

ACTION

Dye COMMITTEE *App.* DATE *9/24/43*

M.A.P.C. _____

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

BZA 24-63 - Mabel Capron requests
exception for parking lot in RB on
SW corner of 16th & Park Place

May 8, 1973

Don Gisick, Deputy City Clerk
Jack H. Galbraith, Chief Planner

BZA Case No. 24-63 - Request for release for Bond guaranteeing construction of a fence

This is in response to your memorandum of April 19, 1973, to Robert Feldner, Superintendent of Central Inspection, inquiring as to whether or not the conditions of approval on the above captioned case had been complied with and if the required performance bond could be released.

In reviewing the case file, which was recalled from Hutchinson, the file and minutes reflect that the Board of Zoning Appeals, at its meeting of October 1, 1963, considered a request by the Fairview Christian Church for an off-street parking exception and a request for a variance of the required front yard setback from 20 feet to 0. The action of the Board was to approve the variance of the front setback from 20 feet to 8.6 feet and the exception for off-street parking subject to 12 conditions.

In reviewing the conditions of approval, 8 through 11 appear to be most significant in the construction and screening of the parking lot. They are as follows:

8. A five foot high solid wall masonry, louvered redwood fence, or combination of the two, or a chain link wire fence with inserted enameled slats to make it substantially light tight, shall be erected (prior to the use of the area), along the south property line, except the west 11.4 feet of the east 20 feet, where the fence shall be reduced from five feet in height to 30 inches in height, and the 30-inch high fence to continue to the north along a line parallel to and 8.5 feet west of the east property line, along the north property line and along the west property line adjacent to the alley, except no fence shall be required for ingress and egress points on the east and west. Openings in the fence on

Don Gisick
Page 2

the north may be provided, provided that the maximum width of such openings shall not be more than four feet in width, and further provided that there shall not be more than two openings, which openings shall be at least forty feet apart.

Low type plantings or greenery shall be planted in front of the fence erected on the east.

9. A performance bond to insure the proper erection of the fence in the amount of \$2,500, (the form of which to be approved by legal counsel for the Board), shall be filed within 10 days after approval by the Board, said bond to be filed with the City Clerk.
10. The off-street parking lot shall be constructed in accordance with the plot plan (as amended by action of the Board of Zoning Appeals) on file with the Secretary of the Board of Zoning Appeals and Superintendent of Central Inspection, provided that any major revision thereof shall require the reapproval of the Board of Zoning Appeals.
11. The lot shall be constructed in accordance with the conditions and requirements as outlined above within 12 months from the date of the issuance of the permit for any construction requiring the installation of an off-street parking lot.

Upon viewing this site in the field, it was noted that the fence has been constructed only on the south property line and therefore the performance bond cannot be released. It should be noted that the use of the parking lot is in violation of the conditions established by the Board in 1963. Specifically, condition 8 has not been complied with as the fence was not completed prior to the use of the property as a parking lot. Also, condition 11, regarding the construction in accordance with the conditions within 12 months from the date of the issuance of the permit has not been complied with.

Based on my review of the file and inasmuch as the fencing condition has not been complied with, there is no way that we can administratively delete the condition of fencing. If the church is desirous of having the bond released, so that they do not have to pay the annual premium, then I believe they have two alternatives:

Don Gisick
Page 3

1. To comply with the fencing requirement, or
2. File a new exception request and ask that the Board not require the fencing condition on the east, west, and north.

By copy of this memorandum to Mr. and Mrs. Schroer who have made inquiries, this is to advise them that I'll be happy to review the case file with them and advise them on refiling the BZA case. Our file also reflects that we have previously corresponded with Mr. Marvin DeLapp, who was the Building Committee Chairman and Leroy Warner the attorney who represented the church.

If I can provide additional information to either you or any of those receiving copies of this memo, please advise.

JHG:rw

cc: Robert Feldner, Supt. of Central Inspection
Fred Linde, Grievance Officer
Mr. and Mrs. Ernest Schroer

WICHITA COMMUNITY
ROOM 5, BEACON BUILDING



GRIEVANCE OFFICE
WICHITA, KANSAS 67202

Fredrick A. Linde, *Grievance Officer*
Telephone 316-262-0272

May 9, 1973
File #871

Mr. Ernest Schroer
4000 Athenian
Wichita, Kansas 67204

Dear Mr. Schroer:

I have just received a copy of Mr. Galbraith's letter to Deputy City Clerk, Don Gisick. In this memo Mr. Galbraith discusses and analyzes several approaches for reconciling the performance bond and parking lot fencing requirements established in 1963 when the Fairview Christian Church was built.

In our conversation on May 1, you expressed the concern of the church congregation over the continuing cost of maintaining the performance bond. In addition, you expressed some thoughts about the need for the lower of the two fences. As Mr. Galbraith points out, these conditions had been established by the Board of Zoning Appeals and it is only through a review by the Board of Zoning Appeals that the present requirements can be lifted or modified.

We want to assure you that we are anxious to see a satisfactory solution to your problems and we will be happy to make any contribution we can. I must emphasize, however, that the conditions set forth by Mr. Galbraith must be followed because these conditions are in accordance with existing laws.

Sincerely,

FAL

Fredrick Linde,
Grievance Officer



FL:pc

cc: Mr. Jack Galbraith, Chief Planner - Community Development

IMPORTANT MESSAGE

FOR Lynn
DATE 4-16-73 TIME 11:05 ^{A.M.} _{P.M.}

WHILE YOU WERE AWAY

MRS Arlene Schroer

OF _____

PHONE No. 838-6440

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL HIM	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE Re: 870 Corvair
16th & Park Place
I think relates to
BZA 24-63

SIGNED BR Map 5449

WICHITA COMMUNITY
ROOM 5, BEACON BUILDING



GRIEVANCE OFFICE
WICHITA, KANSAS 67202

Fredrick A. Linde, *Grievance Officer*
Telephone 316 - 262-0272

May 2, 1973
File #871

Mr. Ernest Schroer
4000 Athenian
Wichita, Kansas 67204

Dear Mr. Schroer:

I have gone into the matter of the surety bond posted by the Fairview Christian Church at the time the construction of the parking lot was authorized by the Board of Zoning Appeals. I understand from discussions with members of the Metropolitan Area Planning Department that the subject is to be reviewed and the present status of the bond and the uncompleted fence will be considered. A number of alternates appear to exist and you will be contacted directly by members of the Metropolitan Area Planning Department as soon as these alternates have been determined.

If I am able to help as the review continues, please get in touch with me.

Sincerely,

2a4

Fredrick Linde,
Grievance Officer

FL:pc
cc: Mr. Jack Galbraith, Chief Planner



THE CITY OF WICHITA
OFFICE OF CITY CLERK

DATE April 19, 1973



TO Robert B. Feldner, Superintendent of
Central Inspection
FROM Don Gisi, Deputy City Clerk

SUBJECT Release of Bond - BZA Case 24-63
Re: Constructing of Fence

Attached is a letter from the Fairview Christian Church requesting release of a bond, which I believe is self explanatory. It is my understanding that your Division investigates such requests which pertain to BZA requirements, and if all conditions have been met release of the bond is authorized. I would hereby request that you advise us by placing your approval on the attached letter if subject bond can be released, and return same to this office. A copy will then be furnished to the Planning Department.

cc: Jack H. Galbraith, Chief Planner ✓



July 29, 1964

Mr. Marvin DeLapp
Building Committee Chairman
Fairview Christian Church
1650 Fairview
Wichita 3, Kansas

Dear Mr. DeLapp:

Re: Case No. BEA 24-63

At the regular meeting of the Board of Zoning Appeals of the City of Wichita on July 28, 1964, your request for revision of requirement No. 8 as shown in Resolution No. BEA 24-63, adopted by the Board on October 1, 1963, was considered. This requirement relates to the type of fencing to be installed in connection with the exception granted for off-street parking facilities at the southwest corner of 16th Street and Park Place.

It was the decision of the Board to amend requirement No. 8 of the above resolution to read as follows:

- "8. A five foot high solid wall masonry, louvered redwood fence, or combination of the two, or a chain link wire fence with inserted enameled slats to make it substantially light tight, shall be erected (prior to the use of the area), along the south property line, except the west 11.4 feet of the east 20 feet, where the fence shall be reduced from five feet in height to 30 inches in height, and the 30-inch high fence to continue to the north along a line parallel to and 8.5 feet west of the east property line, along the north property line and along the west property line adjacent to the alley, except no fence shall be required for ingress and egress points on the east and west. Openings in the fence on the north may be provided, provided that the maximum width of such openings shall not be more than four feet in width, and further provided that there shall not be more than two openings, which openings shall be at least forty feet apart."

Page 2 - Mr. Marvin DeLapp
July 29, 1964

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

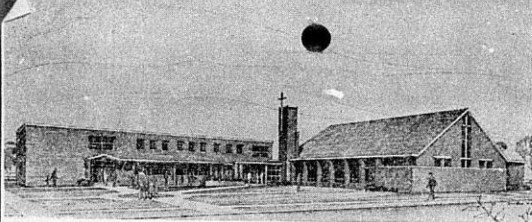
Very truly yours,

Jack H. Galbraith
Secretary

JHG:JWB:ber

cc: Glen Lytle, Superintendent
of Central Inspection

Robert G. Finch
City Clerk



Our New Educational Building — Proposed New Sanctuary

Fairview Christian Church
(DISCIPLES OF CHRIST)

1650 Fairview
FO 3-9332
Wichita 3, Kansas

July 25, 1964

Board of Zoning Appeals
Mr. Jack Galbraith, Secretary
City Building Annex

Gentlemen:

Reference is made to a ruling of the Board of Zoning Appeals dated Oct. 14, 1963, file BZA 24-63, concerning a plea by the Fairview Christian Church, 1650 Fairview St., relative to a proposed parking lot.

The Fairview Church respectfully requests that the requirement numbered 8 in aforementioned action be expanded to include a third type of fencing, namely chain link wire fence with inserted enameled slats to make it substantially light tight.

The church finds such fence to be in common use for the same purposes elsewhere in the city, and to be appreciably less expensive to install. It is believed to be equally attractive and durable.

Respectfully submitted
Fairview Christian Church

Marvin DeLapp
Marvin DeLapp
Bldg. Committee Chairman



AMERICAN CASUALTY

COMPANY OF

READING, PENNSYLVANIA

CERTIFIED COPY

NO. 11463

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania Corporation, having its principal office in the City of Reading, County of Berks, Commonwealth of Pennsylvania, pursuant to the following By-Law, adopted by the stockholders of the said Company on November 21st, 1950, to wit:

"Article VI—Section 2. Powers of Attorney—The President, or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on the behalf of the Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and they may, at any time, revoke the authority of any such Attorneys-in-Fact."

does hereby constitute and appoint **JAMES H. REEDER**, of
Wichita, Kansas

its true and lawful attorney(s)-in-fact, to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise,*

*
*
*

and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office.

ALL AUTHORITY HEREBY CONFERRED SHALL EXPIRE AND TERMINATE WITHOUT NOTICE AT MIDNIGHT OF Indefinite

IN WITNESS WHEREOF, the AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA has caused these presents to be signed and its corporate seal to be affixed by its authorized officer this 5th day of September, 19 63

(CORPORATE SEAL)

H. G. RILEY

Vice-President

COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF BERKS, } SS.

On this 5th day of September, 19 63, before me came the individual, to me personally known, who executed the preceding instrument, and being by me duly sworn, said that he is the therein described and authorized officer of the AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA; that the seal affixed to said instrument is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed by the authority and direction of the said Corporation, and that Article VI, Section 2, of the By-Laws, of said Company, referred to in the preceding instrument, is now in force.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed my official seal at the City of Reading, the day and year first above written.

My commission expires March 23rd, 19 65.

Robert C. Pahl

Notary Public.

COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF BERKS, } SS.

(NOTARIAL SEAL AFFIXED)

I, W. H. Bennett, Assistant Secretary of the AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, do hereby certify that the foregoing is a true and correct copy of Power of Attorney issued by said American Casualty Company of Reading, Pennsylvania, and that I have compared same with the ORIGINAL on file in the Home Office of said Company, and that it is a correct transcript thereof and of the whole of the said original, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of the Company at the City of Reading, Pennsylvania, this 29th day of November, 19 63.



W. H. Bennett

Assistant Secretary.

B O N D

KNOW ALL MEN BY THESE PRESENTS: The Board of Trustees of the Fairview Christian Church of Wichita, Sedgwick County, Kansas, acting for and on behalf of the Fairview Christian Church of Wichita, Kansas, as Principal, and American Casualty Company, a Corporation, having its principal office in the city of Reading, Pennsylvania, as Surety, are held and firmly bound unto the City of Wichita, Kansas, in the just and lawful sum of Two Thousand, Five Hundred Dollars (\$2,500.00) for the payment of which well and truly to be made, we do hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the above obligation is such that the Board of Trustees of the Fairview Christian Church of Wichita, Kansas, acting for and on behalf of the Fairview Christian Church of Wichita, Kansas, will install a five foot high solid wall masonry, louvered redwood fence or a combination of the two, along the south property line except the west 11.4 feet of the east twenty (20) feet where the fence shall be reduced from five (5) feet in height to thirty (30) inches in height, and thirty (30) inch high fence to continue to the north along a line parallel to and 8.5 feet west of the east property line along the north property line and along the west property line adjacent to the alley, except no fence shall be required for ingress and egress points on the east and west. Openings in the fence on the north may ^{NOT} be more than four (4) feet in width, and further provided that there shall not be more than two openings, which openings shall be at least forty (40) feet apart, which fence will be built within twelve (12) months from the date of the issuance of the permit for any construction requiring the installation of an off-street parking lot on the following described real property, to-wit:

Lots 16 and 18 on Park Place, Hersey's
Addition in the City of Wichita,
Sedgwick County, Kansas

NOW, THEREFORE, if the above Principal shall indemnify and save harmless the City of Wichita, Kansas, against loss to which the City of Wichita may be subject by reason of the said Principal's breach of agreement, then this obligation shall be null and void otherwise remain in full force and effect. In the event of a breach of agreement the City of Wichita, Kansas, shall be permitted to enter the premises to construct the facilities covered by this bond and the bond shall be forfeited.

This bond is to be released by the City of Wichita, Kansas, when all conditions are complied with.

Signed, sealed and dated this 29 day of November, 1963.

BOARD OF TRUSTEES OF THE FAIRVIEW CHRISTIAN CHURCH OF WICHITA, KANSAS, as and for the FAIRVIEW CHRISTIAN CHURCH

By Donald Schell
Donald Schell Trustee

By Clarke A. Clay
Clarke A. Clay Trustee

By David Eades
David Eades Trustee

By Milton Larsen
Milton Larsen Trustee

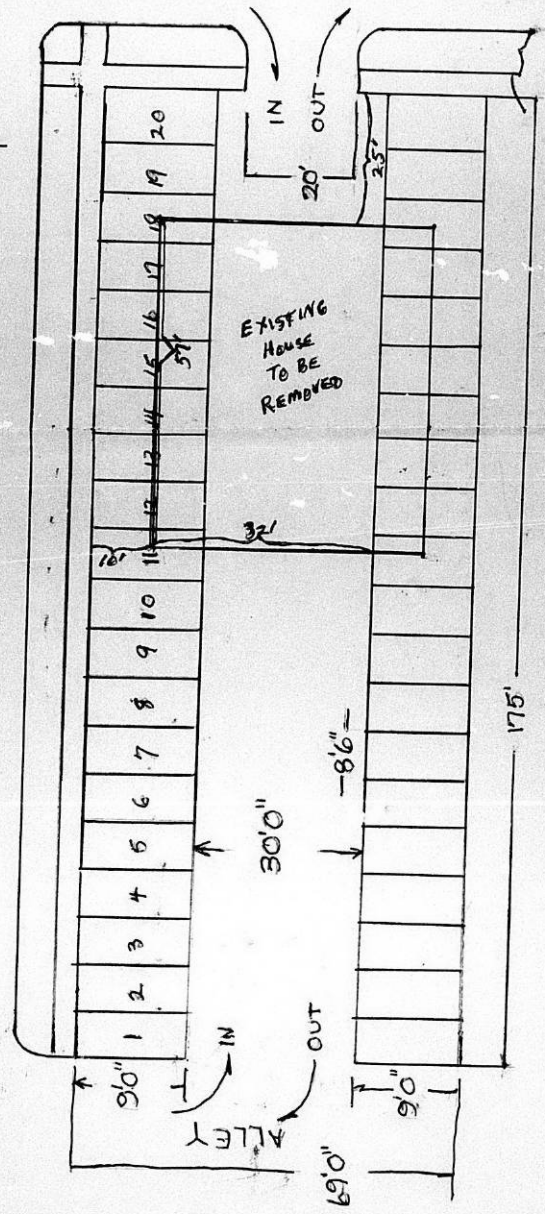
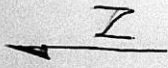
By Grayston Peavey
Grayston Peavey, Trustee and
Chairman of the Board of Trustees of
the Fairview Christian Church of
Wichita, Kansas

AMERICAN CASUALTY COMPANY

By James H. Peeler
, Attorney-in-fact

APPROVED AS TO FORM
L. S. Johnson
Asst. City Attorney

16TH STREET



PARK PLACE

PARKING LOT LAYOUT

SCALE 1/2" = 1 FOOT

FAIRVIEW CHRISTIAN CHURCH
SIXTEENTH AND FAIRVIEW ST.
WICHITA, KANSAS

MARVIN DELAPP
9-27-63

October 14, 1963

Mrs. Florence Mabel Capron
1659 Park Place
Wichita, Kansas

Dear Mrs. Capron:

Subject: BZA 24-63

On October 2, 1963, we advised you that the Board of Zoning Appeals had approved your request for an exception to permit construction of an off-street parking lot, and your request for a variance of the front yard setback related to such off-street parking facilities, subject to certain requirements as set forth in that letter and also as shown on the enclosed resolution. This application concerned property generally located on the southwest corner of 16th and Park Place, and legally described as:

Lots 16 and 18 on Park Place, Hersey's Addition,
in the City of Wichita, Sedgwick County, Kansas.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before October 11, 1963.

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

Robert A. Lakin
Secretary

RAL:JWH:ber
Attachment

cc: Fairview Christian Church, 1650 Fairview
Leroy Warner, attorney, 202 Colorado Derby Building
Glen Lytle, Superintendent of Central Inspection

R E S O L U T I O N N O . 24-63

WHEREAS, Florence Mabel Capron, 1659 Park Place, Wichita, Kansas, by Fairview Christian Church, 1650 Fairview, Wichita, Kansas, and their attorneys, have requested the granting of an Exception to permit installation or construction of an off-street parking lot, as provided in Section 2.12.560, et seq. and Section 28.04.140.B, Code of the City of Wichita, Kansas; and

WHEREAS, Florence Mabel Capron, 1659 Park Place, Wichita, Kansas, by Fairview Christian Church, 1650 Fairview, Wichita, Kansas, has also requested the granting of a variance to eliminate the required 20 foot front yard setback as required in Section 28.04.040; and

WHEREAS, the above requests apply to the following described property:

Lots 16 and 18 on Park Place, Hersey's Addition,
in the City of Wichita, Sedgwick County, Kansas,

generally located on the southwest corner of 16th Street and Park Place; and

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

WHEREAS, the meeting of September 24, 1963, was recessed to October 1, 1963; and

WHEREAS, new written notices were mailed to all interested parties prior to said recessed meeting; and

WHEREAS, the Board of Zoning Appeals did, in a recessed meeting consider said application on the 1st day of October, 1963; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider both the request for a variance and for an exception under the provisions of Section 2.12.590, Code of the City of Wichita, Kansas; and

WHEREAS, the property is zoned "RB" Four Family Dwelling District; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique and not ordinarily found in the same zoning district in that the street (Park Place) which abuts the east side of this particular lot, has a 90 foot right-of-way and is paved to a width of 45 feet, leaving a 22.5 foot "parking" between the west line of the paving to the east property line and that requiring the required front yard setback would result in an excessive setback, which is unusual and not ordinarily found on residential streets in the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not adversely affect the rights of adjacent property owners or residents in that adequate screening,

plus the requirement that the lot be paved, will protect adjacent property against any adverse effects; further, the granting of the variance will help eliminate on-street parking and traffic congestion in front of residences during church functions; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal in that the church would be burdened with an undue financial hardship if not allowed to utilize part of the front yard setback for parking; 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; and

WHEREAS, each of the four conditions required by Section 2.12.590.2, 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, Kansas, that an Exception be granted to allow construction of the off-street parking lot, and that the variance be granted to reduce to 8.6 feet, the front yard setback line on property heretofore described, all subject to the following conditions and requirements:

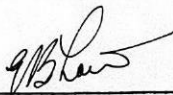
1. Parking area be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
2. Only such signs as are necessary for proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. Parking lots and driveways providing ingress and egress to the lot shall be surfaced with concrete, asphaltic concrete or any other comparable hard surfacing and be maintained in good condition and free of all weeds, trash and other debris.
5. All parking spaces shall have adequate guards to prevent overhanging or extension of vehicles beyond property lines or parking spaces.
6. The parking area shall have proper markings for channelization and movement of vehicles.
7. No lights shall be installed on said parking lot having a height greater than six feet above ground level and that the beam of light shall be directed downward.
8. A five foot high solid wall masonry, louvered redwood fence, or combination of the two, shall be erected (prior to use of the area), along the south property line, except the west 11.4 feet of the east 20 feet, where the fence shall be reduced from five feet in height to 30 inches in

height, and the 30 inch high fence to continue to the north along a line parallel to and 8.5 feet west of the east property line, along the north property line and along the west property line adjacent to the alley, except no fence shall be required for ingress and egress points on the east and west. Openings in the fence on the north may be provided, provided that the maximum width of such openings shall not be more than four feet in width, and further provided that there shall not be more than two openings, which openings shall be at least forty feet apart.

Low type plantings or greenery shall be planted in front of the fence erected on the east.

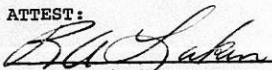
9. A performance bond to insure the proper erection of the fence in the amount of \$2,500, (the form of which to be approved by legal counsel for the Board), shall be filed within 10 days after approval by the Board, said bond to be filed with the City Clerk.
10. The off-street parking lot shall be constructed in accordance with the plot plan (as amended by action of the Board of Zoning Appeals) on file with the Secretary of the Board of Zoning Appeals and Superintendent of Central Inspection, provided that any major revision thereof shall require the reapproval of the Board of Zoning Appeals.
11. The lot shall be constructed in accordance with the conditions and requirements as outlined above within 12 months from the date of the issuance of the permit for any construction requiring the installation of an off-street parking lot.
12. The parking spaces provided under this specific approval of the Board's shall be used to provide for required off-street parking requirements of any new construction.

ADOPTED AT WICHITA, KANSAS, this 1st day of October, 1963.



E. B. Law, Chairman

ATTEST:



R. A. Lakin, Secretary

Board of Zoning Appeals

October 8, 1963

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

BZA 24-63

Attached is a copy of BZA Resolution No. 24-63, covering action taken by the Board of Zoning Appeals on the above case.

This case was heard on October 1, 1963, and an appeal may be filed in your office on or before October 11, 1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

October 2, 1963

Mrs. Florence Mabel Capron
1659 Park Place
Wichita, Kansas

Dear Mrs. Capron:

Subject: BZA 24-63

This is to advise you that at its regular meeting of October 1, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for an exception to permit construction of off-street parking facilities, and your further request for a variance that the front yard setback requirement, except the east 8.6 feet, be waived on such parking lot, on property legally described as:

Lots 16 and 18 on Park Place, Hersey's Addition,
in the City of Wichita, Sedgwick County, Kansas,

generally located on the southwest corner of 16th and Park Place.

It was the action of the Board of Zoning Appeals to approve this application, subject to the following conditions:

1. Parking area be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
2. Only such signs as are necessary for proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. Parking lots and driveways providing ingress and egress to the lot shall be surfaced with concrete, asphaltic concrete or any other comparable hard surfacing and be maintained in good condition and free of all weeds, trash and other debris.

5. All parking spaces shall have adequate guards to prevent overhanging or extension of vehicles beyond property lines or parking spaces.
6. The parking area shall have proper markings for channelization and movement of vehicles.
7. No lights shall be installed on said parking lot having a height greater than six feet above ground level and that the beam of light shall be directed downward.
8. A five foot high solid wall masonry, louvered redwood fence, or combination of the two, shall be erected (prior to use of the area), along the south property line, except for the west 11.4 feet of the east 20 feet, where the fence shall be reduced from five feet in height to 30 inches in height, and the 30 inch high fence to continue parallel with the east property line, along the north property line and along the west property line adjacent to the alley, except no fence shall be required for ingress and egress points on the east and west. Openings in the fence on the north may be provided, provided that the maximum width of such openings shall not be more than four feet in width, and further provided that there shall not be more than two openings, which openings shall be at least forty feet apart. Low type plantings or greenery shall be installed in front of the fence that is to be erected 8'6" west of the property line on the east, which would make the lot more compatible with the surrounding neighborhood.
9. A performance bond to insure the proper erection of the fence in the amount of \$2,500, (the form of which to be approved by legal counsel for the Board), shall be filed within 10 days after approval by the Board, said bond to be filed with the City Clerk.
10. The off-street parking lot shall be constructed in accordance with the plot plan (as amended) on file with the Secretary of the Board of Zoning Appeals and Superintendent of Central Inspection, provided that any major revision thereof shall require the reapproval of the Board of Zoning Appeals.
11. The lot shall be constructed in accordance with the conditions and requirements as outlined above within 12 months from the date of the issuance of the permit for construction of the off-street parking lot.

Page 3 - Florence Mabel Capron
October 2, 1963

12. The parking spaces provided under this specific approval of the Board's shall be used to provide for required off-street parking requirements of any new construction.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before October 11, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before October 11, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Fairview Christian Church
1650 Fairview

Leroy Warner, Attorney
202 Colorado Derby Building

Robert G. Finch
City Clerk

GlenLytle, Superintendent
of Central Inspection

BZA CASE NO. 24-63

NOTICES MAILED SEPTEMBER 24, 1963 FOR
RE-SCHEDULED MEETING OF OCTOBER 1, 1963

Mabel Capron
1659 Park Place

Grayston B. Peavey
1435 Otis

Fairview Christian Church
1650 Fairview

Effie B. Thirsk
1636 Fairview

Trustees of Fairview Church of Christ
1650 Fairview

Earle B. Jenkins
1704 Fairview

W. E. Sparks
Esther Sparks
1712 Fairview

Howard W. and Lena Ray
1637 Park Place

Emert Shockey
1639 Park Place

George E. and Leah B. King
1645 Park Place

Florence Mabel Capron
1659 Park Place

C. L. and Thelma Morgan
1704 Park Place

Inez B. Braley
1705 Park Place

Claude C. Tucker
1761 Arkansas Avenue

Richard LaFoy, Sr.
Maude P. LaFoy
2140 North Riverside Boulevard

Georgie M. Drake
1638 Park Place

Henry L. Norton
Mary D. Norton
1640 Park Place

Ruth B. Edwards
1620 Park Place

Cynthia Meryle Belgard
851 South Ash

Lester B. Mabry
Hannah A. Taylor
Bertha G. Mabry
Escrow Dept.
4th National Bank

Charles B. Drake
1638 Park Place

Amortibanc Investment Co.
309 East Third Street

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

RE-SCHEDULING OF CASE BZA 24-63

September 24, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

An application has been filed by Fairview Christian Church, 1650 Fairview, Wichita, Kansas, on behalf of Florence Mabel Capron, 1659 Park Place, Wichita, Kansas, requesting an EXCEPTION, as provided in Section 28.04.140.B, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot, as provided in Section 2.12.590.2, Code of the City of Wichita, and also requesting a VARIANCE from a required 20 foot front yard setback to a 0 front yard setback, all on property zoned "RB" and legally described as:

Lots 16 and 18 on Park Place, in Hersey's Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on southwest corner of 16th and Park Place.

This application was originally scheduled for hearing on Tuesday, September 24, 1963, but inasmuch as no meeting was held because of lack of a quorum of the members of the Board being present, it has been re-scheduled for Tuesday, October 1, 1963, 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

SECRETARY'S REPORT

BZA CASE NO. 24-63

GENERAL DESCRIPTION

The property in this case is generally located on the southwest corner of 16th Street and Park Place.

The property in question and all of the property to the north, east, south and west is zoned "RB" Four Family.

The property is currently occupied by a single family house. To the north are single family homes. To the east are single family homes and a duplex. To the south are single family homes. To the west is the church and single family homes.

GENERAL DESCRIPTION

The request is for both an Exception for an off-street parking lot permit (as provided in Section 28.04.140.A, Code of the City of Wichita), for the Fairview Christian Church; and for a Variance as provided in Section 2.12.560 of the Code of the City of Wichita, to allow the off-street parking lot to extend clear up to the front property line (the setback requirement in this instance is 20 feet).

COMMENTS BY THE SECRETARY - PART 1. REQUEST FOR VARIANCE

The request for the variance along with the Exception, was necessitated by the fact that the ordinance provides that no off-street parking shall be allowed in any required front yard setback in a dwelling district. Therefore, to allow the parking arrangement as shown on the plot plan, (See Attachment #2 to this report), the applicants have

requested a variance to eliminate the requirement of the front yard setback area. The Variance is within the jurisdiction of the Board of Zoning Appeals to grant, provided all four of the following conditions are found to exist:

1. The variance desired arises from such condition which is unique and not ordinarily found in the same zoning district.
2. The 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 would constitute an unnecessary hardship on the property owners represented in the appeal.
4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

A statement of justification and plot plan are shown as Attachments #1 and #2 to this report.

UNIQUENESS

The applicant is of the contention that the variance requested is unique and not ordinarily found in the same zoning district in that this particular area is made up of large, older houses, the majority of which have been converted into multiple family apartments and most of the tenants of these apartments use the nearby streets for parking. Further, the Fairview Christian Church, by providing off-street parking, will eliminate traffic and parking problems during church functions.

It is the opinion of the Secretary that it is rather difficult to find uniqueness to exist from a physical standpoint. Although this area does have many large homes, some of which have been con-

vered, there are still many single family units. It is not what might be considered a "boarding house" area. If the question of uniqueness is to be applied to the lot itself in relation to those other properties nearby and in the same zone, it cannot be said to be substantially different in character or unique.

If, however, the question of uniqueness is applied to the use, then some distinction can be made in that there are few areas in this zone or in the area being used for the proposed purpose. It should be noted, however, that the need for a variance on this particular lot, in a sense, arises from a condition, while worthy, is self-imposed.

As the Secretary has advised the Board before, uniqueness should be so construed as to mean that there should be something about the property itself that is unusual, or out of the ordinary, such as unusual or irregular platting, unusual ground characteristics or topography, unusual ownership patterns, etc.

The applicants also contend that the use of the front yard setback area for parking will help eliminate traffic and parking problems during church functions. This contention is undoubtedly true; however, it is very doubtful if this is sufficient justification to meet the terms of uniqueness.

ADJACENT PROPERTY

The Secretary agrees with the applicant in that the granting of the variance will help eliminate on-street parking in front of residences in the surrounding area and consequently should not adversely affect the rights of any adjacent property owner or residents. Adequate

screening and the paving of the lot would also help protect adjacent property.

HARDSHIP

The applicant has suggested that the church would be burdened with an undue financial hardship if not allowed to utilize all of the area on the lot for parking. More specifically, that area comprised of the front yard setback.

This interpretation is the one that normally has been accepted by the Board. However, in instances where churches and various other public and quasi-public bodies have filed applications for variances, the Board has taken a liberal interpretation of "hardship". Specifically, almost all churches have a limited amount of finance to work with and, according to the statement of justification submitted by the applicant, the Fairview Christian Church appears to be no exception. However, every precaution should be taken in establishing as a sole precedent, financial hardship in meeting this requirement. Every case should be evaluated on its own merits so as to not set a precedent in considering financial loss to be a "hardship".

In discussing the matter of setbacks with the Superintendent of Central Inspection, it was determined that not only must the church maintain a 25 foot setback on the front portion of the lot, but must also maintain a 3 foot setback on the south property line. This is as provided in Section 28.04.180.A.1 of the zoning ordinance. However,

the applicants show a 30 foot driveway through the center of the parking lot on the plot plan so a three foot setback on the south would still leave sufficient room for access and maneuverability.

It is the opinion of the Secretary that "hardship" exists if the property cannot be used for the purpose for which it is zoned.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the permit for the variance should in no way adversely affect the public interest.

ADJOINING PROPERTY

In view of the above consideration, it is the opinion of the Secretary that it is doubtful that the applicants have met the first requirement (uniqueness) which must be present before the Board can grant the requested variance. If the Board concurs with the Secretary, then the application should be denied in that an adequate showing has not been made. However, if the Board feels that the reasons submitted by the applicant in his presentation before the Board can meet the requirement of uniqueness, it is recommended that the variance be granted without conditions, except as may be established in granting the Exception.

COMMENTS BY THE SECRETARY - PART II. EXCEPTION FOR OFF-STREET PARKING PERMIT

The exception is also within the jurisdiction of the Board of Zoning Appeals to grant, provided the conditions as outlined below are found to exist.

1. Parking provided must be within 600 feet (along lines of public access) for the boundary for which the use is provided.
2. The parking area shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
3. Only such signs as are necessary for proper operation of the parking lot shall be permitted.
4. In no case shall a fee be charged for parking facilities provided.
5. Parking areas and driveways on private property, providing ingress and egress to parking areas shall be surfaced with concrete, asphaltic concrete, asphalt or any other comparable surfacing which meets the approval of the Board of Zoning Appeals and shall be maintained in good condition and free of all weeds, dust and trash or other debris.
6. Parking area shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines or parking spaces. The parking area shall have adequate markings for channelization and movement of vehicles.
7. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent dwelling district.
8. A fence (such as solid wall masonry, wood, louvered wood, metal or other similar material) shall be erected along any property line adjacent to or adjoining any dwelling district to eliminate the passage of light from vehicles and to prevent the blowing of debris. Whenever a fence shall be required along the front yard, the fence shall not be higher than 4 feet and such fence shall be located within one (1) foot of the front yard setback line. Fences along said yard shall not extend nearer to the street than the front yard setback line.

The permit may be revoked for any of the following reasons:

1. Failure to commence the use of the area within 12 months after the issuance of the permit.
2. Abandonment of the area for parking purposes for six months.
3. Failure to comply with the requirements contained in this section or imposed by the Board of Zoning Appeals.

As shown on the plot plan, the applicants intend to use the alley to the rear of the lot for access. In discussing this matter with the Traffic Engineer, it was determined that the alley could be used for access in view of the fact that there will also be access onto Park Place.

The Traffic Engineer has also given preliminary approval to the parking arrangement, circulation, points of access, width of driveway, etc., as shown on the plot plan.

Since there are residences adjoining this lot to the south, it is thought by the Secretary that the south side of the lot should be screened with a permanent type screening. It is also recommended that all off-street parking spaces be provided with bumper guards to keep vehicles from overlapping parking spaces or property lines.

CONDITIONS

In view of the above considerations, it is the opinion of the Secretary that if uniqueness can be found to exist, the variance be granted subject to no conditions. If uniqueness cannot be found to exist, it is recommended that the off-street parking lot be approved, except for the east 20 feet, or if the variance is approved,

it is recommended that the whole parking lot, as shown on the plot plan, be approved, subject to the following conditions and requirements:

1. Parking area be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
2. Only such signs as are necessary for proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. Parking lots and driveways providing ingress and egress to the lot shall be surfaced with concrete, asphaltic concrete or any other comparable hard surfacing and be maintained in good condition and free of all weeds, trash and other debris.
5. All parking spaces shall have adequate guards to prevent overhanging or extension of vehicles beyond property lines or parking spaces.
6. The parking area shall have proper markings for channelization and movement of vehicles.
7. No lights shall be installed on said parking lot having a height greater than six feet above ground level and that the beam of light shall be directed downward.

8. A five foot high solid wall masonry, louvered redwood fence, or combination of the two, shall be erected (prior to use of the area), along the south property line, except for the east 20 feet where the fence shall be reduced from five feet in height to 30 inches in height.

NOTE: If the variance is approved for the east 20 feet the applicants should also give serious consideration to some low type plantings or greenery along the east property line which would make the lot more compatible with the surrounding neighborhood.

9. A performance bond to insure the proper erection of the fence in the amount of \$_____, (the form of which to be approved by legal counsel for the Board) shall be filed within 10 days after approval by the Board, said bond to be filed with the City Clerk.
10. The off-street parking lot shall be constructed in accordance with the plot plan on file with the Secretary of the Board of Zoning Appeals and Superintendent of Central Inspection, provided that any major revision thereof shall require the reapproval of the Board of Zoning Appeals.
11. The lot shall be constructed in accordance with the conditions and requirements as outlined above within 12 months from the date of the issuance of the permit for construction of the off-street parking lot.

Page 10 - Secretary's Report
BZA Case No. 24-63

12. The parking spaces provided under this specific approval of the Board's shall be used to provide for required off-street parking requirements of any new construction.

Attachments

- #1 - Statement of Justification
- #2 - Plot plan
- #3 - Variance vote sheet

A variance from the front yard setback and the side yard set back is requested to allow the Fairview Christian Church to use the lots in question up to the existing sidewalks. If the church is allowed to use the front yard setback and side yard setback for parking, the church may park additional cars and avoid congestion on the streets of Fairview, Sixteenth and Park Place near the church.

It is asserted by the applicant that the provisions of the zoning ordinance as requested is: 28.04.060.1 and 28.04.060.2.

It is asserted by the applicant that the Board of Zoning Appeals has jurisdiction to grant the requested variance under the ordinances of the City of Wichita, Kansas Section 2.12.590.

It is believed that this application meets the requirements of the City Ordinance of Wichita, Kansas, Section 2.12.590.

1. The area in which the variance is requested is made up of large, older houses, the majority of which have been converted into multiple family apartments. Most of the tenants of these apartments park cars on the streets nearby. The Fairview Christian Church, by finding off-street parking will eliminate traffic and parking problems during church functions.
2. The Granting of the permit for the variance will not adversely affect the rights of adjacent property owners, but will provide them with more parking in front of their homes and freer access to their residents.
3. The church to purchase the property and not be allowed to use the same up to the sidewalks for off street parking, would suffer financial hardship.
4. The variance requested would not be against public interest. On the contrary it is believed by the applicant to provide off street parking would eliminate one lane traffic when church functions are in session and enhance the safety and welfare of the public in general.

BZA 24-63
Attachment #1

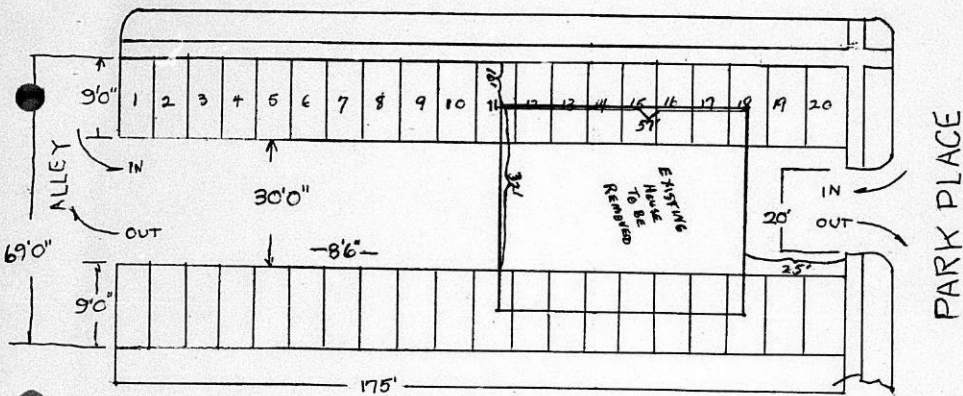
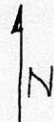
The Fairview Christian Church, Wichita, Kansas, is located on the southeast corner of Sixteenth and Fairview Streets. The church anticipates building a new sanctuary in the future on the same location that the existing building now occupies. In order to build the new sanctuary in the future it is understood that off street parking will be required by the City of Wichita. (City Ord. 28.04.140.A.1.3). The property located on the southwest corner of Sixteenth and Park Place, commonly known as 1659 Park Place, is presently zoned RB and the applicant, together with Fairview Christian Church, would request an exception to use said property for off street parking for the church. (City Ord. 28.04.140.B.1) This property in question is presently owned by Mabel Capron but is under a contract for sale to the Fairview Christian Church, a copy of said contract is attached hereto.

It asserted that the Board of Zoning Appeals has jurisdiction to grant the application for exception under the City Ordinances of the City of Wichita, Kansas, Section 28.04.140.B.1.

The Fairview Christian Church will comply with the Board of Zoning Appeals requirements as to:

1. Guards to prevent overhanging of vehicles beyond property lines and markings;
2. Lighting facilities;
3. Fencing and any other necessary requirements.

16TH STREET



PARKING LOT LAYOUT
SCALE $\frac{1}{16}'' = 1 \text{ FOOT}$

FAIRVIEW CHRISTIAN CHURCH
SIXTEENTH AND FAIRVIEW ST.
WICHITA, KANSAS
MARVIN DELAPP
8-27-63

BZA CASE NO. 24-63

NOTICES MAILED SEPTEMBER 5, 1963
MEETING - September 24, 1963

Mabel Capron
1659 Park Place

Grayston B. Peavey
1435 Otis

Fairview Christian Church
1650 Fairview

Effie B. Thirsk
1636 Fairview

Trustees of Fairview Church of Christ
1650 Fairview

Earle B. Jenkins
1704 Fairview

W. E. Sparks
Esther Sparks
1712 Fairview

Howard W. Ray and Lena Ray
1637 Park Place

Emert Shockey
1639 Park Place

George E. and Leah B. King
1645 Park Place

Florence Mabel Capron
1659 Park Place

C. L. and Thelma Morgan
1705 Park Place

Inez B. Braley
1705 Park Place

Claude C. Tucker
1761 Arkansas Avenue

Richard LaFoy, Sr.
Maude P. LaFoy
2140 North Riverside Boulevard

Georgia M. Drake
1638 Park Place

Henry L. Norton
Mary D. Norton
1640 Park Place

Ruth B. Edwards
1620 Park Place

Cynthia Meryle Belgard
851 South Ash

Lester B. Mabry
Hannah A. Taylor
Bertha G. Mabry
Escrow Dept. 4th National Bank

Charles S. Drake
1638 Park Place

Amortibanc Investment Co.
309 East Third Street

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

September 5, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 24-63

An application has been filed by Fairview Christian Church, 1650 Fairview, Wichita, Kansas, on behalf of Florence Mabel Capron, 1659 Park Place, Wichita, Kansas, requesting an Exception, as provided in Section 28.04.140.B, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot, as provided in Section 2.12.590.2, Code of the City of Wichita, and also requesting a variance from a required 20 foot front yard setback to a 0 front yard setback, all on property zoned "RB" and legally described as:

Lots 16 and 18 on Park Place, in Hersey's Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on southwest corner of 16th and Park Place.

This application has been assigned Case No. BZA 24-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, September 24, 1963, 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

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

DESCRIPTION	AMOUNT
1200	
7100	

Name F. J. P. ...

Address 1234 P. ...

Type _____ Due Date _____

Comments _____

Date 1-21-52 By _____

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. NAME OF APPLICANT Florence Mabel Capron
MAILING ADDRESS 1659 Park Place PHONE F03-3387
NAME OF AUTHORIZED AGENT Fairview Christian Church
MAILING ADDRESS 1650 Fairview PHONE F03-9332
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF Buying property
(OWNER, TENANT, LESSEE, OTHER) see attached contract

II. THE VARIANCE REQUESTED IS to allow parking of automobiles
to the front of the lots and to not have a 20 foot set back
as now required.

FOR PROPERTY LOCATED AT 1659 Park Place
AND LEGALLY DESCRIBED AS: Lots 16 and 18 on Park Place Avenue
in Hersey's Addition to the City of Wichita

IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED RB.

(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

N.A.

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.

Florence Mabel Capron
APPLICANT

Granston B. Hayes
AUTHORIZED AGENT
by Marvin DeLoeff CHAIRMAN OF
BOARD OF TRUSTEES
FAIRVIEW CHRISTIAN CHURCH

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING
APPEALS, _____ (A.M. - P.M.), _____, 19____.
TOGETHER WITH APPROPRIATE FEE OF \$50.00.

SIGNED

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 records 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:

G	Lots 16 and 18 on Park Place, in Hersey's Addition		
U	-----		
A	DESCRIPTION	Owner/Owners	
R	-----		
A	<u>HERSEY'S ADDITION</u>		
N	<u>Fairview Addition</u>		
T	Lots 1-3	Effie B. Thirsk 1636 Fairview	_____
E		Zenobia Ramsey	_____
E		Harvey C. Ramsey	_____
A		unknown	_____
B	Lots 5-7-9-11- 13-15-17	Trustees of Fairview Church of Christ of Wichita	_____
S		1650 Fairview	_____
T	Lots 19-21-23-25	Earle B. Jenkins	_____
R		1704 Fairview	_____
A	Lots 27-29	W. E. Sparks	_____
C		Esther Sparks	_____
T		1712 Fairview	_____
R	<u>Park Place Ave.</u>		
A	Lots 2-4	Howard W. Ray	_____
C		Lena Ray	_____
T		1637 Park Place	_____
C	Lots 6 and 8	Emert Shockey	_____
O.		1639 Park Place	_____
I	Lots 10-12-14	George E. King	_____
N		Leah B. King	_____
C.		1645 Park Place	_____
I	Lots 16-18	Florence Mabel Capron	_____
N		1659 Park Place	_____
C.	West 60' of 20-22-24-26	C. L. Morgan	_____
N		Thelma Morgan	_____
C.		1705 Park Place	_____
I	Lots 20-22-24- 26 exc. W 60'	Inez B. Braley	_____
N		1705 Park Place	_____
C.	28-30	Claude C. Tucker	_____
I		1761 Arkansas Ave.	_____

HERSEY'S 2nd Addition

Park Place

W 155' of Richard LaFoy, Sr. _____
Lot 27 Maude P. LaFoy _____
2140 North Riverside Blvd. _____

HERSEY'S ADDITION

Park Place

G Lots 1-3 Georgia M. Drake _____
1638 Park Place _____

U Lots 5-7 and Henry L. Norton _____
S/2 of Lot 9 Mary D. Norton _____
A 1640 Park Place _____

R N/2 of 9, Ruth B. Edwards _____
A all of 11-13 1620 Park Place _____

N W 150' of 15- Cynthia Meryle Belgard _____
and 17 851 South Ash _____

T W ±55' of 19- Richard LaFoy, Sr. _____
E 21-23-25 Maude P. LaFoy _____
2140 North Riverside Blvd. _____

Powell's Addition

Park-Place Ave.

A Lot 70 Lester B. Mabry _____
B Hannah A. Taylor _____
Bertha G. Mabry _____
(Escro Dept. 4th nat'l bank) _____

S Lot 69 Charles S. Drake _____
T 1638 Park Place _____

Fairview Ave.

R Lot 69 Amortibanc Investment Co. _____
A 309 East Third St. _____

C Reserve B lying between
T Lot 1 and Lot 69 of
the hereinbefore described
additions (Fairview Ave.) and
between Lot 2 and Lot 70 and
C Lot 1 and Lot 69 on Park Place
in said Additions, shown on the
map of the SE/4 of 8-27-1 E. as
being 9.3 Feet wide.

O. S. L. Hersey _____
(Address unknown)

I
N WITNESS our Hand and Seal this the 26th day of August, 1963.

GUARANTEE ABSTRACT COMPANY, INC.,

By *Nellie M. Keatinger*
Vice-President.

Order No. 55857

A variance from the front yard set back and the side yard set back is requested to allow the Fairview Christian Church to use the lots in question up to the existing sidewalks. If the Church is allowed to use the front yard set back and side yard set back for parking the church may park additional cars and avoid congestion on the streets of Fairview, Sixteenth and Park Place near the church.

It is asserted by the applicant that the provisions of the zoning ordinance as requested is:

28.04.060.1

28.04.060.2

It is asserted by the applicant that the board of zoning appeals has jurisdiction to grant the requested variance under the ordinances of the City of Wichita, Kansas Section 2.12.590.

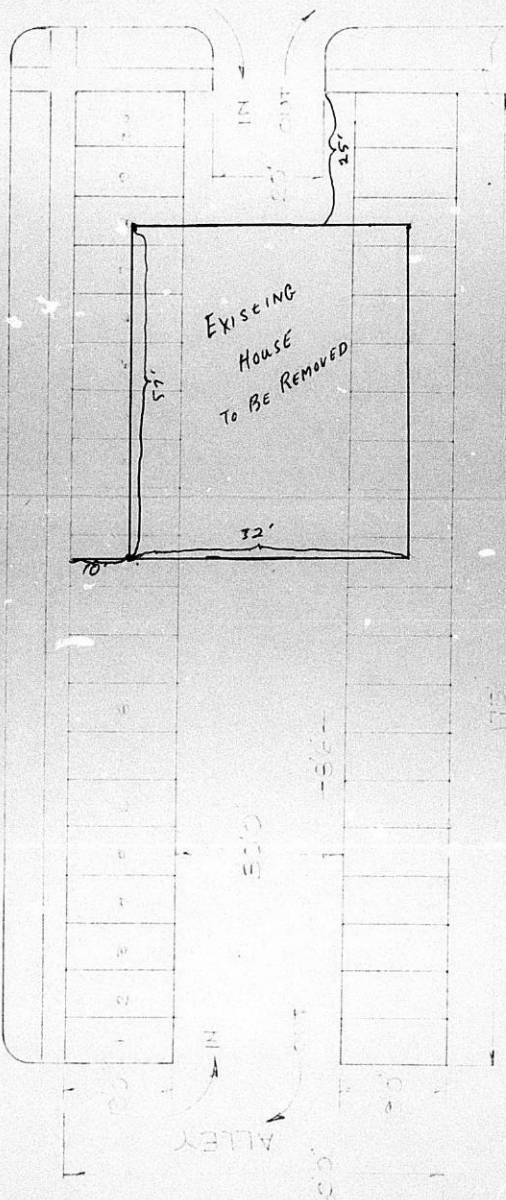
It is Believed that htis application meets the requirements of the City Ordinance of Wichita, Kansas, Section 2.12.590.

- A. The area in which the variance is requested is made up of large, older houses the majority of which have been converted into multiple family apartments, Most of the tenents of these apartments park cars on the streets nearby. The Fairview Christian Church by finding off street parking will eliminate traffic and parking problems during church functions.
- B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners, but will provide them with more parking in front of their homes and freer access to their residents.
- C. The Church to purchase the property and not be allowed to use the same up to the sidewalks for off street parking would suffer financial hardship.
- D. The variance requested would not be against public interest. On the contrary it is believed by the applicant to provide off street parking would eliminate one lane traffic when church function are in session and inhance the safty and welfare of the public in general.

PARK PLACE

Z

16-16-1911



RECORD BOOK 1000
RIVERSIDE ILLINOIS
ENRVIEW AND PLANVIEW
EXTERIOR VIEWS
WATER VIEWS
PLANNED
BY
S. J. M. S.

113

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR EXCEPTION

I. NAME OF APPLICANT Mabel Capron
MAILING ADDRESS 1659 Park Place PHONE FO 3-3387
NAME OF AUTHORIZED AGENT Fairview Christian Church
MAILING ADDRESS 1650 Fairview PHONE FO 3-9332
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF Buying property -
(OWNER, TENANT, LESSEE, OTHER). see attached contract.

II. APPLICATION IS MADE FOR AN EXCEPTION AS PROVIDED IN SECTION
28.04.140-b-1, CODE OF THE CITY OF WICHITA, KANSAS (ZONING
ORDINANCE); TO PERMIT THE INSTALLATION OR CONSTRUCTION OF _____
parking lot ON PROPERTY ZONED RB, LOCATED AT
1659 Park Place AND LEGALLY DESCRIBED AS:
Lots 16 and 18 Hershey's Addition

_____ IN THE CITY OF WICHITA.

(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE)

Property is 69 feet wide by 175 feet deep.

III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT:

- A. ACKNOWLEDGES RECEIPT OF AN INSTRUCTION SHEET RELATING TO THIS APPLICATION FOR AN EXCEPTION.
- B. AGREES TO CONFORM TO ALL REQUIREMENTS OF THE APPROPRIATE SECTION OF THE ZONING ORDINANCE IF THIS APPLICATION IS APPROVED;
- C. ACKNOWLEDGES THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THE DATE OF THAT DECISION.

Florence Mabel Capron
APPLICANT

Stanford B. Pusey
AUTHORIZED AGENT *Chairman, Board of Trustees of Fairview Christian Church*

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, _____ (A.M. - P.M.), _____, 19____, TOGETHER WITH APPROPRIATE FEE OF \$50.00.

SIGNED

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 records 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:

G
U
A

A

R
HERSEY'S ADDITION
Fairview Avenue

DESCRIPTION	Owner/Owners	
Lots 1-3	Effie B. Thirsk 1636 Fairview	_____
X	Zenobia Ramsey	_____
	Harvey C. Ramsey	_____
	unknown	_____
Lots 5-7-9-11-13-15-17	Trustees of Fairview Church of Christ of Wichita	_____
	1650 Fairview	_____
Lots 19-21-23-25	Earle B. Jenkins	_____
	1704 Fairview	_____
Lots 27-29	W. E. Sparks	_____
	Esther Sparks	_____
	1712 Fairview	_____
<u>Park Place Ave.</u>		
Lots 2-4	Howard W. Ray	_____
	Lena Ray	_____
	1637 Park Place	_____
Lots 6 and 8	Emert Shockey	_____
	1639 Park Place	_____
Lots 10-12-14	George E. King	_____
	Leah B. King	_____
	1645 Park Place	_____
Lots 16-18	Florence Mabel Capron	_____
	1659 Park Place	_____
West 60' of 20-22-24-26	C. L. Morgan	_____
	Thelma Morgan	_____
	1705 Park Place	_____
Lots 20-22-24-26 exc. W 60'	Inez B. Braley	_____
	1705 Park Place	_____
28-30	Claude C. Tucker	_____
	1761 Arkansas Ave.	_____

HERSEY'S 2nd Addition
Park Place

W 155' of Richard LaFoy, Sr. _____
Lot 27 Maude P. LaFoy _____
2140 North Riverside Blvd. _____

HERSEY'S ADDITION
Park Place

G Lots 1-3 Georgia M. Drake _____
1638 Park Place _____

U Lots 5-7 and Henry L. Norton _____
S/2 of Lot 9 _____

A Mary D. Norton _____
1640 Park Place _____

R N/2 of 9, Ruth B. Edwards _____
all of 11-13 1620 Park Place _____

N W 150' of 15- Cynthia Meryle Belgard _____
and 17 851 South Ash _____

T W 155' of 19- Richard LaFoy, Sr. _____
E 21-23-25 Maude P. LaFoy _____
2140 North Riverside Blvd. _____

Powell's Addition
Park-Place Ave.

A Lot 70 Lester B. Mabry _____
B Hannah A. Taylor _____
Bertha G. Mabry _____
(Escro Dept. 4th nat'l bank) _____

S Lot 69 Charles S. Drake _____
T 1638 Park Place _____

Fairview Ave.

R Lot 69 Amortibanc Investment Co. _____
A 309 East Third St. _____

C Reserve B lying between
T Lot 1 and Lot 69 of
the hereinbefore described
additions (Fairview Ave.) and
between Lot 2 and Lot 70 and
C Lot 1 and Lot 69 on Park Place
in said Additions, shown on the
map of the SE/4 of 8-27-1 E. as
being 9.3 Feet wide.

O., *X* S. L. Hersey _____
(address unknown)

I
N WITNESS our Hand and Seal this the 26th day of August, 1963.

GUARANTEE ABSTRACT COMPANY, INC.,

By *Nellie M. Feister*
Vice-President.

The Fairview Christian Church, Wichita, Kansas, is located on the Southeast corner of Sixteenth and Fairview Streets. The Church anticipates building a new sanctuary in the future on the same location that the existing building now occupies. In order to build the new sanctuary in the future it is understood that off street parking will be required by the City of Wichita. (City Ord. 28.04.140 A 1.3). The property located on the Southwest corner of Sixteenth and Park Place, commonly known as 1659 Park Place, is presently zoned R.B. and the applicant, together with Fairview Christian Church, would request an exception to use said property for off street parking for the Church. (City Ord. 28.04.170-B). This property in question is presently owned by Mabel Capron but is under a contract of sale to the Fairview Christian Church, a copy of said contract is attached hereto.

It asserted that the board of zoning appeals has jurisdiction to grant the application for exception under the City Ordinances of the City of Wichita, Kansas Section 28.04.140 B1

The Fairview Christian Church will comply with the board of zoning appeals requirements as to:

1. Guards to prevent overhanging of vehicles beyond property lines and markings;
2. Lighting facilities;
3. Fencing and any other necessary requirements.

A G R E E M E N T.

This agreement made and entered into this 23 day of August, 1963,

BY AND BETWEEN:

MABEL CAPRON, a single woman
of Wichita, Sedgwick County,
Kansas, hereinafter referred
to as SELLER,

AND:

THE BOARD OF TRUSTEES OF THE
FAIRVIEW CHRISTIAN CHURCH of
Wichita, Sedgwick County,
Kansas, hereinafter referred
to as BUYERS.

WITNESSETH, THAT:

For and in consideration of the mutual promises, covenants and payments hereinafter set forth, the parties hereto do hereby contract to and with each other as follows:

1. The Seller does hereby agree to sell and convey to the Buyers by good and sufficient warranty deed, the following described real property, situated in the County of Sedgwick, State of Kansas, to-wit:

Lots Sixteen (16) and Eighteen (18)
in Hershey's Addition to Wichita,
Sedgwick County, Kansas.

2. The buyers hereby agree to purchase and to pay to the Seller as consideration for the conveyance to them of the above described real property the sum of Six Thousand Five Hundred Dollars (\$6,500.00) in the manner following, to-wit: \$500.00 upon the execution of this contract, subject to paragraph four below, the receipt of which is hereby acknowledged, and the balance of \$6,000.00 when the property above mentioned shall have been rezoned for church purposes as set forth in paragraph four below.

3. The Seller agrees to furnish to the Buyers a complete abstract of title to the above described real property, certified to date showing merchantable title vested in the Seller. The abstract shall be delivered to the Trustees of the Fairview Christian Church for examination by the Buyers' attorney, said examination to be completed

on or before the 28 day of August, 1963, it being understood and agreed that the Seller shall have a reasonable time after said abstract has been examined in which to correct any defects in title.

4. The Buyers agree to, and do hereby deposit with Roy Wood Land Company, agent for the Seller herein, the sum of Five Hundred Dollars (\$500.00) earnest money as a guarantee that the terms and conditions of this contract shall be fulfilled by them, said deposit to be applied on the purchase price upon acceptance of title by the Buyers, and delivery of deed from the Seller. It is understood by and between the parties hereto that this sale is subject to the Buyers being able to obtain from the City of Wichita, Kansas, proper zoning changes to be able to use the property above mentioned for church purposes. The attempts for the necessary zoning changes will be commenced by the Buyers herein within sixty (60) days from the date of this contract, and the Seller herein agrees to cooperate with the Buyers to obtain said zoning changes. If the Buyers are unable to obtain from the City of Wichita, Kansas, proper zoning changes then, and in that event, the \$500.00 earnest money, above mentioned, shall be returned to the Buyers and this contract cancelled and held for naught. In the event the Seller is unable to furnish merchantable title, the earnest money deposited shall be returned to the Buyers and this agreement shall be null and void and have no further force and effect.

5. It is further agreed by and between the parties hereto that the Buyers may have possession of said property on the 15 day of October, 1963.

6. It is further understood and agreed by and between the parties hereto that time is of the essence hereof and that all covenants and agreements herein contained shall extend to and be binding upon the respective heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the said parties have hereunto set their hands the day and year first above written.

s/ MABEL CAPRON
MABEL CAPRON, a single woman,
SELLER

THE BOARD OF TRUSTEES OF THE
FAIRVIEW CHRISTIAN CHURCH of
Wichita, Kansas,

By s/ Donald Schell
Donald Schell, Trustee

By s/ Clarke Clay
Clarke Clay, Trustee

By s/ David Eades
David Eades, Trustee

By s/ Milton Larsen
Milton Larsen, Trustee

By s/ Grayton Peavy
Grayton Peavy, Trustee

August 28, 1963

Trustees of Fairview Christian Church
1650 Fairview
Wichita, Kansas

OPINION ON TITLE:

Gentlemen:

At your request I have examined the attached abstract of title to the following described real property, to-wit:

Lots 16 and 18 on Park Place Ave.
In Hersey's Addition to the City
of Wichita, Sedgwick County, Kansas

as shown by:

The abstract of title to the captioned property, consisting of entries 1 through 50, inclusive, together with court proceedings in the Probate Court of Sedgwick County, Kansas, in the Matter of the Estate of George W. Capron, deceased; proceedings in the Probate Court of Sedgwick County, Kansas, in the Matter of the Estate of Ellen B. Capron, deceased; proceedings in the Probate Court of Sedgwick County, Kansas, in the Matter of the Estate of William H. Pape, deceased; certified from the United States Government to the 26 day of August, 1963 at 7:00 o'clock A. M. and last certified by the Security Abstract and Title Company Inc.

From my Examination I find:

FEE SIMPLE TITLE:
is vested in:

Florence Mabel Capron,

subject to the following comments and requirements:

ENCUMBRANCES:

Mortgage:

None

Taxes:

None

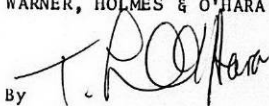
Page 2 - Opinion on Title
August 28, 1963

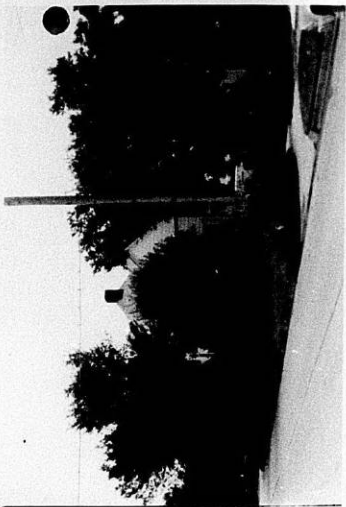
COMMENTS AND REQUIREMENTS:

1. You should carefully investigatr the rights of the parties in actual possession of this property and determine that they have no claims thereto which is daverse to that of the owners, and if occupied by tenants that their possession shall be given promptly on the agreed date.
2. The conveyance to you should be by warranty deed and signed by Florence Mabel Capron and if married her spouse should join in the conveyance.
3. Revenue stamps in the amount of 55¢ for each \$500.00 of the purchase price, over and above the encumbrance, should be furnished by the grantors, duly attached to the conveyance and cancelled according to law.
4. You should see that insurance transfers are duly and properly made so that the premises will be insured from the moment of your acquisition of title.
5. You should receive an affidavit from the grantors that there are not mechanic's liens which will become an encumbrance upon the property.
6. Unless you are satisfied that the bounfaries are correct and that any improvements are properly within the boundaries, a survey should be had. You should also check to make sure the property is in compliance with all city ordinances of the City of Wichita, Sedgwick County, Kansas, if said property is within the City limits of Wichita.

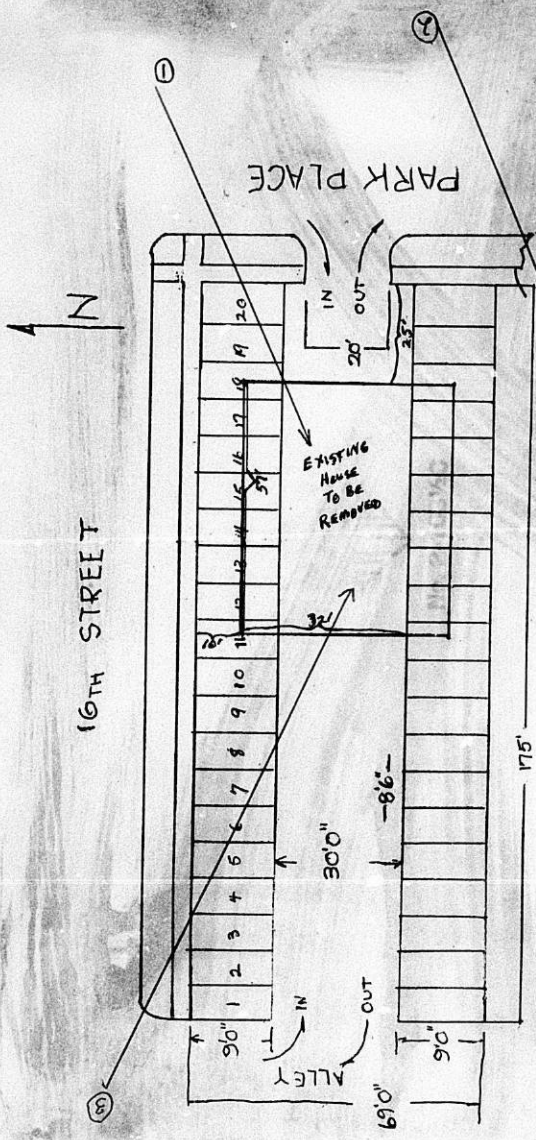
This opinion is based upon the correctness of the abstract as submitted.

Respectfully submitted,
WARNER, HOLMES & O'HARA

By 
T. L. O'Hara



B2A 24-63
Attachment #2



FAIRVIEW CHRISTIAN CHURCH
 FAIRVIEW AND FAIRVIEW ST.
 WICHITA, KANSAS
 MARVIN DELAPP
 8-27-63

PARKING LOT LAYOUT
 SCALE 1/8" = 1 FOOT

BZA 24-63
 Attachment #2