

B.C.C./B. CO. C.

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BZA 25-68 - Ferdinand K. Foergg re-
quests variance to reduce front yard
setback on property located on NE
corner of Second and Mathewson

POSTED
9-29-68

ACTION

BZA COMMITTEE

deferred DATE 9-24-68
approved 10-1-68

M.A.P.C. _____

B.C.C./B. CO. C. _____

ezml
Pzml

BZA 25-68 - Ferdinand K. Feery re-
quests variance to reduce front yard
setback on property located on NE
corner of Second and Mathewson

October 14, 1968

Mr. R. C. Israel
434 North Market
Wichita, Kansas 67202

Subject: BZA 25-68 - Request for a
Variance

Dear Mr. Israel:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 1, 1968, in connection with your request for a variance to reduce the required front yard setback on property zoned "C" Commercial, and generally located on the northeast corner of Second and Mathewson.

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

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Ferdinand K. Foergg
201 Mathewson
Wichita, Kansas 67214

Ralph Eberly,
City Clerk

Robert Feldner,
Superintendent of
Central Inspection

R E S O L U T I O N N O. BZA 25-68

WHEREAS, Ferdinand K. Foergg, d/b/a/ European Car Company, by R. C. Israel, 434 North Market, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 20 feet to 0 feet on property zoned "C" Commercial, and legally described as follows:

Lot 25 on Mathewson Avenue, Mathewson's Fourth Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Second and Mathewson.

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 September 24, 1968, defer said application because of a lack of quorum; and

WHEREAS, the Board of Zoning Appeals did, in an adjourned meeting of October 1, 1968, 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's property is bounded on the north, east and west by "C" Commercial zoning, with "E" Light Industrial zoning to the south and that if the lot were oriented toward Second Street, no setback would be required from either Second Street or Mathewson; 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 they are zoned for the same district as the application area; 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 the applicant would be deprived of the right to utilize his land in the same manner as many existing commercial and industrial uses in the general area; 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 adjacent properties are zoned for the same uses as the application area; and

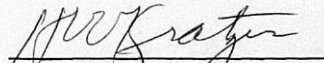
WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the application does meet the four previous requirements; and

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

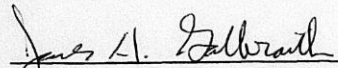
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance of the required 20 ft. front yard setback to 0 feet be approved on property zoned "C" Commercial and legally described as follows:

Lot 25 on Mathewson Avenue, Mathewson's Fourth Addition to the City of Wichita, Sedgwick County, Kansas.

ADOPTED AT WICHITA, KANSAS, this 1st day of October, 1968.


H. W. KRATZER, Chairman

ATTEST:


JACK H. GALBRAITH, Secretary

October 2, 1968

Mr. R. C. Israel
434 North Market
Wichita, Kansas 67202

Subject: BZA 25-68 - Request for a
Variance

Dear Mr. Israel:

At the deferred meeting of the Board of Zoning Appeals on October 1, 1968, your request for a variance to reduce the required front yard setback on property zoned "C" Commercial, and generally located on the northeast corner of Second and Mathewson, was considered.

It was the action of the Board to approve this request and grant the variance to reduce the front yard setback from 20 feet to 0 feet.

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:js

cc: Ferdinand K. Foergg, 201 Mathewson, Wichita, Kansas 67214
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk

September 24, 1968

Mr. R. C. Israel
434 North Market
Wichita, Kansas 67202

Subject: BZA 25-68 - Request for a
Variance

Dear Mr. Israel:

Due to the fact that a quorum was not in attendance for the Board of Zoning Appeals meeting of September 24, 1968, your request for a variance to reduce the required front yard setback was deferred.

This meeting was rescheduled for Tuesday, October 1, 1968, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas. If you have any questions concerning this matter, please contact our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Ferdinand K. Foergg
European Car Company
201 Mathewson
Wichita, Kansas 67214

SECRETARY'S REPORT
CASE NO. BZA 25-68

APPLICANT: Ferdinand K. Foergg d/b/a Eurcpean Car Ccmpany,
201 Mathewson, Wichita, Kansas.

AGENT: R. C. Israel, 434 North Market, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City
of Wichita, to reduce the required 20 foot front yard
setback to 0 feet.

GENERAL LOCATION: Northeast corner of Second Street and Mathewson.

ZONING: Subject property is zoned "C" Commercial as is that to the
north, east and west with "E" light industrial zoning to
the south.

LAND USE: Subject property is occupied by a single family residence
as are the properties to the north, east and west with
vacant land to the south.

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 follow-
ing 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 ad-
versely affect the rights of adjacent property owners or resident
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 gen-
eral welfare; and
5. That granting the variance desired will not be opposed to the
general spirit and intent of Title 28 (zoning ordinance).

Comments by the Secretary

The applicant is requesting a variance of the front yard setback from the required 20 feet to 0 feet. The situation, briefly, is that the application area lies within a block, a portion of which is zoned "B" Multiple-Family. The zoning ordinance states under the area requirements in the "C" Commercial District; "where the frontage on the same side of the street between two (2) intersecting streets is located partly in a dwelling district, the front yard requirements of the dwelling district shall apply to the entire frontage in both districts

Subject property is located in an older area of town and from viewing the area in the field it may be seen that many of the residences in the block are in violation of the required 20 foot front yard setback. This, in all probability, is due to their construction prior to setback requirements being established.

Uniqueness

It is the opinion of the Secretary that this request is somewhat unique inasmuch as the applicant's property is bounded on the north, east and west by "C" Commercial zoning, with "E" Light Industrial zoning to the south and that if the lot were oriented toward Second Street, no setback would be required from either Second Street or Mathewson.

Adjacent Property

It is the opinion of the Secretary that the granting of the variance would not adversely affect the adjacent properties inasmuch as they are zoned for the same uses as the application area.

Hardship

It is the opinion of the Secretary that an unnecessary hardship would be placed upon the applicant if the variance were not granted inasmuch as the applicant would be deprived of the right to utilize his land in the same manner as many existing commercial and industrial uses in the general area.

Public Interest

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public interest.

Page 3 - Secretary's Report
Case No. BZA 25-68

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 the application does meet the four previous requirements.

Recommendation

It is the opinion of the Secretary that all five conditions necessary for the granting of the variance can be found to exist and, therefore, it is recommended that the variance be granted to reduce the front yard setback from ~~25~~ feet to 0 feet.

20

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

September 3, 1968

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 25-68

An application has been filed by Ferdinand K. Foergg d/b/a European Car Company, First and Mathewson, Wichita, Kansas, by R. C. Israel, 434 North Market, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 20 feet to 0 feet on property zoned "C" Commercial, and legally described as follows:

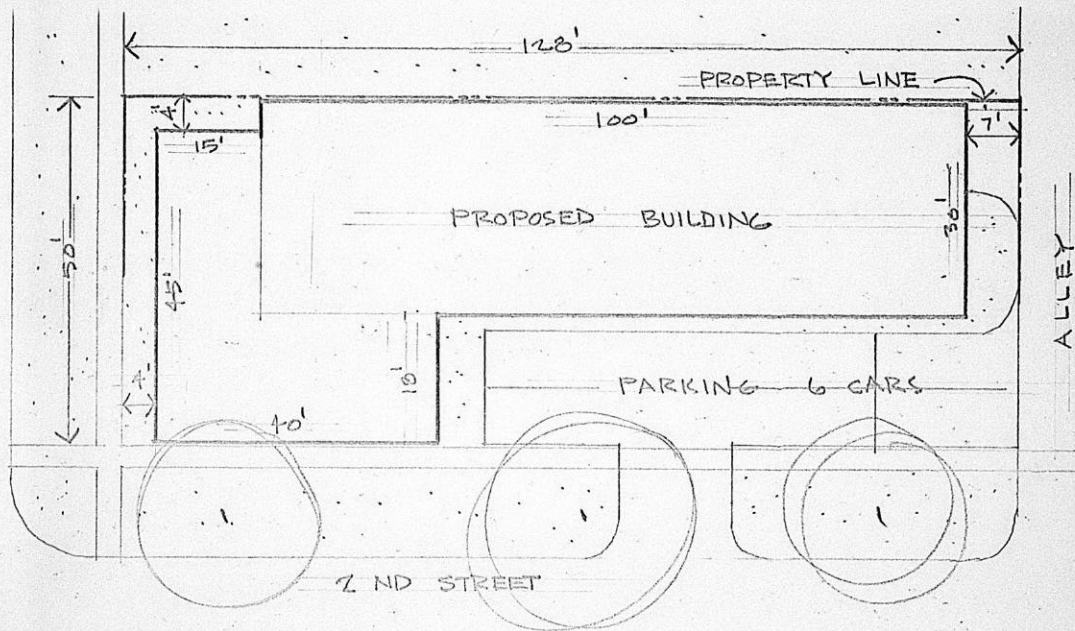
Lot 25 on Mathewson Avenue, Mathewson's Fourth Addition to the City of Wichita, Sedgwick County, Kansas. Generally described as the northeast corner of Second and Mathewson.

This application has been assigned Case No. BZA 25-68, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 24, 1968, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH
Secretary

*30 Notices
mailed 9-4-68*

MATHENISON



ALLEY

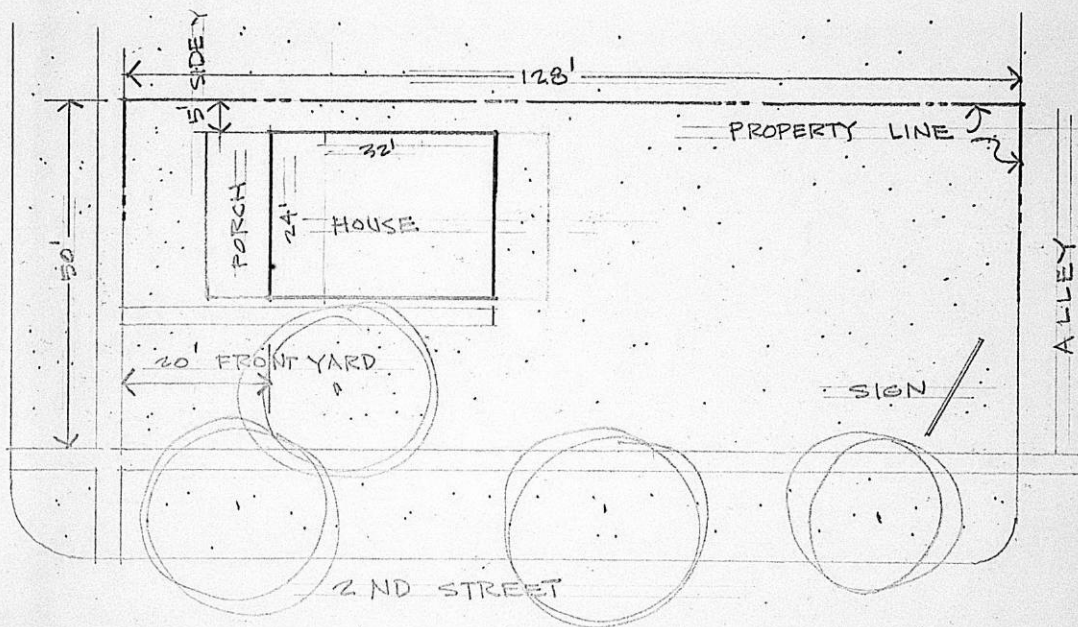


PROPOSED IMPROVEMENTS ON LOT NO 25

1/16" = 1'-0"

27 AUGUST, 1968

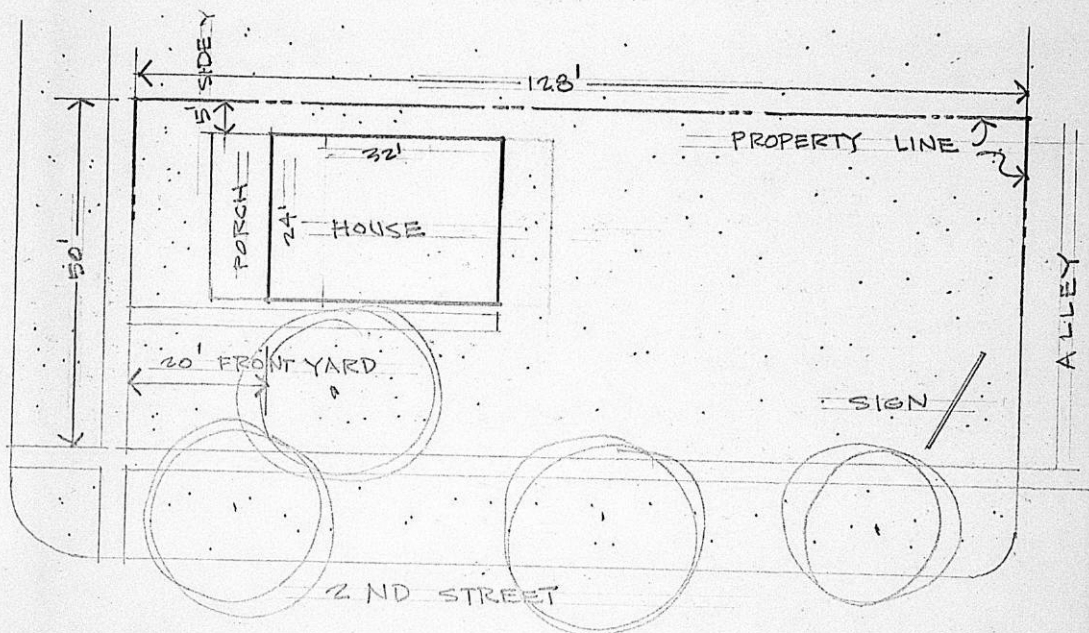
MATHEWSON



EXISTING IMPROVEMENTS ON LOT NO 25 1/16" = 1'-0"

27 AUGUST

MATHEWSON



EXISTING IMPROVEMENTS ON LOT NO 25 $1/16" = 1'-0"$
27 AUGUST

FORM 223-021

PAYMENT NOTICE

City of Wichita

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		50.00

DESCRIPTION AMOUNT

B3a application

Name European Car Co.

Address 201 N. Mathewson

Type R71C Due Date

Comments:

Date 9-28-68 By Joyce Smith

This application meets the requirements of Section 2.12.590.2 in the code of the City of Wichita, as follows:

- (a) The applicant requests a variance in a front yard setback requirement of 20' to be reduced to 0', as the subject property is located in an area where the full use of his "C" commercial zoning would normally be allowed. The setback of 20' is required due to the presence of "E" dwelling district zoning on the same side of the street. The majority of zoning in the immediate areas, however, zoned "C" commercial, or "E" light industrial. Since the dwelling district zoning affecting this property is no longer compatible with the area as currently developed, the applicant asks that he be permitted to build in accordance with a normal "C" district situation.
- (b) This application for variance will not adversely affect the rights of adjacent property owners or residents, as the property is also in the "C" commercial district, or across the street, "E" light industrial.
- (c) The strict application of the provisions of Title 28 would constitute a hardship on the applicant by restricting the best use he intends to make of this corner through the construction of a new building. The applicants completed building plans do not allow for a front yard setback as he was originally advised that there would not be a front yard requirement.
- (d) The applicant is undertaking the construction of tasteful, well planned building, and the requested variance will in no way adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
- (e) Granting this variance will not be opposed to the general spirit and intent of Title 28 (zoning ordinance). The normally desirable protection of a dwelling district does not seem prudent in this area, as the development of the dominant "C" and "E" district is prospering, and the dwelling district has been declining for some time.

(1400)			(500)		
47	48	49	41	48	47
45	46	45	45	46	45
43	44	43	43	44	43
41	42	41	41	42	41
39	40	39	39	40	39
37	38	37	37	38	37
35	36	35	35	36	35
33	34	33	33	34	33
31	32	31	31	32	31
29	30	29	29	30	29
27	28	27	27	28	27
25	26	25	25	26	25

COND (1400)			(1500)		
23	24	23	23	22	23
21	22	21	21	22	21
19	20	19	19	20	19
17	18	17	17	18	17
15	16	15	15	16	15
13	14	13	13	14	13
11	12	11	11	12	11
9	10	9	9	10	9
7	A.8	7	7	8	7
5	6	5	5	6	5
3	4	3	3	4	3
2	3	2	2	3	2

(300) CLEVELAND
 (300) MAHON
 (300) YORK
 (300) MAHON

AVE
 AVE
 AVE
 AVE

AVE
 AVE
 AVE
 AVE

YORK
 MAHON
 MAHON
 MAHON

(200)

(200)

(200)

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 Sedgwick County,)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
 Lot 25, Mathewson Avenue, in Mathewson's Fourth
 Addition, Wichita, Sedgwick County, Kansas.

And from such examination find that the owners there-
 of are as set opposite the description of the property below, viz:

LOT	STREET	ADDITION	OWNER
19	Mathewson	MATHEWSON'S 4th.	Pauline J. Tellis No Address Available
21	"	"	Gordon G. Ferris Alberta Faye Ferris, ux 250 Mathewson 67214
23 (W 77' & 2")	"	"	Kenneth McDonald Mary McDonald, ux 2734 Larkin Dr. 67216
23 (E 50' & 10")	"	"	Orrell, Ward & Oneale 200 W. Murdock Ins. Inc. 67203
25	"	"	Ferdinand K. Foergg Rosina Foergg, ux 4009 E 22nd St. 67220
27	"	"	Joe & Ethel DeWitt, ux 308 Mathewson 67214


 Fidelity
 Title
 Company.
 Inc.



Lot	STREET	ADDITION	OWNER
29	Mathewson	<u>MATHEWSON'S 4th.</u>	Reba M. Morland No Address Available
31	"		✓ Bartina Beschka 6902 E. Orme 67207
33	"		✓ D. & Altha Rishell, ux No Address Available
20	"		✓ <i>2754 N. Richmond 04</i> Henry Anthony 251 Mathewson 67214
22 & 24	"		✓ Tinnie Anthony 251 Mathewson 67214
26, 28 & S 2' of 30,	"		✓ Lucie I. Neely 1414 E. 2nd St. 67214
30, exc S 2'	"		✓ Lance I. Coffey #83 Mission 67207
32	"		✓ Roy M. & Allie L. Smith, ux 530 N. Fountain 67208
34	"		✓ Gladys Paust 1311 S. Oliver 67218
20	New York		✓ Harsha H. Eilerts Mary H. Eilerts, ux 243 New York Ave. 67214
22 & 24	" "		✓ Anna Senger No Address Available
26	" "		✓ <i>2438 C. Harry</i> " " William Graham, Inc. 211 N. Broadway 67202
28	" "		✓ Joe & Ethel DeWitt, ux 308 Mathewson 67214
30	" "		✓ Charles S. DeVoge Marguerite DeVoge, ux 309 New York Ave. 67214
32	" "		✓ Vera T. Stephens 317 New York Ave. 67214
34	" "		✓ Robert C. Bowlin Betty Jean Bowlin, ux 1362 S. Edwards 67213

Dated at Wichita, Kansas this 28th day
of August, 1968 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Edwin M. Farrell
Sec. OEM

Tracer # 906146