

Case No. BZA 43-83 - European Car Inc. -
requests a variance to reduce the
required side yard from 5' to 0'
adjacent to a residential property on
the north, on property zoned the "C"
Commercial District and generally

5547A
200 'A Sec 2.6.83
checked
Shoh
Record

POSTED
7-28-83
454

ACTION

B.Z.A. ~~43-83~~ APPROVED 8-23-83
DATE

5547A
200' 4 Sec 9.6.83
Checked _____
Shot _____
Record _____

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requests a variance to reduce the
required side yard from 5' to 0'
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the north, on property zoned the "C"
Commercial District and generally

Map No. 5547

BZA 43-83
Filed

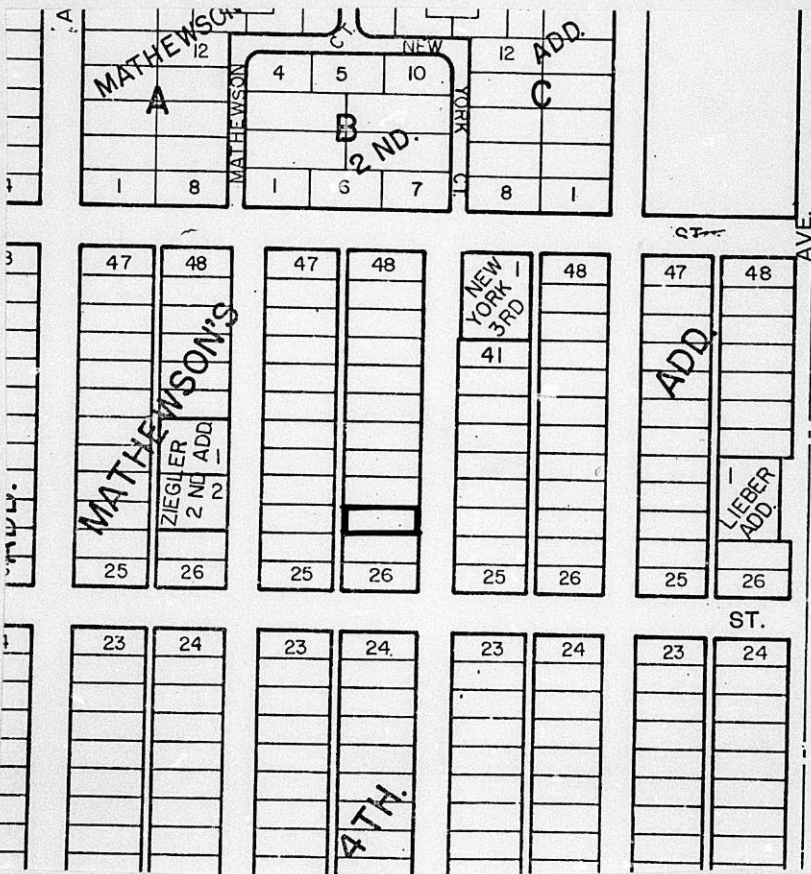
smaller to

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E B S C W C N B
3. Land Use: East Res. South Comm West Comm North Res.

5548B	5648C
5597	5647D
4. Area (is) (is not) platted.

5597	5647D
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LOS ANGELES, CHICAGO, LOGAN, OH
MCHESSON, TX, LOCUST GROVE, GA
USA.

Standard
No. 2153C

August 24, 1983

European Car Inc.
1510 East 2nd Street
Wichita, Ks. 67214

Re: BZA 43-83 - Request for Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 23, 1983.

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

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: Dean Felt, 715 West Thirteenth, Wichita 67203
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 43-83

WHEREAS, European Car Inc., 1510 East 2nd Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard from 5 feet to 0 feet on property zoned the "C" Commercial District and legally described as follows:

Lot 30, New York-Matthewson 4th Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of New York and north of Second Street.

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 August 23, 1983, 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 the property is located in a transitional area that commercial zoning has been looked on in favor for any property seeking same, and once the zoning on adjacent property has changed to a district other than residential, no side yard would be required; 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 proposed structure will maintain a front setback of 25' which should eliminate any adverse affect to the adjacent dwelling; 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 owners represented in the application inasmuch as the applicant would be required to maintain a setback from the north property line that does not efficiently use the property with his present business to the south; 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 the location of the structure will not interfere with any right-of-way or easements; 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 area will eventually be converted to all commercial uses that will not require a setback;

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 side yard setback from 5 feet to 0 feet on property zoned the "C" Commercial District and legally described as:

Lot 30, New York-Matthewson 4th Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of New York and north of Second Street.

be approved subject to the following condition:

1. The building shall be located on the property line adjacent to the north and screening along the remainder of the north property line shall be in conformance to 28.04.160.K of the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 23rd day of August, 1983.


John Slaymaker, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE AUGUST 22, 1983

TO Glen Lytle, Special Assistant for Zoning
FROM Clemencia L. Prieto, Administrative Aide III

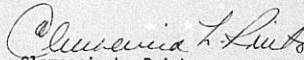
SUBJECT BZA 43-83, West side of New York
and North of Second Street.

On Tuesday, August 16th, CPO Council Area "K" considered a request for a variance to reduce the side yard setback from 5' to 0' on property zoned "C" Commercial District, at the above location.

Dean Felt, the agent for the applicant, was present to discuss the request with the Council. No area residents were present.

The Council voted 8-0 to recommend denial. Members cited the need to protect the adjacent residential area from commercial development as the reason for recommending denial.

Please provide the Council's recommendation to the Board of Zoning Appeals when it considers BZA 43-83 on August 23rd.


Clemencia L. Prieto
Administrative Aide III

CLP:em

SECRETARY'S REPORT
CASE NO. BZA 43-83

APPLICANT: European Car Inc., 1510 East 2nd Street,
Wichita, Kansas.

AGENT: Dean Felt, 715 West Thirteenth, Wichita, Ks.

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the required
side yard from 5' to 0' adjacent to a residential
zoning district.

GENERAL LOCATION: On the west side of New York and north of Second
Street.

ZONING: Subject property is zoned the "C" Commercial
District as are the properties to the east, south
and west. Property to the north is the "B"
Multiple-family Dwelling District.

LAND USE: Subject property is vacant. To the south is
additional development by the applicant. To the
east and north is residential and to the 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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required 5' side yard setback adjacent to the north property line. A side yard is required in the "C" Commercial District only when adjacent to a residential zoning district. In this case the property to the north is "B" Multiple-family.

It should be noted that the area is in transition from residential to commercial usage as evidenced by other zone changes that have occurred to the north. The applicant's proposed use is for inside storage of automobiles. The building will maintain a 25' setback from the street right-of-way line which should not create any adverse affects to the adjacent property.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located in a transitional area that commercial zoning has been looked on in favor for any property seeking same, and once the zoning on adjacent property has changed to a district other than residential, no side yard would be required.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the proposed structure will maintain a front setback of 25' which should eliminate any adverse affect to the adjacent dwelling.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be required to maintain a setback from the north property line that does not efficiently use the property with his present business to the south.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the location of the structure will not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as area will eventually be converted to all commercial uses that will not require a setback.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The building shall be located on the property line adjacent to the north and screening along the remainder of the north property line shall be in conformance to 28.04.160K of the zoning ordinance.

BZA CASE NO. 43-83

2 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

13 NOTICES SENT TO ADJOINING PROPERTY OWNERS

25 TOTAL NOTICES SENT 8/3/83

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

August 2, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 43-83

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by European Car, Inc. 1510 East 2nd Street, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the side yard setback from 5' to 0' on property zoned "C" Commercial District. A legal description of the applicant's property is as follows:

Lot 30, New York-Matthewson 4th Addition to Wichita,
Sedgwick County, Kansas. Generally located on the
west side of New York and north of Second Street.

This application has been assigned Case BZA 43-83. It will be considered by the Board of Zoning Appeals on August 23, 1983, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

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

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

5547

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 43-83
FILED 7-27-83

APPLICATION FOR VARIANCE

I. Name of Applicant European Car Inc., 1510 East 2nd, Wichita, Ks.
 Mailing Address 1510 E. 2nd St. Phone 263-9138 *67214*
 Name of Authorized Agent Dean W. Felt, Agent
 Mailing Address 715 W. Thirteenth Street Phone 264-3248 *67203*
 Relationship of applicant to property is that of Owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is reduction of the required side yard *from*
requirement of five feet (5'0") (28.04.100-2.1 of Title 28) *to 0 feet*
 for property located area of North West corner of Second & New
York Streets
 and legally described as: Lot 30, New York-Matthewson 4th Addn.
to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned 'C'.

- 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. 36-596) 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.

Applicant _____

Authorized Agent Dean W. Felt

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:07 (a.m.-p.m.), July 27, 1983, together with appropriate fee of 1.50.

Signed [Signature]

FELT DESIGN SERVICE

715 W. THIRTEENTH ST. WICHITA, KANSAS 67203

316/264-3248



Dean W. Felt, A.I.B.D.
Robert L. Funk, P.A.
Jerry D. Felt, A.I.B.D.

July 27, 1983

Board of Zoning Appeals
City of Wichita
455 N. Main St.
Wichita, Kansas 67202

RE: APPLICATION FOR VARIANCE, Lot 30 on New York
Matthewson 4th
Addn. to Wichita

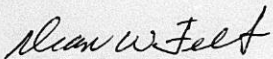
We request a reduction of the required side yard set back requirement of five feet (5'0") as stated in ordinance 28.04.100.2.1 of Title 28 (Zoning Ordinance), to zero feet (0'), for the reasons specifically stated here in.

1. The request though not unique to only to this property but to many in the area having narrow lots (50') with "C" and "B" zoning being intermixed reduces the actual useable space by ten percent (10%) thus reducing building size because of parking requirements and set backs.
2. If reduced set back is granted, it will not adversely affect the rights of adjacent property owners or residence. But eliminate a possible security problem of a five foot (5') area between the proposed building and the required screening fence.
3. Strict application of requirement would reduce owners best use of his property and thus reduce revenue for both himself and tax base by reduction of building size and valuation.
4. Any investment with new structures, or improvements to the land, should only improve public health, safety, morals, prosperity, and general welfare of adjacent property owners by up grading and cleaning up a mixed zoned area.

Board of Zoning Appeals
Page two

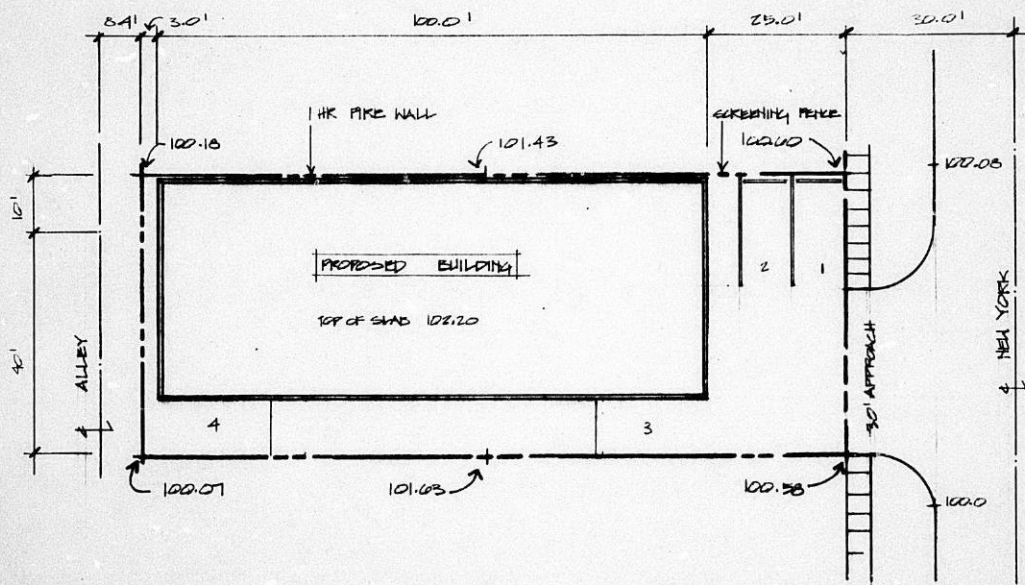
5. By Granting of this variance the intent and spirit of Title 28 (Zoning Ordinance) will not be opposed as it was not meant to impose undue hardship of loss of valuable building space to the property owner.

Sincerely,



Dean W. Felt, A.I.B.D.
Felt Design Service
DWF/rss

cc. Gerry E. Munn
Ferdinand Foergg



SITE ANALYSES

1"=20' 0"



LEGAL DESCRIPTION: LOT 30, OF NEW YORK, MATTHEWSON 4TH
ADDN. TO WICHITA, SECT. 10, KS.

OWNERSHIP LIST

<u>Property Description</u>	<u>Property Owner</u>
Lots 26, 28 & 30, New York, Mathewson's 4th Addition & 15 feet vacated 2nd Street.	✓ Ferdinand K. Foergg Rosina Foergg 4009 E. 22nd St. N. 67220
Lot 32, New York, Mathewson's 4th Addition	✓ Vera Stephens Saiser (dec.) Clarence S. Saiser 317 New York 67214
Lot 34, New York, Mathewson's 4th Addition	✓ Bob Loepp Grace F. Loepp 753 Woodrow 67203
Lot 36, & the south 3 feet of lot 38, New York, Mathewson's 4th Addition	✓ Guy W. Aistrup Georgia E. Aistrup 4107 W. 19th St. 67212
The north 47 feet of lot 38 & the south 5 feet of lot 40, New York, Mathewson's 4th Addition	✓ Jim R. Albertson, Jr. 227 N. Market 67202
Lots 25 & 27, New York, Mathewson's 4th Addition	✓ E. Leo Kastens Burchie Kastens 773 Westridge Dr. 67203
Lot 29, & the south half of lot 31, New York, Mathewson's 4th Addition	D E. Leo Kastens Burchie L. Kastens 773 Westridge Dr. 67203
The north half of lot 31, New York, Mathewson's 4th Addition	✓ David E. Alley 767 N. Edwards Avenue 67203
Lot 33, 35 & 37, New York, Mathewson's 4th Addition	✓ Maurice F. Beliveau Laura M. Beliveau (dec.) 320 New York 67214
Lots 25, 27 & 29, Mathewson, Mathewson's 4th Addition	D Ferdinand K. Foergg Rosina Foergg 4009 E. 22nd St. N. 67220
Lot 31, Mathewson, Mathewson's 4th Addition	Same as above
Lots 33 & 35, Mathewson, Mathewson's 4th Addition	Same as above
Lot 37, Mathewson, Mathewson's 4th Addition	✓ W. H. Swan M. Madeline Swan 330 Mathewson 67214
Lot 23, Mathewson, Mathewson's 4th Addition	✓ Colby B. Sandlian 435 N. Broadway 67202 ✓ R. D. Martens 100 N. Broadway 67202

Property Description

Property Owner

Lot 24, New York, & 15 foot adj. strip
on the north, Mathewson's 4th Addition

✓ Aileen J. Leben
1303 Charlotte St.
67208

Lot 23, New York, & 15 foot vacated
2nd street on the north, Mathewson's
4th Addition

✓ Michael W. Utterback
2534 W. 21st St.
67203

We hereby certify the foregoing to be a true and correct
list of the property owners of the hereinbefore described
lots and tracts within a 200 foot radius of:

Lot 30, New York Avenue, Mathewson's
4th Addition to the City of Wichita,
Kansas, Sedgwick County, Kansas.

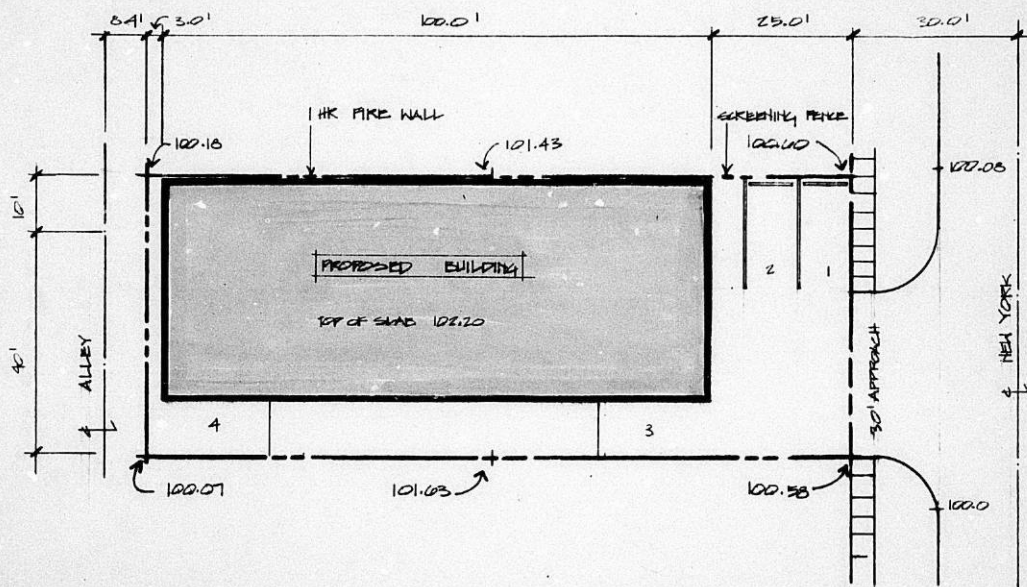
as shown by the last deed of record on file in the Office
of the Register of Deeds, Sedgwick County, Kansas, on the
26th day of July, 1983, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Vice President

Order No: 323168
cf



SITE ANALYSES

1"=20' 0"



LEGAL DESCRIPTION: LOT 30, CT NEW YORK, MATTHEWS ON 4TH
 ADJ. TO WICHITA, SECT. CO. 1, K5.

MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

FORM 29-21

PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
City 32A Vac	150.00

NAME MUNN BLDG. INC.

ADDRESS 377 So. WATER

FUND 752-40071-003 DUE DATE _____

COMMENTS _____

DATE Jul 27 1963 BY [Signature]