

POSTED
8-4-76
MAD
C.I.
8-20-76
P

BZA Case No. 29-76 - F. W. Asher requests Variance to construct a carport on property generally located at the northeast corner of Burnett and Market

ACTION

BZA 29-76 COMMITTEE Approved DATE 8-24-76

M.A.P.C.

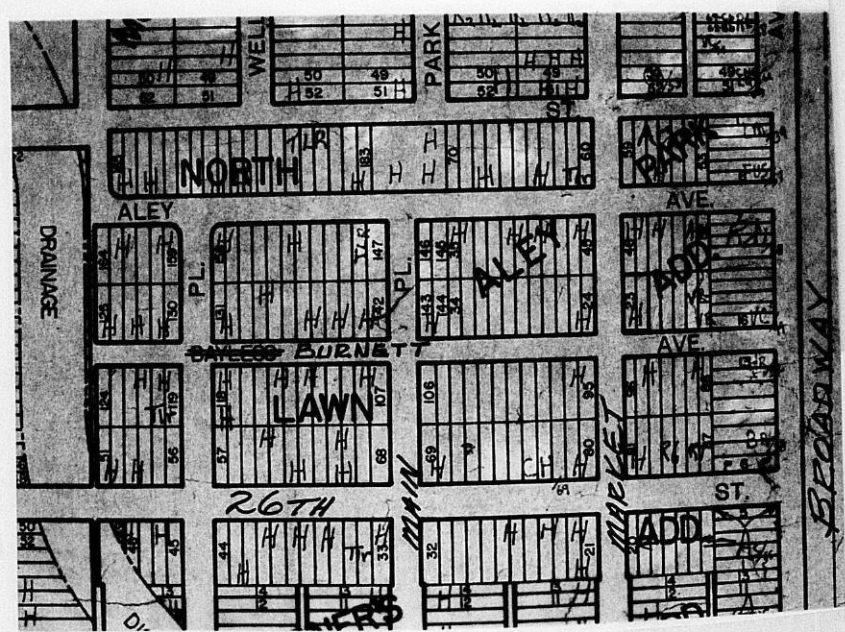
B.O.D./B.O.C.C.

Map No. 5450
 Sec. _____
 Twp. _____
 Range _____

BZA- 29-76
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 0.12 (49 ft. by 163 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East SINGLE FAM South SINGLE FAM
 West SINGLE FAM North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: SINGLE FAM
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



S
 No. 2,133C
 HASTINGS, MINN. - LOS ANGELES
 LOBAN, OH. - MADISON, W. U. S. A.

RESOLUTION NO. BZA 29-76

WHEREAS, F. W. Asher, 202 East Burnett, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet on property zoned the "C" Commercial District, and legally described as follows:

Lots 22 and 23, on Burnett Street, Aley Park Addition, Sedgwick County, Kansas. Generally located at the northeast corner of Burnett and Market Streets.

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 of August 24, 1976, 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 adjacent, commercially zoned property, will most likely be commercially rather than residentially developed. Also, the proposed structure would be no closer to the property line than the existing accessory structure; 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 only property potentially affected is the vacant property to the east, which in all probability will be developed commercially, and as such could be built to a zero setback along this common 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 he has the need to provide shelter for his two vehicles and this is the only practical location for it to be built; 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 request is interiorly located; 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 normal area reserved for open space between residential structures would not be as critical in a situation as this one, where the adjacent property can be expected to develop with a commercial use; 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.

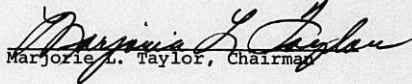
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet on property zoned the "C" Commercial District, and legally described as follows:

Lots 22 and 23, on Burnett Street, Aley Park Addition, Sedgwick County, Kansas. Generally located at the northeast corner of Burnett and Market Streets,

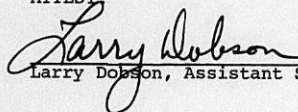
be approved subject to the following condition:

1. The variance shall be granted for only the 20 foot length of the east side yard needed for the construction of the carport.

ADOPTED AT WICHITA, KANSAS, this 24th day of August, 1976.


Marjorie L. Taylor, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Tenth Floor, City Hall
455 North Main Street

September 3, 1976

Mr. F. W. Asher
202 East Burnett
Wichita, Kansas 67219

Subject: BZA Case No. 29-76
Request for Variance

Dear Mr. Asher:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 24, 1976, in connection with your request for a variance to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet on property zoned the "C" Commercial District, and generally located at the northeast corner of Burnett and Market.

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

If you have any questions in regard to this matter, please call our office.

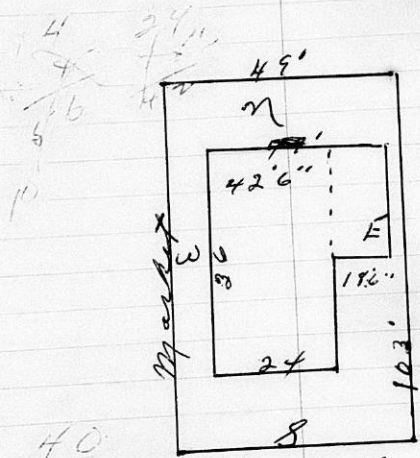
Sincerely,

Larry Dobson
Assistant Secretary

LD:bh
Encl.

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

Lots 22 + 23 Bayless ~~St~~
Ally Park St



40
80
Burnett

BZA 29-76

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

August 25, 1976

Tenth Floor, City Hall
455 North Main Street

Mr. F. W. Asher
202 East Burnett
Wichita, Kansas 67219

Subject: BZA CASE NO. 29-76
Request for Variance

Dear Mr. Asher:

At the regular meeting of the Board of Zoning Appeals on August 24, 1976, your request for a variance to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet on property zoned the "C" Commercial District and generally located at the northeast corner of Burnett and Market was considered.

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

1. The variance shall be granted for only the 20 foot length of the east side yard needed for the construction of the carport.

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, please call our office.


Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh

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

1
THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

Debra

DATE August 20, 1976

TO Jack Galbraith, MAPD

FROM David Furnas, Citizen Participation Coordinator

SUBJECT Case No. BZA 29-76

At their regular meeting on August 19, 1976, CPO Council "J" discussed the captioned subject. After observing the property and reviewing the facts, the Council made no recommendation.

David L. Furnas

David Furnas
Citizen Participation Coordinator

DF:EP:rh



RE: AGENDA ITEM NO.

SECRETARY'S REPORT
CASE NO. BZA 79-76

APPLICANT: F. W. Asher, 202 East Burnett, Wichita, Kansas.

AGENT: None.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet.

GENERAL LOCATION: Northeast corner of Burnett and Market Streets.

ZONING: Subject property and those properties to the north, south and east are all zoned the "C" Commercial District. West is the "B" Multiple Family Dwelling District.

LAND USE: Subject property is developed with a single family residence, as are properties to the south and west. North is a utilities substation and a single family residence. East is undeveloped.

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 this variance for the purpose of constructing a carport to within 1 1/2 feet of the east property line.

Subject property is a small 49 x 103 foot corner lot, located at the northeast corner of Burnett and Market Streets. A single family residence and an accessory storage building presently occupy the site. The applicant is desirous of attaching an 18 1/2 x 20 foot carport on the east side of the existing home, which would place it within 1 1/2 foot of the east property line. The sideyard requirement for residential structures in the "C" Commercial District is 5 feet. Accessory structures may go to a 3 foot sideyard if they are located on the back 1/2 of the lot, but this particular structure would not be on the back 1/2 of the property. The "C" district permits uses other than residential uses to be built to a 0 setback except where the district adjoins a residential zoning district. In this case, however, the adjacent property and subject property are both zoned the "C" District. Therefore, a commercial structure could be placed on the adjacent property line and not be required to maintain any setback.

The existing accessory building on subject property appears to be located 1 to 2 feet from this east property line, directly behind the proposed carport.

It should be noted by the applicant that the Office of Central Inspection advises that a structure proposed to be built closer than 3 feet to this property line would be required to provide a 1-hour fire wall on the side of the structure adjacent to the property line. Therefore, if the applicant is desirous of an open unenclosed carport, the structure could not be located closer than 3 feet to the property line.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the adjacent, commercially zoned property will most likely be commercially rather than residentially developed. Also, the proposed structure would be no closer to the property line than the existing accessory structure.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the rights of the adjacent property owners inasmuch as the only property potentially affected is the vacant property to the east, which in all probability will be developed commercially and as such could be built to a zero setback along this common property line.

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 he has the need to provide shelter for his two vehicles and this is the only practical location for it to be built.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public interest inasmuch as the request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the requested variance may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the normal area reserved for open space between residential structures would not be as critical in a situation such as this one, where the adjacent property can be expected to develop with a commercial use.

RECOMMENDATION:

If the Board finds all five conditions to exist, it is recommended that the requested variance be approved subject to the following condition:

1. The variance shall be granted for only the 20 foot length of the east side yard needed for the construction of the carport.
-

19 notices sent to agent applicant and adjoining property owners
10 notices sent to members of MAPC
29 notices sent on BZA 29-76, August 3, 1976

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

August 3, 1976

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 79-76

An application has been filed by E. W. Asher, 202 East Burnett, Wichita, Kansas, pursuant to Section 2.12.590.D, Code of the City of Wichita, requesting a variance to reduce the required side yard setback adjacent to the east property line from 6 feet to 1 1/2 feet on property zoned the "C" Commercial District, and legally described as follows:

Lots 22 and 23, on Burnett Street, Aley Park Addition, Sedgwick County, Kansas. Generally located at the northeast corner of Burnett and Market Streets.

This application has been assigned Case No. BZA 79-76, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 24, 1976, 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.

Jack H. Galbraith
Secretary

*19 to B, G, W
10 / m a G C*

5450

MP 500

31-76
29-76

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant J. F. E. Asher

Mailing Address 202 E. Burnett Phone 8388168

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 Build a carport
on E side of property 14' x
4' deep

for property located 202 E. Burnett

and legally described as: Lots 22+23 Bayless
alley Park add

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

J. F. E. Asher
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 9:00 (a.m. - p.m.), July 27 1976 together with appropriate fee of \$50.00.

T9-402

Larry Dobson
signed

Recd subj. to receiving abstract list by 5:00 P.M. on THURSDAY

July 26, 1976

Wichita Metropolitan Planning Commission
455 North Main
Wichita, Kansas

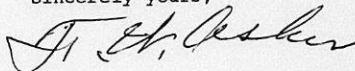
Gentlemen:

I request that the planning commission grant a variance allowing me to build a car port to within 1 1/2 feet of my east property line; the car port will be attached to my house. In support of my request state as follows:

1. That both my property and the property lying to the east have been zoned commercial. The zoning of the property was done without my knowledge or a request by me.
2. That the granting of the permit will not adversely affect the rights of any adjacent property owners or residents. That the property immediately adjacent to the east is vacant.
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. Its the only place where the property owner can construct shelter for his vehicles.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28.

I will appreciate your help in this matter.

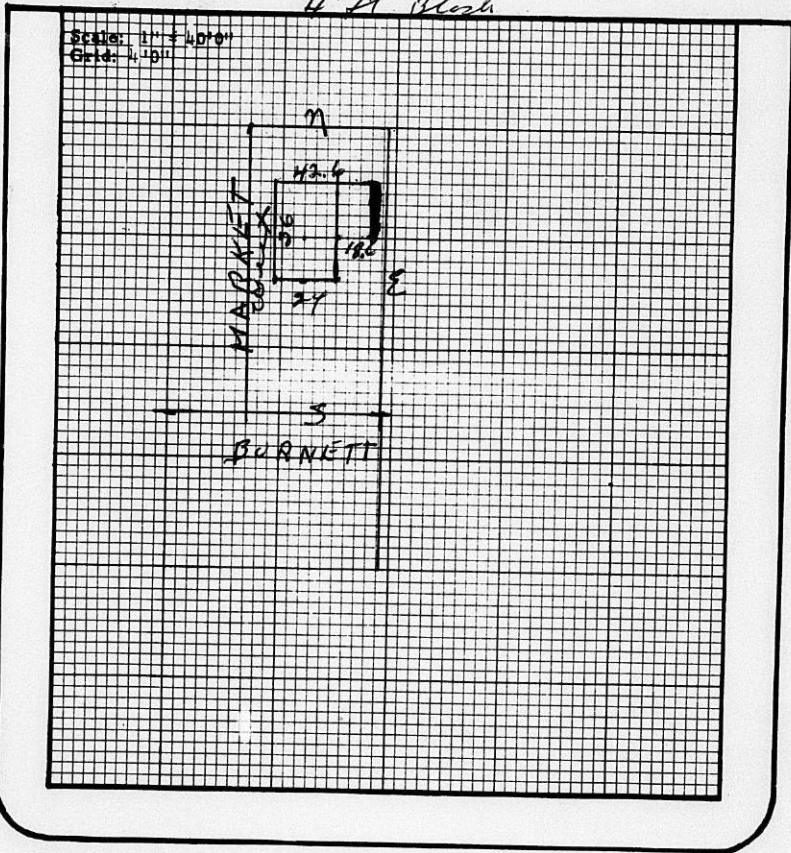
Sincerely yours,



RESIDENTIAL PLOT PLAN

ADDRESS: 202 E Burnett PERMIT NO. _____

LOT(S): 2223 BLK. Block OF ally odd ZONING _____
4th Block



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

RESIDENTIAL PLOT PLAN

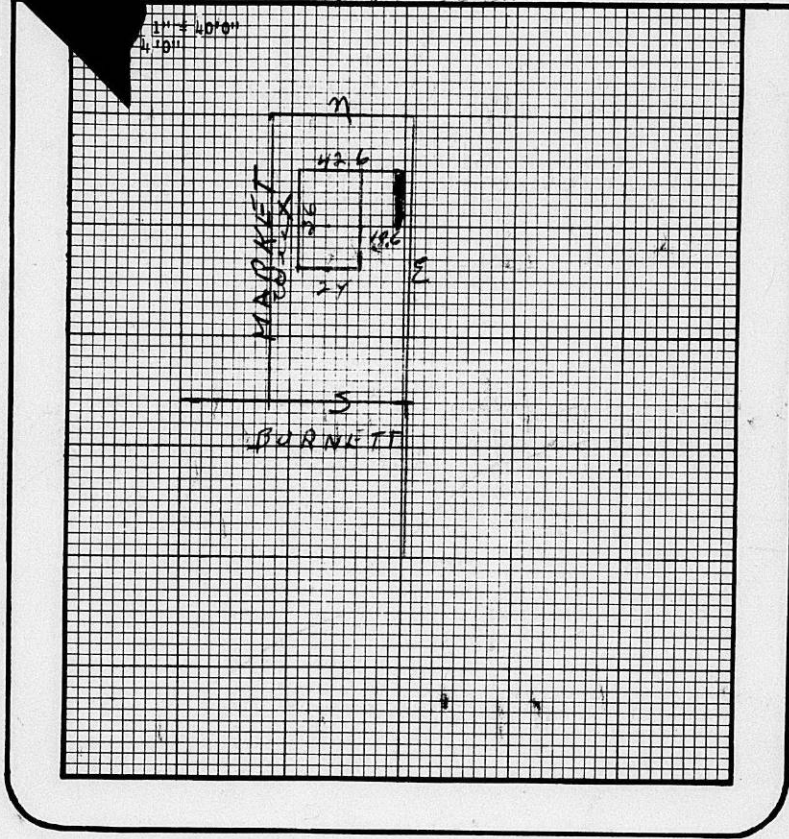
202 E Burnett

PERMIT NO. _____

2x2 Bk.

130' ^{30"} OF alley front side
4' 11" ^{2"} side

ZONING _____



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

Signed: *J. E. Asher*
(Applicant)

White Copy - File

Yellow Copy - Applicant

Pink Copy - Hold

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
6	Broadway	Aley Park Addition	✓ M. E. Harris & Ethel Ivy 756 S. Green 67211
7,8, 9,10 11,12 exc E 25'	Same	Same	✓ Roy L. Hupman and Joan C. 1635 Lancaster Drive 67219
13,14 15,16	Same	Same	✓ E. V. Long 1810 West 47th St. South 67217
17,18 19	Bayless	Same	D E. V. Long 1810 W. 47th St. South 67217
20,21	Same	Same	✓ Van Long & Maudie Long 1810 W. 47th St. South 67217
22,23	Same	Same	D F. W. Asher 202 East Burnett 67219
24,25 26	Same	Same	✓ Jewel M. White 4007 East Lincoln 67218 ✓ Viola D. White 1954 Stafford Court 67211
27,28 29,30	Same	Same	✓ Melquiades Mesa & Luz Mesa 115 East Aley Avenue 67219
39,40 41,42 43	Aley	Same	Same
44,45	Same	Same	✓ Manuel U. Guerrero 1311 Aley 67219
46,47 48,49	Same	Same	<i>not in city on Sub</i> ✓ Ideal Homes of Wichita Inc. Address Unknown
50,51 52	Same	Same	D M. E. Harris & Ethel Ivy 756 S. Green 67211
53,54 55 & E½ 56	Same	Same	✓ Meyer E. Harris & Ethel I. 756 S. Green St. 67211



Lot	Street	Addition	Property Owner
W $\frac{1}{2}$ 56	Aley	Aley Park Addition	<input checked="" type="checkbox"/> Roy Hupman & Joan C. 1635 Lancaster Drive 67219
57,58 59	Same	Same	Same
60,61 62,63	"	Same	<input checked="" type="checkbox"/> Louis O. Munoz & Fidelia 2735 N. Market 67219
9		North Lawn Addition	<input checked="" type="checkbox"/> Robert Emerson Smith and A. Jean Smith 2245 S. Old Manor Road 67211
10,11 12,13		Same	<input checked="" type="checkbox"/> Arthur D. Beckel 1100 Forrest Ave. 67203
77,78	26th St.	Same	<input checked="" type="checkbox"/> Zion Holiness Church of God 114 East 26th St. North 67211
79,80	"	Same	<input checked="" type="checkbox"/> Earl A. Huston & Audra M. 1205 S. Topeka Ave. 67211
81,82 83,84 85,86 87	"	Same	<input checked="" type="checkbox"/> E. C. Dalton & Frances I. 1805 Jackson Ave. 67203
88	"	Same	<input checked="" type="checkbox"/> Arthur D. Beckel 1100 Forrest Ave. 67203
89,90	"	Same	<input checked="" type="checkbox"/> Margaret Bessie Wright & Mary Frances Sower 2915 Bonn 67217
91,92 93,94	"	Same	<input checked="" type="checkbox"/> Donna Lea Allen 201 East Burnett 67203
95,96	"	Same	<input checked="" type="checkbox"/> Nellie M. Davis & Esther Trimble 3051 N. Market 67219
97,98 99,100	"	Same	<input checked="" type="checkbox"/> Zion Holiness Church of God 114 East 26th No. 67219



434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

The Security Abstract & Title Company, Inc.,
hereby certifies the foregoing to be a true and correct list of
property owners of:

A 200 foot radius of: Lots 22
and 23, on Burnett Street, Aley
Park Addition, Sedgwick County,
Kansas

as shown by the records on file in the Office of the Register of
Deeds of Sedgwick County, Kansas, on the 26th day of July, 1976
at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By


A. J. Johnson
Vice President

Order No. 240227
wh

FORM 2-21

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

Name _____

Address _____

Type _____ Due Date _____

Comments: _____

Date _____ By _____