

BZA 14-64 - Mrs. Hazel F llon McCel-
land requests variance to permit car
wash unit on SW corner of Lincoln &
Woodlawn

ACTION

DATE

Bza COMMITTEE *Withdrawn by* *2-25-64*
applicant

M.A.P.C. _____

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

SECRETARY'S REPORT

CASE NO. BZA 14-64

APPLICANT: Mrs. Hazel Fallon McClelland, 1302 Iroquois

AGENT: Colby Sandlian and/or Roy L. Rogers, 443 E. North St. Francis

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 permitted in the "LC" Light Commercial district.

LOCATION: Generally located at southwest corner of Woodlawn and Lincoln

ZONING: The property in question is zoned "LC" Light Commercial. To the north is "LC" Light Commercial; west and north is "A" Two family; east is "LC" Light commercial.

LAND USE: Property in question is vacant. To the north is service station, east is service station, and south and west are duplexes.

JURISDICTION: The Board has the authority to grant the variance requested when all four of the following conditions are 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 which is included as Attachment #1 to this report, and a plot plan which is included as Attachment #2 to this report.

UNIQUENESS: The applicant contends that this case is unique due to the fact that self-service car washes were not in existence at the time the ordinance was adopted, even though, in his opinion, it is compatible with other uses currently permitted in the "LC".

i.e., carry-out restaurants and service stations.

The Secretary is of the opinion that there is nothing about the property which is unique from a physical standpoint. On the other hand, the Board has in the past several months, on some occasions considered uniqueness as to the use of the property concerned. However, if this approach is to be taken almost every request could be considered unique.

ADJACENT PROPERTY: It is the opinion of the Secretary that if a self-service car wash operation is to be an interim use of the property and the operation is properly policed, maintained, and if proper screening is provided, the granting of the variance should not adversely affect the rights of adjacent property owners or residents.

HARDSHIP: The attorney for the applicant contends that the applicant would be burdened with an unnecessary hardship if the variance is not granted, inasmuch as being directly adjacent to a service station, the property is not suitable for other types of commercial development.

The Secretary is of the opinion that hardship does not exist inasmuch as there is nothing about the property, such as an odd shape, that would make it unsuitable for other types of light commercial uses. It is readily apparent, at least to the Secretary, that this particular lot (140 feet x 241 feet) would be very suitable for almost any type of light commercial usage.

PUBLIC INTEREST: The Secretary is of the opinion that if proper controls are exercised, i.e., fencing, maintenance provisions, shielding of light, etc., that the granting of the variance should in no way adversely affect public interest.

The Secretary is of the opinion that it is very doubtful that the requirements of uniqueness and hardship can be sufficiently justified, and it is, therefore, recommended that the variance be denied.

As the Board is well aware, the Secretary is of the opinion that the proper approach to this problem is either:

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

In the event it is not the desire of the governing body to amend the ordinance, the only other alternative is to have the zoning map amended to a classification where the use is permitted, or to seek property which is already zoned appropriately for such a use.

In the event it is the determination of the Board that all four requirements can be found to exist and the Board wishes to approve the variance, it is recommended that the following conditions be attached:

1. The 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 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. The car washing operation shall be constructed no closer than 100 feet to the curb line of Woodlawn.
8. Ingress and egress to the lot shall be limited to Woodlawn.
9. A six-foot high brick, masonry or combination thereof, or louvered redwood fence, shall be erected along the south and west property lines to protect adjacent properties from light, blowing debris, and noise, and to preserve adjacent property values, except that such fence shall not be required for that area occupied by the front yard setback on the south property line.
10. 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).

11. A plot plan showing points of ingress and egress, width of driveways, interior traffic circulation, channelization, and off-street parking and automobile storage shall be submitted to the Traffic Engineer for approval.
12. The construction shall be completed within 12 months of 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

ROY L. ROGERS
ATTORNEY AT LAW
709 BITTING BUILDING
WICHITA 2, KANSAS

FD 3-3248

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

RE: Mrs. Hazel Fallon McClelland

The variance requested is to permit the operation of a self service car wash. The car wash will consist of four wash stalls and a pump house. Construction will be of steel and will be roofed over concrete slab, and with asphalted approaches.

Ingress will be from Woodlawn and egress will be both on Woodlawn and to alley in rear then north to Lincoln or south and back to Woodlawn.

Adequate utilities are available, and sewage disposal has been checked with the City of Wichita.

- (A) The variance desired is unique in that (1) no self service car washes were in existence at the time of the adoption of the zoning ordinance (2) The car wash is compatible with other light commercial uses, e.g. carry out restaurants, service stations which perform the same function of washing cars, and (3) adequate off street parking is provided for persons waiting to use the service.
- (B) The granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents. The operation is quiet, and the movement of cars does not raise normal traffic noise, adequate waste disposals will be provided to maintain normally clean operation, and could be no more offensive than other permitted uses.
- (C) The strict application of the enforcement provisions of the ordinance will constitute unnecessary hardship as the land is located directly adjacent to a service station and is unsuitable for other type use, and owner has not been able to derive revenue therefrom.
- (D) The variance desired will not adversely affect the public health, safety, morale, order conveniences of property or general welfare.

Roy L. Rogers

Case No. BZA 14-64
Attachment #1

SECRETARY'S REPORT

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AGENT: Colby Sandlian and/or Roy L. Rogers, 443 E. North St. Francis

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Page 2 - Secretary's Report
Case No. BZA 14-64

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As the Board is well aware, the Secretary is of the opinion that the proper approach to this problem is either:

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

to amend the ordinance, the only other alternative is to have the zoning map amended to a classification where the use is permitted, or [redacted] property which is already [redacted] appropriately

In the event it is the determination of the Board that all four requirements can be found to exist and the Board wishes to approve the variance, it is recommended that the following conditions be attached:

1. The 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.
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Page 4 - Secretary's Report
Case No. BZA 14-64

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11. A plot plan showing points of ingress and egress, width of driveways, interior traffic circulation, channelization, and off-street parking and automobile storage shall be submitted to the Traffic Engineer for approval.
12. The construction shall be completed within 12 months of 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

CASE NO. BZA 14-64

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

Hazel Fallon McClelland
1302 Iroquois

Colby Sandlian
443 E. North St. Fr

Roy L. Rogers
443 E. North St. Francis

The American Oil Company
Bitting Building

Glenn L. & Jane L. Richardson
555 South Crestway

McClelland-Fallon, Inc.
1302 Iroquois

Esther Arnett
6108 Castle

Econ-O-Life Homes, Inc.
2410 East Kellogg

Harley P. Moon
510 South Glendale

Ridgewood Development, Inc.
1905 Southwest Boulevard

Jesse L. & Norman P. Harris
6414 East 12th

W. H. Rex
Box 334
El Dorado, Kansas

*Returned
2-16-64*

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 14-64

An application has been filed by Mrs. Hazel Fallon McClelland, 1302 Iroquois, Wichita, Kansas, by Colby Sandlian and/or Roy L. Rogers, 443 E. North St. Francis, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance to permit a self-service car wash operation to be permitted in an "LC" Light Commercial district, on property legally described as follows:

North 100 feet of the south 200 feet of Reserve "A", in Replat of Trollope Fallon Addition. Generally located on the southwest corner of Lincoln and Woodlawn.

This application has been assigned Case No. BZA 14-64, and a hearing will be held before 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

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Robert A. Lakin
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 14-64
FILED _____

APPLICATION FOR VARIANCE

1. Name of Applicant Mrs. Hazel Fallon McClelland
Mailing Address 1302 Iroquois Phone WH 3-8954
Name of Authorized Agent Colby Sandlian and/or Roy L. Rogers
Mailing Address 443 E N. St. Francis Phone EO 3-0118
Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other)

II. The variance requested is ~~from Light Commercial to Commercial as per attached documents. Property is not utilisable for any present zoning and will not adversely affect any adjacent property zoning.~~ a self service car wash operation to be permitted in an "R" zoning classification
(Section 2.12.590.2)

North 100' of South 200' of Reserve A Replat of Trollope Fallon Addition. Middle third of lots on corner SW of Lincoln and Woodlawn

and legally described as: _____

in the City of Wichita; and which is presently zoned Light Commercial
(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.

Mrs. Hazel Fallon McClelland

Applicant

Roy L. Rogers
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.

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Mrs. Hazel Fallon McClelland
Mailing Address 1302 Iroquois Phone WH 3-8954
Name of Authorized Agent Colby Sandlân and/or Roy L. Rogers
Mailing Address 443 E N. St. Francis Phone FO 30118
Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other)

II. The variance requested is from Light Commercial to Commercial as per attached documents. Property is not utilizeable for any present zoning and will not adversely affect any adjacent property zoning.

for property located North 100' of South 200' of Reserve A Replat of Trollope Fallon Addition. Middle third of lots on corner SW of Lincoln Woodlawn

and legally described as: _____

in the City of Wichita; and which is presently zoned Light Commercial
(Give metes and bounds description below if appropriate):

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
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Mr. Hazel Fallon McClelland

Applicant

Roy L. Rogers
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.

T21-402

Signed

ROY L. ROGERS
ATTORNEY AT LAW
702 BITTING BUILDING
WICHITA 2, KANSAS

FO 3-3248

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

RE: Mrs. Hazel Fallon McClelland

The variance requested is to permit the operation of a self service car wash. The car wash will consist of four wash stalls and a pump house. Construction will be of steel and will be roofed over concrete slab, and with asphalted approaches.

Ingress will be from Woodlawn and egress will be both on Woodlawn and to alley in rear then north to Lincoln or south and back to Woodlawn.

adequate utilities are available, and sewage disposal has been checked with the City of Wichita.

- (A) The variance desired is unique in that (1) no self service car washes were in existence at the time of the adoption of the zoning ordinance (2) The car wash is compatible with other light commercial uses, e.g. carry out restaurants, service stations which perform the same function of washing cars, and (3) adequate off street parking is provided for persons waiting to use the service.
- (B) The granting of the permit for the variance will not adversely affect the rights of the adjacent property owners or residents. The operation is quiet, and the movement of cars does not raise normal traffic noise, adequate waste disposals will be provided to maintain normally clean operation, and could be no more offensive than other permitted uses.
- (C) The strict application of the enforcement provisions of the ordinance will constitute unnecessary hardship as the land is located directly adjacent to a service station and is unsuitable for other type use, and owner has not been able to derive revenue therefrom.
- (D) The variance desired will not adversely affect the public health, safety, morale, order conveniences of property or general welfare.

Roy L. Rogers

Case No. BZA 14-64
Attachment #1

ROY L. ROGERS
ATTORNEY AT LAW
709 BITTING BUILDING
WICHITA 2, KANSAS

FO 3-3246

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

RE: Mrs. Hazel Fallon McClelland

The variance requested is to permit the operation of a self service car wash. The car wash will consist of four wash stalls and a pump house. Construction will be of steel and will be roofed over concrete slab, and with asphalted approaches.

Ingress will be from Woodlawn and egress will be both on Woodlawn and to alley in rear then north to Lincoln or south and back to Woodlawn.

Adequate utilities are available, and sewage disposal has been checked with the City of Wichita.

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Roy L. Rogers

STATEMENT OF RECORD 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:

Property lying within a 200' radius of the North 100' of the South 200' of Reserve "A", in Replat of Trollope Fallon Addition to Wichita, Sedgwick County, Kansas

F
Fidelity
Title
Company.
inc.

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

DESCRIPTION	OWNER
S 200' Reserve "A" Replat of Trollope Fallon Add.	Hazel Fallon <i>names of applicant</i>
E 100' of N 100' of reserve A " " " " "	The American Oil Company <i>Bitting Bldg.</i>
N 100' except E 100' of Reserve A " " " " "	Glenn L. & Jane L Richardson <i>555 So Crestway</i>
Lots 1-2-3-4-5-6-7 & N 5' Lot 8, Blk. F " " " " "	McClellan-Fallon, 1302 Troquois Inc.
Lot 8, exc. N 5', Blk. F, " " " " "	Esther Arnett <i>6108 Castle</i>
Lots 9-10-11-12-13, Blk. F " " " " "	Econ-o-Life Homes, Inc. <i>2410 E. Kellogg</i>
Lot 6 (N 100' of W 100) Blk. 1 Eastridge 7th Add.	Harley P. Moon <i>510 So Wendale</i>



Page 2 cont'd

DESCRIPTION			OWNER
E 100' Lot 6	Blk. 1	Eastridge 7th Add.	Ridgewood Development, Inc. <i>1905 SW Blvd</i>
Lot 6, exc. N 100'	Blk. 1	" " "	Woodlawn Ave. <i>road</i> BAPTIST Church
S 494.86' Res. E		Replat Part of Eastridge Add.	<i>sup</i> Ridgewood Develop- ment Inc.
Lot 22, Blk. F,		A. J. Christman 2nd Add.	Jesse L. & Norman P Harris <i>6414 E. 12th</i>
S 125' Blk. G		A. J. Christman 2nd Add.	W. H. Rex <i>Box 334, Eldorado</i>

**Fidelity
Title
Company,
Inc.**

Dated at Wichita, Kansas, this 4th day of Feb., 1964.

No. 58673

FIDELITY TITLE COMPANY, INC.

By *Elie Murrell*
Sec.

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 Plb'g. _____ Plb'g. Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
<u>RZA Applications</u>	<u>150.00</u>

Name Franklin Business
Address P.O. Box 772
Type _____ Due Date 2-5-64
Comments R-112
Date 2-5-64 By L. Koehler

20M 5-60

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

WICHITA KANSAS FEB-564 U.S. POSTAGE 05 : PB. 177067

 Addressee unknown

22007

Roy L. Rogers
443 E. N. St. Francis
Wichita, Kansas

14-64

RETURN
TO
WRITER

WICHITA
FEB
PM
1964
KANS.

RECEIVED
FEB 10 1964
METROPOLITAN
PLANNING

*

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