

ACTION

DATE

By COMMITTEE *App.* *5-28-63*

M.A.P.C. _____

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

BZA 12-63 - Samuel G. Woodburn &
Clyde Wendelken request exception for
swimming pool in AA on SE cor. of 1st
and Pershing

R E S O L U T I O N N O . 1 2 - 6 3

WHEREAS, Samuel G. Woodburn and Clyde Wendelken, 4601 East First Street, Wichita, Kansas, by Clyde Wendelken, attorney, 405 Brown Building, Wichita, Kansas, request an exception to permit an accessory structure (swimming pool) to be within 18.6 feet of the front property line (25 feet is the normal setback), as provided in Section 28.04.040.A.9 of the Code of the City of Wichita, Kansas; and

WHEREAS, the above request applies to property legally described as

The North 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue, and all that part of Reserve "A" adjacent thereto, in East Lawn Addition to the City of Wichita,

which is generally located at the southeast corner of Pershing and First Street; and

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, in regular meeting, consider said application on the 28th day of May, 1963; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590, Code of the City of Wichita; and

WHEREAS, the property is zoned "AA" Single Family Residential; and

WHEREAS, the Board of Zoning Appeals has authority to permit accessory structures in the front yard under the provisions of Section 28.04.040.A.9 of the Code of the City of Wichita, provided that adequate access to the land is maintained for fire and police protection and for the service of utilities and the foregoing is adequately provided for as shown on the plot plan of development; and

WHEREAS, the pool will be of appropriate size and shape so as to be compatible with the surrounding neighborhood, and will not affect the sight distance of traffic on First Street because all of the traffic is eastbound; and

WHEREAS, the pool is considered necessary for the health of Mrs. Wendelken; and

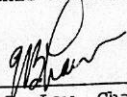
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the request for an exception as described above for property legally described as

The North 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue and all that part of Reserve "A" adjacent thereto, in East Lawn Addition, to the City of Wichita, Kansas,

is hereby approved, and the Superintendent of Central Inspection is hereby authorized to issue the appropriate permit, subject to the following:

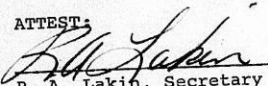
1. Providing a 6 foot heavy duty louvered redwood, masonry or architectural tile fence around the swimming pool so that it will be completely enclosed. Such fence shall be kept closed at all times the pool is not in use to prevent its becoming an attractive nuisance to minors.
2. Filing of a \$1,000 corporate performance bond or other similar security (form of the security to be approved by legal counsel for the Board), with the City Clerk, which will ensure that the fence will be erected.
3. The swimming pool shall be constructed in accordance with the standards and specifications required by the Central Inspection Division.

ADOPTED at Wichita, Kansas, this 28th day of May, 1963.



E. B. Law, Chairman

ATTEST:


R. A. Lakin, Secretary

June 11, 1963

Mr. Samuel G. Woodburn
4601 East First Street
Wichita, Kansas

Dear Mr. Woodburn:

Re: BZA 12-63


On June 3, 1963, we advised you that the Board of Zoning Appeals had approved subject application for an exception to the Zoning Ordinance to allow an accessory structure (swimming pool) to be within 18.6 feet of the front property line, for property legally described as the north 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue, and all that part of Reserve "A" adjacent thereto, in East Lawn Addition, generally located on the southeast corner of Pershing and First Street.

We also advised that the Board's decision might be appealed to the City Commission, provided that such appeal was filed on or before June 7, 1963.

The City Clerk has advised that no appeal was filed on or before the date indicated, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth action of the Board is attached for your information and files.

Very truly yours,


Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Glen Lytle, Superintendent of Central Inspection
Clyde Wendelken, attorney, 405 Brown Building

June 3, 1963

Mr. Samuel G. Woodburn
4601 East First Street
Wichita, Kansas

B3A12-63

Dear Mr. Woodburn:

This is to advise you that at its regular meeting of May 23, 1963, the Board of Zoning Appeals of the City of Wichita, considered your request for an exception to the Zoning Ordinance to allow an accessory structure (swimming pool) to be within 18.6 feet of the front property line (25 feet is the normal setback line), for property legally described as:

The North 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue, and all that part of Reserve "A" adjacent thereto, in East Lawn Addition to the City of Wichita, generally located on the southeast corner of Pershing and First Street.

After discussion, it was the action of the Board of Zoning Appeals to approve your request, subject to the following:

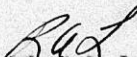
1. Providing a 6-foot heavy duty louvered redwood, masonry or architectural tile fence around the swimming pool so that it will be completely enclosed. Such fence shall be kept closed at all times the pool is not in use, to prevent its becoming an attractive nuisance to minors.
2. Filing of a \$1,000 corporate performance bond or other similar security (form of the security to be approved by legal counsel for the Board), with the City Clerk which will ensure that the fence will be erected.
3. The swimming pool shall be constructed in accordance with the standards and specifications required by the Central Inspection Division.

Page 2 - Samuel G. Woodburn
June 3, 1963

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before June 7, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before June 7, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,


Robert A. Lakin
Secretary

RAL:ber

cc: C. H. Funk, City Clerk
Glen Lytle, Superintendent of Central Inspection
Clyde Wendelken, 405 Brown Building

Board of Zoning Appeals

June 4, 1963

C. H. Funk, City Clerk

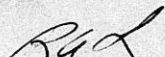
Robert A. Lakin, Secretary

Case BZA 12-63

Attached is a copy of BZA Resolution No. 12-63,
covering action taken by the Board of Zoning
Appeals on the above case.

This case was heard on May 28, 1963, and an appeal
may be filed in your office on or before June 7,
1963.

If an appeal is filed, please advise.


Robert A. Lakin
Secretary

RAL:ber

Attachment

SECRETARY'S REPORT

CASE NO. BZA 12-63

GENERAL DESCRIPTION

This case involves a tract of land generally located on the southeast corner of Pershing and 1st Street. The property in question and the property in the surrounding area is all zoned "AA" Single Family. The property in question is occupied currently by a single family dwelling. In the adjoining area are single family homes.

REQUEST

The request is for an exception to allow an accessory structure (swimming pool) to be within 18.6 feet of the front property line (25 feet is the normal setback line). The Board may authorize exceptions to setback requirements under the provisions of Section 28.04.040.A 9 and 2.12.560. provided that:

- A. Adequate access to the land is maintained for fire and police protection.
- B. Adequate access is maintained for the service of utilities.

The applicant has submitted justification for this request which is shown as Attachment #1 of this report. The plot plan, showing the proposed swimming pool, is included as Attachment #2.

COMMENTS BY THE SECRETARY

The previous zoning ordinance provided that no accessory structure could be located nearer than 60 feet to the front property line. The existing code provides that accessory structures may be

located in the side or rear yard provided they are not located any nearer to the front lot line than the main use or structure and provided further that the Board may grant exceptions to the setback requirements as provided in Section 28.04.040.A.9 and Section 2.12.560, when the aforementioned requirements have been complied with.

The Secretary has checked with the utilities, Engineering Division and Fire Department, and found that the proposed swimming pool will in no way interfere with existing utilities or fire protection.

Since the required front yard setback in this instance is 30 feet (due to the application of the front yard setback formula), the proposed pool would be encroaching 11.5 onto the required setback, or, in other words, would be 18.5 feet from the front property line. It is the opinion of the Secretary that 18 feet or 19 feet between the front of the pool and the property line is sufficient open space in this instance.

The applicant maintains that the only feasible location for a pool on the property is in the front yard, since the side yards are being used for garage and patio purposes.

The Secretary concurs with the applicant in that if a pool is to be constructed, the front yard area is the only place on the property with sufficient room for a swimming pool. Further, the construction of the swimming pool in the front yard area should not affect the sight distance of traffic on 1st Street because all of the traffic is eastbound.

The applicants also point out that a pool will be of appropriate size and shape so as to be compatible with the surrounding neighborhood. The applicant has also proposed to enclose the pool area with a wall which will blend in with houses in the surrounding area.

The Secretary concurs that if this application is granted, a wall of sufficient height should be built around the pool area. This would insure the utmost safety for residents and children in the surrounding area.

The applicant further points out that this pool is necessary for Mrs. Wendelken's health.

In view of the reasons submitted by the applicant, it is the opinion and recommendation of the Secretary that this application be granted, subject to the following conditions:

1. Providing a 6 foot heavy duty louvered redwood, masonry or architectural tile fence around the swimming pool so that it will be completely enclosed to protect adjoining properties. Such fence shall be kept closed at all times the pool is not in use to prevent its becoming an attractive nuisance to minors.
2. Filing of a \$1,000 corporate performance bond or other similar security (form of the security to be approved by legal counsel for the Board), with the City Clerk which will ensure that the fence will be erected.

3. The swimming pool shall be constructed in accordance with the standards and specifications required by the Central Inspection Division.

BZA 12-63 - NOTICES MAILED MAY 8, 1963

25

Samuel G. Wooburn and Clyde Wendelken
4601 East 1st Street

Clyde Wendelken
405 Brown Building

Richard G. Wurst
Deane R. Wurst
215 Bonnie Brae

Mae E. Gillenwater
175 North Dellrose

James G. Moore
Gertrude B. Moore
147 North Dellrose

T. Ralph Jones, Jr.
Claiborne W. Jones
139 North Dellrose

Edna A. Marshall
142 North Dellrose

Frank W. McCurry
Leota Spence McCurry
144 North Dellrose

Charles F. Church
Alma L. Church
148 North Dellrose

Howard C. Menne
Mary Louise Menne
152 North Dellrose

John Robert Barrier
Mary Ellen Barrier
216 North Pershing

Batchelors of Wichita
6411 East Kellogg

Samuel G. Woodburn
Sally A. Woodburn
4601 East 1st

Nelson Saylor Remington
Opal M. Remington
154 North Pershing

Ralph Hale
Donna D. Hale
150 North Pershing

John W. Kincheloe
Phyllis A. Kincheloe
134 North Dellrose

Claude E. Mann
Alma F. Mann
201 North Dellrose

William H. Pierpont, Jr.
M. Louise Pierpont
215 North Dellrose

J. A. Cleary
Katherine Cleary
200 North Dellrose

John C. Clapp
Charlene B. Clapp
135 North Pershing

C. Lucien Gray
Katharine L. Gray
145 North Pershing

Michael E. Weigand
Lois M. Weigand
151 North Pershing

M. N. Lygrisse
Margaret Ann Lygrisse
155 North Pershing

Loren E. Lake
205 North Pershing

Ted A. Kendall
Marjorie M. Kendall
207 North Pershing

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

May 8, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 12-63

An application for an exception to the Zoning Ordinance has been filed by Samuel G. Wooburn, 4601 East 1st Street, Wichita, Kansas, by Clyde Wendelken, agent, 405 Brown Building, Wichita, Kansas, as provided in Section 2.12.560 of the Code of the City of Wichita. The applicant requests an Exception as provided in Section 28.04.040.A.9 of the Code of the City of Wichita, to permit the installation or construction of a swimming pool on a portion of the front yard setback of property legally described as:

The North 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue, and all that part of Reserve A adjacent thereto, in East Lawn Addition to the City of Wichita, Kansas.

generally located on the southeast corner of 1st and Pershing.

This application has been assigned Case No. BZA 12-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, May 28, 1963, at 2 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.

Robert A. Lakin
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 12-63
FILED May 7, 1963

APPLICATION FOR EXCEPTION

I. NAME OF APPLICANT SAMUEL G. WOOBURN and CLYDE WENDELKEN
MAILING ADDRESS 4601 E. 1st Street, Wichita, Kansas PHONE MU 46432
NAME OF AUTHORIZED AGENT CLYDE WENDELKEN
MAILING ADDRESS 405 Brown Building, Wichita, Kansas PHONE FO 37596
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF Owner
(OWNER, TENANT, LESSEE, OTHER).

II. APPLICATION IS MADE FOR AN EXCEPTION AS PROVIDED IN SECTION
28.04.040.A.9, CODE OF THE CITY OF WICHITA, KANSAS (ZONING
ORDINANCE); TO PERMIT THE INSTALLATION OR CONSTRUCTION OF a
SWIMMING POOL ON PROPERTY ZONED AA, LOCATED AT
4601 E. English AND LEGALLY DESCRIBED AS:

The North 15 feet of Lot 166 and all of Lots 167 and 168, on
Pershing Avenue, and all that part of Reserve "A", adjacent thereto, in
EAST LAWN ADDITION to xxx THE CITY OF WICHITA, Kansas.

(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE)

III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT:

- A. ACKNOWLEDGES RECEIPT OF AN INSTRUCTION SHEET RELATING TO THIS APPLICATION FOR AN EXCEPTION.
- B. AGREES TO CONFORM TO ALL REQUIREMENTS OF THE APPROPRIATE SECTION OF THE ZONING ORDINANCE IF THIS APPLICATION IS APPROVED;
- C. ACKNOWLEDGES THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THE DATE OF THAT DECISION.

Samuel G. Wooburn
APPLICANT
Clyde Wendelken
AUTHORIZED AGENT

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, 3:30 (A.M. - P.M.), May 7, 1963, TOGETHER WITH APPROPRIATE FEE OF \$50.00.

James W. HawE
SIGNED

Handwritten initials

APPLICATION FOR EXCEPTION

Narrative Statement

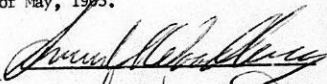
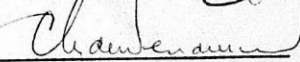
Samuel G. Woodburn and wife, fee owners of the corner property, 4601 E. First Street, Wichita, Kansas, have executed a real estate purchase contract for the sale of the property to Clyde Wendelken and wife. The contract is conditioned upon the Wendelkens being able to construct a suitable, private swimming pool in the area west of the improvement. This is the only feasible location for a pool.

Application is made for an exception in the setback line requirements contained in Ordinance No. 28,04,040.A.9 and under which the Board of Zoning Appeals has jurisdiction.

The Wendelkens propose building a non-covered, private swimming pool of an appropriate size and shape for the yard and surrounding neighborhood. See attached plat plan. The ownership and use of a pool is necessary for Mrs. Wendelken's health. An enclosing wall is proposed which will be compatible with the home and an improvement to the neighborhood. The immediate neighbors have no objection and it is assumed that none within a two hundred foot radius will object.

It is hoped the application will be allowed. Approval will permit maximum use of the property and permanent improvement to the neighborhood without adverse effects.

Dated this 7th day of May, 1963.

OWNERSHIP LIST

| LOT | STREET | ADDITION | PROPERTY OWNERS |
|---|----------|-------------------------|--|
| 19 | Pershing | Pershing Terrace | Ted A. Kendall Marjorie M. Kendall 207 N. Pershing |
| 20 | " | " | " |
| 21, 22, 23, 24 | " | " | Loren E. Lake 205 N. Pershing |
| 1 | " | Pershing Terrace 2nd | M. N. Lygrisse Margaret Ann Lygrisse 155 N. Pershing |
| 2 | " | " | " |
| 3 | " | " | " |
| 4 | " | " | Michael C. Weigand Lois M. Weigand 151 N. Pershing |
| 5 | " | " | " |
| 6 N $\frac{1}{2}$ | " | " | " |
| 6 S $\frac{1}{2}$ | " | " | C. Lucien Gray Katharine L. Gray 145 N. Pershing |
| 7 | " | " | " |
| 8 | " | " | " |
| 9-10 & N $\frac{1}{2}$ 11 | " | " | John C. Clapp Charlene B. Clapp 135 N. Pershing |
| E 19.125' of Pershing South Park adjacent to Lot 3 Pershing Terrace 2nd | | | M. N. Lygrisse Margaret Ann Lygrisse 155 N. Pershing |
| E 19.125' of Pershing South Park adjacent to Lots 4, 5 & N $\frac{1}{2}$ of Lot 6, Pershing Terrace 2nd. | | | Michael C. Weigand Lois M. Weigand 151 N. Pershing |
| E 19.125' of Pershing South Park adjacent to S $\frac{1}{2}$ Lot 6 all 7 and 8 Pershing Terrace 2nd | | | C. Lucien Gray Katharine L. Gray 145 N. Pershing |
| 49 | Dellrose | East Lawn | J. A. Cleary Katherine Cleary 200 N. Dellrose |
| 50 | " | " | " |
| 51 S 10' | " | " | " |

Continued -2-

| | | | | |
|--|----------|-----------|---|--|
| 139 | Dellrose | East Lawn | X | Minnie Merle Hamilton No Address Available |
| 140 | " | " | | William H. Pierpont Jr. M. Louise Pierpont 215 N. Dellrose |
| 141 | " | " | | " |
| 142 | " | " | | Claude E. Mann Alma F. Mann 201 N. Dellrose |
| 143 | " | " | | " |
| 144 | " | " | | " |
| 158 S 15' | " | " | | John W. Kincheloe Phyllis A. Kincheloe 134 N. Dellrose |
| N 65' of S 334' Pershing of Reserve A | | " | | " |
| 158 N 10' | " | " | X | Edna Faye Hines No Address Available |
| 159 | " | " | | " |
| 160 | " | " | | " |
| 161 S 5' | " | " | | " |
| S 65' of N 290' of Res A | " | " | | " |
| 161 N 20' | " | " | | Ralph Hale Donna D. Hale 150 North Pershing |
| 162 | " | " | | " |
| 163 S 20' | " | " | | " |
| S 65' of N 195' of Res. A | " | " | | " |
| 163 N 5' | " | " | | Nelson Saylor Remington Opal M. Remington 154 N. Pershing |
| 164 | " | " | | " |
| 165 | " | " | | " |
| 166 S 10' | " | " | | " |
| S 65' of N 130' of Reserve A | " | " | | " |

Continued -3-

| | | | |
|----------------------|----------|--------------|--|
| 166 N 15' | Pershing | East Lawn | Samuel G. Woodburn Sally A. Woodburn 4601 E. 1st |
| 167 | " | " | " |
| 168 | " | " | " |
| N 65' of Res A | " | " | " |
| 169 | " | " | Batchelors of Wichita 6411 E. Kellogg |
| 170 | " | " | " |
| 171 S 10' | " | " | " |
| 171 N 15' | " | " | John Robert Barrier Mary Ellen Barrier 216 N. Pershing |
| 172 | " | " | " |
| 173 | " | " | " |
| 174 | " | " | " |
| 16 N 60' | 1st | Wasson Manor | Howard C. Menne Mary Louise Menne 152 N. Dellrose |
| 16 N 54' of S 84' | " | " | Charles F. Church Alma L. Church 148 N. Dellrose |
| 16 S 30' | " | " | Frank W. McCurry Leota Spence McCurry 144 N. Dellrose |
| 17 N 20' | Dellrose | " | " |
| 17 S 30' | " | " | Edna A. Marshall 142 N. Dellrose |
| 26 N 45' | " | " | X Neva G. Sutton Address Not Available |
| 27 S 15' | " | " | " |
| 27 N 35' | " | " | T. Ralph Jones Jr. Claiborne W. Jones 139 N. Dellrose |
| 28 S 24' | " | " | " |
| 28 N 26' | " | " | James G. Moore Gertrude B. Moore 147 N. Dellrose |
| 29 S 24' | " | " | " |


Continued -4-

| | | | |
|----------|----------|--------------|---|
| 29 N 36' | Dellrose | Wasson Manor | Mae E. Gillenwater 175 N. Dellrose |
| 30 S 24' | " | " | " |
| 30 N 60' | " | " | Richard G. Wurst Deane R. Wurst 215 Bonnie Brae |

We hereby certify the foregoing to be a true and correct List of Property Owners within a two hundred foot radius of the North 15 feet of Lot 166 and all of Lots 167 and 168, on Pershing Avenue and all that part of Reserve A adjacent thereto in East Lawn Addition, Wichita, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, on this the 6th day of May, A.D., 1963 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE CO., INC°

By


Vice President

Order No. 103404
(ct)

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan. Pib'g. _____ Pib'g Cert. _____
Sanitation _____ Sewer _____ Signt. _____ Sidewalk _____
Street _____ Trailers _____

| DESCRIPTION | AMOUNT |
|-------------|--------|
| | |
| | |
| | |

Name _____

Address _____

Type _____ Due Date _____

Comments _____

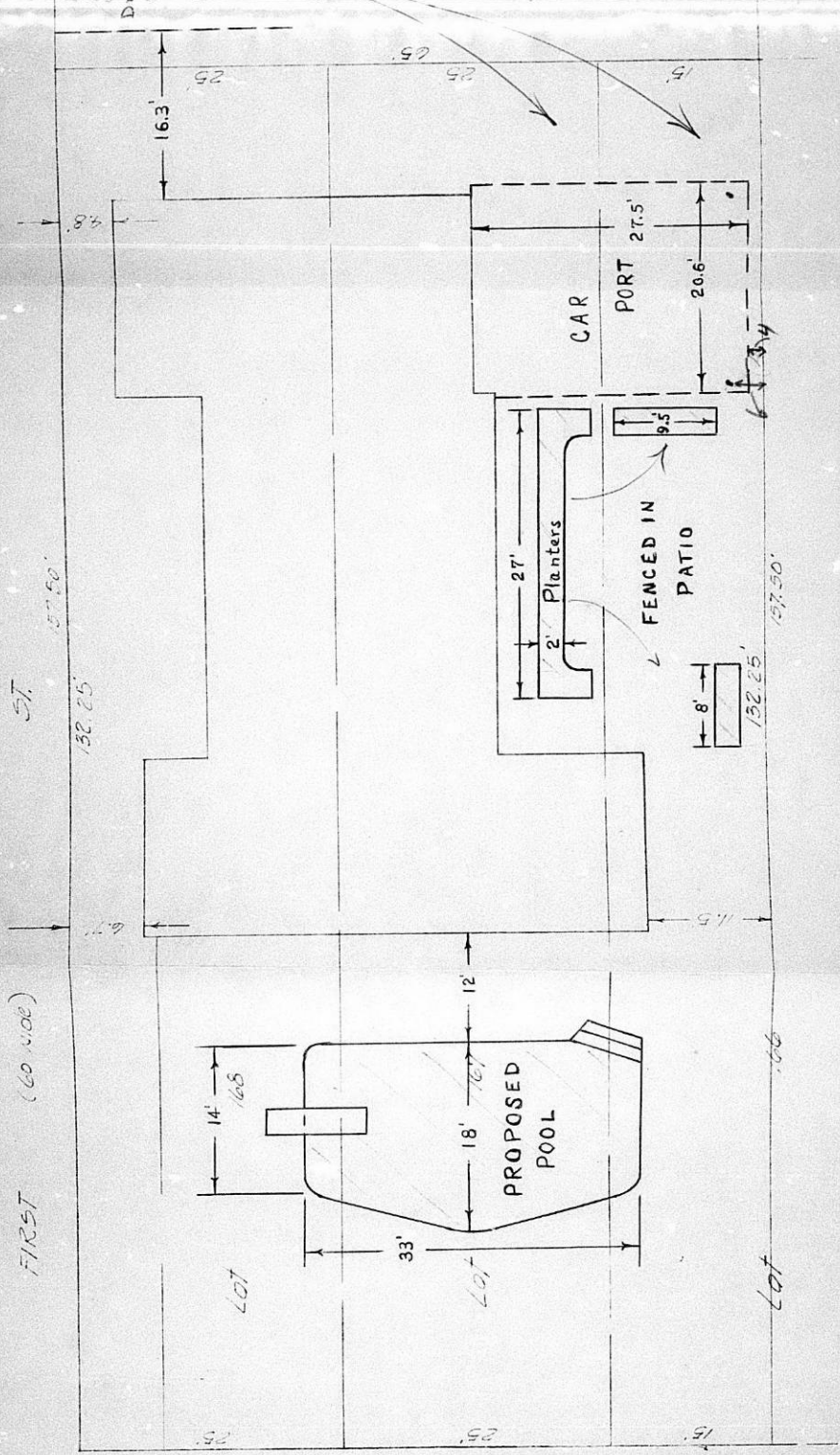
Date _____ By _____

ZONED "AA"

FIRST (60 wide)

ST.

PERSHING (70 wide) A/E



PLAT
OF

The North 15.00 ft of Lot 164, all of
Lots 167, 68 on Reserve Ave. and
that part of Reserve A* adjoining
thereto, being the north 65.00 feet
of Reserve A* oil in Eastown Add. to
the City of Wichita, Sedgwick
County, Kansas

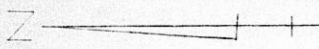
FOR
Clare Nendel/Ken

Lowell Wehling, C.E.

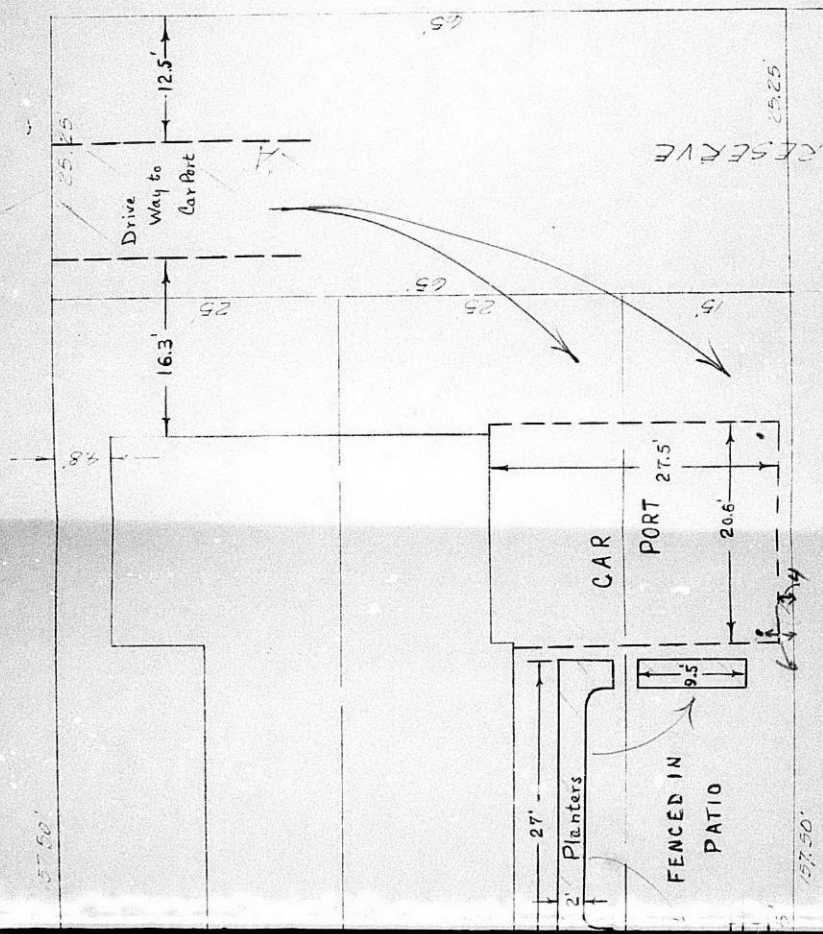
Lowell Wehling - E
Consulting Civil Engineer
20 S. F. H. Wichita, Kansas
5-1-05 710 # 15526

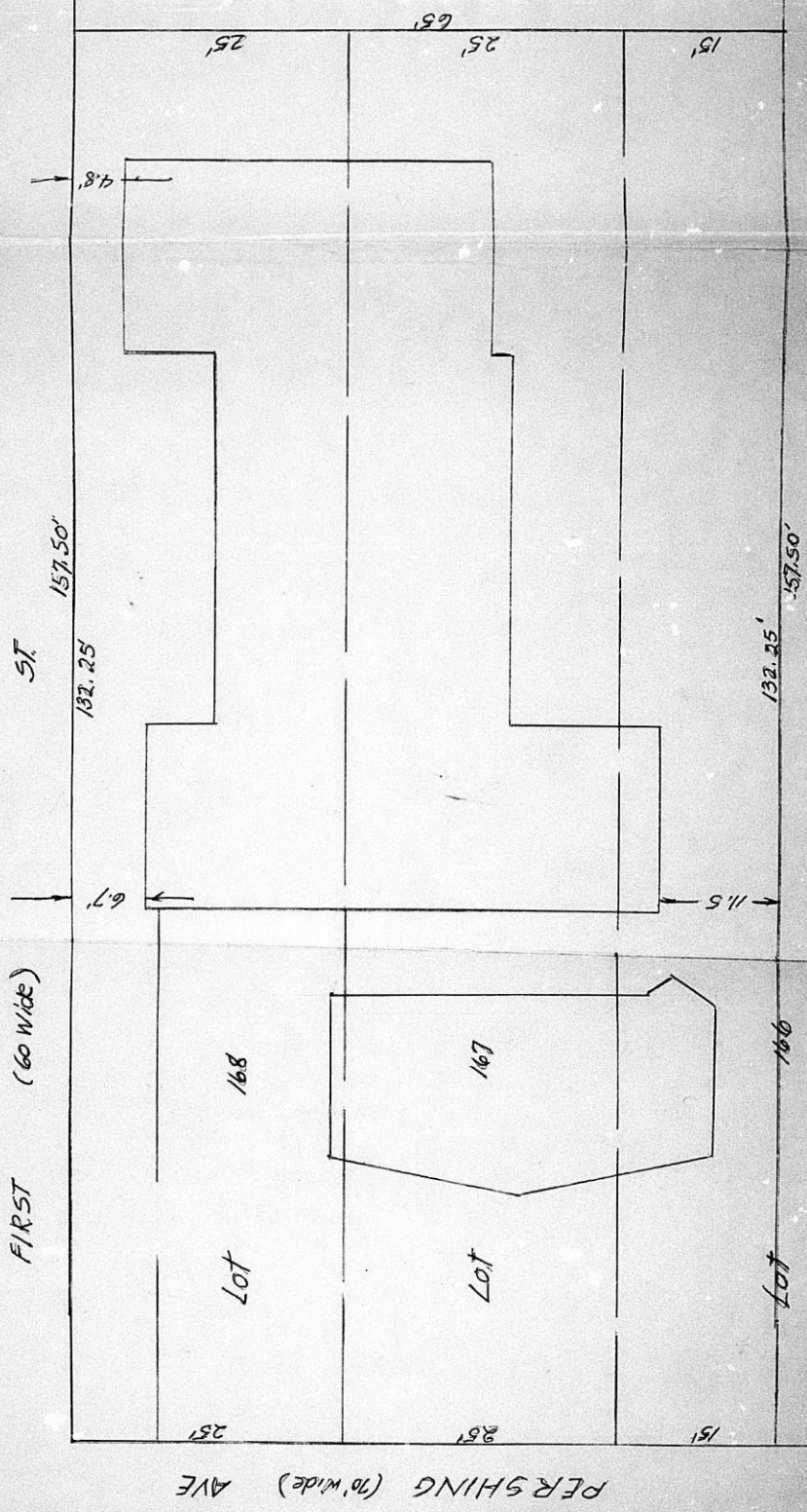
Additions to update by

Clare Nendel



Scale 1"=10'





PLAT
OF

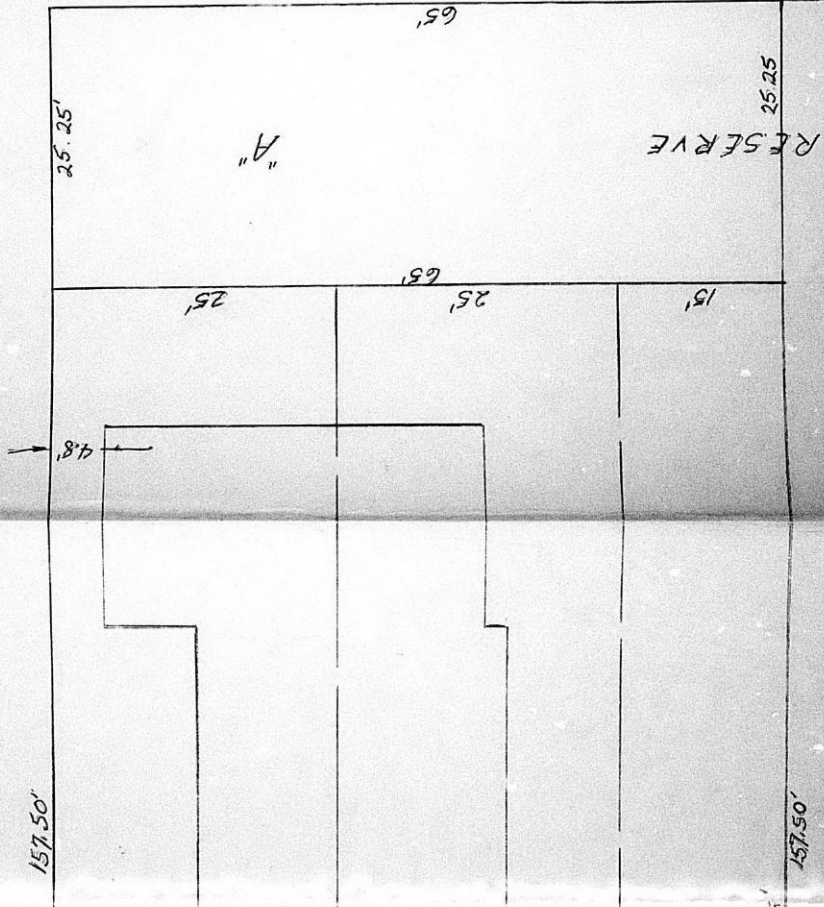
The north 15.00 ft of Lot 146, all of
Lots 167 & 168 on Fishing Ave. and
that part of Reserve "A" adjoining
thereto, being the north 65.00 feet
of Reserve "A" all in Township 400 to
the City of Wichita, Sedgwick
County, Kansas

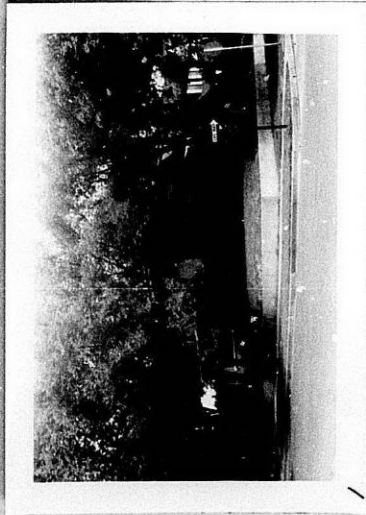
FSK

Clyde Wendelken

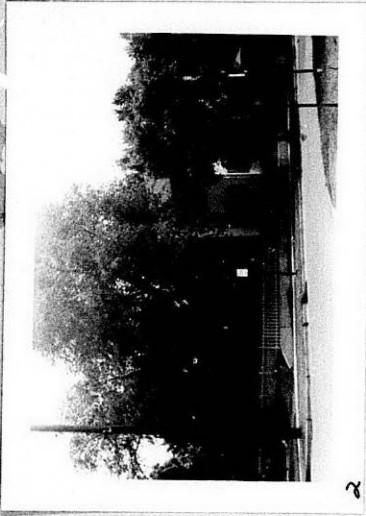
Law. Office Inc. Co.

Jan. S. Manning, C.E.
Consulting Civil Engineer
22 S.F.H. Wichita, Kansas
5-6-63 T.O. # 13526

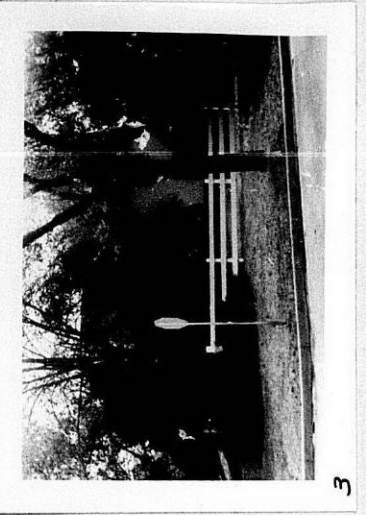




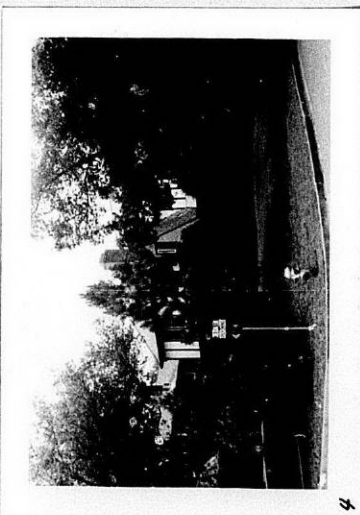
1



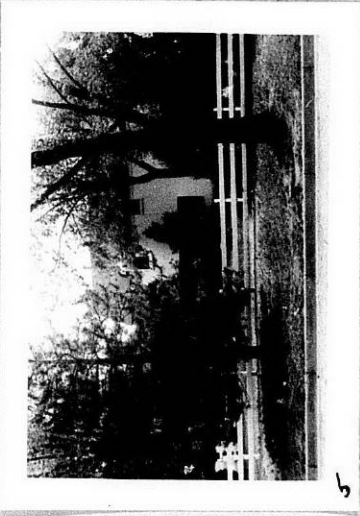
2



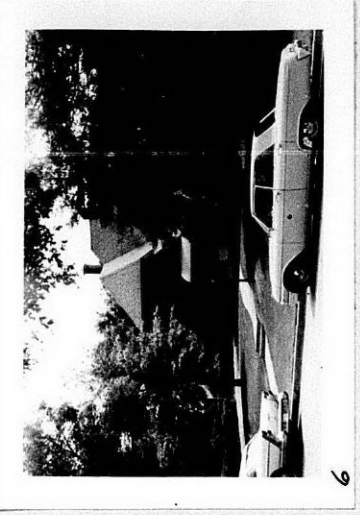
3



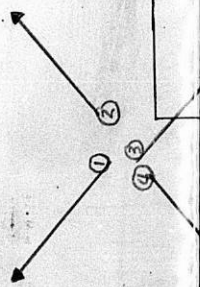
4



5



6



FIRST (60 W/4)

ST

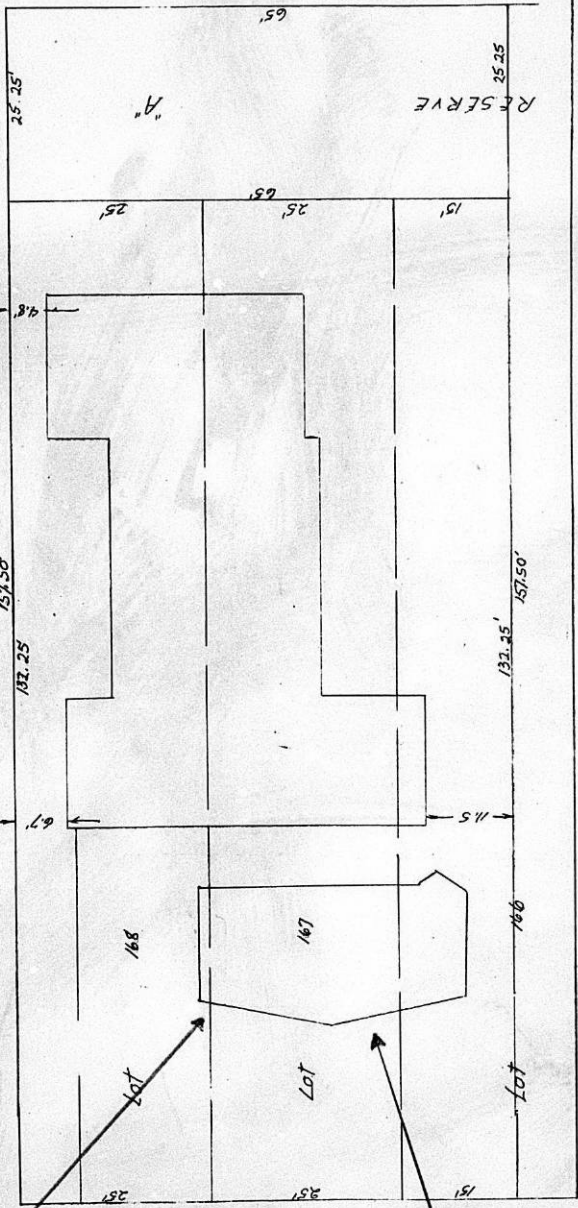
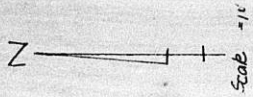
157.50'

182.25'

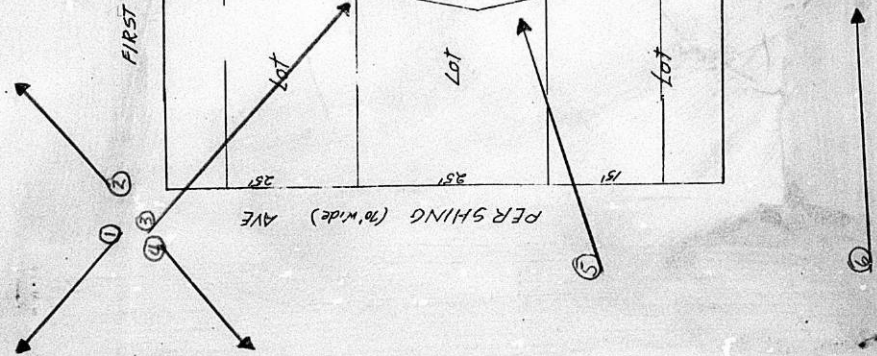
6.7'

4.8'

25.25'



BZA 12-63
Attachment #2



6

5

4