

Case No. BEA 29-77 - SUSSEX CORP
& SAMUEL S. WILLIAMSON request a
variance to reduce the sideyard
requirement from 6.0 ft. to 5.5
ft. on property generally located
on the north side of Mainsgate Rd
east of Kelgate Circle

*Posted
7-8-77
✓ 10/11/77
✓ 10/11/77*

ACTION

DATE 7-26

Approved

B2A29-77 COMMITTEE

M.A.P.C. _____

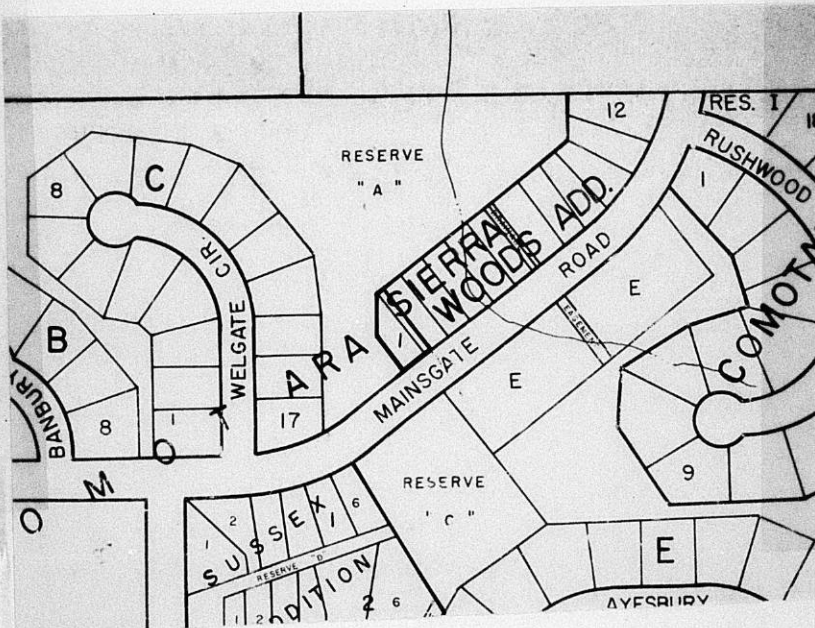
B.C.C./B. CO. C. _____

Map No. 5950
 Sec. 6
 Twp. 27
 Range 2E

BZA- 29-77
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA: _____ (IRREGULAR)
 Acres: 0.18 (60 ft. by 135 ft.)
 Adjoining Zoning: E _____ S _____ W _____ N _____
 Land Use: East _____ South _____
 West _____ North _____
 Sketch Plan Land Use is for: _____
 Present Land Use if for: _____
 Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



HASTINGS, MN. LOS ANGELES
 LOGAN, OH. MADISON, WI. U. S. A.

No. 2153C
 Sheaf

SECRETARY'S REPORT
CASE NO. BZA 29-77

APPLICANT: Sussex Corporation and Samuel S. Williamson,
14505 Willow Bend Circle, Wichita, Kansas.

AGENT: N/A

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required side yard setback adjacent to the
west property line from 6 feet to 5 1/2 feet.

GENERAL LOCATION: North side of Mainsgate Road in an area
east of Welgate Circle (6804 Mainsgate).

ZONING: Subject property is zoned the "AA" Single
Family Dwelling District as are all surround-
ing properties.

LAND USE: Subject property and the property to the
northeast are being developed with single
family homes (foundations are poured). North,
west, and south are all open space reserve.

JURISDICTION:

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

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce a side yard setback from 6 feet to 5 1/2 feet in connection with a single family

SECRETARY'S REPORT

Case No. BZA 29-77

Page 2

home being constructed on subject property.

To briefly summarize the situation, a foundation for a single family home has been poured on an irregular shaped lot. The north-west corner of the foundation was discovered by the applicant to be 5.91 feet from the west property line, whereas 6 feet is the required sideyard setback measured from the face of the structure. The applicant is requesting a variance to 5 1/2 feet to allow for the finishing of the exterior corner of the house. Due to the irregular shape of the lot, the applicant has been aware of the close tolerance in the placement of this house on the lot. The applicant's engineer reportedly relayed the importance of this particular dimension to the foundation contractor, pointing out that there were two rear property markers 2.01 feet apart and which one to use for measuring this corner. In the final analysis, the wrong marker was used, which placed the foundation of the house too close to the property line. This error was discovered by the applicant's engineer, not by Central Inspection, but the applicant has stopped construction on his own to clear up the matter.

This property is located in the Comotara development and the property line in question is adjacent to a platted open space reserve. The closest property line of a buildable lot is approximately 100 feet to the west.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify because of error only, however, due to the irregular shape of the property and the location of two property pins so close together, perhaps uniqueness can be found in this instance.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect adjacent properties in that this would only be a 6 inch variance adjacent to an open space reserve.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as the foundation is already constructed, and although in error, reasonable precautions were taken to assure the setbacks would be maintained.

PUBLIC INTEREST:

It is the opinion of the Secretary that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as this corner of the house located 6 inches too close to an open space reserve should not adversely affect anyone.

SECRETARY'S REPORT

Case No. BZA 29-77

Page 3

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance will not be opposed to the general spirit and intent of Title 28, inasmuch as abundant open space exists between this structure and the closest buildable lot.

RECOMMENDATION:

If the Board concurs that all five conditions necessary for the granting of the variance can be found to exist, it is recommended that the sideyard setback be reduced from 6 feet to 5 1/2 feet for only that corner of the structure in violation.

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

July 5, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 29-77

An application has been filed by the Sussex Corporation and Samuel S. Williamson, 14505 Willow Bend Circle, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback from 6 feet to 5 1/2 feet adjacent to the west property line on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 1 and the southwesterly 13 feet of Lot 2, Sierra Woods Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Mainsgate Road in an area east of Welgate Circle. (6304 Mainsgate).

This application has been assigned Case No. BZA 29-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 26, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire either in person or by agent or attorney.

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

Jack H. Galbraith
Secretary

RESOLUTION NO. BZA 29-77

WHEREAS, Sussex Corporation and Samuel S. Williamson, 14505 Willow Bend Circle, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required side yard setback from 6 feet to 5 1/2 feet adjacent to the west property line on property zoned the "AA" Single Family Dwelling District, and legally described as follows:

Lot 1 and the southwesterly 13 feet of Lot 2, Sierra Woods Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Mainsgate Road in an area east of Welgate Circle, (6804 Mainsgate).

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 26, 1977, 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 property is of an irregular shape; 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 this would only be a 6 inch variance adjacent to an open space reserve; 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 foundation is already constructed, and although in error, reasonable precautions were taken to assure the setbacks would be maintained; 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 this corner of the house located 6 inches too close to an open space reserve should not adversely affect anyone; 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 abundant open space exists between this structure and the closest buildable lot; 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.

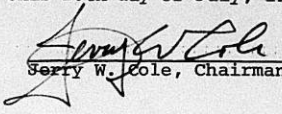
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required side yard setback from 6 feet to 5 1/2 feet adjacent to the west property line on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 1, and the southwesterly 13 feet of Lot 2, Sierra Woods Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Mainsgate Road in an area east of Welgate Circle, (6804 Mainsgate).

be approved for only that corner of the structure in violation.

RESOLUTION NO. BZA 29-77
Page 2

ADOPTED AT WICHITA, KANSAS, this 26th day of July, 1977.


Jerry W. Cole, Chairman

ATTEST:


Larry Dobson, Assistant Secretary

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Tenth Floor, City Hall
Wichita, Kansas

August 10, 1977

Mr. Samuel S. Williamson
14505 Willow Bend Circle
Wichita, Kansas 67230

Re: Case No. BZA 29-77
Request for Variance

Dear Mr. Williamson:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on Tuesday, July 26, 1977, in connection with your request for a variance to reduced the required side yard setback adjacent to the west property line from 6 feet to 5 1/2 feet on property zoned the "AA" Single Family Dwelling District, and generally located on the north side of Mainsgate in an area east of Welgate Circle (6804 Mainsgate).

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

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

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bh

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

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX-
XXXXXXXXXXXXXXXXXXXX

Tenth Floor, City Hall
455 N. Main Street

July 27, 1977

Mr. Samuel S. Williamson
14505 Willow Bend Circle
Wichita, Kansas 67230

Re: Case No. BZA 29-77
Request for Variance

Dear Mr. Williamson:

At the regular meeting of the Board of Zoning Appeals on July 26, 1977, your request for a variance to reduce the required side yard setback adjacent to the west property line from 6 feet to 5 1/2 feet on property zoned the "AA" Single Family Dwelling District and generally located on the north side of Mainsgate Road in an area east of Welgate Circle (6804 Mainsgate) was considered.

It was the action of the Board to approve the request.

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

If you have any questions relative to this matter, please call.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh

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

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE July 21, 1977



TO Larry Dobson, Junior Planner, MAPD
FROM Evelyn Pittman, CPO Administrative Aide

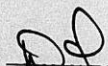
SUBJECT BZA 29-77

This is to inform you that CPO Council "I" made no recommendation on the captioned subject due to a lack of quorum.


Evelyn Pittman
CPO Administrative Aide

EP:sm

Noted:



David Furnas
Citizen Participation Coordinator

SECRETARY'S REPORT
CASE NO. BZA 29-77

APPLICANT: Sussex Corporation and Samuel S. Williamson,
14505 Willow Bend Circle, Wichita, Kansas.

AGENT: N/A

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to reduce the
required side yard setback adjacent to the
west property line from 6 feet to 5 1/2 feet.

GENERAL LOCATION: North side of Mainsgate Road in an area
east of Welgate Circle (6804 Mainsgate).

ZONING: Subject property is zoned the "AA" Single
Family Dwelling District as are all surround-
ing properties.

LAND USE: Subject property and the property to the
northeast are being developed with single
family homes (foundations are poured). North,
west, and south are all open space reserve.

JURISDICTION:

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

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce a side yard setback from 6 feet to 5 1/2 feet in connection with a single family

SECRETARY'S REPORT
Case No. BZA 29-77
Page 2

home being constructed on subject property.

To briefly summarize the situation, a foundation for a single family home has been poured on an irregular shaped lot. The north-west corner of the foundation was discovered by the applicant to be 5.91 feet from the west property line, whereas 6 feet is the required sideyard setback measured from the face of the structure. The applicant is requesting a variance to 5 1/2 feet to allow for the finishing of the exterior corner of the house. Due to the irregular shape of the lot, the applicant has been aware of the close tolerance in the placement of this house on the lot. The applicant's engineer reportedly relayed the importance of this particular dimension to the foundation contractor, pointing out that there were two rear property markers 2.01 feet apart and which one to use for measuring this corner. In the final analysis, the wrong marker was used, which placed the foundation of the house too close to the property line. This error was discovered by the applicant's engineer, not by Central Inspection, but the applicant has stopped construction on his own to clear up the matter.

This property is located in the Comotara development and the property line in question is adjacent to a platted open space reserve. The closest property line of a buildable lot is approximately 100 feet to the west.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness is difficult to justify because of error only, however, due to the irregular shape of the property and the location of two property pins so close together, perhaps uniqueness can be found in this instance.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance should in no way adversely affect adjacent properties in that this would only be a 6 inch variance adjacent to an open space reserve.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as the foundation is already constructed, and although in error, reasonable precautions were taken to assure the setbacks would be maintained.

PUBLIC INTEREST:

It is the opinion of the Secretary that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as this corner of the house located 6 inches too close to an open space reserve should not adversely affect anyone.

SECRETARY'S REPORT

Case No. BZA 99-77

Page 3

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of this variance will not be opposed to the general spirit and intent of Title 28, inasmuch as abundant open space exists between this structure and the closest buildable lot.

RECOMMENDATION:

If the Board concurs that all five conditions necessary for the granting of the variance can be found to exist, it is recommended that the sideyard setback be reduced from 6 feet to 5 1/2 feet for only that corner of the structure in violation.

9 notices sent to applicant and adjoining property owners

10 notices sent to MAPC members

1 notice sent to CPO

20 total notices sent on BZA 29-77, July 5, 1977

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

July 5, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 29-77

An application has been filed by the Sussex Corporation and Samuel S. Williamson, 14505 Willow Bend Circle, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the required side yard setback from 6 feet to 5 1/2 feet adjacent to the west property line on property zoned the "AA" Single Family Dwelling District and legally described as follows:

Lot 1 and the southwesterly 13 feet of Lot 2,
Sierra Woods Addition, Wichita, Sedgwick County,
Kansas. Generally located on the north side of
Mainsgate Road in an area east of Welgate Circle,
(6804 Mainsgate).

This application has been assigned Case No. BZA 29-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, July 26, 1977, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire either in person or by agent or attorney.

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

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Sussex Corp. and Samuel S. Williamson

Mailing Address 14505 Willow Bend Circle, Wichita, Kansas 67230 Phone 733-2505

Name of Authorized Agent N/A

Mailing Address _____ N/A Phone N/A

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

II. The variance requested is change of side yard set back requirement
from 6.0 feet to 5.5 feet.

for property located 6804 Mainsgate, Wichita, Kansas 67226

and legally described as: Lot 1, Sierra Woods Addition, a
subdivision of Comotara, Wichita, Sedgwick County, Kansas.

and 5/8 acre 13' of Lot 2

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

A.S. Will.
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:40 (a.m. - p.m.), 6-27- 1977 together with appropriate fee of \$50.00.

5950

subj. to receiving abstract list on
T9-402
6-28-77

Larry Dobson
Signed
N. side of Mainsgate Rd. in an area east of Welgate Circle

TO: BOARD OF ZONING APPEALS

FROM SUSSEX CORP.
SAMUEL S. WILLIAMSON

RE: REQUEST FOR SIDE YARD VARIANCE FROM 6.0 FEET TO 5.5 FEET ON THE WEST PROPERTY LINE OF LOT 1, SIERRA WOODS ADDITION.

Variance is requested from a condition of a foundation being constructed on a lot that is not rectangular in configuration. Front, side and rear yards conform to all code requirements except at West lot line, building is 5.91 feet from side property line.

Lot line is adjacent to an open reserve in Comotara and is approximately 100 feet from any buildable lot and approval of variance should in no way adversely affect the rights of property owners or residents.

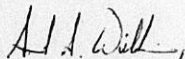
Strict application of the provisions of Title 28 will constitute a hardship upon the property owner, in that foundation has been constructed. Foundation contractor erred by marking his corner off the wrong rear property line. This was caused by the fact that there are two (2) rear property pins 2.01 feet apart.

It is certainly hoped that granting of this variance shall not adversely affect the public health, safety, or general welfare.

In conclusion, I am in hopes that this board shall approve this variance for the following reasons:

1. Reserve area adjacent to Lot 1 is an open area between buildable lots approximately 100 feet and should in no way affect the rights of other property owners.
2. At all other reference points building conformms to all other setback requirements.

Your consideration in this matter is greatly appreciated.



Samuel S. Williamson
SSW/lc

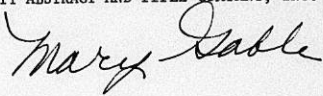
OWNERSHIP LIST

Lot	Addition	Owner
1	Sierra Woods	<i>D</i> Sussex Corporation 14505 Willowbend Circle Wichita, Kansas 67230
2	"	Same
3	"	Same
4	"	Same
5	"	Same
Block		
6	1 Sussex	Larry A. Boll 6721 Mainsgate ✓ Wichita, Kansas 67226
E	Comotara First	✓ Wichita Development Company 2500 Claiborn Circle Wichita, Kansas 67226
Reserve		
A	"	Comotara Homeowners Association, Inc. ✓ 2500 Claiborn Circle Wichita, Kansas 67226
C	"	Same
Lot Block		
13	C "	✓ Thomas A. Williams and Karen J. Williams 2538 Welgate Circle Wichita, Kansas 67226
14	" "	✓ Clifford A. Nies and Betty J. Nies 8220 Overbrook Wichita, Kansas 67206
15	" "	✓ J. D. Kerr and Barla Dee Kerr 2524 Welgate Circle Wichita, Kansas 67226
16	" "	✓ Terrance L. Stokka and Artha L. Stokka 2518 Welgate Circle Wichita, Kansas 67226
17	" "	✓ Bruce A. Wilgers and Karen A. Wilgers 2500 Welgate Circle Wichita, Kansas 67226

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:
Lot 1, ^{and 5/16 or 1/4 13' Lot 2} Sierra Woods Addition
to Wichita, Sedgwick County, Kansas,
as shown by the records in the Office of the Register of Deeds of Sedgwick County,
Kansas, on this 27th day of June, 1977 at 7:00 o'clock A.M.

SECURITY ABSTRACT AND TITLE COMPANY, INC.

By


Vice President

Order No. 252427
jwp

Form 223-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION		AMOUNT
B2A Variance Application		\$5000
Name	Samuel S. Williams	
Address	14505 Willow Bend Circle	
Type	AA 7-1103	Due Date
Comments:		
Date	6-27-77	By <i>ll</i>

*

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

Roll # 1