

Case No. BZA 15-78 - Supreme Court West requests a variance to waive the fencing requirement on the south side of 13th St. in an area east of West Street.

Posted
4-28-78
C.I.C.
MADP
7-13-78
8-1-78
DD

ACTION

DATE

5-23-78
6-27-78

Deferred
Approved

BZA 16-78 COMMITTEE

M.A.F.C.

B.C.C./B. C.C.C.

Map No. 5148
 Sec. 13
 Twp. 27
 Range 1W

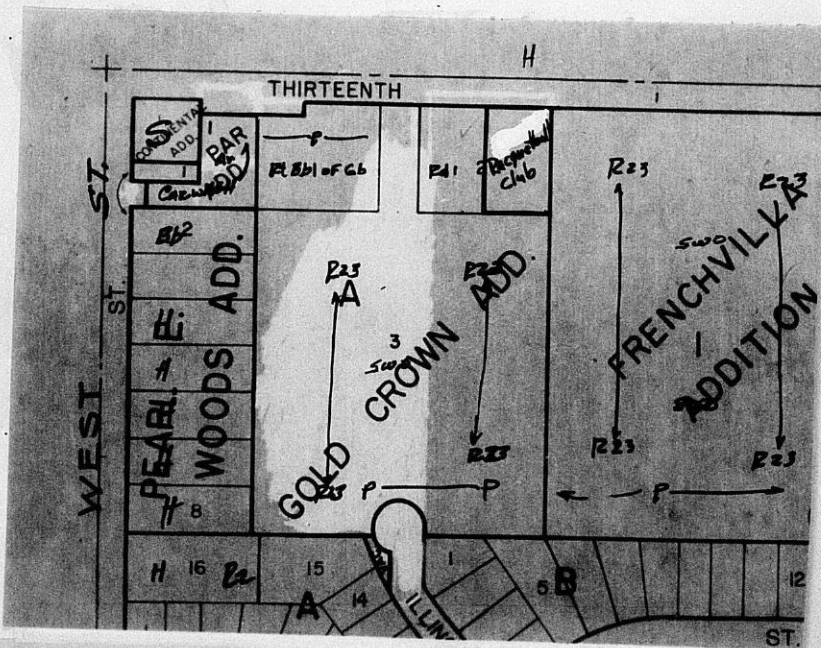
EZA- 15-78
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.50 (116 ft. by 190 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East APARTMENTS South APARTMENTS
 West DAIRY QUEEN North PARKING LOT
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: Racquetball Club
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



MASTING, INC. LOS ANGELES
 No. 2153C
 LOGAN ST. - HENDERSON, TX, U.S.A.

Sinkade
 No. 2153C

6-11



RESOLUTION NO. BZA 15-78

WHEREAS, Supreme Court West, 3725 West 13th Street, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to waive the screening requirement adjacent to the east and south property lines on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, except the west 114 feet, Block A, Gold Crown Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 13th Street in an area between West Street and High Street.

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 23, 1978, consider said application; and

WHEREAS, the Board of Zoning Appeals, due to an inability to obtain the necessary three votes to take action, deferred action on said application to the scheduled meeting of June 27, 1978; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of June 27, 1978, reconsider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provision 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 design of the building and nature of the use are not visually incompatible or objectionable to owners or residents of adjacent apartments; 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 the appearance of subject structure is compatible to the apartment units; 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 owner represented in the application inasmuch as they would be screening a use which is compatible in appearance and vehicular activity to the use intended to be screened; 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 requests are interiorly located; 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) if the air conditioning units and electrical box, located on the east side of the building, are concealed from view; 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 waive the screening requirement adjacent to the east and south property lines on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, except the west 114 feet, Block A, Gold Crown Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 13th Street in an area between West Street and High Street,

be approved subject to the following condition:

1. The free standing electrical box and air conditioning units on the east side of the building shall be screened from vehicular and pedestrian view by the erection of a fence or 'box' constructed of the same or compatible materials as the face of the main structure. Plans of the proposed screening shall be submitted to the Secretary of the Board for his approval, showing the type, design and height of said screening.

ADOPTED AT WICHITA, KANSAS, this 27th day of June, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

July 6, 1978

Mr. Dave Bowersock
3725 West 13th Street
Wichita, Kansas 67203

Re: Case No. BZA 15-78
Request for Variance


Dear Mr. Bowersock:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals at their meeting of June 27, 1978, in connection with your request for a variance to waive the screening requirement adjacent to the east and south property lines on property zoned the "LC" Light Commercial District and generally located on the south side of 13th Street in an area between West Street and High Street.

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 any questions concerning this matter, please call.

Sincerely yours,


Larry Dobson
Assistant Secretary

LD:bh

cc: Robert Feldner, Supt., Central Inspection
Don Gisick, City Clerk
Joe Donnelly, Housing and Zoning Administrator

June 28, 1978

Dave Bowersock
3725 West 13th Street
Wichita, Kansas 67203

Re: Case No. BZA 15-78
Request for Variance

Dear Mr. Bowersock:

At the regular meeting of the Board of Zoning Appeals on June 27, 1978, your request for a variance to waive the screening requirement adjacent to the east and south property line on property zoned the "LC" Light Commercial District and generally located on the south side of 13th Street in an area between West Street and High Street was considered.

It was the action of the Board to grant your request subject to the following condition:

1. The free standing electrical box and air conditioning units on the east side of the building shall be screened from vehicular and pedestrian view by the erection of a fence or 'box' constructed of the same or compatible materials as the face of the main structure. Plans of the proposed screening shall be submitted to the Secretary of the Board for his approval, showing the type, design and height of said screening.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bh

cc: Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE May 19, 1978

TO Larry Dobson, Secretariat to the BZA
FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA 15-78 (South Side of 13th Street
in an Area Between West Street and
High)

On May 17, 1978, CPO Council "N" considered the captioned case. The Council voted 5-0 to recommend approval of the proposed variance subject to the condition that the electrical box and air conditioning units be screened from view.

The Council stated that it wished that some greenery had been provided at the time that the facility was constructed.


Bill Morris
CPO Administrative Aide

BM:rh

NOTED:


David Furnas
CPO Coordinator



May 23, 1978

Mr. Dave Bowersock
3725 West 13th Street
Wichita, Kansas 67203

Re: BZA 15-78
Request for Variance

Dear Mr. Bowersock:

At the regular meeting of the Board of Zoning Appeals on Tuesday, May 23, 1978, your request for a variance to waive the screening requirement adjacent to the east and south property line on property zoned the "LC" Light Commercial District, and generally located on the south side of 13th Street in an area between West Street and High Street was considered.

It was the action of the Board to defer this case for the reason that only three board members were present and one board member declared a conflict of interest; the rules and regulations of the Board of Zoning Appeals provide that there must be three affirmative votes to dispose of a case. Therefore, your request will be placed on the Board of Zoning Appeals agenda for the meeting scheduled Tuesday, June 27, 1978.

If you have any questions concerning this matter, please contact our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bh

cc: Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

May 8, 1978

Gentlemen;

The Woodbridge Apartments has no objection to the fence variance requested by the Supreme Court West. A fence or screen on their south side dividing our properties would not enhance the appearance of the area nor is it required as a traffic control measure.

Respectfully,

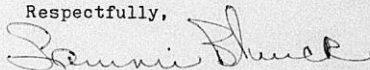
Mabel Wasemiller
Mabel Wasemiller
Manager
Woodbridge Apartments

May 8, 1978

Sirs;

We are aware of the variance filed by the Supreme Court West. We have no objections to this request as it is our opinion that a fence or screen along their east perimeter is not required or even desired by the Normandy Apartment Complex.

Respectfully,

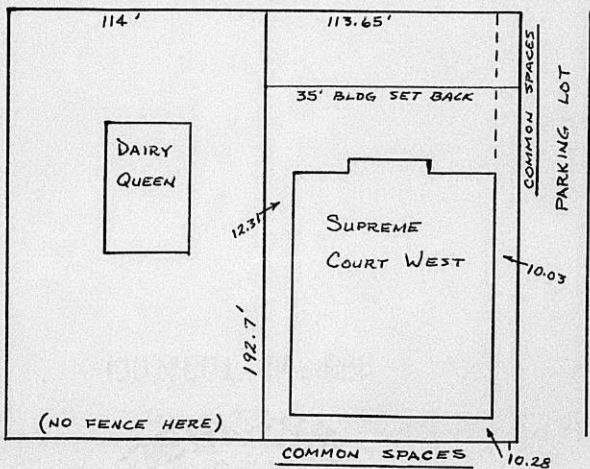
A handwritten signature in cursive script, appearing to read "Sammi Blunk".

Ms. Sammi Blunk
Manager
Normandy Apartments



13TH ST.

ACCESS CONTROL EXCEPT 2 OPENINGS



(NO FENCE HERE)

NORMANDY
APTS.

PARKING LOT

Woodbridge APARTMENTS

Scale
1" = 50'

SECRETARY'S REPORT
CASE NO. BZA 15-78

APPLICANT: Supreme Court West, 3725 West 13th Street,
Wichita, Kansas.

AGENT: Dave Bowersock, 3725 West 13th Street, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to waive the screening
requirement adjacent to the east and south
property lines.

GENERAL LOCATION: South side of 13th Street in an area between
West Street and High Street.

ZONING: Subject property is zoned the "LC" Light Com-
mercial District as is the property to the
west. North is zoned the "AA" Single Family
Dwelling District. East and south is zoned
the "B" Multiple Family Dwelling District.

LAND USE: Subject property is developed as an indoor
racquetball club. West is a Dairy Queen.
South and east are apartments. North is a
single family home.

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 of the following conditions are found to exist:

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).

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance to waive the screening requirements between their Racquetball Club and apartment complexes to the east and south.

Section 28.04.160.K of the City Code provides that property developed for commercial use, when such use is established adjacent to any residential district, shall provide screening along all side or rear lot lines adjacent to the residential zoning district to within 20 feet of any street right-of-way. When fencing is used for the screening, it must be at least 6 foot and not more than 8 foot in height, except when within the 20 foot adjacent to street right-of-way and then it must be reduced to 3 foot in height. The adjacent apartment complexes are zoned the "B" Multiple Family Dwelling District to both the south and east.

Subject property was recently established as a Racquetball Club that was purposefully designed to match the Old English architecture of the surrounding apartments and commercial businesses. There are no fences separating any of the commercial establishments to the west from their residential neighbors to the south inasmuch as all of this development occurred prior to the screening requirements.

Viewing this property in the field, it is noted that the east and south faces of the building are without openings except for an emergency exit on the south. The only detracting factor of either of these views is the location of air conditioner units and a K.G. and E. box on the east side of the building. It was also noted that there is a substantial grade separation between subject property and the apartment properties, with subject property being as much as 4 to 5 feet higher in some locations.

The applicants have pointed out that they have an agreement with the Woodbridge Apartments (south) to co-use 12 parking spaces immediately south of the Racquetball Club, on the apartments property and that they are negotiating for a similar parking arrangement with the Normandy Apartments to the east. A fence between the properties would not be convenient to the use of these parking spaces. The entire activities of the Racquetball Club are conducted indoors except for the coming and going of members. The applicants report that a number of their members are residents of the neighboring apartment complexes.

UNIQUENESS:

It is the opinion of the Secretary that the requested variance arises from a unique condition inasmuch as the design of the building and nature of the use should not be visually incompatible or objectionable to owners or residents of adjacent apartments.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the rights of adjacent

property owners or residents inasmuch as the appearance of subject structure is compatible to the apartment units.

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 applicants inasmuch as they would be screening a use which is compatible in appearance and vehicular activity to the use intended to be screened.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired would not adversely affect the public interest inasmuch as the requests are interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired would not be opposed to the general spirit and intent of the zoning ordinance if the air conditioning units and electrical box are concealed from view.

RECOMMENDATION:

It is the opinion of the Secretary that each of the five conditions necessary to the granting of a variance can be found to exist and, therefore, it is recommended that the variance be approved subject to the following conditions:

1. The free standing electrical box and air conditioning units on the east side of the building shall be screened from vehicular and pedestrian view by the erection of a fence or 'box' constructed of the same or compatible materials as the face of the main structure. Plans of the proposed screening shall be submitted to the Secretary of the Board for his approval, showing the type, design and height of said screening.
-

10 notices sent to applicant, agent and adjacent property owners
10 notices sent to MAPC
1 notice sent to CPO
21 total notices sent on BZA 15-78, 4-27-78

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

April 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 15-78

An application has been filed by Supreme Court West, 3725 West 13th, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to waive the screening requirement adjacent to the east and south property lines on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, except the west 114 feet, Block A, Gold Crown Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of 13th Street in an area between West Street and High Street.

This application has been assigned Case No. BZA 15-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, May 23, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant SUPREME COURT WEST (RACQUETBALL CLUB)

Mailing Address 3725 W. 13th 67203 Phone 945-8331

Name of Authorized Agent DAVE BOWERSOCK

Mailing Address SAME AS ABOVE Phone SAME

Relationship of applicant to property is that of MANAGER
(Owner, Tenant, Lessee, Other)

II. The variance requested is Release from requirement for a fence on east and south boundary of our lot.

for property located 3725 W. 13th

and legally described as: Lot 2, except west 114 ft., Block A, Gold Crown Addition to Wichita, Sedgewick County, Kansas

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

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 bring action in the District Court of Sedgewick 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.

map
5248

Supreme Court West
Applicant

Dave E. Bowersock
Authorized Agent

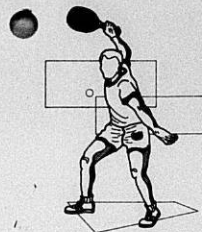
OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 9:30 (a.m. - p.m.), 4-21 19 78 together with appropriate fee of \$50.00.

S. side of 13th in area east of West Street
T9-402

Larry Dolson
Signed



The Supreme Court West
3725 West 13th St. • Wichita, Kansas 67203
945-8331



Gentlemen;

We are requesting a variance pertaining to section 28.04.160K of Title 28 (city zoning ordinance.) The ordinance would require a fence or type of screening between our racquetball club and Normandy Apartments to our east and Woodbridge Apartments to our south.

We currently have an agreement with Woodbridge Apartments to co-use twelve parking spaces which are immediately south of our building on their property. Such a fence would make these parking spaces quite inconvenient and probably unusable by our members. We are presently negotiating with Normandy Apartment owners for a similar parking agreement based on our intention to alleviate their parking lot drainage problem.

Granting this variance will not adversely affect the general welfare or neighborhood environment. Our club is for members only and will not become a gathering place for neighborhood young people. The club membership is open to the people of this area and many apartment dwellers now belong. Our business does not create a noise or litter problem for the area. Our club was designed to match the old English architecture of both apartment complexes, the Dairy Queen and the small shops to our west. Our building, by intention, blends harmoniously with the surrounding commercial and residential area.

There is no fence between the Dairy Queen business and Woodbridge Apartments, nor is there a fence between the small shopping center to our west and Woodbridge Apartments. Our point is that this entire area has an "Old English" open space appearance and that a perimeter fence east and south of our building would detract from this appearance and still not effectively separate the commercial and residential zones.

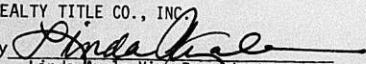
Dave E. Bowersock
Dave E. Bowersock

CERTIFICATE OF OWNERSHIP

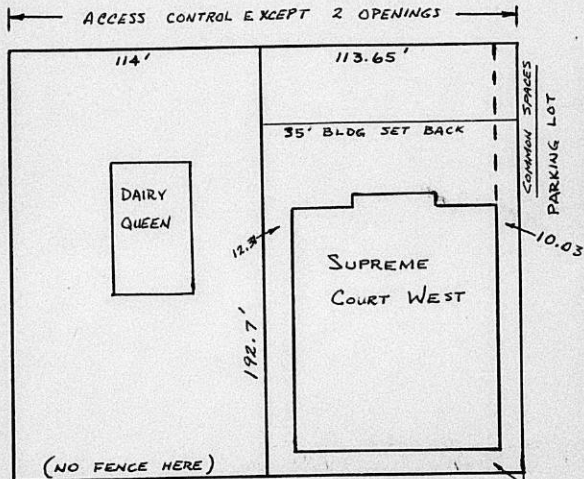
REALTY TITLE CO., INC. hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, of:

Lot 2, except the west 114 feet, Block A, Gold Crown Addition to Wichita, Sedgwick County, Kansas.

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

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>FRENCHVILLA ADDITION</u>	
Lot 1	Multivest Real Estate Fund Ltd., C/O Amortibanc ✓ 300 West Douglas Wichita, Kansas 67202
<u>GOLD CROWN ADDITION</u>	
Lot 3 Block A	John W. Bertoglio and Stephen L. Schuetz, d/b/a Woodbridge Apartments Company ✓ Stephen L. Schuetz 5 Valley View Drive Goddard, Kansas 67052
<u>GOLD CROWN ADDITION</u> W. 114' of Lot 2 Block A	Maynard C. and Doris A. Willis ✓ 3021 River Park Drive Wichita, Kansas 67203
<u>GOLD CROWN ADDITION</u>	
Lot 1 Block A	Columbian Realty Fund Ltd. #14, by Columbian Properties Corp., general partner ✓ P.O. Box 5089 Topeka, Kansas 66605
<u>WESTFORN ADDITION</u>	
Lot 1	Ruth Spooner Stone ✓ C/O Dillons Lincoln National Bank 1301 S. Harrison Ft. Wayne, Indiana 46801
Beg. 322.36 ft. West of SE cor. SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, th. N. 1081 Ft. W. 80.392 Ft. to beg. SEC. 12-27-1W esc. N. 790 ft.	Sam F. and Dollie E. Farha ✓ P.O. Box 2080 Wichita, Kansas 67201
Beg. 402.76 ft. W, SE cor. SW $\frac{1}{4}$ SW $\frac{1}{4}$ N. 326 ft. W. 241.17 ft. S. 326 ft. E. 241.17 ft. to beg. SEC. 12-27-1W	Sam F. and Dollie E. Farha D P.O. Box 2080 Wichita, Kansas 67201
<u>HAMMER ADDITION</u>	
Lot 1	West Park Tower Co., a Kansas Limited Partnership ✓ 247 N. Market Wichita, Kansas 67202
Certified this 17th day of April, 1978 at 7:00 o'clock A.M.	<u>GOLD CROWN ADDITION</u> ✓ Lot 2 except west 114 ft., Block A Racquetball of Wichita, Inc. 508 South Broadway Wichita, Kansas 67202
REALTY TITLE CO., INC. By  Linda Ayala Vice President	

13th ST
↑
N



NORMANDY
APTS.

Woodbridge APARTMENTS

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION AMOUNT

32A Variance 450-

1001-1015

Name

1001-1015

Address

37-5 21 1-14

Type

Due Date

11-10-00 4-1-01 3-31-00

Comments:

Date

4-1-78

By