

POSTED
2-3-76
M.P.C.
2-24-76
J.P.

ACTION

BZA COMMITTEE Approved DATE 2-24-76

M.A.P.C. _____

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

BZA 2-76 - # 1 Cycles of Wichita
request variance to reduce rear yard
setback from 10 feet to 2 feet and
reduce required parking spaces from
48 to 46 in an area generally located
near the southwest corner of the inter-
section of N. West and Third Streets

RESOLUTION NO. BZA 2-76

WHEREAS, Wayne F. Shaver, 339 North West Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to reduce the required rear yard setback from 10 feet to 2 feet; and to reduce the required number of off-street parking spaces from 48 spaces to 46 spaces on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1, Shaver Addition, (a replat of Lot 3, Block 16, Parkwilde Addition), Sedgwick County, Kansas. Generally located on the west side of West Street in an area south of 3rd 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 February 24, 1976, 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 presence of a 16 foot utility easement bi-sectioning this lot precludes the applicant from adding on directly to his existing building, thereby dictating the placement of the building on the back of the lot; and inasmuch as this specific business does not generate the high volume traffic normally found in the light commercial districts, the reduction of parking spaces to 46 would appear to be adequate parking for employees and customers even though the requirements of the ordinance are not met; 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 applicant also owns the adjoining property to the west; a reduction of 2 off-street parking spaces should not adversely affect the area residents, 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 owner represented in the application inasmuch as the applicant is in need of additional room for an expanding business and not being able to add on to his present building, is desirous of erecting a pre-engineered metal building that cannot be situated on the property without the granting of these two requests; 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 rear yard variation is interiorly located adjacent to property owned by the applicant, and the off-street parking would appear to be adequate to handle the traffic generated by this business; 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) if at least a four foot rear yard is provided to facilitate the maintenance of the building and upkeep of the area behind the building. The reduction of only two off-street parking spaces would not be opposed to the spirit and intent of the ordinance; 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.

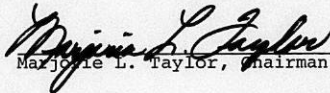
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard setback from 10 feet to 2 feet; and to reduce the required number of off-street parking spaces from 48 spaces to 46 spaces on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1, Shaver Addition, (a replat of Lot 3, Block 16, Parkwilde Addition), Sedgwick County, Kansas. Generally located on the west side of West Street in an area south of 3rd Street.

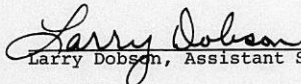
be approved subject to the following condition:

1. The request for a reduction of the rear yard setback be granted down to 4 feet instead of the requested 2 feet, and the off-street parking request be granted as requested, from the required 48 spaces to 46 spaces.

ADOPTED AT WICHITA, KANSAS, this 24th day of February, 1976.


Marjorie L. Taylor, Chairman

ATTEST:


Larry Dobsch, Assistant Secretary

[REDACTED]
Tenth Floor, City Hall
455 North Main

March 8, 1976

Mr. Dean Felt
1931 Gary Drive
Wichita, Kansas 67219

Re: Case No. BZA 2-76
Request for Variance

Dear Mr. Felt:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 24, 1976, in connection with your request for a variance to reduce the required rear yard setback from 10 feet to 2 feet; and to reduce the required number of off-street parking spaces from 48 spaces to 46 spaces on property zoned the "LC" Light Commercial, and generally located on the west side of West Street in an area south of Third Street.

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

Larry Dobson
Assistant Secretary

LD:bh
Encl.

cc: Wayne F. Shaver, 339 N. West, 67203
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection
Donald Gisick, City Clerk

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Tenth Floor
455 North Main
Wichita, Kansas

February 25, 1976

Mr. Dean Felt:
1931 Gary Drive
Wichita, Kansas 67219

Re: Case No. BZA 2-76
Request for Variance

Dear Mr. Felt:

At the regular meeting of the Board of Zoning Appeals on February 24, 1976, your request for a variance to reduce the required rear yard setback from 10 feet to 2 feet; and to reduce the required number of off-street parking spaces from 48 spaces to 46 spaces on property zoned the "LC" Light Commercial District, and generally located on the west side of West Street in an area south of Third Street was considered.

It was the action of the Board to approve this request, subject to the following condition:

1. The request for a reduction of the rear yard setback be granted down to 4 feet instead of the requested 2 feet, and the off-street parking request be granted as requested, from the required 48 spaces to 46 spaces.

A Resolution setting forth the official action of the Board is being prepared, and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

Yours very truly,

Larry Dobson
Assistant Secretary

LD:rh

cc: Wayne F. Shaver, 339 N. West, 67203
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection
Don Glasick, City Clerk

Secretary's Report
Case No. BZA 2-76

APPLICANT: Wayne F. Shaver, 339 North West Street,
Wichita, Kansas

AGENT: Dean Felt, 1931 Gary Drive, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required rear yard setback from 10 feet to 2
feet; and to reduce the number of required
off-street parking spaces from 48 spaces
to 46 spaces.

GENERAL LOCATION: On the west side of West Street in an area
south of 3rd Street.

ZONING: Subject property is zoned the "LC" Light
Commercial District, as are properties to
the north and east. South is the "B" Multiple
Family Dwelling District. West is zoned
the "AA" Single Family Dwelling District.

LAND USE: Subject property is occupied by a motorcycle
sales and repair shop. North is a Bell Tele-
phone office building; East is a roller skating
rink; South is a single family residence; west
is vacant land.

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 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 the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY

The applicant is requesting a variance to reduce the required rear yard setback from 10 feet to 2 feet and to reduce the required number of off-street parking spaces from 48 spaces to 46 spaces, in connection with the construction of an additional building on his property.

The applicant operates a motorcycle sales and service business on this property zoned the "LC" Light Commercial District. He is desirous of expanding his floor space to accommodate his growing business, but cannot add on directly to his existing building because of the location of a 16 foot utility easement running north-south across the property, directly behind the existing building. He is, therefore, proposing to erect a pre-engineered metal building on the west end of his property and has submitted a site plan showing the location of this proposed 50 x 80 foot building to within two feet of the west property line. This is the rear yard of the property, which is required to be a minimum of ten feet. The plan also shows a reduction of 2 off-street parking spaces showing 46 instead of the required 48. The applicant contends that the requirement of 1 space for every 250 square feet of floor area simply is not equitable to his type of business. The proposed new zoning ordinance tends to support this claim, inasmuch as this type of business would fall in a category where 1 space for every 400 square feet would be required. He states that most of his customers ride motorcycles for transportation and consequently, do not need the number of parking spaces required by ordinance. Based on 1 space for 400 square feet, 30 off-street parking spaces would be required.

The applicant owns the vacant property to the west which is adjacent to the requested rear yard setback variance.

It should be noted that a 2 foot setback could present problems with future maintenance of the rear of the building in the event this adjoining lot was sold at a later date. The two bays of 90° parking shown between the existing building and the proposed new building utilize a total of 64 feet, whereas the parking could be placed in a minimum of 62 feet. If this were done, the extra 2 feet could be placed behind the new building thereby providing a total of a 4 foot rear yard. This would entail widening these particular spaces from 8 foot 6 inches in width to 9 feet. The Traffic Engineer's Office examined the plan and said this could be done without further reduction in the total number of off-street parking spaces.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness may exist in this instance inasmuch as the presence of a 16 foot utility easement bi-secting this lot precludes the applicant from adding on directly to his existing building, thereby dictating the placement of the building on the back of the lot; and inasmuch as this specific business does not generate the high volume traffic normally found in the light commercial districts, the reduction of parking spaces to 46 would appear to be adequate parking for employees and customers even though the requirements of the ordinance are not met.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the applicant also owns the adjoining property to the west; a reduction of 2 off-street parking spaces should not adversely affect the area residents.

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 is in need of additional room for an expanding business and not being able to add on to his present building, is desirous of erecting a pre-engineered metal building that cannot be situated on the property without the granting of these two requests.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not be opposed to the public interest inasmuch as the rear yard variation is interiorly located adjacent to property owned by the applicant, and the off-street parking would appear to be adequate to handle the traffic generated by this business.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance may not be opposed to the general spirit and intent of the zoning ordinance if the applicant provides at least a four foot rear yard to facilitate the maintenance of the building and upkeep of the area behind the building. The reduction of only two off-street parking spaces would not be opposed to the spirit and intent of the ordinance.

RECOMMENDATION:

If the Board finds the five conditions necessary to the

Secretary's Report, BZA 2-76
Page 4

granting of a variance to exist, it is recommended that the request for a reduction of the rear yard setback be granted down to 4 feet instead of the requested 2 feet and that the off-street parking request be granted as requested.

February 4, 1976

Elmer Karstensen, Acting CPO Coordinator

Larry Dobson, Assistant Secretary, Board of Zoning Appeals


Notice of upcoming Board of Zoning Appeals Cases
(Case Numbers BEA 1-76 and BEA 2-76)

Attached are notices of two cases to be considered by the Board of Zoning Appeals at its meeting of February 24, 1976. Also attached are sketch maps of the area involved in each case.

These are provided for distribution to the appropriate representatives of the Citizen's Participation Organization.

If you have any questions, please call.

Sincerely,



Larry Dobson
Assistant Secretary

LD:hh
Attach.

19 notices sent to applicant, agent, and adjoining property owners
9 notices sent to Board of MAPC Members
for meeting of City BZA meeting on February 24, 1976.

Case No. BZA 2-76

January 27, 1976

Board of Zoning Appeals
City of Wichita
455 N. Main St.
Wichita, Kansas 67201

Dear Sir:

We ask for the setting aside of ordinance #28.04.100 P3.1 requiring a 10'-0" rear yard set back and ordinance #28.04.141 P3.9 requiring parking at the rate of one space per 250 sq. ft. of building area which would require 48 spaces. We request that the rear yard setback be reduced to 2'-0" and that we be allowed to provide 46 parking spaces rather than 48 spaces for the following reasons:

1. The property was platted with a utility easement crossing it at 164' from the front line thus stopping the new structure from being added directly to the existing building.
2. This said easement cannot be relocated economically due to the distance of run required and the fall available from man hole to man hole.
3. The off street parking requirements are greater than that needed for sales and service of motorcycles since the vast majority of customers use motorcycles for transportation which do not use near the space required for parking a car.
4. These variances from the code should not adversely affect the rights of adjacent property owners since, for this occupancy, we are providing ample parking, screening and proper drainage from the site, and I own two of the adjacent parcels of land to the rear.
5. Without the granting of these variances I will not be allowed to use my site to the best advantage and increase my sales and service areas with a pre-engineered metal building to match my existing structure.

Wayne Shaver
Wayne Shaver



339 NORTH WEST STREET / WICHITA, KANSAS 67212
(316) 943-6671 OR 943-2811

Kawasaki • Norton • Ducati • Moto Guzzi • Triumph

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Wayne L. Shaver
Mailing Address 339 N. West St. Phone 943-6671
Name of Authorized Agent Dean Felt (Felt Design Service)
Mailing Address 1931 Gary Dr. Phone 744-2516
Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is setting aside of ordinance #28.04.100 P3.1
reduce rear yard from 10' to 2'
requiring 10'-0" rear yard set back and ordinance #28.04.141 P3.9
reduce required parking space from 48 to 46
requiring one of street parking space for each 250 sq. ft. of
floor area.
for property located 339 N. West Street near the southwest corner
of the intersection of N. West and Third Streets.
and legally described as: Lot 1 of Shaver Addition (a repeat
of Lot 3 Block 16 of Parkwilde Addn.) to Wichita, Kansas

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

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Wayne L. Shaver
Applicant
Dean W. Felt
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:00 (a.m. P.M.) January 27 19 76 together with appropriate fee of \$50.00.

T9-402

E. Lynn Shirley
Signed

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS:
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas,

All the owners within 200 feet of:

Lot 1, SHAVER ADDITION, Sedgwick County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz:
 (Addresses as given are furnished as a service and not certified.)

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
1		SHAVER	✓ Ralph Farha, Trustee 1003 Stratford Wichita, Kansas 67206
38		KNIGHT	✓ Myrtle Irene & Bert Hook 438 North West Street Wichita, Kansas 67203
39		KNIGHT	✓ Merle E. & Helen E. Britting (½ int.) 7328 Elm Court Wichita, Kansas 67206 & ✓ Frank R. & Lorraine F. Solomon (½ int.) 17 Douglas Avenue Wichita, Kansas 67207
40, exc. East 121 feet thereof		KNIGHT	✓ General Enterprises Inc. Merged into Universal Motor Fuels Inc. 520 South Mead Wichita, Kansas 67211

Fidelity  Title
 COMPANY, INC.

<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
9	19	PARKWILDE	<input checked="" type="checkbox"/> H. Ceburn & Ura Louise Glamser <input checked="" type="checkbox"/> 3714 West Central Avenue <input checked="" type="checkbox"/> Wichita, Kansas 67203
West 100' of East 167½' of Lot 10, Block 9		PARKWILDE	<input checked="" type="checkbox"/> Friends University <input checked="" type="checkbox"/> 2100 University Avenue <input checked="" type="checkbox"/> Wichita, Kansas 67213
East 67½' of Lot 10, Block 9		PARKWILDE	<input checked="" type="checkbox"/> A. M. Patrick <input checked="" type="checkbox"/> 4026 West 3rd Street <input checked="" type="checkbox"/> Wichita, Kansas 67212 & <input checked="" type="checkbox"/> Melma J. Mark <input checked="" type="checkbox"/> 4026 West 3rd Street <input checked="" type="checkbox"/> Wichita, Kansas 67212
1	16	PARKWILDE	<input checked="" type="checkbox"/> Southwestern Bell Telephone Co. <input checked="" type="checkbox"/> 154 North Broadway <input checked="" type="checkbox"/> Wichita, Kansas 67202
2 & 4	16	PARKWILDE	<input checked="" type="checkbox"/> Wayne L. & Patricia Ann Shaver <input checked="" type="checkbox"/> 116 South Sheridan Avenue <input checked="" type="checkbox"/> Wichita, Kansas 67213
Beginning at the Northeast corner of Lot 5, Block 16, thence 135 feet West, thence 52 feet South, thence 135 feet East, thence 52 feet North to the place of beginning, PARKWILDE ADDITION			<input checked="" type="checkbox"/> I. J. & LaVera Cooper <input checked="" type="checkbox"/> 333 North West Street <input checked="" type="checkbox"/> Wichita, Kansas 67203
Lot 5, except the North 52' of the East 135', thence East 80 feet of Lot 6 and East 80 feet of North 97 feet of Lot 8, and Lot 7, except the South 23 feet of the East 170 feet, Block 16, PARKWILDE ADDITION			<input checked="" type="checkbox"/> F. O. Buckman Jr. <i>C/O</i> <input checked="" type="checkbox"/> 323 North West Street <input checked="" type="checkbox"/> Wichita, Kansas 67203 & <input checked="" type="checkbox"/> F. O. Buckman Sr. <input checked="" type="checkbox"/> Address Unknown
The North 70 feet of the West 220 feet of Lot 6, Block 16, PARKWILDE ADDITION			<input checked="" type="checkbox"/> George W. & Genevieve R. Reed <input checked="" type="checkbox"/> Address Unknown <input checked="" type="checkbox"/> Taxes sent to: <input checked="" type="checkbox"/> 332 North Florence <input checked="" type="checkbox"/> Wichita, Kansas 67212
Beginning 70 feet South of the Northwest corner of Lot 6, thence East 220', thence South 70'; thence West 220', thence North 70 feet to point of beginning, Block 16, PARKWILDE ADDITION			<input checked="" type="checkbox"/> Wayland B. & Juanita I. Harris <input checked="" type="checkbox"/> 328 North Florence Avenue <input checked="" type="checkbox"/> Wichita, Kansas 67212



*mail
not in
phone book
not in
Sub. Dir.*



<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
		Beginning 143 feet North of the Southwest corner of Lot 10, thence North to a point 140 feet South of Northwest corner of Lot 6, East parallel to North line of said Lot 6, 220 feet, thence South parallel to West line of Lot 8 to point 143 feet North of South line of said Lot 10, thence West 220 feet, to place of beginning, Block 16, PARKWILDE ADDITION	Pearl Ingram 320 North Florence Wichita, Kansas 67212

Dated at Wichita, Kansas this 22nd day of January, 1976, at 7:00 o'clock A.M.



FIDELITY TITLE COMPANY, INC.

By *Christa Gray*
Asst. Sec. ag

Tracer No. 31787



FORM 021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Pbkg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION

AMOUNT

FPA Services 50.00

Name *City of Wichita*

Address *337 North West St.*

Type *AA 407 103* Due Date *1/27/76*

Comments:

Date *1/27/76* By *[Signature]*

2

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This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1