

Case No. BZA 44-80 - Bill Z. & Jackie S. Gray, requests a variance to reduce the required off-street parking spaces from 19 to 9 on property zoned the "LC" Light Commercial District

*POSTED
10-8-90*

ACTION

*BZA
44-80*

COMMITTEE Appraised DATE 10-23-80

M.A.P.C. _____

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

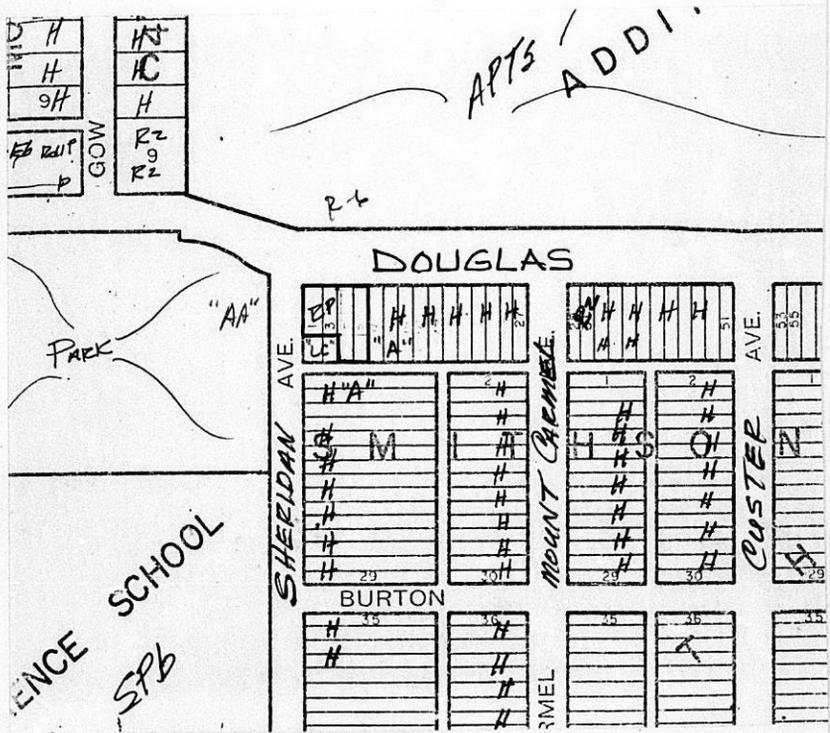
*Pro files 11-27-80
Checked 11-25-80
Shut 11-24-80
Reviewed 11-24-80*

Map No. 52470
 Sec. 24
 Twp. 27
 Range 1W

BZA- 44-80
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
- Acres: 0.25 (110 (IRREGULAR) ft. by 130 ft.)
 - Adjoining Zoning: E _____ S _____ W _____ N _____
 - Land Use: East SINGLE FAM South SINGLE FAM
 West PARK PLAYGROUND North APARTMENTS
 - Sketch Plan Land Use is for: _____
 - Present Land Use if for: REPAIR SHOP
 - Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



BZA 44-80

November 5, 1980

Bill & Jackie Gray
3135 West Douglas
Wichita, Kansas

Re: Case No. BZA 44-80
Request for Variance

Dear Mr. & Mrs. Gray:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 28, 1980, in connection with your request for a variance to reduce the required number of off-street parking spaces from 19 to 9 on property zoned "LC" Light Commercial and generally located on the southeast corner of Douglas and Sheridan (3135 West Douglas).

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 44-80

WHEREAS, Bill Z. and Jackie S. Gray, 3135 West Douglas, Wichita, Kansas, 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 19 to 9 on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 1 and 3, except the South 50 feet thereof, and the West 6 inches of Lot 5, except the South 50 feet thereof, and Lots 5 and 7, except the West 6 inches of the North 85 feet of Lot 5, on Douglas Avenue, Smithson's Subdivision of Smithson's Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Sheridan and Douglas (3135 West Douglas).

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 October 28, 1980, 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 existing business does not demand the parking spaces that many other uses require and the owner is adding more spaces on the property than the addition alone would require; 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 number of spaces provided will exceed the demand for the existing use; 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 would not be able to expand a business in a building that existed long prior to the adoption of required off-street parking; 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 owner will be providing adequate parking for the existing business; 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 adequate parking will be provided for the use for which this variance is granted; 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.

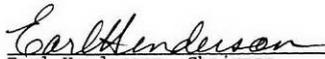
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 19 to 9 on property zoned the "LC" Light Commercial District and legally described as:

Lots 1 and 3, except the South 50 feet thereof, and the West 6 inches of Lot 5, except the South 50 feet thereof, and Lots 5 and 7, except the West 6 inches of the North 85 feet of Lot 5, on Douglas Avenue, Smithson's Subdivision of Smithson's Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Sheridan and Douglas (3135 West Douglas).

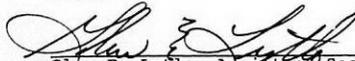
be approved subject to the following conditions:

1. The variance shall permit only the proposed 20 foot by 40 foot addition as shown by the applicant's site plan and only for the existing drapery shop.
2. At any time the use of the property changes, the owner will be required to provide parking in accordance with the zoning ordinance.
3. All parking and driveways on the property shall be surfaced in accordance with Section 28.04.143 of the code.
4. All parking spaces shall be marked and maintained in accordance with the approved plan submitted by the applicant.
5. All parking spaces adjacent to the property lines on Douglas and Sheridan shall be provided with parking barriers to prevent the extension of vehicles over the right-of-way lines.
6. The proposed addition shall not increase the display area within the building.
7. Screening shall be provided along the east property line as set forth in Section 28.04.160K. of the code.
8. Prior to the release of this resolution, the applicant shall remove the planters on public right-of-way or secure a minor street privilege from the City; and provide for a guarantee for the closing of one existing approach adjacent to Douglas as shown on the applicant's plan.

ADOPTED AT WICHITA, KANSAS, this 28th day of October, 1980.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 17, 1980

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, CPO Administrative Aide

SUBJECT BZA 44-80 (Southeast corner of
Sheridan and Douglas, 3135 West
Douglas)

CPO Council "0" considered the captioned case at their October 16 meeting and voted 4-0 to recommend approval of the requested variance to reduce the required off-street parking spaces from 19 to 9 on property zoned the "LC" Light Commercial District at the aforementioned location.

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

Please provide this information to the Board of Zoning Appeals when the case is considered at the October 28 meeting.

Shirley Mast
Shirley Mast
CPO Administrative Aide

SM:gs

Noted:

Sarah Gilbert
Sarah Gilbert
Assistant CP Coordinator



October 29, 1980

Bill & Jackie Gray
3135 West Douglas
Wichita, Kansas

Re: Case No. BEA 44-80
Request for Variance

Dear Mr. & Mrs. Gray:

At the regular meeting of the Board of Zoning Appeals on October 28, 1980, your request for a variance to reduce the required number of off-street parking spaces from 19 to 9 on property zoned "LC" Light Commercial and generally located on the southeast corner of Douglas and Sheridan (3135 W. Douglas) was considered.

It was the action of the Board to approve your request subject to the following conditions:

1. The variance shall permit only the proposed 20 foot by 40 foot addition as shown by the applicant's site plan and only for the existing drapery shop.
2. At any time the use of the property changes, the owner will be required to provide parking in accordance with the zoning ordinance.
3. All parking and driveways on the property shall be surfaced in accordance with Section 28.04.143 of the code.
4. All parking spaces shall be marked and maintained in accordance with the approved plan submitted by the applicant.
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8. Prior to the release of this resolution, the applicant shall remove the planters on public right-of-way or secure a minor street privilege from the City; and provide for a guarantee for the closing of one existing approach adjacent to Douglas as shown on the applicant's plan.

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

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

OCTOBER 8, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 44-80

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This application has been assigned case No. BZA 44-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 28, 1980, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney. If you have any questions about this application, please call 268-4390 and ask for Lynn Shirkey or 268-4394 and ask for Glen Lytle.

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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
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Jack H. Galbraith
Secretary

SECRETARY'S REPORT
CASE NO. BZA 44-80

APPLICANT: Bill Z. & Jackie S. Gray, 3135 West Douglas, Wichita, Kansas

AGENT: None

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 19 to 9.

GENERAL LOCATION: On the southeast corner of Douglas and Sheridan (3135 W. Douglas).

ZONING: Subject property is zoned "LC" Light Commercial; property to the west is "AA" One-family; north "R-6" General Residence; east and south "A" Two-family Dwelling District.

LAND USE: Subject property is developed commercially and surrounding properties to the east and south are residential. Property to the west is a park and to the north the property is vacant.

JURISDICTION:

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

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required number of off-street parking spaces from 19 to 9, in order to secure a building permit to expand the floor area approximately 800 square feet. The new addition would be used for material storage, consisting of drapery material, rods, valance material, etc.

The applicant has had a drapery and interior decorating shop at this location for approximately 5 years. The existing building was constructed at this location prior to the adoption of off-street parking requirements, and is considered a legal nonconforming building. The applicant can provide only 9 off-street parking spaces on the property, and then only with the exiting into the alley to the south.

The applicant states that only 4 employees work at this location. The majority of the drapery work is done in the homes of the individuals that make the drapes. Only 1650 square feet of the existing building is used for display with the remainder used for storage and work space. It is seldom that more than 3 customers are on the premises at the same time. Most of the business is conducted in the customers homes.

It is the opinion of the Secretary that the demand for parking for a drapery business is considerably less than for many other retail businesses, and to justify a variance to reduce the required parking spaces more than 50% is difficult. However, should the Board determine that the five conditions necessary for the granting of the variance are found to exist, then the use of the property shall be limited to existing business.

UNIQUENESS:

It is the opinion of the Secretary that if uniqueness can be found to exist, it may be due to the fact that the business does not demand the normal parking spaces and that the applicant

is adding more parking spaces on the property than the addition alone would require.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance may not adversely affect the rights of the adjacent property owners or residents inasmuch as the number of parking spaces to be provided will exceed the demand based on actual sales and display area.

HARDSHIP:

It is the opinion of the Secretary that if hardship can be found to exist; it would be the inability of the applicant to expand a business in a building location that has existed long prior to off-street parking requirements.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired would not have an adverse affect on the public interest inasmuch as the applicant will be providing adequate parking for the existing business.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the variance requested may not be opposed to the spirit and intent of the zoning ordinance inasmuch as adequate parking will be provided for the type of use that now exists on the subject property.

RECOMMENDATION:

If the Board finds that the five conditions necessary to the granting of a variance can be found to exist, then it is the Secretary's recommendation that the variance be approved subject to the following conditions:

1. The variance shall permit only the proposed 20 foot by 40 foot addition as shown by the applicant's site plan and only for the existing drapery shop.
2. At any time the use of the property changes, the owner will be required to provide parking in accordance with the zoning ordinance.
3. All parking and driveways on the property shall be surfaced in accordance with Section 28.04.143 of the code.
4. All parking spaces shall be marked and maintained in accordance with the approved plan submitted by the applicant.
5. All parking spaces adjacent to the property lines on Douglas and Sheridan shall be provided with parking barriers to prevent the extension of vehicles over the right-of-way lines.
6. The proposed addition shall not increase the display area within the building.
7. Screening shall be provided along the east property line as set forth in Section 28.04.160K. of the code.
3. Prior to the release of this resolution, the applicant shall remove the planters on public right-of-way or secure a minor street privilege from the City; and provide for a guarantee for the closing of one existing approach adjacent to Douglas as shown on the applicant's plan.

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

OCTOBER 8, 1980

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Jack H. Galbraith
Secretary

BZA CASE NO. 44-80

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

14 NOTICES SENT TO ADJOINING PROPERTY OWNERS

26 TOTAL NOTICES SENT 10-8-80

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 44-80
FILED 9-29-80

APPLICATION FOR VARIANCE

- I. Name of Applicant BILL Z. AND JACKIE S. GRAY
Mailing Address 3135 W. DOUGLAS Phone 942 2044
Name of Authorized Agent _____
Mailing Address _____ Phone _____
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 spaces from 19 to 9
for PARKING SPACES
_____ on the southeast corner of Sheridan & Douglas
for property located 3132 W. DOUGLAS

and legally described as: LOTS 1 AND 2 EXCEPT THE SOUTH 50 FEET
THEREOF AND THE WEST 6 INCHES OF LOT 5 EXCEPT THE SOUTH
50 FEET THEREOF AND LOTS 5 AND 7 EXCEPT THE WEST 6 INCHES
OF THE NORTH 95 FEET OF LOT 5 ON DOUGLAS AVENUE
SMITHSON'S SUBDIVISION OF SMITHSON'S ADDITION TO WICHITA KAN.
*was signed in
a meeting of the
Board*
in the City of Wichita; and which is presently zoned LC.

- 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 2.12.580 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 Bill Z. Gray
Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1.30 (1:30 p.m.), SEPT 29, 1980, together with appropriate fee of _____

Signed [Signature]

① Appl. Crew in Bldg. Approx. 5 yrs.

② 12 employees - Only 4 work out of Bldg.

③ Approx. 50% Payroll etc - 50% wk & Str. area

JACKIE & BILL'S Drapery Shop

CUSTOM DRAPERIES

3135 West Douglas
Wichita, Kansas 67213
942-2044

Sept, 1980

To Whom it may concern,

We would like to have a Variance on our parking. There is a required 19 spaces and we only have an approved 9 spaces. Because we are mostly a Shop in home drapery Shop we never have more than 20 customers in the retail shop at once. The building we want to add on is the 20' x 40' Area in Back. It is storage only, There is only 1,650 sq ft for public shopping in all the building.

In no way would the variance affect the rights of adjacent property owners and certainly no hardship on the property owners represented in the application.

Owner

Bill Z. Droy

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 200 feet of:
 [Lots 1 and 3, except the South 50 feet thereof, and the West 6 inches of Lot 5, except the South 50 feet thereof, and Lots 5 and 7, except the West 6 inches of the North 85 feet of Lot 5, on Douglas Avenue, SMITHSON'S SUBDIVISION OF SMITHSON'S ADDITION to Wichita, Sedgwick County,] Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>OWNERS</u>
Lots 1 and 3 except the South 50 feet thereof, and the West 6 inches of Lot 5, except the South 50 feet, and Lots 5 and 7 except the West 6 inches of the North 85 feet of Lot 5, on Douglas Avenue,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Bill Zane and Jackie Sue Gray 234 South Clara Wichita, Kansas 67209
South 50 feet of Lots 1 and 3, on Douglas Avenue,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Jess C. & Lula G. Riggs 4422 Hemlock Avenue Wichita, Kansas 67216
Lots 9 and 11, on Douglas Avenue,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Sam & Kathleen T. Schmidt 3123 West Douglas Wichita, Kansas 67213
Lots 13, 15, 17 and 19 on Douglas Avenue,	SMITHSON'S SUBDIVISION OF SMITHSON'S	John D. & Mary Louise Irwin 3115 West Douglas Wichita, Kansas 67213

Recorded
 2/10/72

Fidelity  Title
 COMPANY, INC.



-2-

<u>LOTS AND BLOCKS</u>	<u>ADDITION</u>	<u>OWNERS</u>
Lots 21 and 23 on Douglas Avenue,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Douglas M. Yanney 3107 West Douglas Wichita, Kansas 67213
Lots 2 and 4, on Mt. Carmel,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Marion A. & Carole A. Laughlin 117 South Mt. Carmel Wichita, Kansas 67213
Lots 6 and 8 on Mt. Carmel,	SMITHSON'S SUBDIVISION OF SMITHSON'S	James W. & Irene Knowles 123 South Mt. Carmel Wichita, Kansas 67213
Lots 10 and 12, on Mt. Carmel,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Jay L. & Mabel L. Van Gilder 129 South Mt. Carmel Wichita, Kansas 67213
Lots 1, 3 and 5, on Sheridan,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Curtis & Gerry Kempton 116 South Sheridan Wichita, Kansas 67213
Lots 7 and 9, on Sheridan,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Marion H. & Bonnie J. Davidson 124 South Sheridan Wichita, Kansas 67213
Lots 11 and 13, on Sheridan,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Joe A. & Marcella J. Weisbrod 130 South Sheridan Wichita, Kansas 67213
Lots 15 and 17, on Sheridan,	SMITHSON'S SUBDIVISION OF SMITHSON'S	Gregory Eugene & Janice M. Schultz <i>134 S. Sheridan</i> ADDRESS UNKNOWN <i>67213</i>
Lot 1,	WOODLAKE	J. W. Owen 120 South Lynwood Boulevard Wichita, Kansas 67218
Lot 1,	MAYBERRY-LAWRENCE SCHOOL	Board of Education of Unified School District #259 428 South Broadway Wichita, Kansas 67202
Beginning at the Northeast Corner of the Southeast Quarter of the Southwest Quarter, thence West 1308.4 feet; thence South 659.3 feet; thence East 330.4 feet; thence South 659.35 feet; thence East 982.4 feet to Southeast Corner of the Southwest Quarter, thence North 1316.65 feet to beginning, except the South 879 feet of the East 982 feet of Section 24, Township 27 South, Range 1 West and except the West 325 feet of the North 225 feet,		Board of Park Commissioners City Building, 11th Floor 455 North Main Wichita, Kansas 67202



MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-021

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT

NAME _____
ADDRESS _____
FUND _____ DUE DATE _____
COMMENTS _____
DATE Sept 21 1978 BY [Signature]

*

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