

BZA 13-73 Scholfield Brothers Pontiac requests EXCEPTION for new & used car sales & storage lot on the WS of Longfellow Ln. in an area S of Kellogg Drive

file
Roster
5-2-73
MAPV
C.I.V.
6-18-73
D.H.

ACTION

BZA COMMITTEE ^{DATE} Approved only 5.22.73
to conditions

M.A.P.C. _____
B.C.C./B.C.C. _____

VOIDED & SUPERCEDED BY BZA 3-86
ygy

March 21, 1974

Ed Zinner, Central Inspection Division

Jack H. Galbraith, Chief Planner

Case No. BZA 13-73 - Request for Exception

In response to our letter of March 13, 1974, we have been contacted by the applicant's attorney, Everett Fettis, regarding failure to comply with the provisions of the above-captioned exception. He advises that the bumper guards have been ordered for some time and will be installed next week. He also states that his clients have purchased the property adjacent to the south as originally proposed, and they still intend to rezone it for commercial purposes in the future. After viewing this property in the field, it appears that since the eight foot fence has been constructed, there is no reason to require the three foot fence to be constructed in the setback at this time to separate their own ownership.

With regard to closing the third curb opening in order to conform with the approved parking plan submitted with the exception application and to conform with the provisions of the CUP (DP-44), Mr. Fettis advises that his clients will close and return the curb for the middle curb opening. Their action should be to contact the City Engineer and make arrangements to return the curb. If these actions are performed as stated above, there appears to be no reason at this time to declare the exception null and void.

JHG:js

cc: Joe Donnelly, Central Inspection Division
Robert Feldner, Superintendent of Central Inspection
Everett C. Fettis, Suite 504, 120 South Market, 67202

LAW OFFICES
FETTIS, QUINN and BEASLEY

EVERETT C. FETTIS
MICHAEL G. QUINN
JAMES G. BEASLEY
KEITH M. CURFMAN

120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251

March 20, 1974

Metropolitan Area Planning Commission
Wichita City Annex
104 S. Main
Wichita, Kansas 67202

Attn: Jack Galbraith

Re: Case No. BZA 13-73 - Request for Exception

Dear Mr. Galbraith:

With regard to the above matter, we have checked the matters contained in your letter as I told you yesterday in our conference in your office.

With regard to the fencing, you will recall that our client, Scholfield Bros. Pontiac purchased the adjoining residential property some months ago with the intention of ultimately including that property in their commercial area. So far, economics have not warranted the change. Some months ago I did notify your office of the acquisition and I felt at that time that the need for the fence was eliminated.

As to the curb openings, I did not refer back to the original C.U.P. and consequently was not aware of this requirement since the BZA order did not specify the matter of curb cuts. There are three curb cuts there. We would offer to, and will, close and block the middle curb cut.

As to Condition No. 8, the guards have been ordered previously and will be installed next week.

I trust this takes care of our problems pursuant to our recent conversation.

Very truly yours,


Everett C. Fettis

ECF/ke

cc: Scholfield Bros. Pontiac



March 13, 1974

Mr. Everett C. Fettis, Attorney
120 South Market
Suite 504
Wichita, Kansas 67202

Subject: Case No. BZA 13-73 -
Request for Exception

Dear Mr. Fettis:

As you will remember, Resolution No. BZA 13-73, permitting the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District and generally located on the west side of Longfellow Lane in an area south of Kellogg Drive, was adopted by the Board of Zoning Appeals at its regular meeting on May 22, 1973. Condition of approval #9 provided that all conditions, except the fencing, were to be complied with within three months of the date of approval, or the case would be considered null and void. The applicant was given six months to comply with the fencing requirement or to obtain a zone change to a non-residential classification to eliminate the need for a screening fence, or the case would be considered null and void. The Central Inspection Division has brought this matter to our attention that Scholfield Brothers Pontiac, Inc., the applicant, has failed to fulfill some of the conditions of approval for the exception.

Condition #7 required that a five to eight foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough-sawed cedar was to be constructed along the west 100 feet of the south property line, thence reduced to three feet

Mr. Everett C. Fettis
March 13, 1974

along the east 25 foot setback. However, in observing this property from the field it was noted that the three foot fence in the 25 foot front yard setback does not exist.

The provisions of DP-44 limit the number of curb openings for Parcel #1 adjacent to Longfellow Lane to two access points with a maximum width of 40 feet. The parking plan approved by the Division of Traffic Engineering in association with Case No. BEA 13-73 indicates that the two approaches were to be located in accordance with the provisions of DP-44 and were to be thirty feet wide. Three curb cuts to this property presently exist, which appear to have been the driveways to the original platted residential lots, and do not meet the thirty foot width indicated on the approved parking plan and required for approaches to commercial property.

Condition #8 of the resolution stated that all parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines. The Traffic Engineer's stamp of approval on the parking plan also required parking barriers to be installed adjacent to public property so vehicles would not obstruct public property, and further specified that the barriers should have a minimum length of six feet and a minimum cross-section of 4 inches by 4 inches. In observing this property we noted that the required bumper guards have not been provided.

Since it has been over nine months since the date the resolution was approved, both the three month and the six month time limits have obviously elapsed, and failure of the applicant to fulfill all of these provisions is sufficient cause to declare the exception null and void.

We would appreciate your reviewing this matter, and determine from your client whether or not he is interested in complying with the conditions of approval. Technically, the case file should now be marked void and closed, however, this would require you to immediately refile a new application as the

Mr. Everett C. Fettis
March 13, 1974

parking of cars on subject property is in violation of the zoning ordinance. We would appreciate you advising us as to whether or not your client can immediately satisfy the three remaining conditions. If we do not hear from you by March 19, 1974, subject case will be marked "void and closed".

Sincerely,

Jack H. Galbraith
Secretary

JHG:MM:js

cc: Scholfield Brothers Pontiac, Inc.
7633 East Kellogg
Wichita, Kansas 67207

Robert Feldner,
Superintendent
Central Inspection

Joe Donnelly,
Central Inspection

Ed Zinner,
Central Inspection

May 25, 1973

Mr. Everett C. Fettis
Attorney
Suite 504 - 120 South Market
Wichita, Kansas 67202

Subject: Case No. BZA 13-73 - Request for Exception

Dear Mr. Fettis:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 22, 1973, in connection with your request for an exception to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District, and generally located on the West side of Longfellow Lane in an area South of Kellogg Drive.

This Resolution reflects the official action of the Board to approve your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Very truly yours,

Jack H. Galbraith
Secretary

JHG:rv
enclosure

cc: Schofield Brothers Pontiac, Inc., 7633 East Kellogg, 67207
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 13-73

WHEREAS, Scholfield Brothers Pontiac, Inc., 7633 East Kellogg, Wichita, Kansas, 67207, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1, of East Side Center, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the West side of Longfellow Lane in an area South of Kellogg Drive.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of May 22, 1973 consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this application be approved to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District and legally described as follows:

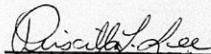
Lot 1 of East Side Center, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the West side of Longfellow Lane in an area South of Kellogg Drive.

subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No advertising signs shall be permitted adjacent to Longfellow Lane.
4. No sound projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be permitted.

6. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
7. A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be constructed along the West 100 feet of the south property line, thence reduced to 3 feet along the east 25 feet.
8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.
9. All conditions of approval by the Board except the fencing requirement, shall be complied with within 3 months of the date of approval, or this case shall be considered null and void. The applicant shall have 6 months in which to comply with the fencing requirement regarding the residential property to the south, or to obtain approval of zone change request to a non-residential classification for this property to eliminate the need for a screening fence, or the case shall be considered null and void.

ADOPTED AT WICHITA, KANSAS, this 22nd day of May, 1973.


Priscilla L. Lee, Chairman

ATTEST:


Jack H. Galbraith, Secretary

May 23, 1973

Mr. Everett C. Fettis
Attorney
Suite 504 - 120 South Market
Wichita, Kansas 67202

Subject: Case No. BEA 13-73 - Request for Exception

Dear Mr. Fettis:

At the regular meeting of the Board of Zoning Appeals on May 22, 1973, your request for an exception to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District, and generally located on the West side of Longfellow Lane in an area South of Kellogg Drive, was considered.

It was the action of the Board to approve this request subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No advertising signs shall be permitted adjacent to Longfellow Lane.
4. No sound projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be permitted.

6. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
7. A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be constructed along the West 100 feet of the south property line, thence reduced to 3 feet along the east 25 feet.
8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.
9. All conditions of approval by the Board except the fencing requirement, shall be complied with within 3 months of the date of approval, or this case shall be considered null and void. The applicant shall have 6 months in which to comply with the fencing requirement regarding the residential property to the south, or to obtain approval of zone change request to a non-residential classification for this property to eliminate the need for a screening fence, or the case shall be considered null and void.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:rv

cc: Schelfield Brothers Pontiac, Inc., 7633 East Kellogg, 67207
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

April 23, 1973

Mr. Everett Fettis
Attorney
120 South Market
Wichita, Kansas 67202

Dear Mr. Fettis:

Enclosed is the application and check for the filing fee on the exception case you filed in our office this afternoon. Also enclosed is a copy of an exception application with accompanying instruction sheet. Please note that the instruction sheet points out that there are five items needed in filing an application. In addition to the ownership list you advised the secretary you were ordering, we need a statement in writing justifying the exception applied for, plus two copies of a detailed plot plan, in duplicate, approved by the Office of the Traffic Engineer, drawn to scale, and showing all existing and proposed structures, off-street parking spaces, all points of ingress and egress, width of driveways, markings for traffic channelization and any other appropriate dimensions or information which would be helpful to the Board of Zoning Appeals in consideration of the application.

If you have any questions on this required additional material, please call.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:ber

Enclosure

SECRETARY'S REPORT
CASE NO. BZA 13-73

APPLICANT: Scholfield Brothers Pontiac, Inc., 7633 East Kellogg, Wichita, Kansas 67207

AGENT: Everett C. Fettis, Suite 504 - 120 South Market, Wichita, Kansas 67202

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the City of Wichita to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District.

GENERAL LOCATION: Generally located on the West side of Longfellow Lane in area South of Kellogg Drive

LAND USE: Subject property is currently undeveloped; to the North and West is an auto sales lot; South is a single family home; and to the East is the East Side National Bank Construction project.

ZONING: Subject property is zoned the "LC" Light Commercial District, as are those properties to the West and East; to the North is "C" Commercial and "LC" Light Commercial zoning; and to the South is "AA" single family zoning.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to permit the sales and storage of new and used cars on Lot 1 of the East Side Center Addition which is zoned "LC". On July 26, 1966, the Board granted a similar exception for the applicant to display and sell new automobiles on the property adjoining subject property on the North and West (BZA 20-66).

The applicant points out in his statement of justification that the property to the East of subject property was recently acquired for the construction of the East Side National Bank complex, which deprived Scholfield Brothers of storage and

display area which they had previously leased. It is the opinion of the Secretary that this is a logical and proper use for the area inasmuch as subject property will be part of an existing new and used car sales operation located adjacent to a major highway.

RECOMMENDATION:

It is the recommendation of the Secretary that the exception to permit the installation or construction of a new and used car sales and storage lot on property zoned the "LC" Light Commercial District be approved, subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
3. No advertising signs shall be permitted adjacent to Longfellow Lane.
4. No sound projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be permitted.
6. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
7. *changed* A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be constructed along the West 100 feet of the south property line, fence reduced to 3 feet along the east 25 feet.
- 8.. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.

Page 3 - Secretary's Report
BZA Case No. 13-73

changed

9. All conditions of approval by the Board shall be complied with within 3 months from the date of approval, or this case shall be considered null and void.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

May 2, 1973

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 13-73

An application has been filed by Scholfield Brothers Pontiac, Inc., 7633 East Kellogg, Wichita, Kansas, 67207, and Everett C. Pettis, Suite 504, 120 South Market, 67202, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the installation or construction of a new and used car sales and storage lot, on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1 of East Side Center, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the West side of Longfellow Lane in an area South of Kellogg Drive.

This application has been assigned Case No. BZA 13-73, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 22, 1973, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

9 notices to Property Owners sent 5-2-73
8 " " " " to MAPC "

STATEMENT

The attached Application for Exception is made for the purpose of increasing and improving the total development of Scholfield Bros. Pontiac, Inc. operation. Recently the property across the street was acquired for the construction of East Side National Bank which deprived Scholfield of storage and display area which they had previously leased. They then purchased this property from the same people to use for storage and display of both new and used cars which is a necessary addition to their business.



BOARD OF ZONING APPEALS

CASE NO.

13-73

CITY OF WICHITA, KANSAS

FILED

4.24.73

APPLICATION FOR EXCEPTION

I. Name of Applicant Scholfield Bros. Pontiac, Inc.
Mailing Address 7633 E. Kellogg, Wichita, Ks. Phone 684-2841
Name of Authorized Agent Everett C. Fettes
Mailing Address Suite 504 - 120 S. Market Phone 267 7251
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section
2804.183-2 2.12.590.C, Code of the City of Wichita, Kansas
(Zoning Ordinance); to permit the installation or construction
of a New and used car sales and storage lot
_____ on property zoned
LC, located the West side of
on Longfellow Lane in an area south of Kellogg Drive
_____ and legally described as: _____
Lot 1 of East Side Center, an Addition to
Wichita, Sedgwick County, Kansas

_____, in the City of Wichita.

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 all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions.
- d. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant Scholfield Bros. Pontiac, Inc.

Authorized Agent Everett C. Fettes

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 4 (a.m. - p.m.), April 24, 19 73, together with appropriate fee of \$50.00.

T9-403

Signed Rhonda L. Wagner

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
1	1	Replat of Block 1 Kellogg Crest Addition	✓ Scholfield Bros. Pontiac Inc. 7633 East Kellogg Wichita, Kansas 67207
3	1	Same	✓ Robert S. Lightner 26 Cypress Drive Wichita, Kansas 67208
1		East Side Center	✓ Scholfield Bros. Inc., 7633 East Kellogg Wichita, Kansas 67207
2		Same	East Side Financial Center, Inc. Address Unknown
4	1	Eastridge 11th Addition	✓ Alfred A. Farha and Nancy 554 Longfellow Wichita, Kansas 67207
1	5	Same	✓ Katharina E. Voth and Edna S. Voth 7701 East Orme Wichita, Kansas 67207
5 exc S 4'	4	Same	✓ Marcelline A. Wright 1015 S. Bleckley Drive Apt. 307 Wichita, Kansas 67218
4	4	Same	✓ Olen Allison and Thelma C. 7603 East Orme Wichita, Kansas 67207
4	2	Same	✓ Scholfield Bros. Pontiac Inc 7633 East Kellogg Wichita, Kansas 67207
5	2	Same	✓ Koakish W. Cleaton and Glenysse M. Cleaton 7604 East Orme Wichita, Kansas 67207
3	4	Same	✓ Valerian J. Grieving and Margaret A. Grieving 7515 East Orme Wichita, Kansas 67207

The Security Abstract and Title Company, Inc.,
hereby certifies the foregoing to be a true and correct list of
property owners of:

A 200 foot radius of: Lot 1, East
Side Center an Addition to Wichita,
Kansas, Sedgwick County, Kansas

as shown by the records on file in the Office of the Register of
Deeds of Sedgwick County, Kansas, on this 23rd day of April, 1973
at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Mary Hable

Vice President

Order No. 201543
wh

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
BZA Exception	\$2.00

Name

Everett Jettis

Address

120 S. Market Suite 504

Type

1-407103

Due Date

Comments:

Date

4-24-73

By

EJW

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
BZA Exception	\$50.00

Name

Everett Jettis

Address

120 S. Market Suite 504

Type

1A-407103

Due Date

Comments:

PAID

APR 25 1973

Date

4-24-73

By

EJW

*

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