

BZA 23-63 - Robert R. Purcell request
variance to allow mobile home court
in LC on E side of Sereca bet. 43rd &
44th St. So.

ACTION

Sza COMMITTEE ~~Declined~~ ^{DATE received} *10-1-63*

M.A.P.C. _____ *10-22*

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

See BZA 33-63

R E S O L U T I O N N O . 23-63

WHEREAS, Robert R. Purcell, 230 North Crestway, Wichita, Kansas, has, as provided in Section 2.12.590.2, Code of the City of Wichita, requested a variance to allow a mobile home court in the "LC" Light Commercial zoning district on property legally described as:

Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, generally located on the east side of Seneca in an area between 43rd and 44th Streets South; and

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the meeting of September 24, 1963 was recessed to October 1, 1963; and

WHEREAS, new written notices were mailed to all interested parties prior to said recessed meeting; and


WHEREAS, the Board of Zoning Appeals did, in a recessed meeting, consider said application on the 1st day of October, 1963; and

WHEREAS, the staff and legal counsel for the Board have advised the Board of Zoning Appeals that the aforementioned application would, in effect, if granted, be the equivalent of amending the Zoning Ordinance; and

WHEREAS, legal counsel has advised that neither statutory authority or the city ordinances establishing the Board of Zoning Appeals provides any legislative authority to the Board of Zoning Appeals to consider the granting of a variance which would be the equivalent to an amendment to the zoning ordinance.


NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals that it not take jurisdiction in this application.

ADOPTED at Wichita, Kansas, this 1st day of October, 1963.



E. E. Law, Chairman

ATTEST:



R. A. Lakin, Secretary

Appeal Board
of Zoning Appeals
Case No. 23-63

OCT 22 1963

Appeal by Robert R. Purcell, 230 North Crestway, by Boyer, Donaldson, Beck & Stewart, Attorneys, to the Board of City Commissioners from the decision of the Board of Zoning Appeals in Case No. BZA 23-63, in which application was made for a variance to allow a mobile home court in an "LC" district on property legally described as Lot 8, Block 1, except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, generally located on the east side of Seneca in an area between 43rd and 44th Streets South, presented. The case was heard by the Board of Zoning Appeals on October 1, 1963. The appeal was filed in the office of the City Clerk on October 9, 1963.

Appeal referred
to Bd. of Zoning
Appeals for report

Bell moved that the appeal be referred to the Board of Zoning Appeals for report. Motion carried unanimously.

LAW OFFICES OF
BOYER, DONALDSON, BECK & STEWART

WICHITA FEDERAL SAVINGS BUILDING

340 SOUTH BROADWAY

WICHITA 2, KANSAS

October 9, 1963

AMHERST 4-7324
AREA CODE 316

JOHN E. BOYER
GEORGE J. HONORIS (1910-1962)
PAUL J. DONALDSON
HAROLD T. BECK
KENNETH P. STEWART
JAMES R. HANSON
JAMES H. CORRIGAN

Mr. Robert Finch
City Clerk
City Building
Wichita, Kansas

Re: Robert N. Purcell
W-23-63

Dear Mr. Finch:

We enclose for filing appeal to Board of City Commissioners from decision of Board of Zoning Appeals in the above entitled matter for your processing.

It is our understanding that the customary procedure will be for the Board of City Commissioners to refer this matter to the Board of Zoning Appeals with a request for a written report to be subsequently delivered to the City Commissioners and considered by it with due notice to the appellant.

Your cooperation in this matter is sincerely appreciated.

Yours very truly,

BOYER, DONALDSON, BECK & STEWART

By

KPS:rd
Encl.

cc: Board of Zoning Appeals
Robert A. Purcell



APPEAL TO
BOARD OF CITY COMMISSIONERS
FROM
DECISION OF BOARD OF ZONING APPEALS

I. Name of Appellant Robert R. Purcell
Mailing Address 230 North Crestway Phone MU 2-1638
Name of Agent Soyer, Donaldson, Beck & Stewart
Mailing Address 340 South Broadway Phone AM 4-7321

II. Appellant herein appeals from the decision of the Board of Zoning Appeals relating to Case Number BZA-23-63 in which Robert R. Purcell, appellant,

applied for a variance to allow mobile home court in light commercial zone for property located at East side of Seneca in an area between 43rd and 44th Streets South

(describe variance or exception requested in original application)
E. side of Seneca in an area between 43rd & 44th (address) and legally described as Lot(s) 8, Block(s) 1, exc. Sec. 100ft. of W. 100ft. in

Purcell's 10th Addition. The Board of Zoning Appeals decision to deny

(deny, approve) the application was in error and should be reversed for the following reasons:

1. Contrary to municipal code, Sec. 2.12.560, et. seq., esp. 2.12.590.
2. Contrary to precedent of cases BZA 2-60, BZA 4-62, and BZA 16-63.

Appellant Robert R. Purcell

Authorized Agent Kenneth P. Stewart

OFFICE USE ONLY:

This appeal from a decision rendered by the Board of Zoning Appeals was received in the Office of the City Clerk at _____ (a.m., p.m.) _____ (date).

Signed _____

Title _____

BZA-1

October 23, 1963

Mr. Kenneth P. Stewart, Attorney
340 South Broadway
Wichita, Kansas

Dear Ken:

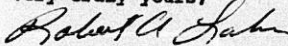
Re: BZA 23-63

This is to acknowledge that the Board of Zoning Appeals did authorize the rehearing of the above case under the provisions of the Rules and Regulations of the Board. Based on this, will you please submit the additional filing fee of \$50. We will use the ownership list that we now have in the file on this case for new mailings. We have scheduled this for consideration at our next regular meeting, which is November 26, 1963.

Since the case, under the Rules and Regulations, is to be considered as a new one, I would appreciate having a new statement from you or Mr. Purcell as to your position on jurisdiction, as well as the four points required under the ordinance to exist prior to approval. I assume the plot plan as previously submitted by Mr. Purcell will remain the same. However, if there is any modification or change in order to comply with the recommended conditions of the last Secretary's report, we would appreciate having the new material.

Upon receipt of the new material from you or Mr. Purcell, we will prepare a new Secretary's report on this case. If there are any questions, please call.

Very truly yours,



Robert A. Lakin
Secretary

RAL:ber
cc: Robert R. Purcell
230 North Crestway

October 17, 1963

Mr. Kenneth P. Stewart, Attorney
340 South Broadway
Wichita, Kansas

Dear Mr. Stewart:

Re: BZA Case No. 23-63

This is to acknowledge receipt of your request for rehearing of BZA Case 23-63. Since I have not been able to contact Ed Law prior to sending out the agenda, I have placed the matter on the agenda for the Board's consideration. This will appear as the last item on the agenda of October 22.

It is my understanding that this will not be the rehearing itself but merely the proposition as to whether or not a rehearing should be granted.

If there are any questions, please call.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

cc: Robert R. Purcell
230 North Crestway
Wichita, Kansas

October 16, 1963

Mr. R. A. Lakin, Secretary
Board of Zoning Appeals
City of Wichita
Room 401, City Building Annex
Wichita, Kansas

RE: BZA 23-63
Robert R. Purcell,
Applicant

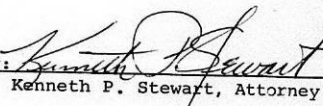
The undersigned, Robert R. Purcell, by his attorney, duly authorized, does hereby request a rehearing before the Board of Zoning Appeals of the subject application in accordance with the Rules and Regulations, ARTICLE VIII, for the following reasons, to-wit:

- (a) That new evidence for consideration by the Board of Zoning Appeals in support of Application for Variance was not permitted to be given by the applicant due to staff recommendation and decision by the Board of Zoning Appeals; that there was lack of jurisdiction over the request since it permitted a "use" variance;
- (b) Insufficient consideration was given to the existence of facts to support the four conditions necessary to permit granting of the requested variance.



Applicant indicates his intention to pay the additional filing fee of \$50.00 upon filing of a rehearing if the request for rehearing is granted, all in accordance with applicable rules.

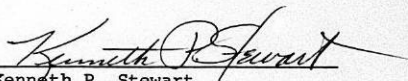
ROBERT R. PURCELL

By: 
Kenneth P. Stewart, Attorney


STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

KENNETH P. STEWART, of lawful age, being first duly sworn upon oath, deposes and states:

That he is attorney for the Applicant and hereby states upon information and belief, including the examination of minutes of the Board of Zoning Appeals that the statements contained in the above and foregoing request for rehearing are true and correct to the best of his knowledge and belief.


Kenneth P. Stewart

SUBSCRIBED and SWORN to before me, a notary public in and for said County and State, this 16th day of October, 1963.


Ruth E. Davis, Notary Public

My Commission Expires:

August 11, 1966.

Board of Zoning Appeals

October 8, 1963

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

BZA 23-63

Attached is a copy of BZA Resolution No. 23-63, covering action taken by the Board of Zoning Appeals on the above case.

This case was heard on October 1, 1963, and an appeal may be filed in your office on or before October 11, 1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

October 2, 1963

Mr. Robert R. Purcell
230 North Crestway
Wichita, Kansas

Dear Mr. Purcell:

Subject: BZA 23-63

This is to advise you that at its meeting of October 1, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to allow a mobile home court in an "LC" district on property legally described as:

Lot 8, Block 1, except the south 100 feet of the
west 100 feet, in Purcell's 10th Addition,

generally located on the east side of Seneca in an area between
43rd and 44th Streets South.

After due consideration and discussion of this application, it was
the action of the Board of Zoning Appeals not to take jurisdiction.

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 October 11, 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 October 11, 1963, the decision of the Board will be final.

Very truly yours,

Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Robert G. Finch
City Clerk

Glen Lytle, Superintendent
of Central Inspection

September 20, 1963

Mr. Robert A. Lakin
BOARD OF ZONING APPEALS
Room 402 City Building Annex
10th South Main
Wichita, Kansas

*received
10-1-63
JWH*

Re: Case No. BZA- 23-63

Dear Sir:

The undersigned individuals are owners of property in the 4400 block on South Osage which is one block east of the lots adjoining the tract of land concerning which Mr. Purcell has requested a variance to allow him to use his property for a mobile home court in "LC" zoning district.

We are not all able to attend the hearing scheduled for Tuesday, September 24, 1963, at 2 p.m. and are writing this letter to advise you of our feelings concerning this proposed use of Mr. Purcell's property.

Most of us have owned our homes for over eleven years. They were purchased by us for use as our private residences. Our abstracts all contain restrictive covenants set out in the deeds and all deeds are given subject to the provisions as set up by J. F. Purcell, Laura P. Purcell, Don G. Purcell, and Margaret F. Purcell, sole owners of all the lots in Purcell's Tenth Addition to Sedgwick County, as of 10th of October, 1951. These restrictions state in very strong language that the properties described in each deed shall be improved, used, and occupied for no other than one single residential purpose and states specifically that no trailer shall at any time be used as a residence temporarily or permanently.

We feel that the value of our property will be seriously damaged if this variance is granted and ask that the Board of Zoning Appeals deny Mr. Purcell's application for a variance.

Yours very truly,

*Mr. & Mrs. Charles R. Austin, Jr. - 4409 So. Osage
Mrs. and Mrs. Carl Tomkins, Jr. - 4416 So. Osage
Mrs. & Mrs. J. E. Standridge - 4433 S. Osage
Mr. & Mrs. Elton J. Easterly - 4401 So. Osage
Mr. & Mrs. Leonard R. Burdum - 4428 So. Osage
Mr. and Mrs. Robert L. Coyle - 4410 South Osage
Mr. & Mrs. Albert M. Pfeiffer - 4422 So. Osage
Ms. Mrs. Marie Bledsoe - 4427 So. Osage*

received
10-1-63
JWH

September 18, 1963

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

Re: Case No. BZA-23-63

Gentlemen:

We are owners of property in the 4400 block on South Handley which is directly east of the property for which Mr. Purcell is requesting a variance, as provided in Section 2.12.590.2 Code of the City of Wichita, Kansas, to allow a mobile home court in "LC" zoning district.

We wish to register with you our strong opposition to the granting of such a variance.

Our property is located in Purcell's 10th Addition and our abstracts all contain strong restrictions prohibiting the use of any trailer or even other building on our property which might be used for a dwelling. We are strictly limited to single-family use of the property. We all purchased our homes to be used as our private residences, and many of us have lived on this block for 12 years and we feel that granting of this variance would cause us irreparable damage to the value of our property.

We are unable to attend this meeting in person because of our jobs and responsibilities to children returning from school, but we wish to register with you our opposition to use of this land for a mobile home court, and will deeply appreciate your denial of this application.

Yours very truly,

(Address)

- 4416 So. Handley *Lawrence R. Wolfe*
- 4401 So. Handley *Robert H. Dunkel and (Mrs) Marie L. Dunkel*
- 4400 So. Handley *Albert C. Kasterke (Mrs) Mary J. Kasterke*
- 4427 South Handley *John W. Jarman (Mrs) Mary E. Jarman*
- 4433 So. Handley *Frank W. Spencer*
- 4428 So. Handley - *Norris H. Pitts, Dorothy L. Pitts*
- 4409 So. Handley *Barbara Refner W.C. Refner*
- 4422 So. Handley *G.E. Field and Mrs C.E. Field*

*revised
10-1-63
JWH*

The restrictions hereinafter set forth shall be filed of record in the office of the Register of Deeds in the City of Wichita, Sedgwick County, Kansas, and shall apply in full to all the lots in Purcell's Tenth Addition to Sedgwick County, Kansas, except Lot 8, in Block 1, and Lot 21 in Block 2 in said addition. All deeds to all lots except those enumerated above are given subject to the provisions hereof.



1. The property described in each deed shall be improved, used, and occupied for no other than one single residential purpose, and no residence shall be built thereon having a ground area of less than 675 square feet in the case of one-story building or 600 square feet in the case of one and one-half or two-story building, and a private garage for not more than two cars in any lots in said addition.


2. No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

3. No used, secondhand, or previously constructed house or building of any kind shall be moved or placed as a whole on said land. No used, secondhand lumber or materials shall be used in the erection of the dwelling upon said land.

4. No building shall be erected on any residential plot or lot nearer than 25 feet from the front line or nearer than 5 feet to any side line. The said side-line restriction shall not apply to any garage located on the rear one-quarter of any lot, except that on corner lots, no structure shall be erected nearer than 6 feet to the side-street line.

5. The above-mentioned land in the said addition is sold and conveyed for residential purposes only, and no trade or business shall be followed, maintained or carried on on any part thereof. All of the land shall be at all times kept in a reasonably clean state, free of trash or debris and nothing shall be done thereon that has been heretofore held or may hereafter be held by the Court of the State of Kansas to constitute nuisance in a restricted residential district.

6. Invalidation by any competent authority of any one or more of the restrictions herein contained, or by judgment of any court of competent jurisdiction, shall in no wise affect any of the other remaining provisions herein, which shall remain in full force and effect.



7. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 1981, EXCEPT that by two thirds vote of the owners of the lots at any given time the covenants hereinbefore set out may be amended or modified as agreed upon in such vote. The covenants will automatically extend for successive periods of ten years after January 1, 1981, unless by a two thirds vote of the owners of the lots at that time, it is agreed to change the said covenants in whole or in part.

If the parties hereto or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real properties situated in said addition, to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants, and either to prevent him or them from so doing or to recover damages or other dues for such violations.

IN WITNESS WHEREOF, the undersigned, sole owners of all the lots in said Purcell's Tenth Addition to Sedgwick County, Kansas, have hereunto set their hands, this the 10th day of October 1951.

J. F. Purcell
Laura P. Purcell
Don G. Purcell
Margaret F. Purcell

ACKNOWLEDGED: Before Frank Malone, Jr. Notary Public (Seal) for Sedgwick County, Kans. xx on Oct. 10, 1951 xx came J. F. Purcell and Laura P. Purcell, his wife, and Don G. Purcell and Margaret F. Purcell, his wife. xx

FILED for record Oct. 12, 1951 at 8:30 A. M.

C. S. Aukerman, Register of Deeds

---FB---

GENERAL DESCRIPTION

The property represented in this application is generally located on the east side of Seneca between 43rd and 44th Streets South.

The property in question is zoned "LC" Light Commercial. To the west is "LC" Light Commercial; north is "AA" Single Family; east is "AA" Single Family; and south is "AA" Single Family.

To the west is a service station, trailer house, auto repair shop and an animal hospital; north is single family, laundry and a duplex; east is single family; and south is single family and a church. All of the property in question is vacant.

REQUEST

The request is for a variance as provided in Section 2.12.590.2, of the Code of the City of Wichita, to allow a mobile home court to be located in a Light Commercial zone.

COMMENTS BY THE SECRETARY

The ordinance creating a Board of Zoning Appeals granted the Board jurisdiction to hear three types of cases - appeals, variances and exceptions. The Secretary feels that the intent of the ordinance insofar as it relates to variances was to allow the Board to modify such requirements as height, setback, lot area, lot width and similar requirements to the zoning ordinance and not to allow the granting of permission to use property in a different manner or a different use than that permitted by the Zoning Ordinance. To allow a different use than

that specified in the Zoning Ordinance would be, in effect, the amendment of the Zoning Ordinance by a board not having legislative power or authority. Since uses to be permitted in any specific zone are established by the City Commission by adoption of an ordinance as a legislative act, it is the opinion of the Secretary that the granting would be a legislative act capable of being exercised only by the City Commission and not within the jurisdiction of the Board of Zoning Appeals.

The only way in which the ordinance now provides that a mobile home court may be allowed in the "LC" Light Commercial district is by application for an Exception to the zoning ordinance as provided in Section 28.04.180.A.5. It is further provided that the Board of Zoning Appeals may consider only those applications in Light Commercial zones which are located along Federal or state highways, and further provided, that the location is first approved by the Planning Commission.

In this instance, the applicant did not apply for an Exception, but rather applied for a variance to allow a mobile home court in Light Commercial. Furthermore, if the applicant would have applied for an exception, the Board could not consider the application until the location has first been approved by the Planning Commission.

It is also doubtful if the Planning Commission could consider the location since it is not adjacent to a federal or state route and they have no authority to change such requirement except by recommending an amendment of the ordinance.

In the opinion of the Secretary, the Zoning Ordinance cannot and should not be amended through the granting of use variances. Therefore, based upon the foregoing review, it is the opinion and recommendation of the Secretary that the Board of Zoning Appeals not take jurisdiction in this case.

In the event the Board does take jurisdiction in this case, the Board must find that all four of the following conditions are present before granting the request of the applicant:

1. The variance desired arises from such condition which is unique and not ordinarily found in the same zoning district.
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. Strict application of the enforcement provisions of the zoning ordinance would constitute an unnecessary hardship on the property owners represented in the appeal.
4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

UNIQUENESS

The applicant contends that this particular property is unique in view of the size and shape of the property and in view of the existence of city utilities.

The Secretary has taken the position that uniqueness should be so construed as to mean that there is something unusual or unique about the property that sets it apart from other properties in the same neighborhood or zone, e.g., unusual platting, unusual ground characteristics, irregular and unusual ownership patterns, etc.

It is the opinion of the Secretary that from the statements submitted by the applicant, none of these things can be found to exist in this particular case. The only thing that could approach the definition as outlined by the Secretary is that there is a considerable amount of property that is zoned Light Commercial in this area, but the market for such property is very poor. However, it is very doubtful if even this statement would make this property any more unique than other light commercially zoned properties that are undeveloped in the surrounding area.

ADJACENT PROPERTY

It is doubtful if the granting of the variance would have any adverse affects upon the surrounding property if the mobile home court is properly developed under conditions similar to those established in the County Trailer Code.

HARDSHIP

The Secretary has taken the position that "hardship" exists if the property cannot be used for the purpose for which it is zoned. The applicant suggests that he has been burdened with an undue hardship in view of the fact that there is a considerable amount of Light Commercial property in this area, but the market for said property is very poor and because of this reason he suggests if the variance is not granted he will be burdened with an unnecessary hardship.

The Secretary is of the opinion that if there is, in fact, a poor market for Light Commercial property in this general area, that

hardship can probably be found to exist on the basis that the property cannot be used for the purpose for which it is zoned. On the other hand, if other property owners who own Light Commercial property in this same general area are finding it difficult to find a market for their property, it may be possible that some of the property now zoned Light Commercial was prematurely zoned. However, since this property is currently zoned Light Commercial, it is very doubtful if it will ever develop residentially.

In view of the above considerations, the Secretary is of the opinion that hardship can be found to exist on the basis that there is a poor market for Light Commercial property in this particular area, and also because it is doubtful if this property will ever develop residentially.

PUBLIC INTEREST

The applicant is of the opinion that the granting of the variance will not adversely affect the public interest because the property is currently zoned Light Commercial. He further contends that a mobile home court would be compatible to the general health and welfare of the area because the property can be served with city sewer, water, natural gas and trash service. Also, there is a need for good mobile home sites in the area.

In view of the reasons submitted by the applicant, the Secretary is of the opinion that the granting of the variance should in no way adversely affect the public interest.

ADDITIONAL COMMENTS

In view of the fact that this property is zoned Light Commercial, it is very doubtful if it will ever be developed for residential purposes. Taking into consideration the uses in the surrounding area, this particular site would seem to be a reasonable location for a mobile home court.

The proper solution to this particular case would probably be for the applicant to wait for the new "MH" Mobile Home zone to be adopted. The staff has completed a list of suggested amendments which, if adopted, would create a new zoning district for mobile homes and closely associated uses. The reason behind the proposed amendment is that mobile homes should be considered as a residential use rather than a commercial use, and consequently should be treated as such. The new district will be a median density district, with densities comparable to those in existence in the "RB" Four Family and "B" Multiple Family districts.

A new city trailer code is also being drawn up by the Health Department. It is hoped that this code will be comparable to the trailer code now in existence in the County. As of the time this report was written, the Health Department advised us that the proposed city Trailer Code was almost complete.

In order that the amendments to the zoning ordinance creating the new "MH" Mobile Home to mean anything, it must be adopted at the same time as the new trailer code is adopted, in view of the fact that they are inter-dependent. Before either the trailer code or

suggested amendments can be adopted, meetings will have to be held with the Wichita Mobile Home Association, and public hearings will have to be held before the Planning Commission.

It will probably be the end of next February before either the trailer code or amendments creating the new district can be adopted.

SECRETARY'S RECOMMENDATION

It is the opinion of the Secretary that all four conditions necessary to the granting of a variance have not been found to exist and, therefore, it is recommended that the variance be denied in that an adequate showing has not been made by the applicant in his justification of uniqueness.

However, in the event the Board takes jurisdiction and finds all four conditions to exist and wishes to approve the variance, the Secretary recommends that the variance be approved, subject to the following conditions and requirements:

1. Each mobile home or trailer space shall contain a minimum of fifteen hundred (1,500) square feet with the boundaries properly marked. Mobile homes and trailers shall be so situated on each space so that there shall be no less than twenty (20) feet of clearance between such homes and trailers and that clearance between rears of homes or trailers shall be no less than twelve (12) feet.

2. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a side yard of no less than five (5) feet from any side space line.
3. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a front setback of no less than twenty (20) feet from the center line of the roadway; and in no instance shall such setback be less than five (5) feet from the edge of the roadway. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a front setback of no less than twenty-five (25) feet from the street line of any public street or highway.
4. All mobile homes or trailers shall be so situated on the mobile home or trailer space as to maintain a setback of no less than five (5) feet from the rear of the trailer or mobile home space.
5. All mobile home and trailer spaces shall abut upon a roadway of not less than thirty (30) feet in width.
6. All roadways, trailer and mobile home spaces shall be clearly identified with letters or numerals of a light reflecting material; such letters or numerals to be a minimum of two (2) inches in height.

7. Each mobile home space shall be provided with one off-street parking space, measuring no less than ten (10) feet in width by no less than twenty-five (25) feet in length; such parking space to be parallel to the adjacent roadway and located in the front portion of the mobile home or trailer space. Said parking space may include any part of the front yard setback.
8. All roadways shall be lighted at night with fifty (50) watt lamps at intervals of two hundred (200) feet located approximately twenty (20) feet from the ground, provided that all lights shall be so arranged as to reflect the light away from adjoining properties.
9. Compliance with such other requirements as may be deemed necessary by the Wichita-Sedgwick County Health Department, the Engineering Department, the Central Inspection Division, the Fire Department and the Water Department.
10. If use as a mobile home court is discontinued for a period longer than six months, the permit shall be revoked and the owner of the land shall restore the property to its unimproved condition.
11. The mobile home park shall be occupied by mobile homes containing individual toilet, bath, cooking and refrigeration facilities and in no event shall trailer houses without these facilities be allowed.

Page 10 - Secretary's Report
BZA Case 23-63

12. A final plot plan showing the layout of the mobile home court as finally approved by the Wichita-Sedgwick County Health Department, Engineering Division, Central Inspection Division, Fire Department and Water Department shall be filed with the Secretary of the Board of Zoning Appeals.

Attachments

- #1 - Statement of Justification
- #2 - Plot plan
- #3 - Variance vote sheet

COPY

APPLICATION FOR VARIANCE

- (a) Variance requested is unique, Lot 8, Blk. 1 in Furcell's 11th Addition was platted and zoned "LC". The location, size, shape and all city utilities makes the above property compatible for a mobile home development.
- (b) Your granting of a permit for the variance requested will not adversely affect the rights of the adjacent property owners or residents because a mobile home development is more residential than commercial in nature.
- (c) Under the existing city zoning ordinance, mobile home developments are allowed in the "C" and "D" zoning districts and in the "LC" if they are located on federal or state highways. I do not feel that the above property is suitable for "C" or "D" zoning. There is a considerable amount of "LC" property in this area, but the market for said property has been very poor. If the variance requested is not granted it will constitute an unnecessary hardship for me because I will not be able to put the property to use.
- (d) The variance requested is not against the public interest because the property is presently zoned "LC". It is compatible to the general health and welfare of the area because the property can be served with city sewer, water, natural gas and trash service. There is a need for good mobile home sites in the area. The property is close to shopping and schools. It is ideal for a mobile home development.

I respectfully request the Board of Zoning Appeals to approve the variance requested by deleting the words state or federal highways on the above "LC" property to permit a mobile home development.

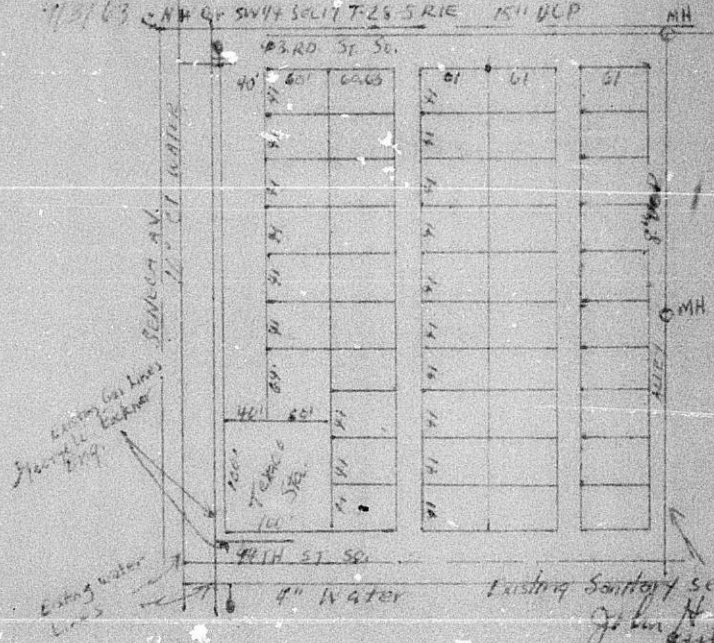
/s Robert R. Furcell

BZA 23-63
Attachment #1

Existing Water Lines

Bill H. Coker
Supt. of Design & Planning

7/21/63 - NW QTR SW 1/4 SEC 17 T-26 S-12E R-11 DCP



Existing Gas Lines
Planting

Existing water
lines

Existing Sanitary sewer

John H. Engstrom
City Engineer
9/13/63

BZA Case 23-63
Attachment #2

SEA ACTION

Motion made by	Seconded by	Action
		Jurisdictions
		FINDINGS OF FACT
		1. Variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
		2. Granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
		3. Strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
		4. Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
		Determination (Approve or Deny)

BZA CASE NO. 23-63

NOTICES MAILED SEPTEMBER 24, 1963 FOR
RE-SCHEDULED MEETING OF OCTOBER 1, 1963

Robert R. Purcell
230 North Crestway

Billy D. and Linda Ann Johnson
4509 South Handley

Robert H. and Marie L. Funke
4401 South Handley

Federal Housing Commissioner
Washington, D. C.

Clifford Hefner and Barbara Nell Hefner
4409 South Handley

A. Cecil and Mary S. Kasterke
4400 South Handley

John C. and Agatha E. Malone
2715 West 3rd Street

R. A. and Laura K. Wolfe
4416 South Handley

Paul J. and Dorothy C. Johnson
4421 South Handley

Clarence E. and Florence M. Field
4422 South Handley

John W. and Dorothy A. Jaerger
4427 South Handley

Norris H. and Dorothy L. Pitts
4428 South Handley

Fred W. and Mary C. Spencer
4433 South Handley

Martin Lewis and Jo Ann Allen
4434 South Handley

L. C. and Mary Tallman
900 West 44th Street South

Sherman L. and Lola Campbell
1530 Webster

Robert R. and Betty Jean Purcell
Laura P. Purcell
230 North Crestway

George K. and Delores Downs
5330 East 72nd Street South

Harold E. and Nancy V. Frey
4516 South Seneca

Security Oil Company
605 West 47th Street
Kansas City, Missouri

Ronald F. and Dorothy M. Johnson
4515 South Walnut

Jesse L. and Viola Horn, Jr.
5160 South Seneca

The South Seneca Baptist Church
4502 South Seneca

Walter, Jr., and Jean Ann Powell
4345 South Handley

Robert H. and Bonnie M. Ivy
4502 South Walnut

Arnold Lee and Virginia Lee Hole
4357 South Handley

Dale Francis and Betty June Boden
4508 South Walnut

Ray M. and May Holder
4360 South Seneca

Kenneth E. and Imogene Corn
4514 South Walnut

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

RE-SCHEDULING OF CASE RZA 23-63

NOTICE TO ADJOINING PROPERTY OWNERS

An application has been filed by Robert R. Purcell, 230 North Crestway, Wichita, Kansas, requesting a VARIANCE, as provided in Section 2.12.690.2, Code of the City of Wichita, Kansas, to allow a mobile home court in "LC" zoning district, on property legally described as:

Lot 8, Block 1, Except the South 100 feet of the West 100 feet, in Purcell's 10th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Seneca in an area between 43rd and 44th Streets South.


This application was originally scheduled for hearing on Tuesday, September 24, 1963, but inasmuch as no meeting was held because of lack of a quorum of the members of the Board being present, it has been re-scheduled for Tuesday, October 1, 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

APPLICATION FOR VARIANCE

- (a) Variance requested is unique, Lot 8 Blk. 1 in Purcell's 11th Addition was platted and zoned "LC". The location size, shape and all city utilities makes the above property compatible for a mobil home development.
- (B) Your granting of a permit for the variance requested will not adversely affect the rights of the adjacent property owners or residents because a mobil home development is more residential than commercial in nature.
- (C) Under the existing city zoning ordinance, mobil home developments are allowed in the "C" and "D" zoning districts and in the "LC" if they are located on federal or state highways. I do not feel that the above property is suitable for "C" or "D" zoning. There is a considerable amount of "LC" property in this area, but the market for said property has been very poor. If the variance requested is not granted it will constitute an unnecessary hardship for me because I will not be able to put the property to use.
- (D) The variance requested is not against the public interest because the property is presently zoned "LC". It is compatible to the general health and welfare of the area because the property can be served with city sewer, water, natural gas and trash service. There is a need for good mobil home sites in the area. The property is close to shopping and schools. It is ideal for a mobil home development.

I respectfully request the Board of Zoning Appeals to approve the variance requested by deleting the words state or federal highways on the above "LC" property to permit a mobil home development.


ROBERT R. PURCELL

23-63

BZA CASE NO. 23-63 NOTICES MAILED SEPTEMBER 5, 1963
MEETING - September 24, 1963

Robert R. Purcell
230 North Crestway

Robert H. and Marie L. Funke
4401 South Handley

Clifford Hefner and Barbara Nell Hefner
4409 South Handley

John C. and Agatha E. Malone
2715 West 3rd Street

Paul J. and Dorothy C. Johnson
4421 South Handley

John W. and Dorothy A. Jaerger
4427 South Handley

Fred W. and Mary C. Spencer
4433 South Handley

L. C. and Mary Tallman
900 West 44th Street South

Robert R. and Betty Jean Purcell
Laura P. Purcell
230 North Crestway

Harold E. and Nancy V. Frey
4516 South Seneca

Ronald F. and Dorothy M. Johnson
4515 South Walnut

The South Seneca Baptist Church
4502 South Seneca

Robert H. and Bonnie M. Ivy
4502 South Walnut

Dale Francis and Betty June Boden
4508 South Walnut

Kenneth E. and Imogene Corn
4514 South Walnut

Billy D. and Linda Ann Johnson
4509 South Handley

Federal Housing Commissioner
Washington, D. C.

A. Cecil and Mary S. Kasterke
4400 South Handley

R. A. and Laura K. Wolfe
4416 South Handley

Clarence E. and Florence M. Field
4422 South Handley

Norris H. and Dorothy L. Pitts
4428 South Handley

Martin Lewis and Jo Ann Allen
4434 South Handley

Sherman L. and Lola Campbell
1530 Webster

George K. and Delores Downs
5330 East 72nd Street South

Security Oil Company
605 West 47th Street
Kansas City, Missouri

Jesse L. and Viola Horn, Jr.
5160 South Seneca

Walter, Jr., and Jean Ann Powell
4345 South Handley

Arnold Lee and Virginia Lee Hole
4357 South Handley

Ray M. and May Holder
4360 South Seneca

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

September 5, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 23-63

An application has been filed by Robert R. Purcell, 230 North Crestway, Wichita, Kansas, requesting a variance, as provided in Section 2.12.590.2, Code of the City of Wichita, Kansas, to allow a mobile home court in "LC" zoning district, on property legally described as:

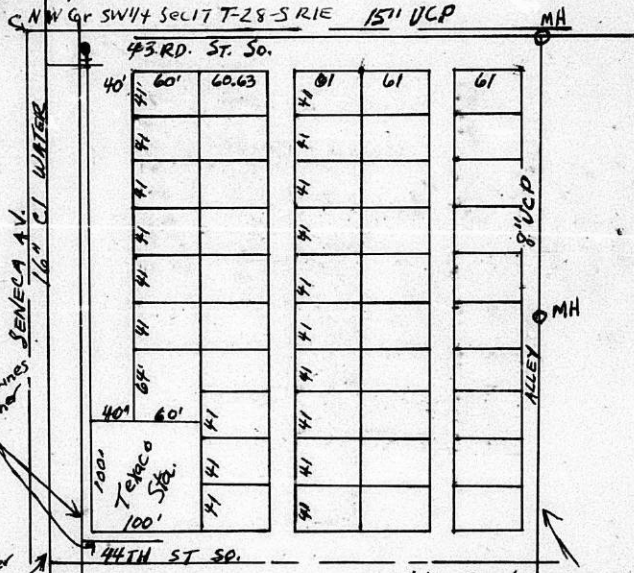
Lot 8, Block 1, Except the south 100 feet of the west 100 feet, in Purcell's 10th Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Seneca in an area between 43rd and 44th Streets South.

This application has been assigned Case No. BZA 23-63. A hearing will be held by the Board of Zoning Appeals on Tuesday, September 24, 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

Existing Water Lines

Bill H. Otten
Supt of Design & Planning
9/3/63



Existing Gas lines
Yeoman W. Eckner
Eng.

Existing water
lines

Existing Sanitary sewer

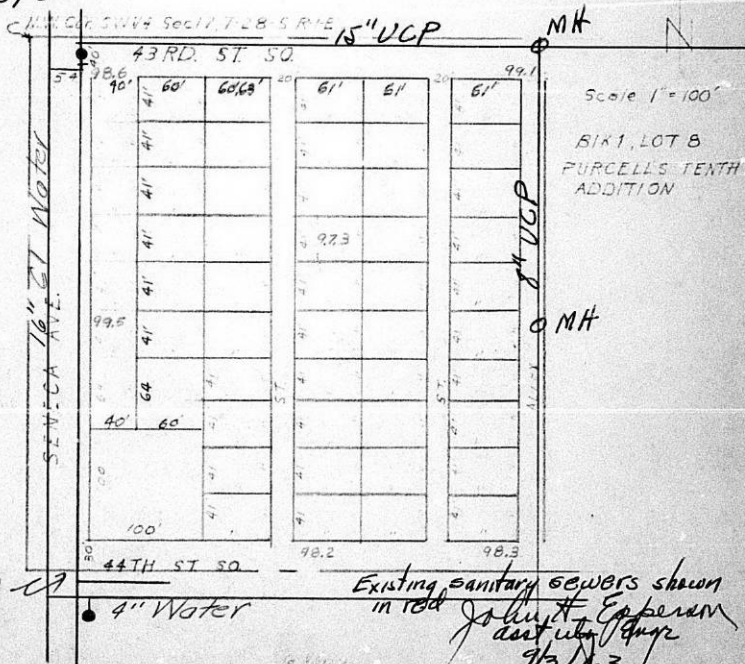
John H. Epperson
city eng.
9/3/63

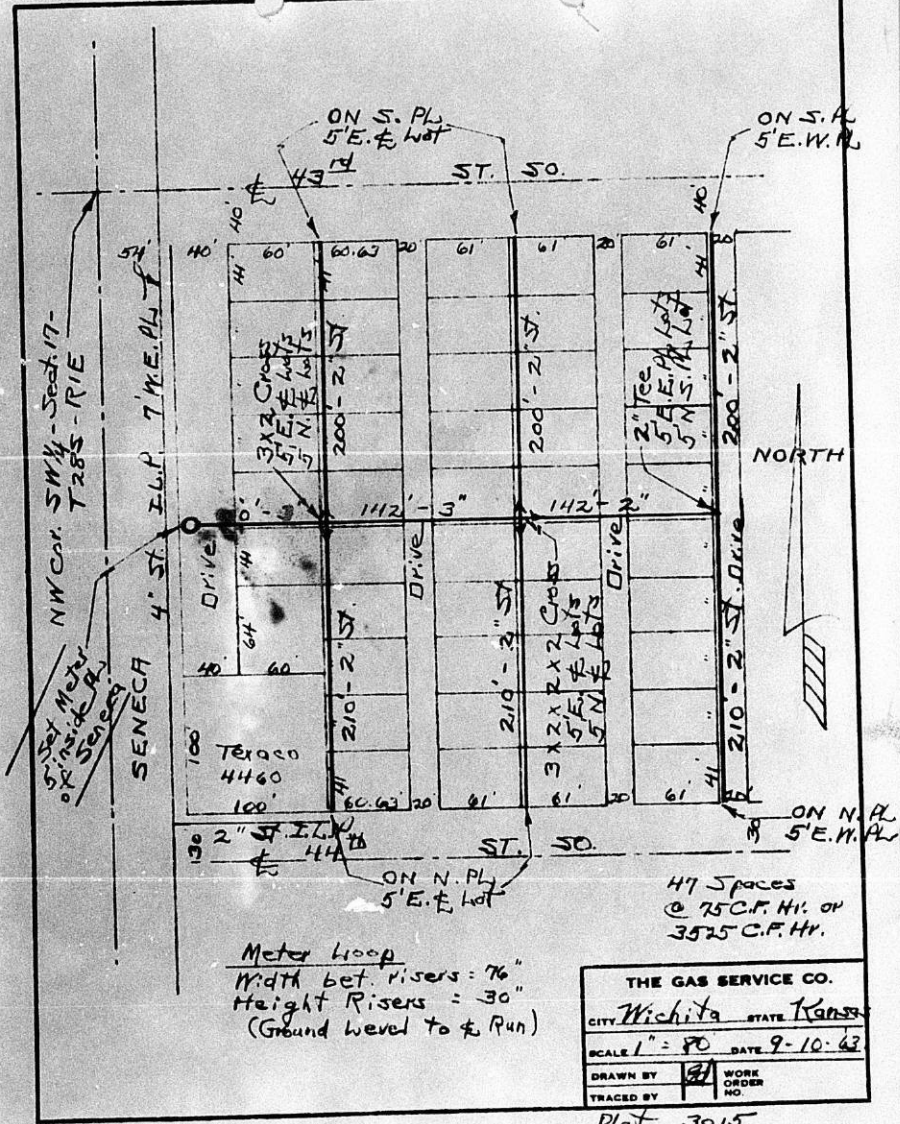


BZA Case 23-63
Attachment #2

Existing Water Lines
Shown in Blue.

Bill H. Otten
Supt. of Design & Planning
9/3/63





Meter Loop
 Width bet. risers: 76"
 Height Risers = 30"
 (Ground level to ϕ Run)

THE GAS SERVICE CO.	
CITY <u>Wichita</u>	STATE <u>Kans.</u>
SCALE <u>1" = 80'</u>	DATE <u>9-10-63</u>
DRAWN BY <u>[Signature]</u>	WORK ORDER NO.
TRACED BY	

Plat 3015

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

- I. NAME OF APPLICANT Robert R. Purcell
MAILING ADDRESS 230 North Crestway PHONE MU 2-1638
NAME OF AUTHORIZED AGENT None
MAILING ADDRESS _____ PHONE _____
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF _____
(OWNER, TENANT, LESSEE, OTHER)
- II. THE VARIANCE REQUESTED IS Allow mobile home court in Light
Commercial zone

FOR PROPERTY LOCATED AT East side of Seneca in an area between
43rd and 44th Streets South
AND LEGALLY DESCRIBED AS: Lot 8, Block 1, except the south
100 feet of the west 100 feet in Purcell's 10th Addition
IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED "LC"
(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.

Robert R. Purcell
APPLICANT

AUTHORIZED AGENT

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING
APPEALS, 11 (A.M. - P.M.), Sept 3, 1963,
TOGETHER WITH APPROPRIATE FEE OF \$50.00.

James W. Hawe P11
SIGNED

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 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: Lot 8, Block 1, except the South
 100 ft of the West 100 ft., in Purcell's
 10th Addition to Sedgwick County, 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:

Lot	Block	Addition	Owner
1	1	Purcell's 10th	Robert H. & Marie L. Funke, ux 4401 S. Handley
2	1	" "	Clifford Hefner & Barbara Nell Hefner, ux 4409 S. Handley
3	1	" "	John C. & Agatha E. Malone, ux 2715 West 3rd St.
4	1	" "	Paul J. & Dorothy C. Johnson, ux 4421 S. Handley
5	1	" "	John W. & Dorothy A. Jserger, ux 4427 S. Handley



Lot	Block	Addition		Owner
6	1	Purcell's 10th		Fred W. & Mary C. Spencer, ux 4433 S. Handley
7	1	"	"	L. C. & Mary Tallman, ux 900 West 44th St. South
8 (S 100' of 1 W 100')		"	"	X W. H. Rex No address available
8 (exc S 100' 1 W 100')		"	"	Robert R. & Betty Jean Purcell, ux Laura P. Purcell 230 N. Crestway
1	2	"	"	Harold E. & Nancy V. Frey, ux 4516 S. Seneca
20	2	"	"	Ronald F. & Dorothy M. Johnson, ux 4515 S. Walnut
21	2	"	"	The South Seneca Baptist Church 4502 S. Seneca
1	3	"	"	Robert H. & Bonnie M. Ivy, ux 4502 S. Walnut
2	3	"	"	Dale Francis & Betty June Boden, ux 4508 S. Walnut
3	3	"	"	Kenneth E. & Imogene Corn, ux 4514 S. Walnut
24	3	"	"	X Edgar Lee & Mabel Ann McKenzie, ux No address available
25	3	"	"	Billy D. & Linda Ann Johnson, ux 4509 S. Handley
26	3	"	"	Federal Housing Commissioner Washington, D. C.
1	4	"	"	A. Cecil & Mary S. Kasterke, ux 4400 S. Handley
2	4	"	"	Federal Housing Commissioner Washington, D. C.
3	4	"	"	R. A. & Laura K. Wolfe, ux 4416 S. Handley
4	4	"	"	Clarence E. & Florence M. Field, ux 4422 S. Handley
5	4	"	"	Norris H. & Dorothy L. Pitts, ux 4428 S. Handley
6	4	"	"	Martin Lewis & Jo Ann Allen, ux 4434 S. Handley
7	4	"	"	Sherman L. & Lola Campbell, ux 1530 Webster

Lot	Blk	Addition	Owner
1	B	Vilm Gardens 2nd.	X Harold D. & Mary E. Proctor, ux No address available
12	B	" " "	George K. & Delores Downs, ux 5330 East 72nd St. South
3	D	" " "	Security Oil Company 605 W 47th St., K. C., Mo.
4	D	" " "	X Elsie Floyd Sipes & Irene Eva Sipes No address available
7	D	" " "	Jesse L., Jr. & Viola Horn, ux 5160 S. Seneca
12	2	Bartlow	Walter, Jr., & Jean Ann Powell, ux H. S. Handley
13	2	"	Arnold Lee & Virginia Lee Hole, ux 4357 S. Handley

The South 200 ft of the following described tract: Beg 30 ft East of the SW cor of the NW $\frac{1}{4}$ of Sec 17, Twp 28, R 1 East; th N 400 ft; E 400 ft; S 400 ft; W 400 ft to beg.

Ray M. & May Holder, ux
4360 S. Seneca

Dated at Wichita, Kansas this 29th day of August, 1963 at 7:00 A. M.

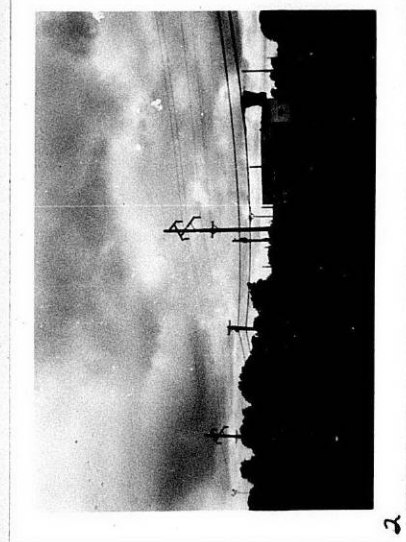
FIDELITY TITLE COMPANY, INC.

By Elsie M. Farrell Sec. OBM

Tracer # 55867



1



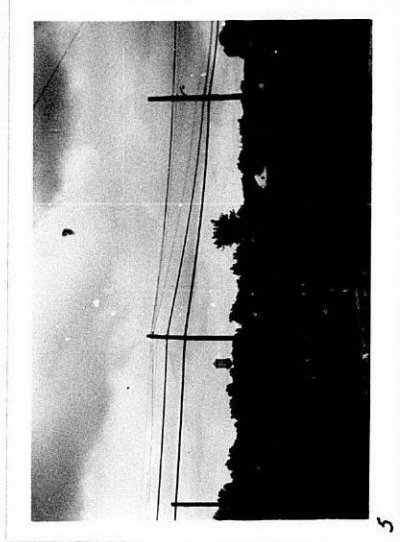
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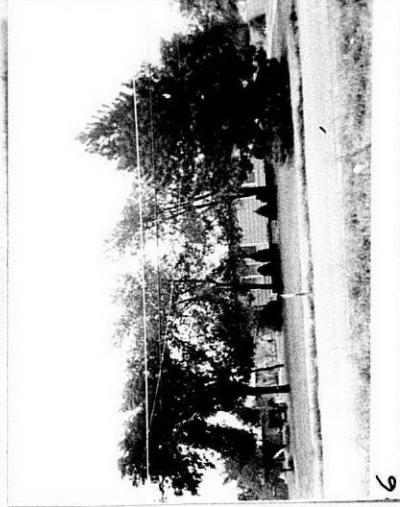
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4



5



6



7





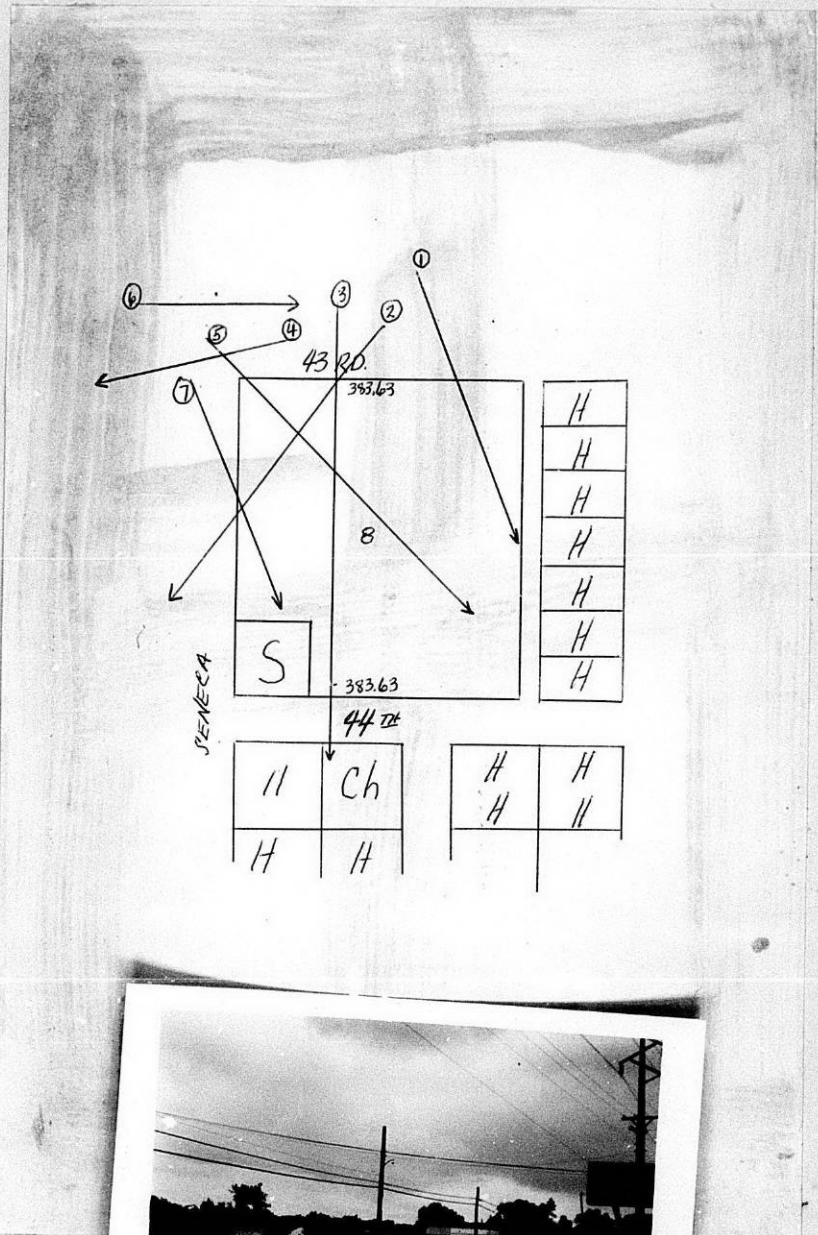
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5



4



7