

WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS

MINUTES

May 7, 2015

The regular meeting of the Wichita-Sedgwick County Board of Zoning Appeals was held on Thursday, May 7, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair; Carol Neugent, Vice Chair; John Dailey; David Dennis; David Foster; Joe Johnson; John McKay Jr.; Bill Ramsey; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. Bill Johnson and Don Klausmeyer were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. Approval of the minutes of the March 19, 2015 meeting.

MOTION: To approve the March 19, 2015 BZA minutes.

WARREN moved, **FOSTER** seconded the motion, and it carried (9-0-3). **GOOLSBY, RAMSEY** and **MITCHELL**– Abstained.

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2. **BZA2015-00012** – Kenneth Brasted, Brian and Tara Wilbert (Owners(s)/Applicants (s)) and Trimark Signs, Attn: Tyler McFadden (Agent) request a City variance to the sign code to increase the sign area to 389 total square feet, another variance to locate the sign perpendicular/parallel to frontages and an administrative adjustment to increase sign height to 40 feet next to an elevated roadway, generally located south of Kellogg, on the east side of Hydraulic Avenue (530 S. Hydraulic Ave.) described as:

Lot 1, Pennypower 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 State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevated roadway on property zoned LC Limited Commercial (“LC”.) The applicant has been at this location for more than 30 years and has plans to revamp their current on-site sign. The subject site is in a unique position without any direct highway access to the site. In order to reach the site from the two highways, one has to either exit at Lincoln Street or Washington Avenue. When exiting at Lincoln Street (on I-135), a person would have to get on Hydraulic and travel a half mile north to the site. From exiting at Washington Avenue, a person would have to go south to Indianapolis Street for a half mile and then north on Hydraulic. Already, access to the subject site is already challenging and the on-site sign, while difficult, is

only visible from eastbound and westbound Kellogg. It is not visible from I-135, with the best visibility being from the Kellogg/I-135 ramp. The sign is currently four-sided to take advantage of its unique position and the current square footage of the sign is 300 square feet, total. Currently the sign is 30 feet 6 inches above grade and 7 feet 6 inches above the overpass. The request for the height increase would bring the height above the overpass to around 18 feet. This is a common pole sign height throughout the City on commercial properties along arterial streets.

The proposed variance is to increase the sign area by 89 square feet, or around 23 square feet per side (four-sided sign). The other variance request is to allow the sign(s) to run parallel to the frontage. It is a four-sided sign and the unique location allows the site to have three frontages, thus, while the signs do run perpendicular to their respective frontages, the sign is also parallel to some of its frontage streets. Being wrapped up into these variance requests is an adjustment to the height of the sign by 9 feet 6 inches to bring the total sign height to 40 feet or 17 feet above the overpass ramp.

The subject site has commercial development to the west and residential development to the south, however to the north and east of the site is I-135 and Kellogg and their respective entrance and exit ramps. The property to the west is zoned OW Office Warehouse and is developed with a warehouse/storage facility (according to Sedgwick County's appraisal page), however at this time, the property appears to be vacant. Property to the south is zoned B Multi-family residential and is currently developed with a single-family residence on one site and a quadraplex the other site.

ADJACENT ZONING AND LAND USE:

NORTH:	Kellogg (US-54)
SOUTH:	B Single-family and Multi-family Residences
EAST:	I-135 Ramp
WEST:	OW Warehouse/Storage Facility

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch that it does not have direct access from Kellogg or I-135 and the current location of the site makes it difficult to identify and access.

ADJACENT PROPERTY: It is staff's opinion that granting the requested sign variances will not adversely affect the rights of adjacent property owners, inasmuch as adjacent properties are zoned OW and B, with Kellogg and I-135 to the north and east of the site. The B zoned properties south of the subject site are blocked from viewing the sign by the principal structure on the subject site.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch that without the requested variance requests, the applicants sign would continue to not be visible from I-135, both directions. Also, the unique position of the site places it with three frontage streets and no matter if it's a two-sided or a four-

sided sign, like the sign in question, the sign would be parallel to one or more street frontages. The overall location of the subject site and sign constitutes a hardship due to its limited accessibility and visibility. These sign improvements, at least, improve the visibility of the subject site.

PUBLIC INTEREST: It is staff's opinion that the requested sign variances will not adversely affect the public interest, inasmuch as permitting a variance to an existing on-site sign to improve its visibility from Kellogg and I-135, which are limited access highways, is in the public interest.

SPIRIT AND INTENT: It is staff's opinion that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The variance request simply allows an existing on-site sign, with no apparent impact on surrounding properties, to continue to exist.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the Variance to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevated roadway be **GRANTED**, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevated roadway only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to update the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

DERRICK SLOCUM, Planning Staff presented the Secretary's Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (12-0).

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3. **BZA2015-00014** – MKT Investments (Tracy McCune) request a City variance to allow billboard to be built on lot line as a result of right-of-way being acquired for the I-235 and Kellogg interchange expansion, generally located at the southeast corner S. West Street and the Kellogg eastbound entrance ramp on property described as:

A tract in lots 26 and 27 beginning at the Southwest corner of lot 27; thence Northeasterly to a point 7 feet North of the Southeast corner of lot 26; thence Northeasterly to a point on the center line of vacated McComas Street, said point being 23 feet North of the extended South line of lot 16, Block 3; thence South along the center line to the South extended line of lot 27; thence West to the point of beginning, Block 2 in Eureka Gardens Addition to Wichita, Sedgwick County, Kansas.

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 State Statutes, are found to exist.

BACKGROUND: The application area is .23 acres located south of West Kellogg, east of South West Street and north of McCormick Avenue that contains an existing billboard. The Kansas Department of Transportation (KDOT) is making improvements to the West Kellogg-South West Street intersection, and has obtained ownership of the land which contains the existing billboard. As a result of the KDOT purchase, the applicant is required to move the billboard out of KDOT's newly acquired right-of-way. The applicants are wishing to re-establish the billboard on a remnant piece of land located just south of the billboard's current or former location. However, the remnant land is only 48 to 49 feet deep, which is too narrow to allow a 48-foot wide billboard to be built without encroaching into the front building setback. Billboards are treated as structures, and are required to observe building setback standards. The site is zoned Limited Industrial (LI) that has the following setbacks: front-20 feet; rear-0 feet; interior side-0 or five feet and street side-0 feet. The McCormick Avenue frontage is the application area's front yard. The site has 217 feet of frontage along McCormick Avenue. The applicant is requesting a zero building setback from the application area's front yard (McCormick Avenue) minimum 20-foot requirement.

ADJACENT ZONING AND LAND USE:

NORTH: LC and SF-5; Kellogg right-of-way, retail, restaurants and single-family uses
SOUTH: LI; industrial and commercial
EAST: LI; owned by KDOT
WEST: LI; Kellogg right-of-way, industrial and commercial

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that the circumstances causing this request are unique in that the applicant has a small site that contains a legally conforming billboard that abuts the east-bound access ramp from South West Street to east-bound Kellogg. With the loss of a portion of the applicant's property to right-of-way the site is just deep enough to permit a 48-foot long sign within the limits of the site. A variance is the most reasonable solution to reducing building setbacks that would permit the re-installation of a billboard on the site.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance would not adversely affect the rights of adjacent property owners because there has been a billboard on the property for several years and so the variance is not facilitating the installation of a new use. Land surrounding the site is either right-of-way or is owned by KDOT.

HARDSHIP: It is staff’s opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants. Without the requested variance, the applicant would not be able to re-install a full size, 48-foot-long billboard. Presumably such a restriction would significantly reduce the economic value of the sign.

PUBLIC INTEREST: It is staff’s opinion that the requested variance promotes the public interest to the extent that billboards provide an alternate approach to advertising in radio, television or print media.

SPIRIT AND INTENT: It is staff’s opinion that granting the requested variance does not oppose the general spirit and intent of the Zoning Code which is to protect the public health, safety and welfare.

RECOMMENDATION: It is staff’s opinion that the requested variance complies with the required criteria noted above. Should the Board determine that the criteria necessary to grant a variance exists, the Secretary recommends that the variance be GRANTED, subject to the following conditions:

1. The front building setback shall be reduced to zero, but only for a billboard. All other uses on the site shall comply with applicable zoning, building, fire, sign and other applicable codes.
2. The applicant shall obtain all permits necessary to build the structure within one year of variance approval, unless such time is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

DERRICK SLOCUM, Planning Staff presented the Secretary’s Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (12-0).

The Wichita-Sedgwick County Board of Zoning Appeals adjourned at 1:35 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Board of Zoning Appeals, held on _____, is a true and correct copy of the minutes officially approved by such Board.

Given under my hand and official seal this _____ day of _____, 2015.

John L. Schlegel, Secretary
Wichita-Sedgwick County Board of
Zoning Appeals