

Case No. BZA 47-77 - Frank
Aksamit, requests a variance
to reduce the required front
yard setback from 20' to 0'
for off-street parking purposes
only (east side of Main Street

Received
1-14-76
C.I.
1-18-77

ACTION

BZA 47-77 COMMITTEE Approved DATE 12-20-77

M.A.P.C. _____

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

RESOLUTION NO. BZA 47-77

WHEREAS, Frank Aksamit, 404 N. Broadview, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District, and legally described as follows:

The south 8 feet of Lot 46, all of Lots 47, 48, 49 and 50, North Main Street, Second Addition, Sedgwick County, Kansas. Generally located on the east side of N. Main Street, in an area north of 9th Street (1010 N. Main).

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 December 20, 1977, 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 this property is located on an arterial street which is predominantly zoned from this area to the south to permit front yard parking; 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 screening is required along property lines adjacent to residentially zoned property and a 20 x 20 foot landscaped area is proposed at the northwest corner of the property; 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 owner represented in the application inasmuch as it would be an inconvenience to have part of the required parking located across an arterial street from the property it is intended to serve; 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 property would be used in a similar manner as the property to the south and other numerous properties in the general area; 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 screening and 20 x 20 foot landscaping will provide protection to the residential district to the north; 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 front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District, and legally described as follows:

The south 8 feet of Lot 46, all of Lots 47, 48, 49 and 50, North Main Street, Second Addition, Sedgwick County, Kansas. Generally located on the east side of N. Main Street, in an area north of 9th Street (1010 N. Main).

be approved subject to the following conditions:

1. The north 20 feet of subject property shall be excluded from the approval of this variance.
2. The 20 foot front yard setback of the excluded north 20 feet of subject property shall be landscaped with grass and shrubs and/or trees and shall be maintained in a manner deemed satisfactory by the Superintendent of Central Inspection.
3. The required screening fence along the north property line shall be reduced to 3 foot in height in the 20 foot front yard setback area.

ADOPTED AT WICHITA, KANSAS, this 20th day of December, 1977.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

BOARD OF ZONING APPEALS

January 5, 1978

Mr. Frank Aksamit
404 North Broadview
Wichita, Kansas 67208

Re: Case No. BZA 47-77
Request for Variance

Dear Mr. Aksamit:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 20, 1977, in connection with your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District, and generally located on the east side of Main in an area north of Ninth Street.

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

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:hh

cc: Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

BOARD OF ZONING APPEALS

December 21, 1977

Mr. Frank Aksamit
404 N. Broadway
Wichita, Kansas 67202

Re: Case No. BZA 47-77
Request for Variance

Dear Mr. Aksamit:

At the regular meeting of the Board of Zoning Appeals on December 20, 1977, your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District and generally located on the east side of Main in an area north of Ninth Street was considered.

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

1. The north 20 feet of subject property shall be excluded from the approval of this variance.
2. The 20 foot front yard setback of the excluded north 20 feet of subject property shall be landscaped with grass and shrubs and/or trees and shall be maintained in a manner deemed satisfactory by the Superintendent of Central Inspection.
3. The required screening fence along the north property line shall be reduced to 3 foot in height in the 20 foot front yard setback area.

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,

Larry Dobson
Assistant Secretary

LD:bh

Mr. Frank Aksmit
December 21, 1977
Page 2

cc: Don Gisack City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing & Zoning Administrator

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE December 6, 1977



TO Jack Galbraith, Chief Planner, Current Plans, MAPD

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 47-77 (1010 N. Main)

At their December 5, 1977, meeting, CPO Council "L" voted to approve the variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes at 1010 N. Main.

The applicant was present at the Council "L" meeting and stated the need and justification for the variance. Although the Council disagreed with the applicant's evaluation of the condition of the housing adjacent to 1010 N. Main, Council members felt that the location of the lot in question, the screening described by the applicant, and the necessity for leased parking space in lieu of increased space on the site justify the requested variance.

Please supply this recommendation to the Board of Zoning Appeals when they consider the case on December 20, 1977.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:rh

NOTED:

D.
David Furnas
CPO Coordinator

SECRETARY'S REPORT
CASE NO. BZA 47-77

APPLICANT: Frank Aksamit, 404 N. Broadway, Wichita, Kansas.

AGENT: N/A

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only.

GENERAL LOCATION: East side of Main in an area north of Ninth Street.

ZONING: Subject property is zoned the "B" Multiple Family Dwelling District as are properties to the north, east, and west. Property to the south is zoned the "BB" Office District.

LAND USE: Subject parking is a paved parking lot. South is a newly constructed office building. North is a single family residence. East is developed with 2 four-plexes.

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 of the following conditions are found to exist:

1. That the variance requested 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.
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 provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required front yard setback from 20 feet to 0 feet, for off-street

SECRETARY'S REPORT

Case No. BZA 47-77

Page 2

parking purposes, in connection with a newly constructed office building located on adjacent property to the south.

Based on the floor area of the new office building, 61 parking spaces and one loading space must be provided. With the granting of the requested variance, the parking can be provided on site. Without the variance the applicant must lease 7 spaces on property across Main Street to the west.

The new office building is located on property zoned the "BB" Office District and "LC" Light Commercial District, both of which permit parking to the front property line. Subject property, however, is zoned the "B" Multiple Family Dwelling District which permits the utilization of the property as a parking lot, but requires that a 20 foot landscaped front yard setback be retained. Properties to the north are also zoned the "B" district, but are developed as single family residences.

The applicant points out that subject property fronts on a wide arterial street as opposed to what is normally considered to be a residential street. The applicant also states that inasmuch as a privacy fence will be erected along the north property line and a 20 foot by 20 foot landscaped area retained adjacent to the northwest corner of the property, there should be no adverse affect on adjacent property owners. In viewing the site it was noted that the property immediately north of subject property is in a run down condition with the front yard area being used as an unpaved parking area. It should also be noted that a screening fence is required along the east side of the parking lot.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as this property is located on an arterial street which is predominantly zoned from this area to the south to permit front yard parking.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested may not adversely affect the rights of adjacent property owners inasmuch as screening is required along property lines adjacent to residentially zoned property and a 20 x 20 foot landscaped area is proposed at the northwest corner of the property.

HARDSHIP:

It is the opinion of the Secretary that if a hardship exists, it would be the inconvenience of having part of the required parking located across an arterial street from the property it is intended to serve.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not adversely affect the public interest inasmuch as the property would be used in a similar manner as the

SECRETARY'S REPORT

Case No. BZA 47-77

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property to the south and other numerous properties in the general area.

SPIRIT AND INTENT:

It is the opinion of the Secretary that with screening and the 20 x 20 foot corner landscaping the variance would not oppose the general spirit and intent of the ordinance.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The north 20 feet of subject property shall be excluded from the approval of this variance.
 2. The 20 foot front yard setback of the excluded north 20 feet of subject property shall be landscaped with grass and shrubs and/or trees and shall be maintained in a manner deemed satisfactory by the Superintendent of Central Inspection.
 3. The required screening fence along the north property line shall be reduced to 3 foot in height in the 20 foot front yard setback area.
-

9 notices sent to adjoining property owners and applicant or agent
10 notices sent to MAPC member
1 notice to CPO
20 total notices sent on BZA 47-77, 11-28-77

BOARD OF ZONING APPEALS
TENTH FLOOR, CITY HALL
455 North Main, Wichita, Kansas 67202

November 28, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 47-77

An application has been filed by Frank Aksamit, 404 N. Broadview, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned the "B" Multiple Family Dwelling District, and legally described as follows:

The south 3 feet of Lot 46, all of Lots 47, 48, 49 and 50, North Main Street Second Addition, Sedgwick County, Kansas. Generally located on the east side of N. Main Street, in an area north of 9th Street (1010 N. Main).

This application has been assigned Case No. BZA 47-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 20, 1977, 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.

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

CASE NO. ^{BZA} 47-77

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Frank Aksamit

Mailing Address 404 N. Broadview, Wichita, Ks Phone 267 4251

Name of Authorized Agent N/A

Mailing Address N/A Phone _____

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is Elimination of the parking

setback from 20' to 0' setback

for property located 1010 North Main

and legally described as: South 8' of lots 46, lots 47, 48, 49,
50, North Main Street - 2nd Addition

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

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 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.

Frank Aksamit
Applicant

Authorized Agent

5448

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:30 (a.m. - P.M.), November 18, 1977 19 77 together with appropriate fee of \$50.00.

east side of main St. in an area north of 9th Street

T9-402

B. Lynn Shirley
Signed

Requesting variance from Zoning Ordinance-Sec. 28.04.070B

I

The property on which the variance is requested is unique,

1. There are no houses across the street. This area is the wire fenced playground of Park School.
2. The frontage street is a wide street which carries a high volume of traffic and is not the residential landscaped street normally associated with B zoning.
3. The area to the North of the subject property is rental housing in disrepair and landscaping in general of a below standard nature.

II

1. The granting of the variance will not affect the adjacent property owner as the parking facility will be screened with a privacy fence.
2. A 20' x 20' landscaped area will be provided immediately south of the privacy fence. This area will be planted with shrubs and grass.

III

If I am required to adhere to the 20' parking setback requirements it will necessitate the off site leasing of 7-additional parking sites. If the variance is granted, the entire parking requirement can be accomodated on the project.

IV

If the variance is permitted it would eliminate the need for off site leasing of 7 parking sites at 1011 North Main. This will enhance the safety of the area as no one will have to walk across Main street after they secure off site parking.

V

We in no way oppose the intention of the ordinance, quite the contrary, we feel we will add to the beauty of the subject property by the addition of the landscaped area.

Requesting variance from Zoning Ordinance-Sec. 28.04.070B

I

The property on which the variance is requested is unique,

1. There are no houses across the street. This area is the wire fenced playground of Park School.
2. The frontage street is a wide street which carries a high volume of traffic and is not the residential landscaped street normally associated with B zoning.
3. The area to the North of the subject property is rental housing in disrepair and landscaping in general of a below standard nature.

II

1. The granting of the variance will not affect the adjacent property owner as the parking facility will be screened with a privacy fence.
2. A 20' x 20' landscaped area will be provided immediately south of the privacy fence. This area will be planted with shrubs and grass.

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If I am required to adhere to the 20' parking setback requirements it will necessitate the off site leasing of 7-additional parking sites. If the variance is granted, the entire parking requirement can be accomodated on the project.

IV

If the variance is permitted it would eliminate the need for off site leasing of 7 parking sites at 1011 North Main. This will enhance the safety of the area as no one will have to walk across Main street after they secure off site parking.

V

We in no way oppose the intention of the ordinance, quite the contrary, we feel we will add to the beauty of the subject property by the addition of the landscaped area.

h

J. A. HENDRICKSON REALTY COMPANY
730 NORTH MAIN • WICHITA, KANSAS 67203 • 263-6228

Robson

November 30, 1977

Mr. Jack H. Galbraith, Secretary
Metropolitan Area Planning Commission
City Hall, Tenth Floor
455 North Main Street
Wichita, Kansas 67202

Dear Mr. Galbraith:

With reference to Zoning Case No. BZA 47-77, the Public Hearing for which is set for December 20.

I am owner of two four-plexes at 1011-1015 North Market, adjoining subject property on the east; also a five-plex at 1029 North Market, adjacent to subject property, and another four plex nearby.

As you know, Frank Aksamit is just now completing construction of a fine new two story office building at the corner of Ninth and Main. This is a beautiful building, and a valuable asset for the neighborhood, the City of Wichita, and for the Tax Roll. Adequate off-street parking is always at a premium, and difficult to provide a sufficient amount. The present zoning prevents use for parking of a strip of land just inside the sidewalk 20 feet wide and 104.75 feet long. When made available to use for parking this strip of land becomes extremely useful and valuable, otherwise it is useless and worthless so far as this owner is concerned.

In my opinion, the intended use of this land for off-street parking would have no adverse effects, or create any problems, and it is essential for the property owner's needs. I would favor approval of the requested variance change in zoning.

Yours very truly,
J. A. Hendrickson Realty Co.

J. A. Hendrickson
J. A. Hendrickson
JAH/mb



REAL ESTATE • PROPERTY MANAGEMENT • INSURANCE • SUBDIVIDERS • HOME BUILDERS • RENTALS

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 1	All Weather Addition	All Weather Products Inc. 1011 N. Main 67203
S½ Block A	Ferrell's Addition	Board of Education 428 South Broadway 67203
lot 38	North Main Street 2nd Addition	✓ Jose Lerma and Frances Lerma 1038 North Main 67203
lots 39,40,43 N 7' lot 44	Same	Ⓟ F. R. Aksamit and Rebecca E. Aksamit 1011 N. Main 67203
lots 41 & 42	Same	✓ Anne M. Noble and Arthur Thomas Noble III 1945 Porter 67203
S 18' lot 44, all lot 45, N 17' lot 46	Same	Ethel M. Gallivan Address Unknown <i>not in directory</i>
S 8' lot 46, N 24' lot 47	Same	Ⓟ F. R. Aksamit and Rebecca E. Aksamit 1011 N. Main 67203
S 1' lot 47, all 48,49,50, 51 and 52	Same	Ⓟ F. R. Aksamit and Rebecca E. Aksamit 1011 N. Main 67203
149,151,153 & S 14' 155 on Market	Hyde & Ferrell's Addition	✓ J. A. Hendrickson 730 North Main 67203
N 11' 155, all 157,159, 161 and 163 on Market	Same	✓ Holy Order of Mans 1025 North Market 67203
165,167,169 on Market	Same	Ⓟ J. A. Hendrickson 730 North Main 67203
171 & 173 on Market	Same	✓ Thomas J. McCawley and Joyce Ann McCawley 149 North Poplar 67214

Lots

lots 141, 143 and 145 on Market Street, in Munger's Original Town, and a tract described as: Beg. at the NE corner of lot 145 on Chisholm Street, now Market Street, thence West along the North boundary line of lot 145 to the NW corner of said lot 145; thence North 10 feet, thence East parallel with the North boundary line of said lot 145 to a point 10 feet North of the NE corner said lot 145; thence South 10 feet to the point of beginning, together with the East half of the vacated alley adjoining the above described property on the West and the vacated portion of Ninth Street adjoining lots 141 and the East half of vacated alley on the South

lots 162, 164 and 166 on Court now Main Street, Munger's Original Town, and half vacated alley adjoining on the East and the North 16.95 feet of vacated Ninth Street adjoining on the South of lot 162

Property Owner

Joseph Culver and
Lynn B. Culver
1005 North Market
67203

F. R. Aksamit and
Rebecca E. Aksamit
1011 N. Main 67203



434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

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

A 200 foot radius of: the South 8 feet of lot 46, all of lots 47, 48, 49 and 50, North Main Street Second Addition, Sedgwick County, Kansas

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 17th day of November, 1977 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Hable

Vice President

Order No. 258246
wh

FORM 223-1

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
220 V...	50.2

NAME *FR...*

ADDRESS *414 N...*

FUND *417103* DUE DATE *1/17*

COMMENTS

DATE *1/17* BY *...*

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1