

Case No. EZA 13-82 - William E. Valentine
requests a variance to reduce the re-
quired front yard setback from 25' to 0'
for off-street parking purposes only
on property zoned "A" Two-family Dwell-
ing District and generally located on
the south side of Kellner and west of

5746D

200' 1/4 Sec 4-23-82
Checked 4-24-82
Shot —
Recorded —



BZA
13-82

ACTION

POSTED
5-6-82
[Signature]

BZA
COMMITTEE

General sub to
Condition

DATE
5-25-82

M.A.P.C. _____

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

BZA decision upheld by
Dist. Court 9-19-83

200' 1/4 Sec 10-23-82
Checked 6-24-82
Shot _____
Recorded _____

57A6D

PLAINTIFF'S
EXHIBIT
3
8201834

Cause No. BZA 13-82 - William E. Valentine
requests a variance to reduce the re-
quired front yard setback from 25' to 0'
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on property zoned "A" two-family dwell-
ing District and generally located on

Map No. 5745
 Sec. 26
 Twp. 27
 Range 1E

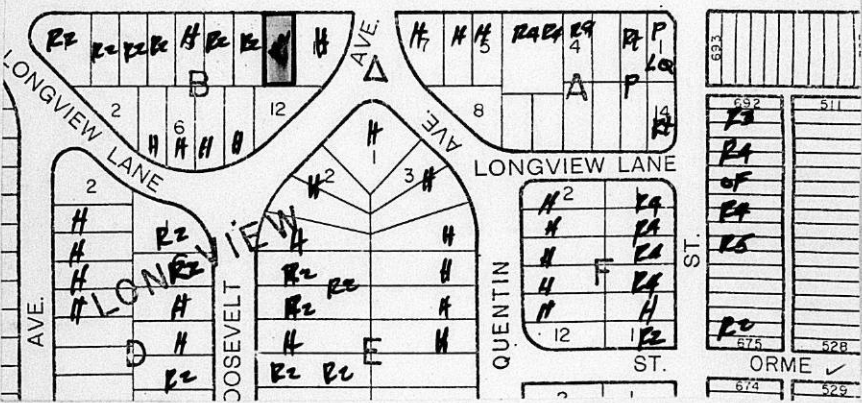
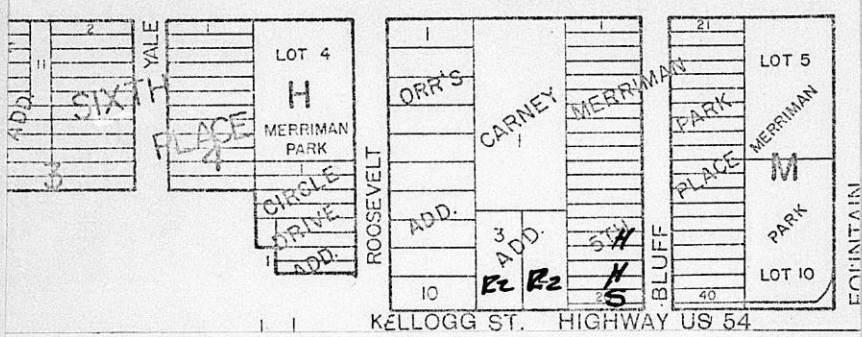
BZA- 13-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.14 (50 ft. by 130 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South UNDEVELOPED
 West TWO FAM North KELLOGG-4554
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: TWO FAM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



Shepard
 No. 2153C
 HASTINGS, MN
 113 ANGLES-CHICAGO-LOGAN OR
 McCREGOR, TX, LOCUST GROVE, GA
 USA

November 2, 1983

All Members of the Board of Zoning Appeals

Glen E. Lytle, Assistant Secretary

BZA 13-82

For your information, a copy of the journal entry, regarding the appeal of your determination to grant a variance of the front yard setback for off-street parking purposes on the property at 3723-25 East Kellogg, is attached.

Glen E. Lytle

GEL:sad

Attachment

JOHN DEKKER
City Attorney
THOMAS R. POWELL
Senior Assistant City Attorney
City Hall - 13th Floor
455 North Main
Wichita, Kansas 67202
(316) 2684681

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

ALLAN STIGLITZ and)
BETTY V. STIGLITZ,)

Plaintiffs,)

vs.)

WILLIAM J. GOEGEL; THOMAS D.)
JACOB; EARL HENDERSON; MARY)
KOPIETZ; JOHN SLAYMAKER;)
BOARD OF ZONING APPEALS FOR)
WICHITA, SEDGWICK COUNTY,)
KANSAS; and WILLIAM F.)
VALENTINE,)

Case No. 82 C 1834

Defendants.)

JOURNAL ENTRY

ON the 19th day of September, 1983, this matter came before the Court for a non-jury trial. The Plaintiffs appeared by their attorney, Clark R. Nelson. The Defendants William J. Goebel, Thomas D. Jacob, Earl Henderson, Mary Kopietz, John Slaymaker, Board of Zoning Appeals for Wichita, Sedgwick County, Kansas, appeared by their attorney, Thomas R. Powell. Defendant William E. Valentine appeared by his attorney, Thomas A. Valentine.

Thereupon, the parties announced that they were ready for trial. Thereupon, the Plaintiffs made their opening statement and the Defendants made their opening statements. Thereupon, the Plaintiffs presented their evidence and rested and thereafter the Defendants presented their evidence and rested. Thereafter the parties presented their closing arguments.

Thereupon, the Court made the following findings of fact and conclusions of law:

"After having heard the evidence the Court will find that it has jurisdiction over the parties and over the subject matter of this action.

I have now receive and reviewed the evidence and briefs submitted by Counsel and considered this matter. The Court, on a case of this nature, must remember that its scope of review -- and that is while there are a lot of problems out at this particular location and a lot of what if's have been brought to the Court's attention -- there is really only one question before the Court today and that is, was the action of the BZA in finding that the five conditions of K.S.A. 12-715(a) existed unreasonable. That test is put another way, were the findings so wide of the mark to be outside the realm of fair debate.

While the Court does not necessarily agree with the action taken by the Board of Zoning Appeals, or if faced with the question de novo would the Court do or not do what the Board of Zoning Appeals has done, that is not my function. That's the whole point of the whole administrative law system that you get people who become familiar with a particular area and charge them with the running of this kind of business and these kinds of regulations, and it's only subject to review when they get so far out of line that the Court must step in and say what you've done is arbitrary or capricious, or unreasonable in this case.

I therefore must conclude that the actions of the Board of Zoning Appeals when taken in their totality was reasonable and that the findings they made, while debatable, are not outside the realm of fair debate, and accordingly, judgment must be entered in favor of the defendants in this case and the Board of Zoning Appeals variance allowed to stand."

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiffs' appeal from the Board of Zoning Appeals' ruling that was in issue in this case is overruled and court costs are assessed against the Plaintiff.

IT IS SO ORDERED.

JOHN E. FOULSTON

John E. Foulston, Judge of Pos. I

APPROVED:

KAHRS, NELSON, FANNING, HITE
& KELLOGG

Clark R. Nelson

Clark R. Nelson
Attorney for Plaintiffs

Thomas R. Powell

Thomas R. Powell
Attorney for Defendants Goebel,
Jacob, Henderson, Kopietz,
Slaymaker, Board of Zoning Ap-
peals for Wichita, Sedgwick
County, Kansas

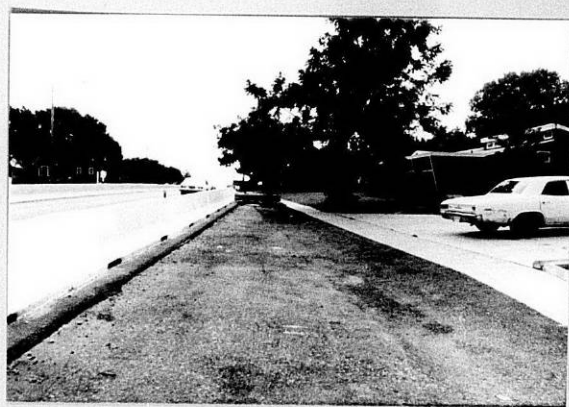
SLOAN, LISTROM, EISENBARTH,
SLOAN & GLASSMAN

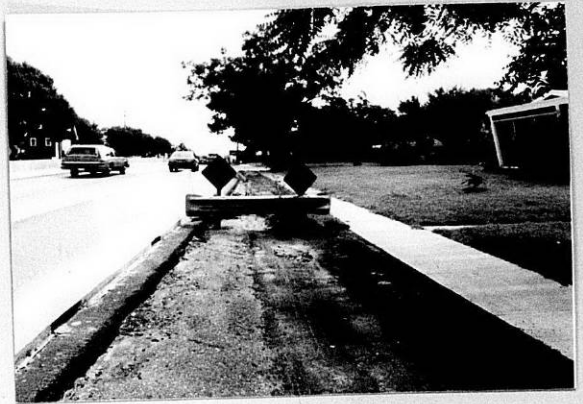
Thomas K. Valentine

THOMAS K. VALENTINE
Attorney for Defendant William E.
Valentine

Certificate of Clerk of the District Court. The above
is a true and correct copy of the original instrument
filed on the 25th day of Oct 1983
and entered in this Court of the District Judge
District, Sedgwick County, Kansas
and this is the day of
Clerk of the District Court
By *Debra J. Skales*









BOARD OF ZONING APPEALS MEETING
May 25, 1982

On this next item, the areas outlined in black on the slide and that represents an area on the south side of Kellogg, just west of Roosevelt. This is a request for a variance to reduce the frontyard setback on an existing duplex from 25' to 0' for off-street parking purposes only. This is an area on East Kellogg that makes a transition into Kellogg as it was before the interchange was constructed there at Hillside and Kellogg. I am sure that you will recall in just recent consideration in the past few months some controversy there in trying to resolve a difficulty in the curvature and the State Highway Department and the City are trying to correct a problem there and, thus, this duplex, that faces a dead end frontage road where they utilize the frontage road for some off-street parking, that will be removed. Simply they're asking that they be permitted to have additional parking above what is required in the front yard setback. This is their site --

(Not loud enough to distinguish what is being said.)

In addition to what they're required to have that they utilized the frontage road right-of-way to date will thus be removed and that is the need, that is the reason, for this request for a variance of a front yard setback so they can park there by just immediate parking in front of the duplex structure. Uh, in our staff report, we do point out that you have jurisdiction to consider this type of case. You must find the five conditions existing before this variance request can be granted. We have attempted, and in our opinion, have justified the five conditions. We are in support of the variance request provided that it is for off-street parking only and not so that the building can be extended and the only condition we are recommending to you is that the parking shall be surfaced with either concrete, asphalt, asphaltic concrete or other comparable hard surface material. Uh, I'm not certain whether the applicant is present today or not, the City Engineering Department is represented by Bill McKinley if you have any questions of him about State Highway plans and City plans for that improvement. Clark Nelson does represent some property owners to the west who are in opposition in this case. Do you have any questions?

(Unintelligible) in favor of the application?

Mr. Chairman, uh, we are recommending to you approval of this off-street parking in the front yard setback. I think as you will recall, we have had numerous public hearings before the Traffic Commission and the City Commission with regard to the alignment of Kellogg in the vicinity of Roosevelt. It was the recommendation of the Traffic Commission and the City Commission that the curvature out there be flattened out so that cars could negotiate that curvature at a higher rate of speed and be less likelihood of going off the roadway. In addition to this, we are putting up a concrete barrier on the south side adjacent to the properties along the south side, thereby directing traffic, if it would happen to get out of control, a car or vehicle would happen to get out of control in that area, back into the roadway instead of into the houses on the south side. As you probably have recalled, there has been a couple of occasions where cars have left the roadway and encountered private property on the south side. We have worked with the applicant in working out a proposal that's acceptable to him and to the City of Wichita and we do strongly recommend that you approve this today. I'll be happy to answer any questions you may have.

Thank you.

Does anyone else wish to speak in favor of the application? Does anyone wish to speak in objection?

Clark Nelson: Mr. Chairman, fellow members, my name is Clark Nelson, attorney representing Mr. & Mrs. Alan Stiglitz, that live to the west of the property in question and have a rental property immediately to the west of this property so they live two doors away, they have a rental property immediately next door. I have a number of objections to your approval of this variance. I would like to, uh, also let fellow members understand that we have lived with this project for at least a year and a half. We have been at every public hearing, uh, Traffic Commission, City Commission, you name it, trying to work with the City of Wichita, Mr. McKinley and everyone else with respect to the effects of this on Mr. & Mrs. Stiglitz's rental property and their personal residence. Right now, Kellogg Drive, which is the frontage road, stops between their rental property and their residence property. At this point in time, the applicant's property has access to Kellogg and it is not on the frontage road today. Now, I think that if you take any action at all to approve this I think that it has to be on the condition that the plans as presented by Mr. McKinley are going to be approved. We have had several hearings, the plans have recently been redrafted and to my knowledge there has been no public hearing on the approval, disapproval or anything with regard to the KDOT or the City Traffic Commission's plans. I think that if you are going to allow a variance for him to park on there, number one, I think that the whole basic program has to be approved by some entity of the City or even the State, and that hasn't taken place yet. So I would like to have at least that condition placed on this. Secondly, in order for this variance to be approved, in my opinion, you must necessarily approve three other variances of either State statutes, City ordinances, or Planning Department regulations in order to get to where they are today. Number one, the width of the frontage road is inadequate even under what they're now planning to do, the new revised draft and according to the Planning Department regulations 7-201g4, it provides that the minimum width of the road has to be 28 feet, and I'm talking about (unintelligible) unless there is some variance or some approval somewhere down the road that has not been given. I think Mr. McKinley will tell you that that's approximately 18 feet. And that's one of the biggest objections we've had for the last year and a half, and the last plans that I saw had a minimum width all the way down the line of 24 feet, which we understand is still inadequate, but liveable. With 17 feet we can't survive, we can't turn around. There is no way to turn around. The second violation having to do with turnaround is that there has been no turnaround provided for the dead end street. And I believe that 7-201 R says that you must provide a turnaround.

(Unintelligible)

allowed to pave on the side of the road. I'm saying in order for you to approve the variance that he is requesting on his road, something has to be done with the turnaround. And I think a study needs to be made by the City before you can make such an allowance. The request that he's making here today is to reduce the front yard setback and be allowed to pave his front yard. Obviously, being next-door neighbors, we feel that that greatly diminishes the value of our property. We don't think it meets the five requirements as set forth that they need to. It is not unique, our situation is exactly the same. Ours is staying the way it is. They're not doing this for us and I don't think that they have met the requirements necessary. Lastly, according to the plans that I've reviewed, they're calling for cement to be put in there and, again, they're not asking for a variance of how many tons or yards of cement

to be placed in there. They don't mention that. I think that 28-04-140 of the City ordinances something has to be a variance of that somewhere down the road in order to allow what he's asking for today. Based upon those arguments, and those positions and those facts, I would request at least that this matter be deferred until such time as we have some input and the City somehow approves the plans of KDOT and go from there. And I think that this diminishes the value of the adjacent property of the Stiglitz's and we're really requesting that you deny this application. Mr. Chairman.

Goebel: Yes, Mr. Nelson. If you'd please explain the variance on the concrete issue, his third point, I'm not certain what you meant by that -- who would the variance be obtained from.

Clark Nelson: I would presume that that would have to be obtained from this Board. And as I read --

I'm sorry. Would you cite the condition again that you are speaking to? The concrete issue.

Clark Nelson: City Ordinance 28-04-140, that could be point.

And what's it say?

Clark Nelson: I don't have that here in front of me but it says that you cannot have more than X amount of cement in your front yard. And all we're doing -- I don't believe that this has spoken to that issue. You're just saying the setback can go down to 0.

(Unintelligible)

Thank you.

(Unintelligible)

Sir, I would like to address -- Excuse me --

Sir, I would like to (unintelligible) Bill McKinley (unintelligible)

Mr. Chairman, I probably failed to make it clear what's really going on here. We did pass out three exhibits to you -- the existing exhibit illustrates what's presently out there today, and Kellogg Drive today does dead end between the properties owned by Alan Stiglitz, his rental property and his house. Right out in front of his house, on the west side, the frontage road is a 24-foot frontage road, which I believe is a standard width frontage road in the City of Wichita. That 24-foot frontage road then tapers down -- you'll see the little dots, those represent guard rails and the little x's represents a fence around the guard rail. It tapers down to probably about 12 to 15 foot in width at the far east end of the frontage road. At that point there it dead ends. So, today they are living on a dead end frontage road of substandard, according to anything he wants to quote I guess. Also, you will please look at Proposal A, which is what KDOT has revised as their plans to improve the roadway and as you look at proposed alternate A, you'll see that Kellogg Drive is extended across the Alan Stiglitz property in front of their duplex and also across the Bill Valentine property in front of his duplex. This roadway is wider than what it is in front of the Stiglitz duplex today and it is in the vicinity of about 17 foot for roadway and another 4 foot for sidewalk or a total of about 21 foot at its narrowest point. We have tried to negotiate right-of-way from the Stiglitz in order to obtain a 24 foot roadway. At

this time we have not been able to come to an agreement on the right-of-way. The plan that was presented to the City Commission was almost identical to the plan designated as Proposed Alternate Number A, but it's been designated, uh, the exact plan that was presented to the City Commission is Proposed Alternate Number B with one minor exception. Proposed Alternate Number B shows a proposed parking lot which was agreed to by the Stiglitz's at one time and it does show a proposed 24-foot frontage road with three feet of that being a sidewalk across the entire length of the Stiglitz's duplex and across Valentine's property. Also, it was proposed underneath those plans to build a four foot sidewalk adjacent to their north front of their house - all as part of the project costs. The plan in general has been approved by the City Commission and Traffic Commission, but the plan itself is to improve Kellogg -- the curvature of Kellogg in the vicinity of Roosevelt with one minor exception. That was the frontage road and being able to obtain right-of-way from the Stiglitz's.

Which one of these has been approved, Alternate --

Proposed Alternate B has been approved.

Since it is approved then it will be, it will (unintelligible)

We will -- we would have proceeded on Proposed Alternate B except that we cannot come in a right-of-way agreement with Alan Stiglitz so we had to modify those plans to go around his property.

So what we're going to wind up with is probably Alternate A?

Is Alternate A.

Mr. Chairman.

Might ask Mr. McKinley, is the frontage road a dead end frontage road today?

Yes sir. It is a dead end frontage road and it dead ends into about 13 feet.

That's what I thought. It's a dead end frontage road today without an appropriate turnaround, it's been that way now for a number of years. It's no different than the State often has in dead end frontage roads where they make major (unintelligible) Unfortunately or fortunately, we result in a dead end frontage, is that correct?

That's right.

The only thing that's happening here is it's being extended by one lot. I don't see any difference in charting the first two issues that Mr. Nelson raised. They are not appropriate variances before the Board of Zoning Appeals and if the City Commission and State Highway Department approves those plans for that type of configuration, I think that's where it ends. It's not a matter that's before the subdivision committee or Planning Commission, there's no new dedications or no platting that's occurring here. He cites to use subdivision requirements that are not appealable or varied by the Board of Zoning Appeals.

The only thing we're voting on is the variance.

That's correct. That's all we have before us, is a person who desires to use his front yard setback for off-street

parking purposes. The thing in this instance is because of unique characteristics of this area, because of trying to remedy or solve a unique problem out there, he has no ability to park on the street or on the frontage. I believe that you do have the authority to grant a variance that (unintelligible)

Anyone else wish to be heard in objection?

Mr. Chairman.

If there is no other discussion, I move that the five conditions set out in Section 2.12.590.B, of the Code as necessary for the granting of the variance have been found to exist and that the variance be granted subject to the condition set out in the Secretary's report.

Seconded.

(unintelligible)

All those in favor of the motion signify by saying "Aye."

"Aye."

Opposed, the same sign.

Motion carried.

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS

ALLAN STIGLITZ, et al.,

Plaintiff

vs.

BOARD OF ZONING APPEALS FOR
WICHITA, SEDGWICK COUNTY, KANSAS, et al.
c/o Jack H. Galbraith, Secretary
10th Floor, City Hall
Wichita, Kansas

Case No. **82C1834**
PURSUANT TO CHAPTER 60
KANSAS STATUTES ANNOTATED

SUMMONS

To the above-named Defendant:

You are hereby summoned to defend an action brought in the District Court of SEDGWICK

County, and required to serve upon Clark R. Nelson, plaintiff's attorney,

whose address is 630 O.W. Garvey Bldg. Wichita, KS 67202, a pleading to the petition which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. Your pleading also must be filed with the

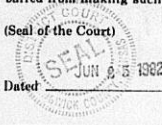
District Court of SEDGWICK County. As provided in K.S.A. 1975 Supp. 60-213 (a), as amended, your answer must state as a counterclaim any related claim which you may have against the plaintiff, or you will thereafter be barred from making such claim in any other action.

(Seal of the Court)

Dated

Clerk of the District Court of Sedgwick County, Kansas

By Reggie Gray, Deputy



RECEIVED JUN 21 1982

RETURN ON SERVICE OF SUMMONS

I hereby certify that I received the foregoing summons at ____ o'clock ____ M. on the ____ day of _____, 19 ____, and I served the same in the following manner:

(1) By delivering on the ____ day of _____, 19 ____, a copy of the summons, copy of the petition, and copy of _____ to each of the within-named defendants _____

(2) By leaving on the ____ day of _____, 19 ____, for each of the within-named defendants _____

A copy of the summons, a copy of the petition, and _____ at the respective dwelling place or usual place of abode of said defendants with some person of his or her family of suitable age and discretion.

(3) Corporate or Partnership Return: On the ____ day of _____, 19 ____, by _____

(4) After diligent search and inquiry was unable to find the within-named defendant _____

on the ____ day of _____, 19 ____,

All done in _____ County, Kansas.

Sheriff (Marshal) of _____ County, Kansas

By _____ Deputy.

KAHRS, NELSON, FANNING, HITE & KELLOGG
200 West Douglas, Suite 630
Wichita, Kansas 67202
Telephone: (316) 265-7761

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT

ALLAN STIGLITZ and
BETTY V. STIGLITZ,

Plaintiffs,

vs.

WILLIAM J. GOEBEL; THOMAS D.
JACOB; EARL HENDERSON; MARY
KOPIETZ; JOHN SLAYMAKER;
BOARD OF ZONING APPEALS FOR
WICHITA, SEDGWICK COUNTY,
KANSAS; and WILLIAM E.
VALENTINE,

Defendants.

82C1834

Case No.

PURSUANT TO CHAPTER 60 OF
KANSAS STATUTES ANNOTATED

PETITION

COME NOW, Plaintiffs, Allan Stiglitz and Betty V. Stiglitz,
husband and wife, and for their claims for relief allege and state
as follows:

1. The Plaintiffs are residents of Wichita, Sedgwick County,
Kansas, whose residence is 3715 East Kellogg Drive, Wichita, Kansas.
2. Defendants, William J. Goebel, Thomas D. Jacob, Earl
Henderson, Mary Kopietz and John Slaymaker, are members of the
Wichita, Sedgwick County, Kansas, Board of Zoning Appeals and they
may be served as follows:

William J. Goebel
c/o Star Lumber & Supply Co.
325 South West
Wichita, Kansas

Thomas D. Jacob
5920 East Central
Wichita, Kansas

Earl Henderson
c/o Century 21-Ambassadors, Inc.
1502 North Broadway
Wichita, Kansas

Mary Kopietz
443 South Bleckley
Wichita, Kansas

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SEDGWICK COUNTY
DISTRICT COURT
CIVIL DEPARTMENT

John Slaymaker
9111 East Douglas
Wichita, Kansas

3. Defendant, Board of Zoning Appeals, may be served by its secretary, Jack H. Galbraith, 10th Floor, City Hall, Wichita, Kansas.

4. Defendant, William E. Valentine, is an individual who may be served with process at his residence at 1953 North Santa Fe, Wichita, Kansas.

5. That on May 25, 1982, the Board of Zoning Appeals considered Case No. BZA 13-82. Said case was an application filed by Defendant, William E. Valentine, requesting a variance pursuant to Section 2.12.590.B of the Code of the City of Wichita, to reduce the required front yard set back from 25 feet to zero feet for off-street parking purposes only on property zoned "A" Two-Family Dwelling District. The legal description of Defendant, William E. Valentine's, property is as follows:

Lot 15, Block B, Longview Terrace
Addition to Wichita, Sedgwick County,
Kansas.

Said property is generally located on the south side of Kellogg and west side of Roosevelt streets (3723-25 East Kellogg, Wichita, Kansas).

6. That on May 25, 1982, the Board of Zoning Appeals granted the variance requested. Copies of the Board of Zoning Appeals' file are attached hereto, marked exhibit "A" pages 1-11, and incorporated herein by reference. Said granting of the variance was arbitrary and capricious.

7. The variance of Defendant, William E. Valentine, should not have been granted for the reasons that the necessary conditions provided by K.S.A. 12-715 have not been met. Additionally, Plaintiffs, who reside at 3715 East Kellogg Drive, Wichita, Kansas, and own real property located at 3719 East Kellogg Drive, Wichita, Kansas, immediately adjacent to the property upon which was granted the variance. The property of Plaintiffs has been damaged and

will continue to be damaged in the event that the variance is granted.

8. William E. Valentine is a necessary party and a real party in interest by reason of his ownership of said property.

WHEREFORE, Plaintiffs pray for judgment reversing the decision of the Board of Zoning Appeals in granting the variance to William E. Valentine on the above cited property, and to enter an Order disallowing the variance, and otherwise to determine the reasonableness of such Order, for costs of this action and for such other and further relief as the Court deems just and proper.

KAHRS, NELSON, FANNING, HITE & KELLOGG

By Clark R. Nelson
Clark R. Nelson
Attorneys for Plaintiffs

SEAL
Certificate of Clerk of the District Court. The above
is a true and correct copy of the original instrument
filed on the 24th day of June, 1963
and recorded in this Court of the Eighteenth Judicial
District, Sevier County, Tennessee.
Dated this 25th day of June, 1963.
Clerk of the District Court
By James E. Clay

RESOLUTION NO. BZA 13-82

WHEREAS, William E. Valentine, 1953 North Santa Fe, 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 25 feet to 0 feet for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 15, Block B, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Roosevelt. (3723-3725 East 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 May 25, 1982, 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 property is located at the end of a dead end street which is being restricted by the improvements to Kellogg to reduce the curve; 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 improvements to Kellogg will compensate for any adverse affect the parking in the front yard setback will cause to adjacent properties; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the State would be unable to provide a parking area and turnaround for the property in place of the parking being removed by Kellogg improvements; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the proposed improvements to Kellogg will provide greater safety to the general public; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the ordinance provides for additional parking in the front yard setback where on-street parking is restricted; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

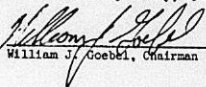
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the front yard setback from 25 feet to 0 feet for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as:

Lot 15, Block B, Longview Terrace Addition to Wichita,
Sedgwick County, Kansas. Generally located on the
south side of Kellogg and west of Roosevelt. (S723-
3725 East Kellogg).

be approved subject to the following condition:

1. The parking area shall be surfaced with concrete, asphalt,
asphaltic concrete or other comparable surfacing.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1982.


William J. Goebel, Chairman

ATTEST:


Jack H. Galbraith, Secretary

- 2 -

5-5-82 P.O.N.
5-25-82 NTG.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 13-82
FILED 4-21-82

APPLICATION FOR VARIANCE

I. Name of Applicant William E. Valentine
Mailing Address 1953 N. Santa Fe Phone 267-8862
Name of Authorized Agent Steven L. Potucek, Real Estate Officer
Mailing Address 13th Floor
455 N. Main Street Phone 268-4367
Relationship of applicant to property is that of Contract Purchaser
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required front yard setback
from 25 feet to 0 feet for off-street parking purposes only
for property located on the south side of Kellogg and west of
Roosevelt (3723-25 E. Kellogg)
and legally described as: Lot 13, Block B, Longview Terrace Addition
to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned A

- 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 2.12.530 of the Code of the City of Wichita (Ordinance No. 36-596); 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.

Applicant William E. Valentine
Authorized Agent Steven L. Potucek

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:15 (p.m.), APR 21, 1982 together with appropriate fee of 75.00 - Dept. Transfer. -

Signed [Signature]

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

May 5, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 13-82

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by William E. Valentine, 1953 North Santa Fe, Wichita, Kansas requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required front yard setback from 25 feet to 0 feet for off-street parking purposes only on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 15, Block B, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellong and west of Roosevelt (3723-25 East Kellong).

This application has been assigned Case No. BZA 13-82. It will be considered by the Board of Zoning Appeals on May 25, 1982 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, 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.

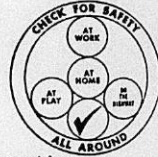
If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

THE CITY OF WICHITA

OFFICE OF Contracts Administration

DATE April 21, 1982




TO Glen Lytle, Planning Department
FROM Steven L. Potucek, Real Estate Officer

SUBJECT Kellogg & Roosevelt Intersection
472-76-245-81091-000-000-009
Tract 2 (W. E. Valentine)

Attached please find an application for variance concerning the above referenced tract. As I indicated, a variance will be required inasmuch as the State will be providing subject owner with a parking area in his required setbacks. Larry Henry and Bill McKinley and myself will all be available to explain the project to appropriate parties at your discretion.

Thank you for your cooperation and should you have any questions, please advise.


Steven L. Potucek
Real Estate Officer

SLP/abv
Attachment
cc: Larry Henry
Tom Powell
Bill Stockwell

May 26, 1982

William Z. Valentine
1953 North Santa Fe
Wichita, Kansas

Re: Case No. EZA 13-82
Request for Variance

Dear Mr. Valentine:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on May 25, 1982.

These Resolutions reflect the official action of the Board to approve the request and set out the condition of approval. These are forwarded to you for your information and files.

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

Sincerely,

Jack E. Galbraith
Secretary

OK:msd
Enclosures

cc: Steven L. Potucek, Real Estate Officer, 13th Floor, 455 North Main,
Wichita 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Oisick, City Clerk

SECRETARY'S REPORT
CASE NO. 22A 13-52

APPLICANT: William E. Valentine, 1953 North Santa Fe,
Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the front
yard setback from 25 feet to 0 feet for off-
street parking purposes only.

GENERAL LOCATION: On the south side of Kellogg and west of
Roosevelt.

ZONING: Subject property is zoned the "A" Two-family
Dwelling District as are all adjacent properties.

LAND USE: Subject property is occupied by a Two-family
Dwelling. Adjacent properties are all
residential.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the front yard setback from 25 feet to 0 feet for off-street parking purposes only. This is requested in order to provide off-street parking in the front yard for the occupants of the two-family dwelling. This is a result of improvements being made to the curve along Kellogg, and in the process the State has acquired a portion of the front of the properties in the area in addition to reducing the width of the street in front of the property providing access thereto.

In the process of making the improvements, there will be the elimination of the spaces in the street that the occupants have used in the past, and in exchange for this, the State will be making the necessary parking improvements in the front yard setback. In order that these improvements be made, it is necessary to reduce the front yard setback to 0 feet for parking purposes only.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located at the end of the dead end street which is being restricted by the improvements to Kellogg to reduce the curve.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the improvements to Kellogg will compensate for any adverse affect the parking in the front yard setback will cause to adjacent properties.

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 applicant inasmuch as the State would be unable to provide a parking area for the parking that is being removed by the improvement to Kellogg.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the proposed improvements to Kellogg will provide greater safety to the general public.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the provisions of the zoning ordinance provide for additional parking in front yards where on-street parking is restricted.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The parking shall be surfaced with concrete, asphalt, asphaltic concrete or other comparable surfacing.

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 19, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT EZA 13-82, South side of
Kellogg and West of Roosevelt
(3723-25 East Kellogg)

CPO Council Area "C" considered the captioned case at their May 17th meeting and voted 5-1 to recommend approval of the requested variance of the front yard setback from 25 feet to 0 feet for off street parking purposes only on property zoned the "A", Two Family Dwelling District at the aforementioned location. The members voting in favor of the variance, indicated that they based their decision on the comments from the MAPD secretary's report, "that the requested variance is a result of improvements being made to the curve along Kellogg, and in the process the State has acquired a portion of the front yard of the properties in the area in addition to reducing the width of the street in front of the property providing access thereto. Also, in the process of making the improvements, there will be the elimination of the spaces in the street that the occupants have used in the past, and in exchange for this, the State will be making the necessary parking improvements in the front yard setback. In order that these improvements be made, it is necessary to reduce the front yard setback to 0 feet for parking purposes only". The one dissenting voter expressed opposition to the thought of a front yard being used for parking purposes, especially in an area in which adjacent streets such as Longview Lane are so picturesque.

No one was present to speak in support or opposition to the application.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their May 25th meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

Sarah Gilbert
Sarah Gilbert
CP Coordinator

GL File

THE CITY OF WICHITA

OFFICE OF

LAW DEPARTMENT

DATE

June 29, 1983

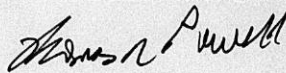
TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT

Stiglitz, et al., vs.
Goebel, et al.
Case No. 82 C 1834

The trial of the above matter is now set for September 19, 1983, at 9:00 a.m. If there are any problems with this date, please advise.



Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

Lylle

THE CITY OF WICHITA

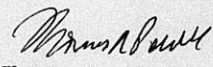
OFFICE OF LAW DEPARTMENT

DATE May 16, 1983

TO Jack H. Galbraith, Chief Planner - Current Plans
FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al., vs.
Goebel, et al.
Case No. 82 C 1834

The trial of the above matter is now set for June 29, 1983, at 9:00 a.m. If there are any problems with this date, please advise.



Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

RECEIVED

MAY 18 1983

METROPOLITAN PLANNING

ROUTE *JP*

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

DATE April 1, 1983

GL
File

TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al., vs.
Goebel, et al
Case No. 82 C 1834



The trial of the above matter is now set for May 18, 1983, at 9:00 a.m. If there are any problems with this date, please advise.

Thomas R. Powell

Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

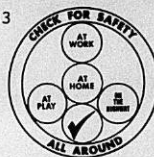
RECEIVED

APR 5 1983
METROPOLITAN PLANNING
ROUTE 29

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

DATE February 9, 1983



TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al., vs.
Goebel, et al
Case No. 82 C 1834

Mr. Clark Nelson has informed me that he will be out of town on February 16, 1983, which is the date the above matter was set for trial. For that reason, the trial has now been continued to March 30, 1983, at 9:00 a.m. If there are any problems with this date, please advise.

Thomas R. Powell
Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

RECEIVED

FEB 11 1983

METROPOLITAN PLANNING
ROUTE

Goebel file

G.L.

THE CITY OF WICHITA
OFFICE OF LAW DEPARTMENT

DATE January 10, 1983



TO Jack H. Galbraith, Chief Planner - Current Plans
FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al. vs.
Goebel, et al
Case No. 82 C 1834

The trial in the above-captioned case was previously set for January 12, 1983. However, the trial has been rescheduled for February 16, 1983, at 9:00 a.m. I will contact you a few days prior to trial in relation to preparing therefor.

Thomas R. Powell

Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

RECEIVED

JAN 11 1983

METROPOLITAN PLANNING

ROUTE

Lytle File

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

DATE December 9, 1982

TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al vs.
Goebel, et al
Case No. 82 C 1834



The trial in the above-captioned case was previously set for December 9, 1982. However, Mr. Valentine's attorney was unavailable for trial on that date. Therefore, the trial has been rescheduled for January 12, 1983, at 9:00 a.m. I will contact you a few days in advance of trial in relation to preparing therefor.

Thomas R. Powell

Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

RECEIVED

DEC 10 1982

METROPOLITAN PLANNING
ROUTE

Lytle

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

DATE November 17, 1982



TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al vs.
Goebel, et al
Case No. 82 C 1834

The trial in the above-captioned case has been continued again.
The new trial date is set for December 9, 1982, at 9:00 A.M.
I will contact you a few days in advance of trial in relation
to preparing therefor.

Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

Now changed to Jan 12, 1983

RECEIVED

NOV 19 1982

METROPOLITAN PLANNING

ROUTE 26

July 26, 1982

Thomas R. Powell, Senior Assistant City Attorney

Jack H. Galbraith, Chief Planner - Current Plans

Stiglitz, et al. v. Goebel, et al.

Attached is the information you requested on the above-captioned case. I have also included a tape of the BZA Meeting of 5-25-82. The Stiglitz case starts where the tape is located now.

If you have any questions, please contact us.

Jack H. Galbraith
Chief Planner

JHG:sad

Attachments

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

DATE July 13, 1982



TO Jack H. Galbraith, Chief Planner - Current Plans

FROM Thomas R. Powell, Senior Assistant City Attorney

SUBJECT Stiglitz, et al. v.
Goebel, et al.

As you are aware, the Stiglitz have appealed to the District Court of Sedgwick County, Kansas, from the granting of the variance by the Board of Zoning Appeals in Case No. BZA 13-82. In this regard, I am requesting that you provide me with complete copies of your file relating to Case No. BZA 13-82. Also, I would like to be furnished with the tape of that portion of the BZA meeting involving Case No. BZA 13-82. It is my intention to cause a transcript to be made of that portion of the tape. I will return the tape to your custody as soon as a transcript has been prepared.

I will be contacting you and the BZA staff involved in relation to this case in the near future.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Thomas R. Powell

Thomas R. Powell
Senior Assistant City Attorney

TRP:cdh

RECEIVED

JUL 22 1982

METROPOLITAN PLANNING

ROUTE _____

June 29, 1982

John Dekker, Director of Law

Jack H. Galbraith, Chief Planner, Current Plans Division

Appeal of Decision - Case No. BZA 13-82

On June 28, 1982 Glen Lytle sent you a memorandum advising you of an appeal of the above-captioned BZA case. Attached is a copy of the summons now received by each member of the board, the owner William E. Valentine, and me. Several members have inquired as to who will represent them.

Please advise as to who has been assigned this case and any other materials that your office needs.

Jack H. Galbraith
Chief Planner

JHG:sad

Attachment

KAHRS, NELSON, FANNING, HITE & KELLOGG
200 West Douglas, Suite 630
Wichita, Kansas 67202
Telephone: (316) 265-7761

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

IN THE MATTER OF THE)
APPLICATION OF)
WILLIAM E. VALENTINE,) Case No. BZA 13-82
PURSUANT TO SECTION 2.12.590.B)
OF THE CODE OF THE CITY OF)
WICHITA REQUESTING A VARIANCE.)

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Allan Stiglitz and Betty V. Stiglitz,
do hereby appeal, pursuant to K.S.A. 12-715 and K.S.A. 1981 Supp.
60-2101(d), to the District Court of Sedgwick County, Kansas,
from the decision of the Board of Zoning Appeals granting the
variance requested by William E. Valentine, which decision was
entered on May 25, 1982.

Allan Stiglitz and Betty V. Stiglitz hereby request that
the Board make available to them true and correct copies of all
pertinent proceedings before the Board so the same may be filed
with the Clerk of the District Court of Sedgwick County, Kansas.

Dated this 24th day of June, 1982.

KAHRS, NELSON, FANNING, HITE & KELLOGG

By Clark R. Nelson
Clark R. Nelson
Attorneys for Alan Stiglitz and
Betty V. Stiglitz

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 1982, a
true and correct copy of the above and foregoing Notice of Appeal
was, by me, personally delivered to the office of the Board of
Zoning Appeals, 10th Floor, City Hall, Wichita, Kansas, and deposited
in the United States Mail, postage prepaid, to the following:

William E. Valentine
1953 North Santa Fe
Wichita, Kansas 67214

Clark R. Nelson
Clark R. Nelson

June 28, 1982

John Dekker, Director of Law

Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals

Appeal of Decision - Case No. BZA 13-82

Attached hereto is a copy of the Notice of Appeal received by this office. Copies of the pertinent information has been furnished to Mr. Nelson.

This case was related to the parking in the front yard setback on the south side of Kellogg just west of Roosevelt on the property owned by a Mr. William E. Valentine. The Board granted the variance on May 25, 1982.

Please advise of the need for any information from the files and the need for any meetings related to said court action.

Glen E. Lytle
Assistant Secretary

GEL:sad

Attachment

cc: Ray Bruggeman, Director of Engineering
Bill McKinley, Traffic Engineer

KAHRS, NELSON, FANNING, HITE & KELLOGG
200 West Douglas, Suite 630
Wichita, Kansas 67202
Telephone: (316) 265-7761

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

IN THE MATTER OF THE)
APPLICATION OF)
)
WILLIAM E. VALENTINE,) Case No. BZA 13-82
PURSUANT TO SECTION 2.12.590.B)
OF THE CODE OF THE CITY OF)
WICHITA REQUESTING A VARIANCE.)
_____)

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Allan Stiglitz and Betty V. Stiglitz, do hereby appeal, pursuant to K.S.A. 12-715 and K.S.A. 1981 Supp. 60-2101(d), to the District Court of Sedgwick County, Kansas, from the decision of the Board of Zoning Appeals granting the variance requested by William E. Valentine, which decision was entered on May 25, 1982.

Allan Stiglitz and Betty V. Stiglitz hereby request that the Board make available to them true and correct copies of all pertinent proceedings before the Board so the same may be filed with the Clerk of the District Court of Sedgwick County, Kansas.

Dated this 24th day of June, 1982.

KAHRS, NELSON, FANNING, HITE & KELLOGG

By Clark R. Nelson
Clark R. Nelson
Attorneys for Alan Stiglitz and
Betty V. Stiglitz

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 1982, a true and correct copy of the above and foregoing Notice of Appeal was, by me, personally delivered to the office of the Board of Zoning Appeals, 10th Floor, City Hall, Wichita, Kansas, and deposited in the United States Mail, postage prepaid, to the following:

William E. Valentine
1953 North Santa Fe
Wichita, Kansas 67214

RECEIVED

JUN 24 1982

METROPOLITAN PLANNING
ROUTE

Clark R. Nelson
Clark R. Nelson

Copied these
items ✓

May 28, 1982

William E. Valentine
1953 North Santa Fe
Wichita, Kansas

Re: Case No. EZA 13-82
Request for Variance

Dear Mr. Valentine:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on May 25, 1982.

These Resolutions reflect the official action of the Board to approve the request and set out the condition of approval. These are forwarded to you for your information and files.

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

Sincerely,

Jack E. Galbraith
Secretary

OKL:sad
Enclosures

cc: Steven L. Potucek, Real Estate Officer, 13th Floor, 455 North Main,
Wichita 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 13-82

WHEREAS, William E. Valentine, 1953 North Santa Fe, 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 25 feet to 0 feet for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 15, Block B, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Roosevelt. (3723-3725 East 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 May 25, 1982, 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 property is located at the end of a dead end street which is being restricted by the improvements to Kellogg to reduce the curve; 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 improvements to Kellogg will compensate for any adverse affect the parking in the front yard setback will cause to adjacent properties; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the State would be unable to provide a parking area and turnaround for the property in place of the parking being removed by Kellogg improvements; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the proposed improvements to Kellogg will provide greater safety to the general public; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the ordinance provides for additional parking in the front yard setback where on-street parking is restricted; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

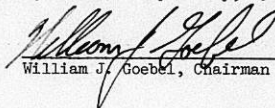
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the front yard setback from 25 feet to 0 feet for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as:

Lot 15, Block B, Longview Terrace Addition to Wichita,
Sedgwick County, Kansas. Generally located on the
south side of Kellogg and west of Roosevelt. (3723-
3725 East Kellogg).

be approved subject to the following condition:

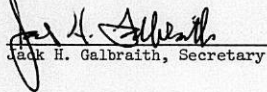
1. The parking area shall be surfaced with concrete, asphalt,
asphaltic concrete or other comparable surfacing.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1982.



William J. Goebel, Chairman

ATTEST:



Jack H. Galbraith, Secretary

BOARD OF ZONING APPEALS

MINUTES

MAY 25, 1982

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m. in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

The following members were in attendance: WILLIAM GOEBEL, Chairman, EARL HENDERSON, MARY KOPIETZ and TOM JACOB. JOHN SLAYMAKER was absent.

Also present were Jack Galbraith and Shirley Doramus of the Planning Department staff.

1. Approval of the minutes of April 27, 1982.

MOTION: HENDERSON moved, KOPIETZ seconded, and it carried 4-0 that the minutes be approved as mailed. (SLAYMAKER absent.)

2. Case No. EZA 5-82 - B-R-D, partnership, 460 North Terrace, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita requesting an exception to permit the establishment of an off-street parking lot in the "A" Two-family Dwelling District and legally described as follows:

Lots 2, 4, and 6 on Pershing Avenue in Central Avenue Subdivision of Prospect Place Addition to Sedgwick County, Kansas. Generally located on the south side of Central Avenue on the west side of Pershing (435-437 North Pershing).

GALBRAITH stated the applicant had requested a 30 day deferral at the April 27, 1982 meeting in order to better prepare the case.

Mr. Joseph, Attorney for the applicant, appeared before the Board and passed out a letter to the Board stating that his client was withdrawing the application.

MOTION: HENDERSON moved, KOPIETZ seconded, that the item be struck from the agenda. Motion passed 4-0 (SLAYMAKER absent).

3. Case No. EZA 10-82 - Keith L. Anderson, 1125 South Rock Road, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita requesting an exception to permit the construction of Residential Storage Warehouses in the "LC" Light Commercial District and legally described as follows:

The east 100' of Lot 1, and all of Lot 2 except the east 150' of the north 200' thereof, Block A, Place Thirteen Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 13th Street between St. Paul and Custer.

GALBRAITH stated the Legal Department recommended that anything less than 2.0 acres cannot be considered. He recommended that the Board strike the item from the agenda. Mr. Sherwood and his client in opposition was present just to see what the action would be.

MOTION: JACOB moved, KOPIETZ seconded,
that the item be struck from the agenda.
Motion passed 4-0 (SLAYMAKER absent).

4. Case No. EZA 13-82 - William E. Valentine, 1953 North Santa Fe, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita requesting a variance to reduce the front yard setback from 25 feet to 0 feet for off-street parking purposes only on property zoned "A" Two-family Dwelling District and legally described as follows:

Lot 15, Block B, Longview Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg and west of Roosevelt (3723-25 East Kellogg).

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

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the front yard setback from 25 feet to 0 feet for off-street parking purposes only. This is requested in order to provide off-street parking in the front yard for the occupants of the two-family dwelling. This is a result of improvements being made to the curve along Kellogg, and in the process the

State has acquired a portion of the front of the properties in the area in addition to reducing the width of the street in front of the property providing access thereto.

In the process of making the improvements, there will be the elimination of the spaces in the street that the occupants have used in the past, and in exchange for this, the State will be making the necessary parking improvements in the front yard setback. In order that these improvements be made, it is necessary to reduce the front yard setback to 0 feet for parking purposes only.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located at the end of the dead end street which is being restricted by the improvements to Kellogg to reduce the curve.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the improvements to Kellogg will compensate for any adverse affect the parking in the front yard setback will cause to adjacent properties.

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 applicant inasmuch as the State would be unable to provide a parking area for the parking that is being removed by the improvement to Kellogg.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the proposed improvements to Kellogg will provide greater safety to the general public.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the provisions of the zoning ordinance provide for additional parking in front yards where on-street parking is restricted.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The parking shall be surfaced with concrete, asphalt, asphaltic concrete or other comparable surfacing.

EZA Minutes
5-25-82

GALBRAITH stated that the CPO Council recommended 5-1 to approve the request. The engineering department is recommending approval of the application for off-street parking. Engineering has made a few changes which included that the curvature be flattened out so that cars can negotiate the curve more safely. He stated they had also worked out a proposal that is satisfactory with the applicant and the engineering department.

Clark Nelson, Attorney representing Allen Stiglets, who owns the property west of the property in question and the property owners immediately west of the Stiglets property stated that he had a number of objections to the variance. His clients have lived with this Kellogg project for the last 1-1/2 years. He thought the board should not approve the application subject to the plans submitted by the engineering department. He felt that if this application is approved, three other variances also need to be granted. The width of the street is inadequate. Minimum width of the road has to be 28' unless there is some variance or approval given. To my knowledge there has not been any approval given; the street is about 17'. The last plans he had been shown was 24' which would be livable. There has not been any provisions for a turn around. The state statutes states there must be a turn around provided. This request is to reduce the front yard setback and we do not think it meets the five requirements. Our situation is the same and we are living with it. I would request that this matter be deferred until the city has approved some plans of KDOT with a public hearing. We are requesting that you deny the request.

GALBRAITH asked Nelson to restate the objection as to concrete in the front yard. Nelson stated the ordinance states that you cannot have more than "x" amount of concrete in a front yard.

Bill McKinley, Engineering Department, stated he has passed out three exhibits to the board, (1) represents what is out there today, (2) the frontage road is 24' which I believe is a standard frontage road for the city of Wichita, and (3) today they are living on a dead end street. McKinley reviewed the alternate plans that had been reviewed with KDOT and the City Commission. The City Commission has approved the proposal with one minor exception of being able to obtain a right-of-way. We had to modify to go around the Stiglets. GALBRAITH asked McKinley about the road today. McKinley stated it is a dead end road today.

No one else appeared in favor or opposition.

MOTION: HENDERSON moved, JACOB seconded that the five conditions set out in Section 2.12.590.B, of the Code as necessary for the granting of the variance have been found to exist and that the variance be granted to reduce the front yard setback from 25 feet to 0 feet for off-street parking purposes only subject to the condition set out in the Secretary's Report. Motion passed 4-0 (SLAYMAKER absent).

The official action of the Board is reflected in the adoption of Resolution No. 13-82 which includes the following condition of approval:

1. The parking area shall be surfaced with concrete, asphalt, asphaltic concrete or other comparable surfacing.
-
5. Case No. BZA 14-82 - Dr. & Mrs. Ron Brown, 2250 Cameron Circle, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita requesting a variance to reduce the required rear yard setback from 20 feet to 15 feet on property zoned "AA" One-family Dwelling District and legally described as follows:

Lot 14, Block J Comatara 1st Addition, an addition to Wichita, Sedgwick County, Kansas. Generally located at the north end of Cameron Circle (2250 Cameron Circle).

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

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the rear yard setback from 20 feet to 15 feet in order to add a room to the rear of the dwelling. The depth of the rear yard at the present time is approximately 25 feet so any addition without a variance would be severely restricted.

The property is located adjacent to a common open space at the rear which provides a greater distance between properties than the normal situation where lots are platted with common rear property lines. Although in this instance the common open space is only about 25 feet, the reduction of the rear yard as requested will still leave more than the normal separation between structures at the rear.

UNIQUENESS:

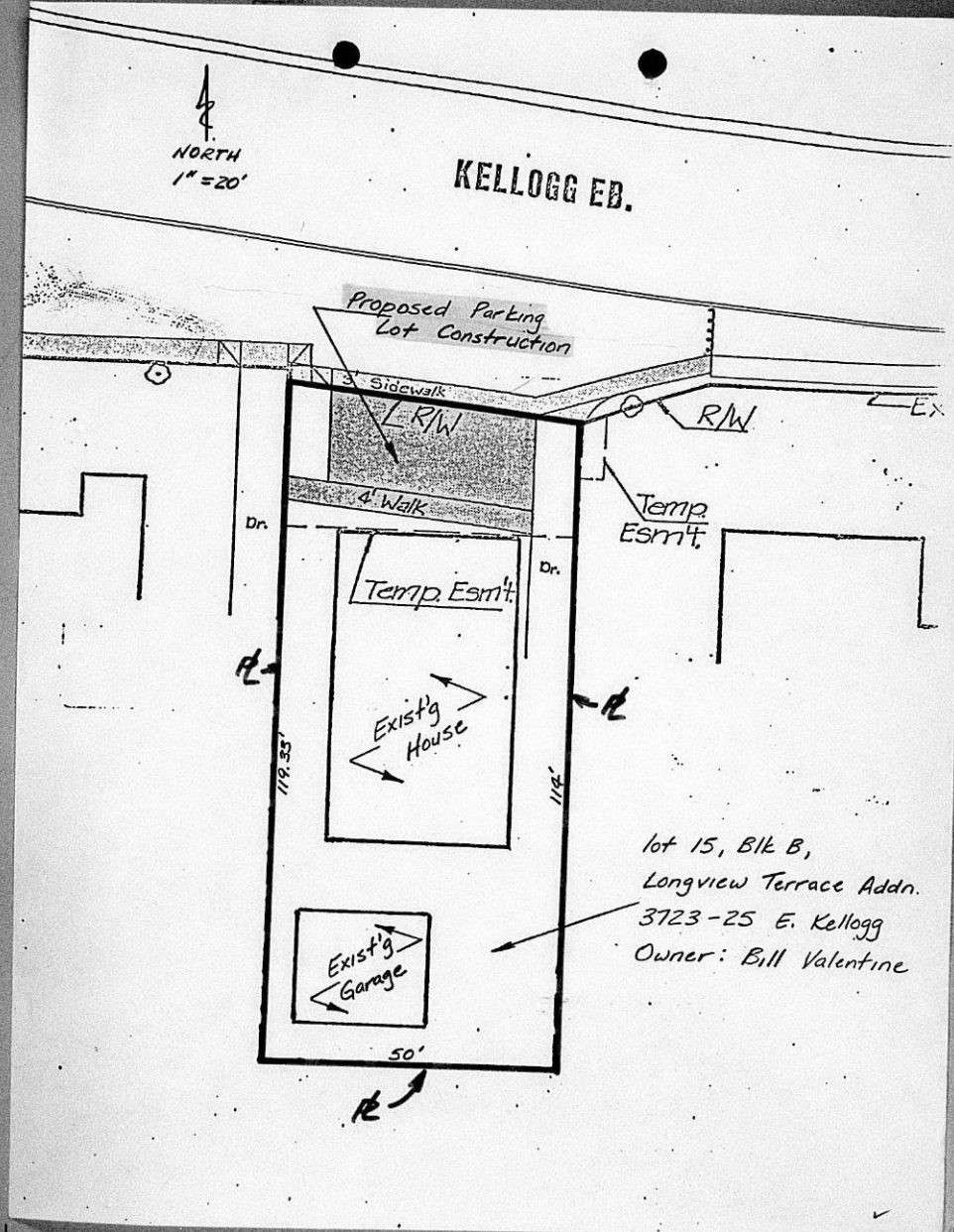
It is the opinion of the Secretary that this property is unique inasmuch as the rear yard is adjacent to a common open space which provides a greater separation than normal.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent

NORTH
1" = 20'

KELLOGG EB.



lot 15, Blk B,
Longview Terrace Addn.
3723-25 E. Kellogg
Owner: Bill Valentine

SECRETARY'S REPORT
CASE NO. BZA 13-82

APPLICANT: William E. Valentine, 1953 North Santa Fe,
Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the front
yard setback from 25 feet to 0 feet for off-
street parking purposes only.

GENERAL LOCATION: On the south side of Kellogg and west of
Roosevelt.

ZONING: Subject property is zoned the "A" Two-family
Dwelling District as are all adjacent properties.

LAND USE: Subject property is occupied by a Two-family
Dwelling. Adjacent properties are all
residential.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the front yard setback from 25 feet to 0 feet for off-street parking purposes only. This is requested in order to provide off-street parking in the front yard for the occupants of the two-family dwelling. This is a result of improvements being made to the curve along Kellogg, and in the process the State has acquired a portion of the front of the properties in the area in addition to reducing the width of the street in front of the property providing access thereto.

In the process of making the improvements, there will be the elimination of the spaces in the street that the occupants have used in the past, and in exchange for this, the State will be making the necessary parking improvements in the front yard setback. In order that these improvements be made, it is necessary to reduce the front yard setback to 0 feet for parking purposes only.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located at the end of the dead end street which is being restricted by the improvements to Kellogg to reduce the curve.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the improvements to Kellogg will compensate for any adverse affect the parking in the front yard setback will cause to adjacent properties.

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 applicant inasmuch as the State would be unable to provide a parking area for the parking that is being removed by the improvement to Kellogg.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the proposed improvements to Kellogg will provide greater safety to the general public.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the provisions of the zoning ordinance provide for additional parking in front yards where on-street parking is restricted.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The parking shall be surfaced with concrete, asphalt, asphaltic concrete or other comparable surfacing.

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE May 19, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 13-82, South side of
Kellogg and West of Roosevelt
(3723-25 East Kellogg)

CPO Council Area "G" considered the captioned case at their May 17th meeting and voted 5-1 to recommend approval of the requested variance of the front yard setback from 25 feet to 0 feet for off street parking purposes only on property zoned the "A", Two Family Dwelling District at the aforementioned location. The members voting in favor of the variance, indicated that they based their decision on the comments from the MAPD secretary's report, "that the requested variance is a result of improvements being made to the curve along Kellogg, and in the process the State has acquired a portion of the front yard of the properties in the area in addition to reducing the width of the street in front of the property providing access thereto. Also, in the process of making the improvements, there will be the elimination of the spaces in the street that the occupants have used in the past, and in exchange for this, the State will be making the necessary parking improvements in the front yard setback. In order that these improvements be made, it is necessary to reduce the front yard setback to 0 feet for parking purposes only". The one dissenting voter expressed opposition to the thought of a front yard being used for parking purposes, especially in an area in which adjacent streets such as Longview Lane are so picturesque.

No one was present to speak in support or opposition to the application.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at their May 25th meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

Sarah Gilbert

Sarah Gilbert
CP Coordinator

BZA CASE NO. 13-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

14 NOTICES SENT TO ADJOINING PROPERTY OWNERS

27 TOTAL NOTICES SENT 5-5-82

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

May 5, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 13-82

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by William E. Valentine, 1953 North Santa Fe, Wichita, Kansas requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required front yard setback from 25 feet to 0 feet for off-street parking purposes only on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 15, Block B, Longview Terrace Addition
to Wichita, Sedgwick County, Kansas. Gen-
erally located on the south side of Kellogg
and west of Roosevelt (3723-25 East Kellogg).

This application has been assigned Case No. BZA 13-82. It will be considered by the Board of Zoning Appeals on May 25, 1982 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

5-5-82 P.O.N.
5-25-82 Mtg.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 13-82
FILED 4-21-82

APPLICATION FOR VARIANCE

I. Name of Applicant William E. Valentine
Mailing Address 1953 N. Santa Fe Phone 2676862
Name of Authorized Agent Steven L. Potucek, Real Estate Officer
13th Floor
Mailing Address 455 N. Main Street Phone 268-4367
Relationship of applicant to property is that of Contract Purchaser
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required front yard setback
from 25 feet to 0 feet for off-street parking purposes only

for property located on the south side of Kellogg and west of
Roosevelt (3723-25 E. Kellogg)
and legally described as: Lot 15, Block B, Longview Terrace Addition
to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned A.

- 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 2.12.530 of the Code of the City of Wichita (Ordinance No. 36-596); 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.

Applicant W. E. Valentine
Authorized Agent Steven L. Potucek

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:15 (~~time~~-p.m.), APR. 21, 1982 together with appropriate fee of 75.00 - Dept. Transfer.

Signed J. Lytle

THE CITY OF WICHITA

OFFICE OF Contracts Administration

DATE April 21, 1982


TO Glen Lytle, Planning Department
FROM Steven L. Potucek, Real Estate Officer



SUBJECT Kellogg & Roosevelt Intersection
472-76-245-81091-000-000-009
Tract 2 (W. E. Valentine)

Attached please find an application for variance concerning the above referenced tract. As I indicated, a variance will be required inasmuch as the State will be providing subject owner with a parking area in his required setbacks. Larry Henry and Bill McKinley and myself will all be available to explain the project to appropriate parties at your discretion.

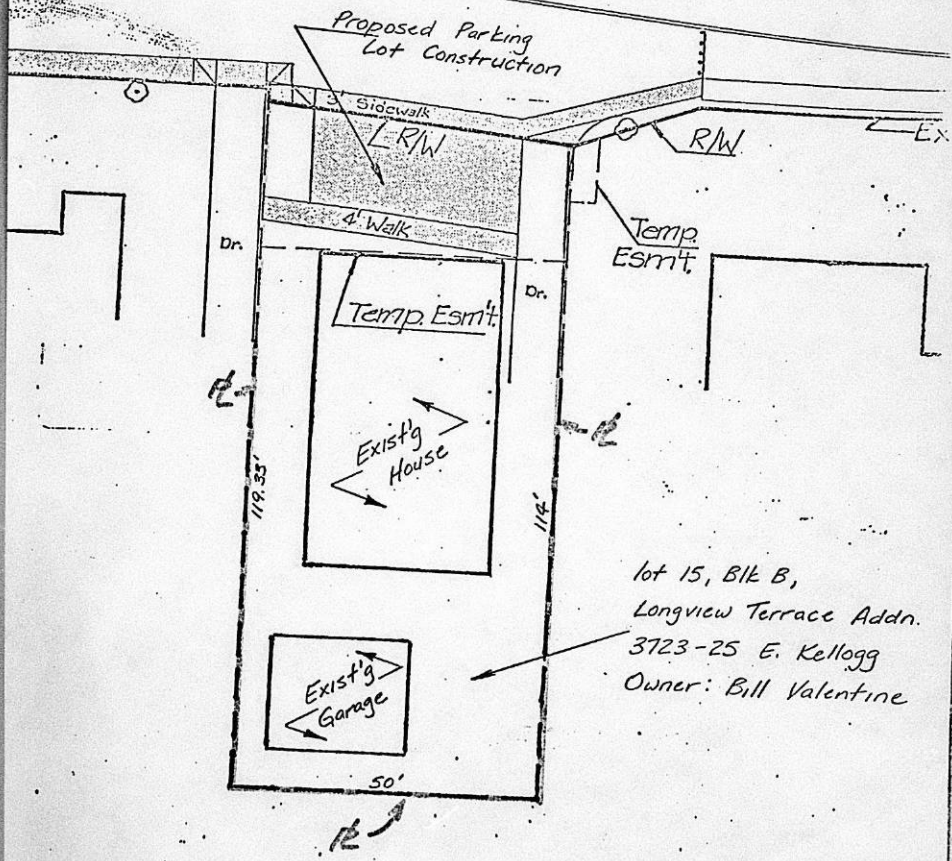
Thank you for your cooperation and should you have any questions, please advise.


Steven L. Potucek
Real Estate Officer

SLP/abv
Attachment
cc: Larry Henry
Tom Powell
Bill Stockwell

NORTH
1" = 20'

KELLOGG ED.



lot 15, Blk B,
Longview Terrace Addn.
3723-25 E. Kellogg
Owner: Bill Valentine

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 4	B	Longview Terrace Addition	Robert A. Moler Penna L. Moler 3624 Longview Lane 67218
Lot 6	B	"	Roger W. Stevens Jacqueline S. Stevens 1923 S. Market St. 67211
Lot 8	B	"	Wayman A. Saunders Ann B. Saunders 3636 Longview Lane 67218
Lots 10 and 12	B	"	<i>Returned</i> Randall L. Sawyer Janell D. Sawyer 1735 S. Erie Ave. 67211
Lot 7 except the North 8 feet	B	"	Harold Jones and Betty D. Jones 408 Martha Mulvane 67110
Lot 9 except the North 8 feet	B	"	Lynn Lowry 115 South Rutan 67218
Lot 11 except the North 8 feet	B	"	Allan Stiglitz 3715 East Kellogg 67218
Lot 13 except the North 8 feet	B	"	Allan Stiglitz and Betty Stiglitz 3715 East Kellogg 67218
Lot 15 except the North 8 feet	B	"	Willard S. Paul Victoria R. Paul <u>Address Unknown</u>

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 17 except r-o-w for street	B	Longview Terrace Addition	✓ M. Wayne Willis Mona M. Willis 3731 E. Kellogg 67218
Lot 7 except the North 8 feet	A	"	✓ Charles A. Dooling Florence Dooling 3903 East Kellogg 67218
Lot 1	E	"	✓ Kenneth Dale Crouch Mary L. Crouch 3805 Longview Lane 67218
Lot 2, and the North half of Lot 4	E	"	✓ Orville D. Moler Helen F. Moler 512 S. Roosevelt 67218
Lot 1		Dundee Second Addition	✓ City of Wichita 455 N. Main 67202
South 60 feet of Lot 10		Orr's Addition	✓ Anna M. Conwell 2106 North Old Manor 67208
Lots 5, 6, 7, 8		Circle Drive Addition	✓ Charles W. Toman Julie D. Toman 439 S. Roosevelt 67218
North 50 feet of Lot 11		"	Same as above
Lots 29 and 31	4	Merriman Park Sixth Place Addition	✓ Elizabeth Rhoda Garrison aka Mrs. Paul Jackson Garrison <u>Address Unknown</u>
Lots 33 and 35	4	"	✓ City of Wichita 455 N. Main 67202
Lots 37 and 39, except street	4	"	✓ S. J. Glaves One-Twenty Building 120 S. Market 67202

Page 3

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lot 15, except the North 8 feet thereof, Block B, Longview Terrace an Addition to Wichita, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas on the 20th day of April, 1982 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Kable
Vice President

Order No: 308552
AP

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202



*B2A
13-82*

SAW 35 290622N1 05/06/82

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD



Randall L. & Janell D. Sawyer
1735 South Erie Avenue
Wichita, Kansas 67211

*1129
/dlw*

