

BZA 3-69 - SAMOVER, INC. requests  
variance of front yard setback for  
off street parking purposes on prop-  
erty zoned "B" & located on W. Eastside  
of Market in area So. of Kellogg.

POSTED  
2-27-69

ACTION

DATE

BZA COMMITTEE approved **3.25.69**

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

PZ ML ✓  
PZ ML ✓  
10/11/69



April 15, 1969

Mr. Richard Render  
Render, Kamas & Kelly  
612 Union National Building  
Wichita, Kansas 67202

Subject: Case No. BZA 3-69  
Request for a Variance

Dear Mr. Render:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 25, 1969, in connection with your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off street parking purposes only on property zoned "B" and generally located on the west side of Market, in an area south of Kellogg.

This Resolution reflects the official action of the Board and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith  
Secretary

JHG:js

cc: SAMOVER, Inc.  
% Richard Render

Robert Feldner, Supt.  
of Central Inspection

Ralph Eberly,  
City Clerk

RESOLUTION NO. BZA 3-69

WHEREAS, SAMOVER, Inc., % Richard Render, 612 Union National Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family, and legally described as follows:

Lots 20 and 22, on Market Street, and that portion of Reserve A adjacent on the west, Payne's Addition, Wichita, Kansas. Generally located on the west side of Market, in an area south of Kellogg.

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 March 25, 1969, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provision 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 applicant desires to provide additional off street parking in excess of that required by the zoning ordinance; 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 property to the north is under the same ownership and is zoned and developed commercially, and adequate screening will be provided; and

WHEREAS, the Board of Zoning Appeals has found 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 inasmuch as an area which is of no practical purpose would have to be retained and could not be utilized for off street 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 inasmuch as it would tend to eliminate possible on street parking; 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 a variance can be justified in circumstances such as this when the area is adjacent to the use it intends to serve and be effectively screened from adjacent residences; 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, have 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 of the required front yard setback from 20 feet to 0 feet for off-street parking purposes only, on property zoned "B" Multiple Family and legally described as:

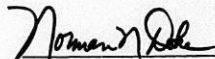
Lots 20 and 22, on Market Street, and that portion of Reserve A adjacent on the west, Payne's Addition Wichita, Kansas. Generally located on the west side of Market, in an area south of Kellogg.

be approved subject to the following conditions:

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. The applicant shall submit a satisfactory guarantee for the paving of the alley from the south line of subject property, north to the south line of Kellogg.
3. A five to eight foot high solid fence constructed of masonry, architectural tile; staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence shall be reduced to three feet in height for the east 20 feet thereof.

*Wall no longer  
required as a result  
of action on BZA  
Case 9-69.  
J.H.D. 6/24/69*

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1969.

  
NORMAN DOKE, Chairman

ATTEST:

  
JACK H. GALBRAITH, Secretary

March 26, 1969

Mr. Richard Render  
Render, Kamas & Kelly  
612 Union National Building  
Wichita, Kansas 67202

Subject: Case No. BZA 3-69  
Request for a Variance

Dear Mr. Render:

At the regular meeting of the Board of Zoning Appeals on March 25, 1969, your request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off street parking purposes only on property zoned "B", and generally located on the west side of Market, in an area south of Kellogg was considered.

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

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. The applicant shall submit a satisfactory guarantee for the paving of the alley from the south line of subject property, north to the south line of Kellogg.
3. A five to eight foot high solid fence constructed of masonry, architectural tile; staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to three feet in height for the east 20 feet thereof.

Mr. Richard Render  
March 26, 1969  
Page 2

It is now necessary that you submit a satisfactory guarantee to assure the paving of the alley prior to the forwarding of the Resolution to you which sets forth the official action of the Board.

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

Sincerely,

Jack H. Galbraith  
Secretary

JHG:js

cc: SAMOVER, Inc.  
% Richard Render

Robert Feldner, Supt.  
of Central Inspection

Ralph Eberly,  
City Clerk

SECRETARY'S REPORT

Case No. BZA 3-69

APPLICANT: SAMOVER, Inc., 931 South West Street, Wichita, Kansas.

AGENT: Richard Render, 612 Union Nat'l Bldg., Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only.

GENERAL LOCATION: West side of Market in an area south of Kellogg.

ZONING: Subject property is zoned "B" multiple family as is that to the east, west and south with "C" commercial to the north.

LAND USE: Subject property is utilized in part for off street parking purposes in conjunction with a Pancake House and private club to the north, south and west is single family with multi-family to the east.

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

Comments by the Secretary

Subject property is zoned "B" as is that to the south, east and west with "C" zoning to the north. The zoning ordinance provides that land zoned "B" when located adjacent to an office, commercial or industrial district may be utilized for off-street parking purposes. However, the zoning ordinance provides that no parking shall be permitted in the front yard setback which in this instance is 20 feet.

The applicant states that while sufficient off street parking presently exists to meet code requirements for the Hanover Pancake House located to the north, it is insufficient to meet business demands. They are, therefore, requesting that the front yard setback requirement be reduced to 0 feet in order that the front yard may be utilized for parking and circulation aisle purposes.

In reviewing the plot plan submitted with the application it would appear that the alley on the west is intended to be used for ingress and egress from the parking area due to the arrangement of the parking stalls. It should be pointed out that in conversations with the Engineering Division that if the alley is to be used for ingress and egress it should either be paved to City specifications or vacated.

Uniqueness

It is the opinion of the Secretary that this is somewhat of a unique situation in that the applicant desires to provide additional off street parking in excess of that required by the zoning ordinance.

Adjacent Property

It is the opinion of the Secretary that inasmuch as the property to the north is under the same ownership and is zoned and developed commercially that with proper screening on the south, adjacent properties would not be adversely affected.

Hardship

It is the opinion of the Secretary that if this variance is not granted it would create a hardship for the applicant inasmuch as an area which is of no practical purpose would have to be retained and could not be utilized for off-street parking,

Public Interest

It is the opinion of the Secretary that the granting of the variance would not affect the public interest in that it would tend to eliminate possible on street parking.

Spirit and Intent

It is the opinion of the Secretary that the granting of the variance would not be opposed to the spirit and intent of Title 23 inasmuch as a variance can be justified in circumstances such as this when the area is adjacent to the use it intends to serve and be effectively screened from adjacent residences.

Recommendation

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance can be found to exist and therefore, it is recommended that a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only, be approved subject to the following conditions.

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. The applicant shall submit a valid petition for the paving of the alley from the south line of subject property, north to the south line of Kellogg; or file a vacation application.
3. A 5 to 8 foot high solid fence constructed of masonry, architectural tile; staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the east 20 feet thereof.

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main Street  
Wichita, Kansas 67202

March 5, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 3-69.

An application has been filed by SAMOVER, Inc., 931 South West Street, by Richard Render, 612 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family District, and legally described as follows:

Lots 20 and 22, on Market Street, and that portion of Reserve A adjacent on the West, Payne's Addition, Wichita, Kansas. Generally located on the west side of Market, in an area south of Kellogg.

This application has been assigned Case No. BZA 3-69, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 25, 1969, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH  
Secretary

*3/12*  
*20* Notices mailed 3-5-69



STATEMENT

The property for which the variance is requested is 50 feet North and South throughout by 144.5 feet East and West throughout, and located 225 feet South of Kellogg on Market. The property is adjacent South of C zoned property occupied by applicant as a Hanover Pancake House, and is presently being used for off street parking in conjunction with the restaurant operation. The number of off street parking spaces and circulation aisles available to the restaurant operation are sufficient to meet code requirements, but are insufficient to meet its business requirements, which condition has not been created by any action of the applicant.

The granting of the variance will not adversely affect the rights of the adjacent property owner or residents, and the applicant will comply with all code requirements relating to screening for aesthetic and safety purposes.

The denial of the requested variance would restrict the on-site parking spaces and circulated aisles available to the restaurant operation and would create a hardship due to unavailability of property for additional on-site parking areas. The variance desired will not adversely affect the public health, safety or welfare and would afford additional convenience and safety for persons using the off street parking area. Further, such granting would be consistent with the general spirit and intent of Title 28 in providing adequate off street parking.

OWNERSHIP LIST

Lot	Addition	Property owner
4, 6 & 8	Bellew's Addition	X William H. Rittgers Address unknown
10, 12, & 14	"	✓ Leo L. Mc Kenzie 2450 N. Belmont Wichita, Kansas, 67220
1, 3, 5, 7, 9, 11 & N 6 1/3 ft of 13	Dieter's Addition	✓ Robert W. Moore 16147 E. Harry Wichita, Kansas, 67230
S 18 2/3 ft of 13 & N 15 ft of 15	"	✓ Wayne Y. Mah, Address unknown Tzu Chi Mah, 554 S. Green Wichita, Kansas, 67211
S 10' of 15 & All of 17	"	✓ Howard M. Barger and Hazel Barger, 720 S. Main St. Wichita, Kansas, 67213
19 & 21	"	✓ Lola Edna Sanders 726 S. Main St. Wichita, Kansas, 67213
23 & 25	"	✓ Robert W. Moore and 16147 E. Harry Wichita, Kansas, 67230
27 & N 9' of 29	"	✓ Sai Chan Wong and Johanna Wong, 732 S. Main Wichita, Kansas, 67213
S 16' of 29 & N 17' of 31	"	✓ Warren C. Grubb and Mary G. Grubb, 740 S. Main St. Wichita, Kansas, 67213
S 8' of 31 & all of 33	"	✓ Jennie Rollings and Everett Rollings, 744 S. Main St. Wichita, Kansas, 67213
35 & 37	"	✓ Gibbons Refrigeration, Inc. 800 S. Main St. Wichita, Kansas, 67213
2, 4, 6, 8, 10 & 12	Paynes Addition	✓ Wilbur E. Walker and Bernice H. Walker, 16 Douglas Ave. Wichita, Kansas, 67206
That part of Reserve A adjoining lots 2, 4, 6, 8, 10 & 12, Paynes Add. on the West	Dieter's Addition	"
14, 16, 18, 20 & 22	Payne's Addition	✓ Robert W. Moore 16147 E. Harry Wichita, Kansas, 67230
That part of Reserve A adjoining lots 14, 16, 18, 20 & 22, Paynes Addition on the West	Dieter's Addition	"

Continued page 2

Lot	Addition	Property Owner
24 & 26	Paynes Addition	✓ Ralph J. Dunn and Alma Gail Dunn, 2414 Cheyenne Blvd Wichita, Kansas, 67216
That part of Reserve A adjoining lots 24 & 26 Paynes Addition on the West	Dieter's Addition	"
28 & 30	Paynes Addition	✓ Naomi Henderson 1822 S. Broadway Wichita, Kansas, <del>72211</del> <sup>67</sup>
That part of Reserve A Adjoing lots 28 & 30, Paynes Addition on the West	Dieter's Addition	"
32 & 34	Paynes Addition	✓ John Bateman and Irene F. Bateman, Address unknown <i>800 N. Derby, Derby</i> <i>returned 3.7.69</i>
That part of Reserve A adjoining Lots 32 & 34 Paynes Addition on the West	Dieter's Addition	"
W 40' of 36 & 38	Paynes Addition	✓ Ethel L. Dean 116 E. Orme Wichita, Kansas, 67211
That part of Reserve A adjoining lots 36 & 38 Paynes Addition on the West	Dieter's Addition	"
E 89' of 36 and the E 89' of N 5' of 38	Paynes Addition	✓ Winifred W. Payne Address unknown
E 89' of S 20' of 38	"	✓ Robert E. Donovan and Neva F, Donovan, 745 S. Market St. Wichita, Kansas, 67211
Beginning at the NW corner of lot 3, on Market Street, Paynes Addition, thence S. 40 feet, thence E. 140 feet, thence N. 40 feet, thence W. 140 feet to beginning		✓ W. E. Crosby 712 S. Market Wichita, Kansas, 67211
Beginning 40 feet South of the NW corner of Lot 3 on Market Street in Payne's Addition, thence E. 140 feet, thence S. 40 feet, thence W. 140 ft., thence N 40 feet to beginning		✓ Mar Thick Pon and Wong Oi Ling <u>Addresses unknown</u>
Beginning 80 feet S. of the NW corner of Lot 3, on Market Street, Paynes Addition, thence S 40', thence E. 140', thence N. 40', thence W. 140' to beginning		✓ Robert F. May, Mar Thick Pon, Mar Thick Ho and King Lem <u>Addresses unknown</u>

Continued page 3

Lot	Addition	Property Owner
Beginning 120 feet South of the NW corner of Lot 3, on Market Street, Paynes Addition, thence S. 40', thence E. to Alley, thence N. 40', thence W. to beginning		✓ Cora Phillips 724 S. Market Wichita, Kansas, 67211
Beginning 160' S. of the NW corner of Lot, 3, on Market Street, in Paynes Addition, thence S. 40', thence E. to W. line of Alley, thence N. 40', thence W. to beginning		✓ Thelma Abbott Address unknown <i>736 So. Market "</i>
Beginning 200' S. of the NW corner of lot 3, on Market Street, in Paynes Addition, thence S. 40', thence E. to alley, thence N. 40', thence W. to beginning		✓ Anna Lasater 901 S. Holyoke Wichita, Kansas, 67218
Beginning 240' S. of the NW corner of lot 3, on Market Street, Paynes Addition, thence S. 35', thence E. to alley, thence N 35', thence W. to beginning		✓ E. O. Worth & Margaret Jane Worth, 2208 E. Central Wichita, Kansas, 67214
Beginning 510' S. & 330' W. of the NE corner of Sec. 29-27-1E, thence E. 140' more or less to alley, thence N. along alley 35', thence W. 140' more or less to East line of Market Street, thence S. 35' to beginning		✓ C. H. Gilliam & Teko M. Gilliam, 220 W. Indianapolis Wichita, Kansas, 67213 and ✓ Ethyl Janssen X Address unknown

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 foot radius of Lots 20 & 22, Paynes Addition to the City of Wichita and that part of Reserve A, Dieter's Addition to Wichita, adjoining said lots 20 & 22 on the west, as shown by the last deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 13th day of February, 1969 at 7:00 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Lucille Schroeder*  
Vice-president

Order No. 160624

THE CITY OF WICHITA, KANSAS  
 BOARD OF ZONING APPEALS  
 104 SOUTH MAIN  
 WICHITA, KANSAS 67202



*VACANT UNKNOWN*

- NO SUCH ADDRESS
- Moved, not forwarding
- Addressee unknown

1312



SAMOVER, Inc.  
 931 S. West St.  
 Wichita, Kansas

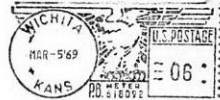


*3-69*

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
 COMMISSION  
 CITY BUILDING ANNEX  
 104 S. MAIN ST.  
 WICHITA, KANSAS 67202



*check this ?*

*VACANT UNKNOWN*

*3-69*

- NO SUCH ADDRESS
- Moved, not forwarding
- Addressee unknown

1312



SAMOVER, Inc.  
 931 S. West St.  
 Wichita, Kansas 67213

TURN  
 TO  
 INTER



*Important! Notice of Hearing Enclosed*

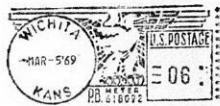
WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
 COMMISSION  
 CITY BUILDING ANNEX  
 104 S. MAIN ST.  
 WICHITA, KANSAS 67202



REASON: \_\_\_\_\_  
 Unclaimed \_\_\_\_\_  
 Addressee unknown \_\_\_\_\_  
 Insufficient address \_\_\_\_\_  
 No such street \_\_\_\_\_  
 No such office in state \_\_\_\_\_  
 Do not remail in this envelope



*B2A 3-69*



John Bateman and  
 Irene F. Bateman  
 800 North Derby  
 Derby, Kansas

*Important! Notice of Hearing Enclosed*

Form 273-

**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.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer	<u>50.00</u>	

DESCRIPTION	AMOUNT
<i>Business Insurance</i>	

Name *Rich Ravelin*

Address *612 Union Hall*

Type *R-71-C* Due Date

Comments:

Date *2-24-69* By *hh*

\*

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