1. The reduction of the rear yard from 20' to 10' shall be for the existing structure only.

2. No part of the structure shall project or overhang into the utility easement.

LYTLE stated the CPO Council recommended 6-0 to approve the request. The applicant was present but didn't have anything further to say. No one appeared in opposition.

> MOTION: JACOB moved, HENDERSON seconded, that the five conditions set out in Section 2.12.590.B, of the Code as necessary for the granting of the variance have been found to exist and that the variance be granted to reduce the required rear yard from 20' to 10' subject to the two conditions set out in the Secretary's Report. Motion passed 3-0 (SLAYMAKER and KOPIETZ absent).

The official action of the Board is reflected in the adoption of Resolution No. 61-81 which includes the following conditions of approval:

1. The reduction of the rear yard from 20' to 10' shall be for the existing structure only.

2. No part of the structure shall project or overhang into the utility easement.

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3. Case No. BZA 62-81 - American Imperial Corporation, Box 92, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita requesting a variance to reduce the required rear yard from 20' to 10' on property zoned "R-5" General Residence District and legally described as follows:

> Lot 17, Block 2, Lisa Cole First Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Winstead Court (1845-47 Winstead Court).

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

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 and 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 rear yard from 20' to 10'. This application has been filed after Central Inspection found that they had errored in the issuance of the permit for the construction of a two-family dwelling on the property without the required 20 foot rear yard. This was discovered after the foundations had been poured even though the contractor had called for the required inspections.

In this case, the lot is located on a cul-de-sac that reduces the buildable area of the lot much more than the adjacent lots on the court, particularly when the property is platted with a 25 foot front yard setback. The adjacent property not on the cul-de-sac, developed with a similar sized structure, has approximately a 35 foot rear yard. Although the applicant has requested a reduction from 20' to 10', the actual dimension is at least 12'.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the lot is located on a cul-de-sac and is platted at a lessor depth than are the adjacent properties on the court, and is also less in depth than the 100 foot minimum depth of most residential lots.

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 entire court is being developed by the same owner with similarly designed two-family dwellings.

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 construction was well underway before Central Inspection discovered the error in the issuance of the permit in violation of the ordinance.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the structure will not interfere with any public right-of-way or utility 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 side yards are greater than minimum, thus the lot coverage will not be excessive.

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 condition:

1. The reduction of the rear yard from 20' to 10' shall be for the existing structure only.

2. No part of the structure shall project or overhang into the utility easement.

LYTLE stated the CPO Council recommended 6-0 to approve the request. The applicant was present but didn't have anything further to say. No one appeared in opposition.

MOTION: JACOB moved, HENDERSON seconded, that the five conditions set out in Section 2.12.590.B, of the Code as necessary for the granting of the variance have been found to exist and that the variance be granted to reduce the required rear yard from 20' to 10' subject to the two conditions set out in the Secretary's Report. Motion passed 3-0 (SLAYMAKER and KOPIETZ absent).

The official action of the Board is reflected in the adoption of Resolution No. 62-81 which includes the following conditions of approval:

1. The reduction of the rear yard from 20' to 10' shall be for the existing structure only.

2. No part of the structure shall project or overhang into the utility easement.

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4. Case No. BZA 63-81 - Alva D. Moore, P. O. Box 33, Andover, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita requesting a variance to reduce the front yard setback from 20' to 3.8' on property zoned "RB" Four-family Dwelling District and legally described as follows:

Lot 43, Block 0, Plainview Subdivision No. 1, in Sedgwick County, Kansas. Generally located on the north side of Whitney Lane (4100 and 4108 Whitney Lane).

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.
