

Case No. BZA 28-86 - James & Carol  
Linger request a variance to reduce t  
the required front yard setback from  
35 ft to not less than 25 ft on proper  
ty zoned the "A" Two-family Dwelling  
located on the north side

REPORT

# ACTION

B.Z.A. 28-86 Withdrawn 8/26/86  
DATE

Ray Le called @ 2:00 pm 8-21-86  
and advised that the applicants  
were withdrawing the case. *L. J. Le*

*Closed*



Jack KIRKBY

Aug 26.

Contract Co.

WILLIAM L. KORBER  
**BAUGHMAN CO.**  
SURVEYORS

PHONE 316/262.7271

330 LAURA

WICHITA, KANSAS 67211

State of Kansas )  
                  ) SS  
County of Sedgwick)

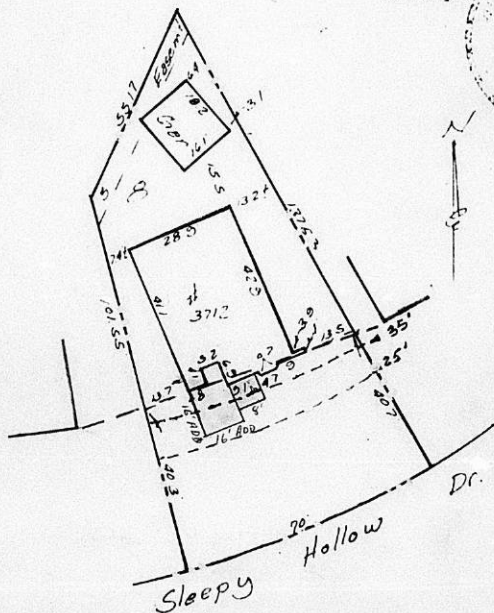
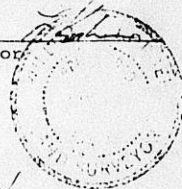
August 12, 1977

We, Baughman Company, Surveyors in aforesaid county and state do hereby certify that we did on this 12th day of August, 1977 survey Lot 8, Block 2, Sleepy Hollow a Subdivision to Wichita, Kansas.

On said lot is house No. 3712 with a detached garage 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 for mortgagee title insurance.

Surveyor



28-32

**KASSEBAUM & JOHNSON**

ATTORNEYS AT LAW  
FIFTEENTH FLOOR  
125 NORTH MARKET

WICHITA, KANSAS 67202-1786

(316) 263-4921

JOHN PHILIP KASSEBAUM  
DOUGLAS D. JOHNSON  
E. CRAIG KENNEDY  
DAVID L. DAHL

IN NEW YORK CITY  
TENTH FLOOR - 575 MADISON AVE.  
NEW YORK, NEW YORK 10022  
(212) 486-0893  
TELEX 125864

August 21, 1986

Board of Zoning Appeals  
455 North Main  
Wichita, Kansas 67203

Re: Case No: BZA 28-86

Dear Board Members:

On behalf of Jim and Carol Lininger, of 3712 Sleepy Hollow, Wichita, Kansas, we hereby formally withdraw their request for a variance which was scheduled to be considered on August 26, 1986.

We appreciate the professional manner with which you have handled this matter.

Best regards.

Very truly yours,

*David L. Dahl*

of Kassebaum & Johnson

DLG/srr

cc: Claude Mason  
Mr. and Mrs. William J. Steffes  
Mr. and Mrs. Garry Milsap  
Robert Eades  
Jim and Carol Lininger

**RECEIVED**

AUG 22 1986

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

THE CITY OF WICHITA

OFFICE OF Citizen Rights & Services DATE August 15, 1986

TO Glen Lytle, Special Assistant for Zoning

FROM Annie K. Montgomery, CRS Director

SUBJECT BZA -<sup>8</sup>~~28~~-86 North side of  
Sleepy Hollow Drive and east  
of Yale (3712 Sleepy Hollow  
Drive)

On Thursday, August 14, 1986, CPO Council "I" considered the above captioned case, a request for a variance to reduce the required front yard setback from 35 feet to not less than 25 feet on property zone the "A" Two-Family Dwelling District. Council members were provided with the notice to adjoining property owners, a map of the area and MAPD comments.

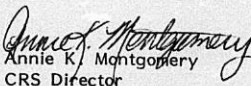
After extensive discussion, the Council voted 6-2 (K. Johnston and Kitchen) to recommend disapproval of the request.

The agent, Dave Dahl, was present to explain the specifics of the request and respond to questions from Council members. According to Mr. Dahl, the owners of the property wish to construct an addition to their house to accommodate visitation by their children and grandchildren. Mr. Dahl asserted that this request was reasonable and would not impose an unnecessary hardship upon their neighbors to the west, Mr. and Mrs. Steffes. Additionally, Doug Lee, contractor, was present to explain the technical aspects of the proposed addition.

Mr. Steffes stated that the proposed addition would, in fact, adversely affect his rights as a property owner. Three (3) other neighbors, Claude Mason, Bob Eades and Gary Milsap, agreed with Mr. Steffes' assertion and stated that they, too, opposed the request. No area residents were present to speak in favor of the request.

After carefully considering both sides of this issue, the Council concluded that this request does infringe upon the rights of Mr. and Mrs. Steffes and cited the zoning ordinance, Title 28, specially item #2 (that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents) as a rationale for their decision. Council members believe that this condition for granting a variance was not met and therefore opposed the request.

Please provide this information to the Board of Zoning Appeals when case BZA 28-86 is considered.

  
Annie K. Montgomery  
CRS Director

AKM:BLC:dm

SECRETARY'S REPORT  
CASE NO. BZA 28-86

APPLICANT: James and Carol Lininger, 3712 Sleepy Hollow, Wichita, KS 67218.

AGENT: Doug Lee, 1411 Woodrow, Wichita, KS 67203  
Dave Dahl, 125 N. Market, #1520, Wichita, KS 67202

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required front yard setback from 35 feet to not less than 25 feet.

GENERAL LOCATION: On the north side of Sleepy Hollow Drive and east of Yale (3712 Sleepy Hollow Drive).

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

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

JURISDICTION:

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

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to to reduce the front yard setback in order to construct an addition on the front of the existing house. The addition will extend approximately 12 feet in front of the existing structure. The front yard setback will still exceed that normally required by development in the "A" Two-family Dwelling District of 25 feet.

A provision of the zoning ordinance requires that a front yard of not less than 35 feet be maintained on this property. This is required on this property because the houses on either side of the application area maintain a setback exceeding 35 feet and are within 100 feet from corner to corner. This provision is generally applicable only in older areas where most of the houses are constructed on smaller frontage lots and the area does not have platted setbacks.

In this case, all of the houses in the block maintain approximately 40-foot front yard setbacks. In this case, the entire block is platted in a triangular configuration that has corner lots that constitute lots with two front yards. The application area is adjacent to one of these corner lots and the side yard of the adjacent house is next to the side yard on the west. The closest part of the addition will be at least 13½ feet from the side property line on the west and at least 30 feet from the side property line on the east. The major portion of the addition will be in back of the required 35-foot setback.

The neighbor to the west has expressed some concern of the proposed encroachment into the required setback. At the present time the adjacent property owner has considerable site distance to the east along the parkway. This could have an adverse affect on the property owner to the west if this variance is granted.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the existing structures exceed the normal setback of the district by fifteen feet or more which is very uncommon for houses located on narrow lots, and in addition, the distance from the houses across the street is approximately 250 feet due to the parkway and drainage area.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested may adversely affect the rights of the adjacent property owners to the west inasmuch as the proposed construction will interfere with the existing site line down the parkway to the east that has existed since the houses in the area were first constructed.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be unable to construct an addition closer than 35 feet from the front property line which is ten feet more than generally required by the "A" Two-family Dwelling District.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the front yard setback will not interfere with any needed right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the zoning ordinance is to provide a reasonable amount of protection to existing properties when existing development has occurred at setbacks greater than the minimum.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance have not been found to exist; however, 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 conditions:

1. The front yard setback shall not be reduced to less than twenty-eight feet.
2. The building area located in front of a 35-foot setback line shall not exceed 168 square feet of ground coverage.
3. No open porches or steps may be constructed closer than that permitted by the provisions above.
4. No part of the construction permitted by this variance shall be located closer than 12.8 feet to the west property line.

BZA CASE NO. 28-86

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>24</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>27</u>	TOTAL NOTICES SENT <u>8/4/86</u>

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

August 1, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 28-86

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by James and Carol Lininger, 3712 Sleepy Hollow, 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 front yard setback from 35 feet to not less than 25 feet on property zoned the "A" Two-family Dwelling District. A legal description of the applicant's property is as follows:

Lot 8, Block 2, Sleepy Hollow Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of Sleepy Hollow Drive and east of Yale (3712 Sleepy Hollow Drive).

This application has been assigned Case No. BZA 28-86. It will be considered by the Board of Zoning Appeals on August 26, 1986 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

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

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

Glen E. Lytle  
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 28-86

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant James & Carol Linger  
 Mailing Address 3712 Sleepy Hollow Phone 682-2440  
 Name of Authorized Agent Doug Lee # Dave Dahl  
125 N. Mkt. #1520  
W.K. 67202  
 Mailing Address 1411 Woodrow Phone 263-2039  
 Relationship of applicant to property is that of owner  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the required front yard setback from 35 feet to not less than 25 feet

for property located on the north side of Sleepy Hollow Dr and east of Yale (3712 Sleepy Hollow Dr).  
 and legally described as: Lot 8, Block 2, Sleepy Hollow Addition to Wichita, Sedgwick Co, Kansas

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

- 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. 39-285); 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 \_\_\_\_\_

Authorized Agent Doug Lee

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:15 (a.m./p.m.), July 28, 1986, together with appropriate fee of 200.00.

Signed [Signature]

CRESTLINE BUILDERS, INC.  
1411 Woodrow  
Wichita, Ks.

Office of the Secretary  
Board of Zoning Appeals  
455 N. Main  
Wichita, Ks.

July 31, 1986

RE: Application for Front Yard Variance

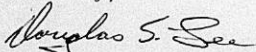
Dear Board Members:

James and Carol Lininger, owners of property located at 3712 Sleepy Hollow Drive, are requesting a front yard variance which would move the setback line to a maximum of 25' from the front property line. The addition desired for this home would bring the front wall approximately 10' forward.

This variance is a unique situation due to the fact this property is located on a curved street. It is strongly believed that the granting of this variance would not affect any rights of the adjacent property owners. Crestline Builders, Inc. and the property owner represented in this variance request do not feel there will be any unnecessary hardship should this request be granted. Granting of this variance should not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare of area property owners or general public in any way.

Primarily due to the fact this is an older home in one of the older sub-divisions of the Wichita area, there are no real setback requirements of record on any plat available. Therefore, we need to review and evaluate these cases individually so we are careful not to oppose the general spirit and intentions of our present Zoning Ordinances.

Sincerely,



Douglas S. Lee, President  
Crestline Builders, Inc.

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
The East 5 feet of Lot 1 except the South 5 feet	Block 2	Sleepy Hollow Addition	✓ Michael H. Goodwin Mary D. Goodwin 3717 E. Murdock Wichita, KS 67208
The South 5 feet of Lot 1 & all of Lot 2	Block 2	"	✓ David F. Middleton Joyce L. Middleton 734 N. Yale Wichita, KS 67208
Lot 1 exc. the South 5 feet & exc. the East 5 feet	Block 2	"	✓ Merle N. Slease Adalyn Slease 3705 E. Murdock Wichita, KS 67208
Lot 3	Block 2	"	✓ Gary L. Pember Rhonda K. Pember 730 N. Yale Wichita, KS 67208
Lot 4	Block 2	"	Luther H. Marsh (Dec'd) ✓ Richard L. DeForest 726 N. Yale Wichita, KS 67208
Lot 5	Block 2	"	Dale P. Denning ✓ Patricia McRae Denning 714 N. Yale Wichita, KS 67208
Lot 6	Block 2	"	✓ Margarett L. Raymond 710 N. Yale Wichita, KS 67208
The North 5 feet of Lot 7	Block 2	"	Same As Above
Lot 7 exc. the North 5 feet	Block 2	"	✓ William J. Steffes LaDonna Steffes 3700 Sleepy Hollow Wichita, KS 67208
Lot 8	Block 2	"	✓ James H. Liniger H. Carol Liniger 3712 Sleepy Hollow Wichita, KS 67208
Lot 9 exc. the East 5 feet	Block 2	"	✓ Edwin G. Reig Jr. Margaret S. Reig 3720 Sleepy Hollow Wichita, KS 67218
The East 5 feet of Lot 9 & all of Lot 10	Block 2	"	✓ Ernestine S. Laing Verne M. Laing 3728 Sleepy Hollow Wichita, KS 67208

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 11	Block 2	Sleepy Hollow Addition	✓ Claude E. Mason Joan M. Mason 3736 Sleepy Hollow Wichita, KS 67208
Lot 12 & the East 9 feet of the South 45 feet of Lot 14	Block 2	"	✓ Thomas D. Kitch Sally L. Kitch 3740 Sleepy Hollow Wichita, KS 67208
Lot 14 exc. the East 9 feet of the South 45 feet	Block 2	"	✓ Robert E. Eades DeLores L. Eades 3733 E. Murdock Wichita, KS 67208
Lot 15	Block 2	"	✓ C. Allen Bell III Kim A. Bell 3725 E. Murdock Wichita, KS 67208
Lot 16	Block 2	"	✓ Carol J. Lindley 3721 E. Murdock Wichita, KS 67208
Lot 17	Block 2	"	✓ Michael H. Goodwin Mary D. Goodwin 3717 E. Murdock Wichita, KS 67208
Lot 1	Block 3	"	✓ Doanld R. Newkirk Montana F. Newkirk 3705 Sleepy Hollow Wichita, KS 67208
Lot 2	Block 3	"	✓ Henry B. Amsden Sarah C. Amsden 3711 Sleepy Hollow Wichita, KS 67208
Lot 3	Block 3	"	✓ Charles Ray Jackson Charlotte Johnston Jackson 3717 Sleepy Hollow Wichita, KS 67208
Lot 4	Block 3	"	✓ Garry E. Millsap Virginia Millsap 3723 Sleepy Hollow Wichita, KS 67208
Lot 5	Block 3	"	✓ Julia Frances Lygrisse 3727 Sleepy Hollow Wichita, KS 67208

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 6, Block 3, and part of Lot 7, Block 3, described as follows: Beginning at the intersection of the line between said Lots 6 and 7, with the South line of Northeast Parkway; th. SE'ly along the line between said Lots 6 & 7, 100 feet; th. NE'ly on a line which would be an extension of the line between Lots 6 & 8, in said Addition, into Lot 7 to a point 5 feet distant from the boundary line between said Lots 6 & 7; th. NW'ly parallel to and 5 feet from the line between said Lots 6 & 7, to the point of intersection with the South line of Northeast Parkway; th. SW'ly to p.o.b.		Sleepy Hollow Addition	✓ Stephen Link Christin Penny Legate Christin 125 N. Market Wichita, KS 67202
Lot 7, Block 3, except above described portion.		"	✓ Sharon L. Kiser 13 Crestview Lakes Wichita, KS 67220
Lot 1		Grandview Terrace Addition, on Pine	✓ Mary Susan Dungan 3444 E. Pine Wichita, KS 67208
Lot 2		"	✓ Karen Humphreys and Sharon A. Werner 3443 E. Pine Wichita, KS 67208
Lot 1		Woodford's Replat of Part of Grandview Terrace Addition, on Elm	⓪ William J. Steffes LaDonna L. Steffes 3700 Sleepy Hollow Wichita, KS 67208

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

Lot 8, Block 2, Sleepy Hollow, a Subdivision to Wichita, Kansas, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 23rd day of July, 1986, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By *Mary Kable*  
Sr. Vice-President

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 29-000

PAYMENT NOTICE  
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
City P&A Vac	1200.00

NAME Doris Lee

ADDRESS 1411 W. 20th St

FUND 255-40710-00 DUE DATE

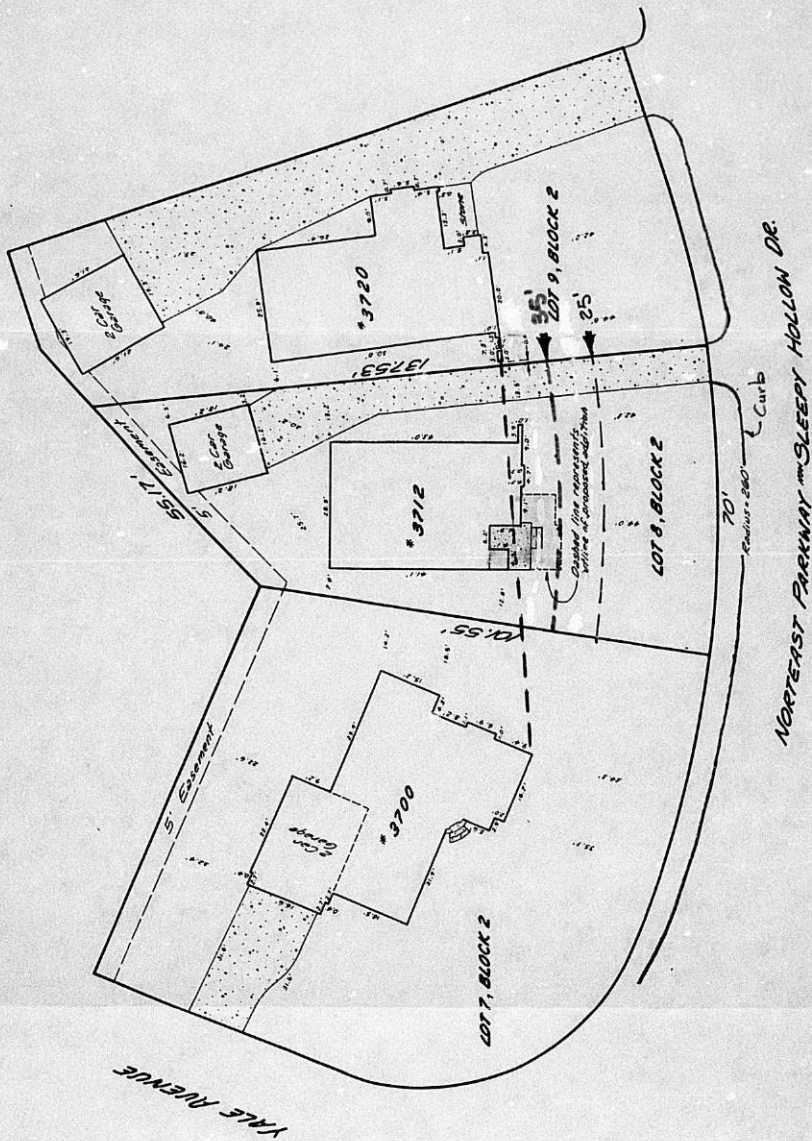
COMMENTS

DATE 4/28/56 BY [Signature]

TERRA TECH

LAND SURVEYING INC.

2445 West Dewey  
Wichita, Kansas 67202-3607  
(316) 267-0744 / 267-2348

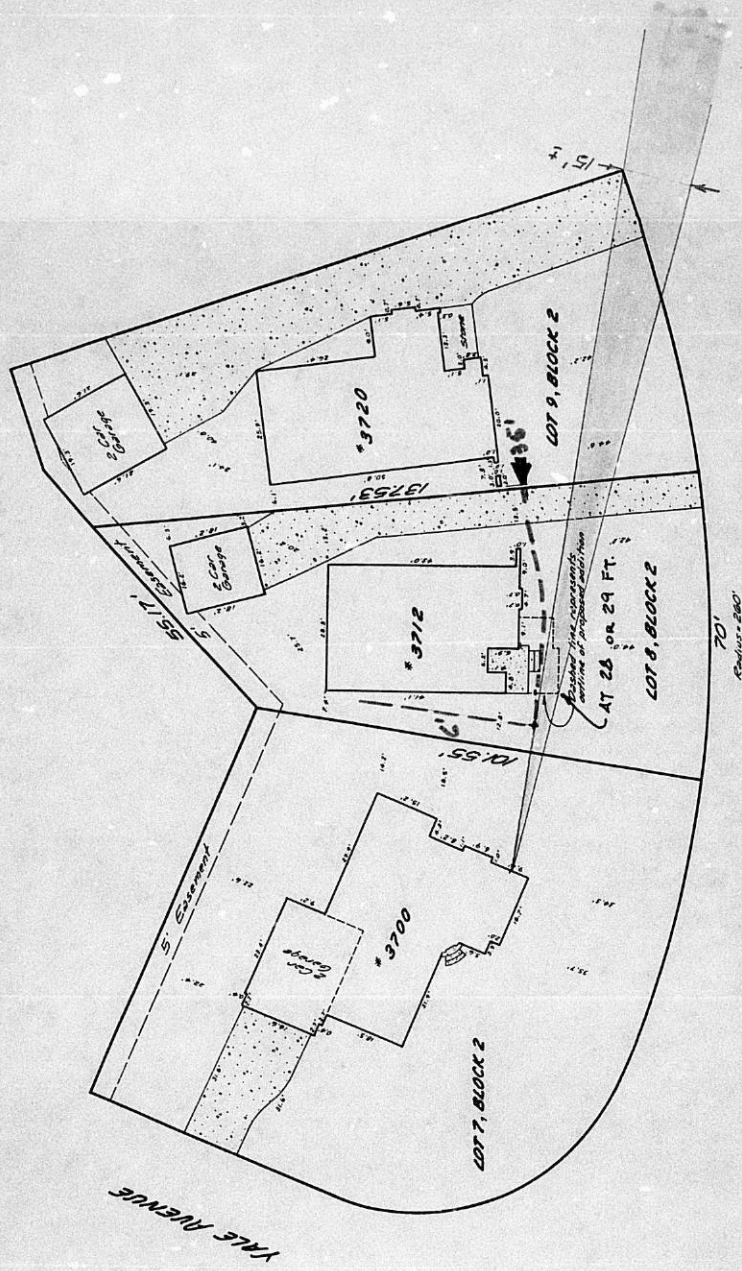


PREPARED  
11 AUG. 1986

TERRA TECH

LAND SURVEYING INC.

245 West Dewey  
Wichita, Kansas 67202-3607  
(316) 267-0744 / 267-2348

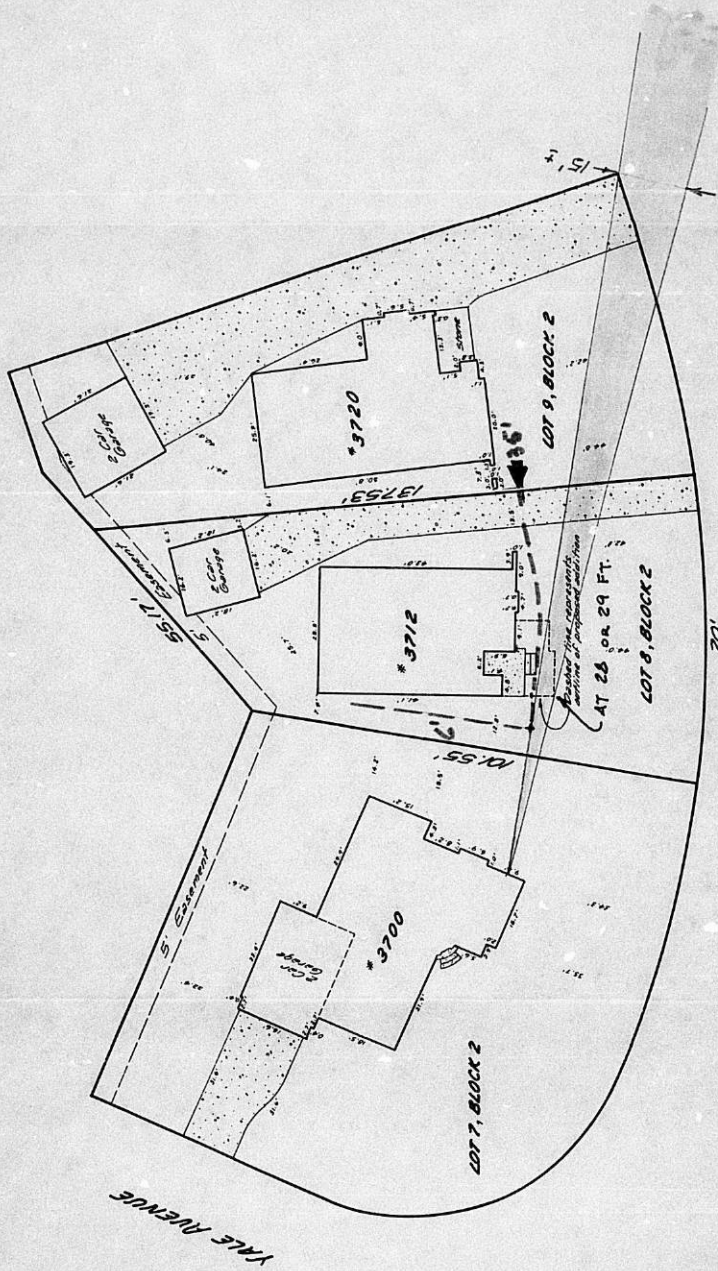


NORTHEAST PARKWAY AND SLEEPY HOLLOW DR.

SIGHT OBSTRUCTION  
AT 160' FROM 50 MIND.



RECORDED  
11 AUG 1 06



ASSEMBLED  
4-16-09, 1:00