

ACTION

BZA COMMITTEE Denied DATE 4-24-73

M.A.P.C. _____

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

BZA 5-73 James J. McKee requests
variance to build a garage on the
SS of 13th in an area W of the
Arkansas River

POSTED
4-10-73
[Signature]

ACTION

	DATE
BZA COMMITTEE <u>Denied</u>	<u>4.24.73</u>
M.A.P.C. _____	_____
B.C.C./B. CO. C. _____	_____

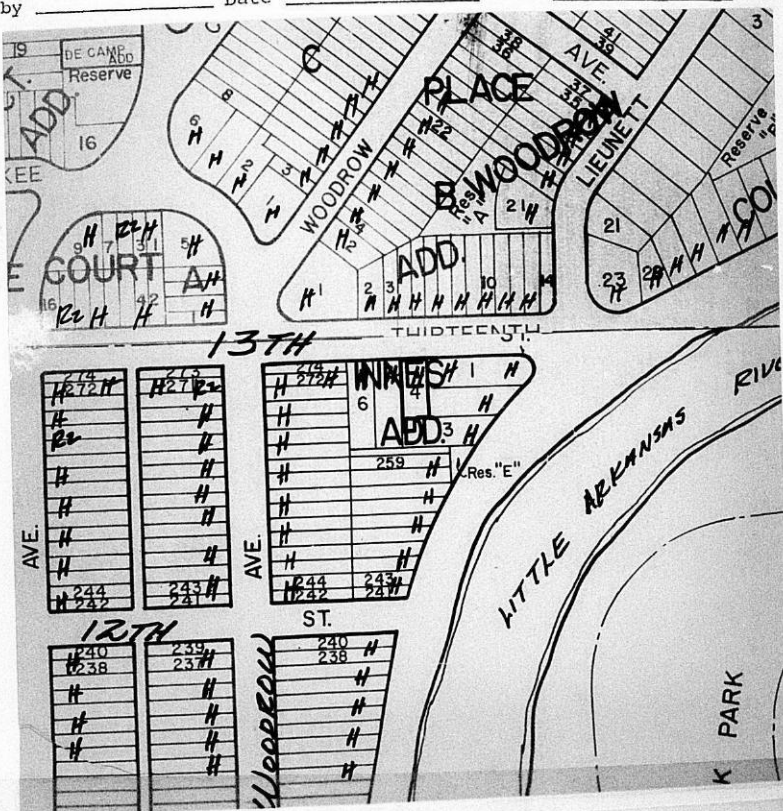
BZA 5-73 James J. McKee requests
variance to build a garage on the
SS of 13th in an area W of the
Arkansas River.

Map No. 5348
 Sec. 18
 Twp. 27
 Range 1E

BZA- 5-73
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.1 (50 ft. by 100 ft.)
 2. Adjoining Zoning: E A S A W A N A
 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 is for: _____
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



May 22, 1973

Mr. James J. McKee
1615 West 13th Street
Wichita, Kansas 67203

Subject: Case No. BZA 5-73 - Request for Variance

Dear Mr. McKee:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 24, 1973, in connection with your request to reduce the required rear yard setback adjacent to the South property line from 5 feet to 0 feet and to reduce the required side yard setbacks adjacent to the East and West property lines from 3 feet to 0 feet, on property zoned the "A" Two Family Dwelling District, and generally located on the South side of 13th Street in an area West of the Arkansas River.

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 our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:rv
enclosure

cc: Marion W. Ewing, 1333 N. River Blvd. 67203
Robert Feldner, Supt. of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 5-73

WHEREAS, James J. McKee, 1615 West 13th Street, Wichita, Kansas, 67203, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback adjacent to the South property line from 5 feet to 0 feet and to reduce the required side yard setbacks adjacent to the East and West property lines from 3 feet to 0 feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lot 4, Innes Addition to Wichita, Sedgwick County, Kansas. Generally located on the South side of 13th Street in an area West of the Arkansas River.

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 April 24, 1973, 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 requested 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 inasmuch as the applicant has adequate area on which to construct a two-car garage; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance requested will adversely affect the rights of adjacent property owners or residents inasmuch as it would be impossible to construct and maintain the exterior of the proposed garage without being on the properties of adjacent owners; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 of which variance is requested, will not constitute unnecessary hardship upon the applicant inasmuch as there is sufficient area to construct a two-car garage by merely reducing the width of the proposed structure; 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 inasmuch as the variance request is interiorly located; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the desired variance will be opposed to the general spirit and intent of Title 28 inasmuch as the intent of accessory structure setbacks is to provide an area for maintenance and a separation between buildings on adjacent properties; and

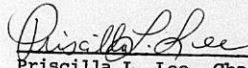
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have not been found to exist.

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 rear yard setback adjacent to the South property line from 5 feet to 0 feet and to reduce the required side yard setbacks adjacent to the East and West property lines from 3 feet to 0 feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

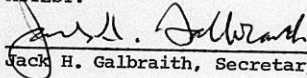
Lot 4, Innes Addition to Wichita, Sedgwick County, Kansas. Generally located on the South side of 13th Street in an area West of the Arkansas River.

be denied.

ADOPTED AT WICHITA, KANSAS, this 24th day of April, 1973.


Priscilla L. Lee, Chairman

ATTEST:


Jack H. Galbraith, Secretary

April 25, 1973

Mr. James J. McKee
1615 West 13th Street
Wichita, Kansas 67203

Subject: Case No. BZA 5-73 - Request for Variance

Dear Mr. McKee:

At the regular meeting of the Board of Zoning Appeals on April 24, 1973, your request for a variance to reduce the required rear yard setback adjacent to the South property line from 5 feet to 0 feet and to reduce the required side yard setbacks adjacent to the East and West property lines from 3 feet to 0 feet, on property zoned the "A" Two Family Dwelling District, and generally located on the South side of 13th Street in an area West of the Arkansas River was considered.

It was the action of the Board to deny this 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,

Jack H. Galbraith
Secretary

JHG:rv

cc: Marion W. Ewing, 1333 N. River Blvd. 67203
Robert Feldner, Supt of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

SECRETARY'S REPORT
CASE NO. BZA 5-73

APPLICANT: James J. McKee, 1615 West 13th Street, Wichita, Kansas, 67203

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback adjacent to the south property line from 5 feet to 0 feet for the west 25 feet and to reduce the required side yard setbacks adjacent to the east and west property lines from 3 feet to 0 feet for the south 25 feet of said property lines.

LOCATION: The property is generally located on the south side of 13th Street in an area west of the Arkansas River.

ZONING: Subject property is zoned the "A" Two Family Dwelling District, as are all surrounding properties.

LAND USE: Subject property contains a single family home, as do 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. 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).

COMMENTS BY THE SECRETARY:

The property for which the variance has been requested was platted in an irregular shape. The southern portion of the lot is only 25 feet by 25 feet, while the northern portion is 100 feet by 50 feet. The applicant wishes to construct a two-car garage on the rear 25' by 25' of the property. An accessory structure, however, is required to set back three feet from an interior side lot line (when it is located more than one-half of the depth of the lot behind the front property line) and to be five feet from any rear property line. By observing the required setbacks, the applicant would only be able to construct a garage 20' by 19' on this area of his property, and he points out in his statement of justification that, for all practical purposes, this would make the area required for setbacks useless as yard and difficult to maintain properly. He has therefore requested that the setbacks for both side and rear yards be reduced to 0 feet for this part of the property. It should be noted that the building code requires a one hour firewall to be constructed adjacent to a side or rear lot line when the building setback is less than 3 feet. The code further provides that the walls shall be void of any openings.

The applicant further points out that the portion of the existing driveway adjacent to the house is not wide enough to be utilized for parking purposes. Since no on-street parking is permitted adjacent to 13th street in this area, he found it necessary to construct a circle drive; and he wishes to provide additional off-street parking for his family and guests by removing the existing garage and extending the driveway through this area, using the additional driveway space thus obtained for parking.

Uniqueness:

It is the opinion of the Secretary that uniqueness is difficult to find to justify a complete waiver of both side and rear yards; however, it is felt that the shape and dimensions of the applicant's property is unique and was not created by any action on the part of the property owner.

Adjacent Property:

It is the opinion of the Secretary that the granting of the requested variance may have an adverse affect on adjacent property owners, as it would be impossible to construct and maintain the

exterior of the garage without being on the properties of adjacent owners. Also, usually any structure has roof overhangs, and if the full dimensions are utilized for a garage, care should be taken so that eaves do not project over adjacent ownerships.

Hardship:

In the opinion of the Secretary, failure to grant the variance will constitute undue hardship for the applicant because he will be deprived of the convenience of using the driveway for parking purposes and of adequate shelter for his cars.

Public Interest:

It is the opinion of the Secretary that granting this variance will have no adverse affect upon the general welfare of the public due to the fact that the portion of the lot for which it is requested is interiorly located, and it will allow the applicant to provide more off-street parking.

Spirit and Intent:

It is the opinion of the Secretary that it is difficult to find that this total waiver will not be opposed to the spirit and intent of the zoning ordinance as the intent of accessory structure setbacks is to provide an area for maintenance and a separation between buildings on adjacent properties.

RECOMMENDATION:

It is the opinion of the Secretary that it is difficult to justify all of the five conditions necessary before this request can be granted; however, should the Board find that all five conditions exist, it is recommended that the variance be granted for only that area requested.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

April 13, 1973

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 5-73

An application has been filed by James J. McKee, 1615 West 13th Street, Wichita, Kansas, 67203, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required rear yard setback adjacent to the South property line from 5 feet to 0 feet and to reduce the required side yard setbacks adjacent to the East and West property lines from 3 feet to 0 feet, on property zoned the "A" Two Family Dwelling District, and legally described as follows:

Lot 4, Innes Addition to Wichita, Sedgwick County, Kansas.
Generally located on the South side of 13th Street in an
area West of the Arkansas River.

This application has been assigned Case No. BZA 5-73, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 24, 1973, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

26 notices sent to Property Owners 4.13.73
8 notices to Planning Comms 4.13.73

BOARD OF ZONING APPEALS

CASE NO. S-73

CITY OF WICHITA, KANSAS

FILED 3.22.73

5348

APPLICATION FOR VARIANCE

I. Name of Applicant James J. McKee

Mailing Address 1615 W. 13th St. Wichita, Ks. Phone 263-6778 67203

Name of Authorized Agent None

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 rear yard setback for the purpose of building a garage, as adjacent to the south property line from 5 feet to 0 feet per diagram and to reduce the required side yard setbacks adjacent to the east and west property lines from 3 feet to 0 feet

for property located 1615 West 13th Street Wichita, Kansas 67203

SS of 13th in an area West of North River Blvd
and legally described as: Lot 4, Innes Addition, Sedgewick County, City of Wichita, Ks.

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

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 Sedgewick 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.

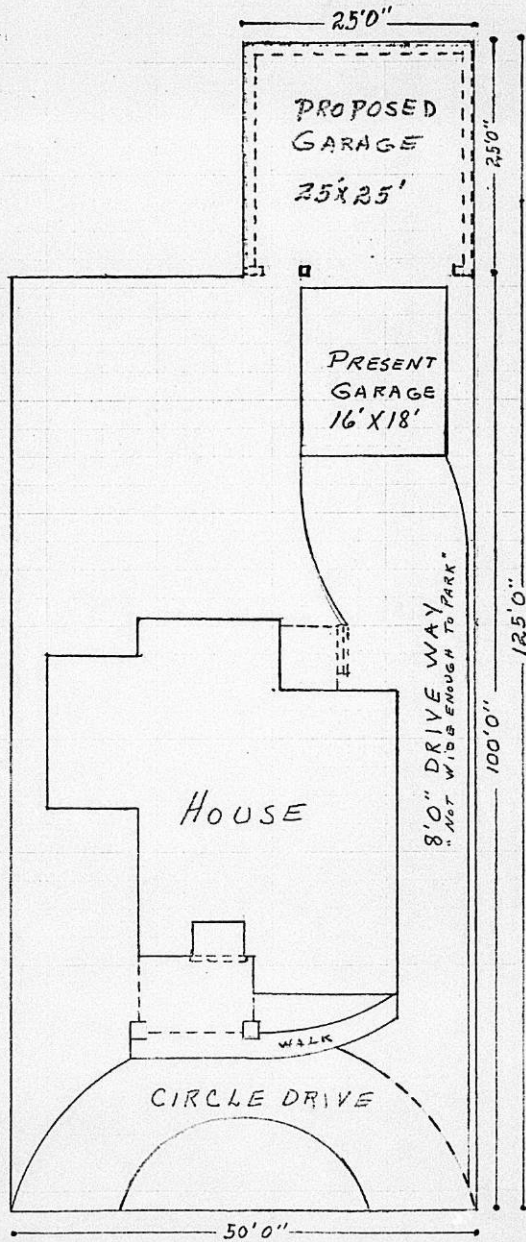
James J. McKee
Applicant James J. McKee

None
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:00 (~~am~~ - p.m.), March 22 19 73 together with appropriate fee of \$50.00.

T9-402

Martha M. Murray
Signed



LOT 4 INNES ADDITION
1615 W. 13th STREET

1615 West 13th Street
Wichita, Kansas
March 22, 1973

Board of Zoning Appeals
City of Wichita
124 South Main Street
Wichita, Kansas 67201

Re: Property located at:
1615 West 13th Street
Wichita, Kansas

Attn: Jack H. Galbraith, Secretary

Attached is my application for variance, along with a list of property ownership within 200 feet of the above property, certified by Security Abstract and Title Company. Also attached is a sketch in duplicate, showing present arrangement and proposed changes.

As the attached sketch shows, we are proposing to build a double-car garage on the back 25' X 25' corner of our property, and we are applying for a variance to Section 2.12.590.B Code of the City of Wichita for the purpose of building a structure 25' X 25'. By using this for a garage and storage, we would have 50' X 100' left for parking, yard and home.

In complying with Section 2.12.590, Paragraph B, VARIANCES, we set forth the following:

1. This variance is requested because of the unique shape of Lot 4 (see sketch), not generally found in residential areas where the entire lot is only 5,625 square feet to be used for a house, garage and off-street parking, which is a must. This situation has not been created by the owner, but the no-parking on West 13th Street was created due to changing of traffic patterns and times.
2. The granting of this request should in no way adversely affect the right of any adjacent property owner, because it is all inside the property, with no ingress or egress relative to adjacent property.
3. Unless this application is approved, it will continue to be a hardship on us as property owners, because we cannot park in the driveway due to the narrow width, and at present, we can only park 4 cars, and have to continually borrow space from the neighbors. With this new garage, we should be able to park two more cars. The present garage is not wide enough for 2 cars, or long enough for one. We live in constant fear of hail; one car must have ice scraped all winter long. We would like very much to house both cars in a garage.
4. Due to the fact that this variance is internally located, it will not adversely affect the general welfare of the public, nor its health, safety, morals, order, convenience or prosperity. The convenience will be to the property owner of Lot 4, allowing us to build a double-car garage with storage, but in no way impairing the rights of others.
5. We do not feel the granting of this variance will be opposed to the general spirit and intent of Title 28 (zoning ordinance).

March 22, 1973

Page 2

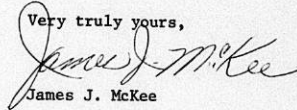
Board of Zoning Appeals

Re: 1615 West 13th Street

We maintain this property in the highest possible degree of home ownership pride, and seek to make every square foot as usable as possible, without encroachment on others. Since there is no parking permitted on West 13th Street, we found it necessary to build a circle drive for off-street parking, at a cost of \$1,009.00. Due to the shape of this lot, any portion of the 25' X 25' that was left would, for all practical purposes, be useless and difficult to maintain properly.

It is for the reasons set forth above that we ask you to approve this variance.

Very truly yours,



James J. McKee

JJM:mg
Attmts.

O W N E R S H I P L I S T

Lot	Block	Addition	Property Owner
11	on Parker	Woodrow Court Addition	✓ John Terry Moore 712 Litchfield Wichita, Kansas 67203
12	Same	Same	Same
13	Same	Same	✓ James A. Curry Nancy Curry 831 N. Florence Wichita, Kansas 67212
14	Same	Same	Same
257	on Porter	Riverside Addition	✓ Wallace M. Habernigg and Willa A. Habernigg 1325 N. River Blvd. Wichita, Kansas 67203
259	Same	Same	Same
S 15' 261	Same	Same	Same
253	Same	Same	✓ Paul C. Lewis 1319 N. River Blvd. Wichita, Kansas 67203
255	Same	Same	Same
249	Same	Same	✓ Ernest E. Gilbert and Ramona A. Gilbert 1313 N. River Blvd.
251	Same	Same	Same
247	Same	Same	✓ J. Gregory Gamer and E. Jane Gamer 7823 Dublin Court Wichita, Kansas 67206
2	B	Riverside Place Addition	✓ Thomas C. Scott and Hazel Mae Scott 1406 Woodrow Wichita, Kansas 67203
4	B	Same	✓ James M. Saville and Saundra L. Saville 1422 Woodrow Wichita, Kansas 67203
6	B	Same	Same

Lot	Block	Addition	Property Owner
1	B	Riverside Place Addition	✓ Edwin L. Trask and Margaret L. Trask 1402 Woodrow Wichita, Kansas 67203
2	B	Same	✓ R. B. Homes 1630 West 13th Wichita, Kansas 67203
3	B	Same	✓ Polly Basham 1626 West 13th Wichita, Kansas 67203
4	B	Same	Same
S140' 5	B	Same	✓ Charles E. Millender and Eileen P. Millender 1622 West 13th Wichita, Kansas 67203
S140' 6	B	Same	Same
S140' 7	B	Same	✓ Wichita Federal Savings and Loan Association 340 S. Broadway Wichita, Kansas 67202
S140' 8	B	Same	Same
S140' 9	B	Same	✓ Vabac, Inc. 1901 West 13th Wichita, Kansas 67203
S140' 10	B	Same	Same
250 on Woodrow		Riverside Addition	Medora McDonald Address Unknown
252	Same	Same	Same
254	Same	Same	✓ Lowell W. Schraeder Dorraine F. Schraeder Address Unknown
256	Same	Same	Same
258	Same	Same	✓ Lloyd C. Foltz and Elsie E. Foltz 1320 Woodrow Wichita, Kansas 67203

Lot	Block	Addition	Property Owner
260	on Woodrow	Riverside Addition	D Lloyd C. Foltz and Elsie E. Foltz 1320 Woodrow Wichita, Kansas 67203
262	Same	Same	✓ Jesse R. Maus and Mary E. Maus 1330 Woodrow Wichita, Kansas 67203
264	Same	Same	Same
266	Same	Same	✓ Gethol B. Murphy and Lula E. Murphy 2610 Larkin Drive Wichita, Kansas 67211
268	Same	Same	Same
E55' 270	Same	Same	✓ Daniel L. Rausch and Kathrine S. Rausch 1631 West 13th Wichita, Kansas 67203
E55' 272	Same	Same	Same
E55' 274	Same	Same	Same
270 exc E 55'	Same	Same	✓ Philip B. Ray and Margaret E. Ray 1626 Womer Drive Wichita, Kansas 67203
272 exc E 55'	Same	Same	Same
274 exc E 55'		Same	Same
W 60' lot 1		Innes Addition	✓ Roger G. Rymer and Sandra K. Rymer 1611 W. 13th Street Wichita, Kansas 67203
lot 1 exc W 60'		Same	✓ Sherburne MacLeod 1345 Riverside Drive Wichita, Kansas 67203
2		Same	✓ Patricia W. Boyles and Joseph A. Boyles 1341 Riverside Drive Wichita, Kansas 67203

Lot	Addition	Property Owner
3	Innes Addition <i>Marion W. Ewing</i>	Arthur E. Aufderhar and Mary T. Aufderhar 1333 Riverside Drive Wichita, Kansas 67203
4	Same	<i>D</i> James J. McKee and Norvell B. McKee 1615 West 13th Wichita, Kansas 67203
5	Same	<i>✓</i> George O. Heinig and Ida L. Heinig 1625 West 13th Wichita, Kansas 67203
6	Same	<i>✓</i> Norbert V. Schneider Margaret A. Schneider 845 Valley View Wichita, Kansas 67212

The Security Abstract and Title Company, Inc.,
hereby certifies the foregoing to be a true and correct list of
property owners of:

A 200 foot radius of: Lot 4, Innes
Addition to Wichita, Sedgwick County,
Kansas

as shown by the records on file in the Office of the Register of
Deeds of Sedgwick County, Kansas, on this 20th day of March, 1973
at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

John Pyron

Asst. Vice President

Order No. 200215
wh

Form 222-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
B241	176.00

Name J. M. K.

Address 1715 W. 10th St.

Type 4-4-73 Due Date 5-1-73

Comments:

Date 1-22-73 By J. M. K.