

2004 Sec 11-8-83
Checked 11-29
SRer 12-1
Record 12-6

Case No. BZA 41-82 - Bobby & Judy Marsh
& Jan & Gulnor Sayed - request a variance
to reduce one side yard from 6 feet to
not less than 5.6 feet on property
zoned "AA" One-family Dwelling District
and generally located on the south side

ACTION

B.Z.A.
41-82

APPROVED

10-26-82
DATE

POSTED
10-18-82

200' Sec 11-8-83
Checked 11-29
Shor 12-1
Record 12-6

Case No. EZA 41-82 - Bobby & Judy Marsh
& Jan & Gailor Sayed - request a variance
to reduce one side yard from 6 feet to
not less than 5.6 feet on property
zoned "AA" One-family Dwelling District
and generally located on the south side

November 2, 1983

Bobby D. & Judy E. Marsh
8527 Scott
Wichita, Ks. 67210

and

Jan F. & Gulnor B. Sayed
8521 Scott
Wichita, Ks. 67210

Re: Case No. BZA 41-82
Request for Variance

Dear Mr. & Mrs. Marsh &
Mr. & Mrs. Sayed:

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:sad

Encl.

cc: David Niedens, 520 South Holland, Wichita 67209
William L. Korber, Baughman Company, P.A., 330 Laura, Wichita 67211
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 41-82

WHEREAS, Bobby D. & Judy E. Marsh and Jan F. & Gulnor B. Sayed, 8527 and 8521 Scott, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce one side yard on each property from 6 feet to not less than 5.6 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lots 6 and 7, Block 6, Oak Knoll Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Scott Street between Lori and Whitecliff (8527 Scott and 8521 Scott).

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 both properties were developed and completed before the violations were discovered, 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 both owners have signed a letter concurring in the variance request; 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 structures are occupied and the removal of a portion of the structure would be at an excessive cost to the owners; 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 utility easement will be vacated to eliminate any encroachment into the easement by the structures; 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 separation between structures is still adequate to provide light and air to both residences; 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.

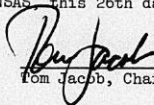
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce one side yard on each property from 6 feet to not less than 5.6 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lots 6 and 7, Block 6, Oak Knoll Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Scott Street between Lori and Whitecliff (8527 Scott and 8521 Scott).

be approved subject to the following conditions:

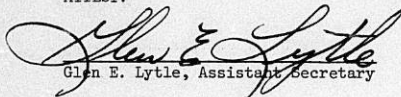
1. Prior to the release of the resolution the applicant shall vacate all of the side yard easement or that portion into which the eaves project.
2. The reduction of the side yard to 5.6 feet shall only apply to the existing structures.

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



Tom Jacob, Chairman

ATTEST:



Glen E. Lytle, Assistant Secretary

October 27, 1982

Bobby D. & Judy E. Marsh
8527 Scott
Wichita, Ka. 67210

and

Jan F. & Gulnor B. Sayed
8521 Scott
Wichita, Ka. 67210

Re: Case No. EZA 41-82
Request for Variance

Dear Mr. & Mrs. Marsh &
Mr. & Mrs. Sayed:

At the regular meeting of the Board of Zoning Appeals on
October 26, 1982, your request for a variance was considered.

It was the action of the Board to approve your request subject
to the following conditions:

1. Prior to the release of the resolution the applicant shall vacate all of the side yard easement or that portion into which the saves project.
2. The reduction of the side yard to 5.6 feet shall only apply to the existing structures.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy upon completion of the vacation of the utility easement as set forth in condition number 1.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: David Hiedens, 520 South Holland, Wichita 67209
William L. Korber, Baughman Company, P.A., 330 Laura, Wichita 67211
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 21, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Clemencia L. Prieto, Administrative Aide III

SUBJECT BZA 41-82 South side of Scott
Street between Lori and Whitecliff

At its October 18th meeting, Neighborhood Council Area "H" considered the captioned request for a variance to reduce one side yard from 6 feet to not less than 5.6 feet on property zoned "AA" One Family Dwelling District.

The Council voted 7-0 to recommend approval of the request. No one was present to speak for or against the requested variance.

Please provide the Council's recommendation to the Board of Zoning Appeals when it considers the case on October 26th.

Clemencia L. Prieto
Clemencia L. Prieto
Administrative Aide III

CLP:dm

RECEIVED

OCT 22 1982

METROPOLITAN PLANNING
ROUTE Lytle

SECRETARY'S REPORT
CASE NO. BZA 41-82

APPLICANT: Bobby D. & Judy E. Marsh, 8527 Scott, Wichita, Kansas and Jan F. & Gulnor B. Seyed, 8521 Scott, Wichita, Kansas.

AGENT: David Niedens, 520 South Holland, Wichita, Kansas. William L. Korber, Baughman Company, P.A., 330 Laura, Wichita, Ks.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce one side yard on each lot from 6 feet to not less than 5.6 feet.

GENERAL LOCATION: On the south side of Scott Street between Lori and Whitecliff (8527 and 8521 Scott).

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

LAND USE: Subject properties are developed as one-family dwellings as are all developed adjacent properties. Some properties are undeveloped.

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 a variance to reduce the required side yard from 6 feet to not less than 5.6 feet on one side of each property. The builder, David Niedens, erred in the location of both houses and constructed each approximately 4" into the required side yard setback.

It should be noted that the eaves of the houses project into the utility easement approximately 1-1/2 feet. The surveyor indicates that the easement is not being used by an utility. If this is the case, the easement should be vacated, or that portion encroached by the eaves of the structures.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to find any thing unique about the properties involved, however if there is any uniqueness it is that both properties are violating the 6 foot side yard requirement and the violation was not discovered until both houses were occupied.

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 both applicants have signed a letter concurring in 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 applicants inasmuch as the structures are occupied and to remove the portion of the structure in violation would be at a tremendous cost to the innocent property owners.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the utility easement is not being used and the vacation of the easement will eliminate the problem of the eaves projecting therein.

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 separation between structures would still be adequate to provide light and air to both residences.

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 the release of the resolution the applicant shall vacate all of the side yard easement or that portion into which the eaves project.
2. The reduction of the side yard to 5.6 feet shall only apply to the existing structures.

BZA CASE NO. 41-82

4 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

21 NOTICES SENT TO ADJOINING PROPERTY OWNERS

36 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 41-82

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 Bobby D. & Judy E. Marsh and Jan F. & Gulnor B. Sayed, 8527 and 8521 Scott, 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 reduce one side yard from 6 feet to not less than 5.6 feet on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 6 and 7, Block 6, Oak Knoll Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Scott Street between Lori and Whitecliff (8527 Scott and 8521 Scott).

This application has been assigned Case No. BZA 41-82. 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 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

September 24, 1982

Board of Zoning Appeals

Due to a small error in locating houses on Lots 6 and 7, Block 6, Oak Knoll Addition to Wichita, Sedgwick County, Kansas, being 8521 and 8527 Scott, the houses violate the side yard requirement. The houses lack about 7 inches from meeting the 12 foot requirement between houses.

The violation is between the two houses which have been occupied for sometime by the owners. The owners have no objection to the location of the houses and they are the only ones affected in the neighborhood.

Sincerely,

Tradition Homes Inc.


David Niedens

September 24, 1982

Mr. David Niedens
Tradition Homes Inc.
520 S. Holland
Wichita, KS. 67209

Dear Mr. Niedens:

We, the undersigned owners of the property at 8521 and 8527 Scott, have been notified by you of a problem with the City. As we understand our houses are to close to the side yard.

We are very satisfied with the way our houses are located on the lots. This gives us the most accessibility to our back yard by the house being located to one side of the lot rather than centered in the lot.

Please advise if there is any assistance we can give you in getting a variance to the side yard requirement.

Sincerely,

Bobby Dean Marsh
Judy Elaine Marsh
Bobby Dean Marsh
Judy Elaine Marsh

Lot 6, Block 6,
Oak Knoll Addition

Lot 7, Block 6,
Oak Knoll Addition

Jan Sayed
Jan F. Sayed
Gulnor B. Sayed
Gulnor Sayed

BOARD OF ZONING APPEALS

CASE NO. 41-82

CITY OF WICHITA, KANSAS

FILED 9-28-82

APPLICATION FOR VARIANCE

I. Name of Applicant Bobby Dean Marsh and Judy Elaine Marsh
 Jan F. Sayed and Gulnor B. Sayed
 Mailing Address Marsh-8527 Scott Phone _____
Sayed-8521 Scott
 Name of Authorized Agent David Niedens
 William L. Korber
 Mailing Address Niedens, Tradition Homes, 520 S. Holland, 67209- 722-9150
Korber, Baughman Co., P.A., 330 Laura, 67211
 Relationship of applicant to property is that of Owners 262-7271
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce one side yard from 6 feet
to not less than 5.6 feet.

for property located on the south side of Scott Street between
Lori and Whitecliff (8527 Scott and 8521 Scott)

and legally described as: 8527-Scott, Lot 6, Block 6, Oak Knoll
Addition and 8521-Scott, Lot 7, Block 6, Oak Knoll 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 David Niedens

Authorized Agent William L. Korber

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:00 (a.m.), SEPT. 28, 1982
 together with appropriate fee of 75.00.

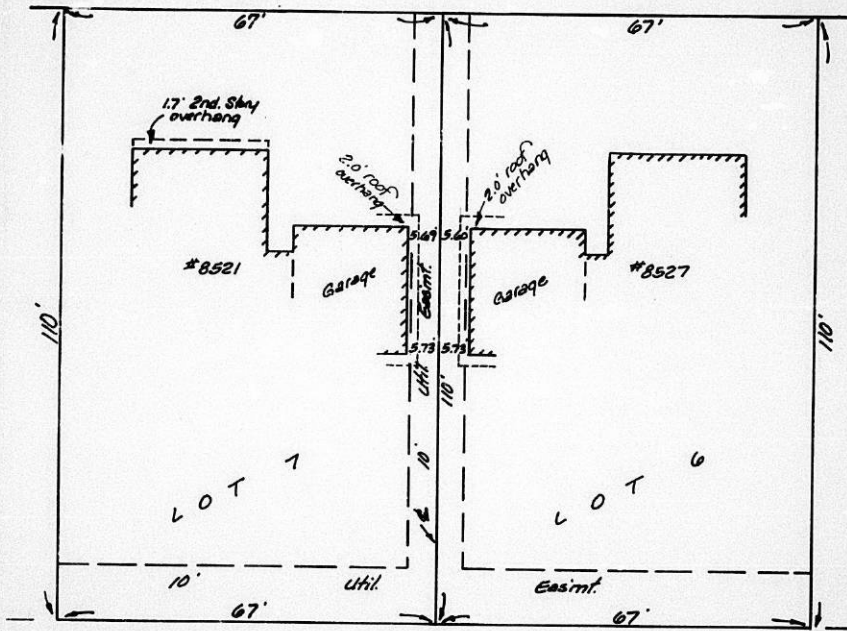
Signed G. Lyth

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



BAUGHMAN COMPANY, P.A.
SURVEYING & ENGINEERING
316 262-7271 • 330 LAURA • WICHITA, KANSAS 67211

SCOTT



1" = 20'

BLOCK 6, OAK KNOLL ADDITION TO
WICHITA, SEDGWICK COUNTY, KANSAS.

20 Aug, 1982

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

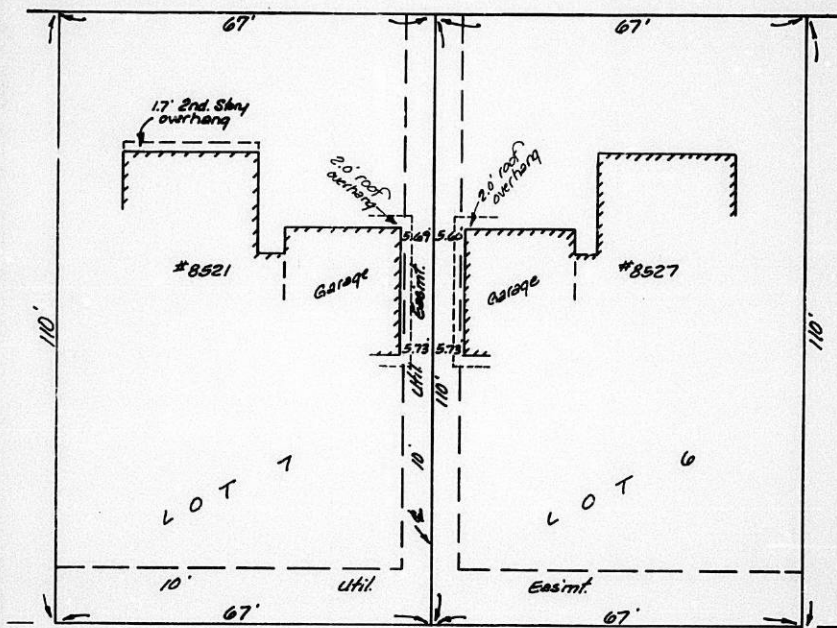


BAUGHMAN COMPANY, P.A.

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SCOTT



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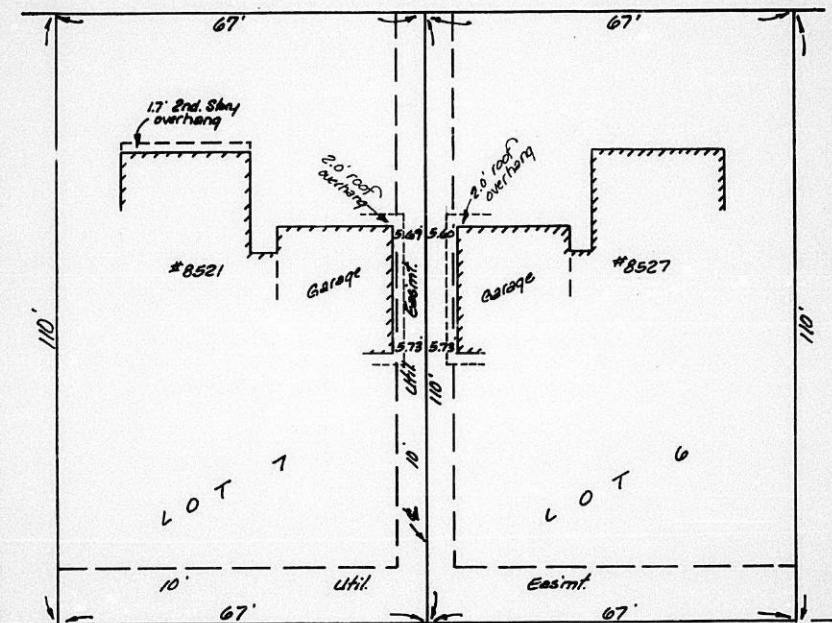


BAUGHMAN COMPANY, P.A.

SURVEYING & ENGINEERING

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

SCOTT



BLOCK 6, OAK KNOLL ADDITION TO
WICHITA, SEDGWICK COUNTY, KANSAS

20 Aug, 1982

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 1	1	Oak Knoll Addition	D Tradition Homes, Inc. 520 S. Holland 67209
Lot 4	1	"	D Tradition Homes Inc. 520 S. Holland 67209 ✓ Michael V. Knoblauch 902 N. West 67203
Lot 5	1	"	✓ Lei Yao Linda Yao 8604 Scott 67210
Lot 6	1	"	D Tradition Homes Inc. 520 S. Holland 67209 D Michael V. Knoblauch 902 N. West 67203
Lot 7	1	"	Same as above
Lot 8	1	"	✓ Mark Alan Little Cynthia Ann Little 8524 E. Scott 67210
Lot 9	1	"	D Tradition Homes, Inc. 520 S. Holland 67209 D Michael V. Knoblauch 902 N. West 67203
Lot 10	1	"	✓ Michael F. Marchand Barbara A. Marchand 8512 Scott 67210
Lot 11	1	"	D Tradition Homes, Inc. 520 South Holland 67209 D Michael V. Knoblauch 902 N. West 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 12	1	Oak Knoll Addition	Michael D. Harding Janice M. Harding 2503 Lori 67210
Lot 1	5	"	Prairie Homes Inc. 950 N. Tyler 67212
Lot 2	5	"	Lonnie A. Hus Janice L. Hus 2514 White Cliff 67210
Lot 3	5	"	Eugene V. Calhoun Lucinda Kay Calhoun 2526 White Cliff 67210
Lot 4	5	"	Brett Eugene Conrad Carol Jane Conrad 2536 White Cliff 67210
Lot 1	6	"	Tieu V. Nguyen Kieu T. Nguyen 2541 White Cliff 67210
Lot 2	6	"	Tony Lynn Rice Teressa Lynn Rice 2533 White Cliff 67210
Lot 3	6	"	Darrell Wigton Debra Wigton 2525 White Cliff 67210
Lot 4	6	"	Muoi Van Nhan Hanh Thi Duc Tran 2515 White Cliff 67210
Lot 5	6	"	William Lee McMillan Nanci Joan McMillan 2503 White Cliff 67210

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 6	6	Oak Knoll Addition	Bobby Dean Marsh Judy Elaine Marsh 8527 Scott 67210
Lot 7	6	"	Jan F. Sayed Gulnor B. Sayed 8521 Scott 67210
Lot 8	6	"	Tradition Homes Inc. 520 S. Holland 67209 Michael V. Knoblauch 902 N. West 67203
Lot 9	6	"	Same as above
Lot 10	6	"	Joseph Michael Brown Judy L. Brown 2522 Lori 67210
Lot 11	6	"	James Anderson Hope L. Anderson 2526 Lori 67210
Lot 12	6	"	Timothy J. Ewald Barbara E. Ewald 2530 Lori 67210
Lot 13	6	"	Mark D. Reeves Nancy E. Reeves 2536 Lori 67210
Lot 14	6	"	Frederick J. Diehl Kathryn A. Diehl 2542 Lori 67210
Lot 15	6	"	Randall E. Johnson Kristen S. Johnson 2550 Lori 67210

Tract Description

A tract beginning 165 feet East of the Northwest corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 5, Township 28 South, Range 2 East, thence East 100 feet, thence South 657.5 feet, thence West 265 feet, thence North 129.5 feet, thence East 165 feet, thence North 528 feet to the point of beginning.

Property Owner

✓ Bray Lines Inc.
8401 Oak Knoll 67210

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:

Lots 6 and 7, Block 6,
Oak Knoll 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 21st day of September, 1982 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Soble
Vice President

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29 21

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