

ROUTED
4-26-78
C.I. ✓
MAPDV
7-5-78

ACTION

BZA 20-78 COMMITTEE Approved DATE 5-23-78

M.A.P.C.

BOARD

Case No. BZA 20-78 - Harpool Brothers, Inc., request an exception to permit the establishment of a used car agency on property generally located at the southeast corner of Hydraulic and 47th St.,

RESOLUTION NO. BZA 20-78

WHEREAS, Harpool Brothers, Inc., 447 North Rock Island, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the establishment of an used car agency on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at the northwest corner of Lot 1, Block A, South Hydraulic Park Second Addition, thence south 150 feet, thence east 150 feet, thence north 150 feet, thence west 150 feet to the point of beginning, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Hydraulic and 47th Street South.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of May 23, 1978, 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 establishment of an used car agency 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 of the City of Wichita, that this application be approved to permit the establishment of an used car agency on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at the northwest corner of Lot 1, Block A, South Hydraulic Park Second Addition, thence south 150 feet, thence east 150 feet, thence north 150 feet, thence west 150 feet to the point of beginning, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Hydraulic and 47th Street South,

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. All parking spaces and display spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
4. The applicant shall effectively barricade the west 40 feet of the north property line and the north 40 feet of the west property line for the purpose of providing complete access control at the northwest corner of this property. Said barricades may consist of bumper blocks, wood or metal posts or other means deemed appropriate by the Superintendent of Central Inspection. The barricades shall remain in place as long as the property is utilized as a car sales operation.
5. Signs shall comply with the sign regulations of the Zoning Ordinance.
6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.

7. No repair work shall be conducted except that which is associated with the used car business and then only in an enclosed building; and further provided that no body or fender work is done.
8. Existing gasoline pumps shall be removed from the site prior to occupancy of the property as a car sales lot and no other use shall be operated in conjunction with the car sales operation.

ADOPTED AT WICHITA, KANSAS, this 23rd day of May, 1978.

ATTEST:


James Richardson, Chairman


Larry Dobson, Assistant Secretary

June 6, 1978

Arnold M. Mise
212 East Madison
Derby, KS 67037

Subject: Case No. BEA 20-78
Request for Exception

Dear Mr. Mise:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 23, 1978, in connection with your request for an exception to permit the establishment of a used car agency on property zoned the "LC" Light Commercial District and generally located at the southeast corner of Hydraulic and 47th Street South.

This Resolution reflects the official action of the Board to approve your 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,

Larry Dobson
Assistant Secretary

LD:vn
Enclosure

cc: Harpool Brothers, Inc., 447 N. Rock Road, ^{Island 67202} 67306
Don Gisick, City Clerk
Robert Feldner, Superintendent, Central Inspection
Joe Donnelly, Housing and Zoning Administrator

May 23, 1978

Mr. Arnold M. Mize
212 E. Madison
Derby, Kansas 67037

Re: Case No. BZA 20-78
Request for Exception

Dear Mr. Mize:

At the regular meeting of the Board of Zoning Appeals on May 23, 1978, your request for an exception to permit the establishment of an used car agency on property zoned the "LC" Light Commercial District and generally located at the southeast corner of Hydraulic and 47th Street South was considered.

It was the action of the Board to approve the 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. All parking spaces and display spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
4. The applicant shall effectively barricade the west 40 feet of the north property line and the north 40 feet of the west property line for the purpose of providing complete access control at the northwest corner of this property. Said barricades may consist of bumper blocks, wood or metal posts or other means deemed appropriate by the Superintendent of Central Inspection. The barricades shall remain in place as long as the property is utilized as a car sales operation.
5. Signs shall comply with the sign regulations of the Zoning Ordinance.

Arnold M. Mize
5-23-78

6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
7. No repair work shall be conducted except that which is associated with the used car business and then only in an enclosed building; and further provided that no body or fender work is done.
8. Existing gasoline pumps shall be removed from the site prior to occupancy of the property as a car sales lot and no other use shall be operated in conjunction with the car sales operation.

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,

Larry Dobson
Assistant Secretary

LD:bn

cc: Harpool Brothers, Inc., 447 N. Rock Road, 67202
Don Sisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

*file in
case file*

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE May 23, 1978

TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Mary Pitman, CPO Administrative Aide

SUBJECT BZA 20-78 (Southeast corner of
Hydraulic and 47th St. South)

At their meeting last night, CPO Neighborhood Council Area "D" considered the captioned request for an exception to permit the establishment of a used car agency on property zoned "LC" Light Commercial.

The applicant's intention to establish a transmission repair shop and sell a few automobiles on the side was explained to the Council. It was the feeling of the Council that it would be of more benefit to applicant, neighborhood, and community if the property were is use. Council "D" voted unanimously to approve the request.

Please convey this recommendation to the Board of Zoning Appeals when they are considering this case.

Mary Pitman

Mary Pitman
CPO Administrative Aide

MP:sm

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 16, 1978

TO Larry Dobson, Secretariat of the BZA

FROM Sarah Gilbert, CPO Administrative Aide

SUBJECT BZA 20-78 (Southeast Corner of
Hydraulic and 47th Street South)

At the May 15 meeting of CPO Area "C" Council, the Council heard the Aide's report on proposed use, past use, and Planning staff recommendation.

The Council recommended by a 5-2 vote that the application for an exception to allow a used car agency at the above location be denied because of the use's incompatibility with the area.

Please advise the Board of the Council's recommendation when the case is considered on May 23.

Thank you.

Sarah Gilbert

Sarah Gilbert
CPO Administrative Aide

SG:rh

NOTED:

DF

David Furnas
CPO Coordinator



SECRETARY'S REPORT
CASE NO. BZA 23-78

APPLICANT: Harpool Brothers, Inc., 447 N. Rock Island, Wichita, Kansas.

AGENT: Arnold M. Mize, 212 E. Madison, Derby, Kansas.

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the City of Wichita to permit the establishment of an used car agency.

GENERAL LOCATION: Southeast corner of Hydraulic and 47th Street South.

LAND USE: Subject property contains a vacant service station. North is a non-conforming used car lot. West is a public elementary school. South is a barber shop and beauty shop. East is a convenience fast food store.

ZONING: Subject property is zoned the "LC" Light Commercial District as are properties to the north, south and east. West is the "AA" Single Family Dwelling District.

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 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to permit the establishment of a car sales lot on property zoned the "LC" Light Commercial District.

The site is located at the southeast corner of Hydraulic and 47th Street South, both of which are major streets, and has been developed with a service station which is now vacant.

New and used car sales lots are not outright permitted uses in the "LC" District, but may be permitted as exceptions by the Board of Zoning Appeals, subject to conditions and requirements outlined in Section 28.04.183(2) of the Zoning Ordinance. The reason for this is that car sales lots are not considered as appropriate uses for every light commercial area in the City and the Board is to determine the compatibility of each such application to the general area in which it is requested.

Car lots have primarily been considered to be highway oriented uses, where they are in close proximity to other similar uses such as mobile home sales, boat and marine sales, motorcycle sales and

SECRETARY'S REPORT
Case No. BZA 20-78
Page 2

other uses of a heavier commercial nature. The majority of these uses are located on north and south Broadway and east and west Kellogg. Within one-quarter mile south of the application area is a motor freight warehouse and a boat and marine sales agency, both located on "E" Light Industrial zoned property. Also within this quarter mile there is what appears to be a vacant garden center, located in the "C" Commercial district. Within the quarter mile north of the application area on Hydraulic is a newly developed mobile home park. A non-conforming car sales lot exists directly across the street from the application area on the northeast corner of Hydraulic and 47th Street South.

In 1970 the Board of Zoning Appeals approved an exception to these same applicants for the operation of a truck and trailer rental agency in connection with the service station use.

The site plan submitted with the application indicates two driveway approaches to each of the adjacent streets and shows the location of ample off-street parking space. A portion of the lot south of the existing building is graveled and should be paved. Existing gasoline pump islands are not shown on the plan and it is assumed these will be removed if this application is approved.

The office of Traffic Engineering has reviewed the submitted site plan and has recommended that the owner of the property be required to dedicate complete access control for a distance of 40 feet east and south, beginning at the northwest corner of subject property. This is a standard requirement at the intersection of major streets and the Secretary would concur that it should be a requirement of any approval of this exception.

RECOMMENDATION:

It is the recommendation of the Secretary that the exception to permit the operation of an used car sales agency 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. All parking spaces and display spaces abutting property lines shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
4. The owner of the land shall, by separate instrument, dedicate complete access control for the west 40 feet of the north property line and the north 40 feet of the west property line.

SECRETARY'S REPORT
Case No. BZA 20-78
Page 3

5. Signs shall comply with the sign regulations of the Zoning Ordinance.
 6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
 7. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.
 8. Existing gasoline pumps shall be removed from the site prior to occupancy of the property as a car sales lot and no other use shall be operated in conjunction with the car sales operation.
-

7 notices sent to applicant, agent, and adjacent property owners
10 notices sent to MAPC
1 notice to CPO
18 total notices on BZA 20-78, 4-27-78

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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 20-78

An application has been filed by Harpool Brothers, Inc., 447 N. Rock Island, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the establishment of an used car agency on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at the northwest corner of Lot 1, Block A, South Hydraulic Park Second Addition, thence south 150 feet, thence east 150 feet, thence north 150 feet, thence west 150 feet to the point of beginning, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Hydraulic and 47th Street South.

This application has been assigned Case No. BZA 20-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 23, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, you may appear if you so desire, either in person, or by agent or attorney.

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

Jack H. Galbraith
Secretary

22
1978

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant HARPOOL BROTHERS, INCORPORATED

Mailing Address 447 N. Rock Island Phone _____
Wichita, Kansas

Name of Authorized Agent Arnold M. Mize

Mailing Address 212 E. Madison Phone 788-2859
Derby, Kansas 67037

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

II. Application is made for an exception as provided in Section
2.12.590.C, Code of the City of Wichita, Kansas, to permit
the establishment of a used car agency

_____ on property zoned
"LC" Light
Commercial, located on the southeast corner of Hydraulic and
47th Street South and legally described as: Beginning at
the NW Corner of Lot1, Block A, South Hydraulic Park Second
Addition, thence South 150 feet, thence East 150 feet, thence
North 150 feet, thence West 150 feet, to
the point of beginning., 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 Harpool Brothers, Incorporated

Authorized Agent Arnold M. Mize

OFFICE USE ONLY: Received in the office of the Secretary, Board of
Zoning Appeals, 4:55 (a.m. P.m.), 4/24, 19 78,
together with appropriate fee of \$50.00

5641

southeast corner of
Hydraulic & 47th St. South
T9-403

Signed Larry Johnson

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 1, block A	South Hydraulic Park Second	<input checked="" type="checkbox"/> Eloise Morris McMurtry 208 N. Broadway 67208 <i>mail ret'd no address</i>
South 99.75 feet of the North 179.75 feet of the East 206.25 feet of the South 415.75 feet of the North 660.00 feet of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ Section 21-T28S-R1E		<input checked="" type="checkbox"/> Eugene S. Lower and Goldie M. Lower address unknown <i>not in phone book not in CD not in SD</i>
The East 206.25 feet of the North 244.25 feet of the Northeast $\frac{1}{4}$ of Section 21-T28S-R1E		<input checked="" type="checkbox"/> Board of Education of City of Wichita Wichita School District of Sedgwick County 428 South Broadway 67208
The North 80 feet of the East 206.25 feet of the South 415.75 feet of the North 660 feet of the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 21-T28S-R1E		<input checked="" type="checkbox"/> Eugene S. Lower and Goldie M. Lower address unknown
South 100 feet of the East $\frac{1}{2}$ of Reserve	Henson's Southern Heights	<input checked="" type="checkbox"/> Vicker's Petroleum Corp. Ks St. Bank & Trust Bldg 67202
Beg 40 feet North and 371 feet East of the SW corner of the Southwest $\frac{1}{4}$ of Section 15-T28S-R1E, thence North 90 feet; thence East 466.10 feet, thence South 90 feet, thence West 466.10 feet to place of beginning		<input checked="" type="checkbox"/> Frank Dean Stuckey and Nancy Carolyn Holmes 4805 S. Minneapolis 67216
Beg 40 feet North and 40 feet East of the SW corner of the Southwest $\frac{1}{4}$ of Section 15-T28S-R1E, thence East 235 feet, thence North 135 feet, thence West 235 feet, thence South 135 feet to place of beg		<input checked="" type="checkbox"/> Scott Stuckey and Effie Stuckey 4805 S. Minneapolis 67216
Beg at a point 275 feet East and 40 feet North of the Southwest corner of the Southwest $\frac{1}{4}$ of Section 15-T28S-R1E, thence East 96 feet, thence North 150 feet, thence West 211 feet, thence South 15 feet, thence East 115 feet, thence South 135 feet, to point of beg		<input checked="" type="checkbox"/> Scott Stuckey and Effie Stuckey 4805 S. Minneapolis 67216

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of, Beg
at the NW corner of Lot 1,
Block A, South Hydraulic
Park Second Addition, thence
South 150 feet, thence East
150 feet, thence North 150
feet, thence West 150 feet,
to the point of beginning,
Wichita, Sedgwick County,
Kansas

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 19th day of April, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Osable

Vice President

Order No. 263480

jc

STATEMENT OF JUSTIFICATION

BOARD OF ZONING APPEALS
City of Wichita, Kansas

RE: Application for Exception

The property in question is presently zoned LC and has been used as a gasoline service station, but is now vacant. The exception is asked for the purpose of permitting a used car agency.

This exception is provided for under 28.04.183, paragraph 2.

There is a gasoline service station which has been converted to a used car agency directly across the street from applicant's property. An automobile repair shop is located across the street on the northwest corner of the intersection.

Applicant feels that the granting of the exception will not cause additional congestion at the intersection in that used car agencies have less traffic than service stations.

A detail plot plan is attached.

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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

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

Jack H. Galbraith
Secretary

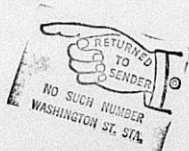
WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

Important!
Notice of Hearing
Enclosed



Eloise Morris McMurtry
208 N. Broadway
Wichita, Kansas 67208

F 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
-------------	--------

B2A Escalator	450.00
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Escalator	
-----------	--

Name _____

Address _____

Type	Due Date
11/20/77	11/20/77

Comments: _____

Date	By
11/20/77	Red

*

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