

Case No. BZA 43-87 - Robert Ivie re-
quests a variance of the required side
yard setback from 6' to 4' on property
zoned the "RB" Four-family Dwelling &
generally located on the west side of

Robert Ivie

ACTION

BZA 43-87 *Denied* 3-3 *10/27/87*
DATE

DATA SHEET

MAP NO.: 5346B

CASE NO. BZA 43-87

(CPO 4A, 10/15/87)

REQUEST: Variance for a reduction of the required side yard from 6 feet to 4 feet.

EXISTING ZONING: "RB" Four-family Dwelling District

GENERAL LOCATION: West side of Vine in an area south of McCormick (1015 S. Vine)

APPLICANT: Robert Ivie
 ADDRESS: 1015 S. Vine, Wichita, 67213

PHONE: 264-1145

AGENT: same as above
 ADDRESS:

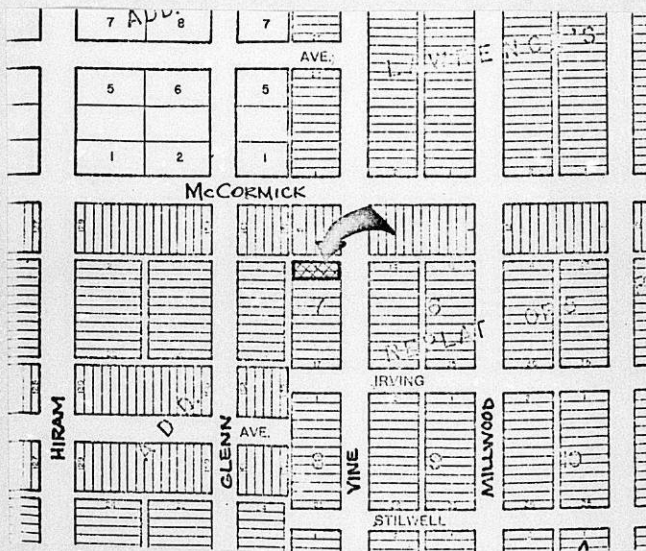
PHONE:

AREA DATA

Acres: (ft. by ft.) 50' x 140'

Adjacent Zoning and Land Use:

North	I.C	<u>Convenience store</u>
South	RB	<u>single-family</u>
East	RB	
West	RB	





October 29, 1987

Robert Ivie
1015 South Vine
Wichita, Kansas 67213

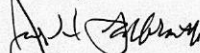
Re: BZA 43-87 - Variance to reduce the required side yard setback
from 6 feet to 4 feet. (On the west side of Vine in an area south of
McCormick - 1015 S. Vine)

Dear Mr. Ivie:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted
by the Board of Zoning Appeals on October 27, 1987. This Resolution
reflects the official action of the Board to deny your request. It is
forwarded to you for your information and files.

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

Sincerely,


Jack H. Galbraith
Secretary

JHC/lw

Enclosure

cc: Monty Robson, Superintendent of Central Inspection (2)
Dale Rea, Deputy City Clerk

FILE COPY

RESOLUTION NO. BZA 43-87

WHEREAS, Robert Ivie, 1015 South Vine, Wichita, Kansas 67213, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance of the required side yard setback from 6 feet to 4 feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Lots 6 and 7, Block 7, Replat of Part of John McCormick's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Vine in an area south of McCormick (1015 S. Vine).

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 27, 1987, 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, due to the layout of the house, the additional bedroom space could not be added to the rear where sufficient land exists for additions, but could only be added on the south adjacent to existing bedrooms. The platted north-south dimension is only 50 feet while the east-west dimension is 140 feet; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance would adversely affect the rights of adjacent property owners or residents inasmuch as a 2-foot encroachment plus up to 30 inches of eave overhang which is permitted in the side yard would make this house and the adjacent house so close together as to have a negative effect on property values and also the flat roof proposed by the applicant would not be consistent with adjacent structures and would have a negative effect on the property values in the area; 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 would not constitute unnecessary hardship upon the property owners represented in the application inasmuch as the additional bedroom space could be provided elsewhere on the site; 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 reduction of the side yard setback will not interfere with any needed easements or the need for separation to comply with fire or building codes; 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 side yard encroachment is for only a 12-foot length of the total 140-foot length of the lot; and

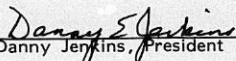
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has not been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance of the required side yard setback from 6 feet to 4 feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Lots 6 and 7, Block 7, Replat of Part of John McCormick's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Vine in an area south of McCormick (1015 S. Vine),

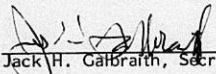
be denied.

ADOPTED AT WICHITA, KANSAS, this 27th day of October, 1987.



Danny Jenkins, President

ATTEST:



Jack H. Galbraith, Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE October 20, 1987

TO Louise Olivarez, Principal Planner

FROM Shirley Mast, Administrative Aide III *Sm*

SUBJECT BZA 43-87 West Side of
 Vine in an area south of
 McCormick - 1015 South Vine

On Thursday, October 15, West River CPO Council 4A considered the captioned case, a request for a variance of the required side yard setback from 6 feet to 4 feet on property zoned the Four-family Dwelling District. Council members were provided the Notice of Public Hearing and the MAPD Staff comments. After discussion, the Council voted 4-2 to recommend that the variance be denied for the following reasons:

- 1) the granting of the variance will adversely affect the rights of adjacent property owners inasmuch the closer properties are to each other, property values depreciate;
- 2) because strict application of the provisions of the zoning ordinance will not place an unnecessary hardship upon the applicant inasmuch as other alternatives are available for making the bedroom addition at another location of the house;
- 3) the variance will adversely affect the public interest; and
- 4) concern that a precedent will be set if the variance is granted.

The two members who voted against the motion indicated they supported the request subject to the conditions recommended in the MAPD Secretary's report.

The applicant, Robert Ivie, was present to describe the request and respond to questions.

The following persons were present and spoke in opposition to the variance:

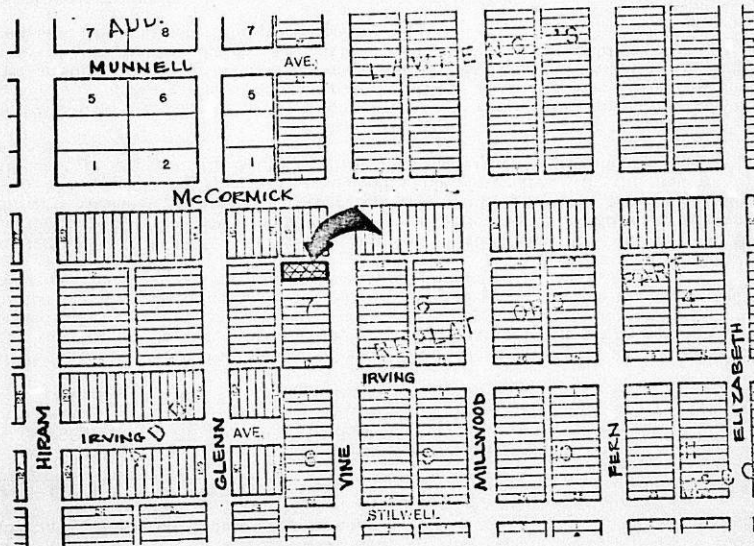
Mr. & Mrs. Bruce Holmes, 1019 S. Vine
Mr. & Mrs. Lloyd Combs, 1028 S. Vine
Robert and Virginia McCoskey, 1034 S. Vine

The residents stated they oppose the variance being granted because adjacent property values will depreciate and, in their opinions, other options exist to add the bedroom to the rear of the house or to make a second story.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 43-87 is considered at the October 27 meeting.

SECRETARY'S REPORT

CASE NUMBER: BZA 43-87
OWNER/APPLICANT/AGENT: Robert Ivie (applicant)
REQUEST: Variance for a reduction of the required side yard setback from 6 feet to 4 feet.
CURRENT ZONING: "RB" Four-family Dwelling District
SITE SIZE: 140' x 50' (7,000 square feet)
LOCATION: On the west side of Vine in an area south of McCormick (1015 S. Vine)
PROPOSED USE: House addition



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 conditions as required by the State Statutes are found to exist.

BZA CASE NO. 43-87

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>19</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>21</u>	TOTAL NOTICES SENT <u>10/2/87</u>

BACKGROUND: The applicant is requesting a variance for a reduction of the required side yard setback from 6 feet to 4 feet in order to construct a 5 foot by 12 foot addition to the south side of the existing house. The proposed addition will extend into the required 6-foot side yard building setback by 2 feet.

The applicant has advised that the addition is for an expansion to a bedroom and that there will not be any south windows in this room. Also, along the south property line is an 8-foot wood fence.

ADJACENT ZONING AND LAND USE:

NORTH	LC	Convenience store
SOUTH	RB	Residence
EAST	RB	Residence
WEST	RB	Residence

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as, due to the layout of the house, the additional bedroom space could not be added to the rear where sufficient land exists for additions, but could only be added on the south adjacent to existing bedrooms. The platted north-south dimension is only 50 feet while the east-west dimension is 140 feet.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested may not adversely affect the rights of adjacent property owners inasmuch as the 2-foot encroachment of the proposed bedroom addition into the south side yard setback should not interfere with the use of the adjacent property to the south as an 8-foot wood fence separating the properties already exists.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the bedroom addition needs to be located on the south side of the house adjacent to existing bedrooms and it would be difficult to redesign the addition to be placed on the west.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the reduction of the side yard setback will not interfere with any needed easements or the need for separation to comply with fire or building codes.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the side yard encroachment is for only a 12-foot length of the total 140-foot length of the lot.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The south side yard setback shall be reduced from 6 feet to not less than 4 feet and only for the length (12 feet) of the one-story addition shown on the site plan submitted with this application.

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

October 2, 1987

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 43-87

As required by law, all property owners of record within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals are to be notified of the public hearing. An application has been filed by Robert Ivie requesting a variance.

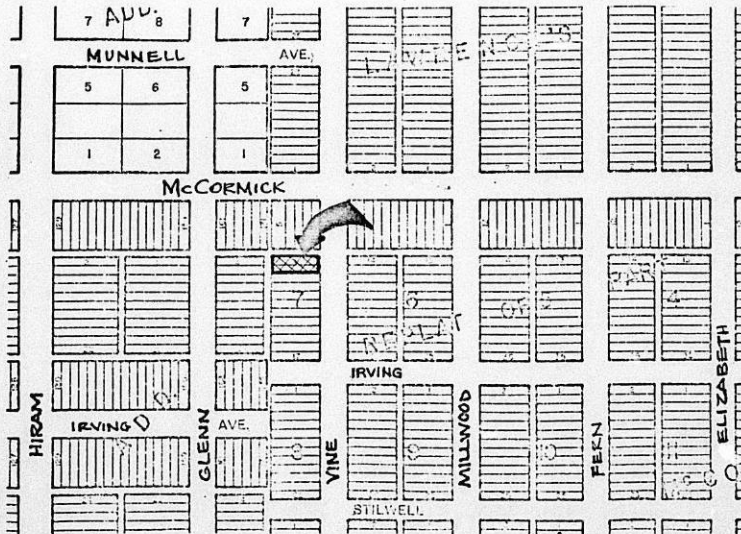
Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance of the required side yard setback from 6 feet to 4 feet on property zoned the "RB" Four-family Dwelling District. A legal description of the applicant's property is as follows:

Lots 6 and 7, Block 7, Replat of Part of John McCormick's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Vine in an area south of McCormick (1015 S. Vine).

This application has been assigned Case No. BZA 43-87. It will be considered by the Board of Zoning Appeals on Tuesday, October 27, 1987, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest in or objections to the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so either in person or by agent or attorney.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO West River Neighborhood Council "4A" will consider this case at their meeting to be held on Thursday, October 15, 1987, at 7 p.m., at the Stanley/Aley Community Center, 1749 South Martinson. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



(_____) Published in The Daily Record, October 2, 1987

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 27th day of October, 1987, the Board of Zoning Appeals of the City of Wichita, Kansas, in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas will consider the following applications beginning at 1:30 p.m.

1. Case No. BZA 40-87 - Independence Commons Co., 8100 East 22nd Street North, Building 506, Wichita, Kansas 67226, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of a car wash as an accessory use to a service station on property zoned the "LC" Light Commercial and legally described as follows:

A tract of land in Lot 6, Block 1, Tallgrass Commercial Third Addition to Wichita, Sedgwick County, Kansas, described as: Beginning at the SW corner of said Lot 6; thence bearing N 1°01'02" W along the west line of said Lot 6 a distance of 175.00 feet; thence continuing along said west line bearing N 15°03'12" W a distance of 5.16 feet; thence bearing N 89°06'26" E parallel to the south line of said Lot 6 a distance of 141.25 feet; thence bearing S 1°01'02" E a distance of 180.00 feet to a point in the south line of said Lot 6; thence bearing S 89°06'26" W along said south line a distance of 140.00 feet to the point of beginning. Generally located at the northeast corner of 21st Street North and Rock Road.

2. Case No. BZA 41-87 - T. G. Davis, Jr., P. O. Box 780047, Wichita, Kansas 67278, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of new and used car sales on property zoned the "LC" Light Commercial and legally described as follows:

Lot 1, Block A, and the west 10 feet of Lot 2, Block A, Hudson Addition to Wichita, Sedgwick County, Kansas; AND Lot 1, Low's Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Kellogg Drive and Lightner (5817 E. Kellogg).

3. Case No. BZA 42-87 - Eddy's Toyota of Wichita, Inc., 7333 E. Kellogg, Wichita, Kansas 67207, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of new and used car sales on property zoned the "LC" Light Commercial District and legally described as follows:

The North 138 feet of Lot 2, Jim Burns Addition AND Lot 1, Schmid Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Glendale and Elpyco (4901 & 4925 E. Kellogg).

4. Case No. BZA 43-87 - Robert Ivie, 1015 South Vine, Wichita, Kansas 67213, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance of the required side yard setback from 6 feet to 4 feet on property zoned the "RB" Four-family Dwelling District and legally described as follows:

Lots 6 and 7, Block 7, Replat of Part of John McCormick's Addition, Wichita, Sedgwick County, Kansas. Generally located on the west side of Vine in an area south of McCormick (1015 S. Vine).

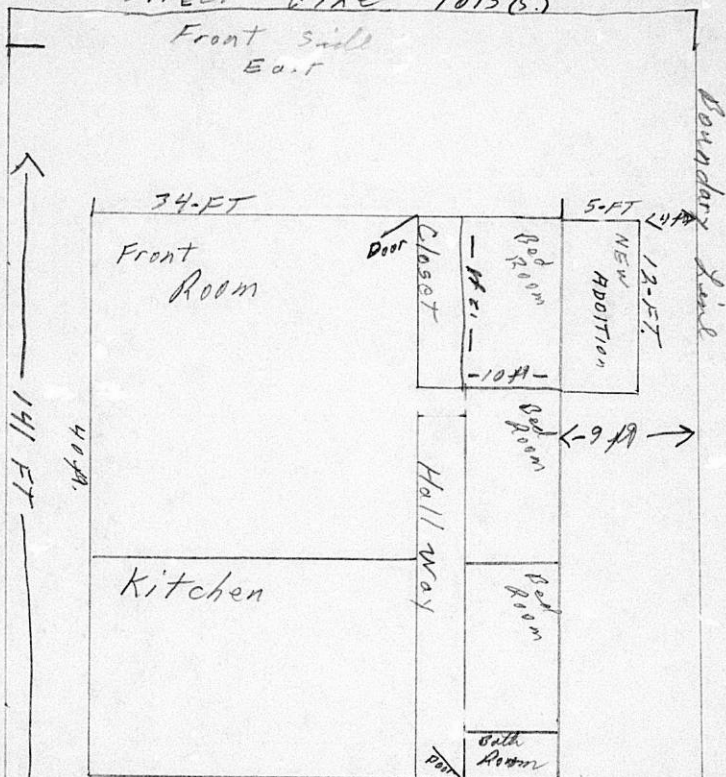
As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions and the variances will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 2nd day of October, 1987.

Jack H. Galbraith, Secretary

Street line 1015(S.)

Front Sill
E.O.F



50 ft.

rear - West

BZA 43-87

ROBERT IVIE
1015 S. VINE

X. We currently have 3 children in this room., making this area too small. We need the room to be expanded to accomodate our family.

2. We will remain on our property, will have a remainder of 4 feet, 2 inches between our house and the property line. There will also no longer a south window in this room, allowing no excess noise to bother neighbors.,

3. If not granted the permit, we will have to sell our house, where we have raised our children for the past 7 years, to move to a bigger home. This will mean uprooting our family, possible school changes, and a great financial loss to us, since the market in our area is down. We have 6 children that we would have to move, and this would cause emotional stress on the entire family.

4. The expansion will not effect public safety or health, as it will be done according to city codes and standards. It will cause no hardship on neighbors, as there is a privacy fence down the south side of the house approximately 8 feet in height. The top of our expansion will be approximately 8 feet high.

5. As in number 4, there is an 8 foot privacy fence the entire length of the property, and there will be no south window.

1. The layout of the house is such that additional bedroom space could not be added to the rear, where sufficient land exists for additions, but only on the south adjacent to existing bedrooms.

APPLICATION FOR VARIANCE

I. Name of Applicant Robert Ivie
Mailing Address 1015 S. Vine 67213 Phone 264-1145
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 room expansion a reduction of the required
side yard from 6' to 4'

for property located 1015 S. Vine

and legally described as: Lot 6⁴, Blk 7, Replat of ^{part of} John McCormick Addition,
Wichita, Sedgwick County, Kansas.

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

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 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.

Applicant Robert Ivie

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
4:30 (a.m./p.m.), 9-28, 1987, together with appropriate
fee of 200.00.

Signed Lance Olmeyer

Map 5346B (N) LC (S) RB (E) RB (W) F.B. CPD 4A
10-15-87

BZA 43-87

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

*received
7-30-87
noon*

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:

RECORDS OWNERS WITHIN 200 FEET OF: LOT 6, BLOCK 7 OF JOHN MCCORMICK'S ADDITION, WICHITA, KANSAS, SEDGWICK COUNTY.

*should be
Lot 6 and 7*



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

application

DESCRIPTIONS

RECORD OWNER

Lots 6 and 7, Block 7 Replat of Part of John McCormick's Addition

Floyd Dewayne Ivie and Linda L. Ivie
1015 S. Vine, Wichita 67213

*by the of Polict and
Dennis J. Califerano
Patent of Ivie
copy of
purchase
contract*

Lots 1, 2, and 3, Block 7 Replat of part of John McCormick's Addition

Dillion Real Estates Co.
2700 E. 4th, Hutchinson 67501

Lots 4 and 5, Block 7, Replat of Part of John McCormick's Addition

Cecil H. Miller and Patricia A. Miller
1811 McCormick, Wichita 67213

Lots 8 and 9, Block 7 Replat of John McCormick's Addition

Bruce D. Holmes and Deborah B. Holmes
1019 S. Vine, Wichita 67213

Lots 10 and 11, Block 7 Replat of John McCormick's Addition

Nancy J. Wilhite
1027 S. Vine, Wichita 67213

Lots 12,13,14, and 15, Block 7, Replat of John McCormick's Addition

J. R. Johnson and Alma I. Johnson
1301 S. Seneca, Wichita 67213



LOTS 7 and 8, Block 6 Replat of John McCormick's Addition	✓	Vera Forbes 1717 McCormick, Wichita 67213
Lots 9 and 10, Block 6 Replat of John McCormick's Addition	✓	Eugene C. cole and Ardis C. c/o Farmers and Merchant State P. O. Box 348, Derby 67037
Lots 11 and 12, Block 6, Replat of John McCormick's Addition	✓	Eugene C. Cole and Ardis c/o Farmers and Merchant State P. O. Box 348, Derby 67037
Lots 14, 16 adn 18, Block 6, Replat of John McCormick's Addition	✓	George R. McClary, Jr. and Merrie K. McClary 1018 S. Vine, Wichita 67213
Lots 20 and 22, Block 6 Replat of John McCormick's Addition	✓	<i>Floyd and Carol Combs</i> Jearl D. quick and Gladys M. c/o 1028 S. Vine, Wichita 67213
Lot 24 and the N½ of 26, Block 6 of Replat of John McCormick's Addition	✓	Marlin F. Mattern and Henrietta 844 S. Millwood, Wichita 67213
S½ of Lot 26 and all of 28, Block 6, Replat of John McCormick's Addition	✓	Robert L. McCoskey and Virginia 1034 S. Vine, Wichita 67213
Lot 30 and 32, Block 6, Replat of John McCormick's Addition	✓	Robert L. McCoskey and Virginia 1034 S. Vine, Wichita 67213
Lot 161, Garfield Addition	✓	Lyndle D. Taylor and Virginia 1713 N. St. Clair, Wichita 67203
Lots 163 and 165, Garfield Addition	✓	Harold D. Mills and Joyce R.R. 1, Clearwater 7026
Lots 167, 169 and 171 Garfield Addition	✓	Clara M. Orr, Glenn L. Orr and Wayne L. Orr and Harold G. Orr 1815 W. McCormick, Wichita 67213
Lots 2 and 4, Garfield Addition	✓	George E. Whitehead and Naomi B. 1018 S. Glenn, Wichita 67213
Lots 6 and 8 Garfield Addition	✓	Delmer L. Callahan and Mollie S. 1024 S. Glenn, Wichita 67213
Lots 10 and 12, Garfield Addition	✓	Delmer L. Callahan and Mollie S. 1024 S. Glenn, Wichita 67213
Lots 14 and 16, Garfield Addition	✓	Lena W. Eckhart n/k/a Lena W. Potts 1034 S. Glenn, wichita 67213
Lots 18, 20 and 22, Garfield Addition	✓	Norman M. Carr and Merle L. Carr Mae Maxine Carr 1047 S. Meridian, wichita 67213

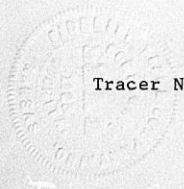


Dated at Wichita, Kansas, this 24th day of September, 1987
at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By: Medina L. Sutte
Administrative Secretary

Tracer No. 74040



MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 2011 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
Village maintenance	210-
resurrection ()	
NAME	R. J. ...
ADDRESS	...
FUND	DUE DATE
...	7-28-87
COMMENTS	
DATE	BY
7-28-87	...

WICHITA - SEDGWICK COUNTY
W SC
 BOARD OF ZONING APPEALS
 CITY HALL - TENTH FLOOR
 455 NORTH MAIN STREET
 WICHITA, KS 67202

sent to:
 Jearl D. Quick
 1028 S. Vine
 10-8-87

PRESORTED
 FIRST-CLASS



Jearl D. Quick
 Gladys M. Quick
 1028 S. Vine
 Wichita, KS 67213

RECEIVED
 OCT 05 1987
 METROPOLITAN PLANNING
 ROUTE _____

 BZA 03-87