

BZA 26-68 - Trinity Lutheran Church  
requests variance to reduce setback  
for off-street parking on ~~west~~ side  
of Volutsia in an area south of Orme.

POSTED  
2-11-68  
*[Signature]*

# ACTION

BZA COMMITTEE denied DATE 12-22-68  
M.A.P.C. \_\_\_\_\_  
B.C.C./B. CO. C. \_\_\_\_\_

Map No. 5646  
 Sec. 27  
 Twp. 27  
 Range 1E

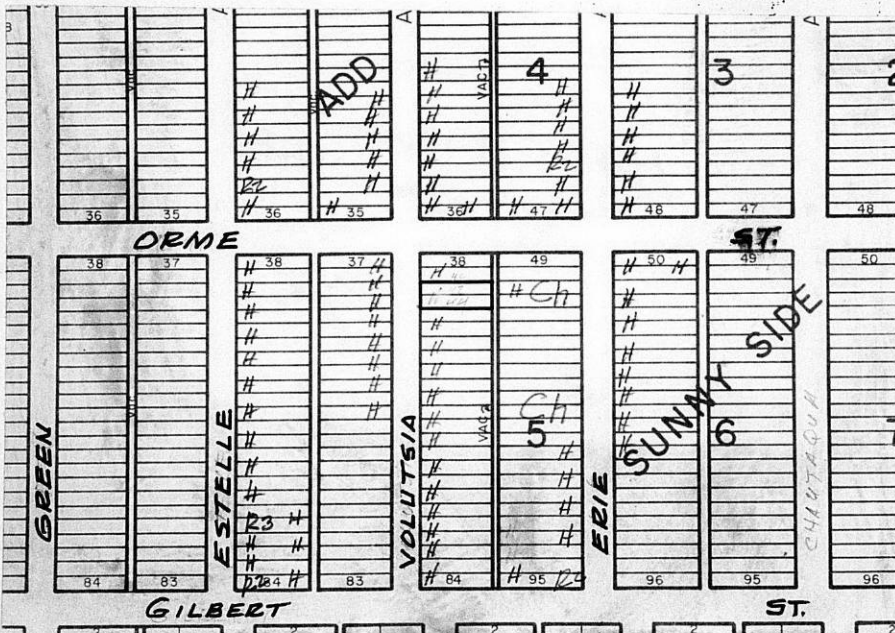
BZA 26-68  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: 0.14 ( 50 ft. by 130 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East CHURCH & SINGLE FARM South SINGLE FARM  
 West SINGLE FARM North SINGLE FARM
4. Sketch Plan Land Use is for: RESIDENTIAL
5. Present Land Use is for: SINGLE FARM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



December 10, 1968

Robert Feldner, Supt. of Central Inspection  
Jack H. Galbraith, Senior Planner

Complaint by an adjacent property owner over the asphaltting  
of the required front yard setback.

On October 22, 1968, the Board of Zoning Appeals considered a Variance request to permit off street parking in the front yard setback from the Trinity Lutheran Church on Lots 42 and 44 on Volutsia Avenue, in Dixon's Addition. The action of the Board was to deny the request as the five conditions of approval, uniqueness, hardship, adverse affects on adjacent property owners, etc., could not be found. A copy of the letter to the church with the accompanying Resolution denying the request was forwarded to you on November 27, 1968.'

Today I had a call from an adjacent property owner who appeared at the meeting in protest of the variance request, asking why the church had asphalted the front yard setback area. I could not answer the lady's question since the variance request has just been denied by the Board.

Section 28.04.140.1 of the city Zoning Ordinance provides as follows:

"- - - in residential zoning districts, off-street parking spaces and circulation aisles (except points of ingress and egress), shall not occupy any part of any required front yard, etc "

and in addition -

"---The required yard areas shall be landscaped with grass, shrubs, trees, or ground cover, and shall be maintained in good condition."

We would appreciate your checking into this matter to determine whether or not plans were approved showing the 25 ft. setback area as not permitted to be paved. If an inspection verifies that the area is paved, I assume the Trinity Lutheran Church

Mr. Robert Feldner  
December 10, 1968  
Page 2

and the contractor will be notified to remove the paving, as they are in violation.

JHG:js

cc: Ray Bruggeman,  
Director of Public Works

Paul Graves,  
Traffic Engineer

November 27, 1968

Trinity Lutheran Church  
611 South Erie  
Wichita, Kansas 67211

Subject: Case No. BZA 26-68  
Request for a Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 22, 1968, in connection with your request for a variance to reduce the required front yard setback for parking purposes on property zoned "A" and generally located on the east side of Volutsia in an area south of Orme.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith  
Secretary

JHG:js  
Attachment  
cc: E. C. Davis  
612 S. Volutsia  
Wichita, Kansas 67211

Ralph Eberly,  
City Clerk

Robert Feldner, Supt.  
of Central Inspection

RESOLUTION NO. BZA 26-68

WHEREAS, Trinity Lutheran Church, 611 South Erie, Wichita, Kansas, by John W. DuVall, 1631 Park Place, Wichita, Kansas requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to reduce the 25 foot front yard setback to 0 feet for off-street parking purposes only on property zoned "A" Two Family District, and legally described as follows:

Lots 42 and 44, on Volutsia Avenue, in Dixon's Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Volutsia in an area south of Orme.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of October 22, 1968, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as this is one of the many instances where churches are located within older established residential areas and are unable to provide adequate off-street parking on the church site; and

WHEREAS, the Board of Zoning Appeals has found that inasmuch as the application area is bounded on both sides by residences, that paving of the lot to the front property line would have an adverse effect on the rights of the adjacent property owners; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will not constitute an unnecessary hardship upon the property owner represented in the application inasmuch as denial of the variance will only eliminate two parking spaces; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as the paving would extend into the area normally maintained as a landscaped yard; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired would be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the application area is entirely within a residential neighborhood and the aesthetic value would be destroyed by the parking encroaching into the front yard setback area; and

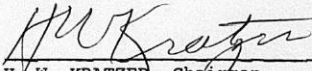
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, cannot be found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance of the front yard setback from 25 feet to 0 feet for off street parking purposes only on property zoned "A" Two Family District, and legally described as follows:


Lots 42 and 44, on Volutsia Avenue, in Dixon's Addition to Wichita, Sedgwick County, Kansas

be denied.

ADOPTED AT WICHITA, KANSAS, this 22nd day of October, 1968.

  
H. W. KRATZER, Chairman

ATTEST:

  
JACK H. GALBRAITH, Secretary

October 23, 1968

Trinity Lutheran Church  
611 South Erie  
Wichita, Kansas 67211

Subject: Case No. BZA 26-68  
Request for a Variance

Gentlemen:

At the regular meeting of the Board of Zoning Appeals on October 22, 1968, your request for a variance to reduce the required front yard setback for parking purposes on property zoned "A", and generally located on the east side of Volutsia in an area south of Orme, was considered.

The action of the Board was to deny the request for the variance as the Board could not justify the five conditions.

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.

Sincerely,

Jack H. Galbraith  
Secretary

JHG:js

cc: E. C. Davis  
612 S. Volutsia  
Wichita, Kansas 67211

Ralph Eberly,  
City Clerk

Robert Feldner, Superintendent  
of Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 26-68

APPLICANT: Trinity Lutheran Church, 611 South Erie, Wichita, Kans.

AGENT: John W. DuVall, 1631 Park Place, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 0 feet for parking purposes only.

GENERAL LOCATION: East side of Volutsia in an area south of Orme.

ZONING: Subject property is zoned "A" two-family as is that to the north, south, east and west.

LAND USE: Subject property is vacant, to the north, south and west are single family dwellings with a church to the east.

JURISDICTION:

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

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

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance.)

Comments by the Secretary

The Trustees of Trinity Lutheran Church are requesting a variance of the required front yard setback from 25 feet to 0 feet in order to utilize the space for off-street parking.

The applicants, in their statement of justification, point out that due to the narrowness of Erie Street in that area, it creates a problem in the movement of traffic and in parking. They further point out that it is their hope to provide enough off-street parking for their members to relieve the on-street congestion.

It should be noted that if the alley separating the church and the proposed off-street parking lot were not vacated, the applicants would have been required to file for an exception in order to establish an off-street parking lot. In the event a request for an exception had been filed, the Board of Zoning Appeals would have had no authority to permit parking in the front yard setback area.

Uniqueness

It is the opinion of the Secretary that this is somewhat of a unique situation in that this is one of the many instances where churches are located within older established residential areas and are unable to provide adequate off-street parking on the church site.

Adjacent Property

It is the opinion of the Secretary that inasmuch as the application area is bounded on both sides by residences, that paving of the lot to the front property line would have an adverse effect on these properties.

Hardship

It is the opinion of the Secretary that no hardship can be found to exist in that denial of the variance will only eliminate 2 parking spaces.

Public Interest

It is the opinion of the Secretary that the granting of the variance would affect the public interest inasmuch as the paving would extend into the area normally maintained as a landscaped yard.

Spirit and Intent

It is the opinion of the Secretary that the granting of the variance would be opposed to the spirit and intent of the ordinance inasmuch as the application area is entirely within a residential neighborhood and the aesthetic value would be destroyed by the parking encroaching into the front yard setback area.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist and, therefore, it is recommended that the request not be approved.

In the event the Board should determine that all five conditions can be found to exist necessary to take jurisdiction and vote to approve the request, the granting of the variance should be subject to the following conditions:

1. A six foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the north and south lines and shall not extend closer to Volutsia Ave. than the front setback line. Said fence shall then be reduced to three feet in height and shall be located adjacent to Volutsia Ve. within one foot of the front setback line, except for points of ingress and egress.
2. The parking areas 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 vehicle, equipment, materials, or supplies.
3. Only such signs as are necessary for the proper operation of the parking lots shall be permitted.

Page 4 - Secretary's Report  
Case No. BZA 26-68

4. In no case shall a fee be charged for parking facilities provided hereunder.
5. The off-street parking lots and all driveways providing ingress and egress to the parking lots shall be paved with concrete, asphaltic concrete, or asphalt, and shall be maintained in good condition and free of all weeds, dust, trash, and debris.
6. All parking 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.
7. If lighting facilities are provided, they shall be so arranged as to reflect or direct light away from adjacent properties.

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

October 2, 1968

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 26-68

An application has been filed by Trinity Lutheran Church, 611 South Erie, Wichita, Kansas, by John W. DuVall, 1631 Park Place, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the 25 ft. front yard setback to 0 feet for off-street parking purposes only, on property zoned "A" Two Family District, and legally described as follows:

Lots 42 and 44, on Volutsia Avenue, in Dixon's Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the east side of Volutsia in an area south of Orme.

This application has been assigned Case No. BZA 26-68, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 22, 1968, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

*23 Notices mailed 10-2-68*

BOARD OF ZONING APPEALS

CASE NO. BZA 26-68

CITY OF WICHITA, KANSAS

FILED 9-10-68

**APPLICATION FOR VARIANCE**

1. Name of Applicant Trinity Lutheran Church ✓

Mailing Address 611 South Erie || Phone MU 2-5271

Name of Authorized Agent John W. DuVall

Mailing Address 1631 Park Place 03 Phone AM4-5248

Relationship of applicant to property is that of Owner  
(owner, tenant, lessee, other)

II. The variance requested is 2.12.590 B

Reduce 25' <sup>front yard setback</sup> set back to 0' <sup>off-street</sup> for parking purposes only

for property located 606 South Volusia

and legally described as: Lots 42 and 44 of Dixon's Addition

in the City of Wichita; and which is presently zoned A

(Give metes and bounds description below if appropriate):

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Trinity Lutheran Church  
Applicant

John W. DuVall  
Authorized Agent *Trustee*

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals  
10:00 (a.m.) - p.m.), Sept 10, 1968, together with  
appropriate fee of \$50.00.

James Smith  
Signed

*see legal  
ownership  
list*

STATEMENT OF OWNERSHIP

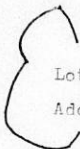
STATE OF KANSAS )  
 )  
 Sedgwick County, )

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

**F**  
**Fidelity**  
**Title**  
**Company,**  
**inc.**

*also  
 for  
 legal*



~~Property lying within a radius of 200 ft. of:~~

Lots 42 & 44, on Volutsia Avenue, in Dixon's Addition, Wichita, Sedgwick County, Kansas.

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

LOT	STREET	BLK.	ADDITION	OWNER
			<u>DIXON'S</u>	
30 & 32,	Volutsia			Walter R. Cramer, sgle & Eva L. Schmidt, sgle. 550 S. Volutsia 67211
34 & 36,	"			Paul H. & Esther I. Joseph, 552 S. Volutsia 67211 <sup>ux</sup>
38 & 40,	"			Ray L. & Rosann Quackenbush, 602 S. Volutsia 67211 <sup>ux</sup>
42 & 44,	"			Trinity Evangelical Lutheran Church, Inc. 615 S. Erie 67211
46 & 48,	"			Eldridge C. Davis & Mildred L. Davis, ux 612 S. Volutsia 67211
50 & 52,	"			Abe & Sadie Goldstein, ux 8001 Watson Lane 67207



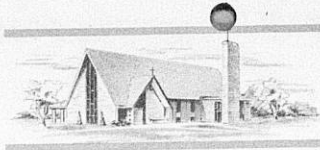
LOT	STREET	BLK	ADDITION	OWNER
54 & 56,	Volutsia		<u>DIXON'S</u> ✓ Edward T. Little, Jr. & Helene H. Little, ux 5116 E. 2nd St.	67208
58 & 60,	"		✓ Vera E. Bungenstock, sgle & Phyllis D. Bungenstock, jt. 628 S. Volutsia	67211
29 & 31,	"		✓ H. J. & Jennie E. Young, ux 553 S. Volutsia	67211
33 & 35,	"		✓ Claud I. & W. Lorene Nichols, 2405 E. Gilbert	67218 <sup>ux</sup>
37 & 39,	"		✓ Frank & Faye G. Woolworth, ux 601 S. Volutsia	67211
41 & 43,	"		✓ Carrie A. Morrison & Clarence Lee Morrison, jt % Clarence Lee Morrison Derby, Kansas	
45 & 47,	"		✓ Kelso E. & Bessie Sturgeon, 611 S. Volutsia	67211 <sup>ux</sup>
49 & 51,	"		✓ Wayne R. & Loyte Criser, ux 2734 W. 17th St.	67203
53 & 55,	"		✓ E. J. & Lenora Alice Imuele, <sup>ux</sup> 623 S. Volutsia	67211
57 & 59,	"		✓ Effie McGee, sgle 627 S. Volutsia	67211
38 & 40,	Estelle		✓ Ben L. & Kathryn Frigmore, ux 602 S. Estelle	67211
42 & 44,	"		✓ Murrell Roscoe Haas & Fern Marguerite Haas, ux 608 S. Estelle	67211
46 & 48,	"		✓ R. Wallace & Anna M. Stutler, 614 S. Estelle	67211 <sup>ux</sup>
50 & 52,	"		✓ John J. & Elsie M. Jordan, ux 124 N. Spruce	67214
41 & 43,	Erie	4	<u>Sunnyside</u> ✓ O. W. & Vera M. Bailey, ux 551 S. Erie	67211
45 & 47,	"		✓ Mrs. Alice Lygrisse % 4th Natl Bank Trust Dept. 200 E. Douglas	67202
49, 51, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71,	"	5	✓ Trinity Lutheran Church 611 S. Erie	67211

Dated at Wichita, Kansas this 5th day of July, 1968 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elsie M. Farrell Sec. OEM





**T**RINITY LUTHERAN CHURCH 611 SOUTH ERIE  
WICHITA, KANSAS 67211  
Paul VonDieelingen, Pastor

September 6, 1968

Secretary  
Board of Zoning Appeals  
Room 402, City Bldg. Annex  
104 South Main  
Wichita, Kansas 67202

Dear Sir:

The Trustees of Trinity Lutheran Church, 611 South Erie, are requesting a variance from the specific terms of Title 28 by asking that we be allowed to use the set-back portion of Lots 42 and 44, Dixon's Addition to Wichita or 606 South Volutsia.

It is our plan to use these lots for off-street parking for members of our congregation. Our church is located at 611 South Erie; and due to the narrowness of Erie Street in this area, it creates a problem in the movement of traffic and in parking. It is our hope to provide enough off-street parking for our members to relieve this congestion.

We do not feel the granting of this permit for the variance will adversely affect the rights of adjacent property owners or residents.

We do feel that the strict application of the provisions of Title 28 of which the variance is requested will constitute unnecessary hardship upon us as property owners. If this request is not granted we will be denied the use of 25 feet of this lot and no other use can be made of it. It will also eliminate three parking spaces we need.

We do not feel that the variance desired will adversely affect the public health, safety, morals, order, conveniences, prosperity or general welfare.

We feel that granting the variance desired will not be opposed to the general spirit and intent of Title 28.

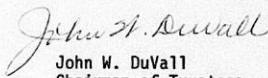
We are enclosing our check in the amount of \$50.00, a list of property

Secretary - Board of Zoning Appeals  
September 6, 1968  
Page 2

owners within 200 feet of this property, a approved parking lot diagram  
and our application.

We respectfully request approval of this variance.

Sincerely yours,



John W. DuVall  
Chairman of Trustees

JWD/dh

Enclosures

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		50.00

DESCRIPTION AMOUNT

B3A application

Name: John Du Vane  
 Address: 1631 Frank Place  
 Type: B71C Due Date:  
 Comments:

Date: 9-10-68 By: Joyce Smith

\*

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

Roll # 1