

BZA 32-74 - Donald J. Kutilek
requests variance of rear yard
setback on north side of Mulberry
in an area east of intersection
of 11th St. and Briarwood.

POSTED
12-3-74
[Signature]
M.P.C.
C.I.V.
4-22-75
[Signature]

ACTION

DATE

12.17.74

BZA COMMITTEE

Approved

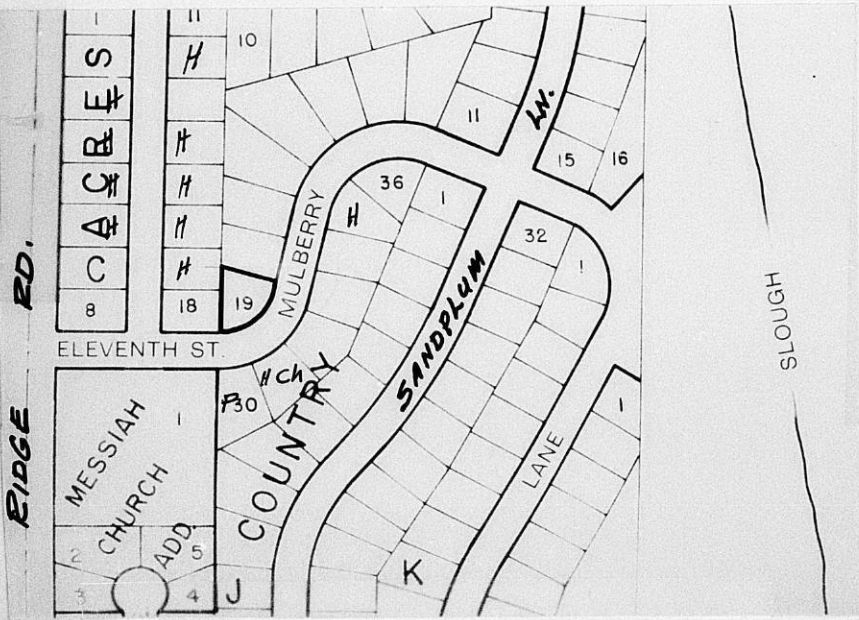
M.A.P.C.

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

Map No. 5048 BZA- 32-74
 Sec. 15 SCZ- _____
 Twp. 27S. CU- _____
 Range 1W Filed _____

- AREA DATA:
1. Acres: 0.65 (104 ft. by 119 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East _____ South CHURCH & BAKING LOT
 West SINGLE FAM North _____
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: UNDEVELOPED
 6. Area (is) (is not) platted. NO DATE NUN IN FIELD

PHOTO DATA:
 Taken by _____ Date _____ Time _____



No. 2-153C
 Smith's
 HARTING, MIN-LOB ANGELES
 LOSAN ON - MODERSON, TX, U. S. A.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

December 4, 1974

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 32-74

An application has been filed by Donald J. Kutilek, 749 North Gow, Wichita, Kansas, pursuant to Section 2.12.590.B., Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 20 feet to 8 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 10, Block G, Country Acres Fourth "D" Addition, an Addition in Sedgwick County, Kansas. Generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

This application has been assigned Case No. 32-74, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 17, 1974, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

December 4, 1974

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 32-74

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Lot 19, Block G, Country Acres Fourth "B" Addition, an Addition in Sedgwick County, Kansas. Generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

This application has been assigned Case No. 32-74, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 17, 1974, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

December 31, 1974

Donald J. Kutilek
749 North Gow
Wichita, Kansas 67203

Subject: Case No. BZA 32-74
Request for Variance

Dear Mr. Kutilek:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 17, 1974, in connection with your request for a variance of the rear yard setback from 20 feet to 8 feet on property zoned the "AA" Single Family Dwelling District, and generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

This Resolution reflects the official action of the Board 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,

Larry Dobson
Junior Planner

LD:js
Encl.

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

RESOLUTION NO. BZA 32-74

WHEREAS, Donald J. Kutilek, 749 North Gow, 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 8 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 19, Block G, Country Acres Fourth "B" Addition, an Addition in Sedgwick County, Kansas. Generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

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 December 17, 1974, 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 subject property is of an irregular pie-shaped configuration with a disproportionate amount of the total area of the lot taken up by the platted front yard setback; 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 sufficient open space for the passage of air and light would still exist; 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 a house comparable in size and style to others in the general area cannot be situated on subject property without the granting of a variance; 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 this 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 four previous conditions have been found to exist; and

Resolution No. BZA 32-74
Page Two

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.

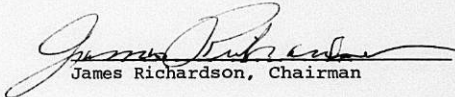
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard setback from 20 feet to 8 feet on property zoned the "AA" Single Family Dwelling District and legally described as:

Lot 19, Block G, Country Acres Fourth "B" Addition, an Addition in Sedgwick County, Kansas. Generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood

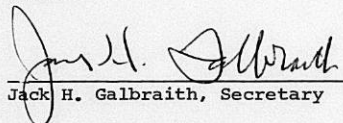
be approved subject to the following conditions:

1. That the setback be reduced from the required 20 feet to 8 feet for only that portion of the rear yard as shown on the applicant's submitted plot plan.
2. In the event a vacation of the platted front yard setback is not obtained, necessitating a redesign and/or re-location of the proposed structure, a revised plot plan shall be furnished to the Secretary of the Board for his review prior to the issuance of a building permit from the Office of Central Inspection.

ADOPTED AT WICHITA, KANSAS, this 17th day of December, 1974.


James Richardson, Chairman

ATTEST:


Jack H. Galbraith, Secretary

December 18, 1974

Donald J. Kutilek
749 North Gow
Wichita, Kansas 67203

Subject: Case No. BZA 32-74 -
Request for Variance

Dear Mr. Kutilek:

At the regular meeting of the Board of Zoning Appeals on December 17, 1974, your request for a variance of the rear yard setback from 20 feet to 8 feet on property zoned the "AA" Single Family Dwelling District, and generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood, was considered.

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

1. That the setback be reduced from the required 20 feet to 8 feet for only that portion of the rear yard as shown on the applicant's submitted plot plan.
2. In the event a vacation of the platted front yard setback is not obtained, necessitating a redesign and/or relocation of the proposed structure, a revised plot plan shall be furnished to the Secretary of the Board for his review prior to the issuance of a building permit from the Office of Central Inspection.

If you determine that you need to encroach in the platted 30-foot setback area, if you have any questions on the procedure of the filing of the vacation application, please contact our office.

Donald J. Kutilek
December 18, 1974

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.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

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

SECRETARY'S REPORT
CASE NO. BZA 32-74

APPLICANT: Donald J. Kutilek, 749 No. Gow, Wichita, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to 8 feet.

GENERAL LOCATION: On the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

ZONING: Subject property and all surrounding properties are zoned the "AA" Single Family Dwelling District.

LAND USE: Subject property is vacant. All surrounding properties are developed as single family residences.

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 reduction of the required rear yard setback from 20 feet to 8 feet for the purpose of constructing a house on subject property.

The property is a corner pie shaped lot, 119 feet along the rear property line and 104 feet along the side property line, having a platted front yard setback line of 30 feet and a platted 8 foot utility easement adjacent to the rear property line. The applicant and his architect, in attempting to design a livable house, comparable in size to others in the area, have been unable to do so staying within the confines of all setback requirements. It is the conclusion of the architect that a rectangular configuration is the best approach to developing a livable home for subject lot. The applicant's plot plan shows the proposed design and placement of the house on the lot, and reveals that a corner of the garage encroaches into the platted 30 foot front yard setback. It may be the applicant's intent to request vacation of the platted setback and if failing in this, to alter his design to correct the situation.

In his statement of justification the applicant states that his lot is unique in shape in that only two other lots of a similar shape exist in this addition and that neither of these other lots is developed. He further states that without benefit of this variance the only type of house designs that would fit on the lot would be very small L-shaped or two story, neither of which would meet his needs.

UNIQUENESS

It is the opinion of the Secretary that uniqueness may exist inasmuch as subject property is of an irregular pie-shaped configuration with a disproportionate amount of the total area of the lot taken up by the platted front yard setback.

ADJACENT PROPERTY

It is the opinion of the Secretary that it is difficult to determine whether the granting of the variance would have an adverse effect on adjacent property owners.

HARDSHIP

It is the opinion of the Secretary that the strict application of the zoning ordinance may constitute unnecessary hardship upon the applicant inasmuch as a house comparable in size and style to others in the general area cannot be situated on subject property without the granting of a variance.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as this request is interiorly located.

SPIRIT AND INTENT

It is the opinion of the Secretary that if the previous four conditions, necessary to the granting of the variance can be found to exist, the granting of the variance would not be opposed to the spirit and intent of Title 28 (zoning ordinance).

RECOMMENDATION

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

1. That the setback be reduced from the required 20 feet to 8 feet for only that portion of the rear yard as shown on the applicant's submitted plot plan.
2. In the event a vacation of the platted front yard setback is not obtained, necessitating a redesign and/or re-location of the proposed structure, a revised plot plan shall be furnished to the Secretary of the Board for his review prior to the issuance of a building permit from the Office of Central Inspection.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

December 4, 1974

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 32-74

An application has been filed by Donald J. Rutilek, 749 North Gow, Wichita, Kansas, pursuant to Section 2.12.590.B., Code of the City of Wichita, requesting a variance to reduce the required rear yard setback from 20 feet to 8 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 19, Block G, Country Acres Fourth "D" Addition, an Addition in Sedgwick County, Kansas. Generally located on the north side of Mulberry in an area east of the intersection of 11th Street and Briarwood.

This application has been assigned Case No. 32-74, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 17, 1974, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

*10 Notices mailed to MAPC
24 Notices mailed to adjoining
property owners on Dec 4, 1974*

map 5048

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. B2A 32-74
FILED 11-8-74

APPLICATION FOR VARIANCE

I. Name of Applicant Donald J. Kutlak

Mailing Address 749 N. Shaw Phone 943-2506

Name of Authorized Agent _____

Mailing Address _____ Phone _____

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

II. The variance requested is To reduce the 20' setback
line from the back property line to 8.'

for property located 1203 Mulberry (11th + Mulberry)

and legally described as: Lot 19, Block G, Country
Acres Fourth "B" Addition, an Addition in
Sedgwick County, KS

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

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.

Donald J. Kutlak
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 9:00 (a.m. - p.m.), November 8 1974 together with appropriate fee of \$50.00.

T9-402

Larry Dobson
Signed

To: Board of Zoning Appeals

1. My lot is unique compared to the rest of the Addition in that there are only two others similar. (Lot 36, Block G and Lot 1, Block K.) Neither of these lots have houses on them. The lot (Lot 19, Block J) was platted + developed along with the whole addition. The property lines have not changed. I didn't have any part of developing or platting the area.

2. Granting of the permit wouldn't adversely affect property owners adjacent. The reason for this application is so I can build a rectangle house that would sit diagonal. If not granted, the only types of houses that would fit would be very small L-shaped or two story types. I feel the granting of this application would cause a positive effect for adjacent residents.

3. If not granted, I would not be able to build an adequate sized house. I would have to build a very small L-shaped house or sell the lot, if I could.

4. The variance would have a positive effect on the area as far as morals, convenience, prosperity, and general welfare. The variance would not affect the public health or safety.

1715 N. Sheridan
Wichita, Kansas
November 8, 1974

Metropolitan Area Planning Commission
Board Of Zoning Appeals
104 South Main
Wichita, Kansas

Subject:
Lot 19, Block G
Country Acres 4th Addn.

Gentlemen:

The question has been raised whether or not an "L" shaped house could be fitted between the setback lines of subject Lot.

Such a house could have a depth of only 40'-0". I have numerous "L" shaped plans in my files that range from 1000 to 1400 square feet, but the depth of all plans is 42' to 50'. My attempts to decrease the depth to 40' result in excessive hall space, inadequate room sizes and a poor traffic pattern. The plan becomes more square than "L" and also becomes uneconomical to build.

My conclusion is that a rectangular configuration is the best approach to developing a livable house for subject lot.

Very truly yours,

Alfred L. Berg



OWNERSHIP LIST

| Lot | Block | Addition | Property Owner |
|-----|-------|--------------------------------------|--|
| 14 | F | Country Acres 4th Addition | ✓ Ferris W. Sumner and Norma J. 1232 Summitlawn 67212 |
| 15 | F | Same | ✗ Administrator of Veterans Affairs Washington, D. C. |
| 16 | F | Same | ✗ Same |
| 17 | F | Same | ✓ Weldon F. Herbert and Mary M. 1208 Summitlawn 67212 |
| 18 | F | Same | W. Joe Wolf ✗ 1318 Stackman Drive Apt. F 1 67203 |
| 2 | | Miner Lane 2nd Addition | ✗ American Imperial Corp. c/o Merle Speer, Topeka, Ks. |
| 3 | | Same | ✓ Duane E. Fisk and Janet E. 2247 South Main Street 67213 |
| 4 | | Same | ✓ Charles E. Ward and Virginia L. 130 South Greenwich Road Lot 103 67230 |
| 3 | J | Country Acres Fourth "B" Addition | ✓ Dennis L. Craft and Kay A. Craft 1157 Sand Plum Lane 67212 |
| 4 | J | Same | ✓ Gary T. Ready & Elizabeth Joan 1153 Sand Plum 67212 |
| 5 | J | Same | ✓ Larry W. Fralick & Anna O. 1149 Sand Plum 67212 |
| 6 | J | Same | ✓ John Michael Clowers & Betty B. 1145 Sand Plum Lane 67212 |
| 7 | J | Same | ✓ Jerry E. May & Sharon May 1141 Sand Plum Lane 67212 |
| 8 | J | Same | ✓ Palmer Nixon Haynes & Phyllis M. 1137 Sand Plum 67212 |
| 9 | J | Same | ✓ George B. Hoffman Jr. & Helen J. 1133 Sand Plum Lane 67212 |
| 30 | J | Same | ✓ Wisconsin Evangelical Lutheran Synod, 7007 W. 11th 67212 |
| 31 | J | Same | ✓ Same |
| 32 | J | Same | ✓ David L. Niedens & Genita N. 1204 Mulberry St. 67212 |

| Lot | Block | Addition | Property Owner |
|-----|-------|-----------------------------------|--|
| 33 | J | Country Acres Fourth "B" Addition | ✓ Danny Ray Preble & Nona L. 1206 Mulberry Street 67212 |
| 34 | J | Same | ✓ Bill Galvin and Helen 12120 Mulberry St. 67212 |
| 35 | J | Same | ✓ Lester L. Hole and R. Kay Hole 1222 Mulberry Place 67212 |
| 5 | C | Country Acres 4th Addition | ✓ Ferris W. Sumner & Norma J. 1232 Summitlawn 67212 |
| 6 | C | Same | ✓ William Henry Winter & Margaret Ann 1217 Summitlawn 67212 |
| 7 | C | Same | ✓ Samuel S. Phillips & Deena I. 1209 N. Summitlawn 67212 |
| 8 | C | Same | ✓ David Walter Corner and MaDonna A. Corner 7104 West 11th 67212 |
| 15 | G | Country Acres Fourth "B" Addition | ✓ Jerry B. Malone 2900 Oriole 67204 |
| 16 | G | Same | ✓ Same |
| 17 | G | Same | ✓ Same |
| 18 | G | Same | ✓ A. Wallace Jones Jr. and Roberta A. Jones 1209 Mulberry 67212 |
| 19 | G | Same | ✓ Dick Kunkle Building & Investment 212 W. Lincoln Corp. 67213 |

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

A 200 foot radius of: Lot 19, Block G,
Country Acres Fourth "B" Addition, an
Addition in Sedgwick County, Kansas

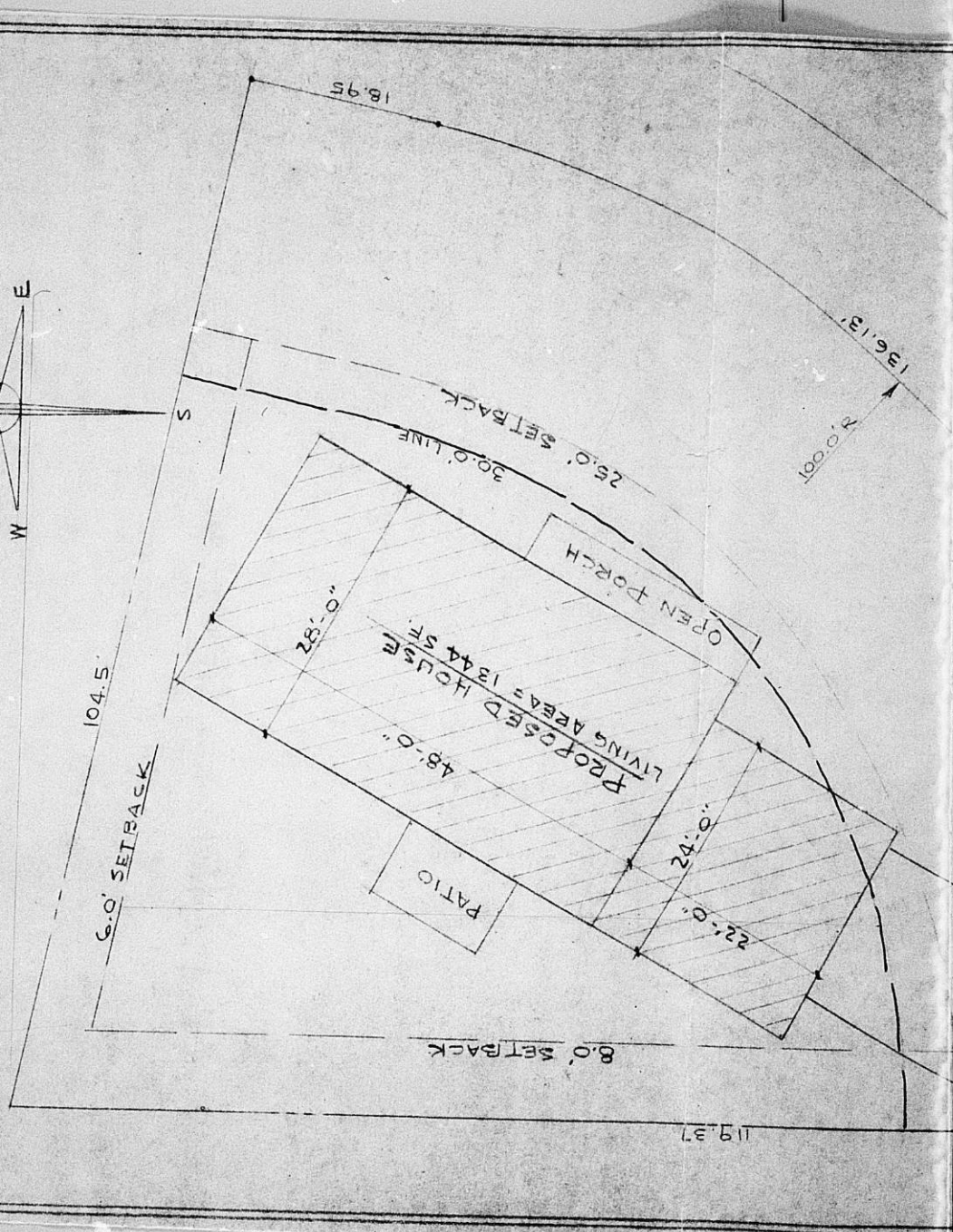
as shown by the records on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 4th day of October, 1974 at 7:00 A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

John Byron
Asst. Vice President

Order No. 219306
wh



104.5'

6.0' SETBACK

S

28.0'

PROPOSED HOUSE
LIVING AREA = 1344 SF

48.0'

PATIO

24.0'

22.0'

8.0' SETBACK

119.37'

25.0' SETBACK

30.0' LINE

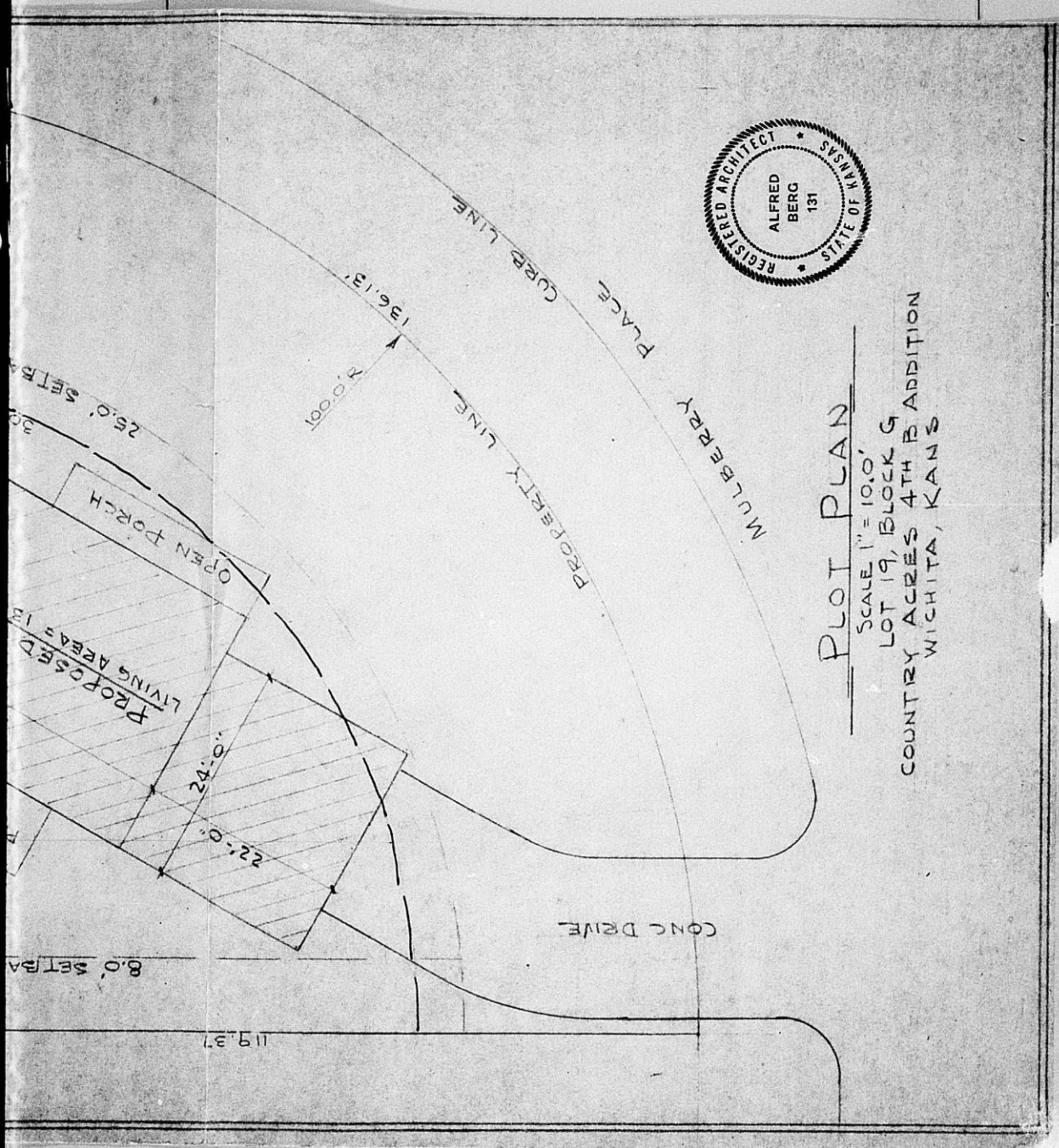
136.13'

18.95'



LOT PLAN

SCALE 1" = 10.0'
LOT 19, BLOCK G,
COUNTRY ACRES 4TH B ADDITION
WICHITA, KANS.



Form 223-021

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 |
|-------------|--------|
| 227 228 | 1500 |
| | |
| | |

Name _____

Address _____

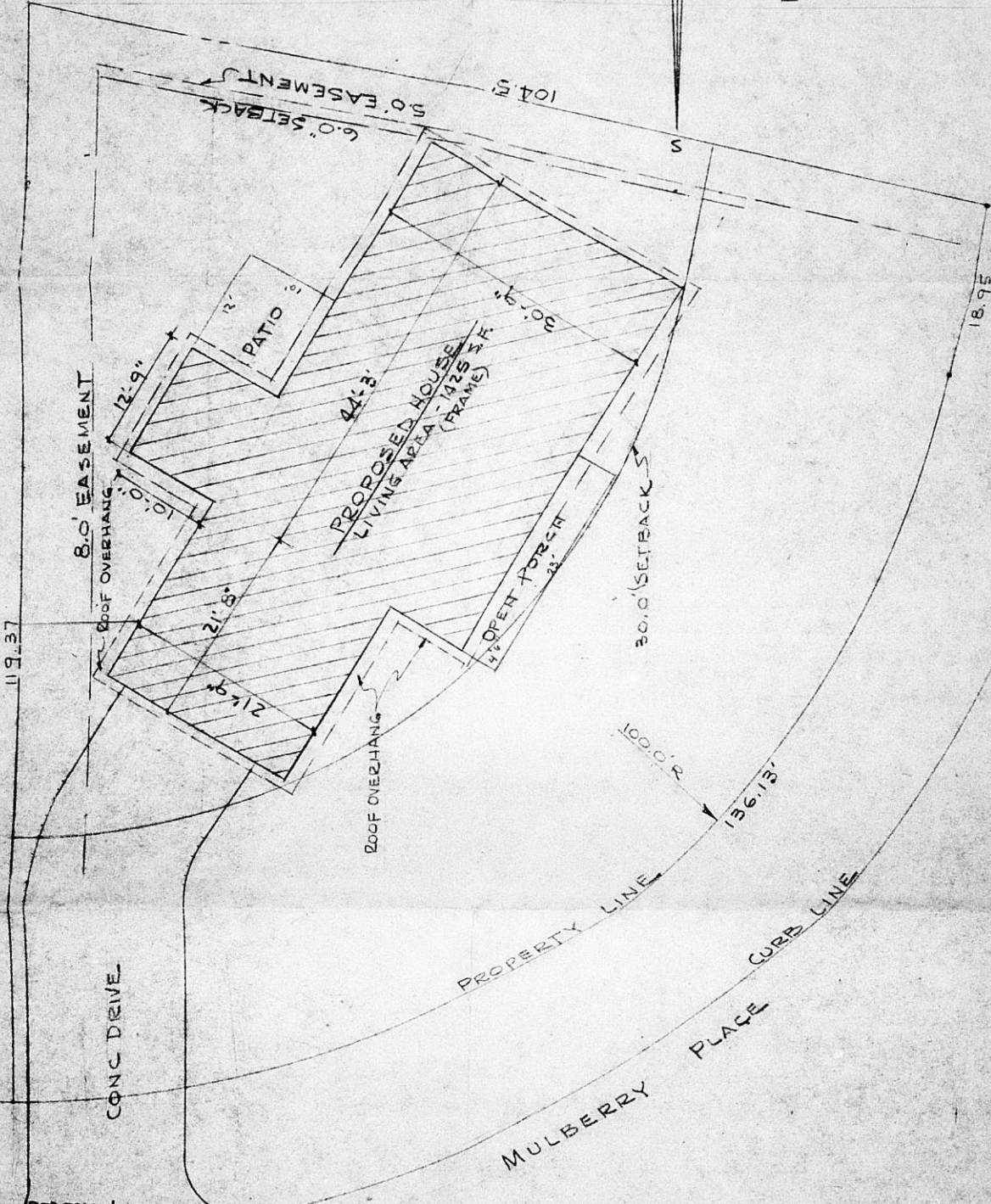
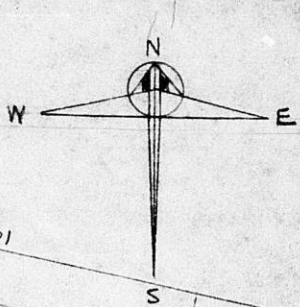
Type _____

Due Date _____

Comments: _____

Date _____

By _____



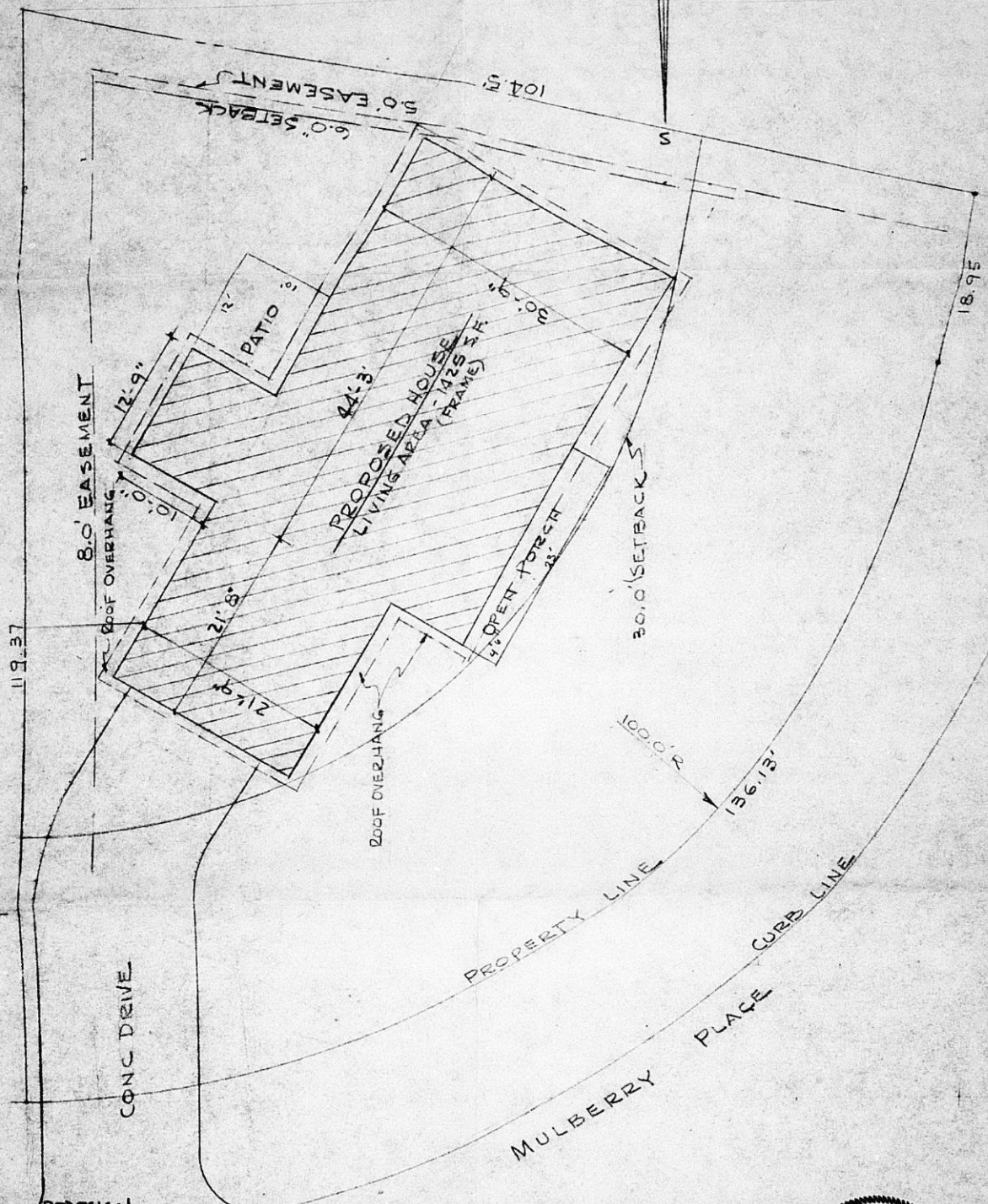
REDESIGN ASSOCIATED WITH BZA 32-74

APPROVED BY: *Alfred Berg*
DATE: 8/5/75

LOT PLAN

SCALE 1" = 10.0'
LOT 19, BLOCK G,
COUNTRY ACRES 4TH B ADDITION
WICHITA, KANS.





REDESIGN
ASSOCIATED
WITH BZA 32-74

APPROVED BY: *Alfred Berg*
DATE: 8/15/75

PLOT PLAN

SCALE 1" = 10.0'
LOT 19, BLOCK G
COUNTRY ACRES 4TH B ADDITION
WICHITA, KANS



8-14-75