

Case No, BZA 17-79 Virginia  
Lenker request variance to build  
a swimming pool in an enclosed  
6' stockade fenced area on  
property zoned the "A" Two Fam.  
and generally located at the

ACTION

BZA COMMITTEE

Approved DATE 5-22-79

17-79 M.A.P.C.

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

Posted  
5-2-79  
200 - MARD ✓  
200 - C.I.B

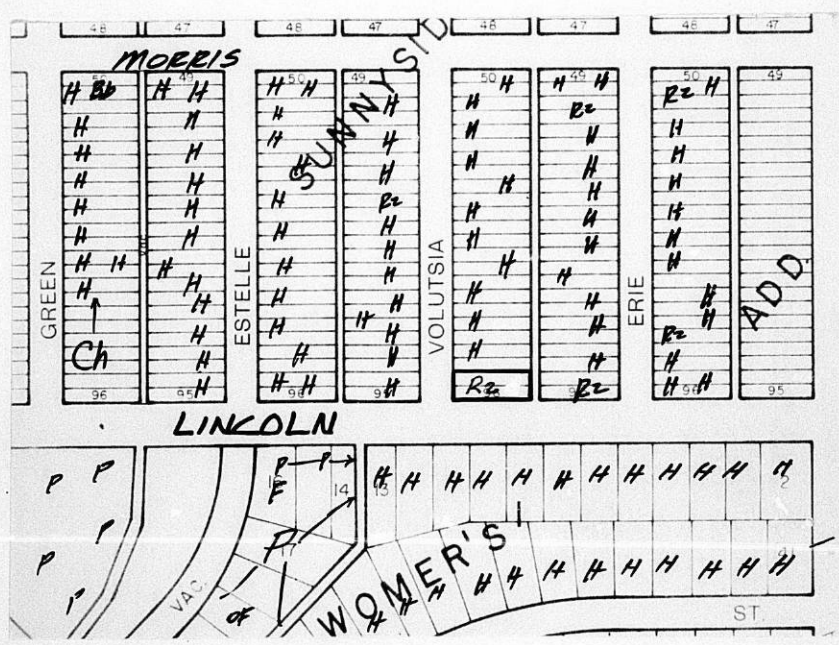
Case No. BZA 17-79 Virginia  
Lenker request variance to build  
a swimming pool in an enclosed  
6' stockade fenced area on  
property zoned the "A" Two Fam

No. 5646  
 P. 27  
 P. 27  
 Page 1E

BZA- 17-79  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

EA DATA:  
 Acres: 0.16 ( 50 ft. by 140 ft.)  
 Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 Land Use: East \_\_\_\_\_ South \_\_\_\_\_  
 West \_\_\_\_\_ North \_\_\_\_\_  
 Sketch Plan Land Use is for: \_\_\_\_\_  
 Present Land Use if for: \_\_\_\_\_  
 Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_





May 24, 1979

Virginia Lenker  
860 S. Volutsia  
Wichita, Kansas 67211

Re: Case No. BEA 17-79  
Request for Variance

Dear Ms. Lenker:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 22, 1979, in connection with your request for a variance to permit the location of an accessory structure (swimming pool) in the required front yard setback adjacent to Volutsia, on property zoned the "A" Two Family Dwelling District and generally located at the northeast corner of Lincoln and Volutsia (860 S. Volutsia).

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

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

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:bbc  
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

RESOLUTION NO. BZA 17-79

WHEREAS, Virginia Lenker, 860 South Volutsia, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit the location of an accessory structure (swimming pool) in the required front yard setback on property zoned the "A" Two Family Dwelling District and legally described as follows:

Lots 94 and 96 on Volutsia Avenue, Second Sunnyside Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Lincoln and Volutsia (860 S. Volutsia).

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 22, 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 property is already developed and the only area available for the installation of a pool is in the front yard setback adjacent to Volutsia.

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 pool will be installed within an existing six foot high fence and the pool is small in size and would not be used by large groups of people.

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 this is the only location on the subject property for the pool that is prescribed by her doctors as therapy for her arthritic condition.

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 location is adjacent to the major street side of the property away from the closest neighbor.

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 pool will be installed in the ground and will not interfere with the open space intent of yard setback requirements for residential structures.

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.

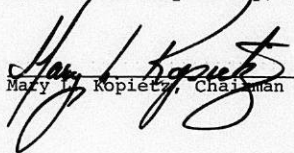
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to permit the location of an accessory structure (swimming pool) in the required front yard setback on property zoned the "A" Two Family Dwelling District and legally described as:

Lots 94 and 96 on Volutsia Avenue, Second Sunnyside Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Lincoln and Volutsia (860 S. Volutsia)

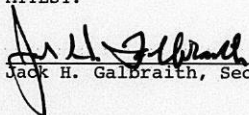
be approved subject to the following conditions:

1. The variance shall be granted only for the installation of a pool below grade.
2. The existing fence shall be continuously maintained.
3. The pool shall not be located closer than 3 feet to the front property line.
4. The driveway approach and the area north of the existing driveway presently being used for parking shall be improved in accordance with Section 28.04.143 of the zoning ordinance.

ADOPTED AT WICHITA, KANSAS, this 22nd day of May, 1979.

  
Mary L. Kopyetz, Chairman

ATTEST:

  
Jack H. Galbraith, Secretary

THE CITY OF WICHITA  
OFFICE OF CITIZEN PARTICIPATION

DATE May 22, 1979

TO Jack Galbraith, Chief Planner  
FROM Shirley Mast, CPO Administrative Aide

SUBJECT BZA 17-79 (Northeast corner of Lincoln  
and Volusia - 860 S. Volusia)

At their meeting of May 21, CPO Council "G" considered the captioned case. The applicant, Virginia Lenker, was present and provided further explanation of the variance request to the Council. After Ms. Lenker's presentation, two residents voiced opinions of opposition to the variance request and presented an unofficial petition of opposition bearing 17 signatures to the Council. The residents cited the allowance of the swimming pool in the front yard will take away from the valuation of property and will generate increased traffic, thereby creating traffic problems.

After discussion by the Council, residents and applicant, CPO Council "G" voted 8-0 to recommend approval of the subject variance request subject to the conditions of the Secretary's report.

Please provide the Council's recommendation to the BZA when this case is considered at the May 22 meeting.

*Shirley Mast*  
Shirley Mast  
CPO Administrative Aide

SM:al

Noted

*Evelyn Pittman*  
Evelyn Pittman  
Assistant CPO Coordinator



Per Lytle  
5/23 send  
Dombaugh  
copy of  
meeting fu  
letter.

---

zero copy  
sent 5-23-79

May 23, 1979

Virginia Lenker  
860 S. Volutsia  
Wichita, Kansas 67211

Re: Case No. BZA 17-79  
Request for Variance

Dear Ms. Lenker:

At the regular meeting of the Board of Zoning Appeals on May 22, 1979, your request for a variance to permit the location of an accessory structure (swimming pool) in the required front yard setback adjacent to Volutsia, on property zoned the "A" Two Family Dwelling District and generally located at the northeast corner of Lincoln and Volutsia (860 S. Volutsia) was considered.

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

1. The variance shall be granted only for the installation of a pool below grade.
2. The existing fence shall be continuously maintained.
3. The pool shall not be located closer than 3 feet to the front property line.
4. The driveway approach and the area north of the existing driveway presently being used for parking shall be improved in accordance with Section 28.04.143 of the zoning ordinance.

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.

Page 2  
May 23, 1979  
Virginia Lenker  
Re: BZA 17-79

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary

LD:bbc

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

SECRETARY'S REPORT  
CASE NO. BZA 17-79

APPLICANT: Virginia Lenker, 360 S. Volutsia, Wichita,  
Kansas

AGENT: Same

REQUEST: Variance pursuant to Section 2.12.590.B, Code  
of the City of Wichita, to permit the location  
of an accessory structure (swimming pool) in the  
required front yard setback adjacent to Volutsia.

GENERAL  
LOCATION: Northeast corner of Lincoln and Volutsia  
(860 S. Volutsia).

ZONING: Subject property is zoned the "A" Two Family  
Dwelling District, as are all adjacent properties  
in each direction.

LAND USE: Property is presently occupied by a two family  
dwelling and is in an area that is predominantly  
developed with single family dwellings.

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 permit the installation of a swimming pool in the required front yard setback. Said pool is to be located within the existing 6 foot stockade fence that is

Case No. BZA 17-79  
BZA AGENDA  
5-22-79  
Page 2

located on the property line along Volutsia and approximately 3 foot behind the property line along Lincoln. The size of the pool is 17 feet in diameter and will be located below grade.

The property is developed with a two family dwelling and the dwelling is built to the setback lines, thus leaving limited area for any accessory structures. The two family dwelling is one of the newer structures in the neighborhood.

The applicant states the reason for the requested variance is based on her need of the pool for therapeutic purposes. She indicates that for the past seventeen years she has been suffering with progressing osteo arthritis which involves deterioration of all bones and joints, including the spine. The only exercise or therapy that is advised by her physicians is that of swimming.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation, inasmuch as the property is already developed and the only area available for the installation of a pool is in the front yard setback adjacent to Volutsia.

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 pool will be installed within an existing six foot high fence and the pool is small in size and would not be used by large groups of people.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as this is the only location on the subject property for the pool that is prescribed by her doctors as therapy for her arthritic condition.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest inasmuch as the location is adjacent to the major street side of the property away from the closest neighbor.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the pool will be installed in the ground and will not interfere with the open space intent of yard setback requirements for residential structures.

Case No. BZA 17-79  
BZA AGENDA  
5-22-79  
Page 3

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is the Secretary's recommendation that the variance be granted subject to the following conditions:

1. The variance shall be granted only for the installation of a pool below grade.
2. The existing fence shall be continuously maintained.
3. The pool shall not be located closer than 3 feet to the front property line.

BZA CASE NO. 17-79

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

18 NOTICES SENT TO ADJOINING PROPERTY OWNERS

30 TOTAL NOTICES SENT 5-7-79

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

CASE NO. BZA 17-79

NOTICE TO ADJOINING PROPERTY OWNERS:

May 7, 1979

An application has been filed by Virginia Lenker, 860 South Volutsia, Wichita, Kansas, pursuant to Section 2.12.500.B, Code of the City of Wichita, requesting a variance to permit the location of an accessory structure (swimming pool) in the required front yard setback adjacent to Volutsia, on property zoned the "A" Two Family Dwelling District and legally described as follows:

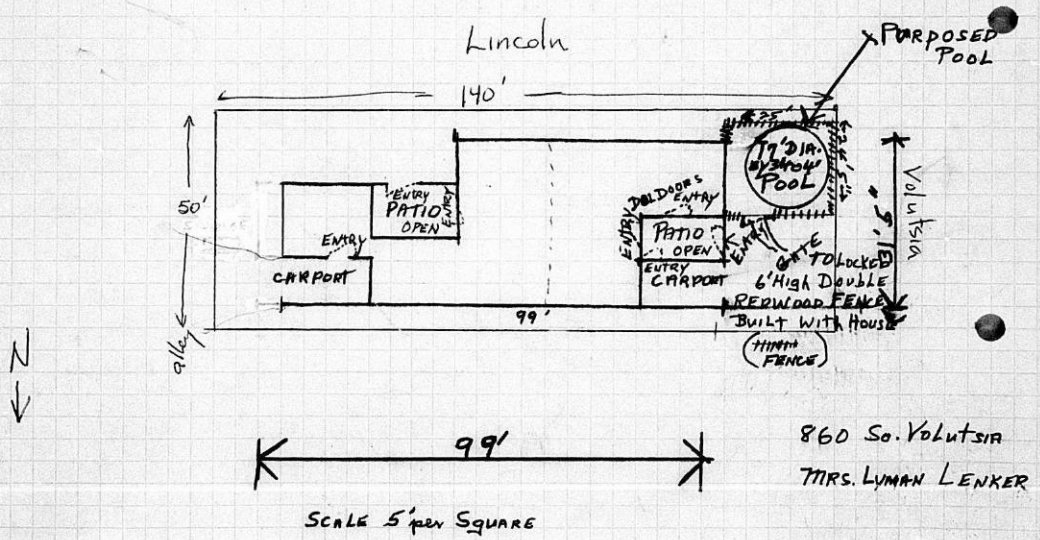
Lots 84 and 96 on Volutsia Avenue, Second Sunnyside Addition to the City of Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Lincoln and Volutsia (860 S. Volutsia).

This application has been assigned case No. BZA 17-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 22, 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

Lots 94 and 96 Second Sunnyside  
Addition to City of Wichita, Kansas.  
Sedgwick County, Kansas



BOARD OF ZONING APPEALS

CASE NO. 17-79

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant VIRGINIA LENKER ✓  
 Mailing Address 860 So. Volutsia, Wichita, Kans. 67211 Phone 684-4358  
 Name of Authorized Agent SAME  
 Mailing Address SAME Phone SAME  
 Relationship of applicant to property is that of OWNER  
 (Owner, Tenant, Lessee, Other)

*\*To permit location of necessary structure from yard setback*

II. The variance requested is \*to build a 17' dia by 3' to 4' Pool in an enclosed 6' stockade locked adjoining fenced area at the home for special for disabling Osteoarthritis as required by my doctor.  
 for property located 860 So. Volutsia, Wichita, Kansas 67211

and legally described as: LOTS 94 AND 96 SECOND SUNNYSIDE ADDITION TO CITY OF WICHITA, 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.

Virginia Lenker  
Applicant  
SAME  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:45 (a.m. (p.m)), 4/30 1979 together with appropriate fee of \$50.00.

*N/E corner of Lincoln and Volutsia*

T9-402

Larry Polson  
Signed

Board of Zoning Appeals  
City of Wichita, Kansas

April 29, 1979

I am presenting you an application for variance and begging you permission to install a 17' by 3' to 4' round fibreglass pool at my home, in a privacy fenced area adjoining. I have for the past seventeen years been suffering with progressing Osteo arthritis - which involves deterioration of all bones and joints including the spine. I cannot any longer exercise in any other form, so the Doctors including: Dr. Ismael of M. Breda Bone & Joint clinic of Oklahoma City, Okla, Dr. Wayne Thornley, Dr. Eugene Kaufman and all consultants prescribe and advise swimming as the one and only therapy, as it is weightless and puts little pressure on the joints involved while helping my muscle control. My condition has progressed to the point I need this last form of exercise to keep me from being totally crippled. -

This small pool cannot be seen by any passerby and is completely enclosed with a 6' high double Redwood Fence with a solid locked gate. I feel I have justification for a variance here due to it being a hardship for me not to be allowed to install this small pool in this enclosed area of my home for therapeutic purposes.

Yours Very truly,  
Virginia Lanber

OWNERSHIP LIST

Lot	Addition	Property Owner
lots 77 & 79, Volutsia	Second Sunnyside Addition	George L. Grove & Beulah F. 275 South Dellrose 67218
lots 81 & 83 Volutsia	Same	<i>no listing</i> Sadie Keeven Address Unknown
lots 85 & 87 Volutsia	Same	Billy H. Hulse & Patricia C. 847 South Volutsia 67211
89 & N 20 ft lot 91 Volutsia	Same	E. W. Reimer & Ruth 849 South Volutsia 67211
lot 91 except North 20 ft, all 93 & 95 Volutsia	Same	<i>no listing</i> Therman Michael Maynard and Terri L. Maynard Address Unknown
78 & 80, Volutsia	Same	Rex E. Hensley 2219 South Ridgewood 67218
82 & 84, Volutsia	Same	Velora Hollicke, deceased
86 & 88, Volutsia	Same	Alvin Bernard Zerbe Jr. and Lena Faye Zerbe 844 South Volutsia 67211
90 & 92, Volutsia	Same	Cecil Glenn Dombaugh and Alma Faye Dombaugh 850 South Volutsia 67211
94 & 96, Volutsia	Same	<i>D</i> Lyman G. Lenker and Virginia 860 South Volutsia 67211
77 & 79, Erie	Same	Kenneth V. Claney and Kim E. Lynn Claney 837 South Erie 67211
81,83,85,87, and North 2 ft 89, Erie	Same	Max A. Cushenbery and Betty L. 1800 Nottingham Lane 67204
South 23 ft lot 89, all lot 91, Erie	Same	<i>no listing</i> Charles R. Young and Louise M Address Unknown
93 and 95, Erie	Same	Ira D. Chamness and Ivie H. 2828 East Lincoln 67211
lot 6, Block 1	Womer's Second Addition	Alpha H. Williams & Della 2837 East Lincoln 67211
lot 7, Block 1	Same	H. S. Claycomb and Selma 2629 East Lincoln 67211
lot 8, Block 1	Same	Mary Lucille Becker and Mary Louise Wohler 2823 East Lincoln 67211

Lot	Addition	Property Owner
lot 9, Block 1	Womer's Second Addition	✓ Leland R. Williamson Grace F. Williamson 2815 East Lincoln 67211
lot 10, Block 1	Same	✓ G. H. Nash and Edna Y. Nash 2809 East Lincoln 67211
lot 11, Block 1	Same	✓ Fred J. Currie & Marjorie M. 2801 East Lincoln 67211
lot 12, Block 1	Same	✓ Mamie A. Alford 2729 East Lincoln 67211
lot 13, Block 1	Same	✓ Lola M. Oburn 2723 East Lincoln 67211
lot 14, Block 1	Same	✓ W. A. Michaelis Jr. 211 North Broadway 67202

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

All lots within a 200 foot radius of:  
 Lots 94 and 96 on Volutsia Avenue, Second  
 Sunny-Side 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 23rd day of April, 1979 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

*Mary Gable*

Vice President

Order No. 275968  
wh



# SECURITY IS KNOWING

Title Insurance • Escrow Closings • Abstracts

This letter is in response to the case number BZA 17-79. This is a request for variance to the City Code, Section 2. 12. 590. B of the City of Wichita. It is to allow a swimming pool to be built on the front yard, setback adjacent to Volutsia, at 860 South Volutsia.

We the undersigned property owners, adjacent to the stated property, are opposed to allowing this variance.

(14)

Cecil J. Dombaugh  
Cecilia Dombaugh  
Gail Kanner  
Ruth Reimer  
Lola M. Duvon  
Mamie Alford  
Mike Maynard  
Jeri Maynard  
Mrs. Mrs. G. B. Zerbe  
Selma Claycomb  
Mary Jewell Becker  
Mrs. Mrs. Leonard Williamson  
Mrs. Edna Williamson  
Mrs. Della Williams

850 So. Volutsia  
850 So. Volutsia  
848 S. Volutsia  
849 S. Volutsia  
27213 E. Lincoln  
27296 E. Lincoln  
851 So. Volutsia  
851 So. Volutsia  
844 S. Volutsia  
2829 E. Lincoln  
2823 E. Lincoln  
2815 E. Lincoln - 67211  
2837 E. Lincoln 67211  
2837 E. Lincoln 67211

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

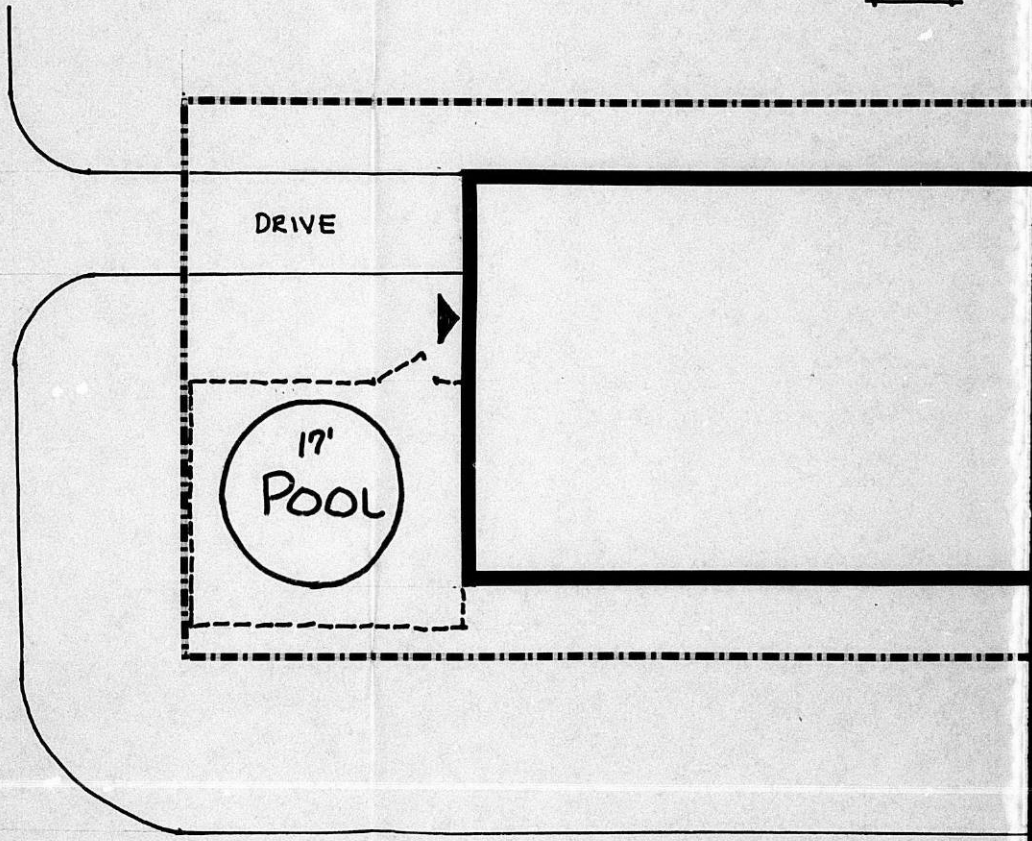
FORM 29- PAYMENT NOTICE  
City of Wichita

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
B2A Variance Application	150.00
NAME	Virginia Lankford
ADDRESS	285 S. Volusia
FUND	110-00-000 42071-03
COMMENTS	
DATE	4/21/74
BY	ed

VOLUTSIA



LINCOLN



DRIVE

ALLEY

LINCOLN