Case No. BZA 42-77 - RAYMOND AND WINONA WALTON requests a variance to reduce the off-street parking spaces from 71 spaces to 65 spaces on property generally located at the southeast corner of Kellogg and Hydraulic

Posted 9-6-77
G.I.
MAP
10-18-77

ACTION

BZA 42-77 COMMITTEE Approved DATE 9-27-77

M.A.P.C.

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

Map No. 5646

Sec.

Twp.

Range

BZA- 42-77

SCZ-

CU-

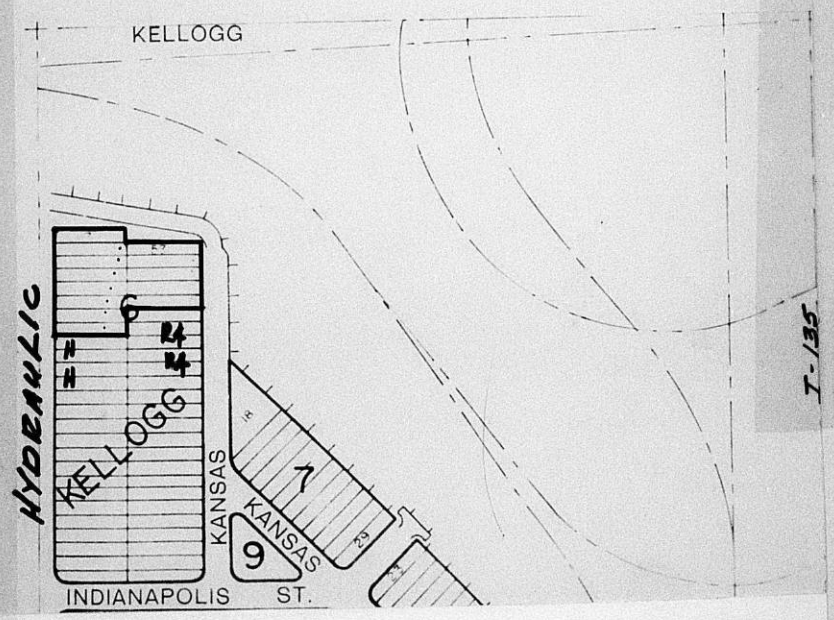
Filed

AREA DATA:

1. Acres: 1.0 (200 (IRREGULAR) ft. by 270 ft.)
2. Adjoining Zoning: E S W N
3. Land Use: East South
   West North
4. Sketch Plan Land Use is for:
5. Present Land Use if for:
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by Date Time



Smead
No. 2-153C
HASTINGS, MN.-LOS ANGELES
LOGAN OH.-McGREGOR, TX U.S.A.

RESOLUTION NO. BZA 42-77

WHEREAS, Raymond and Winona Walton, 1020 East Kellogg, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "BB" Office District and "LC" Light Commercial District and legally described as follows:

Lot 1, Pennypower Addition to Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Hydraulic.

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 27, 1977, 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 specific business does not appear to be a high volume traffic generator normally found in the "LC" District, and the parking proposed appears sufficient to provide adequate parking for employees and visitors even though the requirements of the ordinance are not met; 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 any substantial increase in employment would be handled by utilizing a second shift and the proposed parking would appear adequate to handle the present parking needs; 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 they would be required to acquire additional property to provide parking space that is not needed for this business; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prospertiy or general welfare due to the fact that the proposed parking is not a significant deviation from that required; 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) inasmuch as the above four conditions have been found to exist; 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 required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "BB" Office District and "LC" Light Commercial District and legally described as follows:

Lot 1, Pennypower Addition to Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Hydraulic,

be approved.

ADOPTED AT WICHITA, KANSAS, this 27th day of September, 1977.

James Richardson, Chairman

ATTEST:

Larry Dobson, Assistant Secretary

xxxxxxxxxxxxxxxx
xxxxxxxxx

October 5, 1977

455 North Main Street
Tenth Floor

Mr. Jack H. Turner
Attorney at Law
120 S. Market
Wichita, Kansas 67202

Re: Request for Variance
Case No. BZA 42-77

Dear Mr. Turner:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 27, 1977, in connection with your request for a variance to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "LC" Light Commercial District and the "BB" Office District, and generally located at the southeast corner of Kellogg and Hydraulic.

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

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh
cc: Raymond and Winona Walton, 1020 E. Kellogg, 67211
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

September 28, 1977

Jack H. Turner
Attorney at Law
120 S. Market
Wichita, Kansas 67202

Re: Request for Variance
Case No. BZA 42-77

Dear Mr. Turner:

At the regular meeting of the Board of Zoning Appeals on September 28, 1977, your request for a variance to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "LC" Light Commercial District and the "BB" Office District, and generally located at the southeast corner of Kellogg and Hydraulic was considered.

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

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 Secretary and Chairman have been obtained.

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh
cc: Raymond and Winona Walton, 1020 E. Kellogg, 67211
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

SECRETARY'S REPORT
CASE NO. BZA 42-77

APPLICANT: Raymond and Winona Walton, 1020 E. Kellogg, Wichita, Kansas.

AGENT: Jack N. Turner, 120 S. Market, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces.

GENERAL LOCATION: Southeast corner of Kellogg and Hydraulic.

ZONING: Subject property is zoned the "LC" Light Commercial District and the "BB" Office District. Properties to the west are zoned "LC" and "B" Multiple Family. East is "B" and "AA" Single Family. South is "B" and north across Kellogg is "BB" and "B"

LAND USE: Subject property is being developed with an office/commercial building. South is single family and four-family residential development. North is U.S. 54 Highway and east is highway right-of-way. West is single family residential development.

JURISDICTION:

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

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.

2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

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

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces in connection with the construction of the new Pennypower Building on subject property.

This property is located at the southeast corner of Hydraulic and Kellogg and just west of the future location of the Interstate 35/Highway 54 interchange. In the process of developing subject property, the applicants were required to replat their ownership, and as a result were requested to dedicate 20 feet from the west side of the property for future street improvements to Hydraulic and an additional 5 feet for street right-of-way for Kansas Avenue on the east. The applicants suggested that this is the reason the required parking cannot be provided and gives cause for the variance to be granted. It should be noted that it is the policy of the governing body to acquire, by dedication, additional street right-of-way in those instances where abutting streets are sub-standard in right-of-way and a realistic forecast of future public need is determined. In this respect the dedications made by the applicants were not out of the ordinary nor should they come as any surprise.

The total square footage of the building under construction is 17,922 square feet, which includes, 6,046 square feet of basement area. Off-street parking requirements for the structure are computed on the basis of one parking space for each 250 square feet of gross floor area. The site plan submitted with the application indicates that 59 spaces can be provided on the property in contrast to the requested variance of 65 spaces. The Office of Central Inspection says they are requiring 72 parking spaces and also 1 off-street loading space. The applicants should clarify this with the Office of Central Inspection and if they have a site plan showing 65 parking spaces this should be provided as a part of this application.

Additional information that would seem appropriate for the applicants to provide for the Board's consideration would be as follows:

1. Present employment
2. Projected employment over the next five years
3. Number of employees arriving at work other than by individual automobile
4. Work station space designed for how many employees
5. Customer traffic information
6. Design or use pecularities which might warrant consideration for a reduction of parking.
7. Any other information the applicants wish the Board to consider.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that uniqueness exists on the basis of the information available.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance desired may not have an adverse affect on adjacent property owners if the Board can determine that the proposed parking will adequately accommodate the parking needs of the structure.

HARDSHIP:

It is the opinion of the Secretary that the strict applications of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the building is under construction and the only way to provide the required parking would be to acquire additional land, which may or may not be available.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired may not adversely affect the public interest if the applicants can show that the proposed parking will meet their immediate and future parking needs without having to utilize surrounding residential streets.

SPIRIT AND INTENT:

It is the opinion of the Secretary that it is difficult to determine that the granting of the requested variance would not be opposed to the general spirit and intent of the zoning ordinance based on the information supplied.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance cannot be found to exist on the basis of the information provided. If additional information is not presented that convinces the Board that the five conditions do it exist, it is recommended that the application be denied.

A deferral of the case to allow the applicants time to provide additional information is another option the Board may want to consider.

August 31, 1977

Mr. Jack N. Turner
120 South Market
Wichita, Kansas 67202

Re: Application for Variance,
BZA 42-77

Dear Mr. Turner:

Attached is a receipt for the $50.00 filing fee associated with your Board of Zoning Appeals Variance request to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property generally located at the southeast corner of Kellogg and Hydraulic.

This application has been assigned case number BZA 42-77 and will be considered by the Board of Zoning Appeals on Tuesday, September 27, 1977, provided I am in receipt of a certified abstractor's list of all property owners within 200 feet of subject property in time to properly advertise the case and send notices to surrounding property owners.

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

Sincerely,

Larry Dobson
Assistant Secretary

LD:el

Attachment

12 notices sent to agent/applicant and adjoining property owners
10 notices sent to MAPC members
1 notice sent to CPO
23 total notices sent 9-1-77

BZA 42-77

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202

September 2, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 42-77

An application has been filed by Raymond and Winona Walton, 1020 East Kellogg, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "BB" Office District and "LC" Light Commercial District and legally described as follows:

Lot 1, Pennypower Addition to Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Hydraulic.

This application has been assigned Case No. BZA 42-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 27, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this application at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

12

BOARD OF ZONING APPEALS

CITY OF WICHITA, KANSAS

CASE NO. 4277

FILED

APPLICATION FOR VARIANCE

I. Name of Applicant Raymond and Winona Walton

Mailing Address 1020 E. Kellogg, Wichita Phone 263-8223

Name of Authorized Agent Jack N. Turner

Mailing Address 120 S. Market, Wichita Phone 265 5204

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is a variance or exception from the "off street parking" ordinance so that 65 instead of 71 parking spaces can be provided.

for property located Hydraulic and Kellogg (South East Corner)

and legally described as: Penny power Addition to Sedgwick County, KANSAS

in the City of Wichita; and which is presently zoned "LC" & "BB".

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.

Raymond & Winona Walton
Applicant

by Jack N. Turner
Authorized Agent

5846

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:50 (a.m. p.m.), 8-29 19 77 together with appropriate fee of $50.00.

Subj. to receiving abstract list by 8-30-77
ed

T9-402 S/E corner of Kellogg & Hydraulic

Larry Dobson
Signed

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

Lots	Addition	Property Owner
Lot 1	Penny Power Addition	D Raymond E. Walton & Winona L. 1020 East Kellogg 67211
179,181, 183,185, 187,189 191 on Hydraulic	Burr's 2nd Addition	X City of Wichita 455 North Main 67202
193,195 on Hydraulic	Same	James A. Maguire & Margaret E. ✓ 533 South Hydraulic 67211
197,199, 201,203 on Hydraulic	Same	Don D. Shawver & Helen J. ✓ 617 N. Broadmoor 67206 Fourth Natl. Bank & Trust Company ✓ 100 N. Broadway 67202
West 50' 205,207 on Hydraulic	Same	Inez Belisle & Dewayne A. Belisle ✓ 1617 East Orme 67211
205,207 exc West 50'	Same	not in phone X Olive M. Treu, Donald D. Treu, pl B. Bruce Treu, Address Unknown not in CD not in SD
209,211 Hydraulic	Same	Alfred F. Caire Sr. & Dorothy A. ✓ 611 S. Hydraulic 67211
213, N½ 215, Hydraulic	Same	George J. Spirio & Debra A. ✓ 1617 West 30th St. South 67217
S½ 215, 217 Hydraulic	Same	Dorothy A. Warner not in phone X Address Unknown not in SD book not in CD
219,221 Hydraulic	Same	X Roy E. Warner, deceased
4,5,6 Block 6	Kellogg Terrace Addition	X City of Wichita, 455 N. Main 67202
15,16 Block 6	Same	Charles R. Mathies & Lois ✓ 602 S. Hydraulic 67211
17,18 Block 6	Same	not in phone Sadie M. Richard X Address Unknown not in SD not in CD
19,20 Block 6	Same	Shirley A. Martindale David W. Elmore ✓ 4220 East Kinkaid 67218
21,22 Block 6	Same	✓ May Poland, 610 S. Hydraulic 67211

Lot	Addition	Property Owner
43, Blk 6	Kellogg Terrace Addition	not in SD X Lowell C. Hammer & Beverly Jean Address Unknown not in phone not in CD
44,45,46 47,48,49 Block 6	Same	Keith P. Pendergraft & Loretta M 5914 East Zimmerly 67218
50,51,52 Block 6	Same	X Velma Bates, Address Unknown not in phone book not in CD not in SD
58,59 Block 6	Same	X City of Wichita, 455 N. Main 67202
29,30,31 32,33,34 Block 6	Same	City of Wichita, 455 N. Main 67202
lot 13 Block 4	Same	X City of Wichita, 455 N. Main 67202
16,17 Block 7	Same	X City of Wichita, 455 N. Main 67202
lot 18, Block 7	Same	X International Homes Foundation Address Unknown not in phone not in CD not in CD
		City of Wichita, 455 N. Main 67202

All of lots 1 and 2, except that part cond. for street row, and part of lots 3 and 59, Block 6, Kellogg Terrace Addition, desc. as: Beg. at a point on the East line of Hydraulic Avenue, 4.2 feet South of the NW corner of said lot 3; thence North along said East line of Hydraulic Avenue, a distance of 14.2 feet; thence on an angle with said East line of Hydraulic Avenue to the right of 39°36'40", a distance of 114.80 feet to a point on the West line of George Washington Blvd; thence SEly along said West line of George Washington Blvd, a distance of 144.26 feet; thence West and parallel to the North line of said Lot 3, a distance of 175.93 feet to the pob.

We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of Lot 1,
Penny Power Addition

as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 29th day of August, 1977 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By Mary Gable

Vice President

Order No. 255006
wh

Justification of Variance Requested

Pennypower Addition to the City of Wichita has only just been created by replatt. During the replatt stage certain requests were made by agencies of the City of Wichita for dedication to the public of lands on which the new Pennypower Building was to be built. In complying with these requests for dedication of easements to the public, the land-owners dedicated a great deal of expensive property to the public at no charge.

Now, according to plan developed for Pennypower's new building as computed by the City staff 71 parking spaces should be provided — but only 65-66 spaces are available. Hence the need for the exception from the enforcement of the off street parking ordinance, 28.04.141 (3.9).

The situation is unique to the property because of the location of public streets to the West and North and the state of present construction of the street to the North. The property owners are trying to acquire the unused right of way to the North but cannot do so until construction on the street is complete — this may be months or years and construction on the new building cannot wait. Of course,

the applicant purchased sufficient property to provide parking — but the public bodies requested easements — without which there could be no re plott — hence no building.

The granting of permission to be short only 5 or 6 parking spaces cannot cause any public problem as only rarely — if ever would the lot be filled — thus creating no problem for adjacent landowners.

The strict application of the "off street" parking ordinance would literally "kill" the new Pennypower Building — causing a community loss and personal loss for the landowners.

It is respectfully submitted that granting the requested variance would serve the public interest and comply with the spirit of the zoning laws.

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202

September 2, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 42-77

An application has been filed by Raymond and Winona Walton, 1020 East Kellogg, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required number of off-street parking spaces from 71 spaces to 65 spaces on property zoned the "BB" Office District and "LC" Light Commercial District and legally described as follows:

> Lot 1, Pennypower Addition to Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Hydraulic.

This application has been assigned Case No. BZA 42-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 27, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this application at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

FORM 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT

Name

Address

Type | Due Date

Comments:

Date | By

*

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