

Case No. BZA 64-79 - M. G. Enterprises Inc. requests variance to vary the required parking from 128 parking spaces to 53 parking spaces on the south side of Centra between Elder and Doris

*POSTED  
11-27-79*

**ACTION**

DATE 11-27-79

COMMITTEE Approved subject to zoning

M.A.P.C.

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

*12-7-79 ME*

*12-11-79 ME*

*100' MAPD*

*✓ 200' CI IN BK*

*✓ 200' RECORD*

*✓*

**BZA  
64-79**

Map No. 5147  
 Sec. 23  
 Twp. 27  
 Range 1W

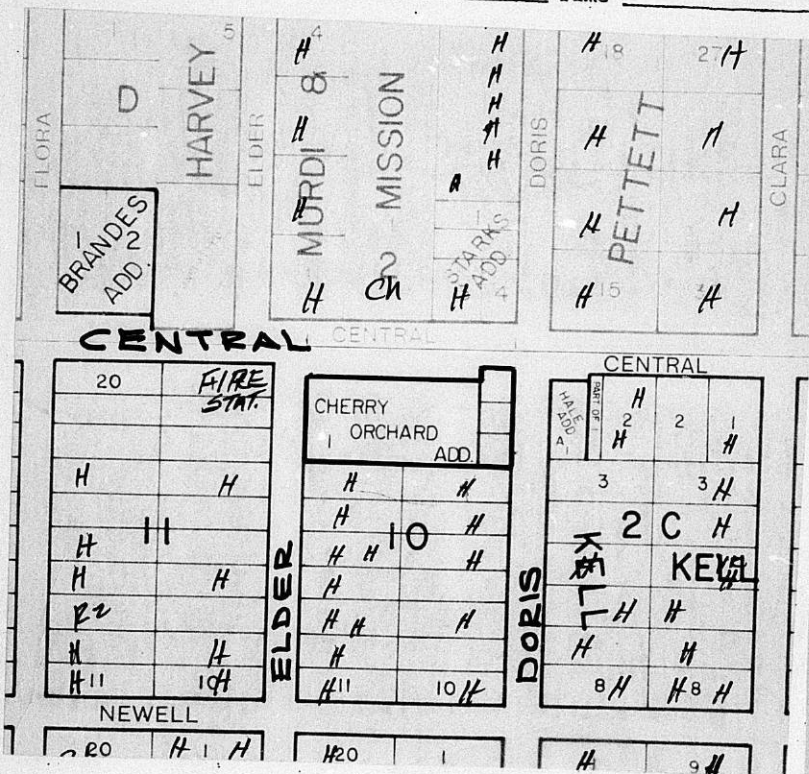
BZA- 64-79  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( 170 ft. by 375 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East \_\_\_\_\_ West FIRE STATION South SINGLE FAM North SINGLE FAM CH
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 \_\_\_\_\_



HASTINGS, INC. - LOS ANGELES  
 LOGAN - OH. - MEMPHIS - TX. U. S. A.

No. 2153C  
 S. H. H. H.

December 6, 1979

M. G. Enterprises, Inc.  
E. Marino Garcia  
3904 Maple  
Wichita, Kansas

Re: Case No. IZA 64-79  
Request for Variance

Dear Mr. Garcia:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 27, 1979, in connection with your request for a variance to reduce the required number of off-street parking spaces from 131 to 59 on property zoned "LC" Light Commercial District and generally located on the south side of Central between Elder and Doris.

This Resolution reflects the official action of the Board to approve this 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,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk  
*William K. Kerber, 330 Laura, Wichita, Ko.*

RESOLUTION NO. BZA 64-79

WHEREAS, M. G. Enterprises, Inc., 3904 Maple, 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 131 to 53 on property zoned "LC" Light Commercial District and legally described as:

Lot 1, Cherry Orchard Addition and the east 1/3 of Lots 1, 2 and 3, Block 10, Fruitvale Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Central between Elder and Doris.

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 November 27, 1979, 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 proposed use is of a specialized nature and will not create a demand for parking as is required by the normal uses permitted in the Light Commercial District; 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 variance has been granted only as a furniture business that should not create a demand for parking in excess of the 53 spaces to be provided; 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 acquire additional land and surface same for parking for a business not requiring the normal amount of parking; 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 variance to reduce the parking only for a furniture store will not create on-street parking problems; 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 adequate parking will be provided for the use which is to be 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.

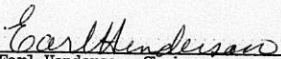
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 131 to 53 on property zoned the "LC" Light Commercial District and legally described as:

Lot 1, Cherry Orchard Addition and the east  
1/3 of Lots 1, 2 and 3, Block 10, Fruitvale  
Park Addition to Wichita, Sedgwick County,  
Kansas. Generally located on the south side  
of Central between Elder and Doris

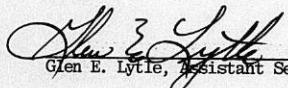
be approved subject to the following conditions:

1. That the proposed building will be used only for a retail furniture business, and provided further the display and sales area shall not exceed 18,200 square feet.
2. All loading and unloading of furniture, and all uncrating shall be within an enclosed building and the storage of vehicles used with the business shall not occur on the property unless they are within the building.
3. Screening shall be provided along the south property line in conformance to the Zoning Ordinance.
4. Changes within the building to provide additional storage deck shall not be permitted.
5. The resolution shall not become effective until the "LC" Light Commercial Zoning becomes effective on the property.
6. The resolution shall become null and void at anytime any change of occupancy occurs.

ADOPTED AT WICHITA, KANSAS, this 27th day of November,  
1979 .

  
Earl Henderson, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

November 27, 1979

M. G. Enterprises Inc.  
Attn: Marino Garcia  
3904 Maple  
Wichita, Kansas

Re: Case No. BZA 64-79  
Request for Variance

Dear Mr. Garcia:

At the regular meeting of the Board of Zoning Appeals on Tuesday, November 27, 1979, your request for a variance to reduce the required number of off-street parking spaces for a furniture store to be constructed on property zoned the "LC" Light Commercial District, and generally located on the south side of Central between Doris and Elder was considered.

It was the action of the Board to approve the reduction of the number of surfaced off-street parking spaces from 131 to 53 subject to the following conditions:

1. That the proposed building will be used only for a retail furniture business, and provided further the display and sales area shall not exceed 18,300 square feet.
2. All loading and unloading of furniture, and all uncrating shall be within an enclosed building and the storage of vehicles used with the business shall not occur on the property unless they are within the building.
3. Screening shall be provided along the south property line in conformance to the Zoning Ordinance.
4. Changes within the building to provide additional storage deck shall not be permitted.
5. The resolution shall not become effective until the "LC" Light Commercial Zoning becomes effective on the property.

Case No. BEA 64-79

6. The resolution shall become null and void at anytime any change of occupancy occurs.

Please be advised that the action taken by the Board of Zoning Appeals does not become effective until the application for the "LC" zoning requested on the property is completed and published. The resolution of the action of this Board will not be released until that time.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary

GEL:sad

CC: William L. Korber, 330 Laura, Wichita, Kansas  
Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Giasick, City Clerk

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE November 16, 1979

TO Jack Galbraith, Chief Planner, Current Plans

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA No. 64-79 (South side of  
Central, between Elder and  
Doris)

On November 15, 1979, CPO Council "N" voted 8-0 to recommend approval of the captioned case. The Council members felt that due to the nature of the business, that 53 off-street parking spaces would be adequate. Both the applicant and his agent were present. Two residents of the area were present in opposition to the case.

*Bill Morris*

Bill Morris  
CPO Administrative Aide

BM:ml

Noted:

*Sarah Gilbert /saw*

Sarah Gilbert  
Assistant CP Coordinator



SECRETARY'S REPORT  
CASE NO. BZA 64-79

APPLICANT: H. G. Enterprises Inc., 3904 Maple, Wichita, Kansas

AGENT: William E. Morber, 330 Laura, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required off-street parking spaces from 128 to 53.

GENERAL LOCATION: South side of Central between Elder and Doris

ZONING: Subject property is zoned "A" Two-family and "1C" Light Commercial as is the property to the east; south and west is zoned "A" Two-family; north is "AA" Single-family zoning.

LAND USE: Subject property is vacant. Property to the north is residential and a church. Fire station to the west and residential to the south and east.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.E, 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 applicant has requested a variance to reduce the number of required parking spaces from 123 to 53 spaces. He proposes to construct a new building for furniture to contain approximately 32,000 square feet of ground floor area. Upon receiving the plans, we find an additional storage floor of approximately 720 square feet for a total floor area of 32,700 square feet. Approximately 17,500 square feet of the building will be used for furniture display while the remainder of the area is for office, storage and interior loading docks.

The zoning ordinance requires one parking space for each 250 square feet of floor area, or 131 parking spaces and a requirement of two loading spaces for the 32,620 square foot building. Based on studies of parking demand, furniture businesses are one of the lowest traffic generators of the retail business category. Also the method of merchandising also has an effect on the parking demand. Many furniture businesses are smaller and their entire stock is displayed. The applicant has indicated that his need for such a large building is that he buys on a volume basis and therefore demands more storage area than normal for his furniture business. In addition his loading and unloading will take place inside the building.

It should be noted that the portion of the applicant's property is presently part of a zoning change request from "A" to "LC" and will be heard before the Planning Commission at their meeting of December 6, 1979. Any approval of this application would be subject to the granting of the zoning.

The Board of Zoning Appeals has on several occasions granted variances to reduce the off-street parking for furniture businesses, but none have been as great a reduction as is requested by the applicant of providing only 41.5% of the required spaces. For example, the Carriage House Furniture on West Kellogg was for a reduction down to 71% of the required parking.

UNIQUENESS:

It is the opinion of the Secretary that if uniqueness can be found to exist, it is because of the specialized nature of the proposed use that will not create a demand for parking as is required by the normal uses permitted in the Light Commercial District.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the adjacent property

owners if in fact the operation of the business does not create a demand for parking in excess of the 53 spaces to be provided.

HARDSHIP:

It is the opinion of the Secretary that if hardship can be found to exist it is because the applicant would be required to purchase additional land in the area and surface same for parking not needed for this business.

PUBLIC INTEREST:

It is the opinion of the Secretary there will be no adverse affect on the public interest inasmuch as the variance for a furniture store only will not create on-street parking problems since sufficient off-street parking will be provided.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the variance would not be opposed to the spirit and intent of the Zoning Ordinance since adequate parking will be provided for the type of use which is to be established.

RECOMMENDATION:

Should the Board determine that there is sufficient justification for the variance requested to reduce the parking requirement from 131 to 53 spaces, it is the recommendation of the Secretary that the variance be approved subject to the following conditions:

1. That the proposed building will be used only for a retail furniture business, and provided further the display and sales area shall not exceed 18,000 square feet.
2. All loading and unloading of furniture, and all uncrating shall be within an enclosed building and the storage of vehicles used with the business shall not occur on the property unless they are within the building.
3. Screening shall be provided along the south property line in conformance to the Zoning Ordinance.
4. Changes within the building to provide additional storage deck shall not be permitted.
5. The resolution shall not become effective until the "IC" Light Commercial Zoning becomes effective on the property.
6. The resolution shall become null and void at anytime any change of occupancy occurs.

BZA CASE NO. 64-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

24 NOTICES SENT TO ADJOINING PROPERTY OWNERS

37 TOTAL NOTICES SENT 11-6-79

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

November 5, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 64-79

An application has been filed by M. G. Enterprises Inc., 3904 Maple, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required off-street parking spaces from 128 to 53 on property zoned "LC" Light Commercial and "A" Two-family Dwelling Districts and legally described as follows:

Lot 1, Cherry Orchard Addition and the east 1/3 of Lots 1, 2, 3, Block 10, Fruitvale Park Addition. Generally located on the south side of Central between Elder and Doris.

This application has been assigned case No. BZA 64-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, November 27, 1979, 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 case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith  
Secretary



CHERRY ORCHARD FURNITURE INC.

PHONE 942-8313

3906 W. MAPLE  
WICHITA, KANSAS 67213

October 30, 1979

Our situation is unique to most in that as a furniture store we require much more space to display our merchandise, thus needing a large square footage building. We do not however have that much customer traffic flow. An average day yeilds between 10 and 25 customers, spread out over a 10 hour period. It would be totally unnecessary to put in much more parking than would benifit these customers and our employees.

As for adjacent property owners, granting of the permit for the variance would probably benefit them if anything, by not turning all the lots around their homes into asvault parking lots.

**RECEIVED**

OCT 30 1979  
METROPOLITAN PLANNING  
ROUTE

Sincerely,

Marino G. Garcia  
Owner, Cherry Orchard Furniture

BOARD OF ZONING APPEALS

CASE NO. 64-79

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant M. G. Enterprises Inc. Att: Marino Garcia

Mailing Address 3904 Maple Phone 942-8381

Name of Authorized Agent William L. Korber

Mailing Address 330 Laura Phone 262-7271

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

II. The variance requested is to vary the required parking from  
128 parking spaces to 53 parking spaces.

for property located on the south side of Central between  
Elder and Doris.

and legally described as: Lot 1, Cherry Orchard Addition and  
the east 1/3 of Lots 1-2-3, Block 10, Fruitvale Park Addition

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

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.

  
Applicant

\_\_\_\_\_  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:00 (~~to~~ - p.m.), OCTOBER 29 1979 together with appropriate fee of \$50.00.

T9-402

  
Signed

O W N E R S H I P   L I S T

Lot	Addition	Property Owner
lot 1	Cherry Orchard Addition	M. G. Enterprises Inc. 3906 Maple      67213
lot 15	Pettett Gardens	A. J. Grochowsky & Anita M. 702 North Doris      67212
lot 3	Starks Addition	Lewis C. Stark & Judith L. 5214 West Central      67212
lot 4	Same	Same
lot 1	Murdi-Cooper Addition	John L. Rucker & Dorothy C. 5236 West Central      67212
lot 1 except west 65 ft	Kell-Hawkins Addition	Richard L. Kunkle 212 West Lincoln      67213
lot 3, Block 2	Same	Louis E. Nixon & Marrian M. Address Unknown <i>648 DORIS</i>
lot 4, Block 2	Same	Tiep Van Vu 338½ North Quentin      67208
lot 5, Block 2	Same	Leo Knowles and Leota 624 North Doris      67212
lot 1, Block A	Hale Addition	Donald G. Hale and Patsy G. 835 Rynder      67204
lot 1, Block 2	Mission Addition	Sched Inc., Box 232 Garden Plain, Kansas      67050
East 1/3 of lots 1,2,3, Block 10	Fruitvale Park	Raymond E. Riner & Helen J. 532 North Young      67212
lot 4, Block 10	Same	Warren B. Niedens & Della Lynn 8222 West Murdock      67212
lot 5, Block 10	Same	John B. Shepherd & Gladys B. 1133 West 29th St. South      67217
lot 6, Block 10	Same	Lethial J. Stewart, Charles E. Stewart, Anita Jean Willison 631 North Doris      67212
lot 7, Block 10	Same	Altus O. Arnold and Anita 615 North Doris      67212
lot 14, Block 10	Same	Edith M. Sill, 620 North Elder 67212
lot 15, Block 10	Same	Helen Sheehan 624 North Elder      67212

Lot	Addition	Property Owner
lot 16, Block 10	Fruitvale Park	✓ Billy Seyler and Colleen S. 632 North Elder 67212
lot 17, Block 10	Same	✓ Sharon K. Weakly Address Unknown <i>440 N. Elder 67212</i>
East 2/3 lots 1,2,3 Block 11	Same	✓ <del>City of Wichita</del> 455 North Main 67202
West 1/3 lots 1,2,3 Block 11	Same	✓ W. J. Wells, 1118 Larimer 67203
lot 4, Block 11	Same	✓ Emma Jean Mans & Thomas M. 637 North Elder 67212
lots 5 and 6, Blk 11	Same	✓ Ed Cody Construction Inc. 511 South Woodchuck 67209
lot 7, Block 11	Same	✓ <sup>3</sup> George Ward, Address Unknown
Beginning 506.59 ft west of the SE corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 14-27-1W, thence north parallel with the east line said SW $\frac{1}{4}$ SW $\frac{1}{4}$ 258.7 feet, west 168.38 feet, south 258.7 feet, east 168.38 feet to beginning		Herbert L. Halsig and Lucille Ann Halsig 5318 West Central 67212
LOT 2 except East 60 ft Block 2	Kell Hawkins Addition	Richard L. Kunkle 212 West Lincoln 67213
East 60 ft lot 2 Block 2	Same	✓ <del>Lester A. Fawl &amp; Ruby R.</del> Address Unknown

*Sent to: Geo. Ward, 1206 Cramer  
" " , 1951 Overitt  
" " , 1808 S. Wichita*



SECURITY IS KNOWING

Title Insurance • Escrow Closings • Abstracts

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

A 200 foot radius of: Lot 1,  
Cherry Orchard Addition and  
the East 1/3 of lots 1, 2 and 3,  
Block 10, Fruitvale Park

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 25th day of October, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

*Mary Gable*

Vice President

Order No. 282668  
wh

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29-                      PAYMENT NOTICE  
City of Wichita

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

Planning

DESCRIPTION	AMOUNT
City 270 - 1124	450.00

NAME: *Emery Orchard Farm*

ADDRESS: *2406 W. Maple St. W. K.*

FUND: *110-20-100-4007*      DUE DATE: *1-20-50*

COMMENTS:

DATE: *1-22-1950*      BY: *[Signature]*