

Case No. BZA 41-79 - E. C. Mies  
requests variance to reduce req.  
side yard setback from 6' to 3'  
on prop. zoned "RB" an gen. loc.  
on the west side of Millwood  
approx. 200' north of V

POSTED ✓  
8-31-79  
ZH

# ACTION

BZA  
41-79

COMMITTEE Appt. 9-25-79 DATE 9-25-79  
4-0

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

✓ 200' MAPD 10-16  
✓ 200' CI 10-16

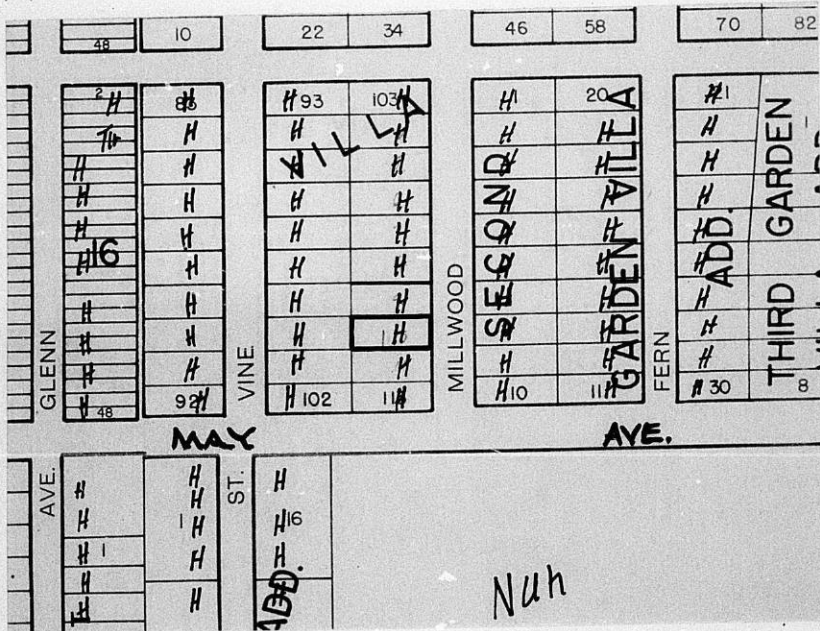
Case No. BZA 41-79 - E. C. Mies  
requests variance to reduce reg.  
side yard setback from 6' to 3'  
on prop. zoned "RB" and gen. loc.  
on the west side of Millwood  
ADDRESS 200' north of Millwood

Map No. 5345  
 Sec. 31  
 Twp. 27  
 Range 1E

BZA- 41-79  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

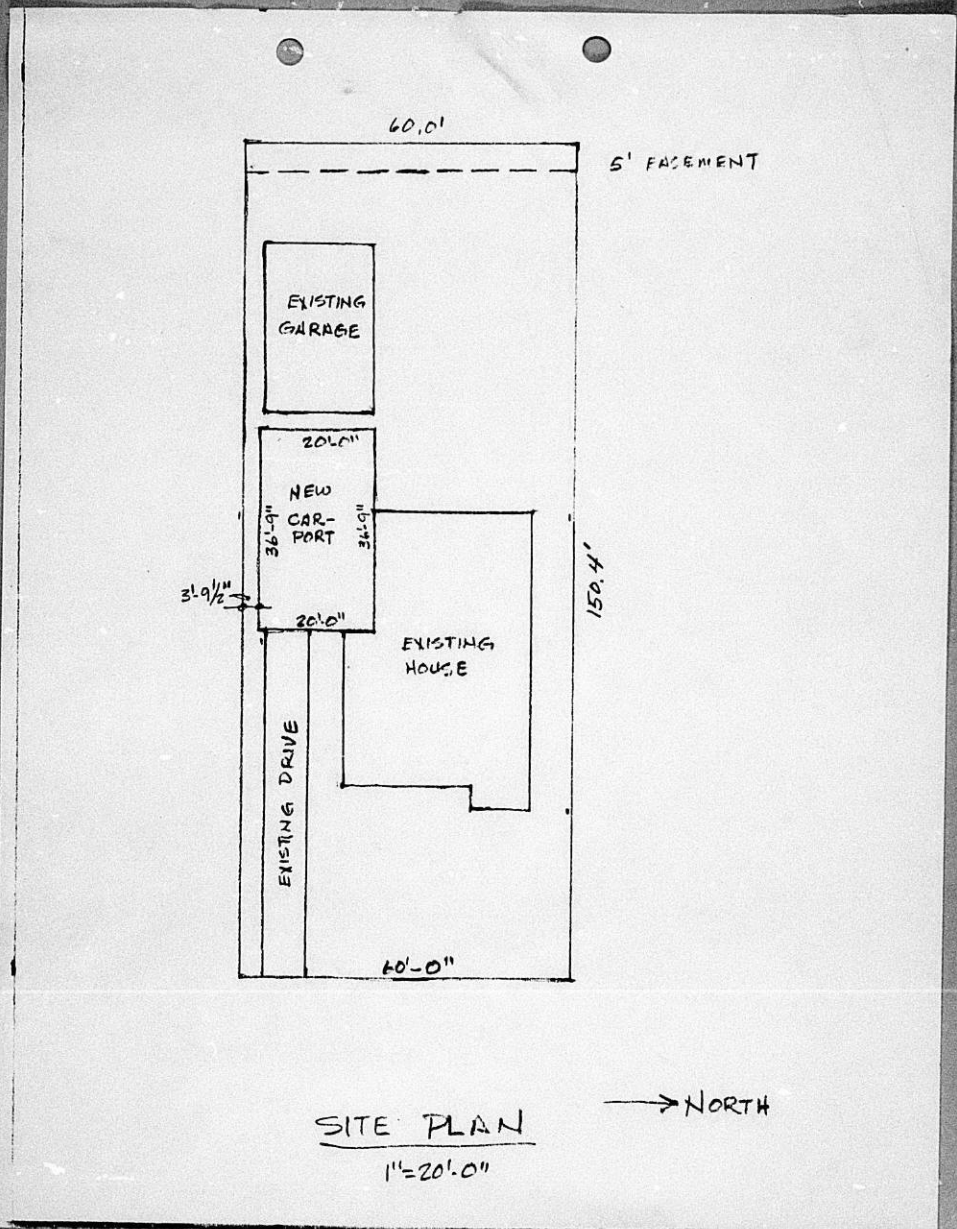
- AREA DATA:
- Acres: 0.2 ( 60 ft. by 150 ft.)
  - Adjoining Zoning: E A s RB W RB N RB
  - Land Use: East SINGLE FAM South SINGLE FAM  
 West SINGLE FAM North SINGLE FAM
  - Sketch Plan Land Use is for: \_\_\_\_\_
  - Present Land Use if for: SINGLE FAM
  - Area (is) (is not) platted.

PHOTO DATA:  
 Taken by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_



HASTINGS, AN - LOS ANGELES  
 LOGAN, OH - WASHINGTON, TX U. S. A.

No. 2153C  
 Sinead®



EXISTING GARAGE

20'0"

NEW CAR-PORT

36'-9"

10'-7"

3'-9 1/2"

20'-0"

EXISTING HOUSE

150.4'

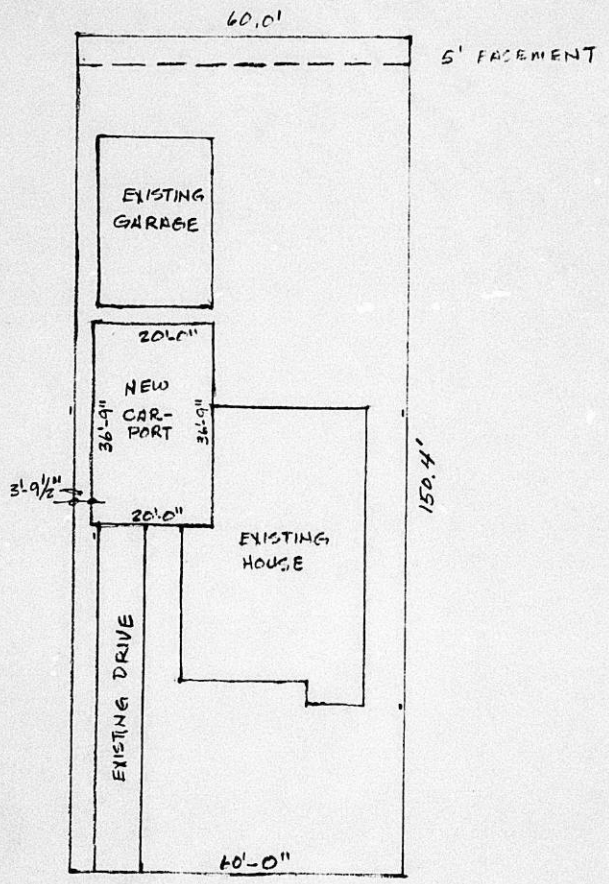
EXISTING DRIVE

40'-0"

SITE PLAN

1"=20'-0"

→ NORTH



SITE PLAN  
1"=20'-0"

→ NORTH

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4561

October 10, 1979

E. C. Mies  
1929 S. Millwood  
Wichita, Kansas 67213

Re: Case No. BZA 41-79  
Request for Variance

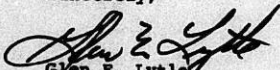
Dear Mr. Mies:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 25, 1979, in connection with your request for a variance to reduce the required side yard setback from 6 feet to 3 feet adjacent to the south property line on property zoned the "RB" Four Family Dwelling District and generally located on the west side of Millwood approximately 100 feet north of May Avenue (1929 S. Millwood).

This Resolution reflects the official action of the Board to approve this 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:bbc  
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

RESOLUTION NO. BZA 41-79

WHEREAS, E. C. Mies, 1929 S. Millwood, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback from 6 feet to 3 feet adjacent to the south property line on property zoned the "RB" Four Family Dwelling District and legally described as follows:

Lot 110 on Millwood, Garden Villa Addition to Wichita, Kansas. Generally located on the west side of Millwood approximately 700 feet north of May Avenue.

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 September 25, 1979, 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 applicant desires to still utilize the existing garage and the placement of support poles at the 6 foot setback would make this prohibitive; 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 the carport will be unenclosed thereby providing adequate amounts of light and air for the property to the south; 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 existing garage could not be utilized for parking purposes; 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 variance request is interiorly located; 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 the previous four conditions necessary to the granting of the variance can be found to exist; 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.

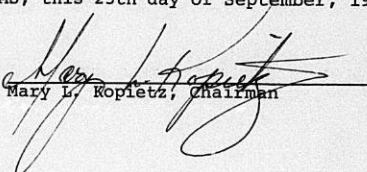
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback from 6 feet to 3 feet on property zoned the "RB" Four Family Dwelling District and legally described as:

Lot 110 on Millwood, Garden Villa Addition to  
Wichita, Kansas. Generally located on the west  
side of Millwood approximately 100 feet north  
of May Avenue

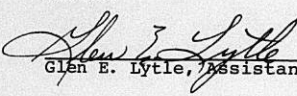
be approved subject to the following condition:

1. This variance shall apply to only that portion of the side yard as shown on the applicant's submitted site plan and for an unenclosed carport only.

ADOPTED AT WICHITA, KANSAS, this 25th day of September, 1979.

  
Mary L. Kopietz, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

September 26, 1979

E. C. Mies  
1929 S. Millwood  
Wichita, Kansas 67213

Re: Case No. BZA 41-79  
Request for Variance

Dear Mr. Mies:

At the regular meeting of the Board of Zoning Appeals on September 25, 1979, your request for a variance to reduce the required side yard setback from 6 feet to 3 feet adjacent to the south property line on property zoned the "RB" Four Family Dwelling District and generally located on the west side of Millwood approximately 100 feet north of May Avenue (1929 S. Millwood) was considered.

It was the action of the Board to approve this request subject to the following condition:

1. This variance shall apply to only that portion of the side yard as shown on the applicant's submitted site plan and for an unenclosed carport only.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary

GEL:bhc

cc: Robert Feldner, Superintendent of Central Inspection  
Joe Donnelly, Housing and Zoning Administrator  
Don Gisick, City Clerk

**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE September 19, 1979

TO Jack H. Galbraith, Chief Planner

FROM Stan Scott, CPO Administrative Aide

SUBJECT BZA 41-79: Variance for carport at  
1929 South Millwood

On Septmeber 18, 1979, CPO Council "B" considered the proposed variance at 1929 South Millwood to reduce the required side yard setback from six to three feet adjacent to the south property line for the purpose of allowing the construction of an attached unenclosed carport.

The Council voted 6-0 to recommend that the variance be allowed.

*Stan Scott*  
Stan Scott  
CPO Administrative Aide

SS:lw

NOTED:

*Sarah Gilbert*  
Sarah Gilbert  
Assistant CP Coordinator

RECEIVED

SEP 20 1979

METROPOLITAN PLANNING  
ROUTE

SECRETARY'S REPORT  
CASE NO. BZA 41-79

APPLICANT: E. C. Mies, 1920 South Millwood, Wichita,  
Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.D, Code  
of the City of Wichita, to reduce the required  
side yard setback from 6 feet to 3 feet adjacent  
to the south property line.

GENERAL LOCATION: West side of Millwood approximately 100 feet  
north of May Avenue.

ZONING: Subject property is zoned "RD" Four Family as  
are those properties to the north, south and  
west. East is "A" Two Family zoning.

LAND USE: Subject property is developed with a single  
family home as are the properties to the north,  
south, east and west.

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 of the following conditions are found to exist:

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).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required side yard setback from 6 feet to 3 feet in order to construct an attached unenclosed carport on the south side of his single family home.

Page 2  
EZA 41-79  
EZA AGENDA  
9-25-79

A site plan submitted with the application indicates that a detached garage presently exists on the rear portion of the property to the west of the proposed carport. The applicant, in his statement of justification, points out that if a 6 foot side yard is maintained the support poles for the carport would block the driveway and be in the middle of the garage door.

UNIQUENESS:

It is the opinion of the Secretary that this may be somewhat of a unique situation inasmuch as the applicant desires to still utilize the existing garage and the placement of support poles at the 6 foot setback would make this prohibitive.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would not have an adverse effect on the adjacent property owners or residents inasmuch as the carport will be unenclosed thereby providing adequate amounts of light and air for the property to the south.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the existing garage could not be utilized for parking purposes.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not adversely affect the public interest inasmuch as the variance request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance would not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) if the previous four conditions necessary to the granting of the variance can be found to exist.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, it is recommended that the application to reduce the side yard setback from 6 feet to 3 feet adjacent to the south property line be approved for only that portion of the side yard as shown on the applicant's submitted site plan and for an unenclosed carport only.

BZA CASE NO. 41-79

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

19 NOTICES SENT TO ADJOINING PROPERTY OWNERS

31 TOTAL NOTICES SENT 9-5-79

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

September 5, 1979

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 41-79

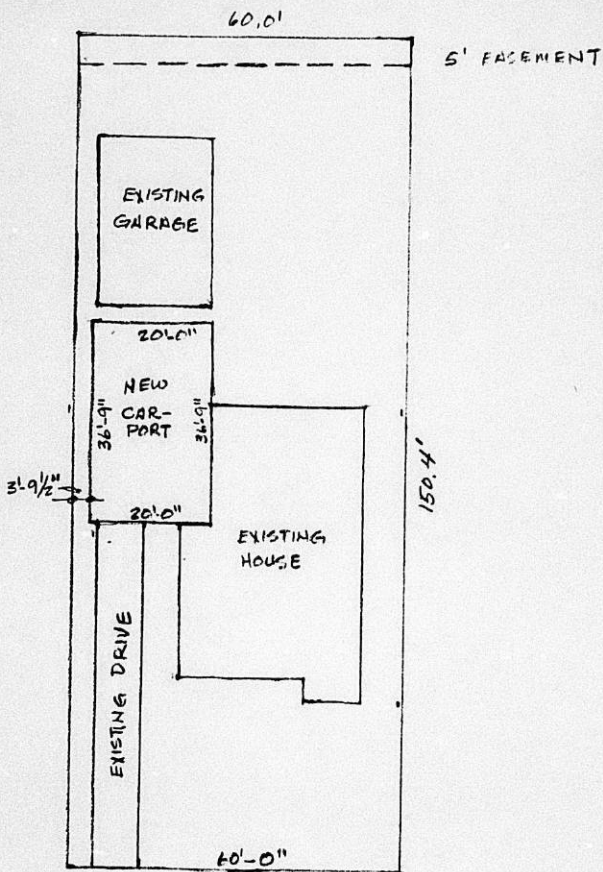
An application has been filed by E. C. Mies, 1929 S. Millwood, Wichita, Kansas, pursuant to Section 2.12.500.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback from 6 feet to 3 feet adjacent to the south property line for purposes of erecting an attached unenclosed carport, on property zoned the "RB" Four Family Dwelling District, and legally described as follows:

Lot 110 on Millwood, Garden Villa Addition to Wichita, Kansas. Generally located on the west side of Millwood approximately 400 feet north of May Avenue.

This application has been assigned case No. BZA 41-79, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, September 25, 1979, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith  
Secretary



SITE PLAN

1" = 20'-0"

→ NORTH

BOARD OF ZONING APPEALS

CASE NO. 41-79

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant E. C. Mies <sup>13</sup>  
 Mailing Address 1929 S Millwood Phone 263-627  
 Name of Authorized Agent \_\_\_\_\_  
 Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_

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

II. The variance requested is to reduce the <sup>required</sup> setback from 6' to 3' for an attached <sup>in enclosed</sup> carport.  
adjacent to the south property line

OK for property located on the west side of Millwood  
approximately 200 north of May Ave.

OK and legally described as: Lot 110 on Millwood, Garden  
Villa Addition to Wichita, Kansas

in the City of Wichita; and which is presently zoned "RB"

- 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 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.

E. C. Mies  
 Applicant

\_\_\_\_\_  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 3:05 (a.m. - P.M.), August 24 19 79  
 together with appropriate fee of \$50.00.

G. Lynn Shirley  
 Signed

#### 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 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 support posts would block the driveway and be in the middle of the garage door.*
  2. *No, as this is an open carport.*
  3. *It would be impossible to build the carport with support posts in six feet.*
  4. *It will be an open carport*
  5. *Our feelings are that it will improve the property.*

STATEMENT OF OWNERSHIP

STATE OF KANSAS )  
 ) SS:  
 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:

All the owners within 200 feet of Lot 110 in Garden Villa Addition.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

Lot 97	Garden Villa Add.	James F. Stika 1916 S. Vine 67213
Lot 98	" " "	William E. Wunemaker Geraldine Wunemaker 1920 S. Vine 67213
Lot 99	" " "	Lawrence Buffum Berniece J. Buffum 1924 S. Vine 67213
Lot 100	" " "	James D. Briley Judith A. Briley 1928 S. Vine 67213
Lot 101	" " "	Bill G. Hunt Joan M. Hunt 1932 S. Vine 67213
Lot 102	" " "	William M. Jernigan Barbara J. Jernigan 1936 S. Vine 67213
Lot 106	" " "	Eric M. Carlson Betty J. Carlson 1913 S. Millwood 67213

Fidelity  Title  
 COMPANY, INC.

Lot 107	Garden Villa Add			Elizabeth L. Reece ✓ 1917 S. Millwood	67213
Lot 108	"	"	"	Aubine G.M. Drake Fay E. Drake ✓ 1921. S Millwood	67213
Lot 109	"	"	"	P.N. Polin ✓ 1925 S. Millwood	67213
Lot 110	"	"	"	E.C. Mies Eileen M. Mies 1929 S. Millwood	67213
Lot 111	"	"	"	D Chester P. Emigh Pauline F. Emigh ✓ 1933 S. Millwood	67213
Lot 112	"	"	"	John F. Coons Rachel M. Coons ✓ 1937 S. Millwood	67213
Lot 5	"	"	" 2nd	Alvin Page Jr. ✓ Mary L. Page 1916 S. Millwood	67213
Lot 6	"	"	" "	Donna D. Cunningham ✓ 1920 S. Millwood	67213
Lot 7	"	"	" "	James A. Robbins Neilie E. Robbins ✓ 1924 S. Millwood	67213
Lot 8	"	"	" "	Frank J. Lary Janycé K. Lary ✓ 1928 S. Millwood	67213
Lot 9	"	"	" "	Bill J. Bruer ✓ Mary K. Bruer 1932 S. Millwood	67213
Lot 10	"	"	"	Mary M. Woods Lela M. Woods ✓ 1936 S. Millwood	67213
SEasterly 351 Feet of Lot 2 Garden Villa 5th Add.				Homestead Health Center Inc. ✓ 2133 S. Elizabeth	67213



Dated this 21st day of August, 1979 at 7:00 A.M

FIDELITY TITLE COMPANY INC.

By C. E. Axel Riddler  
Sr Vice President

No. 49935

Fidelity  Title  
COMPANY, INC.

**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
CITY 82A		50.00
Planning		
NAME		
ADDRESS		
FUND		DUE DATE
COMMENTS		
DATE	BY	
1/24/77	[Signature]	