

POSTED
4-25-78
C.I.V.
DIA TO
C.I.V.
7-5-78

Case No. BZA 17-78 - European Car Company requests a variance to reduce the building setback requirement from 20' to 15' on property generally located on the east side of Mathewson in an area

ACTION

BZA 17-78 COMMITTEE Approved DATE 5-23-78

M.A.P.C. _____

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

Map No. 5547
 Sec. 21
 Twp. 27
 Range 1E

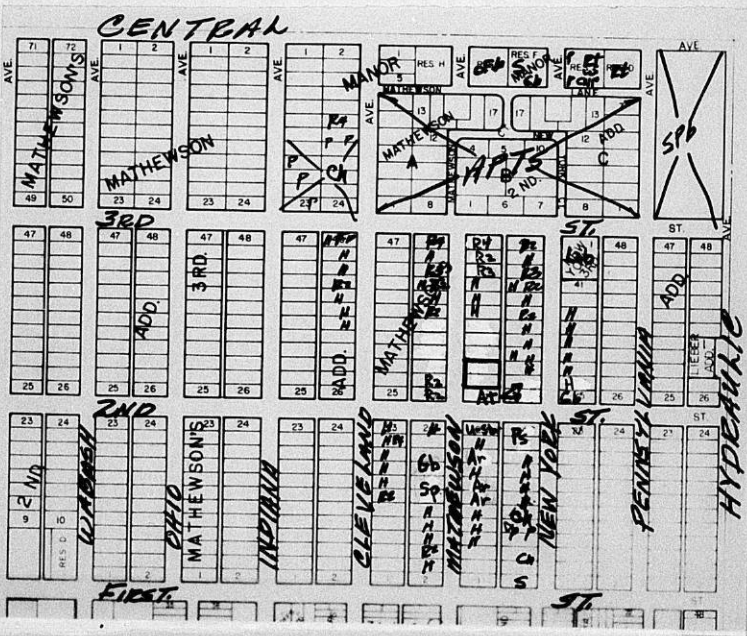
BZA- 17-78
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.3 (100 ft. by 130 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM Auto Sales South Auto Sales
 West TWO FAM North Vacant
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: Vacant
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 17-78

An application has been filed by the European Car Company, 1510 East Second Street, Wichita, 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 feet to 15 feet on property zoned the "C" Commercial District and legally described as follows:

Lots 27 and 29, on Mathewson Avenue, in Mathewson's 4th Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Mathewson in an area north of Second Street.

This application has been assigned Case No. BZA 17-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 23, 1978, 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

RESOLUTION NO. BZA 17-78

WHEREAS, European Car Company, 1510 East Second Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the front yard setback from 20 feet to 15 feet on property zoned the "C" Commercial District and legally described as follows:

Lots 27 and 29 on Mathewson Avenue, in Mathewson's Fourth Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Mathewson in an area north of Second Street.

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 23, 1978, 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 this neighborhood is in a transitional period, with several homes having been removed; and the City Commission has adopted a policy of looking with favor on zone change requests for the "C" Commercial district in this area; 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 adjacent property to the north is vacant and unlikely to be developed residentially; and the north wall of the proposed addition will be approximately 44 feet south of the north property line; 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 owner represented in the application inasmuch as the preferred architectural and structural design of the proposed addition would tie in at the corner of the existing shop; 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 a 15 foot setback would be maintained as contrasted with no setback on the existing office and showroom adjacent to the south; 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 20 foot setback standard is established for the protection of residential properties located in the same block with commercial properties, which in this instance is a transitional situation with several of the houses already removed. The nearest residential structure north of the proposed structure would be over 200 feet away; 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 front yard setback from 20 feet to 15 feet on property zoned the "C" Commercial District and legally described as follows:

RESOLUTION NO. BZA 17-78
Page 2

Lots 27 and 29 on Mathewson Avenue, in Mathewson's
Fourth Addition to the City of Wichita, Sedgwick
County, Kansas. Generally located on the east side
of Mathewson in an area north of Second Street,

be approved.

ADOPTED AT WICHITA, KANSAS, this 23rd day of May, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

June 6, 1978

David Haines
3208 East Douglas
Wichita, KS 67218

Subject: Case No. BEA 17-78
Request for a Variance

Dear Mr. Haines:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 23, 1978, in connection with your request for a variance to reduce the front yard setback from 20 feet to 15 feet on property zoned the "C" Commercial District and generally located on the east side of Mathewson in an area north of Second Street.

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

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:vn
Enclosure
cc: European Car Company, 1510 East Second Street, 67214
Don Gisick, City Clerk
Robert Feldner, Superintendent, Central Inspection
Joe Donnelly, Housing and Zoning Administrator

May 23, 1978

Mr. David Haines
3208 East Douglas
Wichita, Kansas 67218

Re: Case No. BZA 17-78
Request for a Variance

Dear Mr. Haines:

At the regular meeting of the Board of Zoning Appeals on Tuesday, May 23, 1978, your request for a variance to reduce the front yard setback from 20 feet to 15 feet on property zoned the "C" Commercial District and generally located on the east side of Mathewson in an area north of Second Street was considered.

It was the action of the Board to grant the 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.

If you have any questions pertaining to this matter, please contact our office.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh
cc: European Car Company, 1510 East Second Street, 67214
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

Dobson

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 17, 1978

TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Mary Pitman, CPO Administrative Aide

SUBJECT BZA 17-78 (East side of Mathewson in
an area north of 2nd Street)

At their meeting on May 16, 1978, CPO Neighborhood Council Area "K" considered the captioned case and voted unanimously (6-0) to support the applicant's request, providing that no residents are opposed.

Please convey this recommendation to the Board of Zoning Appeals at their meeting on May 23, 1978.

Mary Pitman

Mary Pitman
CPO Administrative Aide

MP:sm

Noted:

David L. Furnas
David L. Furnas
Citizen Participation Coordinator



SECRETARY'S REPORT
CASE NO. BZA 17-78

APPLICANT: European Car Company, 1510 E. Second Street,
Wichita, Kansas.

AGENT: David Haines, 3208 E. Douglas, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to reduce the front
yard setback from 20 feet to 15 feet.

GENERAL LOCATION: East side of Mathewson in an area north of 2nd
Street.

ZONING: Subject property is zoned the "C" Commercial
district as are properties to the east, west
and south. Property to the north is zoned the
"B" Multiple Family Dwelling District.

LAND USE: Subject property is vacant, undeveloped land
as is the property to the north. West is a
two family dwelling and vacant undeveloped
property. East is single family residential
development and a storage lot for the appli-
cant's business. South is the shop and of-
fice building for European Car Company.

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 of the front yard setback from 20 feet to 15 feet in connection with the proposed expansion of the shop or maintenance facilities of European Car Company. The application area is zoned the "C" Commercial District, but the remainder of the block to the north is zoned the "B" Multiple Family Dwelling District which requires a 20 foot front yard setback. The zoning ordinance provides, under the area requirements for the "C" Commercial District, "where the frontage on the same side of the street between two intersecting streets is located partly in a dwelling district, the front yard requirements of the dwelling district shall apply to the entire frontage in both districts." Therefore, the required front yard setback for subject property is 20 feet.

The Board of Zoning Appeals previously granted the applicant a variance to reduce the front yard setback to 0 feet, on Mathewson, for the lot at the northeast corner of Mathewson and Second Street (BZA 25-68), where the applicant's existing building is located. However, on August 27, 1974, the Board denied an application (BZA 22-74) to reduce the front yard setback to 0 feet for the same two lots now under consideration.

There are several differences in this application and the previously denied application:

- A. The previous request was for a reduction to a 0 foot setback whereas the present request is for a reduction to 15 foot.
- B. At the time of the previous request there was a single family residence immediately adjacent to the north; it has since been removed and the applicant is negotiating for the purchase of the land (the applicant already owns the next two lots on north).
- C. The City Commission now has an adopted policy of looking with favor on requests for zone changes to the "C" Commercial district in this area, whereas the policy had not been adopted at the time of the previous hearing.

The applicant's architect points out that the plans are to use the existing north shop wall as a load bearing support wall for the enlarged structure. The west wall of the existing shop is located at approximately a 15 foot setback from the west property line. To maximize architectural design and minimize structural difficulties, it is preferred to bring the proposed expansion straight north off of the northwest corner of the existing shop building.

UNIQUENESS:

It is the opinion of the Secretary that the variance requested arises from an unique condition inasmuch as this neighborhood is

SECRETARY'S REPORT
Case No. BZA 17-78
Page 3

in a transitional period, with several homes having been removed; and the City Commission has adopted a policy of looking with favor on zone change requests for the "C" Commercial district in this area.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the adjacent property to the north is vacant and unlikely to be developed residentially; and the north wall of the proposed addition will be approximately 44 feet south of the north property line.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the Zoning Ordinance may constituted an unnecessary hardship upon the applicant inasmuch as the preferred architectural and structural design of the proposed addition would tie in at the corner of the existing shop.

PUBLIC INTEREST:

It is the opinion of the Secretary that the variance desired will not adversely affect the public interest inasmuch as a 15 foot setback would be maintained as contrasted with no setback on the existing office and showroom building adjacent to the south.

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 20 foot setback standard is established for the protection of residential properties located in the same block with commercial properties, which in this instance is a transitional situation with several of the houses already removed. The nearest residential structure north of the proposed structure would be over 200 feet away.

RECOMMENDATION:

It is the opinion of the Secretary that each of the five conditions necessary to the granting of a variance can be found to exist, and therefore, it is recommended that the requested variance be approved.

16 notices sent to applicant, agent and adjacent property owners
10 notices sent to MAPC
1 notice to CPO
27 total notices sent on BZA 17-78, 4-27-78

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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 17-78

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This application has been assigned Case No. BZA 17-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 23, 1978, 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

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant European Car Company

Mailing Address 1510 E. 2nd St., Wichita, KS 67214 Phone 263-9138

Name of Authorized Agent David A. Haines, Architect

Mailing Address 3208 E. Douglas, Wichita, KS 67208 Phone 684-0880

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

II. The variance requested is to reduce building setback requirement
from 20' to 15'. (See attached sheet)

for property located 300 Block of North Mathewson Avenue

and legally described as: Lots #27 and #29 Mathewson's 4th Addition

in the City of Wichita; and which is presently zoned "C"

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.

5547

Edward Henry
Applicant

David A. Haines
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:45 (a.m. P.M.) 4-21 19 78 together with appropriate fee of \$50.00.

E. side of Mathewson
in area N. of 2nd St.

T9-402

L. E. Dolson
Signed

DAVID A. HAINES, ARCHITECT

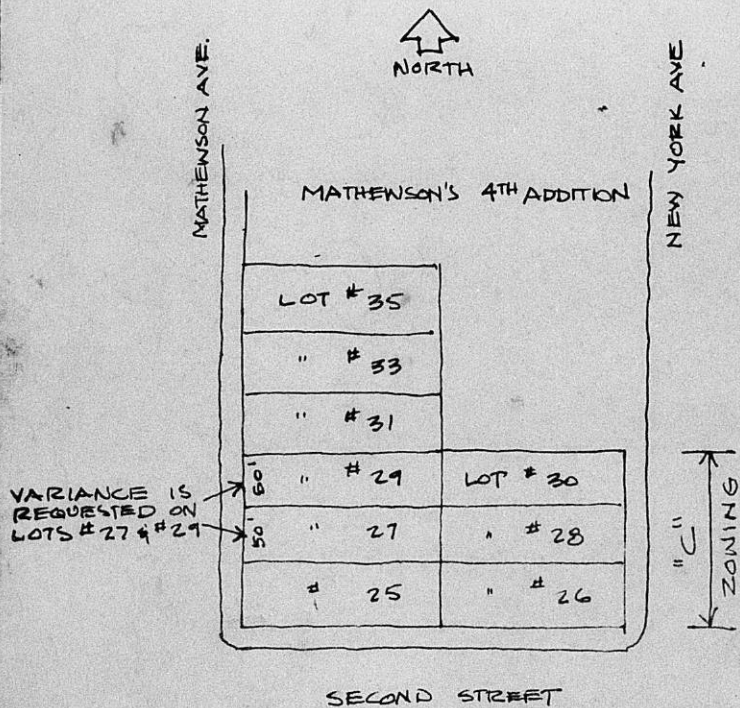


DIAGRAM OF LOTS OWNED BY
EUROPEAN CAR COMPANY

1510 EAST SECOND ST. - WICHITA, KANSAS

3208 east second street Wichita, Kansas 67208 phone 316 681 0880

DAVID A. HAINES, ARCHITECT

VARIANCE STATEMENT

EUROPEAN CAR COMPANY IS PLANNING A 5656 SQUARE FOOT ADDITION TO THEIR PRESENT MAINTENANCE FACILITIES(SEE ATTACHED DRAWING). IT IS THE INTENTION OF THE OWNER TO ATTACH THE NEW STRUCTURE DIRECTLY TO THE EXISTING SHOP AREA, USING THE EXISTING NORTH SHOP WALL AS A LOAD BEARING SUPPORT. THE CORNER LOT #25 WAS GRANTED A VARIANCE PREVIOUSLY TO BUILD TO THE PROPERTY LINE, HOWEVER THE WEST FACE OF THE SHOP FRONTING ON MATHEWSON AVENUE IS SET BACK 15' 1 1/2" FROM THE PROPERTY LINE.

THE "C" ZONING OF LOTS 27 AND 29 WHEN ADJOINING A "B" RESIDENTIAL DISTRICT REQUIRE A MINIMUM 20' BUILDING SETBACK. IT IS THE INTENTION OF THE OWNER TO CONFORM TO THE PURPOSE OF TITLE 28 BY PROVIDING A BUILDING SETBACK, HOWEVER WE REQUEST THAT THE BOARD REDUCE THE SETBACK FROM 20' TO 15'.

THE STRUCTURAL DIFFICULTIES ENCOUNTERED IN USING A LOAD BEARING WALL THAT IS NOT FULLY SUPPORTED BY A RETURN CORNER WILL REQUIRE UNDERPINNING OF THE EXISTING FOOTINGS. IT IS OUR OPINION THAT THE 20' SETBACK WILL CAUSE THE OWNER UNNECESSARY HARDSHIP AND EXPENSE TO MODIFY THE EXISTING NORTH SHOP WALL TO MEET STRUCTURAL PROBLEMS CAUSED BY THE SETBACK.

IT SHOULD ALSO BE POINTED OUT THAT EUROPEAN CAR COMPANY ALSO OWNS LOTS #31, 33 AND 35 NORTH OF THE SUBJECT PROPERTY ON MATHEWSON AVENUE. THESE LOTS ARE HELD FOR FUTURE EXPANSION OF THE CUSTOMER PARKING AREA AND FUTURE BUILDING NEEDS.

THE OWNER WILL ERECT A 6 FOOT BRICK SCREEN WALL ALONG MATHEWSON AVENUE TO CONCEAL AND SECURE THE CUSTOMER PARKING AREA. THE AESTHETICS OF THE ENTIRE SITE ARE OF THE UTMOST IMPORTANCE TO THE OWNER AS DEMONSTRATED BY THE EXISTING FACILITIES AND LANDSCAPING

IT IS OUR OPINION THAT THE RIGHTS OF ADJACENT PROPERTY OWNERS AND PUBLIC SAFETY AND WELFARE WILL NOT BE ADVERSELY AFFECTED.

RESPECTIVELY SUBMITTED,
DAVID A. HAINES
DAVID A. HAINES, ARCHITECT

OWNERSHIP LIST

Lot	Addition	Property Owner
lot 27, on Mathewson	Mathewson 4th	✓ Ferdinand Foergg 4009 E 22nd St North 67220
lot 29, on Mathewson	same	D Ferdinand K. Foergg and Rosina Foergg 4009 E 22nd St. North 67220
lot 25 and the North 15 feet of street on south	same	same as above
lot 31, on Mathewson	same	✓ Bartina Beschka 6902 E. Orme St. 67207
lot 33 & 35, on Mathewson	same	D Ferdinand Foergg and Rosnia Foergg 4009 E 22nd St. North 67220
lot 37, on Mathewson	same	✓ W. H. Swan and Madeline Swan 330 Mathewson 67214
lot 21, on Mathewson	same	Gordon G. Ferris and Alberta Faye Ferris 250 Mathewson 67214
lot 23 and the South 15 feet 2nd st adj	same	✓ Colby B. Sandlian 1500 Fairfield Ln 67208 and K. D. Martens ✓ 217 Postoak St 67206
lot 38, on Mathewson	same	✓ Joe A. Sommer and Catherine L. Sommer 329 Mathewson 67214
lot 36, on Mathewson	same	✓ Anita Lusk 6 West Parkway 67206
lot 34, 32 & lot 30 exc the S 2 feet	same	D Anita Lusk 6 West Parkway 67206
lot 26, 28 & S 2 feet of lot 30, on Mathewson	same	✓ Lucie I. Neely 712 Monroe, Sedgwick 6/7/35

Lot	Addition	Property Owner
lot 22 & 24, on Mathewson	Mathewson 4th	Tinnie Anthony address unknown <i>not in phone book</i> Aileen J. Leben ✓ 1303 Charlotte St 67208
lot 22 & 24 and 15 feet adj strip on North, on New York	same	
Lot 26 & North 15 feet vac 2nd st adj on South, on New York	same	D Ferdinand K. Foergg and Rosina Foergg 4009 E 22nd St. North 67220
lot 28, on New York	same	D Ferdinand K. Foergg and Rosina Foergg 4009 E 22nd St. North 67220
lot 30, on New York	same	same as above
lot 32, on New York	same	✓ Vera T. Stephens 317 New York Ave 67214
lot 34, on New York	same	Bob Loepp and ✓ Grace F. Loepp 753 Woodrow Ave 67203
lot 36 & S 3 feet of lot 38, on New York	same	✓ Guy W. Aistrup and Georgia E. Aistrup 4202 West Dr 67208 <i>West</i>
North 47 feet of Lot 38, on New York	same	✓ Jim R. Albertson, Jr. 8305 Tamarac Lane 67206

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

200 foot radius of lots 27 and 29, on Mathewson Avenue, in Mathewson's 4th Addition to the City of 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 17th day of April, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Hable
Vice President

Order No. 263396
rmk

FORM 223-

PAYMENT NOTICE
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
-------------	--------

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Name

Address

Type

Due Date

Comments:

Date

By

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1