

3-55

Biltmore Homes, Inc.

*Appeals*  
ZONING PETITION

ACCEPTED AS TO FORM

Date

*Jan 21, 1955*

*# 25105*

WICHITA CITY PLANNING COMMISSION

By

*Shirley Lane*

*Bayne Jordan + Donaldson*

*File*  
*Case # 3-55*  
*Bd of Zoning Appeals*  
*OK*  
*6/20*



June 17, 1955

Re: 2048 Hood

Biltmore Homes  
1725 East Central  
Wichita, Kansas

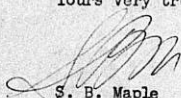
Gentlemen:

On January 13, 1955, the building permits for two houses to be known as 2042 and 2048 Hood were rescinded, for the reason that there was insufficient lot area.

This matter was submitted to the Board of Zoning Appeals, but it did not grant a variation in the matter.

Inasmuch as you were not refunded the fees for these permits, you may consider this letter as authority to proceed under building permit B 52836 to erect a residence at 2048 Hood, but the permit B 52835 for 2042 Hood remains rescinded.

Yours very truly,

  
S. B. Maple  
Chief Building Inspector

SBM MG

Case No. 3-55

Filed Jan. 28 1955

APPEAL FOR VARIANCE OR EXCEPTION

To: The Board of Zoning Appeals  
Room 302, City Building  
Wichita, Kansas

The undersigned Warren B. Niedens and / <sup>Biltmore Homes, Inc.</sup> hereby appeals  
from the decision of the Building Inspection Superintendent  
wherein a Building permit is <sup>rescinded</sup> ~~refused~~ under Section F-C.4  
to Biltmore Homes, Inc. and Warren B. Niedens  
at the premises located at 2042 and 2048 North Hood, Wichita,  
<sup>rescinded</sup>  
This permit was ~~denied~~ <sup>rescinded</sup> for the reason that each lot requires  
6000. square feet under AA zoning and each of these lots con-  
tain only 5555 square feet

The plans, application, and all data heretofore filed with  
said Building Inspection Superintendent are attached hereto and  
made a part of this appeal.

I have not made a previous application or appeal under the  
Zoning Ordinance affecting these premises.

I hereby declare that all the statements contained in all  
of the information transmitted herewith are true.

Biltmore Homes, Inc.

Appellant By Warren B. Niedens  
Vice President

Appellant Warren B. Niedens  
Biltmore Homes, Inc. and Address 1546 N. Old Manor

Owner Biltmore Homes, Inc. Address 1546 No. Old Manor

Lessee \_\_\_\_\_ Address \_\_\_\_\_

(This appeal shall be filed with a \$15 fee within ninety days  
after the date of the decision of the Building Inspector.)

STATEMENT OF APPEALS

The following information is submitted in support of appeal to the Board of Zoning Appeals on behalf of Biltmore Homes, Inc. and Warren B. Niedens:

- A. Description of proposed work or use:  
The real estate involved is the West Half of Lot 3, Hood Avenue, in Ford's 2nd Addition to Wichita, Kansas, containing 11,110 square feet or more, which divides into two building sites containing 5555 square feet each. Each of the building sites is to be utilized for the construction of a six room brick home with 2-car attached garage to sell for approximately \$22,000.00, a copy of the plans and specifications is hereto attached, marked Exhibit "A" and made a part hereof.
- B. The area in which the property is located was formerly zoned A and has since been rezoned to AA zoning. The building inspector issued building permits upon 2042 and 2048 North Hood, Wichita, Kansas, which permits are attached hereto marked Exhibit "B" and made a part hereof; that thereafter the building inspector requested appellants to take no further action because the building area contained only 5555 square feet and the ordinance for AA zoning requires 6000 square feet per dwelling. That a hardship exists by reason of such cancellation, the appellants being unable to economically utilize the property after having relied upon said permits. That the permits were rescinded under Section 4-C.4 on the 13th day of January, 1955, a copy of which rescision order is attached hereto and marked Exhibit "C".

- C. The property in question is located in an AA Zoning area but is less than a block from an A Zoned area. This property was formerly zoned as A Zoning and at that time the portion of lots used for houses was less than 6000 square feet of AA Zoning. That the area utilized by the appellants will be consistent with the lot sizes in the surrounding area. The proposed development by the appellants will be an improvement to the area, even though a technical violation of AA Zoning. That the exception or variance arises from a condition not ordinarily found in the same zoning district due to the change from A to AA Zoning.
- D. The granting of a permit or a reversal of the rescission order of the building inspector will not affect the property of adjacent property owners in view of the fact that many violations are now found in this area. The proposed improvements will be of a cost in excess of the value of surrounding property and of attractive and substantial construction. Although building restrictions have been imposed by the platters of this addition requiring among other things 2-car garages, of the fifteen houses located in the square block eight have only single car garages. Another house in the block has permitted the parking of a house trailer behind it. Another house in the block is raising some domestic animals. It must therefore be concluded that no damage of any kind will be afforded to adjacent property owners.
- E. That the strict application of the terms of this ordinance will constitute an unnecessary hardship upon the appellants in view of the fact that the property cannot economically be utilized. This is true because of the adjacent properties located within the block area. In addition the property owner and appellants have expended monies and time in reliance upon the building permits issued to utilize this property and the rescission of the building permits constitutes an undue hardship upon them.

- F. The exception or variance, if granted, will not operate against the public interest in as much as the property involved and the development contemplated thereon will be consistent with the surrounding area and of a value in excess of the development of the existing area. In addition the deficiency in square feet area is only 445 feet and will not constitute a noticeable variance under the circumstances.
- G. The area involved at the present time is a vacant lot of a size as set out above for the proposed construction as shown on the attached plan marked Exhibit "A". Attached hereto find a certified list from the Security Abstract Company of the names and addresses of all property owners within a two hundred foot radius of the property concerned.

It is respectfully requested that the Board of Zoning Appeals, upon hearing of this appeal, rescind and set aside the rescission order of the Building Inspector of Wichita, Sedgwick County, Kansas and permit the appellants to proceed with the construction of the proposed residential dwellings at 2042 and 2048 North Hood Avenue, Wichita, Kansas

BILTMORE HOMES, INC.

By Warren B. Neidens  
Vice-President

Warren B. Neidens  
Warren B. Neidens

SET BACK AND SIDE YARDS SHALL CONFORM WITH ZONING ORDINANCE

Permit

CITY OF WICHITA, KANSAS

App. No.

No B52835

INSPECTION DEPARTMENT

936511

Permission is hereby granted to *Cret*

a structure at No. *2042 N. Hood* and to be used for

*1 1/2 m. plus + att. gar.*

All work to be done in compliance with the laws and ordinances pertaining to same and in conformity with the plans or application filed with, and approved by, the Inspection Department.

Estimated Cost \$ *10,750.00* Fee \$ *13.00*

KEEP PERMIT ON PREMISES

Owner *Biltmore Homes*

Address *1546 N. 1st Manot*

Contractor *Same* OCT-25-54 28719

Dated *10-25*, 19 *54*

A. S. B. MAPLE 13.00  
Building Inspector

Address Issued by *A. C.*

SUBJECT TO REFUND WITHIN TEN DAYS VOID UNLESS STAMPED BY CASHIER

*Exhibit B* VOID UNLESS WORK IS STARTED WITHIN SIX MONTHS

SET BACK AND SIDE YARDS SHALL CONFORM WITH ZONING ORDINANCE

Permit

CITY OF WICHITA, KANSAS

App. No.

No B52836

INSPECTION DEPARTMENT

936511

Permission is hereby granted to *Cret*

a structure at No. *2048 N. Hood* and to be used for

*1 1/2 m. plus + att. gar.*

All work to be done in compliance with the laws and ordinances pertaining to same and in conformity with the plans or application filed with, and approved by, the Inspection Department.

Estimated Cost \$ *10,750.00* Fee \$ *13.00*

KEEP PERMIT ON PREMISES

Owner *Biltmore Homes*

Address *1546 N. 1st Manot*

Contractor *Same* OCT-25-54 28718

Dated *10-25*, 19 *54*

A. S. B. MAPLE 13.00  
Building Inspector

Address Issued by *A. C.*

SUBJECT TO REFUND WITHIN TEN DAYS VOID UNLESS STAMPED BY CASHIER

*Exhibit B* VOID UNLESS WORK IS STARTED WITHIN SIX MONTHS

CITY OF WICHITA  
BUILDING INSPECTION DIVISION

To Biltmore Homes Owner Address 1546 N. Old Manor

To Warren B. Niedens Applicant Address 1546 N. Old Manor

Dear Sir:

Your application Dated October 25, 1954  
and  
~~Permits~~ Permits for the erection of two one-family houses  
at the premises designated as

2042 and 2048 North Hood  
are hereby ~~refused~~ <sup>rescinded</sup> on this 13th day of January, 1955.

Under Section 4 C.4 of the Zoning Ordinance.

For the reason that there is insufficient lot area on this property for two one-family houses. The ordinance requires that there be 6000 square feet of lot area for each one-family dwelling, and each of these lots contains only 5500 square feet.

Respectfully,

*S. B. Maple*  
S. B. Maple  
Chief Building Inspector

NOTE: Any appeal from this refusal must be filed with the Board of Zoning Appeals (Room 304, City Hall) within ninety (90) days after the date of this refusal. For further information, take this notice to the Planning Department, Room 304, City Hall.

*Exhibit "C"*

BOARD OF ZONING APPEALS  
Room 302, City Hall  
Wichita, Kansas

NOTICE TO PROPERTY OWNERS

February 4, 19 55

An appeal has been filed by Warren B. Niedens  
(Address) \_\_\_\_\_ on behalf of  
BILTMORE HOMES, INC. (Address) 1546 N. Old Manor  
as provided by Section 33 of the Zoning Ordinance. The appellant  
desires to get a reversal of a rescission of a building permit to  
erection of two one-family houses  
on the premises located at 2042 and 2048 North Hood.

This appeal has been given Case No. 3-55, and a hearing will  
be held by the Board of Zoning Appeals on Friday  
February 11 at 1:30 in Room 201 of the City Building, at  
which time you may appear, if you so desire, either in person or  
by agent or attorney.

By order of the Board of Zoning Appeals.

George Fisher  
Secretary, Board of Zoning Appeals

We the undersigned are opposed to this appeal case no. 3-55.

1. W. H. Orr 2057 Hood
2. Dana J. Orr 2057
3. Wilma Beal Walker - 2056 Hood
- X 4. Rose Brewer (Mrs. Stanm.) 2051 Hood
- X 5. Frances W. Ingle (Don't) 2045 Hood
- Melva Rosiere 2025 Hood
- Leroy Rosiere 2025 Hood
- Marion DeLaff 2021 Hood
- Stella DeJapp 2021 Hood
- Hattie Hazel Carnahan 2018 Hood
- Kenneth C. Mattley 2026 Hood
- Janet Mattley 2026 Hood
- Oren Dille 2039 Hood
- John Dille Jr 2039 Hood
- Mrs Bruce Behymer 2057 Payne
- Oren D. Lyon 2051 Payne
- Mrs Oren D. Lyon 2051 Payne
- William L. Doby 2045 Payne
- Mrs William L. White 2045 Payne
- Amy L. Jones 2035 Payne
- Lillian V. Mc Kee 2035 Payne
- Alfred Beard 2021 Payne
- Bessie Con 2028 Payne
- Urbel Pless 2034 Payne
- Kelene Gehpard 2046 Payne
- Alice Gehreb 2056 Payne
- Mrs. Maxine Swain 2034 Hood
- Bruce Behymer 2057 Payne
- Howard Behrer 2056 Payne

George M. Ashford Jr	2046	Payne
Glen M. Browne	2051	Hood
Alma S. Smith	2102	Hood
Albert F. Smith	2102	Hood
Mervin E. Swain	2034	Hood
Dora W. Jingle	2045	Hood

NOTICES SENT TO PROPERTY OWNERS 2-3-55

*and appellant*

BOARD OF ZONING APPEALS  
Room 302, City Hall  
Wichita, Kansas

NOTICE TO PROPERTY OWNERS

February 4, 1955

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By order of the Board of Zoning Appeals.

George Fisher  
Secretary, Board of Zoning Appeals

## OWNERSHIP LIST

200 foot Radius of W $\frac{1}{2}$  Lot 3, Hood Ave., Ford's 2nd Addition

Lot	Street	Addition	Property Owner
N 3 $\frac{1}{2}$ ft. Lot 1	Hood Ave.	Riverview Court	Blanch M. Smith $\frac{1}{2}$ interest with Albert F. Smith Alma L. Smith <i>2108 Hood</i>
1 exc. N 3 $\frac{1}{2}$ ft.	"	"	Albert F. Smith Alma L. Smith <i>2108 Hood</i>
6	Payne Ave.	"	S. Sanford Swim Mattie Frances Swim <i>2101 Payne</i>
W $\frac{1}{2}$ Lot 1	"	Ford's 2nd Add.	Wilma Broden Walker <i>2056 Hood</i>
N 52 ft. E $\frac{1}{2}$ lot 1	"	"	Bruce Behymer Lenla B. Behymer <i>2057 Payne</i>
S 48 ft. E $\frac{1}{2}$ lot 1	"	"	Oren D. Lyon Marjorie F. Lyon <i>2051 Payne</i>
W $\frac{1}{2}$ Lot 3	"	"	Biltmore Homes Inc. <i>Petitioner in appeal</i>
N 16 ft. E $\frac{1}{2}$ lot 3	"	"	Oren D. Lyon Marjorie F. Lyon <i>2051 Payne</i>
E $\frac{1}{2}$ lot 3 exc S 10ft & exc N 16ft	"	"	William L. White Viola S. White <i>2095 Payne</i>
N 66.67 ft E $\frac{1}{2}$ lot 5 & S 10 ft. E $\frac{1}{2}$ lot 3	"	"	Amy L. Jones Lillian V. McKee <i>2035 Payne</i>
W $\frac{1}{2}$ lot 5	"	"	Marvin E. Swim Marcella Swim <i>2034 Hood</i>
N 33.33 ft. E $\frac{1}{2}$ lot 7 S 33.33 ft. E $\frac{1}{2}$ lot 5	"	"	Jacob Coval Stella M. Coval <i>2027 Payne</i>
S 66.67 ft. E $\frac{1}{2}$ lot 7	"	"	Alfred B. Beard Mabel A. Beard <i>2021 Payne</i>
N 70 ft. W $\frac{1}{2}$ lot 7	"	"	Kenneth C. Mattley <i>2026 Hood</i>
S 30 ft. W $\frac{1}{2}$ lot 7	"	"	Hattie Hazel Carnahan <i>2018 Hood</i>

Continued Page 2

Lot	Street	Addition	Property Owner
W $\frac{1}{2}$ lot 2	Payne Ave.	Ford's 2nd Add.	Howard Gehrer Alice Gehrer <i>2056 Payne</i>
N 80 ft. W $\frac{1}{2}$ lot 4	"	"	George Marim Ashford jr. Kolene Kerr Ashford <i>703 West 17th</i>
S 20 ft. W $\frac{1}{2}$ lot 4 & N 65 ft. W $\frac{1}{2}$ lot 6	"	"	Eugene V. Pless Ethel G. Pless <i>2034 Payne</i>
S 35 ft. W $\frac{1}{2}$ lot 6 N 35 ft. W $\frac{1}{2}$ lot 8	"	"	Bessie Carr <i>2028 Payne</i>
S 150 ft. lot 131 & S 150 ft. o f W 15 ft. lot 132	20th St.	Motor Add.	E. Lyle Goodwin Clair Maxine Goodwin <i>2702 W 13th</i>
E 10 ft. S 150 ft. lot 132 & S 150 ft. lots 133 & 134	"	"	I. G. Hill Mary N. Hill <i>1757 N. Colorado</i>
1, 3 & N 10 ft. lot 5	Hood Ave.	Motor Add.	William G. Orr Dora I. Orr <i>2057 Hood</i>
S 15 ft. lot 5 & lot 7 & N 20 ft. lot 9	"	"	Glen M. Browne Rose Jeanette Browne <i>2051 Hood</i>
S 5 ft. lot 9 & lots 11-13 & N 5 ft. lot lot 15	"	"	Donald W. Ingle Frances W. Ingle <i>2043 Hood</i>
S 20 ft. " lot 15 & lots 17-19-21-23	"	"	John Dell Jr. Irene E. Dell <i>2039 Hood</i>
Lots 25 & 27 & N 10 ft " lot 29	"	"	Le Roy Rosiere Melva M. Rosiere <i>2025 Hood</i>
S 15 ft. lot 29 & lot 31 "	"	"	Marvin De Lapp Stella De Lapp <i>2021 Hood</i>

We hereby certify the foregoing to be a correct list of property owners in the 200 foot radius of the West half of lot 3, Hood Avenue Ford's Second Addition to the City of Wichita, as shown by the records in the Office of the Register of Deeds of Sedgwick County Kansas, this 21st day of January 1955 A.D. at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY INC.

BY  
Order No. 11587  
JMR

*Lucille Schneider*  
Vice President

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1