

Case No. BZA 9-82 - Clifford A. Nies -
Requests a variance to reduce the re-
quired rear yard setback from 20' to
17' on property zoned "A" Two-family
Dwelling District and generally located
on the northwest corner of Bluestem &

POSTED
4-8-82

ACTION

DATE 4-17-82

COMMITTEE APPROVED

M.A.P.C. _____

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

APV
9

200'4 Sec 5488

Checked 5:24

Shot 5:26

Recorded 6-18-82

6045A

Map No. 6045A
 Sec. 32
 Twp. 37
 Range 2E

BZA- 9-82
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.17 (67 ft. by 112 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East _____ South _____
 West _____ North _____
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: _____
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



LOS ANGELES, CHICAGO, LOGAN, OH
 McKESSON, TALLCOTT, GROVE, SA
 U.S.A.

St. Paul
 No. 2153C

April 30, 1982

Clifford A. Hies
P. O. Box 18315
Wichita, Kansas 67218

Re: Case No. EZA 9-82
Request for Variance

Dear Mr. Hies:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 27, 1982.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition 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
Enclosure

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

RESOLUTION NO. EZA 9-82

WHEREAS, Clifford A. Nies, P. O. Box 18315, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the rear yard setback from 20 feet to 17 feet on property zoned the "A" Two-family Dwelling District and legally described as follows:

Lot 23, Block 1, Fourth Addition to Cherry Creek Hills, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Bluestem and Griffith (1837 Griffith and 8828 Bluestem).

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 April 27, 1982, 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 is irregular in shape and the proposed structure will provide more than the required rear yard for the majority of the lot; 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 that only one corner of the structure will encroach into the required rear yard, and that corner is 5 feet in back of the platted setback adjacent to the street, which should reduce any adverse affect on adjacent property; 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 would be required to redesign the structure to fit the odd shaped lot; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the structure will not interfere with any easements or right-of-way; 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 adequate separation will be maintained to provide light and air to all properties; 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 17 feet on property zoned the "A" Two-family Dwelling District and legally described as:

Lot 23, Block 1, Fourth Addition to Cherry Creek Hills, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Bluestem and Griffith (1837 Griffith and 8828 Bluestem).

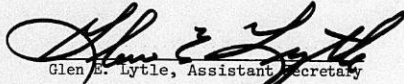
be approved subject to the following condition:

1. The reduction of the rear yard from 20 feet to 17 feet shall only be for one corner of the structure as indicated by the site plan submitted with the application.

ADOPTED AT WICHITA, KANSAS, this 27th day of April, 1982.


William J. Goeben, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE April 21, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Clemencia L. Prieto, Administrative Aide III

SUBJECT BZA 9-82: Northwest corner
of Bluestem and Griffith

The captioned case was considered by CPO Council "H" at its April 19th meeting. The Council voted 9-0 to recommend approval of the variance request to reduce the rear setback from 20' to 17' on property zoned the "A" Two Family Dwelling District.

No one was present to speak in support or opposition of the application.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered on April 27th.

Clemencia L. Prieto
Clemencia L. Prieto
Administrative Aide III

CLP:dm

Noted:

Sarah Gilbert
Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT

CASE NO. BZA 9-82

APPLICANT: Clifford A. Nies, P. O. Box 18315, 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 from 20 feet to 17 feet.

GENERAL LOCATION: On the northwest corner of Griffith and Bluestem.

ZONING: Subject property is zoned the "A" Two-family Dwelling District as are most adjacent properties. Property to the south and east is zoned the "AA" One-family Dwelling District.

LAND USE: Subject property is vacant. Adjacent properties are developed residential or are vacant.

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 rear yard setback from 20' to 17' in order to construct a two-family dwelling on the property. One unit would face Griffith, the other unit would face Bluestem. The property is located on a corner lot that is platted with a front yard setback of 25' on Bluestem and a side yard of 15' on Griffith. In locating the structure on the lot, the average rear yard far exceeds the 20' requirement. However, one corner of the dwelling will extend into the required rear yard less than 3'.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the lot in question is irregular in shape and the proposed structure will provide more than the required rear yard for the majority of the lot.

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 only one corner of the structure will encroach into the required rear yard, and that corner is setback over 5' further from the street than is required by the plat which should reduce any adverse affect of a rear yard variance.

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 he would be unable to construct the two-family dwelling on the property.

PUBLIC INTEREST:

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

Page 2
EZA 9-82
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 adequate separation will be maintained to provide light and air to all properties.

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 condition:

1. The reduction of the rear yard from 20' to 17' shall only be for one corner of the structure as indicated by the site plan as submitted with the application.

BZA CASE NO. 9-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

15 NOTICES SENT TO ADJOINING PROPERTY OWNERS

27 TOTAL NOTICES SENT 4-7-82

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

April 7, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. EZA 9-82

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 Clifford A. Mies, P. O. Box 18315, 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 of the rear yard setback from 20' to 17' on property zoned the "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 23, Block 1, Fourth Addition to Cherry Creek Hills, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Bluestem and Griffith (1837 Griffith and 8828 Bluestem).

This application has been assigned Case No. EZA 9-82. It will be considered by the Board of Zoning Appeals on April 27, 1982 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
CITY OF WICHITA, KANSAS

CASE NO. 9-82
FILED 3-17-82

APPLICATION FOR VARIANCE

I. Name of Applicant Clifford A. Nies
Mailing Address PO Box 18315 Phone 684-0161
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 ~~front~~ yard setback from 20 feet to 17 feet

for property located on the northwest corner of Bluestem & Griffith (1837 Griffith & 8828 Bluestem)

and legally described as:

Lot 23, Block 1, Fourth Addn. to Cherry Creek Hills
Fourth Addn. to Wichita, Sedg. Co., Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- 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;
- 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.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Clifford A. Nies

Authorized Agent Same

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:15 (P.m.), MAR 17, 1982 together with appropriate fee of 75.00

Signed [Signature]

RECEIVED

MAR 23 1982

METROPOLITAN PLANNING

ROUTE Lytle

Metropolitan Planning Department
City of Wichita
Glen Lytle

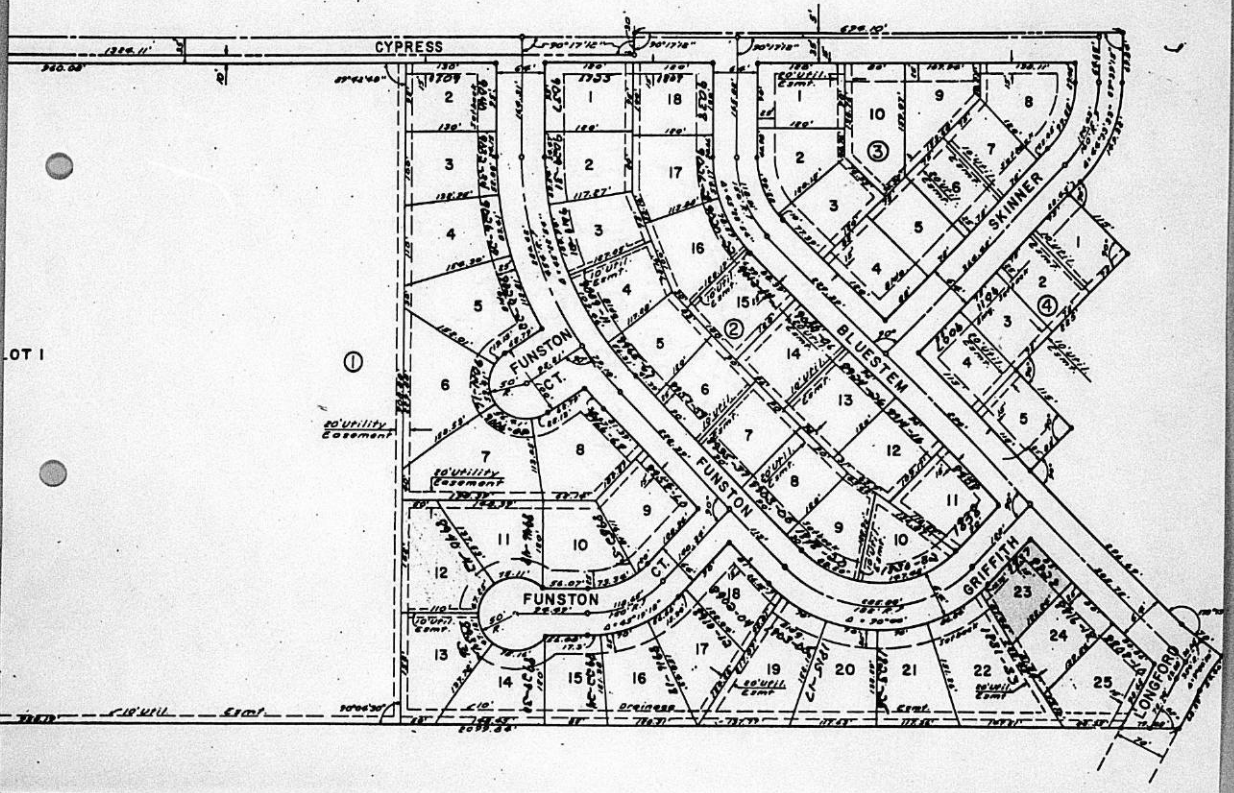
Request for variance by reducing the rear yard set back on
Lot 23, Block 4, Fourth Addition to Cherry Creek Hills, from
20' to 17'.

1. This corner lot rear property line backs up to a side yard of the adjacent lot and the property line angles in as it nears Griffith Street.
2. The design and placement of the duplex to be built on this lot will not adversely affect the adjacent property as the average rear yard area is much greater than the minimum area requirement.
3. The design and duplex plan are consistent with the duplexes already constructed in the area and utilizes a corner lot by facing each half onto different streets.
4. The variance will not in any way affect the public health, safety, morals, order, convenience, prosperity or general welfare.
5. This variance does not oppose the general spirit and interest of Title 28 due to the large average rear yard remaining. (see plot plan)

Sincerely,
Clifford A. Nies
Clifford Nies

FOURTH ADDITION TO CHERRY CREEK HILLS

WICHITA, KANSAS

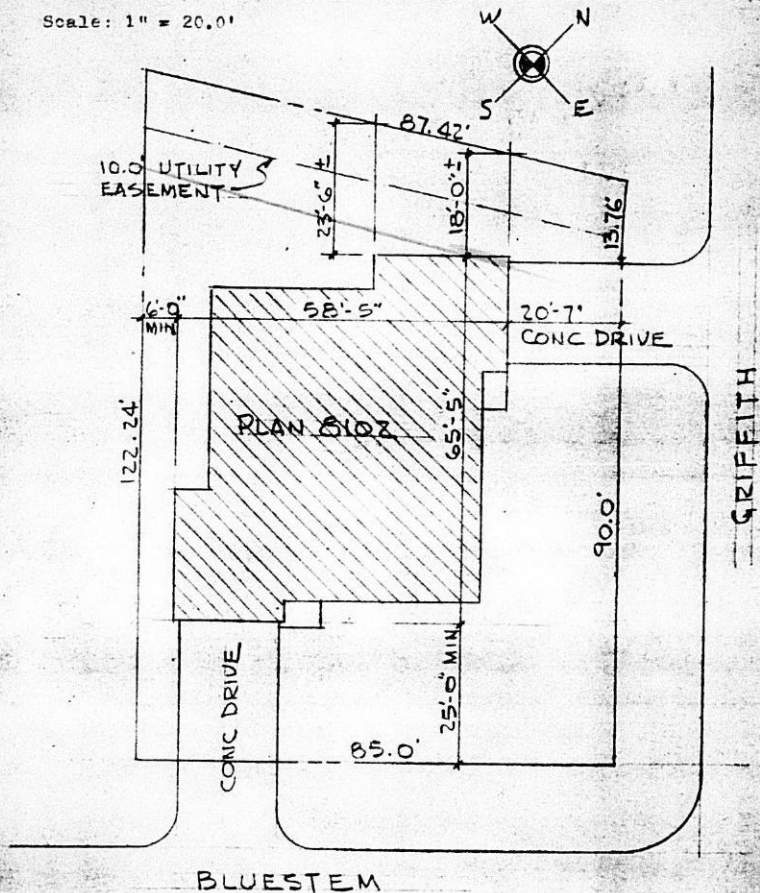


RESIDENTIAL PLOT PLAN

Address: 1837 Griffith & 8828 Bluestem Permit No. _____

Lot 23 Block 1 of Fourth Addition to Cherry Creek Hills Zoning: _____

Scale: 1" = 20.0'



I certify that the above plat complies with applicable zoning setbacks and subdivision covenants and restrictions.

Garage Carport Open Parking Signed: _____ Applicant

9.82

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC. hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas.

Lot 23, Block 1, Fourth Addition to Cherry Creek Hills,
Wichita, Sedgwick County, Kansas.

together with all real estate lying within a 200-foot radius thereof.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<p><u>Fourth Addition to Cherry Creek Hills</u> <u>Block 1</u> Lots 20, 23, 24, and 25</p>	<p><i>Dup.</i> Nies Construction, Inc. P.O. Box 18315 Wichita, Kansas 67218</p>
<p>Lot 21</p>	<p>✓ S & J Company, a partnership c/o S & J Investment 8619 Brookhollow Wichita, Kansas 67206</p>
<p>That part of Lot 22, described as beginning at the northeast corner thereof; thence southeasterly along the east line of said Lot 22, 42.63 feet; thence southwesterly 184.85 feet to a point on the west line of said Lot 22, said point being 81.71 feet south of the northwest corner thereof; thence north 81.71 feet to the northwest corner of said Lot 22, thence northeasterly 151.26 feet to beginning.</p>	<p>✓ Robert Charles Tacke & Amy Ln. Tacke 1831 Griffith Wichita, Kansas 67207</p>
<p>Lot 22, except that part described as beginning at the northeast corner thereof; thence southeasterly along the east line of said Lot 22, 42.63 feet; thence southwesterly 184.85 feet to a point on the west line of said Lot 22; said point being 81.71 feet south of the northwest corner thereof; thence north 81.71 feet to the northwest corner of said Lot 22; thence northeasterly 151.26 feet to beginning.</p>	<p>✓ Thomas E. Lawson & Elaine J. Lawson 1833 Griffith Wichita, Kansas 67207</p>
<p><u>Block 2</u> Lot 9, except that part described as beginning at the front corner common to Lots 8 and 9, in said Block 2; thence southwesterly along the front line of said Lot 9, 47.66 feet; thence southeasterly 125.17 feet to a point on the rear line of said Lot 9, said point being 28.20 feet southwesterly of the rear corner common to said Lots 8 and 9; thence northeasterly 28.20 feet to the rear corner common to said Lots 8 and 9; thence northwesterly 120 feet to the beginning.</p>	<p>✓ Jeffrey Mark Gillum 1820 Griffith Wichita, Kansas 67207</p>

DESCRIPTION	OWNERS AND ADDRESSES
<u>Fourth Addition to Cherry Creek Hills</u>	
<u>Block 2 cont'd</u>	

That part of Lot 9, described as beginning at the front corner common to Lots 8 and 9 in said Block 2; thence southwesterly along the front line of said Lot 9, 47.66 feet; thence southeasterly, 125.17 feet to a point on the rear line of said Lot 9, said point being 28.20 feet southwesterly of the rear corner common to said Lots 8 and 9; thence northeasterly 28.20 feet to the rear corner common to said Lots 8 and 9; thence northwesterly 120 feet to the beginning.

✓ Diana L. Gasche
1818 Griffith
Wichita, Kansas 67207

Lots 10, 11 and Lot 12, except that part described as beginning at the southwesterly corner thereof; thence northeasterly along the southeasterly line of said Lot 12, 48.32 feet; thence northwesterly 117.24 feet to a point on the northwesterly line of said Lot 12, said point being, 48.99 feet northeasterly of the northwesterly corner thereof; thence southwesterly 48.99 feet to the northwesterly corner of said Lot 12; thence southeasterly, 109.17 feet to beginning.

✓ D Nies Construction, Inc.
P.O. Box 18315
Wichita, Kansas 67218

That part of Lot 12, described as beginning at the southwesterly corner thereof; thence northeasterly along the southeasterly line of said Lot 12, 48.32 feet; thence northwesterly 117.24 feet to a point on the northwesterly line of said Lot 12, said point being, 48.99 feet northeasterly of the northwesterly corner thereof; thence southwesterly, 48.99 feet to the northwesterly corner of said Lot 12; thence southeasterly, 109.17 feet to beginning.

✓ Rose M. Cohlonia
8914 Bluestem
Wichita, Kansas 67207

Block 3
Lot 4

✓ Carl M. Towne and
Charlene Towne, a/k/a
Charlene A. Towne
9006 Skinner
Wichita, Kansas 67207

Lot 5

✓ Patrick L. Showalter &
Paula J. Showalter
9012 E. Skinner
Wichita, Kansas 67207

Second Addition to Cedar Ridge
Block 1
Lots 1, 2, 3, 4, 5, 6, 14 and 15

✓ Cherry Creek Development, Inc.
7603 E. Harry
Wichita, Kansas 67207

Cedar Lakes Village First Addition
Block 2

That part of Lot 36, described as beginning at the Northwest Corner thereof; thence southeasterly along the front line of said Lot 36, 29.38 feet; thence northeasterly 115.11 feet to a point on the east line of said Lot 36, said point being 105.83 feet south of the Northeast Corner of said Lot 36; thence north along the east line of said Lot 36, 105.83 feet to the Northeast Corner thereof; thence southwesterly along the northerly line of said Lot 36, to the place of beginning, and except that part of said Lot 36, described as beginning at the Southwest Corner thereof; thence easterly along the southerly line of said Lot 36 to the Southeast Corner thereof; thence north along the east line of said Lot 36, 25 feet; thence west to the place of beginning.

✓ David B. Marshall &
June E. Marshall
1818 Longford Court
Wichita, Kansas 67207

DESCRIPTION	OWNERS AND ADDRESSES
Cedar Lakes Village First Addition Block 2 cont'd	

Lot 36, Block 2, except that part described as beginning at the northwest corner thereof; thence southeasterly along the front line of said Lot 36 a distance of 29.38 feet; thence northeasterly 115.11 feet to a point on the east line of said Lot 36, said point being 105.83 feet south of the northeast corner of said Lot 36; thence north along the east line of said Lot 36, 105.83 feet to the northeast corner thereof; thence southwesterly along the northerly line of said Lot 36, to the place of beginning, and except that part of said Lot 36 described as beginning at the southwest corner thereof, thence easterly along the southerly line of said Lot 36 to the southeast corner thereof; thence north along the east line of said Lot 36, 25 feet; thence west to the place of beginning.

Clare M. Hervey
1820 Longford Court
Wichita, Kansas 67207

Part of Lots 36 and 37, except that part described as beginning at the Southwest Corner thereof; thence northerly along the westerly line of said Lot 37, 43.5 feet; thence easterly 140 feet more or less to a point on the east line of said Lot 37, said point being 49.9 feet north of the Southeast Corner of said Lot 37; thence south along the east line of said Lot 37; 49.9 feet to the Southeast Corner of said Lot 37; thence westerly along the southerly line of said Lot 37 to the place of beginning, together with that part of Lot 36 in said Block 2, described as beginning at the Southwest Corner thereof; thence easterly along the southerly line of said Lot 36, to the Southeast Corner thereof; thence north along the east line of said Lot 36, 25 feet; thence west to the place of beginning.

Joseph T. Bojanowski &
Diane V. Bojanowski
1824 Longford Court
Wichita, Kansas 67207

That part of Lot 37, described as beginning at the Southwest corner thereof; thence northerly along the westerly line of said Lot 37, 43.5 feet; thence easterly 140 feet more or less to a point on the east line of said Lot 37; said point being 49.9 feet north to the Southeast corner of said Lot 37; thence south along the east line of said Lot 37, 49.9 feet to the Southeast corner of Lot 37; thence westerly along the southerly line of said Lot 37 to the place of beginning.

Keith D. Richey &
Kathy J. Richey
1826 S Longford Court
Wichita, Kansas 67207

Lot 38, except the westerly 87.35 feet

Arthur W. Hermanson &
Aila M. Hermanson
1832 Longford Court
Wichita, Kansas 67207

The westerly 87.35 feet of Lot 38

Renee Farha
1830 Longford Court
Wichita, Kansas 67207

Dated at Wichita, Kansas this 12th day of March, 1982.

REALTY TITLE CO., INC.

BY Judy Kowalski
Judy Kowalski, Abstracter

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 2-1921

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
-------------	--------

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY