

Case No. BZA 37-85 - Mr. & Mrs. John  
Enriken, 3308 West 8th. Street, Wichita  
Kansas - requests a variance to permit  
an increase in the height of a wind  
generating unit from 45 feet to 80 feet  
on property zoned the "AA" One-family

POSTED  
6-26-85 kcc

# ACTION

B.Z.A. 37-85 *Denied* 4-0 7-23-85  
DATE

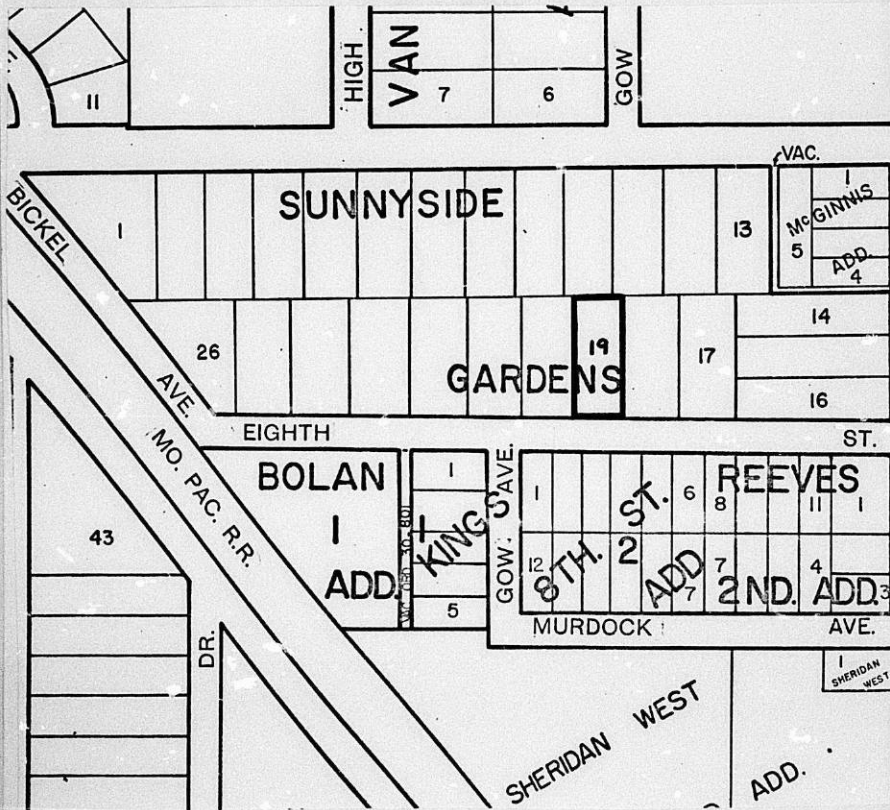
Case No. BZA 37-85 - Mr. & Mrs. John  
Enriken, 3308 West 9th, Street, Wichita  
Kansas - requests a variance to permit  
an increase in the height of a wind-  
generating unit from 45 feet to 80 feet  
on property zoned the "M-1" One-Family

Map No. 5248C

BZA 37-85  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: E AA S AA W AA N AA
3. Land Use: East I-F South I-F  
West I-P North I-F
4. Area (is) (~~is not~~) platted.



REGISTERED AT  
LOS ANGELES COUNTY CLERK'S OFFICE, ON  
MORNING, TWELFTH AND BROAD STS.,  
LOS ANGELES, CALIFORNIA  
U.S.A.

**Standard**  
No. 2153C

July 26, 1985

Mr. & Mrs. John Entriiken  
3308 W. 8th  
Wichita, Ks. 67203

Re: BZA 37-85 - Request for Variance

Dear Mr. & Mrs. Entriiken:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 23, 1985.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

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

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Encl.

cc: Kerry Kislinger, Power Winds Inc., 443 S. Illinois, Wichita 67213  
Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 37-85

WHEREAS, Mr. & Mrs. John Entriiken, 3308 West 8th Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit an increase in the height of a wind generating unit from 45 feet to 80 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 19, Sunnyside Gardens Addition to Wichita  
Sedgwick County, Kansas. Generally located on  
the north side of 8th Street and west of Sheridan  
(3308 West 8th Street).

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 July 23, 1985, 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 does not arise from such condition which is unique to the property in question and is not ordinarily found in the same zone or district; and is created by an action or actions of the property owner or the applicant inasmuch as the unit would be installed within ten feet of an adjoining property line and would exceed the permitted height by 70 feet for such a location; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as unit would be within 80 feet of the neighbors residence on the east; 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 does not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant has access to electric service, so is not limited the use of his property; 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 increase in the height of the structure would not interfere with any right-of-way or easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the wind generating unit would not be located away from the property line the distance required by the ordinance for the height of the unit; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit an increase in the height of a wind generating unit from 45 feet to 80 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 19, Sunnyside Gardens Addition to Wichita  
Sedgwick County, Kansas. Generally located on  
the north side of 8th Street and west of Sheridan  
(3308 West 8th Street).

be denied.

ADOPTED AT WICHITA, KANSAS, this 23rd day of July, 1985.

  
William J. Goebel, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

**THE CITY OF WICHITA**

**OFFICE OF CITIZEN PARTICIPATION**

**DATE** July 23, 1985

**TO** Glen Lytle, Special Assistant for Zoning

**FROM** Shirley Mast, Administrative Aide III

**SUBJECT** BZA 37-85: North side of 8th Street  
and West of Sheridan - 3308 W. 8th

Due to scheduling problems which occasionally occur, CPO Council "N" will not submit a recommendation to the Board of Zoning Appeals for the captioned case. The Board of Zoning Appeals will consider the case prior to the Council's July 24th meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

SM:dm

Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director

RE: AGENDA ITEM NO. 2

SECRETARY'S REPORT  
CASE NO. BZA 37-85

APPLICANT: Mr. & Mrs. John Entriiken, 3308 W. 8th, Wichita, Kansas.

AGENT: Kerry Kislinger, Power Winds Inc., 443 South Illinois, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to permit an increase in the height of a wind generating unit from 45 feet to 80 feet and to permit the location of the unit within 10 feet of a property line.

GENERAL LOCATION: On the north side of 8th Street and west of Sheridan (3308 W. 8th Street).

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

LAND USE: Subject property is occupied by a one-family dwelling as are all adjacent properties.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to permit the installation of a wind generating unit to a height of 80 feet in lieu of the generally permitted 45 feet. In addition, the unit will be located 10 feet from the east property line.

It should be noted that main residential structures are limited to 35 feet in height in the "AA" One-family Dwelling District with accessory structures limited to 60% of that height, or 21 feet. However, Section 28.04.187(11) permits the installation of wind generating structures to a height of 45 feet, provided the structure should not be located closer to a property line than the height of the structure. In this case the height would be limited to 45 feet if located near the center of the property. The applicant has apparently received written permission from the adjacent property owner to the east, to locate the unit within 10 feet of the property line. This would then place the unit not less than 85 feet to any property line except the property to the east.

The applicant's property is located in an area where there are mature trees that would create wind turbulence at the lower level. The recommended height by the manufacturer is to install the generator at a height 30 feet above any obstacle within 200 feet. In this case 80 feet is being requested. The regulation was written to accommodate such units when they could be installed a sufficient distance from adjacent properties that they would not be objectionable. Any deviation from these strict limitations must be subject to approval of a variance.

In this case, it is difficult to justify any uniqueness to the property as there are thousands of properties within the City that are not of sufficient size to accommodate a tower 45 feet in height. In this case, however, the agreement of the adjoining property owner creates a certain uniqueness, provided that there can be a covenant filed, to run with the property, that will be binding on future owners.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the adjoining property owner that would be affected by the installation of the unit within 10 feet of the property line has agreed to the variance request.

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 adjacent property owner has given consent to the variance request.

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 the applicant would be unable to construct a wind generating unit to a height adequate to eliminate wind turbulence created by trees and structures in the area.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the height of the unit will not interfere with any 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 height of the unit will not exceed the distance to any property not in agreement with the request.

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 conditions:

1. Prior to release of the Resolution, the applicant shall furnish evidence that a document has been recorded with the Registrar of Deeds giving permission for the construction of the unit and such document shall be made binding on the owners, their heirs and any future owners of the property.
  2. The applicant shall secure all permits for the construction of the wind generating unit.
  3. The unit shall not be constructed on any easements and shall be installed without guys or supports that would be located on any easements or required yard areas.
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BZA CASE NO. 37-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>25</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>28</u>	TOTAL NOTICES SENT <u>7-3-85</u>

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

July 3, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 37-85

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 Mr. & Mrs. John Entriiken, 3308 West 8th Street, 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 permit an increase in the height of a wind generating unit from 45 feet to 80 feet on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 19, Sunnyside Gardens Addition to Wichita  
Sedgwick County, Kansas. Generally located on  
the north side of 8th Street and west of Sheridan  
(3308 West 8th Street).

This application has been assigned Case BZA 37-85. It will be considered by the Board of Zoning Appeals on July 23, 1985 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 268-4427.

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS

CASE NO. 37-85

CITY OF WICHITA, KANSAS

FILED 6-24-85

APPLICATION FOR VARIANCE

I. Name of Applicant M.R. & MFS. JOHN ENTRIKEN  
 Mailing Address 3308 W. 8th St.  
WICHITA, KS 67203 Phone 1-942-9043  
 Name of Authorized Agent POWER WINDS, INC.  
 Mailing Address 443 S. ILLINOIS Phone 1-943-5044  
WICHITA, KS 67213  
 Relationship of applicant to property is that of OWNER  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is TO RAISE THE HEIGHT OF A  
WIND GENERATING SYSTEM FROM 30' TO 90'  
 for property located 3308 W. 8th St.

and legally described as: LOT 19, SUNNYSIDE GARDENS  
SEDGWICK COUNTY, KS. - S.W. 1/4 SECTION 13  
TWP. 27 - S. OF RANGE - ONE WEST in the district  
of Olanda formerly subject to rule at Augusta and  
Wichita, Ks.

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 2.12.580 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 John W. Entriken  
John W. Entriken

Authorized Agent Ray D. Kucy

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,  
10:07 (a.m./p.m.), JUNE 24, 1985, together with  
 appropriate fee of 7500.

Signed [Signature]

June 18, 1985

To Whom It May Concern,

This letter is in regards to John and Ruth Entriken, and their attempt to locate a wind generating system at their residence of 3308 W. 8th. Due to the height of the tower and the size of their property, it would be necessary to locate the tower in a position where the height exceeds the distance to my property at 3304 W. 8th.

Understanding fully the location of the tower and the distance from my property, I hereby grant my permission to allow the installation of the tower and generator.

Sincerely,

*Edna C. Dickerson*

Mrs. Edna Dickerson  
3304 W. 8th  
Wichita, Kansas



# POWER WINDS, INC.

"TURNING ON THE ENERGY OF THE WIND"

443 S. ILLINOIS • P.O. BOX 8353 • WICHITA, KS 67208 • (316) 942-8590

TO WHOM IT MAY CONCERN:

The following material deals with the proposed variance of Title 28. Specifically, to raise the height of a wind generating system from 45 feet to 120 feet. In the following information I will attempt to justify the variance and explain how it can be accomplished without adversely affecting the health, safety, and welfare of adjacent property owners or residents, as well as Sedgwick County as a whole.

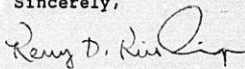
The reasoning behind the 120 foot height is supported by research performed by the American Wind Energy Association and by the Department of Energy during government testing at Rocky Flats, Colorado. In this testing it was determined that a wind generating system will experience additional stress when the machine is not taller than the surrounding trees and buildings. In order to avoid unnecessary turbulence resulting from nearby obstructions, it is recommended that the lowest reach of the machine's rotor be at least 30 feet above any obstructions within 300 feet.

The tower to be used in this application fully complies and is designed in excess of the design and construction requirements for towers as contained in the BOCA Basic Building Code. The tower and the wind generating unit are entirely compatible. The system is designed to withstand wind speeds of 120 mph completely unattended. The exact requirements are found on Detail B.

As can be seen from the scale drawing, the proposed wind generator site is located well away from the property lines and therefore will not create any problems for adjacent property owners. We feel by placing the tower at a height well above nearby obstructions, the tower is actually safer in comparison to a lower height where the machine would be subject to much turbulence.

We see the use of windpower increasing at a rapid rate in the state of Kansas. We also feel a well designed wind generating system built to top engineering specifications is an extremely safe machine and represents no threat to public safety.

Sincerely,

  
Kerry D. Kisslinger

The Midwest Leader In Windpower Technology

OWNERSHIP LIST

<u>Lot</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 7	Sunnyside Gardens Addition	Richard F. Little Arvada P. Little <del>Address Unknown</del>
Lot 8	"	✓ Ad inistrator of Veteran's Affairs 901 George Washington Blvd. Wichita, KS 67211
Lot 9	"	J. C. Hollingsworth <del>Address Unknown</del> and Ora L. Hollingsworth ✓ 3405 W. 9th Street Wichita, KS 67203
Lot 10	"	James E. Brown ✓ David R. Brown 3401 W. 9th Wichita, KS 67203
Lot 11	"	✓ Gregory M. Boyajian Joan R. Boyajian 3325 W. 9th Wichita, KS 67203
Lot 12	"	✓ Kendell Lee Jackson Linda L. Jackson 3321 W. 9th Wichita, KS 67203
Lot 13 and the west half of the vacated alley	"	✓ Joseph J. Baalman 3317 W. 9th Wichita, KS 67203 and ✓ Kathleen A. Baalman 100 S. Ridge Road, #605 Wichita, KS 67209
Lot 14 and half of the vacated alley adjacent on the north	"	✓ William Joseph Mullin Sandra K. Mullin 911 N. Sheridan Wichita, KS 67203
Lot 15	"	✓ Clyde W. Maugans Shirley F. Maugans 905 N. Sheridan Wichita, KS 67203
The west 135 feet of Lot 16	"	✓ Junior Ira Dingman Margaret Ruth Dingman 3300 W. 8th Wichita, KS 67203

Lot	Block	Addition	Property Owner
Lot 16, except the west 135 feet		Sunnyside Gardens Addition	Winfred E. Watson Arverna C. Watson ✓ 9018 Harvest Ct. Wichita, KS 67212
Lot 17		"	Administrator of Veteran's Affairs D 901 George Washington Boulevard Wichita, KS 67211
Lot 18		"	Albert M. Dickerson Edna M. Dickerson ✓ 3306 W. 8th Wichita, KS 67203
Lot 19		"	Ruth E. Edwards ✓ 3308 W. 8th Wichita, KS 67203
Lot 20		"	Roger L. Cood Connie S. Good ✓ <del>2031 N. Kessler Ave.</del> <del>Wichita, KS 67203</del> <i>returned 7-8-85</i> and ✓ Creative Interiors, Inc. 529 S. Anna Wichita, KS 67209
Lot 21		"	Gerald W. Stefan ✓ Cynthia Stefan 3402 S. 8th Wichita, KS 67203
Lot 22		"	Alfred E. Bass Retta M. Bass ✓ 3412 W. 8th Wichita, KS 67203
Lot 1	Block 1	Kings 8th Street Addition	William A. Collins Rosilyn J. Collins ✓ 849 N. Gow Wichita, KS 67203
Lot 1	Block 2	"	Alan Mathias Dold ✓ 3351 W. 8th Wichita, KS 67203
Lot 2	Block 2	"	Patrick J. Organ Rose Z. Organ ✓ 3347 W. 8th Wichita, KS 67203
Lot 3	Block 2	"	Robert L. Albrecht Enid A. Albrecht ✓ 2025 Ventosa Road Wichita, KS 67204

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 4	Block 2	Kings 8th Street Addition	Claude E. Looney Patsy J. Looney ✓ 3339 W. 8th Wichita, KS 67203
Lot 5	Block 2	"	Victor Falcon Geraldine R. Falcon ✓ 321 N. Bebe Wichita, KS 67212
Lot 6	Block 2	"	David Lynn Roulston Loetta R. Roulston ✓ 3331 W. 8th Wichita, KS 67212
Lot 8		Reeve's 2nd Addition	David J. Hitchcock Marilyn M. Hitchcock ✓ 3325 W. 8th Wichita, KS 67203

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots and tracts within a 200 foot radius of:

Lot 19, Sunnyside Gardens, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 21st day of June, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

*Mary Lable*  
Sr. Vice-President

Order No.: 347980  
dk



DELIVER: Metro Area Planning  
City Bldg. - 10 Floor

ATTN: Glen Lytle

RE: Ownership List  
Lot 19, Sunnyside Gardens

6/24/85

9:35

S  
P  
C



