

Case No. BZA 85-84 - Curtis Grove - requests a variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces on property zoned the "LC" Light Commercial District and generally located on the west side of West Street between
Dunlap and Grand Streets, 1215 N. West

POSTED
12-13-84 a.m.

ACTION

BZA 85-84 ~~APPROVED~~ 1-23-85
DATE

2004 Sec 3-585 ✓
Shot
Record 3-19-85

January 29, 1985

Curtis Grove
132 South Rock Road
Wichita, Kansas

Re: BZA 85-84 - Request for Variance

Dear Mr. Grove:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on January 22, 1985.

This Resolution reflects the official action of the Board to approve your request, 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: William L. Smith, P. O. Box 13213, Wichita
Jim Jorgensen, Acting Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 85-84

WHEREAS, Curtis Grove, 132 South Rock Road, 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 43 spaces to 24 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Curtis Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of West Street between Douglas and Second Streets (215 North West Street).

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 January 22, 1985, 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 use is a retail and service type business that utilizes a large portion of the buildings for the service bays of the customers vehicles, and the remaining portion of the buildings is used for stock that is not sales or customer areas; 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 applicant will be providing adequate parking to serve the use presently on the property and at the point in time a new use is established, there is sufficient land area to provide parking for a new use based on the normal requirements for a light commercial 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 be required to install parking that would not be used for the present business and if installed at this time it 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 reduction of the number of parking spaces will not in anyway 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 ordinance does not take into consideration special uses permitted in the "LC" District and the provision for any reduction is through this process to be approved based on the five conditions set forth herein; 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.

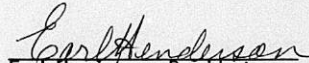
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Curtis Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of West Street between Douglas and Second Streets (215 North West Street).


be approved subject to the following conditions:

1. The variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces shall only apply to a retail tire and service store. Under no circumstance shall any portion of the buildings be used for warehouse space or storage area for a use not located on the property.
2. All areas used for parking and circulation drives on the property shall be surfaced in accordance with Section 28.04.143 of the zoning ordinance. Areas not surfaced shall be provided with barriers to prevent circulation on grassed areas.
3. The area on the property that would provide the additional off-street parking in compliance with the ordinance shall be grassed and maintained in good condition.
4. No additional building area shall be permitted on the property unless additional variance is granted or additional area is obtained for parking purposes.

ADOPTED AT WICHITA, KANSAS, this 22nd day of January, 1985.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE January 17, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 85-84 West Side of West
 Street between Douglas and Second
 Streets

CPO Council "N" considered the captioned case at its January 16th meeting and voted 5-0 to recommend that the variance to reduce the required number of off-street parking spaces from 43 to 24 be approved.

William Smith, the applicant's agent was present to discuss the case with the Council. No adjoining property owners or area residents were present concerning the case.

Please advise the Board of Zoning Appeals of the Council's recommendation when the case is considered at the January 22nd meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

SECRETARY'S REPORT
CASE NO. BZA 85-84

APPLICANT: Curtis Grove, 132 South Rock Road, Wichita, Kansas.

AGENT: William L. Smith, P. O. Box 13213, 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 43 spaces to 24 spaces.

GENERAL LOCATION: On the west side of West Street between Douglas and Second Street (215 North West Street).

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the east and north. To the west is "R-5" General Residence District and the "AA" One-family Dwelling District. To the south is the "B" Multiple-family and the "AA" One-family Dwelling Districts.

LAND USE: Subject property is occupied by a tire store. To the north and east is commercial development. To the south and west is residential or undeveloped land.

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 required number of off-street parking spaces that is required for a commercial property to be expanded at this location. The ordinance requires that purely retail businesses provide parking based on one parking space for each 250 square feet of floor area of building which in this case would be 43 spaces. The applicant desires to provide only 24 off-street parking spaces on the property but has adequate land area to provide all the required parking.

It should be noted that the original building was constructed for a bicycle sales business and an additional structure was built to the west. The required off-street parking for both structures has never been provided even though it was shown on the plans by the owner in order to comply with the conditions of the building permit. The present tenant is a sales business that indicates that the off-street parking requirements for such a business is excessive. The tenant has indicated that the maximum number of vehicles that will normally be parked on the property will not exceed ten or twelve. The other vehicles will be in the service bays within the buildings.

The property is located on a major street and is in an area that is converting from residential to commercial uses. The property is platted as a double frontage lot but the street to the west is not open. All vehicular access to the property is from West Street.

No information has been provided by the applicant as to the use that each of the buildings on the property will be used for. It is the Secretary's assumption that there is only one use on the property, and if the variance is granted, it should be subject to the property being occupied by a retail tire business.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the existing use is a retail and service type business that utilizes a large portion of the buildings for the service bays of the customers vehicles, and the remaining portion of the buildings are used for stock that is not sales or customer areas.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the applicant will be providing adequate parking to serve the use presently on the property and at the point in time a new use is established, there is sufficient land area to provide parking for a new use based on the normal requirements for a light commercial use.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be required to install parking that would not be used for the present business and if installed at this time it 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 reduction of the number of parking spaces will not in anyway interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance does not take into consideration special uses permitted in the "LC" District and the provision for any reduction is through this process to be approved based on the five conditions set forth herein.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces shall only apply to a retail tire and service store. Under no circumstance shall any portion of the buildings be used for warehouse space or storage area for a use not located on the property.
 2. All areas used for parking and circulation drives on the property shall be surfaced in accordance with Section 28.04.143 of the zoning ordinance. Areas not surfaced shall be provided with barriers to prevent circulation on grassed areas.
 3. The area on the property that would provide the additional off-street parking in compliance with the ordinance shall be grassed and maintained in good condition.
 4. No additional building area shall be permitted on the property unless additional variance is granted or additional area is obtained for parking purposes.
-

BZA CASE NO. 85-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>1</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>14</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>18</u>	TOTAL NOTICES SENT <u>12-31-84</u>

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

December 31, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 85-84

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 Curtis Grove, 132 South Rock Road, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Curtis Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of West Street between Douglas and Second Streets (215 North West Street).

This application has been assigned Case BZA 85-84. It will be considered by the Board of Zoning Appeals on January 22, 1985 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. 85-84

CITY OF WICHITA, KANSAS

FILED 12-12-84

APPLICATION FOR VARIANCE

I. Name of Applicant CURTIS GROVE
 Mailing Address 132 S. Rock Road, City Phone 686-7249
 Name of Authorized Agent William L. Smith
 Mailing Address P. O. Box 13213, Wichita, KS 67243 Phone 942-7989
 Relationship of applicant to property is that of Owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is variance from the requirements of 1 parking space per 250 sf of building to have only 24 parking spaces for the proposed 10,714 sf of total building area.

43 to 24

for property located on the west side of West Street between Douglas and Second St. 215 N. West St., Wichita, KS

and legally described as: Lot 1, Curtis Grove Addition. to

Wichita, Sedgewick County, Kansas

In the City of Wichita; and which is presently zoned LC

- 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. 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 Sedgewick 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 *Curtis Grove*

Authorized Agent *William L. Smith*

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, appropriate fee of 4.00 (12 m.p.m.), Dec. 12, 1984, together with 150.00

Signed *[Signature]*

THE FOLLOWING IS OUR STATEMENT JUSTIFYING THE VARIANCE REQUESTED AS REQUIRED IN ITEM #3 OF THE APPLICATION FOR VARIANCE.

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.

RESPONSE: The owner is leasing to Burl's Tire Co. A tire store does not have the same amount of customers as other type retail stores, and therefore does not need as much parking space. A letter from Burl's Tire is included.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

RESPONSE: Since the variance requested is to reduce parking spaces, and the amount of parking left is more than adequate for the customers, we feel that it cannot adversely affect the rights of adjacent property owners.

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.

RESPONSE: The strict application would constitute an unnecessary hardship on the property owner, since this extra paving would cost him approximately \$14,000.00 and it would just lay there and not be used.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

RESPONSE: We do not see how it would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

RESPONSE: We feel the general spirit and intent is to have adequate parking for customers and based on present conditions we believe that the additional parking we want to put in, along with the existing will be more than enough parking for this store.

Burl's Tire Center
215 N. West St
Wichita KS.

Dear Curtis:

In regards To the parking
situation at our store at 215 No.
West Street, the total number of
cars normally parked around the
building, is six to eight and
at the busiest time could be
as many as ten to twelve
cars totaly.

Sincerely:

Mike Bardin
Area Manager

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lots 1, 2 & 3		Curtis Grove Addition	Grove's Schwinn Cyclerys Inc. 132 S. Rock Rd. Wichita, KS 67206
N. 60' Lot 5	Block 17	Parkwilde Addition	C H & R Investments 222 N. West Wichita, KS 67203
S. 60' Lot 5	"	"	Harold J. Strunk Virginia A. Strunk Route 1 Goddard, KS 67052
S. 60' Lot 7	"	"	Craig E. Winters Martha L. Winters 455 Putter Wichita, KS 67212
N. 70' Lot 7	"	"	Grove's Schwinn Cyclerys Inc. 132 S. Rock Rd. Wichita, KS 67206
S. 60' Lot 6	"	"	Mary Helen Jarrell 222 N. Florence Wichita, KS 67203
N. 60' Lot 6	"	"	J. Ray Jarrell Mary Helen Jarrell 222 N. Florence Wichita, KS 67203
Lot 8 & N. 70' Lot 10	"	"	Kenneth Frase James A. Smothers William W. Greer, Trustees of Wichita Kansas Congregation of Jehovah's Witnesses West Unit 210 N. Florence Wichita, KS 67203 <i>Returned 1-4-85</i>
Lot 1 & 30' vacated street on North	Block 24	"	E. A. Gable Fern Gable Address Unknown
Lot 3	"	"	Daniel M. Thompson Serilda J. Thompson 2305 Mohawk Lane Wichita, KS 67203

Lot	Block	Addition	Property Owner
<p>The South 10' of vacated Academy Avenue adjoining Lot 2, Block 24, Parkwilde Addition to Wichita, Sedgwick County, Kansas, unto the North, except for the East 30 feet dedicated for street purposes; and that portion of said Lot 2, described as beginning at the Northwest corner of said Lot 2; thence East along the North line of said Lot 2 to the Northeast corner of said Lot 2; thence South along the East line of said Lot 2 a distance of 45.08 feet; thence West to a point in the West line and 45.10 feet South of the Northwest corner of said Lot 2; thence North along said West line to the point of beginning, Except for the East 30 feet dedicated for street purposes.</p>			<p>✓ Jack F. Wessel Sandy L. Wessel 150 N. Florence Wichita, KS 67203</p>
<p>Lot 2, Block 24, Parkwilde Addition, except beginning at the Northwest corner of said Lot 2; thence East along the North line of said Lot 2 to the Northeast corner of said Lot 2; thence South along the East line of said Lot 2 a distance of 45.08 feet; thence West to a point in the West line and 45.10 feet South of the Northwest corner of said Lot 2; thence North along said West line to the point of beginning, Except for the East 30 feet dedicated for street purposes.</p>			<p>✓ Mark Ysidro 146 N. Florence Wichita, KS 67203 AND Estella M. Budig Address Unknown AND ✓ Richard L. Budig Mary A. Budig 7060 Milton Court Derby, KS 67037</p>
N. 75' Lot 4	Block 24	Parkwilde Addition	<p>✓ Ellis C. Hensey Marguerite M. Hensey 140 N. Florence Wichita, KS 67203</p>
Lot 1		Laurette Addition	<p>✓ Kenneth R. Anderson 132 N. West Wichita, KS 67203</p>
Lot 1		Christlieb Addition	<p>✓ Hazel K. McClellan Leon H. McClellan 1302 Iroquois Rd. Wichita, KS 67203</p>
Lot 1	Block A	North Star Addition	<p>✓ North Star Lodge Inc. 212 N. West Wichita, KS 67203</p>
Lot 1, except the W. 150' of the S. 150'		Stancer's Addition	<p>✓ Harold J. Strunk Virginia A. Strunk Route 1 Goddard, KS 67052</p>
W. 150' of S. 150' of Lot 1		"	<p>✓ Strunk Enterprises, Inc. Same Address as Above</p>

Tract Description

Property Owner

Beginning 660' South of the Northwest
Corner of the Southwest Quarter of
Section 24, Twp. 24, Range 1 West;
thence North 110'; thence East 200';
thence South to point 660' South of
the North line of said Quarter Section;
thence West to beginning, except the
West 30' for street.

Maurice J. Chappel
Helen E. Chappel
142 N. West
Wichita, KS 67203

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

Lot 1, Curtis Grove Addition, Wichita,
Kansas, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the
Register of Deeds, Sedgwick County, Kansas, on the 27th day of
November, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE
COMPANY, INC.

By

Mary Kable
Sr. Vice-President

Order No: 340826
ns

Document Name: ● ●

0331/M

Requestor's ID:
OP5PLAN

Author's Name:

Document Comments:

20 ✓

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

December 31, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 85-84

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 Curtis Grove, 132 South Rock Road, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 43 spaces to 24 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Curtis Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of West Street between Douglas and Second Streets (215 North West Street).

This application has been assigned Case BZA 85-84. It will be considered by the Board of Zoning Appeals on January 22, 1985 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. Calbraith
Secretary

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-021 PAYMENT NOTICE
 City of Wichita

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

DESCRIPTION	AMOUNT
<i>BZA</i>	<i>150</i>

NAME *Walter J. H.*
 ADDRESS *4620*
 FUND *75540071003* DUE DATE *12-12 84*
 COMMENTS
 DATE *12 12 84* BY *JTH*

RECEIVED

JAN 04 1985

METROPOLITAN PLANNING
 ROUTE *2*



WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS

CITY HALL - TENTH FLOOR
 455 NORTH MAIN STREET
 WICHITA, KANSAS 67202
 NOT KNOWN
 RETURN TO SENDER



Kenneth Frase
 James A. Smothers
 William W. Greer
 Trustees of Wichita Kansas Congregation
 of Jehovah's Witnesses
 210 N. Florence
 Wichita, KS 67203

No Mail Box 1201



*

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

Roll # 2