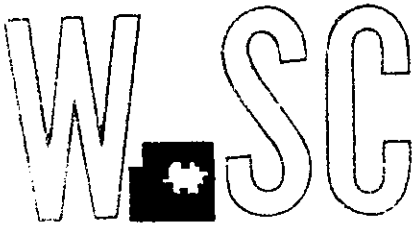


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

May 28, 1998

New Testament Baptist Church
1317 W. McCormick
Wichita, KS 67213

RE: BZA 5-98 - Variance to reduce the required off-street parking from 75 spaces to 32 spaces on property zoned "MF-29" Multi-Family Residential and generally located on the southwest corner of McCormick and Martinson.

Dear Sirs:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 5, 1998. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

Sincerely yours,

A handwritten signature in cursive script that reads 'Keith Gooch'.

Keith Gooch
Senior Planner
Board of Zoning Appeals

KG/sah

cc: Don Folger, 234 S. Topeka, Wichita, KS 67202
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)



BZA RESOLUTION NO. 5-98

WHEREAS, New Testament Baptist Church, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required off-street parking from 75 spaces to 32 spaces on property zoned "MF-29" Multi-Family District and legally described as follows:

Lots 1, 2, 3 & 4, Block 3 in John McCormick's Addition, together with Lots 5, 6, 7 & 8, Block 3 Replat of Part of John McCormicks Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of McCormick and Martinson.

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 May 5, 1998, 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 owners or the applicant inasmuch as the surrounding area is developed and the applicant is unable to buy any adjacent properties; 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 applicant has an agreement to use an additional 44 parking spaces located across McCormick on USD 259 school property, for a total of 76 spaces, and usually the only time additional parking will be required is the Sunday morning service when the school is not in use; and,

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the church can provide adequate parking through the agreement with USD 259, and otherwise would have to move to a new area within the City or County that would allow them meet all applicable requirements or not build the new addition; 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 the reduction of the on-site parking requirement is offset by the agreement with USD 259 to use parking across the street; 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 the zoning ordinance inasmuch as the applicant could meet the Unified Zoning Code parking requirement if the agreement between the church and USD 259 was in a form that could be approved by the Office of Central Inspection; 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.

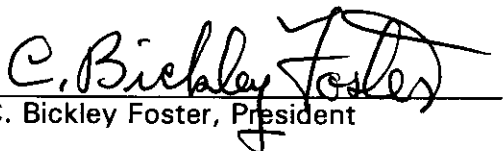
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that the request of New Testament Baptist Church for a variance to reduce the required off-street parking from 75 spaces to 32 spaces on property zoned "MF-29" Multi-Family District and legally described as follows:

Lots 1, 2, 3 & 4, Block 3 in John McCormick's Addition, together with Lots 5, 6, 7 & 8, Block 3 Replat of Part of John McCormicks Addition to Wichita, Sedgwick County, Kansas.

be approved, subject to the following conditions:

1. The parking reduction from 75 spaces to 32 spaces applies to a church use with no more seating capacity than 300 persons.
2. The parking area shall be paved, striped and maintained in accordance with the approved site plan.
3. If the agreement between USD 259 and the New Testament Baptist Church should be terminated, the applicant shall have 90 days from such termination to submit an alternative parking plan to the Board of Zoning Appeals for approval.
4. The applicant shall meet all the screening and buffering requirements of the Unified Zoning Code and the Landscape Ordinance.
5. The resolution authorizing this variance may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 5th day of May, 1998.

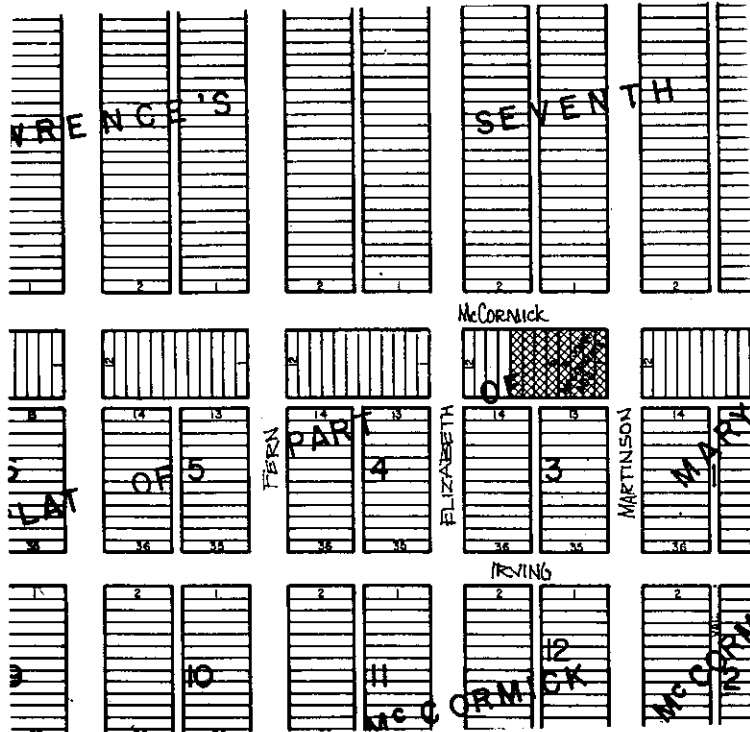

C. Bickley Foster, President

ATTEST:


David L. Yearout, AICP, Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA 5-98
OWNER/APPLICANT: New Testament Baptist Church (Owner/Applicant)
AGENT: Don Folger, Jr.
REQUEST: Variance to reduce the required off-street parking from 75 spaces to 32 spaces.
CURRENT ZONING: "MF-29" Multi-Family District
SITE SIZE: .64 acres
LOCATION: Southwest corner of McCormick and Martinson



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 State Statutes, are found to exist.

BACKGROUND: The applicant is requesting a variance to reduce the required parking for the New Testament Baptist Church on a .64 acre platted tract located at the southwest corner of McCormick and Martinson. This area is currently zoned "MF-29" Multi-Family.

The church is proposing to construct an addition which would increase the total seating capacity of the church to 300 people. Therefore, the church is required to provide 75 parking spaces due to the Unified Zoning Code parking requirement of 1 parking space per 4 seats based on room or space with maximum seating capacity. The Code requires 50 percent of required parking be provided on the same zoning lot as the use.

As shown on the attached site plan, the church will be able to provide a total of 32 of the 75 required parking spaces just east of the existing church and proposed addition. An additional 44 spaces will be available north of the church, across McCormick, through an agreement with USD 259. However, this agreement does not meet the requirements of the Unified Zoning Code which states the agreement must be recorded with the Register of Deeds and be approved by the Zoning Administrator. USD 259 does not want this document recorded nor will the Office of Central Inspection accept the language of this agreement which allows USD 259 to cancel the contract at any time. Another 5 on-street parking spaces are located along McCormick Street on Sundays, but these spaces do not count towards on-site parking. With the church's 32 on-site spaces, the USD's 44 spaces and the five on-street parking spaces a total of 81 parking spaces are potentially available. The church has tried to buy adjoining properties, but they have not been able to consummate any deals.

The church holds Sunday morning, Sunday night, Wednesday night services and other events throughout the week. The attendance currently ranges between 100 to 125 persons on Sunday mornings, typically the largest audience at any event. The Church has also stated it will be some time before membership will approach the 300 members the new addition will hold. Therefore, the 32 on-site parking spaces would meet this attendance level, based on the UZC parking requirement for a church. However, the church is required to meet the seating capacity, not the attendance level.

The entire site will be required to meet the Unified Zoning Code and Landscape Ordinance screening and buffering requirements. This would include providing screening and buffering along the perimeter of the entire site due to this property being located adjacent and across the street from residential zoning.

The church is surrounded by a couple of duplexes and several single-family residences on the south, east and west. The McCormick Museum is located just north of this site.

ADJACENT ZONING AND LAND USE:

NORTH	"MF-29"	McCormick Museum
SOUTH	"MF-29"	Single-Family Residences and Duplexes
EAST	"MF-29"	Single-Family Residences
WEST	"MF-29"	Single-Family Residences

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the surrounding area is developed and the applicant is unable to buy any adjacent properties. The applicant has tried to purchase several of the neighboring homes and as yet has been unable to do so. The church has stated that it will continue to attempt to purchase property in order to construct a new parking lot.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the applicant has an additional 44 parking spaces located across McCormick at the Museum, for a total of 76 spaces. Therefore, parking should not become a problem at the church. Also this Church only holds events approximately 4 times a week and usually the only time this additional parking will be required is the Sunday morning service.

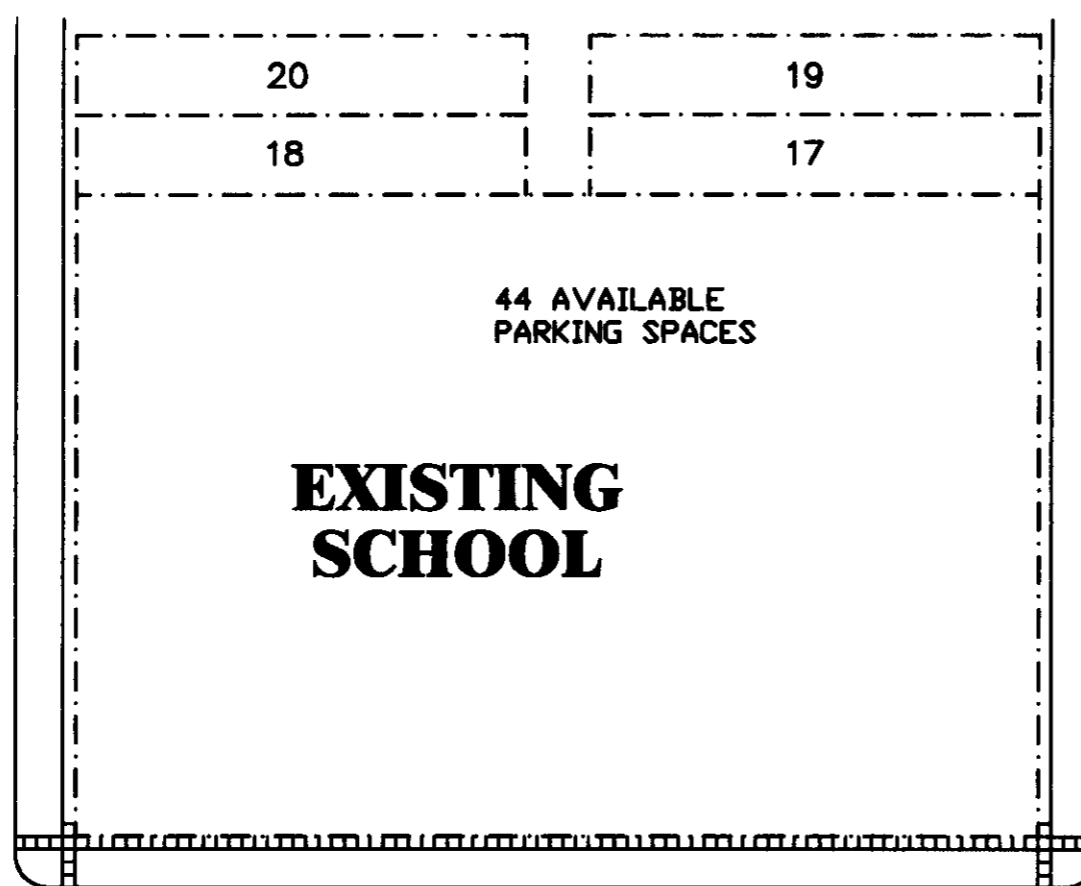
HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the church can provide adequate parking through the agreement with USD 259, and otherwise would have to move to a new area within the City or County that would allow them meet all applicable requirements or not build the new addition.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the reduction of the parking requirement would only impact the public and neighborhood no more than four times a week and probably fewer. Also the Church has an agreement with USD 259 to use parking across the street. With the addition of this parking and the parking along McCormick the Church should have sufficient parking. The church is an asset to this neighborhood, and its retention at this location would be desirable.

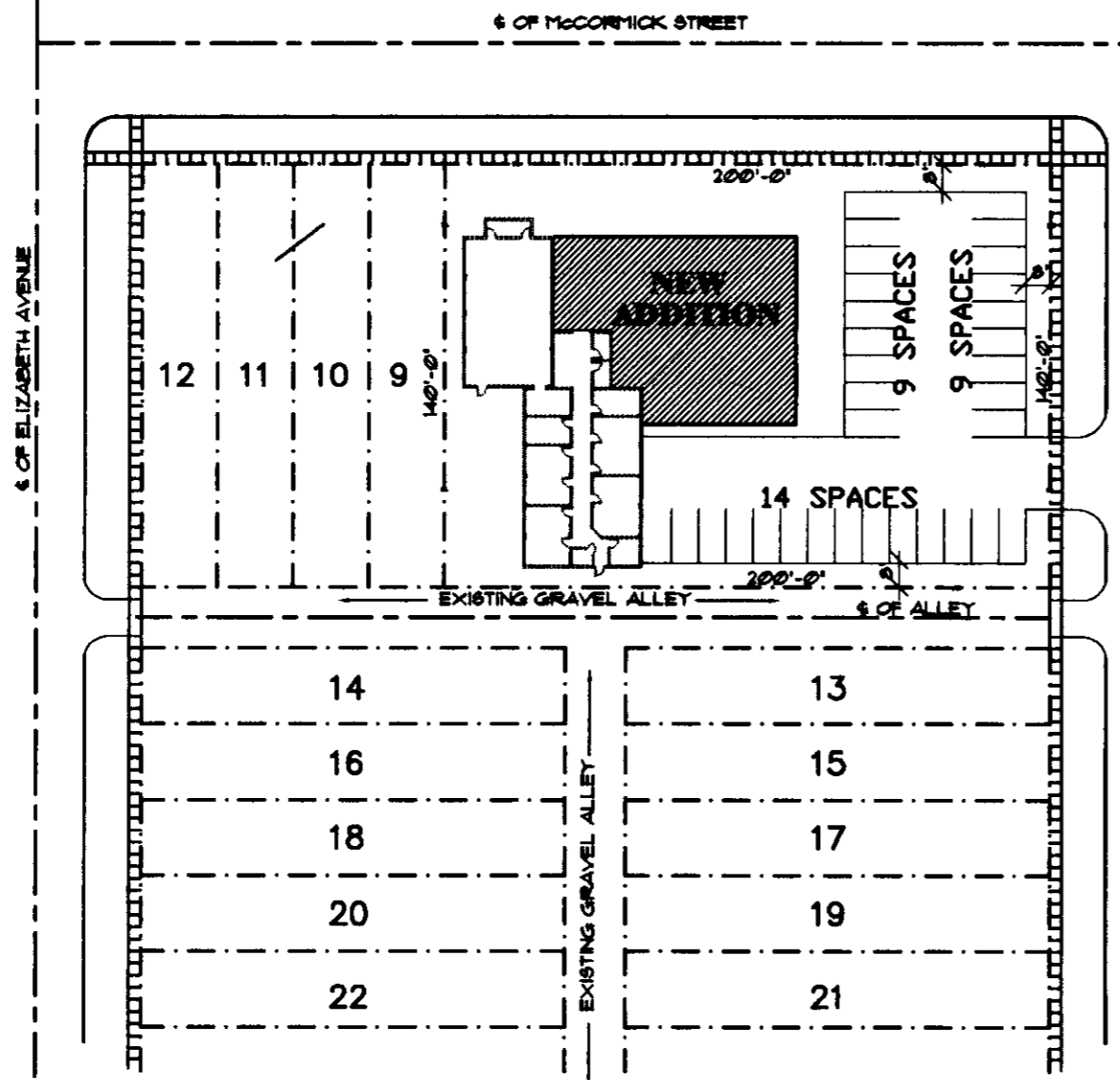
SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations inasmuch as the applicant could meet the Unified Zoning Code parking requirement if the agreement between the church and USD 259 was in a form that could be approved by the Office of Central Inspection. The church has also stated that they will continue to try and obtain adjacent lots to increase the parking provided on-site.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the 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 parking reduction from 75 spaces to 32 spaces applies to a church use with no more seating capacity than 300 persons.
2. The parking area shall be paved, striped and maintained in accordance with the approved site plan.
3. If the agreement between USD 259 and the New Testament Baptist Church should be terminated, the Conditional Use shall become null and void and the occupancy of this church shall cease, unless the church demonstrates that parking is being providing in accordance with the requirements of the zoning code.
4. The applicant shall meet all the screening and buffering requirements of the Unified Zoning Code and the Landscape Ordinance.
5. The resolution authorizing this variance may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.



PROPOSED PARKING LAYOUT



DON FOLGER JR.
& ASSOCIATES

PLANNING ARCHITECTURE
CONSTRUCTION MANAGEMENT

234 S. TOPEKA
67202

WICHITA, KS.
(316) 263-2414

