

BZA 42-73 - James Alley requests
variance of side yard setback on
the South side of Shadybrook Ln.
in an area S of Madison Av.

FOOTED

12-20-73

[Signature]

FOOTED

MAPOL

C.L.T. +

7-22-74

[Signature]

ACTION

DATE

BZA COMMITTEE

Approved subject
to Comds.

1-22-74

M.A.P.C.

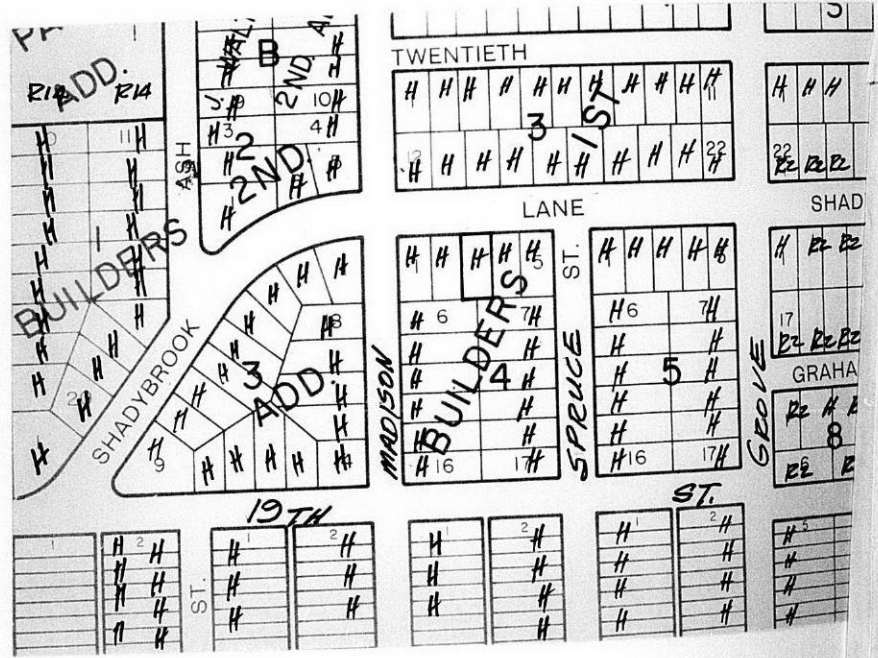
B.C.C./B. CO. C.

Map No. 5649
 Sec. 10
 Twp. 27
 Range 1E

BZA- 42-73
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 0.12 (50 ft. by 110 ft.)
 2. Adjoining Zoning: E "AA" S "AA" W "AA" N "AA"
 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. _____

PHOTO DATA:
 Taken by _____ Date _____ Time _____



March 6, 1974

Mr. James Alley
2213 Shadybrook
Wichita, Kansas 67214

Subject: Case No. BZA 42-73
Request for Variance

Dear Mr. Alley:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on January 22, 1974, in connection with your request for a variance to reduce the required side yard setback adjacent to the west line of Lot 3 from six feet to three feet, on property zoned the "AA" Single Family Dwelling District and generally located on the south side of Shadybrook in an area east of Madison Avenue.

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

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:js
Encl.

cc: William R. Wood, 433 North Broadway, 67202
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

R E S O L U T I O N No. BZA 42-73

WHEREAS, James Alley, 2213 Shadybrook, Wichita, Kansas, by William R. Wood, 433 North Broadway, 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 adjacent to the west line of Lot 3 from six feet to three feet, on property zoned the "AA" Single Family Dwelling District, and legally described as follows:

Lot 3, Block 4, Builder's First Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Shadybrook in an area east of Madison 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 January 22, 1973, 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 lot is narrower than the 60 feet minimum required by the Subdivision regulations and the location of the existing house is such that there is not adequate space to construct a garage and maintain the required setback; 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 is an open, unenclosed structure and the side yard for which the variance is requested adjoins a side yard which exceeds the minimum requirements of the zoning ordinance and therefore adequate air, light and space will remain between structures; 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 owner represented in the application inasmuch as if the width of the carport were reduced, it would not be usable and would deprive the applicant of adequate shelter and protection for his automobile; 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 inasmuch as the area for which the variance is requested 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) since the carport is not enclosed and approximately a distance of 12 feet remains between structures which do not have eaves extending into the side yards; 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,

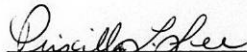
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback adjacent to the west line of Lot 3 from six feet to three feet, on property zoned the "AA" Single Family Dwelling District, and legally described as follows:

Lot 3, Block 4, Builder's First Addition to
Wichita, Sedgwick County, Kansas. Generally
located on the south side of Shadybrook in an
area east of Madison Avenue.

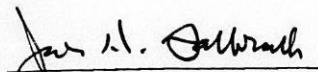
be approved only for that area occupied by the carport subject to the following condition:

1. The carport is to remain unenclosed.

ADOPTED AT WICHITA, KANSAS, this 22nd day of January,
1974.


Priscilla L. Lee, Chairman

ATTEST:


Jack H. Galbraith, Secretary

January 23, 1974

Mr. James Alley
2213 Shadybrook
Wichita, Kansas 67214

Subject: Case No. BEA 42-73
Request for Variance

Dear Mr. Alley:

At the regular meeting of the Board of Zoning Appeals on Tuesday, January 22, 1974, your request for a variance to reduce the required side yard setback adjacent to the west line of Lot 3 from 6 feet to 3 feet on property zoned "AA" Single Family Dwellings, and generally located on the south side of Shadybrook Lane in an area south of Madison Avenue was considered.

It was the action of the Board to approve this request for only that area occupied by the carport and subject to the condition that the carport is to remain unenclosed.

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.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:rme

cc: William R. Wood, Attorney
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

2027 North Spruce
Wichita, Kansas
Jan. 4, 1974

Board of Zoning Appeals
Room 402 Building Annex
104 South Main Street
Wichita, Kansas 67202

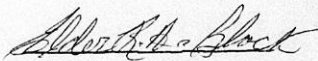
Re: Case No. BZA 42-73

Gentlemen:

Please accept this letter as my opinion concerning the variance filed by Mr. James Alley.

The applicant had no knowledge of City law to obtain a permit before building on his property. I do hope you will consider the time and finance that has gone into this little building, which is inside of the applicant's fence and for his personal use. He is also protecting his household as best he can from vandalism.

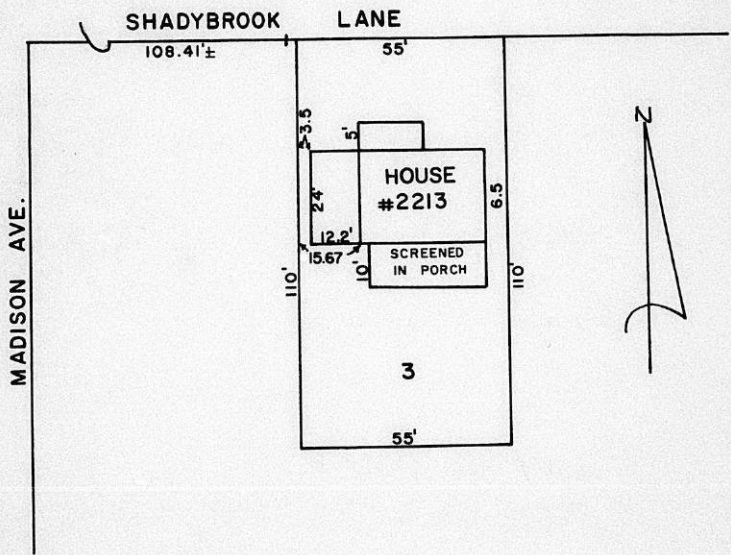
Sincerely,



Eld. R. A. Black

RAB:vmb





SECRETARY'S REPORT
CASE NO. BZA 42-73

APPLICANT: Mr. James Alley, 2213 Shadybrook, Wichita, Kansas, 67214.

AGENT: Mr. William R. Wood, 433 North Broadway, Wichita, Kansas, 67202.

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

GENERAL LOCATION: On the South side of Shadybrook Lane in an area South of Madison Avenue.

ZONING: Subject property is zoned the "AA" Single Family Dwelling District, as are all surrounding properties.

LAND USE: Subject property contains a single family home, as do all surrounding 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 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

Secretary's Report
BZA Case No. 42-73
Page 2

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 adjacent to the west property line from 6 feet to 3 feet to permit construction (which has already taken place) of a carport. The applicant states that the house has no garage and his car was badly damaged by vandals while parked in the driveway. To prevent further vandalism, he constructed an unenclosed lighted carport adjacent to the west side of the house. According to an update of the 1949 survey of the lot recently provided by the Central Inspection Division, the side yard was 15.67 feet, the carport is 12.17 feet wide, and a side yard of 3.5 feet remains.

The applicant further states that he thought that the required side yard was 3 feet for garages and carports. In the "AA" Single Family Dwelling District an accessory structure such as a detached garage which is located more than one-half the depth of the lot behind the front property line, the required side yard is 3 feet. However, an attached garage or carport is required to comply with the same side yard setback as main uses or structures, which is 6 feet in this zoning district.

In addition, the applicant explains that because of the particular type of nail used in the construction of the carport, nails cannot be removed to reduce the width to 9 or 9.5 feet to conform to side yard requirements without destroying the sheet metal they are driven through. He also says that the 12 foot width is necessary to enable him to get in and out of the car.

In viewing the property in the field, it appeared that the east side yard of the house adjacent to the west (adjoining the side yard for which this variance is requested) is approximately 9 feet, which gives adequate separation between structures.

Uniqueness:

It is the opinion of the Secretary that while uniqueness is somewhat difficult to justify, the lot is narrower than the 60 feet minimum required by the Subdivision regulations. The location of the existing house is such that there is not adequate space to construct a garage and maintain the required setback.

Secretary's Report
BZA Case No. 42-73
Page 3

Adjacent Property:

It is the opinion of the Secretary that the granting of the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the carport is an open, unenclosed structure and the side yard for which the variance is requested adjoins a side yard which exceeds the minimum requirements of the zoning ordinance and therefore adequate air, light and space will remain between structures.

Hardship:

It is the opinion of the Secretary that if hardship exists it would be because if the width of the carport were reduced, it would not be usable and would deprive the applicant of adequate shelter and protection for his automobile.

Public Welfare

In the opinion of the Secretary the variance desired will not adversely affect the public welfare inasmuch as the area for which the variance is requested is interiorly located.

Spirit and Intent:

The Secretary is of the opinion that the granting of the variance will not be opposed to the general spirit and intent of Title 28 since the carport is not enclosed and approximately a distance of 12 feet remains between structures which do not have eaves extending into the side yards.

RECOMMENDATION:

If the Board determines that all five conditions necessary to the granting of a variance can be found to exist, it is the recommendation of the Secretary that the variance be approved for only that area occupied by the carport and that the carport is to remain unenclosed.

MADISON AVE.

SHADYBROOK LANE

108.41'±

55'

110'

23.5'

24'

5'

10'

5.67'

HOUSE
#2213

SCREENED
IN PORCH

3

55'

110'

6.5'



BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

January 2, 1974

NOTICE TO ADJOINING PROPERTY OWNERS:

An application has been filed by James Alley, 2213 Shadybrook Wichita, Kansas, 67214, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback adjacent to the west line of Lot 3 from 6 feet to 3 feet on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 3, Block 4, Builder's First Addition to Wichita, Sedgwick County, Kansas. Generally located on the South side of Shadybrook in an area East of Madison Avenue.

This application has been assigned Case No. BZA 42-73, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, January 22, 1974, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas. If you desire, you may write to the Board of Zoning Appeals at 104 South Main to express your opinion on this matter. You are also welcome to speak or be represented by a spokesman at the Board of Zoning Appeals meeting when this matter will be considered.

If additional information is desired so that you may be fully informed on this matter, please call the Metropolitan Area Planning Department at 262-0611, Extension 205.

Jack H. Galbraith
Secretary

26 notices sent to Property Owners 1-2-74
10 " " " Plng. Comm. "

SURVEYS FOR
CITY LOTS
BUSINESS PROPERTIES
FARMS
OIL WELLS
SUBDIVISIONS

OFFICE OF

CLYDE M. BAUGHMAN

County Surveyor

Registered Professional Engineer

TOPOGRAPHICAL MAPPING
DRAINAGE
CITY PLATS AND MAPS
CITY PLAT BOOK

COURT HOUSE
PHONE 3-6281

139½ N. TOPEKA
PHONE 2-5292

WICHITA 2, KANSAS

March 4, 1949

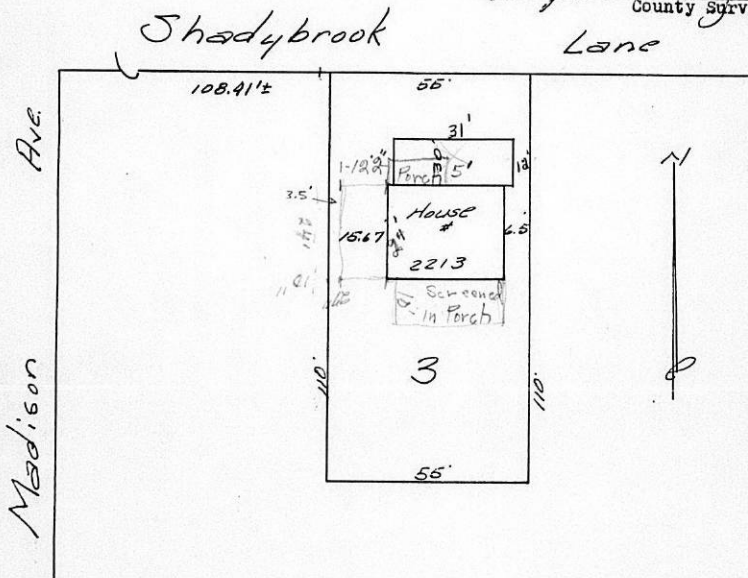
State of Kansas)
County of Sedgwick) SS

I, Clyde M. Baughman, Surveyor in and for said county and state do hereby certify that I did on this 4th day of March, 1949 survey lot 3, block 4, Builder's First Addition to Wichita, Kansas.

On said lot is house No. 2213 which is in the name of Ray Runkle and is in the clear of all boundary lines. 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.

Clyde M. Baughman
County Surveyor



December 17, 1973

Mr. William R. Wood
Attorney at Law
Beaty, Hodge and Wood
433 North Broadway
Wichita, Kansas 67202

RE: BZA Case No. 42-73
Request for Variance

Attached is your paid receipt for the above captioned request for variance.

This case has been scheduled to be heard before the Board of Zoning Appeals on Tuesday, January 22, 1974, meeting to begin at 1:30 p.m. in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas.

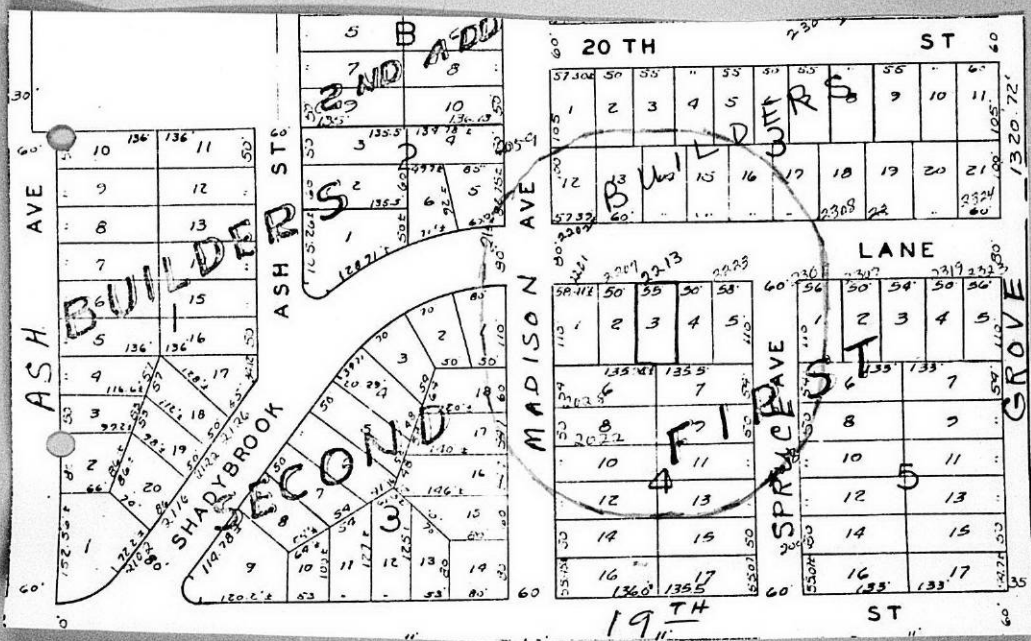
If you have any questions, please contact this office.

Sincerely,

Martha McMurry
Junior Planner

MM:rw

Attachment



LAW OFFICES
BEATY, HODGE AND WOOD
ATTORNEYS AT LAW
433 N. BROADWAY
WICHITA, KANSAS 67202

FRED A. BEATY
RAY HODGE
WILLIAM R. WOOD

TELEPHONE AC 316
262-6289
262-3411

December 13, 1973

City of Wichita
Office of the Secretary
Board of Zoning Appeals
Room 402, City Building Annex
104 South Main
Wichita, Kansas

Re: Application for Variance
2213 Shadybrook
Wichita, Kansas

Dear Sir:

Enclosed please find the Application for Variance signed by James Alley, Abstract company certificate, sketch in duplicate.

Also enclosed please find our firm check in the sum of \$50.00 representing the fee required.

Please advise this office as well as Mr. Alley of the date and time of hearing.

Yours very truly,

BEATY, HODGE AND WOOD

Ray Hodge
William R. Wood

WRW:nr
Enclosures



BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 42-73
FILED 12.14.73

APPLICATION FOR VARIANCE

I. Name of Applicant James Alley
Mailing Address 2213 Shadybrook, Wichita, Ks. Phone AM4-7513
Name of Authorized Agent N/A
Mailing Address _____ Phone _____
Relationship of applicant to property is that of owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is remove carport or obtain a building permit and shorten width of carport enough for a 6' side yard.

for property located 2213 Shadybrook, Wichita, Kansas

and legally described as: Lot 3, Block 4, Builder's First 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:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - 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;
 - 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.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

James Alley
Applicant James Alley

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals Mail (a.m. - p.m.), December 14 1973
together with appropriate fee of \$50.00.

T9-402

M. McPherry
Signed


STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstracter 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:

Property lying within a radius of 200 ft of:
 Lot 3, Block 4, Builders First Addition to
 Wichita, Sedgwick County, Kansas.


 Fidelity
 Title
 Company.
 Inc.

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	BLK.	ADDITION	OWNER
1,	3	<u>BUILDER'S FIRST</u>	John W. Upshaw Alice Upshaw, ux 2201 E. 20th St. 67214
2,	3		Adm. of Veterans Affairs 5500 E. Kellogg 67218
3,	3		B. M. & Doris Wilkerson. No Address Available ux
4,	3		Adm. of Veterans Affairs 5500 E. Kellogg 67218
5,	3		Arthur L. Lane Flora Mae Lane, ux 2223 E. 20th St. 67214
12,	3		Josephine Witherspoon 2202 Shadybrook Lane 67214
13,	3		A. G. & Hester Jones, ux 2208 Shadybrook 67214
14,	3		Helen Duke Edward Smiley, jt. 834 Ohio 67214
15,	3		Basil W. Crossley Rachel E. Crossley, ux No Address Available



NA

LOT	BLK.	ADDITION	OWNER
16.	3	<u>BUILDERS FIRST</u>	✓ Binnie & Zephyr Homes, ux 2224 Shadybrook 67214
17,	3		✓ Arthur C. & Gladys A. Weldon, 2302 Shadybrook 67214 ux
1,	4		✓ George & Edvena Norwood, ux 2201 Shadybrook 67214
2,	4		✓ William E. & Dora Lee Grayson, 3121 Ethel 67219 ux
3,	4		✓ James & Bernice E. Alley, ux 2213 Shadybrook 67214
4,	4	N/A	✓ John L. & Patricia Mankley, ux 2219 Shadybrook 67214
5,	4		Lorenzo & Blanche J. Nelson, No Address Available ux
6,	4	NA	D Adm. Veterans Affairs 5500 E. Kellogg 67218
7,	4		✓ Sarvanda R. & Opal Black, ux 2027 N. Spruce 67214
8,	4		✓ Lonnie & Clarisa Rolfe, ux 1319 N. Madison 67214
9,	4		✓ Robert R. & Bernice Peach, ux 1636 Gentry Dr. 67208
10,	4		✓ Willie Mae Jenkins 2018 N. Madison 67214
11,	4		✓ Ford & Willie Mae Davis, ux 2017 N. Spruce 67214
12,	4		✓ Carlene H. Stokes 2012 N. Madison 67214
13,	4		✓ P. James & Dorothy Tisdale, ux 2011 N. Spruce 67214
1,	5		✓ Enos & Verna D. Coleman, ux 2301 Shadybrook 67214
6,	5		✓ Clara Armstead 2028 N. Spruce 67214
8,	5		✓ William E. & Reba Newby, ux 2022 N. Spruce 67214
10,	5		✓ Harry G. & Daisy Vesey, ux 2018 N. Spruce 67214
5,	2	<u>BUILDERS SECOND</u>	✓ Johnny & Anna Bell Foster, ux 2150 Shadybrook 67214
1,	3		A. Dale & Sara Jo Gardner, ux No Address Available
17,	3,	NA	D Adm. Veterans Affairs 5500 E. Kellogg 67218
18,	3		✓ Iona Jones 2027 N. Madison 67214

-3-

Dated at Wichita, Kansas this 12th day
of December, 1973 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Orin L. Mason OEM
Asst. Sec. ag

Tracer # 22122

SURVEYS FOR
CITY LOTS
BUSINESS PROPERTIES
FARMS
OIL WELLS
SUBDIVISIONS

OFFICE OF
CLYDE M. BAUGHMAN
County Surveyor
Registered Professional Engineer

TOPOGRAPHICAL MAPPING
DRAINAGE
CITY PLATS AND MAPS
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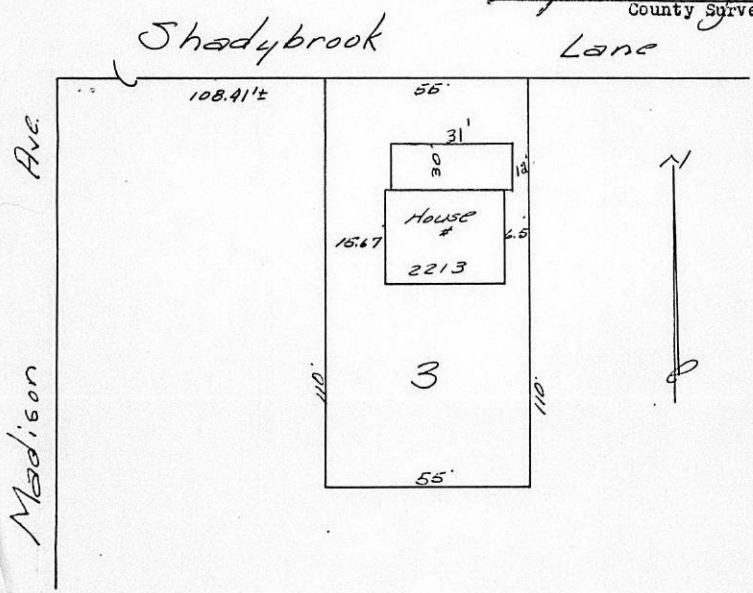
139 1/2 N. TOPEKA
PHONE 2-5292

WICHITA 2, KANSAS
March 4, 1949

State of Kansas)
County of Sedgewick) SS

I, Clyde M. Baughman, Surveyor in and for said county and state do hereby certify that I did on this 4th day of March, 1949 survey lot 3, block 4, Builder's First Addition to Wichita, Kansas. On said lot is house No. 2213 which is in the name of Ray Runkle and is in the clear of all boundary lines. 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.

Clyde M. Baughman
County Surveyor



FORM 223-021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

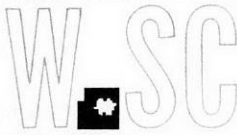
Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
BZA Application	150.00

Name: Great Holdings of Wood
 Address: 433 N. Broadway
 Type: BA Due Date: 4/07/63
 Comments:

Date: 12-15-73 By: M. Murray

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY BUILDING ANNEX
104 S. MAIN ST.
WICHITA, KANSAS 67202

- Moved, left no address
- No zip number
- Moved, not forwardable
- Addressee unknown

John L. & Patricia Markley

N/A

2219 Shadybrook

Wichita, Kansas 67214

BZA 42-73

