CITY OF WICHITA

FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

May 4, 2005

Jim Fouts
Fouts Geller Development Company
716 N. 119th Street W., Suite 100
Wichita, KS 67235

RE: BZA2005-00012 – Variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback on property zoned "SF-5" Single-family Residential. Generally located south of 29th Street North and east of Tyler Road. (District V)

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **April 26, 2005.** This resolution reflects the official action of the Board. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Scott Knebel
Senior Planner

SK/rms

Cc: Phil Meyer, Baughman Company, P.A., 315 Ellis, Wichita, KS 67211
Bob Martz, WCC, District V, Mail Stop 1-13
Sharon Dickgrafe, Law Department, Mail Stop 1-132
Herb Shaner, OCI, 1-72

ADOPTED AT WICHITA, KANSAS, this 26nd DAY of APRIL 2005.

John Rogers, BZA Board Vice Chair

ATTEST:

Scott Knebel, BZA Secretary

BZA RESOLUTION NO. 2005-00012

WHEREAS, Fouts Geller Development Company LLC c/o Jim Fouts (Owner/Applicant); Baughman Company, PA c/o Phil Meyer (Agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback on property zoned "SF-5" Single-family Residential legally described as follows:

> That part of Reserve "E", Block D, Fossil Rim Estates, Wichita, Sedgwick County, Kansas, described as beginning at the southwest corner thereof; thence N 00 degrees 00' E along the west line of said Reserve "E", 180.00 feet; thence N 90 degrees 00'E, 186.64 feet; thence S 46 degrees 28'08"E, 81.31 feet to the northwest corner of Lot 8 in said Block D; thence S 27 degrees 47'27"W, 194.55 feet to the front corner common to said Lot 8 and Reserve "E"; thence N 60 degrees 03'54"W, 70.76 feet to the P.C. of a non-tangent curve to the left having a radius of 359 feet; thence westerly along said curve, an arc length of 94.66 feet to the point of beginning. Generally located south of 29th Street North and east of Tyler Road (2918 N. Pepper Ridge).

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 April 26, 2005, 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. It is the opinion of the Board that this property is unique inasmuch as the neighborhood swimming pool and associated clubhouse are larger than typically would be located within a residential development of the size that it will serve. Therefore, the residences served by the pool will be located closer to the pool than usual, and users of the pool will be more likely walk to the pool than drive, thus supporting the proposed parking area.

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. It is the opinion of the Board that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the users of the pool are the owners of the adjacent property who desire the pool as a neighborhood amenity. Additionally, sufficient on-street spaces are available for occasional overflow parking situations, and the nearest on-street spaces are located beside and not in front of nearby residential lots.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the strict compliance with the parking regulations would entail significant expense for a neighborhood amenity to provide parking spaces that are unnecessary.

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. It is the opinion of the Board that the requested variances would not adversely affect the public interest, inasmuch as the public has an interest in preserving common open space within neighborhoods instead of paving areas for parking spaces that are unnecessary.

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 the zoning ordinance. It is the opinion of the Board that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the parking requirements of the zoning regulations are not appropriate in all cases. Therefore, variances to relieve parking requirements are permitted if proper justification is available. The zoning regulations attempt to provide sufficient parking to meet the demand of the use. The use of the property requires less than the typical number of parking spaces since the neighborhood swimming pool serves a smaller than typical area, thus resulting in a greater number of people walking to the pool than typical.

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, pursuant to Section 2.12.590.B, Code of the City of Wichita, variances be granted to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback on property zoned "SF-5" Single-family Residential legally described as follows:

> That part of Reserve "E", Block D, Fossil Rim Estates, Wichita, Sedgwick County, Kansas, described as beginning at the southwest corner thereof; thence N 00 degrees 00' E along the west line of said Reserve "E", 180.00 feet; thence N 90 degrees 00'E, 186.64 feet; thence S 46 degrees 28'08"E, 81.31 feet to the northwest corner of Lot 8 in said Block D; thence S 27 degrees 47'27"W, 194.55 feet to the front corner common to said Lot 8 and Reserve "E"; thence N 60 degrees 03'54"W, 70.76 feet to the P.C. of a non-tangent curve to the left having a radius of 359 feet; thence westerly along said curve, an arc length of 94.66 feet to the point of beginning. Generally located south of 29th Street North and east of Tyler Road (2918 N. Pepper Ridge).

The variances are hereby <u>GRANTED</u>, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.

2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

common open space within neighborhoods instead of paving areas for parking spaces that are unnecessary.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the parking requirements of the zoning regulations are not appropriate in all cases. Therefore, variances to relieve parking requirements are permitted if proper justification is available. The zoning regulations attempt to provide sufficient parking to meet the demand of the use. The use of the property requires less than the typical number of parking spaces since the neighborhood swimming pool serves a smaller than typical area, thus resulting in a greater number of people walking to the pool than typical.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.

2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year from the date the variance is granted unless such time is extended by the Board.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
April 26, 2005

FILE COPY

SECRETARY'S REPORT

CASE NUMBER: BZA2005-00012

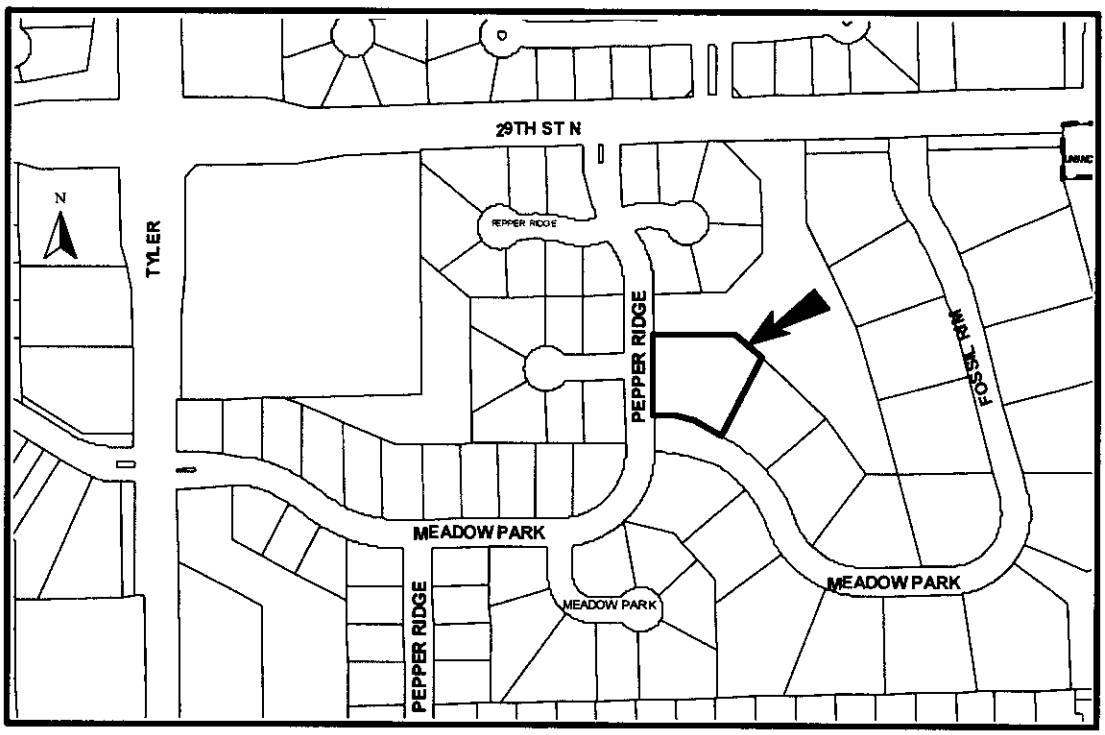
APPLICANT/AGENT: Fouts Geller Development Company LLC c/o Jim Fouts (Owner/Applicant); Baughman Company, PA c/o Phil Meyer (Agent)

REQUEST: Variances to reduce the parking requirement for a neighborhood swimming pool from 19 spaces to 9 spaces and to permit the parking area within the front setback

CURRENT ZONING: "SF-5" Single Family

SITE SIZE: 0.95 acres

LOCATION: South of 29th Street North and east of Tyler Road (2918 N. Pepper Ridge)



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 State Statutes, are found to exist.

BACKGROUND: The applicant proposes to construct a neighborhood swimming pool for a single-family residential development located south of 29th Street North and east of Tyler Road (see attached site plan). The swimming pool is proposed to be 875.8 square feet in area, and a 1,012.5 square-foot club house also is proposed. Section of IV-A.4. of the Unified Zoning Code (UZC) requires that neighborhood swimming pools provide one parking space for each 100 feet of pool and clubhouse area. For the subject property, the UZC requires that 19 parking spaces be provided; however, the applicant proposes to provide only nine parking spaces. A variance is required to reduce the parking requirement for the proposed neighborhood swimming pool by more than 10 percent. The applicant also proposes that a portion of the parking area be located within the front setback; however, Section IV-6. requires that the parking area be located outside the front setback area. The parking area may be permitted within the front setback by administrative adjustment, but it also may be permitted by granting a variance, which the applicant has requested in order to save time on the project. The applicant has submitted the attached written statement to justify the requested variances.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-5"	Open space reserve
SOUTH	"SF-5"	Single-family residential lot
EAST	"SF-5"	Single-family residential lot
WEST	"SF-5"	Single-family residential lot

The five conditions necessary for approval apply to all variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the neighborhood swimming pool and associated clubhouse are larger than typically would be located within a residential development of the size that it will serve. Therefore, the residences served by the pool will be located closer to the pool than usual, and users of the pool will be more likely walk to the pool than drive, thus supporting the proposed parking area.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variances requested will not adversely affect the rights of adjacent property owners, inasmuch as the users of the pool are the owners of the adjacent property who desire the pool as a neighborhood amenity. Additionally, sufficient on-street spaces are available for occasional overflow parking situations, and the nearest on-street spaces are located beside and not in front of nearby residential lots.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations constitutes an unnecessary hardship upon the applicant, inasmuch as requiring the strict compliance with the parking regulations would entail significant expense for a neighborhood amenity to provide parking spaces that are unnecessary.

PUBLIC INTEREST: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as the public has an interest in preserving