

ACTION

Bza COMMITTEE Approved DATE 6-25-63

M.A.P.C. _____

B.C.C./B-~~CC-C~~ See back of Bza 7-16-63

B2A Reaffirm 7-16-63

BCC W/hold B2A 7-22-63



BZA 15-63 - Marcen Investment, Inc.
request variance from parking re-
quirements bet. Market & Broadway in
an area N of Central.

7-16-63
7-22-63

July 30, 1963

Mr. Milton Zacharias
Attorney
425 North Main
Wichita, Kansas

Dear Mr. Zacharias:

Subject: BEA 15-63

Attached is a copy of the Resolution approving the above application. As the Board of City Commissioners upheld the decision of the Board of Zoning Appeals, a building permit may now be obtained on the basis of off-street parking requirements as set forth in the resolution. Copies of the Resolution are being forwarded to the recipients of this letter.

You will also find enclosed several thermofax copies of the Resolution which were prepared for use in the appeal before the Board of City Commissioners. Since we have no use for them, I thought they might be of value to you.

If you have any question concerning this matter, please call.

Sincerely yours,

Robert A. Lakin
Secretary

RAL:bar
Attachments
cc: Robert Feagins
301 Laura

Glen Lytle, Superintendent
of Central Inspection

RESOLUTION NO. 15-63

WHEREAS, Marcen Investments, Inc., 425 North Main, Wichita, Kansas, by Milton Zacharias, attorney, 425 North Main, Wichita, Kansas, has filed an application for a variance as provided in Section 2.12.590 of the Code of the City of Wichita, to allow an alteration in the off-street parking requirements as provided in Section 28.04.140.A.2.2. The request is a variance from the ratio of one off-street parking space for each housekeeping units, suite of rooms or motel units, to one space for each one and one-half housekeeping units, suite of rooms or motel units, for property generally located in an area north of Central and between Market and Broadway, and legally described as follows:

Lots 1, 3, 5, 7, 9 and 11, of Part of Mungers Original Town; Lots 8, 10, 12 and 14 of Gordon's Sub. and Lots 2, 4, 6, 8 and 10 of Court Place, in the City of Wichita, Sedgwick County, Kansas; and

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, in regular meeting, consider said application on June 25, 1963; and

WHEREAS, the Board of Zoning Appeals has determined that it has jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "LC" Light Commercial and "C" Commercial, and the development proposed is that of an apartment hotel, which, under the terms of the Code of the City of Wichita, requires one off-street parking space for each housekeeping unit, suite of rooms or motel units; and

WHEREAS, the Board of Zoning Appeals has found that the request for variance arises from a condition which is unique and not ordinarily found in the same zoning district in that the type of facility proposed would be suitable only for use of retired individuals, couples with no children, bachelors, and other similar groups, of which it is believed would not have a high incidence car ownership in view of the location in the downtown area and the character of the majority of the occupants; further, it is expected that any traffic congestion which might occur would be at isolated times rather than being on a continuing basis encountered throughout the week; furthermore, there is no proof at the present that a 1:1 ratio can be justified for this specific use on this particular piece of property; so, therefore, 92 off-street parking spaces would seem to be a sufficient amount in view of the type of use proposed; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance as approved, would not adversely affect the rights of adjacent property owners inasmuch as the amount of proposed parking has been determined to be adequate; the elimination of the existing structures presently on the location should enhance the value of surrounding property; and further, in a high density development there is going to be a certain amount of congestion that would not normally be expected if located in a suburban location, so, to this extent a certain amount of congestion must be expected and to a certain degree accepted; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the Zoning Ordinance will constitute unnecessary hardship upon the applicant inasmuch as the location of the property itself seems to warrant some type of high-rise density development and, further, to penalize the applicant because of a 20% deficiency in parking would be unreasonable in that it would deny the property owners the highest and best use of their property; furthermore, the Board of Zoning Appeals was created for the very purpose of granting relief to those who are suffering a hardship and which hardship cannot be alleviated under the strict interpretation of the ordinance.

WHEREAS, the Board of Zoning Appeals has found that this variance as recommended, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

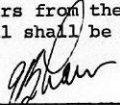
WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, of the City Code of Wichita, to be present before a variance can be granted, has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the request for a variance from the strict enforcement provisions of the Zoning Ordinance to require less off-street parking space than is normally required by the Zoning Ordinance on property legally described as:

Lots 1, 3, 5, 7, 9 and 11 of Part of Mungers
Original Town; Lots 8, 10, 12 and 14 of Gordon's
Sub. and Lots 2, 4, 6, 8 and 10 of Court Place,
in the City of Wichita, Sedgwick County, Kansas,

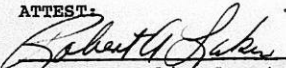
and generally located in an area north of Central and between Market and Broadway, be approved for a variance from the normal requirement of 114 parking spaces to 92 parking spaces (one space required for each of the 90 apartment units and one space required for each of the 24 motel units; total 114), subject to the following conditions and requirements:

1. An off-street parking plan, complete with ingress, egress, turnaround, channelization, driveways, and bumper guards shall be submitted to the Traffic Engineer for his approval.
2. Provided that any addition to the 114 housekeeping unit apartment hotel (requiring 92 off-street parking spaces), shall require additional off-street parking as required by the Zoning Ordinance.
3. All 92 off-street parking spaces shall be reserved specifically for guests and residents of the apartment hotel and shall not be used by any other facilities, such as the existing church, Trend Store, etc.
4. Construction of the apartment hotel and parking area shall be completed within 5 years from the effective date of this approval or the approval shall be null and void.



E. B. Law, Chairman

ATTEST:



Robert A. Lakin, Secretary

July 16, 1963

Board of City Commissioners
City Building
Wichita, Kansas

Gentlemen:

Subject: Report to the Board of
City Commissioners regarding
Board of Zoning Appeals Case
No. 15-63 - Marcen Investments,
Inc.

Marcen Investment Inc., through its attorney, Milton Zacharias, filed an application for a Variance before the Board of Zoning Appeals, requesting that the zoning ordinance requirement of one parking space for each housekeeping unit be lowered to one parking space for each two housekeeping units. This variance was to apply to a specific tract of land located north of Central between Broadway and Market. At the public hearing, the applicants orally amended this request to "one parking space for each one and one-half housekeeping units".

As required by state law and city ordinance, proper legal advertising was had and individual notices were mailed to all property owners within 200 feet of the applicant's property. The Board of Zoning Appeals held its meeting on June 25, 1963, and heard both the proponents and opponents.

The City ordinance governing the actions of the Board of Zoning Appeals provides that the Board has jurisdiction to grant variances when all four of the following conditions are found to exist:

- a) That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district;
- b) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

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July 16, 1963

- c) That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal;
- d) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

It should be noted that before the Board may favorably consider any request, that all, not just part, of the four conditions must be found in the affirmative. Submitted as a part of this report is an extract of the Board's minutes covering this item; and the formal Resolution adopted by the Board in making its findings.

The First Presbyterian Church, in filing its appeal to the decision of the Board of Zoning Appeals, contends that:

"The Board of Zoning Appeals decision to approve, in part, the application, was in error and should be reversed for the following reasons:

The situation is not unique. The application of the existing ordinance will not cause the owner unnecessary hardship; the granting of the variance will adversely affect the rights of adjacent property owners and will adversely affect the public safety, order, convenience and general welfare".

It should be noted that no appeal was taken as to the Board's jurisdiction.

On July 16, the Board of Zoning Appeals met in special meeting to consider the allegations of the Appellant. Present were all members who were present to consider the original application.

MOORE moved, and BAUER seconded, and it carried unanimously that the Board reaffirm its previous action; forward its formal findings (in the form of its adopted Resolution); its minutes; and the additional comments on the four conditions which the appellants contend that the Board was in error.

Uniqueness

"The variance desired arises from such condition which is not ordinarily found in the same zoning district".

The Board, by unanimous action, moved to reaffirm its position stated in the Resolution, and further emphasize that:

1. This site is unique in its relation to the core city, its nearness to shopping facilities, its nearness to major metropolitan churches; its relation to two streets carrying large amounts of traffic; and in relation to the availability of the bus service.
2. The project, as contemplated, will be designed for use by middle income groups and not for high level income groups, as are most high-rise apartments. The lower-middle income groups are thought to own fewer automobiles, thus the demand for parking, as created by the new use, will be less.
3. To provide the required number of spaces (22 more than required by the Board of Zoning Appeals) would require the construction of a multi-level parking facility which would be unique and unusual for such a small additional number of automobiles.
4. Much of the area is now developed with uses built before off-street parking facilities were required by ordinance. As this area redevelops over the years, the new uses will be required to supply off-street parking, thus tending to alleviate any congestion which might now exist.

Rights of Adjacent Property Owners

"That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents".

The Board, by unanimous action, moved to reaffirm its position stated in the Resolution, and further emphasize that:

1. The construction of the proposed high-rise apartments will enhance the property value of nearby and adjacent properties and the appearance of the general area.

2. That the environment created by a modern high-rise apartment, and the removal of older structures, will be an improvement to the area and the general neighborhood.
3. That the variance of only 22 spaces (approximately 20%) is sufficiently insignificant in relation to the total requirement and that any adverse effects on adjacent property owners or residents will be minimal. Should have the variance involved the waiving of all off-street parking spaces, then there might have been an adverse situation created.
4. Testimony by the applicant's architect indicated that other similar developments in other cities has in actual operation used only 50% of the amount required in this case. Both the Traffic Engineer and Planning Staff member stated that there are no definite tried and proven parking standards for the proposed type of use.
5. Failure to approve the request might result in "freezing" the development potential of the area, thus precluding the upgrading of the area, all to the detriment of the adjoining property owners.
6. The granting of the variance would not interfere with any existing legal rights as to existing parking arrangements between private property owners in the area.
7. That the granting of the variance does not preclude the development of this type of use, the number of people which are permitted to live in the area or any other facet of development of control in this zoning district, EXCEPT to reduce the number of parking spaces, and that this would not have an adverse affect on the adjacent property.
8. Construction of a multi-level parking garage would detract from the First Presbyterian Church in that construction of such a facility would limit the value of its windows insofar as light and air are involved.

Hardship

"That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal".

The Board, by unanimous action, moved to reaffirm its position stated in the Resolution, and further emphasize that:

1. The cost of providing multi-level parking would exceed the benefits to be derived from it, based on the testimony of the architect for the applicant, which was that buildings of this type do not need over 50% of the parking required by the current city ordinance. If this is true, then only 57 spaces would be needed (114 required by ordinance; 92 required by the Board of Zoning Appeals), resulting in a surplus of 35 spaces.
2. Failure to grant the variance would make the project economically unfeasible due to the costs involved; thus the granting of the variance would be of a great advantage to the community as a whole, as this would allow the construction of the project.
3. Inasmuch as this area is located near to the core, the church complex, it is necessary that the land be developed in an intensive manner and that to not allow the development of a high density apartment would be a hardship to the owner.

Public Interest

"That the variance desired is not against the public interest".

The Board, by unanimous action, moved to reaffirm its position stated in the Resolution, and further emphasize that:

1. No testimony or evidence was introduced to prove that approval of the variance would result in added congestion to the area.
2. The development as proposed by the applicant is to be a well designed quality development which, in accordance with statements submitted by the applicant, would be under the "highest form of management control....to protect the interest of the community as a whole".

As previously noted, the Board feels that it has properly found all points to exist as required by the Ordinance.

Respectfully submitted,

Robert A. Lakin
Robert A. Lakin
Secretary

RAL:ber
Attachments

EXCERPT FROM BOARD OF ZONING APPEALS MINUTES OF JUNE 25, 1963

4. Case No. BZA 15-63 - Marcen Investments, Inc., request variance to permit construction of an apartment hotel structure without providing required number of parking spaces, on property described as Lots 1, 3, 5, 7, 9 and 11 of Part of Mungers Original Town; Lots 8, 10, 12 and 14 of Gordon's Sub. and Lots 2, 4, 6, 8 and 10 of Court Place. Generally located in an area just north of Central and between Market and Broadway.

LAKIN pointed out the area on the map and reviewed the Secretary's report, which is shown in full as follows:

GENERAL DESCRIPTION

This case involves a tract of land located on the north side of Central between Market and Broadway. The property is currently occupied by a service station, Trend Store, two abstract companies and an office building.

To the north of the property in question is a single family house and general business. To the northeast is the First Presbyterian Church. The old Sedgwick County Courthouse is across the street to the west. The property to the east along Broadway is developed commercially and for multiple family residences.

A small portion of the property in question is zoned "LC" Light Commercial, the balance of the property being zoned "C" Commercial (See Attachment #1).

REQUEST

The request is for a variance as provided in Section 2.12.590 of the Code of the City of Wichita, to allow an alteration in the off-street parking requirements as provided in Section 28.04.140.8.2.2. The applicant is asking for a variance from the ratio of one off-street parking space for each suite of rooms or motel units, to one space for each one and one-half (amended from the original application) suite of rooms or motel units.

The variance is within the jurisdiction of the Board of Zoning Appeals to grant when the four conditions as outlined below are found to exist:

- A. The variance desired arises from such condition which is not ordinarily found in the same zoning district.
- B. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

- C. That the strict application of the enforcement provisions of the zoning ordinance will constitute an unnecessary hardship upon the property owner represented in the appeal.
- D. That the variance desired is not against the public interest.

The statement of justification submitted by the applicant is included as Attachment #2 of this report.

COMMENTS BY THE SECRETARY

The applicants indicated in their statement of justification that it is their intention to construct a high-rise apartment hotel on the property represented in the appeal. In accordance with a decision of the Superintendent of Central Inspection, the applicants will not have to provide off-street parking for the Trend Store now existing on the location because this use was in existence prior to the off-street parking requirements being incorporated in the zoning ordinance. Accordingly, the only off-street parking that will be required is for the new apartment hotel building. In addition, no parking will be required for other uses on the property in question because they will be razed in order to make room for the new development. However, it should be noted that the Trend Store structure will not be removed and parking now available to it will be re-allocated to the new high-rise building.

There is now a problem as far as off-street parking is concerned on this specific block. The First Presbyterian Church occupying the northeast corner of the block and the Trend Store located on the southeast corner of the property in question, generate much traffic and little street parking is available. The church is currently using, on Sunday, (by verbal agreement) the parking lot for the two abstract companies on the lot.

Another problem arises over the fact that the Trend Store as outlined above, does not have to provide off-street parking. From a practical standpoint, it seems self-evident that part of the parking as shown on the plot plan, will probably be used for Trend Store parking.

It has been found that most cities (except those like New York with mass transit available and used), require a parking ratio of one to one for permanent dwelling unit types. Some cities even require a parking ratio of two spaces for each high-rise apartment or suite of rooms, while another city increased its ratio of parking from 1:1 as the number of rooms increased.

The applicant has pointed out that, in his communications with other cities relative to parking requirements for apartment hotels of this type and character, and near the core area, he has found generally that only about 50% of the hotel occupants own cars, justifying a lower parking ratio. He further suggested that when apartment hotels are located close to the downtown area that most people are within walking distances of their jobs and most types of services so consequently have no real need for an automobile.

The applicant originally applied for a variance to allow one off-street parking space for each two housekeeping units, suite of rooms, etc., which would allow the construction of a 12 story structure rather than 8 story structure. In researching the matter, it was found that this cannot be done, since an apartment requires a minimum of 580 square feet of land area per density unit, and there is not sufficient land area to provide over 101 units, or 9 stories.

The maximum off-street parking requirements would be 101 spaces. The architect has prepared a site plan which provides for 97 spaces but has revised it to allow for a planting and landscaping area near the church which would reduce the parking to 92 spaces. Also, the architect feels that the spaces should be revamped to provide wider spaces which would eliminate some more parking spaces.

UNIQUENESS

The applicant points out that this case is unique and not ordinarily found in the same zoning district in that the existence of the sanitary sewer and submain which runs through the center of the property (north to south through the vacated alley) is shallow and poorly located and would pose both structural and circulatory problems in the location of multi-level parking. Also, if a multi-level parking garage were erected to satisfy the one to one ratio on the Market Street portion of the unitized development, the existing multi-story church windows lying along the east property line of the project side, would become useless for lighting and ventilating purposes. Further, the shallow depth of the Market Street site does not allow adequate depth for fire fighting equipment if the garage is erected.

The Secretary is of the opinion that uniqueness can be found to exist in that a multi-story parking garage would pose certain circulatory, ventilating, natural lighting and structural problems for the developer, as proposed. Uniqueness might also be found to exist in that this was originally a gridiron type plat and still is for that matter, but portions of this block have been replatted several

times. The alley has been vacated without (as far as the Secretary can find) the granting of any substitute easements for sewer purposes. However, since the alley was originally vacated in 1879, the city probably has prior rights for the area in which the sewers are located.

ADJACENT PROPERTY

The Secretary concurs with the applicant in that the variance requested should in no way affect the rights of adjacent property owners but, if the amount of proposed parking is adequate, the elimination of the existing structures presently on the location should enhance the value of surrounding property.

HARDSHIP

The applicant maintains that hardship exists in that the lease arrangements governing the Broadway and Central Street property (Trend Store) will necessitate extensive renegotiation and increase costs to the project developer if improvements of greater than \$25,000 is made on the leased property. The cost of multi-level parking would greatly exceed this amount. It is also the contention of the applicants that the high cost of the site demands approximately at least a 9 story structure (preferably a 12 story, 150 unit structure) in order to be economically feasible.

In view of the justification made by the applicant, it is the Secretary's opinion that hardship can probably be found to exist.

PUBLIC INTEREST

The applicant has suggested that the variance requested should in no way affect the public interest but rather would improve the public health, safety, morals, order, convenience, prosperity and general welfare of the adjacent property owners and occupants of the building itself. Further, the highest form of management control will be provided to protect the interest of the community as a whole.

The Secretary is of the opinion that in view of the comments made in the first section of the report entitled "Comments by the Secretary", the general welfare and safety of the public as a whole may be adversely affected if a parking ratio of 1:1½ (or 75 spaces) is granted. Although the proposed development will be of benefit to the downtown area, without adequate parking area, the public welfare could be affected adversely by the creation of traffic congestion in the area.

In view of this consideration, the Secretary suggests that the problem can be partially alleviated by granting a variance from 101 to 92 parking spaces. A variance of 9 parking spaces would not have nearly the deleterious affect upon the public interest as would a variance of one to two or 1 to 1½.

CONDITIONS IN EVENT OF APPROVAL

In view of the above considerations, it is the recommendation of the Secretary that the variance from 101 to 92 parking spaces be granted, subject to the following conditions and requirements:

1. An off-street parking plan, complete with ingress, egress, turnaround, channelization, driveways, and bumper guards shall be submitted to the Traffic Engineer for his approval. (Tentative approval to the existing plan has been given).
2. Provided that any addition to the 9 story (114 housekeeping units) apartment hotel (requiring 92 off-street parking spaces) shall require additional off-street parking as required by the Zoning ordinance.
3. All off-street parking spaces shall be reserved for tenants and guests of the apartment hotel.
4. Construction of the apartment hotel and parking area shall be completed within 5 years from the effective date of this approval or the approval shall be null and void.

ROBERT FEAGINS, architect, said that the 1 to 1 ratio of parking (one space for each housekeeping unit, suite of rooms or motel rooms) would require 114 parking spaces for the proposed 9 story building. Based on preliminary plans, this number of spaces has been approved by the Central Inspection Division. He noted that, (as shown on the plot plan), they had made provisions for 97 off-street parking spaces, but have decided to request the removal of 5 more spaces to provide for a landscaping area on the east between the church educational building and the apartments along the west side. He stated also that in their first consideration of parking facilities, it was suggested that a multiple parking garage be built, but this was decided against since the only place to locate the proposed facility would have been immediately adjacent to the existing church building. Another disadvantage is the problem associated with the location of the existing shallow sewer line.

There was discussion concerning the ground area (580 square feet the normal requirement per apartment unit), used in computing the number of units and parking spaces. LAKIN stated that in computing the ground area, the area occupied by the existing Trend Store (Trend Store has no required off-street parking) area was used inasmuch as it is all one ownership and was considered as a single site by Central Inspection.

DALE COOPER, representing the First Presbyterian Church, stated that any variation from the requirements of the existing ordinance would create traffic congestion to a much greater degree than is already existing in this area. He noted that several churches and apartment houses in the general area are confronted with an ever-increasing traffic and parking problem. MR. COOPER pointed out that most of the churches and apartment houses were built prior to the establishment of the off-street parking requirements. He felt that the 1 to 1 ratio was quite liberal in light of the trend for increasing numbers of cars per capita. He further suggested that to make any variance to the required off-street parking ratio would be detrimental to the general public and utilization of facilities in the area.

CARL DIETRICH, representing the First Presbyterian Church, reviewed the fact that the church in the past has purchased a parking area in the block to the north along Market Street. He noted that this is an indication of the demand for parking in the area. He stated that the church also uses the Trend Store parking area, as well as parking facilities of some other businesses in the area where by verbal agreement it has been made available to the church. It seemed ironical to him that anyone would request a reduction in parking requirements in view of the limited off-street parking available in the downtown area.

DON BLACKBURN, Assistant Traffic Engineer, stated they have no available proof or standards to justify a 1 to 1 parking ratio for this particular type of development in and near the core area. He did, however, ask that whatever action the Board takes not establish a precedent which might lead other developers to ask for release of the 1:1 parking ratio in order to provide landscaping, or to provide less parking than the ordinance might require. It was Traffic Engineering's and the Planning Department's feeling that this particular type of use might require less than a 1 to 1 ratio, particularly in view of statements made by Mr. Feagins as to development experience in Kansas City, Missouri. They felt that this is somewhat of an experiment which may or may not prove out. It was further pointed out that while the variance was necessary to make the project economically feasible, the variance supported by the Secretary (20% reduction) was not sufficiently significant to not undertake this type of experiment.

PAUL GRAVES, Traffic Engineer, in answer to a question, pointed out that for years there has been less and less on-street parking permitted, and it was his opinion that this trend would continue. When on-street parking is eliminated, a developer must provide off-street parking for his particular project. It seemed to him it would be a self-effectuating system if on-street parking is removed.

MOTION: LESTER moved, BAUER seconded and it carried unanimously that the Board take jurisdiction in this case.

In discussing the matter of uniqueness, MOORE referred to the particular type of occupancy proposed for the building and the fact that it is claimed there would not be the need for the spaces as required in the ordinance. He inquired whether or not the planning staff or traffic engineer had conducted any studies which might support this contention.

The Secretary said that he had consulted most of the available sources on this particular subject but could not find anything specific, but did suggest that in view of the general increase in cars per family in the United States, the general ratio of 1 to 1 is probably minimal for high-rise apartment buildings, in general. However, the type of use and location in relation to the core area are mitigating factors in this general rule. He continued that in preparing the Secretary's report, he relied solely on information furnished by Mr. Feagins who said he had conversed with owners and operators of similar type development in Kansas City and Denver. He suggested that if the information obtained by Mr. Feagins is correct, then only approximately 75 spaces would be needed in this instance.

FEAGINS said their studies of similar uses under similar conditions, in other cities, indicated that 50% of the tenants in this type of structure do not have cars where located in a downtown area and when rented to middle income groups. He stated that it is contemplated that occupants of the structure will be low-middle income type individuals.

MOORE inquired whether or not the Traffic Engineering Department had attempted to project what additional difficulties would be created as a result of the construction of this building and relationship of required parking.

GRAVES said no specific attempt had been made, but from a general knowledge of this particular area, as in all areas around churches, 95% of the time more parking is required than is available, especially when churches are located on major streets. He noted also that in most cases on-street parking restrictions have been relaxed to permit parking on Sundays for churches. GRAVES felt that any relaxation of requirements would add to the difficulty in the area, especially on Sunday or any evening the churches in the immediate area have some type

of service. He pointed out also that since that portion of subject property now being used by the church for parking would be eliminated, it was his opinion that the demand for parking would increase.

FEAGINS pointed out that there has been a definite effort to acquire ground for additional parking within 600 feet of the proposed project (as required by the zoning ordinance), but to no avail because most of the land has been acquired by the church itself.

MOTION: MOORE moved, BAUER seconded and it carried unanimously that the request for variance arises from a condition which is unique and not ordinarily found in the same zoning district in that the type of facility proposed would be suitable only for use of retired individuals, couples with no children, bachelors, and other similar groups, of which it is believed would not have a high incidence of car ownership in view of the location in the downtown area and the character of the majority of the occupants; further, it is expected that any traffic congestion which might occur would be at isolated times rather than being on a continuing basis encountered throughout the week; furthermore, there is no proof at the present that a 1:1 ratio can be justified for this specific use on this particular piece of property; so, therefore, 92 off-street parking spaces would seem to be a sufficient amount in view of the type of use proposed.

LAW pointed out that although the removal of the parking available to the church on subject property would constitute a hardship to the church, it would be unreasonable for the Board to penalize an owner of ground because he had granted some other facility (the church) the temporary use of his ground, and then wishes to develop the ground for his own use. He noted also that there is a certain amount of congestion in any downtown area which must be both expected and to a certain degree accepted. In any high density development, there is going to be a certain amount of congestion that would not be normally expected were it located in a suburban location. To this extent, the property located immediately adjacent to the Central Business District should be considered comparable to a Central Business District location.

MOORE recognized the fact that there is opposition from adjacent property owners and the Board is in sympathy with their feelings, but he did not think their property would be adversely affected.

MOORE suggested that the applicant and parties opposing the request confer in an attempt to reach a mutual agreement which would satisfy the opposition and would also allow the applicant to develop his property as proposed.

MOTION: MOORE moved, BAUER seconded and it carried unanimously that the granting of the variance as approved, would not adversely affect the rights of adjacent property owners inasmuch as the amount of proposed parking has been determined to be adequate; the elimination of the existing structures presently on the location should enhance the value of surrounding property; and further, in a high density development, there is to be expected a certain amount of congestion not normally found if located in a suburban location.

In considering the matter of hardship, LAW felt that the particular location of the property should warrant some type of high-rise density development. It appeared that failure to grant the variance because of a 20% deficiency in parking could be construed as to reasonably constitute a hardship in that the applicants would not be allowed the highest and best use of their property. It was his feeling that if an owner cannot develop his property to provide an equitable return on his investment, then the ordinance is in error and bodies such as the Board are needed to grant relief. He observed also that since it is only a 20% reduction, and no one knows for certain what the requirements should be in this instance, it should be considered reasonable.

MOTION: BAUER moved, LESTER seconded and it carried unanimously that the strict application of the enforcement provisions of the zoning ordinance will constitute an unnecessary hardship upon the applicant inasmuch as the location of the property itself seems to warrant an intense use such as a high-rise apartment development and, further, to penalize the applicant because of a 20% deficiency in parking would be unreasonable in that it would deny the property owners the highest and best use of their property.

MOTION: LESTER moved, BAUER seconded and it carried unanimously that the variance as approved will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

MOTION: BAUER moved, MOORE seconded and it carried unanimously that inasmuch as the four conditions required to be present before a variance can be granted, have been found to exist, and further that this application be approved for a variance from the normal requirements of 114 parking spaces (one space required for each of the 90 apartment units and one space required for each of the 24 motel units; total 114), to 92 parking spaces, subject to the following conditions and requirements:

1. An off-street parking plan, complete with ingress, egress, turnaround, channelization, driveways, and bumper guards shall be submitted to the Traffic Engineer for his approval.
2. Provided that any addition to the 114 housekeeping unit apartment hotel (requiring 92 off-street parking spaces), shall require additional off-street parking as required by the Zoning Ordinance.
3. All 92 off-street parking spaces shall be reserved specifically for guests and residents of the apartment hotel and shall not be used by any other facilities, such as the existing church, Trend Store, etc.
4. Construction of the apartment hotel and parking area shall be completed within 5 years from the effective date of this approval or the approval shall be null and void.

Jim Howe -
I have talked
to Ed Law about
his letter. He says
to date the letter
July 16 and put
for Secy's signature.
I have advised
Bernice.

WICHITA-SEDGWICK COUNTY

DATE

July 23, 1963

METROPOLITAN AREA PLANNING DEPARTMENT

TO Leland R. Edmonds, Director of Planning
FROM Robert A. Lakin, Assistant Planning Director
SUBJECT BZA 15-63

I have prepared a reply on behalf of the Board on the above appeal. I am having Jim Howe mail it to the Board for their final review before I have it typed for final and signed by the Chairman.

I will ask that they review it not later than Wednesday a.m. and that Howe have it finalized out to be forwarded on Thursday, the 25th for BCC action on July 30.

This schedule should hold providing the Board stays together on my reply. If not, we will have to defer it until I return to put more work in on it.

Robert A. Lakin

Robert A. Lakin
Assistant Planning Director

RAL:mm

July 19, 1963

Mr. E. B. Law
623 Beacon Building
Wichita, Kansas

Dear Mr. Law:

Enclosed is a draft of the proposed report to be submitted to the Board of City Commissioners on Case BZA 15-63 - Marcen Investments, Inc., which was appealed.

Would you please review this material and submit any comments to this office by Wednesday evening, July 24, 1963.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

Enclosure

Same to Jump, Lester, Moore and Bauer and Johnson

July 25, 1963

Mr. Milton Zacharias, Attorney
425 North Main
Wichita, Kansas

Dear Mr. Zacharias:

Re: BZA 15-63 - Appeal of the decision
of the Board of Zoning Appeals re
parking requirements for property
on the north side of Central be-
tween Broadway and Market

At a special meeting of the Board of Zoning Appeals held on July 16, 1963, the Board of Zoning Appeals reconsidered its decision on the above captioned case. The action of the Board was to re-affirm its decision of June 25, 1963 to approve a variance of off-street parking requirements from the requirement of 114 spaces (as determined by the Superintendent of Central Inspection) to a total of 92 spaces.

This case will now be forwarded to the Board of City Commissioners for its consideration on July 30, 1963.

If you have any questions concerning this matter, please feel free to call.

Very truly yours,

James W. Howe
Assistant Secretary

JWH:bar
cc: Robert Feagins
101 Laura

Eula Cooper
510 Petroleum Building

THE CITY OF WICHITA
OFFICE OF CITY CLERK

DATE July 10, 1963

TO R. A. Lakin, Secty., Board of Zoning Appeals
FROM C. H. Funk, City Clerk

SUBJECT Appeal from the Decision of the
Board of Zoning Appeals in Case
No. BZA - 15-63

Transmitted herewith is a copy of the Appeal by First Presbyterian Church
from the Decision of the Board of Zoning Appeals in Case No. BZA-15-63.

The appeal was filed in the City Clerk's Office on July 3, 1963, and
presented to the Board of Commissioners on July 9, 1963, and was ordered
referred to the Board of Zoning Appeals for report to the Commission.

C. H. Funk
C. H. Funk,
City Clerk



APPEAL TO
BOARD OF CITY COMMISSIONERS
FROM
DECISION OF BOARD OF ZONING APPEALS

I. Name of Appellant First Presbyterian Church
Mailing Address 525 North Broadway Phone _____
Name of Agent COOPER, ESCO, COOPER & LOYD
Mailing Address 510 Petroleum Bldg., Phone FO 3-8231

II. Appellant herein appeals from the decision of the Board of Zoning Appeals relating to Case Number BZA-15-63 in which _____
Marcen Investments, Inc.

applied for a Variance from the requirements of the off-street parking ordinance (28.04.140.A.2.2) to a standard of one off-street parking space for each two housekeeping units.

(describe variance or exception requested in original application)

for property located at 5th B.P. N. Market St. (address) and legally described as Lot(s) _____, Block(s) _____, _____

Addition. The Board of Zoning Appeals decision to approve in part.

(deny, approve) the application was in error and should be reversed

for the following reasons: The situation is not unique. The application of the existing ordinance will not cause the owner unnecessary hardship; the granting of the variance will adversely affect the rights of adjacent property owners and will adversely affect the public safety, order, convenience and general welfare.

First Presbyterian Church
Appellant
[Signature]
Authorized Agent

OFFICE USE ONLY:

This appeal from a decision rendered by the Board of Zoning Appeals was received in the Office of the City Clerk at 3:30
(a.m., p.m.) July 3, 1963 (date).

[Signature]
Signed

City Clerk
Title

July 1, 1963

Maroon Investments, Inc.
425 North Main
Wichita, Kansas

Gentlemen:

Subject: BEA 15-63

This is to advise you that at its regular meeting of June 25, 1963, the Board of Zoning Appeals of the City of Wichita considered the above case, which was your request for a variance to permit construction of apartment hotel structure without providing required number of parking spaces, on property legally described as:

Lots 1, 3, 5, 7, 9 and 11 of Part of Hungers
Original Town; Lots 8, 10, 12 and 14 of Gordon's
Sub. and Lots 2, 4, 6, 8 and 10 of Court Place,

which is generally located in an area just north of Central and between Market and Broadway.

After discussion, it was the action of the Board of Zoning Appeals to approve this application as follows:

1. An off-street parking plan, complete with ingress, egress, turnaround, channelization, driveways, and bumper guards shall be submitted to the Traffic Engineer for his approval.
2. Provided that any addition to the 114 housekeeping unit apartment hotel (requiring 92 off-street parking spaces) shall require additional off-street parking as required by the Zoning Ordinance.
3. All 92 off-street parking spaces shall be reserved specifically for guests and residents of the apartment hotel and shall not be used by any other facilities, such as the existing church, Trend Store, etc.


Page 2 - Maroon Investments, Inc.
July 1, 1963

4. Construction of the apartment hotel and parking area shall be completed within 5 years from the effective date of this approval, or the approval shall be null and void.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before July 5, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before July 5, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,



Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Milton Zacharias
425 North Main

Robert T. Feagins
301 Laura

Board of Zoning Appeals

June 28, 1963

C. H. Funk, City Clerk
Robert A. Lakin, Secretary

BZA Case No. 15-63

Attached is a copy of BZA Resolution No. 15-63, covering action taken by the Board of Zoning Appeals on the above case.

This case was heard on June 25, 1963, and an appeal may be filed in your office on or before July 5, 1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:JWH:ber

Attachment

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

June 13, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case BZA 15-63

Application has been filed by Milton Zacharias, attorney, 425 North Main, Wichita, Kansas, on behalf of Marcen Investments, Inc., 425 North Main, Wichita, Kansas, requesting a variance, as provided in Section 2.12.590.2, Code of the City of Wichita, from the provisions as provided in Section 28.04.140.A.2.2 of the Code of the City of Wichita, of the off-street parking requirements requiring one off-street parking space for each housekeeping unit to a standard of one off-street parking space for each two housekeeping units, on property legally described as:

Lots 1, 3, 5, 7, 9 and 11 of Part of Mungers Original Town; Lots 8, 10, 12 and 14 of Gordon's Sub. and Lots 2, 4, 6, 8 and 10 of Court Place, in the City of Wichita, Sedgwick County, Kansas. Generally located in an area just north of Central and between Market and Broadway.

This application has been assigned Case No. BZA 15-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, June 25, 1963, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin
Secretary

SECRETARY'S REPORT

CASE NO. BZA 15-63

GENERAL DESCRIPTION

This case involves a tract of land located on the north side of Central between Market and Broadway. The property is currently occupied by a service station, Trend Store, two abstract companies and an office building.

To the north of the property in question is a single family house and general business. To the northeast is the First Presbyterian Church. The old Sedgwick County Courthouse is across the street to the west. The property to the east along Broadway is developed commercially and for multiple family residences.

A small portion of the property in question is zoned "LC" Light Commercial, the balance of the property being zoned "C" Commercial (See Attachment #1).

REQUEST

The request is for a variance as provided in Section 2.12.590 of the Code of the City of Wichita, to allow an alteration in the off-street parking requirements as provided in Section 28.04.140.8.2.2. The applicant is asking for a variance from the ratio of one off-street parking space for each suite of rooms or motel units, to one space for each one and one-half (amended from the original application) suite of rooms or motel units.

The variance is within the jurisdiction of the Board of Zoning Appeals to grant when the four conditions as outlined below are found to exist:

- A. The variance desired arises from such condition which is not ordinarily found in the same zoning district.
- B. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
- C. That the strict application of the enforcement provisions of the zoning ordinance will constitute an unnecessary hardship upon the property owner represented in the appeal.
- D. That the variance desired is not against the public interest.

The statement of justification submitted by the applicant is included as Attachment #2 of this report.

COMMENTS BY THE SECRETARY

The applicants indicated in their statement of justification that it is their intention to construct a high-rise apartment hotel on the property represented in the appeal. In accordance with a decision of the Superintendent of Central Inspection, the applicants will not have to provide off-street parking for the Trend Store now existing on the location because this use was in existence prior to the off-street parking requirements being incorporated in the zoning ordinance. Accordingly, the only off-street parking that will be required is for the new apartment hotel building. In addition, no parking will be required for other uses on the property in question because they will be razed in order to make room for the new development. However, it should be noted that the Trend Store structure will not be removed and parking now available to it will be reallocated to the new high-rise building.

There is now a problem as far as off-street parking is concerned on this specific block. The First Presbyterian Church occupying the northeast corner of the block and the Trend Store located on the southeast corner of the property in question, generate much traffic and little street parking is available. The church is currently using, on Sunday, (by verbal agreement) the parking lot for the two abstract companies on the lot.

Another problem arises over the fact that the Trend Store as outlined above, does not have to provide off-street parking. From a practical standpoint, it seems self-evident that part of the parking as shown on the plot plan, will probably be used for Trend Store parking.

It has been found that most cities (except those like New York with mass transit available and used), require a parking ratio of one to one for permanent dwelling unit types. Some cities even require a parking ratio of two spaces for each high-rise apartment or suite of rooms, while another city increased its ratio of parking from 1:1 as the number of rooms increased.

The applicant has pointed out that, in his communications with other cities relative to parking requirements for apartment hotels of this type and character, and near the core area, he has found generally that only about 50% of the hotel occupants own cars, justifying a lower parking ratio. He further suggested that when apartment hotels are located close to the downtown area that most people are within walking distances of their jobs and most types of services so consequently have no real need for an automobile.

Page 4 - Secretary's Report
Case No. BZA 15-63

The applicant originally applied for a variance to allow one off-street parking space for each two housekeeping units, suite of rooms, etc., which would allow the construction of a 12 story structure rather than a 9 story structure. In researching the matter, it was found that this cannot be done, since an apartment requires a minimum of 580 square feet of land area per density unit, and there is not sufficient land area to provide over 101 units, or 9 stories.

The maximum off-street parking requirements would be 101 spaces. The architect has prepared a site plan which provides for 97 spaces but has revised it to allow for a planting and landscaping area near the church which would reduce the parking to 92 spaces. Also, the architect feels that the spaces should be revamped to provide wider spaces which would eliminate some more parking spaces.

UNIQUENESS

The applicant points out that this case is unique and not ordinarily found in the same zoning district in that the existence of the sanitary sewer and submain which runs through the center of the property (north to south through the vacated alley) is shallow and poorly located and would pose both structural and circulatory problems in the location of multi-level parking. Also, if a multi-level parking garage were erected to satisfy the one to one ratio on the Market Street portion of the unitized development, the existing multi-story church windows lying along the east property line of the project side, would become useless for lighting and ventilating

purposes. Further, the shallow depth of the Market Street site does not allow adequate depth for fire fighting equipment if the garage is erected.

The Secretary is of the opinion that uniqueness can be found to exist in that a multi-story parking garage would pose certain circulatory, ventilating, natural lighting and structural problems for the developer, as proposed. Uniqueness might also be found to exist in that this was originally a gridiron type plat and still is for that matter, but portions of this block have been replatted several times. The alley has been vacated without (as far as the Secretary can find) the granting of any substitute easements for sewer purposes. However, since the alley was originally vacated in 1879, the city probably has prior rights for the area in which the sewers are located.

ADJACENT PROPERTY

The Secretary concurs with the applicant in that the variance requested should in no way affect the rights of adjacent property owners but, if the amount of proposed parking is adequate, the elimination of the existing structures presently on the location should enhance the value of surrounding property.

HARDSHIP

The applicant maintains that hardship exists in that the lease arrangements governing the Broadway and Central Street property (Trend Store) will necessitate extensive renegotiation and increase

Page 6 - Secretary's Report
Case No. BZA 15-63

costs to the project developer if improvements of greater than \$25,000 is made on the leased property. The cost of multi-level parking would greatly exceed this amount. It is also the contention of the applicants that the high cost of the site demands approximately at least a 9 story structure (preferably a 12 story, 150 unit structure) in order to be economically feasible.

In view of the justification made by the applicant, it is the Secretary's opinion that hardship can probably be found to exist.

PUBLIC INTEREST

The applicant has suggested that the variance requested should in no way affect the public interest but rather would improve the public health, safety, morals, order, convenience, prosperity and general welfare of the adjacent property owners and occupants of the building itself. Further, the highest form of management control will be provided to protect the interest of the community as a whole.

The Secretary is of the opinion that in view of the comments made in the first section of the report entitled "Comments by the Secretary", the general welfare and safety of the public as a whole may be adversely affected if a parking ratio of 1:1½ (or 75 spaces) is granted. Although the proposed development will be of benefit to the downtown area, without adequate parking area, the public welfare could be affected adversely by the creation of traffic congestion in the area.

In view of this consideration, the Secretary suggests that the problem can be partially alleviated by granting a variance from 101 to 92 parking spaces. A variance of 9 parking spaces would not have nearly the deleterious affect upon the public interest as would a variance of one to two or 1 to 1 $\frac{1}{2}$.

CONDITIONS IN EVENT OF APPROVAL

In view of the above considerations, it is the recommendation of the Secretary that the variance from 101 to 92 parking spaces be granted, subject to the following conditions and requirements:

1. An off-street parking plan, complete with ingress, egress, turnaround, channelization, driveways, and bumper guards shall be submitted to the Traffic Engineer for his approval. (Tentative approval to the existing plan has been given).
2. Provided that any addition to the 9 story apartment hotel (requiring 92 off-street parking spaces) shall require additional off-street parking as required by the Zoning Ordinance.
3. All off-street parking spaces shall be reserved for tenants and guests of the apartment hotel.
4. Construction of the apartment hotel and parking area shall be completed within 5 years from the effective date of this approval or the approval shall be null and void.

4 June 1963

Board of Zoning Appeals
City of Wichita
104 South Main Street
Wichita 2, Kansas



Re: Application for Variance (Section 2.12.590)
Apartment Hotel Building
Marcen Investments, Inc.
Wichita, Kansas

Gentlemen:

Off-Street Parking Regulation 28.04.140 A2.2 states that one parking space for each housekeeping unit, suite of rooms or motel unit must be provided for the above referenced building proposal.

Due to present conditions and limitations of the site your approval of a variance is greatly desired. Our request for one parking space for each two units is based upon the following conditions being present:

- (a) A unique condition exists in the site which is not ordinarily found in the same zoning district.
1. The Main B sanitary sewer (city) which services the north and adjacent property owners is both shallow and poorly located. Extensive provisions to provide the 1 : 1 parking requirements would be greatly inconvenienced by this existing sewer. Existing structures on adjacent church property imposes possible structural and circulatory restrictions to the site.
 2. A multi-storied parking facility will be required to satisfy the 1 : 1 parking requirements of off-street parking regulation 28.04.140A2.2. This facility must be erected on the Market Street portion of the unitized site as will be explained under condition (C). The existing multi-storied church windows lying along the East property line of the project site will become useless for ventilating and natural lighting purposes.
 3. The shallow depth of the Market Street site does not allow adequate circulation for fire fighting equipment at ground level if a multi-story parking structure is required as stated above.

(b) The variance requested will not adversely affect the rights of adjacent property owners. In addition to eliminating the problems described under A 1 the value of the adjacent property as well as the surrounding area will be greatly improved by the removal of the third class structures presently existing on the site and the erection of the first class structure proposed.

An investigation made by the owner for available parking sites within 600 feet of the building site indicated the following:

(a) No available continuous parcels of land adequate for minimum parking requirements of the city. There was an indication of a planned method of land control exercised by several private groups, one being the Presbyterian Church. The attempted acquisition of the remaining parcels would create hardship and result in inflated prices which would be detrimental to those adjacent property owners with planned improvements for the future.

(c) The strict application of the enforcement provisions of the zoning ordinance 28.04.140 A2.2 will constitute unnecessary hardship upon the property owner as follows:

1. The lease agreement governing the Broadway and Central Street property will necessitate extensive re-negotiation and increased costs to the project developer if improvements of greater than \$25,000.00 is made on said leased property. The cost of a minimum two or three level parking facility would greatly exceed this amount. Any additional parking over the maximum allowed by ground level parking must be provided on the Market Street property.
2. The high cost of the site demands approximately 150 units in order to be economically feasible to the project developer. A twelve (12) story apartment hotel structure accommodates 153 units as presently planned. An eight (8) story structure (101 units) is the maximum allowed under 28.04.140 A2.2. This does not appear to be economically feasible.
3. According to construction cost studies the first erection breaking point in high rise structures is at six stories or less. The next erection break is at twelve stories. The ideal erection break from the standpoint of basic square footage cost is at the top of each breaking point. It will be a cost advantageous to the developer to build twelve (12) stories for obvious reasons.

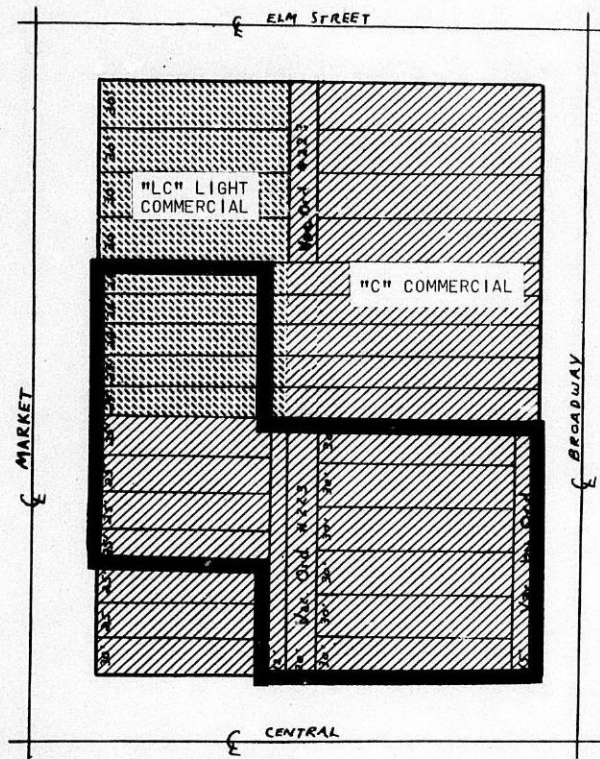
(d) The variance desired will improve the public health, safety, morals, order, convenience, prosperity or general welfare of the adjacent property owners, general public and the occupants of the building itself.

It is the intent of the developer to provide a beautifully designed building, incorporating the latest accommodations for modern living at a reasonable cost to the occupants. The highest form of management control will be provided to protect the interests of the community as a whole.

Yours very truly,

Wilton Gushon

Authorized Agent



BZA 15-63

GENERALLY LOCATED ON THE NORTH SIDE OF CENTRAL BETWEEN MARKET AND BROADWAY.

Board of Zoning Appeals
City of Wichita
104 South Main Street
Wichita 2, Kansas

Re: Application for Variance (Section 2.12.590)
Apartment Hotel Building
Marcen Investments, Inc.
Wichita, Kansas



Gentlemen:

Off-Street Parking Regulation 28.04.140 A2.2 states that one parking space for each housekeeping unit, suite of rooms or motel unit must be provided for the above referenced building proposal.

Due to present conditions and limitations of the site your approval of a variance is greatly desired. Our request for one parking space for each two units is based upon the following conditions being present:

- (a) A unique condition exists in the site which is not ordinarily found in the same zoning district.
1. The Main B sanitary sewer (city) which services the north and adjacent property owners is both shallow and poorly located. Extensive provisions to provide the 1 : 1 parking requirements would be greatly inconvenienced by this existing sewer. Existing structures on adjacent church property imposes possible structural and circulatory restrictions to the site.
 2. A multi-storied parking facility will be required to satisfy the 1 : 1 parking requirements of off-street parking regulation 28.04.140A2.2. This facility must be erected on the Market Street portion of the unitized site as will be explained under condition (C). The existing multi-storied church windows lying along the East property line of the project site will become useless for ventilating and natural lighting purposes.
 3. The shallow depth of the Market Street site does not allow adequate circulation for fire fighting equipment at ground level if a multi-story parking structure is required as stated above.

(b) The variance requested will not adversely affect the rights of adjacent property owners. In addition to eliminating the problems described under A 1 the value of the adjacent property as well as the surrounding area will be greatly improved by the removal of the third class structures presently existing on the site and the erection of the first class structure proposed. An investigation made by the owner for available parking sites within 600 feet of the building site indicated the following:

(a) No available continuous parcels of land adequate for minimum parking requirements of the city. There was an indication of a planned method of land control exercised by several private groups, one being the Presbyterian Church. The attempted acquisition of the remaining parcels would create hardship and result in inflated prices which would be detrimental to those adjacent property owners with planned improvements for the future.

(c) The strict application of the enforcement provisions of the zoning ordinance 28.04.140 A2.2 will constitute unnecessary hardship upon the property owner as follows:

1. The lease agreement governing the Broadway and Central Street property will necessitate extensive re-negotiation and increased costs to the project developer if improvements of greater than \$25,000.00 is made on said leased property. The cost of a minimum two or three level parking facility would greatly exceed this amount. Any additional parking over the maximum allowed by ground level parking must be provided on the Market Street property.
2. The high cost of the site demands approximately 150 units in order to be economically feasible to the project developer. A twelve (12) story apartment hotel structure accommodates 153 units as presently planned. An eight (8) story structure (101 units) is the maximum allowed under 28.04.140 A2.2. This does not appear to be economically feasible.
3. According to construction cost studies the first erection breaking point in high rise structures is at six stories or less. The next erection break is at twelve stories. The ideal erection break from the standpoint of basic square footage cost is at the top of each breaking point. It will be a cost advantageous to the developer to build twelve (12) stories for obvious reasons.

(d) The variance desired will improve the public health, safety, morals, order, convenience, prosperity or general welfare of the adjacent property owners, general public and the occupants of the building itself.

It is the intent of the developer to provide a beautifully designed building, incorporating the latest accommodations for modern living at a reasonable cost to the occupants. The highest form of management control will be provided to protect the interests of the community as a whole.

Yours very truly,

Milton Lachance

Authorized Agent

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

June 13, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case BZA 15-63

Application has been filed by Milton Zacharias, attorney, 425 North Main, Wichita, Kansas, on behalf of Marcen Investments, Inc., 425 North Main, Wichita, Kansas, requesting a variance, as provided in Section 2.12.590.2, Code of the City of Wichita, from the provisions as provided in Section 28.04.140.A.2.2 of the Code of the City of Wichita, of the off-street parking requirements requiring one off-street parking space for each housekeeping unit to a standard of one off-street parking space for each two housekeeping units, on property legally described as:

Lots 1, 3, 5, 7, 9 and 11 of Part of Mungers Original Town; Lots 8, 10, 12 and 14 of Gordon's Sub. and Lots 2, 4, 6, 8 and 10 of Court Place, in the City of Wichita, Sedgwick County, Kansas. Generally located in an area just north of Central and between Market and Broadway.

This application has been assigned Case No. BZA 15-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, June 25, 1963, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin
Secretary

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA 2, KANSAS

15-63



- Moved, left no address
- No such number
- Moved, not forwardable
- Addressee unknown

Marcen Investments, Inc.

425 North Main

Wichita, Kansas

RETURN
TO
WRITER



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

June 13, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case BZA 15-63

Application has been filed by Milton Zacharias, attorney, 425 North Main, Wichita, Kansas, on behalf of Marcen Investments, Inc., 425 North Main, Wichita, Kansas, requesting a variance, as provided in Section 2.12.590.2, Code of the City of Wichita, from the provisions as provided in Section 28.04.140.A.2.2 of the Code of the City of Wichita, of the off-street parking requirements requiring one off-street parking space for each housekeeping unit to a standard of one off-street parking space for each two housekeeping units, on property legally described as:

Lots 1, 3, 5, 7, 9 and 11 of Part of Mungers Original Town; Lots 8, 10, 12 and 14 of Gordon's Sub. and Lots 2, 4, 6, 8 and 10 of Court Place, in the City of Wichita, Sedgwick County, Kansas. Generally located in an area just north of Central and between Market and Bro. Way.

This application has been assigned Case No. BZA 15-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, June 25, 1963, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin
Secretary

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA 2, KANSAS

~~15-63~~
15-63



INSUFFICIENT ADDRESS
DIRECTORY SERVICE DISCONTINUED
DO NOT RE-USE THIS ENVELOPE

Central Church of Christ of Wichita
Wichita, Kansas

RETURN
TO
WRITER



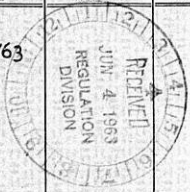
Trend Stores, Inc.

1236 NORTH MOSLEY

THIS PAYMENT IS MADE IN SETTLEMENT OF THE FOLLOWING

No 5779

POSTING DATE	INVOICE NUMBER	INVOICE DATE	GROSS	TRADE DISCOUNT	CASH DISCOUNT	PREVIOUS BALANCE	BALANCE
6/4/63			50.00				50.00



PLEASE DETACH THIS STATEMENT AND RETAIN FOR YOUR FILES

DISCOUNT _____

BZA CASE 15-63

NOTICES MAILED JUNE 13, 1963

Marcen Investments, Inc.
425 North Main *notice returned*

Milton Zacharias
425 North Main

Marvin J. and Eleanor C. Martin
1008 Brookfield

Skelly Oil Company
911 East Orme

Sedgwick County
Courthouse

Mollie A. and Erwin G. Kleinhein
532 North Market

First Presbyterian Church
525 North Broadway

Leta Smith
417 N. Fountain

M. Charline Ernstman
346 N. Bluff

Central Church of Christ of Wichita
Wichita Kansas notice returned

29 May 1963

Mr. Glen E. Lytle
Superintendent of Central Inspection
104 South Main Street
Wichita E. Kansas

Dear Glen:

This letter is for the purpose of reducing to writing our recent conversation in regard to Zoning Ordinance interpretation. The Utilized parcel of land as described by Mr. Milton Zacharias in his letter of April 11, 1963 will be developed under one management and will include the following:

1. Existing commercial building (present Trend Store) to be remodeled for commercial use.
2. New apartment hotel building (proposed)
 - (a) 99 apartment units
 - (b) 24 Motor hotel units
 - (c) Provision for 116 parking spaces.

According to your interpretation of the Wichita zoning ordinance the above development of mixed uses shall be classified under Section 18.54.020 (A1,14) and shall require one parking space for each apartment hotel unit. No additional off-street parking is required for the existing commercial building since off-street parking was not previously required.

If the above agrees with your interpretation, please attest with your signature and return the original to us.

Yours very truly,

FEAGINS & KIRSCH

Robert T. Feagins

Approved:

RTF:jl

Supt. of Central Inspection

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

- I. NAME OF APPLICANT Marcen Investments, Inc.
MAILING ADDRESS 425 North Main PHONE FO 3-7592
NAME OF AUTHORIZED AGENT Milton Zacharias, Atty.
MAILING ADDRESS 425 North Main PHONE FO 3-7592
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF Attorney
(OWNER, TENANT, LESSEE, OTHER)
- II. THE VARIANCE REQUESTED IS 28.04. 140 A 2.2 One Parking space
for each two (2) units.

FOR PROPERTY LOCATED AT Market, Central and Broadway
AND LEGALLY DESCRIBED AS: Lots 1, 3, 5, 7, 9 and 11 of Part of Muncers
original town; Lots 8, 10, 12 & 14 of Gordon's Subr and Lots 2, 4, 6, 8, &
10 of Court Place of Sedgwick county, Kansas.
IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED C & LC.
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

- 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 APPEAL OF THE DECISION OF THE BOARD TO THE CITY COMMISSION WITHIN TEN (10) DAYS OF THAT DECISION;
 - D. THAT ALL DOCUMENTS ARE ATTACHED HERETO AS NOTED IN PARAGRAPHS 3 AND 4 OF THE INSTRUCTIONS.

Marcen Investments, Inc.
APPLICANT
Milton Zacharias
AUTHORIZED AGENT

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, _____ (A.M. - P.M.), _____, 19____, TOGETHER WITH APPROPRIATE FEE OF \$50.00.

SIGNED _____



OWNERSHIP LIST

LOT	STREET	ADDITION	PROPERTY OWNER
1 & alley adj.	Broadway	Mungers Orig. Town	Leta M. Smith <i>417 N. Fountain</i>
3 "	"	"	"
5 "	"	"	"
7 "	"	"	"
9 "	"	"	"
11 "	"	"	"
21	"	"	First Presbyterian Church
23	"	"	" <i>525 N. Broadway</i>
25	"	"	"
27	"	"	"
29	"	"	Roy A. Vanier <i>no address</i> Olive G. Vanier
W 71' of 22	Market	"	Mollie A. Kleinhein Erwin G. Kleinhein <i>532 N. Market</i>
W 71' of 24	"	"	"
22 exc W 71'	"	"	First Presbyterian Church
24 exc W 71'	"	"	"
W 71' 26 exc. N 20'	"	"	Mollie A. Kleinhein Erwin G. Kleinhein
N 20' of 26	"	"	First Presbyterian Church
28	"	"	"
26 exc N 20' & exc W 71'	"	"	"
30 exc. E 50' 10"	"	"	M. Charline Ernstman <i>346 N. Sluff</i>
E 50' 10" of 30	"	"	Roy A. Vanier Olive G. Vanier
Court House Square	"	"	Sedgwick County <i>Courthouse</i>



continued page 2

2	Market	Court Place	Mollie A. Kleinhein Erwin G. Kleinhein
4	"	"	"
6	"	"	"
8	"	"	"
10	"	"	"
1 & Vac. Alley & Streets Adj.	Broadway	"	First Presbyterian Church
3 "	"	"	"
5 "	"	"	"
7 "	"	"	"
9 "	"	"	"
2	Market	Oldham Sub of lots 2-4- 6 & part of lot 8 in Oldham Sub. Div. of lots 2-4-6-8-10-12 Chisholm St.	Skelly Oil Co. <i>911 E. Arme</i>
4	"	"	"
6	"	"	"
8	"	"	Mollie A. Kleinhein Erwin G. Kleinhein
10	"	Gordon Sub	"
S. 5'	"	"	"
12	"	"	"
N 20' 12	"	"	"
14	"	"	"
190 & 192 Desc. as fol: Beg NW cor. of lot 192 th. S. Alg. W line sd. lots 190 & 192 a distance of 41.30' thence E. 91.86' to point 41.31' S of S line of Central Ave. thence N 41.31' to pt in S line Central Ave 91.86' E of NW cor. lot 192 thence W alg. N ln 192 91.86' to p.o.b.	Greiffenstein Orig. Town	Marvin J. Martin Eleanor C. Martin <i>1008 Brookfield</i>	
190 & 192 exc. the above legal	"	"	Paul H. Good <i>No address</i> Garnette Good
189	"	"	Central Church of Christ of Wichita

continued page 3

191	Market	Greiffenstein Orig. Town	Central Church of Christ of Wichita
189	Broadway	"	Major Oil Co. of Kansas Inc. & Consumers Oil Stations of Kansas Inc.
191	"	"	"

We hereby certify the foregoing to be a true and correct list of property owners in a 200 foot radius of the following: Lot 8 Oldham's Subdivision of Lots 2-4-6-and part of 8 in Oldham's Sub. of Lots 2-4--6-8-10-12 Chisholm Street now market, also lot 10 and a strip 5 ft. wide extending the entire length on south side of lot 12, Gordon's Subdivision of lots 10 and 12 and 10 ft. off the north side of lot 8 Oldham's Subdivision in Original Town and 15 ft. off the north side of lot 12 Chisholm St. now Market, Original Town also lot 14 and N 20 ft of lot 12 on Market in Gordon's Sub. of Lots 10 and 12 and 10 ft. off the North side of Lot 8 in Oldhams Sub in Original Town and 15 ft off the North side lot 12 Chisholm Street in Original Town also Lots 2 and 4 and S $\frac{1}{2}$ of lot 6 on Chisholm St. now Market, Court Place also N $\frac{1}{2}$ of lot 6 and all lots 8 and 10 on Market Court Place Add., as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas this the 3rd day of June 1963 A. D. at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY INC.

BY

John M Bell
VICE PRESIDENT

No. 104200
ct/jmb

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan. Pll'g. _____ Pll'g. Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
<i>Boys Application</i>	50 00
<i>Bill</i>	

Name *Juanita*
Address *1236 21st St*
Type _____ Due Date *6-1-63*
Comments _____

Date *6-1-63* By *[Signature]*



1



2

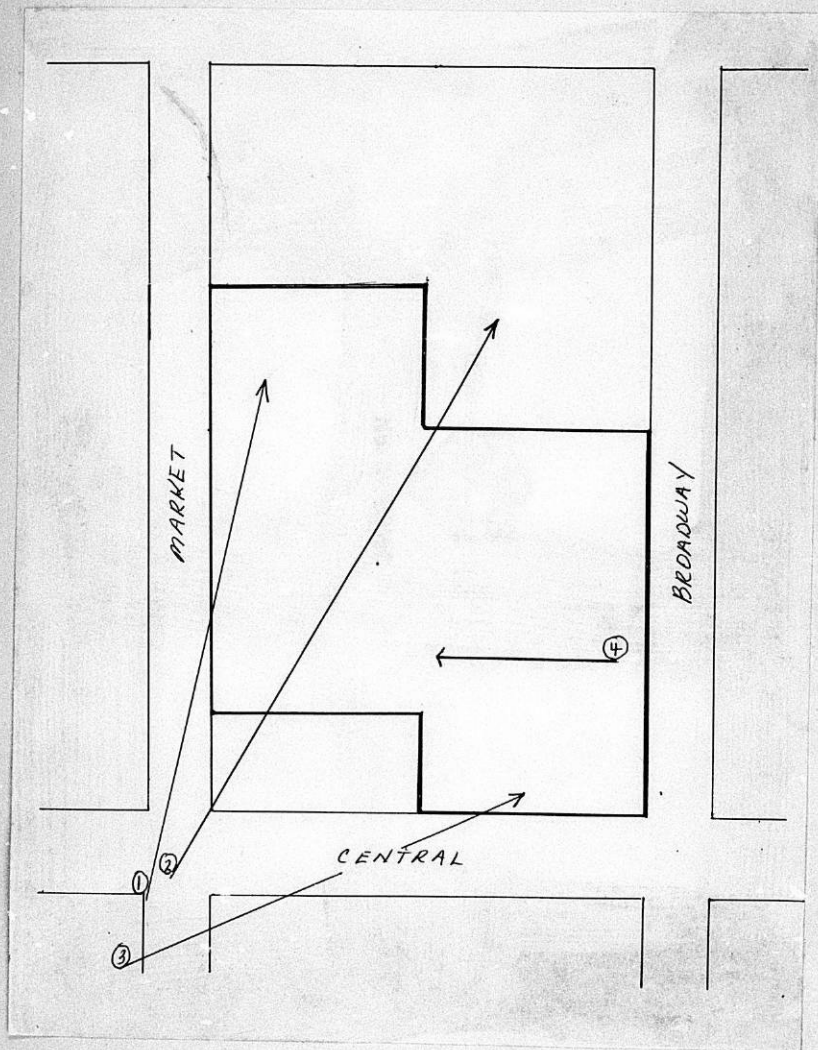


3



4





*

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