

POSTED
9-15-75
M.A.P.C. ✓
C.I. ✓
2-6-76
E.A.

ACTION

DATE 9-23-75

COMMITTEE

Approved

M.A.P.C.

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

BZA - 42-75 - Lindy Andeel, etal
requests variance for reduction
of off street parking spaces
on the southeast corner Rock Rd.
and Central

Sully = Shaker, 8th, 10th, 12th
 North = New State
 E = Vacant + driveway
 W = Vacant
 S = Pring Shopp (2)
 Grand Avenue (1)

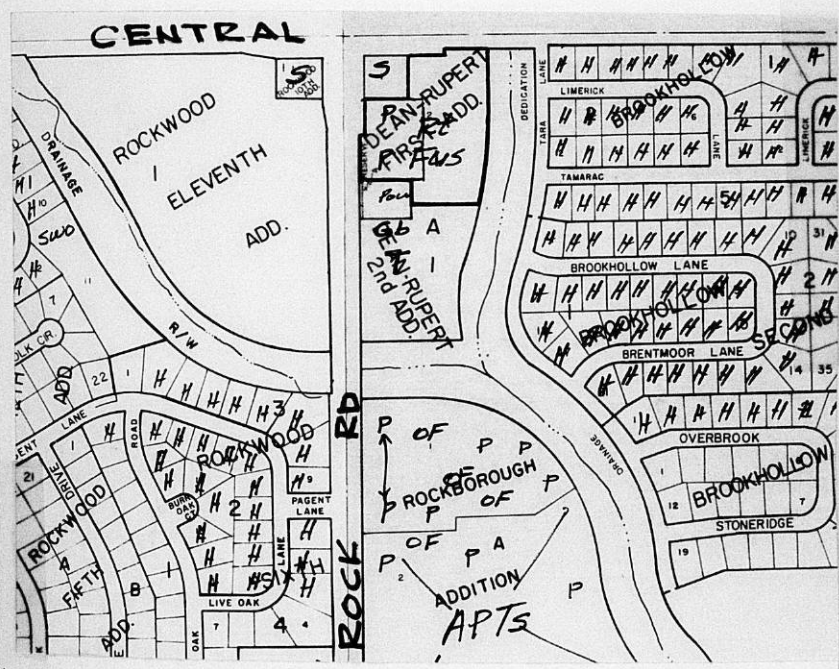
Zoning
 Subj. N, S, W, E all LC

Map No. 6047
 Sec. 20
 Twp. 275
 Range 2E

BZA- 42-75
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 1.4 (420 ft. by 530 ft.)
 2. Adjoining Zoning: E AA S LC W LC N LC
 3. Land Use: East DRABBE DITCH South GEN. BUSINESS
 West UNDEVELOPED North SERVICE ST.
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: FURNITURE STORE & RESTAURANT
 6. Area (is) (is not) platted. Restaurant

PHOTO DATA:
 Taken by _____ Date _____ Time _____



No. 2-153C
 HASTINGS - LOS ANGELES
 LOBAN - MEMPHIS, U.S.A.
 Smead

RESOLUTION NO. BZA 42-75

WHEREAS, Lindy Andeel and Robert K. Chisholm, 5900 East Central, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Block 1, Dean-Rubert First Addition to Wichita Sedgwick County, Kansas. Generally located on the east side of Rock Road south of Central.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of September 23, 1975, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as this is a joint or common parking arrangement involving two businesses whose peak hours do not coincide. Also, furniture stores have proven to be a lower traffic generator than other commercial uses; 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 on site parking has proven adequate to handle the parking needs of these two businesses without utilizing adjacent supplemental parking, and therefore, the situation should be no different than has existed over the past several months; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as the applicants would be forced to furnish more parking than would be required for furniture stores by the new zoning ordinance and would require them to retain lease or contract rights to supplemental parking spaces that are not used; 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 due to the fact that failure to provide the required off-street parking will not create on-street parking problems since parking is not permitted on either Rock Road or Central; and

WHEREAS, the Board of Zoning Appeals has found that the

RESOLUTION No. BZA 42-75

Page Two

granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as adequate parking is provided for the type of use established; and


WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the number of required off-street parking space from 60 to 46 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

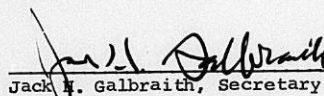
Lot 2, Block 1, Dean-Rubert First Addition to
Wichita, Sedgwick County, Kansas. Generally
Located on the east side of Rock Road South of
Central.

Be APPROVED for the furniture store only, and if the use of the property changes, this resolution for approval shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 23rd day of September, 1975.


Marjorie L. Taylor, Chairman

ATTEST:


Jack H. Galbraith, Secretary

October 16, 1975

Mr. Everett C. Fettis
Suite 504
120 South Market
Wichita, Kansas 67202

Dear Mr. Fettis:

Subject: Case No. BEA 42-75
Request for Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 23, 1975 in connection with your request for a variance to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and generally located on the east side of Rock Road south of Central.

This Resolution reflects the official action of the Board to approve the request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:bh

cc: Lindy Andeal, 5900 E. Central, 67208
Robert K. Chisholm, 5900 E. Central, 67208
Robert Felder, Supt., Central Inspection
Donald Gisick, City Clerk
J. Donnelly, Central Inspection

September 25, 1975

Everett C. Pettis
Suite 504
120 So. Market
Wichita, Kansas 67202

Dear Mr. Pettis:

Subject: Case No. BZA 42-75
Request for Variance

At the regular meeting of the Board of Zoning Appeals on September 23, 1975, your request for a variance to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and generally located on the east side of Rock Road south of Central was considered.

It was the action of the Board to approve this request subject to the following condition:

1. The variance shall be approved for the furniture store only, and if the use of the property changes, the resolution for approval shall become null and void.

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

If you have any questions, please call our office.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:el

cc: Lindy Andeel, 5900 E. Central, 67208
Robert K. Chisholm, 5900 E. Central, 67208

Robt. Feldner, Supt. Cent. Insp.
D. Gisick, City Clerk
J. Donnelly, Central Inspection

SECRETARY'S REPORT
CASE NO. BZA 42-75

APPLICANT: Lindy Andeel and Robert K. Chisholm. 5900 East Central, Wichita, Kansas.

AGENT: Everett C. Fettis, 120 S. Market, Suite 504, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the number of required off-street parking spaces from 60 to 46 spaces.

GENERAL LOCATION: East side of Rock Road south of Central.

ZONING: Subject property and all surrounding properties are zoned the "LC" Light Commercial District.

LAND USE: Subject property is developed with a Shakey's restaurant and Ethan Allen Furniture Store. North is a service station. South is a K.G.&E. Sub Station. East is a drainage ROW and vacant land. West is vacant.

JURISDICTION:

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

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

Secretary's Report
Case No. BZA 42-75
Page Two

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 applicants are requesting a variance of the required number of off-street parking spaces from 60 spaces to 46 spaces. Subject property is part of the Cobblestone Community Unit Plan and is developed with a Shakey's Pizza Parlor and an Ethan Allen Furniture Store. The variance requested actually pertains to the furniture store although existing off-street parking is generally common to both uses. Building permits were issued for the furniture store on the basis of an executed contract between the owners of subject property and property owners southeast of this property, whereby it was agreed that an excess of the latter's required parking spaces could be utilized to meet the parking requirement for subject property.

The applicants state that over the several months that this arrangement has been in effect, their experience has been that there has been no need to use the other parking on adjacent property. The applicants further contend that these two businesses, the pizza parlor and furniture store, compliment each other in that the peak hours of the two businesses do not coincide, and that both tenants of these businesses agree that the parking provided on this property is adequate for their respective uses.

The submitted site plan shows that 80 parking spaces exist on subject property, but after the parking requirement for Shakey's is satisfied only 46 spaces remain. The parking requirement for the Ethan Allen store is 60 spaces, based on 1 space for each 250 feet of floor space, leaving a deficiency of 14 parking spaces.

Based on studies of parking requirements created by different uses, the new zoning ordinance proposes to require 1 space for every 400 square feet of enclosed floor area. By this method approximately 38 spaces would be required for this furniture store, which could easily be provided.

In order to provide the required parking the applicants would have to continue their agreement with adjoining property owners. Plans to develop an office building on this adjoining property may have created the need to seek this variance.

Secretary's Report
Case No. PEA 42-75
Page Three

UNIQUENESS:

It is the opinion of the Secretary that uniqueness may exist in this instance inasmuch as this is a joint or common parking arrangement involving two businesses whose peak hours do not coincide. Also, furniture stores have proven to be a lower traffic generator than other commercial uses.

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 due to the fact that the on site parking has proven adequate to handle the parking needs of these two businesses without utilizing adjacent supplemental parking, and therefore, the situation should be no different than has existed over the past several months.

HARDSHIP:

It is the opinion of the Secretary that if hardship can be found to exist it is because the applicants would be forced to furnish more parking than would be required for furniture stores by the new zoning ordinance and would require them to retain lease or contract rights to supplemental parking spaces that are not used.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of this variance would not adversely affect the public interest inasmuch as failure to provide the required off-street parking will not create on-street parking problems since parking is not permitted on either Rock Road or Central.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the variance desired may not be opposed to the spirit and intent of the Zoning Ordinance inasmuch as adequate parking is provided for the type of use established.

Secretary's Report
Case No. EZA 42-75
Page Four

RECOMMENDATION:

It is the recommendation of the Secretary, if the Board finds the five conditions to exist, that the variance be approved for the furniture store only, and if the use of the property changes, the resolution for approval shall become null and void.

BZA 42-75 - 13 notices mailed to adjacent property owners 9/2/75 for the BZA
meeting for 9/23/75

plus 10 notices mailed to MAPC Board members

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

September 2, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 42-75

An application has been filed by Lindy Andeel and Robert K. Chisholm, 5900 East Central, Wichita, Kansas, pursuant to Section 2.12.590 E, Code of the City of Wichita, requesting a variance to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Block 1, Dean-Rubert First Addition to
Wichita Sedgwick County, Kansas. Generally
located on the east side of Rock Road south of
Central.

This application has been assigned Case No. BZA 42-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 23, 1975 at 1:30 P.M. in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

APPLICATION FOR VARIANCE

I. Name of Applicant LINDY ANDEEL and ROBERT K. CHISHOLMMailing Address 5900 East Central 67208 Phone 683-7511Name of Authorized Agent Everett C. FettisMailing Address 120 S. Market, Suite 504 67202 Phone 267-7251Relationship of applicant to property is that of owners
(Owner, Tenant, Lessee, Other)II. The variance requested is for a reduction of the number of
required off street parking spaces by fourteen (14) for the
Ethan Allen Furniture Store from sixty (60) spaces to forty-six (46).for property located on the East Side of Rock Road, South of
Central.and legally described as: Lot 2, Block 1, Dean-Rupert's First
Addition to Wichita, Sedgwick County, Kansasin the City of Wichita; and which is presently zoned LC

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

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

LINDY ANDEEL and ROBERT K. CHISHOLM

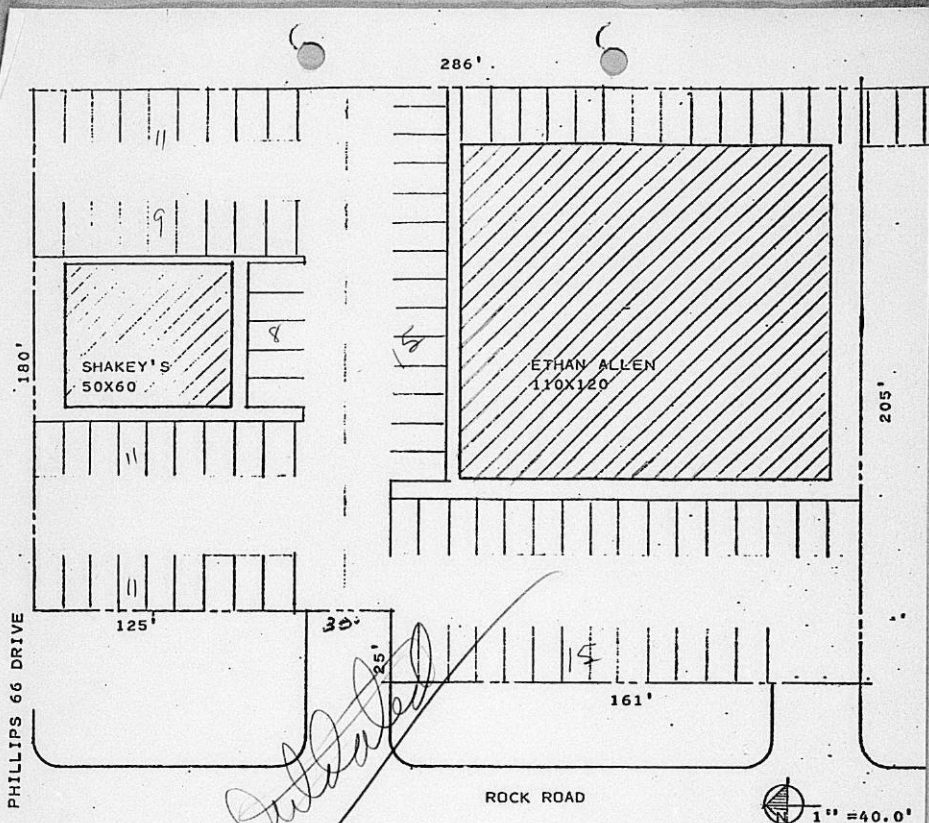
Applicant

BY: Everett C. Fettis
Authorized Agent Everett C. FettisOFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:00 (a.m. (p.m.)), 8/11 19 75
together with appropriate fee of \$50.00.Larry Johnson
Signed

S T A T E M E N T

This property has been zoned for several months and developed for use as an Ethan Allen furniture store and has a Shakey's Pizza Parlor. At the time of obtaining the building permits, time did not permit for seeking a variance on parking requirements. Therefore, a contract was executed and recorded between the owners of this property and the property adjacent basically to the south and east which has an excess in required parking spaces and which has located thereon a theater and other stores. It is, likewise, in the Cobblestone Alley CUP.

The experience now for several months with the operation of these two businesses demonstrates that there is ample parking on this lot to take care of the needs of both businesses and actually there has been no need for use of parking in the adjacent area of Cobblestone Alley. These two particular businesses compliment each other somewhat in that the hours of greatest use of these two businesses do not coincide. Therefore, both the tenants of these businesses are in accord that the parking provided on this lot is quite adequate for their granted use. Therefore, they recommend that the application of the owners be granted.



The dotted line dividing the drive between Shakey's and Ethan Allen divides the property for tax purposes between the tenants. Parking generally is common parking as are both drives off Rock Road and any drive that might result to the east.

DESCRIPTION OF PROPERTY

Ethan Allen: Beginning at a point 260 feet south of the Northwest corner of Block 1, Dean-Rupert First Addition to the City of Wichita as shown by the C.U.P., thence east 180 feet; thence south 176 feet; thence west 205 feet; thence north 161 feet; thence east 25 feet, thence north to the point of beginning.

July 24, 1974

3/22/74

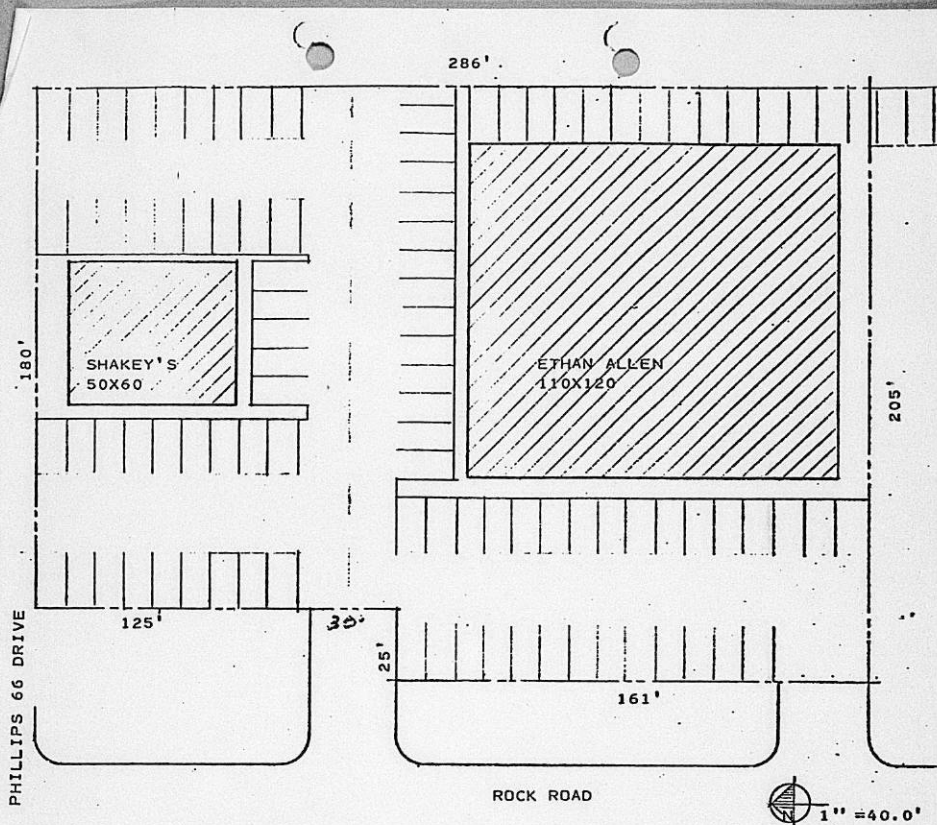


ANDEEL & CO.

5300 E. CENTRAL WICHITA, KANSAS
TELEPHONE (316) 683-7511

THOMAS D. JACOB

ARCHITECT-PLANNER BOX 633 WICHITA, KANSAS 67201



The dotted line dividing the drive between Shakey's and Ethan Allen divides the property for tax purposes between the tenants. Parking generally is common parking as are both drives off Rock Road and any drive that might result to the east.

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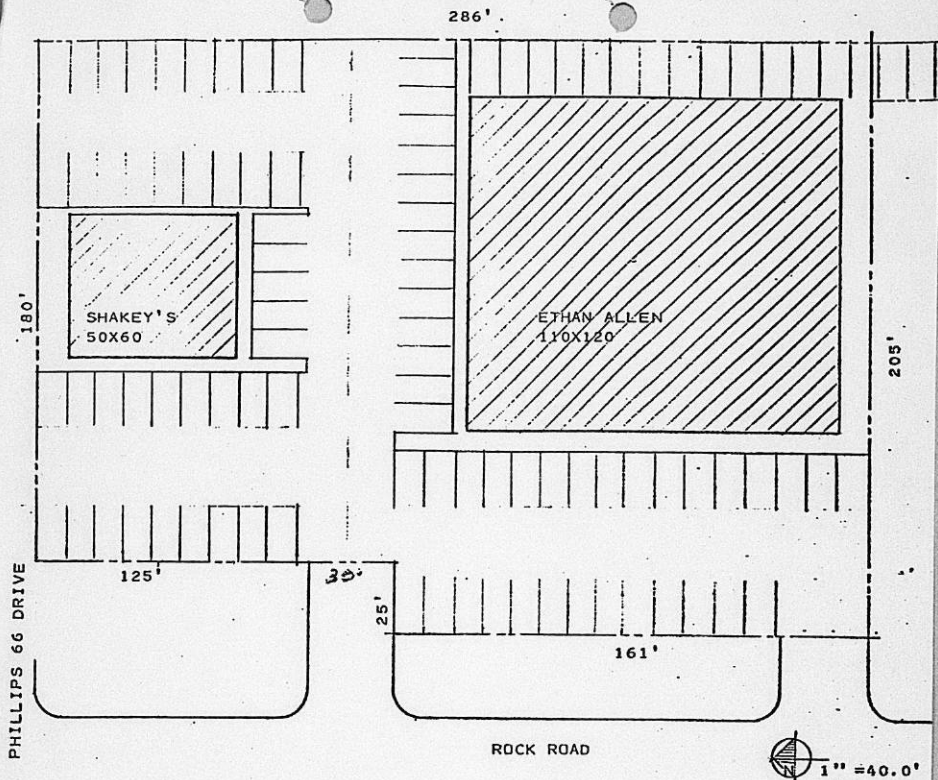
3/22/74



ANDEEL & CO.

5300 E. CENTRAL WICHITA, KANSAS
TELEPHONE (316) 693-7511

THOMAS D. JACOB
ARCHITECT-PLANNER BOX 833 WICHITA, KANSAS 67201



The dotted line dividing the drive between Shakey's and Ethan Allen divides the property for tax purposes between the tenants. Parking generally is common parking as are both drives off Rock Road and any drive that might result to the east.

DESCRIPTION OF PROPERTY

Ethan Allen: Beginning at a point 260 feet south of the Northwest corner of Block 1, Dean-Rupert First Addition to the City of Wichita as shown by the C.U.P., thence east 180 feet; thence south 176 feet; thence west 205 feet; thence north 161 feet; thence east 25 feet, thence north to the point of beginning.

3/22/74



ANDEEL & CO.

5300 E. CENTRAL WICHITA, KANSAS
TELEPHONE (316) 683-7511

THOMAS D. JACOB

ARCHITECT-PLANNER BOX 633 WICHITA, KANSAS 67201

O W N E R S H I P L I S T

Lot	Block	Addition	Property Owner
That part of Lot 2, Block 1, Dean-Ruppert First Addition to Wichita, described as beginning at a point on the West line of said Lot 2, said point being the West corner common to Lots 1 and 2 in said Block 1; thence South along the West line of said Lot 2, 125 feet; thence West 25 feet; thence South 161 feet to the Southwest corner of said Lot 2; thence East along the South line of said Lot 2, 205 feet; thence North parallel with the West line of said Lot 2, 286 feet to a point 30 feet East of the South line of Lot 1 extended East; thence West 180 feet to the point of beginning			Robert K. Chisholm ✓ 637 S. Oliver 67218 Lindy Andeel ✓ 5900 East Central 67208
Lot 2, Block 1,	Dean Rupert 1st Addition	exc above tract	✓ Transamerican Investment Properties Inc. 250 N. Rock Road 67206
Reserve A	Dean Rupert 1st Addition		Same
Lot 1, Block 1,	Dean Rupert 1st Addition		Merle Britting ✓ 7328 Elm Court 67206 Nestor R. Weigand Jr. ✓ 110 N. Main 67202
Lot 1, Block 1,	Dean-Rupert 2nd Addition	except the North 120 ft of E 175 ft of W 185 ft lot 1	✓ Frank Carney 10225 East Kellogg 67207 Lindy Andeel 9 5900 East Central 67208
Reserve A	Dean-Rupert 2nd Addition		Same
The North 120 feet of the East 175 feet of the West 185 feet of Lot 1, Block 1, Dean-Rupert 2nd Addition			✓ Karl Solomon 1102 Whitfield Lane 67206 Nestor R. Weigand Jr. 9 110 N. Main 67202
Lot 1	Rockwood 10th Addition		✓ Mobil Oil Corporation 310 East 2nd Street 67202
Block 1	Rockwood 11th Addition		✓ W. W. Taylor Inc. 505 N. Rock Road 67206
Lot 2, Block 1,	Aull's 1st Addition		9 Transamerican Investment Properties Inc. 250 N. Rock Road 67206
Lot 1, Block 1,	Second Addition to Vickridge		✓ T. G. Davis Jr. 501 Tara Lane 67206

Tract

Property Owner

Beginning 60 feet East and 511 feet South of the Northwest corner of Section 20-27-2E thence East 175 feet parallel to the North line said Section, thence South 140 feet parallel to the West line said Section, thence West 175 feet parallel to the North line said Section, thence North to the point of beg.

✓ Kansas Gas & Electric Co.
201 N. Market 67202

The West 200 feet of the South 190 feet of the Southwest Quarter of Section 17-27-2E subject road easement on the West 30 feet and the South 40 feet thereof

✓ Delaware Properties Inc.
100 West 10th Street
Wilmington, Delaware
19801

The Security Abstract & Title Company, Inc.,
hereby certifies the foregoing to be a true and correct list of
property owners of:

A 200 foot radius of: Lot 2, Block 1,
Dean-Rupert First Addition to Wichita,
Sedgwick County, Kansas

as shown by the records on file in the Office of the Register of
Deeds of Sedgwick County, Kansas, on the 4th day of August, 1975
at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable

Vice President

Order No. 227702

wh

September 25, 1975

Everett C. Fettis
Suite 504
120 So. Market
Wichita, Kansas 67202

Dear Mr. Fettis:

Subject: Case No. BZA 42-75
Request for Variance

At the regular meeting of the Board of Zoning Appeals on September 23, 1975, your request for a variance to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and generally located on the east side of Rock Road south of Central was considered.

It was the action of the Board to approve this request subject to the following condition:

1. The variance shall be approved for the furniture store only, and if the use of the property changes, the resolution for approval shall become null and void.

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

If you have any questions, please call our office.

Very truly yours,

Larry Dobson

Larry Dobson
Assistant Secretary

LD:el

cc:

Lindy Andeel, 5900 E. Central, 67208

Robert K. Chisholm, 5900 E. Central, 67208

Robt. Feldner, Supt. Cent. Insp.

D. Gisick, City Clerk

J. Donnelly, Central Inspection

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY BUILDING ANNEX
104 S. MAIN ST.
WICHITA, KANSAS 67202

RETURNED TO SENDER
ADDRESS UNKNOWN
MUNGER

Not Documented

Robert K. Chisholm
5900 E. Central
Wichita, Kansas 67208



Form 2 021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT

Name _____

Address _____

Type _____ Due Date _____

Comments: _____

Date _____ By _____

C.I.D

shows building as
120X125 requiring
60 off-street parking spaces

showed 78' 80'

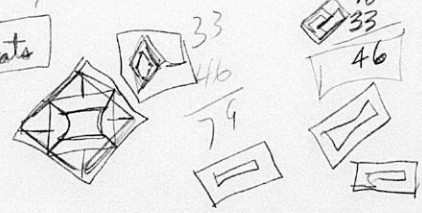
$\frac{60}{x 50} = 3000$

Required
33 Shakers

60
33
93

80 Ethan Allen

1 for 5 seats



B7A 42-75

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING COMMISSION

262-0611 - AREA CODE 316
104 S. MAIN ST.
WICHITA, KANSAS 67202



RETURNED TO WRITER
ADDRESSEE UNKNOWN

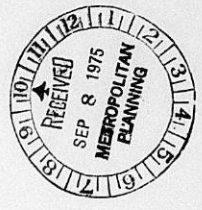
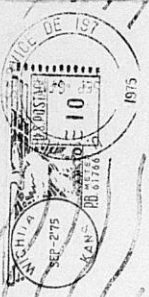
FIRST CLASS

Important!
Notice of Hearings
Enclosed

Delaware Properties Inc.
100 W. 10th Street
Wilmington, Delaware 19801

*9/8/75 - checked with Librarian.
They could find no listing
for this company.*

*Not to
1001 F. Road
Wichita, Kansas*



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

September 2, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 42-75

An application has been filed by Lindy Andeel and Robert K. Chisholm, 5900 East Central, Wichita, Kansas, pursuant to Section 2.12.590 E, Code of the City of Wichita, requesting a variance to reduce the number of required off-street parking spaces from 60 to 46 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

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Wichita Sedgwick County, Kansas. Generally
located on the east side of Rock Road south of
Central.

This application has been assigned Case No. BZA 42-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 23 1975 at 1:30 P.M. in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

*

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

Roll # 1