

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

Case No. BZA 32-81 - Elliott & Syd  
Werbin - request a variance to reduce  
the minimum front yard setback from  
25' to 20' on property zoned "AA"  
One-family Dwelling District and  
generally located on the northwest

*Received  
City of  
Chicago  
11/11/81  
200  
1981*

POSTED  
9-5-81

# ACTION

B2A  
32-81

COMMITTEE APPROVED DATE 8-25-81

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

200'4Sec 9-10-81  
Checked 9-11-81  
Shot 9-21-81  
Recorded 9-22-81

Case No. B2A 32-81 - Elliott & Syd  
Morfin - request a variance to reduce  
the minimum front yard setback from  
25' to 20' on property zoned "AA"  
One-family Dwelling District and  
generally located on the northwest



# THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

August 27, 1981

Elliott & Syd Werbin  
101 North Edgemoor  
Wichita, Kansas 67208

Re: Case No. BZA 32-81  
Request for Variance

Dear Messrs. Werbin:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 25, 1981.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition 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  
Enclosure

cc: R. K. Hollingsworth, 2110 E. Douglas, Wichita 67214  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. EZA 32-81

WHEREAS, Elliott & Syd Werbin, 101 North Edgemoor, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the front yard setback from 25' to 20' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 2 in Block 3, Crown Heights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Douglas and Edgemoor (101 North Edgemoor).

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 August 25, 1981, 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 located fronting on a collector street that is 5' more in width than is presently required; 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 property owner to the north would prefer the addition to provide protection from the noise at the intersection; 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 property is limited in area and this is the only location for an addition; 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 addition will not interfere with any proposed public improvements; 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 adjacent front yard will be provided as open space compatible with the surrounding residences; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

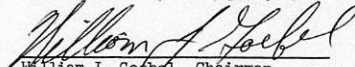
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the front yard setback from 25' to 20' on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 2 in Block 3, Crown Heights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Douglas and Edgemoor (101 North Edgemoor).

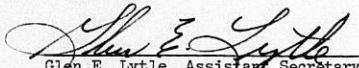
be approved subject to the following condition:

1. The variance to reduce the front yard setback from 25' to 20' shall be for a room addition of approximately 16' by 20' and that any unenclosed porch or entrance shall be located behind the 20' front yard setback line.

ADOPTED AT WICHITA, KANSAS, this 25th day of August, 1981.

  
\_\_\_\_\_  
William J. Goebel, Chairman

ATTEST:

  
\_\_\_\_\_  
Glen E. Lytle, Assistant Secretary

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE August 19, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

**SUBJECT** EZA 32-81: Northwest corner of  
Douglas and Edgemoor - 101 North  
Edgemoor

CFO Council "G" considered the captioned case at their August 17th meeting and voted 6-1 to recommend approval of the variance request to reduce the minimum front yard setback from 25 feet to 20 feet so that an addition can be added to the east part of the residence on property zoned the "AA", One-Family Dwelling District, at the captioned location.

The applicant, Elliot Werbin, was present to speak in support of the application. No one was present to speak in opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at the August 25th meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

SM:ml

Noted:

*Sarah Gilbert*  
Sarah Gilbert  
CP Coordinator

**IMPORTANT MESSAGE**

FOR \_\_\_\_\_  
DATE 8-6 TIME 1:00 <sup>A.M.</sup>/<sub>P.M.</sub>

**WHILE YOU WERE AWAY**

Neighbor  
OF 106 So. Edgemoor  
PHONE No. \_\_\_\_\_

TELEPHONED	PLEASE CALL	
CALLED TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RETURNED YOUR CALL	

MESSAGE Re: 32-81  
Concern over addition  
not desirable neighbor

SIGNED \_\_\_\_\_

FORM 000-017

**IMPORTANT MESSAGE**

FOR LYTLE  
DATE 8-6 TIME 1:20 <sup>A.M.</sup>/<sub>P.M.</sub>

**WHILE YOU WERE AWAY**

Neighbor  
OF near 101 N. Edgemoor  
PHONE No. \_\_\_\_\_

TELEPHONED	PLEASE CALL	
CALLED TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RETURNED YOUR CALL	

MESSAGE Re: 32-81  
Days occupant does  
work on motorcycle

SIGNED \_\_\_\_\_

FORM 000-017

SECRETARY'S REPORT  
CASE NO. EZA 32-81

APPLICANT: Elliott & Syd Werbin, 101 North Edgemoor, Wichita, Kansas.

AGENT: R. K. Hollingsworth, 2110 East Douglas, Wichita, Ks.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the minimum front yard setback from 25' to 20'.

GENERAL LOCATION: On the northwest corner of Douglas & Edgemoor (101 North Edgemoor).

ZONING: Subject property is zoned "AA" One-family Dwelling District as are all adjacent properties.

LAND USE: Subject property is residential as are all adjacent properties.

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 and 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 front yard setback from 25' to 20' so that an addition can be added to the east part of the residence. This would include the area presently occupied by an unenclosed porch plus another 6' to the east.

The present structure is approximately 30' from the property line along Edgemoor. However, most of the other residences in the block to the north maintain a setback greater than 30 feet. It should be noted that the required setback on the dwelling immediately to the north would be about 32 to 33' based on Section 28.04.040(Cl.2) of the zoning ordinance. It would not seem appropriate to vary the front yard setback on this property to allow a structure to be 12 to 13' further in front of the immediately adjacent property.

It should also be noted that Central Inspection has had problems with the occupancy of this property being in violation of the zoning ordinance relative to the use of the property for other than residential purposes. Neighbors that have called have indicated that the property is used for a motorcycle repair shop and that there is often outside storage of articles for sale. A permit to add to this house in 1977 was issued for 2 enclosed parking spaces. This consisted of an addition 40' by 24' that is apparently used by the occupant as a workshop and storage area.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique as the setback of all residences in the block either meet or are greater than required in the "AA" district.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the proposed addition will be approximately 15 feet in front of the house immediately adjacent to the north.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance will not constitute an unnecessary hardship upon the applicant inasmuch as the applicant could possibly convert a portion of the large garage to a family room without the need of a variance.

PUBLIC INTEREST:

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

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the front yard requirement places a protection on open space to the benefit of all property owners along a street.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist and the request should be denied.

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

AUGUST 5, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 32-81

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 Elliott Werbin and Syd Werbin, 101 North Edgemoor, 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 minimum front yard setback from 25' to 20' on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 2 in Block 3, Crown Heights Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Douglas and Edgemoor (101 North Edgemoor).

This application has been assigned Case No. BZA 32-81. It will be considered by the Board of Zoning Appeals on August 25, 1981, 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

BZA CASE NO. 32-81

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

21 NOTICES SENT TO ADJOINING PROPERTY OWNERS

34 TOTAL NOTICES SENT 8-5-81

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 32-81  
FILED 7-27-81

APPLICATION FOR VARIANCE

I. Name of Applicant ELLIOTT WERBIN and SYD WERBIN  
Mailing Address 101 N. Edgemoor, Wichita, Kansas 67208 Phone 681-2347  
Name of Authorized Agent R. K. Hollingsworth  
Mailing Address 2110 E. Douglas, Wichita, Ks. 67214 Phone 262-6461  
Relationship of Applicant to property is that of Tenant- Owner  
(Owner, Tenant, Lessee, Other)

II. The variance requested is reduction of the minimum front yard setback from 25 feet to 20 feet, by five (5) feet so that the minimum front yard setback will be twenty (20) feet

on the northwest corner of Douglas and Edgemoor  
for property located at 101 N. Edgemoor Wichita, Kansas 67208

and legally described as: Lot 2 in Block 3, Crown Heights Addition to Wichita, Sedgwick County, Kansas

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. 36-596); 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.

Applicant Elliott Werbin and Syd Werbin  
ELLIOTT WERBIN and SYD WERBIN  
Tenant Owner  
Authorized Agent R. K. Hollingsworth  
R. K. HOLLINGSWORTH

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:30 (a.m. (p.m.)), July 27, 1981, together with appropriate fee of \_\_\_\_\_

Signed G. Lynn Shirley

STATEMENT JUSTIFYING VARIANCE REQUESTED

The specific enforcement provisions of the zoning ordinance from which variance is requested is Section 28.04.040 (c) 1.2 of the Code of the City of Wichita which provides that:

"1.2 In all other locations in the "AA" one family dwelling district, the minimum front yard setback shall be twenty-five feet"

if not within certain exceptions which are not applicable here.

This application will meet the requirements of Section 2.12.590.B, Code of the City of Wichita in that:

1. 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 the action or actions of the property owners.

As can be seen by the portions of attached plats of the additions containing and surrounding applicant's property, the great majority of lots are five feet deeper than applicant's lot. Only the lots in blocks adjacent to Edgemoor Street are 130 to 131 feet deep. Other lots not in blocks adjacent to Edgemoor Street are 135 to 136 feet deep. This no doubt was due to the fact that the developers were required to dedicate 80 feet for Edgemoor and only 60 feet for the other streets in the additions. The developer made up the 10 feet by shorting the lots adjacent to Edgemoor street 5 feet. The applicant's agent has been informed by a member of the Metropolitan Area Planning Commission that in recent years the policy has been changed to require developers to dedicate 70 feet only for easements for collector streets rather than the 80 that was required in this instance.

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The only possible adverse affect would be that applicant's front yard would be lessened by 100 square feet but his front yard would still be as deep as the front yards found to be acceptable on practically all surrounding residences with the exception of those in blocks adjacent to Edgemoor.

According to the City Engineers Office ordinary residential streets such as Ridgewood, Parkwood, Old Manor, Pinecrest and Battin vary from 24 feet wide to 30 feet wide. Ridgewood is 30 feet wide, Parkwood is 26 feet wide. Collector streets such as Edgemoor vary in width from 30 feet up to 41 feet. According to the City Engineers records, 18 feet was paved on the west half of Edgemoor and 20 feet on the east half in applicant's block. With a 25 foot setback applicant's front yard to the curb is 47 feet. The houses on Ridgewood with a 25 foot setback have a front lawn to the curb of 40 feet. All of the houses surrounding the applicant's house with the exception of those in the blocks adjacent to the collector street, Edgemoor, would have front lawns to the curb of approximately 40 feet. If the applicant were allowed a variance of 5 feet, his front yard to the curb would still be 42 feet.

Since applicant's front yard would be as large as the vast majority of the front yards of the residences surrounding his home, it would have no adverse affect on the adjacent property owners.

3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship on the property owner represented in the application.

The applicant is handicapped in that he is a para-plegic confined to a wheelchair. The residence at 101 N. Edgemoor was at the time of its purchase, uniquely suited for his condition in that the entrances were ground level or nearly so. Extensive and expensive improvements have been made to the property since purchase, to accommodate the applicant's condition, such as additions at ground level and internal and external doors have been widened and plumbing facilities remodeled as well as the rest of the house to accommodate this condition.

Since many if not most public recreational facilities have not been modified to accommodate the handicapped, the applicant must utilize his home for this purpose to a larger extent than the

public at large. It is his intent to remodel his existing front porch by increasing its width by approximately 5 feet giving him an additional room with dimensions of 16' by 20' for use as a "rec room" for a television set and other recreational items such as a pool table and/or electronic games. This is a room which he could have but for the fact his lot is 130 feet rather than 135 feet as lots on the other streets in the addition.

To deny the variance would create a real hardship for the applicant because it will deprive him of any opportunity to have such a recreational area unless he takes it from his family's normal living area. After the modifications to the existing structure it would not be economically feasible or possible for him to start anew in another location.

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

The applicant is only requesting to use 100 square feet of the 1,500 square feet front yard required of him by the ordinance. His actual front yard from the residence to the street since he has a 22 foot parking easement is 2,820 square feet. Since the vast majority of the surrounding residential properties are permitted by the ordinance to have actual front yards of as little as 2,400 square feet and such front yard area is not deemed to adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, it would seem to follow that a front yard area of 2,720 square feet would not adversely affect the public health, safety, morals and etc.

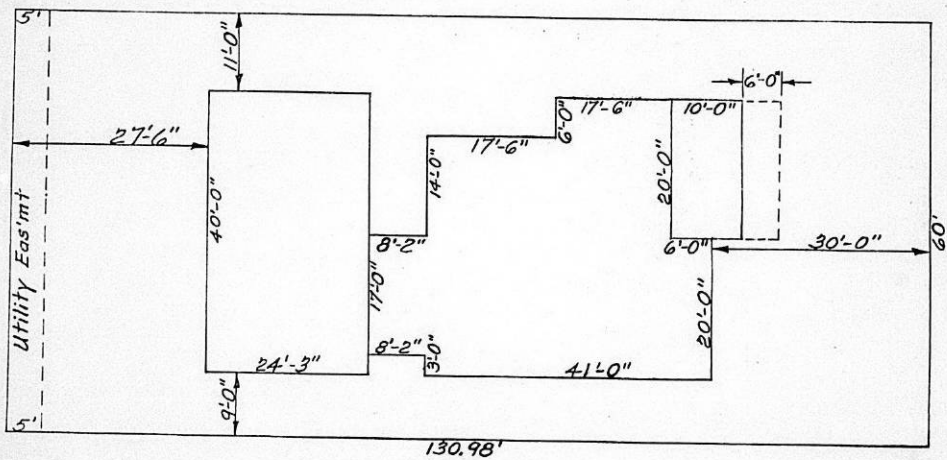
5. The granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

The intent of this particular section of the Zoning Ordinance is essentially to provide a minimum front yard for residential property. Since granting the variance will not actually reduce the applicant's front yard below the minimum determined to be desirable, it will not be opposed to the general spirit and intent of the ordinance.

CROWN HEIGHTS ADD.

Lot 2 Block 3

Scale 1" = 16'



Edgemoor Drive

Douglas Ave.

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
2	2	Crown Heights	✓ Susan G. Bresnahan 101 N. Ridgewood, 67208
4	2	" "	✓ <del>Charles E. Heite, Jr. (Deceased)</del> and Margaret F. Heite, 109 N. Ridgewood, 67208
6	2	" "	✓ John W. Wallace and Helen M. Wallace, 115 N. Ridgewood, 67208
1	3	" "	✓ James H. Vachal and Helen L. Vachal, 102 N. Ridgewood, 67208
3	3	" "	✓ William R. Hertzler 110 N. Ridgewood, 67208
5	3	" "	✓ William F. Keesecker and Mary Jane Keesecker, 114 N. Ridgewood, 67208
7	3	" "	✓ Martha Y. Reed, 120 N. Ridgewood, 67208
9	3	" "	✓ Edna Mercedes Jones, 126 N. Ridgewood, 67208
2	3	" "	<i>Dub.</i> Syd Werbin and Annette P. Werbin, 106 S. Ridgewood, 67218
4	3	" "	✓ <i>107 N. Edgemoor 67208</i> Sheryl Y. Sutton, <u>Address</u> <u>Unknown</u>
6	3	" "	✓ Mark W. Aberle and Janice C. Aberle, 115 N. Edgemoor, 67208
8	3	" "	✓ Larry A. Michael and Sharla E. Michael, 121 N. Edgemoor, 67208
10	3	" "	✓ Robert C. Butler and Elizabeth S. Butler, 127 N. Edgemoor, 67208
9	A	Bellair	✓ John H. Zakas, 105 S. Ridge- wood, 67218
1, 2 & 3	A	First Addition to The Village	✓ First National Bank in Wichita as Trustee of Edna May Edwards Trust, 105 N. Main, 67202

Page 2.

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1 & N 40' of Lt. 2		2nd Bellair	<i>returned not here</i> ✓ Roy E. Harris and Helen C. Harris, 105 S. Edgemoor, 67218
S 20' of Lt. 2		" "	✓ John O. Banta, c/o John Banta Agency, 2800 E. Douglas, 67214
S 20' of Lt. 19		" "	<del>Anna Belle Costin, 116 S. Ridgewood, 67218; Elizabeth Costin, Address Unknown</del>
N 40' of Lt. 19 & all Lt. 20		" "	<i>Dub.</i> ✓ Syd Werbin and Annette Werbin, 106 S. Ridgewood 67218
S 22' of Lt. 15 & all Lt. 16	1	Park Hollow	✓ Elwyn C. Henry and Helen M. Henry, 417 N. Fountain, 67208
17	1	" "	✓ James Stranathan <del>and Jessie C. Stranathan (Deceased)</del> 112 N. Edgemoor, 67208
18	1	" "	✓ Ivan L. Gossett and Betty J. Gossett, 106 N. Edgemoor, 67208
19	1	" "	✓ John C. Schmitt, 102 N. Edgemoor, 67208

Page 3.

We hereby certify the foregoing to be a true and correct list  
of the property owners within a 200 foot radius of

Lot 2, Block 3, Crown Heights, an Addition  
to Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the  
Register of Deeds of Sedgwick County, Kansas, on the 22nd day of  
July, 1981, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO., INC.

By

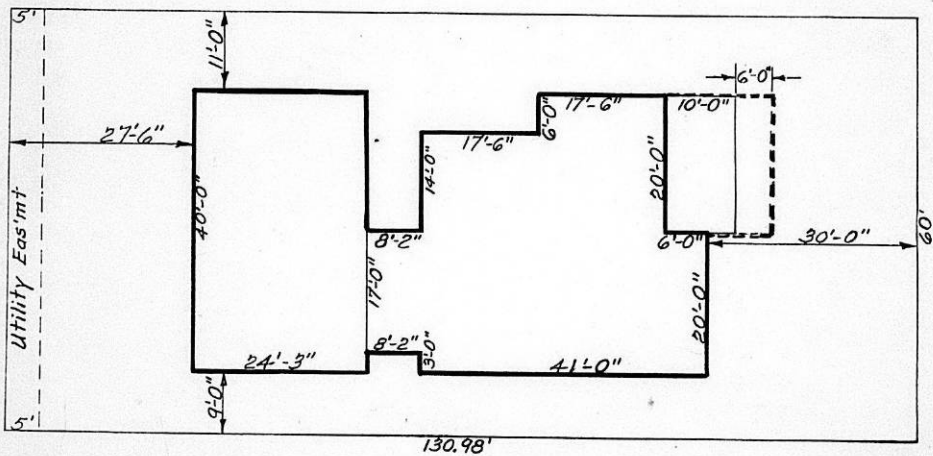
*Mary Sable*  
Vice-President

Order No. 301089  
GE/LLV

CROWN HEIGHTS ADD.

Lot 2 Block 3

Scale 1" = 16'



Edgemoor Drive

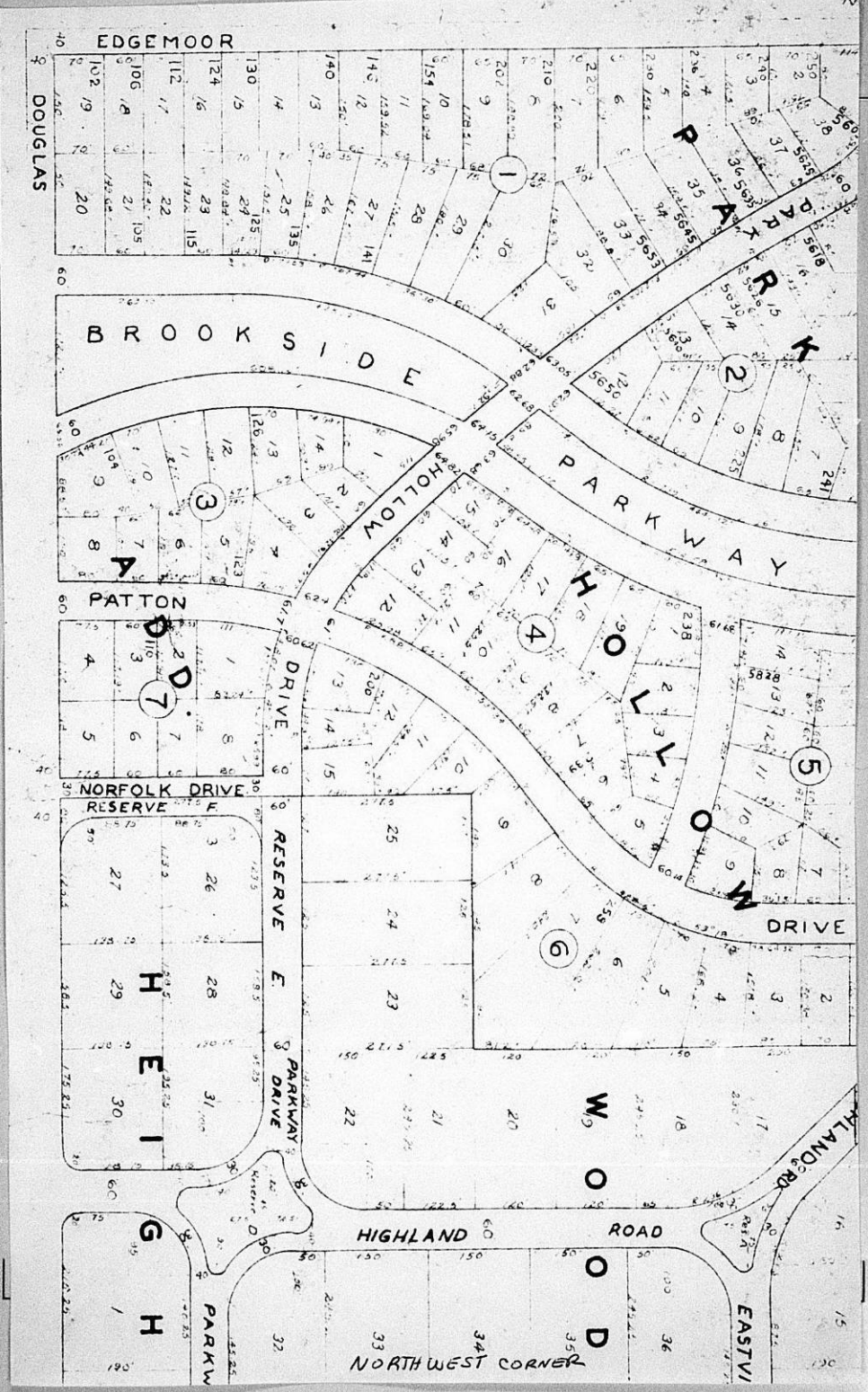
Douglas Ave.

BZA 32-81









**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29 11      PAYMENT NOTICE  
City of Wichita

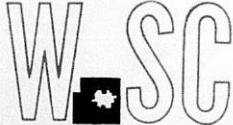
Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

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DESCRIPTION	AMOUNT
<i>500</i>	<i>75</i>

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
FUND \_\_\_\_\_ DUE DATE \_\_\_\_\_  
COMMENTS \_\_\_\_\_  
DATE *7/27/81* BY \_\_\_\_\_

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

RETURN TO SENDER

*Return*

WICHITA, KANSAS 67202  
AUG 13 1981  
18  
WIC 55 040019N1 08/08/81  
SED 55 040819N1 08/08/81  
HAR 05 040819N1 08/08/81  
HAR 05 041319N1 08/13/81  
NOT DELIVERED  
RETURN TO SENDER  
NOT DELIVERABLE AS ADDRESSED  
UNABLE TO FORWARD

Roy E. & Helen C. Harris  
105 South Edgemoor  
Wichita, Kansas 67218

*not here*

