

BZA 13-77 - BOBBY GENE ROBERTS  
requests a variance to reduce the  
required number of parking spaces  
from 12 spaces to 9 spaces on  
property located on the south  
side of MacArthur in an area

*POSTED  
4-26-77*

ACTION

BZA 13-77 COMMITTEE

*Denied*

DATE

*4-26-77*

M.A.P.C. \_\_\_\_\_

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

BZA 13-77 - BOBBY GENE ROBERTS  
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Map No. 5542  
 Sec. 16  
 Twp. 28  
 Range 7E

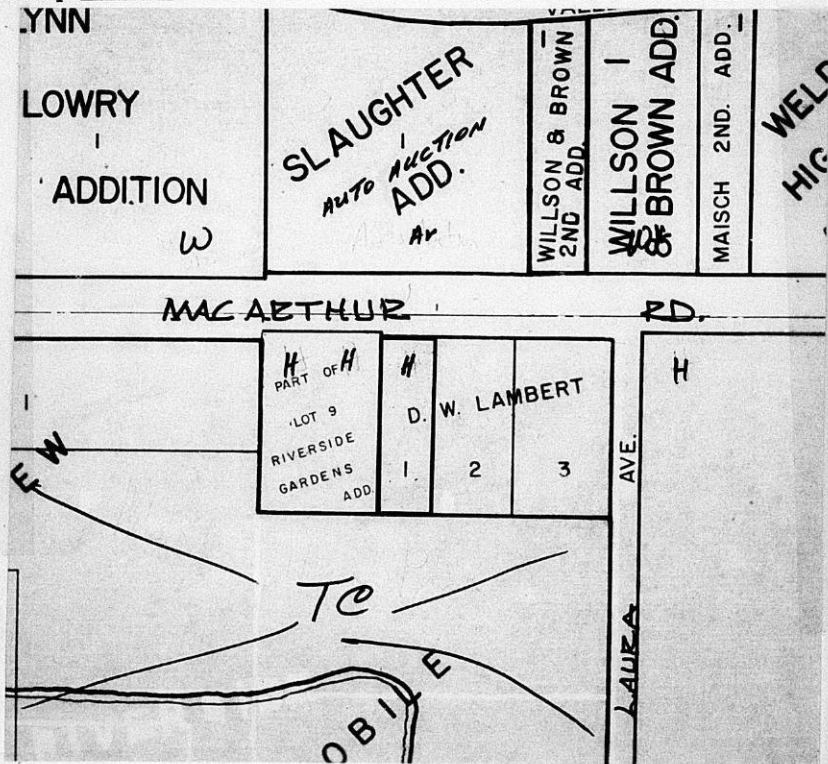
BZA- 13-77  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: 0.71 ( 100 ft. by 310 ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East UNDEVELOPED South MOBILE HOME COURT  
 West SINGLE FAM North AUTO AUCTION
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use is for: SINGLE FAM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



HARTMAN, INC. - LOST ANGLES  
 No. 2,133C  
 S. Mearns  
 LOCAL CH. - AUSTIN, TX U.S.A.

RESOLUTION NO. BZA 13-77

WHEREAS, Bobby Gene Roberts, 1121 East MacArthur, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to reduce the number of required off-street parking spaces from 12 spaces to 9 spaces on property zoned the "C" Commercial District, and legally described as follows:

Lot 1, D. W. Lambert Addition, Sedgwick County, Kansas. Generally located on the south side of MacArthur Road in an area between Laura Avenue and Alfalfa Street (1121 East MacArthur).

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 April 26, 1977, 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 does not arise 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, in fact, created by an action or actions of the property owner or the applicant inasmuch as sufficient space is available to provide the required off-street parking; 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 is no parking permitted on MacArthur Road and there are no other public streets close to the applicant's property, therefore, any overflow parking would have to be parked on subject property whether paved or not; 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 not constitute unnecessary hardship upon the property owner represented in the application inasmuch as subject property is obviously of adequate size to permit the applicant to provide the required parking, the required fire truck turn around and still have ample room for a garden and space to park his camper and boat. Many sites must be dirt filled before development can take place; 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 parking on public streets should not be a problem; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as automotive repair garages are uniformly required to provide one parking space for each 250 square feet of floor area, not to include the bays in the garage to meet this requirement, and there is ample space to provide the parking on subject property; 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 not 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 number of required off-street parking spaces from 12 spaces to 9 spaces on property zoned the "C" Commercial District, and legally described as follows:

Lot 1, D. W. Lambert Addition, Sedgwick County, Kansas. Generally located on the south side of

MacArthur Road in an area between Laura Avenue  
and Alfalfa Street (1121 East MacArthur),

be denied.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1977.

Ewald Behnke  
Ewald Behnke, Chairman

ATTEST:

Larry Dobson  
Larry Dobson, Assistant Secretary



**THE CITY OF WICHITA**  
**OFFICE OF CITIZEN PARTICIPATION**

DATE April 19, 1977



TO Larry Dobson, MAPD

FROM David Furnas, Citizen Participation Coordinator

SUBJECT BZA 13-77



At its April 18, 1977, meeting, CPO Area "C" Council voted unanimously to recommend denial of the requested variance in required parking spaces.

The Council members noted that based upon their observation, there appeared to be enough available land for parking required in the zoning ordinance.

*David L. Furnas*  
David Furnas  
Citizen Participation Coordinator

DF:rh

1125 EAST MACARTHUR  
40 X 80 FOOT SERVICE GARAGE BUILDING

Normal required outside off street parking 12 spaces. Requesting reduction to 9 spaces and use this area as a fire truck turn around required due to business building being so far south of MacArthur in behind and to side of home on commercial lot.

New un-established business, fully realize need plenty of parking to not fluster customers will be to my business interest to add more spaces later as needed. If needed, since my home needs to keep as much yard space as possible, but keeping in mind business interest first.

For any future commercial building on this lot it will need start next to south end of this service garage building and go south to south line approximately 65 feet, which this planned turn around was placed in. Business drive and parking for additional building would be placed west of new building same as this present one. This would require all of turn around area south of present building. I do want and plan another building when this business is established and going well.

Cost - main factor on turn around change and don't see how this type business can require same parking as high customer traffic business. Will this garage business not be a lower traffic business than a grocery, clothing, shoe, Quik Trip store or etc.? Code book generalizes or groups all together as same parking needs. On range scale of 1 thru 15, 15 being high traffic business, business seems to me a auto service garage would be like in a 1 - 2 range, requiring less parking than most businesses.

Cost of turn around fill and chat surface 33 inch deep X 20 X 94 approximately \$1,750.00 to \$2,000.00. Would also require approximately 33 inch deep X 6 X 94 foot along south edge to support from caving off of turn around edge.

My insurance agent had informed me a wood truss roof and comp. shingles would be cheapest to insure and to install for approximately \$3,500.00. He was wrong; a flat roof or Butler building steel roof is cheapest insurance rate by approximately \$450.00 per year. (A UL 90 winduplift roof on E-C insurance rate. This will give my building, my home and neighbors to west and trailer court to south safer protection from wind blowing, fire contained by having a metal roof rather than a wood and shingle roof. Have two contract bids on metal roof 1. For \$9,800.00 and 4. for \$11,400.00 installed. This would be approximately \$6,300.00 more than planned. Also planned to chat-gravel drive and parking, which city hall says no.

	CONCRETE	ASPHALT
Area 120 X 60 = 7200 sq. ft.		
Area 30 X 24 = 720	13,080	13080
Area 170 X 24 = 4080	--X.80	X.70
Area 24 X 45 = 1080	\$10464.00	\$9156.00
13080		

Plumbing and electrical had estimate \$3500.00. Have plumbing bid for \$2,670.00 and electrical bid of \$2,840.00 or total \$5,510.00 \$2,010.00 more than planned.

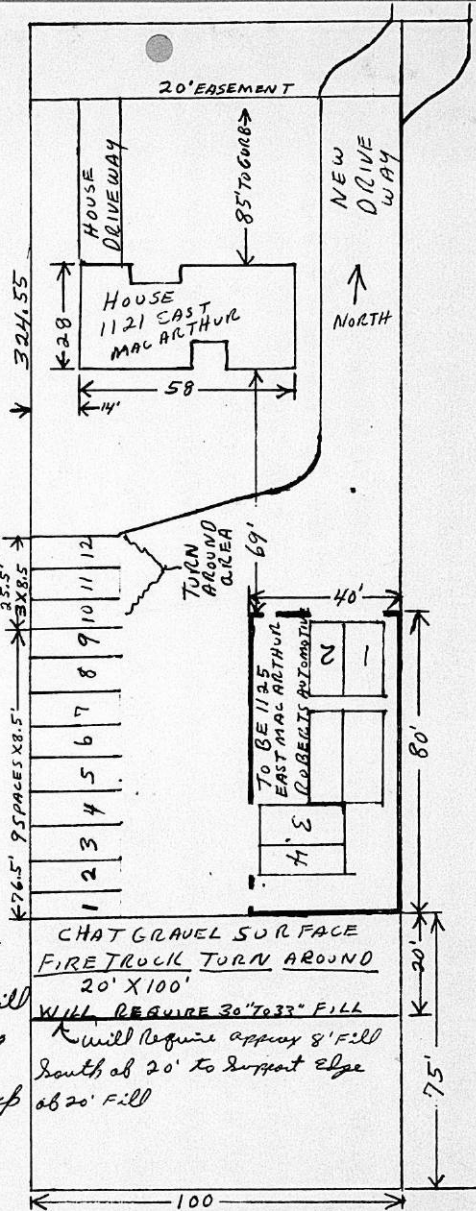
Page # 2

In selling my home and buying this home on commercial lot, both did June 1976, I saved back necessary building money and put a loan on 1121 East MacArthur. Now with such rising cost I am in financial trouble, so I must save wherever I can.

As it now looks, unless I can work in some savings areas, I cannot complete and open this business. Thank you for your time.

Bobby Gene Roberts  
1121 East MacArthur

Roberts Automotive  
 1125 East Mac Arthur



Requesting (4) Inside stalls be designated as customer parking, which is where max. of (6) customer cars will be. Use this paved area as Fire Truck Turn around.

Will be costly to fill & chat this area, which may never be used for turn around & will not be allowed for anything to park on.

Would also like this back area for home use parking, boat, camper, & garden spot

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXX

April 27, 1977

Tenth Floor, City Hall  
455 North Main Street

Mr. Bobby Gene Roberts  
1121 East MacArthur  
Wichita, Kansas 67216

Re: Request for Variance  
Case No. BZA 13-77

Dear Mr. Roberts:

At the regular meeting of the Board of Zoning Appeals on April 26, 1977, your request for a variance to reduce the required number of off-street parking spaces from 12 spaces to 9 spaces on property zoned the "C" Commercial District and generally located on the south side of MacArthur Road in an area between Alfalfa Street and Laura Avenue, (1121 East MacArthur) was considered.

It was the action of the Board to deny this request.

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.

As a follow-up to your question of sewer service availability to your property, we have checked with the Department of Public Works and ascertained that the sewer line on the south side of your property is a private sewer to serve the mobile home park. Sewer service to your property and the other two commercial properties to the east is planned to be provided by the extension of a sewer line to the south side of MacArthur Road. A petition was submitted with the original platting of D. W. Lambert to provide sewer service in the described manner. However, the City will not install these facilities using City credit on a special assessment basis until 35% of the land in the plat has developed, or until an owner submits a letter of credit or bond to insure the payment of the special assessments. Since the other two lots in this plat are undeveloped, the 35% development standard cannot be met by your development alone. Details on procedure for submitting a letter of credit or bond may be

**Mr. Bobby Gene Roberts**  
**April 27, 1977**

obtained by contacting the City Engineer's Office. You also have the right to request that the City Commission waive the 35% Development Policy and information about these procedures may be obtained from the Department of Economic Development.

If you have other questions, please contact our office.

Yours very truly,

Larry Dobson  
Assistant Secretary

LD:bh

cc: Don Gisick, City Clerk  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Maintenance, Central Inspection

SECRETARY'S REPORT  
CASE NO. BZA 13-77

APPLICANT: Bobby Gene Roberts, 1121 E. MacArthur,  
Wichita, Kansas.

AGENT: Same.

REQUEST: Variance pursuant to Section 2.12.590.B,  
Code of the City of Wichita, to reduce  
the required number of off-street park-  
ing spaces from 12 spaces to 9 spaces.

GENERAL LOCATION: South side of MacArthur Road in an area  
between Alfalfa Street and Laura Avenue  
(1121 East MacArthur).

ZONING: Subject property is zoned the "C" Com-  
mercial District as are the properties  
to the north and east; west is the "AA"  
Single Family Dwelling District; and  
south is the "G" Mobile Home District.

LAND USE: Subject property is developed with a  
single family residence and a automotive  
repair shop under construction; north is  
an auto auction; west is a single family  
residence; south is a mobile home park;  
and east is vacant, undeveloped land.

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 28 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 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required number of off-street parking spaces from 12 spaces to 9 spaces for an automotive repair shop which is under construction.

Subject property is a 100 foot wide by 310 foot deep lot developed with an existing single family home on the front or northern portion of the lot. The back or southern half of the lot is being developed as an automotive repair garage. The garage will contain 3,200 square feet of floor area which, based on 1 space for each 250 square feet of floor area, will require 12 off-street parking spaces. Also, due to the distance from a public road, the applicant is required to provide a fire lane and fire truck turn around area on his site. Sufficient space is available behind, to the south of the garage to provide for fire truck turn around, however, the applicant says he will have to fill and chat this area. He would like to retain this back area for his home use as a garden spot and for space to park a boat and camper. He therefore requests a reduction of 3 off-street parking spaces so that the turn around may be provided on the asphalt apron northwest of the garage.

The applicant points out that there will be six bays in his garage which would normally have cars in them, and sites this as further justification for reducing the outside parking requirement by 3 spaces. It is the opinion of the Secretary that this is not a valid argument for the granting of a variance for parking inasmuch as these are work bays and not parking spaces. If this could be justification for granting this variance, this same logic would apply to any automotive repair garage in the City and in that case, the ordinance should be amended rather than granting variances in every instance.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that the granting of the variance desired arises from a 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 actions of the property owner inasmuch as sufficient space is available to provide the required off-street parking.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of this variance may not adversely affect the rights of adjacent property owners or residents inasmuch as there is no parking permitted on MacArthur Road and there are no other public streets close to the applicant's property, therefore, any overflow parking would have to be parked on subject property whether paved or not.

HARDSHIP:

It is the opinion of the Secretary that the strict enforcement of the zoning ordinance would not create an unnecessary hard-

SECRETARY'S REPORT

Case No. BZA 13-77

Page 3

ship upon the applicant inasmuch as subject property is obviously of adequate size to permit the applicant to provide the required parking, the required fire truck turn around and still have ample room for a garden and space to park his camper and boat. Many sites must be dirt filled before development can take place.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested may not have an adverse affect on the public interest inasmuch as parking on public streets should not be a problem.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as automotive repair garages are uniformly required to provide one parking space for each 250 square feet of floor area, not to include the bays in the garage to meet this requirement, and there is ample space to provide the parking on subject property.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance cannot be found to exist and therefore, it is recommended that the application be denied.

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7 notices sent to applicant and adjoining property owners  
10 notices to MAPC members  
1 notice to CPO-Dave Furnas  
18 total notices sent on BZA 13-77, 3-31-77

BOARD OF ZONING APPEALS  
TENTH FLOOR - CITY HALL  
455 North Main Street, Wichita, Kansas 67202

March 31, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 13-77

An application has been filed by Bobby Gene Roberts, 1121 East MacArthur, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the number of required off-street parking spaces from 12 spaces to 9 spaces on property zoned the "C" Commercial District and legally described as follows:

Lot 1, D. W. Lambert Addition, Sedgwick County, Kansas. Generally located on the south side of MacArthur Road in an area between Laura Avenue and Alfalfa Street (1121 East MacArthur).

This application has been assigned Case No. BZA 13-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 26, 1977, 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

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

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

APPLICATION FOR VARIANCE

I. Name of Applicant BOBBY GENE ROBERTS  
Mailing Address 1121 EAST MACARTHUR Phone 522-4119  
Name of Authorized Agent \_\_\_\_\_  
Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_  
Relationship of applicant to property is that of OWNER  
(Owner, Tenant, Lessee, Other)

II. The variance requested is ALLOW 4 OF THE 6 BUILDING  
SERVICE STALLS BE DESIGNATED AS CUSTOMER  
PARKING. reduce 12 spaces to 9 spaces  
for property located AT 1125 EAST MACARTHUR

and legally described as: ROBERTS AUTOMOTIVE  
(A CAR SERVICE GARAGE)  
Lot 1 D.W. Lambert Addition

in the City of Wichita; and which is presently zoned COMMERCIAL

- 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.

Bobby Gene Roberts  
Applicant

\_\_\_\_\_  
Authorized Agent

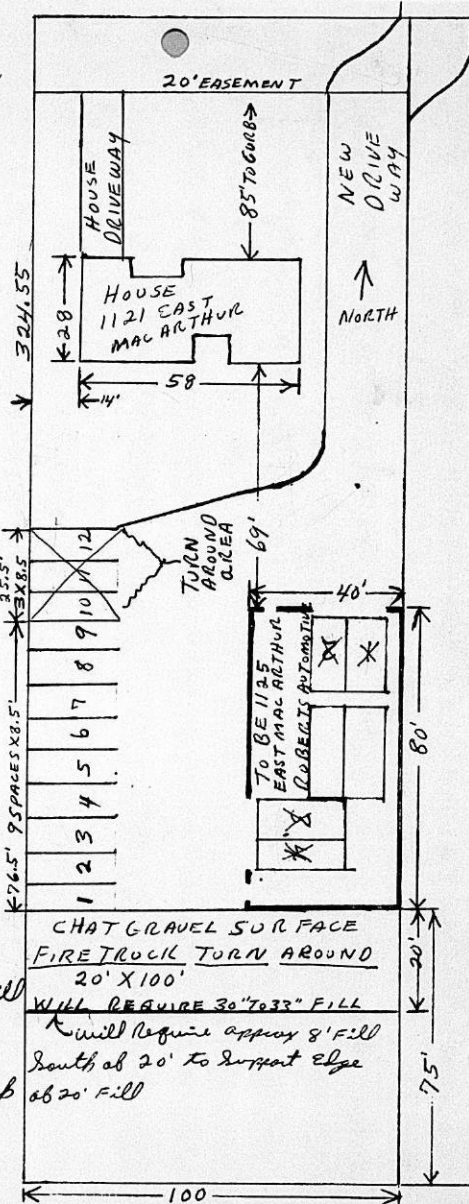
OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:30 (a.m.) - p.m.), 5-28 19 77 together with appropriate fee of \$50.00.

subject to receiving abstract list  
T9-402

Larry Dobson  
Signed

map 5542 S. side of MacArthur in area between Laura St & Alameda Ave.

Roberts Automotive  
1125 East Mac Arthur



Requesting (4) Inside stalls be designated as customer parking, which is where max. of (6) customer cars will be. Use this paved area as Fire Truck Turn around.

Will be costly to fill & chat this area, which may never be used for turn around & will not be allowed for anything to park on.

Would also like this back area for home use parking, boat, camper, & garden spot

## 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,

All the record owners within 200 feet of:

Lot 1, D. W. LAMBERT ADDITION, 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.)

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER &amp; ADDRESS</u>
1	D. W. LAMBERT	Bobby Gene & Janet M. Roberts 1121 East MacArthur Wichita, Kansas 67216
2 & 3	D. W. LAMBERT	Vernon E. Galyardt 2722 North Amidon Wichita, Kansas 67204
3 Block 2	LAKEVIEW MOBILE HOME PARK	Lakeside Development Inc. 1000 City National Bank Kansas City, Missouri 64106
1	SLAUGHTER	C. V. & Justina Slaughter 2510 East Kinkaid Wichita, Kansas 67218
1	WILSON & BROWN 2ND	Earl Powell Auto Salvage Inc. 1200 East MacArthur Wichita, Kansas 67216

Fidelity  Title  
 COMPANY, INC.



-2-

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER &amp; ADDRESS</u>
West 98' of North Half of Lot 9	RIVERSIDE GARDENS	Bernard J. Jr. & Eileen R. Lokamp ✓ 3310 South Osage Wichita, Kansas 67217
East 111' of West 209 feet of North Half of Lot 9	RIVERSIDE GARDENS	Robert P. & Joan C. Martin ✓ 115 East MacArthur Wichita, Kansas 67216

Dated at Wichita, Kansas, this 25th day of March, 1977,  
at 7:00 o'clock A.M.



FIDELITY TITLE COMPANY, INC.

By *Anita Gray*  
Ast. Sec. ag

Tracer No. 36844

FORM 223-021

**PAYMENT NOT**  
City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION AMOUNT

Name

Address

Type Due Date

Comments:

Date By