

Case No. BZA 1-83 - James W. Mueller - requests a variance to reduce the required side yard from 6' to 3' on property zoned the "AA" One-family Dwelling District and generally located on the east side of Sheridan & south of

5246A

700'4 Sec. 3-30-83  
Checked 3-31-83 SP  
SAW 4-12-83  
Recorded 4-18-83 KE

ACTION

B.Z.A. 1-83 APPROVED 2-22-83  
DATE

POSTED  
2-11-83

5246A

200' 4 Sec. 3-30-83  
Checked 3-31-83 out  
SAOR 4-12-83  
Recorded 4-18-83 KC

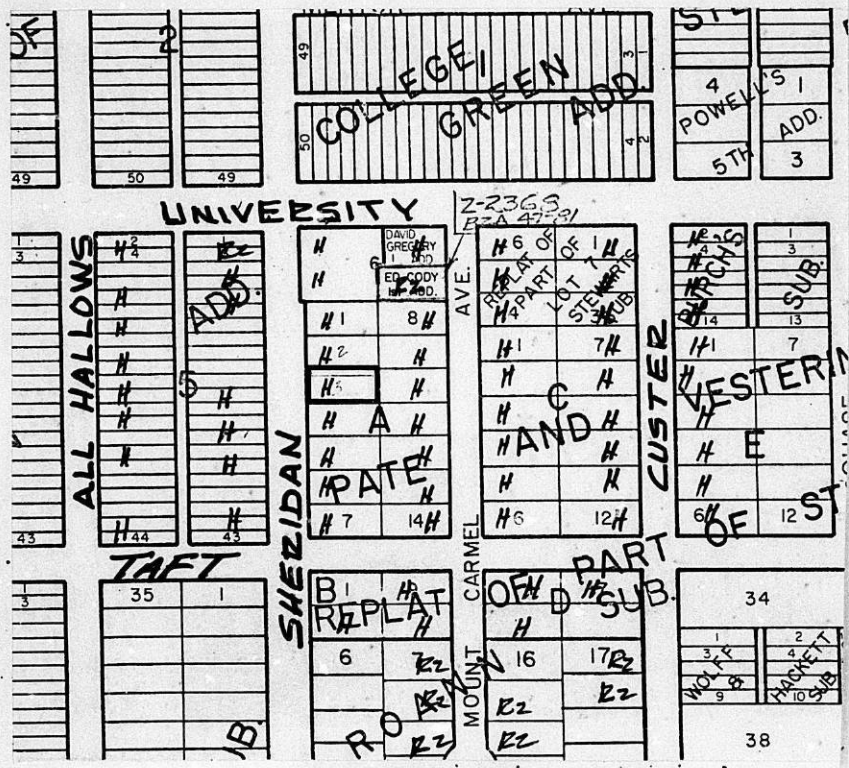
Case No. BZA 1-83 - James W. Mueller -  
requests a variance to reduce the re-  
quired side yard from 6' to 3' on pro-  
perty zoned the "M" One-Family Dwell-  
ing District and Generally located on  
the east side of Sheridan & south of

Map No. 5246  
 Sec. 25  
 Twp. 27  
 Range 1W

BZA- 1-83  
 SCZ- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:  
 1. Acres: 0.17 ( 100 ft. by 130 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 \_\_\_\_\_



LOS ANGELES, CALIFORNIA  
 MERRISON BUILDING  
 U.S.A.

**Standard**  
 No. 2153C

March 28, 1983

James W. Mueller  
422 South Sheridan  
Wichita, Ks. 67213

Re: BZA 1-83 - Request for Variance

Dear Mr. Mueller:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 22, 1983.

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 1-83

WHEREAS, James W. Mueller, 422 South Sheridan, 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 from 6' to 3' on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 3, Block A, in Pate and Vestring's Replat of Part of Stewart's Subdivision in Wichita, Sedgwick County, Kansas. Generally located on the east side of Sheridan and south of University (422 S. Sheridan).

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 February 22, 1983, 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 property has had a carport located within three feet of the side property line for a long period of time and the carport will be reconstructed at the same line; 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 reconstruction of a carport in the same location should not create or interfere with the light and air of the adjacent property to 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 will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant will be unable to replace a carport on the property that was removed because of a deteriorated and hazardous condition unless a variance is granted; 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 easement into which the side yard variance would encroach is not being used by any utility and will be vacated prior to any construction by the owner; 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 location of an open carport, with the supports no closer than three feet to the adjacent property line, should not interfere with the light and air of the adjacent property; 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.

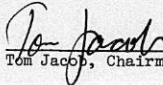
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the side yard on the north from 6' to 3' on property zoned the "AA One-family Dwelling District and legally described as:

Lot 3, Block A, in Pate and Vestring's Replat of  
Part of Stewart's Subdivision in Wichita, Sedgwick  
County, Kansas. Generally located on the east side  
of Sheridan and south of University (422 S. Sheridan).


be approved subject to the following conditions:

1. Prior to the release of the Resolution, the applicant shall complete the vacation of the easement along the north property line.
2. The reduction of the side property line from 6' to 3' shall only be for an unenclosed carport to be attached to the house and the roof overhang shall not extend closer than 2 feet to the north property line.

ADOPTED AT WICHITA, KANSAS, this 22nd day of February, 1983.

  
Tom Jacob, Chairman

ATTEST:

  
Glen E. Lytle, Assistant Secretary

February 23, 1983

James W. Mueller  
422 South Sheridan  
Wichita, Ks. 67213

Re: BEA 1-83  
Request for Variance

Dear Mr. Mueller:

At the regular meeting of the Board of Zoning Appeals on February 22, 1983, your request for a variance was considered.

It was the action of the Board to approve your request subject to the following conditions:

1. Prior to the release of the Resolution, the applicant shall complete the vacation of the easement along the north property line.
2. The reduction of the side property line from 6 feet to 3 feet shall only be for an unenclosed carport to be attached to the house and the roof overhang shall not extend closer than 2 feet to the north property line.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as you have complied with condition number one above.

If you have any questions, please call our office.

Sincerely yours,

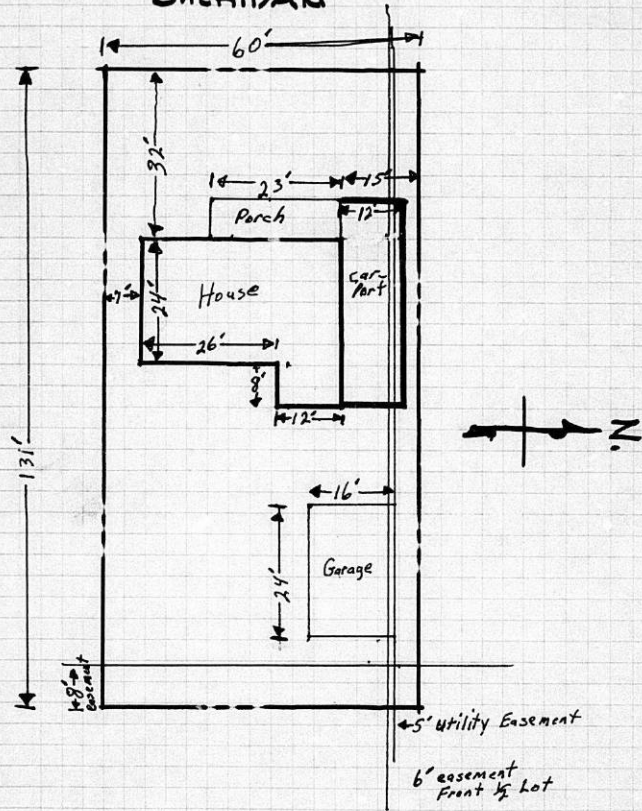
Glen E. Lytle  
Assistant Secretary

GEL:sad

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

Scale  
1 sq. = 4'

SHERIDAN



**THE CITY OF WICHITA**

**OFFICE OF CITIZEN PARTICIPATION**

**DATE** February 18, 1983

**TO** Glen Lytle, Special Assistant for Zoning

**FROM** Shirley Mast, Administrative Aide III

**SUBJECT** EZA 1-83 (East side of Sheridan  
and South of University -  
422 South Sheridan

Due to the lack of a quorum at their February 17th meeting at which the captioned EZA case was scheduled to be considered, CPO Council Area "O" will not submit a recommendation to the Board of Zoning Appeals for their February 22nd meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

SM:dm

SECRETARY'S REPORT  
CASE NO. BZA 1-83

APPLICANT: James W. Mueller, 422 South Sheridan, 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 from 6 feet to 3 feet adjacent to the north property line.

GENERAL LOCATION: On the east side of Sheridan and south of University (422 South Sheridan).

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

LAND USE: Subject property is occupied by a one-family dwelling. All adjacent properties are developed residential.

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 side yard in order to reconstruct an open carport along the north side of the existing residence. At the time the applicant purchased the house, there was a carport located approximately 3 feet from the north property line, and due to deterioration of some of the structural elements, the applicant removed the existing carport. The applicant has not been able to secure the permit to reconstruct the carport without a variance of the side yard setback from 6 feet to 3 feet.

In the process of filing this application, it was determined that a five foot side yard easement exists along the north property line. An application has been filed to vacate this easement as there is apparently no need by any utility to use this easement. Any action by this Board to reduce the side yard setback should be subject to completion of the vacation application.

It would appear that uniqueness to the property would be that the carport has existed over a long period of time and the replacement in the same location should not be detrimental to the adjacent property. Also an open carport should not interfere with the light and air of the adjacent property.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property has had a carport located within three feet of the side property line for a long period of time and the carport will be reconstructed at the same line.

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 reconstruction of a carport in the same location should not create or interfere with the light and air of the adjacent property to the north.

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 applicant will be unable to replace a carport on the property that was removed because of a deteriorated and hazardous condition unless a variance is granted.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the easement into which the side yard variance would encroach is not being used by any utility and will be vacated prior to any construction by the owner.

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 the location of an open carport, with the supports no closer than three feet to the adjacent property line, should not interfere with the light and air of the adjacent property.

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. Prior to the release of the Resolution, the applicant shall complete the vacation of the easement along the north property line.
2. The reduction of the side property line from 6 feet to 3 feet shall only be for an unenclosed carport to be attached to the house and the roof overhang shall not extend closer than 2 feet to the north property line.

BZA CASE NO. 1-83

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

29 NOTICES SENT TO ADJOINING PROPERTY OWNERS

41 TOTAL NOTICES SENT 2-2-83

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

February 2, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 1-83

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 W. Mueller, 422 South Sheridan, 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 side yard from 6 feet to 3 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 3, Block A, in Pate and Vestering's Replat of Part of Stewart's Subdivision in Wichita, Sedgwick County, Kansas. Generally located on the east side of Sheridan and south of University (422 South Sheridan).

This application has been assigned Case No. BZA 1-83. It will be considered by the Board of Zoning Appeals on February 22, 1983 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. 1-83

CITY OF WICHITA, KANSAS

FILED 1-21-83

APPLICATION FOR VARIANCE

I. Name of Applicant James W. Mueller

Mailing Address 122 S. Sheridan 67213 Phone 942-7780

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 vary the required 6' side yard  
on the north to 3' with an additional 1' overhang

for property located on the east side of Sheridan and south of University  
(122 S. Sheridan) Wichita, Ka 67213

and legally described as: Lot 3, in Block "A", in Plate and  
Vesting's Replat of Part of Stewart's Subdivision, 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 W. Mueller

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:00 (a.m.-p.m.), JAN. 21, 1983  
together with appropriate fee of 75.00.

Signed [Signature]

Property, at time of original purchase, included a sheltered carport and existed until recently in service as a carport. Due to some structure deterioration the safety factors were impaired to the point that dismantling was required and restoration was begun.

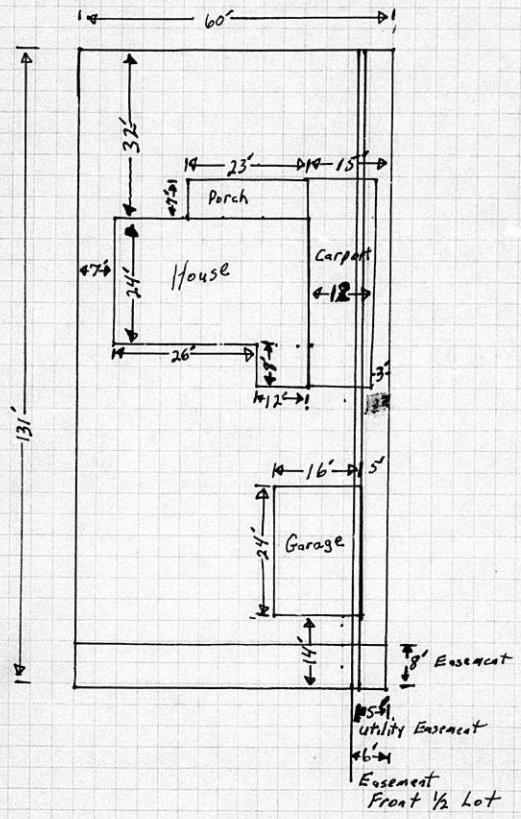
Restoration of said carport does not violate the parameters of original physical location of ground foundation for the carport supporting beams which have existed since original construction and before purchase of property by applicant. No grievance has arisen from adjacent property owners since ownership by applicant and also, apparently none prior to applicants ownership.

A sheltered carport is not feasible with the strict application of provisions of Title 28(zoning ordinance)due to lack of safe clearance for vehicle passage through opening between carport support beams and house and duly deprives owner-applicant of car shelter as well as reduces property in value.

The variance desired will effect a safer structure to replace the original unsafe structure and will be positioned on same ground foundation and will create no different convenience or affect the general welfare.

Therefore, I suggest the variance desired to allow restructure of carport does not oppose the general spirit and intent of Title 28 (zoning ordinance) and will in fact, reinforce the spirit and intent of Title 28(zoning ordinance)by replacement of an unsound structure with a more aesthetic, safe, convenient, serviceable structure which will maintain original value of property.

Scale  
1 sq = 4'



OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	A	Pate & Vestering Replat of Part of Stewart's Subdivision	✓ Carl T. Lewis and Sue Retta Lewis, 414 S. Sheridan, 67213
2	"	" "	✓ David W. Davis and Debra L. Davis, 418 S. Sheridan, 67213
3	"	" "	D James W. Mueller and Nancy K. Mueller, 422 S. Sheridan, 67213
4	"	" "	✓ Don K. Clemence and Margaret A. Clemence, 426 S. Sheridan, 67213
5	"	" "	✓ Raymond H. Vincent and Theresa M. Vincent, 430 S. Sheridan, 67213
6	"	" "	✓ Richard H. Hayes and Sandra L. Hayes, 434 S. Sheridan, 67213
7	"	" "	✓ Fannie G. Patterson, 3194 Taft, 67213
5	5	College Green	✓ John J. Newman and Shirley Newman, 401 S. Sheridan, 67213
7, 9 & 11	"	" "	<del>Herman Schmidt (Deceased)</del> ✓ and Freida Schmidt, 411 S. Sheridan, 67213
Odd Lots 13 thru 23	"	" "	✓ Alice Mabel Brooks, 417 S. Sheridan, 67213
25 & 27	"	" "	✓ Tommy L. Coss and Lisa R. Coss, 433 S. Sheridan, 67213
29 & 31	"	" "	✓ Jimmy D. Young and Janice S. Young, 437 S. Sheridan, 67213
33 & 35	"	" "	✓ Clara Lucille George and Sedrick I. George, 439 S. Sheridan, 67213

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
37 & 39	5	College Green	Brady T. Addis and Ruth ✓ R. Addis, 503 S. Sheridan, 67213
41	"	" "	Henry W. Hopp and L. ✓ Maxine Hopp, 447 S. Sheridan, 67213
8	A	Pate & Vestering's Replat of Part of Stewart's Sub- division	Barbara J. Goad, 413 S. ✓ Mt. Carmel, 67213
9	"	" "	✓ Michael C. Hilton and Brend S. Hilton, 417 S. Mt. Carmel, 67213
10	"	" "	✓ Darrell Dan Close a/k/a Darrell D. Close and Margaret Close, 421 S. Mt. Carmel, 67213
11	"	" "	✓ Thomas E. Glendening and Sandra K. Glendening, 425 S. Mt. Carmel, 67213
12	"	" "	✓ David M. Holt and Debra E. Holt, 429 S. Mt. Carmel, 67213
13	"	" "	✓ Michael R. Mitchell and Catherine A. Mitchell, 433 S. Mt. Carmel, 67213
14	"	" "	✓ Milton Ellis Winters and Darlene F. Winters, 3102 Taft, 67213
1	C	" "	✓ Jefferson Elmer Hull and Joan Hull, 418 S. Mt. Carmel, 67213
2	"	" "	✓ Franklin F. Patrick and Virginia A. Patrick, 422 S. Mt. Carmel, 67213
3	"	" "	✓ Administrator of Veteran's Affairs, 901 S. Geo. Wash- ington Blvd., 67211
4	"	" "	✓ <del>Donald Blair Osman (Dec.)</del> and Elwanda L. Osman, 430 S. Mt. Carmel, 67213

<u>Lot</u>	<u>Addition</u>	<u>Property Owner</u>
4	Replat of Part of Lot 7 Stewart's Subdivision	Warren A. McElroy, 414 S. Mt. Carmel, 67213
North 70 ft. of Lot 6 exc. that part platted as David Gregory Add.	Stewart's Subdivision in NE $\frac{1}{4}$ of Sec. 25-27-1W	Raymond J. Roetto and Ethel F. Roetto, 402 S. Sheridan, 67213
West 144.05 ft. of the South 60 ft. of the North 130 ft. of Lot 6	" "	Kenneth Olen Taylor and Rebecca Sue Taylor, 410 S. Sheridan, 67213
1	David Gregory	David P. Gregory and Julia K. Gregory, 403 S. Mt. Carmel, 67213
1	Ed Cody 1st	Ed Cody Construction, Inc. <u>Address Unknown</u>

Page 4.

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

Lot 3, Block A, Pate and Vestering Replat of Part of Stewart's Subdivision, 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 the 18th day of January, 1983, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO., INC.

By

*Mary Gable*  
Vice-President

Order No. 316014  
ge

**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.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
<i>10-12-74</i>	<i>11.00</i>
<i>11-2-74</i>	<i>11.00</i>

NAME *James W. Mitchell*

ADDRESS *422 3rd St*

FUND *10-4674* DUE DATE *11-1-74*

COMMENTS

DATE *11-2-74* BY *[Signature]*