

BZA 54-64 - Lawrence M. Douthit appeals decision for setback variance on the E side of Dellrose between Mt. Vernon and Meadowlane.

*11-24-64*  
*11-24-64*

**ACTION**

*Bza* COMMITTEE *Class* DATE *11-24-64*  
*no appeal filed*  
M.A.P.C. \_\_\_\_\_  
B.C.C./B. CO. C. \_\_\_\_\_

**R E S O L U T I O N   N O .   B Z A   5 2 - 6 4**

WHEREAS, Lawrence M. Douthit, 1912 South Dellrose, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, has requested a variance to allow a garage to extend to within 3 feet of the side property line rather than to within 6 feet as required under Section 28.04.040, Code of the City of Wichita, on property legally described as follows:

West half of Lot 18, in Meadowlark Addition, in the City of Wichita, Sedgwick County, Kansas, generally located on the east side of Dellrose in an area between Mt. Vernon and Meadowlane; and

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, in regular meeting, consider said application on November 24, 1964; and

WHEREAS, the Board of Zoning Appeals has found that the request for variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as the lots in this particular area were originally platted as real deep lots and then were eventually split and sold off under separate ownership, which in this particular instance resulted in a rather unique situation in that there is a vacant lot directly north of this property which, because of its size, is almost unbuildable without a waiver of the required setback requirements and, therefore, it appears that a reduction of the side yard setback requirement will have no adverse affect on the adjoining property owner; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect the rights of adjacent property owners inasmuch as no one appeared in opposition to the variance request; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the applicant in that if the side yard setback was not reduced the applicant would be deprived of a garage for his automobile during the winter months; and

WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, 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 the variance requested be approved and the Superintendent of Central Inspection be authorized to issue the appropriate permit, subject to the following condition:

1. A variance from 6 feet to 3 feet is hereby granted for the side yard setback abutting the north line of the west half of Lot 18, Meadowlark Addition, in the City of Wichita, Sedgwick County, KANSAS.

ADOPTED AT WICHITA, KANSAS, this 24th day of November,  
1964.

Harold Bauer  
Harold Bauer, Chairman

ATTEST:

Jack H. Galbraith  
Jack H. Galbraith, Secretary

December 7, 1964

Mr. Lawrence M. Douthit  
1912 South Dellrose  
Wichita, Kansas

Dear Mr. Douthit:

Re: Case No. BZA 52-64

On November 25, 1964, we advised you that the Board of Zoning Appeals had approved subject application for a variance of the side yard setback area on property generally located on the east side of Dellrose in an area between Mt. Vernon and Meadowlane.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before December 4, 1964. The City Clerk has advised that no appeal was filed on or before that date, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber  
Attachment

cc: Glen Lytle, Superintendent  
of Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 52-64

APPLICANT: Lawrence M. Douthit, 1912 South Dellrose

REQUEST: Variance pursuant to Section 2.12.590 of the Code of the City of Wichita, to allow a garage to extend to within 3 feet of the side property line rather than to within 6 feet as required under Section 28.04.040 of the Code.

GENERAL LOCATION: Generally located in an area on the east side of Dellrose between Mt. Vernon and Meadowlane.

ZONING: Property in question - "AA"  
SNorth - "AA"  
East - "AA"  
South - "AA"  
West - "AA"

LAND USE: Property in question - Single family  
North - Single family  
East - Single family  
South - Single family  
West - Single family

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the variance request under the provisions as set forth under Section 2.12.590 of the Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

A plot plan and statement of justification are included as Attachments #1 and #2 to this report.

UNIQUENESS

From viewing a plat of this particular area, it can be seen that the lots between Dellrose and Oliver and between Mt. Vernon and Meadowlane in this particular area were originally platted as real deep lots. The depth of the lots ran all the way from Oliver to Dellrose. Eventually these lots were split and houses were constructed along Oliver and along Dellrose. As can be seen from viewing the plot plan submitted with this application, the property owner immediately to the north of the applicant's property has a rather deep lot and has constructed his home on Meadowlane. This has left a shallow lot on the west which is almost unbuildable and is now used as the rear yard of the home facing Meadowlane. The property owner to the north of the applicant's property has assured the applicant that he has no intentions of constructing a building on the vacant lot. The Secretary is of the opinion that a single family home could not be constructed on this small lot without obtaining waiver of the required setbacks. It appears that the only building that could be constructed on the lot at this time is some type of an accessory structure. The applicant's reasons for pointing this situation out is to give some assurance to the adjoining property owners that they will not be deprived of adequate light and air if he constructs his garage to within 3 feet of his north property which is the south line of the vacant lot.

It is the Secretary's opinion that this is a rather unique situation which is not commonly found throughout the City.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance will not adversely affect the rights of the adjacent property owners.

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as he would have no place to protect his car against the elements of the Kansas weather.

It should be pointed out that the applicant already has one garage; however, he proposes to add on to his existing garage so that he can have adequate accommodations for both of his cars.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

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Case No. BZA 32-64

RECOMMENDATION

Based upon the foregoing review of the case, it is the opinion of the Secretary that all four conditions necessary to the granting of a variance have been found to exist. Therefore, it is recommended that the variance be granted, subject to the following condition:

1. A variance from 6 feet to 3 feet is hereby granted for the side yard setback abutting the north line of the west half of Lot 18, Meadowlark Addition, in the City of Wichita, Sedgewick County, Kansas.

Attachments #1 - Plot Plan  
#2 - Statement of Justification

November 25, 1964

Mr. Lawrence M. Douthit  
1912 South Dellrose  
Wichita, Kansas

Dear Mr. Douthit:

Re: Case No. BZA 52-64

This is to advise you that at its regular meeting of November 24, 1964, the Board of Zoning Appeals of the City of Wichita, considered your request for a variance to allow construction of a building to extend 3 feet into the 6 foot side yard required, on property generally located on the east side of Dellrose in an area between Mt. Vernon and Meadowlane.

It was the action of the Board of Zoning Appeals to approve this request as follows:

1. A variance from 6 feet to 3 feet is hereby granted for the side yard setback abutting the north line of the west half of Lot 18, Meadowlark Addition, in the City of Wichita, Sedgwick County, Kansas.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before December 4, 1964.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed by that time, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

*Jack H. Galbraith*  
Jack H. Galbraith  
Secretary

JHG:JWH:ber  
cc: Robert G. Finch  
City Clerk

Glen Lytle, Superintendent of Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 52-64

APPLICANT: Lawrence M. Douthit, 1912 South Dellrose

REQUEST: Variance pursuant to Section 2.12.590 of the Code of the City of Wichita, to allow a garage to extend to within 3 feet of the side property line rather than to within 6 feet as required under Section 28.04.040 of the Code.

GENERAL LOCATION: Generally located in an area on the east side of Dellrose between Mt. Vernon and Meadowlane.

ZONING: Property in question - "AA"  
North - "AA"  
East - "AA"  
South - "AA"  
West - "AA"

LAND USE: Property in question - Single family  
North - Single family  
East - Single family  
South - Single family  
West - Single family

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the variance request under the provisions as set forth under Section 2.12.590 of the Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

A plot plan and statement of justification are included as Attachments #1 and #2 to this report.

UNIQUENESS

From viewing a plat of this particular area, it can be seen that the lots between Dellrose and Oliver and between Mt. Vernon and Meadowlane in this particular area were originally platted as real deep lots. The depth of the lots ran all the way from Oliver to Dellrose. Eventually these lots were split and houses were constructed along Oliver and along Dellrose. As can be seen from viewing the plot plan submitted with this application, the property owner immediately to the north of the applicant's property has a rather deep lot and has constructed his home on Meadowlane. This has left a shallow lot on the west which is almost unbuildable and is now used as the rear yard of the home facing Meadowlane. The property owner to the north of the applicant's property has assured the applicant that he has no intentions of constructing a building on the vacant lot. The Secretary is of the opinion that a single family home could not be constructed on this small lot without obtaining waiver of the required setbacks. It appears that the only building that could be constructed on the lot at this time is some type of an accessory structure. The applicant's reasons for pointing this situation out is to give some assurance to the adjoining property owners that they will not be deprived of adequate light and air if he constructs his garage to within 3 feet of his north property which is the south line of the vacant lot.

It is the Secretary's opinion that this is a rather unique situation which is not commonly found throughout the City.

ADJACENT PROPERTY

The Secretary is of the opinion that the granting of the variance will not adversely affect the rights of the adjacent property owners.

HARDSHIP

The Secretary is of the opinion that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as he would have no place to protect his car against the elements of the Kansas weather.

It should be pointed out that the applicant already has one garage; however, he proposes to add on to his existing garage so that he can have adequate accommodations for both of his cars.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

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Case No. BZA 52-64

RECOMMENDATION

Based upon the foregoing review of the case, it is the opinion of the Secretary that all four conditions necessary to the granting of a variance have been found to exist. Therefore, it is recommended that the variance be granted, subject to the following condition:

1. A variance from 6 feet to 3 feet is hereby granted for the side yard setback abutting the north line of the west half of Lot 18, Meadowlark Addition, in the City of Wichita, Sedgwick County, Kansas.

Attachments #1 - Plot Plan  
#2 - Statement of Justification

SECRETARY'S REPORT

CASE NO. BZA 52-64

APPLICANT: Lawrence M. Douthit, 1912 South Dellrose

REQUEST: Variance pursuant to Section 2.12.590 of the Code of the City of Wichita, to allow a garage to extend to within 3 feet of the side property line rather than to within 6 feet as required under Section 28.04.040 of the Code.

GENERAL LOCATION: Generally located in an area on the east side of Dellrose between Mt. Vernon and Meadowlane.

ZONING: Property in question - "AA"  
SNorth - "AA"  
East - "AA"  
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LAND USE: Property in question - Single family  
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South - Single family  
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JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the variance request under the provisions as set forth under Section 2.12.590 of the Code of the City of Wichita. The Board may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
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Case No. BZA 52-64

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It should be pointed out that the applicant already has one garage; however, he proposes to add on to his existing garage so that he can have adequate accommodations for both of his cars.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect the public interest.

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Case No. BZA 51-64

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Based upon the foregoing review of the case, it is the opinion of the Secretary that all four conditions necessary to the granting of a variance have been found to exist. Therefore, it is recommended that the variance be granted, subject to the following condition:

1. A variance from 6 feet to 3 feet is hereby granted for the side yard setback abutting the north line of the west half of Lot 18, Meadowlark Addition, in the City of Wichita, Sedgwick County, Kansas.

Attachments #1 - Plot Plan  
#2 - Statement of Justification

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

November 5, 1964

**NOTICE TO ADJOINING PROPERTY OWNERS**

Case No. BZA 52-64

An application has been filed by Lawrence M. Douthit, 1912 South Dellrose, Wichita, KANSAS, PURSUANT to Section 2.12.590, Code of the City of Wichita, requesting a Variance to allow construction of a building to extend 3 feet into the 6 foot side yard required under Section 28.04.040.C, Code of the City of Wichita, Kansas, on property zoned "AA" One Family Dwelling District, and legally described as follows:

West 1/2 of Lot 18, in Meadowlark Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Dellrose in an area between Mt. Vernon and Meadowlark.

This application has been assigned Case No. BZA 52-64, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, November 24, 1964, at 2 P.M. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

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

November 5, 1964

**NOTICE TO ADJOINING PROPERTY OWNERS**

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Jack H. Galbraith  
Secretary

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

November 5, 1964

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Jack H. Galbraith  
Secretary

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

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November 5, 1964

**NOTICE TO ADJOINING PROPERTY OWNERS**

Case No. BZA 52-64

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Jack H. Galbraith  
Secretary

CASE NO. BZA 52-64 - 14 NOTICES MAILED 11-5-64 FOR MEETING

NOVEMBER 24, 1964

SECTION 2.12.590 - CODE OF THE CITY OF WICHITA

2. VARIANCES

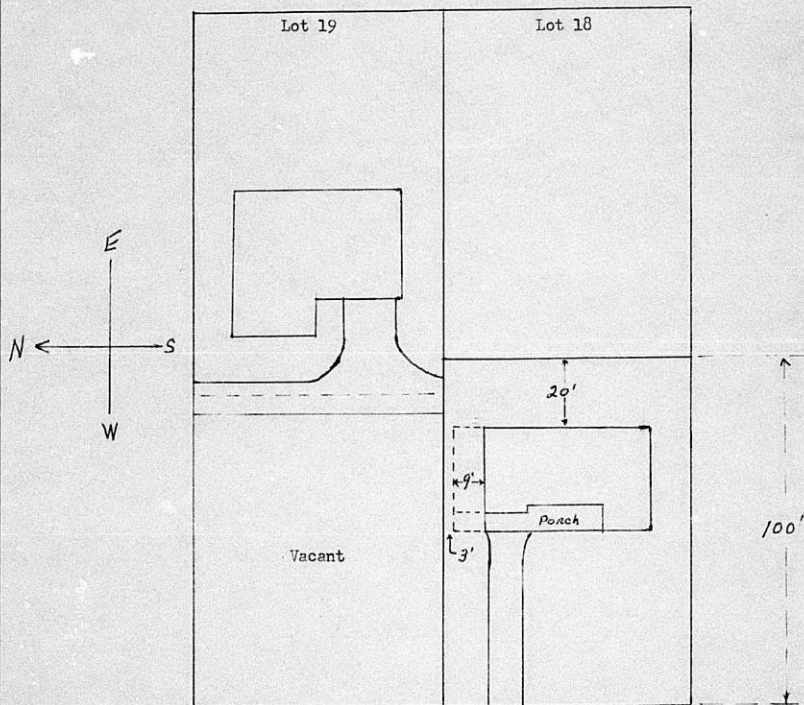
- (a) An unusual situation exists relative to the property described in Part II of the application submitted herewith in that -
- (1) Meadowlark Addition was originally platted with restrictions indicating that only one structure would be permitted on Lot 18 and various other lots in the same area. Development occurred, however, before said property became a part of the City of Wichita and restrictions were not adhered to closely. Lot 18, along with others, was divided into two parts and dwellings were placed on both the east and west halves. The property was subsequently taken into the City of Wichita, thus eliminating the opportunity for any building expansion or modification without special permits such as is here requested.
  - (2) No structure of any kind exists on the west half of Lot 19, which lies immediately to the north of my property, and the possibility of any building on that portion of Lot 19 is remote - and I have been so advised by the owner. For one specific reason, the dwelling on Lot 19 is so located that erecting a building on the west portion would necessarily take in at least one-half of the present driveway thereon in order to maintain the required 6500 square foot minimum lot for a dwelling in this area. The plat attached hereto pictures graphically the conditions which I am attempting to point out herein.
- (b) Full consideration was given to the possibility of adverse effect of the requested variance on owners of adjacent properties before a decision to make this application was made. I discussed this point with some of the closer property owners and it is the consensus that the proposed extension rather than hurting anyone would, in fact, constitute an improvement to the area in general. Mr. O. T. Hollingsworth, owner of the property immediately adjacent to the area of the requested variance, has told me that if such would help my cause in any way, he would willingly sign a statement indicating no objection, that he thought it would be an improvement. As stated above in 2 (a) (2), no structure exists between Lot 18 and Meadowlane, the street immediately to the north of Lot 19 (owned by Mr. Hollingsworth), thus the requested variance approaches a vacant area which, from all indications, will remain vacant.
- (c) Conditions make it necessary for your applicant to own two cars, and I feel that I cannot afford to subject an automobile to the vagaries of Kansas weather and need such variance in order to enlarge my present garage to accommodate both cars. Further, there are no parking or automobile storage facilities in the area of my home, so that it is, of course, now necessary to park one or the

other of the automobiles in my driveway. This is readily recognizable as an inconvenience not only to me and my family but to others calling at my residence. A two-car garage at my home will also enable me to conform to the practice of my close neighbors who take some degree of pride in the appearance of the neighborhood and always garage their cars.

- (d) The possibility of a garage extension at a residence affecting public health, safety, morals, et cetera, is so remote that I believe Item "(d)" was intended to cover variances for other purposes.

GENERAL LAYOUT OF PROPERTY INVOLVED IN THIS APPLICATION -

Lawrence M. Douthit, Appellant



Approx. Scale:  $1/32" = 1'$

Dotted lines at north of structure on W/2 Lot 18 indicate proposed extension.

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. Ex 52-64  
FILED 11-3-64

Variance  
APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION

1. Name of Appellant Lawrence M. Douthit  
Mailing Address 1912 South Dellrose Phone Mu3-5167  
Name of Agent \_\_\_\_\_  
Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_  
Relationship of applicant to property is that of Owner  
(owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination or an order of the Superintendent of Central Inspection, as follows:  
Rejection of building extension permit due to 6-foot property line  
limitation imposed by area restrictions. REQUESTED VARIANCE: 6 ft. to 3 ft.  
for property located 1912 South Dellrose  
and legally described as West One-half of Lot 18, in Meadowlark  
Addition, Wichita, Kansas  
in the City of Wichita; and which is presently zoned residential. The decision was rendered October, 1964, and refers to Section \_\_\_\_\_, of the Code of the City of Wichita.

III. The appellant hereby declares that he has submitted the following required material, together with and as part of the appeal:  
A. A clear and accurate description of the proposed work or use.  
B. The order, requirement, decision or determination by the Superintendent of Central Inspection which the appellant believes to be in error, and the principal points supporting the appellant's allegation of errors;  
C. Specific reference to that section of the Zoning Ordinance under which it is claimed the permit should be issued;  
D. Drawings or plans for the proposed work or use in relation to the adjacent buildings and property;  
E. A certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of 200 feet of the property affected by the appeal.

Applicant L.M. Douthit  
Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 8:45 (a.m. - (p.m.)), Nov. 3, 1964, together with appropriate fee of \$50.00.

Signed Jack Galbraith Sp



Lot 20, Meadowlark Addition.

✓ Max E. Hein & Ethel N. Hein, ux  
4671 Meadowlane

Lot 21, Meadowlark Addition.

✓ Donald G. & Iola M. Hendrix, ux  
4669 Meadowlane

Lot 22, Meadowlark Addition.

✓ Daisie E. & Hubert H. Lawson, ux  
309 S. Roosevelt

Lot 11, Meadowlark Addition.

✓ Henry V. & Irene Hay, ux  
4650 E. Mt. Vernon

Lot 12, Meadowlark Addition.

✓ Wilma J. Bozarth  
4660 E. Mt. Vernon

Lot 13, Meadowlark Addition.

✓ Frank & Cathryn E. Laughlin, ux  
4670 E. Mt. Vernon

The North 65 Acres of E $\frac{1}{2}$  of NE $\frac{1}{4}$  of  
Sec 35, Twp 27, R. 1 East.

✓ Board of Park Commissioners,  
City of Wichita, Kansas.  
401 City Bldg.

Beg 299 ft North of SW cor NW $\frac{1}{4}$  of  
Sec 36; th North 201 ft; East 330  
ft; South 201 ft; West 330 ft to beg;  
exc Sewer ROW CCA 35290 & exc CCA-43699  
for Oliver Street. Sec 36, Twp 27, R 1 E.

✶ Robert M. Moore, Jr.  
1959 S. Oliver

Beg 35 ft North of SW cor of NW $\frac{1}{4}$  of  
Sec 36, Twp 27, R 1 East; th North  
264 ft; East 330 ft; South 264 ft;  
West 330 ft to beg., exc Sewer ROW  
CC A-35290 & exc CC A-43699 for Oliver  
Street.

✓ Dillon Investment Co., Inc.  
1807 E. Kellogg

Dated at Wichita, Kansas this 27th day  
of October, 1964 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elie M. Farrel Sec. OEM

Form 223-021

**PAYMENT NOTICE**

City of Wichita

**AT TREASURER'S OFFICE - FIRST FLOOR**

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

DESCRIPTION

AMOUNT

*Ins. Application 50<sup>00</sup>*

Name

*Lawrence M Southit*

Address

*1412 S Wallace*

Type

*-712*

Due Date

Comments:

Date

*11-3-64*

By

*Blowers*