

*POSTED  
1-12-81*

*BZA  
5480*

**ACTION**

DATE 1-27-81

COMMITTEE denied

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

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

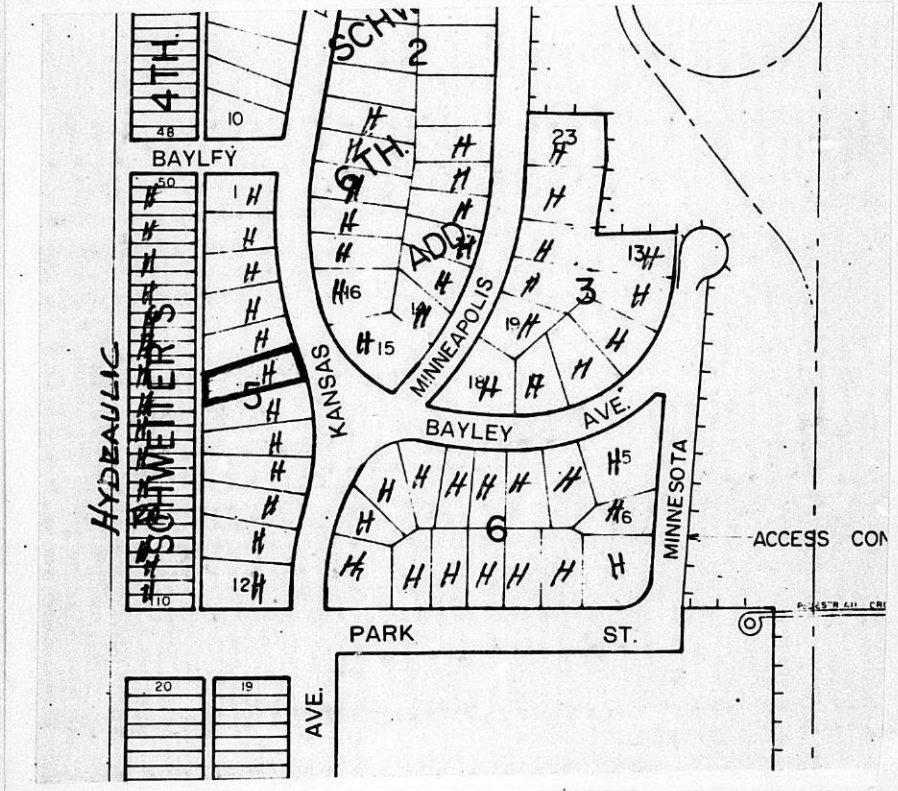
Case No. BZA 54-80 - Julian & Leola Hewlett - requests a variance to reduce the sideyard setback adjacent to the south property line from 6' to 3.44' on property zoned "A" Two-family

Map No. 5646  
 Sec. 27  
 Twp. 27  
 Range 1E

BZA- 54-80  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 0.25 ( 61 ft. by 180 ft.)  
 2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_  
 3. Land Use: East SINGLE FAM South SINGLE FAM  
 West SINGLE FAM North SINGLE FAM  
 4. Sketch Plan Land Use is for: \_\_\_\_\_  
 5. Present Land Use if for: SINGLE FAM  
 6. Area (is) (is not) platted.

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



WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 9, 1981

TO Fred Linde, Grievance Officer  
FROM Glen E. Lytle, Special Assistant for Zoning  
SUBJECT BZA 54-80 - 1335 South Kansas

Accompanied herewith is a set of slides used in conjunction with the Board of Zoning Appeals application for a variance of a side yard setback on the property at 1335 South Kansas. This is part of the official file and should be returned to this office when you are finished with them.

As was discussed after the meeting, there was considerable concern expressed by the Board on what could be done to prevent further occurrences of this type of condition, particularly when it has been building for 20-25 years. Please keep us advised of any suggestions you or your Board might have on this matter.

Glen E. Lytle

GEL:sad

Attach.

February 9, 1981

Julian & Leola Hewlett  
1335 South Kansas  
Wichita, Kansas

Re: Case No. BEA 54-80  
Request for Variance

Dear Mr. & Mrs. Hewlett:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on January 27, 1981, in connection with your request for a variance to reduce the side yard setback adjacent to the south property line from 6 feet to 3.44 feet on property zoned "A" Two-family Dwelling District and generally located on the west side of Kansas between Bayley and Park Street (1335 South Kansas).

This Resolution reflects the official action of the Board to deny your request. 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  
Enclosure

cc: Ms. Marilyn Harp, Attorney, 502 Century Plaza Bldg.,  
111 West Douglas, Wichita, Kansas  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk  
Dana Winkler, Assistant City Attorney

RESOLUTION NO. BZA 54-80

WHEREAS, Julian and Leloa Hewlett, 1335 South Kansas, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the side yard setback adjacent to the south property line from 6 feet to 3.44 feet on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 6 Block 5 except south 1 foot of Schweiter  
6 Addition, Wichita, Sedgwick County, Kansas.  
Generally located at 1335 South Kansas.

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 27, 1981, 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 does not arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and has been created by an action or actions of the property owner or the applicant inasmuch as the property is larger than the minimum requirements for a residential dwelling to comply with the zoning regulations; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as the maintenance of the six foot side yard would only provide the separation desired as a minimum between residential 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 not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the lot is of sufficient size to accommodate an addition to the rear much larger than is presently under construction, and furthermore, any hardship has been created by the action of the applicant by not complying with the regulations before starting construction; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired may not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the variance requested is located adjacent to the south property line and should only affect that adjacent property; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the structure would fail to maintain a minimum side yard intended for dwellings in the "A" Two-family Dwelling District; and

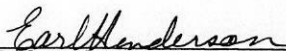
WHEREAS, each of the five conditions required, by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted, have not been found to exist.

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 side yard setback adjacent to the south property line from 6 feet to 3.44 feet on property zoned the "A" Two-family Dwelling District and legally described as:

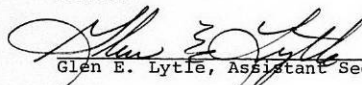
Lot 6 Block 5 except south 1 foot of Schweiter  
6 Addition, Wichita, Sedgwick County, Kansas.  
Generally located at 1335 South Kansas.

be denied.

ADOPTED AT WICHITA, KANSAS THIS 27th day of January, 1981.

  
\_\_\_\_\_  
Earl Henderson, Chairman

ATTEST:

  
\_\_\_\_\_  
Glen E. Lytle, Assistant Secretary

JOHN DEKKER  
City Attorney  
DANA J. WINKLER  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

CITY OF WICHITA, KANSAS )  
A Municipal Corporation, )

Plaintiff, )

vs. )

Case No. 79 C 1745

JULIAN B. HEWLETT and )  
LEOLA MAY HEWLETT, )

Defendants. )

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY

NOW on this 18th day of December, 1980, the same being a regular judicial day of this court, this matter comes on for hearing for a report on the status of the condition of the premises at 1335 S. Kansas pursuant to the Journal Entry of this Court, filed the 2nd day of October, 1980. Plaintiff appears by and through its attorney, Dana J. Winkler, The defendants, Julian B. Hewlett and Leola May Hewlett, appear in person and by their attorney, Marilyn Harp.

WHEREUPON, counsel for the defendants informs the court that a hearing before the Board of Zoning Appeals of the City of Wichita, Kansas, regarding the granting of a variance to allow completion of that portion of the construction of the premises at 1335 S. Kansas, identified as Part C in Plaintiff's Exhibit No. 5, is scheduled for January 27, 1981.

WHEREUPON, counsel for the plaintiff informs the court regarding the results of an inspection of the exterior of the premises at 1335 S. Kansas conducted the morning of December 18, 1980, and further informs the court that the electrical work specified in Paragraph 1(d) of the Journal Entry of Judgment of this Court entered May 29, 1980, has been completed. Counsel for the Plaintiff further informs the Court that

additional work has been done on that portion of the premises identified as Part C in Plaintiff's Exhibit 5, since the entry of the Journal Entry filed in this court the 2nd day of October, 1980.

THEREUPON the Court, being duly and fully advised in the premises, having reviewed the files and heard the statements of counsel, finds as follows:

1. It is not possible to determine the status of the requirements of the Court dealing with matters of the interior of the house until a full inspection has been made except as to the electrical work which is the subject of paragraph 1(d) of the Journal Entry of Judgment entered May 29, 1980.
2. The electrical work required pursuant to the Journal Entry of Judgment of May 29, 1980, paragraph 1(d) has been completed and is in substantial compliance.
3. It is not possible to conclude this matter with respect to Part C as shown on Plaintiff's Exhibit 5 until the Board of Zoning Appeals makes a decision on the application for variance now on file before that Board.
4. Defendants acknowledge they understand all requirements of the Order made on September 18, 1980, except for clarification of the Court Order as to Part C of Plaintiff's Exhibit 5 and, as of this hearing, defendants acknowledge they understand the specific order of the Court that they do no further work on Part C of Plaintiff's Exhibit 5 until they comply with the Code of the City of Wichita permitting them to continue with construction on that part of the structure.
5. Because of the impossibility of determining the status of the interior of the house, except for the electrical work, and the impossibility of dealing with Part C of Plaintiff's Exhibit 5 of the structure and because the Court feels the need for more specificity as to the requirements of Defendants complying with the City Code on the exterior yard portion of the premises the court makes the following orders:

A. The City through the Central Inspection Division and the Wichita-Sedgwick County Health Department shall inspect the exterior portion of the premises including taking photographs necessary and compile a list of specific violations and requirements to meet the Code requirement of the City of Wichita.

B. This list shall be furnished to the Attorneys in this case and the defendants which may be done by mail.

C. This list shall be furnished by the City by January 9, 1981, and defendants shall have until January 23, 1981, to object to anything included on that list. If there is objection, that should be the subject of the motion for clarification; if no motion is filed by January 23, 1981, then the list provided by the City of Wichita will become specific requirements of the court for defendants compliance without additional before this court.

D. That defendants will continue to be under the same orders of the court entered September 18, 1980 with regard to complying with all requirements of the Code of the City of Wichita, Kansas.

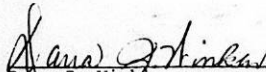
6. This matter shall be set down for a status report, as was this hearing today, on February 19, 1981 at 9:00 a.m. as to all matters that were to be taken up on this date except the electrical work which has been found to be satisfied. The City of Wichita is directed to inspect the entirety of the premises with regards to the requirements of the court on February 17, 1981.

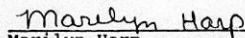
IT IS SO ORDERED.

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JUDGE

Approved:

  
Dana J. Winkler  
Assistant City Attorney

  
Marilyn Harp  
Attorney for Defendants

JOHN DEKKER  
City Attorney  
DANA J. WINKLER  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

CITY OF WICHITA, KANSAS )  
A Municipal Corporation, )

Plaintiff, )

vs. )

JULIAN B. HEWLETT and )  
LEOLA MAY HEWLETT, )

Defendants. )

Case No. 79 C 1745

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY

NOW on this 4th day of September, 1980, the same being a regular judicial day of this court, this matter comes on for hearing on plaintiff's Motion for Order to Show Cause why the defendants should not be held in contempt of the judgment and order of this court entered the 29th day of May, 1980. Plaintiff appears by and through its attorney, Dana J. Winkler. The defendants, Julian B. Hewlett and Leola May Hewlett, appear in person and by their attorney, Marilyn Harp.

WHEREUPON the parties announce that they are ready to proceed and the plaintiff presents its evidence and rests. Thereupon the defendants present the evidence of the defendant Leola May Hewlett, and due to the lateness of the hour the court recesses until 9:00 a.m. on September 5, 1980.

WHEREUPON on September 5, 1980, the court reconvenes and the defendants concluded presenting their evidence and rested. Thereupon the plaintiff presented evidence in rebuttal and rested. Whereupon the court recessed for the purpose of conferring with counsel regarding closing arguments. During this recess the defendant, Leola May Hewlett was taken ill and thereupon the court recessed the hearing in this matter until 1:30 p.m. on the 18th day of September, 1980.

WHEREUPON on the 18th day of September, 1980, the court reconvened to hear closing arguments of counsel.

THEREUPON the court, being duly and fully advised in the premises, having reviewed the files, heard the testimony presented and statements of counsel, finds as follows:

1. Numbered paragraphs 1, 2, 3 and 4 of the Journal Entry of Judgment of this court, dated May 29, 1980, direct the defendants to perform certain acts with regard to the premises at 1335 S. Kansas, by certain dates. The last paragraph of this Journal Entry of Judgment prohibits both defendants from violating any provisions of the Code of the City of Wichita, Kansas regardless of any date previously stated in this Journal Entry of Judgment.

2. Items 1(a) and 3(a) of the Journal Entry of Judgment have been completed and the defendants are not in contempt of these portions of the Journal Entry of Judgment.

3. The evidence indicates that the defendants may not have been sure what was required by paragraph 2(b) of the Journal Entry of Judgment regarding a disconnect switch on the first floor furnace and the defendants are not in contempt of this paragraph of the Journal entry of Judgment. Defendants have acknowledged that they are now aware of what needs to be done with regard to installation of the first floor furnace disconnect switch.

4. Defendants are in contempt of the following provisions of the Journal Entry of Judgment of May 29, 1980: 1(b) (handrails on the two stairways on the house); 1(c) (clearing materials and objects within the vicinity of the first floor furnace); 1(d) (having a licensed electrical contractor inspect and make all necessary repairs to the electrical wiring in the house to bring it in compliance with the City Code); 2(a) (replace tile in the shower or otherwise waterproof the wall surface as required by the City Code); 3(b) (remove all trash and salvage material from the front and back yard areas stored in violation of the City Code); 3(c) (all lumber which is to be used in construction on the premises within

90 days shall be stored at least 18 inches off the ground and not closer than 48 inches to a wall or fence as required by the City Code); 4 (the building structure has not been enclosed and roofed in accordance with the provisions of the City Code).

5. That portion of the addition which has been identified as area "c" (on plaintiff's Exhibit #5,) which generally is that portion of the structure to the south and the west of the original residence, is in violation of the City Code by being constructed less than 6 feet from the adjoining property line; by being constructed without a building permit; by being constructed with used lumber; and by being constructed in a manner which does not comply with the City Code. These are violations of the concluding paragraph of the Journal Entry of Judgment and the defendants are in contempt of this paragraph of the Journal Entry of Judgment.

WHEREUPON counsel for defendant orally moves the court for a continuance prior to sentencing, which motion is by the court granted.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED that sentencing in this matter will be continued until the 18th day of December, 1980, at 9:00 a.m. and that the City of Wichita, plaintiff herein is to inspect the premises on the 16th day of December, 1980, to determine the status of the premises with regard to the violations of the City Code as enumerated in this Journal Entry.

IT IS SO ORDERED.

D. KEITH ANDERSON

JUDGE

Approved:

Dana J. Winkler  
Dana J. Winkler  
Attorney for Plaintiff

Marilyn Harp  
Marilyn Harp  
Attorney for Defendants

Certificate of Clerk of the District Court. This is a true and correct copy of the original instrument filed on the 2 day of Oct 1980 and on the 16th day of the month of Dec 1980 before the District Court of the State of Kansas, District No. 9, City of Wichita, Kansas. Signed by the Clerk of the Court, JOHN ARNDALL, Clerk  
By: Jesse Hamlin, Deputy



JOHN DEEPER  
City Attorney  
DANA J. WINKLER  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

CITY OF WICHITA, KANSAS )  
A Municipal Corporation, )

Plaintiff )

vs. )

Case No. 79 C 1745

JULIAN B. HEWLETT and )  
LEOLA MAY HEWLETT, )

Defendants. )

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY OF JUDGMENT

NOW, on this 29<sup>th</sup> day of MAY, 1980, the same being one of the regular judicial days of this Court, comes regularly on for hearing the above entitled cause; plaintiff being present by its attorney, Dana J. Winkler and the defendants being present by their attorney, Marilyn Harp.

WHEREUPON, the Court is advised by counsel for both parties that the parties here to have reached a compromise agreement whereby all matters in dispute are resolved. The Court having heard the statements of counsel for both plaintiff and defendants; having examined the file and after having been fully advised of the premises herein, finds that the defendants have agreed to abate the public nuisances agreed by the parties hereto to exist on the property at 1335 South Kansas by:

1. On or before March 1, 1980:

(a) Connect trap and waste pipe to lavatory in bathroom (this has now been accomplished).

(b) Place handrails on the two stairways in the house (this has now been accomplished).

(c) Clear all materials and objects within the vicinity of the first floor furnace (this has now been accomplished).

(d) Have a licensed electrical contractor inspect and make all necessary repairs to the electrical wiring in the house to bring it into compliance with Chapter 19.12 of the Code of the City of Wichita, Kansas.

2. On or before April 1, 1980:

(a) Replace tile in the shower or otherwise waterproof the wall surface as required by Sections 1711(a) and (d) of the Uniform Building Code 1976 as adopted by reference at Section 18.04.010 of the Code of the City of Wichita, Kansas

(b) Install a disconnect at the first floor furnace and return air ducts as required by Chapter 7 of the Uniform Mechanical Code 1976 as adopted by reference in Section 22.04.010 of the Code of the City of Wichita, Kansas.

3. On or before May 1, 1980:

(a) Cover the kitchen floor with a waterproof material to make it impervious to water and to permit the floor to be easily kept in a clean and sanitary condition as required by Section 20.04.050(10) of the Code of the City of Wichita, Kansas.

(b) Remove all trash and salvage material from the front and back yard areas which is stored in violation of Sections 7.40.040(9), 7.40.080, 7.40.090 and 7.48.150 of the Code of the City of Wichita, Kansas.

(c) All lumber which is to be used in construction on the premises within 90 days shall be stored at least 18 inches off the ground and not closer than 48 inches to a wall or fence as required by Section 7.40.090 of the Code of the City of Wichita, Kansas.

4. On or before August 1, 1980, the building structure shall be enclosed and roofed in accordance with the provisions of Chapter 18.04 of the Code of the City of Wichita, Kansas.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendants abate the nuisances that exist on their property at 1335 South Kansas in accordance with the timetable to which they have agreed, provided, however, that defendants shall have 30 days from the entry of this Journal Entry of Judgment within which to have the electrical repairs contemplated by paragraph 1(d) above, completed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendants be hereafter permanently enjoined from violating any of the building, plumbing, electrical and public health ordinances of the City of Wichita, Kansas, in the use of the property at 1335 South Kansas and that they be hereafter permanently enjoined from maintaining a public nuisance on said property and that they be assessed the costs of this action.

JOM RAUM  
JUDGE

APPROVED:

Dana J. Winkler  
Dana J. Winkler  
Attorney for Plaintiff

Marilyn Harp  
Marilyn Harp  
Attorney for Defendants

Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 27 day of May, 1988, and is recorded in this court of the Eighth Judicial District, Sedwick County, Kansas, on the 29 day of May, 1988.  
DOROTHY L. VAN ARSDALE, Clerk  
By Brenda F. Jones, Deputy



**THE CITY OF WICHITA**

OFFICE OF CITIZEN PARTICIPATION

DATE January 22, 1981

TO Glen Lytle, Special Assistant for Zoning


FROM Shirley Mast, Administrative Aide III

SUBJECT BZA Case 54-80: 1335 S. Kansas

CPO Council "E" considered the captioned case at their January 21 meeting and voted 8-0 to recommend denial of the variance to reduce the side yard setback from 6 feet to 3.44 feet on property zoned the "A" Two Family Dwelling District at the aforementioned location.

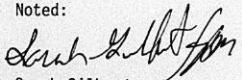
The applicant and two other persons were present to speak in support of the requested variance. Approximately twenty area residents attended the meeting in opposition to the variance and a protest petition bearing the signatures of 65 persons was also shared with the Council. Reasons cited by the residents for their opposition to the variance were: the property at 1335 South Kansas is not properly maintained, the property detracts from the appearance of other homes in the neighborhood and decreases property values, and though the applicant is presently in violation of several City codes, she continues to make additions to the structure without obtaining valid permits.

Please provide the Council's recommendation to the BZA when the case is considered at the January 27th meeting.

  
Shirley Mast  
Administrative Aide III

SM:m1

Noted:

  
Sarah Gilbert  
Assistant CP Coordinator

January 28, 1981

Julian & Leola Hewlett  
1335 South Kansas  
Wichita, Kansas

Re: Case No. BZA 54-80  
Request for Variance

Dear Mr. & Mrs. Hewlett:

At the regular meeting of the Board of Zoning Appeals on January 27, 1981, your request for a variance to reduce the side yard setback adjacent to the south property line from 6 feet to 3.44 feet on property zoned "A" Two-family Dwelling District and generally located on the west side of Kansas between Bayley and Park Street (1335 South Kansas) was considered.

It was the action of the Board to deny your request.

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

CEL:ead

cc: Ms. Marilyn Harp, Attorney, 502 Century Plaza Bldg.,  
111 West Douglas, Wichita, Ks.  
Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk  
bcc: Dana Winkler, Assistant City Attorney

SECRETARY'S REPORT  
CASE NO. BEA 54-30

APPLICANT: Julian & Leola Hewlett, 1335 South Kansas, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the sideyard setback adjacent to the south property line from 6 feet to 3.44 feet.

GENERAL LOCATION: On the west side of Kansas between Bayley and Park Street (1335 South Kansas).

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

LAND USE: Subject property is occupied by a One-family Dwelling as are all the adjacent properties.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required 6 foot sideyard setback adjacent to the south property line. This request is to reduce the sideyard to 3.44 feet in order to secure a valid permit to complete an addition to the existing house that was apparently being constructed without benefit of appropriate permits.

It should be noted that this matter has been filed with the Board of Zoning Appeals as the result of a decision by District Court ordering the applicant to bring the construction into compliance with all applicable regulations. The applicant has decided to file the variance request rather than altering the structure to comply with the minimum sideyard requirement for a residence in the "A" Two-family Dwelling District.

It should be noted that in this particular situation the shape of the lot varies and gets narrower at the rear of the property. The original structure was built with a two-foot offset along the south side of the house in order to comply with the required setbacks. The applicant has apparently disregarded the property line and the entire addition to the west violates the required sideyard setback. Also, the fence on the neighbors property to the south is about 1-1/2 feet south of the applicant's property line giving the illusion of more space on the applicant's property than actually exists.

In order to accurately determine the amount of the violation, the applicant was requested to furnish a survey of the property. This survey only indicates the structure as it relates to the south property line and does not show the extent of the residence in relation to the entire property. In this particular area the majority of homes were originally constructed at the minimum sideyard setback line which only leaves a twelve foot separation between structures.

It is difficult to justify any kind of uniqueness to this property as it is a residential lot in an area where all properties are of the same general size and shape, all exceeding the minimum requirements for a lot in the "A" Two-family Dwelling District. The lot has more than ample rear yard to construct a much larger addition in compliance with the regulations making it difficult to justify a variance of the sideyard requirement.

Page 2  
BZA 54-30  
BZA AGENDA  
1-27-31

In discussing this application with personnel of Central Inspection, they advise us that this addition in question is in noncompliance with the code in many respects and it is very doubtful that it has any type of foundation under it. Although this Board should not be put in the position of making any determination as to the structural compliance with the code, it appears to be in the best interest of the adjoining property to see that any variances that are granted, comply with the codes.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that this property is unique inasmuch as the property is larger than the minimum requirements for a residential dwelling to comply with the zoning regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance would have an adverse affect upon the adjacent property owner inasmuch as the maintenance of the six foot sideyard would only provide the separation desired as a minimum between residential structures.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance should not create a hardship upon the applicant inasmuch as the lot is of sufficient size to accomodate an addition to the rear much larger than is presently under construction, and furthermore, any hardship has been created by the action of the applicant by not complying with the regulations before starting construction.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the requested variance may not be opposed to the public interest inasmuch as the requested variance should only affect the adjacent property owner to the south.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the requested variance would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the structure would fail to maintain a minimum sideyard intended for one-family dwellings.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance cannot be found to exist and therefore the application should be denied.

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

January 7, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 54-80

An application has been filed by Julian and Leola Hewlett, 1335 South Kansas, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the side yard setback adjacent to the south property line from 6 feet to 3.44 feet on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 6 Block 5 except south 1 foot of  
Schweiter 6 Addition, Wichita,  
Sedgwick County, Kansas. Generally  
located at 1335 South Kansas.

This application has been assigned case No. BZA 54-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, January 27, 1981, 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. If you have any questions about this application, please call 268-4421 and ask for Lynn Shirkey or Glen Lytle.

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

BZA CASE NO. 54-80

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

26 NOTICES SENT TO ADJOINING PROPERTY OWNERS

38 TOTAL NOTICES SENT 1-7-81

November 26, 1980

Mrs. Leola Hewlett  
1335 South Kansas  
Wichita, Kansas 67214

Dear Mrs. Hewlett:

This letter is to confirm receipt of the survey of your property necessary for the processing of a variance application to the Board of Zoning Appeals. As I stated to you on November 13, 1980 and also in my letter of November 14, 1980, it was necessary that the survey be received by this office by November 24, 1980 in order to advertise the case for the December 23, 1980 hearing. This was extremely important due to the Thanksgiving holiday work week being a short one.

Your case will now be advertised and scheduled for the regularly scheduled Board of Zoning Appeals meeting of January 27, 1981. You will be receiving a notice of the meeting in the mail about the first week of January.

If you have any questions, please give us a call.

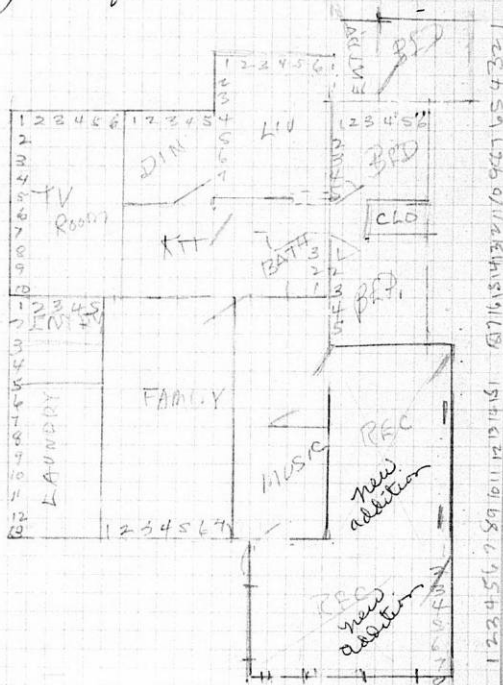
Sincerely,

Glen E. Lytle  
Special Assistant for Zoning

GEL:sad

cc: Dana Winkler, Assistant City Attorney  
Marilyn Harp, Attorney, 502 Century Plaza Bldg., 111 West  
Douglas, Wichita, Kansas

Sketch of House



J. B. Hewlett  
1335 So. Kameo

November 14, 1980

Mrs. Leola Hewlett  
1335 South Kansas  
Wichita, Kansas 67214

Dear Mrs. Hewlett:

This letter is to confirm my conversation with you on November 13, 1980 when you brought in an application and the ownership list of adjacent property owners.

As you have been previously advised, it is necessary for you to furnish a current survey of your property so that it can be determined the variance necessary to accomodate the present construction. Once this survey is received, I will date your application, note the necessary variance and proceed with the advertisement for public hearing.

You indicated to me on November 13, 1980 that the Baughman Company had surveyed your property and you didn't understand why you had not received a copy of the survey. I contacted Mr. John Lundblade of Baughman Company this a.m. and he advised me that their company had not made a survey but a work order for the survey has been written.

It will be necessary to receive a survey by Monday, November 24, 1980 in order to process your case at the December 23, 1980 meeting of the Board of Zoning Appeals. If you have any questions, please advise.

Sincerely,

Glen E. Lytle  
Special Assistant for Zoning

GEL:sad

cc: Dana Winkler, Assistant City Attorney  
Ms. Marilyn Harp, Attorney, 502 Century Plaza Bldg.,  
111 West Douglas, Wichita, Kansas

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. 54-80  
FILED 11-25-80

APPLICATION FOR VARIANCE

I. Name of Applicant Julian and Leola Hewlett  
Mailing Address 1335 So Kansas Phone 267 8021  
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 sideyard setback adjacent to the south property line from 6 feet to 3.44 feet.  
for property located at 1335 South Kansas <sup>Zip</sup> 67211  
Wichita Kansas  
and legally described as: Lot 6 Block 5, 1/2 block South 1/2 of Schiewer 6 additions to Wichita, Ks.

\_\_\_\_\_ in the City of Wichita; and which is presently zoned "A".

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. 36-596); and that the appropriate fee is herewith tendered;
- That he has been advised of his right to bring action in the District Court of Sedgewick 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.

Applicant Leola Hewlett  
Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:00 (a.m.-p.m.), Nov. 25, 1980 together with appropriate fee of (waived by BZA action on Oct. 28, 1980)

Signed [Signature]  
Survey - record by G.L. Shirley @ 2:00pm  
Nov. 25, 1980

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, of:

Lot 6, Block 5, Schweiter's Sixth Addition, Wichita,  
Sedgwick County, Kansas,

together with all real estate lying within a 200 foot radius thereof.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>Schweiter's Sixth Addition</u> <u>Block 5</u>	
Lot 6, except the south 1 foot thereof.	Julian B. Hewlett Leola May Hewlett D.B. 1335 S. Kansas Wichita, Kansas 67214
Lot 2	✓ James V. Torgerson Linda Torgerson 1309 S. Kansas Wichita, Kansas 67214
Lot 3	✓ Margaret Patterson 1315 S. Kansas Wichita, Kansas 67214
Lot 4	✓ Marie E. Brewer Zeno G. Brewer 1321 S. Kansas Wichita, Kansas 67214
Lot 5	✓ J. A. McAllister Belva M. McAllister 2338 S. Spruce Wichita, Kansas 67211
The south 1 foot of Lot 6 and all of Lot 7	✓ Delcie M. Carver 1341 S. Kansas Wichita, Kansas 67214
Lot 8	✓ H. A. Beverlin G. Beverlin 1347 S. Kansas Wichita, Kansas 67214
Lot 9	✓ Robert L. Nation Cheryl Kay Nation 1353 S. Kansas Wichita, Kansas 67214
Lot 10	✓ Robert M. Callstrom, Sr. Judy M. Callstrom 1801 E. Bayley Wichita, Kansas 67211
Lot 11, except the west 5 feet	✓ Gary L. Cushenbery Linda S. Cushenbery 2628 N. Athenian Wichita, Kansas 67204
West 5 feet of Lot 11	✓ Dick Kunkle Building & Investment Corp. 1200 S. Broadway Wichita, Kansas 67211
<u>Block 2</u> <u>Lot 17</u>	✓ Ewing Valentine Pauline Valentine 1312 S. Kansas Wichita, Kansas 67214

DESCRIPTION	OWNERS AND ADDRESSES
<u>Schweiter's Sixth Addition</u>	
<u>Block 2 continued</u>	
Lot 16	✓ Fourth National Bank & Trust Company, Wichita, Trustee of the Orville G. Yarnell and Edith M. Yarnell Irrevocable Trust 100 N. Broadway Wichita, Kansas 67202
Lot 15	✓ Lela C. Carver 2104 Greenway Boulevard Wichita, Kansas 67213
Lot 14	✓ Ruthina K. Armstrong 1295 S. Minneapolis Wichita, Kansas 67211
Lot 9	✓ Earl E. Ogden J. Lucille Ogden 1352 S. Kansas Wichita, Kansas 67211
Lot 10	✓ Robert C. Callstrom, Sr. Judy M. Callstrom 1801 East Bayley Wichita, Kansas 67211
<u>Schweiter's Fourth Addition</u>	
Lots 62 and 64	✓ Joseph E. Suddarth Myrtle M. Suddarth 1318 S. Hydraulic Wichita, Kansas 67211
Lots 66 and 68	✓ Arthur W. Akers Vicki L. Akers 1322 S. Hydraulic Wichita, Kansas 67211
Lots 70 and 72	✓ Harley C. Roberts Leona M. Roberts 1326 S. Hydraulic Wichita, Kansas 67211
Lots 74 and 76	✓ Chester E. Hood Minnie M. Hood 1332 S. Hydraulic Wichita, Kansas 67211
Lots 78 and 80	Anna B. Barnes Reed C. Barnes no address found Subsequent to filing of above mentioned deed a quit claim deed was filed from Ellen M. Smith, a single person to Della M. Todd. The tax statements are being sent to: Della M. Todd c/o Rose Hill State Bank Rose Hill, Kansas 67133
Lots 82 and 84	✓ Carl J. Wilson Mary Marie Wilson 1348 S. Hydraulic Wichita, Kansas 67211
Lots 86 and 88	✓ William N. Storie Loretta L. Storie 1410 S. Hydraulic Wichita, Kansas 67211

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
Schweiters Fourth, con'd	
Lots 90 and 92	Paul James Prybil ✓ Theima Nadine Prybil 1352 S. Hydraulic Wichita, Kansas 67211
Lots 94 and 96 and the north 2.5 feet of Lot 98.	Paul M. Coudron ✓ Jill M. Coudron 8137 E. Boston Wichita, Kansas 67207
The south 22½ feet of Lot 98	Floyd A. Rick ✓ RFD 2 Derby, Kansas 67037

Dated this 27th day of  
October, 1980, at 7:00  
o'clock A.M., at Wichita,  
Kansas.

REALTY TITLE CO., INC.

By Linda Ayala  
Linda Ayala

5311080

# THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

November 4, 1980

Ms. Marilyn Harp, Attorney  
Legal Aid Society  
502 Century Bldg.  
111 West Douglas  
Wichita, Kansas 67202

Re: Hewlett - 1335 South Kansas

Dear Ms. Harp:

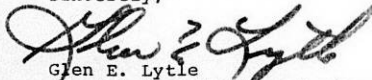
The request for the waiver of the filing fee for a Board of Zoning Appeals case was considered by the Board at their regular meeting of October 28, 1980. I am certain you are aware of the favorable action by the Board to waive the \$75.00 fee for Julian and Leola Hewlett at 1335 South Kansas.

This is only for one requested variance and to be used only for the matter of the sideyard setback as set forth in your letter of October 17, 1980. Should additional variances be necessary, a separate filing fee is required for each request.

Please advise your client that the next closing date is November 24, 1980 for consideration at the regularly scheduled BZA meeting on December 23, 1980. It is also necessary that for a variance the applicant shall submit a statement in writing justifying the five conditions as set forth in the code and attached to the application previously furnished to you. At the time the application is filed, it will also be necessary to provide the survey as was previously requested and a certified list of owners of all properties within 200 feet of the Hewlett's property that must be secured from an abstract company. I would advise not to wait until the closing date to file the application.

If I can be of any assistance, please give me a call.

Sincerely,

  
Glen E. Lytle  
Special Assistant for Zoning

GEL:sad

1335 So Kansas  
Wichita Kansas

67211

Board of zoning appeals  
Wichita Kansas

- To whom it may concern

Our request for a variance  
on the property at 1335 South Kansas  
Wichita Kansas Lot 6 Block 5 Subdivision  
in addition is unique to the property  
in question and is not ordinarily  
found in this zone or district.  
Don Maerlein (surveyor) said it was  
a situation in which the house was  
planned to be almost square to the  
north property line. At the same time  
he spaced out the south property line  
between the fence and the building  
seems to be ample enough that  
the average observer would not  
be aware it was less than six feet.  
The property line on the south cuts  
in at an angle but it is not  
noticeable to the observer going  
working over there. Also he said  
it was only the corner that was in any  
violation. He also said the house  
was not on anyone else's property  
but just the corner was protruding  
into the six foot area setback.  
The strict application of title 24 of  
which variance is requested will con-  
stitute unnecessary hardship on us  
as property owners. As we have no  
way or means to remedy it. If this  
could or would have been our own  
residual here done it immediately.  
We most certainly that no one would  
not this violation. We have always tried to  
have no problem with land use laws

because of the heirs to the property involved. Central Inspection observed my building all the time as well as the other workers. They did one thing for me. We are most sincerely sorry this has happened and if there ~~was~~ any way that we would want to make amends we would want to do it.

Our intent 40 years ago when we built here was to become good, honest citizens and neighbors in this area. If our neighbors did not want that so we did not push them. We do not even know these families.

We have become active in senior citizens activities and we are very busy. We don't have time to go up and down the street to find things to call the city about. Green children can be very time consuming. My husband has been very humiliated over the things these neighbors have put us through. He worked for (Hickes, Suck), Bellows, Cunningham, Zinger etc. he anticipates Wichita Falls have been degrading to most of Wichita Falls and I feel they have degraded me in all of them. This has been prejudice the neighbors and discrimination for my efforts to bring trouble to us. We have many neighbors here that do like and respect us.

We do not see that the variance will adversely affect the health, safety, morals, or life, convenience, prosperity, or general welfare and in granting the variance desired will not be opposed to the general spirit and intent of Title 28 zoning ordinance.

The judge will place Julian & I

in jail if we do not have the  
house finished by December 16  
so we sincerely hope we are  
granted the variance so we can  
at least try in the time that  
is left to finish the work.  
Thanking you in advance  
we remain

Mr and Mrs Julian Hedger

November 4, 1980

Ms. Marilyn Harp, Attorney  
Legal Aid Society  
502 Century Bldg.  
111 West Douglas  
Wichita, Kansas 67202

Re: Hewlett - 1335 South Kansas

Dear Ms. Harp:

The request for the waiver of the filing fee for a Board of Zoning Appeals case was considered by the Board at their regular meeting of October 28, 1980. I am certain you are aware of the favorable action by the Board to waive the \$75.00 fee for Julian and Leola Hewlett at 1335 South Kansas.

This is only for one requested variance and to be used only for the matter of the sideyard setback as set forth in your letter of October 17, 1980. Should additional variances be necessary, a separate filing fee is required for each request.

Please advise your client that the next closing date is November 24, 1980 for consideration at the regularly scheduled BZA meeting on December 23, 1980. It is also necessary that for a variance the applicant shall submit a statement in writing justifying the five conditions as set forth in the code and attached to the application previously furnished to you. At the time the application is filed, it will also be necessary to provide the survey as was previously requested and a certified list of owners of all properties within 200 feet of the Hewlett's property that must be secured from an abstract company. I would advise not to wait until the closing date to file the application.

If I can be of any assistance, please give me a call.

Sincerely,

Glen E. Lytle  
Special Assistant for Zoning

GEL:sad

WICHITA-SEDGWICK COUNTY

DATE

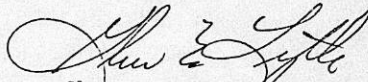
METROPOLITAN AREA PLANNING DEPARTMENT

October 21, 1980

TO Board of Zoning Appeals  
FROM Glen E. Lytle, Assistant Secretary  
SUBJECT Request for waiver of the filing fee for a variance application

Attached hereto is a letter requesting that the filing fee of \$75.00 be waived by the Board of Zoning Appeals due to a financial hardship. Also attached is a financial statement of income and obligations of the applicant.

Under the Rules and Regulations of the Board of Zoning Appeals the Board has jurisdiction to waive the filing fee if a financial hardship does exist. I would point out that the file on this particular property in Central Inspection is extremely large and the project is questionable as to whether the applicant secured a permit to construct the addition.



Glen E. Lytle, Assistant Secretary

GEL:sad

Attachments

## LEGAL AID SOCIETY OF WICHITA, INC.

MAIN OFFICE  
502 Century Plaza Building  
111 West Douglas  
Wichita, Kansas 67202  
(316) 265-9681

DAVID GRAY, Director  
CYD GILMAN  
SUSAN ELLIS  
DON SNAPP  
MICHAEL H. MORGAN  
ALICE LESLIE RAWLINGS  
RANDALL E. FISHER  
STEPHEN PLUMMER  
J. PATRICK McCABILL

NEIGHBORHOOD OFFICE  
1907 East 21st  
Wichita, Kansas 67214  
(316) 265-4215

October 17, 1980

DENNIS D. AHLERS, Mng. Attorney  
MARILYN M. HARP

HOWARD LEE JENKINS, II  
Reginald Heber Smith  
Fellow

Board of Zoning Appeals  
City Hall - Tenth Floor  
455 North Main Street  
Wichita, Ks. 67202

RECEIVED

OCT 17 1980

METROPOLITAN PLANNING  
ROUTE

Dear Sir/Madam:

Attached is a certified accounting of the income and expenses of Leola and Julian Hewlett. This accounting shows that all the Hewlett's money is spent on daily living expenses. There is no money available to pay the filing fee. We estimate that it will cost the Hewletts \$100. to request the variance. Estimated costs of the certified list of property owners is \$25. In addition, the board has requested a survey of one property line. At \$40 per hour, this could well cost in excess of \$75.

I feel that I should make clear that the building for which the variance is requested is already partially constructed. The converging property line and the line of the existing house placed the south wall of the new construction closer than 6 feet to the property line.

From the beginning of the construction, inspectors from the City of Wichita have worked with the Hewletts and have been on the property frequently. It was not discovered until mid-June that the wall was too close to the property line. By this point, two walls were constructed on top of 36" of concrete foundation, the walls were attached to the adjoining house and the roof was completed. If a variance is not granted, than this structure will either have to be moved or removed from the premises.

There has for many years been a dispute about the location of the property line at this address. A fence has sat for many years between the property. The new construction is 5 feet, 1 inch from the fence. It is the belief of the owner of the adjoining property that the true property line is 12 inches north of the fence. In either case, a variance is necessary.

A DIVISION OF KANSAS LEGAL SERVICES, INC.  
Roger L. McCollister, Executive Director  
112 West Sixth Street, 2nd Floor / Topeka, Kansas 66603  
Telephone: (913) 233-2068

Page 2

Finally, this situation is the subject of action in the Sedgwick County District Court. The Court has instructed the Hewletts to bring their construction in to compliance with the Code of the City of Wichita. In making this request for a waiver of the fee, they are trying to comply with the Judge's orders. The Judge has said that if it is possible to complete the construction in compliance with the Code of the City of Wichita, then that is the best solution to this problem. He has specifically indicated that the various City agencies are not expected to allow the Hewletts to break any rules, but they are encouraged to assist the Hewletts if possible.

The finances of the Hewletts, who have been retired and living on Social Security for several years, are limited. Understandably, there is an expense to the City for processing applications for variances. However, the City has asked for a survey in this case. This will cost the Hewletts a good deal of money. We can only ask, that as compensation, the City waive the fee required to issue a variance from the Code of the City of Wichita.

Sincerely,  
*Marilyn Harp*  
Marilyn Harp  
Managing Attorney

AFFIDAVIT OF FINANCIAL STATUS

The above-named ~~complainant~~ <sup>appellant</sup>, being first duly sworn, deposes and makes under oath the following statements regarding ~~their~~ marital status, residence, employment and financial status:

1. MARITAL STATUS:

- a. Single \_\_\_\_\_ Married X Separated \_\_\_\_\_ Divorced \_\_\_\_\_  
b. Dependents: Spouse X Children, No. \_\_\_\_\_  
Others, No. \_\_\_\_\_ and Relationship \_\_\_\_\_

2. RESIDENCE:

Appellant's  
Complainant's address: Street 1335 S. Kansas  
City Wichita State Kansas zip 67214  
Phone 267-8021

3. EMPLOYMENT:

Name of employer Retired  
Address of employer \_\_\_\_\_

Employer's phone \_\_\_\_\_

How long has complainant been employed by present employer?

Income: Monthly \$ Social Security - Julian - #485. Since July, 1980  
Leola - 236.50 or Weekly \$ \_\_\_\_\_

What is complainant's job? \_\_\_\_\_

If unemployed, state reason for unemployment \_\_\_\_\_

4. FINANCIAL STATUS:

- a. Owner of real property? Yes X No \_\_\_\_\_

Description house

Address 1335 S. Kansas

In whose name Julian + Leola Hewlett

1979 Taxation value Estimated value \$4,290 \$ \_\_\_\_\_

Amount owed on property \$ \_\_\_\_\_

Owed to: \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Annual income from property \$ \_\_\_\_\_

b. Other property

Automobile : Make Chrysler 1968 Model Station Wagon

Registered in whose name Julian + Leola Hewlett

Present value \$ 10.00 Amount owed \$ 0

Owed to \_\_\_\_\_

Make Chrysler 1972 Model 4 door Sedan

Registered in whose name Julian + Leola Hewlett

Present value \$ 0 Amount owed \$ 0

Owed to \_\_\_\_\_

Cash in bank or savings and loan associations \$ 0

Name and address of banks or associations  
\_\_\_\_\_  
\_\_\_\_\_

c. Obligations: All figures are approximate.

Monthly rent on house or apartment \$ \_\_\_\_\_

Mortgage payments on house (monthly) Utilities \$ 137.00

Other debts: To whom owed: Amount

Telephone 13.00  
Pharmacy (drugs) \$ 100.00

Food \$ 200.00

St. Francis Hospital \$ 4,000

Wichita Clinic \$ 2,000

Julian Hewlett goes to the Doctor several times a week. We can't estimate Total the doctor or transportation costs. These amounts are quite large. \$ \_\_\_\_\_

*Julian Hewlett goes to the Doctor several times a week. We can't estimate Total the doctor or transportation costs. These amounts are quite large.*

d. Other information pertinent to complainant's financial status (include stocks, bonds, savings bonds, interest in trusts either owned or jointly owned)

Leola Hewlett has just become eligible for social Security payments and the amount of payments is unsettled

Signed

Leola Hewlett



Subscribed and sworn to before me this 17th day of October,

1980.

My commission expires:

June 22, 1982

Dorothy L. Jansons

**THE CITY OF WICHITA**

OFFICE OF Central Inspection Division

DATE October 16, 1980

TO Jack H. Galbraith, Chief Planner

FROM Robert B. Feldner, Superintendent of Central Inspection


SUBJECT Hewlett Residence  
1335 S. Kansas

In a recent telephone call, Mrs. Leola Hewlett expressed the idea of converting the room addition she is presently building on the west side of the house to a covered patio.

She was informed that it would be necessary to detach the "patio" from the main house by a distance of 3 feet since as an attached accessory use it does not conform to the required side yard as presently built.

She was further instructed that to detach the present construction it would be necessary to construct supports at least 3 feet from the house to bear the "patio" roof. As built, the roof over the presently non-conforming portion is supported by the west wall of the house.

Mrs. Hewlett indicated she might pursue this course though we have had no indication since the telephone conversation on October 8. Her attorney, Marilyn Harp, has been notified of the conversation and the possibility of redirection of the Hewlett affair.

  
Robert B. Feldner  
Superintendent of Central Inspection

RBF:LJbg

**RECEIVED**  
OCT 17 1980  
METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

October 3, 1980

Marilyn Harp, Attorney  
Legal Aid Society  
502 Century Plaza Building  
111 West Douglas  
Wichita, Kansas 67202

Re: BZA Filing Fee  
Hewlett - 1335 S. Kansas

Dear Ms. Harp:

I am in receipt of your letter of September 30, 1980 requesting waiver of a BZA filing fee on behalf of Leola and Julian Hewlett. It is within the jurisdiction of the Board of Zoning Appeals to initiate a case on properties that are residential and occupied when it can be determined the cost would create a financial hardship on the property owner. (2.12.580 B-2)

I am enclosing a copy of the Rules and Regulations of the Board of Zoning Appeals for your information. As you will note in Article III B-4, any owner requesting a waiver of the filing fee due to a financial hardship must first submit a certified financial statement of income and obligations and must further set out why the fee cannot be furnished.

The next meeting of the Board of Zoning Appeals is scheduled for Tuesday, October 28, 1980 at 1:30 p.m. in the Board Room, First Floor, City Hall, 455 North Main. I would request that the above information be furnished this office no later than Friday, October 17, 1980 so that your request may be furnished to the Board and included on the agenda for the next meeting. I would further point out that the next closing date for cases to be heard by the Board at their November meeting is October 27, 1980.

I note by your letter of September 30, 1980 that there is an apparent discrepancy in the distance the addition is from the property line. Prior to filing for a variance, it is requested that a survey be made of the property showing all construction thereon, including the needed variance.

Page Two  
Marilyn Harp  
October 3, 1980

If you have any questions, please call me or the Assistant  
Secretary to the Board, Glen Lytle.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:GEL:e1

Enclosure

## LEGAL AID SOCIETY OF WICHITA, INC.

MAIN OFFICE  
502 Century Plaza Building  
111 West Douglas  
Wichita, Kansas 67202  
(316) 265-9681

DAVID GRAY, Director  
CYD GILMAN  
SUSAN ELLIS  
DON SNAPP  
MICHAEL H. MORGAN  
ALICE LESLIE RAWLINGS  
RANDALL E. FISHER  
STEPHEN PLUMMER  
P. TRICK McCAHILL

RECEIVED

OCT 2 1980

METROPOLITAN PLANNING  
ROUTE  15

September 30, 1980

NEIGHBORHOOD OFFICE  
1907 East 21st  
Wichita, Kansas 67214  
(316) 265-4215

DENNIS D. AHLERS, Mng. Attorney  
MARILYN M. HARP

HOWARD LEE JENKINS, II  
Reginald Heber Smith  
Fellow

Jack Gilbert  
Secretary, Board of Appeals  
Metropolitan Planning Department  
10th Floor City Hall  
Wichita, Ks. 67202

Dear Jack:

I am preparing to file an application for variance on behalf of Leola and Julian Hewlett. They have constructed an addition to their house. It is recently been discovered that this addition does not have the required 6' side yard, but has rather a 4' or 5'2" side yard, depending on the property line determination. The Hewlett's alternatives are either to seek and obtain a variance and building permit or to tear down the structure.

The major problem we are now encountering is that the Hewlett's are on a fixed income, receiving less than \$400.00 a month in social security. Work on their building is done as materials become affordable. Our specific request in writing you is to ask for a waiver of the \$75.00 filing fee which must be paid with the application for variance. As I mentioned above, the payment of such a fee would take a large chunk of the Hewlett's monthly budget. In addition, court action requires great speed in this case and we cannot wait until they have saved the money. Finally, this filing fee in addition to other expenses necessary for making this application seem to be a great burden in this particular case. Therefore, we request that you, or the board, take action to waive the application fee. I should point out that this is occupied residential property and falls within the provision of 2.12.580(B)(2) of the code of the City of Wichita.

I am awaiting your decision before proceeding to obtain the certified list from the abstract companies of the names and addresses of the homeowners. I will be glad to forward the completed application to you at any time you indicate the board is willing to consider it without the fee.

Sincerely,  
*Marilyn Harp*  
Marilyn Harp  
Staff Attorney

MH/sb

A DIVISION OF KANSAS LEGAL SERVICES, INC.  
Roger L. McCollister, Executive Director  
112 West Sixth Street, 2nd Floor / Topeka, Kansas 66603  
Telephone: (913) 233-2068

October 3, 1980

Robert B. Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner - Current Plans

Hewlett Residence - 1335 South Kansas, Wichita, Ks.

This office has received a request for a waiver of the Board of Zoning Appeals filing fee on a hardship basis. This request is being made so that the Hewletts can file for a variance (at no fee) of the side yard setback so that a permit can be obtained to complete construction.

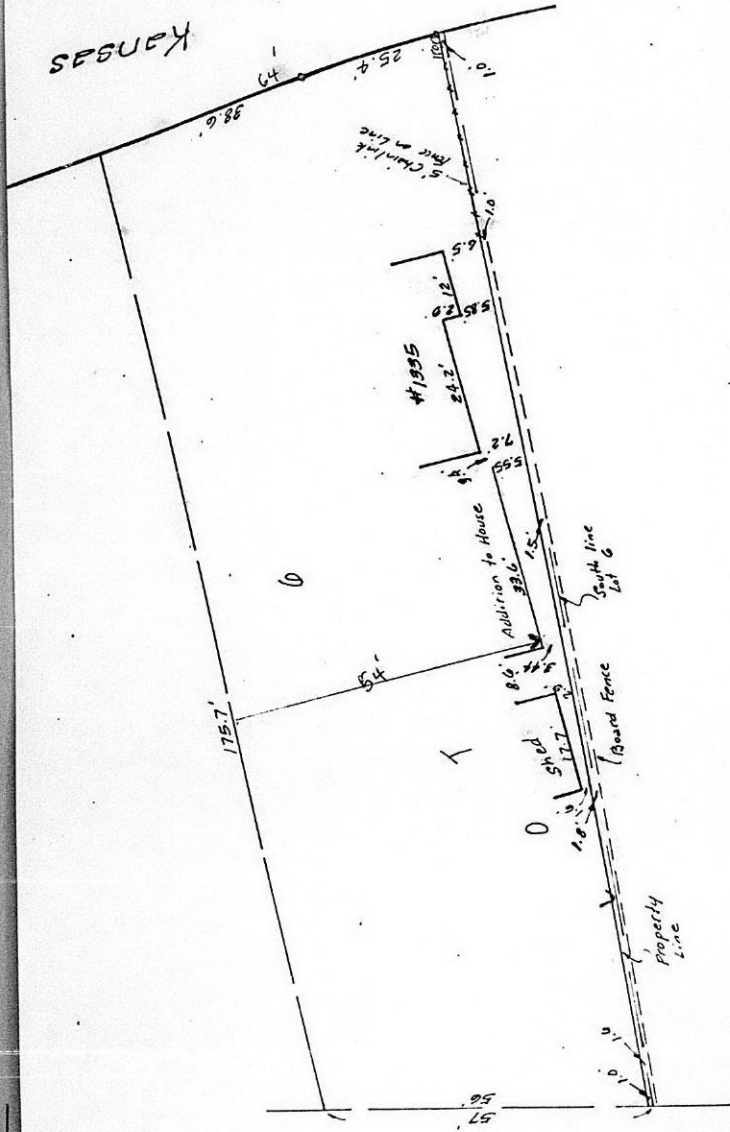
I would appreciate any information on the status of this building project which I understand was under construction without benefit of a permit when the error was found and the construction stopped.

A response at your earliest convenience would be appreciated.

Jack H. Galbraith  
Chief Planner

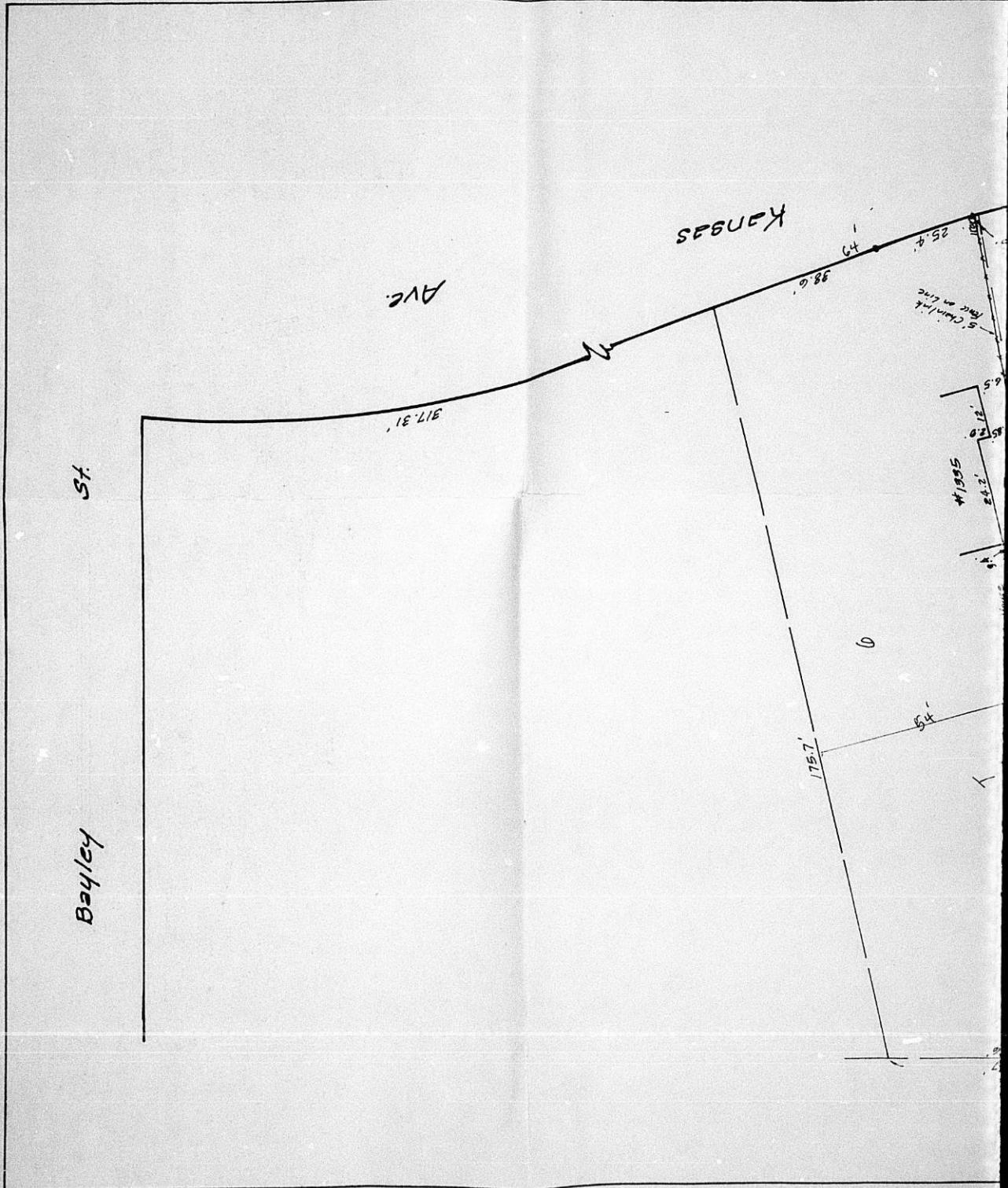
JHG:GEL:el





Lot 6, except south 1.0 feet thereof, Block 5,  
 SCHMEITZEL'S Sixth Addition

RECEIVED



St

Bayley

Ave.

KANSAS

317.31'

98.6'

64'

25.4'

5' dia. 1/4\"/>  
RMC on line

6.5'

5.2'

4.2'

1935

0

175.7'

54'

