

Case No. BZA 2-84 - Kernie Binyon -
Requests a variance to reduce the
required front yard setback from 25'
to 0' for off-street parking purposes
only on property zoned the "A" Two-
family Dwelling District and generally

POSTED
1-19-84
AEL

ACTION
BZA 2-84 APPROVED 2-28-84
DATE

CASE VOIDED
10-15-85
See letter ppp
See cases 34-86 & 35-86

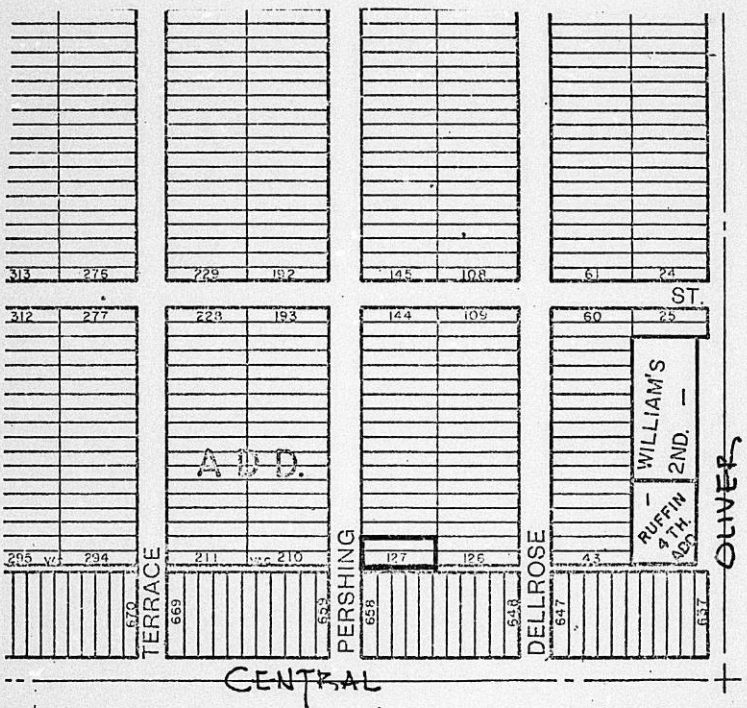
5748B
POSTED 3-8-84
Sht 3-20-84
Record ✓

Map No. 5748

BZA 2-84
Filed _____

AREA DATA:

1. Acres: _____ (57 1/2 ft. by 135 ft.)
2. Adjoining Zoning: E A S LC W A N A
3. Land Use: East IF South Comm.
West IF North IF
4. Area (is) (~~is not~~) platted.



Smith
No. 2,153C
HASTINGS, MN
LOS ANGELES, CHICAGO, LOGAN, OH
MORGENTHAU, TX, LOCUST GROVE, GA
U.S.A.

October 15, 1985

Kernie W. Binyon
4618 East Central
Wichita, Kansas 67208

RE: BZA Case No. 2-84 Request for Variance (500 Block North Pershing)

Dear Mr. Binyon:

On February 29, 1984, you were furnished a copy of a Resolution adopted by the Board of Zoning Appeals setting forth conditions of a variance for reduction of the front yard setback for off-street parking purposes only. As set forth in the Resolution, no access was to be permitted to Pershing and the alley approach was to be closed.

Your recent request to re-dedicate the alley was approved and as such, violates the conditions of approval. This letter is to advise you that Resolution BZA 2-84 is hereby determined to be null and void.

If you have any questions, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL/lw

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

February 29, 1984

Kernie W. Binyon
4618 East Central
Wichita, Kansas

Re: BZA 1-84 & BZA 2-84
Requests for Exception & Variance

Dear Mr. Binyon:

Enclosed are signed copies of the Resolutions adopted by the Board of Zoning Appeals on February 28, 1984.

These Resolutions reflect the official action of the Board to approve the requests and set out the conditions of approval. These are forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosures

cc: Thomas G. Binyon, 4618 East Central, Wichita
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 2-84

WHEREAS, Kerner W. Binyon, 4618 East Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25' to 0' for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lots 127 & 129 and the north half of vacated alley, Overlook Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Pershing and north of Central (518 North Pershing).

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 February 28, 1984, 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 property is located immediately north of a commercially zoned area that does not comply with a 25' front yard setback and the full usage of the property for off-street parking without access to the street to the west is somewhat unique particularly when the proposal is in conformance with the adopted policy of providing parking for existing uses along Central Avenue; 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 applicant is the owner of the property immediately to the north and the reduction of the front yard setback for off-street parking purposes only without vehicular traffic to the west should not be detrimental to the properties across the street to the west, and provided further, the increased amount of off-street parking will lessen the use of the streets by employees of the businesses; 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 applicant is needing to provide parking in the area for utilization by employees and customers of the businesses to the south. The use of the property for passenger vehicles only will be far better than the establishment of non-residential zoning which would not restrict the property to parking only; 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 reduction of the front yard setback for off-street parking purposes only in order to provide additional parking should relieve the on-street congestion in the area.

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 use of the property for parking without access to Pershing should not interfere with the general character of the neighborhood as it now exists; 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 for a variance to reduce the required front yard setback from 25' to 0' for off-street parking purposes only on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lots 127 & 129 and the north half of vacated alley, Overlook Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Pershing and north of Central (518 North Pershing).


be approved subject to the following conditions:

1. No ingress or egress shall be permitted to Pershing and barriers shall be provided to prevent same.
2. The applicant shall close the alley approach to Pershing prior to the occupancy of the property as an off-street parking lot.
3. The reduction of the front yard setback shall be for off-street parking purposes only.

ADOPTED AT WICHITA, KANSAS, this 28th day of February, 1984.


Earl Henderson, Vice President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE February 24, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Dean Kruthof, Administrative Aide III

SUBJECT BZA 2-84, 518 North Pershing

CPO Neighborhood Council Area "I" considered the captioned variance to reduce the required front yard setback from 25' to 0' for off-street parking purposes only on property zoned "A" Two-Family Dwelling District at its February 21 meeting. Thomas Binyon was present representing the applicant. No area residents or property owners were present regarding the case.

The Council voted, 4-2, to recommend approval of the variance. Please present the Council's recommendation to the Board of Zoning Appeals when the case is considered on February 28.

Dean Kruthof

Dean Kruthof
Administrative Aide III

DK:sm

SECRETARY'S REPORT
CASE NO. BZA 2-84

APPLICANT: Kernie W. Binyon, 4618 East Central, Wichita, Kansas.

AGENT: Thomas G. Binyon, 4618 East Central, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25' to 0' for off-street parking purposes only.

GENERAL LOCATION: On the east side of Pershing and north of Central (518 North Pershing).

ZONING: Subject property is zoned the "A" Two-family Dwelling District as are the properties to the east, north and west. Property to the south is the "LC" Light Commercial District.

LAND USE: Subject property is vacant. Properties to the east, north and west are residential. Property to the south is developed with offices and commercial.

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.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required 25 foot front yard setback to be reduced to 0 feet for off-street parking purposes only in order that the property can be fully utilized for off-street parking. The property is located immediately adjacent to a property that has been zoned "LC" Light Commercial for a number of years. That portion of the property in the "LC" District adjacent to Pershing is occupied by an automobile repair garage. The property to the north of the application area is owned by the applicants and should provide a buffer to other properties to the north. Without access to Pershing, it would appear that the use of the property as parking for primarily employees, should not have any adverse affect on the properties to the west.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located immediately north of a commercially zoned area that does not comply with a 25 foot front yard setback. The full usage of the property for off-street parking without access to the street to the west is somewhat unique particularly when the proposal is in conformance with the adopted policy of providing parking for existing uses along Central Avenue.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the applicant is the owner of the property immediately to the north and the reduction of the front yard setback for off-street parking purposes only without vehicular traffic to the west should not be detrimental to the properties across the street to the west, and provided further, the increased amount of off-street parking will lessen the use of the streets by employees of the businesses.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant is needing to provide parking in the area for utilization by employees and customers of the businesses to the south. The use of the property for passenger vehicles only will be far better than the establishment of non-residential zoning which would not restrict the property to parking only.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the front yard setback for off-street parking purposes only in order to provide additional parking should relieve the on-street congestion in the area.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the use of the property for parking without access to Pershing should not interfere with the general character of the neighborhood as it now exists.

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. No ingress or egress shall be permitted to Pershing and barriers shall be provided to prevent same.
 2. The applicant shall close the alley approach to Pershing prior to the occupancy of the property as an off-street parking lot.
 3. The reduction of the front yard setback shall be for off-street parking purposes only.
-

BZA CASE NO. 2-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
	LEGAL ADVERTISEMENT
<u>10</u>	NOTICES SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>19</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>22</u>	TOTAL NOTICES SENT <u>2-8-84</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

February 8, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 2-84

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Kernie W. Binyon, 4618 East Central, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required front yard setback from 25' to 0' for off-street parking purposes only on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 127 & 129 and the north half of vacated alley,
Overlook Addition to Wichita, Sedgwick County, Kansas.
Generally located on the east side of Pershing and
north of Central (518 North Pershing).

This application has been assigned Case BZA 2-84. It will be considered by the Board of Zoning Appeals on February 28, 1984 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 2-84
FILED 1-19-84

APPLICATION FOR VARIANCE

I. Name of Applicant KERNIE BINYON
Mailing Address 4618 E. CENTRAL Phone 684-2819
Name of Authorized Agent KERNIE BINYON
Mailing Address 4618 E. Central Phone 684-2819
Relationship of applicant to property is that of _____
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required front
yard setback from 25 feet to 0 feet for an off-street
parking lot only.
for property located 518 N. Pershing

and legally described as: Lots 127 - 128 ^{and the north} Overlook Add.
half of the vacated alley, Overlook Addition to
Wichita, Sedgewick County, Kansas.

in the City of Wichita; and which is presently zoned "A".

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
 - b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596) and that the appropriate fee is herewith tendered;
 - c. That he has been advised of his right to bring action in the District Court of Sedgewick County to appeal the decision of the Board.
 - d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant _____

Authorized Agent Thomas G. Binyon
Thomas G. Binyon

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:30 ~~4:30~~ p.m., JAN 19, 1984
together with appropriate fee of 150.00

Signed [Signature]

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

February 8, 1984

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CASE NO. BZA 2-84

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If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-

PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hae Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

*

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

Roll # 2