

Case No. BZA 18-81 - Lonny R. McCurdy
requests a variance to reduce the
required off-street parking from 28
spaces to 4 spaces on property zoned
"E" Light Industrial District and
generally located on the northeast

Recorded
of the
City of
10/14/81
6-11-81

POSTED
5-11-81
PA

ACTION

BZA
18-81

DATE

COMMITTEE Approved by W. Romer 5-26-81

M.A.P.C. _____

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

20014 Sec
Checked 6-9-81
Shot 6-9-81
Recorded 6-10-81
6-11-81

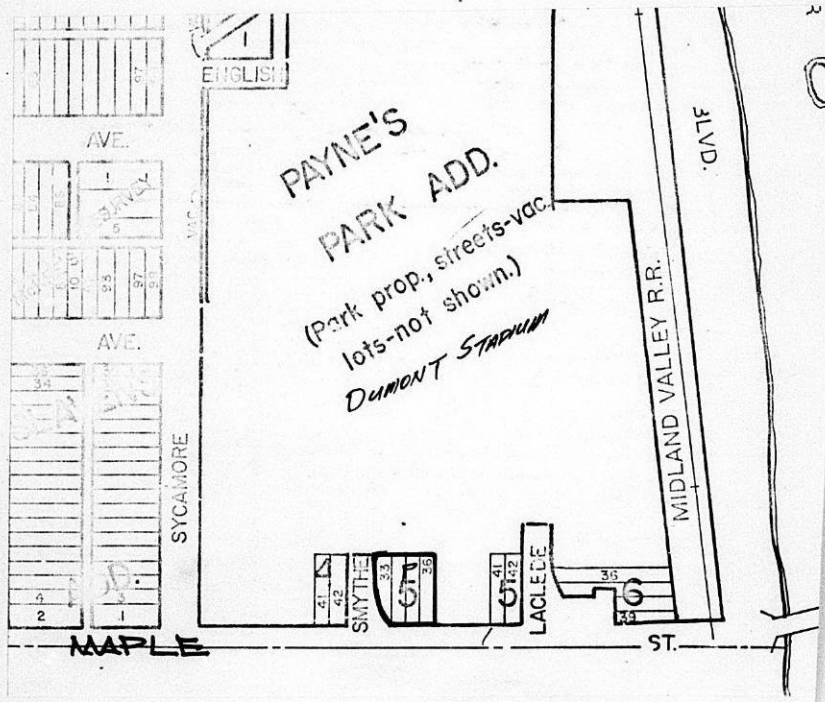
Case No. BZA 18-81 - Tommy R. McQuarty
requests a variance to reduce the
required off-street parking from 28
spaces to 4 spaces on property zoned
"P" Light Industrial District and
generally located on the northeast

Map No. 5447
 Sec. 20
 Twp. 27
 Range 1E

BZA- 18-81
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: _____ (95 ft. by 122 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East UNDEVELOPED South SINGLE & MULTI
 West _____ North BASEBALL STADIUM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: PARKING
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



HASTINGS, MINN.
 No. 2-153C
Steed.
 LOS ANGELES, CALIF. & CHICAGO, ILL.
 REGISTERED PROFESSIONAL ENGINEERS
 U.S.A.

18-81

June 1, 1981

Lonny R. McCurdy
446 West Maple
Wichita, Kansas

Re: Case No. BZA 18-81
Request for Variance

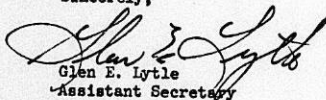
Dear Mr. McCurdy:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 26, 1981.

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

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

Sincerely,


Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 18-81

WHEREAS, Lonny R. McCurdy, 446 West Maple, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required off-street parking spaces from 26 to 8 on property zoned the "E" Light Industrial District and legally described as follows:

Lots 33, 34, 35, 36, Block 5 Payne's Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Maple and Smythe (446 West Maple).

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 26, 1981, 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 has been nonconforming since the adoption of the off-street parking requirements for commercial uses; 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 adjacent properties to the north, east and west are owned by the City of Wichita; 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 applicant will be unable to secure a permit for the addition; 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 addition will be used mainly for additional parking for the uses on the property; 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 proposed addition will not increase the demand for parking; 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.

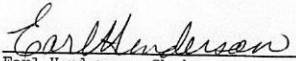
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required off-street parking from 26 to 8 spaces on property zoned the "E" Light Industrial District and legally described as:

Lots 33, 34, 35, 36, Block 5 Payne's Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Maple and Smythe (446 West Maple).

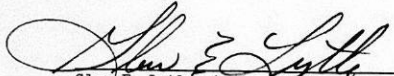
be approved subject to the following conditions:

1. The addition shall only be used for 4 required off-street parking spaces and limited storage in conjunction with the existing businesses.
2. At any time a change of occupancy to any other use, the owner shall provide additional parking, or apply for a variance to the Board of Zoning Appeals.

ADOPTED AT WICHITA, KANSAS, this 26th day of May, 1981.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

May 28, 1981

Lenny R. McCurdy
446 West Maple
Wichita, Kansas

Re: Case No. BZA 18-81
Request for Variance

Dear Mr. McCurdy:

At the regular meeting of the Board of Zoning Appeals on May 26, 1981, your request for a variance was considered.

It was the action of the Board to approve your request to reduce the required parking from 26 to 8 spaces subject to the following conditions:

1. The addition shall only be used for 4 required off-street parking spaces and limited storage in conjunction with the existing businesses.
2. At any time a change of occupancy to any other use, the owner shall provide additional parking, or apply for a variance to the Board of Zoning Appeals.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 26, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 18-81: Northeast corner of
Smythe and Maple

CPO Council "O" considered the captioned case at their May 21st meeting.

The applicant and another representative were present to discuss the case with the Council. The applicant explained that their application had not been properly stated therefore, it was misinterpreted by MAPD staff. He expressed that they were not requesting a reduction in the required off-street parking spaces from 28 to 4 so that a storage building may be placed on the property, but instead, they were planning to build a covered garage on the property which would provide for 4 additional parking spaces.

Council members commented that they did not support reducing the number of required off-street parking spaces, but they did support the addition of spaces. The Council voted 6-0 to recommend approval of the variance request as presented by the applicant.


There was no one present to speak in opposition to the application.

Please provide the Council's recommendation to the BZA when the case is considered at the May 26th meeting.


Shirley Mast
Administrative Aide III

SM:ml

Noted:


Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT
CASE NO. BZA 18-81

APPLICANT: Lonny R. McCurdy, 446 West Maple, Wichita,
Kansas

AGENT: Same

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the required
off-street parking spaces from 28 to 4.

GENERAL LOCATION: On the northeast corner of Smythe and Maple.

ZONING: Subject property is zoned "E" Light Industrial
as are all adjoining properties.

LAND USE: Subject property is occupied by offices and
general businesses. Property to the west
is the Park Department Maintenance Shop. To
the north, Lawrence-Dumont Stadium and parking.
To the east and south are commercial businesses.

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 reduction in the required off-street parking spaces from 28 to 4 so that additional building may be placed on the property. In accordance with the site plan furnished with the application, the new addition is proposed to be added to the north that could be surfaced to provide a limited amount of parking for the existing building.

The applicant has indicated that justification for the variance is the availability of adequate public parking within the general area, located immediately north of the property. Although the parking around Lawrence-Dumont Stadium is used quite extensively by workers in the Central Business Area and also by other businesses west of the river, there appears to be space available most of the time.

It appears that the applicant is attempting to overbuild the site on the basis that the public parking will always remain immediately north of his property for his tenants use. Changes do occur, and the Secretary feels that the applicant should make a reasonable attempt to provide more than 4 spaces on his property.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to justify uniqueness inasmuch as the applicant is trying to overdevelop the property.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as there are several businesses in the immediate area that do not have adequate parking within a reasonable distance for their customers.

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 applicant will be unable to secure a permit for the addition.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance will adversely affect the public interest inasmuch as if each adjacent property owner within 600 feet of the stadium would use this as a basis to eliminate the need for parking, the parking would soon not be available for public use.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance requires that each owner provide a reasonable amount of parking to serve the demand created.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance cannot be found to exist, and would recommend that the variance be denied.

BZA CASE NO. 18-81

1 NOTICES SENT TO APPLICANT/AGENT
9 NOTICES SENT TO MAPC
10 NOTICES SENT TO CPO
90 NOTICES SENT TO ADJOINING PROPERTY OWNERS
20 TOTAL NOTICES SENT 5-6-81

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

MAY 4, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 18-81

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 Lonny R. McCurdy, 446 West Maple, 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 off-street parking from 28 spaces to 4 spaces. A legal description of the applicant's property is as follows:

Lots 33, 34, 35, 36, Block 5 Payne's Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Maple and Smythe (446 West Maple).

This application has been assigned Case No. BZA 18-81. It will be considered by the Board of Zoning Appeals on May 26, 1981 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, 268-4381.

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

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 18-81
FILED 4-10-81

APPLICATION FOR VARIANCE

I. Name of Applicant Lonny R. McCurdy
Mailing Address 446 West Maple, Wichita 67213 Phone 267-2123
Name of Authorized Agent Lonny R. McCurdy
Mailing Address 7008 E. 14th Wichita, KS 67206 Phone 686-8969
Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required
off-street parking from 28 spaces to 4 spaces
for property located northeast corner of Maple and Smythe
(446 W. Maple)
and legally described as: Lots 33, 34, 35, 36 Block 5
Payne's Park Addition, ^{to} Wichita, Sedgwick ^{County} Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- That he has been advised of the fee requirements established by Section 2.12.500 of the Code of the City of Wichita (Ordinance No. 36-596) and that the appropriate fee is herewith tendered.
- 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.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant [Signature]
Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:30 (~~4:30~~ p.m.), April 10, 1981, together with appropriate fee of 150.00.

Signed [Signature]

April 10, 1981

Board of Zoning Appeals
10th Floor City Hall
455 N. Main
Wichita, KS 67202

Gentlemen:

We respectfully request a variance in parking for the attached real property. This property parking variance that we request arises from a unique situation in that our subject property is surrounded on four sides by real estate, owned by the City of Wichita or it's agencies. The subject property is located at the corner of Maple and Smythe and is presently used for office and lounge.

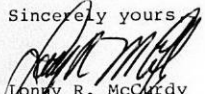
This property is zoned light industrial, and is located immediately south of Lawrence-Dumont Stadium. The existing property is over fifty years old but has recently been remodeled. There is presently four parking spaces located in the southwest corner.

We request this variance so that we may add fifteen hundred square feet of storage building in the rear of the property. This building will be used exclusively for storage and will not create a need for additional parking. We are not, therefore, creating, through our actions, any parking problems. The land used for the new construction is presently not used for anything and creates an adverse value in its present condition. The creation of this variance will not adversely effect the rest of the city, as parking requirements will not change.

The strict application of the existing ordinance will constitute unnecessary hardship on us in that we would not be able to utilize our property at its highest and best use. It should also be noted that paved parking is located adjacent to our building at the north this parking accupies most of the land north to nearly Douglas Street.

This variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The granting of this variance desired will not be opposed to the general spirit and intent of the zoning ordiance.

Sincerely yours,


Lonny R. McCurdy

Attachments

OWNERSHIP LIST

Legal Description

The North 45 feet of Lot 8, and all that part of Lots 9 and 10, all on Maple St., described as follows: Beginning at the Northwest corner of said Lot 9; thence running South along the West line of said Lot 9 a distance of 45 feet; thence East parallel with the North line of said Lot 9 and of Lot 10, a distance of 26.14 feet; thence North to a point on the North line of said Lot 10, said point being 26 feet East of the Northwest corner of said Lot 9; thence West along the North line of said Lots 9 and 10 a distance of 26 feet to the place of beginning; AND the South 40 feet of the North 85 feet of Lot 8, and the South 40 feet of the North 85 feet of the West 20 feet of Lot 9, all in Winne's Addition to Wichita, Sedgwick County, Kansas.

The North 45 feet of Lot 10, except the West 1.14 feet thereof, and the North 45 feet of Lots 11 and 12, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

Beginning 45 feet South of the Northeast corner of Lot 12 on Maple Street, thence South 40 feet; thence West 80 feet; thence North 40 feet; thence East 80 feet to place of beginning, being part of Lots 9, 10, 11 and 12, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

The South 40 feet of Lots 8, 9, 10, 11 and 12, Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

Lots 18 thru 24, inclusive, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

The North 45 feet of Lots numbered 13, 14, 15, 16, and 17, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

The North 40 feet of the South 80 feet of Lots 13, 14, 15, 16 and 17, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

The South 40 feet of Lots 13, 14, 15, 16 and 17, on Maple Street, Winne's Addition to Wichita, Sedgwick County, Kansas.

Lots 41 and 42, Block 5, Payne's Park Addition, Sedgwick County, Kansas.

Lots 19 thru 32, inclusive and Lots 37 thru 42, inclusive, Block 4, and Lots 17 thru 32, inclusive, and Lots 37 thru 40 inclusive, Block 5, Payne's Park Addition, Sedgwick County, Kansas.

Columbian National Title Insurance of Wichita, Inc. hereby certifies the foregoing to be a true and correct list of property owners of the above listed properties as shown by the last deeds of record in the office of the Register of Deeds of Sedgwick County, Kansas, on this 2nd day of April, 1981 @ 7:00 A.M.

Owners

*Bernard P. Dette
239 S. Fountain Avenue
Wichita, Ks 67218

*Violet A. Sharp, as to the fee
title--614 S. Erie
Wichita, Ks 67211
*Betty L. Brown, as to an equitable
interest by an unrecorded Contract
for Sale--8815 S. Seneca
Wichita, Ks 67233

*Malvern W. & Esther M. Crawford
624 Hiram Avenue
Wichita, Ks 67213
(as to undivided 1/2 interest)
*LaVerne R. & Lorene F. Bernhardt
236 S. Fern Street
Wichita, Ks 67213
(as to undivided 1/2 interest)

*Charles W. & Joyce M. Smith
7619 Ponderosa Street
Wichita, Ks 67212

*Donald E. & Rebecca A. Gragg
926 Lawrence Lane
Wichita, Ks 67206

*Otie P. Minson
402 S. Smythe
Wichita, Ks 67213

Deed
*Otie P. Minson
402 S. Smythe
Wichita, Ks 67213

Deed
*Otie P. Minson
402 S. Smythe
Wichita, Ks 67213

*Alex J. Soerries
c/o Thunderbird Realty
3202 W. 13th
Wichita, Ks 67203

*City Hall
475 North Main
Wichita, Ks 67202

COLUMBIAN NATIONAL TITLE INSURANCE
OF WICHITA, INC.

Pat O'Rourke
By: Pat O'Rourke, Executive Vice-President

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-1

PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pbfg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
CONCRETE USE	150.00

NAME: M. C. CURRY - JUNIOR

ADDRESS: 446 WEST MAPLE

FUND: 110-40071-003 DUE DATE: 6-30-50

COMMENTS:

DATE: 7/10/51 BY: H. Lytle

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 2