

August 28, 1990

SECRETARY'S REPORT

CASE NUMBER: BZA 15-90

OWNER/APPLICANT/AGENT: Jo Zakas (owner/applicant)  
Gary Snyder (agent)

REQUEST: Variance to reduce the number of required off-street parking spaces from 142 to 63.

CURRENT ZONING: "LC" Light Commercial District

SITE SIZE: 2.4 acres

LOCATION: On the north side of Douglas between Clifton and Yale Streets.

PROPOSED USE: Current site of Clifton Square retail shopping area which the applicant proposes to increase by approximately 9,700 sq. ft. to a total of 30,000 sq. ft. of retail space.



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 is requesting a variance of the required off-street parking to accommodate the existing and proposed future expansion of the Clifton Square commercial retail area. The applicant intends to supplement off-street parking on the site with on-street parking to be created along the Clifton Street and Victor Place street frontages. Establishment of this on-street parking will require the approval of a minor street privilege and review by the Wichita Traffic Commission. Approval of this variance should be subject to approval of the minor street privilege. The applicant wishes to reduce the number of required off-street parking spaces from 142 to 63. A plan has been submitted indicating that 63 spaces can be provided on the site and 43 spaces are to be provided along the Clifton and Victor Place street frontages. In addition, the applicant is leasing 12 spaces from property on the south side of Douglas.

The applicant intends to increase the gross floor area of the retail structures on the site by approximately 9,700 square feet. This will increase the total square footage of floor area on the site to approximately 30,000 square feet. This floor area, plus restaurant seating capacity (99 seats) was used by the applicant to estimate the total future parking requirement of 142 spaces. When calculating the anticipated parking required for the restaurant uses, the applicant used a parking standard of 1 space per 3 seats. This is a standard that is being recommended for amendment into the City Zoning Ordinance by the Planning Department to more accurately reflect the actual parking demand being experienced by existing restaurant uses in the city. The existing parking standard is 1 space per 5 seats. Had this standard been used to calculate required parking spaces for the site, it results in 122 required parking spaces. At the present time, the applicant is providing 83 parking spaces which includes 12 leased spaces, 67 on-site spaces and 4 spaces located in Douglas street right-of-way. The 4 spaces in the Douglas street right-of-way have been established without a minor street privilege and are not considered to be legal off-street parking spaces.

These parking spaces serve a total of 16,014 square feet of retail floor area and the 99-seat capacity of the restaurant existing in the shopping center. On the basis of current standards (1 space per 250 square feet of retail floor area and 1 space per 5 seats for restaurants), the applicant is apparently 2 spaces short of meeting current off-street parking requirements for the site (85), counting the 4 spaces in Douglas street right-of-way.

Upon review of the site plan submitted by the applicant and observation of the traffic flow along Clifton, as well as the turning movements anticipated at the Clifton/Douglas intersection, staff is recommending that no on-street parking stalls be allowed along Clifton in the first 40 feet north of Douglas. This will result in the loss of 3 of the parking spaces proposed to be established on the site plan. Therefore, staff is also recommending a corresponding decrease of 250 square feet of floor area for each space lost ( $250 \times 3 = 750$  square feet) in the total amount of gross floor area to be developed on the site.

It is the Secretary's opinion that the provision of 40 on-street parking spaces immediately accessible to the small scale specialty retail shops within the development provides some justification for a reduction in the required off-street parking spaces for the site. In addition, staff has observed that the existing parking lot is not used to capacity at various times of the day. Such a reduction is only fully justified, however, if corresponding actions are taken to maintain the residential character of the areas to the north and west and minimize the effects on pedestrian and vehicular traffic flow that may result from the introduction of additional on-street parking along Clifton and Victor Place. Several conditions of approval concerning sidewalk construction, landscaping, signage and site plan review are therefore recommended at the conclusion of this report.

ADJACENT ZONING AND LAND USE:

NORTH	"A"	Single-family home and a duplex
SOUTH	"B" & "BB"	Offices, residences and bed and breakfast motel
EAST	"A" & "B"	St. James Episcopal Church
WEST	"RB" & "BB"	Offices and a residence

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is one of few in the City that has converted traditional residential structures to retail uses and maintained the residential character of the neighborhood. With the minor street privilege, on-street parking spaces not otherwise available on the site will become immediately accessible to the established retail uses. The types of retail uses planned for the site have traffic generation and parking demand rates that are lower than those of many other commercial uses permitted in the established light commercial zoning district.

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 most of the adjoining properties front onto streets other than those to be reconstructed for on-street parking purposes and the on-street parking spaces to be created will be available for use by adjoining owners as well. No direct vehicular access is provided to the site from the adjacent residential streets. All access is from Douglas, an arterial street.

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 the location and arrangement of the existing structures on the site preclude the possibility of establishing more off-street parking spaces on the site without destroying the unique character of the development.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the existing traffic flow patterns will be largely retained, more parking spaces will be available, and new sidewalks will be located further from the moving traffic lanes in front of the parking spaces to be created. Although the establishment of on-street parking will create some additional degree of traffic conflict, traffic volumes on Clifton and Victor Place are relatively light and parking is to be angled so it will not interfere with southbound traffic exiting the residential neighborhood to the north on Clifton. The property covered by the minor street privilege to be converted to parking spaces is not needed for additional street or other public improvements at this time.

SPIRIT AND INTENT: It is the opinion of staff in this unique instance that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance, provided adequate control of the scale and intensity of development is maintained through a site plan approval process with restrictions on the types and sizes of uses permitted, inasmuch as supplemental on-street parking spaces are being provided in immediate proximity to the specialty retail uses to be served. The conversion of the residential structures on the site into successful specialty commercial establishments is a form of adaptive reuse of structures that tends to preserve the visual character of the area while minimizing the level of disruptive activity frequently associated with general retail operations.

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. Approval of a minor street privilege request by the City of Wichita and approval of the traffic circulation pattern and parking space layout by the Wichita City Council.
2. Construction of 40 on-street parking spaces, as well as new sidewalks in front of the on-street parking spaces and provision of 12 or more off-site spaces through lease agreements with others. No parking spaces shall be constructed along Clifton within 40 feet of Douglas Avenue.
3. The total maximum gross floor area of all businesses on the site shall not exceed 29,250 square feet and the maximum gross floor area of individual businesses within the site shall not exceed 3,000 square feet; provided, however, that one business may have a maximum gross floor area not to exceed 6,000 square feet and the total amount of gross floor area devoted to cafe and restaurant type businesses shall not exceed 4,500 square feet.

4. No business establishment shall offer goods or services by way of drive-up windows or directly to customers in parked motor vehicles and the following types of businesses shall be prohibited: service stations, bars, taverns, drinking establishments, convenience stores, medical and dental clinics, drive-in banks and savings and loans, theaters, hardware, paint and home improvement stores, video arcades, and automotive sales, supply, repair and accessories.
5. An agreement with the City of Wichita for the continued maintenance of the on-street parking spaces and adjacent sidewalk.
6. The creation of a landscape buffer at least 5 feet in width adjacent to the sidewalks along the north and west property lines, except where existing buildings preclude the establishment of such a buffer. A landscape plan shall be prepared by a landscape architect for the required landscape buffer showing the type, location and specifications of plant materials and the method by which water will be provided. Two mature street trees along the Clifton Street site frontage shall be maintained. The landscape plan shall be submitted to the Secretary for review and approval prior to the issuance of building permits. A financial guarantee for the plant materials approved in the landscape plan shall be required prior to the issuance of any occupancy permit if the required landscaping has not been installed.
7. No portable or off-site signs shall be permitted on the site and no free-standing ground or pole signs shall be permitted along the Clifton, Victor Place or Yale street frontages. Building signs along these frontages shall be for identification purposes only, unlighted and limited to 6 square feet in size. No flashing, rotating or moving signs, signs with moving lights, or lights that create the illusion of movement shall be permitted.
8. Prior to the issuance of building permits for new structures or the expansion of existing structures on the site, a site plan shall be submitted for review and approval by the Director of Planning and the Superintendent of Central Inspection. Such plan shall identify the type of business to be located in each structure.
9. Complete access control shall be established along Clifton, Yale and Victor Place. This may be established by separate instrument or by replat.
10. All utilities shall be installed underground.
11. Items 1, 5, 6 (submission of the landscape plan) and 9 shall be completed within one year following approval by the Board and items 2 and 6 (installation of the plant materials) shall be completed within two years following approval by the Board, or this resolution shall be considered null and void.

12. Exterior lighting fixtures shall be shaded to direct light away from adjacent residential districts.
13. Delivery vehicles shall not obstruct the traffic lanes of public streets.
14. Trash receptacles shall be screened from ground level view.

BZA RESOLUTION NO. 15-90

WHEREAS, Jo Zakas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the number of required off-street parking spaces from 142 to 63 on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Zakas 4th Addition to Wichita, Kansas.  
Generally located on the north side of Douglas  
between Clifton and Yale Streets (3700 E.  
Douglas).

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 August 28, 1990, 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 one of few in the City that has converted traditional residential structures to retail uses and maintained the residential character of the neighborhood. With the minor street privilege, on-street parking spaces not otherwise available on the site will become immediately accessible to the established retail uses. The types of retail uses planned for the site have traffic generation and parking demand rates that are lower than those of many other commercial uses permitted in the established light commercial zoning district; 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 most of the adjoining properties front onto streets other than those to be reconstructed for on-street parking purposes and the on-street parking spaces to be created will be available for use by adjoining owners as well. No direct vehicular access is provided to the site from the adjacent residential streets. All access is from Douglas, an arterial street; 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 the location and arrangement of the existing structures on the site preclude the possibility of establishing more off-street parking spaces on the site without destroying the unique character of the development; 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 existing traffic flow patterns will be largely retained, more parking spaces will be available, and new sidewalks will be located further from the moving traffic lanes in front of the parking spaces to be created. Although the establishment of on-street parking will create some additional degree of traffic conflict, traffic volumes on Clifton and Victor Place are relatively light and parking is to be angled so it will not interfere with southbound traffic exiting the residential neighborhood to the north on Clifton. The property covered by the minor street privilege to be converted to parking spaces is not needed for additional street or other public improvements at this time; and

WHEREAS, the Board of Zoning Appeals has found that in this unique instance the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance, provided adequate control of the scale and intensity of development is maintained through a site plan approval process with restrictions on the types and sizes of uses permitted, inasmuch as supplemental on-street parking spaces are being provided in immediate proximity to the specialty retail uses to be served. The conversion of the residential structures on the site into successful specialty commercial establishments is a form of adaptive reuse of structures that tends to preserve the visual character of the area while minimizing the level of disruptive activity frequently associated with general retail operations; 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 number of required off-street parking spaces from 142 to 63 on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Zakas 4th Addition to Wichita, Kansas.  
Generally located on the north side of Douglas  
between Clifton and Yale Streets (3700 E.  
Douglas).

subject to the following conditions:

- 10-16-90 1. Approval of a minor street privilege request by the City of Wichita and approval of the traffic circulation pattern and parking space layout by the Wichita City Council.
2. Construction of 40 on-street parking spaces, as well as new sidewalks in front of the on-street parking spaces and provision of 12 or more off-site spaces through lease agreements with others. No parking spaces shall be constructed along Clifton within 40 feet of Douglas Avenue.
3. The total maximum gross floor area of all businesses on the site shall not exceed 29,250 square feet; provided, however, that no one business may have a maximum gross floor area exceeding 6,000 square feet. The total amount of gross floor area devoted to cafe and restaurant type businesses shall not exceed 4,500 square feet, except that the total area devoted to cafe/restaurant uses can be increased to a maximum of 6,000 square feet, provided that for every square foot of cafe/restaurant uses in excess of 4,500 square feet, the total maximum gross area of all businesses on the site shall be reduced by 2 square feet.
4. No business establishment shall offer goods or services by way of drive-up windows or directly to customers in parked motor vehicles and the following types of businesses shall be prohibited: service stations, bars, taverns, drinking establishments, convenience stores, medical and dental clinics, drive-in banks and savings and loans, theaters, video arcades, and automotive sales, supply, repair and accessories.
5. An agreement with the City of Wichita for the continued maintenance of the on-street parking spaces and adjacent sidewalk.
6. The creation of a landscape buffer at least 5 feet in width adjacent to the sidewalks along the north and west property lines, except where existing buildings preclude the establishment of such a buffer. A landscape plan shall be prepared by a landscape architect for the required landscape buffer showing the type, location and specifications of plant materials and the method by

which water will be provided. Two mature street trees along the Clifton Street site frontage shall be maintained. The landscape plan shall be submitted to the Secretary for review and approval prior to the issuance of building permits. A financial guarantee for the plant materials approved in the landscape plan shall be required prior to the issuance of any occupancy permit if the required landscaping has not been installed.

7. No portable or off-site signs shall be permitted on the site and no free-standing ground or pole signs shall be permitted along the Clifton, Victor Place or Yale street frontages. Building signs along these frontages shall be for identification purposes only, unlighted and limited to 6 square feet in size. No flashing, rotating or moving signs, signs with moving lights, or lights that create the illusion of movement shall be permitted.
8. Prior to the issuance of building permits for new structures or the expansion of existing structures on the site, a site plan shall be submitted for review and approval by the Director of Planning and the Superintendent of Central Inspection. Such plan shall identify the type of business to be located in each structure.
9. Complete access control shall be established along Clifton, Yale and Victor Place. This may be established by separate instrument or by replat.
10. All utilities shall be installed underground.
11. Items 1, 5, 6 (submission of the landscape plan) and 9 shall be completed within one year following approval by the Board and items 2 and 6 (installation of the plant materials) shall be completed within two years following approval by the Board, or this resolution shall be considered null and void.
12. Exterior lighting fixtures shall be shaded to direct light away from adjacent residential districts.
13. Delivery vehicles shall not obstruct the traffic lanes of public streets.
14. Trash receptacles shall be screened from ground level view.

ADOPTED AT WICHITA, KANSAS, this 28th day of August, 1990.

  
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Keith A. Alter, President

ATTEST:

  
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Louise Olivarez, Secretary

NOTE: On July 28, 1992, the BZA granted a two-year extension of time to complete the conditions of approval (specifically, conditions 2 and 6 -- on-street parking and landscaping on north and west). New deadline is 8/28/94.