

BZA 30-68 - Vera Sahlberg requests variance to reduce the side yard setback on property zoned "A" located on west side of Chautauqua between Third and Central.

POSTED
10-1-68
MAILED
C.I. ✓
11-21-68

ACTION

BZA COMMITTEE	DATE
_____	Approved 10-22-68
_____	_____
_____	_____

Map No. 5647
 Sec. 22
 Twp. 27
 Range 1E

BZA 30-68
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: ~~0.14~~ 0.14 (17' 45' ft. by 140 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South SINGLE & MULTI FAM
 West SINGLE FAM & MULTI North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: _____
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



November 27, 1968

Mr. Dale H. Cooper
510 Petroleum Building
Wichita, Kansas 67202

Subject: Case No. BZA 30-68
Request for a Variance

Dear Mr. Cooper:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 22, 1968, in connection with your request for a variance to reduce the side yard setback from 6 ft. to 3.6 ft. and the rear yard setback from 20 ft. to 8 ft. on property zoned "A" and generally located on the west side of Chautauqua between 3rd and Central.

This Resolution reflects the official action of the Board to approve your request. 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
Secretary

JHG:js
Attachment
cc: Vera Sahlberg
1333 N. Terrace
Wichita, Kansas 67208

Robert Feldner, Supt.
of Central Inspection

Ralph Eberly,
City Clerk

RESOLUTION NO. BZA 30-68

WHEREAS, Vera Sahlberg, 1333 North Terrace, Wichita, Kansas, by Dale H. Cooper, 510 Petroleum Building, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the side yard setback from six feet to 3.6 feet and the rear yard setback from twenty feet to eight feet on property zoned "A" Two Family Residential, and legally described as follows:

The east 90 feet of Lot 29 and the east 90 feet of the south 7.5 feet of Lot 27, on Chautauqua, Maple Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Chautauqua between Third and Central.

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 October 22, 1968, 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 existing house is located in an older part of town in which non-conforming setbacks are not uncommon due to construction of the buildings prior to existing setback requirements; 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 house and garage are to remain where they were originally constructed; and

WHEREAS, The Board of Zoning Appeals has found 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 inasmuch as the title to her property will remain unmerchantable; 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 inasmuch as the houses have been in existence for many years; 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 same setbacks will be maintained that presently exist; 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, have 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 of the side yard setback from six feet to 3.6 feet and the rear yard setback from twenty feet to eight feet for only those portions presently in violation be approved on property zoned "A" Two Family Residential and legally described as follows:

The east 90 feet of Lot 29 and the east 90 feet of the south 7.5 feet of Lot 27, on Chautauqua, Maple Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Chautauqua between Third and Central.

ADOPTED AT WICHITA, KANSAS, this 22nd day of October, 1968.


H. W. KRATZER, Chairman

ATTEST:


JACK H. GALBRAITH, Secretary

October 23, 1968

Mr. Dale H. Cooper
510 Petroleum Building
Wichita, Kansas 67202

Subject: Case No. BZA 30-68
Request for a Variance

Dear Mr. Cooper:

At the regular meeting of the Board of Zoning Appeals on October 22, 1968, your request for a variance to reduce the side yard setback from 6 ft. to 3.6 ft. and the rear yard setback from 20 ft. to 8 ft. on property zoned "A" and generally located on the west side of Chautauqua between 3rd and Central, was considered.

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

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Vera Sahlberg, 1333 North Terrace, Wichita, Kansas
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk

SECRETARY'S REPORT

CASE NO. BZA 30-63

APPLICANT: Vera Sahlberg, 1333 North Terrace, Wichita, Kansas

AGENT: Dale H. Cooper, 510 Petroleum Building, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the side yard setback from 6 ft. to 3.6 ft. and the rear yard setback from 20 ft. to 8 ft.

GENERAL LOCATION: West side of Chautauqua between 3rd St. and Central

ZONING: Subject property is zoned "A" Two-Family as are those properties to the north, south, east and west.

LAND USE: Subject property is occupied by a duplex with single family homes to the north, south, east and west.

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 of the side yard setback along the north property line from 6 feet to 3.6 feet and a variance of the rear yard setback from 20 feet to 8 feet. The situation, briefly, is that the property directly to the north of applicant's property is owned by Thelma Brady and the garage used in conjunction with the Brady property encroaches upon applicant's property by approximately 2.4 feet. The owner of this garage, Thelma Brady, claims ownership by adverse possession of the portion of applicant's property upon which this garage is located. The encroachment of the Brady garage makes title to applicant's property unmerchantable, and in order to eliminate the encroachment problem, applicant has agreed to convey to Thelma Brady the north 2.5 feet of applicant's property. The northwest corner of the main portion of applicant's residence is located approximately 4 feet from the southeast corner of the Brady garage.

Uniqueness

It is the opinion of the Secretary that this is somewhat of a unique situation inasmuch as the existing house is located in an older part of town in which nonconforming setbacks are not uncommon due to construction of the buildings prior to existing setback requirements.

Adjacent Property

It is the opinion of the Secretary that the granting of the variances would not adversely affect the adjacent properties inasmuch as the house and garage are to remain where they were originally constructed.

Hardship

It is the opinion of the Secretary that the applicant would be burdened with an unnecessary hardship if the variances are not granted in that title to her property will remain unmerchantable.

Page 3 - Secretary's Report
Case No. BZA 30-68

Public Interest

It is the opinion of the Secretary that the granting of the variances would not adversely affect the public interest inasmuch as the houses have been in existence for many years.

Spirit and Intent

It is the opinion of the Secretary that the granting of these variances would not be opposed to the general spirit and intent of Title 28 in that the same setbacks will be maintained that presently exist.

Recommendation

It is the opinion of the Secretary that all five conditions necessary for the granting of the variances can be found to exist and, therefore, it is recommended that the variance be granted to reduce the side yard setback along the north property line from 6 feet to 3.6 feet and the variance to reduce the rear yard setback from 20 feet to 8 feet be granted for only those portions presently in violation.

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

October 2, 1968

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 30-68

An application has been filed by Vera Sahlberg, 1333 North Terrace, Wichita, Kansas, by Dale H. Cooper, 510 Petroleum Bldg., Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to reduce the side yard setback from 6 ft. to 3.6 ft. and the rear yard setback from 20 ft. to 8 ft. on property zoned "A" Two Family District, and legally described as follows:

The east 90 feet of Lot 29 and the east 90 feet of the south 7.5 feet of Lot 27, on Chautauqua, Maple Grove Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Chautauqua between Third and Central.

This application has been assigned Case No. BZA 30-68, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 22, 1968, 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

*25 notices mailed
10-2-68*

BOARD OF ZONING APPEALS

CASE NO. BZA 30-68

CITY OF WICHITA, KANSAS

FILED 9-24-68

APPLICATION FOR VARIANCE

1. Name of Applicant Vera Sahlberg
 Mailing Address 1333 North Terrace, Wichita 67208 Phone MU 69813
 Name of Authorized Agent Dale H. Cooper
 Mailing Address 67202
510 Petroleum Bldg. Wichita, Ks. Phone FO 3-8231
 Relationship of applicant to property is that of owner of life estate
 (owner, tenant, lessee, other)

II. The variance requested is The reduction of the minimum side yard
~~setback with respect to major buildings from 6' to 3.6' and the~~
Use rear yard setback from 20' to 8'
 for property located 401 North Chautauqua, Wichita, Kansas

Use and legally described as: East 90 feet of Lot 29 and the East 90 feet
of the South ~~1/2~~ feet of Lot 27 on Chautauqua, Maple Grove Addition
to Wichita, Sedgewick County, Kansas
 in the City of Wichita; and which is presently zoned A

(Give metes and bounds description below if appropriate):

- 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 appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
 - d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Vera Sahlberg
 Vera Sahlberg
 Applicant

Authorized Agent

 OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals
11:30 (a.m. ~~(p.m.)~~), 9-24, 1968, together with
 appropriate fee of \$50.00.

Joyce Smith
 Signed

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Vera Sahlberg

Mailing Address 1333 North Terrace, Wichita 67208 Phone MU 69813

Name of Authorized Agent Dale H. Cooper

Mailing Address 510 Petroleum Bldg., Wichita, Ks. / Phone FO 3-8231
67202

Relationship of applicant to property is that of owner of life estate
(owner, tenant, lessee, other)

II. The variance requested is The reduction of the minimum side yard
setback with respect to major buildings from 6' to 3.6'

for property located 401 North Chautauqua, Wichita, Kansas

and legally described as: East 90 feet of Lot 29 and the East 90 feet
of the South 10 feet of Lot 27 on Chautauqua, Maple Grove Addition
to Wichita, Sedgwick County, Kansas

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

(Give metes and bounds description below if appropriate):

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 appeal of the decision of the Board to the City Commission within ten (10) days of that decision;
- d. That all documents are attached hereto as noted in paragraphs 3 and 4 of the instructions.

Vera Sahlberg
Vera Sahlberg
Applicant

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals
_____(a.m. - p.m.), _____, 19____, together with
appropriate fee of \$50.00.

September 23, 1968

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

Gentlemen:

The undersigned is the owner of a life estate in the East 90 feet of Lot 29 and the East 90 feet of the South 10 feet of Lot 27 on Chautauqua, Maple Grove Addition to Wichita, Sedgwick County, Kansas, and submits this statement in connection with an Application for Variance of the side yard setback requirements of the City of Wichita.

The property directly to the North of applicant's property is owned by Thelma Brady and the garage used in conjunction with the Brady property encroaches upon applicant's property by approximately 2.4 feet. The owner of this garage, Thelma Brady, claims ownership by adverse possession of the portion of applicant's property upon which this garage is located. The encroachment of the Brady garage makes title to applicant's property unmerchantable, and in order to eliminate the encroachment problem, applicant has agreed to convey to Thelma Brady the North 2.5 feet of applicant's property. The Northwest corner of the main portion of applicant's residence is located approximately 4 feet from the Southeast corner of the Brady garage.

The situation which predicates the request for variance is unique in that the ownership of all of Lots 25, 27 and 29 on Chautauqua, Maple Grove Addition were in a common ownership in the 1930's and the three dwellings located on these three lots were constructed by the common owner. At the time of their construction the City of Wichita did not impose side yard setback requirements. The situation which exists is unique to this property and is not unusually found in the same zone or district and was not created by any action of applicant.

The granting of the variance will not affect the rights of adjoining property owners or residents for the reason that the variance will enable applicant and Thelma Brady, owner of the property to the North, through Agreement, to eliminate the encroachment problem which now exists and will eliminate the title problems which applicant and Thelma Brady now have because of the encroachment.

City of Wichita

Page Two

September 23, 1968

The strict application of the provisions of Title 28 will constitute unnecessary hardship upon the applicant for the reason that unless granted the title to her property will remain unmerchantable.

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. Granting the variance desired will not be opposed to the general spirit and intent of Title 28.

Respectfully submitted,

Vera Sahlberg

Vera Sahlberg

VS:rc

September 23, 1968

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

Gentlemen:

The undersigned is the owner of a life estate in the East 90 feet of Lot 29 and the East 90 feet of the South 10 feet of Lot 27 on Chautauqua, Maple Grove Addition to Wichita, Sedgwick County, Kansas, and submits this statement in connection with an Application for Variance of the side yard setback requirements of the City of Wichita.

The property directly to the North of applicant's property is owned by Thelma Brady and the garage used in conjunction with the Brady property encroaches upon applicant's property by approximately 2.4 feet. The owner of this garage, Thelma Brady, claims ownership by adverse possession of the portion of applicant's property upon which this garage is located. The encroachment of the Brady garage makes title to applicant's property unmerchantable, and in order to eliminate the encroachment problem, applicant has agreed to convey to Thelma Brady the North 2.5 feet of applicant's property. The Northwest corner of the main portion of applicant's residence is located approximately 4 feet from the Southeast corner of the Brady garage.

The situation which predicates the request for variance is unique in that the ownership of all of Lots 25, 27 and 29 on Chautauqua, Maple Grove Addition were in a common ownership in the 1930's and the three dwellings located on these three lots were constructed by the common owner. At the time of their construction the City of Wichita did not impose side yard setback requirements. The situation which exists is unique to this property and is not unusually found in the same zone or district and was not created by any action of applicant.

The granting of the variance will not affect the rights of adjoining property owners or residents for the reason that the variance will enable applicant and Thelma Brady, owner of the property to the North, through Agreement, to eliminate the encroachment problem which now exists and will eliminate the title problems which applicant and Thelma Brady now have because of the encroachment.

City of Wichita

Page Two

September 23, 1968

The strict application of the provisions of Title 28 will constitute unnecessary hardship upon the applicant for the reason that unless granted the title to her property will remain unmerchantable.

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. Granting the variance desired will not be opposed to the general spirit and intent of Title 28.

Respectfully submitted,

Vera Sahlberg

Vera Sahlberg

VS:rc


STATEMENT OF OWNERSHIP

STATE OF KANSAS)
)
 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, viz:

All property within 200 feet of the East 90 feet of Lots 25, 27, and 29 on Chautauqua Avenue in Maple Grove Add.


 Fidelity
 Title
 Company,
 Inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz:

LOTS	STREET	ADDITION	OWNER
9. & 11	Chautauqua	Maple Grove Ad	Vernon F. Abel Lucille M. Abel 67258
13 & 15	"	" "	Lulu Pearl Grant
17 & 19	"	" "	Marie A. Weiss 411 N. Chautauqua 67214
21 & 23	"	" "	Leo F. Hodson Juanita F. Hodson 67214
W 50' 25, 27 & 29	"	" "	Arthur L. Phillips 4704 N. Hydraville
E 90' of S 10' Lot 27 & E 90 Ft 29	"	" "	Rosemary A. Cost
E 90' Lot 25' & E 90' of 27 Exc S 10'	"	" "	Mildred Thelma Quinn 405 N. Chautauqua 67214
Lot 31 & N 14' of E 79.5' & N 20' of W 60.5' Lot 33	"	" "	Margaret A. O'Hara



LOTS	STREET	ADDITION	OWNER
Lot 33 Ex N 14' of E Chautauqua Maple Grove Ad 79.5' & N 20' of W 60.5 & 35			Gladys M. Ashmore 357 N. Chautauqua 67214
37 & 39	"	"	G.W. Mason 351 N. Chautauqua 67214
41	"	"	Herman Heibert Rachel Heibert 428 N. C
10	"	"	Frank J. Larcher Rose M. Larcher 428 N. Chautauqua 67214
12 & 14	"	"	Quanfry Enterprises Inc.
16 & 18	"	"	Harold N. Cool Mary A. Cool 414 N. Chautauqua 67214
20 & 22	"	"	Mary L. Teter 412 N. Chautauqua 67214
24 & 26	"	"	Ralph W. King Loretta R. King 406 N. Chautauqua 67214
E 51' 28 & 30	"	"	James W. Freeman
28 & 30 Exc E 51'	"	"	Margaret A. O'Hara
32, 34 & 36	"	"	James T. Wells Jane A. Wells
38 & 40	"	"	Walter Joseph Hunt Mary Louise Hunt 324 N. Chautauqua 67214
42	"	"	Keith Crumley 348 N. Chautauqua 67214
10 & 12	ERIE	"	Mary E. Brown
14 & N 6 1/2' 16	"	"	Lola Kerr 422 N. Erie 67214
16 Exc N 6 1/2' & 18	"	"	Kelly A. Greenwell 418 N. Erie
20 & 22	"	"	C. Warner Spann Beulah M. Spann 1401 S. Kansas
24 & N 20' 26	"	"	Carlton K. Smith Mollie E. Smith 402 N. Erie 67214
28 & 30	"	"	C.K. Smith Mollie Smith 402 N. Erie 67214
W 75' 32 & 34	"	"	H.K. Marsh Ethel I. Marsh
E 65' 32 & 34	"	"	Erwin G. Davis Gertrude Davis
36 & 38	"	"	A. Elizabeth Martin Frances Martin Seglem 364 N. Erie 67214
40 & 42	"	"	Frances G. Seglem H. Martin Seglem 364 N. Erie 67214

Dated at Wichita, Kansas this 23rd day of Sept. 1966.

FIDELITY TITLE COMPANY INC.

By *C. E. Rud Fisher*

No. 91082

WILLIAM L. KORBER

OFFICE OF
BAUGHMAN CO.
Surveyors

RONALD G. WAYMIRE

2522 EAST KELLOGG
WICHITA, KANSAS 67211
MURRAY 3-7431

State of Kansas)
County of Sedgewick) SS

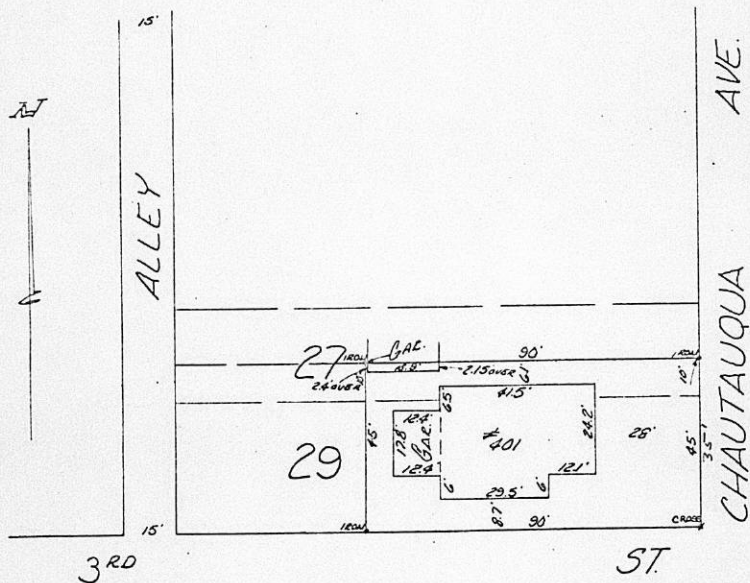
June 26, 1968

We, Baughman Company, Surveyors in aforesaid county and state do hereby certify that we did on this 26th day of June, 1968, survey the east 90 feet of Lot 29 and the east 90 feet of the south 10 feet of Lot 27 on Chautauqua, Maple Grove Addition to Wichita, Kansas.

On said lots is house No. 401 which is in the clear of all boundary lines. A Garage encroaches on said lots as shown on the accompanying plat.

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

William L. Korber
Surveyor



FORM 273

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		\$50.00

DESCRIPTION	AMOUNT
<i>B3A applications</i>	

Name: *Halma Linn Brady*

Address: *405 N. Chautauque*

Type: *R710*

Due Date: _____

Comments: _____

Date: *9-24-68*

By: *Jane Smith*