

ACTION

DATE

8/25/61

Sya COMMITTEE _____

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA 4-61 - MICHAEL NEUBURGER REQUEST
VARIANCE FROM SETBACK REQUIREMENTS
ON ACCESSORY STRUCTURES ON S SIDE OF
MURDOCK IN AN AREA EAST OF YALE AVE.

RESOLUTION NO. 4-61

WHEREAS, MICHAEL NEUBURGER, 3733 EAST MURDOCK, WICHITA, KANSAS, BY SPENCER L. DEPEW, ATTORNEY, 830 FIRST NATIONAL BANK BUILDING, WICHITA, KANSAS, HAS REQUESTED A VARIANCE FROM THE STRICT ENFORCEMENT OF THE ZONING ORDINANCE BY PERMITTING AN ACCESSORY USE IN THE "A" ZONE DISTRICT, TO BE LOCATED IN THE SIDE AND FRONT YARD INSTEAD OF THE REAR YARD; AND TO PERMIT SAME TO BE LOCATED NEARER THAN 60 FEET TO THE FRONT PROPERTY LINE; AND

WHEREAS, SAID ACCESSORY USE IS A TEMPORARY STRUCTURE TO COVER A SWIMMING POOL WHICH IS ALREADY IN EXISTENCE AND WHICH IS LOCATED APPROXIMATELY 14 FEET FROM THE PROPERTY LINE ADJACENT TO THE STREET, AT 3733 EAST MURDOCK, LEGALLY DESCRIBED AS

LOT 14 AND THE HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NW BOUNDARY AND SW BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION IN THE CITY OF WICHITA, KANSAS; AND

WHEREAS, PROPER NOTICE AS REQUIRED BY ORDINANCE AND BY THE RULES AND BY-LAWS OF THE BOARD OF ZONING APPEALS HAS BEEN GIVEN; AND

WHEREAS, THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, DID, IN REGULAR MEETING CONSIDER SAID APPLICATION FOR VARIANCE ON APRIL 25, 1961; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS DETERMINED THAT IT HAS JURISDICTION TO CONSIDER SAID REQUEST FOR VARIANCE UNDER THE PROVISIONS OF SECTION 2.12.590, CODE OF THE CITY OF WICHITA; AND

WHEREAS, AFTER DUE CONSIDERATION AND AFTER HEARING ARGUMENTS FROM BOTH THE APPLICANT AND COUNSEL FOR THE APPLICANT, AND BY VARIOUS PROTESTORS, AS WELL AS COUNSELS FOR PROTESTORS; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THE VARIANCE DESIRED ARISES FROM SUCH CONDITION WHICH IS UNIQUE AND WHICH IS NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT IN THAT THE SIZE AND NATURE OF THE LOT(S) WOULD NOT PERMIT THE LOCATION OF SUCH ACCESSORY USE IN THE REAR YARD AND IN THAT A BUILDING PERMIT WAS ISSUED FOR THE CONSTRUCTION OF A SWIMMING POOL AT THE LOCATION REQUESTED FOR THE VARIANCE; 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 AND RESIDENTS, INASMUCH AS MANY ADJOINING PROPERTY OWNERS HAVE MADE KNOWN THEIR OPPOSITION THROUGH THE SIGNING AND SUBMISSION OF A PROTEST PETITION CONTAINING 36 SIGNATURES, AND HAVE MAINTAINED THAT THE TEMPORARY SWIMMING POOL COVER FOR WHICH THE VARIANCE IS REQUESTED, WILL DEPRECIATE THE VALUE OF THEIR RESIDENTIAL PROPERTY, AND DETRACT FROM THE FULL ENJOYMENT OF THEIR RESIDENTIAL PROPERTY; AND

WHEREAS, THE BOARD OF ZONING APPEALS HAS FOUND THAT THE STRICT APPLICATION OF ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL NOT CONSTITUTE UNNECESSARY HARDSHIP UPON THE PROPERTY OWNER, INASMUCH AS THE COVER IS A REMOVABLE STRUCTURE WHICH CAN BE DISMANTLED AND TAKEN DOWN WITHOUT TOO MUCH TROUBLE OR EXPENSE, AND WHICH COVER WAS ORIGINALLY CONSTRUCTED WITHOUT THE PROPER BUILDING PERMIT AS REQUIRED UNDER THE ZONING ORDINANCE, WHICH REQUIREMENT THE APPLICANT OR HIS AGENT SHOULD HAVE BEEN AWARE OF; AND FURTHER, THAT YEAR ROUND SWIMMING FACILITIES ARE AVAILABLE FOR THE GENERAL PUBLIC; 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; AND

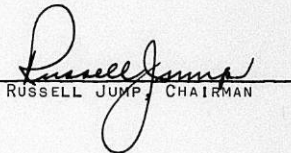
WHEREAS, AS SHOWN ABOVE, EACH OF THE FOUR CONDITIONS REQUIRED BY SECTION 2.12.590.2 OF THE CITY CODE OF WICHITA, TO BE PRESENT BEFORE A VARIANCE CAN BE GRANTED, HAVE NOT BEEN FOUND TO EXIST;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, KANSAS, THAT THIS REQUEST FOR A VARIANCE FROM THE STRICT ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE TO PERMIT THE CONSTRUCTION OF A TEMPORARY COVER FOR AN EXISTING SWIMMING POOL IN THE SIDE AND FRONT YARD AND WITHIN 60 FEET OF THE FRONT PROPERTY LINE AT 3733 EAST MURDOCK, WICHITA, KANSAS, LEGALLY DESCRIBED AS

LOT 14 AND THE HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NW BOUNDARY AND SW BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION IN THE CITY OF WICHITA, KANSAS,

BE AND THE SAME IS HEREBY DENIED.

ADOPTED AT WICHITA, KANSAS, THIS 25TH DAY OF APRIL, 1961.



RUSSELL JUMP, CHAIRMAN

ATTEST:



ROBERT A. LAKIN, SECRETARY

OCTOBER 16, 1962

MR. SPENCER L. DEPEW, ATTORNEY
830 FIRST NATIONAL BANK BUILDING
WICHITA, KANSAS

SUBJECT: BZA 4-61 - MICHAEL
NEUBURGER SWIMMING POOL

DEAR MR. DEPEW:

AS REQUESTED, I HAVE REVIEWED THE ABOVE CASE IN LIGHT OF NEW AMENDMENTS TO THE ZONING ORDINANCE CONCERNING LOCATIONS OF ACCESSORY STRUCTURES. SECTION 28.04.040 A.9 OF THE CODE PROVIDES THAT ACCESSORY STRUCTURES MAY BE LOCATED IN SIDE OR REAR YARD AREAS WITH A FURTHER PROVISION THAT THE BOARD OF ZONING APPEALS MAY GRANT EXCEPTIONS AS TO HEIGHT, AREA, SETBACK AND LOCATION PROVISIONS FOR ACCESSORY STRUCTURES. THESE EXCEPTIONS CAN BE GRANTED AS LONG AS:

1. ADEQUATE ACCESS TO THE LAND IS MAINTAINED FOR FIRE AND POLICE PROTECTION.
2. ADEQUATE ACCESS IS MAINTAINED FOR THE SERVICE OF UTILITIES.
3. APPROPRIATE CONDITIONS OR REQUIREMENTS MAY BE MADE BY THE BOARD TO PRESERVE THE GENERAL CHARACTER OF THE NEIGHBORHOOD, AREA OR DEVELOPMENT AND TO PROVIDE FOR THE PUBLIC SAFETY, HEALTH, CONVENIENCE AND GENERAL WELFARE.

IT WOULD APPEAR FROM EXAMINATION OF THE ORIGINAL PLOT PLAN THAT YOUR CLIENT SHOULD APPLY FOR AN EXCEPTION UNDER THESE PROVISIONS TO ALLOW THE SWIMMING POOL IN THE FRONT YARD AREA (TO BE WITHIN 8.8 FEET OF SAID FRONT LOT LINE), AND TO ALLOW AN EXCEPTION TO THE SIDE YARD SETBACK REQUIREMENT OF 6 FEET TO A PERMITTED DISTANCE OF 3.9 FEET. ATTACHED ARE FORMS FOR THE FILING OF AN APPLICATION FOR AN EXCEPTION. I WOULD BE HAPPY TO DISCUSS THIS MATTER WITH YOU AT YOUR CONVENIENCE.

SINCERELY YOURS,

ROBERT A. LAKIN
SENIOR PLANNER

RAL:MM
CC: CHARLES HARRIS, ATTORNEY

May 29, 1961




Mr. Michael Neuburger
3733 East Murdock
Wichita, Kansas

Dear Mr. Neuburger:

Mr. Don Livingston, building inspector of your area of the city has informed me that you have caused the cover that had been erected over your swimming pool to be removed. This was in accordance with the decision of the Board of Zoning Appeals in consideration of your appeal to them to allow the roof to remain.

I appreciate very much your action in this matter and, of course, you understand that it will not be permissible for this to be re-erected at any time.

Sincerely yours,


S. B. Maple
Superintendent of Building Inspection

SBM:ml

cc: ✓ Robert A. Lakin
Secretary of Board of Appeals

Mattingly Amsden Company
729 East Central



Photo By
AZIM STUDIOS
Reorder No.

6
522 S. MINNESOTA
PO Box 3-3652
WICHITA, KANSAS

When Minded + Roosevelt
looking toward 3736 Sleepy Hollow
D Azim

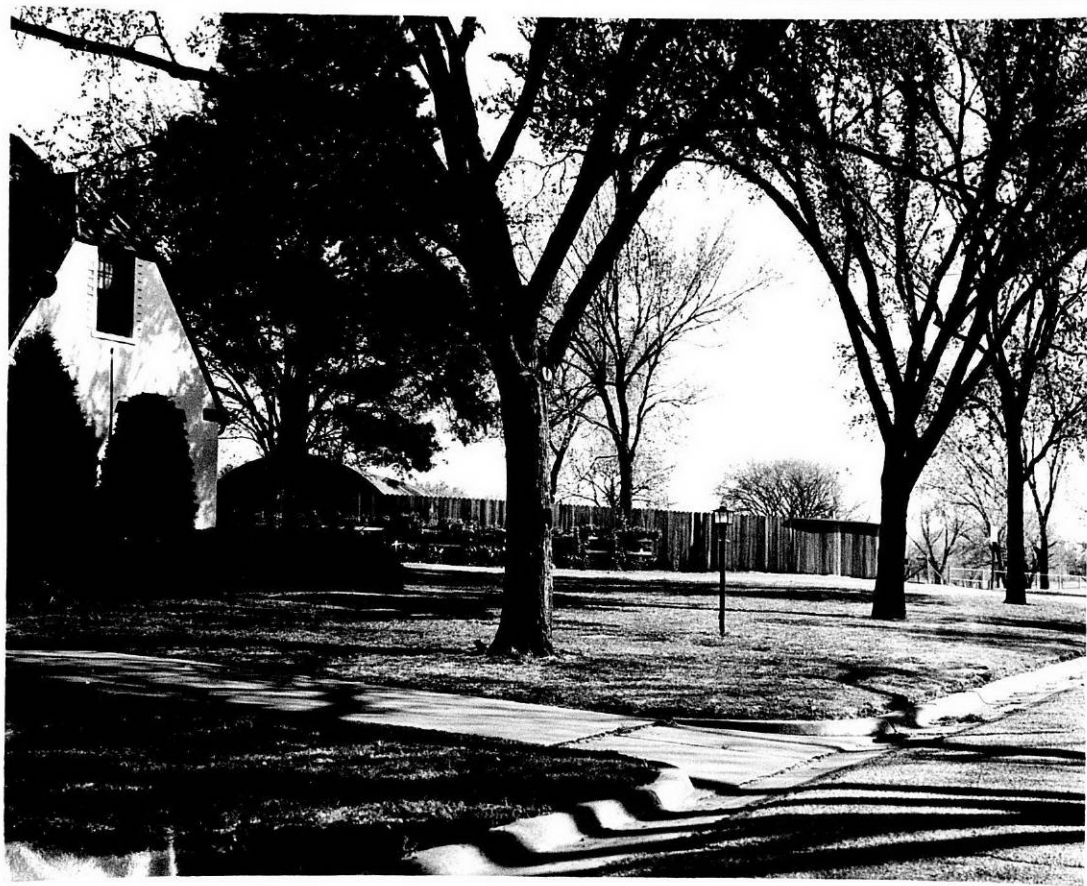


photo by
AZIM ET AL
No. 101-151 No
2
522 S. MINNESOTA
FOREST 3-3632
WICHITA, KANSAS

taken in front of 3736 Sleepy Hollow Dr
(middle street)

DCZim

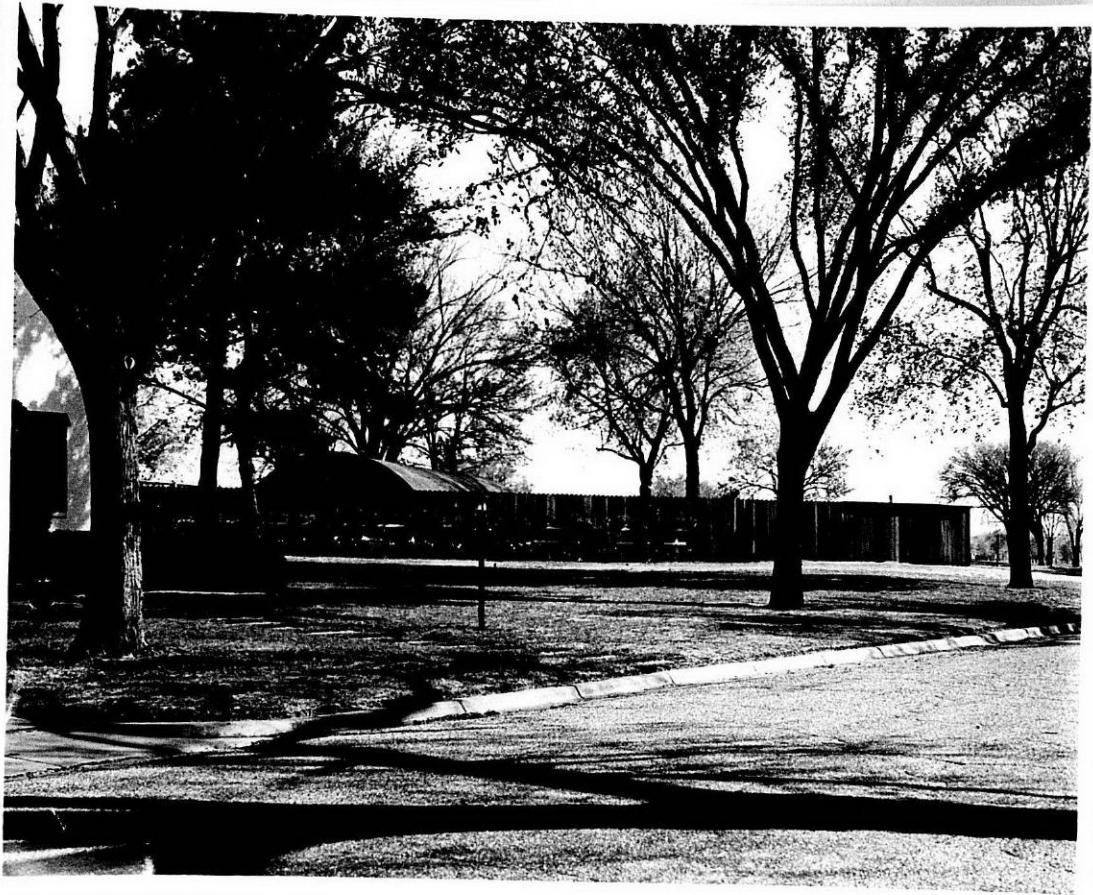


Photo By
AZIM STUDIOS
Reorder By No.

W
522 S. MINNESOTA
FOREST 3-3652
WICHITA, KANSAS

from across street from 3740 Sleepy Hollow

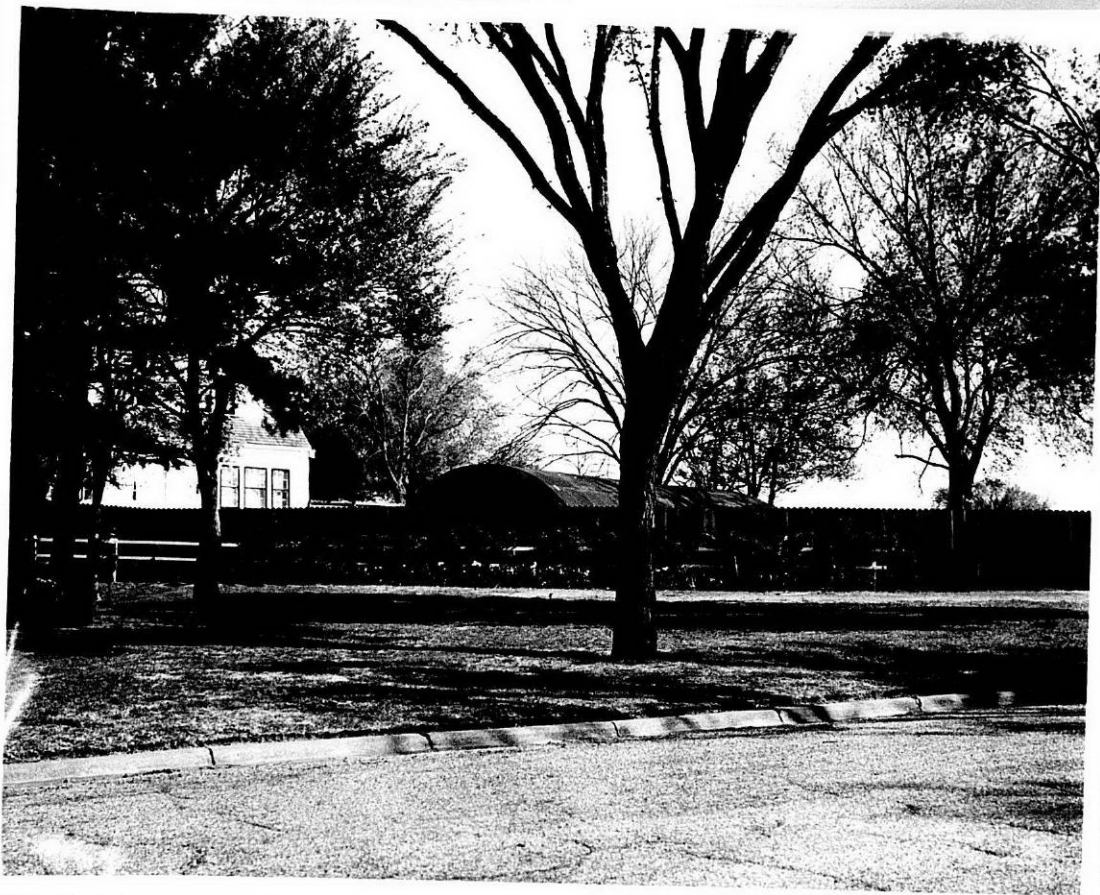


Photo By
AZIM STUDIOS
Recorder By No.

522 S. MINNESOTA
FOrest 3-3652
WICHITA, KANSAS

taken front of 3740 Sleepy Hollow

Azim



Taken from Bridge
Looking west
Corner Slegy Hall
& Russell
Bliss

Photo By
AZIM STUDIOS
Reorder By No. 5
522 S. MINNESOTA
Forest 3-3652
WICHITA, KANSAS



Photo By
AZIM STUDIOS
Reorder By No. ↓
522 S. MINNESOTA
Forest 3-3652
WICHITA, KANSAS

Taken from Mendock + Roswell
intersection w.
C. Agri



Photo by
AZIM STUDIOS
Recorder, BY No. 10
522 S. MINNESOTA
FOL. est. 2-3-682
WICHITA, KANSAS

view straight into Hershberger house
D.G.



Photo By
AZIM STUDIOS
Reorder By No.

9
522 S. MINNESOTA
FOREST 3-3652
WICHITA, KANSAS

mem 55w

Azim



Photo By
AZIM STUDIOS
Reorder By No
8
522 S. MINNESOTA
Forest 3-3652
WICHITA, KANSAS

taken for mma doc + Rosewell SW vici

Dayin

BOARD OF ZONING APPEALS

APRIL 28, 1961

C. H. FUNK, CITY CLERK

ROBERT A. LAKIN, SECRETARY

RESOLUTION BZA 4-61

ATTACHED IS ONE COPY OF THE RESOLUTION ADOPTED BY THE BOARD OF ZONING APPEALS IN THE ABOVE CASE. THE BOARD DENIED THE REQUEST FOR A VARIANCE AT ITS REGULAR MEETING OF APRIL 25, 1961. UNDER TERMS OF THE ORDINANCE THE DECISION OF THE BOARD CAN BE APPEALED TO THE CITY COMMISSION ON OR BEFORE MAY 5, 1961.

ROBERT A. LAKIN
SECRETARY

RAL:BR

ATTACHMENTS

CC: BEECH MAPLE, BUILDING INSPECTION

file copy

WICHITA, KANSAS
Hoyer, Henderson & Donaldson

CITY BUILDING ANNEX, TELEPHONE AREA 2-8211

WICHITA, KANSAS

BOARD OF ZONING APPEALS
Office of Secretary

APRIL 27, 1961

MR. MICHAEL NEUBURGER
~~3733 EAST MURDOCK~~
WICHITA, KANSAS

DEAR MR. NEUBURGER:

RE: BZA 4-61

THIS IS TO ADVISE YOU THAT AT ITS REGULAR MEETING OF APRIL 25, 1961, THE BOARD OF ZONING APPEALS OF THE CITY OF WICHITA, CONSIDERED YOUR REQUEST FOR VARIANCE OF SETBACK REQUIREMENTS FOR PROPERTY LOCATED AT 3733 EAST MURDOCK, WICHITA, KANSAS, BEING LOCATED GENERALLY ON THE SOUTH SIDE OF MURDOCK IN AN AREA BETWEEN YALE AND ROOSEVELT. THE BOARD DENIED YOUR REQUEST.

SECTION 2.12.610 OF THE CODE OF THE CITY OF WICHITA, PROVIDES THAT THE DECISION OF THE BOARD OF ZONING APPEALS SHALL BE FINAL UNLESS IT IS APPEALED TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN DAYS OF THE DATE OF THE BOARD'S ACTION. ACCORDINGLY, AN APPEAL COULD BE FILED WITH THE CITY CLERK, IN THIS CASE ON OR BEFORE MAY 5, 1961. IF YOU WISH TO FILE AN APPEAL, THE PROPER FORMS MAY BE OBTAINED FROM THE CITY CLERK, ROOM 104, CITY BUILDING, 204 SOUTH MAIN.

SUBSEQUENT TO THE EXPIRATION OF THE APPEAL PERIOD, YOU WILL BE ADVISED WHETHER OR NOT AN APPEAL HAS BEEN FILED. IF NO APPEAL HAS BEEN FILED ON OR BEFORE MAY 5, 1961, THE DECISION OF THE BOARD WILL BE FINAL.

VERY TRULY YOURS,

Raf
ROBERT A. LAKIN
SECRETARY

RAL:BER

cc: C. H. FUNK, CITY CLERK

SPENCER DEPEW, 830 1st NATIONAL BANK BUILDING
VERNE LAING, 123 SOUTH MARKET
ROBERT C. BELL, 123 SOUTH MARKET

IN THE
CITY OF WICHITA
BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

Page 1
of 2

Rec + File
BZA
425-61
RAL.

Case No. BZA 4-61

P R O T E S T

The undersigned and each of them hereby object to the application for a variance in the setback requirements filed on behalf of Michael G. Neuburger, 3733 East Murdock, and hereby register and file formal protest against the granting of any variance or exception to the setback requirements applicable to the property at 3733 East Murdock, Wichita, Kansas, legally described in said application and generally located on the south side of Murdock in an area between Yale and Roosevelt, for the reason that it will adversely affect the rights of the adjacent property owners or residents, and will adversely affect the public health, safety, morals, order, convenience, prosperity and general welfare.

<u>Margaret A. Saylor</u> Name	<u>3728 Sleepy Hollow</u> Address
<u>Emerson Saylor</u> Name	<u>3728 Sleepy Hollow</u> Address
<u>Wm Jay Gill</u> Name	<u>3700 Sleepy Hollow</u> Address
<u>Mrs Chas. L. Bowen</u> Name	<u>3700 Sleepy Hollow</u> Address
<u>Arnold H. Newhart</u> Name	<u>3705 Sleepy Hollow</u> Address
<u>Helen L. Newhart</u> Name	<u>3705 Sleepy Hollow</u> Address
<u>Charlotte F. Minard</u> Name	<u>3711 Sleepy Hollow</u> Address
<u>Nerbert H. Minard</u> Name	<u>3711 Sleepy Hollow</u> Address
<u>E. K. Kasper</u> Name	<u>3727 Sleepy Hollow</u> Address
<u>C. L. Woodhouse</u> Name	<u>3717 Sleepy Hollow</u> Address
<u>Gladys J. Woodhouse</u> Name	<u>3717 Sleepy Hollow</u> Address
<u>R. B. Davis Jr</u> Name	<u>3733 Sleepy Hollow</u> Address
<u>Josephine A. Davis</u> Name	<u>3733 Sleepy Hollow</u> Address

Page 2 of 4

IN THE
CITY OF WICHITA
BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

Case No. BZA 4-61

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- | | |
|---------------------------------|---|
| <u>Al Pray</u>
Name | <u>3720 Sleepy Hollow</u>
Address |
| <u>Lora Pray</u>
Name | <u>3720 Sleepy Hollow</u>
Address |
| <u>Hazel Feldner</u>
Name | <u>3712 Sleepy Hollow</u>
Address |
| <u>B. S. Crosswait</u>
Name | <u>607 N. Rowlett</u>
Address |
| <u>P. Mitchell</u>
Name | <u>3741 Sleepy Hollow</u>
Address |
| <u>J. H. Compton</u>
Name | <u>3901 Pine Knot Court</u>
Address |
| <u>Elsa Compton</u>
Name | <u>3901 Pine Knot Court</u>
Address |
| <u>Ray E. Halber</u>
Name | <u>3915 Pine Knot Ct</u>
Address |
| <u>W. Lee Leavell</u>
Name | <u>3740 Sleepy Hollow</u>
Address |
| <u>Mary Leavell</u>
Name | <u>3740 Sleepy Hollow</u>
Address |
| <u>Ann K. Sargent</u>
Name | <u>3736 Sleepy Hollow</u>
Address |
| <u>J. Worth Sargent</u>
Name | <u>3736 Sleepy Hollow Dr</u>
Address |
| <u>Jewell Watcher</u>
Name | <u>Address</u> |

IN THE
CITY OF WICHITA
BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

Page 3 of 4

Case No. BZA 4-61

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<u>Catrine M. Wallington</u> Name	<u>3919 Pine Knot Court</u> Address
<u>Minnie J. Wallington</u> Name	<u>3919 Pine Knot Court</u> Address
<u>L. Joe Bruner</u> Name	<u>3921 Pine Knot Court</u> Address
<u>Carl W. Bruner</u> Name	<u>3921 Pine Knot Court</u> Address
<u>Henry R. Wade, Sr.</u> Name	<u>3725 E. Murdock</u> Address
<u>Pat Minter</u> Name	<u>3721 E. Murdock</u> Address
<u>Merle J. Shaw</u> Name	<u>3705 E. Murdock</u> Address
<u>Frances J. Quinn</u> Name	<u>3727 Deep Hollow Dr.</u> Address
<u>Nancy H. Gott</u> Name	<u>3925 Pine Knot Court</u> Address
<u>Helga H. Gott</u> Name	<u>3925 Pine Knot Court</u> Address
_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

BZA CASE 4-61

CASE DESCRIPTION

APPLICANT DESIRES A VARIANCE IN THE SETBACK REQUIREMENTS FOR A PROPOSED ACCESSORY STRUCTURE ON PROPERTY AT 3733 EAST MURDOCK. THIS PROPERTY IS IN AN "A" ZONING DISTRICT; ACCESSORY STRUCTURES IN THIS DISTRICT REQUIRE A REAR YARD LOCATION AND A SETBACK OF NOT LESS THAN SIXTY (60) FEET FROM THE FRONT LOT LINE. (SECTION 26.04.050, PART A.1 AND SECTION 26.04.040, PART A.9).

THE ACCESSORY STRUCTURE PROPOSED BY THE APPLICANT WOULD BE A FIRE PROOF COVERING, COMPLETELY ENCLOSING THE RECENTLY CONSTRUCTED SWIMMING POOL AND PLACED ON THE PROPERTY AS SHOWN ON THE ACCOMPANYING MAP.

EXISTING LAND USE

AN AERIAL PHOTO AND LAND USE MAP OF THE PROPERTY AND ITS ENVIRONS WILL BE DISPLAYED AT THE BOARD OF ZONING APPEALS MEETING.

FACTS TO CONSIDER

- ZONING ORDINANCE DEFINITIONS OF STRUCTURE (PAGE 1023) BUILDING (PAGE 1018), ACCESSORY BUILDING (PAGE 1018), AND REAR YARD (PAGE 1023)
- THE ACCESSORY STRUCTURE IS INSTALLED OVER THE POOL
- APPLICANT'S ARGUMENTS FOR GRANTING OF THE VARIANCE (SEE ACCOMPANYING SHEETS).

BOARD'S CHOICE OF ACTION

THE BOARD HAS JURISDICTION (SECTION 2.12.590, WICHITA CITY CODE) TO GRANT VARIANCES FROM SETBACK REQUIREMENTS, PROVIDED THE BOARD HAS DETERMINED THAT ALL THE FOLLOWING CONDITIONS ARE PRESENT:

1. VARIANCE ARISES FROM A UNIQUE CONDITION, NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT.
2. GRANTING OF THE VARIANCE WILL NOT AFFECT ADVERSELY RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS.
3. STRICT APPLICATION OF ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP UPON THE PROPERTY OWNER.
4. VARIANCE WILL NOT AFFECT ADVERSELY PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.

SECRETARY'S OPINION AND SUGGESTION

IT IS THE SECRETARY'S OPINION AND SUGGESTION THAT THE BOARD:

- GRANT THE VARIANCE PROVIDED THAT WHEN THE CASE IS HEARD BY THE BOARD IT IS DETERMINED THAT CONDITIONS TWO AND FOUR CAN BE SATISFIED. CONDITIONS ONE (UNIQUENESS) AND CONDITION THREE (HARDSHIP FOR THE PROPERTY OWNER) CAN BE SATISFIED ON THE BASIS OF EXISTING EVIDENCE.
- REQUEST THAT THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION DEFINE MORE CLEARLY IN THE ZONING ORDINANCE THE SETBACK REQUIREMENTS FOR SWIMMING POOLS AND THEIR ACCESSORY STRUCTURES. THE PROBLEM OF LOCATING SWIMMING POOLS AND THEIR ACCESSORY STRUCTURES ON RESIDENTIAL LOTS APPARENTLY HAS NOT BEEN RESOLVED SATISFACTORILY. THE GROWING NUMBER OF POOLS AND POOL FACILITIES REQUIRES THAT AN ADEQUATE SOLUTION TO THE PROBLEM BE DETERMINED SOON.

APRIL 6, 1961

CERTIFIED MAIL

MR. SPENCER L. DEPEW, ATTORNEY
830 FIRST NATIONAL BANK BUILDING
WICHITA, KANSAS

DEAR MR. DEPEW:

YOUR APPLICATION FOR A VARIANCE UNDER PROVISIONS OF PARAGRAPH 2.12.590.2 OF THE CODE OF THE CITY OF WICHITA, AND FILED ON BEHALF OF MICHAEL G. NEUBURGER, 3733 EAST MURDOCK, AND RELATING TO PROPERTY AT THAT ADDRESS AND LEGALLY DESCRIBED AS

LOT 14 AND THE HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NW BOUNDARY AND SW BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION TO THE CITY OF WICHITA,

HAS BEEN GIVEN BOARD OF ZONING APPEALS CASE No. BZA 4-61.

ALL INQUIRIES AND REFERENCES SHOULD BE MADE TO THAT CASE NUMBER WHEN YOU SEEK INFORMATION FROM THE SECRETARY.

FURTHER, YOU ARE NOTIFIED THAT YOU MAY APPEAR BEFORE THE BOARD OF ZONING APPEALS EITHER IN PERSON OR BY AGENT OR ATTORNEY, FOR A HEARING OF YOUR CASE ON TUESDAY, APRIL 25, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS.

VERY TRULY YOURS,

ALVIN J. KARETSKI
SECRETARY

AJK:SER

CC: MICHAEL G. NEUBURGER
3733 EAST MURDOCK

No. 648186

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO <i>Missor L. Depew</i>		POSTMARK OR DATE
STREET AND NO. <i>830 1st Nat Bk Bldg</i>		
CITY AND STATE <i>Wichita Kansas</i>		
If you want a return receipt, check which <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered		If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee
<input type="checkbox"/> 35¢ shows to whom, when, and address where delivered		
FEEs ADDITIONAL TO 20¢ FEE POD Form 3800 Jul 1957		

SEE OTHER SIDE

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

REGISTERED NO. _____ NAME OF SENDER
Metra Plans Dept

CERTIFIED NO. *648186* STREET AND NO. OR P. O. BOX
City Bldg Annex, 104 S. Main

INSURED NO. _____ CITY, STATE AND STATE
Wichita Kansas

POD Form 3811 Jan. 1958

RETURN TO

CS-16-71548-4

No. 648185

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO <i>Michael Neuburger</i>		POSTMARK OR DATE
STREET AND NO. <i>3733 E. Murdock</i>		
CITY AND STATE <i>Wichita Kansas</i>		
If you want a return receipt, check which <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered		If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee
<input type="checkbox"/> 35¢ shows to whom, when, and address where delivered		
FEEs ADDITIONAL TO 20¢ FEE POD Form 3800 Jul 1957		

SEE OTHER SIDE

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

WICHITA

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.

REGISTERED NO. _____ NAME OF SENDER
Metra Plans Dept

CERTIFIED NO. *648185* STREET AND NO. OR P. O. BOX
City Bldg Annex, 104 S. Main

INSURED NO. _____ CITY, STATE AND STATE
Wichita Kansas

POD Form 3811 Jan. 1958

RETURN TO

CS-16-71548-4

No. 648186

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO <i>Spencer L. Depew</i>		POSTMARK OR DATE
STREET AND NO. <i>830 1st Nat Bk Bldg</i>		
CITY AND STATE <i>Wichita Kansas</i>		
If you want a return receipt, check which <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered		If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee
35¢ shows to whom, when, and address where delivered		
FEES ADDITIONAL TO 20¢ FEE		
POD Form 3800 Jul 1957		SEE OTHER SIDE

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to addressee Show address where delivered
 (Additional charges required for these services)

RETURN RECEIPT
Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)
Spencer L. Depew

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
Barbara Thompson

DATE DELIVERED *APR 10 1961* ADDRESS WHERE DELIVERED (only if requested in item #1)

CS-16-71848-4 GPO

No. 648185

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO <i>Michael Neuburger</i>		POSTMARK OR DATE
STREET AND NO. <i>3733 E. Murdock</i>		
CITY AND STATE <i>Wichita Kansas</i>		
If you want a return receipt, check which <input checked="" type="checkbox"/> 10¢ shows to whom and when delivered		If you want restricted delivery, check here <input type="checkbox"/> 50¢ fee
35¢ shows to whom, when, and address where delivered		
FEES ADDITIONAL TO 20¢ FEE		
POD Form 3800 Jul 1957		SEE OTHER SIDE

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to addressee Show address where delivered
 (Additional charges required for these services)

RETURN RECEIPT
Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)
Mr Michael Neuburger

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
Elsa Neuburger

DATE DELIVERED *4-8-61* ADDRESS WHERE DELIVERED (only if requested in item #1)



CITY OF WICHITA
BOARD OF ZONING APPEALS
ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

APRIL 6, 1961

NOTICE TO ADJOINING PROPERTY OWNERS

AN APPLICATION FOR A VARIANCE HAS BEEN FILED BY SPENCER L. DEPEW, ATTORNEY, ON BEHALF OF MICHAEL G. NEUBURGER, 3733 EAST MURDOCK, WICHITA, KANSAS, AS PROVIDED BY SECTION 2.12.590.2 OF THE CODE OF THE CITY OF WICHITA. THE APPLICANT DESIRES A VARIANCE IN THE SETBACK REQUIREMENTS FOR PROPERTY LOCATED AT 3733 EAST MURDOCK, LEGALLY DESCRIBED AS

LOT 14 AND THE HALF OF LOT 13 LYING NORTH OF A LINE BISECTING THE ANGLE BETWEEN THE NW BOUNDARY AND SW BOUNDARY OF LOT 13, BLOCK 2, SLEEPY HOLLOW ADDITION TO THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS,

GENERALLY LOCATED ON THE SOUTH SIDE OF MURDOCK IN AN AREA BETWEEN YALE AND ROOSEVELT.

THIS APPLICATION HAS BEEN ASSIGNED CASE No. BZA 4-61. A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON TUESDAY, APRIL 25, 1961, AT 1:30 P.M. IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR ATTORNEY.


ALVIN J. KARETSKI, SECRETARY
BOARD OF ZONING APPEALS

NOTICES MAILED APRIL 7, 1961

BZA 4-61

MEETING APRIL 25, 1961

SPENCER L. DEPEW BOARD OF COUNTY COMMISSIONERS
830 FIRST NATIONAL BANK BUILDING 320 COUNTY COURT HOUSE

MICHAEL NEUBURGER
3733 EAST MURDOCK

PERRY D. PATTERSON
0 RUTH SISK PATTERSON
3717 EAST MURDOCK

MERLE N. SLEASE
ADALYN M. SLEASE
3705 EAST MURDOCK

CLARENCE M. COUCH
MAXINE L. COUCH
734 NORTH YALE

ADA ROEMBACH
730 NORTH YALE

GEORGE P. WOLTER
MARIE D. WOLTER
726 NORTH YALE

LEON B. INNIS
BEVERLY JEANNE INNIS
714 NORTH YALE

LOIS STATTON
710 NORTH YALE

WALTER L. FELDNER
HAZEL K. FELDNER
3712 SLEEPY HOLLOW DRIVE

D. W. PRAY
LORA P. PRAY
3720 SLEEPY HOLLOW DRIVE

MARGARET A. SEYDELL
ERNEST M. SEYDELL
3728 SLEEPY HOLLOW DRIVE

ANNA K. SARGENT
3736 SLEEPY HOLLOW DRIVE

H. LEE LEAVELL
MARY S. LEAVELL
3740 SLEEPY HOLLOW DRIVE

MAURICE E. ABBOTT
LOTTE M. ABBOTT
3721 EAST MURDOCK

HENRY R. WADE
ETHEL WADE
3726 EAST MURDOCK

CITY OF WICHITA
BOARD OF ZONING APPEALS
ROOM 402 CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

APRIL 6, 1961

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ALVIN J. KARETSKI, SECRETARY
BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

APPEAL FROM ORDER OF THE BUILDING INSPECTION SUPERINTENDENT

I. Name of Appellant Michael Neuburger
Mailing Address 3733 East Murdock Phone MU 61077
Name of Agent Spencer L. Depew
Mailing Address 830 First Nat'l. Bank Bldg. Phone HO 4-1376
Relationship of Appellant to property is that of owner
(Owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination, or an order of the Building Inspection Superintendent, as follows: Application for building permit for construction of an addition to a swimming pool, dated March 13, 1961, and filed by Mattingly-Amaden, was refused for the reason that this addition in the form of a cover over the swimming pool is located in the side and front yard of this property. Since this is an accessory building, its use being incidental to the major use of the property, it is necessary that it be located in the rear yard and at least 60' back from the front property line.
The decision was rendered on March 14, 61(date) and refers to Section 28.04.020 and 28.04.050 of the Code of the City of Wichita (Zoning Ordinance).

III. The appellant hereby declares that he believes the order, decision or determination of the Building Inspection Superintendent in enforcing 28.04.020 and 28.04.050 of the Code of the City of Wichita (Zoning Ordinance) is incorrect for the following reasons:
Appellant submits herewith and as a part hereof an application for variance. This application for variance sets forth why appellant believes this appeal should be granted.

IV. The appellant herein, or his authorized agent, hereby acknowledges:
a. That he has received an instruction sheet pertaining to the filing of this appeal.
b. That he has been advised of his rights of appeal of the decision of the Board of Zoning Appeals to the Board of City Commissioners within ten (10) days of the date of that decision.

Michael Neuburger
Applicant
Spencer L. Depew
Authorized Agent
Spencer L. Depew

OFFICE USE ONLY

This appeal was received in the office of the Secretary, Board of Zoning Appeals, at _____ a.m., p.m. _____ (date).

APPLICATION FOR VARIANCE

Michael G. Neuburger
I. NAME OF APPLICANT _____
MAILING ADDRESS 3733 East Murdock PHONE NU 6-1077
NAME OF AUTHORIZED AGENT Spencer L. Depew PHONE _____
MAILING ADDRESS 830 First Nat'l. Bank Bldg. PHONE HO 4-1376
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF _____
(OWNER, TENANT, LESSEE, OTHER) variance from the set back requirement for
accessory structures to allow construction of

II. THE VARIANCE REQUESTED IS _____
a temporary addition to a swimming pool in the form of a portable cover
over this pool, said swimming pool already being in existence, and which
is located approximately fourteen (14) feet from the property line ad-
acent to the street.

FOR PROPERTY LOCATED AT 3733 East Murdock
AND LEGALLY DESCRIBED AS LOT(S) XX 14 and the half of Lot 13 lying north of
a line bisecting the angle between the NW
BLOCK(S) Block Two, Sleep Hollow
ADDITION TO THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED A.
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

N/A

III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT, HEREBY 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 24-606); AND THAT THE APPROPRIATE FEE IS HEREWITH TENDERED;
- C. THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THAT DECISION;
- D. THAT A STATEMENT IS ATTACHED HERETO JUSTIFYING THIS REQUEST AS NOTED IN PARAGRAPH 3 OF THE INSTRUCTIONS AND IN SECTION 2.12.590.2 OF THE CODE OF THE CITY OF WICHITA.

Michael G. Neuburger
APPLICANT

Spencer L. Depew
AUTHORIZED AGENT
Spencer L. Depew

OFFICE USE ONLY

RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, _____
(A.M.-P.M.) _____, 19____, TOGETHER WITH APPROPRIATE
FEE OF \$30.00

SIGNED

Applicant submits the following statement in justification of the variance herein requested:

(Attached to this statement is a copy of a surveyor's certificate, certified by Clyde M. Baughman, dated March 23, 1961, describing the property herein involved, together with an accompanying plat.)

Applicant requests variance from Sections 28.04.020 and 28.04.050 of the Code of the City of Wichita (Zoning Ordinance), which sections substantially provide that accessory buildings should be located in the rear yard and that they shall be not less than 60 feet from the front lot line.

Applicant justifies this application for variance for the following reasons:

1. Applicant desires to erect a portable cover as an addition to an already existing swimming pool, so as to permit applicant and applicant's family to swim year round in this heated pool.
2. Applicant intends to have the cover in place over the swimming pool only during those months when outdoor swimming is not seasonable. During the warmer months of the year the cover will be dismantled and placed in storage.
3. Applicant is now the owner of a swimming pool which was constructed approximately one year ago by the applicant and for which construction applicant obtained a building permit from the City of Wichita.
4. Applicant's property is of such a size, shape, and character that it is, will be, and has been at all times material hereto, impossible and impractical to locate this swimming pool and its cover in applicant's rear yard.
5. The swimming pool and cover are completely encircled by a stockade type fence and therefore do not provide an unpleasing sight to the neighborhood.
6. The swimming pool and its cover are located in a side yard and are not located in a front yard, and are insulated from the house of the adjoining property owner by a buffer area owned by the adjoining property owner, which area is the undeveloped and unimproved south one-half of Lot 13.

7. The addition of a swimming pool cover during the season not suitable for outdoor swimming provides an additional means of restraining children of the neighborhood from having unauthorized access to the pool and thereby reduces a safety hazard which a home-owned private swimming pool may create. The swimming pool cover itself is fire-proof, completely enclosed and is fitted with an outside door which may be securely locked.

Applicant submits that all of the following conditions are present and satisfied:

- A) That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district, because the back yard of the applicant is not a suitable location for the construction of a swimming pool and temporary cover, because of the fact that the proposed location is upon one-half of a curved front corner lot, because this construction shall not interfere with an existing pattern of setback requirements, and because ownership of this corner lot is split equally between the two adjacent land owners. Further, that the situation is unique because of the fact that the swimming pool is heated and is now in existence, having been constructed in accordance with the terms of a duly issued building permit.
- B) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents, because applicant is the owner of the adjacent lot to the north-west of the proposed location and because the property owner adjacent to the south-west is protected by a buffer area owned by this adjacent property owner, which area is the south one-half of Lot 13, and is further protected by a stockade type fence which encircles the swimming pool and its cover. Further that the requested variance is to allow construction of a swimming pool cover which will be dismantled during the warmer months of the year.
- C) That the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal, because the property owner has already proceeded with construction of a swimming pool upon this location, in accordance with a duly issued building permit, and that this cover shall be only a temporary (non-permanent) addition to this now existing pool.
- D) That the variance desired will not adversely affect

the public health, safety, morals, order, convenience,
prosperity or general welfare, and will substantially
add to the public safety for the neighborhood children.

CLYDE M. BAUGHMAN
FRED J. DOANE
JOHN T. JACKI REEVES

OFFICE OF
CLYDE M. BAUGHMAN CO.
Civil Engineer & Surveyors
Registered Professional Engineer

2522 EAST KELLOGG
WICHITA 11, KANSAS
PHONE MURRAY 3 7431

State of Kansas)
County of Sedgwick) SS March 23, 1961,

I, Clyde M. Baughman, Surveyor in aforesaid county and state do hereby certify that I did on this 23rd day of March, 1961, survey Lot 14, except beginning at the S. E. Corner of said lot 14; thence northwesterly along lot line 9 feet; thence northeasterly parallel with the easterly line of said Lot 14, 45 feet; thence southeasterly 9 feet to the easterly line of said lot 14; thence southwesterly along said lot line 45 feet to beginning, also that part of Lot 13, lying north of a line which bisects the angle between the northwest boundary line and the southwest boundary line of said lot 13, all in Block 2, Sleepy Hollow a subdivision to Wichita, Kansas.

On said property are house No. 3733 a garage and a swimming pool which are in the clear of all boundary lines. There are no encroachments on said property by buildings on the adjacent properties.

The accompanying plat is a true and correct exhibit of said survey.

Clyde M. Baughman
Surveyor

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE — FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
Plan _____ Plb'g. _____ Plb'g. Cert. _____
Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
Street _____ Trailers _____

DESCRIPTION	AMOUNT
	30 00

Name _____
Address _____)
Type _____ Due Date 4/1/61)
Comments: _____

Date 7/1/61 By _____
20M 5-60

OWNERSHIP LIST

LOT	BLOCK	ADDITION	PROPERTY OWNER	ADDRESS
E 5' exc S 5' lot 1	2	Sleepy Hollow	Perry D. Patterson O'Ruth Sisk Patterson	3717 E Murdock
1 exc S 5' & exc E 5'	"	"	Merle N. Slease Adalyn M. Slease	3705 E. Murdock
S 5' 1	"	"	Clarence M. Couch Maxine L. Couch	734 N. Yale
2	"	"	"	"
3	"	"	Ada Roembach	730 N. Yale
4	"	"	George P. Wolter Marie D. Wolter	726 N. Yale
5	"	"	Leon B. Innis Beverly Jeanne Innis	714 N. Yale
6	"	"	Lois Statton	710 N. Yale
8	"	"	Walter L. Feldner Hazel K. Feldner	3712 Sleepy Hollow Dr.
9 exc E 5'	"	"	D. W. Pray Lora P. Pray	3720 Sleepy Hollow Dr.
E 5' 9	"	"	Margaret A. Seydell Ernest M. Seydell	3728 Sleepy Hollow Dr.
10	"	"	"	"
11	"	"	Ann K. Sargent	3736 Sleepy Hollow Dr.
12	"	"	H. Lee Leavell Mary S. Leavell	3740 Sleepy Hollow Dr.
part of 13 lying S of a line which bisects the angle between NW boundary line & SW boundary line said lot 13 being $\frac{1}{2}$ the lot more or less	"	"	"	"
part of lot 14 beg NW corner lot 12 th. in NWly direction 9' th. in NEly direction 45' SEly direction 9' to point in N line said lot 12 th. in SWly direction 45' to beg	"	"	"	"
13 lying North of line which bisects the angle between NW boundary line & SW boundary line said lot 13 being $\frac{1}{2}$ the lot More or less	"	"	Michael G. Neubarger Elsa Neubarger	3733 E. Murdock
14 exc beg at NW cor lot 12 th. in NWly direction 9' th. in NEly dir. 45' SEly dir. 9' to point in N line said lot 12 th. in SWly dir. 45' to beg	"	"	"	"

continued page 2

15	2	Sleepy Hollow	Henry R. Wade Ethel Wade	3725 E. Murdock
16	"	"	Maurice E. Abbott Lotte M. Abbott	3721 E. Murdock
17	"	"	Perry D. Patterson O'Ruth Patterson	3717 E. Murdock
5		Property of the Wichita Country Club, Wichita, Ks.	Board of County Commissioners	County Court House
6	"	"	"	"

We hereby certify the foregoing to be a true and correct list of property owners in a 200 foot radius of Lot 14, except beginning at the SE corner of Lot 14, thence NWly 9 ft. along lot line; thence NELY parallel to the easterly line of said lot 14, 45 ft.; th. SEly 9 ft. to easterly line of lot 14; th. SWly along said lot line 45 ft. to place of beginning, also that part of lot 13 lying North of a line which bisects the angle between the NW boundary line and the SW boundary line of said lot 13, all in Block 2 Sleepy Hollow a subdivision, as shown by the records in the office of the Register of Deeds of Sedgwick County, Kansas, this the 31st day of March 1961 A. D. at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY INC.

J. R. Mann

BY

VICE PRESIDENT

ORDER NO. 32014

Da-rnb-jmb