



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

May 29, 2003

%Joe Hoover
USD 259
3850 N. Hydraulic
Wichita, KS 67219

RE: BZA2003-13 – Variance to Section IV-A.6.a. of the Unified Zoning Code to permit parking within the front and street side setbacks on property zoned residentially-zoned property. Generally located at the southwest corner of Lincoln and Emporia.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 27, 2003, this resolution reflects the official action of the Board to grant your requests and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421

Sincerely,

Scott Knebel
Assistant BZA Secretary

SK/rms

CC: Julio Villa, Jr., Judy Ann Villa, 1240 S. Topeka, Wichita, KS 67211
Lourdes Reyes, 1241 S. Emporia, Wichita, KS 67211
Carl Brewer, WCC, District I, Mail Stop 1-13
Virgena Gilkey, N.A. I, Mail Stop 1-135
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

BZA RESOLUTION NO. 2003-00013

WHEREAS, USD 259 c/o Joe Hoover, (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section IV-A.6.a. of the Unified Zoning Code to permit parking within the front and street side setback on property zoned "MF-29" Multi-family Residential "B" Multi-family Residential and legally described as follows:

RESERVE FROM LINCOLN ST S TO ALLEY & FROM TOPEKA TO EMPORIA AVE. & N1/2 VAC ALLEY ADJ ON S ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 18-20-22 & S1/2 VAC ALLEY ADJ LOT 18 ON N & W1/2 VAC ALLEY ADJ SAID LOTS ON E TOPEKA. LOTS 24-26 & W1/2 VAC ALLEY ADJ ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 28-30 & W1/2 VAC ALLEY ADJ ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 1015-1. LOTS 32-34 EXC S 20 FT LOT 34 DED FOR ALLEY & W1/2 VAC ALLEY ADJ LOT 32 & N 5 FT LOT 34 ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-TX. LOT 17-19-21 & S1/2 VAC ALLEY ADJ LOT 17 ON N & E1/2 ON N & E1/2 VAC ALLEY ADJ SAID LOTS ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 23-25 & E1/2 VAC ALLEY ADJ ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-TX. LOTS 27-29 & E1/2 VAC ALLEY ADJ ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-T. LOTS 31-33 & E1/2 VAC ALLEY ADJ LOT 31 & N 5 FT LOT 33 ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. Generally located at the southwest corner of Lincoln and Emporia (1210 S. Topeka).

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 27, 2003, 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. It is the opinion of the Board that this property is unique, inasmuch as the subject property has been developed as a school since 1885, well before automobiles were invented and the need for parking lots was established. In Wichita, continuous use of a property for a school for such an extended period of time has occurred on fewer than a dozen properties, and none of these properties has been able to completely conform with present-day zoning regulations without expanding the land area available to the school by acquiring adjoining parcels.

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. It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the only residential uses adjacent to the parking lot are located across the street; therefore, the subject property will not create any of the negative impacts that occur when a parking lot immediately adjoins residential uses.

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. It is the opinion of the Board that the strict application of the provisions of the Code will constitute an unnecessary hardship upon the applicant, inasmuch as requiring the parking lot to be developed in accordance with the zoning regulations will entail eliminating the playground on the school property.

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. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as the parking lot has existed in its present configuration for over 25 years with no detrimental impacts to public health, safety, or welfare.

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. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Code inasmuch as the intent of Section IV-A.6.a. of the Unified Zoning Code is to prevent parking lots from encroaching in front of the building wall line along a residential street and causing detrimental impacts on the neighborhood by interrupting the continuous landscaped street yard. The subject property is located along an arterial street at the edge of the residential neighborhood; therefore, it will not violate the intent of Section IV-A.6.a. of the Unified Zoning Code.

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.

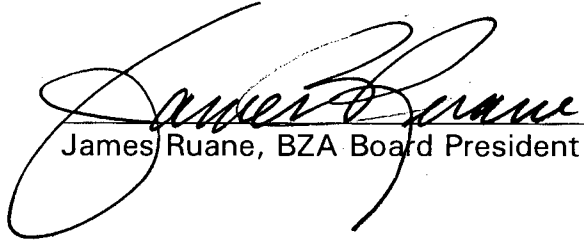
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance to Section IV-A.6.a. of the Unified Zoning Code to permit parking within the front and street side setbacks on property zoned "MF-29" Multi-family Residential and "B" Multi-family Residential and legally described as follows:

RESERVE FROM LINCOLN ST S TO ALLEY & FROM TOPEKA TO EMPORIA AVE. & N1/2 VAC ALLEY ADJ ON S ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 18-20-22 & S1/2 VAC ALLEY ADJ LOT 18 ON N & W1/2 VAC ALLEY ADJ SAID LOTS ON E TOPEKA. LOTS 24-26 & W1/2 VAC ALLEY ADJ ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 28-30 & W1/2 VAC ALLEY ADJ ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 1015-1. LOTS 32-34 EXC S 20 FT LOT 34 DED FOR ALLEY & W1/2 VAC ALLEY ADJ LOT 32 & N 5 FT LOT 34 ON E TOPEKA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-TX. LOT 17-19-21 & S1/2 VAC ALLEY ADJ LOT 17 ON N & E1/2 ON N & E1/2 VAC ALLEY ADJ SAID LOTS ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 6076-0. LOTS 23-25 & E1/2 VAC ALLEY ADJ ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-TX. LOTS 27-29 & E1/2 VAC ALLEY ADJ ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. EXEMPT 2816-81-T. LOTS 31-33 & E1/2 VAC ALLEY ADJ LOT 31 & N 5 FT LOT 33 ON W EMPORIA AVE. ZIMMERLY'S 2ND. ADD. Generally located at the southwest corner of Lincoln and Emporia (1210 S. Topeka).

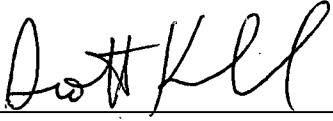
The variance is hereby GRANTED, subject to the following conditions:

1. The parking lot shall be permitted to encroach into the 25-foot front setback along Emporia but shall not be located closer than six (6) feet from the east property line.
2. The parking lot shall be permitted to encroach into the 20-foot street side setback along Lincoln but shall not be located closer than 13 feet from the north property line.
3. The parking lot shall be paved and marked in general conformance with the approved site plan.
4. The parking lot shall be developed in general conformance with the landscape ordinance.
5. The applicant shall obtain all necessary permits, and the improvements to the parking lot shall be completed within one year of the granting of the variance, unless such time period is extended by the Board.
6. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 27th DAY of MAY, 2003.


James Ruane, BZA Board President

ATTEST:


Scott Knebel, BZA Secretary

