

4. If lighting is provided on the exterior, it shall be installed so as to not illuminate the adjoining residential properties by shielding and directing the lights away from the residential properties.
5. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance, provided however, no string-type lighting or banners shall be permitted.
6. No sound projecting devices or loud speakers shall be used so as to be heard beyond the property lines.
7. All screening required by the zoning ordinance for the protection of adjacent residential properties shall be installed and maintained in good condition.
8. Any change of occupancy of this building, or change in the manner in which the automobile sales business is to be operated, shall null and void this resolution.
9. Any expansion of the building shall be subject to compliance with the requirements of the ordinance and must be reconsidered by the Board of Zoning Appeals.
10. Resolution No. BZA 68-83 shall become null and void upon the release of this resolution.

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7. Case No. BZA 13-87 - Donald F. McArthur, 928 St. James, Wichita, Kansas, and Peter Langenwalter, 354 Indiana, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, request variances to: (1) reduce the required number of off-street parking spaces from 41 spaces to 32 spaces; and (2) reduce the front yard setback adjacent to Minnesota from 20 feet to 0 feet for off-street parking purposes only on property zoned the "LC" Light Commercial District and the "B" Multiple-family Dwelling District and legally described as follows:

Lot 1, Block 1, Sixty-six Addition and Lots 38 and 40, Minneapolis Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of First Street between Ash and Minnesota Streets.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

JURISDICTION:

The Board has jurisdiction to consider the variances requested under the provisions outlined under Section 2.12.590.B, Code of the City of Wichita. The Board may grant the requests when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting these two variances in order to construct a new building on the property that will house an automobile repair garage and also an automobile sales business. The building will be located on the lot zoned "LC" Light Commercial on the northwest corner of First and Ash Streets and the two lots located adjacent to the cul-de-sac on Minnesota are zoned "B" Multiple-family Dwelling District. The automobile repair garage is a permitted use in the "LC" Light Commercial District, and the automobile sales business is permitted in the "LC" Light Commercial District as an exception. The applicants have also requested this exception to be approved as Case No. BZA 12-87.

The first request for a reduction in the number of off-street parking spaces from 41 spaces to 32 spaces, is based primarily in the manner the automobile sales business is to be operated. The applicant states that all automobiles for the auto sales business will be stored inside the building and are shown by appointment only. The automobile sales business will occupy approximately 4,300 square feet of the 10,250 square foot building. The off-street parking required for the automobile repair garage would be 24 spaces leaving seven spaces for the auto sales business. Based on the information furnished that the automobile sales business will be operated by two employees and will show automobiles only by appointment, there should be a justification for a reduction in the number of off-street parking spaces.

In most previous instances where the Board of Zoning Appeals has reduced the number of off-street parking spaces for a use, consideration has included the adequate land area to provide additional parking should the building later be converted to another use. In this case, only four additional spaces can be provided on the site which would still be five spaces short of the 41 spaces required based on one space for each 250 square feet of floor area. With all adjacent properties zoned the "B" Multiple-family Dwelling District, it is possible that additional land could be acquired that would accommodate additional parking.

UNIQUENESS:

It is the opinion of staff that this property is unique inasmuch as that portion of the building to be occupied as the business of automobile sales will be operated entirely within an enclosed building and the automobiles will be shown primarily by appointment which will limit the need for more than four spaces to accommodate the employees and customers at any one time.

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 the use of the property as proposed should not create on-street parking in the neighborhood as adequate off-street parking should accommodate all employees and customers at this location.

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 the applicant would be required to secure additional land for parking in order to construct the building.

PUBLIC INTEREST:

It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the reduction in the number of off-street parking spaces will not interfere with any needed right-of-way or easements.

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 requirement for off-street parking for automobile sales is one space for each 3,000 square feet of lot area, and in this case, the applicant is proposing that all automobiles will be stored inside of the building and are shown primarily by appointment.

The second request is for a variance of the front yard setback adjacent to Minnesota from 20 feet to 0 feet for off-street parking purposes only. It should be noted that the two lots in the application area are the two south lots adjacent to the cul-de-sac that was constructed when the canal route was improved. The reduction of the setback for off-street parking should not have any significant affect on the adjacent property as it will be screened as provided by the ordinance.

UNIQUENESS:

It is the opinion of staff that this property is unique inasmuch as it is located adjacent to a dead end street that separates the property from the access ramp to an expressway on the west.

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 the use of the entire property for off-street parking should not create any adverse affect if screening is provided adjacent to the property on the north.

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 the applicant would then be further restricted in providing the required number of off-street parking spaces needed for the construction of the building.

PUBLIC INTEREST:

It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the reduction of the setback for off-street parking purposes only will not interfere with needed right-of-way or easements.

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 location of the property in relation to the expressway and the proximity to the heavier use districts on the west should give justification for approval by the Board as being in compliance with the intent of the ordinance.

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. The reduction of the required number of off-street parking spaces from 41 spaces to 32 spaces shall only apply to the property for the uses as an automobile repair garage and an automobile sales business that is operated entirely within an enclosed building.
2. The automobile sales business shall not occupy more than 5,000 square feet of the proposed 10,300 square foot building.
3. There shall not be any vehicles displayed or stored outside of an enclosed building.
4. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance for the "LC" Light Commercial District.
5. The alley shall be improved in conformance to City standards from the north property line to within 18 feet of the north property line of First Street.
6. Parking barriers shall be provided adjacent to the public right-of-way lines of First, Ash and Minnesota Streets to prevent the overhanging of vehicles over public right-of-way.
7. A six-foot screening fence shall be installed along the north property lines, except that the fence shall be reduced to a height of three feet for the east 20 feet adjacent to Ash Street and the west 20 feet adjacent to Minnesota Street.
8. The reduction of the front yard setback, adjacent to Minnesota Street, from 20 feet to 0 feet shall be for off-street parking purposes only.

9. Any change of occupancy of this building to any new use shall null and void this resolution.
10. Any expansion of the building for either of the two uses shall require the providing of the off-street parking for the total floor area as required by the zoning ordinance, or the owner will be required to file a new application to be considered by the Board of Zoning Appeals.
11. The variance to reduce the required number of off-street parking spaces is subject to the conditions as established by BZA Resolution 12-87 for the sale and display of vehicles.
12. The 20-foot setback area adjacent to Ash Street, not improved for off-street parking, shall be landscaped. Three copies of the landscape plan shall be submitted to the Secretary for approval prior to the release of the resolution.

LYTLE stated that CPO recommended (8-0) to approve the request.

JENKINS asked if the proposed parking lot would be fenced for the protection of parked automobiles.

RANDY HERSHORN, in partnership with PETER LANGENWALTER, replied that no cars would be parked outside overnight. The sales portion of the facility would have vehicles stored inside at all times.

JEFF KREHBIEL, Jeff Krehbiel Associates, reiterated that on the sales portion there would be no outside storage at all. He further stated that on the auto repair portion, there would be some autos parked outside during the day, however, any kept overnight would be stored inside. It was their intent to landscape the parking area.

JENKINS asked why they needed so much parking space if, as he understood it they would only have two or three employees.

LYTLE replied that it is a requirement of the ordinance.

HERSHORN also noted, for clarification, that any vehicles kept for an extended period of time could also be stored at the location on New York Street.

JENKINS stated that he would like to add a condition that all vehicles be stored inside overnight.

PARSONS questioned the necessity for the added condition.

Discussion ensued.

HERSHORN stated that based on the fact that most of the residences in the area were rental and rundown, he felt that what they propose for the property would certainly enhance the area.

PARSONS asked what was the Planning Commission's policy on First Street.

GALBRAITH stated that the Planning Commission had a philosophy rather than a policy of favoring the preservation of residential east of I-135.

LYTLE also pointed out that First was considered an arterial street as far as Grove.

GALBRAITH elaborated that the neighborhood at Cleveland and New York was a nice neighborhood at one time. Over a period of years decisions were made to let that area begin to convert. This neighborhood between I-135 and Grove is also a sensitive area.

No one appeared in opposition.

MOTION: HENDERSON moved, PARSONS seconded, that the five conditions set out in Section 2.12.590.B, of the Code as necessary for the granting of the variance have been found to exist and that the variance to (1) reduce the required number of off-street parking spaces from 41 spaces to 32 spaces; and (2) reduce the front yard setback adjacent to Minnesota from 20 feet to 0 feet for off-street parking purposes only be granted subject to the conditions set out in the Secretary's Report. Motion passed 4-1 (JENKINS).

The official action of the board is reflected in the adoption of Resolution No. BZA 13-87 which includes the following conditions of approval:

1. The reduction of the required number of off-street parking spaces from 41 spaces to 32 spaces shall only apply to the property for the uses as an automobile repair garage and an automobile sales business that is operated entirely within an enclosed building.
2. The automobile sales business shall not occupy more than 5,000 square feet of the proposed 10,300 square foot building.
3. There shall not be any vehicles displayed or stored outside of an enclosed building.
4. Signs shall be limited to that permitted by Section 28.04.139 of the zoning ordinance for the "LC" Light Commercial District.
5. The alley shall be improved in conformance to City standards from the north property line to within 18 feet of the north property line of First Street.
6. Parking barriers shall be provided adjacent to the public right-of-way lines of First, Ash and Minnesota Streets to prevent the overhanging of vehicles over public right-of-way.

7. A six-foot screening fence shall be installed along the north property lines, except that the fence shall be reduced to a height of three feet for the east 20 feet adjacent to Ash Street and the west 20 feet adjacent to Minnesota Street.
 8. The reduction of the front yard setback, adjacent to Minnesota Street, from 20 feet to 0 feet shall be for off-street parking purposes only.
 9. Any change of occupancy of this building to any new use shall null and void this resolution.
 10. Any expansion of the building for either of the two uses shall require the providing of the off-street parking for the total floor area as required by the zoning ordinance, or the owner will be required to file a new application to be considered by the Board of Zoning Appeals.
 11. The variance to reduce the required number of off-street parking spaces is subject to the conditions as established by BZA Resolution 12-87 for the sale and display of vehicles.
 12. The 20-foot setback area adjacent to Ash Street, not improved for off-street parking, shall be landscaped. Three copies of the landscape plan shall be submitted to the Secretary for approval prior to the release of the resolution.
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8. Case No. BZA 14-87 - Intellect Systems, Inc., 1809 South Hoover, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the construction of a computer component sales and service business on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 16, Block 1, Ridge Plaza Fourth Addition to
Wichita, Sedgwick County, Kansas. Generally located
on the southwest corner of Holland Lane and University
Avenue.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.4 can be complied with.