

BZA 10-69 - J.D. Botkin requests
variance of sideyard setback on
property zone "B" and located on WS
St. Francis between Morris & Gilbert

POSTED
6-13-69
CH

ACTION

BZA COMMITTEE Approved subject
to condition

DATE 6-24-69

~~M.A.P.C.~~

~~P.C.C.A.B. CO. C.~~

POSTED
6-24-69
PZ.M.V.
10-6-69
CH

Map No. 5546
 Sec. 28
 Twp. 27
 Range 1E

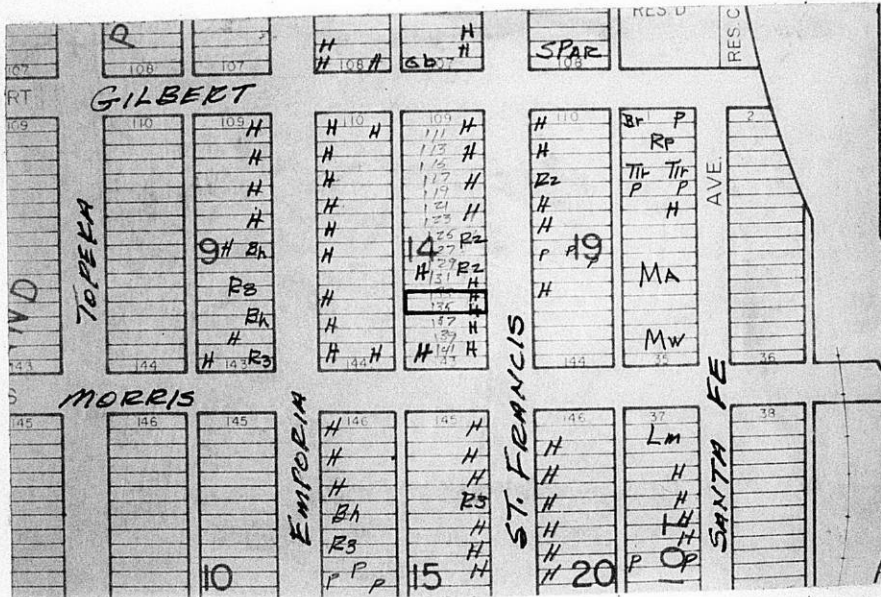
BZA 1069
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.12 (37.5 ft. by 140 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM & VAC South SINGLE FAM
 West SINGLE FAM North SINGLE & TWO FAM
4. Sketch Plan Land Use is for: RESIDENTIAL
5. Present Land Use is for: SINGLE FAM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



R E S O L U T I O N N O . B Z A 1 0 - 6 9

WHEREAS, J. D. Botkin, (Wichita Homing Club), 240 North Pinecrest, by W. A. Bonwell, Jr., 405 Brown Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required sideyard setbacks from 25 feet to 0 feet on the north, and from 25 feet to 13 feet on the south on property zoned "B" Multiple Family District and legally described as follows:

Lot 135 and South Half of Lot 133, Block 14,
Orme & Phillips Addition, Wichita, Kansas.
Generally located on the west side of St.
Francis between Morris and Gilbert.

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 June 24, 1969, 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 a variance of the sideyard setback from 6 feet to 0 feet adjacent to the north property line would have to be granted prior to a permit being issued by Central Inspection in the event the existing structure were to be brought up to Building Code specifications and utilized for residential purposes; 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 existing structure will remain in its present location and will not be expanded; 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 constitute unnecessary hardship upon the property owner represented in the application inasmuch as the Wichita Homing Club would be deprived of the use of the structure for which it was purchased; 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 structure is to be brought up to Building Code specifications of the City, thereby eliminating a possible nuisance; 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 application does meet the four previous requirements; 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 been found to exist.

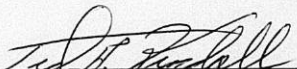
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for a variance to reduce the required sideyard setbacks from 25 feet to 0 feet on the north, and from 25 feet to 13 feet on the south on property zoned "B" Multiple Family District and legally described as follows:

Lot 135 and South Half of Lot 133, Block 14,
Orme & Phillips Addition, Wichita, Kansas.
Generally located on the west side of St.
Francis between Morris and Gilbert.

be approved subject to the following conditions:


1. Approval shall be for only that portion of the lot occupied by the existing structure as indicated on the plot plan submitted with the application.
2. In the event a new building is constructed, it shall conform to the side yard requirements of the Zoning Ordinance.

ADOPTED AT WICHITA, KANSAS, this 24th day of June, 1969.



TED A. KENDALL, Chairman Pro tem

ATTEST:



JACK H. GALBRAITH, Secretary

June 27, 1969

Mr. J. D. Botkin
240 North Pinecrest
Wichita, Kansas 67208

Subject: Case No. BZA 10-69
Request for Variance

Dear Mr. Botkin:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 24, 1969, in connection with your request for a variance to reduce the required side yard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south on property zoned "B", and generally located on the west side of St. Francis between Morris and Gilbert.

This Resolution reflects the official action of the Board and sets out the conditions of approval. 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:so

Attachment

cc: Mr. W. A. Bonwell, Jr., 405 Brown Bldg. Wichita, Ks. 67202
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk

June 24, 1969

Mr. J. D. Botkin
240 North Pinecrest
Wichita, Kansas 67208

Subject: Case No. BZA 10-69
Request for Variance

Dear Mr. Botkin:

At the regular meeting of the Board of Zoning Appeals on June 24, 1969, your request for a variance to reduce the required side yard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south on property zoned "B", and generally located on the west side of St. Francis between Morris and Gilbert, was considered.

It was the action of the Board to approve this request, subject to the following conditions:

1. Approval shall be for only that portion of the lot occupied by the existing structure as indicated on the plot plan submitted with the application.
2. In the event a new building is constructed, it shall conform to the side yard requirements of the Zoning Ordinance.

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 Pro tem and Secretary have been obtained.

Mr. J. D. Botkin
June 24, 1969

If you have any questions concerning this matter, please contact
our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:so

CC: Tom Bush
4th National Bank Building
Wichita, Kansas 67202

Clarence A. Ralston
1025 South St. Francis
Wichita, Kansas 67211

Robert Feldner
Superintendent of Central Inspection

Ralph Eberly
City Clerk

SECRETARY'S REPORT
CASE NO. BZA 10-69

APPLICANT: J. D. Botkin, 240 N. Pinecrest, Wichita, Kansas.

AGENT: W. A. Bonwell, Jr., 405 Brown Bldg., Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side-yard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south.

GENERAL LOCATION: West side of St. Francis in an area north of Morris.

ZONING: Subject property is zoned "B" Multiple Family as are those properties to the north, south, east and west.

LAND USE: Subject property is occupied by a single family residence as are those properties to the north, south, east and west.

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 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 applicant is requesting a variance of the sideyard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south. The situation, briefly, is that the property is to be utilized as a meeting place by the Wichita Homing Club which is a member of The American Racing Pigeon Union, Inc. In applying for a repair and remodeling permit the applicant was advised by the Office of Central Inspection that the intended use was considered semi-public and therefore required 25 foot sideyard setbacks under the ordinance.

It should be noted that the existing building is located on a 37½ foot lot in an older part of town and was constructed without a setback from the north property line. This, in all probability, was due to its construction prior to setback requirements being established.

UNIQUENESS

It is the opinion of the Secretary that this is somewhat of a unique situation in that a variance of the sideyard setback from 6 feet to 0 feet adjacent to the north property line would have to be granted prior to a permit being issued by Central Inspection in the event the existing structure were to be brought up to Building Code specifications and utilized for residential purposes.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not adversely affect adjacent properties inasmuch as the existing structure will remain in its present location and will not be expanded.

HARDSHIP

It is the opinion of the Secretary that if the variance were not granted it would constitute an unnecessary hardship on the applicant inasmuch as the Wichita Homing Club would be deprived of the use of the structure for which it was purchased.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance would not affect the public interest inasmuch as the structure is to be brought up to Building Code specifications of the City, thereby eliminating a possible nuisance.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance would not be opposed to the spirit and intent of Title 28 inasmuch as the application does meet the four previous requirements.

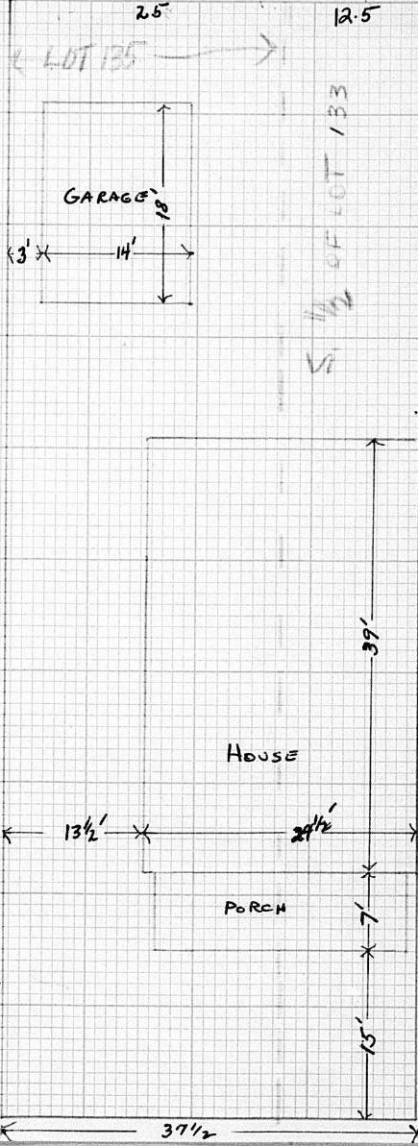
RECOMMENDATION

It is the opinion of the Secretary that all of the conditions necessary to the granting of the variances can be found to exist and it is, therefore, recommended that the variance be approved to reduce the required sideyard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south, subject to the following:

1. Approval shall be for only that portion of the lot occupied by the existing structure as indicated on the plot plan submitted with the application.
2. In the event a new building is constructed, it shall conform to the side yard requirements of the Zoning Ordinance.

ALLEY

MORRIS ST.



BZA 10-69 - 23 Notices to Adjoining Property Owners mailed 6-4-69 for 6-24-69
BZA Meeting.

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

June 4, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 10-69

An application has been filed by J. D. Botkin, 240 North Pinecrest
Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City
of Wichita, requesting a Variance to reduce the required side-
yard setbacks from 25 feet to 0 feet on the north and from 25
feet to 13 feet on the south on property zoned "B" Multiple Fam-
ily District and legally described as follows:

Lot 135 and South Half of Lot 133, Block 14, Orms & Phillips
Addition, Wichita, Kansas. Generally located on the west
side of St. Francis in an area between Morris and Gilbert.

This application has been assigned Case No. BZA 10-69, and will
be considered by the Board of Zoning Appeals at its meeting on
Tuesday, June 24, 1969, at 1:30 p.m., in Room 401 City Building
Annex, 104 South Main, Wichita, Kansas, at which time you may
appear, if you so desire, either in person or by agent or attorney

JACK H. GALBRAITH
Secretary

MORRIS ST.

140'

100' FOOT TO SCALE

2" = 20'

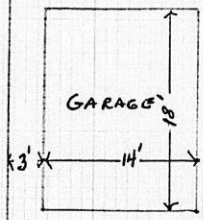
ST. FRANCIS

ALLEY

25'

12.5'

LOT 135



5' 1/2 OF LOT 133

House

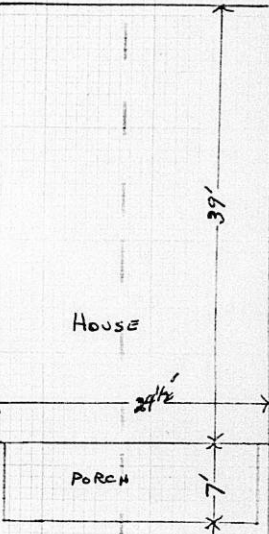
PORCH

13 1/2' 24 1/2'

39'

7'

15'



37 1/2'

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

June 4, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 10-69

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Lot 135 and South Half of Lot 133, Block 14, Orme & Phillips
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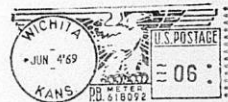
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Tuesday, June 24, 1969, at 1:30 p.m., in Room 401 City Building
Annex, 104 South Main, Wichita, Kansas, at which time you may
appear, if you so desire, either in person or by agent or attorney,

JACK H. GALBRAITH
Secretary

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202

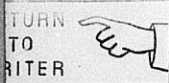


JULY 1969 - JULY 1970
WICHITA
CENTENNIAL
CELEBRATION



Moved, left no
 No such number
 Moved, not forwardable
 Addressed bulk

Felicidad C. Mendoze
1026 South Emporia
Wichita, Kansas 67211



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

June 4, 1969

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 10-69

An application has been filed by J. D. Botkin, 240 North Pinecrest Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a Variance to reduce the required side-yard setbacks from 25 feet to 0 feet on the north and from 25 feet to 13 feet on the south on property zoned "B" Multiple Family District and legally described as follows:

Lot 135 and South Half of Lot 133, Block 14, Orms & Phillips Addition, Wichita, Kansas. Generally located on the west side of St. Francis in an area between Morris and Gilbert.

This application has been assigned Case No. BZA 10-69, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 24, 1969, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney

JACK H. GALBRAITH
Secretary

THE CITY OF WICHITA, KANSAS
BOARD OF ZONING APPEALS
104 SOUTH MAIN
WICHITA, KANSAS 67202



Declassed 11/16

Minnie B. Keidd
1046 South St. Francis
Wichita, Kansas 67211



RETURN
TO
WRITER



BOARD OF ZONING APPEALS

CASE NO. 10-69

CITY OF WICHITA, KANSAS

FILED 5-27-69

map 5546

APPLICATION FOR VARIANCE

I. Name of Applicant J. D. Botkin (Wichita Homing Club)

Mailing Address 240 North Pinecrest, Wichita, Ks. phone MU 3-7358

Name of Authorized Agent W. A. Bonwell, Jr.

Mailing Address 405 Brown Bldg., Wichita, Kansas Phone FO 3-7596

Relationship of applicant to property is that of owner
(owner, tenant, lessee, other)

II. The variance requested is provision for side yard as prescribed

by 28.04.070C, subparagraphs 2.2 and 2.3 to reduce the required setback
Setbacks from 25' to 0' on the north side of the property, side yard setbacks and from
25' to 13' on the south side
for property located 1027 South St. Francis gen. located on
W St Francis in an area bet Morris & Elbert

and legally described as: Lot 135 and South Half of Lot 133,

Block 14, Orme & Phillips Addition, Wichita, Kansas

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

(Give metes and bounds description below if appropriate):

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 appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

J. D. BOTKIN (WICHITA HOMING CLUB)

Applicant

W.A. Bonwell, Jr.

Authorized Agent

W. A. Bonwell, Jr.

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals
10:00 (a.m.) - p.m., 5-27, 1969, together with
appropriate fee of \$50.00.

Jack A. Hallworth
Signed SM

ATTACHMENT TO APPLICATION FOR VARIANCE
CASE NO.
J. D. BOTKIN (WICHITA HOMING CLUB)
1027 SOUTH ST. FRANCIS

STATEMENT OF FACT

The applicant holds title to the subject property, acquired at a tax foreclosure sale, on behalf of the Wichita Homing Club, an unincorporated association which intends to use the property as a meeting place.

The Wichita Homing Club is a local association of homing pigeon fanciers which is a member of The American Racing Pigeon Union, Inc., the largest national racing pigeon organization. Purposes of the local club are to promote the sport of breeding and racing of homing pigeons and to maintain a source of tested homing pigeons for use by the armed forces of the United States.

The Wichita Homing Club is comprised of approximately thirty-five members, twenty of whom are active, and meetings are normally attended by twelve to fifteen members. For many years the club has met at the Sedgwick County Courthouse and has used the Courthouse parking lot as an assembly point to ship pigeons on races. For several years the club has been renting Park Villa as a place to meet and compute its race results.

The subject premises were purchased only after contacting the Central Inspection Department, who inspected the premises and advised the requirements necessary in order to meet Building Code specifications.

In applying for a repair and remodeling permit, it was first learned that the premises did not meet the side yard setbacks required for "B" zoning districts.

JUSTIFICATION FOR VARIANCE REQUESTED

Variance is requested in the side yard provisions of 28.04.070C, subparagraphs 2.2 and 2.3. The applicant believes the provisions of 2.3 are not pertinent to its activities as a private club, but Central Inspection Department has indicated otherwise. In any event, applicant asserts that this application meets the requirements of 2.12.590.2, including the following conditions:

(a) Improvements were constructed approximately 1910 with no setback on the South and about 13.5 feet side yard setback on the North. Such condition is unique to the property in question and not ordinarily found in "B" districts, nor was this condition created by any action of the applicant.

(b) The granting of the variance will not adversely affect the rights of adjacent property owners or residents for the reason that the improvements have existed in this condition for fifty years and the property is very run-down. Applicant proposes to meet all Building Code requirements and will rehabilitate the premises that is a detriment to the neighborhood.

(c) Strict application of the zoning ordinance will constitute an unnecessary hardship upon the applicant. Before purchasing this property the applicant talked with the representatives of both the Planning Department and Central Inspection Department to insure that it was properly zoned and ascertained improvements and repairs necessary to rehabilitate the property in accordance with the Building Code.

(d) The variance desired will not adversely affect the general welfare of the public and will in fact be advantageous to the public welfare, in that a property now uninhabitable will be improved so as to meet the requirements of the Building Code.

(e) The granting of the variance requested is not opposed to the general spirit and intent of Title 28.

| | | (400) GILBERT (500) ST. | | | | | |
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EMPOYA

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(500)

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
 South One-Half (S $\frac{1}{2}$) of Lot 133 & all Lot 135, in
 Block 14, Orme & Phillips Addition, Wichita, Kansas.


 Fidelity
 Title
 Company,
 inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

| LOT | BLK | ADDITION | OWNER |
|---|-----|----------------------------|---|
| 117 & 119, | 14 | <u>ORME & PHILLIPS</u> | ✓ H. May Phillips 1009 S. St. Francis 67211 |
| 121 & N 17' of 14 123, | | | ✓ Charles D. & Minnie O. Pace, ux % Wilma L. Atkinson 3465 Benson Hwy., Tucson, Ariz. |
| S 8' of 123, all 14 125 & N 8' of 127 | | | ✓ Kathleen E. & Walter E. Fulgreat % Eagle-Beacon Credit Union, 825 E. Douglas 67202 |
| S 17' Lot 127 & 14 all Lot 129, | | | ✓ Sai Chan & Johanna Wong, ux 732 S. Main 67211 |
| 131 & N $\frac{1}{2}$ of 133, 14 | | | ✓ Clarence A. Ralston & Julia Ralston, jt. 1025 S. St. Francis 67211 |
| S $\frac{1}{2}$ Lot 133, all 14 Lot 135, | | | X Nora Shields No Address Available |
| 137 & 139, 14 | | | ✓ May B. Callahan % Henry V. Callahan Milton, Ks. |



| LOT | BLK | ADDITION | OWNER |
|--|-----|----------------------------|--|
| W 50' of 141 & 143, | 14 | <u>ORME & PHILLIPS</u> | Clarence C. Cherry & Florence M. Cherry, ux 1039 S. St. Francis 67211 |
| 141 & 143, exc W 50', | 14 | | C. C. & Florence M. Cherry, ux 1039 S. St. Francis 67211 |
| 118 & 120, | 14 | | B. Margaret Denton, sgle. % D. L. Donley, Box 274, Oxford, Ks. 67119 |
| 122 & 124, | 14 | | Bill E. & Mary Ardene Smith 1333 Minisa Dr. 67203 ^x |
| 126 & 128, | 14 | | Floyd E. & Goldie O. Bainum 1018 S. Emporia 67211 ux |
| 130, | 14 | | Felicidad C. Mendoza, sgle 1026 S. Emporia 67211 |
| 132, | 14 | | Ida Mae Haines, sgle. % N. C. Lacy, 20648 Keswick Canoga, Calif. |
| 134, 136, 138, 140, | 14 | | Lulu Jensen % Anna M. Bland, 1219 Pattie 67211 |
| 142 & 144, | 14 | | Elizabeth Rick % John S. Rick, R # 2, Derby, Ks. |
| 146 & 148, | 15 | | Albert & Regina T. Butters, 1201 S. Broadway ux 67211 |
| 145 & 147, | 15 | | Albert E. & Muriel C. Mayes, 1101 S. St. Francis ux 67211 |
| 118 & 120, | 19 | | Wichita Builders, Inc. P. O. Box 398, Wichita 67201 |
| 122 & 124, | 19 | | Isaac C. Magdaleno, sgle. 1018 S. St. Francis 67211 |
| 126 & 128, | 19 | | John M. & Lela Maye Watson, 321 N. Lorraine 67214 ux |
| 130, 132, 134, 136, | 19 | | Wichita Builders, Inc. P. O. Box 398 67201 |
| 138 & N 15' of 140, | 19 | | Julius & Emma J. Harmon, ux 1042 S. St. Francis 67211 |
| W 100' of S 10' Lot 140 & W 100' of Lots 142 & 144, | 19 | | Winnie B. Keidd 1046 S. St. Francis 67211 |
| 146 & 148, | 20 | | Julio H. Camacho 1108 S. St. Francis 67211 |

Dated at Wichita, Kansas this 22nd day
of May, 1969 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Chie M. Farrell
Sec. JEM

FORM 25-71

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 | 50.00 | |

| DESCRIPTION | AMOUNT |
|----------------------|--------|
| Various Applications | |

Name J. D. Bethin

Address 2107. Tenth

Type R-71-C Due Date

Comments:

Date 5-27-69 By lh