

Case No. BZA 27-82 - Donis D. Eaton - requests a variance to reduce the required rear yard from 20' to 11' on property zoned the "AA" One-family Dwelling District & generally located on the northeast corner of Wilbur and

4948B

200'4 Sec
Checked
Shot
Recorded

11-1-82
11-8-82
11-10
11-17-82

POSTED
8-6-82

ACTION

BZA
27-82

COMMITTEE APPROVED DATE 8-24-82
3-0

~~MAPS~~ _____

~~RECORDS~~ _____

4948B

200'4 Sec 11-1-82
Checked 11-8-82 art
Shot 11-10
Recorded 11-17-82

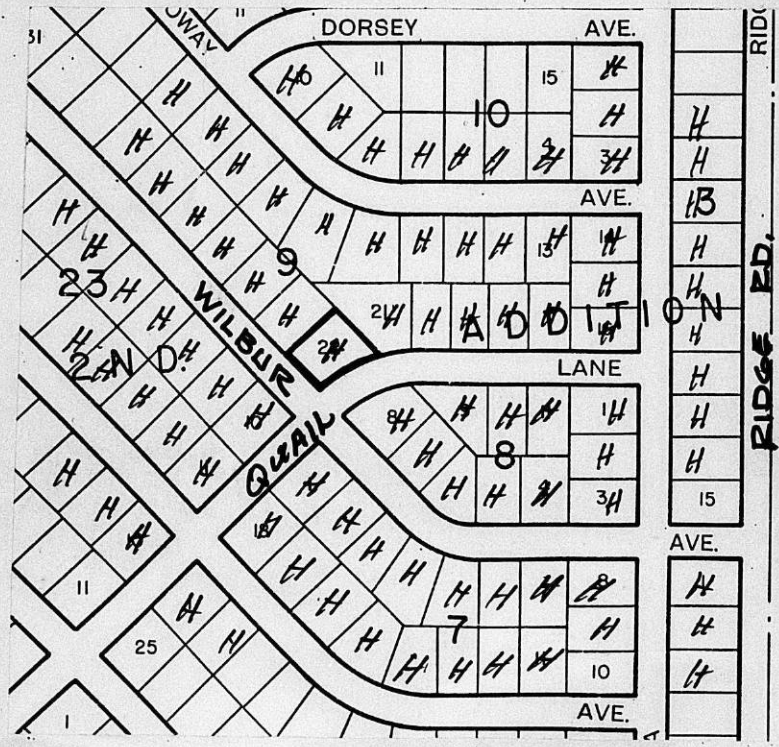
Case No. BZA 27-82 - Donna D. Eaton -
requests a variance to reduce the re-
quired rear yard from 20' to 11' on
property zoned the "M1" One-Family
Dwelling District & generally located
on the northeast corner of Wilbur and

Map No. 4948
 Sec. _____
 Twp. _____
 Range _____

BZA- 27-82
 SCZ- _____
 CU- _____
 Filed _____

- AREA DATA:
1. Acres: 0.27 (100 ft. by 120 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East SINGLE FAM South SINGLE FAM
 West SINGLE FAM North SINGLE FAM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: SINGLE FAM.
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



Standard
 No. 2153C
 HASTINGS, MN
 U.S. PATENT OFFICE, CHICAGO, ILL. OR
 REG. RESOR. TX. LOCUST GROVE, AL
 U.S.A.

August 25, 1982

Donis D. Eaton
944 Wilbur
Wichita, Ks. 67212

Re: BZA 27-82
Request for Variance

Dear Mr. Eaton:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 24, 1982.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition of approval. It is forwarded to you for your information and files.

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

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

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

RESOLUTION NO. BZA 27-82

WHEREAS, Donis D. Eaton, 944 Wilbur, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard from 20 feet to 11 feet on property zoned the "AA" One-family Dwelling District and legally described as follows:

Lot 22, Block 9, Country Acres Second Addition
to Wichita, Sedgwick County, Kansas. Generally
located on the northeast corner of Wilbur and
Quail Lane (944 Wilbur).

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 August 24, 1982, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the lot abuts a large pie shaped lot that does not lend to construction in close proximity to the applicant's proposed addition; 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 addition will still maintain an 11 foot rear yard and should allow adequate space for light and air to all adjoining properties; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the pool was under construction prior to the applicant being aware of the requirement of the rear yard; 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 addition will not interfere with any public right-of-way or utility easements on the property; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the addition will only utilize a small portion of the rear yard and should leave adequate separation between structures to comply with the regulations; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

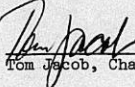
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required rear yard from 20 feet to 11 feet on property zoned the "AA" One-family Dwelling District and legally described as:

Lot 22, Block 9, Country Acres Second Addition
to Wichita, Sedgwick County, Kansas. Generally
located on the northeast corner of Wilbur and
Quail Lane (944 Wilbur).

be approved subject to the following condition:

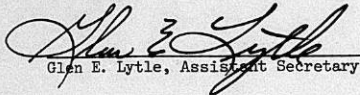
1. The variance shall reduce the rear yard setback from 20 feet to 11 feet only for a distance of 28 feet. The remainder of the rear yard shall not be less than 20 feet.

ADOPTED AT WICHITA, KANSAS, this 24th day of August, 1982.



Tom Jacob, Chairman

ATTEST:

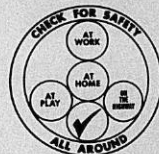


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE August 19, 1982



TO Glen Lytle, Special Assistant for Zoning

FROM Dean Kruthof, Administrative Aide III

SUBJECT BZA 27-82: 944 Wilbur

CPO Neighborhood Council Area "A" will be unable to forward a recommendation on the captioned case due to a lack of quorum at its August 18th meeting. The members present requested that you be informed the applicant for the variance attended the meeting to discuss the case and no area residents were present to oppose the proposed reduction in the rear yard from 20 feet to 11 feet.

Dean Kruthof
Dean Kruthof
Administrative Aide III

DK:dm

Noted:

Sarah Gilbert/sm

Sarah Gilbert
CP Coordinator

RECEIVED

AUG 20 1982

METROPOLITAN PLANNING

ROUTE

SECRETARY'S REPORT
CASE NO. BZA 27-82

APPLICANT: Donis D. Eaton, 944 Wilbur, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required rear yard from 20 feet to 11 feet.

GENERAL LOCATION: On the northeast corner of Wilbur and Quail Lane (944 Wilbur).

ZONING: Subject property is zoned the "AA" One-family Dwelling District as are all adjacent properties.

LAND USE: Subject property is occupied by a One-family Dwelling as are all adjacent properties.

JURISDICTION:

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

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the rear yard in order to construct an addition to his home which will enclose a swimming pool that is under construction. The addition will extend to within 11 feet of the rear property line in lieu of the required 20 feet in the "AA" District.

The property is located on a corner and the lot to the rear is irregular in shape that would preclude the real possibility of any construction in close proximity of the applicant's proposed addition. The property also has a lot of contour that will require retaining walls at the general location of the proposed addition in order to make the pool useful.

The applicant indicates that the pool permit was secured and under construction before he became aware of the requirement for the 20 foot rear yard for the addition. Due to the close proximity of the addition to the north property line, it is necessary to pour the concrete for that wall prior to the construction of the pool.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the lot abuts a large pie shaped lot that does not lend to construction in close proximity to the applicant's proposed addition.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the addition will still maintain an 11 foot rear yard and should allow adequate space for light and air to all adjoining properties.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the pool was under construction prior to the applicant being aware of the problem with the rear yard setback for the enclosing addition.

PUBLIC INTEREST:

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

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the addition will only utilize a small portion of the rear yard and should leave adequate separation between structures to comply with the regulations.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The variance shall reduce the rear yard setback from 20 feet to 11 feet only for a distance of 28 feet. The remainder of the rear yard shall be not less than 20 feet.

BZA CASE NO. 27-82

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

23 NOTICES SENT TO ADJOINING PROPERTY OWNERS

35 TOTAL NOTICES SENT 8-4-82

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

August 4, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 27-82

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Donis D. Eaton, 944 Wilbur, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required rear yard from 20 feet to 11 feet on property zoned "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 22, Block 9, Country Acres Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Wilbur and Quail Lane (944 Wilbur).

This application has been assigned Case No. BZA 27-82. It will be considered by the Board of Zoning Appeals on August 24, 1982 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

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

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 27-82

CITY OF WICHITA, KANSAS

FILED 7-26-82

APPLICATION FOR VARIANCE

I. Name of Applicant DONIS D. EATON
Mailing Address 944 Wilbur Phone 722-3142
Name of Authorized Agent _____
Mailing Address _____ Phone _____
Relationship of applicant to property is that of _____
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required rear yard from 20 feet to 11 feet.

for property located on the northeast corner of Wilbur and Quail Lane (944 Wilbur)
and legally described as: LOT 22, Block 9, Country Acres SECOND ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS

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

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

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Donis D. Eaton

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 2:00 (a.m.-p.m.), JULY 26, 1982 together with appropriate fee of 75.00.

Signed H. Lytle

TO WHOM IT MAY CONCERN:

I am requesting this variance because this property is unique in that it no way will affect adjoining property owners.

In granting this variance it will in no way affect the property owners, because there are no buildings directly behind this area.

If the strict application of Title 28 of which this application applies, it will entail a large amount of expense because the pool has been dug with this amount of space being counted on. Beside the only reason that an enclosure is being planned is because of my wife's health. She has had four back surgeries of which none of them have been successful. The doctors have recommended that she swim for therapy; therefore, the enclosure is necessary for the year around therapy.

I don't see any way that this variance will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare of this community.

I don't believe the granting of this variance will oppose the spirit and intent of the zoning ordinance because of the uniqueness of this property and the shape of the lots in this particular area.

I realize that I may have gotten the cart before the horse in this situation but please believe me it was not intentional. The permit was pulled by the pool contractor and the pool was already dug before I was aware of the zoning ordinance. Now since the pool is already dug, I would appreciate your acting in favor of this request.

Thank you for your consideration.



Donis D. Eaton, property owner

BZA 27-82

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	7	Country Acres 2nd Addition	✓ Clarence Duane Stenzel & Dixie Dale Stenzel, 7411 Quail, 67212
2	7	"	✓ Donald Pat Hogan & Linda Sue Hogan, 933 Wilbur, 67212
18	7	"	✓ Ronald Nutt & Dorothy Nutt, 7417 Quail, 67212
6	8	"	✓ Charles L. Myers & Dene M. Myers, 924 Wilbur, 67212
7	8	"	✓ Val A. Lindquist & Berniece C. Lindquist, 932 Wilbur, 67212
8	8	"	✓ James W. Martin & Margaret J. Martin, 938 Wilbur, 67212
9	8	"	✓ Jorita A. Duty, 1732 N. St. Clair, 67203
10	8	"	✓ Gerald W. Gearhart, 7323 Quail, 67212
7	9	"	Dennis M. O'Conner & Vickie L. O'Conner, Address Unknown
8	9	"	✓ Merrill F. Suter & Mary Margaret Suter, 21 Surfboard Dr., Cheney, 67025
9	9	"	"
10	9	"	✓ Hilburn T. Adams & Arlene M. Adams, 7401 Galoway, 67212
11	9	"	✓ Rodney Duane Jessup & H. LaVerne Jessup, 7331 Galoway, 67212
18	9	"	✓ Marcyle L. Carter, 7322 Quail, 67212
19	9	"	✓ Paul A. Buller & Linda L. Buller, 473 Pamela, 67212
20	9	"	✓ Henry R. Kuhns & Sondra O. Kuhns, 7332 Quail, 67212

page 2

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
21	9	Country Acres 2nd Addition	✓ Steven R. George & Vickie M. George, 7408 Quail, 67212
22	9	"	D Donis D. Eaton & Twila F. Eaton, 944 Wilbur, 67212
23	9	"	✓ Jack H. Owen & Elizabeth E. Owen, 950 Wilbur, 67212
24	9	"	✓ LeRoy L. Mattingly & Betty J. Mattingly, 954 Wilbur, 67212
25	9	"	Edward L. Cooper Jr. & Olive ✓ C. Cooper, 960 Wilbur, 67212
7	23	"	Kenneth L. Fyler Jr. & Charlene ✓ F. Fyler, 959 Wilbur, 67212
8	23	"	Ronald C. Dossey & Pamela C. ✓ Dossey, 953 Wilbur, 67212
9 & 10	23	"	Myrnon C. Wilbur a/k/a Myron C. Wilbur a/k/a M.C. Wilbur & ✓ Sylvia Wilbur a/k/a Sylvia B. Wilbur a/k/a Sylvia Bessie Wilbur, 943 Wilbur, 67212
11 & 12	23	"	Graham F. Riggs & Sue N. Riggs, ✓ 926 Emerson, 67212
13	23	"	Edward C. Brady Jr. (Deceased) ✓ & Jasmine Brady, 936 Emerson, 67212

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We hereby certify the foregoing to be a true and correct list of the property owners within a 200 foot radius of

Lot 22, Block 9, Country Acres Second
Addition, Sedgwick County, Kansas

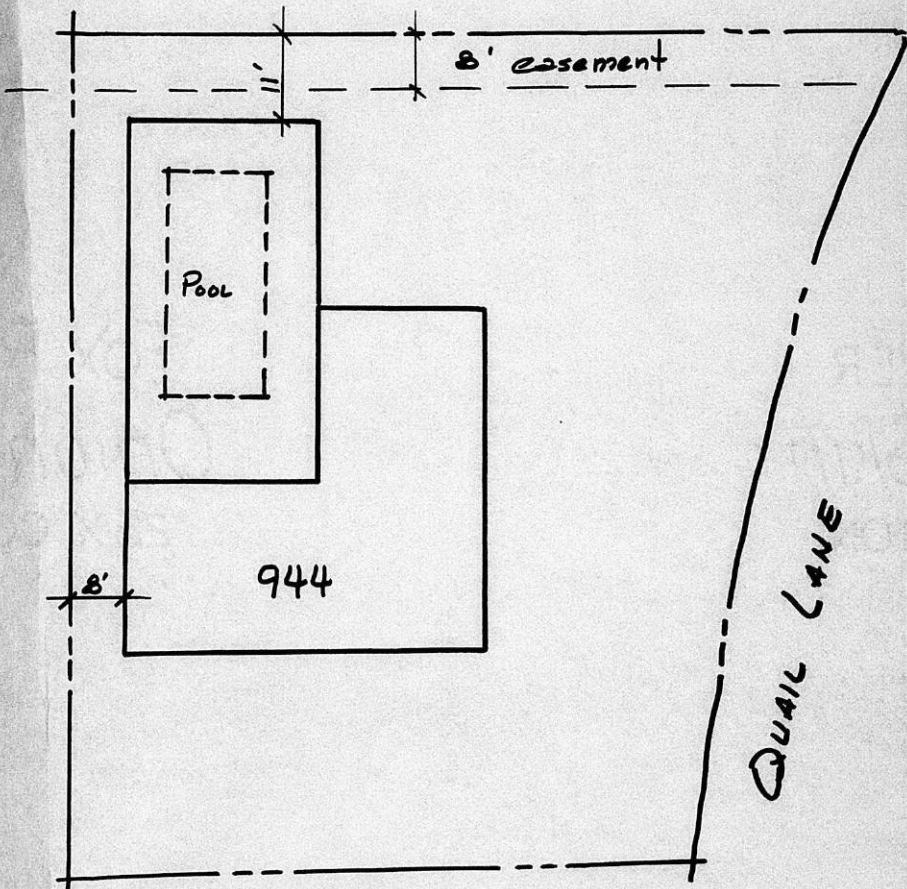
as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 26th day of July, 1982 at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Lable
Vice-President

Order No. 311085
GE

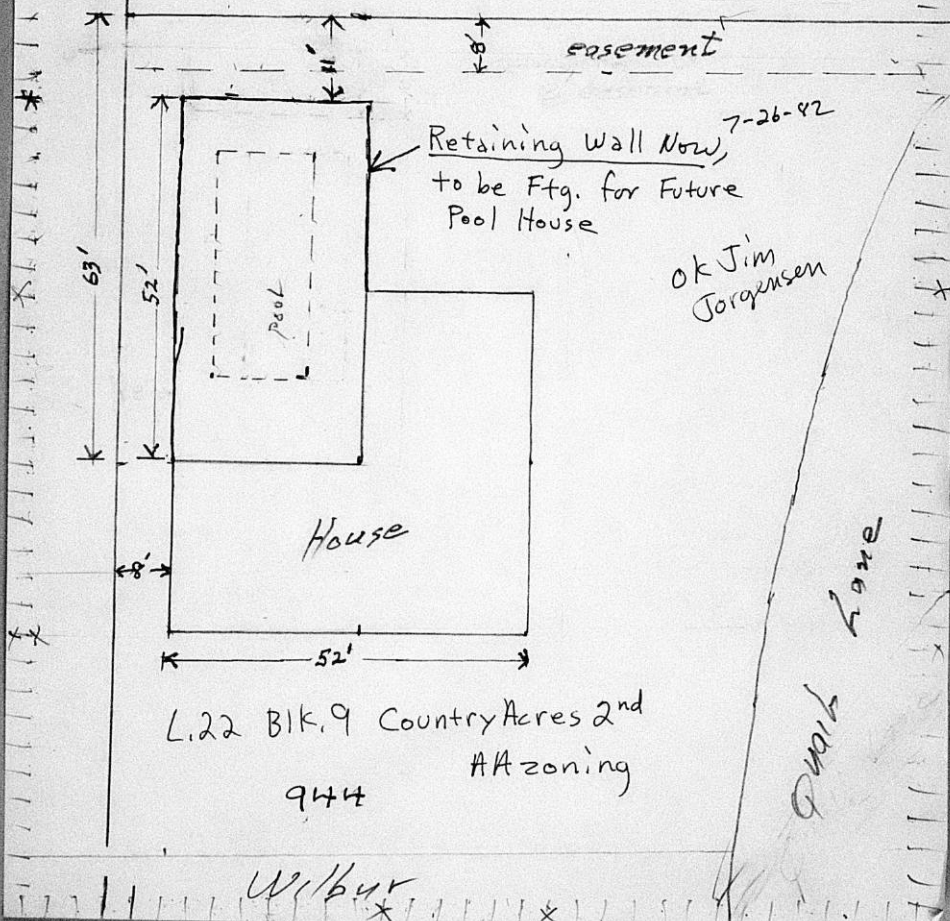


WILBUR

BZA 27-82

scale $\frac{1/4" = 4'}$

7408
Quail



L.22 Blk. 9 Country Acres 2nd
AA zoning
944

Ok Jim
Jorgensen

Wilbur

Quail Lane

