

Case No. BZA 45-82 - Kenton & Alma Hupp -  
request a variance to reduce the required  
side yard setback from 6' to 3' on  
property zoned the "AA" One-family Dwell-  
ing District and generally located on  
the west side of Belmont between Lewis

POSTED  
11-5-82

5-11-78

ACTION

11-23-82  
DATE

APPROVED

BZA  
45-82

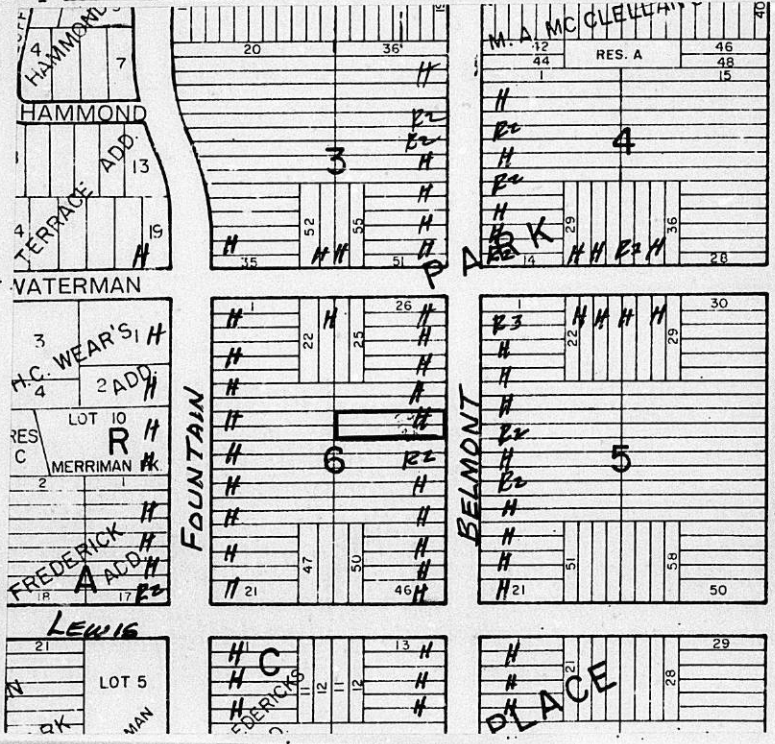
200' Sec 12-9-82  
Checked 12-11  
Shot 12-13-82  
Recorded 12-17-82

Map No. 5747  
 Sec. 23  
 Twp. 27  
 Range 1E

BZA- 45-82  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 0.2 ( 50 ft. by 200 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 \_\_\_\_\_



LOS ANGELES COUNTY  
 REGISTERED  
 MERRISON  
 U.S.A.

Shimadzu  
 No. 2151C

November 24, 1982

Kenton & Alma Rupp  
325 South Belmont  
Wichita, Ks. 67218

Re: Case No. BEA 45-82  
Request for Variance

Dear Mr. & Mrs. Rupp:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 23, 1982.

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:ead  
Enclosure

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

RESOLUTION NO. EZA 45-82

WHEREAS, Kenton and Alma Hupp, 325 South Belmont, 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 from 6 feet to 3 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lots 34 and 35, Block 6, Merriam Park Place Addition, to Wichita, Sedgwick County, Kansas.  
Generally located on the west side of Belmont between Lewis and Waterman (325 South Belmont).

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 November 23, 1982, 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 in an older residential area where smaller than required side yards exist, and the separation between the two structures will be near the minimum requirement, also the structure has apparently been nonconforming since the adoption of zoning regulations; 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 adjacent property owner has indicated concurrence with the request to enclose the existing porch; 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 applicant would be unable to enclose the porch and utilize the existing foundation and structural components to an economical advantage; 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 variance would not interfere with any public right-of-way or utility easement; 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 there would still be 9 feet or more separation between the two adjacent dwellings and the reduction would only be for a distance of 21 feet; 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.

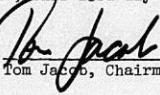
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback from 6 feet to 3 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lots 34 and 35, Block 6, Merriam Park Place  
Addition, to Wichita, Sedgwick County, Kansas.  
Generally located on the west side of Belmont  
between Lewis and Waterman (325 South Belmont).

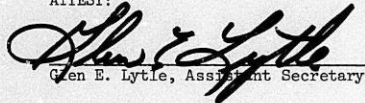
be approved subject to the following condition:

1. The reduction of the side yard setback from 6 feet to 3 feet adjacent to the south property line shall only be for the enclosure of the existing porch.

ADOPTED AT WICHITA, KANSAS, this 23rd day of November, 1982.

  
\_\_\_\_\_  
Tom Jacob, Chairman

ATTEST:

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

**THE CITY OF WICHITA**

**OFFICE OF CITIZEN PARTICIPATION**

**DATE** November 16, 1982

**TO** Glen Lytle, Special Assistant for Zoning

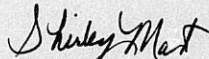
**FROM** Shirley Mast, Administrative Aide III

**SUBJECT** BZA 45-82 (West side of Belmont  
between Lewis and Waterman  
325 S. Belmont)

CPD Council "G" considered the captioned case at their November 15th meeting and voted 7-0 to recommend approval of the variance request to reduce the required side yard setback from 6 feet to 3 feet on property zoned the "AA" One Family Dwelling District at the aforementioned location.

The applicant was present to speak in support of the case. No one was present to speak in opposition.

Please provide the Council's recommendation to the BZA when the case is considered at their November 23rd meeting.



Shirley Mast  
Administrative Aide III

SM:dm

684-4792

File  
**RECEIVED**  
NOV 10 1982  
METROPOLITAN PLANNING  
ROUTE

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

November 3, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 45-82

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 Kenton and Alma Hupp, 325 South Belmont, 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 required side yard setback from 6 feet to 3 feet on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 34 and 35, Block 6, Merriam Park Place Addition, to Wichita, Sedgwick County, Kansas. Generally located on the west side of Belmont between Lewis and Waterman (325 South Belmont).

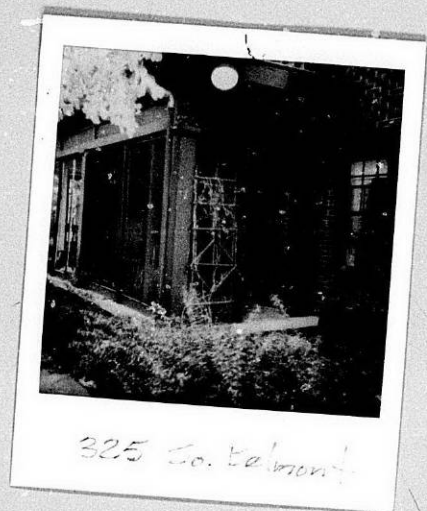
This application has been assigned Case No. BZA 45-82. It will be considered by the Board of Zoning Appeals on November 23, 1982 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you 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

Dear Mr. Galbraith,  
The houses in this area were built before the 6' rule was put into use. Most houses are closer than that - the garages I mean. The Hupp's screened in porch is already there and enclosing it wunt extend it any further. It will only make their available space more useful to them. I think they should be able to enclose this screened in porch. Thanks for being fair.  
Mrs. Rosemond Battle  
328 So. Belmont



325 So. Belmont

SECRETARY'S REPORT  
CASE NO. BZA 45-82

APPLICANT: Kenton & Alma Hupp, 325 South Belmont, Wichita, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the side yard setback from 6 feet to 3 feet.

GENERAL LOCATION: On the west side of Belmont between Lewis and Waterman Streets (325 South Belmont).

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

LAND USE: Subject property is occupied by a one-family dwelling as are most properties nearby.

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 required 6 foot side yard setback in order to enclose an existing porch that is only 3 feet from the south property line. This porch has been on the house since the original construction occurred in the early 1920's.

Although the zoning ordinance will permit an unenclosed porch to project two feet into the required 6 foot side yard, this porch has apparently been in place since prior to the adoption of zoning. It is not uncommon to find other structures in the general area that also do not conform to the present regulations.

The applicant wishes to enclose the porch for additional living space within the dwelling, and feels that it would be a hardship to not be able to use the existing structural parts of the porch. The adjacent dwelling is six feet from the property line so any additions to that structure would not occur adjacent to the applicant's property. The applicant also states that the adjacent property owner to the south is desirous of the enclosure and improvement of the porch.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located in an older residential area where smaller than required side yards exist, and the separation between the two structures will be near the minimum requirement, also the structure has apparently been nonconforming since the adoption of zoning regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the adjacent property owner has indicated concurrence with the request to enclose the existing porch.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be unable to enclose the porch and utilize the existing foundation and structural components to an economical advantage.

PUBLIC INTEREST:

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

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as there would still be 9 feet or more separation between the two adjacent dwellings and the reduction would only be for a distance of 21 feet.

RECOMMENDATION:

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

1. The reduction of the side yard setback from 6 feet to 3 feet adjacent to the south property line shall only be for the enclosure of the existing porch.

BZA CASE NO. 45-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

32 NOTICES SENT TO ADJOINING PROPERTY OWNERS

44 TOTAL NOTICES SENT 11-3-82

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

November 3, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 45-82

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Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required side yard setback from 6 feet to 3 feet on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 34 and 35, Block 6, Merriam Park Place  
Addition, to Wichita, Sedgwick County, Kansas.  
Generally located on the west side of Belmont  
between Lewis and Waterman (325 South Belmont).

This application has been assigned Case No. BZA 45-82. It will be considered by the Board of Zoning Appeals on November 23, 1982 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.

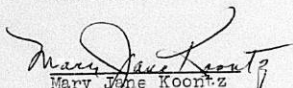
Jack H. Galbraith  
Secretary

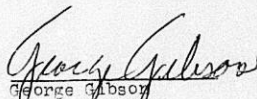
November 1, 1982

Zoning Committee  
Wichita, KS

We, the undersigned, who live immediately south of the Kenton Hupp residence are in full agreement with the Hupp's plans to repair the south enclosed portion of their home. We sincerely hope the zoning committee will permit the Hupps to go ahead and make the necessary improvements.

Sincerely,

  
Mary Jane Koontz  
327 S. Belmont

  
George Gibson  
329 S. Belmont

BOARD OF ZONING APPEALS

CASE NO. **45-82**

CITY OF WICHITA, KANSAS

FILED **10-26-82**

APPLICATION FOR VARIANCE

I. Name of Applicant Kenton + Alma Hupp

Mailing Address 325 S Belmont Phone 684-4792

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 to reduce the required  
side yard setback from 6 feet to  
3 feet adjacent to the south property line *to make an existing pond*  
for property located on the west side of  
Belmont between Lewis & Waterman (325 So. Belmont)

and legally described as: Lots 34 And 35, Block 6,  
in Merriman Park Place, Sedgwick  
County, Kansas

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

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

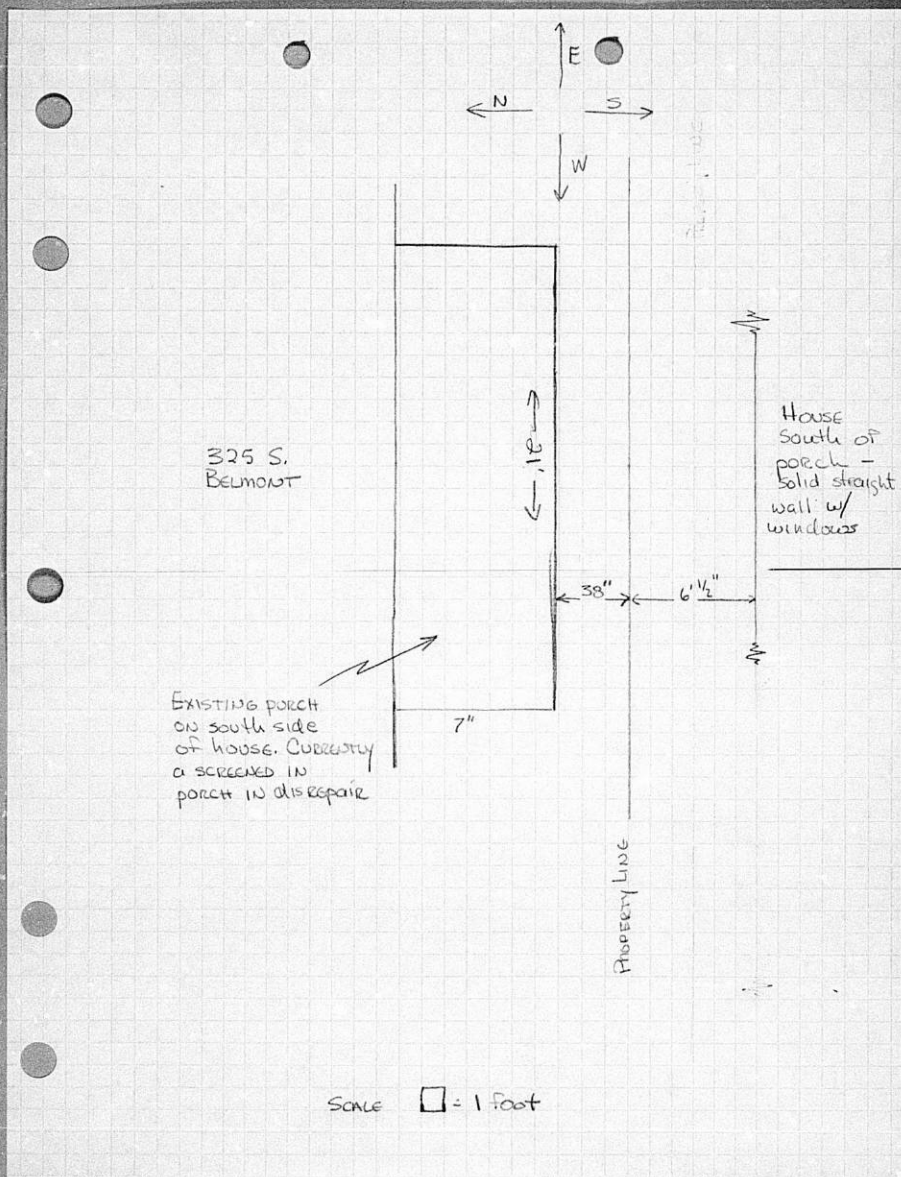
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- c. That 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 Mrs. Kenton Hupp

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:00 (a.m.-p.m.), Oct. 26, 1982 together with appropriate fee of 75.00.

Signed J. Lynn Shinsky



We, Kenton and Alma Hupp, request a variance in order to repair and enclose our existing screened-in porch that is currently in a bad state of disrepair. Presently, it is unusable and an eye-sore to us and our neighbors, who own the adjoining property to the South, Lot #36 and #37. This repair will not only beautify our neighborhood, but will keep the College Hill tradition of taking excellent care of a part of the City's most beautiful architecture.

The uniqueness of the property conditions are that the porch has been a part of the house since it was built in 1923. The adjacent house was built quite some time after ours. It would be a waste not to utilize an existing structure capable of many more years of useful life by repairing and enclosing it for more space that our family needs.

The adjacent property owners are very excited about us fixing up the porch, as they agree it will beautify the area.

If we are not allowed to close in the porch, we would have two alternatives: 1) to leave as is, which probably will reduce our property value as well as our neighbor's, or 2) tear it down completely, therefore, wasting a good and useable foundation and structure and also remove a beautiful piece of architecture from our city.

I don't believe by granting this variance and us walling in our porch that the public health, safety, morals, order, convenience, prosperity, or general welfare will be adversely affected, nor does it oppose the general spirit and intent of Title 28.

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1 & 2	5	Merriman Park Place	✓ Memphis S. Hixson & Janice L. Hixson, 6503 Oneida, 67206
3 & 4	5	"	✓ Roy W. Lawrence II & Cathy J. Lawrence, 308 S. Belmont, 67218
5 & 6	5	"	✓ George A. Drazek & Jane K. Drazek, 312 S. Belmont, 67218
7 & 8	5	"	✓ Jerry W. Denver, 316 S. Belmont, 67218
9 & 10	5	"	✓ Andrew A. Von Feldt & Lucille A. Von Feldt, 426 S. Brookside, 67218
11 & 12	5	"	✓ Rosamond N. Battles, 328 S. Belmont, 67218
13 & 14	5	"	✓ John J. Teubner & Ramona L. Teubner, 332 S. Belmont, 67218
15 & 16	5	"	✓ M. Elizabeth Donnell, 8116 Maple, 67209 AND ✓ Kathleen A. Kirchner, 1940 S. Hillside, 67211 AND ✓ Joan M. Seaton, 105 Rutland, 67206 AND <del>Mary S. Creason, Address Unknown</del> AND Mildred M. Thies, 336 S. Belmont, (Life Estate Reserved) <del>67218</del>
17 & 18	5	"	✓ Louis G. Linn & Nancie L. Linn, 342 S. Belmont, 67218
East 15 ft. of Lots 1 thru 5, & the east 15 ft. of Lot 6 exc. the south 3 ft. thereof	6	"	✓ A. Lee Baylor & Barbara Baylor, 4023 E. Waterman, 67218
Lots 1 thru 5 exc. the east 15 ft. thereof, & the south 3 ft. of the east 15 ft. of Lot 6	6	"	✓ Michael L. Jones & Suzanne M. Jones, 4009 E. Waterman, 67218

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
7 & 8	6	Merriman Park Place	✓ J. William Rieg & Mary Frances Rieg, 310 S. Fountain, 67218
9 & 10	6	"	✓ Paul H. Woods & Wilda C. Woods, 324 S. Fountain, 67218
11 & 12	6	"	✓ Kerry L. Hembree & Barbara L. Hembree, 328 S. Fountain, 67218
13 & 14	6	"	✓ Fred L. Marrs, 332 S. Fountain, 67218
15 & 16	6	"	✓ Juanita G. Laird, 338 S. Fountain, 67218
17 & 18	6	"	✓ Larry L. Reynolds & Susan H. Reynolds, 342 S. Fountain, 67218
22, 23, 24 & 25	6	"	✓ Ancle L. Baylor & Barbara I. Baylor, 4023 E. Waterman, 67218
26 & 27	6	"	✓ Howard E. Utz Jr. & Denise L. Utz, 301 S. Belmont, 67218
28 & 29	6	"	✓ Bryan S. Hay & Cathryn Anne Hay, 307 S. Belmont, 67218
30 & 31	6	"	✓ Anita L. Skach, 311 S. Belmont, 67218
32 & 33	6	"	✓ John W. Rutledge & Mary J. Rutledge, 317 S. Belmont, 67218
34 & 35	6	"	D Kenton L. Hupp & Alma M. Hupp, 325 S. Belmont, 67218
36 & 37	6	"	✓ George H. Gibson, 329 S. Belmont, 67218 AND ✓ Mary J. Koontz, 327 S. Belmont, 67218
38 & 39	6	"	✓ Charles C. Jones & Frances E. Turner, 333 S. Belmont, 67218
40 & 41	6	"	✓ J. Alden Trovillo & Thelma C. Trovillo, 339 S. Belmont, 67218

page 3

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
42 & 43	6	Merriman Park Place	✓ Courtland E. Elliott & Dorothy E. Elliott, 343 S. Belmont, 67218
47, & 48 exc. the east 2 ft.	6	"	✓ Dale Berry Stratman & Kathy Harris Stratman, 4118 E. Lewis, 67218
East 2 ft. of 48, & all of 49 & 50	6	"	✓ David P. Nalley & Merle A. Nalley, 4124 E. Lewis, 67218

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

Lots 34 and 35, Block 6, in Merriman  
Park Place, 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 25th day of October, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Sable*  
Vice-President

Order No. 313803  
GE

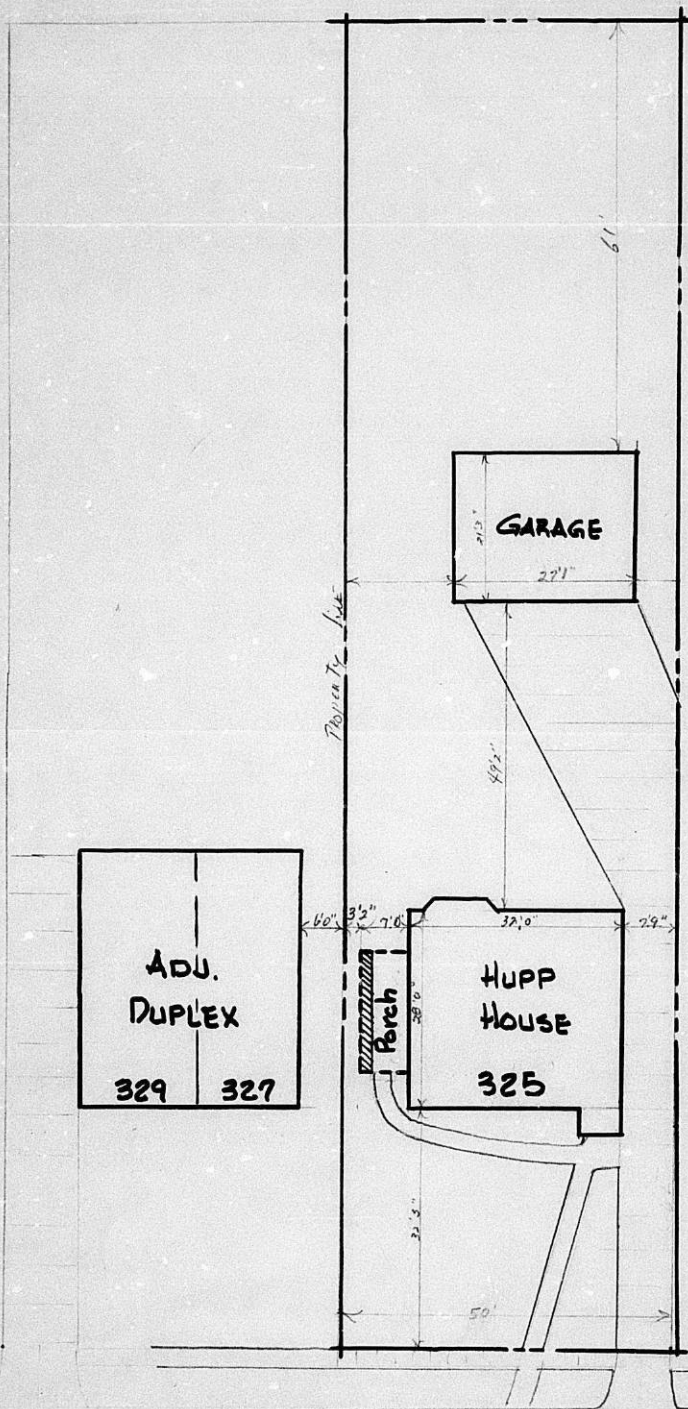
**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 021

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		

DESCRIPTION		AMOUNT
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	



So. BELMONT

BZA 45-82