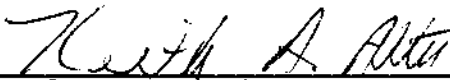


6. Three copies of a revised site plan showing the required landscaping, fencing and curbs shall be submitted to the Director of Planning for review and approval no later than April 1, 1990.
7. All required site improvements, except landscaping, shall be completed within 60 days following approval of the revised site/landscape plan and all landscaping, as required by the approved landscape plan, shall be installed by November 30, 1990.
8. The applicant shall maintain the site in good condition and in accordance with the approved plan.
9. Failure to comply with any of these conditions of approval within the required time limits or violation of any of these conditions shall make this use exception null and void.

ADOPTED AT WICHITA, KANSAS, this 24th day of July, 1990.


Keith Alter, President

ATTEST:


Louise Olivarez, Secretary

AMENDED BZA RESOLUTION NO. 41-89

WHEREAS, Wil-Ken Enterprises, Inc., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit an off-street parking lot on property zoned the "B" Multiple-Family Dwelling District and legally described as follows:

Lots 256, 258, 260 and the south 6 feet of the west 100 feet of Lot 262 and the south 3.75 feet to the east 44.5 feet of said Lot 262, Market Street, Hyde and Ferrells Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Market in an area north of 11th Street (1212 N. Market).

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 meetings of November 28, 1989, and December 19, 1989, consider said application; and did, at the meeting of February 27, 1990, consider and approve said application subject to nine conditions; and did, at the special meeting of April 3, 1990, consider and approve the required landscape plan and revised site plan; and did, at the meeting of July 24, 1990, reconsider and revise their previous action regarding the deadline for making all required site improvements; and

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

WHEREAS, the Board of Zoning Appeals has authority to permit an off-street parking lot on property zoned the "B" Multiple-Family Dwelling District, subject to the conditions outlined in Section 28.04.145, Code of the City of Wichita.

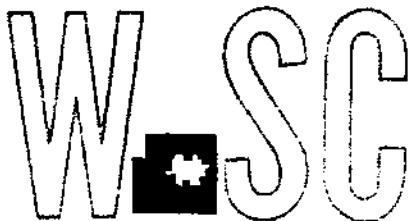
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this application be approved to permit an off-street parking lot on property zoned the "B" Multiple-Family Dwelling District and legally described as follows:

Lots 256, 258, 260 and the south 6 feet of the west 100 feet of Lot 262 and the south 3.75 feet to the east 44.5 feet of said Lot 262, Market Street, Hyde and Ferrells Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Market in an area north of 11th Street (1212 N. Market).

subject to the following conditions:

1. The applicant shall comply with all conditions required by Section 28.04.145 of the Zoning Ordinance regarding off-street parking exceptions.
2. The applicant shall submit a landscape plan, prepared by a licensed Kansas landscape architect or other appropriate landscaping firm acceptable to the Metropolitan Area Planning Department, which includes landscaping an area of not less than 50 feet from the curb as shown on the site plan prepared by Charles McAfee dated December 12, 1989.
3. The applicant shall provide a curb around the entire parking lot, except on the east side.
4. The applicant shall provide appropriate fencing (in accordance with Section 28.04.145 of the Zoning Ordinance) along the north and south sides of the property and shall provide a fence not less than 4 feet in height along the west side as it abuts the landscaped area, with a pedestrian opening in the fence.
5. The applicant shall remove the Market Street approach and apron (driveway).

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

November 30, 1990

Mr. Willie Kendrick
Wil-Ken Enterprises, Inc.
254 N. Washington
Wichita, KS 67202

Re: BZA 41-89 - Exception to permit an off-street parking lot on property zoned the "B" Multiple-Family Dwelling District, located on the east side of Market in an area north of 11th Street (1212 N. Market).

Dear Mr. Kendrick:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on July 24, 1990. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that the required landscaping and site improvements have been completed.

I have noted on the landscape plan the new types and quantities of plant materials which were installed in October and November. These new plants are acceptable and the plan has been revised and reapproved as of November 27, 1990. From now on and for as long as this property is zoned residential and utilized as a parking lot, this landscaping, as well as the fence and other required site improvements, shall be maintained in good condition as required by item #8 of the resolution. A copy of the revised landscape plan is enclosed for your future reference.

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

Sincerely,

Louise Olivarez
Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Paul Hays, CID
Lance Flowers, CID
Pat Burnett, Deputy City Clerk

bcc: David Cullen, Chair, HMCA Zoning Committee, 1905 N. Park Pl.
67203

parking lot definitely has an adverse effect on that house in terms of traffic, noise, and loss of residential character. If this exception is approved, it would establish a dangerous precedence for other encroachments onto Market in the Midtown neighborhood.

ADJACENT ZONING AND LAND USE:

NORTH	"B"	Apartments
SOUTH	"B"	One-family dwelling
EAST	"LC"	Fast food restaurant
WEST	"B"	Public school

RECOMMENDATION: It is recommended that this request for a use exception to permit an off-street parking lot be denied and that the owner be required to remove the asphalt within 30 days.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 5

November 28, 1989

SECRETARY'S REPORT

CASE NUMBER: BZA 41-89

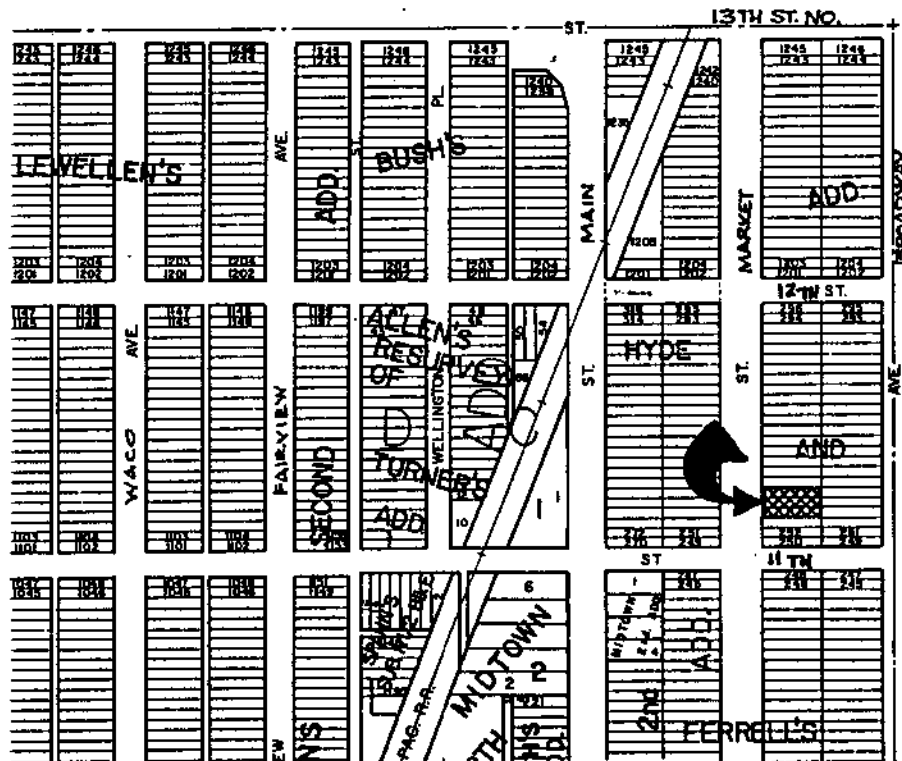
OWNER/APPLICANT/AGENT: Wil-Ken Enterprises, Inc. (owner/applicant)
Willie L. Kendrick (agent)

REQUEST: Exception to permit an off-street parking lot

CURRENT ZONING: "B" Multiple-Family Dwelling District

SITE SIZE: 81 ft. x 144 ft.

LOCATION: East side of Market in an area north of 11th St.



JURISDICTION: The Board has jurisdiction to consider this request under the provisions outlined in Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception, provided the conditions set out in Section 28.04.145 can be complied with.

BACKGROUND: On June 21, 1988, the "B" zoning district regulations were amended to exclude new parking lots as a permitted use unless they were accessory to a use permitted in "B" or unless they were established within the "grace period" provided for in the amended ordinance. This grace period consisted of a 60-day period after June 21, 1988, in which the parking lot permit had to be applied for and another 6-month period after permit approval in which the parking lot had to be established in accordance with the improvement standards specified in the zoning ordinance.

The applicant, Wil-Ken Enterprises, owner of Popeye's Famous Fried Chicken at 1211 N. Broadway, obtained a parking lot permit for this site from Central Inspection on July 19, 1988. The lot was required by the "B" zoning district regulations to be established by January 19, 1989. On August 22, 1988, the curb cut approach to Market was installed and a permit for this work was subsequently obtained from the Department of Public Works on January 31, 1989. Work on the paving of the lot did not begin until August 1989, 7 months after the end of the 6-month grace period specified in the zoning ordinance. The applicant and his contractor have stated that tree removal and the hauling in of additional dirt, as well as construction of the approach, occurred within the 6-month time period, but this is not sufficient to meet the zoning ordinance requirement that the parking lot be established within 6 months after issuance of the permit.

A Notice of Violation was issued by Central Inspection on August 16, 1989, before the lot was stripped and before the fence was installed. The owner and contractor proceeded to continue their work, however, and the lot is now stripped and fenced. For some time the lot was barricaded so that it could not be used since it violated the land use provisions of the zoning ordinance, but a field inspection on November 8, 1989, revealed that the barricades are no longer in place. Several boards in the new fence along the north property line are already missing.

The existing Popeye's restaurant uses the Broadway frontage very inefficiently. The parking to the north of the building could be redesigned utilizing the grassed side yard to provide angled parking on both sides of a driving aisle, thereby adding at least 5 more spaces on the lot. There has been no evidence introduced by the applicant that even the existing parking is insufficient for the restaurant. If the main purpose of the request is to provide access to Market, then that seems insufficient. Most businesses along Broadway do not have access to Market or Topeka and survive without it. Although the City has had a general policy of favoring requests involving the expansion of existing commercial uses, this particular one seems unnecessary. Although an apartment complex parking lot exists to the north and a school to the west, the character of this block is still clearly residential. A large single-family, renovated house is to the south with only a 6-foot side yard separating it from this application site. The