

BZA 29-75 - Kenneth Garrett, et al
requests variance of screening re-
quirements on east side of Seneca
in an area south of Seneca Court

105180
7-8-75
K.S.
6.5.75
10-23-75

ACTION

DATE

BZA COMMITTEE Approved 7-22-75

M.A.P.C. _____

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

Map No. 5445
 Sec. 32
 Twp. 27
 Range 1E

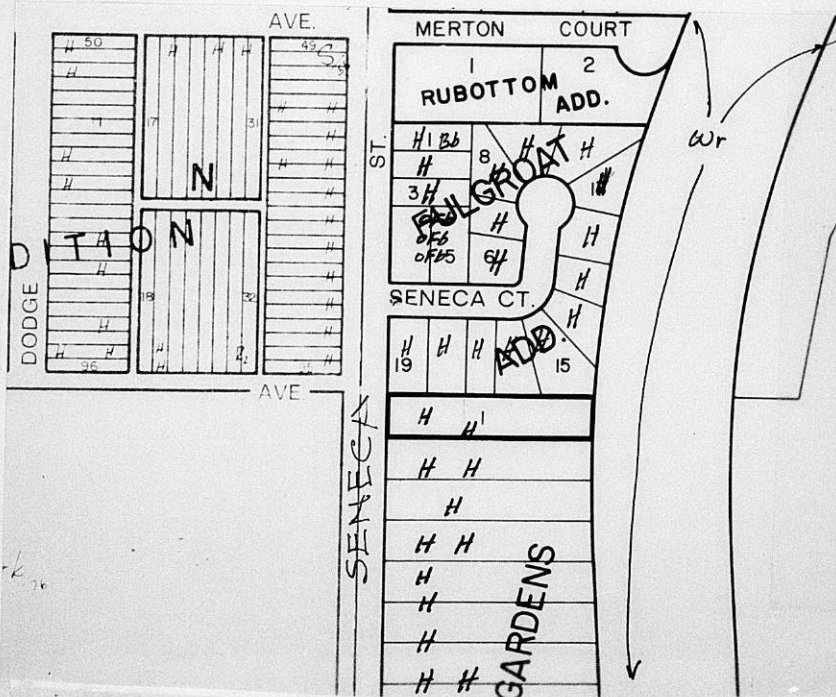
BZA- 29-75
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.64 (77 ft. by 363 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East WHEELING YARD South SINGLE FAM
 West PARK North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: _____
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



HARTMAN, INC. - LOS ANGELES
 No. 2453C
 LOS AN, CA - INDEPENDENT, TX U. S. A.

July BB
 North BB
 South A
 East E?
 West RB 4

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

June 30, 1975

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 29-75

An application has been filed by Kenneth L. Garrett and K. D. Lacy, 1800 South Seneca, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to remove the screening requirement adjacent to the north and south property lines of property zoned the "BB" Office District and legally described as follows:

Lot 1, except the west 20 feet for street, West Park Gardens, Wichita, Kansas. Generally located on the east side of Seneca in an area south of Seneca Court.

This application has been assigned Case No. BZA 29-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 22, 1975, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

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Jack H. Galbraith
Secretary

Secretary's Report
Case No. BZA 29-75
Page Three

UNIQUENESS:

It is the opinion of the Secretary that the requested variance for that portion of the property not developed for the office use may be the result of a unique condition inasmuch as the lot is an unusually deep lot that is not proposed to be fully utilized for the office use.

ADJOINING PROPERTY

It is the opinion of the Secretary that the granting of the variance for only that portion of the property not developed for office use may not adversely affect the rights of adjacent property owners or residents inasmuch as the undeveloped land would remain vacant and should therefore cause no adverse effect upon adjoining properties, if properly maintained.

HARDSHIP

It is the opinion of the Secretary that the strict enforcement of the zoning ordinance would constitute an undue hardship on the applicant when applied to the undeveloped portion of subject property inasmuch as the applicant would be required to screen approximately 400 feet of property line (200 feet on each property line) that is vacant undeveloped land.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the requested variance for the undeveloped portion of the property would not adversely affect the public interest inasmuch as the variance is interiorly located.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance for the undeveloped portion of the property would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the ordinance is to screen adjacent residential properties from the actual use, not from vacant land zoned for office use.

R E S O L U T I O N N O . B Z A 2 9 - 7 5

WHEREAS, Kenneth L. Garrett and K. D. Lacy, 1800 South Seneca, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to remove the screening requirement adjacent to the north and south property lines of property zoned the "BB" Office District and legally described as follows:

Lot 1, except the west 20 feet for street, West Park Gardens, Wichita, Kansas. Generally located on the east side of Seneca in an area south of Seneca Court.

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 July 22, 1975, 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 is an unusually deep lot that is not proposed to be fully utilized for the office use. It is also unique that the area to the south would probably be favorably considered for a change of zoning to the office zoning district, based on past Commission action; 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 majority of the lot lying adjacent to residential zoning districts will remain undeveloped, and the portion being utilized for the office use is separated from the residential district by a 20-foot side yard and a row of trees; 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 the applicant would be required to fence undeveloped land and land adjacent to residential property that will in all probability be rezoned to a district other than residential; 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 requested variance is 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), inasmuch as the majority of the property required to be screened is vacant, undeveloped land, and the area is one that is in a period of change, as evidenced by the Commission's past action on zone change requests in this area; 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.

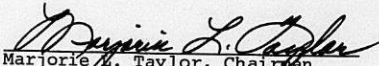
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to remove the screening requirement adjacent to the north and south property lines of property zoned the "BB" Office District, and legally described as follows:

Lot 1, except the west 20 feet for street, West Park Gardens, Wichita, Kansas. Generally located on the east side of Seneca in an area south of Seneca Court,


be approved, subject to the following conditions:

1. No building permits or paving permits shall be issued for any office related improvements east of existing improvements, as shown on the applicant's submitted plot plan, unless screening provisions are complied with.
2. The undeveloped rear portion of this property shall be mowed as required to keep it in good condition.

ADOPTED AT WICHITA, KANSAS, this 22nd day of July, 1975.


Marjorie M. Taylor, Chairman

ATTEST:


Jack H. Galbraith, Secretary

August 25, 1975

Kenneth L. Garrett
1800 South Seneca
Wichita, Kansas 67213

Subject: Case No. BZA 29-75
Request for Variance

Dear Mr. Garrett:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on July 22, 1975, in connection with your request for a variance to remove the screening requirements adjacent to the north and south property lines of property zoned the "BB" Office District and generally located on the east side of Seneca in an area south of Seneca Court.

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

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

Sincerely,

Jack H. Galbraith

JHG:el
Encl.

cc: K. D. Lacy, 1800 South Seneca, 67213
Robert Feldner, Sup't. of Central Inspection
Donald C. Gisick, City Clerk
Joe Donnelly, Central Inspection

July 23, 1975

Kenneth L. Garrett
1800 South Seneca
Wichita, Kansas 67213

Subject: Case No. BZA 29-75 -
Request for Variance

Dear Mr. Garrett:

At the regular meeting of the Board of Zoning Appeals on July 22, 1975, your request for a variance to remove the screening requirements adjacent to the north and south property lines of property zoned the "BB" Office District and generally located on the east side of Seneca in an area south of Seneca Court, was considered.

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

1. No building permits or paving permits shall be issued for any office related improvements east of existing improvements, as shown on the applicant's submitted plot plan, unless screening provisions are complied with.
2. The undeveloped rear portion of this property shall be mowed as required to keep it in good condition.

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.

Kenneth L. Garrett
July 23, 1975

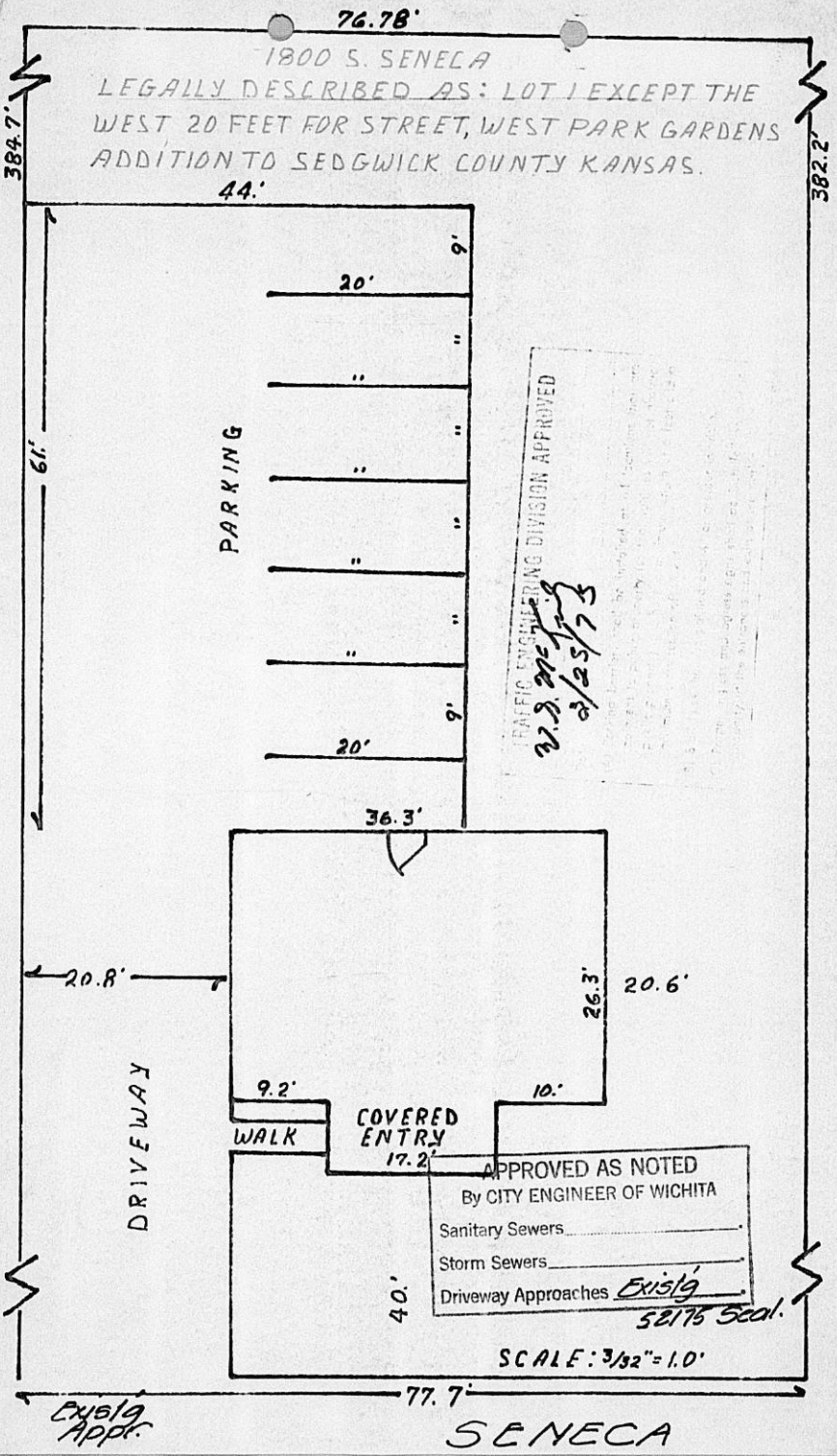
If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

X
cc: K. D. Lacy, 1800 South Seneca, 67213
Robert Feldner, Supt. of Central Inspection
Donald C. Gisick, City Clerk
Joe Donnelly, Central Inspection



TRAFFIC ENGINEERING DIVISION APPROVED
 W.D. [Signature]
 2/25/73

APPROVED AS NOTED
 By CITY ENGINEER OF WICHITA
 Sanitary Sewers _____
 Storm Sewers _____
 Driveway Approaches Existg

SCALE: 3/32" = 1.0'

Existg Appl.

SENECA

SECRETARY'S REPORT

CASE NO. BZA 29-75

APPLICANT: Kenneth L. Garrett and K. D. Lacy, 1800 South Seneca, Wichita, Kansas.

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

GENERAL LOCATION: East side of Seneca in an area south of Seneca Court.

ZONING: Subject property is zoned the "BB" Office District. North is "BB" and the "A" Two Family Dwelling District. South is zoned the "A" District. East is the "E" Light Industrial District. West is the "RB" Four Family Dwelling District.

LAND USE: Subject property is utilized as a real estate office. Property to the north is an office and single family homes. South is single family. East is a salvage yard. West is a park.

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

Secretary's Report
Case No. BZA 29-75
Page Two

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

Subject property is zoned the "BB" Office District and has been developed as a real estate office. Residential property lies adjacent to the entire south property line and part of the north property line. The zoning ordinance requires that screening be provided along these property lines adjoining the residential zoning districts. The applicant is requesting a waiver of this requirement, stating that natural screening already exists and that if required to screen, nine mature shade trees would have to be removed. It should be noted that screening may, by ordinance, be provided by any of three methods: (1) decorative fencing, (2) evergreen vegetation or (3) landscaped earth berms. If either of the latter two methods are used, a plan showing the proposed screening must be submitted for approval by the Director of Planning and the Superintendent of Central Inspection. If fencing were used, it could be placed inside the tree line so as to preserve these trees.

Subject property is a long rectangular lot, having approximately 78 feet of frontage on Seneca and a depth of 332 feet. Less than one-half of the depth of the property is proposed to be utilized in connection with the office use. The applicant has submitted a plot plan, approved by the office of the Traffic Engineer which shows a driveway on the north side of the office structure leading to off-street parking behind the structure. The office structure and associated parking are shown as extending for only the front 120 feet of this 382 foot deep lot. Adjoining property to the north, for a depth of approximately 140 feet, is also developed as an office use. The remainder of the adjoining property both north and south is developed as single family homes.

Although the Secretary finds it very difficult to justify a complete waiver of the screening requirement, a modification of the requirements could perhaps be justified. The following comments on the five conditions necessary to the granting of a variance are based on screening being provided for only that portion of the property where the actual office use and parking is adjacent to residential property.

Secretary's Report
Case No. BZA 29-75
Page Three

UNIQUENESS:

It is the opinion of the Secretary that the requested variance for that portion of the property not developed for the office use may be the result of a unique condition inasmuch as the lot is an unusually deep lot that is not proposed to be fully utilized for the office use.

ADJOINING PROPERTY

It is the opinion of the Secretary that the granting of the variance for only that portion of the property not developed for office use may not adversely affect the rights of adjacent property owners or residents inasmuch as the undeveloped land would remain vacant and should therefore cause no adverse effect upon adjoining properties, if properly maintained.

HARDSHIP

It is the opinion of the Secretary that the strict enforcement of the zoning ordinance would constitute an undue hardship on the applicant when applied to the undeveloped portion of subject property inasmuch as the applicant would be required to screen approximately 400 feet of property line (200 feet on each property line) that is vacant undeveloped land.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the requested variance for the undeveloped portion of the property would not adversely affect the public interest inasmuch as the variance is interiorly located.

SPIRIT AND INTENT

It is the opinion of the Secretary that the granting of the variance for the undeveloped portion of the property would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the ordinance is to screen adjacent residential properties from the actual use, not from vacant land zoned for office use.

Secretary's Report
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Page Four

RECOMMENDATION

If the Board determines that the five conditions necessary to the granting of a variance can be found to exist, it is recommended that a variance to reduce the amount of screening adjacent to residential properties be approved subject to the following conditions:

1. Screening, as provided by ordinance, shall be provided along the south property line beginning at a point 40 feet east of the west property line and extending eastward along the property line a distance of 100 feet.
2. No building permits or paving permits shall be issued for any office related improvements east of existing improvements, as shown on the applicant's submitted plot plan, unless screening provisions are complied with.
3. The undeveloped rear portion of this property shall be mowed as required to keep it in good condition.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

June 30, 1975

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Jack H. Galbraith
Secretary

6-30-75

14 notices mailed to adjacent property owners
9 notices mailed to maps

5445

BOARD OF ZONING APPEALS

CASE NO. 29-75

CITY OF WICHITA, KANSAS

FILED 6-20-75

APPLICATION FOR VARIANCE

I. Name of Applicant Kenneth L. Garrett and K. D. Lacy 13

Mailing Address 1800 S. Seneca Phone 262-3767

Name of Authorized Agent _____

Mailing Address _____ Phone _____

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

II. The variance requested is Waiver of screening requirements

for property located 1800 S. Seneca

and legally described as: Lot 1 except West 20 feet for street
West Park Gardens Addition to Sedgwick County, Kansas.

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

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 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.

Kenneth L. Garrett
Applicant Kenneth L. Garrett

K. D. Lacy
Authorized Agent K. D. Lacy

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:30 (a.m. - p.m.), 6/20 19 75
together with appropriate fee of \$50.00.

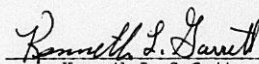
Larry Holman
Signed

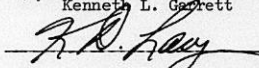
May 27, 1975

BOARD OF ZONING APPEALS
City of Wichita, Kansas

A variance from the screening requirements called for in title 28 on property located at 1800 S. Seneca, Wichita, and legally described as lot 1, except the West 20 feet for street, West Park Gardens Addition to Sedgwick County, Kansas, is hereby respectfully requested due to the following reasons and conditions.

1. The property on which the variance is requested has considerable natural screening on both the South and North sides. If we were required to furnish screening as called for in the ordinance, a total of nine (9) mature shade trees would have to be removed in addition to other natural screening such as rose bushes, etc. This is also in an area which has been looked upon favorably in the past for future office zoning.
2. Our activities will not adversely affect adjacent property owners due to the fact that we have only one salaried employee and 98% of our work is done by appointment away from the office. Our regular office hours are from 8:30 A. M. to 5:30 P. M., Monday thru Friday. We are normally closed Saturday and Sunday.
3. We are a small company and the cost of screening which is called for in the ordinance would be prohibitive, not to mention the additional cost of removing the shade trees.
- 4-5. It is our belief that we will not affect the surrounding properties in any way, since as we have stated before most of our business is conducted away from our office plus the fact that the physical appearance of the building has not been changed except for the fact that it has had a new coat of paint.



Kenneth L. Garrett


K. D. Leay

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS:
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas,

All Owners within 200 feet of:

Lot 1, Except the West 20 feet for street,
WEST PARK GARDENS, Wichita, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz:
(Addresses as given are furnished as a service and not certified.)

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
1	WEST PARK GARDENS	X Bessie M. Pickens Address Unknown
2	WEST PARK GARDENS	X Pete Briley Address Unknown
3	WEST PARK GARDENS	✓ Dewey & Evalyn E. Southwick 1720 Lexington Rd. Wichita, Kansas 67218 & Karl A. & Karen D. Southwick 2332 South Green Street Wichita, Kansas 67211
4	WEST PARK GARDENS	✓ Henry & Dorothy E. Jacobs 1041 South Water Street Wichita, Kansas 67213

Fidelity  Title
COMPANY, INC.

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
30 & 32 Block N	PRINCESS	✓ Bernard H. & Bonnie M. Cooper 1220 Esthner Avenue Wichita, Kansas 67213
85, 37, 89 & 91 Block N	PRINCESS	✓ Dan W. & Suzanne M. Bolton 1751 South Seneca Street Wichita, Kansas 67213
93 & 95	PRINCESS	✓ Harold A. & E. Maxine Compton 1202 Esthner Avenue Wichita, Kansas 67213
13	FULGROAT	✓ Veterans Administration 5500 East Kellogg Wichita, Kansas 67218
14	FULGROAT	✓ John George & Betty J. Bitter 1768 Seneca Ct. Wichita, Kansas 67213
15	FULGROAT	✓ Kurt A. Chambers Conway Springs
16	FULGROAT	✓ Ernest L. Rhodes Route 2 Valley Center, Kansas 67147
17	FULGROAT	✗ Michael A. & Marjorie B. Bundy Address Unknown
18	FULGROAT	✓ Wayne Williams Inc. % Earl Wayne & Rose Anna J. Williams 5730 East 37th Street North Wichita, Kansas 67220
19	FULGROAT	✓ Wayne Williams Inc. % Earl Wayne & Rose Anna J. Williams 5730 East 37th Street North Wichita, Kansas 67220
4	FULGROAT	✓ Catha E. Harrell 1401 West River Boulevard, Apt. 2D Wichita, Kansas 67203
5	FULGROAT	✓ Catha E. Harrell 1401 West River Boulevard, Apt. 2D Wichita, Kansas 67203



<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
6	FULGROAT	X Ralph F. & Marjorie F. Bruce Address Unknown
	North 20 Acres of the Southeast of the Northeast Quarter of Section 31, Township 27, Range 1 East, Aley Park	X City of Wichita Wichita, Kansas
	Property lying East and adjacent to Lots 13, 14, & 15, in FULGROAT ADDITION (200')	✓ Midland Valley Railroad now Missouri Pacific Railroad 220 West 1st Street Wichita, Kansas 67202
	Property lying East and adjacent to Lots 1, 2, 3, & 4, in WEST PARK GARDENS (200')	Midland Valley Railroad now Missouri Pacific Railroad 220 West 1st Street Wichita, Kansas 67202



Dated at Wichita, Kansas, this 27th day of January,
1975: 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

By *Robert Gray*
Asst. Sec. aE

Tracer No. 27136



NOTE: THESE ARE SOME OF THE
SHADE TREES THAT WOULD
NEED TO BE REMOVED TO
CONFORM TO THE ORDINANCE



1786 S. SENECA



—1800 S. SENECA—
LOT 1, EXCEPT THE WEST
20 FEET FOR STREET, WEST
PARK GARDENS ADDITION,
TO SEDGWICK COUNTY K.S.



1802 S. SENECA

Form 220-021

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
City Bldg Dept	450 ⁰⁰

Name: W. H. Smith
 Address: 1300 S. Lincoln - Wichita 67216
 Type: TA-407103 Due Date: _____
 Comments: _____

Date: 5-29-75 By: V. Nelson