

BZA 6-64 - Howard C. & Nellie I.
Gresham request variance for car wash
unit at NW corner of Central & Colo-
rado.

ACTION

DATE

Bza COMMITTEE *denied* 2-25-64
no appeal filed

M.A.P.C. _____

B.C.C./B. CO. C. _____

KAHRS, NELSON, FANNING & HITE

ATTORNEYS AT LAW
UNION CENTER BUILDING
WICHITA, KANSAS 67202

AUSTIN M. COWAN (1888-1949)
W. A. KAHRS
ROBERT H. NELSON
H. W. FANNING
RICHARD C. HITE
DARRELL D. KELLOGG

TELEPHONES
AMHERST 2-3441
AMHERST 2-3442

May 5, 1964

Metropolitan Area Planning Commission
City Building Annex
104 South Main
Wichita, Kansas 67202

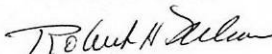
Attention: Mr. Galbraith

Re: Case No. BZA 6-64

Dear Jack:

Enclosed herewith is amended application requesting an exception in connection with the property at Central and Colorado Court. If for any reason, there is anything further you need, please advise.

Yours very truly,



OF KAHRS, NELSON, FANNING & HITE

RHN:kd
Enclosure



AMENDED APPLICATION

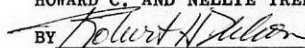
TO: THE BOARD OF ZONING APPEALS,
CITY OF WICHITA, KANSAS

COMES NOW Howard C. and Nellie Irene Gresham, 3609 West Central, through their authorized agent, Robert H. Nelson, of 511 Union Center Building, Wichita, Kansas, Phone No. AMherst 2-3441, owners of said property, and do hereby make an application for an exception in accordance with Section 28.04.180, Code of the City of Wichita, Kansas, to permit the installation, operation and maintenance of a self-service car wash and system at the Northwest corner of Central and Colorado Court being legally described as Lots 4 and 5 in Gresham Addition to the City of Wichita, which is presently zoned LC.

Respectfully submitted,

HOWARD C. AND NELLIE IRENE GRESHAM

BY


Robert H. Nelson, Their Attorney

R E S O L U T I O N N O . B Z A 6 - 6 4

WHEREAS, Howard C. and Nellie Irene Gresham, 3609 West Central, Wichita, Kansas, by Robert H. Nelson, attorney, 511 Union Center Building, Wichita, Kansas, request a variance to allow construction, operation and maintenance of a car wash building and self-service system as provided in Section 2.12.590.2, Code of the City of Wichita, on property zoned "LC" and legally described as follows:

Lots 4 and 5, in Gresham Addition, in the City of Wichita, Sedgwick County, Kansas,

generally located at the northwest corner of Central and Colorado Court; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, at the meeting of February 25, 1964, this application was deferred until the meeting of April 28, 1964; and

WHEREAS, new written notices were mailed to all interested parties prior to said deferred hearing; and

WHEREAS, the Board of Zoning Appeals did in regular meeting consider said application on April 28, 1964; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said appeal under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that there is nothing which is unique about the property from a physical standpoint inasmuch as there is nothing about the property, such as an odd shape, irregular platting, unusual physical characteristics, etc. which set it apart from other property in the same neighborhood or zone; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance should in no way adversely affect adjacent property owners inasmuch as the applicants have proposed to erect a fence along the north and west property lines in the event the variance is granted and have also agreed to provide the necessary off-street parking and holding space; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will not constitute unnecessary hardship upon the applicant inasmuch as the property can be utilized for some light commercial use which is specifically permitted under the "LC" section of the ordinance, and further, the owners of this property have the same rights to utilize this property in the same manner as other owners of light commercial property throughout the City of Wichita which are similarly situated; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance should in no way adversely affect the public interest; and

WHEREAS, as shown above, two of the four conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance may be granted, has not been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the variance requested be disapproved.

ADOPTED AT WICHITA, KANSAS, this 28th day of April, 1964.

Harold Bauer
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith
Jack H. Galbraith, Secretary

May 11, 1964

Mr. Robert H. Nelson, Attorney
511 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: BZA 6-64 - Northwest corner
Central and Colorado Court

On April 30, 1964, we advised you that the Board of Zoning Appeals had disapproved subject application for a self-service car wash operation on the northwest corner of Central and Colorado Court. We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before May 8, 1964.

The City Clerk has advised that no appeal was filed on or before that date, 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,

Jack H. Galbraith
Secretary

JHG:JWH:ber
Attachment

cc: Howard C. and Nellie Irene Gresham
3609 West Central

Glen Lytle, Superintendent of
Central Inspection

Board of Zoning Appeals

May 7, 1964

Robert G. Finch, City Clerk

Jack H. Galbraith, Secretary

Case No. BZA 6-64

Attached is a copy of Resolution No. BZA 6-64, covering action taken by the Board of Zoning Appeals in connection with the above-numbered case, which case was heard by the Board on April 28, 1964. An appeal may be filed in your office on or before May 8, 1964. If an appeal is filed, please advise.

Jack H. Galbraith
Secretary

JHG:ber

Attachment

April 30, 1964

Mr. Robert H. Nelson, Attorney
511 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: Case No. BZA 6-64

This is to advise you that at its regular meeting of April 28, 1964, the Board of Zoning Appeals of the City of Wichita, considered your request for a variance to allow construction and operation of a self-service car wash operation on the northwest corner of Central and Colorado Court.

The action of the Board was to deny the application and to instruct the staff to advertise for an exception to the ordinance to give the Board of Zoning Appeals the opportunity to give consideration to the construction and operation of the self-service car wash operation on said property at no cost to the applicant. The public hearing on this case will be held by the Board of Zoning Appeals on May 26, 1964.

If you have any questions, please feel free to call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber

cc: Howard C. & Nellie Irene Gresham
3609 West Central

CASE NO. BZA 6-64

12 NOTICES MAILED APRIL 9, 1964 FOR HEARING APRIL 28, 1964

Howard C. & Nellie Irene Gresham
3609 West Central

Robert H. Nelson
511 Union Center

Eldon Adolph Terrell
Wilma Terrel
725 Colorado Court

Edith M. Gresham
323 North Knight

John W. Morgan
Fern E. Morgan
151 South Vine

Lloyd R. Jones
Geneva R. Jones
1960 North 135th Street West

Joh W. Morgan
Vern E.
151 South Vine

R. W. Prochaska
4206 West Central

C. J. and Ann S. Hysom
4200 West Central

Arthur M. Harrison
Nancy E. Harrison
4207 West Central

*Returned
4-13-64*

Wm. W. Ritter
Fern Ritter
9204 Maple

Ben A. Moore
Eva Moore
4201 West Central

15

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

April 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-64

An application has been filed by Robert H. Nelson, 511 Union Center Building, Wichita, Kansas, attorney, on behalf of Howard C. and Nellie Irene Gresham, 3609 West Central, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the construction, operation, maintenance of a car wash building and self-service car wash operation, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 4 and 5, in Gresham Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Central and Colorado.

This application has been assigned Case No. BZA 6-64, and will be re-considered by the Board of Zoning Appeals on Tuesday, April 28, 1964, 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, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

April 9, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BEA 6-64

An application has been filed by Robert H. Nelson, 511 Union Center Building, Wichita, Kansas, attorney, on behalf of Howard C. and Nellie Irene Gresham, 3609 West Central, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the construction, operation, maintenance of a car wash building and self-service car wash operation, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 4 and 5, in Gresham Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Central and Colorado.

This application has been assigned Case No. BEA 6-64, and will be re-considered by the Board of Zoning Appeals on Tuesday, April 28, 1964, 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, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

March 12, 1964

Mr. Robert H. Nelson, Attorney
511 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: Case No. BZA 6-64

On March 5, 1964, the Metropolitan Area Planning Commission, at the request of the Board of Zoning Appeals, considered the problem of self-service car washes in the "LC" Light Commercial District. The Commission directed the staff to advertise for public hearing to amend the zoning ordinance to allow the Board of Zoning Appeals to authorize as an exception the location of self-service car washes in the "LC" district, subject to certain conditions to be outlined in the ordinance.

The staff has prepared an amendment which will be advertised for a public hearing before the Planning Commission at 2 o'clock on April 2, 1964, in Room 401 City Building Annex, Wichita, Kansas. You are invited to attend this hearing and express any opinion or comments you might have on the proposed amendment.

If the Planning Commission does not defer action, its recommendation on the amendment will be forwarded to the City Commission for its consideration on April 21, 1964. If the City Commission approves the amendment, it will be published on or around May 4, 1964.

On February 25, 1964, the Board of Zoning Appeals deferred the above variance application for 60 days, in order to give the Planning Commission sufficient time to decide what should be done about amending the ordinance relative to self-service car washes. If the Planning Commission, at the hearing on April 2, approves the proposed amendment, the staff will recommend to the Board of Zoning Appeals that the above application, which was deferred until April 28, again be deferred until May 26, 1964, by which time the proposed amendment should be adopted. Our department will then

Page 2 - Robert H. Nelson, Attorney
March 12, 1964

initiate an application (at no expense to you) for an exception to the ordinance for the now pending request, which will be heard by the Board on May 26.

We are enclosing herewith a copy of the proposed amendment which will be considered by the Planning Commission on April 2.

If you have any questions concerning this matter, please feel free to call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWH:ber

Enclosure

cc: Howard C. and Nellie Irene Gresham
3609 West Central
Wichita, Kansas

February 27, 1964

Mr. Robert H. Nelson, Attorney
511 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: Case No. BZA 6-64

This is to advise you that at its regular meeting of February 25, 1964, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to allow a self-service car wash operation in an "LC" zoning, generally located at the northwest corner of Colorado Court and Central.

It was pointed out at the meeting that the Board of Zoning Appeals, at the last meeting had referred the problem of self-service car washes to the Planning Commission, and asked that it provide a solution through an amendment of the zoning ordinance, if appropriate. This matter will be presented to the Planning Commission at its meeting on March 5, 1964, at 2 p.m. in Room 401 City Building Annex, and you are invited to attend that meeting, if you so desire, to discuss this matter with the Planning Commissioners.

In view of the referral to the Planning Commission, it was the action of the Board of Zoning Appeals to defer this application until such time as the Planning Commission, and possibly the City Commission, have had a chance to consider the feasibility of amending the zoning ordinance to provide a definite method of locating self-service car wash operations, but in no event would the application be deferred more than 60 days.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

cc: Howard C. and Nellie Irene Gresham, 3609 West Central
Glen Lytle, Superintendent of Central Inspection
Robert Finch, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 6-64

APPLICANTS: Howard C. and Nellie Irene Gresham, 3609 West Central

AGENT: Robert H. Nelson, 511 Union Center Building

REQUEST: Variance pursuant to Section 2.1.590.2, Code of the City of Wichita, to allow a self-service car wash operation to be located in an "LC" Light Commercial zone.

ZONING: The property in question is zoned "LC" Light Commercial. To the east and south is "LC"; to the north and west is "AA".

LAND USE: Subject property is vacant. To the north is single family and duplex; to the east a drive-in restaurant, cleaning and pressing shop, service station, laundry, drive-in restaurant; south is shopping center, and west is single family.

JURISDICTION: The Board of Zoning Appeals has the authority to grant the variance requested, provided all four of the following conditions can be found to exist:

1. Variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. Granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. Strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

GENERAL COMMENT: The applicant has submitted a statement of justification and plot plat which are included as Attachments #1 and #2 to this report.

UNIQUENESS: The attorney for the applicant suggests that uniqueness and hardship are very closely related in this case, in view of the fact that the existing zoning ordinance was adopted (1958)

prior to the time that the self-service car wash units came into existence. He further contends that if car washes had been in existence at the time the ordinance was adopted, that the self-service car wash units would have been included in a light commercial use classification.

The Secretary is of the opinion that there is nothing unique about this property from a physical standpoint. In the past few months the Board has considered uniqueness on several occasions as to the use of the property concerned. However, if this interpretation is to be made, almost any property could be considered unique. Therefore, it is the opinion of the Secretary that uniqueness has not been sufficiently justified in this instance.

ADJACENT PROPERTY: The attorney has stated that the applicants will provide a fence on the north property line to protect adjacent property. However, they have requested that the fence be constructed of redwood or louvered redwood, rather than masonry or architectural tile, since the property immediately adjacent to the north is owned by the sister of one of the petitioners, and it is anticipated that additional property may be acquired at some future date.

The Secretary is of the opinion that there would be no adverse affect on adjacent property owners or residents if the variance is granted, as long as the lot is properly screened and properly policed and maintained.

HARDSHIP: As indicated above, the attorney for the applicant feels that uniqueness and hardship are very closely related in this case, and that if the variance is not granted the applicants would be burdened with an unnecessary hardship.

It is the feeling of the Secretary that this property could be utilized for some light commercial use which is specifically permitted under the "LC" section of the ordinance. Therefore, it is the opinion of the Secretary that hardship cannot be found to exist, since the property owner represented in this application has the same rights and can utilize his property in the same manner as other owners of light commercial property throughout the City of Wichita which are similarly situated.

PUBLIC INTEREST: The Secretary is of the opinion that if proper controls are exercised there should be no adverse affects on the public interest if the variance is granted.

RECOMMENDATION: It is the opinion of the Secretary that the requirements of uniqueness and hardship have not been sufficiently justified in this instance, and it is, therefore, recommended that the variance be denied.

As indicated in all the other reports which will be before the Board today, whereby variances are being requested for a self service car wash operation, it is the opinion of the Secretary that the proper approach to this problem is to:

1. Amend the zoning ordinance to permit self-service car washes as a use by right in the "LC" section of the ordinance, or
2. Amend the zoning ordinance to allow the Board of Zoning Appeals to grant exceptions for self-service car washes in certain "LC" areas under certain conditions and requirements.

If it is not the desire of the governing body to amend the zoning ordinance to permit self-service car washes in "LC" districts, then a person wishing to establish such a use would have to request that the zoning map be amended to a zoning classification where the use is permitted, or have to try to obtain property which is already appropriately zoned.

Although this particular lot appears to be of sufficient size, and appears to be more of a regional than a strictly neighborhood shopping area, it is still the opinion of the Secretary, as indicated above, that the proper approach to the problem should be either through an amendment of the ordinance or seeking the zoning classification where the use is permitted.

If it is the determination of the Board that all four of the conditions necessary to the granting of the variance can be found to exist, it is recommended that the following conditions be attached to the approval of the application:

1. All drainage, both surface and runoff created by the operation, shall be handled in a manner which is satisfactory to the Superintendent of Maintenance of the Department of Public Works.
2. The hours of operation shall not extend beyond 12 p.m. or commence earlier than 6 a.m.
3. The entire area to be utilized by the washing and drying operations, as well as areas of ingress and egress, shall be hardsurfaced with either concrete, asphalt, or asphaltic concrete.

4. Adequate maintenance shall be provided through inspection twice daily for proper maintenance and removal of trash.
5. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
6. All lights shall be shielded to reflect or direct light away from adjoining property. No string type lighting shall be permitted.
7. A six-foot high brick, masonry or combination thereof; or louvered redwood fence, shall be erected along the north and west property lines to protect adjacent properties from light, blowing debris, noise, and to preserve adjacent property values.
8. A performance bond in the amount of \$_____ shall be filed with the Secretary of the Board within 30 days of the approval of this application, to guarantee that the fence shall be constructed, except that the bond shall not be required in the event the fence is constructed within that time limit. (The form of the bond shall be approved by legal counsel for the Board).
9. Interior traffic circulation on the lot, points of ingress and egress, width of driveways, and an off-street parking plan shall be approved by the Traffic Engineering Division of the Department of Public Works.
10. Construction shall be completed within 12 months from the effective date of the approval of this application, or the permit shall be null and void.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan

BEFORE THE BOARD OF ZONING APPEALS OF THE
CITY OF WICHITA

IN THE MATTER OF THE APPLICATION FOR
VARIANCE BY HAROLD C. GRESHAM, et al.

BZA No. _____

STATEMENT

This is an application brought by the owners of the property set forth in the Application for the construction, maintenance and operation of a self-service car washing unit, which is to be located in an LC zoning classification. The property is generally located at the intersection of Colorado Court and Central Avenue West, being on the northwest corner. Attached to the petition is a plot plan and specifications in connection with the building to be constructed and the other accessories thereto. The property is to be either leased or sold to parties by the name of William E. Weidensaul and William R. Marker.

It is the contention of the petitioners herein that the Board of Zoning Appeals has the jurisdiction and authority to authorize a variance under Section 2.12.590.2 of the Zoning Code. The property is zoned LC and under the above code section and based on past action of the Board, it appears that the application should be granted, for the following reasons:

1. The use of the property for the purposes herein set forth will not have any adverse effect on adjacent property owners or residents in the area. This is somewhat in the same category as a filling station. Nothing of an inflammable nature is to be used, no odors will result therefrom and no noisy machinery will be in operation.

2. The strict enforcement of the zoning ordinance of an LC classification, works a hardship on the owners of the property for the reason that the ordinance was passed prior to the time that the self-service car wash units came into existence and had they been in existence at the time of the code, it is the petitioners'

Belief that the self-service car washing unit would have been included in a light commercial classification use. The business is for the benefit of the general area around this particular location and will in no manner affect the public health, safety or general welfare of the community adversely.

3. There are many car wash units now in operation in the City. There have been numerous applications made to this body for a variance authorizing the construction thereof in an LC classification and in most instances this body has granted the variance.

For the above reasons it is requested and urged that the Board of Zoning Appeals authorize the use as requested in this particular LC classification, and that the variance be granted for the reasons above set forth.

It is also requested that the Board determine what sort of a screen should be placed on the north side of the property and the petitioners herein specifically request that they be not required to put in a masonry wall, but are perfectly willing to put in a good redwood type fence. The reason for this is that the property immediately adjacent to the north is owned by the sister of one of the petitioners herein and it is anticipated that additional property be acquired at some future date.

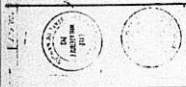
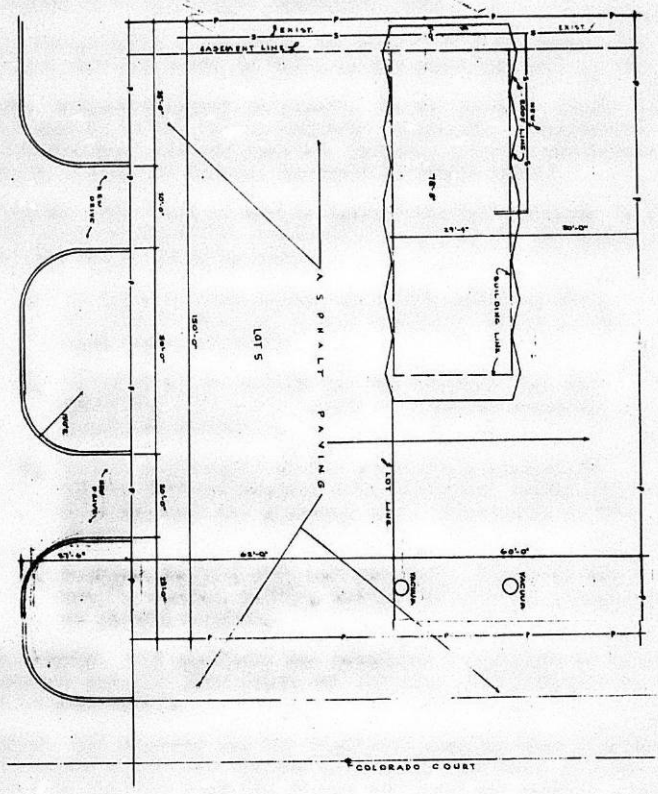
Respectfully submitted,
KAHRS, NELSON, FANNING & HITE

By _____
Attorneys for Petitioners

LEGEND:
 PROPERTY LINE
 EASEMENT LINE
 EXISTING SIDEWALK



GENERAL AVENUE
 PLAN
 SCALE 1/8" = 1'-0"



002 0222 09 51 20 11 16

CARMICHAEL-WHEATCROFT & ASSOCIATES
 ARCHITECTS • ENGINEERS
 WICHITA KANSAS

SECRETARY'S REPORT**CASE NO. BZA 6-64**

APPLICANTS: Howard C. and Nellie Irene Gresham, 3609 West Central

AGENT: Robert H. Nelson, 511 Union Center Building

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow a self-service car wash operation to be located in an "LC" Light Commercial zone.

ZONING: The property in question is zoned "LC" Light Commercial. To the east and south is "LC"; to the north and west is "AA".

LAND USE: Subject property is vacant. To the north is single family and duplex; to the east a drive-in restaurant, cleaning and pressing shop, service station, laundry, drive-in restaurant; south is shopping center, and west is single family.

JURISDICTION: The Board of Zoning Appeals has the authority to grant the variance requested, provided all four of the following conditions can be found to exist:

1. Variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. Granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. Strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

GENERAL COMMENT: The applicant has submitted a statement of justification and plot plat which are included as Attachments #1 and #2 to this report.

UNIQUENESS: The attorney for the applicant suggests that uniqueness and hardship are very closely related in this case, in view of the fact that the existing zoning ordinance was adopted (1958)

Pa . 2 - Secretary's Report
Case No. BZA 6-64

prior to the time that the self-service car wash units came into existence. He further contends that if car washes had been in existence at the time the ordinance was adopted, that the self-service car wash units would have been included in a light commercial use classification.

The Secretary is of the opinion that there is nothing unique about this property from a physical standpoint. In the past few months the Board has considered uniqueness on several occasions as to the use of the property concerned. However, if this interpretation is to be made, almost any property could be considered unique. Therefore, it is the opinion of the Secretary that uniqueness has not been sufficiently justified in this instance.

ADJACENT PROPERTY: The attorney has stated that the applicants will provide a fence on the north property line to protect adjacent property. However, they have requested that the fence be constructed of redwood or louvered redwood, rather than masonry or architectural tile, since the property immediately adjacent to the north is owned by the sister of one of the petitioners, and it is anticipated that additional property may be acquired at some future date.

The Secretary is of the opinion that there would be no adverse affect on adjacent property owners or residents if the variance is granted, as long as the lot is properly screened and properly policed and maintained.

HARDSHIP: As indicated above, the attorney for the applicant feels that uniqueness and hardship are very closely related in this case, and that if the variance is not granted the applicants would be burdened with an unnecessary hardship.

It is the feeling of the Secretary that this property could be utilized for some light commercial use which is specifically permitted under the "LC" section of the ordinance. Therefore, it is the opinion of the Secretary that hardship cannot be found to exist, since the property owner represented in this application has the same rights and can utilize his property in the same manner as other owners of light commercial property throughout the City of Wichita which are similarly situated.

PUBLIC INTEREST: The Secretary is of the opinion that if proper controls are exercised there should be no adverse affects on the public interest if the variance is granted.

Page 3 - Secretary's Report
Case No. BZA 6-64

RECOMMENDATION: It is the opinion of the Secretary that the requirements of uniqueness and hardship have not been sufficiently justified in this instance, and it is, therefore, recommended that the variance be denied.

As indicated in all the other reports which will be before the Board today, whereby variances are being requested for a self service car wash operation, it is the opinion of the Secretary that the proper approach to this problem is to:

1. Amend the zoning ordinance to permit self-service car washes as a use by right in the "LC" section of the ordinance, or
2. Amend the zoning ordinance to allow the Board of Zoning Appeals to grant exceptions for self-service car washes in certain "LC" areas under certain conditions and requirements.

If it is not the desire of the governing body to amend the zoning ordinance to permit self-service car washes in "LC" districts, then a person wishing to establish such a use would have to request that the zoning map be amended to a zoning classification where the use is permitted, or have to try to obtain property which is already appropriately zoned.

Although this particular lot appears to be of sufficient size, and appears to be more of a regional than a strictly neighborhood shopping area, it is still the opinion of the Secretary, as indicated above, that the proper approach to the problem should be either through an amendment of the ordinance or seeking the zoning classification where the use is permitted.

If it is the determination of the Board that all four of the conditions necessary to the granting of the variance can be found to exist, it is recommended that the following conditions be attached to the approval of the application:

1. All drainage, both surface and runoff created by the operation, shall be handled in a manner which is satisfactory to the Superintendent of Maintenance of the Department of Public Works.
2. The hours of operation shall not extend beyond 12 p.m. or commence earlier than 6 a.m.
3. The entire area to be utilized by the washing and drying operations, as well as areas of ingress and egress, shall be hardsurfaced with either concrete, asphalt, or asphaltic concrete.

Page 4 - Secretary's Report
Case No. BZA 6-64

4. Adequate maintenance shall be provided through inspection twice daily for proper maintenance and removal of trash.
5. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
6. All lights shall be shielded to reflect or direct light away from adjoining property. No string type lighting shall be permitted.
7. A six-foot high brick, masonry or combination thereof, or louvered redwood fence, shall be erected along the north and west property lines to protect adjacent properties from light, blowing debris, noise, and to preserve adjacent property values.
8. A performance bond in the amount of \$_____ shall be filed with the Secretary of the Board within 30 days of the approval of this application, to guarantee that the fence shall be constructed, except that the bond shall not be required in the event the fence is constructed within that time limit. (The form of the bond shall be approved by legal counsel for the Board).
9. Interior traffic circulation on the lot, points of ingress and egress, width of driveways, and an off-street parking plan shall be approved by the Traffic Engineering Division of the Department of Public Works.
10. Construction shall be completed within 12 months from the effective date of the approval of this application, or the permit shall be null and void.

Attachments

- #1 - Statement of Justification
- #2 - Plot Plan

BEFORE THE BOARD OF ZONING APPEALS OF THE
CITY OF WICHITA

IN THE MATTER OF THE APPLICATION FOR
VARIANCE BY HAROLD C. GRESHAM, et al.

BZA No. _____

STATEMENT

This is an application brought by the owners of the property set forth in the Application for the construction, maintenance and operation of a self-service car washing unit, which is to be located in an LC zoning classification. The property is generally located at the intersection of Colorado Court and Central Avenue West, being on the northwest corner. Attached to the petition is a plot plan and specifications in connection with the building to be constructed and the other accessories thereto. The property is to be either leased or sold to parties by the name of William E. Weidensaul and William R. Marker.

It is the contention of the petitioners herein that the Board of Zoning Appeals has the jurisdiction and authority to authorize a variance under Section 2.12.590.2 of the Zoning Code. The property is zoned LC and under the above code section and based on past action of the Board, it appears that the application should be granted, for the following reasons:

1. The use of the property for the purposes herein set forth will not have any adverse effect on adjacent property owners or residents in the area. This is somewhat in the same category as a filling station. Nothing of an inflammable nature is to be used, no odors will result therefrom and no noisy machinery will be in operation.

2. The strict enforcement of the zoning ordinance of an LC classification, works a hardship on the owners of the property for the reason that the ordinance was passed prior to the time that the self-service car wash units came into existence and had they been in existence at the time of the code, it is the petitioners'

belief that the self-service car washing unit would have been included in a light commercial classification use. The business is for the benefit of the general area around this particular location and will in no manner affect the public health, safety or general welfare of the community adversely.

3. There are many car wash units now in operation in the City. There have been numerous applications made to this body for a variance authorizing the construction thereof in an LC classification and in most instances this body has granted the variance.

For the above reasons it is requested and urged that the Board of Zoning Appeals authorize the use as requested in this particular LC classification, and that the variance be granted for the reasons above set forth.

It is also requested that the Board determine what sort of a screen should be placed on the north side of the property and the petitioners herein specifically request that they be not required to put in a masonry wall, but are perfectly willing to put in a good redwood type fence. The reason for this is that the property immediately adjacent to the north is owned by the sister of one of the petitioners herein and it is anticipated that additional property be acquired at some future date.

Respectfully submitted,

KAHRS, NELSON, FANNING & HITE

By _____
Attorneys for Petitioners

CASE NO. BZA 6-64

NOTICES MAILED FEBRUARY 6, 1964 FOR HEARING ON FEBRUARY 25, 1964

Howard C. and Nellie Irene Gresham
3609 West Central

Robert H. Nelson
511 Union Center

Eldon Adolph Terrell
Wilma Terrel
725 Colorado Court

Edith M. Gresham
323 North Knight

John W. Morgan
Fern E. Morgan
151 South Vine

Lloyd R. Jones
Geneva R. Jones
1960 North 135th Street West

John W. Morgan
Vern E.
151 South Vine

R. W. Prochaska
4206 West Central

C. J. and Ann S. Hysom
4200 West Central

Wescen, Inc. *Returned
2-14-64*
SW Cor Central & West

Arthur M. Harrison
Nancy E. Harrison
4207 West Central

Wm. W. Ritter
Fern Ritter
9204 Maple

Ben A. Moore
Eva Moore
4201 West Central

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

February 6, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-64

An application has been filed by Robert H. Nelson, 511 Union Center Building, Wichita, Kansas, attorney, on behalf of Howard C. and Nellie Irene Gresham, 3609 West Central, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the construction, operation, maintenance of a car wash building and self service car wash operation, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 5 and 4, in Gresham Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Central and Colorado.

This application has been assigned Case No. BZA 6-64, and will be considered by the Board of Zoning Appeals on Tuesday, February 25, 1964, 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, either in person or by agent or attorney.

Robert A. Lakin
Secretary

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

February 6, 1964

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-64

An application has been filed by Robert H. Nelson, 511 Union Center Building, Wichita, Kansas, attorney, on behalf of Howard C. and Nellie Irene Gresham, 3609 West Central, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to permit the construction, operation, maintenance of a car wash building and self service car wash operation, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 5 and 4, in Gresham Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Central and Colorado.

This application has been assigned Case No. BZA 6-64, and will be considered by the Board of Zoning Appeals on Tuesday, February 25, 1964, 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, either in person or by agent or attorney.

Robert A. Lakin
Secretary

20

KAHRS, NELSON, FANNING & HITE

ATTORNEYS AT LAW
UNION CENTER BUILDING
WICHITA 2, KANSAS

AUSTIN M. COWAN (1885-1949)
W. A. KAHRS
ROBERT H. NELSON
H. W. FANNING
RICHARD C. HITE
DARRELL D. KELLOGG

TELEPHONES
AMHERST 2-3441
AMHERST 2-3442

February 3, 1964

Board of Zoning Appeals
Planing Department
City Annex Building
Wichita, Kansas

Attention: Mr. Lakin

Re: Application of Howard C. and
Nellie Irene Gresham for
Variance - Lots 4 and 5 in
Gresham Addition

Dear Bob:

I am enclosing herewith application, together with the following documents:

- (a) Plot Plan
- (b) Statement
- (c) Certification of Ownership by Abstractor
- (d) Check for \$50.00 to City of Wichita in payment of the filing fee.

I would appreciate notification as to when this matter will be set for hearing.

I would also like to talk to you in connection with the request for a redwood fence on the north side and would appreciate you calling me at your convenience.

Yours very truly,



OF KAHRS, NELSON, FANNING & HITE

RHN:blc
Enclosures

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA 2, KANSAS
ZIP CODE - 67202



address your mail to street and number,
or to rural route and box.

- Moved, left no address
- No such number
- Moved, not forwardable
- Addressee unknown

RETURN
TO
WRITER



Westcep, Inc.

SW Corner Central and West Street

Wichita, Kansas

3/11
RM

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicants Howard C. Gresham and Nellie Irene Gresham

Mailing Address 3609 West Central Phone _____

Name of Authorized Agent Robert H. Nelson

Mailing Address 511 Union Center Phone AM 2-3441

Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is for the construction, operation, maintenance of a car wash building and self-service system, for th

purpose to section 2.12.590.2 of the Code of the City of Wichita

for property located at northwest corner of Central and Colorado
Court

and legally described as: Lots 4 and 5 in Gresham Addition to the
City of Wichita

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

(Give metes and bounds description below if appropriate):

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. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Howard C. Gresham & Nellie Irene Gresham
Applicant

Robert H. Nelson
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
_____(a.m. - p.m.), _____, 19____, together with
appropriate fee of \$50.00.

CERTIFICATE OF OWNERSHIP

GUARANTEE ABSTRACT COMPANY, INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, Kansas, of the real estate within a radius of 200 feet of the following described property:

Lots 4 and 5, in Gresham Addition to Wichita, Sedgwick County, Kansas.

G
U
A
R
A
N
T
E
E
A
B
S
T
R
A
C
T
O.
I
N
C.

DESCRIPTION	OWNER/OWNERS
<u>GRESHAM ADDITION</u>	
Lot 1	Eldon Adolph Terrell Wilma Terrel 725 Colorado Court
Lot 2	Edith M. Gresham 323 No. Knight
Lot 3	Hazel McCauley unknown <i>no add</i>
Lots 6-7-8	John W. Morgan Fern E. Morgan 151 So. Vine
Lots 9 and 10	Lloyd R. Jones Geneva 1960 No. 135 West. John W. Morgan Vern E. 151 S. Vine
Beg. 665' W and 30' N of SE/cor SE/4 14-27-1 W, N 355.2', W 75', S 355.2' E 75' to beg.	Alvin Krenek <i>wadd</i> Rose Krenek <i>wadd</i> address: unknown
Beg. 740' W & 30' N of SE/cor SE/4 14-27-1W, N 355.2', W 75', S 355.2', E 75' to beg.	R. W. Prochaska 4206 West Central
Beg. 590' W & 30' N of SE/cor SE/4 14-27-1W, N 355.2', W 75', S 355.2', E to beg..	C. J. Hysom Ann S. Hysom 4200 W. Central

PARKWILDE ADDITION
Block 1

G Part of Lots 1-2-3-4: Wescen, Inc. _____
U Beg. 175' W and 50' S address: unknown _____
A of center of intersec.
R West St. & Central,
A W 455', S 200', E 580',
N 75', W 125', N 125'
to beg.

Block 2.

A W/2 E/2 Lots 1 & 3 (Arthur M. Harrison _____
N Nancy E. Harrison _____
T 4207 W. Central _____
E E/2 W/2 Lots 1 & 3 (Wm. W. Ritter _____
E Fern Ritter _____
E 9204 Maple _____
A E/4 of Lots 1 & 3 (Ben A. Moore _____
B Eva Moore _____
S 4201 W. Central _____

T WITNESS our Hand and Seal this the 29th day of January,
R 1964 at 7:00 o'clock A.M.

GUARANTEE ABSTRACT COMPANY, INC.,

By

Nellie M. Peshinger

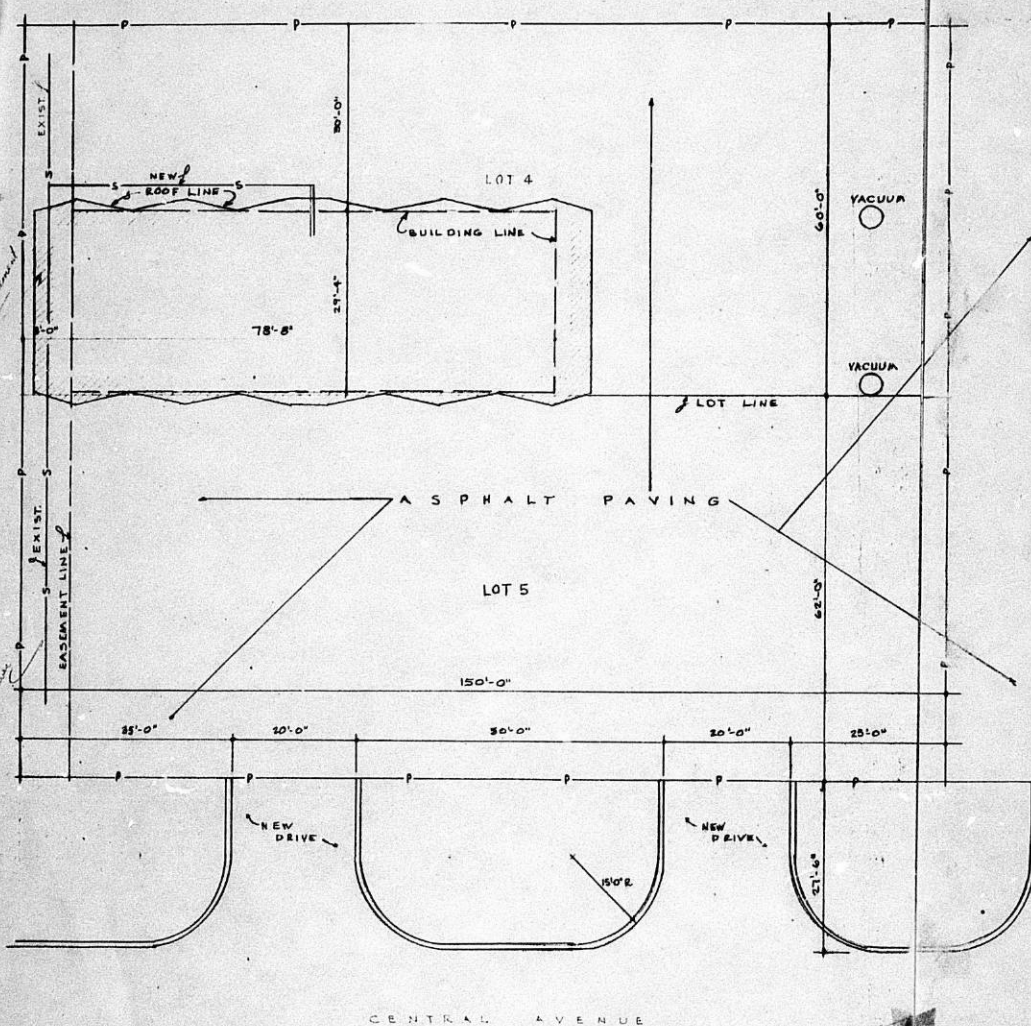
Vice-President.

C
O.,

I
N

C.

Order No. 57003



• LEGEND •
 PROPERTY LINE — P —
 SANITARY SEWER — S —

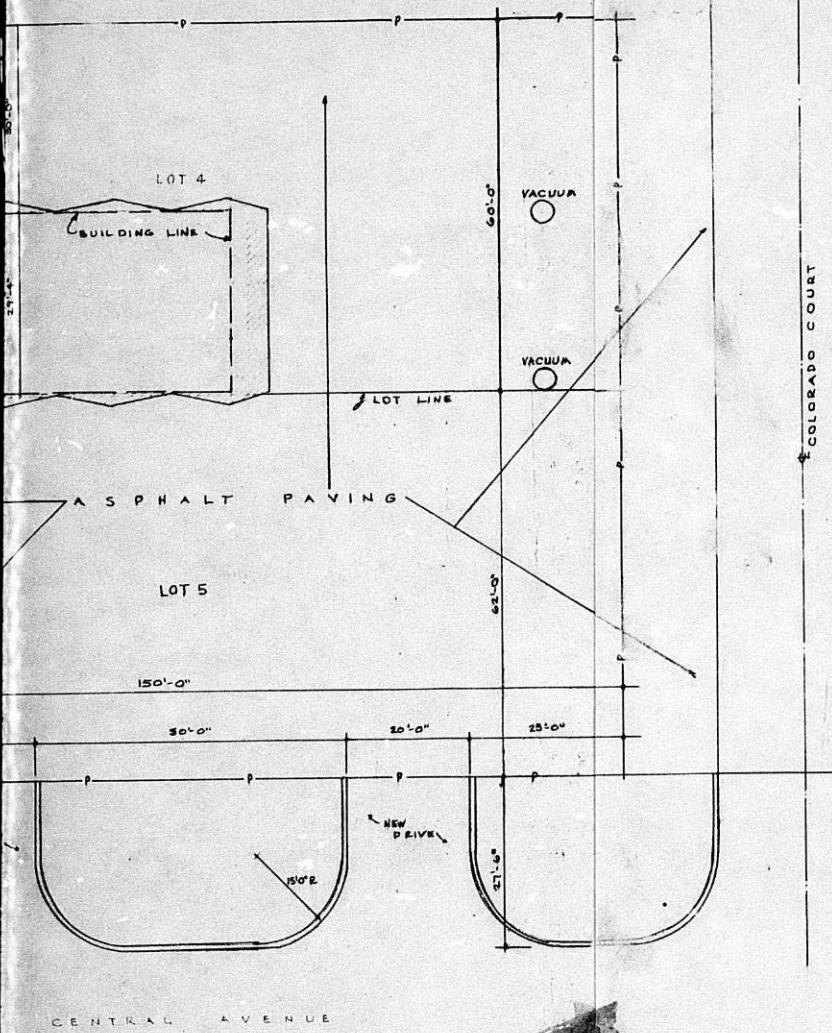


P L O T P L A N
 SCALE 1"=10'

Case No. BZA 6-64
 Attachment #2



Handwritten notes and signatures in the bottom right corner.




P L O T P L A N
 SCALE 1" = 10'


Case No. BZA 6-64
 Attachment #2


COLORADO COURT

CENTRAL AVENUE


 CARMICHAEL-WHEATCROFT & ASSOCIATES
 ARCHITECTS - ENGINEERS
 KANSAS
 WICHITA

CIO WASHING BUILDING
 WICHITA, KANSAS
 AIA





PROJECT
 2742

PAYMENT NOTICE
City of Wichita
PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan. X Pib'g. _____ Pib'g. Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
<i>App for Variance</i>	50 00

Name Robert H Nelson
Address 511 Union Center
Type R-712 Due Date _____
Comments: _____

Date 2-3-64 By M. Arrington
20M 5-60

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA 2, KANSAS
ZIP CODE 67202

6-64

RECEIVED
APR 13 1964
METROPOLITAN
PLANNING

WICHITA KANSAS
APR-9'64
U.S. POSTAGE
05
BB 177067

Arthur M. Harrison
Nancy E. Harrison
4207 West Central
Wichita, Kansas

RETURN TO WRITER

Moved, left no address
 No such number
 Moved, not available
 Address unknown

1-2011

RETURN TO WRITER

*

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