The Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 21, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT beginning at the northeast corner of the Southeast Quarter of the Southeast Quarter of Section 21; thence south along said east line of said Section 21, 100 feet; thence right at an angle of 89°28'00", 225 feet; thence right at an angle of 90°32'00", 100 feet; thence right at an angle of 89°28'00", a distance of 225 feet to the point of beginning. Generally located on the west side of Hydraulic in an area north of 55th Street South (5439 S. Hydraulic).

subject to the following conditions:

1.* Within 30 days and prior to release of the resolution authorizing this parking variance, the applicant shall submit a revised site plan which shows all parking and circulation aisles behind the front 25-foot building setback line, which is measured from the 50-foot Hydraulic right-of-way line. The revised plan must be in compliance with all off-street parking standards, as specified by the Traffic Engineering Division of the Public Works Department.

2. Prior to obtaining an occupancy permit for the proposed buildings, the applicant shall remove the driveway which is not to be used and which is located approximately 100 feet north of the south property line.

3. Paved parking for at least 60 cars shall be provided in accordance with an approved site plan no later than June 1, 1992.

4. This parking variance shall apply to any plant nursery and garden center operation on this property with building sizes and uses as specified in this application. Additional parking may be required in the future for additional buildings on this property and that parking shall be provided as required, unless varied by the Board of Zoning Appeals.

5. Paved parking shall be provided as specified above and shall be maintained, or this resolution shall become null and void.

6. Prior to the scheduled December BZA meeting (12-17-91), if it is determined that this variance is unnecessary and should not have been required, the applicant's filing fee shall be refunded.

ADOPTED AT WICHITA, KANSAS, this 22nd day of October, 1991.

Elton Parsons, Vice President

ATTEST:

Louise Olivarez, Secretary

* Condition 1 is included to reflect the official action of the Board of Zoning Appeals; however, it was determined on October 23, 1991, that the new, 60-space, paved parking lot may encroach into the 25-foot front yard setback, due to the fact that a previous nonconforming use building, recently destroyed by tornado, encroached equally as much into this setback. Therefore, the site plan as presented to the Board is acceptable and approved and no revised site plan is necessary.

BZA RESOLUTION NO. 27-91

WHEREAS, M. Meyer and Son Nursery, Inc., pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required number of parking spaces from 104 to 60 on property zoned the "AA" One-Family Dwelling District and legally described as follows:

> The Northeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 21, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT beginning at the northeast corner of the Southeast Quarter of the Southeast Quarter of Section 21; thence south along said east line of said Section 21, 100 feet; thence right at an angle of 89°28'00", 225 feet; thence right at an angle of 90°32'00", 100 feet; thence right at an angle of 89°28'00", a distance of 225 feet to the point of beginning. Generally located on the west side of Hydraulic in an area north of 55th Street South (5439 S. Hydraulic).

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 October 22, 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 the business is very seasonal in nature and much of the building space (14,000 sq. ft.) on which parking is based is devoted primarily to the growing and display of plants; 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 only adjacent property, other than that owned by the applicant, is located to the north on a tract to which there is no vehicular access from the subject tract and therefore no possibility of this business's customers encroaching onto that property in search of parking spaces; 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 more area than needed would have to be paved for parking, which would contribute to heat retention, water runoff and pavement maintenance; 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 with no parking permitted on Hydraulic, an arterial street, any overflow parking would have to be on the applicant's own property and would not affect the general public travelling on Hydraulic; 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 is to provide adequate parking for the specific use of a property, and 60 parking spaces is thought to be sufficient for this particular plant nursery; 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 required number of parking spaces from 104 to 60 on property zoned the "AA" One-Family Dwelling District and legally described as follows:

LO:jcm
Enclosure

cc: M. Meyer and Son Nursery, Inc.
ATTN: Elliott Redenbaugh
5439 S. Hydralic
Wichita, KS 67216

Paul Hays, OCI
J.R. Cox, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

WICHITA — SEDGWICK COUNTY

W-SC

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

October 24, 1991

John Reals
250 N. Water
Suite 215
Wichita, KS 67202

Re: BZA 27-91 - Variance to reduce the required number of parking spaces from 104 to 60 for M. Meyer and Son Nursery, Inc., d/b/a/ Meyer's Garden Spot, zoned "AA" One-Family Dwelling District and located on the west side of Hydraulic in an area north of 55th Street South (5439 S. Hydraulic).

Dear Mr. Reals:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on October 22, 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.

Regarding the issues of whether or not a parking variance is even necessary and the need for a revised site plan, after discussion with the Law Department this morning, we have determined that the parking variance is necessary (and has been approved), but no revised site plan is required. The proposed 60-space, paved parking lot may encroach into the 25-foot front yard setback, due to the fact that there had previously been a nonconforming use structure at this location which appears to have been equally as close to the centerline of Hydraulic as the proposed parking lot. Since a new replacement building could have been located at this setback, a parking lot should certainly be allowed at this setback. We will therefore accept and approve the site plan as submitted to and reviewed by the Board.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,

Louise Olivarez

Louise Olivarez, Secretary
Board of Zoning Appeals

3. Prior to obtaining an occupancy permit for the proposed buildings, paved parking for at least 60 cars shall be provided in accordance with the revised site plan.

4. This parking variance shall apply to any plant nursery and garden center operation on this property with building sizes and uses as specified in this application. Additional parking may be required in the future for additional buildings on this property and that parking shall be provided as required, unless varied by the Board of Zoning Appeals.

5. Paved parking shall be provided as specified above and shall be maintained, or this resolution shall become null and void.

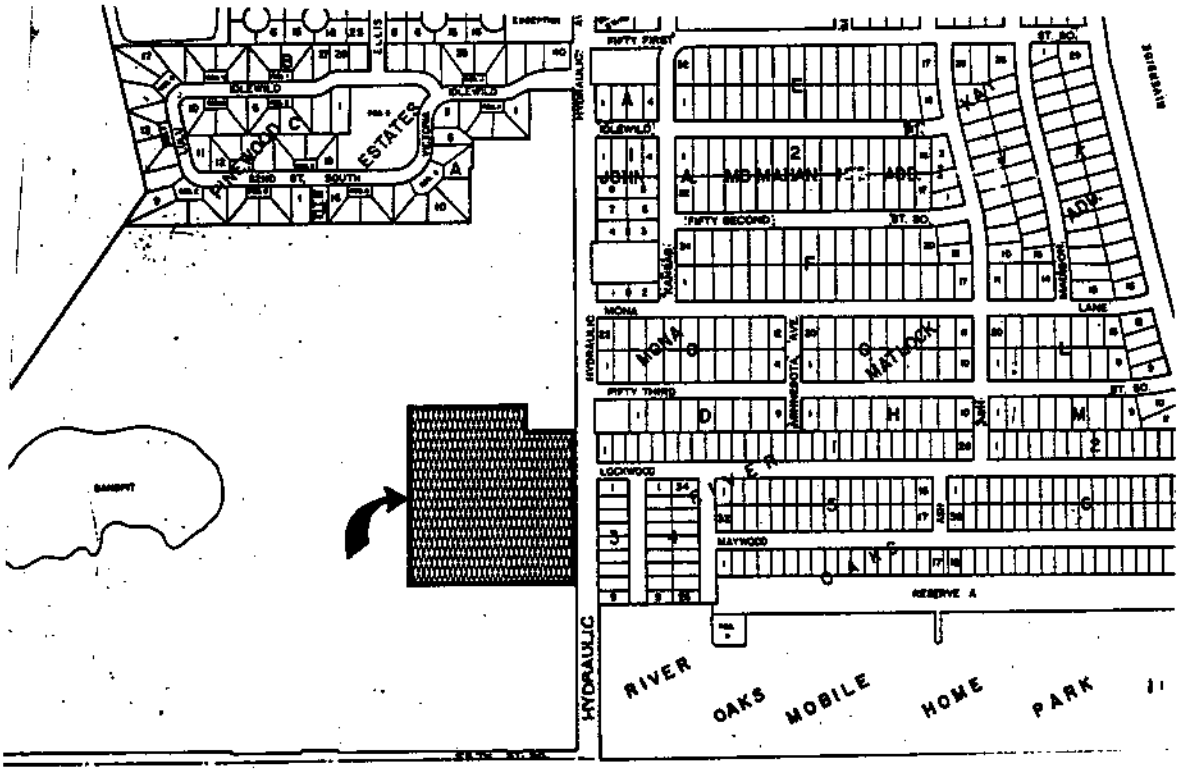
BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3

October 22, 1991

SECRETARY'S REPORT

CASE NUMBER:	BZA 27-91
OWNER/APPLICANT: AGENT:	M. Meyer and Son Nursery, Inc. John F. Reals
REQUEST:	Variance to reduce the required number of parking spaces from 104 to 60
CURRENT ZONING:	"AA" One-Family Dwelling District
SITE SIZE:	9.5 acres
LOCATION:	West side of Hydraulic in an area north of 55th Street South (5439 S. Hydraulic)
PROPOSED USE:	Plant nursery and garden center



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 9.5-acre application area is part of a larger ownership devoted to a plant nursery and garden center operation which has been in existence since well before January 1969, when this area was annexed into the city. It also existed prior to any County zoning being established in 1958. It is a legal non-conforming use. Last April, most of the structures at this nursery were destroyed by a tornado. The business is now in the process of rebuilding and permits were issued September 17th for three buildings: (1) a 50' x 165' metal building to be used as a work and storage area; (2) and (3) an 80' x 114' metal building with an attached 118' x 126' glass greenhouse, both of which will be accessible to the public. The parking requirement for the first building is based on 1 per 1,000 sq. ft.; for the other two buildings it is based on 1 per 250 sq. ft., resulting in a total parking requirement of 104 spaces. A large existing lath house is not required to provide parking, as it is not really a building but more of a shade protector for plants growing there. Approximately ten employees work at this nursery, which is very seasonal in nature. None of the employees will park in the customer parking area. The owner and members of his family reside on the premises.

The site plan indicates that 104 spaces can easily be provided, but the applicant feels this is an excessive number for the business's needs and wishes to provide only 60 parking spaces. It is difficult to determine how many parking spaces existed before the tornado, as they were not paved or marked. They existed in front of the lath house.

As a condition of the issuance of the building permit, Central Inspection required the dedication of an additional ten feet of right-of-way for Hydraulic in accordance with 4-601(H) of the Subdivision Regulations. The front yard setback in this zoning district ("AA") is 25 feet and neither parking nor circulation aisles are permitted within this 25-foot area. The site plan shows only about a 5-foot front yard being maintained in the southeast portion of the site. The parking lot must be shifted to the west approximately 20 feet or redesigned so that neither parking stalls nor circulation aisles are within the required 25-foot front yard. As the building permits were issued prior to the September 20th effective date of the landscape and screening ordinance, this commercial use will not be required to provide a landscaped street yard or parking lot screening as required by the new ordinance.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwelling and undeveloped
SOUTH	"AA"	Nursery
EAST	"G"	Mobile home subdivision
WEST	"AA"	Nursery

UNIQUENESS: It is the opinion of staff that this property, and particularly the business on this property, is unique inasmuch as the business is very seasonal in nature and much of the building space (14,000 sq. ft.) on which parking is based is devoted primarily to the growing and display of plants.

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 the only adjacent property, other than that owned by the applicant, is located to the north on a tract to which there is no vehicular access from the subject tract and therefore no possibility of this business's customers encroaching onto that property in search of parking spaces.

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 more area than needed would have to be paved for parking, which would contribute to heat retention, water runoff and pavement maintenance.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as with no parking permitted on Hydraulic, an arterial street, any overflow parking would have to be on the applicant's own property and would not affect the general public travelling on Hydraulic.

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 is to provide adequate parking for the specific use of a property, and 60 parking spaces is thought to be sufficient for this particular plant nursery.

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 30 days and prior to release of the resolution authorizing this parking variance, the applicant shall submit a revised site plan which shows all parking and circulation aisles behind the front 25-foot building setback line, which is measured from the 50-foot Hydraulic right-of-way line. The revised plan must be in compliance with all off-street parking standards, as specified by the Traffic Engineering Division of the Public Works Department.

2. Prior to obtaining an occupancy permit for the proposed buildings, the applicant shall remove the driveway which is not to be used and which is located approximately 100 feet north of the south property line.