

Case No. BZA 38-85 - Joyce M. Creekmore
3539 S. Vine, Wichita, Kansas, requests
a variance to permit an increase in the
height of a wind generating unit from
35' to 80' on property zoned the "AA"
One-family Dwelling District and
generally located on the west side of

POSTED
6-26-85 GBL

ACTION

B.Z.A. 38-85 Case withdrawn 7-23-85
DATE

Map No. **5343A**

BZA **38-85**
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-F** North **I-F**
4. Area (is) (~~is not~~) platted.



Speed.
No. 2153C
HASTINGS, MN
LOS ANGELES-CHICAGO-LOHAS, OH
MORNINGTON, TX-LACREST-BROWNS, GA
U.S.A.

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 38-85

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 Joyce M. Creekmore, 3539 South Vine, 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 35 feet to 80 feet on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 11, Block 12, Jenkins Second Addition to Wichita,
Sedgwick County, Kansas. Generally located on the
west side of Vine and south of Webster (3539 So. Vine).

This application has been assigned Case BZA 38-85. 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 268-4421.

Jack H. Galbraith
Secretary

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455 North Main, Wichita, Kansas 67202

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Jack H. Galbraith
Secretary

Businesses.
Antique Garage
Repairs

Old World Products
Sales

RE: AGENDA ITEM NO. 3

SECRETARY'S REPORT CASE NO. BZA 38-85

APPLICANT: Joyce M. Creekmore, 3539 South Vine, Wichita, Kansas.

AGENT: Kerry Kisslinger, Power Winds, Inc., 443 S. Illinois, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to permit the increase in height of a wind generating unit from 45 feet to 80 feet and to permit the location of the unit within 35 feet of a property line.

GENERAL LOCATION: On the west side of Vine and south of Webster (3539 South Vine).

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 approximately 35 feet from the north and west property lines.

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 35 feet if located on the property as indicated by the site plan.

The applicant's property is located in an area where there are mature trees that 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.

It should be noted that this unit cannot be located on the property at least the height of the unit away from the west property line. The regulation was originally written to accommodate such units when they could be installed a sufficient distance from adjacent properties to not be objectionable. Any deviation from these strict limitations must be subject to approval of a variance by this Board.

It is difficult to justify any uniqueness to this property as there are thousands of properties in the City of Wichita that do not have sufficient width to accommodate a unit at a height of 45 feet. What effect these units might have on adjacent properties as no information has been furnished on the noise level of these units.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to find that this property has any uniqueness inasmuch as the property is located in a residential area where the majority of properties are of similar size and would not be permitted a tower of this height to install a wind generating unit.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the installation of a wind generating unit could cause a noise level that could be annoying during certain hours of operation.

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 has access to the present energy source as do others that live on small lots such as this property in the city.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the installation of a wind generating unit at a height of 80 feet 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 be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulations is to maintain a setback from the adjacent properties a distance not less than the height of the unit.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance have not been found to exist and the variance request should be denied.

BZA CASE NO. 38-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>18</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>21</u>	TOTAL NOTICES SENT <u>7-3-85</u>

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Tenth Floor - City Hall
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July 3, 1985

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Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 38-85

CITY OF WICHITA, KANSAS

FILED 6-24-85

APPLICATION FOR VARIANCE

I. Name of Applicant Joyce M. Creekmore
 Mailing Address 3539 S. VINE Phone 1-522-4035
WICHITA, KS. 67217
 Name of Authorized Agent POWER WINDOWS, INC.
Box 7405
 Mailing Address WICHITA, KS. 67207 Phone 1-943-5044
 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 80'
 for property located 3539 S. VINE

and legally described as: LOT 11 - BLOCK 12
OF JENKINS SECOND ADDITION TO
WICHITA, SEDGWICK COUNTY, KANSAS

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

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
 - b. That he has been advised of the fee requirements established by Section 2.12.580 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 Joyce M. Creekmore

Authorized Agent Randy D. Rost King

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:30 (a.m.-p.m.), JUNE 24, 1985, together with appropriate fee of \$75.00.

Signed [Signature]



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 ~~100~~ 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 ~~100~~ feet 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.

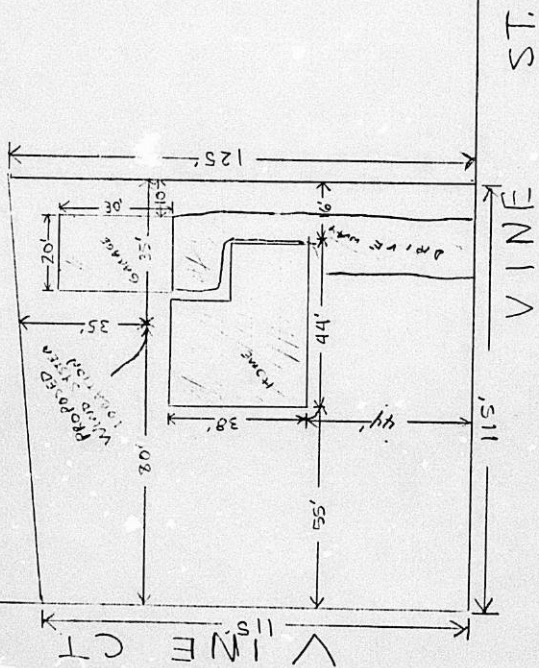
We see the use of windpower increasing at a rapid rate in the state of Kansas. We also feel a well designed wind generating system built to top engineering specifications is an extremely safe machine and represents no threat to public safety.

Sincerely,

Kerry D. Kisslinger

The Midwest Leader In Windpower Technology

PLOT MAP
FOR
JOYCE
CREEKMOSE



OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lot 7	Block 12	Jenkins 2nd Addition	✓ Veterans Administration 901 George Washington Blvd. Wichita, KS 67211
Lot 8	Block 12	"	✓ Jerome D. Sodowsky Donesther F. Sodowsky 3521 S. Vine Wichita, KS 67217
Lot 9	Block 12	"	D Veterans Administration 901 George Washington Blvd. Wichita, KS 67211
Lot 10	Block 12	"	✓ James Allen Hart Crystal June Hart 3533 S. Vine Wichita, KS 67217
Lot 11	Block 12	"	D Charles E. Creekmore Joyce M. Creekmore 3539 S. Vine Wichita, KS 67217
Lot 12	Block 12	"	✓ Carl J. Munz Ruby M. Munz 3543 S. Vine Wichita, KS 67217
Lot 13	Block 12	"	D Veterans Administration 901 George Washington Blvd. Wichita, KS 67211
Lot 14	Block 12	"	✓ Patricia K. Williams 3555 S. Vine Wichita, KS 67217
Lot 15	Block 12	"	✓ Michael A. Hamilton Metinee Hamilton 3561 Vine Ct. Wichita, KS 67217
Lot 16	Block 12	"	✓ Alvin Steffen Virginia Steffen 3567 Vine Ct. Wichita, KS 67217
Lot 17	Block 12	"	✓ Harold L. Wilson Barbara Wilson Address Unknown
			Affidavit of Interest: Galen R. Slusser 2543 Heuett Wichita, KS 67217
Lot 8	Block 13	"	✓ Gene L. Parker 3521 Downtain Wichita, KS 67217
Lot 9	Block 13	"	✓ Eugene S. Hines Virginia Ann Hines 3533 Downtain Wichita, KS 67217

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 10	Block 13	Jenkins 2nd	Donald D. Boyle Janice G. Boyle Address Unknown
Lot 11	Block 13	"	Dale E. Slates ✓ Marietta L. Slates 342 N. Bebe Wichita, KS 67212
Lot 12	Block 13	"	Jimmy L. Bishop Barbara A. Bishop ✓ 3572 Vine Ct. Wichita, KS 67217
Lot 13	Block 13	"	Raymond G. Gaines Carmen D. Gains ✓ 3562 Vine Ct. Wichita, KS 67217
Lot 14	Block 13	"	Kenneth M. Hays Betty J. Hays ✓ 3548 S. Vine Wichita, KS 67217
Lot 15	Block 13	"	Gary Lynn Miller 3532 S. Vine ✓ Wichita, KS 67217
Lot 16	Block 13	"	Geraldine A. Bryan 1769 Northeast Parkway ✓ Wichita, KS 67208
Lot 17	Block 13	"	Lewis Wilson Pamela Wilson ✓ 3522 S. Vine Wichita, KS 67217
Lot 18	Block 13	"	Layne W. Wells ✓ Christine F. Wells 3516 S. Vine Wichita, KS 67217

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

Lot 11, Block 12, Jenkins Second Addition
to Wichita, Sedgwick County, Kansas.

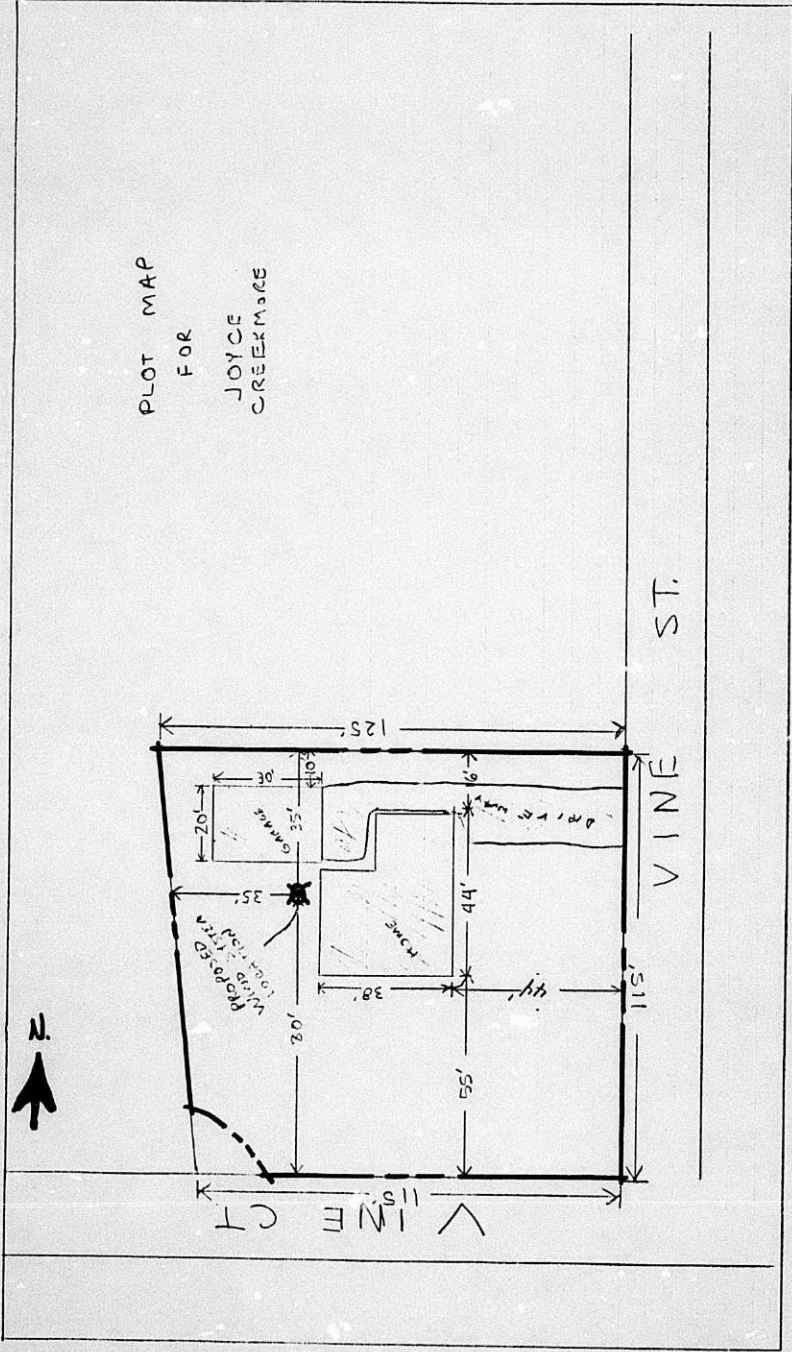
as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 25th day of June, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Mary Gable*
Sr. Vice-President

Order No: 348096
nj

PLOT MAP
FOR
JOYCE
CREEKMORE



P24 38-85

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 25 11

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
Copy 728 V. 1	\$ 70.00
NAME	POWER WINDS
ADDRESS	442 S. 16th St
FUND	157-40710-003
COMMENTS	
DATE	4/24/75
BY	[Signature]