unnecessary hardship imposed by the literal enforcement of Title 28, Section

Reduce # of spaces from 337 to 254
28.04.141.3.9. and to reduce front yard and side yard set back
(Continued on attached schedule) (20') (5') *70' for off-street parking*
for property located 610 North Main Street, Wichita, Kansas.

and legally described as: Lots 34 to 60 even on Main Street
in Munger's Original Town, now Wichita, Sedgwick County, Kansas *see legal on abstract list*

in the City of Wichita; and which is presently zoned C, LC, B.

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.

Martin K. Eby Construction Co., Inc.

Applicant

Jess Myers
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 5:00 (a.m. - P.M.), 2-22 19 77 together with appropriate fee of \$50.00.

T9-402

Larry Dobson
Signed

II. (Continued) lines required by 28.04.070 C.1 and 28.04.070 C.2
to zero (0) feet for parking purposes only.

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Martin K. Eby Construction Co., Inc.

610 North Main, P. O. Box 1679,
Mailing Address Wichita, Kansas 67201 Phone 267-1371

Name of Authorized Agent Jess Myers

Mailing Address Same as above Phone 267-1371

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

II. The variance requested is to relieve Applicant from the unnecessary hardship imposed by the literal enforcement of Title 28, Section 28.04.141.3.9.

for property located 610 North Main Street, Wichita, Kansas.

and legally described as: Lots 34 to 60 even on Main Street
in Munger's Original Town, now Wichita, Sedgwick County, Kansas

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. 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.

Martin K. Eby Construction Co., Inc.

Applicant

Jess Myers

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 5:00 (a.m. P.M.), 2-22 1977
together with appropriate fee of \$50.00.

T9-402

Larry Dobson
Signed

Superseded

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS:
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas,

All the owners within 200 feet of:

Lots 34, 36, 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58 & 60, on Main Street, and Lots 35, 37, 39, 41, 43, 45, 47, 57, 59, 61 & 63, on Market Street, and Lots 38, 40, 48, 50, 52, 54 & 56, on Market Street, all in MUNGER'S ORIGINAL TOWN, Sedgwick County, Kansas. *only N. 1/2*



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>LOTS</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
34, 42, 44, 46, 48, 50, 52, 54, 56, 58 & 60, on Main Street,	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc. 610 North Main Wichita, Kansas 67203
36, 38 & 40, on Main Street	MUNGERS ORIGINAL TOWN	X John F. Eby X Address Unknown <i>Not in phone book</i>
South Half of Lot 35, on Market Street	MUNGERS ORIGINAL TOWN	X Jewel Joan Branson X Address Unknown <i>" " CD</i> <i>" " SD</i>
North Half of Lot 35, & all of Lots 37, 39, 41, 43, 45 & 47, on Market Street	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc. 610 North Main Wichita, Kansas 67203
49 & 51 on Market	MUNGERS ORIGINAL TOWN	Utility Contractors 659 North Market Wichita, Kansas 67214



<u>LOTS</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
53 & 55 on Market	MUNGERS ORIGINAL TOWN	Utility Contractors D 659 North Market Wichita, Kansas 67214
57, 59 & 61 on Market	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc D 610 North Main Wichita, Kansas 67203
38 & 40, on Market	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc D 610 North Main Wichita, Kansas 67203
All Lot 42 & South Half of Lot 44 on Market	MUNGERS ORIGINAL TOWN	Mary A. Gatz <i>not in SD</i> Address Unknown <i>not in SD</i>
North Half of Lot 44 & all of Lot 46 on Market	MUNGERS ORIGINAL TOWN	W. B. Richardson D 624 North Market Wichita, Kansas 67214
48, 50, 52, 54 & 56, on Market	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc D 610 North Main Wichita, Kansas 67203
25, 27, 29 & 31, on Main	MUNGERS ORIGINAL TOWN	Sedgwick County, Kansas
33, 35, 37, 39, 41, & 43, on Main	MUNGERS ORIGINAL TOWN	Board of County Commissioners Sedgwick County, Kansas
45, on Main	MUNGERS ORIGINAL TOWN	Urban Renewal Agency D 455 North Main Wichita, Kansas 67202
47, 49 & 51 on Main	MUNGERS ORIGINAL TOWN	Francis L. & Helen M. Jehle D 8 East Lynwood Boulevard Wichita, Kansas 67207
All Lot 53 & Lot 55, except North 10.13 feet on Main	MUNGERS ORIGINAL TOWN	Board of County Commissioners D Sedgwick County, Kansas
North 10.13 feet of Lot 55, and all of Lots 57, 59, 61 & 63 on Main	MUNGERS ORIGINAL TOWN	Francis L. & Helen M. Jehle D 8 East Lynwood Boulevard Wichita, Kansas 67207
65, 67, 69, 71 & 73, on Main	MUNGERS ORIGINAL TOWN	Urban Renewal Agency D 455 North Main Wichita, Kansas 67203
62 & 64, on Main	MUNGERS ORIGINAL TOWN	Schugler Jones D 308 North Broadview Wichita, Kansas 67208



<u>LOTS</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
66 on Main	MUNGERS ORIGINAL TOWN	Utility Contractors 659 North Market Wichita, Kansas 67214
68, 70 & 72 on Main	MUNGERS ORIGINAL TOWN	Albert P. & Rena Guerra 706 North Main Wichita, Kansas 67203
74 & 76, on Main	MUNGERS ORIGINAL TOWN	L & M Investment Inc. <i>mail</i> 314 Central Building <i>retel</i> Wichita, Kansas 67202 <i>3-19</i>
78, on Main	MUNGERS ORIGINAL TOWN	James W. Sargent - Trustee of Nestor Weigand 330 North Roosevelt Wichita, Kansas 67208
80, on Main	MUNGERS ORIGINAL TOWN	Fred Reinhart Jr. 419 Woodland Avenue Wichita, Kansas 67203
82 & 84, on Main	MUNGERS ORIGINAL TOWN	Samuel T. & Helen L. Luinstra 1202 North Gow Wichita, Kansas 67203
86, on Main	MUNGERS ORIGINAL TOWN	Fairbank Equipment Inc. 2700 Jewell Wichita, Kansas 67213
63, on Market	MUNGERS ORIGINAL TOWN	Martin K. Eby Construction Inc 610 North Main Wichita, Kansas 67203
65 & 67, on Market	MUNGERS ORIGINAL TOWN	Samuel T. & Helen L. Luinstra 1102 North Gow Wichita, Kansas 67203
69, on Market	MUNGERS ORIGINAL TOWN	Elvin E. Jr. & Mary Ann Vliet 202 East 33rd Street North Wichita, Kansas 67219
71, 73, 75 & South 5 feet of Lot 77, on Market	MUNGERS ORIGINAL TOWN	Wichita Home Builders Enter- prises, Inc. 730 North Main Wichita, Kansas 67203
29, 31 & 33, on Market	MUNGERS ORIGINAL TOWN	Jewel Joan Branson Address Unknown
West 71 feet of Lot 28, on Market	MUNGERS ORIGINAL TOWN	Charles Kleinham <i>mail</i> Address Unknown <i>planned</i> <i>not in 50</i>
East 61 feet of Lot 28, on Market	MUNGERS ORIGINAL TOWN	Trustees of First Presbyterian Church 525 North Broadway Wichita, Kansas 67214



<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
30 & 32, except East 50 feet & 10 inches on Market	MUNGERS ORIGINAL TOWN	Commodore Inc. Merging into Gardner Land Inc. Registered office - 458 North Market Wichita, Kansas 67202
East 50 feet and 10 inches of Lots 30& 32, on Market	MUNGERS ORIGINAL TOWN	Ray A. & Olive G. Vanier 5421 South 68th Street E Place Tulsa, Oklahoma 74145
34, on Market	MUNGERS ORIGINAL TOWN	Commodore Inc. Merging into Gardner Land Inc. Registered Office - 458 North Market Wichita, Kansas 67202
36, on Market	MUNGERS ORIGINAL TOWN	Esther A. Williams 606 North Market Street, Apt. 1 Wichita, Kansas 67214
58, 60 & 62, on Market	MUNGERS ORIGINAL TOWN	Ray Hodge 1002 South Maize Road Wichita, Kansas 67209
64 & 66, on Market	MUNGERS ORIGINAL TOWN	Warner & Warner, a partnership composed solely of Harold L. & Mildred M. Warner 144 South Dexter Avenue Valley Center, Kansas 67147
All Lot 68 & South 20 feet of Lot 70 on Market	MUNGERS ORIGINAL TOWN	Warner & Warner, a partnership composed solely of Harold L. & Mildred M. Warner 144 South Dexter Avenue Valley Center, Kansas 67147
North 10 feet of Lot 70, all of Lot 72 & South 10 feet of Lot 74 on Market	MUNGERS ORIGINAL TOWN	Harold L. & Mildred M. Warner 144 South Dexter Avenue Valley Center, Kansas 67147
North 20 feet of Lot 74 & all of Lot 76, on Market	MUNGERS ORIGINAL TOWN	Irene McMurtray 526 North Topeka, Apt. 1 Wichita, Kansas 67214
27, on Broadway	MUNGERS ORIGINAL TOWN	Trustees of First Presbyterian Church 525 North Broadway Wichita, Kansas 67214
29 & 31, on Broadway	MUNGERS ORIGINAL TOWN	Ray A. & Olive G. Vanier 5421 South 68th East Place Tulsa, Oklahoma 74145
33, 35 & South 25 feet of Lot 37, on Broadway	MUNGERS ORIGINAL TOWN	Bethel College North Newton, Kansas 67117



<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
North 5 feet of Lot 37 & all of Lots 39, 41, 43, 45, 47, 49, 51, 53 & 55, on Broadway	MUNGERS ORIGINAL TOWN	Byrd-Snodgrass Funeral Home Inc 633 North Broadway Street Wichita, Kansas 67214
57, 59 & South 10 feet of Lot 61, on Broadway	MUNGERS ORIGINAL TOWN	✓ Phillip G. Ruffin 1458 Willow Road Wichita, Kansas 67208
North 20 feet of Lot 61 & all of Lot 63, on Broadway	MUNGERS ORIGINAL TOWN	✓ Keith P. Pendergraft 707 North Broadway Wichita, Kansas 67214 <i>mail rtd 3-3-77</i>
65, 67 & 69 on Broadway	MUNGERS ORIGINAL TOWN	✓ City of Wichita 455 North Main Wichita, Kansas 67202

re-sent to 5914 Co Zimmermanly



Dated at Wichita, Kansas, this 18th day of February, 1977, at 7:00 o'clock A.M.

FIDELITY TITLE COMPANY, INC.

By *Anita Gray*
Asst. Sec. ag

Tracer No. 36670



BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main Street, Wichita, Kansas 67202

February 28, 1977

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-77

An application has been filed by the Martin K. Eby Construction Company, Inc., 610 North Main, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the number of required off-street parking spaces from 387 spaces to 254 spaces; and to reduce the required front yard setback from 20 feet to 0 feet and the required side yard setback from 5 feet to 0 feet for off-street parking purposes only for that portion of the application area located at the northwest corner of Market and Pine streets, all on property zoned the "B" Multiple Dwelling District, "LC" Light Commercial District, and "C" Commercial District, and legally described as follows:

Even numbered lots 34 through 60 on Main Street, the N 1/2 of Lot 35, and all odd numbered lots 37 through 47 and odd numbered lots 57 through 63 on Market Street, and lots 38, 40 and all even numbered lots 48 through 56 on Market Street, all in Munger's Original Town, Sedgwick County, Kansas. Generally located in an area bordered on the south by Elm Street, on the west by Main Street, on the north by Pine St., on the east by Market Street and also the northwest and southeast corners of Market and Pine Streets.

This application has been assigned Case No. BZA 6-77, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 22, 1977, 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

THE CITY OF WICHITA



Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main Street
Wichita, Kansas 67202



L and M. Investment, Inc.
314 Central Building
Wichita, Kansas 67202

Important!
Notice of Hearing
Enclosed

*not in
phone book
city dir, or SD*

*not at this
address*

Form 2-77 021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - SECOND 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
BZA Variance Application	\$5000

Name Martin K. Gog Const. Co.

Address 455 N. Main

Type AA 407103 Due Date 2-22-77

Comments:

Date 2-22-77 By [Signature]

THE CITY OF WICHITA



Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main
Wichita, Kansas 67202

Important!
Notice of Hearing
Enclosed



**NOT DELIVERABLE AS ADDRESSED
NO FORWARDING ORDER ON FILE
DEY DEL UNIT**

Keith P. Pendergraft
707 N. Broadway
Wichita, Kansas 67214



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

Roll # 1