

Case No. BZA 69-84 - James & Anita  
Phillipi - request a variance to reduce  
the required rear yard setback from 20'  
to not less than 8' on property zoned  
the "AA" One-family Dwelling District  
and generally located on the southwest

200 4 Dec 10-30-84

Shob 11-14-84

Record ✓

POSTED  
9-20-84  
60

# ACTION

B.Z.A. ~~69-84~~ APPROVED 10-23-84  
DATE

5443D

200' 4 Sec 10-30-84  
Shoh 11-14-84  
Record     

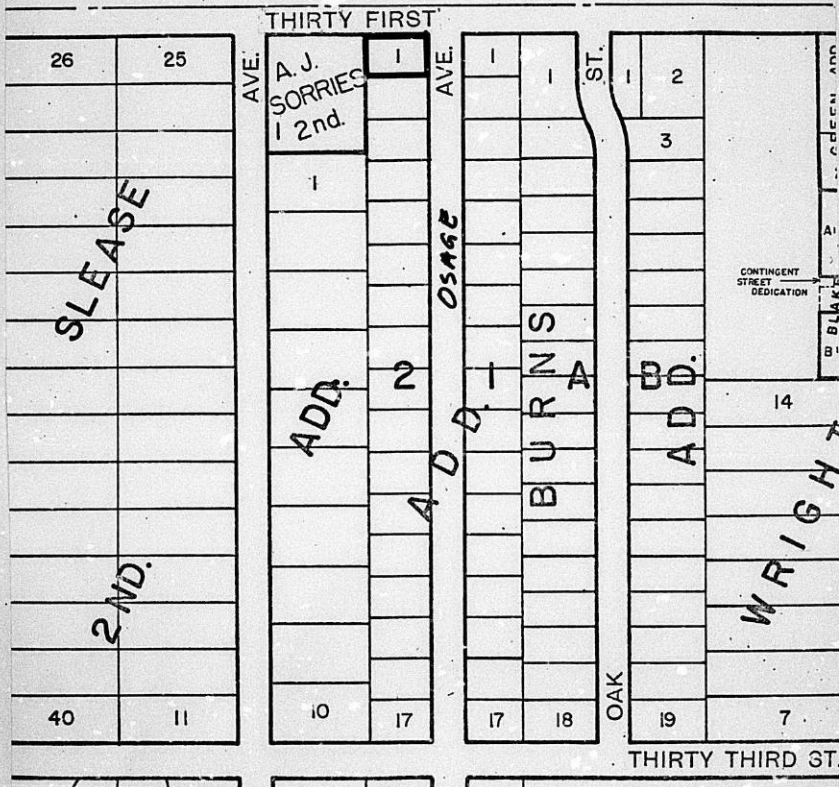
Case No. BZA 69-84 - James & Anita  
Phillipi - request a variance to reduce  
the required rear yard setback from 20'  
to not less than 8' on property zoned  
the "M" One-family Dwelling District  
and generally located on the southeast

Map No. 5443D

BZA 69-84  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ ft.)  
2. Adjoining Zoning: E AA S AA W R-5 N AA  
3. Land Use: East 1-F South 1-F  
West APTS North 1-F  
4. Area (is) (~~is not~~) platted.



**Shelton**  
No. 2153C  
HASTINGS, MN  
LOS ANGELES, CHICAGO, LOGAN, OH  
MCGREGOR, TX, LOCUST GROVE, GA  
USA.

October 25, 1984

James & Anita Phillipi  
801 West 31st Street South  
Wichita, Kansas 67217

Re: BZA 69-84 - Request for Variance

Dear Mr. & Mrs. Phillipi:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 23, 1984.

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

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

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad  
Encl.

cc: Robert Feldner, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION NO. BZA 69-84

WHEREAS, James and Anita Phillipi, 801 West 31st Street South, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to not less than 8 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 1, Block 2, Brentwood Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 31st Street South and Osage (801 West 31st South).

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of October 23, 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 unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the house has been oriented toward a street that would normally be considered a side yard setback with a yard to the south as a 20 foot rear yard, then there should be uniqueness in the property to allow the actual rear yard to become a side yard; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the yard to be reduced to eight feet is adjacent to an apartment complex that is platted with a front yard to both Handley and 31st Street South and a reduced setback adjacent to the applicant's property which is less for the apartments than is required for the applicant's one-family dwelling; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the addition is planned to eliminate part of the affect that the adjacent apartment complex has on the applicant's property due to the close proximity of the parking area for the apartments to the west property line. It is hoped that the garage on the west will provide some protection to the residence; 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 addition will not interfere with any needed right-of-way or utility easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the applicant is merely orienting the yards in a different direction than was intended by the original plat of the area; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

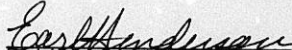
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard setback from 20 feet to not less than 8 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 1, Block 2, Brentwood Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 31st Street South and Osage (801 West 31st South).

be approved subject to the following conditions:

1. The yard to the west may be reduced from 20 feet to not less than 8 feet, provided no portion of the structure shall encroach in anyway into the utility easement.
2. The yard to the south shall become a rear yard and shall be maintained at 20 feet.
3. The yard adjacent to 31st Street South shall become a front yard and shall be maintained at 25 feet.

ADOPTED AT WICHITA, KANSAS, this 23rd day of October, 1984.

  
Earl Henderson, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE October 19, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Mary L. Moore, Administrative Aide III

SUBJECT BZA 69-84 Generally located on  
the southwest corner of 31st Street  
south and Osage (801 West 31st  
Street)

On Monday, October 15th, CPO Council "C" considered the above captioned case.

The Council voted 6-0 to recommend approval of the requested variance.

Mr. & Mrs. Phillips, applicants, were present to discuss the case and answer questions from the Council. No area residents or property owners were present for this case.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA is considered.

*Mary L. Moore*

Mary L. Moore  
Administrative Aide III

MLM:dm

Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director

# RE: AGENDA ITEM NO.

SECRETARY'S REPORT  
CASE NO. BZA 69-84

APPLICANT: James and Anita Phillipi, 801 West 31st Street South, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard setback from 20 feet to not less than eight feet.

GENERAL LOCATION: On the southwest corner of Osage and 31st Street South.

ZONING: Subject property is zoned the "AA" One-family Dwelling District as are the properties to the east, south and north. Property to the west is zoned the "R-5" General Residence District.

LAND USE: Subject property is occupied by a one-family dwelling as are the adjacent properties to the east, south and north. To the west is an apartment complex.

## 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 to reduce the required rear yard setback from 20 feet to not less than 8 feet. In this particular case the applicant's home faces onto 31st Street South even though the lot was platted with a 25 foot front yard adjacent to Osage. It should be noted that the applicant's house maintains a 25 foot setback from 31st Street South and a 20 foot yard to the rear of the house on the south.

In this case the house is oriented to a different street than was originally planned by the plat, but the house is oriented in a direction that the yard to the west actually could be considered a side yard. However, due to the utility easement along the west property line, this yard cannot be less than eight feet. Should the Board grant a variance to reduce this rear yard to 8 feet, it is suggested that the yard to the south become a rear yard and be maintained at 20 feet, and the yard to the north be a front yard and maintain a 25 foot setback.

## UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the house has been oriented toward a street that would normally be considered a side yard setback with a yard to the south as a 20 foot rear yard, then there should be uniqueness in the property to allow the actual rear yard to become a side yard.

## ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the yard to be reduced to eight feet is adjacent to an apartment complex that is platted with a front yard to both Handley and 31st Street South and a reduced setback adjacent to the applicant's property which is less for the apartments than is required for the applicant's one-family dwelling.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the addition is planned to eliminate part of the affect that the adjacent apartment complex has on the applicant's property due to the close proximity of the parking area for the apartments to the west property line. It is hoped that the garage on the west will provide some protection to the residence.

PUBLIC INTEREST:

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

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as applicant is merely orienting the yards in a different direction than was intended by the original plat of the area.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following conditions:

1. The yard to the west may be reduced from 20 feet to not less than 8 feet, provided no portion of the structure shall encroach in anyway into the utility easement.
  2. The yard to the south shall become a rear yard and shall be maintained at 20 feet.
  3. The yard adjacent to 31st Street South shall become a front yard and shall be maintained at 25 feet.
-

September 24, 1984

Board of Zoning Appeals  
City of Wichita  
ATTN: Mr. Glen Lytle  
10th Floor - City Hall  
455 N. Main  
Wichita, KS 67202

RE: Request for response associated with variance application for 801 W. 31st  
South in City of Wichita.

Dear Mr. Lytle:

We, James and Anita Phillippi, purchased the home located at 801 West 31st  
Street South, and more specifically at the southwest corner of 31st Street and  
Osage in 1967. In 1977, the attached garage was converted to a family room to  
increase the size of the home from 974 square feet to 1194 square feet.

We now desire to add a 22 foot by 30 foot attached garage to the west side  
of the house. The proposed construction would reduce the rear yard setback to  
8 feet.

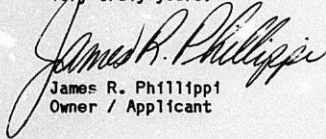
Section 28.04.040 Paragraph 3.1 of the Zoning Ordinance of the City of Wichita  
requires a rear yard setback of 20 feet.

The variance we have requested is unique to the property in question. The  
house was constructed on a corner lot fronting the intended side street.

Section 28.04.040 Paragraph 2.2 provides for a side yard setback of 6 feet.

If the front yard of the property in question was the 31st Street side, the  
existing structure, with the proposed construction in place, would maintain a  
front yard setback of 25 feet, a side yard setback of 8 feet, and a rear yard  
setback of 20 feet. With this in mind, we feel that granting the variance  
requested will not be opposed to the general spirit and intent of the City  
Zoning Ordinance and further, this variance will not adversely affect the  
rights of adjacent property owners or residents.

Very truly yours,

  
James R. Phillippi  
Owner / Applicant

RECEIVED

SEP 26 1984

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

BZA CASE NO. 69-84

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>15</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>17</u>	TOTAL NOTICES SENT <u>10-3-84</u>

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

October 3, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 69-84

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 James & Anita Phillipi, 801 West 31st Street South, 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 required rear yard setback from 20 feet to not less than 8 feet on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 1, Block 2, Brentwood Addition to Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 31st Street South and Osage (801 West 31st South).

This application has been assigned Case BZA 69-84. It will be considered by the Board of Zoning Appeals on October 23, 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. 69-84

CITY OF WICHITA, KANSAS

FILED 9-18-84

APPLICATION FOR VARIANCE

I. Name of Applicant JAMES & ANITA PHILLIPPI  
 Mailing Address 801 W 31<sup>ST</sup> SOUTH Phone 522-4402  
 Name of Authorized Agent SAME  
 Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_

Relationship of applicant to property is that of OWNER  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required rear yard<sup>10 feet</sup> from 20 feet to 8 feet  
on the southwest corner of Orange and 31<sup>ST</sup> St. So.  
 for property located (801 W. 31<sup>ST</sup> SOUTH) WICHITA  
KANSAS, 67219  
 and legally described as: LOT 1, BLOCK 2, BRENTWOOD  
AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

in the City of Wichita; and which is presently zoned "AA".

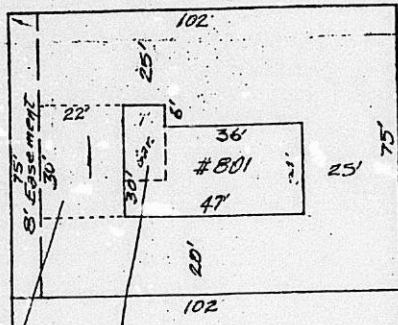
- III. The applicant herein, or his authorized agent, acknowledges:
- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
  - b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No.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

Applicant James Phillippi  
Anita Phillippi  
 Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,  
 (amp.m.), 1.45 SEPT. 18, 1984 together with  
 appropriate fee of 75.00.

Signed A. Lytle

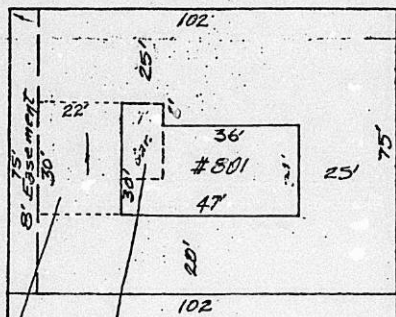
31 ST S<sub>T.</sub> S<sub>O.</sub>



OSAGE Ave.

CONVERTED TO FAMILY ROOM IN 1977  
VARIANCE NEEDED FOR THE 30' X 22'  
ATTACHED GARAGE

31 ST S.T. So.



CONVERTED TO FAMILY ROOM IN 1977

VARIANCE NEEDED FOR THE 30' X 22'  
ATTACHED GARAGE

OSAGE AVE.

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lot 1	Block 2	Brentwood Addition	James A. Phillippi Anita L. Phillippi 801 W. 31st St. South Wichita, KS 67217
Lot 2	"	"	<del>Howard K. Runberg Vena L. Runberg Address Unknown</del>
Lot 3	"	"	Max A. Ross Esther E. Ross 3217 S. Osage Wichita, KS 67217
Lot 4	"	"	Ivan D. Poore Geneva M. Poore 3225 S. Osage Wichita, KS 67217
Lot 1	Block 1	"	Gordon F. Briar Dorothy F. Briar 737 W. 31st St. South Wichita, KS 67217
Lot 2	"	"	Charles L. Rich Virginia L. Rich 3210 S. Osage Wichita, KS 67217
Lot 3	"	"	Delbert H. Bosley Virginia L. Bosley 136 S. Parkridge Wichita, KS 67209
Lot 4	"	"	Richard E. Kinder Jacqueline D. Kinder 3226 S. Osage Wichita, KS 67217
Lot 1	Block A	Burns Addition	Margaret Metheny 3213 S. Oak Wichita, KS 67217
Lot 2	"	"	Same As Above
Townhouse sites 101 through 104, 201 through 203, and 301 through 304, Lot 1		A. J. Soerries 2nd Addition	A. J. Soerries Real Estate 1829 N. Sedgwick Wichita, KS 67203
Lot 1, except Townhouse sites 101 through 104, 201 through 203, and 301 through 304		"	<del>Highwood Townhouse Owners Association Address Unknown</del>
Lot 1		Sleaze 2nd Addition	Winifred Christensen 3226 S. Handley Wichita, KS 67217

Lot	Block	Addition	Property Owner
<p>Beginning 809' 9" East of the Southwest Corner of the South Half of the Southwest Quarter Section 5, Township 28, Range 1 East, thence North 330', thence East 132', thence South 330', thence West to beginning.</p>			<p>Roy L. McCammon Doris E. McCammon 838 W. 31st St. South Wichita, KS 67217</p>
<p>Beginning 941.9' East of the Southwest Corner of the South Half of the Southwest Quarter of Section 5, Township 28, Range 1 East, thence North 330', thence East 60', thence South 330', thence West 60' to point of beginning.</p>			<p>B.J. (Bernard) Norton M. P. (Mickey) Norton 830 West 31st St. South Wichita, KS 67217</p>
<p>Beginning 1001.9 feet East of the Southwest Corner of the Southwest Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, thence north 330 feet, thence east 72 feet, thence south 330 feet, thence west to beginning, except the south 50 feet for street.</p>			<p>Charles W. Johnson Marilyn S. Johnson 800 W. 31st St. South Wichita, KS 67217</p>
<p>Beginning 1073.9' East of the Southwest Corner of the South Half of the Southwest Quarter of Section 5, Township 28, Range 1 East, thence North 330', thence East 66', thence South 330', thence West 66' to beginning.</p>			<p>Franklin J. Parrott Nadine L. Parrott 820 W. 31st St. South Wichita, KS 67217</p>
<p>Beginning 1139.9' East of the Southwest Corner of the South Half of the Southwest Quarter of Section 5, Township 28, Range 1 East, thence North 330', thence East 66', thence South 330', thence West 66' to beginning.</p>			<p>Lillian Rhuter 2856 S. Broadway Wichita, KS 67218  Affidavit of Interest filed by: Joseph P. Novacek Laurie L. Novacek 812 W. 31st St. South Wichita, KS 67217</p>

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
		Beginning 1205.9' East of the Southwest Corner of the South Half of the Southwest Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., thence North 330', thence East 132', thence South 330', thence West 132' to beginning.	D Charles W. Johnson Marilyn S. Johnson 800 W. 31st St. South Wichita, KS 67217

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

Lot 1, Block 2, Brentwood, an Addition to  
Wichita, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 14th day of September, 1984, at 7:00 o'clock A.M.

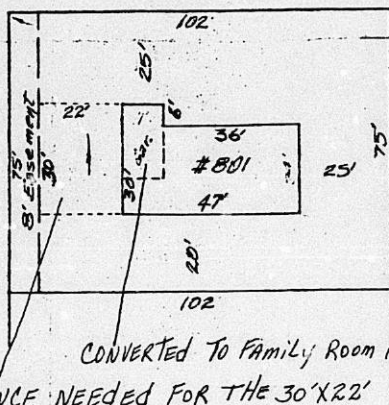
THE SECURITY ABSTRACT AND TITLE  
COMPANY, INC.

By

*Mary Gable*  
Sr. Vice-President

Order No: 338548  
ns

31 ST S.T. So.



OSAGE AVE.

CONVERTED TO FAMILY ROOM IN 1977

VARIANCE NEEDED FOR THE 30' X 22'  
ATTACHED GARAGE

BZA 69-84

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 29-1

PAYMENT NOTICE  
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Flbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
CITY BZA VAR	175.00

NAME JAMES PHILIPPI

ADDRESS 301 W 31<sup>ST</sup> SO

FUND 27-400 71-003 DUE DATE

COMMENTS

DATE SEPT 18, 1964 BY [Signature]