

BZA 34-63 - Dr. J. Homer Holt re-
quests variance of setback require-
ments for SE corner of Central and
Belmont

ACTION

DATE 12/1/63
By COMMITTEE _____

M.A.P.C. _____

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

December 31, 1963

Dr. J. Homer Holt
456 North Belmont
Wichita, Kansas

Dear Dr. Holt:

Re: BZA 34-63 - Request for Variance

On December 20, 1963, we advised you that the Board of Zoning Appeals had approved your request for a variance of the side yard setback requirement on property generally located at the southeast corner of Central and Belmont, and legally described as:

Lots 2, 4, 6 and 8, Hagny's Addition, in the City
of Wichita, Sedgwick County, Kansas.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before December 30, 1963.

The City Clerk has advised that no appeal was filed on or before the date indicated, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber
Attachment

cc: Ben Bowers, Jr.
111 West William

Glen Lytle, Superintendent
of Central Inspection

R E S O L U T I O N N O . B Z A 3 4 - 6 3

WHEREAS, Dr. J. Homer Holt, 456 North Belmont, Wichita, Kansas, by Ben Bowers, Jr., 111 West William, Wichita, Kansas, agent, has filed an application for a variance, as provided in Section 2.12.590.2, Code of the City of Wichita, to allow the extension of a garage building two feet into the sideyard setback requirement, on property generally located at the southeast corner of Central and Belmont, and legally described as:

Lots 2, 4, 6 and 8, Hagny's Addition, in the City of Wichita, Sedgwick County, Kansas; and

WHEREAS, proper notices 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, in regular meeting, consider said application on December 20, 1963; and

WHEREAS, the Board of Zoning Appeals has determined it has jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.2, Code of the City of Wichita; and

WHEREAS, the property is zoned "AA" Single Family which requires a side yard setback of 6 feet; and

WHEREAS, the Board has found that the proposed extension of the garage will not comply with the side yard setback requirement of 6 feet without the variance requested; and

WHEREAS, the Board of Zoning Appeals has found that the request for variance arises from a condition which is found to be unique and not ordinarily found in the same zoning district inasmuch as side yard setbacks from main structures are required primarily to ensure adequate light and air and to provide sufficient room between structures to aide in fighting fires, and on this particular property there is no question in that respect since it is a corner location; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance as approved, would not adversely affect the rights of adjacent property owners in view of the fact that since this is a corner location there is no abutting property to adversely affect, and further because no one appeared in opposition to the request; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the enforcement provisions of the Zoning Ordinance will constitute unnecessary hardship upon the applicant because to extend the garage to the south in order to provide the additional space to house modern day sized cars, would destroy the effectiveness of the other room, and it is accepted that if the structure were built without the Board of Zoning Appeals approval, property values would be destroyed through the loss of the adjoining room on the south; and

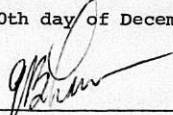
WHEREAS, the Board of Zoning Appeals has found that the variance, as approved, will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as the structure is sufficiently far removed from the intersecting street of Belmont and the variance sufficiently small that no problems would be encountered in this respect; and

WHEREAS, as shown above, each of the four conditions required by Section 2.12.590.2, 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, Kansas, that the request for a variance be approved for the construction of an extension to a garage to extend to within 4 feet of the side yard property line on the north and having a roof overhang of not more than one foot on property legally described as:

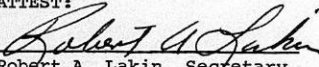
Lots 2, 4, 6 and 8, Hagny's Addition, in the City of Wichita, Sedgwick County, Kansas.

ADOPTED AT WICHITA, KANSAS, this 20th day of December, 1963.



E. B. Law, Chairman

ATTEST:



Robert A. Lakin, Secretary

Board of Zoning Appeals

December 27, 1963

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

BZA 34-63

Attached is a copy of BZA Resolution No. 34-63,
covering action taken by the Board of Zoning Appeals
on the above case.

This case was heard December 20, 1963, and an appeal
may be filed in your office on or before December 30,
1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

December 20, 1963

Dr. J. Homer Holt
456 North Belmont
Wichita, Kansas

Dear Dr. Holt:

Re: BZA 34-63 - Request for
Variance

This is to advise you that at its special meeting of December 20, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for a variance to allow the extension of a garage building two feet into the side yard, on property located generally at the southeast corner of Central and Belmont, and legally described as:

Lots 2, 4, 6 and 8, Hagny's Addition,
in the City of Wichita, Sedgwick County,
Kansas.

It was the action of the Board of Zoning Appeals to approve this application, subject to the garage having a setback of not less than 4 feet and having a roof overhang of not more than one foot and subject to such construction being completed within one year from the effective date of approval.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before December 30, 1963.

Page 2 - Dr. J. Homer Holt
December 20, 1963

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before December 30, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Robert A. Lakin
Secretary

RAL:JWH:ber

cc: Robert G. Finch
City Clerk

Glen Lytle, Superintendent
of Central Inspection

Ben Bowers, Jr.
111 West William

SECRETARY'S REPORT

CASE NO. BZA 34-63

GENERAL LOCATION

This is generally located at the southeast corner of Central and Belmont.

EXISTING LAND USE

The property in question is occupied by a single family home. All of the property in the surrounding area is also developed into single family homes.

EXISTING ZONING

The property in question is zoned "AA" Single Family. The existing zoning to the east, south and west is also "AA" Single Family. North is "A" Two Family dwelling.

REQUEST

The request is for a variance as provided in Section 2.12.590.2, of the Code of the City of Wichita, to allow a garage to extend to within 4 feet of the side yard property line. The required side yard setback for attached garages in the "AA" district is 6 feet, or the same as that for the main structure.

The request is within the jurisdiction of the Board of Zoning Appeals to grant, provided all four of the following conditions are found to exist:

1. That the variance desired arises from some condition which is not ordinarily found in the same zoning district.
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 enforcement provisions of this zoning ordinance would constitute an unnecessary hardship upon the property owner represented in the appeal.
4. That the variance desired is not against the public interest.

The applicant has submitted a statement of justification and plot plan which are included as Attachments #1 and #2 to this report.

COMMENTS BY THE SECRETARY

The variance in this instance is necessitated by the fact that attached garages in the "AA" district are required to maintain a side yard of 6 feet. The zoning ordinance is currently in the process of being amended to allow detached or accessory structures in the "AA" district, which are located on the rear 50% of the lot, to maintain a side yard setback of 3 feet; however, this amendment will not affect attached garages which are part of the main use or structure.

The proposed amendment although not related to this case, did result from inquiries, many of which came from residents of the "College Hill Area" to extend existing detached garages. The Superintendent of Central Inspection had to turn many of the applications for building permits down since the existing garages were in violation of zoning ordinance. As a result of many of these inquiries, the Superintendent of Central Inspection requested that the ordinance be amended to change the setback requirements for accessory structures back to 3 feet.

The applicant in this instance is requesting a variance which, if granted, would allow him to extend his existing attached garage to within 4 feet of the side yard property line.

UNIQUENESS

It is the general feeling of the Secretary that in this particular situation, the property is sufficiently unique and different from that surrounding property in the same zoning district in the same general area as to meet the requirements of the ordinance. Particular reasoning is that side yard setbacks from main structures are required primarily to insure adequate light and air and to provide sufficient room between structures to aid in fighting fires. As this particular property is a corner location, there is no problem in either respect.

EFFECT ON ADJACENT PROPERTY OWNERS

Because of the corner location and the location of existing structures in relation to this property, it is felt there will be no adverse affect on any of the adjacent or abutting properties.

HARDSHIP

The applicant states that if the garage was extended to the south in order to provide the additional space to house modern day sized cars, it would destroy the effectiveness of the other room. It can be accepted that if the structure were to be built without the Board of Zoning Appeals approval, that property values would be destroyed through the loss of the adjoining room on the south. Based on this, it is recommended that hardship be found to exist.

EFFECT ON GENERAL WELFARE

It is the opinion of the Secretary that granting of the variance as requested will not seriously affect the general health, welfare and prosperity of the community. In particular, in regard to sight

Page 4 - Secretary's Report
Case No. BZA 34-63

obstruction on a major street, it is felt that the structure is sufficiently far removed from the intersecting street of Belmont, and the variance is sufficiently small, that no problems would be encountered in this respect. It is recommended that the fourth condition as to general welfare be found to exist.

Based on the foregoing, it is the recommendation of the Secretary that this application be approved and that the Superintendent of Central Inspection be instructed to issue a building permit for a garage having a setback of not less than 4 feet and having a roof overhang of not more than 1 foot, subject to such construction being completed within one year from the effective date of this approval.

Attachments: #1 - Statement of Justification
#2 - Plot plan
#3 - Variance vote sheet

Nov. 27, 1963

Board of Zoning Appeals
City of Wichita, Kansas

Dear Sirs:

We wish to request for a "Variance" on side street setback requirements for an attached garage, near the back of the property of Dr. Jas. H. Holt residence at 456 N. Belmont, Wichita.

- (a) The garage is not long enough to allow adequate passage space behind cars when the doors are closed; so the owner asks permission to extend the front of the garage two feet to the north (with one foot roof overhang), making the setback 4 feet instead of the present six feet. The present double garage has access from the side street, which is Central. The garage is a part of a wing of the house, and cannot be extended to the south without destroying the value of the adjacent room.
- (b) The house is located on a southeast corner lot and trees and bushes hide the garage from the view of property to the east and west.
- (c) The owner wishes to buy a long station wagon and the present garage would be a very tight fit for same.
- (d) This variance should have no effect on public health, safety, order, convenience, prosperity or general welfare.

Thanks for your consideration.

Yours very truly,

S/ Jack Hollabaugh
Hollabaugh & Bowers
Architects

Attachment #1
BZA Case No. 34-63

Central Avenue

North



Shaded area indicates proposed extension to garage

Property Line

Property Line

6'

Belmont Place

30'

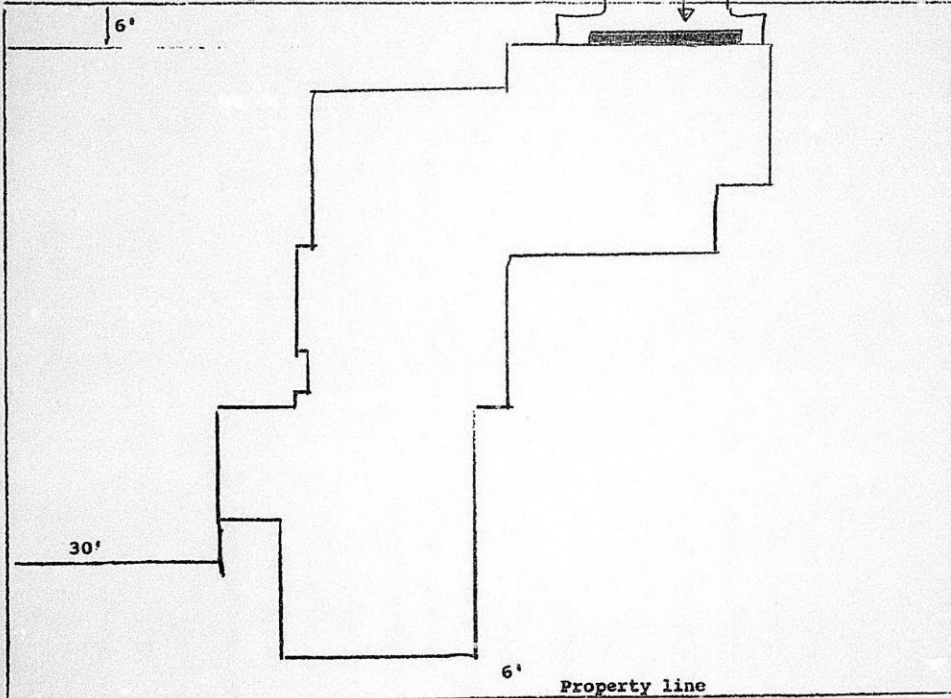
100'

6'

Property line

137'0"

Attachment #2
BZA Case No. 34-63



BZA ACTION

MOTION MADE BY	SECONDED BY	ACTION
		JURISDICTIONS
		FINDINGS OF FACT
		1. VARIANCE DESIRED ARISES FROM SUCH CONDITION WHICH IS UNIQUE AND WHICH IS NOT ORDINARILY FOUND IN THE SAME ZONING DISTRICT.
		2. GRANTING OF THE PERMIT FOR THE VARIANCE WILL NOT ADVERSELY AFFECT THE RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS.
		3. STRICT APPLICATION OF THE ENFORCEMENT PROVISIONS OF THE ZONING ORDINANCE WILL CONSTITUTE UNNECESSARY HARDSHIP UPON THE PROPERTY OWNER REPRESENTED IN THE APPEAL.
		4. VARIANCE DESIRED WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY OR GENERAL WELFARE.
		DETERMINATION (APPROVE OR DENY)

CASE NO. BZA 34-63

REVISED NOTICES MAILED DECEMBER 4, 1963, FOR MEETING
OF DECEMBER 20, 1963, TO THOSE WHO RECEIVED ORIGINAL
NOTICES MAILED DECEMBER 2, 1963.

REVISED NOTICE

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

December 4, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 34-63

An application has been filed by Dr. J. Homer Holt, 456 North Belmont, Wichita, Kansas, by Ben Bowers, Jr., agent, 111 West William, Wichita, Kansas, requesting a Variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow the extension of a garage building two feet into the side yard of property zoned "AA" Single Family, and legally described as:

Lots 2, 4, 6 and 8, Hagny's Addition, in the City of Wichita, Sedgwick County, Kansas, Generally located at the southeast corner of Central and Belmont.

This application has been assigned Case No. BZA 34-63, and will be considered by the Board of Zoning Appeals on Friday, December 20, 1963, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin
Secretary

REVISED NOTICE

CASE NO. BZA 34-63

NOTICES MAILED DECEMBER 2, 1963 FOR MEETING DECEMBER 17, 1963

Ben Bowers, Jr.
111 West William

James D. Phillips
Marie V. Phillips
448 North Broadview

Henry Wallenstein, Jr.
442 North Broadview

Kenneth W. Rucker
Coleen D. Rucker
436 North Broadview

Margaret H. Stodder
447 North Belmont

W. F. Lilleston
Georgia T. Lilleston
439 North Belmont

James H. Holt
Muriel A. Holt
459 North Belmont

S. T. Jocelyn
444 North Belmont

Karl J. Mosbacher
434 North Belmont

James Dean Rickman
Patricia A. Rickman
445 North Crestway

Deering J. Marshall
Vera M. Marshall
433 North Crestway

H. W. Cardwell Co.
Petroleum Building

Katharine B. Thompson
440 North Crestway

Lionell E. Hartzell
Iva C. Hartzell
501 North Crestway

Gordon W. Morris
Virgie N. Morris
4320 East Central

Joe H. Tearney
Emogene Tearney
4312 East Central

O. B. McClaren
910 South Holyoke

Glenn Summery
Clara Summery
4222 East Central

Edd Ziekle
Nelen D. Ziekle
4214 East Central

(19)

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

December 2, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 34-63

An application has been filed by Dr. J. Homer Holt, 456 North Belmont, Wichita, Kansas, by Ben Bowers, Jr., agent, 111 West William, Wichita, Kansas, requesting a variance, pursuant to Section 2.12.590.2, Code of the City of Wichita, to allow the extension of a garage building two feet into the side yard of property zoned "AA" Single Family, and legally described as:

Lots 2, 4, 6 and 8, Hagny's Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of Central and Belmont.

This application has been assigned Case No. BZA 34-63, and will be considered by the Board of Zoning Appeals on Tuesday, December 17, 1963, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin
Secretary

HOLLABAUGH AND BOWERS ARCHITECTS

111 West William • Wichita 2, Kansas • Telephone FO3-2797

Nov. 27, 1963

Board of Zoning Appeals
City of Wichita, Kansas

Dear Sirs:

We wish to request for a "Variance" on side street setback requirements for an attached garage, near the back of the property, of Dr. Jas. H. Holt residence at 456 N. Belmont, Wichita.

(a) The garage is not long enough to allow adequate passage space behind cars when the doors are closed; so, the Owner asks permission to extend the front of the garage two feet to the north (with one foot roof overhang), making the set back 4 feet instead of the present six feet. The present double garage has access from the side street, which is Central. The garage is a part of a wing of the house, and can not be extended to the south without destroying the value of the adjacent room.

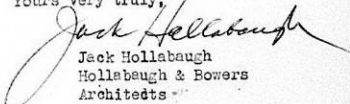
(b) The house is located on a Southeast corner lot and trees and bushes hide the garage from the view of property to the East and West.

(c) The Owner wishes to buy a long station wagon, and the present garage would be a very tight fit for same.

(d) This Variance should have no effect on public health, safety, order, convenience, prosperity or general welfare.

Thanks for your consideration.

Yours very truly,


Jack Hollabaugh
Hollabaugh & Bowers
Architects

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. _____
FILED _____

APPLICATION FOR VARIANCE

- I. NAME OF APPLICANT DR. J. HOMER HOLT
MAILING ADDRESS 456 N. BELMONT, WICHITA, KS PHONE _____
NAME OF AUTHORIZED AGENT BEN BOWERS JR.
MAILING ADDRESS 111 WEST WILLIAM, WICHITA, KS PHONE FO-32197
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF OWNED
(OWNER, TENANT, LESSEE, OTHER)
- II. THE VARIANCE REQUESTED IS TWO FEET EXTENSION TO GARAGE
ON CENTRAL AVE SIDE OF PROPERTY PURSUANT TO
SECTION 2.12.590.2 CODE OF THE CITY OF WICHITA
FOR PROPERTY LOCATED AT 456 N. BELMONT, WICHITA, KS.
AND LEGALLY DESCRIBED AS: LOTS 2,4,6,8, HAEVY'S ADDITION
WICHITA, KS.
IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED AA.
(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.

DR. J. HOMER HOLT
APPLICANT
By: Ben Bowers Jr.
AUTHORIZED AGENT
Hollabough & Brown, Architects

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, _____ (A.M. - P.M.), _____, 19____, TOGETHER WITH APPROPRIATE FEE OF \$50.00.

SIGNED

OWNERSHIP LIST

Lot	Street	Addition	Property Owner
2	Broadview	Hagny's Replat of Capital Hill Add.	James D. Phillips Marie V. Phillips 443 N. Broadview
4	"	"	"
6	"	"	"
8	"	"	Henry Wallenstein, Jr. 442 N. Broadview
10	"	"	"
12	"	"	"
14	"	"	Keneth W. Rucker Coleen D. Rucker 436 N. Broadview
1	Belmont	"	Margaret H. Stodder 447 N. Belmont
3	"	"	"
5	"	"	"
7	"	"	"
9	"	"	"
11	"	"	"
13	"	"	"
15	"	"	"
17	"	"	W. F. Lilleston Georgia T. Lilleston 439 N. Belmont
19	"	"	"
21	"	"	"
23	"	"	"
2	"	"	James H. Holt Muriel A. Holt 456 N. Belmont
4	"	"	"
6	"	"	"
8	"	"	"

Continued page 2

lot	Street	Addition	Property Owner
10	Belmont	Hagny's Replat of Capital Hill Add.	S. T. Jocelyn 444 N. Belmont
12	"	"	"
14	"	"	"
16	"	"	"
18	"	"	Karl J. Mosbacher 434 N. Belmont
20	"	"	"
22	"	"	"
24	"	"	"
1	Crestway	"	James Dean Rickman Patricia A. Rickman 445 N. Crestway
3	"	"	"
5	"	"	"
7	"	"	"
9	"	"	"
11	"	"	"
13	"	"	"
15	"	"	"
17	"	"	Deering J. Marshall Vera M. Marshall 433 N. Crestway
19	"	"	"
21	"	"	"
23	"	"	"
2	Central Ave.	Central Ave. Sub. in Prospect Place Add.	H. W. Cardwell Co. Petroleum Building
1	Crestway	"	Katharine B. Thompson 440 N. Crestway

Continued page 3

Lot	Street	Addition	Property Owner
681	Central	Overlook Add.	Lionell E. Hartzell Iva C. Hartzell 501 N. Crestway
682	"	"	"
683	"	"	Gordon W. Morris Virgie N. Morris 4320 E. Central
684	"	"	"
685	"	"	"
686	"	"	Joe H. Tearney Emogene Tearney 4312 E. Central
687	"	"	"
688	"	"	O. B. McClaren Address unknown
689	"	"	"
690	"	"	"
691	"	"	"
692	"	"	Glenn Summery Clara Summery 4222 E. Central
693	"	"	"
694	"	"	"
695	"	"	"
696	"	"	Edd Zielke Nelen D. Zielke 4214 E. Central
697	"	"	"

910 So Holyoke

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 lots 2, 4, 6, 8 on Belmong in Hagny's Replat of Capital Hill Addition to Wichita, Sedgwick County, Kansas, as shown by the deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 27th day of November, 1963 @ 7 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

J. R. [Signature]
Vice-President

Order No. 109201

PAYMENT NOTICE
 City of Wichita
PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
 Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
 Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
 Plm. Plb'g _____ Plb'g Cert. _____
 Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
 Street _____ Trailers _____

DESCRIPTION	AMOUNT
2400 Highway 7 R 712	50.00

Name Wichita Electric Light & Power Co.

Address 411 W. 10th St.

Type _____ Due Date 12-1-63

Comments _____

Date 12-2-63 By [Signature]

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1