

BZA Case No. 33-76 - Alma C. Grant requests variance to reduce the required on-site employee parking spaces from 2 to 6 on property generally located on the East side of Lorrain

POSTED
8-4-76

D6

MADV
C.I.V.
8/28/76

DATE
8-28-76

ACTION

Deferred

9-29-76

approved

BZA 33-76 COMMITTEE

M.A.P.C.

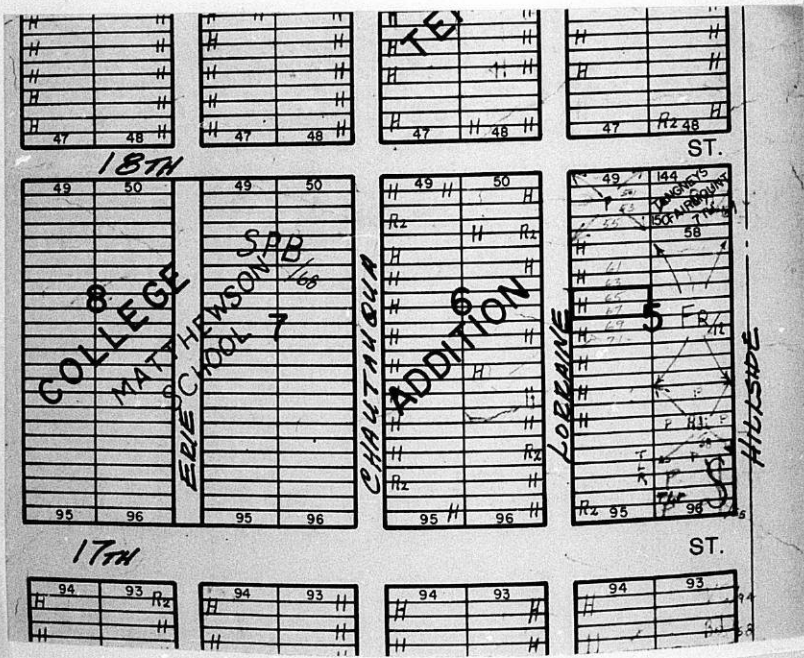
B.C.C./B. CO. C.

Map No. 5649
 Sec. 10
 Twp. 27
 Range 1E

BZA- 33-76
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
 1. Acres: _____ (50 ft. by 140 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East FRATERNITY HOUSE South SINGLE FAM
 West SINGLE FAM North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: SINGLE FAM
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



HASTING, INC. - LOS ANGELES
 No. 2133C
 SHELDON
 LOS AN - INDIANAPOLIS, IN U.S.A.

RESOLUTION NO. BZA 33-76

WHEREAS, Alma Grant, 3712 East 13th Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 65 and 67, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Lorraine in an area between 17th and 18th Streets.

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 24, 1976, at the request of the applicant, defer consideration of said application to its next meeting of September 28, 1976, for the purpose of having a full Board present; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of September 28, 1976, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of 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 subject property lies directly across the street from the property zoned the "B" Multiple Family Dwelling District where available parking space is being made available to the applicant; 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 surrounding property owners and/or residents are agreeable to the request and have signed a petition to that effect; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as they would not be able to serve the community's acknowledged need for additional child care facilities; 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 due to the fact that off-street parking is being provided across the street; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as off-street parking, although not on-site parking, is being provided in close proximity to subject property; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 65 and 67, Block 5, College Terrace
Addition to Wichita, Sedgwick County, Kan-
sas. Generally located on the east side
of Lorraine in an area between 17th and 18th
Streets,


be approved subject to the following conditions:

1. Written consent of the owners of the land on which the off-street parking is to be provided shall be obtained from the owner of the land.
2. If the authorized utilization of the parking on the property to the west is withdrawn, the applicant is to advise the Board and the exception, Case No. BZA 22-76, and variance, Case No. BZA 33-76, shall be considered null and void unless a variance application for parking is re-filed and approved by the Board within 90 days.

ADOPTED AT WICHITA, KANSAS, this 28th day of September, 1976.


Marjorie L. Taylor
Chairman

ATTEST:


Jack H. Galbraith
Secretary

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

455 N. Main, 10th Floor
City Hall

October 1, 1976

Mrs. Alma Grant
3712 East 13th Street
Wichita, Kansas 67208

Re: Case No. BZA 33-76
Request for Variance

Dear Mrs. Grant:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on Tuesday, September 28, 1976, in connection with your request for a variance to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Lorraine in an area between 17th and 18th Streets.

This Resolution reflects the official action of the Board to approve the 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.

Yours very truly,

Jack H. Galbraith
Secretary

JHG:bh
Encl.

cc: Michael Gragert, Garvey Bldg, 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXX

September 29, 1976

Tenth Floor, City Hall
455 North Main Street

Mrs. Alma Grant ✓
3712 East 13th Street
Wichita, Kansas 67208

Re: Board of Zoning Appeals
Case Numbers BEA 22-76;
BEA 23-76; and BEA 33-76

Dear Mrs. Grant:

At the regular meeting of the Board of Zoning Appeals on Tuesday, September 28, 1976, your requests for an exception to permit the establishment of a child care center, (Case No. BEA 22-76), and variance (Case No. BEA 23-76) to reduce the required front yard setback from 25 feet to 0 feet for off-street parking purposes only, and variance (Case No. BEA 33-76) to reduce the required on-site parking spaces from 2 spaces to 6 spaces on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Lorraine in an area between 17th and 18th Streets were considered.

The action of the Board was as follows:

CASE NO. BEA 22-76 - The action was to approve this exception request subject to the following conditions:

1. The applicant shall obtain Board approval of Case No. BEA 33-76.
2. The center shall comply with all licensing requirements of the Kansas State Department of Health, including all building and fire safety regulations of the State of Kansas and the City of Wichita.
3. The Department of Community Health shall determine the maximum number of children to be permitted in the center, which shall not exceed 15 children.
4. Outdoor play shall be limited to the hours between 7:30 a.m. and 6:30 p.m., when any part of the fenced play area

Mrs. Alma Grant

September 29, 1976

is within 100 feet of any occupied residence.

5. One off-street parking space shall be provided on the premises for each teacher and employee plus one off-street parking space for each vehicle used in the operation of the child care center, or the applicant shall obtain a variance of this requirement.
6. When the capacity of the child care center exceeds twelve, one off-street loading space shall be provided for each ten children or major fraction thereof. The location of these spaces shall be approved by the Superintendent of Central Inspection.

CASE NO. BSA 23-76 - No action was necessary inasmuch as the case was withdrawn by the applicant. The case is therefore considered to be withdrawn and closed.

CASE NO. BSA 33-76 - The action was to approve this variance subject to the following conditions:

1. Written consent of the owners of the land on which the off-street parking is to be provided shall be obtained from the owner of the land.
2. If the authorized utilization of the parking on the property to the west is withdrawn, the applicant is to advise the Board, and the exception, Case No. BSA 22-76, and variance, Case No. BSA 33-76, shall be considered null and void unless a variance application for parking is re-filed and approved by the Board within 90 days.

Resolutions setting forth the official actions of the Board are being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

Jack Galbraith
Secretary

JG:ld:bb

cc: Michael Gragert, Carvey Bldg, 67202 ✓
Henry Burlingh, 1642 N. Kansas, 67214
Norma Tolson, 1231 N. Grove, 67214
Robert J. Schleiter, 130 S. Greenwich, #313, 67206
Don Gimick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

PACK OIL COMPANY, INC.

P. O. Box 1198

WICHITA, KANSAS 67201
September 7, 1976

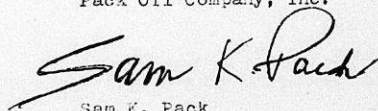
Mrs. Alma Grant
3712 East 13th Street
Wichita, Kansas

Dear Mrs. Grant,

This letter is written in response to your telephone call of last week. This is to advise you that you have our permission to use three (3) parking places located at 1843 North Lorraine, as long as it meets with the approval of the Half-Way House authorities, who are the present tenants. You may use these three parking places until we request that you stop.

Yours very truly,

Pack Oil Company, Inc.


Sam K. Pack

SKP/do

September 14, 1976

File (BZA 22-76; 23-76; and 33-76)

Larry Dobson, Assistant Secretary

Meeting with Alma Grant

On September 10, 1976, Alma Grant met with Jack Galbraith and myself concerning her BZA applications on her property at 1838 N. Lorraine.

Jack reviewed the three applications that have been filed and explained how and why each came to be filed. Explanation of the surrounding zoning districts was made, as well as an explanation of the University Overlay District, which created some confusion at the first hearing of these cases.

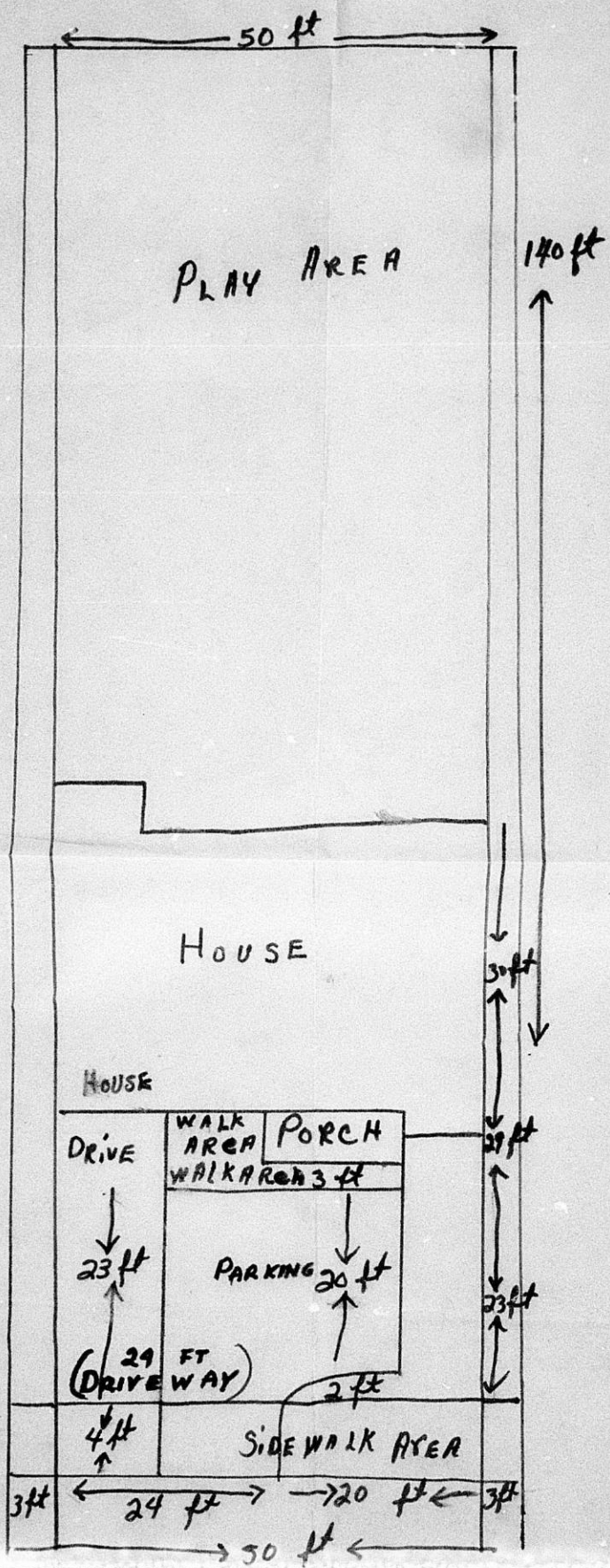
Mrs. Grant asked specifically that at the next meeting, we, as staff, point out the adjacent zoning and also expand on the alternatives open to Mrs. Grant relating to the off-street parking problem. She felt rather confident that the offered parking at the halfway house across the street would be more than just a temporary situation, but suggested alternatives such as the Lutheran Social Service property at the north end of the block and access to the rear of her property through the adjoining property from Hillside as possibilities.

She asked if a condition of approval could be made saying that if the parking across the street is terminated the exception would become null and void unless she could furnish the parking elsewhere? Jack indicated that such a condition could be made a requirement of Board approval, but would be difficult to enforce.

We reviewed the site plan with her again to remind her that even if the applications for exception and the variance to reduce the parking are granted, she will still be required to pave practically the entire front yard area to provide the two off-street loading spaces. She was initially confused by this, but after explanation, she indicated she understood the requirement and would be willing to do this.


Larry Dobson, Assistant Secretary

LD:bh

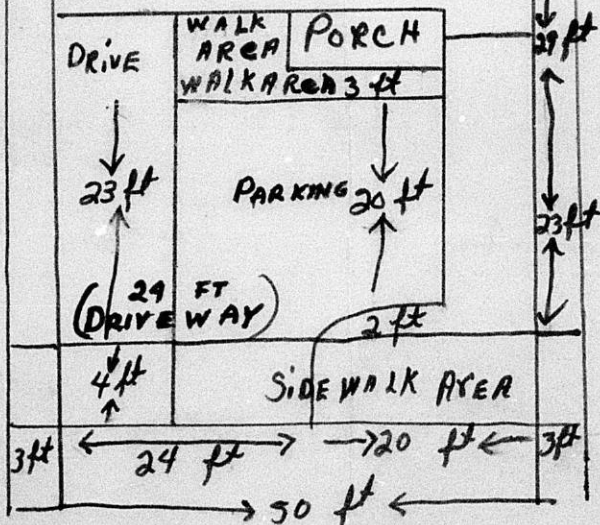


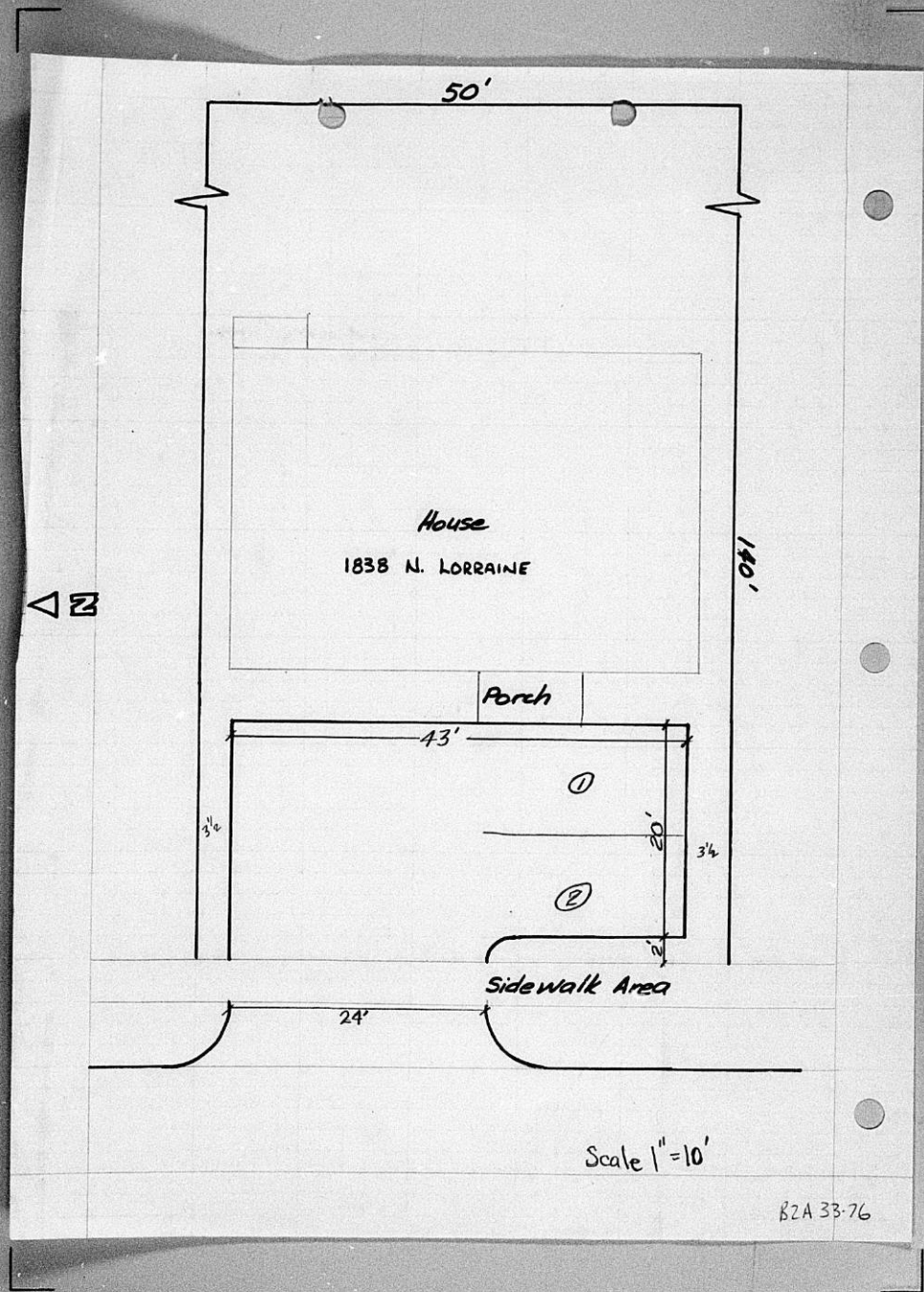
PLAY AREA

140 ft

HOUSE

HOUSE





Scale 1" = 10'

B2A 33-76

~~CONFIDENTIAL~~
~~MEMORANDUM~~

August 25, 1976

Tenth Floor, City Hall
455 North Main Street

Ms. Alma Grant
3712 East 13th Street
Wichita, Kansas 67208

Subject: Case No. BZA 22-76
Request for Exception
Case No. BZA 23-76
Request for Variance
Case No. BZA 31-76
Request for Variance

Dear Ms. Grant:

At the regular meeting of the Board of Zoning Appeals on Tuesday, August 24, 1976, your requests for variances and an exception on property zoned the "A" Two Family Dwelling District and generally located on the east side of Lorraine in an area between 17th and 18th Streets were scheduled for consideration. Your request that these cases be deferred to the Board's next meeting was relayed to the Board.

The action of the Board was to defer these three cases to the next regularly scheduled meeting of September 28, 1976.

If you have any questions, please call our office.

Yours very truly,

Larry Debsen
Assistant Secretary

LD:hh
cc: Henry Burleigh, 1642 N. Kansas, 67214
Norma Tolson, 1251 N. Grove, 67214
Robert J. Schleiter, 119 S. Greenwich, #113, 67206
Don Glsick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Central Inspection

RE: AGENDA ITEM NO.

SECRETARY'S REPORT
CASE NO. BZA 73-76

APPLICANT:

Alma Grant, 3712 East 13th Street, Wichita, Kansas.

AGENT:

Henry Burleigh, 1642 N. Kansas, Wichita, Kansas.

REQUEST:

Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces.

GENERAL LOCATION:

East side of Lorraine in an area between 17th and 18th Streets.

ZONING:

Subject property is zoned the "A" Two Family Dwelling District, as are properties to the north and south. Properties to the east and west are zoned the "B" Multiple Family Dwelling District.

LAND USE:

Subject property is developed with a single family residence as are the properties to the north and south. West is a parking lot and east is a fraternity house.

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

SECRETARY'S REPORT
CASE NO. BZA 33-76
Page 2

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:

This case is associated with Case BZA 22-76, an exception for a child care center, and was filed by the same applicant on the same property. This request is to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces. Another variance request has also been filed on this property, Case BZA 23-76 is a pending application to reduce the front yard setback to 0 feet for the purpose of permitting parking in the front yard area. If the exception for the child care center is approved, the applicant must also gain Board approval of one or the other of the variance requests to comply with the off-street parking requirements of the exception.

In this case the applicant is proposing to provide the off-street parking for the employees of the child care center across the street in the parking lot of a halfway house. The applicant has submitted a letter from the House Director of the Halfway House which states that the child care center "may use the parking area of the Lorraine Avenue Halfway House for at least one calendar year, September 1976 through 1977."

Most of the facts concerning this case have been previously reported in the other two Secretary's Reports. It should be noted that with this proposal of providing the off-street parking spaces off-site, it will still be necessary to pave practically all of the front yard area of subject property to provide for the off-street loading spaces. The revised site plan submitted by the applicant has been reviewed by the Traffic Engineer's Office. They report that they can approve the plan for design, but point out it would only leave 7 feet of the 50 foot lot frontage unpaved.

This request to reduce the required off-street parking on-site to 0 spaces so that parking may be located off-site presents some problems as proposed. If the Board grants the variance as requested with the provision that the parking be located off-site, the documentation of that should be in the form of written consent of the property owner or agent of the existing parking lot, providing the agreement is made binding on the owners of the land. After having first been approved as to form by the Board's Legal Counsel the document should then be filed with the Register of Deeds. Any other temporary arrangement would only create possible enforcement problems for the future.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to find uniqueness in this instance inasmuch as 50 foot frontage ownerships are not that unusual in the older neighborhoods of the City.

BZA 33-76 - Page 3
The unique aspect of this case is caused by the fact that the applicant desires to change the use of the property from single family residential to a child care center, thereby increasing the off-street parking requirement beyond that which can be provided on the site.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the requested variance may not have an adverse affect on the rights of adjacent property owners inasmuch as the utilization of available, existing off-street parking in the area should not adversely affect the neighborhood if the parking spaces are permanently assigned to the child care center and a binding agreement to this is recorded with the Register of Deeds.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance could create an unnecessary hardship upon the applicant if the child care center was otherwise considered to be an appropriate use for the neighborhood.

PUBLIC INTEREST:

It is the opinion of the Secretary that it is difficult to determine the affect on the public interest, but that the public interest would probably not be adversely affected if appropriate guarantees are provided that on-street parking would not be utilized.

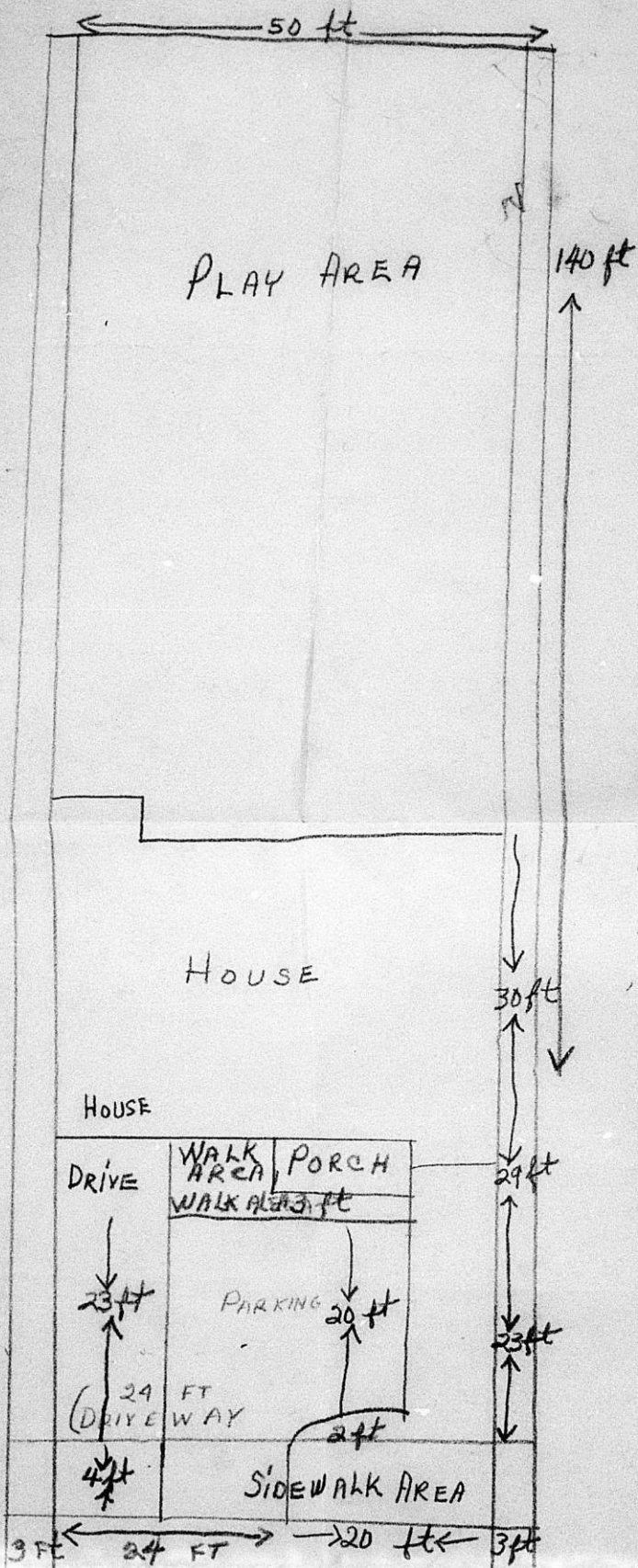
SPIRIT AND INTENT:

It is the opinion of the Secretary that the spirit and intent of the zoning ordinance in requiring off-street parking spaces and off-street loading spaces to be provided on the site is to assure that the child care site is of adequate size and appropriately situated so as to not impose or encroach upon the surrounding neighborhood. It would seem that this request is opposed to that intent.

RECOMMENDATION:

It is the opinion of the Secretary that all five of the above conditions cannot be found to exist and, therefore, it is recommended that the application be denied. If, however, the Board finds all five conditions to exist, the following condition is suggested as a condition of approval;

1. Written consent of the owners of the land, on which the off-street parking is to be provided shall be obtained from the owner of the land. Such consent shall be documented so that the specified parking is defined and made available as long as the child care center operates. The written consent shall be approved by the Board's Legal Counsel as to form and shall then be recorded with the Register of Deeds to become binding on the property. The cost of such recording shall be paid by the applicant.



PLAY AREA

140 ft

HOUSE

30 ft

HOUSE

DRIVE

WALK AREA PORCH
WALK AREA 3 ft

29 ft

23 ft

PARKING 20 ft

23 ft

24 FT DRIVEWAY

2 ft

4 ft

SIDEWALK AREA

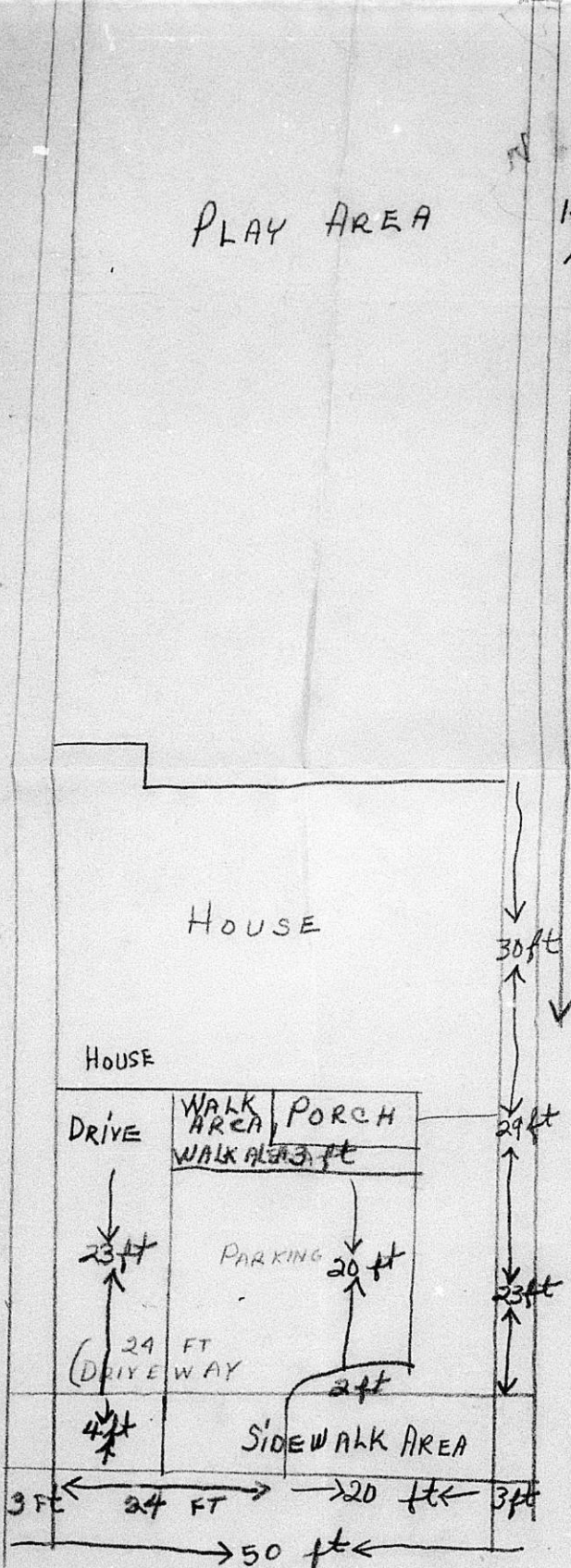
3 ft

34 ft

20 ft

3 ft

50 ft



1838 North Lorraine

Wichita, Kansas

August 3, 1976

To Whom It May Concern:

This letter ascertains that employees of the Northeast Day Care Learning Center may use the parking area of the Lorraine Avenue Halfway House for at least one calendar year, September 1976 through 1977.

Signed,

Day E. Tomma

House Director
LORRAINE HOUSE.



19 notices sent to agent, applicant and adjoining property owners
10 notices sent to members of MAPC
29 total notices sent on BZA 33-76, August 3, 1976

BOARD OF ZONING APPEALS
TENTH FLOOR, CITY HALL
455 North Main, Wichita, Kansas 67202

August 3, 1976

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 33-76

An application has been filed by Alma Grant, 3712 East 13th Street, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required number of off-street parking spaces from 2 spaces to 0 spaces on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 65 and 67, Block 5, College Terrace Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Lorraine in an area between 17th and 18th Streets.

This application has been assigned Case No. BZA 33-76, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 24, 1976, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North 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

33-76

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR ~~EXEMPTION~~ **VARIANCE**

I. Name of Applicant Alma C. Grant
 Mailing Address 3712 East 13th St Phone 6856611
 Name of Authorized Agent Henry Burleigh
 Mailing Address 1642 North Lane Phone 2641228
 Relationship of applicant to property is that of owner
 (Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section
THE VARIANCE REQUESTED IS
~~2.12.590.6, Code of the City of Wichita, Kansas, to permit~~
 the establishment of the reduction of 2 on
site employee parking spaces to 0 on property zoned
A, located 1838 North Louisa
 and legally described as: College
turnover addition lots 65, 67, Block 5
 _____, in the City of Wichita.

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 all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions.
- That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

19 APR 19 10 17 AM '76

Applicant Alma Grant

Authorized Agent Henry Burleigh

OFFICE USE ONLY: Received in the office of the Secretary, Board of Zoning Appeals, 10:00 a.m. - p.m.), 7:30, 1976, together with appropriate fee of \$50.00

Signed Larry Dobson

accepted late & without filing fee use same abstract lister
132A 22-76.F23-76