

B2A 28-67

*recovered*

ARTHUR JOHNSON

CITY BUILDING ANNEX - TELEPHONE ANNEX 2-8211

WICHITA, KANSAS

BOARD OF ZONING APPEALS  
Office of Secretary

November 14, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202.

Dear Mr. Malone:

Re: BZA 28-67 - Request for  
Exception

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 24, 1967, in connection with your request for an exception to permit an off-street parking facility on property zoned "A" Two-Family Residential, and located generally on the east side of Lorraine in an area north of 17th Street. This Resolution reflects the official action of the Board and is forwarded to you for your files.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: Z. Wetmore Trust Estate, 709 Bitting Building 67202  
Malvin Parks, 1818 North Lorraine 67214  
Mrs. Clementine Wise, 1817 North Lorraine 67214  
William A. Foshee, 2111 Bluff Court  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

RESOLUTION NO. BZA 45-67

WHEREAS, E. Wetmore Trust Estate, 709 Gitting Building, Wichita, Kansas, by William A. Tozhee, Agent, 2111 Bluff Court, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, and Section 26.04.143, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street); and

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 first consider said application on September 26, 1967; at which time the application was deferred until the meeting of October 24, 1967; and

WHEREAS, the Board of Zoning Appeals did consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, and Section 26.04.143, Code of the City of Wichita; and

WHEREAS, the property is zoned "A" Two Family Residential; and

WHEREAS, the Board of Zoning Appeals, after public hearing of this application, determined that the special permit for an exception to the Zoning Ordinance to permit off-street parking on subject property as requested was not desirable.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for permission to install or construct an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street).

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of October, 1967.

  
Harold Bauer, Vice Chairman

ATTEST:

  
Jack H. Galbreith, Secretary

EXCERPT FROM BOARD OF ZONING APPEALS MINUTES OF OCTOBER 24, 1967:

- "1. Case No. BZA 28-67 - Z. Wetmore Trust Estate requests an exception pursuant to Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita, to permit the installation of an off-street parking lot on property zoned "A" Two Family, and legally described as follows: Lots 85 and 87, Block 5, College Terrace Addition. Generally located on the east side of Lorraine in an area north of 17th Street.

GALBRAITH pointed out the area on the map and reviewed the Secretary's report and action of the Board on September 26, 1967, at which meeting the application was deferred until this date. In reviewing the application, GALBRAITH said that the request is made in order to provide off-street parking in conjunction with a drive-in restaurant business facing on Hillside, and provide for traffic circulation into and out of the facility by means of Hillside and also Lorraine if this application is approved. GALBRAITH pointed out that one of the major points of difference at the previous meeting was the desire of the applicant to have an exit onto Lorraine and the reluctance of the Secretary to approve such, in light of the residential character in this area on Lorraine. He reminded the Board that at the previous meeting, the attorney for the applicant had indicated they could not use subject property as proposed unless they could have access to Lorraine.

GALBRAITH also pointed out that at the previous meeting there were several residents of the area (on Lorraine Avenue) who spoke in opposition to the present activity at the drive-in restaurant and to approval of this application which would permit even more adverse conditions as related to residential use of adjoining or nearby properties.

GALBRAITH said that as shown in the minutes of September 26, 1967, the Secretary would recommend approval, subject to the conditions as shown in the Secretary's report, one of which was the fact that all ingress and egress should be confined to Hillside and none permitted on Lorraine.

CLIFFORD MALONE, Attorney for the applicant, said that their biggest problem is a matter of ingress and egress and that there is considerable congestion particularly after a function at the University, and it is the desire of the operators of the drive in restaurant to guide some of the traffic away from Hillside and on to Lorraine. He said they considered it a safety hazard as now operated, and to have access to Lorraine would relieve the bottleneck on Hillside.

MR. MALONE pointed out that subject property will not be used too much at night, except after a University function, and at other times there is not much activity during the late evening hours. He pointed out also that subject property borders light commercial zoning and use and that it actually has no value at present because it is not being used at all and he considered it very unlikely that anyone would build a residence there. It was his opinion that to utilize subject property as proposed would result in an improvement of the area in general.

PHARES asked if anyone had checked with the Police Department as to the traffic on Lorraine and Hillside and whether or not what is proposed (entrance to Lorraine) would relieve the traffic situation associated with the drive-in restaurant facing Hillside.

MR. MALONE pointed out that the Traffic Engineer had approved the parking plans when submitted to him, which included an indication of access to Lorraine. It was Mr. Malone's assumption that had the Traffic Engineer felt there was any traffic problem created, he would have raised some objection at the time. MR. MALONE stated that there would be no question but that it would relieve the traffic congestion and hazard on Hillside.

In discussing the proposed conditions to approval, MR. MALONE said they were agreeable to all recommended conditions except the control of access to Lorraine.

In further discussion, MR. MALONE said that his client has contracted to purchase subject property subject to favorable ruling on this application.

MELVIN PARKS, 1818 North Lorraine, stated that he was opposed to the application and use of the property for a parking lot. He pointed out that it adjoins his residence and noise, debris, etc., associated with a parking lot would add greatly to the nuisance already existing in the residential neighborhood because of activities at the drive-in restaurant. He felt that to approve access to Lorraine would further encroach on the residential area.

MRS. CLEMENTINE WISE, 1817 North Lorraine, said that her objection was the same as voiced at the meeting of September 26, 1967.

**MOTION:** PHARES moved, KRATZER seconded and it carried unanimously that this application be denied, as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 28-67

WHEREAS, Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, Kansas, by William A. Foshee, Agent, 2111 Bluff Court, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street); and

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 first consider said application on September 26, 1967; at which time the application was deferred until the meeting of October 24, 1967; and

WHEREAS, the Board of Zoning Appeals did consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita; and

WHEREAS, the property is zoned "A" Two Family Residential; and

WHEREAS, the Board of Zoning Appeals, after public hearing of this application, determined that the special permit for an exception to the Zoning Ordinance to permit off-street parking on subject property as requested was not desirable.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for permission to install or construct an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition  
to Wichita, Sedgwick County, Kansas (generally  
located on the east side of Lorraine in an area  
north of 17th Street);

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of October,  
1967.

s/ Harold Bauer  
Harold Bauer, Vice Chairman

ATTEST:

s/ Jack H. Galbraith  
Jack H. Galbraith, Secretary

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BOARD OF ZONING APPEALS

MINUTES

SEPTEMBER 25, 1967

The regular meeting of the Board of Zoning Appeals was held on Tuesday, September 26, 1967, at 1:30 p.m. in Room 401 of the City Building Annex, 104 South Main, Wichita, Kansas. The following members were present: Kenneth Hartstein, Chairman; H. W. Kratzer; Alan Phares, and C. H. Feltzer. Member absent was Harold Bauer. Also present were Jack H. Galbraith, Secretary, and Berniece Rathke and Sharon Brewer of the Planning Department Staff. Chairman Hartstein presided.

1. Case No. BZA 25-67 - Meridian Avenue Baptist Church requests a variance pursuant to Section 2.13.590.2, Code of the City of Wichita, to reduce the required side yard setbacks from 25 feet to 6.5 feet for an existing dwelling which is to be utilized for a Youth and Activity Center in conjunction with the adjacent church, on property zoned "R" Two Family Residential, and legally described as: Lots 27 and 28, Block 2, in York & Koogle's Addition to Wichita. Generally located on the east side of Meridian in an area between 1st and 2nd Streets.

GALBRAITH pointed out that at the meeting on August 22, 1967, the Board deferred this case. He said that the church proposes to utilize the dwelling adjacent on the north as a part of their church activities and that the existing dwelling is located only 6.5 feet from the property line whereas 25 feet is required under the zoning ordinance. He noted that the seating capacity of the church is not being increased and no physical changes in the premises is proposed.

GALBRAITH said that the staff (as shown in the staff report shown in full in the minutes of August 22, 1967), felt that all five of the required findings of fact do exist and recommended that the application be approved, subject to several conditions. At the meeting of August 22, 1967, in addition to the staff conditions, the Board discussed the fact that bumper guards should be required on the parking premises, existing windows on the north side should be opaqued, and that the fence along the north property line should be constructed in line with the existing fence on the premises, and that such fences should be maintained by the applicant.

No one appeared in opposition.

DALE COOPER, Attorney for the applicant, said they were agreeable to the conditions as suggested by the staff and Board at the previous meeting.

**MOTION:** KRATZER moved, FELTZER seconded and it carried unanimously that the variance arises from such condition which is unique to the property in question and 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 the residential structure will serve as an accessory structure to the main use of the property and will not be utilized as often nor have as many people as the main structure on the site; also, the garage for the residence to the north sets between the two structures and, therefore, there is approximately 30 feet between the residence to the north and the structure proposed for use for church facilities.

**MOTION:** KRATZER moved, FELTZER seconded and it carried unanimously that the granting of the variance will not adversely affect the rights of the adjacent property owner inasmuch as there will be no exit or entrances on the north side of the structure which would interfere with the privacy of the property to the north and also inasmuch as the garage for the residence to the north is in between the north residence and the structure proposed to be used for church activities.

**MOTION:** KRATZER moved, FELTZER seconded and it carried unanimously that if the variance is not granted it will constitute an unnecessary hardship upon the property owner inasmuch as the church is now overcrowded in their present facility and without the use of this additional structure would be unable to carry on a youth program and senior citizen program and provide the type of necessary services which are expected of a church.

**MOTION:** KRATZER moved, FELTZER seconded and it carried unanimously that the granting of the variance would not be opposed to the public interest inasmuch as the minimum setback is still provided for circulation around the structure and as long as the structure remains in its present form there should be no problem.

**NOTICE:** KRATZER moved, FELTZER seconded and it carried unanimously that the granting of the variance will not be opposed to the spirit and intent of Title 28 inasmuch as the application does meet the four previous requirements.

**NOTICE:** KRATZER moved, FELTZER seconded and it carried unanimously that inasmuch as the five findings of fact have been found to exist, the application be approved to reduce the required side yard setback from 25 feet to 6.5 feet for an existing dwelling on subject property, subject to the following conditions:

1. The variance shall be approved for the existing structure only, and any additions, enlargements, or extensions to the existing structure shall maintain the required 25-foot setback.
2. In the event the structure is substantially destroyed, or removed, any new construction on the property shall maintain the required 25-foot side yard setback.
3. No exits or entrances shall be permitted on the north side of the structure.
4. Installation of bumper guards along the north property line.
5. Opaque the existing windows along the north side of the house.
6. Construct a fence from the northeast corner of the house to tie into the existing fence to the east.
7. Properly maintain existing and required fence.

(The Resolution adopted by the Board is not shown as a part of the minutes as mailed, but will be shown in full in the official record of Board proceedings on file in the Secretary's office.)

2. Case No. 222 29-67 - Meridian Avenue Baptist Church requests a variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to reduce the number of required off-street parking spaces from 101 to 15, on property zoned "A" Two Family Residential and legally described as: Lots 27 and 28, Block 2, in York and Koogle's Addition, generally located on the east side of Meridian in an area between 1st and 2nd Streets.

GALBRAITH pointed out the area on the map and reviewed the following report of the Secretary:

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, 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.
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 applicant is requesting a variance of the required off-street parking spaces from 101 to 15. At the time the applicant submitted the application, he did not have adequate information on the plot plan so that it could be determined as to actually how many

parking spaces would be available. The plan has been submitted now and in checking with the Traffic Engineer it appears that the applicant could provide 22 spaces.

The reason the church is requesting the variance of the off-street parking is that it has acquired a residence adjacent to the north for which a variance of a sideyard setback has also been requested (Case No. BZA 25-66) and the church desires to utilize this residence for Sunday school classes, senior citizens meetings, and other church activities. The addition of the residence to the church complex requires that the church meet all the requirements of the ordinance. At the time the church was built there were no off-street parking requirements in the ordinance, and parking was not provided as now required; therefore, the church is non-conforming. Off-street parking for churches is computed on the basis of one parking space for every five seats of maximum seating capacity. The church seats 505 people and, therefore, 101 off-street parking spaces are required.

#### UNIQUENESS

It is the opinion of the Secretary that this is somewhat of a unique situation inasmuch as the church was built prior to the off-street parking provisions being placed in the ordinance and that the addition of the residence to the complex would not increase the number of off-street parking spaces required inasmuch as the off-street parking requirement is based on the total seating capacity of the sanctuary of the church. It should also be pointed out that the use of the adjoining residence permits the church to provide an additional 10 off-street parking spaces over what they can now provide.

#### ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not adversely affect the rights of adjacent property owners or residents inasmuch as there would be substantially no change or increase in the church attendance than now exists. Again, it should be noted that the maximum seating capacity of the sanctuary determines the required number of off-street parking spaces and that the approval of this request would not increase the sanctuary capacity but would simply provide more space for the membership of the church to utilize.

HARDSHIP

It is the opinion of the Secretary that if the variance were not granted it would constitute an unnecessary hardship upon the property owner inasmuch as the church is now overcrowded in their present facility and without the use of this additional structure would be unable to carry on a youth program and senior citizens program and provide the type of necessary services which are expected of a church.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not be opposed to the public interest inasmuch as the church is not increasing the number of required off-street parking spaces but is, in fact, providing an additional 10 parking spaces through the acquisition of this property over and above what it could provide previously.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance would not be opposed to the spirit and intent of Title 28 inasmuch as the application does meet the four previous requirements.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance of the required off-street parking from 201 to 22 can be found to exist and, therefore, it is recommended that the variance be approved.

DAN COOPER, Attorney for the applicant, said they were agreeable to the recommendation of the Secretary.

No one appeared in opposition.

MOTION: KEATON moved, WATERS seconded and it carried unanimously that the variance arises from such condition which is unique to the property in question and is not ordinarily found in the same zone or district inasmuch as the church was built prior to the off-street parking provisions being placed in the ordinance and that the addition of the

residence to the complex would not increase the number of off-street parking spaces required inasmuch as the off-street parking requirement is based on the total seating capacity of the sanctuary of the church; further, the use of the adjoining residence permits the church to provide an additional 10 off-street parking spaces over what they can now provide.

**MOTION:** KRAVITZ moved, WILTZER seconded and it carried unanimously that the granting of the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as there would be substantially no change or increase in the church attendance than now exists; further, the maximum seating capacity of the sanctuary determines the required number of off-street parking spaces and the approval of this request would not increase the sanctuary capacity but would simply provide more space for the membership of the church to utilize.

**MOTION:** KRAVITZ moved, WILTZER seconded and it carried unanimously that if the variance is not granted it would constitute an unnecessary hardship upon the property owner inasmuch as the church is now overcrowded in their present facility and without the use of this additional structure would be unable to carry on a youth program and senior citizens program and provide the type of necessary services which are expected of a church.

**MOTION:** KRAVITZ moved, WILTZER seconded and it carried unanimously that the granting of the variance would not be opposed to the public interest inasmuch as the church is not increasing the number of required off-street parking spaces but is, in fact, providing an additional 10 parking spaces through the acquisition of this property over and above what it could provide previously.

**MOTION:** KRAVITZ moved, WILTZER seconded and it carried unanimously that the granting of the variance would not be opposed to the spirit and intent of Title 28 inasmuch as the application does meet the four previous requirements.

**MOTION:** KRATZER moved, FELTZER seconded and it carried unanimously that inasmuch as the five findings of fact have been found to exist, the application be approved to grant a variance of the required off-street parking requirements from 101 spaces to 22 spaces.

(The Resolution adopted by the Board is not shown as a part of the minutes as mailed, but will be shown in full in the official record of Board proceedings on file in the Secretary's office.)

3. Case No. BZA 28-67 - Z. Wetmore Trust Estate requests an exception pursuant to Section 2.12.590.3, Code of the City of Wichita, to permit the installation of an off-street parking lot on property zoned "A" Two Family, and legally described as follows: Lots 85 and 87, Block 5, College Terrace Addition. Generally located on the east side of Lorraine in an area north of 17th Street.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

JURISDICTION

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.3, Code of the City of Wichita. The Board may grant the exception to permit the installation or construction of an off-street parking lot providing the conditions outlined under Section 28.04.145, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY

The applicant is requesting approval of the exception to permit an off-street parking lot so that additional off-street parking may be provided for the drive-in restaurant which is located adjacent to the east. A plot plan has been submitted and the layout has been approved by the Traffic Engineering Division. The plot plan does, however, show access to Lorraine Avenue which, in the opinion of the Secretary, may have a detrimental affect on the adjacent properties. The fact that the parking lot would be tied in with the

drive-in restaurant could create a substantial amount of traffic coming out on Lorraine rather than using the front access to Hillside; therefore, it is recommended that if the application is approved, it be approved subject to no access to Lorraine Avenue. It should also be pointed out that the plot plan did not observe the required 25-foot front setback and parking spaces have been shown in this area. It will be necessary for the applicant to redraw the plan and not show any parking in the front setback area.

A recent University Study of this general area determined that the property between Lorraine and Hillside would eventually fall into the University zoning district. This means that at some point in time various uses such as parking lots, offices, laboratories, and other similar type uses which would be associated with the University could be located in this area. The study was approved by the Planning Commission and the City Commission and, therefore, it is the opinion of the Secretary that this application is logical and proper and is in conformance with the future planning for the area.

#### RECOMMENDATION

It is the recommendation of the Secretary that the application to permit the installation or construction of an off-street parking lot be approved, subject to the following conditions:

1. There shall be no access to Lorraine Avenue; all access shall be oriented toward Hillside.
2. The parking area shall be used for passenger vehicles only and in no case shall 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 the proper operation of the parking lot shall be permitted.
4. In no case shall a fee be charged for parking facilities provided hereunder.
5. The off-street parking lot and all driveways providing ingress and egress to the parking lot 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 all vehicles.
7. If lighting facilities are provided they shall be so arranged so as to reflect or direct light away from adjacent properties and in no event shall lights be permitted to reach a height of greater than 6 feet.
8. A six-foot high solid fence constructed of masonry, wood, or louvered redwood, shall be erected along the north and south property lines to the front setback line. And a 3-foot high solid fence shall be erected within one foot of the front setback line adjacent to Lorraine Avenue. The front yard shall remain unpaved and shall be landscaped with trees, shrubs, and grass, and shall be maintained compatible with the residential area.
9. Prior to the issuance of a permit for the occupancy of the off-street parking lot, the applicant shall submit a revised off-street parking lot plan to the Department of Central Inspection for the approval of the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of all parking spaces, markings for channelization and location of all driveways, widths of driveways, etc.
10. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

GALBRAITH said that he had received several calls in opposition to this request and that in one respect it would encourage off-street parking in a residential neighborhood, but because of the light commercial activity on the major street (Hillside), it appears to be reasonable to expect such a request for off-street parking.

CLIFFORD MALONE, Attorney on behalf of the applicant, said that they desired to enlarge the parking facilities associated with the drive-in restaurant and have an option to purchase subject property. With respect to the suggestion that no access be permitted onto Lorraine, MR. MALONE said they would be unable to utilize the property as proposed if this is a requirement of ap-

proval inasmuch as to channel all vehicles from the expanded parking facilities onto Hillside would create even more of a traffic hazard than now exists, both on the premises and on Hillside. He said their plan was to have orderly flow of traffic from Hillside into the parking facilities and out on Lorraine in view of the accidents which have previously occurred on Hillside at this location.

MR. MALONE offered objection to the suggestion of fencing to the north and south. He said they do not intend to have parking along the north side so there would not be any lights shining along there to create any problem for adjacent property owners, and to the south is a vacant 50-foot lot and then a duplex, which duplex has considerable shrubbery along the north side, thus providing its own protection so far as lights from the proposed parking lot are concerned. MR. MALONE said that in order to avoid the possibility of undesirable use of the parking lot after closing hours, they were agreeable to installing a chain across the exit and entrance openings. The Attorney said that with the exception of the two matters outlined (no access on Lorraine and screening as suggested to the north and south), they were agreeable to the conditions as suggested by the staff and would comply with them.

WALDO WETMORE, on behalf of the E. Wetmore Trust Estate, suggested that the parking lot could be constructed in such a manner to slow down traffic at entrance and exit points as has been done elsewhere on parking facilities. Further, with the entrance on one side and exit on the other, traffic would be slowed down as it enters Hillside, although to block off Lorraine would add to the existing bottleneck of traffic on Hillside at this point.

With respect to Mr. Malone's request that the fence not be required GALBRAITH pointed out that the fence is required by the Zoning Ordinance and that the Board of Zoning Appeals cannot waive this requirement. ART JOHNSON, Legal Counsel for the Board, agreed with Galbraith's statement and said that if the applicant cannot agree with the fence condition, then there is no use to consider the request further. MALONE then said they would agree with the fence condition in that case.

MELVIN and HAZEL PARKS, 1818 North Lorraine, were very much opposed to this request, in that their home is adjacent and to permit this request would only add to the nuisance already being created by the present parking lot and associated activities of the drive-in restaurant.

PEARL CRAWFORD, 1822 North Lorraine, said she has no privacy now in her back yard and that the parking request would only add to this same situation. She definitely thought a fence should be required.

MRS. CLEMENTINE WISE, 1817 North Lorraine, said that to permit the request with egress onto Lorraine, would add materially to her discomfort in that car lights would flash directly into her home. Further, the street is narrow.

When questioned by the Chairman, those in opposition indicated they were opposed to the parking lot in any case regardless of any restrictions or conditions to any approval thereof. Those in opposition agreed they were already subjected to undesirable activities at the drive-in restaurant, but that to approve this request would only add to such aggravation.

MR. MALONE pointed out to Mr. and Mrs. Parks that their residential property does abut commercially zoned property and that apparently the nuisance they object to is already existing, and it was his suggestion that so far as noise and after-hours activity, perhaps it is a matter for the police to investigate. He said the drive-in restaurant is usually closed at midnight or shortly thereafter. The attorney felt that with exit onto Lorraine it would actually be a safety factor and relieve Hillside congestion considerably.

PHARES asked if the Traffic Engineer had approved the parking lot, and GALBRAITH said that he had, but that the Traffic Engineer only considers the layout of the parking lot (space dimensions and curvature of the driveways, etc.) and does not consider whether it is a proper location for an off-street parking lot. GALBRAITH said that the Traffic Engineer does not consider the amount of traffic which might utilize Lorraine and if the plan shows a curb cut, the only thing he would check is if it is adequate in width.

FELTZER and PHARES both agreed that if subject property is to be utilized as a parking lot, it would be reasonable to provide exit points onto Lorraine, in that it would be more convenient in operating the lot and would relieve the congestion on Hillside. GALBRAITH said that the Board is not required to provide access onto Lorraine in that the property developed with the existing use, would have access onto Hillside.

GALBRAITH suggested that if the Board approves access onto Lorraine, then Condition No. 1 could be eliminated and No. 8 could

be amended to provide for a 3-foot wall to be erected on Lorraine except for the access drive. Condition No. 9 would have to be amended too, to provide for a redesign of the lot indicating the 25-foot building setback line.

KRATZER said he doubted that the Planning Commission would favor a zoning change for subject property which would permit off-street parking.

MR. MALONE pointed out that the weeds on the subject lot, until very recently, had not been cut for sometime, and that the improvements proposed for subject property would improve the conditions in the general neighborhood.

MR. WETMORE spoke again and pointed out that the use proposed is nothing more than what is permitted in most cases subject to light commercial zoning or development, and it was his opinion that the flow of traffic onto Hillside could be controlled. MR. WETMORE did not think the Board should presuppose that the Planning Commission would not recommend approval of zoning for subject property which would permit off-street parking, in view of the commercial character of the neighborhood in general. He continued that apparently the University study indicates that it isn't going to remain residential indefinitely.

PELTZER suggested the application be deferred until the Traffic Engineer can provide the Board with his recommendation, and also Mr. Peltzer said he would like to see the area involved. MR. MALONE said there was no objection from his client if the Board wanted to defer the matter. MRS. PARKS offered no objection to a deferral but commented that those in opposition would be required to appear again.

MR. MALONE said that the operators of the drive-in restaurant have made a strenuous effort to maintain the property and keep it neat and so far as he knew, none of the residents in the area had made known any complaint which they had. In discussing the use of the lot after hours, the Chairman suggested that a heavy chain might be installed to restrict potential unauthorized users of the lot after hours. MALONE said they would be glad to consider such an arrangement if that is required.

MRS. PARKS said that she had complained to the manager of the restaurant several times. It was her feeling that people are more concerned about the traffic than about human beings. She said that the residents in the area are not prepared to purchase homes elsewhere.

DAVID GORE, manager of the drive-in restaurant, said that they had received complaints and that he has made a sincere effort to eliminate the objectionable features of their operation.

MR. WETMORE pointed out that the objections raised at this meeting are directed to the present and existing uses in the area and not the property in question. It was his feeling that with the use of this vacant lot as a parking lot it would improve the appearance of the area in general.

MOTION: PHARES moved that this application be deferred until the meeting of October 24, 1967.  
KRATZER seconded the motion and it carried unanimously.

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4. Case No. BZA 30-67 - Victor R. Conner requests an exception pursuant to Section 2.12.590.3, Code of the City of Wichita to permit the installation or construction of an off-street parking lot on property zoned "A" Two Family Residential and legally described as: Lots 5 and 6, Conner's First Addition to Wichita. Generally located on the west side of Yale in an area between Zimmerly and Grail.

GALBRAITH pointed out the area on the map and reviewed the following report of the Secretary:

JURISDICTION

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.3, Code of the City of Wichita. The Board may grant the exception to permit the installation or construction of an off-street parking lot providing the conditions under Section 28.04.145, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY

The applicant owns the Clifton Manor Apartment Motel which is located on the property adjacent to the west and desires to add some additional units and, therefore, needs to provide more off-street parking. The applicant is in the process of purchasing the two dwelling units which face Yale Avenue and proposes to use the lots for off-street parking.

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September 26, 1967

The parking lot layout submitted appears to meet all the requirements as to setback and design and it is the opinion of the Secretary that through proper screening controls, the lot would be compatible with the existing development.

RECOMMENDATION

It is the recommendation of the Secretary that the application for an exception to permit the installation or construction of an off-street parking lot be approved subject to the following conditions.

1. Prior to the occupancy of subject property for an off-street parking lot, the applicant shall remove the existing dwellings.
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 the proper operation of the parking lot shall be permitted.
4. In no case shall a fee be charged for parking facilities provided hereunder.
5. The off-street parking lot and all driveways providing ingress and egress to the parking lot 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 so as to reflect or direct light away from adjacent properties and in no case shall lights be permitted to reach a height of greater than six feet.
8. A six-foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the north and south lines of the application area and shall not extend

closer to Yale Avenue than the front setback line. Said fence shall then be reduced to three feet in height and shall be located adjacent to Yale Avenue within one foot of the front setback line, except for points of ingress and egress.

9. Prior to the issuance of an occupancy permit for the off-street parking lot, the applicant shall submit a plan to the Department of Central Inspection for the approval of the Traffic Engineer which plan shall include location of all street parking spaces, the width and dimension of parking spaces, markings for channelization and location of all driveways, width of driveways, and other pertinent information.
10. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

GALBRAITH also pointed out that the applicant has also filed an application for rezoning of subject property from "A" to "SB" and indicated in that application that he desires to convert the two existing structures thereon to either threeplexes or fourplexes.

VICTOR R. CONNER, the applicant, reviewed plans for expanding his present motel facilities to include about 40 more units, and a restaurant, principally to provide service to the hospital and to patrons of the hospital.

GALBRAITH said that a letter has been submitted from St. Joseph Hospital which indicates they have no objection to the subject application. He stated that a subsequent telephone call from the attorney for the hospital indicated that they thought the expansion proposed by this applicant would be beneficial to their own operation, but that they had not considered what affects such expansion might have on residential property on Yale Avenue.

MR. CONNER submitted an architect's drawing of his existing development and the expansion proposed and pointed out that subject property to the rear is necessary for use as off-street parking. MR. CONNER submitted letters from Jack E. Mcelroy, M.D. and Mr. and Mrs. Frank Yokoyama, indicating their approval of the expansion proposed.

JOE ULRICH, 1124 South Yale, spoke in opposition and submitted protest petitions containing 120 signatures of property owners within a two-block adjacent area. The objection was based on the fact

Lowing possible affects on adjacent residential properties; Water drainage problems from hardsurfaced lot would be detrimental to adjacent properties; excessive noise and lights from increased traffic at all hours of the day and night, as well as more traffic congestion, undesirable element that motel parking would draw into the residential area would endanger the moral and physical lives of children, and the fact that what is proposed would tend to be detrimental to the peaceful residential neighborhood and would decrease values of property to have this encroachment of a commercial use.

WILBUR CHURCHWARD, 1114 South Yale, also spoke in opposition and emphasized the limited circulation street system in this area and the fact that the proposed use would increase traffic in the residential area and thus create a hazard for children. MR. CHURCHWARD said there was an alley adjacent to subject property on the north and inquired about its use.

HARTSTEIN pointed out that this Board has no jurisdiction so far as vacating an alley.

PELTZER inquired of Mr. Conner what type of patrons he accommodated at the motel, and Mr. Conner stated that primarily he served people either working at the hospital or those who had relatives as patients in the hospital. He referred to plans which the hospital has for expansion of its facilities to further support his own expansion program.

REGINALD PAUL, 1103 South Yale, owner of property adjacent to the north, spoke in opposition and the nuisance which a parking lot would create so far as his enjoyment of his home.

With respect to the alley, GABRAITH said that the applicant had discussed with him the possible vacation of the alley, but the plot plan is in error in that it shows parking spaces in the alley area.

CONNOR said that he proposes to request vacation of the alley prior to any construction of the parking lot. He stated that when this area was platted he dedicated the alley, as well as another alley east of Yale and Yale Street right-of-way, and asked if in the vacation of the alley adjacent to this property he would obtain title to it as adjoining landowner.

GALBRAITH answered that that is usually the case, but in this particular case it might be rather difficult to obtain such consent inasmuch as all abutting property owners must sign the vacation application.

There was more discussion of how essential Mr. Conner's development is to the hospital and he was questioned as to how many people associated with the hospital were actually utilizing his facilities at this time. Mr. Conner said that there were about 15 at present, with more expected right away.

One of the protestors said they were not opposing the motel or its expansion on Clifton, but they did not like the encroachment of a parking lot over into the residential area on Yale. He suggested that there is area on Clifton to the south of the present lot which could be utilized for any expansion.

MILTON PENKOW, 1058 South Clifton, said his principal objections were the fact that occasionally the occupants of the motel are not desirable people, and the traffic congestion and problems which is bound to increase with any expansion of the motel facilities. He reviewed the limited street system in the general area and the fact that three streets were deadend. MR. PENKOW continued that if the expansion could be confined to Clifton, he would have no objection. He further suggested a redesign of the addition proposed in such a manner that the structure would be L-shaped and extending farther south on Clifton and parking provided in front of the entire complex. MR. PENKOW said he felt sure there would be no objection from the people in the area as long as the development is confined to Clifton. MR. UERICHS agreed with the latter statement.

LEO BENOLD, 1102 South Yale, spoke in opposition because the parking lot would be directly across from his home and because of the undesirable situation which would be created so far as traffic and vehicular circulation in the general area is concerned.

HELFER asked if there was expansion room to the south. GALBRAITH said there apparently would be some available in the light commercial zoning but he did not know exactly how much.

HEWIS wondered what the feeling of the Planning Commission and the Commission would be on the application for rezoning to "RB" which has been filed for subject property. GALBRAITH said that there was no way to know, but often the Planning Commission and the Commission have approved a higher zoning classification to buf-

fer between light commercial and strictly single-family residences. KRATZER thought there would be good arguments both for and against the request for "RB" zoning.

MR. PANKOW stated that they do have a real solid residential area and wanted to maintain in that way, and asked for a clarification of a buffer area. GALBRAITH explained the use of buffer zones.

MR. CONNER pointed out that when he built the motel there were no homes on Yale - only a few farm houses.

KRATZER observed that this is one of the decisions that face the Board time and time again and there are arguments on both sides, but it was his feeling that subject area is not in a transition area as yet, nor in the best public interest.

**MOTION:** KRATZER moved, PELTZER seconded and it carried unanimously that this application be denied.

(The Resolution adopted by the Board is not shown as a part of the minutes as mailed, but will be shown in full in the official record of Board proceedings on file in the Secretary's office.)

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Case No. BZA 31-67 - American Oil Company requests an exception pursuant to Section 2.12.590.3, Code of the City of Wichita, to permit the construction or installation of an automatic car wash on property zoned "IC" Light Commercial, and legally described as follows: Beginning at the northwest corner of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 13, Township 27 South, Range 1 West of 6th P.M.; thence south 247 feet; thence east 164 feet; thence north 247 feet; thence west 164 feet to beginning, EXCEPT street. Generally located at the southeast corner of 13th Street and St. Paul.

GALBRAITH pointed out the area on the map and reviewed the following report of the Secretary:

**JURISDICTION**

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.3, Code of the City of Wichita. The Board may grant the exception providing the conditions set out under Section 28.04.183.4 can be met.

COMMENTS BY THE SECRETARY

The applicant presently has a service station on subject property, however, there is a substantial amount of land at the rear of the property which is undeveloped. The applicant is, therefore, requesting an exception in order to install an automatic car wash to be utilized in conjunction with the service station.

There have been several other car wash applications approved in this general area and inasmuch as the car wash facility is to be operated in conjunction with a service station, it is the opinion of the Secretary that the application is logical and proper. A plot plan has been submitted and approved by the Traffic Engineer.

There are single-family dwellings located adjacent to the south and east property lines and so that the car wash operation will be compatible with the area, it is the opinion of the Secretary that these two property lines should be properly screened.

RECOMMENDATION

It is the recommendation of the Secretary that the exception be approved to permit the installation of the automatic car wash, subject to the following conditions:

1. Development shall proceed in accordance with the plan approved by the Board of Zoning Appeals.
2. There shall be a minimum lot area of 2,500 square feet for each 20 lineal feet of automatic car washing structure, provided that the minimum lot area shall not be less than 7,500 square feet.
3. The car washing building or facilities shall be set back a distance of not less than 35 feet from both 13th Street and St. Paul.
4. No structure shall be placed closer than 60 feet to the rear property line.
5. All the area to be utilized by the washing and drying operation, including all ingress and egress areas, shall be paved with concrete, asphalt or asphaltic concrete.
6. All lights shall be shielded to reflect or direct light away from adjacent property. No string type lighting or banners shall be permitted.

7. No sign shall exceed 25 feet in height or be placed so as to project over any public right-of-way.
8. No sound-projecting devices or loudspeakers shall be used so as to be heard outside any structure.
9. Off-street holding spaces shall be provided on the property in the following ratio: Not less than 3 parking spaces for each 20 lineal feet of automatic car washing aisle.
10. Off-street drying spaces shall be provided on the property in the following ratio: Not less than 2 spaces for each automatic car washing aisle.
11. One off-street parking space shall be provided for each two employees.
12. A six-foot high solid or semi-solid fence constructed of masonry, architectural tile, wood, louvered wood or other similar materials shall be constructed along the east property line to within 35 feet of 13th Street and same fence shall be constructed along the south property line and shall be reduced to 3 feet in height within 25 feet of the east right-of-way line of St. Paul.
13. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines or parking spaces.
14. All drainage, both natural and that created by the operation, shall be handled in such a manner satisfactory to the Superintendent of Maintenance of the Department of Public Works.
15. The area shall be properly policed by inspections by the owner or operator to insure proper maintenance of the fence and removal of trash.
16. All conditions of approval by the Board must be complied with prior to the occupancy of the property for the proposed automatic car wash facility.

GALBRAITH pointed out that with respect to Condition #3 above, the Planning Commission, at its next meeting will consider a proposed amendment to the Zoning Ordinance which would amend the setback requirements for car wash operations, and he suggested the following wording be added to Condition #3: "or in the event the

Zoning Ordinance is amended as proposed, then the setback be in conformity to such amendment."

No one appeared in opposition. THEODORE H. HILL, Attorney for the applicant, said that the conditions (including the suggested amendment of Condition #3) were acceptable to the applicant.

**MOTION:** PELTZER moved, KRATZER seconded and it carried unanimously that this application be approved to grant an exception for installation of an automatic car wash on subject property, subject to the following:

1. Development shall proceed in accordance with the plan approved by the Board of Zoning Appeals.
2. There shall be a minimum lot area of 2,500 square feet for each 20 lineal feet of automatic car washing structure, provided that the minimum lot area shall not be less than 7,500 square feet.
3. The car washing building or facilities shall be set back a distance of not less than 35 feet from both 13th Street and St. Paul; however, in the event the required setback is amended, the buildings or facilities shall be set back in conformance with that required by the zoning Ordinance.
4. No structure shall be placed closer than 60 feet to the rear property line.
5. All the area to be utilized by the washing and drying operation, including all ingress and egress areas, shall be paved with concrete, asphalt or asphaltic concrete.
6. All lights shall be shielded to reflect or direct light away from adjacent property. No stinging type lighting or banners shall be permitted.
7. No sign shall exceed 25 feet in height or be placed so as to project over any public right-of-way.
8. No sound projecting devices or loudspeakers shall be used so as to be heard outside any structure.
9. Off-street holding spaces shall be provided on the property in the following ratio: Not less than 3 parking spaces for each 20 lineal feet of automatic car washing aisle.

10. Off-street drying spaces shall be provided on the property in the following ratio: Not less than 2 spaces for each automatic car washing aisle.
11. One off-street parking space shall be provided for each two employees.
12. A six-foot high solid or semi-solid fence constructed of masonry, architectural tile, wood, louvered wood or other similar materials shall be constructed along the east property line to within 35 feet of 13th Street and same fence shall be constructed along the south property line and shall be reduced to 3 feet in height within 25 feet of the east right-of-way line of St. Paul.
13. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines or parking spaces.
14. All drainage, both natural and that created by the operation, shall be handled in such a manner satisfactory to the Superintendent of Maintenance of the Department of Public Works.
15. The area shall be properly policed by inspections by the owner or operator to insure proper maintenance of the fence and removal of trash.
16. All conditions of approval by the Board must be complied with prior to the occupancy of the property for the proposed automatic car wash facility.
17. ~~automatic car wash facility.~~

(The Resolution adopted by the Board is not shown in the minutes as mailed, but will be shown in full in the permanent record of Board proceedings on file in the Secretary's Office.)

Meeting adjourned at 3:30 p.m.

13. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines or parking spaces. **Jack H. Galbraith**  
**Secretary**
14. All drainage, both natural and that created by the operation, shall be handled in such a manner satisfactory to the Superintendent of Maintenance of the Department of Public Works.

BEFORE THE BOARD OF ZONING APPEALS  
FOR THE CITY OF WICHITA, KANSAS

IN THE MATTER OF THE APPLICATION

OF

Z. WETMORE TRUST ESTATE  
FOR ZONING EXCEPTION.

CASE NO.

BZA 28-67

NOTICE OF APPEAL TO THE DISTRICT COURT

TO: THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA:

YOU are hereby notified that the applicant, Z. Wetmore Trust Estate, hereby appeals to the District Court of Sedgwick County, Kansas, the action of the Board of Zoning Appeals taken on October 24, 1967, denying the granting of an exception pursuant to Section 2.12.590.3, Code of the City of Wichita, to permit the installation of an offstreet parking lot on and covering

Lots 85 and 87 on Lorraine Avenue in Block 5,  
College Terrace Addition to the City of  
Wichita, Kansas.

This appeal is made pursuant to the provisions of the Code of the City of Wichita, Section 2.12.610 (Ordinance No. 28-291, Section 6) and pursuant to the provisions of the Code of Civil Procedure of the State of Kansas, K.S.A. 60-2101(a).

Applicant hereby requests that true copies of all pertinent proceedings before the Board of Zoning Appeals be prepared for filing with the Clerk of the District Court of Sedgwick County, Kansas.

DATED this 13th day of November 1967.

Z. WETMORE TRUST ESTATE

ADAMS, JONES, ROBINSON AND MANKA

BY *[Signature]*  
Attorneys for Applicant

RETURN OF SERVICE

STATE OF KANSAS        }  
SEDGWICK COUNTY        }    SS:

The undersigned certifies that a copy of the above and foregoing Notice of Appeal was served upon the Board of Zoning Appeals of the City of Wichita, Kansas, by delivering a copy thereof to JACK H. GALBRAITH, Secretary for said Board, this 13<sup>th</sup> day of November 1967.

Robert O. Leitner

Subscribed and sworn to before me this 13<sup>th</sup> day of November 1967.

Allen Wood  
Notary Public

My commission expires October 9, 1970.



September 27, 1957

W. Clifford Means, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Means:

Re: EDA 21-37 - Request for exception

At the regular meeting of the Board of zoning appeals on September 26, 1957, your request to permit off-street parking on 1/2 acre property on the east side of Lorraine in an area north of 27th Street, was considered.

It was the action of the board to defer definite action on this application until the meeting of October 20, 1957.

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

Very truly yours,

Jack H. Galowitz  
Secretary

JHG:ler

cc: W. Wetmore Trust Estate, 701 Bittling Building 67202  
William A. Fisher, 2111 Cliff Court 67216  
Mr. and Mrs. Melvin Parks, 1210 North Lorraine 67214  
Pearl Crawford, 1020 Mathewson 67214  
Clementine Wile, 1217 North Lorraine 67216  
Levid Care, 2501 West 30th Street South 67217  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

October 25, 1937

Mr. Charles Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: Bldg 22-57 - Request for Exemption

At the regular meeting of the Board of zoning appeals on October 24, 1937, your request for an exemption to the zoning ordinance to permit an off-street parking facility on property located 721 1/2 South Residential, and located generally on the east side of a parcel in an area north of 17th Street, was reconsidered after having been referred at the September 26, 1937 hearing.

It was the action of the board to deny your request.

A resolution will be prepared setting forth the official action of the board and will be forwarded to you soon.

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

Very truly yours,

Jack B. Galbreath  
Secretary

JHG:lee

cc: E. Johnson Trust Estate, 708 Bittin Building 67224  
Melvin Paras, 1214 North Lorraine 67214  
Mrs. Clodette Gless, 1117 North Lorraine 67214  
William W. Fisher, 2111 Blair Court  
Glen Lytle, Superintendent of Central Inspection  
Ralph Beardsly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 28-67

APPLICANT: Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, Kansas

AGENT: William A. Foshee, 2111 Bluff Court, Wichita, Kansas

REQUEST: Exception pursuant to Section 2.12.590.3, Code of the City of Wichita to permit the installation of an off-street parking lot.

GENERAL LOCATION: On the east side of Lorraine in an area north of 17th Street

LAND USE: Subject property is vacant, to the north is single-family, to the west and south are duplexes and to the east is McDonalds Drive-In.

ZONING: Subject property and that to the north, south, and west is "A" Two Family, to the east is "LC" Light Commercial.

JURISDICTION

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.3, Code of the City of Wichita. The Board may grant the exception to permit the installation or construction of an off-street parking providing the conditions outlined under Section 28.04.145, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY

The applicant is requesting approval of the exception to permit an off-street parking lot so that additional off-street parking may be provided for the drive-in restaurant which is located adjacent to the east. A plot plan has been submitted and the layout has been approved by the Traffic Engineering Division. The plot plan does, however, show access to Lorraine Avenue which in the opinion of the Secretary may have a detrimental affect on the adjacent properties. The fact that the parking lot would be tied in with the drive-in restaurant could create a substantial amount of traffic coming out of Lorraine rather than using the front access to Hillside, therefore, it is recommended that if the application is approved, it be approved subject to no access to Lorraine Avenue. It should also be pointed

out that the plot plan did not observe the required 25 foot front setback and parking spaces have been shown in this area. It will be necessary for the applicant to redraw the plan and not show any parking in the front setback area.

A recent University Study of this general area determined that the property between Lorraine and Hillside would eventually fall into the University zoning district. This means that at some point in time various uses such as parking lots, offices, laboratories, and other similar type uses which would be associated with the University could be located in this area. The study was approved by the Planning Commission and the City Commission and, therefore, it is the opinion of the Secretary that this application is logical and proper and is in conformance with the future planning for the area.

Recommendation

It is the recommendation of the Secretary that the application to permit the installation or construction of an off-street parking lot be approved subject to the following conditions:

1. There shall be no access to Lorraine Avenue; all access shall be oriented toward Hillside.
2. The parking area shall be used for passenger vehicles only and in no case shall 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 lot shall be permitted.
4. In no case shall a fee be charged for parking facilities provided hereunder.
5. The off-street parking lot and all driveways providing ingress and egress to the parking lot 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 curbs or 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 all vehicles.

7. If lighting facilities are provided they shall be so arranged so as to reflect or direct light away from adjacent properties and in no event shall lights be permitted to reach a height of greater than 6 feet.
8. A six foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the north and south property lines to the front setback line. And a 3 foot high solid fence shall be erected within one foot of the front setback line adjacent to Lorraine Avenue. The front yard shall remain unpaved and shall be landscaped with trees, shrubs, and grass and shall be maintained compatible with the residential area.
9. Prior to the issuance of a permit for the occupancy of the off-street parking lot, the applicant shall submit a revised off-street parking lot plan to the Department of Central Inspections for the approval of the Traffic Engineer which plan shall include location of all off-street parking spaces, the width and dimensions of all parking spaces, markings for channelization and location of all driveways, widths of driveways, etc.
10. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

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

September 11, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 28-67

An application has been filed by Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, by William A. Poshee, 2111 Bluff Court, Wichita, Kansas, pursuant to Section 2.12.590.3, Code of the City of Wichita, requesting an exception to permit the installation or construction of an off-street parking lot on property zoned "A" Two Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace  
Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the east side of Lorraine  
in an area north of 17th Street.

This application has been assigned Case No. BZA 28-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 26, 1967, at 1:30 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.

Jack H. Galbraith  
Secretary

August 28, 1967

Board of Zoning Appeals  
City of Wichita,  
Kansas

Gentlemen:

I have signed a contract to purchase Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas, subject to this exception being granted by the Board of Zoning Appeals so that I might establish a parking lot in conjunction with the McDonald property immediately to the east of this property which I own and operate.

By granting this exception, it would give me badly needed extra parking and, also, would relieve the congested traffic on Hillside.

Sincerely yours,

*James O. Smith*  
William Foshee  
*W. L. Loh*

am



APPLICATION FOR EXCEPTION

I. Name of Applicant Z. Wetmore Trust Estate  
Mailing Address 709 Bitting Building Phone TR 3-3749  
Name of Authorized Agent William A. Foshee  
Mailing Address 2111 Bluff Court Phone MU 6-8826  
Relationship of applicant to property is that of owner  
(owner, tenant, lessee, other).

II. Application is made for an exception as provided in Section  
28.04.145, Code of the City of Wichita, Kansas  
(Zoning Ordinance); to permit the installation or construction  
of an offstreet parking lot

\_\_\_\_\_ on property zoned  
A, located on the east side of Lorraine, ~~between~~ in area  
north of 17th Street and legally described as: lots 87  
and 87 on Lorraine Avenue in Block 5, College Terrace Addition to the City  
of Wichita, Sedgewick County, Kansas, in the City of Wichita.  
(Give metes and bounds description below if appropriate).

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.

Applicant Z. Wetmore Trust Estate

Authorized Agent William A. Foshee

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 4:00 (a.m. - 5:00 p.m.), August 28, 1967, together with appropriate fee of \$50.00.

Signed Louise P. Wilkinson

CERTIFICATE OF OWNERSHIP

CALLAHAN GUARANTEE TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the Office of the Register of Deeds of Sedgwick County, Kansas, of the real estate within a radius of 200 feet of and including the following described property:

Lots 85 and 87, Block 5, College Terrace Addition  
to Wichita, Sedgwick County, Kansas.

A	Description	Owner
H	In College Terrace Addition:	
A	Block 5:	
N	Lots 70, 72, 74 and 76	✓ Wichita Beta Theta Pi Alumni Association c/o L. E. Gardner 3902 East 13th St. 67208
G	Lots 78, 80, 82, 84, 86 and 88	✓ The Paul Revere Life Insurance Company <i>one quantity Bldg. 67202</i>
U	Lots 90, 92, 94 and 96	✓ Undivided 1/2 interest - John M. Wetmore ✓ Undivided 1/2 interest - Donald H. Wetmore <i>709 Bldg. 67202</i>
R	Lots 69 and 71	✓ Robert Lee Arnold & Delphine Arnold 1832 N. Lorraine 67214
A	Lots 73 and 75	✓ Secretary of Housing & Urban Development <i>net 4-13-61 Union National Bldg. 67202</i>
N	Lots 77 and 79	✓ Perry Crawford & Pearl Crawford 1026 Mathewson 67214
T	Lots 81 and 83	✓ Z. Wetmore & Mary Bass Wetmore <i>709 Bldg. 67202</i>
E	Lots 85, 87, 89 and 91	✓ Trustees of Estate of Z. Wetmore, deceased <i>709 Bldg. 67202</i>
T	Lots 93 and 95	✓ Genevieve A. Wetmore, <i>709 Bldg. 67202</i>
I	Block 6:	
T	Lots 70 and 72	✓ Administrator of Veterans Affairs c/o Loan Guaranty Officer <i>5700 East 13th St. 67218</i>
L	Lots 74 and 76	✓ Daisy Lorene Snyder 1825 Lorraine 67214
E	Lots 78 and 80	X Michael Vincent Astle <i>no address found</i>
C	Lots 82 and 84	✓ John Wise and Clementine Wise 1817 N. Lorraine 67214
O.	Lots 86 and 88	✓ Jay H. McClure and Imogene McClure 201 S. Bleckley 67218

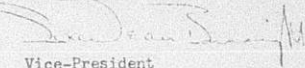
SEND NOTICE TO: MELVIN AND HAZEL PARK  
1818 No. Lorraine 67214

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Description	Owner
Block 6 (continued):	
Lots 90 and 92	✓ David J. Olmsted & Alice M. Olmsted 1805 N. Lorraine 67214
Lots 94 and 96	✓ Eva Rogers 1801 N. Lorraine 67214
Lots 77 and 79	Administrator of Veterans Affairs c/o Loan Guaranty Officer
Lots 81 and 83	D 5900 East McElroy X Collus Williams & Diann D. Williams no address found
Lots 85 and 87	✓ J. W. Kennedy and Ruth Kennedy 1812 N. Chautauqua 67214
Lots 89, 91, 93 and 95, except the East 62 feet of Lots 93 and 95	✓ E. Loyal Miles & Reba Mae Miles 104 Michigan Winfield, Kansas 67156
The East 62 feet of Lots 93 and 95	D Eva Rogers 1801 N. Lorraine

WITNESS our Hand and Seal at Wichita, Kansas, this 16th day of August, 1967, at 7:00 o'clock A. M.

CALLAHAN GUARANTEE TITLE CO., INC.

By   
Vice-President

No. 13673

*By* COMMITTEE *Deferred* *7-26-67*  
*By* *advised* *10-24-67*

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

*Appealed to District Court 2/10/68*  
*Board's Decision upheld*

BZA 28-67 - Z. Wetmore Trust Estate  
requests Exception to permit off-  
street parking lot in "A" on the east  
side of Lorraine in an area north of  
17th Street

5697

# ACTION

POSTED  
8-31-67

<i>Bza</i> COMMITTEE	<i>Deferred</i>	<i>9-26-67</i>
	<i>denied</i>	<i>10-24-67</i>

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

*Appealed to District Court 2/10/68*  
*Board's Decision upheld*

BZA 28-67 - Z. Wetmore Trust Estate  
requests Exception to permit off-  
street parking lot in "A" on the east  
side of Lorraine in an area north of  
17th Street

THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

DATE February 27, 1968


**HELP! PREVENT  
ACCIDENTAL  
POISONING**



TO JACK GALBRAITH, Secretary of the Board of Zoning  
and Appeals  
FROM ARTHUR G. JOHNSON, Assistant City Attorney

SUBJECT Z. WETMORE TRUST ESTATE

To complete your file on the above matter, I enclose herewith  
copy of Journal Entry of Judgment which was entered following Judge  
Kandt's denial of the applicant's appeal.

  
ARTHUR G. JOHNSON,  
Assistant City Attorney

AGJ:nm

Enclosure

cc: John Dekker, Director of Law



JOHN DEKKER  
CITY ATTORNEY  
ARTHUR G. JOHNSON

XXXXXXXXXXXXXXXXXXXX  
ASSISTANT CITY ATTORNEY  
XXXXXXXXXXXXXXXXXXXX  
SUITES 201-202 - AREA CODE 316  
SUITE 200 - BROWN BUILDING  
425 Boston Building  
Wichita, Kansas 67202  
AMherst 2-7452

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE APPLICATION )  
OF ) Case No. 13242  
Z. WETMORE TRUST ESTATE )  
FOR ZONING EXCEPTION. ) Division No. 1

JOURNAL ENTRY OF JUDGMENT

NOW on this 16th day of February, 1968, the above styled matter comes on to be heard upon an appeal from a ruling by the Board of Zoning Appeals of the City of Wichita, Kansas, denying an application for an exception pursuant to § 28.04.145 of the Code of the City of Wichita, Kansas, the applicant appearing by Clifford L. Malone, its attorney, and the Board of Zoning Appeals appearing by Arthur G. Johnson, as assistant city attorney.

THEREUPON evidence was introduced and the court after due consideration thereof finds that the appeal of the applicant should be overruled and denied.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the appeal of the applicant Z. Wetmore Trust Estate from a ruling by the Board of Zoning Appeals of the City of Wichita, Kansas, denying an application for an exception pursuant to § 28.04.145 of the Code of the City of Wichita, Kansas, be overruled and denied and the costs herein be assessed to the applicant.

\_\_\_\_\_  
JUDGE

APPROVED:

Z. WETMORE TRUST ESTATE  
ADAMS, JONES, ROBINSON AND MANKA

BY: \_\_\_\_\_  
ATTORNEYS FOR APPLICANT

BOARD OF ZONING APPEALS

BY: \_\_\_\_\_  
ASSISTANT CITY ATTORNEY

**SUBPOENA**

The State of Kansas  
Sedgwick County

} etc

Case Number C-12342

THE STATE OF KANSAS

TO: JACK H. GALBRAITH, Secretary  
Board of Zoning Appeals  
Room 402, City Building Annex  
104 South Main, Wichita, Kansas

WE COMMAND YOU to bring with you Board of Zoning Appeals file  
BZA 28-67 and Board of Zoning Appeals minutes of Case BZA 38-64  
concerning Lots 7, 9, 11 and 13 on Lorraine Avenue, Conlon's  
Subdivision of Lots 3 and 4 in Imboden's and Oliver's Addition  
to Wichita, Kansas  
and

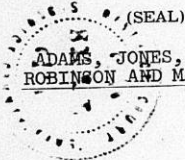
WE COMMAND YOU to be and appear in your own proper person before the Judge of Division No. \_\_\_\_\_, of the District Court of the County of Sedgwick, at the Court House in Wichita, County of Sedgwick, on the 16th day of February, 1968, at 10:00 clock A.M., of that day, then and there to testify on behalf of the applicant in a certain controversy now pending and undetermined in said court, wherein Z. Wetmore Trust Estate is ~~plaintiff and~~ applicant ~~defendant~~ and this do you in nowise omit under the penalty of the law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at my office in Wichita, this 15th day of February, A. D. 1968.

DOROTHY I. VAN ARSDALE  
Clerk

*J. Dornier*

Deputy Clerk.



ADAMS, JONES,  
ROBINSON AND MANKA

Atty. for Applicant

**SHERIFF'S RETURN**

Received this writ February 15, 1968. Served the same by delivering a certified copy to each person named personally, at the times following, to-wit:

Jack H. Galbraith Feb. 15 1968 and by serving witness fee 19  
of \$5.00 19  
\_\_\_\_\_ 19  
\_\_\_\_\_ 19

Served the same by leaving a copy thereof at the usual place of residence, at the times following, to-wit:

\_\_\_\_\_ 19  
\_\_\_\_\_ 19  
\_\_\_\_\_ 19

The following persons not found in Sedgwick County:

\_\_\_\_\_ 19  
\_\_\_\_\_ 19

Serving first person \$ \_\_\_\_\_  
Serving \_\_\_\_\_ copies \_\_\_\_\_  
Not found \_\_\_\_\_  
Mileage \_\_\_\_\_ at 9c \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

Subscribed and sworn to before me this ~~15th~~ 15th day of February 1968.

Notary Public

My commission expires \_\_\_\_\_.

EXCERPT FROM BOARD OF ZONING APPEALS MINUTES OF OCTOBER 24, 1967:

1. Case No. BZA 28-67 - Z. Wetmore Trust Estate requests an exception pursuant to Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita, to permit the installation of an off-street parking lot on property zoned "A" Two Family, and legally described as follows: Lots 85 and 87, Block 5, College Terrace Addition. Generally located on the east side of Lorraine in an area north of 17th Street.

GALBRAITH pointed out the area on the map and reviewed the Secretary's report and action of the Board on September 26, 1967, at which meeting the application was deferred until this date. In reviewing the application, GALBRAITH said that the request is made in order to provide off-street parking in conjunction with a drive-in restaurant business facing on Hillside, and provide for traffic circulation into and out of the facility by means of Hillside and also Lorraine if this application is approved. GALBRAITH pointed out that one of the major points of difference at the previous meeting was the desire of the applicant to have an exit onto Lorraine and the reluctance of the Secretary to approve such, in light of the residential character in this area on Lorraine. He reminded the Board that at the previous meeting, the attorney for the applicant had indicated they could not use subject property as proposed unless they could have access to Lorraine.

GALBRAITH also pointed out that at the previous meeting there were several residents of the area (on Lorraine Avenue) who spoke in opposition to the present activity at the drive-in restaurant and to approval of this application which would permit even more adverse conditions as related to residential use of adjoining or nearby properties.

GALBRAITH said that as shown in the minutes of September 26, 1967, the Secretary would recommend approval, subject to the conditions as shown in the Secretary's report, one of which was the fact that all ingress and egress should be confined to Hillside and none permitted on Lorraine.

CLIFFORD MALONE, Attorney for the applicant, said that their biggest problem is a matter of ingress and egress and that there is considerable congestion particularly after a function at the University, and it is the desire of the operators of the drive-in restaurant to guide some of the traffic away from Hillside and on to Lorraine. He said they considered it a safety hazard as now operated, and to have access to Lorraine would relieve the bottleneck on Hillside.

MR. MALONE pointed out that subject property will not be used too much at night, except after a University function, and at other times there is not much activity during the late evening hours. He pointed out also that subject property borders light commercial zoning and use and that it actually has no value at present because it is not being used at all and he considered it very unlikely that anyone would build a residence there. It was his opinion that to utilize subject property as proposed would result in an improvement of the area in general.

PHARES asked if anyone had checked with the Police Department as to the traffic on Lorraine and Hillside and whether or not what is proposed (entrance to Lorraine) would relieve the traffic situation associated with the drive-in restaurant facing Hillside.

MR. MALONE pointed out that the Traffic Engineer had approved the parking plans when submitted to him, which included an indication of access to Lorraine. It was Mr. Malone's assumption that had the Traffic Engineer felt there was any traffic problem created, he would have raised some objection at the time. MR. MALONE stated that there would be no question but that it would relieve the traffic congestion and hazard on Hillside.

In discussing the proposed conditions to approval, MR. MALONE said they were agreeable to all recommended conditions except the control of access to Lorraine.

In further discussion, MR. MALONE said that his client has contracted to purchase subject property subject to favorable ruling on this application.

MELVIN PARKS, 1818 North Lorraine, stated that he was opposed to the application and use of the property for a parking lot. He pointed out that it adjoins his residence and noise, debris, etc., associated with a parking lot would add greatly to the nuisance already existing in the residential neighborhood because of activities at the drive-in restaurant. He felt that to approve access to Lorraine would further encroach on the residential area.

MRS. CLEMENTINE WISE, 1817 North Lorraine, said that her objection was the same as voiced at the meeting of September 26, 1967.

MOTION: PHARES moved, KRATZER seconded and it carried unanimously that this application be denied, as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 28-67

WHEREAS, Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, Kansas, by William A. Foshee, Agent, 2111 Bluff Court, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street); and

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 first consider said application on September 26, 1967; at which time the application was deferred until the meeting of October 24, 1967; and

WHEREAS, the Board of Zoning Appeals did consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita; and

WHEREAS, the property is zoned "A" Two Family Residential; and

WHEREAS, the Board of Zoning Appeals, after public hearing of this application, determined that the special permit for an exception to the Zoning Ordinance to permit off-street parking on subject property as requested was not desirable.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for permission to install or construct an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition  
to Wichita, Sedgwick County, Kansas (generally  
located on the east side of Lorraine in an area  
north of 17th Street),

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of October,  
1967.

S/ Harold Bauer  
Harold Bauer, Vice Chairman

ATTEST:

S/ Jack H. Galbraith  
Jack H. Galbraith, Secretary

-----

November 14, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: BZA 28-67 - Request for  
Exception

Attached herewith is a complete file, including a letter and Resolution effectuating the denial by the Board of Zoning Appeals of Case No. BZA 28-67. These are the items which you requested that we furnish to you for the District Court.

If you have any questions or you do not feel that the file is complete, please feel free to call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber

Attachment

November 14, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: BZA 28-67 - Request for  
Exception

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 24, 1967, in connection with your request for an exception to permit an off-street parking facility on property zoned "A" Two-Family Residential, and located generally on the east side of Lorraine in an area north of 17th Street. This Resolution reflects the official action of the Board and is forwarded to you for your files.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: S. Wetmore Trust Estate, 709 Bitting Building 67202  
Melvin Parks, 1818 North Lorraine 67214  
Mrs. Clementine Wise, 1817 North Lorraine 67214  
William A. Foshee, 2111 Bluff Court  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

November 14, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: BZA 28-67 - Request for  
Exception

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 24, 1967, in connection with your request for an exception to permit an off-street parking facility on property zoned "A" Two-Family Residential, and located generally on the east side of Lorraine in an area north of 17th Street. This Resolution reflects the official action of the Board and is forwarded to you for your files.

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

Very truly yours,

*Jack H. Galbraith*

Jack H. Galbraith  
Secretary

JHG:bar

cc: E. Wetmore Trust Estate, 709 Bitting Building 67202  
Melvin Parks, 1818 North Lorraine 67214  
Mrs. Clementine Wise, 1817 North Lorraine 67214  
William A. Foshee, 2111 Bluff Court  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

RESOLUTION NO. BZA 28-67

WHEREAS, Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, Kansas, by William A. Foshee, Agent, 2111 Bluff Court, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita, to permit the installation or construction of an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street); and

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 first consider said application on September 26, 1967; at which time the application was deferred until the meeting of October 24, 1967; and

WHEREAS, the Board of Zoning Appeals did consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, and Section 28.04.145, Code of the City of Wichita; and

WHEREAS, the property is zoned "A" Two Family Residential; and

WHEREAS, the Board of Zoning Appeals, after public hearing of this application, determined that the special permit for an exception to the Zoning Ordinance to permit off-street parking on subject property as requested was not desirable.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that this request for permission to install or construct an off-street parking lot on property zoned "A" Two-Family Residential and legally described as follows:

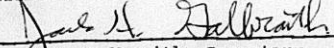
Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas (generally located on the east side of Lorraine in an area north of 17th Street),

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of October, 1967.

  
Harold Bauer, Vice Chairman

ATTEST:

  
Jack H. Galbraith, Secretary

BEFORE THE BOARD OF ZONING APPEALS  
FOR THE CITY OF WICHITA, KANSAS

IN THE MATTER OF THE APPLICATION

OF

Z. WETMORE TRUST ESTATE  
FOR ZONING EXCEPTION.

CASE NO.

BZA 28-67

NOTICE OF APPEAL TO THE DISTRICT COURT

TO: THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA:

YOU are hereby notified that the applicant, Z. Wetmore Trust Estate, hereby appeals to the District Court of Sedgwick County, Kansas, the action of the Board of Zoning Appeals taken on October 24, 1967, denying the granting of an exception pursuant to Section 2.12.590.3, Code of the City of Wichita, to permit the installation of an offstreet parking lot on and covering

Lots 85 and 87 on Lorraine Avenue in Block 5,  
College Terrace Addition to the City of  
Wichita, Kansas.

This appeal is made pursuant to the provisions of the Code of the City of Wichita, Section 2.12.610 (Ordinance No. 28-291, Section 6) and pursuant to the provisions of the Code of Civil Procedure of the State of Kansas, K.S.A. 60-2101(a).

Applicant hereby requests that true copies of all pertinent proceedings before the Board of Zoning Appeals be prepared for filing with the Clerk of the District Court of Sedgwick County, Kansas.

DATED this 13th day of November 1967.

Z. WETMORE TRUST ESTATE

ADAMS, JONES, ROBINSON AND MANKA

BY Clifford Holme  
Attorneys for Applicant

RETURN OF SERVICE

STATE OF KANSAS        }  
SEDGWICK COUNTY        }    SS:

The undersigned certifies that a copy of the above and foregoing Notice of Appeal was served upon the Board of Zoning Appeals of the City of Wichita, Kansas, by delivering a copy thereof to JACK H. GALBRAITH, Secretary for said Board, this 13<sup>th</sup> day of November 1967.

Robert D. Leitloff

Subscribed and sworn to before me this 13<sup>th</sup> day of November 1967.

Helen Wooda  
Notary Public

My commission expires October 9, 1970.



September 27, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: BZA 28-67 - Request for exception

At the regular meeting of the Board of Zoning Appeals on September 26, 1967, your request to permit off-street parking in "A" zoned property on the east side of Lorraine in an area north of 17th Street, was considered.

It was the action of the Board to defer definite action on this application until its meeting of October 24, 1967.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: E. Wetmore Trust Estate, 709 Bitting Building 67202  
William A. Foshee, 2111 Bluff Court 67218  
Mr. and Mrs. Melvin Parks, 1818 North Lorraine 67214  
+ Pearl Crawford, 1026 Mathewson 67214  
Clementine Wise, 1817 North Lorraine 67214  
David Gore, 2601 West 30th Street South 67217  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

October 25, 1967

Mr. Clifford Malone, Attorney  
American Savings Building  
Wichita, Kansas 67202

Dear Mr. Malone:

Re: BZA 28-67 - Request for Exception

At the regular meeting of the Board of Zoning Appeals on October 24, 1967, your request for an exception to the Zoning Ordinance to permit an off-street parking facility on property zoned "A" Two Family Residential, and located generally on the east side of Lorraine in an area north of 17th Street, was reconsidered after having been deferred at the September 26, 1967 meeting.

It was the action of the Board to deny your request.

A Resolution will be prepared setting forth the official action of the Board and will be forwarded to you soon.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: E. Wetmore Trust Estate, 709 Bitting Building 67202  
Melvin Parks, 1818 North Lorraine 67214  
Mrs. Clementine Wise, 1817 North Lorraine 67214  
William A. Foshee, 2111 Bluff Court  
Glen Lytle, Superintendent of Central Inspection  
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 28-67

APPLICANT: Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, Kansas

AGENT: William A. Foshee, 2111 Bluff Court, Wichita, Kansas

REQUEST: Exception pursuant to Section 2.12.590.3, Code of the City of Wichita to permit the installation of an off-street parking lot.

GENERAL LOCATION: On the east side of Lorraine in an area north of 17th Street

LAND USE: Subject property is vacant, to the north is single-family, to the west and south are duplexes and to the east is McDonalds Drive-In.

ZONING: Subject property and that to the north, south, and west is "A" Two Family, to the east is "LC" Light Commercial.

JURISDICTION

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.3, Code of the City of Wichita. The Board may grant the exception to permit the installation or construction of an off-street parking providing the conditions outlined under Section 28.04.145, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY

The applicant is requesting approval of the exception to permit an off-street parking lot so that additional off-street parking may be provided for the drive-in restaurant which is located adjacent to the east. A plot plan has been submitted and the layout has been approved by the Traffic Engineering Division. The plot plan does, however, show access to Lorraine Avenue which in the opinion of the Secretary may have a detrimental affect on the adjacent properties. The fact that the parking lot would be tied in with the drive-in restaurant could create a substantial amount of traffic coming out on Lorraine rather than using the front access to Hillside, therefore, it is recommended that if the application is approved, it be approved subject to no access to Lorraine Avenue. It should also be pointed

out that the plot plan did not observe the required 25 foot front setback and parking spaces have been shown in this area. It will be necessary for the applicant to redraw the plan and not show any parking in the front setback area.

A recent University Study of this general area determined that the property between Lorraine and Hillside would eventually fall into the University zoning district. This means that at some point in time various uses such as parking lots, offices, laboratories, and other similar type uses which would be associated with the University could be located in this area. The study was approved by the Planning Commission and the City Commission and, therefore, it is the opinion of the Secretary that this application is logical and proper and is in conformance with the future planning for the area.

Recommendation

It is the recommendation of the Secretary that the application to permit the installation or construction of an off-street parking lot be approved subject to the following conditions:

1. There shall be no access to Lorraine Avenue; all access shall be oriented toward Hillside.
2. The parking area shall be used for passenger vehicles only and in no case shall 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 lot shall be permitted.
4. In no case shall a fee be charged for parking facilities provided hereunder.
5. The off-street parking lot and all driveways providing ingress and egress to the parking lot 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 all vehicles.

7. If lighting facilities are provided they shall be so arranged so as to reflect or direct light away from adjacent properties and in no event shall lights be permitted to reach a height of greater than 6 feet.
8. A six foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the north and south property lines to the front setback line. And a 3 foot high solid fence shall be erected within one foot of the front setback line adjacent to Lorraine Avenue. The front yard shall remain unpaved and shall be landscaped with trees, shrubs, and grass and shall be maintained compatible with the residential area.
9. Prior to the issuance of a permit for the occupancy of the off-street parking lot, the applicant shall submit a revised off-street parking lot plan to the Department of Central Inspections for the approval of the Traffic Engineer which plan shall include location of all off-street parking spaces, the width and dimensions of all parking spaces, markings for channelization and location of all driveways, widths of driveways, etc.
10. All improvements as outlined above shall be installed prior to the occupancy of the site for an off-street parking lot.

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

September 11, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 28-67

An application has been filed by Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, by William A. Foshee, 2111 Bluff Court, Wichita, Kansas, pursuant to Section 2.12.590.3, Code of the City of Wichita, requesting an exception to permit the installation or construction of an off-street parking lot on property zoned "A" Two Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace  
Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the east side of Lorraine  
in an area north of 17th Street.

This application has been assigned Case No. BZA 28-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 26, 1967, at 1:30 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.

Jack H. Galbraith  
Secretary

August 28, 1967

Board of Zoning Appeals  
City of Wichita,  
Kansas

Gentlemen:

I have signed a contract to purchase Lots 85 and 87, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas, subject to this exception being granted by the Board of Zoning Appeals so that I might establish a parking lot in conjunction with the McDonald property immediately to the east of this property which I own and operate.

By granting this exception, it would give me badly needed extra parking and, also, would relieve the congested traffic on Hillside.

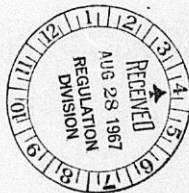
Sincerely yours,

*James O. Smith*

William Foshee

*Wm Foshee*

am



BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

NO. 28-67  
FILED 8-28-67

**APPLICATION FOR EXCEPTION**

I. Name of Applicant Z. Wetmore Trust Estate

Mailing Address 709 Bitting Building Phone FD 3-3248

Name of Authorized Agent William A. Foshee

Mailing Address 2111 Bluff Court Phone MU 6-0896

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

II. Application is made for an exception as provided in Section

28.04.145, Code of the City of Wichita, Kansas

(Zoning Ordinance); to permit the installation or construction

of an offstreet parking lot

\_\_\_\_\_ on property zoned

A, located on the east side of Lorraine, in area

north of 17th Street and legally described as: Lots #5

and #7 on Lorraine Avenue in Block 5, College Terrace Addition to the City

of Wichita, Sedgewick County, Kansas, in the City of Wichita.

(Give metes and bounds description below if appropriate).

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.

Applicant Z. Wetmore Trust Estate

Authorized Agent William A. Foshee

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 4:00 (a.m. - 8 p.m.), August 28, 1967, together with appropriate fee of \$50.00.

Signed Ronald G. Williamson

CERTIFICATE OF OWNERSHIP

CALLAHAN GUARANTEE TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the Office of the Register of Deeds of Sedgwick County, Kansas, of the real estate within a radius of 200 feet of and including the following described property:

Lots 85 and 87, Block 5, College Terrace Addition  
to Wichita, Sedgwick County, Kansas.

A L L A	Description	Owner
H	In College Terrace Addition:	
A	Block 5:	
N	Lots 70, 72, 74 and 76	<input checked="" type="checkbox"/> Wichita Beta Theta Pi Alumni Association c/o L. E. Gardner 3902 East 13th St. 67208
G	Lots 78, 80, 82, 84, 86 and 88	<input checked="" type="checkbox"/> The Paul Revere Life Insurance Company <i>one twenty Bldg, 67202</i>
U	Lots 90, 92, 94 and 96	<input checked="" type="checkbox"/> Undivided 1/2 interest - John M. Wetmore <input checked="" type="checkbox"/> Undivided 1/2 interest - Donald H. Wetmore <i>709 Billing Bldg, 67202</i>
A	Lots 69 and 71	<input checked="" type="checkbox"/> Robert Lee Arnold & Delphine Arnold 1832 N. Lorraine 67214
A	Lots 73 and 75	<input checked="" type="checkbox"/> Secretary of Housing & Urban Development <i>at 4-13-67 Union National Bldg, 67202</i>
N	Lots 77 and 79	<input checked="" type="checkbox"/> Perry Crawford & Pearl Crawford 1026 Mathewson 67214
T	Lots 81 and 83	<input checked="" type="checkbox"/> Z. Wetmore & Mary Bass Wetmore <i>707 Billing Bldg, 67202</i>
E	Lots 85, 87, 89 and 91	<input checked="" type="checkbox"/> Trustees of Estate of Z. Wetmore, deceased <i>709 Billing Bldg, 67202</i>
E	Lots 93 and 95	<input checked="" type="checkbox"/> Genevieve A. Wetmore <i>709 Billing Bldg, 67202</i>
T	Block 6:	
I	Lots 70 and 72	<input checked="" type="checkbox"/> Administrator of Veterans Affairs c/o Loan Guaranty Office <i>5500 East Kellogg, 67218</i>
T	Lots 74 and 76	<input checked="" type="checkbox"/> Daisy Lorene Snyder 1825 Lorraine 67214
L	Lots 78 and 80	<input checked="" type="checkbox"/> Michael Vincent Astle <i>no address found</i>
E	Lots 82 and 84	<input checked="" type="checkbox"/> John Wise and Clementine Wise 1817 N. Lorraine 67214
C	Lots 86 and 88	<input checked="" type="checkbox"/> Jay H. McClure and Imogene McClure 201 S. Bleckley 67218

SEND NOTICE TO:  MELVIN AND HAZEL PARKS  
 -1- 1818 No. Lorraine 67214

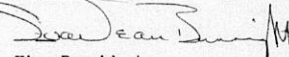
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Description	Owner
Block 6 (continued):	
Lots 90 and 92	✓ David J. Olmsted & Alice M. Olmsted 1805 N. Lorraine 67214
Lots 94 and 96	✓ Eva Rogers 1801 N. Lorraine 67214
Lots 77 and 79	Administrator of Veterans Affairs c/o Loan Guaranty Officer
Lots 81 and 83	D 5500 East Kellogg X Collus Williams & Diann D. Williams no address found
Lots 85 and 87	✓ J. W. Kennedy and Ruth Kennedy 1812 N. Chautauqua 67214
Lots 89, 91, 93 and 95, except the East 62 feet of Lots 93 and 95	✓ E. Loyal Miles & Reba Mae Miles 104 Michigan Winfield, Kansas 67156
The East 62 feet of Lots 93 and 95	D Eva Rogers 1801 N. Lorraine

WITNESS our Hand and Seal at Wichita, Kansas, this 16th day of August, 1967, at 7:00 o'clock A. M.

CALLAHAN GUARANTEE TITLE CO., INC.

By   
Vice-President

No. 13673

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

September 11, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 28-67

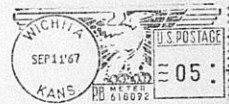
An application has been filed by Z. Wetmore Trust Estate, 709 Bitting Building, Wichita, by William A. Foshee, 2111 Bluff Court, Wichita, Kansas, pursuant to Section 2.12.590.3, Code of the City of Wichita, requesting an exception to permit the installation or construction of an off-street parking lot on property zoned "A" Two Family Residential and legally described as follows:

Lots 85 and 87, Block 5, College Terrace  
Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the east side of Lorraine  
in an area north of 17th Street.

This application has been assigned Case No. BZA 28-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 26, 1967, at 1:30 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.

Jack H. Galbraith  
Secretary

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



Secretary of Housing & Urban Development

Union-National Building

Wichita, Kansas 67202

- Moved, left no address
- No sub. number
- Moved, not forwardable
- Addressee unknown

*MC 0215*

RETURN  
TO  
WRITER



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

September 11, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

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Jack H. Galbraith  
Secretary

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202

no longer  
here.



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- No such number
- Moved, not forwardable
- Addressee unknown

1130  
577

Daisy Lorene Snyder

1825 Lorraine

Wichita, Ks.

672448191

- Moved, left no address
- No such number
- Moved, not forwardable
- Addressee unknown

RETURN  
TO  
WRITER



428  
[Signature]

Form 723-021

PAYMENT NOTICE

City of Wichita

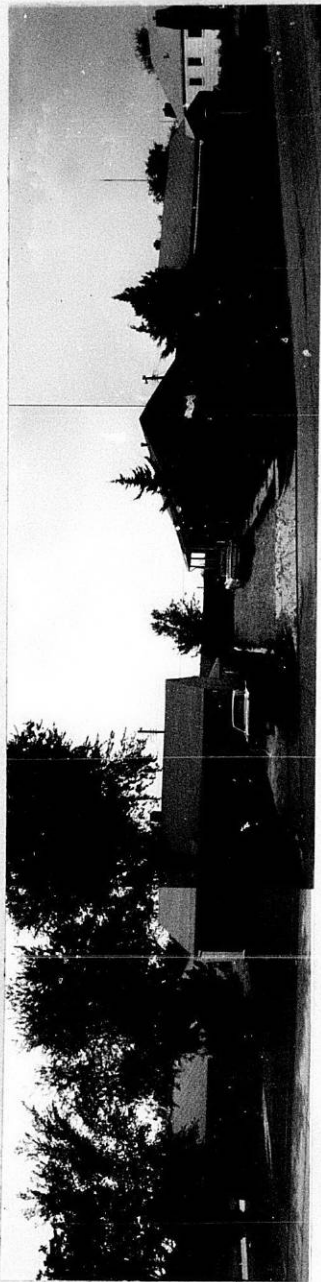
PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
Boarding zoning	50 <sup>00</sup>
Appeals Application	
Name Z. Wetmore Trust Est	
Address 709 Bittering Bldg	
Type	Date 8-28-67

Comments:  
R-71-C

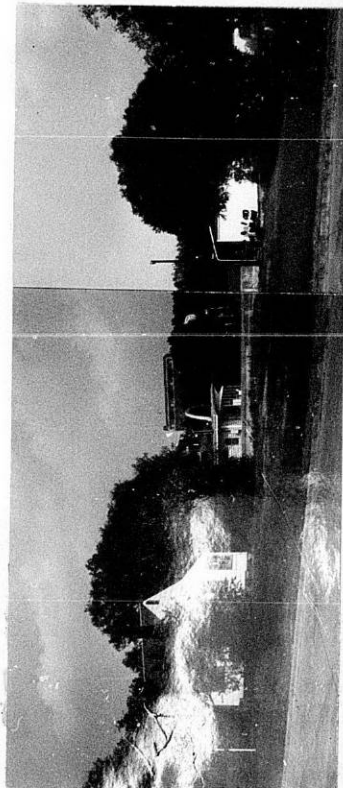
Date 8-28-67 By R.R.



1.



m.



2.

Map No. 56A  
 Sec. 10  
 Twp. 27  
 Range 1E

- AREA DATA:
1. Acres: \_\_\_\_\_
  2. Adjoining Zone: \_\_\_\_\_
  3. Land Use: \_\_\_\_\_
  4. Sketch Plan: \_\_\_\_\_
  5. Present Land: \_\_\_\_\_
  6. Area (is) (is): \_\_\_\_\_

PHOTO DATA:  
 Taken by 7

SEE FR

48	H
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50	H
51	H
52	H
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Map No. 5649  
 Sec. 10  
 Twp. 27  
 Range 1E

BZA 28-67  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

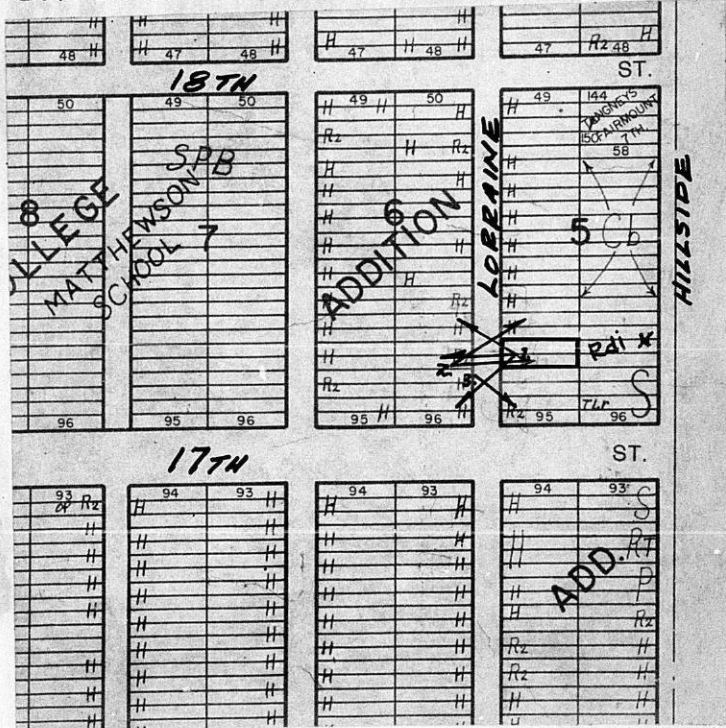
AREA DATA:

1. Acres: 0.16 ( 50 ft. by 140 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East DRIVE-IN South TWO FAM.  
 West TWO FAM. North SINGLE
4. Sketch Plan Land Use is for: RESID.
5. Present Land Use is for: VACANT
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by TZ Date 9-11-67 Time 3:45

SEE PREVIOUS ZONE CASE 2-0112 (BFR)



3.

2.

\*

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