

Posted
5-30-84 GSV

Case No. BZA 41-84 - Silo Stores -
requests a variance to reduce the re-
quired number of off-street parking
spaces from 100 spaces to 66 spaces on
property zoned the "LC" Light Commercial
District and generally located on the

ACTION
BZA 41-84 APPROVED 6-20-84
DATE

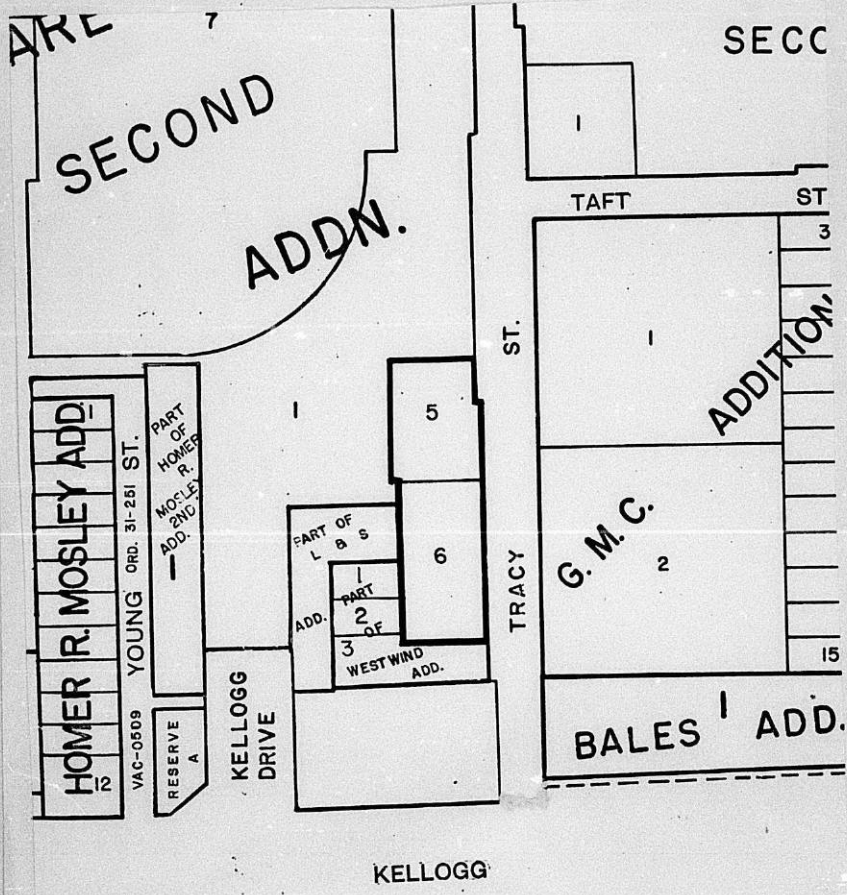
1/4 Sec. 7-2-84
Clear 7-9
Record

Map No. 5146A

BZA 41-84
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E E $\frac{1}{2}$ LC S E W E $\frac{1}{2}$ LC N LC
3. Land Use: East Comm South Comm
West Comm North Comm
4. Area (is) (~~is not~~) platted.



SHAW-WALKER
No. 2153C
HASTINGS, MN
LOS ANGELES CHICAGO LOS AN.
SAN FRANCISCO ST. LOUIS
U.S.A.

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

June 6, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 41-84

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 Silo Stores, & Bob Small, 12775 East 38th Avenue, Denver, Colorado, 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 number of off-street parking spaces from 100 spaces to 66 spaces on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 5 and 6, Towne West Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Tracy and north of Kellogg.

This application has been assigned Case BZA 41-84. It will be considered by the Board of Zoning Appeals on June 26, 1984 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

June 29, 1984

Silo Stores
% Bob Small
12775 East 38th Avenue
Denver, Colorado 80239

Re: BZA 41-84 - Request for Variance

Dear Mr. Small:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 26, 1984.

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
Encl.

cc: Everett Fettis, 120 South Market, Suite 504, Wichita 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 41-84

WHEREAS, Silo Stores, & Bob Small, 12775 East 38th Avenue, Denver, Colorado, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 100 spaces to 66 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 5 and 6, Towne West Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Tracy and north of Kellogg.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of June 26, 1984, 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 proposed use has demonstrated that it needs less parking than a general retail business and that the property is of sufficient size to accommodate all of the required parking should the use ever change; 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 there is sufficient lot area to accommodate additional off-street parking should the demand arise; 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 installation of unneeded parking would be an undue expense; 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 applicant is maintaining the access drive thru the property and the layout does not interfere with any right-of-way or easements; 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 applicant will be providing off-street parking in sufficient amounts to accommodate the proposed use; 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.

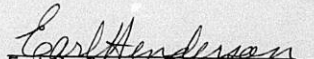
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 100 spaces to 66 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 5 and 6, Towne West Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Tracy and north of Kellogg.

be approved subject to the following conditions:

1. The applicant shall provide not less than 72 off-street parking spaces for a building not to exceed 24,000 square feet of floor area.
2. This variance shall apply only to an appliance, electronic or furniture business and at any time the occupancy changes to a general retail business, this variance shall become null and void.
3. The remainder of Lot 6 not surfaced for off-street parking shall be landscaped and maintained in good condition.

ADOPTED AT WICHITA, KANSAS, this 26th day of June, 1984.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

SECRETARY'S REPORT
CASE NO. BZA 41-84

APPLICANT: Silo Stores, % Bob Small, 12775 East 38th Avenue, Denver, Colorado.

AGENT: Everett Fettis, 120 S. Market, Suite 504, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 100 to 66 spaces.

GENERAL LOCATION: On the west side of Tracy and north of Kellogg.

ZONING: Subject property is zoned the "LC" Light Commercial District as is the property to the north. To the west is "LC" and "E" Light Industrial. Properties to the east and south are "E" Light Industrial.

LAND USE: Subject property is vacant. Adjacent properties are all developed with commercial uses. To the east is a motel. To the south across Kellogg is an automobile agency.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the number of required off-street parking spaces for the development of an appliance and furniture store. The plan submitted with the application did not indicate the amount of building area included in the facility. The letter of justification indicated that the building contained 25,000 square feet of floor area which would require 100 off-street parking spaces. The advertisement was published on June 1, 1984 and stated the reduction was to be from 100 spaces to 66 spaces. On June 8, 1984, the applicant's agent furnished plans to this office that sets forth the total square footage of the building to be 23,803 square feet. This would require a maximum of 96 spaces based on one space for each 250 square feet of floor area.

The applicant requested an administrative adjustment in the off-street parking requirements. This was denied on May 10, 1984 by the Director of Planning as an excessive adjustment. It should also be pointed out that an administrative adjustment was granted on December 21, 1983 to permit the location of an appliance/electronics business on lots 5 with the associated parking on lot 6 which would allow for the parking in conformance with the ordinance.

It is my understanding that plans have been submitted to Central Inspection that included the required number of off-street parking spaces which would be in compliance with the conditions of the CUP for off-street parking. In the past, off-street parking for similar uses have been established for furniture stores and similar uses when the land is available for parking and could be provided should the use be changed.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is of sufficient size to provide all the required parking for a retail business, and that a reduction of some reduced percentage might be justified.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested might adversely affect the rights of adjacent property owners, however, if the demand for the proposed use exceeds the number of off-street parking spaces established, the property would be available to provide additional parking to eliminate any adverse affect.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the providing of more parking than needed for the use would be an undue expense.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the applicant is maintaining the access drive thru the property and the layout does not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance in part would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the applicant will be providing off-street parking in sufficient amounts to accommodate the proposed use.

RECOMMENDATION:

It is the opinion of the Secretary that it is difficult to justify all five conditions necessary to the granting of the variance and it should be denied; however, should the Board determine that all five conditions exist, then it is recommended that the variance be granted subject to the following conditions:

1. The applicant shall provide not less than 72 off-street parking spaces for a building not to exceed 24,000 square feet of floor area.
 2. This variance shall apply only to an appliance, electronic and furniture business and at any time the occupancy changes to a general retail business, this variance shall become null and void.
 3. The remainder of Lot 6 not surfaced for off-street parking shall be landscaped and maintained in good condition.
-

BZA CASE NO. 41-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>7</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>10</u>	TOTAL NOTICES SENT <u>6-6-84</u>

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

June 6, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 41-84

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 Silo Stores, & Bob Small, 12775 East 38th Avenue, Denver, Colorado, 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 number of off-street parking spaces from 100 spaces to 66 spaces on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 5 and 6, Towne West Square Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Tracy and north of Kellogg.

This application has been assigned Case BZA 41-84. It will be considered by the Board of Zoning Appeals on June 26, 1984 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

BOARD OF ZONING APPEALS

CASE NO. 41-84

CITY OF WICHITA, KANSAS

FILED 5-29-84

APPLICATION FOR VARIANCE

I. Name of Applicant Silo Stores, % Bob Small
Mailing Address 12775 E. 38th Ave., Denver, Co 80239 Phone (303)373-4330
Name of Authorized Agent Everett C. Fettis
Mailing Address 120 S. Market, Suite 504 Phone 267-7251
Relationship of applicant to property is that of _____
(Owner, Tenant, Lessee, Other)

II. The variance requested is reduce the number of off-street parking stalls-spaces from 100 to 66

for property located on the west side of Tracy and north of Kellogg and legally described as: Lots 5 & 6, Towne West Square Second Addition, to Wichita, Sedg. Co., Ks.

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

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 2.12.500 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 _____

Authorized Agent Everett C. Fettis
EVERETT C. FETTIS

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 300 (4 p.m.), May 27, 1984 together with appropriate fee of 150.00

Signed L. Lytle

STATEMENT

Applicant seeks to reduce the required off street parking for the reason that the nature of the store is such that the ordinary amount of parking will not be required. The building is approximately 25,000 square feet in size with 15,000 square feet being used for offices and warehouse storage and 10,000 square feet being used for retail showroom. The experience of this company is that in this type of store substantial amounts of parking are not required.

The variance requested is unique to the property in question for the reason that it is in addition to a future commercial use and will not change in any manner the general conditions. The applicant has acquired this property because of its proximity to this particular commercial use and does fit within the area.

It seems obvious this will not adversely affect the rights of adjacent property owners because on both sides the use is similar.

Strict application of the provisions of Title 28 will constitute unnecessary hardship because of the lack of additional property and because there is really no need for such.

There will be no adverse affect to the public health, safety, morals, order, convenience, prosperity or general welfare because the use fits in with the general area.

The granting of the variance will not be opposed to the general spirit and intent of Title 28 because again the use is consistent with the other use in this area.

LAW OFFICES
FETTIS & McCLURE
120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251

OWNERSHIP LIST

<u>Property Description</u>	<u>Property Owner</u>
Lot 1, Towne West Square Second Addition	Towne West Mall Company ✓ 1712 N. Meridian Indianapolis, Indiana 46202 returned 6-12-84
Lot 7, Towne West Square Second Addition	J. C. Penney Properties Inc. 1301 Avenue of the Americas ✓ New York, New York 10019
Lots 5 & 6, Towne West Square Second Addition	Towne West Mall Company D 1712 N. Meridian Indianapolis, Indiana 46202
Beginning at a point 771.01 feet south of the Northeast corner and 210.89 feet west of the east line of said southwest Quarter and on the north line of lot 3, Westwind Addition to Wichita, Kansas, said north line of a bearing of South 89°41'53" West; thence 250 feet on a bearing of North 00°04'05" West parallel with the east line of said Southwest Quarter; thence 190 feet on a bearing of South 89°41'53" West; thence 345.73 feet on a bearing South 00°04'05" East to the south line of L & S Addition, thence 30.6 feet on a bearing of North 88°27'20" East along the south line of said L & S addition; thence 95.06 feet on a bearing North 00°04'05" west to the extended north line of said lot 3, Westwind Addition; thence 159.41 feet on a bearing of north 89°41'53" east along the extended north line and the north line of said Lot 3, Westwind Addition to the point of beginning.	Secretary of Transportation of the State of Kansas ✓ State Office Building Topeka, Kansas 66612
Lot 3, Westwind Addition	✓ H. Russell Bomhoff Elgeva I. Bomhoff 3030 Bluebird 67204

Property Description

Property Owner

The south 185 feet of the east
660 feet of the Southwest Quarter
of the Northeast Quarter, lying
North of US 54 right of way,
except the west 256.62 feet,
& except Tracy St. Sec.
26-27-1W

State Highway Commission
for State of Kansas
✓ State Office Building
Topeka, Kansas
66612

Lot 1, G. M. C. Addition

D. E. Sauder
Myrtle D. Sauder
address unknown

✓ Julia
Frances Lygrisse
3727 Sleepy Hollow Ct.
67208

Lot 2, G. M. C. Addition

William E. Bales
✓ Ruth N. Bales
9628 Tee
67212

Lot 1, Bales Addition

William E. Bales
Ruth N. Bales
D 9628 Tee
67212

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

Lots 5 & 6, Towne West Square Second
Addition, Wichita, Sedgwick County,
Kansas

as shown by the last deed of record on file in the Office of
the Register of Deeds of Sedgwick County, Kansas on this
30th day of May, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Cable
Sr. Vice President

Order No: 334790
cf

*

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

Roll # 2