SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent is to provide adequate signage based on type of street frontage, but the ordinance does not provide for signs on streets which have complete access control.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. Only one pole sign shall be permitted for this zoning lot and it shall be located on the Mid-Continent Road frontage approximately 180 feet north of the Palace Theaters' sign as shown on the site plan submitted with this application.

2. The sign size and design shall be substantially in compliance with the drawing submitted with this application.

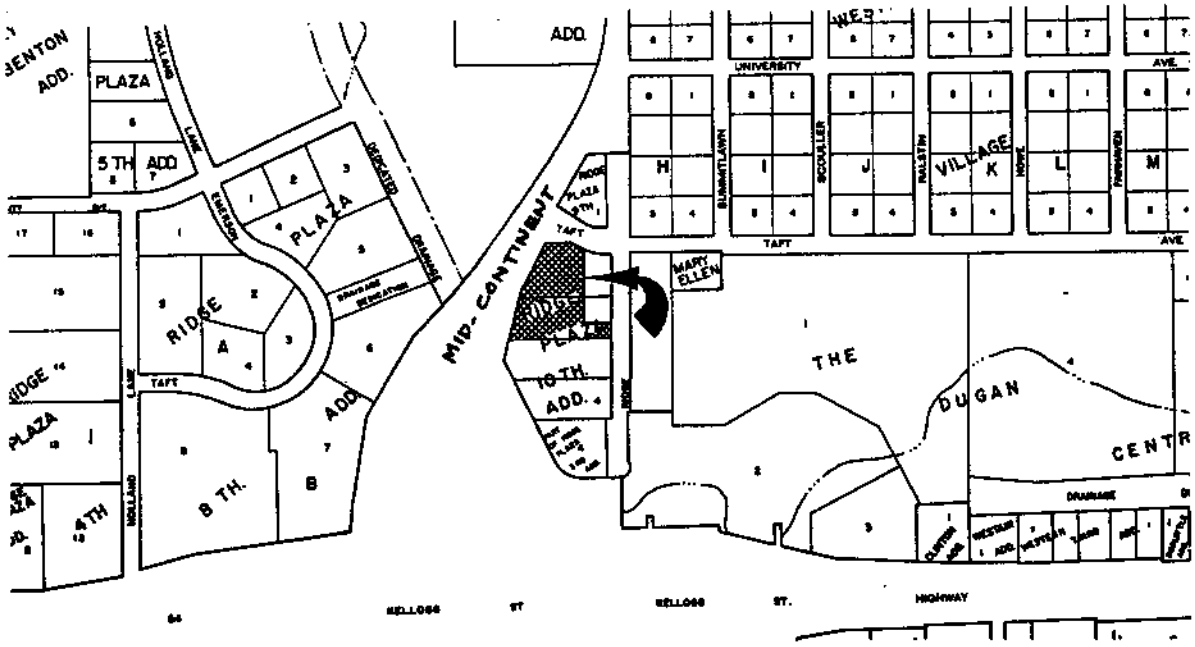
BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 5

September 26, 1989

SECRETARY'S REPORT

CASE NUMBER:	BZA 35-89
OWNER/APPLICANT/AGENT:	Carlos O'Kelly's of Wichita, Inc. (owner/applicant) John Songer (agent)
REQUEST:	Variance to increase the size of a pole sign from 25 square feet to 100 square feet.
CURRENT ZONING:	"LC" Light Commercial District
SITE SIZE:	1.87 acres
LOCATION:	Between Mid-Continent Road and Ridge Road Circle in an area south of Taft.
PROPOSED USE:	Restaurant



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 the State Statutes, are found to exist.

BACKGROUND: The maximum permitted size of an on-site pole sign is determined by the amount of street frontage and the type of street. Only streets to which the property is permitted vehicular access can be considered when calculating the sign size, although the sign may be located on a street frontage to which there is no access. Access for subject property is only to Ridge Road Circle which is an "undesignated" type of street permitting 1/2-square-foot of sign area per lineal foot of street frontage. As a result of a lot split, this property has only 50 feet of frontage on Ridge Road Circle, which would permit only a 25-square-foot sign. One pole sign 100 square feet in size is being requested, with placement of the sign to be on the Mid-Continent Road side of the property. The proposed sign has no reader board, only the words "Carlos O'Kelly's Mexican Cafe". The sign height is to be 30 feet.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Chiropractors' offices
SOUTH	"LC"	Movie theaters
EAST	"AA"	Single-family dwellings
WEST	"LC"	Road right-of-way and undeveloped

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as its vehicular access (and hence its basis for sign size) is on Ridge Road Circle, an "undesignated" type of street permitting only 1/2-square-foot of sign area per lineal foot of frontage, although the most visibility of the site will be from adjacent Mid-Continent Road which is an arterial street.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the sign is to be located on Mid-Continent Road as far removed from the residences on Ridge Road Circle as possible (approximately 400 feet) and at least 180 feet north of the Palace Theaters' sign.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as a 25-square-foot sign would not be a sufficient size to advertise a restaurant when viewed from an arterial street with a 45 m.p.h. speed limit.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no vehicular visibility will be hindered by the size or placement of the proposed sign, nor will any street right-of-way or utility easement be affected.

WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

September 27, 1989

Carlos O'Kelly's of Wichita, Inc.
1877 N. Rock Road
Wichita, KS 67206

Re: BZA 35-89 - Variance to increase the size of a pole sign from 25 sq. ft. to 100 sq. ft., between Mid-Continent Drive and Ridge Road Circle in an area south of Taft.

Gentlemen:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 26, 1989. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please contact our office.

Sincerely,

Louise Olivarez

Louise Olivarez
Assistant Secretary
Board of Zoning Appeals

LO:jcm
Enclosure

cc: John Songer, 244 N. Ridgewood, 67208
Monty Robson, Superintendent of Central Inspection
Joe Donnelly, Zoning Administrator, CID
Dale Rea, Deputy City Clerk

copies of approved sign elevation and site plan sent to O'Kelly's Songer Robson Donnelly with letter

FILE COPY

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 be approved for a variance to increase the size of a pole sign from 25 square feet to 100 square feet on property zoned the "LC" Light Commercial District and legally described as follows:

> Lots 1 and 2, Ridge Plaza 10th Addition, Wichita, Sedgwick County, Kansas, except that part described as beginning at the N.E. corner of said Lot 1; thence south along the east line of said Lots 1 and 2, 270.12 feet to a point 50 feet north of the S.E. corner of said Lot 2; thence west parallel with the south line of said Lot 2, 125 feet; thence north parallel with the east line of said Lots 1 and 2, 295.33 feet more or less to a point on the north line of said Lot 1; thence southeasterly along the north line of said Lot 1 to the point of beginning. Generally located between Mid-Continent Drive and Ridge Road Circle in an area south of Taft.

subject to the following conditions:

1. Only one pole sign shall be permitted for this zoning lot and it shall be located on the Mid-Continent Road frontage approximately 180 feet north of the Palace Theaters' sign as shown on the site plan submitted with this application.

2. The sign size and design shall be substantially in compliance with the drawing submitted with this application.

ADOPTED AT WICHITA, KANSAS, this 26th day of September, 1989.

Keith Alter, Vice President

ATTEST:

Jack H. Galbraith, Secretary

BZA RESOLUTION NO. 35-89

WHEREAS, Carlos O'Kelly's of Wichita, Inc., pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the size of a pole sign from 25 square feet to 100 square feet on property zoned the "LC" Light Commercial District and legally described as follows:

> Lots 1 and 2, Ridge Plaza 10th Addition, Wichita, Sedgwick County, Kansas, except that part described as beginning at the N.E. corner of said Lot 1; thence south along the east line of said Lots 1 and 2, 270.12 feet to a point 50 feet north of the S.E. corner of said Lot 2; thence west parallel with the south line of said Lot 2, 125 feet; thence north parallel with the east line of said Lots 1 and 2, 295.33 feet more or less to a point on the north line of said Lot 1; thence southeasterly along the north line of said Lot 1 to the point of beginning. Generally located between Mid-Continent Drive and Ridge Road Circle in an area south of Taft.

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 26, 1989, 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 its vehicular access (and hence its basis for sign size) is on Ridge Road Circle, an "undesignated" type of street permitting only 1/2-square-foot of sign area per lineal foot of frontage, although the most visibility of the site will be from adjacent Mid-Continent Road which is an 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 sign is to be located on Mid-Continent Road as far removed from the residences on Ridge Road Circle as possible (approximately 400 feet) and at least 180 feet north of the Palace Theaters' sign; 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 owners represented in the application inasmuch as a 25-square-foot sign would not be a sufficient size to advertise a restaurant when viewed from an arterial street with a 45 m.p.h. speed limit; 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 no vehicular visibility will be hindered by the size or placement of the proposed sign, nor will any street right-of-way or utility easement be affected; 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 intent is to provide adequate signage based on type of street frontage, but the ordinance does not provide for signs on streets which have complete access control; and