



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

September 24, 2003

Mark McClellan
Caldonia McClellan
2433 E. Shadybrook
Wichita, KS 67214

RE: BZA2003-37 – Variance to Section 24.04.222.2 of the Sign Code to permit an increase in height for an existing off-site sign on property zoned “GI” General Industrial. Generally located south of 21st Street North and west of I-135.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on September 23, 2003, this resolution reflects the official action of the Board to grant your requests and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421

Sincerely,

Scott Knebel
Assistant BZA Secretary

SK/rms

CC: EPS Media, Sherman Smith, 100 W. 123rd Terr., Kansas City, MO 64145
EPS Media, Kelly Smith, 1020 Washington #202, Kansas City, MO 64105
Sharon Fearey, WCC, District VI, Mail Stop 1-13
Terri Dozal, N.A. VI, Mail Stop 1-135
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

BZA RESOLUTION NO. 2003-00037

WHEREAS, Mark and Caldonia McClellan, (owner/applicant) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section 24.04.222.2 of the Unified Sign Code to permit an increase in height for an existing off-site sign property zoned "G1" General Industrial and legally described as follows:

Lots 52, 54, 56, 58, 60, 62, 64, 66, 68 and 70, on Cleveland Avenue, Harvey's Walnut Grove Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located south of 21st Street North and west of I-135.

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 September 23, 2003, 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. It is the opinion of the Board that this property is unique, inasmuch as significant drainage features in the area provide significant open space that provides freeway visibility of a billboard located on property that is not adjacent to the freeway.

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. It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as numerous billboards are located in the immediate vicinity without any noticeable detrimental impacts on adjacent properties.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as the highway reconstruction created an obstructed view of the existing billboard and the investment in the billboard will be worthless if a variance is not granted to allow visibility of the sign from the freeway.

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. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as billboard signs are common along freeway frontages, and in this general vicinity, and the proposed billboard meets all Sign Code requirements except for permitted height.

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 the zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the Sign Code makes provisions for increasing the height of billboard signs when they are adjacent to elevated portions of a freeway. Given the uniqueness of the subject property, the billboard is located on property that is not adjacent to, but is visible from, an elevated freeway; therefore, increasing the height of the billboard meets the spirit and intent of the Sign Code.

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.

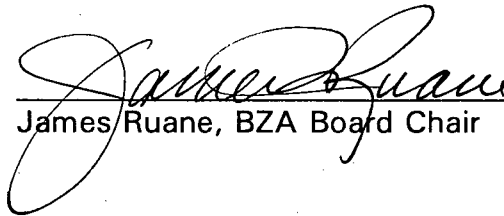
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance to Section 24.04.222.2 of the Sign Code be granted to permit an increase in height for an existing off-site sign on property zoned "GI" General Industrial and legally described as follows:

Lots 52, 54, 56, 58, 60, 62, 64, 66, 68 and 70, on Cleveland Avenue, Harvey's Walnut Grove Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located south of 21st Street North and west of I-135.

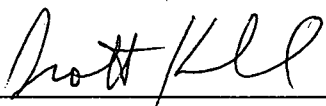
The variance is hereby **GRANTED**, subject to the following conditions:

1. The off-site sign shall comply with all regulations of the Sign Code, except that the height of the off-site sign shall not exceed 40 feet.
2. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
3. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 23rd DAY of SEPTEMBER 2003.


James Ruane, BZA Board Chair

ATTEST:


Scott Knebel, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00037

OWNER/APPLICANT: Mark and Caldonia McClellan

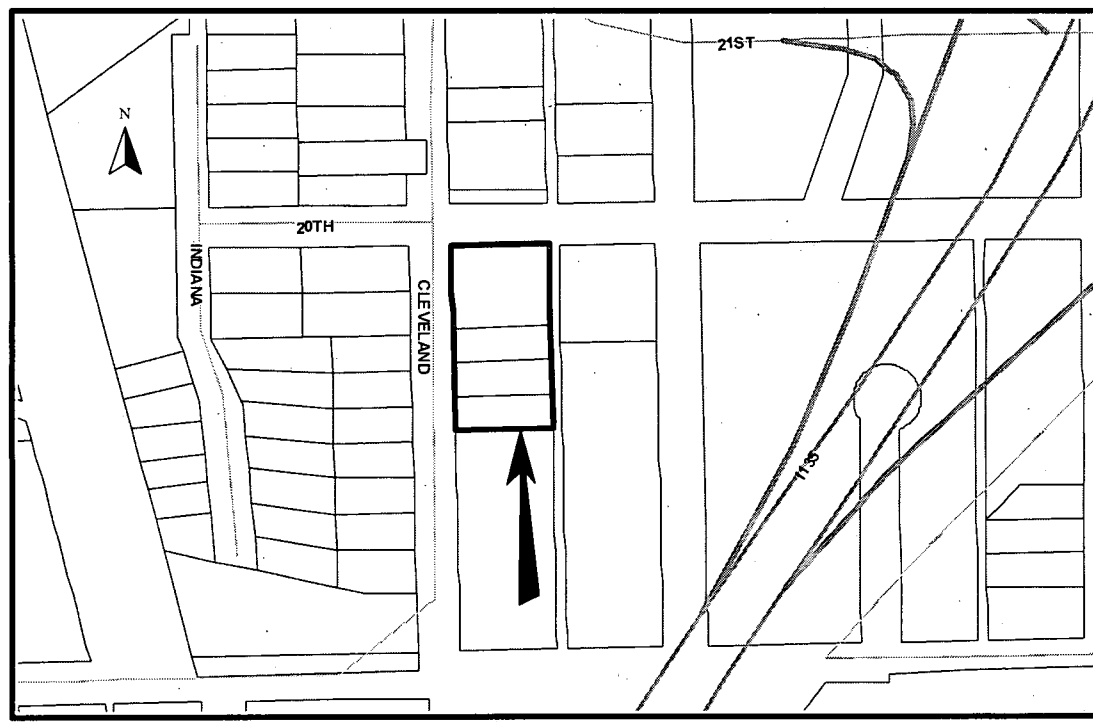
AGENT: EPS Media c/o Kelly Smith and Sherm Smith

REQUEST: Variance to Section 24.04.222.2 of the Sign Code to permit an increase in height for an existing off-site sign

CURRENT ZONING: "GI" General Industrial

SITE SIZE: 0.86 Acres

LOCATION: South of 21st Street North and west of I-135



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 is requesting a variance to Section 24.04.222.2 of the Sign Code to permit an increase in height for an existing off-site sign (billboard). The subject property is located south of 21st Street North and west of I-135. The subject property is zoned "GI" General Industrial and is used as a salvage yard.

The existing billboard is 30 feet in height; however, since the time the billboard was constructed, I-135 has been reconstructed and concrete barriers were added that obstruct the view of the billboard from northbound traffic on I-135. The applicant proposes to increase the height of the billboard by 10 feet so that it will be visible to northbound traffic on I-135.

The Sign Code permits a billboard to be 30 feet in height unless it is adjacent to an elevated section freeway. Billboards adjacent to elevated sections of a freeway are permitted to be a height such that the top of the sign is no more than 14 feet above the top of the freeway barrier. However, the subject property is not adjacent to the freeway, as intervening properties are located between the subject property and the freeway. Therefore, a variance is required to permit the 40-foot sign height requested. The applicant submitted the attached justification statements, site plan, and photographs to support the variance request.

ADJACENT ZONING AND LAND USE:

NORTH	"GI"	Vacant
SOUTH	"GI"	Vacant
EAST	"GI"	Construction sales and service
WEST	"GI"	Vacant

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as significant drainage features in the area provide significant open space that provides freeway visibility of a billboard located on property that is not adjacent to the freeway.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as numerous billboards are located in the immediate vicinity without any noticeable detrimental impacts on adjacent properties.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as the highway reconstruction created an obstructed view of the existing billboard and the investment in the billboard will be worthless if a variance is not granted to allow visibility of the sign from the freeway.

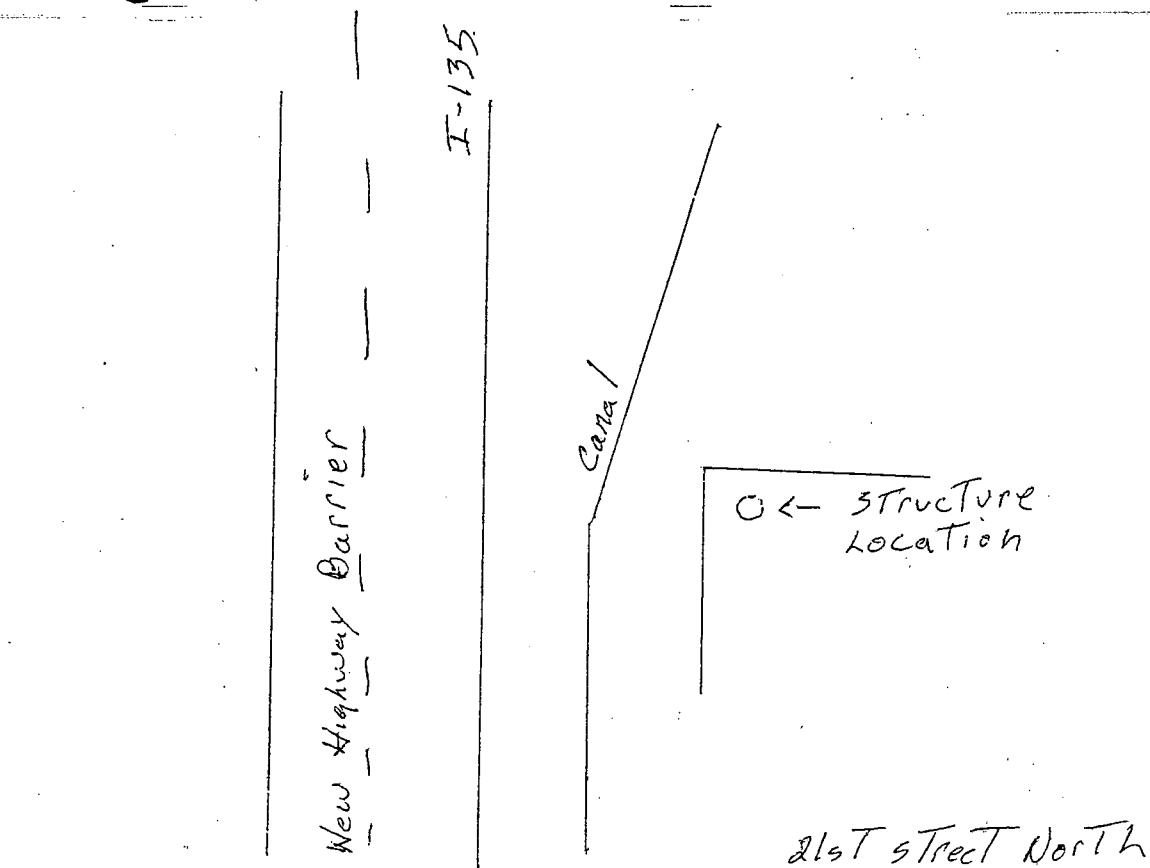
PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as billboard signs are common along freeway frontages, and in this general vicinity, and the proposed billboard meets all Sign Code requirements except for permitted height.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the Sign Code makes provisions for increasing the height of billboard signs when they are adjacent to elevated portions of a freeway. Given the uniqueness of the subject property, the billboard is located on property that is not adjacent to, but is visible from, an elevated freeway; therefore, increasing the height of the billboard meets the spirit and intent of the Sign Code.

RECOMMENDATION: It is staff's opinion that the variance requested is appropriate. Should the Board determine that the five conditions necessary for granting the variance exists, then it is the recommendation of the Secretary that the variance be GRANTED, subject to the following conditions:

1. The off-site sign shall comply with all regulations of the Sign Code, except that the height of the off-site sign shall not exceed 40 feet.
2. The applicant shall obtain all permits necessary to construct the signage, and the signage shall be erected within one year of the granting of the variance, unless such time period is extended by the Board.
3. The resolution authorizing the variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

Top View



Side View

