

BZA 16-65 - Hal H. Lockett & Artie B. Vaughn request variance for parking at the southwest corner of Wichita and Central

F-4
Passed
7-15-65

ACTION

Bya COMMITTEE *Self* DATE *4-27-65*
Bya *Special Variance* *5-25-65*
Final Appeal

M.A.P.C.

B.C.C./B.C.C. *Granted Variance 6/29/65*
with bond conditions

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

TO The files

DATE July 7, 1965

FROM Jack H. Galbraith, Senior Planner

J.H.G.

SUBJECT BZA Case No. 16-65

Attached is a copy of an excerpt from the minutes of the Board of City Commissioners' regular meeting of June 29, 1965. The Board of City Commissioners granted the variance from 14 spaces to 8 spaces and no conditions of approval were included in the motion.

JHG:mb
Attachment

Glen Lytle, Central Inspection

July 7, 1965

Jack H. Galbraith, Senior Planner, Planning Department

BZA Case No. 16-65

For your information and files, attached is a copy of an excerpt from the minutes of the Board of City Commissioners' regular meeting of June 29, 1965.

As you are aware, there were two appeals on this case. One was appealing the variance granted by the Board and the other was appealing the decision of the Board to uphold the decision of the Superintendent of Central Inspection to require that off-street parking spaces be provided in the ratio of 1 off-street parking space for each 250 square feet of floor space, which includes areas utilized for restrooms, employees' lounge and storage space in the basement area.

The Board of City Commissioners granted the variance from 14 spaces to 8 spaces and no conditions of approval were included in the motion.

JHG:mb
Attachment

Stevens --

Commissioner Stevens stated that it would be reasonable to assume that automobile dealers could claim discrimination if the ordinance were adopted, and could demand the same protection as would be afforded the used furniture dealers. He further pointed out that the proposed ordinance could prohibit the elderly or handicapped person from conducting a sale by limiting those who could assist to the immediate family residing with the licensee.

Bogart --

Commissioner Bogart stated that he wanted the point clarified as to whether or not the occasional garage sale, as we now think of it, is prohibited under the present ordinance.

rd. to be re-
submitted to Dept.
of Law for further
consideration &
amendment & return-
ed to Comm. meeting
July 13, 1965

Tarrant moved that this proposed ordinance be re-submitted to the Department of Law for further consideration and amendment, in light of the testimony presented here today, as well as the several considerations expressed by the Commissioners of this bench, to be returned at the regular City Commission meeting two weeks hence. (July 13, 1965).

Bogart --

Commissioner Bogart stated he would second the motion with the assurance that line of questioning concerning terminology of garage sales would be clarified.

Tarrant --

Mayor Tarrant stated that the bench was extremely sensitive to the bringing of government this much closer to the individual, however they did have the responsibility, which they could not shirk, of the obligation to the individual and to his neighbors, and in this light perhaps a workable ordinance could be developed; one not specific to case, but one which would place the burden upon the citizen himself, as a responsibility of citizenship, to cite the offense if he so observes, and one which would permit this type of activity within the "AA" zoning ordinance.

Motion carried 4 to 1. Stevens voting "No".

Bogart - introduced
John Howell who
was present at
meeting

Commissioner Bogart introduced John Howell, a student at Kansas University, who has been assigned to the District Court to sit with and observe the problems of the Judge, and whom Judge Kline assigned to attend the City Commission meeting today.

Report from Board
of Zoning Appeals
re. Case No. BZA
16-65

Report from the Board of Zoning Appeals regarding Case No. BZA 16-65, presented.

Jack Galbraith --

Jack Galbraith, Senior Planner, reported that at the meeting of June 8, 1965, the Commission received an appeal from the decision of the Board of Zoning Appeals to grant a variance to reduce the requirements of off-street parking space as required under Section 28.04.140 of the Code of the City of Wichita, from 14 to 8 spaces; that the appeal had been referred to the Board of Zoning Appeals, who reviewed the case and were submitting the subject report.

Tarrant --

Mayor Tarrant stated that he was aware that the problem was a knotty one, however he believed it could be disposed of by a legal determination as to whether or not closets were to be counted in the square footage of the building as used in the determination of required parking spaces.

John Dekker --

Director of Law stated that both the Central Inspection Division and the Board of Zoning Appeals had found that the dimensions of the building, and number of floors, to be such as to require the 14 parking spaces.

Mr. Artie Vaughn --

Mr. Artie Vaughn, co-owner of the building at 301 West Central, the property under discussion, stated that their appeal was relative to whether or not the basement and storage areas was to be used in computing the amount of floor area. Mr. Vaughn contended that this space was not to be used for office purposes and therefore should not be figured in parking requirements.

5/29/65

Glen Lytle -- In answer to question by Mayor Tarrant, Glen Lytle, Superintendent of Central Inspection, stated that at the time Mr. Vaughn had presented the preliminary plans, Central Inspection had computed the parking requirements to eight spaces, however when the final plans were reviewed, an error was disclosed in the earlier computation and fourteen spaces should actually be required.

Tarrant -- Mayor Tarrant stated that in view of this statement, he believed the case was closed, that the City was at fault and he could not see how the Commission could be punitive on the part of the applicants who had gone ahead with their plans on the basis of the information received from the City.

Tarrant - motion that variance be granted Tarrant moved that the variance be granted.

Discussion was had on whether the proper action would be to grant the appeal or the variance.

Mr. William Palmer -- Mr. William Palmer, Attorney representing Rounds and Porter Lumber Company, stated that Rounds and Porter had leased the portion of the property under question to Mr. Vaughn for parking purposes, and that they would favor a reversal of the Central Inspection opinion that 14 parking spaces were required, rather than the granting of a variance. He pointed out that his client feared that future development in the area might also be granted such variance, resulting in an overflow of vehicles onto the Rounds and Porter parking area.

Tarrant -- Mayor Tarrant stated that the staff error involved in this case certainly would not be the basis for establishing a precedent.

Bogart -- Commissioner Bogart stated that he felt a worse precedent would be established if the BZA ruling were reversed by stating that the parking spaces were not necessary because of an error in the formula used for computation. He further stated that the variance would recognize a hardship occasioned to the petitioner and the minutes would reflect that the Commission in no way indicated, by the approval of this variance, that they were looking with favor upon any other applications which were not accompanied by this hardship and neither would this case constitute a precedent for the granting of future variances where the applicant has been misadvised.

It was the consensus of the Commissioners that the granting of this variance would in no way establish a precedent as to future cases.

Motion carried unanimously.

Jack Galbraith -- Jack Galbraith, Senior Planner, pointed out that the Board of Zoning Appeals had recommended that if the variance were granted it should be conditioned upon the provision that in no event would any portion of the basement be used for office space.

Tarrant -- Mayor Tarrant pointed out that the variance had been granted by unanimous vote and that there was no condition included in the motion.

Dedication for street r/w in area on east side of roadway between 3rd St. So. & McArthur Road Report from the Metropolitan Area Planning Commission transmitting dedication (D-0287) for street right of way in an area on the east side of Broadway between 43rd Street South and McArthur Road to fulfill right-of-way requirements in conjunction with a zoning application, presented. Approved by the Metropolitan Area Planning Commission on June 17, 1965.

Dedication from Abe Goldstein and Bessie Goldstein, dated June 3, 1965, covering the west 50 feet of the following described tract, and the west 80 feet of the east 380 feet of the following described tract, to-wit: Beginning 1745.51 feet north of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the Sixth P.M., thence east 1323 feet;

The City of Wichita

CITY BUILDING ANNEX · TELEPHONE AMherst 2-8211

WICHITA, KANSAS

BOARD OF ZONING APPEALS
Office of Secretary

June 17, 1965

Board of City Commissioners
City Building
Wichita, Kansas

Gentlemen:

Re: Report to the City Commission
regarding Board of Zoning Appeals
Case No. BZA 16-65

Artie E. Vaughn, on behalf of Hal H. Lockett and Artie E. Vaughn, attorneys at law, filed an application for a variance before the Board of Zoning Appeals, requesting that the requirement of 14 off-street parking spaces be reduced to 8 off-street parking spaces for their new office building being constructed at the southwest corner of Wichita and Central. Section 28.04.140.A.2.9 of the Code of the City of Wichita, requires that one off-street parking space be provided for each 250 square feet of floor area. The Central Inspection office, at the time the preliminary plans for the proposed office building were reviewed, required that 8 off-street parking spaces be provided for the proposed office structure. However, at the time the final building plans were reviewed, the Central Inspection office required 14 parking spaces for the proposed office building rather than 8 spaces as originally required. This determination was made on the basis of requiring one space for each 250 square feet of floor area, which included areas devoted to storage space, closet space, rest rooms and lounge facilities in the basement area. The applicant then requested a variance pursuant to Section 2.12.590.2, of the Code of the City of Wichita, for a reduction from 14 off-street parking spaces down to 8 spaces.

As required by state law and city ordinance, proper legal advertising and individual notices were mailed to all property owners within 200 feet of the applicants' property. The Board of Zoning Appeals held its meeting on March 27, 1965, and heard the proponents and opponents. It should be noted that William Palmer, on behalf of Rounds and Porter Lumber Company, Inc., objected to the granting of the variance.



The city ordinance governing the action 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:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district;
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal;
4. 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.

SUMMARY OF BOARD OF ZONING APPEALS ACTION (BZA 16-65)

On April 27, 1965, the Board of Zoning Appeals considered the request of the applicants for a variance of the parking requirements. The action of the Board was to defer the variance and to direct the Secretary to advertise for an appeal from the order of the Superintendent of Central Inspection requiring that areas devoted to storage, closet space, rest room facilities and lounge facilities should be classified as "floor area" and should be used in calculating the required amount of off-street parking spaces. It should be noted that if these areas were not used in calculating the required parking space that 8 spaces is all that would be required. The basic reason the Board directed the Secretary to advertise for an appeal was that it was the general consensus of the Board that the basic question was, What should be included under the term "floor area" in calculating the required amount of parking spaces when this term was not defined in the ordinance.

On May 25, 1965, the Board of Zoning Appeals considered the appeal from the order of the Superintendent of Central Inspection requiring that areas devoted to storage, closet space, rest room and lounge facilities should be used in the calculation of the required amount of parking spaces. The action of the Board was to deny the appeal on the basis that the Superintendent of Central Inspection had interpreted the ordinance correctly in requiring that these areas should be used in calculating the required off-street parking space.

Upon denial of the appeal, the Board then moved to take up consideration of the applicants' request for a variance, which was deferred at the April 27th meeting.

Following are reasons offered by the Board as to why each of the four conditions necessary to the granting of a variance were found to exist:

UNIQUENESS - Found in favor of the Applicants

The Board of Zoning Appeals found that the request for a variance was unique and not ordinarily found in the same zoning district inasmuch as the basement area is not going to be utilized for office facilities, but only for rest room facilities, employees' lounge and storage, and it seems unreasonable to require off-street parking spaces for such areas. The Board determined that the Superintendent of Central Inspection's interpretation was correct in including such areas when calculating the required off-street parking space inasmuch as the ordinance does not define "floor area" so an interpretation of floor area must include the total floor area inside the walls of the building. The Board also felt that the request was somewhat unique inasmuch as the Central Inspection office approved the preliminary plans for the office facility which made provisions for only 8 off-street parking spaces. However, when the final plans were submitted the Central Inspection office considered the basement area in computing the off-street parking requirements and determined that 14 off-street parking spaces should be required.

RIGHTS OF ADJACENT PROPERTY OWNERS - Found in favor of the applicants

The Board of Zoning Appeals found that the granting of the variance would not adversely affect the adjacent property owners inasmuch as 8 parking spaces appeared to be sufficient for the use proposed.

HARDSHIP - Found in favor of the Applicants

It was the feeling of the Board that the strict application of the enforcement provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as 8 off-street parking spaces is all that can be provided on this specific property. The Board also felt that the applicant was burdened with an unnecessary hardship inasmuch as the applicants had proceeded with purchase of the property, architect's services and contracted for construction of the office building after having obtained the approval of the plot plan (the preliminary plans indicated 8 off-street parking spaces) from the office of the Superintendent of Central Inspection.

PUBLIC INTEREST - Found in favor of the applicants

The Board of Zoning Appeals found that the granting of the variance would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Upon finding all four conditions to exist, the Board approved the variance, subject to the following conditions:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas;
2. In no event shall any portion of the basement area be utilized for office facilities.

APPEAL OF THE BOARD'S DECISION TO GRANT THE VARIANCE

William E. Palmer, on behalf of Rounds and Porter Lumber Co., Inc. filed an appeal of the Board's decision to grant the variance on the basis that:

1. The four specific conditions which were required to be found before a variance can be granted as provided in Section 2.12.590.2, are not present.
2. The portion of the decision which provides "in no event shall any portion of the basement area be utilized for office facilities" is virtually un-enforceable.

William E. Palmer, on behalf of Rounds and Porter Lumber Co., Inc. has offered no reasons or evidence as to how the Board erred in making its decision to grant the variance and, therefore, it is the feeling of the Board that its original decision to grant the variance was the correct decision, and it is, therefore, recommended that the decision of the Board to approve the variance be upheld.

APPEAL OF THE BOARD'S DECISION TO REQUIRE OFF-STREET PARKING FOR TOTAL FLOOR AREA

Artie E. Vaughn, on behalf of himself and Hal Lockett, attorneys at law, also appealed the decision of the Board of Zoning Appeals to uphold the decision of the Superintendent of Central Inspection to require that off-street parking be provided in the ratio of one off-street parking space for each 250 square feet of floor area which includes areas utilized for rest rooms, employes' lounge, and storage space in the basement area.

Page 5 - Board of City Commissioners
June 17, 1965

The Board, in considering its action, determined that in computing off-street parking requirements under the terms of the zoning ordinance that the Superintendent of Central Inspection was correct in requiring that off-street parking be required for the total floor area (including areas utilized for rest rooms, employees' lounge and storage space in the basement area) since the zoning ordinance does not define floor area or exclude these areas.

Based upon the foregoing review of this case and the associated appeal, it is the feeling of the Board that its original decision to uphold the decision of the Superintendent of Central Inspection was the correct decision inasmuch as the appellants offered no reasons as to why the Board erred in making its decision. Therefore, it is recommended that the decision of the Board to uphold the decision of the Superintendent of Central Inspection be approved.

Respectfully submitted,



Jack H. Galbraith
Secretary

JHG:JWH:ber

Attachments: #1 - Secretary's report on variance request
#2 - Secretary's report on the appeal
#3 - Excerpt from Minutes of BZA meeting of April 27, 1965
#4 - Excerpt from Minutes of BZA meeting of May 25, 1965

SECRETARY'S REPORT

CASE NO. BZA 16-65

APPLICANT: Hal E. Lockett and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to request that the required 14 off-street parking spaces be reduced to 8 off-street parking spaces for property located at 301 West Central.

ZONING: Property in question and all surrounding property is zoned "E" Light Industrial.

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicants are currently in the process of constructing an office building for attorneys at this location. As pointed out in the statement of justification, originally 8 spaces is all that was required by the Central Inspection office at the time the architects discussed with them the off-street parking space requirements for the proposed addition. However, at the time the final plans were submitted to the Central Inspection office it was found that there would be a basement in the proposed office building which would contain 1800 square feet and, therefore, the applicants were required to provide 6 more

spaces or a total of 14 spaces before obtaining a building permit. It was pointed out in the statement of justification that the requirement of 14 off-street parking spaces is unreasonable inasmuch as the basement area of the building will be used completely for storage and will not be used for any office facility. The Central Inspection office has informed the Secretary that the plans also indicate an employees' lounge and rest room facilities in the basement.

UNIQUENESS

It is the opinion of the Secretary that if the basement is not going to be utilized for any office facility and if it is going to be utilized only for storage, that this request is somewhat unique inasmuch as it seems unreasonable to require off-street parking spaces for storage areas.

On the other hand, if the basement will be utilized for space such as lounge, library and rest rooms, then the off-street parking requirements should be for the total floor area.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect any adjacent property.

HARDSHIP

It is the opinion of the Secretary that the applicants will be burdened with an unnecessary hardship if the variance is not granted inasmuch as 8 off-street parking spaces is all that can be provided on this specific piece of property and, further, it would be even a greater hardship for the applicant to acquire additional property in order to provide 6 additional off-street parking spaces, especially when these 6 spaces are required for an area that is going to be utilized completely for storage.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance will in no way adversely affect the public interest.

RECOMMENDATION

It is the opinion of the Secretary that all four conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions and requirements:

Page 3 - Secretary's Report
Case No. BEA 16-65

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgewick County, Kansas.
2. In no event shall any portion of the basement area be utilized for office facilities.

SECRETARY'S REPORT

CASE NO. BZA 16-65

APPLICANT: Hal H. Lockett and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Appeal from the order of the Superintendent of Central Inspection requiring that basement storage and non-office use floor area requires off-street parking under Section 28.04.140.A.2.9, Code of the City of Wichita.

ZONING: The property in question and all surrounding property is zoned "E" Light Industrial.

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the appeal under provisions outlined in Section 2.12.590.1, Code of the City of Wichita.

COMMENTS BY THE SECRETARY

As the Board will recall, the applicants represented in this case were before the Board at its last regular meeting and at that time they requested a variance for reduction of required off-street parking spaces in conjunction with construction of a new office building at the southwest corner of Wichita and Central. Specifically, the applicants were required to provide 14 off-street parking spaces; however, 8 spaces were all that could be provided on the property in question, which resulted in the applicants requesting a reduction of required off-street parking spaces from 14 down to 8 spaces.

It was pointed out in the statement of justification that at the time the architect discussed the matter of off-street parking with the Central Inspection office, they were told that 8 spaces were all that would be required for the proposed office building. However, when the final plans were submitted (which it is the understanding of the Secretary included facilities for a lounge and rest room in the basement which was not shown in the original plan), they were told by the Central Inspection office that they would have to provide 14 off-street parking spaces. This determination was made on the basis of requiring one off-street parking space for each 250 square feet of floor area in the office building.

It appears that the primary matter of concern in this particular instance is what is to be included under the term "floor area". In calculating the required amount of off-street parking spaces should "floor area" include such things as lounges, rest room facilities, broom closets, storage areas, areas utilized for airconditioning and heating facilities, stairways, etc., or should these areas be excluded from the area to be calculated for off-street parking.

Floor area as defined in the preliminary draft of the Prototype ordinance is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows:

For Determining Off-Street Parking and Loading Requirements:

The sum of the following areas: (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets; (2) any basement floor area devoted to retailing activities; and (3) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

At the time the matter was before the Board at its last regular meeting, the Secretary was of the opinion that basement storage areas should not be used in calculating the required amount of off-street parking. The Secretary is still basically of the opinion that areas such as broom closets, basement storage areas, areas utilized for heating and airconditioning units, etc. should not be used in calculating the required amount of off-street parking. However, after discussing the reasons as to why the Central Inspection office used total floor area in calculating the number of spaces required for off-street parking, the Secretary has gained a new perspective on this matter.

The main problem seems to center around the fact that when areas used for storage, lounge facilities, etc., are not included under total floor area in calculating the required amount of off-street parking spaces, it often times leads to rather serious problems in the future. For instance, once a building is constructed

and the required amount of off-street parking spaces has been determined, it is still possible that areas utilized for lounge or storage facilities could at some future date be converted into additional offices, etc., which would require additional off-street parking. However, many times when this is done a building permit is not obtained and the resulting effect is that additional office facilities are created which generate additional off-street parking without the spaces actually being provided. If all individuals would obtain a building permit at the time any new facilities are created within an existing building, such as offices, etc., which would generate additional off-street parking, there would be very little, if any, problem.

So, again, it appears that this is not only a matter of interpretation as to what is to be included under the term "floor area" in calculating the necessary amount of required off-street parking spaces, but also is a matter of enforcement in that once a building is constructed people are often times negligent in obtaining a building permit whenever facilities are created which would generate additional off-street parking. The Central Inspection office simply does not have the manpower to continually check on matters of this type.

It should be pointed out that the applicant has filed a letter with the Superintendent of Central Inspection indicating that they will comply with whatever requirements are made as far as off-street parking facilities are concerned. Based upon the statement contained in this letter, the applicant was issued a building permit and the office building is presently under construction. It is assumed that if this appeal is denied, the applicants would have to acquire additional property in order to provide the necessary parking.

It should also be pointed out to the Board that the only matter up for consideration is an interpretation of what should constitute floor area in calculating off-street parking. It is the opinion of the Secretary that if this appeal is granted, the Board does not have the right to attach any conditions to the approval of the appeal, such as requiring the applicant to provide additional off-street parking if the storage area and lounge facilities in the basement are ever converted into additional office facilities.

Recommendation

Based upon the foregoing comments, and the definition of floor area in the proposed Prototype Ordinance, it is the recommendation of the Secretary that the applicants not be required to provide off-street parking for the area included in the basement unless the basement is later converted into additional office space.

EXCERPT FROM MINUTES OF BOARD OF ZONING APPEALS MEETING OF
APRIL 27, 1965

8. Case No. BZA 16-65 - Hal H. Lockett and Artie E. Vaughn request a Variance from Section 28.04.140, Code of the City of Wichita, to reduce parking requirements from 14 spaces to 8 spaces for property zoned "E" Light Industrial, and legally described as Lot 4 on Central Avenue, Center Addition. Generally located at the southwest corner of Central and Wichita.

HOWE pointed out the area on the map and reviewed the following report of the Secretary:

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicants are currently in the process of constructing an office building for attorneys at this location. As pointed out in the statement of justification, originally 8 spaces is all that was required by the Central Inspection office at the time the architects discussed with them the off-street parking space requirements for the proposed addition. However, at the time the final plans were submitted to the Central Inspection office, it was found that there would be a basement in the proposed office building which would contain 1800 square feet and, therefore, the applicants were required to provide 6 more spaces or a total of 14 spaces before obtaining a building permit. It was pointed out in the statement of justification that

the requirement of 14 off-street parking spaces is unreasonable inasmuch as the basement area of the building will be used completely for storage and will not be used for any office facility. The Central Inspection office has informed the Secretary that the plans also indicate an employees' lounge and rest room facilities in the basement.

UNIQUENESS

It is the opinion of the Secretary that if the basement is not going to be utilized for any office facility and if it is going to be utilized only for storage, that this request is somewhat unique inasmuch as it seems unreasonable to require off-street parking spaces for storage areas.

On the other hand, if the basement will be utilized for space such as lounge, library and rest rooms, then the off-street parking requirements should be for the total floor area.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect any adjacent property.

HARDSHIP

It is the opinion of the Secretary that the applicants will be burdened with an unnecessary hardship if the variance is not granted inasmuch as 8 off-street parking spaces is all that can be provided on this specific piece of property and, further, it would be even a greater hardship for the applicant to acquire additional property in order to provide 6 additional off-street parking spaces, especially when these 6 spaces are required for an area that is going to be utilized completely for storage.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance will in no way adversely affect the public interest.

RECOMMENDATION

It is the opinion of the Secretary that all four conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions and requirements:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas.
2. In no event shall any portion of the basement area be utilized for office facilities.

HOWE also reported that a written protest has been received by the Secretary from Rounds and Porter, owner of property adjoining on the south, and actually the owner of the southern portion of subject property which has been leased to the applicants for off-street parking facilities. He continued that the lease indicates that the property involved shall not be used "...in contravention of the law or of any ordinance of the City of Wichita."

HOWE said it was his feeling that the lease arrangements are a matter between the lessee and lessor and that it was still the opinion of the Secretary that the variance should be granted, in view of the inclusion in the suggested conditions that no part of the basement area will be used for office facilities. He also pointed out that if the basement area is not included in the calculations, that eight spaces is all that would be required for the one story office building.

MOORE suggested too that perhaps the lease terms should not be considered as a factor in determining the merits of this application, and assumed that any lease of property would be for a use permitted by law. He inquired what authority this Board had to restrict the use of the basement as suggested by the staff (or area on any floor level for that matter.) BAUER pointed out that the Board does have authority to attach conditions to the approval of a variance in order to control the use of property to some degree.

MOORE pointed out that apparently the Board could grant the request, subject to the restriction that at no future time can the basement area be converted to office facilities, if the Board decides that the basement area should not be considered in computing parking requirements, since the stated use of the basement will be for lounge and rest room facilities and storage. MOORE inquired as to what steps could be taken if, in the future, office space was created in the basement without providing additional off-street parking, and was informed that the Superintendent of Central Inspection could require the removal of such office space; ask that the applicants acquire more area to provide additional parking; or an injunction could be filed to stop the operation.

WM. PALMER, representing Rounds and Porter, spoke in opposition to the request, and pointed out "that the provisions of the lease agreement do not contemplate or provide for applicant's authority to seek any change or variance of the zoning ordinance of the City of

Wichita, Kansas insofar as they pertain to the property here in question." MR. PALMER continued that Rounds and Porter have a rather large warehouse, with office facilities, to the south of subject property which provides adequate off-street parking for their own use (employees and customers), and it was his feeling that if this variance is granted, their own parking facilities will be plagued with trespassers, as it already is to some extent by residents of the area or customers of nearby businesses, and the public in general.

MR. PALMER indicated that their parking facilities are used to 99% capacity almost every day and that it is apparent that additional off-street parking is needed in this general area. He also pointed out that it is likely that the granting of this variance will soon lead to other similar requests inasmuch as there are vacant lots in the general area which no doubt will soon be developed, and new development will result in an additional parking burden on the area. He also stated that this would result in their own parking facilities being plagued and overrun with overflow parkers from other businesses.

It was MR. PALMER'S feeling that the zoning ordinance is designed to protect the public interest and to provide protection for private property owners, and he did not think to grant this request would be providing the protection originally intended. MR. PALMER also said that two of the four conditions which the Board must find to exist before a variance can be granted, do not exist, i.e. this is not a unique situation but, rather, the applicants are attempting to construct too large a building on too small a parcel and, further, the granting of the variance would definitely adversely affect the adjoining property rights.

MR. PALMER agreed that their lease with the applicant was for use of the property for parking; however, he pointed out that they are opposed to a variance of parking requirements.

BAUER noted that it is a unique situation inasmuch as the office of Central Inspection apparently originally required only 8 spaces at the time the architect discussed the construction with that office, but when the permit was applied for, it was decided to include the basement area in the calculations. He commented that apparently the number of spaces required hinges on whether or not the basement area is included in the parking computations.

HOWE then suggested that possibly the request or application should have been for an appeal of the decision of the Central Inspection Superintendent, as to whether or not the basement area should be included in the calculations for off-street parking.

ARTIE VAUGHN, one of the applicants, said the ground floor space is approximately 1800 square feet, which would require seven off-street parking spaces for the part of the building which will be used for offices. The basement will be used for storage, rest room, lounge and kitchenette, furnace, sump pump and other maintenance requirements. He pointed out that with the above uses in the basement, there would be no room to create another office room.

MR. VAUGHN continued that about 40% of the basement will be utilized for storage. He also pointed out that on the first floor there will be three offices, space for library, receptionist room, and that there will be three attorneys and two secretaries. MR. VAUGHN said that the Superintendent of Central Inspection has granted the building permit, subject to the filing of this application with this Board, and it was his understanding that the Superintendent of Central Inspection feels the application is merited.

HOWE pointed out that in talking with the Superintendent of Central Inspection, he was informed that the permit was issued on the understanding that if this Board did not grant the variance then the applicants would have to provide the required parking elsewhere. MR. VAUGHN said that he has given the Superintendent of Central Inspection a letter to that affect.

There was brief discussion of the merits of this actually being the basis for an appeal rather than a request for variance, and ART JOHNSON indicated the desirability of the Board's consideration of this matter being based on an appeal application rather than application for variance.

MOTION: MOORE moved, HARTSTEIN seconded and it carried by a vote of three in favor (Moore, Hartstein and Bauer) and one opposed (Irwin), that this case be deferred until the next meeting of the Board, and to suggest to the applicants that they refile the request on the basis of an appeal from the decision of the Superintendent of Central Inspection, and that advertising and processing of this application be without further cost to the applicants.

EXCERPT FROM MINUTES OF BOARD OF ZONING APPEALS MEETING OF
MAY 25, 1965

2. Case No. BZA 16-65 - Hal H. Lockett and Artie Vaughn appeal from the order of the Superintendent of Central Inspection, who has determined that basement storage and non-office use floor area requires off-street parking, on property zoned "E" Light Industrial, and legally described as Lot 4 on Central Avenue, Center Addition. Generally located at the southwest corner of Central and Wichita.

CALBRAITH pointed out the area on the map and reviewed the Secretary's report as follows, noting also that the Superintendent of Central Inspection is not in agreement with the Secretary in his analysis of this case.

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the appeal under provisions outlined in Section 2,12,590.1, Code of the City of Wichita.

COMMENTS BY THE SECRETARY

As the Board will recall, the applicants represented in this case were before the Board at its last regular meeting, and at that time they requested a variance for reduction of required off-street parking spaces in conjunction with construction of a new office building at the southwest corner of Wichita and Central. Specifically, the applicants were required to provide 14 off street parking spaces; however, 8 spaces were all that could be provided on the property in question, which resulted in the applicants requesting a reduction of required off-street parking spaces from 14 down to 8 spaces.

It was pointed out in the statement of justification that at the time the architect discussed the matter of off-street parking with the Central Inspection office, they were told that 8 spaces were all that would be required for the proposed office building. However, when the final plans were submitted (which it is the understanding of the Secretary included facilities for a lounge and rest room in the basement which was not shown in the original plan), they were told by the Central Inspection office that they would have to provide 14 off-street parking spaces. This determination was made on the basis of requiring one off-street parking space for each 250 square feet of floor area in the office building.

It appears that the primary matter of concern in this particular instance is what is to be included under the term "floor area". In calculating the required amount of off-street parking spaces, should "floor area" include such things as lounges, rest room facilities, broom closets, storage areas, areas utilized for airconditioning and heating facilities, stairways, etc., or should these areas be excluded from the area to be calculated for off street parking.

Floor area as defined in the preliminary draft of the Prototype ordinance is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows:

For Determining Off-Street parking and Loading Requirements:

The sum of the following areas: (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets; (2) any basement floor area devoted to retailing activities; and (3) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional office.

At the time the matter was before the Board at its last regular meeting, the Secretary was of the opinion that basement storage areas should not be used in calculating the required amount of off street parking. The Secretary is still basically of the opinion that areas such as broom closets, basement storage areas, areas utilized for heating and airconditioning units, etc., should not be used in calculating the required amount of off-street parking. However, after discussing the reasons as to why the Central Inspection office used total floor area in calculating the number of spaces required for off-street parking, the Secretary has gained a new perspective on this matter.

The main problem seems to center around the fact that when areas used for storage, lounge facilities, etc., are not included under total floor area in calculating the required amount of off-street parking spaces, it often times leads to rather serious problems in the future. For instance, once a building is constructed and the required amount of off-street parking spaces has been determined, it is still possible that areas utilized for lounge or storage facilities could at some future date be converted into additional offices, etc., which would require additional off street parking. However, many times when this is done a building permit is not obtained and the resulting effect is that additional office facilities are created which generate additional off-street parking without the spaces actually being provided. If all individuals would obtain a building permit at the time any new facilities are created within an existing building, such as offices, etc., which would generate additional off-street parking, there would be very little, if any, problem.

So, again, it appears that this is not only a matter of interpretation as to what is to be included under the term "floor area" in calculating the necessary amount of required off-street parking spaces, but also is a matter of enforcement in that once a building is constructed people are often times negligent in obtaining a building permit whenever facilities are created which would generate additional off-street parking. The Central Inspection office simply does not have the manpower to continually check on matters of this type.

It should be pointed out that the applicant has filed a letter with the Superintendent of Central Inspection indicating that they will comply with whatever requirements are made as far as off-street parking facilities are concerned. Based upon the statement contained in this letter, the applicant was issued a building permit and the office building is presently under construction. It is assumed that if this appeal is denied, the applicants would have to acquire additional property in order to provide the necessary parking.

It should also be pointed out to the Board that the only matter up for consideration is an interpretation of what should constitute floor area in calculating off-street parking. It is the opinion of the Secretary that if this appeal is granted, the Board does not have the right to attach any conditions to the approval of the appeal, such as requiring the applicant to provide additional off-street parking if the storage area and lounge facilities in the basement are ever converted into additional office facilities.

Recommendation

Based upon the foregoing comments, and the definition of floor area in the proposed Prototype Ordinance, it is the recommendation of the Secretary that the applicants not be required to provide off-street parking for the area included in the basement unless the basement is later converted into additional office space.

WM. PALMER, on behalf of Rounds and Porter, said they have no great objection to the Board granting or reversing the ruling of the Superintendent of Central Inspection, however, he did advise the Board of their concern with respect to the area in the vicinity of the courthouse in case of future applications for parking requirement variances. He said they considered such actions a threat to their own parking facilities provided just south of subject area for their employees and customers. He indicated that if offices were some day established in the basement of the building under construction, then, of course, they would be opposed unless further parking was provided.

BAUER asked whether or not the basement area was shown when first submitted to the Central Inspection office. ARTIE VAUGHN felt that it was shown and pointed out that it might have been overlooked at the time, but he was not completely sure of this. He

pointed out the plan which is being followed in constructing the building shows about half the basement area unfinished, and the rest is hallway, rest room facilities, lounge and kitchen.

In the discussion, reference was made to the Secretary's report wherein he has shown that in the preliminary draft of the prototype zoning ordinance now being prepared, it is proposed that floor area shall not include space devoted primarily to storage purposes, or basement floor area other than that devoted to retailing activities, the production or processing of goods, or business or professional offices. The Chairman pointed out that of course the Board would have no jurisdiction to apply the above proposed definition at this time inasmuch as it is merely under consideration in preliminary stage.

L. L. BINKLEY, representing the Central Inspection office, pointed out that the basement floor area is no different from a rear room on the first floor or similar areas on other floors, and that from the wording in the zoning ordinance (Section 28.04.140.2.9), i.e. "... Office and commercial buildings, including governmental, public utility and other similar buildings shall provide one space for each 250 square feet of floor area or one space for every three employees in the largest working shift in a 24-hour period, whichever is the greatest," it was his feeling that these areas should be used in calculating the required parking spaces.

IRWIN inquired whether or not the previous application for a variance had been withdrawn and the Chairman said it had not been and that perhaps the Board should act on the previous application first.

JOHNSON pointed out that at the previous meeting there was some question of whether or not the four conditions could be met.

The Chairman pointed out that at the last meeting there was a difference of opinion as to the interpretation of what area should be used in computing off-street parking requirements. It was his personal opinion that a basement and storage area should not be included, however, he noted that since floor area is not defined, the Central Inspection office has no alternative but to consider all floor area within the walls of a structure in calculating the required parking spaces.

VAUGHN pointed out that the term "floor area" has been given a very rigid interpretation and he did not believe that was the intent of the city ordinance. One reason for this is that the ordinance provides for one space for each 250 square feet or for every three employees, whichever is the greatest. He felt this was an expression

of the intent and he interpreted the ordinance as meaning that space that is not included in the contract plans for finished area should not be required for parking computation. In this case, the only space that will be used is the ground floor of 1800 square feet, and it is not contemplated that any future use of the property will be different than now proposed. He indicated that he realized the enforcement is difficult, if use of property is changed without notifying the Central Inspection Division, but he has done everything possible to indicate good faith. Further, the Central Inspection Division has a letter from him that they (the applicants) will abide by whatever rules and requirements the city ordinance requires. He stated that they intend to own subject property permanently, and he did not consider it realistic to interpret the ordinance as rigidly as Central Inspection does.

The Chairman pointed out that any restrictions imposed, if the application is granted, would apply on the property, regardless of any future ownership.

JOHNSON pointed out that the appeal should be decided - either the interpretation of Central Inspection is right or wrong, and if the Board determines it is right, then the Board can consider the variance application as originally filed, and can grant the variance if the four conditions are found to exist.

IRWIN said he was under the impression that the plans were originally submitted to Central Inspection and the applicants were told they needed 7 parking spaces, then as work progressed, or when a permit was requested after some expense, it was determined by the Central Inspection that there should be more spaces. BINKLEY, representing Central Inspection, said he was not too familiar with the circumstances with respect to this matter.

JOHNSON said it was his understanding that the architect went to the Central Inspection office and visited with someone there with respect to construction of the building. Based on that conversation, he was told that seven spaces were needed, but when the actual plans were submitted, they showed not only the floor area but also basement area. It was his opinion that when first discussed with the Central Inspection office no plans had actually been drawn up.

HAL E. LOCKETT said that the first time the architect talked to Central Inspection there were no plans, but in the discussion it was determined by Central Inspection that 7.2 spaces were needed. When the plans were next submitted to the Central Inspection office they were stamped "Approved" and indicated eight spaces required. Subsequently, bids were let, contract signed and application for a building permit made. It was at this time they were told that 14 spaces were required. LOCKETT pointed out that the "approved" plans

did show the basement area and the building now under construction is in accordance with those plans. The approved plans showed the lounge area, rest rooms and equipment area and a U-shaped portion of the basement as unfinished storage area.

LOCKETT continued that it was their feeling that the interpretation of the ordinance by the Central Inspection office is not correct on their assumption that the basement area should be included.

IRWIN asked JOHNSON if he thought the previous application for a variance would have to be readvertised before the Board could consider it. JOHNSON indicated that it would not need to be.

MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that the Board deny the appeal from the interpretation of the Superintendent of Central Inspection, wherein he has included basement area to be used for storage, rest rooms, lounge, and equipment as a part of the floor area in computing off-street parking requirements.

MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that the Board consider the request for a variance of parking requirements as originally filed by the applicants, and in this respect that it find that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the basement area is not going to be utilized for office facilities, but only for rest room facilities, employees' lounge, and storage, and it seems unreasonable to require off-street parking spaces for such areas, even though the Superintendent of Central Inspection was correct in including such areas when calculating the required off-street parking space inasmuch as the ordinance does not define floor area so an interpretation of floor area must include the total floor area inside the walls of a building; and further, it is unique in that the plot plan showing provisions for 8 off-street parking spaces was approved by the Central Inspection Office; however, when application was made for the building permit, that office considered the basement area in computing the off-street parking requirements and determined that 14 off-street parking spaces should be provided.

MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that the variance, as approved, will not adversely affect the rights of adjacent property owners inasmuch as it was the feeling of the Board that 8 off-street parking spaces would be sufficient for the use proposed.

MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the applicants inasmuch as 8 off-street parking spaces is all that can be provided on this specific property; and further, the applicants have proceeded with purchase of the property, architect's services, and contracted for construction of the office building after having obtained the approval of the plot plan (which indicated 8 off-street parking spaces) from the office of the Superintendent of Central Inspection; and further, when the building permit was applied for, the office of the Superintendent of Central Inspection determined that 14 spaces were necessary.

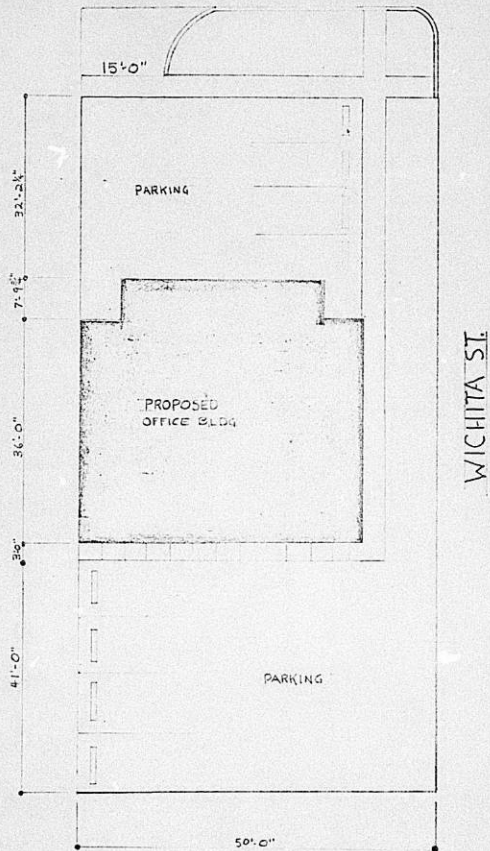
MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that the variance, as approved, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

MOTION: IRWIN moved, HARTSTEIN seconded and it carried unanimously that inasmuch as the four conditions required to be found to exist before a variance can be granted, have been found to exist, this application for a variance be approved as follows:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas;
2. In no event shall any portion of the basement area be utilized for office facilities,

and that the Superintendent of Central Inspection be authorized to issue the appropriate permit.

CENTRAL



N
1" = 20'

PLOT PLAN FOR OFFICE BUILDING AT THE SOUTHWEST CORNER OF WICHITA AND CENTRAL

R E S O L U T I O N N O . B Z A 1 6 - 6 5 (A)

One of Two Resolutions Associated with Case No. BZA 16-65

WHEREAS, Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, have appealed from the decision of the Superintendent of Central Inspection, as provided in Section 2.12.590.1, Code of the City of Wichita, in that the Superintendent of Central Inspection has determined that 14 off-street parking spaces are required in connection with the construction of an office building on property legally described as:

Lot 4 on Central Avenue, Center Addition to
Wichita, Sedgwick County, Kansas,

and located generally at the southwest corner of Central and
Wichita; 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 May 25, 1965; and

WHEREAS, the applicants appealed the decision of the
Superintendent of Central Inspection, who has computed the off-
street parking requirements based on the first floor of the office
building and the basement area, even though the basement area will
not be used for office facilities, but only for rest rooms,
employees' lounge, and storage; and

WHEREAS, the Board of Zoning Appeals determined that in
computing off-street parking requirements under the terms of the
Zoning Ordinance, the Superintendent of Central Inspection con-
siders all floor areas of a structure, including each floor (if
multiple story) and basement, regardless of use.


NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning
Appeals of the City of Wichita, Kansas, that this application be
denied, and the decision of the Superintendent of Central Inspec-
tion be upheld, with respect to off-street parking requirements on
the above described property.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1965.



Harold Bauer, Chairman

ATTEST



Jack H. Galbraith, Secretary

R E S O L U T I O N N O . B Z A 1 6 - 6 5 (B)

One of Two Resolutions Associated with Case No. BZA 16-65

WHEREAS, Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, have requested a variance of the Zoning Ordinance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, from the requirement of 14 off-street parking spaces under Section 28.04.140.2.9, Code of the City of Wichita, Kansas, to 8 off-street parking spaces, in connection with the construction of an office building on property generally located at the southwest corner of Central and Wichita, and legally described as:

Lot 4 on Central Avenue, Center Addition to
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 April 27, 1965, and at that time deferred the application until the next meeting on May 25, 1965; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on May 25, 1965; and

WHEREAS, the Board of Zoning Appeals has found that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the basement area is not going to be utilized for office facilities, but only for rest room facilities, employees' lounge, and storage, and it seems unreasonable to require off-street parking spaces for such areas, even though the Superintendent of Central Inspection was correct in including such areas when calculating the required off-street parking space inasmuch as the ordinance does not define floor area so an interpretation of floor area must include the total floor area inside the walls of the building, and further, it is unique in that the plot plan showing provisions for 8 off-street parking spaces was approved by the Central Inspection Office; however, when application was made for the building permit, that office considered the basement area in computing the off-street parking requirements and determined that 14 off-street parking spaces should be provided; and

WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the rights of adjacent property owners inasmuch as it was the feeling of the Board that 8 off-street parking spaces would be sufficient for the use proposed; 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 8 off-street parking spaces is all that can be provided on this specific property, and further, the applicants have proceeded with purchase of the property, architect's services, and contracted for construction of the office building after having obtained the approval of the plot plan (which indicated 8 off-street parking spaces) from the office of the Superintendent of Central Inspection; and further, when the building permit was applied for, the office of the Superintendent of Central Inspection determined that 14 spaces were necessary; and

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


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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the application for a variance be approved as follows:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas;
2. In no event shall any portion of the basement area be utilized for office facilities,


and that the Superintendent of Central Inspection be authorized to issue the appropriate permit.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1965.



Harold Bauer, Chairman

ATTEST:



Jack H. Galbraith
Secretary

R E S O L U T I O N NO. BZA 16-65(B)

One of Two Resolutions Associated with Case No. BZA 16-65

WHEREAS, Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, have requested a variance of the Zoning Ordinance, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, from the requirement of 14 off-street parking spaces under Section 28.04.140.2.9, Code of the City of Wichita, Kansas, to 8 off-street parking spaces, in connection with the construction of an office building on property generally located at the southwest corner of Central and Wichita, and legally described as:

Lot 4 on Central Avenue, Center Addition to 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 April 27, 1965, and at that time deferred the application until the next meeting on May 25, 1965; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on May 25, 1965; and

WHEREAS, the Board of Zoning Appeals has found that the request for a variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the basement area is not going to be utilized for office facilities, but only for rest room facilities, employees' lounge, and storage, and it seems unreasonable to require off-street parking spaces for such areas, even though the Superintendent of Central Inspection was correct in including such areas when calculating the required off-street parking space inasmuch as the ordinance does not define floor area so an interpretation of floor area must include the total floor area inside the walls of the building, and further, it is unique in that the plot plan showing provisions for 8 off-street parking spaces was approved by the Central Inspection Office; however, when application was made for the building permit, that office considered the basement area in computing the off-street parking requirements and determined that 14 off-street parking spaces should be provided; and

WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the rights of adjacent property owners inasmuch as it was the feeling of the Board that 8 off-street parking spaces would be sufficient for the use proposed; 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 8 off-street parking spaces is all that can be provided on this specific property, and further, the applicants have proceeded with purchase of the property, architect's services, and contracted for construction of the office building after having obtained the approval of the plot plan (which indicated 8 off-street parking spaces) from the office of the Superintendent of Central Inspection; and further, when the building permit was applied for, the office of the Superintendent of Central Inspection determined that 14 spaces were necessary; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that the application for a variance be approved as follows:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas;
2. In no event shall any portion of the basement area be utilized for office facilities,

and that the Superintendent of Central Inspection be authorized to issue the appropriate permit.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1965.

Harold Bauer
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith
Jack H. Galbraith
Secretary

RESOLUTION NO. BZA 16-65(A)

One of Two Resolutions Associated with Case No. BZA 16-65

WHEREAS, Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, have appealed from the decision of the Superintendent of Central Inspection, as provided in Section 2.12.590.1, Code of the City of Wichita, in that the Superintendent of Central Inspection has determined that 14 off-street parking spaces are required in connection with the construction of an office building on property legally described as:

Lot 4 on Central Avenue, Center Addition to
Wichita, Sedgwick County, Kansas,

and located generally at the southwest corner of Central and
Wichita; and

WHEREAS, proper notice as required by ordinance and by
the rules of the Board of Zoning Appeals has been given; and

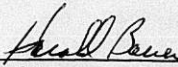
WHEREAS, the Board of Zoning Appeals did, in regular
meeting consider said application on May 25, 1965; and

WHEREAS, the applicants appealed the decision of the
Superintendent of Central Inspection, who has computed the off-
street parking requirements based on the first floor of the office
building and the basement area, even though the basement area will
not be used for office facilities, but only for rest rooms,
employees' lounge, and storage; and

WHEREAS, the Board of Zoning Appeals determined that in
computing off-street parking requirements under the terms of the
Zoning Ordinance, the Superintendent of Central Inspection con-
siders all floor areas of a structure, including each floor (if
multiple story) and basement, regardless of use.

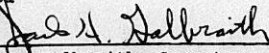
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning
Appeals of the City of Wichita, Kansas, that this application be
denied, and the decision of the Superintendent of Central Inspec-
tion be upheld, with respect to off-street parking requirements on
the above described property.

ADOPTED AT WICHITA, KANSAS, this 25th day of May, 1965.



Harold Bauer, Chairman

ATTEST



Jack H. Galbraith, Secretary

June 23, 1965

Mr. William E. Palmer
Rounds and Porter
P. O. Box 7067
Wichita, Kansas

Dear Mr. Palmer:

Re: BZA 16-65 - Appeals to the
City Commission

Enclosed is the report to the Board of City Commissioners relative to the above appeals which have been filed by yourself on behalf of Rounds and Porter, and by Artie E. Vaughn on behalf of himself and Hal H. Lockett as applicants in this case.

We are also enclosing a copy of the Secretary's reports, one relative to the request for a variance and one relative to the appeal from the decision of the Superintendent of Central Inspection. Also enclosed is a copy of the Minutes of the meetings of April 27 and May 25.

This matter is being forwarded to the Board of City Commissioners for their consideration on June 29, 1965.

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

Very truly yours,

James W. Howe
Assistant Secretary

JWH:ber
Enclosures

June 23, 1965

Mr. Artie E. Vaughn, Attorney
525 North Main
Wichita, Kansas

Dear Mr. Vaughn:

Re: BZA 16-65 - Appeals to the
City Commission

Enclosed is the report to the Board of City Commissioners relative to the above appeals which have been filed by William E. Palmer, on behalf of Rounds and Porter, and by yourself on behalf of yourself and Hal H. Lockett, as applicants in this case.

We are also enclosing a copy of the Secretary's reports, one relative to the request for a variance and one relative to the appeal from the decision of the Superintendent of Central Inspection. Also enclosed is a copy of the Minutes of the meeting of April 27 and of the meeting of May 25.

This matter is being forwarded to the Board of City Commissioners for their consideration on June 29, 1965.

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

Very truly yours,

James W. Howe
Assistant Secretary

JWH:ber
Enclosures

THE CITY OF WICHITA

OFFICE OF Board of Zoning Appeals DATE June 16, 1965

TO Members of Board of Zoning Appeals

FROM Jack H. Galbraith, Secretary

SUBJECT Appeal on Case No. BZA 16-65

Attached is a report which has been prepared for the Board of City Commissioners regarding the above-captioned Board of Zoning Appeals application.

Artie Vaughn and Hal N. Lockett, applicants, and Wm. Palmer, on behalf of Round's and Porter Lumber Co., Inc., have both appealed the Board's decision with respect to this case. Upon receipt of the appeals, the City Commission directed the Board of Zoning Appeals to submit a full report.

I would appreciate your reviewing the attached report and Minutes, prior to the regular meeting of the Board on June 22, 1965. If you do have any comments, I would hope this matter could be discussed under "Other Matters" at the above meeting, so that the full report can be submitted to the City Commission for its consideration on June 29, 1965.

JHG:ber

Attachment

cc: Art J Insko, Attorney
Seacon Building

Glen Lytle, Superintendent
of Central Inspection

Board of Zoning Appeals

June 18, 1965

Members of Board of Zoning Appeals

Jack H. Galbraith, Secretary

Appeal Case No. BZA 16-65

Attached is a report which has been prepared for the Board of City Commissioners regarding the above-captioned Board of Zoning Appeals application.

Artie Vaughn and Hal M. Lockett, applicants, and Wm. Palmer, on behalf of Rounds and Forter Lumber Co., Inc., have both appealed the Board's decision with respect to this case. Upon receipt of the appeals, the City Commission directed the Board of Zoning Appeals to submit a full report.

I would appreciate your reviewing the attached report and Minutes, prior to the regular meeting of the Board on June 22, 1965. If you do have any comments, I would hope this matter could be discussed under "Other Matters" at the above meeting, so that the full report can be submitted to the City Commission for its consideration on June 29, 1965.

JMS:ber

Attachment

cc: Art Johnson, Attorney
Beacon Building

Glen Lytle, Superintendent
of Central Inspection

June 17, 1965

Board of City Commissioners
City Building
Wichita, Kansas

Gentlemen:

Re: Report to the City Commission
regarding Board of Zoning Appeals
Case No. BZA 16-65

Artie E. Vaughn, on behalf of Hal H. Lockett and Artie E. Vaughn, attorneys at law, filed an application for a variance before the Board of Zoning Appeals, requesting that the requirement of 14 off-street parking spaces be reduced to 8 off-street parking spaces for their new office building being constructed at the southwest corner of Wichita and Central. Section 28.04.140.A.2.9 of the Code of the City of Wichita, requires that one off-street parking space be provided for each 250 square feet of floor area. The Central Inspection office, at the time the preliminary plans for the proposed office building were reviewed, required that 8 off-street parking spaces be provided for the proposed office structure. However, at the time the final building plans were reviewed, the Central Inspection office required 14 parking spaces for the proposed office building rather than 8 spaces as originally required. This determination was made on the basis of requiring one space for each 250 square feet of floor area, which included areas devoted to storage space, closet space, rest rooms and lounge facilities in the basement area. The applicant then requested a variance pursuant to Section 2.12.590.2, of the Code of the City of Wichita, for a reduction from 14 off-street parking spaces down to 8 spaces.

As required by state law and city ordinance, proper legal advertising and individual notices were mailed to all property owners within 200 feet of the applicants' property. The Board of Zoning Appeals held its meeting on March 27, 1965, and heard the proponents and opponents. It should be noted that William Palmer, on behalf of Rounds and Porter Lumber Company, Inc., objected to the granting of the variance.

The city ordinance governing the action 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:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district;
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal;
4. 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.

SUMMARY OF BOARD OF ZONING APPEALS ACTION (BZA 16-65)

On April 27, 1965, the Board of Zoning Appeals considered the request of the applicants for a variance of the parking requirements. The action of the Board was to defer the variance and to direct the Secretary to advertise for an appeal from the order of the Superintendent of Central Inspection requiring that areas devoted to storage, closet space, rest room facilities and lounge facilities should be classified as "floor area" and should be used in calculating the required amount of off-street parking spaces. It should be noted that if these areas were not used in calculating the required parking space that 8 spaces is all that would be required. The basic reason the Board directed the Secretary to advertise for an appeal was that it was the general consensus of the Board that the basic question was, What should be included under the term "floor area" in calculating the required amount of parking spaces when this term was not defined in the ordinance.

On May 25, 1965, the Board of Zoning Appeals considered the appeal from the order of the Superintendent of Central Inspection requiring that areas devoted to storage, closet space, rest room and lounge facilities should be used in the calculation of the required amount of parking spaces. The action of the Board was to deny the appeal on the basis that the Superintendent of Central Inspection had interpreted the ordinance correctly in requiring that these areas should be used in calculating the required off-street parking space.

Upon denial of the appeal, the Board then moved to take up consideration of the applicants' request for a variance, which was deferred at the April 27th meeting.

Following are reasons offered by the Board as to why each of the four conditions necessary to the granting of a variance were found to exist:

UNIQUENESS - Found in favor of the Applicants

The Board of Zoning Appeals found that the request for a variance was unique and not ordinarily found in the same zoning district inasmuch as the basement area is not going to be utilized for office facilities, but only for rest room facilities, employees' lounge and storage, and it seems unreasonable to require off-street parking spaces for such areas. The Board determined that the Superintendent of Central Inspection's interpretation was correct in including such areas when calculating the required off-street parking space inasmuch as the ordinance does not define "floor area" so an interpretation of floor area must include the total floor area inside the walls of the building. The Board also felt that the request was somewhat unique inasmuch as the Central Inspection office approved the preliminary plans for the office facility which made provisions for only 8 off-street parking spaces. However, when the final plans were submitted the Central Inspection office considered the basement area in computing the off-street parking requirements and determined that 14 off-street parking spaces should be required.

RIGHTS OF ADJACENT PROPERTY OWNERS - Found in favor of the applicants

The Board of Zoning Appeals found that the granting of the variance would not adversely affect the adjacent property owners inasmuch as 8 parking spaces appeared to be sufficient for the use proposed.

HARDSHIP - Found in favor of the Applicants

It was the feeling of the Board that the strict application of the enforcement provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as 8 off-street parking spaces is all that can be provided on this specific property. The Board also felt that the applicant was burdened with an unnecessary hardship inasmuch as the applicants had proceeded with purchase of the property, architect's services and contracted for construction of the office building after having obtained the approval of the plot plan (the preliminary plans indicated 8 off-street parking spaces) from the office of the Superintendent of Central Inspection.

PUBLIC INTEREST - Found in favor of the applicants

The Board of Zoning Appeals found that the granting of the variance would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Upon finding all four conditions to exist, the Board approved the variance, subject to the following conditions:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas;
2. In no event shall any portion of the basement area be utilized for office facilities.

APPEAL OF THE BOARD'S DECISION TO GRANT THE VARIANCE

William E. Palmer, on behalf of Rounds and Porter Lumber Co., Inc. filed an appeal of the Board's decision to grant the variance on the basis that:

1. The four specific conditions which were required to be found before a variance can be granted as provided in Section 2.12.590.2, are not present.
2. The portion of the decision which provides "in no event shall any portion of the basement area be utilized for office facilities" is virtually un-enforceable.

William E. Palmer, on behalf of Rounds and Porter Lumber Co., Inc. has offered no reasons or evidence as to how the Board erred in making its decision to grant the variance and, therefore, it is the feeling of the Board that its original decision to grant the variance was the correct decision, and it is, therefore, recommended that the decision of the Board to approve the variance be upheld.

APPEAL OF THE BOARD'S DECISION TO REQUIRE OFF-STREET PARKING FOR TOTAL FLOOR AREA

Artie E. Vaughn, on behalf of himself and Hal Lockett, attorneys at law, also appealed the decision of the Board of Zoning Appeals to uphold the decision of the Superintendent of Central Inspection to require that off-street parking be provided in the ratio of one off-street parking space for each 250 square feet of floor area which includes areas utilized for rest rooms, employees' lounge, and storage space in the basement area.

Page 5 - Board of City Commissioners
June 17, 1965

The Board, in considering its action, determined that in computing off-street parking requirements under the terms of the zoning ordinance that the Superintendent of Central Inspection was correct in requiring that off-street parking be required for the total floor area (including areas utilized for rest rooms, employees' lounge and storage space in the basement area since the zoning ordinance does not define floor area or exclude these areas.

Based upon the foregoing review of this case and the associated appeal, it is the feeling of the Board that its original decision to uphold the decision of the Superintendent of Central Inspection was the correct decision inasmuch as the appellants offered no reasons as to why the Board erred in making its decision. Therefore, it is recommended that the decision of the Board to uphold the decision of the Superintendent of Central Inspection be approved.

Respectfully submitted,

Jack H. Galbraith
Secretary

JHG:JWH:ber

Attachments: #1 - Secretary's report on variance request
#2 - Secretary's report on the appeal
#3 - Excerpt from Minutes of BZA meeting of April 27, 1965
#4 - Excerpt from Minutes of BZA meeting of May 25, 1965

June 4, 1965

Mr. Artie Vaughn, Attorney
525 North Main
Wichita, Kansas

Dear Mr. Vaughn:

Re: BZA 16-65

This is to advise you that the decision of the Board of Zoning Appeals in the above-captioned case has been appealed to the City Commission by William E. Palmer on behalf of Rounds & Porter Lumber Company, Inc.

The procedure normally followed is that the City Clerk places the appeal on his agenda to bring it to the attention of the City Commission and the City Commission then automatically refers the matter back to the Board of Zoning Appeals for a report. As soon as the report has been completed, copies will be forwarded to the members of the Board of Zoning Appeals and to the applicant and the protestors, and this matter will then be placed on the City Manager's agenda for consideration by the City Commission.

You will be advised of the date that it will be heard by the City Commission far enough in advance so that you will have ample time to prepare your own comments for the Commission. Enclosed is a copy of the appeal, which shows reasons why it is felt that the decision of the Board was in error.

We will send a copy of the Resolutions showing action of the Board of Zoning Appeals as soon as I can get the Chairman to sign them.

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

Very truly yours,

James W. Howe
Assistant Secretary

JWH:ber
Enclosure - 1
cc: Hal Lockett, 525 North Main
William E. Palmer, P. O. Box 7067, Wichita, Kansas



APPEAL TO
BOARD OF CITY COMMISSIONERS

FROM
DECISION OF BOARD OF ZONING APPEALS

I. Name of Appellant Artie E Vaughn
Mailing Address 1506 W. 13th Phone F032111 ext 251
Name of Agent SAME
Mailing Address _____ Phone _____

II. Appellant herein appeals from the decision of the Board of Zoning Appeals relating to Case Number BZA 1665, in which Appellant appealed from Central Inspection Ruling that Non-applied for office use is included in meaning of term "Floor Area" issued in 2004.1404-2.9. Said Appeal was denied.
(describe variance or exception requested in original application) for property located at 301 W. Central (address) and legally described as Lot(s) 4, Block(s) CENTRAL AVENUE CENTER Addition. The Board of Zoning Appeals decision to Deny (deny, approve) the Appeal was in error and should be reversed for the following reasons: "Floor Area" of a commercial Bldg. does not include wall space, closets, storage space, rest rooms, and Lounges as intended by the Ordinance

Artie E Vaughn
Appellant

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 12:10 (12:10, p.m.) June 4, 1965 (date).

[Signature]
Signed
City Clerk
Title



APPEAL TO
BOARD OF CITY COMMISSIONERS

FROM

DECISION OF BOARD OF ZONING APPEALS

I. Name of Appellant Round's & Porter Lumber Company, Inc.
Mailing Address P.O. Box 7067, Wichita, Kans. Phone AN2-1467
Name of Agent William E. Palmer
Mailing Address P.O. Box 7067, Wichita, Kansas Phone AN2-1467

II. Appellant herein appeals from the decision of the Board of Zoning Appeals relating to Case Number BZA 16-65, in which Hal H. Lockett and Artie E. Vaughn

applied for a variance from Section 28.04.14.0, Code of the City of Wichita, to reduce parking requirements from 14 spaces to 8

(describe variance or exception requested in original application) for property located at Southwest corner of Central and Wichita (address) and legally described as Lot(s) 4, ~~Section 660~~ Addition to Wichita.

~~Section~~. The Board of Zoning Appeals decision to approve (deny, approve) the application was in error and should be reversed for the following reasons:

1. The four specific conditions which are required to be found before a variance shall be granted as provided in Section 2.12.590.2 are not present.
2. The portion of the decision which provides "In no event shall any portion of the basement area be utilized for office facilities." is virtually unenforceable.

Round's & Porter Lumber Company, Inc.

Appellant

William E. Palmer
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 7:00 (~~am~~, p.m.) JUNE 1, 1965 (date).

Stuart Quich
Signed

City Clerk
Title

25-014
BZA-1

26

ARTIE E. VAUGHN
ATTORNEY AT LAW
SEDGWICK COUNTY COURT HOUSE
WICHITA, KANSAS 67203
FOREST 3-2111

May 29, 1965

Mr. Jack H. Galbraith, Secretary
Board of Zoning Appeals
City Building Annex
Wichita, Kansas

RE: BZA 16-65

Dear Mr. Galbraith:

This letter is in response to yours of May 26, 1965,
concerning the captioned matter.

I feel that it is appropriate at this time to thank
you and your staff, particularly Mr. Jim Howe, for the
capable and professional manner in which your office
handled the captioned proceedings.

Very truly yours,

Artie E. Vaughn
ARTIE E. VAUGHN

AEV:dmn



May 26, 1965

Messrs. Hal H. Lockett and Artie E. Vaughn
County Courthouse
Wichita, Kansas

Dear Sirs:

Re: Case No. BZA 16-65

This is to advise you that at its regular meeting of May 25, 1965, the Board of Zoning Appeals of the City of Wichita considered your appeal from the decision of the Superintendent of Central Inspection, who has determined that basement area, storage area and areas utilized for non-office facilities should be utilized in calculating the required amount of off-street parking.

It was the decision of the Board that the interpretation of the zoning ordinance by the Superintendent of Central Inspection is correct and his determination of the required parking spaces was upheld and your appeal denied.

The Board then reconsidered your previous request for a variance of the required parking spaces (same case number), which had been deferred at the meeting of April 27, 1965. The original request was for a variance for a reduction of the required amount of off-street parking spaces from 14 down to 8 spaces.

It was the unanimous action of the Board to approve the original variance request as follows:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas.
2. In no event shall any portion of the basement area be utilized for office facilities.

Page 2 - Messrs. Hal H. Lockett and
Artie E. Vaughn
May 26, 1965

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 June 4, 1965.

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 June 4, 1965, 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,

Jack H. Galbraith
Secretary

JHG:JWH:ber

cc: William Palmer
Rounds and Porter
430 N rth Waco

Glen Lytle, Superintendent
of Central Inspection

Robert Finch
City Clerk

SECRETARY'S REPORT

CASE NO. BZA 16-65

APPLICANT: Hal H. Lockett and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Appeal from the order of the Superintendent of Central Inspection requiring that basement storage and non-office use floor area requires off-street parking under Section 28.04.140.A.2.9, Code of the City of Wichita.

ZONING: The property in question and all surrounding property is zoned "E" Light Industrial.

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the appeal under provisions outlined in Section 2.12.590.1, Code of the City of Wichita.

COMMENTS BY THE SECRETARY

As the Board will recall, the applicants represented in this case were before the Board at its last regular meeting and at that time they requested a variance for reduction of required off-street parking spaces in conjunction with construction of a new office building at the southwest corner of Wichita and Central. Specifically, the applicants were required to provide 14 off-street parking spaces; however, 8 spaces were all that could be provided on the property in question, which resulted in the applicants requesting a reduction of required off-street parking spaces from 14 down to 8 spaces.

It was pointed out in the statement of justification that at the time the architect discussed the matter of off-street parking with the Central Inspection office, they were told that 8 spaces were all that would be required for the proposed office building. However, when the final plans were submitted (which it is the understanding of the Secretary included facilities for a lounge and rest room in the basement which was not shown in the original plan), they were told by the Central Inspection office that they would have to provide 14 off-street parking spaces. This determination was made on the basis of requiring one off-street parking space for each 250 square feet of floor area in the office building.

It appears that the primary matter of concern in this particular instance is what is to be included under the term "floor area". In calculating the required amount of off-street parking spaces should "floor area" include such things as lounges, rest room facilities, broom closets, storage areas, areas utilized for airconditioning and heating facilities, stairways, etc., or should these areas be excluded from the area to be calculated for off-street parking.

Floor area as defined in the preliminary draft of the Prototype ordinance is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows:

For Determining Off-Street parking and Loading Requirements:

The sum of the following areas: (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets; (2) any basement floor area devoted to retailing activities; and (3) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional office.

At the time the matter was before the Board at its last regular meeting, the Secretary was of the opinion that basement storage areas should not be used in calculating the required amount of off-street parking. The Secretary is still basically of the opinion that areas such as broom closets, basement storage areas, areas utilized for heating and airconditioning units, etc. should not be used in calculating the required amount of off-street parking. However, after discussing the reasons as to why the Central Inspection office used total floor area in calculating the number of spaces required for off-street parking, the Secretary has gained a new perspective on this matter.

The main problem seems to center around the fact that when areas used for storage, lounge facilities, etc., are not included under total floor area in calculating the required amount of off-street parking spaces, it often times leads to rather serious problems in the future. For instance, once a building is constructed

and the required amount of off-street parking spaces has been determined, it is still possible that areas utilized for lounge or storage facilities could at some future date be converted into additional offices, etc., which would require additional off-street parking. However, many times when this is done a building permit is not obtained and the resulting effect is that additional office facilities are created which generate additional off-street parking without the spaces actually being provided. If all individuals would obtain a building permit at the time any new facilities are created within an existing building, such as offices, etc., which would generate additional off-street parking, there would be very little, if any, problem.

So, again, it appears that this is not only a matter of interpretation as to what is to be included under the term "floor area" in calculating the necessary amount of required off-street parking spaces, but also is a matter of enforcement in that once a building is constructed people are often times negligent in obtaining a building permit whenever facilities are created which would generate additional off-street parking. The Central Inspection office simply does not have the manpower to continually check on matters of this type.

It should be pointed out that the applicant has filed a letter with the Superintendent of Central Inspection indicating that they will comply with whatever requirements are made as far as off-street parking facilities are concerned. Based upon the statement contained in this letter, the applicant was issued a building permit and the office building is presently under construction. It is assumed that if this appeal is denied, the applicants would have to acquire additional property in order to provide the necessary parking.

It should also be pointed out to the Board that the only matter up for consideration is an interpretation of what should constitute floor area in calculating off-street parking. It is the opinion of the Secretary that if this appeal is granted, the Board does not have the right to attach any conditions to the approval of the appeal, such as requiring the applicant to provide additional off-street parking if the storage area and lounge facilities in the basement are ever converted into additional office facilities.

Recommendation

Based upon the foregoing comments, and the definition of floor area in the proposed Prototype Ordinance, it is the recommendation of the Secretary that the applicants not be required to provide off-street parking for the area included in the basement unless the basement is later converted into additional office space.

SECRETARY'S REPORT

15

CASE NO. BZA 16-65

APPLICANT: Hal H. Lockett and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Appeal from the order of the Superintendent of Central Inspection requiring that basement storage and non-office use floor area requires off-street parking under Section 28.04.140.A.2.9, Code of the City of Wichita.

ZONING: The property in question and all surrounding property is zoned "E" Light Industrial.

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the appeal under provisions outlined in Section 2.12.590.1, Code of the City of Wichita.

COMMENTS BY THE SECRETARY

As the Board will recall, the applicants represented in this case were before the Board at its last regular meeting and at that time they requested a variance for reduction of required off-street parking spaces in conjunction with construction of a new office building at the southwest corner of Wichita and Central. Specifically, the applicants were required to provide 14 off-street parking spaces; however, 8 spaces were all that could be provided on the property in question, which resulted in the applicants requesting a reduction of required off-street parking spaces from 14 down to 8 spaces.

It was pointed out in the statement of justification that at the time the architect discussed the matter of off-street parking with the Central Inspection office, they were told that 8 spaces were all that would be required for the proposed office building. However, when the final plans were submitted (which it is the understanding of the Secretary included facilities for a lounge and rest room in the basement which was not shown in the original plan), they were told by the Central Inspection office that they would have to provide 14 off-street parking spaces. This determination was made on the basis of requiring one off-street parking space for each 250 square feet of floor area in the office building.

Page 2 - Secretary's Report
Case No. BZA 16-65

It appears that the primary matter of concern in this particular instance is what is to be included under the term "floor area". In calculating the required amount of off-street parking spaces should "floor area" include such things as lounges, rest room facilities, broom closets, storage areas, areas utilized for airconditioning and heating facilities, stairways, etc., or should these areas be excluded from the area to be calculated for off-street parking.

Floor area as defined in the preliminary draft of the Prototype ordinance is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows:

For Determining Off-Street parking and Loading Requirements:

The sum of the following areas: (1) floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks, or closets; (2) any basement floor area devoted to retailing activities; and (3) floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, or business or professional office.

At the time the matter was before the Board at its last regular meeting, the Secretary was of the opinion that basement storage areas should not be used in calculating the required amount of off-street parking. The Secretary is still basically of the opinion that areas such as broom closets, basement storage areas, areas utilized for heating and airconditioning units, etc. should not be used in calculating the required amount of off-street parking. However, after discussing the reasons as to why the Central Inspection office used total floor area in calculating the number of spaces required for off-street parking, the Secretary has gained a new perspective on this matter.

The main problem seems to center around the fact that when areas used for storage, lounge facilities, etc., are not included under total floor area in calculating the required amount of off-street parking spaces, it often times leads to rather serious problems in the future. For instance, once a building is constructed

Page 3 - Secretary's Report
Case No. BZA 16-65

and the required amount of off-street parking spaces has been determined, it is still possible that areas utilized for lounge or storage facilities could at some future date be converted into additional offices, etc., which would require additional off-street parking. However, many times when this is done a building permit is not obtained and the resulting effect is that additional office facilities are created which generate additional off-street parking without the spaces actually being provided. If all individuals would obtain a building permit at the time any new facilities are created within an existing building, such as offices, etc., which would generate additional off-street parking, there would be very little, if any, problem.

So, again, it appears that this is not only a matter of interpretation as to what is to be included under the term "floor area" in calculating the necessary amount of required off-street parking spaces, but also is a matter of enforcement in that once a building is constructed people are often times negligent in obtaining a building permit whenever facilities are created which would generate additional off-street parking. The Central Inspection office simply does not have the manpower to continually check on matters of this type.

It should be pointed out that the applicant has filed a letter with the Superintendent of Central Inspection indicating that they will comply with whatever requirements are made as far as off-street parking facilities are concerned. Based upon the statement contained in this letter, the applicant was issued a building permit and the office building is presently under construction. It is assumed that if this appeal is denied, the applicants would have to acquire additional property in order to provide the necessary parking.

It should also be pointed out to the Board that the only matter up for consideration is an interpretation of what should constitute floor area in calculating off-street parking. It is the opinion of the Secretary that if this appeal is granted, the Board does not have the right to attach any conditions to the approval of the appeal, such as requiring the applicant to provide additional off-street parking if the storage area and lounge facilities in the basement are ever converted into additional office facilities.

Recommendation

Based upon the foregoing comments, and the definition of floor area in the proposed Prototype Ordinance, it is the recommendation of the Secretary that the applicants not be required to provide off-street parking for the area included in the basement unless the basement is later converted into additional office space.

CASE NO. BZA 16-65 (APPEAL)

10 NOTICES MAILED MAY 6, 1965

FOR MEETING MAY 25, 1965

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

15

May 6, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-65

An application has been filed by Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, pursuant to Section 2.12.590.1, Code of the City of Wichita, appealing a decision of the Superintendent of Central Inspection, who has determined that basement, storage and areas utilized for non-office use requires off-street parking stalls as provided in Section 28.04.140.A.2.9. Code of the City of Wichita, on property zoned "E" Light Industrial and legally described as follows:

Lot 4 on Central Avenue, Center Addition, in the City of Wichita, Sedgwick County, Kansas, generally located at the southwest corner of Central and Wichita.

This application has been assigned Case No. BZA 16-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 25, 1965, 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.

Jack H. Galbraith
Secretary

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

May 6, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-65

An application has been filed by Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, pursuant to Section 2.12.590.1, Code of the City of Wichita, appealing a decision of the Superintendent of Central Inspection, who has determined that basement, storage and areas utilized for non-office use requires off-street parking stalls as provided in Section 28.04.140.A.2.9. Code of the City of Wichita, on property zoned "E" Light Industrial and legally described as follows:

Lot 4 on Central Avenue, Center Addition, in the City of Wichita, Sedgwick County, Kansas, generally located at the southwest corner of Central and Wichita.

This application has been assigned Case No. BZA 16-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 25, 1965, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. BZA 16-65

CITY OF WICHITA, KANSAS

FILED _____

APPEAL FROM ORDER OR DECISION OF THE
SUPERINTENDENT OF CENTRAL INSPECTION

1. Name of Appellant Hal H. Lockett and Artie E. Vaughn, Attorneys

Mailing Address 525 North Main Phone FO 3-2111

Name of Agent Artie E. Vaughn

Mailing Address 525 North Main Phone FO 3-2111

Relationship of applicant to property is that of owner
(owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination or an order of the Superintendent of Central Inspection, as follows:

From the determination that basement, storage and non-office use requires parking under 28.04.140 A 2.9

for property located 301 West Central

and legally described as the North 79 feet of lot 4 on Central Avenue, Center Addition to Wichita, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned E. The decision was rendered on or about April 4, 1965, and refers to Section 28.04.140 A 2.9, of the Code of the City of Wichita.

III. The appellant hereby declares that he has submitted the following required material, together with and as part of the appeal:

- A. A clear and accurate description of the proposed work or use.
- B. The order, requirement, decision or determination by the Superintendent of Central Inspection which the appellant believes to be in error, and the principal points supporting the appellant's allegation of errors;
- C. Specific reference to that section of the Zoning Ordinance under which it is claimed the permit should be issued;
- D. Drawings or plans for the proposed work or use in relation to the adjacent buildings and property;
- E. A certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of 200 feet of the property affected by the appeal.

HAL H. LOCKETT & ARTIE E. VAUGHN

Applicant By: Artie E. Vaughn

Authorized Agent Artie E. Vaughn

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, _____ (a.m. - p.m.), May 4, 1965, together with appropriate fee of \$50.00.

Signed _____

April 29, 1965

Messrs. Hal H. Lockett and Artie E. Vaughn
County Courthouse
Wichita, Kansas

Dear Sirs:

Re: Case No. BZA 16-65

This is to advise you that at its regular meeting of April 27, 1965, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of the off-street parking requirements associated with the office building presently under construction at the southwest corner of Central and Wichita.

Acting on the advice of Counsel, it was the action of the Board to defer this application until the next meeting of the Board and to suggest to the applicants that they re-file the request on the basis of an appeal from the decision of the Superintendent of Central Inspection. This appeal would be filed on the basis that that storage areas should not be used in the calculations in determining the required amount of off-street parking spaces for the proposed office building.

The next meeting of the Board is May 25, 1965, and, therefore, your appeal should be filed in this office not later than May 4, 1965, to allow the required time for legal advertising and sending of notices and preparation of the Secretary's report.

Very truly yours,

James W. Howe
Assistant Secretary

JWH:ber

cc: William Palmer
Rounds & Porter
430 North Waco

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

Case No. BZA 16-65

PROTEST

Comes now Rounds & Porter Lumber Company, Inc., the owner of the majority of the private property within a radius of two hundred feet of the proposed area for which the variance of Section 28.04.104, Code of the City of Wichita is sought and shows the Board as follows:

1. That applicants are not the owners of all of the property for which the variance is sought, to-wit:

Lot 4 on Central Avenue, Center Addition to Wichita,
Sedgwick County, Kansas

inasmuch as Rounds & Porter Lumber Company, Inc. is the legal owner of a portion of said property, to-wit:

The South 41 feet of Lot 4 on Central Avenue, Center
Addition to Wichita, Sedgwick County, Kansas.

2. That applicants are the tenants of that portion of said Lot 4, owned by Rounds & Porter Lumber Company, Inc. under the terms of a written lease agreement dated the 25th day of March, 1965, a copy of which is hereto attached, marked Exhibit "A" and made a part hereof by reference. That the provisions of said lease agreement do not contemplate or provide for applicant's authority to seek any change or variance of the Zoning Ordinance of the City of Wichita, Kansas insofar as they pertain to the property here in question; that said lease agreement specifically states the property shall not be used "--- in contravention of the law or of any ordinance of the City of Wichita"; and that applicant's attempt to seek such a variance constitutes a slander to Rounds & Porter Lumber Company, Inc.'s title to said property.

3. That Rounds & Porter Lumber Company, Inc. is presently providing adequate off street parking for its employees and customers on property in near proximity to the said Lot 4; but that the said off street parking presently provided by Rounds & Porter Lumber Company, Inc. is already plagued with trespassers to its parking area by residents of the area, customers of nearby businesses and the public in general; and that

if a variance of the off street parking ordinance of the City of Wichita, Kansas is granted as requested by applicants, such variance will result in the further abuse and use of Rounds & Porter Lumber Company, Inc.'s parking area by employees, business interests and guests of applicants.

4. That the variance requested does not "---arise from such condition which is unique and which is not ordinarily found in the same zoning district", as is required by Section 2.12.590.2(a) of the Code of the City of Wichita.

5. That the granting of the Variance herein sought would adversely affect the rights of adjacent property owners or residents, as aforesaid, and contrary to the provisions of Section 2.12.590.2(b) of the Code of the City of Wichita.

WHEREFORE, Rounds & Porter Lumber Company, Inc. respectfully requests the Board reject the Variance from Section 28.04.140, Code of the City of Wichita as requested by applicants.

ROUNDS & PORTER LUMBER COMPANY, INC.

By


It's Attorney

Copy of foregoing Protest delivered
to Applicants April 23, 1965.

LEASE AGREEMENT

THIS AGREEMENT made and entered into at Wichita, Kansas this

25th day of March, 1965,

BY AND BETWEEN

ROUNDS & PORTER LUMBER CO., INC.,
party of the first part, hereinafter
referred to as

"LESSOR"

AND

HAL H. LOCKETT and ARTIE E. VAUGHN
of Wichita, Kansas, parties of the
second part, hereinafter referred
to as

"LESSEES"

WITNESSETH:

The lessor, in consideration of full performance of the covenants and agreements of the lessees and the full payment of rents as hereinafter set out, does hereby lease and let to lessees the following described property, to-wit:

The South 41 feet of Lot 4 on Central Avenue in Center Addition to Wichita, Sedgwick County, Kansas

for the term beginning April 1, 1965, and expiring March 31, 1967.

The lessees covenant and agree to pay as rent for the premises, for the term stated, the total sum of \$600.00 in monthly installments of \$25.00 in advance, on the 1st day of each month during the term, beginning with the month of April, 1965. The rental payments shall be made to the lessor at its address, 430 N. Waco, Wichita, Kansas, or to such other person or corporation and at such other place as the lessor shall designate in writing.

The lessees covenant and agree with the lessor that said premises are to be used solely by lessees for parking of automobiles and that the premises shall not be used for any other purpose or business without the written consent of the lessor and shall not be used in any manner or for any purpose deemed extra hazardous on account of fire or which shall be in contravention of the law or of any ordinance of the City of Wichita; that at the expiration of the time mentioned in this lease they will give peaceable possession of the premises to the lessor in as good condition as they now are, the usual wear, inevitable accidents, and loss by fire or other providential means, excepted; that any improvement placed thereon shall become a part of the property and surrendered to lessor upon termination or expiration of this agreement; and that they will pay all taxes, special assessments and utilities during the term of this lease.

Lessees will not commit or allow any act whereby said property shall become subject to any attachment, judgment, lien or encumbrance.

EXHIBIT "A"

In the event of non-payment of any rent when the same shall become due, or in the event of breach of any of the covenants and agreements herein contained, the lessor may at its election either distrain for rent due or declare this lease at an end and be entitled to immediate and peaceable possession of the premises. The lessees shall be liable to the lessor for any loss or damage occasioned by any of the covenants and agreements herein contained; and agree that the lessor shall have a lien on all fixtures and appliances of the lessees in and upon the leased premises to secure payment of any and all such sums which shall become due and payable hereunder.

The lessor or its representatives shall have the right to enter the premises at all reasonable times to examine or to exhibit the same.

The lessor agrees and covenants to sell said premises by warranty deed to lessees, at lessees' option, at any time during the term of this lease for the sum of \$3,000.00. In such event no credit shall be allowed for rental payments previously paid or accrued. Lessees shall notify lessor in writing of lessees' election to purchase and lessor agrees to deliver a good and sufficient warranty deed to said premises to lessees within thirty days after receiving lessees' written election to purchase.

Lessees agree to indemnify, hold harmless and defend the lessor from and against any and all liability for loss, damage or expense which the lessor may suffer, or for which the lessor may be held liable by reason of injury (including death) to any person or damage to any property arising out of or in any manner connected with the possession or operation of the premises leased herein.

Lessees agree to procure and maintain liability insurance during the term of this lease with Bodily Injury Limits of at least \$25,000 each person \$50,000 each accident and Property Damage Limits of at least \$25,000 each accident. Lessees shall provide lessor with a Certificate of Insurance as evidence such insurance is in effect.

This lease incorporates and includes all representations and agreements between the parties concerning the subject matter hereof and may not be supplemented nor modified except by writing signed by the parties hereto.

Lessees shall not assign this agreement or any interest herein without having first obtained lessor's written consent.

This agreement shall extend to and bind the heirs, personal representatives

successors and assigns of each of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate, each of which shall be considered on original on the day and year first above written.

ATTEST:

Rounds & Porter Lumber Co., Inc.

Margaret H. Dally
act Secretary

By W. H. Finkelson
Vice President

"LESSOR"

Hal H. Lockett
Hal H. Lockett

Artie E. Vaughn
Artie E. Vaughn

"LESSEES"

SECRETARY'S REPORT

CASE NO. BZA 16-61

APPLICANT: Hal H. Lockett and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to request that the required 14 off-street parking spaces be reduced to 8 off-street parking spaces for property located at 301 West Central

ZONING: Property in question and all surrounding property is zoned "E" Light Industrial

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicants are currently in the process of constructing an office building for attorneys at this location. As pointed out in the statement of justification, originally 8 spaces is all that was required by the Central Inspection office at the time the architects discussed with them the off-street parking space requirements for the proposed addition. However, at the time the final plans were submitted to the Central Inspection office it was found that there would be a basement in the proposed office building which would contain 1800 square feet and, therefore, the applicants were required to provide 6 more

spaces or a total of 14 spaces before obtaining a building permit. It was pointed out in the statement of justification that the requirement of 14 off-street parking spaces is unreasonable inasmuch as the basement area of the building will be used completely for storage and will not be used for any office facility. The Central Inspection office has informed the Secretary that the plans also indicate an employees' lounge and rest room facilities in the basement.

UNIQUENESS

It is the opinion of the Secretary that if the basement is not going to be utilized for any office facility and if it is going to be utilized only for storage, that this request is somewhat unique inasmuch as it seems unreasonable to require off-street parking spaces for storage areas.

On the other hand, if the basement will be utilized for space such as lounge, library and rest rooms, then the off-street parking requirements should be for the total floor area.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect any adjacent property.

HARDSHIP

It is the opinion of the Secretary that the applicants will be burdened with an unnecessary hardship if the variance is not granted inasmuch as 8 off-street parking spaces is all that can be provided on this specific piece of property and, further, it would be even a greater hardship for the applicant to acquire additional property in order to provide 6 additional off-street parking spaces, especially when these 6 spaces are required for an area that is going to be utilized completely for storage.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance will in no way adversely affect the public interest.

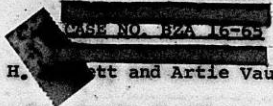
RECOMMENDATION

It is the opinion of the Secretary that all four conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions and requirements:

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas.

2. In no event shall any portion of the basement area be utilized for office facilities.

SECRETARY'S REPORT



20

APPLICANT: Hal H. [redacted] and Artie Vaughn, County Courthouse

AGENT: Artie Vaughn, County Courthouse

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to request that the required 14 off-street parking spaces be reduced to 8 off-street parking spaces for property located at 301 West Central

ZONING: Property in question and all surrounding property is zoned "E" Light Industrial

LAND USE: An office building is currently in the process of being constructed on the property in question.

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita, and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

COMMENTS BY THE SECRETARY

The applicants are currently in the process of constructing an office building for attorneys at this location. As pointed out in the statement of justification, originally 8 spaces is all that was required by the Central Inspection office at the time the architects discussed with them the off-street parking space requirements for the proposed addition. However, at the time the official plans were submitted to the Central Inspection office it was found that there would be a basement in the proposed office building which would contain 1800 square feet and, therefore, the applicants were required to provide 6 more

Page 2 - Secretary's Report
Case No. BZA 16-65

spaces or a total of 14 spaces before obtaining a building permit. It was pointed out in the statement of justification that the requirement of 14 off-street parking spaces is unreasonable inasmuch as the basement area of the building will be used completely for storage and will not be used for any office facility. The Central Inspection office has informed the Secretary that the plans also indicate an employees' lounge and rest room facilities in the basement.

UNIQUENESS

It is the opinion of the Secretary that if the basement is not going to be utilized for any office facility and if it is going to be utilized only for storage, that this request is somewhat unique inasmuch as it seems unreasonable to require off-street parking spaces for storage areas.

On the other hand, if the basement will be utilized for space such as lounge, library and rest rooms, then the off-street parking requirements should be for the total floor area.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect any adjacent property.

HARDSHIP

It is the opinion of the Secretary that the applicants will be burdened with an unnecessary hardship if the variance is not granted inasmuch as 8 off-street parking spaces is all that can be provided on this specific piece of property and, further, it would be even a greater hardship for the applicant to acquire additional property in order to provide 6 additional off-street parking spaces, especially when these 6 spaces are required for an area that is going to be utilized completely for storage.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance will in no way adversely affect the public interest.

RECOMMENDATION

It is the opinion of the Secretary that all four conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions and requirements:

**Page 3 - Secretary's Report
Case No. BZA 16-65**

1. The requirement of 14 off-street parking spaces is hereby reduced to 8 off-street parking spaces for the office building being constructed on Lot 4, on Central Avenue, in Center Addition to Wichita, Sedgwick County, Kansas.
2. In no event shall any portion of the basement area be utilized for office facilities.

CASE NO. BZA 16-65

10 NOTICES MAILED APRIL 8, 1965

MEETING APRIL 27, 1965

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

April 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-65

An application has been filed by Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance from Section 28.04.140, Code of the City of Wichita, to reduce parking requirements from 14 spaces to 8 parking spaces on property zoned "E" Light Industrial, and legally described as follows:

Lot 4 on Central Avenue, Center Addition to Wichita,
Sedgwick County, Kansas.

Generally located at the southwest corner of Central
and Wichita.

This application has been assigned Case No. BZA 16-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 27, 1965, 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.

Jack H. Galbraith
Secretary

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

April 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-65

An application has been filed by Hal H. Lockett and Artie E. Vaughn, County Courthouse, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, requesting a Variance from Section 28.04.140, Code of the City of Wichita, to reduce parking requirements from 14 spaces to 8 parking spaces on property zoned "E" Light Industrial, and legally described as follows:

Lot 4 on Central Avenue, Center Addition to Wichita,
Sedgwick County, Kansas.

Generally located at the southwest corner of Central
and Wichita.

This application has been assigned Case No. BZA 16-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 27, 1965, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

1. Name of Applicant Hal H. Lockett and Artie E. Vaughn ✓
Mailing Address County Courthouse, Wichita Phone FO 32111 EX 281
Name of Authorized Agent same as above
Mailing Address same as above Phone _____
Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is reduction of parking space requirements
from 14 spaces to 8 parking spaces for property located at
301 West Central, Wichita, Kansas
~~for property located~~ 8 W. Central Wichita

and legally described as: Lot 4 on Central Avenue, Center Addition
to Wichita, Sedgwick County, Kansas
in the City of Wichita; and which is presently zoned ^{light} ~~heavy industrial~~
(Give metes and bounds description below if appropriate):

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
 - That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
 - That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.



Artie E. Vaughn
Applicant
Hal H. Lockett
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,
9:00 (a.m.) - p.m.), 4-6-, 1965, together with
appropriate fee of \$50.00.

Thomas H. Shouers
Signed

ARTIE E. VAUGHN
ATTORNEY AT LAW
SEDGWICK COUNTY COURT HOUSE
WICHITA, KANSAS 67203
FOREST 3-2111

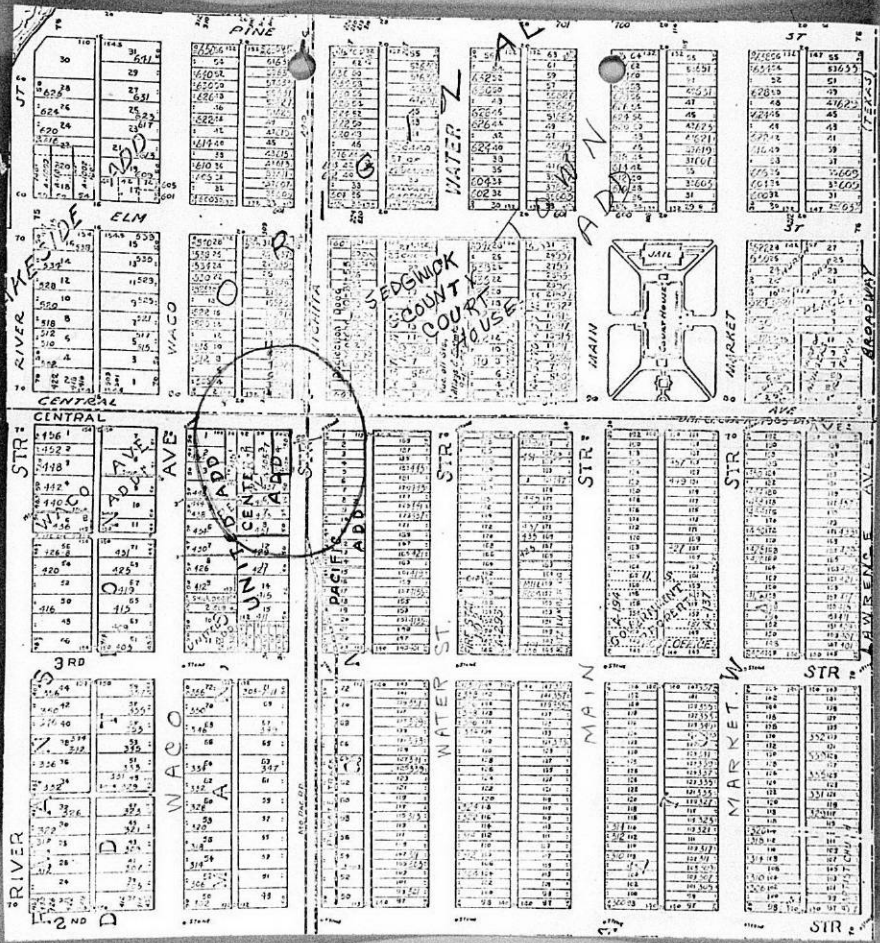
16

April 5, 1965

REASONS JUSTIFYING VARIANCE

1. Entire basement (1,800 sq. ft.) will not be used for office facility, only storage and miscellaneous.
2. A maximum of 5 people will utilize property.
3. Expense of architect, construction and other investments have been made upon prior assurance by city that eight spaces would be adequate.
4. The granting of this request would not adversely affect other owners or public welfare and would prevent undue hardship upon applicants.





30

144	31	601
145	29	602
146	27	603
147	25	604
148	23	605
149	21	606
150	19	607
151	17	608

31

152	15	609
153	13	610
154	11	611
155	9	612
156	7	613
157	5	614
158	3	615
159	1	616

32

160	15	617
161	13	618
162	11	619
163	9	620
164	7	621
165	5	622
166	3	623
167	1	624

33

168	15	625
169	13	626
170	11	627
171	9	628
172	7	629
173	5	630
174	3	631
175	1	632

34

176	15	633
177	13	634
178	11	635
179	9	636
180	7	637
181	5	638
182	3	639
183	1	640

35

184	15	641
185	13	642
186	11	643
187	9	644
188	7	645
189	5	646
190	3	647
191	1	648

36

192	15	649
193	13	650
194	11	651
195	9	652
196	7	653
197	5	654
198	3	655
199	1	656

37

200	15	657
201	13	658
202	11	659
203	9	660
204	7	661
205	5	662
206	3	663
207	1	664

38

208	15	665
209	13	666
210	11	667
211	9	668
212	7	669
213	5	670
214	3	671
215	1	672

39

216	15	673
217	13	674
218	11	675
219	9	676
220	7	677
221	5	678
222	3	679
223	1	680

40

224	15	681
225	13	682
226	11	683
227	9	684
228	7	685
229	5	686
230	3	687
231	1	688

41

232	15	689
233	13	690
234	11	691
235	9	692
236	7	693
237	5	694
238	3	695
239	1	696

42

240	15	697
241	13	698
242	11	699
243	9	700
244	7	701
245	5	702
246	3	703
247	1	704

43

248	15	705
249	13	706
250	11	707
251	9	708
252	7	709
253	5	710
254	3	711
255	1	712

44

256	15	713
257	13	714
258	11	715
259	9	716
260	7	717
261	5	718
262	3	719
263	1	720

45

264	15	721
265	13	722
266	11	723
267	9	724
268	7	725
269	5	726
270	3	727
271	1	728

46

272	15	729
273	13	730
274	11	731
275	9	732
276	7	733
277	5	734
278	3	735
279	1	736

47

280	15	737
281	13	738
282	11	739
283	9	740
284	7	741
285	5	742
286	3	743
287	1	744

48

288	15	745
289	13	746
290	11	747
291	9	748
292	7	749
293	5	750
294	3	751
295	1	752

49

296	15	753
297	13	754
298	11	755
299	9	756
300	7	757
301	5	758
302	3	759
303	1	760

50

304	15	761
305	13	762
306	11	763
307	9	764
308	7	765
309	5	766
310	3	767
311	1	768

51

312	15	769
313	13	770
314	11	771
315	9	772
316	7	773
317	5	774
318	3	775
319	1	776

52

320	15	777
321	13	778
322	11	779
323	9	780
324	7	781
325	5	782
326	3	783
327	1	784

53

328	15	785
329	13	786
330	11	787
331	9	788
332	7	789
333	5	790
334	3	791
335	1	792

54

336	15	793
337	13	794
338	11	795
339	9	796
340	7	797
341	5	798
342	3	799
343	1	800

55

344	15	801
345	13	802
346	11	803
347	9	804
348	7	805
349	5	806
350	3	807
351	1	808

56

352	15	809
353	13	810
354	11	811
355	9	812
356	7	813
357	5	814
358	3	815
359	1	816

57

360	15	817
361	13	818
362	11	819
363	9	820
364	7	821
365	5	822
366	3	823
367	1	824

58

368	15	825
369	13	826
370	11	827
371	9	828
372	7	829
373	5	830
374	3	831
375	1	832

59

376	15	833
377	13	834
378	11	835
379	9	836
380	7	837
381	5	838
382	3	839
383	1	840

S 41 ft of Lot 4, Central Ave., Center Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

Lot 5, Central Ave., Center Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

Lots 6, 7 & 8, Central Ave., Center Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

N 40 ft Lot 1, United Addition.

§ Elmer O. & Mabel M. Sites, ux
2627 E. Funston

S 10 ft Lot 1, all Lot 2, United Addition.

√ O. B. & Ethel Rynders, ux
237 N. Rutan

Lot 3, United Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

Lots 4, 5, 6, 7, & S $\frac{1}{2}$ Lot 12, United Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

N $\frac{1}{2}$ Lot 12, United Addition.

§ Rounds & Porter Lumber Co., Inc.
430 N. Waco

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11,
on Wichita Street, in Pacific Addition.

√ The Independent Ice & Cold Storage Co.
215 S. Rock Island

Lots 12 & 13, Wichita Street, Pacific Addition.

√ The Hellums Furniture Company., Inc.
431 N. Water

The W 79 ft of Lot 2 & W 79 ft of S 10 ft Lot
4, Waco Ave., Munger's Original Town Addition.

√ The Urban Renewal Agency of the Wichita
Kansas Metropolitan Area.
503 N. Waco

The E 53 ft of Lot 2, & E 53 ft of S 10 ft
of Lot 4, N 20 ft Lot 4 & all Lots 6 & 8,
on Waco Ave., Munger's Original Town Add.

§ The Urban Renewal Agency of the Wichita
Kansas Metropolitan Area.

Lot 1, Wichita Street, Munger's Original Town Addition.

✓ Neva W. Davis
732 S. Lorraine

Lots 3 & 5, Wichita Street, Munger's Original Town Add.

Ⓟ The Urban Renewal Agency of the Wichita,
Kansas Metropolitan Area.

Lot 7, Wichita Street, Munger's Original Town Add.

Ⓟ The Urban Renewal Agency of the Wichita,
Kansas Metropolitan Area.

Lot 9, Wichita Street, Munger's Original Town Addition.

✓ Clarence Reed & Joseph Reed
509 N. Wichita

Lot 11, Wichita Street, Munger's Original Town Addition.

Ⓟ The Urban Renewal Agency of the Wichita,
Kansas Metropolitan Area.

Lots 2 & 4, Wichita Street, Munger's Original Town Addition.

Sedgwick County, Kansas

Lots 6, 8 & 10, Wichita Street, Munger's Original Town Addition.

Sedgwick County, Kansas

Dated at Wichita, Kansas this 31st day
of March, 1965 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elise M. Farrell
Sec. OEM

Tracer # 67241

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
<i>Sanitation</i>	<i>50.00</i>

Name *Mr. [unclear]*

Address *1000 [unclear]*

Type *L-718* Due Date

Comments:

Date *4-6-65* By *[Signature]*

*

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