

BZA 36-67 - Rock Road Improvement Co. Inc. requests Variance to reduce front yard setback at the northwest corner of Douglas and Rock Road

*POSTED
10-17-67*

ACTION

By a COMMITTEE Approved 10-24-67

M.A.P.C. _____

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

5947

Map No. 5947
Sec. 19
Twp. 27
Range 2E

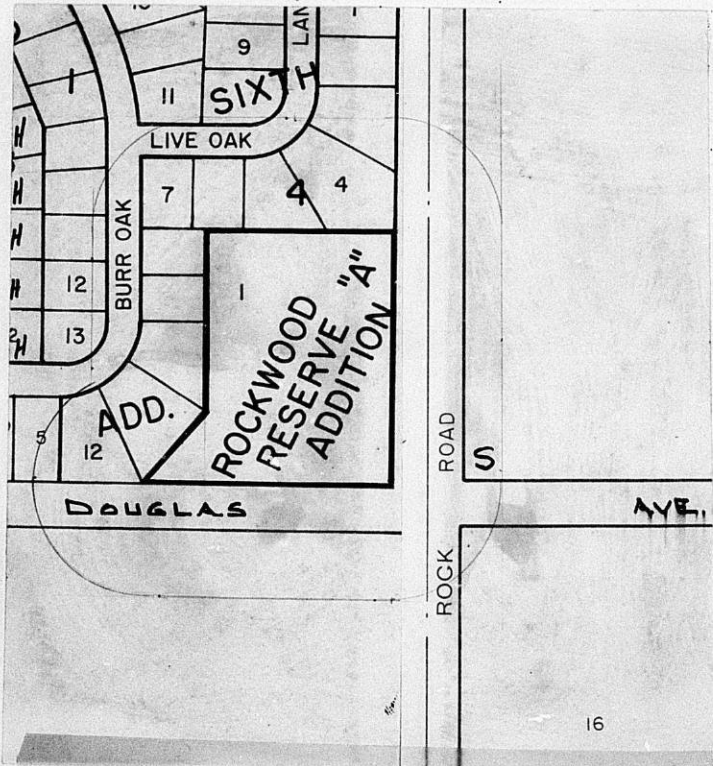
BZA 36-67
SCZ- _____
CU- _____
Filed _____

AREA DATA:

1. Acres: 3.7 (340 ft. by 455 ft.)
2. Adjoining Zoning: E AA S LC W AA N AA
3. Land Use: East SEVN STAT. & VAC South VAC
West VAC North VAC
4. Sketch Plan Land Use is for: RESIDENTIAL
5. Present Land Use is for: VACANT
6. Area (is) ~~(is not)~~ platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



July 29, 1969

Bob Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Secretary, Board of Zoning Appeals

Case No. BZA 36-67

Variance of required front yard setback from Rock Road.

On October 24, 1967, the Board of Zoning Appeals considered the above captioned variance request so that the applicant could use the required front yard setback for off-street parking. This request was associated with Rockwood Reserve "A" Addition, located at the northwest corner of Rock Road and Douglas. The action of the Board was to approve the request, subject to four conditions, as indicated in an attached copy of the Resolution which was forwarded to your office in November of 1967.

Recently, I passed this intersection and noticed that the apartments appeared to be complete and in use, the parking area was paved and in use, and the required fence (Condition No. 2) has not been installed. Condition No. 4 required that the four conditions be complied with prior to the occupancy of the setback area for parking. Since we were involved with the case and are familiar with the area, this is called to your attention so you may take appropriate action.

JHG:so
Attachment

November 14, 1967

Mr. Charles Harris, Attorney
830 First National Bank Building
Wichita, Kansas 67202

Dear Mr. Harris:

Re: BZA 36-67 - Request for Variance

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 a variance of the front yardsetback adjacent to Rock Road from 20 feet to 9 feet for off-street parking only, on property zoned "B" and generally located at the northwest corner of Douglas and Rock Road.

This Resolution reflects the official action of the Board and indicates the conditions to approval. It is forwarded for your information and files.

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

Very truly yours,

JACK H. Galbraith
Secretary

JHG:ber

cc: Rock Road Improvement Co., Inc., 309 South Market
Urban A. Denker, 309 South Market
Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

R E S O L U T I O N NO. BZA 36-67

WHEREAS, Rock Road Improvement Company, Inc., 309 South Market, Wichita, Kansas, by Urban A. Denker, 309 South Market, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requests a variance of the required front yard setback adjacent to Rock Road from 20 feet to 0 feet, on property zoned "B" Multiple-Family Residential and legally described as follows:

Rockwood Reserve "A" Addition, in the City of Wichita, Sedgwick County, Kansas (generally located on the northwest corner of Douglas and Rock Road); 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 consider said application on October 24, 1967; and

WHEREAS, the Board of Zoning Appeals has jurisdiction to consider said request for variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "B" Multiple-Family Residential; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant, inasmuch as there is 26 feet of right-of-way between the edge of the paving on Rock Road and the applicant's property line and, further, the platted lots to the north back into Rock Road, which will mean that houses will not face into Rock Road and, consequently, there will be no front yard setback to be maintained; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the lots to the north back into Rock Road and the applicant intends to construct a fence on the north property line to screen the area to the north from the parking lot and, further, screening to the east along Rock Road is required to screen the adverse effects of a parking lot from the potential development on the east side of Rock Road; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as the applicant is desirous of providing more off-street parking than required by ordinance and, further, the number of spaces to be provided would be reduced and would cause internal traffic circulation problems if the setback requirement was reduced down to five feet rather than 0 feet as being proposed by the applicant; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as proper screening, fencing and landscaped buffers will be provided; and

WHEREAS, granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance); and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance can be granted, has been found to exist;

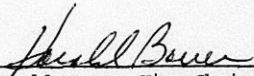
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that the request for a variance of the front yard setback adjacent to Rock Road from the required 20 feet to 0 feet, on property zoned "B" Multiple-Family Residential and legally described as follows:

Rockwood Reserve "A" Addition, in the City of Wichita, Sedgwick County, Kansas (generally located on the northwest corner of Douglas and Rock Road),

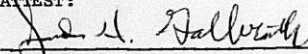
be approved, subject to the following:

1. The variance is approved for the purpose of off-street parking and associated fencing only.
2. A 6-foot high solid fence constructed of masonry, wood, or louvered redwood, shall be erected along the east 80 feet of the north property line. A 3-foot high fence, either of wood, masonry, or ornamental iron, shall be erected parallel to Rock Road.
3. The applicant and developer shall provide at least 1.5 parking spaces per dwelling unit.
4. The improvements as outlined above shall be installed prior to the occupancy of the setback area for off-street parking.

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


Hafold Bauer, Vice Chairman

ATTEST:


Jack H. Galbraith, Secretary

October 26, 1967

Mr. Charles Harris, Attorney
830 First National Bank Building
Wichita, Kansas 67202

Dear Mr. Harris:

Re: BZA 36-67 - Request for Variance

At the regular meeting of the Board of Zoning Appeals on October 24, 1967, the request of Rock Road Improvement Company, Inc. for a variance of the front yard setback adjacent to Rock Road from 20 feet to 0 feet for off-street parking only, on property zoned "B" Multiple Family Residential and generally located at the northwest corner of Douglas and Rock Road, was considered.

It was the action of the Board to approve the variance as requested, subject to the following:

1. The variance is approved for the purpose of off-street parking and associated fencing only.
2. A 6-foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the ~~front~~ 80 feet of the north property line. A 3-foot high fence, either of wood, masonry, or ornamental iron, shall be erected parallel to Rock Road.
3. The applicant and developer shall provide at least 1.5 parking spaces per dwelling unit.
4. The improvements as outlined above shall be installed prior to the occupancy of the setback area for off-street parking.

A resolution setting forth the official action of the Board is being prepared and a copy will be mailed to you as soon as the signatures of the Chairman and Secretary are obtained.

Page 2 - Charles Harris
October 26, 1967

If you have any questions, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ber

cc: Rock Road Improvement Co., Inc.
309 South Market
Wichita, Kansas 67202

Urban A. Denker
309 South Market
Wichita, Kansas 67202

Glen Lytle, Superintendent
of Central Inspection

Ralph Eberly
City Clerk

SECRETARY'S REPORT

CASE NO. BZA 36-67

APPLICANT: Rock Road Improvement Co., Inc., 309 South Market,
Wichita, Kansas.

AGENT: Urban A. Denker, 309 South Market, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City
of Wichita, to reduce the front yard setback adjacent to Rock
Road from 20 feet to 0 feet for off-street parking only.

GENERAL LOCATION: At the northwest corner of Douglas and Rock Road.

ZONING: Subject property is zoned "B". To the north, east and
west is zoned "AA", and to the south is "LC".

LAND USE: Subject property is vacant as is that to the north,
south and west, while to the east is a non-conforming service
station.

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 ordi-
narily found in the same zone or district; and is not created
by an action or actions of the property owner or the appli-
cant.
2. That the granting of the permit for the variance will not ad-
versely 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 hard-
ship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public
health, safety, morals, order, convenience, prosperity or
general welfare; and
5. That granting the variance desired will not be opposed to the
general spirit and intent to Title 28 (Zoning Ordinance.)

COMMENTS BY THE SECRETARY:

Subject application is for property on a corner lot which has recently been platted and zoned the "B" Multiple-Family classification. A 20-foot front yard setback is required from both streets, and the applicant is requested a variance from 20 feet to 0 feet adjacent to Rock Road only, for the purpose of utilizing the setback area for off-street parking. The Secretary questions the justification for a waiver of the entire setback for parking purposes as the setback area is usually landscaped, which provides some means of softening the transition between the sidewalk and the parking lots usually developed behind the required setback.

UNIQUENESS:

It is the opinion of the Secretary that the request, in total, is not unique as it appears that simply the applicant is over developing the property and adequate open spaces are not being provided. The applicant states that 104 dwelling units are to be constructed, which is at an approximate density of 27 dwelling units per acre, which is next to proposed single-family of about 4 dwelling units per acre.

On the other hand, a variance to some degree would seem reasonable in that the residential lots platted to the north back into Rock Road and any development to the south will be south of Douglas Avenue. It should be pointed out that one of the principle reasons of having setbacks is for the protection of adjacent properties which front onto the same street, which is not the circumstance in this particular situation.

ADJACENT PROPERTY:

It is the opinion of the Secretary that if some setback is provided, the variance will not adversely affect the adjacent properties. This, in part, is due to the fact mentioned above that the lots to the north back into Rock Road and, too, it is the understanding of the Secretary that the applicant intends to construct a fence on his north property line to screen the area to the north from the parking lot. The area of concern, however, is to the east and some provisions must be made for screening the adverse effects of a parking lot from the potential development of that area.

HARDSHIP:

It is the opinion of the Secretary that the strict application of Title 28 does not constitute an unnecessary hardship on the applicant, as it is obvious that the site is being over developed. The applicant, however, stresses that they desire to provide more parking than required by the Ordinance and that a hardship will exist if they are not permitted to do so.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance to within 5 feet of the property line would not be opposed to the public interest if proper screening and landscaped buffers are adequately provided.

SPIRIT AND INTENT:

If sufficient screening is provided, it is the opinion of the Secretary that the granting of the variance, except for the east 5 feet, would not be opposed to the general spirit and intent of Title 28.

RECOMMENDATION:

It is the opinion of the Secretary that a complete waiver of the setback cannot be justified; however, all five conditions necessary for the granting of a variance from 20 feet to 5 feet could be found to exist if screening is provided, as the applicant proposes 1.5 parking spaces per dwelling unit. Therefore, it is recommended that the variance from 20 feet to 5 feet be approved, subject to the following conditions:

1. The variance be approved for the purpose of off-street parking and associated screening only.
2. A 6-foot high solid fence constructed of masonry, wood, or louvered redwood shall be erected along the west 75 feet of the east 80 feet of the north property line. A 3-foot high fence, either of wood, masonry, or ornamental iron, shall be erected parallel to Rock Road within the 5-foot parking setback. The remaining 5-foot front yard shall remain unpaved and shall be landscaped with trees, and shrubs, and shall be properly maintained.

Page 4 - BZA Case No. 36-67
October 24, 1967

3. The applicant and developer shall provide at least 1.5 parking spaces per dwelling unit.
4. The improvements, as outlined above, shall be installed prior to the occupancy of the setback area for off-street parking.

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

October 10, 1967

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 36-67

An application has been filed by Rock Road Improvement Co., Inc. 309 South Market, Wichita, Kansas, by Urban A. Denker, 309 South Market, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a variance for reduction of the front yard setback adjacent to Rock Road from 20 feet to 0 feet for off-street parking only, on property zoned "B" Multiple Family and legally described as follows:

Rockwood Reserve "A" Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the north-west corner of Douglas and Rock Road.

This application has been assigned Case No. BZA 36-67, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 24, 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

*4 notices
mailed
10-10-67*

ROCK ROAD
Improvement, Inc.
Wichita, Kansas.



P.O. Box 2281

September 25, 1967

Mr. Jack H. Galbraith, Secretary
Board of Zoning Appeals
104 South Main Street
Wichita, Kansas 67202



Dear Jack:

Attached is an application for a variance with the statement of justification and required sketches. Since a zoning case was filed on this property a short time ago, we would like to use the ownership list which accompanied it for this application. If this is not satisfactory, please let us know and we will provide a new one.

I would like to have this application scheduled for the October 24, 1967 Board of Zoning Appeals meeting.

Sincerely,

U. A. Denker, President

UAD:elh
enc.

STATEMENT OF JUSTIFICATION

The Department of Central Inspections has determined that a 20 foot front setback is required adjacent to both Rock Road and Douglas Avenue. When the site plan was prepared, it was our impression that this lot would not be controlled by Section 28.04.020 (Definitions - Reversal of Lot Frontage) and, therefore, it would be our choice as to whether the front of the lot faced Douglas Avenue or Rock Road. The plan was prepared based on that premise; Douglas Avenue was selected as the front and off-street parking was planned adjacent to Rock Road. Since the property is zoned "B" Multiple Family and it has been determined that a 20 foot front yard setback is required adjacent to both Douglas and Rock Road, it is necessary that the variance be granted in order to utilize the land for off-street parking. The ordinance does not permit off-street parking in the front setback of residentially zoned property.

As indicated on the accompanying plan, the structures will setback a minimum of 65 feet from Rock Road and the variance is for parking only. There is a 30 foot platted easement adjacent to Rock Road which guarantees that structures will setback at least 30 feet. The developer is planning to build 104 apartment units on the site with 173 off-street parking spaces. The ordinance only requires one parking space per unit, but in order to have a successful development, it is necessary to provide a minimum of 1.5 parking spaces per dwelling unit. Adequate off-street parking to meet the ordinance requirements can be provided without the approval of the variance, however, the additional 47 parking spaces contained in the Rock Road setback are necessary for a development of this quality because many tenants will have more than one car plus visitors.

We feel that the Board can find the five conditions necessary to the granting of the variance and request that it be approved.

- a. The variance request arises from a condition which is unique to the property in question inasmuch as the lots to the north back into Rock Road and the rear yards will be screened by a fence. It is our contention that the Reversal of Lot Frontage section of the ordinance was intended to protect adjacent properties which front on the same street and that this section was not intended to apply to this type of situation.
- b. The granting of the variance would not adversely affect the rights of adjacent properties since a fence is to be constructed along the north property line to screen the parking from the rear yards.
- c. The strict application of the provisions of Title 28 would constitute an unnecessary hardship upon the property owner inasmuch as it would deprive the owner of the utilization of land which serves no practical value for the surrounding development.
- d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare inasmuch as the structures will setback more than three times the normal required setback and further the approval of the request would actually be an asset to the neighborhood since it would allow more parking and consequently a better development.
- e. The granting of the variance desired will not be opposed to the general spirit and intent of Title 28 inasmuch as it was not the purpose of the ordinance to require two front setbacks on corner lots where the adjacent lots have their rear yard facing the same street rather than their front yard. 5-11-67 'B'

BOARD OF ZONING APPEALS

CITY OF WICHITA, KANSAS

CASE NO. 36-67

FILED 9-26-67

APPLICATION FOR VARIANCE

I. Name of Applicant Rock Road Improvement Co. Inc.
Mailing Address 309 South Market 67202 Phone AM 2-1414
Name of Authorized Agent Urban A. Denker
Mailing Address 309 South Market 67202 Phone AM 2-1414
Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is to reduce the front yard setback adjacent
to Rock Road from 20 feet to 0 feet for off-street parking only

for property located on the northwest corner of Douglas and Rock
Road

and legally described as: Rockwood Reserve "A" Addition

in the City of Wichita; and which is presently zoned "B"

(Give metes and bounds description below if appropriate):

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

Rock Road Improvement Co. Inc.

Applicant

U A Denker

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeal
3:40 (a.m. - (p.m.)), Sept 26, 1967, together with
appropriate fee of \$50.00.

Jack S. Galleraithy
Signed

36-67

Handwritten notes:
H. M. Vickers
mailed
10-10-67

OWNERSHIP LIST

LOT	BLOCK	ADDITION	PROPERTY OWNER
5	3	Rockwood 5th	<input checked="" type="checkbox"/> Rock Road Improvement, Inc. 309 South Market 02 <input checked="" type="checkbox"/> Rock Road Improvement, Inc.
SE/4 NE/4 19-27-2E, except Rockwood 2nd Addition, Rockwood 4th Addition; and Rockwood 5th Addition			
NE/4 SE/4 19-27-2E			
SW/4 NW/4 20-27-2E, except E 270 feet of the W 820 of the South 275 feet			<input checked="" type="checkbox"/> Trustees under the Last Will & Testament of J. A. Vickers Deceased, c/o George Stallwitz 67202 1st National Bank Bldg
16, except beg. at a pt on the E line of Lot 16 356 feet South of the NE/corn. W at right angles to E line 100 feet th with an angle to left of 45° 126.2 feet to a pt 300 ft E of the W line Lot 16, th S 320 feet to S line; thence E 359 feet th NWly 349 feet to a pt 104 feet S of beg., th N 104 feet to beg.			<input checked="" type="checkbox"/> Bonnie Brae Builders, Inc. Garvey Building 67202

The Security Abstract and Title Co., Inc., does hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of Beginning at the Southeast corner of the NE/4 of Section 19, Township 27, Range 2 East, thence North along the East line of said NE/4, 498 feet; thence West parallel with the South line of said NE/4, 390 feet; thence South parallel with the East line of said NE/4, 328 feet, thence Southwesterly 170.25 feet to a point 500 feet West and 40 feet North of the Southeast corner of said NE/4; thence South 40 feet; thence East 500 feet to beginning, except the East 50 feet and except the South 40 feet thereof for streets, Sedgwick County, Kansas, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, on this the 5th day of May, 1967, at 7:00 A.M.

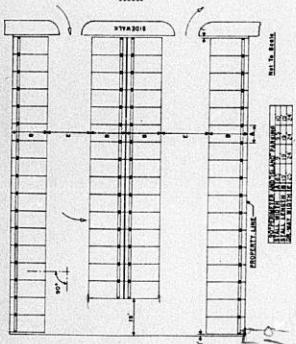
THE SECURITY ABSTRACT & TITLE CO., INC.

By

Vice President

Order No. 143112

60' PERIMETER - ISLAND PARKING



33

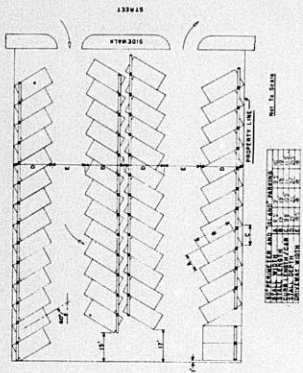
19
25
63
82

GENERAL NOTES

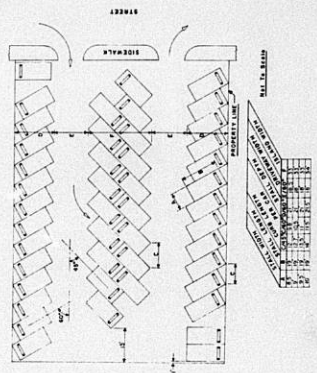
- (1) ALL DIMENSIONS SHALL BE MEASURED AT ALL CORNERS AND ALL DISTANCES TO BE MEASURED TO THE CENTERLINE OF THE SIDEWALK OR STREET AND A MINIMUM CLEARANCE OF 8' IS TO BE MAINTAINED AT ALL CORNERS.
- (2) ALL DIMENSIONS SHALL BE MEASURED TO THE CENTERLINE OF THE SIDEWALK OR STREET AND A MINIMUM CLEARANCE OF 8' IS TO BE MAINTAINED AT ALL CORNERS.
- (3) ALL DIMENSIONS SHALL BE MEASURED TO THE CENTERLINE OF THE SIDEWALK OR STREET AND A MINIMUM CLEARANCE OF 8' IS TO BE MAINTAINED AT ALL CORNERS.
- (4) ALL DIMENSIONS SHALL BE MEASURED TO THE CENTERLINE OF THE SIDEWALK OR STREET AND A MINIMUM CLEARANCE OF 8' IS TO BE MAINTAINED AT ALL CORNERS.

TYPICAL OFF-STREET PARKING
CITY OF WICHITA STANDARD
 PREPARED BY: *[Signature]*
 CHECKED BY: *[Signature]*
 CITY TRAFFIC ENGINEERING DIVISION
 CITY TRAFFIC ENGINEER

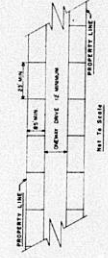
60' PERIMETER - ISLAND PARKING



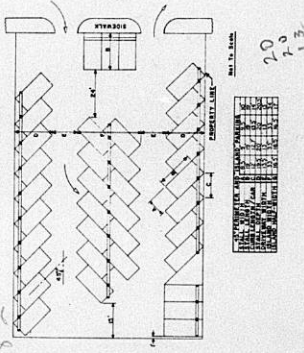
60' x 60' HERRINGBONE PATTERN PARKING



PARALLEL PARKING



60' PERIMETER - ISLAND PARKING



20
20
133

Form 273-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Side & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hrs. Mvr.	Hrs. Moving	Licen.	Mech.
Oil Well	Pav. Cuts	Plan.	Pibz. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Exp App</i>	<i>50⁰⁰</i>

Name *Rock Road - Inpa Inca*

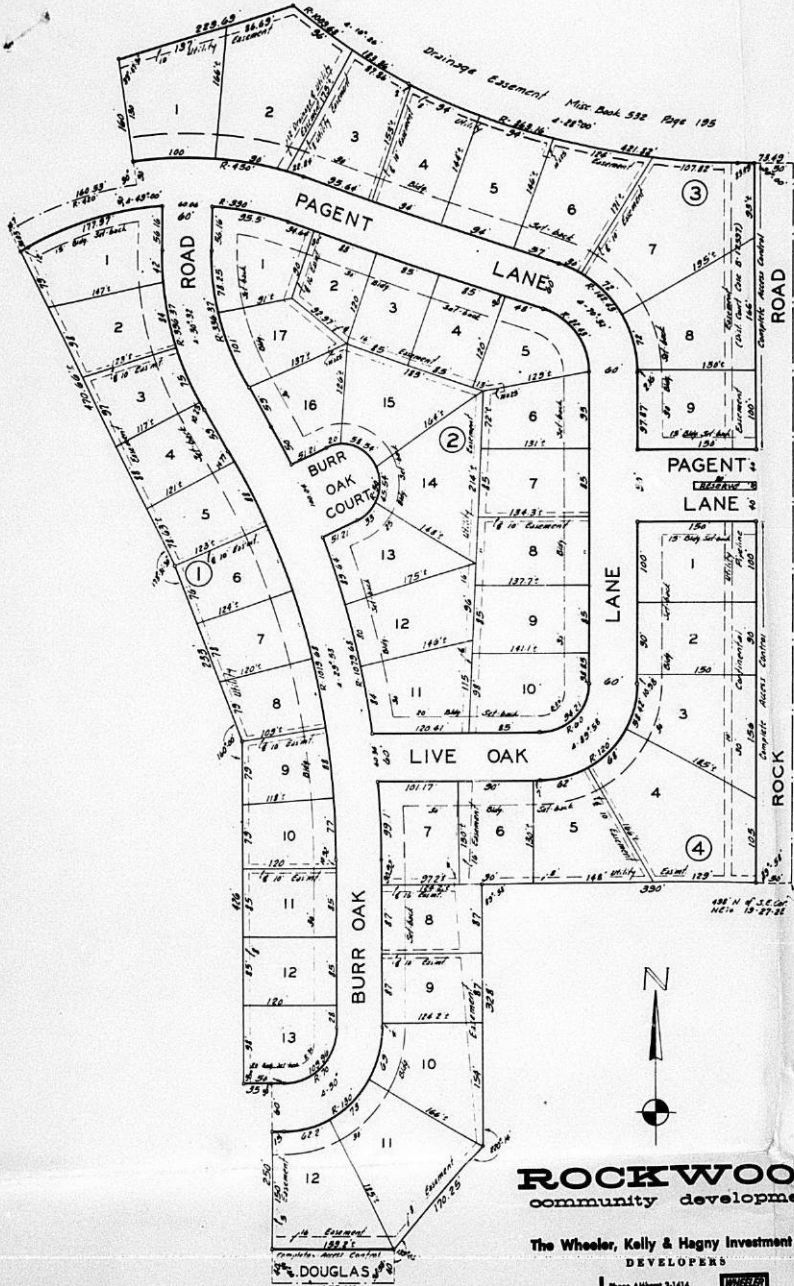
Address *309 So Market*

City *R-71-C* Date *9-26-67*

Comments:

Date *9-26-67* By *L Shover*

ROCKWOOD SIXTH ADDITION



ROCKWOOD
community development

The Wheeler, Kelly & Hagny Investment Co.
DEVELOPERS

Phone A44886 2-1414
320 South Market St.
Wichita, Kansas



EXHIBIT "B"

*

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