

RECEIVED

ACTION

B.Z.A. 13-86 APPROVED 5/27/86 DATE

200'4 Sec 6-386
Set 6-11-86
Record ✓

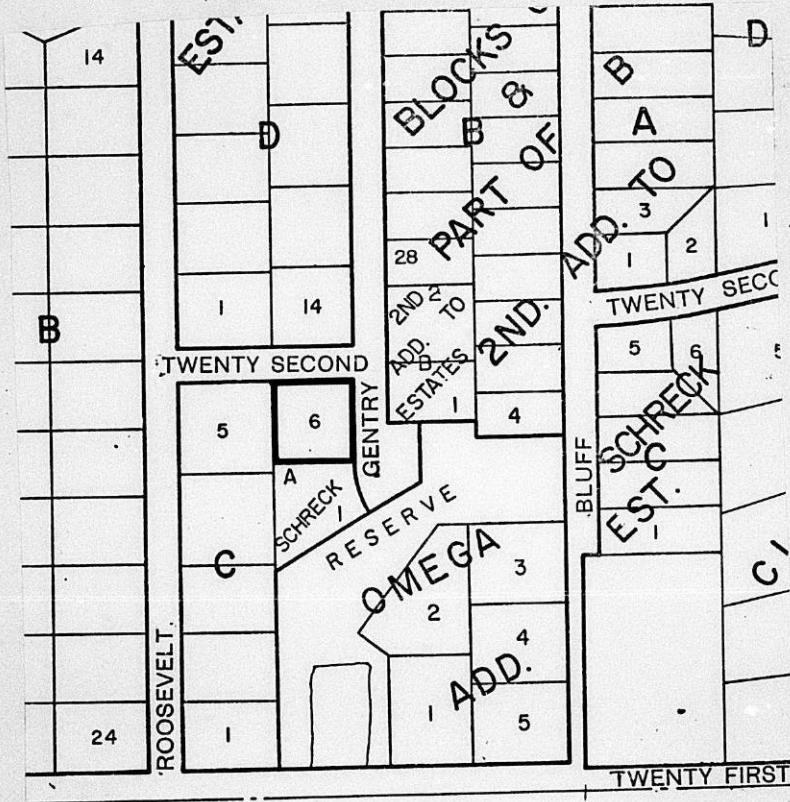
Case No. BZA 13-86 - Leonard McFarthing requests a variance to permit the location of an accessory structure (swimming pool) closer to the front property line the main structure on property zoned the "AA" One-family Dwelling Dis-

Map No. 5750 C

BZA 13-86
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E AA S AA W AA N AA
3. Land Use: East I-F South I-F
West I-F North I-F
4. Area (is) (~~is~~) platted.



REGISTERED MAP
LOS ANGELES COUNTY
RECORDS SECTION
MCGREGOR TOWER, 1100 N. GARDEN, S.F.
U.S.A.

Standard
No. 2153C

May 29, 1986

Leonard McFarthing
2277 Gentry
Wichita, Kansas 67220

Re: BZA 13-86 - Request for Variance

Dear Mr. McFarthing:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 27, 1986.

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/lw

Enclosure

cc: Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION CASE NO. 13-86

WHEREAS, Leonard McFarthing, 2277 Gentry, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to permit the location of an accessory structure (swimming pool) closer to the front property line than the main structure on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 6, Block C, Mona Lynn Estates Addition to Wichita Sedgwick County, Kansas. Generally located on the southwest corner of Gentry and 22nd Street North (2277 Gentry).

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 May 27, 1986, 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 main structure was originally constructed on the lot in such a manner that there is inadequate yard area for a swimming pool except in the area to the east of the home; 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 pool will be fenced and it is located at least 20 feet behind the 30-foot building setback line adjacent to Gentry; 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 applicant would be required to enclose the pool and make it a part of the main structure which would be an undue expense; 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 pool is located well behind the platted building setback line and does not interfere with any needed right-of-way or easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the intent of the regulations is to prevent the location of accessory structures in the normally required setbacks (front yards) in residential areas; 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.

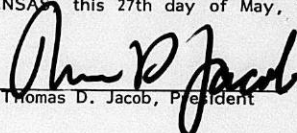
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to permit the location of an accessory structure (swimming pool) closer to the front property line than the main structure on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 6, Block C, Mona Lynn Estates Addition to Wichita Sedgwick County, Kansas. Generally located on the southwest corner of Gentry and 22nd Street North (2277 Gentry).

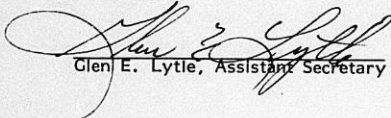
be approved subject to the following conditions:

1. This variance shall only apply to the location of a swimming pool to be located closer to the front property line than the house, and provided further, the pool shall not be located closer to the front property line than the 30-foot setback line.

ADOPTED AT WICHITA, KANSAS, this 27th day of May, 1986.


Thomas D. Jacob, President

ATTEST:


Glen E. Lytle, Assistant Secretary

SECRETARY'S REPORT
CASE NO. BZA 13-86

APPLICANT: Leonard McFarthing, 2277 Gentry, Wichita, KS 67220

AGENT: None.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to permit the location of an accessory structure (swimming pool) in front of the main structure on the property.

GENERAL LOCATION: On the southwest corner of Gentry and 22nd Street North.

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 as are all adjacent properties.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to permit the location of an accessory structure (swimming pool) closer to the front property line than the main structure on the property. This request has been made so that the applicant will not be required to enclose the pool and make it a part of the main structure. The applicant took out a building permit for the pool to be enclosed, but has determined that it is not economically feasible.

It should also be noted that the house was originally located on the property so as to eliminate any possibility of a pool to be located anywhere on the property except in the area adjacent to Gentry. This area is behind the 30-foot platted setback, but still located in front of the house. The pool area is fenced and should not have an adverse affect on the neighborhood.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the main structure was originally constructed on the lot in such a manner that there is inadequate yard area for a swimming pool except in the area to the east of the home.

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 pool will be fenced and it is located at least 20 feet behind the 30-foot building setback line adjacent to Gentry.

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 would be required to enclose the pool and make it a part of the main structure which would be an undue expense.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the pool is located well

behind the platted building setback line and does not interfere with any needed right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulations is to prevent the location of accessory structures in the normally required setbacks (front yards) in residential areas.

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. This variance shall only apply to the location of a swimming pool to be located closer to the front property line than the house, and provided further, the pool shall not be located closer to the front property line than the 30-foot setback line.

BZA CASE NO. 13-86

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>16</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>11</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>13</u>	TOTAL NOTICES SENT <u>5/20/86</u>

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

May 6, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 13-86

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 Leonard McFarthing, 2277 Gentry, 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 permit the location of an accessory structure (swimming pool) closer to the front property line than the main structure on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 6, Block C, Mona Lynn Estates Addition to Wichita Sedgwick County, Kansas. Generally located on the southwest corner of Gentry and 22nd Street North (2277 Gentry).

This application has been assigned Case No. BZA 13-86. It will be considered by the Board of Zoning Appeals on May 27, 1986 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.

Glen E. Lytle
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 13-86

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Lionard McFarthing
 Mailing Address 2277 Gentry Phone 685-5945
 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 Swimming Pool
LOCATION ON FRONT SIDE OF HOUSE

for property located 2277 GENTRY DR.
WICHITA KANSAS 67220

and legally described as: LOT 6, BLOCK C, MONA
LYNN ESTATES AN ADDITION TO WICHITA,
SEDBWICK COUNTY, KANSAS.

"AA"

in the City of Wichita; and which is presently zoned RESIDENTIAL
SINGLE FAMILY

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 Lionard McFarthing

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
4:50 p.m. (2:00 p.m.), April 18, 1986, together with
 appropriate fee of \$200.00.

Signed [Signature]

VARIANCES

The Board may authorize in specific cases a variance from the specific terms of Title 28 which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of Title 28 will, in an individual case, result in unnecessary hardship, and provided that the spirit of Title 28 shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit any use not permitted by Title 28 (zoning ordinance) in such zoning district. A request for a variance may be granted upon a finding by the Board that all of the following conditions as set forth in Section 2.12.590.B have been met:

1. That the variance requested 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.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

Due to the availability of space in which our house is located in relation to the property lines, we are unable to install a pool in the back yard. As you can see from the drawing the house is located to the rear of the boundary lines. This is the only house on the block that is constructed this way. With the pool installed in the front of the house with a fence enclosing it, it would not extend past the front of the other homes located on the block.

A permit was obtained to build this pool and enclose it, but after construction was started it was determined that enclosing the pool, we would be over building in present area.

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

Record Owners within 200 feet of:
Lot 6, Block C, MONA LYNN ESTATES,
Wichita, Sedgwick County, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

DESCRIPTIONS

RECORD OWNERS

Lot 6, Block C, MONA LYNN ESTATES,	✓ Leonard & Cynda R. McFarthing 2277 N. Gentry Wichita, Kansas 67220
Lot 3, Block C, MONA LYNN ESTATES,	✓ Myron F. & Carol E. Miller 2230 N. Roosevelt Wichita, Kansas 67220
Lot 4, Block C, MONA LYNN ESTATES,	✓ Curtis D. & Marjorie A. Terflinger 2250 N. Roosevelt Wichita, Kansas 67220
Lot 5, Block C, MONA LYNN ESTATES,	✓ Richard H. & Ursula Homburger 2260 N. Roosevelt Wichita, Kansas 67220
Lot 1, Block D, MONA LYNN ESTATES,	✓ D. Edward & Mildred E. Conklin 2300 N. Roosevelt Wichita, Kansas 67220

Fidelity  Title
COMPANY, INC.

DESCRIPTIONS

RECORD OWNERS

Lot 2, Block D, MONA LYNN ESTATES,	Vashti Elizabeth Lewis 2320 N. Roosevelt Wichita, Kansas 67220
Lot 14, Block D, MONA LYNN ESTATES,	Kenneth Alloyd & Shirley Patton 2301 Gentry Wichita, Kansas 67220
Lot 1, Block A, SECOND ADDITION TO SCHRECK ESTATES,	Perry F., Jr. & Helen P. Harris 2253 Gentry Wichita, Kansas 67220
North 25 feet of Lot 1 and South 55 feet of Lot 2, Block B, SECOND ADDITION TO SCHRECK ESTATES,	Bobby Dean & Ollie M. Justice 2284 N. Gentry Wichita, Kansas 67220
North 80 feet of Lot 2, Block B, SECOND ADDITION TO SCHRECK ESTATES,	Thomas H. & Maggie L. Johnson ADDRESS UNKNOWN
Lot 28, Block B, REPLAT OF BLOCKS C & D & PART OF B, SECOND ADDITION TO SCHRECK ESTATES,	Kenneth & Erniece P. Moore 1586 Harvard Wichita, Kansas 67208
Lot 2, OMEGA ADDITION,	Alpha Chi Omega Fraternity, Inc. 8733 Taundens Road Indianapolis, Indiana 46268
All Reserve Areas in OMEGA ADDITION,	State of Kansas %Wichita State University 1845 Fairmount, Box 47 Wichita, Kansas 67208



Dated at Wichita, Kansas, this 18th day of April, 1986 at

7:00 A.M.

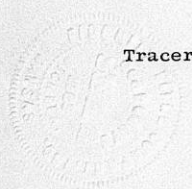
FIDELITY TITLE COMPANY, INC.

Medina R. Sutter

By

Assistant Secretary

Tracer No. 73397



Fidelity  **Title**
COMPANY, INC.

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

May 6, 1986

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CASE NO. BZA 13-86

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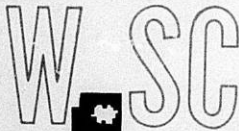
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If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Glen E. Lytle
Assistant Secretary

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

ATTEMPTED
NOT KNOWN
RETURN TO SENDER

RECEIVED

MAY 09 1986

METROPOLITAN PLANNING
ROUTE _____



PRESORTED
FIRST-CLASS

DM 2024

Vashti Elizabeth Lewis
2320 N. Roosevelt
Wichita, KS 67220



13-96

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 021

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
BZA Varnish	200.00

NAME Leonard McFarlane

ADDRESS 2277 Grand

FUND 255467-103 DUE DATE

COMMENTS

DATE Apr 19 1986 BY JKS