

Case No. BZA 3-82 - Michael T. Schmitt - requests a variance to reduce the front yard setback from 25' to 21' on property zoned "AA" One-family Dwelling District and generally located on the northwest corner of Marion Road and

*Posted
2-3-82*

ACTION

DATE 2-18-82

COMMITTEE APPROVED

M.A.P.C. _____

B.C.C./B. CO. C. _____

*72A
2/19/82*

5440

*200' 4 Sec. 3-2-82
Checked 3-10-82
Shok 3-16
Recorded 3-19*

February 24, 1982

Michael T. Schmitt
1748 Marion Road
Wichita, Kansas

Re: Case No. REA 3-82
Request for Variance

Dear Mr. Schmitt:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 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 Feldner, Superintendent of Central Inspection (2)
Don Giesick, City Clerk

RESOLUTION NO. BZA 3-82

WHEREAS, Michael T. Schmitt, 1748 Marion Road, 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 feet to 21 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 9, Block 2, Don Dinning Addition to Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Marion Road & Kansas (1748 Marion Road).

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 February 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 on a corner with a large radius curve, and the house was located on the lot in such a manner that any addition to the west would have to be offset to maintain a 25 foot setback. Also the distance to the house to the west is also a much larger distance than the required minimum; 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 remaining distance between structures after the addition is in place will be approximately 3 times the minimum requirement; 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 any addition to the house on the west would be required to be offset from the front of the house if it were to comply with the 25 foot front yard requirement; 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 easements or public 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 the regulation is to provide protection to adjacent properties, and in this case the remaining separation between adjoining structures will more than provide this protection; 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 feet to 21 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 9, Block 2, Don Dinning Addition to Wichita,
Sedgwick County, Kansas. Generally located on
the northwest corner of Marion Road & Kansas
(1748 Marion Road).

be approved subject to the following condition:

1. The variance shall reduce the 25 foot front yard setback only for the addition as shown by the site plan submitted with the application and dated January 20, 1982.

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


William J. Goebel, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE February 22, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Robert Tillman, Administrative Aide III

SUBJECT BZA 3-82: Generally located on the Northeast Corner of Marion Road and Kansas (1748 Marion Road)

On Thursday, February 18th, CPO Council 'D' considered the captioned case and voted 8-0 to recommend approval of the variance request to reduce the front yard setback from 25' to 21' on property zoned the "AA", One Family Dwelling District.

The applicant and the adjacent property owner were present to speak in support of the request for a variance. The adjacent property owner said that the request would not adversely affect his property.

Please provide the Council's recommendation to the Board of Zoning Appeals when this case is considered at their February 23rd meeting.

Robert Tillman

Robert Tillman
Administrative Aide III

RT:dm

Noted:

Sarah Gilbert/sm
Sarah Gilbert
CP Coordinator

RECEIVED

FEB 22 1982

METROPOLITAN PLANNING
ROUTE *Lytle*

SECRETARY'S REPORT
CASE NO. BZA 3-82

APPLICANT: Michael T. Schmitt, 1748 Marion Road, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the front yard setback from 25 feet to 21 feet.

GENERAL LOCATION: On the northwest corner of Marion Road and Kansas.

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

LAND USE: Subject property is occupied by One-family Dwelling 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 required front yard setback of 25 feet to be reduced to 21 feet so that an addition may be added in the same plane with the front of the house. The applicant indicates an addition to the west that will extend into the required 25 foot setback approximately 3.5 feet.

It should be noted that the house is located on a corner lot that has a large radius curve. The house was placed on the lot in such a manner that in order to add to the west, an offset would be required to comply with the 25 foot front yard setback.

In addition to the unique orientation of the existing structure, the distance separation from the adjacent property to the west also is a much greater distance than most adjacent houses in this neighborhood. Once the addition is constructed at least 35 feet will remain between structures.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property is located on a corner with a large radius curve and the house is faced toward the corner. This leaves additional open space on the property that is not usually found in such a neighborhood.

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 remaining distance between structures after the addition is in place will be approximately 3 times the minimum requirement. This will more than offset the variance of the four feet requested.

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 any addition to the house on the west would be required to be offset from the front of the house if it were to comply with the 25 foot front yard requirement.

PUBLIC INTEREST:

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

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 regulation is to provide protection to adjacent properties, and in this case the remaining separation between adjoining structures will more than provide this protection.

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 variance shall reduce the 25 foot front yard setback only for the addition as shown by the site plan submitted with the application and dated January 20, 1982.

1748 Marion Road
Wichita, Kansas 67216
February 3, 1982

Board of Zoning Appeals
455 North Main
Wichita, Kansas 67202

Re: Variance of front yard setback
1748 Marion Road

Gentlemen:

We are requesting a variance of the required 25 foot front yard setback to 21 feet for the above referenced property. This will allow an addition to our existing home as shown on the application exhibits.

We feel the variance is a reasonable request as it arises from such conditions which are unique to the property. Due to the configuration of our lot, and the location of the existing home on the lot, the 25 foot setback severely restricts the buildable area of the lot. The positioning of our existing home is not in a direct relationship to neighboring front yards and there is more than ample separation from neighboring houses, (32 feet minimum).

I have discussed the addition as shown on the exhibit, as well as the need for a variance, with my neighbor at 1742 Marion Road, Mrs. Rosalyn Anthony Williams. Her signature below indicates her approval of our plans.

Mrs. Rosalyn Anthony Williams

Mrs. Rosalyn Anthony Williams

Respectfully submitted,

Michael T. Schmitt
Michael T. Schmitt

Mary Ann Schmitt
Mary Ann Schmitt

RECEIVED

FEB 4 1982

METROPOLITAN PLANNING

ROUTE

BZA CASE NO. 3-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

23 NOTICES SENT TO ADJOINING PROPERTY OWNERS

35 TOTAL NOTICES SENT 2-3-82

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 3-82
FILED 1-25-82

APPLICATION FOR VARIANCE

I. Name of Applicant MICHAEL T. SCHMITT
Mailing Address 1748 MARION RD. Phone 263-4779
Name of Authorized Agent N/A
Mailing Address N/A Phone N/A
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the front yard setback from 25 feet to 21 feet

on the northwest corner of Marion Road & Kansas
for property located (1748 MARION ROAD) WICHITA, KS.

and legally described as: LOT 9, BLOCK 2, DON QUINNING
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 Michael T. Schmitt

Authorized Agent N/A

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:00 ~~4:00~~ p.m., JAN 25, 1982 together with appropriate fee of 75.00

Signed L. Lytle

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	1	Don Dinning Addition	✓ Joseph C. Findley & Doneva E. Findley, 1736 Scott, 67216
5	2	"	✓ Marvin J. Reynolds & Helen Reynolds, 529 S. Belmont, 67218
6	2	"	✓ Leona E. Scott, 1731 Scott, 67216 AND Sharon Lee Fincher, 3373 S. Oak St., 67217
7	2	"	✓ Alfred R. Polczynski & Lucille L. Polczynski, 1737 Scott, 67216
8	2	"	✓ James D. Botz & Shirley Ann Botz, 1741 Scott, 67216
9	2	"	Ⓟ Michael T. Schmitt, 1748 Marion Rd., 67216
10	2	"	✓ Rosalyn E. Anthony, 1742 Marion Rd., 67216
11	2	"	✓ Joseph W. Lill & Euna May Lill, 1738 Marion Rd., 67216
12	2	"	✓ Clarence D. Hawk & Dorothy Hawk, 1732 Marion Rd., 67216
13	2	"	Claude N. Morris (Deceased) & ✓ LaFon Morris, 1726 Marion Rd., 67216
4 & 5	3	"	Mattilda K. Denton (Deceased)
6 & 7	3	"	Hubert D. Conyac (Deceased) & ✓ Bertha Conyac, 404 W. Pawnee, Apt. 121, 67213
8 & 9	3	"	✓ Bobby R. Crawford & Ruth F. Crawford, 2574 S. Kansas, 67216
10	3	"	✓ Frederick Kuhlmann & Betty Jo Kuhlmann, 2580 S. Kansas, 67216
11	3	"	✓ Geraldine E. Lane & James L. Lane, 1759 Marion Rd., 67216
12	3	"	✓ Administrator of Veteran's Affairs, 5500 E. Kellogg, 67218

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
13	3	Don Dinning Addition	✓ Donald Lee Jacobs & Zenaida Ramirez Jacobs, 1747 Marion Rd., 67216
14	3	"	✓ Theo J. Dankert, 1948 S. Volutsia, 67211
15	3	"	✓ Ralph B. Clark, 1737 Marion Rd., 67216
16	3	"	✓ Loren Fredrick Cook & Maxine Cook, 3140 S. Custer, 67217
17	3	"	✓ Walter V. Hays & Thelma N. Hays, 1725 Marion Rd., 67216
West 30 ft. of 1 and the east ½ of vacated street adj.	2	Classen Parked Addition	✓ George Truman Jewell & Joan Marie Jewell, <u>Address</u> Unknown 5512 E. 3 rd 67208 <i>Returned 2-8-82</i>
1 exc. the west 30 ft. & all of 2	2	"	✓ Nancy E. Dester, 2608 Classen, 67216
West 55 ft. of 3	2	"	✓ Audrey J. Henning, 2614 Classen, 67216

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 9, Block 2, Don Dinning 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 15th day of January, 1982,
at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Vice-President

Order No. 306075
GE

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 29-1 PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
<i>5-500 Hse</i>	<i>75.00</i>

NAME *Michael T. Scott*

ADDRESS *41 Main St.*

FUND *4671-10* DUE DATE

COMMENTS

DATE *2-25-78* BY *J. L. Smith*

WICHITA - SEDGWICK COUNTY

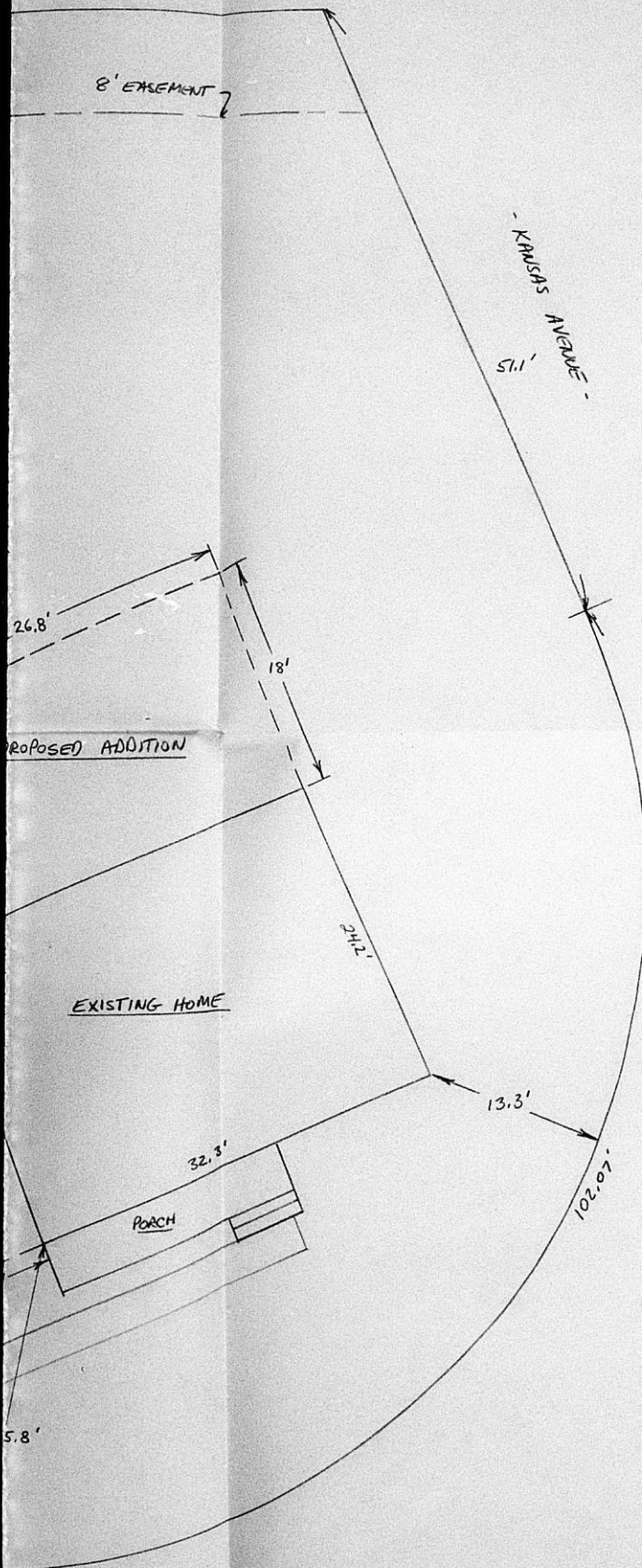


BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

*Return
to sender*

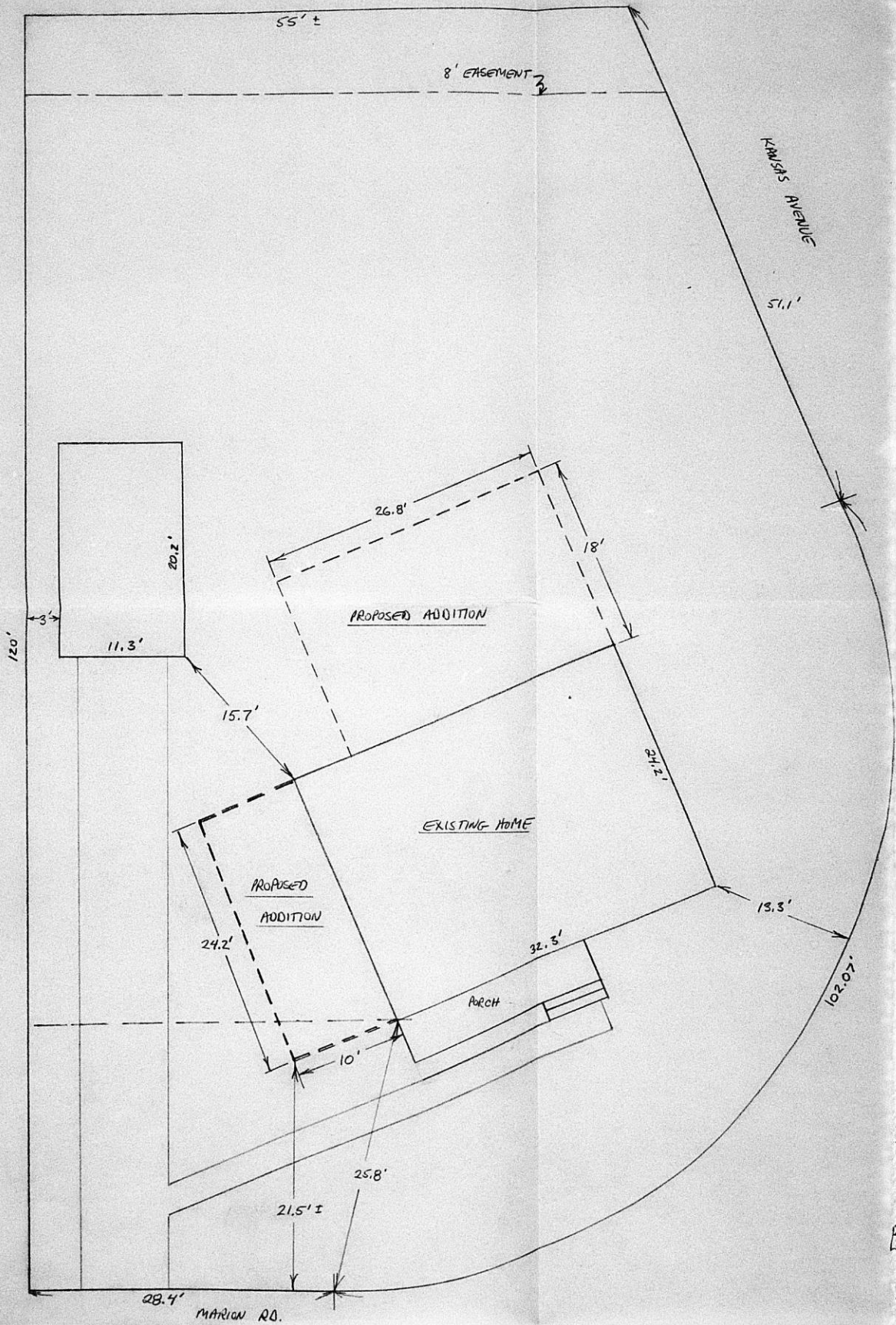
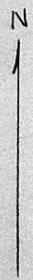


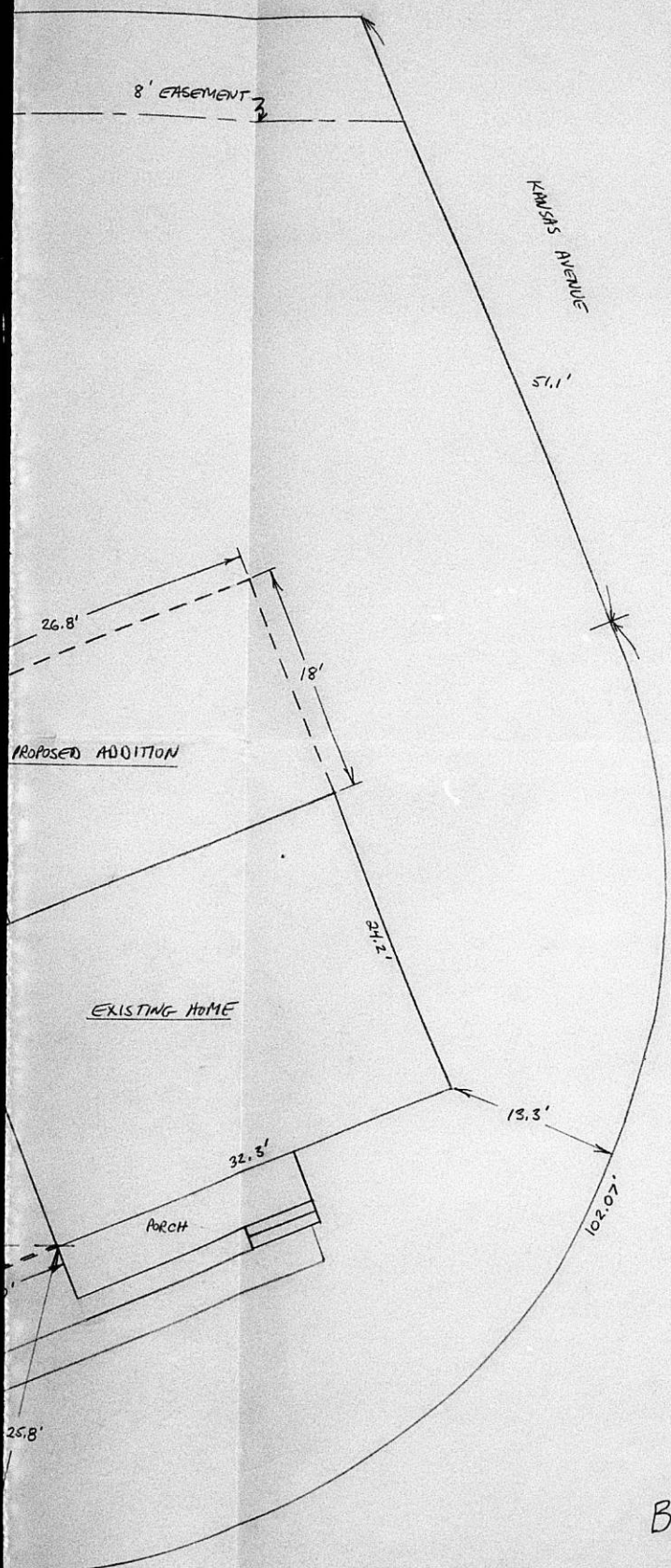
George L. & Joan M. Jewell
5512 East 3rd
Wichita, Kansas 67208



LOT 9, BLOCK 2,
DON DINNING ADDITION
1748 MARION RD.

DRAWN BY: *Michael J. Smith* 1-20-82





LOT 9, BLOCK 2,
DON DINNING ADDITION
1748 MARION RD.

DRAWN
BY: *Michael A. Klunoff* 1-20-82

BZA 3-82