

BZA 12-66 - Eastminster United Presbyterian Church requests variance of required off-street parking spaces on the north side of 9th Street between Armour and Lawrence Lane

E-9

POSTED  
5-2-66

✓  
5948

ACTION

DATE 5-24-66  
By COMMITTEE App

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

R E S O L U T I O N N O . B Z A 1 2 - 6 6

WHEREAS, Eastminister United Presbyterian Church, 9th and Armour, Wichita, Kansas, by Robert L. Howard, 600 Fourth National Bank Building, Wichita, Kansas, requests a variance of the Zoning Ordinance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, from the requirement of 89 off-street parking spaces under Section 28.04.140.2.4, Code of the City of Wichita, to 64 off-street parking spaces, in connection with the expansion of church facilities on property zoned "AA" and legally described as follows:

Lots 1 and 2, Block 5, First Addition to Pine Valley Estates, in the City of Wichita, Sedgwick County, Kansas. Generally located on the north side of 9th Street in an area between Armour and Lawrence Lane; and

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, in regular meeting, consider this application on May 24, 1966; and

WHEREAS, the Board of Zoning Appeals has found that the request for a 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 9th Street does deadend at the drainage channel and, further because of a lack of financial resources the church is unable to pave all of the required parking area at this time as required in the zoning ordinance; and

WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the rights of adjacent property owners inasmuch as there is a school across the street and no adjoining property owner has appeared in opposition; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the applicant inasmuch as finances are not available to pave the required area at this time and to also construct the balcony proposed in the enlargement of church facilities, and it is the desire of the applicant to complete the balcony at this time when other structural changes are made in the facilities; and

WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not be opposed to the general spirit and intent of Title 28, Code of the City of Wichita; and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita, necessary 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 the request for a variance of the required 89 off-street parking spaces to be reduced to 64 off-street parking spaces be approved, subject to the church submitting a letter to the Secretary of the Board, to be approved by the Legal Counsel, stating that within a two-year period from the date of completion of the present church construction, the church would comply with the 89 off-street parking spaces, on property zoned "AA" Single Family Residential, and legally described as follows:

Lots 1 and 2, Block 5, First Addition to Pine Valley Estates, in the City of Wichita, Sedgwick County, Kansas. Generally located on the north side of 9th Street in an area between Armour and Lawrence Lane,

and that the Superintendent of Central Inspection be authorized to issue the appropriate permit.

ADOPTED AT WICHITA, KANSAS, this 24th day of May, 1966.

Harold Bauer  
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith  
Jack H. Galbraith, Secretary

June 22, 1966

Eastminister United Presbyterian  
Church  
9th and Armour  
Wichita, Kansas

Gentlemen:

Re: BZA 12-66 - Request for Variance  
of parking spaces

We have received your letter dated June 10, 1966, agreeing to the condition of providing the required number of off-street parking spaces within two years from the completion date of the present construction. The Legal Counsel for the Board has approved the letter of agreement and it is now a permanent part of the file.

We have completed the preparation of the Resolution adopted by the Board in connection with the abovenumbered case, which was heard by the Board on May 24, 1966, which Resolution has been signed by the Chairman and Secretary.

As indicated in our letter of June 7, 1966, we are enclosing a copy of this Resolution for your information and files. A copy has also been provided the Central Inspection Division, along with a copy of your letter, and you may now obtain the appropriate permit with respect to the expansion of your church facilities on the north side of 9th Street in an area between Armour Lane and Lawrence Lane.

Please let us know if you have any questions concerning this case.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:Wiber  
Enclosure

cc: Bob Gedberry, 6519 East Jacqueline  
Robert L. Howard, 600 Fourth National Bank Building  
Glen Lytle, Superintendent of Central Inspection  
L. L. Binkley, Maintenance Inspection Supervisor  
Ralph Eberly, City Clerk

June 10, 1966

The Board of Zoning Appeals  
City of Wichita  
City Building Annex  
104 South Main  
Wichita, Kansas

Attention: Jack H. Galbraith  
Secretary

Re: Case EZA 12-66 - Request for variance  
of parking spaces  
Eastminister United Presbyterian Church

Gentlemen:

Thank you for your letter of June 7, 1966, concerning the action taken by the Board of Zoning Appeals. It is my understanding that in the event city legal counsel does not approve the terms on which this variance is granted the Board will retain jurisdiction of the case for further hearing.

Following the hearing on May 24, 1966, the session and Board of Trustees authorized the acceptance of the conditions specified. This letter is to confirm that understanding and to serve as a contractual commitment on the part of the Church to undertake completion of the required 89 off-street parking spaces, within a two-year period from the date of completion of the present construction. It is our understanding that the variance will allow us to complete the present construction with only 64 off-street parking spaces.



The Board of Zoning Appeals  
June 10, 1966  
Page Two

We appreciate the consideration of the Board in this matter, and if there are any questions, please feel free to contact me.

Very truly yours,



Robert L. Howard  
Chairman, Board of Trustees  
Eastminster United Presbyterian Church  
9th and Armour  
Wichita, Kansas

RLH:csf

cc: Robert Gadberry, 6519 Jacqueline  
Glen Lytle, Superintendent of Central Inspection  
Keith E. Seelig, Minister, Eastminster United  
Presbyterian Church

*Approved the 21st of June, 1966 -  
L. H. S. Johnson  
and City Clerk*

June 7, 1966

Eastminister United Presbyterian  
Church  
9th and Armour  
Wichita, Kansas

Gentlemen:

Re: Case BZA 12-66 - Request for variance  
of parking spaces

This is to advise you that at its regular meeting on May 24, 1966, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to reduce the required number of off-street parking spaces from 89 to 64, in conjunction with the expansion of church facilities on the north side of 9th Street in an area between Armour Drive and Lawrence Lane.

It was the consensus of the Board that this variance request was temporary in nature and was to alleviate a financial hardship for only a short period of time. Therefore, it was the action of the Board to approve the variance request, subject to the church submitting a letter to the Secretary of the Board, to be approved by the Legal Counsel, stating that within a two year period from the date of the completion of the present construction, the church would comply with the required 89 off-street parking spaces.

A resolution effectuating the action of the Board will be mailed to you as soon as it is prepared and signatures of the Chairman and Secretary of the Board obtained. If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:HW:ber

cc: Bob Gadberry, 6519 Jacqueline  
Robert L. Howard, 600 Fourth National Bank Bldg.  
Glen Lytle, Superintendent of Central Inspection  
L. L. Binkley, Maintenance Inspection Supervisor  
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 12-66

APPLICANT: Eastminister United Presbyterian Church, 9th and Armour, Wichita, Kansas

AGENT: Robert L. Howard, 600 Fourth National Bank Building

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit 64 off-street parking spaces rather than 89 as required by the ordinance

GENERAL LOCATION: North side of 9th Street in an area between Armour and Lawrence Lane

ZONING: Subject property and all surrounding property is zoned "AA" Single family

LAND USE: Subject property is a church; to the south is a school, to the west is single family and to the east is the drainage ditch

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, 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.)

COMMENTS BY THE SECRETARY

The applicant is requesting a variance of the required off-street parking from 89 to 64 spaces. The applicant points out in his statement of justification that approximately 30 cars could be parked



on Ninth Street, which deadends at the drainage ditch. There are no dwellings on Ninth Street between Armour and the drainage ditch. The Eastminister United Presbyterian Church is on the north side and the Kos Harris Elementary School is on the south side.

Ninth Street is a half section line road and serves as the east-west collector for the section. Although Ninth Street presently deadends at the drainage ditch, it is the opinion of the Secretary that at such time as the Northeast quarter of the section is platted, Ninth Street will be continued to Rock Road and serve as a collector street.

The church has sufficient area on the site to provide the required off-street parking, but desires the variance because the paving cost of the parking lot would put a strain on its finances. The estimated cost of pavement for the 25 parking spaces is \$2,400.

#### UNIQUENESS

It is the opinion of the Secretary that there is nothing unique concerning this request which is not self-created by the applicant inasmuch as there is sufficient area on the lot to provide the required off-street parking.

#### ADJACENT PROPERTY

It is the opinion of the Secretary that the variance request would not adversely affect the adjacent property inasmuch as the only other property affected is Kos Harris Elementary School and the church and school would not be utilizing Ninth Street at the same time.

#### HARDSHIP

The applicant has pointed out in his statement of justification that the church would suffer a financial hardship if the variance is not granted. Financial hardship has not generally been accepted by the courts as sufficient justification for a hardship. It is, therefore, the opinion of the Secretary that only a financial hardship exists and that this is not sufficient justification.

#### PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance could have an adverse effect on the public welfare inasmuch as at such time as Ninth Street crosses the drainage ditch, a substantial amount of on-street parking would create traffic congestion and would be a hazard to the safety and welfare of the surrounding neighborhood.

Page 3 - Secretary's Report  
Case No. BZA 12-66

SPIRIT AND INTENT - TITLE 28

It is the opinion of the Secretary that the variance request is not within the spirit and intent of Title 28 inasmuch as the applicant has sufficient area to fulfill the requirements of the ordinance and for all practical purposes has no basis for requesting the variance.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance from the required 89 parking spaces to 64 cannot be found to exist and, therefore, it is recommended that the variance request not be granted.

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

MAY 2, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 12-66

An application has been filed by Eastminister United Presbyterian Church, 9th and Armour, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a variance of the off-street parking requirements from 89 off-street parking spaces to 64 off-street parking spaces, on property zoned "AA" - Single Family Residential, and legally described as follows:

Lots 1 and 2, Block 5, First Addition to Pine Valley Estates. Generally located on the north side of 9th Street in an area between Armour and Lawrence Lane.

This application has been assigned Case No. BZA 12-66, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 24, 1966, at 2:00 p.m. in Room 401 of the City Building Annex, 104 South Main, 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

CASE NO. 12-66

CITY OF WICHITA, KANSAS

FILED April 5, 1966

APPLICATION FOR VARIANCE

I. Name of Applicant Eastminster United Presbyterian Church ✓

Mailing Address 9th & Armour, Wichita, Kansas Phone MU 3-8832

Name of Authorized Agent Robert L. Howard ✓

Mailing Address 600 4th Nat'l Bank Building Phone AM 4-0372

Relationship of applicant to property is that of President, Board of Trustees  
(owner, tenant, lessee, other)

II. The variance requested is utilization of 7200 Block of 9th Street,  
which dead-ends along church property, to partially satisfy off-  
street parking requirements. 897.64 spaces

for property located 7202 East 9th - N side of 9th bet.  
Armour & Lawrence Lane

and legally described as: Lots 1 and 2, Block 5, First Addition to  
Pine Valley Estates, Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned AA (church).

(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.

Eastminster United Presbyterian Church  
Applicant

Robert L. Howard  
Authorized Agent - Robert L. Howard  
President, Board of Trustees

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,  
8:30 (a.m. - (p.m)), April 5, 1966, together with  
appropriate fee of \$50.00.

Gene Williamson  
Signed

STATEMENT IN SUPPORT OF  
APPLICATION FOR ZONING VARIANCE

The new sanctuary for Eastminster United Presbyterian Church, now under construction, will have a seating capacity on the main floor of 320, plus 27 seats for choir and clergy in the chancel. In addition the plans provide for a balcony with seating capacity of 97. Originally it was contemplated that the balcony would not be completed during this phase of construction and plans provided 64 off-street parking spaces. It now appears that funds are available to do the basic construction work on the balcony, but the funds for additional off-street parking are not readily available.

As shown by the site plan attached hereto, 9th Street runs east of Armour along the south line of the church property and dead-ends at a cul de sac at the southeast corner of the church property. The Kos Harris Elementary school is located on a large tract to the south of 9th Street and east of Armour. Therefore, 9th Street, east of Armour, carries no traffic even during normal day time hours and it is ideally suited for parking during hours when the church is in use, without creating any traffic congestion.

9th Street, east of Armour, contains a minimum of 30 parking spaces. The church desires authority to utilize that portion of 9th Street in fulfilling its off-street parking requirements. If such permission is granted, it would provide a total of 94 parking spaces. A total of 89 off-street parking spaces would fulfill the requirements for the designed seating capacity of the main floor and the balcony of 444.

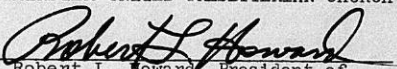
At the present time, the balcony seating capacity is not needed and it is contemplated that by the time the balcony is actually being used on a regular basis, funds will be available

to provide additional paved off-street parking. The estimated cost of providing additional paved off-street parking at this time, in lieu of using 9th Street, would total at least \$2,400. It is believed that this is an unwarranted expenditure of the church funds at this time and would be an unnecessary strain on church finances.

Respectfully submitted,

EASTMINSTER UNITED PRESBYTERIAN CHURCH

By

  
Robert L. Howard, President of  
Board of Trustees

OWNERSHIP LIST

LOT	BLOCK	ADDITION	PROPERTY OWNER
6	4	First Addition to Pine Valley Estates	Harold S. Pelnicky & Mary Catherine Pelnicky Address unknown <i>no address found</i>
7	"	"	✓ Wallace L. Copley & Donna Jeanne Copley 1011 North Armour
8	"	"	✓ John F. Hansan & Judith M. Hansan 5813 East Central
9	"	"	✓ Donald Morris & Geneva Morris 1025 North Armour
10	"	"	✓ Merle E. Driggs & Verda L. Driggs 1031 North Armour
11	"	"	✓ Harry B. Pollak & Sharley L. Pollak 1041 North Armour
1	5	"	✓ Eastminister United Presbyterian Church 7202 East 9th
2	"	"	" "
3	"	"	Board of American Missions of United Presbyterian Church of North America Address Unknown <i>no address found</i>
4	"	"	✓ Matthew B. Dixon & Lela M. Dixon 1032 North Armour
8	5	Second Addition to Pine Valley Estates	✓ Lawrence O. Herbert 1036 North Armour
1	6	Fifth Addition to Pine Valley Estates	✓ Leland R. Jessen & Ann H. Jessen 1002 Lawrence Lane
2	"	"	✓ Thomas M. Potter & Ann W. Potter 1006 Lawrence Lane
3	"	"	✓ Joanne M. Nahe 7001 Beachy

LOT	BLOCK	ADDITION	PROPERTY OWNER
17	Replat of Block 5	First Addition to Woodlawn Village	<input checked="" type="checkbox"/> Carl A. Fowler, Jr. & Maymie B. Fowler 911 North Armour
18	"	"	<input checked="" type="checkbox"/> Alfred Ainsworth, Jr. & Beverly June Ainsworth 917 North Armour
Part SW/4 & SE/4 - Beg. cent. Cresthill Road & 30' NEly Wly/L Armour Dr - 1st Add. to Woodlawn Village, NEly 78' to pt. c. right curve 40°00', radius 357.17' on curve 249.35' to P.T. curve 186' to P.C. of L. curve angle 45°00', radius 357.3' On curve 280.62' to P.T. curve on tangent to curve 39' angle to left 90°00', 149.96' to P.C. of R/curve 50°00', radius 343.12' On curve 299.43' to P.T. curve N 117.4' to N/L SE/4 & SW/4 W 605' S 565.4' to P.C. L/curve 45°00' radius 312.95' 245.79' to P.T. curve on tangent sd curve 30' to beg., all in 18-27-2East			<input checked="" type="checkbox"/> Board of Education School District No. 1
SW/4 NE/4 18-27-2East			<input checked="" type="checkbox"/> W. L. Hartman Hartmoor, Wichita, Kansas

We hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of Lots 1 and 2, Block 5, First Addition to Pine Valley Estates, Wichita, Sedgwick County, Kansas, as shown by the records in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 5th day of April, 1966, at 7:00 A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By Logan M. Lull  
 Vice President

Order No. 134466  
 (jw)



Form 223-021

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

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

DESCRIPTION

AMOUNT

*License Application*      *5.00*

Name *Robert L. Howard*

Address *100 4th National Bank Bldg*

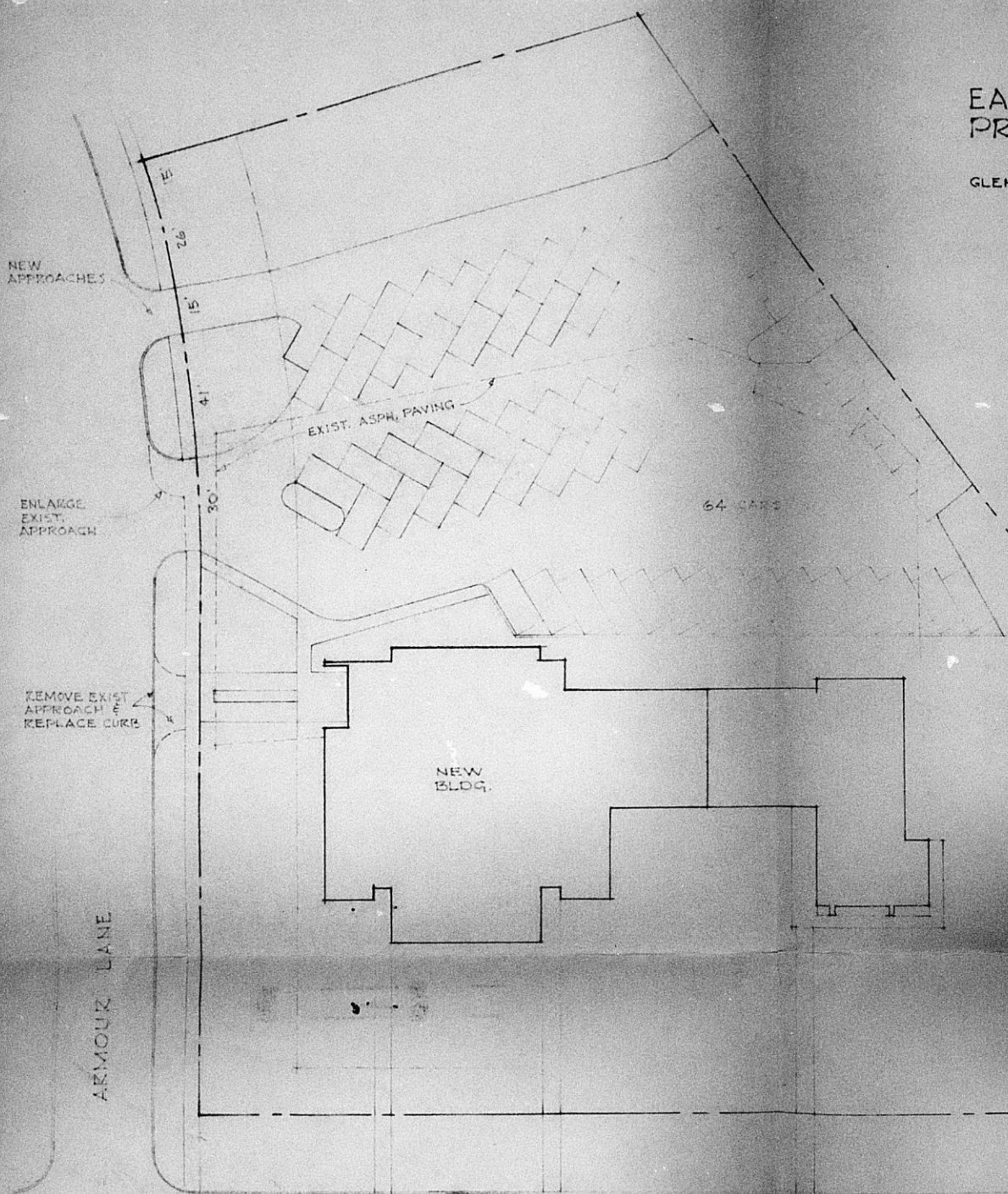
Type *R-712*      Due Date *4-5-66*

Comments:

Date *4-5-66*      By *Bill Overman*

EAST  
PRES

GLENN E



NINTH ST.  
(30 PARKING SPACES)

SITE PLAN

1" = 30'-0"

EASTMINSTER UNITED  
PRESBYTERIAN CHURCH

GLENN E. BENEDICK, ARCHITECT

— PHASE I —



64 CARS

SITE PLAN

1" = 30'-0"

MARCH, 1966