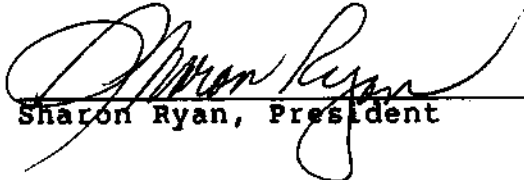


BZA 6-89 Resolution
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ADOPTED AT WICHITA, KANSAS, this 28th day of February, 1989.



Sharon Ryan, President

ATTEST:



Jack H. Galbraith, Secretary

BZA RESOLUTION NO. 6-89

WHEREAS, Tin Church Over Hill, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the parking requirements from 34 to 18 spaces on property zoned the "C" Commercial District and legally described as follows:

Lots 2, 4 and 6, Oldham's Subdivision of Lots 2, 4 and 6 and part of Lot 8 in Oldham's Subdivision of Lots 2, 4, 6, 8, 10 and 12 on Chisholm Street, now Market, in That Portion of the Original Town or City of Wichita, Platted by D.S. Munger. Generally located on the northeast corner of Central and Market.

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 February 28, 1989, 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 it is surrounded on three sides by institutional and governmental uses on large tracts of land and on the fourth side by the intensely developed "D" Central Business District, all of which create barriers to the acquisition of nearby land for off-street parking purposes; 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 16 employees will be provided a parking space in a lot at Topeka and Elm, thus permitting the 18 on-site parking spaces to be available for clients and some employees, which should be adequate to prevent clients and employees from parking in adjacent private parking lots; 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 without this parking variance, the building cannot be enlarged and a valued tenant, which requires additional space, may be lost; 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 employee parking will be provided in a lot at the southwest corner of Topeka and Elm and therefore employees will not be taking up the metered spaces on Market in the vicinity of the application 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 intent of the ordinance is to provide for adequate parking to meet the needs of businesses and, in this case, adequate parking can be provided within a reasonable distance of the site; 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 be approved for a variance to reduce the parking requirements from 34 to 18 spaces on property zoned the "C" Commercial District and legally described as follows:

Lots 2, 4 and 6, Oldham's Subdivision of Lots 2, 4 and 6 and part of Lot 8 in Oldham's Subdivision of Lots 2, 4, 6, 8, 10 and 12 on Chisholm Street, now Market, in That Portion of the Original Town or City of Wichita, Platted by D.S. Munger. Generally located on the northeast corner of Central and Market.

subject to the following conditions:

1. Within six months following approval of this variance by the Board and prior to release of the resolution, the applicant shall complete the acquisition and rezoning of the 45-foot-wide tract at the southwest corner of Topeka and Elm (see Z-2942) and shall submit a covenant to the Board for review and approval which ties that property with the property at 500 N. Market in perpetuity and which specifies that the Topeka/Elm site will be available for use to provide parking for the Central/Market site. After the covenant is approved, it shall be recorded by the applicant and a copy furnished to the Secretary for the BZA file.
2. Prior to issuance of an occupancy permit for any expansion of the building at 500 N. Market which necessitates additional parking, the proposed parking lot at the southwest corner of Topeka and Elm shall be constructed and striped for at least 16 spaces in accordance with parking lot standards established by the zoning ordinance and the Traffic Engineering Division of the City of Wichita.

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1668
(316) 268-4861

March 21, 1990

Ted E. Knopp
Tin Church Over Hill
500 N. Market
Wichita, KS 67214

Re: BZA 6-89 - Parking variance at 500 N. Market

Dear Mr. Knopp:

Enclosed is a signed copy of BZA Resolution No. 6-89 which was approved by the Board of Zoning Appeals on February 28, 1989, subject to submission of certain covenants and subject to completion of the rezoning of the Topeka/Elm site which you will be using for parking. The covenants were finalized in April 1989 and now that your lot split of the Topeka/Elm site has been satisfactorily completed, the rezoning application is now considered complete, also.

Please remember that prior to issuance of an occupancy permit for any expansion of the building at 500 N. Market which necessitates additional parking, the proposed parking lot at the southwest corner of Topeka and Elm must be constructed and striped for at least 16 spaces in accordance with parking lot standards established by the zoning ordinance and the Traffic Engineering Division of the City of Wichita.

If you have any questions about this matter, please call.

Sincerely,

Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Monty Robson, CID
Paul Hays, CID
Lance Flowers, CID
Pat Burnett, Deputy City Clerk

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as employee parking will be provided in a lot at the southwest corner of Topeka and Elm and therefore employees will not be taking up the metered spaces on Market in the vicinity of the application area.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the ordinance is to provide for adequate parking to meet the needs of businesses and, in this case, adequate parking can be provided within a reasonable distance of the site.

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. Within six months following approval of this variance by the Board and prior to release of the resolution, the applicant shall complete the acquisition and rezoning of the 45-foot-wide tract at the southwest corner of Topeka and Elm (see Z-2942) and shall submit a covenant to the BZA Secretary for review and approval which ties that property with the property at 500 N. Market in perpetuity and which specifies that the Topeka/Elm site will be used to provide parking for the Central/Market site. After the covenant is approved, it shall be recorded by the applicant and a copy furnished to the Secretary for the BZA file.
2. Prior to completion of any expansion of the building at 500 N. Market which necessitates additional parking, the proposed parking lot at the southwest corner of Topeka and Elm shall be constructed and striped for at least 16 spaces in accordance with parking lot standards established by the zoning ordinance and the Traffic Engineering Division of the City of Wichita.

February 28, 1989

SECRETARY'S REPORT

CASE NUMBER: BZA 6-89

OWNER/APPLICANT/AGENT: Tin Church Over Hill, a partnership
(owner/applicant)
Ted E. Knopp (agent)

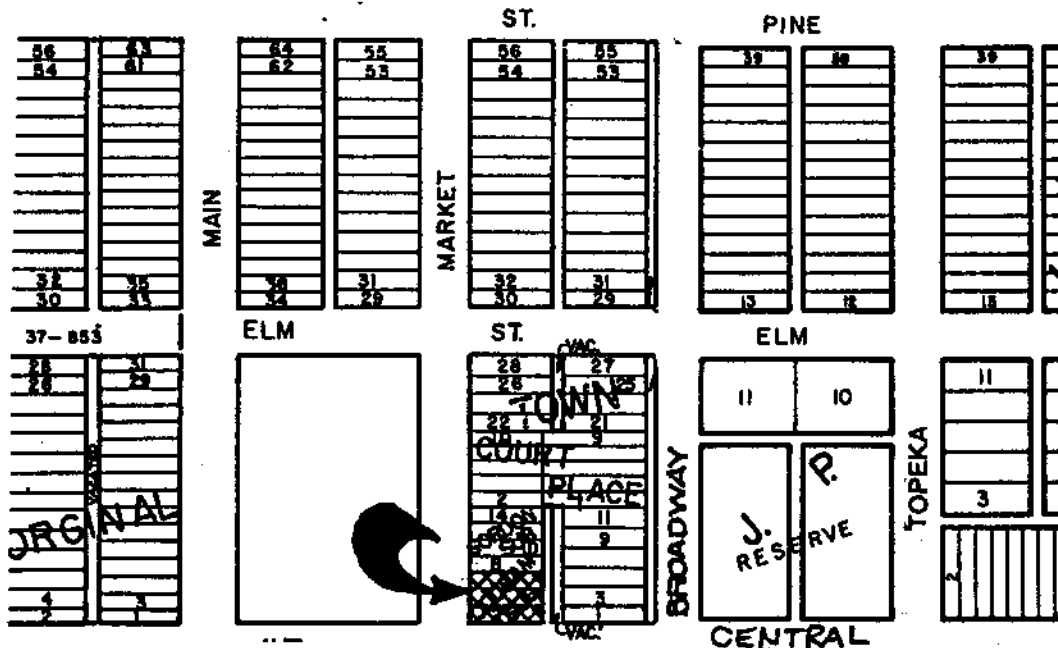
REQUEST: Variance to reduce the parking requirements
from 34 to 18 spaces.

CURRENT ZONING: "C" Commercial District

SITE SIZE: 80 ft. x 120 ft.

LOCATION: Northeast corner of Central and Market

PROPOSED USE: Two-story office building



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.

BACKGROUND: The applicant owns the one-story office building (4,000 square feet) at the northeast corner of Central and Market and is desirous of adding a second floor (4,500 square feet). However, on-site parking can be provided for only 18 cars, whereas 34 spaces are required for an 8,500 square-foot office building. The applicant has been unable to purchase or lease additional land for parking within the 600-foot maximum distance requirement, but has entered into a purchase contract for a small vacant lot at the southwest corner of Topeka and Elm which is approximately 885 feet from the office building. If rezoning of that property is approved (MAPC hearing 2-16-89 and WCC 3-14-89), 16 additional spaces can be provided for a total of 34, as required for the building expansion. The applicant's agent has stated that covenants will be offered assuring that the Elm/Topeka site will be used to provide parking and will be sold or leased with the application site at Central/Market. In the nearby Central Business District, parking does not have to be provided for office buildings and many office workers walk much more than 600 feet to a parking site. Also, public bus service is readily accessible near Central and Market, as is the potential for car-pooling with other downtown workers.

Another way to look at this request is to consider it a request for variance of the requirement that parking be provided within 600 feet of the business generating the need. In this case, about half the parking will be on site and half will be approximately 900 feet away.

ADJACENT ZONING AND LAND USE:

NORTH	"C"	Church parking lot
SOUTH	"D"	Offices
EAST	"C"	Church parking lot and thrift store
WEST	"C"	County Courthouse

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is surrounded on three sides by institutional and governmental uses on large tracts of land and on the fourth side by the intensely developed "D" Central Business District, all of which create barriers to the acquisition of nearby land for off-street parking purposes.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as 16 employees will be provided a parking space in a lot at Topeka and Elm, thus permitting the 18 on-site parking spaces to be available for clients and some employees, which should be adequate to prevent clients and employees from parking in adjacent private parking lots.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as without this parking variance, the building cannot be enlarged and a valued tenant, which requires additional space, may be lost.