

# ACTION

DATE

COMMITTEE

BZA  
M.A.P.G.

submitted on 12-1-62

12-1-62

B.C.C./B. CO. C. \_\_\_\_\_

9-62 - MICHAEL G. NEUBERGER REQUESTS  
EXCEPTION TO ALLOW CONSTRUCTION OF A  
PORTABLE SWIMMING POOL COVER ON S  
SIDE OF MURDOCK IN AN AREA N OF  
SLEEPY HOLLOW

RESOLUTION N.O. 9-62

WHEREAS, MICHAEL G. NEUBERGER, 3733 EAST MURDOCK, WICHITA, KANSAS, BY SPENCER DEPEW, ATTORNEY, HAS MADE PROPER APPLICATION FOR AN EXCEPTION TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A TEMPORARY ADDITION TO A SWIMMING POOL IN THE FORM OF A PORTABLE COVER, AS PROVIDED IN SECTION 28.04.040.A.9 OF THE CODE OF THE CITY OF WICHITA, KANSAS; AND

WHEREAS, THE ABOVE REQUEST APPLIES TO PROPERTY LEGALLY DESCRIBED AS LOTS 14 AND ONE-HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NORTHWEST BOUNDARY AND SOUTHWEST BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION, WHICH IS GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK IN AN AREA NORTH OF SLEEPY HOLLOW; AND

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, IN REGULAR MEETING CONSIDER SAID APPLICATION ON THE 18TH DAY OF DECEMBER, 1962; AND

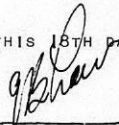
WHEREAS, THE BOARD OF ZONING APPEALS DETERMINED THAT IT HAD PROPER JURISDICTION TO CONSIDER SAID REQUEST FOR AN EXCEPTION UNDER THE PROVISIONS OF SECTION 28.04.040.A.9 AND 2.12.560 OF THE CODE OF THE CITY OF WICHITA, KANSAS; AND

WHEREAS, THE BOARD OF ZONING APPEALS DETERMINED THAT IF THIS APPEAL IS GRANTED ADEQUATE ACCESS TO THIS PROPERTY WILL BE MAINTAINED FOR FIRE AND POLICE PROTECTION AND FOR THE SERVICE OF UTILITIES.

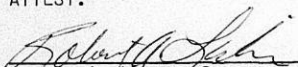
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, THAT THE REQUEST FOR AN EXCEPTION TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A TEMPORARY ADDITION TO A SWIMMING POOL IN THE FORM OF A PORTABLE COVER, ON PROPERTY DESCRIBED AS LOT 14 AND ONE-HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NORTHWEST BOUNDARY AND SOUTHWEST BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS AND GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK IN AN AREA NORTH OF SLEEPY HOLLOW, IS HEREBY APPROVED AND THE SUPERINTENDENT OF CENTRAL INSPECTION IS HEREBY AUTHORIZED TO ISSUE A PERMIT FOR SUCH CONSTRUCTION, SUBJECT TO THE FOLLOWING:

1. THE PORTABLE COVER SHALL BE DISMANTLED AFTER MAY 1 AND NOT REASSEMBLED BEFORE OCTOBER 1 OF EACH YEAR.
2. THE PORTABLE SWIMMING POOL COVER SHALL BE CONSTRUCTED OF FIRE RESISTANT MATERIAL.
3. THE PORTABLE SWIMMING POOL COVER SHALL BE FITTED WITH AN OUTSIDE DOOR WHICH CAN BE SECURELY LOCKED WHEN THE POOL IS NOT IN USE.

ADOPTED AT WICHITA, KANSAS, THIS 18TH DAY OF DECEMBER, 1962.

  
\_\_\_\_\_  
E. B. LAW, CHAIRMAN

ATTEST:

  
\_\_\_\_\_  
ROBERT A. LAKIN, SECRETARY

DECEMBER 31, 1962

MR. SPENCER DEPEW, ATTORNEY  
830 FIRST NATIONAL BANK BUILDING  
WICHITA, KANSAS

DEAR MR. DEPEW:

RE: BZA 9-62

ON DECEMBER 21, 1962, WE ADVISED YOU THAT THE BOARD OF ZONING APPEALS HAD APPROVED YOUR APPLICATION FOR AN EXCEPTION TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A TEMPORARY ADDITION TO A SWIMMING POOL ON PROPERTY LOCATED GENERALLY ON THE SOUTH SIDE OF MURDOCK IN AN AREA NORTH OF SLEEPY HOLLOW.

WE ALSO ADVISED THAT THE BOARD'S DECISION MIGHT BE APPEALED TO THE CITY COMMISSION PROVIDED THAT SUCH APPEAL WAS FILED ON OR BEFORE DECEMBER 28, 1962.

THE CITY CLERK HAS ADVISED THAT NO APPEAL WAS FILED ON OR BEFORE THE DATE INDICATED, AND THE DECISION OF THE BOARD OF ZONING APPEALS IS, THEREFORE, FINAL.

A COPY OF THE RESOLUTION SETTING FORTH THE ACTION OF THE BOARD IS ATTACHED FOR YOUR INFORMATION AND FILES.

VERY TRULY YOURS,

ROBERT A. LAKIN  
SECRETARY

RAL:BER

ATTACHMENT

CC: GLEN LYTLE, SUPERINTENDENT  
CENTRAL INSPECTION

MICHAEL NEUBERGER  
3733 EAST MURDOCK

DECEMBER 21, 1962

MR. SPENCER DEPEW, ATTORNEY  
830 FIRST NATIONAL BANK BUILDING  
WICHITA, KANSAS

DEAR MR. DEPEW:

RE: BZA 9-62

THIS IS TO ADVISE YOU THAT AT ITS REGULAR MEETING OF DECEMBER 16, 1962, THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA CONSIDERED YOUR REQUEST FOR AN EXCEPTION TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A TEMPORARY ADDITION TO A SWIMMING POOL ON LOT 14 AND ONE-HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THENORTHWEST BOUNDARY AND SOUTHWEST BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION, GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK IN AN AREA NORTH OF SLEEPY HOLLOW.

AFTER DISCUSSION, IT WAS THE ACTION OF THE BOARD OF ZONING APPEALS TO APPROVE YOUR REQUEST, SUBJECT TO CERTAIN CONDITIONS WHICH ARE INCLUDED AS AN ATTACHMENT TO THIS LETTER.

SECTION 2.12.610 OF THE CODE OF THE CITY OF WICHITA PROVIDES THAT THE DECISION OF THE BOARD OF ZONING APPEALS SHALL BE FINAL UNLESS IT IS APPEALED TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN DAYS OF THE DATE OF THE BOARD'S ACTION. ACCORDINGLY, AN APPEAL COULD BE FILED IN THIS CASE ON OR BEFORE DECEMBER 28, 1962.

SUBSEQUENT TO THE EXPIRATION OF THE APPEAL PERIOD, YOU WILL BE ADVISED WHETHER OR NOT AN APPEAL HAS BEEN FILED. IF NO APPEAL HAS BEEN FILED ON OR BEFORE DECEMBER 28, 1962, THE DECISION OF THE BOARD WILL BE FINAL AND THE SUPERINTENDENT OF CENTRAL INSPECTION WILL BE IN A POSITION TO ISSUE THE APPROPRIATE PERMIT.

VERY TRULY YOURS,

*RAL*  
ROBERT A. LAKIN  
SECRETARY

RAL:MM

CC: C. H. FUNK, CITY CLERK  
GLEN LYTLE, SUPERINTENDENT OF CENTRAL INSPECTION

MICHAEL NEUBERGER  
3733 E. MURDOCK

CONDITIONS OF APPROVAL

BZA 9-62

1. THE PORTABLE COVER SHALL BE DISMANTLED AFTER MAY 1 AND NOT REASSEMBLED BEFORE OCTOBER 1 OF EACH YEAR.
2. THE PORTABLE SWIMMING POOL COVER SHALL BE CONSTRUCTED OF FIRE RESISTANT MATERIAL.
3. THE PORTABLE SWIMMING POOL COVER SHALL BE FITTED WITH AN OUTSIDE DOOR WHICH CAN BE SECURELY LOCKED WHEN THE POOL IS NOT IN USE.

BOARD OF ZONING APPEALS

DECEMBER 26, 1962

C. H. FUNK, CITY CLERK

ROBERT A. LAKIN, SECRETARY

BZA 9-62

ATTACHED IS A COPY OF BZA RESOLUTION 9-62 COVERING ACTION TAKEN BY THE BOARD OF ZONING APPEALS ON THE ABOVE CASE.

THIS CASE WAS HEARD ON DECEMBER 18, 1962 AND AN APPEAL MAY BE FILED IN YOUR OFFICE ON OR BEFORE DECEMBER 23, 1962.

IF AN APPEAL IS FILED, PLEASE ADVISE.

ROBERT A. LAKIN  
SECRETARY

RAL:BER

ATTACHMENT

SECRETARY'S REPORT

CASE BZA NO. 9-62

GENERAL DESCRIPTION

THIS CASE INVOLVES A TRACT OF LAND GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK AND NORTH OF SLEEPY HOLLOW. IT IS A TRIANGULAR SHAPED BLOCK THAT IS BOUNDED ON ALL SIDES BY STREETS. SUBJECT PROPERTY IS CURRENTLY ZONED "A" TWO FAMILY AND IS SURROUNDED ON ALL SIDES BY "A" TWO FAMILY ZONING. THE PROPERTY CURRENTLY HAS A SINGLE FAMILY RESIDENCE, GARAGE AND SWIMMING POOL ON IT. IN THE ADJOINING AREA THERE ARE SINGLE FAMILY RESIDENCES.

REQUEST

THE REQUEST IS FOR AN EXCEPTION TO ALLOW AN ACCESSORY STRUCTURE (SWIMMING POOL COVER) TO BE WITHIN 8.8 FEET OF THE FRONT PROPERTY LINE (25 FEET IS THE NORMAL SETBACK LINE) AND 3.9 FEET OF THE SIDE YARD PROPERTY LINE (8 FEET IS THE NORMAL REQUIREMENT). THE ACCESSORY STRUCTURE PROPOSED BY THE APPLICANT WOULD BE A FIRE PROOF COVERING COMPLETELY ENCLOSING THE SWIMMING POOL AND PLACED ON THE PROPERTY AS SHOWN IN ATTACHMENT #1. THE BOARD MAY AUTHORIZE EXCEPTIONS TO SETBACK REQUIREMENTS UNDER THE PROVISIONS OF SECTIONS 28.04.040.A.9 AND 2.12.560 PROVIDED THAT:

- A. ADEQUATE ACCESS TO THE LAND IS MAINTAINED FOR FIRE AND POLICE PROTECTION.
- B. ADEQUATE ACCESS IS MAINTAINED FOR THE SERVICE OF UTILITIES.

THE APPLICANT HAS SUBMITTED JUSTIFICATION FOR EACH OF THESE REQUESTS. THE STATEMENT OF JUSTIFICATION IS SHOWN AS ATTACHMENT #2 OF THIS REPORT.

#### HISTORY

THIS SAME AREA WAS THE SUBJECT OF A BOARD OF ZONING APPEALS REQUEST IN CASE No. BZA 4-62. AT THAT TIME THE APPLICANT REQUESTED A VARIANCE OF SETBACK REQUIREMENTS OF PROPERTY LOCATED AT 3733 EAST MURDOCK. THE REQUEST WAS MADE IN ORDER TO ALLOW ACCESSORY USE (TEMPORARY SWIMMING POOL COVER) IN THE "A" TWO FAMILY ZONING DISTRICT, TO BE LOCATED IN THE SIDE AND FRONT YARD INSTEAD OF THE REAR YARD AND TO BE LOCATED NOT NEARER THAN 60 FEET TO THE FRONT PROPERTY LINE. THE BOARD OF ZONING APPEALS DENIED THE REQUEST. SINCE THAT APPEAL WAS NOT FILED WITH THE CITY CLERK WITHIN TEN DAYS AFTER THE HEARING, THE DECISION OF THE BOARD WAS FINAL.

IN CASE No. BZA 4-62 THE BOARD FOUND THAT THE VARIANCE DESIRED AROSE FROM SUCH CONDITIONS THAT WERE UNIQUE AND NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT. THE REASONING WAS THAT THE SIZE OF THE LOT(S) WOULD NOT PERMIT THE LOCATION OF SUCH ACCESSORY USE IN THE REAR YARD AND THAT A BUILDING PERMIT WAS ISSUED FOR THE CONSTRUCTION OF A SWIMMING POOL AT THIS LOCATION. IN ADDITION TO THIS, THE BOARD FOUND THAT THE VARIANCE WOULD NOT AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE. HOWEVER, THE BOARD ALSO FOUND THAT IF THIS PERMIT WERE GRANTED, IT WOULD ADVERSELY AFFECT THE RIGHTS OF ADJACENT PROPERTY OWNERS. THIRTY-SIX ADJOINING PROPERTY OWNERS MADE THEIR OPPOSITION KNOWN BY

SIGNING AND SUBMITTING TO THE BOARD A PROTEST PETITION. THE PROTESTANTS FELT THAT THE TEMPORARY SWIMMING POOL COVER WOULD DEPRECIATE THE VALUE AND DETRACT FROM THE FULL ENJOYMENT OF THEIR PROPERTY.

THE BOARD ALSO FOUND THAT THE STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WOULD NOT CONSTITUTE UNDUH HARDSHIP ON THE APPLICANT, THE REASON BEING THAT THE COVER WAS ORIGINALLY CONSTRUCTED WITHOUT THE PROPER BUILDING PERMIT AS REQUIRED UNDER THE ZONING ORDINANCE WHICH REQUIREMENT, THE APPLICANT OR HIS AGENT SHOULD HAVE BEEN AWARE OF.

BECAUSE THE FOUR CONDITIONS NECESSARY TO GRANT A VARIANCE WERE NOT FOUND TO EXIST, THE BOARD DENIED THE APPLICATION.

COMMENTS BY THE SECRETARY

THE OLD ORDINANCE PROVIDED THAT NO ACCESSORY STRUCTURE COULD BE LOCATED NEARER THAN 60 FEET TO THE FRONT PROPERTY LINE. A NEW AMENDMENT TO THE ZONING ORDINANCE PROVIDES THAT ACCESSORY STRUCTURES CAN EXIST IN AN "A" TWO FAMILY DISTRICT PROVIDED THEY ARE LOCATED IN THE SIDE OR REAR YARD AND NOT LOCATED ANY NEARER TO THE FRONT LOT LINE THAN THE MAIN USE OR STRUCTURE. HOWEVER, THE BOARD MAY GRANT EXCEPTIONS TO THE SETBACK REQUIREMENTS AS PROVIDED IN SECTION 28.04.040.A.9 AND SECTION 2.12.560, WHEN THE AFOREMENTIONED REQUIREMENTS HAVE BEEN COMPLIED WITH.

THE SECRETARY HAS CHECKED WITH KANSAS GAS AND ELECTRIC, SOUTHWESTERN BELL TELEPHONE, ENGINEERING DEPARTMENT, WATER DEPARTMENT AND FIRE DEPARTMENT, AND FOUND THAT THE PROPOSED ACCESSORY STRUCTURE WILL IN NO WAY INTERFERE WITH EXISTING UTILITIES OR

ADEQUATE FIRE PROTECTION.

IT IS THE OPINION OF THE SECRETARY THAT THE GENERAL CHARACTER OF THE NEIGHBORHOOD, PUBLIC HEALTH, SAFETY, CONVENIENCE AND GENERAL WELFARE WILL BE PRESERVED IN THAT THE PORTABLE COVER WILL REMAIN ON THE SWIMMING POOL ONLY DURING THE WINTER MONTHS. GENERALLY SPEAKING, MOST PEOPLE STAY INDOORS DURING THE WINTER MONTHS SO CONSEQUENTLY SHOULD NOT BE AFFECTED BY THE SWIMMING POOL COVER. FURTHERMORE, THE COVER WILL BE REMOVED DURING THE SUMMER MONTHS SO SHOULD NOT DETRACT FROM THE ENJOYMENT OF THOSE WHO PARTICIPATE IN OUTDOOR ACTIVITIES.

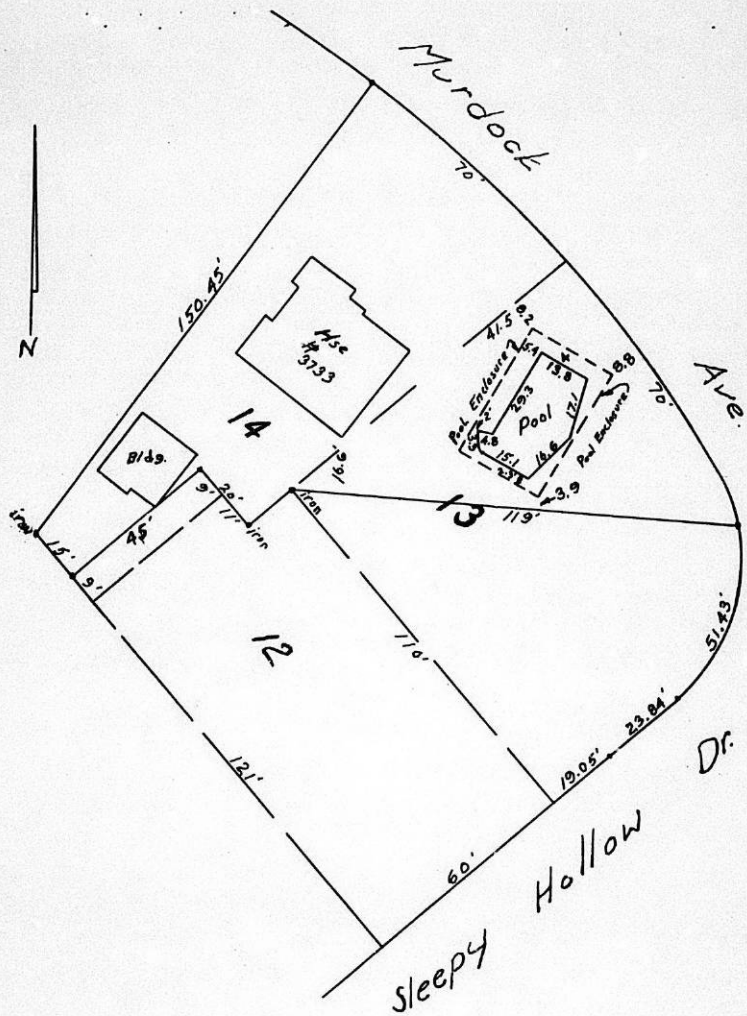
THE APPLICANT SUBMITS THAT, "THE SWIMMING POOL AND ITS COVER ARE LOCATED IN A SIDE YARD AND ARE INSULATED FROM THE HOUSE OF THE ADJOINING PROPERTY OWNER BY A BUFFER AREA OWNED BY THE ADJOINING PROPERTY OWNER, WHICH AREA IS THE UNDEVELOPED AND UNIMPROVED SOUTH ONE-HALF OF LOT 13."

IT IS THE OPINION OF THE SECRETARY THAT THE SOUTH ONE-HALF OF LOT 13 WILL PROVIDE A BUFFER ZONE AS LONG AS IT REMAINS UNDEVELOPED. HOWEVER, SINCE THE APPLICANT DOES NOT OWN THIS PROPERTY, THERE IS NO WAY HE CAN GUARANTEE THAT IT WILL REMAIN UNDEVELOPED, SO CONSEQUENTLY IN THE SECRETARY'S OPINION MUST BE CONSIDERED AN INADEQUATE BUFFER AREA. HOWEVER, THE STOCKADE FENCE THE APPLICANT HAS ERECTED ON THE NORTH HALF OF LOT 13 WOULD SEEM TO PROVIDE A SUFFICIENT BUFFER IN THIS CASE. IT IS EXTREMELY DIFFICULT TO PROVIDE BUFFER AREAS FOR A USE OF THIS TYPE WHEN THE HOUSES ARE IN SUCH CLOSE PROXIMITY. THE SECRETARY

IS OF THE OPINION THAT THE BEST BUFFER ZONE THAT CAN BE PROVIDED TO PROTECT ADJACENT PROPERTY VALUES IS SPACE ITSELF.

IN VIEW OF THE AFOREMENTIONED REASONS, IT IS THE OPINION AND RECOMMENDATION OF THE SECRETARY THAT THIS APPLICATION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- A. THE PORTABLE COVER SHALL BE DISMANTLED AFTER MAY 15 AND NOT REASSEMBLED BEFORE OCTOBER 15 OF EACH YEAR.
- B. THE PORTABLE SWIMMING POOL COVER SHALL BE CONSTRUCTED OF FIRE PROOF MATERIAL.
- C. THE PORTABLE SWIMMING POOL COVER SHALL BE FITTED WITH AN OUTSIDE DOOR WHICH CAN BE SECURELY LOCKED WHEN THE POOL IS NOT IN USE.



BZA 9-62 ATTCH. #1

CASE BZA 9-62

*Dec 3*

NOTICES MAILED ~~NOVEMBER 30~~, 1962 TO THE FOLLOWING:

MICHAEL G. NEUBERGER  
3733 EAST MURDOCK

BOARD OF COUNTY COMMISSIONERS  
COUNTY COURTHOUSE

R. C. LINDLEY  
CAROL J. LINDLEY  
3721 EAST MURDOCK

HENRY R. WADE  
ETHEL WADE  
3725 EAST MURDOCK

J. WIRTH SARGENT  
3736 SLEEPY HOLLOW DRIVE

MARGARET A. SEYDELL  
ERNEST M. SEYDELL  
3728 SLEEPY HOLLOW DRIVE

D. W. PRAY  
LORA P. PRAY  
3720 SLEEPY HOLLOW DRIVE

WALTER L. FELDNER  
HAZEL K. FELDNER  
3712 SLEEPY HOLLOW DRIVE

LOIS STATTON  
710 NORTH YALE

LEON B. INNIS  
BEVERLY JEANNE INNIS  
714 NORTH YALE

GEORGE P. WOLTER  
MARIE D. WOLTER  
726 NORTH YALE

GLADYS M. SHOFFNER  
345 NORTH EDGEMOOR

CLARENCE M. COUCH  
MAXINE L. COUCH  
734 NORTH YALE

MERLE N. SLEASE  
ADALYN M. SLEASE  
3705 EAST MURDOCK

PERRY D. PETTERSON  
O'RUTH SISK PETTERSON  
3717 EAST MURDOCK

SPENCER L. DEPEW  
830 FIRST NAT'L BANK BLDG.

BOARD OF ZONING APPEALS  
ROOM 402 CITY BUILDING ANNEX  
104 SOUTH MAIN  
WICHITA, KANSAS

NOTICE TO ADJOINING PROPERTY OWNERS

NOVEMBER 29, 1962

AN APPLICATION HAS BEEN FILED FOR AN EXCEPTION BY SPENCER L. DEPEW, ATTORNEY FOR MICHAEL G. NEUBERGER, 3733 EAST MURDOCK, AS PROVIDED IN SECTION 28.04.040.A.9, CODE OF THE CITY OF WICHITA, KANSAS. THE APPLICANT DESIRES AN EXCEPTION TO THE ZONING ORDINANCE TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A TEMPORARY ADDITION TO A SWIMMING POOL IN THE FORM OF A PORTABLE COVER ON PROPERTY LOCATED AT 3733 EAST MURDOCK, AND LEGALLY DESCRIBED AS:

LOT 14 AND ONE-HALF OF LOT 13, LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NORTHWEST BOUNDARY AND SOUTHWEST BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, AND

GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK IN AN AREA BETWEEN YALE AND ROOSEVELT.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. BZA 9-62. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, DECEMBER 18, 1962, AT 2 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.

ROBERT A. LAKIN, SECRETARY  
BOARD OF ZONING APPEALS

CLYDE M. BAUGHMAN  
FRED J. DOANE  
JOHN F. JACKSON REEVES

OFFICE OF  
**CLYDE M. BAUGHMAN CO.**  
*Civil Engineer & Surveyors*  
Registered Professional Engineer

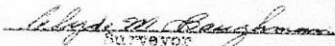
2522 EAST KELLOGG  
WICHITA 11, KANSAS  
PHONE MURRAY 5-7451

State of Kansas }  
County of Sedgwick } SS March 23, 1961,

I, Clyde M. Baughman, Surveyor in aforesaid county and state do hereby certify that I did on this 23rd day of March, 1961, survey Lot 14, except beginning at the S. E. Corner of said lot 14; thence northwesterly along lot line 9 feet; thence northeasterly parallel with the easterly line of said lot 14, 45 feet; thence southeasterly 9 feet to the easterly line of said lot 14; thence southwesterly along said lot line 45 feet to beginning, also that part of Lot 13, lying north of a line which bisects the angle between the northwest boundary line and the southwest boundary line of said lot 13, all in Block 2, Sleepy Hollow a subdivision to Wichita, Kansas.

On said property are house No. 3733 a garage and a swimming pool which are in the clear of all boundary lines. There are no encroachments on said property by buildings on the adjacent properties.

The accompanying plat is a true and correct exhibit of said survey.

  
Surveyor

Applicant submits the following statement in justification of the exception herein requested:

(Attached to this statement is a copy of a surveyor's certificate, certified by Clyde M. Baughman, dated March 23, 1961, describing the property herein involved, accompanied by a descriptive plat.)

Applicant requests that an exception be granted to existing setback provisions of the Code of the City of Wichita, so that the applicant may erect an accessory structure in the form of a portable cover over a swimming pool which is already in existence. More specifically, applicant requests that in accordance with Section 28.04.040 A.9 of the Code, an exception be granted so as to allow said accessory structure to be placed within 8.8 feet of the captioned property front line and to allow said structure and to grant an exception so that said structure may be placed within 3.9 feet of the side yard property line.

Applicant further states that the granting of these exceptions will provide the following:

1. Maintenance of adequate access to the land for fire and police protection.
2. Maintenance of adequate access for the service of all public utilities.
3. The preservation of the general character of the neighborhood, area or development and for the public safety, health, convenience and general welfare.

Applicant justifies this application for exception with the following reasons:

1. Applicant desires to erect a portable cover as an addition to an already existing swimming pool, so as to permit applicant and applicant's family to swim year round in this heated pool.
2. Applicant intends to have the cover in place over the swimming pool only during those months when outdoor swimming is not seasonable. During the warmer months of the year the cover will be dismantled and placed in storage.
3. Applicant is now the owner of a swimming pool which was constructed over 2½ years ago by the applicant and for which construction applicant obtained a building permit from the City of Wichita.
4. Applicant's property is of such a size, shape, and character that it is, will be, and has been at all times material hereto, impossible and impractical to locate this swimming pool and its cover in applicant's rear yard.
5. The swimming pool and proposed cover are completely encircled by a stockade type fence and therefore do not provide an unpleasing sight to the neighborhood.
6. The swimming pool and its cover are located in a side yard and are insulated from the house of the adjoining property owner by a buffer area owned by the adjoining property owner, which area is the undeveloped and unimproved south one-half of Lot 13.

7. The addition of a swimming pool cover during the season not suitable for outdoor swimming provides an additional means of restraining children of the neighborhood from having unauthorized access to the pool and thereby reduces a safety hazard which a home-owned private swimming pool may create. The proposed swimming pool cover itself is fire-proof, completely enclosed and is fitted with an outside door which may be securely locked.

8. The proposed temporary portable swimming pool cover will serve as an accessory structure only with its use being totally incidental to that of the main building located on said property, which main building is the home and residence of the applicant.

Applicant further submits the following statements in justification of this application:

A) That the exception desired arises from such condition which is unique and which is not ordinarily found in the same zoning district, because the back yard of the applicant is not a suitable location for the construction of a swimming pool and temporary cover, because of the fact that the proposed location is upon one-half of a curved front corner lot, because this construction shall not interfere with an existing pattern of setback requirements, and because ownership of this corner lot is split equally between the two adjacent land owners. Further, that the situation is unique because of the fact that the swimming pool is heated and is now in existence, having been constructed in accordance with the terms of a duly issued building permit.

B) That the granting of the permit for the exception will not adversely affect the rights of adjacent property owners or residents, because applicant is the owner of the adjacent lot to the northwest of the proposed location and because the property owner adjacent to the southwest is protected by a buffer area owned by this adjacent property owner, which area is the south one-half of Lot 13, and is further protected by a stockade type fence which encircles the swimming pool and its cover. Further that the requested exception is to allow construction of a swimming pool cover which will be dismantled during the warmer months of the year.

C) That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal, because the property owner has already proceeded with construction of a swimming pool upon this location, in accordance with a duly issued building permit, and that this proposed cover shall be only a temporary (non-permanent) addition to this now existing pool.

D) That the exception desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, and will substantially add to the public safety for the neighborhood children.

GLEN LYTTLE, SUPERINTENDENT OF  
CENTRAL INSPECTION

NOVEMBER 14, 1962

R. A. LAKIN, SENIOR PLANNER

BZA 9-62 - MICHAEL NEUBERGER

THE APPLICANT IN THE ABOVE CITED CASE IS REQUESTING PERMISSION TO ERECT A TEMPORARY ADDITION TO AN EXISTING SWIMMING POOL IN THE FORM OF A PORTABLE COVER. THIS MATTER HAS BEEN BEFORE THE BOARD OF ZONING APPEALS ONCE BEFORE FOR A VARIANCE AND WAS DENIED. ATTACHED IS THE JUSTIFICATION STATEMENT BY THE APPLICANT AS WELL AS THE LEGAL DESCRIPTION OF THE PROPERTY INVOLVED.

I AM INTERESTED IN KNOWING WHETHER OR NOT THERE ARE ANY BUILDING CODE REQUIREMENTS WHICH SHOULD BE INCLUDED AS A PART OF THE APPROVAL IN THIS CASE IF IT IS APPROVED. ALSO, IS THERE ANY OTHER PARTICULAR MATTER THAT WE SHOULD CONSIDER AS A POSSIBLE CONDITION OF APPROVAL FOR THIS CASE.

WOULD YOU PLEASE LET ME HAVE YOUR COMMENTS IN THIS MATTER IN THE NEXT WEEK OR SO.

R. A. LAKIN  
SENIOR PLANNER

RAL:BER

ATTACHMENT

B2A-4-6a1  
Resubmitted April 25, 1961

CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS

CASE NO. \_\_\_\_\_  
FILED \_\_\_\_\_

APPLICATION FOR EXCEPTION

I. NAME OF APPLICANT Michael G. Neuberger  
MAILING ADDRESS 3733 East Murdock PHONE MU 6-1077  
NAME OF AUTHORIZED AGENT Spencer L. Depew  
MAILING ADDRESS 830 1st Nat'l. Bank Bldg. PHONE AM 4-1376  
(RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF owner  
(OWNER, TENANT, LESSEE, OTHER)

II. APPLICATION IS MADE FOR AN EXCEPTION AS PROVIDED IN SECTION  
28.04.040 A.9, CODE OF THE CITY OF WICHITA, KANSAS,  
(ZONING ORDINANCE); TO PERMIT THE INSTALLATION OR CONSTRUCTION  
OF a temporary addition to a swimming pool in the form of a portable cover  
ON PROPERTY ZONED A; LOCATED AT 3733 E. Murdock

\_\_\_\_\_, AND LEGALLY DESCRIBED AS Lot(s) 14 and  
one-half of Lot 13, lying north of a line bisecting the angle between the  
NW boundary and SW boundary of Lot 13, Block(s) 2

Sleepy Hollow ADDITION, to the  
City of Wichita.  
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

N/A

- III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT:
- A. ACKNOWLEDGES RECEIPT OF AN INSTRUCTION SHEET RELATING TO THIS APPLICATION FOR AN EXCEPTION;
  - B. AGREES TO CONFORM TO ALL REQUIREMENTS OF THE APPROPRIATE SECTION OF THE ZONING ORDINANCE IF THIS APPLICATION IS APPROVED;
  - C. DECLARES THAT ALL REQUIRED SUPPORTING DOCUMENTS OR INFORMATION ARE ATTACHED HERETO AND MADE A PART OF THIS APPLICATION;
  - D. ACKNOWLEDGES THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD OF ZONING APPEALS TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THE DATE OF THAT DECISION.

APPLICANT Michael G. Neuberger

Spencer L. Depew  
AUTHORIZED AGENT Spencer L. Depew

OFFICE USE ONLY

RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, 4:30  
(A.M. - P.M.) Nov. 7, 1962, TOGETHER WITH APPROPRIATE  
FEE OF \$30.00

A. Neuberger  
SIGNED

O W N E R S H I P L I S T

LOT	BLOCK	ADDITION	PROPERTY OWNERS
1 E 5' ex S 5'	2	Sleepy Hollow	Perry D. Petterson O' Ruth Sisk Petterson 3717 E. Murdock
1 ex S 5' & ex E 5'	"	"	Merle N. Slease Adalyn M. Slease 3705 E. Murdock
1 S 5'	"	"	Clarence M. Couch Maxine L. Couch 734 N. Yale
2	"	"	"
3	"	"	Gladys M. Shoffner 345 N. Edgemoor
4	"	"	George P. Wolter Marie D. Wolter 726 N. Yale
5	"	"	Leon B. Innis Beverly Jeanne Innis 714 N. Yale
6	"	"	Lois Statton 710 N. Yale
8	"	"	Walter L. Feldner Hazel K. Feldner 3712 Sleepy Hollow Dr.
9 ex E 5'	"	"	D. W. Pray Lora P. Pray 3720 Sleepy Hollow Dr.
9 E 5'	"	"	Margaret A. Seydell Ernest M. Seydell 3728 Sleepy Hollow Dr.
10	"	"	"
11	"	"	J. Wirth Sargent 3736 Sleepy Hollow Dr.
12	"	"	Michael G. Neuburger Elsa Neuburger 3733 E. Murdock
Part of Lot 13 ly S of a ln which bisects the angle between the NW boundary ln & SW boundary ln said Lot 13 being $\frac{1}{2}$ the lot more or less	"	"	"

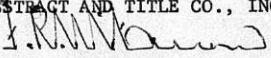
Continued -2-

Block Part of Lot 2 14 beg NW/c Lot 12 th in NWly dir 9' th in NEly dir 45' th SEly dir 9' to pt in N ln sd Lot 12 th in SWly dir 45' to beg.	Sleepy Hollow	Michael G. Neuburger Elsa Neuburger 3733 E. Murdock
Part of Lot " lying N of ln which bisects the angle between NW boundary ln & SW boundary ln sd Lot 13 being $\frac{1}{2}$ the lot more or less	"	"
Part of Lot " 14 beg at NW/c Lot 12 th in NWly dir 9' th in NEly dir 45'; th SEly dir 9' to pt in N ln sd Lot 12; th in SWly dir 45' to beg	"	"
15	"	Henry R. Wade Ethel Wade 3725 E. Murdock
16	"	R. C. Lindley Carol J. Lindley 3721 E. Murdock
17	"	Perry D. Petterson O'Ruth Petterson 3717 E. Murdock
5	-	Property of the Wichita Country Club Wichita Ks
		Board of County Commissioners County Court House
6	"	"

We hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of Lot 14, except beginning at the SE corner of Lot 14, thence NWly 9 feet along Lot line; thence NEly parallel to the easterly line of said lot 14, 45 feet; thence Southeasterly 9 feet to easterly line of Lot 14; thence SWly along said lot line 45 feet to place of beginning, also that part of Lot 13 lying North of a line which bisects the angle between the NW boundary line and the SW boundary line of said Lot 13, all in Block 2, Sleepy Hollow a subdivision, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, on this the 6th day of November, A.D., 1962 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE CO., INC.

By

  
Vice President

Order No. 98756

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. \_\_\_\_\_ Elec. \_\_\_\_\_ Elev. Insp. \_\_\_\_\_  
Exam Fees \_\_\_\_\_ Hse. Mvr. \_\_\_\_\_ Hse. Moving \_\_\_\_\_  
Licse. \_\_\_\_\_ Mech. \_\_\_\_\_ Oil Well \_\_\_\_\_ Pav. Cuts. \_\_\_\_\_  
Plan. \_\_\_\_\_ Plb'g. \_\_\_\_\_ Plb'g. Cert. \_\_\_\_\_  
Sanitation \_\_\_\_\_ Sewer \_\_\_\_\_ Signs \_\_\_\_\_ Sidewalk \_\_\_\_\_  
Street \_\_\_\_\_ Trailers \_\_\_\_\_

DESCRIPTION	AMOUNT
11-7-62	

Name \_\_\_\_\_

Address \_\_\_\_\_

Type \_\_\_\_\_ Due Date \_\_\_\_\_

Comments: \_\_\_\_\_

Date 11-7-62 By \_\_\_\_\_