

BZA 9-69 - Robert Moore requests  
variance of front yard for parking  
West side of Market between Orme  
and Kellogg.

POSTED  
5/27/69  
MAPP ✓  
C.I. ✓

BZA Meeting June 24, 1969

**ACTION**

DATE

Approved subject to condition  
6-24-69

COMMITTEE

M.A.P.C.

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

BZA

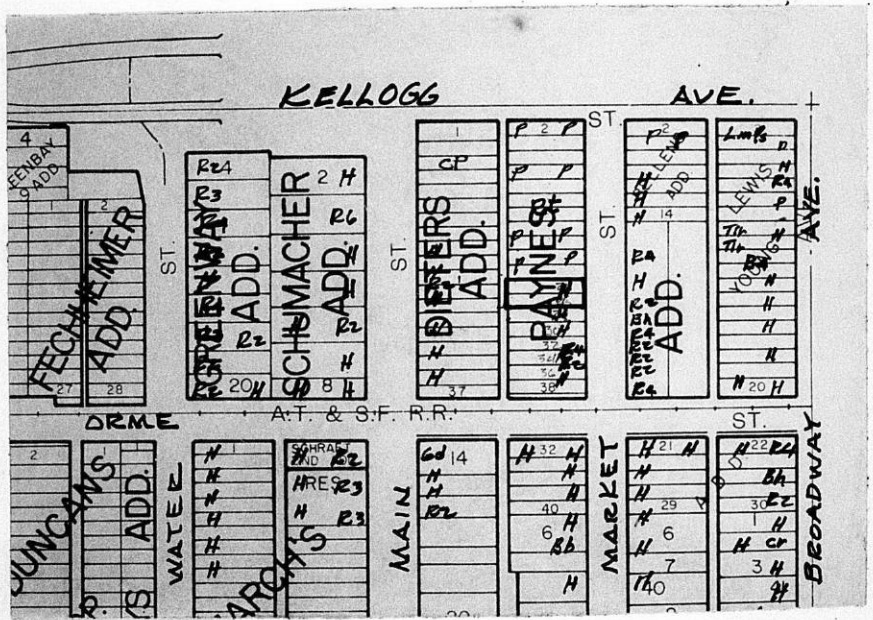
5

Map No. 5446  
 Sec. 29  
 Twp. 27  
 Range 1E

B2A 9-69  
 SC2-  
 CU-  
 Filed

- AREA DATA:  
 1. Acres: 0.16 ( 50 ft. by 140 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East Multi-Two SINGLE FAMS South SINGLE FAM  
 West SINGLE & Two-FAM North PARKING  
 4. Sketch Plan Land Use is for: RESIDENTIAL  
 5. Present Land Use is for: SINGLE FAM  
 6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



RESOLUTION NO. BZA 9-69

WHEREAS, Robert W. Moore, 6215 East Kellogg, by Render, Kamas & Kelly, 612 Union National Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family District, and legally described as follows:

Lots 24 and 26, on Market Street, and Reserve A, adjacent on the West, Payne's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Market between Orme and Kellogg.

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 June 24, 1969, 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 applicant desires to provide additional off-street parking in excess of that required by the zoning ordinance; 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 property to the north is under the same ownership and is utilized for an off-street parking lot that with proper screening on the south, adjacent properties would not be adversely affected; and

WHEREAS, the Board of Zoning Appeals has found 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 inasmuch as an area which is of no practical purpose would have to be retained and could not be utilized for off-street parking; 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 inasmuch as it would tend to eliminate possible on-street parking; 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 a variance can be justified in circumstances such as this when the area is adjacent to an existing parking lot and be effectively screened from adjacent residences; 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, have been found to exist.

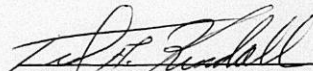
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required front yard setback from 20 feet to 0 feet on property zoned "B" Multiple Family District and legally described as:

Lots 24 and 26, on Market Street, and Reserve A adjacent on the West, Payne's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Market between Orme and Kellogg.

be approved subject to the following conditions:

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the east 20 feet thereof. This condition replaces the requirement of fencing associated with BZA Case No. 3-69 to the north.

ADOPTED AT WICHITA, KANSAS, this 24th day of June, 1969.

  
TED A. KENDALL, Chairman Pro tem

ATTEST:

  
JACK H. GALBRAITH, Secretary

June 27, 1969

Mr. Robert W. Moore  
6215 East Kellogg  
Wichita, Kansas 67218

Subject: Case No. BEA 9-69  
Request for Variance

Dear Mr. Moore:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 24, 1969, in connection with your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B", and generally located on the west side of Market between Orme and Kellogg.

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

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:so

Attachment

cc: James B. Zongker  
Render, Kamas & Kelly  
6215 East Kellogg  
Wichita, Kansas 67218

Robert Feldner  
Superintendent of  
Central Inspection

Ralph Eberly  
City Clerk

June 24, 1969

Mr. Robert W. Moore  
6215 East Kellogg  
Wichita, Kansas 67218

Subject: Case No. BZA 9-69  
Request for Variance

Dear Mr. Moore:

At the regular meeting of the Board of Zoning Appeals on June 24, 1969, your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B", and generally located on the west side of Market between Orms and Kellogg, was considered.

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

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. A 5 to 8 foot high solid fence constructed of masonry architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the east 20 feet thereof. This condition replaces the requirement of fencing associated with BZA Case No. 3-69 to the north.

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 Pro tem and Secretary have been obtained.

Mr. Robert W. Moore  
June 24, 1969

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

Sincerely,

Jack H. Galbraith  
Secretary

JHG:so  
CC: James B. Zongker  
Render, Kamas & Kelly  
6215 East Kellogg  
Wichita, Kansas 67218

Robert Feldner  
Superintendent of Central Inspection

Ralph Eberly  
City Clerk

SECRETARY'S REPORT  
CASE NO. BZA 9-69

APPLICANT: Robert W. Moore, 6215 E. Kellogg, Wichita, Kansas.

AGENT: Render, Kamas, & Kelly, 612 Union Nat'l. Bldg,  
Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the  
City of Wichita, to reduce the required front yard  
setback from 20 feet to 0 feet for off-street park-  
ing purposes only.

GENERAL LOCATION: West side of Market between Kellogg and Orme.

ZONING: Subject property is zoned "B" Multiple Family as are  
those properties to the north, south, east and west.

LAND USE: Subject property is occupied by a single family resi-  
dence, as is that to the south, east and west is  
single family and duplex, with a parking lot to the  
north.

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 ordi-  
narily 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 pub-  
lic 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

Subject property is zoned "B" as is that to the north, south, east and west. As you may recall, the Board of Zoning Appeals, on March 25, 1969, approved an application to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only (BZA 3-69) for the property adjacent on the north which is under the same ownership as this request.

The applicant states that while sufficient off-street parking presently exists to meet code requirements for the Hanover Pancake House located to the north, it is insufficient to meet business demands. They are, therefore, requesting that the front yard setback requirement be reduced to 0 feet in order that the front yard may be utilized for parking and circulation aisle purposes.

Taking into consideration the relationship of the lots contained in this application with the existing parking lot to the north it would appear that the alley on the west is intended to be used for ingress and egress. It should be pointed out that in conversations with the Engineering Division that if the alley is to be used for ingress and egress it should either be paved to City specifications or barriers installed to prohibit ingress and egress.

UNIQUENESS

It is the opinion of the Secretary that this is somewhat of a unique situation in that the applicant desires to provide additional off-street parking in excess of that required by the zoning ordinance.

ADJACENT PROPERTY

It is the opinion of the Secretary that inasmuch as the property to the north is under the same ownership and is utilized for an off-street parking lot that with proper screening on the south, adjacent properties would not be adversely affected.

HARDSHIP

It is the opinion of the Secretary that if this variance is not granted it would create a hardship for the applicant inasmuch as an area which is of no practical purpose would have to be retained and could not be utilized for off-street parking.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not affect the public interest in that it would tend to eliminate possible on-street parking.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance would not be opposed to the general spirit and intent of Title 28 inasmuch as a variance can be justified in circumstances such as this when the area is adjacent to an existing parking lot and be effectively screened from adjacent residences.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can be found to exist and therefore, it is recommended that a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only, be approved subject to the following conditions:

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
- ~~2. The applicant shall submit a valid petition for the paving of the alley adjacent to the application area or install permanent barriers to prohibit ingress and egress.~~
2. A 5 to 8 foot high solid fence constructed of masonry architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the east 20 feet thereof. *This condition replaces the requirement of fencing associated with BZA case number 13-69 to the north.*

BZA 9-69 - 14 Notices to Adjoining Property Owners Mailed 6-4-69 for 6-24-69  
BZA Meeting

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

June 4, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 9-69

An application has been filed by Robert W. Moore, 6215 E. Kellogg Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a Variance to reduce the front yard set-back from 20 feet to 0 feet for off-street parking purposes only, on property zoned "B" Multiple Family District and legally described as follows:

Lots 24 and 26, on Market Street, and Reserve A adjacent on the West, Payne's Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Market between Orme and Kellogg.

This application has been assigned Case No. BZA 9-69, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 24, 1969, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 9-69  
FILED 5-23-69  
*Map 5446*

APPLICATION FOR VARIANCE

1. Name of Applicant ROBERT W. MOORE  
Mailing Address 6215 E. Kellogg, Wichita, Kansas Phone MU3-5631  
Name of Authorized Agent RENDER, KAMAS & KELLY  
Mailing Address 612 Union Nat'l Bldg., Wichita Phone 267-2212

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

II. The variance requested is <sup>*to reduce the front yard setback from 20 ft to 0 ft*</sup> ~~to Section 28,04.140 of the Code of the~~  
~~City of Wichita to permit the installation for construction of off-~~  
~~street parking spaces and circulation aisles within the front yard~~  
*for off-street parking purposes only.*  
set back  
for property located 715 South Market Street

*OK for legal*

W. Side of Market in an area between Cornix Kellogg  
and legally described as: Lots 24 and 26, on Market Street, and  
Reserve A adjacent on the West, Payne's Addition to Wichita, Sedgewick County,  
*Kansas*

in the City of Wichita; and which is presently zoned B.  
(Give metes and bounds description below if appropriate):

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
  - b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
  - c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
  - d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

ROBERT W. MOORE  
Applicant  
RENDER, KAMAS & KELLY  
By *James B. Zanker*  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,  
7:00 (a.m. - P.M.), 5-23-69, 1969, together with  
appropriate fee of \$50.00.

*Lynn Shiskey*  
Signed BR

STATEMENT

The property for which the variance is requested is 50 feet North and South throughout by 144.5 feet East and West throughout, and located 275 feet South of Kellogg on Market. The property is south of C zoned property owned by applicant and leased as a Hanover Pancake House, and is presently being used for off street parking in conjunction with the restaurant operation and is adjacent south of B zoned property also being used for parking. The number of off street parking spaces and circulation aisles available to the restaurant operation are sufficient to meet code requirements, but are insufficient to meet its business requirements, which condition has not been created by any action of the applicant.

The granting of the variance will not adversely affect the rights of the adjacent property owner or residents, and the applicant will comply with all code requirements relating to screening for aesthetic and safety purposes.

The denial of the requested variance would restrict the on-site parking spaces and circulated aisles available to the restaurant operation and would create a hardship due to unavailability of property for additional on side parking areas. The variance desired will not adversely affect the public health, safety or welfare and would afford additional convenience and safety for persons using the off street parking area. Further, such granting would be consistent with the general spirit and intent of Title 28 in providing adequate off street parking.

O W N E R S H I P   L I S T

Lot	Street	Addition	Property Owner
5, 7, 9, 11, 13 & N 15' Lot 15	Main	Dieters	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
S 10' of Lot 15 & Lot 17	"	"	Howard M. Barger Hazel Barger 720 S. Main Wichita, Kansas 67213
19 & 21	"	"	Lola Edna Sanders 726 S. Main Wichita, Kansas 67213
23 & 25	"	"	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
27 & N 9' of Lot 29	"	"	Sai Chan Wong Johanna Wong 732 S. Main Wichita, Kansas 67213
S 16' Lot 29 & N 17' of Lot 31	"	"	Warren C. Grubb Mary G. Grubb 740 S. Main Wichita, Kansas 67213
S 8' Lot 31 & Lot 33	"	"	Jennie Rollings Everett Rollings 744 S. Main Wichita, Kansas 67213
35 & 37	"	"	Gibbons Refrigeration, Inc. 800 S. Main Wichita, Kansas 67213
6, 8, 10, & 12	Market	Paynes	Wilbur E. Walker Bernice H. Walker 16 Douglas Avenue Wichita, Kansas 67206 Same
That part of Res A, in Dieters Add adj Lots 6, 8, 10 & 12, Paynes Add on West			
14, 16, 18 20 & 22	Market	Paynes	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
That part of Res A, adj Lots 14, 16, 18, 20 & 22, Paynes Add on West		Dieters	Same

Lot	Street	Addition	Property Owner
24 & 26	Market	Paynes	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
That part of Res A, adj Lots 24 & 26, Paynes Add on the West		Dieters	Same
28 & 30	Market	Paynes	Naomi Henderson 1822 S. Broadway Wichita, Kansas 67211
That part of Res A, Dieters Add adj Lots 28 & 30, Paynes Add on the West		Dieters	Same
32 & 34	Market	Paynes	John Bateman Irene Bateman Address unknown
That part of Res A, Dieters Add adj Lots 32 & 34, Paynes Add on the West		Dieters	Same
W 40' Lots 36 & 38; & W 40' of N 10' Lot 40	Market	Paynes	Ethel L. Dean 116 E. Orme Wichita, Kansas 67211
That part of Res A, Dieters Add adj Lots 36, 38, & N 10' Lot 40, Paynes Add on the West		Dieters	Same
E 89.69' Lot 36 & E 89.69' of N 5' Lot 38	Market	Paynes	Winifred W. Day Address unknown
E 89.69' of S 20' of Lot 38 & E 89.69' of N 10' Lot 40	"	"	Robert E. Donovan Neva F. Donovan 745 S. Market 67211
Beg at NW/cor Lot 3, on Market St. Paynes Add, th S 40', th E 140', th N 40', th W 140' to beg			W. E. Crosby 712 S. Market Wichita, Kansas 67211
Beg 40' S of NW/cor Lot 3, on Market St, Paynes Add, th E 140', th S 40', th W 140', th N 40' to beg			Mar Thick Pon Wong Ai Ling Address unknown

Description

Property Owner

Beg 80' S of NW/cor Lot 3, Market St,  
Paynes Add, th S 40', th E 140', th  
N 40', th W 140' to beg

X Robert F. Mah,  
Mar Thick Pon,  
Mar Thick Ho,  
King Lem  
Address unknown

Beg 120' S of NW/cor Lot 3, Market St.  
Paynes Addition, th S 40', th E to alley,  
th N 40', th W to beg

✓ Cara Phillips  
724 S. Market  
Wichita, Kansas 67211

Beg 160' S of NW/cor Lot 3, Market St,  
Paynes Add, th S 40', th E 141.06' to  
W ln of alley, th N 40' along alley, th  
W 141.06' to beg

X Thelma Abbott  
Address unknown

Beg 200' S of NW/cor Lot 3, Market St,  
Paynes Add, th S 40', th E to W side of  
alley, th N along alley 40', th W to beg

✓ Anna Lasater  
901 S. Holyoke  
Wichita, Kansas 67218

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 Ft radius of Lots 24 and 26, on Market Street, in Paynes Addition and that part of Reserve A, Dieters Addition adjoining said Lots 24 and 26 on the West, as shown by the last deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 16th day of May, 1969 at 7:00 A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

*Mary Gable*  
Vice President *Asst Secy*

Order No. 163214  
jwp

KELLOGG AVE

LOTS 2, 4, 6, 8, 10, 12, 14, 16 & 18  
AND RESERVE A ADJACENT ZONED "C"

PANCAKE HOUSE

LOT 20 ZONED "B"

LOT 22 ZONED "B"

225.0

MARKET

50.0

LOTS 2, 4, 6, 8, 10, 12, 14, 16 & 18  
AND RESERVE A ADJACENT ZONED "C"

PANCAKE HOUSE

LOT 20 ZONED "B"

LOT 22 ZONED "B"

LOT 24 ZONED "B"

LOT 26 ZONED "B"

0.522

MARKET

0.05

0.05

1222099 1746

LOTS 2, 4, 6, 8, 10, 12, 14, 16 & 18  
AND RESERVE A ADJACENT ZONED "C"

PANCAKE HOUSE

LOT 20 ZONED "B"

LOT 22 ZONED "B"

LOT 24 ZONED "B"

20'

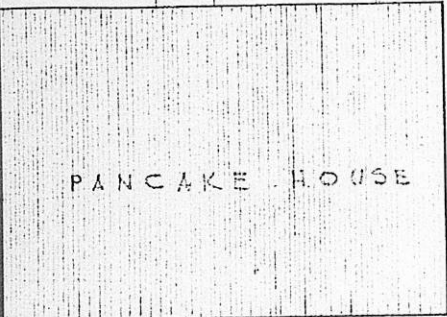
225' 0"

MARKET

50' 0"

50'

LOTS 2, 4, 6, 8, 10, 12, 14, 16 & 18  
AND RESERVE A ADJACENT ZONED "C"



LOT 20 ZONED "B"

LOT 22 ZONED "B"

LOT 24 ZONED "B"

LOT 26 ZONED "B"

20'

20'

0.522

MARKET

0.105

0.105

Form 271-271

**PAYMENT NOTICE**

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
R-3A Applications	50.00

Name

Address

Type

Due Date

Comments:

R-71-C

Date

By

5-21-69 B.R.