

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the parking requirement from 202 spaces to 141 spaces on property zoned the "LC" Light Commercial District (with DP-158) and legally described as follows:

Lot 6, Block 1, Killarney Second Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road in an area south of 32nd Street North.

subject to the following conditions:

1. Any restaurant occupying this 9,775-square-foot building shall provide no more than 360 dining area seats, unless additional parking can be provided in accordance with the parking code. Any use of this building for purposes other than a restaurant shall provide the required parking, unless a variance is granted based on the merits of that particular use.
2. The development of this property shall be in compliance with all landscaping and screening requirements of the City of Wichita in effect on the date a building permit is issued.

ADOPTED AT WICHITA, KANSAS, this 23rd day of July, 1991..


Randy Phillips, President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 16-91

WHEREAS, MRV/SGS Joint Venture, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the parking requirement from 202 spaces to 141 spaces on property zoned the "LC" Light Commercial District (with DP-158) and legally described as follows:

Lot 6, Block 1, Killarney Second Addition, an Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road in an area south of 32nd Street North.

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 July 23, 1991, 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 (more specifically, the proposed use of the property) inasmuch as 43% of the total floor area is devoted to entertainment uses which are accessory to the main restaurant use; this restaurant caters specifically to families with children between the ages of 2 and 11; and the average group size attending this restaurant in other locations has been 5.6 people, which indicates more people per vehicle than at a more general type restaurant; 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 with a limit on the number of restaurant seats, the parking needs for a Chuck E. Cheese Restaurant, as well as for any other restaurant in this building, will be satisfied by the 141 spaces provided on site and there would be no need for patrons to park in adjacent lots; and

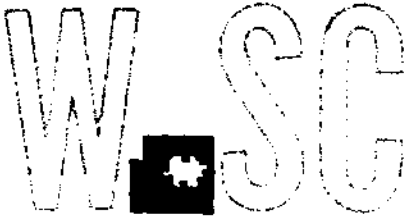
WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as when the applicant started work on this project, the parking requirement was only one space per five occupants and it was not until after the feasibility study was completed, the property was purchased, and the building plans were submitted to the City for review that it was learned the parking requirement had recently changed to require about 60% more parking. There is no additional land in this applicant's ownership which can be used for 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 no public utility easements or street right-of-way are affected by the variance and no parking is permitted on the adjacent street, a major north-south arterial; 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 uniqueness of this particular business has demonstrated that adequate parking will be provided on site to accommodate the needs of its customers and employees, which is the basic intent of the parking code; 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.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 288-4561

July 24, 1991

Greg Schwerdt
MRV/SGS Joint Venture
2231 S.W. Wanamaker
Topeka, KS 66614

Re: BZA 16-91 - Variance to reduce the parking requirement from 202 spaces to 141 spaces on property zoned "LC" Light Commercial (w/DP-158), located on the west side of Rock Road in an area south of 32nd Street North. (3223 N. Rock Road)

Dear Mr. Schwerdt:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on July 23, 1991. 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.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,

Louise Olivarez
Louise Olivarez, Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: Paul Hays, OCI
Lance Flowers, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

FILE COPY

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no public utility easements or street right-of-way are affected by the variance and no parking is permitted on the adjacent street, a major north-south arterial.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the uniqueness of this particular business has demonstrated that adequate parking will be provided on site to accommodate the needs of its customers and employees, which is the basic intent of the parking code.

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 conditions:

1. Any restaurant use or other use of this building which has a parking requirement of one space per three occupants shall be limited to a maximum of 423 occupants, unless additional parking can be provided in accordance with the parking code. Any use of this building for purposes having parking requirements other than one space per three occupants shall provide the required parking, unless a variance is granted based on the merits of that particular use.
2. The development of this property shall be in compliance with all landscape and screening requirements of the City of Wichita in effect on the date a building permit is issued.

July 23, 1991

SECRETARY'S REPORT

CASE NUMBER: BZA 16-91

OWNER/APPLICANT/AGENT: MRV/SGS Joint Venture (owner/applicant)
Greg Schwerdt (agent)

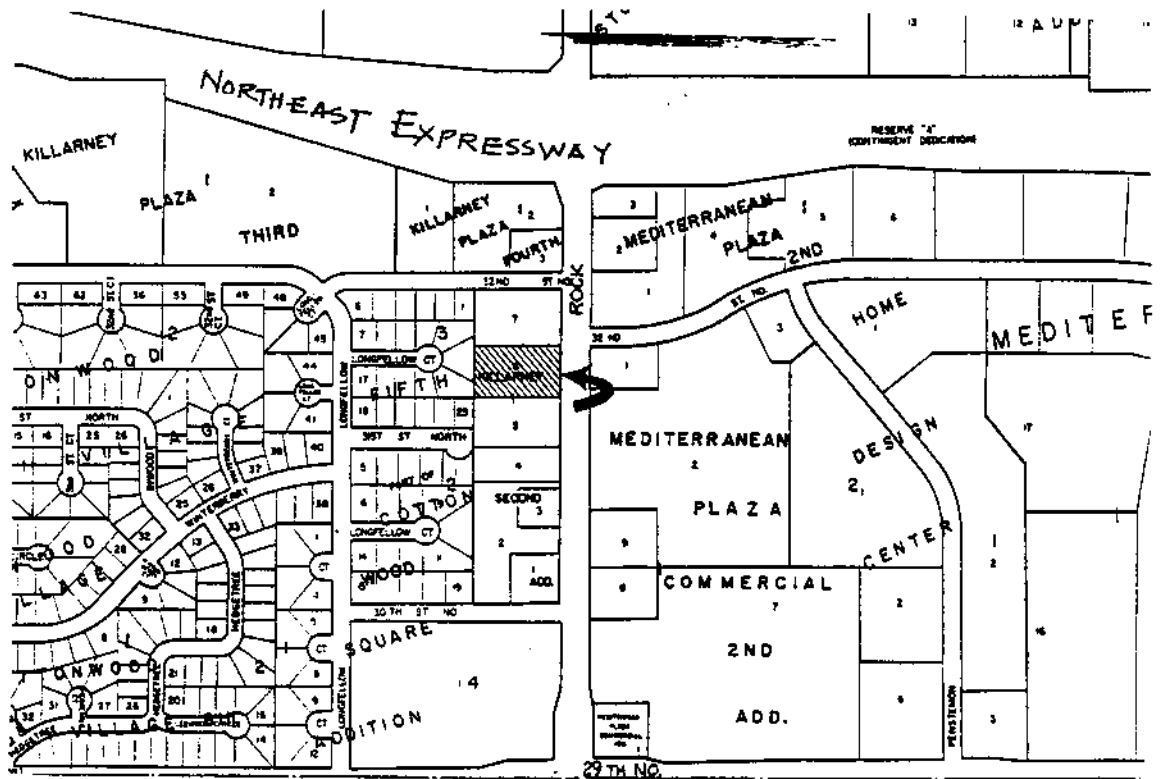
REQUEST: Variance to reduce the parking requirement from 202 spaces to 141 spaces.

CURRENT ZONING: "LC" Light Commercial District w/DP-158

SITE SIZE: 192 ft. x 340 ft.

LOCATION: West side of Rock Road in an area south of 32nd Street North.

PROPOSED USE: Chuck E. Cheese's Pizza Restaurant



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.

BACKGROUND: The applicant is requesting a reduction in the parking requirement for a proposed Chuck E. Cheese Pizza Restaurant in the 3200 block of north Rock Road. Since January 18, 1991, the parking requirement for restaurants has been one space for every three occupants. Prior to the code amendment in January, the requirement was one space for every five occupants. The occupancy load is calculated differently for different uses within a restaurant, e.g., 1 occupant per 200 sq. ft. of kitchen area; 1 occupant per 100 sq. ft. of office and order area; 1 occupant per 15 sq. ft. of restaurant area for non-bench seating; 1 occupant per 2 feet of bench seating areas. The total occupancy load of this entire proposed building has been calculated by Central Inspection to be a maximum of 606 people, which translates to a parking requirement of 202 spaces. The maximum which can be provided on this site is 141 spaces, as shown on the site plan submitted with this application.

As justification for the variance, the applicant offers the following information:

- A. Chuck E. Cheese caters specifically to families with children between the ages of 2 and 11.
- B. The average group size attending a Chuck E. Cheese is 5.6 persons.
- C. ~~Forty-three percent~~ of the total floor area will be devoted specifically to entertainment or recreational space and not to actual dining area.

The above-noted facts are all justifications of uniqueness of this particular business. The entertainment area will be used by restaurant patrons whose parking needs are already being provided for by the requirements for parking based on seating capacity. Central Inspection has calculated the occupancy load for this entertainment area the same as for the dining area -- 1/15 sq. ft. -- which means one parking space for each 45 sq. ft. of floor area (based on one parking space per three occupants). The applicant believes the entertainment area should be considered an accessory use and parking calculated at 1/250 sq. ft., which would reduce the overall parking requirement by about 60 spaces. Since the seating arrangement in a dining area can easily be changed, Central Inspection's policy has been to calculate the parking requirement based on potential maximum occupancy.

In recent years, the Board of Zoning Appeals has granted several parking variances when the applicant has demonstrated that land is available for the required parking, but the proposed use does not need as much parking as required by code. The concern about granting variances to reduce parking when no additional parking area is available, should it be needed, is based on the problems which will be encountered when a new use goes into the building and that new use does not have justification for a similar variance. In the case of the Chuck E. Cheese building, if some other restaurant or use with a 1:3 occupant parking requirement wants to occupy the building in the future

and add seats in the former entertainment area, there would be a definite parking deficiency. A maximum building occupancy should be specified as a condition of approval of this variance, if granted.

It is noted for the record that very little landscaped area is designated on this site plan. Should the proposed landscape and screening ordinance become effective before a building permit is obtained for this property, 1,920 square feet of landscaped street yard will be required. This can be reduced by 20% if the minimum permitted size of plant materials is increased by 100%, and can be reduced by another 20% if all principles of xeriscaping are utilized. Also, the parking lot will be required to be screened from Rock Road by opaque screening three feet high during all seasons of the year. This screening may be accomplished by walls, fences, berms and/or plantings. If plantings are used, they may be calculated as part of the required landscaped street yard.

ADJACENT ZONING AND LAND USE:

NORTH	"LC" w/DP-158	Amoco gas station & undeveloped
SOUTH	"LC" w/DP-158	Undeveloped
EAST	"LC" w/DP-111	Undeveloped
WEST	"A"	Duplexes

UNIQUENESS: It is the opinion of staff that this property (more specifically, the proposed use of this property) is unique inasmuch as 43% of the total floor area is devoted to entertainment uses which are accessory to the main restaurant use; this restaurant caters specifically to families with children between the ages of 2 and 11; and the average group size attending this restaurant in other locations has been 5.6 people, which indicates more people per vehicle than at a more general type restaurant.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as with a limit on occupancy load, the parking needs for a Chuck E. Cheese Restaurant, as well as for any other restaurant in this building, will be satisfied by the 141 spaces provided on site and there would be no need for patrons to park in adjacent lots.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as when the applicant started work on this project, the parking requirement was only one space per five occupants and it was not until after the feasibility study was completed, the property was purchased, and the building plans were submitted to the City for review that it was learned the parking requirement had recently changed to require about 60% more parking. There is no additional land in this applicant's ownership which can be used for parking.