

BZA 20-73 - MARDOR requests a
VARIANCE of front yard & side yard
setback for east side of Market
in area north of Elm.

POSTED
7-31-73
MAY ✓
C.T. ✓

ACTION

BZA COMMITTEE Approved DATE 8-28-73

M.A.P.C. _____

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

Map No. 544B
 Sec. 17
 Twp. 27S
 Range 1E

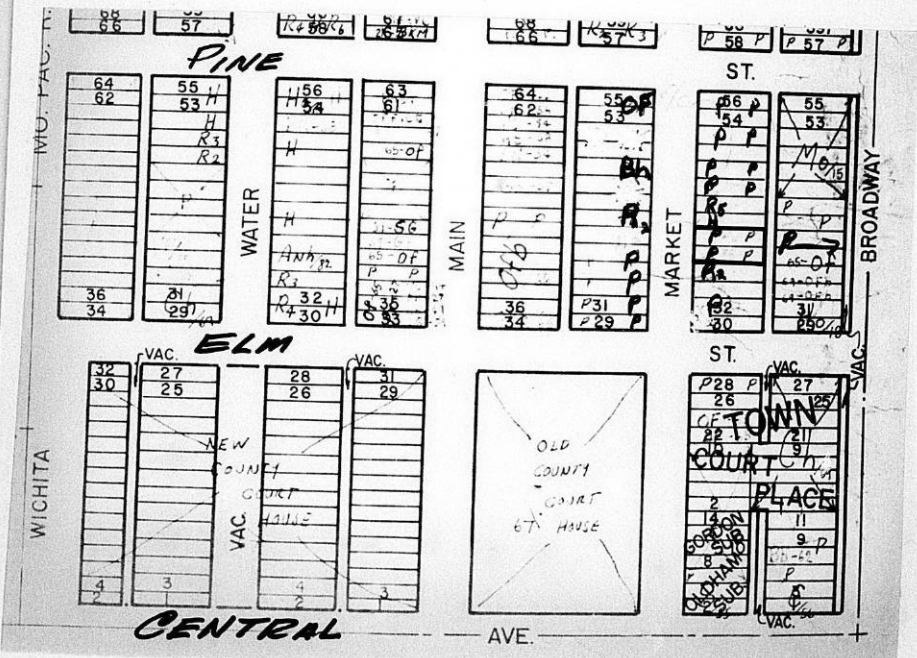
BZA- 20-73
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.18 (60 ft. by 132 ft.)
2. Adjoining Zoning: E C S B W LC N B
3. Land Use: East PARKING LOT South TWO FAM & VAC LOTS
 West TWO FAM & PARKING LOT North SINGLE & MULTIF
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: PARKING LOT
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



October 30, 1973

Mardor, Inc.
327 Beacon Building
Wichita, Kansas 67202

RE: Case No. BZA 20-73
Request for Variance

Dear Sirs:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 28, 1973, in connection with your request for a variance to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet, on property zoned the "LC" Light Commercial District, and generally located on the East side of Market in an area North of Elm.

This Resolution reflects the official action of the Board to approve this request. 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:rw

enclosure:

cc: Robert C. Helsel, 327 Beacon Building, 67202
George D. McCarthy, Beacon Building, 67202
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 20-73

WHEREAS, Mardor, Inc., 327 Beacon Building, Wichita, Kansas, 67202, by Robert C. Helsel, 327 Beacon Building, Wichita, Kansas, 67202, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet on property zoned the "IC" Light Commercial District, and legally described as follows:

Lots 38 and 40, on Chisholm, now Market Street, in Munger's Original Town Addition, Wichita, Sedgwick County, Kansas. Generally located on the East side of Market in an area North of Elm.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of August 28, 1973, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant inasmuch as the neighborhood is in a period of transition to non-residential uses; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as no one appeared in opposition to the request for variance; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance), of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as the building would have to be placed differently, and the building would be more visually attractive if parking is located to the rear; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that Market is a one-way street with 80 feet of right-of-way, and it is not likely that the street will ever be widened to the full extent of the right-of-way; and in addition, the requested side yard variance is interiorly located; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the other four conditions have been found to exist; and

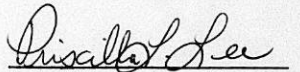
WHEREAS, each of the five conditions required by Section 2.12.590.C, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet, on property zoned the "LC" Light Commercial District, and legally described as:

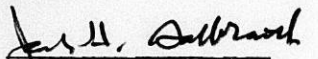
Lots 38 and 40, on Chisholm, now Market Street, in Munger's Original Town Addition, Wichita, Sedgwick County, Kansas. Generally located on the East side of Market in an area North of Elm.

be approved.

ADOPTED AT WICHITA, KANSAS, this 28th day of August, 1973.


Priscilla L. Lee, Chairman

ATTEST:


Mack H. Galbraith, Secretary

August 29, 1973

Mardor, Inc.
327 Beacon Building
Wichita, Kansas 67202

RE: Case No. BZA 20-73
Request for Variance

Dear Sirs:

At the regular meeting of the Board of Zoning Appeals on August 28, 1973, your request for a variance to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet, on property zoned the "LC" Light Commercial District, and generally located on the East side of Market in an area North of Elm was considered.

It was the action of the Board to approve this request as requested.

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: Robert C. Helsel, 327 Beacon Building, 67202
George D. McCarthy, Beacon Building, 67202
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

SECRETARY'S REPORT
CASE NO. BZA 20-73

APPLICANT: Mardor, Inc., 327 Beacon Building, Wichita, Kansas,
67202

AGENT: Robert C. Helsel, 327 Beacon Building, Wichita, Kansas,
67202

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet.

GENERAL LOCATION: Generally located on the East side of Market in an area North of Elm.

ZONING: Subject property is zoned the "IC" Light Commercial District, as is the property to the west; to the north and south there is "B" Multiple Family Dwelling zoning, and to the east is the "C" Commercial District.

LAND USE: Subject property is used as off-street parking, as is the property to the east. North is a single family home, south is a duplex, and the property to the west contains off-street parking and a duplex.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

Subject property was involved in a recent zone change from the "B" Multiple Family Dwelling District to the "LC" Light Commercial District (Z-1533) which was approved by the MAPC on June 14, 1973, and by the City Commission on July 3, 1973. The applicant is requesting a variance to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet for the purpose of constructing an office building. Section 28.04.090.C of the Zoning Ordinance requires the front yard setback in an "LC" district in a block which also contains a dwelling district to be the same as that of the dwelling district. If there is no residential zoning, this Section provides for a 10 foot front yard setback, and if the property is located in an "LC" district consisting of 900 feet or more of continuous length, or adjoining a "C", "D", "E", or "F" district, the front yard setback is waived entirely.

Since the adjoining properties to the north and south of the application area are zoned the "B" Multiple Family Dwelling District, a front yard setback of 20 feet would be required. From viewing the area in the field, it can be seen that the adjacent dwelling units do observe the required setback, and that office buildings which have recently been constructed in the area are observing setbacks of at least 20 feet. It should be noted that in an "LC" district, parking is permitted in the required front yard, and the applicant would still be able to provide the required amount of off-street parking if the front yard setback were observed.

In addition, Section 28.04.090.C, provides that a commercial building located at the boundary line between the "LC" district and any dwelling district shall provide a side yard width of not less than 5 feet on the side adjoining the dwelling district. It should be noted that for any office building constructed less than 5 feet from an interior lot line, the building code requires a one-hour fire wall to be constructed, and further provides that this wall shall be void of any openings. It should also be

pointed out that those office buildings which have recently been constructed in the area adjacent to residential districts have provided the required side yard setbacks.

Uniqueness:

The Secretary finds it difficult to justify uniqueness in this instance as it appears that the applicant is simply trying to over-build a limited site.

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance will have an adverse effect on adjacent property owners, as it would allow the office building to extend into the setback approximately 14 feet farther than the adjoining homes, and it would be difficult to construct and maintain the exterior adjacent to the south property line without being on the adjacent residential property.

Hardship:

It is the opinion of the Secretary that failure to grant the variance will not constitute undue hardship upon the applicant since the building has not yet been constructed and can be modified to conform with the required setbacks.

Public Interest:

It is the opinion of the Secretary that granting the variance would have no adverse effect upon the general welfare of the public due to the fact that Market is a one-way street with 80 feet of right-of-way, and it is not likely that the street will ever be widened to the full extent of the right-of-way. In addition, the requested side yard variance is interiorly located.

Spirit and Intent:

In the opinion of the Secretary, it is difficult to find that under the circumstances, i.e. the presence of residential zoning and uses on the adjoining property, the total waiver of the side yard and reduction of the front yard can be justified, since the Zoning Ordinance contains special provisions for setbacks to be required in an "LC" district which is located adjacent to a residential district.

Page 4 - Secretary's Report
BZA Case No. 20-73

RECOMMENDATION:

It is the opinion of the Secretary that all five of the conditions necessary before this request can be granted cannot be justified and it is therefore recommended that the request be denied.

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

August 10, 1973

NOTICE TO ADJOINING PROPERTY OWNERS:

Case NO. BZA 20-73

An application has been filed by Mardor, Inc., 327 Beacon Building, Wichita, Kansas, 67202, pursuant to Section 2.12.590.B. Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 20 feet to 6 feet and to reduce the required side yard setback adjacent to the south property line from 5 feet to 0 feet, on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 38 and 40, on Chisholm, now Market Street, in Munger's Original Town Addition, Wichita, Sedgwick County, Kansas. Generally located on the East side of Market in an area North of Elm.

This application has been assigned Case No. BZA 20-73, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 28, 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

13 notices to Property Owners sent 8.14.73
10 " " " " " " TO MAPC 8.14.73

July 25, 1973

Mr. Robert C. Helsel
327 Beacon Building
Wichita, Kansas 67202

Dear Mr. Helsel:

This is to advise you we have received your application for a variance. Enclosed is the receipt for the \$50 filing fee. The case has been assigned Case No. BZA 20-73 and has been scheduled for hearing on August 28, 1973, at 1:30 p.m. in Room 401 of the City Building Annex, 104 South Main.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

Attachment

BOARD OF ZONING APPEALS

CASE NO. B2A 20-73

CITY OF WICHITA, KANSAS

FILED 7-24-73

APPLICATION FOR VARIANCE

I. Name of Applicant Mardor, Inc.

Mailing Address 327 Beacon Building, Wichita, Ks Phone 262-3489

Name of Authorized Agent Robert C. Helsel

Mailing Address 327 Beacon Building, Wichita, KS Phone 262-3489

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is allowance of a front yard set back of 6 feet and
elimination of the required 5 foot side yard set back on the south property
line,

for property located at 608-610 North Market, Wichita, Kansas.

and legally described as: Lots 38 and 40, on Market Street, in Munger's
Plat of the Original Town of Wichita, Sedgwick County, Kansas.

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

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 bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.



MARDOR, INC.,

Applicant

By Robert C. Helsel Pres
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.

associated with 2-1533
T9-402

Signed

LAW OFFICES
HELSEL AND HELSEL
327 BEACON BUILDING
WICHITA, KANSAS 67202

D. W. HELSEL (1892-1961)
ROBERT C. HELSEL

TELEPHONE
AMHERST 2-3489

July 23, 1973

Board of Zoning Appeals
Wichita
Kansas

Gentlemen:

In compliance with the Application for Variance filed herewith, Mardor, Inc. submits the following statement justifying the variance requests.

The property involved is to be used for the construction of a law office.

The real property involved has a light commercial zoning. Section 28.04.090 of the Code of the City of Wichita, Kansas, requires a 5 foot side yard set back if adjacent property is a dwelling district. Section 28.04.090 also provides for a 20 foot front yard set back if there are residences in the block. If there are no residences, this Section provides for a 10 foot front yard set back, however, if there are 900 feet of light commercial zoning in the area, the front yard set back requirements are waived entirely.

This neighborhood, due to its proximity to various governmental offices and the proposed construction of the inner-loop highway, has changed and has lost its residential characteristics. This neighborhood from Central to Murdock, a distance of more than 900 feet, will soon be used exclusively for either light commercial uses or for parking.

Strict enforcement of the set back provisions hereinbefore provided will present a problem in the future as there will be no uniformity in the area with regard to the set backs. Allowance of the variance at this time will not be opposed to the general spirit and intent of Title 28 as it will provide uniformity in the future.

Respectfully submitted,


Robert C. Helsel



FORM 22-71 **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		<u>50.00</u>

DESCRIPTION	AMOUNT
<u>BZA application</u>	

Name: Mardon, Inc.
 Address: 327 Beacon Bldg
 Type: AA 407103 Due Date: _____
 Comments: _____

Date: 7-25-73 By: Joyce Smith

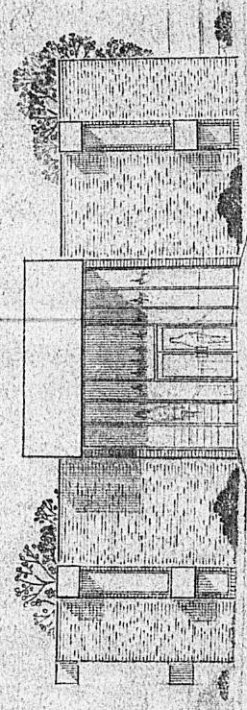
LAW OFFICES
HELSEL AND HELSEL
 327 BEACON BUILDING
 WICHITA, KANSAS 67202

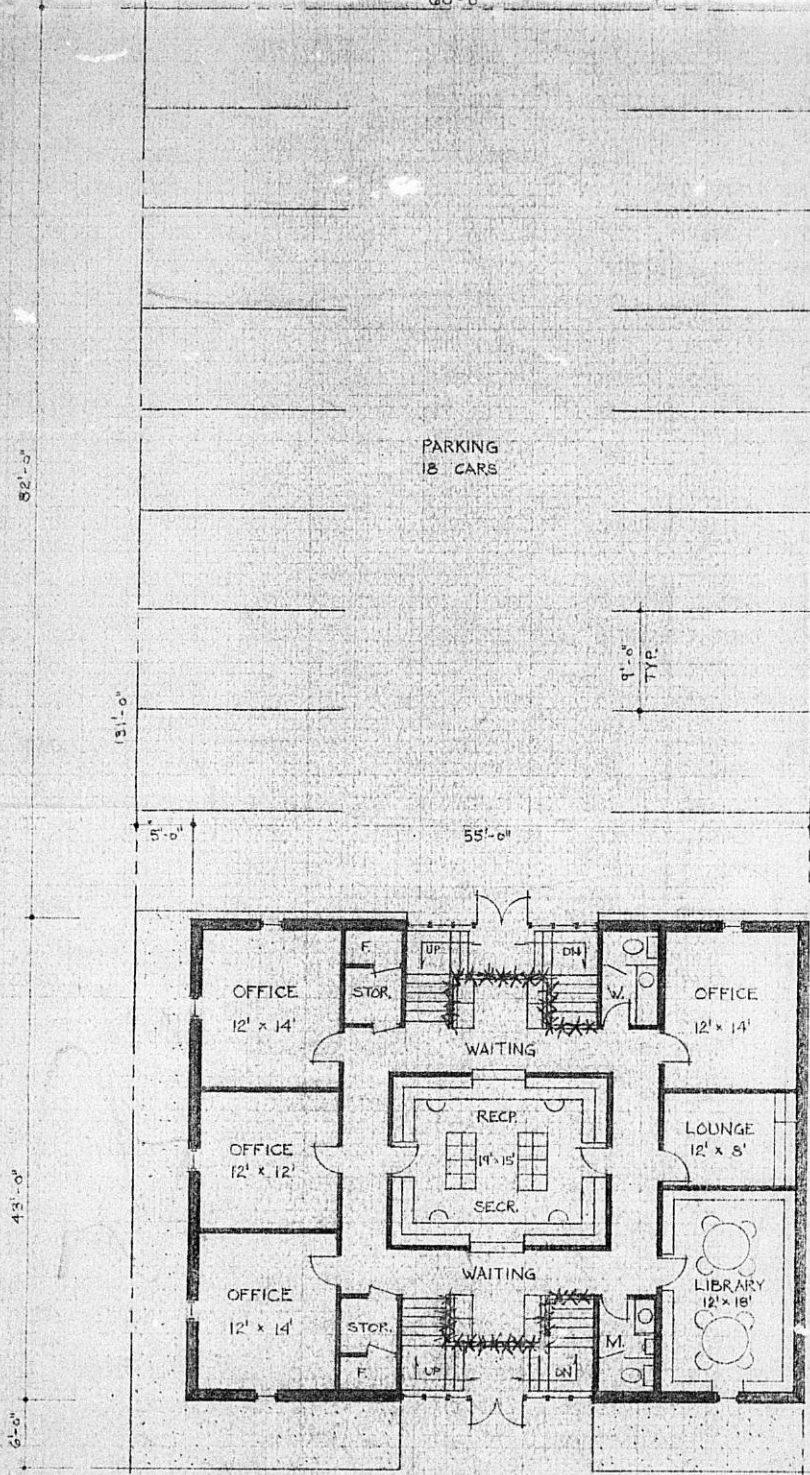
U.S. POSTAL SERVICE
 PM
 23 JUL
 1973

HELP GOODWILL IN
 HELP THE HANDICAPPED

Board of Zoning Appeals
 Wichita
 Kansas

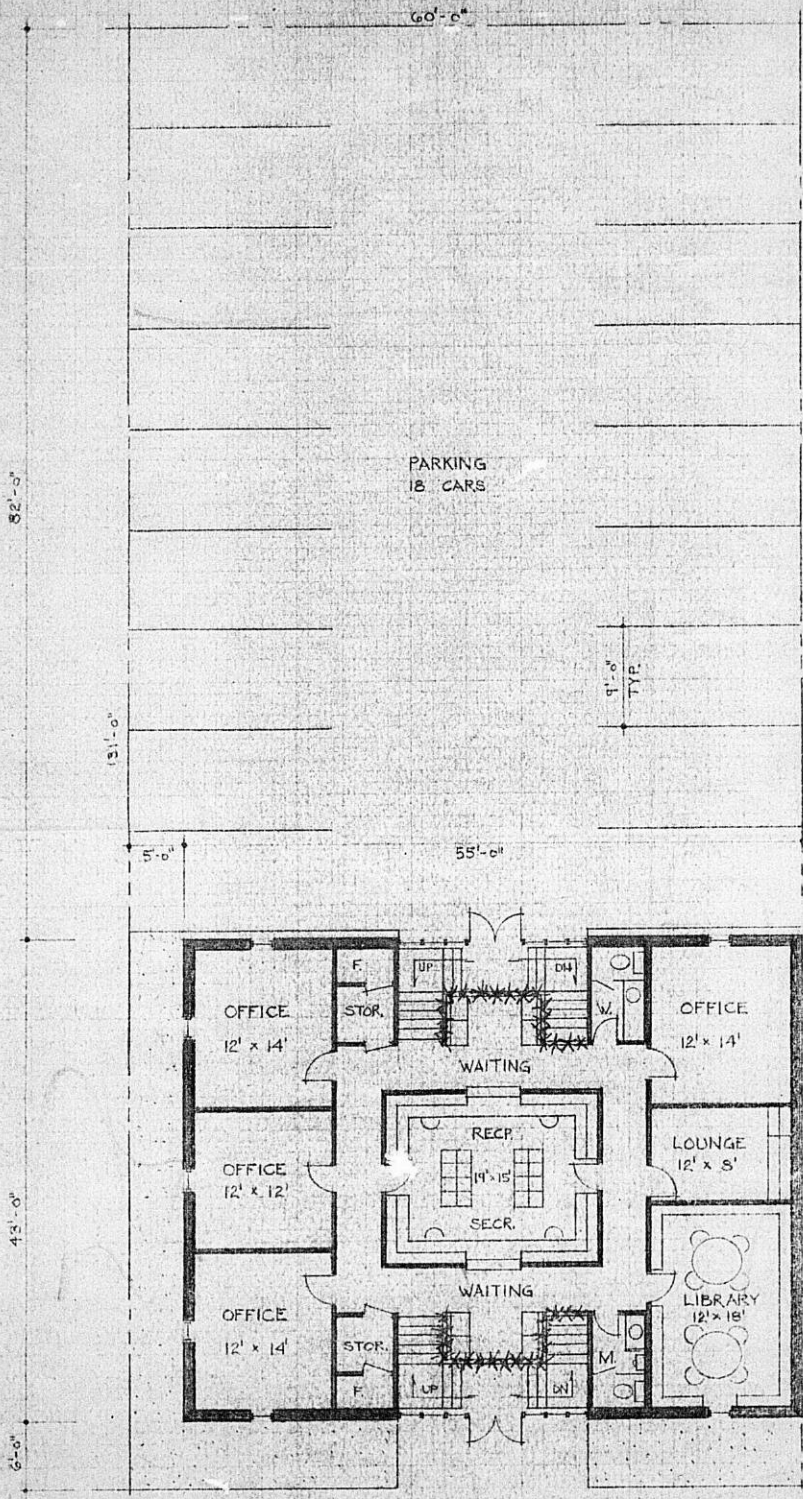
FOR THE
MAY 7, '78





LAW OFFICES
 WICHITA, KANSAS
 McPHERSON ARCHITECTURAL
 SERVICE
 BOX 46
 McPHERSON, KANSAS 67460

E. TOM PYLE JR
 MAY 25, 1973
 1" = 10'



LAW OFFICES
 WICHITA, KANSAS
 McPHERSON ARCHITECTURAL
 SERVICE
 BOX 46
 McPHERSON, KANSAS 67450