

Case No. BZA 40-82 - Dr. & Mrs. R. Lawrence Sifford - Request variances to reduce the rear yard setback from 20 feet to 5 feet and to permit the construction of an accessory structure (pool) in front of the main structure

POSTED
10-18-82

ACTION
APPROVED

DATE
10-26-82

B.Z.A.
40-82

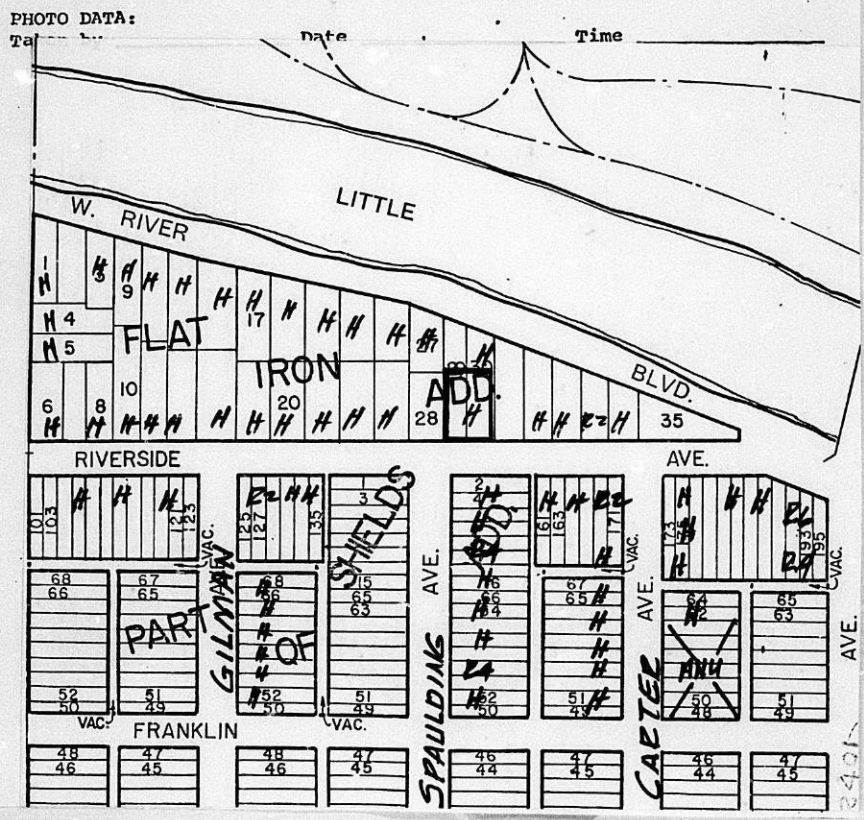
54005

200' 4" Sec. 11-1-82
Checked 11-8-82
Shot 11-10
Recorded 11-17-82

Map No. 5448
 Sec. 17
 Twp. 27
 Range 1E

BZA- 40-82
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 0.25 (89 ft. by 123 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East SINGLE FAM South SINGLE FAM
 West SINGLE FAM North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: SINGLE FAM
 6. Area (is) (is not) platted.



Shepard
 No. 2153C
 HASTINGS MN
 LOS ANGELES, CHICAGO, LOGAN, OH
 McCREOR TX, LOCUST GROVE, GA
 U.S.A.

October 27, 1982

Dr. & Mrs. R. Lawrence Sifford
1040 Riverside
Wichita, Ks. 67203

Re: Case No. REA 40-82
Request for Variances

Dear Dr. & Mrs. Sifford:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 26, 1982.

This Resolution reflects the official action of the Board to approve your request, and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:ead
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Giesick, City Clerk

RESOLUTION NO. BZA 40-82

WHEREAS, Dr. & Mrs. R. Lawrence Sifford, 1040 Riverside, Wichita, Kansas, requests variances as provided in Section 2.12.590.B, Code of the City of Wichita, to (1) reduce the required rear yard setback from 20 feet to 5 feet, and (2) permit the construction of an accessory structure (swimming pool) in front of the main structure on property zoned the "A" Two-family Dwelling District and legally described as follows:

The south 123 feet of Lot 29, and the south 123 feet of the west 49 feet of Lot 30, Flat Iron Addition to Wichita, Kansas. Generally located on the north side of Riverside and east of Buffum (1040 Riverside).

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 October 26, 1982, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the main use is located on the property more than 30 feet in excess of the minimum setback from Riverside and the proposed additions are the only locations that the applicant can construct a garage and pool on the property; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as adequate separation exists between the adjacent living quarters of the adjacent residences to provide light and air; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicants purchased the existing residence without a garage and were unaware that the property did not comply with the required setbacks; 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 proposed addition and pool will not interfere with any public right-of-way or utility easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as a detached garage could extend to within 5 feet of a rear property line and an in the ground pool behind a six foot wall should not be detrimental to the neighborhood; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the rear yard from 20 feet to 5 feet and to permit the construction of an accessory structure (swimming pool) in front of the main structure on property zoned the "A" Two-family Dwelling District and legally described as:

The south 123 feet of Lot 29, and the south 123 feet of the west 49 feet of Lot 30, Flat Iron Addition to Wichita, Kansas. Generally located on the north side of Riverside and east of Buffum (1040 Riverside).

be approved subject to the following conditions:

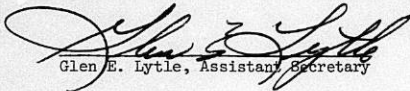
1. The variance to reduce the rear yard setback from 20 feet to 5 feet shall only be for the proposed garage and existing residence as shown by the site plan submitted by the applicants and dated July 15, 1982.
2. The variance for the pool shall not allow the pool closer than 25 feet to the front property line and shall not be enclosed or covered in anyway.

ADOPTED AT WICHITA, KANSAS, this 26th day of October, 1982.



Tom Jacob, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 22, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Robert Tillman, Administrative Aide III

SUBJECT BZA 40-82: Generally located on the north side of Riverside and east of Buffum (1040 Riverside)

At its Wednesday, October 20th meeting, CPD Neighborhood Council Area 'N' considered BZA 40-82 and voted 5-0 to recommend denial of the request for variances to reduce the rear yard setback from 20 feet to 5 feet and to permit the construction of an accessory structure (swimming pool) in front of the main structure on property zoned 'AA' Two Family Dwelling District.

The Council stated that the request is being recommended for denial for the following reasons:

1. There was not enough square footage for three dwellings on one lot.
2. The over six foot high fence in the front yard was erected to the sidewalk.
3. The fence is a visual obstruction to neighbors up and down the block and is a safety hazard.
4. The fence is an intrusion into the character of the neighborhood.

The Council noted the preferential treatment, stating that construction should not have been allowed. The City Zoning Ordinance should be enforced as written and Central Inspection should not have issued the permit.

The applicant, Dr. & Mrs. R. Lawrence Sifford were present to speak to the Council. There were ten area residents (see guest list) present speaking in opposition to the request.

Please provide the Council's recommendation and comments to the Board of Zoning Appeals when BZA 40-82 is considered at its October 26th meeting.

Robert Tillman

Robert Tillman
Administrative Aide III

RT:dm

CITIZEN PARTICIPATION ORGANIZATION
NEIGHBORHOOD COUNCIL AREA "N"

Guest List

Wednesday, October 20, 1982

Berniece Rathke	4102 W. Elm
Bobette Barley	4102 W. Elm
Rhea & Carrie Kennedy	1108 Riverside
Mr. & Mrs. Stanley Lamb	1206 Riverside
Gary & DeAnne Wagner	1100 Riverside
Adah Chambers	1001 Riverside
Inez Hoben	1034 Riverside
Art Herndon, President RCA	1137 Woodrow
Dr. & Mrs. Lawrence Sifford	1040 Riverside
Officer Burke Morton	Wichita Police Department

October 14, 1982

Michael Knopick, Jr.
939 Spaulding
Wichita, Kansas 67203

Re: BZA Case No. 40-82

Dear Mr. Knopick:

In response to your letter of October 7, 1982 regarding the above captioned BZA case, our Department is not responsible for issuing building permits. I am forwarding your letter to Robert Feldner, the Superintendent of Central Inspection, so that he can respond to your inquiry.

Sincerely,

Jack H. Galbraith
Secretary

JHG:el

cc: Robert Feldner, Superintendent of Central Inspection
Sam Mobley, Building codes Administrator

Oct. 7, 1982

Dear Mr. Calbraith:

I was surprised to receive your letter today relating to setting a time (October 26, 1982 @ 1:30 PM) to review a zoning exception or variance -- case no. BZA 40-82 @ 1040 Riverside.

I had already assumed that the ~~SEFFORDS~~ had a city/county approved permit to do all construction work for the "pavement" of front yard --- some construction activity started on October 4, 1982. I would estimate that the part over 608' fence construction will be more than 50% complete before the zoning exception/variance request is reviewed by the Board of Zoning Appeals on October 26. That what you have set-up.

This type of procedure (reversing after the fact) just seems a little strange to me!! I would think that full approval should be required prior to starting construction. On the few construction projects that I have done on my property --- I always had to have a permit (approved) first --- maybe in just old fashion and things have changed. Can you believe a "pavement" in your front yard" --- I guess you do get some strange requests.

Confused adjoining property owner:
Michael Knopick Jr.
939 Spanlberg
- work phone 526-3376

Mike Knopick
939 Spanlberg
Wichita, Kans
67203



Board of Zoning Appeals
Town of Shawnee - City Hall
455 S. 2nd

SECRETARY'S REPORT
CASE NO. BZA 40-82

APPLICANT: Dr. & Mrs. R. Lawrence Sifford, 1040 Riverside,
Wichita, Kansas.

AGENT: None

REQUEST: Variances pursuant to Section 2.12.590.B,
Code of the City of Wichita, to (1) permit
the reduction of the rear yard setback from
20 feet to 5 feet; and (2) permit the construction
of an accessory structure (pool) in front of the
main structure on the property.

GENERAL LOCATION: On the north side of Riverside and east of
Buffman (1040 Riverside).

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

LAND USE: Subject property is occupied by a one-family
dwelling as are most 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 and 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 applicants are requesting two variances on the property. One is to vary the required rear yard from 20 feet to 5 feet to construct an attached garage, and the second is to vary the requirement to permit an accessory structure (swimming pool) in front of the main use on the property.

The existing dwelling was originally constructed on three lots that had frontages both on Riverside and River Boulevard. The previous owner then divided the property in such a manner to construct a new dwelling facing River Boulevard. It should be noted that the previous owner also sold the property without a 6 foot side yard on the east and the rear yard is only 15.7 feet to the main structure, both of which are violations of the zoning ordinance. A legal lot split was never applied for to assure compliance with the regulations and the permit for the new structure was probably issued in error.

It should be noted that the existing residence is located 63.3 feet from the right-of-way of Riverside which is excessive for this area. Consequently it leaves little space in the rear yard for a pool or the attached garage. The pool will be enclosed by a six foot high wall that will extend around most of the front yard area. The garage will maintain a 6 foot side yard to the west which should not have an adverse affect on the property to the west. The property owner to the north has indicated that the variances will not create any problem for him.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the main use is located on the property 30 feet or more than the minimum front yard requirement and the proposed additions are the only way that the applicant can construct a garage and pool.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variances requested will not adversely affect the rights of adjacent property owners inasmuch as adequate separation exists between the adjacent living quarters of all residences involved to provide light and air to each.

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 applicants inasmuch as the applicants purchased the existing residence without a garage and were unaware that the property did not comply with the required setbacks.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variances would not adversely affect the public interest inasmuch as the addition and the pool will not interfere with any public right-of-way or utility easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the garage if detached could be located as proposed and the location of an in the ground pool in front of the main use should not be noticeable behind a six foot wall.

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 variances be granted subject to the following conditions:

1. The variance to reduce the rear yard setback from 20 feet to 5 feet shall only be for the proposed garage and existing residence as shown by the site plan submitted by the applicants and dated July 15, 1982.
2. The variance for the pool shall not allow the pool closer than 25 feet to the front property line and shall not be enclosed or covered in anyway.

BZA CASE NO. 40-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

18 NOTICES SENT TO ADJOINING PROPERTY OWNERS

30 TOTAL NOTICES SENT 10-6-82

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

October 6, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 40-82

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 Dr. and Mrs. R. Lawrence Sifford, 1040 Riverside, Wichita, Kansas, requesting variances.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting variances to reduce the rear yard setback from 20 feet to 5 feet and to permit the construction of an accessory structure (pool) in front of the main structure on property zoned "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

The south 123 feet of Lot 29, and the south 123 feet of the west 49 feet of Lot 30, Flat Iron Addition to Wichita, Kansas. Generally located on the north side of Riverside and east of Buffum (1040 Riverside).

This application has been assigned Case No. BZA 40-82. It will be considered by the Board of Zoning Appeals on October 26, 1982 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 variances you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 40-82

CITY OF WICHITA, KANSAS

FILED 9-28-82

APPLICATION FOR VARIANCE

I. Name of Applicant Dr. and Mrs. R. Lawrence Sifford

Mailing Address 1040 Riverside Phone 265-0561

Name of Authorized Agent _____

Mailing Address _____ Phone _____

Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. The variances requested are to reduce the rear yard setback from 20 feet to 5 feet and to permit the construction of an accessory structure (pool) in front of the main structure

for property located on the north side Riverside and east of Buffum (1040 Riverside)

and legally described as: the south 123 feet of Lot 29, and the south 123 feet of the west 49 feet of Lot 30, Flat Iron Addition to Wichita, Kansas.

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

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 R.L. Sifford

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:00 (a.m.), SEPT. 28, 1982 together with appropriate fee of 150.00.

Signed H. Lytle

VARIANCES

The Board may authorize in specific cases a variance from the specific terms of Title 28 which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of Title 28 will, in an individual case, result in unnecessary hardship, and provided that the spirit of Title 28 shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by Title 28 (zoning ordinance) in such zoning district. A request for a variance may be granted upon a finding by the Board that all of the following conditions as set forth in Section 2.12.590.B have been met:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
 2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).
-
1. The property has an extraordinary front yard setback (63.3') and a restrictive rear yard setback (15.7'). In order to provide an adequate garage without affecting the character of the house, it would be most appropriate to vary the rear yard setback and to permit the pool construction in front of the main structure (still within the required front yard setback).
 2. Due to the unique arrangement of adjacent structures, approval of the variance would not adversely affect the rights of adjacent property owners or residents.
 3. Strict application of provisions of Title 28 would prevent the property owner represented in the application from providing needed improvements to the property. Moving the garage to the south would be an unsatisfactory compromise affecting a rather significant architectural structure.
 4. & 5. Due to the location of the existing structure and the configuration of the adjacent properties, it does not appear that granting of the variance would be opposed to the general spirit and intent of Title 28.

WILLIAM L. KORBER, L.S.
JOHN E. LUNDBLADE, L.S.
N. BRENT WOOTEH, P.E.



BAUGHMAN COMPANY, P.A.

SURVEYING & ENGINEERING

316 262-7271 • 330 LAURA • WICHITA, KANSAS 67211

State of Kansas)

) SS

July 1, 1982

County of Sedgwick) We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we did on this 1st day of July, 1982 survey the south 123 feet of Lot 29, and the south 123 feet of the west 49 feet of Lot 30, Flat Iron Addition to Wichita, Kansas.]

On said lot is house No. 1040 with a carport which is in the clear of all boundary lines. There is a shed which is as shown on the accompanying plat. There are no encroachments on said lot by buildings on the adjacent lots.

The accompanying plat is a true and correct exhibit of said survey.

John E. Lundblade
Surveyor



OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
21	-	Flat Iron Addition	✓ Roger M. Sherwood & Nancy J. Sherwood, 1115 W. River Blvd., 67203
22	-	"	✓ William F. Kennedy & Grace R. Kennedy, 1108 Riverside, 67203
23	-	"	✓ The Wild Boys Land, Cattle & Oil Co. Ltd., 807 N. Waco, 67203
24	-	"	✓ Charles E. Dye (Deceased) & Dora C. Dye, 1106 Riverside, 67203
25	-	"	✓ William E. Unrau & Mildred C. Unrau, 1107 W. River Blvd., 67203
West 50 ft. of 26	-	"	✓ Robert E. Eberly, 1104 Riverside, 67203
East 10 ft. of 26 & all of 28	-	"	✓ Gary L. Wagner & Deanne M. Wagner, 1100 Riverside, 67203
27	-	"	✓ Leon Moeder & Susan Lohrey Moeder, 1047 W. River Blvd., 67203
South 123 ft. of 29	-	"	✓ R. Lawrence Sifford & Elizabeth G. Sifford, 1040 Riverside, 67203
29 exc. the South 123 ft.	-	"	✓ James C. Wilson & Norma J. Wilson, 1027 W. River Blvd., 67203
30 exc. the South 123 ft. of the West 49 ft. thereof	-	"	"
South 123 ft. of the West 49 ft. of 30	-	"	✓ R. Lawrence Sifford & Elizabeth G. Sifford, 1040 Riverside, 67203
West 45 ft. of 31	-	"	✓ James C. Wilson & Norma J. Wilson, 1027 W. River Blvd., 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
East 5 ft. of 31 & all of 32	-	Flat Iron Addition	Edward C. Hoben (Deceased) & Inez W. Hoben, 1034 River- side, 67203 ✓
33	-	"	✓ B.R. Clayton & Sheryl A. Clayton, 1032 Riverside, 67203
34	-	"	✓ Agnes E. Chapman, 1002 River- side, 67203
1 & 3, & the North 10 ft. of 5	-	Shield's Addition	✓ Michael Knopick Jr. & Barbara Knopick, 939 Spaulding, 67203
South 15 ft. of 5, & all of 7 & 9	-	"	Tom W. Fuller (Deceased)
11	-	"	✓ Michael P. Flores & Ann L. Flores, 921 Spaulding, 67203
2 & 4	-	"	✓ T.G. Wright & Malvina F. Wright 940 Spaulding, 67203
6 & 8	-	"	✓ James W. Martin & Margaret Joyce Martin, 936 Spaulding, 67203
10 & 12	-	"	✓ Jesse L. Moore & Olive F. Moore, 932 Spaulding, 67203
161 & 163 on River- side	-	Riverside Addition	Danford L. Hoben, <u>Address Un- known</u> AND Inez W. Hoben, 1034 Riverside, 67203 (Life Estate Received)
North 114 ft. of 165 & 167 on Riverside	-	"	✓ Randolph A. Ellsworth & Cathy Razook Ellsworth, 1007 River- side, 67203
North 102 ft. of 169 on Riverside	-	"	Chester W. Chambers (Deceased)

page 3

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

The South 123 feet of Lot 29, and the South 123 feet of the West 49 feet of Lot 30, in Flat Iron Addition to Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 27th day of September, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Hable
Vice-President

Order No. 312979

GE

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-001 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

NAME _____

ADDRESS _____

FUND _____ DUE DATE _____

COMMENTS _____

DATE _____ BY _____

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2