

BZA 34-64 - Paul Mann requests  
variance for property located at  
the NE corner of Bluff & Kellogg

ACTION

DATE  
7-28-64

*By* COMMITTEE

~~###~~ *App - with conditions*

~~###~~

100-36

September 8, 1964

Mr. F. C. McMaster, Attorney  
312 Brown Building  
Wichita, Kansas

Dear Mr. McMaster:

Re: Case No. BZA 34-64

On August 27, 1964, we advised you that the Board of Zoning Appeals had approved subject application for a variance of parking requirements from the required 23 spaces to 8 spaces, subject to the condition that if at anytime the occupancy of the building would require more than 23 off-street parking spaces, then the variance would be null and void, this action being related to property generally located at the northeast corner of Bluff and Kellogg.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before September 4, 1964.

The City Clerk has advised that no appeal was filed on or before September 4, 1964, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber  
Attachment

cc: Paul Mann  
401 State Street  
Augusta, Kansas

Glen Lytle, Superintendent  
of Central Inspection

R E S O L U T I O N   N O .   B Z A   3 4 - 6 4

WHEREAS, Paul Mann, 401 State Street, Augusta, Kansas, by F. C. McMaster, attorney, 312 Brown Building, Wichita, Kansas, has requested a Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to provide 8 off-street parking spaces for a furniture store rather than 23 spaces as required, on property legally described as follows:

West 82 feet of Lot 38, except the north 1 foot thereof, and the west 82 feet of Lots 39 and 40 and the west 82 feet of vacated Kellogg Street adjacent on the south of Lot 40, on Bluff Avenue, in Merriman Park Fifth Place, in the City of Wichita, Sedgwick County, Kansas,

and generally located at the northeast corner of Bluff and Kellogg;  
and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on the 25th day of August, 1964;  
and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the building has been occupied for some nine years by various commercial enterprises and was zoned "LC" with the requirement that there be only 8 or 9 off-street parking places; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the rights of adjacent property owners because from the evidence before the Board there has been no indication of complaints or past parking problems with the existing off-street parking; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in this appeal inasmuch as there is no available land in the immediate area which can be acquired and no adjoining property that can be acquired or used for off-street parking; and


WHEREAS, the Board of Zoning Appeals has found that the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare in that from all evidence before this Board there has been nothing to indicate otherwise; and

WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance can be granted, has been found to exist.

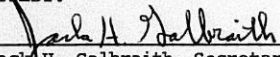
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the request for reduction of off-street parking spaces be granted to permit 8 off-street parking spaces rather than 23 spaces as required by Section 28.04.140.A.2.9 of the Code of the City of Wichita, and further, that if at anytime the occupancy of the building would require more than 23 off-street parking spaces, that this variance shall be null and void, this action to apply to property generally located at the northeast corner of Bluff and Kellogg, and legally described as follows:

West 82 feet of Lot 38, except the north 1 foot thereof, and the west 82 feet of Lots 39 and 40 and the west 82 feet of vacated Kellogg Street adjacent on the south of Lot 40, on Bluff Avenue, in Merriman Park Fifth Place, in the City of Wichita, Sedgwick County, Kansas.

DATED AT WICHITA, KANSAS, this 25th day of August, 1964.

  
\_\_\_\_\_  
Harold Bauer, Chairman

ATTEST:

  
\_\_\_\_\_  
Jack H. Galbraith, Secretary

Board of Zoning Appeals

September 2, 1964

Robert G. Finch, City Clerk  
Jack H. Galbraith, Secretary

Case No. BZA 34-64

Attached is a copy of Resolution No. BZA 34-64,  
covering action taken by the Board of Zoning  
Appeals in connection with the above-numbered  
case, which case was heard by the Board on August  
25, 1964. An appeal may be filed in your office  
on or before September 4, 1964. If an appeal is  
filed, please advise.

JHG:ber

Attachment

August 27, 1964

Mr. F. C. McMaster, Attorney  
312 Brown Building  
Wichita, Kansas

Dear Mr. McMaster:

Re: Case No. BZA 34-64

This is to advise you that at its regular meeting of August 25, 1964, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of parking requirements from the required 23 to 8, on property generally located at the northeast corner of Bluff and Kellogg.

It was the action of the Board to grant the request to permit 8 off-street parking spaces rather than 23 as required by Section 28.04.140 of the Code of the City of Wichita and, further, that if at anytime the occupancy of the building would require more than 23 off-street parking spaces, this variance shall be null and void.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before September 4, 1964.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If none has been filed the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber  
cc: Paul Mann,  
401 State Street  
Augusta, Kansas

Robert G. Finch, City Clerk  
Glen Lytle, Superintendent of Central Inspection

SECRETARY'S REPORT #2

CASE NO. BZA 34-64

At the regular meeting of the Board of Zoning Appeals on July 28, 1964, the Board considered an application for a variance of the off-street parking requirements for a building located at the northeast corner of Kellogg and Bluff. Specifically, the applicant was requesting that the requirement of 23 off-street parking spaces be lowered to 8 spaces for the furniture store business presently being carried on in the building. It was recommended by the Secretary that if the variance from 23 spaces to 8 spaces was granted that it should be granted subject to the following condition:

1. The variance shall only apply to the use or occupancy indicated by the applicant, that being a retail furniture store; and in the event such use of occupancy should change, the required off-street parking spaces shall be governed by the particular ordinance in effect at that time for that particular zoning district in which the building is located.

The action of the Board was to defer further consideration of the application for a period of 30 days to allow the applicant and staff sufficient time to get together and try and work out a solution to the problem.

It should also be pointed out that at the August meeting the attorney for the applicant requested that the variance relative to the off-street parking requirements be granted not only for the furniture store, but rather, be granted for every use which had occupied the building since 1954. He stated that the uses which have occupied the building since that time are listed under Section 28.04.090 (Light Commercial district) as follows:

- 1.2 Furniture store  
Sale of printing and paper supplies  
Sale of beauty supplies
- 1.4 Loan company
- 1.5 Barber shop
- 1.6 Beauty parlor
- 1.7 Business and commercial school

- 1.15 Offices - insurance  
adjustors  
doctor  
dentist  
realtor  
factory representative  
counselor  
oil  
broker
- 1.16 Printing shop
- 1.21 Studio
- 1.22 Tailor shop

As directed by the Board, the staff has met with the attorney for the applicant on several occasions and tried to work out some solution to this problem as far as off-street parking is concerned. The possibility of limiting the number of employees for each specific use was discussed; however, this did not seem to solve the problem inasmuch as there is no way to ascertain the amount of business created by each and every use and consequently makes it very difficult to determine the parking needs for each use.

It is the Secretary's understanding that there are eight apartment units in the building and each of these units are now being devoted to the display of furniture. However, if the furniture store should terminate its lease, it would then be possible for each of these units to be utilized for a separate use. If all eight units were occupied by eight different uses at one time and if they were doing any business at all, it would be self-evident that there should be more than 8 parking spaces provided.

The Secretary is of the opinion that the highest and best use for this building is for apartments. This is what the building was originally constructed and designed for and still appears to be best suited for this use. Although the decision has long since been made to zone this property light commercial, it only goes to show that a building which is designed and constructed for residential use is very difficult to convert to a successful commercial enterprise, even though the zoning has been changed. It should also be pointed out that the reason there is only 8 parking spaces provided on this property is probably due to the fact that the parking area was originally constructed to accommodate an apartment building rather than a commercial building which it is presently being used for. Consequently, it is the opinion of the Secretary that the number of uses which have occupied this building for the past ten years only proves one thing and that is there is simply not

enough off-street parking provided to make the use of this building profitable as a commercial enterprise.

It should be pointed out that the Board at its July meeting did not vote on the four conditions which must be found to exist before a variance may be granted. Consequently, the Board must vote on all four of the following conditions and must find them to exist before the variance may be granted:

1. That the variance arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

NOTE: The Secretary's comments on the four conditions, as indicated in the original Secretary's report, are as follows:

UNIQUENESS

The Secretary is of the opinion that there is nothing unique from a physical standpoint as far as this request is concerned. However, on several occasions the Board has considered uniqueness as to the use of the property rather than to its physical characteristics. Consequently, the Secretary is of the opinion that uniqueness can be found to exist on the basis that hardware stores, furniture stores and similar type uses do not generate as much traffic as drive-in restaurants, drive-in banks, etc. and therefore, should not be required to provide as much off-street parking space. Of course, this does depend upon the circumstances in each case.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should in no way affect adjacent property owners.

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted in that there is no additional space available to provide the necessary parking.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION OF THE SECRETARY

It is still the opinion of the Secretary that if this variance is granted it should be granted only for the furniture store which now occupies the building. However, if the Board should desire to grant a parking variance for every use enumerated earlier in this report, it is recommended that the variance from 23 to 8 spaces be granted and that no limitation be placed on the number of employees for each use but, rather, since the applicant has constantly maintained that there has never been a parking problem associated with this building, it is recommended that the variance be granted subject to the following:

1. The Superintendent of Central Inspection and the Traffic Engineer are hereby authorized to inspect the premises at their convenience to ascertain whether or not a parking problem may have been created by anyone of the uses occupying the building. If either one of the above named individuals should determine that a parking problem has been created so as to be a hazard to the movement of traffic in the area, or to pedestrian traffic, or so as to detract from the value of adjacent residential properties, he may request that this matter again be brought before the Board of Zoning Appeals for rehearing.
2. A variance from the required 23 off-street parking spaces to 8 off-street parking spaces is hereby granted for the following uses:
  1. Loan company or investment company
  2. Barber shop
  3. Beauty shop
  4. Business or commercial school

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Case No. BZA 34-64

5. Offices
  6. Printing shop employment not more than 5 persons engaged in the mechanical operations ordinarily used in the production of printed matter
  7. Studio
  8. Tailor shop; provided there are not more than 5 persons employed in the shop
  9. Furniture store
3. The variance from 23 to 8 off-street parking spaces is granted for only those uses enumerated under #2 above and in no event shall it be so construed that the building is structurally or otherwise sound to accommodate these uses. This matter shall be left solely in the hands of the Superintendent of Central Inspection.

SECRETARY'S REPORT #2

CASE NO. BZA 34-64

At the regular meeting of the Board of Zoning Appeals on July 28, 1964, the Board considered an application for a variance of the off-street parking requirements for a building located at the northeast corner of Kellogg and Bluff. Specifically, the applicant was requesting that the requirement of 23 off-street parking spaces be lowered to 8 spaces for the furniture store business presently being carried on in the building. It was recommended by the Secretary that if the variance from 23 spaces to 8 spaces was granted that it should be granted subject to the following condition:

1. The variance shall only apply to the use or occupancy indicated by the applicant, that being a retail furniture store; and in the event such use of occupancy should change, the required off-street parking spaces shall be governed by the particular ordinance in effect at that time for that particular zoning district in which the building is located.

The action of the Board was to defer further consideration of the application for a period of 30 days to allow the applicant and staff sufficient time to get together and try and work out a solution to the problem.

It should also be pointed out that at the August meeting the attorney for the applicant requested that the variance relative to the off-street parking requirements be granted not only for the furniture store, but rather, be granted for every use which had occupied the building since 1954. He stated that the uses which have occupied the building since that time are listed under Section 28,04,090 (Light Commercial district) as follows:

- 1.2 Furniture store
  - Sale of printing and paper supplies
  - Sale of beauty supplies
- 1.4 Loan company
- 1.5 Barber shop
- 1.6 Beauty parlor
- 1.7 Business and commercial school

UNIMASTER PANAMA-BEAVER UNIMASTER PANAMA  
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- 1.15 Offices - insurance  
adjustors  
doctor  
dentist  
realtor  
factory representative  
counselor  
oil  
broker
- 1.16 Printing shop
- 1.21 Studio
- 1.22 Tailor shop

As directed by the Board, the staff has met with the attorney for the applicant on several occasions and tried to work out some solution to this problem as far as off-street parking is concerned. The possibility of limiting the number of employees for each specific use was discussed; however, this did not seem to solve the problem inasmuch as there is no way to ascertain the amount of business created by each and every use and consequently makes it very difficult to determine the parking needs for each use.

It is the Secretary's understanding that there are eight apartment units in the building and each of these units are now being devoted to the display of furniture. However, if the furniture store should terminate its lease, it would then be possible for each of these units to be utilized for a separate use. If all eight units were occupied by eight different uses at one time and if they were doing any business at all, it would be self-evident that there should be more than 8 parking spaces provided.

The Secretary is of the opinion that the highest and best use for this building is for apartments. This is what the building was originally constructed and designed for and still appears to be best suited for this use. Although the decision has long since been made to zone this property light commercial, it only goes to show that a building which is designed and constructed for residential use is very difficult to convert to a successful commercial enterprise, even though the zoning has been changed. It should also be pointed out that the reason there is only 8 parking spaces provided on this property is probably due to the fact that the parking area was originally constructed to accommodate an apartment building rather than a commercial building which it is presently being used for. Consequently, it is the opinion of the Secretary that the number of uses which have occupied this building for the past ten years only proves one thing and that is there is simply not

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enough off-street parking provided to make the use of this building profitable as a commercial enterprise.

It should be pointed out that the Board at its July meeting did not vote on the four conditions which must be found to exist before a variance may be granted. Consequently, the Board must vote on all four of the following conditions and must find them to exist before the variance may be granted:

1. That the variance arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

NOTE: The Secretary's comments on the four conditions, as indicated in the original Secretary's report, are as follows:

The Secretary is of the opinion that there is nothing unique from a physical standpoint as far as this request is concerned. However, on several occasions the Board has considered uniqueness as to the use of the property rather than to its physical characteristics. Consequently, the Secretary is of the opinion that uniqueness can be found to exist on the basis that hardware stores, furniture stores and similar type uses do not generate as much traffic as drive-in restaurants, drive-in banks, etc. and therefore, should not be required to provide as much off-street parking space. Of course, this does depend upon the circumstances in each case.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should in no way affect adjacent property owners.

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Case No. BZA 34-64

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted in that there is no additional space available to provide the necessary parking.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION OF THE SECRETARY

It is still the opinion of the Secretary that if this variance is granted it should be granted only for the furniture store which now occupies the building. However, if the Board should desire to grant a parking variance for every use enumerated earlier in this report, it is recommended that the variance from 23 to 8 spaces be granted and that no limitation be placed on the number of employees for each use but, rather, since the applicant has constantly maintained that there has never been a parking problem associated with this building, it is recommended that the variance be granted subject to the following:

1. The Superintendent of Central Inspection and the Traffic Engineer are hereby authorized to inspect the premises at their convenience to ascertain whether or not a parking problem may have been created by anyone of the uses occupying the building. If either one of the above named individuals should determine that a parking problem has been created so as to be a hazard to the movement of traffic in the area, or to pedestrian traffic, or so as to detract from the value of adjacent residential properties, he may request that this matter again be brought before the Board of Zoning Appeals for rehearing.
2. A variance from the required 23 off-street parking spaces to 8 off-street parking spaces is hereby granted for the following uses:
  1. Loan company or investment company
  2. Barber shop
  3. Beauty shop
  4. Business or commercial school

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Case No. BZA 34-64

5. Offices
  6. Printing shop employment not more than 5 persons engaged in the mechanical operations ordinarily used in the production of printed matter
  7. Studio
  8. Tailor shop; provided there are not more than 5 persons employed in the shop
  9. Furniture store
3. The variance from 23 to 8 off-street parking spaces is granted for only those uses enumerated under #2 above and in no event shall it be so construed that the building is structurally or otherwise sound to accommodate these uses. This matter shall be left solely in the hands of the Superintendent of Central Inspection.

1.2 Kelaib

- \* 1) Furniture store
- \* 2) Sale of furniture & paper supplies
- \* 3) Sale of Beauty H. & Co. & supplies
- 4) Parfumeries shop.
- 5.) Small dress & altering mens apparel & fitting shop 3 employees
- 6.) Hair shop.
- 7) Novelty & Souvenir shop.
- 8.) Notions shop (3 employees)

1.3 Baharis @ Gentry shop 3 employees

\* 1.4, Loan Co.; Investment Co

\* 1.5 Barber shop - 3 chairs

\* 1.6 Beauty Parlors: 3 gutters  
Delano Stairland Beauty  
6000 1st Ave. South  
Rellogg - out bluff  
No parking

\* 1.7 Business & Commercial College  
schools

1.8. Catering establishment  
(5 people)

1.13 Laundry. & a pinloop shop

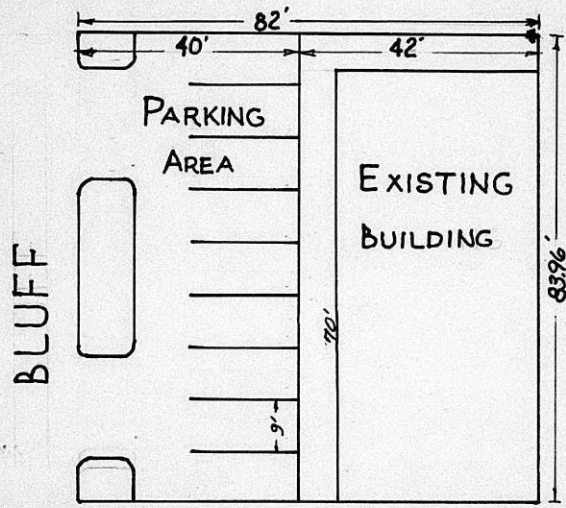
1.15 Office - General  
\*a) Insurance  
\*b) adjustors  
\*c) Dr. & dentists, lawyers  
\*d) Realtors  
\*e) Fractory & repair shops  
\*f) Counselors  
\*g) Oil operators  
\*h) Grocers.  
Government office

\*1.16, Printing shops

\*1.21 Studios = (include Health)

\*1.22, Tailor shops

~~1.24 Ad. most things in 1.15  
(Billboard in 1.15)~~



N  
1"-20'

KELLOGG

22 NOTICES MAILED AUGUST 13, 1964 TO THOSE PERSONS RECEIVING NOTICES  
OF THE JULY 28, 1964 MEETING, FOR MEETING OF AUGUST 25, 1964

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

August 13, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 34-64

An application has been filed by Paul Mann, 401 State Street, Augusta, Kansas, by F. C. McMaster, attorney, 312 Brown Building, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance to permit only 8 off-street parking spaces rather than 23 off-street parking spaces as required by Section 28.04.140, Code of the City of Wichita, on property legally described as follows:

West 82 feet of Lot 38, except the north 1 foot thereof, and the west 82 feet of Lots 39 and 40 and the west 82 feet of vacated Kellogg Street adjacent on the south of Lot 40, on Bluff Avenue, in Merriman Park Fifth Place, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bluff and Kellogg.

This application has been assigned Case No. BZA 34-64, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, August 25, 1964, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

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

August 13, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 34-64

An application has been filed by Paul Mann, 401 State Street, Augusta, Kansas, by F. C. McMaster, attorney, 312 Brown Building, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance to permit only 8 off-street parking spaces rather than 23 off-street parking spaces as required by Section 28.04.140, Code of the City of Wichita, on property legally described as follows:

West 82 feet of Lot 38, except the north 1 foot thereof, and the west 82 feet of Lots 39 and 40 and the west 82 feet of vacated Kellogg Street adjacent on the south of Lot 40, on Bluff Avenue, in Merriman Park Fifth Place, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bluff and Kellogg.

This application has been assigned Case No. BZA 34-64, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, August 25, 1964, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

July 29, 1964

Mr. F. C. McMaster, Attorney  
312 Brown Building  
Wichita, Kansas

Dear Mr. McMaster:

Re: Case No. BEA 34-64

This is to advise you that at its regular meeting of July 28, 1964, the Board of Zoning Appeals of the City of Wichita considered your request for a Variance of off-street parking requirements associated with a furniture store at the northeast corner of Bluff and Kellogg.

After full discussion and consideration, the Board deferred action on this request in order that you and your client might confer with the Secretary concerning the possibility of making the variance applicable to uses other than the existing furniture store.

This case will be rescheduled for the Board of Zoning Appeals meeting on August 25, 1964.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber

cc: Paul Mann  
401 State Street  
Augusta, Kansas

SECRETARY'S REPORT

CASE NO. BZA 14-64

APPLICANT: Paul Mann, 401 State Street, Augusta, Kansas

AGENT: F. C. McMaster, Attorney, 312 Brown Building

GENERAL LOCATION: Northeast corner of Bluff and Kellogg

ZONING: Property in question - "LC"

North - "AA" Single family  
East - "LC" Light commercial  
South - "LC" Light commercial  
West - "A" Two family

LAND USE: Property in question - Furniture store

North - Single family  
East - Duplex and single family  
South - Liquor store, barber shop, office building  
West - Service station

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow the applicant to provide 8 off-street parking spaces for his furniture store rather than 23 spaces as required by the Code of the City of Wichita.

JURISDICTION: The Board has the authority to consider the variance request under Section 2.12.590.2, Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicant has submitted a statement of justification and a plot plan. The statement of justification is included as Attachment #1 to this report. The plot plan of the parking layout will be available at the hearing for the Board's review.

The applicant, in his statement, has requested that the Board direct the Central Inspection Division to issue a Change of Occupancy for a building presently located in a "LC" Light Commercial zone. This statement is somewhat in error in that the Board cannot direct the Inspection Division to issue this permit. The applicant is, in fact, requesting a variance to permit only 8 off-street parking spaces rather than the required 23 spaces so that a Certificate for a Change of Occupancy can be issued.

It should be pointed out that the requirement of 23 parking spaces is based on the square feet of building floor area used, which did not include the basement floor area. In the event the applicant also plans to use the basement floor area, the required number of off-street parking spaces would be increased to a requirement of 34 spaces and the variance, if it is granted, would be granted for 8 spaces instead of a required 34.

The property presently has 9 off-street parking spaces indicated, but it has been determined that the southern most space would not be accessible were the other 8 filled; therefore, the variance is requested for only 8 spaces.

#### UNIQUENESS

The Secretary is of the opinion that there is nothing unique from a physical standpoint as far as this request is concerned. However, on several occasions the Board has considered uniqueness as to the use of the property rather than to its physical characteristics. Consequently, the Secretary is of the opinion that uniqueness can be found to exist on the basis that hardware stores, furniture stores and similar type uses do not generate as much traffic as drive-in restaurants, drive-in banks, etc. and therefore, should not be required to provide as much off-street parking space. Of course, this does depend upon the circumstances in each case.

#### ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should in no way affect adjacent property owners.

#### HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted in that there is no additional space available to provide the necessary parking.

#### PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

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Case No. BZA 34-64

RECOMMENDATION OF THE SECRETARY

Based on the foregoing review of this case, it is the recommendation of the Secretary that all four conditions necessary to the granting of a variance can be found to exist; therefore, it is the recommendation of the Secretary that the variance from 23 to 8 off-street parking spaces be granted, subject to the following conditions and requirements:

1. The variance shall only apply to the use or occupancy indicated by the applicant, that being a retail furniture store; and in the event such use or occupancy should change, the required off-street parking spaces shall be governed by the particular ordinance in affect at that time for that particular zoning district in which the building is located.

Attachment #1 - Statement of Justification

STATEMENT IN SUPPORT OF VARIANCE

This applicant requests that the Board direct that a Certificate of Change of Occupancy be issued by the Building Inspection Department as set forth in City Ordinances, Section 18.01.120. Applicant has been advised that the contemplated use of the building is a change of occupancy and that a permit for such change must be obtained. The Building Inspection Department advises that Section 28.04.140 requires additional off street parking to be provided before it can issue a permit for a change of occupancy.

The building and premises are located in a light commercial zone and has held light commercial uses since the year 1955, and prior to the time same was acquired by this owner the uses to which the property was put by the prior owner and the present owner was for apartments, offices and retail establishments, both for order taking and display area. Articles have been used and displayed in such building for sale since the year 1955. Various types of businesses have since the year 1955, occupied the building in conformity to those uses permitted by the zoning ordinances of the City of Wichita for a light commercial zone. Off street parking has been in existence for the use of such building since such time.

This owner has leased the building and the use to which the building will be put is exactly the same purposes as it has been put to since light commercial zoning was granted. The tenant in each of the separate apartments or rooms on the first and second floors of the building intends to furnish them as apartments - - each apartment containing furniture of a particular type and arranged in the apartment as one would ordinarily find furniture arranged when they went into an apartment in which people lived. The tenant then intends to have a small office inside the front door for the purpose of taking orders for various types of furniture;

the furnishings in the various apartments to be placed there only for the purpose of display. Prospective customers will enter the building and at their leisure go from apartment to apartment examining same. If a party desired to purchase any items of furniture they would then go and order it at the office and furniture of the same type would be taken from the tenant's warehouse (located in another part of the city) and delivered direct from the warehouse to the purchaser.

The contemplated use and condition is unique and not ordinarily found in the light commercial zoning district and the granting of a variance from additional parking spaces will not create any traffic congestion or parking problem since such contemplated use will not generate as much traffic or parking needs as heretofore existed during the past nine years on the same premises.

The granting of the permit for a change of occupancy will not adversely affect the rights of adjacent property owners or residents since the parking needs will not be as great as heretofore required by other uses.

The strict application of the enforced provisions of the zoning ordinances (requiring additional parking spaces) would constitute unnecessary hardship and expense upon this property owner since there is no property within the required distance from the premises which could be acquired for the purpose of additional parking and thus this owner would not be able to rent his premises for light commercial use.

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare but on the contrary will enhance the same by providing employment and contributing to the economy of the City of Wichita.

Therefore, the applicant respectfully requests that the requirement of additional off street parking be waived by this Board and the Building Inspection Department directed to issue a Certificate of the Change of Occupancy.

Dated this 24th day of June, 1964.

PAUL MANN, Applicant  
by SMITH & McBRIDE, his attorneys

By [Signature]  
One of Attorneys for the Applicant

[REDACTED]

SECRETARY'S REPORT

CASE NO. BZA 34-64

**APPLICANT:** Paul Mann, 401 State Street, Augusta, Kansas

**AGENT:** F. C. McMaster, Attorney, 312 Brown Building

**GENERAL LOCATION:** Northeast corner of Bluff and Kellogg

**ZONING:** Property in question - "LC"  
North - "AA" Single family  
East - "LC" Light commercial  
South - "LC" Light commercial  
West - "A" Two family

**LAND USE:** Property in question - Furniture store  
North - Single family  
East - Duplex and single family  
South - Liquor store, barber shop, office building  
West - Service station

**REQUEST:** Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow the applicant to provide 8 off-street parking spaces for his furniture store rather than 23 spaces as required by the Code of the City of Wichita.

**JURISDICTION:** The Board has the authority to consider the variance request under Section 2.12.590.2, Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicant has submitted a statement of justification and a plot plan. The statement of justification is included as Attachment #1 to this report. The plot plan of the parking layout will be available at the hearing for the Board's review.

Page 2 - Secretary's Report  
Case No. BZA 34-64

The applicant, in his statement, has requested that the Board direct the Central Inspection Division to issue a Change of Occupancy for a building presently located in a "LC" Light Commercial zone. This statement is somewhat in error in that the Board cannot direct the Inspection Division to issue this permit. The applicant is, in fact, requesting a variance to permit only 8 off-street parking spaces rather than the required 23 spaces so that a Certificate for a Change of Occupancy can be issued.

It should be pointed out that the requirement of 23 parking spaces is based on the square feet of building floor area used, which did not include the basement floor area. In the event the applicant also plans to use the basement floor area, the required number of off-street parking spaces would be increased to a requirement of 34 spaces and the variance, if it is granted, would be granted for 8 spaces instead of a required 34.

The property presently has 9 off-street parking spaces indicated, but it has been determined that the southern most space would not be accessible were the other 8 filled; therefore, the variance is requested for only 8 spaces.

UNIQUENESS

The Secretary is of the opinion that there is nothing unique from a physical standpoint as far as this request is concerned. However, on several occasions the Board has considered uniqueness as to the use of the property rather than to its physical characteristics. Consequently, the Secretary is of the opinion that uniqueness can be found to exist on the basis that hardware stores, furniture stores and similar type uses do not generate as much traffic as drive-in restaurants, drive-in banks, etc. and therefore, should not be required to provide as much off-street parking space. Of course, this does depend upon the circumstances in each case.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should in no way affect adjacent property owners.

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted in that there is no additional space available to provide the necessary parking.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

Page 3 - Secretary's Report  
Case No. BZA 34-64

RECOMMENDATION OF THE SECRETARY

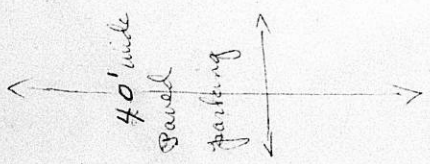
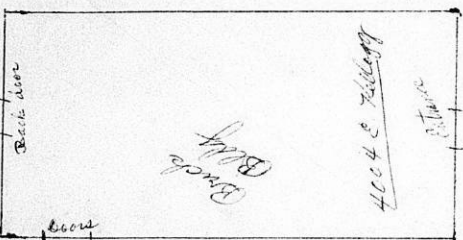
Based on the foregoing review of this case, it is the recommendation of the Secretary that all four conditions necessary to the granting of a variance can be found to exist; therefore, it is the recommendation of the Secretary that the variance from 23 to 8 off-street parking spaces be granted, subject to the following conditions and requirements:

1. The variance shall only apply to the use or occupancy indicated by the applicant, that being a retail furniture store; and in the event such use or occupancy should change, the required off-street parking spaces shall be governed by the particular ordinance in affect at that time for that particular zoning district in which the building is located.

Attachment #1 - Statement of Justification

N

North Property Line



Entrance to parking  
 Entrance to parking  
 (Bluff Street)

Schwarzik

Kellogg

967  
 23  
 40

11/11/76

4004 East Kellogg

Don't know

N

CASE NO. BZA 34-64

22 NOTICES MAILED JULY 9, 1964 FOR MEETING JULY 28, 1964

Paul Mann  
401 State Street  
Augusta, Kansas

F. C. McMaster  
312 Brown Building

M. Mollohan  
1734 North Hillside

Dewey and Ruth L. Bryant  
3918 Longview Lane

Beulah Giwosky  
1736 North Hillside

Doris J. Youmans  
1802 Kevin Road

Mary Jane Beddow  
409 South Bluff

Opal Horner  
421 South Bluff

W. C. and Esther O. Tull  
827 South Edgemoor

Anna Tull  
437 South Bluff

L. Vernon Johnson  
338 North Armour

James E. and Cathryn Marie Mount  
420 South Bluff

Lynn W. and Mildred K. Whiteside  
430 South Bluff

Olin D. and Lois M. Shade  
432 South Bluff

J. E. and Mildred I. Logan  
440 South Bluff

Rex E. and Mary L. Bienz  
4023 East Waterman

Dale M. and Kenny L. Goering  
421 South Ash *resent to 421 So.  
Fountain 7-13-64*

Charles J. and Helen J. Wagner  
425 South Fountain

Joseph W. and Magdalene M. Stauder  
437 South Fountain

George D. and Margaret L. McCarthy  
441 South Fountain

G. L. Bower  
531 South Belmont

R. H. Garvey  
Parklane Towers

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

25

July 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 34-64

An application has been filed by Paul Mann, 401 State Street, Augusta, Kansas, by F. C. McMaster, attorney, 312 Brown Building, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance to permit only 8 off-street parking spaces rather than 23 off-street parking spaces as required by Section 28.04.140, Code of the City of Wichita, on property legally described as follows:

West 82 feet of Lot 38, except the north 1 foot thereof, and the west 82 feet of Lots 39 and 40 and the west 82 feet of vacated Kellogg Street adjacent on the south of Lot 40, on Bluff Avenue, in Merriman Park Fifth Place, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bluff and Kellogg.

This application has been assigned Case No. BZA 34-64, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 28, 1964, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

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

July 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

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Jack H. Galbraith  
Secretary

SECRETARY'S REPORT #2

CASE NO. BZA 34-64

At the regular meeting of the Board of Zoning Appeals on July 28, 1964, the Board considered an application for a variance of the off-street parking requirements for a building located at the northeast corner of Kellogg and Bluff. Specifically, the applicant was requesting that the requirement of 23 off-street parking spaces be lowered to 8 spaces for the furniture store business presently being carried on in the building. It was recommended by the Secretary that if the variance from 23 spaces to 8 spaces was granted that it should be granted subject to the following condition:

1. The variance shall only apply to the use or occupancy indicated by the applicant, that being a retail furniture store; and in the event such use of occupancy should change, the required off-street parking spaces shall be governed by the particular ordinance in effect at that time for that particular zoning district in which the building is located.

The action of the Board was to defer further consideration of the application for a period of 30 days to allow the applicant and staff sufficient time to get together and try and work out a solution to the problem.

It should also be pointed out that at the August meeting the attorney for the applicant requested that the variance relative to the off-street parking requirements be granted not only for the furniture store, but rather, be granted for every use which had occupied the building since 1954. He stated that the uses which have occupied the building since that time are listed under Section 28.04.090 (Light Commercial district) as follows:

- 1.2 Furniture store  
Sale of printing and paper supplies  
Sale of beauty supplies
- 1.4 Loan company
- 1.5 Barber shop
- 1.6 Beauty parlor
- 1.7 Business and commercial school

Page 2 - Secretary's Report #2  
Case NO. BZA 34-64

- 1.15 Offices - insurance  
adjustors  
doctor  
dentist  
realtor  
factory representative  
counselor  
oil  
broker
- 1.16 Printing shop
- 1.21 Studio
- 1.22 Tailor shop

As directed by the Board, the staff has met with the attorney for the applicant on several occasions and tried to work out some solution to this problem as far as off-street parking is concerned. The possibility of limiting the number of employees for each specific use was discussed; however, this did not seem to solve the problem inasmuch as there is no way to ascertain the amount of business created by each and every use and consequently makes it very difficult to determine the parking needs for each use.

It is the Secretary's understanding that there are eight apartment units in the building and each of these units are now being devoted to the display of furniture. However, if the furniture store should terminate its lease, it would then be possible for each of these units to be utilized for a separate use. If all eight units were occupied by eight different uses at one time and if they were doing any business at all, it would be self-evident that there should be more than 8 parking spaces provided.

The Secretary is of the opinion that the highest and best use for this building is for apartments. This is what the building was originally constructed and designed for and still appears to be best suited for this use. Although the decision has long since been made to zone this property light commercial, it only goes to show that a building which is designed and constructed for residential use is very difficult to convert to a successful commercial enterprise, even though the zoning has been changed. It should also be pointed out that the reason there is only 8 parking spaces provided on this property is probably due to the fact that the parking area was originally constructed to accommodate an apartment building rather than a commercial building which it is presently being used for. Consequently, it is the opinion of the Secretary that the number of uses which have occupied this building for the past ten years only proves one thing and that is there is simply not

enough off-street parking provided to make the use of this building profitable as a commercial enterprise.

It should be pointed out that the Board at its July meeting did not vote on the four conditions which must be found to exist before a variance may be granted. Consequently, the Board must vote on all four of the following conditions and must find them to exist before the variance may be granted:

1. That the variance arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

NOTE: The Secretary's comments on the four conditions, as indicated in the original Secretary's report, are as follows:

UNIQUENESS

The Secretary is of the opinion that there is nothing unique from a physical standpoint as far as this request is concerned. However, on several occasions the Board has considered uniqueness as to the use of the property rather than to its physical characteristics. Consequently, the Secretary is of the opinion that uniqueness can be found to exist on the basis that hardware stores, furniture stores and similar type uses do not generate as much traffic as drive-in restaurants, drive-in banks, etc. and therefore, should not be required to provide as much off-street parking space. Of course, this does depend upon the circumstances in each case.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance should in no way affect adjacent property owners.

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted in that there is no additional space available to provide the necessary parking.

PUBLIC INTEREST

The Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

RECOMMENDATION OF THE SECRETARY

It is still the opinion of the Secretary that if this variance is granted it should be granted only for the furniture store which now occupies the building. However, if the Board should desire to grant a parking variance for every use enumerated earlier in this report, it is recommended that the variance from 23 to 3 spaces be granted and that no limitation be placed on the number of employees for each use but, rather, since the applicant has constantly maintained that there has never been a parking problem associated with this building, it is recommended that the variance be granted subject to the following:

1. The Superintendent of Central Inspection and the Traffic Engineer are hereby authorized to inspect the premises at their convenience to ascertain whether or not a parking problem may have been created by anyone of the uses occupying the building. If either one of the above named individuals should determine that a parking problem has been created so as to be a hazard to the movement of traffic in the area, or to pedestrian traffic, or so as to detract from the value of adjacent residential properties, he may request that this matter again be brought before the Board of Zoning Appeals for rehearing.
2. A variance from the required 23 off-street parking spaces to 3 off-street parking spaces is hereby granted for the following uses:

1. Loan company or investment company (no banks) (no small loan companies)
2. Barber shop
3. Beauty shop *3 operators*
4. Business or commercial school *mail order*

5. Offices ~~except lawyer & govt. offices~~
  6. Printing shop employment not more than  $\frac{2}{3}$  persons engaged in the mechanical operations ordinarily used in the production of printed matter
  7. Studio ~~may be used~~ for photography only
  8. Tailor shop; provided there are not more than 3-5 persons employed in the shop
  9. Furniture store
3. The variance from 23 to 8 off-street parking spaces is granted for only those uses enumerated under #2 above and in no event shall it be so construed that the building is structurally or otherwise sound to accommodate these uses. This matter shall be left solely in the hands of the Superintendent of Central Inspection.

*Restriction moves jurisdiction down recorded down*

*Uniqueness of bldg. - bldg. been occupied for 9 years for various com. purposes & was found to be well eq. that there be only 8 parking spaces.*

*Adjacent property - no effects because from evidence before us there has been no indication of present or past parking prob. with parking problems*

*Unnecessary hardships - in that there is no available land in the immediate area or adjoining prop. that can be acquired for off-street parking.*

2804.140  
7.9

*Not adversely affect public interest - in that from all evidence before the board there has nothing to indicate otherwise*

*Variance from 23-8 spaces be granted as long as occupancy of bldg. would not require more than 23 parking spaces if the variance were not granted. Variance becomes void if 23 or more spaces are required.*

STATEMENT IN SUPPORT OF VARIANCE

This applicant requests that the Board direct that a Certificate of Change of Occupancy be issued by the Building Inspection Department as set forth in City Ordinances, Section 18.01.120. Applicant has been advised that the contemplated use of the building is a change of occupancy and that a permit for such change must be obtained. The Building Inspection Department advises that Section 28.04.140 requires additional off street parking to be provided before it can issue a permit for a change of occupancy.

The building and premises are located in a light commercial zone and has held light commercial uses since the year 1955, and prior to the time same was acquired by this owner the uses to which the property was put by the prior owner and the present owner was for apartments, offices and retail establishments, both for order taking and display area. Articles have been used and displayed in such building for sale since the year 1955. Various types of businesses have since the year 1955, occupied the building in conformity to those uses permitted by the zoning ordinances of the City of Wichita for a light commercial zone. Off street parking has been in existence for the use of such building since such time.

This owner has leased the building and the use to which the building will be put is exactly the same purposes as it has been put to since light commercial zoning was granted. The tenant in each of the separate apartments or rooms on the first and second floors of the building intends to furnish them as apartments - - each apartment containing furniture of a particular type and arranged in the apartment as one would ordinarily find furniture arranged when they went into an apartment in which people lived. The tenant then intends to have a small office inside the front door for the purpose of taking orders for various types of furniture;

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The contemplated use and condition is unique and not ordinarily found in the light commercial zoning district and the granting of a variance from additional parking spaces will not create any traffic congestion or parking problem since such contemplated use will not generate as much traffic or parking needs as heretofore existed during the past nine years on the same premises.

The granting of the permit for a change of occupancy will not adversely affect the rights of adjacent property owners or residents since the parking needs will not be as great as heretofore required by other uses.


The strict application of the enforced provisions of the zoning ordinances (requiring additional parking spaces) would constitute unnecessary hardship and expense upon this property owner since there is no property within the required distance from the premises which could be acquired for the purpose of additional parking and thus this owner would not be able to rent his premises for light commercial use.

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare but on the contrary will enhance the same by providing employment and contributing to the economy of the City of Wichita.

Therefore, the applicant respectfully requests that the requirement of additional off street parking be waived by this Board and the Building Inspection Department directed to issue a Certificate for the Change of Occupancy.

Dated this 24th day of June, 1964.

PAUL MANN, Applicant  
by SMITH & McMASTER, his attorneys

By   
One of Attorneys for the  
Applicant

BOARD OF ZONING APPEALS

CITY OF WICHITA, KANSAS

CASE NO. Bya 34-64

FILED 6-25-64

APPLICATION FOR VARIANCE

I. Name of Applicant Paul Mann

Mailing Address 401 State Street Phone EE-12227 Bus.  
Augusta, Kansas

Name of Authorized Agent F. C. McMaster of Smith and McMaster

Mailing Address 312 Brown Building, Wichita 2, Kansas Phone AM 4-9381

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

II. The variance requested is Use of present building as retail furniture store.

\_\_\_\_\_

\_\_\_\_\_

for property located at 400 1/2 East Kellogg, Wichita, Kansas

\_\_\_\_\_

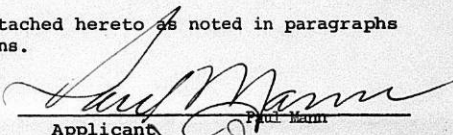
and legally described as: The West 82' of Lot 38, except a strip along the North side thereof, one foot wide, and the West 82' of Lots 39 and 40, and the 62' strip adjoining Lot 40 along the South side thereof, vacated off the North side of Kellogg Street by Ordinance No. 5525 of the City of Wichita, Kansas, Bluff Street, in Merrimen Park Fifth Place.

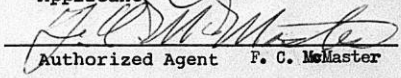
in the City of Wichita; and which is presently zoned Light Commercial.

(Give metes and bounds description below if appropriate):

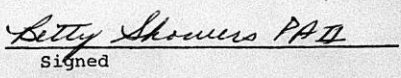
III. The applicant herein, or his authorized agent, acknowledges:

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

  
\_\_\_\_\_  
Applicant

  
\_\_\_\_\_  
Authorized Agent F. C. McMaster

-----  
OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,  
10:00 (a.m.) - p.m.), June 25, 1964, together with  
appropriate fee of \$50.00.

  
\_\_\_\_\_  
Signed

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The contemplated use and condition is unique and not ordinarily found in the light commercial zoning district and the granting of a variance from additional parking spaces will not create any traffic congestion or parking problem since such contemplated use will not generate as much traffic or parking needs as heretofore existed during the past nine years on the same premises.

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The strict application of the enforced provisions of the zoning ordinances (requiring additional parking spaces) would constitute unnecessary hardship and expense upon this property owner since there is no property within the required distance from the premises which could be acquired for the purpose of additional parking and thus this owner would not be able to rent his premises for light commercial use.

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare but on the contrary will enhance the same by providing employment and contributing to the economy of the City of Wichita.

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Dated this 24th day of June, 1964.

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by SMITH & McMASTER, his attorneys

By \_\_\_\_\_  
One of Attorneys for the  
Applicant

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This owner has leased the building and the use to which the building will be put is exactly the same purposes as it has been put to since light commercial zoning was granted. The tenant in each of the separate apartments or rooms on the first and second floors of the building intends to furnish them as apartments - - each apartment containing furniture of a particular type and arranged in the apartment as one would ordinarily find furniture arranged when they went into an apartment in which people lived. The tenant then intends to have a small office inside the front door for the purpose of taking orders for various types of furniture;

the furnishings in the various apartments to be placed there only for the purpose of display. Prospective customers will enter the building and at their leisure go from apartment to apartment examining same. If a party desired to purchase any items of furniture they would then go and order it at the office and furniture of the same type would be taken from the tenant's warehouse (located in another part of the city) and delivered direct from the warehouse to the purchaser.

The contemplated use and condition is unique and not ordinarily found in the light commercial zoning district and the granting of a variance from additional parking spaces will not create any traffic congestion or parking problem since such contemplated use will not generate as much traffic or parking needs as heretofore existed during the past nine years on the same premises.

The granting of the permit for a change of occupancy will not adversely affect the rights of adjacent property owners or residents since the parking needs will not be as great as heretofore required by other uses.

The strict application of the enforced provisions of the zoning ordinances (requiring additional parking spaces) would constitute unnecessary hardship and expense upon this property owner since there is no property within the required distance from the premises which could be acquired for the purpose of additional parking and thus this owner would not be able to rent his premises for light commercial use.

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare but on the contrary will enhance the same by providing employment and contributing to the economy of the City of Wichita.

Therefore, the applicant respectfully requests that the requirement of additional off street parking be waived by this Board and the Building Inspection Department directed to issue a Certificate for the Change of Occupancy.

Dated this 24th day of June, 1964.

PAUL MANN, Applicant  
by SMITH & McMASTER, his attorneys

By \_\_\_\_\_  
One of Attorneys for the  
Applicant

OWNERSHIP LIST

<u>LOT</u>	<u>STREET OR BLOCK</u>	<u>ADDITION</u>	<u>OWNER</u>
1 exc N. 8 ft.	A	Longview Terrace	✓ M. Mollohan 1734 N. Hillside
2 exc N. 8 ft.	A	"	Same
3 exc N. 8 ft.	A	"	W. C. Ellington and Una Grave McMillan <i>No address</i>
4 exc N. 8 ft.	A	"	Same
11 (N. 21 ft)	A	"	Same
12 (N. 21 ft)	A	"	Same
13	A	"	✓ Dewey Bryant and Ruth L. Bryant 3918 Longview Lane
14	A	"	✓ G. L. Bower <i>231 So. Belmont</i>
693 (exc N. 8 ft)		Fairfax Add	✓ Beulah Giwosky 1736 N. Hillside
694	"	"	Same
695	"	"	Same
696	"	"	Same
697	"	"	Same
698	"	"	Same
699	"	"	Same
700	"	"	Same
701	"	"	✓ Doris J. Youmens 1802 Kevin Road
702	"	"	Same
703	"	"	Same
10	Bluff	Merriman Park 5th Place	✓ Mary Jane Beddow 409 S. Bluff
11	"	"	✓ Opal Horner 421 S. Bluff
12	"	"	Same
13	"	"	✓ W. C. Tull and Esther O. Tull 827 S. Edgemoor
14	"	"	Same

LOT	STREET OR BLOCK	ADDITION	OWNER
15	Bluff	Merriman Park 5th Place	✓ Anna Tull 437 S. Bluff
16	"	"	Same
17	"	"	Ruth S. Woolley <i>no address</i>
18	"	"	Same
19	"	"	✓ L. Vernon Johnson 338 N. Armour
20 & part of vac. Kellogg on the South	"	"	Same
30	"	"	James E. Mount and Cathryn Marie Mount ✓ 420 S. Bluff
31	"	"	Same
32	"	"	✓ Lynn W. Whiteside and Mildred K. Whiteside 430 S. Bluff
33	"	"	Same
34	"	"	✓ Olin D. Shade and Lois M. Shade 432 S. Bluff
35	"	"	Same
36	"	"	✓ J. E. Logan and Mildred I. Logan 440 S. Bluff
37	"	"	Same
38 (N 1 ft)	"	"	Same
38 (E 50 ft, exc N. 1 ft)	"	"	✓ Rex E. Bienz and Mary L. Bienz 4023 E. Waterman
39 (E 50 ft)	"	"	Same
40 (E 50 ft & vac Kellogg St on S)	"	"	Same
38 (W 82 ft, exc N. 1 ft)	"	"	⊕ Paul Mann and Miriam Louise Mann Augusta, Kansas.
39 (W. 82 ft)	"	"	Same
40 (W. 82 ft & vac Kellogg St adj on S.)	"	"	Same

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER</u>
5 (S 50 ft)	M	Merriman Park	✓ Dale M. Goering and Kenny L. Goering 421 S. Fountain
10 (N. 50 ft)	M	"	✓ Charles J. Wagner & Helen J. Wagner 425 S. Fountain
10 (S. 50 ft. of N 100 ft.)	M	"	✓ R. H. Garvey <i>Parholane Jowers</i>
10 (S 50 ft of N. 150 ft.)	M	"	✓ Joseph W. Stauder and Magdalene M. Stauder 437 S. Fountain
10 (N 50 ft of S 100 ft)	M	"	✓ Geo. D. McCarthy and Margaret L. McCarthy 441 S. Fountain
10 (S 50 ft. & part vac. Kellogg on South	M	"	A. L. Billings <i>no address</i>

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We hereby certify the foregoing to be a correct list of property owners within a radius of 200 ft. of the West 32 ft. of Lot 38, except the North 1 ft. thereof, and the West 32 ft. of Lots 39 and 40 and the West 32 ft. of vacated Kellogg Street adj. on the South of Lot 40, on Bluff Ave., in Merriman Park Fifth Place, in the City of Wichita, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, this 1st day of June A. D. 1964 at 7 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

*J. N. M. Mearns*

Vice President.

Order No. 114352.  
(KPB)

FORM 223-021

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FL.**

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

DESCRIPTION	AMOUNT

Name

Address

Type

Due Date

Comments:

Date

By