

BZA No. 10-73 Lando, Inc. reqsts  
variance to reduce the required  
number of off-street parking spaces  
at the NW corner of Lincoln &  
Oliver.

*POSTED  
4-10-73*

# ACTION

BZA COMMITTEE Denid DATE 4-24-73

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

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



May 23, 1973

Lande, Inc.  
2021 Hood  
Wichita, Kansas 67203

Subject: Case No. SEA 10-73 - Request for Variance

Dear Sirs:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 24, 1973, in connection with your request to reduce the required number of off-street parking spaces from 37 to 27, on property zoned the "LC" Light Commercial District, and generally located at the Northwest corner of Lincoln and Oliver.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:rw  
enclosure

cc: Dennis Shay, 200 W. Douglas, 67202  
Marvin DeLapp, 2021 Hood, 67203  
Tony Murillo, 6419 Jacqueline, 67206  
Robert Feldner, Supt. of Central Inspection  
Ralph Eberly, City Clerk  
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 10-73

WHEREAS, Lando, Inc., 2021 Hood, Wichita, Kansas, 67203, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 37 to 27, on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 11, 12, and 13 in Oliver Heights, an Addition to Wichita, Sedgwick County, Kansas. Generally located at the Northwest corner of Lincoln and Oliver.

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 April 24, 1973, 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 requested does not arise 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 created by the action or actions of the property owner or the applicant inasmuch as constructing an addition onto the existing facilities and, therefore, having to request a variance is a result being "created by an action of the property owner"; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as overflow parking would have a tendency to utilize the off-street parking spaces for businesses located to the north and east; 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 not constitute unnecessary hardship upon the property owner represented in the application inasmuch as the existing building can be maintained in good condition without complying with the off-street parking requirements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will adversely affect the public interest inasmuch as there is not adequate parking now, and to increase the building area will compound the problem; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the four previous conditions cannot be found to exist; 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 not been found to exist.

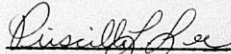
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required number of off-street parking spaces from 37 to 27, on property zoned the "LC" Light Commercial District,

and legally described as:

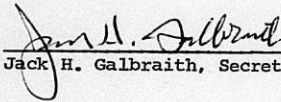
Lots 11, 12, and 13 in Oliver Heights, an Addition to  
Wichita, Sedgwick County, Kansas. Generally located  
at the Northwest corner of Lincoln and Oliver.

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of April,  
1973.

  
Priscilla L. Lee, Chairman

at  
ATTEST:

  
Jack H. Galbraith, Secretary

April 25, 1973

Lands, Inc.  
2021 Hood  
Wichita, Kansas 67203

Subject: Case No. BZA 10-73 - Request for Variance

Dear Sirs:

At the regular meeting of the Board of Zoning Appeals on April 24, 1973, your request for a variance to reduce the required number of off-street parking spaces from 37 to 27, on property zoned the "LC" Light Commercial District, and generally located at the Northwest corner of Lincoln and Oliver was considered.

It was the action of the Board to deny this request.

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.

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:rw

cc: Dennis Shay, 200 W. Douglas, 67202  
Marvin DeLapp, 2021 Hood, 67203  
Tony Murillo, 6419 Jacqueline, 67206  
Robert Feldner, Supt of Central Inspection  
Ralph Eberly, City Clerk  
Joe Donnelly, Central Inspection

SECRETARY'S REPORT  
CASE NO. BZA 10-73

APPLICANT: Lando, Inc., 2021 Hood, Wichita, Kansas, 67203

AGENT: Marvin DeLapp, 2021 Hood, Wichita, Kansas, 67203

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 37 to 27.

GENERAL LOCATION: At the Northwest corner of Lincoln and Oliver

ZONING: Subject property and the property adjacent to the East and North are zoned the "LC" Light Commercial District. The property to the West is zoned the "A" Two Family Dwelling District, and to the South is "B" Multiple Family zoning.

LAND USE: Subject property is occupied by a shopping center; to the North is a liquor store; to the East a service station and grocery store parking; to the South a duplex, and West are single family homes.

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:

The property for which the variance is requested contains a small shopping center which was constructed before the present zoning ordinance relating to off-street parking was enacted. The applicant desires to improve the front of the building in a manner which would involve the addition of 432 square feet of floor space and necessitate a change in the design of the existing off-street parking lot. Sections 28.04.140 and 28.04.160.E of the Zoning Ordinance require that structures which are enlarged, following the adoption of the off-street parking requirements, shall provide parking space in compliance with all of the district regulations established by the ordinance for the zoning district in which the structure is located. The applicant has stated that if the changes indicated on the proposed plans are made, there would be 2 additional parking spaces created, making a total of 27 parking spaces provided on the site. However, when the Secretary reviewed the area in the field, 28 spaces were counted as being in existence. Six spaces were existing in front of the northern portion of the building closest to Oliver and when the proposed improvements are made, only 2 spaces will remain. Also, there are presently 8 spaces marked next to Oliver; however, the submitted plan has 11 spaces indicated. The off-street parking requirements of the zoning ordinance require a minimum of 37 parking spaces to serve the commercial uses located in the center if the addition to the existing building were constructed as proposed.

Uniqueness:

It is the opinion of the Secretary that there is nothing unique about the property except that it was developed prior to the off-street parking requirements of the zoning ordinance. It would appear that in constructing an addition onto the existing facilities and therefore having to request a variance is a result being "created by an action of the property owner".

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance would have an adverse affect on the rights of adjacent property owners, if the applicant does not provide the parking

Page 3 - Secretary's Report  
BZA Case No. 10-73

required by the zoning ordinance inasmuch as overflow parking could have a tendency to utilize the parking spaces for businesses located to the north and east.

Hardship:

It is the opinion of the Secretary that it is difficult to determine that a hardship will exist if the owner is not permitted to enlarge the building.

Public Interest:

It is the opinion of the Secretary that there will be an adverse affect on the public interest inasmuch as there is not adequate parking now, and to increase the building area will compound the problem.

Spirit and Intent:

It is the opinion of the Secretary that it is difficult to find that the variance will not be opposed to the spirit and intent of the Ordinance when it is necessary to reduce the required parking by 10 spaces.

RECOMMENDATION:

Based on the above comments, it is the recommendation of the Secretary that the request for a variance not be approved.

Should the Board, however, find that the five conditions necessary to the granting of the variance can be found to exist, the approval of the request should be subject to the applicant making satisfactory arrangements with the Department of Public Works for the closing of the one driveway on the east and the modification of the other approaches if necessary.

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

April 13, 1973

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 10-73

An application has been filed by Lando, Inc., 2021 Hood, Wichita, Kansas, 67203, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required number of off-street parking spaces from 37 to 27, on property zoned the "LC" Light Commercial District, and legally described as follows:

Lots 11, 12, and 13 in Oliver Heights, an Addition to Wichita, Sedgwick County, Kansas. Generally located at the Northwest corner of Lincoln and Oliver.

This application has been assigned Case No. BZA 10-73, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 24, 1973, 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

23 notices sent to Property Owners 4.13.73  
8 " " " MAPC 4.13.73

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 10-73  
FILED 3-27-73

APPLICATION FOR VARIANCE

I. Name of Applicant  LANDO, INC.

Mailing Address 2021 Hood, Wichita, Kansas <sup>67203</sup> Phone 265-2123

Name of Authorized Agent  Marvin DeLapp

Mailing Address 2021 Hood, Wichita, Kansas <sup>67203</sup> Phone 265-2123

Relationship of applicant to property is that of Owner  
(Owner, Tenant, Lessee, Other)

*present to 2.12.590.B*  
II. The variance requested is *reduce* to change the *required number of* off-street parking spaces  
*from 37 to 27* in connection with an improvement and addition on an existing

building (REQUESTED VARIANCE FROM CODE PROVISIONS 28.04.140 & 28.04.141)  
for property located Northwest Corner of Lincoln & Oliver Streets

and legally described as: \_\_\_\_\_

*ok* Lots 11, 12 and 13 in Oliver Heights, an Addition  
to Wichita, Sedgwick County, Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. 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;
- c. 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.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

LANDO, INC.  
Applicant  
Marvin DeLapp - Sec. Treas.  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:15 (a.m. - p.m.), March 27 1973 together with appropriate fee of \$50.00.

Martha McHenry  
Signed

S T A T E M E N T

(To Accompany Application of LANDO, INC.  
for a Variance)

The property for which a variance is requested is a small shopping center at the Northwest Corner of Lincoln and Oliver Streets. The applicant desires to improve the front of the building known as 847-849 South Oliver in a manner which would involve the addition of 432 square feet of floor space and necessitate a change in the off-street parking spaces.

This shopping center was built before the present Zoning Ordinance relating to off-street parking was enacted. There are now 25 off-street parking spaces, and if the changes indicated on the proposed plans were made, there would be 2 additional spaces, but less than the total number required under the present Zoning Ordinance.



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, viz:

All property within 200 feet of  
 Lots 11, 12 & 13 in Oliver Heights  
 and Addition to Wichita, Sedgwick  
 County, Kansas.

  
**Fidelity  
 Title  
 Company,  
 inc.**

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.)

Lot 3	Oliver Heights Addition	✓	Max A. Shannon Leon M. Shannon 816 S. Dellrose	67218
Lot 4	" " "	✓	Clyde Ranny Jones Beckie J. Jones 820 S. Dellrose	67218
Lot 5	" " " <i>not available</i>	✓	Paul A. Miller Margaret J. Miller 834 S. Dellrose	67218
Lot 6	" " " "	✓	Paul A. Miller Margaret J. Miller 834 S. Dellrose	67218
Lot 7	" " " "	✓	Ruth F. Anthony Paul A. Miller 6807 E Bayley 824 S. Dellrose	<del>67218</del> 67207
Lot 8	" " " "	✓	David Bergen Evalyn J. Bergen 844 S. Dellrose	67218

Lot 9	Oliver Heights Addition	✓ William J. O'Connor Barbara Ann O'Connor 850 S. Dellrose	67218
Lot 10	" " "	✓ Ruth W. Carter 125 S. Belmont	67218
Lots 11, 12 & 13	" " "	D Lando Inc.	
Lot 14	" " "	✓ Eugene W. Coombs Sutton Place	67202
Lot 15	" " "	✓ Roy Oeser Bernadette Oeser 457 Wetmore	67209
Lot 1 Taco Grande Addition		✓ Taco Grande Inc. 2119 W. 21st	67203
Lot 2 Taco Grande Addition		✓ Bonnie Curtis Hormel 825 S. Oliver	67218
West 120 feet of the South 120 feet of Lot 1 in Prestridge Add.		✓ G.A. Harpool Jr. D.C. Harpool d/b/a Harpool Bros 447 N. Rock Island	67202
West 280 feet of Lot 1 Prestridge Except the South 120 feet of the West 120 feet.		✓ Safeway Stores Inc. 1818 S. Hillside	67211
Block 1 Builders 4th Addition		✓ Builders Inc. 953 Parklane	67218
Lots 12, 13, 15 & 16 in Hilltop Manor Addition.		✓ Hilltop Manor Mutual Housing Corp. 1411 S. Oliver	67218
Lot 12 and the South 27 Feet of Lot 13	Gault's Replat.	✓ Alfred G. Meyer Hazel C. Meyer 857 S. Dellrose	67218
North 23 feet Lot 13 All of Lot 14	" "	✓ Leo F. Eddington Beatrice E. Eddington 845 S. Dellrose	67218
Lot 15	" "	✓ Clarence G. Schwemmer Margaret Schwemmer 706 W. Willow Andover, Kansas	67002
Lot 16	" "	✓ George E. Williams Edna Williams 835 S. Dellrose	67218
Lot 17	" "	✓ Dexter T. Cowley Lucy M. Cowley 831 S. Dellrose	67218
Lot 18	" "	✓ Ralph E. Nettleton Velma L. Nettleton 825 S. Dellrose	67218

Dated this 20th day of March 1973 at 7:00 A.M.

FIDELITY TITLE COMPANY INC.

By *C. E. Paul Kiddle*  
VP

No. 17656

FORM 223-021

**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.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
B21	750.00

Name \_\_\_\_\_

Address \_\_\_\_\_

Type \_\_\_\_\_ Due Date \_\_\_\_\_

Comments: \_\_\_\_\_

Date \_\_\_\_\_ By \_\_\_\_\_

THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY BUILDING ANNEX  
104 S. MAIN ST.  
WICHITA, KANSAS 67202

B2A10-73

Paul A. Miller & Margaret J.  
834 S. Delirose  
Wichita, Ks. 67218



RETURN  
TO  
WRITER



X  
809  
HN



\*

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