

Case No. BZA 23 -83 - James D. Hopper & S. William Ferguson, 5920 W. Central, requests a variance to reduce the rear yard setback from 20' to 11' on property zoned the "A" Two-family Dwelling District and generally located on the southwest corner of Woodchuck &

*Posted
5-13-83*

ACTION

BZA 23-83 APPROVED 5-31-83
DATE

4947 D

200' 4 Sec. 6-9-83
Checked 6-9-83 art
Shot 6-9
Recorded 6-16-83

Map No. 4947
Sec. 31
Twp. 27
Range 16

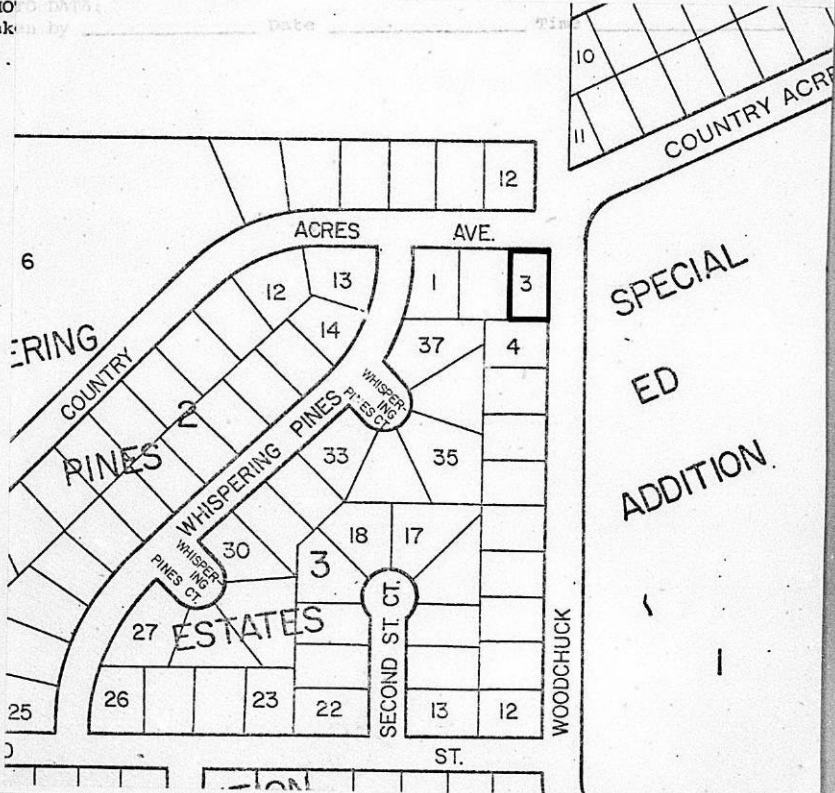
BZA- 23-83
SCZ- _____
CU- _____
Filed _____

AREA DATA:

1. Acres: 0.22 (75 ft. by 130 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South _____
West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
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

May 11, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 23-83

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by James D. Hopper & S. William Ferguson, 5920 West Central, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the rear yard setback from 20' to 11' on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 3, Block 3, Whispering Pines Estates Addition to
Wichita, Sedgwick County, Kansas. Generally located
on the southwest corner of Woodchuck and Country Acres
(384 Country Acres and 421 Woodchuck).

This application has been assigned Case BZA 23-83. It will be considered by the Board of Zoning Appeals on May 31, 1983 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

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

May 11, 1983

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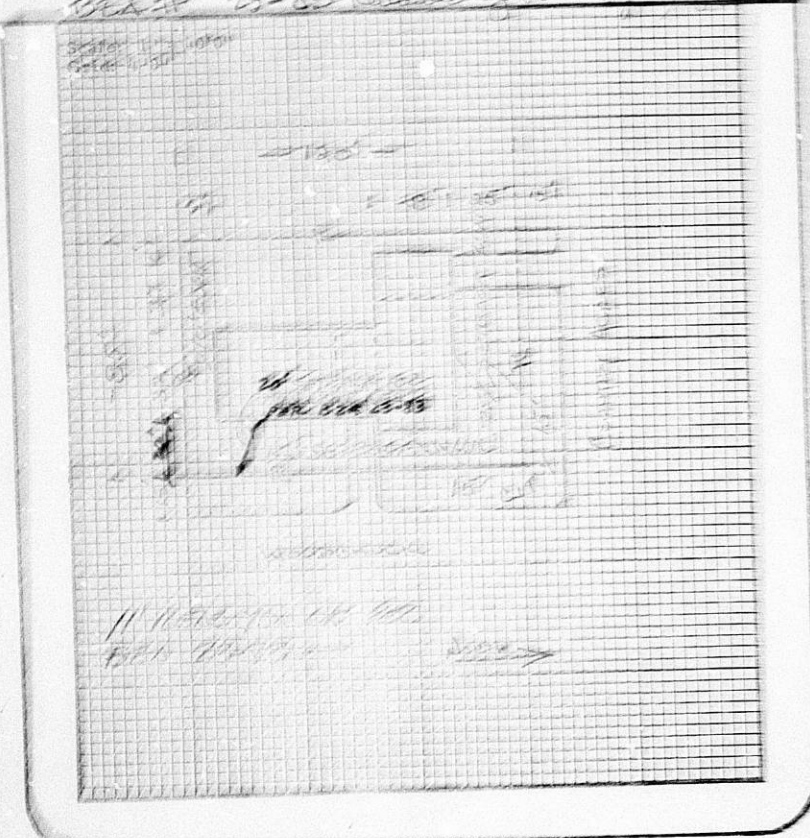
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Jack H. Galbraith
Secretary

RESIDENTIAL PLOT PLAN
 ADDRESS: 384 N. [unclear] [unclear]
 421 N. Westchase PERMIT NO. D6427
 LOTS: 2 BEK. 3 OF [unclear] PDES ZONING F
 BEA # 13-85 [unclear]



I certify that this above plot complies with applicable zoning setbacks and subdivision covenants and restrictions.

Signed: [Signature]
 (Applicant)

White Copy - File Yellow Copy - Applicant Pink Copy - Hold
 Form No. 225-345 (2-81)

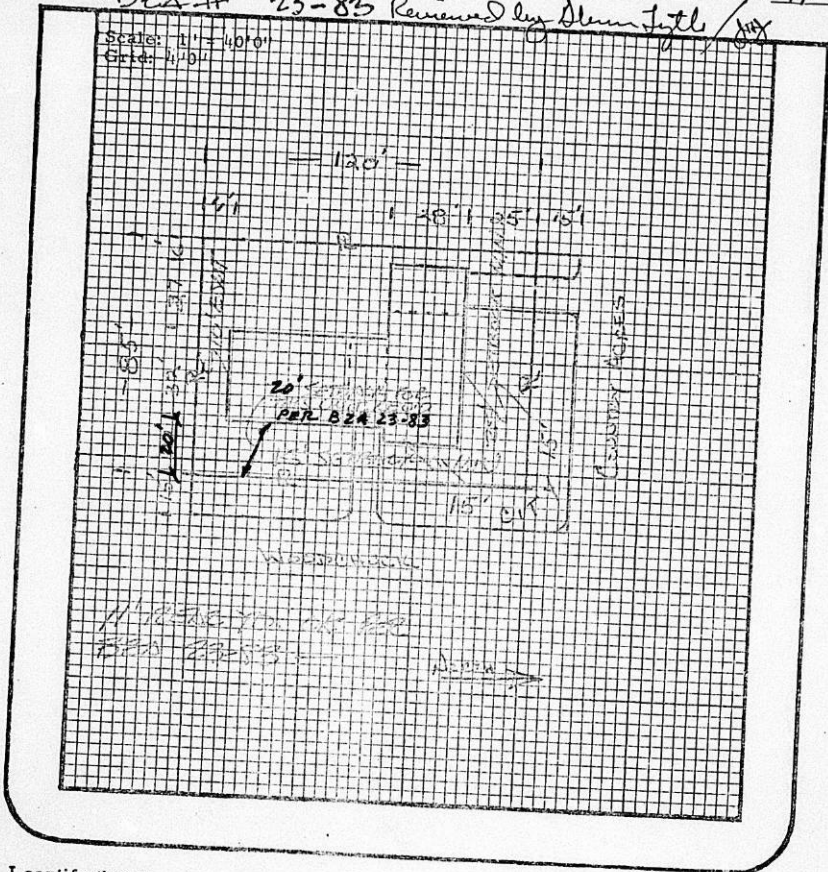
384 N RESIDENTIAL PLOT PLAN

ADDRESS: 421 N. Waldschuck PERMIT NO. D6482/

LOT(S): 3 BLK. 3 OF WHISPERING PINES ZONING A

BZA # 23-83 Reviewed by Steve J. [Signature]

Scale: 1" = 40' 0"
Grid: 4' 0"



I certify that the above plat complies with applicable zoning setbacks and subdivision covenants and restrictions.

Signed: [Signature] (Applicant)

White Copy - File Yellow Copy - Applicant Pink Copy - Hold

June 6, 1983

James D. Hopper &
S. William Ferguson
5920 West Central
Wichita, Ks. 67212

Re: BZA 23-83 - Request for Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 31, 1983.

This Resolution reflects the official action of the Board to approve your 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:sad
Encl.

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 23-83

WHEREAS, James D. Hopper & S. William Ferguson, 5920 West Central, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to 11 feet on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 3, Block 3, Whispering Pines Estates Addition to Wichita Sedgwick County, Kansas. Generally located on the southwest corner of Woodchuck and Country Acres (384 Country Acres and 421 Woodchuck).

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 31, 1983, 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 site is a corner lot that has a 20' easement to the south that will create a separation between the two structures at the rear yard line of not less than 20'; 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 front of the dwelling unit adjacent to Woodchuck will be located at 20' rather than 15' which will not create an obstruction near the front yard of the property to the south which is the only property directly affected by any yard reduction; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the units would probably have to be redesigned and would not have the desirability for the occupants if all the rear yard has to be located to the south; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the structure will not interfere with any easements or right-of-way; 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 adequate separation will be provided to permit light and air to all properties; 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.

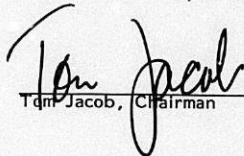
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard setback from 20' to 11' on property zoned the "A" Two-family Dwelling District and legally described as:

Lot 3, Block 3, Whispering Pines Estates Addition to
Wichita, Sedgwick County, Kansas. Generally located
on the southwest corner of Woodchuck and Country Acres
(384 Country Acres and 421 Woodchuck).

be approved subject to the following conditions:

1. The structure shall be constructed in accordance with the submitted site plan and shall not be located so that any portion or appurtenance thereto will extend into or over any easement.
2. The face of the main portion of the east face of the structure shall maintain a 20' setback adjacent to Woodchuck from the north side of the garage to the south of the property.

ADOPTED AT WICHITA, KANSAS, this 31st day of May, 1983.


Tom Jacob, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE May 23, 1983

TO Glen Lytle, Special Assistant for Zoning

FROM Dean Kruihof, Administrative Aide III

SUBJECT BZA 23-83, 384 Country Acres
and 421 Woodchuck

At its May 18th meeting, CPO Neighborhood Council "A" considered the captioned request for a variance to reduce the rear yard setback from 20' to 11' on property zoned "A" Two-Family Dwelling District.

Jim Hopper was present representing the applicant. One area property owner attended the meeting concerning the request.

The Council voted unanimously, 6-0, to recommend approval of the variance subject to the BZA Secretary's recommendations.

Please provide the Board of Zoning Appeals with the Council's recommendations when the case is considered on May 31st.

Dean Kruihof
Dean Kruihof
Administrative Aide III

DK:dm

RECEIVED
MAY 23 1983
METROPOLITAN PLANNING
ROUTE Lytle

SECRETARY'S REPORT
CASE NO. BZA 23-83

APPLICANT: James D. Hopper & S. William Ferguson, 5920 West Central, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the rear yard setback from 20' to 11'.

GENERAL LOCATION: On the southwest corner of Woodchuck and Country Acres (384 Country Acres and 421 Woodchuck).

ZONING: Subject property is zoned the "A" Two-family Dwelling District as is the property to the west and north. Property to the east and south is "AA" One-family Dwelling District.

LAND USE: Subject property is vacant. Property to the north is a child day care center. To the east is the Board of Education Special Education center and to the south is vacant.

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 conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the rear yard setback from 20' to 11' in order to construct a two-family dwelling on a corner lot with one unit facing each street. The property is platted with a 25' setback adjacent to Country Acres Avenue and a 15' side yard setback adjacent to Woodchuck. The lot has a 20' easement along the south property line of which 10' is on the applicant's property. This will provide at least a 20' separation between structures at this property line. The adjacent property will thus be required to have 4' greater side yard than is required by the zoning district.

The applicant has indicated his willingness to provide a 20' front yard adjacent to Woodchuck in order to provide for a better transition between the two properties. It will also provide a setback of 20' to the front of the garage facing Woodchuck which is desirable. This should also reduce the possibility of any adverse affect on the only property that would be adjacent to the reduced rear yard, which is to the south.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the plot is a corner lot that has a 20' easement to the south that will create a separation between the two structures at the rear yard line of not less than 20'.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the front of the structure adjacent to Woodchuck will be located at 20' rather than 15' which will not create an obstruction near the front yard of the property to the south which is the only property directly affected by any yard reduction.

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 the units would probably have to be redesigned and would not have the desirability for the occupants if all the rear yard has to be located to the south.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the structure will not interfere with any easements or right-of-way.

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 adequate separation will be provided to provide light and air to all properties.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The structure shall not be located so that any portion or appertenance thereto will extend into the easement.
2. The face of the main portion of the east face of the structure shall maintain a 20' setback adjacent to Woodchuck from the north side of the garage to the south of the property.

BZA CASE NO. 23-83

1 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

9 NOTICES SENT TO ADJOINING PROPERTY OWNERS

20 TOTAL NOTICES SENT 5-11-83

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

May 11, 1983

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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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 23-83
FILED 5-2-83

APPLICATION FOR VARIANCE

I. Name of Applicant James D. Hopper & S. William Ferguson
Mailing Address 5920 W. Central, Wichita Phone 945-5990
Name of Authorized Agent N/A
Mailing Address N/A Phone N/A
Relationship of applicant to property is that of owners
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce ^{rear} ^{setback} back yard requirement
from 20 feet to 11 feet

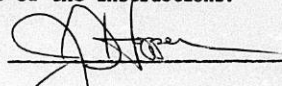
for property located on the southwest corner of Woodchuck and
(384 Country Acres and 421 Woodchuck,)
Wichita, Sedgwick County, Kansas

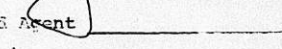
and legally described as: Lot 3, Block 3, Whispering
Pines Estates, ^{addition to} Wichita, Sedgwick County, Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- 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. 36-596); and that the appropriate fee is herewith tendered;
- 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.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant 

Authorized Agent 

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:15 ~~(a.m.)~~ (p.m.), MAY 2, 1983
together with appropriate fee of 75.00.

Signed 

James D. Hopper
ATTORNEY - AT - LAW

Farm Bureau Building
5920 West Central
Wichita, Kansas 67212
(316) 945-5990

May 2, 1983

Mr. Glenn Lytle
Secretary, Board of Zoning Appeals
10th Floor, City Hall
455 N. Main
Wichita, Kansas 67202

Re: Request for Variance by James D. Hopper &
S. William Ferguson for Lot 3, Block 3,
Whispering Pines Estates, Wichita, Sedgwick
County, Kansas.

Dear Mr. Lytle:

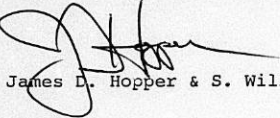
Enclosed please find an Application for Variance concerning the above captioned property, along with two copies of the architects plot plan. The current mailing address of all owners of property within a distance of 200 feet of the subject property has been requested from Security Abstract and will be provided as soon as it is available. The basic problem which has prompted this Application for Variance arises because an L shaped two family structure was designed to be constructed on the premises, however, when the necessary building permits were requested it was discovered that under the zoning ordinance there would be an insufficient depth for the back yard. It was explained that only 1 side of a lot can be considered a front yard and one side a back yard although the structure upon the premise may in fact have two frontages which front on two separate streets as is the case here. One structure is to face on Country Acres and the other structure on Woodchuck, and if considered individually each structure would meet the 20 foot back yard requirement however, the two structures according must be considered as one structure for purposes of determining the front and back yard. This results in the side yard of the structure facing Woodchuck to be considered the back yard for the entire structure, and it is 11 feet from the lot line. On the other side of the lot line is the side yard for the adjoining lot which has a 10 foot easement, therefore, if the structure were allowed as designed there would be a minimum of 21 feet between it and a structure constructed on the adjoining lot. This would of course be in excess of the standard 6 foot set back per structure, or a total distance between structures of 12 feet.

In specific response to the requirements created by Section 2.12.

590.B, Code of the City of Wichita the following is submitted.

1. The requested variance arises from a unique character of the property in that an L shaped two family residential unit has been designed for construction upon a corner lot with the frontages for the two dwelling units opening on separate streets. This is not a problem ordinarily found in the neighborhood and comes about because of the desire of the property owners to build a structure which would be aesthetically pleasing and blend in with the surrounding single family dwellings and two family structures in the development. The side yard of the structure fronting on Country Acres would be next to the side yard of an existing two family unit while the side yard of the structure fronting on Woodchuck would be next to the side yard of a single family dwelling.
2. Granting the variance would not adversely affect the rights of the adjacent property owners or residence and in fact should enhance the value of these properties.
3. If the provisions of the Zoning Ordinance which are herein applicable are strictly enforced it will constitute unnecessary hardship upon the property owners, in as much as they have to date expended significant funds to design the structure intended for the premises.
4. The variance desired will not adversely affect the public health, safety, morales, order, convenience, prosperity, or general welfare and as stated above will have the effect of enhancing the neighborhood.
5. The granting of the variance will not be opposed to the general spirit and intent of the zoning ordinance since the lot in question is presently zoned for a two family structure and the requested variance is only to allow a particularly and aesthetically pleasing design to be utalized upon the premises.

Respectfully Submitted,



James D. Hopper & S. William Ferguson

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 1	3	Whispering Pines Estates	Barbara S. Davis 5832 Farmview Wichita, Kansas 67208
Lot 2	3	"	Lawrence A. & Carmen C. Suter 1251 Reece Rd. Goddard, Kansas 67052
Lot 3	3	"	S. William Furgason 136 Summitlawn Circle Wichita, Kansas 67212
			James D. & Dee Anna Hopper 136 Summitlawn Circle Wichita, Kansas 67212
Lots 4, 5 & 6,	3	"	Whispering Pines Joint Venture 229 S. Market Wichita, Kansas 67202
Lots 36 & 37	3	"	same as above
Lot 10	1	"	Bill Suter 8507 Longlake Circle Wichita, Kansas 67207
Lot 11 & 12	1	"	Northwest Wichita Early Childhood Center, Inc. 383 Country Acres Wichita, Kansas 67212
Lot 1		Special Ed Addition	Unified School District No. 259 428 S. Broadway Wichita, Kansas 67202
Lot 11	G	Meadowview Estates, an Addition	Donald R. & Claudine Doolittle 609 Karren Lane Wichita, Kansas 67212
Lot 12	G	"	Arthur W. & Helen L. Binford 461 Country Acres Wichita, Kansas 67212
East Half of NW ¼ Section 21-27-1W, except part platted as Whispering Pines Estates & Notre Dame High School Addition now Bishop Carroll High School Addition			Catholic Diocese of Wichita 424 N. Broadway Wichita, Kansas 67202

Page 2

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tracts within a 200 foot radius of:

Lot 3, Block 3, Whispering Pines Estates, Wichita, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 5th day of May, 1983, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Stable

Vice President

Order No: 319689
cf

*

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

Roll # 2