Lot 1, Block 1, Beacon Hill 2nd Addition, an addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 29th St. N. in an area east of Oliver (5015 E. 29th St. N.).

subject to the following conditions:

1. This front yard setback reduction is for parking purposes only and all structures, except permitted decorative walls, shall comply with the platted setback requirements (unless vacated).

2. Within 30 days following approval by the Board and prior to release of the resolution authorizing this front yard variance, the applicant or property owner shall submit to the Secretary for review and approval a landscape beautification plan for the area between parking lot and street. This plan shall consist of the requirements contained in the March 22, 1991 version of the proposed City of Wichita landscape ordinance. The plan shall specify the size of materials at planting and the method of providing water to the plant materials. Design and construction specifics of the wall, if any, shall be noted.

3. All materials specified on the approved landscape beautification plan, including berms, walls, grass, sprinkler systems, etc., shall be installed prior to issuance of a final occupancy permit for the church sanctuary building now under construction.

ADOPTED AT WICHITA, KANSAS, this 23rd day of April, 1991.

Keith A. Alter

Keith A. Alter, President

ATTEST:

Louise Olivarez

Louise Olivarez, Secretary

BZA RESOLUTION NO. 6-91

WHEREAS, John Haskins, d/b/a Haskins & Sons, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 35 feet to 10 feet for parking purposes on property zoned the "AA" One-Family Dwelling District and legally described as follows:

> Lot 1, Block 1, Beacon Hill 2nd Addition, an addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 29th St. N. in an area east of Oliver (5015 E. 29th St. N.).

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 23, 1991, 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 bounded on the west and east (not including the drainage reserve) by buildable lots which are zoned to permit parking within the front yard setback; 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 adjacent buildable properties to the west and east are zoned "LC" and "BB", respectively, both of which permit parking within the front yard, and property to the north, currently unplatted and zoned "AA", is separated by a 100-foot-wide arterial street right-of-way; 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 existing pavement will have to be removed, disrupting the orderly pattern of the pavement sections and requiring additional time to complete the job; 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 variance will permit about 20 additional parking spaces, but they will not encroach into any public right-of-way or create any visual barriers for traffic entering or exiting the site; 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 front yard parking prohibition was to protect residential districts from a characteristically non-residential use (paved parking lots) by maintaining a uniform minimum front yard depth on adjacent residential properties, free of encroachments, but this lot is an isolated residential lot between two non-residential lots on an arterial street; 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 front yard setback from 35 feet to 10 feet for parking purposes only on property zoned the "AA" One-Family Dwelling District and legally described as follows:

WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

June 4, 1991

David Brace, Pastor
New Life Fellowship
5015 E. 29th St. N.
Wichita, KS 67220

Re: BZA 6-91 - Variance to reduce the front yard setback from 35 feet to 10 feet for parking purposes only, located on the south side of 29th St. N. in an area east of Oliver (5015 E. 29th St. N.)

Dear Pastor Brace:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on April 23, 1991. 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 landscape plan, as required by condition #2, has been submitted and approved. The plant materials as specified on the approved plan, as prepared by Ron Fortner, as well as the irrigation system, are to be installed prior to a final occupancy permit being issued for the sanctuary building now under construction.

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

Sincerely,

Louise Olivarez

Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: John Haskins, Haskins & Sons, R.R. 1, Box 334, Derby, 67037
Paul Hays, OCI
Lance Flowers, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

FILE COPY

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. This front yard setback reduction is for parking purposes only and all structures, except permitted decorative walls, shall comply with the platted setback requirements (unless vacated).

2. Within 30 days following approval by the Board and prior to release of the resolution authorizing this front yard variance, the applicant or property owner shall submit to the Secretary for review and approval a landscape beautification plan for the area between parking lot and street. This plan shall consist of berms and/or decorative walls, plus plant materials which, at the minimum, shall include 7 evergreen or deciduous shade trees or 13 ornamental trees, or a combination thereof, and grass. The plan shall specify the size of materials at planting and the method of providing water to the plant materials. Design and construction specifics of the wall, if any, shall be noted.

3. All materials specified on the approved landscape beautification plan, including berms, walls, grass, sprinkler systems, etc., shall be installed prior to issuance of a final occupancy permit for the church sanctuary building now under construction.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2

April 23, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 6-91

OWNER/APPLICANT/AGENT: New Life Fellowship, Inc. (owner)
John Haskins, d/b/a Haskins & Sons (applicant/agent)

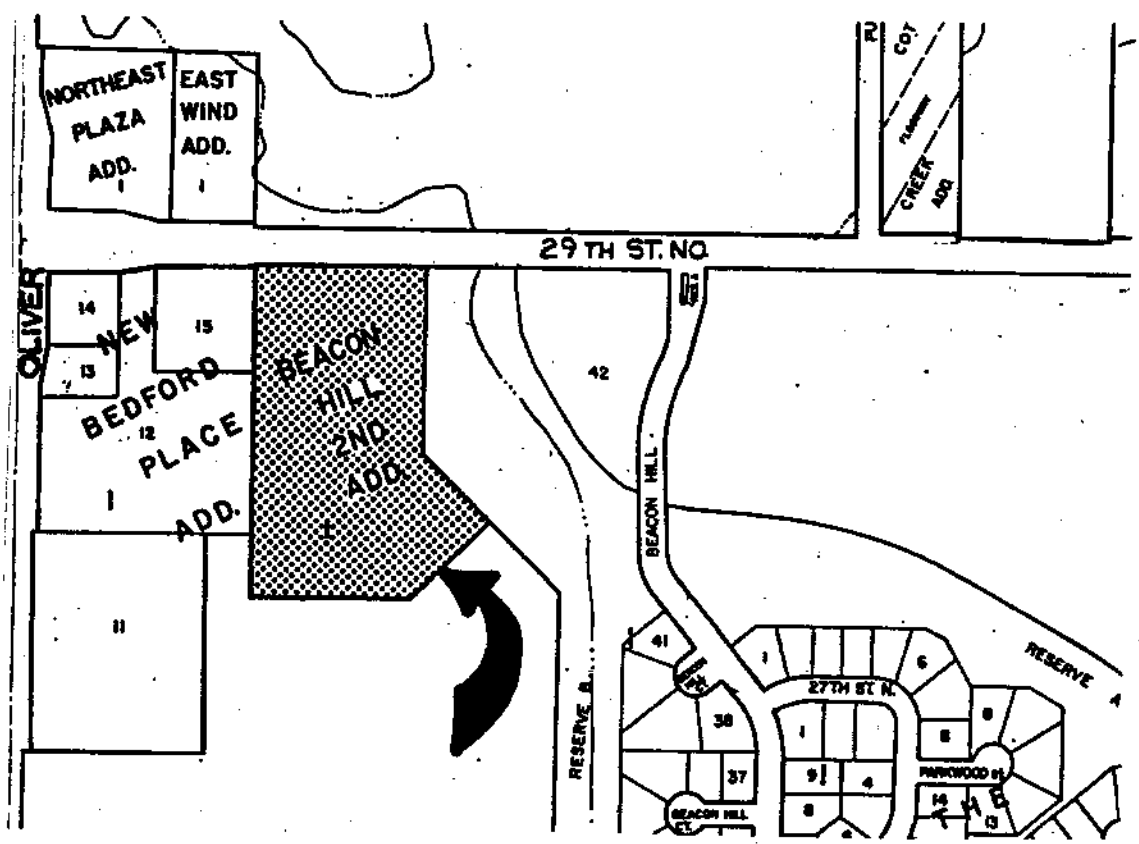
REQUEST: Variance to reduce the front yard setback from 35 feet to 10 feet for parking purposes only.

CURRENT ZONING: "AA" One-Family Dwelling District (w/DP-147)

SITE SIZE: 8.1 acres

LOCATION: South side of 29th Street North in an area east of Oliver.

PROPOSED USE: Church complex



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: Haskins & Sons, paving contractor for a new church facility at 5015 E. 29th St. N., is requesting a reduction in the front yard setback for parking purposes only. A new parking lot has been poured which encroaches 24 to 25 feet into the platted 35-foot front yard setback on this "AA"-zoned property. Section 28.04.140 of the Zoning Code states that parking spaces and circulation aisles are not permitted in required front yards, except in office, commercial and industrial zoning districts. It is mainly a circulation aisle, parallel to 29th Street, which encroaches this required front yard. The parking lot was begun under a conditional building permit which was issued for the first phase of construction -- a gymnasium at the south end of the lot. Before the final construction plans for the full church complex, including a parking layout, were submitted and approved, the parking lot was already under construction.

There may have been some confusion on the part of all parties involved, due to the fact that the church did not contract with the architect to prepare the parking lot plans, but contracted with Haskins & Sons to prepare these plans and subsequently to pave the lot. When the paving contractor's plans were unacceptable to Central Inspection, the architect was then asked to prepare the parking lot plans. The parking lot plans which were eventually approved and upon which the full parking construction permit was issued showed all paving, except for the entrance drives, behind the 35-foot front yard setback, as required by the Zoning Code. By this time, however, the paving contractor had already paved into the front yard. Additional paving continued, even after Central Inspection advised the contractor of the problem.

Another factor which may have contributed to the confusion was that this property was in the process of being replatted at the time this construction was taking place. Building permits for the gymnasium were issued on Lot 1, New Life Addition. A replat to Lot 1, Beacon Hill Second Addition enlarged the boundaries to the south and west, deleting a platted street on the west edge of the property and providing direct access to and from 29th Street. A platted front yard setback of 35 feet remained the same on both plats, however.

This church facility is a large one, requiring parking for 422 cars. The approved parking plan, without any parking spaces or circulation aisles within the front yard, accommodates 453 cars.

Property adjacent to the west is zoned "LC" Light Commercial, which permits parking out to the front property line. To the east is a wide reserve for drainage purposes zoned "AA", with a "BB"-zoned lot east of that. Parking is permitted in the front setback in "BB" property, also.

The applicant has stated that disruption of the "steel pattern, the joint pattern, the lights, the underground wiring for lights, even the drainage pattern" will occur if the north 25 feet of pavement has to be removed.

If paving is allowed to remain within this front yard setback, then consideration must be given to what conditions of approval are appropriate in lieu of the normal setback. Landscaping which includes a number of evergreen and deciduous trees, plus berms, is recommended as a way to alleviate the harshness of the paved front yard encroachment. An alternative would be construction of a five- to six-foot-tall decorative wall within the wall easement adjacent to the north property line, plus landscaping within the street right-of-way between the wall and street pavement. A combination of wall and berms, with landscaping, is also a possibility.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	Undeveloped
SOUTH	"AA"*	Undeveloped
EAST	"AA"*	Drainage lake
WEST	"LC"**	Undeveloped

*w/DP-147 **w/DP-179

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is bounded on the west and east (not including the drainage reserve) by buildable lots which are zoned to permit parking within the front yard setbacks.

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 adjacent buildable properties to the west and east are zoned "LC" and "BB", respectively, both of which permit parking within the front yard, and property to the north, currently unplatted and zoned "AA", is separated by a 100-foot-wide arterial street right-of-way.

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 existing pavement will have to be removed, disrupting the orderly pattern of the pavement sections and requiring additional time to complete the job.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the variance will permit about 20 additional parking spaces, but they will not encroach into any public right-of-way or create any visual barriers for traffic entering or exiting the site.

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 front yard parking prohibition was to protect residential districts from a characteristically non-residential use (paved parking lots) by maintaining a uniform minimum front yard depth on adjacent residential properties, free of encroachments, but this lot is an isolated residential lot between two non-residential lots on an arterial street.