

*Approved 7-26-66*

M.A.P.C.

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

BZA 19-66 - George J. Stevens, Jr.  
requests variance of sideyard set-  
back on the west side of Erie bet.  
Clark and Kinkaid

5645

P.O.

B.I.

# ACTION

*By* COMMITTEE

*Deferred*

6-28-66

*Approved*

7-26-66

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

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

BZA 19-66 - George J. Stevens, Jr.  
requests variance of sideyard set-  
back on the west side of Erie bet.  
Clark and Kinkaid

R E S O L U T I O N N O. BZA 19-66

WHEREAS, George J. Stevens, 2133 South Erie, Wichita, Kansas, pursuant to Section 2.12.590.2, Code of the City of Wichita, Kansas, requests a variance of the regulations of Section 28.04.040, Code of the City of Wichita, ("AA" One Family Dwelling District), to reduce the 6-foot side yard setback to 2 feet, and to reduce the 25-foot front yard setback to 14 feet, on property legally described as follows:

North 30 feet of Lot 12, and the south 50 feet of Lot 13, Block 1, South Hillside Terrace Addition, generally located on the west side of Erie between Clark and Kinkaid; 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 June 28, 1966, and at that time continued the application until July 26, 1966; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting, consider said application on July 26, 1966; 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, and is not created by an action or actions of the property owner or the applicant inasmuch as the curb cuts and driveway already existing can be used if the carport is located as proposed, and would be advantageous to the applicant; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance, as approved, would not adversely affect adjacent property owners or residents in view of the fact that the carport under construction will represent an improvement to subject property and to the neighborhood when compared to the prior open carport structure; further, those adjacent property owners most vitally concerned (adjacent to the north and south and immediately across the street) have indicated, in writing, that they are not opposed to this application; 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 they would have to remove a portion of the already constructed porch and carport; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

WHEREAS, the Board of Zoning Appeals has determined that the variance, as approved, will not be opposed to the general spirit and intent of Title 28, Code of the City of Wichita; and

WHEREAS, each of the five conditions required by Section 2.12.590.2, Code of the City of Wichita, necessary 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 the request be approved as related to property legally described as follows:

North 30 feet of Lot 12, and the south 50 feet of Lot 13, Block 1, South Hillside Terrace Addition. Generally located on the west side of Erie between Clark and Kinkaid;


subject to the following:

1. The posts or supports shall not be placed closer than 3 feet to the north property line and the overhang shall not be closer than 1.6 feet to the north property line.
2. The posts or supports shall not be placed closer than 14.7 feet to the front property line and the front overhang shall not exceed 1.5 feet.
3. The carport-open porch shall conform to the setbacks established above and shall not be enlarged so as to extend any further south than at present and under no circumstances shall the structure be enclosed.
4. The applicant shall submit a restrictive covenant, containing the points above, to the Secretary of the Board of Zoning Appeals, to be forwarded to the Legal Counsel of the Board for approval. The restrictive covenants shall be drawn so as to be made enforceable by the owners and their successors, heirs and assigns of all property within 200 feet of the perimeter of this realty.

ADOPTED AT WICHITA, KANSAS, this 26th day of July, 1966.

  
\_\_\_\_\_  
Harold Bauer, Chairman

ATTEST:

  
\_\_\_\_\_  
Jack H. Galbraith, Secretary

August 26, 1966

Ralph Eberly, City Clerk

Jack H. Galbraith, Secretary, Board of Zoning Appeals

BZA 19-66

Attached are the restrictive covenants required by the Board of Zoning Appeals in conjunction with a variance request. Please forward the covenants to the Register of Deeds for recording.

JHG:RW:ber

Attachment

August 26, 1966

Mr. George J. Stevens, Jr.  
2133 South Erie  
Wichita, Kansas

Dear Mr. Stevens:

Re: Case No. BZA 19-66 - Request for  
a Variance

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 26, 1966, in connection with your application for variance of the setback requirements on property zoned "AA" and generally located on the west side of Erie in an area between Clark and Kinkaid. This Resolution reflects the official action of the Board and sets out the conditions of approval.

If you have any questions concerning this matter, please call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber  
Attachment

cc: Kent Frizzell, Attorney  
701 Petroleum Building

Glen Lytle, Superintendent  
of Central Inspection

L. L. Binkley, Maintenance  
Inspection Supervisor

Ralph Eberly  
City Clerk

16

LAW OFFICES OF  
McCARTER FRIZZELL & WETTIG  
SUITE 701 PETROLEUM BUILDING  
WICHITA, KANSAS 67202

CHARLES C. MCCARTER  
KENT FRIZZELL  
CARL L. WETTIG  
JAMES R. SCHMITT

AREA CODE 316  
AMHERST 7-2871

August 24, 1966

Mr. Jack H. Galbraith  
Secretary  
Board of Zoning Appeals  
City Annex Building  
104 South Main  
Wichita, Kansas

Re: Case No. BZA 19-66  
Request for a Variance

Dear Jack:

Enclosed is the original of the covenant which was temporarily lost. We found it on the desk of my partner, Carl Wettig, who has been on vacation the past two weeks.

I presume the building permit can now be issued in accordance with the covenant.

Thanks for your cooperation.

Sincerely,



Kent Frizzell

KF/ja



C O V E N A N T

THIS COVENANT, made and executed this 17<sup>th</sup> day of August, 1966, by George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, owners of the following described real estate, to-wit:

The North 30 feet of Lot 12, and the South 50 feet of Lot 13, in Block 1, in South Hillside Terrace Addition to Wichita, Sedgwick County, Kansas.

WHEREAS, the undersigned, George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, owners of the property above described, have heretofore filed with the City of Wichita an Application For Variance before the Board of Zoning Appeals, Case No. BZA 19-66, such Variance being requested for the purpose of reducing the six foot side yard setback and the twenty-five foot front yard setback so as to accommodate the construction of a combination open porch and carport, and

WHEREAS, it is the desire of the said owners of the property to assure the City of Wichita for the benefit of the said City and for the benefit of the owners and their successors, heirs and assigns of all property within two hundred feet of the perimeter of the above described property that certain conditions will be maintained and kept by the said owners of the property and their successors, heirs and assigns; and

WHEREAS, to assure the said City of Wichita and said neighboring property owners and their successors, heirs and assigns that the undersigned will comply with the said conditions as hereinafter set forth, the said undersigned are willing and desirous of executing and filing of record in the office of the Register of Deeds of Sedgwick County, Kansas, this covenant which shall be a covenant running with the land and be binding upon the successors, heirs and assigns of said owners.

NOW THEREFORE, the said owners of the above described property do hereby covenant as follows, for the benefit of all owners of property within two hundred feet of the perimeter of the above described property, for the benefit of the City of Wichita, and for the benefit of the above described property

itself and all subsequent owners thereof, to-wit:

1. That the posts or supports of the open carport and porch shall not be placed closer than 3 feet to the north property line and the overhang shall not be closer than 1.6 feet to the north property line.

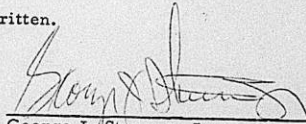
2. That the posts or supports of the open carport and porch shall not be placed closer than 14.7 feet to the front property line and the front overhang shall not exceed 1.5 feet.


3. That the carport-open porch shall conform to the setbacks established above and shall not be enlarged so as to extend any further south than at present and under no circumstances shall the structure be enclosed.

The covenants herein set forth shall be binding upon the undersigned owners of the above described property, their successors, heirs and assigns, the same being covenants that shall run with the land. The covenants herein shall be enforceable by those for whose benefit the said covenants are (were) created and established and shall be enforceable in any court or other governmental body including the City of Wichita.

The owners of the above described property further covenant and agree that the said covenants herein contained shall continue in full force and effect forever unless by direction of any court or governmental body, including the City of Wichita, the same shall be amended, abrogated or terminated; provided, however, that no amendment, abrogation or termination shall be effectuated without notice, and an opportunity for public hearing granted, to the owners of property within two hundred feet of the perimeter of the above described property.

IN WITNESS WHEREOF, said owners of the property have executed this instrument the date first above written.

  
George J. Stevens, Jr.

  
Mary Lou Stevens

A C K N O W L E D G M E N T

STATE OF KANSAS        )  
                              ) SS:  
SEDGWICK COUNTY        )

BE IT REMEMBERED, that on this 17<sup>th</sup> day of August, 1966, before me, the undersigned, a Notary Public in and for said County and State, came George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, who are personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

L. E. Volz  
Notary Public

My commission expires:

June 13, 1970

JK

LAW OFFICES OF  
McCARTER FRIZZELL & WETTIG  
SUITE 701 PETROLEUM BUILDING  
WICHITA, KANSAS 67202

CHARLES C. McCARTER  
KENT FRIZZELL  
CARL L. WETTIG  
JAMES R. SCHMITT

AREA CODE 316  
AMHERST 7-2871

August 5, 1966

Mr. Jack H. Galbraith  
Secretary  
Board of Zoning Appeals  
City Annex Building  
104 South Main  
Wichita, Kansas

Re: Case No. BZA 19-66 - Request for a Variance

Dear Jack:

In accordance with your letter of August 1, 1966 addressed to my client, George J. Stevens, Jr., I am herewith submitting our proposed restrictive covenant containing the points set forth in your letter.

It is my understanding that you will forward this restrictive covenant to the legal counsel of the board for approval. Just as soon as you have received such approval from the attorney, let me know and I will have my clients execute the original and file the same with the Register of Deeds.

Thank you for your attention to this matter, and if you have any questions, please call.

Sincerely,

*Kent*

Kent Frizzell

KF/lv

Enclosures

cc: George J. Stevens, Jr.  
2133 South Erie  
Wichita, Kansas



COVENANT

THIS COVENANT, made and executed this \_\_\_\_ day of August, 1966, by George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, owners of the following described real estate, to-wit:

The North 30 feet of Lot 12, and the South 50 feet of Lot 13, in Block 1, in South Hillside Terrace Addition to Wichita, Sedgwick County, Kansas.

WHEREAS, the undersigned, George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, owners of the property above described, have heretofore filed with the City of Wichita an Application For Variance before the Board of Zoning Appeals, Case No. BZA 19-66, such Variance being requested for the purpose of reducing the six foot side yard setback and the twenty-five foot front yard setback so as to accommodate the construction of a combination open porch and carport, and

WHEREAS, it is the desire of the said owners of the property to assure the City of Wichita for the benefit of the said City and for the benefit of the owners and their successors, heirs and assigns of all property within two hundred feet of the perimeter of the above described property that certain conditions will be maintained and kept by the said owners of the property and their successors, heirs and assigns; and

WHEREAS, to assure the said City of Wichita and said neighboring property owners and their successors, heirs and assigns that the undersigned will comply with the said conditions as hereinafter set forth, the said undersigned are willing and desirous of executing and filing of record in the office of the Register of Deeds of Sedgwick County, Kansas, this covenant which shall be a covenant running with the land and be binding upon the successors, heirs and assigns of said owners.

NOW THEREFORE, the said owners of the above described property do hereby covenant as follows, for the benefit of all owners of property within two hundred feet of the perimeter of the above described property, for the benefit of the City of Wichita, and for the benefit of the above described property

itself and all subsequent owners thereof, to-wit:

1. That the posts or supports of the open carport and porch shall not be placed closer than 3 feet to the north property line and the overhang shall not be closer than 1.6 feet to the north property line.

2. That the posts or supports of the open carport and porch shall not be placed closer than 14.7 feet to the front property line and the front overhang shall not exceed 1.5 feet.

3. That the carport-open porch shall conform to the setbacks established above and shall not be enlarged so as to extend any further south than at present and under no circumstances shall the structure be enclosed.

The covenants herein set forth shall be binding upon the undersigned owners of the above described property, their successors, heirs and assigns, the same being covenants that shall run with the land. The covenants herein shall be enforceable by those for whose benefit the said covenants are (were) created and established and shall be enforceable in any court or other governmental body including the City of Wichita.

The owners of the above described property further covenant and agree that the said covenants herein contained shall continue in full force and effect forever unless by direction of any court or governmental body, including the City of Wichita, the same shall be amended, abrogated or terminated; provided, however, that no amendment, abrogation or termination shall be effectuated without notice, and an opportunity for public hearing granted, to the owners of property within two hundred feet of the perimeter of the above described property.

IN WITNESS WHEREOF, said owners of the property have executed this instrument the date first above written.

*Approved as to form  
L.H. S. Johnson  
C. S. City Atty.*

\_\_\_\_\_  
George J. Stevens, Jr.

\_\_\_\_\_  
Mary Lou Stevens

ACKNOWLEDGMENT

STATE OF KANSAS     )  
                          ) SS:  
SEDGWICK COUNTY    )

BE IT REMEMBERED, that on this \_\_\_\_ day of August, 1966, before me, the undersigned, a Notary Public in and for said County and State, came George J. Stevens, Jr. and Mary Lou Stevens, husband and wife, who are personally known to me to be the same persons who executed the within instrument of writing and such persons duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

August 1, 1966

Mr. George J. Stevens, Jr.  
2133 South Erie  
Wichita, Kansas

Subject: Case No. BEA 19-66 - Request for a  
Variance

Dear Mr. Stevens:

At the regular meeting of the Board of Zoning Appeals on July 26, 1966, your request for a Variance of the side yard and front yard setback requirements was considered for property located generally on the west side of Erie in an area between Clark and Kinkaid.

It was the action of the Board to approve this request subject to the following:

1. The posts or supports shall not be placed closer than 3 feet to the north property line and the overhang shall not be closer than 1.6 feet to the north property line.
2. The posts or supports shall not be placed closer than 14.7 feet to the front property line and the front overhang shall not exceed 1.5 feet.
3. The carport-open porch shall conform to the setbacks established above and shall not be enlarged so as to extend any further south than at present and under no circumstances shall the structure be enclosed.
4. The applicant shall submit a restrictive covenant, containing the points above, to the Secretary of the Board of Zoning Appeals to be forwarded to the Legal Counsel of the Board for approval. The restrictive covenants shall be drawn so as to be made enforceable by the owners and their successors, heirs and assigns of all property within 200 feet of the perimeter of this realty.

Page 2 - Board of Zoning Appeals  
Case No. BEA 19-66

August 1, 1966

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy thereof as soon as the Chairman and Secretary of the Board have signed it. If you have any questions, please call.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:bgs

cc: Mr. Kent Frissell  
701 Petroleum Building

Glen Lytle, Superintendent  
Central Inspection Division

L. L. Sinkley  
Central Inspection Division

Ralph Eberly  
City Clerk

PETITION TO BOARD OF ZONING APPEALS CITY OF WICHITA

CASE:BZA 19-66

The undersigned property owners wish to vigorously protest the application filed by Mr. G. J. Stevens, 2133 S. Erie, in the above case.

While we certainly do not want to curtail any of Mr. Stevens' improvements to his property, we believe certainly that all improvements should conform to existing zoning restrictions.

We realize that this exception applies only to his property however once an exception is made neighbors would have little reason to protest a second exception, a third exception, et cetera.

We are reliably informed by at least one professional real estate man that changes sought in the above case would adversely effect property values in our neighborhood and certainly if other homeowners follow the example set by Mr. Stevens, the neighborhood would be unsightly and a less desirous place to live.

Norman J. Spear  
2145 So. Volusia

Walter M. Sauer  
2145 So. Volusia

James E. Post 2820 E. Kimbark

Kimberly R. Post 2820 E. Kimbark

Walter Carter  
2152 S. Volusia

Beatrice P. McCarter  
2152 S. Volusia

Wichent A. Juss  
2151 So. Volusia

Evelyn M. Nuss  
2151 S. Volusia

John L. Kohler  
2817 E. Kimbark

Mary J. Kohler  
2817 E. Kimbark

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JOHN T. (JACK) REEVES

OFFICE OF  
**BAUGHMAN CO.**  
Surveyors

FRED J. DOANE

2522 EAST KELLOGG  
WICHITA, KANSAS 67211  
MURRAY 3 7431

State of Kansas )  
County of Sedgwick )

SS

July 23, 1966

I, John T. Reeves, Surveyor in aforesaid county and state do hereby certify that I did on this 23rd day of July, 1966, survey the north 30 feet of Lot 12 and the south 50 feet of Lot 13, Block 1, South Hillside Terrace an Addition to Wichita, Kansas.

On said lot is house No. 2133 which is in the clear of all boundary lines. There are no encroachments on said lot by buildings on the adjacent lots.

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

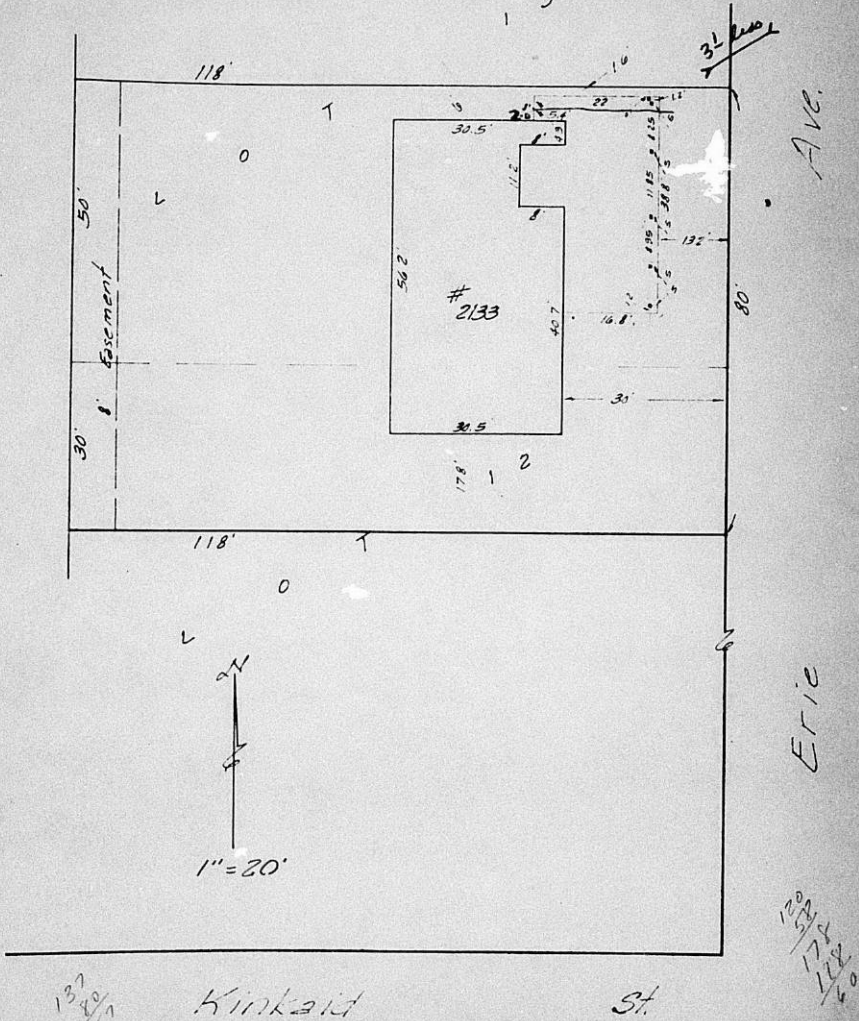
John T. Reeves  
Surveyor

JOHN T. (JACK) REEVES

OFFICE OF  
**BAUGHMAN CO.**  
Surveyors

FRED J. DOANE

2522 EAST KELLOGG  
WICHITA, KANSAS 67211  
MURRAY 3 7431



SECRETARY'S REPORT

CASE NO. BZA 19-66

APPLICANT: George J. Stevens, Jr., 2133 South Erie, Wichita, Kansas

AGENT: Kent Frizzell, Attorney, 701 Petroleum Building, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.2, Code of the City of Wichita, to reduce the 6-foot side yard setback to 2 feet and to reduce the 25-foot front yard setback to 14 feet.

GENERAL LOCATION: West side of Erie between Clark and Kinkaid

ZONING: Subject property and all surrounding property is zoned "AA"

LAND USE: Subject property and all surrounding property is single family

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. 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 it 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).

SECRETARY'S COMMENTS

The applicant is requesting a variance to reduce the side yard setback from 6 feet to 2 feet and the front yard setback from 25 feet to 14 feet.

The applicant has constructed a combination open porch and carport which extends into the required front yard setback 11 feet. Section 28.04.183.2 of the ordinance permits an open unenclosed porch to project into the required front yard a distance of 8 feet. The porch, therefore, projects 3 feet in violation and the variance request should be amended to read as a reduction of the front yard setback from 25 feet to 22 feet. It should be pointed out that if the variance request were granted to reduce the front yard setback to 14 feet, the applicant could enclose this area and then build an open porch in front of the enclosure which could be constructed to within 6 feet of the front property line.

The applicant had almost completed the porch and carport prior to obtaining a building permit and the building permit which was finally obtained and signed by the applicant clearly indicated the required setbacks.

#### UNIQUENESS

It is the opinion of the Secretary that there is nothing unique concerning these requests inasmuch as the condition has been created by the applicant. If the applicant had obtained a building permit prior to the initial construction of the porch and carport, the problem would have been avoided.

#### ADJACENT PROPERTY

It is the opinion of the Secretary that the variance of the front yard setback would have an adverse affect on the adjacent properties inasmuch as it would allow the porch and carport to extend 3 feet further than any other structures along the street and would deprive the adjacent properties of a clear and unobstructed view. The homes in this area are above average quality and well-maintained. The structure which has been added to the applicant's home is an after thought which is not architecturally pleasing and does not blend compatibly with the general character of the neighborhood. Most structures in the area do not have porches extending into the front setback, therefore, the porch in question extends 11 feet closer to the street than other homes.

The reduction of the side yard setback from 6 feet to 2 feet would also have an adverse affect on the adjacent property inasmuch as it could create a situation which would be detrimental to the property to the north in the event of a fire. One of the purposes of side yard setbacks is to keep structures far enough apart so that fire will not spread from one dwelling to another and also so that there is adequate circulation space around structures for fire fighting purposes.

HARDSHIP

It is the opinion of the Secretary that the applicant would suffer a self-created hardship if the variances are not granted inasmuch as he would have to remove a portion of the already constructed porch and carport. However, it should be pointed out that the applicant will be required to remove a portion of the carport regardless of the result of this application because it is in violation of the building code. The building code requires that any structure closer than 3 feet to a side property line must have a one hour firewall. This is an open structure and, therefore, cannot comply with the building code.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variances would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

SPIRIT AND INTENT

It is the opinion of the Secretary that the variance requests are opposed to the general spirit and intent of Title 28 inasmuch as the applicant built the structure without obtaining a permit and completely disregarded all setback requirements.

RECOMMENDATION

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance cannot be found to exist and, therefore, it is recommended that the variance requests for both the front and side yards not be approved.

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

June 30, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 19-66

An application has been filed by George J. Stevens, Jr., 2133 South Erie, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a reduction of the 6-foot side yard setback to 2 feet; and reduction of the 25-foot front yard setback to 14 feet, on property zoned "AA" - One Family Dwelling District, and legally described as follows:

The north 30 feet of Lot 12, and the south 50 feet of Lot 13, Block 1, South Hillside Terrace Addition to Wichita, Sedgwick County, Kansas - generally located on the west side of Erie between Clark and Kinkaid.

This application has been assigned Case No. BZA 19-66 and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, July 26, 1966, at 2 p.m., in Room 401 of the 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

June 30, 1966

Mr. George J. Stevens, Jr.  
2133 South Erie  
Wichita, Kansas

Dear Mr. Stevens:

Re: Case No. BEA 19-66

At the regular meeting of the Board of Zoning Appeals on June 28, 1966, the above numbered application, a request for variance of the side yard setback from 6 feet to 2 feet, and variance of the front yardsetback from 25 feet to 14 feet to accommodate a porch and carport already under construction, was considered.

During the discussion of this application, it was pointed out that the building code requires that any structure closer than 3 feet to a side property line must have a one hour firewall and the Board felt that the carport would not comply with the building code if the side yard variance was approved.

In view of the questions raised concerning the fire wall, it was the action of the Board to continue this application until the July 26, 1966, meeting and it was requested that the applicant and his attorney attempt to resolve matters related to the fire wall by the next meeting. Please contact the office of Central Inspection regarding this matter.

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:HW:bar

cc: Kent Frizzell, Attorney, 701 Petroleum Building  
Glen Lytle, Superintendent of Central Inspection  
L. L. Binkley, Maintenance Inspection Supervisor  
Ralph Eberly, City Clerk  
Norman G. and Helen M. Spear, 2145 South Volusia  
R. A. McCarton, 2152 S. Volusia

APPLICANT'S STATEMENT

Case No. B2A 19-66

APPLICANT: George J. Stevens, Jr.,  
2133 South Erie  
Wichita, Kansas

AGENT: Kent Frizzell, Attorney  
701 Petroleum Building  
Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.2,  
Code of the City of Wichita, to reduce  
the 6 foot side yard setback to 2 feet  
and to reduce the 25 foot front yard set-  
back to 14 feet.

DESCRIPTION  
OF PROPOSED  
WORK OR USE: To complete construction of a combination  
open porch and carport.

ENFORCEMENT  
PROVISIONS OF  
ZONING ORDI-  
NANCES FROM  
WHICH VARIANCE  
IS REQUESTED: 28.04.040 (C.1.2) - Front Yard  
28.04.040 (C.2.2)- Side Yard  
28.04.183.2 Exceptions to Front Yard and Side  
Yard requirements.

JUSTIFICATION OF  
VARIANCE REQUESTED  
AND SATISFYING  
REQUIREMENTS OF  
SECTION 2.12.590.2,  
CODE OF THE CITY  
OF WICHITA:



1. Uniqueness. The uniqueness of these requests lies simply in the fact that the applicant has no suitable facility for parking the two cars owned by applicant and his wife. The condition was not created by the applicant, and existing enforcement provisions of the Zoning Ordinance do not allow a remedy to the problem. The former owners of the subject property converted an attached garage to a family room thereby creating the necessity for some other type of covered garage facility. The existing driveway is located on the North side of applicant's improved lot. There is not sufficient room between the north property line and the existing residence for a driveway to the rear of applicant's property. Therefore, any protective structure must be located to the front and on the north side of applicant's property.

Recently when the applicant acquired a wife, he was also fortunate enough to acquire the wife's automobile, thereby making them a two car family. As young wives are prone to do, she has on several occasions backed her car into and against the neighbors car parked across the street. Whether in a retaliatory mood, purposely, or otherwise, the neighbor across the street has reciprocated in a like manner involving both of applicant's automobiles when parked in the street. For the peace and quiet of the neighborhood it is imperative that applicant remove said vehicles from being parked upon the street. Considering that both of applicant's vehicles are convertibles, it is also necessary

that some type of protective covering be provided. And we hasten to point out to the Board that Section 28.04.183.2 of the ordinance permitting an open unenclosed porch to project into the required front yard a distance of 8 feet is not sufficient to allow the protection desired. The former owners of the subject property had erected an 8 foot aluminum overhang, which was a temporary "after thought" at best and was not architecturally pleasing, and certainly did not blend compatibly with the general character of the neighborhood. Neither did it do the job! The 8 foot aluminum overhang did nothing more than serve as a conduit for all of the rock on a chatted roof to fall directly upon the rear portion of applicant's convertibles thereby causing irreparable damage. Uniqueness is hardly a question involved in this application.

2. Adjacent Property. The question of whether or not the variance of the front yard and side yard setbacks would have an adverse affect on the adjacent properties is amply answered by the existence of signed Petitions of Approval on behalf of adjacent property owners. It is the opinion of the applicant that the structure is architecturally pleasing and blends compatibly with the general character of the neighborhood. An open carport and porch supported only by 4" by 4" columns, can hardly be said to deprive adjacent properties of a clear and unobstructed view. Merely parking of the vehicles in the drive deprives one of a clear and unobstructed view, but can hardly be said to be displeasing.

3. Hardship. A hardship would arise, in this instance, if the variances are not granted inasmuch as applicant would have to remove a portion of the already constructed porch and carport. In so removing a portion thereof, the structure would not accomplish its function or purpose originally contemplated.

4. Public Interest. Applicant sees no way in which granting of the variance herein requested would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. In fact, the reverse is true. Applicant's neighbors are all anxiously awaiting the Board's granting of the variance so that applicant may complete the structure and complimenting landscape envisioned.

5. Spirit and Intent. It is the opinion of the applicant that the variance requests are not opposed to the general spirit and intent of Title 28 inasmuch as the applicant commenced construction without knowledge of the necessity of obtaining a permit, immediately ceased construction thereof on learning of the necessity of such a permit, thereafter obtained such a permit, and filed this application seeking variances of the setback requirements as required by law.

Respectfully submitted,

Henry J. Stevan, Jr.  
Applicant

By: Ken Snyggell  
Authorized Agent

NOTICE OF APPROVAL OF APPLICATION FOR VARIANCE

Board of Zoning Appeals  
Room 402, City Building Annex  
104 South Main  
Wichita, Kansas

Gentlemen:

We the undersigned property owners, both within a distance of 200 feet, and ownership adjacent thereto within the 2100 block on South Erie, Wichita, Kansas, do hereby desire to state that we have no objection to the granting of an Application for Variance filed before your Board of Zoning Appeals on behalf of George J. Stevens, Jr. for property located at 2133 South Erie, Wichita, Kansas, and legally described as follows:

the North 30 feet of Lot 12, and  
the South 50 feet of Lot 13, in  
Block 1, in South Hillside Terrace  
Addition to Wichita, Sedgwick  
County, Kansas.

In witness whereof, we have hereunto set our hands, this \_\_\_\_\_ day of May, 1966 on the following "Exhibit A" attached hereto and hereby made a part hereof.

"Exhibit A"

<u>Name</u>	<u>Address</u>
1. <u>Harold I. Henton</u>	<u>2140 S. Erie</u>
2. <u>Donald P. Hutchinson</u>	<u>2134 So. Erie</u>
3. <u>Robert W. Sloan</u>	<u>2128 So. Erie</u>
<u>David L. Prigg</u>	<u>2141 So. Erie</u>
<u>James E. Hoban</u>	<u>2127 So. Erie</u>
<u>Val Harlan</u>	<u>2159 So. Erie</u>
<u>Alan Nelson</u>	<u>2158 So. Erie</u>

"Exhibit A"  
(continued)

Name	Address
<u>M. J. Allen</u>	<u>2150 So Erie</u>
<u>M. C. Little</u>	<u>2107 So Erie</u>
<u>Robert M Reynolds</u>	<u>2121 So Erie</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

June 27, 1966

Board of Zoning Appeals  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

Re: Case No. BZA 19-66

Attention: Mr. Jack H. Galbraith

Dear Sir:

In regards to the above numbered case filed by the applicant,  
George J. Stevens, Jr., 2133 South Erie, Wichita, Kansas.

I object to the zoning being changed on the grounds that the  
present zoning rules were made for the protection of all  
homeowners in a zoned "A-1" district. To change this zoning  
defeats the original purpose of keeping our houses somewhat  
uniform and consequently of higher resale value.

However, if his immediate neighbors did not object to a re-  
duction of the 25 foot yard setback and plans were approved  
by an impartial committee to determine if the addition would  
be an improvement to the neighborhood, then this would be  
alright. I do object to a reduction of the 6 foot sideyard  
setback as this would put our houses closer than should be  
and might tend to lower the value of all property in this  
area.

Respectfully yours,  
*Norman G. Spear*  
*Helen M. Spear*  
Norman G. Spear  
and  
Helen M. Spear

2145 South Volusia  
Wichita, Kansas



2152 S. Volutsia  
Wichita, Kansas

June 28, 1966

To the Board of Zoning Appeals

Gentlemen:

This refers to case BZA 19-66. I wish to protest the change as proposed.

I believe the additions would be very laudable if they met the present zoning requirements. However, I am informed by what I consider a reliable source in the real estate business that this change could decrease property values in this area.

I recognize that this applies only to this one residence but if a change is allowed in this one case other could follow and neighbors would have little reason to protest.

I am entering this protest in good faith hoping that the Board with their expert knowledge will agree with my viewpoint and not permit this change.

Very truly yours,

*R. R. McCarter*  
R. R. McCarter

RRMcC:mh



PERMIT NUMBER

APPLICATION

INSPECTION DEPARTMENT  
CITY OF WICHITA, KANSAS  
APPLICATION FOR RESIDENTIAL BUILDING PERMIT  
AND CERTIFICATE OF OCCUPANCY

No T 5472

(Groups H. 1, 1-1 and 1-2)

019711

Wichita, Kansas, 12-14, 1966

Application is hereby made for a permit to repair a structure at  
(Erect-Repair-Remodel-Wreck-Add To)

No. 3133 Street  
in accordance with the following description and in conformity with the provisions of all laws and ordi-  
nances pertaining thereto.

Use or Occupancy: 1-Family Dwelling  Garage Detached  Number of Rooms  
2-Family Dwelling  Garage Attached  in Dwelling \_\_\_\_\_  
Multi-Family  Garage or Shed Only

If Multi-Family: Total Number of Family Units \_\_\_\_\_ Number of Baths \_\_\_\_\_ Number of Other Rooms \_\_\_\_\_

Extreme Dimensions: Frontage on Street \_\_\_\_\_ Depth 22 Stories \_\_\_\_\_

Size of Basement: \_\_\_\_\_ Foundation Wall: Concrete  Concrete Blocks  Size of Joist: First Floor \_\_\_\_\_  
Concrete  Concrete Blocks  Second Floor \_\_\_\_\_  
\_\_\_\_\_ Ceiling \_\_\_\_\_

Exterior Wall: Frame  Concrete Block  Wood Shingles   
Brick Veneer  Brick  Composition   
Stone Veneer  Tile  Roof Material: Shingles

Heat: Blower Furnace  Floor  Closet  Coal  Wood  Wood or Coal  
Gravity Pipe  Attic  Stoves  Gas  Oil  Fireplace

Brick Flues: Number \_\_\_\_\_ Patented Pipe Flues: Number \_\_\_\_\_ Walls: Plaster   
Size \_\_\_\_\_ Size \_\_\_\_\_ Dry Wall

New Plumbing: \_\_\_\_\_ New Electrical Work: \_\_\_\_\_ New Gas Fitting: \_\_\_\_\_

Area of Dwelling Space.....sq. ft.....sq. ft. If Wrecking, Give  
Building: Garage, bsmt. etc.....176.....sq. ft.....sq. ft. Square Feet of  
Accessory Structs.....sq. ft.....sq. ft. Floor Area: \_\_\_\_\_  
Total Adj.....sq. ft.

If repairing, remodeling, wrecking or adding to, state what improvements are to be made. adding  
support to front end ribs - 4x4 supports  
adding cabinets

Estimate of Value: \$.....

Is work being done under a contract? \_\_\_\_\_ Structure has been occupied as \_\_\_\_\_

Owner Shirley J. Starnes Address Home

Builder \_\_\_\_\_ Address \_\_\_\_\_

Designer \_\_\_\_\_ Address \_\_\_\_\_

(Sign Below) Shirley J. Starnes  
(Licensed Contractor) (Owner)

By \_\_\_\_\_ (Authorized Representative) By \_\_\_\_\_ (Agent)

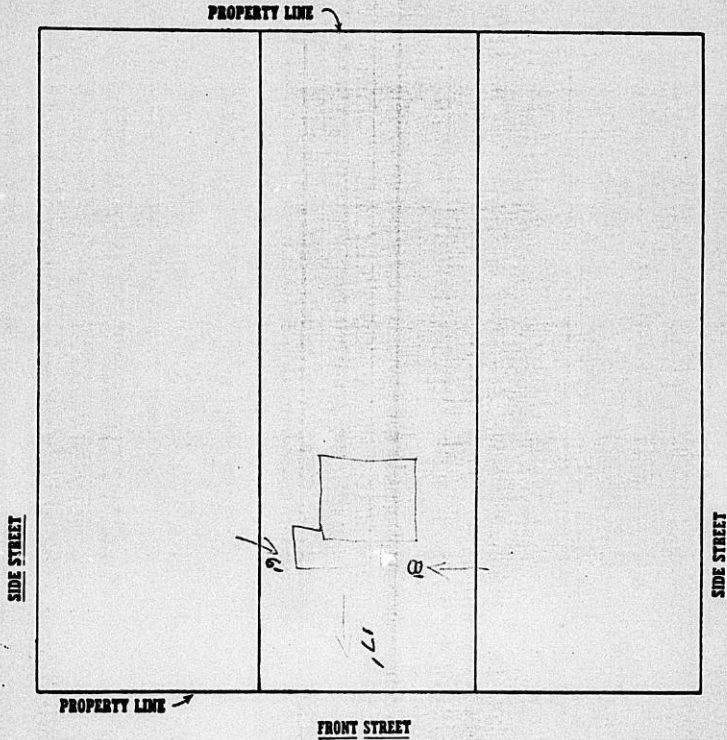
INSPECTION DEPARTMENT RECORD

Zoning Dist. AA A RB B BB LC Permit Refused Because \_\_\_\_\_

C D E F Permit Held Up for \_\_\_\_\_

Fire Zone 1 2 3 4 Application Taken by T.H.

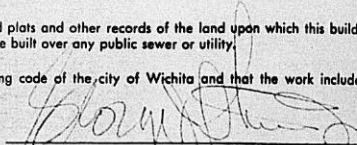
# PLOT PLAN



SIZE OF LOT \_\_\_\_\_

The undersigned hereby certifies:

1. That the structure covered by this application will be placed no closer to the lot lines than the dimension as indicated on the above plot plan and that the undersigned has full knowledge of these setbacks.
2. It is further certified that the undersigned has examined the recorded plats and other records of the land upon which this building is to be located and that it will not encroach upon any easement or be built over any public sewer or utility.
3. The undersigned also certifies that he has been apprized of the housing code of the city of Wichita and that the work included on this application will conform with the provisions hereof.

  
Applicant

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

June 3, 1966

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 19-66

An application has been filed by George J. Stevens, Jr., 2133 South Erie, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, requesting a reduction of the 6-foot side yard setback to 2 feet; and reduction of the 25-foot front yard setback to 14 feet, on property zoned "AA" - One Family Dwelling District, and legally described as follows:

The north 30 feet of Lot 12, and the south 50 feet of Lot 13, Block 1, South Hillside Terrace Addition to Wichita, Sedgwick County, Kansas - generally located on the west side of Erie between Clark and Kinkaid.

This application has been assigned Case No. BZA 19-66 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 28, 1966, 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 E. Galbraith  
Secretary

BOARD OF ZONING APPEALS

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

CITY OF WICHITA, KANSAS

FILED 6-1-66

**APPLICATION FOR VARIANCE**

1. Name of Applicant GEORGE J. STEVENS, JR. ✓  
Mailing Address 2133 South Erie Phone MU 2-6344  
Name of Authorized Agent Kent Frizzell ✓  
Mailing Address 701 Petroleum Building Phone AM 7-2871  
Relationship of applicant to property is that of Owner  
(owner, tenant, lessee, other)

II. The variance requested is Reduction of 6' sideyard  
Setback to 3'; and Reduction of 25'  
Frontyard setback to 14'

for property located at 2133 South Erie, Wichita, Kansas *On the*  
*west side of Erie bet Clark & Fairbaird* H-6  
and legally described as: The North 30 feet of Lot 12, and the South 50 feet  
of Lot 13, Block 1, South Hillside Terrace Addition to Wichita, Sedgwick County,  
Kansas.  
in the City of Wichita; and which is presently zoned residential.

(Give metes and bounds description below if appropriate):

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. 24-606); and that the appropriate fee is herewith tendered;
- 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;
- That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

George J. Stevens, Jr.  
Applicant

Kent Frizzell  
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals,  
4:00 (a.m. (p.m.)), June 1, 1966, together with  
appropriate fee of \$50.00.

T21-402

Jack Hallwaith, Senior Planner  
Signed

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
3	1	South Hillside Terrace Addition	✓ E. Eugene Bullinger Mary Ann Bullinger 2114 S. Volutsia
4	"	"	Leland C. Rainbolt Helen A. Rainbolt Address unknown <sup>720</sup> address found
5	"	"	✓ Sparkling Homes, Inc. 4007 W. 18th St.
6	"	"	✓ Thomas A. Miller <sup>1303 So</sup> Sandra R. Miller <sup>market</sup> Address unknown
7	"	"	✓ Marian L. Faires Virginia Faires 2114 S. Volutsia
8	"	"	2152 So. Volutsia Rollin R. McCarter Gertrude P. McCarter Address unknown <sup>address found</sup>
9	"	"	✓ Gerald R. Post Winifred R. Post 2820 E. Kinkaid
10	"	"	✓ Velorius M. Harlan M. Juanita Harlan 2159 S. Erie
S 20' of 11	"	"	"
N 45' of 11	"	"	✓ Orville A. Paige Beatrice L. Paige 2141 S. Erie
S 35' of 12	"	"	"
N 30' of 12	"	"	✓ L. E. Forsse, Inc. 407 N. Mission
S 50' of 13	"	"	"
N 15' of 13	"	"	✓ James Edward Hoben Bethenis Hoben 2127 S. Erie
14	"	"	"
15	"	"	✓ Robert M. Reynolds Doris M. Reynolds 2121 S. Erie
16	"	"	✓ Elmer H. Inman Evelyn C. Inman 2115 S. Erie

Continued page 2

Lot	Block	Addition	Property Owner
13	4	Robert L. Myers Addition	✓ Billy J. Bonebrake L. Elvera Bonebrake 2157 S. Volutsia
14	"	"	✓ Wilbert A. Nuss Evelyn M. Nuss 2151 S. Volutsia
15	"	"	✓ Norman G. Spear Helen M. Spear 2145 S. Volutsia
16	"	"	✓ Karl D. Miller Lela I. Miller 2139 S. Volutsia
17	"	"	✓ Chester H. Simpson Irene L. Simpson 2133 S. Volutsia
18	"	"	✓ Kenneth D. Arnold Wanda Lee Arnold 2127 S. Volutsia

Continued page 3

Lot	Block	Addition	Property Owner
3	1	South Hillside Terrace 2nd Addition	✓ G. G. Pfeiffer Margaret E. Pfeiffer 2114 S. Erie
4	"	"	✓ Victor A. Fitz Nancy J. Fitz 2122 S. Erie
5	"	"	✓ Robert W. Sloan Mildred C. Sloan 2128 S. Erie
6	"	"	✓ Donald P. Hutchison Sara E. Hutchison 2134 S. Erie
7	"	"	Gerald I. Stewart Rosa Lee Stewart Address unknown <i>no address found</i>
8	"	"	✓ Marion J. Allen Viola L. Allen 2150 S. Erie Wanda Nell Calvin Address unknown <i>no address found</i>
9	"	"	✓ Stanley R. Nelson Margaret A. Nelson 2158 S. Erie
10	"	"	✓ George F. Thomas Irene N. Thomas 2155 S. Chautauqua
11	"	"	✓ A. W. Soderberg Anna F. Soderberg 2147 S. Chautauqua
12	"	"	✓ Marvin L. Sparks Reta M. Sparks 2139 S. Chautauqua
13	"	"	✓ Frank Mullen Lotia O. Mullen 2131 S. Chautauqua
14	"	"	✓ Claud H. Osborn Kathleen Osborn 2123 S. Chautauqua

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 the North 30 feet of lot 12 and the South 50 feet of lot 13, in Block 1, in South Hillside Terrace Addition to Wichita, Sedgwick County, Kansas, as shown by the Deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 27th day of April, 1966 at 7:00 o'clock A. M.

Order No. 135101

The Security Abstract and Title Company, Inc.

By

*J. M. Owen*  
Vice-President

FORM 223-021

PAYMENT NOTICE

City of Wichita

PT AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
<i>Large Appliances</i>	<i>50.00</i>

Name: *George Williams Jr.*

Address: *412 S. Lincoln*

Type: *2-712* Due Date: *6-1-66*

Comments:

Date: *6-1-66* BY: *R. Williams*

\*

This BZA. Case  
Has a Large Drawing  
On 35mm Microfilm  
Roll # 1