

BZA 2-63 - CARL CHUZY ET AL. REQUEST  
VARIANCE TO ESTABLISH PARKING AREA  
AT SE CORNER OF BLAKE AND OLIVER

ACTION

*Bza* COMMITTEE *App* <sup>DATE</sup> *1-21-63*

M.A.F.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

RESOLUTION NO. 2-63

WHEREAS, Carl Chuzy, Tola Chuzy, Morris Chuzy and Dora Chuzy, 131 West Central, Wichita, Kansas, have requested a variance to permit parking on a portion of the front yard setback of property located generally on the east side of Oliver in an area between Harry and Blake, and legally described as the West 20 feet of Reserve A, in McAdams Acres Addition, in the City of Wichita, Kansas; and

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, in regular meeting, consider said application for a variance on January 22, 1963; and

WHEREAS, the Board of Zoning Appeals has determined that it has jurisdiction to consider said request for a variance under the provisions of Section 2.12.590, Code of the City of Wichita; and

WHEREAS, the property is zoned "B" Multiple Family zoning district; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique and not ordinarily found in the same zoning district [in that the shape and location of the "B" and "LC" zoning in this area is unusual and unique as they are immediately adjacent to each other and the "B" area cannot be developed for any purpose of reasonable use other than for the parking of vehicles. Further, the "LC" zoning immediately south extends all the way to the front property line, as does the "LC" zoning at Mt. Vernon and Oliver, and the variance will not interfere with existing patterns of setback requirements in the immediate area.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not adversely affect the rights of adjacent property owners, but rather the granting of this application will help adjacent property owners or residents by permitting use of the off-street parking facilities to be offered by the applicants. Further, the dwellings to the north are set back unusually far from the street so should not be affected by the off-street parking.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the Zoning Ordinance will constitute unnecessary hardship upon the applicant and property owner in that the applicant would be denied a right that is enjoyed by the property owners to the south, same being the right to park up to the front yard property line. Further, it was the intent of the Metropolitan Area Planning Commission, at the time this property was rezoned, to allow parking on one-half the front yard setback, and on this basis the applicant negotiated a contract with one, Bevens Company, and one of the terms of the contract was to provide the tenant with parking spaces to be located in the front yard area. Subsequent to this, an amendment to the Zoning Ordinance was passed that provided that there be no parking on the front yard setback in a dwelling district.

WHEREAS, the Board of Zoning Appeals has found that this variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare when subjected to the conditions made a part of this Resolution; and

WHEREAS, as shown above, each of the four conditions required by Section 2.12.590 of the Code of the City of Wichita, to be present before a variance may be granted, have been found to exist.

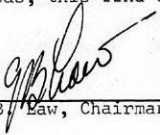
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the request for a variance from the strict enforcement provisions of the Zoning Ordinance prohibiting off-street parking in the front yard setback on property legally described as

The west 20 feet of Reserve A, McAdams Acres Addition, in the City of Wichita, Kansas,

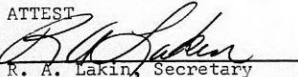
be and the same is hereby approved and the Superintendent of Central Inspection is hereby authorized to issue a permit and allow the use of said property for off-street parking purposes, subject to the following conditions:

1. The parking area shall have adequate guards to prevent extension or overhang of vehicles beyond property lines or parking spaces.
2. Submission of an off-street parking plan complete with adequate means of ingress and egress to the Traffic Engineer for his approval. Such plans shall be approved by the Traffic Engineer in accordance with the provisions set forth in the Zoning Ordinance (Section 28.04.140.A).

ADOPTED at Wichita, Kansas, this 22nd day of January, 1963.

  
\_\_\_\_\_  
E. B. Law, Chairman

ATTEST

  
\_\_\_\_\_  
R. A. Lakin, Secretary

February 4, 1963

Mr. Edward Weil, Attorney  
Union National Building  
Wichita, Kansas

Dear Mr. Weil:

Subject: BZA 2-63

On January 24, 1963, we advised you that the Board of Zoning Appeals had approved subject application for off-street parking facilities to be established in the front yard setback of property generally located on the east side of Oliver in an area between Harry and Blake. We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before February 1, 1963.

The City Clerk has advised that no appeal was filed on or before the date indicated, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Robert A. Lakin  
Secretary

RAL:ber

Attachment

cc: Carl and Tola Chuzy  
Morris and Dora Chuzy  
131 West Central

Glen Lytle, Superintendent  
of Central Inspection

Board of Zoning Appeals

January 28, 1963

C. H. Funk, City Clerk

Robert A. Lakin, Secretary

Case BZA 2-63

Attached is a copy of BZA Resolution 2-63, covering action taken by the Board of Zoning Appeals on the above case.

This case was heard on January 22, 1963, and an appeal may be filed in your office on or before February 1, 1963.

If an appeal is filed, please advise.

Robert A. Lakin  
Secretary

RAL:ber

Attachment

January 29, 1963

Mr. Edward Weil, Attorney  
Union National Building  
Wichita, Kansas

Dear Mr. Weil:

Subject: BZA 7-63

This is to advise you that at its regular meeting of January 22, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to permit the establishment of off-street parking facilities in the front yard setback of property located on the east side of Oliver in an area between Harry and Blake, and legally described as the west 20 feet of Reserve A, in McAdam Acres Addition.

After discussion, it was the action of the Board of Zoning Appeals to approve your request, subject to certain conditions which will be shown in the resolution forwarded to you after the appeal period has expired.

Section 2.12.615 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before February 1, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before February 1, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Robert A. Lakin  
Secretary

RAL:JWH:ber

cc: Carl and Tola Chuzy  
Morris and Dora Chuzy, 131 West Central

C. H. Funk, City Clerk

Glen Lytle, Supt. Central Inspection

P. S. Conditions to approval are attached.

CONDITIONS TO APPROVAL OF BZA 2-63

1. The parking area shall have adequate guards to prevent extension or overhang of vehicles beyond property lines or parking spaces.
2. Submission of an off-street parking plan complete with adequate means of ingress and egress to the Traffic Engineer for his approval. Such plans shall be approved by the Traffic Engineer in accordance with the provisions set forth in the Zoning Ordinance. (Section 28.04.140.A).

SECRETARY'S REPORT

BZA CASE NO. 2-63

GENERAL DESCRIPTION

THIS CASE INVOLVES A TRACT OF LAND GENERALLY LOCATED AT THE SOUTHEAST CORNER OF BLAKE AND OLIVER. THE PROPERTY IS CURRENTLY VACANT AND ZONED "B" MULTIPLE FAMILY AND "LC" LIGHT COMMERCIAL. THE EXISTING ZONING TO THE NORTH IS "AA" SINGLE FAMILY AND "A" TWO FAMILY; EAST IS "AA" SINGLE FAMILY AND "A" TWO FAMILY; SOUTH IS "LC" LIGHT COMMERCIAL AND WEST IS "AA" SINGLE FAMILY, "A" TWO FAMILY AND "LC" LIGHT COMMERCIAL.

TO THE NORTH ARE QUALITY RESIDENCES WELL SET BACK FROM OLIVER. TO THE EAST ARE SINGLE AND TWO FAMILY DWELLINGS. TWO SERVICE STATIONS ARE LOCATED TO THE SOUTH AND TO THE WEST ARE SINGLE FAMILY DWELLINGS AND A CHURCH.

REQUEST

THIS TRACT IS 712 FEET LONG AND 227.4 FEET WIDE. THE WEST 50 FEET AND NORTH 100 FEET ARE ZONED "B" MULTIPLE FAMILY AND THE BALANCE OF THE PROPERTY IS ZONED "LC" LIGHT COMMERCIAL. (SEE ATTACHMENT NO. 1) THE APPLICANT IS REQUESTING THAT A VARIANCE BE GRANTED SO THAT OFF-STREET PARKING MIGHT BE ESTABLISHED ON THE WEST 20 FEET OF "B" ZONING WHICH IS THE REQUIRED FRONT YARD SETBACK ON THE WEST.

SECTION 28.04.140.A.19 PROVIDES THAT, "IN DWELLING DISTRICTS OFF-STREET PARKING SPACE SHALL NOT OCCUPY ANY PART OF ANY REQUIRED FRONT YARD." THIS IS A CHANGE TO THE ZONING ORDINANCE MADE LAST FALL BY THE PLANNING AND CITY COMMISSIONS. THIS CHANGE ELIMINATES THE CLAUSE WHERE PARKING COULD BE LOCATED IN A "B" ZONE FRONT YARD SETBACK PROVIDED THAT IT DID NOT EXCEED ONE-HALF OF THE SETBACK AREA. HENCE, IF THE ORDINANCE HAD NOT BEEN CHANGED, THE APPLICANTS COULD HAVE USED ONLY THE EAST ONE-HALF OF THE 20 FOOT AREA THEY ARE NOW SEEKING PERMISSION TO USE FOR PARKING.

HOWEVER, ARTICLE III, SECTION 1.B OF THE BOARD OF ZONING APPEALS RULES AND REGULATIONS PROVIDES THAT, "VARIANCES FROM THE STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE AND FROM THE PROVISIONS OF THE LOT AREA, LOT COVERAGE, SETBACK REQUIREMENTS, AND WIDTH AND BUILDING HEIGHT, ETC." MAY BE GRANTED.

JURISDICTION

SINCE THE APPLICANT IS REQUESTING THE MODIFICATION OF THE STRICT ENFORCEMENT PROVISIONS OF THE USE OF THE PROPERTY WHICH IS ALLOWABLE UNDER THE EXISTING ZONING CLASSIFICATION, IT IS THE OPINION OF THE SECRETARY THAT THE BOARD HAS PROPER JURISDICTION UNDER SECTION 2.12.560 TO CONSIDER THIS CASE.

COMMENTS BY THE SECRETARY

IF THE BOARD TAKES JURISDICTION IN THIS CASE, THE BOARD MUST FIND THE FOLLOWING CONDITIONS PRESENT BEFORE IT MAY GRANT THE REQUEST OF THE APPLICANT. THESE CONDITIONS ARE AS FOLLOWS:

- A. THAT THE VARIANCE DESIRED ARISES FROM SUCH CONDITIONS WHICH ARE UNIQUE AND WHICH ARE NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT.
- B. THAT THE GRANTING OF A PERMIT FOR A VARIANCE WILL NOT ADVERSELY AFFECT THE RIGHTS OF ADJACENT PROPERTY OWNERS.
- C. THAT THE STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP ON THE PROPERTY OWNER REPRESENTED IN THE APPEAL.
- D. THAT THE VARIANCE DESIRED WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.

THE APPLICANT HAS SUBMITTED A STATEMENT TO JUSTIFY HIS REQUEST AND IT IS SHOWN AS ATTACHMENT #2 OF THIS REPORT.

UNIQUENESS

THE APPLICANT SUBMITS THAT, "THE PARTICULAR SHAPE AND LOCATION OF THE "B" AND "LC" ZONING DISTRICTS IS UNUSUAL AND UNIQUE IN THAT THEY ARE IMMEDIATELY ADJACENT TO EACH OTHER AND THE "B" AREA CANNOT BE DEVELOPED FOR ANY PURPOSE OF REASONABLE USE OTHER THAN FOR THE PARKING OF VEHICLES." THE APPLICANT ALSO MAINTAINS THAT THE "LC" ZONING IMMEDIATELY SOUTH OF SUBJECT PROPERTY EXTENDS ALL THE WAY TO THE FRONT PROPERTY LINE AS DOES THE "LC" ZONING AT MT. VERNON AND OLIVER. THEREFORE, THE REQUESTED VARIANCE WILL NOT INTERFERE WITH EXISTING PATTERNS OF SETBACK REQUIREMENTS IN THE IMMEDIATE AREA.

IT SHOULD BE POINTED OUT THAT THE PLANNING COMMISSION HAS IN THE PAST FEW YEARS BEEN MORE INCLINED TO ESTABLISH THESE "SPLIT ZONED" TYPE OF TRACTS. ALTHOUGH IT IS A POLICY MATTER FOR THE PLANNING COMMISSION AND THE CITY COMMISSION IN THE USE OF THIS TECHNIQUE, IT IS SUGGESTED THAT IF ADDITIONAL BUILDING SETBACKS ARE DESIRED IN "LC" ZONES THAT THE PROPER SOLUTION TO THE PROBLEM IS THE AMENDMENT OF THE ZONING ORDINANCE TO INCREASE THE SETBACK DISTANCE WHICH IS REQUIRED. A COMPLIMENTARY TECHNIQUE TO THIS IS THE ESTABLISHMENT OF SETBACK LINES IN PLATS WHERE THE QUESTION OF PLATTING IS ALSO INVOLVED.

THE SECRETARY AGREES THAT IN THIS GENERAL AREA THERE ARE PRACTICALLY NO INSTANCES OF SPLIT LOT ZONING IN THE SOUTHEAST AREA AND AS SUCH CAN BE CONSIDERED AS UNIQUE.

THE APPLICANT'S SUBMIT THAT BY ALLOWING THE PARKING, IT WILL ELIMINATE THE NEED FOR ON-STREET PARKING, AND THAT IT WILL PROVIDE THE CHURCH ADDITIONAL PARKING AREA. ON-STREET PARKING ON OLIVER IS NOT NOW PERMITTED.

EVEN IN THE OLD VERSION OF THE ORDINANCE, IT WAS RECOGNIZED THAT SINCE THE "B" DISTRICT IS BASICALLY A DWELLING DISTRICT AND AS SUCH WOULD NORMALLY BE FOUND ADJACENT TO OTHER DWELLING DISTRICTS, THAT SOME COMPROMISE AS TO THE TOTAL USE OF LAND SHOULD BE REACHED. IT IS ASSUMED THAT THIS ACCOUNTED FOR THE PROVISION THAT ONLY ONE-HALF OF THE FRONT YARD COULD BE USED FOR PARKING IN THE "B" DISTRICT. NORTH OF THIS PROPERTY ARE SOME QUALITY RESIDENCES WHICH ARE SET BACK EXCEPTIONALLY FAR FOR RESIDENCES. IT APPEARS TO BE A QUESTION OF WHETHER OR NOT THE ADDITIONAL TWENTY FEET OF PARKING WILL ADVERSELY AFFECT THE ADJACENT RESIDENCES TO THE NORTH.

HARDSHIP

PRIOR TO THE ENACTMENT OF THE OFF-STREET PARKING ORDINANCE IN ITS PRESENT FORM, PARKING WAS ALLOWED ON ONE-HALF OF THE FRONT YARD SETBACK IN THE "B" DISTRICT. HOWEVER, THE AMENDMENT PROVIDES THAT NO PARKING BE ALLOWED IN THE FRONT YARD SETBACK IN ANY RESIDENTIAL DISTRICT. THE APPLICANT MAINTAINS A HARDSHIP EXISTS IN THAT PRIOR TO THE AMENDMENT IN ITS PRESENT FORM, THE PROPERTY OWNERS HAD TO NEGOTIATE A LONG TERM LEASE WITH ONE, BEVANS CARPET COMPANY, INC., TO CONSTRUCT A COMMERCIAL BUILDING (ON THE "LC" ZONE) TO HOUSE TENANT'S BUSINESS AND ALSO PROVIDED THAT OFF-STREET PARKING PLACES WOULD BE PROVIDED FOR THE TENANTS IN THE FRONT YARD AREA. NO MENTION IS MADE WHETHER THIS CONTRACT AS TO SPACES TO BE PROVIDED WOULD HAVE MET THE CONDITION OF THE PREVIOUS ORDINANCE. THE PARKING PLAN NOW SUBMITTED WOULD NOT HAVE MET THE REQUIREMENTS OF USING ONLY ONE-HALF OF THE FRONT YARD SETBACK.

THIS SAME AREA WAS THE SUBJECT OF ZONE CASE Z-0062, WHICH WAS A REQUEST FOR CHANGE IN ZONING FROM "B" MULTIPLE FAMILY TO "LC" LIGHT COMMERCIAL. ON APRIL 15, 1958, THE BOARD OF CITY COMMISSIONERS APPROVED "LC" ZONING FOR THE PROPERTY IN QUESTION EXCEPT FOR THE WEST 50 FEET AND THE NORTH 100 FEET WHICH WAS LEFT "B". THE APPLICANT MAINTAINS THAT THE INTENT OF THE BOARD OF CITY COMMISSIONERS IN LEAVING THE "B" ZONING WAS TO "ESTABLISH A BUILDING SETBACK LINE AND TO ESTABLISH AN OFF-STREET PARKING AREA FOR THE LAND INCLUDED IN THE "LC" DISTRICT". THIS HAS BEEN A COMMON PRACTICE BY THE CITY IN THE PAST.

IN VIEW OF THE JUSTIFICATIONS SUBMITTED BY THE APPLICANT, IT IS THE BELIEF OF THE SECRETARY THAT THE STRICT APPLICATION OF THE ORDINANCE WOULD CONSTITUTE AN UNDUE HARDSHIP ON THE APPLICANT.

GENERAL WELFARE

IT IS ALSO THE BELIEF OF THE SECRETARY THAT THE GRANTING OF THIS PERMIT WOULD NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.

IT IS THE OPINION OF THE SECRETARY THAT THE FOUR CONDITIONS NECESSARY FOR GRANTING A VARIANCE ARE PRESENT.

CONDITIONS IN EVENT OF APPROVAL

IN EVENT THE BOARD OF ZONING APPEALS TAKES JURISDICTION IN THIS CASE AND FINDS THAT ALL FOUR POINTS RELATIVE TO GRANTING A VARIANCE EXIST, THEN IT IS THE RECOMMENDATION OF THE SECRETARY THAT THE FOLLOWING CONDITIONS BE ESTABLISHED AS CONDITIONS TO APPROVAL:

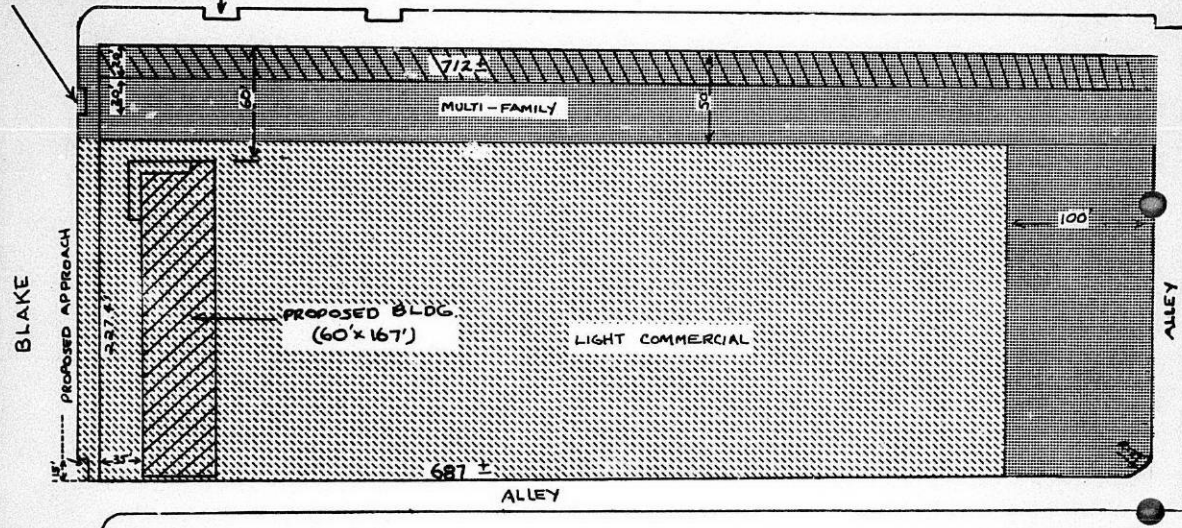
- A. THE PARKING AREA SHALL HAVE ADEQUATE GUARDS TO PREVENT EXTENSION OR OVERHANG OF VEHICLES BEYOND PROPERTY LINES OR PARKING SPACES.

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BZA CASE No. 2-63

- B. SUBMISSION OF AN OFF-STREET PARKING PLAN COMPLETE WITH ADEQUATE MEANS OF INGRESS AND EGRESS TO THE TRAFFIC ENGINEER FOR HIS APPROVAL. SUCH PLAN SHALL BE APPROVED BY THE TRAFFIC ENGINEER IN ACCORDANCE WITH PROVISIONS SET FORTH IN THE ZONING ORDINANCE (SECTION 28.04.140.A.)

E OLIVER

PROPOSED APPROACH



BLAKE

PROPOSED APPROACH

72'

MULTI-FAMILY

PROPOSED BLDG  
(60' x 167')

LIGHT COMMERCIAL

100'

ALLEY

687'

ALLEY

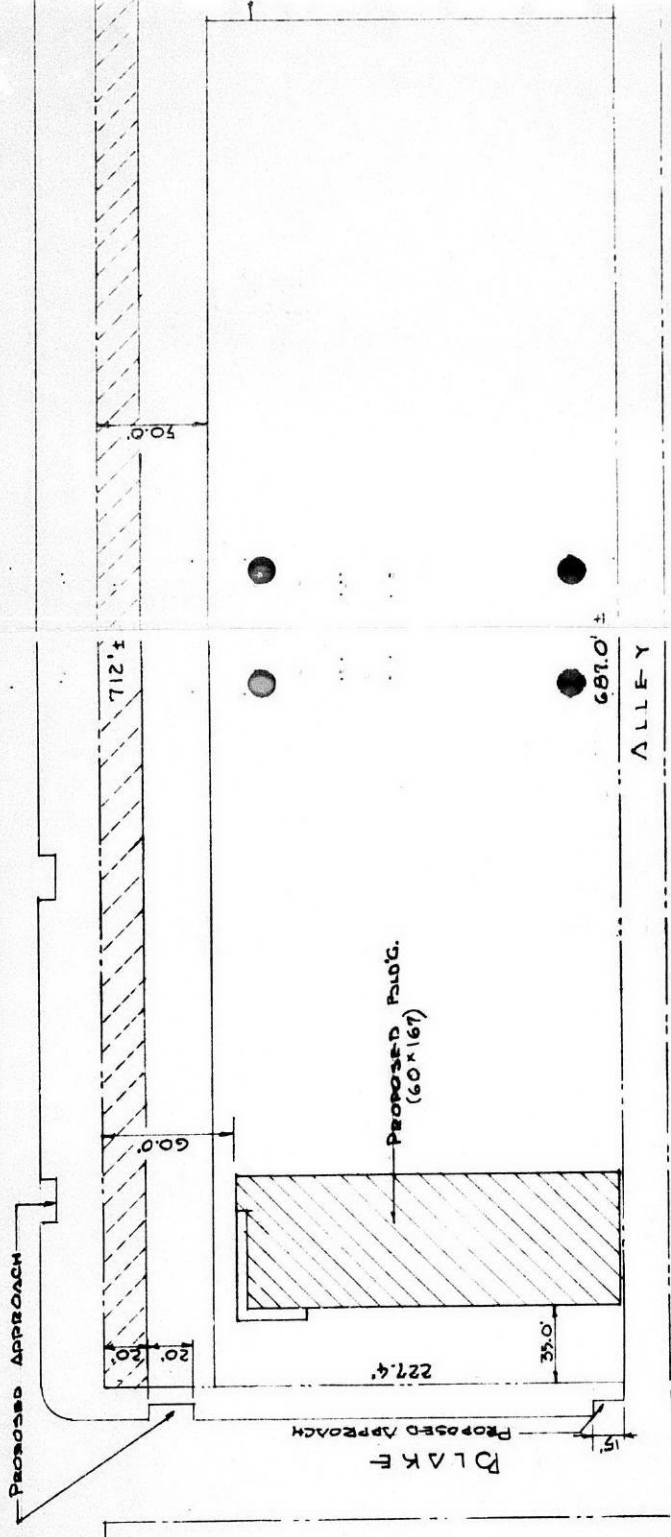
RESERVE A BLOCK A M<sup>E</sup>ADAM ACRES 1" = 75'

BZA 2-63



ATTACHMENT 1

E OLIVER



RESERVE A, BLOCK A, 1/8 ACRE ADJACENT ACRES 1" = 50'-0"



20.0' OF FRONT YARD '10' ZONING

OLIVER

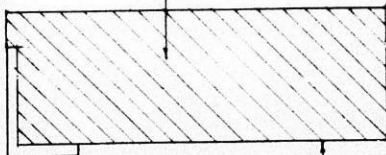
APPROACH

712'

20'

60'

50.0'



PROPOSED PLOT.  
(60' x 167')

227.4'

35.0'

687.0' ±

ALLEY

100.0'

ALLEY



1" = 50'-0"

RESERVE A, BLOCK A, 1/4 ACRES

20.0' OF FRONT YARD 'P' ZONING



CASE NO. BZA 2-63 - 10 NOTICES MAILED JANUARY 4, 1963

BOARD OF ZONING APPEALS  
ROOM 402 CITY BUILDING ANNEX  
104 SOUTH MAIN  
WICHITA, KANSAS

JANUARY 3, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

CASE No. BZA 2-63

AN APPLICATION HAS BEEN FILED BY CARL CHUZY, TOLA CHUZY,  
MORRIS CHUZY AND DORA CHUZY, 131 WEST CENTRAL, BY CARL CHUZY,  
AGENT, WHEREIN THEY REQUEST A VARIANCE TO PERMIT ESTABLISHMENT OF  
A PARKING AREA FOR PASSENGER VEHICLES ONLY IN THE FRONT YARD SET-  
BACK OF PROPERTY LEGALLY DESCRIBED AS FOLLOWS:

THE WEST 20 FEET OF RESERVE A, IN McADAM ACRES,  
AN ADDITION TO THE CITY OF WICHITA, SEDGWICK  
COUNTY, KANSAS,  
AND GENERALLY LOCATED AT THE SOUTHEAST CORNER OF BLAKE AND OLIVER.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. BZA 2-63. A  
HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY,  
JANUARY 22, 1963, AT 2 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104  
SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU  
SO DESIRE, IN PERSON OR BY AGENT OR ATTORNEY.

ROBERT A. LAKIN  
SECRETARY

STATEMENT OF JUSTIFICATION

Re: Applicant--Carl Chuzy  
Property---The West 20 Feet of  
Reserve A, in McAdam  
Acres, an Addition to  
Wichita, Sedgwick  
County, Kansas  
Owners-----Carl Chuzy, Tola Chuzy,  
Morris Chuzy and Dora Chuzy

The applicants seek a special permit for the establishment of a parking area for passenger vehicles only on a 20 feet wide tract of land as shown on the accompanying plat, which tract is in a "B" zoning area. The applicable provisions of zoning ordinance 28.04-140-A.1.9 are as follows:

"For the purpose of this chapter, in dwelling districts, off-street parking space shall not occupy any part of any required front yard.."

It is urged that the "Application for Variance" should be granted to permit the proposed use (i.e., parking of passenger vehicles only) for the following reasons:

A. The variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district:

(1) The common and ordinary situation is that "B" and "LC" zoning districts are not zoned in a parallel fashion and are not zoned in the manner in which the districts immediately adjacent to the area involved in this application are zoned. The particular shape and location of the "B" and "LC" zoning districts is unusual and unique in that they are immediately adjacent to each other and the "B" area cannot be developed for any purpose or reasonable use other than for the parking of passenger vehicles.

(2) The "LC" zoning district immediately to the south of the property involved in this application extends all the way to the front property line. The "LC" zoning district at the corner of Mount Vernon and Oliver Streets, which is to the north of the property involved in this application, extends all the way to the property line. Thus, the requested variance will not interfere with existing patterns of set-back requirements in the immediate area.

(3) The applicants are unaware of any other "LC" zoning district that does not permit off-street parking in the area immediately adjacent to the property line or street.

B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents, in that the granting of this application will help adjacent property owners or residents by permitting use of the off-street parking facilities to be offered by the applicants. Approval of this application will eliminate on-street parking and facilitate the moving of traffic

ATTACHMENT 1

on Oliver Street, which is a main thoroughfare. In addition, the Sharon Baptist Church, which is located across the street from the property involved in this application, the patrons of which are now using on-street parking and parking in the "front yard" area of the church property, will benefit by being able to use this off-street parking.

C. The strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owners represented in this application, for the reason that prior to the enactment of the ordinance in its present form, the property owners and the Bevens Carpet Company, Inc., negotiated a long term lease agreement, pursuant to which the owners became obligated to construct and lease to the Bevens Carpet Company a 10,000 square feet building to house the tenant's business. The property under lease to the Bevens Carpet Company consists of the South 95 Feet of Reserve A, McAdam Acres Addition, and the terms of the lease agreement provide that the property owners will furnish the tenant with a minimum required number of parking spaces, including parking spaces to be located within the "front yard" area of the land described in this application; but before complete plans could be submitted to the building inspection department for approval, the amended ordinance was enacted in its present form, and when plans were submitted, the property owners and tenant were notified that due to the recent change in the applicable ordinance, they could not use the West 20 Feet of Reserve A in McAdam Acres Addition for off-street parking purposes. The Board of Zoning Appeals should take particular notice of the zoning ordinance existing at the time of the applicants' acquisition of the property in 1958, and continuing up to sometime in October, 1962, namely, that the "B" zoning classification included and permitted off-street parking within the 20 feet "front yard" area covered in this application. Construction of the building to be occupied by the Bevens Carpet Company, Inc., is now well under way, and unless a variance is granted, the property owners will be forced to provide the tenant with off-street parking area not contemplated or included in their lease arrangement. In 1958, when the existing "LC" zoning classification was approved, the Planning Commission and City Commission established the "B" zoning classification for the West 50 Feet of Reserve A, McAdam Acres Addition, for the primary purposes: (1) establishing a building set-back line, (2) for establishing off-street parking area for the lands included in the "LC" district. The applicants do not ask the Board to modify the existing set-back line provisions, nor do the applicants seek to build any improvements on the tract included in this application, but seek only the right to provide off-street parking spaces for passenger vehicles only.

D. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

*Carl Chuzy*

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Carl Chuzy  
Applicant



STATEMENT OF OWNERSHIP

STATE OF KANSAS )  
 )  
 Sedgwick County, )

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

*Corrected Deeds*  
 Property lying within a radius of 200 ft of: The West 20 ft of Reserve A, in McAdem Acres, an Addition to Wichita, Kansas.

  
**Fidelity**  
**Title**  
**Company,**  
**inc.**

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

Lot	Blk	Addition	Owner
1		Preboth	R. W. & Allene G. Preboth, ux
2		"	<i>357 Wagon Wheel</i> R. W. & Allene G. Preboth, ux
1		Glendale Heights	Bryce O. & Helen M. Gregory, ux
2		" "	<i>2201 S. Glenbelle</i> X Sigmund, Jr. & Lula J. Schweier, ux
3		" "	Harold J. & Jean Bishop, ux
<del>5</del>	<del>A</del>	<del>McAdem Acres</del>	<del>Good Rentals, Inc.</del>
2 (exc S2')	A	" "	Good Rentals, Inc.
2 (S 2')	A	" "	Jen-Rentals, Inc.
3	A	" "	" " "
4	"	" "	" " "
5	"	" "	Good Rentals, Inc.

*Removed From This Certificate*  
*Fidelity Title Co Inc*  
*By C. & Rieder*  
*J. A.*



Lot	Blk	Addition	Owner
6 (N 2')	A	McAdam Acres	Good Rentals, Inc.
6 (exc N 2')	A	" "	" " "
7 (N 4')	A	" "	" " "
7 (exc N 4')	A	" "	Jen-Rentals, Inc. 6621 E. Kellogg
8 (N 6')	A	" "	" " "
8 (exc N 6')	A	" "	" " "
9	A	" "	" " "
10 (N 7')	A	" "	" " "
10 (exc N 7')	A	" "	Good Rentals, Inc. 6621 E. Kellogg
11	A	" "	Jack D. & Nedra J. Pate, ux
12	A	" "	Erle W. Jennings & W. W. Goodwin 6621 E. Kellogg

*Removed FROM THIS CERTIFICATE  
Fidelity Title Co. Inc  
B.A.C. & N.P.*

N 500 ft of Reserve A, McAdam Acres  
 Reserve A, exc N 500 ft., McAdam Acres  
 Reserve H, McAdam Acres  
 Lot 1, Pershing Heights 2nd.  
 Lot 2, Pershing Heights 2nd.  
 Lot 3, Pershing Heights 2nd.  
 Beg 976 ft N of SE cor SE $\frac{1}{4}$ ; th W 320 ft;  
 N 84.7 ft; E 320 ft; S to beg, exc condem  
 A-43699 for Oliver St. Sec 35-27-1E.  
 Beg 844 ft N of SE cor SE $\frac{1}{4}$  Sec 35-27-1E;  
 W 330 ft; N 132 ft; E 330 ft to beg, exc  
 CCA-43699 for Oliver Street.  
 Beg 774 ft N of SE cor SE $\frac{1}{4}$  Sec 35-27-1E;  
 th N 70 ft; W 315.13 ft; S 70 ft; E 315.13  
 ft to beg, exc CCA 43699 for Oliver St.  
 Beg 688 ft N of SE cor SE $\frac{1}{4}$  Sec 35-27-1E;  
 th N 86 ft; W 279.23 ft; S 86 ft; th E  
 279.23 ft; to beg, exc W 94.34 ft & exc  
 CC A-43699 for Oliver Street.  
 Lot 5, Tetrick 2nd Addition.  
 Lot 6, " " "  
 E 260 ft of N $\frac{1}{2}$  S 530 ft E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ , exc  
 S 110 ft & exc W 32 ft, Sec 35-27-1E, exc  
 CC A-43699 for Oliver Street  
 Beg 265 ft N of SE cor Sec 35-27-1E; th  
 N 80 ft; W 160 ft; S 80 ft; E to beg.  
 Beg 133 ft N of SE cor SE $\frac{1}{4}$  Sec 35-27-1E;  
 th N 132 ft; W 330 ft; S 132 ft; E 330 ft  
 to beg, exc CC A-43699 for Oliver Street.

Carl & Tola Chuzy, ux  
*Brown Bldg.*  
 Carl & Tola Chuzy, ux  $\frac{1}{2}$  int.  
 M. Chuzy & Dora Chuzy, ux  $\frac{1}{2}$  int.  
 X Marietta McAdam, sgle  $\frac{1}{2}$  int.  
 X James W. McAdam  $\frac{1}{2}$  int.  
 X T. R. Taylor, sgle  
 Sharon Baptist Church 2221 S. Oliver  
 Sharon Baptist Church  
 2221 S. Oliver  
 Sharon Baptist Church  
 Sharon Baptist Church  
 Sharon Baptist Church  
 James C. Garvey  
 2241 S. Oliver  
 E. Howard & Viola R. Tetrick, ux  
 E. Howard & Viola R. Tetrick, ux  
 2251 S. Oliver  
 Chipp & Stevens Construction Co.  
 2307 S. Oliver  
 Chipp & Stevens Construction Co.  
 Wilfred D. & Elsie Mae Mardis, ux  
 2321 S. Oliver

Dated at Wichita, Kansas this 16th day  
of October, 1962 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Edwin M. Farrell Sec. CEM

Tracer # 49891

**PAYMENT NOTICE**  
City of Wichita

PAY AT TREASURER'S OFFICE — FIRST FLOOR

Bl'g & Elev. \_\_\_\_\_ Elec. \_\_\_\_\_ Elev. Insp. \_\_\_\_\_  
Exam Fees \_\_\_\_\_ Hse. Mvr. \_\_\_\_\_ Hse. Moving \_\_\_\_\_  
Licse. \_\_\_\_\_ Mech. \_\_\_\_\_ Oil Well \_\_\_\_\_ Pav. Cuts. \_\_\_\_\_  
Plan. \_\_\_\_\_ Plb'g. \_\_\_\_\_ Plb'g. Cert. \_\_\_\_\_  
Sanitation \_\_\_\_\_ Sewer \_\_\_\_\_ Signs \_\_\_\_\_ Sidewalk \_\_\_\_\_  
Street \_\_\_\_\_ Trailers \_\_\_\_\_

DESCRIPTION	AMOUNT

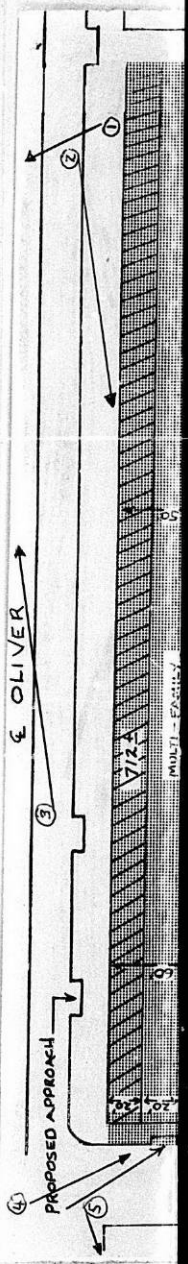
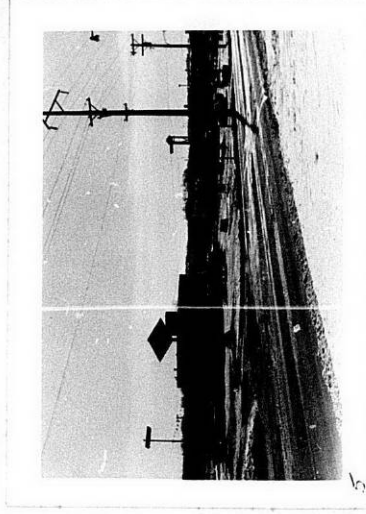
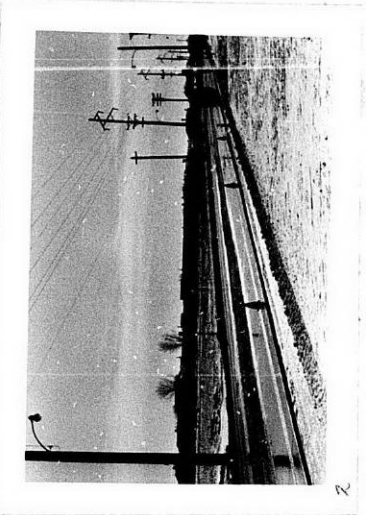
Name \_\_\_\_\_

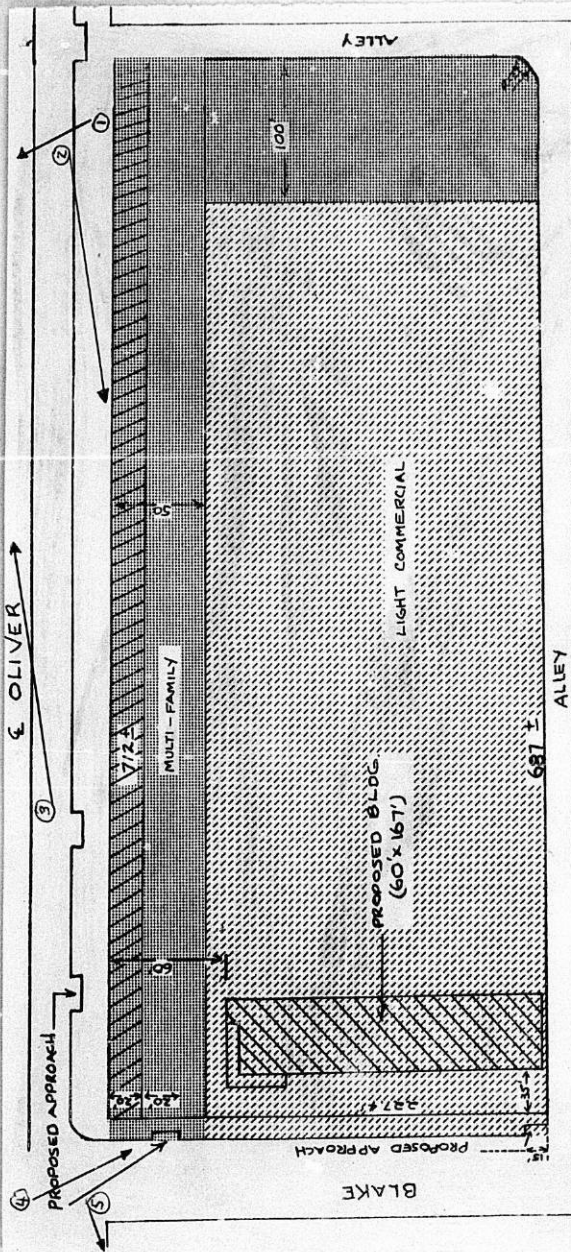
Address \_\_\_\_\_

Type \_\_\_\_\_ Due Date \_\_\_\_\_

Comments: *6 112*

Date: *1/12/60* By \_\_\_\_\_





RESERVE A BLOCK A MEADAM ACRES 1" = 75'

BZA 2-63

ATTACHMENT I

BLAKE

2

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1