CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

March 6, 2020

Fisal Corporation
5230 East Central Avenue
Wichita, KS 67208

Ferris Consulting
% Greg Ferris
P.O. Box 573
Wichita, KS 67201

RE: BZA2019-00059 – City variance to permit off-site sign in LC with less than 1,500 linear feet located on the north side of East 37th Street North and the east side of North Woodlawn Boulevard (3810 North Woodlawn Boulevard).

At its regular meeting on January 13, 2020, the Wichita - Sedgwick County Board of Zoning Appeals (BZA) considered the above captioned request. The action of the BZA was to **APPROVE** the request by a vote of 12 to 0 in accordance with the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: MABCD

BZA RESOLUTION NO. 2019-00059

WHEREAS, Fisal Corporation, (Owner), and Ferris Consulting – Greg Ferris (Agent); pursuant to Section 2.12.590.B and Section 24.04.250, Code of the City of Wichita, requests the following variances to the Sign Code of the City of Wichita:

1. Variance to Section 22.04.222(2) of the Sign Code of the City of Wichita to allow an off-site sign on property with less than 1,500 lineal feet of LC zoning in a mile.

2. Variance to Section 22.04.222(2) of the Sign Code of the City of Wichita to increase the number of permitted off-site signs in a mile.

on property zoned "LC" Limited Commercial District (LC) legally described as follows:

> The South 120 feet of Lot B, Block 1, Chisholm Creek Addition to City of Wichita, Sedgwick County, Kansas.

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 January 23, 2020, 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 and Section 24.04.250, 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 in because of the location in relation to another incorporated city. If the land on the west side of Woodlawn Boulevard was within the City of Wichita, the required amount of LC zoning along the arterial required by the Sign Code would be met and one off-site sign in LC zoning would be permitted in the mile. The commercial uses along Woodlawn Boulevard meet the intent of the Sign 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, inasmuch as most of the surrounding uses are commercial, the proposed location of the off-site sign will be behind a 35-foot setback which is not normally required.

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 inasmuch as imposing the standards of the Sign Code is unreasonable given the nature of the unique conditions at this location, limiting the economic viability of the redevelopment of the property.

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, inasmuch as new commercial development has a right to provide off-site signage within limits under the Sign Code and the variances granted would allow development if the location was surrounded by commercial land within the City of Wichita, rather than adjacent to another city.

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 and Section 24.04.250, Code of the City of Wichita, that a variance be granted to the Sign Code of the City of Wichita:

1. Variance to Section 22.04.222(2) of the Sign Code of the City of Wichita to allow an off-site sign on property with less than 1,500 lineal feet of LC zoning in a mile.

2. Variance to Section 22.04.222(2) of the Sign Code of the City of Wichita to increase the number of permitted off-site signs in a mile.

on property zoned "LC" Limited Commercial District (LC) legally described as follows:

The South 120 feet of Lot B, Block 1, Chisholm Creek Addition to City of Wichita, Sedgwick County, Kansas.

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

1. The approval shall only allow a 220 square foot sign facing Woodlawn Boulevard in the location indicated on the approved site plan. A revised site plan shall be filed with the Director of Planning that includes revised elevation drawings giving the approved size of the off-site sign.

2. The requested signage shall not be constructed until the building over which the proposed off-site Sign has been constructed.

3. The sign shall conform to all other requirements of the City of Wichita Sign Code.

4. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.

5. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 23rd DAY of JANUARY, 2020.

Charles A. Warren, BZA Board Chair

ATTEST:

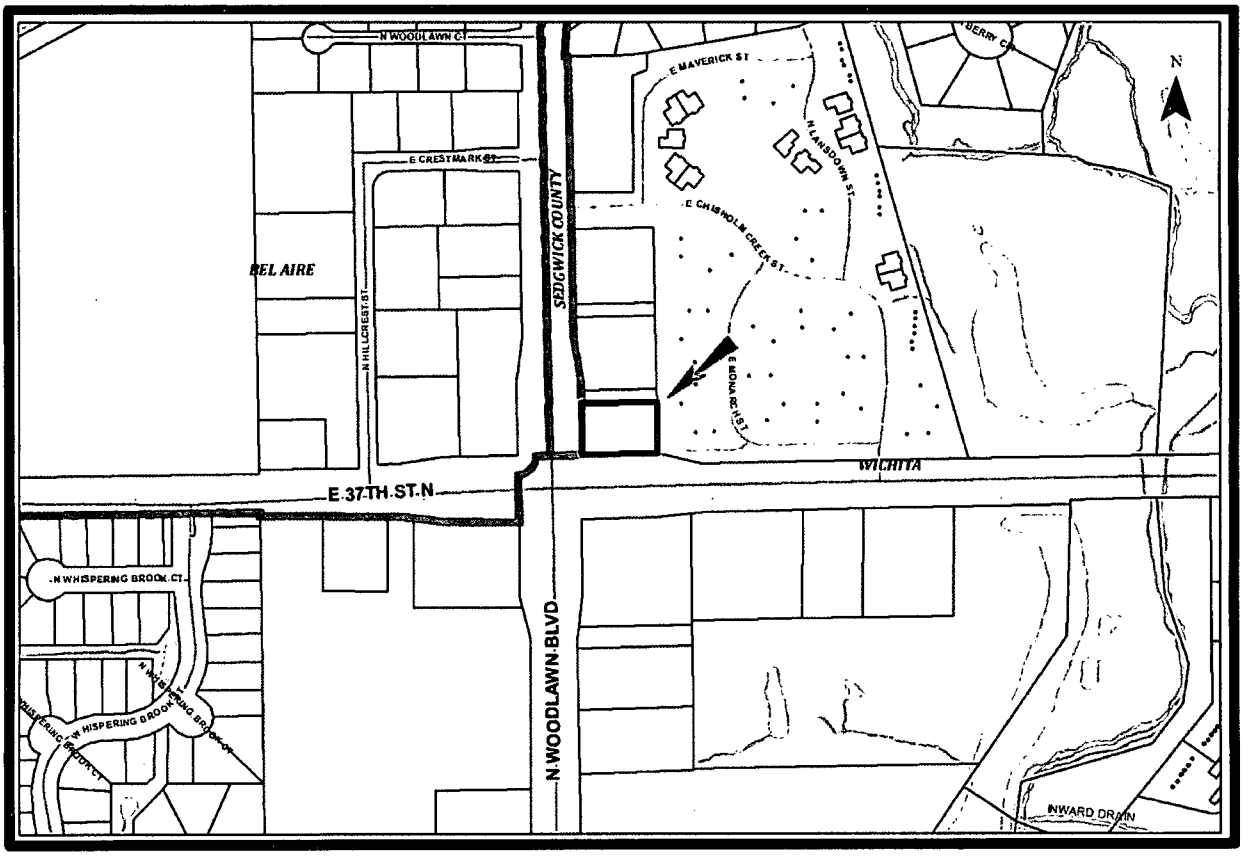
David L. Yearout, BZA Secretary

Wichita-Sedgwick County Zoning Board of Appeals
January 23, 2020

AGENDA ITEM NO. 3

SECRETARY'S REPORT

CASE NUMBER:	BZA2019-00059
APPLICANT:	Fisal Corporation (Owner) / Ferris Consulting – Greg Ferris (Agent)
REQUEST:	Variances to allow an off-site sign on property with less than 1,500 lineal feet of LC zoning and to increase the number of permitted off-site signs in a mile
CURRENT ZONING:	LC Limited Commercial
SITE SIZE:	0.48 acres
LOCATION:	Generally located east of North Woodlawn Boulevard and north of East 37th Street North (3810 North Woodlawn Boulevard)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions Section V-G of the Unified Zoning Code for Wichita/Sedgwick County, and as outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant is requesting variances to permit an off-site sign on property that does not have a minimum of 1,500 linear feet of LC Limited Commercial (LC) zoning within the designated

mile for the subject property, and to increase the number of permitted off-site signs in a mile. In this case, the designated mile is the mile north of 37th Street North along Woodlawn Boulevard. The bulk of the frontage along said roadway is within the City of Bel Aire, which does not count for this provision of the Sign Code. Under the standards within the Sign Code, the total of LC zoned property is this designated mile is less than 600 linear feet. Additionally, when a designated mile is not entirely within the city limits, the number of signs permitted proportionally to the percentage of the mile in the city limits. For this mile, a maximum of two off-site signs are permitted, but only one-third of the mile is in the city limits, resulting in the proportional number of off-site signs permitted to be zero.

The applicant has submitted supporting material for this request and that information is attached. The intent is to construct a 300 square foot off-site sign (billboard) which faces Woodlawn Boulevard on top of the roof of the proposed new building to be constructed on the subject property shown on the site plan submitted.

According to the Sign Code within the Wichita City Code, the relevant provisions which apply are as follows:

Sec. 24.04.222. - Specific regulations - Off-site signs when permitted in the "LC" limited commercial, "GC" general commercial, "LI" limited industrial or "GI" general industrial districts.

2. **Number Permitted.** The number of Off-Site Signs facing a direction of travel within any designated mile shall be determined by the linear measurement in feet, along the centerline of the street Right of Way, that is within or adjacent to any "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial Zoning District; provided, however, such signs shall only be permitted in the Zoning Districts as set forth in Sections 24.04.195, 24.04.196 and 24.04.198. Except in the "GC," "LI" or "GI" Zoning Districts, no Zoning District shall be considered for linear measurement unless it is adjacent to an arterial street or expressway. No Zoning District or zoning shall be considered for linear measurement if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District, except when such Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District specifically allows Off-Site Billboard Signs. For the purposes of measurement, zoning shall be considered to extend to the centerline of all streets. A designated mile shall be the length of the centerline of a street between mile section lines, even though the linear measurement may exceed five thousand two hundred eighty (5,280) feet. Any mile not completely within the City limits shall be treated on a percentage basis. The number of signs allowed shall be in direct proportion to the percentage of the designated mile that lies within the City limits boundary. There shall be permitted not more than one Off-Site Sign facing a direction of travel for each five hundred (500) linear feet of street having "GC," "LI" or "GI" zoning adjacent thereto; provided, however, under no circumstances shall there be erected more than five (5) Off-Site Signs facing a direction of travel in a designated mile in the "GC" and "LI" Zoning Districts and eight (8) per mile in the "GI" Zoning District.

   Off-Site Signs may be permitted in the "LC" Limited Commercial Zoning District but only when a designated mile has at least fifteen hundred (1,500) linear feet of "LC," "GC," "LI" or "GI" zoning adjacent thereto. When there is at least three thousand (3,000) linear feet of appropriate zoning adjacent to a designated mile, a second Off-Site Sign may be permitted.

   Whenever an Off-Site Billboard Sign is located on an "LC" Zoning Lot that abuts or fronts a designated arterial street, such Off-Site Billboard Sign must meet the criteria for an Off-Site Junior Billboard Sign Extensions beyond the three hundred (300) square foot Sign Surface area maximum for Sign Surfaces of an Off-Site Junior Billboard in an "LC" Zoning District are not allowed. When Off-Site Billboard Signs are located on "LC" Zoning Lots that abut or front a

designated arterial street, no more than two (2) Off-Site Billboard Signs may be permitted within a designated mile in "LC" Zoning Districts.

3. **Maximum Size and Height Permitted.** In "LC" Limited Commercial, "GC" General Commercial, "LI" Limited Industrial or "GI" General Industrial Zoning Districts or lots, the Sign Surface area of an Off-Site Billboard Sign Surface facing the direction of travel shall not exceed eight hundred twenty-five (825) square feet, including any extensions. Extensions may not extend more than five and one-half (5 1/2) feet above the normal upper rectangular lineage of the Sign Surface, nor more than two (2) feet beyond any of the other three (3) sides. Maximum rectangular dimensions of any Off-Site Billboard Sign Surface, excluding extensions, shall be fourteen (14) feet in height by forty-eight (48) feet in length. No Off-Site Billboard Sign, Sign Structure or Sign Cabinet shall exceed thirty (30) feet in height at the top of the maximum rectangular dimension, which does not include the permitted extensions.

   In "LC" Limited Commercial Zoning Districts or lots, the Sign Surface area of any Off-Site Sign Surface facing the direction of travel along a designated arterial street shall not exceed three hundred (300) square feet, and shall meet the criteria for an Off-Site Junior Billboard Sign. No extensions beyond the maximum three hundred (300) square foot Sign Surface area are allowed for Off-Site Junior Billboard Signs located in or upon "LC" Zoning Districts or lots. In the "LC" Zoning District, no Off-Site Sign shall exceed thirty (30) feet in height at the top of the Sign, Sign Structure or Sign Cabinet.

   EXCEPTIONS: Off-Site Billboard Signs, Sign Structures or Sign Cabinets located adjacent to an elevated portion of a highway structure may be erected to a maximum height of fourteen (14) feet above the top of the railing or barrier along the traffic deck. Off-Site Signs that cantilever over the roof or roof parapet of a one-story building shall maintain eight (8) feet of vertical clearance between the bottom of the sign and the roof or parapet and shall not exceed twenty-six (26) feet in height above the roof or parapet. For purposes of enforcement, no Off-Site Sign permit for additional height above a roof or roof parapet shall be issued until the building over which the Off-Site Sign is to be cantilevered has been created.

In addition to this variance request, the applicant has submitted an application for a Special Review permitted under the Sign Code (ZON2019-00055) requesting approval to allow the proposed off-site sign (billboard) closer to residential property than permitted by Sign Code. All discussion relative to that issue is addressed in the Staff Report for that case.

As noted in the staff recommendation below, staff is not supportive of the size of the requested sign. Given the proximity of the residentially zoned and used property to the east, the maximum size staff will support is an off-site size of 220 square feet.

North of the application area is a Sonic restaurant on LC-zoned property. Further to the north is a strip center zoned LC. The property to the west is used commercially with a bank and other commercial uses. This property is within the City of Bel Aire. The property to the east is zoned MF-18 and developed with the Chisholm Creek Condominiums. The property to the south across 37th Street North is zoned LC and is occupied with a Walgreens Pharmacy. Southwest from the subject property is land zoned LC and occupied by a Dillon's store.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial Uses
SOUTH:	LC	Commercial Uses
EAST:	MF-18	Condominium Residential Uses
WEST:	City of Bel Aire – Commercial Uses	

CASE HISTORY: As noted above, other than this request, the only other zoning action on the subject property is Case No. ZON2019-00055. The subject property was include in the platting of Chisholm Creek Addition, which was filed with the Sedgwick County Register of Deeds on October 4, 1973.

UNIQUENESS: It is staff's opinion that this property is unique because of the location in relation to another incorporated city. If the land on the west side of Woodlawn Boulevard was within the City of Wichita, the required amount of LC zoning along the arterial required by the Sign Code would be met and one off-site sign in LC zoning would be permitted in the mile. The commercial uses meet the intent of the Sign Code requirements.

ADJACENT PROPERTY: It is staff's opinion that granting this request will not harm any adjacent property as long as the sign is of an appropriate size to mitigate negative impacts on the residential property to the east. The properties to the north, south and west are zoned and used commercially. The property to the east is zoned MF-18 and used residentially, however there is mature solid screening along the common property line and the proposed sign will face traffic on Woodlawn Boulevard only.

HARDSHIP: The agent argues the inability to construct the off-site sign would reduce the return on the investment and redevelopment of this property, which creates an unnecessary hardship on the owner.

PUBLIC INTEREST: The agent argues additional setbacks along both Woodlawn Boulevard and 37th Street North reduce the impact of the new construction and that the redevelopment will add to the tax base and tax revenue to the public.

SPIRIT AND INTENT: It is staff's opinion that spirit and intent of the Sign Code would be met if all the surrounding property were within the City of Wichita, which would allow the proposed sign to be constructed without a variance.

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 permit a 220 square foot off-site sign as proposed be **GRANTED**, subject to the following conditions:

1. The approval shall only allow a 220 square foot sign facing Woodlawn Boulevard in the location indicated on the approved site plan. A revised site plan shall be filed with the Director of Planning that includes revised elevation drawings giving the approved size of the off-site sign.

2. The requested signage shall not be constructed until the building over which the proposed off-site Sign has been constructed.

3. The sign shall conform to all other requirements of the City of Wichita Sign Code.

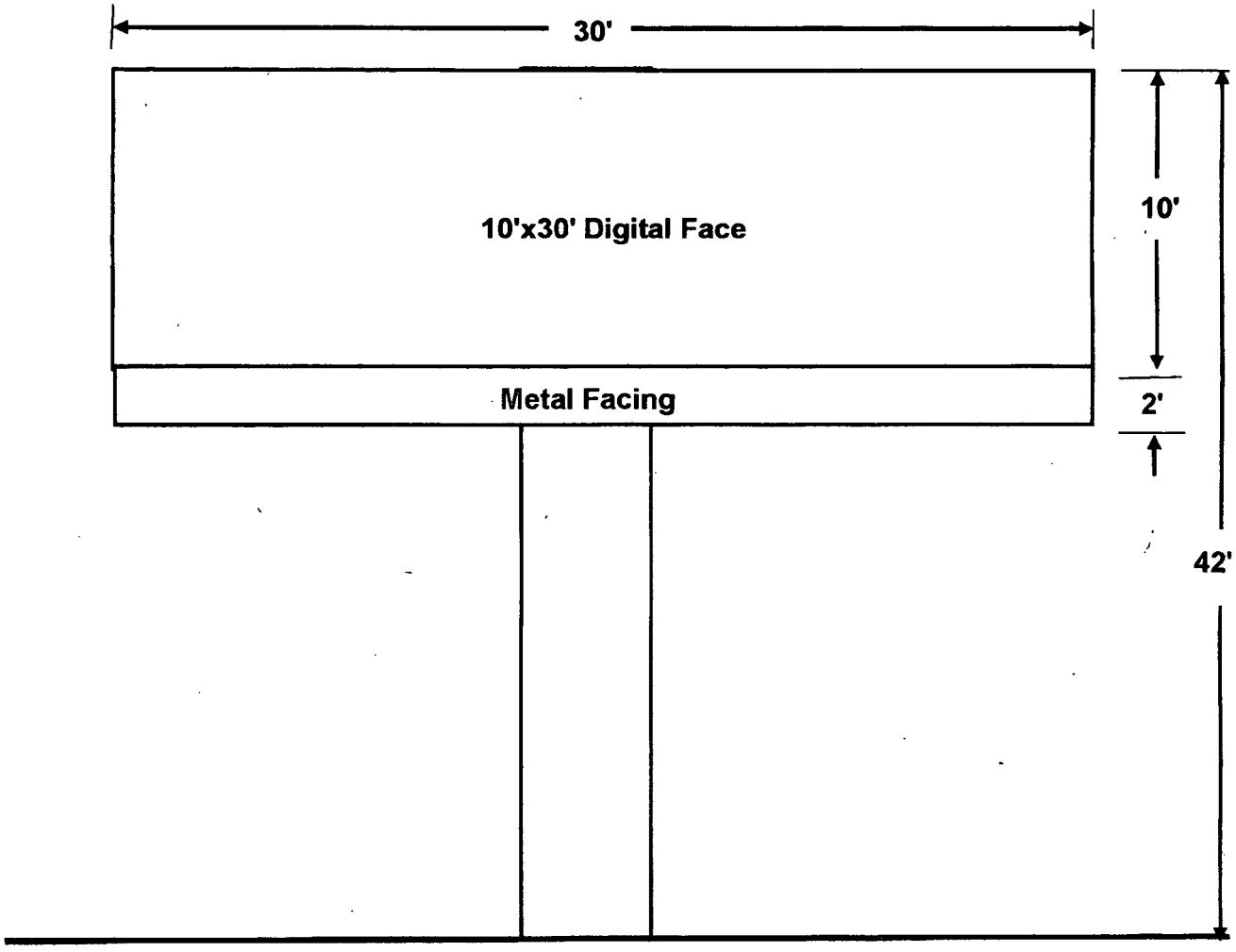
4. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.

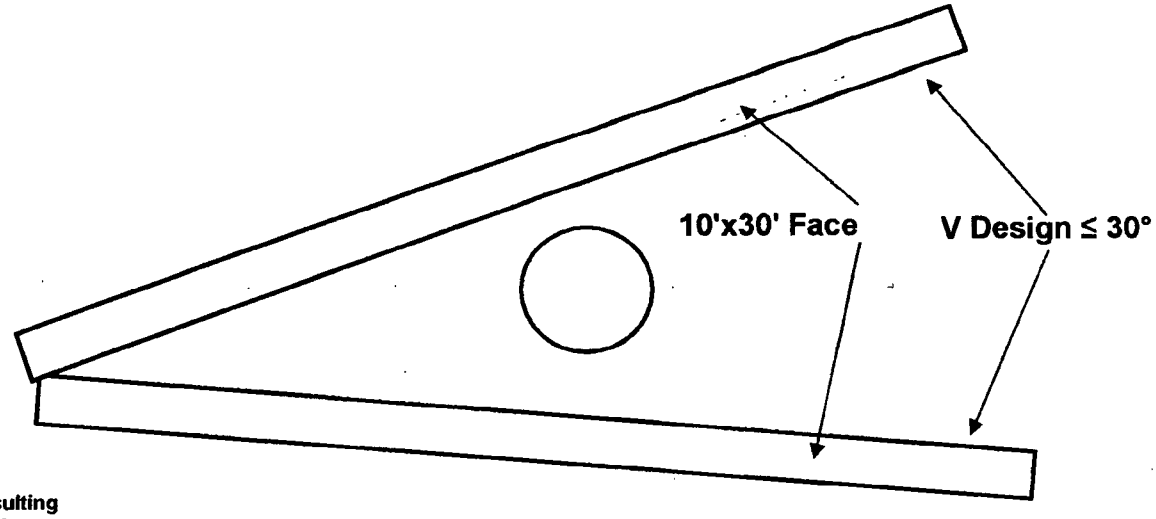
5. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

Report Attachments:
Applicant's Narrative
Site Drawings

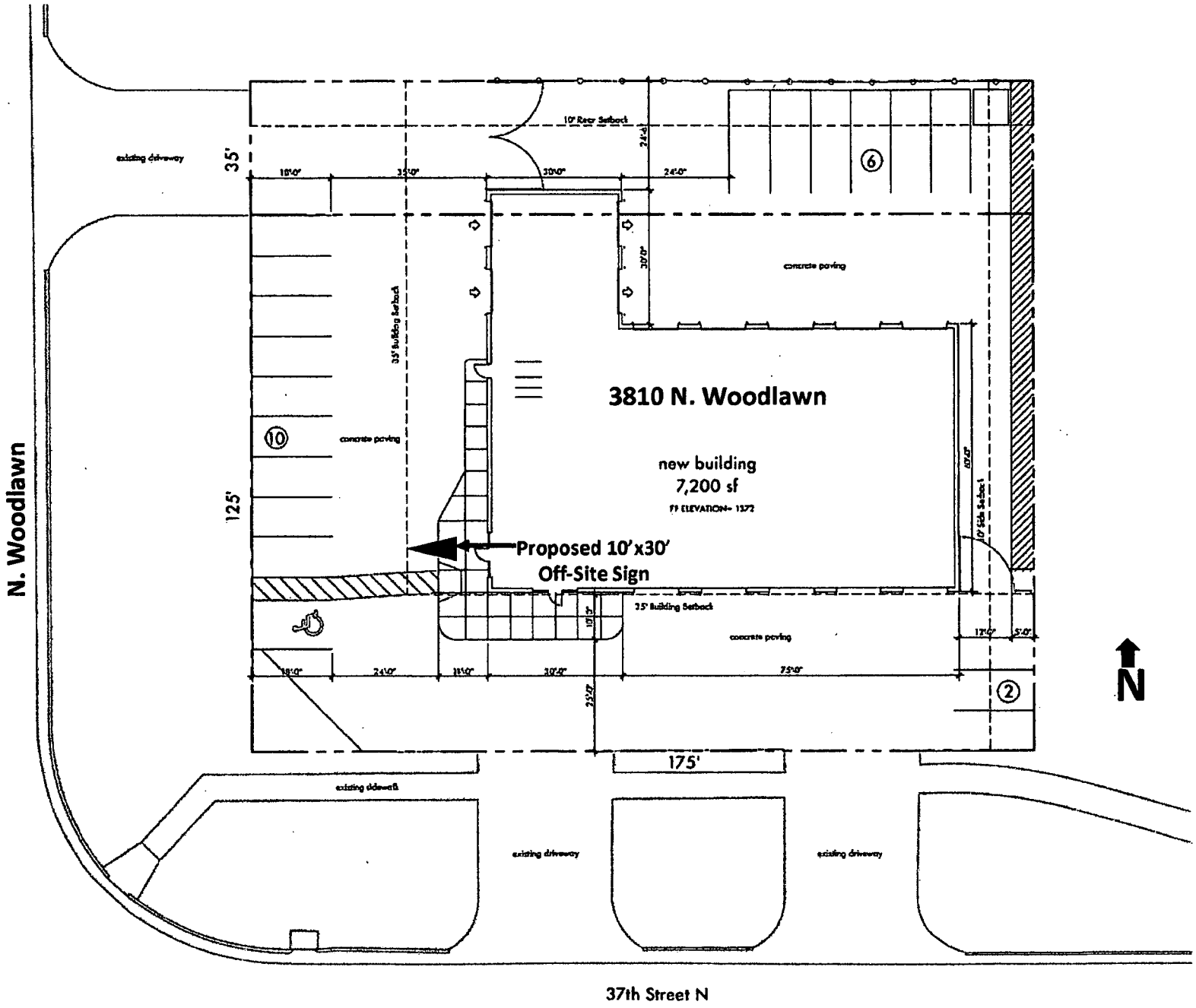
Elevation Drawing

Off Site Sign
3810 N Woodlawn





Ferris Consulting
12-1519


N. Woodlawn
3810 N. Woodlawn
new building
7,200 sf
Proposed 10'x30'
Off-Site Sign
concrete paving
existing driveway
existing sidewalk
35' Building Setback
10' Rear Setback
10' Side Setback
35'
125'
175'
N
37th Street N