CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

September 15, 2015

James L. McMaster
8405 Greenbriar
Wichita, KS 67226

Kevin M. McMaster
PO Box 2684
Wichita, KS 67201

RE: **BZA2015-00039**– County Variance to allow the placement of an off-site sign on property zoned SF-5 Single-family Residential ("SF-5").

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Sedgwick County Board of Zoning Appeals on **September 15, 2015.** This resolution reflects the official action of the Board. 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,

Derrick Slocum
County BZA Secretary

cc: Dave Unruh, County Commissioner
Bob Parnacott, County Counselor
Kelly Dixon, Sedgwick County Code Enforcement
Jim Weber, Sedgwick County Public Works

BZA RESOLUTION NO. BZA2015-00039

WHEREAS, James McMaster and Kevin McMaster (owner(s)/applicant(s)) pursuant to Kansas Statutes Annotated 12-759, request a variance to the Sign Code to allow the placement of an off-site sign on property zoned SF-5 Single-family Residential ("SF-5"); generally east of South Zelta Street, on the north side of East Kellogg Street (US-54)

Legal Description: Southwest ¼, Southeast ¼, Except the West 726 feet and Except Highway on South, Section 22-27-2 East, 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 September 15, 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; and

WHEREAS, the Board of Zoning Appeals has found that this property is unique, inasmuch that the sign has been in its location for over twenty years, before its current zoning, and by measuring a mile this billboard is the fifth billboard. Also, the site is right near the City limits, along the expressway where uses like the subject sign is common.

WHEREAS, the Board of Zoning Appeals has found that the requested variance for the placement of the billboard would not adversely affect the rights of adjacent property owners, inasmuch that the surrounding properties are both commercially zoned and developed as such or vacant farm ground. Also, the location is along the Kellogg Expressway and prime location for a billboard and the high traffic volume at this location has more of an effect on the surrounding properties than the billboard sign.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the Code will constitute an unnecessary hardship upon the applicant, inasmuch that the sign has been in this location for over twenty and in constant use except for the short time it was damaged. The billboard was at the location before the property was zoned and the Sign Code does not state how the five signs in a mile should be measured. These are factors that have cause a hardship on keeping the sign at its current location.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest, inasmuch that the sign has been in the same location for over 20 years, and no public right-of-way or easements are affected by the proposed setback reduction.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not oppose the general spirit and intent of the zoning regulations, inasmuch that the sign has been in its current location for over twenty years and proper spacing between billboard sign are met, as well at proper setbacks.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, 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, request a variance to the Sign Code to allow the placement of an off-site sign on property zoned SF-5 Single-family Residential ("SF-5"); generally east of South Zelta Street, on the north side of East Kellogg Street (US-54)

Legal Description: Southwest ¼, Southeast ¼, Except the West 726 feet and Except Highway on South, Section 22-27-2 East, Sedgwick County, Kansas.

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

1. The site shall be developed in conformance with the approved site plan.
2. The off-site sign shall obtain all necessary permits, and shall conform to all other codes including but not limited to zoning and building.
3. The above conditions are subject to enforcement by any legal means available to Sedgwick County.

ADOPTED AT WICHITA, KANSAS, this 15th Day of September, 2015.

BZA Board Chair, **John McKay**

ATTEST:

Derrick Slocum
BZA Secretary

BOARD OF ZONING APPEALS
SEDGWICK COUNTY, KANSAS

AGENDA ITEM NO. 1
September 15, 2015

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00039

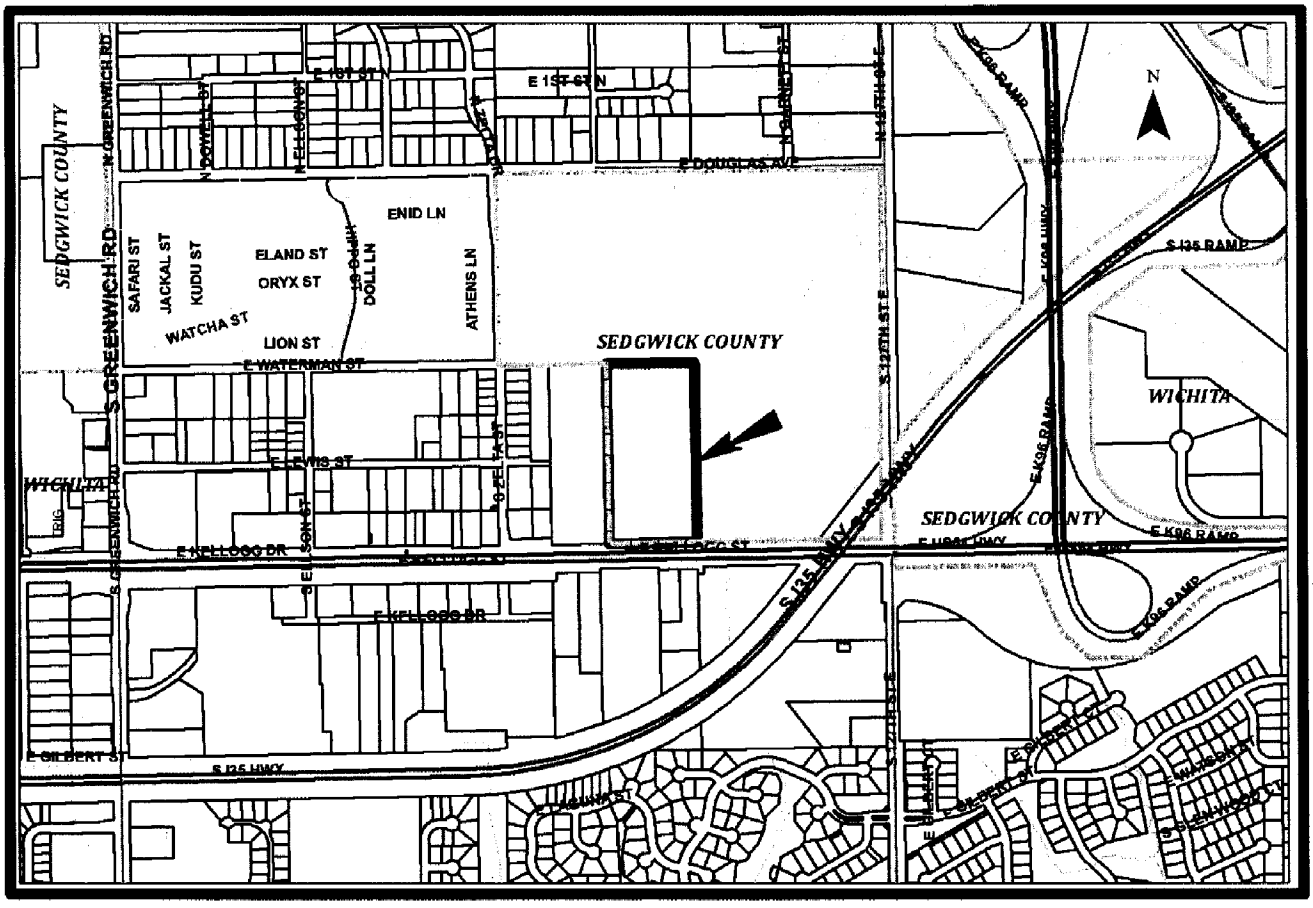
APPLICANT/AGENT: James McMaster and Kevin McMaster (owner(s)/applicant(s))

REQUEST: County Variance to allow the placement of an off-site sign on property zoned SF-5 Single-family Residential ("SF-5").

CURRENT ZONING: SF-5 Single-family Residential ("SF-5")

SITE SIZE: 0.014 acres

LOCATION: Generally east of South Zelta Street, on the north side of East Kellogg Street (US-54)



JURISDICTION: The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to permit the placement of a billboard in the County on property zoned SF-5 Single-family Residential. This billboard has been in this location for over 20 years, however was damaged by a storm at one time, and consisted of just its frame. During the time it took for the applicant to redevelop the billboard sign, another sign was constructed nearby, across Kellogg. This sign added a fifth sign within a particular mile of Kellogg, which is the maximum number allowed in a mile. Also, since the subject sign had been in its location since before County zoning, the new zone district in which the sign is currently placed does not allow for billboard type signs. So the applicant is requesting variances to the sign code to allow the placement of the billboard sign with variances to the five sign per mile regulation and the placement of a billboard sign in the SF-5 zone district.

The applicant requests this variance because they state that the sign has been in use, even when it was damaged and thus should be grandfathered. The sign was in the current location before the current zoning and no changes have been made, except for any repairs needed when it was damaged. Also, the applicant argues the five signs in a mile decision due to the ambiguity in how the mile needs to be measured. It does not state in the County Sign Code how the mile should be measured, unlike the City Sign Code which states the mile be measured between section line roads. Thus, the mile area the applicants used to measure the number of sign would be sufficient and show only five billboards within the mile, the subject billboard included in that five. The sign is already at its current location and the applicant was denied the sign permit due to the five signs in a mile stipulation in the Sign Code. The applicant argues that the permit should be allowed due to the lack of guidance in the Sign Code for how that measurement should be measured.

Property north of the subject site is zoned SF-20 Single-family Residential and is currently agricultural land. Property south of the site is zoned GC General Commercial and is developed with warehouse, office and retail uses. Property east of the site is zoned SF-20 and LC Limited Commercial and is developed with agricultural land. Property to the east of the site is zoned SF-5 and is currently vacant residentially zoned property.

ADJACENT ZONING AND LAND USE:

NORTH	SF-20	Agricultural
SOUTH	GC	Warehouse/Office/Retail
EAST	SF-20 and LC	Agricultural
WEST	SF-5	Vacant Residential

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique, inasmuch, that the sign has been in its location for over twenty years, before its current zoning, and by measuring a mile this billboard is the fifth billboard. Also, the site is right near the City limits, along the expressway where uses like the subject sign is common.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for the placement of the billboard would not adversely affect the rights of adjacent property owners, inasmuch, that the surrounding properties are either commercially zoned and developed as such or vacant farm ground. Also, the location is along the Kellogg Expressway and prime

location for a billboard and the high traffic volume at this location has more of an effect on the surrounding properties than the billboard sign.

HARDSHIP: It is staff's opinion that the strict application of the code would constitute a hardship upon the applicant, inasmuch, that the sign has been in this location for over twenty and in constant use except for the short time it was damaged. The billboard was at the location before the property was zoned and the Sign Code does not state how the five signs in a mile should be measured. These are factors that have cause a hardship on keeping the sign at its current location.

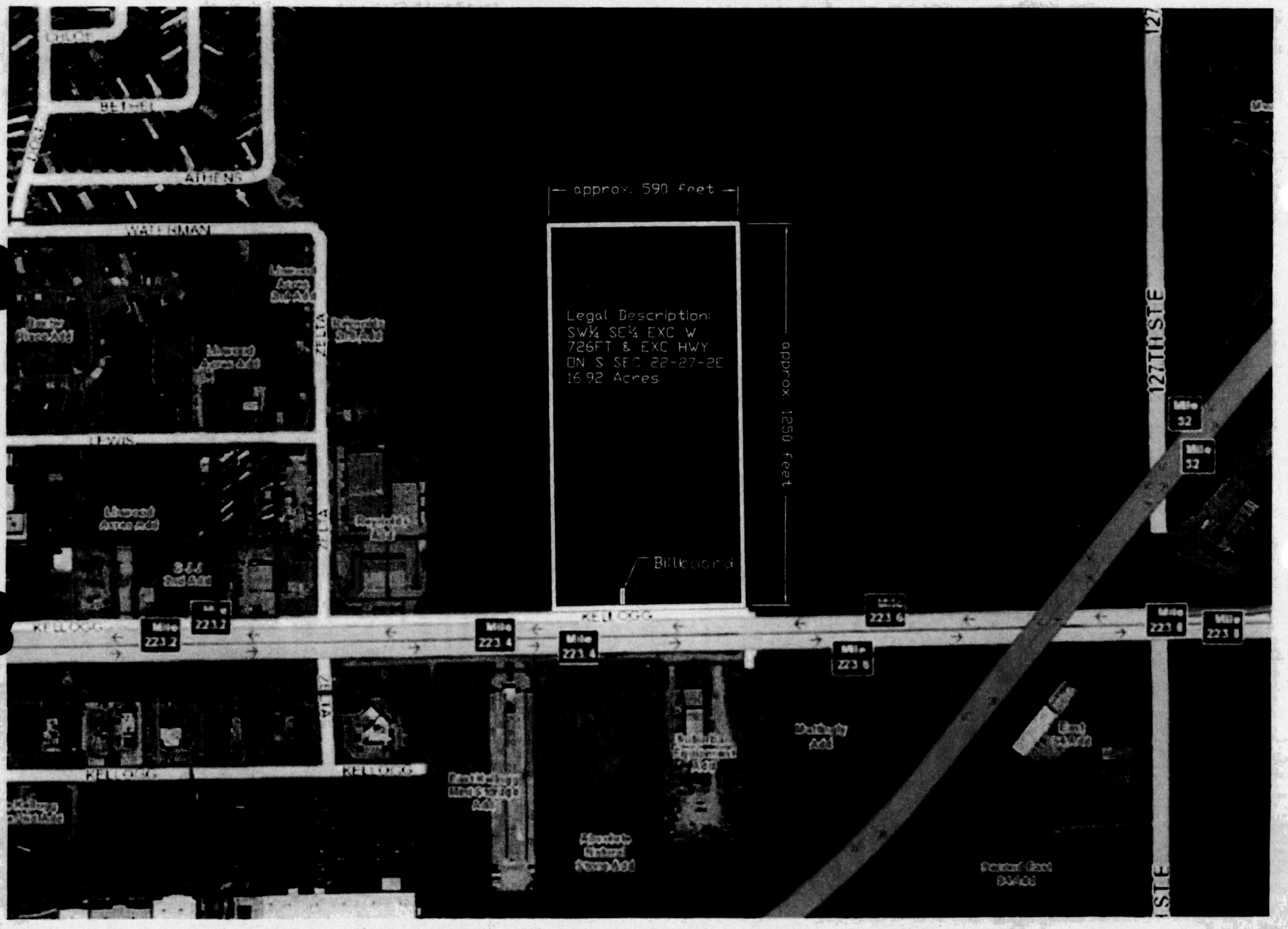
PUBLIC INTEREST: It is staff's opinion that the requested variance for the placement of a billboard will not adversely affect the public interest, inasmuch, that the sign has been in the same location for over 20 years, and no public right-of-way or easements are affected by the proposed setback reduction.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance the placement of a billboard sign does not oppose the general spirit and intent of the Zoning Code, inasmuch, that the sign has been in its current location for over twenty years and proper spacing between billboard sign are met, as well at proper setbacks.

RECOMMENDATION: It is staff's opinion that the requested variance meets the five criteria necessary to grant a variance. Therefore, staff recommends that the variance be APPROVED. Should the Board determine that the necessary conditions exist to grant a variance, the Secretary recommends that the variance to allow the placement of an off-site sign be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved site plan.
2. The off-site sign shall obtain all necessary permits, and shall conform to all other codes including but not limited to zoning and building.
3. The above conditions are subject to enforcement by any legal means available to Sedgwick County.

Site Plan


approx. 590 feet
approx 1250 feet
Legal Description:
SW¼ SE¼ EXC W
726FT & EXC HWY
ON S SEC 22-27-2E
16.92 Acres
Billboard
ATHENS
WATERMAN
ZELTA
KELLOGG
127TH ST E
Mile 223.2
Mile 223.4
Mile 223.6
Mile 223.8
Mile 32