WICHITA — SEDGWICK COUNTY

W-SC

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

June 30, 1994

Lee Oliver
Director of Operations
RTM Inc.
1147 South Rock Road
Wichita, KS 67207

Re: BZA 16-94 - Variance to increase the size of a pole sign from 32 square feet to 107 square feet on property zoned "LC" Light Commercial.

Dear Mr. Oliver:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on June 30, 1994. 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 call our office.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure
LO/hm

cc:
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
CAMA Files

Printed with Recycled Paper

BZA RESOLUTION NO. 16-94

WHEREAS, RTM, 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 32 square feet to 107 square feet on property zoned the "LC" Light Commercial and legally described as follows:

> That part of Lot 3, Block A, Sweetbriar Addition and Replat of Part of Benjamin Hills Second Addition to Wichita, described as: Beginning at the NW/c of said Lot 3; thence East along the North line, 346.76 feet to the NE/c of said Lot 3; thence South along the East line of Lot 3, 300 feet to the SE/c of Lot 3; thence West along the South line of Lot 3, 325.2 feet to the SW/c of said Lot 3; thence North to a point which is 116 feet South of the North line of Lot 3; thence West to the East line of Sweetbriar Lane; thence Northeasterly along the East line of Sweetbriar Lane to the p.o.b.(Generally located at 2130 W. 21st Street North)

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 June 28, 1994, 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 owners or the applicant inasmuch as the sign that will replace the damaged pole sign will be smaller and shorter than the original pole sign as well as being located in the same position on the lot; 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 new sign will be the same distance from the existing signs and will be smaller and shorter than the previous sign; therefore, it will not obstruct any of the existing signage located on the lot; and

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 the applicant would not be able to use the existing national designed logo sign to advertise their business; 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, inasmuch as the sign would not be placed on easements or in public right-of-way and will not be a sight hinderance to the driving and walking public; 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 the sign ordinance inasmuch as the new sign will be smaller and shorter than the original sign and will maintain the previous separation of signage on the site. Therefore, the new sign will not block the viewing of other site signs from the public; 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 be approved for a variance to increase the size of a pole sign from 32 square feet to 107 square feet on property zoned the "LC" Light Commercial and legally described as follows:

That part of Lot 3, Block A, Sweetbriar Addition and Replat of Part of Benjamin Hills Second Addition to Wichita, described as: Beginning at the NW/c of said Lot 3; thence East along the North line, 346.76 feet to the NE/c of said Lot 3; thence South along the East line of Lot 3, 300 feet to the SE/c of Lot 3; thence West along the South line of Lot 3, 325.2 feet to the SW/c of said Lot 3; thence North to a point which is 116 feet South of the North line of Lot 3; thence West to the East line of Sweetbriar Lane; thence Northeasterly along the East line of Sweetbriar Lane to the p.o.b.(Generally located at 2130 W. 21st Street North)

subject to the following conditions:

1. The only sign permitted larger than allowed by the sign code on the site shall be installed at the location indicated on the approved site plan.

2. Prior to installing the pole sign, the applicant shall obtain a sign permit and shall comply with all code requirements except that of size which may be increased as permitted by this variance. The sign must be installed within one year after the approval of the resolution authorizing the variance.

3. The resolution authorizing this variance may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 28th day of June 1994.

Susan Osborne-Howes, Vice-President

ATTEST:

Louise Olivarez, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4

2130 W 21st North

SECRETARY'S REPORT

CASE NUMBER: BZA 16-94

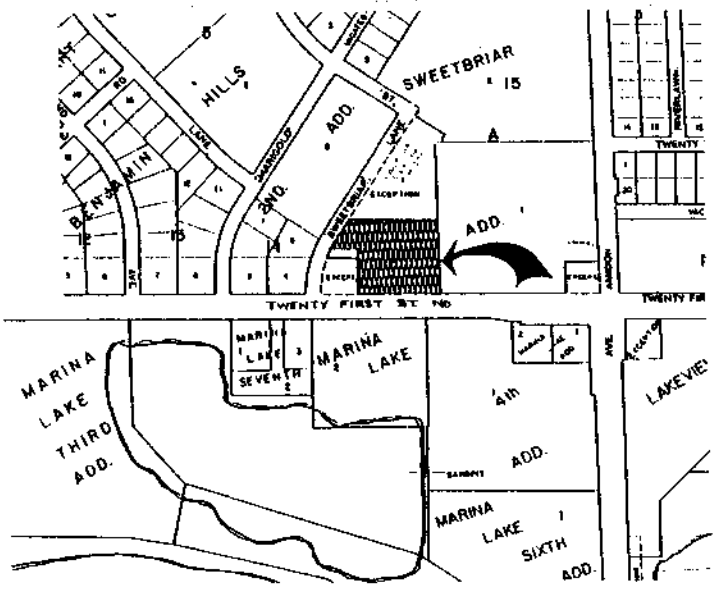
OWNER/APPLICANT: RTM Inc.
AGENT: Dan Howard

REQUEST: Variance to increase the size of a pole sign from 32 square feet to 107 square feet.

CURRENT ZONING: "LC" Light Commercial

SITE SIZE: 2.6 Acres

LOCATION: 700 feet west of Amidon on the north side of 21st Street North.



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 applicant, RTM Inc., is requesting a variance to increase the size of a pole sign from 32 square feet to 107 square feet. The site is the location of an Arby's fast food restaurant. The existing Arby's pole sign which was installed in 1987, with a size of 151 square feet at 30 feet in height, was damaged during a storm. Arby's desires to replace the damaged sign with the updated Arby's logo sign which is 107 square feet in size and 25 feet high. Because the sign cannot be installed in the original damaged cans, it is considered a new sign and must comply with the sign ordinance. The Arby's restaurant is located on a lot with other businesses that currently have signs and the Office of Central Inspection has determined that the remaining signage available to the lot based upon 21st Street North frontage is 32 square feet.

If the variance is approved, the new sign will be 44 square feet smaller in area than the original damaged sign and will be 5 feet shorter in overall height than the original sign.

ADJACENT ZONING AND LAND USE:

NORTH:	"B"	Twin Rivers Swim Club
SOUTH:	"LC"	Pizza Hut, Taco Granda, and Video Unlimited
EAST:	"LC"	Long John Silver
WEST:	"LC" "A" "AA"	Residential and Office

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the sign that will replace the damaged pole sign will be smaller and shorter than the original pole sign as well as being located in the same position on the lot.

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 new sign will be the same distance from the existing signs and will be smaller and shorter than the previous sign; therefore, it will not obstruct any of the existing sinage located on the lot.

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 the applicant would not be able to use the existing national designed logo sign to advertise their business.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the sign would not be placed on easements or in public right-of-way and will not be a sight hinderance to the driving and walking public.

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 new sign will be smaller and shorter than the original sign and will maintain the previous separation of signage on the site. Therefore, the new sign will not block the viewing of other site signs from the public.

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. The only sign permitted larger than allowed by the sign code on the site shall be installed at the location indicated on the approved site plan.

2. Prior to installing the pole sign, the applicant shall obtain a sign permit and shall comply with all code requirements except that of size as permitted by this variance. The sign must be installed within one year after the approval of the resolution authorizing the variance.

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