



Wichita-Sedgwick County Metropolitan Area Planning Department

August 27, 2003

FILE COPY.

Salah Jamal-Eddine
Wissam Jamal-Eddine
12330 Nantucket
Wichita, KS 67235

RE: BZA2003-39 – Variance to Section 24.04.195.2 of the Sign Code to permit a sign not having street frontage or fronting 150 feet of parking lot on property zoned “LC” Limited Commercial. Generally located south of Central and east of Winterset.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on August 26, 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: Greg Ferris, %Ferris Consulting, P O Box 573, Wichita, KS 67201
Bob Martz, WCC, District V, Mail Stop 1-13
Dana L. Brown, N.A. V, Mail Stop 1-135
Sharon Dickgrafe, Law Department, Mail Stop 1-132
J. R. Cox, OCI, 1-72

BZA RESOLUTION NO. 2003-00039

WHEREAS, Salah Jamaledine, (owner/applicant); Ferris Consulting, c/o Greg Ferris (agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to 24.04.195.2 of the Sign Code to permit a sign not having street frontage or fronting 150 feet of parking lot on property zoned "LC" Limited Commercial and legally described as follows:

Lot 1, Winterset Place Addition, Wichita, Sedgwick County, Kansas. Generally located south of Central and east of Winterset.

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 August 26, 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 the property is a small tract without arterial street frontage that is located next to a major drainage way that has developed with a restaurant. As many retail uses do, restaurants depend upon visibility for success. The remote location relative to Central and the drainage way and utility easement and floodway reserve located to the east of the site all combine to make this site unique and unable to develop in conformance with code requirements.

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 would not adversely affect the rights of adjacent property owners, inasmuch as all adjacent properties are developed with institutional or commercial uses or are vacant. Most adjacent properties will not be able to see the sign. The only adjacent property from which the sign will be visible is restricted in use to a floodway reserve or parking area for the restaurant by a Community Unit Plan.

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 lack of visibility of the property was created in part by the way the tract was configured by the original developer and by the existence of the drainage facility.

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 the signage is tasteful in design, is of an appropriate scale, and has minimal lighting.

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 a stated intent of the Sign Code is to provide an opportunity to achieve a reasonable balance between the need for a sign and preserving the visual qualities of the community. In this instance, the need for the sign to provide visibility from Central will provide a reasonable balance with the visual qualities of the community.

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.

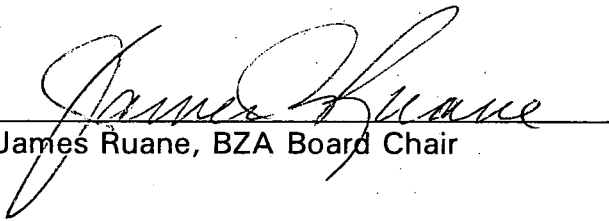
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance to 24.04.195.2 of the Sign Code be granted to permit a sign not having street frontage or fronting 150 feet of parking lot on property zoned "LC" Limited Commercial and legally described as follows:

Lot 1, Winterset Place Addition, Wichita, Sedgwick County, Kansas. Generally located south of Central and east of Winterset.

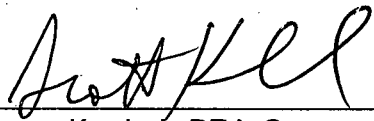
The variance is hereby **GRANTED**, subject to the following conditions:

1. The signs on the subject property shall comply with all regulations of the Sign Code, except that one sign shall be permitted without the 150 feet of parking lot or arterial street frontage on the east building facade.
2. The sign shall be in general conformance with the elevation drawings and site plan approved by the Board.
3. 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.
4. 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 26th DAY of AUGUST 2003.


James Ruane, BZA Board Chair

ATTEST:


Scott Knebel, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2003-00039

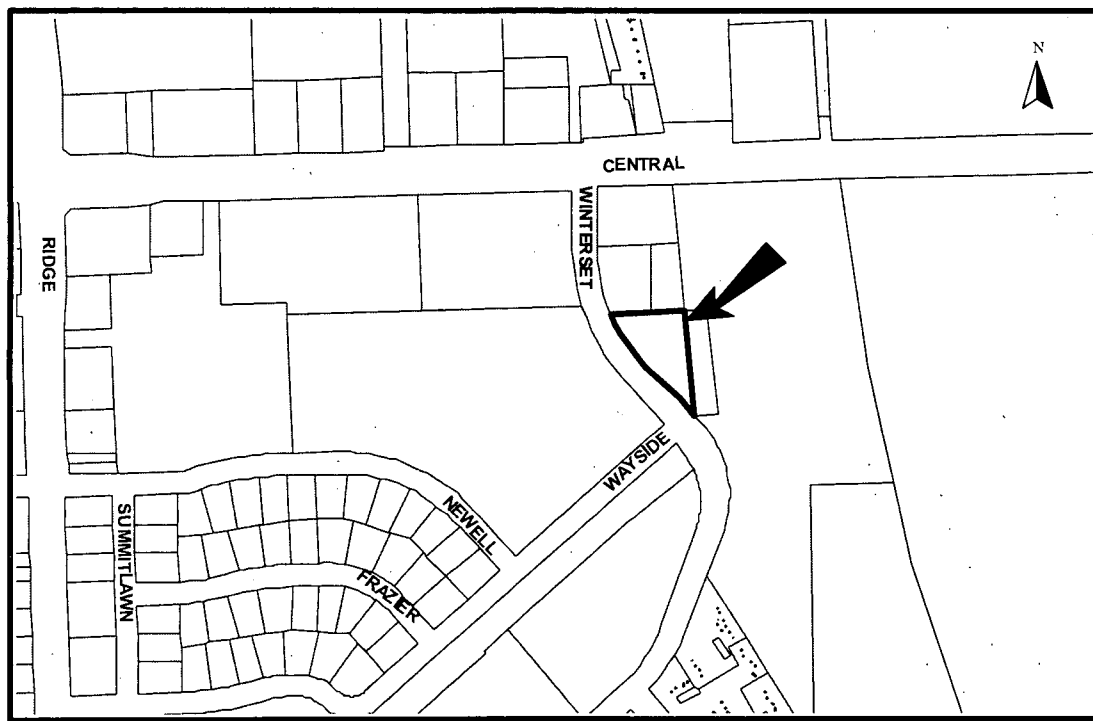
OWNER/APPLICANT: Salah Jamaledine (Owner); Ferris Consulting c/o Greg Ferris (Agent)

REQUEST: Variance to Section 24.04.195.2 of the Sign Code to permit a sign not having street frontage or fronting 150 feet of parking lot.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 0.76 Acres

LOCATION: South of Central and east of Winterset



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 24.04.195.2 of the Sign Code to permit a sign not having street frontage or fronting 150 feet of parking lot. The subject property is located south of Central and east of Winterset at 606 N. Winterset. The subject property is zoned "LC" Limited Commercial and is currently developed with the Mama Deaux restaurant.

The applicant has an existing building sign (70 square feet) located on the northeast facade of his restaurant. The façade faces the Wichita-Valley Center Flood Control structure (the Big Ditch) and Central Avenue. The property abuts a utility easement and both the "Big Ditch" and Big Slough drainage ways, and the applicant does not own enough land to put in 150 feet of parking in front of the façade on which the sign is located. The property is a small narrow tract that doesn't allow for many development options.

The applicant has submitted an extensive justification statement (attached) for the requested variance to permit the sign. Essentially, the applicant states that due to site restrictions (the site's small size and off site constraints such as the utility easement and drainage easements), the applicant cannot comply with code requirements. The site does not have Central Avenue frontage; however, the applicant indicates a sign in this particular location is necessary to provide visibility for Central traffic. Also, the sign does not face residential uses as the adjacent residentially-zoned property to the east is restricted to a floodway reserve and a parking area for the restaurant by a Community Unit Plan.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Office, retail
SOUTH	"MF-18"	Vacant
EAST	"TF-3"	Vacant, drainage way
WEST	"LC"	YMCA and shopping center

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property is a small tract without arterial street frontage that is located next to a major drainage way that has developed with a restaurant. As many retail uses do, restaurants depend upon visibility for success. The remote location relative to Central and the drainage way and utility easement and floodway reserve located to the east of the site all combine to make this site unique and unable to develop in conformance with code requirements.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as all adjacent properties are developed with institutional or commercial uses or are vacant. Most adjacent properties will not be able to see the sign. The

uses or are vacant. Most adjacent properties will not be able to see the sign. The only adjacent property from which the sign will be visible is restricted in use to a floodway reserve or parking area for the restaurant by a Community Unit Plan.

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 lack of visibility of the property was created in part by the way the tract was configured by the original developer and by the existence of the drainage facility.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the signage is tasteful in design, is of an appropriate scale, and has minimal lighting.

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 a stated intent of the Sign Code is to provide an opportunity to achieve a reasonable balance between the need for a sign and preserving the visual qualities of the community. In this instance, the need for the sign to provide visibility from Central will provide a reasonable balance with the visual qualities of the community.

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

1. The sign on the subject property shall comply with all regulations of the Sign Code, except that one sign shall be permitted without the 150 feet of parking lot or arterial street frontage on the east building facade.
2. The sign shall be in general conformance with the elevation drawings and site plan approved by the Board.
3. 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.
4. 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.

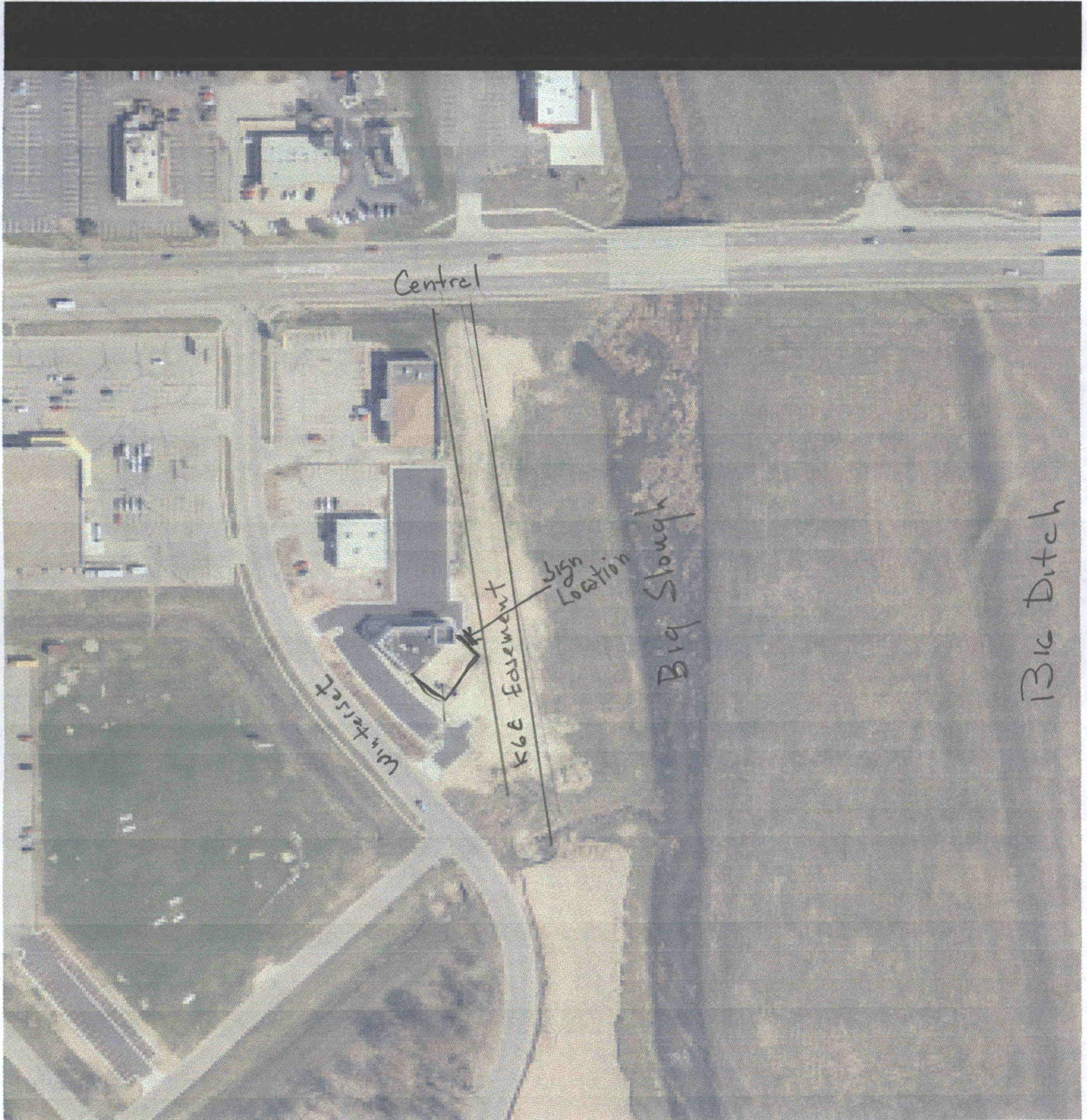


BZA 2003-00039

SITE PLAN

APPROVED 8-26-03 BY BZA

Mama Deux



BZA2003-00039

SITE PLAN

Scale 1:6795

APPROVED B-26-03 BY BZA

