

*Posted
3-6-79*

3-27-79

✓ CI - 4-27-79

✓ MAPD 4-30-79

ACTION

Approved

DATE

3-27-79

COMMITTEE

*BZA
6-79*

M.A.P.C.

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

Case No. BZA 6-79 - Daniel M. Carney requests variance to reduce the rear yard setback from 20 ft. to 10 ft. on property zoned "A" Two Family and generally located on the

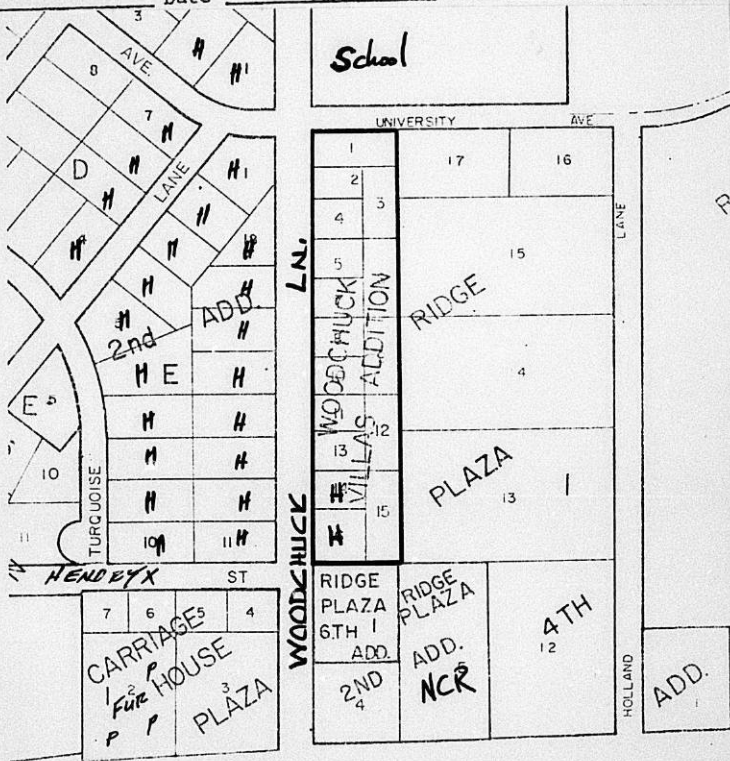
Map No. 4946
 Sec. 25
 Twp. 27
 Range 1W

BZA- 6-79
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 Acres: 4.7 (200 ft. by 1025 ft.)
 Adjoining Zoning: E _____ S _____ W _____ N _____
 Land Use: East Vacant South Vacant
 West SINGLE FARM North School
 Sketch Plan Land Use is for:
 Present Land Use if for: Vacant and Single Farm
 Area (is) (is not) platted.

** Reduced copy - not to scale*

PHOTO DATA:
 Taken by _____ Date _____ Time _____



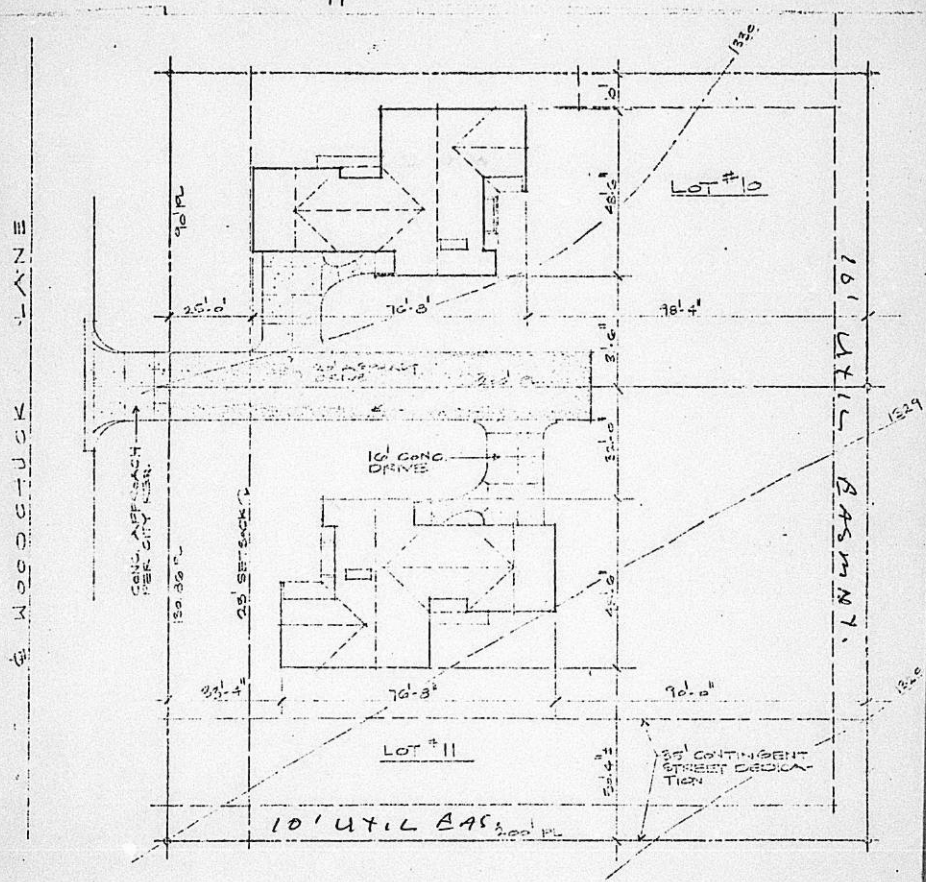
U.S. 54 HI-WAY

54

REGISTERED MAPS - LOS ANGELES
 LOCAL OR - MERRICK, TX U. S. A.

No. 2453C
 S. S. S. S. S.

Approximate scale is
 $1/4" = 8'$



ZONING = "A"

PERMIT #

MICROFILMED
FROM THE BEST
AVAILABLE COPY



564 S. Woodchuck
D 26869

SITE PLAN
1" = 20 FEET

LEGAL DESCRIPTION

RIDGE PLAZA 4TH

SIGNATURE

M.A. Giff

Decor of Wichita

5206-77

July 12, 1979

Robert B. Feldner, Superintendent of Central Inspection
Glen E. Lytle, Special Assistant for Zoning

BZA 6-79

Please be advised that the plat of Woodchuck Villas 2nd Addition has been recorded and, therefore, the Resolution of BZA 6-79 becomes null and void. Any further permits on this area will be subject to the platted setback lines established on the plat.

Glen E. Lytle
Special Assistant
for Zoning

GEL:el

April 9, 1979

Ronald L. Nieto
612 Douglas Building
Wichita, Kansas 67202

Re: Case No. BEA 6-79
Request for Variance

Dear Mr. Nieto:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 27, 1979, in connection with your request for a variance to reduce the required rear yard setback from 20 feet to 10 feet on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Woodchuck Lane in an area between U.S. 54 and University Avenue.

This Resolution reflects the official action of the Board to approve the request and sets out the condition of approval. It is forwarded to you for your information and files.

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

Sincerely,

Larry Dobson
Assistant Secretary

LD:bbc
Enclosure

cc: Daniel M. Carney, 6572 E. Central 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisiok, City Clerk

RESOLUTION NO. BZA 6-79

WHEREAS, Daniel M. Carney, 6572 E. Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the rear yard setback from twenty (20) feet to ten (10) feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 1 through 16, inclusive, Woodchuck Villas Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Woodchuck Lane in an area between U.S. 54 and University Avenue.

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 March 27, 1979, 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 two developed lots were built upon in conformance with rear yard setbacks, but have now become nonconforming by a replat of the property; and development of the other lots that front upon Woodchuck, will be oriented toward access driveways, and therefore, the rear yard in actual layout will become a side yard and would resemble development on a court or a cul-de-sac; the rear lots are unique in that they are only 80 feet deep and the rear yards are adjacent to Light Commercial zoning; 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 only portion of the property, for which a variance is sought, that abuts other property is next to light commercial property; 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 two developed lots were made nonconforming by a replat of the property; and the orderly development of the other lots around the access driveways would be unnecessarily limited by the strict enforcement of the rear yard requirement; 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 request is interiorly located; 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 interior separation of structures would not be less than 20 feet, which conforms to the separation required for the construction of two dwellings on a corner lot in "A" zoning. The rear lots are adjacent to the "LC" district which requires a rear yard of 10 feet for commercial development; 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.

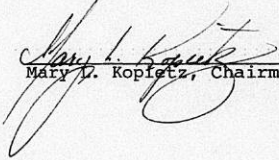
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the rear yard setback from twenty (20) feet to ten (10) feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 1 through 16, inclusive, Woodchuck Villas Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Woodchuck Lane in an area between U.S. 54 and University Avenue.


be approved subject to the following condition:

1. The required rear yard setback shall be reduced from 20 feet to 10 feet for all lots in Woodchuck Villas Addition, but in the event of a replat of Woodchuck Villas Addition, this variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 27th day of March, 1979.


Mary L. Kopietz, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE March 22, 1979

TO Jack Galbraith, Chief Planner

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 6-79: Woodchuck Villas

After discussing the captioned case and staff recommendation with the agent for the applicant, CPO Council "A" voted 5-0 to recommend granting the ten-foot reduction of the rear yard setback for lots 3, 6, 9, 12, 14, 15 and 16.

Council members felt that the nine undeveloped lots which front on Woodchuck are of a sufficient depth to accomodate an "attractive, functional placement of structures" with the required twenty-foot rear yard setback. A variance for the five rear lots, however, was felt to be appropriate because of their shallow depth. The variance to clear the records for the two developed lots was acceptable to the Council.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:al

Noted:

Evelyn Pittman
Evelyn Pittman
Assistant CPO Coordinator

March 28, 1979

Ronald L. Nieto
612 Douglas Building
Wichita, Kansas 67202

Re: Case No. BEA 6-79
Request for Variance

Dear Mr. Nieto:

At the regular meeting of the Board of Zoning Appeals on March 27, 1979, your request for a variance to reduce the required rear yard setback from 20 feet to 10 feet on property zoned the "A" Two Family Dwelling District, and generally located on the east side of Woodchuck Lane in an area between U.S. 54 and University Avenue was considered.

It was the action of the Board to approve this request subject to the following condition:

1. The required rear yard setback shall be reduced from 20 feet to 10 feet for all lots in Woodchuck Villas Addition, but in the event of a replat of Woodchuck Villas Addition this variance shall become null and void.

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 yours,

Larry Dobson
Assistant Secretary

LD:bb

BIA 6-79

cc: Daniel M. Carney, 6572 E. Central 67206
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 6-79

APPLICANT: Daniel M. Carney, 6572 E. Central, Wichita, Kansas.

AGENT: Ronald L. Nieto, 612 Douglas Bldg., Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to 10 feet.

GENERAL LOCATION: East side of Woodchuck Lane in an area between U.S. 54 and University Avenue.

ZONING: Subject property is zoned the "A" Two Family Dwelling District. South and east is "LC" Light Commercial. North and west is "AA" Single Family.

LAND USE: Subject property contains two single family homes at the southern end of the application area and is otherwise undeveloped. North is an elementary school; west is single family development; properties to the south and east are undeveloped.

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 23 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
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 23 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the rear yard setbacks from 20 feet to 10 feet for sixteen lots platted

Case no. BZA 6-79
3-27-79
Page 2

as Woodchuck Villas Addition.

Eleven of the sixteen lots front on Woodchuck Lane and are 120 feet deep. The other five lots are wide, shallow lots located behind the other eleven lots. These five back lots are 80 feet deep and have access to Woodchuck Lane by way of platted right-of-way easements across the front lots. Two single family homes have been constructed on the southern two lots fronting on Woodchuck and the remainder of the application area is undeveloped. The applicant states that the two existing homes, acquired with the land from the former owner, encroach on the rear yard setback, although the exact amount of encroachment is not given. Building permits for these two homes were issued prior to the present platting arrangement. At that time the lots were the full 200 feet deep and an ample rear yard was shown. Permits were issued in December 1977 and replatting of the property occurred in August of 1978, whereupon the completed or partially completed homes became nonconforming as to a rear yard setback. The present owner of this property is requesting a variance for these two lots to clear up any potential problems in the sale of these homes and also a variance for all the other lots to accommodate a more attractive, functional placement of structures than would be possible with the minimum rear yard setback requirements.

Subject property is zoned the "A" Two Family Dwelling District and is also controlled by the conditions of a Community Unit Plan. It is the opinion of the Secretary that the undeveloped front lots are of ample dimensions (approximately 90 x 120 feet) to easily accommodate either single family homes or duplexes. The development of the southern two lots was accomplished under some unusual circumstances that would merit consideration of a variance to clear the records. The shallow back lots appear to be the result of a poor platting arrangement, but nevertheless, are shallow lots backing into undeveloped Light Commercial property.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to determine for the lots fronting upon Woodchuck, except that the two developed lots may be unique in that they were built upon in conformance with rear yard setbacks but have now become nonconforming by a replat of the property. Uniqueness may exist with regard to the rear lots in that they are only 80 feet deep and the rear yard is adjacent to Light Commercial zoning.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested may not adversely affect the rights of adjacent property owners or residents inasmuch as the only portion of the property, for which a variance is sought, that abuts other property is next to light commercial property.

Case no. BEA 6-79
3-27-79
Page 3

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance should not create an unnecessary hardship upon the property owner for the undeveloped front lots in that 120 foot deep lots are of sufficient depth to build single or two-family residences in conformance with setback requirements. A hardship could be created for the two developed lots in that the existing homes were made nonconforming by a replat of the property. It is difficult to determine if a hardship would exist for development of the rear lots, but a variance of the rear yard to 10 feet would provide some flexibility to the development of these shallow lots.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public interest inasmuch as the request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the interior separation of structures would not be less than 20 feet, which conforms to the separation required for the construction of two dwellings on a corner lot in "A" zoning. The rear lots are adjacent to the "LC" district which requires a rear yard of 10 feet for commercial development.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary for the granting of a variance cannot be found to exist for the undeveloped front lots, but could be found for the two developed lots and the back lots. Therefore, it is recommended that a variance be granted subject to the following condition:

1. The required rear yard setback shall be reduced from 20 feet to 10 feet for lots 3, 6, 9, 12, 14, 15 and 16, Woodchuck Villas Addition, or equivalent lots in the event of a replat.

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

March 5, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 6-79

An application has been filed by Daniel M. Carney, 6572 E. Central, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the rear yard setback from twenty (20) feet to ten (10) feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lots 1 through 16, inclusive, Woodchuck Villas Addition, Wichita, Sedgwick County, Kansas.
Generally located on the east side of Woodchuck Lane in an area between U. S. 54 and University Avenue.

This application has been assigned case No. BZA 6-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 27, 1979, 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.

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.

Jack H. Galbraith
Secretary

BZA CASE NO. 6-79

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

17 NOTICES SENT TO ADJOINING PROPERTY OWNERS

30 TOTAL NOTICES SENT 3-5-79

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Daniel M. Carney
6572 E. Central
Mailing Address Wichita, Kansas 67206 Phone 6867314

Name of Authorized Agent Ronald L. Nieto
612 Douglas Bldg.
Mailing Address Wichita, Kansas 67202 Phone 267-2212

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is Reduce rear yard depth from twenty
feet to ten feet.

for property located Southeast of University Ave. and
Woodchuck Lane

and legally described as: Lots 1 through 16, Woodchuck Villas
Addition, Wichita Kansas, Sedgwick County, Kansas

in the City of Wichita; and which is presently zoned A.

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 Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); 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.

*E. side of Woodchuck Lane
in an area between ~~1st~~ and
~~2nd~~ Ave. U.S. 54 and
University Ave.*

Daniel M. Carney
Applicant
Ronald L. Nieto
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 10:45 (a.m. - p.m.), 2-23 1979
together with appropriate fee of \$50.00.

T9-402

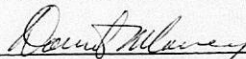
Larry Johnson
Signed

To: Board of Zoning Appeals

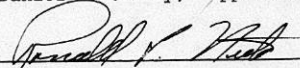
STATEMENT

1. Applicant seeks variance from the provisions of Section 28.04.050.C.3.1. of the Code of the City of Wichita. Specifically applicant desires the rear yard depth of the real estate described on his petition be reduced from twenty feet to ten feet.
2. The real estate in question will accomodate a more attractive, functional situation of structures with reduced rear yard requirements. In fact the structures erected on lots 14 and 16 of the described real estate, which were acquired by the applicant with the land, from the former owner, presently encroach on the rear yard set back.
3. Granting of the variance will not affect the rights of adjacent land owners, as the only portion of the property for which variance is sought that abuts other real estate is next to a part of a CUP that is zoned for light commercial purposes.
4. Strict application of the rear yard setback required by ordinance will dictate location of structures in less than the most desirable and attractive scheme.
5. The variance will not adversely affect the public health, safety morals, order, convenience, prosperity or general welfare.
6. Not only will the granting of the variance not be opposed by the general spirit and intent of Title 28 of the Code of the City of Wichita, but is in keeping with the spirit of Title 28 in that the variance will permit the development of attractive, better organized housing.

Respectfully submitted,



Daniel M. Carney, Applicant



Ronald L. Nieto, Authorized Agent

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 1	Mary Benton Addition	Unified School District No. 259 428 South Broadway 67202
lot 1	Ridge Plaza 6th Addition	Robert T. Feagins and Robert V. Kirsch 6572 East Central Suite 106 67206
lot 4	Ridge Plaza 2nd Addition	D Same
lot 5	Same	D. Keith Leshler, Earl E. Leshler & Barbara Leshler 9 Drury Lane 67207
lots 13,15,14,17 Block 1	Ridge Plaza 4th Addition	D Daniel M. Carney 201 Lynwood Blvd. 67218 A. Mull Jr. 221 N. Main, Suite 303 67202
lots 3 & 4, Block 1	Carriage House Plaza	D Robert T. Feagins & Robert V. Kirsch 6520 E. Central, Suite 106 67206 Harold R. "Bud" White 210 Pattie 67211 G.M.P. Enterprises Inc. Box 127, Great Bend, Ks. 67530
lot 1, Block E	Floyd Bailey 2nd Add.	Norman C. Martin and Beta S. Martin 400 Topaz 67209
lot 2, Block E	Same	Michael E. Chieppo and Susan P. Chieppo 420 Topaz 67209
lot 11, Block E	Same	David J. La Fleur and Ruth I. La Fleur 8020 Hendryx 67209
lot 12, Block E	Same	Theodore C. Juengling Sadie E. Juengling 563 Woodchuck 67209
lot 13, Block E	Same	A. A. Reddy & Martha 555 S. Woodchuck Lane 67209

Lot	Addition	Property Owner
lot 14, Block E	Floyd Bailey 2nd Addition	Jerald W. Vogt and M. Christine Vogt 547 S. Woodchuck Lane 67209
lot 15, Block E	Same	William F. Weyman and Fatsy Y. Weyman 539 South Woodchuck 67209
lot 16, Block E	Same	Rex I. Graham and Gladys I. Graham 533 S. Woodchuck 67209
lot 17, Block E	Same	Nolen J. Pridemore Sheilah M. Pridemore 525 S. Woodchuck 67209
lot 18, Block E	Same	Edward J. Cody Jr. 310 South Evergreen 67213
lot 1, Block A	Floyd Bailey Addition	Fred J. Razook and Leanne E. Razook 375 South Woodchuck Lane 67209
lots 1 thru 16 inclusive	Woodchuck Villas Add.	D Daniel M. Carney 201 Lynwood Blvd. 67218



434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

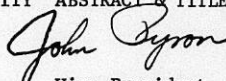
We hereby certify the foregoing to be a true and correct list of the property owners of:

A 200 foot radius of: Lots 1 thru 16, inclusive, Block A Woodchuck Villas Addition, Wichita, Sedgwick County, Kansas

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 20th day of February, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO., INC.

By


Vice President

Order No. 273799
wh

FORM 2-21

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
BZA Variance Application	450.00
NAME	Daniel M Carney
ADDRESS	PO Box 18422
FUND	110-00000-40071-003-000-000
COMMENTS	
DATE	2-23-79
BY	CP

*

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

Roll # 2