

BEA 15-65 - Don M. Bybee requests  
variance of front yard setback on the  
S side of 43rd St. South between  
Oak and Kailer

K-4  
Paced  
9-17-65

ACTION

Bye COMMITTEE <sup>DATE</sup> Approved 4-27-65

M.A.P.C. \_\_\_\_\_

B.C.C./B. CO. C. \_\_\_\_\_

May 10, 1965

Mr. Don M. Bybee  
4408 South Oak  
Wichita, Kansas

Dear Mr. Bybee:

Re: Case No. BZA 15-65

On April 29, 1965, we advised you that the Board of Zoning Appeals had approved subject application for a variance of the front yard setback to permit construction of a garage to within 7.5 feet of the property line, on property located generally on the south side of 43rd Street South and between Oak and Kailer.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before May 7, 1965. The City Clerk has advised that no appeal was filed and the decision of the Board is, therefore, final.

A copy of the Resolutions setting forth the action of the Board is attached for your information and files.

Very truly yours,

James W. Howe  
Assistant Secretary

JWH:ber  
Attachment

cc: Glen Lytle, Superintendent  
of Central Inspection

R E S O L U T I O N   N O .   B Z A   1 5 - 6 5

WHEREAS, Don M. Bybee, 4408 South Oak, Wichita, Kansas, requests a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow a reduction of the required front yard setback from 25 feet to 7.5 feet, on property zoned "AA" Single Family and being legally described as follows:

Lot 1, Block 10, Purcell's Tenth Addition, in the City of Wichita, Sedgwick County, Kansas.

Generally located in an area between Kailer Drive and Oak Avenue and south of 43rd Street South; and

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, in regular meeting, consider said application on April 27, 1965; and

WHEREAS, the applicant desires to construct a two-car garage on the north side of the existing dwelling on the above property; and

WHEREAS, the Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for variance under provisions of Section 2.12.590.2, Code of the City of Wichita, Kansas; and

WHEREAS, the Board of Zoning Appeals has found that the variance requested arises from such condition which is unique and not ordinarily found in the same zoning district in that the lot is of irregular shape and bordered on three sides by streets, thus making it almost impossible to construct a garage without reducing the required front yard setback inasmuch as in this particular case the applicant is required to maintain a 25 foot setback on the east, north and west sides of the property under the strict interpretation of the ordinance; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance would not adversely affect adjacent property owners or residents inasmuch as the proposed addition would be an asset to the area rather than detracting from the appearance of the area; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented inasmuch as he would be unable to construct a two-car garage to accommodate his automobiles and, further, it is almost impossible to maintain a 25-foot setback on three sides of a triangular shaped lot which is bordered on three sides by streets; and

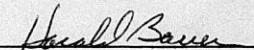
WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, in that the granting of the variance will in no way hamper the site distance of traffic movement or deprive any adjoining property owner of any light or air.

WHEREAS, each of the four conditions required by Section 2.12.590.2, Code of the City of Wichita to be present before a variance can be granted, has been found to exist.

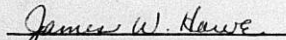
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the variance request be approved as follows:

The front yard setback on Lot 1, Block 10, Purcell's Tenth Addition, is hereby reduced from 25 to 7.5 feet from one point only, as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals and on file in the office of Central Inspection. In the event there is any substantial deviation from the plot plan on file with the Secretary of the Board of Zoning Appeals and the Superintendent of Central Inspection, the Superintendent of Central Inspection shall not issue a permit, and the applicant shall be required to get reapproval of his application by the Board of Zoning Appeals.

ADOPTED AT WICHITA, KANSAS, this 27th day of April, 1965.

  
Harold Bauer, Chairman

ATTEST:

  
James W. Howe  
Assistant Secretary

April 29, 1965

Mr. Don M. Bybee  
4408 South Oak  
Wichita, Kansas

Dear Mr. Bybee:

Re: Case No. BZA 15-65

This is to advise you that at its regular meeting of April 27, 1965, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of the front yard setback to permit construction of a garage to within 7.5 feet of the property line, on property located generally on the south side of 43rd Street South and between Oak and Kailer.

It was the decision of the Board to approve this request as follows:

The front yard setback on Lot 1, Block 10, Furchell's 10th Addition is hereby reduced from 25 to 7.5 feet in one point only, as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals and on file in the office of Central Inspection. In the event there is any substantial deviation from the plot plan on file with the Secretary of the Board of Zoning Appeals and the Superintendent of Central Inspection, the Superintendent of Central Inspection shall not issue a permit, and the applicant shall be required to get reapproval of his application by the Board of Zoning Appeals.

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 in this case on or before May 7, 1965.

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

Page 2 - Don M. Bybee  
April 29, 1965

filed on or before May 7, 1965, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

James W. Howe  
Assistant Secretary

JWH:ber

cc: Glen Lytle, Superintendent  
of Central Inspection

Robert G. Finch  
City Clerk

Mr. Don M. Bybee  
4408 South Oak  
Wichita, Kansas

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Dear Mr. Bybee:

Re: Case No. BZA 15-65

This is to advise you that at its regular meeting of April 27, 1965, the Board of Zoning Appeals of the City of Wichita considered your request for a variance of the front yard setback to permit construction of a garage to within 7.5 feet of the property line, on property located generally on the south side of 43rd Street South and between Oak and Kailer.

It was the decision of the Board to approve this request as follows:

The front yard setback on Lot 1, Block 10, Purcell's 10th Addition is hereby reduced from 25 to 7.5 feet in one point only, as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals and on file in the office of Central Inspection. In the event there is any substantial deviation from the plot plan on file with the Secretary of the Board of Zoning Appeals and the Superintendent of Central Inspection, the Superintendent of Central Inspection shall not issue a permit, and the applicant shall be required to get reapproval of his application by the Board of Zoning Appeals.

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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 7, 1965, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

James W. Howe  
Assistant Secretary

JWH:ber  
cc: Glen Lytle  
Robert Finch

SECRETARY'S REPORT

CASE NO. BZA 15-65

APPLICANT: Don M. Bybee, 4408 South Oak

LOCATION: South side of 43rd Street South between Oak and Kailer

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow a front yard setback to be reduced from 25 feet to 7.5 feet.

ZONING: Property in question and all surrounding property is zoned "AA" Single Family

LAND USE: Property in question and all surrounding property is developed for single family use.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

UNIQUENESS

There is presently a single family dwelling located on this property. Subject property is a triangular-shaped lot which is bordered on three sides by streets. The applicant is requesting that he be allowed a variance from 25 feet down to 7.5 feet in order to allow construction of a two-car garage on the north side of the existing house. It is the opinion of the Secretary that this request is unique inasmuch as due to the shape of the lot, and the fact that it is bordered on three sides by streets, it is almost impossible to construct a garage without reducing the required front yard setback.

In this particular instance, the applicant is required to maintain a 25 foot setback on the east, north and west sides of the property.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of this variance should in no way adversely affect any adjacent residential property but, rather, the proposed addition would be an asset to the area.

HARDSHIP

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as he would be unable to construct a two-car garage to accommodate his automobiles. It is further the opinion of the Secretary that it is almost impossible to maintain a 25-foot setback on three sides of a triangular-shaped lot which is bordered on three sides by streets. It is the opinion of the Secretary that it would be unreasonable to require the applicant to maintain this setback when he is involved in such a unique situation.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way hamper the site distance of traffic movement in the area, nor should the granting of the variance deprive any of the adjoining property owners of any light or air.

In this particular instance, the applicant is not proposing to overbuild the lot but is only proposing to construct a two-car garage which is very difficult to do on a triangular-shaped lot in any location.

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all four of the conditions necessary to the granting of a variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions:

1. The front yard setback on Lot 1, Block 10, Parcel's 10th Addition is hereby reduced from 25 to 7.5 feet in one point only, as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals and on file in the office of Central Inspection. In the event there is any substantial deviation from the plot plan on file with the Secretary of the Board of Zoning Appeals and the Superintendent of Central Inspection, the Superintendent of Central Inspection shall not issue a permit, and the applicant shall be required to get reapproval of his application by the Board of Zoning Appeals.

SECRETARY'S REPORT

CASE NO. BZA 15-65

APPLICANT: Don M. Bybee, 4408 South Oak

LOCATION: South side of 43rd Street South between Oak and Kailer

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow a front yard setback to be reduced from 25 feet to 7.5 feet.

ZONING: Property in question and all surrounding property is zoned "AA" Single Family

LAND USE: Property in question and all surrounding property is developed for single family use.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.2, Code of the City of Wichita and may grant the variance request when all four of the following conditions are found to exist:

1. That the variance desired arises from such condition which is unique and which is not ordinarily found in the same zoning district.
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 enforcement provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired will not adversely affect the public interest, health, safety, morals, order, convenience, prosperity or general welfare.

UNIQUENESS

There is presently a single family dwelling located on this property. Subject property is a triangular-shaped lot which is bordered on three sides by streets. The applicant is requesting that he be allowed a variance from 25 feet down to 7.5 feet in order to allow construction of a two-car garage on the north side of the existing house. It is the opinion of the Secretary that this request is unique inasmuch as due to the shape of the lot, and the fact that it is bordered on three sides by streets, it is almost impossible to construct a garage without reducing the required front yard setback.

In this particular instance, the applicant is required to maintain a 25 foot setback on the east, north and west sides of the property.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of this variance should in no way adversely affect any adjacent residential property but, rather, the proposed addition would be an asset to the area.

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It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variance is not granted inasmuch as he would be unable to construct a two-car garage to accommodate his automobiles. It is further the opinion of the Secretary that it is almost impossible to maintain a 25-foot setback on three sides of a triangular-shaped lot which is bordered on three sides by streets. It is the opinion of the Secretary that it would be unreasonable to require the applicant to maintain this setback when he is involved in such a unique situation.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance should in no way hamper the site distance of traffic movement in the area, nor should the granting of the variance deprive any of the adjoining property owners of any light or air.

In this particular instance, the applicant is not proposing to overbuild the lot but is only proposing to construct a two-car garage which is very difficult to do on a triangular-shaped lot in any location.

RECOMMENDATION

In view of the foregoing comments, it is the opinion of the Secretary that all four of the conditions necessary to the granting of a variance can be found to exist and, therefore, it is recommended that the variance be granted, subject to the following conditions:

1. The front yard setback on Lot 1, Block 10, Purcell's 10th Addition is hereby reduced from 25 to 7.5 feet in one point only, as shown on the plot plan on file with the Secretary of the Board of Zoning Appeals and on file in the office of Central Inspection. In the event there is any substantial deviation from the plot plan on file with the Secretary of the Board of Zoning Appeals and the Superintendent of Central Inspection, the Superintendent of Central Inspection shall not issue a permit, and the applicant shall be required to get reapproval of his application by the Board of Zoning Appeals.

CASE NO. BZA 15-65

24 NOTICES MAILED APRIL 8, 1965

MEETING APRIL 27, 1965

*Between Clark & Kailley, south  
of 43rd St., So.*

Surf Clean UNIMASTER PA AMA-BEAVER Surf Clean UNIMASTER BANA

**BOARD OF ZONING APPEALS**  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

April 8, 1965

**NOTICE TO ADJOINING PROPERTY OWNERS**

Case No. BZA 15-65

An application has been filed by Don M. Bybee, 4408 South Oak, Wichita, Kansas, pursuant to Section 2,12,590.2, Code of the City of Wichita, requesting a Variance of Section 28,04,040, Code of the City of Wichita, to allow a reduction of the front yard setback from 25 feet to 7.5 feet, on property zoned "AA", Single Family, and legally described as follows:

Lot 1, Block 10, Purcell's Tenth Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located in an area between Kailer Drive and Oak Avenue and south of 43rd Street South.

This application has been assigned Case No. BZA 15-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 27, 1965, at 2 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.

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

April 8, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

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Lot 1, Block 10, Purcell's Tenth Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located in an area between Kailer Drive and Oak Avenue and south of 43rd Street South.

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Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
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Wichita, Kansas

April 8, 1965

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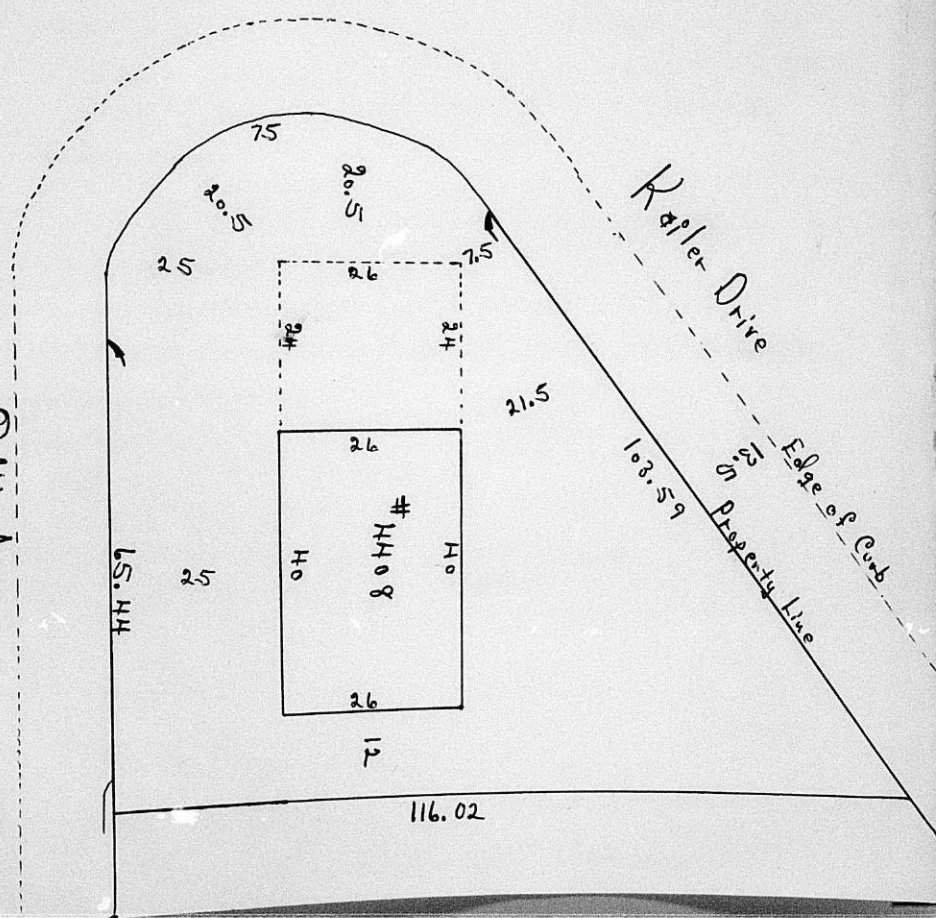
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Jack H. Galbraith  
Secretary



OAK Ave.



v. That the variance desired arises from some condition which is not ordinarily found in the same zoning district:

The lot itself is large enough to easily accommodate the garage we would like to build, however, because of the double frontage zoning it does not leave enough room anywhere on our lot to build a garage or anything else for that matter. By attaching the garage to the house it would not hamper the vision from any of the streets.

8. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents:

We do not feel that any of our neighbors would or should object to this, as it will be an improvement. It will make our house much larger and much more attractive. The garage is to be used only for storage purposes and for no other reason.

c. That the strict application of the enforcement provisions of this zoning ordinance would constitute an unnecessary hardship upon the property owner represented in the appeal:

In as much as we do not have a garage, both cars have to sit out in all kinds of weather. Also our storage facilities are limited. Also when cars sit out all of the time it is much easier for curious people to know if either or both of us are at home. In as much

as Mr. Bybee is out of  
town on occasion, it  
would be a relief to  
his wife to know that  
a passer-by could get  
toll by simply checking  
the cars if he were  
gone or not.

d. That the variance desired  
is not against the public  
interest:

As pointed out earlier, I  
feel this would be an  
improvement to our property  
and help to improve the  
looks of our neighborhood.  
We do not plan to do anything  
which would cause concern  
to our neighbors.

BOARD OF ZONING APPEALS

CASE NO. \_\_\_\_\_

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

**APPLICATION FOR VARIANCE**

1. Name of Applicant Don M. Bybee

Mailing Address 4408 South Oak Phone 3843644

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 reduction of front yard  
setback from 25 feet to 7.5 feet  
as provided in Section 2.12.590 of the City Code.  
for property located 4408 South Oak

and legally described as: Lot 1, Block 10, Purcell's  
Tract Addition, Sedgewick County, Kansas  
in the City of Wichita; and which is presently zoned \_\_\_\_\_.

(Give metes and bounds description below if appropriate):

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. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Don M. Bybee  
Applicant

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

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,  
11:50 (a.m. - p.m.), 4-6-, 1965, together with  
appropriate fee of \$50.00.

Thomas J. Bellhows  
Signed

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
1	8	Purcell's 10th Addition ✓	Joe B. Kelley Elise E. Kelley 4400 Cherry
2	"	"	✓ Bill J. Kaiser Ethel M. Kaiser 4410 Cherry
3	"	"	✓ Gerald F. Wilson Rowena Wilson 4416 Cherry
4	"	"	✓ Raymond E. Blaine Ramona Blaine 4422 Cherry
9	"	"	✓ Joe F. Brooker Mary R. Brooker 4433 S. Oak
10	"	"	✓ Floyd M. Ross Melva C. Ross 4427 S. Oak
11	"	"	✓ William L. Dover Bonnie K. Dover Larry L. Dover 4421 S. Oak
12	"	"	✓ Lawrence R. Givan Velma M. Givan 4415 S. Oak
13	"	"	✓ James L. Robinson Nellie M. Robinson 4407 S. Oak
14	"	"	✓ Floyd G. Marshall Irene B. Marshall Address unknown
1	10	"	⊕ Donnie M. Bybee Kay E. Bybee 4408 S. Oak
2	"	"	✓ Jimmie Marie King Wilma W. King 313 S. Clifton
3	"	"	✓ Benny M. Blankenship Patsy Blankenship Address unknown
4	"	"	✓ Jack E. Banks 3911 E. Funston ✓ Roger D. Farrow 660 N. Terrace

830 W  
51st  
St So

1007  
So

Muncie, Ind

Continued page 2

Lot	Block	Addition	Property Owner
5	10	Purcell's 10th Addition	✓ Pearl E. Clark 4432 S. Oak
8	"	"	✓ Basil D. Brock Darlene Brock 4421 Kailer
9	"	"	✓ Jesse G. West Freida K. West 2033 S. Oliver <i>notice Returned</i>
1	12	"	✓ Charles L. Hull Ellen V. Hull 4402 S. Kailer
2	"	"	✓ Melvin P. Nett Linda Nett 4408 Kailer
3	"	"	✓ Donald L. Hunt Joyce V. Hunt <i>3445 Bonn</i>
4	"	"	Clarence A. Snow <i>no</i> Letha L. Snow <i>address</i> Address unknown <i>no address</i>
11	1	Bartlow 2nd Addition	Margaret Ann Porth Address unknown <i>no address</i>
12	"	"	✓ Earl Lee Calkins Larona A. Calkins 628 W. 43rd St. South
10	4	Bartlow Addition	✓ V. L. Daffron <i>4356 Bartlow</i> Hellen M. Daffron <i>Street</i> Address unknown
Reserve	"	"	✓ Evan J. Griffith Altha J. Griffith 636 W. 43rd St. So.

We, The Security Abstract and Title Company, Inc., hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of Lot 1, Block 10, in Purcell's 10th Addition Sedgwick County, Kansas, as shown by the deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 25th day of March, 1965 at 7:00 A. M..

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *J. R. [Signature]*

Vice-President

Order No. 112729

Form 223-021

### PAYMENT NOTICE

City of Wichita  
PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hee. Mvr.	Hee. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Gas Connections 70.00</i>	

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Type: *E-712* Due Date: \_\_\_\_\_

Comments: \_\_\_\_\_

Date: *4-6-65* By: *[Signature]*

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202

15-65

RECEIVED  
APR 12 1965  
METROPOLITAN  
PLANNING

RETURN TO WRITER

REASON CHECKED

Incorrectly Addressed  
 Unknown Recipient  
 Incorrect address  
 No rec. Left no address  
 No such post office in state  
 Not return in the envelope

WICHITA KANSAS APR 8 1965

U.S. POSTAGE 05

Jesse G. & Freida K. West  
2033 South Oliver  
Wichita, Kansas

902 No Jackson Ave.  
Attn: Oklahoma  
73521