

Case No. BZA 11-83 - Ford M. Duke - requests a variance to reduce the front yard setback from 25' to 20' on property zoned the "AA" One-family Dwelling District and generally located on the south side of Memory Lane

POSTED  
A-7-83

4-26-83  
DATE

ACTION

BZA 11-83 APPROVED

51ABD

200'45c. 5-2-83

Checked 5-17-83

Shot 5-17

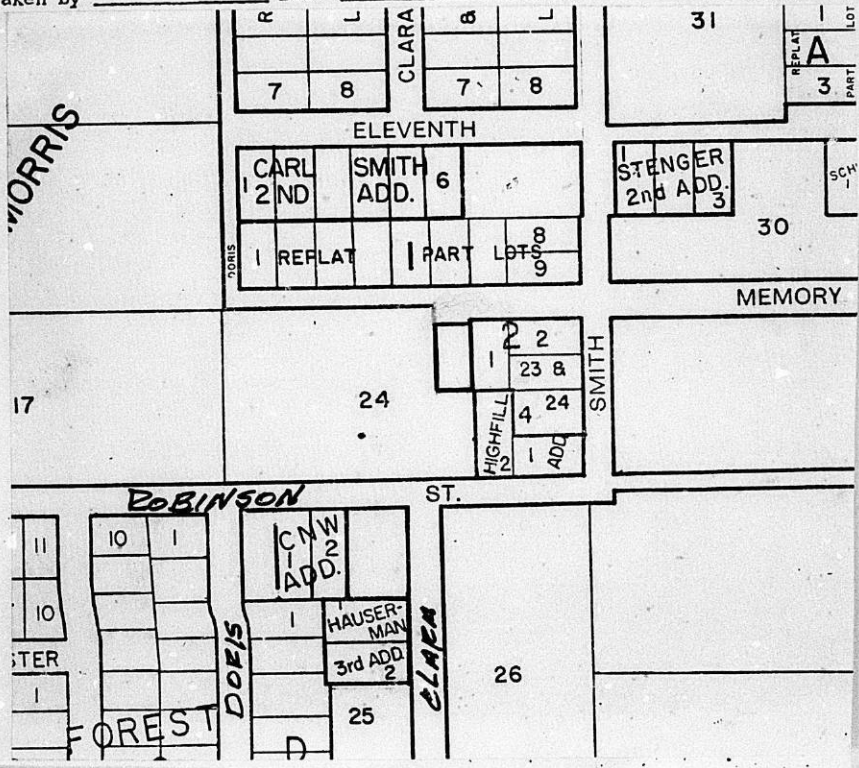
Recorded 5-18-83

Map No. 5148  
 Sec. 1A  
 Twp. 27  
 Range 1W

BZA- 11-83  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

- AREA DATA:  
 1. Acres: 0.18 ( 54 ft. by 136 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East \_\_\_\_\_ South \_\_\_\_\_  
 West \_\_\_\_\_ North \_\_\_\_\_  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use if for: \_\_\_\_\_  
 6. Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



Smith  
 No. 2-153C  
 MASTERS, INC.  
 LOS ANGELES-CALIF. ADD. 1034 N. CH.  
 McCREE DR., TX. 75011-1101  
 U.S.A.

April 29, 1983

Mr. Ford M. Duke  
1602 West Lynn  
Wichita, Ks. 67207

Re: BZA 11-83 - Request for Variance

Dear Mr. Ford:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 26, 1983.

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:sad  
Encl.

cc: William L. Korber, 330 Laura, Wichita 67211  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 11-83

WHEREAS, Ford M. Duke, 1602 West Lynn, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25 feet to 20 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 5, Donna's 1st Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Memory Lane and west of Smith Street (5105 Memory Lane).

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 26, 1983, 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 immediately to the east is a dwelling constructed at the same line as the east portion of this house, and the west main portion of the house will maintain the required 25' setback; 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 structure will maintain the same setbacks as is required for the dwellings on each adjacent property and the main portion of the dwelling complies with the required setback; 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 an error was made by the surveyor and was not discovered until the structure was in place; 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 dwelling will not interfere with any required right-of-way or easements; 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 structure is located on the property in such a manner that creates a transitional setback from the dwelling to the east to the 25' requirement of the dwelling to the west; 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.

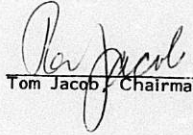
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required front yard setback from 25' to 20' on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 5, Donna's 1st Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Memory Lane and west of Smith Street (5105 Memory Lane).

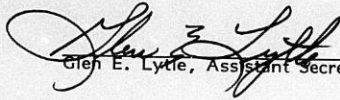
be approved subject to the following condition:

1. Only that portion of the setback for the garage shall be reduced to 20' and the remaining front yard shall be maintained at 25'.

ADOPTED AT WICHITA, KANSAS, this 26th day of April, 1983.

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

ATTEST:

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

**THE CITY OF WICHITA**

OFFICE OF Citizen Participation

DATE April 21, 1983

TO Glen Lytle, Special Assistant for Zoning


FROM Robert Tillman, Administrative Aide III

**SUBJECT** BZA 11-83: Generally located on  
the South side of Memory Lane  
and West of Smith Street  
(5105 Memory Lane)

On Wednesday, April 20th, CPD Neighborhood Council "N" considered BZA 11-83, and voted 4-0 to recommend approval for the request to reduce the front yard setback from 25' to 19' on property zoned "AA" One Family Dwelling District at 5105 Memory lane.

The applicant; Ford Duke was not present at the meeting. There were no area residents present to speak in support or opposition to the request.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 11-83 is considered at the Tuesday, April 26th meeting.



Robert Tillman  
Administrative Aide III

SECRETARY'S REPORT  
CASE NO. BZA 11-83

APPLICANT: Ford M. Duke, 1602 West Lynn, Wichita, Kansas

AGENT: William L. Korber, 330 Laura, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 25' to 20'.

GENERAL LOCATION: On the south side of Memory Lane and west of Smith Street (5015 Memory Lane).

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

LAND USE: Subject property is developed with a one-family dwelling. Adjacent properties are one-family or vacant.

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.

COMMENTS BY THE SECRETARY:

The applicant is requesting a reduction of the required front yard setback in order to correct an error made by the surveyor when the irons were established for the property. The error was found and the applicant wishes to eliminate any possible cloud on the title.

The property was recently platted and the owner was required to dedicate additional right-of-way for Memory Lane. In fact, 5 feet, more than is existing on the property immediately to the east on an older plat. This was the iron on the adjacent property to the east that the builder used in establishing the setback.

It should be noted that the only portion of the house that is at the 20' setback is the garage. The main part of the house maintains a 25' setback, and that portion would be at the line of the adjacent structure to the west.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as immediately west is a dwelling constructed at the same line as the east portion of this house, and the west main portion of the house will maintain the required 25' setback.

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 structure will maintain the same setbacks as is required for the dwellings on each adjacent property and the main portion of the dwelling complies with the required setback.

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 an error was made by the surveyor and was not discovered until the structure was in place.

PUBLIC INTEREST:

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

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 the structure is located on the property in such a manner that creates a transitional setback from the dwelling to the east to the 25' requirement of the dwelling to the west.

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. Only that portion of the setback for the garage shall be reduced to 20' and the remaining front yard shall be maintained at 25'.

BZA CASE NO. 11-83

2 NOTICES SENT TO APPLICANT/AGENT

9 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

21 NOTICES SENT TO ADJOINING PROPERTY OWNERS

33 TOTAL NOTICES SENT 4-6-83

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

April 6, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 11-83

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 Ford M. Duke, 1602 West Lynn, 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 front yard setback from 25' to 20' on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 5, Donna's 1st Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the south side of Memory Lane and west of  
Smith Street (5105 Memory Lane).

This application has been assigned Case BZA 11-83. It will be considered by the Board of Zoning Appeals on April 26, 1983, 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

BOARD OF ZONING APPEALS

CASE NO. 11-83

CITY OF WICHITA, KANSAS

FILED 3-28-83

APPLICATION FOR VARIANCE

I. Name of Applicant Ford M. Duke 265-3101  
 Mailing Address 1602 West Lynn 67207 Phone 942-5014  
 Name of Authorized Agent William L. Korber  
 Mailing Address 330 Laura 67211 Phone 262-7271  
 Relationship of applicant to property is that of Owner  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce front yard setback  
from 25 feet to 20 feet.

for property located on the south side of Memory Lane and west of Smith St.  
(5015 Memory Lane).

and legally described as: Lot 5, Donna's 1st Addition to  
Sedgewick Co.,  
Wichita, 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 2.12.530 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 Ford M Duke

Authorized Agent William L Korber

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:45 ~~4:00~~ p.m., MAR 28, 1983, together with appropriate fee of 75.00.

Signed H. Lytle

BZA 11-83

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
4	-	Carl Smith 2nd Addition	✓ Dennis A. Dillon & Beverly J. Dillon, 5109 W. 11th, 67212
5	-	"	✓ Alfonso J. Sanchez & Victoria K. Sanchez, 5103 W. 11th, 67212
6	-	"	✓ Clarence L. Rose & Nancy R. Rose, 5025 W. 11th, 67212
1	-	Highfill Addition	✓ Bobbie J. Clark & Earla J. Clark, 5004 Robinson, 67212
2	-	"	✓ Edward Paul Limper & Barbara A. Limper, 5016 Robinson, 67212
1 thru 4	-	Donna's 1st Addition	DX Ford M. Duke & Donna S. Duke, 1602 Westlynn, 67212
5	-	"	"
6	-	"	✓ Mark A. Longwell & Janelle S. Longwell, 5100 Robinson, 67212
7	-	"	✓ Loren B. Patterson & Vicki L. Patterson, 5106 Robinson, 67212
3	1	Replat of Part of Lots 23 & 24 in R.A. Morris Tracts	✓ David J. Luckert & Judy F. Luckert, 5114 Memory Lane, 67212
4	1	"	✓ Kevin Segard & Darlene Segard, 5108 Memory Lane, 67212
5	1	"	✓ James M. Hunter & Kimberly K. Hunter, 5102 Memory Lane, 67212
6	1	"	✓ Robert L. Harton & Diane K. Harton, 5014 Memory Lane, 67212
7	1	"	✓ Richard C. Cooper & Janet S. Cooper, 5008 Memory Lane, 67212
8	1	"	✓ Louis E. Highfill & Donna J. Highfill, 1725 N. Cypress, 67206
9	1	"	✓ Elmer E. Edgell & Eva M. Edgell, 1129 Smith, 67212
1	2	"	✓ Julian Figueroa & Virginia S. Figueroa, 5009 Memory Lane, 67212

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
2	2	Replat of Part of Lots 23 & 24 in R.A. Morris Tracts	✓ Donald R. Williams & Dorothy L. Williams, 1825 N. Nevada, 67212
3	2	"	✓ Jimmy L. Trower & Nancy J. Trower, 1121 Smith, 67212
4 exc. the west 70 ft.	2	"	<i>Dist</i> ✓ Louis E. Highfill & Donna J. Highfill, 1725 Cypress, 67206
East 77 ft. of the west 490 ft. of the north 180 ft. of 23, except the north 30 ft.	-	R.A. Morris Tracts	✓ Calvin R. Herrill & Marilyn K. Herrill, 4909 W. 11th, 67212
23 exc. that part described immediately above, & except that part platted as Carl Smith 2nd Add. & except that part platted as Replat of Part of Lots 23 & 24 in R.A. Morris Tracts	-	"	✓ Marvin W. Poort & Eve Elsie Poort, 1133 Smith, 67212
South 305 ft. of the west 140 ft. of the east 496 ft. of 24 exc. the north 164 ft. thereof	-	"	✓ Eldridge H. George & Hazel F. George, 5110 Robinson, 67212
Part of 25 beg. at the NE corner; then south 150 ft.; then west 70 ft.; then north 112 ft.; then east 5.5 ft.; then north 38 ft.; then east 64.5 ft. to beg.	-	"	✓ Ray E. Creekmore & Donella J. Creekmore, 5111 Robinson, 67212
26	-	"	<i>back slip</i> Board of Park Commissioners of the City of Wichita, 455 N. Main, 67202

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 5, Donna's 1st Addition, 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 25th day of March, 1983 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

*Mary Gable*

Vice-President

Order No. 317312  
ge

REPLAT OF PART

66

OF

66

131

60

MEMORY

23

AND

LANE

5

24

70'

131'

58'

58'

20'

25.3'

DONNA'S

1ST

#5015

Gar.

#5009

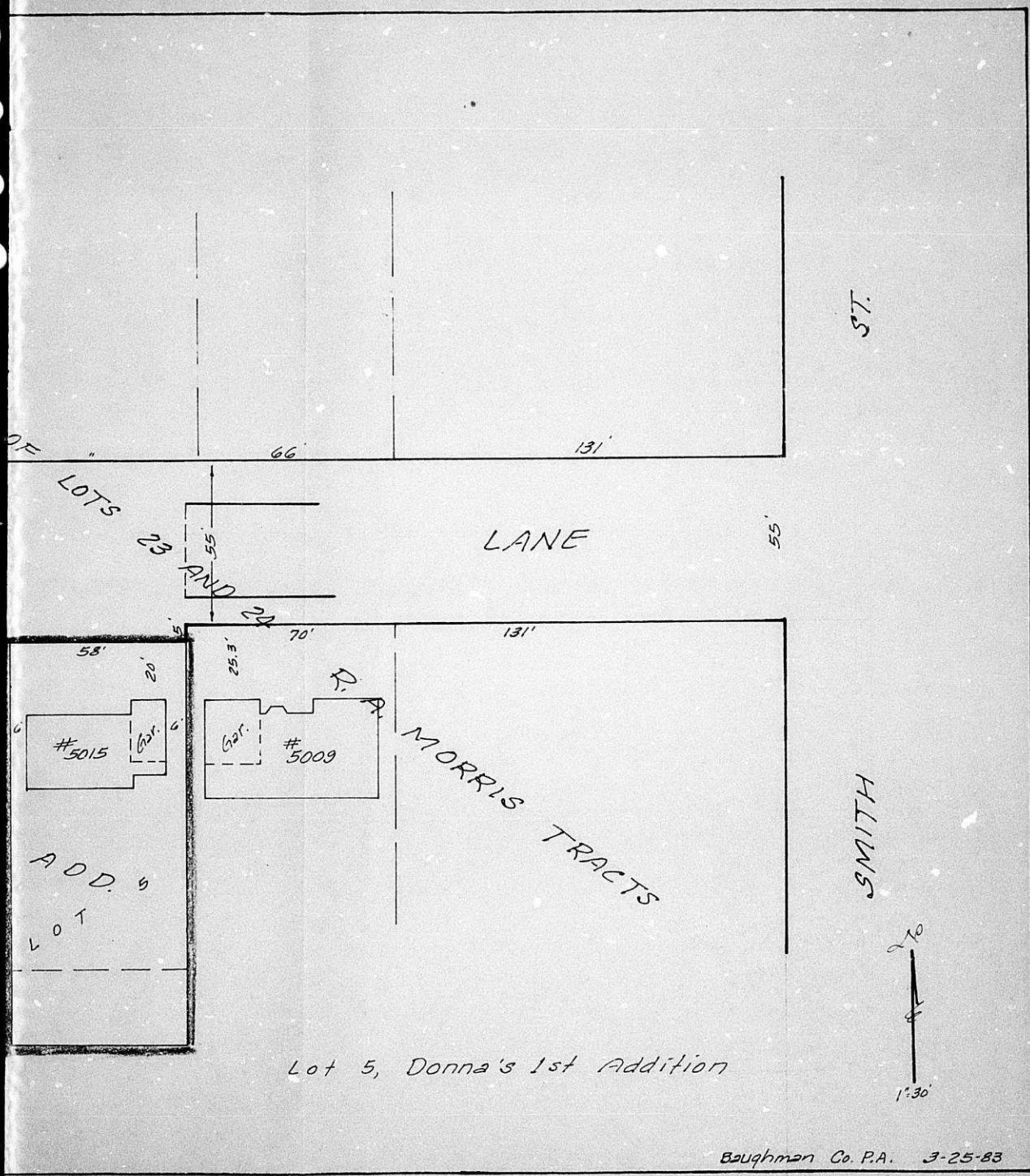
Gar.

MORRIS TRACTS

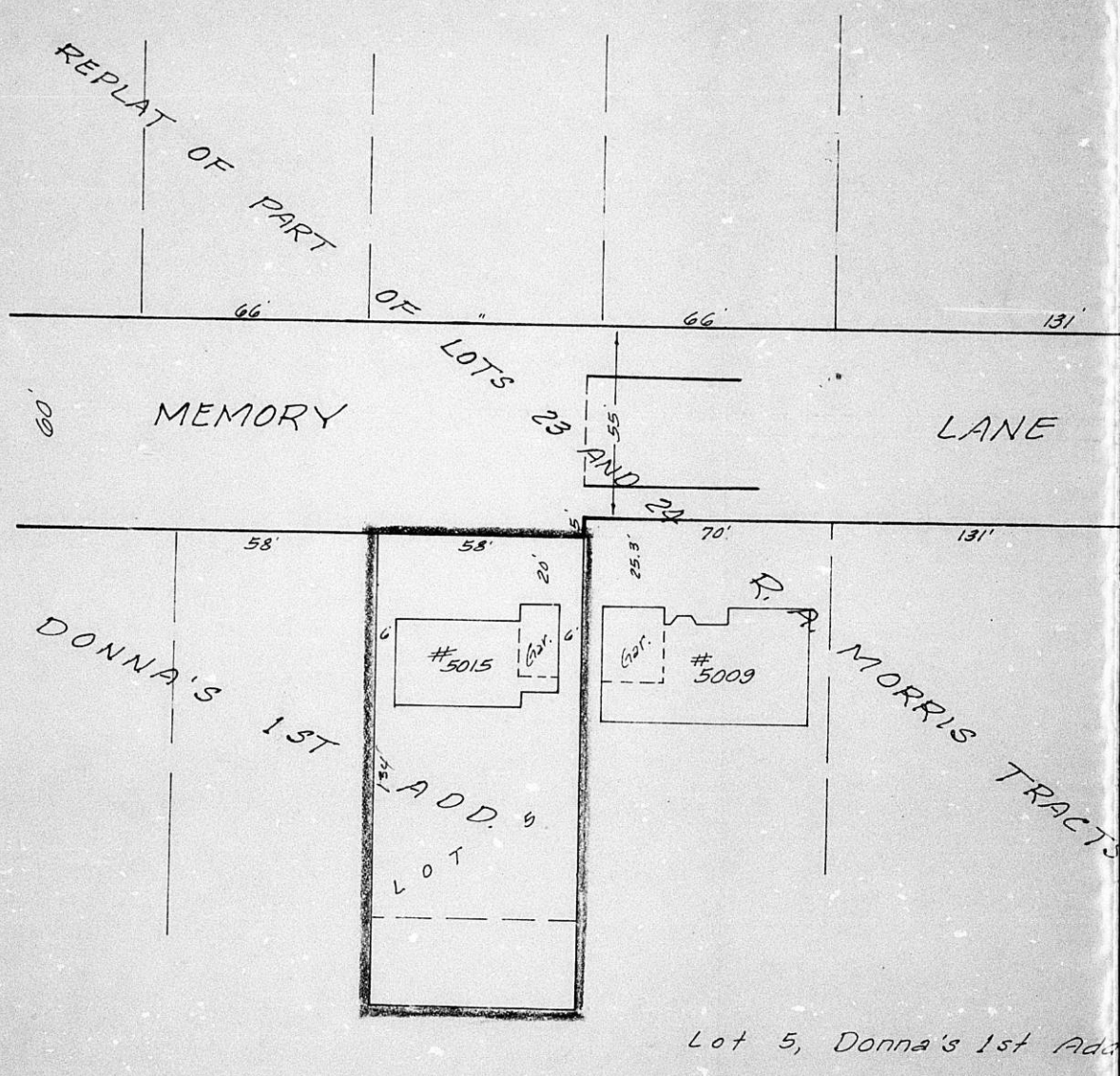
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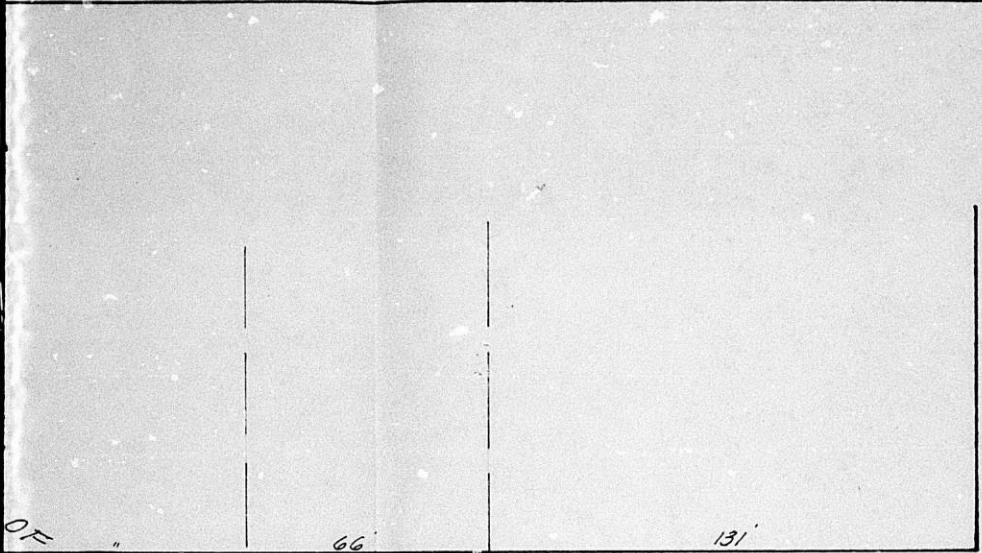
101

Lot 5, Donna's 1st Addit



Lot 5, Donna's 1st Addition





ST.

OF

66'

131'

LOTS

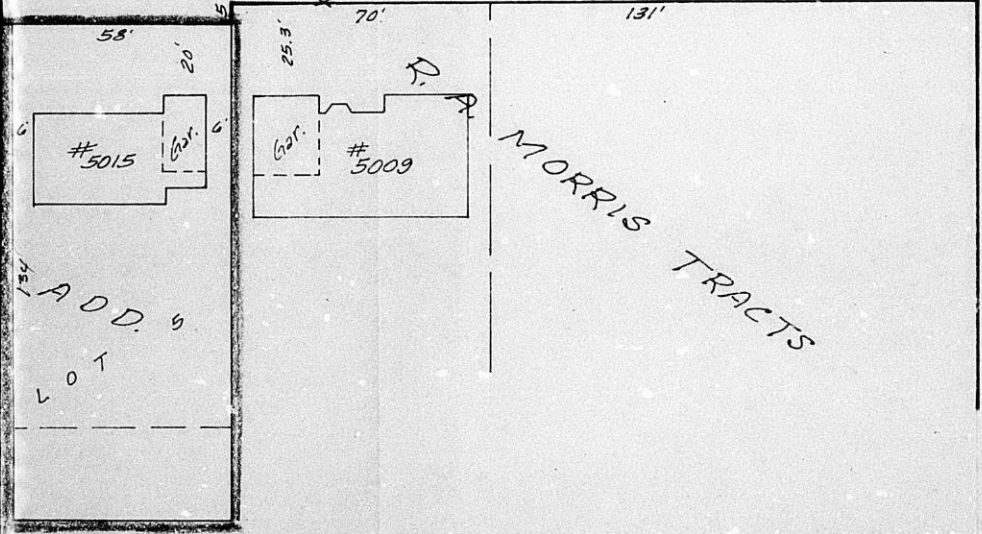
23

AND

24

LANE

55'



D. A.

MORRIS TRACTS

#5015

#5009

ADD. 9

10'

58'

20'

25.3'

70'

131'

Lot 5, Donna's 1st Addition

SMITH



REPLAT OF PART

66' OF LOTS 23 AND 24 66' 131'

60'

MEMORY

23

AND

24

LANE

58'

58'

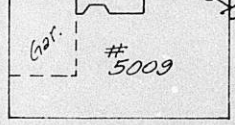
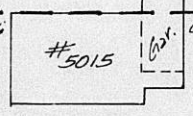
20'

25.3'

70'

131'

DONNA'S 1ST



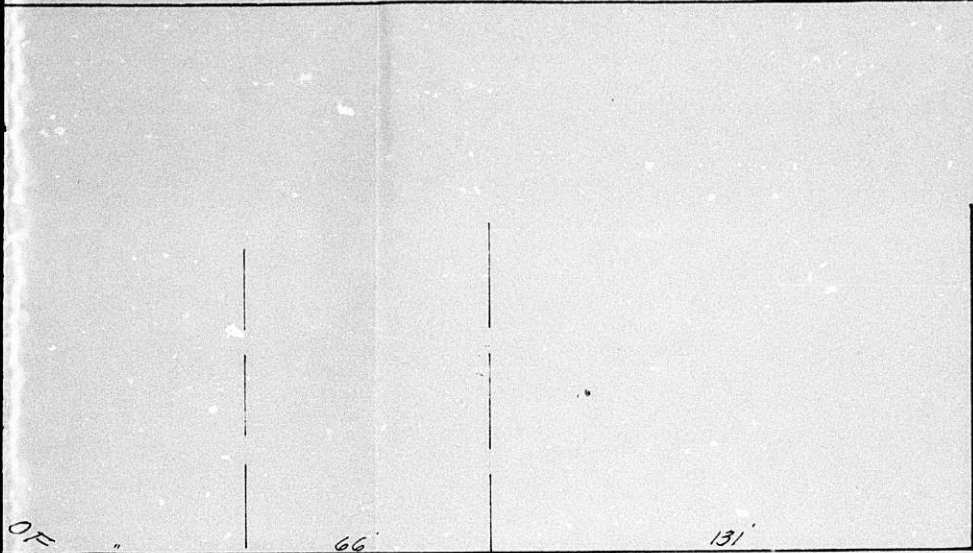
MORRIS TRACTS

ADD. 5

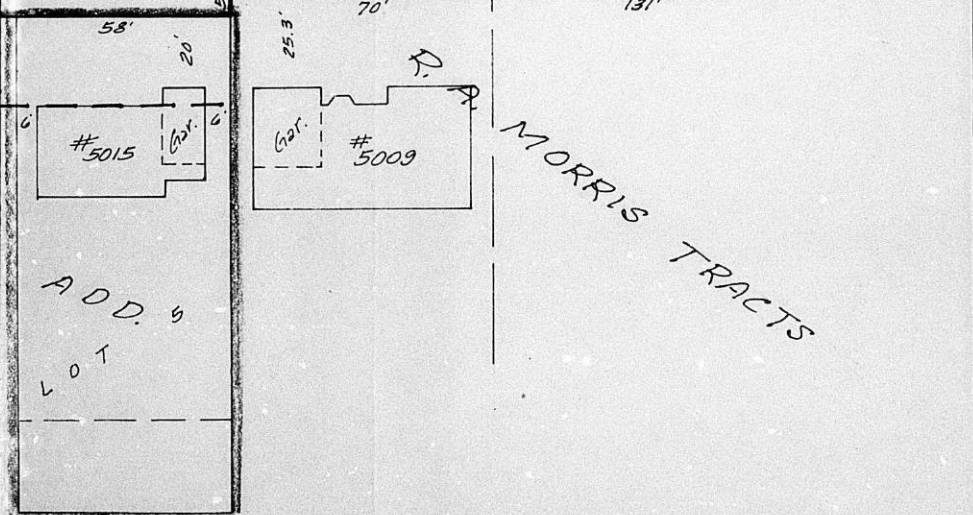
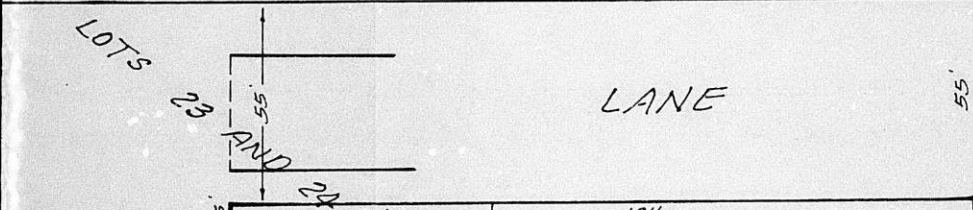
LOT

Lot 5, Donna's 1st Add.

B2A 11-83



ST.



SMITH



Lot 5, Donna's 1st Addition

Baughman Co. P.A. 3-25-83

**MICROFILMED**  
 FROM THE BEST  
 AVAILABLE COPY

FORM 29-

**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
127A Val	452

NAME LAUSMAN CO.  
 ADDRESS 316 CANON  
 FUND 155-4071-002 DUE DATE \_\_\_\_\_  
 COMMENTS \_\_\_\_\_  
 DATE June 28 1963 BY [Signature]