

BZA 45-88 - Robert Maxwell requests a variance to reduce the rear yard setback from 20 ft. to 12 ft. on property zoned the "AA" One-Family Dwelling District

Postcard 9-28-88
K6

Robert Maxwell
10/25/88
10/25/88
10/25/88

ACTION

B.Z.A. 45-88 Denied 4-1-10/25/88
DATE

DATA SHEET

MAP NO.: 5249C

CASE NO. BZA 45-88

(CPO 5B, 10/19/88)

REQUEST: Variance to reduce the rear yard setback from 20 feet to 12 feet.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: Northeast corner of 15th Street North & McComas (3740 W. 15th).

APPLICANT: Robert Maxwell
 ADDRESS: 4604 Southeast Blvd.
 Wichita, KS 67203

PHONE: 522-1876

AGENT: None.
 ADDRESS:

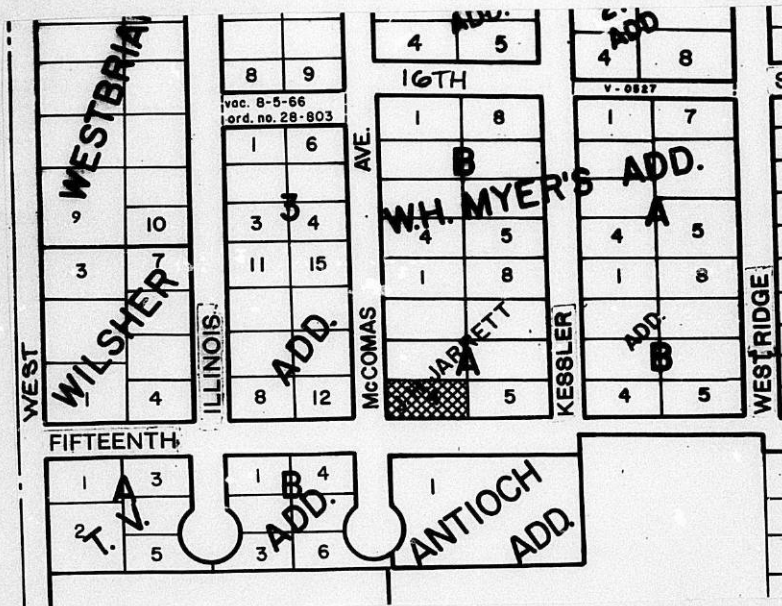
PHONE:

AREA DATA

Acres: 73 ft. by 143 ft.

Adjacent Zoning and Land Use:

North "AA"
 South "AA"
 East "AA"
 West "AA"



LOG ANGLETS-CHICAGO-LOGAN, OH
 MCBECKER, TX-LOCUST GROVE, GA
 U.S.A.

Shill
 No. 2-153C

BZA INSPECTION SHEET

MAP NO.: 5249C

CASE NO. BZA 45-88

REQUEST: Variance to reduce the rear yard setback from 20 feet to 12 feet.

EXISTING ZONING: "AA" One-Family Dwelling District

GENERAL LOCATION: Northeast corner of 15th Street North and McComas (3740 W. 15th).

APPLICANT: Robert Maxwell
ADDRESS: 4604 Southeast Blvd.
Wichita, KS 67203

PHONE: 522-1876

AGENT: None.
ADDRESS:

PHONE:

HEARING DATE: 10/25/88

BZA ACTION:

Deny

FOLLOW-UP DATES:

N.A.

RESPONSE BY MAPD:

RESPONSE BY CID:

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1868
(316) 268-4561

October 31, 1988

Robert Maxwell
4604 Southeast Blvd.
Wichita, KS 67203

Re: BZA 45-88 - Variance to reduce the rear yard setback from 20
to 12 ft. (3740 W. 15th).

Dear Mr. Maxwell:

Enclosed is a signed copy of the above-referenced BZA resolution
adopted by the Board of Zoning Appeals on October 25, 1988. This
resolution reflects the official action of the Board to deny your
request. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be
removed from the property. If you have any questions concerning
this matter, please contact our office.

Sincerely,

Louise Olivarez
Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO/jcm
Enclosure

cc: Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

FILE COPY

BZA RESOLUTION NO. 45-88

WHEREAS, Robert Maxwell, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 20 feet to 12 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 4, Block A, J.H. Jarrett Addition, Sedgwick County, Kansas. Generally located at the northeast corner of 15th St. North and McComas (3740 W. 15th).

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, 1988, 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 any condition which is unique to the property in question, the lot being a 10,000+ sq. ft. rectangular lot, and is created by an action of the property owner inasmuch as this owner built the garage as a detached structure, even though there was sufficient room on the lot to attach the structure and observe the 20-foot rear yard requirement; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance may adversely affect the rights of adjacent property owners or residents inasmuch as an additional roof structure connecting the two buildings may aggravate an existing drainage problem on the north side of the property; 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 property can still be utilized as it was originally intended with a workshop in a detached garage; 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 reduction of the rear yard setback will not interfere with any utility easements or street right-of-way; 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 will still be sufficient setback between the garage and east property line to provide for adequate air, light and circulation; 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 not been found to exist.

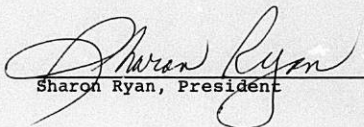
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the rear yard setback from 20 feet to 12 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 4, Block A, J.H. Jarrett Addition, Sedgwick County, Kansas. Generally located at the northeast corner of 15th St. North and McComas (3740 W. 15th).


be denied.

BZA Resolution No. 45-88
Page 2

ADOPTED AT WICHITA, KANSAS, this 25th day of October, 1988.


Sharon Ryan, President

ATTEST:


Jack H. Galbraith, Secretary

THE CITY OF WICHITA

DATE: October 20, 1988

TO: Louise Oliverez, Principal Planner

FROM: Barry L. Carroll, Administrative Aide III *BLC*

SUBJECT: BZA 45-88: NE Corner of 15th St.
North & McComas (3740 W. 15th)

On Wednesday, October 19, 1988, CPO Northwest Neighborhood Council 5B considered the captioned request for a variance to reduce the rear yard setback on the east from 20 feet to 12 feet so that the detached garage can be attached to the main dwelling on property zoned the "AA" One-Family Dwelling District.

Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments. After considerable discussion, the Council voted 6-0 to recommend disapproval of the request.

The applicant, Robert Maxwell, was present to explain the specifics of the request and respond to questions from the members and area residents.

There were eight (8) area residents who spoke in opposition to the request. These citizens expressed concerns about the applicant eventually converting the property to a duplex should the variance be approved.

In voting to recommend denial of the request, the Council did not find the five conditions, as set forth in Title 28, necessary for granting a variance to exist.

Please provide the CPO Council's recommendation to the MAPC and City Council when case BZA 45-88 is considered.

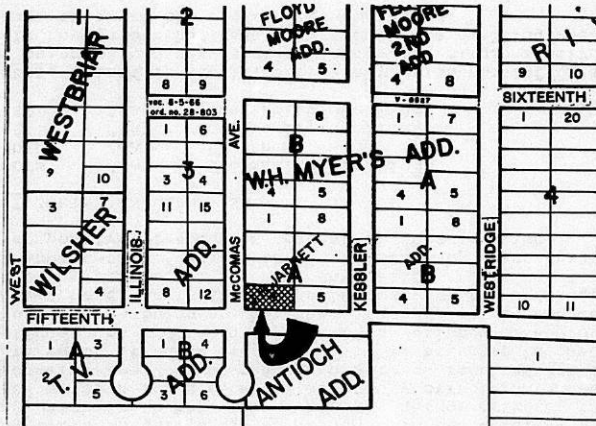
BLC:blc

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
October 25, 1988

SECRETARY'S REPORT

CASE NUMBER: BZA 45-88
OWNER/APPLICANT/AGENT: Robert Maxwell (owner/applicant)
REQUEST: Variance to reduce the rear yard setback (on the east) from 20 ft. to 12 ft.
CURRENT ZONING: "AA" One-Family Dwelling District
SITE SIZE: 72 ft. x 143 ft.
LOCATION: Northeast corner of 15th & McComas (3740 W. 15th)
PROPOSED USE: One structure (garage attached to dwelling)



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 conditions, as required by the State Statutes, are found to exist.

BACKGROUND: The applicant is requesting a reduction of the rear yard (east side) setback requirement from 20 feet to 12 feet so that the existing detached garage can be attached to the existing single-family dwelling which is on this same lot. The garage observes the necessary rear yard setback for a detached accessory structure (5 feet), but cannot observe the 20-foot rear yard setback required for a principal structure which it would become part of if attached to the dwelling. The applicant has indicated that if this variance is approved, he may apply for duplex zoning so that the structure can be remodeled into a duplex when he connects the two buildings. This would require a separate hearing before the Planning Commission and is not part of the current application. Staff has advised the applicant that it would not be supportive of a duplex request at this location.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwelling
SOUTH	"AA"	Church
EAST	"AA"	One-family dwelling
WEST	"AA"	One-family dwelling

UNIQUENESS: Staff is unable to find any uniqueness of this property, the lot being of ordinary size and shape for single-family development. If the garage had been attached to the dwelling when built, it could have observed the required 20-foot yard.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the structure requiring the variance (the garage) already exists and the proposed construction necessary to connect the garage with the dwelling will occur between the two buildings in the center of the lot and will not create structures closer to perimeter lot lines than already exist.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as without the variance, the garage cannot be connected to the house and the applicant has indicated that he has been unable to sell this property as it presently exists.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the reduction of the rear yard setback will not interfere with any utility easements or street right-of-way.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as there will still be sufficient setback between the garage and east property line to provide for adequate air, light and circulation.

BZA 45-88 - Page 3

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 conditions:

1. The east rear yard setback shall be reduced to not less than 12 feet and only for the length of the existing 30.5 ft. x 40.8 ft. structure.

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRENT WOOTEH, P.E.



BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
316/262-7271 • 315 ELLIS • WICHITA, KANSAS 67211

State of Kansas)
) SS
County of Sedgwick)

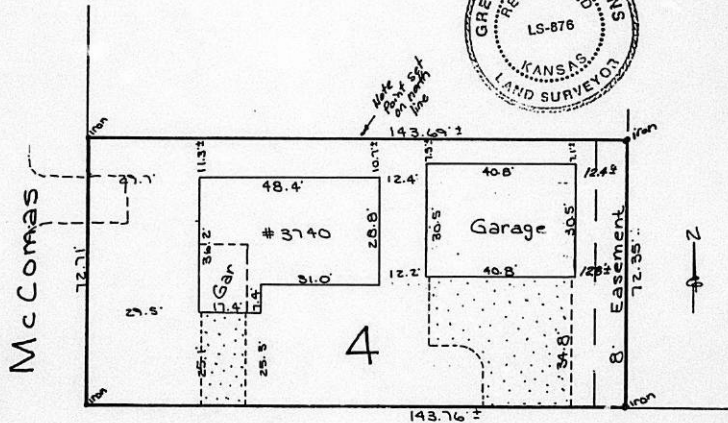
August 24, 1988

We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we did on this 24th day of August, 1988, survey Lot 4, Block A, J. H. Jarrett Addition, Sedgwick County, Kansas.

On said Lot is house No. 3740 with an attached garage and a detached garage which is in the clear of all boundary lines. There are no encroachments on said Lot by buildings on the adjacent lots.

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

William F. Sullivan
Surveyor



15th St. No.

BZA 45-88

() Published in The Daily Reporter, September 30, 1988

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 25th day of October, 1988, the Board of Zoning Appeals of the City of Wichita, Kansas, meeting in the Board Room, First Floor, City Hall, 455 N. Main, Wichita, Kansas, will consider the following applications beginning at 1:30 p.m.

1. Case No. BZA 45-88 - Robert Maxwell, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 20 feet to 12 feet on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lot 4, Block A, J. H. Jarrett Addition, Sedgwick County, Kansas. Generally located at the northeast corner of 15th St. North and McComas (3740 W. 15th).

2. Case No. BZA 46-88 - Quik Trip Corporation, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the establishment of off-street parking on property zoned the "A" Two-Family Dwelling District and legally described as follows:

Lot 19 and Lot 20, Block 1, Academy Park Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the west side of Meridian in an area north of Douglas (119 N. Meridian).

3. Case No. BZA 47-88 - Elliott Werbin, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the sale of used motor vehicles and motorcycles in conjunction with the business of a pawn shop on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 5, Block 1, Spencer Gardens 2nd Addition to Wichita, Sedgwick County, Kansas, except the north 14.81 feet thereof. Generally located on the west side of Oliver in an area south of Pawnee.

4. Case No. BZA 48-88 - Larry & Cynthia Williams, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the front yard setback from 26.5 ft. to 18 ft. on property zoned the "RB" Four-Family Dwelling District and legally described as follows:

Official Notice
Page 2

Lots 10 and 12, Dayton Ave., Glendale
Addition to Wichita, Sedgwick County, Kansas.
Generally located on the south side of
Dayton, in an area east of Seneca (1033 W.
Dayton).

5. Case No. BZA 49-88 - Kevin Daves and Greg Johnson, d/b/a The Core Group, Inc., pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the 25,000 sq. ft. minimum lot size requirement to 21,838 sq. ft. for a motel (bed and breakfast establishment) on property zoned the "BB" Office District and legally described as follows:

The east 100 feet of Lot 2, Block A, Merriman Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Douglas in an area east of Clifton (3751 E. Douglas).

6. Case No. BZA 50-88 - Kevin Daves and Greg Johnson, d/b/a The Core Group, Inc., pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the establishment of a 6.5 ft. tall closed wood screen, rather than a solid masonry wall, as screening for a bed and breakfast establishment on property zoned the "BB" Office District and legally described as follows:

The east 100 feet of Lot 2, Block A, Merriman Park Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Douglas in an area east of Clifton (3751 E. Douglas).

As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions and the variances will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 30th day of September, 1988.

Jack Galbraith, Secretary
Board of Zoning Appeals

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

September 30, 1988

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 45-88

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 Robert Maxwell, requesting a variance.

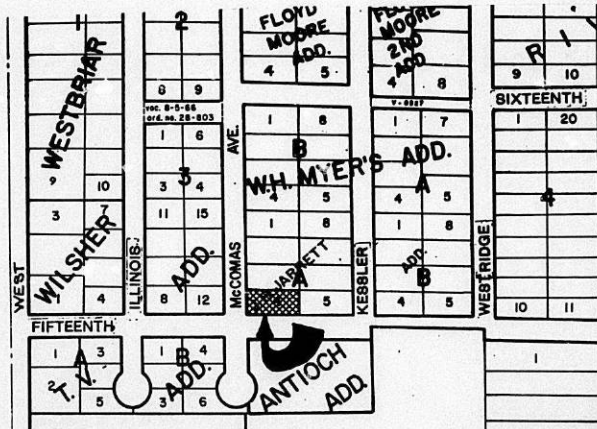
Pursuant to Section 2.12.590.B, Code of the City of Wichita, the applicant is requesting a variance to reduce the rear yard setback on the east from 20 feet to 12 feet so that the detached garage can be attached to the main dwelling on property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

Lot 4, Block A, J. H. Jarrett Addition,
Sedgwick County, Kansas. Generally located
at the northeast corner of 15th St. North and
McComas (3740 W. 15th).

This application has been assigned Case No. BZA 45-88. It will be considered by the Board of Zoning Appeals on Tuesday, October 25, 1988 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main, Wichita, Kansas. If you have no interest in or objections to 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Northwest Neighborhood Council "5B" will consider this case at their meeting to be held on Wednesday, October 19, 1988, at 7:15 p.m. at the Orchard Community Center, 4808 West 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



BZA CASE NO. 45-88

- 15 LEGAL ADVERTISEMENTS SENT TO MAPC & BZA
- 1 NOTICES SENT TO APPLICANT/AGENT
- 18 NOTICES SENT TO ADJOINING PROPERTY OWNERS
- 5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 9-30-88

- 1 NOTICE SENT TO CPO
- 2 NOTICES SENT TO CITY MANAGER & CITY COUNCIL REPRESENTATIVE TO DISTRICT
- 5 NOTICES TO MAPD STAFF -

Jack Galbraith
Louise Olivarez
Bob Young
Forrest Nagley
Karen Crook

TO: Board of Zoning Appeals
FROM: Robert Maxwell
SUBJECT: 3740 West 15th, Wichita, KS

STATEMENT JUSTIFYING THE VARIANCE REQUESTED:

1. An unusual situation exists in that, on this corner lot, there is a house with attached garage plus a 1200 Sq. Ft. detached garage. By connecting the house and detached garage, this property could be converted into a duplex. The residential flavor of the area would more likely be preserved with a duplex rather than with a house and large detached storage space.
2. There would be no change to the rights of adjacent property owners. Ample off street parking for a two-family residence is already in existence.
3. I am the property owner and will state that the granting of this variance will not create a hardship for me. The variance will resolve the hardship of owning a property that, all of which, cannot be utilized; i.e. the detached garage.
4. The variance requested would not adversely affect public health, safety, morals, order, convenience, prosperity, or general welfare. It could, in fact, have a positive affect by eliminating the large garage, the use of which could be open to the imagination of a renter.
5. General comments from prospective renters and others in the neighborhood have indicated that they think the detached garage is a residence. Connecting the two buildings would not be a dramatic change.

TO: Board of Zoning Appeals

FROM: Robert Maxwell

SUBJECT: 3740 West 15th, Wichita, KS

STATEMENT JUSTIFYING THE VARIANCE REQUESTED:

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5. General comments from prospective renters and others in the neighborhood have indicated that they think the detached garage is a residence. Connecting the two buildings would not be a dramatic change.

October 25th mtg.

APPLICATION FOR VARIANCE

I. Applicant Robert Maxwell
 Address 3740 W. 15th Zip Code 67203 Phone 522-1876
 Agent 4604 S.E. Blvd
 Address _____ Zip Code _____ Phone _____
 Relationship of applicant to property is that of _____
 (Owner, Tenant, Lessee, Other)

II. The variance requested is a reduction of the rear yard
setback from 30 feet to 12 feet.

on property zoned AA which is
73 ft by 143 ft (or _____ acres) in size, legally described as:
Lot 4 block A, J. H. Jarrett Addition,
Sedgewick County, Kansas.
(3740 W. 15th)

and located at the northeast corner of 15th Street North
and McComas
 in the City of Wichita.

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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. 39-285); and that the appropriate fee is herewith tendered;
 - That he has been advised of his right to bring action in the District Court of Sedgewick County to appeal the decision of the Board.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Robert Maxwell

Authorized Agent _____

OFFICE USE ONLY:

Map No. 5249C Zoning: (N) AA (S) AA (E) AA (W) AA CPO 5B

Received in Office of Secretary, Board of Zoning Appeals, _____ (a.m./p.m.),
9/19, 1988, together with appropriate fee of \$203.

Signed Robert L. Young

OWNERSHIP LIST

Lot	Block	Addition	Owner
1	A	J.H. Jarrett Addition, Sedgwick County, Kansas	James J. Lange Evelyn H. Lange 1628 N. Mc Comas Wichita, Kansas 67203
2	A	"	Michael J. Dobbins Patricia A. Dobbins 1618 N. Mc Comas Wichita, Kansas 67203
3	A	"	Nancy Lu Mc Master Sue Ann Denny 1610 N. Mc Comas 67203
4	A	"	Robert J. Maxwell Betty J. Maxwell 4604 SE Blvd. ^{dup} SE. 5. Wichita, Kansas 67210
5	A	"	Ernest E. Speck Hilda L. Speck 1601 N. Kessler Wichita, Kansas 67203
6	A	"	Lennis Lee Veges Margaret Jenny Veges 1611 N. Kessler Wichita, Kansas 67203
7	A	"	William Scott Donaghey Hattie M. Donaghey 1619 N. Kessler Wichita, Kansas 67203
8	A	"	Fred Shepherd Mara J. Shepherd 1627 N. Kessler Wichita, Kansas 67203
8		Wilsher Addition to Wichita, Kansas	Merle Bernard Hinkle Carol Ann Hinkle 1602 N. Illinois Wichita, Kansas 67203
9		"	Timothy R. Cain Mela Dee Cain 1606 N. Illinois Wichita, Kansas 67203
10		"	Gerald W. Hemphill Bertha C. Hemphill 1610 N. Illinois Wichita, Kansas 67203

Lot	Block	Addition	Owner
12		Wilsher Addition to Wichita, Kansas	Will G. Adams Patricia J. Adams 3800 W. 15th St. N. Wichita, Kansas 67203
13		"	Frank J. Williams Jean E. Williams 1605 N. Mc Comas Wichita, Kansas 67203
14		"	Wilber E. Palmer Opal B. Palmer 1609 N. Mc Comas Wichita, Kansas 67203
15		"	John R. Lembke Judith A. Lembke 1613 N. Mc Comas Wichita, Kansas 67203
1		Antioch Addition, Wichita, Sedgwick County, Kansas	Antioch Christian Church 3741 W. 15th St. N. Wichita, Kansas 67203
1 & North ½ of 2	B	TV Addition to Wichita, Sedgwick County, Kansas	Mildred Cronk 1550 N. Illinois Wichita, Kansas 67203
4 & North ½ of 5	B	"	Ronald D. Baker Wanda A. Baker 3801 W. 15th St. N. Wichita, Kansas 67203
South ½ of 5 and all of 6	B	"	William E. Johnson Betty L. Johnson 1501 N. Illinois Wichita, Kansas 67203

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

Lot 4, Block A, J.H. Jarrett Addition,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 8th day of September, 1988, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Mary Gable*
Sr. Vice-President

№ 00331

METROPOLITAN AREA PLANNING DEPARTMENT

Description REQUEST FOR VARIANCE

Name ROBERT MAXWELL

Address 4604 SE. BLVD. WICHITA KS. 67203

Fund No. (circle one) 755-40710-003 (fees) 755-40710-004
(books, xerox) 755-40710-026 (microfilm)

Amount 11203⁰⁰

Date 7/14/88 Due Date 9/19/88 By [Signature]

Form 00-000