

BZA 16-69 - Robt. W. Moore requests variance to reduce front yard setback from 20' to 0' on "B" located on ESst Main between Kellogg & Orme.

POSTED
7-31-69
WARD ✓
CIV ✓

ACTION

DATE 8-26-69

COMMITTEE

Oppose

RESOLUTION NO. BZA 16-69

WHEREAS, Robert W. Moore, 6215 East Kellogg, by Render, Kamas & Kelly, 612 Union National Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family, and legally described as follows:

The South 10 feet of Lot 15 and all of Lot 17, on Main Street in Dieters Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Main Street between Kellogg and Orme.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of August 26, 1969, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the applicant desires to provide additional off-street parking in excess of that required by the zoning ordinance; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the property to the north is under the same ownership and is utilized for an off-street parking lot that with proper screening on the south, adjacent properties would not be adversely affected; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28, of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as an area which is of no practical purpose would have to be retained and could not be utilized for off-street parking; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as it would tend to eliminate possible on-street parking; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as a variance can be justified in circumstances such as this when the area is adjacent to an existing parking lot and can be effectively screened from adjacent residences; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family and legally described as follows:

The South 10 feet of Lot 15 and all of Lot 17, on Main Street in Dieters Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Main Street between Kellogg and Orme.

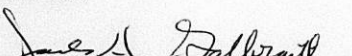
be approved subject to the following conditions:

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the west 20 feet thereof. This condition replaces the requirement of fencing associated with BZA Case No. 2-69 to the north.

ADOPTED AT WICHITA, KANSAS, this 26th day of August, 1969.


NORMAN N. DOKE, Chairman

ATTEST:


JACK H. GALBRAITH, Secretary

August 29, 1969

Mr. Robert W. Moore
6215 East Kellogg
Wichita, Kansas 67218

Dear Mr. Moore:

Subject: Case No. BZA 16-69
Request for Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 26, 1969, in connection with your request for a variance to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family and generally located on the east side of Main Street between Kellogg and Orme.

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

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:so

cc: Render, Kamas & Kelly, 612 Union National Building, Wichita, Ks.
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk

August 27, 1969

Robert W. Moore
6215 East Kellogg
Wichita, Kansas 67218

Dear Mr. Moore:

Subject: Case No. BZA 16-69
Request for Variance

At the regular meeting of the Board of Zoning Appeals on August 26, 1969, your request for a variance to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family and generally located on the east side of Main between Kellogg and Orme, was considered. It was the action of the Board to approve this request, subject to the two conditions in the Secretary's Report.

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

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:so

cc: Render, Kamas & Kelly, 612 Union National Bldg., Wichita, Ks.
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. RZA 16-69

APPLICANT: Robert W. Moore, 6215 East Kellogg

AGENT: Render, Kamas & Kelly, 612 Union National Building

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

GENERAL LOCATION: East side of Main between Kellogg and Orme

ZONING: Subject property is zoned "B" as are those properties to the north, south and west, with "B" and "C" to the east.

LAND USE: Subject property is occupied by a single family residence as are those properties to the south and west. To the north is a parking lot with a restaurant and parking to the east.

JURISDICTION

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY

Subject property is zoned "B" as is that to the north, south and west with "B" and "C" zoning to the east. The Board of Zoning Appeals on March 25, 1969, approved an application to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only (BZA 2-69) for the property adjacent on the north which is under the same ownership as this request.

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

UNIQUENESS

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

ADJACENT PROPERTY

It is the opinion of the Secretary that inasmuch as the property to the north is under the same ownership and is utilized for an off-street parking lot that with proper screening on the south, adjacent properties would not be adversely affected.

HARDSHIP

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

Secretary's Report
Page 3 - BZA 16-69

PUBLIC INTEREST

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

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance would not be opposed to the general spirit and intent of Title 28 inasmuch as a variance can be justified in circumstances such as this when the area is adjacent to an existing parking lot and be effectively screened from adjacent residences.

RECOMMENDATION

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

1. The area shall be utilized for parking purposes only and no permanent structures shall be erected thereon.
2. A 5 to 8 foot high solid fence constructed of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar shall be erected along the south property line, said fence to be reduced to 3 feet in height for the ~~east~~^{west} 20 feet thereof. This condition replaces the requirement of fencing associated with BZA Case No. 2-69 to the north.

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

August 6, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 16-69

An application has been filed by Robert W. Moore, 6215 East Kellogg, by Render, Kamas & Kelly, 612 Union National Building, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the front yard setback from 20 feet to 0 feet for off-street parking purposes only on property zoned "B" Multiple Family Dwelling and legally described as:

The South 10 feet of Lot 15 and all of Lot 17, on Main Street in Dieters Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Main Street between Kellogg and Oxme.

This application has been assigned Case No. BZA 16-69 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 26, 1969, at 1:30 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

14 NOTICES MAILED 8-6-69 FOR 8-26-69 BZA MEETING

APPLICATION FOR VARIANCE

I. Name of Applicant Robert W. Moore
Mailing Address 6215 E. Kellogg, Wichita 67218 Phone MU3-5631
Name of Authorized Agent Render, Kamas & Kelly
Mailing Address 612 Union Nat'l Bldg., Wichita 67208 Phone 267-2212
Relationship of applicant to property is that of Owner
(owner, tenant, lessee, other)

II. The variance requested is to reduce the front yard setback
from 20 feet to 0 feet for off-street parking purposes only,
of Wichita, Kansas, so as to permit off-street parking spaces and
circulation aisles within the front yard set back

for property located 720 South Main, Wichita, Kansas

85 Main W Kellogg & Jones

and legally described as: The South 10 feet of Lot 15 and ^{allof} Lot 17,

on Main Street in Dieters Addition to Wichita, Sedgewick County, Kansas

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

(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.

Robert W. Moore

Applicant

Render, Kamas & Kelly

By James B. Ziegler
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals
11:55 (a.m. - p.m.), July 18, 1969, together with
appropriate fee of \$50.00.

G. Lynn Shirkley
Signed 20

STATEMENT

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

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

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
1, 3, 5, 7, 9, 11, 13, 15 & 17	Main	Dieters	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
19 & 21	"	"	Lola Edna Sanders 726 S. Main Wichita, Kansas 67213
23 & 25	"	"	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
27 & N 9' of Lot 29	"	"	Sai Chan Wong Johanna Wong 732 S. Main Wichita, Kansas 67213
S 16' Lot 29 & N 17' of Lot 31	"	"	Warren C. Grubb Mary G. Grubb 740 S. Main Wichita, Kansas 67213
S 8' Lot 31 & Lot 33	"	"	Jennie Rollings Everett Rollings 744 S. Main Wichita, Kansas 67213
2, 4, 6, 8, 10, & 12	Market	Paynes	Wilbur E. Walker Bernice H. Walker 16 Douglas Avenue Wichita, Kansas 67206
That part of Res A, in Dieters Add adj Lots 2, 4, 6, 8, 10, & 12, Paynes Add on West		Dieters	Same
14, 16, 18 20 & 22	Market	Paynes	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
That part of Res A adj Lots 14, 16, 18, 20 & 22, Paynes Add on West		Dieters	Same

Lot	Street	Addition	Property Owner
24 & 26	Market	Paynes	Robert W. Moore 16147 E. Harry Wichita, Kansas 67230
That part of Res A, adj Lots 24 & 26, Paynes Add on West		Dieters	Same
28 & 30	Market	Paynes	Naomi Henderson 1822 S. Broadway Wichita, Kansas 67211
That part of Res A, Dieters Add adj Lots 28 & 30, Paynes Add on the West		Dieters	Same
32 & 34	Market	Paynes	John Bateman Irene Bateman Address unknown
That part of Res A, Dieters Add adj Lots 32 & 34, Paynes Add on the West		Dieters	Same
W 40' Lot 36	Market	Paynes	Ethel L. Dean 116 E. Orme Wichita, Kansas 67211
That part of Res A, Dieters Add adj Lot 36		Dieters	Same
E 89.69' Lot 36	Market	Paynes	Winifred W. Day Address unknown
2		Schumachers Outlots	Clinton Oil Co. 6810 W. Highway 54 Wichita, Kansas 67209
3		"	Walborg L. Morgan 4 Highland Road Eastborough Wichita, Kansas 67208
4		"	Leta Mae Barrett 1717 N. Belmont Wichita, Kansas 67208
5		"	Administrator of Veterans Affairs 5500 E. Kellogg Wichita, Kansas 67218

Lot	Addition	Property Owner
6	Schumachers Outlots	X Theron L. Walker Peggy Florence Walker Address unknown
N 40' Lot 7	"	X Maurine Peters Geraldine Townsend Address unknown
7, exc N 40'	"	X Roberta L. Payne Apt 408 308 S. Market Wichita, Kansas 67202

The Security Abstract and Title Company, Inc., hereby certifies the foregoing to be a true and correct list of property owners within a 200 Ft. radius of:

The South 10 feet of Lot 15, and all of Lot 17, on Main Street, in Dieter's Addition to the City of Wichita, Sedgwick County, Kansas,

as shown by the last deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 15th day of July, 1969 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Lucille Schmidt

Vice President

Order No. 164956
jwp

Form 273-02

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.	Pibg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION

AMOUNT

B2H Invoice \$50.00

Name Bob Drake 1111 S. 1st St. Wm

Address 6215 E Kellomg

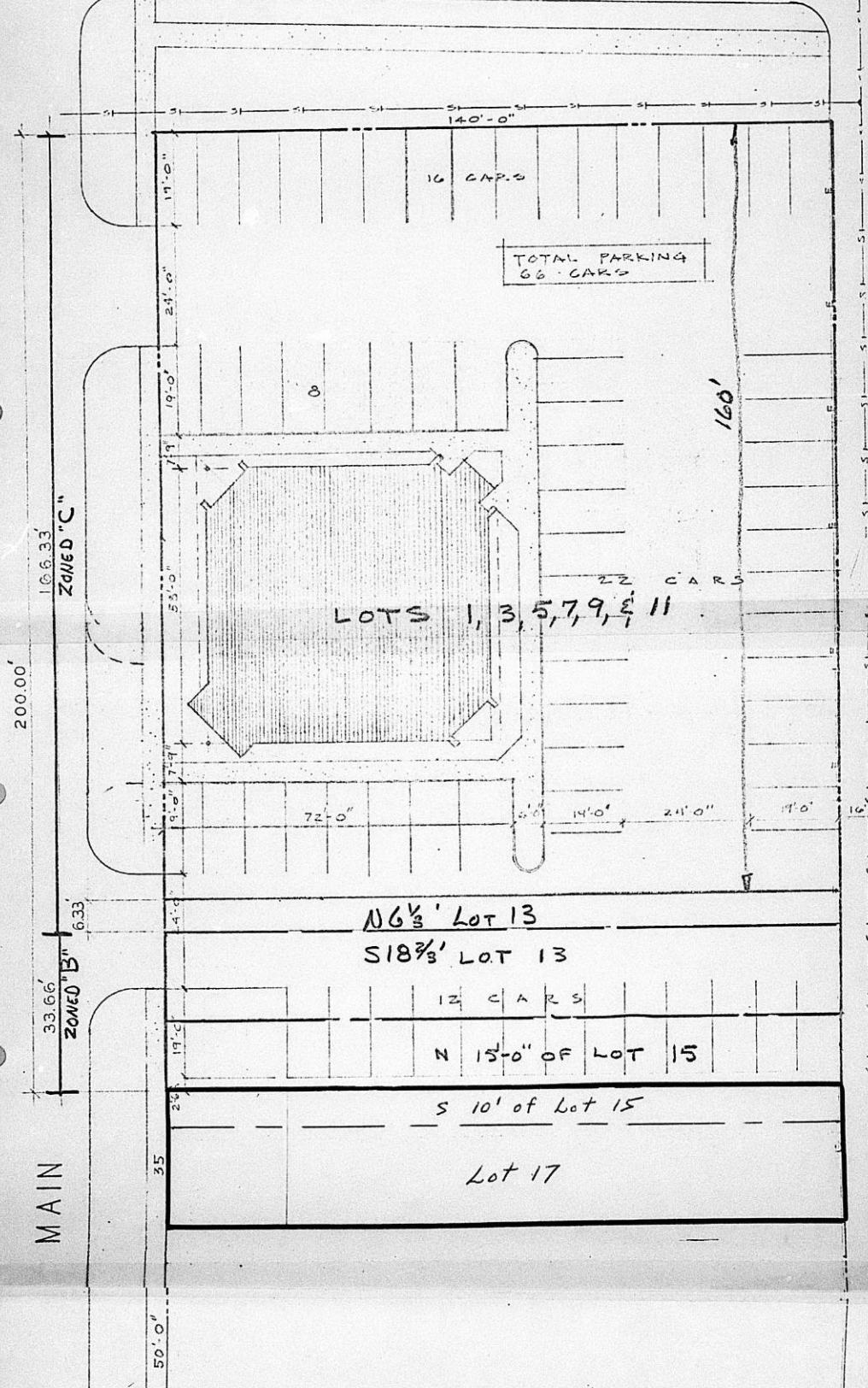
Type R-71-C Due Date 7-18-64

Comments:

Date 7-18-64 By SO

KELL

KELLOGG AVE



106.33'
ZONED "C"

200.00'

33.66'
ZONED "B"

MAIN

16 CARS

TOTAL PARKING
66 CARS

160'

22 CARS

LOTS 1, 3, 5, 7, 9, & 11

N 6 2/3' Lot 13

S 18 2/3' Lot 13

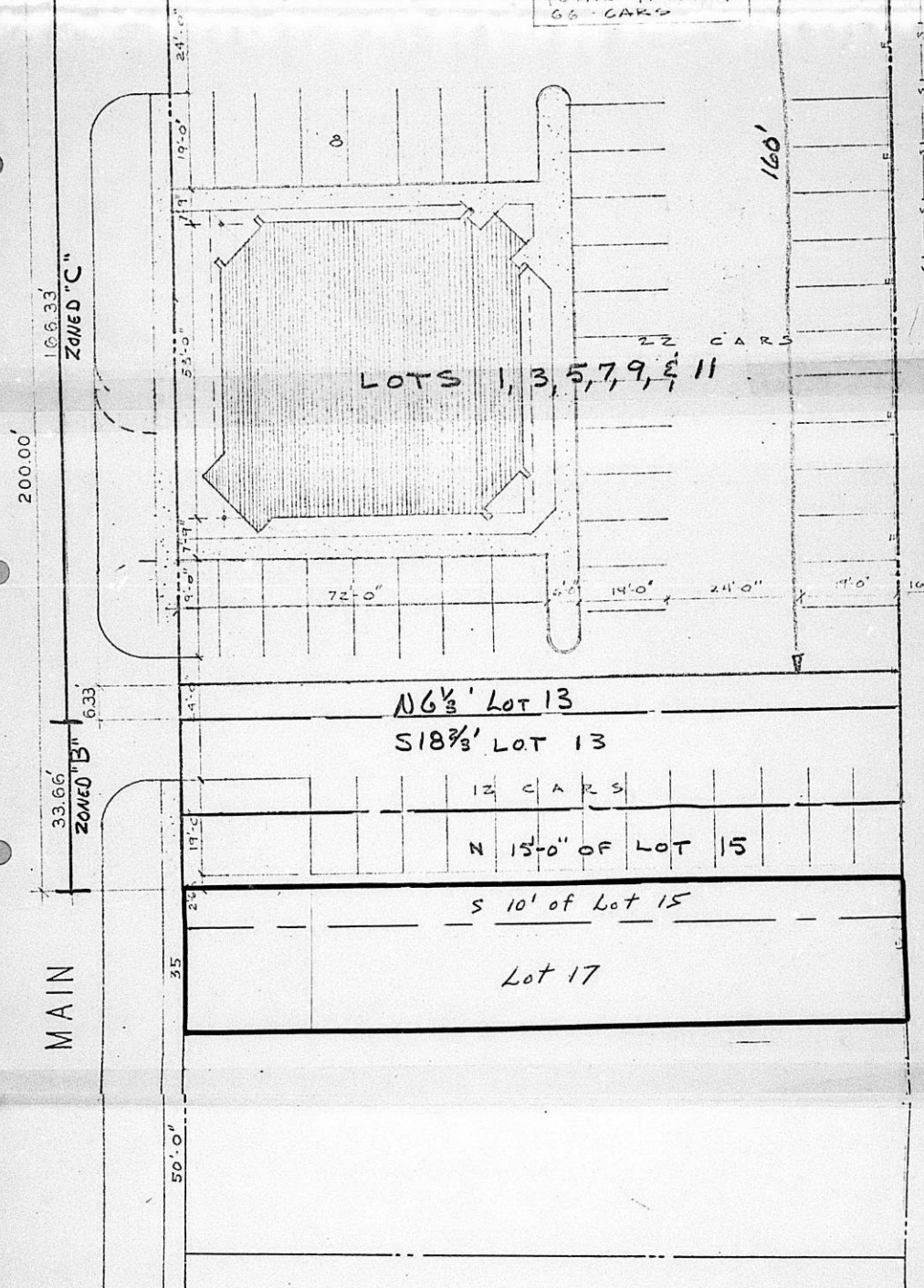
12 CARS

N 15'-0" OF LOT 15

S 10' of Lot 15

Lot 17

LOT 12
66 CARS



LOTS 1, 3, 5, 7, 9, & 11

N 6 1/3' LOT 13

S 18 2/3' LOT 13

12 CARS

N 15'-0" OF LOT 15

S 10' OF LOT 15

Lot 17

LEGAL DESCRIPTION:
 LOTS 1, 3, 5, 7, 9, 11, 13 & N. 15' OF LOT 15
 DIETERS ADD. TO
 WICHITA, SEDGWICK CO.,
 KANSAS

P L O T