

Case No. BZA 42-80 - Harold L. Barger, requests a variance to reduce the side yard setback from 6 feet to 3½ feet on property zoned the "RB" Four-family Dwelling District and generally

Recorded 12-6-80
Sho. x
Clerk
12-11-80
11-17-80

POSTED
10-8-80

BZA
42-80

ACTION

COMMITTEE APPROVED DATE 10-28-80

M.A.P.C. _____

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

270 1/2 Sec 11-21-80
Checked 11-25-80
Shot
Recorded 11-26-80

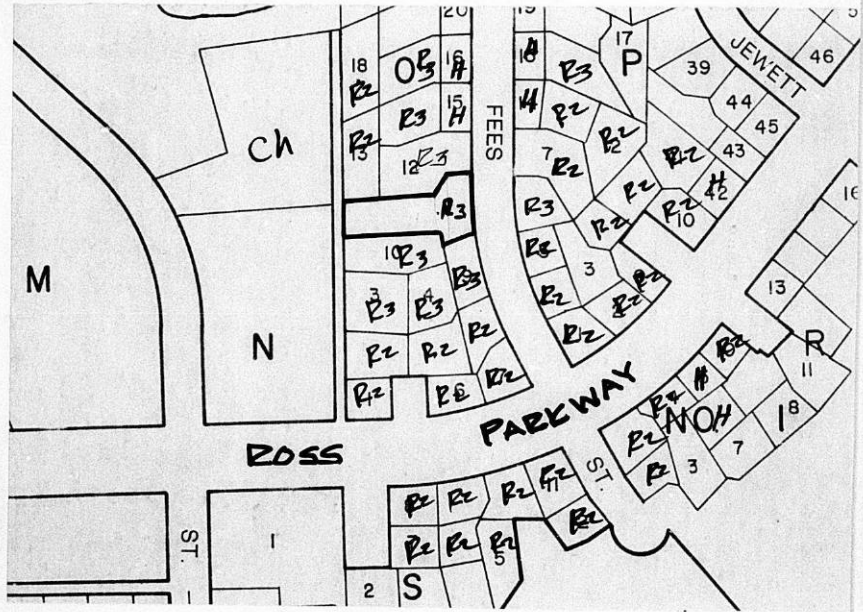
Case No. BZA 42-80 - Harold L. Barger, requests a variance to reduce the side yard setback from 6 feet to 3 1/2 feet on property zoned the "RB" Four-family Dwelling District and generally

Map No. 5744
Sec. _____
Twp. _____
Range _____

BZA- 42-80
SCZ- _____
CU- _____
Filed _____

- AREA DATA:
1. Acres: 0.45 (120 (IRREGULAR) ft. by 230 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East MULTI FAM South MULTI FAM
West UNDEVELOPED North MULTI 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 _____



BZA 42-

November 5, 1980

Harold L. Barger
2677 Fees
Wichita, Kansas

Re: Case No. BEA 42-80
Request for Variance

Dear Mr. Barger:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on October 28, 1980, in connection with your request for a variance to reduce the side yard setback from 6 feet to 3-1/2 feet on property zoned the "RB" Four-family Dwelling District and generally located on the west side of Fees approximately 300 feet north of Ross Parkway (2677 Fees).

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

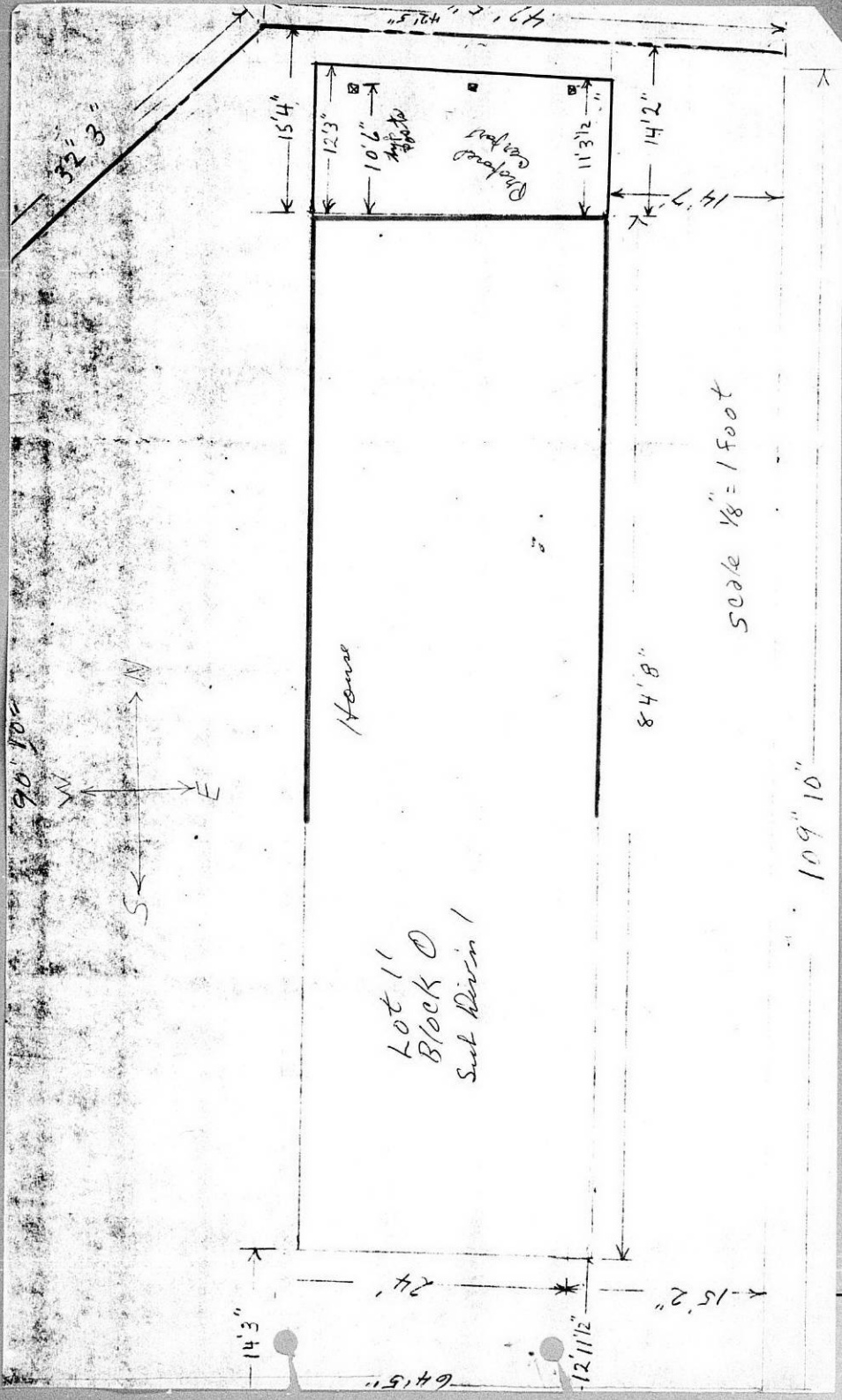
If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk



RESOLUTION NO. BZA 42-80

WHEREAS, Harold L. Barger, 2677 Fees, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the sideyard setback from 6 feet to 3-1/2 feet for an unenclosed carport on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Lot 11, Block 0, Planeview Subdivision #1 to Sedgwick County, Kansas. Generally located on the west side of Fees approximately 300 feet north of Ross Parkway (2677 Fees).

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 28, 1980, 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 distance to the adjacent residential structure is more than the minimum requirement; 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 reduction of the required yard will not interfere with the light and air of the adjacent residential structure; 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 owners represented in the application inasmuch as the location of the existing structure will prevent compliance with the normal setbacks and still permit the construction of a carport; 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 an adequate sideyard will be maintained to provide light and air to both properties; 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 sideyard setback from 6 feet to 3-1/2 feet adjacent to the north property line on property zoned the "RB" Four-family Dwelling District and legally described as:

Lot 11, Block 0, Planeview Subdivision #1 to
Sedgwick County, Kansas. Generally located on
the west side of Fees approximately 300 feet
north of Ross Parkway (2677 Fees).

be approved subject to the following conditions:

1. That the sideyard setback adjacent to the north property line shall be reduced from 6 feet to 3-1/2 feet for an unenclosed carport only.
2. That the reduction of the sideyard shall not permit any construction within utility or access easements.

ADOPTED AT WICHITA, KANSAS, this 28th day of October,
1980.


Earl Henderson, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE October 17, 1980

TO Glen Lytle, Special Assistant for Zoning

FROM Stan Scott, CPO Administrative Aide

SUBJECT BZA 42-80: West side of Fees
approximately 300 feet North
of Ross Parkway (2677 Fees)

On Thursday, October 16, CPO Council "D" considered the captioned case, a request to reduce the side yard setback from 6 to 3½ feet on property zoned "RB" Four Family Dwelling District.

Harold L. Barger, 2677 Fees, appeared before the Council to describe the requested variance which would permit the construction of a covered carport on the north side of his house. Robert W. Giatt, 4001 Whitney Lane, appeared in support of the requested variance. No area residents appeared to oppose the requested variance.

CPO Council "D" voted 5-0 to recommend approval of BZA 42-80.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered October 28.

Stan Scott

Stan Scott
CPO Administrative Aide

SS:gs

Noted:

Sarah Gilbert
Sarah Gilbert
Assistant CP Coordinator

RECEIVED

OCT 17 1980

METROPOLITAN PLANNING

ROUTE

October 29, 1980

Harold L. Barger
2677 Fees
Wichita, Kansas

Re: Case No. BZA 42-80
Request for Variance

Dear Mr. Barger:

At the regular meeting of the Board of Zoning Appeals on October 28, 1980, your request for a variance to reduce the sideyard setback from 6 feet to 3-1/2 feet on property zoned the "RB" Four-family Dwelling District and generally located on the west side of Fees approximately 300 feet north of Ross Parkway (2677 Fees) was considered.

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

1. That the sideyard setback shall be reduced from 6 feet to 3-1/2 feet for an unenclosed carport only.
2. That the reduction of the sideyard shall not permit any construction within utility or access easements.

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 yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 42-80

APPLICANT: Harold L. Barger, 2677 Fees, Wichita, Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the sideyard setback from 6 feet to 3-1/2 feet.

GENERAL LOCATION: On the west side of Fees approximately 300 feet north of Ross Parkway (2677 Fees).

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

LAND USE: Subject property is occupied by a three-family dwelling which is the general development of the area.

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 and the Board may grant the request when all five conditions as required by the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required sideyard setback adjacent to the north property line from 6 feet to 3-1/2 feet in order to construct an unenclosed carport attached to the main structure. The applicant states that the property line is the center of the sidewalk that serves access to both properties, however the property owners to the north use the east entrances mainly.

The applicant indicates that, to comply with the 6 foot sideyard, it would require the support posts to be only eight feet from the house. Due to a knee injury and surgery, the applicant indicates that his physical impairment of a stiff left leg, it is necessary that the car door be completely open in order to get out of a car. This cannot be done if he is required to comply with the sideyard setback.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to find uniqueness, however it may be somewhat unique inasmuch as the distance to the adjacent residential structure is more than the minimum requirement.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested may not adversely affect the rights of the adjacent property owner or resident inasmuch as the reduction of the required yard will not interfere with the light and air of the adjacent residential structure.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as the location of the existing structure will prevent compliance with the normal setbacks and still permit the construction of a carport.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance would not affect the public interest inasmuch as the request is interiorly located.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the requested variance would not be opposed to the spirit and intent of the zoning ordinance inasmuch as an adequate side yard are being maintained to provide light and air to both properties.

RECOMMENDATION:

If the Board finds all five conditions necessary for the granting of a variance to exist, it is the recommendation of the Secretary that the variance be approved subject to the following conditions:

1. That the sideyard setback shall be reduced from 6 feet to 3-1/2 feet for an unenclosed carport only.
2. That the reduction of the sideyard shall not permit any construction within utility or access easements.

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

OCTOBER 8, 1980

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 42-80

An application has been filed by Harold L. Barger, 2677 Fees, 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 feet to 3½ feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Lot 11, Block 0, Planeview Subdivision #1
to Sedgwick County, Kansas. Generally
located on the west side of Fees approximately
300 feet north of Ross Parkway (2677 Fees).

This application has been assigned case No. BZA 42-80, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 28, 1980, 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. If you have any questions about this application, please call 268-4390 and ask for Lynn Shirkey or 268-4394 and ask for Glen Lytle.

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

BZA CASE NO. 42-80

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

18 NOTICES SENT TO ADJOINING PROPERTY OWNERS

30 TOTAL NOTICES SENT 10-8-80

BOARD OF ZONING APPEALS

CASE NO. 42-80

CITY OF WICHITA, KANSAS

FILED 9-16-80

APPLICATION FOR VARIANCE

I. Name of Applicant Harold L. Barger
 Mailing Address 2677 Fees Phone 683-3928
 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 to reduce the side yard setback from 6 feet to 3 1/2 feet to be able to put the 4 supporting posts at 3 1/2 ft from the property line (center sidewalk). I have a bad left leg; which at 6 ft does not leave room to open car door to get out.
 for property located (2677 Fees)
 on the west side of Fees approximately 300 feet north of Ross Parkway

and legally described as: Lot 11, Block 0, ^{Plongview} Subdivision #1
in Sedgewick County, Kansas

in the City of Wichita; and which is presently zoned VB'

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. 36-596); 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 Sedgewick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Harold L. Barger

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:45 (~~am~~-p.m.), Sept 16, 1980
 together with appropriate fee of 75.00

Signed H. Lytle

The uniqueness of this property is typical of many of the Plainview lots. The layout presents problems. The variance requested arises from the limitation between the house and the property line, which is the center of the sidewalk.

By staking 3 1/2 ft. from the property line to the North side of the post, does not affect the adjoining property. The adjacent lot has a fence at edge of sidewalk, and the owners use an East entrance mostly, to their yard.

By staking 6 ft. from the property line, which is 14 ft. from the house, leaves only 8 ft. minus the diameter of the support post. The present provisions does not leave adequate clearance for the car between the post & the house.

I have a stiff left leg, (dance injury & surgery) and I need the door of the car completely opened to get in and out of the car, and this is with the seat pushed all the way back.

The only lot that is effected in any way, is lot 12 on the North side of the center line of the sidewalk, or the property line. Mr. Stroud, at 2675 Feis

has assured me he is not against this proposed variance. Only one couple uses this sidewalk, who reside at 2673 Fees, & they are in agreement, as they are Co-owners of lot 12.

Granting the variance will not be opposed to, or against the general spirit and intent of title 28. I feel any addition here will be an improvement to the property. This is my first request for any special considerations. Circumstance has necessitated this.

Harold S. Berger

OWNERSHIP LIST

Property owners of property located within a 200 foot radius of Lot 11,
Block O, Plainview Subdivision #1.


<u>LOT & BLOCK</u>	<u>ADDITION</u>	<u>PROPERTY OWNERS</u>
Lot 1, Block N	Plainview Subdivision #1	Misco Towel & Uniform, Inc. 2774 S. Roosevelt Wichita, Ks 67210
Lot 2, Block N	"	Brookside Methodist Church 2760 S. Roosevelt Wichita, Ks 67210
Lot 4, Block O	"	Clarence M. & Nola M. Elam 2311 S. Fountain Wichita, Ks 67218
Lot 5, Block O	"	Clifford Q. & Cereta R. Edens Address Unknown 3920 Ross Parkway
Lot 8, Block O	"	Freddie R. & Viola K. Inkelaar 2010 Irving Wichita, Ks 67213
Lot 9, Block O	"	Robert W. & Minnie M. Hiatt 4001 Whitney Wichita, Ks 67210
Lot 10, Block O	"	Lottie B. & Bart H. Danford Address Unknown 4429 E. Lincoln Apt 202 Wichita, Ks
Lot 11, Block O	"	Harold L. & Dorothy F. Barger 2677 S. Fees Wichita, Ks 67210
Lot 12, Block O	"	Elmer E. & Betty Jean Knodel 712 N. Phillips Andover, Ks 67002
Lot 13 & 14, Block O	"	Marion Q. & Dottie Lea Newell 2345 Bedford Wichita, Ks 67207
Lot 15, Block O	"	Boyd I. & Lorene C. Carry 2659 S. Fees Wichita, Ks 67210
Lot 16, Block O	" <i>Lary's Margaret Best 329 Union View, Ks P.O. Box 87, Beloit, Wis 67613</i>	Connie Leota Charlet Margaret Kay Best Velma Lou Wells Address Unknown 530 N. Chautauque
Lot 17, Block O	"	George & Linda V. Lovett 3085 S. Rutan Wichita, Ks 67210
Lot 18, Block O	"	N. G. & Glen Farha 1409 Wassall Wichita, Ks 67210
Lot 5, Block P	"	Audra E. Turner 2640 S. Roosevelt Wichita, Ks 67210

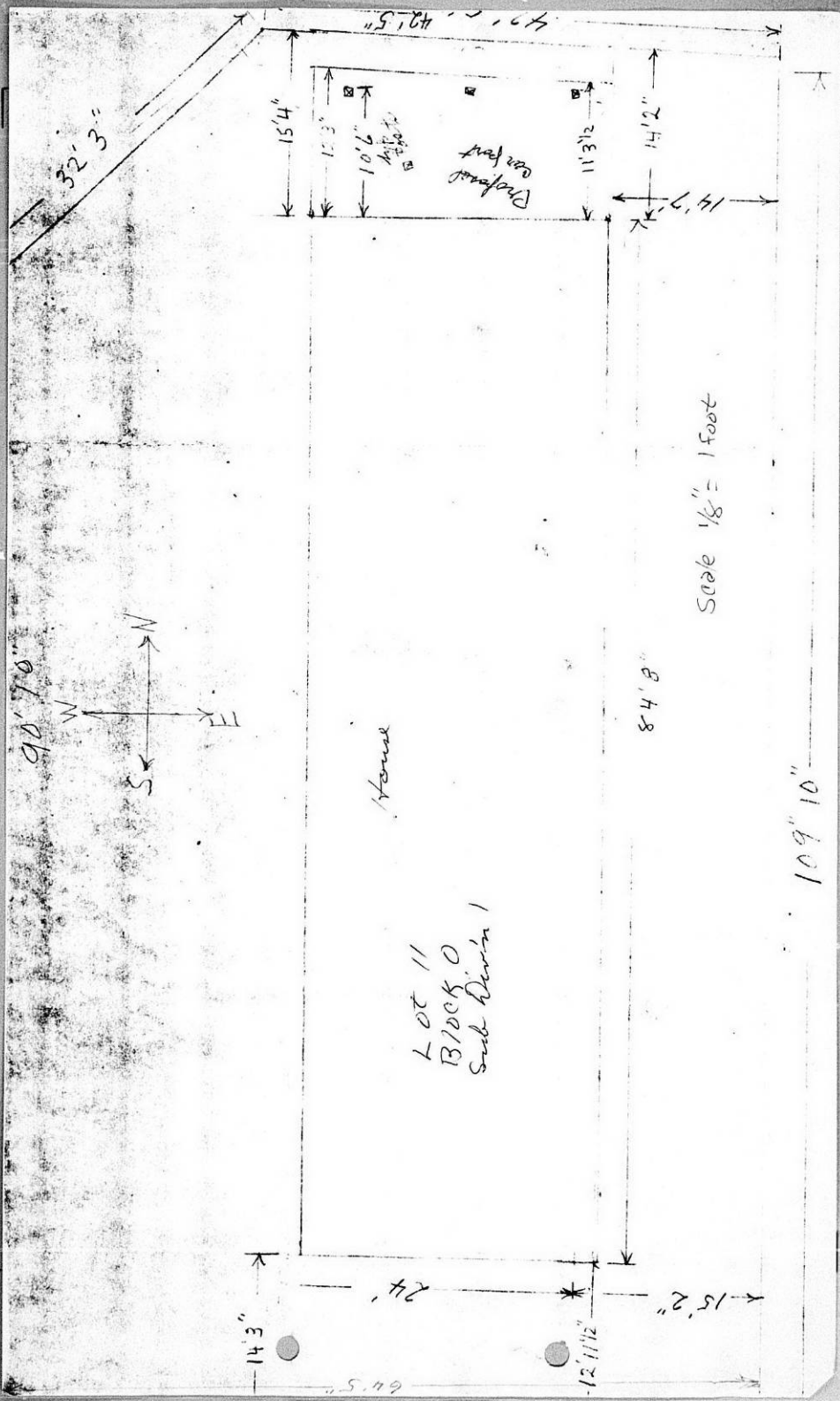
OWNERSHIP LIST (Cont.)

<u>LOT & BLOCK</u>	<u>ADDITION</u>	<u>PROPERTY OWNERS</u>
Lot 6, Block P	Plainview Subdivision #1	Robert W. & Minnie M. Hiatt 4001 Whitney Wichita, Ks 67210
Lot 7, Block P	"	? William C. Meeks Address Unknown
Lot 14, Block P	"	Charles & Peggy Joan Windham 2658 S. Fees Wichita, Ks 67210

Columbian National Title Insurance of Wichita, Inc. hereby certifies the foregoing to be a true and correct list of property owners of all property located within a 200 foot radius of Lot 11, Block 0, Plainview Subdivision #1, as shown by the last deeds of record in the office of the Register of Deeds of Sedgwick County, on this 5th day of September, 1980 @ 7:00 A.M.

COLUMBIAN NATIONAL TITLE INSURANCE
OF WICHITA, INC.

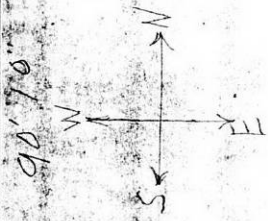

By: Gary G. Newcome, Asst. Vice-President



LOT 11
 BLOCK 0
 Sub Div'n 1

House

Scale 1/8" = 1 foot



90' 7 1/2"

32' 3"

42' 5"

15' 4"

12' 3"

10' 6"

11' 3 1/2"

14' 7"

14' 12"

84' 8"

109' 10"

14' 3"

24'

15' 2"

12' 11 1/2"

64' 5"

Profound
 over front

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

4' 10"

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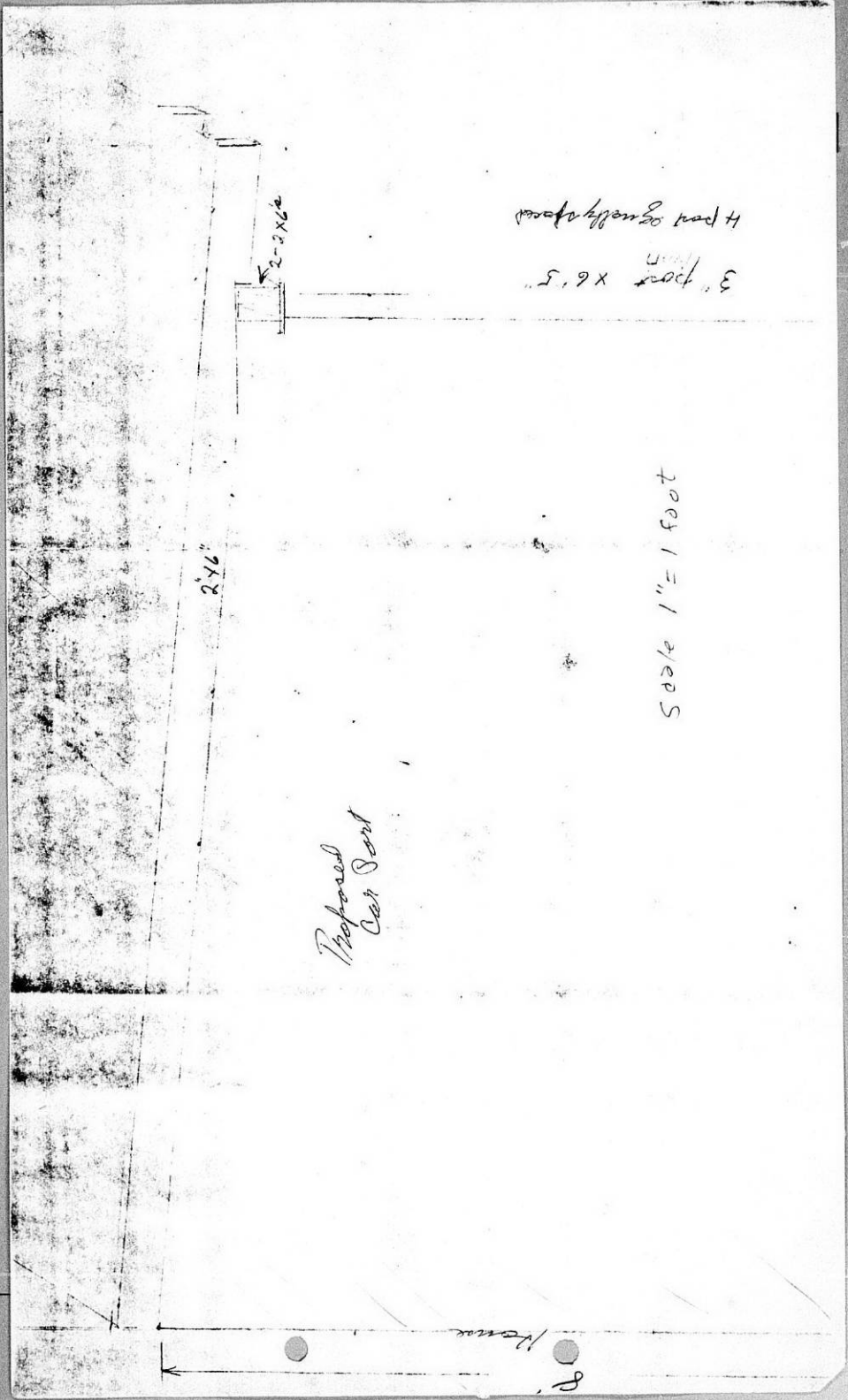
4' 10"

4' 10"

4' 10"

4' 10"

4' 10"



Proposed
Car Port

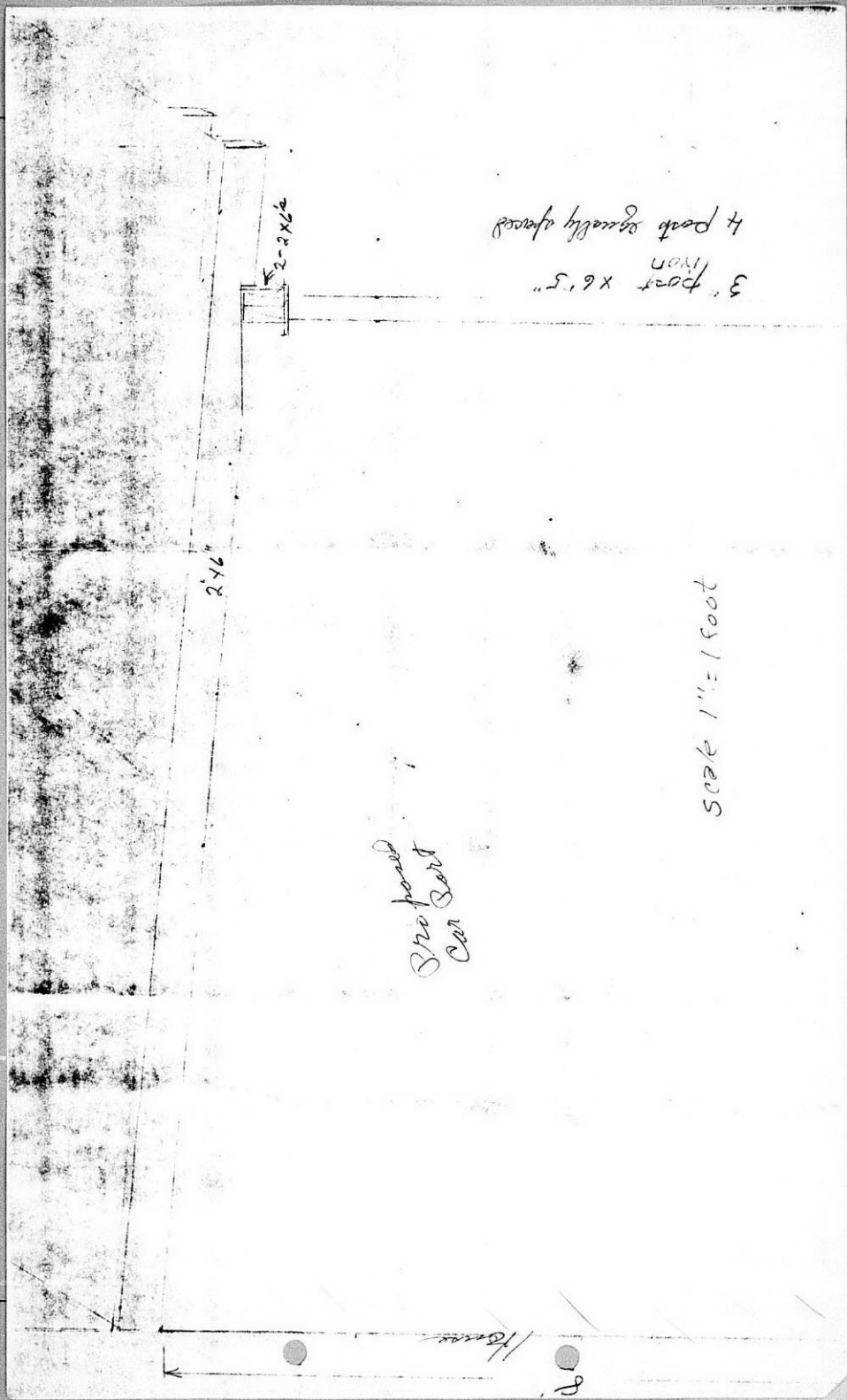
Scale 1" = 1 foot

3" post x 6.5"
4 post 2x4x6x6

2'6"

2'-0"

8
Name



MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

FORM 29 1 PAYMENT NOTICE
 City of Wichita

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

Planning

DESCRIPTION	AMOUNT
172A	15.00
(New)	

NAME H. W. ...

ADDRESS ...

FUND ... DUE DATE ...

COMMENTS

DATE ... BY J.H.