

Case No. BZA 63-84 - Ralph G. Basgall - requests a variance to reduce the side yard setback from 6' to 0' to build a carport on property zoned the "AA" One-family Dwelling District and generally

POSTED
8/25/84 BS

ACTION

B.Z.A. 6384 Denied 2-25-84
DATE

Case No. BZA 63-84 - Ralph G. Basgall - requests a variance to reduce the side yard setback from 5' to 0' to build a carport on property zoned the "RM" One-family Dwelling District and generally

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

September 5, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 63-84

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Ralph G. Basgall, 2645 South Fern, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the side yard setback from 6 feet to 0 feet to build a carport on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fern, between Crawford and Savannah (2645 South Fern).

This application has been assigned Case BZA 63-84. It will be considered by the Board of Zoning Appeals on September 25, 1984 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

September 27, 1984

Ralph G. Basgall
2645 South Fern
Wichita, Ks. 67217

Re: BZA 63-84 - Request for Variance

Dear Mr. Basgall:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 25, 1984.

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,

Jack H. Galbraith
Secretary

GEL:sad
Encl.

cc: Donald L. Jones, 2639 South Fern, Wichita 67217
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 63-84

WHEREAS, Ralph G. Basgall, 2645 South Fern, 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 north property line from 6 feet to 0 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fern, between Crawford and Savannah (2645 South Fern).

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of September 25, 1984, 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 not unique to the property in question and which is ordinarily found in the same zone or district; and is created by an action or actions of the property owner or the applicant inasmuch as the property is rectangular in shape and is no different than thousands of other properties in the City that do not have adequate lot area for additions that would not violate the minimum setbacks; 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 construction of the carport would be within about 6 feet of the main dwelling on the north; 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 does not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the side yard is of sufficient width that would permit the location of a driveway to the rear yard to serve a garage or carport that could be constructed in compliance with all setbacks; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the structure would not interfere with any right-of-way or easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired would be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the intent of the zoning regulations is to provide a minimum of 12 feet of separation between one-family detached dwellings; and

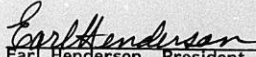
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has not been found to exist.

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 required side yard setback from 6 feet to 0 feet on property zoned the "AA" One-family Dwelling District and legally described as:

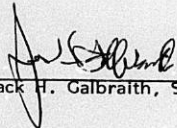
Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fern, between Crawford and Savannah (2645 South Fern).

be denied.

ADOPTED AT WICHITA, KANSAS, this 25th day of September, 1984.


Earl Henderson, President

ATTEST:


Jack H. Galbraith, Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE September 20, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 63-84 West side of Fern,
between Crawford and Savannah
(2645 South Fern)

CPO Council "B" considered the captioned case at its September 18th meeting and based on the comments from the MAPD secretary's report, voted 8-0 to recommend that the variance to reduce the side yard setback from 6 feet to 0 feet to build a carport be denied.

The applicant, Ralph Basgall was present and discussed the case with the Council. No area residents or adjoining property owners were present concerning the case.

Please advise the Board of Zoning Appeals of the Council's recommendation when the case is considered on September 25th.

Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

Noted:

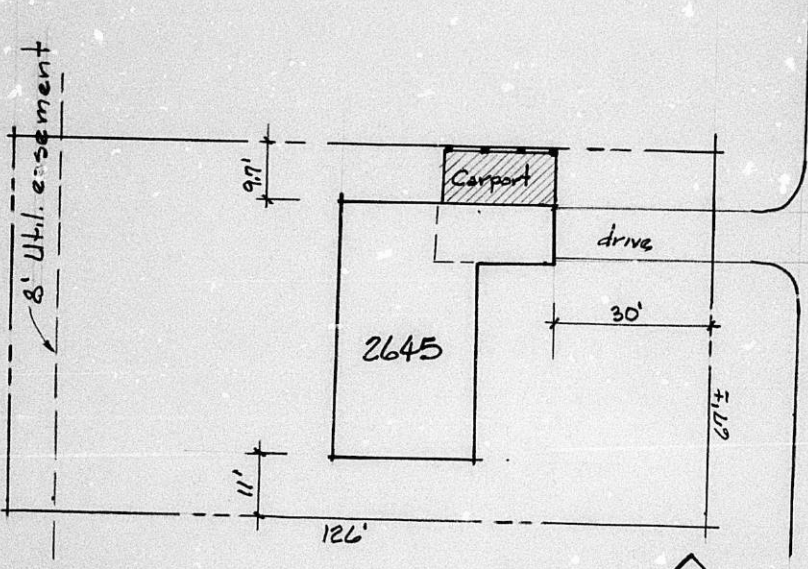
Annie K. Montgomery
Annie K. Montgomery
CRS Director

RECEIVED

SEP 21 1984

METROPOLITAN PLANNING

ROUTE _____



1" = 20'-0"



BZA 63-84

SECRETARY'S REPORT
CASE NO. BZA 63-84

APPLICANT: Ralph G. Basgall, 2645 South Fern, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard adjacent to a street for a carport from 6' to 0'.

GENERAL LOCATION: On the west side of Fern between Crawford and Savannah (2645 South Fern).

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

LAND USE: Subject property is developed with a one-family dwelling as are all 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. 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 side yard setback adjacent to the north property line in order to construct a carport on the property line in lieu of the 6 feet required. The existing house is located near the center of the lot which is 67'+ in width which leaves 9.7' from the house to the north property line. In viewing the aerial photographs, it appears that the house on the property to the north is within six or seven feet of the applicant's property. This will place the proposed addition in close proximity to the bedroom portion of the adjacent home.

It should be noted that all of the properties in the area are of similar size and most houses are constructed with a one-car garage. This particular lot is about six feet wider than the properties to the north which are 61 feet in width, thus allowing slightly more of a side yard than the six foot minimum in the "AA" One-family Dwelling District. This provides adequate side yard on this property to permit a driveway to the rear yard so that a carport or garage could be constructed in the rear yard in compliance with the required setbacks.

In addition to the requirements of the Zoning Ordinance, the building code requires that any structure located closer than 3 feet to the property line be 1 hour construction. Should the five conditions necessary to the granting of a variance be found to exist, the applicant would be required to comply with the building code provisions for fire protection. It should also be necessary to secure a 5 foot maintenance easement on the property to the north from the property owner.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as property is rectangular in shape and is no different than thousands of other properties in the City that do not have adequate lot area for additions that would not violate the minimum setbacks.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the construction of the carport would be within about 6 feet of the main dwelling on the north.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance do not constitute an unnecessary hardship upon the applicant inasmuch as the side yard is of sufficient width that would permit the location of a driveway to the rear yard to serve a garage or carport that could be constructed in compliance with all setbacks.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the structure would not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the zoning regulations is to provide a minimum of 12 feet of separation between one-family detached dwellings.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance can not be found to exist, and the request for a variance should be denied, however, should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. Prior to the release of the resolution authorizing the issuance of any building permit, the applicant shall furnish a copy of a five foot maintenance easement that has been granted by the adjacent property owner and recorded with the Registrar of Deeds.
 2. The building addition shall comply with all building code requirements of the City of Wichita.
 3. The reduction of the side yard from 6 feet to 0 feet shall only be reduced adjacent to the north property line and shall be only for a distance of 22 feet west of the platted setback line.
 4. The structure permitted by the variance shall be a carport with no enclosure on 3 sides.
 5. Failure to secure the maintenance easement within 180 days shall automatically null and void the action of the Board.
-

BZA CASE NO. 63-84

1

NOTICES SENT TO APPLICANT/AGENT

10

LEGAL ADVERTISEMENT SENT TO MAPC

1

NOTICES SENT TO CPO

20

NOTICES SENT TO ADJOINING PROPERTY OWNERS

22

TOTAL NOTICES SENT 9-5-84

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

September 5, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 63-84

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Pursuant to Section 2.12.590.B. of the Code of the City of Wichita, the applicant is requesting a variance to reduce the side yard setback from 6 feet to 0 feet to build a carport on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Fern, between Crawford and Savannah (2645 South Fern).

This application has been assigned Case BZA 63-84. It will be considered by the Board of Zoning Appeals on September 25, 1984 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 63-84

CITY OF WICHITA, KANSAS

FILED 8/20/84

APPLICATION FOR VARIANCE

I. Name of Applicant RALPH F. BASEFALL
 Mailing Address 2645 S. FERN WICHITA, KS 67217 Phone 263-2846
 Name of Authorized Agent N/A
 Mailing Address N/A Phone N/A
 Relationship of applicant to property is that of OWNER
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce side yard setback from
6'-0" to 0'-0"

for property located 2645 S. FERN, WICHITA KANSAS,

and legally described as: LOT 19, BLOCK A,
F.A. BROWN'S SECOND ADDITION TO WICHITA
SEDEWICK COUNTY, KANSAS.

in the City of Wichita; and which is presently zoned ^{"AA"}~~RESIDENTIAL~~

- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
 - b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
 - c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
 - d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Marilou Bassell

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
9:30 (a.m./p.m.), 8/82, 1984 together with
 appropriate fee of \$15.00.

Signed Denise A. Smythe

JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2822 EAST HELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas)
) SS
County of Sedgwick)

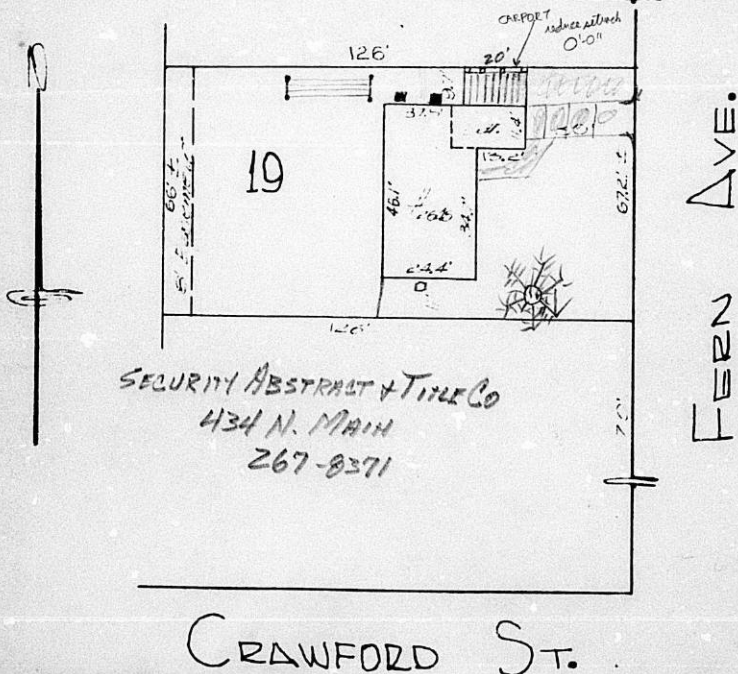
August 29, 1967

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 29th day of August, 1967, survey Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas.

On said lot is house No. 2645 with an attached garage which 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 for mortgage title insurance.

John T. Reeves
Surveyor



JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas)
) SS
County of Sedgwick)

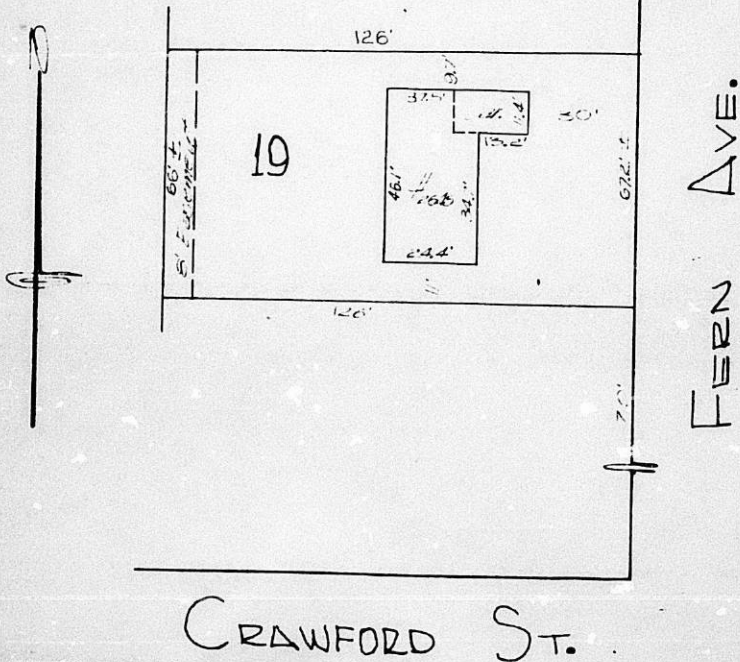
August 29, 1967

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 29th day of August, 1967, survey Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas.

On said lot is house No. 2645 with an attached garage which 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 for mortgage title insurance.

John T. Reeves
Surveyor



JOHN T. (JACK) REEVES

OFFICE OF
BAUGHMAN CO.
Surveyors

FRED J. DOANE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas)
) SS
County of Sedgwick)

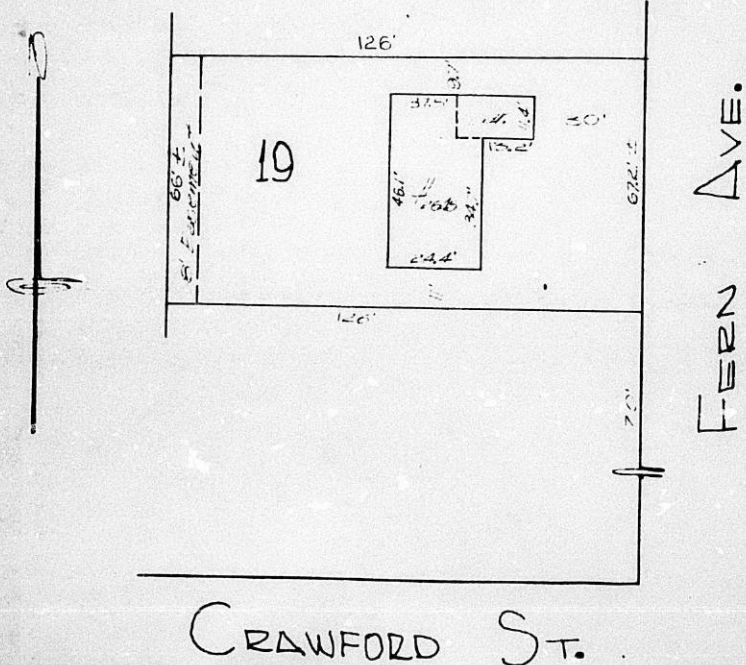
August 29, 1967

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 29th day of August, 1967, survey Lot 19, Block A, F. A. Brown's Second Addition to Wichita, Sedgwick County, Kansas.

On said lot is house No. 2645 with an attached garage which 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 for mortgagee title insurance.

John T. Reeves
Surveyor



Gentleman,

After raising two girls and getting them out on their own, the wife & I could finally afford to buy a new pick up. Which by the cost \$13,000.00.

So in order to protect my investment I'd like to build a car-port on the north side of my house to protect the P/u from the elements.

It would be almost impossible to get into my back yard to build a garage or carport.

The back fence is 10ft high and belongs to the Board of Education, (Inwooddale Jr. High)

~~On~~ the north side is a 3x4x1 cement step for back door, the central air unit, and cloth line, ~~and~~ the south side is where the gas meter is located and a large plum tree.

The lumber is treated for outside use and will also be painted. A 2x6x20 will be attached to the side of the house by nails and 6" long $\frac{3}{8}$ diameter lag screws. Rafters are 2x6x24" apart and attached by metal rafter holders. The roof will be white fiber glass panels 10x26" sealed with silicone at each seam

#

And held down with tight panel nails. The four posts supporting the other end will be 4x4's, ten ft long and buried in 2 feet of cement. Both ends would be open for access to back of the house in case of emergency. The roof will have a 6 in pitch and getting installed, also its 8 ft to neighbor house.

OWNERSHIP LIST

| <u>Property Description</u> | <u>Property Owner</u> |
|---|---|
| Lot 15, Block A, F. A. Brown 2nd Addition | ✓ Finney Properties 2500 E. Central 67214 |
| Lot 16, Block A, F. A. Brown 2nd Addition | Tu Ngoc Vu Oanh Thi Nguyen <u>Address unknown</u> |
| Lot 17, Block A, F. A. Brown 2nd Addition | ✓ Gary Allen McMillin Margo Dean McMillin 2633 S. Fern 67217 |
| Lot 18, Block A, F. A. Brown 2nd Addition | ✓ Donald Lee Jones Nancy N. Jones 2639 S. Fern 67217 |
| Lot 19, Block A, F. A. Brown 2nd Addition | D Ralph Gilbert Basgall Marilyn S. Basgall 2645 S. Fern 67217 |
| Lot 20, Block A, F. A. Brown 2nd Addition | ✓ Horace Rowland Betty Rowland 2651 S. Fern 67217 |
| Lot 1, Block B, F. A. Brown 2nd Addition | Fred Amen Verba I. Amen <u>Address unknown</u> |
| Lot 2, Block B, F. A. Brown 2nd Addition | ✓ Larry E. Newman Brenda K. Newman 1801 S. Fern 67213 <i>returned 9-10-84</i> Edna A. Alexander <u>Address unknown</u> (Affadavit of Interest) ✓ Monte Sontag 2408 S. Fern 67217 |
| Lot 3, Block B, F. A. Brown 2nd Addition | ✓ Edwin J. Brimmer Dorothy Brimmer 2414 S. Fern 67217 |
| Lot 4, Block B, F. A. Brown 2nd Addition | ✓ Manley M. Basham Lora E. Basham 2420 S. Fern 67217 |

| <u>Property Description</u> | <u>Property Owner</u> |
|---|---|
| Lot 5, Block B, F. A. Brown 2nd Addition | Hartman Properties Address unknown |
| Lot 6, Block B, F. A. Brown 2nd Addition | Wayne L. Broswell Palline F. Broswell Address unknown |
| Lot 7, Block B, F. A. Brown 2nd Addition | ✓ Bettye M. Davis Joe B. Davis 2508 S. Fern 67217 |
| Lot 4, Block C, F. A. Brown 2nd Addition | ✓ Troy Shrum Faye Shrum 2620 S. Fern 67217 |
| Lot 5, Block C, F. A. Brown 2nd Addition | ✓ Herman Kerstein Edith M. Kerstein 2626 S. Fern 67217 |
| Lot 6, Block C, F. A. Brown 2nd Addition | ✓ Samuel Jackson Willis Blanche Willis 2632 S. Fern 67217 |
| Lot 7, Block C, F. A. Brown 2nd Addition | John Lind DECEASED ✓ Barbara I. Lind 2638 S. Fern 67217 |
| Lot 8, Block C, F. A. Brown 2nd Addition | ✓ Dan C. Linn Mildred I. Linn 2644 S. Fern 67217 |
| Lot 9, Block C, F. A. Brown 2nd Addition | James Robert Cartwright ✓ Arlita L. Cartwright 2650 S. Fern 67217 |
| Lot 10, Block C, F. A. Brown 2nd Addition | ✓ Galen W. Martin Nellie B. Martin 2651 S. Elizabeth 67217 |
| Lot 11, Block C, F. A. Brown 2nd Addition | ✓ William Peter Springob Hye Cha Springob 2645 S. Elizabeth 67217 |
| Lot 12, Block B, F. A. Brown 2nd Addition | ✓ Benjamin Bueno Julia O. Bueno 2521 S. Elizabeth 67217 |

Property Description

Property Owner

Lot 13, Block B, F. A. Brown 2nd
Addition

✓ Jackie Ray Zollman
Catherine L. Zollman
2515 S. Elizabeth
67217

Beginning 400 feet east of the
northwest corner of the Northeast
Quarter Sec. 6-28-1E; thence
east 460 feet; thence south
1320 feet; thence west 860 feet; thence
north 660 feet; thence east 400 feet;
thence north 660 feet to beginning.

✓ Board of Education of
the City of Wichita
428 S. Broadway
67202

We hereby certify the foregoing to be a true and correct list
of the property owners within a 200 foot radius of:

Lot 19, Block A, F. A. Brown's
2nd Addition to Wichita,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of
the Register of Deeds of Sedgwick County, Kansas, on this
25th day of July, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable

Sr. Vice President

Order No: 336647
cf

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 2021 PAYMENT NOTICE
City of Wichita

| Bldg. | Use of Str. | Code Bks | Copies |
|-------|------------------|------------|--------|
| Elec | Elev. Insp. | Hse Moving | Lic. |
| Mech | Boiler Insp. | Fav. Cuts | Cert. |
| Pibg | Exam Fees | Sewar | Elev. |
| Signs | Plan Rev. (P.W.) | Cement | M.S.P. |
| | Planning | | |

| DESCRIPTION | AMOUNT |
|-------------|---------|
| PLANNING | 1175.00 |

NAME _____
 ADDRESS _____
 FUND _____ DUE DATE _____
 COMMENTS _____
 DATE _____ BY _____

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

*B2K
63.94
1322
9/10/84*

RECEIVED

SEP 10 1984

METROPOLITAN PLANNING
ROUTE *sd*



Larry E. & Brenda K. Newman
1801 South Fern
Wichita, Ks. 67213

ATTEMPTED
NOT KNOWN
RETURN TO SENDER

