WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

June 25, 1997

Ernest H & Karin Rieger
5922 Polo Drive
Wichita, KS 67208

RE: BZA 8-97 - Variance to reduce the parking requirement from 58 spaces to 9 spaces on property zoned "GC" General Commercial and generally located on the southwest corner of Topeka and Murdock (735, 737, and 739 N. Topeka and 315 E. Murdock)

Dear Mr. and Mrs. Rieger:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on June 24, 1997. 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.

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 call our office.

Sincerely yours,

Lawrence P. Mitchell, Secretary
Board of Zoning Appeals

LPM/sah

cc: John W. Roe, 566 Westshore Dr., Wichita, KS 67209
Robert Kaplan, Atty, 430 N. Market, Wichita, KS 67202
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)

BZA RESOLUTION NO. 8-97

WHEREAS, Ernest H. & Karen Rieger, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the parking requirement from 58 spaces to 9 spaces on property zoned "GC" General Commercial and legally described as follows:

> Lots 62, 64, 66, Topeka Avenue, J.P. Hilton's Addition to Wichita, Sedgwick County, Kansas. Generally located southwest corner of Topeka and Murdock (735, 737 & 739 N. Topeka and 315 E. Murdock).

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 June 24, 1997, 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 the subject property is engaged in a use that does not allow residents to own a vehicle and all necessary transportation is provided by the facility, thereby reducing the need for on-site parking; 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 because there will be no additional staff employed residents housed, traffic patterns and parking demand will not change from present conditions; 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 the facility will not be able to be used for the purpose which the agent is purchasing it for and is currently operating it as, or the applicant would have to provide many more off-site parking spaces than are needed for this business which would be unjustifiably expensive; 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 parking proposed to be made available on this site should be adequate to meet the needs of the employees and facility. Therefore, there should be no need for employees or facility vehicles to seek parking spaces on any public street in the 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 intent of the parking code is to provide adequate parking for the needs of specific types of uses and the reduced parking requirements should be adequate for this specific use.

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 58 spaces to 9 spaces on property zoned "GC" General Commercial and legally described as follows:

Lots 62, 64, 66, Topeka Avenue, J.P. Hilton's Addition to Wichita, Sedgwick County, Kansas.

subject to the following conditions:

1. All parking spaces, as shown on the approved site plan, shall be paved, striped and available for use at the time of final inspection and issuance of an occupancy permit for the buildings at 735, 737 & 739 N. Topeka and 315 E. Murdock.

2. At such future time as the site is no longer used as a correctional placement facility for clients that are not permitted to have vehicles or if the use changes substantially as determined by the Office of Central Inspection, the site will be required to satisfy all then-existing parking requirements.

3. BZA 54-85 is hereby declared null and void.

4. Upon a finding by the Office of Central Inspection that this facility at any time does not pass all requirements for licensing this variance shall be declared null and void.

5. The resolution authorizing this variance 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.

6. The number of clients allowed in residence on this site will be no more than 58 at any one time.

ADOPTED AT WICHITA, KANSAS, this 24th day of June, 1997.

Keith A. Alter, President

ATTEST:

Lawrence P. Mitchell, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
April 22, 1997

SECRETARY'S REPORT

CASE NUMBER: BZA 8-97

OWNER/APPLICANT: Ernest H. & Karen Rieger

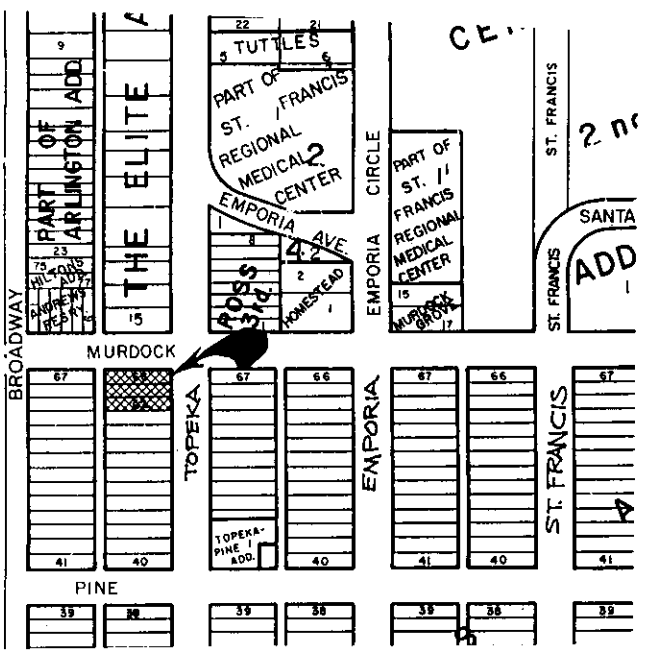
AGENT: John W. Roe

REQUEST: Variance to reduce the parking requirement from 68 spaces to 6 spaces.

CURRENT ZONING: "GC" General Commercial

SITE SIZE: 145' x 93'

LOCATION: Southwest corner of Topeka and Murdock (737, 737 & 739 N. Topeka and 315 E. Murdock)



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 is requesting a reduction in required parking from 68 spaces to 6 spaces in order to operate a correctional placement facility at the corner of Topeka and Murdock. This facility, Dodge House, is currently operating at this location under a parking variance granted in 1985 per BZA Resolution 54-85 to a previous operator. The facility on the site has been functioning in essentially the same manner since 1985. Dodge House is currently operating out of 3 structures on the site as a correctional placement residence.

The Unified Zoning Code defines a correctional placement residence as: a facility for individuals or offenders that provides residential and/or rehabilitation services for those who reside or have been placed in such facilities due to any one of the following situations: (1) prior to, or instead of, being sent to prison; (2) received a conditional release prior to a hearing; (3) as part of a local sentence of not more than one year; (4) at or near the end of a prison sentence, such as a state operated or franchised work program, or a privately owned facility housing parolees; (5) received a deferred sentence and placed in facilities operated by community corrections; or (6) require court ordered guidance services for alcohol or chemical dependence. Such facilities will comply with the regulatory requirements of a federal, state or local government agency; and if such facilities are not directly operated by a unit of government they will meet licensure requirements which further specify minimum service standards. The zoning code does not define parking requirements for correctional placement residences, therefore the Office of Central Inspection has determined that a correctional placement residence is most similar to a boarding house. The number of parking spaces required for a boarding house is 1 space per housekeeping unit plus 1 space per each boarder/lodger. Therefore, based on the number of residents and staff, Dodge House is required by the zoning code to provide 68 parking spaces.

The facility operates using only the labor of residents for cooking, cleaning and maintenance, no outside help is hired for these tasks. There are a maximum of two staff members on site at any given time. The Dodge House owns three vans and one automobile for the use of transporting residents to and from work and for staff use. After parking all facility owned vehicles there are two remaining parking spaces at any given time. The applicant's agent has indicated that none of the residents are allowed to possess a vehicle while living at the Dodge House, therefore making 68 parking spaces unnecessary for this type of use. The agent also indicates that no visitors are allowed on the premises and no outside meetings or gatherings are ever held at the facility.

The Dodge House is being required to obtain licensing by the City of Wichita, which is being coordinated by the Office of Central Inspection. There are a number of City and County departments involved with the licensing process including Police, Fire, Health Department and Central Inspection. Only upon passing inspection by all of these agencies will the Dodge House be allowed to continue to operate on this site.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	Undeveloped
SOUTH:	"GC"	Duplex
EAST:	"GC"	Parking lot
WEST:	"GC"	Quiktrip

UNIQUENESS: It is the opinion of staff that the application property is unique inasmuch as the subject property is engaged in a use that does not allow residents to own a vehicle and all necessary transportation is provided by the facility, thereby reducing the need for on-site parking.

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 because there will be no additional staff employed residents housed, traffic patterns and parking demand will not change from present conditions.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning code provisions may constitute an unnecessary hardship upon the applicant inasmuch as the facility will not be able to be used for the purpose which the agent is purchasing it for and is currently operating it as, or the applicant would have to provide many more off-site parking spaces than are needed for this business which would be unjustifiably expensive.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as parking proposed to be made available on this site should be adequate to meet the needs of the employees and facility. Therefore, there should be no need for employees or facility vehicles to seek parking spaces on any public street in the area.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance as requested will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the parking code is to provide adequate parking for the needs of specific types of uses and the reduced parking requirements should be adequate for this specific use.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance are satisfied, then it is recommended the variance be granted, subject to the following conditions:

1. All parking spaces, as shown on the approved site plan, shall be paved, striped and available for use at the time of final inspection and issuance of an occupancy permit for the buildings at 735, 737 & 739 N. Topeka and 315 E.

Murdock.

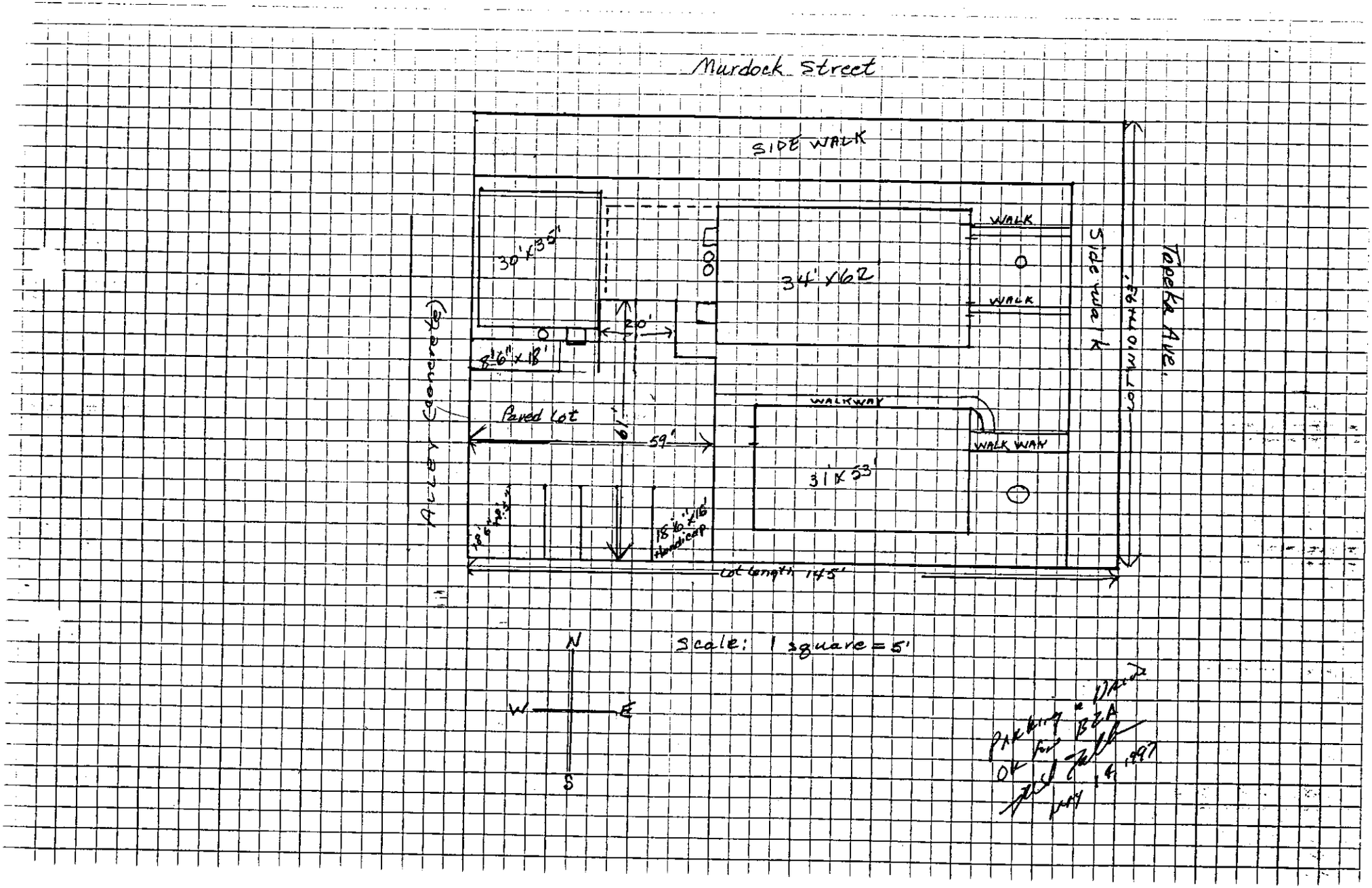
2. At such future time as the site is no longer used as a correctional placement facility for clients that are not permitted to have vehicles or if the use changes substantially as determined by the Office of Central Inspection, the site will be required to satisfy all then-existing parking requirements.

3. BZA 54-85 is hereby declared null and void.

4. Upon a finding by the Office of Central Inspection that this facility at any time does not pass all requirements for licensing this variance shall be declared null and void.

5. The resolution authorizing this variance 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.

6. Number of Clients that can be served on this site NO more then 58 clients in residences at any one time


Murdock Street
SIDE WALK
30' x 35'
34' x 162'
WALK
WALK
Side walk
Topeka Ave.
Approx. 276 ft. to curb
20'
8'6" x 18'
Paved lot
59'
WALKWAY
WALK WAY
31' x 53'
18'6" x 16' Handicap
Approx. 145' to curb
Lot length 145'
Scale: 1 square = 5'
N
W
E
S