

Case No. BZA 35-85 - Ronald L. Miller & Michael H. Wilson - requests a variance to reduce the required number of off-street parking spaces from 36 spaces to 34 spaces on property zoned the "LC" Light Commercial District and generally

POSTED
6-3-85 KSL

ACTION

BZA 35-85 APPROVED 6-25-85
DATE

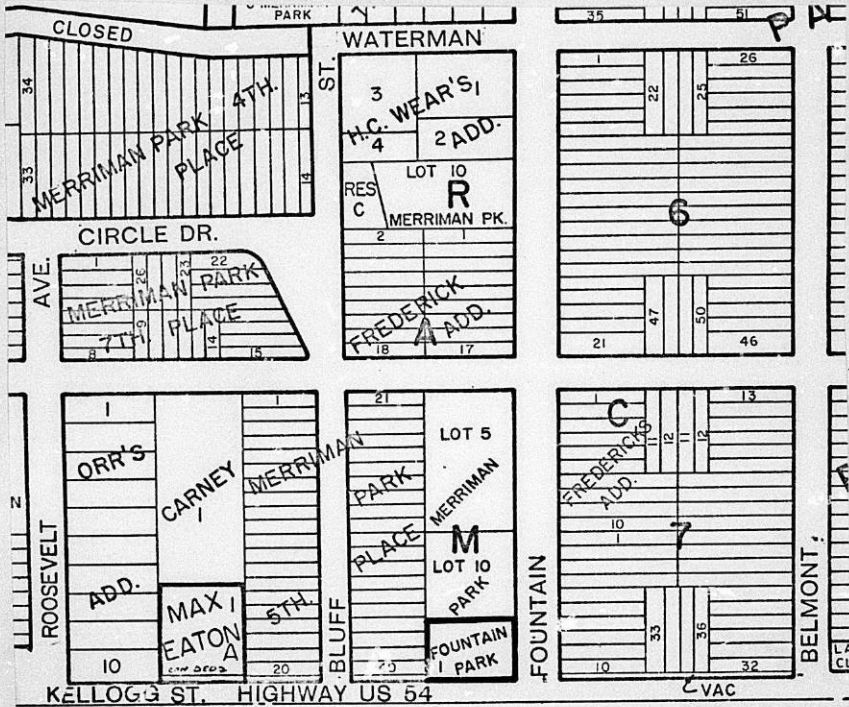
200' 4 Sec 7-11-85
Slot 7-22
Record

Map No. 5747 B

BZA 35-85
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E A S LC W LC N AA
3. Land Use: East I-F South Comm
West Apts. North I-F
4. Area (is) (~~is not~~) platted.



LOS ANGELES COUNTY
REGISTERED
MAY 19 1935
U.S.A.

Shaw
No. 2153C

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
425 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4421

June 28, 1985

Ronald L. Miller &
Michael H. Wilson
442 South Oliver
Wichita, Ks. 67218

Re: BZA 35-85 - Request for Variance

Dear Mr. Miller & Mr. Wilson:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 25, 1985.

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 questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

CEL:sad

Encl.

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 35-85

WHEREAS, Ronald L. Miller and Michael H. Wilson, 442 South Oliver, 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 36 spaces to 34 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Fountain Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Fountain and Kellogg (4040 East Kellogg).

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 June 25, 1985, 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 design of the building is a small two-story office structure that has covered balcony area, walkway and stairwells that would not be found in a one-story structure that increases the parking requirement based on the square feet of floor area; 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 there should be adequate parking to eliminate the need for on-street parking in the neighborhood; 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 owners represented in the application inasmuch as the building is under construction and the reduction of the off-street parking will permit the completion of all areas within the building for offices; 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 the reduction of parking will not interfere with any right-of-way or easements; 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 elimination of two parking spaces, when areas not used for offices or accessory uses are calculated as floor area, is insignificant; 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.

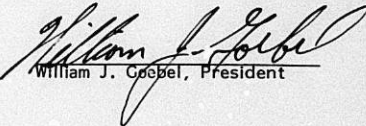
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 36 spaces to 34 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Fountain Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Fountain and Kellogg (4040 East Kellogg).


be approved subject to the following conditions:

1. The reduction of the number of off-street parking spaces from 36 spaces to 34 spaces shall only apply to those permitted uses that are based on one space for each 250 square feet of floor area.
2. No taverns, restaurants or private clubs shall be permitted.
3. Should the contingent street dedication be exercised, the owners shall acquire additional property and provide all the required off-street parking without any variance in the number of spaces.

ADOPTED AT WICHITA, KANSAS, this 25th day of June, 1985.


William J. Coebel, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE June 25, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 35-85 Northwest corner of
Fountain and Kellogg - 4040 East
Kellogg

CPO Council "G" considered the captioned case at its June 24th meeting and voted 7-0 to recommend that the variance to reduce the required number of off-street parking spaces from 36 to 34 spaces be approved subject to the conditions recommended in the MAPD Secretary's report.

No one was present to speak in support or opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 35-85 is considered at the June 25th meeting.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

AGENDA ITEM NO. 3

SECRETARY'S REPORT
CASE NO. BZA 35-85

APPLICANT: Ronald L. Miller & Michael H. Wilson, 442 South Oliver, Wichita, Kansas.

AGENT: None

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 36 spaces to 34 spaces.

GENERAL LOCATION: On the northwest corner of Fountain and Kellogg (4040 East Kellogg).

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the south and west. To the east is "A" Two-family and to the north is "AA" One-family Dwelling District.

LAND USE: Subject property is being developed with a two-story structure for offices. To the east and north are residences and to the south and west are commercial and apartments.

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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required number of off-street parking spaces from 36 spaces to 34 spaces in order to complete a portion of the building that was not designated for offices when the permit was issued. The number of off-street parking spaces has been determined to be 36 spaces based on one space for each 250 square feet of floor area of the building. There are other uses that are permitted in the "LC" Light Commercial District that require a greater number of off-street parking spaces based on occupancy. Should a variance be granted, uses such as taverns restaurants, private clubs or dental or medical offices should be prohibited unless the owners provide the required parking.

It should be noted that 14 of the 34 spaces are located on area that is a contingent street dedication. Should this dedication be exercised, it would leave the building extremely short of parking and the applicant's would be required to find additional property to provide the parking.

It is difficult to justify any uniqueness to the property as it is a rectangular lot located in the "LC" Light Commercial District, and the applicants have built more building on the property than there is space to provide the parking. There is, however, some uniqueness to the design of the building since there are some areas such as a covered balcony and covered walkways that Central Inspection has deemed to be floor area.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the design of the building is a small two-story office structure that has covered balcony area, walkway and stairwells that would not be found in a one-story structure that increases the parking requirement based on the square feet of floor area.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the building should have adequate parking to eliminate the need for on-street parking in the neighborhood.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the building is under construction and the reduction of the off-street parking will permit the completion of all areas within the building for offices.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of parking will not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the reduction of two off-street parking spaces, when areas not used for offices or accessory uses are calculated as floor area, is insignificant.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The reduction of the number of off-street parking spaces from 36 spaces to 34 spaces shall only apply to those permitted uses that are based on one space for each 250 square feet of floor area.
 2. No taverns, restaurants or private clubs shall be permitted.
 3. Should the contingent street dedication be exercised, the owners shall acquire additional property and provide all the required off-street parking without any variance in the number of spaces.
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BZA CASE NO. 35-85

| | |
|-----------|---|
| <u>2</u> | NOTICES SENT TO APPLICANT/AGENT |
| <u>10</u> | LEGAL ADVERTISEMENT SENT TO MAPC |
| <u>1</u> | NOTICES SENT TO CPO |
| <u>20</u> | NOTICES SENT TO ADJOINING PROPERTY OWNERS |
| <u>23</u> | TOTAL NOTICES SENT <u>6-5-85</u> |

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

June 5, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 35-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Ronald L. Miller & Michael H. Wilson, 442 South Oliver, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 36 spaces to 34 spaces on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 1, Fountain Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Fountain and Kellogg (4040 East Kellogg).

This application has been assigned Case BZA 35-85. It will be considered by the Board of Zoning Appeals on June 25, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

APPLICATION FOR VARIANCE

I. Name of Applicant Ronald L. Miller & Michael H. Wilson
Mailing Address 442 South Oliver Phone 685-4006
Name of Authorized Agent NA
Mailing Address N/A Phone N/A
Relationship of applicant to property is that of Owners
(Owner, Tenant, Lessee, Other)

II. The variance requested is Required parking - variance of 2 parking
spaces- Central Inspection is requesting 36 spaces- presently 34
spaces are allotted - 2 parking spaces needed to finish up additional
1190 sq. ft. office space, 2nd floor labeled on attached dwg as unfinished attic.
for property located 4040 East Kelllogg
Wichita, Ks in the LC District
and legally described as: Lot 1 Fountain Park Addition

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter.
 - b. That he has been advised of the fee requirements established by the County Zoning Resolution; and that the appropriate fee is herewith tendered.
 - c. 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.
 - d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Ronald L. Miller Co-Owner
Applicant
Michael H. Wilson Co-Owner
Applicant

Authorized Agent

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals 4.00 (a.m.p.m.), May 15, 1985 together with appropriate fee of \$ 150.00.

LO
Signed

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
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:

Record Owners within 200 feet of:
Lot 1, FOUNTAIN PARK ADDITION,
Wichita, Sedgwick County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

DESCRIPTIONS

RECORD OWNERS

| | |
|--|---|
| Lot 1, FOUNTAIN PARK ADDITION, | Ronald L. & Janice C. Miller & Michael H. & Natalie S. Wilson 442 S. Oliver Wichita, Kansas 67218 |
| North 50 feet of Lot 10, Block M, MERRIMAN PARK, | Larry K. & Mary Gerriets Wilkinson ADDRESS UNKNOWN |
| South 50 feet of the North 100 of Lot 10, Block M, MERRIMAN PARK, | William Ronald, Jr. and Bonita J. Silvers 433 S. Fountain Wichita, Kansas 67218 |
| South 50 feet of the North 150 feet of Lot 10, Block M, MERRIMAN PARK, | Alan R. & Marlene J. Zimmerman 8818 Roland Wichita, Kansas 67212 |
| South 50 feet of Lot 5, Block M, MERRIMAN PARK, | Ted R. Murphy 421 S. Fountain Wichita, Kansas 67218 |

returned 6-11-85

Fidelity  Title
COMPANY, INC.

DESCRIPTIONS

RECORD OWNERS

| | |
|--|--|
| North 50 feet of the South 100 feet of Lot 5, Block M, MERRIMAN PARK, | ✓ Phillip & Susan L. Carrillo 417 S. Fountain Wichita, Kansas 67218 |
| Lots 1 and 2, Block 7, MERRIMAN PARK PLACE, | George R. & Sallie H. Moore & Richard M. & Nancy H. Hartwell ✓ 428 S. Fountain Wichita, Kansas 67218 |
| Lots 3 and 4, Block 7, MERRIMAN PARK PLACE, | Wynona K. Carlisle ✓ 432 S. Fountain Wichita, Kansas 67218 |
| Lots 5 and 6, Block 7, MERRIMAN PARK PLACE, | James M. & Pamela K. Hedden ✓ 415 N. Bluff Wichita, Kansas 67208 |
| Lots 7 and 8, Block 7, MERRIMAN PARK PLACE, | Dorothy Marie Russell & Mary Jack Young X ADDRESS UNKNOWN |
| Lots 9 and 10, Block 7, MERRIMAN PARK PLACE, | Benny F. & Violet P. Hurlock ✓ 4116 E. Kellogg Wichita, Kansas 67209 |
| Lots 9 and 10, Block C, FREDERICK'S ADDITION, | Betty E. Burchfield X ADDRESS UNKNOWN |
| South Half of Lot 29, all of Lots 30 and 31, on Bluff Avenue, MERRIMAN PARK FIFTH PLACE, | ✓ Virginia S. Addington 5507 Gramar Wichita, Kansas 67218 |
| Lots 32 and 33, on Bluff Avenue, MERRIMAN PARK FIFTH PLACE, | Stan & Rebecca Arnoldy ✓ 430 S. Bluff Wichita, Kansas 67218 |
| Lots 34 and 35, on Bluff Avenue, MERRIMAN PARK FIFTH PLACE, | ✓ Olin D. & Lois M. Shade 432 S. Bluff Wichita, Kansas 67218 |
| Lots 36 and 37 and the North 1 foot of Lot 38, on Bluff Avenue, in MERRIMAN PARK FIFTH PLACE, | ✓ Barry G. & Susan Justice Bales 550 Nims Wichita, Kansas 67203 |
| West 82 feet of Lot 38, EXCEPT the North 1 foot and the West 82 feet of Lots 39 and 40 and the West 82 feet of vacated street, on Bluff Avenue, MERRIMAN PARK FIFTH PLACE, | Central Steel Products, Incorporated X ADDRESS UNKNOWN |
| Lots 38, 39 and 40, EXCEPT the East 50 feet, Bluff Avenue, MERRIMAN PARK FIFTH PLACE, | Robert E. & Cathie A. Wells ✓ (Record Owners) Rt. 1, Benton, Ks. 67017 Omega Enterprises (Contract Purchasers) ✓ 1201 N. Armour Wichita, Kansas 67206 |



DESCRIPTIONS

RECORD OWNERS

Lots 15 and 16, Bluff Avenue,
MERRIMAN PARK FIFTH PLACE,

✓ Alan E. & Susan A. Stickley
437 S. Bluff
Wichita, Kansas 67218

Lots 17 and 18, Bluff Avenue,
MERRIMAN PARK FIFTH PLACE,

✓ Central Steel Products,
Incorporated
~~ADDRESS UNKNOWN~~

Lots 19 and 20, Bluff Avenue,
MERRIMAN PARK FIFTH ADDITION &
adjacent ground vacated under
Ordinance No. 5525,

✓ Scotch & Sirloin, Inc.
3941 E. Kellogg
Wichita, Kansas 67218

Lots 1 and 2, EXCEPT Highway, LONG-
VIEW TERRACE ADDITION,

✓ G. N. Rupe
3941 E. Kellogg
Wichita, Kansas 67218

Lots 693, 694, 695, 696, 697, 698,
699 & 700, EXCEPT Highway, FAIRFAX
ADDITION,

✓ Stratford Place
%Stephen W. Casey
123 N. Market, #1700
Wichita, Kansas 67202



Lots 701, 702 and 703, EXCEPT Highway,
FAIRFAX ADDITION,

✓ ~~Horst K. Hiller~~
~~ADDRESS UNKNOWN~~

Lots 704 and 705, EXCEPT Highway,
FAIRFAX ADDITION,

✓ James D. Bearden
3902 Longview
Wichita, Kansas 67218

Lots 706 and 707, FAIRFAX ADDITION,

✓ Anderson L. & Eleanor M. Slape
5021 E. Orme Street
Wichita, Kansas 67218

Dated at Wichita, Kansas this 10th day of May, 1985 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

Medina A. Suttler
By

Assistant Secretary

Tracer No. C°489



MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-000 PAYMENT NOTICE
 City of Wichita

| Bldg. | Use of Str. | Code Bks | Copies |
|-------|------------------|------------|--------|
| Elec | Elev. Insp. | Hse Moving | Lic. |
| Mech | Boiler Insp. | Pav. Cuts | Cert. |
| Plbg | Exam Fees | Sewer | Elev. |
| Signs | Plan Rev. (P.W.) | Cement | M.S.P. |
| | Planning | | |

| DESCRIPTION | AMOUNT |
|-----------------|--------|
| City of Wichita | 1150- |
| | |
| | |

NAME: *Wichita Planning*

ADDRESS: *421 S. Fountain*

FUND: *Metropolitan Planning* DUE DATE: *6/15/85*

COMMENTS:

DATE: *6/11/85* BY: *T.M.*

WICHITA - SEDGWICK COUNTY
W S C

BOARD OF ZONING APPEALS
 CITY HALL - TENTH FLOOR
 425 NORTH MAIN STREET
 WICHITA, KANSAS 67202

FORWARDING ORDER EXPIRED
 RETURN TO SENDER

WICHITA, KS 672
 JUN 10 1985

RECEIVED

JUN 11 1985
 METROPOLITAN PLANNING
 ROUTE _____

Ted R. Murphy
 421 South Fountain
 Wichita, Ks. 67218

MUR 21 020619N1 06/06/85
 RETURN TO SENDER
 NO FORWARDING ORDER ON FILE
 UNABLE TO FORWARD

WICHITA
 JUN-5'85
 KANSAS
 JUN 11 1985

6785
1802RM

*

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

Roll # 2