

Case No. BZA 44-77 - Wm. E. LET-  
TERMAN, requests a variance of  
front yard setback from 25' to  
23'6" on property generally lo-  
cated at the northwest corner of  
Bebe and Second

POSTED  
9-23-77  
24

ACTION

BZA44-77 COMMITTEE

Denied

DATE  
10-25-77

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

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

Case No. BZA 44-77 - Wm. E. LEFT-  
HERMAN, requests a variance of  
front yard setback from 25' to  
23'6" on property generally lo-  
cated at the northwest corner of  
[illegible] and [illegible]

POSTED  
9-29-77  
34

ACTION

BZA44-77 COMMITTEE

Denied

DATE

10-25-77

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

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

Case No. BZA 44-77 - Wm. E. IET-  
TERMAN, requests a variance of  
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the and second

p No. 5147  
 c. 23  
 p. 27  
 nge 1W

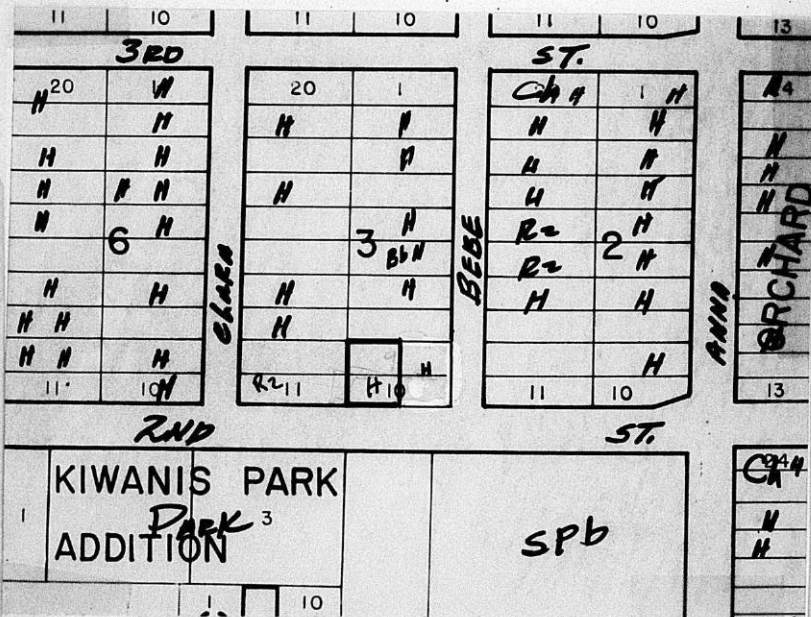
BZA- 44-77  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

EA DATA:

Acres: 0.5 ( 115 ft. by 190 ft.)  
 Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 Land Use: East UNDEVELOPED South DODGE ELEM. SCH  
 West UNDEVELOPED North SINGLE FAM  
 Sketch Plan Land Use is for: \_\_\_\_\_  
 Present Land Use is for: SINGLE FAM  
 Area (is) (is not) platted.

PHOTO DATA:

taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



REGISTERED PATENT  
 LOEHLER & COMPANY, INC.  
 CINCINNATI, OHIO, U.S.A.

Smeal®  
 No. 2,153C

RESOLUTION NO. BZA 44-77

WHEREAS, William E. Letterman, 304 N. Doris, Wichita, Kansas, requests a variance as provided in Section 2.12.590. B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 23 1/2 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

The west 1/2 of Lots 9 and 10, Block 3, Fruitvale Park, Wichita, Sedgwick County, Kansas.  
Generally located on the north side of 2nd Street in an area between Bebe and Clara 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 October 25, 1977, 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 does not arise 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 in fact created by an action or actions of the property owner or the applicant inasmuch as the applicant was advised that the garage portion of the house was too close to the property line prior to the pouring of the basement. The applicant proceeded with full knowledge of possible consequences; 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 lots in this area are platted in such a way that 2nd Street frontage is normally considered to be a side yard setback, except in cases such as this where a buildable parcel has been established on a rear portion of the east/west lots; 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 not constitute unnecessary hardship upon the property owner represented in the application inasmuch as the applicant apparently proceeded in the placement of the house on the property with full knowledge of the potential consequences of doing so; 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 a variance of 1 1/2 feet would leave adequate front yard setback to assure that public interest would not be jeopardized; 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 a 23 1/2 front yard setback is maintained along this street where a six foot sideyard would be permitted for the majority of the corner lots along this section of Second Street.

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 not been found to exist.

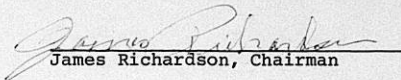
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 25 feet to 23 1/2 feet on property zoned the "AA" Single Family Dwelling District, and legally described as:

The west 1/2 of Lots 9 and 10, Block 3, Fruitvale Park, Wichita, Sedgwick County, Kansas.  
Generally located on the north side of 2nd

Street in an area between Bebe and Clara  
Streets,

be denied.

ADOPTED AT WICHITA, KANSAS, this 25th day of October, 1977.

  
James Richardson, Chairman

ATTEST:

  
Larry Dobson, Assistant Secretary

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

October 25, 1977

Tenth Floor, City Hall  
455 North Main Street

Mr. William E. Letterman  
304 North Doris  
Wichita, Kansas 67212

Re: Request for Variance  
Case No. BEA 44-77

Dear Mr. Letterman:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on Tuesday, October 25, 1977, in connection with your request for a variance to reduce the required front yard setback from 29 feet to 23 feet, 6 inches on property zoned the "AA" Single Family Dwelling District, and generally located on the north side of Second Street in an area between Bebe and Clara Streets.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call.

Sincerely,

Larry Dobson  
Assistant Secretary

LD:bh

cc: Al Hybsha, Attorney, 514 Petroleum Bldg., 67202  
Don Gisick, City Clerk  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Housing and Zoning Administrator

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

Tenth Floor, City Hall  
455 North Main Street

October 26, 1977

Mr. William E. Letterman  
304 North Doris  
Wichita, Kansas 67212

Re: Request for Variance  
Case No. BEA 44-77

Dear Mr. Letterman:

At the regular meeting of the Board of Zoning Appeals on Tuesday, October 25, 1977, your request for a variance to reduce the required front yard setback from 25 feet to 23 feet, 6 inches on property zoned "AA" Single Family Dwelling District, and generally located on the north side of Second Street in an area between Bebe and Clara Streets was considered.

The action of the Board was to deny your request.

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: Al Hybsha, Attorney, 514 Petroleum Bldg., 67202  
Don Gisick, City Clerk  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Housing & Zoning Administrator

THE CITY OF WICHITA  
OFFICE OF CITIZEN PARTICIPATION

DATE October 20, 1977



TO Larry Dobson, Secretariat, BZA

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 44-77 (North Side of Second  
Street in an Area Between Bebe and  
Clara Streets)

On October 19, 1977, CPO Council Area "N" considered the captioned case.

It was the Council's unanimous recommendation that the variance be denied because of the applicant's disregard of warnings that he would be in violation of City ordinance.

Please provide this information to the BZA when the case is considered.

Bill Morris  
CPO Administrative Aide

BM:rh

NOTED:

David Furnas  
CPO Coordinator



WILLIAM L. KORBER  
**BAUGHMAN CO.**  
SURVEYORS

PHONE 316/262-7271

330 LAURA

WICHITA, KANSAS 67211

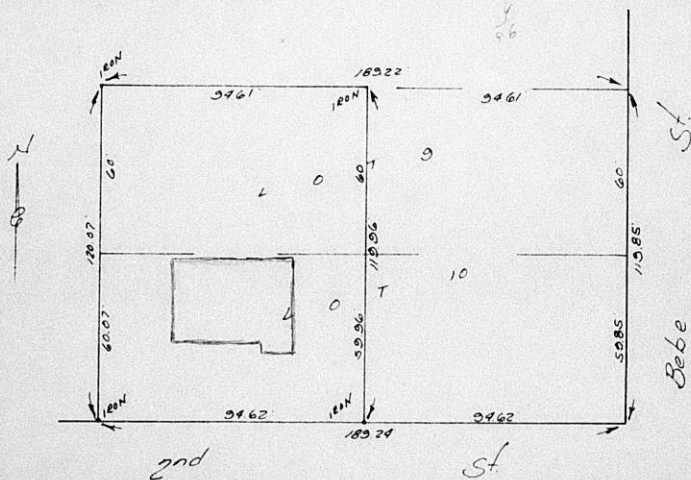
State of Kansas )  
                  ) SS  
County of Sedgwick)

September 8, 1977

We, Baughman Company, Surveyors in aforesaid county and state do hereby certify that we did on this 8th day of September, 1977 survey the  $W\frac{1}{2}$  of Lots 9 and 10, Block 3, Fruitvale Park, Sedgwick County, Kansas.

The accompanying plat is a true and correct exhibit of said survey.

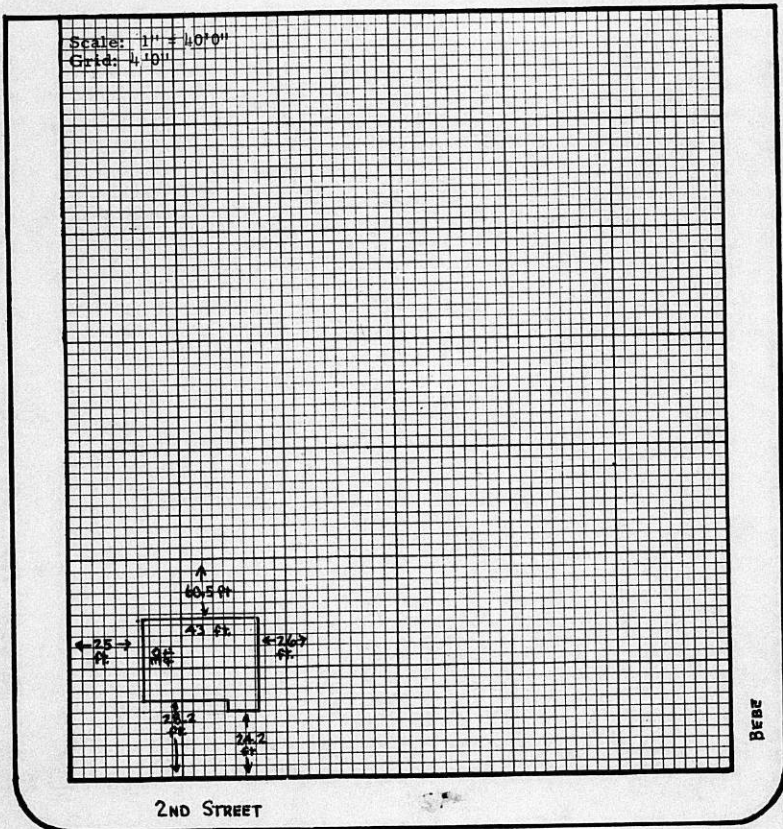
*Norman E. Calk*  
Surveyor



RESIDENTIAL PLOT PLAN

ADDRESS: 4908 West 2nd Street PERMIT NO. \_\_\_\_\_

LOT(S): \_\_\_\_\_ BLK. \_\_\_\_\_ OF \_\_\_\_\_ ZONING \_\_\_\_\_



I certify that the above plat complies with applicable zoning setbacks and sub-division covenants and restrictions.

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

White Copy - File

Yellow Copy - Applicant

Pink Copy - Hold

Form No. KA-345 (2/76)

SECRETARY'S REPORT  
CASE NO. BZA 44-77

APPLICANT: William E. Letterman, 304 N. Doris, Wichita, Kansas.

AGENT: Al Rybsha, 514 Petroleum Building, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 23 1/2 feet.

GENERAL LOCATION: North side of 2nd Street in an area between Bebe and Clara Streets.

ZONING: Subject property is zoned the "AA" Single Family Dwelling District as are the properties to the north and east. The property to the south is zoned the "B" Multiple Family Dwelling District. West is the "A" Two Family Dwelling District.

LAND USE: Subject property contains a single residence. East is a single family residence. West is a duplex under construction. North is vacant. South is a school playground.

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).

SECRETARY'S REPORT  
Case No. BZA 44-77  
Page 2

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required front yard setback from 25 feet to 23 1/2 feet for a single family structure which was moved on to the property.

Subject property is the west half of two platted lots which front on Bebe Street. The applicant successfully initiated an administrative boundary shift on these lots to establish a buildable parcel on the back half of these lots. An existing single family residence is located on the front half of these lots. Subject property has frontage and access to 2nd Street and it is adjacent to 2nd Street that the 25 foot front yard setback is required. Subject property has 94 feet of frontage on 2nd Street and is 120 feet in depth.

Prior to the house being moved on to subject property, the building inspector in this area informed the applicant that the footings to be poured under the attached garage were too close to the front property line and that he subsequently could not approve the pouring of the footings and basement. The applicant visited the Central Inspection Office that same day and following morning stating that he had to go ahead and pour because the house had to be moved in right away. In an attempt to help solve the problem, the inspection division agreed to let the applicant pour the basement for the house and move the house to subject property, but that the house could not be permanently placed nor could the garage footings and foundation be poured until after it could be determined from a survey whether the garage would encroach into the front yard setback.

The applicant proceeded on this basis with the pouring of the basement. However, approximately two weeks later the inspector noticed that the garage footings and foundation had now also been poured, although the house had not yet been let down on to the foundation. At this point, the inspector issued a stop work order on the project. In further conversation between the applicant and Central Inspection the applicant received permission to go ahead and set the house down on the foundation on the stipulation that he would alter (cut off) the front of the garage if the survey showed the structure to be too close to the property line. A survey of the property subsequently did verify that the garage portion of the house was approximately 1 foot too close to the front property line. At this point, the applicant was apparently advised of his right to request a variance of the setback as an alternative to cutting off the front of his garage.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that the variance requested arises from a condition unique to the property in question and is not created by actions of the property owner inasmuch as the applicant was advised that

SECRETARY'S REPORT

Case No. BZA 44-77

Page 3

the garage portion of the house was too close to the property line prior to the pouring of the basement and footings. The applicant proceeded with full knowledge of possible consequences.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance may not adversely affect the rights of adjacent property owners inasmuch as the lots in this area are platted in such a way that 2nd Street frontage is normally considered to be a side yard setback, except in cases such as this where a buildable parcel has been established on a rear portion of the east/west lots.

HARDSHIP:

It is the opinion of the Secretary that it is difficult to determine that the strict application of the provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner inasmuch as he apparently proceeded in the placement of the house on the property with full knowledge of the potential consequences of doing so.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as a variance of 1 1/2 feet will leave adequate front yard setback to assure that the public interest will not be jeopardized.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the spirit and intent of the zoning ordinance may not be opposed by the granting of this variance inasmuch as a 23 1/2 front yard setback is maintained along this street where a six foot sideyard would be permitted for the majority of the corner lots along this section of Second Street.

RECOMMENDATION:

It is the opinion of the Secretary that it is difficult to find all five conditions necessary for the granting of a variance to exist, and that the applicant was fully aware of the setback requirement and potential consequences of his own actions; therefore, it is recommended that the request be denied.

-----

16 notices sent to adjoining property owners, and applicant  
10 notices to MAPC members  
1 notices to CPO  
17 total notices sent on BZA 44-77, 9-30-77

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

September 30, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 44-77

An application has been filed by William E. Letterman, 304 North Doris, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required front yard setback from 25 feet to 23 1/2 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

The west 1/2 of Lots 9 and 10, Block 3, Fruitvale Park, Wichita, Sedgwick County, Kansas.  
Generally located on the north side of 2nd Street in an area between Bebe and Clara Streets.

This application has been assigned Case No. BZA 44-77 and will be considered by the Board of Zoning Appeals at its meeting of October 25, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

86-77  
CASE NO. \_\_\_\_\_  
FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant William E. Letterman

Mailing Address 304 North Doris, Wichita, Ks. 67212 Phone 945-0782

Name of Authorized Agent Al Hybsha

Mailing Address 514 Petroleum Bldg., Wichita, Ks. Phone 264-0378

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

II. The variance requested is Variance of frontyard setback  
from 25' to 23' 6"

for property located NW corner 2<sup>nd</sup> & Bebe

and legally described as: W/2 Lots 9+10, Blk 3,  
Fruitville Park Add

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

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.

W. E. Letterman  
Applicant

Al Hybsha  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:00 (a.m. - p.m.), 9-26 1977  
together with appropriate fee of \$50.00.

Map 5147  
T9-402

N/W corner  
Bebe & 2<sup>nd</sup>

Larry Dobson  
Signed

Petroleum Bldg.  
Suite 514  
221 S. Broadway  
Wichita, Kansas 67202

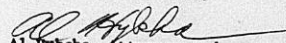
AL HYBSHA  
ATTORNEY AT LAW

Phone (316) 264-0378

September 26, 1977

1. The varriance requested is unique to the property in question and is not ordinarily found in the same zone or district. The problem arises due to a boundary shift and is not created by the property owner.
2. The granting of the permit for varriance will not adversely affect the rights of adjacent property owners or residents.
3. A strict application of the provisions of Title 28 of which varriance is requested will constitute unnecessary hardship upon the property owner because all footings had been poured and a house with an attached garage was moved on the property. The garage has steel siding and it would entail removing 1 foot from the front of the garage.
4. In no way would the desired varraince adversely affect the public health, safety, morals, order, prosperity, or general welfare, and
5. The desired varraince will not be opposed to the general spirit and intent of Title 28.

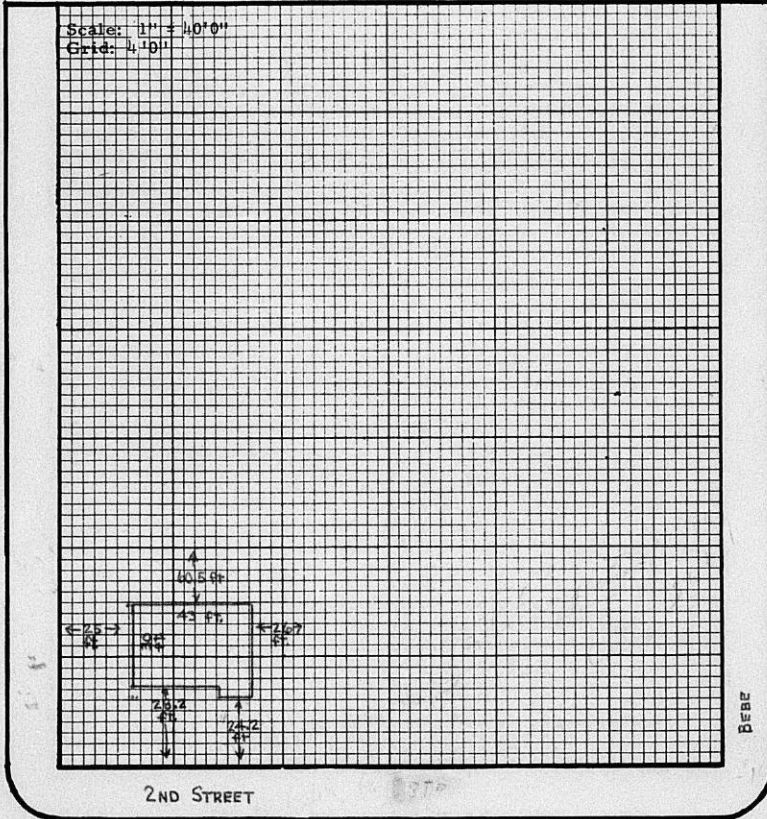
Respectfully submitted,

  
Al Hybsha, Attorney and  
Agent for William E. Lettermen

RESIDENTIAL PLOT PLAN

ADDRESS: 4908 West 2nd Street PERMIT NO. \_\_\_\_\_

LOT(S): \_\_\_\_\_ BLK. \_\_\_\_\_ OF \_\_\_\_\_ ZONING \_\_\_\_\_



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

Signed: J. E. Litterman  
(Applicant)

White Copy - File

Yellow Copy - Applicant

Pink Copy - Hold

Form No. KA-345 (2/76)

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC. hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, of:

Lots 9 and 10, Block 3, Fruitvale Park, Wichita, Sedgwick County, Kansas.  
together with all real estate lying within a 200-foot radius thereof.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>FRUITVALE PARK</u> <u>BLOCK 3</u> Lot 9	William E. Letterman Mary K. Letterman D 304 North Doris Wichita, Kansas 67212
Lot 10	do
Lot 8	✓ Raymond H. Dings 3333 South Rutan Wichita, Kansas 67216
Lot 7	✓ Freddie P. Barringer Sherrie K. Barringer 321 North Bebe Wichita, Kansas 67212
Lot 6	✓ Paul W. Barringer Mable M. Barringer 325 North Bebe Wichita, Kansas 67212
Lot 5	✓ John H. Welch Marie Welch 329 North Bebe Wichita, Kansas 67212
Lot 15	✓ John G. Kipers Minnie Kipers 2416 South 29th So. Wichita, Kansas 67217
Lot 14	✓ Thurman L. Moore Carol J. Moore 3917 North Athenian Wichita, Kansas 67204
Lot 13	✓ Roy G. Pugh Irene M. Pugh 304 North Clara Wichita, Kansas 67212
Lot 12	✓ Ed Cody Construction Inc. 510 South Evergreen Wichita, Kansas 67209
Lot 11	do

DESCRIPTIONOWNERS AND ADDRESSESFRUITVALE PARKBLOCK 2

Lot 16

Floyd Moyame  
 Iris Moyame  
 ✓ 1522 North Emporia  
 Wichita, Kansas 67214

Lot 15

do

Lot 14

*mail ret'd*  
 Roy A. Smith *no add found*  
 Anna J. Smith  
 ✓ 1312 South Terrace Dr.  
 Wichita, Kansas 67218

Lot 13

George Hugh Gee  
 ✓ Georgia Mildred Gee  
 5926 Oakwood Dr.  
 Wichita, Kansas 67208

Lot 12

do

Lot 11

do

KIWANIS PARK

Lot 3

The Down-Town Wichita  
 Kiwanis Foundation  
 ✓ Bitting Building  
 Wichita, Kansas 67202

Beg. 499' W of NE cor. SW $\frac{1}{2}$  W 161'  
 S 377' E 161' N 377' to beg. exc.  
 N 40' for street 23-27-1W

Board of Education  
 ✓ 428 South Broadway  
 Wichita, Kansas 67202

Beg. NE Cor SW $\frac{1}{2}$  Sec. 23, W499' S375'  
 E 127' S 55' E 372 to beg. 23-27-1W

School District #124  
 ✓ C/O BOE  
 428 S. Broadway  
 Wichita, Kansas 67202

Dated at Wichita, Kansas this  
 14th day of September, 1977, at  
 7:00 A. M.

REALTY TITLE CO., INC.

By *Linda AyaJa*  
 Linda AyaJa - Vice President

F14977

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

September 30, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 44-77

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This application has been assigned Case No. BZA 44-77 and will be considered by the Board of Zoning Appeals at its meeting of October 25, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith  
Secretary

WICHITA - SEDGWICK COUNTY



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



NOT DELIVERED AT ADDRESSED  
NO FORWARDING ORDER ON FILE  
SOUTHEAST

Important!  
Notice of Hearing  
Enclosed

Roy A. Smith  
Anna J. Smith  
1312 South Terrace Drive  
Wichita, Kansas 67218

*not ours  
Wrong address*



*Beth*

*No other address found*

001482

FORM 223-1

PAYMENT NOTICE  
City of Wichita 2nd Floor

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 <del>...</del>	Cement	M.S.P.

DESCRIPTION	AMOUNT
BZA Variance	\$50.00

NAME Al Hybicki

ADDRESS 221 S. Broadway

FUND AA 407103 DUE DATE

COMMENTS

DATE 9-26-77 BY [Signature]

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1