

M.A.P.C.

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

BZA 41-65 - Arnold Smith & Frank Solomon request exception & variance for off-street parking on the west side of Poplar between Douglas and English

F-6

POSTED
12-1-65

Menefer

ACTION

B3A

COMMITTEE _____

DATE

12-28-65

M.A.P.C. _____

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

1965-1966 - Arnold Smith
Solomon request exempt on
basis for off-incident parties
rest-rite of people between
law and English

January 17, 1965

Mr. John Bestwater
413 South Mulberry
Ottawa, Kansas

Dear Mr. Bestwater:

Re: Case NO. BZA 41-65

This is to advise you as requested in your letter dated January 12, 1966, that at its regular meeting of December 28, 1965, the Board of Zoning Appeals of the City of Wichita considered a request for an exception to permit the installation or construction of off-street parking facilities, and also a request for a variance of the front and side yard setbacks to permit off-street parking thereon, all related to property located generally on the west side of Poplar between Douglas and English.

It was the action of the Board to approve the request for an exception and to also approve a request for waiver of any side yard setback for parking; however, the Board determined, upon advice of legal counsel, that it did not have jurisdiction to approve the variance of front yard setback areas for off-street parking when this would violate one of the conditions established by Title 28 for granting the exception. The approval of the exception is subject to the following:

1. 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, material or supplies.
2. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

Mr. John Bestvater

January 17, 1966

3. In no case shall a fee be charged for parking facilities provided hereunder.
4. 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 other debris.
5. 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. Bumper guards shall be installed adjacent to the alley to prevent cars from extending into the alley and to prevent free ingress and egress at any point on the alley.
6. If lighting facilities are provided, they shall be so arranged 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.
7. A six-foot high solid wall, masonry or louvered redwood fence shall be erected along the south property line to eliminate the passage of lights from vehicles and to prevent the blowing of debris, and a 3-foot high solid wall, masonry or louvered redwood fence shall be erected along the east 25-foot setback line, except for that portion used for driveway.
8. Parking shall not be located within the front yard.
9. Prior to the time the permit is issued for occupancy of this off-street parking lot, the applicants shall submit an off-street parking plan to the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of parking spaces, markings for channelization and location of all driveways, width of driveways, etc., for his approval.

Page 3 - Mr. John Bestvater

January 17, 1966

10. All improvements as outlined above shall be installed within 12 months from the effective date of the approval of this resolution or the permit shall be null and void.

Sincerely yours,

Jack H. Galbraith
Senior Planner

JHG:jmm

Jan. 12, 1966

Dear Mr. Galbraith,
On Dec. 2, 1965, you sent us
a letter about a zoning appeal,
Case No. BZA 41-65.
What was the outcome
of this case?

Very truly yours,

John Bestwater
413 So. Mulberry
Ottawa, Kansas



January 14, 1966

Mr. Robert H. Nelson, Attorney
816 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: Case No. BEA 41-65

We have completed the preparation of the Resolution adopted by the Board of Zoning Appeals in connection with the above-numbered case, which was heard by the Board on December 28, 1965, and which resolution has been signed by the Chairman and Secretary.

As indicated in our letter of January 5, 1966, we are now enclosing a copy of this Resolution for your information. A copy has also been provided the Central Inspection Division for their files.

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

Very truly yours,

Jack H. Galbraith
Secretary

JHG:ber

cc: Arnold Smith and Frank Solomon
816 Union Center Building

Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

R E S O L U T I O N N O . B Z A 4 1 - 6 5

WHEREAS, Arnold Smith and Frank Solomon have requested an exception to permit the installation or construction of off-street parking facilities, and also have requested variance of the front and side yard setbacks to permit off-street parking therein, on property zoned "A" Two Family Residential and legally described as:

Lots 1 and 3, Poplar Street, Second Subdivision of Lots 3 and 4, Richland Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Poplar between Douglas and English; 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, in regular meeting, consider said application on December 28, 1965; and

WHEREAS, the Board of Zoning Appeals determined that it had jurisdiction to consider the request for an exception and the request for variance of the side yard setback; and

WHEREAS, the Board of Zoning Appeals determined that it did not have jurisdiction to consider or grant a variance to permit off-street parking in the front yard setback area; and

WHEREAS, the Board of Zoning Appeals has found that the variance of the 3-foot side yard 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 it is not created by an action or actions of the property owner or the applicant inasmuch as if bumper guards are installed 3 feet from the property line in order to maintain the 3-foot setback that cars will still project into the side yard setback areas, and inasmuch as it appears this requirement is virtually unenforceable and there appears to be no reason why the side yard setback requirement of 3 feet should not be waived; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for a variance of the 3-foot side yard setback would not adversely affect adjacent property owners or residents since a fence is required on the south property line; and

WHEREAS, the Board of Zoning Appeals has determined that the strict application of the provisions of Title 28 of which variance of the 3-foot side yard is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as there is a critical need for additional off-street parking facilities in this particular area; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that the Exception requested be approved for the installation and construction of off-street parking facilities on property zoned "A" Two Family, legally described as follows:

Lots 1 and 3, Poplar Street, Second Subdivision of Lots 3 and 4, Richland Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Poplar between Douglas and English,

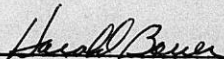
subject to the following:

1. 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, material or supplies.
2. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. 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 other debris.
5. 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. Bumper guards shall be installed adjacent to the alley to prevent cars from extending into the alley and to prevent free ingress and egress at any point on the alley.
6. If lighting facilities are provided, they shall be so arranged 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.
7. A six-foot high solid wall, masonry or louvered redwood fence shall be erected along the south property line to eliminate the passage of lights from vehicles and to prevent the blowing of debris, and a 3-foot high solid wall, masonry or louvered redwood fence shall be erected along the east 25-foot setback line, except for that portion used for driveway.
8. Parking shall not be located within the front yard.
9. Prior to the time the permit is issued for occupancy of this off-street parking lot, the applicants shall submit an off-street parking plan to the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of parking spaces, markings for channelization and location of all driveways, width of driveways, etc., for his approval.

10. All improvements as outlined above shall be installed within 12 months from the effective date of the approval of this Resolution or the permit shall be null and void,

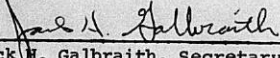
and that a variance of the side yard setback area be granted from the required 3 feet to 0 feet, and that the request for variance of the front yard setback of 25 feet to permit parking therein be denied inasmuch as it was determined the Board had no jurisdiction in that respect under the terms of Title 28 (Zoning Ordinance), which provides that when located in a dwelling district, parking shall not be located within a front yard, (Section 28.04.145.3.5).

ADOPTED AT WICHITA, KANSAS, this 28th day of December, 1965.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith, Secretary

OK

January 6, 1966

Mr. Robert H. Nelson, Attorney
816 Union Center Building
Wichita, Kansas

Dear Mr. Nelson:

Re: Case No. BZA 41-65

This is to advise you that at its regular meeting of December 28, 1965, the Board of Zoning Appeals of the City of Wichita considered your request for an exception to permit the installation or construction of off-street parking facilities, and also your request for a variance of the front and side yard setbacks to permit off-street parking thereon, all related to property located generally on the west side of Poplar between Douglas and English.

It was the action of the Board to approve the request for an exception and to also approve your request for waiver of any side yard setback for parking; however, the Board determined, upon advice of legal counsel, that it did not have jurisdiction to approve the variance of front yard setback areas for off-street parking when this would violate one of the conditions established by Title 28 for granting the exception. The approval of the exception is subject to the following:

1. 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, material or supplies.
2. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. 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 other debris.

Page 2 - Robert H. Nelson
January 6, 1966

5. 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. Bumper guards shall be installed adjacent to the alley to prevent cars from extending into the alley and to prevent free ingress and egress at any point on the alley.
6. If lighting facilities are provided, they shall be so arranged 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.
7. A six-foot high solid wall, masonry or louvered redwood fence shall be erected along the south property line to eliminate the passage of lights from vehicles and to prevent the blowing of debris, and a 3-foot high solid wall, masonry or louvered redwood fence shall be erected along the east 25-foot setback line, except for that portion used for driveway.
8. Parking shall not be located within the front yard.
9. Prior to the time the permit is issued for occupancy of this off-street parking lot, the applicants shall submit an off-street parking plan to the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of parking spaces, markings for channelization and location of all driveways, width of driveways, etc., for his approval.
10. All improvements as outlined above shall be installed within 12 months from the effective date of the approval of this resolution or the permit shall be null and void.

omit
A resolution setting forth the official action of the Board is being prepared for the signatures of the Chairman and Secretary, and a copy thereof will be mailed to you soon. If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith
Secretary

JHS:HW:ber
cc: Arnold Smith and Frank Solomon
816 Union Center Building

Glen Lytle, Superintendent of Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT

SEA Case No. 41-65

APPLICANT: Arnold Smith, 620 South Hillside and Frank Collins,
710 West Douglas

OWNER: Robert E. Nelson, 816 Union Center Building

REQUEST: Exception pursuant to Section 28.04.144.2, Code of the City of Wichita, to allow the property in question to be changed to an off-street parking lot. The applicant also has requested a variance pursuant to Section 2.12.590.2, Code of the City of Wichita to allow the 28-foot front yard setback and the 2-foot side yard setback to be utilized for off-street parking.

GENERAL LOCATION: West side of Poplar in an area south of Douglas

EXISTING: Existing property and property to the east, west and south is "2" two family. North is zoned "LC"

USE: Subject property and that to the east, west and south is single family. Property to the north is used for offices.

RECOMMENDATION: The Board has jurisdiction to consider the application under the provisions outlined in section 2.12.590.2, Code of the City of Wichita and may grant the exception request providing the conditions outlined under section 28.04.145 can be complied with.

COMMENTS BY THE SECRETARY - EXCEPTION - PART I

As you will recall, at the regular meeting of June 22, 1965, the Board considered SEA Case No. 19-65, a request for an exception for off-street parking and a variance of setbacks for the property adjacent to the south side of this application. The action of the Board was to deny this application, based on the protests of adjacent property owners, the fact that the application area was between two residences and that the dwelling to the north would be isolated by a commercial building on one side and a parking lot on the other. The Board stated that there was certainly a need for additional off-street parking in the area and that they would look more favorably on the lots immediately adjacent to the light commercial on Douglas.

The applicant has now obtained the two lots immediately adjacent to his office building which is located at the southwest corner of Poplar and Douglas, and is desirous of obtaining the exception in order to provide employee parking for the Employers Mutual Casualty Company. The above mentioned company employs somewhat over 60 people and presently the only parking afforded is on the streets. As you will recall, this is located near East High School and due to the students parking on the streets the area is very congested.

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Case No. SA 41-45**

The lot will afford from 14 to 17 parking spaces, depending upon the decision of the Board concerning the associated ~~width~~ variance.

It should be further emphasized that additional off-street parking is needed in this area and certainly will help alleviate the congestion in the area due to the parking from East High Street. The application area is adjacent to the building with which it will be used and with the proper controls as imposed through the creation of an off-street parking lot should certainly be more of an asset to a neighborhood to the neighborhood.

Recommendation

It is the recommendation of the Secretary that the exception be approved to provide for an off-street parking lot on Lots 3 and 4, Poplar Street, Second Subdivision of Lots 3 and 4, Richmond Addition, subject to the following conditions and requirements:

1. 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, material or supplies.
2. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. 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 other debris.
5. 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. Bumper guards shall be installed adjacent to the alley to prevent cars from extending into the alley and to prevent free ingress and egress at any point on the alley.

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Case No. 524 41-65

6. If lighting facilities are provided, they shall be so arranged 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.
7. A six-foot high solid wall masonry or leuveded fence shall be erected along the east, except that portion used for driveway, south property line to eliminate the passage of lights from vehicles and to prevent the blowing of debris, except that in the front yard setback area of 25 feet, the fence shall be reduced from 6 feet in height to 3 feet in height.
8. Parking shall not be located within the front yard.
9. Prior to the time the permit is issued for occupancy of this off-street parking lot, the applicants shall submit an off-street parking plan to the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of parking spaces, markings for channelization and location of all driveways, width of driveways, etc., for his approval.
10. All improvements as outlined above shall be installed within 12 months from the effective date of the approval of this resolution or the permit shall be null and void.

VARIANCE - PART II

The applicants have also requested that the front yard setback of 25 feet and the side yard setback of 3 feet be waived so that these areas may be utilized for off-street parking.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined under Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all five of the following conditions have been 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 it 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;

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Case No. BZA 41-65

3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

UNIQUENESS

It is the opinion of the Secretary that there is nothing which is particularly unique about this request. The lot is located adjacent to a residential area where the front yard setback area should be retained in order to maintain the light, view and residential character of the area. However, it does appear that the request for waiver of the side yard setback of 3 feet is somewhat unique, inasmuch as if bumper guards are installed 3 feet from the property line in order to maintain the 3 foot setback that cars will still project into the side yard setback areas. Consequently, it appears that this requirement is virtually unenforceable and there appears to be no reason why the side yard setback requirement of 3 feet should not be waived.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance of the front yard setback requirement of 25 feet will adversely affect the rights of adjacent property owners inasmuch as if the front yard of this lot is paved and utilized for off-street parking, it would detract from the adjacent residential properties.

HARDSHIP

It is the opinion of the Secretary that the applicants would be burdened with hardship if the variance is not granted inasmuch as there is a critical need for additional off-street parking facilities in this particular area; however, again, it could be argued in this instance, that the public interests outweigh the private interests inasmuch as the front yard setback of 25 feet should be maintained in order to preserve the character and continuity of the adjacent residential properties in this block.

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Case No. BZA 41-65

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance of the side yard setback requirement of 3 feet would in no way adversely affect the public interest; however, granting the front yard setback requirement could adversely affect the public interest by destroying the residential character and the continuity of the front yard setbacks within the block.

SPIRIT AND INTENT - TITLE 28

It is the opinion of the Secretary that the granting of the front yard variance would be in total conflict with the spirit and intent of the ordinance. The primary purpose of the front yard setback is to provide open space and landscaped areas for the adjacent property owners and to guarantee a certain uniformity of setbacks to provide adequate light, air and view.

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance of the required front yard setback of 25 feet cannot be found to exist and, therefore, it is recommended that the variance of the requested front yard setback of 25 feet be denied. On the other hand, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance for the required side yard setback of 3 feet can be found to exist and, therefore, it is recommended that this variance be approved.

Attachment: Statement of Justification

It is the opinion of the Secretary that the granting of the front yard variance would be in total conflict with the spirit and intent of the ordinance. The primary purpose of the front yard setback is to provide open space and landscaped areas for the adjacent property owners and to guarantee a certain uniformity of setbacks to provide adequate light, air and view.

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance of the required front yard setback of 25 feet cannot be found to exist and, therefore, it is recommended that the variance of the requested front yard setback of 25 feet be denied. On the other hand, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance for the required side yard setback of 3 feet can be found to exist and, therefore, it is recommended that this variance be approved.

Secretary's Statement of Justification

SECRETARY'S REPORT

CASE NO. BZA 41-65

APPLICANT: Arnold Smith, 620 South Hillside and Frank Solomon,
710 West Douglas

AGENT: Robert H. Nelson, 816 Union Center Building

REQUEST: Exception pursuant to Section 28.04.146.B, Code of the City of Wichita, to allow the property in question to be utilized as an off-street parking lot. The applicant also has requested a variance pursuant to Section 2.12.590.2, Code of the City of Wichita to allow the 25-foot front yard setback and the 3-foot side yard setback to be utilized for off-street parking.

GENERAL LOCATION: West side of Poplar in an area south of Douglas

ZONING: Existing property and property to the east, west and south is "A" Two family. North is zoned "LC"

LAND USE: Subject property and that to the east, west and south is single family. Property to the north is used for offices.

JURISDICTION: The Board has jurisdiction to consider the exception under the provisions outlined in Section 2.12.590.3, Code of the City of Wichita and may grant the exception request providing the conditions outlined under Section 28.04.145 can be complied with.

COMMENTS BY THE SECRETARY - EXCEPTION - PART I

As you will recall, at the regular meeting of June 22, 1965, the Board considered BZA Case No. 19-65, a request for an exception for off-street parking and a variance of setbacks for the property adjacent to the south side of this application. The action of the Board was to deny this application, based on the protests of adjacent property owners, the fact that the application area was between two residences and that the dwelling to the north would be isolated by a commercial building on one side and a parking lot on the other. The Board stated that there was certainly a need for additional off-street parking in the area and that they would look more favorably on the lots immediately adjacent to the light commercial on Douglas.

The applicant has now obtained the two lots immediately adjacent to his office building which is located at the southwest corner of Poplar and Douglas, and is desirous of obtaining the exception in order to provide employee parking for the Employers Mutual Casualty Company. The above mentioned company employs somewhat over 60 people and presently the only parking afforded is on the streets. As you will recall, this is located near East High School and due to the students parking on the streets the area is very congested.

The lot will afford from 14 to 17 parking spaces, depending upon the decision of the Board concerning the associated setback variance.

It should be further emphasized that additional off-street parking is needed in this area and certainly will help alleviate the congestion in the area due to the parking from East High School. The application area is adjacent to the building with which it will be used and with the proper controls as imposed through the exception an off-street parking lot should certainly be more of an asset than a detriment to the neighborhood.

Recommendation

It is the recommendation of the Secretary that the exception be approved to provide for an off-street parking lot on Lots 1 and 3, Poplar Street, Second Subdivision of Lots 3 and 4, Richland Addition, subject to the following conditions and requirements:

1. 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, material or supplies.
2. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
3. In no case shall a fee be charged for parking facilities provided hereunder.
4. 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 other debris.
5. 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. Bumper guards shall be installed adjacent to the alley to prevent cars from extending into the alley and to prevent free ingress and egress at any point on the alley.

6. If lighting facilities are provided, they shall be so arranged 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.
7. A six-foot high solid wall masonry or louvered redwood fence shall be erected along the east, except that portion used for driveway, south property line to eliminate the passage of lights from vehicles and to prevent the blowing of debris, except that in the front yard setback area of 25 feet, the fence shall be reduced from 6 feet in height to 3 feet in height.
8. Parking shall not be located within the front yard.
9. Prior to the time the permit is issued for occupancy of this off-street parking lot, the applicants shall submit an off-street parking plan to the Traffic Engineer, which plan shall include location of all off-street parking spaces, the width and dimensions of parking spaces, markings for channelization and location of all driveways, width of driveways, etc., for his approval.
10. All improvements as outlined above shall be installed within 12 months from the effective date of the approval of this resolution or the permit shall be null and void.

VARIANCE - PART XI

The applicants have also requested that the front yard setback of 25 feet and the side yard setback of 3 feet be waived so that these areas may be utilized for off-street parking.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined under Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all five of the following conditions have been 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 it is not created by an action or actions of the property owner or the applicant;
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

UNIQUENESS

It is the opinion of the Secretary that there is nothing which is particularly unique about this request. The lot is located adjacent to a residential area where the front yard setback area should be retained in order to maintain the light, view and residential character of the area. However, it does appear that the request for waiver of the side yard setback of 3 feet is somewhat unique, inasmuch as if bumper guards are installed 3 feet from the property line in order to maintain the 3 foot setback that cars will still project into the side yard setback areas. Consequently, it appears that this requirement is virtually unenforceable and there appears to be no reason why the side yard setback requirement of 3 feet should not be waived.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance of the front yard setback requirement of 25 feet will adversely affect the rights of adjacent property owners inasmuch as if the front yard of this lot is paved and utilized for off-street parking, it would detract from the adjacent residential properties.

HARDSHIP

It is the opinion of the Secretary that the applicants would be burdened with hardship if the variance is not granted inasmuch as there is a critical need for additional off-street parking facilities in this particular area; however, again, it could be argued in this instance, that the public interests outweigh the private interests inasmuch as the front yard setback of 25 feet should be maintained in order to preserve the character and continuity of the adjacent residential properties in this block.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance of the side yard setback requirement of 3 feet would in no way adversely affect the public interest; however, granting the front yard setback requirement could adversely affect the public interest by destroying the residential character and the continuity of the front yard setbacks within the block.

SPIRIT AND INTENT - TITLE 28

It is the opinion of the Secretary that the granting of the front yard variance would be in total conflict with the spirit and intent of the ordinance. The primary purpose of the front yard setback is to provide open space and landscaped areas for the adjacent property owners and to guarantee a certain uniformity of setbacks to provide adequate light, air and view.

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance of the required front yard setback of 25 feet cannot be found to exist and, therefore, it is recommended that the variance of the requested frontyard setback of 25 feet be denied. On the other hand, it is the opinion of the Secretary that all five conditions necessary to the granting of the variance for the required side yard setback of 3 feet can be found to exist and, therefore, it is recommended that this variance be approved.

Attachment: Statement of Justification

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

42

December 2, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 41-65

An application has been filed by Arnold Smith and Frank Solomon, by Robert H. Nelson, Attorney, 816 Union Center Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting an exception as provided in Section 28.04.140, Code of the City of Wichita, Kansas, to permit the installation or construction of off-street parking facilities; and also requesting a variance for complete waiver of the front and side yard setback areas, to permit this area to be used for parking, on property zoned "A" Two Family Dwelling District, and legally described as follows:

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Jack H. Galbraith
Secretary

27 Notices Mailed, plus 7 to Planning Commissioners, on December 2, 1965

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

December 2, 1965

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Jack H. Galbraith
Secretary

KAHRS, NELSON, FANNING & HITE

ATTORNEYS AT LAW

UNION CENTER BUILDING

WICHITA, KANSAS 67202

AUSTIN M. COWAN (1885-1948)
W. A. KAHRS
ROBERT H. NELSON
H. W. FANNING
RICHARD C. HITE
DARRELL D. KELLOGG
ROGER M. SHERWOOD

TELEPHONE
AMHERST 2-3777

November 24, 1965

Metropolitan Area Planning Commission
City Building Annex
104 South Main
Wichita, Kansas

Attn: Mr. Jack H. Galbraith

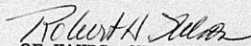
Re: BZA Application for Exception and Variance
Arnold Smith and Frank Solomon

Dear Jack:

Enclosed herewith is an Application for Exception and
for Variance in the above entitled matter.

Pursuant to our conversation I am returning said application
to you directly so that same may be placed in the file.

Yours very truly,



OF KAHRS, NELSON, FANNING & HITE

RHN:dr
Enclosure

KAHRS, NELSON, FANNING & HITE

ATTORNEYS AT LAW

UNION CENTER BUILDING

WICHITA, KANSAS 67202

TELEPHONE
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RICHARD C. HITE

DARRELL D. KELLOGG

ROGER M. SHERWOOD

November 17, 1965

Metropolitan Area Planning Commission
City Building Annex
104 South Main
Wichita, Kansas

Re: Proposed parking lot
115 South Poplar
Wichita, Kansas

Gentlemen:

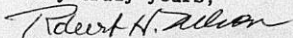
It is anticipated that the present improvements on the lot will be removed. The South line of said lot will be enclosed with steel posts and cables. The area will be completely black-topped. We will install a chain across the entrance on Poplar about 14 feet with lock. Also, a chain across the exit on the alley with lock attached. The area will be striped by paint so as to accommodate approximately 15 car spaces.

The purpose of this parking area is to be used by the employees of Employers Mutual Casualty Company whose offices are located at 2431 East Douglas which is at the Southwest corner of Poplar and Douglas and is adjacent to the property immediately North across the alley. This company has an excess of 60 employees and many of the employees are adjusters and salesmen who are in and out of the office at numerous times during the working day period.

The lot will be used almost exclusively as a daytime parking lot from approximately 7:00 A.M. to 5:30 P.M.

It is anticipated that Employers Mutual Casualty Company will provide the janitor service required to keep the area clean and respectable at all times.

Very truly yours,



OF KAHRS, NELSON, FANNING & HITE

RHN:dr
Enclosure

BOARD OF ZONING APPEALS

CASE NO. BZA 41-65

STATEMENT OF JUSTIFICATION

1. EXCEPTION: This Board has jurisdiction to consider the exception under Section 2.12.590.3 of the Code of the City of Wichita and may grant the exception subject to conditions as set forth in Section 28.04.140 (b) (2). The applicants are desirous of obtaining an exception in order to install an off-street parking lot for the employees of the Employers Mutual Casualty Company, said company occupying the present building at the southwest corner of Poplar and Douglas. Said company has in excess of 60 employees and the establishment of an off-street parking lot on the property in question will permit parking of many vehicles therein which will, of course, take the same vehicles off of on-street parking.

There is a serious traffic congestion and a serious on-street parking problem in this area due to the fact that it is in close proximity to East High School and as a result of on-street parking by students, a hardship exists on the property owners in the vicinity. The present lot is the first lot sought of the alley immediately adjacent to the building above referred to. The public interest in off-street parking should permit the granting of this exception. An off-street parking plan has been submitted and, of course, any improvement of the lot will have to meet the approval of the Building Inspection Department and the Traffic Engineer.

2. VARIANCE: The applicants request a waiver of the front yard setback of 25 feet and the side yard setback of three feet.

The reason is so that the entire area of the lot in question may be used for off-street parking.

It is the opinion of the applicants that the uniqueness of this situation is because of the fact of the extreme need of owners of property in the area to be relieved from an on-street parking problem and that it is necessary to utilize this particular lot 100%.

The adjacent property to the south will not be effected inasmuch as this lot will be occupied by cars only during daylight hours. The side yard setback request for waiver is unique in that the north line of said lot is adjacent to the alley and with reference to the south line, it is unique in that if bumper guards are installed three feet from the property line in order to maintain the three feet setback, cars will still project into the side yard setback area. The applicants do not believe that this waiver of the front yard setback will detract in any manner from the adjacent residential property.

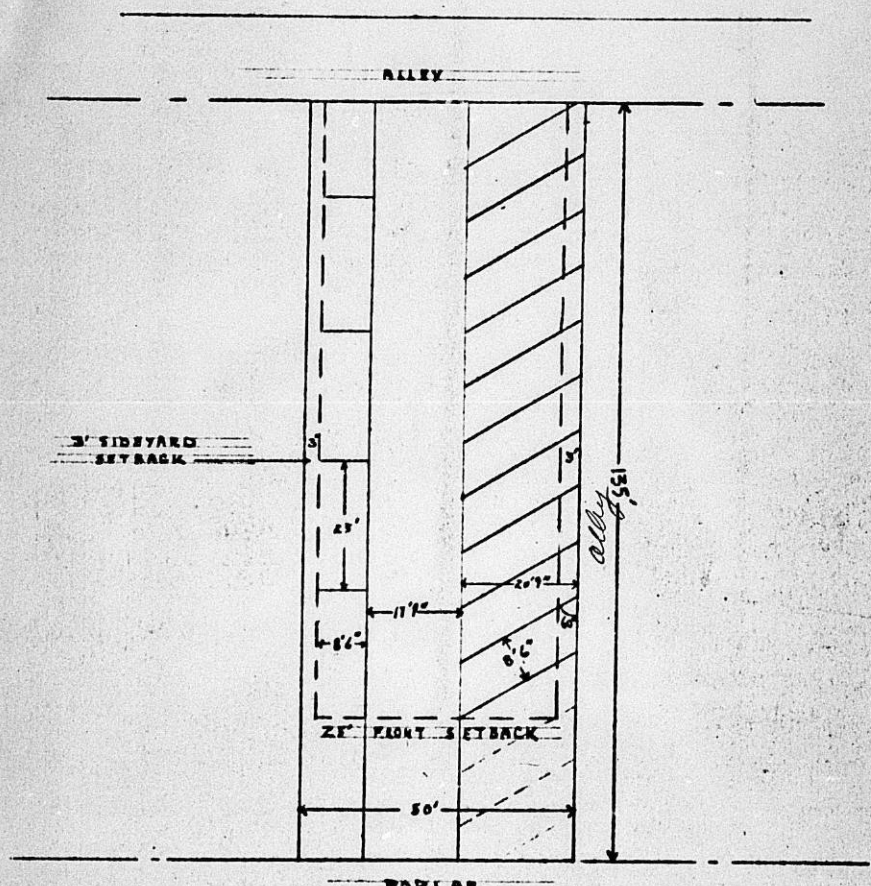
Applicants would suffer a hardship if the front yard setback and side yard set back are not waived because of not being able to utilize the property to its fullest capacity so as to relieve the traffic congestion in the area due to the reasons hereinbefore set forth.

It is the applicants' opinion that this variance should be granted because of attempting to alleviate traffic congestion, both from traffic movement and on-street parking congestion.

ARNOLD SMITH

FRANK SOLOMON

BY Robert H. Nelson
Robert H. Nelson, Attorney



SCALE 1"=20'
16 PARKING SPACES

STATEMENT OF RECORD OWNERSHIP

STATE OF KANSAS)
)
 SEDGWICK COUNTY)

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

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

Property lying within a radius of 200 ft of Lots 1 & 3, on Poplar Street, in Second Subdivision of Lots 3 & 4, in Richland Addition to Wichita, Kansas.

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

SECOND SUBDIVISION LOTS 3 & 4, RICHLAND ADDITION

Lot	Street	Owner
1 & 3 (S45')	Douglas	✓ W. H. & Vica Irwin, ux 106 $\frac{1}{2}$ S. Grove
1 & 3 (N 85')	"	✓ The Dunn Investment Co., Inc. # 4 Park Ave.
5 & 7	"	✓ Florence A. Kellogg, wdo. 149 N. Grove
9, 11 & 13	"	✓ Wayne E. & Cuba A. Fling, ux Life Estate: Minnie E. Fling 816 S. Green
15 & 17	"	✓ Constantine A. & Anna C. Balafas, ux 940 N. Crestway
19 & 21	"	✓ Frank R. Solomon 710 W. Douglas

**Fidelity
Title
Company,
inc.**



SECOND SUBDIVISION OF LOTS 3 & 4, RICHLAND ADDITION.

Lot	Street	Owner
23, 25, 27, 29 & W 15' 4" Lot 31	Douglas	✓ Fannie S. Gaines 2501 E. Douglas
E 9'-8" lot 31, All Lot 33 & W 23' Lot 35	"	✓ W. C. Stopher 2505 E. Douglas
2 & N 22' Lot 4	Grove	✓ Ora O. & Stella M. Arnold, ux 114 S. Grove
S 3' Lot 4, all Lots 6 & 8	"	ret. 12-8-65 no address found ✓ Marie Pedicord, wdo. 118 S. Grove
10 & 12	"	ret. 12-8-65 no address found ✓ Vera F. Williams 1637 Farrell Dr.
1 & 3	Poplar	ret. 12-8-65 no address found ✓ Arnold M. & Lillyan E. Smith, ux 620 S. Hillside
5 & 7	"	✓ Edith Sheldon % James R. Worley 125 S. Poplar
9 & 11	"	✓ John W. & Mavis M. Bestvater, ux 413 S. Mullberry St., Ottows, Ks.
2 & 4	"	✓ Keith E. & Opal Jean Gaines, ux 204 N. Estelle
6 & N 23' Lot 8	"	✓ Maxine Lybrand Realty, Inc. 414 Pattie Ave.
S 2' Lot 8 & all Lots 10 & 12	"	✓ Herbert & Logie M. Wright, ux 122 S. Poplar
1, 3 & N 7' Lot 5	Green	✓ Walter A. & Doris M. Henning, ux 115 S. Green
S 18' Lot 5, all Lot 7	"	✓ Melvin R. & Florence E. Smith, ux No Address Available 1611 So Mission Rd
9 & 11	"	✓ Charles W. & Grace B. Moyer, ux 121 S. Green

HENRY & CARLISLES SUB OF LOTS 5 & 6, BLK 2, RICHLAND ADDITION

2 & 4	Grove	✓ Vera G. Stutsman 1002 Brookfield
6 & 8	"	✓ Frederick L. & Mildred I. Dicks, ux 134 S. Grove
1 & 3	Poplar	✓ John C. & Mildred J. Calhoun, ux 123 S. Poplar
5 & 7	"	✓ James R. & Ineze O. Worley, ux 125 S. Poplar
2 & 4	"	✗ Edward C. Link No Address Available no address found
6 & 8	"	✓ Alvan R. & Phyllis I. Jones, ux 128 S. Poplar

-3-

Dated at Wichita, Kansas this 18th day
of November, 1965 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elmer M. Farrell
Sec. OEM

Tracer # 72224

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Room 402 City Building Annex
104 South Main
Wichita, Kansas

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

41-65

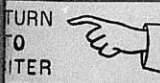


- Moved, left no address
 No such number
 Moved, not forwardable
 Addressee unknown



*Wrong address
opened by mistake*

Vera F. Williams
1637 Farrell Drive
Wichita, Kansas



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



Moved, left no address
 No longer a resident
 No longer deliverable
 New address unknown

41-65

Marie Pedicord
118 South Grove
Wichita, Kansas



RETURN
TO
WRITER



Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
<i>Sanitation</i>	<i>50.00</i>
<i>Street</i>	<i>50.00</i>

Name *John H. Jones*

Address *1030 N. Central Blvd.*

Type *C-112* Due Date

Comments:

Date *11-22-65* By *[Signature]*

*

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