

be approved subject to the following conditions:

1. The applicant shall submit two (2) copies of a revised final site plan showing the location of the proposed structure.
2. The variance shall be granted for only that portion of the east and southwest setback areas needed to accommodate the proposed structure, as shown on the final site plan, but in no event shall any part of the building be located closer than 6 feet to either property line.

ADOPTED AT WICHITA, KANSAS, this 24th day of April, 1979.

Mary L. Kopietz, Chairman

ATTEST:

Larry Dobson, Assistant Secretary

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3. Case No. BZA 8-79 - Towne West Mall Associates, 1712 N. Meridian, Indianapolis, Indiana, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the permitted gross surface area of Real Estate Signs from 32 square feet to 360 square feet, on property zoned the "LC" Light Commercial District and legally described as follows:

Towne West Square Addition, Wichita, Sedgwick County, Kansas. Generally located in an area bounded by Maple on the north, Tracy on the east, U.S. 54 on the south and I-235 on the west.

DOBSON showed slides of the application area and reviewed the following comments from the Secretary's Report:

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 of the following conditions are found to exist:

1. ° That the variance requested 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.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance in the permitted size for real estate signs to permit two 12 x 30 foot signs to be erected on the future Towne West Square site. Real estate signs are by definition "on-site signs displayed for the purpose of offering real property for sale, lease or rent" and are limited to 32 square feet in size in the Office, Commercial and Industrial zoning districts. Additionally, said signs are limited to one sign per street frontage, with a maximum of four signs permitted on a zoning lot.

The applicants desire to locate two, 360 square feet, real estate signs on subject property, one facing U.S. 54 and the other in the northwest corner of the site near where I-235 passes over Maple; however, it is not clear as to which roadway the sign would face. The applicants state that the signs would only be erected and maintained during the period of construction of the shopping center, which is estimated at 1-1/2 to 2 years. In support of their application, the applicants state that because of the size of this project and the size of the property involved, approximately 81 acres, the permitted sign size is not sufficient to adequately advertise the project during the construction phase. They also state that the project is of a much larger magnitude than will normally occur in the "LC" zoning district.

A rendering of the sign has been submitted which basically contains leasing information and the names of the major center stores which are already committed to space in the center.

UNIQUENESS:

It is the opinion of the Secretary that uniqueness may exist in this instance inasmuch as subject property is much larger (81 acres) than normal developments in the "LC" zoning district and the property is bordered by two highways and a major arterial street.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested may not adversely affect the rights of adjacent property owners inasmuch as the signs would only be erected and maintained during the project construction phase.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance, limiting the size of real estate signs to 32 square feet in size, could create an unnecessary hardship upon the applicants due to the magnitude of the leasing function to be accomplished.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public interest inasmuch as the signs will be located on private property and will not visually obstruct the safe movement of vehicles during this construction phase.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired may not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the size limitation on these temporary type signs was obviously arrived at on the basis of a much smaller, normal sized development, but considering the complexity and overall magnitude of the project and site, the requested size does not appear to be unreasonable.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is the Secretary's recommendation that the variance be approved subject to the following conditions:

1. The variance shall be granted for only the two signs depicted on the applicants' site plan and in the general locations shown.

2. The signs hereby approved shall be removed from the site prior to or upon occupancy of 50 per cent of the shopping center leasable space as determined by the Superintendent of Central Inspection; or upon the installation of their permanent identification signs, whichever shall occur first.

DOBSON informed the Board that CPO Council "O" stated they had considered the request and had a motion to approve which died for lack of a second; the consensus of the members was to take no action, which means the decision would be left to the Board.

Jim Schaefer, agent for the applicant, appeared before the Board commenting that the sign on Reserve "A" of the plat was the same area in which the final sign would be placed which would be the major entrance of the shopping center. He said that as soon as the applicant was ready to put in the permanent sign, this temporary one would be removed. He also said that this sign location would face Kellogg. SCHAEFER pointed out the other sign on the site plan, stating it would face the Interstate and would be identical to the one facing Kellogg. He continued that it had been anticipated that construction of the center would take approximately one and-a-half to two years but it now appeared it would be less time than that. SCHAEFER asked if condition #1 applied only to this variance or if it would limit all signs. DOBSON replied that the variance applied only to the requested size, that of 360 square feet and that any other signs falling within the guidelines and regulations of the sign ordinance would be permitted; that two other real estate signs would be permitted on the site but that they would have to be of normal size; a construction sign would be permitted of the normal size; etc.

No one else appeared in behalf of this variance request.
No one appeared in opposition.

MOTION: SQUIRES moved, JACOB seconded and it carried unanimously that the five conditions necessary for the granting of a variance had been found to exist and that a variance be granted subject to the conditions as set out in the Secretary's Report. (TAYLOR was absent.)

The variance was granted as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 8-79

WHEREAS, Towne West Mall Associates, 1712 N. Meridian, Indianapolis, Indiana, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to increase the permitted gross surface area of Real Estate Signs from 32 square feet to 360 square feet on property zoned the "LC" Light Commercial District, and legally described as follows:

Towne West Square Addition, Wichita, Sedgwick County, Kansas. Generally located in an area bounded by Maple on the north, Tracy on the east, U.S. 54 on the south and I-235 on the west.

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 April 24, 1979, 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 subject property is much larger (81 acres) than normal developments in the "LC" zoning district and the property is bordered by two highways and a major arterial street; and

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 the signs would only be erected and maintained during the project construction phase; 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, will constitute unnecessary hardship upon the property owner represented in the application due to the magnitude of the leasing function to be accomplished; 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 signs will be located on private property and will not visually obstruct the safe

movement of vehicles during this construction phase; 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 size limitation on these temporary signs was obviously arrived at on the basis of a much smaller, normal sized development, but considering the complexity and overall magnitude of the project and site, the requested size does not appear to be unreasonable; 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 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 to increase the permitted gross surface area of Real Estate Signs from 32 square feet to 360 square feet on property zoned the "LC" Light Commercial District, and legally described as follows:

Towne West Square Addition, Wichita, Sedgwick County, Kansas. Generally located in an area bounded by Maple on the north, Tracy on the east, U.S. 54 on the south and I-235 on the west.

be approved subject to the following conditions:

1. The variance shall be granted for only the two signs depicted on the applicants' site plan and in the general locations shown.
2. The signs hereby approved shall be removed from the site prior to or upon occupancy of 50 per cent of the shopping center leasable space as determined by the Superintendent of Central Inspection; or upon the installation of their permanent identification signs, whichever shall occur first.

ADOPTED AT WICHITA, KANSAS, this 24th day of April, 1979.

Mary L. Kopietz, Chairman

ATTEST:

Larry Dobson, Assistant Secretary
