

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 parking needs of the site will be provided, albeit not directly on 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. The applicant shall enter into a long term lease (20 years or more) which will provide a minimum of 39 off street spaces within 600 feet of the application site.
2. The parking reduction from 57 on site spaces to 3 on site spaces applies to the specific uses of the building in the application area as determined by the City of Wichita office of Central Inspection. Changes in uses within the structure shall be limited to uses which require no more than 42 spaces.
3. This resolution may be declared null and void upon a finding 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. 5
May 24, 1994

FILE COPY

SECRETARY'S REPORT

CASE NUMBER: BZA 11-94

OWNER/APPLICANT: Robert Boewe

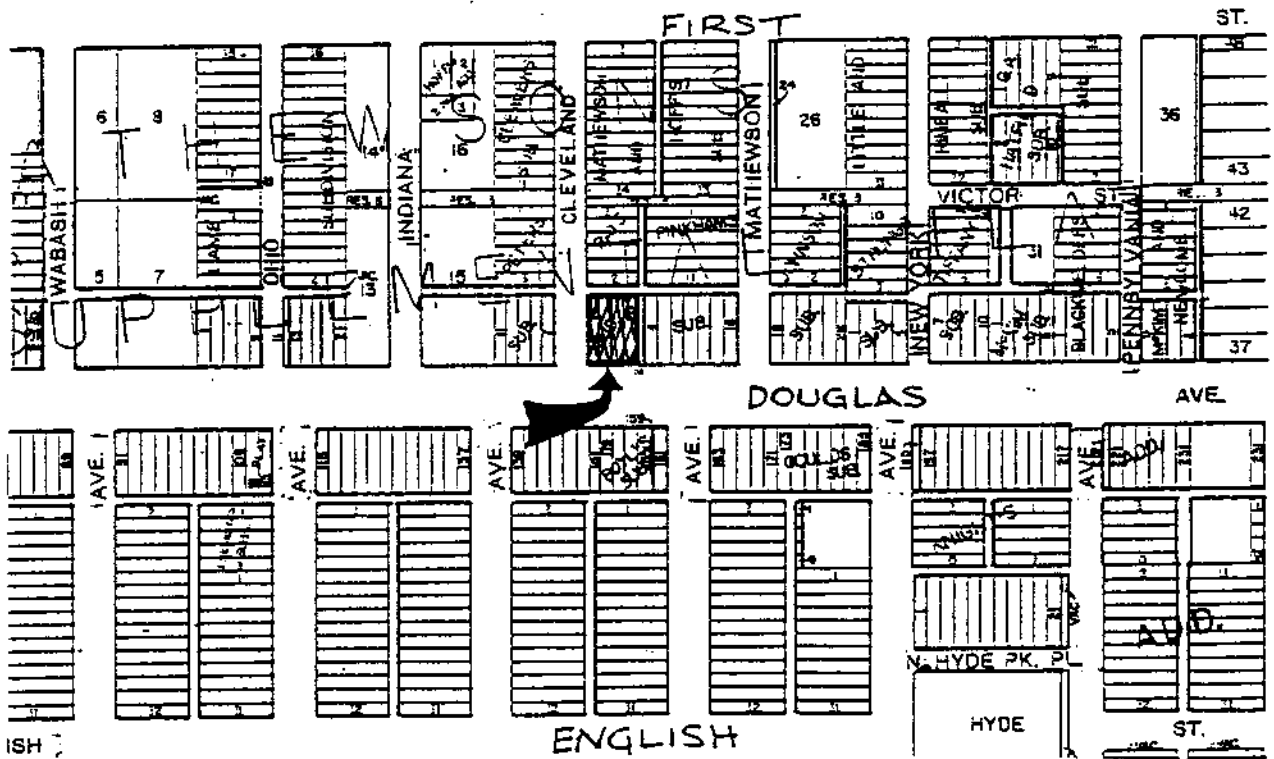
AGENT:

REQUEST: Variance to reduce the parking requirement from 57 spaces to 3 spaces.

CURRENT ZONING: "E" Light Industrial

SITE SIZE: 101' x 135'

LOCATION: Northeast corner of Douglas and Cleveland.



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, Robert Boewe, is the current owner and operator of The Spice Merchant & Co. He has purchased the building to the west of his current location, the historical Mentholum Building, to expand his operation. The Office of Central Inspection as determined that the proposed "mixed uses" of the additional building and the existing building would require 57 off-street parking spaces. When this site was originally developed it was not necessary to provide off-street parking requirements to the degree presently required, therefore, the building site only has 3 parking spaces and does not have sufficient space to provide the other required 54 parking spaces. The applicant has made arrangements to lease 39 additional parking spaces, located north of the applicant's site and has also indicated that the exact location of the leased 39 parking spaces may change over time. The applicant's building is connected to the leased parking area by a sidewalk which runs along Cleveland. The parking lot is approximately 200 feet from the Douglas and Cleveland entrance to the Mentholum Building.

The applicant has also indicated that there are at least 100 on street parking spaces within 600 feet of the application area which are used by the general public when shopping at all the businesses in the area. It should be noted that the applicant could have requested a variance from 57 to 42 spaces since parking within 600 feet can be counted. However, a second variance would have been necessary because greater than 50% of the parking is off-site.

ADJACENT ZONING AND LAND USE:

NORTH:	"E"	- Office Building (Law Office)
SOUTH:	"E"	- Retail (Auto Corvette Center)
EAST:	"E"	- Retail (Persian Rug)
WEST:	"E"	- Vacant (Used car lot)

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as there is no available space on the site that can be used for parking purpose without removing existing structures. This area of the community was developed prior to zoning regulations and buildings were constructed from property line to property line. There is also a considerable amount of on street parking available in the area.

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 parking spaces will be made available through a long term lease within 600 feet of the site thereby reducing the congestion of on street parking in the area.

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 there is no available land on the application site or contiguous to the application site which can be acquired to develop more on site parking spaces.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as additional parking can be provided by acquiring spaces through a lease for off site spaces within 600 feet of the application area.

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

July 6, 1994

Robert Boewe
1308 E. Douglas
Wichita, KS 67214

Re: BZA 11-94 - Variance to reduce on-site parking at the corner of Douglas and
Cleveland.

Dear Mr. Boewe:

Enclosed is a signed copy of the above referenced BZA resolution adopted by the Board of Zoning Appeals on May 24, 1994. 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 now that the parking space lease, as required by condition one, has been submitted and approved.

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

Sincerely,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

Mathewson's Addition to Wichita, Kansas.

subject to the following conditions:

- 1. The applicant shall enter into a long term lease (20 years or more) which will provide a minimum of 39 off street spaces which meets all City of Wichita parking code requirements within 600 feet of the application site. A copy of the lease shall be submitted to the BZA Secretary within 60 days and prior to release of the resolution authorizing the on-site parking variance.**
- 2. The parking reduction from 57 on site spaces to 3 on site spaces applies to the specific uses of the building in the application area as determined by the City of Wichita Office of Central Inspection. Changes in uses within the structure shall be limited to uses which require no more than 42 spaces unless additional off-site spaces within 600 feet are acquired or a new variance is requested and approved.**
- 3. This resolution may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.**

ADOPTED AT WICHITA, KANSAS, this 24th day of May 1994.


Susan Osborne-Howes, Vice-President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 11-94

WHEREAS, Robert Boewe, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the parking requirement from 57 spaces to 3 spaces on property zoned the "E" Light Industrial District and legally described as follows:

Lots 14, 16, 18, and 20 on Douglas Ave., Ray's Subdivision of Lot 19,
Mathewson's Addition to Wichita, Kansas.

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 May 24, 1994, 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 owners or the applicant inasmuch as there is no available space on the site that can be used for parking purpose without removing existing structures. This area of the community was developed prior to zoning regulations and buildings were constructed from property line to property line. There is also a considerable amount of on street parking available in the area ;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 parking spaces will be made available through a long term lease within 600 feet of the site thereby reducing the congestion of on street parking in the area ; and

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 inasmuch as there is no available land on the application site or contiguous to the application site which can be acquired to develop more on site parking spaces ; 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, inasmuch as additional parking can be provided by acquiring spaces through a lease for off site spaces within 600 feet 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 the zoning ordinance inasmuch as the parking needs of the site will be provided, albeit not directly on 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 requirement from 57 spaces to 3 spaces on property zoned the "E" Light Industrial District and legally described as follows:

Lots 14, 16, 18, and 20 on Douglas Ave., Ray's Subdivision of Lot 19,