



Wichita-Sedgwick County Metropolitan Area Planning Department

May 28, 2015

Clear Channel
Attn: David Mollhagen
3405 N. Hydraulic
Wichita, KS 67219

RE: BZA2015-00014 – City variance request to allow a billboard to be built on the lot line as a result right of way being acquired for the I-235 & Kellogg interchange expansion, generally located at the southeast corner South West Street and the Kellogg eastbound entrance ramp.

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **May 7, 2015**. This resolution reflects the official action of the Board, it is forwarded for your information and files.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick Slocum', written over a circular stamp or seal.

Derrick Slocum
Asst. BZA Secretary

cc: Tom Stolz, MABCD
Mike Gable, MABCD
JR Cox, MABCD
Jeff Blubaugh, WCC IV CM
Case Bell, CL IV

BZA RESOLUTION NO. BZA2015-00014

WHEREAS, MKT Investments and Clear Channel Outdoor Inc. (Owner/Applicant) pursuant to Kansas Statutes Annotated 12-759 *et seq.* request to grant a variance to allow a billboard to be built with a zero front yard building setback on property generally located east of South West Street, south of West Kellogg Street and north of West McCormick Street.

Legal Description: A tract in lots 26 & 27 beginning at the SW corner of lot 27; thence NEly to a point 7 feet North of the SE corner of lot 26; thence NEly to a point on the center line of vacated McComas Street said point being 23 feet N of ext. South line of lot 16, Block 3; thence South along the center line of the S ext. line of lot 27; thence W to the point of beginning, Block 2, Eureka Gardens Addition to 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 May 7, 2015, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et seq.*; and

WHEREAS, the Board of Zoning Appeals has found that this property is unique inasmuch 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 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.

WHEREAS, the Board of Zoning Appeals has found that 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 the variance is not facilitating the installation of a new use. Land surrounding the site is either right-of-way or is owned by the Kansas Department of Transportation (KDOT).

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the code would constitute a hardship upon the applicant, as this site does not have enough physical space to allow a 48-foot billboard and comply with the front yard setback requirements. Without the requested variance, this site could not hold the size of proposed offsite signage.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for a front yard setback of zero would not adversely affect the public interest because there has been a billboard on the property for several years and 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.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a front yard setback reduction to zero does not oppose the general spirit and intent of the Zoning Code.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et seq.*, request to reduce the front yard building setback to zero on property generally located east of South West Street, south of West Kellogg Street and north of West McCormick Street.

Legal Description: A tract in lots 26 & 27 beginning at the SW corner of lot 27; thence Nely to a point 7 feet North of the SE corner of lot 26; thence Nely to a point on the center line of vacated McComas Street said point being 23 feet N of ext. South line of lot 16, Block 3; thence South along the center line of the S ext. line of lot 27; thence W to the point of beginning, Block 2, Eureka Gardens Addition to Wichita, Sedgwick County, Kansas.

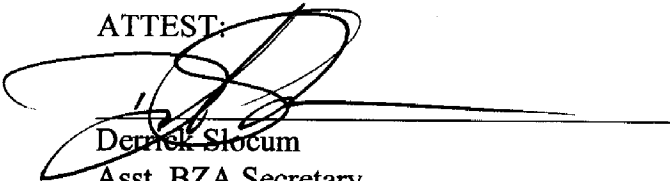
The variance is hereby **GRANTED**, subject to the following conditions:

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.

ADOPTED AT WICHITA, KANSAS, this 7th Day of May, 2015.


BZA Board Chair **Matt Goolsby**

ATTEST:


Derek Stocum
Asst. BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00014

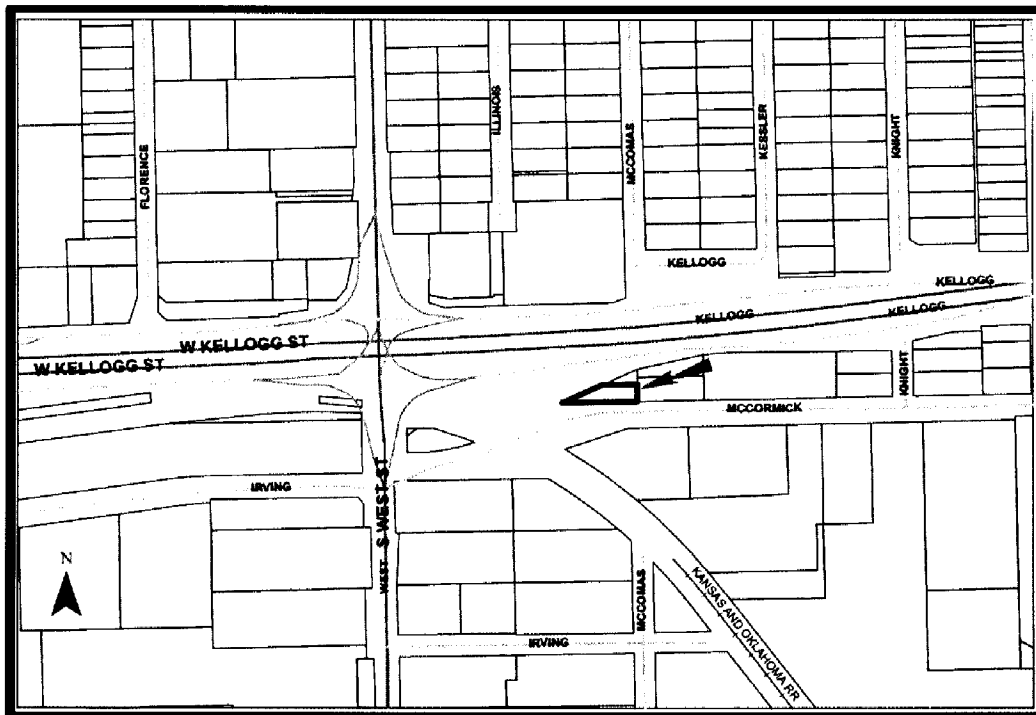
APPLICANT/AGENT: MKT Investments (Tracy McCune)

REQUEST: City variance to allow a billboard to be built with a zero front yard building setback due to I-235 and Kellogg interchange right-of-way acquisitions

CURRENT ZONING: LI Limited Industrial

SITE SIZE: .23 acres

LOCATION: At the southeast corner of South West Street and the West Kellogg eastbound entrance ramp (3801 West Kellogg)



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 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.

